

November 5, 2015
Regular Meeting of the City Council
Council Chambers – City Hall
5:45 p.m.

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

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

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

2. Invocation and Pledge of Allegiance: 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.*

Sharon Burlingame, President of League of Women Voters, addressed the Council regarding their decision on allowing weapons in a public setting.

Victoria Morris, 560 Oak Hill Court, has a pet pig and requested an amendment to the policy to allow pigs as pets in the City.

Eva Ritchey, 1928 Brevard Road, addressed the Council expressing opposition to allowing people to be armed in the Council Chambers.

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

Council Member Caraker requested item 9b remain on the agenda for discussion only, not action. Council Member Smith asked item 9a to remain on the agenda for consideration. There was no objection from the Council.

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

5. Consideration of Consent Agenda: *These items are considered routine, noncontroversial in nature and are considered and approved by a single motion and vote.*

A. Consideration of Minutes: October 1, 2015 Regular Meeting

B. Consideration of Job Reclassifications:

i. Fire Chief: Mr. Brian Pahle, Assistant to the Manager, reported the Fire Chief Position is classified as a Grade 23 where the remainder of Department Head positions that supervisor a large number of employees are classified as a Grade 24. He requested the Fire Chief position be assigned to the grade 24 salary range.

ii. Parking Enforcement Officer: Mr. Pahle reported the City's Traffic Enforcement Officer has taken on further responsibilities and duties that include supervising day-to-day operations for three Downtown Ambassadors. The employee is additionally highly involved in the parking program, trains new employees and contributes to the decision-making and operation of the evolving parking program. This reclassification is appropriate to compensate excellent employee service and willingness to expand responsibilities and duties. The job description/reclassification will change from Traffic Enforcement Officer to Parking Services Supervisor as a Grade 10. *[The job description is available in the Human Resources Director's office.]*

C. Consideration of Amendments to the Personnel Policy Relating to: Mrs. Jennifer Harrell, Human Resources Director, presented the following amendments to the Personnel Policy for Council's consideration:

i. Funeral Leave:

Section 17. Funeral Leave

An employee who has a death in the Immediate Family Eligible employees scheduled to work eight (8) hour days or twelve (12) hour days that has a death in the Immediate Family (as defined in Section 12 of this Article) is eligible for up to 3 days of paid family leave 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 of paid Funeral leave. Any additional time or for deaths that are not covered by the Immediate Family designation, vacation leave or accrued compensatory time may be taken.

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.

ii. Vacation Leave:

Section 9. Vacation Leave: Manner of Taking

Employees shall be granted the use of earned vacation leave upon request in advance at those times designated by the Department Head which will least obstruct normal operations of the City. Department Heads are responsible for insuring that approved vacation leave does not hinder the effectiveness of service delivery. Vacation may be taken in ~~one hour~~ one half (1/2)-hour increments.

iii. "Hiring Rate" and "Minimum Rate" and Utilizing Compensatory Time: Mr. Pahle presented amendments to the Personnel Policy, Article III, Pay Plan, to expedite the hiring of personnel at the minimum rate and move them through the pay range. Employees' salaries should advance to the minimum rate, not the hiring rate, when they successfully complete their probationary period.

Section 8. Salary Effect of Promotions, Demotions, Transfers, and Reclassifications

Promotions. The purpose of the promotion pay increase is to recognize and compensate the employee for taking on increased responsibility. When an employee is promoted, the employee's salary shall normally be advanced to the hiring minimum rate of the new position, or to a salary which provides an increase of at least approximately 5% over the employee's salary before the promotion, whichever is greater. In the event of highly skilled and qualified employees, shortage of qualified applicants, or other reasons related to the merit principle of employment, the City Manager may set the salary at an appropriate rate in the range of the position to which the employee is promoted that best reflects the employees qualifications for the job and relative worth to the City, taking into account the range of the position and relative qualifications of other employees in the same classification. In no event, however, shall the new salary exceed the maximum rate of the new salary range. In setting the promotion salary, the City shall consider internal comparisons with other employees in the same or similar jobs.

Reclassifications. An employee whose position is reclassified to a class having a higher salary range shall receive a pay increase of approximately 5% or an increase to the hiring minimum rate of the new pay range, whichever is higher. ~~If the employee has completed probation, the employee's salary shall be advanced to at least the probation completion amount in the new range. ...~~

Section 9. Salary Effect of Salary Range Revisions

When a class of positions is assigned to a higher salary range, employees in that class shall receive a pay increase of at least approximately 5%, or to the hiring minimum rate of the new range, whichever is higher. ~~If the employee has completed probation, the employee's salary shall be advanced to at least the probation completion amount in the new range.~~ When a class of positions is assigned to a lower salary range, the salaries of employees in that class will remain unchanged. If this assignment to a lower salary range results in an employee being paid at a rate above the maximum rate established for the new class, the salary of that employee shall be maintained at that level until such time as the employee's salary range is increased above the employee's current salary.

Section 10. Transition to a New Salary Plan

The following principles shall govern the transition to a new salary plan:

- 1) No employee shall receive a salary reduction as a result of the transition to a new salary plan.
- 2) All employees being paid at a rate lower than the hiring rate established for their respective classes shall have their salaries raised at least to the new hiring rate for their classes. If the employee has passed probation, the employee's salary shall be advanced at least to the probation completion amount (minimum) in the new range.

Section 12. Overtime Pay Provisions

...

Employees are required to use or be paid for compensatory time before the start of each fiscal year, by June 30. Any unused compensatory time will be paid out, in accordance with FLSA standards, upon the last pay period for the fiscal year. Department Heads may exercise discretion in the manner in which employees accrue compensatory time or are paid for overtime. ~~Employees are required to utilize compensatory time before vacation or sick time.~~

D. Consideration of Budget Amendments (5): Mr. Brian Pahle presented the following budget amendments for Council's consideration:

Fund 60: Amount of Increase: \$8,000

An amendment to increase budget authority in the Environmental Services Fund from the approval of a recycling grant from NCDENR. revising the Hendersonville Housing Authority agreement to total only three-fourths of a year since the contract begins in October. The following fiscal year will include the full contract amount.

Fund 320: Amount of Increase: \$14,720

An amendment to establish the budget for acceptance of a Federal Grant (DPS Governor's Crime Commission) to purchase body cameras and other equipment.

Fund 60: Amount of Decrease: \$1,320

Fund 68: Amount of Increase: \$1,320

Fund 10: Amount of Increase/Decrease: \$4,672

An amendment to increase the part-time budgets for the GIS/Engineering Intern. Additionally, increase budget to cover possible overtime in the Development Assistance Department. Contingencies and other accounts have the capacity to cover these increases.

Fund 10: Amount of Increase/Decrease: \$47,960

To budget the unanticipated increase in parking meter revenue to fund new parking software.

Fund 80: Increase/Decrease: \$5,000

To increase the budget for grant revenue received to be used for the purchase of fresh fruits and vegetables for the City's Wellness Initiative. A part-time customer service representative resigned. The Finance Department is requesting this position be increased to full-time due to an increase in call volume.

E. Consideration of Land Lease Agreement with Skyway Towers to Erect a Cell Tower on City of Hendersonville Property at 423 Armstrong Avenue and Associated Budget Amendment: City Manager John Connet presented a land lease agreement with Skyway Towers for City-owned property located at 423 Armstrong Avenue for the purpose of erecting a cell tower. City Water and Sewer equipment will also be located on the tower. Skyway Towers will pay the City of Hendersonville \$1,750/month with an annual increase of 2.5 percent. In addition, the City will receive 20 percent of any additional revenue from future cell antennas placed on the tower. The term of the lease is for seven consecutive five-year periods (35 years). Staff recommended approval of the Land Lease Agreement with Skyway Towers and the associated budget amendment to record the increase in revenue for the remainder of the fiscal year. *[Insert Lease Agreement]*

Fund 10: Amount of Increase: \$10,500

To increase the budget for revenue received to reflect a monthly contractual agreement of \$1,750 with Skyway Towers beginning in January 2016.

F. Consideration of a Petition from Capital Funds, Inc. to Close an Unopened Right-of-Way for Yarborough Street Located on PIN 9568-75-5382: Planning Director Sue Anderson reported the City received an application from Capital Funds Inc., to close an unopened right-of-way for Yarborough Street located on PIN 9568-75-5382. According to NCGS Statute 160A-299, the City Council must first adopt a resolution declaring its intent to close the street or alley and set a date for a public hearing. She provided a Resolution of Intent setting January 7, 2016 as the public hearing date.

Resolution #15-1165

RESOLUTION OF INTENT

A resolution declaring the intention of the City of Hendersonville City Council to consider closing an unopened right-of-way for Yarborough Street located on PIN 9568-75-5382 as petitioned by Capital Funds Incorporated

WHEREAS, NC General Statute (G.S.) 160A-299 authorizes the City Council to close public streets and alleys, and

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

WHEREAS, the City Council considers it advisable to conduct a public hearing for the purpose of giving consideration to the closing of an unopened right-of-way for Yarborough Street located on PIN 9568-75-5382.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville:

1. A meeting will be held at 5:45 p.m. on the seventh day of January 2016, in the Council Chambers of City Hall to consider closing an unopened right-of-way for Yarborough Street located on PIN 9568-75-5382.
2. The City Clerk is hereby directed to publish this Resolution of Intent once a week for four successive weeks.
3. The City Clerk is further directed to transmit by registered or certified mail to each owner of property abutting upon that portion of said street a copy of the Resolution of Intent.
4. The City Clerk is further directed to cause adequate notices of the Resolution of Intent and the scheduled public hearing to be posted as required by G.S. 160A-299.

Adopted by the City Council at a meeting held on the fifth day of November 2015.

/s/Barbara G. Volk, Mayor

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

G. Consideration of a Request for a Waiver of Sidewalk Permit Fees in the Downtown Municipal Service District Related to Christmas Decorations and Removal: Mr. Lew Holloway, Downtown Economic Director, requested the sidewalk encroachment permit fee of \$10 be waived for Christmas decoration installation by downtown merchants for November 16 and 17 and January 7 and 8 for the removal of decorations. The waiver is specific to the Downtown Municipal Service District.

H. Establish an Alternate City Representative on the Henderson County Transportation Advisory Committee: Mr. Connet explained the Hendersonville City Council currently has one representative, Steve Caraker, on the Henderson County Transportation Technical Advisory Committee (TAC). City staff or Mr. Connet attends the meeting to assist Council Member Caraker as needed. The Chairman of the TAC asked that City staff be available to represent the City in Mr. Caraker's absence, which is very infrequent. Therefore, he requested the City Council to appoint the City Manager, or their designee, to serve as an alternate City representative on the Henderson County Transportation Technical Advisory Committee.

I. Consideration of a Proposal to Engage Fountainworks to Assist in the Development of a Regional Stakeholders Planning Group to Develop long-term Options for Water Supply and Infrastructure: Mr. Connet explained the idea of the City of Hendersonville taking a leadership role in the formation of a regional stakeholders planning group that will develop long-term options for regional water supply and infrastructure was presented during the 2015 Council/Staff retreat. He reported City staff recommends the hiring of Fountainworks Facilitation to facilitate and manage the initial process of this endeavor. Fountainworks was selected because they have led a similar process in Durham and Wake Counties, they are not an engineering firm and they have no ties to any of the stakeholders in the region. The initial process involves a "landscape assessment" of all the potential stakeholders in order to better understand the issues, priorities and end goals.

J. Consideration of Contract Award for Britton and Clear Creeks Streambank Stabilization: On October 27, 2015, informal bids were received for the Britton Creek and Clear Creek Stabilization Project. Engineering Director Brent Detwiler explained this project generally consists of the installation of approximately 340 linear feet of bioengineering geolifts, log vanes, live staking, grading, seeding and erosion protection and sedimentation control measures. The construction will be along two different streams (Britton Creek and Clear Creek) stabilizing streambanks and protecting existing sanitary sewer. The engineer's estimate for this project is \$60,000. He reported the following three bids were received:

Baker Grading & Landscaping, Inc. - \$63,896.00
 South Core Environmental - \$87,245.00
 Haywood Grading & Excavating - \$92,654.60 (Corrected mathematical error on submitted bid)

Mr. Detwiler reported City staff reviewed each bid for completeness and accuracy and as a result recommends the award of the project to Baker Grading & Landscaping, Inc. of Old Fort, NC (NC Contractor License No. 36703), the lowest responsive and responsible bidder, in the amount of \$63,896.00.

K. Consideration of Amendments to the Composition of the Tree Board: City Attorney Fritschner reported Mr. Mac Brackett, chair of the Tree Board, requested a change in the makeup of the Tree Board to permit persons outside the City's zoning jurisdiction to be members. He explained a review of the current ordinance shows that the Tree Board ordinance was amended and inadvertently established as a planning agency in 2008 pursuant to NCGS 160A-361 (that does not provide for persons outside the City's zoning jurisdiction to become members). He provided an ordinance to eliminate the provision making the Tree Board a planning agency subject to NCGS 160A-361 and change the makeup to make "at least" five of the seven members Hendersonville zoning jurisdiction residents.

Ordinance #15-1166

AN ORDINANCE AMENDING SECTION 46-146 OF THE CODE OF ORDINANCES PERTAINING TO ESTABLISHMENT AND COMPOSITION OF THE TREE BOARD

WHEREAS, the City of Hendersonville's Tree Board is an integral part of the public services provided by the City of Hendersonville, and

WHEREAS, the City recognizes the services provided by the Tree Board and desires that the membership of the Board represent a broad base of the community, and

WHEREAS, the City previously established the Tree Board as a planning agency subject to N.C.G.S. § 160A-361 but now recognizes that it can better serve the public as a City board not subject to the requirements of that statute,

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

SECTION 1. Section of the Hendersonville Code of Ordinances is hereby amended as follows:

Sec. 46-146. - Creation and establishment; number and appointment of members.

There is hereby created and established the city tree board, hereafter referred to as the "tree board." The tree board ~~shall be designated a planning agency for purposes of G.S. 160A-361 and~~ shall be appointed by the City Council and shall be composed of seven persons, ~~who at least five of whom~~ shall be residents of the territory subject to the zoning jurisdiction of the city or property owners of the city, ~~and who shall be appointed by the city council.~~ The director of public works shall serve on the tree board as an ex officio member but will not have voting rights.

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

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

Adopted this fifth day of November 2015.

/s/Barbara G. Volk, Mayor

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

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

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

6. Public Recognition: Service Excellence Quarterly MVPs: City Manager John Connect explained as part of the City's Service Excellence Program, we are recognizing three employees each quarter as "MVPs" who have provided excellent customer service. These employees are selected from a group of nominations provided by other city employees and selected by members of the Service Excellence Design Team. The quarterly nominees have the opportunity to be selected as the Service Excellence Employee of the Year. The following quarterly nominees were recognized:

Donna Fox - Finance Department
 James Nitsche - Police Department, and
 Brendan Shanahan - Engineering Department.

No action was required or taken.

7. Recognition: Governmental Finance Officers Association (GFOA) Distinguished Budget

Presentation Award: Mr. Connet explained for the second consecutive year, the Governmental Finance Officers Association (GFOA) has awarded the City of Hendersonville with the GFOA's Distinguished Budget Presentation Award. In order to receive the budget award, the City must satisfy nationally recognized guidelines for effective budget presentation. He presented the award to Mr. Brian Pahle, Assistant to the Manager, who is responsible for the development of the budget document. **No action was required or taken.**

8. Quasi-Judicial Public Hearing – Consideration of an Application from Hickory Realty Fund LLC for a Special Use Permit to Construct 206 Multi-Family Residential Units on 21 acres Located Adjacent to North Main Street near Baldwin Hill Avenue:

Mayor Barbara Volk explained the procedures for the quasi-judicial public hearing including persons wishing to speak or provide testimony must be sworn in. She explained Council may only consider facts and expert witness testimony, not opinions. Quasi-judicial hearings differ from regular public hearings in that interested persons have the right to cross-examination.

Mayor Volk requested the City Council members announce any contacts concerning the application that are not included in the file. Council Member Smith stated he spoke to Mr. Hazzard but believes he can make an impartial decision. Mayor Volk asked the Council members to announce any conflicts of interest. There was none.

Mayor Volk asked if there is 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. There was none.

Six persons were sworn in to provide testimony.

Following is a summary of the testimony of Mr. Dave Hazzard, City Planner:

The City has received a Special Use Permit application from Hickory Realty Fund LLC for the development of 21 acres located adjacent to North Main Street near Baldwin Hill Avenue. This project includes four parcels: PIN's 9569-85-8979, 9569-85-3434, 9569-85-7172 and 9569-83-4918.

The overall project consists of residential, commercial, and office uses and is proposed to be done in five phases. Detailed preliminary plans have been submitted for residential phases one through three only and the commercial and office phases will be submitted later and will have to go through the Special Use Review process.

The applicant is proposing:

- 206 multi-family units (phases 1-3),
- Commercial, business, office, and related commercial uses as per Zoning Ordinance Section 5-15 to be determined at a later date (phases 4 and 5),
- Rezoning from UV Urban Village and R-20 Low Density Residential to PCD Planned Commercial Development.

He reviewed the existing land uses and zoning of the parcels and the surrounding parcels.

Comprehensive Plan Consistency: The parcels included in this application are classified as Medium Intensity Neighborhood and Natural Resource/Agricultural on the 2030 Comprehensive Plan's Future Land Use Map. Surrounding parcels are classified as Medium Intensity Neighborhood, Natural Resource/Agricultural and Regional Activity Center.

He reviewed the goals of the Medium Intensity Neighborhood classification, the Natural Resource/Agricultural classification and the Regional Activity Center classification.

Plan Review of Phases 1 - 3:

Survey: The applicant is required to provide a sealed survey of all parcels included in this application prior to final site plan approval and that condition is included in the published List of Uses and Conditions.

Buildings: The detailed Preliminary Site Plan shows residential phases 1-3 and includes 16 multi-family buildings with 206 units, with three building styles, each with three stories.

Parking: The site plan shows 318 parking spaces for the proposed multi-family development; a minimum of 206 spaces is required.

Sidewalks: A sidewalk is shown along the parcel fronting on N. Main Street. This sidewalk connects N. Main Street to all buildings within the development.

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

Traffic Impact Analysis (Section 6-19): A Traffic Impact Analysis (TIA) was completed for this project and was reviewed by Kimley-Horn, the City's traffic consultant. He noted an amended TIA may be required when the preliminary plans for the commercial/office Phases 4 and 5 are submitted.

The TIA identified the following proposed improvements should be sufficient to accommodate the traffic generated by the proposed development:

1. Provide a two-lane cross-section consisting of one ingress lane and one egress lane for the proposed site access.
2. Construct an exclusive left-turn lane into the proposed development on the southbound approach of N. Main Street providing a minimum of 100 feet of full left turn storage and appropriate deceleration and taper lengths.

Additionally, based on a NCDOT Turn Lane Warrant Study, NCDOT is requiring a tapered right turn lane along N. Main Street which is controlled by NCDOT. This required right turn lane is shown on the Preliminary Site Plan.

Rezoning: The applicant is requesting rezoning from City of Hendersonville UV Urban Village/R-20 Low Density Residential to PCD Planned Commercial Development.

He reviewed an architectural rendering of the site.

Building Height: The applicant is asking for the maximum building height which is 48 feet.

Density: The proposed project has a residential density of 14 units per acre. A density bonus above the maximum exceed ten units per acre may be approved by City Council with certain considerations. He reviewed the density bonus standards.

Pedestrian connections to places of employment and/or shopping facilities do not exist at this time. Based on the Planning Board recommendation to approve a density bonus subject to conditions, staff is requesting the following condition on the published List of Uses and Conditions:

Provide a pedestrian connection approved by City of Hendersonville staff from the site along Baldwin Avenue and Duncan Hill Road to the intersection of Duncan Hill Road and Dermid Avenue or from the site along North Main Street to the intersection of North Main Street and the Watco railroad crossing in order to increase the density from 10 units per acre to 14 units per acre. Off-site pedestrian infrastructure is required to be in place when Phase 3 construction begins.

He stated Mr. Luther Smith has requested the completion of off-site pedestrian improvements not be required until the project exceeds ten units per acre. The site plan reviewed by the Planning Board has been modified to move one building from Phase 2 to Phase 3. With this revision, the completion of Phases 1 & 2 will result in an overall density of 9.7 units per acre. Any density authorized by City Council pursuant to this section shall not exceed 18 dwelling units per acre. The applicant is requesting a density of 14 units per acre.

The common open space requirement for Phases 1 - 3 is 2.36 acres. The preliminary site plan shows 6.42 acres designated as Common Open Space.

Fire Access: The Preliminary Site Plan has a label stating "Future Emergency Access." As per the applicant "Final plans will address all elements of the NC Fire Code including Section D106.2."

100-Year Floodplain and Floodway: The applicant is not proposing any building development in this area and the area which includes Mud Creek and Bat Fork Creek is set aside as Common Open Space. This area also includes the 30-foot required stream buffer and 20-foot transitional area.

Annexation: The applicant is required to annex PINs 9569-85-3434 and 9569-83-4918 and is listed on the published List of Uses and Conditions and shall be completed prior to issuance of Final Site Plan approval.

ANALYSIS: He reviewed the required findings in Section 7-4-10.1 of the Zoning Ordinance and provided the following:

- (A) The requirement of NC Fire Code Section D106.2 has been added to the published List of Uses and Conditions.
- (B) Water and sewer service is intended to be extended to the site. The development site access for Phases 1 – 3 will be via N. Main Street. Based on the TIA and NCDOT recommendations, the Preliminary Site Plan shows the following:
 - The site access road includes one lane of ingress and two lanes of egress (one right turn lane and one left turn lane).
 - An exclusive left turn lane into the proposed development on the southbound approach of N. Main Street with a 100 feet of full left turn storage and an approximately 82-foot deceleration taper.
 - A 236-foot right turn taper into the proposed development on the northbound approach on N. Main Street.
- (C) No variances are requested.

(D) A neighborhood compatibility meeting was held on July 16, 2015. Notice was provided by U.S. mail to the owners of record of all property situated within 400 feet of the subject property. Concerns were raised about road improvements on N. Main Street, heavy trucks on N. Main Street, and N. Main Street is dangerous.

(E) No development is intended for the locations classified as Natural Resource/Agricultural. The Comprehensive Transportation Plan does not indicate any improvements to N. Main Street.

Tree Board: The Tree Board requested the final landscaping plan be forwarded to the Tree Board and that the applicant consider using pollinator friendly species.

Planning Board: The Planning Board voted unanimously to:

1. recommend City Council approve a density bonus from a maximum of 10 units per acre to a maximum of 14 units per acre subject to conditions as negotiated between staff and the applicant,
2. recommend City Council adopt an ordinance amending the official zoning map changing the zoning designation of PIN 9569-85-3434 from R-20 Low Density Residential to PCD Planned Commercial Development, and, PIN's 9569-85-8979, 9569-85-7172 and 9569-83-4918 from UV Urban Village to PCD Planned Commercial Development finding that the rezoning is consistent with the Comprehensive Plan, the rezoning is reasonable and in the public interest because this does serve the property as the best use for this area, and
3. recommend City Council approve the application for a Special Use Permit based on the site plan for Phases 1 – 3 submitted by the applicant and subject to the limitations and conditions stipulated on the published List of Uses and Conditions.

There was a question from Council Member Miller about the location of the Oklawaha Village Project, and if traffic volume from other developments were considered in the TIA. Mr. Hazzard stated yes. The square footages were used to generate the peak trips. Mr. Hazzard reported the changes suggested were made to the plan, i.e., taper, etc.

Mr. Luther Smith, Luther Smith and Associates, landscape architect and planner, addressed the Council. Following is a summary of his testimony:

They are working with Hickory Realty Fund to develop the plans. He reviewed a rendering of entire property stating the total area is 21 acres and is comprised of four separate parcels which they plan to combine. Five development parcels are proposed: the triangular area is one of the proposed commercial development areas, across North Main Street and Baldwin Avenue is a second commercial area. The remaining portion is divided into three residential phases.

This property and Oklawaha Village were part of the proposed Eastside Village.

They are requesting the rezoning of the property to PCD Planned Commercial Development and that the entire property be annexed into the City.

The initial development proposed is for phases 1 – 3 which are residential areas. Phase 1 will have 106 one-, two-, and three-bedroom units. This totals 4.73 acres. Phase 2 is comprised of 2.95 acres, will have 50 one-, two-, and three-bedroom units. Phase 3, the remainder of the property, extends to Mud Creek and into the floodplain area. Phase 3 totals 7.35 acres, with 50 one-, two-, and three-bedroom units. The total proposed density is 14 units per acre. They are proposing 1.5 parking spaces per unit.

Future development is Phases 4 and 5 for commercial or office development.

The common open space proposed for the residential area is 43.8 percent of land area of the three areas. Open space comprises approximately 66 percent of the space.

Attributes of the property: an existing lake, nice wetland areas, heavy timber and wooded areas makes a nice amenity for residents.

Emergency services: two emergency access points are required for developments over 200 units; they are asking for 206 units. They met with the Fire Marshal and thought they had everything taken care of. They have had discussions about the opportunity to join the public right-of-way with the Oklawaha Village project as an emergency access. This would not be used as an open street. They will work this out before final site plan submittal.

All of the roadways and parking areas have to be 26 feet wide and a gate element has to have 20 feet of space for vehicular access.

PCD allows maximum height of 48 feet. Due to the topography, a number of the buildings with three stories will appear to be two stories because of the grade.

Main access will be off of North Main Street. They have been through the TIA process and received comments. NCDOT wants a left-hand turn lane off North Main Street with stacking. In the future, when the commercial areas are developed, NCDOT may require a right-turn lane to accommodate the increase in traffic.

They are requesting a density bonus. They have rearranged the development of each parcel so they can address the connectivity issues and emergency access issues when it is convenient to do so from a development standpoint. He explained emergency access does not connect directly to their first phase and asked that be done as part of the development of the particular sections.

Council Member Miller asked if open space requirements go with each phase. Mr. Smith stated yes, all elements of the ordinance are satisfied within each phase. He stated there are some tremendous attributes within the open space as it extends to Mud Creek.

Council Member Caraker asked if there is another tier of requirements for emergency access due to the number of units. Mr. Luther Smith explained the first two phases were below the 200-unit limit. He explained their plan to connect to the right-of-way within the Oklawaha Village property.

Council Member Smith asked if the tapering lanes, etc. happen at the beginning of the project. Mr. Luther Smith stated yes, generally, at the beginning but some improvements may be done in connection with NCDOT, i.e., the intersection of Baldwin Hill Road/N. Main Street. He stated improvements must be done before final site plan approval.

Gaston Campano, representing Hickory Realty firm, addressed the Council. A summary of his testimony follows.

He emphasized the desperate need for housing in Western North Carolina and feels strongly this is an ideal site for additional housing. The biggest issue is the wording for the pedestrian connection and whether they comply with the requirement. They requested to proceed with the project. They have many different options for connections and to explore those options will require negotiations, additional studies, etc., which will require additional time and expense. They would like to proceed at this preliminary level and get first phases going before pursuing other options that require additional time, money and effort.

He reviewed the existing wording in the "list of uses and conditions" which is a specific requirement as to where the sidewalks will be placed. They have many other options available and feel they meet the requirement of pedestrian accessibility in a number of possible ways. In addition to those noted, they have had discussions with neighbors to have pedestrian access with their property so they would not have to take this long route into the areas where there are currently sidewalks. They have also had discussions with the Housing Assistance Corp to put in a trail system that connects the developments into the Oklawaha Greenway. A connection to the greenway encourages pedestrian access and ties directly into the Seventh Avenue district and makes it easy to get downtown and in fact is the shortest route into those areas. They would like to modify the requirement for the connectivity. They do have to provide the third phase connectivity but it could be in an acceptable format that ties into the connection of sidewalk at North Main Street, not necessarily the route mentioned although it is possible. They are abutting the Oklawaha Greenway although they would have to cross the creek to get to it, but would like a trail system that ties together all of the properties together or through the Duncan Hill Road sidewalk area will meet the requirement and allows the best solution. They are working with the Housing Assistance Corp for tying together the features so everyone benefits. They will be adding a lot of market-rate but reasonably-priced housing tied in with their affordable housing to create an integrated neighborhood.

Mayor Volk opened the public hearing at 7:06 p.m. in accordance with North Carolina General Statutes by notice published. She reminded speakers this is quasi-judicial hearing stating cross examination and questions are allowed of the presenters.

Howard Harvey, 707 Duncan Hill Road, spoke in favor of the project/requests and provided his opinion of the proposal.

Ken Fitch, 1027 Patton Street, asked questions and raised concerns. He asked if the viability and sustainability of the residential component is dependent on the realization of the commercial office phases. The concerns of traffic and safety on North Main Street also raises concerns within the wider community. Will add to density of traffic. His specific point of concern is through-traffic on North Main Street and vehicles exiting the proposed development, visibility when entering/exiting the development and asked how the hazard may be reduced.

Mayor Volk asked for a response.

Mr. Campano stated it is uncertain at this stage what they will be doing with the commercial development. It will be marketed. The general concept is similar to the Chadwick Avenue with nice commercial development in the front with residential behind it and the two complement each other. These will be independently owned with eventually two separate ownerships. Regarding the traffic, he stated they have worked with NCDOT for the safest conditions possible. It is their intent to keep the property long-term and safety is also their concern.

Mr. Luther Smith explained the TIA process takes into consideration a broad number of things. The entrance, the intersection of Berkeley, North Main Street, etc. were considered. Part of the recommendation is to work with NCDOT when the commercial component is added but they are looking ahead at the impact in corridor.

Mayor Volk asked for additional questions/comments.

Mr. Harvey also commented the development will provide income to Hendersonville and Henderson County and substantial advantage for sustained tax revenue for the City.

No one else expressed a desire to speak. The public hearing was closed at 7:17 p.m.

Mayor Pro Tem Stephens agreed there is a need for this type of housing. He stated this is a positive project. Council Member Caraker stated he doesn't see many negatives with the exception of traffic. He commented there is another project called the "Balfour Parkway" which is high on NCDOT's list, they are acquiring right-of-way now and will help alleviate some of the traffic problems. He stated Council has approved several other developments in this area. He also agreed there is a need affordable housing.

Council Member Miller asked about allowing flexibility with the pedestrian connectivity issue. There was discussion about connecting to the Oklawaha Greenway, connecting a trail system through the Housing Assistance Corporations project and possible other options for pedestrian connections. Mr. Campano reiterated he would like to study the options and would prefer working with the Housing Assistance Corporation to tie the trail system together. He stated there may be better options.

Mayor Volk suggested adding a condition "or other location with approval of the Development Assistance Department." Mr. Campano suggested removing "along Baldwin Avenue and Duncan Hill Road" or remove "along North Main Street to the intersection of North Main Street and the Watco railroad crossing" or add "provide a pedestrian access that ties into the Oklawaha Greenway". He stated if they connect to one of the three locations, they can meet the requirements for pedestrian access.

Density Bonus: Council Member Caraker moved City Council to approve a density bonus as per Section 5-14-6 from a maximum of 10 units per acre to a maximum of 14 units per acre subject to the condition listed in the published List of Uses and Conditions. A unanimous vote of the Council followed. Motion carried.

Rezoning Request: Council Member Caraker moved City Council to adopt an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of PIN 9569-85-3434 from R-20 Low Density Residential to PCD Planned Commercial Development, and, PINs 9569-85-8979, 9569-85-7172 and 9569-83-4918 from UV Urban Village to PCD Planned Commercial Development finding that the rezoning is consistent with the Comprehensive Plan, the rezoning is reasonable and in the public interest because it makes the entire parcel will work better in accordance with the Comprehensive Plan. A unanimous vote of the Council followed. Motion carried.

Special Use Permit: Council Member Smith moved City Council to approve the application of Hickory Land Fund LLC for a Special Use Permit based on the site plan for Phases 1 – 3 submitted by the applicant and subject to the limitations and conditions stipulated on the published List of Uses and Conditions, with a change to Section 1: to provide a pedestrian connection approved by City of Hendersonville staff from the site to the intersection of Duncan Hill Road and Dermid Avenue, or from the site to the intersection of North Main Street and the Watco railroad crossing, or from the site to the Oklawaha Greenway, in order to increase the density from 10 units per acre to 14 units per acre. Off-site pedestrian infrastructure is required to be in place when phase 3 of the project begins. A unanimous vote of the Council followed. Motion carried.

Mayor Volk commented this is going to be a good project and she looks forward to seeing its completion.

Ordinance #15-1167

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

IN RE: Eastside Meadows
(File # P15-29-SUR)

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

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

Rezone PIN 9569-85-3434 from R-20 Low Density Residential to PCD Planned Commercial Development.

Rezone PIN's 9569-85-8979, 9569-85-7172 and 9569-83-4918 from UV Urban Village to PCD Planned Commercial Development.

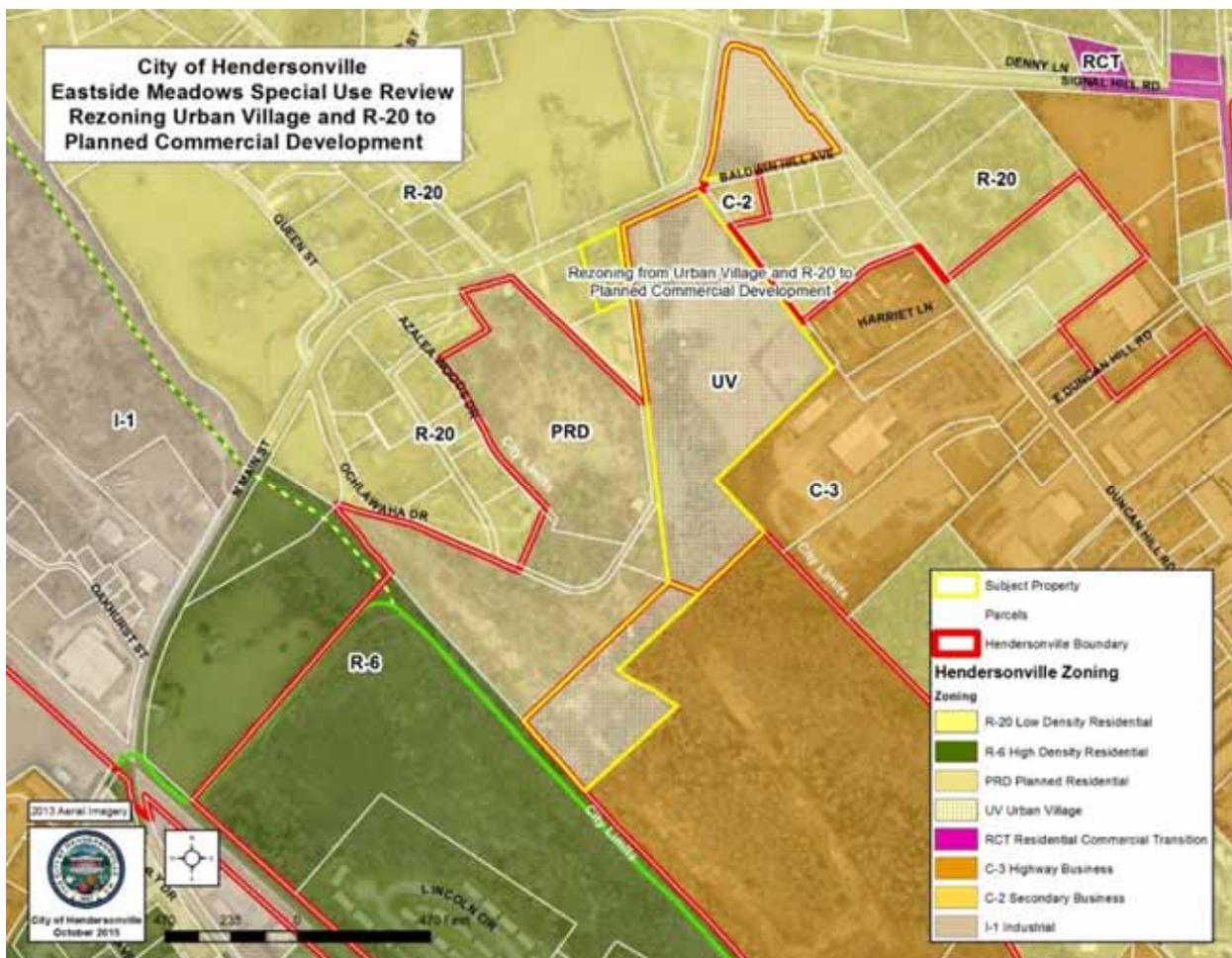
2. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this fifth day of November 2015.

/s/Barbara G. Volk, Mayor

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

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



9. Consideration of an Ordinance Amending Section 36-87 of the Code of Ordinances Respecting Weapons:

A. Consideration of Weapons on City Property: Mr. Connet presented the following amendment proposed by Council Member Jerry Smith to strengthen Section 36-8 of the Code of Ordinances.

Sec. 36-87. - Weapons on city-owned or city-maintained property.

(a) Prohibited acts. Except as provided in subsection (b) of this section, all persons are prohibited from possessing concealed handguns as defined in G.S. 14-269 firearms as defined in N.C.G.S. § 14-409.39 in city-owned and/or maintained nonresidential buildings and property as defined in G.S. 14-54(C); their appurtenant premises and parks public-owned buildings, on the grounds or parking areas of those buildings, or in public parks or recreation areas. Nothing in this article shall prohibit a person from storing a firearm within a motor vehicle while the vehicle is on these grounds or areas. Nothing contained in this article prohibits the City from exercising powers provided by law in states of emergency declared under Chapter 36 Article V Division 2 of this Code of Ordinance.

Council Member Smith explained he discovered that State law does not prohibit open-carry weapons on City-owned property and he does not want that to happen. He requested an ordinance be drafted to prohibit carrying weapons onto City property. He explained if a weapon is in a vehicle it may be parked on City property and the weapon left in the car, but not allow the weapon to be carried on City property. He stated the City must pass an ordinance prohibiting open carry on City property. He stated it has nothing to do with City streets and sidewalks.

Council Member Miller reported he has had discussions with Chief Blake and would like to include the recommendations of the police department to comprise an entire safety plan for the City. He stated he would prefer not to piece-mill it. Council Member Caraker commented he did not state his concerns correctly last month. He stated the world is not as safe as it used to be. He supported developing a safety plan for all public buildings. He voiced support of involving the police department and develop a safety plan or plan of action for everyone and City facilities. He stated it is irresponsible not to have a plan in place.

Council Member Smith commented he appreciates what they are saying. Mayor Volk agreed with Council Member Smith that it should be consistent but supported this change be made as a package. There have not been any problems up to this point and she is willing to wait for further feedback. Mayor Pro Tem Stephens agreed but stated he would like to receive staff's recommendations in the next 30 days. Council Member Miller suggested allowing 60 days to put a plan in place for an emergency for all City property. Mayor Volk agreed stating the recommendations will include procedures and not just ordinances.

Council Member Smith moved that the City Council amend Section 36-87 of the Hendersonville City Code to prohibit the possession of firearms in public buildings, on the grounds or parking areas of those buildings, or in public parks or recreation areas. The vote was one in favor; four opposed. Motion failed.

Mayor Volk requested staff to look at the issue and bring back a recommendation on weapons in City facilities, amendments to the Code, and a safety plan, in as timely as fashion as possible. The Council agreed by consensus.

B. Consideration of Concealed Carry Exemption (Second Reading)-Mr.**10. Consideration of a Proposal to Engage the UNC School of Government Development Finance Initiative (DFI) to oversee the Pre-Development Process to Further the City's Community and Economic Development Goals in and around Downtown Hendersonville:** Mr.

Connet addressed the Council and reported staff has had discussions with the UNC School of Government Development Finance Initiative. He recommended the engagement of DFI to oversee the pre-development process to attract a private hotel and retail investment, minimize public expense and further the City's community and economic development goals in and around Downtown Hendersonville. He explained this project will be in partnership with the Henderson County Tourism Development Authority with the ultimate goal of attracting a downtown hotel with conference and meeting facilities. In addition, the City of Hendersonville would expect a parking deck with a minimum of 300 parking spaces be constructed to replace any lost parking as a result of this project. The pre-development process will take up to twelve months and include a market study, public input process and financial analyst.

Mr. Michael Lemanski introduced the program through the UNC School of Government stating they partners with local governments to attract private investment for transformative projects by providing specialized finance and development expertise.

Mr. Lemanski reviewed a few of the 70 projects they have assisted with across the state: a mill project in Hillsborough, redeveloping the Water Street parking deck property in Wilmington, a town center in Shallotte, and a hotel in Albemarle. He also reviewed the private development process and the pre-development process.

The Council discussed the contract and the associated fees. Mr. Connet stated the fee is \$52,000, the Tourism Development Authority has approved a grant for \$25,000 so the City's portion is \$27,000. Staff has identified how to pay the City's portion. He stated they will begin with the Dogwood Parking lot because the City owns it and it is close to downtown. If that site is not viable, other properties in close proximity downtown may be identified. A market analysis will be conducted to determine if we can support a downtown hotel. A site analysis will include retail and hotel prospects and multi-use may be considered.

Mr. Lemanski stated all existing data will be considered, the Comprehensive Plan, etc. They have worked in the Seventh Avenue District and know the market already. They are ready to begin as soon as the contract is approved. He stated they are trying to accomplish hotel rooms and possibly parking and retail opportunities. Mr. Connet explained the TDA is also interested in the potential for meeting and conference space that may be tied to the project.

After discussion, **Council Member Smith moved the City Council approve the proposal to engage the UNC School of Government to assist the City in the completion of pre-development research, analysis and schematic design for a hotel with meeting facilities, retail space and parking structure on the Dogwood Parking Lot or any other site in the City. A unanimous vote of the Council followed. Motion carried.** *[The proposal is available in the office of the City Manager.]*

11. Consideration of a Request to Establish Four Free 30-Minute Parking Spaces in the Azalea Parking Lot: Mr. Connet reported receipt of a request from G.A. Pope Fine Jewelry and Fashion Sense, located in the Azalea Parking lot, to designate four parking spaces in front of their businesses as free 30-minute parking for their customers.

Council Member Smith stated he met with Mr. Holloway and Ms. Pope regarding her request. Ms. Pope requested the four parking spaces directly in front of their business be converted from a metered space to a designated parking space for nearby businesses. He stated it will be difficult to police those spots and she understands the risk but believe it will be easier for their businesses. He stated it will somewhat mimic the 15-minute spaces on Main Street. Discussion followed on the time limit.

Council Member Miller moved the City Council establish four free 15-minute parking spaces in the Azalea Parking Lot directly in front of G.A. Pope Fine Jewelry and Fashion Sense. Council Member Smith asked if signage will be placed to indicate the limited parking. Mr. Connet stated yes. **A unanimous vote of the Council followed. Motion carried.**

Mayor Volk requested these spaces be monitored by the parking ambassadors and officers to monitor how much they are used to ensure it is effective and for the purpose approved.

12. Comments from Mayor and City Council Members:

Council Member Miller expressed appreciation to Duke Energy and Craig Debrew for their announcement, for listening to the City residents and Council, and for coming up with a better plan for the community.

Council Member Smith publicly thanked Lew Holloway for the Trick or Treat Street event that is a fun community activity. More than 220 people participated in the costume contest.

13. Reports from Staff: There was none.

14. Boards and Commissions:

- a. **Consideration of Selection Committee for the Bicycle Plan:** Mr. Dave Hazzard, City Planner, explained the City received a NCDOT Bicycle Planning Grant and as part of the process, City Council will need to appoint a Selection Committee to review proposals, interview consultants and recommend a consultant. Once a consultant is selected and a contract is signed, City Council will then need to appoint a Steering Committee.

Staff is recommending three to four people serve on the Selection Committee and that at a minimum, one Council Member and Joe Sanders of the Blue Ridge Bicycle Club be selected. Representation from the Blue Ridge Bicycle Club is requested since they are donating \$10,000 to the project. Staff is anticipating the Selection Committee will meet twice: once to jointly review the RFP's and once to conduct interviews if desired.

Council Member Caraker moved to appoint Council Member Jerry Smith, Brian Pahle, and Joe Sanders. A unanimous vote of the Council followed. Motion carried.

b. **Consideration of Appointments:**

Environmental Sustainability Board: City Clerk Tammie Drake reported the terms of Steven Orr and David Rhode expired at the end of September. Both members would like to continue serving. Both reside outside the City and are appointed for their particular areas of expertise. **Council Member Smith nominated Steven Orr and David Rhode for a three-year term on the Environmental Sustainability Board. A unanimous vote of the Council followed. Motion carried.**

Planning Board: The term of Ben Pace will expire December 1, 2015. Mr. Pace would like to be considered for reappointment. **Council Member Miller nominated Ben Pace to serve another three-year term on the Planning Board. A unanimous vote of the Council followed. Motion carried.**

Tree Board: Two members on the Tree Board, David Wilson and Alex Rodriquez, were unable to attend the required number of meetings as specified in Section 46-147 of the Code of Ordinances thereby creating two vacancies. **Council Member Miller nominated Mia Freeman to fill an unexpired term on the Tree Board; a unanimous vote of the Council followed. This term will expire 02-01-18. Motion carried.**

- c. **Announcement/Upcoming Appointments:** Tammie Drake, City Clerk, announced the vacancies on the Tree Board and Environmental Sustainability Board. **No action was taken.**

15. New Business: There was none.

16. Staff Request for Closed Session: At 8:42 p.m., Council Member Caraker moved the City Council enter closed session in accordance with 143-318.11 (11)(5) to establish or instruct the staff concerning the position to be taken by or on behalf of the City Council on negotiating for the acquisition of real property. **A unanimous vote of the Council followed. Motion carried.**

The Council discussed the possibility of the acquisition of property. **No action was taken.**

17. Adjournment: Being no further business, the meeting adjourned at 9:25 p.m. upon unanimous assent of the Council.

Barbara G. Volk, Mayor

Tammie K. Drake, City Clerk