

December 4, 2014
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, Planning Director Sue Anderson, Police Chief Herbert Blake, Fire Chief Dorian Flowers, Utilities Director Lee Smith, Finance Director Lisa White, Deputy Fire Chief Joe 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.*

Eva Ritchey, 1928 Brevard Rd., Hendersonville, asked how we can extend the economic vitality from Main Street to the side streets, how can we make the side streets more attractive, etc. She stated it might be a good time to consider changes to the zoning regulations to allow sandwich boards on Main Street, updated signs and neon lights, etc.

Mayor Volk commented that is an important issue that the City needs to think about.

4. Consideration of Agenda:

Mayor Volk noted an addition to the consent agenda: D. Consideration of PARTF application forms. John Connet, City Manager, asked for the addition of a closed session. Council Member Smith requested the additional of an item under Mayor and Council comments re: Henderson Helps.

Council Member Caraker moved approval of the agenda with the additions. A unanimous vote of the Council followed. Motion carried.

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

A. Consideration of Minutes: November 6, 2014 Regular Meeting

B. Consideration of Resolution Supporting Property Addressing Ordinance Enforcement by Henderson County: The City received a request from Curtis Griffin, Henderson County Property Addressing Coordinator. Henderson County has recently revised their addressing policy and is requesting that the City of Hendersonville approve the changes. Mr. Connet reported City staff has met with Henderson County staff and believes the changes, requiring 100 percent of residents to approve a road name change and limiting to one change per twelve months, will have little or no effect on the citizens of Hendersonville.

Resolution #14-1252

NORTH CAROLINA, CITY OF HENDERSONVILLE
RESOLUTION
PROPERTY ADDRESSING ORDINANCE ENFORCEMENT

WHEREAS; The City of Hendersonville seeks to cooperate with other governing bodies to provide for the efficient street addressing, emergency response and E911 database;

WHEREAS; Henderson County passed the Property Addressing Ordinance, hereinafter "the Ordinance";

WHEREAS; providing a uniform property numbering system along streets in Henderson County;

WHEREAS; facilitating the provision of adequate public safety and emergency response services;

WHEREAS; the County must adhere to the established E911 requirements;

WHEREAS; establishing a listing of all streets in Henderson County and to establish the procedures by which a street may be named or by which an existing name may be changed;

WHEREAS; a uniformed addressing database in Henderson County and municipalities will provide for consistent procedures and provide for the assignment of physical addresses for all addressable structures throughout the County;

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

1. The City of Hendersonville will permit Henderson County to enforce the Ordinance within municipal boundaries.
2. The City of Hendersonville will provide assistance to the County's primary coordinator in this area, the Property Address Coordinator, whenever necessary.
3. Henderson County, through its Property Addressing Coordinator, will provide the City of Hendersonville services under the Ordinance.
4. Henderson County will review permits, plans and petitions under the Ordinance throughout the County including within the City of Hendersonville. The Henderson County Zoning Board of Adjustment will hear all appeals under the Ordinance.
5. This resolution will be effective against the City of Hendersonville upon the date of adoption.
6. Enforcement under the Ordinance will commence upon adoption of resolution.

Adopted this the fourth day of December, 2014

/s/Barbara G. Volk, Mayor

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

C. Consideration of Special Event Permit for Friday Nights Supper and a Show at Mike's on Main:

Zoning Administrator Susan Frady reported the Special Events Committee voted unanimously to recommend the City Council approve a special event permit for this new event. The event is to raise awareness for autism and to raise money for local special needs classrooms in the county schools. The streets and sidewalks will remain open but a 48-inch stage which will be set up in front of Mike's on Main at 303 N. Main Street for a musician. No chairs are to be placed on the sidewalk and at least five feet of unobstructed space must remain on the sidewalk at all times for the passage of pedestrians. This event will be held on Friday nights May through August 2015, from 4-8 p.m.

D. Consideration of PARTF application forms: City Planner Sue Anderson explained even though the City Council approved the submittal of the PARTF grant application, she requested City Council's consideration and approval of the "Basic Facts and Assurances form", certifying the information contained in the application is true and correct and the required dollar-for-dollar matching funds will be available during the project period. She requested the Council authorize Mayor Volk to sign the form as the City's "Chief Elected Official."

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

6. Hendersonville Heroes: Recognition of Mrs. Julia Sellers for 18 years of Service on the Planning Board, and many years of service on the School Board: Mayor Volk presented Mrs. Sellers with a certificate for her 18 years of service on the Planning Board and many years of service on the School Board. Mayor Volk stated the City will plant a tree in her honor at the Berkeley Mills Park tree garden. **No action was required or taken by the Council.**

7. Mills River Partnership Annual Report: The Council heard an annual report by April Graham, Watershed Coordinator. She reviewed their accomplishments which includes: outreach and education through Mills River Day, informational brochures, "watershed" signs, and presentations made to groups. She reviewed the Best Management Practices, the Source Water Protection Plan and the 9-Element Plan.

Mayor Volk expressed appreciation for their work. **No action was required or taken by the Council.**

8. Public Hearing - Closing-Out of the Community Development Block Grant Awarded to Support Oak Haven Apartments, a Housing Assistant Corporation Development: Mr. Connet explained in 2011 the City cooperated with the Housing Assistance Corporation for a Community Development Block Grant for a development known as Oak Haven Apartments, a project that serves the elderly. He stated notice was published as required for the public hearing to close out the grant.

Mayor Volk opened the public hearing at 6:11 p.m. No one expressed a desire to speak. The public hearing was closed. **No action was required or taken by the Council.**

9. Quasi-Judicial Public Hearing - Consideration of Special Use Permit Application from Mr. Dennis Dorn to: 1) Add a Storage Building to the AAA Storage World site located at 730 Sugarloaf Road, 2) to Rezone the Property from C-3 Highway Business/R-15 Medium Density Residential to PCD Planned Commercial Development and 3) to Review a Request for a Variance from the Required Setback for an Existing Building: Mayor Volk explained the procedures for the quasi-judicial hearing including those speaking must be sworn in to present evidence. They may cross examine witnesses. She explained Council must consider factual information.

Mayor Volk asked the Council to announce any communications regarding the project: name of contact and the substance of the contact regarding this special use permit. There was none. Mayor Volk asked the Council members to announce any conflict of interest. There was none. Mayor Volk asked if anyone is aware of anything

of value that has been given or promised in exchange for a position to be taken on the application. There was none. Three persons were sworn in to provide testimony.

Planning Director Sue Anderson entered file #P14-46-SUR into the record of the proceeding. She requested Council take official notice of the Zoning Ordinance, the official Zoning Map, the 2030 Comprehensive Plan, and the Transportation Plan. She provided the following testimony:

The City is in receipt of a Special Use Permit application from Dennis Dorn of CD-Mat. LLC to add a 115' x 127' storage building to the AAA Storage World site located at 730 Sugarloaf Road. The parcel number for this property is 9579-75-3715. The applicant is also requesting a rezoning from C-3 Highway Business and R-15 Medium Density Residential to PCD Planned Commercial Development and a variance from the required setback for an existing building.

In March of 2011, City Council approved a rezoning from R-15 Medium Density Residential to C-3 Highway Business for a portion of this property. Mini-warehouses are permitted as a conditional use in the C-3 district. In June of 2011, the Planning Board approved a preliminary site plan for AAA Storage World. In July of 2011, the Zoning Board of Adjustment issued the Conditional Use Permit for AAA Storage World. Final site plan approval was received by the applicant in December 2011.

Since December 2011, additional property was added to the site which accounts for the current split zoned condition. The proposed stormwater facility was relocated and modified, and the site plan was amended to add gravel parking spaces for rental trucks. The Planning Board approved the last site plan amendment in September 2013.

The applicant is requesting to add a 14,605 square foot building to the existing 49,980 square foot of buildings on the site. Since the C-3 Highway Business Zoning District does not allow buildings over 50,000 square feet, and the total square footage of buildings both existing and proposed equal 64,585 square feet, the applicant is required to proceed with a Planned Commercial Development and a Special Use permit.

Existing Land Uses & Zoning: Adjacent parcels to the west include two condominium buildings with a total of four residential units zoned R-15 Medium Density Residential and the City's Fire Station 2 which is zoned C-3SU Highway Business Special Use. The adjacent parcels to the south and east include residential uses and is zoned R-15 Medium Density Residential.

Comprehensive Plan Consistency: This parcel is classified as a Business Center on the 2030 Comprehensive Plan's Future Land Use Map. Parcels to the north of Sugarloaf Road are classified as High Intensity Neighborhood. Adjoining parcels to the south, east and west are classified as a Business Center.

The goal of the Business Center classification is to "create an employment center along I-26 that supports the growth of Hendersonville as a business destination, create a campus-like mixed-use environment that includes office, research and low-impact industrial uses, as well as supportive retail amenities."

The goal of the High Intensity Neighborhood 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, to promote walkable neighborhood design that creates attractive and functional roadway corridors and multi-family residential neighborhoods."

Site Plan Review: The property currently has 49,980 square feet of storage space located within six separate buildings. One building also has a small office. The applicant is requesting to add one additional 14,605 square foot storage building to the site. This building will have storage units accessed from both the exterior and the interior. Planning Department staff has reviewed the site plan and finds that it meets the requirements for preliminary site plans contained in Section 7-4-5.1 of the Zoning Ordinance with the exception of setbacks for one existing building.

Variance Request: The applicant is requesting a variance from Zoning Ordinance Section 5-15-4.1 reducing the building setback from 25 feet to 15 feet 3 inches for the existing 7,000 square foot building located at the northeast corner of the site. This building was originally constructed under the C-3 Highway Business Zoning District regulations which have a minimum side yard setback of 15 feet. The building is currently 15' 3" from the side yard property line.

Analysis: Section 7-4-10.1 of the Zoning Ordinance states, "no special use permit shall be approved by City Council unless each of the following findings is made."

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

(B) The property is currently served by water.

(C) The applicant is requesting a variance from Zoning Ordinance Section 5-15-4.1 reducing the building setback from 25 feet to 15 feet 3 inches for the existing 7,000 square foot building located at the northeast corner of the site.

(D) A neighborhood compatibility meeting concerning the application was held on October 6, 2014. 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 general public attended the meeting. She provided a the neighborhood compatibility report and a letter from a property owner who attended the meeting.

(E) The 2030 Comprehensive Plan's Business Center classification is intended to "create an employment center along I-26 that supports the growth of Hendersonville as a business destination, create a campus-like mixed-use environment that includes office, research and low-impact industrial uses, as well as supportive retail amenities."

The Comprehensive Transportation Plan does not list Sugarloaf Road as needing improvements on the Highway Map. The Plan does list recommendations for improvements for bicycle travel including upgraded wide shoulders or striped lanes and appropriate signage. The location of this new building should not impact any potential NCDOT right-of-way needs to make these improvements.

Planning Board Recommendation: The Planning Board took this matter up at its regular meeting of November 10, 2014. The Planning Board voted unanimously to recommend City Council approve the variance request. The Planning Board also voted unanimously to recommend City Council adopt an ordinance amending the official zoning map of the City of Hendersonville, changing the zoning designation from C-3 Highway Business and R-15 Medium Density Residential to PCD Planned Commercial Development Special Use. The Planning Board also voted unanimously to recommend City Council approve the application for a Special Use Permit.

Ms. Anderson reviewed the suggested motions for the variance request and the special use permit. She explained the applicant is present for questions.

Mayor Volk opened the public hearing at 6:22 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.

Council Member Caraker moved City Council to approve a variance from Zoning Ordinance Section 5-15-4.1 Setbacks, reducing the exterior property line building setback for the existing 7,000 square foot building located at the northeast corner of the site from 25 feet to 15 feet, three inches because it makes the overall project work. A unanimous vote of the Council followed. Motion carried.

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 parcel # 9579-753715 from C-3 Highway Business and R-15 Medium Density Residential to PCD Planned Commercial Development Special Use, finding that the rezoning is consistent with the Comprehensive Plan, the rezoning is reasonable and in the public interest for the following reasons because it is the similar to the development adjacent to it. He further moved the City Council to approve the application from Dennis Dorn of CD-Mat LLC for a Special Use Permit based on the site plan submitted by the applicant and subject to the limitations and conditions stipulated on the published List of Uses and Conditions. A unanimous vote of the Council followed. Motion carried.

Ordinance #14-1253

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

IN RE: AAA Storage World, (File # P14-46-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 Parcel Number Parcel # 9579-75-3715 from City of Hendersonville C-3 Highway Business / R-15 Medium Density Residential to PCD Planned Commercial Development.
2. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this fourth day of December 2014.



10. Presentation on Oklawaha Greenway Phase 3 Design and Construction: Mr. Brendan Shanahan, Civil Engineer, and David Hazzard with Luther Smith and Associates, provided an update on the Oklawaha Greenway Phase 3 project. Phase 3 is comprised of 8,600 feet of 10-foot wide asphalt trail that will connect Phase 2 to Berkeley Mills Park. He reported 80 percent of the funding (\$1.2 million) will come from the Federal Highway Administration and 20 percent from the NCDOT.

Mr. Shanahan noted some of the highlights of the project including a pedestrian bridge crossing Britton Creek and two culvert crossings over smaller streams. He stated they would like to have two access points to the greenway: Berkeley Road and Balfour Road.

Mr. Shanahan reported obtaining the required easements and encroachments within the Kimberly Clark property is underway. The easements have been acquired.

Mr. Shanahan reported some of the professional services they have obtained for this project are geotechnical, survey, environmental, permitting and landscape architecture. He also reviewed the schedule for the project with a bid opening in April, 2015, construction beginning in May and completion in March 2016.

Mr. David Hazzard reviewed suggested elements that will maximize the experience of the greenway including a trailhead feature (landscaped island with a kiosk and map), replanting vegetation along the sewer easement and creating areas of interest while screening undesirable features, making the approach and exit pleasing, and streambank restoration with an educational sign and a bench for a resting point at the confluence of Britton Creek. A possible future project is to create a small loop trail through Patton Park. He proposed a trailhead with parking at the Berkeley Road crossing and an access point to Mud Creek for kayaking/canoeing. Mud Creek flows into the French Broad and the access point will be useful to the project. Past the Kimberly Clark Corporation, vegetation will be important to screen the mill and help keep people on the path.

Mr. Hazzard proposed a future greenway to connect into the French Broad River system into Asheville and further. He proposed a picnic area and overview by the quarry which has historical significance because it provided the granite for the Biltmore Estate. He proposed another parking area near the Kimberly Clark Corporation. A crossing point was changed to the proposed main entrance of Berkeley Mills Park for pedestrian safety and it will end in Berkeley Mills Park.

Mr. Hazzard explained these are conceptual ideas which will be refined through budget, etc. Ms. Nancy Watford with River Link was also in attendance. Mr. Hazzard stated they have been very helpful with the potential river access.

Mayor Volk asked if Phase 3 will be going under North Main Street. Mr. Hazzard stated yes, with an eight-foot head clearance. He stated they have received verbal support of NCDOT.

Mayor Volk expressed appreciation to staff, Mr. Hazzard and River Link for their work on the project. **No action was required or taken by the Council.**

11. Consideration of Adding On-Street Parking to the West Side of King Street between Second and Fourth Avenues: Mayor Volk commented she does not expect action from the Council on the proposal. Mr. Wooten explained in an effort to create additional parking for downtown, J.M. Teague Engineering was hired to complete a traffic impact analysis on King Street between Second Avenue and Sixth Avenue to determine if the street could be changed from a three-lane, one way layout to a two-lane, one-way layout with on

street parking. He reported the analysis concluded that the lane on the west side of King Street between Second and Fourth Avenues could be converted to parking. The proposed parking space width would be nine and a half feet wide. The 400 and 500 blocks of King Street do not meet the minimum standards because they do not have enough queue length at the intersections to operate at the appropriate level of service.

Mr. Wooten reported J.M. Teague Engineering presented the proposal to NCDOT who agreed with the analysis and agreed to allow the City to add on-street parking to the proposed area. The proposed layout would add 20 spaces along the west side of King Street.

Mr. Wooten estimated the cost will be less than \$3,000 to install the marking, etc.

Mr. Wooten explained the plan recommends the closing of driveways.

Mr. Wooten explained there is currently not a sidewalk in the area and there could be pedestrian issues. The installation of sidewalk is estimated to cost approximately \$3,000. He provided a comparison of the width of Church and King Streets.

Mr. Wooten stated he has received opposition to the parking proposal from the owner of Calypso. He stated the data may be included in the parking study. Council Member Caraker commented he would consider this parking as a last resort depending on what the parking study shows. He stated he has not received any positive comments about the project. Council Member Miller expressed his appreciation for staff's creativity but reported he has not received any positive comments about the proposal. He stated parallel parking may create a bottleneck situation and has concerns for emergency vehicles. He expressed opposition to the proposal. Mayor Pro Tem Stephens also reported he has received many calls and e-mails about the proposal. He stated he also heard complaints of speeding on King Street and does not support it because it would be a limited amount of parking gained. Mayor Volk expressed appreciation for the efforts. She also expressed concerns about pedestrian safety because of the lack of a sidewalk. She stated even though the proposal does not have support, it could be included as part of the parking study. **No action was taken by the Council.**

12. Consideration of Traffic Calming Measures at the Intersection of Ash and Ray Streets: Mr. Connet reported Council Member Miller requested the installation of a three-way stop at the intersection of Ash Street and Ray Avenue. He provided a photo stating there is an existing policy that does not encourage the use of stop signs to slow speed. He stated there are clearly issues there. He stated cars park in areas where parking is not allowed on the right side of road and do a U-turn which adds to the congestion of the area.

Mr. Connet requested staff have another 30 days to meet with the Director of Boys and Girls Club and present a firm recommendation to the Council at the next meeting. He stated he received an insightful letter from the Boys and Girls Club.

Council Member Miller voiced support of delaying the decision. There was discussion on the effect of stop signs on traffic and possible safety measures including a crosswalk. **There was no objection from the Council to allow staff another month to work on this issue and a firm recommendation to the Council.** Council Member Miller also expressed appreciation that an officer was parked in the area to slow traffic down.

13. Consideration of a Reforestation Project at Sheppard Park: Mr. Wooten explained staff is continuing to look for ways to be more efficient and one of the repeated topics is finding areas to reduce or stop mowing. He proposed that Sheppard Park, a 1.37-acre parcel located between Meadowbrook Terrace and Chelsea Street, and bordered by a creek, be planted with a mix of hardwood and conifer seedlings to reduce or stop mowing. He said the park is now only mowed as needed and it would be helpful if they could use that time for something else.

There was discussion of the tree planting, when the mowing would stop, the appropriate trees for the wet area, etc. and making sure it is something positive for the neighborhood. Council Member Miller suggested letting the neighbors and possibly law enforcement be involved in what will be done there. **The consensus of the Council was to begin discussion with the neighborhood for their input on the proposal.**

14. Consideration of a Change Order for the Jackson Park Sewer Interceptor Project Relating to the Removal of Landfill Materials: Engineering Director Brent Detwiler presented a change order for the Jackson Park sewer interceptor project. He reported during the construction of the project, the contractor, John D Stephens, Inc. discovered approximately 500 linear feet of landfill material. The contractor excavated the material, staged it behind the baseball field in King Park to dry, and hauled it to a landfill in South Carolina approved for such material. He explained this work was obviously beyond work expected with typical interceptor sewer installation. The change order amounts to \$536,257.63 but he expects the change order to be reduced below \$500,000. This is anticipated to be paid out of fund balance in the water/sewer fund.

Mr. Detwiler explained there are more than 670 City landfills statewide that were identified in a report in 2007 that were unpermitted. The State has assigned this area as Mud Creek Dumps 1 & 2. He stated staff approached the Division of Waste Management, Pre-regulatory Landfill Unit, regarding completion of an environmental

assessment to determine the extent of the area. He stated as a result of that, an assessment could be completed by spring and future work is fully reimbursable.

Discussion followed on when the change order was presented to the Council as most are approved before the work is done. Mr. Detwiler stated he is not sure of other options and it could have delayed the project for months. Council Member Miller stated the City did not try to hide it and got involved quickly to ensure the neighborhood is protected. Mr. Detwiler explained any future abatement required will be handled by the State.

After discussion, **Council Member Smith moved Council to authorize the city engineer to negotiate and approve a change order not to exceed \$536,257.63 to John D. Stephens, Inc. for work within a landfill encountered during the Jackson Park Sewer Interceptor Sewer installation as described by staff and approval of the associated budget amendment. A unanimous vote of the Council followed. Motion carried.**

15. Comments from Mayor and City Council Members:

a. Council Member Smith reminded the Council and public that students from area high schools are collecting items for homeless students on December 6 at collection points: the Historic Courthouse and the fountain, beginning at 9:30 a.m. He encouraged the public's participation.

b. Council Member Miller reported Marine Andrew Tahmooressi has visited Hendersonville and expressed appreciation to citizens of the City and Henderson County for their prayers, letters and funds. He stated \$20,000 was sent to assist the Marine who is very appreciative of the support he has received from this area.

16. Reports from Staff:

a. **Reminder of January 8, 2015 Regular Meeting Change:** Mr. Connet reminded the Council of the change in the January regular meeting.

b. **Reminder of February 13, 2015 Council and Staff Retreat:** Mr. Connet reminded the Council of the retreat scheduled for this date. Location to be announced.

17. Consideration of Appointments to Boards and Commissions

a. Consideration of Appointments:

i. **Planning Board:** City Clerk Tammie Drake reported the terms of three members of the Planning Board expired 12/01/14. Two of those members, Jon Blatt and Raymond Mundy were reappointed at the November meeting. Mrs. Sellers declined reappointment. She presented the applications of other citizens interested in serving. **Council Member Smith nominated Michael Coggins. A unanimous vote of the Council followed to appoint Mr. Coggins to a three-year term on the Planning Board. This term will expire 12-01-17. Motion carried.**

ii. **Tree Board:** City Clerk Tammie Drake announced the vacancy and presented the application on file. **Council Member Caraker nominated David Wilson. The Council voted unanimously to appoint Mr. Wilson to the Tree Board. This term will expire 02-01-18. Motion carried.**

b. **Announcement of Vacancies and Upcoming Appointments:** Mrs. Drake reminded the Council of vacancies on the Board of Adjustment and the Environmental Sustainability Board.

18. New Business: There was none.

18a. Closed Session: At 7:27 p.m., Council Member Caraker moved the Council enter closed session to discuss matters relating to the location or expansion of industries or other businesses in the area served by this body under G.S. 143-318.11(a)(4). A unanimous vote of the Council followed. Motion carried.

The Council discussed the possibility of providing services related to the location or expansion of an industry.

At 7:47 p.m., Council Member Caraker moved to exit closed session. A unanimous vote of the Council followed. Motion carried.

19. Adjournment: The meeting adjourned at 7:47 p.m. upon unanimous assent of the Council.