

April 6, 2017
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: Jeff Miller, Jerry Smith, and Ron Stephens

Staff Present: City Manager John F. Connet, City Attorney Sam Fritschner, City Clerk Tammie Drake, Assistant to the Manager Brian Pahle, Senior Planner Matt Champion, Engineering Director Brent Detwiler, Development Assistance Director Susan Frady, Human Resources Director Jennifer Harrell, Planner Daniel Heyman, Chief Joseph Vindigni, Pam Ludwig, Public Works Director Tom Wooten

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

2. Invocation and Pledge of Allegiance: 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.*

Margaret Stern, 2540 Greater Druid Hills Boulevard, thanked the City Manager and the Director of Emergency Services for addressing her concern of pollution and noise relating to the Emergency Services Building. She said the matter was handled nicely and expressed her appreciation.

Elisha Freeman, Executive Director of Children & Family Resource Center, 1805 Lower Ridgewood Boulevard, expressed appreciation for last year's grant that funded: PREP – a program that screens three and four year olds for delays. Of the 1,030 screened, 147 children were found which delays which they hope to correct before kindergarten.

4. Consideration of Agenda:

Mr. Connet requested a Closed Session to consult with the Attorney:

Mayor Pro Tem Caraker moved City Council's approval of the agenda as amended. A unanimous vote of the Council followed. Motion carried.

5. Consideration of Consent Agenda: *Consent agenda items are considered routine, non-controversial in nature and are considered and disposed of through a singular motion and vote.*

A. Consideration of Minutes:

February 23, 2017 Special Meeting
March 2, 2017 Regular Meeting
March 27, 2017 Special Meeting

B. Consideration of Delegates to the Land-of-Sky Regional Council: City Clerk Tammie Drake reported the Land-of-Sky Regional Council requested the certification of the City's delegates and alternates to Land of Sky Regional Council. Their bylaws require governing board approval annually of the delegates. The following delegates represent the City:

Primary Delegate: Mayor Barbara G. Volk
Alternate Delegate 1: Mayor Pro Tem Steve Caraker
Alternate Delegate 2: City Manager John Connet

C. Consideration of Property Tax Releases, Adjustments, Etc.: Ms. Tammy Holland, Tax Collector, submitted tax bill adjustments occurring between 07-01-15 – 02-28-17. These adjustments include all discoveries, releases, refunds, and forgiven interest. Discoveries and releases are assessed by the Henderson County Tax Department. Interest is forgiven only when a payment is postmarked prior to beginning of the month but processed after the beginning of the month. Refunds are given for overpayment of tax bill or for changes or corrections in tax value as provided by the county.

SUMMARY TOTAL OF DISCOVERIES, RELEASES, REFUNDS, AND FORGIVEN INTEREST

FOR TRANSACTIONS AS OF 2/28/2017

July 1st 2015 thru Feb 28 2017			
DISCOVERIES	\$		173,694.87
RELEASES	\$		(39,358.57)
REFUNDS	\$		(137,281.49)
FORGIVEN INTEREST	\$		(2,231.53)
TOTAL TAX BILL ADJUSTMENT:	\$		<u>(5,176.72)</u>

Discoveries and Releases provided by Henderson Coun
 Interest is forgiven when payment is postmarked prior to beginning of month but processed after the beginning of mo
 Refunds are given for overpayment of tax bill or for changes in tax value provided by the cou
 ** Complete listing of above items can be obtained from the Tax Offi

Adjustment Descriptions
<i>Clerical error G.S. 105-381(a)(1)(a): e.g. when there is an actual error in mathematical calculation.</i>
<i>Illegal tax G.S. 105-381(a)(1)(b): e.g. when the property should have been billed in another county, an incorrect name was used, or an incorrect rate code was used.</i>
<i>Tax levied for an illegal purpose G.S. 105-381(a)(1)(c): e.g. charging a tax that was later deemed to be impermissible under State law.</i>
<i>Appraisal appeal G.S. 105-330.2(b)</i>

D. Consideration of Confirmation that the City will Provide the Required 20 Percent Match for the 2023 Blythe Street Pedestrian/Bicycle Project: Mr. John Connet, City Manager, explained the Draft 2018-2027 NCDOT State Transportation Improvement Plan (STIP) includes a bicycle and pedestrian project for the portion of Blythe Street between US Highway 64 and NC Highway 191. In order to complete the project the City of Hendersonville will be required to provide a 20% match (\$192,000). The project is scheduled to begin in 2023. The match will be included in future Capital Improvements. NCDOT has requested a letter confirming that Hendersonville will provide the 20% match.

E. Consideration of Budget Amendments

- i. Salary - Uniforms Allowance, Funds: 10-General, 60-Water/Sewer, & 68-Environmental Services, No change in bottom line budget; shifts funds from uniforms account into the allowance account to better reflect the expenditure.
- ii. Friends of Downtown 501(c)3, Fund 20-Downtown Fund Balance, \$12,500 to support the various events and programs provided by the organization.
- iii. Transfer to General Fund, Fund 140 Increase of \$1,217, Fund 150 Increase of \$2,126, Fund 180 Increase of \$699. Transfers remaining funding in three special revenue funds in order to operate the programs out of the General Fund.
- iv. Electric Vehicle Charging Station, General Fund, Increase of \$5,000, to record the contribution from Duke Energy for an electric vehicle charging station.

F. Consideration of Utility Line Extension Agreement for Sherman Meadows: Mr. Lee Smith, Utilities Director, explained the Sherman Meadows project requires an extension of the water system to provide service to six single-family residential units located north of East Blue Ridge Road. The project will consist of 761 linear feet of two-inch SDR21 PVC. The maximum daily demand for this project will be approximately 2,400 gallons per day. This proposed development will be served by individual septic systems upon approval of the Henderson County Department of Public Health. The entire cost of the proposed utility extension is to be paid for by Todd Sherman of 217 Leverette Dr., Hendersonville. This project is within the zoning and planning jurisdiction of Henderson County and received approval on March 6, 2017.

G. Consideration of Special Event Permits for:

- i. **Vintage Hendo:** Mrs. Frady reported the Special Events Committee unanimously recommended approval of a special event permit for Vintage Hendo. The change is that Locust Street will be closed from Bearcat Boulevard to Track Street rather than just to Eighth Avenue. All alcohol will be sold on the Southern Appalachian Brewery Property.
- ii. **Mad Mountain Mud Run and Family Mud Run:** Mrs. Frady reported the Special Events Committee unanimously recommended approval of a special event permit for Mad Mountain Mud Run. The event will be held at Berkeley Mills Park and quarry. The family mud fun will be held on Friday night and will include dinner and music with family mud games. The mud run will be held on Saturday and will include a festival. The application includes approval of the designated area for the consumption of alcohol. The area will be the same as last year and encompasses about 40,000 square feet to the west of the baseball field, including the picnic shelter, rest rooms and stage. Approval of the area authorizes the sponsors to serve alcohol at Berkeley Park in the specified area in conjunction with the special event permit. The Police Department reported there were no problems with the alcohol consumption at this event last year. The event pays for three off-duty police officers.

H. Consideration of a Fraud and Whistleblower Policy: Finance Director Lisa White presented a policy for Council’s approval that establishes guidelines to enforce controls to aid in the prevention and detection of fraud and for responding to allegations of embezzlement, theft, misappropriations of public funds or property, and other types of fraud related to the business of the City of Hendersonville. She stated staff believes adoption of this policy will promote consistent organizational behavior by providing guidelines and assigning responsibility for the development of controls and the conduct of investigations. She explained the

goal is to establish and maintain an environment of fairness, ethics, and honesty for employees, our citizens, our suppliers, and any other person(s) or organizations(s) engaging in business on behalf of the City. Additionally, she explained it is a new requirement of a federal grant that requires the City have a Whistleblower Policy.

Fraud and Whistleblower Policy

Purpose and Scope

The City of Hendersonville recognizes the importance of protecting the City, its taxpayers, its employees, and its assets against financial risks, operational breaches and unethical activities. This policy establishes guidelines to enforce controls to aid in the prevention and detection of fraud and for responding to allegations of embezzlement, theft, misappropriations of public funds or property, and other types of fraud related to the business of the City of Hendersonville.

It is the intent of the City Council to promote consistent organizational behavior by providing guidelines and assigning responsibility for the development of controls and the conduct of investigations. Our goal is to establish and maintain an environment of fairness, ethics, and honesty for our employees, our citizens, our suppliers, and any other person(s) or organizations(s) engaging in business on behalf of the City. To maintain such an environment requires the active assistance of every employee every day.

Policy

For purposes of this policy, fraud includes any willful or deliberate act committed with the intention of obtaining an unauthorized benefit, such as money or property, by misrepresentation, deception, or other unethical means.

The City is committed to upholding the public trust. All employees are expected to support this policy by avoiding behaviors and actions that could be perceived as fraud. Further, employees are expected to support efforts meant to prevent and detect such activities. Proper internal controls are designed to prevent fraud and require that transactions are properly authorized, recorded, and reported, and that all assets are safeguarded. Accordingly, internal controls that are appropriate and adequate, given the size and nature of operations at the City will be maintained.

Department heads and supervisors have an even greater responsibility to uphold the City's policy. They are responsible for initiating preventative measures when appropriate as well as being familiar with the types of improprieties that might occur within their areas of responsibility and being alert for any indication of fraud.

Management will assess the vulnerability of the City to fraudulent activity, including financial statement fraud, misappropriation of assets and corruption. The City will conduct fraud risk meetings on a regular basis (at least once a year, and more often as conditions warrant) to include management, employees and Council members as deemed necessary.

In observance of this policy, as in other acceptable business conduct, there is no substitute for sound professional judgement. Each employee should apply this policy with common sense and seek full compliance by reporting any irregularity that is detected or suspected that could be perceived as fraud.

The policy of the City is zero tolerance to fraud. All fraud will be investigated and followed up by the application of all remedies available within the full extent of the law.

Actions Constituting Fraud

For purposes of this policy, the following acts will be referred to as "Fraud", but are not limited to:

- Any dishonest or fraudulent act
- Misappropriation of funds, securities, supplies, or other assets
- Claim for reimbursement of expenses that are not job-related or authorized under current policies
- Impropriety in the handling or reporting of money or financial transactions
- Forgery or intentional and inappropriate alteration of a check, bank draft, or any other financial document
- Profiteering as a result of insider knowledge of City operations
- Disclosing confidential information to other parties
- Accepting or seeking anything of material value from vendors, contractors, or other parties in exchange for or to induce favorable consideration concerning services, materials, supplies, equipment, or other work provided to the City
- Destruction, disappearance, or inappropriate use of records, furniture, fixtures, or equipment
- Any act of embezzlement, theft, misappropriation or fiscal irregularities

Confidentiality

An employee or citizen who suspects fraud should immediately follow the procedures referred to in this policy, and should not attempt to conduct investigations or interviews/interrogations related to the suspected fraud personally. (Refer to Reporting Procedures section below).

In order to protect the reputations of innocent parties, to avoid potential civil liability, and to protect the possibility of recovery, activities associated with ongoing investigations will be discussed with parties affiliated with the City who have a need to know and with representatives of law enforcement and/or regulatory agencies.

Reporting Procedures for Employees

Employees must exercise professional and mature judgement in reporting suspected fraud as to avoid wrongful accusations or compromising a potential investigation.

1. Employees shall read and understand this policy. Additionally, suspected or known fraudulent acts by employees shall be immediately reported to the City Manager directly. If necessary, the Police Department or other law enforcement and/or regulatory agencies will be notified of each reported incident and will keep the City Manager abreast of the investigation. The City Manager is responsible for carrying out the full investigation and documentation of suspected fraud for each incident.
2. In certain justified circumstances, an employee may direct suspected or known fraudulent acts to the City Manager by an anonymous letter to the City Manager.

3. Supervisors and department heads shall a) communicate the provisions of this policy to all staff; b) take no action without consulting the City Manager; c) recommend appropriate disciplinary action when there is evidence of wrongdoing; and d) if suspension or termination is recommended, consult with the Human Resources Director.
4. All participants in the fraud investigation shall keep the details and results of the investigation confidential. The reporting individual should be informed of the following: a) Do not contact the suspected individual in an effort to determine facts or demand restitution and b) Do not discuss the case, facts, suspicions, or allegations with anyone unless specifically asked to do so by the Police Department or Legal Department.
5. Any employees reporting an act of fraud, or assisting, testifying or participating in a fraud investigation, acting in accordance with the requirement of this policy, shall not be subject to any adverse employment action unless it is determined the employee is culpable for such action and/or made an allegation knowing it was false.

Reporting Procedures for the General Public

We encourage citizens, suppliers, and any other person(s) or organizations(s) engaging in business on behalf of the City to also come forward with any suspicion of fraudulent acts. Written notifications can be addressed to the City Manager and delivered in person or by mail to the following address:

City of Hendersonville
Attn: City Manager - Confidential
145 5th Avenue East
Hendersonville, NC 28792

Acting in Good Faith

Anyone reporting any irregularity that is detected or suspected must be acting in good faith and have reasonable grounds for believing the information provided. Allegations made maliciously or with knowledge of their falsity will not be tolerated. False allegations of suspected fraud with the intent to disrupt or cause harm to another may be subject to disciplinary action up to and including termination of employment.

Whistleblower Protection

City of Hendersonville Council, management or employees may not retaliate against a whistleblower for reporting an activity which that person believes to be fraudulent or dishonest with the intent or effect of adversely affecting the terms and conditions of employment (including, but not limited to, threats of physical harm, dismissal, transfer to an undesirable job assignment, demotion, suspension, or impact on salary or wages). A whistleblower is defined as an employee who informs a supervisor, or department head about an activity which that person believes to be fraudulent or dishonest.

Whistleblowers who believe they have been retaliated against may file a written complaint to the City Attorney. Any complaint of retaliation will be promptly investigated by the City Attorney and reported to City Council. City Council will determine if appropriate remedial measures should be taken if allegations of retaliations are proven. This protection against retaliation is not intended to prohibit management from taking action, including disciplinary action, in the usual scope of their duties and on the basis of valid performance-related factors.

Post Investigation Results and Action

If an investigation results in a recommendation to pursue internal discipline, civil and/or criminal fraud proceedings, the recommendation must be reviewed and approved by the Human Resources Director and the City Attorney. The City Attorney will determine whether the recommendation and results of the investigation warrant civil and/or criminal actions and will initiate disclosure to the proper law enforcement or other entities.

Employee Acknowledgment

Department heads will be expected to discuss this policy with all current and new City employees. All permanent, temporary and contract employees, full and or part-time will be required to read, understand, abide by and follow the City of Hendersonville Fraud and Whistle Blower Policy.

A copy of this signed form will be submitted to Human Resources and placed in each employee's file.

This policy adopted by the City Council at a regular meeting held the sixth day of April 2017.

/s/Barbara G. Volk, Mayor

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

I. Consideration of a Petition from Mr. Dustin Beach Requesting Satellite Annexation of a Parcel Located at 1398 Stanwood Lane: Ms. Frady reported the City received a petition from Dustin Beach for a satellite annexation of 0.902 acres of the property identified as Parcel Identification Number 9568-41-6870 located at 1398 Stanwood Lane. This annexation application is related to a sewer service request. The map distance from the proposed satellite corporate limits is 425 feet from the primary corporate limits. The total area within the satellite corporate areas, including land involved in this petition, constitutes 3.6 percent of the area within the primary corporate limits.

The Clerk's Certificate of Sufficiency finding the petition is valid was presented. The next step in the annexation process is to accept the Clerk's certificate and set a date for the public hearing. The public hearing is proposed for May 4, 2017.

J. Consideration of a Reimbursement Resolution for the Wastewater Treatment Plant Sludge Drying System Project: Assistant to the City Manager Brian Pahle presented a reimbursement resolution for the WWTP Sludge Drying System project. This multi-year fund will be financed through a debt issuance in projected year FY 19-20. However, there are initial design costs that are occurring in FY16-17. He requested Council adopt a reimbursement resolution to pay for small portions of this project without incurring

the debt service note and paying principal and interest on a project that is not in the ground yet. He explained this is a standard practice in financing major projects.

Resolution #17-0421

HENDERSONVILLE, NORTH CAROLINA
DECLARATION OF OFFICIAL INTENT TO REIMBURSE

BE IT RESOLVED by the City Council of the City of Hendersonville, North Carolina, this declaration (the "Declaration") is made pursuant to the requirements of the United States Treasury Regulations Section 1.150-2 and is intended to constitute a Declaration of Official Intent to Reimburse under such Treasury Regulations Section.

The undersigned is authorized to declare the official intent of HENDERSONVILLE, North Carolina (the "Issuer") with respect to the matters contained herein.

Expenditures to be Incurred. The Issuer anticipates incurring expenditures (the "Expenditures") for THE ACQUISITION, CONSTRUCTION, AND INSTALLATION OF THE WWTP SLUDGE DRYING SYSTEM PROJECT, ORDINANCE #17-0211 (the "Project").

Plan of Finance. The Issuer intends to finance the costs of the Project with the proceeds of debt to be issued by the Issuer (the "Borrowing"), the interest on which is to be excluded from gross income for Federal income tax purposes.

Maximum Principal Amount of Debt to be Issued. The maximum principal amount of the Borrowing to be incurred by the Issuer to finance the Project is \$4,109,000.00.

Declaration of Official Intent to Reimburse. The Issuer hereby declares its official intent to reimburse itself with the proceeds of the Borrowing for any of the Expenditures incurred by it prior to the issuance of the Borrowing.

ADOPTED by the City Council of the City of Hendersonville, North Carolina, on this sixth day of April, 2017.

/s/Barbara G. Volk, Mayor

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

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

6. Recognitions:

A. Proclamation: Community Partnership for Pets, Inc., Michael and Mary Cervini: Mayor Barbara Volk presented a proclamation and expressed appreciation to Michael and Mary Cervini for their work associated with the Community Partnership for Pets, Inc. She proclaimed April 7, 2017 as **Michael and Mary Cervini/Community Partnership for Pets Day** in the City of Hendersonville.

Council Member Miller asked if spay and neuter programs will be continued through other sources. Ms. Cervini explained other spay and neuter programs are available. The surgeries through CPPI were done by local veterinarians keeping the money in county. They did not transport the animals for the surgery. Council Member Miller commented on securing on-going funding for Community Partnership for Pets, Inc. He requested Mr. Connet and Mr. John Mitchell begin discussions and issued a challenge to keep this going. Mayor Pro Tem Caraker stated he has received more positive comments about CPPI than any other special appropriation. He stated it is a great return for the investment and he would support it going forward. He also agreed it would be great for the City and County to work on this together.

B. Proclamation: Week of the Young Child: Mayor Barbara Volk presented a proclamation for Week of the Young Child to Elisha Freeman, Executive Director of the Children and Family Resource Center.

C. Water and Sewer Customer Service Team: City Manager John Connet and Customer Service Supervisor Tammy Holland explained the steps they have put into place to improve customer service. She recognized and expressed appreciation to the employees of the Customer Service Team. The team includes: Alex Templeton, Brandy Lemieux, Caitlyn Elliott, Chastity Daugherty, Donna Fox, Faye Kearney, Melinda Lunsford, Sarah Winters, and Sarah Wykle. Mr. Connet echoed his appreciation.

D. Police Department Recognition: Police Chief Herbert Blake presented Detective Brandon McGaha with the North Carolina Criminal Justice Education and Training Standards Commission Advanced Law Enforcement Certificate.

E. Police Department Introductions: Police Chief Herbert Blake introduced recently-hired Reserve Police Officer Isiah Young and Police Officer Andrew Gunnin.

7. Update on Cold Weather Policy - "Code Purple" or "Code Grace": City Manager John Connet reviewed the memorandum agreement between the Hendersonville Rescue Mission and Joseph's Ministry. Code Grace will be implemented when the temperature falls below 38 degrees. The intake hours at the Rescue Mission will be extended to 9 p.m. He reported the Hendersonville Rescue Mission agreed to eliminate barriers more when the temperature reaches 20 degrees or less. He explained Joseph's Ministry worked with the Hendersonville Rescue Mission and found a solution with existing capacity. Mayor Pro Tem Caraker complimented work of Rev. Austin Watson for his concerns and reaching an agreement. Rev. Austin Watson, Chairman of Joseph's Center, Seventh Avenue, expressed appreciation to City Manager John Connet for working on a solution. **No action was taken by the Council.**

8. Public Hearing - Consideration of an Application from Robert D. Edney Requesting Contiguous Annexation of a 0.39-acre Parcel Located at 1102 Old Spartanburg Highway:

Development Assistance Director Susan Frady presented the petition from Robert D. Edney for contiguous annexation of parcel 9578-33-4700 containing .39 acres located at 1102 Old Spartanburg Highway. This annexation application is related to a sewer service request.

Mrs. Frady reported the City Council accepted the Clerk's Certificate of Sufficiency at their March 2, 2017 meeting and recommended a public hearing for the April 6, 2017, City Council meeting. She explained at this public hearing, any person residing in or owning property in the area proposed for annexation and any resident of Hendersonville may appear and speak on the questions of the sufficiency of the petition and the desirability of the annexation. If City Council then finds and determines that the area described in the petition meets all of the standards set out in G.S. 160A-31, they may adopt an ordinance annexing the area described in the petition.

Mayor Volk opened the public hearing at 6:19 p.m. No one expressed a desire to speak. The public hearing was closed.

Mayor Pro Tem Caraker moved the City Council adopt an ordinance annexing the property included in the petition from Robert D. Edney effective April 6, 2017. A unanimous vote of the Council followed. Motion carried.

Ordinance #17-0422

**AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE
CITY OF HENDERSONVILLE, NORTH CAROLINA
Robert D. Edney**

WHEREAS, the City of Hendersonville has been petitioned, pursuant to North Carolina General Statutes (NCGS) 160A-58.1, as amended, to annex the area described herein; and,

WHEREAS, the City Council has by resolution directed the City Clerk to investigate the sufficiency of said petition; and,

WHEREAS, the City Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation was held at City Hall, Hendersonville, N.C. at 5:45 p.m., on the sixth day of April 2017, after due notice by publication as by law provided; and,

WHEREAS, the City Council further finds the areas described therein meets the standards of G.S.

160A-58.1(b), to wit:

- a. The area is contiguous to the present City boundaries;
- b. The petition presented to the City Council was signed by the owners of the real property located in the area;
- c. The petition was prepared in accordance with a form prescribed by NCGS 160A -31, and
- d. At the public hearing all persons owning property in the area to be annexed who allege an error in the petition were given an opportunity to be heard, as well as residents of the City who question the necessity for annexation.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Hendersonville, North Carolina:

Section 1. By virtue of the authority granted by G.S. 160A-58.1, as amended, the following described area is hereby annexed and made part of the City of Hendersonville as of the sixth day of April 2017.

DESCRIPTION OF PROPERTY: Being located within the Hendersonville Township - Henderson County, North Carolina and being more particularly described as follows:

TRACT ONE: BEGINNING on a stake at the intersection of the northern margin of Old Spartanburg Highway with the eastern margin of Lullwater Street (now Beverly Avenue), and running thence with the eastern margin of Lullwater Street (now Beverly Avenue), North 21 deg. 15 min. East 142.5 feet to the north side of a retaining wall; thence leaving the road and running with the north side of said wall, South 68 deg. 45 min. East 75 feet to a stake In the line of Lot 65 of Forest Lawn Subdivision; thence with the line of Lot 65 and Lot 1 of said subdivision, South 21 deg.15 min. West 142.5 feet to a stake in the northern margin of Old Spartanburg Highway; thence with said margin or said Old Spartanburg Highway, North 68 deg. 45 min. West 75 feet to the point and place of BEGINNING.

TRACT TWO: BEGINNING at a stake in the northern margin of Old Spartanburg Highway, westernmost corner of Lot 1 of Forest Lawn Subdivision as shown on plat thereof recorded In the Office of the Register of Deeds for Henderson County, North Carolina In Map Book 4 at Page 65, and reindexed In Plat Cabinet B, Slide 323, Henderson County Registry and running thence from said Beginning point with the line of Tract One as above described, North 21 deg.15 min. East 120 feet to a stake; thence South 88 deg. East 55 feet to a stake in the line of Lot 3 of said subdivision; thence with the line of said lot, South 21 deg.15 min. West 120 feet to a stake, southwestern corner of Lot 3 In the northern margin of Old Spartanburg Highway; thence with the northern margin of Old Spartanburg Highway, North 68 deg. West 55 feet to the point and place of BEGINNING. Being Lots 1 and 2 as shown on Plat Cabinet B, Slide 323, Henderson County Registry, EXCEPT a 5 foot wide strip adjoining Lot 65.

Section 2. Upon and after the sixth day of April 2017, the above described territory, and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Hendersonville, and shall be entitled to the same privileges and benefits as other parts of the City of Hendersonville. Said territory shall be subject to municipal taxes according to NCGS 160A-31, as amended.

Section 3. The City Clerk of the City of Hendersonville shall cause to be recorded in the office of the Register of Deeds of Henderson County and at the Office of the Secretary of State in Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1, hereof, together with a duly certified copy of this ordinance.

ADOPTED this sixth day of April 2017.

/s/Barbara G. Volk, Mayor

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

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



9. Public Hearing – Consideration of an Application from The Housing Assistance Corporation Requesting Contiguous Annexation of a Portion of Parcels Containing 0.147 acres Located off of N. Main Street: Mrs. Frady presented a petition from The Housing Assistance Corporation for contiguous annexation of a portion of parcel numbers 9569-85-1339, 9568-85-1371, 9569-85-3107, 9569-85-3170 and 9569-85-4043 containing approximately 0.147 acres located off of N. Main Street.

Mrs. Frady explained the City Council adopted an order permanently closing a portion of an unopened 20-foot right-of-way at its meeting of January 5, 2017. This petition is to annex the western ten feet of this property that is now owned by The Housing Assistance Corporation.

Mrs. Frady reported the Council accepted the Clerk's Certificate of Sufficiency at their March 2, 2017 meeting and set a public hearing for the April 6, 2017, City Council meeting. She explained at this public hearing, any person residing in or owning property in the area proposed for annexation and any resident of Hendersonville may appear and speak on the questions of the sufficiency of the petition and the desirability of the annexation. If City Council then finds and determines the area described in the petition meets all of the standards set out in G.S. 160A-31, they may adopt an ordinance annexing the area described in the petition.

Mayor Volk opened the public hearing at 6:21 p.m. No one expressed a desire to speak. The public hearing was closed.

Mayor Pro Tem Caraker moved the City Council adopt an ordinance annexing the property included in the petition from The Housing Assistance Corporation effective April 6, 2017. A unanimous vote of the Council followed. Motion carried.

Ordinance #17-0423

**AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF HENDERSONVILLE, NORTH CAROLINA
Housing Assistance Corporation**

WHEREAS, the City of Hendersonville has been petitioned, pursuant to North Carolina General Statutes (NCGS) 160A-58.1, as amended, to annex the area described herein; and,

WHEREAS, the City Council has by resolution directed the City Clerk to investigate the sufficiency of said petition; and,

WHEREAS, the City Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation was held at City Hall, Hendersonville, N.C. at 5:45 p.m., on the sixth day of April 2017, after due notice by publication as by law provided; and,

WHEREAS, the City Council further finds the areas described therein meets the standards of G.S. 160A-58.1(b), to wit:

- a. The area is contiguous to the present City boundaries;
- b. The petition presented to the City Council was signed by the owners of the real property located in the area;
- c. The petition was prepared in accordance with a form prescribed by NCGS 160A -31, and

d. At the public hearing all persons owning property in the area to be annexed who allege an error in the petition were given an opportunity to be heard, as well as residents of the City who question the necessity for annexation.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Hendersonville, North Carolina:

Section 1. By virtue of the authority granted by G.S. 160A-58.1, as amended, the following described area is hereby annexed and made part of the City of Hendersonville as of the sixth day of April 2017.

DESCRIPTION OF PROPERTY: Being located within the Hendersonville Township - Henderson County, North Carolina and being more particularly described as follows:

Beginning at a #4 Rebar with McAbee ID Cap Set bearing NC Grid Coordinates (NAD83-Epoch 2011) of: Northing= 595,036.06' and Easting" 968,519.39'; thence following the Eastern Lines of Lots 8-12 and 20 (said Lots being recorded on Plat Slide 10082) North 45°34'50" West 649.96 feet to a calculated point located in the Southern Margin of North Main Street (SR 1503); thence turning and following the said Margin of North Main Street South 88° 19'10" East 14.73 feet to a calculated point; thence South 45°34'50" East 626.68 feet to a calculated point; thence South 06°49'25" East 15.97 feet to the Point and Place of Beginning. Containing 0.147 Acres/ 6383 Square Feet

Section 2. Upon and after the sixth day of April 2017, the above-described territory, and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Hendersonville, and shall be entitled to the same privileges and benefits as other parts of the City of Hendersonville. Said territory shall be subject to municipal taxes according to NCGS 160A-31, as amended.

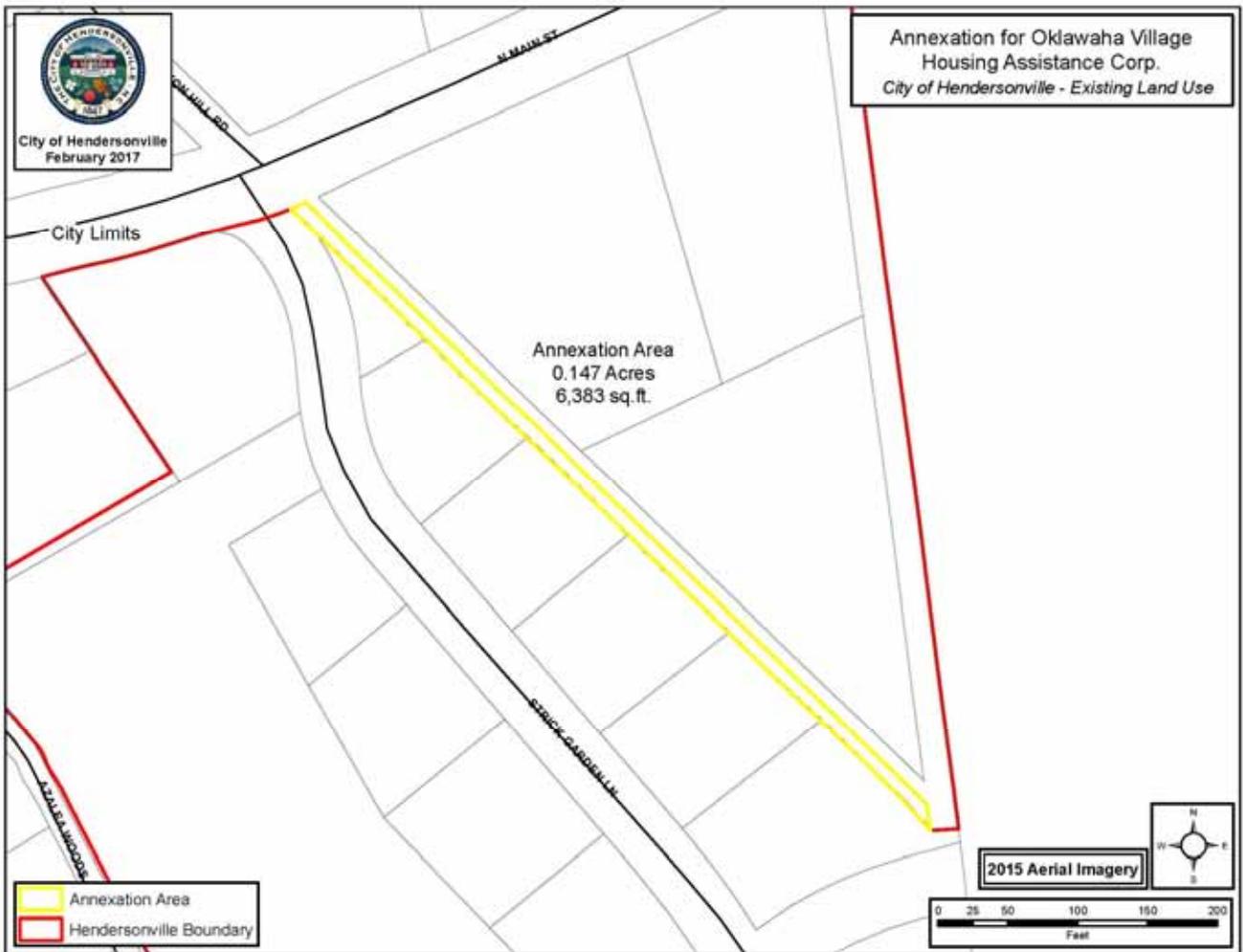
Section 3. The City Clerk of the City of Hendersonville shall cause to be recorded in the office of the Register of Deeds of Henderson County and at the Office of the Secretary of State in Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1, hereof, together with a duly certified copy of this ordinance.

ADOPTED this sixth day of April 2017.

/s/Barbara G. Volk, Mayor

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

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



10. Public Hearing – Consideration of an Application from Jere and Mary Hyder for Contiguous Annexation of a Parcel Containing 10.22 acres located at 1500 N. Main Street: Mrs. Frady presented the petition from Jere E. Hyder and Mary H. Hyder for contiguous annexation of parcel number 9569-74-0150 containing 10.22 acres located at 1500 N. Main Street. This annexation application is related to a sewer service request.

Mrs. Frady reported the Council accepted the Clerk's Certificate of Sufficiency at their March 2, 2017 meeting and set a public hearing for the April 6, 2017, City Council meeting.

Mrs. Frady explained at this public hearing, any person residing in or owning property in the area proposed for annexation and any resident of Hendersonville may appear and speak on the questions of the sufficiency of the petition and the desirability of the annexation. If City Council then finds and determines the area described in the petition meets all of the standards set out in G.S. 160A-31, Council may adopt an ordinance annexing the area described in the petition.

Mayor Volk opened the public hearing at 6:24 p.m. No one expressed a desire to speak. The public hearing was closed.

Mayor Pro Tem Caraker moved the City Council adopt an ordinance annexing the property included in the petition from Jere E. Hyder and Mary H. Hyder effective April 6, 2017. A unanimous vote of the Council followed. Motion carried.

Ordinance # 17-0424

**AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF
THE CITY OF HENDERSONVILLE, NORTH CAROLINA
Jere E. Hyder and Mary H. Hyder**

WHEREAS, the City of Hendersonville has been petitioned, pursuant to North Carolina General Statutes (NCGS) 160A-58.1, as amended, to annex the area described herein; and,

WHEREAS, the City Council has by resolution directed the City Clerk to investigate the sufficiency of said petition; and,

WHEREAS, the City Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation was held at City Hall, Hendersonville, N.C. at 5:45 p.m., on the sixth day of April 2017, after due notice by publication as by law provided; and,

WHEREAS, the City Council further finds the areas described therein meets the standards of G.S.

160A-58.1(b), to wit:

- a. The area is contiguous to the present City boundaries;
- b. The petition presented to the City Council was signed by the owners of the real property located in the area;
- c. The petition was prepared in accordance with a form prescribed by NCGS 160A -31, and
- d. At the public hearing all persons owning property in the area to be annexed who allege an error in the petition were given an opportunity to be heard, as well as residents of the City who question the necessity for annexation.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Hendersonville, North Carolina:

Section 1. By virtue of the authority granted by G.S. 160A-58.1, as amended, the following described area is hereby annexed and made part of the City of Hendersonville as of the sixth day of April 2017.

DESCRIPTION OF PROPERTY

Being located within the Hendersonville Township - Henderson County, North Carolina and being more particularly described as follows:

BEING THE PROPERTY DESCRIBED IN DEED BOOK 900, PAGE 525.

BEGINNING AT A CAPPED REBAR THE SOUTHEAST CORNER OF DEED BOOK 900, PAGE 525;

THENCE NORTH 41 DEGREES 04 MINUTES 40 SECONDS EAST A DISTANCE OF 1061.86 FEET PASSING A 1/2" IRON PIPE ONLINE AT A DISTANCE OF 1033.63 FEET TO A POINT IN THE CENTER LINE OF MUD CREEK SAID POINT STANDS NORTH 65 DEGREES 33 MINUTES 54 SECONDS WEST A DISTANCE OF 4437.26 FEET GROUND AND 4436.27 FEET GRID DISTANCE FROM N.C.G.S. "CINEMA" HAVING N.A.D. 83/86 COORDINATES OF NORTH-592582.75', EAST- 971691.78' WITH A COMBINED FACTOR OF 0.99977833; THENCE WITH THE CENTERLINE OF MUD CREEK THE FOLLOWING COURSES; THENCE NORTH 27 DEGREES 51 MINUTES 59 SECONDS WEST A DISTANCE OF 13.61 FEET TO A POINT; THENCE NORTH 35 DEGREES 11 MINUTES 17 SECONDS WEST A DISTANCE OF 163.47 FEET TO A POINT; THENCE NORTH 51 DEGREES 54 MINUTES 12 SECONDS WEST A DISTANCE OF 132.32 FEET TO A POINT; THENCE LEAVING CREEK SOUTH 50 DEGREES 35 MINUTES 21 SECONDS WEST A DISTANCE OF 122.81 FEET PASSING A #4 REBAR ONLINE AT 33.57 FEET TO A 1/2" IRON PIPE; THENCE SOUTH 59 DEGREES 31 MINUTES 33 SECONDS WEST A DISTANCE OF 197.45 FEET TO A P.K. NAIL; THENCE SOUTH 62 DEGREES 07 MINUTES 29 SECONDS WEST A DISTANCE OF 264.63 FEET TO A P.K. NAIL; THENCE SOUTH 55 DEGREES 29 MINUTES 14 SECONDS WEST A DISTANCE OF 84.01 FEET TO A POINT IN THE EASTERN MARGIN OF THE PAVEMENT OF NORTH MAIN STREET, S.R. 1503; THENCE SOUTH 37 DEGREES 49 MINUTES 26 SECONDS WEST A DISTANCE OF 69.26 FEET TO POINT IN THE CENTERLINE OF NORTH MAIN STREET AND CONTINUING; THENCE SOUTH 27 DEGREES 03 MINUTES 49 SECONDS WEST A DISTANCE OF 42.74 FEET TO A POINT; THENCE SOUTH 23 DEGREES 06 MINUTES 28 SECONDS WEST A DISTANCE OF 45.88 FEET TO A POINT; THENCE SOUTH 17 DEGREES 11 MINUTES 37 SECONDS WEST A DISTANCE OF 60.64 FEET TO A POINT; THENCE SOUTH 12 DEGREES 47 MINUTES 11 SECONDS WEST A DISTANCE OF 56.99 FEET TO A POINT; THENCE SOUTH 11 DEGREES 02 MINUTES 57 SECONDS WEST A DISTANCE OF 38.14 FEET TO A POINT; THENCE SOUTH 09 DEGREES 41 MINUTES 56 SECONDS WEST A DISTANCE OF 34.50 FEET TO A POINT; THENCE SOUTH 08 DEGREES 04 MINUTES 30 SECONDS WEST A DISTANCE OF 62.43 FEET TO A POINT; THENCE SOUTH 05 DEGREES 49 MINUTES 28 SECONDS WEST A DISTANCE OF 63.25 FEET TO A POINT; THENCE SOUTH 03 DEGREES 56 MINUTES 27 SECONDS WEST A DISTANCE OF 39.15 FEET TO A POINT; THENCE LEAVING SAID CENTERLINE OF ROAD SOUTH 48 DEGREES 04 MINUTES 21 SECONDS A DISTANCE OF 291.18 FEET PASSING A

#5 REBAR ONLINE AT 30.07 FEET TO A CAPPED REBAR; WHICH IS THE POINT OF BEGINNING; HAVING AN AREA OF 10.22 ACRES.

Section 2. Upon and after the sixth day of April 2017, the above-described territory, and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Hendersonville, and shall be entitled to the same privileges and benefits as other parts of the City of Hendersonville. Said territory shall be subject to municipal taxes according to NCGS 160A-31, as amended.

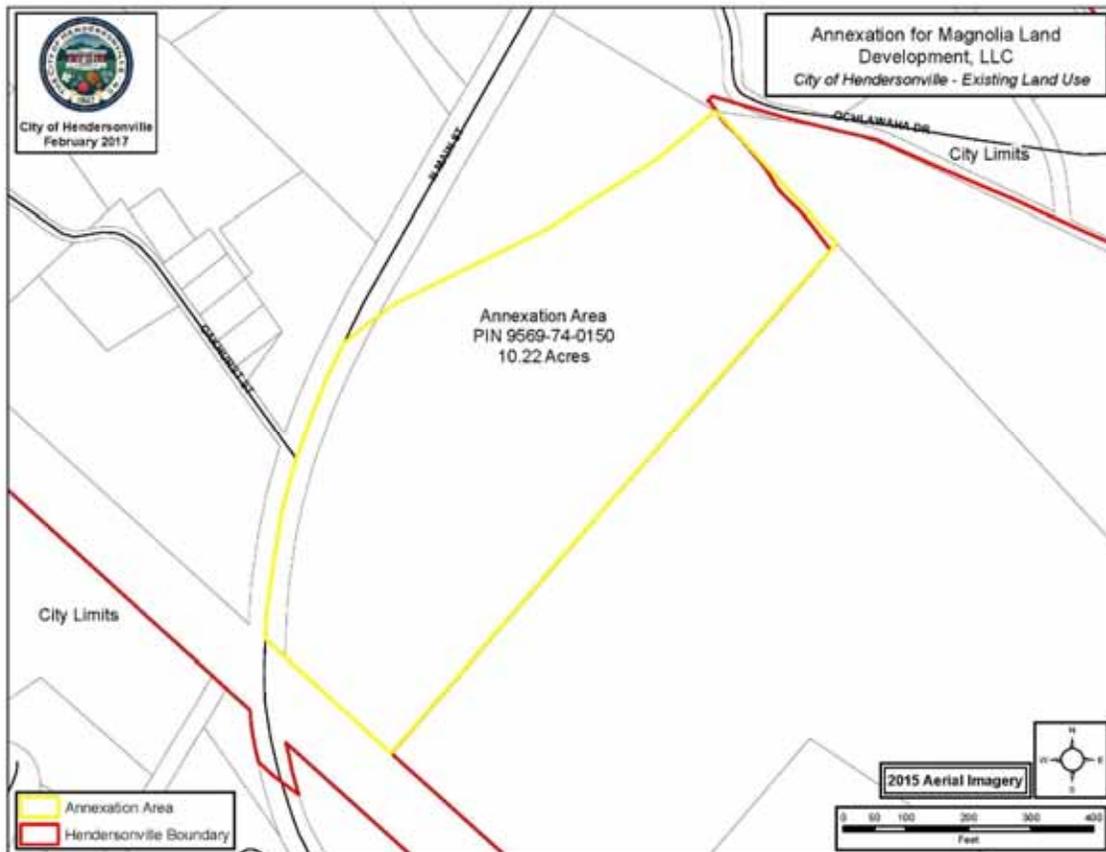
Section 3. The City Clerk of the City of Hendersonville shall cause to be recorded in the office of the Register of Deeds of Henderson County and at the Office of the Secretary of State in Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1, hereof, together with a duly certified copy of this ordinance.

ADOPTED this sixth day of April 2017.

Barbara G. Volk, Mayor, City of Hendersonville

Attest: Tammie K. Drake, CMC, City Clerk

APPROVED AS TO FORM: /s/Samuel H. Fritschner, City Attorney



11. Quasi-Judicial Public Hearing - Consideration of an Application for a Special Use Permit from Henderson County to Construct a 51,629 sq. ft. Building to be used as the Henderson County Emergency Services Headquarters and a 10,778 sq. ft. Storage Building to be Located at 2529 Asheville Highway and to Rezone the Parcel to Planned Institutional Development (PID): Mayor Volk reviewed the quasi-judicial procedures. She explained quasi-judicial public 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 desires, 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. There was none.

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.

Mayor Volk asked those wishing to speak to be sworn in. Seven persons were sworn in to provide testimony.

At 6:27 p.m., Mayor Volk opened the public hearing in accordance in North Carolina General Statutes by notice published in the Hendersonville Lightning.

Mrs. Frady introduced Senior Planner Matt Champion and Planner Daniel Heyman.

Senior Planner Matt Champion provided the following testimony:

The City of Hendersonville has received an application for a Special Use Permit from Henderson County to construct a 51,629 square foot building to be used as the Henderson County Emergency Services headquarters, and a 10,778 square foot storage building. An existing 4,325 square foot storage building is slated to remain.

As part of the project, the applicant is requesting the parcel be rezoned from R-15 Medium-Density Residential to PID Planned Institutional District. The project is found at the corner of US Highway 25 and Ashemore Avenue that is the site of the Balfour Education Center.

Adjacent parcels to the north, south, and west are zoned R-15 Medium-Density Residential and include single-family residences. Parcels to the east are zoned C-3 Highway Business and includes Hunter Subaru.

A portion of the subject area is within the Entry Corridor Overlay District that requires maturing street trees greater than 35 feet in height every 50 linear feet abutting a street or small maturing trees less than 25 feet if overhead utility lines are present.

The Future Land Use land map classifies the subject area as High Intensity Neighborhood. The goal of the High Intensity Neighborhood classification is to “encourage low-maintenance, high-density housing that supports Neighborhood and Regional Activity Centers, promote walkable neighborhood design that creates attractive and functional roadway corridors. The parcels to the north, west, and south are classified as Medium Intensity Neighborhood in which the goal is to “Provide a transition between High-and Low-Neighborhood areas.

The site plan shows 135 parking spaces for the proposed 51,629 square foot Emergency Service Headquarters building. The minimum required by the Zoning Ordinance is 127.

The subject area is required to establish a 10-foot type-B buffer between the abutting residential parcels.

The setback requirements for the PID Zoning District are 40 feet from the nearest right-of-way line for any street adjoining the site, provided, however, such setbacks may be reduced to ten feet when parking is situated to the rear or side of the lot. Buildings and structures shall be set back no less than 25 feet from any exterior property line.

Variance Request: The applicant is requesting a variance from the 40-foot setback requirement from the nearest right-of-way line off Ashemore Avenue. The existing garage located on the north end of the property will encroach into the proposed PID setback. Since the structure is existing and proposed to remain, a 20-foot reduction in the setback requirements from the nearest right-of-way has been requested.

Analysis: The Development Assistance Department has not found any issues relating to public health, safety or general welfare.

A neighborhood compatibility meeting was held on February 28, 2017. Approximately twelve people representing the general public attended the meeting. Concerns were raised about sound generated from emergency vehicles, property values, buffering, and traffic generated. Mr. Jimmy Brissie with Henderson County Emergency Management addressed the noise concerns by suggesting emergency vehicles will be directed to wait to turn on sirens until they reach U.S. 25.

The Planning Board met on March 13, 2017 and voted unanimously to send a favorable recommendation for the rezoning, special use permit and variance request.

Will Buie, with WGLA Engineering, and Chad Robertson with Clark Nexsen were present to answer questions.

Mr. Will Buie with WGLA Engineering provided the following testimony:

He and Mr. Robertson are working with Henderson County on this project. Mr. Champion gave an overview of the existing property. There are existing buildings on the site: the Balfour Education Facility. A new innovative high school is under construction on the Blue Ridge Community College campus scheduled to be done later this year. At that time, the Balfour Education Center will be relocating to Blue Ridge Community College campus. It allows them the opportunity to repurpose this property.

He reviewed a survey of the existing property with the buildings. He provided a site plan of the proposed facility. He noted this is a consolidation of the Rescue Squad and Emergency Services facility for the County. This is an excellent location due to accessibility, primary traffic and roadways. It gives them an opportunity to serve the community better than they currently do.

The main facility is approximately 50,000 square feet that will house the Rescue Squad and Emergency Services. The 10,000 square foot building on the southeastern side of the property will primarily be for storage of equipment and vehicles. The existing building that will remain is located adjacent to Ashemore Avenue. That facility was constructed a number of years ago in compliance with the zoning in place. There is landscaping in place. The HVAC systems have been screened. It has been in the neighborhood for some time. They believe complies to regulations, is in harmony with the neighborhood and believe it is reasonable to

request the variance. That facility still has a useful life and use for this facility. They would like for it to remain operational.

The main building will be located where the existing Balfour Education Center facility is located. They will do some clearing but remaining trees and woods will be left in place after the construction of the project. There are a number of large Oaks that will be maintained for the project.

Mr. Chad Robertson with Clark Nexsen provided the following testimony:

There are three major components in the project: the Emergency Management, Emergency Medical Services, and the Henderson County Rescue Squad. They will also incorporate a vehicle wash and storage bays. There are offices and training spaces and areas for spending the night for those on 24-hour shifts. There is also an Emergency Operations Centers for the main operation point for catastrophes or tragedies.

The middle portion of the building is primarily office spaces and residential living and overnight sleeping areas. On the left and right are the storage bays for emergency medical and Rescue Squad.

It is slightly over 50,000 square feet for the building. They have a 10,000 square foot pre-engineered storage facility that will house all the components, trailers, etc. associated with the building. The new building will be fully sprinkled, they are using high efficiency hot water boilers and rooftop units for heating and cooling. It will also have a generator to operate fully in the event of an emergency.

Mayor Volk opened the public hearing at 6:37 p.m. in accordance with North Carolina General Statutes by notice published in the Hendersonville Lighting. No one expressed a desire to speak. The public hearing was closed.

Variance: Mayor Pro Tem Caraker moved City Council approve a variance from Section 5-21-4.1 Setback Requirements, reducing the 40-foot setback from the nearest right-of-way requirement to 20 feet in order to accommodate an existing storage building as shown on the Preliminary Site Plan. A unanimous vote of the Council followed. Motion carried.

Mayor Pro Tem Caraker moved that the City Council adopt an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of parcel number 9660-30-6082 from R-15 Medium Density Residential to PID Planned Institutional Development, finding that the rezoning is consistent with the Comprehensive Plan, the rezoning is reasonable and in the public interest for the following reasons because it is a better use of county facilities. He further moved City Council approve the application of the Henderson County Emergency Service Headquarters 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.

Ordinance #17-0425

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

IN RE: Henderson County Emergency Service Headquarters
(File # P17-03-SUR)

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

1. Pursuant to Article XI of the Zoning Ordinance of the City of Hendersonville, North Carolina, the Zoning Map is hereby amended by changing the zoning designation of the following:

Rezone Parcel number 9660-30-6082, as shown in Exhibit A, from R-15 Medium Density Residential to PID Planned Institutional Development

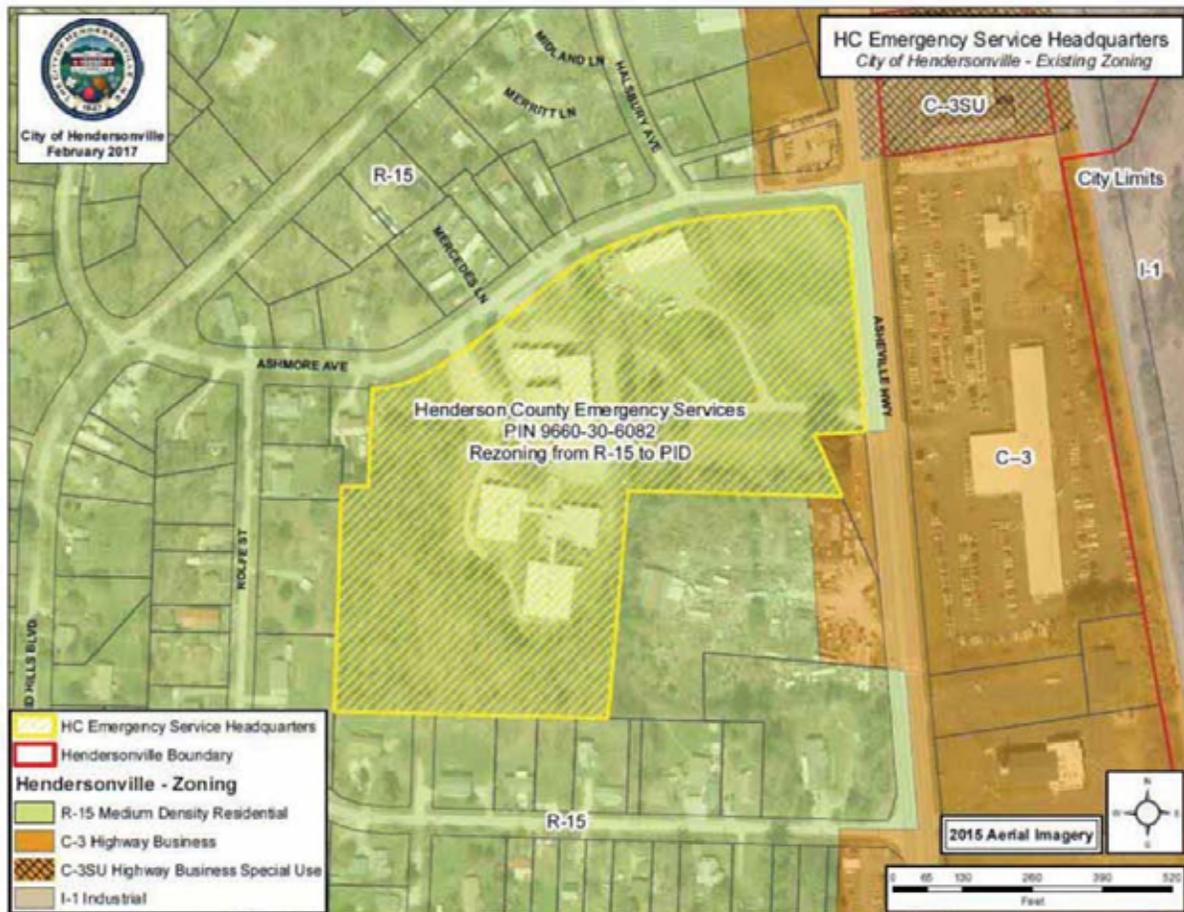
2. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this sixth day of April 2017.

/s/Barbara G. Volk, Mayor

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

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



12. Quasi-Judicial Public Hearing - Consideration of an Application for a Special Use Permit from Mission Development, LLC for the Lakewood Trace Development Located on Lakewood Road to Construct Four Apartment Buildings Consisting of 80 Residential Units and a Community Center and to Rezone the Parcel to Planned Institutional Development (PID): Mayor Volk again reviewed the procedures for the quasi-judicial hearing.

Mayor Volk asked the members of City Council to announce any contacts concerning the application that are not included in the file. There was none.

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.

Mayor Volk asked those wishing to speak to be sworn in. Three persons were sworn in to provide testimony.

At 6:40 p.m., Mayor Volk opened the public hearing in accordance in North Carolina General Statutes by notice published in the Hendersonville Lightning.

Planner Daniel Heyman provided the following testimony:

The City is in receipt of a Special Use Permit application from Stephen Drake of Mission Development, LLC for the development of 80 multi-family residential units on approximately eight acres in the City's ETJ. The parcel is located off of Lakewood Road.

The developer is proposing to construct a public road to access the site. The applicant is also requesting to rezone a portion of this parcel from I-1 Industrial to PRD Planned Residential Development.

The vacant parcel is zoned I-1 Industrial. A similar project known as "Lakewood Terrace" was previously approved by the Council and construction has not begun.

The parcel to the north is zoned I-1 Industrial and includes a U.S. Post Office Annex. The parcel to the east across Lakewood Road is zoned PRD Planned Residential Development and includes Cedar Terrace. The remainder of the parent parcel for this project is vacant. He provided surrounding land uses and zoning districts maps.

The parcel included in this application and parcels located to the north are classified as Business Center on the 2030 Comprehensive Plan's Future Land Use Map. The goal of the Business Center classification is to "create an employment corridor along I-26 that supports the growth of Hendersonville as a business destination and to create a campus like mixed-use environment that includes office, research and low-impact industrial uses as well as supportive retail amenities."

The parcels north of the remaining parent parcel are classified as Medium Intensity Neighborhood. The parcel located to the east across Lakewood Road is classified as Regional Activity Center. The Business Center classification lists multi-family residential as a secondary use. The Comprehensive Plan recommends that secondary uses such as this one may be permitted through the planned development and special use procedures. This project is a planned development and is being processed through the special use permit procedures. Therefore, this proposed development is consistent with the 2030 Comprehensive Plan's Land Use and Development recommendations.

Buildings: The site plan includes:

- Three three-story and 1 two-story multi-family buildings with a total of 80 units
- A 2,018 square foot community building
- Common areas including a playground and a covered picnic area.

Parking: The site plan shows 165 parking spaces for the proposed multi-family residential development; the minimum required by the Zoning Ordinance is 136.

Buffer Plantings: No buffer is required because the use is residential.

Stormwater: The applicant will be providing stormwater management plans to the Engineering Department.

Sidewalks: The applicant has requested payment of fee in lieu of constructing sidewalks because sidewalks are being constructed by Cedar Terrace opposite this project on Lakewood Road. A large portion intersects Allen Branch streambank. It would be difficult and possibly damaging to the stream to construct a sidewalk there.

Analysis: Staff has not identified any issues relating to the public health, safety, and general welfare. Water and sewer service is intended to be extended to the site. The applicant will request annexation in order to get sewer service. No variances are requested.

A neighborhood compatibility meeting was held on February 8, 2017. Four people representing the general public attended the meeting and raised concerns about the traffic on Lakewood Road, lack of sidewalks, income level of tenants, and the safety of pedestrians.

The Comprehensive Transportation Plan does not indicate any improvements to Lakewood Road.

The Planning Board took this matter up at its meeting on March 13, 2017 and voted unanimously to recommend approval of the rezoning and special use permit.

Mayor Volk opened the public hearing at 6:45 p.m. in accordance with North Carolina General Statutes by notice published in the Times News.

Mr. Stephen Drake, 195 Rock Ridge Rd., Mills River, NC, with Mission Development, provided the following testimony:

They specialize in providing workforce housing throughout North Carolina. Being close to Hendersonville, they recognize it is in great need of additional work force housing. They fund these types of communities utilizing NC Housing Finance Association tax credit program. The community they want to build is called Lakewood Trace, with 80 apartment units, 12 one-bedroom, 36 two-bedroom units, 32 three-bedroom units. The average rental rate will be approximately \$600 per month.

The construction of the building will be about 40% brick with the remainder construction of high-end vinyl siding. There will be a community center with a computer center, a gathering room, offices for management, gathering room to host parties, etc. They will have a large picnic pavilion with ample seating, trash receptacles, and grills so people that live there can enjoy outside activities.

They are big on landscaping and see no need for a nice building without plants and area beautification. They will plant native species; Rhododendron, Maple, Cherry trees, etc.

The reason they want to build this community at this location is because the property is adjacent to a commercial corridor with many amenities, a Walmart, a Sam's Club, small businesses and restaurants in the immediate area. On the other side of Interstate 26 is the Blue Ridge Mall, Home Depot, Lowes Home Improvement, and a large assortment of other small businesses and restaurants. Many of the people who work in these establishments will quality to live in this community. Having a workforce community this close to the work places and amenities will not only be a convenience to the people who live there but will reduce cross-town commuting and traffic as a whole. There is a strong need for this rental housing in the Hendersonville area. Market studies conducted certainly demonstrate this.

In summary, He stated they are devoted to success of their communities and hope City Council will share their vision and grant the rezoning. It is their firm belief Lakewood Trace will be a great new community for the Hendersonville workforce so working families with modest incomes can enjoy high quality housing for themselves and their children.

Council Member Miller asked about the average rent for the units. Mr. Drake stated they target families making 60 percent of the area’s median income which for Hendersonville is approximately \$53,000 annually. He stated the rent for one-bedroom units will be approximately \$638 and \$771 for two-bedroom units, \$887 for three-bedroom units and will include utilities. The utility allowance is approximately \$200/month. He stated they also target people with 50 percent and 30 percent of the area’s median income as well.

Mr. Drake said there will be no gas but all electrical – energy efficient heat pumps (15 sear units), using Duke Energy incentives program. He stated it will be sprinkled. Council Member Stephens commented the project should be successful. Mr. Drake agreed stating the overall capture rate is 9.2 percent which means that providing these 80 apartment units will only be covering 9.2 percent of the demand in this primary market area. He stated they could build many and fill them.

No one else expressed a desire to speak. The public hearing was closed at 6:53 p.m.

Special Use Permit and Rezoning: Council Member Smith moved City Council adopt an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of a portion of parcel number 9579-29-2872 from I-1 Industrial to PRD Planned Residential Development, finding that the rezoning is consistent with the Comprehensive Plan, the rezoning is reasonable and in the public interest because it meets the need for workforce housing. He further moved City Council approve the application of Mission Development, LLC 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.

Ordinance #17-0426

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

IN RE: Lakewood Trace
(File # P17-01-SUR)

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

1. Pursuant to Article XI of the Zoning Ordinance of the City of Hendersonville, North Carolina, the Zoning Map is hereby amended by changing the zoning designation of the following:

Rezone a portion of Parcel # 9579-29-2872, as shown in Exhibit A, from I-1 Industrial to PRD Planned Residential Development.

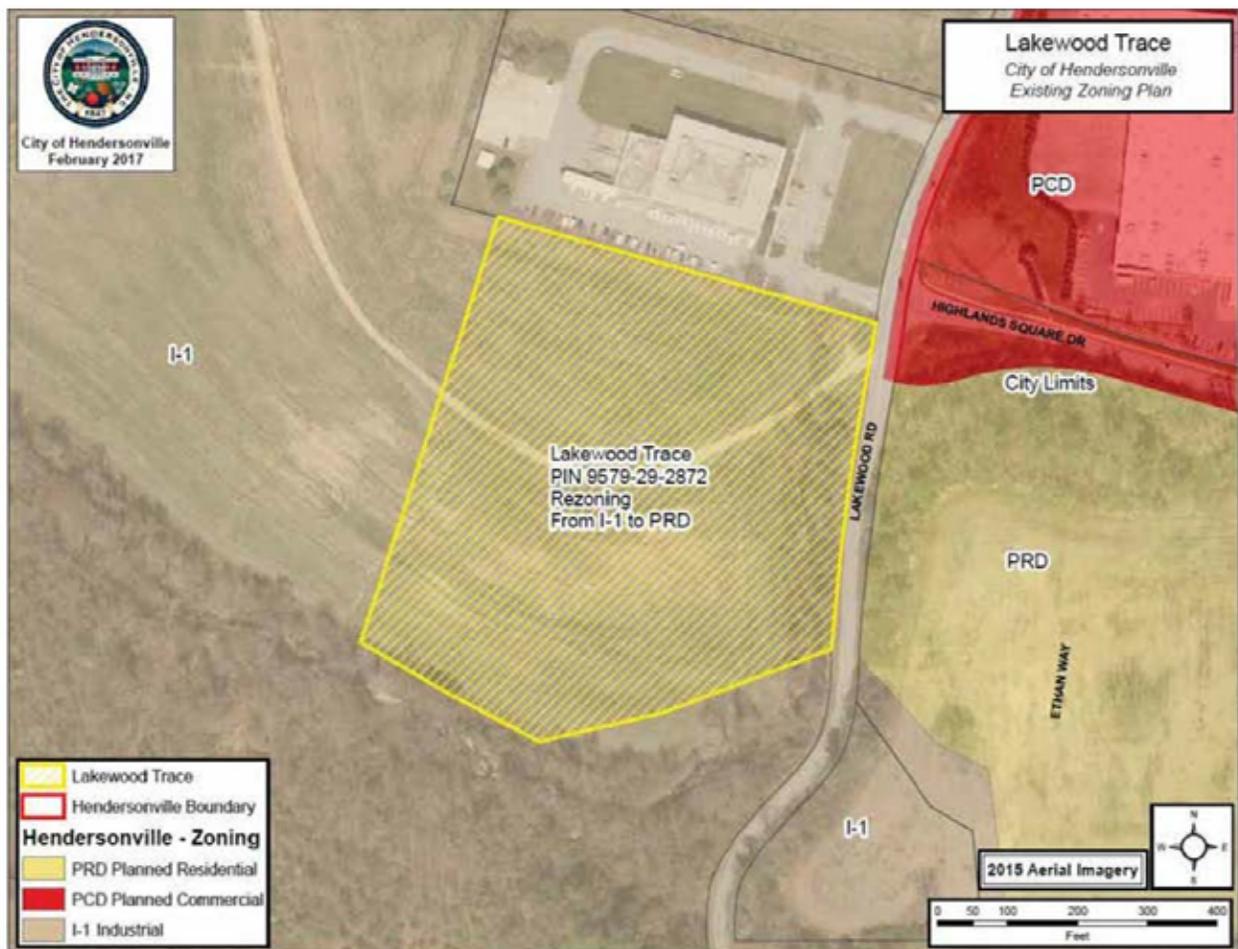
2. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this sixth day of April 2017.

/s/Barbara G. Volk, Mayor

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

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



13. Discussion of Proposals for Downtown Hotel: City Manager John Connet addressed the Council and reported staff of the Development Finance Initiative have turned the proposal review and recommendation over to City staff. He stated the City endorsed a public participation process and options in working with a developer. Options provided to recruit a potential developer include seller financing with property currently owned by City, terms to be negotiated, the City will extend streetscape improvements along Fourth Avenue to connect the side to Main Street and ultimately to Seventh Avenue.

Mr. Connet reviewed the criteria for evaluating the proposals:

- Quality of proposal and submission requirements
- Experience with mixed-use or hospitality development
- Experience with historic renovations
- Participation/Investment required by City and projected public return on investment
- Capacity of developer to execute project and secure project financing

Mr. Connet reviewed the four proposals received:

Belmont Sayre, from Carrboro, NC, partnering with Charlestowne Hotels who specialize in adaptive reuse and boutique products, proposes adaptive reuse of the mill with 57 rooms, 72 parking spaces, 2,000 square feet of event capacity, no retail space, using historic tax credits for the preservation of the mill. Charlestowne Hotels manages and develops a diverse portfolio of more than 41 hotels in 12 states. They have managed the planning of more than 1,000,000 square feet of urban, mixed use investments including: Carmichael Building in Durham, NC, American Tobacco Company Campus in Durham, NC, Contemporary Art Museum in Raleigh, NC.

Management: Charlestowne Hotels, Charleston SC

General Contractor: Weavercooke, Greensboro NC

Architect: Tise Kiestler Architects, Chapel Hill NC

Proposal: Incorporate or use the entire mill facility except for the latest addition using historic tax credit. They will use the structure as is and the basement.

Financials:

Estimated Total Development Costs \$13,500,964

Proposed Acquisition Cost \$1,000,000

Total Estimated Private Investment \$13,500,964

Total Estimated Public Investment \$850,100 - Streetscape Improvements (includes financing costs)

Private - Public Investment Ratio: 16:1; for every private \$16, the City will provide \$1

Public Impact:

	Construction Period	Year 1-10
Total Public Investment*	\$85,000	\$765,100
<i>Street Improvement</i>		
<i>Debt Service</i>	(85,000)	(765,100)
Total Public Revenue	\$111,500	\$1,877,000
<i>Sale of Mill</i>	(100,000)	(900,000)
<i>Interest from Loan</i>	--	(312,000)
<i>Tax Revenue</i>	(11,500)	(665,000)
Total Net Impact to City	\$26,500	\$1,111,900

*Does not consider the participation associated with seller financing.

They have received preliminary assurance by email from the State Historic Preservation Office regarding approval of their proposed plan.

The building will be done in accordance with LEED Gold certified standards.

The proposal contains minimal event space.

Professional Development Associates, Inc. (PDA), from Erie, Pennsylvania, proposed three floors, 54-60 rooms, parking spaces were not identified, event capacity for approximately 50 people, and no preservation of the mill is proposed. PDA has developed six upper-midscale hotels under the Cobblestone Hotels brand. 20+ years experience with adaptive reuse. The proposal includes new construction of Cobblestone Hotel adjacent to 1915 portion of Mill. PDA would purchase or lease land required for hotel, with possible option on Mill Building for a public/private partnership to develop event and restaurant space.

Event Capacity Est. 50

Franchise: Cobblestone Hotels

Architect/Engineer: Excel Architects

Construction Management: Brimark Builders

Financials:

Estimated Total Development Cost \$6,315,000

Proposed Acquisition Cost \$400,000

Total Estimated Private Investment \$6,315,000

Total Estimated Public Investment* \$850,100 - Streetscape improvements (including financing costs)

Private - Public Investment Ratio is 7.5:1

Public Impact:

	Construction Period	Year 1-10
Total Public Investment	\$85,000	\$765,100
<i>Street Improvement Debt Service</i>	<i>(85,000)</i>	<i>(765,100)</i>
Total Public Revenue	\$51,500	\$787,000
<i>Sale of Mill (Part)</i>	<i>40,000</i>	<i>360,000</i>
<i>Interest from Loan</i>	<i>–</i>	<i>125,000</i>
<i>Property Tax Revenue</i>	<i>11,500</i>	<i>310,000</i>
Total Net Impact to City**	(\$33,500)	\$29,900

*Does not consider the participation associated with seller financing.
 **Does not include ongoing maintenance of Mill.

Additional Considerations:

Requires significant local stakeholder support of an estimated 40% of equity or ~ \$1M
 Has indicated they will most likely require additional incentives, i.e. property tax deferment.
 City would continue to own the Mill.

Commercial Proposal:

Leder Properties: Brevard, NC, proposal includes 35,000 square feet adaptive reuse of the mill into select retail, restaurant and event space replicating the Lumberyard model in Brevard, a multi-purpose venue for 300+ guests. Experience includes 40 years of real estate investment experience in Western NC. They would like the freedom to develop the project organically. No parking is shown but located throughout the neighborhood.

Financials:

Estimated Total Development Costs \$2,200,000
 Proposed Acquisition Cost \$1,100,000
 Total Estimated Private Investment \$1,100,000 but requests the City reinvest this back into the project in additional to the streetscape improvements. Also wants the City to assume some responsibility dealing with environmental issues. Total public investment may increase.
 Total Estimated Public Investment \$1,950,100 Matching grant from City for \$1.1M to begin redevelopment work, plus streetscape improvements (including financing costs).
 Public-Private Investment Ratio 0.6:1

Public Impact:

	Construction Period	Year 1-10
Total Public Investment	\$1,185,000	\$765,100
<i>Project Participation</i>	<i>(1,100,000)</i>	
<i>Street Improvement Debt Service</i>	<i>(85,000)</i>	<i>(765,100)</i>
Total Public Revenue	\$1,111,500	\$108,000
<i>Property Sale</i>	<i>1,100,000</i>	
<i>Tax Revenue</i>	<i>11,500</i>	<i>108,000</i>
Total Net Impact to City	(\$73,500)	(\$657,100)

Additional Considerations:

Accelerated timeline due to 1031 investment needs
 \$1 million deposit by May 15, 2017
 Demolition/clean-up beginning May 16, 2017
 Closing (additional \$100k) expected June 15, 2017

City would reinvest in the project and be responsible for any additional environmental remediation deemed necessary to complete the project.

Proposal Comparison: Mr. Connet provided the following comparison:

Evaluation Criteria	Belmont Sayre	PDA, Inc.	Leder Properties
Product Type	Upscale Boutique Hotel	Upper-Midscale Hotel	Mixed-Use Commercial
Mill Preservation	Yes – Using Historic Tax Credits	New Construction for Hotel, Potential Phase II for Mill	Yes
# of Rooms	57	54-60	n/a
Event Capacity	70	60-70	300
Total Public Investment	\$850,100	\$850,100	\$1,534,000
<i>Project Participation</i>			<i>(\$1,100,000)</i>
<i>Street Improvement Debt Service</i>	<i>(\$850,100)</i>	<i>(\$850,100)</i>	<i>(\$850,100)</i>
Total Public Revenue	\$1,988,500	\$846,500	\$1,219,500
Property Sale	\$1,000,000	\$400,000	\$1,100,000
Interest from Loan	\$312,000	\$125,000	--
Tax Revenue	\$676,500	\$321,500	\$119,500
Net Public Impact (Construction – Year 10)	\$1,138,400	(\$3,600)	(\$730,600)
Proposal Content/Quality	✓	✓	
Experience (general)	✓	✓	✓

Experience (tax credits)	✓	✓	
Positive ROI to City (5 years)	✓	✓	
Capacity (Development & Financing)	✓	✓	Unknown
Adherence to Guiding Project Interests	✓		✓

Mr. Connet reviewed Council's guiding interests in the project:

- Maximize public benefit and minimize public investment
- Project likely to spur other private development
- Project contributes to vitality, culture and economy of City (e.g. event space)
- Project respects existing City fabric (height limits, historic buildings, design aesthetics, etc.)
- Integration with Main Street and
- Connection to Historic Seventh Avenue District.

Mr. Connet recommended Council move forward with selecting Belmont Sayre as the development partner and draft a Memorandum of Understanding and present it to the City Council at their July 6 meeting.

Josh Leder, Leder Properties, addressed the Council and reviewed his similar project in Brevard that some Council members toured. He expressed appreciation to the Council for the direction of preserving the building. He proposed beginning work on the project immediately. He has been able to host more than 1,000 people at The Lumberyard at events. He stated the most valuable asset is the outdoor space connected to the buildings and would be a great venue for weddings, etc. He stated parking lots are a mistake. He stated the opportunity to connect to Seventh Avenue is tremendous. He noted cooperation from the City of Brevard but Hendersonville is more progressive with streetscapes. He stated a hotel doesn't make sense to him. He stated preventative maintenance is expensive, the environmental cleanup could be done with the funds from the sale of the property and this should be done right away. He stated he is looking for help but they can have a dynamic project that can be expanded.

Margie Bukowski with WeaverCooke Construction, addressed the Council stating they are excited about the project. WeaverCooke is the general contractor and they have a great team. She stated Belmont Sayre has done the American Tobacco in Durham and are familiar with buildings with long histories. WeaverCooke is currently building the 13-story Battery Park Hotel across from the Grove Arcade, and recently completed Hotel Durham. This will be an upscale hotel with finishes you want to have, not mid-level hotel. Tise Kiester has done many types of hotels and historic buildings. She stated this is a great opportunity, and have been successful with other historic projects. They are looking forward to this opportunity. They recently opened an office in Asheville.

Council Member Stephens asked if this number of rooms is successful, if there is any possibility to expand. Ms. Bukowski stated yes, but winter is a quiet time. It was recommended they start out with a smaller number of rooms. Council Member Miller about the time frame for beginning the project. Ms. Bukowski stated as soon as the contracts are drawn up, it may be mid-summer. She stated they are ready to begin. Council Member Stephens asked when it will be in operation. Ms. Bukowski stated the end of 2018 or early 2019. Council Member Smith asked if 90 days for negotiating the Memorandum of Understanding is adequate. Ms. Bukowski stated yes.

Ms. Kari Moers addressed the Council stating the City Council wants a hotel in town to increase visitors with more in-town capacity to patronize shops, art galleries and breweries. The shops are an integral bond between the hotel and Main Street. A firm commitment to parking is necessary. She noted line of sight and stated there is only one acceptable proposal.

Mayor Pro Tem Caraker commented he expected more rooms but the Belmont Sayre proposal is a good start and it honors the process. He stated it may be possible for the City to work with the developer for future event space. He stressed the importance of beginning quickly to stabilize the building. He expressed pleasure with the proposal. He encouraged Mr. Leder to stay in touch and appreciated his great ideas and passion. Council Member Stephens agreed stating the Belmont Sayre proposal is a solid approach and will begin to bridge the gap between Seventh Avenue and Main Street. .

Council Member Smith stated the 90-day timetable is very important and it is time to get something done.

Council Member Miller commented the project proposed by Belmont Sayre sounds great and their projects are great. He stated the City is fortunate to have this opportunity. He stated Mr. Leder's project is a great concept and urged everyone to visit The Lumberyard. He expressed support for the Belmont Sayre project. **Council Member Miller moved City Council to direct staff to move forward over the next 90 days, or less, with the creation of a development agreement with Belmont Sayre properties. A unanimous vote of the Council followed. Motion carried.**

14. Discussion of Outdoor Dining Guidelines: Lew Holloway, Downtown Economic Development Director, explained the Downtown Advisory Committee has been investigating guidelines for outdoor dining in the Main Street Municipal Service District. He reported the committee has reviewed a number of design guidelines used by other communities, developed draft recommendations for downtown Hendersonville's guidelines and held a workshop with downtown restaurants who currently hold outdoor dining permits.

Mr. Holloway gave the history of outdoor dining since implemented in August 2002 and the current requirements. He requested feedback on:

1) Design/Layout - Proposed Guidelines Recommendations:

a) Walkway Width Guideline: Expand the minimum width of pedestrian pathway when the sidewalk is less than 20 feet wide to six feet and a minimum of eight-foot pedestrian pathway when the sidewalk is greater than 20 feet wide, a minimum of a three-foot path from parking spaces adjacent to dining areas. The Council discussed enforcement, etc. and **no opposition was expressed to expanding the space.**

Simplify the barrier design to a post and chain with a black color scheme for aesthetic purposes: There was no support of that from the permit holders nor for paying for it. There was discussion of extending implementation dates, possibly grants to pay for implementation. **The Council asked for more time to review, visit downtown, etc.**

b) Furniture Size Guideline - Maximum table size with a square footage equivalent to a four-person table, a maximum of 10 square feet table size, chairs and tables must be constructed of metal, commercial umbrellas with outdoor fabric and a metal stand, integrated into table design, not freestanding. No furniture other than tables, chairs and umbrellas. There was discussion by the Council of allowing larger tables to seat large parties.

2) Maintenance - Advisory Committee Recommendations: All dining area materials (furniture, barriers, planters, etc.) must receive regular maintenance of fit and finish. Damaged material must be replaced in a timely fashion. All planters must contain seasonally appropriate plants in healthy condition. The sidewalk in and around the designated outdoor dining area must be cleaned of spills, etc. on a weekly basis. Establish a weekly/monthly "Cleaning Day" when all dining furniture is pulled and Public Works and restaurants clean. There was discussion of bi-annual pressure washing by Public Works, spot cleaning, etc.

3) Permit Fee: The Advisory Committee recommended establishing a per square foot cost for dining to create equity for existing dining locations as not all have the same amount of space. The annual permit fee is \$35 currently. This encourages restaurants to occupy the amount of space needed. This is not intended to be punitive. Mayor Pro Tem Caraker voiced support of the fee based on square feet which is more equitable than basing it on the number of seats. The space is currently limited by the size of the store front and may use space in front of a neighboring business if it is not a restaurant. Mrs. Frady reported the ordinance allows restaurants to extend eight feet in front of a neighboring business. There was discussion of the average size. Mr. Holloway stated the range is probably between 150 and 350 square feet. Council Member Miller agreed this is a legitimate idea.

Mr. Holloway provided a conceptual implementation timeline. Staff will provide a draft ordinance for Council's consideration. **No action was taken by the Council.**

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

16. Reports from Staff: There was none.

17. Boards and Commissions: Consideration of (Re)Appointments, Announcement of Upcoming Vacancies:

a) Consideration of Appointments: City Clerk Tammie Drake announced the (re)appointments and presented the applications on file.

1. Business Advisory Committee: Mrs. Drake announced two vacancies on this Committee; Beau Waddell will continue serving. **Mayor Pro Tem Caraker nominated Virginia Gambill to serve a two-year term on the Business Advisory Committee. This term will expire 03.01.19. A unanimous vote of the Council followed. Motion carried.**

2. Announcement of Vacancies and Upcoming Vacancies: Mrs. Drake announced the vacancies and upcoming vacancies/reappointments: Board of Adjustment, Henderson County Tourism Development Authority, Seventh Avenue Advisory Committee, Downtown Advisory Committee and Walk of Fame Steering Committee.

18. New Business: There was none.

19. Closed Session: At 8:14 p.m., Mayor Pro Tem Caraker moved City Council enter Closed Session to preserve the attorney-client privilege between the attorney and the City Council as provided under NCGS §143-318.11(a)(3). A unanimous vote of the Council followed. Motion carried.

The Council consulted with the attorney. **No action was taken.**

20. Adjournment: The meeting adjourned at 8:39 p.m. upon unanimous assent of the Council.

Barbara G. Volk, Mayor

Tammie K. Drake, City Clerk