

May 4, 2017
Regular Meeting of the City Council
Assembly Room – Operations Center
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.* No one signed up to speak during public comment time.

4. Consideration of Agenda: Mayor Volk announced item 7, Report on Compassionate Cities, has been moved to the June agenda.

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 24, 2017 Special Meeting
 April 6, 2017 Regular Meeting

B. Consideration of Approval of Engagement Letter/Contract for the Audit of Fiscal Year 2017-18: Finance Director Lisa White presented an engagement letter from Greene, Finney & Horton for the contract to audit the City of Hendersonville's financial statements for the fiscal year ending 06-30-17.

Ms. White also provided a letter from Greene, Finney & Horton expressing their opinions about whether the financial statements prepared by management with the Council's oversight are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles. The letter is available in the office of the Finance Director.

C. Consideration of Budget Amendments: Ms. Brian Pahle, Assistant to the City Manager,

- i. Fund 60, sales of capital assets, \$10,687 increase
- ii. Fund 10, to record insurance settlement for the repair of the 2013 Pierce Arrow Fire Pumper apparatus, \$5,789

D. Consideration of Capital Project Ordinance for Streambank Restoration Project: Mr.

E. Consideration of Reimbursement Resolutions for:

- i. Eastside Transmission Main, Phase II Project:

Resolution #17-0528

HENDERSONVILLE, NORTH CAROLINA
 DECLARATION OF OFFICIAL INTENT TO REIMBURSE

BE IT RESOLVED by the Governing Board 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 EASTSIDE TRANSMISSION MAIN, PHASE II PROJECT, ORDINANCE #15-0624 (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 \$5,100,000.00.

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 fourth day of May 2017.

/s/Barbara G. Volk, Mayor

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

ii. Streambank Restoration Project:

Resolution #17-0529

HENDERSONVILLE, NORTH CAROLINA
DECLARATION OF OFFICIAL INTENT TO REIMBURSE

BE IT RESOLVED by the Governing Board 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 STREAMBANK RESTORATION PROJECT, ORDINANCE #17-0527 (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 \$2,920,000.00.

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 fourth day of May, 2017.

/s/Barbara G. Volk, Mayor

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

F. Consideration of Certificate of Sufficiency for the Contiguous Annexation of 101 and 103 Beverly Avenue Edney: Mrs. Frady reported the City received a petition from Kyle Edney for contiguous annexation of parcel 9578-33-4840 containing 0.27 acres located at 101 and 103 Beverly Avenue. This annexation application is related to a sewer service request.

Mrs. Frady provided the Clerk's Certificate of Sufficiency finding that the petition is valid. The next step in the annexation process is to accept the Clerk's certificate and set a date for the public hearing for the June 1, 2017 Council meeting on the question of adoption of an ordinance of annexation.

G. Consideration of Special Event Permits for:

i. Apple Valley Model Railroad Club Silver Anniversary Event: Mrs. Frady reported the Special Events Committee unanimously recommended approval of a special event permit for the Apple Valley Model Railroad Club Silver Anniversary to be held on June 24, 2017 from 10 a.m. to 4 p.m. at the Train Depot. Maple Street will be closed from 7th Avenue to the bridge in order for antique vehicles to be parked in the street.

ii. First Baptist Church - "Every Praise" video remake: Mrs. Frady reported the Special Events Committee unanimously recommended approval of a special event permit for the "Every Praise" video remake. The video will be filmed in front of the Historic Courthouse on June 4, 2017 from 2 p.m. - 5 p.m. Main Street between First and Second Avenues will be closed from 2 p.m. - 5 p.m. She reported the businesses in this area were notified of the street closure.

H. Consideration of Water Line Extension Requests: Utilities Director Lee Smith presented requests for waterline extension agreements for projects located within the Planning and Zoning jurisdiction of the City:

i. Claystone located at 20 Hannah Grace Way, to serve a manufactured home park.

ii. Laurel Spring Subdivision located near the intersection of Jordan Street and Seneca Boulevard serving eight single-family homes.

I. Consideration of Special Appropriations Full Funding List: Mr. Pahle explained per the City's Special Appropriations Policy, each year prior to budget adoption the City Council may adopt a full funding list for special appropriations that will not be considered in their budget workshop discussions. He explained these appropriations are not approved with this action, but approval happens with the budget ordinance adoption in June. The following are recommended to be considered for the full funding list:

Henderson County Economic Investment Fund: \$50,000, Fund 60
 Henderson County Partnership for Economic Development: \$15,000, Fund 10
 Henderson County Planning Department: \$136,868, Fund 10
 Henderson County Rescue Squad: \$10,000, Fund 60
 IAM - Leak Repair Program: \$15,000, Fund 60
 Merchant's and Business Association: \$2,000, Fund 10
 Mills River Partnership: \$70,000, Fund 60

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. Introduction of Miss Hendersonville Pageant Queens: Kathlene Beam & Katelyn Ledbetter, Miss Hendersonville Teen: Ms. Beam and Miss Ledbetter addressed the Council – platform is SCAR.

B. Proclamation for Parkinson's Awareness Month: Mayor Barbara Volk read the proclamation for Parkinson's Awareness Month.

C. Recognition of Fire Chief Joseph Vindigni for Completion of the UNC School of Government Municipal Administration Course: City Manager John Connet recognized Fire Chief Vindigni and congratulated him on the completion of the Municipal Administration Course.

D. Recognition of Development Assistance Director Susan Frady for Receiving an Award from the NC Emergency Management and NC Association of Flood Plain Managers: City Manager John Connet recognized Development Assistance Director Susan Frady with an award from the NC Emergency Management and NC Association of Flood Plain Managers and congratulated her on this award.

E. Recognition of Service Excellence Quarterly MVPs: Mr. Connet recognized the following MVPs from the last quarter: Jay Heatherly, Water & Sewer Department, Police Lt. Mike Vesely, and Nick Galloway and Stephen Bell from Water and Sewer Department.

7. Report on Compassionate Cities

8. Public Hearing - Consideration of a Petition for Satellite Annexation from Dustin Beach for a 0.902-acre Parcel Located at 1398 Stanwood Lane: Development Assistance Director Susan Frady presented the 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 request for sewer service. She reported 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.

Ms. Frady reported the Council accepted the Clerk's Certificate of Sufficiency at the April meeting and set a public hearing for the May 4, 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 be heard 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 N.C.G.S. 160A-31, Council may adopt an ordinance annexing the area described in the petition.

The public hearing was opened at 5:58 p.m. in accordance with North Carolina General Statutes by notice published in the Hendersonville Lightning. No one expressed a desire to speak. The public hearing was closed.

Mayor Pro Tem Caraker moved the City Council adopt an ordinance annexing the property included in the petition from Dustin Beach effective May 4, 2017. A unanimous vote of the Council followed. Motion carried.

Ordinance #17-0530

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE
 CITY OF HENDERSONVILLE, NORTH CAROLINA
 Dustin Beach

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 fourth day of May 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 N.C. G.S. 160A-58.1(b), to wit:

- a. All of the proposed satellite corporate limits are less than three miles from the primary corporate limits of Hendersonville. The map distance is 425 feet.
- b. No point on the proposed satellite corporate limit is closer to the primary corporate limits of another city than to the primary corporate limits of Hendersonville.
- c. The area is situated so that the City of Hendersonville, if City Council so determines, will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
- d. The area proposed for annexation is not a subdivision as defined in NCGS 160A-376.
- e. The area within the proposed satellite corporate limits when added to the areas within all other satellite corporate limits does not exceed 10 percent (10%) of the area within the primary corporate limits of the City of Hendersonville. 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.

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 N.C.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 fourth day of May 2017.

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

All that real property described in that deed recorded in Deed Book 1689 at page 13, Henderson County Registry.

Section 2. Upon and after the fourth day of May 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.

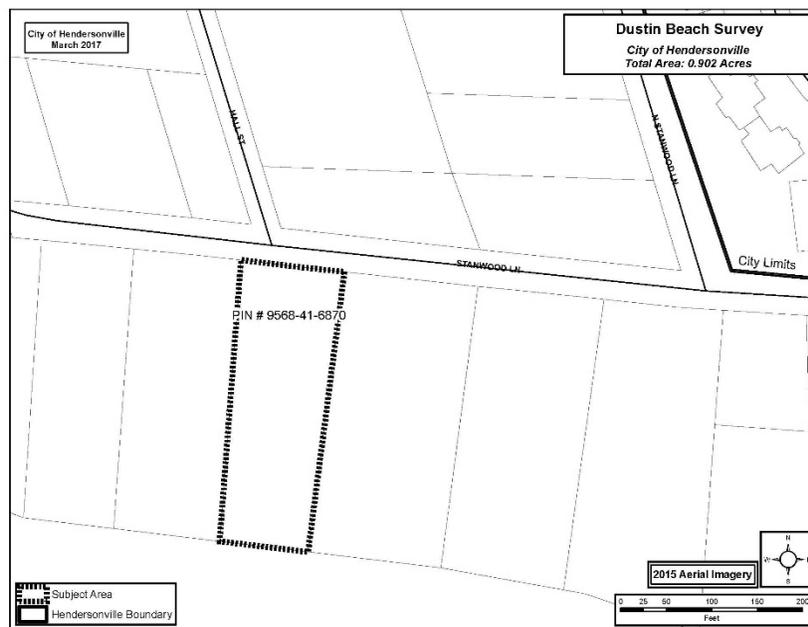
Section 3. The City Clerk of the City of Hendersonville shall cause to be recorded in the office of the Register of Deeds of Henderson County and at the Office of the Secretary of State in Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1, hereof, together with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

ADOPTED this fourth day of May 2017.

/s/Barbara G. Volk, Mayor

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

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



9. Quasi-Judicial Public Hearing – Consideration of an Application for a Special Use Permit from Henderson County to Construct a 225,000 Square Foot Building to be Used as the Hendersonville High School and to Rezone a Portion of the Property from R-6 High-Density Residential, C-3 Highway Business, and MIC Medical, Institutional, Cultural to PID Planned Institutional District:

Mayor Volk explained the quasi-judicial procedures stating the application is for special use review. Special use requires a quasi-judicial public hearing. This is not the same as the usual public hearings. It has strict requirements as set forth in North Carolina General Statutes. Quasi-judicial decisions involve two critical elements: determining contested facts and applying standards that require application of some judgment. In quasi-judicial decisions, there is not a policy choice being made, rather these decisions must apply the policies and standards already in the ordinance. The purpose of a public hearing for a quasi-judicial decision is not to gather public opinion about whether the proposal would be good for the community. The purpose of the hearing in a quasi-judicial matter is to gather quality evidence in a fair manner to determine the facts of the case. What is lawful and perfectly appropriate in a rezoning hearing may be unlawful and inappropriate in a special use permit hearing. Applicants and those neighbors who may be substantially effected have a constitutional, protected right to a fair hearing.

Mayor Volk stated if the applicant can produce competent, substantial evidence that the standards are met, the applicant is legally entitled to a permit. The Council may deny the permit only if there is substantial evidence in the record that the standards would not be met. If irrelevant testimony or opinions are presented, such evidence will not be considered when the Council makes actual findings. Unless those speaking are formally qualified as expert witnesses they will be limited to offering factual testimony, not offering opinions or emotion appeals.

She explained if groups of persons with common interest have evidence to present they should designate a spokesperson. She stated they wish to avoid repetitive and irrelevant testimony. All persons who wish to speak must be sworn in before the hearing begins. The decision will be based on competent, relevant, substantial evidence in the record which includes the application, staff analysis and reports, and testimony and documents presented at this hearing.

Mayor Volk explained before the public hearing is opened, City Council members must make certain disclosures. She asked Council members to announce any contacts concerning the application that are not already included in the file.

Mayor Volk disclosed over the past several months a number of members of the community, friends, neighbors, including her family who have expressed an opinion in person. She stated she honestly does not remember who they all were. Several individuals sent e-mails and letters, both in favor of and against the plan. She has copies of those. Two members of the Hendersonville High School alumni association. Bill Lawrence and Stephen Mace met with her several months ago. They talked about the process that will be involved. She spoke with four members of the School Board: Michael Absher, Rick Wood, Lisa Edwards and Colby Coren asking them not to put the City in the middle of the decision between them and the County Commissioners. She met with two members of the School Board, Amy Lynn Holt and Rick Wood, to discuss the process for the special use permit. She met with two members of the County Commission, Michael Edney and Tommy Thompson, to discuss the process for the special use permit. She met with and received e-mails from Representative Chuck McGrady who expressed his concern that the City Council approve the proposed plan. She consulted with City Manager John Connet and City Attorney Sam Fritschner on the procedures for this meeting.

Mayor Pro Tem Caraker disclosed he received numerous e-mails from folks, Mr. Cooley, expressing their opinions on the matter. Overall, he responded very generically saying they hope it is fair process, that he would not comment at the time but will comment on the evidence as presented at this hearing. Other than that, he has not had personal contact with anyone beyond the City Manager and the City Attorney on procedural matters.

Council Member Jerry Smith provided the following disclosure:

In Aug 2015, the staff at Hendersonville High School was asked by Henderson County Public Schools to look at five options for a new school. Later, they were asked to meet with the superintendent to tell the teachers' opinions about the five options. The School Board held a public meeting in the HHS auditorium to take public input about the five options. When asked for public comment by the superintendent, he spoke out against option three because he said it was unsafe to put the school in such close proximity to the five-lane Highway 25.

The County Commissioners then held a meeting on November 15 to determine which plan for HHS they would pursue. Prior to the meeting, he emailed all the Commissioners to tell them he was concerned about the lack of funding in option 3 for renovating the Stillwell Building. He expressed the importance of this building to the City of Hendersonville and his concern that it would fall into disrepair like the Grey Hosiery Mill if it were no longer used as a school. He also expressed reservations of how traffic would be negatively affected if Highway 25 were turned into a school zone during the morning and afternoon drop-off and pick up times especially if Ninth Avenue were closed.

Council Member Smith also reported he called Tommy Thompson personally and left a message detailing the same information. He may have called another commissioner but could not remember at that time if he did so. He spoke during the open comment period of the meeting on November 15 advocating renovating of the Stillwell building which at that time was not on the table for option 3. He also stated that having a high school located so close to a five-lane highway would be a traffic and safety concern and stated he was in favor of option 2 at that time.

Council Member Smith continued that in April 2016 the Commissioners decided not to renovate the Stillwell Building but to build a new building on the Boyd lot. The students at HHS organized a protest march from HHS to the old Courthouse. He did not speak at the protest at HHS or the Courthouse but walked with the students and listened to what they said. Several civic students were organizers and he wanted to see them in action. He did absolutely nothing to suggest a protest, assist in leading the protest, or participate in the protest. At the old Courthouse, a reporter from FOX news or WLOS interviewed him and he told them he was proud of his students for exercising their civil liberties. He also reiterated his objection to then option three based on safety concerns.

Council Member Smith disclosed the next day he called Susan Frady and asked about the zoning of the Boyd lot. From Susan he learned there would probably have to be a zoning change to the Boyd property; that the lot on which HHS is now is not zoned for a school and that because of the presumed size of the school, there would probably have to be a special use permit meaning a quasi-judicial hearing.

Council Member Smith stated from that moment, roughly one year ago almost to the day, he conducted himself with the assumption that one day, whatever plan the County Commissioners chose to pursue, would come before him as a member of the City Council and it would be in the form of a special use permit because the high school is such a big building. He has told numerous members of the public of the limitations the Council is under when dealing with the special use permit and would detail specific conversations.

Council Member Smith stated his principal, Bobby Wilkins, has talked about the HHS proposal many times in faculty meetings this year. He stated he has never responded to any statements he has made either in meetings or in private. He stated he has never expressed to anyone at HHS how he would vote in this quasi-judicial hearing. In fact, in one of their staff meetings he explained to his colleagues what a quasi-judicial hearing is and why if they came up to him and talked to him about the proposed HHS building, he would not respond and he has following that process. He stated Mr. Wilkins has never asked him to tell how he will vote nor has he implied, directly or indirectly, that any condition of his employment will be effected by his vote.

Council Member Smith reported in December 2016 when the County Commissioners asked the School Board to vote again on the Commissioners HHS project despite the School Board having already voted on this in November of 2015, he called Rick Wood to get a clarification. He asked Rick if the Edneyville project and the HHS project were in the same vote. He responded yes. He then asked Rick if there was any way the School Board could bifurcate this vote voting on each project separately. Rick replied to him at that time he did not think it could be done. He told Rick that he did not think that was fair. He did not try to persuade him how to vote on the HHS project.

Council Member Smith reported during the past winter he has spoken to School Board Blair Craven on several occasions because their sons play basketball in the same league and play baseball at Jackson Park. On more than occasion, Mr. Craven has stated it is in [Mr. Smith's] hands or the City Council's hand but he has not discussed his vote nor has Blair tried to persuade him in any way.

Council Member Smith continued that prior to the hearing on closing Ninth Avenue in February WLOS interviewed him one afternoon. He gave them his opinions about the efficacy of closing Ninth Avenue at that time. He told them he could not give them an opinion about the Commissioner's proposed HHS project because it will probably be a quasi-judicial hearing before the Council if the Commissioners ever file for a special use permit.

Council Member Smith reported since the special use permit has been submitted he has spoken several times to City Staff such as City Manager John Connet, City Attorney Sam Fritschner, Development Director Susan Frady, Zoning Officials Daniel Heyman and Matt Champion. In all of their conversations he has not expressed an opinion as to how he would vote on the special use permit requested by the County Commissioners.

Council Member Smith disclosed no member of the School Board nor any member of Henderson County Public Schools central office staff, including both superintendents, Jones and Caldwell, have ever said to him or implied to him directly or indirectly that his continued employment with Henderson County Public Schools would be affected by his vote on the Commissioner's HHS project.

Council Member Smith reported at the April City Council meeting, he received a letter from Representative Chuck McGrady to which he referred to a draft bill that would de-annex the current HHS lot and the Boyd lot and make them part of the County. His inference from this letter was that if he did not vote for the Commissioner's project, he would introduce this Bill but that was never stated to him.

Council Member Smith stated he is also aware through the media that the Commissioners have made plans to close the current HHS campus and move it to another location if the Council does not approve the special use permit. He has not spoken with any Commissioner directly about this report.

Council Member Smith stated he has three children who are in Henderson County public schools: his daughter is a sophomore at HHS, another daughter is an eighth grader at HMS, and his son is a fourth grader at HES. In one way or another, they, along with his wife will be directly affected by the decision he makes.

Council Member Smith stated with all of the contacts regarding the subject of the special use permit request he can say he has an open mind and able to make a fair and equitable decision in this hearing. This project has evolved a great deal since the summer of 2015 and there is information in the packet that he has seen for the first time. He is sure there will be witnesses he will be hearing for the first time as well. He has not made up his mind as to how he will vote and is prepared to make a decision with facts presented [at this meeting].

Council Member Stephens disclosed he forgot the exact date but he appeared before the Board of Education and 21 people spoke that night. He said twice that he was not there as Council Member but as a taxpayer and an interested citizen and he is both of those. What he expressed had nothing to do with zoning or the design of the school. He was there for two reasons. 1) At that time, the County said they had no money for the Edneyville Grammar School. They have come up with the money to replace it – it is way past due.

Council Member Stephens stated the other reason he went there is the County Commissioners publicly said at that time that if the Board of Education did not vote the way they wanted them to vote that night, that they would put off the school for at least two years. He brought up bullying and the reason he appeared that night and had nothing to do with his hearing.

Council Member Stephens also disclosed he has been approached like all of the rest by many on the street, at church, and other places he goes to shop and eat. He thinks he has only had one person that sent an e-mail that supports the current plan. He has not commented on how he would vote.

Council Member Stephens continued while in Raleigh with the Mayor, City Attorney and City Manager, as they finished lunch and stood up to leave, Representative McGrady said to he has a bill on his desk and if Council does not follow the law to the letter when the school issue comes before the City Council, he will take it out of the City and the County will have full control over the property.

Council Member Stephens reported he also had a meeting with Representative McGrady at [Stephens] home. They discussed the water issue brought up by the County and the school. Representative McGrady said again he would introduce a law in the General Assembly if Council did not follow the law to the letter. He assured Representative McGrady that Council always had and would.

Council Member Stephens stated he has not discussed the quasi-judicial with anyone but is waiting for the facts before making a final decision.

Council Member Miller disclosed he came in with an open mind and has not told anyone how he will vote. He tried to stay out of the fray as far as name-calling and the public debate over the different options. He received many e-mails, had a lot of conversations, many phone calls, on both sides of the issue. It is a tough issue when you have grown up here and your family went to Hendersonville High School. He asked that no one doubt his loyalty to Hendersonville High School but also that he will make the decision based on fact.

Council Member Miller disclosed that early on he went to John Mitchell and asked him for a briefing on all of the options. Mr. Mitchell did not try to influence him in any way on his opinion but took him through the options.

Council Member Miller disclosed at some point, he went to Steve Wyatt and to Mike Edney and asked them for permission to sit down with Bill Orr, President of the Hendersonville High School Alumni Association and begin discussions to find a compromise that everyone could live with. He stated he and Bill worked long and hard on that. Many pieces of each of the proposals went into it. At no point was anyone trying to talk him into just one way because they were trying to find a compromise. He talked to the other County Commissioners and they said they would hear him out if he could bring a compromise to them that the Alumni Association supports. At that point when they thought they had things in place, Bill Orr took it to the alumni meeting and presented it for a vote and it lost. The discussions were good and constructive. He had cooperation promised from both groups but it did not pass the test with the alumni. He encouraged the County Commissioners to keep talking but from that point, he does not know.

Council Member Miller also stated he talked to Bo Caldwell and made him aware of what he was doing as well as Blair Craven, Michael Absher and a few others that were on the School Board letting them know he was trying to find some middle ground.

Council Member Miller stated he is aware of Representative McGrady's bill to deannex the property if the Council does not go by the letter of the law. He stated he is also aware of Chairman Edney's statement to move HHS and sell the Boyd property if the City does not approve this. This has not affected him in any way. He is here to hear the facts. He has real concerns about the Stillwell Building. It is not so much as his emotional ties to it but does not want this to be a burden on the City of Hendersonville to take care of. He has seen what happened in Tuxedo and he does not want to see that. It is going to be a very expensive process to preserve it. He will be looking to hear what their plans are going forward if the Stillwell Building is not included in Hendersonville High School and what they are going to do with it.

Council Member Miller stated this is not every conversation but are most pertinent. He will be glad to share any information.

Mayor Volk asked the members of City Council, as a result of these contacts, if they have been influenced in such a way that they would be unable to render a fair and impartial decision on the application based solely on the information presented at this hearing. There was a unanimous "no."

Mayor Volk asked if any person who claims standing objects to any members taking part in the discussion and decisions based on the contact. There was no objection. She asked if any other member of the Council had an objection to any members' participation. There was no objection.

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

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

Mayor Volk stated 15 people signed up to speak. She gave guidelines for speaking including repetition is not needed. They may voice agreement with someone who spoke before them with the same facts. She stated the information presented must be factual, or expert witness testimony, not just personal opinions and feelings. She asked the City Attorney to swear in the witnesses providing testimony. Twenty-seven persons were sworn in to provide testimony.

Mayor Volk opened the public hearing at 6:23 p.m. in accordance in North Carolina General Statutes by notice published in the Hendersonville Lightning.

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 225,000 square foot building to be used as the Hendersonville High School. As part of the project, the applicant is requesting the parcels to be rezoned from R-6 High-Density Residential, C-3 Highway Business, and MIC Medical, Institutional, Cultural to PID Planned Institutional Development. The project is located on three parcels: number 9569-60-9162 – the current Hendersonville High School, number 9569-70-0527 - the former Boyd Automotive Dealership, and number 9569-60-4631 – a vacant residential structure on Fassifern Court. This is the project's proposed off-site parking facility.

Surrounding land uses are shown on the existing land use map.

Existing Land Use & Zoning: The existing Hendersonville High School property is currently zoned R-6 High-Density Residential and contains the existing Hendersonville High School. Parcels to the west and southwest are zoned MIC and contain residential, office, and medical uses. Parcels to the north and northwest are zoned C-3 and contains the former Boyd Automotive Dealership and Pop's Diner. The parcel to the east is zoned C-2 and contains the City of Hendersonville Fire Department. Parcels to the south are zoned CMU and include retail, offices, residential uses and a restaurant.

The former Boyd Automotive Dealership is currently zoned C-3 Highway Business and is currently unoccupied. The parcel to the south is zoned R-6 and contains the current Hendersonville High School. Parcels to the east and north are zoned C-3. Parcels to the west are zoned MIC and contain residential and medical office uses.

The vacant residential structure on Fassifern Court is currently zoned MIC. Parcels to the north, east, and south are zoned MIC and include residential and medical office uses. Parcels to the west are zoned MIC-SU and contains medical offices.

He provided an "Existing Zoning Map."

Comprehensive Plan Consistency: The existing Hendersonville High School property and vacant residential structure on Fassifern Court included in this application are classified as Urban Institutional on the 2030 Comprehensive Plan's Future Land Use Map. Parcels to the south, east and west are classified as Urban Institutional. Parcels to the north are classified as Neighborhood Activity Center. The goal of the Urban Institutional Classification is to create a cohesive, well-defined urban campus for medical and educational institutions with support of office, service and residential uses that is integrated with downtown.

The former Boyd Automotive Dealership is classified as Neighborhood Activity Center on the 2030 Comprehensive Plan's Future Land Use Map. Parcels to the north, northwest, and northeast are also classified as Neighborhood Activity Center. Parcels to the south, southeast, and southwest are classified as Urban Institutional.

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

The Urban Institutional classification lists public and institutional uses as a primary use. The Comprehensive Plan recommends that primary uses such as this one occupy the majority of acreage found within this classification's boundary. The Neighborhood Activity Center classification lists public and institutional uses as a secondary use. The Comprehensive Plans 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 a special use permit process.

He provided the Comprehensive Plan's Future Land Use Map.

Plan Review: The site plan includes a four-story building and a gymnasium for a total of 225,000 square foot. The existing Stillwell Building at 64,496 square foot building is slated to remain.

The site plan shows 215 parking spaces for the proposed project. The minimum required by the Zoning Ordinance, based on number of students, classrooms and offices is 202. The original site plan submitted in February showed 225 parking spaces. Due to adjustments required by the TIA review and City Departments, ten parking spaces were removed to accommodate the adjustments. The applicant is proposing 93 parking spaces provided onsite and 122 parking spaces provided off-site. Section 6-5-3.2 of the Zoning Ordinance allows off-site parking to be used to meet the parking requirements provided that the lot is located within 200 feet of the use lot. The proposed off-site parking area is located approximately 165 feet from the subject area.

As per section 15-6 Bufferyards, buffers are not required if a street with right-of-way greater than 30 feet lies between two land uses that would require a bufferyard. The site is separated by rights-of-way greater than 30 feet and therefore does not require a buffer.

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 setback may be reduced to 10 feet when parking is situated to the rear or side of the lot and screened from view from public right-of-way. Parking is proposed to the rear and/or side of the lot and screened from view from the public right-of-way to utilize the 10-foot setback allowance.

Prior to Final Site Plan approval, the existing Hendersonville High School property and the former Boyd Automotive Dealership property will be combined to reflect the Preliminary Site Plan boundary.

Traffic Impact Analysis (Section 6-19): A traffic impact analysis (TIA) is required when a project exceeds either 1,000 trips per day or 100 trips per a.m. or p.m. peak hour. A TIA was completed by Mattern & Craig, Inc. for this project and submitted to the City for review on February 21, 2017. According to the TIA and the Institute of Traffic Engineers *Trip Generation Manual*, the new Hendersonville High School is expected to generate 269 trips and 91 vehicles during the a.m. and p.m. peak hours respectively.

The TIA has found that “the proposed Hendersonville High School expansion should not have an adverse impact on the surrounding roadway network with appropriate mitigation measures at certain intersections as described:”

- Installation of a traffic signal at the intersection of Oakland Street, Ninth Avenue and the proposed entrance to the school.
- Installation of a northbound right turn lane along Oakland Street onto U.S. 25.
- Modifications to the traffic signal at the intersection of U.S. 25 and North Main Street to include a right-turn overlap.
- Update and upgrade all pedestrian crossing facilities associated with this project to include signalization, striping, ADA accessibility and to meet NCDOT standards.

NCDOT and Kimley-Horn Engineering Firm reviewed the TIA in-depth completed by Mattern and Craig. They requested additional information to determine if any other roadway or site improvements were necessary.

The Development Assistance Department received a revised TIA from Mattern and Craig. The revised TIA identified a need for Fleming Street to have a dedicated right-hand turn lane at the intersection with 25.

Fleming Street is already 30 feet in width and would only require re-striping to accommodate a dedicated right-hand turn lane. Other than what is identified in the TIA, the Development Assistance Department Staff has not found any other issues relating to public health, safety or general welfare.

A neighborhood compatibility meeting was held on March 2, 2017. Approximately 59 people representing the general public attended the meeting. Concerns were raised about: sound generated from the site, parking, traffic issues, pedestrian and student safety, lighting, fencing and existing structures.

The Planning Board took up this matter on April 10, 2017 and voted five to three recommending City Council not adopt an ordinance amending the official zoning map and not approve the application for a special use permit for Hendersonville High School.

He reviewed the suggested motions. He stated WGOA and Clarke Nexsen staff are present to answer questions.

Council Member Smith asked if the zoning of the Boyd lot allows a school. Mr. Champion responded in the affirmative. Council Member Smith asked if there is a limitation to the size of the building. Mr. Champion responded in the affirmative. Council Member Smith asked if less than 50,000 square feet of this building were on that lot, how it would be affected under the current zoning. Mr. Champion responded once the building is 50,000 square feet or greater, it requires a special use permit. It goes through the planned development process. If under 50,000 square feet it would have to meet the standards set forth in that zoning district including parking, setback and maximum height requirements of the building. The site is approximately 133,000 square feet. If a 49,000 square foot building were constructed, they would have some square footage left to accommodate other requirements: parking, common space, planting strips, whatever is required for the site plan. It would require Planning Board approval for any building over 20,000 square feet and less than 50,000 square feet.

Council Member Smith asked with current zoning ordinances, there may not be a need for a special use permit. Mr. Champion stated this is correct if they are constructing under 50,000 square feet.

City Attorney Fritschner advised parties have a right to cross-examine testimony. He stated there was a mention on the record of the Planning Board’s recommendation with respect to special use. He stated the Planning Board is required by statute to recommend on the rezoning but he advised Council members the recommendation on the special use should not form any part of their decision. Mayor Volk stated the recommendation from the Planning Board has no bearing on what the Council hears this evening.

Mayor Volk asked if anyone with standing, as specifically defined, has questions of the staff. There was none.

J. Michael Edney, Chairman of the Henderson County Board of Commissioners, thanked the Council for the opportunity to come and address the matter. He provided the following testimony:

There are three issues before them: whether or not to rezone, to close the road and if the first two are approved, whether to grant the special use for this specific project. He has been on the County Commission for 14 years and has been practicing law for 32 years. This has to be the most emotion-ridden project he has ever been involved with – including 30 murder trials. This is the first time he has had a death threat, which shows the depth of emotion. He went to HHS, his son goes there and his dad went there. Despite what some say, he thinks this is the absolute best thing we can do for the future of Hendersonville High School and for the next four generations of kids that will go there and learn. It is not perfect. Everyone could tweak the plan but he believes it is the best option they have with the site with the requirements the City places on them. They are going to ask the Council to approve it.

He has talked to many people but one person told him that the County has not talked about the Stillwell building and their plan for that. He said they have, many times. The newspaper ran a press release from December that shows that. They have encouraged and committed to appropriate financial resources for the integration of Stillwell's classrooms and auditorium with HHS to maintain the link between the past, present and future. Stillwell is an important building historically, emotionally, and other reasons. The County Commission has no intent to do anything other than work with the school board to keep that as a part of the school. To show this is not a city-county issue, and is an emotional thing, two of the three County's appointees to the Planning Board voted against the rezoning. The third one is the chairman and did not vote. He asked staff to go through their proposal and he will finish with a few comments.

Mayor Volk asked for the presentation.

Chad Robertson with Clarke Nexsen provided the following testimony:

They have organized their presentation based on the five criteria used to determine the validity of the special use permit. They will discuss public health, safety, welfare, public utilities, zoning compliance and compliance with the City's Zoning Ordinance, neighborhood compatibility and how this project fits within the Comprehensive Plan.

As staff indicated, other than the items indicated in the traffic impact analysis, nothing was identified as an issue as it relates to public health, safety or general welfare.

The Traffic Impact Analysis (TIA) was reviewed by City staff and by the City's consulting traffic engineer, Kimley-Horn. All of the issues identified in the TIA have been addressed and incorporated into the plan for the project. They feel it is important to see the conditions the TIA presented to them and the minimal efforts necessary to address the traffic concerns. Many of the intersections require no change to the current conditions. He reviewed each of the areas:

Intersection of Oakland Street/Fassifern Court: The recommendation of the traffic impact analysis was to provide two 10-foot lanes in that area. They have done that and have pushed the road as far north as possible to avoid conflicts with Mr. Gardo's parking along the edge of that right-of-way.

Intersection of Oakland Street/Fassifern Court: Crosswalks with beacons, crossing signs in this location along with pedestrian safety component for the off-site parking lot have been incorporated into the new facility.

At the entrance to the new school, they have provided a traffic signal with pedestrian amenities.

Intersection of Oakland/Bearcat: They have provided pedestrian improvements that include crosswalks and signals.

Intersection of US 25/Oakland: They added a northbound right turn lane with adequate storage length along that line to accommodate the additional service needed for US 25. They will be restriping the road in that area.

Intersection of Ninth Avenue/N. Main Street/US 25: They added a right-turn overlap phase to increase the service during the peak hours.

Intersection of Fleming Street/US 25: The street is wide enough to provide three lanes, two for egress and one for ingress. The traffic signal in that area will be revised as well.

Intersection of Fleming Street/Ninth Avenue: no changes are required.

Intersection of US 64/Oakland Street: no changes are required.

Intersection of Bearcat Boulevard/Buncombe Street: no changes are required.

Intersection of Fleming Street/Fassifern Court: no changes are required.

Intersection of US 64/Fleming Street: no changes are required.

Intersection of Fleming Street/Bearcat Boulevard: no changes are required.

Intersection of US 25 S/Bearcat Boulevard: no changes are required.

Intersection of US 25N/Bearcat Boulevard: no changes are required.

The point is, any traffic impact this project may have had was so minimal that very little had to be done in order to mitigate the condition of traffic on this site. Not only does this project maintain the current condition but it also promotes the public health, safety and welfare by improving the existing conditions.

Parking: On the existing site, parking does not comply with the Zoning Ordinance. There are only 57 dedicated parking spaces for faculty and staff. All of the student spaces are off-site or on the street. All of the student spaces are non-dedicated.

With the new school, all parking requirements will be met in excess; 202 spaces are required and they are providing 215. All of these spaces are dedicated for the new school.

On-site parking has improved roughly 63 percent allowing visitors, faculty, students, and parents to park on the site for easy access to the new and existing facilities.

The off-site parking has been improved by 130 percent reducing congestion associated with searching for parking and increasing the availability of on-street parking for neighborhood use, 131 on-street parking spaces will remain for neighborhood use. With the increase of 158 designated spaces for high school students, the availability of on-street parking will be improved dramatically. The walking distance from the proposed Fassifern lot is closer to the school than the current Immaculata lot. This improves the conditions for the students and is a safer condition for the students.

In addition to the improvements in the TIA, the project has other positive impacts on the overall traffic patterns of the neighborhood. The Five Points intersection is confusing and inefficient. With the closure of Ninth Avenue, there is a reduction in the number of intersections and the circulation is much more efficient.

The current drop-off condition for students is slow down, stop in the middle of Oakland Street, Bearcat Boulevard or Ninth Avenue, get out of car, and make your way to the school. Students are dropped off in the middle of the road without a clear, singular entrance into the school. Students meander from those random locations to six different buildings creating unsafe conditions and congestion at those intersections. With the proposed plan, the queuing is provided within the campus and will begin to relieve the congestion on the public streets.

Students have a singular safe entry into the facility from the drop-off zone. The features of the site include clear pedestrian pathways and a well-defined drop-off zone for both buses and parents.

As discussed with the traffic impact study, students and pedestrians parking offsite will have clear and safe pathways and improvements including crosswalk markings, beacons, and crossing signals.

Student safety is paramount at the conclusion of this project and during construction. Currently the site is only partially fenced. There are 14 entrances into the classroom buildings, labs and gyms. Today's security threats are real and must be addressed with the design of this new facility. Due to the changing of the classes, the buildings must remain open and that increases the vulnerability of the campus. The proposed project will secure the site with a fenced perimeter, gates will be provided at multiple locations for the convenience of the students. They will have access to the public sidewalk system outside of the gates.

Four primary entrances will be utilized in the mornings while the school is being populated. Once the school day begins, there will be a single entrance into facility that will be secured, maintained and administered by staff. This single entrance will be clearly defined and will be protected. Administrative staff will be allowing folks in and out of the buildings. They can lock down the building with that single entrance in the event of an emergency.

Concerns have been voiced about the open space and green space and how they impact the welfare of the students and the neighborhood. Currently the open space on site is approximately 50 percent. The proposed plan will increase the open area by approximately 20 percent. Due to the number of the buildings and the lack of efficiency of the organization of those structures, the impervious area is nearly 60 percent of the total site. The proposed plan will reduce that amount by nearly 30 percent allowing for more green space and reductions of stormwater runoff.

Overall, the impacts he discussed relative to traffic, parking, safety, open and green space will enhance the health, safety and welfare of the students and this neighborhood.

The second criteria is the availability of public facilities and service. The public facilities, as staff pointed out, water and sewer are readily available. Water is easily accessed off of Oakland Street. Currently the sewer [system] is running under a number of the buildings and they will improve that situation with the relocation of the sewer line. They will be enhancing the stormwater management on the site and will meet all the regulations associated with that.

In addition to the utilities available on the site, the public roadway system is sufficient to handle the capacity of the facility at full buildout with over 1,000 students.

Compliance with the Zoning Ordinance: Staff pointed out the current zoning requirements. It is important to note that the existing school is located in a high-density residential zoning district. Schools are allowed in that area as a conditional use. Schools are allowed by right in the C-3 and MIC Districts. In either case, schools cannot exceed 50,000 square feet without a special use permit. The existing facilities are over 50,000 square feet. Any expansion or major renovations to the existing school will require rezoning and a special use permit.

The Zoning Ordinance has designed the PID designation for public institutions such as schools that are over 50,000 square feet. The proposed project complies with all the regulations and standards. They are requesting no variances.

The facility is designed to comply with the setback requirements. A landscaping buffer is not required due to the width of the right-of-way being greater than 30 feet. All landscaping ordinances will be met with the new plan.

The height of the building is within the allowed maximum height as indicated in the Zoning Ordinance.

The entrance to the site is provided off a minor thoroughfare in accordance with the Comprehensive Plan.

All zoning requirements associated with the parking are being met.

To summarize the zoning portion of this discussion, they are in compliance with all zoning ordinances and are not requesting any variances.

On March 2, they held a public meeting to address the comments of the neighborhood and answer questions. Questions and feedback ranged from the compatibility of the neighborhood to the construction timeline.

Use and Compatibility: Since 1925, Hendersonville High School has resided on this site. The surrounding neighborhood developed around the school. People moved their homes and businesses to this location. Neighborhood compatibility on this site is established by the fact that there is a school currently and there will be one in the future.

The use of the Fassifern lot as the parking area is compatible with its neighbors as well. Both Fleming and Oakland are populated with parking areas for local businesses. Within 200 feet of the site, there are three large parking areas, seven within 500 feet. Pardee Hospital, with its extensive network of surface parking and structured parking is within 1,000 feet of this property.

One of the goals of the design process has been to create a cohesive and unified Hendersonville High School campus. This means establishing a relationship with the existing structure – the Stillwell building that will remain. Aesthetically, the architecture of the new and existing buildings must be familiar with each other, speak the same language and feel comfortable together. In order to accomplish this goal, they performed an in-depth analysis of the Stillwell building looking at the rhythm, the order and the hierarchy of that structure. The study provided them with cues to incorporate into the new facility. Carefully balancing the information the Stillwell provided and translating that into a twenty-first century learning environment was one of their goals.

Cues were taken from the type of materials as well as the relationship of those materials such as column in the brick. Cues were taken from the details such as this filigree infill panel. Cues were also taken with the depth that is provided in the detailing on the existing Stillwell building. All of this information is a part of the design of the new facility. They are creating a unified campus that will become a gateway into downtown Hendersonville.

Not only is it important to unify the campus aesthetically, but physically unify the campus. To achieve this, a central open space provides a connection between the Stillwell building and the new high school. Continuing the brick pillars and the fencing to secure the site as well as incorporating sidewalls that will be constructed from the stone salvaged from the old gym will further unify the campus.

The new facility opens itself to the Stillwell building. Pathways are being provided for students to circulate between the new and the old, further reinforcing the connection between the facilities.

The entrance into the site has been organized so it is located centrally to the campus and creates a clear identity of the school off of Oakland Street. Ingress/egress is carefully orchestrated creating safe access for the students and the community.

No longer will the students be faced with jumping out of a car in the middle of the street. Students will be safely dropped off on the interior of the campus onto a walkway that will lead them to the front door.

During the meeting, security, lighting and student safety came up a number of times. As he discussed, the entire site will be fenced. There will be a single entrance that will increase the security of the campus and of the students.

The density of site was questioned during the meeting. The density of the site as it currently exists is roughly 19 percent. At the completion of the project, the density will be one percent more than currently exists. However, they have increased the student population, and secured the building while complying with modern life safety and accessibility codes and requirements. They meet the Department of Public Instruction's standards and guidelines and have created a 21st century learning environment. These densities also allow for more open space and open area and less impervious area.

The new school is located away from Asheville Highway to help reduce the impact of noise. Landscaping buffers and sidewalls are also being used to address the noise created by the street.

Additionally, they are locating programming components closest to the street that are the most active: the gym, the woodshop and service spaces. By locating all of these facilities nearest the street, the classrooms are permitted to be located farther away from the street to minimize the impact of any noise.

During the neighborhood compatibility meeting, questions were asked associated with construction activities. The construction sequence is very simple. It is off the new site –build the new facility, then move the students into the new facility tearing down the old and constructing the parking lot. Even with the simple nature of this construction activity, they are going to additional constraints on the construction. These include background checks, security cameras and surveillance cameras all in an effort to further minimize the risks to the students and to the neighborhood.

Construction Sequence: First, the construction site will be fenced and secured. Second: Egress will be established from the existing new gymnasium and the Boyd property buildings will be torn down. They will build the new facility, move the students into the new facility and then complete the remainder of the work in the interior of the campus. There are no modular units, no phased construction associated with the new facility. The timeline associated with construction of the new facility is approximately 24 months.

Comprehensive Plan: The existing Boyd is classified as a Neighborhood Activity Center and it is intended to concentrate and create dense walkable projects that promote a sense of community. Public and institutional uses are encouraged in this area through this process – special use procedures.

Both the Fassifern lot and the existing high school lot are classified as Urban Institutional. These are designated to create well-defined urban campuses for educational institutions. Public and institutional uses are the primary and recommended uses for these areas encouraging the facilities such as the new school within its boundaries.

Staff concurred with the assessment that the new facility is consistent with the 2030 Comprehensive Plan and recommendations.

He has walked through the five criteria associated with the special use permit and provided evidence supporting the projects promotion of public health, safety and welfare. They have indicated there are adequate public facilities and services are available. This project complies with the Zoning Ordinance, is compatible with the neighborhood and it is compatible with the 2030 Comprehensive Plan.

They are proposing a compatible project on a well-defined urban campus that elevates the sense of community.

Henderson County Commission Chairman J. Michael Edney provided the following:

He has heard objections to, i.e., being too close to the Asheville Highway, traffic and safety issues. The closest point is 45 feet away and the drawings show a six to eight-foot granite wall along that part of the campus to protect it even further. The granite will come from the old gym. He has trouble believing that a 45-foot distance with a granite wall is not going to protect the kids in that area.

Mr. Miller spoke of trying to negotiate to get some things moved. He has done some research and talked to their people about the possibilities. As presented they are approximately 10 feet off of the football field. In theory, you could move it ten feet closer or relocate the football field. The problem is it also butts into the band room/cafeteria area and gymnasium. You would have to revamp the whole project, demolition which means trailers, cost more and take more time. It is just not practical.

He thanked Mr. Orr because he done a lot of the homework. Historically, Hendersonville was chartered in 1901 and began as Judsen College. It was on Fleming Street between Third and Fourth [Avenues.]

The school went from there to the Rosa Edward or Fourth Avenue building and was there 10-15 years until the legislature changed the law which said everyone had to go to school until at least age 14. That led to the prospect that the building was not large enough. They bought [other] property which is where Boyd Park is. They moved there and then to Stillwell a few years later. That property was destroyed as well.

One interesting thing he saw is the City partnered with the school folks then on the auditorium. Stillwell's auditorium was going to be 800-900 seats. The City wanted it bigger so it could be used by the community. The City put in an additional \$15,000 so the auditorium could seat 1,200 people. There obviously have been

changes since but it shows the importance and the working relationship between the City and the School folks back then.

As far as the Stillwell Building going forward, they have committed, and it is in the manager's budget proposal to put \$1 million per year towards Stillwell on-going, depending on the priorities established by the construction and school folks – whether the roof needs to go first, etc. They have committed a funding stream to take care of those things.

The other criticism has to do with the distance between the two which is roughly a football field, 300 feet. It is in the infant stage now but they want to turf all four high school fields. They are well on the way with the other three schools. HHS had to be put on the back burner depending on what is or isn't done. What he would like to see, and has asked for preliminary numbers for a new entrance into the football stadium. That means ticketing, concessions, etc. will have to be moved. He has talked about doing a walk of fame, a way of connecting the old and new, with the concession stand, ticketing, stands, etc. with a nice entrance and space for the kids. When you come into the campus to come to a ballgame, you are not looking at the back of some ugly aluminum stands. They are trying to make this as nice as it can be. There have been some criticism about the costs. It costs more because they are trying to make it nicer. However, this is a high school that will last another 100 years that will be the centerpiece for the City and it needs to look nice.

Some folks have talked about his comments to the school board as far as threats. He does not make threats. He will tell the Council what he told the School Board ... the City has the absolute discretion to do whatever they want and there is not going to be any retribution, retaliation or anything else. He wants them to vote with their heart.

On the zoning change, the Council has total discretion. On closing the street, the Council has total discretion. On special use, if they meet the requirements then he does not think they have discretion.

The Planning Board recommended against it. They said it is not compatible with the neighborhood. He disagreed with that but that is a judgement call. They said traffic is an issue and he disagreed with that; it is a judgment call. They said safety, but did not explain safety, but again a judgment call. The Council could say the same thing and there is not much anyone could do. If Council does not approve it, they will not appeal it. They will not take it to court. They will live by the Council's decisions.

The role of the Planning Board and the role of the City Council is different. The staff is the professional planner but the Planning Board tries to make their decisions on planning principles. They hired Clarke Nexsen in December 2014 roughly. They were charged with looking at the facilities and determine what is best: renovating or not, new or not. There were no pre-determined requests.

The Department of Public Instruction comes up with scoring and determines whether something should be renovated or not. If his memory is correct, 12 points means it is reasonable to renovate. Of all of the buildings on the campus, the highest score was eight meaning nothing there should be renovated. Raleigh also says if you build a new school for 1,000 kids, it needs to be on a 50-acre tract. They have 14 acres. Pure planning and black and white logic shows they we need to sell this place, find 50 acres and start over.

The Council has total discretion – they can do what they want and it can be totally justified. The City and County started talking about building a Courthouse in the 1980s. Bo Thompson was talking about it before then. There was a debate whether to build the Courthouse near downtown or buy land cheaper further out. The County, being partners with the City, chose the current site of 1995 Courthouse and they kept staff and visitors downtown because it is important to keep it downtown.

There was the same sort of thought and debate with the new health sciences building. It could have gone to Blue Ridge or anywhere but it was a partnership, City and County, to keep it local, where it is convenient for everyone, and will be an economic driving force for the City.

Those are the intangibles that led him and others to say this is not a perfect plan. On 14 acres, you cannot have a perfect plan but it is a good a plan as can be found for the site. If the Council thinks it needs to be on 50 acres, then they will find 50 acres. They will work with the Council and the School Board. We have to do what is best for the kids. It is about the next 100 years not the last 100 years and that is what they have to focus on – the next four generations, not the last four generations.

He has full faith that each of the Council will do what they believe in their heart is the right thing. They will live with the Council's decision and move forward always keeping the kids as their polar star. He asked for questions.

Regarding the construction schedule, Mayor Pro Tem Caraker commented they will build the new school first and he agrees with the plan. Regarding safety, he asked how they intend to keep the students safe after the new facility is built while demolishing the old school. Mr. Robertson responded the concept is similar to what they done at Asheville Middle School. They are going to build the new facility over the summer. They will do most of the major demolition associated with the site during the summer. There will have to be some temporary egress pathways that will be created for the new facility to get the students out while the parking area is being done.

Mayor Pro Tem Caraker commented they have been heavily pitching their traffic circulation of dropping students off and that may foul it up. Mr. Robertson stated that is the same concept they used at Asheville Middle School and it worked flawlessly in that situation as well.

Mayor Pro Tem Caraker asked if they could get it done in three months in the summer. Mr. Robertson stated the demolition occurred at Asheville Middle School in approximately two months and they just finished the site work last month.

Mayor Pro Tem Caraker commented there is no use spending money on the Stillwell Building if there is no plan to use it. He stated he does not think it is a bad plan. Mr. Edney stated the County has asked the School Board to come up with a plan as to how they want to use it. He wanted Council to understand the County is committed to funding for the Stillwell Building.

Regarding the Stillwell Building and fence they are building to protect the campus, Council Member Miller stated the fence goes to one corner of the Stillwell building and back off the other. He stated from that he assumes it will be some part of the campus at some point and asked if they have a plan to move the fence in the event it is not. Mr. Edney responded unless the School Board tells them they do not want it, it is an integral part of the school and campus. He stated the senior steps are over there. He does not know if they will want to change that. He further stated when they closed Rosa Edwards, some of the newspapers articles talked about it would be repurposed. He stated he went there in the 1970s. It was a school for many years after that. Stillwell can be a ninth grade academy, it can be arts/sciences, drama, or a multitude of different things. Council Member Miller asked if the County has a preservation budget for it. Mr. Edney stated they are committed to \$1 million/year preservation and depending on the ultimate goal, it may be another borrowing depending on what the School Board asks them to do. Council Member Miller commented he is aware of some immediate needs and wondered if they had those addressed. Mr. Edney responded, absolutely.

Regarding the proposed parking lot, Council Member Miller stated he sees it turning into a cut-thru with an entrance at each end. He stated it is a straight shot and asked if there is anything they can do to prevent it from being a straight shot and easy to cut through. He suggested redirecting it so traffic has to go to one side. Council Member Smith commented when there is a traffic back-up at Highway 25, they are not going to wait for the light. They are going to turn left and cut straight through the parking lot, down the middle of all the other cars, and will turn right on Fleming. Or the opposite of that, trying to get to school in the morning, and they are late, they will cut through the lot and try to get somewhere closer if you have a straight road there.

Mayor Pro Tem Caraker commented he realizes it meets the Zoning Ordinance but that his issue with the overall plan is parking. The neighborhood is concerned about extracurricular activities going on there. He stated Council Member Miller has a great point about the traffic because they will go the path of least resistance.

Council Member Miller stated lighting is also a question. Mr. Robertson stated lighting will definitely be installed around that area.

Council Member Stephens expressed concerns about the ability to see the parking lot from the school. Mr. Robertson stated they are improving the condition of that area, as it exists now. He stated it is an abandoned house. Council Member Stephens also expressed concerns about driving straight through the parking lot to the other road. Mr. Robertson stated they can certainly look into that and try to meander the road or have other traffic calming devices such as speed bumps to slow the traffic. Mayor Pro Tem Caraker asked if the site line from the main campus to this parking lot will be better once developed. Mr. Robertson stated yes, absolutely.

Council Member Miller asked the architect to do something to address the cut-through in the parking lot. Mr. Robertson agreed, stating there are some traffic calming measures that they can do. Mayor Pro Tem Caraker asked in the spirit of cooperation if they could do that as a gentleman's agreement without adding it to the list of conditions. Mr. Robertson stated absolutely, they will incorporate that.

Council Member Stephens stated there are two entrances: one from Fleming and one from Oakland and asked where the traffic will be coming in. Mr. Robertson stated there is access from both sides. Council Member Stephens asked if they will be exiting in both places. Mr. Robertson stated that is correct. Council Member Stephens stated he does not see how it will work with all the parents coming down Oakland Street too.

Council Member Smith stated he appreciates Chairman Edney attending. He stated Mr. Edney sited that the City helped build the auditorium but that is when it was the City school district. Mr. Edney stated it is City trustees, a different set of people, who managed that district. Council Member Smith stated it was a different set of governments working together at that time. He asked if it was the City School Board working with the City government. Mr. Edney responded yes.

Council Member Smith pointed out when the Health Science Center was built, the County came to the City ahead of time and said we want to work with you. They asked the City to purchase the property or part of the property, to help with the project. He stated in this circumstance, the County never came to the City nor asked one question about what the Council would like to see on those lots. He stated the only way the Council has had to deal with this is the County giving a plan. Mayor Pro Tem Caraker agreed. Mr. Edney stated he would not use those words but ultimately yes.

Council Member Smith stated in planning this building, the County has gone through a lot and he appreciates Mr. Edney being present. He stated the County has not given any reason why the large section of the building cannot be closer to the Stillwell Building. Mr. Edney stated they would have to demolish some things before they can build there. Council Member Smith asked if the reason is for construction. Mr. Edney stated it would take more time and cost more money and put kids in trailers for months. There was discussion of the construction schedule. Mr. Edney stated it is there because they do not want kids in trailers for 21 months or longer and never be in a real building during their entire high school career and that is the bottom line.

Council Member Smith stated Mr. Edney has mentioned several times what is best for the kids. He stated Mr. Edney stated a moment ago "tell me what we can do and we will do it" and asked if that is correct. He asked if the Stillwell Building is part of Hendersonville High School in this plan. Mr. Edney stated yes. Council Member Smith stated he was told they are not going to tear it down and asked if they [County] are expecting students to walk into the Stillwell Building and take classes every day. Mr. Edney responded if that is what the School Board wants. He expects them to do that with a corridor along the new concession stand, new restrooms, and new ticket office. Council Member Smith pointed out it is 300 feet, not from the entrance, but from the corner of building. Mr. Edney stated Bobby, himself and others, walked from the third floor of Stillwell to there in less than three minutes. Council Member Smith stated an integral part of the campus is 300 feet away from the campus. Mr. Edney stated teenagers are healthy and it is better than having to walk to the Junior High for practice that is more than 300 feet.

Council Member Smith asked questions about the assessment of the current parking and if it included any of the slots next to Highway 25. Mr. Robertson stated no, it is not part of the campus as far as parking is concerned because they are not supposed to be parking there. They were using that area as construction staging for the Health Sciences building. Comparing current with assessed, the Immaculata includes 53 spaces. In comparing current parking spaces with the assessed new spaces, Council Member Smith asked if the Immaculata parking is included. Mr. Robertson stated yes it is, 53 spaces off-site.

Council Member Smith noted the Fassifern Court is closer than Immaculata by only 14 feet.

Regarding drop-offs, Council Member Smith asked questions about driving behind the school to the current parking areas to drop anyone off and drive out. Mr. Robertson stated yes, you could but it is not a safe condition in that parking area. Council Member Smith asked if he would agree the reason people do not do it is not safety but because it takes too long. Mr. Robertson stated he could not answer that question.

Council Member Smith asked why there are no red dots on Stillwell building [showing the campus]. Mr. Robertson stated because they are looking at the new facility.

Council Member Smith asked questions about parking and if his office is on the third floor of the Stillwell Building, if he can walk into the Stillwell Building to go to work. Mr. Robertson stated he could probably park in the middle because there will be a safe area to park and you can go in either direction. Council Member Smith if students can go to school in the Stillwell Building. Mr. Robertson stated absolutely but the School Board has not given them directions on where they want that entrance to be. Council Member Smith asked if he has been told that it will not be used. Mr. Robertson responded no; he is happy to accommodate the needs as they did with the speed bumps. Council Member Smith asked if that building could be an entrance to the school. Mr. Robertson stated yes, it could be. Council Member Smith stated it is not indicated that way currently. Mr. Robertson agreed.

Regarding impervious surface, Council Member Smith asked questions about what is included. He asked if the construction staging area is part of the campus for determining impervious surface but is not part of the campus for parking. Mr. Robertson stated yes it is.

Regarding the entrance to the school, Council Member Smith stated at one corner of the building 37 feet is shown. Mr. Robertson stated that is the setback from the right-of-way. Council Member Smith stated a later slide shows 45 feet. Mr. Robertson explained that measure is from the edge of the pavement. Council Member Smith asked which it is from the edge of the pavement. Mr. Robertson explained when they measure setbacks they measure from the right-of-way, when they are measuring distance from the edge of the street, they are measuring from the edge of the street. Council Member Smith asked if it is 45 feet from the road or 37 feet from the road. Mr. Robertson stated it is 45 feet from the road and 37 feet from the setback – right-of-way.

Determining density, Council Member Smith asked if there are two buildings that are completely not used by the high school. Mr. Robertson stated yes. Council Member Smith stated the true density of the high school would not include those because they are not used. Mr. Robertson commented they are looking at the density of the site, not the individual high school. He stated this is required by the City's Zoning Ordinance. Council Member Smith reiterated this point about the drawing provided shows every building so the density is much greater than the buildings used now with the new construction. Mr. Robertson stated he does not know the exact square footage of the existing buildings that are there but are somewhere above 185,000 square feet. Council Member Smith stated the plan is 225,000 plus the Stillwell Building. Mr. Robertson stated the new facility is 190,000 square feet. They added some additional areas to accommodate additional concession areas in the future if needed. Council Member Smith asked if that would be included in the density. Mr. Robertson stated it would be. Council Member Smith stated the application is for 225,000 plus the Stillwell Building, which is approximately 53,000. He stated the density goes from 180,000 to 275,000 square feet.

Regarding the distance from the building to the road, and noise, Council Member Smith asked about the entrance to the school and the proposed wall. Mr. Robertson stated that area is not an entrance but an exit out of the school. Council Member Smith asked if there are steps there. Mr. Robertson stated yes, there are, but it is not the primary entrance. It is an entrance into the library space and is going to be used primarily for exits. There is a difference between exits and entrances. Council Member Smith commented the distance from that point is more than 45 feet from Highway 25 but it is a five-lane road with a lot of traffic. Mr. Robertson agreed it has a lot of traffic. Council Member Smith asked if people can walk out of the library onto the road. Mr. Robertson stated yes, they can come out there.

Regarding the slide showing Bruce Drysdale, where Highway 25 becomes five lanes, Council Member Smith asked if the new school is closer to Highway 25 than Bruce Drysdale. Mr. Robertson agreed. Council Member Smith stated Bruce Drysdale is elevated 20 to 25 feet above the road and pointed out it does not have a fence around the entire school but the proposal shows a fence all the way around the new school.

Council Member Smith questioned why they cannot build the building closer to the Stillwell building and connect the buildings. Council Member Miller stated they would probably still have a fence around it for security.

Mayor Volk asked if anyone who has standing would like to cross-examine. City Attorney Fritschner advised a person with standing would have some special injury to their property because of the proposal or suffering something not suffered by the general public in a substantial way.

The following addressed the Council:

Dr. Ty Hornsby stated his current professional office building is at 902 Fleming Street. Attorney Russ Burrell objected, stating Dr. Hornsby is testifying, not questioning. City Attorney Fritschner stated Dr. Hornsby has the right to give evidence. He asked Dr. Hornsby what is the substantial injury he is in danger of suffering and in what way is it different to the general public and at that point the Mayor can determine if he is asking questions of the applicant. Dr. Hornsby related his concern is due to the location of his office, which is immediately the small Fassifern Court, at 902 Fleming Street, his professional building where he provides surgical and general anesthesia services, will place his patients at risk. It is a question of safety especially during peak hours based on the request to rezone the property for the off-site parking lot between Fleming Street and Oakland. That will pose a potential risk when students are entering and exiting that. Mayor Volk asked if Dr. Hornsby wants to ask a question relating to that. Dr. Hornsby stated the traffic impact was not addressed in the presentation regarding the entrance/exit from the proposed parking lot onto Fleming. He stated concern is during peak hours which is also a peak time for delivery of general anesthesia, not only at his facility but the gastro office north of this. He believes he can pose a potential risk for emergency services to be provided to both of the existing professional facilities. Mayor Volk asked if the question was taken into consideration in the traffic analysis. Dr. Hornsby stated it was explained in the traffic analysis for 24/7 use. He stated his concern is not 24/7 but during peak times when the students are coming in and out, as it affects the ability to provide emergency services on the Fleming Street side of the parking lot.

James Voso with Mattern and Craig, 12 Broad Street, Asheville, stated they prepared the traffic impact study. He stated in general terms they analyzed those two access points for the proposed parking lot on Fassifern Court and those two intersections. He stated based on the anticipated amount of traffic volume those would generate during the peak periods, those intersections operate adequately, which is to mean that they operate at an acceptable level of service and acceptable expected amount of delay. He stated they would operate no different than any other intersection with Fleming Street that is there today. However, of course there is potential for interaction between students entering or existing the parking lot with an emergency vehicle that is going to or from the hospital. The same condition exists today because you have a high school in close proximity to a hospital and an emergency room and there are students who are parking around the campus on the surface streets. There is potentially more interaction between emergency vehicles and students trying to find parking on surface streets as opposed to concentrating them in one area.

Mayor Volk asked for further cross-examination from persons with standing. There was none. She reminded those who wish to speak what the Council has to consider is public health, safety and general welfare, adequate public services, compliance with the Zoning Ordinance, neighborhood compatibility and conforming to the Comprehensive Plan. She asked speakers providing testimony to point out which of those five areas they intend to address which is what Council has to consider. She stated if someone has already made their point they can say they agree with the previous speaker. She asked speakers to keep their remarks brief and to the point because there are many people who wish to speak.

Pam Bolton, 1028 Saddlebrook Dr., Hendersonville, expressed concerns about the school being placed so close to a major busy highway citing safety concerns in the event of evacuation, noise from the highway on the learning environment, traffic, and the new design as a gateway in the City. She requested Council deny the rezoning of the Boyd property.

Mayor Volk asked speakers to focus on the five findings Council must consider and present facts; not opinions. She asked if anyone with standing wanted to cross-examine Ms. Bolton. There was none.

Walt Cunningham, 1968 Bob's Creek Rd., agreed with the safety issues surrounding excavating the building, students exiting onto the highway into the right-of-way for fire drills, compatibility issues with the parking lot

centered in a residential section, aesthetics of the wall at the entrance of the City, historic preservation of the Stillwell building and blending new architecture with the old.

John Godehn, 212 Laurel Park Place, office on Fleming St., expressed concerns about access and traffic congestion, the new parking lot off Fleming Street, blocking emergency traffic, safety issues, and the impact on parking. They have no idea what the Stillwell building will be used for and expressed concerns about the impact on parking, etc.

Kim Heeny, 100-A Meadow Park Lane, Hendersonville, expressed agreement with Mr. Cunningham's points.

Melissa Maurer, 919 Temon St., stated the School Board did not decide to abandon the Stillwell Building. She asked the City Council to postpone the decision for mediation.

David Rhode, 315 N. Whitted Street, his standing is that he owns property on North Main Street. He expressed concerns about safety and traffic and stated a stop light is needed. He also expressed concerns about the proximity to Asheville Highway.

Chad Bandy, 183 Landia Dr., stated he is a professional engineer with approximately 18 years of transportation engineering experience. He can speak for the engineer's past work. Some excellent options have been offered. Five points will be greatly improved. There are other options other than simple flashing lights to address pedestrians getting across the street safely. Regarding compatibility, Clarke Nexsen clearly showed how they are intentionally designing the façade of the building to match the existing building. They mentioned the aluminum bleachers close to Highway 25 and will address those. Bleachers will not be the first thing you see as you come into Hendersonville. His greatest concern is that decisions are being made on emotions and nostalgia, not facts. He stated there is \$54 million to address Hendersonville High School but apparently Edneyville Elementary. This is setting a cornerstone for this group of students' education for years to come. He urged the Council to vote with the facts the professionals have designed and addressed compatibility and safety issue with the best possible options and note vote with people's emotions. He stated if they are include parking that is not permitted in that spot, why not including the football field as parking because it is open.

Ken Fitch, 1046 Patton St., lives in Hyman Heights District across from the site, expressed concerns about safety, health, and interactions with emergency vehicles. Children who walk across the dangerous intersection is a primary concern. There are numerous accidents and close calls. Oakland Street is a route to the school but also the emergency room. Fleming Street is the common route to and from medical appointments. The proposed parking lot is on a grade, on a curve with limited site lines. He expressed concerns about the traffic congestion on Asheville Highway that is dangerous. He also expressed concerns about the lack of data collected for the traffic analysis. He expressed concerns about the impact of closing Ninth Avenue.

Mayor Volk asked if anyone wanted to cross-examine those providing testimony. There was none.

Ty Hornsby, 902 Fleming St., agreed with comments about compatibility, specifically the proposed remote parking lot between Oakland Street and Fleming. He expressed concerns that the vast area of the parking lot is closer to Fleming than to Oakland. The access to the parking lot off Oakland Street is fairly narrow even though the proposal is to widen it. His concern is increased traffic in and out of the parking lot on Fleming Street, more so that Oakland Street. His other concern is the safety of patients in the area but the area is still mainly residential and professional and should remain that way. He also expressed concerns about the security and safety of students using the parking lot after hours and dark.

Mayor Volk asked if anyone wanted to cross-examine those providing testimony. There was none.

Mayor Volk asked if anyone has anything new to add. Council has heard concerns about safety, traffic, closeness to Asheville Highway. She reiterated speakers should agree with other speaker(s) or add something new.

Tom Hill, 2720 Mt. Olivet Rd., Henderson County, HHS graduate, advanced degree in mathematical physics and has spent part of his career collecting and reducing data to make meaningful messages from it. He agreed with most of the oppositions. His concerns surround the potential of the parking lot becoming a public nuisance and an attraction for criminals. He presented charts showing the number of students and growth rate data. He stated the data does not justify building a huge facility. In 60 years, the population has approximately doubled. He stated the issue is the need for the school, compatibility with the purpose of Hendersonville High School and with the intent. He stated gathered information from HHS and the Board of Education. He stated it is of public interest about how much taxes people will have to pay. Mayor Volk stated that is irrelevant to this discussion. Mr. Hill also expressed concerns about threats at Henderson County meetings because of opposition. He disagreed with Chairman Edney's characterization of what has happened.

Christopher Casey, 1040 Patton St., stated he wanted to speak about compatibility and safety and wanted to speak on his personal experiences. Mayor Volk stated personal experiences are not relevant. Council Member Smith commented the number one thing in the ordinance is safety and that is what he wants to address. Mr. Casey addressed the Council. He disagreed with Clarke Nexsen's statement that most people located knowing the high school was there. [His home was built before the high school.] Regarding compatibility, he stated the new glass structure is not compatible with his historic neighborhood nor even as a gateway to historic downtown. He fails to see the cues taken from the Stillwell Building in the glass building other than a rock wall. He lives in the Hyman

Heights Historic District and expressed concerns about his daughter crossing the five-lane highway twice per day to walk to and from school. He has observed this is a very dangerous thoroughfare with heavy vehicular traffic. He contacted NCDOT officials, walked this path, and anticipates traffic will increase here. On two separate occasions his daughter has experienced close calls with careless drivers. They have chosen for her to cross Asheville Highway at the old Boyd property because the Oakland Street crossing is far too dangerous. The crosswalk is located on a diagonal and it takes longer for her to cross. He asked if the Council is confident to assure him as a parent, with a freshman at that high school, that adequate safety will be given to foot traffic for his child and other students.

Mayor Volk asked for cross examination. There was none.

Ralph Hammond Green, 1232 Hyman Ave., addressed the Council and expressed concerns about students exiting during fire drills onto Asheville and he strongly considers it a dangerous situation. The traffic study apparently does not appear to consider the intersection at Five Points where N. Main Street comes into Asheville Highway. That intersection is a disaster. The traffic calming features in Hyman Heights were implemented because of cut-through traffic to avoid the Five Points intersection. There is now an empty lot across the street which could be used to properly align the intersection. That intersection is also used by students walking up North Main Street to get to school. He stated now they walk up Ninth Avenue and enter the school. With the proposal, they will have to go around the building to get into the school. He asked Council to postpone approval of the closing of the street and rezoning so a proper design can be presented.

Mayor Volk asked for a show of hand of those wishing to speak.

Arlene Hemmingway, 84 Nathan Ct., Fletcher, Education Chairman of the NAACP for Henderson County and former educator. Her concern is for parents, people, students, faculty of the high school community and deals with the general welfare. She asked the Council to use discretion regarding refurbishing and expanding of Hendersonville High School. Her concern is particularly for the vulnerable 30 percent who live in poverty. Currently these students have good access to Hendersonville High School but if there is a consideration of using schools in other areas it may be a considerable problem. Presently students are engaged in the full life of Hendersonville High School. The school district has reason to be proud of its academic prowess and musical and sports achievements. This attitude would not be the same if students were bused to other schools in the area. Getting a high school diploma is more important and essential than ever before because it opens life's doorways. Any disruption in serving the community could result in truancy or dropping out. Mayor Volk stated that is not part of this proposal.

Mayor Volk asked for cross-examination. There was none.

George Six, Lake Pointe Landing, addressed the Council regarding the Stillwell building and the auditorium. He stated it is a part of the educational process and it is imperative winter coats be provided for a 300-foot walk in the outdoors in the middle of winter.

Mayor Volk asked for cross-examination. There was none.

Mayor Volk asked if anyone else would like to speak to present new evidence. There was none.

Mayor Volk asked for further questions. There was none. The public hearing was closed at 8:41 p.m.

Discussion from the City Council: Council Member Smith commented on the rezoning stating the current zoning allows 50,000 square feet or less of some type of educational building on that lot. Anything more than that falls under the special use permit process. He stated Mr. Robertson stated they are not asking for variances but are asking for a new zoning designation which is above and beyond a variance. He stated the current zoning is adequate because it allows for some expansion of the school onto the property. He stated changing the zoning in this circumstance is not necessary other than at some point the City Council needs to change zoning where the high school so it is conforming but that is not an issue they are discussing.

Council Member Smith discussed the proposed fence around the building and access to the school. He stated if safety is that big of a concern, he will ask his original question which is why don't they connect that building with the Stillwell Building.

Council Member Smith stated the construction process is not contained in the ordinance. The Council has never asked anyone about how they construct a building. He stated if that is the only reason they are not connecting buildings is because of the construction process, there are better options for how this can be built to make it even safer by connecting the buildings.

Mayor Pro Tem Caraker commented he believes the City has been threatened because they are in writing, are public record and anyone can read them. He stated the City has been threatened by the General Assembly and it has been implied "we will take our toys and go home" if you do not approve this. It was also pointed out that if Council did not follow the letter of the law, bad things will happen. He stated the architects have pointed out they followed the letter of the law and the architects have earned their money with their client. He stated they have done a wonderful job trying to make it fit. He stated if the process had been handled differently by the principles originally the hearing would be different. He stated he is inclined to agree that the architects and County have met

the legal criteria. He stated he is a strong preservationist and it is a shame the process had to play out this way. Progress upsets people. He stated we will never have enough money to replicate the Stillwell Building because it is too expensive. He stated he is inclined to approve it because of his fear of higher authority. He stated his charge is to protect the citizens of Hendersonville. He stated he thinks there is a better plan for this property, but his back is against the wall. There may be a better plan if the principles would allow discourse.

Council Member Stephens stated he is very interested and was involved in historic preservation in Savannah for many years. He stated his issue is safety and has a lot to do with the parking. He has been there several times, knows they will cut trees down and clear the undergrowth. The [parking lot] property is somewhat elevated. A lot of things can happen during the day time and certainly at night that no one wants to have happen. He stated it is not only the students, but also what others can do to cause problems with the students. He stated good points were made about Five Points, going around the building to get in, etc. He stated from a safety standpoint, he does not support changing the zoning.

Council Member Miller asked if Council Member Stephens is addressing the zoning of the parking lot. Council Member Stephens commented it is the whole safety issue – that is just one of the high points of the safety issue.

Council Member Miller commented he has looked at all of the issues and tried to get a compromise. He has heard many opinions about it being too close to road. He stated he does not think they can build this without the fire exits being properly done to handle fire drills and exits but does not believe it is justification for turning this down. He stated this is a tough and emotional issue. He said from the beginning that he would look at it purely from a technical standpoint. He believes they have complied. He stated he will vote for it to go forward but will charge the County and the School Board to talk again to see if there is room to bring the Stillwell Building into play. He stated the distances are not close enough but would take a complete redesign. He believes they have complied with the ordinance. He hopes they will take care of the Stillwell Building and make it a part of the campus. He stated that it not an emotional plea but it ought to be there. He stated it is a school and it needs to be a school long term.

Council Member Stephens agreed with Mayor Pro Tem Caraker that the City has been threatened by the State Representative and the County Commissioners that if the Council does not do what they want they will move the school out of the City. He hopes the Council does not yield to threats. Council Member Miller stated he is not doing this because of threat. Mayor Pro Tem Caraker commented in his opinion they have met all of the ordinance criteria as Council Member Miller said. Council Member Stephens asked if it meets the safety issues around the parking area. Council Member Miller commented the area for the proposed parking is a disaster and a breeding ground for trouble, it grown up with an abandoned building on it, etc. He stated it is where people stay that break into cars. He stated he is not worried about a parking lot being more of a problem for safety than it is currently.

Council Member Smith responded he does not think there was an attempt to mediate this and get a true meeting of the minds because the building location has not been changed from the moment it was put on paper. He stated if they really want safety, they should connect the buildings. Oakland Street will become a long line of traffic every morning. Traffic will be in the queue and those who come down Highway 64 to try to avoid the Middle School will now be in that queue. There will be traffic queued to come down Ninth Avenue as well and parents will continue dropping students off on the street. He stated the idea that it is safer is not true because they do not drive behind the school now to drop them off. He suggested the sundial area could become the drop off area. He stated with cars queued, getting from the middle school to the high school will be very difficult in the mornings as well as coming up Oakland Street. He stated he appreciates having the queue but parents dropping off high school students are different; they will drop them off as close as they can. He stated if students cannot enter through the Stillwell Building, they will have to walk around to get into the school building. He stated there are better ways to make it safer.

Mayor Volk commented she also has been very frustrated with the process. There could have been a lot more communication, more mediation, and better proposals. She is not happy about what is presented but it is what Council has to vote on. She explained they cannot vote on what they would like better but wished they could. She stated according to statutes, Council has to decide, if, based on what is before them, not what they would like to see, but what is in front of them, if they have fulfilled the five criteria and she believes they have.

Mayor Volk further commented traffic and crossing US 25 is a problem now. The traffic issues have been cleared by the traffic consultants and their evidence is what Council has to consider. She stated she is not happy about it nor about the suggestions for what will happen if Council does not approve it. She stated based on what Council has been given, and the criteria Council has to judge it, she thinks they have met the criteria. Council Member Stephens asked if Mayor Volk thinks they have met the safety criteria. Mayor Volk stated yes, what we have now is not safe as there is parking all over the streets. Council Member Stephens stated they are going to a new system that is not safe or less safe.

Council Member Smith responded to Mayor Volk's comments stating the Council, in special use permits, is within their legal realm to make requests for modifications. He stated this is the Council's chance for input. He stated a special use permit means they have to satisfy the majority of the Council. He stated his point is Council is not stuck with what is on the paper, it is negotiable.

Council Member Miller communicated that in working with Bill Orr with the permission of the Council, Steve Wyatt and the Commissioners, they proposed eliminating the auditorium and the band room which technically moved the classrooms closer. They proposed using the funds for those buildings for redoing the auditorium in the Stillwell Building, for preservation, and joining the east end of the Stillwell Building with the new building closest to the field. He reported when the alumni was presented with the plan their argument was that it is too far away and they did not approve the proposal. Council Member Smith reiterated his request for a part of the new building to be connected to the Stillwell building making it an integral part of the campus. He stated if they built less of a building, they would have more parking and would not have to have the property across Oakland Street.

Discussion from the Council included the design of the school, the proposed parking lot, traffic and the Council's ability to add special conditions/requests.

There was discussion about the voting. Mayor Volk stated it will be taken in the order as presented. There was some discussion about the grade of the property.

Rezoning: Council Member Smith moved the City Council not adopt an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designations of parcel 9569-60-9162 from R-6 High Density Residential, parcel 9569-70-0527 from C-3 Highway Business, and parcel 9569-60-4631 from MIC Medical, Institutional, Cultural to PID Planned Institutional Development for the following reason: the current zoning adequately meets the public welfare, health and safety of the City of Hendersonville. The vote was two in favor (Smith, Stephens), three opposed (Volk, Caraker, and Miller). Motion failed.

***Rezoning:* Mayor Pro Tem Caraker moved the City Council adopt an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designations of parcel number 9569-60-9162 from R-6 High Density Residential, parcel number 9569-70-0527 from C-3 Highway Business, and parcel number 9569-60-4631 from MIC Medical, Institutional, Cultural 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 reason: because it will correct a zoning mistake from years ago for the original school. The vote was three in favor (Caraker, Volk, Miller); two opposed (Smith, Stephens).** Mayor Volk explained this is a majority vote however, for it to pass on the first reading [NCGS 160A-75] it would have to have had either four or five votes. It will have to be voted on at a second meeting. She announced the vote will occur on Friday, May 5 at the scheduled Budget Workshop, City Hall, 8:00 a.m. and at that point, a majority of the Council may approve.

***Special Use Permit:* Mayor Pro Tem Caraker moved the City Council approve the application for a Special Use Permit based on the site plan submitted by the applicant and subject to the limitations and conditions stipulated on the List of Uses and Conditions. The issuance of the special use permit is conditioned on and will take affect only upon the passage of City Council and the Zoning Ordinance permitting the special use of the zoning district.** City Attorney Fritschner advised to get a written stipulation from the application agreeing to the condition. The vote of the Council was three in favor (Caraker, Volk, and Miller) and two opposed. Mayor Volk explained the next vote will be taken on Friday, May 5 at City Hall at 8:00 a.m.

10. Public Hearing – Consideration of an Order to Permanently Close a Portion of Ninth Avenue as Petitioned by Henderson County and the Henderson County Board of Public Education:

Mrs. Frady explained the public hearing was held and closed at City Council's February 9, 2017 meeting. The Council postponed the vote on the closing of a portion of Ninth Avenue until the May 4, 2017 meeting so they could gather more information.

Mayor Pro Tem Caraker moved Council approve the order to close the street. The vote was three in favor (Caraker, Volk, and Miller); two opposed (Smith, Stephens). Mayor Volk explained the next vote will be taken on Friday, May 5 at City Hall at 8:00 a.m.

There was a brief recess.

11. Public Hearing – Consideration of a Zoning Ordinance Text Amendment to Section 5-12-1 I-1, Industrial District Permitted Uses to Add Parking Lots and Garages: Development Assistance Director Susan Frady presented a Zoning Ordinance text amendment to correct an oversight in the Zoning Ordinance. The City Council amended the zoning ordinance in December 2016 to exempt properties within the Seventh Avenue Municipal Services District from the off-street parking requirement. The plan is to provide more on-street parking or for the City or private property owners to develop parking lots. A portion of the Seventh Avenue Municipal Services District is currently zoned I-1 Industrial. Currently, parking lots and garages are not a permitted use in the I-1, Industrial District. Additionally, the City has constructed small parking lots as an accessory to the Oklawaha Greenway that are within the I-1 Industrial District.

Mrs. Frady explained in order to permit parking lots and parking garages to be constructed on vacant lots in and around the Seventh Avenue Municipal Services District staff recommends the Zoning Ordinance be amended to permit parking lots and parking garages in the I-1 Industrial District. She reviewed the changes to the ordinance. She reported the Planning Board voted unanimously to recommend approval of the text amendment.

Mrs. Frady reviewed the factors contained in Zoning Ordinance Section 11-4 regarding Zoning Ordinance text amendments.

Mayor Volk opened the public hearing at 9:40 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 City Council adopt an ordinance amending the City of Hendersonville Zoning Ordinance Section 4-5 Classification of Uses Table to add parking lots and parking garages in the 1-1 Industrial District and Section 5-12-1 I-1 Industrial Zoning District permitted uses to include parking lots and garages. A unanimous vote of the Council followed. Motion carried.

Ordinance #17-0533

AN ORDINANCE AMENDING SECTION 4-5 CLASSIFICATION OF USES TABLE 4-5, SECTION 5-12-1.
I-1 INDUSTRIAL PERMITTED USES

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

WHEREAS, the General Assembly of the State of North Carolina has granted authority to municipalities to amend, supplement, change, modify or repeal zoning regulation ordinances, and

WHEREAS, the City of Hendersonville desires to amend those regulations with regards to parking lots.

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

1. Article IV Establishment of Districts Section 4-5 Classification of Uses Table 4-5 is hereby amended to include the following:
Add "parking lots and parking garages" as a permitted use subject to special requirements (SR) in the I-1 Zoning District.
2. Article V Zoning District Classifications, Section 5-12-1 I-1, Industrial is hereby amended to include the following permitted use:
Parking lots and parking garages
3. Any person violating the provisions of this ordinance shall be subject to the penalties set forth in Section 9-8 of the Zoning Ordinance.
4. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.
5. If any section, subsection, paragraph, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.
6. The enactment of this ordinance shall in no way affect the running of any amortization provisions or enforcement actions, or otherwise cure any existing zoning violations.
7. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this fourth day of May 2017.

/s/Barbara G. Volk, Mayor

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

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

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

13. Reports from Staff:

A. Investment Report: Finance Director Lisa White provided an investment report. No action was required or taken by the Council.

B. 1st Quarter 2017 Fire Department Statistical Report: Fire Chief Joseph Vindigni provided a quarterly statistical report. No action was required or taken.

C. Sidewalk Update: Mr. Connet reported sidewalks are being constructed between Third and Fourth Avenues on Blythe Street. He expressed appreciation to the Engineering and Public Works Department.

14. 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 the vacancy on this Committee. Council Member Stephens requested amending the establishment of the Committee to allow those not living in the City to serve. Staff will present an amendment.

b) 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.

15. New Business: There was none.

16. Adjournment: The meeting adjourned at 9:43 p.m. upon unanimous assent of the Council.