

AGENDA

CITY OF HENDERSONVILLE CITY COUNCIL – REGULAR MEETING

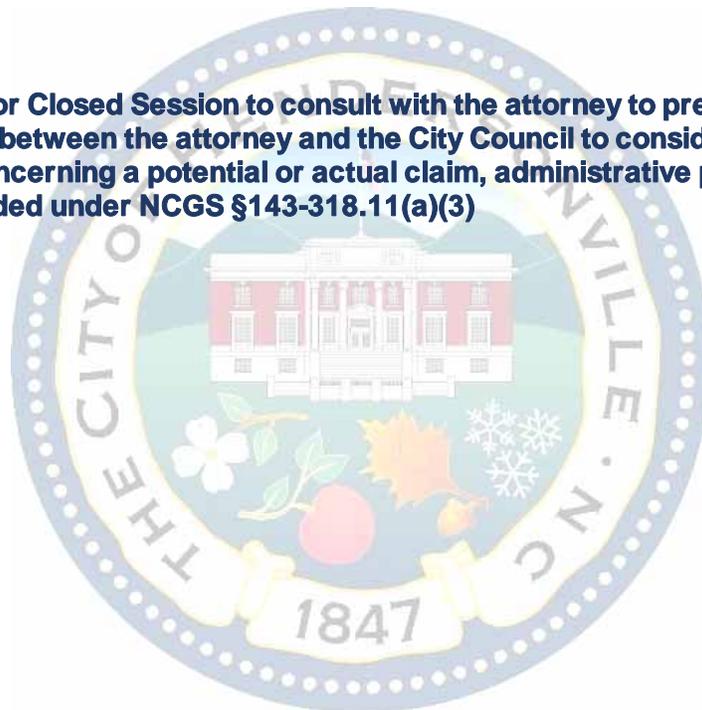
OCTOBER 6, 2016 – 5:45 P.M.

COUNCIL CHAMBERS – CITY HALL

1. **Call to Order**
2. **Invocation and Pledge of Allegiance**
3. **Public Comment Time:** *Up to 15 minutes is reserved for comments from the public for items not listed on the agenda*
4. **Consideration of Agenda**
5. **Consideration of Consent Agenda:** *These items are considered routine, noncontroversial in nature and are considered and approved by a single motion and vote.*
 - A. **Consideration of Minutes: September 1, 2016 Regular Meeting**
 - B. **Consideration of Amendments to the Personnel Substance Abuse Policy**
 - C. **Consideration of Budget Amendments (4):**
 - i. **Police Department Grants: Increase of \$28,175**
 - ii. **Property Purchases: \$130,000**
 - iii. **Facilities Lighting Upgrade: \$49,133**
 - iv. **Seventh Avenue Event Revenue: Increase of \$5,035**
 - D. **Consideration of Budget Amendment and Establishing an Appropriation Account for the Walk of Fame Committee**
 - E. **Consideration of Approval for Use of Berkeley Mills Park for the 2016 Mud Run Benefitting Hands On!**
 - F. **Consideration of Clerk’s Certificate of Sufficiency for the Satellite Annexation of 5.25 Acres of Property Located at 20 Hannah Grace Way (Claystone, LLC)**
 - G. **Consideration of Acceptance of Proposal from Mattern & Craig to Complete Design, Permitting and Construction Management of the North Main Street Sidewalk Project**
 - H. **Consideration of Donation of “S” Permit Parking Space to Benefit the Humane Society**

- I. **Consideration of Approval to Purchase Property on Pine Street**
- J. **Consideration of an Amendments to the City Code of Ordinances Repealing Portions of Chapter 36, Article II Respecting Loitering and Similar Offense**
- K. **Consideration of the Variable Frequency Drive (VFD) Preferred Brand Alternative for the Water Treatment Plant High Service Pump Station17b**
- L. **Consideration of a Water Line Extension Agreement for a Proposed Nursing Home in Mills River**
- M. **Consideration of Amendment to Section 6-7 of the Code of Ordinances Pertaining to the Sale of Alcohol**
- N. **Consideration of an Agreement with McKim and Creed, Inc. to Provide On-Call Professional Engineering Service18s and to Perform Certain Identified Tasks**
6. **Introduction of Special Guest Filippo Marinoni, Council Member from Sister City Verbania, Italy**
Presenter: Mike Swartzlander, President, Hendersonville Sister Cities
7. **Annual Report from Hendersonville Sister Cities**
Presenter: Mike Swartzlander, President, Hendersonville Sister Cities
8. **Presentation from the Environmental Sustainability Board on Focus Areas for the Board for the Upcoming Year**
Presenter: Ian Edwards, Chairperson
9. **Presentation of Proclamation for Alzheimer's and Brain Awareness Day**
Presenter: Mayor Barbara Volk
10. **Presentation of Proclamation for American Pharmacists Month**
Presenter: Mayor Barbara Volk
11. **Quasi-Judicial Public Hearing – Consideration of a Request to Amend a Special Use Permit from Halvorsen Development Corporation to Construct a Grocery Store on the Corner of White Street and Greenville Highway**
Presenter: Development Assistance Director Susan Frady
12. **Quasi-Judicial Public Hearing – Consideration of a Request to Amend a Special Use Permit from Mr. Kevin Hoover for Town Center Located at 2560 Asheville Highway**
Presenter: Senior Planner David Hazzard
13. **Public Hearing – Consideration of a Request to Close a Portion of Market Street off of White Street**
Presenter: Development Assistance Director Susan Frady
14. **Public Hearing – Consideration of a Request to Close an Unopened Alley off of Seventh Avenue**
Presenter: Development Assistance Director Susan Frady

- 15. Consideration of a Resolution Declaring the Hendersonville Railroad Depot Plaza Not to Be Open to the Public Except During Regular Depot Hours and Authorizing the Public Works Director to Post Signs Prohibiting Trespassing at Other Times**
Presenter: Herbert Blake, Police Chief
- 16. Comments from Mayor and City Council Members**
- 17. Reports from Staff**
 - a. Announcement of Special Meeting on Tuesday, October 18, 2016, 6:00 p.m. for a Presentation on the Hotel Project
 - b. Report on Contingencies
- 18. Boards and Commissions: Consideration of Appointments and Announcement of Upcoming Vacancies**
- 19. New Business**
- 20. Staff Request for Closed Session to consult with the attorney to preserve the attorney-client privilege between the attorney and the City Council to consider and give instructions concerning a potential or actual claim, administrative procedure, or judicial action as provided under NCGS §143-318.11(a)(3)**
- 21. Adjourn**



Mr. Connet requested Council suspend charging system development charges indefinitely. **Council Member Smith moved Council to suspend system development charges until further notice. A unanimous vote of the Council followed. Motion carried.**

Council Member Miller moved Council to refund system development charges for the Fairfield Inn project. The vote was three in favor (Volk, Miller, and Caraker) and two opposed (Smith and Stephens). Motion carried.

21. Adjournment: The meeting adjourned at 7:45 p.m. upon unanimous assent of the Council.

Barbara G. Volk, Mayor

Tammie K. Drake, City Clerk

DRAFT



CITY OF HENDERSONVILLE

AGENDA ITEM SUMMARY

Submitted By: Jennifer Harrell

Department: Administration

Date Submitted: 09/26/2016

Presenter: Jennifer Harrell

Date of Council Meeting to consider this item: 10/06/2016

Nature of Item: Presentation Only

Summary of Information/Request:

Item # 05b

It is the policy of the City to provide a safe, healthy and efficient work environment for its employees and to protect the public that it serves by establishing and maintaining an alcohol and drug-free workplace. Alcohol and drug abuse is a problem of serious concern and one which affects all segments of the community including the workplace. The City's current Alcohol and Substance Abuse policy only encompasses those employees who hold a Commercial Drivers License (CDL). City Administration including myself believe all employees that are in safety sensitive positions as well as potential employees should adhere to the City's Alcohol and Substance Abuse policy. Therein, I am submitting the attached policy for adoption by City Council.

Budget Impact: \$ _____ Is this expenditure approved in the current fiscal year budget? Yes If no, describe how it will be funded.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

I move to approve the Alcohol and Substance Abuse Policy as written.

Attachments:

Alcohol and Substance Abuse Policy

A Resolution Amending
The City of Hendersonville Alcohol and Substance Abuse Policy

WHEREAS, the City of Hendersonville has a Drug and Alcohol testing program for CDL drivers and wishes to amend that policy to encompass the entire City workforce as well as potential employees; and

WHEREAS, the City of Hendersonville wants to confirm its commitment to provide a safe, healthy and efficient work environment for its employees and to protect the public that it serves by establishing and maintaining an alcohol and drug-free workplace as more particularly set forth in the body of the policy; and

WHEREAS, the attached amended policy provides rules and procedures that are consistent with current regulations; now therefore

BE IT RESOLVED, by the City Council of the City of Hendersonville, from and after the effective date of this resolution, that the Alcohol and Substance Abuse Policy attached to this resolution, is hereby adopted.

AND BE IT FURTHER RESOLVED that all policies or resolutions or parts of policies or resolutions in conflict herewith are repealed to the extent of such conflict.

Adopted this 6th day of October 2016.

Barbara Volk, Mayor, City of Hendersonville

Attest:

Tammie K. Drake, CMC, City Clerk

SEAL

	CITY OF HENDERSONVILLE	Policy Number:	
		Adopted by Resolution Number:	
Policy Name:	Alcohol and Substance Abuse Policy	Date Adopted by Council :	October 6 th , 2016

I. Purpose

It is the policy of the City to provide a safe, healthy and efficient work environment for its employees and to protect the public that it serves by establishing and maintaining an alcohol and drug-free workplace. Alcohol and drug abuse is a problem of serious concern and one which affects all segments of the community, including the workplace.

II. Applicability

1. Applicants who have been offered employment must undergo a drug screen test as part of the hiring process.
2. All employees are covered under this *Alcohol and Substance Abuse Policy* and are subject to post-accident or post-incident testing.
3. Employees serving in positions determined to be safety sensitive are subject to random and “follow-up” testing, when applicable.
4. Employees who must hold a Commercial Driver’s License (CDL) as a requirement for the job are subject to random and “follow-up” testing as required by the U.S. Dept of Transportation, if applicable.
5. Employees who are transferring to safety sensitive positions.

III. Prohibited Conduct for All City Applicants and Employees

The following conduct is expressly prohibited and violations will result in disciplinary action up to and including termination:

1. Possession, consumption, manufacturing, distribution, dispensation or being under the influence of an unauthorized controlled substance, an illegal drug, drug paraphernalia or alcohol while on duty, on City premises, in City-supplied vehicles, or in any City work area. Law enforcement officials shall be notified, as appropriate, where criminal activity is suspected.
2. Sale, use, or possession of illegal drugs; or possession with intent to sell illegal drugs.
3. Use of alcohol or controlled substances when these activities adversely affect job performance, job safety, or the public’s confidence in an employee’s ability to perform their duties in an adequate and effective manner, or any use of illegal drugs or abuse of prescription drugs for which he/she does not have a doctor’s prescription.
4. No employee shall report for duty or remain on duty while having an alcohol concentration of .04 or greater. The employee will be removed from duty for a twenty-four (24) hour period. The employee will be subject to a return to duty test. The return to duty alcohol test must indicate an alcohol concentration of 0.00.

IV. Drug Screening Criteria

The City of Hendersonville will consider an employee for a drug screening test under the following circumstances:

1. PRE-EMPLOYMENT Applicants determined to be final candidates for a full time or part time position will be required to submit to a drug screening. The drug screen shall be performed within forty-eight hours from the time the conditional job offer is made or as soon thereafter as possible but no longer than five (5) business days and before the candidate begins performing the job in question. The City will withdraw an offer of employment made to any applicant whose drug screen test reveals the presence of illegal drugs or prescription drugs without a valid prescription.
2. POST-ACCIDENT or INCIDENT All full time and part time employees will be tested for the presence of controlled substances and/or alcohol following an on-the-job accident/incident that involves the following:
 - a. A fatality;
 - b. Bodily injury requiring medical attention or professional medical treatment (W/C). The employee is tested only if circumstances indicate that such bodily injury (whether to an employee or citizen or both) may have been caused, at least in part, by the employee; or by reasonable suspicion by a supervisor or
 - c. Property damage which causes one or more vehicles to be incapacitated, where employee is issued a citation, if circumstances suggest that an employee may have contributed to the accident/incident .To be determined by the dept. head or supervisor in charge, or where the department head or supervisor has reasonable suspicion of the presence of controlled substance or alcohol.

Testing for drugs and alcohol should occur within two (2) hours of the accident/incident but not more than eight (8) hours following the time of the accident/incident. If the employee is unable to be tested within two hours, reasons for the delay must be documented. Refusal to test will result in termination.

Employees will be escorted to a testing facility after an accident/incident has occurred. No employee is authorized to operate City owned equipment or vehicles until test results are confirmed.

3. REASONABLE SUSPICION TESTING When there is reasonable suspicion that any employee on duty has alcohol or drugs in his/her system, the employee will be tested. Reasonable suspicion must be based on specific, objective facts or reasonable inferences drawn from facts that would cause a reasonable person to suspect that the employee is or has been using drugs or alcohol.

Facts supporting a reasonable suspicion determination include, but are not limited to, anyone or more of the following:

- a. Direct observation of prohibited drug or alcohol use;
- b. Slurred speech;

Alcohol and Substance Abuse Policy

- c. Odor of marijuana or alcohol about the person;
 - d. Inability to walk a straight line;
 - e. Physical or verbal altercation;
 - f. Behavior that is so unusual that it warrants summoning a supervisor or anyone else in authority (i.e. confusion, disorientation, lack of coordination, marked personality changes irrational behavior);
 - g. Possession of drugs or alcohol;
 - h. A report of prohibited drug or alcohol use provided by a reliable and credible source;
or
 - i. Arrests, citations, and deferred prosecutions associated with drugs or alcohol.
4. FEDERAL OR STATE MANDATED SUBSTANCE ABUSE TESTING City employees who are subject to federal or state mandated substance abuse testing, including but not limited to Department of Transportation regulations, will be tested pursuant to such testing requirements notwithstanding this *Substance Abuse Policy*.
5. RANDOM TESTING An employee that is entrusted with preserving public health/safety or the safety of other employees has a special responsibility to maintain physical and mental fitness for duty at all times while on the job. Testing may be conducted on a random basis on employees that hold safety-sensitive positions, chosen by a method that provides an equal probability that any employee from a group of employees will be selected. Safety-sensitive positions within the City of Hendersonville are defined as:
- a. All sworn law enforcement personnel;
 - b. All Certified Fire Department personnel;
 - c. Positions (full-time and part-time) requiring the consistent and frequent operation of heavy equipment or motor vehicles as a primary task;
 - d. Positions working around large equipment or with potential for hazards;
 - e. Positions working with youth and/or those required to drive other persons;
 - f. Positions requiring the handling of hazardous materials, the mishandling of which may place the employee, fellow employees, or the general public at risk of serious injury, or the nature of which would create a security risk in the workplace; and
 - g. Other positions as required by law, or as designated by the Human Resources Director, due to the specific safety-sensitivity of individual jobs.
6. METHOD FOR RANDOM TESTING All employees in safety-sensitive positions will be subject to random testing for alcohol and controlled substances. For compliance purposes two groups of employees for random selection will be maintained—DOT covered employees and safety sensitive non-DOT employees. Random testing will be conducted on a percentage basis in a fair manner as provided by DOT regulations

Alcohol and Substance Abuse Policy

Each time a random selection is made, every employee will have an equal chance of being selected. Random tests will be unannounced and spread reasonably throughout the year. Employees when notified that they have been selected for random testing will proceed immediately to the collection site.

V. Relief from Duty

An employee may be placed on administrative leave for twenty-four (24) hours when tested under *Section IV. Drug Screening Criteria (2) Post Accident or Incident*. An employee may be placed on administrative leave pending the outcome of the test results when tested under *Section IV. Drug Screening Criteria (3) Reasonable Suspicion*. Employees will normally be placed on administrative leave while awaiting results of a post-accident/incident or reasonable suspicion drug test results. Employees will be paid scheduled working hours during this period.

For convenience, efficiency and cost-effectiveness, the City will have the testing conducted onsite or by an approved testing facility. If conducted onsite, a positive or inconclusive result sends the applicant or employee directly to an approved testing facility with an escort for clinical lab testing and review of a MRO (Medical Review Officer).

1. CONSENT Before a drug or alcohol test is administered, employees and job applicants will be asked to sign a consent form authorizing the test and permitting release of test results to those City officials with a need to know. The consent form shall provide space for employees to acknowledge that they have been notified of the City's *Alcohol and Substance Abuse Policy* and to indicate current or recent use of prescription or over-the-counter medication.
2. REFUSAL TO CONSENT Any employee who refuses to consent to a drug and/or alcohol test will be terminated. Any final applicant who refuses to consent to a drug and/or alcohol test will have the offer of employment withdrawn.
3. CONFIDENTIALITY All information from an employee or applicant's drug and alcohol test is confidential and only those with a need to know are informed of the test results. Disclosure of test results to any other person, agency, or organization is prohibited unless written authorization is obtained from the employee or applicant, except as provided by law. The results of a positive drug test shall not be released until the results are confirmed by a MRO (Medical Review Officer).
4. SPECIMEN COLLECTION
 - a. *Pre-Employment*. Applicants who refuse to take the tests will not be hired. The applicant will be required to sign and submit the consent form. Applicants will be required to have the test conducted at an approved testing facility.
 - b. *Post-Accident or Incident and Reasonable Suspicion*. The employee shall be escorted to an approved testing facility.

After the sample and results are obtained- if negative, the employee will return to work, if applicable. In the case of a negative result for reasonable suspicion, the employee will be questioned as to why he/she may be showing signs of fatigue, etc., and the department head can decide whether or not the employee should

Alcohol and Substance Abuse Policy

remain at work. The supervisor will use every reasonable means to insure that the employee reaches his or her destination safely.

- c. *Follow-up*. Follow-up testing takes place when a test has rendered a positive or inconclusive result.
5. **TESTING REQUIREMENTS** All drug and/or alcohol testing of employees and applicants shall be conducted in compliance with the Controlled Substance Examination Act, Article 20 of Chapter 95 of the North Carolina General Statutes. "Follow-up" testing, if necessary shall be conducted at an approved testing facility or laboratory selected by the City. To be considered a testing site, a medical facility or lab should have the following factors:
- a. Testing procedures which ensure privacy to employees and applicants consistent with the prevention of tampering;
 - b. Methods of analysis which ensure reliable test results, including the use of gas chromatography/mass spectrometry to confirm positive test results;
 - c. Chain of custody procedures which ensure proper identification, labeling, and handling of test samples;
 - d. Retention and storage procedures which ensure reliable results on confirmatory test of original samples.
6. **POSITIVE TEST RESULTS** An employee whose drug test yields a positive result shall be given a follow up test. If the confirmation test results are positive, then the employee will be notified of the positive test results and will have an opportunity to rebut verbally or explain in writing the tests results. The City may, in its discretion, take this explanation into account in making any employment decision. A confirmation of the test results by the MRO (Medical Review Officer) shall be considered FINAL.

VI. Communication of Test Results

1. **NEGATIVE TEST RESULTS** If the drug screening test result is negative, the laboratory will so advise the designated City official who will inform the employee or job applicant.
2. **POSITIVE TEST RESULTS** If the alcohol or drug screening test result is positive, the laboratory will so advise the designated City official and the following action shall be taken:
 - a. A job applicant shall be informed of the positive test results by the Human Resources Director (or their designee) of the test results and that the *Conditional Offer of Employment* has been withdrawn.
 - b. A current employee shall be informed of the positive test results by the Human Resources Director (or their designee) and the Human Resources Director will also inform the City Manager.
 - c. A possible dismissal hearing between the employee, the Department Head, and the Human Resources Director will be scheduled. Protocol described in **ARTICLE IX, Section 6. Possible Dismissal Hearing** of the Personnel Policy will be followed.

Alcohol and Substance Abuse Policy

Employees who hold a CDL will be subject to the Department of Transportation regulations for positive test results. The City will complete and submit Forms CDL-8 or CDL-9, whichever may be the case.

- d. Factors to be considered by the supervisor in determining the appropriate response to a positive test result include the nature of the position to which assigned, the extent of performance deficiencies, the seriousness of accidents or incidents, the employee's work history, and existence of past disciplinary actions. Mandatory EAP referral, leave (either with or without pay), and/or disciplinary action up to and including termination may result; and if an employee has received a positive test result while employed with the City, then any subsequent positive test results, not a follow-up test, will result in termination.
- e. If disciplinary action is recommended, the employee shall be notified in writing. The employee has a right to appeal the decision per the Personnel Policy, **ARTICLE X. GRIEVANCE PROCEDURE AND ADVERSE ACTION APPEAL.**

VII. Failure of an Employee to Cooperate

Employee compliance with the City of Hendersonville's *Alcohol and Substance Abuse Policy* is mandatory. Failure or refusal of any employee to fully cooperate and participate in the program, sign any required document or submit to a drug and/or alcohol screening test will be grounds for termination of employment unless a compelling, satisfactory reason is provided.

Employees who continue employment while undergoing counseling or rehabilitation will be required to meet all established standards of conduct and job performance. Employees who have been referred for counseling or rehabilitation under this Policy shall be required to fully cooperate and participate in their rehabilitation and the recommendations of the program administrators. This may include the requirement for regular attendance at therapy sessions. Employees who have been referred to counseling or rehabilitation may be required to undergo drug screening tests at any time for a period of up to two years. Employees who volunteer that they have a drug abuse problem and seek counseling and/or rehabilitation under this Policy may also be tested without cause and at any time for a period of two years after referral or self-referral. If the City determines that an employee has failed to cooperate under the terms of this Substance Abuse Policy, the employee may be suspended without pay and be subject to further disciplinary action, up to and including termination. If an employee receives a subsequent positive drug test after counseling and/or rehabilitation they are subject to immediate termination.

VIII. Time Off for Counseling and Rehabilitation and Return to Work

Work time lost will be paid according to applicable benefit plans of the City (such as vacation, compensatory time or sick leave) to the extent available to the employee. Beyond such benefits, work time lost for counseling and rehabilitation will be without pay. An employee may return to work only after (i) he or she has been certified by the treatment facility as being free of substance abuse and fit to return to duty; and (ii) he or she has produced a negative drug test result.

IX. Summary

No part of this policy, nor any of its procedures, is intended nor shall be construed to affect the City of Hendersonville's right to manage its workplace, to discipline its employees or to change the "at will" nature of employment with the City. Since it is impossible to anticipate every situation which may arise under this policy, the Human Resources Director should be contacted to resolve any situation not addressed herein. This contact should be made before action is initiated, if at all practical.

Consent to Drug and Alcohol Testing

Under the authority of the City of Hendersonville’s Alcohol and Substance Abuse Policy you are required to submit to an immediate drug/alcohol screening for the following reason:

Pre-employment Screening Post Accident/Incident Screening Random (Safety Sensitive Only)

The results of this test will be used by the City to make decisions about appropriate administrative “next steps”. If the test is negative, no further action needs to be taken. The results will be documented and placed in your Medical folder in the Human Resources Office. If the test results in a positive or inconclusive result, you will be required to immediately provide a urine sample for testing and review by a MRO (Medical Review Officer).

My signature below attests to the following:

- 1) I consent to a medical examination and the collection of urine samples, salvia, breathalyzer and/or blood test as requested by the City of Hendersonville for the purpose of determining the presence of alcohol and/or drugs, if any.
- 2) I understand that my refusal to be tested may result in termination of my employment with the City.
- 3) If my drug screen test reveal the presence of illegal drugs or prescription drugs without a valid prescription, then the City may withdraw my offer of employment.
- 4) I have been informed that drug screen results are protected health information under HIPAA law and will not be disclosed under any circumstances without written consent of the employee or candidate except as provided by law.
- 5) I acknowledge that I have been made aware of the City’s Alcohol and Substance Abuse Policy.
- 6) I have listed below all medication, drugs, or vitamins taken in the last two weeks. I have included prescription medications, headache remedies, "cold" pills, diet pills, etc.

Employee/Candidate Signature Employee/Candidate Printed Name Date

Witness signature Witness Printed Name Date

Employee/Candidate refused to sign

All panels negative **One or more panels tested positive **One or more panels tested inconclusive

**** “Positive” or “inconclusive” test results require the employee (with escort) or job applicant to report immediately to an approved testing facility or laboratory for urinalysis testing and review by a (MRO) Medical Review Officer.**



**ALCOHOL & SUBSTANCE ABUSE POLICY
EMPLOYEE ACKNOWLEDGEMENT FORM**

I, _____, hereby acknowledge that I have received the Substance Abuse Policy of the City of Hendersonville and understand that it my responsibility to read, understand and comply with the policy.

I further acknowledge the following:

1. I have been notified that the unlawful manufacture, distribution, dispensation, possession, or use of alcohol, drugs or other controlled substances is prohibited in the City of Hendersonville's workplace, and that violations of these prohibitions will subject me to disciplinary action under the policy.
2. That I will abide by the City of Hendersonville's Alcohol and Substance Abuse Policy.

I understand that the above in no way creates an obligation or contract of employment and that I, as well as the City of Hendersonville, have the right to end the employment relationship at any time.

Employee Name _____

(Please print)

Date _____

Employee signature



Drug Free Workplace Policy Employee Resources

Employee Assistance Program (EAP) – The EAP offers assistance for personal and/or professional concerns by providing free, confidential, short-term counseling and personal consultation. The EAP has a network of counselors that are located near your home and/or work-site. They can help you improve or resolve personal difficulties whether big or small, personal or work related.

Some examples of concerns that the EAP addresses include:

Family conflict	Depression and anxiety
Relationship issues	Communication breakdowns
Grief and loss	Financial difficulties
Stress	Work related issues
Balancing work and family	Alcohol or drug use/abuse

Confidentiality is one of the most important features of the EAP. Employees can be confident that their privacy and confidentiality will be honored. No one will know that you have used this resource unless you offer that information or unless someone's safety is threatened. There is no cost to you for your phone calls or face-to-face visits with the EAP.

The EAP is provided by Employee Assistance Network, Inc. For more information on the EAP, please view their website at www.eannc.com or contact them at 828-697-2953.



City of Hendersonville

Alcohol and Substance Abuse Policy List of Safety Sensitive Employees

1. Sworn Police Personnel
2. Telecommunicatons Division
3. Certified Fire Department personnel
4. Facilities Maintenance personnel
5. Water Distribution personnel
6. Wastewater collections
7. Waste Water Treatment Plant positions
8. Water Treatment Plant positions
9. Building Maintenance
10. Fleet Maintenance
11. Grounds Maintenance
12. Streets and Highway Maintenance
13. Traffic Engineering
14. Zoning/Code Enforcement Officer
15. Employees with a Commercial Driver's License (CDL)
16. Positions requiring the consistent and frequent operation of heavy equipment or motor vehicles as a primary task.
17. Positions working around large equipment or with potential for hazards.
18. Positions working with youth and/or those required to drive other person's.
19. Positions requiring the handling of hazardous materials, the mishandling of which may place the employee, fellow employees, or the general public at risk of serious injury, or the nature of which would create a security risk in the workplace.
20. Other positions as required by law, or as designated by the Human Resources Director, due to the specific safety-sensitivity of individual jobs.



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

Submitted By: Brian Pahle

Department: Admin

Date Submitted: 09/20/16

Presenter: Brian Pahle

Date of Council Meeting to consider this item: 10/06/16

Nature of Item: Council Action

Summary of Information/Request:

Item # 05c

Budget Amendments (4)

- 1) Police Department Grants | Fund 321 Increase \$23,175 | Fund 344 Increase \$5,000
- 2) Property Purchases | Fund 10 Increase \$130,000
- 3) Facilities Lighting Upgrade | Fund 10 Increase \$49,133
- 4) 7th Avenue Event Revenue | Fund 21 Increase \$5,035

Budget Impact: \$ Listed Is this expenditure approved in the current fiscal year budget? N/A If no, describe how it will be funded.

Fund 321 Increase \$23,175 | Fund 344 Increase \$5,000 | Fund 10 Increase \$179,133 | Fund 21 Increase \$5,035

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

I move to approve the budget amendments as presented.

Attachments:

See below...

BUDGET AMENDMENT

FUND: 321, 344

ACCOUNT NUMBER			INCREASE	DECREASE
ORG	OBJECT	DESCRIPTION OF ACCOUNT		
3210000	434991	Grant Revenue - DPS	23,175.00	
3210000	539500	Training	2,400.00	
3210000	553000	Non-Capital Equipment	20,775.00	
		TOTAL REVENUES	23,175.00	
		TOTAL EXPENDITURES	23,175.00	
3440000	434991	Grant Revenue	5,000.00	
3440000	539500	Training	5,000.00	
		TOTAL REVENUES	5,000.00	
		TOTAL EXPENDITURES	5,000.00	

An amendment establishing budgets for two grants received by the Police Department. The first, is a grant awarded to the City in the amount of \$23,175 with no required City match by the Governor's Crime Commission. The second, is a grant awarded to the City in the amount of \$500 with no required City match by the Governor's Highway Safety Program.



 CITY MANAGER

Date: 9/13/16

APPROVED BY CITY COUNCIL: _____ DATE: 10/6/2016



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

Submitted By: Brian Pahle

Department: Admin

Date Submitted: 09/27/16

Presenter: Brian Pahle

Date of Council Meeting to consider this item: 10/06/16

Nature of Item: Council Action

Summary of Information/Request:

Item # 05d

The Walk of Fame Committee has requested a special appropriation in the amount of \$1,500 to help accomplish their Walk of Fame promotional and marketing objectives. Additionally, the Committee has requested that the City hold their funds in an agency fund (Fund 821). An agency fund is used to account for assets held solely in a custodial capacity. They commonly involve on the receipt, temporary investment, and remittance of assets to their respective owners.

Attached, you will find a budget amendment moving funds to an appropriation account for the Walk of Fame Committee and establishing the agency fund.

Budget Impact: \$ 1,500 Is this expenditure approved in the current fiscal year budget? No If no, describe how it will be funded.

The \$1,500 will be funded with available contingencies.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

I move to approve the budget amendment attached, appropriating \$1,500 to the Walk of Fame Committee.

I further move to approve the holding of the Walk of Fame Committee's funds in an agency fund maintained by the City.

Attachments:

Budget Amendment...



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

Submitted By: John Connet

Department: Administration

Date Submitted: 10/21/2016

Presenter: John Connet

Date of Council Meeting to consider this item: 10/06/2016

Nature of Item: Council Action

Summary of Information/Request:

Item # 05e

The City of Hendersonville has received a request from the Hands On Children's Museum for the use of Berkeley Park for the 2017 Mud Run. The event will be held on the following dates:

Family Mud Fun on Friday, June 2
Mud Run on Saturday, June 3

The Museum is analyzing the event to see what changes we can make to get our numbers back up, but they do want to hold the events in the same locations.

Budget Impact: \$10,500 Is this expenditure approved in the current fiscal year budget? Yes No If no, describe how it will be funded.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

I move that the City Council allow the 2017 Mad Mountain Mud Run to be held at Berkeley Mills Park on June 2 and 3, 2017. This approval includes the in-kind donation of staff time and mulch for the event.

Attachments:

None



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

Submitted By: Susan G. Frady

Department: Development Asst Dept

Date Submitted: 9-21-16

Presenter: Susan G. Frady, Development Asst Director

Date of Council Meeting to consider this item: 10-6-16

Nature of Item: Council Action

Summary of Information/Request:

Item # 05f

The City of Hendersonville has received a petition from Claystone, LLC for a satellite annexation of approximately 5.25 acres of the property identified as Parcel Identification Number 9579-66-3377 located at 20 Hannah Grace Way. This annexation application is related to a sewer service request. The map distance from the proposed satellite corporate limits is 238' feet from the primary corporate limits. The total area within the satellite corporate areas, including land involved in this petition, constitutes 3.7 percent of the area within the primary corporate limits. Please refer to the attached maps and survey for additional information.

Attached is the Clerk's Certificate of Sufficiency finding that the petition is valid. The next step in the annexation process is to accept the Clerk's Certificate and set a date for the public hearing on the question of adoption of an ordinance of annexation.

Budget Impact: \$0 _____ Is this expenditure approved in the current fiscal year budget? ^{N/A} If no, describe how it will be funded.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

I move Council to accept the City Clerk's Certificate of Sufficiency for the Claystone, LLC petition and set November 3, 2016, as the date for the public hearing.

Attachments:

Certificate of Sufficiency
Maps

CERTIFICATE OF SUFFICENCY

**Re: Petition for Satellite Annexation
The City of Hendersonville – 20 Hannah Grace Way
File No. P16-26-A**

To the Honorable Mayor and members of the City Council of Hendersonville, North Carolina:

I, Tammie K. Drake, City Clerk, begin first duly sworn, hereby certify an investigation has been completed of the above referenced petition for the satellite annexation of 5.25 acres at 20 Hannah Grace Way.

A. According to the Development Assistance Department, the area described in the petition meets all of the standards set out in GS160A-58.1(b).

1. The map distance from the proposed satellite corporate limits is approximately 238 feet from the primary corporate limits.
2. No point on the proposed satellite corporate limits is closer to the primary corporate limits of another city than to the primary corporate limits of Hendersonville.
3. The area is situated so the City will, if City Council so determines, be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
4. The area proposed for annexation is not a subdivision as defined in GS 160A-376.
5. The total area within the satellite corporate areas, including land involved in this petition, constitutes 3.7 percent of the area within the primary corporate limits.

B. The petition bears the names, addresses, and signatures of all owners of the real property within the area proposed for annexation.

C. A metes and bounds description is attached to the petition.

D. A map showing the area proposed for annexation with relation to the primary corporate limits of Hendersonville is attached to the petition.

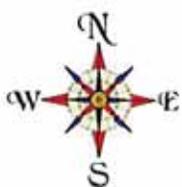
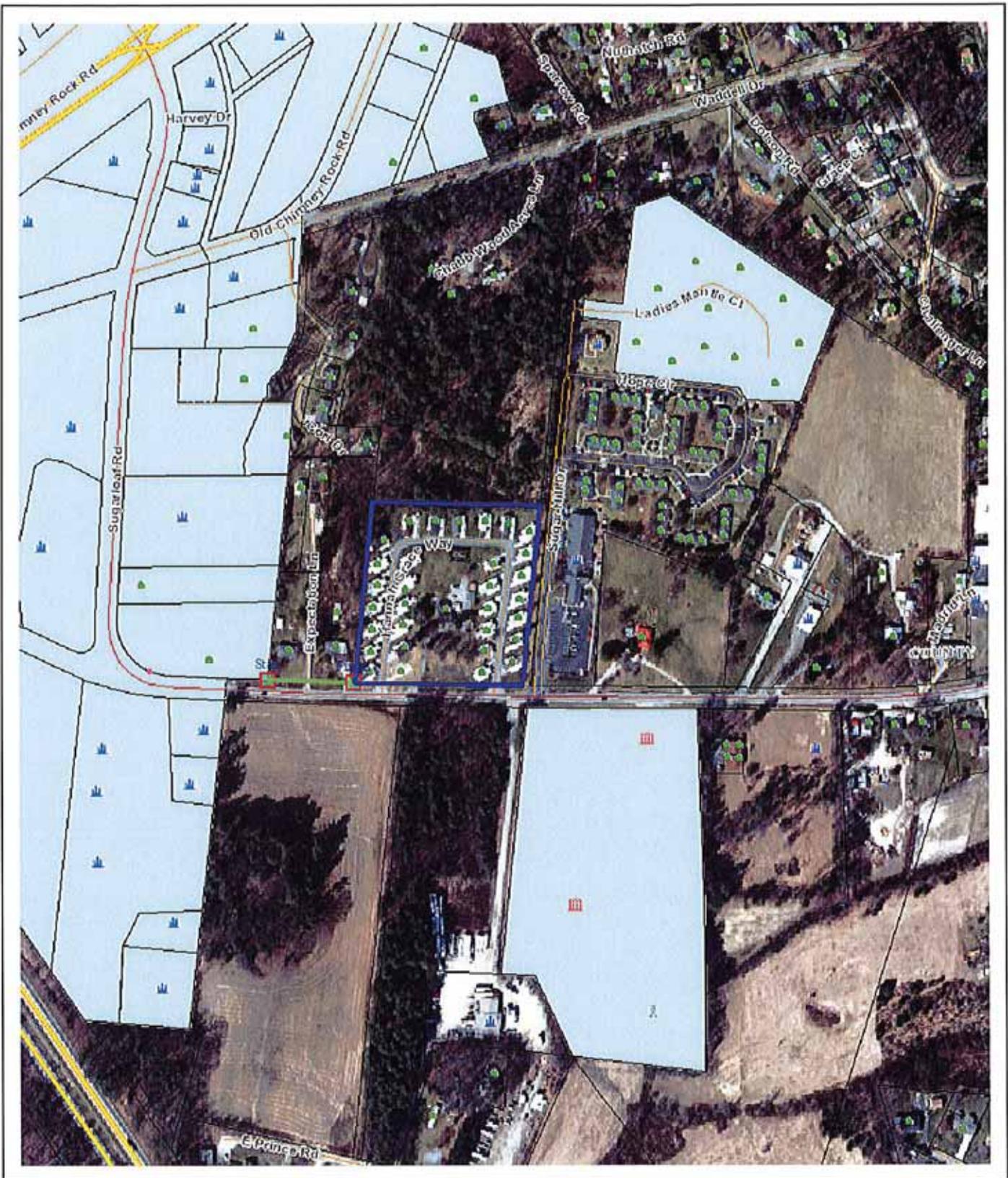
Having made the findings stated above, I hereby certify the petition for satellite annexation presented by Cheria Duncan is valid.

In witness whereof, I have here unto set my hand and affixed the seal of the City of Hendersonville, this 21 day of Sept., 2016.

Tammie K. Drake

Tammie K. Drake, MMC, City Clerk





DIST. = 238'

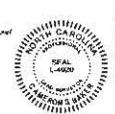
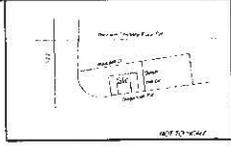


Printed: Sep 09, 2016

WARNING: THIS IS NOT A SURVEY. All information or data provided (whether subscribed, purchased or otherwise distributed) is provided as is, without any warranties, including the warranties of merchantability or of fitness for a particular purpose. Henderson County and its employees make no warranties or guarantees, either express or implied. Use of the information or data subscribed, purchased or otherwise distributed, whether in hard copy or digital media, shall be at the user's own risk.

- NOTES:
1. Property is subject to all easements, restrictions and right of way of record.
 2. The locations of easements which are based on above ground structures and records is shown provided in the schedule. Locations of underground structures may vary from locations shown herein. Additional survey information may be required.
 3. Surveyor has made an investigation or independent search for easements of record, encroachments, restrictive covenants, easements of record, or any other facts that may affect the results of this survey.
 4. The certification of survey and plat was prepared for the state named at the top hereof and does not extend to any other entity, unless recited by the professional seal hereon.
 5. All encroachments shown herein include materials, including but not limited to, project plans, utility and record encroachments, signs, fence sections and other, survey reports, record data reports, utility diagrams, working drawings, estimates, and other materials acquired and/or prepared by the surveyor or instruments of record shall remain the property of the surveyor and drawings.
 6. The planning process will address the original signature and stamp are attached. Any reproduction or alteration to this survey by electronic or any other means are not to be considered valid by the professional surveyor.
 7. All distances shown herein are ground distances, unless otherwise noted.
 8. No action by corporate representation.
 9. Property is located within the City of Hendersonville, NC.
 10. Property is located within the City of Hendersonville, NC.
 11. Property is located in Block 8, Mainland Forest Park as per 1991 Mainland 1957A, Map # 3700097/2001, Platbook date 10/22/2000.
 12. Contours are at 1' intervals.

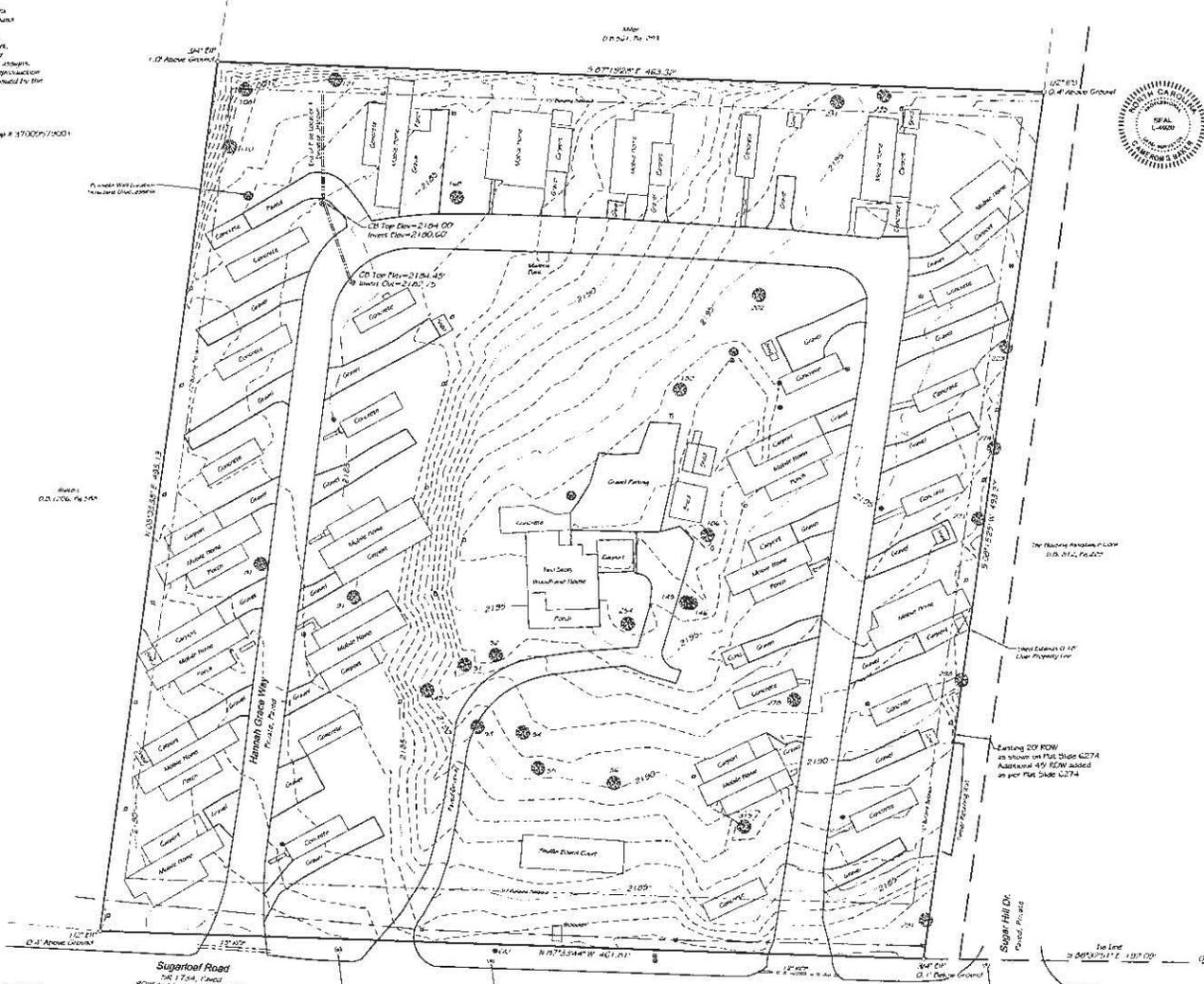
5.22 Acres
Area by Coordinate Computation



Certification of Survey
I, the undersigned, do hereby certify that this plat was drawn under my supervision from an actual survey made under my supervision, (other recitations recited in book 777 page 222.) I bear the ratio of precision as considered by the state and the ratio of precision does not exceed 1:10,000 and that the map was prepared in accordance with the standards of Practice for Land Surveying in North Carolina. Witness my hand and seal this 27th day of February, 2016.
[Signature]
Professional Land Surveyor No. L-4920

Global Positioning System Certification (GNSS)
The Horizontal Accuracy of The RTK Derived Positional Information is 0.02 Horizontal & 0.03 Vertical
Horizontal Precision is Referenced to NAD 83 (NARS 2011)
Vertical Precision is Referenced to NAVD 88 (State 12)
Combined Factor 0.1907413 (Horizontal to 3-Sigma)
Equipment Used: Garmin Surveyor 4 - GPS 1000

Point	Description
19	2 1/2" PINE
20	2 1/2" PINE
21	2 1/2" PINE
22	1 1/2" CEDAR
23	2 1/2" HICKORY
24	1 1/2" PINE
25	1 1/2" PINE
26	1 1/2" PINE
27	2 1/2" DOGWOOD
28	2 1/2" PINE
29	1 1/2" PINE
30	2 1/2" PINE
31	2 1/2" PINE
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99	2 1/2" PINE
100	2 1/2" PINE



Property described in D.B. 777, Pg. 93

Map of Topographic Survey for
Claystone, LLC

Owners:
Angela Whitehead
201 E, Pg. 313

Hendersonville Township Henderson County, NC

ASSOCIATED LAND SURVEYORS
A PLANNERS, P.C.
P.O. BOX 578 • HENDERSONVILLE, NC 28742
(828) 490-3507 NC BUSINESS LICENSE NO. C-2724
Incl. 1 inch = 30 Feet Date: May 28, 2016
Scale: 1" = 30' Book: 158 Date: 05/28/16



- LEGEND:
- EF = Existing Iron Pipe
 - ES = Existing Iron Stake
 - EPD = Iron Pipe Dot
 - PI = Unmarked Point, Unless Otherwise Noted
 - HOWNOM = Height of Wood Monument
 - HW = Height of Wall
 - ESR = Reproduction Lathwork Pipe
 - CO = Clear Cut
 - EL = Electric Transmission
 - LP = Live Pole
 - EP = Energized Post-and-Rail
 - PM = Power Meter
 - PP = Power Pole
 - CS = Curbside Street Markings
 - WM = Water Meter
 - W = Well



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

Submitted By: Brent Detwiler

Department: Engineering

Date Submitted: 9/22/16

Presenter: Brent Detwiler

Date of Council Meeting to consider this item: 10/6/16

Nature of Item: Council Action

Summary of Information/Request:

Item # 05g

N Main Street Sidewalk Improvements - Engineering Design

Over the last couple of months options have been presented to Council for extending sidewalk along N Main Street as part of the 2008 Sidewalk Bond. City staff have been working with Mattern & Craig to develop these options, and at the August Council meeting, a preferred option was selected. Mattern & Craig has provided the attached proposal to complete design, permitting and construction management of the sidewalk project. Please note that this proposal does not include floodway permitting required for the Mud Creek pedestrian bridge, which will be completed by Wildlands Engineering under a separate contract. It also assumes that City staff will provide daily construction inspection as necessary.

We are asking you to approve the City Manager to execute a contract with Mattern & Craig to complete the design, permitting and construction management work associated with the N Main Street Sidewalk Project. We welcome any questions that you may have.

Budget Impact: \$ 110,000.00 Is this expenditure approved in the current fiscal year budget? Yes If no, describe how it will be funded.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

I move to approve a proposal from Mattern & Craig for completion of the N Main Street Sidewalk project and to authorize the City Manager to execute a contract for said work; as presented and recommended by staff.

Attachments:

Mattern & Craig Proposal for N Main Street Sidewalk Project

**CLIENT AND ENGINEER
PROFESSIONAL SERVICES AGREEMENT**

This agreement is made and entered into at Asheville, North Carolina effective this _____ day of _____, 2016, by and between:

ENGINEER:

Name: Mattern & Craig, Inc.
Address: 12 Broad Street
Asheville, NC 28801
Phone: (828) 254-2201

CLIENT:

Name: City of Hendersonville Engineering Dept.
Address: 305 Williams Street
Hendersonville, NC 28792
Phone: 828-697-3060

The project upon which the services hereinafter described are to be performed is for the survey and design of a sidewalk along specific sections of North Main Street in Hendersonville, Henderson County and is herein referred to as the *North Main Street Sidewalk Design Project*.

Scope of Services:

Mattern & Craig will conduct survey operations and prepare construction plans, specifications, and contract documents for the addition of a 5-foot wide concrete sidewalk along North Main Street in the areas identified below:

- Area 1 – Option 1A as identified in the Preliminary Engineering Report (PER) prepared by Mattern & Craig for the City of Hendersonville and dated June 24, 2016
- Area 3 – Option 2 as identified in the Preliminary Engineering Report (PER) prepared by Mattern & Craig for the City of Hendersonville and dated June 24, 2016

The above identified areas of sidewalk installation total approximately 3,000 linear feet and include an approximate 80-foot pedestrian bridge across Mud Creek. The section of sidewalk from the existing greenway to the proposed pedestrian bridge in Area 3 shall be a 10-foot wide asphalt paved section. Specific surveying and engineering services will be provided as identified below:

Surveying

Mattern & Craig will provide surveying services suitable for the design of the sidewalk and related improvements (curb & gutter, storm drainage, driveway tie-ins, retaining walls, etc.) at the two areas identified above. Surveying services will include the following specific tasks:

- Courthouse and Field Research
- Establishment of Project Horizontal and Vertical Control
- In-the-Field Horizontal and Vertical Data Acquisition (Topographic Survey) Suitable for Design
- Identification of Existing Property Boundaries, Rights-of-Way and Easements
- Identification of Existing Utilities as identified by NC One Call, Existing Records/Documents and Visual Observation (SUE Level C identification)
- Preparation of any necessary Right-of-Way and/or Easement Plats and Legal Descriptions per NCDOT requirements and standards
- Production of all surveys and Plats in the latest version of AutoCAD and provide all digital files to the City

Sidewalk Design

Upon completion of the surveying services as identified above, Mattern & Craig will prepare engineering drawings of the proposed sidewalk and related improvements for the two areas identified above. The sidewalk design work will include the following specific tasks:

- Horizontal Layout of Proposed 5-foot Wide Concrete Sidewalk
- Identification and Layout of Proposed Curb & Gutter as applicable and as identified in the Preliminary Engineering Report (PER) previously prepared by Mattern & Craig
- Identification and Layout of any necessary Retaining Walls
- Identification of Grading Limits, Tree Removal, Hardscape Demolition and related
- Identification of any necessary Temporary or Permanent Easements for Construction, Utilities, and/or Drainage Facilities
- Design of Drive-way tie-ins, ADA-compliant Ramps and Crossings

- Horizontal and vertical design of approaches to proposed pedestrian bridge including the short section of 10-foot wide asphalt greenway path from the existing greenway to the proposed bridge. This work will require collaboration and interaction with Wildlands Engineering who is being contracted by the City of Hendersonville to perform the necessary hydraulic analyses of the proposed bridge (CLOMR/LOMR process) and is expected to be an iterative process until a suitable design is achieved

Storm-Water Design

Commensurate with the layout and design of the proposed sidewalk, Mattern & Craig will evaluate and design the necessary storm-water improvements to effectively convey the storm-water in accordance with NCDOT and City of Hendersonville requirements. The storm-water design will include the following tasks:

- Design of any necessary storm-water conveyances and systems (curb & gutter, catch basins, pipe networks, culverts, ditches, etc.) to NCDOT and City Specifications and Standards and provide all calculations
- Provide Horizontal and Vertical Data of Proposed Inverts, Grate Elevations, Out-Falls, etc.
- Identify any necessary Erosion Control Measures to be utilized during construction for the Prevention of Erosion and/or Sedimentation of the surrounding area

Utility Coordination

Mattern & Craig will identify the existing utilities in the affected area (as identified by the survey work described above) and coordinate any necessary utility relocations as a result of the sidewalk project. Mattern & Craig will perform the following tasks in relation to the Utility Coordination Services:

- Identify all Potential Utility Conflicts and the Respective Utility Companies
- Provide the Affected Utility Companies with Preliminary Plans showing the Layout and Conflict
- One Meeting on-site to discuss Conflicts with Affected Utilities
- Obtain and incorporate any necessary Utility-By-Others (UBO) Plans into the Construction Documents

Utility Design

Mattern & Craig will evaluate the location and potential impact to any public utilities (water, sewer, storm-drainage) in the affected area and design the relocation of said utility as necessary to accommodate the proposed sidewalk project.

- Identify on the plans the location of any utility appurtenances that will need adjustment (water valves, meters, manhole lids, etc.).
- Design any necessary relocation of existing water lines and/or sanitary sewer lines to accommodate the project. Design will be in accordance with City of Hendersonville Standards, Specifications, and requirements
- Include all necessary details and standard drawings applicable to the identified utility work

Geotechnical Engineering

Mattern & Craig will be responsible for the geotechnical investigation and engineering necessary for foundation recommendations as the prime consultant. Actual services will be performed by ECS Carolinas which will be serving as a sub-consultant to Mattern & Craig. The geotechnical engineering work will include:

- Two borings with rock core sampling at each proposed bridge abutment location (4 borings total)
- Foundation recommendations to Structural Engineers for use in design of the bridge abutments
- Recommendations, guidance and notes necessary for foundation design provided to Structural
- Geotechnical Engineering services related to the structural design of any required retaining walls

Structural Engineering

Mattern & Craig will be responsible for the structural design of the proposed bridge abutments and foundations and for identifying the necessary pedestrian bridge specifications (type, length, width, loading, etc.) The structural engineering work will include:

- Coordination with Wildlands Engineering to determine bridge location, dimensions, etc. This is expected to be an iterative process until a suitable design is achieved
- Structural Design of Bridge Abutments, Foundations, Wing-Walls, (substructure design) and retaining walls
- Preparation of General Drawings of the Pedestrian Bridge (plan and elevation view)
- Coordination with Bridge Manufacturers
- Development of Bridge Specifications (actual bridge design to be provided by manufacturer)

Permitting Services

Mattern & Craig will be responsible for providing the necessary permit applications and related exhibits/drawings to the respective permitting agencies for the successful permitting of the project. Mattern & Craig will be responsible for providing the following permit applications and related supporting information:

- NCDOT Encroachment Agreement
- NC DEQ Erosion Control Permit (only if disturbed area exceeds 1 acre)

Cost Estimates

Mattern & Craig will prepare a preliminary cost estimate at the 90% plan stage and a final cost estimate at the 100% plan stage. Mattern & Craig will perform the following tasks in relation to the Cost Estimating Scope of Services:

- Preliminary Construction Cost Estimate
- Final Cost Estimate
- Final Quantity Calculations/Take-Offs

Contract Document Preparation

Upon completion of the necessary construction documents, (plans, calculations, details, specifications, etc.), Mattern & Craig will assemble the Contract Document for the City of Hendersonville to use in advertising, bidding, and awarding the construction of the project. Mattern & Craig will perform the following tasks associated with the Contract Document Preparation:

- Incorporate City-provided Up Front documents into the Contract as appropriate
- Include applicable General Provisions, Special Provisions and Technical Specifications
- Develop a Bid Form with all Pay Items and Estimated Quantities Identified.

Construction Management Services

Upon completion of the contract document, Mattern & Craig will advertise, bid, and award the contract on behalf of the City of Hendersonville. Upon the successful award of the project, Mattern & Craig will provide administration and observation/inspection services to ensure compliance with the contract documents during construction. Mattern & Craig will perform the following tasks associated with the Contract Document Preparation:

- Advertise Project
- Conduct a Pre-Bid Meeting with prospective Bidders
- Receive bids, conduct bid opening, tabulate results and make recommendation to the City
- Issue Notice-of-Award and Notice-to-Proceed
- Conduct a Pre-Construction Conference with selected Contractor
- Perform Construction Observation and Inspection Services (**Hourly**)
- Perform Construction Administration Services such as Pay Applications, Change Orders, RFI's etc. (**NOTE: This assumes a 6-month construction timeframe. Construction Administration Services beyond a 6-month period would constitute additional services**)

Meetings

Mattern & Craig proposes the following meetings with the City of Hendersonville in order to ensure project understanding, schedule and budget compliance

- Meeting 1 – Kick-Off Meeting
- Meeting 2 –Layout of Preliminary Route (Identify any major conflicts, obstacles, challenges, etc.)
- Meeting 3 – Meeting in Field with any Affected Utility Companies
- Meeting 4 – Presentation of the 90% Plans
- Meeting 5 – Presentation of the 100% Plans and Contract Documents
- Meeting 6 – Pre-Bid Meeting (see Construction Management Section above)
- Meeting 7 – Pre-Construction Meeting (see Construction Management Section above)

Not included in Scope of Work at this Time:

- Right-of-Way/Easement Negotiation and/or Acquisition Services
- Attendance at any meetings other than what is specified above including Public Involvement
- Permitting Fees
- Nationwide 401/404 Pre-Construction Notification (PCN)/Floodplain Development Permit/Stormwater Management Permit (to be provided by Wildlands Engineering)
- Facilitation of Relocation of Private Utilities (other than obtaining any necessary UBO Plans)
- Storm-water Management (Detention and/or Treatment)
- CLOMR/LOMR/No-Rise Analysis or Documentation (to be performed by Wildlands Engineering)
- Surveying specifically related to the hydraulic analysis of the pedestrian bridge (CLOMR/LOMR)
- Traffic Control/Maintenance of Traffic Plans (other than applicable notes and references to NCDOT/City standards and details)
- Environmental Analysis and/or Documentation (NEPA or SEPA Documentation)
- Pavement Analysis and/or Design
- Subsurface Utility Engineering (SUE) higher than Quality Level C (QL-C)
- Right-of-Way and/or Easement Staking (coordinates will be provided to the City for their use in staking proposed easements/takes) or Construction Stake-Out
- As-Built Plan Preparation/Record Drawing Documentation

Fee:

Payment for the hereinabove described services will be at the following rates per hour not-to-exceed **\$110,000.00** without authorization from the Client. Billing will be on a monthly basis at the following rates per hour: Principal - \$150, Project Manager - \$125, Engineer - \$100, Survey Manager - \$95, 2-Man Survey Crew - \$135, Cadd Technician - \$75, Clerical - \$60. Construction observation and Inspection services will be billed separately at the following hourly rates: Field Engineer - \$100, Inspector - \$65.

Time of Completion:

- Preliminary Survey – **30 calendar days** from receipt of signed agreement.
- 90% Plans and Supporting Documentation – **45 calendar days** from completion of preliminary survey
- 100% Plans, Specifications, Cost Estimate, Permit Applications, Easement/Right-of-Way Plats, and Construction Documents – **30 calendar days** from review and approval of 90% plan submission.
- Construction Management Services – **Commiserate with Construction of the Project**

In addition to the matters set forth herein, our agreement shall include, and shall be subject to the Standard Provisions, which are attached hereto and incorporated herein.

If you concur and wish us to proceed with the services described above, please have both enclosed originals of this Agreement executed by a properly authorized individual in the space provided. Retain one and return the other. Times stated in this agreement are valid for sixty (60) days from the date executed by the Engineer.

ENGINEER:
 By 
 Title: Vice President
 Date September 16, 2016

CLIENT:
 By _____
 Title: _____
 Date _____

MATTERN & CRAIG, INC.
STANDARD PROVISIONS

(1) **Engineer's Scope of Services** The undertaking of the Engineer to perform professional services extends only to those services specifically described in this Agreement. However, if requested by the Client and agreed to by the Engineer, the Engineer will perform additional services ("Additional Services") hereunder and shall be compensated as set forth below.

(2) **Client's Responsibilities** In addition to other responsibilities described herein or imposed by law, the Client shall:

- (a) Designate in writing a person to act as its representative with respect to this Agreement, such person having complete authority to transmit instructions, receive information, and make or interpret the Client's decisions.
- (b) Provide to the Engineer all previous studies, plans, or other documents pertaining to the project; Client's requirements and criteria; standards to be followed; and all new information reasonably necessary; upon all of which the Engineer may rely.
- (c) Arrange for access to the site and other property and obtain approvals and permits required for the Engineer to provide its services.
- (d) Review all documents or verbal reports presented by the Engineer and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of the Engineer.
- (e) Provide such overall feasibility services such as independent accounting, legal, insurance, and cost estimating as the client may require or the Engineer may reasonably request.
- (f) Give prompt written notice to the Engineer wherever the Client becomes aware of any development that affects the scope and timing of the Engineer's services or any defect or noncompliance in any aspect of the project.
- (g) Bear all costs incident to the responsibilities of the Client.

(3) **Period of Services** This Agreement has been entered into in anticipation of conditions permitting continuous and orderly progress through the completion of the Engineer's services. Times for performance shall be extended to the extent necessary for delays due to circumstances the Engineer does not control. If such delay or suspension extends for more than six months (cumulatively), the rates of compensation provided for in the Agreement shall be renegotiated.

(4) **Compensation for Additional Services** Unless otherwise agreed to in writing, the Client shall pay the Engineer for the performance of any Additional Services an amount based upon the Engineer's current hourly rates plus an amount to cover certain direct expenses including in-house duplicating, local mileage, telephone calls, postage, and word processing. Other direct expenses will be billed at 1.15 times cost.

(5) **Method of Payment** Compensation shall be paid to the Engineer in accordance with the following provisions:

- (a) Invoices will be submitted by the Engineer to the Client for services performed and expenses incurred. Payment of each invoice will be due within 25 days of receipt. Interest will be added to accounts not paid within 25 days at the maximum rate allowed by law. If the Client fails to make any payment due the Engineer for services and expenses within 30 days after the Engineer's transmittal of its invoice, the Engineer may suspend services until all amounts are paid in full.
- (b) If the Client objects to any invoice, it must advise the Engineer in writing giving its reasons within 14 days of receipt of the invoice or the Client's objections shall be waived, and the invoice shall conclusively be deemed due and owing.
- (c) Not Used.
- (d) The Client acknowledges and agrees that the payment for services rendered and expenses incurred by the Engineer pursuant to this Agreement is not subject to any contingency or conditions unless expressly set forth in this Agreement.

(6) **Use of Documents** All documents, including but not limited to drawings, specifications and data or programs stored electronically, prepared by the Engineer are related exclusively to the services described herein. They are not intended or represented to be suitable for partial use or reuse by the Client or others on extensions of this project or on any other project. Any modifications made by the Client or any partial use or reuse without written authorization or adaptation by the Engineer will be at the Client's sole risk and without liability or legal exposure to the Engineer, and the Client shall indemnify, defend and hold the Engineer harmless from all claims, damages, losses and expenses. Any authorization or adaptation will entitle the Engineer to further compensation at rates to be agreed upon by the Client and the Engineer. Copies of Documents that may be relied upon by Client are limited to the printed copies (also known as hard copies) signed or sealed by the Engineer. Files in electronic media format of text, data, graphics, or of other types furnished by Engineer to Client are only for convenience of Client. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the Client, after receiving electronic files, agrees to perform acceptance tests or procedures within 60 days, after which the Client shall be deemed to have accepted the data. Any errors detected within the 60-day acceptance period will be corrected by the Engineer. Engineer shall not be responsible to maintain documents stored in electronic media format after acceptance by Client. When transferring documents in electronic media format, Engineer makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operation systems, or computer hardware differing from those used by Engineer at the beginning of this Project. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

(7) **Opinions of Cost** Because the Engineer does not control the cost of labor, materials, equipment, services furnished by others, methods of determining prices, competitive bidding or market conditions, any opinion rendered as to costs shall be made on the basis of its

experience and represent its judgment as an experienced and qualified professional, but the Engineer cannot and does not guarantee that proposals, bids or actual costs will not vary from its opinions of cost. If the Client wishes greater assurance as to the amount of any cost, it shall employ an independent cost estimator.

(8) **Termination** The obligation to provide further services under this Agreement may be terminated by either party upon seven days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. In the event of any termination, the Engineer will be paid for all services rendered and expenses incurred to the effective date of termination, and other reasonable expenses incurred by the Engineer as a result of such termination.

(9) **Insurance** The Engineer is protected by Workers' Compensation insurance, professional liability insurance, and general liability insurance for bodily injury and property damage and will exchange certificates of insurance upon request.

(10) **Liability** In performing its professional services, the Engineer will use that degree of care and skill ordinarily exercised, under similar circumstances, by reputable members of its profession practicing in the same or similar locality at the time the services are provided. No warranty, express or implied, is made or intended by the Engineer's undertaking herein or its performance of services hereunder, and it is agreed that the Engineer is not a fiduciary with respect to the Client. To the fullest extent of the law, and notwithstanding any other provisions of this Agreement, the total liability, in the aggregate of the Engineer and the Engineer's officers, directors, employees, agents and subconsultants to the Client or to anyone claiming by, through or under the Client, for any and all claims, losses, costs or damages whatsoever arising out of, resulting from or in any way related to the services under this Agreement from any cause or causes including but not limited to, the negligence, professional errors or omissions, strict liability or breach of contract or any warranty, express or implied, of the Engineer or the Engineer's officers, directors, employees, agents, or subconsultants shall not exceed twice the total compensation received by the Engineer under this Agreement or \$50,000 whichever is greater. Under no circumstances shall the Engineer be liable for lost profits, consequential damages or for extra costs or other consequences due to changed conditions or for costs related to the failure of the contractor to perform work in accordance with the plans and specifications.

(11) **Expenses of Litigation** Not used.

(12) **Dispute Resolution** If and to the extent that Client and Engineer have agreed on a method and procedure for resolving disputes between them arising out of or relating to this Agreement, such dispute resolution method and procedure, if any, is set forth in an Exhibit attached to this Agreement. Client and Engineer agree to negotiate in good faith for a period of thirty days from date of notice of all disputes prior to exercising their rights under any Exhibit or under law.

(13) **Hazardous Substances** It is understood and agreed that in seeking the professional services of the Engineer, the Client does not request the Engineer to undertake to perform any services, studies, or tests, or to make any determinations involving hazardous substances or conditions, as defined by federal or state law. Therefore, the Engineer undertakes no such obligation, and the Client agrees to hold harmless, indemnify, and defend the Engineer from and against any and all claims, losses, damages, liability, and costs arising out of or in any way connected with the presence, discharge, release, or escape of hazardous substances or conditions of any kind, or environmental liability of any nature, in any manner related to services performed by the Engineer. If any hazardous substance or condition is observed or reasonably suspected by the Engineer, it shall have the right to cease all services until the hazardous substance or condition has been eliminated. The Engineer shall notify the Client of any such substance or condition of which the Engineer becomes aware, and the Client shall be solely responsible for its elimination.

(14) **Assignment** Nothing in this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than the Client and the Engineer, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of the Client and the Engineer and not for the benefit of any other party. Neither the Client nor the Engineer shall assign, sublet, or transfer any rights under or interest in this Agreement without the written consent of the other, except that the Engineer may retain subconsultants as it deems appropriate.

(15) **Confidentiality** The Client consents to the use and dissemination by the Engineer of photographs of the Project and to the use by the Engineer of facts, data and information obtained by the Engineer in the performance of its services. If, however, any facts, data or information is specifically identified in writing by the Client as confidential, the Engineer shall use reasonable care to maintain the confidentiality of that material.

(16) **Miscellaneous Provisions** This Agreement is to be governed by the laws of the State of North Carolina. This Agreement shall bind, and the benefits thereof shall insure to the respective parties hereto, their legal representatives, executors, administrators, successors and assigns. This Agreement contains the entire and fully integrated agreement between the parties hereto and supersedes all prior and contemporaneous negotiations, representations, agreements, or understandings, whether written or oral. This Agreement can be supplemented or amended only by a written document executed by both the Engineer and the Client. Provided, however, that conflicting or additional terms on any purchase order issued by the Client shall be void and are hereby expressly rejected by the Engineer. Any provision in this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction. Also, the non-enforcement of any provision by either party shall not constitute a waiver of that provision nor shall it affect the enforceability of that provision or of the remainder of this Agreement.



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

Submitted By: John Connet

Department: Admin

Date Submitted: 9/21/2016

Presenter: John Connet

Date of Council Meeting to consider this item: 10/06/2016

Nature of Item: Council Action

Summary of Information/Request:

Item # 05h

The Blue Ridge Humane Society has requested that the City of Hendersonville donate a parking space for one year to their annual fundraising event, "Wags to Riches". The parking space will be auctioned off as part of package with other items. Staff has discussed this request and would suggest that the City Council authorize the donation of a "S" Permit in the Dogwood Lot for the period of one year. The permit will allow the purchaser to utilize a "S" parking space or metered space in the Dogwood Lot without having to pay the monthly charge of \$10.00. The permit would be valid from October 1, 2016 to October 1, 2017. This permit would only be valid in the Dogwood Parking Lot and the spaces are first come first serve.

Budget Impact: \$ 120.00 Is this expenditure approved in the current fiscal year budget? ^{N/A} If no, describe how it will be funded.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

I move that the City Council approve the donation of one "S" permit to the Blue Ridge Humane Society's Wags to Riches Event.

Attachments:

Donation Certificate



CITY OF HENDERSONVILLE



This Certificate entitles the bearer to a year
of free parking with an:



"S"

PARKING PERMIT

in the Dogwood Parking Lot

Valid 10-01-16 through 09-30-16

The City of Hendersonville gratefully acknowledges the work of the Blue Ridge Humane Society whose mission is to reduce the overpopulation of companion animals in Henderson County and to improve their quality of life through adoption, collaboration, and community education. Thank you for what you do!

The winner of this certificate must contact Anita Lockhart, Parking Services Supervisor, at (828)697-3050 or at the Police Department, 145 Fifth Ave. E., Hendersonville
Value \$120



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

Submitted By: John Connet

Department: Admin

Date Submitted: 9/21/2016

Presenter: John Connet

Date of Council Meeting to consider this item: 10/06/2016

Nature of Item: Council Action

Summary of Information/Request:

Item # 05i

At your September 1, 2016 meeting, brought to the City Council the opportunity to purchase the property at 327 4th Avenue East. The property is directly adjacent to the Grey Hosiery Mill and the purchase of the property would assist in the redevelopment of the mill property. We have reached an agreement with the seller of the property and request formal approval from the City Council to purchase the property.

Budget Impact: \$ 60,000 Is this expenditure approved in the current fiscal year budget? No If no, describe how it will be funded.

A budget amendment is included on today's agenda to appropriate fund balance for the purchase of this property.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

I move that the City Council approve the purchase of the property located at 327 4th Avenue East for the amount of \$60,000.

Attachments:

Purchase Agreement



AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY

THIS AGREEMENT, including any and all addenda attached hereto ("Agreement"), is by and between
City of Hendersonville

a(n) John F. Connet ("Buyer"), and
(individual or State of formation and type of entity)

Tanja Ann Williams and Savannah William Jr. Williams

a (n) _____ ("Seller").
(individual or State of formation and type of entity)

FOR AND IN CONSIDERATION OF THE MUTUAL PROMISES SET FORTH HEREIN AND OTHER GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH ARE HEREBY ACKNOWLEDGED, THE PARTIES HERETO AGREE AS FOLLOWS:

Section 1. Terms and Definitions: The terms listed below shall have the respective meaning given them as set forth adjacent to each term.

(a) "**Property**": (Address) 327 4th Avenue East, Hendersonville, NC 28792

Plat Reference: Lot(s) _____, Block or Section _____, as shown on Plat Book or Slide _____ at Page(s) _____, Henderson County, consisting of .11 +/- acres.

If this box is checked, "Property" shall mean that property described on Exhibit A attached hereto and incorporated herewith by reference,

(For information purposes: (i) the tax parcel number of the Property is: 0102473; and, (ii) some or all of the Property, consisting of approximately .11 +/- acres, is described in Deed Book 2016E Page No. 272, Henderson County.)

together with all buildings and improvements thereon and all fixtures and appurtenances thereto and all personal property, if any, itemized on **Exhibit A**.

\$60,000.00 (b) "**Purchase Price**" shall mean the sum of Sixty Thousand Dollars,

payable on the following terms:

\$1,000.00 (i) "**Earnest Money**" shall mean One Thousand Dollars or terms as follows: Within five days of contract date

Upon this Agreement becoming a contract in accordance with Section 14, the Earnest Money shall be promptly deposited in escrow with Beverly-Hanks & Associates Trust Account (name of person/entity with whom deposited), to be applied as part payment of the Purchase Price of the Property at Closing, or disbursed as agreed upon under the provisions of Section 10 herein.



This form jointly approved by:
North Carolina Bar Association
North Carolina Association of REALTORS®, Inc.

Buyer Initials JFC
10/04/16 1:45PM EDT

Seller Initials TW SWJ

08/05/16 08/05/16
8:25PM EDT 5:36PM EDT

ANY EARNST MONEY DEPOSITED BY BUYER IN A TRUST ACCOUNT MAY BE PLACED IN AN INTEREST BEARING TRUST ACCOUNT, AND: (check only ONE box)

ANY INTEREST EARNED THEREON SHALL BE APPLIED AS PART PAYMENT OF THE PURCHASE PRICE OF THE PROPERTY AT CLOSING, OR DISBURSED AS AGREED UPON UNDER THE PROVISIONS OF SECTION 10 HEREIN. (Buyer's Taxpayer Identification Number is: N/A)

ANY INTEREST EARNED THEREON SHALL BELONG TO THE ACCOUNT HOLDER IN CONSIDERATION OF THE EXPENSES INCURRED BY MAINTAINING SUCH ACCOUNT AND RECORDS ASSOCIATED THEREWITH.

\$0 (ii) **Proceeds of a new loan** in the amount of N/A Dollars for a term of N/A years, with an amortization period not to exceed N/A years, at an interest rate not to exceed % per annum with mortgage loan discount points not to exceed N/A % of the loan amount, or such other terms as may be set forth on Exhibit B. Buyer shall pay all costs associated with any such loan.

\$0 (iii) **Delivery of a promissory note** secured by a deed of trust, said promissory note in the amount of N/A Dollars being payable over a term of N/A years, with an amortization period of N/A years, payable in monthly installments of principal, together with accrued interest on the outstanding principal balance at the rate of N/A percent (N/A %) per annum in the amount of \$, with the first principal payment beginning on the first day of the month next succeeding the date of Closing, or such other terms as may be set forth on Exhibit B. At any time, the promissory note may be prepaid in whole or in part without penalty and without further interest on the amounts prepaid from the date of such prepayment. (NOTE: In the event of Buyer's subsequent default upon a promissory note and deed of trust given hereunder, Seller's remedies may be limited to foreclosure of the Property. If the deed of trust given hereunder is subordinated to senior financing, the material terms of such financing must be set forth on Exhibit B. If such senior financing is subsequently foreclosed, the Seller may have no remedy to recover under the note.)

\$0 (iv) **Assumption** of that unpaid obligation of Seller secured by a deed of trust on the Property, such obligation having an outstanding principal balance of \$N/A and evidenced by a note bearing interest at the rate of N/A percent (N/A %) per annum, and a current payment amount of \$N/A. The obligations of Buyer under this Agreement are conditioned upon Buyer being able to assume the existing loan described above. If such assumption requires the lender's approval, Buyer agrees to use its best efforts to secure such approval and to advise Seller immediately upon receipt of the lender's decision. Approval must be granted on or before N/A. On or before this date, Buyer has the right to terminate this Agreement for failure to be able to assume the loan described above by delivering to Seller written notice of termination by the above date, *time being of the essence*. If Buyer delivers such notice, this Agreement shall be null and void and Earnst Money shall be refunded to Buyer. If Buyer fails to deliver such notice, then Buyer will be deemed to have waived the loan condition. Unless provided otherwise in Section 3 hereof, Buyer shall pay all fees and costs associated with any such assumption, including any assumption fee charged by the lender. At or before Closing, Seller shall assign to Buyer all interest of Seller in any current reserves or escrows held by the lender, any property management company and/or Seller, including but not limited to any tenant improvement reserves, leasing commission reserves, security deposits and operating or capital reserves for which Seller shall be credited said amounts at Closing

\$59,000.00 (v) **Cash, balance of Purchase Price**, at Closing in the amount of Fifty nine Thousand Dollars.

(c) "Closing" shall mean the date and time of recording of the deed. Closing shall occur on or before 10/20/2016 or October 20, 2016

(d) "Contract Date" means the date this Agreement has been fully executed by both Buyer and Seller.

(e) "Examination Period" shall mean the period beginning on the first day after the Contract Date and extending through 11:59pm (based upon time at the locale of the Property) on 10/10/2016

TIME IS OF THE ESSENCE AS TO THE EXAMINATION PERIOD.

(f) "Broker(s)" shall mean:
Beverly-Hanks & Associates ("Listing Agency"),
Team Performance ("Listing Agent" - License #200884)
Acting as: Seller's Agent; Dual Agent
and Beverly-Hanks & Associates ("Selling Agency"),
Team Performance ("Selling Agent" - License #222581)
Acting as: Buyer's Agent; Seller's (Sub)Agent; Dual Agent

(g) "Seller's Notice Address" shall be as follows:
N/A
except as same may be changed pursuant to Section 12.

(h) "Buyer's Notice Address" shall be as follows:
N/A
except as same may be changed pursuant to Section 12.

(i) If this block is marked, additional terms of this Agreement are set forth on Exhibit B attached hereto and incorporated herein by reference. (Note: Under North Carolina law, real estate agents are not permitted to draft conditions or contingencies to this Agreement.)

Section 2. Sale of Property and Payment of Purchase Price: Seller agrees to sell and Buyer agrees to buy the Property for the Purchase Price.

Section 3. Proration of Expenses and Payment of Costs: Seller and Buyer agree that all property taxes (on a calendar year basis), leases, rents, mortgage payments and utilities or any other assumed liabilities as detailed on attached Exhibit B, if any, shall be prorated as of the date of Closing. Seller shall pay for preparation of a deed and all other documents necessary to perform Seller's obligations under this Agreement, excise tax (revenue stamps), any deferred or rollback taxes, and other conveyance fees or taxes required by law, and the following:

property to be sold "as-is/where-is" with no seller repairs.

Buyer shall pay recording costs, costs of any title search, title insurance, survey, the cost of any inspections or investigations undertaken by Buyer under this Agreement and the following:

N/A

Each party shall pay its own attorney's fees.

Section 4. Deliveries: Seller agrees to use best efforts to deliver to Buyer as soon as reasonably possible after the Contract Date copies of all information relating to the Property in possession of or available to Seller, including but not limited to: title insurance policies (and copies of any documents referenced therein), surveys, soil test reports, environmental surveys or reports, site plans, civil drawings, building plans, maintenance records and copies of all presently effective warranties or service contracts related to the Property. Seller authorizes (1) any attorney presently or previously representing Seller to release and disclose any title insurance policy in such attorney's file to Buyer and both Buyer's and Seller's agents and attorneys; and (2) the Property's title insurer or its agent to release and disclose all materials in the Property's title insurer's (or title insurer's agent's) file to Buyer and both Buyer's and Seller's agents and attorneys. If Buyer does not consummate the Closing for any reason other than Seller default, then Buyer shall return to Seller all materials delivered by Seller to Buyer pursuant to this Section 4 (or Section 7, if applicable), if any, and shall, upon Seller's request, provide to Seller copies of (subject to the ownership and copyright interests of the preparer thereof) any and all studies, reports, surveys and other information relating directly to the Property prepared by or at the request of Buyer, its employees and agents, and shall deliver to Seller, upon the release of the Earnest Money, copies of all of the foregoing without any warranty or representation by Buyer as to the contents, accuracy or correctness thereof.

Section 5. Evidence of Title: Seller agrees to convey fee simple marketable and insurable title to the Property without exception for mechanics' liens, free and clear of all liens, encumbrances and defects of title other than: (a) zoning ordinances affecting the Property, (b) leases (if applicable) and (c) matters of record existing at the Contract Date that are not objected to by Buyer prior to the end of the Examination Period ("Permitted Exceptions"); provided that Seller shall be required to satisfy, at or prior to Closing, any encumbrances that may be satisfied by the payment of a fixed sum of money, such as deeds of trust, mortgages or statutory liens. Seller shall not enter into or record any instrument that affects the Property (or any personal property listed on Exhibit A) after the Contract Date without the prior written consent of Buyer, which consent shall not be unreasonably withheld, conditioned or delayed.

Section 6. Conditions: This Agreement and the rights and obligations of the parties under this Agreement are hereby made expressly conditioned upon fulfillment (or waiver by Buyer, whether explicit or implied) of the following conditions:

(a) **New Loan:** The Buyer must be able to obtain the loan, if any, referenced in Section 1(b)(ii). Buyer must be able to obtain a firm commitment for this loan on or before N/A, effective through the date of Closing. Buyer agrees to use its best efforts to secure such commitment and to advise Seller immediately upon receipt of lender's decision. On or before the above date, Buyer has the right to terminate this Agreement for failure to obtain the loan referenced in Section 1(b)(ii) by delivering to Seller written notice of termination by the above date, *time being of the essence*. If Buyer delivers such notice, this Agreement shall be null and void and Earnest Money shall be refunded to Buyer. If Buyer fails to deliver such notice, then Buyer will be deemed to have waived the loan condition. Notwithstanding the foregoing, after the above date, Seller may request in writing from Buyer a copy of the commitment letter. If Buyer fails to provide Seller a copy of the commitment letter within five (5) days of receipt of Seller's request, then Seller may terminate this Agreement by written notice to Buyer at any time thereafter, provided Seller has not then received a copy of the commitment letter, and Buyer shall receive a return of Earnest Money.

(b) **Qualification for Financing:** If Buyer is to assume any indebtedness in connection with payment of the Purchase Price, Buyer agrees to use its best efforts to qualify for the assumption. Should Buyer fail to qualify, Buyer shall notify Seller in writing immediately upon lender's decision, whereupon this Agreement shall terminate, and Buyer shall receive a return of Earnest Money.

(c) **Title Examination:** After the Contract Date, Buyer shall, at Buyer's expense, cause a title examination to be made of the Property before the end of the Examination Period. In the event that such title examination shall show that Seller's title is not fee simple marketable and insurable, subject only to Permitted Exceptions, then Buyer shall promptly notify Seller in writing of all such title defects and exceptions, in no case later than the end of the Examination Period, and Seller shall have thirty (30) days to cure said noticed defects. If Seller does not cure the defects or objections within thirty (30) days of notice thereof, then Buyer may terminate this Agreement and receive a return of Earnest Money (notwithstanding that the Examination Period may have expired). If Buyer is to purchase title insurance, the insuring company must be licensed to do business in the state in which the Property is located. Title to the Property must be insurable at regular rates, subject only to standard exceptions and Permitted Exceptions.

(d) **Same Condition:** If the Property is not in substantially the same condition at Closing as of the date of the offer, reasonable wear and tear excepted, then the Buyer may (i) terminate this Agreement and receive a return of the Earnest Money or (ii) proceed to Closing whereupon Buyer shall be entitled to receive, in addition to the Property, any of the Seller's insurance proceeds payable on account of the damage or destruction applicable to the Property.

(e) **Inspections:** Buyer, its agents or representatives, at Buyer's expense and at reasonable times during normal business hours, shall have the right to enter upon the Property for the purpose of inspecting, examining, performing soil boring and other testing, conducting timber cruises, and surveying the Property. Buyer shall conduct all such on-site inspections, examinations, soil boring and other testing, timber cruises and surveying of the Property in a good and workmanlike manner, shall repair any damage to the Property caused by Buyer's entry and on-site inspections and shall conduct same in a manner that does not unreasonably interfere with Seller's or any tenant's use and enjoyment of the Property. In that respect, Buyer shall make reasonable efforts to undertake on-site inspections outside of the hours any tenant's business is open to the public and shall give prior notice to any tenants of any entry onto any tenant's portion of the Property for the purpose of conducting inspections. Upon Seller's request, Buyer shall provide to Seller evidence of general liability insurance. Buyer shall also have a right to review and inspect all contracts or other agreements affecting or related directly to the Property and shall be entitled to review such books and records of Seller that relate directly to the operation and maintenance of the Property, provided, however, that Buyer shall not disclose any information regarding this Property (or any tenant therein) unless required by law and the same shall be regarded as confidential, to any person, except to its attorneys, accountants, lenders and other professional advisors, in which case Buyer shall obtain their agreement to maintain such confidentiality. Buyer assumes all responsibility for the acts of itself, its agents or representatives in exercising its rights under this Section 6(e) and agrees to indemnify and hold Seller harmless from any damages resulting therefrom. This indemnification obligation of Buyer shall survive the Closing or earlier termination of this Agreement. Buyer shall, at Buyer's expense, promptly repair any damage to the Property caused by Buyer's entry and on-site inspections. Except as provided in Section 6(c) above, Buyer shall have from the Contract Date through the end of the Examination Period to perform the above inspections, examinations and testing. **IF BUYER CHOOSES NOT TO PURCHASE THE PROPERTY, FOR ANY REASON OR NO REASON, AND PROVIDES WRITTEN NOTICE TO SELLER THEREOF PRIOR TO THE EXPIRATION OF THE EXAMINATION PERIOD, THEN THIS AGREEMENT SHALL TERMINATE, AND BUYER SHALL RECEIVE A RETURN OF THE EARNEST MONEY.**

Section 7. Leases (Check one of the following, as applicable):

If this box is checked, Seller affirmatively represents and warrants that there are no Leases (as hereinafter defined) affecting the Property.

If this box is checked, Seller discloses that there are one or more leases affecting the Property (oral or written, recorded or not - "Leases") and the following provisions are hereby made a part of this Agreement.

(a) A list of all Leases shall be set forth on **Exhibit B**;

(b) Seller shall deliver copies of any Leases to Buyer pursuant to Section 4 as if the Leases were listed therein;

(c) Seller represents and warrants that as of the Contract Date there are no current defaults (or any existing situation which, with the passage of time, or the giving of notice, or both, or at the election of either landlord or tenant could constitute a default) either by Seller, as landlord, or by any tenant under any Lease ("Lease Default"). In the event there is any Lease Default as of the Contract Date, Seller agrees to provide Buyer with a detailed description of the situation in accordance with Section 4. Seller agrees not to commit a Lease Default as Landlord after the Contract Date, and agrees further to notify Buyer immediately in the event a Lease Default arises or is claimed, asserted or threatened to be asserted by either Seller or a tenant under the Lease.

(d) In addition to the conditions provided in Section 6 of this Agreement, this Agreement and the rights and obligations of the parties under this Agreement are hereby made expressly conditioned upon the assignment of Seller's interest in any Lease to Buyer in form and content acceptable to Buyer (with tenant's written consent and acknowledgement, if required under the Lease), and Seller agrees to use its best efforts to effect such assignment. Any assignment required under this Section 7 shall be required to be delivered at or before Closing by Seller in addition to those deliveries required under Section 11 of this Agreement.

(e) Seller agrees to deliver an assignment of any Lease at or before Closing, with any security deposits held by Seller under any Leases to be transferred or credited to Buyer at or before Closing. Seller also agrees to execute and deliver (and work diligently to obtain any tenant signatures necessary for same) any estoppel certificates and subordination, nondisturbance and attornment agreements in such form as Buyer may reasonably request.

Section 8. Environmental: Seller represents and warrants that it has no actual knowledge of the presence or disposal, except as in accordance with applicable law, within the buildings or on the Property of hazardous or toxic waste or substances, which are defined as those substances, materials, and wastes, including, but not limited to, those substances, materials and wastes listed in the United States Department of Transportation Hazardous Materials Table (49 CFR Part 172.101) or by the Environmental Protection Agency as hazardous substances (40 CFR Part 302.4) and amendments thereto, or such substances, materials and wastes, which are or become

Buyer Initials   Seller Initials  

09/05/16 1:45PM EDT 09/05/16 8:25PM EDT 09/05/16 5:28PM EDT

regulated under any applicable local, state or federal law, including, without limitation, any material, waste or substance which is (i) petroleum, (ii) asbestos, (iii) polychlorinated biphenyls, (iv) designated as a Hazardous Substance pursuant to Section 311 of the Clean Water Act of 1977 (33 U.S.C. §1321) or listed pursuant to Section 307 of the Clean Water Act of 1977 (33 U.S.C. §1317), (v) defined as a hazardous waste pursuant to Section 1004 of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §6903) or (vi) defined as a hazardous substance pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. §9601). Seller has no actual knowledge of any contamination of the Property from such substances as may have been disposed of or stored on neighboring tracts.

Section 9. Risk of Loss/Damage/Repair: Until Closing, the risk of loss or damage to the Property, except as otherwise provided herein, shall be borne by Seller. Except as to maintaining the Property in its same condition, Seller shall have no responsibility for the repair of the Property, including any improvements, unless the parties hereto agree in writing.

Section 10. Earnest Money Disbursement: In the event that any of the conditions hereto are not satisfied, or in the event of a breach of this Agreement by Seller, then the Earnest Money shall be returned to Buyer, but such return shall not affect any other remedies available to Buyer for such breach. In the event this offer is accepted and Buyer breaches this Agreement, then the Earnest Money shall be forfeited, but such forfeiture shall not affect any other remedies available to Seller for such breach. NOTE: In the event of a dispute between Seller and Buyer over the return or forfeiture of Earnest Money held in escrow by a licensed real estate broker, the broker is required by state law to retain said Earnest Money in its trust or escrow account until it has obtained a written release from the parties consenting to its disposition or until disbursement is ordered by a court of competent jurisdiction, or alternatively, the party holding the Earnest Money may deposit the disputed monies with the appropriate clerk of court in accordance with the provisions of N.C.G.S. §93A-12.

Section 11. Closing: At or before Closing, Seller shall deliver to Buyer a general warranty deed unless otherwise specified on Exhibit B and other documents customarily executed or delivered by a seller in similar transactions, including without limitation, a bill of sale for any personalty listed on Exhibit A, an owner's affidavit, lien waiver forms (and such other lien related documentation as shall permit the Property to be conveyed free and clear of any claim for mechanics' liens) and a non-foreign status affidavit (pursuant to the Foreign Investment in Real Property Tax Act), and Buyer shall pay to Seller the Purchase Price. At Closing, the Earnest Money shall be applied as part of the Purchase Price. The Closing shall be conducted by Buyer's attorney or handled in such other manner as the parties hereto may mutually agree in writing. Possession shall be delivered at Closing, unless otherwise agreed herein. The Purchase Price and other funds to be disbursed pursuant to this Agreement shall not be disbursed until Closing has taken place.

Section 12. Notices: Unless otherwise provided herein, all notices and other communications which may be or are required to be given or made by any party to the other in connection herewith shall be in writing and shall be deemed to have been properly given and received on the date delivered in person or deposited in the United States mail, registered or certified, return receipt requested, to the addresses set out in Section 1(g) as to Seller and in Section 1(h) as to Buyer, or at such other addresses as specified by written notice delivered in accordance herewith.

Section 13. Entire Agreement: This Agreement constitutes the sole and entire agreement among the parties hereto and no modification of this Agreement shall be binding unless in writing and signed by all parties hereto. The invalidity of one or more provisions of this Agreement shall not affect the validity of any other provisions hereof and this Agreement shall be construed and enforced as if such invalid provisions were not included.

Section 14. Enforceability: This Agreement shall become a contract when signed by both Buyer and Seller and such signing is communicated to both parties; it being expressly agreed that the notice described in Section 12 is not required for effective communication for the purposes of this Section 14. The parties acknowledge and agree that: (i) the initials lines at the bottom of each page of this Agreement are merely evidence of their having reviewed the terms of each page, and (ii) the complete execution of such initials lines shall not be a condition of the effectiveness of this Agreement. This Agreement shall be binding upon and inure to the benefit of the parties, their heirs, successors and assigns and their personal representatives.

Section 15. Adverse Information and Compliance with Laws:

(a) **Seller Knowledge:** Seller has no actual knowledge of (i) condemnation(s) affecting or contemplated with respect to the Property; (ii) actions, suits or proceedings pending or threatened against the Property; (iii) changes contemplated in any applicable laws, ordinances or restrictions affecting the Property; or (iv) governmental special assessments, either pending or confirmed, for sidewalk, paving, water, sewer, or other improvements on or adjoining the Property, and no pending or confirmed owners' association special assessments, except as follows (Insert "None" or the identification of any matters relating to (i) through (iv) above, if any):

None

Note: For purposes of this Agreement, a "confirmed" special assessment is defined as an assessment that has been approved by a

Buyer Initials  09/04/16 12:58PM EDT

Seller Initials  TAW SWJ 09/05/16 6:25PM EDT 09/05/16 6:38PM EDT

governmental agency or an owners' association for the purpose(s) stated, whether or not it is fully payable at time of closing. A "pending" special assessment is defined as an assessment that is under formal consideration by a governing body. Seller shall pay all owners' association assessments and all governmental assessments confirmed as of the date of Closing, if any, and Buyer shall take title subject to all pending assessments disclosed by Seller herein, if any.
Seller represents that the regular owners' association dues, if any, are \$0 per N/A

(b) **Compliance:** To Seller's actual knowledge, (i) Seller has complied with all applicable laws, ordinances, regulations, statutes, rules and restrictions pertaining to or affecting the Property; (ii) performance of the Agreement will not result in the breach of, constitute any default under or result in the imposition of any lien or encumbrance upon the Property under any agreement or other instrument to which Seller is a party or by which Seller or the Property is bound; and (iii) there are no legal actions, suits or other legal or administrative proceedings pending or threatened against the Property, and Seller is not aware of any facts which might result in any such action, suit or other proceeding.

Section 16. Survival of Representations and Warranties: All representations, warranties, covenants and agreements made by the parties hereto shall survive the Closing and delivery of the deed. Seller shall, at or within six (6) months after the Closing, and without further consideration, execute, acknowledge and deliver to Buyer such other documents and instruments, and take such other action as Buyer may reasonably request or as may be necessary to more effectively transfer to Buyer the Property described herein in accordance with this Agreement.

Section 17. Applicable Law: This Agreement shall be construed under the laws of the state in which the Property is located. This form has only been approved for use in North Carolina.

Section 18. Assignment: This Agreement is freely assignable unless otherwise expressly provided on Exhibit B.

Section 19. Tax-Deferred Exchange: In the event Buyer or Seller desires to effect a tax-deferred exchange in connection with the conveyance of the Property, Buyer and Seller agree to cooperate in effecting such exchange; provided, however, that the exchanging party shall be responsible for all additional costs associated with such exchange, and provided further, that a non-exchanging party shall not assume any additional liability with respect to such tax-deferred exchange. Seller and Buyer shall execute such additional documents, at no cost to the non-exchanging party, as shall be required to give effect to this provision.

Section 20. Memorandum of Contract: Upon request by either party, the parties hereto shall execute a memorandum of contract in recordable form setting forth such provisions hereof (other than the Purchase Price and other sums due) as either party may wish to incorporate. Such memorandum of contract shall contain a statement that it automatically terminates and the Property is released from any effect thereby as of a specific date to be stated in the memorandum (which specific date shall be no later than the date of Closing). The cost of recording such memorandum of contract shall be borne by the party requesting execution of same.

Section 21. Authority: Each signatory to this Agreement represents and warrants that he or she has full authority to sign this Agreement and such instruments as may be necessary to effectuate any transaction contemplated by this Agreement on behalf of the party for whom he or she signs and that his or her signature binds such party.

Section 22. Brokers: Except as expressly provided herein, Buyer and Seller agree to indemnify and hold each other harmless from any and all claims of brokers, consultants or real estate agents by, through or under the indemnifying party for fees or commissions arising out of the sale of the Property to Buyer. Buyer and Seller represent and warrant to each other that: (i) except as to the Brokers designated under Section 1(f) of this Agreement, they have not employed nor engaged any brokers, consultants or real estate agents to be involved in this transaction and (ii) that the compensation of the Brokers is established by and shall be governed by separate agreements entered into as amongst the Brokers, the Buyer and/or the Seller.

Section 23. Attorneys Fees: If legal proceedings are instituted to enforce any provision of this Agreement, the prevailing party in the proceeding shall be entitled to recover from the non-prevailing party reasonable attorneys fees and court costs incurred in connection with the proceeding.

EIFS/SYNTHETIC STUCCO: If the adjacent box is checked, Seller discloses that the Property has been clad previously (either in whole or in part) with an "exterior insulating and finishing system" commonly known as "EIFS" or "synthetic stucco". Seller makes no representations or warranties regarding such system and Buyer is advised to make its own independent determinations with respect to conditions related to or occasioned by the existence of such materials at the Property.

Buyer Initials   Seller Initial:  
09/05/16 1:45PM EDT 09/05/16 6:25PM EDT 09/05/16 5:36PM EDT

THE NORTH CAROLINA ASSOCIATION OF REALTORS®, INC. AND THE NORTH CAROLINA BAR ASSOCIATION MAKE NO REPRESENTATION AS TO THE LEGAL VALIDITY OR ADEQUACY OF ANY PROVISION OF THIS FORM IN ANY SPECIFIC TRANSACTION. IF YOU DO NOT UNDERSTAND THIS FORM OR FEEL THAT IT DOES NOT PROVIDE FOR YOUR LEGAL NEEDS, YOU SHOULD CONSULT A NORTH CAROLINA REAL ESTATE ATTORNEY BEFORE YOU SIGN IT.

BUYER:

Individual

Date:

Date: _____

Business Entity

City of Hendersonville

By: *John F. Connet* dotloop verified
09/04/16 1:45PM EDT
2YQW-PDFB-CLQI-XCCH

Name: _____

Title: _____

Date: _____

SELLER:

Individual

Tanja Ann Williams dotloop verified
09/05/16 5:25PM EDT
SWZ-BN4-GHA6-KEOA

Date:

Saannah Williams, Jr. dotloop verified
09/05/16 5:36PM EDT
KZ7F-LAEB-OCFN-FMDU

Date: _____

Business Entity

By:

Name: _____

Title: _____

Date: _____

The undersigned hereby acknowledges receipt of the Earnest Money set forth herein and agrees to hold said Earnest Money in accordance with the terms hereof.

Beverly-Hanks & Associates

(Name of Firm)

Date: _____

By:

EXHIBIT 2

ADDENDUM

Notwithstanding any other provision in this agreement, the [Purchaser's] damages for breach hereof shall not exceed the sum of \$500.00.

 9-4-16
Purchaser

Tenja Ann Williams dotloop verified
09/05/16 6:25PM EDT
PXMT-HTFD-STJ-ZTMD

Seller

Saannah Williams, Jr. dotloop verified
09/05/16 5:39PM EDT
XLK-UUS-PSKS-MZBJ



EXHIBIT 13

SUPPLEMENTAL PROVISIONS ADDENDUM

Note: All of the following provisions, which are marked with an "X" shall apply to EITHER the attached Offer to Purchase and Contract or Offer to Purchase and Contract-Vacant Lot/Land. Those provisions marked "N/A" or left blank shall not apply.

Regarding: 327 4th Avenue East, Hendersonville, NC 28792

Property Address, City and State

1.X AREA REGIONAL AIRPORTS:

Buyer acknowledges awareness of and possible noise associated with area regional airports. Many types of aircraft operate from these regional airports with varying traffic patterns depending on the wind and the weather conditions. The three main regional airports are: i) the Asheville Regional Airport which is located near Interstate 26 at mile marker 40, ii) the Hendersonville Airport which is located at 1232 Shepherd Street, Hendersonville; and iii) the Transylvania County Airport which is located on Old Hendersonville Road, Penrose. The Buyer may desire to contact these regional airports to inquire into flight patterns and any other matters or concerns, which the Buyer may have as to such airports. The Buyer may contact these area airports at: i) Asheville Regional Airport, Post Office Box 817, Fletcher, NC 28732 [828-684-2226]; ii) Hendersonville Airport, 1232 Shepherd Street, Hendersonville, NC 28792 [828-693-1897]; iii) Transylvania County Airport, Post Office Box 1390, Etowah, NC 28729 [828-877-5801]. Other smaller airports or landing strips are located throughout Western North Carolina and Buyer(s) is advised to seek out those, which they feel may adversely affect the Property being purchased. Such investigation shall be completed prior to the expiration of the Due Diligence Period in 1(j) of the attached Offer to Purchase and Contract. CLOSING SHALL CONSTITUTE ACCEPTANCE OF THIS PROVISION, AND ALL OTHER CONDITIONS OF THE PROPERTY, BY THE BUYER(S).

2.X RAILROAD TRACKS AND TRAINS:

Buyer acknowledges awareness of and possible noise associated with trains traveling through Western North Carolina. Buyer is advised to seek out those, which they feel may adversely affect the Property being purchased. Such investigation shall be complete prior to the expiration of the Due Diligence period in 1(j) of the attached Offer to Purchase and Contract. CLOSING SHALL CONSTITUTE ACCEPTANCE OF THIS PROVISION, AND ALL OTHER CONDITIONS OF THE PROPERTY, BY THE BUYER(S).

3.X INTERSTATES & ROADWAYS:

Buyer acknowledges awareness of possible noise associated with road traffic. Buyer is advised to seek out information from the NCDOT <http://www.ncdot.gov/projects/> or other governmental bodies controlling traffic, traffic patterns or pending road projects that might adversely affect the Property being purchased. Such investigation shall be complete prior to the expiration of the Due Diligence period in 1(j) of the attached Offer to Purchase and Contract. CLOSING SHALL CONSTITUTE ACCEPTANCE OF THIS PROVISION, AND ALL OTHER CONDITIONS OF THE PROPERTY, BY THE BUYER(S).

4.X LAND USE ORDINANCE:

Buyer acknowledges awareness of local, incorporated municipalities, county, state and federal governmental laws, ordinances and regulations as well as Owner's Association bylaws, and covenants that may affect the Buyer's intended use or development of the Property being purchased. The Buyer's agent may assist in providing resources for obtaining relevant information regarding such; however the Buyer solely accepts responsibility for investigation and verification of any and all issues related to compliance with any local, incorporated municipalities, county, state and governmental laws, ordinances and regulations relative to environmental, zoning, subdivision, occupancy use, construction or development of the subject property which may affect the Buyer's intended use or development of the Property being purchased. Such investigation shall be complete prior to the expiration of the Due Diligence period in 1(j) of the attached Offer to Purchase and Contract. CLOSING SHALL CONSTITUTE ACCEPTANCE OF THIS PROVISION, AND ALL OTHER CONDITIONS OF THE PROPERTY, BY THE BUYER(S).

Buyers Initials


09/04/16
1:45PM EDT

Seller Initials


09/05/16
6:25PM EDT


09/05/16
5:36PM EDT

5.X **FUTURE DEVELOPMENT DISCLOSURE:**

Buyer acknowledges awareness of the possibility of construction and possible effects associated with future development, including both new construction and renovation, in the central business district of Asheville. Such development may result in increases in pedestrian and vehicular traffic, noise dust, dangers, annoyances, impacts on view corridors, and similar effects, both expected and unexpected, and may disturb or disrupt Buyer's use and enjoyment of the Property.

Specifically, multi-story development projects have been and may be proposed in the central business district that could detrimentally affect the views from and value of building and residences in the central business district, including the Property.

Any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed. Neither the seller or broker, or their representatives or agents make any assurances or representations regarding the existence, preservation or permanence of any view and shall not be obligated to take any action to restrict or control development of any of the real property adjacent to or in the vicinity of the Property.

Buyer is encouraged to contact the City of Asheville Planning and Development Department to inquire into any proposed development that might affect Buyer's interest in the Property. Buyer should also investigate contemplated development projects that are not yet in the application process with the City of Asheville by researching local media, including print newspaper, television, and web-based publications. CLOSING SHALL CONSTITUTE ACCEPTANCE OF THIS PROVISION, AND ALL OTHER CONDITIONS OF THE PROPERTY, BY BUYER(S).

IN THE EVENT OF ANY CONFLICT BETWEEN THIS ADDENDUM AND THE OFFER TO PURCHASE AND CONTRACT WHICH IT IS A PART, THE TERMS OF THIS ADDENDUM SHALL CONTROL

Date: _____
Buyer: _____ (SEAL)

Date: _____
Seller: *Tanja Ann Williams* dotloop verified 09/05/16 6:25PM EDT JA60-N6EQ-KB4C-4620 (L)

Date: _____
Buyer: *John F. Connet* dotloop verified 09/04/16 1:45PM EDT SEU1-YAT8-WFSL-VSP1 (SEAL)

Date: _____
Seller: *Savannah Williams, Jr.* dotloop verified 09/05/16 5:36PM EDT KH0N-EXF4-SYXW-NPZY (L)

Entity Buyer: _____

Entity Seller: _____

City of Hendersonville
(Name of LLC/Corporation/Partnership/Trust/etc.)

(Name of LLC/Corporation/Partnership/Trust/etc.)

By: *John F. Connet* dotloop verified 09/04/16 1:45PM EDT PIK8-IL1F-5XRL-2SUQ

By: _____

Name: John F. Connet

Name: _____

Title: City Manager

Title: _____

Date: 09/03/2016

Date: _____

LEAD-BASED PAINT OR LEAD-BASED PAINT HAZARD ADDENDUM

Property: 327 4th Avenue East, Hendersonville, NC 28792

Seller: Tanja Ann Williams and Savannah William Jr. Williams

Buyer: City of Hendersonville

This Addendum is attached to and made a part of the Offer to Purchase and Contract ("Contract") between Seller and Buyer for the Property.

During the Due Diligence Period, Buyer shall have the right to obtain a risk assessment or inspection of the Property for the presence of lead-based paint and/or lead-based paint hazards* at Buyer's expense. Buyer may waive the right to obtain a risk assessment or inspection of the Property for the presence of lead-based paint and/or lead-based paint hazards at any time without cause.

*Intact lead-based paint that is in good condition is not necessarily a hazard. See EPA pamphlet "Protect Your Family From Lead in Your Home" for more information.

Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards

Lead Warning Statement
Every Buyer of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The Seller of any interest in residential real property is required to provide the Buyer with any information on lead-based paint hazards from risk assessments or inspections in the Seller's possession and notify the Buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based hazards is recommended prior to purchase.

Disclosure (initial)
[Signature] 09/05/16 6:25PM EDT
[Signature] 09/05/16 5:36PM EDT

(a) Presence of lead-based paint and/or lead-based paint hazards (check one below):
[] Known lead-based paint and/or lead-based paint hazards are present in the housing (explain).
[] Seller has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.

[Signature] 09/05/16 6:25PM EDT
[Signature] 09/05/16 5:36PM EDT

(b) Records and reports available to the Seller (check one)
[] Seller has provided the Buyer with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing (list documents below).
[] Seller has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.

Buyer's Acknowledgement (initial)

[Signature] 09/04/16 1:45PM EDT
[Signature] 09/04/16 1:45PM EDT
[Signature] 09/04/16 1:45PM EDT

(c) Buyer has received copies of all information listed above.
(d) Buyer has received the pamphlet Protect Your Family from Lead in Your Home.
(e) Buyer has (check one below):
[] Received the opportunity during the Due Diligence Period to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards; or
[] Waived the opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards.



This form jointly approved by:
North Carolina Bar Association
North Carolina Association of REALTORS®, Inc.



STANDARD FORM 2A9-T
Revised 7/2015
© 7/2015

Buyer Initials [Signature] [Signature] Seller Initial [Signature] [Signature]

Agent's Acknowledgment (initial)



(f) Agent has informed the Seller of the Seller's obligations under 42 U.S.C. 4852d and is aware of his/her responsibility to ensure compliance.

Certification of Accuracy

The following parties have reviewed the information above and certify, to the best of their knowledge, that the information provided by the signatory is true and accurate.

IN THE EVENT OF A CONFLICT BETWEEN THIS ADDENDUM AND THE CONTRACT, THIS ADDENDUM SHALL CONTROL, EXCEPT THAT IN THE CASE OF SUCH A CONFLICT AS TO THE DESCRIPTION OF THE PROPERTY OR THE IDENTITY OF THE BUYER OR SELLER, THE CONTRACT SHALL CONTROL.

THE NORTH CAROLINA ASSOCIATION OF REALTORS®, INC. AND THE NORTH CAROLINA BAR ASSOCIATION MAKE NO REPRESENTATION AS TO THE LEGAL VALIDITY OR ADEQUACY OF ANY PROVISION OF THIS FORM IN ANY SPECIFIC TRANSACTION. IF YOU DO NOT UNDERSTAND THIS FORM OR FEEL THAT IT DOES NOT PROVIDE FOR YOUR LEGAL NEEDS, YOU SHOULD CONSULT A NORTH CAROLINA REAL ESTATE ATTORNEY BEFORE YOU SIGN IT.

Buyer: [Redacted]

Buyer: [Redacted]

Entity Buyer: City of Hendersonville
(Name of LLC/Corporation/Partnership/Trust/etc.)

By: John F. Connet dotloop verified 09/04/16 1:45PM EDT YK2M-WLEB-ZLXH-OWPD

Name: John F. Connet Title: City Manager

Agent: Rim Chantham dotloop verified 09/03/16 10:17AM EDT L6KG-IDPP-SSSM-OIBN

Seller: [Redacted] Tanja Ann Williams dotloop verified 09/05/16 6:25PM EDT MQJY-8TJ-EZAS-UFJS

Seller: [Redacted] Savannah Williams, Jr. dotloop verified 09/05/16 5:36PM EDT SJHX-64LF-C90Z-JJLI

Entity Seller: _____
(Name of LLC/Corporation/Partnership/Trust/etc.)

By: _____

Name: _____ Title _____

Agent: _____



EXHIBIT L

ADDITIONAL PROVISIONS ADDENDUM

Seller: Tanja Ann Williams and Savannah William Jr. Williams

Buyer: City of Hendersonville

Property: 327 4th Avenue East, Hendersonville, NC 28792

NOTE: This Additional Provisions Addendum is attached to and a part of the Agreement for Purchase and Sale of Real Property (Form 580-T) between the parties referenced above ("Agreement"). All of the following provisions which are marked with an "X" shall apply to the Agreement. Those provisions marked "N/A" or not marked shall not apply.

1 N/A **ADDITIONAL EARNEST MONEY:** Not later than the expiration of the Examination Period (**time being of the essence with regard to said date**), Buyer shall deposit with the same party as the original Earnest Money, additional Earnest Money in the amount of \$ 0, which shall be treated for all purposes of this Agreement as Earnest Money. If this additional Earnest Money is not deposited prior to the expiration of the Examination Period, notwithstanding the provisions of Section 6 of the Agreement, this Agreement shall be deemed terminated and Buyer shall receive a return of the Earnest Money. Monies paid pursuant to this provision shall be applicable to the Purchase Price and shall reduce the Section 1(b)(v) cash due at Closing by the amount so paid.

2 N/A **PURCHASE PRICE:** shall mean the sum of \$ 0 per gross acre ("Price Per Acre") as determined by a survey obtained by Buyer prior to the expiration of the Examination Period ("Survey"). Buyer shall provide a copy of the Survey to Seller not later than the expiration of the Examination Period. The purchase price shall be determined by multiplying the Price Per Acre by the number of gross acres as determined by the Survey. Adjustments to the amounts due under Sections 1(b)(ii) - 1(b)(v) shall be made, as applicable, to reflect any adjustment in the Purchase Price in accordance with this provision.

3 X **ACREAGE VARIANCE:** The assumed area of the Property is .11 acres ("Stated Acreage"). In the event that the survey obtained by Buyer determines that the acreage varies (greater or lesser) from the Stated Acreage by more than %, then Seller or Buyer shall have the right to terminate the Agreement by written notice delivered to the other within ten (10) days of the delivery of the survey to Seller by Buyer.

4 N/A **ACQUISITION AND DEVELOPMENT LOAN:** Section 1(b)(ii) of the Agreement is deleted and replaced by the following:

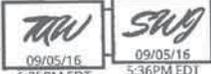
\$ 0 (ii) **Proceeds of a new loan** for both acquisition and development of the Property, in the total amount of \$ 0 for a term of N/A years, with an amortization period not to exceed N/A years, at an interest rate not to exceed N/A % per annum with mortgage loan discount points not to exceed N/A % of the loan amount, with at least the amount of \$ 0 (as set forth in the blank adjacent this subsection) allocated from the loan proceeds to acquisition of the Property; or such other terms as may be set forth on **Exhibit B**. Buyer shall pay all costs associated with any such loan.

5 X **CONFIDENTIALITY:** Buyer and Seller agree that a material consideration of this Agreement is that the existence of and the terms and conditions of same (except as may be provided in Section 6(c) of this Agreement) shall remain confidential and shall not be disclosed. In the event this item is marked, Section 20 (Memorandum of Contract) of the Agreement is hereby deleted as recording a memorandum of contract would violate this provision.



North Carolina Association of REALTORS®, Inc.

STANDARD FORM 581-T
Revised 1/2011
© 7/2014

Buyer Initials  Seller Initial 

6. X _____

INTENDED USE: shall mean the use of the Property for the following purpose:

Commercial _____ (state with specificity any intended use). Seller represents that to its actual knowledge, without independent investigation, there are not any changes contemplated in any applicable laws, ordinances or restrictions affecting the Property or private use restrictions or governmental regulations that would prohibit the Intended Use at the Property.

IN THE EVENT OF A CONFLICT BETWEEN THIS ADDENDUM AND THE AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY, THIS ADDENDUM SHALL CONTROL.

THE NORTH CAROLINA ASSOCIATION OF REALTORS®, INC. MAKES NO REPRESENTATION AS TO THE LEGAL VALIDITY OR ADEQUACY OF ANY PROVISION OF THIS FORM IN ANY SPECIFIC TRANSACTION. IF YOU DO NOT UNDERSTAND THIS FORM OR FEEL THAT IT DOES NOT PROVIDE FOR YOUR LEGAL NEEDS, YOU SHOULD CONSULT A NORTH CAROLINA REAL ESTATE ATTORNEY BEFORE YOU SIGN IT.

BUYER:

Individual

Date: _____

Date: _____

Business Entity

City of Hendersonville

(Name of Entity)

By: John F. Connet

dotloop verified
09/04/16 1:45PM EDT
C3X0-QCEP-ZADL-CGMO

Name: John F. Connet

Title: City Manager

Date: 09/03/2016

SELLER:

Individual

Tanja Ann Williams

dotloop verified
09/05/16 6:25PM EDT
NLFT-Z3BT-LLXB-WRNB

Date: _____

Savannah Williams, Jr.

dotloop verified
09/05/16 5:36PM EDT
8TFN-7R6L-LRFW-TKNY

Date: _____

Business Entity

(Name of Entity)

By: _____

Name: _____

Title: _____

Date: _____



EX-100
B

Instructions to Property Owners

1. The Residential Property Disclosure Act (G.S. 47E) ("Disclosure Act") requires owners of residential real estate (single-family homes, individual condominiums, townhouses, and the like, and buildings with up to four dwelling units) to furnish purchasers a Residential Property and Owners' Association Disclosure Statement ("Disclosure Statement"). This form is the only one approved for this purpose. A disclosure statement must be furnished in connection with the sale, exchange, option, and sale under a lease with option to purchase where the tenant does not occupy or intend to occupy the dwelling. A disclosure statement is not required for some transactions, including the first sale of a dwelling which has never been inhabited and transactions of residential property made pursuant to a lease with option to purchase where the lessee occupies or intends to occupy the dwelling. For a complete list of exemptions, see G.S. 47E-2.
2. You must respond to each of the questions on the following pages of this form by filling in the requested information or by placing a check (✓) in the appropriate box. In responding to the questions, you are only obligated to disclose information about which you have actual knowledge.
 - a. If you check "Yes" for any question, you must explain your answer and either describe any problem or attach a report from an attorney, engineer, contractor, pest control operator or other expert or public agency describing it. If you attach a report, you will not be liable for any inaccurate or incomplete information contained in it so long as you were not grossly negligent in obtaining or transmitting the information.
 - b. If you check "No," you are stating that you have no actual knowledge of any problem. If you check "No" and you know there is a problem, you may be liable for making an intentional misstatement.
 - c. If you check "No Representation," you are choosing not to disclose the conditions or characteristics of the property, even if you have actual knowledge of them or should have known of them.
 - d. If you check "Yes" or "No" and something happens to the property to make your Disclosure Statement incorrect or inaccurate (for example, the roof begins to leak), you must promptly give the purchaser a corrected Disclosure Statement or correct the problem.
3. If you are assisted in the sale of your property by a licensed real estate broker, you are still responsible for completing and delivering the Disclosure Statement to the purchasers; and the broker must disclose any material facts about your property which he or she knows or reasonably should know, regardless of your responses on the Disclosure Statement.
4. You must give the completed Disclosure Statement to the purchaser no later than the time the purchaser makes an offer to purchase your property. If you do not, the purchaser can, under certain conditions, cancel any resulting contract (See "Note to Purchasers" below). You should give the purchaser a copy of the Disclosure Statement containing your signature and keep a copy signed by the purchaser for your records.

Note to Purchasers: If the owner does not give you a Residential Property and Owners' Association Disclosure Statement by the time you make your offer to purchase the property, you may under certain conditions cancel any resulting contract without penalty to you as the purchaser. To cancel the contract, you must personally deliver or mail written notice of your decision to cancel to the owner or the owner's agent within three calendar days following your receipt of the Disclosure Statement, or three calendar days following the date of the contract, whichever occurs first. However, in no event does the Disclosure Act permit you to cancel a contract after settlement of the transaction or (in the case of a sale or exchange) after you have occupied the property, whichever occurs first.

5. In the space below, type or print in ink the address of the property (sufficient to identify it) and your name. Then sign and date.

Property Address: 327 4th Avenue East, Hendersonville, NC 28792
 Owner's Name(s): Tanja Ann Williams

Owner(s) acknowledge(s) having examined this Disclosure Statement before signing and that all information is true and correct as of the date signed.

Owner Signature: Tanja Ann Williams dotloop verified 08/31/16 6:20PM EDT VHTY-SG9T-BVRT-DVVK
 Owner Signature: Savannah Williams, Jr. dotloop verified 09/05/16 5:36PM EDT NLV1-KJ59-5VCA-D91U

Purchasers acknowledge receipt of a copy of this Disclosure Statement; that they have examined it before signing; that they understand that this is not a warranty by owners or owners' agents; that it is not a substitute for any inspections they may wish to obtain; and that the representations are made by the owners and not the owners' agents or subagents. Purchasers are strongly encouraged to obtain their own inspections from a licensed home inspector or other professional. As used herein words in the plural include the singular, as appropriate.

Purchaser Signature: John F. Connet dotloop verified 08/24/16 1:45PM EDT JD23-LNR1-SPUD-EEFE
 Purchaser Signature: _____

The following questions address the characteristics and condition of the property identified above about which the owner has **actual knowledge**. Where the question refers to "dwelling," it is intended to refer to the dwelling unit, or units if more than one, to be conveyed with the property. The term "dwelling unit" refers to any structure intended for human habitation.

	Yes	No	No Representation
1. In what year was the dwelling constructed? _____ Explain if necessary: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Is there any problem, malfunction or defect with the dwelling's foundation, slab, fireplaces/chimneys, floors, windows (including storm windows and screens), doors, ceilings, interior and exterior walls, attached garage, patio, deck or other structural components including any modifications to them?.....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3. The dwelling's exterior walls are made of what type of material? <input type="checkbox"/> Brick Veneer <input type="checkbox"/> Wood <input type="checkbox"/> Stone <input type="checkbox"/> Vinyl <input type="checkbox"/> Synthetic Stucco <input type="checkbox"/> Composition/Hardboard <input type="checkbox"/> Concrete <input type="checkbox"/> Fiber Cement <input type="checkbox"/> Aluminum <input type="checkbox"/> Asbestos <input type="checkbox"/> Other _____ (Check all that apply)			<input checked="" type="checkbox"/>
4. In what year was the dwelling's roof covering installed? _____ (Approximate if no records are available) Explain if necessary: _____			<input checked="" type="checkbox"/>
5. Is there any leakage or other problem with the dwelling's roof?.....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6. Is there any water seepage, leakage, dampness or standing water in the dwelling's basement, crawl space, or slab?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
7. Is there any problem, malfunction or defect with the dwelling's electrical system (outlets, wiring, panel, switches, fixtures, generator, etc.)?.....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
8. Is there any problem, malfunction or defect with the dwelling's plumbing system (pipes, fixtures, water heater, etc.)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
9. Is there any problem, malfunction or defect with the dwelling's heating and/or air conditioning?.....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
10. What is the dwelling's heat source? <input type="checkbox"/> Furnace <input type="checkbox"/> Heat Pump <input type="checkbox"/> Baseboard <input type="checkbox"/> Other _____ (Check all that apply)..... Age of system: _____			<input checked="" type="checkbox"/>
11. What is the dwelling's cooling source? <input type="checkbox"/> Central Forced Air <input type="checkbox"/> Wall/Window Unit(s) <input type="checkbox"/> Other _____ (Check all that apply)..... Age of system: _____			<input checked="" type="checkbox"/>
12. What are the dwelling's fuel sources? <input type="checkbox"/> Electricity <input type="checkbox"/> Natural Gas <input type="checkbox"/> Propane <input type="checkbox"/> Oil <input type="checkbox"/> Other _____ (Check all that apply) If the fuel source is stored in a tank, identify whether the tank is <input type="checkbox"/> above ground or <input type="checkbox"/> below ground, and whether the tank is <input type="checkbox"/> leased by seller or <input type="checkbox"/> owned by seller. (Check all that apply).....			<input checked="" type="checkbox"/>
13. What is the dwelling's water supply source? <input type="checkbox"/> City/County <input type="checkbox"/> Community System <input type="checkbox"/> Private Well <input type="checkbox"/> Shared Well <input type="checkbox"/> Other _____ (Check all that apply).....			<input checked="" type="checkbox"/>
14. The dwelling's water pipes are made of what type of material? <input type="checkbox"/> Copper <input type="checkbox"/> Galvanized <input type="checkbox"/> Plastic <input type="checkbox"/> Polybutylene <input type="checkbox"/> Other _____ (Check all that apply).....			<input checked="" type="checkbox"/>
15. Is there any problem, malfunction or defect with the dwelling's water supply (including water quality, quantity, or water pressure)?.....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
16. What is the dwelling's sewage disposal system? <input type="checkbox"/> Septic Tank <input type="checkbox"/> Septic Tank with Pump <input type="checkbox"/> Community System <input type="checkbox"/> Connected to City/County System <input type="checkbox"/> City/County System available <input type="checkbox"/> Straight pipe (wastewater does not go into a septic or other sewer system [note: use of this type of system violates state law]) <input type="checkbox"/> Other _____ (Check all that apply).....			<input checked="" type="checkbox"/>
17. If the dwelling is serviced by a septic system, do you know how many bedrooms are allowed by the septic system permit? If your answer is "yes," how many bedrooms are allowed? _____ <input type="checkbox"/> No records available	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
18. Is there any problem, malfunction or defect with the dwelling's sewer and/or septic system?.....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
19. Is there any problem, malfunction or defect with the dwelling's central vacuum, pool, hot tub, spa, attic fan, exhaust fan, ceiling fans, sump pump, irrigation system, TV cable wiring or satellite dish, garage door openers, gas logs, or other systems?.....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
20. Is there any problem, malfunction or defect with any appliances that may be included in the conveyance (range/oven, attached microwave, _____ dishwasher, disposal, etc.)?.....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Owner Initials and Date

TW
08/31/16
6:20PM EDT

Owner Initials and Date

SWJ
09/05/16
5:36PM EDT

Purchaser Initials and Date

Purchaser Initials and Date

JFC
08/04/16
1:25PM EDT

- | | Yes | No | No Representation |
|--|--------------------------|--------------------------|-------------------------------------|
| 21. Is there any problem with present infestation of the dwelling, or damage from past infestation of wood destroying insects or organisms which has not been repaired?..... | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 22. Is there any problem, malfunction or defect with the drainage, grading or soil stability of the property?..... | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 23. Are there any structural additions or other structural or mechanical changes to the dwelling(s) to be conveyed with the property?..... | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 24. Is the property to be conveyed in violation of any local zoning ordinances, restrictive covenants, or other land-use restrictions, or building codes (including the failure to obtain proper permits for room additions or other changes/improvements)?..... | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 25. Are there any hazardous or toxic substances, materials, or products (such as asbestos, formaldehyde, radon gas, methane gas, lead-based paint) which exceed government safety standards, any debris (whether buried or covered) or underground storage tanks, or any environmentally hazardous conditions (such as contaminated soil or water, or other environmental contamination) which affect the property?..... | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 26. Is there any noise, odor, smoke, etc. from commercial, industrial, or military sources which affects the property? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 27. Is the property subject to any utility or other easements, shared driveways, party walls or encroachments from or on adjacent property?..... | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 28. Is the property the subject of any lawsuits, foreclosures, bankruptcy, leases or rental agreements, judgments, tax liens, proposed assessments, mechanics' liens, materialmen's liens, or notices from any governmental agency that could affect title to the property?..... | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 29. Is the property subject to a flood hazard or is the property located in a federally-designated flood hazard area? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 30. Does the property abut or adjoin any private road(s) or street(s)?..... | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 31. If there is a private road or street adjoining the property, is there in existence any owners' association or maintenance agreements dealing with the maintenance of the road or street?..... | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

If you answered "yes" to any of the questions listed above (1-31) please explain (attach additional sheets if necessary):

SELLER NEVER LIVED IN HOME.

In lieu of providing a written explanation, you may attach a written report to this Disclosure Statement by a public agency, or by an attorney, engineer, land surveyor, geologist, pest control operator, contractor, home inspector, or other expert, dealing with matters within the scope of that public agency's functions or the expert's license or expertise.

The following questions pertain to the property identified above, including the lot to be conveyed and any dwelling unit(s), sheds, detached garages, or other buildings located thereon.

- | | Yes | No | No Representation |
|---|--------------------------|--------------------------|-------------------------------------|
| 32. To your knowledge, is the property subject to regulation by one or more owners' association(s) or governing documents which impose various mandatory covenants, conditions, and restrictions upon the lot, including, but not limited to obligations to pay regular assessments or dues and special assessments? If your answer is "yes," please provide the information requested below as to each owners' association to which the property is subject [insert N/A into any blank that does not apply]: | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

*(specify name) _____ whose regular assessments ("dues") are \$ _____ per _____. The name, address, and telephone number of the president of the owners' association or the association manager are _____

*(specify name) _____ whose regular assessments ("dues") are \$ _____ per _____. The name, address, and telephone number of the president of the owners' association or the association manager are _____

* If you answered "Yes" to question 32 above, you must complete the remainder of this Disclosure Statement. If you answered "No" or "No Representation" to question 32 above, you do not need to answer the remaining questions on this Disclosure Statement. Skip to the bottom of the page and initial and date the page.

Owner Initials and Date _____

Purchaser Initials and Date _____



Owner Initials and Date _____

Purchaser Initials and Date _____



- L
- | | Yes | No | No
Representation |
|--|--------------------------|--------------------------|-------------------------------------|
| 33. Are any fees charged by the association or by the association's management company in connection with the conveyance or transfer of the lot or property to a new owner? If your answer is "yes," please state the amount of the fees: _____ | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 34. As of the date this Disclosure Statement is signed, are there any dues, fees, or special assessments which have been duly approved as required by the applicable declaration or bylaws, and that are payable to an association to which the lot is subject? If your answer is "yes," please state the nature and amount of the dues, fees, or special assessments to which the property is subject:
_____ | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 35. As of the date this Disclosure Statement is signed, are there any unsatisfied judgments against, or pending lawsuits involving the property or lot to be conveyed? If your answer is "yes," please state the nature of each pending lawsuit, and the amount of each unsatisfied judgment: _____ | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 36. As of the date this Disclosure Statement is signed, are there any unsatisfied judgments against, or pending lawsuits involving the planned community or the association to which the property and lot are subject, with the exception of any action filed by the association for the collection of delinquent assessments on lots other than the property and lot to be conveyed? If your answer is "yes," please state the nature of each pending lawsuit, and the amount of each unsatisfied judgment: _____ | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 37. Which of the following services and amenities are paid for by the owners' association(s) identified above out of the association's regular assessments ("dues")? (Check all that apply). | | | |

- | | Yes | No | No
Representation |
|--|--------------------------|--------------------------|-------------------------------------|
| Management Fees..... | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Exterior Building Maintenance of Property to be Conveyed..... | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Exterior Yard/Landscaping Maintenance of Lot to be Conveyed..... | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Common Areas Maintenance..... | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Trash Removal..... | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Recreational Amenity Maintenance (specify amenities covered) _____ | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Pest Treatment/Extermination..... | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Street Lights..... | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Water..... | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Sewer..... | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Storm water Management/Drainage/Ponds..... | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Internet Service..... | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Cable..... | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Private Road Maintenance..... | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Parking Area Maintenance..... | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Gate and/or Security..... | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Other: (specify) _____ | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Owner Initials and Date _____
 Purchaser Initials and Date _____


 09/05/16
 11:45PM EDT

Owner Initials and Date _____
 Purchaser Initials and Date _____


 09/05/16
 5:36PM EDT

 09/05/16
 11:45PM EDT



STATE OF NORTH CAROLINA
MINERAL AND OIL AND GAS RIGHTS MANDATORY DISCLOSURE STATEMENT

2017-12-12

Instructions to Property Owners

- The Residential Property Disclosure Act (G.S. 47E) ("Disclosure Act") requires owners of certain residential real estate such as single-family homes, individual condominiums, townhouses, and the like, and buildings with up to four dwelling units, to furnish purchasers a Mineral and Oil and Gas Rights Disclosure Statement ("Disclosure Statement"). This form is the only one approved for this purpose.
- A disclosure statement is not required for some transactions. For a complete list of exemptions, see G.S. 47E-2(a). **A DISCLOSURE STATEMENT IS REQUIRED FOR THE TRANSFERS IDENTIFIED IN G.S. 47E-2(b)**, including transfers involving the first sale of a dwelling never inhabited, lease with option to purchase contracts where the lessee occupies or intends to occupy the dwelling, and transfers between parties when both parties agree not to provide the Residential Property and Owner's Association Disclosure Statement.
- You must respond to each of the following by placing a check in the appropriate box.

MINERAL AND OIL AND GAS RIGHTS DISCLOSURE

Mineral rights and/or oil and gas rights can be severed from the title to real property by conveyance (deed) of the mineral rights and/or oil and gas rights from the owner or by reservation of the mineral rights and/or oil and gas rights by the owner. If mineral rights and/or oil and gas rights are or will be severed from the property, the owner of those rights may have the perpetual right to drill, mine, explore, and remove any of the subsurface mineral and/or oil or gas resources on or from the property either directly from the surface of the property or from a nearby location. With regard to the severance of mineral rights and/or oil and gas rights, Seller makes the following disclosures:

	Yes	No	No Representation
<div style="display: flex; align-items: flex-start;"> <div style="border: 1px solid black; padding: 2px; margin-right: 10px;"> <small>09/04/16 1:45PM EDT Buyer Initials</small> </div> <div> <p>1. Mineral rights were severed from the property by a previous owner.</p> </div> </div>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<div style="display: flex; align-items: flex-start;"> <div style="border: 1px solid black; padding: 2px; margin-right: 10px;"> <small>09/04/16 1:45PM EDT Buyer Initials</small> </div> <div> <p>2. Seller has severed the mineral rights from the property.</p> </div> </div>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<div style="display: flex; align-items: flex-start;"> <div style="border: 1px solid black; padding: 2px; margin-right: 10px;"> <small>09/04/16 1:45PM EDT Buyer Initials</small> </div> <div> <p>3. Seller intends to sever the mineral rights from the property prior to transfer of title to the Buyer.</p> </div> </div>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<div style="display: flex; align-items: flex-start;"> <div style="border: 1px solid black; padding: 2px; margin-right: 10px;"> <small>09/04/16 1:45PM EDT Buyer Initials</small> </div> <div> <p>4. Oil and gas rights were severed from the property by a previous owner.</p> </div> </div>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<div style="display: flex; align-items: flex-start;"> <div style="border: 1px solid black; padding: 2px; margin-right: 10px;"> <small>09/04/16 1:45PM EDT Buyer Initials</small> </div> <div> <p>5. Seller has severed the oil and gas rights from the property.</p> </div> </div>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<div style="display: flex; align-items: flex-start;"> <div style="border: 1px solid black; padding: 2px; margin-right: 10px;"> <small>09/04/16 1:45PM EDT Buyer Initials</small> </div> <div> <p>6. Seller intends to sever the oil and gas rights from the property prior to transfer of title to Buyer.</p> </div> </div>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

Note to Purchasers

If the owner does not give you a Mineral and Oil and Gas Rights Disclosure Statement by the time you make your offer to purchase the property, or exercise an option to purchase the property pursuant to a lease with an option to purchase, you may under certain conditions cancel any resulting contract without penalty to you as the purchaser. To cancel the contract, you must personally deliver or mail written notice of your decision to cancel to the owner or the owner's agent within three calendar days following your receipt of this Disclosure Statement, or three calendar days following the date of the contract, whichever occurs first. However, in no event does the Disclosure Act permit you to cancel a contract after settlement of the transaction or (in the case of a sale or exchange) after you have occupied the property, whichever occurs first.

Property Address: 327 4th Avenue East, Hendersonville, NC 28792

Owner's Name(s): Tanja Ann Williams and Savannah William Jr. Williams

Owner(s) acknowledge having examined this Disclosure Statement before signing and that all information is true and correct as of the date signed.

Owner Signature: Tanja Ann Williams dotloop verified
09/05/16 6:25PM EDT
B0DT-SYDK-9J3-NPSZ

Owner Signature: Savannah Williams, Jr. dotloop verified
09/05/16 5:36PM EDT
QKSW-0SOR-ENJH-FUQT

Purchaser(s) acknowledge receipt of a copy of this Disclosure Statement; that they have examined it before signing; that they understand that this is not a warranty by owner or owner's agent; and that the representations are made by the owner and not the owner's agent(s) or subagent(s).

Purchaser Signature: John F. Connet dotloop verified
09/04/16 1:45PM EDT
U3YY-MYVM-WTPH-PJEK

Purchaser Signature: _____

EXHIBIT A

TO HAVE AND TO HOLD THIS SAME, Together with all hereditaments and appurtenances thereto in any wise appertaining unto the said part Y of the second part, her heirs and assigns forever.

And the said part 309 of the first part do covenant with the said part Y of the second part, her heirs and assigns, as follows: FIRST, that the said part 128 of the first part, the owner, and lawfully seized of said land and premises. SECOND, That they have good right and full power to convey the same. THIRD, That the same are free from all incumbrances whatsoever. And, FOURTH, That the said part Y of the second part, her heirs and assigns, shall quietly enjoy and possess the same, and that the said part of the first part, heirs, executors and administrators, will forever warrant and defend the title to the same against all lawful claims.

GFC 09/04/16 1:45PM EDT

TW 09/05/16 6:25PM EDT

SWJ 09/05/16 5:36PM EDT

IN TESTIMONY WHEREOF, The said part 128 of the first part have hereshio set their hand and seal, the day and year first above written.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF

W.S. Lock

C. D. Lockman (SEAL)
Marion Lockman (SEAL)
Marion Lockman (SEAL)
Marion Lockman (SEAL)

STATE OF NORTH CAROLINA, COUNTY OF HENDERSON

I, a Notary Public, in and for the above County and State do hereby certify that G. D. LOCKMAN and wife, MARION LOCKMAN,

personally appeared before me this day and acknowledged the due execution by them of the foregoing Deed of conveyance.

WITNESS my hand and notarial seal, this 11th day of December, 1965. My commission expires 3-24-67. Notary Public

STATE OF COUNTY OF I, a Notary Public, in and for the above County and State, do hereby certify that

personally appeared before me this day and acknowledged the due execution by of the foregoing Deed of conveyance.

WITNESS my hand and notarial seal, this day of A. D. 19. My commission expires Notary Public

STATE OF NORTH CAROLINA, COUNTY OF HENDERSON The foregoing certificate of Buel R. Deaver, a Notary Public, of Henderson County, and State of North Carolina, is adjudged to be correct. Therefore, let the foregoing Deed, with the certificates, be registered.

This 25th day of December, 1965, 15th day of April, 1966. Clerk Superior Court, Henderson County

ARRANTY
EED
D, LOCKMAN and wife,
RION LOCKMAN,
TO
Y SHIELDS CLARK
4th Ave - East
11th St
also \$ 10.00
November 30, 1965
CORD in the office of the Registrar
Henderson County, North Carolina, on
April 1966
clock A. M., and Recorded and
25th day of April, 1966
'clock A. M., in Book 439
Shatterson
of Deeds, Henderson County
W. M. ... deputy
Assistant
PREPARED BY:
Lowe, Attorney at Law
ville, North Carolina
Hess and ...
VAN PRINTING COMPANY
Greensboro, N. C.

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

0-11/3-4

This Deed, Made this 30th day of November, In the year of our Lord, one thousand nine hundred and sixty-five, between C. D. LOCKMAN and wife, MARION LOCKMAN,

of the County of Henderson and State of North Carolina of the first part, and
MARY SHIELDS CLARK

of the County of Henderson and State of North Carolina of the second part,
WITNESSETH:

JFC
09/04/16
1:45PM EDT

TW
09/05/16
6:25PM EDT

SWJ
09/05/16
5:36PM EDT

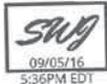
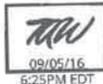
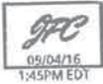
WITNESSETH, That the said party of the first part, for and in consideration of the sum of (\$ 10.00)
TEN DOLLARS AND OTHER GOOD AND VALUABLE CONSIDERATIONS-----~~THIRTEEN~~
in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, he, she, Bargained and Sold, Conveyed and Confirmed, and by these presents do Bargain and Sell and Convey and Confirm, unto the said party of the second part,
her heirs and assigns forever, all the following described piece or parcel of land lying and being in the Township of Hendersonville, County of Henderson, and State of North Carolina, and known and designated as follows, viz:

BEGINNING on a stake at the intersection of the northern margin of Fourth Avenue East with the western margin of Pine Street, and runs thence with the western margin of Pine Street, North 13° West 75 feet to a stake; thence South 77° West 60 feet to an iron pin in the old Hampton Hunter line; thence with the Old Hampton Hunter line, South 13° East 75 feet to an iron pin in the north margin of Fourth Avenue East; thence with the north margin of Fourth Avenue East, North 77° East 60 feet to the BEGINNING, and being the southern half of that lot conveyed to Weldon Miller and wife, by Columbus Few and wife, and recorded in Deed Book 77 at Page 93 of the Records of Henderson County, North Carolina, and also that lot conveyed to parties of the first part, by F. H. Waldrop, and wife, Mae M. Waldrop, by deed dated November 25, 1958, and recorded in Book 372 at Page 47, of the Records of Deeds for Henderson County, North Carolina.

Being the same property conveyed to the grantor herein by Mary Shields Clark and husband, Olin Clark, by deed dated January 28, 1959, recorded in the office of the Register of Deeds for Henderson County, North Carolina, in Deed Book 373, Page 123.

EXHIBIT
A

16 L 272



LAST WILL AND TESTAMENT

OF

MARY SHIELDS CLARK

I, MARY SHIELDS CLARK, a resident of and domiciled in Henderson County, North Carolina, declare this to be my Last Will and Testament, revoking all former Wills and Codicils.

ARTICLE I

I direct that my just debts, whether or not the same are enforceable obligations of my estate, the expenses of my last illness, the expenses of my death and the disposition of my body, and the costs of administration of my estate be paid out of the assets of my estate as soon as practicable after my death.

ARTICLE II

I direct that all estate, inheritance, succession, death or similar taxes assessed with respect to my estate herein disposed of, or any part thereof, or on any bequest or devise contained in this my Last Will (which term wherever used herein shall include any codicil hereto), or on any insurance upon my life or on any property held jointly by me with another or on any transfer made by me during my lifetime or on any other property or interest in property included in my estate for such tax purposes be paid out of the assets of my estate and shall not be charged to or against any recipient, beneficiary, transferee or owner of any such property or interests in property included in my estate for such tax purposes.

ARTICLE III

All the rest, residue and remainder of my property and estate, wherever situated and of whatever nature, I give, devise and bequeath to my daughter, TANJA ANN WILLIAMS, or her lineal descendants, per stirpes.

MISC.

JFC
09/04/16
1:45PM EDT

SWJ
09/05/16
5:36PM EDT

TW
09/05/16
6:25PM EDT

ARTICLE IV

I hereby nominate, constitute and appoint my daughter, TANJA ANN WILLIAMS, as Executor of this my Last Will and Testament and direct that she serve without bond.

ARTICLE V

I grant my Executor administering my estate (and her successors) the authority and power to exercise, in her sole discretion and without court order, in respect of any property forming part of my estate or otherwise in her possession hereunder, all powers conferred by law upon executors or expressed in this Will, and I intend that the powers so granted be construed in the broadest possible manner. Subject to N.C. General Statute Section 32-26, I further confer upon my Executor all the powers set forth in N.C. General Statute Section 32-27 which are hereby incorporated by reference as they exist at the time of my execution of this Will, as well as the powers and authorities set out in N.C. General Statute Section 28A-13-3, which powers and authorities are in addition to and not in lieu of the powers and authorities set out in N.C. General Statute Section 32-27.

ARTICLE VI

I hereby refrain from exercising any power of appointment that I may have at the time of my death.

ARTICLE VII

If any beneficiary and I should die under such circumstances as would render it doubtful whether the beneficiary or I died first, then it shall be conclusively presumed for the purposes of this my Will that said beneficiary predeceased me.

ARTICLE VIII

As used in this Will, the masculine, feminine and neuter gender, and the singular and plural numbers, whenever the context requires or permits, shall each be deemed to include the other genders or numbers respectively.

The term "residuary estate" as used in this Will means all the rest, residue and remainder of my property not effectively disposed of outside this Will or by other provisions of this Will, regardless of the nature of the property or its location.

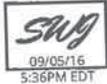
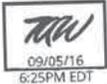
M.S.C.

H
Titles and headings contained in this Will shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of this Will.

I, MARY SHIELDS CLARK, Testatrix, sign my name to this instrument this 24 day of August, 1994, and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my Last Will and Testament and that I sign it willingly, that I execute it as my free and voluntary act for the purposes therein expressed, that I am 18 years of age or older, of sound mind, and under no constraint or undue influence.



Mary Shields Clark (SEAL)
Mary Shields Clark, Testatrix



We, Sue Tatham and Sue B. Gilliam the witnesses, sign our names to this instrument, being first duly sworn, and do hereby declare to the undersigned authority that the Testatrix signs and executes this instrument as her Last Will and that she signs it willingly, and that each of us, in the presence and hearing of the Testatrix, hereby signs this Will as witnesses to the Testatrix's signing, and that to the best of our knowledge the Testatrix is eighteen years of age or older, of sound mind, and under no constraint or undue influence.

Sue Tatham
Witness

Sue B. Gilliam
Witness

M.S.C.

H

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

Subscribed, sworn to and acknowledged before me by
Mary Shields Clark, the Testatrix, and subscribed and sworn to
before me by Sue T. Tatham and Sue B. William, witnesses, this the 27th day of
August, 1994.

George M. Jones
Notary Public

My commission expires: 3/31/97
(seal)

page 4 of 4

M.S.C.

GFC
09/04/16
1:45PM EDT

TW
09/05/16
6:25PM EDT

SWJ
09/05/16
5:36PM EDT



CITY OF HENDERSONVILLE

AGENDA ITEM SUMMARY

Submitted By: Sam Fritschner

Department: Legal

Date Submitted: 16 September 2016

Presenter: Sam Fritschner

Date of Council Meeting to consider this item: 6 October 2016

Nature of Item: Council Action

Summary of Information/Request:

Item # 05j

A recent meeting between administration, police and legal departments sought a plan for increasing the safety and welfare of tourists, merchants and other citizens visiting the depot area. The City is reviewing a number of ideas to make life better for all of these groups.

As part of this review the legal department determined that there are still some loitering-ordinances whose enforceability has been called into serious question by U.S. Supreme Court cases over the last two or three decades. The following ordinances in particular are deemed invalid as vague or unenforceable or both:

Section 36-4 -- Loitering.

Section 36-123 -- Loitering for the purpose of engaging in drug-related activities.

The first of these ordinances gives the police and the public no direction in determining who is breaking the law. The second has the same defect and is more readily enforced by enforcing existing the drug transactions themselves.

At the suggestion of the city manager I have drafted an ordinance repealing both sections, 36-4 and 36-123.

Budget Impact: \$0 Is this expenditure approved in the current fiscal year budget? ^{N/A} If no, describe how it will be funded.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

I move the City Council to adopt the ordinance repealing Code of Ordinance sections 36-4 and 36-123.

Attachments:

Proposed ordinance

AN ORDINANCE REPEALING PORTIONS OF CHAPTER 36 ARTICLE II RESPECTING LOITERING AND SIMILAR OFFENSES

WHEREAS, the City of Hendersonville has formerly enacted a number of ordinances respecting loitering and related offences, and

WHEREAS, the City now believes that certain of these ordinances are unnecessarily vague or otherwise of dubious enforceability, and

WHEREAS, the City wishes to ascertain always that its ordinances be generally understandable to persons of ordinary sense and understanding,

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

SECTION 1. Code of Ordinances Section 36-4 repealed.

(a) Section 36-4 of the Code of Ordinances is hereby repealed in its entirety.

SECTION 2. Code of Ordinances Section 36-4 repealed.

(a) Section 36-123 of the Code of Ordinances is hereby repealed in its entirety.

SECTION 3. SEVERABILITY. If any provision of this ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the remaining provisions of this ordinance.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this 6th day of October 2016.

Barbara Volk, Mayor

Attest:

Tammie K. Drake, MMC, City Clerk

Approved as to form:

Samuel H. Fritschner, City Attorney



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

Submitted By: Brent Detwiler

Department: Engineering

Date Submitted: 9/28/16

Presenter: Brent Detwiler

Date of Council Meeting to consider this item: 10/6/16

Nature of Item: Council Action

Summary of Information/Request:

Item # 05k

Water Treatment Plant - High Service Pump Station - Variable Frequency Drive (VFD) Preferred Brand Alternative

The Water Treatment Plant High Service Pump Station project is nearing design completion and will soon be ready to bid. This project includes new pumps at the Treatment Plant as well as VFDs which will allow more effective and efficient operation of the pumps and the plant overall. NCGS 133-3 mandates and encourages free and open competition on public contracts. Due to the size, complexities and existing conditions at the plant, the project engineer McKim & Creed is recommending that the City establish Schneider-Electric, US Corporation (Square-D) as the preferred brand (manufacturer/supplier) alternative for VFDs with the new high service pump station upgrades.

- New drives will be rated for 2- 600 HP motors and 2- 400 HP motors. They will utilize 18-pulse drives for the 600 HP motors and 6- pulse drives for the 400 HP motors to negate the installation of active harmonic filters.
- Due to the existing space, only the preferred manufacturer's drives would actually fit in the available space. Thereby allowing the reuse of the existing underground electrical ductbank and eliminating having to make modifications to the electrical building to accommodate the drives.
- The preferred brand alternative therefore saves costs due to elimination of active harmonic filters, utilizing existing underground electrical ductbank, and requiring no modifications to the existing electrical building.

Attached is a memo from the engineer with further detailed explanation. Please let us know if you have any questions.

Budget Impact: \$ _____ Is this expenditure approved in the current fiscal year budget? N/A If no, describe how it will be funded.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

I hereby move to approve the written justification and associated performance standards for the use of variable frequency drives as supplied/manufactured by Schneider-Electric, US Corporation (Square-D), as the preferred brand of VFDs for the Water Treatment Plant High Service Pump Station project.

Attachments:

Project Memo from McKim & Creed



PROJECT: City of Hendersonville – High Service Pump Station

SUBJECT: Required Electrical Equipment Manufacturer

DATE: June 28, 2016

The following technical memorandum highlights the justification for the required electrical equipment manufacturer's components to be installed in the City of Hendersonville – High Service Pump Station.

In compliance with the electrical design objectives as described in the Preliminary Design Report prepared by McKim & Creed in November 2014, new and Engineer selected Variable Frequency Drives are to be installed in the existing Electrical Building to operate the future and upsized High Service Pump Motors which are located in the existing Pump Station. Accordingly, standard electrical design practices to include the requirements of IEEE Standard 519 dictate the analysis of harmonic noise produced by powering large horsepower Variable Frequency Drives to determine if this noise is within limits and if not, implement harmonic mitigation techniques and/or devices into the electrical design. Initially and contained in the preliminary basis of design, an Active Harmonic Filter was considered to reduce the highly probable harmonic noise. However, during the detailed electrical design effort, McKim & Creed determined that 18-pulse Variable Frequency Drives could be utilized to lower the harmonic noise to an acceptable level which would also negate the installation of the Active Harmonic Filter. Therefore, the electrical design approach incorporated the installation of two (2) 18-pulse Variable Frequency Drives for the 600hp Pump Motors along with two (2) 6-pulse Variable Frequency Drives for the 400hp Pump Motors. McKim & Creed submitted this recommended change in electrical design including the cost savings of deleting the purchase and installation of the Active Harmonic Filter to the City of Hendersonville for consideration. Upon receiving a favorable and agreed response, McKim & Creed continued the detailed electrical design effort to determine the best use of the limited space within the existing Electrical Building to install the recommended Variable Frequency Drives along with the existing electrical cabling and underground raceway system. A visit of the existing Electrical Building and Pump Station was conducted to verify the existing conditions, underground conduit and physical measurements and arrangements of those existing High Service Pump Motor controllers to be replaced with new Variable Frequency Drives. This information was utilized and presented to the engineering representatives of three major Variable Frequency Drive manufacturers to compile a list of products. Afterward, McKim & Creed determined that only one of the three manufacturers of Variable Frequency Drive motor controllers would actually fit in the coinciding spaces of the existing High Service Pump Motor controllers to include the underground conduit entry locations. Therefore, McKim & Creed recommends that this single manufacturer be selected by the City of Hendersonville to provide the selected Variable Frequency Drives. In doing so, this will reduce construction costs by maximizing the utility of the existing underground ductbank system along with negating the need to modify the existing Electrical Building structure and lastly, eliminating the installation of the Active Harmonic Filter.

SECTION 16483 - VARIABLE FREQUENCY DRIVES

PART 1 - GENERAL

1.1 SCOPE OF WORK

- A. This Specification provides requirements for Adjustable Frequency Drives, Variable Frequency Drives or herein identified as AC DRIVES for use NEMA[®] MG31 inverter-duty motors or with NEMA asynchronous Design B motors having an appropriate output filter.
- B. Contractor shall provide and install the AC DRIVES and all associated appurtenances for the equipment as referenced in the Contract Drawings:
 - 1. New Finished Water Pump Motor Controller No.1
 - a) 6-Pulse AC DRIVE with 3% Line-Reactor
 - 2. New Finished Water Pump Motor Controller No.2
 - a) 6-Pulse AC DRIVE with 3% Line-Reactor
 - 3. New Finished Water Pump Motor Controller No.3
 - a) 18-Pulse AC DRIVE
 - 4. New Finished Water Pump Motor Controller No.4
 - a) 18-Pulse AC DRIVE
- C. AC DRIVES shall fit in those existing locations as shown in the Contract Drawings and not exceed the base dimensions for the equipment listed:
 - 1. New Finished Water Pump Motor Controller No.1
 - a) 40IN wide 24IN depth
 - 2. New Finished Water Pump Motor Controller No.2
 - a) 40IN wide 24IN depth
 - 3. New Finished Water Pump Motor Controller No.3
 - a) 80IN wide 24IN depth
 - 4. New Finished Water Pump Motor Controller No.4
 - a) 80IN wide 24IN depth
- D. All power and control wiring shall enter the bottom of the AC DRIVES.

1. AC DRIVES shall be fitted with a wireway mounted to the bottom of the enclosure to facilitate routing and bending space of power and control wiring from existing conduit stub-up locations.
 2. AC DRIVES shall operate with those power, control and network cables/conductors as shown on the Contract Drawings.
- E. Any exceptions/deviations to this Specification shall be indicated in writing to the Engineer and submitted with the quotation.
- F. AC DRIVES shall operate with auxiliary equipment such as control valves, seal water valves, motor space heaters to include safety and equipment protection interlocks as shown in the Contract Documents.
- G. The AC DRIVE manufacturer shall be responsible for providing all equipment specified under this section, and furnishing the equipment to the Contractor for installation.
- H. The AC DRIVE manufacturer shall furnish, field test, adjust and certify all installed AC DRIVES for satisfactory operation.

1.2 RELATED WORK SPECIFIED

- A. Related Specification Sections include but not limited to:
1. DIVISION 2, including Section 02105 - Check Valves
 2. DIVISION 11, including Section 11313 - Vertical Turbine Pumps
 3. DIVISION 13, including all Sections
 4. DIVISION 16, including Section 16150 - Motors

1.3 REFERENCES

- A. ANSI®/NFPA® 70 – National Electrical Code® (NEC®)
- B. ASCE/SEI 7® – Seismic Performance Requirements
- C. CSA® C22.2 No. 14-M91 – Industrial Control Equipment
- D. IBC® – International Building Code®
- E. ICC ES AC156 – Shake-Table Test Acceptance Criteria
- F. IEC 61000 – Electromagnetic Compatibility
- G. IEEE 519 Recommended Practices and Requirements for Harmonic Control in Electrical Power Systems
- H. NEMA 250 – Enclosures for Electrical Equipment
- I. NEMA ICS7 – Industrial Control and Systems Adjustable Speed Drives

- J. NEMA ICS 7.1 – Safety Standards for Construction and Guide for Selection Installation and Operation of Adjustable Speed Drives
- K. OSHA® 1910.95 – AC Drive Controller Acoustical Noise
- L. UL® 50 – Enclosures for Electrical Equipment
- M. UL 98 – Disconnect Switches
- N. UL 507 – Electric Fans
- O. UL 508 – Industrial Control Equipment
- P. UL 508C – Power Conversion Equipment
- Q. UL 991 – Safety Tests for Safety Related Controls Employing Solid State Devices

1.4 SUBMITTALS

- A. Approval drawings shall be furnished for Engineer review prior to factory assembly of the AC DRIVE. These drawings shall consist of elementary power and control wiring diagrams and enclosure outline drawings. The enclosure drawings shall include front and side views of the enclosures with overall dimensions and weights shown, conduit entrance locations and nameplate legend details.
 - 1. The approval drawings shall be provided in PDF and AutoCAD formats.
- B. Standard catalog sheets showing voltage, horsepower, maximum current ratings and recommended replacement parts with part numbers shall be furnished for each different horsepower rated AC DRIVE provided.
- C. A harmonic distortion analysis shall be performed by the manufacturer based on documentation supplied by the Contractor. The engineering documentation shall consist of one-line diagrams, utility short circuit information, distribution transformer information (kVA, %Z, and X/R ratio) and emergency standby generator (kW and sub-transient reactance) data. The harmonic distortion analysis report shall be part of the approval drawing process, submitted to the Engineer for review.

1.5 WARRANTY

- A. The equipment manufacturer shall provide a one-year warranty beginning from substantial completion of the project, and shall guarantee that the equipment furnished is suitable for the purpose intended and free from defects of design, material and workmanship. In the event the equipment fails to perform as specified, the equipment manufacturer shall promptly repair or replace the defective equipment without any cost to the Owner (including handling and shipment costs).

1.6 QUALITY ASSURANCE

- A. The manufacturer of the AC DRIVE shall be a certified ISO 9001 facility.

- B. The AC DRIVE and all associated optional equipment shall be UL LISTED according to UL508C Power Conversion Equipment. A UL label shall be attached inside each enclosure as verification.
- C. The AC DRIVE shall be designed constructed and tested in accordance with ASCE/SEI-7, CSA, IBC, IEC, NEC, NEMA and VDE standards.
- D. Every power converter shall be tested with an actual ac induction motor, 100% load and temperature cycled within an environmental chamber at 104°F. Documentation shall be furnished to verify successful completion at the request of the engineer.
- E. All DRIVE door mounted pilot devices shall be tested to verify successful operation. Documentation shall be furnished upon written request of the engineer.
- F. The AC DRIVE shall undergo QA test procedures and be submitted to a hi-pot test with all enclosed devices mounted and wired, prior to shipment.

PART 2 - PRODUCTS

2.1 MANUFACTURERS

- A. The AC DRIVE shall be provided by Square D / Schneider Electric.
- B. Alternate control techniques other than Pulse Width Modulated (PWM) are not acceptable.

2.2 GENERAL DESCRIPTION

- A. The AC DRIVE shall convert the input AC mains power to an adjustable frequency and voltage as defined below and indicated on the Contract Drawings.
 - 1. The AC DRIVES for the New Finished Water Pump Motors No.1 and No.2 shall use a 6-Pulse bridge rectifier design with 3% line reactors for effective harmonic mitigation. The diode rectifiers shall convert fixed voltage and frequency, AC line power to fixed DC voltage. The power section shall be insensitive to phase rotation of the AC line.
 - 2. The AC DRIVES for the New Finished Water Pump Motors No.3 and No.4 shall supply an 18-Pulse design using a multiple bridge rectifier with integral reactor and phase shifting transformer. The 18-Pulse configuration shall result in a multiple pulse current waveform that approximates near sinusoidal input current waveform. The power section shall be insensitive to phase rotation of the AC line.
- B. The output power section shall change fixed DC voltage to adjustable frequency AC voltage. This section shall use insulated gate bipolar transistors (IGBT) or intelligent power modules (IPM) as required by the current rating of the motor.

2.3 CONSTRUCTION

- A. The AC DRIVE shall be mounted in a NEMA Type 12/12K enclosure with an externally operated disconnect device.
 - 1. The AC DRIVE shall match the Available Interrupting Current (AIC) and Short Circuit Current Rating (SCCR) of the existing equipment as referenced in the Contract Drawings.
- B. A mechanical interlock shall prevent an operator from opening the AC DRIVE door when the disconnect is in the ON position. Another mechanical interlock shall prevent an operator from placing the disconnect in the ON position while the AC DRIVE door is open. It shall be possible for authorized personnel to defeat these interlocks.
- C. Provisions shall be made for locking all disconnects in the OFF position. Provisions for additional padlocking shall be made by the Owner using an approved lockout/tagout device.

2.4 FEATURES

- A. Certifications
 - 1. Listed to UL508C and CAN/CSA-C22.2 No. 14-05
 - 2. In conformity with EMC Directive (2004/108/EC) and Low Voltage Directive (2006/95/EC). Standards applied; EN 61800-3:2004, EN 61800-5-1:2007
 - 3. Electric Power Research Institute. Certified compliant with standards SEMI F47 and IEC 61000-4-34
- B. Hardware
 - 1. Utilize SCR bridge on the input rectifier.
 - 2. Utilize switching logic power supply operating from the DC bus.
 - 3. Incorporate phase-to-phase and phase-to-ground MOV protection on the AC input line.
 - 4. Microprocessor based inverter logic shall be isolated from power circuits.
 - 5. Utilize latest generation IGBT inverter section.
 - 6. Battery receptacle for Lithium battery power to the Real Time Clock.
 - 7. Additional DPI port for handheld and remote Human Interface Module (HIM) options.
 - 8. Dedicated Digital Input for hardware enable.
 - 9. Conformal coated printed circuit boards.
 - 10. Optional onboard 24VDC Auxiliary Control Power Supply.

C. Control Functions

1. Ability to operate with motor disconnected “No Load Testing”.
2. Provide a controlled shut down, when properly protected, with no component failure in the event of an output phase to phase or phase to ground short circuit. Provide annunciation of the fault condition.
3. Provide multiple programmable stop modes including Ramp, Coast, DC-Brake, Ramp-to-Hold, Fast Braking, and Current Limit Stop.
4. Provide multiple acceleration and deceleration rates.
5. Adjustable output frequency up to 650Hz.

D. EtherNet/IP Control

1. Ability to provide ON-OFF control of the AC DRIVE.
2. Ability to control outputs and manage status information locally within the AC DRIVE.
3. Ability to function stand-alone or complimentary to supervisory control.
4. Ability to speed reaction time by processing in the AC DRIVE.
5. Ability to provide scaling, selector switches, or other data manipulations not already built into the AC DRIVE.
6. Ability to read inputs/write outputs and exclusively control the AC DRIVE.
7. Ability to provide an option to failover to active I/O if communication is lost with main controller.
8. Ability to control other AC DRIVE via a peer-to-peer EtherNet/IP network.
9. Ability to write programs off-line.

E. Motor Control Modes

1. Selectable Sensorless Vector, Flux Vector, V/Hz, and Adjustable Voltage Control modes selectable through programming.
2. The AC DRIVE shall be supplied with a Start-up and Auto-tune mode.
3. The V/Hz mode shall be programmable for fan curve or full custom patterns.
4. Capable of Open Loop V/Hz.

F. Current Limit

1. Programmable current limit from 20-160% of rated output current.

2. Current limit shall be active for all drive states: accelerating, constant speed and decelerating.
3. AC DRIVE shall employ PI regulation with an adjustable gain for smooth transition in and out of current limit.

G. Acceleration / Deceleration

1. Accel/Decel settings shall provide separate adjustments to allow either setting to be adjusted from 0-3600sec.
2. A second set of remotely selectable accel/decel settings shall be accessible through digital inputs.

H. Speed Profiles

1. Programming capability shall allow the user to produce speed profiles with linear acceleration/deceleration or "S-Curve" profiles that provide changing accel/decel rates.
2. S-Curve profiles shall be adjustable.

I. Adjustments

1. A digital interface can be used for all set-up, operation and adjustment settings.
2. All adjustments shall be stored in nonvolatile memory (EEPROM).
3. No potentiometer adjustments shall be required.
4. EEPROM memory for factory default values shall be provided.
5. Software must be available for trending and diagnostics, as well as online and offline programming functionality.

J. Process PID Control

1. AC DRIVE shall incorporate an internal process PI regulator with proportional and integral gain adjustments as well as error inversion and output clamping functions.
2. The feedback shall be configurable for normal or square root functions. If the feedback indicates that the process is moving away from the set-point, the regulator shall adjust the drive output until the feedback equals the reference.
3. Process control shall be capable of being enabled or disabled with a hardwire input. Transitioning in and out of process control shall be capable of being tuned for faster response by preloading the integrator.
4. Protection shall be provided for a loss of feedback or reference signal.

K. Skip Frequencies

1. Three adjustable set points that lock out continuous operation at frequencies which may produce mechanical resonance shall be provided.
 2. The set points shall have a bandwidth adjustable from Maximum Reverse Speed to Maximum Forward Speed.
- L. Fault Reset / Run
1. AC DRIVE shall provide up to (9) automatic fault reset and restarts following a fault condition before locking out and requiring manual restart.
 2. The automatic mode shall not be applicable to a ground fault, shorted output faults and other internal microprocessor faults.
 3. The time between restarts shall be adjustable from 0.5-30sec.
- M. Run on Power Up
1. A user programmable restart function shall be provided to allow restart of the equipment after restoration of power after long duration power outages. Restart time dependent on presence of incoming signal.
- N. Fault Memory
1. The last (32) fault codes shall be stored and time stamped in a fault buffer.
 2. Information about the AC DRIVE condition at the time of the last fault such as operating frequency, output current, dc bus voltage and (27) other status conditions shall be stored.
 3. A power-up marker shall be provided at each power-up time to aid in analyzing fault data.
 4. The last (32) alarm codes shall be stored and time stamped for additional troubleshooting reference.
- O. Overload Protection
1. AC DRIVE shall provide internal overload protection.
 2. Overload protection shall be speed sensitive and adjustable.
 3. A viewable parameter shall store the overload usage.
- P. Terminal Blocks
1. Separate terminal blocks shall be provided for control and power wiring.
 2. I/O terminal blocks shall be removable with wiring in place.
- Q. Flying Start

1. AC DRIVE shall be capable of determining the speed and direction of a spinning motor and adjust its output to "pick-up" the motor at the rotating speed. This feature is disabled by default.

R. Input and Output

1. The Input / Output modules shall consist of both analog and digital I/O.
2. No jumpers or switches shall be required to configure digital inputs and outputs.
3. All digital input and output functions shall be fully programmable.
4. The control terminal blocks shall be rated for 115VAC.
5. Inputs shall be optically isolated from the drive control logic.
6. The control interface card shall provide input terminals for access to fixed AC DRIVE functions that include start, stop, external fault, speed, and enable.
7. The AC DRIVE shall be capable of supporting up to (8) analog inputs, (8) analog outputs, (16) digital inputs, (8) relay outputs, (8) transistor outputs, and (3) Positive Temperature Coefficient (PTC) inputs.
8. The Input / Output modules shall have the following features:
9. Analog Inputs:
 - a) Quantity (2) differentially isolated, $\pm 10\text{V}$ (bi-polar) / 11 bit plus sign, 88kOHM input impedance, 4-20mA and 1-5V.
 - b) Analog inputs shall be user programmable for a variety of uses including frequency command and process loop input. Analog inputs shall be user programmable for function scaling (including invert), offset, signal loss detect and square root.
10. Analog Outputs:
 - a) Quantity (2) $\pm 10\text{V}$ (bi-polar) / 11 bit & sign, 2kOHM minimum load and 4-20 mA, 11 bit plus sign, 400kOHM maximum load.
 - b) The analog output shall be user programmable to be proportional to one of (14) process parameters including output frequency, output current, encoder feedback, output power.
 - c) Programming shall be available to select either absolute or signed values of these parameters.
11. Digital Inputs:
 - a) Quantity (4) digital inputs rated 24VDC/115VAC.

- b) All inputs shall be individually programmable for multiple functions including: Start, Run, Stop, Auxiliary Fault, Speed Select, Jog and Process PI functions.

12. Digital Outputs:

- a) Minimum (8) relay output (N.O. or N.C.).
- b) For 240VAC or 24VDC, N.O. contact output ratings shall be 2A max., general purpose (inductive)/resistive. N.C. contact output ratings shall be 2A max., resistive only.
- c) Relays shall be programmable to multiple conditions including: Fault, Alarm, Running, Local Control, Remote Control, Ready and PI Excess Error.
- d) Timers shall be available for each output to control the amount of time, after the occurring event, that the output relay actually changes state.
- e) Minimum (1) transistor output.
- f) For 24VDC, transistor output rating shall be 1A max, Resistive.

S. Reference Signals

- 1. AC DRIVE shall be capable of using the following input reference signals:
 - a) Analog inputs
 - b) Preset speeds
 - c) Remote potentiometer
 - d) Digital MOP
 - e) Human Interface Module
 - f) Communication modules

T. Loss of Reference

- 1. AC DRIVE shall be capable of sensing reference loss conditions.
- 2. In the event of loss of the reference signal, the AC DRIVE shall be user programmable to the following:
- 3. Fault AC DRIVE and coast to stop.
- 4. Issue a minor fault - allows the AC DRIVE to continue running while some types of faults are present.
- 5. Alarm and maintain last reference.

6. When using a communications network to control the AC DRIVE, the communications adapter shall have these configurable responses to network disruptions and controller idle (fault or program) conditions:
 - a) Fault
 - b) Stop
 - c) Zero Data
 - d) Hold Last State
 - e) Send Fault Configuration

U. Metering

1. At a minimum, the following parameters shall be accessible through the Human Interface Module (HIM):
 - a) Output Current in Amps
 - b) Output Voltage in Volts
 - c) Output Power in kW
 - d) Elapsed MWh
 - e) DC Bus Voltage
 - f) Frequency
 - g) Heatsink Temperature
 - h) Last eight (32) faults
 - i) Elapsed Run Time
 - j) IGBT Temperature

V. Faults

1. At a minimum, the following faults shall be accessible through the HIM:
 - a) Power Loss
 - b) Undervoltage
 - c) Overvoltage
 - d) Motor Overload
 - e) Heat Sink Over-temperature

- f) Maximum Retries
- g) Phase to Phase and Phase to Ground Faults

W. Predictive Diagnostics

1. At a minimum, the following predictive diagnostic features shall be provided:
 - a) Relay Output Life Cycles based on load type and amps.
 - b) Hours of Fan Life based on load and ambient temperature.
 - c) Motor Bearing life based on expected hours of use.
 - d) Motor Lubrication schedule based on hours of use.
 - e) Machine Bearing life based on expected hours of use.

X. Real-Time Clock

1. Shall be capable of providing time stamped events.
2. Shall have the ability to be set locally or via a remote controller.
3. Shall provide the ability to be programmable for date, MM:DD:YYYY and local time zones HH:MM:SS.

2.5 AC DRIVE SYSTEM

A. Voltage

1. Capable of accepting the nominal existing electrical power system of 480VAC 3PH @ 60Hz.
2. The supply input voltage tolerance shall be $\pm 10\%$ of nominal line voltage.

B. Displacement Power Factor

1. 6-Pulse AC DRIVE shall be capable of maintaining a minimum true power factor (Displacement P.F. X Distortion P.F.) of 0.95 lagging or better at rated load and nominal line voltage, over the entire speed range
2. 18-Pulse AC DRIVE shall be capable of maintaining a minimum true Power Factor (Displacement P.F. X Distortion P.F.) of 0.97 lagging or better at rated load and nominal line voltage, over the entire speed range.
3. AC DRIVES shall operate with the existing electrical power system to include the existing facility back-up generator. AC DRIVE shall not produce a leading power factor during any point in operation.

C. Efficiency

1. A minimum of 96.5% (+/- 1%) at 100% speed and 100% motor load at nominal line voltage.
2. Control power supplies, control circuits, and cooling fans shall be included in all loss calculations.
3. Operating ambient temperature range without derating: 0°C-40°C (32°F-104°F)
4. Operating relative humidity range shall be 5-95% non-condensing.
5. Operating elevation shall be up to 1000M (3,300FT) without derating.

D. Sizing

1. AC DRIVE shall be rated based on continuous output amps, and matched to meet or exceed the nameplate-rated Motor Full Load Amps.
2. Overload current rating of each AC DRIVE System shall be rated appropriately for the application.

E. Auto Reset/Run

1. For faults other than those caused by a loss of power or any other non-critical fault, AC DRIVE shall provide a means to automatically clear the fault and resume operation.

F. Ride-Through

1. The AC DRIVE system shall attempt to ride through power dips up to 20% of nominal. The duration of ride-through shall be inversely proportional to load. For outages greater than 20%, AC DRIVE shall stop the motor and issue a power loss alarm signal to a process controller, which may be forwarded to an external alarm signaling device.

G. Run on Power Up

1. AC DRIVE shall provide circuitry to allow for remote restart of equipment after a power outage. Unless indicated in the Contact Drawings, faults due to power outages shall be remotely resettable. AC DRIVE shall indicate a loss of power to a process controller, which may be forwarded to an external alarm signaling device. Upon indication of power restoration the process controller will attempt to clear any faults and issue a run command, if desired.

H. Communications

1. AC DRIVE shall be capable of communicating on multiple networks utilizing shielded communications cable.
2. AC DRIVE shall be capable of supporting the following network options:
 - a) EtherNet/IP

- b) DeviceNet
- c) Modbus/TCP
- d) Profibus DP
- e) RS-485 DF1
- f) Remote I/O

I. AC DRIVE Enclosure Door-Mounted Human Interface Module (HIM)

1. AC DRIVE shall provide a HIM with integral LCD display, operating keys and programming keys.
2. An enclosure door-mounted HIM, rated NEMA/UL Type 4/12, shall be provided.
3. The HIM shall have the following features:
 - a) A (7) line by (21) character backlit LCD display with graphics capability.
 - b) Shall indicate AC DRIVE operating conditions, adjustments and fault indications.
 - c) Shall be configured to display in the following (3) distinct zones:
 - (1) The top zone shall display the status of direction, AC DRIVE condition, fault / alarm conditions and Auto/Manual mode.
 - (2) The middle zone shall display AC DRIVE output frequency.
 - (3) The bottom zone shall be configurable as a display for either programming menus / information or as a (2) line user display for two additional values utilizing scaled units.
 - d) Shall provide digital speed control.
 - e) The keypad shall include programming keys, AC DRIVE operating keys (Start, Stop, Direction, Jog and Speed Control), and numeric keys for direct entry.

J. Control Power Transformer

1. Provide a control power transformer mounted and wired inside of the AC DRIVE enclosure.
2. The control power transformer shall be rated for the all AC DRIVE power requirements and control circuitry.

K. Harmonic Mitigation Techniques

1. 6-Pulse AC DRIVE with Input Line Reactor

- a) Provide 6-Pulse AC Drive with input line reactor:
 - (1) The line reactor shall meet the following:
 - (a) The construction shall be iron core with an impedance of (3) percent.
 - (b) The winding shall be copper wound.
 - (c) The insulation shall be Class H with a 115 °C rise over 50 °C ambient.
 - (d) The unit shall be rated for system voltage, ampacity, and frequency

2. 18-Pulse AC DRIVE with Auto Transformer

- a) Provide 18-Pulse AC DRIVE with a single 18-pulse converter.
 - (1) The converter bridge shall be a parallel 18-Pulse SCR assembly with DC snubber (board or assembly). Diodes shall be rated (devices) with a blocking voltage minimum of 1600V.
 - (2) The converter shall incorporate 1000V 3PH block style MOV protection rated 85°C.
- b) The 18-Pulse AC DRIVE shall incorporate an 18-pulse phase shifting auto transformer with line reactor as an assembly. The 18-pulse assembly shall be wired into the 18-Pulse AC DRIVE system enclosure where possible. The auto transformer shall have the following minimum features:
 - (1) Rated for input rectifier duty and matched to AC DRIVE overload capability.
 - (2) Copper wound.
 - (3) Class 180 or 220 insulation.
 - (4) Power factor of 0.98 or better at rated load and nominal line voltage.
 - (5) Open core construction.
 - (6) One normally closed thermoswitch contact in each coil wired into 18-Pulse AC DRIVE control circuitry.
- c) 18-Pulse AC DRIVE shall be compliant with IEEE-519 standards at the input AC DRIVE terminals based upon the input power phase imbalance within 0.5% of nominal line voltage and under full AC DRIVE output current ratings.

3. Passive Harmonic Filter with Capacitor Cutout Contactor
 - a) The 6-Pulse and 18-Pulse AC DRIVE systems shall utilize an internal Passive Harmonic Filter that is designed to limit harmonic distortion (current and voltage) to levels that allow the overall system to meet IEEE519-1992 at the Point of Common Coupling. The Passive Harmonic Filter shall include a capacitor cut-out contactor to disconnect the capacitor assembly under no-load, low-load and/or generator power conditions.
4. Other advanced harmonic mitigation designs, including Active Filters, and Active Front Ends, are not allowed.

L. Auxiliary Relays

1. Provide relays for AC DRIVE: Alarm, Fault, Run, High Temperature and System Status Faults (as required).
2. The relays shall be (2 N.O. & 2 N.C.). The relay contacts shall be rated for 115VAC/30VDC, 5A resistive, 2.5A inductive.

M. Control Interface

1. The control terminals shall be rated for 115V AC.
2. The control interface shall provide input terminals for access to AC DRIVE functions that include start, stop, external fault, speed-select, and enable, as required.

N. Motor Space Heater Control

1. The AC DRIVE shall provide the control circuitry to energize an existing motor space heater whenever the motor is not running via internal control power.
2. The motor space heater control shall be interlocked with the AC DRIVE and shall be energized whenever the motor is not running
3. A pilot light with LED (30mm), NEMA Type 4/13 shall be mounted on the AC DRIVE enclosure door for indication of Motor Heater On.

O. Hand/Off/Auto Mode Selector Switch

1. Provide a "HAND-OFF-AUTO" selector switch, mounted on the enclosure door.
2. The "Hand/Off/Auto" selector switch shall start the AC DRIVE in the "Hand" mode and stop the AC DRIVE in the "Off" mode.
3. In the "Auto" mode the AC DRIVE shall be started and stopped from a remote "RUN" contact.
4. In all modes, Auxiliary and Enable inputs to the AC DRIVE control interface board must be present before the AC DRIVE will start.

5. When a HIM is present, the stop function shall always be available to stop the AC DRIVE regardless of the selected mode (“Hand” or “Auto”). The HIM will be non-functional (except for the display and programming) when the switch is in “Off” mode. The HIM shall stop the AC DRIVE if the switch is in the “Auto” mode with the remote start contact initiated.
 6. The AC DRIVE speed reference shall be controlled from the HIM, unless a separate door-mounted potentiometer is provided, when in “Hand” mode (factory default setting).
 7. The AC DRIVE speed reference shall be controlled by a remote 4-20mA input signal, when in “Auto” mode and active controls.
- P. The device shall be (30mm), NEMA Type 4/13, mounted on the AC DRIVE enclosure door.
- Q. Drive Disable Mushroom Push Button
1. Provide a maintained mushroom style push button, mounted on the enclosure door that when pushed, will open the drive enable input.
 2. The device shall be (30mm), NEMA Type 4/13, mounted on the AC DRIVE enclosure door.
- R. Pilot Lights
1. Provide LED pilot lights, mounted on the enclosure door, for indication of the following status:
 - a) AC DRIVE:
 - (1) Ready
 - (2) Stop
 - (3) Run
 - (4) Fault
 - (5) High Temperature
 - b) MOTOR:
 - (1) High Winding Temperature
 - (2) Fault
 2. Devices shall be (30mm), NEMA Type 4/13, mounted on the AC DRIVE enclosure door.
- S. Motor Run Time Meter

1. Provide a digital, non-resettable, door-mounted elapsed time meter.
 2. The meter shall be electrically interlocked with the AC DRIVE Run relay to indicate actual motor operating hours.
- T. RTD Protection
1. Provide a door-mounted RTD module/interface and panel-mounted scanner for over-temperature and under-temperature protection.
 2. Each unit shall monitor up to (8) motor mounted RTDs and shall have (3) output relays for alarm, trip and fault.
 3. Customer contacts shall be rated 5A 250VAC resistive.

PART 3 - EXECUTION

3.1 INSPECTION

- A. Verify that the location is ready to receive work and the dimensions are as indicated.
- B. Do not install AC DRIVE equipment until the building environment can be maintained within the service conditions required by the manufacturer.

3.2 PROTECTION

- A. Before and during the installation, the AC DRIVE equipment shall be protected from site contaminants and debris in accordance with the manufacturer's recommendations.

3.3 INSTALLATION

- A. Installation shall comply with manufacturer's instructions, drawings and recommendations.
- B. The associated Pump System supplier will be responsible for the installation, start-up and testing services for all the equipment specified herein to include (4) separate occurrences for each AC DRIVE and Pump installation and (1) occurrence for the completed Pump System. The Pump System supplier shall certify in writing that all the equipment has been installed, adjusted, and tested in accordance with the manufacturer's recommendations and standards.

3.4 TRAINING

- A. The AC DRIVE manufacturer shall arrange for an on-site training course of minimum of (2) training days, provided by a representative of the AC DRIVE manufacturer plant and/or maintenance personnel.

END OF SECTION 16483



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

Submitted By: Rhonda Wiggins

Department: Utilities

Date Submitted: September 13, 2016

Presenter: Lee Smith

Date of Council Meeting to consider this item: October 6, 2016

Nature of Item: Council Action

Summary of Information/Request:

Item # 051

Mills River Nursing Home (Haywood Road, Mills River, NC) Water Line Extension

This proposed project will require water service for the nursing home.

The proposed water system consists of: 392 LF of 8" DIP

The Mills River Town Manager, Jeff Wells, has reviewed and approved the extension of water services in Mills River for the proposed facility.

The developer, Hendersonco, LLC, John Savage of St Petersburg, FL, is paying for the cost of the extension.

Based on the above information, the Water and Sewer Department has the capacity to support this additional infrastructure and associated connections and hereby recommends approval of said project contingent upon final approval of construction plans and specifications by the Water and Sewer Department.

Budget Impact: \$ _____ Is this expenditure approved in the current fiscal year budget? N/A If no, describe how it will be funded.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

"I move to accept this Water Utility Extension Project and to authorize the City Manager to execute the associated Water Utility Extension Agreement on behalf of the City."

Attachments:



CITY OF HENDERSONVILLE

AGENDA ITEM SUMMARY

Submitted By: Susan G. Frady

Department: Development Asst Dept

Date Submitted: 9-22-16

Presenter: Susan Frady, Development Asst Director

Date of Council Meeting to consider this item: 10-6-16

Nature of Item: Council Action

Summary of Information/Request:

Item # 05m

Section 6-1 of the City of Hendersonville Code of Ordinances currently states that it shall be unlawful for any person to offer for sale, disposal, display or otherwise use or offer for use or consumption, any beer, wine or other alcoholic beverage within the confines of the city except that such offer, use sale, disposal, display or consumption shall be in conformance with the requirements of the General Statutes of North Carolina, applying.

North Carolina General Statute 18B-901 states that whether the establishment is located within 50 feet of a church, public school or nonpublic school shall be a factor in issuing an ABC permit.

Section 6-7 of the code of ordinances currently states It shall be unlawful for any person to sell or offer for sale any beer, wine or alcoholic beverage within 250 feet of public or private school property in the city.

The attached amendment to the city code would make the city code consistent with the General Statutes of North Carolina.

Budget Impact: \$ _____ Is this expenditure approved in the current fiscal year budget? ^{N/A} If no, describe how it will be funded.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

I move the City Council to adopt the ordinance amending Code of Ordinance section 6-7.

Attachments:

Ordinance #13-_____

AN ORDINANCE AMENDING SECTION 6-7 PERTAINING TO THE SALE OF ALCOHOL NEAR SCHOOLS

WHEREAS, the City Council has determined that it shall be unlawful for any person to offer for sale, disposal, display or otherwise use or offer for use or consumption, any beer, wine or other alcoholic beverage within the confines of the city except that such offer, use sale, disposal, display or consumption shall be in conformance with the requirements of the General Statutes of North Carolina, applying; and

WHEREAS, North Carolina General Statute 18B-901 states that whether the establishment is located within 50 feet of a church, public school or nonpublic school shall be a factor in issuing an ABC permit,

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

SECTION 1. Section 6-2 of the Hendersonville Code of Ordinances is hereby amended to read in its entirety as follows:

Sec. 6-7. – Sale near schools.

It shall be unlawful for any person to sell or offer for sale any beer, wine or alcoholic beverages within ~~250~~ 50 feet of a public or private school ~~property~~ in the city.

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

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

Adopted this sixth day of October 2016.

Barbara Volk, Mayor

Attest:

Tammie K. Drake, CMC, City Clerk

Approved as to form:

Samuel H. Fritschner, City Attorney



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

Submitted By: Lee Smith

Department: Utilities

Date Submitted: 9/28/2016

Presenter: Lee Smith

Date of Council Meeting to consider this item: 10/06/2016

Nature of Item: Council Action

Summary of Information/Request:

Item # 05n

July 11, 2013 the City of Hendersonville (the City) executed an agreement with McKim & Creed, Inc (M&C) to provide on-call professional engineering services. This agreement had term of 2 years, with a provision that allowed the term to be extended if agreed upon by both parties. M&C has continued to provide engineering services to the City under the terms of this agreement. The attached proposed amendment modifies the scope of services, updates M&C's hourly rates, and extends the term of the agreement to July 1, 2018. The proposed scope of services include the following tasks:

Develop standards for duplex submersible wastewater pump stations.....	\$65,000
Evaluation of of the wwtp filters.....	\$32,000
Evaluation of of the wwtp back-up power supply.....	\$29,000
Evaluation of of the wwtp plant blowers	\$7,500
Hunters Glen Water Pump Station Electrical Design for proposed rehab	\$3,500
Structural evaluation of the wtp splitter box and sedimentation basins #4 & #5	\$22,000

All tasks shall be billed in terms of time and materials.

Please see the attached proposed agreement for a more detailed description of the services to be provided. We welcome any questions that you may have.

Budget Impact: \$ 159,000 Is this expenditure approved in the current fiscal year budget? Yes If no, describe how it will be funded.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

I hereby move to authorize the City Manager to negotiate and execute an on-call engineering services agreement with McKim & Creed, Inc. for completion of the above referenced task order; as presented and recommended by staff.

Attachments:
McKim and Creed proposed agreement, dated June 17, 2016

June 17, 2016

161281

Mr. Lee Smith
Utilities Director
City of Hendersonville
City Operation Center
305 Williams Street
Hendersonville, NC 28792

RE: Engineer Services Agreement
Amendment No. 1

Dear Mr. Smith:

Based on our previous discussions and our June 8, 2016 meeting, McKim & Creed, Inc. (M&C) has prepared this Amendment No. 1 for our Engineer Services Agreement dated July 1, 2013 and executed on July 11, 2013. M&C has continued to provide professional engineering services under the terms of this agreement and it is agreed to amend the agreement to modify the scope of work.

This amendment, Amendment No. 1, provides for the following:

- Extends this service agreement to July 1, 2018.
- Updates M&C's Hourly Rate Schedule.
- Provides for additional professional services that may be needed due to the specific project scope of services.
- Provides for the specific project scope for:
 - Development of standards for duplex submersible wastewater pump stations.
 - Evaluation for improvements for the existing traveling bridge filters at the wastewater treatment plant (WWTP).
 - Evaluation for the addition of back-up power (generator) for the WWTP.

1730 Varsity Drive

Suite 500

Raleigh, NC 27606

919.233.8091

Fax 919.233.8031

www.mckimcreed.com

- Evaluation for modifications for the existing blowers at the WWTP to provide operational flexibility.
- Provide electrical design assistance/value engineering for the proposed improvements to the Hunter's Glenn Water Pumping Station (#114).
- Provides for developing opinions of probably construction costs for the Water Treatment Facility (WTF) splitter box and sedimentation basins No. 4 & 5 for the alternatives for each structure.

I. Contract Time Extension

It is hereby agreed that the contract time shall be extended and valid to July 1, 2018 and may again be extended as agreed by both parties.

II. M&C Hourly Rate Schedule

M&C's 2016 Schedule of Hourly Rates is attached. M&C's hourly rate schedule is subject to be updated annually. M&C shall invoice based on the current hourly rate schedule on a time and material basis or lump sum fee in accordance with the terms of the agreement.

III. M&C Professional Services

The City desires to have M&C provide professional services on an as needed basis for various tasks and/or specific project tasks. These professional services may include but not limited to the follow:

- Electrical/I&C/SCADA engineering services
- Engineering and Environmental services
- Structural engineering services
- Surveying and Subsurface Utility Engineering (SUE) services
- Construction Administration services

IV. Specific Project Scope Items

A. Standardization for Duplex Submersible Wastewater Pumping Stations

M&C has prepared specifications and drawings for the Atkinson Elementary School Wastewater Pump Station. The City desires to utilize these documents and modify as needed to develop standardized drawings and technical specifications for a duplex submersible wastewater pump station. The scope of work shall include the following:

- Pump station and mechanical layout drawings for various pump/motor sizing generally 5HP to 25HP.
- Site layout to include drive area, station layout, generator, electrical service/equipment, fencing, etc.
- Structural drawings that may be needed for the pump station structure and generator base.
- Electrical drawings for power, control and generator.
- Technical specifications as needed for the various components of the pump station.

B. Wastewater Treatment Plant Existing Filter Evaluation

A site visit was made at the City's WWTP with representatives of McKim & Creed and staff with the City's Public Utilities Department. The WWTP currently has two existing traveling bridge filters. The City is experiencing operational problems with the filters and would like to evaluate options for rebuilding or replacing the existing filters with different technology.

M&C will perform an alternatives evaluation of the traveling bridge filter rehabilitation and replacement options. A summary of each alternative including capital costs, operational & maintenance costs, advantages and disadvantages and anticipated performance will be provided. A follow-up conference call with City staff was held and it was determined that the following alternatives would be evaluated:

- Replacement of the existing traveling bridge filter system and underdrain system with new traveling bridge system.
- Demolition of existing filter system and retrofit with Aqua Aerobic Systems' AquaDiamond cloth media filter system.
- Demolition of existing filter system and retrofit with cloth media disk filter system.
- Demolition of existing filter system and retrofit with continuous backwash upflow granular media filter system.

M&C will prepare a draft technical memorandum (TM) summarizing the evaluation. M&C will meet with the City to review the findings of the evaluation. A final TM will be provided addressing the City's review comments.

C. Wastewater Treatment Plant Back-Up Power Evaluation

The existing WWTP currently does not have a back-up power facility. M&C will review the existing plant electrical configuration to determine possible alternatives for providing a back-up generator and associated improvements. The City has also requested that the evaluation include the future anticipated motor load for expanding the plant from its current capacity of 4.8 MGD to 6.0 MGD. It is anticipated that the scope of work will include the following:

- Review existing record drawings of the WWTP to determine if future hydraulic loading and electrical loads were anticipated for the planned expansion to 6.0 MGD.
- Review wastewater loading characteristics to determine if existing treatment process units were designed for the increase in treatment loading to 6.0 MGD.
- Review existing shop drawing information for the aeration blowers and the Trojan UV equipment to determine sizing for future loading condition of 6.0 MGD.

- Review existing electrical record drawings and review of existing installed service entry equipment, SB1 and SB2.
- Review current electrical utility bills to determine normalized power consumption under the existing/normal operating conditions.
- Develop/determine existing and proposed electrical load list for current 4.8 MGD facility and proposed 6.0 MGD facility.
- Utilizing generator sizing software, determine recommended generator sizing and fuel storage requirements for both the current 4.8 MGD and future 6.0 MGD facility.
- Develop possible alternatives for providing the back-up power facility with automatic transfer switching.
- Develop opinions of probable construction costs for each alternative.
- Develop pros and cons for each alternative.
- Submit brief technical memorandum (TM) explaining/detailing the evaluation with the supporting information.
- Meet with City to review TM and receive comments.
- Revise TM and update cost opinions and resubmit final TM.

D. Wastewater Treatment Plant Existing Blowers Evaluation

Due to the sizing of the existing aeration blowers and existing motor starters, the City would like to determine the feasibility of adding VFD units for the existing blowers to provide for operational flexibility and possible energy savings. It is anticipated that the scope of work will include the following:

- Review existing record drawing drawings for the existing blower MCCs.
- Review actual installed MCC to obtain information on existing motor controllers/starters.

- Remove “temporary wiring” to power by-pass pump skid.

It is understood that the City is planning to utilize the water pumping station electrical standards that have recently been developed for this project. The City would like M&C to assist by providing a review of the plans as developed by the City and make recommendations that may need to be made to these electrical standards for this specific project.

F. Water Treatment Facility Existing Splitter Box and Sedimentation Basins No. 4 & No. 5 Additional Evaluation –

M&C has provided evaluations for the existing splitter box and the existing sedimentation basins No. 4 & 5 at the existing Water Treatment Facility (WTF) to determine the condition of the structures. The City has requested that M&C provide cost opinions for rehabilitation and for replacement of the existing structure or components of the structures. It is anticipated that the scope of work will include the following:

- Develop opinions of probable costs for rehabilitation (to include construction and engineering) of the existing splitter box based on the previous recommendations.
- Develop opinion of probable costs for a total replacement of the existing splitter box (to include construction and engineering) in-place and adjacent to the existing structure.
- Develop opinions of probable costs for the rehabilitation (to include construction and engineering) of the exterior walls of the existing sedimentation basins No. 4 & 5 based on the previous recommendations.
- Develop opinion of probable costs (to include construction and engineering) for replacement of sections of the exterior walls of sedimentation basins No. 4 & 5.

- Submit brief technical memorandum (TM) explaining/detailing the evaluation with the supporting information.
- Meet with City to review TM and receive comments.
- Revise TM and update cost opinion and resubmit final TM.

After the City has approved the preferred alternative(s) for the improvements to these structures, M&C will develop the detailed scope of services for the implementation of these improvements.

V. City Responsibilities

To assist M&C, the City shall provide the following:

- Provide record drawings of the WWTP
- Provide monthly flow records for the past three years of the WWTP
- Provide monthly electrical bills for the past two years of the WWTP
- Provide for shop drawings of the existing blowers and starters
- Provide for shop drawings of the existing Trojan UV equipment
- Provide for CADD files for the Hunter's Glenn Water Pumping Station to be utilized as base drawings for the electrical drawings
- Provide cut sheets for the selected skid mounted pumping unit and other equipment to be furnished for the Hunter's Glenn Water Pumping Station
- Provide the construction drawings including the electrical standard drawings that the City has developed for the Hunter's Glenn Water Pumping Station
- Provide for taking Sedimentation Basin No. 5 off-line to allow for an interior evaluation of the walls to

improve/enhance the level of developing the probable
cost opinion for the improvements

VI. Fee Schedule

Based on the scope as defined above, M&C proposes the following fee
schedule:

Standardization for Duplex Submersible Wastewater Pumping Stations -	\$65,000 Hourly
Wastewater Treatment Plant Existing Filter Evaluation -	\$32,000 Hourly
Wastewater Treatment Plant Back-Up Power Evaluation -	\$29,000 Hourly
Wastewater Treatment Plant Existing Blowers Evaluation -	\$7,500 Hourly
Hunter's Glenn Water Pumping Station (#114) Electrical Design Assistance-	\$3,500 Hourly
Water Treatment Facility Existing Splitter Box and Sedimentation Basins No. 4 & No. 5 Additional Evaluation -	\$22,000 Hourly
Total Estimated Hourly Fee	\$159,000

Mr. Lee Smith
June 17, 2016
Page 10 of 10

This letter amendment and the attached M&C 2016 Schedule of Hourly Rates form the entire Amendment No. 1. If you find this amendment acceptable, please sign and return one copy to my attention. If you have any questions, please let me know. We appreciate this opportunity to continue to provide professional services to the City of Hendersonville.

Sincerely,

McKIM & CREED, INC.


Bryan Blake, PE
Vice President

Attachment

Accepted

John Connet
City Manager

Date

2016 SCHEDULE OF HOURLY RATES

Employee Classification	Per Diem Rates (Fee/Hour)
Principal.....	\$270.00
Engineering Manager	\$235.00
Project Manager III	\$200.00
Project Manager II	\$180.00
Project Manager I	\$168.00
Technical Specialist.....	\$245.00
Project Engineer IV	\$195.00
Project Engineer III.....	\$180.00
Project Engineer II.....	\$145.00
Project Engineer I	\$132.00
Engineer Intern.....	\$120.00
Land Planner/Landscape Architect	\$119.00
Designer IV	\$140.00
Designer III.....	\$123.00
Designer II.....	\$113.00
Designer I	\$88.00
Sr. CAD Technician.....	\$80.00
CAD Technician	\$66.00
Sr. Project Administrator	\$96.00
Project Administrator	\$83.00
Administrative Assistant	\$67.00
Construction Administrator III	\$140.00
Construction Administrator II.....	\$132.00
Construction Administrator I.....	\$111.00
Project Representative III	\$132.00
Project Representative II	\$111.00
Project Representative I	\$91.00
Field Technician I	\$77.00
Field Technician II	\$103.00
Field Services Manager	\$123.00

Expenses

In addition to labor, McKim & Creed bills for the following project related costs at a contractually agreed markup: printing; conference calling charges; document review, permit or recording fees paid on behalf of the client; shipping; bid advertisement; specialty materials, software or equipment rental; sub-consultant fees; costs of project related employee travel including meals, lodging, airfare and miscellaneous travel costs such as tolls, parking etc.; mileage for all company-owned vehicles (trucks) will be billed at \$0.85/mile; employee owned vehicles used for transportation related to the project will be charged at the prevailing federal mileage rate allowed by the IRS at the time the travel occurs.

McKim & Creed also bills for the cost of internal reproduction and the use of specialized equipment related to subsurface utility vacuum excavation, mobile scanning (LIDAR), and hydrographic surveying.



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

Submitted By: Tammie Drake

Department: Admin

Date Submitted: 09/29/16

Presenter: Mike Swartzlander

Date of Council Meeting to consider this item: 10/06/16

Nature of Item: Presentation Only

Summary of Information/Request:

Item # 06

Mr. Mike Swartzlander, President of Hendersonville Sister Cities, will introduce a special guest, Mr. Filippo Marinoni, Council Member from Sister City Verbania, Italy.

Budget Impact: \$ _____ Is this expenditure approved in the current fiscal year budget? N/A If no, describe how it will be funded.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

Attachments:



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

Submitted By: Lisa White

Department: Finance

Date Submitted: September 27, 2016

Presenter: Mike Swartzlander

Date of Council Meeting to consider this item: October 6 2016

Nature of Item: Presentation Only

Summary of Information/Request:

Item # 07

PRESENTATION:

Hendersonville Sister Cities Board President Mike Swartzlander will give a presentation to Council - see attached letter and materials.

Budget Impact: \$ none Is this expenditure approved in the current fiscal year budget? N/A If no, describe how it will be funded.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

Attachments:

Letter from Hendersonville Sister Cities Board President and Power Point Presentation

Hendersonville Sister Cities Update
City Council Meeting, October 6th, 2016

Hendersonville Sister Cities (HSC) thanks City Council for your continued support to our organization. We're excited to report that our organization is doing well in Connecting Hendersonville Globally, so that we can Thrive locally. While our activities certainly include our two Sister Cities, Almuñécar, Spain, and Verbania, Italy, we actively promote our community's many global connections in a variety of ways.

For example, our Library Series Program hosts speakers from throughout the community to present about their international experiences. In the past year, these have included presentations about Senegal, India, Russia, bears in Western Canada, Digital story-telling by college students spending a year abroad, and, next month, November 15th, we'll have a group of young people from the Republic of Georgia talking about their country. Typically, we attract 50 to 70 people for a presentation. The presentations are always an hour, at the Henderson County Library, starting at 6 pm. Typically, many people have dinner in downtown HVL after the presentation.

We also host a variety of Events, always with some international theme. In this past year this has included a Spanish dinner at Sol Y Luna on Main Street, an Italian dinner at Renzo's, a wine tasting and wine education event at St. Paul's Mountain Vineyards, a Yoga class, a tour of the Sierra Nevada brewery, and on November 1st, we will host Dia los de Muertos, Oakdale Cemetery at 5 pm, followed by appetizers at Sol Del Luna.

In addition to our Library Series and Events, I am pleased to report that our activities this year have blossomed to include much more. For example:

- In April we co-sponsored this year's Carolina's Sister City Conference, along with Asheville Sister Cities. The one-day event, held in Asheville, attracted representatives from a dozen Sister Cities from across the Carolina's to share their experiences and to listen to a variety of excellent speakers. We learned a lot, and we had the chance to network with many people. Definitely, the next time this Conference returns to Western NC, it will take place in HVL.
- We're sponsoring our first ever Bear as part of the Bearfootin' Art Walk. Our artist, Sandee Setliff, did an outstanding job bringing Orso Gamello (Sister or Twinning Bear) to life. We're excited for the upcoming Auction on October 22nd.
- We participated for the first time ever in Sister Cities International Young Artist and Author Showcase (YAAS). This is an annual program to encourage teenagers in our communities to think more globally and about citizen-citizen diplomacy. This year our artists were from Boys & Girls Club of Henderson County, and we had one Essay from a student from our Spanish Sister City, Almuñécar.

- We participated with a booth at the recent Fiesta – Hendersonville and we hope to expand our horizons to include more input and participation by our Latino citizens in the coming years.

This year we've also formally initiated Committees for both Sister Cities. Headed by an HSC Board member, the Committees include community representatives as well as other HSC Board members. This format of dedicated Sister Committees is widely used by other Sister Cities organizations. Already, we're seeing great results. Our Almuñécar Committee has begun an active pen pal exchange program between students in Spain and the High School Spanish Club members here. Our Verbania Committee is currently hosting Verbania City Councilman, Felippo Marinoni, who is here meeting many people in the hopes of finding opportunities for cultural and economic exchange.

This year we've also greatly enhanced our social media and outreach capabilities. We're now on Face Book, we've got an updated website, and we have a very active mailing list to communicate our Events and Programs, as well as newsletters.

As this year's HSC President, I am especially pleased with the high level of participation by our Board of 12 people. In addition to our monthly Board meetings, our Board members participate tirelessly on our various committees, and they actively support our Programs and Events.

Retiring from our Board at the end of 2016, are Karen Hultin, Renzo Maietto, and Lucille Raftery. They've all served HSC in many important ways, and they will be missed. But I am sure they'll continue to participate in our Events and Programs, as well as serve on the Verbania and Almuñécar Committees.

I am excited to announce the addition of four new Board members, increasing our total Board size to 13 people. These include: Adriana Chavela; Peter Jones; George Miller; and Alex Templeton. Our new Board members bring exciting perspectives and energy to our organization.

I am also submitting the presentation I will make at our Annual Meeting, October 3rd. Please attend if you can! (Bring an international dish to share!)

Again, thank you for your on-going support, including your financial appropriations. Please don't hesitate to call upon us for anything that can contribute to helping HVL Connect Globally.

Respectfully submitted,

Mike Swartzlander
2016 President, HSC

HENDERSONVILLE SISTER CITIES

ANNUAL MEETING

October 3rd , 2016

Sanctuary Brewing Company





WELCOME
BENVENUTO
BIENVENIDO
歡迎
ようこそ
WILLKOMMEN
BIENVENUE
أهلاً بك
स्वागत हे
FÁILTE



THANK YOU
SANCTUARY BREWING!



A central image of a white plate with a grid of various national flags, including Mexico, USA, India, Spain, Brazil, and China. A silver fork is on the left and a silver knife is on the right. The text "THANK YOU, OUR ATTENDEES!" is overlaid in white on the plate.

THANK YOU,
OUR ATTENDEES!

WHAT IS SISTER CITIES?

- An international organization started By President Eisenhower 60 years ago
- Mission: To promote peace through mutual respect, understanding, and cooperation — *one individual, one community at a time*
- 545 communities in 145 countries, having 2100 partnerships



HOW DOES SISTER CITIES WORK

- Cultural exchanges.
- Student exchanges.
- Helping each other on issues and problems.
- Business exchanges.
- Friendship – person to person.



HENDERSONVILLE SISTER CITIES

- ✓ Initiated in 2007
- ✓ We have 2 Sister Cities
 - ❖ Almuñécar, Spain
 - ❖ Verbania, Italy
- ✓ Entirely a volunteer organization



OUR MISSION?

“Hendersonville Sister Cities, Inc. fosters international cooperation by promoting education and understanding of cultural differences, travel and social interaction, and economic cooperation through formalized international partnerships.”



- 
- An aerial photograph of a coastal town, likely Almuñécar in Spain. The image shows a curved beach with waves breaking onto the shore. To the left, there are several multi-story buildings, some with balconies, and palm trees. The sea is a deep blue color. In the foreground, there are green trees.
- On the Mediterranean Sea in the South of Spain.
 - Tourist and resort community.
 - Objective for 2016:
 - Initiate Pen Pal Exchange at the High School Level.
 - Almuñécar teens to participate in Sister Cities International Young Artist and Authors Showcase

ALMUÑÉCAR SPAIN

- 
- In Northern Italy on Lake Maggiore.
 - Just became a Sister City in 2015.
 - Objectives for 2016:
 - Explore opportunities for exchanges
 - Host city councilman, Filippo Marinoni

VERBANIA, ITALY



Mike Swartzlander
President



Karen Hultin
Immediate Past
President

- Almuñécar
Committee Chair
- Outreach
Committee Chair



Chris Reed
Vice President

- Nominating
Committee Chair



Lisa White
Treasurer



Joyce Cochran
Secretary

- Marketing
Committee Chair



Shirley Walsh

➤ **Events
Committee Chair**



Marcia Grant

➤ **Programs
Committee Chair**



Bill O'Cain

➤ **Verbania
Committee Chair**



Lucille Raftery



Molly McGowan



Judy Wilkes



Renzo Mietto



OUTGOING BOARD MEMBERS

NEW BOARD MEMBERS



Peter Jones



Adriana Chavela



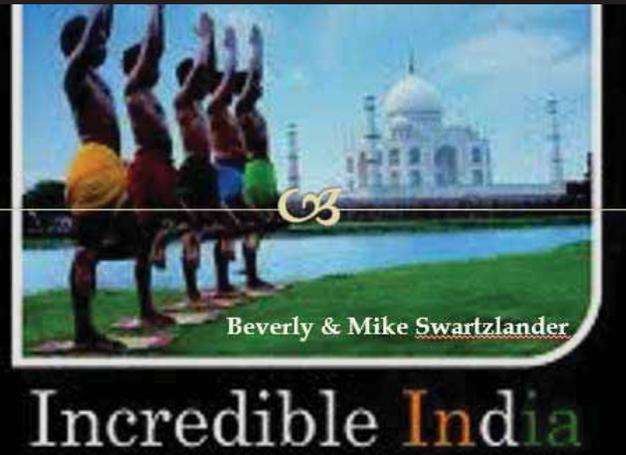
George Miller



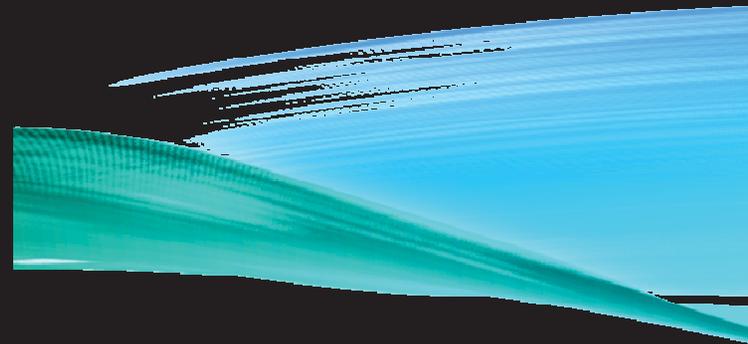
Alex Templeton

OUTSTANDING
FUN
AMAZING
EXCITED
SUPER-DUPER
COOL
BEST
FUNNY
EPIC
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HEALTHY
EXCITING
EXTRAORDINARY
JOYFUL
SENSATIONAL
TREMENDOUS
ADVENTUROUS
EXCELLENT
GREAT
SUPERB
AWESOME
MAGNIFICENT

SO
THE VIEW



HSC LIBRARY SERIES

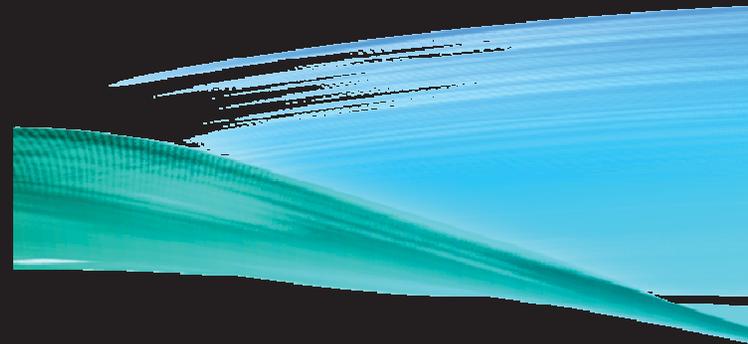


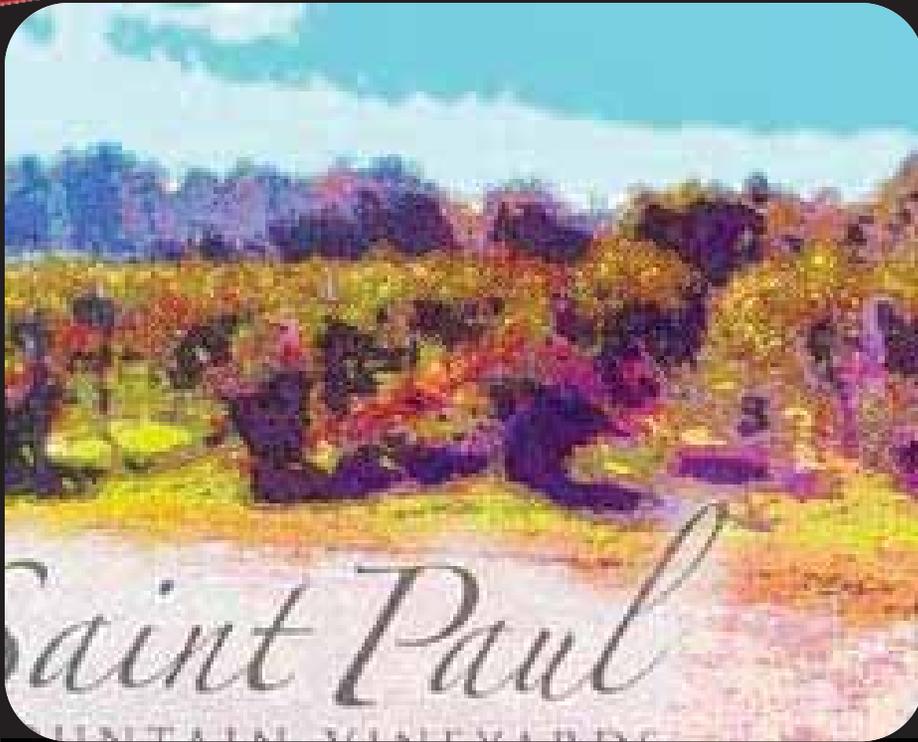


Young Artist And Author's Showcase 2016



PEACE
THROUGH
PEOPLE





WINE EVENT

APRIL 9TH, 2016



Introduction to Gentle Yoga

YOGA!

APRIL 29TH, 2016

Introduction to Gentle Yoga



SPANISH DINNER

JUNE 13TH, 2016



SOL Y LUNA

ITALIAN DINNER

AUGUST 16TH, 2016

RENZO'S

RISTORANTE

CAROLINA'S ANNUAL SISTER CITY CONFERENCE

APRIL 16TH , 2016

NORTH CAROLINA

•Co-sponsored by Hendersonville & Asheville

SOUTH CAROLINA



Orso Gemello

Artist: Sandee Setliff

Auction: October 22nd



Hola Carolina

FIESTA

FIESTA – HENDERSONVILLE

SEPTEMBER 25TH, 2016



DIA LOS DE MUERTOS

**NOVEMBER 1, 5PM
OAKDALE CEMETERY**

**APPETIZERS AFTERWARDS
SOL E LUNA MAIN STREET**

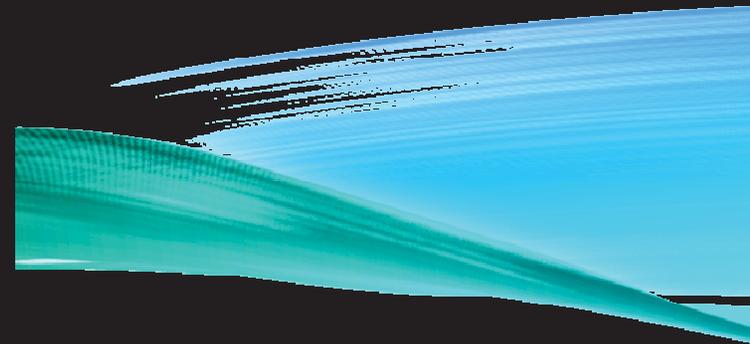
COST: \$ 15 PER PERSON





**LIBRARY SERIES
NOV 15TH, 2016
6 PM**

**REPUBLIC OF GEORGIA
DELEGATION**





2017

SIGN UP FOR OUR NEWSLETTER!



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CHECK US OUT ON THE WEB

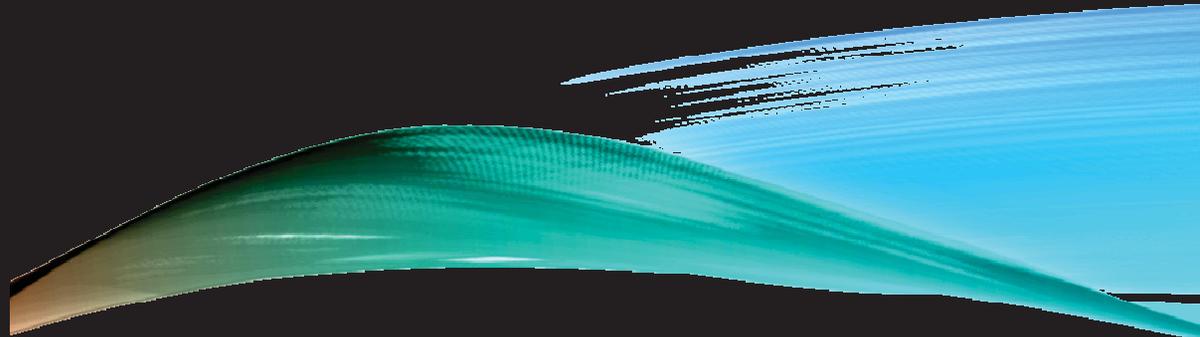
<http://www.hendersonvillesistercities.com/>





FILIPPO MARINONI

**VERBANIA
COUNCILMAN**





CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

Submitted By: Tammie Drake

Department: Admin

Date Submitted: 09.21.16

Presenter: Ian Edwards, Chair, ESB

Date of Council Meeting to consider this item: 10.06.16

Nature of Item: Discussion/Staff Direction

Summary of Information/Request:

Item # 08

Mr. Ian Edwards, Chair of the Environmental Sustainability Board, asked for the opportunity to present the results of their recent annual planning session to the City Council. In an effort to best serve the interests of the City and residents of Hendersonville, they identified three areas to focus their efforts on over the coming year.

On behalf of the Board, Mr. Edwards is seeking feedback from the Council on the focus areas, to identify other areas related to environmental sustainability where the ESB may be of assistance to the City, and to receive Council's support to move forward.

Budget Impact: \$ _____ Is this expenditure approved in the current fiscal year budget? ^{N/A} If no, describe how it will be funded.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

[A general consensus of the Council to move forward with the areas identified may be in order.]

Attachments:

Letter

August 24, 2016

Hendersonville City Council
City Hall
145 Fifth Avenue East
Hendersonville, NC 28792-4328

RE: Environmental Sustainability Board Focus Areas for 2016-17

Dear Mayor Volk and City Council Members:

On behalf of the Hendersonville Environmental Sustainability Board, I would like to inform you of the results of our recent annual planning session held during our regular meeting on August 18, 2016. In an effort to best serve the interests of the City and residents of Hendersonville, we identified three issue areas to focus our efforts over the coming year, as follows:

- **Bee City USA** – We will continue to support maintaining Hendersonville as a Bee City by promoting the planting of native vegetation in the community to support pollinator populations and by coordinating the annual Pollinator Week of events in June 2017.
- **Solid Waste** – In an effort to advance the City's waste management and reduction initiatives, we propose to utilize several strategies designed to educate and engage the public. We will promote the City's new Adopt-A-Park/Trail program toward a goal of litter reduction and beautification, and we will analyze recycling and composting practices in the City in order to provide recommendations to reduce our landfill waste stream.
- **Green Business** – As a tourist destination increasingly attractive to environmentally-minded travelers, we hope to help local businesses improve their sustainability practices and to recognize businesses that meet higher standards related to waste reduction and recycling, energy efficiency, sustainable material/food sourcing, etc. by supporting their certification through NC GreenTravel and other related programs.

We would appreciate the Council's blessing as we move forward with these focus areas, and we would appreciate any feedback you might provide as to these or any other areas related to environmental sustainability where our board may be of assistance to the City. Thank you for your consideration and support, and please do not hesitate to contact me via email at ian.i.edwards@gmail.com.

Sincerely,

Ian Edwards, Chair
Environmental Sustainability Board

PROCLAMATION

WHEREAS, More than five million Americans are living with Alzheimer's, and as many as 16 million will have the disease in 2050; and

WHEREAS, Nearly one in every three seniors who dies each year has Alzheimer's or another dementia; and

WHEREAS, Alzheimer's disease is the sixth leading cause of death in North Carolina; and

WHEREAS, Alzheimer's disease is not normal aging, but is fatal and there is no way to prevent, cure or even slow it down; and

WHEREAS, the Alzheimer's Association encourages early detection and provides care and support to those living with Alzheimer's while working to raise awareness and accelerate research across the globe through efforts such as 2016 Hendersonville NC Walk to End Alzheimer's; and

WHEREAS, money raised benefits those affected by Alzheimer's disease in our community.

NOW, THEREFORE, I, Barbara G. Volk, Mayor of the City of Hendersonville, do hereby proclaim Saturday, October 8, 2016 as

ALZHEIMER'S & BRAIN AWARENESS DAY

and encourage citizens to join us in its observance and support the local walk however possible.

Signed this sixth day of October 2016.

Barbara G. Volk, Mayor

AMERICAN PHARMACISTS MONTH PROCLAMATION

- Whereas, Today, there are more than 300,000 pharmacists licensed in the United States and more than 50,000 student pharmacists providing services to ensure the safe and effective use of all medications; and
- Whereas, The safe and effective use of medications, as a cost-effective alternative and a mechanism to avoid more expensive medical procedures, is a major force in moderating overall health care costs to the patient and pharmacists play a crucial role in determining the best personalized patient care plans; and
- Whereas, Today's powerful and complex medication regimens require greater attention to the manner in which they are used by and dispensed to different patient population groups—both clinically and demographically; and
- Whereas, Patients have access to a specially educated, experienced resource in pharmacists to assist in limiting misuse and mistakes in taking both prescription and nonprescription drugs, in chronic or spontaneous occurrences, in order to generate a better quality of life and better treatment for families and caregivers of communities for the past, present, and future, and
- Whereas, Pharmacists are best positioned to be the health care professionals helping patients improve their knowledge of and adherence to their medications, and provide patient care services that ensure convenient and personalized patient care; and
- Whereas, the American Pharmacists Association, the Wingate University School of Pharmacy American Pharmacists Association – Academy of Student Pharmacists and the City of Hendersonville have declared October as American Pharmacists Month with the theme “Know Your Pharmacist, Know Your Medicine.”

IN WITNESS WHEREOF, I have hereunto set my hand this First of October, in the year two thousand sixteen.

NOW, THEREFORE, I, Barbara G. Volk, Mayor of the City of Hendersonville by virtue of the authority vested in me by the City of Hendersonville and the State of North Carolina, do hereby proclaim October as

“American Pharmacists Month”

in the City of Hendersonville and urge all our citizens to acknowledge the valuable services of pharmacists to provide safe, affordable and beneficial pharmaceutical care services and products to all citizens.

Signed this twenty-sixth day of September 2016.

Barbara G. Volk, Mayor



CITY OF HENDERSONVILLE

AGENDA ITEM SUMMARY

Submitted By: Susan G. Frady

Department: Development Asst Dept

Date Submitted: 9-22-16

Presenter: David Hazzard, Senior Planner

Date of Council Meeting to consider this item: 10-06-16

Nature of Item: Council Action

Summary of Information/Request:

Item # 11

The Development Assistance Department is in receipt of an application to amend a Special Use Permit from Halvorsen Development Corporation to construct a 49,098 square ft. grocery store located on the corner of White Street and Greenville Highway. This project was previously approved by City Council at their regular meeting on January 7, 2016. The applicant has made the following modifications to the approved preliminary site plans and variance requests:

Modification of the area on the east side of Mud Creek in an effort to meet the requirements of FEMA's guidance for a no-rise certification. This modification includes: grading, removing the required and previously proposed vegetation, and installing riprap along the eastern bank of Mud Creek.

A variance request to remove the required buffer and landscaping for the vehicular use area vegetation on the east side of Mud Creek.

Modification of a previously approved variance to allow for development within the 30' stream buffer and 20' transition zone for Mud Creek.

Budget Impact: \$ _____ Is this expenditure approved in the current fiscal year budget? ^{N/A} If no, describe how it will be funded.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

The suggested motions begin on page 9 of the memorandum.

Attachments:

Memorandum

MEMORANDUM

TO: City Council
FROM: David T. Hazzard
RE: South Market Village
FILE #: P15-16-SUR
DATE: September 26, 2016

PROJECT DESCRIPTION

The City is in receipt of an application to amend a Special Use Permit from Halvorsen Development Corporation to construct a 49,098 ft² grocery store located on the corner of White Street and Greenville Highway. This project was previously approved by City Council at their regular meeting on January 7, 2016. The applicant has made the following modifications to the approved Preliminary Site Plans and variance requests:

- Modification of the area on the east side of Mud Creek in an effort to meet the requirements of FEMA's guidance for a no-rise certification. This modification includes: grading; removing the required and previously proposed vegetation; and installing riprap along the eastern bank of Mud Creek.
- A variance request to remove the required bufferyards and landscaping for Vehicular Use Area vegetation on the east side of Mud Creek.
- Modification of a previously approved variance to allow for development within the 30' stream buffer and 20' transition zone for Mud Creek.

Generally, minor modifications to approved Preliminary Site Plans are only subject to staff review and approval. However, because the proposed changes require modifications of variances previously granted by City Council, an amended Special Use Permit approved by City Council is required.

The following parcels are part of this application:

PIN 9568-84-0380
PIN 9568-84-1291
PIN 9568-84-0002
PIN 9568-73-9994
PIN 9568-84-2176

PIN 9568-84-2052
PIN 9568-83-1970
PIN 9568-83-3809
PIN 9568-83-2720

EXISTING LAND USES & ZONING

The proposed project consists of nine parcels and has a total area of approximately 6.86 acres. All of the parcels are vacant or soon to be vacant. The existing zoning classifications for these parcels are PCD and are shown on the Zoning Map on page 23.

Surrounding land uses can be seen in the aerial view map on page 23. To the north of these parcels are White Street, a bank zoned C-3 Highway Business, and a strip mall that includes a grocery store zoned CMUSU Commercial Mixed Use Special Use. To the east are Greenville Highway and a mix of commercial, retail, business, and restaurant that are zoned C-3 Highway Business. To the south are a gas station zoned C-3 Highway Business, a vacant parcel zoned PCD Planned Commercial Development, and a vacant City owned parcel zoned R-20 Low Density Residential. To the west are Mud Creek and parcels that include: a business zoned R-15 Medium Density Residential; and two vacant parcels, a parcel with single family residential use, and a parcel with a business – all zoned C-2 Secondary Business.

COMPREHENSIVE PLAN CONSISTENCY

The parcels included in this project and adjacent parcels are classified as Neighborhood Activity Center and Natural Resource Agricultural on the 2030 Comprehensive Plan's Future Land Use Map.

The goal of the Neighborhood Activity Center is to “concentrate retail in dense, walkable mixed-use nodes located at major intersections in order to promote a sense of community and a range of services that enhance the value of Hendersonville’s neighborhoods.”

The goal of the Natural Resource/Agricultural classification is to “create an interconnected network of green infrastructure that preserves environmentally sensitive areas, protects water resources through low-impact stormwater management, provides floodwater storage, provides community open space and recreational opportunities, and preserves agricultural resources.”

Comprehensive Plan consistency is addressed under “E” on page 7. The Comprehensive Plan Future Land Use Map is located on page 24.

PLAN REVIEW

General

The approximately 6.86 acre site currently had eight main buildings and associated parking. The applicant is proposing to replace the existing buildings with a 49,098 ft² grocery store and a vehicular use area that includes 246 parking spaces.

Buildings

The proposed building is 49,098 ft² and the maximum building height is 40'. The Preliminary Site Plan, landscape plan, and architectural elevations showing proposed façades are included with this memorandum on pages 25 through 27.

Parking

The site plan shows 246 parking spaces. Table 6-5-2 requires a minimum of 246 spaces based on one space per each 200 ft² of gross floor area for grocery stores.

Sidewalks

A sidewalk is shown along the parcel fronting on White Street and Greenville Highway. This sidewalk connects White Street and Greenville Highway to the proposed building.

Street Closing

Existing Market Street and its right of way are currently located on this site and are the only access to the City owned parcel # 9568-73-9217 to the south. The site plans indicate "existing Market Street R/W to be vacated..." and have proposed a "variable width access easement" to the City parcel # 9568-73-9217. This has been added to the List of Uses and Conditions.

Redevelopment in the Floodway and Special Flood Hazard Area

The entire site for this project is located in the floodway and is shown on the Stream and Flood map on page 24.

Section 17-2-4 of the Zoning Ordinance allows redevelopment to occur on existing developed sites which no longer function as natural flood plain and when such redevelopment will not result in any further loss of flood-plain functionality. This section states:

"Where feasible, redevelopment proposals should demonstrate an improvement in the site's functionality as a flood plain. In light of this intent, redevelopment of existing developed sites shall be permitted within the floodway and special flood hazard area only when the applicant has satisfactorily demonstrated the following:

- a) The proposal is to redevelop an existing developed site as of the date of this ordinance evidenced by substantial coverage of the site by buildings, fill, gravel or paved drives or parking areas or other impervious surfaces.
- b) There shall be no loss of flood storage capacity on the site as a result of the redevelopment.
- c) The applicant, utilizing best management practices, shall reduce the post-redevelopment rate of stormwater runoff from the pre-redevelopment rate of runoff, if feasible. In any event, the post-redevelopment rate of runoff shall not be greater than the pre-redevelopment rate.

- d) The project design, including any best management practices (BMPs) will result in a project which is consistent with the purposes of the Natural Resources Protection Ordinance as stated in Section 17-1. In this regard, the applicant shall demonstrate the following:
- 1) The project shall not degrade the quality of the water in creeks, streams, ponds and lakes that flow into and out of the City.
 - 2) The project shall not contribute to future flooding problems.
 - 3) The project preserves the water carrying capacity of watercourses and the natural water storage of the special flood hazard area.
 - 4) The project protects land and watercourses from pollutants, sedimentation and erosion.
 - 5) The project retains open spaces in order to protect their environmentally-sensitive character; and
 - 6) The project protects and conserves significant natural resources from degradation due to urbanization.
- e) The applicant shall comply with all relevant provisions of the Flood Damage Prevention Ordinance including obtaining a no-rise certificate, if needed.”

Stormwater

The applicant will be improving the site's stormwater management and will be meeting current Phase II stormwater management requirements.

Landscaping

Required planting buffers areas are shown on the preliminary site plan. Actual plantings are shown on landscaping plans that are submitted with the final site plan. Note the applicant is requesting a variance from some of the buffer requirements as noted on page 5.

Traffic Impact Analysis (TIA)

Zoning Ordinance Section 6-19 requires a Traffic Impact Analysis (TIA) whenever a development generates 100 peak hour or 1000 or more trips daily. A “trip” is a one-direction vehicle movement entering or exiting a site.

A TIA has been completed by Kimley-Horn & Associates and has been reviewed by Mattern & Craig, at the request of the City. This TIA was based on a store size of 49,098 ft². Based on the Institute of Transportation Engineers *Trip Generation* manual, a 49,098 ft² grocery store is estimated to generate a total of 4,277 daily trips.

As per the TIA by Kimley Horn, “the following improvements are recommended to mitigate the impact of the proposed development on the adjacent street network”:

Greenville Hwy (NC225) at White Street

- Extend the existing eastbound right-turn lane on White Street to maximize storage while tapering to a single lane just east of proposed driveway on White Street.

Greenville Hwy (NC225) at Copper Penny Street

- Construct a northbound left-turn lane with a minimum of 100 feet of storage
- Construct a southbound right-turn lane with a minimum of 50 feet of storage

The site plan as shown on page 24 meets or exceeds all of the recommended improvements as stated above. Also note Greenville Highway and White Street are NCDOT roads. NCDOT must authorize all improvements before the City can approve final site plans.

Rezoning

The parcels within this project have been rezoned to PCD Planned Commercial Development.

Variance Requests

Stream Buffers

Section 17-3 Stream Buffer Protection Standards. The primary objective of stream buffer protection standards is to maintain land adjacent to streams in an undisturbed vegetated state in order to enhance and maintain water quality, protect stream channel wetlands, minimize stormwater runoff, reduce sedimentation and erosion, conserve plant and wildlife habitat and protect wildlife movement corridors. The standards contained in this section will further this objective (1) by regulating water temperature through shading of the stream bed, (2) by limiting sedimentation from streambank erosion and stormwater flow, and (3) by supporting aquatic life through the provision of organic debris such as leaves and twigs.

The Zoning Ordinance requires all “blue line” streams to have a thirty foot stream buffer and a twenty foot transition zone as measured from the top of stream bank. The thirty foot stream buffer shall remain in natural undisturbed forest vegetation and no development or land-disturbing activities shall be undertaken within this area. The twenty foot transition zone may be graded, landscaped and/or used for pedestrian or vehicular purposes so long as no impervious materials are utilized.

Mud Creek runs along the western border of this project and Johnson Ditch runs along the southeastern border, both of which are identified as “blue line” streams on the U.S. Geologic Survey map. The site plan shows the proposed building and asphalt vehicular use area in the transition zone and a wall, asphalt vehicular use area, and rip-rap in the stream buffer.

The applicant is requesting a variance from Section 17-3-3. As per the variance application, “the existing developed condition within the 30’ and 20’ stream buffer are

more impactful to the buffer than the proposed condition.” The applicant has included a stream buffer exhibit showing the pre-development and post-development conditions which is on page 28. Also, the application for this variance request is on pages 18 and 19.

Buffering, Screening and Landscaping

Section 15-6 Bufferyards and 15-9b Landscaping for Vehicular Use Areas. Certain land uses may create an adverse impact when developed adjacent to other less intensive land uses. A bufferyard is a permanent unit of land together with plantings and structure(s), if any, which is designed to mitigate such adverse impacts.

The western property line has approximately 115 linear feet along Mud Creek which is adjacent to either residential use or residential zoning. Section 15-6-3 of the Zoning Ordinance requires a 10' Type B buffer along this area. The western property line has approximately 410 linear feet adjacent to a commercial use or commercial zoning which as per Section 15-9b of the Zoning Ordinance requires a 5' planting strip. In total 16 trees and 119 shrubs would be required along the western property boundary.

The applicant is requesting a variance from Sections 15-6 and 15-9b of the Zoning Ordinance to eliminate the 10' Type B buffer and the 5' planting strip along the western property boundary. The application for this variance is on pages 20 and 21.

ANALYSIS

Section 7-4-10.1 of the Zoning Ordinance states, “no special use permit shall be approved by City Council unless each of the following findings is made”:

- (A) The use or development is located, designed, and proposed to be operated so as to maintain or promote the public health, safety, and general welfare.

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

- (B) There are, or will be at the time they are required, adequate public facilities to serve the use or development as specified in Section 7-11.

The property is currently served by water and sewer. Modifications to the adjacent public streets are proposed to address traffic issues.

- (C) The use or development complies with all required regulations and standards of the Zoning Ordinance or with variances thereto, if any, granted pursuant to Section 7-4-14, and with all other applicable regulations.

The applicant is requesting the following variances:

#1 A variance from Zoning Ordinance Section 17-3-3, to allow the proposed

building and asphalt vehicular use area in the required stream transition zone and to allow a wall, asphalt vehicular use area and rip-rap in the required stream buffer.

#2 A variance from Zoning Ordinance section 15-6-3 and 15-9b, to eliminate the 10' Type B buffer and the 5' planting strip along the western property boundary.

Variance request applications and justifications begin on page 18.

(D) The use or development is located, designed, and proposed to be operated so as to be compatible with the particular neighborhood in which it is to be located.

A neighborhood compatibility meeting concerning the application was held on September 2, 2016. Notice was provided by U.S. mail to the owners of record of all property situated within 400 feet of the subject property.

Approximately 10 members of the general public attended the meeting. The general public asked questions regarding the following:

- **Flooding**
- **Stormwater**
- **Stream buffer vegetation**
- **Height of the retaining wall**

A copy of the neighborhood compatibility report accompanies this memorandum on pages 12 through 17.

(E) The use or development conforms to the general plans for the physical development of the City as embodied in this Ordinance and in the *Comprehensive Plan* and the *Comprehensive Transportation Plan*.

The 2030 Comprehensive Plan's Neighborhood Activity Center category is intended to "concentrate retail in dense, walkable mixed-use nodes located at major intersections in order to promote a sense of community and a range of services that enhance the value of Hendersonville's neighborhoods."

The 2030 Comprehensive Plan's Natural Resource/Agricultural classification is intended to "create an interconnected network of green infrastructure that preserves environmentally sensitive areas, protects water resources through low-impact stormwater management, provides floodwater storage, provides community open space and recreational opportunities, and preserves agricultural resources."

The 2008 Comprehensive Transportation Plan has the following recommendations:

C17 NC225 “Greenville Highway” Add turn lanes, widen shoulders and improve intersections between Spartanburg Highway and Erkwood Drive.

C19 White Street. Construct three lane connector replacing existing segment of White Street between Greenville Highway and Kanuga Road.

PLANNING BOARD

The Planning Board took this matter up at its regular meeting of September 12, 2016. The planning board voted as follows:

Variance Request #1

Recommend City Council approve a variance from Zoning Ordinance Section 17-3-3, to allow the proposed building and asphalt vehicular use area in the required stream transition zone and to allow a wall and asphalt vehicular use area in the required stream buffer as shown on the Preliminary Site Plan.. The motion passed unanimously.

Variance Request #2

Recommend City Council approve a variance from Zoning Ordinance sections 15-6-3 and 15-9b, to eliminate the 10' Type B buffer and the 5' planting strip along the western property boundary. The motion passed unanimously.

Amended Special Use Permit

Planning Board to recommend City Council approve the application of Halvorsen Development Corporation for an Amended Special Use Permit based on the site plans submitted by the applicant and subject to the limitations and conditions stipulated on the published List of Uses and Conditions. The motion passed unanimously.

SUGGESTED MOTIONS

Variance Request #1

Recommend Approval:

I move City Council approve a variance from Zoning Ordinance Section 17-3-3, to allow the proposed building and asphalt vehicular use area in the required stream transition zone and to allow a wall, asphalt vehicular use area, and rip-rap in the required stream buffer as shown on the Preliminary Site Plan.

[PLEASE STATE YOUR REASONS]

Recommend Denial:

I move City Council not approve a variance from Zoning Ordinance Section 17-3-3, to allow the proposed building and asphalt vehicular use area in the required stream transition zone and to allow a wall, asphalt vehicular use area, and rip-rap in the required stream buffer as shown on the Preliminary Site Plan.

[PLEASE STATE YOUR REASONS]

Variance Request #2

Recommend Approval:

I move City Council approve a variance from Zoning Ordinance sections 15-6-3 and 15-9b, to eliminate the 10' Type B buffer and the 5' planting strip along the western property boundary.

[PLEASE STATE YOUR REASONS]

Recommend Denial:

I move City Council not approve a variance from Zoning Ordinance sections 15-6-3 and 15-9b, to eliminate the 10' Type B buffer and the 5' planting strip along the western property boundary.

[PLEASE STATE YOUR REASONS]

Special Use Permit

Recommend Approval:

I move City Council approve the application of South Market Village for an Amended Special Use Permit based on the site plan submitted by the applicant and subject to the limitations and conditions stipulated on the published List of Uses and Conditions.

[PLEASE STATE YOUR REASONS]

Recommend Denial:

I move City Council not approve the application of South Market Village for issuance of an Amended Special Use Permit.

[PLEASE STATE YOUR REASONS]

IN RE: South Market Village (File # P15-16-SUR)

List of Uses & Conditions

I. Stipulated Uses:

Only the following uses are authorized for the referenced development:

Retail Stores

II. Conditions:

(1) Shall Be Attached to the Special Use Permit and Satisfied Prior to Issuance of Final Site Plan Approval:

Submit a street closing application to close the Market Street right of way. A public hearing will need to be held by City Council prior to determining whether or not to close Market Street. This public hearing is required to be held prior to final site plan approval.

Provide an access easement that is satisfactory to City staff to the City owned PIN 9568-73-9217.

Recombination of all parcels or portions thereof included in this Special Use application prior to issuing of a Certificate of Occupancy.

The applicant shall comply with all relevant provisions of the Flood Damage Prevention Ordinance including obtaining a no-rise certificate, if needed.

(2) Shall Be Attached to the Special Use Permit:

Final plans for the project shall comply with approved plans, the conditions agreed to on the record of this proceeding and applicable provisions of the Zoning Ordinance.

South Market Village

Signature: _____

Printed Name: _____

Date: _____

Planning Director's Report
 Neighborhood Compatibility Meeting
 Application for an Amendment to a Special Use Permit
 South Market Village File #P15-16-SUR
 Thursday, September 1, 2016 2:30 p.m.

Dave Hazzard, Senior Planner, convened the compatibility meeting at 2:34 pm in the Assembly Room of the City Operations Center. The following were in attendance:

<i>Name</i>	<i>Address</i>	<i>Name</i>	<i>Address</i>
Sam Winfield	3675 Spartanburg Hwy	Ed Baynard	none given
Eric Hampton, Applicant	200 S. Tryon Ste 200, Charlotte, NC	Michael Prats	White Street
Jason Diaz, Applicant	200 S. Tryon Ste 200, Charlotte, NC	Kevin Hoover	27 Cape Martin Circle
Larry Rogers, PEP	140 4th Ave W	Susan Frady, Staff	100 N. King Street
Jim Barnette	640 Greenville Hwy	Dave Hazzard, Staff	100 N. King Street
Tony Bloomsman	800 Greenville Hwy	Emily Sisler, Staff	100 N. King Street
Marilyn Conchini	15 S. KuyKendall		
Robert Ebert	66 S. Kuy Kendall		
Jim and Diane Burns	150 White St.		
Jim Hall, Hunting Creek Associates	104 Mull St Morganton, NC		
Ken Fitch	1046 Patton Street		

Mr. Hazzard explained that we have two items on the agenda that are both in the process of amending the special use permit and further explained the process of amendment. He stated that the projects were previously approved but that there have been changes since approval which require an amendment to the original permit. Mr. Hazzard stated that the goal of a Neighborhood Compatibility meeting is to have an informal discussion between the developers and citizens in which citizens can ask questions and make suggestions and the applicant can get feedback from the public. Mr. Hazzard stated that next the application will go before the Planning Board and will then be forwarded to City Council where it will be considered during a quasi-judicial hearing.

Mr. Hazzard moved to this agenda item once commencing the first item at 2:41pm. Using a map, Mr. Hazzard oriented the audience to the property and stated it is a grocery store. The original permit was approved by City Council on January 7, 2016, and the current application is for an amended site plan. Most of the changes to the plan are due to the applicant trying to achieve a “no-rise” certificate based on the floodway area. Mr. Hazzard reiterated the amended special use permit process and explained that those who were notified for the Neighborhood Compatibility Meeting will again be notified for both the upcoming Planning Board and City Council meetings at which time this application will be considered. Mr. Hazzard then introduced Eric Hampton and Jason Diaz of Kimley-Horn, as representatives of the applicant.

Mr. Hampton stated that the only significant change that has occurred since the last time the plan was reviewed is on the westernmost edge of the store. The building is in the same spot; the perimeter/development is the same, the access is the same. All of that is exactly the same as to what was proposed previously. What has changed is along the creek edge on the back of the store. Mr. Hampton further explained that as the FEMA process and coordination with the City

and State evolved, a change was made to the previously proposed change to the existing buffer condition along the creek edge. Mr. Hampton made a presentation using maps to show the existing conditions vs. the proposed conditions and explained that the existing required buffer was largely impervious in both stream buffer zones. He also stated that the proposed conditions have kept some wooded area (that the existing conditions don't have), use a rip-rap barrier, and have more open space to largely maintain the imperviousness overall. Mr. Hampton offered Jason Diaz, engineer with the firm, to explain the technicalities.

Kevin Hoover, of 27 Cape Martin Circle, Hendersonville NC, asked how they will catch excess water. Mr. Hampton stated there is an underground detention system that complies with all stormwater rules.

Mr. Diaz gave a brief history of modeling that has been completed and explained why changes were made to the plan. He stated that in the beginning, the creek buffer area was filled with trees and vegetation creating a "snag" area: blockage and roughness which slows the water down and actually makes the flooding conditions a little bit worse. In order to offset that flooding, they had to increase the wall height creating a bench along the stream to give more area for the water to spread out. The rip-rap was added to make it smoother so that water can move freely back and forth through the area more easily without blockages. The combination of increasing the walls, lowering the bench, and putting the rip-rap in place created a no rise situation. Mr. Diaz continued by stating that the model shows no increase in any flood event for any of the areas adjacent to the site and that the model is currently being reviewed by the City's consultant and the State.

Mr. Hoover asked where the water that used to flood the property goes now. Mr. Diaz explained that the bridge area controls the water flow at the site, so the volume of water doesn't change.

Mr. Hoover stated that the road has flooded in the past. Mr. Diaz answered that there will be no change in the flooding according to the model. Mr. Hoover asked if Publix will be on a little island if the road floods. Mr. Diaz explained that the requirement is to elevate the building 2 feet above the one hundred year elevation. The drives and parking areas are at that same level. Mr. Diaz continued speaking about the past buildings getting flooded pretty often and stated that this new development eliminates that situation and creates a better situation for the building.

Mr. Hampton explained that the number of buildings and vertical walls that were existing had an impact on the flood waters. They served as a barrier to the water increasing flooding. The removal of those building is largely how they offset a lot of the fill for the size of the Publix going in. The vegetation that was originally proposed along the western shelf at the creek gave an opportunity for debris to gather and impeded the flow of water. Removing that vegetation gave a lot of the efficiency to the way the model works.

Jim Barnette, of 640 Greenville Hwy, stated that he is going to come up and ask a few questions about the flooding. Mr. Barnette stated that he has been in every flood since the 1960s and wants to hear how the developers think the water comes in during a flood.

Mr. Diaz answered that he has never seen the flood in person but explained how the model shows water movement during flooding using the map.

Mr. Barnette suggested that movement is consistent with major floods and explained in detail how small floods always come through the Johnson Drainage Ditch creating a 500-ft wide area of flooding. Mr. Barnette stated that the plan in question places a raised wall near the ditch which will force the water from a 500-ft wide stream to a 100-ft wide stream creating a deeper, faster, more damaging flood scenario. Mr. Barnette stated that he has seen the water come down there

so fast sometimes in the big floods that it will rip up the asphalt in the parking lots. Mr. Barnette continued by asking if there is a purposeful intention to damage property downstream.

Mr. Hampton stated that they don't want to damage property downstream intentionally or unintentionally.

Mr. Barnette stated that in the military, if you bring up a problem, you're supposed to have an alternate plan. He has submitted an alternate plan before and would like to know why it has not been incorporated.

Mr. Barnette stated that he will talk through that: the alternate plan included the settling ponds. It did not have the anticipated impact. This presented plan is the backup plan to the backup plan. The previous plan included two large settling ponds on the City's property, but those ponds don't have an impact on the flooding. They provide some settling area and can have some other benefits, but from a flood volume standpoint, the drainage ponds have no dramatic impact. Mr. Diaz stated that in fact, it made it worse.

Mr. Barnette stated that he understands the ponds would not help during a large flood but reiterated that they would help in a smaller flood. Mr. Diaz stated that while it did make a difference on the ten year event, the permit requires a no-rise during the large flood. Flood volume was increased when that area was included due to vegetation.

Mr. Hampton asked Mr. Diaz to address the concern of the project causing a flood problem that is worse than today.

Mr. Barnette stated that they must be causing worse flooding. Mr. Hampton stated that the problem is not a one variable to one variable scenario. Mr. Diaz explained the basics of how hydraulics works and reiterated that the bridge is controlling the water flow of the entire area. Because they aren't changing how the bridge functions, the water will act like it always has. Mr. Diaz continued by stating that the culvert (Johnson Ditch) is not sized for the volume of water, but that it is a DOT culvert and right-of-way.

Mr. Barnette again stated that they are not taking into account smaller floods and are only addressing larger floods. Mr. Hampton reiterated that the amendment they are seeking is only concerned with the area near the creek. Everything else has already gone through the process and been allowed. From a flood standpoint, what they are proposing here as a change is actually a betterment than having the previously-approved vegetation. He reiterated that all the meeting is concerned with today is the change to the buffer area near the creek. Mr. Barnette stated that he understands that is what they want to talk about but that he is worried about the flooding.

Mr. Barnette asked if there will be separate discussions concerning the flooding. Mr. Hampton stated that the amendment to the variance that is being sought is for the change in the buffer. Nothing else – the height, the fill, the wall, all of that is consistent with what the current approvals already allow us to do. The only change to the plan is on the western buffer.

Mr. Barnett again asked if the flooding will be addressed in the future, as the project is going to create more flooding. Mr. Hampton stated that he is trying to explain that they will not create more flooding.

Jim Hall, of Hunting Creek Associates, interjected and explained that his partnership developed what is the T.D. Bank building which required a no-rise permit. Mr. Hall asked if it is correct that the no rise certificate requires you to show that the project is not creating any greater runoff than what the existing structures were. Mr. Hampton stated that Mr. Hall is correct. Mr. Hall continued by stating that he assumes that, as it applies to this site, they have been able to demonstrate already that the additional structures don't increase flooding; they just take the place

of the ones that were already there. He stated that he is all for the addition of the retention ponds if they help with the flooding, but it appears they have been able to show that the retention ponds don't do any good. Mr. Hampton agreed and quantified that the ponds do not help from a flood impact standpoint. The no-rise terminology means that there is not the impact Mr. Barnette is alluding to and that they are not creating a situation that is more detrimental downstream. Mr. Hampton further stated that it all has to do with those vertical flow faces, those existing buildings, the roughness of the ground, etc., and that the model includes many different variables that just comparing one small change to another doesn't account for. Mr. Diaz stated that while flow paths may change, the elevation of the water will not. He further stated that the models show reductions in the elevation of the water in some of the smaller events because of this proposed change.

Mr. Barnette indicated that he still does not agree with the model's analysis. Mr. Hampton continued to explain that the flood is long and shallow and that the previous structures' effect on the water flow caused the water to rise. The removal of the buildings more than compensates for the five foot rise near the ditch. Mr. Hampton and Mr. Diaz continued to reiterate that the situation is not a one-variable-to-one-variable analysis and that it is a lot more complicated than that.

Mr. Barnette stated that he noticed in the report that the report is not guaranteed or warranted, so there must be some possibility that the model is incorrect. Mr. Diaz stated that that is not true and explained that for a no rise, he is required to sign and seal the model, putting his professional license on it. Mr. Diaz continued to explain that he believes what Mr. Barnette is referring to is on a map, and explained that he can't sign and seal topographic information because he is not a surveyor. What the report states is that the modeling is done by a professional engineer and that it's to the standards of the engineering community, but that the engineer did not survey the land. Mr. Barnette indicated that he believes the report is wrong, offered a guarantee that there will be more flooding than in the past, and suggested that he will pursue a settlement for any future damages to his property. Mr. Diaz stated that the City's outside consultants and the State are both reviewing the model for accuracy. Mr. Hazzard reiterated that the State and the City's independent consultant will both be reviewing the model for accuracy and told Mr. Barnette that he will have the opportunity to go before the City Council and have his voice heard during the hearing.

Mr. Hampton prompted other members of the audience to ask questions.

Jim Burns, of 150 White Street, asked how high the wall will be along the creek. Mr. Hampton answered that it will be 5-ft to 8-ft tall. Mr. Burns asked if it will be built on top of the ground raised by the previous owner. Mr. Hampton answered that the wall will be down the slope from the existing development and right at the top of the creek bank. Mr. Hampton and Mr. Diaz both explained the range of the wall and showed its tallest point using the map as a guide.

Mr. Burns asked if Mr. Hazzard can tell him if a wall on his side of the creek would be allowed and how high it should be built. Mr. Hazzard answered that a no-rise certificate would be required, as is the requirement for anyone building in the floodway. The process requires a model. Mr. Hampton reiterated that the height of the wall is dependent upon the needs shown within modeling.

Mr. Hoover asked if the creek will be dredged. Mr. Hampton stated that the creek will not be touched. Mr. Diaz stated that a federal permit is required to do anything like that.

Diane Burns, of 150 White Street, stated that she is sure they will get flooded with the addition

of a wall on the creek. Mr. Diaz again explained that the proposed development doesn't change anything that is happening now out there based on the models and third-party verification at the State. Mr. Hampton again explained that the nature of the no rise means that whatever they are proposing has no impact on whatever is going on. Mr. Hampton clarified that they are not suggesting to solve any existing problem or disagreeing that there is currently an issue; they are just saying that the new condition vs. what was there before are, from a flood standpoint, equivalent. Mr. Diaz further explained the complexity of the models: they are calibrated, rechecked, and contingencies taken into account. It is very precise. There is a lot of work that goes into proving the no-rise (and a lot of money).

Ed Baynard, no address given, stated that there isn't proper drainage down at the end of White Street either. Mr. Hampton explained that when you get flooding and water is allowed to sit, it deposits a lot of sediment. A lot of the structures were filled with debris and sand and dirt, so that affects the water flow as well.

Mr. Baynard suggested that the creek doesn't suck the water out like it is supposed to. Mr. Hampton stated that all of outflows will be hitting the creek where the need to and that all of that is being fixed.

Mr. Hoover asked if DOT is planning to enlarge the pipe (in their culvert). Mr. Hampton stated that as far as they know, there is no plan. Mr. Hoover asked if enlarging the pipe would help with the flooding. Mr. Hampton stated that it is his understanding that it would resolve some of the flooding in the spillover, but then what happens downstream has to be taken into account. Without doing a model on the downstream area, there is no way to know what kind of impact that would cause, and that it would take a large-scale basin study to deal with that. Mr. Hazzard stated that DOT is in the process of reviewing these plans from a drainage and transportation scenario, and the City will not sign off on final site plans until they have seen that DOT has signed off on the improvements.

Ken Fitch, of 1046 Patton Street, asked if the bridge is included in what DOT is looking at. Mr. Diaz stated that the project does not propose any modifications to the bridge. Mr. Hazzard stated that he believes DOT is looking at a long range goal to widen White St. which would require the replacement of the bridge; it is on their radar but very long range.

Larry Rogers, of Partners for Economic Progress, stated that DOT has recently said that they want to connect Spartanburg Hwy and White St. Mr. Hazzard affirmed that that is being discussed at DOT. Mr. Hampton assured that where their project has the curb line for the turn lane is in the ultimate location where DOT will need it once their future project commences. It has been coordinated with them.

Mr. Fitch inquired concerning the elimination of the vegetation on the buffer and asked what the new appearance of that area will be. Mr. Hampton explained that if you're standing on the western bank of Mud Creek looking back at the side, you're looking at an MSE retaining wall and a 6-12 in diameter Rip Rap bottom would be on the ground.

Mr. Rogers asked if the overflow ponds on the City's property are still going to be built. Mr. Diaz explained that the ponds caused an increase during the big storm events. Though there was a reduction in the small events, permitting requires adjustment to the large events.

Mr. Barnette asked for clarification that the models showed an increase in flooding with the ponds. Mr. Diaz confirmed that it did during big storm events. He further explained that the precision of the model and the review regulates down to two decimal points and that there was an increase in those couple of decimals.

Mr. Barnette asked if the ponds do help with the smaller floods. Mr. Diaz confirmed that it does, but that they cannot get a permit from the State or the City with the ponds in place because of the increase they cause during the bigger floods. Mr. Hampton stated that they took the plan with the ponds a long way into development before they had to change it once it reached the state level.

Mr. Rogers asked that since we know it is going to flood, if there is anything the applicant can do to help the business owners downstream. Mr. Diaz stated that the change they are proposing does actually have a benefit during the smaller events. It's not as much of an impact as the ponds were but this is the only way in 25 different scenarios that they have found to get a no-rise in the 100 year event.

Mr. Hall inquired as to the projected time-table for continuing the approval process. Mr. Hampton stated their goal is to have everything that is contingent on that variance approval (zoning, utility, stormwater, DOT) ready to domino on October 7 if the Council says yes at their meeting on October 6. Mr. Hazzard further explained the Special Use Review process and where this amendment fits into the process. He reiterated that the City won't sign off on the final site plan until all the other pieces from other agencies are in place and approved.

Mr. Hazzard asked the audience if there were any other questions for the City or the applicant, and reiterated that those that were notified will receive notice for the Planning Board meeting on September 12 and the City Council meeting on October 6 which are other opportunities to be heard.

With no further comments or questions, Mr. Hazzard closed the meeting at 3:32 p.m.

Print Form



CITY OF HENDERSONVILLE
DEVELOPMENT ASSISTANCE DEPARTMENT
100 N. King St. ~ Hendersonville, NC ~ 28792
Phone (828) 697-3010 ~ Fax (828) 697-6185
www.cityofhendersonville.org

APPLICATION FOR A VARIANCE WITH SPECIAL USE PERMIT
Section 7-4-14 City Zoning Ordinance

The following are required to constitute a complete application for a variance:

- ~ This form including the property owner(s) signature(s).
- ~ Special Use Permit Application
- ~ Supporting documents, if applicable.
- ~ Photographs, optional.

Date 08/19/2016

Project Name South Market Village

Applicant Halvorsen Development Cooperation

Address 851 South Federal Highway, Ste. 201 Boca Raton, FL 33432

Phone 561-367-9200

Fax 561-367-9887

Email jvincent@halvorsenholdings.com

If different from above:

Property Owner: Name Publix North Carolina, LP

Address 601 Greenville Highway

TO THE CITY COUNCIL:

I, Thomas Vincent (OWNER/AGENT), hereby petition the City Council for a variance from the literal provisions of the Zoning Ordinance of the City of Hendersonville.

I request a variance from the following provisions of the ordinance (cite section numbers).

17-3-3 Prohibition Against Development Within the Stream Buffer - The existing developed condition within the 30' and 20' stream buffer are more impactful to the buffer than the proposed condition

Official Use:
DATE RECEIVED: 8-23-2016 BY DTH

FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE (Section 7-4-14):

For applications undergoing special use review, City Council may authorize variances in specific cases from the dimensional and improvements standards of the zoning ordinance upon finding that a literal enforcement of such standards will result in practical difficulty or unnecessary hardship and so long as the granting of such variance or variances will not result in a use or development which would violate the findings of fact required by Section 7-4-10. Variances may not be granted with regard to uses or to intensity.

FINDINGS OF FACT (Section 7-4-10.1) No special use permit shall be approved by City Council unless each of the following findings is made.

The burden of establishing these findings of fact shall lie upon the applicant. In addressing the issue of compatibility, as required, the applicant must demonstrate compatibility with the particular neighborhood in which the development or use is to be located. The fact that a use is authorized as a special use within a zoning district classification shall not give rise to a presumption that such special use is compatible with other uses authorized in the zoning district classification.

(A) The use or development is located, designed and proposed to be operated so as to maintain or promote the public health, safety, and general welfare.

The proposed development is designed to maintain safe site access. The development is designed to promote health of surrounding environmental features by detaining and providing improved water quality. The storm water leaving the site will be cooler, have significantly less pollutants, and be released at a reduced rate compared to the undetained flow that the buffer is currently receiving.

(B) There are, or will be at the time they are required, adequate public facilities to serve the use or development as specified in Section 7-11.

Adequate potable water and wastewater supply are available to support the proposed use based on information produced by utility departments. based upon requirements within the TIA, improvements to the adjacent roadways will be developed to mitigate the impact of the traffic from the development

(C) The use or development complies with all required regulations and standards of the Zoning Ordinance or with variances thereto, if any, granted pursuant to Section 7-4-14, and with all other applicable regulations.

The proposed development complies to all regulations and standards with granted variance to ordinance 17-3-3.

(D) The use or development is located, designed and proposed to be operated so as to be compatible with the particular neighborhood in which it is to be located.

The existing uses surrounding the project site consist of grocery stores, convince/drug stores, strip centers, and a gas station. The proposed development is compatible with the existing uses. The grocery store use, surface parking, planting strip, and pedestrian access are all in concert with the surrounding neighborhood and adjacent developments

(E) The use or development conforms with the general plans for the physical development of the City as embodied in this Ordinance and in the 2030 Hendersonville Comprehensive Plan.

This site is located at one of Hendersonville's 8 activity nodes. The development will enhance the streetscape and walkability of the area, and add stormwater BMPs that will reduce the impacts on existing impacted streams.

Signature _____

Special Use Variance Application

Printed Name Thomas Vincent, Halvorsen Development

Page 2 of 2



Print Form

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Address 851 South Federal Highway, Ste. 201 Boca Raton, FL 33432

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If different from above:

Property Owner: Name Publix North Carolina, LP

Address 601 Greenville Highway

TO THE CITY COUNCIL:

I, Thomas Vincent (OWNER/AGENT), hereby petition the City Council for a variance from the literal provisions of the Zoning Ordinance of the City of Hendersonville.

I request a variance from the following provisions of the ordinance (cite section numbers).

15-6 Bufferyards and 15-9(b) Landscaping for Vehicular Use Areas(Planting Strips)

Official Use:
DATE RECEIVED: 8-23-2016 BY DTH

FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE (Section 7-4-14):

For applications undergoing special use review, City Council may authorize variances in specific cases from the dimensional and improvements standards of the zoning ordinance upon finding that a literal enforcement of such standards will result in practical difficulty or unnecessary hardship and so long as the granting of such variance or variances will not result in a use or development which would violate the findings of fact required by Section 7-4-10. Variances may not be granted with regard to uses or to intensity.

FINDINGS OF FACT (Section 7-4-10.1) No special use permit shall be approved by City Council unless each of the following findings is made.

The burden of establishing these findings of fact shall lie upon the applicant. In addressing the issue of compatibility, as required, the applicant must demonstrate compatibility with the particular neighborhood in which the development or use is to be located. The fact that a use is authorized as a special use within a zoning district classification shall not give rise to a presumption that such special use is compatible with other uses authorized in the zoning district classification.

(A) The use or development is located, designed and proposed to be operated so as to maintain or promote the public health, safety, and general welfare.

The proposed development is designed to maintain safe site access. The development is designed to promote health of surrounding environmental features by increasing flood storage area along property boundary and promoting safe conveyance of flood waters with granted variance to ordinance 15-6.

(B) There are, or will be at the time they are required, adequate public facilities to serve the use or development as specified in Section 7-11.

Adequate potable water and wastewater supply are available to support the proposed use. The adjacent public road systems have proposed improvements to help with traffic flow. Adjacent roads have adequate capacity for proposed use with proposed improvements.

(C) The use or development complies with all required regulations and standards of the Zoning Ordinance or with variances thereto, if any, granted pursuant to Section 7-4-14, and with all other applicable regulations.

The proposed development complies to all regulations and standards with granted variance to ordinance 15-6.

(D) The use or development is located, designed and proposed to be operated so as to be compatible with the particular neighborhood in which it is to be located.

The existing uses surrounding the project site consist of grocery stores, convince/drug stores, strip centers, and a gas station. The proposed development is compatible with the existing uses.

(E) The use or development conforms with the general plans for the physical development of the City as embodied in this Ordinance and in the 2030 Hendersonville Comprehensive Plan.

This site is located at one of Hendersonville's 8 activity nodes. The development will enhance the streetscape and walkability of the area, and add stormwater BMPs and flood storage areas along property boundary and Mud Creek that will reduce the impacts on existing impacted streams.

Signature _____

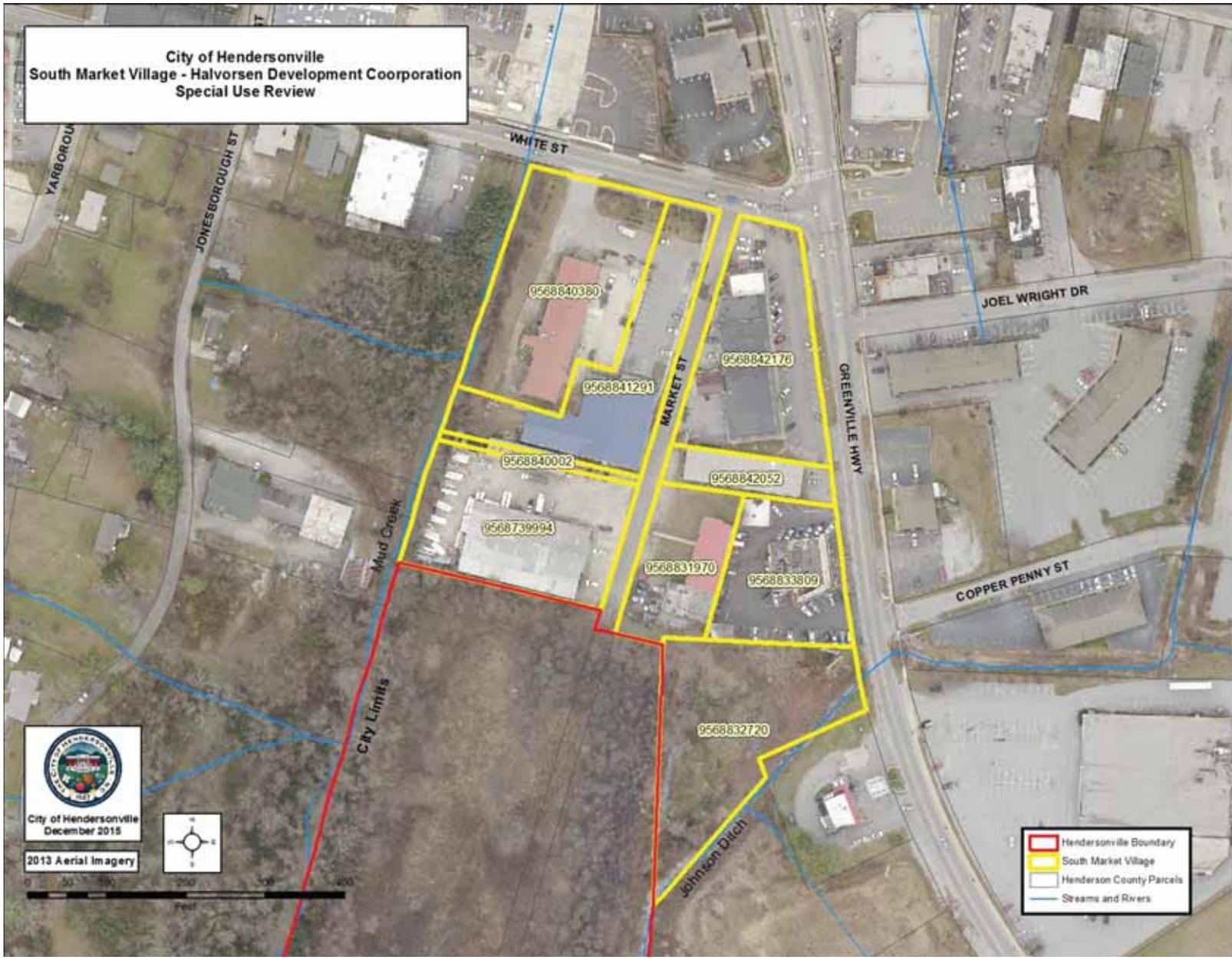
Special Use Variance Application

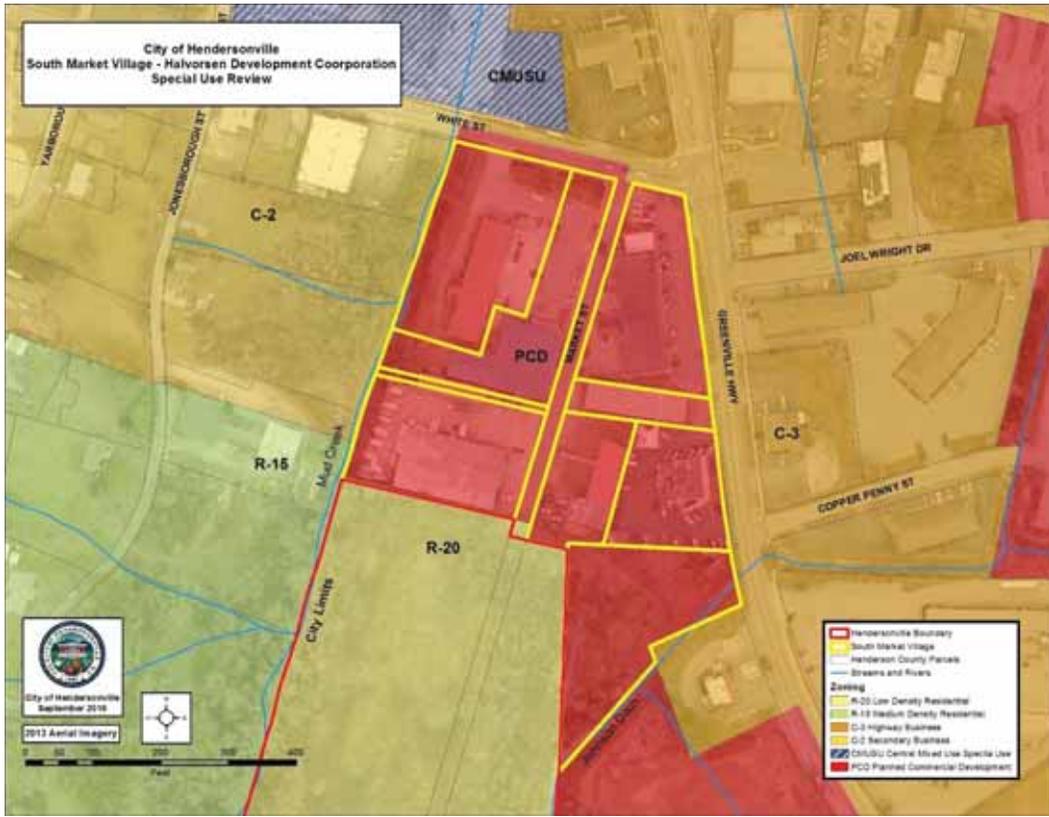
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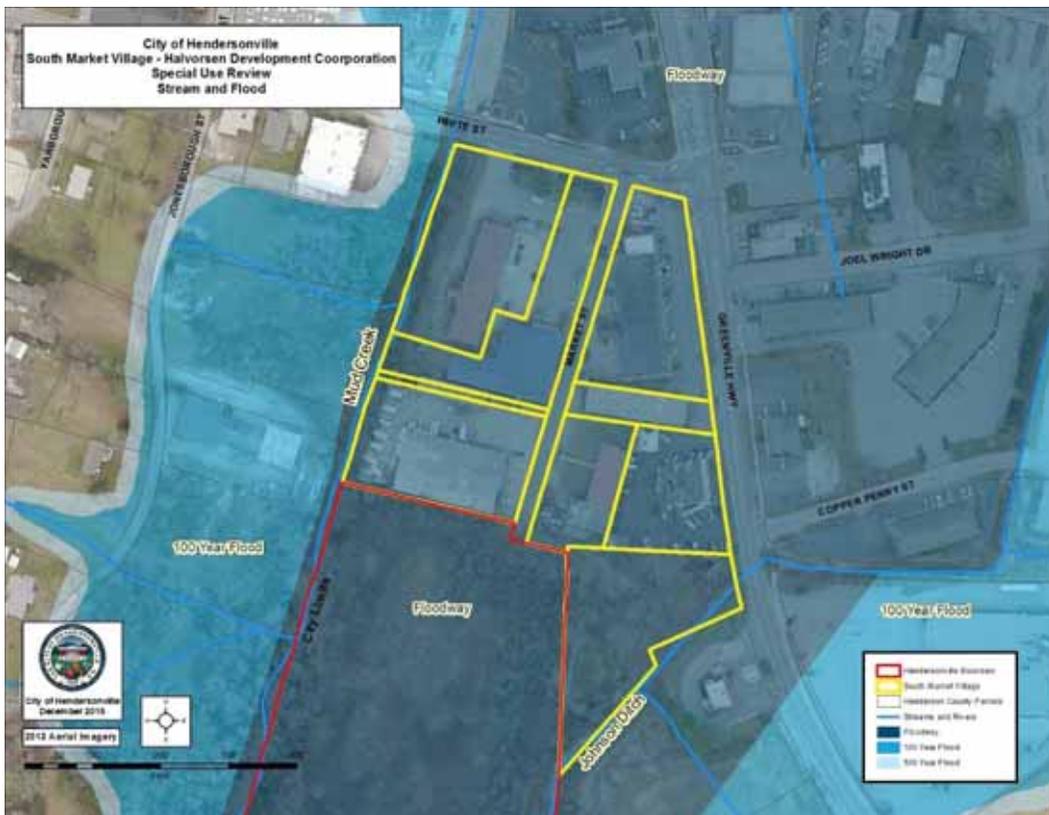
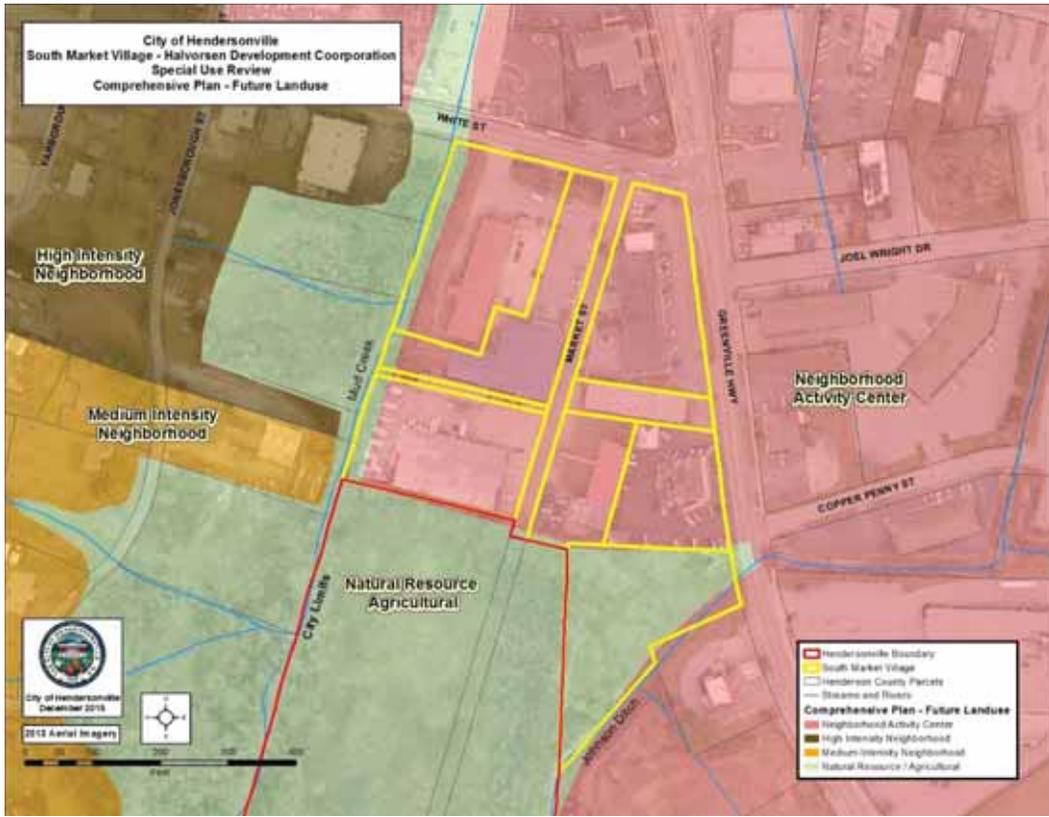
Page 2 of 2

Thomas Vincente

**City of Hendersonville
 South Market Village - Halvorsen Development Corporation
 Special Use Review**







APPEAL OF DEVELOPMENT DECISIONS

Section 7-13 of the Zoning Ordinance outlines the process for appeal of development decisions by City Council. The following Sections of the Zoning Ordinance apply specifically to Special Use Review:

Section 7-13-2 (b): Preliminary site plans. Decisions of the City Council regarding appeals from development decisions concerning applications for preliminary site plan approval may be appealed to the Superior Court by any aggrieved party. Such appeals shall be in the nature of certiorari and must be filed within 30 days after the filing of the decision in the office of the City Clerk or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the Clerk at the time of the hearing, whichever is later. The copy of the decision of the Council may be delivered to aggrieved parties either by personal service for by registered mail or certified mail return receipt requested.

Section 7-13-2 (d): Special use review. Judicial review of decisions regarding applications processed under the provisions of special use review, established in Section 7-4, above, require special treatment due to the fact that they involve two separate applications which, though processed simultaneously, require Council to make two separate decisions exercising two different types of decision-making authority. One application requests enactment of an ordinance amending the Official Zoning Map, and the other requests issuance of a special use permit. The first application involves a legislative decision on the part of Council, and the second a quasi-judicial decision. The quasi-judicial decision, that is, the one concerning the application for a special use permit, may be appealed to the Superior Court by any aggrieved party in the manner prescribed in paragraph b), above. Such appeal shall be in the nature of certiorari. The legislative decision, which is the one concerning the request for rezoning, may be contested, in accordance with NCGS Section 160A-364.1, by a cause of action commenced within two months of the date of the decision.

The validity of the ordinance may be challenged in accordance with North Carolina General Statute Section 160A-364.1.

§ 160A-364.1. Statute of limitations.

A cause of action as to the validity of any zoning ordinance, or amendment thereto, adopted under this Article or other applicable law shall accrue upon adoption of the ordinance, or amendment thereto, and shall be brought within two months as provided in G.S. 1-54.1. (1981, c. 891, s. 3; 1995 (Reg. Sess., 1996), c. 746, s. 7.)



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

Submitted By: Susan G. Frady

Department: Development Asst Dept

Date Submitted: 9-22-16

Presenter: David Hazzard, Senior Planner

Date of Council Meeting to consider this item: 10-06-16

Nature of Item: Council Action

Summary of Information/Request:

Item # 12

P16-27-SUR

The Development Assistance Department is in receipt of an application to amend a Special Use Permit from Kevin Hoover to add uses to the previously approved special use permit for the Town Center complex located at 2560 Asheville Highway. This project was previously approved by City Council at their regular meeting on April 9, 2009. The Town Center has been constructed.

Generally, minor modifications to approved special use permits are only subject to staff review and approval. However, because the applicant has proposed additional stipulated uses other than the uses previously granted by City Council an amended Special Use Permit approved by City Council is required.

Budget Impact: \$ _____ Is this expenditure approved in the current fiscal year budget? ^{N/A} If no, describe how it will be funded.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

The suggested motions begin on page 3 of the memorandum.

Attachments:

Memorandum

MEMORANDUM

TO: City Council
FROM: David T. Hazzard
RE: The Town Center
FILE #: P16-27-SUR
DATE: September 26, 2016

PROJECT DESCRIPTION

The City is in receipt of an application to amend a Special Use Permit from Kevin Hoover to add uses to the previously approved Special Use Permit for The Town Center complex located at 2560 Asheville Highway. This project was previously approved by City Council at their regular meeting on April 9, 2009. The Town Center has already been constructed.

Generally, minor modifications to approved Special Use Permit are only subject to staff review and approval. However because the applicant has proposed additional Stipulated Uses other than the uses previously granted by City Council an amended Special Use Permit approved by City Council is required.

PLAN REVIEW

General

The project is located on parcel 9660-40-2792 and is approximately 2.20 acres. The previously approved 31,780 sf building has been constructed, has a total of 8 units all of which are vacant with the exception of a fitness center. The existing zoning of this parcel is C-3SU Highway Business Special Use classifications. An aerial map of the existing site can be found on page 7 and the original approved preliminary site plan can be found on page 8.

Uses

The previously approved Stipulated Uses are as follows:

- Offices, business, professional and public
- Retail Stores
- Fitness Facilities

The applicant is requesting the follows Uses be added to the list of Stipulated Uses:

- Restaurant
- Music or Art Studio
- Personal Services

Parking

The project has 89 existing parking spaces. City staff shall review the existing and proposed uses before any new businesses occupying the building to ensure the site has adequate off street parking to support the proposed use.

ANALYSIS

This is a constructed, previously approved project thus City Council has determined this project has met the findings of fact as set forth in Section 7-4-10.1 of the Zoning Ordinance.

A neighborhood compatibility meeting concerning the application was held on September 2, 2016. Notice was provided by U.S. mail to the owners of record of all property situated within 400 feet of the subject property.

Approximately 2 members of the general public attended the meeting. The general public asked questions regarding the following:

- **Parking**

A copy of the neighborhood compatibility report accompanies this memorandum.

PLANNING BOARD

The Planning Board took this matter up at its regular meeting of September 12, 2016. The planning board voted as follows:

Amended Special Use Permit

Planning Board to recommend City Council approve the application of Kevin Hoover for an Amended Special Use Permit based on the site plan submitted by the applicant and subject to the limitations and conditions stipulated on the published List of Uses and Conditions. The motion passed unanimously.

SUGGESTED MOTIONS

Special Use Permit

Recommend Approval:

I move Council approve the application of The Town Center for an Amended Special Use Permit to add, Restaurant, Music and Art Studio, and Personal Services to the list of stipulated uses. This approval is subject to the limitations and conditions specified on the published List of Uses and Conditions.

[PLEASE STATE YOUR REASONS]

Recommend Denial:

I move City Council not approve the application of The Town Center for issuance of an Amended Special Use Permit.

[PLEASE STATE YOUR REASONS]

IN RE: The Town Center (File # P16-27-SUR)

List of Uses & Conditions

I. Stipulated Uses:

Only the following uses are authorized for the referenced development:

Offices, Business, professional and Public
Retail Stores
Fitness Facilities
Restaurant
Music and Art Studio
Personal Services

II. Conditions:

(1) Must Be Satisfied Prior to Issuance of Special Use Permit:

None

(2) Shall Be Attached to the Special Use Permit:

City staff shall review the existing and proposed uses before any new businesses occupying the building to ensure the site has adequate off street parking to support the proposed use.

The Town Center

Signature: _____

Printed Name: _____

Date: _____

Planning Director's Report
 Neighborhood Compatibility Meeting
 Application for an Amendment to a Special Use Permit
 The Town Center File #P16-24-SUR
 Thursday, September 1, 2016 2:30 p.m.

Dave Hazzard, Senior Planner, convened the compatibility meeting at 2:34 pm in the Assembly Room of the City Operations Center. The following were in attendance:

<i>Name</i>	<i>Address</i>	<i>Name</i>	<i>Address</i>
Ken Fitch	1046 Patton St		
Larry Rogers, PEP	140 4th Ave W		
Kevin Hoover (applicant)	27 Cape Martin Circle		
Susan Frady, Staff	100 N. King Street		
Dave Hazzard, Staff	100 N. King Street		
Emily Sisler, Staff	100 N. King Street		

Mr. Hazzard explained that we have two items on the agenda that are both in the process of amending the special use permit and further explained the process of amendment. He stated that the projects were previously approved but that there have been changes since approval which require an amendment to the original permit. Mr. Hazzard stated that the goal of a Neighborhood Compatibility meeting is to have an informal discussion between the developers and citizens in which citizens can ask questions and make suggestions and the applicant can get feedback from the public. Mr. Hazzard stated that next the application will go before the planning board and will then be forwarded to City Council where it will be considered during a quasi-judicial hearing.

Mr. Hazzard began discussion of the first project by orienting the audience using a map. He explained that the Town Center project was previously approved on April 9, 2009 and that the applicant has requested additional uses within the center. Previously approved uses were office, business, professional, public, retail, and fitness center while requested additional uses are restaurant, music or art studios, and personal services. City Council must approve the addition of these uses to the list of permitted uses. Mr. Hazzard stated that the applicant is in attendance and asked if there were any questions for the City or the applicant.

Larry Rogers, of the Partners for Economic Progress at 140 4th Ave W, asked if the building is already constructed. Mr. Hazzard affirmed that the building already exists and reiterated that this application only seeks to add permitted uses to property.

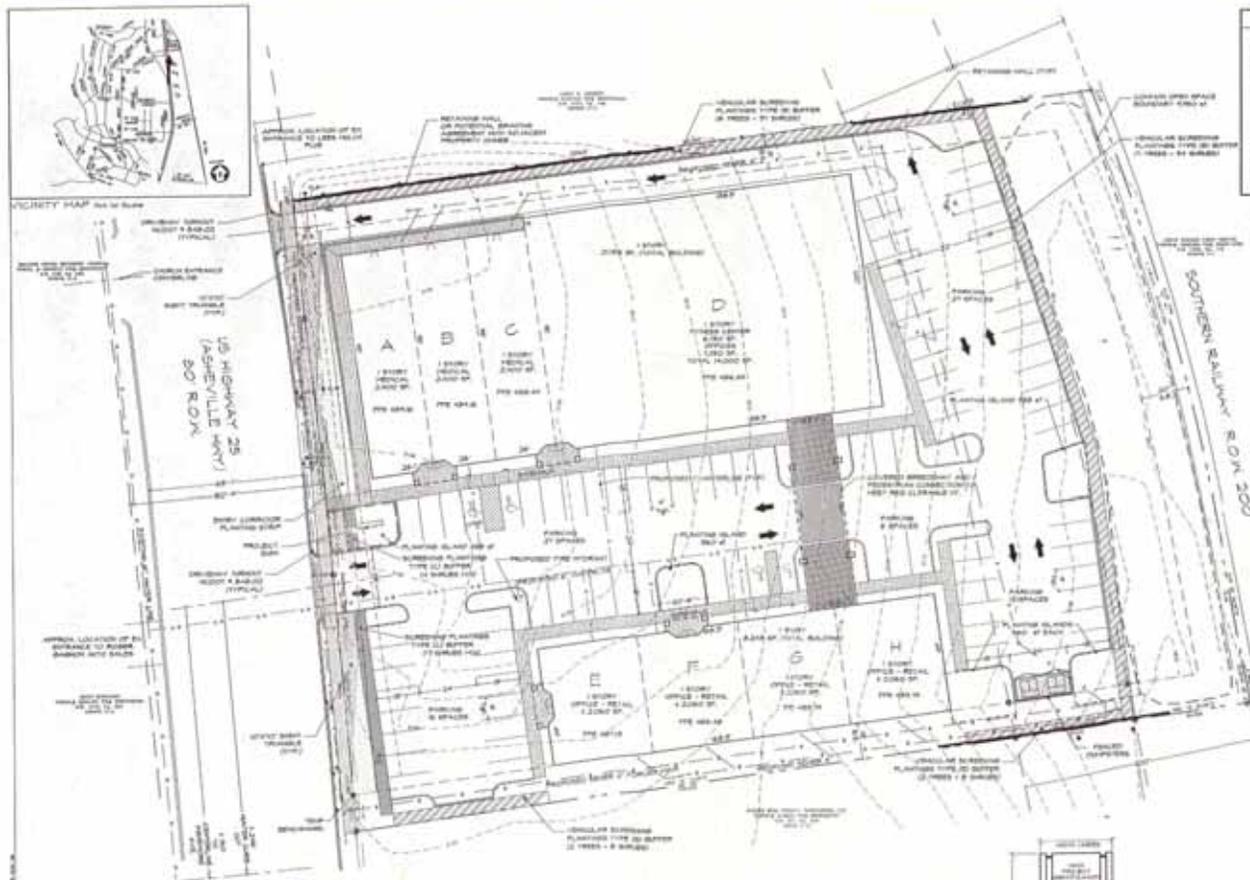
Ken Fitch, of 1046 Patton Street, asked if there are there any specific clients that want to occupy the space. Mr. Hazzard answered that the City doesn't address any particular proposed occupants during the process, only the use generally, but suggest that property owner may be willing to speak to that point. Kevin Hoover, applicant, briefly spoke about some possible lessees that he may pursue.

Mr. Fitch then asked if the parking requirements would change for a restaurant. Mr. Hazzard

stated that the Development Assistance Department will approve that they meet the parking requirements before the use is put into service. Mr. Hoover stated that they have room to add more parking if it is necessary.

Mr. Hazzard asked if there were any other questions, and with no further comments or questions, moved on to the next agenda item.





PROJECT SUMMARY

Total Project Area	43,200 sq.
Pin No.	1640-40-2142
Existing Zoning	C-9
Proposed Use	Commercial/Office/Retail
SSA Coverage	3,120 of 3294
Building	(Include porches, canopy, etc.)
Open Space	53,853 of 546K
Common Open Space	4,950 of 508K
Parking	52,204 of 225K
Max Building Height	40'
Fire District	Fire District 10
Water	Public
Sewer	Private
Trails	Private

Any portion of the site is within the 100' or floodplain. The project is located within the City of Hendersonville ETC district. Open Space and Common Open Space to be established by the property owner/property owner's association.

LANDSCAPE REQUIREMENTS

6'-6" HIGHER STREET TREES	8%
6'-6" HIGHER STREET TREES	7%
6'-6" HIGHER STREET TREES	5%
6'-6" HIGHER STREET TREES	4%
6'-6" HIGHER STREET TREES	3%
6'-6" HIGHER STREET TREES	2%
6'-6" HIGHER STREET TREES	1%
6'-6" HIGHER STREET TREES	0%

ALL TREES AND SHRUBS MUST BE PLANTED AT THE TIME OF CONSTRUCTION. ALL TREES TO BE PLANTED MUST BE AT LEAST 18" IN CALIBER AT 4.5 FEET ABOVE GROUND. ALL TREES TO BE PLANTED MUST BE AT LEAST 18" IN CALIBER AT 4.5 FEET ABOVE GROUND. ALL TREES TO BE PLANTED MUST BE AT LEAST 18" IN CALIBER AT 4.5 FEET ABOVE GROUND.

THE TOWN CENTER

PREPARED BY: KYLE NICHOLS, P.E., CIVIL ENGINEER, HENDERSONVILLE, NC 28702

DESIGNER: SCOTT WELCH, P.E., CIVIL ENGINEER, HENDERSONVILLE, NC 28702

LAND PLANNING: LANDSCAPE ARCHITECT: LYNN E. SMITH & ASSOCIATES, P.A., 101 2ND AVENUE WEST, HENDERSONVILLE, NC 28702

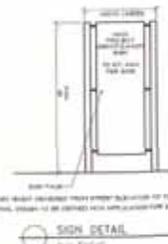
ENGINEER: LAMBERT ADAMS & ASSOCIATES, 20 4TH AVE. EAST, HENDERSONVILLE, NC 28702

OWNER: HENDERSON BUSINESS CENTER, 101 2ND AVENUE WEST, HENDERSONVILLE, NC 28702

BUILDING SUMMARY

BUILDING	PROPOSED USE	PROPOSED FLOOR AREA	MAX HEIGHT	REQUIRED PARKING
A	MEDICAL	MAX FLOOR, 2,400 SF	40'	2,400 SF @ 1 PER DOCTOR EMPLOYEE @ 1 PER
B	MEDICAL	MAX FLOOR, 2,400 SF	40'	2,400 SF @ 1 PER DOCTOR EMPLOYEE @ 1 PER
C	MEDICAL	MAX FLOOR, 2,400 SF	40'	2,400 SF @ 1 PER DOCTOR EMPLOYEE @ 1 PER
D	FITNESS/OFFICE	OFFICE: 6,150 SF FITNESS: 8,150 SF	40'	OFFICE @ 1 PER 1,000 SF FITNESS @ 1 PER 1,000 SF
E-H	OFFICE	8,150 SF	40'	OFFICE @ 1 PER 1,000 SF

TOTAL SPACES REQUIRED=347 TOTAL SPACES PROVIDED=344 **INCLUDES 4 HANDICAP ACCESSIBLE SPACES
3'-6" ENTRY CORRIDOR 20% REDUCTION + REG. 103



Scale: 1" = 40'-0"

DATE: 10/11/16

PROJECT: THE TOWN CENTER

LOCATION: HENDERSON COUNTY, NORTH CAROLINA

PRELIMINARY SITE PLAN

S-2

OF 2

APPEAL OF DEVELOPMENT DECISIONS

Section 7-13 of the Zoning Ordinance outlines the process for appeal of development decisions by City Council. The following Sections of the Zoning Ordinance apply specifically to Special Use Review:

Section 7-13-2 (b): Preliminary site plans. Decisions of the City Council regarding appeals from development decisions concerning applications for preliminary site plan approval may be appealed to the Superior Court by any aggrieved party. Such appeals shall be in the nature of certiorari and must be filed within 30 days after the filing of the decision in the office of the City Clerk or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the Clerk at the time of the hearing, whichever is later. The copy of the decision of the Council may be delivered to aggrieved parties either by personal service for by registered mail or certified mail return receipt requested.

Section 7-13-2 (d): Special use review. Judicial review of decisions regarding applications processed under the provisions of special use review, established in Section 7-4, above, require special treatment due to the fact that they involve two separate applications which, though processed simultaneously, require Council to make two separate decisions exercising two different types of decision-making authority. One application requests enactment of an ordinance amending the Official Zoning Map, and the other requests issuance of a special use permit. The first application involves a legislative decision on the part of Council, and the second a quasi-judicial decision. The quasi-judicial decision, that is, the one concerning the application for a special use permit, may be appealed to the Superior Court by any aggrieved party in the manner prescribed in paragraph b), above. Such appeal shall be in the nature of certiorari. The legislative decision, which is the one concerning the request for rezoning, may be contested, in accordance with NCGS Section 160A-364.1, by a cause of action commenced within two months of the date of the decision.

The validity of the ordinance may be challenged in accordance with North Carolina General Statute Section 160A-364.1.

§ 160A-364.1. Statute of limitations.

A cause of action as to the validity of any zoning ordinance, or amendment thereto, adopted under this Article or other applicable law shall accrue upon adoption of the ordinance, or amendment thereto, and shall be brought within two months as provided in G.S. 1-54.1. (1981, c. 891, s. 3; 1995 (Reg. Sess., 1996), c. 746, s. 7.)



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

Submitted By: Susan G. Frady

Department: Development Asst Dept

Date Submitted: 9-21-16

Presenter: Susan G. Frady, Development Asst Dept.

Date of Council Meeting to consider this item: 10-06-16

Nature of Item: Council Action

Summary of Information/Request:

Item # 13

The City has received an application from Halvorsen Development Corp. to close a portion of Market Street off of White Street. A map, survey and boundary description are included with this memorandum.

The Council adopted a Resolution of Intent to close this unopened right of way at their August 4, 2016 meeting. 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 a local newspaper.

General Statute 160A-299 has procedures for permanently closing streets and alleys. Any person may be heard on the question of whether or not the closing would be detrimental to the public interest or the property rights of any individual. If it appears to the satisfaction of City Council after the hearing that closing this street is not contrary to the public interest, and that no individual owning property in the vicinity of the street portion or in the subdivision in which it is located would thereby be deprived of reasonable means of ingress and egress to their property, the City Council may adopt an order closing this street portion.

Budget Impact: \$ 0 Is this expenditure approved in the current fiscal year budget? ^{N/A} If no, describe how it will be funded.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

I move Council to adopt the Resolution of Intent for the closing of a portion of Market Street as petitioned by Halvorsen Development Corp.

Attachments:

Resolution of Intent
Memo
Order to Permanently Close
Map
Boundary Description

RESOLUTION OF INTENT

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

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

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

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

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

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

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


Barbara G. Volk, Mayor

ATTEST:



Tammie K. Drake, City Clerk (Seal)



MEMORANDUM

TO: Honorable Mayor and Members of City Council

FROM: Susan G. Frady, Development Assistance Director

SUBJECT: Closing of a Street (File No. P16-22-SC)

DATE: September 21, 2016

The City has received an application from Halvorsen Development Corp. to close a portion of Market Street off of White Street. A map, survey and boundary description are included with this memorandum.

The Council adopted a Resolution of Intent to close this unopened right of way at their August 4, 2016 meeting. 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 a local newspaper.

General Statute 160A-299 has procedures for permanently closing streets and alleys. Any person may be heard on the question of whether or not the closing would be detrimental to the public interest or the property rights of any individual. If it appears to the satisfaction of City Council after the hearing that closing this street is not contrary to the public interest, and that no individual owning property in the vicinity of the street portion or in the subdivision in which it is located would thereby be deprived of reasonable means of ingress and egress to their property, the City Council may adopt an order closing this street portion.

**ORDER TO PERMANENTLY CLOSE A PORTION OF
Market Street
(Petition of Halvorsen Development Corp.)**

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, Halvorsen Development Corp., has petitioned the City of Hendersonville to close a portion of Market Street; and

WHEREAS, on the fourth day of August 2016, the Hendersonville City Council adopted a resolution expressing the intention of the municipality to close portions of these streets and setting the sixth day of October 2016, 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 Lightning (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 sixth day of October 2016.

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:

Beginning at a an existing pinion gear at the intersection of the easterly margin of the right-of-way of Market Street (formerly Shepherd Avenue – 25' public right-of-way) with the southerly margin of the right-of-way of White Street (public right-of-way), said pinion gear being located North 76°40'01" West, a distance of 78.00 feet along the southerly margin of the right-of-way of White Street from a new nail at its intersection with the westerly margin of the right-of-way of Greenville Highway (US Highway 225), and runs thence from said beginning point with the easterly margin of the right-of-way of Market Street South 1634°05" West a distance of 300.84 feet to an existing metal monument at the southwesterly corner of the Atha Plaza Inc. property as described in Deed Book 574, Page 585 of the Henderson County Public Registry, said monument also being the northwesterly corner of the Larry G. Baber property as described in Deed Book Page 715, Page 277 of said Registry; thence continuing along the easterly margin of the right-of-way of Market Street South 1557°12" West a distance of 49.20 feet to an existing iron rod at the southwesterly corner of the Baber parcel as described in Deed Book 715, Page 277, a common corner with another parcel owned by Larry G. Baber as described in Deed Book 1214, Page 93, all of said Registry; thence continuing along the easterly margin of the right-of-way of Market Street South 1630°42" West a distance of 50.99 feet to an existing spike; thence South 1627°13" West a distance of 150.20 feet to an existing iron pipe at the southwesterly corner of the Baber property as described in Deed Book 1214, Page 93 of said Registry, a common corner with the City of Hendersonville property as described in Deed Book 1107, Page 172 of said Registry; thence with a new line crossing Market Street North 7330°22" West a distance of 25.48 feet to a point on the westerly margin of the right-of-way of Market Street; thence with the westerly margin of the right-of-way of Market Street North 1629°38" East a distance of 23.80 feet to an existing iron pin at the common corner between the City of Hendersonville property as referenced above and the Prosource Land Holdings, LLC property as described in Deed Book 1337 Page 234 of said Registry; thence continuing along the westerly margin of the right-of-way of Market Street North 1629°38" East a distance of 175.39 feet to a new iron rod at the southwesterly corner of the Larry and Annette Baber property as described in Deed Book 1402, Page 223 of said Registry; thence continuing along the westerly margin of Market Street North 1629°38" East, and passing a new iron rod at 257.67 feet, for a total distance of 350.04 feet to an existing pinion gear at the intersection of the westerly margin of the right-of-way of Market Street with the southerly margin of the right-of-way of White Street; thence with the southerly margin of the right-of-way of White Street, and crossing Market Street, South 77°59'52" East a distance of 25.40 feet to the point and place of Beginning.

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 sixth day of October, 2016.

Barbara G. Volk, Mayor, City of Hendersonville

ATTEST:

Tammie K. Drake, City Clerk

Approved as to form:

Samuel H. Fritschner, City Attorney

STATE OF NORTH CAROLINA, COUNTY OF HENDERSON

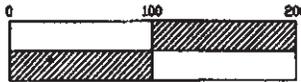
I, _____, a notary public in Henderson County, State of North Carolina, do hereby certify that Barbara G. Volk, in her capacity as Mayor of the City of Hendersonville, Tammie K. Drake, in her capacity as City Clerk, and Samuel H. Fritschner, in his capacity as City Attorney, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and notarial seal, this _____.

My commission expires _____

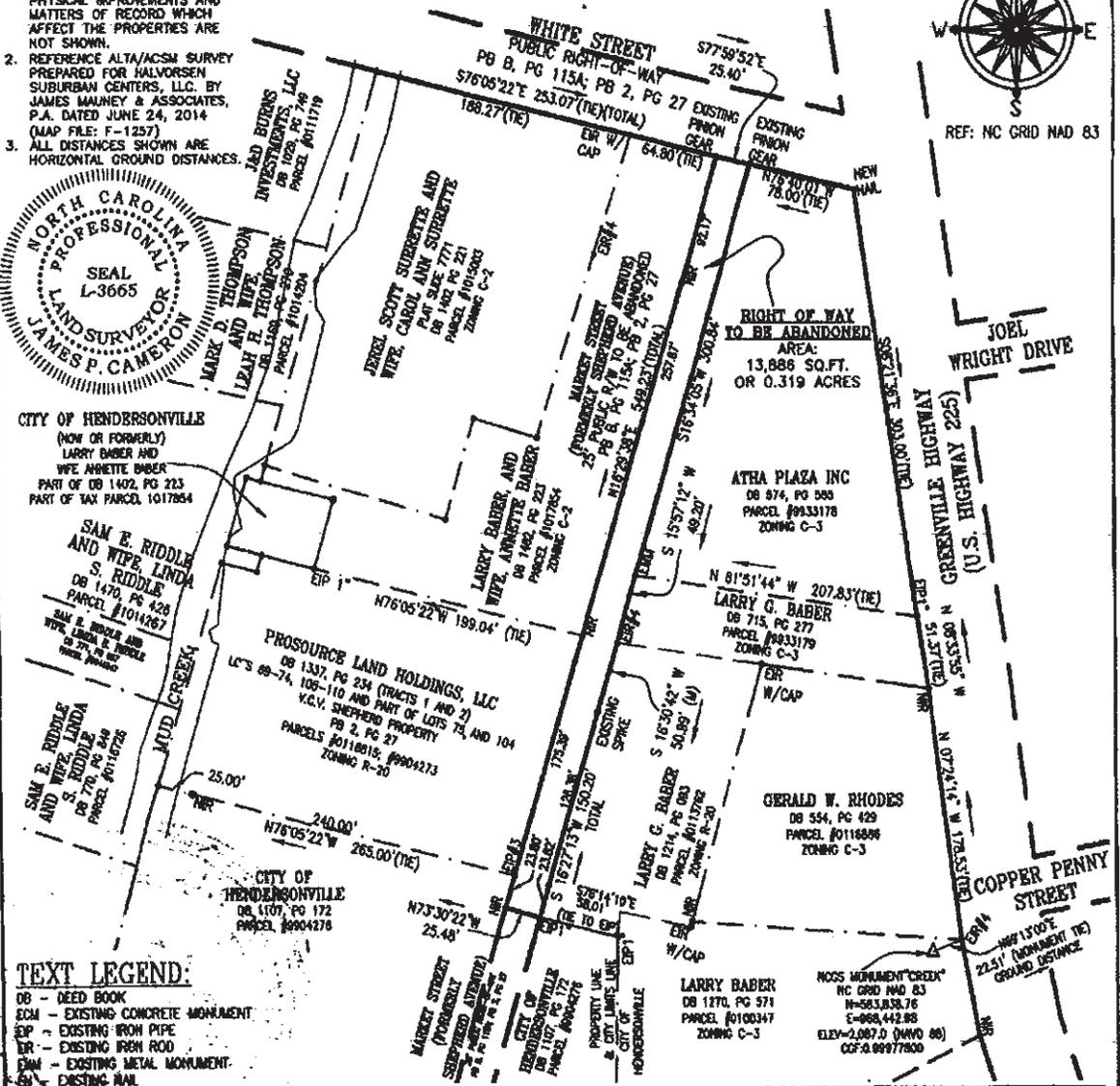
I CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DESCRIPTION RECORDED IN PLAT B-115A & PLAT 2-27); THAT THE BOUNDARIES NOT SURVEYED ARE INDICATED AS DRAWN FROM INFORMATION AS SHOWN ON THE FACE OF THE SURVEY; THAT THE RATIO OF PRECISION OR POSITIONAL ACCURACY IS 1:10,000+; AND THAT THIS MAP MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 58.1600).

THIS 24TH DAY OF JULY, 2014.
 REVISED 01/21/2015
 REVISED 05/08/16 - MAP R/W
 ABANDONMENT



SIGNED: *James P. Cameron*
JAMES MAUNEY & ASSOCIATES, P.A.
PROFESSIONAL SURVEYORS
 6405 WILKINSON BOULEVARD, SUITE 11
 BELMONT, NC 28012
 LICENSE NO. C-2373
 TEL: (704) 828-9623
 FAX: (704) 828-9625

- NOTES:**
1. THE PURPOSE OF THIS SURVEY IS ONLY TO SHOW THE BOUNDS OF THE PORTION OF MARKET STREET TO BE ABANDONED. PHYSICAL IMPROVEMENTS AND MATTERS OF RECORD WHICH AFFECT THE PROPERTIES ARE NOT SHOWN.
 2. REFERENCE ALTA/ACSM SURVEY PREPARED FOR HALVORSEN SUBURBAN CENTERS, LLC. BY JAMES MAUNEY & ASSOCIATES, P.A. DATED JUNE 24, 2014 (MAP FILE: F-1257)
 3. ALL DISTANCES SHOWN ARE HORIZONTAL GROUND DISTANCES.



- TEXT LEGEND:**
- DB - DEED BOOK
 - ECM - EXISTING CONCRETE MONUMENT
 - EIP - EXISTING IRON PIPE
 - ER - EXISTING IRON ROD
 - EMM - EXISTING METAL MONUMENT
 - EN - EXISTING NAIL
 - NOCS - NORTH CAROLINA SEDIMENT SURVEY
 - NIR - NEW IRON ROD
 - NN - NEW NAIL
 - PB - PLAT BOOK
 - R/W - RIGHT-OF-WAY
 - SQ.FT. - SQUARE FEET

- LINE LEGEND:**
- PROPERTY LINE ———
 - PROPERTY LINE (NOT SURVEYED) - - - - -
 - RIGHT-OF-WAY ———
 - RIGHT-OF-WAY (NOT SURVEYED) - - - - -

SURVEY OF:
 MARKET STREET RIGHT-OF-WAY TO BE ABANDONED
 ALONG THE PROPERTY OF: ATHA PLAZA, INC.; PROSOURCE
 LAND HOLDINGS, LLC; LARRY BABER & THE CITY OF
 HENDERSONVILLE
 CITY OF HENDERSONVILLE, HENDERSON COUNTY, NC
 JOB NUMBER: 8868; SHEET 2 OF 2

MARKET STREET RIGHT-OF-WAY TO BE ABANDONED

0.319 Acre

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

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

BEGINNING at an existing pinion gear at the intersection of the easterly margin of the right-of-way of Market Street (formerly Shepherd Avenue - 25' public right-of-way) with the southerly margin of the right-of-way of White Street (public right-of-way), said pinion gear being located North $76^{\circ}40'01''$ West, a distance of 78.00 feet along the southerly margin of the right-of-way of White Street from a new nail at its intersection with the westerly margin of the right-of-way of Greenville Highway (U.S. Highway 225), and runs thence from said BEGINNING point with the easterly margin of the right-of-way of Market Street South $16^{\circ}34'05''$ West a distance of 300.84 feet to an existing metal monument at the southwesterly corner of the Atha Plaza Inc. property as described in Deed Book 574, Page 585 of the Henderson County Public Registry, said monument also being the northwesterly corner of the Larry G. Baber property as described in Deed Book 715, Page 277 of said Registry; thence continuing along the easterly margin of the right-of-way of Market Street South $15^{\circ}57'12''$ West a distance of 49.20 feet to an existing iron rod at the southwesterly corner of the Baber parcel as described in Deed Book 715, Page 277, a common corner with another parcel owned by Larry G. Baber as described in Deed Book 1214, Page 93, all of said Registry; thence continuing along the easterly margin of the right-of-way of Market Street South $16^{\circ}30'42''$ West a distance of 50.99 feet to an existing spike; thence South $16^{\circ}27'13''$ West a distance of 150.20 feet to an existing iron pipe at the southwesterly corner of the Baber property as described in Deed Book 1214, Page 93 of said Registry, a common corner with the City of Hendersonville property as described in Deed Book 1107, Page 172 of said Registry; thence with a new line crossing Market Street North $73^{\circ}30'22''$ West a distance of 25.48 feet to a point on the westerly margin of the right-of-way of Market Street; thence with the westerly margin of the right-of-way of Market Street North $16^{\circ}29'38''$ East a distance of 23.80 feet to an existing iron pipe at the common corner between the City of Hendersonville property as referenced above and the Prosource Land Holdings, LLC property as described in Deed Book 1337, Page 234 of said Registry; thence continuing along the westerly margin of the right-of-way of Market Street North $16^{\circ}29'38''$ East a distance of 175.39 feet to a new iron rod at the southwesterly corner of the Larry and Annette Baber property as described in Deed Book 1402, Page 223 of said Registry; thence continuing along the westerly margin of the right-of-way of Market Street North $16^{\circ}29'38''$ East, and passing a new iron rod at 257.67 feet, for a total distance of 350.04 feet to an existing pinion gear at the intersection of the westerly margin of the right-of-way of Market Street with the southerly margin of the right-of-way of White Street; thence with the southerly margin

of the right-of-way of White Street, and crossing Market Street, South $77^{\circ}59'52''$ East a distance of 25.40 feet to the point and place of BEGINNING; containing 13,886 square feet or 0.319 acre, more or less, as shown on the attached survey prepared by James Mauney & Associates, P.A. dated July 24, 2014.



CITY OF HENDERSONVILLE

AGENDA ITEM SUMMARY

Submitted By: Susan G. Frady

Department: Development Asst Dept

Date Submitted: 9-26-16

Presenter: Susan G. Frady, Development Asst Dept.

Date of Council Meeting to consider this item: 10-06-16

Nature of Item: Council Action

Summary of Information/Request:

Item # 14

The City has received an application from Jonathan Ayers, to close a portion of an unnamed alley shown on slide 10110. This unnamed alley is on property located adjacent to the proposed Stags Head Brewery. A map, survey and boundary description are included with this memorandum.

The Council adopted a Resolution of Intent to close this unopened right of way at their August 4, 2016 meeting. 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 a local newspaper.

General Statute 160A-299 has procedures for permanently closing streets and alleys. Any person may be heard on the question of whether or not the closing would be detrimental to the public interest or the property rights of any individual. If it appears to the satisfaction of City Council after the hearing that closing this street is not contrary to the public interest, and that no individual owning property in the vicinity of the street portion or in the subdivision in which it is located would thereby be deprived of reasonable means of ingress and egress to their property, the City Council may adopt an order closing this street portion.

Budget Impact: \$ 0 Is this expenditure approved in the current fiscal year budget? ^{N/A} If no, describe how it will be funded.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

I move Council to adopt the Resolution of Intent for the closing of a portion of an unnamed alley as petitioned by Jonathan Ayers.

Attachments:

Resolution of Intent
Memo
Order to Permanently Close
Map
Boundary Description

RESOLUTION OF INTENT

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

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

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

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

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

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

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


Barbara G. Volk, Mayor

ATTEST:


Tammie K. Drake, MMC, City Clerk



**ORDER TO PERMANENTLY CLOSE A PORTION OF
An Unnamed Alley
(Petition by Jonathan Ayers)**

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, Jonathan Ayers, has petitioned the City of Hendersonville to close a portion of Market Street; and

WHEREAS, on the fourth day of August 2016, the Hendersonville City Council adopted a resolution expressing the intention of the municipality to close portions of these streets and setting the sixth day of October 2016, 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 Lightning (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 sixth day of October 2016.

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 exist as of the effective date of this order:

Being located in the County of Henderson, State of North Carolina and more particularly described as:

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

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 sixth day of October, 2016.

Barbara G. Volk, Mayor, City of Hendersonville

ATTEST:

Tammie K. Drake, City Clerk

Approved as to form:

Samuel H. Fritschner, City Attorney

STATE OF NORTH CAROLINA, COUNTY OF HENDERSON

I, _____, a notary public in Henderson County, State of North Carolina, do hereby certify that Barbara G. Volk, in her capacity as Mayor of the City of Hendersonville, Tammie K. Drake, in her capacity as City Clerk, and Samuel H. Fritschner, in his capacity as City Attorney, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and notarial seal, this _____.

My commission expires _____

MEMORANDUM

TO: Honorable Mayor and Members of City Council

FROM: Susan G. Frady, Development Assistance Director

SUBJECT: Closing of a Street (File No. P16-23-SC)

DATE: September 26, 2016

The City has received an application from Jonathan Ayers to close a portion of an unnamed alley shown on slide 10110. A map, survey and boundary description are included with this memorandum.

A copy of e-mails from Chief Vindigni of the Hendersonville Fire Department and Tom Wooten, Director of Public Works are attached concerning the city's use of the alley. There are no water or sewer lines in this alley.

The Council adopted a Resolution of Intent to close this unopened right of way at their August 4, 2016 meeting. 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 a local newspaper.

General Statute 160A-299 has procedures for permanently closing streets and alleys. Any person may be heard on the question of whether or not the closing would be detrimental to the public interest or the property rights of any individual. If it appears to the satisfaction of City Council after the hearing that closing this street is not contrary to the public interest, and that no individual owning property in the vicinity of the street portion or in the subdivision in which it is located would thereby be deprived of reasonable means of ingress and egress to their property, the City Council may adopt an order closing this street portion.

Frady, Susan

From: Vindigni, Joe
Sent: Tuesday, August 30, 2016 5:01 PM
To: Frady, Susan
Subject: RE: Fire Department Access

Closing the highlighted portion of the alley should not impact access to the other businesses. We would still have access from the parking lot off 7th Ave and the Maple St side.

Let me know if you have any further questions or concerns.

Thanks,
Joseph M. Vindigni, EFO
Fire Chief
City of Hendersonville Fire Department
632 Sugarloaf Rd.
Hendersonville, NC 28792
jvindigni@hvlnc.gov
(828)-697-3024

"A leader is one who knows the way, goes the way, and shows the way". *John C. Maxwell*

Email sent to and from this address is subject to the North Carolina Public Records Law

From: Frady, Susan
Sent: Tuesday, August 30, 2016 4:47 PM
To: Vindigni, Joe
Subject: Fire Department Access

Hi Joe,

Would it be a problem for you to access the businesses that front on 7th Avenue if this portion of the alley were closed?

Susan G. Frady, Development Assistance Director
100 N. King Street
Hendersonville, NC 28792
Please note my new e-mail address: sfrady@hvlnc.gov

Frady, Susan

From: Wooten, Tom
Sent: Tuesday, September 06, 2016 10:13 AM
To: Frady, Susan
Cc: Hazzard, Dave
Subject: RE: Alley

We service those businesses from 7th Avenue. We do not maintain the alley nor do any maintenance on it.

Tom

From: Frady, Susan
Sent: Tuesday, September 06, 2016 10:09 AM
To: Wooten, Tom
Cc: Hazzard, Dave
Subject: FW: Alley

Tom,

Not sure if you have had time to look at this but I need to call Jonathan Ayers about is ASAP. If you could let me know! Thanks!

Susan G. Frady, Development Assistance Director
100 N. King Street
Hendersonville, NC 28792

Please note my new e-mail address:sfrady@hvlnc.gov

From: Frady, Susan
Sent: Tuesday, August 30, 2016 4:45 PM
To: Wooten, Tom <twooten@hvlnc.gov>
Subject: Alley

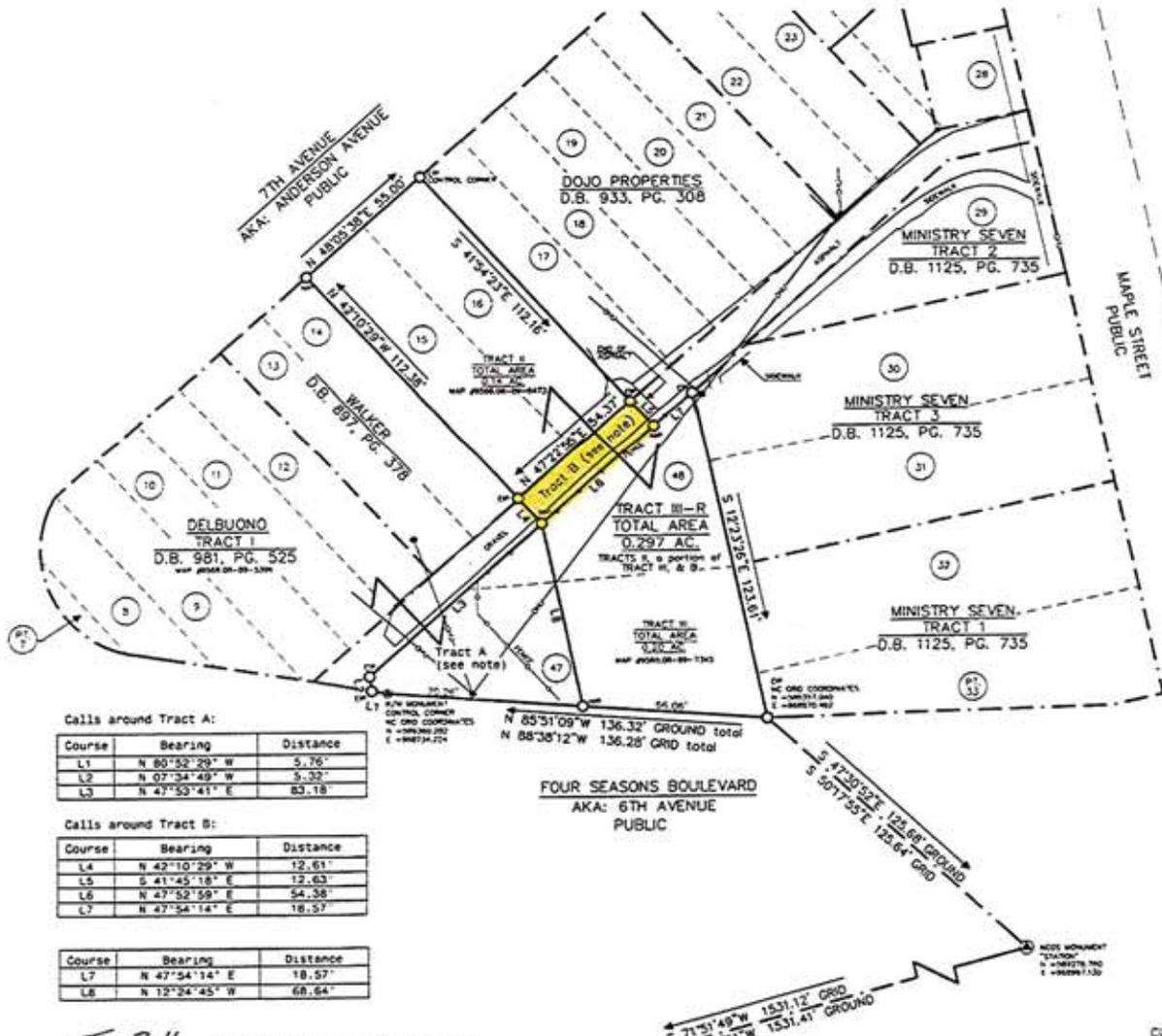
Tom,

I thought I had already ask you this but I do not see a response. Does your garbage truck run down this alley? Would there be a problem if this portion was closed?

Susan G. Frady, Development Assistance Director
100 N. King Street
Hendersonville, NC 28792

Please note my new e-mail address:sfrady@hvlnc.gov

Slide 1010



Calls around Tract A:

Course	Bearing	Distance
L1	N 80°52'29" W	5.76'
L2	N 07°34'49" W	3.32'
L3	N 47°53'41" E	83.18'

Calls around Tract B:

Course	Bearing	Distance
L4	N 42°10'29" W	12.61'
L5	S 41°45'18" E	12.63'
L6	N 47°52'59" E	54.38'
L7	N 47°54'14" E	18.57'

Course	Bearing	Distance
L8	N 47°54'14" E	18.57'
L9	N 12°24'45" W	68.64'

Time Ball Review Officer of Henderson County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

Time Ball 3-20-2016
 Review Officer Date

This map was presented for registration and recorded in this office in Plat No. 1010 on the 28th day of March, 2016 A.D. at 10:28 a.m. of said County.

William Lee King
 Register of Deeds
Bro. Shullis
 Clerk

This property is not located within 2,000 ft of a NCOS monument. Area was determined by Coordinate Computation.

I, David C. Huntley, certify that this plat was drawn under my supervision from an actual survey made under my supervision (said description recorded in D.B. 981, Pg. 525); that the boundaries not surveyed are clearly indicated as drawn from information found in "1/4\"; that the area of this tract as calculated is 1.10,000; and that this plat was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, registration number, and seal this 25th day of March, 2016.

David C. Huntley PLS L-3204



BOOK 2016 PAGE 10110 (1)
 XMBDS

This document presented and filed
 03/20/16 10:22:28 AM

WILLIAM LEE KING HENDERSON COUNTY NC

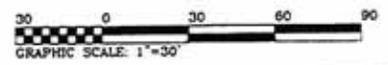
NOTES:
 TRACT A = 0.062 AC., 2,695 square feet a portion of Tract II to be combined with Tract I (DelBuono)
 TRACT B = 0.016 AC., 687 square feet, a portion of Tract I to be combined with Tract A and a portion of Tract II

THIS SURVEY IS OF ANOTHER CATEGORY, SUCH AS THE RECOMBINATION OF EXISTING PARCELS, A COURT-ORDERED SURVEY, OR OTHER EXCEPTION TO THE DEFINITION OF SUBDIVISION.

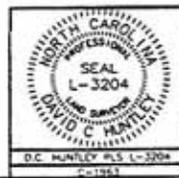
DEED REF:
 PART OF D.B. 981, PG. 525

PLAT REF:
 CAB. B, SLIDE 7

CURRENT OWNERS: RONALD & LINDA DELBUONO



- LEGEND
- EP EXISTING IRON PIN
 - NIP NEW IRON PIN (1/2\" REBAR)
 - PT UNMARKED POINT
 - CONC. MON. CONCRETE MONUMENT
 - PP POWER POLE
 - LP LIGHT POLE
 - C CENTER LINE
 - R/W RIGHT-OF-WAY
 - CONC. REFERENCE
 - REF REFERENCE
 - OHU OVERHEAD UTILITIES



STATE OF NORTH CAROLINA
 HENDERSON COUNTY
 HENDERSONVILLE TOWNSHIP

TRACT III-R & TRACT A
 SURVEY FOR
 NEWPOINTE, INC.

DAVID C. HUNTLEY & ASSOC.
 LAND SURVEYING
 675 MAPLE STREET
 HENDERSONVILLE, NC 28792
 (828) 693-8077

SURVEY DC-
 DRAWN KMC
 SCALE 1\"/>

Legal Description of Tract B, Plat Slide 10110:

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



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

Submitted By: Sam Fritschner

Department: Legal

Date Submitted: 23 September 2016

Presenter: Herbert Blake

Date of Council Meeting to consider this item: 6 October 2016

Nature of Item: Council Action

Summary of Information/Request:

Item # 15

A number of members of the 7th Avenue community have expressed concern about public safety in the depot area, particularly focused on persons whose illegal activities in the plaza area are both frequent and difficult to deter. It is the sense of some of the members of the community that a no-trespassing policy by the City in the depot plaza might alleviate some of the difficulties.

This issue has been discussed in several meetings between city management, the police, public works, and legal departments, special events personnel and the 7th Avenue community. The attached draft of a proposed resolution has been circulated for comment to the above departments.

The resolution notes that persons are not prevented from using sidewalks for their intended purposes.

Budget Impact: \$0 Is this expenditure approved in the current fiscal year budget? ^{N/A} If no, describe how it will be funded.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

I move the Council to adopt the resolution with respect to trespassing at the depot plaza.

Attachments:

Proposed resolution

A RESOLUTION DECLARING THE HENDERSONVILLE RAILROAD DEPOT PLAZA NOT TO BE OPEN TO THE PUBLIC EXCEPT DURING REGULAR DEPOT HOURS AND AUTHORIZING THE PUBLIC WORKS DIRECTOR TO POST SIGNS PROHIBITING TRESPASSING AT OTHER TIMES

WHEREAS the common law and Code of Ordinances section 36-41(b) permit the City to declare certain places owned by the City not open to the public, and

WHEREAS the City Council has recently become aware that the plaza area of the Hendersonville depot sometimes known as the Historic Hendersonville Train Depot has become a site encouraging deleterious secondary effects on the surrounding area when occupied by the public at times when the Depot is not open, and

WHEREAS the City Council is charged with protecting the health and safety of the public within its corporate limits, and

WHEREAS the Council believes that the health and safety of the public is endangered by public use of the Depot plaza at times when the Depot is not open,

NOW, THEREFORE, BE IT THEREFORE RESOLVED that the City Council does declare that the Historic Hendersonville Train Depot plaza is not open to the public except at times when the Depot itself is open to the public, and during designated special events, and that entry into the Depot plaza, at times when the Depot is not open to the public or during designated special events, by persons not authorized by the City to be in the plaza shall be considered by the City to be trespassing, and

BE IT FURTHER RESOLVED that the Public Works Director is authorized and directed to erect such signs and other notices as are reasonably calculated to inform the public that entry into the Depot Plaza at times when the Depot is not open to the public or during designated special events is considered by the City to be trespassing, and

BE IT FURTHER RESOLVED that nothing contained in this resolution shall be intended to deny the public the right to use public sidewalks for their intended purposes.

Adopted this 6th day of October 2016.

Barbara Volk
Mayor, City of Hendersonville



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

Submitted By: John Connet

Department: Admin

Date Submitted: 09/29/2016

Presenter: John Connet

Date of Council Meeting to consider this item: 10/6/2016

Nature of Item: Presentation Only

Summary of Information/Request:

Item # 17a

A special meeting of the City Council will be held on October 18, 2016 at 4:00PM at the Operations Center for a public presentation on the hotel project.

Budget Impact: \$ _____ Is this expenditure approved in the current fiscal year budget? N/A If no, describe how it will be funded.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

Attachments:



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

Submitted By: Brian Pahle

Department: Admin

Date Submitted: 09/28/16

Presenter: Brian Pahle

Date of Council Meeting to consider this item: 10/06/16

Nature of Item: Presentation Only

Summary of Information/Request:

Item # 17b

In accordance with State Statute 159-13 (b) (3) it is required that all expenditures resulting from a contingency appropriation budget adjustment be reported to the governing board at its next regular meeting and recorded in the minutes. Every month you will receive a staff report detailing the contingency appropriations made from the two months priors last Wednesday to the prior month's last Wednesday. For example for a December meeting you will receive a report of all contingencies appropriated from the last Wednesday in October to the last Wednesday in November. The following contingency appropriations were made:

- 1) Fund 10 & 60 | \$71,150 | Contingency Reimburesment
- 2) Fund 10 & 60 | \$1,853 | Property/Liability Insurance Premium
- 3) Fund 10 | \$18,000 | Hazardous Limb Removal Along Greenway
- 4) Fund 60 | \$13,011 | Blackboard Connect Contract

Budget Impact: \$0 Is this expenditure approved in the current fiscal year budget? ^{N/A} If no, describe how it will be funded.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

N/A

Attachments:

See below...

DEPARTMENT LINE ITEM BUDGET ADJUSTMENT

FUND: 10 & 60

DEPARTMENT: 4120|4270|4310|4340|4500|4510
|4520|4760|7124|7125|7126|991
0

EFFECTIVE DATE: 9/21/2016

ACCOUNT NUMBER			EXPENDITURE BUDGET INCREASE	EXPENDITURE BUDGET DECREASE
* ORG	OBJECT	DESCRIPTION OF ACCOUNT		
	104120	545600 Prop. & Liab. Ins.	\$ 11.00	
	104270	545600 Prop. & Liab. Ins.	\$ 130.00	
	104310	545600 Prop. & Liab. Ins.	\$ 196.00	
	104340	545600 Prop. & Liab. Ins.	\$ 275.00	
	104500	545600 Prop. & Liab. Ins.	\$ 192.00	
	104510	545600 Prop. & Liab. Ins.	\$ 6.00	
	104520	545600 Prop. & Liab. Ins.	\$ 198.00	
	104760	545600 Prop. & Liab. Ins.	\$ 73.00	
	109910	599100 Contingencies		\$ 1,081.00
	607124	545600 Prop. & Liab. Ins.	\$ 75.00	
	607125	545600 Prop. & Liab. Ins.	\$ 234.00	
	607126	545600 Prop. & Liab. Ins.	\$ 463.00	
	609910	599100 Contingencies		\$ 772.00
TOTAL ADJUSTMENT			\$ 1,853.00	\$ 1,853.00

Increases & Decreases must equal

DEPARTMENT - INSERT DETAIL EXPLANATION/REASON FOR BUDGET ADJUSTMENT:

An adjustment to pay for premiums on new equipment and vehicles utilized by various departments.

INSTRUCTIONS:

Budget Adjustments may be used by to reallocate budgeted funds within in department between non-salary account line items.

Budget Adjustments may be completed and approved by department heads as long as all account lines are within the same department

Use whole dollar amounts - no cents.

Budget Adjustments may not contain salary or personnel related account numbers.

Budget Adjustments do not require Council approval.

Please contact the Budget Office for any budget transfers which contain salary or personnel related account numbers or transfers between departments or transfers related to appropriated fund balance as that would require City Manager and Council approval.



DEPARTMENT HEAD APPROVAL SIGNATURE



PRINT DEPARTMENT HEAD NAME

Date: 9/21/2016



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

Submitted By: Tammie Drake

Department: Admin

Date Submitted: 09.26.16

Presenter: Tammie Drake

Date of Council Meeting to consider this item: 10.06.16

Nature of Item: Council Action

Summary of Information/Request:

Item # 18

APPOINTMENTS:

WALK OF FAME: With the change in the Bylaws for this Committee, Mr. Wooten now serves as a non-voting ex-officio member of the Committee thus leaving a vacancy on the Steering Committee. Council must also appoint a member to the Walk of Fame Selection Committee that will review the nominations.

HISTORIC PRESERVATION COMMISSION: Two members terms will expire in November: Marty Payton and Kristie Ogletree. Both would like to continue serving.

ANNOUNCEMENTS: There are vacancies on

BOARD OF ADJUSTMENT (alternate position), **WALK OF FAME** (Selection Committee), **PLANNING BOARD:** The terms of three members will expire December 1: Peter Hanley, Steve Johnson and Robert Hogan. Both Mr. Johnson and Mr. Hogan would like to be reappointed. I am waiting to hear back from Mr. Hanley.

SISTER CITIES BOARD: Two members may be appointed by the City Council. Mr. Alex Templeton, Finance Dept. Customer Service Team Leader has requested to be a member of the Sister Cities Board. Alex has a Bachelors degree from James Madison University in Public Policy and also holds a MPA in Non-Profit Management. Alex has been an employee in the Finance Department for two years. The Sister Cities Board is excited to welcome Alex to the board and asks that he be appointed to fill the second of the two City Council appointed board seats.

Lisa White, City Finance Director, has served one three- year term on the Sister Cities board as the Board Treasurer and would like to be reappointed. This term expires 12-30-16.

Budget Impact: \$ _____ Is this expenditure approved in the current fiscal year budget? N/A If no, describe how it will be funded.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

I nominate ...

Attachments:

board membership lists



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

Submitted By: John Connet

Department: Admin

Date Submitted: 9/21/2016

Presenter: John Connet

Date of Council Meeting to consider this item: 10/6/2016

Nature of Item: Council Action

Summary of Information/Request:

Item # 20

I would like to request a Closed Session pursuant to NCGS143-318.11(a) (3) to consult with the City Attorney regarding a potential claim against the City.

Budget Impact: \$ _____ Is this expenditure approved in the current fiscal year budget? N/A If no, describe how it will be funded.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

I move the City Council enter Closed Session in accordance with NCGS 143-318.11 (a) (3) to consult with the City Attorney regarding a potential claim against the City.

Attachments:

Letter