

August 3, 2017
REGULAR MEETING OF THE CITY COUNCIL
COUNCIL CHAMBERS – CITY HALL
5:45 p.m.

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

Staff Present: City Manager John F. Connet, City Clerk Tammie Drake, Development Assistance Director Susan Frady, Senior Planner Matt Champion, Engineering Director Brent Detwiler, Human Resources Director Jennifer Harrell, Fire Chief Joseph Vindigni, Pam Ludwig, Budget Analyst Adam Murr, Public Works Director Tom Wooten, Intern Kaitlyn Sines

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.*

Ann Hansley, 713 Blythe St., owns a house at 311 Buncombe Street that suffered structural damage from the July 8 storm. The foundation is gone and the house was condemned. She requested the City locate and repair the storm drain so it does not back up into her house and requested City assistance. Mayor Volk commented the Council is aware of the storm drain issues. It is not just on her property but is a wider issue the City is dealing with. She stated the City will continue working with staff for a recommendations and a resolution.

Peter Tipton, 210A Wash Creek Dr., asked if the railroad intends to use tracks in the vicinity to park abandoned cars, and if so, is there anything that could prevent that. Mr. Connet stated the City not been contacted by the railroad. The property belongs to the railroad but the City can encourage them to park abandoned cars in areas of commercial/industrial nature. He stated staff will make contact with the railroad owner. Council Member Miller stated the railroad owners have been asked to maintain the area around the tracks.

4. Consideration of Agenda:

Addition:

5b Budget Amendment – Reimbursable expenses for the Mud Creek Dump Project

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

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

A. Consideration of Minutes: July 6, 2017

B. Consideration of Budget Amendments: Ms. Brian Pahle, Assistant to the City Manager, presented the following:

- i. Health & Welfare Fund Grant, Fund 80, Increase of \$2,000
- ii. Northside Water Improvements, Fund 401, Increase of \$250,000, Fund 60, Increase of \$250,000
- iii. Fire Community Fund, Fund 170, Increase of \$4,000
- iv. Highway 64 Grant Fund Closeout, Fund 350, Increase of \$14,557.60
- v. Mud Creek Dump Project Reimbursement, Fund 360, Increase of \$12,760

C. Consideration of Amendments to the:

- i. **Rules of Procedure for the Downtown Advisory Committee:** Downtown Economic Development Director Lew Holloway presented amendments to the Rules of Procedure for the Downtown Advisory Committee. The amendments include makeup of the membership.

Article III. General Rules

The Committee shall be governed by the Ordinances of the City of Hendersonville, the Laws of the State of North Carolina and these Rules of Procedure. The Chair may from time to time refer to rules set forth in the current edition of ~~Robert's Rules of Order Newly Revised~~ *Suggested Rules of Procedure for Small Local Government Boards* to assist in the running of orderly meetings.

Article V. Organization

Section 1. Committee Membership. The Committee shall consist of ~~eight~~ nine members including a council liaison who will serve as a non-voting ex-officio member of the committee. Of the ~~seven~~ eight remaining non-council members, ~~six~~ five will represent downtown stakeholders, i.e. property owners, business community members or residents and ~~the seventh~~ three members will be an "at large" seats. All members shall be entitled to equal rights, privileges and duties with other members of the committee.

- ii. **By-Laws and Rules of Procedure for the Walk of Fame Steering Committee:** The Walk of Fame Steering Committee, formed by Henderson County and the City of Hendersonville, members requested the following amendments to the By-Laws and Rules of Procedure:

IV. QUALIFICATION AND APPOINTMENT OF SELECTION COMMITTEE

~~The Selection Committee shall be comprised of the Steering Committee plus two additional members. The Hendersonville City Council shall appoint one member and the Walk of Fame Steering Committee shall appoint one member. The two additional members shall be appointed or reappointed annually on July 1st.~~

The Selection Committee shall consist of the five voting members of the Steering Committee and two additional members who have demonstrated active involvement in the community and who have at least a minimal knowledge of Henderson County and Hendersonville history. It shall be the responsibility of the chairman of the Steering Committee to appoint the two additional members, who shall serve a one-year term. The additional members may be reappointed for ensuing years as the chairman sees fit.

It shall be the responsibility of the Steering Committee to provide orientation, explanation of procedures, and guidance during the deliberations of the Selection Committee. The Selection Committee shall meet as many times as necessary to complete the selection process.

The Selection Committee shall choose a minimum of five and a maximum of ten honorees annually.

These amendments have been sent to Henderson County Board of Commissioners for their consideration.

D. Consideration of Special Event Permits:

- i. **First Responder Recognition Day - 9/11:** Development Assistance Director Susan Frady reported the Special Events Committee voted unanimously to recommend the City Council approve the special event on September 11, 2017 at 10:00 a.m. Main Street will be closed between First and Second Avenue from 8:00 A.M. until 11:00 a.m. The parking spaces along the Historic Courthouse on each side will be closed in order to allow emergency vehicles that are in service to park in case they have an emergency call.
- ii. **Seventh Avenue Farmers' Market (to include alcohol):** Development Assistance Director Susan Frady reported the Special Events Committee voted unanimously to recommend the City Council approve the special event on September 3, 2017 from 9:00 a.m. to 5:00 p.m. at the Historic Depot and along Maple Street. Maple Street will be closed from Seventh Avenue to the bridge from 7:00 a.m. to 5:00 p.m. The event will be an outdoor market featuring a variety of WNC farm-fresh produce, etc. and will include the sale of alcohol.
- iii. **Ville to Ville Craft Brew Relay:** Development Assistance Director Susan Frady reported the Special Events Committee voted unanimously to recommend the City Council approve the special event on April 14, 2018 from 9 a.m. - 1 p.m. for a 75-mile team running event from Asheville, N.C. to Greenville, S.C. through local craft breweries. Eighth Avenue East from Locust to Maple Street will be closed from 9:00 a.m. to 1:00 p.m. for the exchange zone for runners.

E. Consideration of Awarding the Contract for the 2017 Resurfacing Project: Mr. Pahle presented a reimbursement resolution for the French Broad River Intake project. This multi-year fund will be financed through a debt issuance in projected year FY19-20. However, there are initial design costs that are occurring in this fiscal year. He presented a reimbursement resolution to pay for small portions of this project without incurring the debt service note and paying principal and interest on a project that is not in the ground yet.

Resolution #17-0854

HENDERSONVILLE, NORTH CAROLINA
DECLARATION OF OFFICIAL INTENT TO REIMBURSE

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

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

Expenditures to be Incurred. The Issuer anticipates incurring expenditures (the "Expenditures") for THE ACQUISITION, CONSTRUCTION, AND INSTALLATION OF THE FRENCH BROAD RIVER INTAKE, ORDINANCE #17-0210 (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 \$5,925,000.00.

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 third day of August, 2017.

/s/Barbara G. Volk, Mayor

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

F. Consideration of Utility Extension Agreements for: Utilities Director Lee Smith presented the following agreements for extending water and/or sewer services:

i. Dodd Meadows, Phases 4 and 5: This project requires an extension of the City's water and sewer system to provide service to additional phases of the existing Dodd Meadows Subdivision located along Volunteer Way. Phases 4 and 5 will serve 33 homes. Approval of project is contingent upon approval of the Henderson County Board of Commissioners and final approval of construction plans and specification by the Water and Sewer Department.

ii. South Creek Cottages: This project requires an extension of the City's water system to provide service to a proposed single family development. This extension will serve 21 residential lots. Approval of project is contingent upon approval of the Henderson County Board of Commissioners and final approval of construction plans and specification by the Water and Sewer Department.

G. Consideration Certificate of Sufficiency for a Request for Contiguous Annexation from Carolina Village, Inc.: Development Assistance Director Susan Frady presented the petition of Carolina Village for the contiguous annexation of parcels 9579-08-6537, 9579-09-1625 and 9569-99-7294 containing approximately 19 acres located off North Main Street. This annexation application is related to a special use permit.

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 September 7 as the date for the public hearing on the question of annexation.

H. Consideration of Amendments to Fire Department Half-Time Pay Policy: Mr. Pahle presented the following policy proposed to create guidelines and procedures for the regular compensation of fire safety personnel as it relates to overtime and actual hours worked. The policy establishes the methodology, the fluctuating workweek, by which the City will compensate fire safety personnel for "half-time". This methodology is set out by the U.S. Department of Labor in conjunction with the Fair Labor Standards Act (FLSA).

Fire Department Half-Time Pay Policy

I. Purpose: To establish a set of guidelines for the payment of regularly scheduled fire safety personnel in accordance with Fair Labor Standards Act (FLSA) procedures. It is the practice of the City to compensate fire safety personnel based on a fluctuating workweek method, which provides for the method of calculating overtime compensation when employees work hours that fluctuate from week to week. The fluctuating workweek methodology will provide consistent and accurate compensation for fire safety personnel.

II. Applicability

1. Full-time fire safety personnel will abide by the procedures set out in this policy.
2. Full-time fire safety personnel will include all positions working on a fluctuating workweek schedule.
3. The procedures in this policy do not apply to non-shift, administrative, and exempt employees.

III. Procedures

GENERAL GUIDELINES

The Fair Labor Standards Act (FLSA) has two exceptions from its overtime pay rules for non-exempt employees who work different numbers of hours from week to week:

1. The fluctuating workweek method
2. The section 207(k) exemption for law enforcement officers and firefighters.

The United States Department of Labor sets out an explanation of circumstances, in section – 29 CFR § 778.114, under which employers may use an alternate method of calculating overtime when employees work hours that fluctuate from week to week. This method is called the "fluctuating workweek method". It provides for the payment of an unchanging salary that compensates the employee for all hours worked that week regardless of whether the employee works fewer or greater than the normally scheduled working hours per week, and payment for overtime hours at a rate of one-half the employee's regular rate of pay.

To use the fluctuating workweek method of payment, five requirements must be met:

1. The employee must work hours that fluctuate from week to week;

2. The employee must be paid a fixed salary that serves as compensation for all hours worked;
3. The fixed salary must be large enough to compensate the employee for all hours worked at a rate not less than the minimum wage;
4. The employee must be paid an additional one-half of the regular rate for all overtime hours worked; and
5. There must be a "clear mutual understanding" that the fixed salary is compensation for however many hours the employee may work in a particular week, rather than for a fixed number of hours per week.

An employer may only use the fluctuating workweek method if it has been made clear to the employee—before he or she works any hours under this payment method—that:

1. The fixed salary will be compensation for however many hours the employee works in a week and that the salary will not increase in weeks in which the employee works a greater number of hours, and
2. Any hours over the normally scheduled working hours per week, will be compensated at one-half the regular rate for that week.

The United States Court of Appeals for the Fourth Circuit has made clear that employees do not have to "agree"—in the sense of "consent"—to the use of the fluctuating workweek method. They merely have to be told about its use.

CITY OF HENDERSONVILLE GUIDELINES

City of Hendersonville Fire Department shift personnel will be compensated based on the fluctuating workweek method. Under the fluctuating workweek method, the fixed salary is defined as compensation for all hours that an employee has worked in any workweek. That is, the payment of the salary is compensation at the regular rate of pay for all of the hours the employee works in that week, including overtime hours. The fixed salary will be compensated at 53 hours per week. For the hours below 53, the employee is compensated by the fixed salary and for hours over 53, the employee is compensated for the "time" in "time-and-one-half" the regular rate by the fixed salary. Since the City has already paid the employee the regular rate for all of the hours he or she has worked by payment of the salary, the City owes the employee only one-half of the regular rate for the hours over 53. Any additional shifts worked in the normal work week will be compensated at the normal overtime rate (time-and-one-half).

IV. Summary: Local government employers who have employees whose hours vary from week to week may choose to use the fluctuating workweek method of payment, but they do not have to. This method may be used to compensate dispatchers, emergency medical services personnel, law enforcement officers and firefighters, water and wastewater plant operators and any other positions where operating needs require scheduling that results in workweeks in which the number of hours worked changes from week to week. It may not be used for employees (law enforcement officers and firefighters) who are being compensated under the section 207(k) exemption.

I. Consideration of a Revision to the Personnel Policy Regarding the Use of Compensatory

Time: Mr. Pahle and Human Resources Director Jennifer Harrell presented a revision to the personnel policy to adjust the manner in which compensatory time may be taken. After the pay and classification study a provision was added requiring compensatory time be used prior to the use of vacation, sick, or holiday leave. Staff feels that this provision is beyond what is needed to ensure that compensatory time is managed in a proper manner. Other provisions require the payment of compensatory time at year-end and no employee (except public safety personnel) may accrue more than 40 hours (48 for public safety) of compensatory time. Staff is confident that these provisions are adequate. It is recommended that the policy be revised to remove the requirement that compensatory time be used prior to sick, vacation, or holiday.

Personnel Policy Revisions:

Section 9. Definitions

Compensatory Time (Comp Time). Under the Fair Labor Standards Act (FLSA) local governments may, at their discretion, compensate employees in time off rather than pay when employees work more than the standard workweek or work period hours for their classification (40 hours in a 7-day period; 171 hours for police and 212 hours for fire personnel in a 28-day cycle). The Comp Time is earned at the rate of one and one-half hours for each hour, or portion thereof, worked beyond the above stated standard workweek or work period hours. ~~During any absence, employees are required to use any accrued Comp Time hours prior to the use of any vacation, sick or holiday leave.~~

Section 12. Sick Leave

Sick leave may be granted to a probationary or regular employee absent from work for any of the following reasons: sickness, bodily injury, required physical or dental examinations or treatment, or exposure to a contagious disease, when continuing work might jeopardize the health of others. Sick leave may be taken in half-hour (30 minutes) increments. ~~Any accrued comp. time shall be used prior to the use of sick leave hours.~~

Section 17. Funeral Leave

Eligible employees scheduled to work eight (8) or twelve (12) hour shifts who have a death in the Immediate Family (as defined in Section 12 of this Article) are eligible to receive up to twenty-four (24) working hours of paid funeral leave. Eligible employees scheduled to work twenty-four (24) hour shifts are eligible to receive up to twenty-four (24) working hours paid funeral leave. Permanent part-time employees are eligible for leave, prorated by the average number of hours in the work week (Section 16). Any additional time or for deaths that are not covered by the Immediate Family designation, vacation leave or accrued compensatory time may be taken ~~(accrued comp time will be utilized prior to the use of vacation leave hours).~~ Funeral leave pay cannot duplicate any other compensation of the same time period. The City may request documentation for this leave whenever there is a pattern of absenteeism demonstrated by the employee or for other reasons as needed.

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. 2016 NC Area Wide Optimization Program Award to Water Treatment Plant Employees:

Utilities Director Lee Smith and Randy Hintz with the Public Water Supply Section of the Division of Water Resources presented the 2016 AWOP Award to Keith Kirchner, Chief Water Treatment Plant Operator. This is the ninth year of receiving the award.

B. Service Excellence Quarterly MVP Recognition: City Manager John Connet and Mayor Barbara Volk recognized Brandon Mundy, Brent Pope, Kell Bond and Keith Kirchner as Service Excellence MVPs of the quarter.

7. Quasi-Judicial Public Hearing – Consideration of an Application from Carolina Village, Inc., for a Special Use Permit to Construct a Project known as Clear Creek Cottages consisting of 54 dwelling units including duplexes and Six-plexes, Located at 600 Carolina Village Road, and to Rezone the Property from R-15, Medium Density Residential to PRD, Planned Residential Development (File #P17-18-SUR): Mayor Volk explained the procedures for the quasi-judicial public hearing. She stated the Council can only consider facts by expert witnesses and not opinions. The City Council, in deciding what evidence is acceptable, has to look at competent, relevant, substantial evidence in the record. This includes the application, staff analysis or reports, testimony and documents presented at the hearing or other related documents. The Council may not consider opinions, only facts.

Mayor Volk asked if members of the City Council had contacts concerning the application not already included in the file.

Mayor Pro Tem Caraker asked Council to excuse him from agenda items 7 and 8 because it appears his employer will be doing work on the two projects. Council Member Stephens moved Council to excuse Mayor Pro Tem Caraker from voting on items 7 and 8 on the agenda. A unanimous vote of the Council followed. Motion carried. Mayor Pro Tem Caraker left the room.

Mayor Volk asked Council members to announce any conflicts of interest. There was none.

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

Mayor Volk asked those wishing to speak to present evidence to be sworn in. Three people were sworn in.

Mr. Matt Champion, Senior Planner, provided the following testimony.

The City is in receipt of an application from Kevin Parries of Carolina Village for a Special Use Permit to construct 54 dwelling units consisting of duplexes and six-plexes. The project is adjacent to the existing Carolina Village development. The applicant is also proposing to rezone the property from R-15 Medium Density Residential to PRD Planned Residential Development. The project is located on several parcels.

Existing Land Use & Zoning: The subject parcels are currently zoned R-15 Medium Density Residential and are vacant. Carolina Village Road, a privately maintained road, runs through the property and connects to Clear Creek Road.

The parcel to the north is zoned C-3 Highway Business and is vacant. Parcels to the northeast are zoned I-1 Industrial, and are also vacant. The Parcel to the east is zoned PRD Planned Residential Development and contains the current Carolina Village development. Parcels to the south are zoned R-15 and contain single-family homes. Parcels to the west across Clear Creek Road are zoned R-20 Low Density Residential and contain single-family homes and duplexes.

Comprehensive Plan Consistency: The parcels included in this application, as well as parcels located to the east, are classified as High Intensity Neighborhood on the 2030 Comprehensive Plan's Future Land Use Map. The goal of the High Intensity Neighborhood classification is to "encourage low-maintenance, high-density housing that supports Neighborhood and Regional Activity Centers and downtown and provides a transition between commercial and single-family development, promote walkable neighborhood design that creates attractive and functional roadway corridors and multi-family residential neighborhoods."

A portion of the project area to the north, along Clear Creek is classified as Natural Resource/Agriculture. The goal of the Natural Resource/Agriculture classification is to "create an interconnected network of green infrastructure that preserves environmentally sensitive areas, protects water resources through low impact stormwater management, provides floodwater storage, provides community open space and recreational opportunities, and preserves agricultural resources."

The parcels to the northeast across I-26 are classified as Business Center. Parcels to the south and west are classified as Medium Intensity Neighborhood.

The High Intensity Neighborhood classification lists planned residential developments 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 Natural Resource/Agricultural classification lists open space and low-impact stormwater management facilities as primary uses. The site plan indicates placing these uses within the classification area.

Plan Review: Buildings: The site plan includes the following new structures: six duplexes for a total of 12 dwelling units, seven six-plexes for a total of 42 dwelling units, a 600 square foot garden shed and an 1,100 square foot garden clubhouse.

Parking/Streets and Drives: The site plan shows 140 parking spaces for the development. The minimum required by the Zoning Ordinance based on number of units is 81. All of the existing and proposed roads are shown to be privately maintained by Carolina Village.

Density: Density in the PRD zoning district may not exceed 10 units per acre without a density bonus granted by City Council. The applicant has proposed 54 units on 32.88 acres for a total density of 1.6 units per acre.

Stormwater/Flood Hazard Area: The applicant will be providing stormwater management plans to the Engineering Department as part of the final site plan submittal requirements. A portion of the project is located within the 100-year floodplain. No improvements are indicated in this area other than a portion of a stormwater BMP and a portion of the required common open space.

Common Open Space: The applicant is required to provide at least 10 percent of the site as common open space, no more than 50 percent of which can be within the flood hazard area. The applicant has proposed 10 percent of the site as common open space, with half of the area being located in the flood hazard area.

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

A neighborhood compatibility meeting was held on May 31, 2017. Sixteen people representing the general public attended the meeting. The public had questions about EMS routes to the site, wildlife, and the impact of I-26 on the development. He provided a copy of the neighborhood compatibility report.

Planning Board: The Planning Board voted unanimously to recommend City Council adopt an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of the subject parcels from R-15 Medium Density Residential to PRD Planned Residential Development, finding that the rezoning is consistent with the Comprehensive Plan. The Planning Board also voted unanimously to recommend City Council approve the application of Carolina Village for a Special Use Permit.

Tom Jones and Kevin Parries are in attendance to discuss the project.

Kevin Parries, Executive Director of Carolina Village provided the following testimony.

Carolina Village has been a proud member of this community for over 40 years. They are excited about the project. The Board of Directors and staff have been working on this project for over two years. They have done a 30-year master plan. They have been segmenting the projects in five-seven year segments to manage them effectively.

One of the challenges with the nation is the largest retiring population is coming up. Approximately 7,000 people will retire every day from now until 2030. Older services for this area will be needed. We are rich to be able to have retirement and senior living in Henderson County. This project is the first portion of what they hope to be able to do and serve older adults in Henderson County.

Council Member Miller asked a question brought up to him by Ken Fitch about the noise level from the interstate. Mr. Parries stated they have been working with NCDOT for about two years. He stated their engineers have done sound studies for the impact of their proposal. He stated they have requested sound walls in that area and continue to have communication with NCDOT. He has also asked for a final report but has not received it at this point. He stated they are trying to keep as much of the natural vegetation there to protect against the noise level. He stated they have been doing that for more than 40 years. He stated their landscape plan will also help with that impact. He stated over the last 40 years, the construction of buildings and living quarters include extra insulation and double-pane windows, etc. to help mitigate the noise concern for residents. He stated everyone that comes in asks about the noise level. He stated they have spoken to NCDOT. He stated he has monthly town hall meetings with the residents. They have 520 residents. They repeat this information over their internal channels. They also have the opportunity to look at PowerPoint presentations from the monthly meeting. They have kept the residents in the loop with conversations with NCDOT.

Council Member Stephens commented the walls, if NCDOT agrees to do that, could make a big difference. Mr. Parries agreed. He stated they are also concerned about what it will look like in their community. He stated it is not just the sound portion but also the atmosphere for the older adults but thinks it will be a big help. Tom Jones, WGLA Engineering, provided the following testimony.

WGLA Engineering worked on the site plan for the project. He stated two other points were brought up at the neighborhood compatibility meeting. No one spoke in opposition to the project. He stated he thinks the community recognizes it is compatible, a good fit, and a good project. It is not controversial for those reasons.

Regarding EMS routes, the back entrance of the project at Carolina Village Road/N Main Street/Clear Creek Road is seven minutes from Pardee Hospital and nine minutes from Park Ridge Hospital. Regarding wildlife in the flood plain area, the wetlands there will be preserved. It will also provide the possible opportunity for a greenway trail in the future. He stated Carolina Village may be a willing partner with the City for a greenway along Clear Creek. He stated it would be a good opportunity for that. He emphasized it is not part of this project but an opportunity for the future.

Mayor Volk opened the public hearing at 6:27 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.

Special Use Permit Approval: Council Member Smith moved that City Council adopt an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of: Parcels 9579-08-4915, 9579-08-6537, 9579-09-1625, 9569-99-7294, and the remaining portion of parcel # 9579-28-0230 from R-15 Medium Density Residential to PRD Planned Residential Development; finding that the rezoning is consistent with the Comprehensive Plan, and that the rezoning is reasonable and in the public interest for the following reasons: it provides adequate housing for retirees and the elderly.

Council Member Smith further moved that City Council approve the application of Carolina Village, Inc. for a special use permit based on the site plan submitted by the applicant and subject to the limitations and conditions stipulated on the published List of Uses and Conditions. A unanimous vote of the Council followed. Motion carried.

Ordinance #17-0856

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

IN RE: Carolina Village Expansion
(File # P17-18-SUR)

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

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

Parcels 9579-08-4915, 9579-08-6537, 9579-09-1625, 9569-99-7294, and the remaining portion of parcel # 9579-28-0230 from R-15 Medium Density Residential to PRD Planned Residential Development.

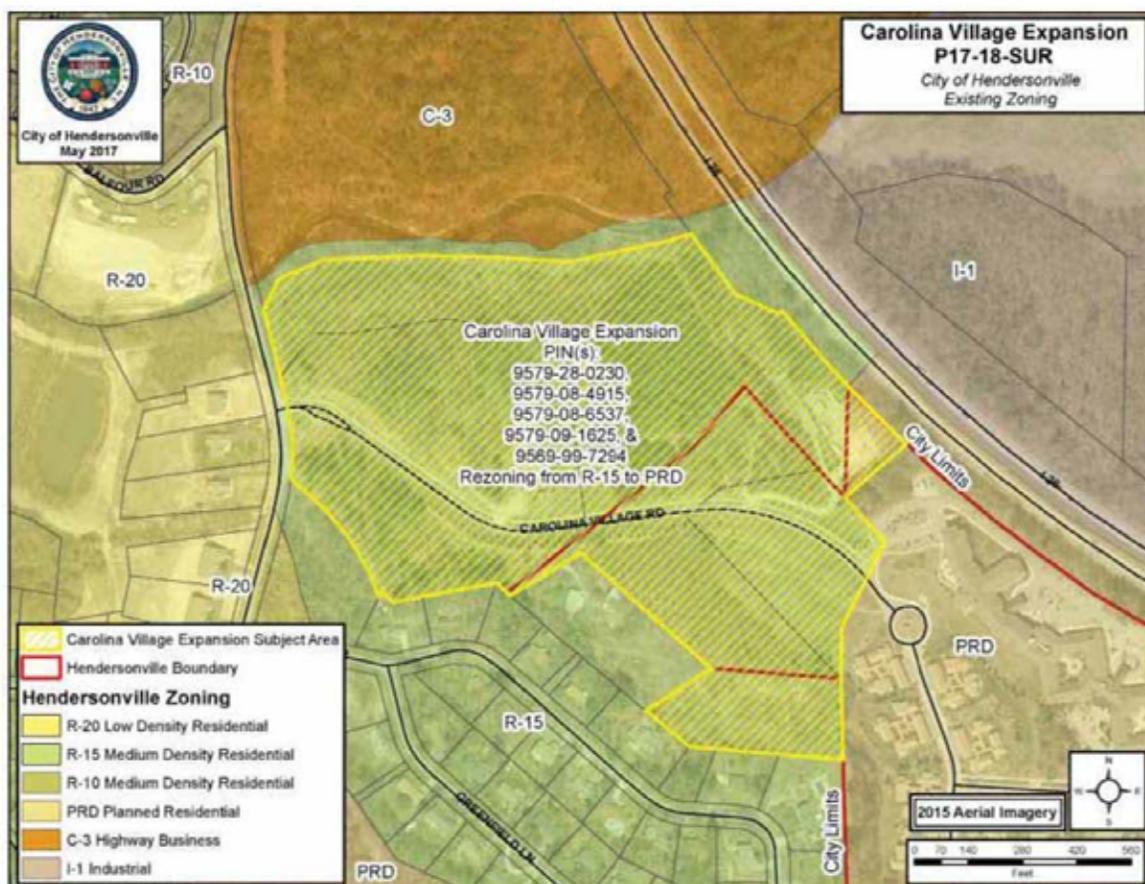
2. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this third day of August 2017.

/s/Barbara G. Volk, Mayor

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

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



8. Quasi-Judicial Public Hearing – Consideration of an Amendment to a Special Use Permit from Carolina Village, Inc., to Construct a Project known as Lakeside Apartments Consisting of a 36-unit Apartment Building, a Maintenance Building and Associated Driveway and Parking Improvements on the current site of the Carolina Village located at 600 Carolina Village Road (File #P17-19-SUR): Mayor Volk explained the procedures for the quasi-judicial public hearing. She stated the Council may only consider facts by expert witnesses. Legislative hearing guidelines apply. The City Council, in deciding what evidence is acceptable, has to look at competent, relevant, substantial evidence in the record. This includes the application, staff analysis or reports, testimony and documents presented at the hearing or other related documents. The Council may not consider opinions, only facts.

Mayor Volk asked if members of the City Council had contacts concerning the application not already included in the file. There was none.

Mayor Volk asked Council members to announce any conflicts of interest. There was none.

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

Council Member Smith stated Mayor Pro Tem Caraker was excused by the Council from voting on this matter.

Mayor Volk asked those wishing to speak to present evidence to be sworn in. Three people were sworn in.

Mr. Matt Champion, Senior Planner, provided the following testimony.

The City is in receipt of an application from Kevin Parries of Carolina Village for a Special Use Permit Amendment to construct a 36-unit apartment building, a maintenance building, and associated driveway and parking improvements on the current site of the Carolina Village development off Four Seasons Boulevard. The project is located on parcel number 9579-28-0230.

This modification is required special use permit approval pursuant to Section 7-6-3 of the Zoning Ordinance.

Existing Land Use & Zoning: Parcel number 9579-28-0230 is currently zoned PRD Planned Residential Development and contains Carolina Village, a progressive care facility.

Interstate 26 runs along the northern boundary of the property. Parcels to the north across I-26 are zoned I-1 Industrial and are vacant. Parcels to the south are zoned PRD and R-15 Medium Density Residential, and contain the Lake Pointe Landing development.

Parcels to the west are zoned R-15 and contain single-family homes. Parcels to the northwest are zoned R-15 and are currently vacant, but are owned by Carolina Village and are the subject of a separate special use permit application.

Comprehensive Plan Consistency: The parcels included in this application, as well as parcels located to the south and northwest, are classified as High Intensity Neighborhood on the 2030 Comprehensive Plan's Future Land Use Map. The goal of the High Intensity Neighborhood classification is to "encourage low-maintenance, high-density housing that supports Neighborhood and Regional Activity Centers and downtown and provides a transition between commercial and single-family development, and promote walkable neighborhood design that creates attractive and functional roadway corridors and multi-family residential neighborhoods."

The parcels to the north across I-26 are classified as Business Center. Parcels to the northeast across I-26 are classified as Regional Activity Center. Parcels to the west are classified as Medium Intensity Neighborhood. The High Intensity Neighborhood classification lists planned residential developments as a primary use. The Comprehensive Plan recommends that primary uses such as this one occupy the majority of acreage found within this classifications boundary.

Plan Review: Buildings: The site plan includes the following new structures: one four-story apartment building containing 36 independent living units, 24 one-bedroom units and 12 two-bedroom units, one 12-car garage and a covered parking area, and one 3,200 square foot maintenance building.

Building Height: The proposed apartment building is shown at 50 feet tall. Section 5-14-7.5 of the Zoning Ordinance states that buildings in the PRD district may exceed 35 feet in height only upon the granting of a height limitation exemption by City Council. In order to grant the exemption, City Council must find:

a) *Such building will not block sunlight from adjacent property between the hours of 10:00 a.m. and 2:00 p.m. from the months of October 1 to May 1.* The applicant has submitted a sun study that shows that no proposed building will block sunlight from adjacent properties. He provided a copy of the sun study.

b) *Such building is adequately designed and served from the standpoint of safety.* The City Fire Chief certifies that the fire safety equipment to be installed is adequately designed and that the building is reasonably well located in relation to the fire stations and equipment so as to offer adequate protection to life and property. In

no case shall the building exceed 50 feet in height. Final plans will not be approved and permits will not be issued until submitted plans that meet fire code are approved by the City Fire Department. The tallest proposed building is 50 feet.

c) The side and rear yards for any structure in excess of 35 feet in height shall be increased by one foot for each one foot in height in excess of 35 feet. Setbacks have been increased on structures exceeding 35 feet in height.

Parking: The site plan shows 508 parking spaces for the entire development. The minimum required by the Zoning Ordinance based on number of units, assisted-living beds, and employees is 508.

Stormwater: The applicant will be providing stormwater management plans to the Engineering Department as part of the final site plan submittal requirements.

Special Requirements: The proposed use is a Progressive Care Facility. The PRD zoning district allows for progressive care facilities, subject to the following special requirements found in Section 16-4-19 of the Zoning Ordinance:

a) Such facilities may only be situated on a site that contains no less than three acres. The site contains 60.96 acres.

b) A minimum of 65 percent of the project tract shall be designated as open space. The site plan indicated 39.8 acres of open space, which is equal to 65 percent of the site.

c) The facility shall provide housing for retirees or the elderly. Carolina Village provides housing for retirees and the elderly.

d) The facility shall be owned and operated as one facility and shall have two or more of the following uses, which may or may not be contained under one roof:

1) Independent dwelling units constructed as detached or attached units,

2) Apartments, where care and assistance in bathing, dressing, house cleaning and other activities may or may not be provided. Complete or partial kitchen facilities shall be provided, in addition to common dining facilities for residents,

3) Rooms where ambulatory assistance is given in addition to all meals and a more intensive level of care by semi-skilled nursing staff,

4) Rooms where skilled nursing care and life support systems are available.

Carolina Village is owned and operated as one facility, and provides all of the uses listed.

e) Maximum density for progressive care facilities shall be 23 people per acre. City Council shall have the right to determine a lower density applying as criteria the following: site constraints including but not limited to slopes over 20%, poor soils, presence of floodplain, or other factors such as the traffic-bearing capability of existing roads that would pose a threat to public health, safety or welfare, or violate any of the review standards contained in this Article. The proposed density, based on the number of units and beds, is 12.6 people per acre.

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

A neighborhood compatibility meeting concerning the application was held on May 31, 2017. Sixteen people representing the general public attended the meeting.

The Planning Board voted unanimously to recommend City Council approve the application of Carolina Village for a Special Use Permit based on the site plan submitted by the applicant and subject to the limitations and conditions stipulated on the published List of Uses and Conditions.

Kevin Parries, Executive Director of Carolina Village, provided the following testimony.

A majority of their campus is apartment living. Part of the 36 units they are adding will be in the heart of the project near dining services through their Main Street concept. It has a bistro, wellness areas, educational center, and a pharmacy on-site. The reason they are constructing a maintenance building is that they are using the area of the current dwelling and relocating it so it will not be as prominent to the residents. This is for maintenance equipment, gardening, etc.

Mayor Volk opened the public hearing at 6:41. No one expressed a desire to speak

Special Use Permit Approval: Council Member Smith moved that City Council approve the application of Carolina Village, Inc. for a special use permit based on the site plan submitted by the applicant and subject to the limitations and conditions stipulated on the published List of Uses and Conditions because it provides additional housing for retirees and the elderly. A unanimous vote of the Council followed. Motion carried.

[Mayor Pro Tem Caraker returned to the meeting.]

9. Quasi-Judicial Public Hearing – Consideration of an Application from Sugarloaf Hospitality, LLC for a Special Use Permit for the Hendersonville Home 2 Development Located on Sugarloaf Road, to Construct a 66,000 square foot hotel with meeting space (File #P17-22-SUR): Mayor Volk explained the procedures for the quasi-judicial public hearing. She stated the Council may only consider facts by expert witnesses. Legislative hearing guidelines apply. The City Council, in deciding what evidence is acceptable, has to look at competent, relevant, substantial evidence in the record. This includes the application, staff analysis or reports, testimony and documents presented at the hearing or other related documents. The Council may not consider opinions, only facts.

Mayor Volk asked if members of the City Council had contacts concerning the application not already included in the file. There was none.

Mayor Volk asked Council members to announce any conflicts of interest. There was none.

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

Mayor Volk asked those wishing to speak to present evidence to be sworn in. One person was sworn in.

Mr. Champion, Senior Planner, provided the following testimony.

The City is in receipt of a Special Use Permit application from Sugarloaf Hospitality, LLC to construct a 66,000 square foot hotel for the Hendersonville Home 2 project. The site is approximately 2.30 acres on PIN 9579-56-7956 located on Sugarloaf Road.

History: The City Council approved an application for a 77,869 square foot Hampton Inns and Suites and a rezoning from C-3 Highway Business to PCD Planned Commercial Development on May 5, 2005 for this subject area. A variance was also approved by City Council to allow an additional 7 feet 6 inches to the maximum building height requirements.

The project was never developed and the special use permit has expired. The zoning classification of the subject area remains PCD Planned Commercial Development.

Existing Land Uses & Zoning: The subject area is surrounded by C-3 Highway Business in all directions. The parcel to the west is the World of Clothing retail services. The parcel to the south is the Ramada hotel. Parcels to the east are residential uses including single-family structures. The parcel to the north is A Day in the Country retail sales and restaurant. The parcel to the north of the subject area has a parking space memorandum of understanding to accommodate parking requirements.

Comprehensive Plan Consistency: The parcel included in this project and adjacent parcels are classified as Regional Activity Center on the 2030 Comprehensive Plan's Future Land Use Map.

The goal of the Regional Activity Center classification is to "meet the large-scale retail needs of Hendersonville residents while encouraging mixed-use, walkable design through redevelopment and infill projects."

The Regional Activity Center classification lists community/regional retail sales and services as a primary use. Primary uses, such as this one, are preferred land uses that should occupy the majority of area within this classification's boundary.

Plan Review: General: The applicant is proposing to construct a four-story, 66,000 square foot hotel and meeting space containing 98 guest rooms.

Parking: As per Section 6.5.2, the required parking for hotels is one parking space per guest room plus one space per 600 square feet of public meeting area and restaurant area. Thus, this project is required to provide a minimum of 100 parking spaces. The site plan shows 100 parking spaces.

Sidewalks: The applicant is required to install a sidewalk along the subject area's frontage on Sugarloaf Road.

Vehicular Access: Sugarloaf Road is a NCDOT-managed road. Thus, the applicant shall be required to acquire a driveway entrance permit from NCDOT prior to final site plan approval. Sugarloaf Road is listed in the Comprehensive Transportation Plan as Project C-30. The Comprehensive Transportation Plan recommends adding turn lanes, widening shoulders and improving geometrics.

Landscaping: The applicant will be required to screen dumpsters or trash handling areas from adjacent property owners and views from public right-of-ways as per section 15-7 Screening. The applicant will also be required to follow Section 15-9 Landscaping for Vehicular Use Areas to install planting strips and perimeter and interior plantings in the proposed parking areas.

Buffer Plantings: As per section 15-6 Bufferyards, a 10-foot type B buffer is required between this parcel and the parcels to the east that are residential in use.

The applicant is not requesting any variances. Development Assistance Department staff has not identified any issues relating to public health, safety or general welfare.

A neighborhood compatibility meeting concerning the application was held on May 31, 2017. Notice was provided by U.S. mail to the owners of record of all property situated within 400 feet of the subject property. One member of the public attended the meeting and asked questions regarding the capacity of the meeting space and parking. He provided a copy of the neighborhood compatibility report.

Planning Board: The Planning Board voted unanimously to recommend City Council approve the application of Sugarloaf Hospitality, LLC for a Special Use Permit based on the site plan submitted by the applicant and subject to the limitations and conditions stipulated on the published list of Uses and Conditions.

Council Member Smith asked when a Memorandum of Understanding is allowed for parking if it is legally binding if the property is sold. Mr. Champion stated yes.

Mayor Volk opened the public hearing at 6:51 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 approve the application of Sugarloaf Hospitality, LLC for a Special Use Permit based on the site plan submitted by the applicant and subject to the limitations and conditions stipulated on the published List of Uses and Conditions because there is a need for hotel room in the Western North Carolina region. A unanimous vote of the Council followed. Motion carried.

10. Public Hearing - Consideration of an Application from Seth Cohen for the Rezoning of Parcel # 9578-50-4021 located on King Creek Boulevard from C-3SU Highway Business Special Use to C-3 Highway Business (File #P17-28-Z): Mr. Matt Champion, Senior Planner, presented the application of Seth Cohen, on behalf of owners Daniel and Martha Worley, for the rezoning of vacant parcel 9578-50-4021 located off Spartanburg Highway on King Creek Boulevard.

Comprehensive Plan Consistency: According to N.C.G.S.160A-383, zoning map amendments must be made in accordance with a comprehensive plan. The 2030 Comprehensive Plan's Future Land Use Map designates the subject area as High Intensity Neighborhood. He reviewed the purpose of that category.

Mr. Champion reviewed the surrounding lane uses and zoning classifications. The parcels to the north and southwest are zoned PRD, Planned Residential Development and have a mix of multi-family and single family residential dwellings which are part of the Village of King Creek development. Parcels to the south and east are zoned C-3, Highway Business and contains the Boyd Automotive Dealership. The parcel to the northwest is zoned C-3SU, Highway Business Special Use and contains the Council on Aging facility.

Mr. Champion state this parcel is proposed to be rezoned to C-3, Highway Business zoning district which is designed primarily to encourage the development of recognizable, attractive groupings of facilities to serve persons traveling by automobile and local residents.

Analysis: Mr. Champion reviewed the dimensional requirements and the permitted and conditional uses for the C-3 classification.

Rezoning Guidelines: Mr. Champion reviewed the factors contained in Section 11-4 of the Zoning Ordinance that must be considered by the Council prior to adopting the zoning map amendment including: Comprehensive Plan consistency, compatibility with surrounding uses, changed conditions, public interest, public facilities and effect on the natural environment. He reported Development Assistance Department staff has not found any issues relating to the Zoning Ordinance guidelines for amending the Zoning Map.

Planning Board Recommendation: Mr. Champion reported the Planning Board Planning Board voted six to one to recommend that City Council approve the rezoning request.

Dr. Seth Cohen addressed the Council stating the area is underserved by dermatology. He stated they are scheduling patients out over two months. He stated he is in need of a larger space to recruit additional dermatologists and he has not found suitable professional office space. He requested the zoning change because the C-3SU zoning and special use permit expired. He stated his intention for the property. Mayor Volk explained Council members cannot consider the proposed use because any permitted uses in the proposed zoning district would be allowed.

Mayor Volk opened the public hearing at 7:00 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 amending the official zoning map of the City of Hendersonville changing the zoning designation of parcel number 9578-50-4021 from C-3SU, Highway Business Special Use to C-3, Highway Business, finding that the rezoning is consistent with the

Comprehensive Plan, the rezoning is reasonable and in the public interest for the following reasons: because it will meet a need for office space. A unanimous vote of the Council followed. Motion carried.

Ordinance #17-0857

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

IN RE: FILE NO. P17-28-Z (Seth Cohen, Petitioner)

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

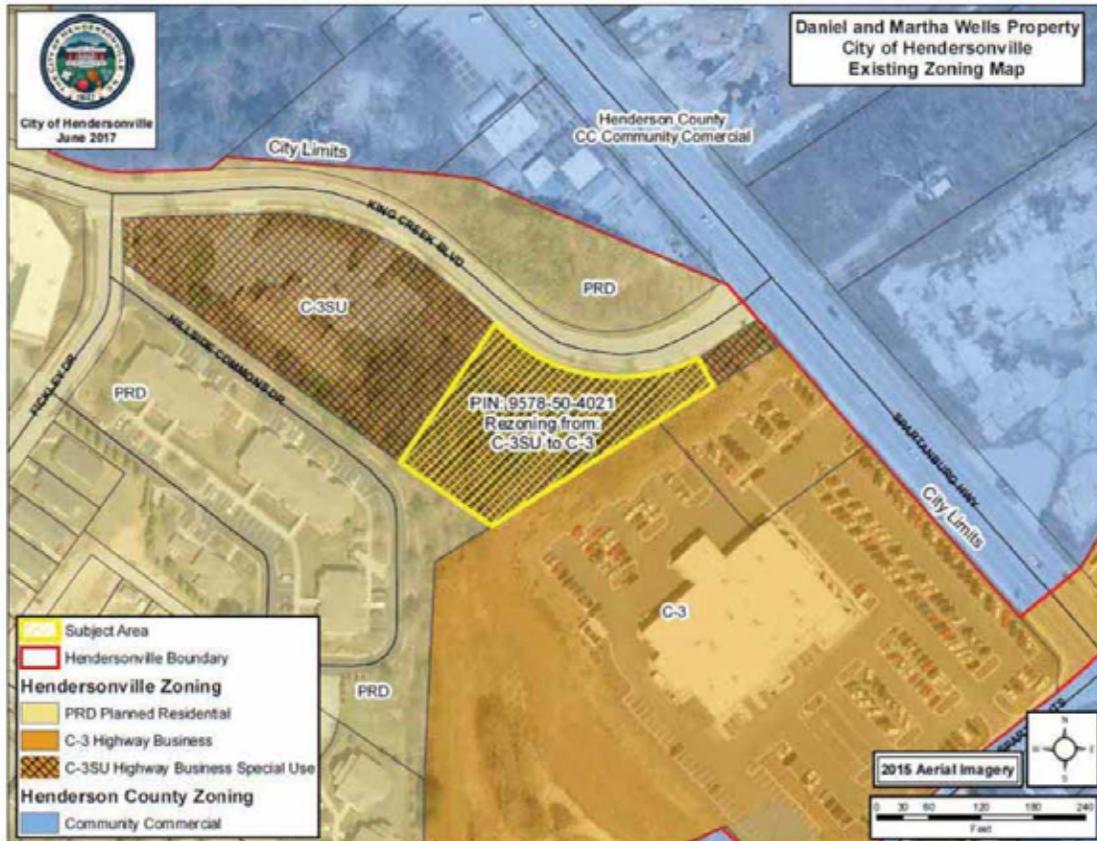
1. Pursuant to Article XI Amendments of the Zoning Ordinance of the City of Hendersonville, North Carolina, the Zoning Map is hereby amended by changing the zoning designation of parcel number 9578-50-4021 from City of Hendersonville C-3SU, Highway Business Special Use to City of Hendersonville C-3, Highway Business.
2. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this third day of August 2017.

/s/Barbara G. Volk, Mayor

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

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



11. Public Hearing - Consideration of a Request to amend the Comprehensive Plan's Future Use Map by changing the classification of the properties located on Highway 64 W., Brevard Road, including 47.15 acres, including Oak Terrace Lane and Crystal Drive, from Low Intensity Neighborhood to Medium Intensity Neighborhood: Development Assistance Director Susan Frady presented an amendment to the City's Future Land Use Map as shown in the 2030 Hendersonville Comprehensive Plan by changing the classification of an area from Low Intensity Neighborhood to Medium Intensity Neighborhood.

Mrs. Frady explained amendments to the Comprehensive Plan may be adopted by City Council after receiving a recommendation from the Planning Board. If adopted, this amendment will not change the zoning on the affected properties.

Mrs. Frady reviewed the role of the Comprehensive Plan. Both the Zoning Ordinance and North Carolina state law require that decisions made under the Zoning Ordinance must be in compliance with the Comprehensive Plan. The Zoning Ordinance provides the Comprehensive Plan may be amended from time to time to meet the changing requirements of the City and its extraterritorial jurisdiction.

Mrs. Frady explained the Comprehensive Plan's Future Land Use Map contains future land use classifications that give suggested locations, primary and secondary recommended land uses, and development guidelines for all areas in the City's planning jurisdiction. The Future Land Use plan is a set of long term policies, like the remainder of the Comprehensive Plan, that guides the City's land use and decision making. It is not a zoning map and has no regulatory power. Decisions regarding future zoning map and text amendments will rely on the Future Land Use plan.

Existing Land Uses: The parcels contained in the proposed amendment area include single-family homes and vacant land. The uses to the north include two single-family homes and open space/agricultural uses. The uses to the east include single-family homes. The uses to the south across Brevard Road/US-64 include a condominium complex, single-family homes, and a small commercial plaza located in the Town of Laurel Park's planning jurisdiction. The uses to the west include medical offices and a strip mall, both in Laurel Park's jurisdiction.

Existing Zoning and Conditions: The parcels contained in the proposed amendment area, as well as the parcels to the north and south, are currently zoned R-20 Low Density Residential. The parcels to the east are zoned R-15 Medium Density Residential. The parcels to the west in Laurel Park's jurisdiction are zoned MIC Medical, Institutional, Cultural and ETJ-C1 Commercial District.

Ms. Frady stated the minimum lot size in the R-20 zoning district is 20,000 square feet. Out of the 76 lots within the proposed amendment area, 20 meet this requirement. The median existing lot size in this area is 14,831 square feet. Existing medium density zoning districts allow for lot sizes of 15,000 (R-15) and 10,000 (R-10) for single-family homes.

The section of US-64/Brevard Road that is adjacent to the proposed amendment area is classified as a major thoroughfare in the Comprehensive Transportation Plan.

No streams, flood-hazard areas, protected ridges, or significant slopes are present in the proposed amendment area.

Existing Classifications: The parcels included in the proposed amendment area, and parcels to the south across U.S. Highway 64/Brevard Road are classified as Low Intensity Neighborhood on the 2030 Comprehensive Plan's Future Land Use Map.

Mrs. Frady stated the parcels to the north are classified as Natural Resource/Agricultural. The parcels to the east and south across U.S. 64/Brevard Road are classified as Medium Intensity Neighborhood. Parcels to the west are classified as MIC Medical, Institutional, Cultural by the Town of Laurel Park's 2016-2026 Comprehensive Plan Future Land Use Map. The parcels located to the southwest across U.S. Highway 64 are classified as Town Center by the Town of Laurel Park's 2016-2026 Comprehensive Plan Future Land Use Map. She reviewed the goals for each of the classifications.

Mrs. Frady reviewed the strategies for low-intensity and medium intensity neighborhood classifications. She also reviewed the development guidelines for both classifications.

Mrs. Frady provided the conditions which have changed since the adoption of the Comprehensive Plan in 2009:

- Laurel Park's adoption of a comprehensive plan in 2016, designating adjacent properties as Town Center and MIC Medical, Institutional, Cultural on their Future Land Use Map.
- Commercial growth along U.S. Highway 64/Brevard Road.
- Planned widening of US-64/Brevard Road to allow for greater traffic capacity.

Mrs. Frady reviewed the implementation goals and strategies established in the 2030 Comprehensive Plan relevant to the proposed amendment:

- PH-2: Encourage a wide range of housing formats and price points in order to meet the diverse and evolving needs of current and future residents, match the housing supply with the local workforce, and promote diverse neighborhoods.
- PH-3.2: Encourage mixed land use patterns that place residents within walking distance of services.
- PH-3.2.1: Promote mixes-use redevelopment along major thoroughfares through zoning map and/or text amendments.
- TC-5: Enhance key gateways to the community in order to present a positive first impression and increase civic pride.
- LU-3: Promote fiscal responsibility with development, annexation and expansion of Hendersonville's ETJ.
- LU-3.4: Promote fiscal responsibility for the City with the expansion of infrastructure and services.

Mrs. Frady reported the Planning Board voted unanimously to recommend City Council adopt the proposed amendment finding that the amendment is necessary or desirable and in the public interest.

The public hearing was opened by Mayor Volk at 7:12 p.m. in accordance with North Carolina General Statutes by notice published in the Hendersonville Lightning. No one addressed the Council in favor of the amendment. Mayor Volk requested speakers limit their remarks to a few minutes. Speakers were encouraged to agree with others sharing the same opinion.

Council Member Miller explained the Council is not considering nor voting on a proposed project. Mr. Connet reported there was a proposed project on one of the parcels but the applicant has withdrawn the request but it may come back with modifications. He reiterated the project is not being considered at this meeting. This item is related only to an amendment to Comprehensive Plan. Council Member Miller commented 56 of the homes in the area are non-conforming. He stated if the Council changes the Comprehensive Plan Future Land Use map the project will still require a special use permit and will undergo the process unless it complies with the zoning. Mayor Volk commented this amendment relates to the Comprehensive Plan and is not zoning, or special use permit.

Harold Gilbert, 708 Oak Terrace Lane, amending the map to medium density is not in the public's best interest. He asked that it remain low density zoning.

Jay Ferris, 209 Edgehill Rd., stated accessing Highway 64 is hazardous. He expressed concerns about the change from low to medium density. He asked the Council not to make change.

Alan Blythe, 749 Blythe St., stated an apartment building may require high density. He expressed concerns about clearcutting a forested area, noise, drainage, wildlife and the amount of traffic. He stated the proposed apartment will double the density. The area is designated as a single-family, preservation enhancement area which should be maintained and existing neighborhood character enhanced. This change will negatively affects their lifestyle.

Jay Chapman, 623 Dellwood Lane, purchased his home in March with family, wants the neighborhood to remain.

Bill Ward, 850 Sheen Circle, representing his family, expressed concerns about wildlife, asked why change an area that is not blighted, and planning for the area may be flawed. He requested the amendment be denied.

Glen Engram, 230 Millard J Dr., stated his property is south of 47 acres facing Glasgow Lane. He stated the Planning Board created an association between this amendment and a proposed apartment project on eight acres and it has caused anxiety in the neighborhood. He stated nothing in the area has changed since 2009. He stated he went door to door and collected signatures on a petition opposing the amendment. They heard the same concerns over and over: traffic congestion on Highway 64 and living in a neighborhood of single-family homes that have been there for decades. He asked the Council deny the amendment.

No one else expressed a desire to speak. The public hearing was closed at 7:33 p.m.

Council Member Miller commented he has issues with the amendment and expressed his opposition to the extraterritorial jurisdiction. He stated he does not like that residents cannot vote Council out. He voiced opposition to the amendment.

Council Member Smith stated he lives in Town Forest and is very family with traffic congestion on Highway 64. He stated there are some benefits of the extraterritorial jurisdiction. He stated it does not make sense to change the map without a specific project. He appreciates adding something other than what is there may destroy what they have now. He stated he does not see a reason to change anything at this point. He expressed appreciation for those wanting to preserve their neighborhoods.

Council Member Stephens agreed with most of what he has heard from other Council members except he supports the extraterritorial jurisdiction because it protects the area around the City. He stated the Legislature curtailed annexation. He agreed a development company is trying to come in "through the back door". He stated it was very helpful to hear from the neighborhood before the meeting. He expressed appreciation for receiving e-mails from the residents.

Mayor Pro Tem Caraker commented the Council, as a body, has approved multi-family structures in areas more suitable. He stated there is a NCDOT project that will widen Highway 64 to Daniel Drive and encouraged the neighborhood to be as passionate about that project as they are this proposed amendment. He stated he understands their concerns about cut-thru traffic. He stated he is not in favor of changing the Comprehensive Plan. He stated the neighborhood is doing what they are supposed to be doing in voicing their opinions about the proposed amendment.

Mayor Volk commented she is not ready to make the change at this point but wanted the neighbors to realize it is possible to have multi-family structures in the low intensity classification. It does not insure only single-family structures will be constructed there. She commented leaving the Comprehensive Plan the way it is does not mean it will stay that way. Mayor Pro Tem Caraker agreed.

Council Member Miller moved City Council not adopt an amendment to the Future Land Use Map contained in the 2030 Hendersonville Comprehensive Plan. A unanimous vote of the Council followed. Motion carried.

12. Presentation of Employee Handbook and Consideration of Revisions to the Alcohol and Substance Abuse Policy and the Internet Usage Policy, and Adoption of the Social Media Policy:

Mr. Connet introduced Kaitlyn Sines, graduate student from Western Carolina University. He explained during her internship, she developed and/or updated policies that were needed by Human Resources and completed an Employee Handbook. He expressed appreciation for her work.

Miss Sines presented an Employee Handbook, an updated Alcohol and Substance Abuse and Internet Usage Policies to reflect changes in society and technology and a Social Media Policy. There are three other policies being discussed: Tobacco Policy, Cell Phone Policy, and Travel Policy.

The Council discussed whether certain users can be blocked or banned for abuse. Mayor Volk asked that this be clarified. Discussion following on First Amendment issues. There was also discussion about links on the City's website to other entities/services.

Council Member Smith moved Council adopt the Employee Handbook as presented. He further moved Council to approve the Alcohol and Substance Abuse, the Internet Usage Policy and the Social Media Policy as presented. A unanimous vote of the Council followed. Motion carried.

13. Consideration of Main Street Municipal Services District (MSD) Tax Incentive Program: Mr. Connet reported Council Member Miller inquired about extending the MSD tax incentive program that is in place in the Seventh Avenue MSD to the Main Street MSD. He stated this program allows the Council to provide tax incentives to property owners in the Main Street MSD who revitalize, construct, remodel their properties in a way that increases the tax value of the property. He explained a request must be made for the incentive. He explained the incentive is the difference in what they are currently paying in taxes and the amount of the increased value in property tax for up to a five-year period. This has been in place for several years in the Seventh Avenue MSD.

Downtown Economic Development Director Lew Holloway stated this is an incentive to offer in both districts. He stated the level of façade grants were increased last year for the Seventh Avenue MSD and it has realized great success. He stated approval of the program will give similar incentives to both districts.

Mayor Volk asked how many property owners have taken advantage of the program in the Seventh Avenue MSD. Mr. Holloway state none yet because the tax value change has not been significant enough. Mayor Pro Tem Caraker stated the façade grant program has been very effective. Council Member Miller stated there are several buildings on Main Street that would benefit from the incentive. Council Member Smith stated the City has spent much more in the Main Street MSD than in the Seventh Avenue MSD. He questions whether the program should be extended for five years. He stated the City has made a considerable investment for those properties. Council Member Miller commented it will not cost anything because the owners will still be paying their taxes. There was discussion on the fairness issue.

Mr. Connet explained there is specific language in MSD legislation that permits incentives which differs from other general commercial areas.

Mayor Pro Tem Caraker moved the City Council to approve the Main Street Municipal Service District Tax Incentive Program. A unanimous vote of the Council followed. Motion carried.

Main Street Municipal Service District Tax Incentive Program

Purpose: The Main Street Municipal Service District Incentive Program is intended to encourage the rehabilitation of buildings and/or promote infill growth with new development in the Main Street Municipal Service District. Anticipated benefits of the program include:

- Reduction in blighted buildings;
- Increases in property value of redeveloped properties;
- Support of locally owned businesses;
- Growth of a strong commercial district.

Qualifications for Tax Incentive Program: To qualify for the Main Street Municipal Service District Tax Incentive Program, a property owner or developer within the municipal tax district is expected to:

1. Submit a letter of interest with proposed development plans to the Hendersonville City Manager for review by the Downtown Hendersonville/Main Street Advisory Committee and the City of Hendersonville Development Assistance Department.
2. The letter should include a statement from the developer stating the project would not have been considered had it not been for the Tax Incentive Program.
3. The developer must meet all other state and local development requirements.
4. Obtain the tax value of site or building as determined by the Henderson County Tax Assessor before renovation/construction begins. (tax value at time of application)
5. Obtain the tax value of site or building as determined by the Henderson County Tax Assessor after the renovations/construction is completed.
6. Developer pays full amount of newly appraised tax value on property annually.
7. City of Hendersonville "grants back" the amount of Hendersonville property and Municipal Service District tax paid by the property owner, minus the original tax value payment before the renovation/construction began.
8. This process will be followed for a grant period of five years or until the property is sold, whichever occurs first.
9. On the sixth and subsequent years, the developer will pay the full amount of the newly appraised tax value of the property without grant.

Example:

Empty 1 acre of land or vacant building - \$50,000 tax value

.47 = \$235.00 Annual City of Hendersonville Tax

.28 = \$140.00 Annual Municipal Service District Tax

\$375.00 Total Annual Tax (Before Development)

Completed development - \$1,000,000 Construction / Development - \$750,000 tax value

.47 = \$3,525.00 Annual City of Hendersonville Tax

.28 = \$2,100.00 Annual Municipal Service District Tax

\$5,625.00 Total Annual Tax (After Development)

Grant Proposal: Under the above example, owner pays \$5,625 annually in City and MSD Taxes. Owner is then granted back annually \$5,250 (\$5,625 - \$375) for 5 years = \$26,250 Total Grant.

Please submit all inquiries regarding the Tax Incentive Program to:
Hendersonville City Manager
145 Fifth Avenue East
Hendersonville, NC 28792
(828) 233-3201

14. Consideration of Reformation of Henderson County Water and Sewer Advisory Council: Mr. Connet explained a requirement of the 2002 Mud Creek Sewer District Purchase and Interlocal Cooperation and Settlement Agreement is a Water and Sewer Advisory Council. He stated it was brought to the City's attention that the previous Council has not met since 2004. In order to meet the requirements of the Agreement, City staff is recommending the reformation of the Henderson County Water and Sewer Advisory Committee.

Mr. Connet presented the Rules of Procedure and proposed meetings be held in October and April. Capital Improvement planning begins in October and this will allow time to receive input on potential projects from our stakeholders. He stated during budget deliberations in April, rate changes may be considered at that time. He stated members of the Council may call additional meetings as needed to discuss items of interest.

Mr. Connet proposed the membership consist of 11 members:

1. One sitting member of the Hendersonville City Council,
2. One sitting member of the Henderson County Board of Commissioners,
3. One governing board member from Fletcher, Mills River, Laurel Park, Flat Rock and Saluda.
4. One industry representative appointed by Henderson County Partnership for Economic Development.
5. One business representative appointed by Henderson County Chamber of Commerce
6. One Henderson County utility customer appointed by Henderson County Board of Commissioners
7. One City of Hendersonville utility customer appointed by the Hendersonville City Council.

Mayor Pro Tem Caraker voiced support of reforming the Council to address concerns of Henderson County Board of Commissioners Chair J. Michael Edney and Representative McGrady. Mayor Pro Tem Caraker stated the City will have ultimate control on how the system grows, etc. but seeks input from the other entities. Council Member Miller reiterated this does not replace the 1980s agreement but allows additional input.

Council Member Miller moved that the City Council approve the reformation of the Henderson County Water and Sewer Advisory Council. A unanimous vote of the Council followed. Motion carried.

15. Comments for Mayor and City Council Members:

Council Member Miller reported a request from a school bus driver to remove three of the parking spaces on Locust and North Main Streets so the turn may be made easier. There was discussion of how often the spaces are being used.

Mayor Pro Tem Caraker requested the corners of the curbs in the Fourth Avenue be painted to prevent parking there which reduces line of sight. Mr. Connet stated staff will investigate these issues.

Quasi-judicial Hearings: Council Member Stephens asked about the status of the quasi-judicial hearings. Council Member Smith stated the Council will receive a report on it soon. He stated eliminating quasi-judicial hearings will not make the hearing shorter. Mr. Connet stated staff is working on it but it takes some time. He commented on applications that have been received and the rules cannot be changed mid-stream.

16. Reports from Staff:

A. Investment Report: The City Council received a quarterly investment report from Finance Director Lisa White. **No action was required or taken by the Council.**

B. Fire Department Second Quarter Statistical Report: The City Council received a second quarter statistical report from Fire Chief Joseph Vindigni. **No action was required or taken by the Council.**

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

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

Business Advisory Committee: Robert Papes was nominated by Council Member Smith. A unanimous vote of the Council followed. Motion carried. Council Member Stephens supported nomination.

Downtown Advisory Committee: Council Member Smith nominated Candi Guffey, Kelly Jones Friesen, Jared Bellmund and Walt Slagel for the Downtown Advisory Committee. A unanimous vote of the Council followed. Motion carried.

Board of Adjustment: Council Member Smith nominated Bob Ward, Karen Livingston and Chris Freeman for a three-year term on the Board of Adjustment. A unanimous vote of the Council followed. Motion carried.

WCCA Board of Directors: Tamara Lee was nominated to serve as the City's representative on the WCCA Board of Directors. A unanimous vote of the Council followed. Motion carried.

Environmental Sustainability Board: Mr. Connet requested postponement of the appointment.

b) Announcement of Vacancies and Upcoming Vacancies: Mrs. Drake announced the vacancies and upcoming vacancies/reappointments: Board of Adjustment, Seventh Avenue Advisory Committee, and the Historic Preservation Commission.

Seventh Avenue Advisory Committee: Mayor Pro Tem Caraker suggested Mr. Matt Hickman be moved to the stakeholder position and recruit an at-large member.

18. New Business: There was none.

19. Closed Session: At 8:35 p.m., Mayor Pro Tem Caraker moved City Council enter a Closed Session to establish or instruct the staff (or negotiating agent) concerning the position to be taken by or on behalf of the City Council in negotiating the price and other material terms of a contract for the acquisition of real property by purchase, option, exchange, or lease as provided under NCGS §143-318.11(a)(5). A unanimous vote of the Council followed. Motion carried.

The Council discussed the possible acquisition of real estate. No action was taken upon exit of the closed session.

20. Adjournment: The meeting adjourned at 9:00 p.m. upon unanimous assent of the Council.

Barbara G. Volk, Mayor

Tammie K. Drake, City Clerk