

January 7, 2016
Regular Meeting of the City Council
Council Chambers – City Hall
5:45 p.m.

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

Staff Present: City Manager John F. Connet, City Attorney Sam Fritschner, City Clerk Tammie Drake, Police Chief Herbert Blake, Engineering Director Brent Detwiler, Development Assistance Director Susan Frady, Human Resources Director Jennifer Harrell, City Planner David Hazzard, Public Information Officer Tara Ledbetter, Assistant to the Manager Brian Pahle, Civil Engineer Brendan Shanahan, Utilities Director Lee Smith, Finance Director Lisa White, Interim Fire Chief Joseph Vindigni, Public Works Director Tom Wooten

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

2. Invocation and Pledge of Allegiance: Mayor Volk asked those present to remember Former Mayor Fred Niehoff who passed away December 19. She expressed appreciation for his 12 years of service as Mayor and four years on the City Council. She stated he made many valuable contributions to the City and enjoyed his service to the public. A moment of silence for prayer was followed by the Pledge of Allegiance to the Flag.

3. Public Comment Time: *Up to 15 minutes is reserved for comments from the public for items not listed on the agenda.*

David Rhode, 206 Laurel Park Place, Hendersonville, asked the Council to consider moving to a different system for the parking kiosks with a parking space numbering method to make it easier for citizens to use.

Ken Fitch, 1046 Patton Street, Hendersonville, remembered Mayor Niehoff who made significant contributions to the City. He also welcomed NCDOT staff to provide insight the meeting because of traffic issues.

Barbara Hughes, 317 North Main Street, commented Mayor Niehoff was one of the greatest cheerleaders of “Chalk It Up” and the downtown. She expressed support of the proposed amendments to the special event policy.

4. Consideration of Agenda: The following amendments were made to the agenda:

Consent Agenda: 05d was added - Consideration of a Contract with McKim & Creed, Inc. for completion of the Northside Water System Improvements.

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

5. Consideration of Consent Agenda: *(Note: All items denoted with an asterisk (*) are considered routine, non controversial in nature and will be considered and disposed of through a singular motion and vote.)*

A. Consideration of Minutes of December 3, 2015 Regular Meeting

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

Fund: 80

To record an increase in budgetary authority to expend funds from NCLM for a wellness grant for \$2,000.

Fund: 10

Staff turnover has increased the Fire Department's reliance on part time and overtime personnel. This usage is expected to decline once the Department is fully staffed. The excess salary available due to the vacant Fire Chief position is available to alleviate the increased overtime and part time salary usage.

Increase: \$60,000.

Fund: 10

To record an increase in budgetary authority to expend funds from insurance proceeds to repair the fire trucks damaged during the “think pink” October truck wrapping.

Increase: \$67,500.

Fund 180

The Fire Department has kept a separate bank account for the purchase and resale of car seats. This function will be brought into and accounted for by the City. The current balance in this account is \$2,748 which will become the initial budget for this fund.

C. Consideration of Utilities Line Extension Agreements for the Oklawaha Village to be Located in the vicinity of N. Main Street:

Mr. Lee Smith reported the Oklawaha Village project will require an extension of the existing water and sewer system. This extension will be paid for by the Housing Assistance Corporation. Mr. Lee Smith stated the Water and Sewer Department has the capacity to support the additional infrastructure and recommended approval of the project contingent upon final approval of construction plans and specifications by the Water and Sewer Department.

D. Consideration of a Contract with McKim & Creed, Inc. for completion of the Northside Water System Improvements:

Mr. Lee Smith explained the northern portion of the City's water system, primarily in the Fletcher area, has experienced steady growth over the past decade and is known to have areas that consistently experience low water pressure. With these issues in mind, City Staff issued an RFQ for engineering services to address any deficiencies in this portion of the water system. Staff received submittals from five qualified engineering firms. After careful consideration, staff proposes to execute a contract with McKim & Creed, Inc. of Charlotte, NC to provide professional services to resolve the water pressure issues and evaluate capacity as it pertains to anticipated growth in the region.

Mr. Lee Smith explained the proposed contract will be executed in two phases:

Phase 1: Evaluating the northern portion of the water system, locating low pressure areas, identifying any current or future capacity issues, and determining the most effective solution to these issues; and

Phase 2: Implementing the solutions identified in Phase 1 (design, bid, award, construction administration, and project close out).

The Budget Impact, \$131,600, covers compensation for professional services provided in Phase 1 only. Compensation for Phase 2 will be determined upon completion of Phase 1 and the project is more clearly defined. The funds to pay for the contract is approved in the current fiscal year budget. He provided the scoping document with a detailed description of the services to be provided.

Mr. Lee Smith recommended City Council authorize the City Manager to negotiate and execute a contract with McKim & Creed, Inc. for the completion of the north side water system improvements as presented by staff.

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

6. Recognition – Furman United Soccer Club - 99G Purple Team, SC State Cup

Tournament Champions: Mayor Volk issued a Certificate of Achievement to the Furman United Soccer Club - 99G Purple Team as South Carolina State Champions and recognized Coach Jerry Smith and Assistant Coaches Brian Price, Jill Miller, and Kathryn Beasley.

Cameron Coggins, co-captain of the team, expressed appreciation to the Council for the use of Berkeley Park for their practice field and for the upgrades to the Park. She also expressed appreciation to the Public Works Department for their work.

7. Public Hearing – Consideration of a Petition from Capital Funds, Inc. to Close an Unopened Right-of-Way for Yarborough Street:

Ms. Anderson reported the City received an application from Capital Funds Inc., to close an unopened right-of-way for Yarborough Street located on PIN 9568-75-5382. This right-of-way is on property located adjacent to the Fresh Market property. She provided a map, survey and legal description.

Ms. Anderson reported the Council adopted a Resolution of Intent to close this unopened right of way at their November 5, 2015 meeting. The Resolution of Intent was mailed to the adjoining property owners, notification of the proposed closing was posted on the property, and the Resolution of Intent and notice of the public hearing was advertised four times in the legal notice section of the Hendersonville Lightning.

Ms. Anderson reviewed the procedures for permanently closing streets and alleys contained in North Carolina General Statute 160A-299.

Mayor Volk opened the public hearing at 6:03 p.m. in accordance with North Carolina General Statutes by notice published in the Hendersonville Lightning. No one expressed a desire to speak. The public hearing was closed.

Mayor Pro Tem Caraker moved Council to adopt the Order to Permanently Close an unopened and unimproved ROW for Yarborough Street located on PIN 9568-75-5382 as petitioned by Capital Funds Inc. A unanimous vote of the Council followed. Motion carried.

ORDER TO PERMANENTLY CLOSE A STREET OR ALLEY
An unopened right-of-way for Yarborough Street

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; and

WHEREAS, Capital Funds Inc., has petitioned the Council of the City of Hendersonville to close an unopened right-of-way for Yarborough Street located on PIN 9568-75-5382; and

WHEREAS, on the fifth day of November 2015, the City Council adopted a resolution expressing the intention of the municipality to close an unopened right-of-way for Yarborough Street located on PIN 9568-75-5382; and

WHEREAS, the aforementioned resolution has been published once a week for four successive weeks prior to the public hearing as required and a copy thereof has been sent by certified mail to all owners of property adjoining the unopened and unimproved ROW as shown on the county tax records; and

WHEREAS, notice of the closing and of the public hearing has been posted in at least two places along the unopened and unimproved ROW; and

WHEREAS, a public hearing was held in conformance with the aforementioned public notice on the seventh day of January 2016.

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

1. The closing of an unopened right-of-way for Yarborough Street located on PIN 9568-75-5382, hereafter described, is not contrary to the public interest.
2. No individual owning property in the vicinity of the unopened ROW or in the subdivision in which it is located would be deprived by the closing of such unopened ROW of reasonable means of ingress and egress to their property.

IN CONSIDERATION THEREOF, IT IS HEREBY ORDERED:

1. The following unopened right-of-way for Yarborough Street located on PIN 9568-75-5382 is permanently closed and is no longer existent as of the effective date of this order:

LEGAL DESCRIPTION FOR AREA OF YARBOROUGH STREET TO BE CLOSED AND CONVEYED TO PIN 9568-75-5382

Lying in Hendersonville Township, Hendersonville County, North Carolina and being described according to a survey by McAbee & Associates, P.A. titled "Exhibit For Closure of Yarborough Street" dated 09-16-15 as follows:

BEGINNING at a point in the northern right of way of Yarborough Street (unopened) (30' R/W per Deed Book 70, Page 87), said point being located S 03°04'22" E 24.48' from a #4 REBAR FOUND (0.9' A.G.), located in the northwest corner of PIN 9568-75-5382; thence from said BEGINNING POINT with the northern right of way of Yarborough Street (unopened) N 88°07'28" E 69.93' to a point; thence with the northeasterly right of way of Yarborough Street (unopened) S 37°17'05" E 191.81' to a point; thence with the easterly right of way of Yarborough Street (unopened) S 02°43'41" E 213.44' to a point located in the northern line of Joe R. Crowell and Denise J. Crowell (SLIDE 3756); thence with the northern line of Joe R. Crowell N 79°11'35" W 15.43' (passing through a point in Yarborough Street at 8.71'); thence with the center of Yarborough Street (unopened) N 02°43'41" W 63.43' to a point; thence with the center of Yarborough Street (unopened) N 79°12'04" W 119.11' to a point in the westerly right of way of Yarborough Street (unopened) (30' R/W PER PCAB B SLIDE 244); thence with the westerly right of way of Yarborough Street (unopened) N 04°30'07" E 15.09' to a point; thence with the northerly right of way of Yarborough Street (unopened) S 79°12'04" E 101.73' to a point in the westerly right of way of Yarborough Street (unopened); thence with the westerly right of way of Yarborough Street (unopened) N 02°43'41" W 118.00' to a point; thence continuing with the northwesterly right of way of Yarborough Street (unopened) N 37°17'05" W 167.00' to a point; thence continuing with the northerly right of way of Yarborough Street (unopened) S 88°07'28" W 53.82' to a #4 REBAR found (0.4' B.G.); thence with the westerly right of way of Yarborough Street (unopened) N 03°04'22" W 30.01' to the place of BEGINNING containing 0.321 Acres or 13982 Sq. Feet.

LEGAL DESCRIPTION FOR AREA OF YARBOROUGH STREET TO BE CLOSED AND CONVEYED TO PIN 9568-75-3151

Lying in Hendersonville Township, Hendersonville County, North Carolina and being described according to a survey by McAbee & Associates, P.A. titled "Exhibit For Closure of Yarborough Street" dated 09-16-15 as follows:

BEGINNING at a #4 REBAR FOUND (0.1' A.G.) located in the easterly line of Turner J. Hite and Kathryn J. Hite (Deed Book 940, Page 184), said rebar being located N 02°33'05" W 25.53' from a #4 REBAR FOUND (0.1' B.G.) located in the southeasterly corner of Turner J. Hite; thence from said BEGINNING POINT with the east line of Turner J. Hite (also being the western right of way of Yarborough Street (unopened) (30' R/W per Deed Book 70, Page 87 and N 30' R/W PCAB B SLIDE 244) N 02°43'41" W 48.00' to a #5 REBAR FOUND (0.1' B.G.), located in the northeast corner of Turner J. Hite; thence with the northern line of Turner J. Hite N 79°12'04" W 105.64' to a 1"Ø IPIPE FOUND (FLUSH), located in the northwest corner of Turner J. Hite; thence N 04°30'07" E 15.09' to a point in the center of Yarborough Street (unopened); thence S 79°12'04" E 119.11' to a point in the center of Yarborough Street (unopened); thence S 02°43'41" E 63.43' to a point in the center of Yarborough Street (unopened); thence N 79°11'35" W 15.43' to the place of BEGINNING containing 0.058 Acres or 2521 Sq. Feet.

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

This order shall take effect the seventh day of January 2016.

/s/Barbara G. Volk, Mayor

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

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



8. Quasi-Judicial Public Hearing – Consideration of an Application from the Halvorsen Development Corporation for a Special Use Permit for a Project Known as South Market Village Including the Construction of a Grocery Store at the Corner of White Street and Greenville Highway:

Mayor Volk explained the procedures for quasi-judicial public hearing stating they are required by the State of North Carolina in certain situations. Quasi-judicial hearings differ from regular public hearings in that interested persons have the following rights: to cross examine witnesses, to present evidence, to inspect documentary evidence presented against them, and to be afforded all the procedural steps set out in the pertinent ordinance and statute.

Mayor Volk explained the City Council may only consider factual information and/or expert testimony and not feelings or opinions.

Mayor Volk asked the members of City Council to announce any contacts concerning the application that are not included in the file. Council Member Smith disclosed he invited a citizen, Mike Gilliam, who attended the Planning Board meeting to attend this meeting and speak if he wanted. Mayor Volk asked Council Member Smith if this prevents him from making an impartial decision. He stated no.

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

Mayor Volk asked if any person present is aware of anything of value that has been given or promised in exchange for a vote on the application. There was none.

At 6:31 p.m., Mayor Volk opened the public hearing in accordance in North Carolina General Statutes by notice published in the Hendersonville Lightning.

Mayor Volk asked those who anticipate speaking to be sworn in. Ten persons were sworn in to provide testimony.

Ms. Susan Anderson, Planning Director, provided the following testimony:

The City has received a Special Use Permit application from Halvorsen Development Corporation to construct a 49,098 square foot grocery store located on the corner of White Street and Greenville Highway. This project includes the following parcels: PINs 9568-84-0380, 9568-84-1291, 9568-84-0002, 9568-73-9994, 9568-84-2176, 9568-84-2052, 9568-83-1970, 9568-83-3809, and 9568-83-2720 totaling approximately 6.86 acres. She reviewed an aerial map of the area.

All of the parcels have existing vacant or soon to be vacant buildings with the exception of the southernmost parcel, which is vacant land. The existing zoning classifications for these parcels are C-2 Secondary Business, C-3 Highway Business, and R-20 Low Density Residential. Surrounding zoning includes C-2, R-15, R-20, and C-3. She reviewed a map of the area showing adjacent uses.

Comprehensive Plan: The parcels and adjacent parcels are classified as Neighborhood Activity Center and Natural Resource Agricultural on the 2030 Comprehensive Plan's future land use map. She reviewed the goals of the classifications.

Plan Review: The applicant is proposing to replace the existing buildings with a 49,098 square foot grocery store with 251 parking spaces. The proposed building is below the maximum height requirement.

Street Closing: The applicant is proposing to close Market Street as part of the development. Market Street is the only access the City has to its property. The applicant is proposing to provide a variable-width access easement, a minimum of 25 feet, through their property, so the City may access their property.

Redevelopment in the Floodway and Special Flood Hazard Area: She read Section 17-2-4 of the Zoning Ordinance that 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 and meets certain requirements.

Traffic Impact Analysis (TIA): A TIA has been completed by Kimley-Horn and Associates and has been reviewed by Mattern & Craig on behalf of the City. The project 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, and

Greenville Hwy (NC225) at Copper Penny Street: Construct a northbound left-turn lane with a minimum of 100 feet of storage and construct a southbound right-turn lane with a minimum of 50 feet of storage.

Rezoning: The applicant is requesting a rezoning from C-2 Secondary Business, C-3 Highway Business, and R-20 Low Density Residential to PCD Planned Commercial Development.

Variance Requests: The applicant is requesting two variances:

Stream Buffers (Section 17-3-3): The application states: “the existing developed condition within the 30-foot and 20-foot stream buffer are more impactful to the buffer than the proposed condition.” Section 17-6 allows a varying of the requirements for previously cleared or developed sites. This applies when “the applicant for development authorization demonstrates the proposed development, along with any management practices, will result in an increase of functionality of any regulated natural resources on the development site.”

Buffering, Screening and Landscaping Requirements: The western property line has 397 linear feet along Mud Creek which is adjacent to either residential use or residential zoning. Section 15-6 of the Zoning Ordinance requires a 10-foot Type B buffer along this area. The western property line has 130 linear feet adjacent to a commercial use which as per Section 15-9b of the Zoning Ordinance requires a 5-foot planting strip. The applicant is requesting a variance from Section 15-6 and 15-9b of the Zoning Ordinance to eliminate sections of the 10-foot Type B buffer and the 5-foot planting strip along the western property boundary and to relocate these plantings to the southwestern corner of the property.

Analysis: Ms. Anderson reviewed the required finding contained in Section 7-4-10.1 of the Zoning Ordinance and stated:

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

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

(C) The applicant is requesting the following variances:

1. A variance from Zoning Ordinance Section 17-3-3, and
2. A variance from Zoning Ordinance section 15-6 and 15-9b.

(D) A neighborhood compatibility meeting concerning the application was held on June 15, 2015. Notice was provided by U.S. mail to the owners of record of all property situated within 400 feet of the subject property.

Approximately 22 members of the general public attended the meeting. The general public asked questions regarding the following: the effect on existing entrances on Greenville Highway, traffic light, turn lanes, landscape buffers, traffic, stormwater and truck traffic. She provided the neighborhood compatibility report.

(E) 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 voted unanimously to recommend approval of the two variances requests, the rezoning and approval of the special use permit.

Ms. Anderson then reviewed the suggested motions.

Council Member Smith asked if the variance is requested for the entire length of the property. Ms. Anderson stated no, they can meet the buffer requirements in some areas but cannot in other areas.

Ms. Anderson also reported the Executive Summary of the TIA was provided to the Council.

Mr. Tom Vincent, President, Halvorsen Development Corporation, provided the following testimony:

They are one of the oldest-tenured developers of Publix anchor shopping centers in the southeast. Publix is excited about bringing a store to Hendersonville. The closest store is in Asheville. The site is straightforward. This is not a traditional shopping center. It is a freestanding grocery store without any other retail shops. The elevation is a proto-typical elevation for the North Carolina market. They have added some enhancements to the elevation. This is a 49,000 square feet footprint; one of the larger stores they operate. This will be the flagship store size for the North Carolina market. They have representatives from Kimley Horn and Associates present. They are excited about this opportunity.

Eric Hampton with Kimley Horn and Associates from Charlotte provided the following testimony:

They are the civil engineers representing Mr. Vincent and Halvorsen for this project. He reviewed a rendering of the site plan. The area on the rear of the store is the property line that is connected to the variance requests. Regarding the buffer, and according to the ordinance, the 5-foot and 10-foot has to be immediately adjacent to the property edge, which is the most external 5 and 10 feet of the property. The property line for them is the center of Mud Creek. From developing in general, regardless of what they are doing on the site, meeting the definition of the perimeter buffer would not be feasible. They are proposing taking the average area, of the 5-foot and 10-foot area, and make sure they provide the overall net area across the boundary line. The green space shown behind the gray development path and the limit of the Mud Creek is where the planting will be done. This would be a dramatic improvement from existing conditions.

The stream buffer on Mud Creek is an overall 50-foot width buffer. The interior 30 feet, adjacent from the top of a bank, is a section that cannot be graded or developed by code. He provided an exhibit highlighting the existing conditions. The built-upon area exists now with the current infrastructure. The requirement for the 30-foot buffer is a native vegetated, wooded area. That area has none of that today. The most interior portion of the buffer can be graded but is not intended to have development within it. The area will be the heavily-wooded, natural stream buffer environment that currently exists. He reviewed a table showing how the areas break down from existing conditions to proposed conditions, and that they are either meeting the condition, especially within the wooded area, and/or substantially improving the site.

Mayor Volk opened the public hearing at 6:29 p.m. in accordance with North Carolina General Statutes by notice published in the Hendersonville Lightning. The following spoke in favor of the application:

Jim Barnett, who owns property across from this property on Greenville Highway, provided the following testimony:

He hopes the Council will approve the project. He pointed out it will create some flooding problems just like the Ingles project. Council allowed Ingles to remove their retention pond which was 100 square yards. A stream which is 43 feet wide, 10 feet deep, 600 feet long, held a lot of water. Even their engineer admitted there will be excess water and stated the water will go "some place."

Halvorsen will build a retaining wall on the south portion of the property. Presently when there is a flood, the water comes out of the stream, and in a westerly direction, goes through the parking lot of the Mexican restaurant and behind it, through and behind Atha Plaza. The water extends 400-500 feet wide. When the retaining wall is built, it will force the stream down from 500 feet to 50-foot wide stream. The water will be quick moving, deep and with velocity when it goes onto Greenville Highway. He cited a past flood in the 1970s which took out sections of his parking lot. The water will ruin his building, will flood the convenience store, will flood Bill Pace's property on Copper Penny Street, the German restaurant, the flight building that was recently renovated and maybe into CVS pharmacy.

Council can help solve the problem. The City owns 12 acres adjacent to this property. He suggested making a detention pond on the City's property and engineer the stream so it will run into the detention pond. It will help and possibly eliminate some small floods.

Diane Silver wrote an article about the stormwater wetlands which is even better. He stated instead of Publix spending money for large tanks to hold stormwater, they could use the funds toward excavating the 12 acres. Publix has stated they cannot do that. The detention pond could be used by others for stormwater runoff. A detention pond is the same level, or flat, but the stormwater wetlands is different heights within the pond, some deep and some shallow spots which could be an ecological paradise. Now is the time to work this out because the City has access to it. He asked the Council to work out an arrangement with Halvorsen and Ingles. If there is participation, this would be a blessing to the south side of Hendersonville. This is a great opportunity.

Mayor Pro Tem Caraker and Council Member Smith agreed this is a good idea. Council Member Miller asked if the City will have access to their property. Mr. Connet stated yes, there will be an access easement.

Ken Fitch, 1046 Patton Street, provided the following testimony:

He is in favor of project that has broad community support but there are some serious issues to address including: the Greenville Highway entrance and exit and White Street. A traffic light is needed although NCDOT determined the project did not trigger the necessity of a light. This entity will be a destination. Left-turning is a specific problem without a traffic light. He asked if NCDOT can address this. Existing conditions on White Street pose a number of hazards citing substantial traffic and the speed of the traffic. The number of close calls is substantial at the bank entry, there is a change in road grade or elevation, and the location of the entrance drive, visibility, etc.

Secondly, regarding the disposition of stormwater, he asked if this will substantially eliminate the flooding at the White Street intersection. It has been suggested that NCDOT will be looking at options of White Street conditions. He cited the required findings contained in Section 7-4-10.1 of the Zoning Ordinance.

Mr. Hampton responded with the following: The entire site is within a floodway and flood plain area. They have to elevate the building pad and parking lot an average of five feet. There will be retaining walls and it will elevate the building and parking lot out of the flood-prone area. They have submitted a no-rise application to Mrs. Frady as part of the floodplain development process and following approval of the application, they will be seeking a full flood plain development permit and a full flood study to demonstrate the project does not increase the flood conditions that are present today. From a stormwater standpoint, the existing site has a similar impervious condition. It is an undetained, unattenuated stormwater condition: the existing site has no stormwater treatment measures. The runoff is entering the unnamed tributary and Mud Creek without any water quality benefit. It is also entering undetained so it is not slowed down or attenuated before it enters the streams. As a byproduct of the City Code and NCDENR, they will have two different stormwater best management practices on site. Both will be of the low ground, combination of infiltration and detention system that is consistent with City Code that will both treat the stormwater so there is a total suspended solids (turbidity) and the temperate of the water is greatly reduced. They also provide detention which attenuates the peak runoff events for the various storm event years as required by City ordinances which are not being met today. They are providing a betterment over existing conditions. From an overall flood model and flood basin standpoint, there is no improvement this site can do to have a significant improvement in the overall flood basin characteristics. They are more than mitigating the impacts that their development is having and in most cases, providing a betterment to the existing situation.

Regarding traffic, Mr. Hampson stated in consistency with the City Code and NCDOT policy, they have prepared a TIA, and have complied with the recommendations that have been both agreed to by the City and the State, as a result of that process. The improvements shown on their plan from a turn lane perspective mitigate the impact their development will have on the public infrastructure roadway network. The increase in trip generation is mitigated through those additional infrastructure improvements. From a day-to-day operations standpoint, one of the main benefits is the reduction of the number of driveways that exists on a public right-of-way. Currently on White Street, there are two driveways that are extremely close to the intersection with Greenville Highway. There are three driveways on Greenville and a lot of the frontage is flush or mountable curb. In both instances, they are eliminating all but one driveway and are pushing those as far as possible from the intersection with Greenville Highway and White Street. This will provide a dramatic safety benefit without considering the additional infrastructure modifications and upgrades that are being made. A lot of conflicts points on the public way will be eliminated. The overall situation is being either mitigated or bettered in both stormwater, traffic, and floodplain ordinances in place for the site.

Council Member Miller asked Mr. Hampton if he believes there is a way in which the City's property could work in conjunction with the Halvorsen development to do a better job at stormwater management. Mr. Hampton stated it is an excellent idea and they have considered a regional stormwater facility both from a detention and attenuation treatment standpoint to offset the peak storm event. Their challenge is that they are downstream and having enough elevation to outfall is not feasible. He recommended the City investigate this for an improvement but their parcel is not in the right spot. There was discussion about the direction the stormwater flows. Mayor Pro Tem Caraker asked if the owner would allow a pipe under an undeveloped triangle of property, from Greenville Highway to a low point in the City's property to help alleviate regional stormwater problems. Mayor Pro Tem Caraker stated the property has more value as stormwater retention than a park. Mr. Hampton stated from an engineering standpoint, the grades allow that to drain that direction. He stated the access easement at the intersection with Copper Penny could possibly become a utility and access easement. Mayor Pro Tem Caraker stated the City will need permission to run a pipe under the undeveloped property. Mr. Vincent stated

conceptually they would be fine with that. The location of the easements will have to be worked out. Council Member Miller commented this is a great opportunity to work with the owners. Mayor Pro Tem Caraker commented that would be a better use of property for stormwater than a park. Council Member Miller commented he talked with an engineer and feels positive something can be done to improve the stormwater situation. Mayor Pro Tem Caraker commented some flooding concerns were addressed when a large culvert was installed by NCDOT. Mayor Volk stated this cannot be engineered at this meeting and expressed her appreciation for their willingness to work with the City.

Mike Gilliam, 200 White Street, provided the following testimony: He is excited to have the development on that parcel. His concerns are White Street traffic which backs up to his location and that the 100 feet of buffer is not enough. Another concern is left turns out of property onto White Street. He stated NCDOT has a plan in place to change the White Street area and encouraged them to complete the plan sooner.

No one expressed a desire to speak in opposition to the proposal.

Council Member Smith asked Steve Cannon with NCDOT about the possibility of a traffic light on Greenville Highway near Copper Penny Street and if that would be safer. Mr. Cannon replied NCDOT was consulted by the developer and discussed the TIA with the developer. He stated NCDOT's traffic department reviewed the TIA for the site. They were consulted on what areas/intersections to review. He stated opposing movement, opposing traffic volume, proposed number of left-hand turns into the site and the distance to other signals must be considered. He stated this location did not meet the threshold to require a signal at this location. Council Member Smith asked how much more traffic is needed to require a signal. Mr. Cannon stated he does not recall.

Regarding the entrance off White Street, Council Member Smith asked for traffic traveling entering and exiting onto White Street, if a turn lane will assist in the process of turning. Mr. Cannon stated improvements to White Street were recently discussed. He stated some of the project is in their CTP as a future year project but they received additional funding that is allowing them to move forward with the improvements to White Street. He stated they will be meeting with the Council soon to learn their vision for the area. NCDOT is aware of many of the issues in this area and they will get local input to determine the vision. He stated the bridge has a lot of impact on the ability to have a three-lane section. NCDOT may not require the developer to make off-site improvements if it is not directly related to the project itself. He stated they have not received the driveway permit or the encroachment for the stormwater at this point but have spoken to the developer. He stated they will be looking at turning radius of the driveways and the site distance to determine if it is adequate for those locations. The TIA reviewed the movements at that location and determines it meets the requirements for a driveway at that location. He stated one of the measurements is the level of service and they will be reviewing it to ensure they are not decreasing the existing level of service at the entrances.

Mayor Pro Tem Caraker asked if the widening of the bridge is included in the NCDOT project. Mr. Cannon stated yes it is under consideration. They have selected a private engineering firm to design the project. The project has not been scoped to determine what features will be included. The bridge was not included in the language of the original project.

Council Member Smith asked if a decision is made that a turning lane would be great there, it would be too late if the project is built. Mr. Cannon stated they cannot restrict site development or right-of-way they currently do not have. Without a plan on record, design or right-of-way in place, NCDOT cannot restrict the design. He stated the developer agreed to allow NCDOT to add the right turn lane on their property as part of the project. There will be some improvements at the White Street intersection. He stated if NCDOT goes forward with the project, it will be part of the project to make the improvement to a three-lane section.

Council Member Smith asked if the sidewalk and curb would have to be torn up if three lanes are built. Mr. Cannon stated unfortunately, yes.

Council Member Miller asked where the project has been moved to on the schedule. Mr. Cannon stated they are receiving funding, it will go to right-of-way acquisition in 2020 and construction in 2022 which for road construction is a quick process considering permits, utility relocation, etc.

Council Member Stephens asked if they propose to widen White Street. Mr. Cannon stated yes, they are proposing to widen White Street to Kanuga and possibly some realignment or adjustments to Spartanburg Highway. He stated they are aware the issue is congestion and they are considering ways to alleviate the congestion.

Council Member Miller asked if White Street is lined up with Copper Penny Street so a traffic light can be placed there. Mr. Cannon stated yes. There is a restriction to the left so that would be the optimal location.

Council Member Smith asked how much space would it be if a third lane is added. Mr. Cannon stated it is generally an 11-foot lane. The bridge is wider than 22 feet but is not wide enough for three lanes. He stated the third lane is shown on a majority of their property. There was discussion of where the three lanes will be built and the bridge. Council Member Smith stated this will create a traffic challenge. Council Member Miller stated the project will clean up several issues.

Council Member Smith asked what the wall is retaining. Mr. Hampton answered they have to bring in fill to bring the site out of floodplain and it will retain additional fill. The retaining walls will be around the perimeter of the site to retain the additional fill so the existing grade will be uniform. Regarding the turn lane storage, he noted a section where they are not building a third lane. He stated if they did, there will be a truck travel issue. The sidewalk and parking areas are indented so only the bulb is removed for the third lane.

Mayor Volk stated the plan shows 251 parking spaces will be provided and asked if that is too much. Mr. Hampton replied from Publix standpoint, and for general retail, they want a five per 1,000 ratio, and it is also the City's code. He stated Publix would consider this an optimal parking arrangement.

The public hearing was closed at 7:11 p.m.

The Council further discussed the retention area. The Council agreed by consensus this does not have to be added as a condition because it is not relevant to their development but staff may be directed to negotiate it.

Mayor Pro Tem Caraker moved City Council to 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 a wall and asphalt vehicular use area in the required stream buffer as shown on the Preliminary Site Plan because it helps the entire project work. A unanimous vote of the Council followed. Motion carried.

Mayor Pro Tem Caraker moved City Council to approve a variance from Zoning Ordinance Section 15-6 and 15-9b, to relocate a portion of the required buffer plantings along the western property line to an area located in the southwestern corner of the property as shown on the Preliminary Site Plan because it improves existing conditions. A unanimous vote of the Council followed. Motion carried.

Mayor Pro Tem Caraker moved City Council to adopt an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of:

PINs 9568-84-0380 and 9568-84-1291 from C-2 Secondary Business to PCD Planned Commercial Development,

PINs 9568-84-2176, 9568-84-2052, 9568-83-2720, and 9568-83-3809 from C-3 Highway Business to PCD Planned Commercial Development; and

PINs 9568-84-0002, 9568-73-9994, and 9568-83-1970 from R-20 Low Density Residential to PCD Planned Commercial Development to make the project complete.

He further moved City Council to approve the application of Halvorsen Development Corporation for a Special Use Permit based on the site plan submitted by the applicant and subject to the limitations and conditions stipulated on the published List of Uses and Conditions. A unanimous vote of the Council followed. Motion carried.

Mayor Pro Tem Caraker moved Council to direct the Engineering staff and the City Manager to work with Halvorsen Development for an easement or whatever is necessary for stormwater improvements on the Halvorsen property. The Council agreed by unanimous assent.

Ordinance #16-0102

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

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

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

1. Pursuant to Article XI of the Zoning Ordinance of the City of Hendersonville, North Carolina, the Zoning Map is hereby amended by changing the zoning designation of the following as shown in Exhibit A and described below:

PIN's 9568-84-0380 and 9568-84-1291 from C-2 Secondary Business to PCD Planned Commercial Development;

PIN's 9568-84-2176, 9568-84-2052, 9568-83-2720, and 9568-83-3809 from C-3 Highway Business to PCD Planned Commercial Development;

PIN's 9568-84-0002, 9568-73-9994, and 9568-83-1970 from R-20 Low Density Residential to PCD Planned Commercial Development;

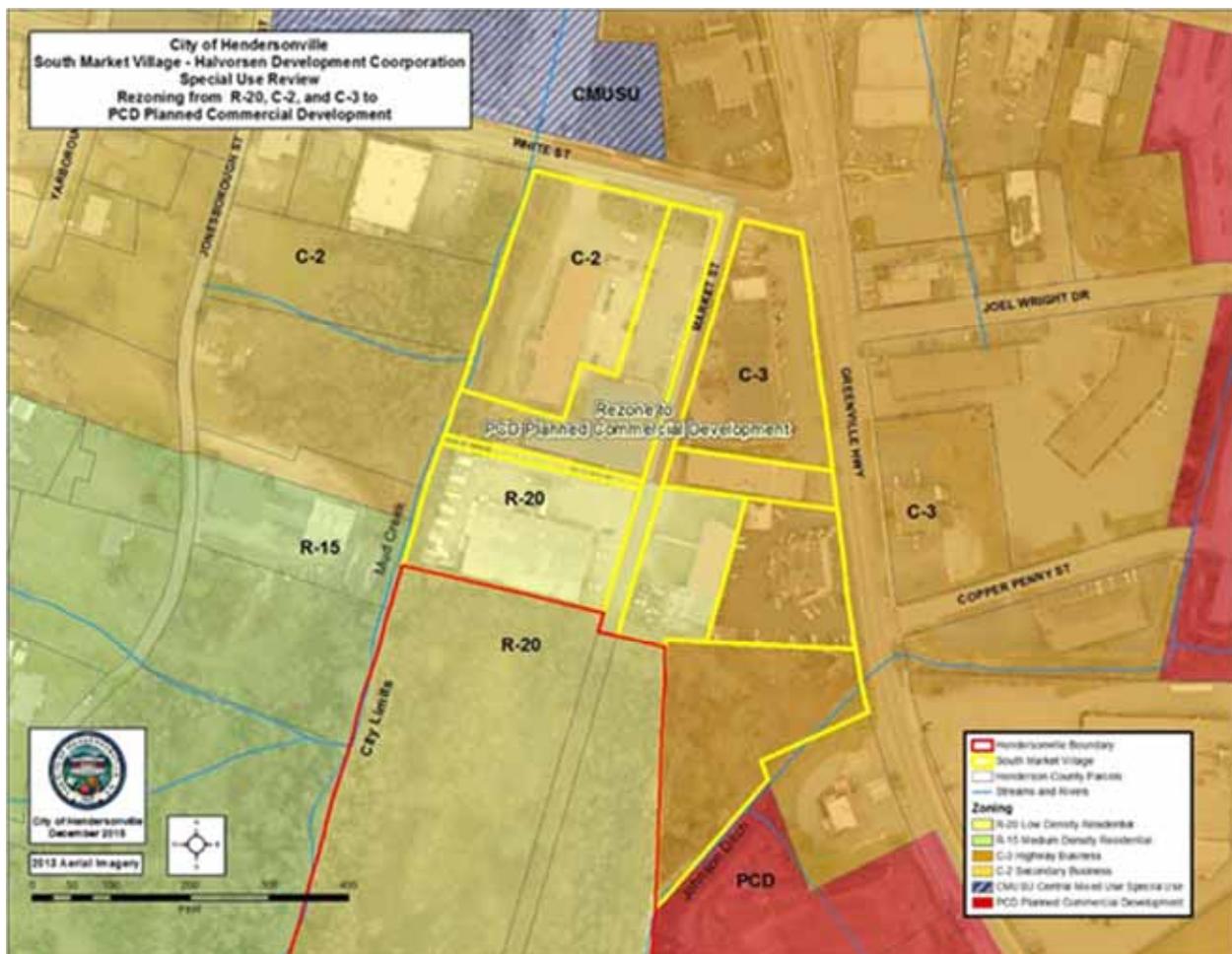
2. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this seventh day of January 2016.

/s/Barbara G. Volk, Mayor

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

Approved as to form: /s/Samuel H. Fritschner



9. Consideration of Granting Award to Complete a Bicycle Plan: Ms. Anderson explained the City received a grant from NCDOT to complete a bicycle plan. She reported a committee reviewed the RFQs and is recommending the awarding of the contract to Kimley-Horn and Associates. Mr. Joe Sanders reported Kimley-Horn has done several plans for communities similar to Hendersonville. He stated they did an outstanding job of taking representative areas of the City, redrawing them graphically showing what they would be like with the bicycle improvements. Council Member Smith commented Kimley-Horn stated the goal of the plan is not to put lines on streets but to get people on bicycles. He stated the committee was impressed with their approach and presentation. He stated this is a form of economic development in that it provides incentives to get people to move and live here. Mr. Sanders agreed stating it speaks to a quality of life.

After discussion, **Council Member Smith moved City Council to direct staff to enter into a contract with Kimley Horn to complete a Bicycle Plan for the City of Hendersonville for an amount not to exceed \$50,000. A unanimous vote of the Council followed. Motion carried.**

10. Consideration of Amendments to the Special Event Application Process and Policy

Revisions: Mr. Lew Holloway reported the Downtown Advisory Committee, in concert with the City's Special Event Committee, developed a revised special event application and updated the City's Special Event Policy. The changes made to the policy are reflective of an effort to clarify the policy and gather additional information in the application process that will allow for a comprehensive picture of a proposed event and help event organizers navigate the opportunities and challenges associated with downtown events.

Mr. Holloway reviewed the following additions to the new policy that provides additional information to the Special Events Committee as they consider the request:

- 1) The provision of information regarding past trends and future predictions for vendor participation and event attendance. This information is required.
- 2) The provision of information regarding marketing strategy and budget for the event. This information is required.
- 3) The provision of a sidewalk or street closure petition which elicits the support of effected business owners anytime there is a street or sidewalk closure request. This is only required for for-profit event sponsors, non-profits may elect to bypass this, although the policy recommends that they pursue stakeholder support.

This information will be provided to the Council to aid in the decision and serves to inform business owners in the impacted blocks and get their feedback. Mr. Connet stated this is a means to provide information to the businesses that are impacted; they will have more knowledge because they have no notification now. There was discussion on the business response if they do not support the closure. Businesses will have the opportunity to express their opinion at a Council meeting or Special Events Committee meeting.

Mr. Holloway explained the policy contains information that interprets the new criteria for those considering an event closure. It lays out the event for the Special Events Committee and event coordinators. It also provides grounds for denial of a request.

In discussion, the Council agreed to a change in the following: An event requiring significant street closures, i.e. 3 or more blocks, occurs within ten business days of an existing event which also requires significant street closures.

Council Member Smith moved the City Council adopt the revised Special Event Policy as presented by the Downtown Advisory and Special Event Committees. A unanimous vote of the Council followed. Motion carried.

11. Consideration of Changes to Azalea and Laughter Parking Lots - Funded by a Downtown Revitalization Grant: Mr. Connet reported the City received a grant for \$96,000 from the General Assembly for downtown revitalization. He proposed changes to the Azalea and Laughter parking lots.

Azalea Lot: Mr. Wooten provided an overview of the revitalization of the Azalea and Laughter parking lots. He stated this is make a much nicer environment for visitors and merchants. Improvements include decorative lighting, improvements to the entrance, and the closure of the entrance at King Street.

Mr. Holloway explained much of the design was driven by the improvements of the Maple Lot. He stated the layout is already maximized; there is no loss or gain in the number of spaces. Structural changes include movement of the sidewalk to the interior of the parking lot for a safe pedestrian aisle. Closure of the entrance close to King Street intersection is for safety reasons. This will allow more sight distance for drivers exiting the parking lot. Council Member Miller asked if delivery trucks that use the alley will be able to make that movement. Mr. Holloway stated yes, the entrance will be widened to allow for two-way entrance and exit.

Mr. Hazzard explained the trees will be replaced with smaller understory trees, and shrubbery will be added. He stated the entrance was relocated for pedestrian safety as well. Mr. Holloway reported there is support from businesses close to the entrance. Staff is planning to move one kiosk to the Azalea Lot from the Dogwood Lot.

Mr. Connet explained the ownership of the spaces in front of the business is being researched. Mr. Holloway stated the initial conversations with the property owner were positive.

There was discussion of whether the parking kiosk may be converted to a method of numbered spaces. Staff will research whether this change may be made to the existing kiosks.

Mayor Volk asked if stop blocks will be installed to prevent the blocking of the sidewalk. Mr. Wooten stated yes.

Laughter Lot: Mr. Hazzard reviewed the plan for the Laughter Lot stating it is not wide enough for a back out movement and will be one-way movement. He presented a plan with angled parking which allows vegetation. There was discussion of a true curb cut in that location, removing the last space and widening the opening to prevent driving into Miller's Fine Dry Cleaning lot. Staff will provide a mock-up for Council's consideration.

Mr. Wooten reviewed the two-month schedule for the work which will begin the last week in January, weather-dependent. **No action was taken by the council.**

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

13. Comments from Staff

A. Reminder of Council Planning Retreat: February 11-12, 2016: Mr. Connet stated the retreat will begin at 6:00 p.m. with dinner on February 11 at City Hall, and continue at 8:00 a.m. on February 12 at the Chamber of Commerce on Kanuga Road.

B. Stakeholders Meeting for Ninth Avenue Area: Mr. Connet reported the traffic study has begun. Invitations and letters will be sent out to parents of students, residents, etc. to participate in a community stakeholder's meeting. There was discussion of on-line surveys, phone calls and e-mails. **No action was required or taken.**

14. Consideration of Appointments to Boards and Commissions:

A. Bicycle Plan Steering Committee: Ms. Anderson explained the City received a grant from the NCDOT to complete a study and bicycle plan for the City. She asked the Council to determine the size of the committee and appoint individuals to it. She stated Planning staff will provide staff support to the Committee.

After discussion, **Council Member Smith nominated the following members for the Bicycle Plan Steering Committee: Council Member Jerry Smith, Bernard Fox, Clarence Oakman, Dan Kealy, Joe Sanders, Joel Setzer, Ken Shelton, Laura Rice, Shawn Watkins, Tim Hopkin, Garrett Gardin, Tristin Winkler and Tom Wooten. A unanimous vote of the Council followed. Motion carried.**

B. Tree Board: Mayor Pro Tem Caraker nominated Richard Baxter for another term on the Tree Board. He also nominated Patricia Christie and Mark Madsen for a three-year term on the Tree Board. A unanimous vote of the Council followed. Motion carried.

City Clerk Tammie Drake reported Mr. Coggins resigned from the Planning Board and there were two resignations from the Board of Adjustment of which the Council appoints only one. She also reported Ms. Tyler also resigned from the Historic Preservation Commission. She also reminded the Council of the vacancies on the Environmental Sustainability Board.

18. New Business: There was none.

19. City Manager Request for Closed Session: At 8:30 p.m., Mayor Pro Tem Caraker moved that the City Council enter closed session in accordance with 143-318.11 (11)(5) to establish or instruct the staff concerning the position to be taken by or on behalf of the City Council on negotiating for the acquisition of real property, and security. A unanimous vote of the Council followed. Motion carried.

The Council discussed the possibility of purchasing property and advised staff on negotiating the price and security plans for City facilities.

20. Adjournment: Being no further business, the meeting adjourned at 9:26 p.m. upon unanimous assent of the Council.

Barbara G. Volk, Mayor

Tammie K. Drake, City Clerk