

AGENDA

CITY OF HENDERSONVILLE CITY COUNCIL – REGULAR MEETING

OCTOBER 1, 2015 – 5:45 P.M.

Council Chambers – City Hall

1. **Call to Order**
2. **Invocation and Pledge of Allegiance**
3. **Public Comment Time:** *Up to 15 minutes is reserved for comments from the public for items not listed on the agenda*
4. **Consideration of Agenda**
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:**
 - i. September 3, 2015 Regular Meeting
 - ii. September 10, 2015 Special Meeting
 - B. **Consideration of Amendments to the Purchasing Policy, Section III, Appointing each Department as a Deputy Finance Director for Purchases Less than \$1,500**
 - C. **Consideration of Special Events Permit for Turkey Trot 2015**
 - D. **Consideration of Budget Amendments (6)**
 - E. **Consideration of an Ordinance Amending Section 44-51 of the Code of Ordinances Respecting Charges for the Collection of Solid Waste**
 - F. **Consideration of Establishing a Traffic Control Supervisor Position and the Associated Job Description within the Public Works Department**
6. **Public Recognition: Camera Club of Hendersonville**
Presenter: Mayor Barbara Volk
7. **Presentation on the North Carolina National Guard Tarheel Challenge Program**
Presenter: Mr. Jim Bright

- 8. Public Hearing – Consideration of an Application from the Housing Assistance Corporation to Close a Portions of an Unopened and Unimproved Rights-of-Way for Oclawaha Drive and Azalea Woods Drive Located within the Oklawaha Village Project off of North Main Street**
Presenter: Planning Director Sue Anderson
- 9. Public Hearing – Consideration of an Application from Salvatore John Costa Requesting the Rezoning of Parcel Number 9569-62-0115 Located at 1338 Asheville Highway from C-3 Highway Business and R-6 High Density Residential to C-3 Highway Business**
Presenter: Planning Director Sue Anderson
- 10. Public Hearing – Consideration of an Application from Chris Cormier Requesting the Rezoning of Parcel Number 9569-85-8629 Located on Baldwin Hill Avenue Adjacent to North Main Street from UV Urban Village to C-2 Secondary Business District**
Presenter: Planning Director Sue Anderson
- 11. Consideration of an Ordinance Amending Section 36-87 of the Code of Ordinances Respecting Weapons on City-Owned or City-Maintained Property**
Presenter: City Manager John Connet
- 12. Consideration of Amendments of the Code of Ordinances to Portions of Chapter 24, Article III, Respecting Stormwater**
Presenter: Engineering Director Brent Detwiler
- 13. Consideration of Amendments to the Personnel Policy, Article III, Section 12, Addressing Compensatory Time Provisions**
Presenter: Assistant to the Manager Brian Pahle
- 14. Comments from Mayor and City Council Members**
- 15. Reports from Staff**
- 16. Boards and Commissions: Consideration of Appointments and Announcement of Vacancies/Upcoming (Re)appointments**
Presenter: City Clerk Tammie Drake
- 17. New Business**
- 18. Staff Request for Closed Session**
- 19. Adjournment**



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

Submitted By: Lisa White

Department: Finance

Date Submitted: 09-22-15

Presenter: Lisa White

Date of Council Meeting to consider this item: October 1 2015

Nature of Item: Council Action

Summary of Information/Request:

Item # 05b

G.S. 159-28 requires that all purchases be pre-audited by the finance officer or any deputy finance officer. See attached.

The Finance Director signs all purchase orders in order to comply with this statute, however with the adoption of the City Purchasing Policy on August 6, 2015, purchases under \$1,500 do not require a purchase order. Therefore, these purchases do not comply with the state statute. In order to meet the state requirements, staff recommends the following language be added to Section III of the purchasing policy:

and may be made upon the approval of the department head. In order to meet the pre-audit requirements of GS. 159-28 each department shall be appointed a deputy finance director for purchases less than \$1,500.

Budget Impact: \$ none Is this expenditure approved in the current fiscal year budget? N/A If no, describe how it will be funded.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

I move that City Council revise the City of Hendersonville Purchasing Policy as presented and appoint each department head as a deputy finance officer for the purposes of G.S. 159-28 to pre-audit purchases less than \$1,500.

Attachments:

Purchasing Policy
GS 159-28

SUBCHAPTER III. BUDGETS AND FISCAL CONTROL.

Article 3.

The Local Government Budget and Fiscal Control Act.

§ 159-28. Budgetary accounting for appropriations.

(a) Incurring Obligations. - No obligation may be incurred in a program, function, or activity accounted for in a fund included in the budget ordinance unless the budget ordinance includes an appropriation authorizing the obligation and an unencumbered balance remains in the appropriation sufficient to pay in the current fiscal year the sums obligated by the transaction for the current fiscal year. No obligation may be incurred for a capital project or a grant project authorized by a project ordinance unless that project ordinance includes an appropriation authorizing the obligation and an unencumbered balance remains in the appropriation sufficient to pay the sums obligated by the transaction. If an obligation is evidenced by a contract or agreement requiring the payment of money or by a purchase order for supplies and materials, the contract, agreement, or purchase order shall include on its face a certificate stating that the instrument has been preaudited to assure compliance with this subsection unless the obligation or a document related to the obligation has been approved by the Local Government Commission, in which case no certificate shall be required. The certificate, which **shall be signed by the finance officer or any deputy finance officer approved for this purpose by the governing board**, shall take substantially the following form:

"This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

(Signature of finance officer)."

Certificates in the form prescribed by G.S. 153-130 or 160-411 as those sections read on June 30, 1973, or by G.S. 159-28(b) as that section read on June 30, 1975, are sufficient until supplies of forms in existence on June 30, 1975, are exhausted.

An obligation incurred in violation of this subsection is invalid and may not be enforced. The finance officer shall establish procedures to assure compliance with this subsection.

PURCHASING POLICY

Administrative Policy for all City Employees



Adopted by City Council, August 6, 2016
Revised October 1, 2016



**City of Hendersonville, North Carolina
Purchasing Manual**

TABLE OF CONTENTS

	Page(s)
I. Forward	1
II. General Guidelines	2
2.1 Local Buying	
2.2 Planning	
2.3 Buying Proper Quality	
2.4 Authorization	
III. Purchasing Procedure	3-5
3.1 Purchases less than \$1,500.00	
3.2 Purchases between \$1,500.00 and \$4,999.99	
3.3 Purchases between \$5,000.00 and \$29,999.99	
3.4 Purchases between \$30,000.00 and \$89,999.99	
3.5 Purchases \$90,000.00 and above/Services \$500,000.00 and above	
IV. Vendor Selection	5
4.1 Selection Policy	
4.2 Gifts and Gratuities	
V. Special Procurement Procedure	6-8
5.1 Blanket Purchase	
5.2 Emergency Purchase	
5.3 Sole Source of Supply	
5.4 Single Brand Convenience	
5.5 NC Purchase Contract and Cooperative Purchasing Agreements	
5.6 Piggybacking	
5.7 Professional Services	
5.8 Service Contracts	
5.9 Vendors with City Accounts	
VI. Delivery and Performance	9
6.1 Partial Deliveries	
6.2 Non-Performance	

City of Hendersonville, NC Purchasing Policy

VII.	Inspection and Testing	9-10
	7.1 Rejection	
	7.2 Damaged Goods	
	7.3 Latent Defects	
VIII.	Vendor Relations	10
IX.	Sale of City Property	10
X.	Fuel Cards	10
XI.	Purchase Cards	11-12
	11.1 Employee Responsibilities	
	11.2 Receipts and Receipt Submission	
	11.3 Unauthorized Purchases	
	11.4 Consequences of Improper Use	
XII.	Fringe Benefits	12
XIII.	Exhibits	13

GLOSSARY

Bid: a multi-step process required of the City by North Carolina General Statutes. Quotes from three separate vendors are required during any bid process unless the good or service to be supplied is produced by only one vendor.

Informal Bid: A bid on items \$30,000.00 and above. Request for quotes are not required to be advertised to the public. Purchases in this category do not need to be approved by City Council.

Formal Bid: A bid on items \$90,000.00 and above or on services \$500,000.00 and above. Public advertisement of the request for quote and bid process must be made, bids must be opened in public forum, and City Council must approve the winning bid.

Quote: a price provided by a vendor on a provided good or service.

Informal Quote: a quote received via verbal communication, email, website, catalog, or fax.

Formal Quote: A price quote received via U.S. Mail, email, fax, or hand delivery.

Requisition: input into the financial system by a department to request the generation of a purchase order by the Finance Department prior to a purchase.

Purchase Order (PO): authorization for the purchase of goods sent by the Finance Department to a vendor prior to the purchase.

Request for Written Quotation (RFQ): A request sent to a vendor for a written quote on a certain good or service.

Encumbering: to commit a given amount of money to the payment of an order.

Purchasing/ Procurement: interchangeable, how the City obtains needed goods and services.

Department Head: The individual authorized to make purchasing decisions on behalf of his/her department.

Vendor: provider of a good or service.

I. FORWARD

This purchasing policy is intended for use as a guide to the City of Hendersonville's purchasing methods and practice. When used properly, the policies and procedures established herein will enable the City to obtain needed goods and services efficiently and economically. The goal of this policy is to give structure to the City of Hendersonville's procurement methods and to set guidelines for City departments.

The understanding and cooperation of all employees is essential in order for the City to maximize the value of each taxpayer dollar spent. While this manual does not answer all procurement related questions, it provides a sound foundation for City procurement methods.

The goals of the City's purchasing program are as follows:

1. To comply with legal and ethical requirements of public purchasing and procurement.
2. To assure vendors that impartial and equal treatment is afforded to all who conduct business with the City.
3. To receive maximum value for money spent by awarding purchase orders to the lowest responsible, responsive bidder, taking into consideration quality, performance, support, delivery schedule, previous performance, business location, and other relevant factors.
4. To provide City departments the required goods and services in a timely manner in the proper quantity and quality while providing necessary information to the City Finance Department.
5. To professionally administer the search for sources of supplies, the development of new sources, the selection of suppliers, negotiations, commitments, follow-ups, and adjustments.
6. To promote healthy business relationships through informed and fair purchasing practice and maintenance of ethical standards.
7. To maximize the standardization of products used by all departments in order to minimize stock levels and obtain better prices for necessary goods and services.

If the procedures and guidelines established in this manual are followed, each department will be capable of managing, controlling, and planning available resources to meet present and future needs in order to help the City meet set goals. Any questions or concerns about this manual or the established procedures should be directed to the City Finance Department.

This manual is effective immediately following City Council adoption and supersedes all previous purchasing or procurement instructions or directives.

II. GENERAL GUIDELINES

2.1 Local Buying

It is the desire of the City of Hendersonville to contract with vendors within the City and Henderson County whenever possible. The City has a responsibility to its citizens and local businesses; however, the City must ensure taxpayer money is spent with prudence. The City **does not** make purchasing decisions based exclusively on the location of the vendor; however, every effort will be made to encourage qualified local vendors and suppliers to compete for City business.

2.2 Planning

It is imperative that all City departments take time to properly plan purchases. Purchasing plans should be made for goods and services to be purchased in both the near and distant future; thereby minimizing small orders and last minute purchases. Planning is of highest importance to the City because proper planning reduces unnecessary clerical and supervisory time costs associated with the procurement process.

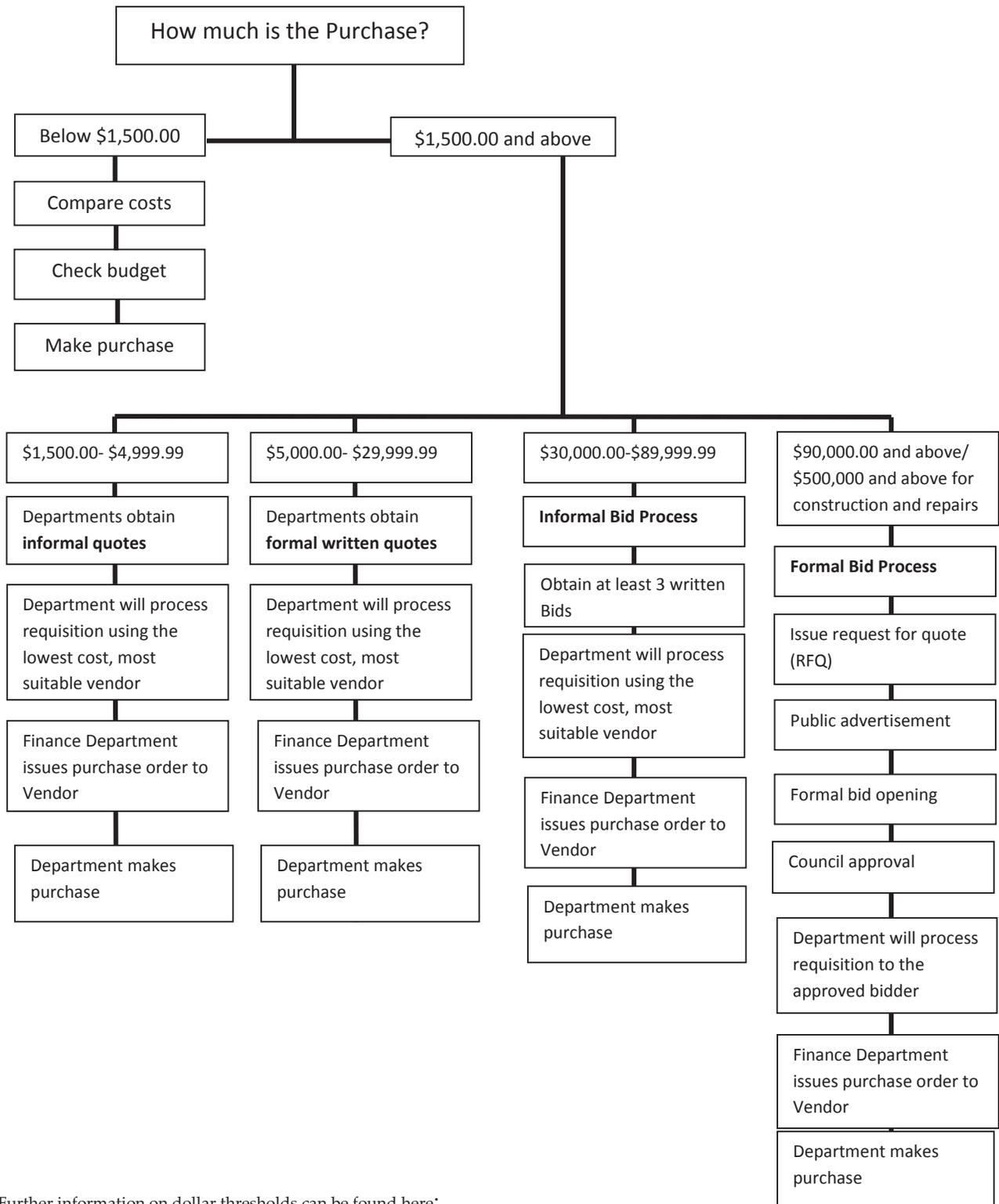
2.3 Buying Proper Quality

Quality and service are as important as price when considering goods for purchase; it is the duty of the requesting department to secure the most cost-effective good or service that will meet but not exceed the requirements for which the goods or services are intended. In some instances the lowest price does not necessarily mean the lowest cost. A higher price, higher quality product may save the City from excess expenses in the future. The requesting department should take this into consideration when making a purchase.

2.4 Authorization

Department Heads have been delegated the authority to approve purchases made under \$1,500.00. Department Heads should only authorize purchases for necessary goods when proper documentation is provided and funds are available to make the purchase. The Department Head or his designee must authorize each invoice with signature and date before forwarding to Finance for payment. This authorization verifies that the goods and or services have been received, the budgeted funds are available and the invoice has been coded to the proper account number.

PURCHASING FLOW CHART



Further information on dollar thresholds can be found here:
<http://www.sog.unc.edu/sites/www.sog.unc.edu/files/Dollar%20Thresholds%20Chart%202013.pdf>

III. PURCHASING PROCEDURE

3.1 Purchases less than \$1,500.00

Purchases less than \$1,500.00 do not require a Requisition or a Purchase Order (PO) and may be made upon the approval of the department head. In order to meet the pre-audit requirements of GS. 159-28 each department shall be appointed a deputy finance director for purchases less than \$1,500. These purchases may be made by utilizing the City's Procurement Card (P-Card) process, check requests, or vendor accounts. Please see the City's specific policy for acceptable P-Card expenses. Every purchase should follow a cost comparison to ensure a competitive price and quality for each good and service purchased. Issues that may override the price comparison process may include delivery time and material specifications.

ALL PURCHASES \$1,500.00 AND ABOVE REQUIRE A REQUISITION AND PURCHASE ORDER (PO).

3.2 Purchases between \$1,500.00 and \$4,999.99

Purchases in this price range may be obtained by the requesting department(s) through an **informal quote** process. No minimum number of quotes is required however, it is encouraged that every attempt is made to acquire at least three (3) quotes. The informal quotes may be received through verbal communications, email, or fax. Verbal quotes must be noted in typed or hand written form documenting price, date quoted, name of vendor, and name of the individual representative of the vendor. Quotes are to be scanned and submitted with the purchase requisition prior to purchase; after the purchase order is issued and approved, a purchase may be made.

3.3 Purchases between \$5,000.00 and \$29,999.99

Purchases in this price range are obtained through the **formal quote** process. In the formal quote process, the requesting department is required to receive at least three (3) quotes via U.S. Mail, email, fax, or hand delivery. The required three written quotes are to be scanned and submitted with/ attached to the purchase requisition prior to purchase; after the purchase order is issued and approved, a purchase may be made.

3.4 Purchases between \$30,000.00 and \$89,999.99

Purchases in this range must be obtained through **informal bids**. Departments are responsible for sending a request for quote (RFQ) and will allow vendors sufficient time to respond to the request based on the complexity of the request. RFQs in the informal bid range may or may not be advertised to the public. A minimum of three (3) vendors, if available, will receive the RFQ. Every effort will be made to obtain at least three (3) quotes. Quotes in the informal bid range may be submitted through U.S. Mail, email, fax, or hand delivery. No verbal quotes are acceptable in the informal bid price range. Purchases in the informal bid range do not require City Council approval. In this range, a no bid may be accepted as a bid. In accordance with N.C.G.S. § 143-131, a Request for Written Quotation will be used for purchases of \$30,000 to formal limits (3.2a) with or without advertising. The required three written informal bids are to be scanned and submitted with/ attached to the purchase requisition prior to purchase; after the purchase order is issued and approved, a purchase may be made.

Proposed
language
amendment
10-1-15

3.5 Purchases \$90,000.00 and above/Services \$500,000.00 and above

Purchases in this range must be obtained through **formal bids**. Departments are responsible for sending a request for quote (RFQ) and will allow vendors sufficient time to respond to the request based on the complexity of the request. Every effort will be made to obtain at least three (3) bids. A newspaper advertisement must run at least seven (7) days prior to the bid opening. Written bids in this range must be submitted in a sealed envelope and must be opened at a public bid opening. Purchases in the formal range require City Council approval. In accordance with N.C.G.S. § 143-129, invitation for formal bids will be used for purchases of \$90,000 and greater (\$500,000 and greater for construction and repairs). This will include advertising in the local newspaper and/ or other advertising media as deemed appropriate and receiving sealed bids. The supporting documentation and all bids received are to be scanned and submitted with/ attached to the purchase requisition prior to purchase; after the purchase order is issued and approved, a purchase may be made.

IV. VENDOR SELECTION

4.1 Selection Policy

Vendors will be selected on a competitive basis. Formal bids and informal bids will be solicited by the requesting department. Bid awards, purchase orders and/ or contracts will be issued to the lowest, responsive, responsible bidder. The City of Hendersonville will not use vendors who have been debarred by Federal, State, or Local governments.

4.2 Gifts and Gratuities

City employees are prohibited from soliciting or accepting any rebate, money, costly entertainment, gift, or gratuity (with the exception of mementos and novelties of nominal value) from any person, company, firm or corporation to which any purchase order or contract is, or might be awarded. The City will not tolerate circumstances that produce, or reasonably appear to produce, conflicts between the personal interests of an employee and the interests of the City. Accordingly, the City may terminate, at no charge to the City, any purchase order contract if it is found that substantial gifts or gratuities were offered to a City employee. The City may also take disciplinary action, including dismissal, against a City employee who solicits or accepts gifts or gratuities of any value whatsoever.

V. SPECIAL PROCUREMENT PROCEDURES

5.1 Blanket Purchase Order

Blanket purchase orders will be issued to selected vendors for the procurement of certain items after competitive pricing has been completed and if budgeted funds are available. Blanket purchase orders are intended to expedite the procurement of frequently needed and repetitious supplies. Blanket purchase orders should be made for goods and services when the amount of clerical or administrative work otherwise involved is impractical. Examples of items procured through a blanket purchase order include: janitorial services, maintenance service contracts, chemicals, temporary personnel services, automotive parts, and others. Blanket purchase orders will encumber the requesting department's funds for any amounts remaining on the purchase order.

Requisition for blanket purchase orders must include all required information along with the following additional information:

1. Time period the purchase order is valid
2. Items covered by the blanket purchase order
3. The Not to Exceed (NTE) amount
4. A listing of all personnel approved to purchase from the blanket purchase order

All vendor delivery tickets must be signed by an authorized City employee indicating receipt of the goods and/ or services. All delivery tickets from blanket purchase orders must be scanned and forwarded to Accounts Payable as supporting documentation for invoice processing.

5.2 Emergency Purchases

In cases of emergencies, the Department Head or his/ her designee may purchase directly from any vendor the supplies or services whose immediate procurement is essential to prevent delays in work which may affect the life, health, safety, or convenience of City of Hendersonville employees or citizens.

The user department shall exercise good judgment and use established vendors if possible when making emergency purchases. Always obtain the best possible price and limit purchases to those items emergency related. **Not anticipating needs does not constitute an emergency situation.** First, determine if a true emergency does exist. Second, anticipate needs and avoid emergency situations whenever possible. Emergency orders are always costly. Vendors usually charge top prices if supplies or services must be obtained on an emergency basis.

During working hours, follow standard purchasing procedure as usual as soon as time and the situation permits.

After working hours, the following procedure should be used for emergency purchases: verify funds are available and if needed complete a Request to Transfer Funds form and forward immediately to the Budget office. The packing slip or invoice received should be coded with the

account(s) to be charged and signed, scan/ attach a brief explanation of the nature of the emergency and forward to Accounts Payable with the invoice. Emergency purchases, although sometimes necessary, are costly both in time and money. The use of emergency procedures should be limited and will be monitored for abuse.

5.3 Sole Source of Supply

In the event there is only one vendor capable of providing a particular good or service, the competitive pricing procedures outlined in this manual may be waived by the Finance Department. Whenever a Department Head decides to purchase goods from a sole source, he/she shall document on the requisition why only one company or individual is capable of providing the goods required. The provisions of N.C.G.S. § 143-129 will be followed requiring Council approval for sole source exception for all purchases made at or above statute levels.

5.4 Single Brand Convenience

The City recognizes in certain scenarios it is efficient to purchase items from a single provider rather than a variety of vendors. In such cases exceptions may be made to standard purchasing procedure; given proper documentation is provided. The purchaser should note reasons buying from a certain vendor will be more efficient in the long run and attach such documentation to each requisition.

Example: One brand of printer City-wide would allow the same type of ink cartridge to be ordered and reduces time cost related to finding multiple brands. This also allows the City to buy ink cartridges in bulk from a single provider, further reducing cost.

5.5 State of North Carolina Purchase Contract

All Departments may use the State of North Carolina Department of Administration Purchase and Contract Division whenever possible for procurement of capital and non-capital items. It shall be the responsibility of Department Heads to familiarize themselves with this purchasing method and to check for needed goods and services which are available through this resource at a lower cost than many other vendors offer. This system expedites the purchase of goods, offers pricing compatible with quotes received from formal and informal bids, and satisfies North Carolina General Statutes. Examples of goods on State Contract are: law enforcement vehicles, office furniture, copiers, janitorial supplies, copier paper, light bulbs, etc. Contact the Finance Department with questions regarding goods on State Contract.

The State of North Carolina Interactive Purchasing System can be found on the web at www.ips.state.nc.us/ips/Default.aspx.

The North Carolina E-Procurement System can be found on the web at <http://eprocurement.nc.gov/>

5.6 Piggybacking

The department head may use the piggybacking process whenever necessary to purchase apparatus, supplies, materials, and equipment. Contracts in the informal range can be used as a tool to solicit additional bids, but no Council action is necessary. For purchases of \$90,000 and above, the provisions of N.C.G.S. § 143-129 will be followed.

5.7 Professional Services

Normal competitive procedures are difficult to use in securing professional services such as attorneys, planners, and other professionals who, in keeping with the standards of their discipline, will not enter into a competitive bidding process. When an agreement between a professional service company and the City is established, a purchase order with the proposed amount shall be issued to satisfy accounting and statutory requirements. Purchases from professionals shall otherwise follow N.C.G.S. § 143-64.31 and 64.32.

5.8 Service Contracts

All service contracts, for which the contractor will perform work while on City property, must be accompanied by a standard contract form. The contract must follow all signature procedures and contain all necessary insurance and payment options. The completed and signed contract must be reviewed by the City Attorney, signed by the City Manager, pre-audited by the Finance Director, and be filed in the office of the City Clerk. The executed contract should be scanned and attached to the department requisition that is forwarded to the Finance Department. The City will not enter into contractual agreements that are subject to automatic renewal and will attempt to structure contracts to coincide with the fiscal year.

Contracts authorized by City Council through direct award or budget authorization may be executed by the City Manager. Subsequent orders changing the original contract, which do not exceed the approved cost of the contract, will be executed by the City Manager.

City Council must approve all contracts that meet any of the following criteria:

1. Contracts subject to statutory bid thresholds
2. Contracts with terms greater than one year
3. Contracts exceeding budgetary approval, which require a budget amendment
4. Contracts suggesting a significant policy change as determined by the City Manager.

5.9 Vendors with City Accounts

The City should have accounts with certain vendors where possible in order to expedite the purchasing process for frequently needed minor items. In the event the City has an account with a certain vendor, City employees should not use purchase cards to obtain goods or services from the vendor. Proper purchasing procedures should be followed and only authorized purchases should be charged to City accounts.

VI. DELIVERY AND PERFORMANCE

A completed and accepted purchase order by the parties concerned must produce the intended results or objectives before it can be considered a successful or completed purchase. The terms and conditions must clearly define the delivery and performance requirements of the services, supplies, or equipment.

The importance of the delivery schedule will be emphasized to the vendor. Delivery requirements will be clearly written and fully understood by all vendors. If several items are required by the purchase order, there may be a different delivery schedule for each item. It is necessary to clearly indicate the delivery location on the requisition.

6.1 Partial Deliveries

Some purchase orders may list several items. It is possible the vendor may complete timely delivery on some items, which is referred to as "partial delivery". Upon receipt of a partial delivery, photocopy the purchase order; attach a copy of the signed delivery receipt and forward to the Finance Department along with the vendor invoice indicating which lines of the purchase order are to be paid.

6.2 Non-Performance

If a vendor fails to meet any requirements(s) of the specifications or terms and conditions of the contract or purchase order, the vendor can be cited for non-performance. The seriousness of non-performance will be evaluated based upon the circumstances of each violation.

VII. INSPECTION AND TESTING

Life and safety as well as successful operation of expensive equipment and supplies may depend upon how well a purchased item meets design and performance specifications. Goods and materials should be checked at the time of receipt for damage or defects. The inspection shall include assuring goods comply with the specifications. If damage is found or the goods fail to comply with the specifications, the item(s) shall be rejected as outlined below.

7.1 Rejection

In order to protect the City's rights in the event of rejection, for whatever reason, the vendor shall be informed immediately. Reasons for the rejection must be documented in memo form, attached to a copy of the purchase order and forwarded to the Finance Department in a timely manner.

7.2 Damaged Goods

One of the major reasons for immediately inspecting the goods or materials upon receipt is to detect any visible damage. It is necessary that all damage including evidence of concealed damage shall be documented by memo, attached to a copy of the purchase order, forwarded to the Finance Department, reported to the vendor as soon as possible, and informs the vendor of the damaged goods. When it is apparent that the extent of the damage causes the goods to be worthless, they will not be accepted.

7.3 Latent Defects

Latent defects may be the result of damage in transit or failure of the manufacturer to conform to specifications. Consequently, it is often difficult to fix responsibility for the defective material. If specific liability for the defect cannot be determined between the carrier, the vendor, or the manufacturer, the City may file a claim against all parties. A memo attached to a copy of the purchase order must be forwarded to the Finance Department.

VIII. VENDOR RELATIONS

Good vendor relations are valuable business assets established through mutual confidence and satisfactory business communication between buyer and seller. An important contribution toward promoting and preserving these relations is a clear understanding of the method of contract between buyer and seller. Any conflicts which may arise should be reported to the Finance Department.

IX. SALE OF CITY PROPERTY

The City Manager has been authorized by the Hendersonville City Council to declare as surplus single asset or property or a group of items with a value of up to \$30,000.00, to set its fair market value, and to convey title to the property and to advertise electronically the sale of any personal property. The City Manager shall sign the Sale of Property Authorization form **prior** to the sale or disposal of any City property. The Finance Department shall keep all approved forms, which will record a description of the property sold or exchanged, and the amount of money or other considerations received for each sale or exchange. N.C.G.S. § 160A-265 through 280 should be referenced before the sale of any City property in order to ensure statutes and procedure are followed properly.

X. FUEL CARDS

Fuel cards will be assigned to City owned vehicles and are required to be used to purchase fuel for City vehicles, or in some instances, to purchase fuel for other job-related equipment such as: weed-eaters, lawn mowers, leaf-blowers, etc. It is not appropriate for City employees to use fuel cards to purchase fuel for any other vehicle or equipment other than which the card was issued to. Fuel cards are required to remain with the assigned vehicle and any missing cards should be reported immediately. Employees are required to use their PIN when purchasing fuel. Any unauthorized use of a PIN not assigned to the employee will result in disciplinary action up to and including termination.

XI. PURCHASE CARDS

Purchase cards exist to provide departments a flexible and efficient way to make **small** purchases. Purchase cards empower the cardholder to acquire necessary materials to conduct business and/ or deliver services in a more convenient and expeditious manner. Purchase cards should not be used to procure items or services not directly related to City business. Purchase cards cannot be used to purchase fuel for city vehicles. All city vehicles will have fuel cards which must be used.

11.1 Employee Responsibilities

No purchase over \$1,500.00 shall be made using the purchase card system without a purchase order. Purchase cards assigned to employees may have approval limits set by Department Heads below the \$1500.00 policy threshold. If an employee needs to make a purchase above the limit set by the Department Head, the employee should consult with the Department Head before making a transaction.

1. The purchase card that each cardholder receives shall only be used by the cardholder. No other person is authorized to use this card. The cardholder may make transactions on behalf of others in their department/ division; however, the cardholder is responsible for all purchases charged to their card.
2. The total value of a transaction shall not exceed a cardholder's single purchase limit. Payment for a purchase shall not be split into multiple transactions to stay within the single purchase limit.
3. The cardholder is responsible for maintaining receipts of all card transactions and scanning all receipts into the purchase card banking system. Receipts are required for all purchases. Failure to scan and attach receipts in a timely manner may result in the cardholder losing the privilege of using a City purchasing card.
4. Purchase cards may be used by for lodging and for training/ professional activities. Purchase cards cannot be used for meals during employee travel. Cardholders should consult the City's Travel Policy for more information.

11.2 Receipts and Receipt Submission

Receipts should be collected and kept for all transactions. If a detailed receipt is not obtained from the vendor, a Lost/ Missing Receipt Form and a detailed list of what was purchased will be required with the receipt. Repeated lost or missing receipts may result in a cardholder losing the privilege associated with a City purchasing card. A detailed receipt should be provided for all purchases.

Receipts should be scanned into the on-line Purchase Card Bank system and attached to their corresponding transaction. Scanning receipts to the system will streamline the accounts payable procedure and make processing transactions simpler for all parties involved.

11.3 Unauthorized Purchases

Certain items should not be purchased by City employees. Any of the following items listed below have been deemed inappropriate for purchase by City employees:

1. Personal purchases or for personal identification
2. A single purchase that exceeds the cardholder's single purchase limit
3. Cash advances
4. Gift Cards
5. Alcoholic beverages
6. Purchase of in-room movies during a hotel/ motel stay while on City business

11.4 Consequences of Improper Use

A cardholder who makes unauthorized purchases or carelessly uses a purchase card will be liable to the City of Hendersonville for the total dollar amount of such purchases plus any administrative fees charged by the bank or card company in connection with the misuse. The cardholder's employment may also be terminated and will be subject to legal action.

Cardholders are expected to obtain the best prices available on purchases. Purchase of an item above market prices where the vendor gives the employee any form of gift, bonus, or premium whether in the form of cash or merchandise is considered a kickback, is illegal, and can result in disciplinary action up to and including termination of employment and lawful prosecution. City policy strictly forbids anything in exchange for making a purchase.

For further information regarding the City's Purchasing Card Policy, review the "Credit Card Purchases" form found at <http://www.cityofhendersonville.org/index.aspx?page=91>.

XII. FRINGE BENEFITS

Any item purchased for an employee must be a valid business expense and not considered wages to the individual. Clothing, non-monetary awards, meals, travel, and other items may be considered wages depending on circumstances. Awards of cash or cash equivalents are always considered wages regardless of the amount awarded. All awards and purchases considered wages to an employee must be processed through payroll and will be subject to all applicable taxes. Please contact the Finance Department with any questions.

Any award of cash or cash equivalents must be pre-approved by the City Manager.

XIII. EXHIBITS

Exhibit A. Items Not Requiring a Purchase Order

Exhibit B. Vendor Performance Evaluation

Exhibit C. Purchase Order/ Quote Form

Exhibit D. Sale of City Property Authorization

City of Hendersonville

Items Not Requiring a Purchase Order

1. Advertising: legal ads, radio announcements, etc.
2. Specified chemicals
3. Dues
4. Claim payments (Citizens filing for damages/ reimbursement)
5. Insurance
6. Medical examinations
7. Medical supplies (Fire and Rescue)
8. Land purchases & easements
9. Petty cash & replenishing funds
10. Postage
11. Refunds
12. Building rental
13. Tuition or other fees for approved educational purposes
14. Utilities (electricity, water, sewer, cable, internet, natural gas, trash, etc.)
15. Lease purchase payments
16. Approved travel arrangements and accommodations



City of Hendersonville

VENDOR PERFORMANCE EVALUATION

EXHIBIT B

Please take a moment to complete this vendor performance evaluation and return it to the City Finance Department.

Vendor Name: _____ Purchase Order #: _____

Date Promised: ____/____/____ Actual Delivery Date: ____/____/____

Details or Remarks: _____

Check all of the following that apply about the vendor & goods or services purchased:

- ___ Suggests Cost-Saving Possibilities
- ___ Competitive Pricing:
- ___ Knowledge of Products and Industry
- ___ Prompt & Accurate Technical Assistance
- ___ Advises of any Potential Trouble
- ___ Replaces Rejected Items in a Timely Manner
- ___ Courteous & Helpful
- ___ Handles Complaints Promptly
- ___ Expedites and Handles All Courteously
- ___ Delivers on or Before Specified Time

Quality of Item: _____ Delivery: _____

Service: _____ Comments: _____

PURCHASE ORDER QUANTITIES ARE OVER OR SHORT: _____

Overall Rating: Please rate the vendor for this purchase on a scale of 1-10 with (1) indicating unacceptable performance and (10) indicating extreme satisfaction with the vendor.

OVERALL RATING: _____



City of Hendersonville

PURCHASE ORDER/QUOTE FORM

EXHIBIT C

Employee Name:	Department:
----------------	-------------

DATE QUOTES OBTAINED:	DATE GOODS ARE REQUIRED:	<input type="checkbox"/> DEPT WILL PICK UP <input type="checkbox"/> EMERGENCY ORDER
-----------------------	--------------------------	--

	VENDOR 1 NAME	VENDOR 2 NAME:	VENDOR 3 NAME:
VENDOR #:			
CONTACT:			
PHONE #:			
TOTAL QUOTE:			

ACCOUNT #	QTY	ITEM DESCRIPTION	UNIT	TOTAL

REASON(S) QUOTES NOT OBTAINED /EXPLANATION OF SOLE SOURCE OR EMERGENCY:



City of Hendersonville

SALE OF CITY PROPERTY AUTHORIZATION

EXHIBIT D

The Department Head is required to obtain authorization from the City Manager **prior** to the sale or disposal of any City Property, regardless of value. Include any additional relevant information necessary. Please attach a photo of the item sold if available.

Complete the table below prior to the disposal of property:

PROPERTY SOLD		SALE PROCEEDS ESTIMATE	
PROPERTY CONDITION		DEPT/BUDGET WHICH MADE THE ORIGINAL PURCHASE	
YEAR		CITY I.D. #	
MILEAGE		VIN / SERIAL #	
MAKE		LISENCE PLATE#	
MODEL			

Other description, notes:

Department Head Signature: _____ Date: ____/____/____

City Manager Signature: _____ Date: ____/____/____

Complete the table below after the disposal of property:

NAME OF INDIVIDUAL OR BUSINESS THAT PROPERTY WAS SOLD TO:		DATE PAYMENT RECEIVED BY CITY:	
SALE PROCEEDS ACTUAL	\$	SIGNATURE OF CITY EMPLOYEE RECEIVING PAYMENT:	

This completed/ signed and authorized form must be submitted to the Finance Department along with the proceeds of any sale of property. If an item is scrapped or disposed of with no proceeds this completed/ signed and authorized form must be submitted to the Finance Department within 5 days of the disposition of property.



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

Submitted By: Susan G. Frady

Department: Development Asst Dept

Date Submitted: 9-22-15

Presenter: Susan G. Frady

Date of Council Meeting to consider this item: 10-3-15

Nature of Item: Council Action

Summary of Information/Request:

Item # 05c

On September 17, 2015, the Special Events Committee met and reviewed an application by The City of Hendersonville Wellness Committee for the Turkey Trot 5k Walk/Run to be held on November 26, 2015 from 8:00 a.m. – 11:00 a.m.

This is the third year for this event. The event will begin at City Hall. Fifth Avenue will be closed from Church Street to King Street from 7:00 a.m. - 11:00 a.m.

The Hendersonville Police Department will lead the run. The Hendersonville Fire Department will be on hand for first aid and traffic control.

This event also needs approval by the City Council in order to allow an exemption to Section 10-7 of the City Code which prohibits animals at a special event. The request is to allow participants to run/walk with their dogs during this event.

The Special Events Committee voted unanimously to recommend that Council approve the event permit for the Turkey Trot 5K Walk/Run event.

Budget Impact: \$ _____ Is this expenditure approved in the current fiscal year budget? N/A If no, describe how it will be funded.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

I move that City Council approve the special event permit for the Turkey Trot 5K Walk/Run including the exemption to Section 10-7 of the City Code which prohibits animals at a special event.

Attachments:



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

Submitted By: Brian D. Pahle

Department: Admin

Date Submitted: 09/09/15

Presenter: N/A

Date of Council Meeting to consider this item: 10/01/15

Nature of Item: Council Action

Summary of Information/Request:

Item # 05d

Budget Amendments (6) to address:

1. HHA contract revision to account for 3/4 of a fiscal year of service
2. Movement of revenue to adjust for new billboard revenue
3. Lessening of budget authority in the DT Fund to reflect lesser loan proceeds
4. Increase funding in the ESF to provide for a new knuckle-boom on the brush truck
5. Increase funding to convert the P/T WS Customer Service Rep. position to full-time
6. Increase ins. revenue to pay for damages caused by a fire to City Police radio towers

Budget Impact: \$ _____ Is this expenditure approved in the current fiscal year budget? ^{N/A} If no, describe how it will be funded.

Decrease in GF of \$28,750 (1) ; Increase in GF & 7th of \$5,000 each Decrease in WS of \$2,000 (2) ; Decrease in DT of \$31,933 & \$1,000 increase in ESF (3) ; \$16,065 increase in ESF (4) ; \$17,420 increase in WS (5) ; \$17,683 Increase in GF

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

I move to approve the attached budget amendments as presented.

Attachments:

See below...

BUDGET AMENDMENT

(57,500.00)

FUND: 10

ACCOUNT NUMBER		DESCRIPTION OF ACCOUNT	INCREASE	DECREASE
ORG	OBJECT			
100030	432700	HHA Reimbursement		28,750.00
104310	512100	Salaries & Wages-Reg		16,273.00
104310	512400	Court Pay	292.00	
104310	518100	FICA Tax Expense		1,592.00
104310	518200	Retirement Expense		2,517.00
104310	518300	Group Med/Life Ins		2,824.00
104310	518600	Worker's Comp. Ins	1,155.00	
104310	519300	Prof. Services Medical	450.00	
104310	521200	Uniforms		813.00
104310	529900	Supplies & Materials		3,363.00
104310	535200	R&M Equip	1,222.00	
104310	535300	R&M Vehicles		1,450.00
104310	519000	Prof. Services		700.00
104310	525300	Vehicle Parts		2,337.00
		TOTALS IN BALANCE	\$ 3,119.00	\$ 60,619.00

(57,500.00)

An amendment revising the HHA agreement to total only 3/4 of a year since the contract begins in October. The following fiscal year will include the full contract amount.


 CITY MANAGER

Date: 9-9-15

APPROVED BY CITY COUNCIL:

DATE: 10/1/2015



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

Submitted By: Sam Fritschner

Department: Legal

Date Submitted: 17 September 2015

Presenter: Tom Wooten

Date of Council Meeting to consider this item: 17 September 2015

Nature of Item: Council Action

Summary of Information/Request:

Item # 05e

At the request of the Public Works director I have drafted for Council's review a slight modification of that portion of our ordinance relating to solid waste to provide for additional methods for collecting fees. Mr. Wooten indicates that the previous ordinance is outdated and does not accurately reflect all the ways in which the City collects these fees.

Budget Impact: \$0 _____ Is this expenditure approved in the current fiscal year budget? ^{N/A} If no, describe how it will be funded.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

I move the Council to adopt the ordinance amending Code section 44-51.

Attachments:

Proposed ordinance.

Ordinance #15-_____

AN ORDINANCE AMENDING SECTION 44-51 OF THE CODE OF ORDINANCES RESPECTING CHARGES FOR COLLECTION OF SOLID WASTE.

WHEREAS, the City of Hendersonville City Council has determined proper methods for collection of fees and charges for the collection of solid waste, and

WHEREAS the City Council deems it desirable to add to the list of those collection methods contained in City Code Section 44-51,

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

SECTION 1. Section 44-51 of the Hendersonville Code of is hereby amended to read as follows

Sec. 44-51. - Rate schedule.

Charges for collection of solid waste shall be set from time to time, and a schedule of such charges is on file and available in the city clerk's office. All solid waste accounts must be processed through a water bill account or like collection program.

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

Adopted this first day of October 2015.

Barbara Volk, Mayor

Attest:

Tammie K. Drake, MMC, City Clerk

Approved as to form:



CITY OF HENDERSONVILLE

AGENDA ITEM SUMMARY

Submitted By: Jennifer Harrell

Department: Administration

Date Submitted: 09/23/2015

Presenter: Jennifer Harrell

Date of Council Meeting to consider this item: 10-01-2015

Nature of Item: Council Action

Summary of Information/Request:

Item # 05f

The Public Works Department is requesting to make one of the employees in the Traffic Control Division a Supervisor. The Traffic Control Supervisor position will oversee the operations of repairing, replacing, and maintaining traffic signal devices, fabricating and installing street signs, pavement markings, maintaining parking pay stations, performing traffic counts, and installing/maintaining outdoor lighting fixtures that are owned by the City.

Although this is a small department the need for a supervisor is justified by the wide variety of tasks that are performed in order to make sure jobs are prioritized and preventative maintenance is kept up to date. In recent years, the development of new technologies as it pertains to traffic control have been changing perpetually along with requirements in the MUTCD (Manual on Uniformed Traffic Control Devices), FHWA (Federal Highway Administration), as well as state and local laws. In the past, this department has fell under the direct supervision of the Assistant Public Works Director. However, the current dynamic nature of this department has precipitated the need for a more focused level of supervision. The supervisor will continue to collaborate with the Assistant Public Works Director on the general direction of the department as well as the prioritization of some projects. However, the day to day operation will fall to the supervisor.

Budget Impact: \$0.00 _____ Is this expenditure approved in the current fiscal year budget? No If no, describe how it will be funded.

The employee is currently employed.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

I move to approve the Traffic Control Supervisor (Grade 11) position.

Attachments:

Traffic Control Supervisor Job description

TRAFFIC CONTROL SUPERVISOR General Statement of Duties

Performs difficult skilled and technical work supervising the work of a unit engaged in repairing, replacing, and maintaining traffic signal devices, fabricating and installing street signs, pavement markings, and maintaining pay stations and other public works activities.

Distinguishing Features of the Class

An employee in this class supervises staff engaged in a variety of work associated with the installation, maintenance, and repairs to traffic signal equipment, street lights, pavement markings, traffic signs, pay stations, electric panels, and other public works activities. Work includes participating in planning division work activities; inspects equipment for problems; orders supplies and materials; leads a crew in replacing, and maintaining traffic signals; analyzes problems with traffic signal controls; operates a boom truck and other lifts; fabricates, erects, and maintains street and traffic control signs; pavement markings; installs and maintains parking pay stations including collecting money. Maintains vegetation around signs and signals to ensure visibility. Replaces light fixtures and bulbs in city facilities. Ensures the safe operation of equipment in the street and near pedestrians. Designs and installs electric panels according to the NEC. Work involves keeping records of work activities related to traffic safety issues. Work also involves insuring that crew members take proper tools, equipment and supplies to the work site and responsibility for work crews and their safety. The employee is subject to working in inside and outside environments including extreme hot and cold weather, and to work hazards including loud noise, vibrations, moving mechanical parts, working in close quarters, and exposure to chemicals, fumes, odors, poor ventilation, and oils. The employee must exercise judgement and initiative in carrying out assignments. Work is performed under regular supervision and is inspected for compliance with instructions, conformance to established standards, quality and productivity of work crews, and adherence to schedules and priorities.

Duties and Responsibilities

Essential Duties and Tasks

Participates in the planning and organizing of projects; inspects work sites in advance, estimates amounts and orders materials and supplies for various jobs; recommends items for the budget and CIP, inspects equipment and recommends priorities on replacement; acts in the absence of higher level management.

Supervises and participates in the maintenance, repair and construction of traffic signals, pavement markings, street and traffic signs, parking pay stations, EV charging stations, street lights and parking light lights, electric panels, and other general public works duties.

Collects traffic counts using a variety of methods and reports results, as required.

Inspects contracted work for quality and adherence to plans and specifications.

Coordinates the use of available equipment, materials and staff to obtain maximum effectiveness and economy; may respond to citizen requests and complaints.

Participates in the training, safety, and performance coaching of division employees; insures application of safety regulations.

Completes work orders; insures that crews take necessary materials to work sites.

Participates in snow or ice removal.

Operates heavy construction equipment in tight places requiring care and skill.
Prepares and maintains a variety of records of division work activities.

Additional Job Duties

Performs safety inspections and reports for public works.
Performs related duties as required.

Recruitment and Selection Guidelines

Knowledge, Skills and Abilities

Thorough knowledge of state, federal, and local laws, guidelines and regulations relating to the design, installation and maintenance of street and traffic control signs, traffic signals, electric panels, street lights, pavement markings, pay stations, and other public works duties.

Considerable knowledge of the use of related equipment and materials.

Thorough knowledge of the occupational hazards and proper safety precautions.

Working knowledge of the traffic laws and regulations governing equipment operation.

Working knowledge of related engineering specifications, and related environmental laws.

Working knowledge of personnel, budgeting, and purchasing procedures.

Working knowledge of effective supervisory principles and practices and organizational personnel policies and procedures.

Ability to read plans maps, and drawings.

Ability to establish and maintain effective working relationships with supervisors, peers, subordinates and citizens.

Ability to maintain and prepare accurate records.

Physical Requirements

Must be able to physically perform the basic life operational functions of climbing, balancing, stooping, kneeling, crouching, crawling, reaching, standing, walking, pushing, pulling, lifting, fingering, grasping, feeling, talking, hearing, and performing repetitive motions.

Must be able to perform heavy work exerting up to 100 pounds of force occasionally; and/or up to 50 pounds of force frequently; and/or up to 20 pounds of force constantly to move objects.

Must possess the visual acuity to operate equipment and distinguish details, read and interpret manuals and guidelines relating to sign placement, and prepare simple records.

Desirable Education and Experience

Completion of a vocational, technical, or specialized training program in electrical or electronic technology and considerable experience in equipment operation; or an equivalent combination of education and experience.

Special Requirement

Possession of a valid North Carolina commercial driver's license.

International Municipal Signal Association Certifications: Traffic Signal Technician I, Traffic Signal Inspector, and Signs and Markings I or the ability to obtain certifications within one year.



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

Submitted By: Tammie Drake

Department: Admin

Date Submitted: 09/24/15

Presenter: Barbara Volk

Date of Council Meeting to consider this item: 10/01/15

Nature of Item: Presentation Only

Summary of Information/Request:

Item # 06

The City Manager formed a committee to be involved in the aspects of developing a new website which we hope the website will be completed in the Fall. One of the features of the new website will be a header with (rotating) images of Hendersonville. As a member of the Committee, I contacted the Camera Club of Hendersonville for their input. We wanted to ensure high quality, professional images for the new website even though we had no funds available for it.

I met with Mr. Ken Weaver and Mr. Robert Coffey of the Camera Club of Hendersonville to talk about specifics and asked for help with some photos for our new website. After speaking with their board, and working out a mutually-acceptable agreement, they were willing to assist the City with this project.

Members of the Camera Club have provided some excellent photos showcasing Hendersonville for our use pro bono. This not only adds professional photographs for the website but provides a great opportunity to showcase our local talent as well. Staff is requesting that the members of the club who contributed photos be publicly recognized and appreciated for their great work. The photographers will be given credit for their photos on our website.

To preview a collection of the members' photos being considered for the new City website, please follow this link:
<http://www.cameraclubofhendersonville.com/p402685795>

Budget Impact: \$ N/A Is this expenditure approved in the current fiscal year budget? N/A If no, describe how it will be funded.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

N/A

Attachments:



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

Submitted By: John Connet

Department: Admin

Date Submitted: 9/23/2015

Presenter: John Connet

Date of Council Meeting to consider this item: 10/1/2015

Nature of Item: Presentation Only

Summary of Information/Request:

Item # 07

For a number of years the North Carolina National Guard has run a program for high risk young men and women in eastern NC named Tarheel ChalleNGe. The program has been successful in taking young men and women who need additional direction and support and setting them on the right path. As City Manager in Clinton, I personally witnessed the success of this program as these youth often volunteered in our community at special events. The National Guard has just opened up a new Tarheel ChalleNGe program in western NC and Jim Bright will provide a short presentation on the goals of the program.

Budget Impact: \$ _____ Is this expenditure approved in the current fiscal year budget? N/A If no, describe how it will be funded.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

Attachments:

Tarheel ChalleNGe Brochure

Tarheel Challenge Activities

CHALLENGE is a 22-week, military oriented resident program for qualified young adults. Residence is followed by an intensive 12 month placement and mentoring phase to aid in adjustment to career paths and goals. Here are some activities you will participate in during residential phase:

- *General Education Development*
- *Career Planning/Post-Residential Action Plan*
- *Cardiovascular Pulmonary Resuscitation (CPR) Training*
- *Service To Community Projects*
- *Military Skills, Drill and Ceremonies*
- *Outdoor Adventures*
- *Physical Fitness & Sports*
- *Life Skills Program*
- *Field Trips*
- *Citizenship Responsibilities*
- *Small Unit Leadership and Discipline*
- *Computer Skills*
- *Government/House/Senate Page Training Program*



HOW TO APPLY

Your local Youth Challenge recruiter has a packet of information: application and forms for your parent, guardian and/or you to complete. Recruiters are available to assist and discuss your eligibility. Eligibility requirements are listed on the inside. Even if you are not eligible today, your recruiter can offer several suggestions on how to become eligible for the next class. Learn more at your local National Guard Armory or by calling the Tarheel Challenge Academy at:

1-800-573-9966



Tarheel Challenge Program

PO Box 39

Salemburg, NC 28385

(910) 525-5520

<https://nc-tcachallenge.org>

“Accept the Challenge”

A SECOND CHANCE...



**IT'S
YOUR**

North Carolina National Guard

**TARHEEL
CHALLENGE**

1-800-573-9966

***“Are You Up
To The
Challenge?”***

PURPOSE AND OBJECTIVES

CHALLENGE is for young men and women who wish to make major changes in redirecting their lives and are willing to become more productive citizens. Our program is called "CHALLENGE" for a good reason. We offer a unique path to self-improvement while helping you enhance some of the personal tools that will be used in adult life. CHALLENGE is not easy, but it can be a very rewarding time of your life. It grabs your interest, personal commitment and social life through five intensive months of resident activities. You will stretch and grow, both emotionally and physically. You will also acquire new skills and the self-confidence to make them count.

OUR COMMITMENT TO CHALLENGE

The CHALLENGE program has committed military expertise and close community ties to help youths acquire the skills and strengths needed to be more productive in their communities.

CHALLENGE is not for everyone, but we have made it so varied and interesting that we know you will never be bored. You are encouraged to look into how Tarheel Challenge can help you meet your life challenges.

WHAT YOU CAN GAIN

- *General Education Development Diploma (GED)*
- *Career Readiness Certificate (CRC)*
- *Cardiovascular Pulmonary Resuscitation (CPR) Training*
- *Life Skills Training Certificate*
- *Computer Employability Skills Certificate*
- *Presidential Physical Fitness Awards*
- *Physical Strength and Endurance*
- *Service to Community Hours*
- *Job Skills Training Certificate*
- *Self-Discipline/Self Control*
- *Leadership Skills*
- *Driver Education Classes*
- *Graduation Allowance for Further Education and Job Training*
- *Support Group of Graduates and Mentors throughout the 12-Month Program*



**Adding Value
To North Carolina...
One Student At A Time**

- Federal Mission
- State Mission
- Community Service Mission

TARHEEL CHALLENGE ACADEMY ELIGIBILITY

- High School Dropout/Expellees
- 16-18 Years Old
- Volunteer
- U.S. citizen or legal resident
- Legal Resident of North Carolina
- Unemployed/Underemployed
- Drug Free
- No Pending Action, Parole or Sentence in Criminal Justice System
- Physically and Mentally Capable
- Community Leader Endorsement
- Interview Requirement

MORE PRODUCTIVE CITIZENS



Sponsors:

State of North Carolina

North Carolina National Guard



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

Submitted By: Sue Anderson, Planning Director

Department: Development Asst Dept

Date Submitted: September 15, 2015

Presenter: Sue Anderson

Date of Council Meeting to consider this item: October 1, 2015

Nature of Item: Council Action

Summary of Information/Request:

Item # 08

File # P15-19-SC

The City has received an application from The Housing Assistance Corporation to close a portion of an unopened and unimproved ROW for Ochlawaha Drive (area1) and a portion of an unopened and unimproved ROW for Azalea Woods Drive (area 2) located on PIN 9569842945 and 9569840372. These ROW's are within the previously City approved Oklawaha Village project located on North Main Street. A map, survey and legal descriptions are included.

The Council adopted a Resolution of Intent to close this unopened right of way at their August 6th, 2015 meeting. A copy of the Resolution of Intent was mailed to the adjoining property owners, notification of the proposed closing was posted on the property, and the Resolution of Intent and notice of the public hearing was advertised four times in the legal notice section of the local newspaper.

General Statue 160A-299 has procedures for permanently closing streets and alleys. Any person may be heard on the question of whether or not the closing would be detrimental to the public interest or the property rights of any individual. If it appears to the satisfaction of City Council after the hearing that closing this street is not contrary to the public interest, and that no individual owning property in the vicinity of the street portion or in the subdivision in which it is located would thereby be deprived of reasonable means of ingress and egress to their property, the City Council may adopt an order closing this street portion.



Budget Impact: \$ 0 Is this expenditure approved in the current fiscal year budget? N/A If no, describe how it will be funded.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

I move Council to adopt the Order to Permanently Close a portion of an unopened and unimproved ROW for Ochlawaha Drive and a portion of an unopened and unimproved ROW for Azalea Woods Drive located on PIN 9569842945 and 9569840372 as petitioned by The Housing Assistance Corporation.

Attachments:

Memo

MEMORANDUM

DEVELOPMENT ASSISTANCE DEPARTMENT

TO: Honorable Mayor and Members of City Council

FROM: Development Assistance Department

RE: Housing Assistance Corporation, Street Closing
(File No.P15-19-SC)

DATE: September 22, 2015

The City has received an application from The Housing Assistance Corporation to close a portion of an unopened and unimproved ROW for Ochlawaha Drive (area1) and a portion of an unopened and unimproved ROW for Azalea Woods Drive (area 2) located on PIN 9569842945 and 9569840372. These ROW's are within the previously City approved Oklawaha Village project located on North Main Street. A map, survey and legal descriptions are included.

The Council adopted a Resolution of Intent to close this unopened right of way at their August 6th, 2015 meeting. A copy of the Resolution of Intent was mailed to the adjoining property owners, notification of the proposed closing was posted on the property, and the Resolution of Intent and notice of the public hearing was advertised four times in the legal notice section of the local newspaper.

General Statue 160A-299 has procedures for permanently closing streets and alleys. Any person may be heard on the question of whether or not the closing would be detrimental to the public interest or the property rights of any individual. If it appears to the satisfaction of City Council after the hearing that closing this street is not contrary to the public interest, and that no individual owning property in the vicinity of the street portion or in the subdivision in which it is located would thereby be deprived of reasonable means of ingress and egress to their property, the City Council may adopt an order closing this street portion.

Suggested Motion:

I move Council to adopt the Order to Permanently Close a portion of an unopened and unimproved ROW for Ochlawaha Drive and a portion of an unopened and unimproved ROW for Azalea Woods Drive located on PIN 9569842945 and 9569840372 as petitioned by The Housing Assistance Corporation.

ORDER TO PERMANENTLY CLOSE A STREET OR ALLEY

TO WHOM IT MAY CONCERN:

WHEREAS, North Carolina General Statute Section §160A -299 authorizes a city council to permanently close any street or public alley way within its corporate limits or area of extraterritorial jurisdiction and provides a procedure for the closing

WHEREAS, The Housing Assistance Corporation has petitioned the Council of the City of Hendersonville to close a portion of an unopened and unimproved ROW for Ochlawaha Drive and a portion of an unopened and unimproved ROW for Azalea Woods Drive located on parcels PIN 9569842945 and 9569840372, and

WHEREAS, on the sixth day of August 2015, the City Council adopted a resolution expressing the intention of the municipality to close a portion of an unopened and unimproved ROW for Ochlawaha Drive and a portion of an unopened and unimproved ROW for Azalea Woods Drive located on PIN 9569842945 and 9569840372.

WHEREAS, the aforementioned resolution has been published once a week for four successive weeks prior to the public hearing as required and a copy thereof has been sent by certified mail to all owners of property adjoining the unopened and unimproved ROW as shown on the county tax records; and

WHEREAS, notice of the closings and of the public hearing has been posted in at least two places along the unopened and unimproved ROWs; and

WHEREAS, a public hearing was held in conformance with the aforementioned public notice on the first day of October 2015.

NOW, THEREFORE, the City Council of the City of Hendersonville does hereby make the following findings of fact:

1. The closing of a portion of an unopened and unimproved ROW for Ochlawaha Drive and a portion of an unopened and unimproved ROW for Azalea Woods Drive located on parcels PIN 9569842945 and 9569840372, hereafter described are not contrary to the public interest.
2. No individual owning property in the vicinity of the unopened ROWs or in the subdivision in which it is located would be deprived by the closing of such unopened alley of reasonable means of ingress and egress to their property.

IN CONSIDERATION THEREOF, IT IS HEREBY ORDERED:

1. The following portion of an unopened and unimproved ROW for Ochlawaha Drive and a portion of an unopened and unimproved ROW for Azalea Woods Drive located on parcels PIN 9569842945 and 9569840372 is permanently closed and is no longer existent as of the effective date of this order:

Area #1

LEGAL DESCRIPTION FOR THE ABANDONMENT OF A PORTION OF THE PRIVATE 20' RIGHT OF WAY RECORDED AND SHOWN ON PLAT CABINET B SLIDES 29 AND 344A AND CROSSING THE PROPERTY OF THE HOUSING ASSISTANCE CORPORATION (RECORDED IN DEED BOOK 1612 PAGE 485) AND SHOWN ON PLAT SLIDE 9686

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

Beginning at a 1-1/4" Diameter Iron Pipe (2.0' Above Adjacent Grade) located on the Northern Margin of the said 20' Private Right of Way; said Iron Pipe also marking the Southern Most corner of the property of Robert Ricky Ruff (As Recorded in Deed Book 638 Page 23) and further bearing NC Grid Coordinates (NAD83-Epoch 2011) of: Northing = 594,443.09' and Easting = 968,088.14'; thence following the Northern and Western Margin of the said 20' Private Right of Way the following Five Courses and Distances: 1) South 64°15'13" East 142.02 feet to a calculated point, 2) South 74°44'23" East 105.47 feet to a calculated point, 3) North 58°14'48" East 85.66 feet to a calculated point, 4) North 33°41'29" East 312.87 feet to a calculated point and finally 5) North 06°45'37" West 379.80 feet to a #4 Rebar with McAbee ID Cap; thence turning and running across the said 20' Private Right of Way North 83°14'23" East 20.00 feet to a #4 Rebar with McAbee ID Cap; thence turning and following the Eastern and Southern Margin of the said 20' Private Right of Way the following Five Courses and Distances: 1) South 06°45'37" East 387.17 feet to a calculated point, 2) South 33°41'29" West 324.59 feet to a calculated point, 3) South 58°14'48" West 98.71 feet to a calculated point, 4) North 74°44'23" West 116.00 feet to a calculated point and finally 5) North 64°15'13" West 143.60 feet to a #4 Rebar with McAbee ID Cap; thence turning and running across the said 20' Private Right of Way North 25°00'33" East 20.00 feet to the Point and Place of Beginning.
Containing 0.481 Acres / 20,959 Square Feet.

Area #2

LEGAL DESCRIPTION FOR THE ABANDONMENT OF A PORTION OF THE PRIVATE 20' RIGHT OF WAY RECORDED AND SHOWN ON PLAT CABINET B SLIDES 29 AND 344A AS AZALEA WOODS DRIVE. SAID RIGHT OF WAY CROSSES OVER INTO THE PROPERTY OF THE HOUSING ASSISTANCE CORPORATION (RECORDED IN DEED BOOK 1612 PAGE 485) AND SHOWN

ON PLAT SLIDE 9686

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

Beginning at a 3/4" Diameter Iron Pipe (0.3' Above Adjacent Grade) located on the Northern Margin of the said 20' Private Right of Way over Azalea Woods Drive; said Iron Pipe also bearing NC Grid Coordinates (NAD83-Epoch 2011) of: Northing = 594,469.93' and Easting = 968,182.87'; thence following the Northern and Eastern Margin of the said 20' Private Right of Way South 41°53'00" East 53.46' feet to a calculated point and South 24°15'33" West 21.87 feet to a calculated point located at the North Eastern Corner of Lot 15, as recorded in Plat Cabinet B Slide 344A; thence following the Southern Margin of the said 20' Right of Way North 41°53'00" West 53.49 feet to a calculated point located at the North Eastern Corner of Lot 14 in Plat Cabinet B Slide 344A; thence and running North 24°19'29" East 21.86 feet to the Point and Place of Beginning.

Containing 0.025 Acres / 1070 Square Feet.

2. The City Clerk shall forthwith cause a copy of this order to be filed in the Office of the Register of Deeds of Henderson County.

This order shall take effect the first day of October 2015.

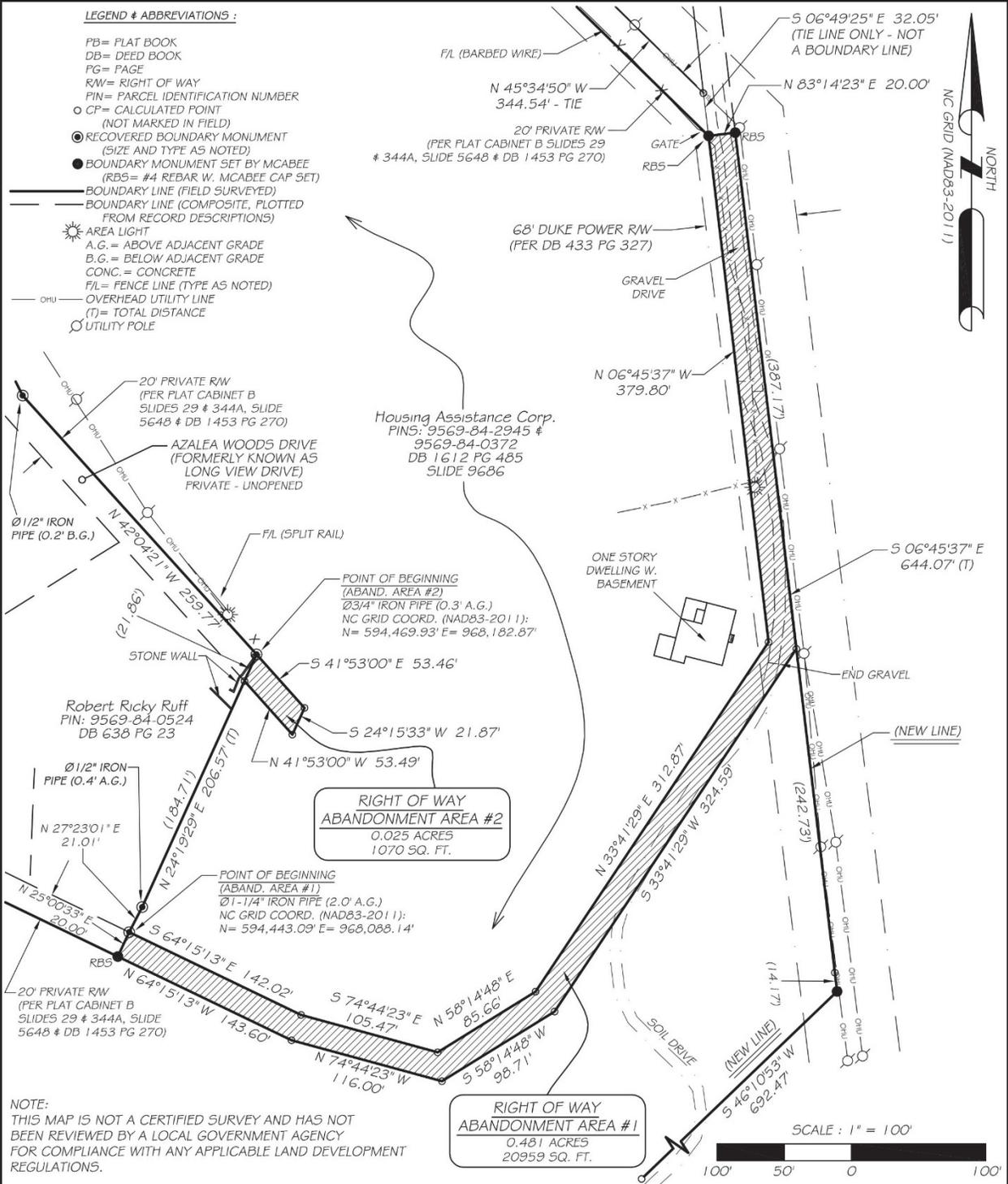
Barbara G. Volk, Mayor, City of Hendersonville

ATTEST:

Tammie K. Drake, City Clerk

Approved as to form:

Samuel H. Fritschner, City Attorney



McABEE & ASSOCIATES, P.A.
PROFESSIONAL LAND SURVEYING

Eric S. McAbee, PLS Fax (828) 628-1294
J. Barry West, PLS Telephone (828) 628-1295
Wallace S. McAbee, PLS (Emeritus)
3 McAbee Trail Fairview North Carolina, 28730
www.mcabeesurvey.com Firm License Number: C-694

EXHIBIT MAP OF RIGHT OF WAY ABANDONMENT AREAS ASSOCIATED WITH THE PROJECT : OKLAWAHA VILLAGE

MAP PREPARED FOR:
HOUSING ASSISTANCE CORP.

DATE: 7-01-2015
PROJECT NO.: #11553
DRAWN BY: JBW
DRAWING NO.: A-15-1436
SCALE: 1"=100'

Exhibit A



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

Submitted By: Sue Anderson, Planning Director

Department: Development Asst Dept

Date Submitted: September 15, 2015

Presenter: Sue Anderson

Date of Council Meeting to consider this item: October 1, 2015

Nature of Item: Council Action

Summary of Information/Request:

Item # 09

File # P15-34-Z

The City is in receipt of a zoning map amendment application from Salvatore John Costa for parcel number 9569-62-0115. This 0.43 acre parcel is located at 1338 Asheville Highway and includes the Hendersonville Nursery and Garden Center. This parcel currently has a split zoning with approximately .35 acres zoned C-3 Highway Business and approximately .08 acres zoned R-6 High Density Residential. Based on staff research it appears this split zoning accrued as a result from a rezoning based on a 150' offset from Asheville Highway, thus the zoning boundary did not follow parcel lines. The applicant desires to rezone this parcel from City of Hendersonville C-3 Highway Business and R-6 High Density Residential to C-3 Highway Business.

The Planning Board took this matter up at its regular meeting of September 14, 2015. 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 parcel number 9569-62-0115 from C-3 Highway Business and R-6 High Density Residential to C-3 Highway Business, finding that the rezoning is consistent with the Comprehensive Plan, the rezoning is reasonable and in the public interest because it is consistent with the zoning of the majority of the property.

Budget Impact: \$ 0 Is this expenditure approved in the current fiscal year budget? N/A If no, describe how it will be funded.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

I move the City Council to adopt an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of parcel number 9569-62-0115 from C-3 Highway Business and R-6 High Density Residential 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: [PLEASE STATE YOUR REASONS]

Attachments:

Memo

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Planning Department
RE: 1338 Asheville Highway Rezoning
FILE #: P15-34-Z
DATE: September 16, 2015

PROJECT HISTORY

The City is in receipt of a zoning map amendment application from Salvatore John Costa for parcel number 9569-62-0115. This 0.43 acre parcel is located at 1338 Asheville Highway and includes the Hendersonville Nursery and Garden Center. This parcel currently has a split zoning with approximately .35 acres zoned C-3 Highway Business and approximately .08 acres zoned R-6 High Density Residential. Based on staff research it appears this split zoning accrued as a result from a rezoning based on a 150' offset from Asheville Highway, thus the zoning boundary did not follow parcel lines. The applicant desires to rezone this parcel from City of Hendersonville C-3 Highway Business and R-6 High Density Residential to C-3 Highway Business.

COMPREHENSIVE PLAN CONSISTENCY

According to GS160A-383, zoning map amendments shall be made in accordance with a comprehensive plan. The 2030 Comprehensive Plan's Future Land Use Map designates this parcel as Neighborhood Activity Center. The Neighborhood Activity Center future land use category is intended to concentrate retail in dense, walkable, mixed-use nodes located at major intersections in order to promote a sense of community and a range of services that enhance the value of Hendersonville's neighborhoods.

The primary and secondary recommended land uses for the Neighborhood Activity Center land use category are as follows:

Primary

- Neighborhood retail sales and services

Secondary

- Offices
- Multi-family residential
- Live work units
- Public and institutional uses
- Pedestrian amenities (plaza outdoor seating, etc.)
- Mixed uses

PROPOSED ZONING CLASSIFICATION

This parcel is proposed to be rezoned to C-3 Highway Business. This zoning district classification is designed primarily to encourage the development of recognizable, attractive groupings of facilities to serve persons traveling by automobile and local residents. Since these areas are generally located on the major highways, they are subject to the public view. They should provide an appropriate appearance, ample parking, and be designed to minimize traffic congestion.

SURROUNDING LAND USE & ZONING CLASSIFICATION

Parcels to the north east are residential, zoned R-6 High Density Residential and the majority of this area is in the Hyman Heights Historic district. The parcel to the north is commercial and zoned C-3 Highway Business. To the west of this parcel is Asheville Highway and the parcel to the south is commercial and is zoned C-3 Highway Business.

ANALYSIS

Listed in Table A is an outline of the dimensional requirements for the C-3 Highway Business zoning district. The parcel does meet the minimum lot area and lot width for the C-3 Highway Business zoning district.

Table A

Zoning	C-3
Minimum Lot Area	10,000 f ² Other uses 6,000 f ² Residential
Minimum Lot Width at Building Line	80' Other uses 50' Residential
Minimum Front Yard	35' (may be reduced to 10') Other uses 20' Residential
Minimum Side Yard	15' Other uses 8' Residential
Minimum Rear Yard	20' Other uses 10' Residential
Maximum Building Height	48' Other uses 35' Residential

Following is a list of permitted and conditional uses for the C-3 Highway Business zoning district:

C-3 Highway Business

Permitted Uses:

Accessory dwelling units
Accessory uses & structures
Adult care centers
Animal hospitals & clinics
Automobile car washes
Automobile sales & service establishments
Automotive paint & body work
Banks and other financial institutions
Bed & breakfast facilities
Business services
Congregate care facilities
Construction trades facilities so long as the storage of equipment and materials is screened from view from any public rights-of-way
Convenience stores with or without gasoline sales
Cultural arts buildings Dance and fitness facilities
Dry cleaning and laundry establishment
Farm equipment sales & service
Food processing establishments
Funeral homes
Golf driving ranges & par three golf courses
Greenhouses & commercial nurseries
Home occupations
Hotels and motels
Laundries, coin-operated
Mobile homes sales establishments so long as they are situated on a major thoroughfare containing four or more traffic lanes
Music and art studios
Newspaper offices and printing establishments
Nursing homes

Offices, business, professional and public
Parking lots and parking garages
Parks
Personal services
Planned residential developments (minor)
Progressive care facilities
Public & semi-public buildings
Recreational facilities, indoors
Recreational facilities, outdoors, commercial
Religious institutions
Repair services, miscellaneous
Residential care facilities
Residential dwellings, single-family
Residential dwellings, two-family
Rest homes
Restaurants
Restaurants, drive-in
Retail stores
Schools, post-secondary, business, technical and vocational
Schools, primary & secondary
Service stations
Signs
Telecommunications antennas
Telecommunications towers
Theaters, indoor
Wholesale businesses

Conditional Uses:

Animal boarding facilities
Bus stations
Child care centers
Civic clubs & fraternal organizations
Mini-warehouses
Private clubs
Public utility facilities

PLANNING BOARD RECOMMENDATION

The Planning Board took this matter up at its regular meeting of September 14, 2015. 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 parcel number 9569-62-0115 from C-3 Highway Business and R-6 High Density Residential to C-3 Highway Business, finding that the rezoning is consistent with the Comprehensive Plan, the rezoning is reasonable and in the public interest because it is consistent with the zoning of the majority of the property.

ZONING ORDINANCE GUIDELINES

Per Section 11-4 of the City's Zoning Ordinance, the following factors shall be considered prior to adopting or disapproving an amendment to the City's Official Zoning Map:

1. Comprehensive Plan consistency. Consistency with the Comprehensive Plan and amendments thereto.
2. Compatibility with surrounding uses. Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject property.
3. Changed conditions. Whether and the extent to which there are changed conditions, trends or facts that require an amendment.
4. Public interest. Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern that benefits the surrounding neighborhood, is in the public interest and promotes public health, safety and general welfare.
5. Public facilities. Whether and the extent to which adequate public facilities and services such as water supply, wastewater treatment, fire and police protection and transportation are available to support the proposed amendment.
6. Effect on natural environment. Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment including but not limited to water, air, noise, storm water management, streams, vegetation, wetlands and wildlife.

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

IN RE: FILE NO. P15-34-Z

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 numbers 9569-62-0115 from City of Hendersonville C-3 Highway Business and R-6 High Density Residential to C-3 Highway Business.
2. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this 1st day of October 2015.

Barbara Volk, Mayor

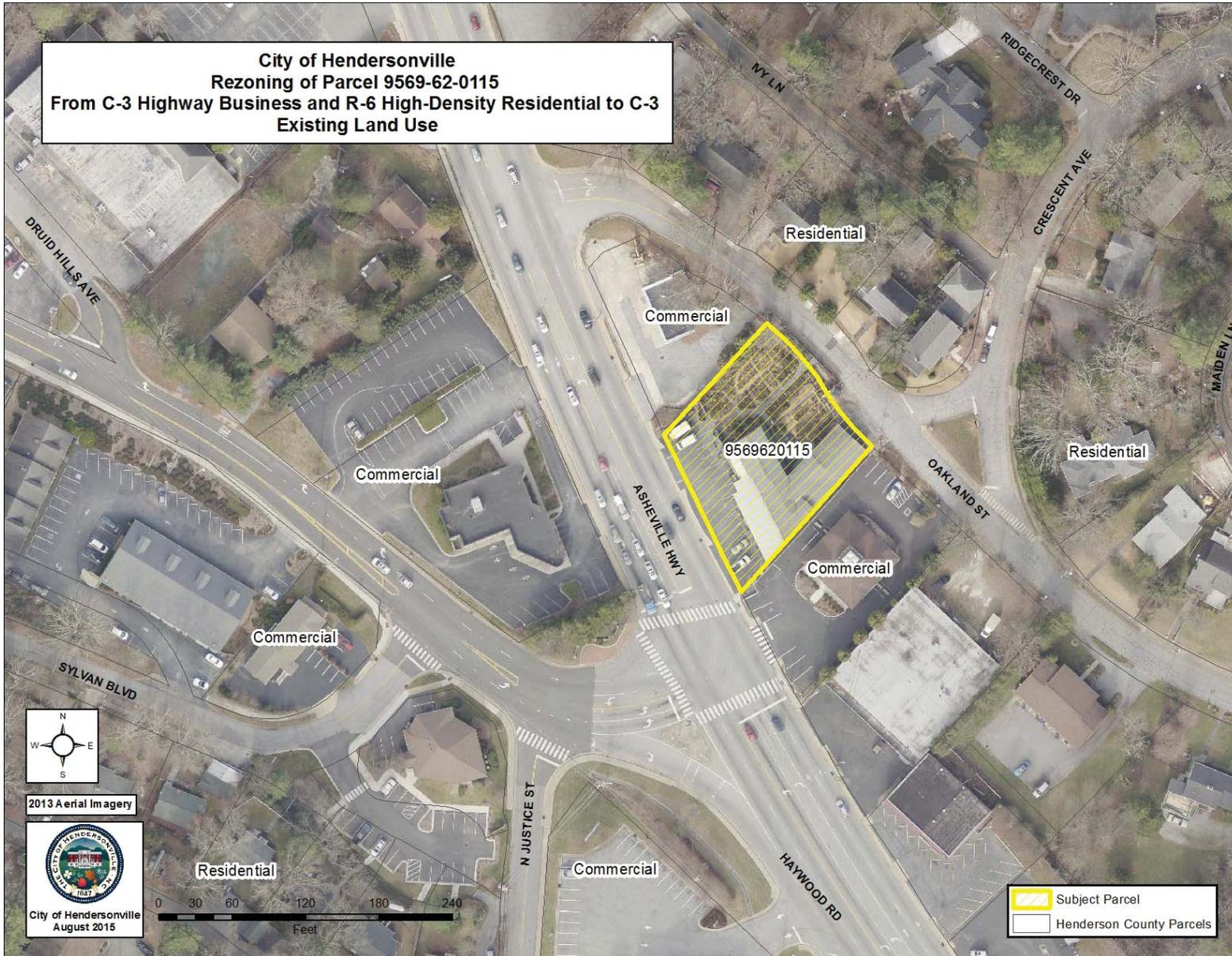
ATTEST:

Tammie K. Drake, CMC, City Clerk

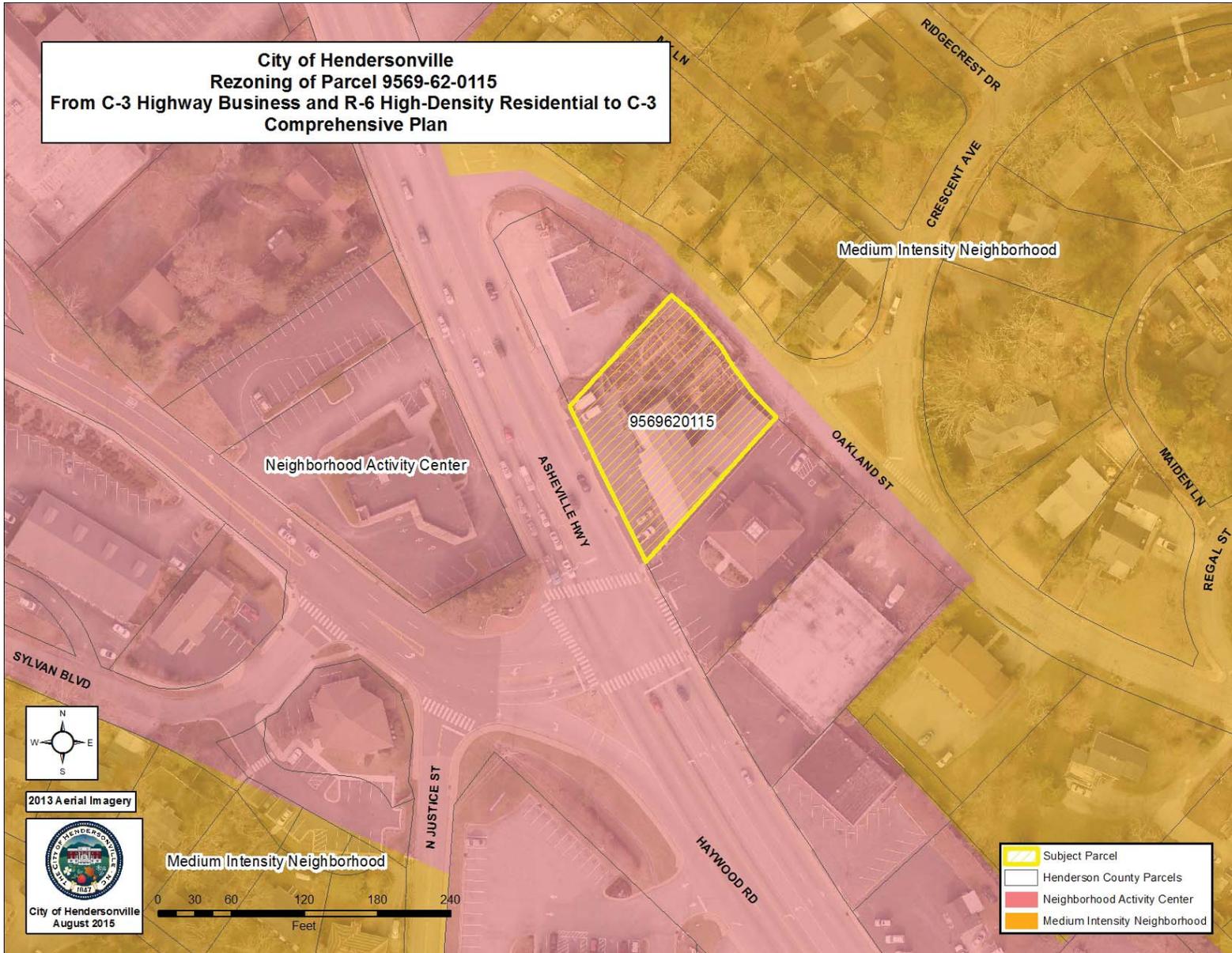
Approved as to form:

Samuel H. Fritschner, City Attorney

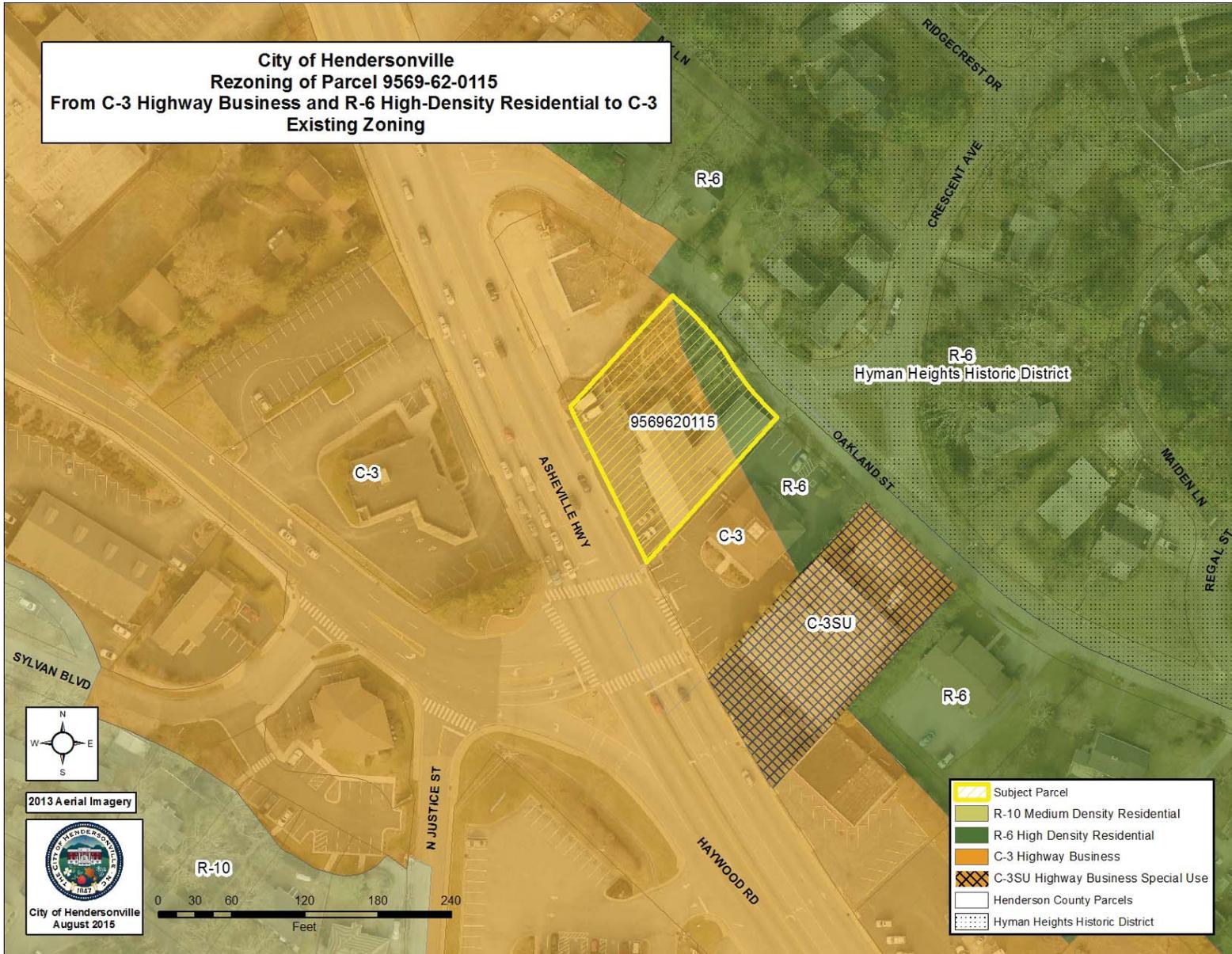
**City of Hendersonville
Rezoning of Parcel 9569-62-0115
From C-3 Highway Business and R-6 High-Density Residential to C-3
Existing Land Use**



**City of Hendersonville
Rezoning of Parcel 9569-62-0115
From C-3 Highway Business and R-6 High-Density Residential to C-3
Comprehensive Plan**



City of Hendersonville
Rezoning of Parcel 9569-62-0115
From C-3 Highway Business and R-6 High-Density Residential to C-3
Existing Zoning



City of Hendersonville

PLANNING BOARD REPORT

Project Name: Costa Rezoning

File Number: P15-34-Z

Approval – The map amendment is consistent with all of the objectives and policies for growth and development contained in the City of Hendersonville's Zoning Ordinance, 2030 Comprehensive Plan and Comprehensive Transportation Plan.

Denial – The map amendment is not consistent with all of the objectives and policies for growth and development of the City of Hendersonville's Zoning Ordinance, 2030 Comprehensive Plan and Comprehensive Transportation Plan.

This report reflects the recommendation of the Planning Board, this the 14th day of September, 2015.

Attest:



Planning Board Chair



Planning Director



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

Submitted By: Sue Anderson, Planning Director

Department: Development Asst Dept

Date Submitted: September 16, 2015

Presenter: Sue Anderson

Date of Council Meeting to consider this item: October 1, 2015

Nature of Item: Council Action

Summary of Information/Request:

Item # 10

File # P15-35-Z

The City is in receipt of a zoning map amendment application from Chris Cormier for parcel number 9569-85-8629. This 0.54 acre parcel is located on Baldwin Hill Avenue adjacent to North Main Street. The applicant desires to rezone this parcel from City of Hendersonville UV Urban Village to C-2 Secondary Business. This parcel was part of an Urban Village Special Use Permit development called Eastside Village that was 27 acres and included 110,000 sf of non-residential space and 200 residential units. This Special Use Permit was approved by City Council on May 5, 2005 and has since expired, however the zoning remains intact.

The Planning Board took this matter up at its regular meeting of September 14, 2015. 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 parcel number 9569-85-8629 from UV Urban Village to C-2 Secondary Business, finding that the rezoning is consistent with the Comprehensive Plan, the rezoning is reasonable and in the public interest because it is in line with the redevelopment of this neighborhood.

Budget Impact: \$ 0 Is this expenditure approved in the current fiscal year budget? N/A If no, describe how it will be funded.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

I move the City Council to adopt an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of parcel number 9569-85-8629 from UV Urban Village to C-2 Secondary Business, finding that the rezoning is consistent with the Comprehensive Plan, the rezoning is reasonable and in the public interest for the following reasons: [PLEASE STATE YOUR REASONS]

Attachments:

Memo

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Planning Department
RE: Cormier Rezoning
FILE #: P15-35-Z
DATE: September 16, 2015

PROJECT HISTORY

The City is in receipt of a zoning map amendment application from Chris Cormier for parcel number 9569-85-8629. This 0.54 acre parcel is located on Baldwin Hill Avenue adjacent to North Main Street. The applicant desires to rezone this parcel from City of Hendersonville UV Urban Village to C-2 Secondary Business. This parcel was part of an Urban Village Special Use Permit development called Eastside Village that was 27 acres and included 110,000 sf of non-residential space and 200 residential units. This Special Use Permit was approved by City Council on May 5, 2005 and has since expired, however the zoning remains intact.

COMPREHENSIVE PLAN CONSISTENCY

According to GS160A-383, zoning map amendments shall be made in accordance with a comprehensive plan. The 2030 Comprehensive Plan's Future Land Use Map designates this parcel as High Intensity Neighborhood. The High Intensity Neighborhood future land use category is intended 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. Also, promote walkable neighborhood design that creates attractive and functional roadway corridors and multi-family residential neighborhoods.

The primary and secondary recommended land uses for the High Intensity Neighborhood land use category are as follows:

Primary

- Single-family attached and multi-family residential
- Planned Residential Developments
- Open space

Secondary

- Public and institutional uses
- Offices and retail along thoroughfares
- Recreational amenities

PROPOSED ZONING CLASSIFICATION

This parcel is proposed to be rezoned to C-2 Secondary Business which is designed to

accommodate existing developments of mixed commercial and light industrial uses and certain commercial and light industrial uses compatible with one another but inappropriate in certain other zoning district classifications.

SURROUNDING LAND USE & ZONING CLASSIFICATION

Parcels to the north and west are zoned UV Urban Village and are vacant. An application for a Special Use Permit has been received and is currently under review for these parcels. The application is for 206 multi-family residential units, commercial, business, office and other related commercial uses. This application also includes a rezoning request to PCD Planned Commercial Development. The parcel to the south is zoned R-20 Low Density Residential and is vacant. The parcel to the east is zoned R-20 Low Density Residential and contains a single family residence.

ANALYSIS

Listed in Table A is an outline of the dimensional requirements for the C-2 Secondary Business zoning district. The parcel does meet the minimum lot area and lot width for the C-2 Secondary Business zoning district.

Table A

Zoning	C-2
Minimum Lot Area	8,000 f ² Commercial 6,000 f ² Residential
Minimum Lot Width at Building Line	0' Commercial 50' Residential
Minimum Front Yard	15' Commercial 20' Residential
Minimum Side Yard	0' (5' minimum if side yard is provided)
Minimum Rear Yard	0' Commercial 10' If abutting a residential district
Maximum Building Height	48'

The subject parcel was identified as Commercial Mixed Use in the previous Special Use Permit zoning of Urban Village with the following list of approved uses.

UV Urban Village approved uses

Animal hospitals & clinics so long as they contain no outdoor kennels
Banks & other financial institutions
Child care centers
Construction Trade Facilities
Cultural arts buildings
Dance, health & fitness facilities
Dry cleaning and laundry
Funeral homes
Home occupations
Hotels & motels
Laundries, coin-operated
Lawn & garden centers
Music & art studios
Neighborhood community centers
Newspaper offices & printing establishments
Offices, business, professional and public
Parking lots & parking garages
Parks
Personal services

Public & semi-public buildings, including, without limitation, post offices, police stations and fire stations
Recreational facilities, indoors
Religious institutions
Repair services, miscellaneous
Residential care facilities
Residential dwellings, multi-family
Residential dwellings, two-family
Restaurants
Retail stores
Schools, post-secondary, business, technical and vocational
Schools, primary & secondary
Signs
Telecommunications antennas
Theaters, indoors or outdoors but not including drive-in theaters

Conditional Uses:

Civic clubs & fraternal organizations
Public utility facilities

Following is a list of permitted and conditional uses for the C-2 Secondary Business zoning district:

C-2 Secondary Business

Permitted Uses:

Accessory dwelling units
Accessory uses & structures
Adult care centers
Animal hospitals & clinics
Automobile car washes
Automobile sales & service
Banks and other financial institutions
Bed & breakfast facilities
Business services
Congregate care facilities
Construction trades facilities
Cultural arts buildings
Dance and fitness facilities
Dry cleaning and laundry establishment
Farm equipment sales & service
Funeral homes
Golf driving ranges & par three golf courses
Greenhouses & commercial nurseries
Home occupations
Hotels and motels
Laundries, coin-operated
Music and art studios
Neighborhood community centers
Newspaper offices and printing establishments
Nursing homes
Offices, business, professional and public
Parking lots and parking garages
Parks

Personal services
Planned residential developments
Progressive care facilities
Public & semi-public buildings
Recreational facilities, indoors
Recreational facilities, outdoors
Religious institutions
Repair services, miscellaneous
Residential care facilities
Residential dwellings, single-family
Residential dwellings, two-family
Rest homes
Restaurants
Retail stores
Schools, business, technical and vocational
Schools, primary & secondary
Service stations
Shelter facilities
Signs
Telecommunications antennas
Theaters, indoor
Wholesale businesses

Conditional Uses:

Animal kennels
Bus stations
Child care centers
Civic clubs & fraternal organizations
Light manufacturing
Private clubs
Public utility facilities

PLANNING BOARD RECOMMENDATION

The Planning Board took this matter up at its regular meeting of September 14, 2015. 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 parcel number 9569-85-8629 from UV Urban Village to C-2 Secondary Business, finding that the rezoning is consistent with the Comprehensive Plan, the rezoning is reasonable and in the public interest because it is in line with the redevelopment of this neighborhood.

ZONING ORDINANCE GUIDELINES

Per Section 11-4 of the City's Zoning Ordinance, the following factors shall be considered prior to adopting or disapproving an amendment to the City's Official Zoning Map:

1. Comprehensive Plan consistency. Consistency with the Comprehensive Plan and amendments thereto.
2. Compatibility with surrounding uses. Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject property.
3. Changed conditions. Whether and the extent to which there are changed conditions, trends or facts that require an amendment.
4. Public interest. Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern that benefits the surrounding neighborhood, is in the public interest and promotes public health, safety and general welfare.
5. Public facilities. Whether and the extent to which adequate public facilities and services such as water supply, wastewater treatment, fire and police protection and transportation are available to support the proposed amendment.
6. Effect on natural environment. Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment including but not limited to water, air, noise, storm water management, streams, vegetation, wetlands and wildlife.

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

IN RE: FILE NO. P15-35-Z

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 numbers 9569-85-8629 from City of Hendersonville UV Urban Village to City of Hendersonville C-2 Secondary Business.
2. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this 1st day of October 2015.

Barbara Volk, Mayor

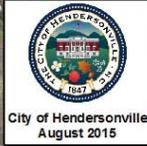
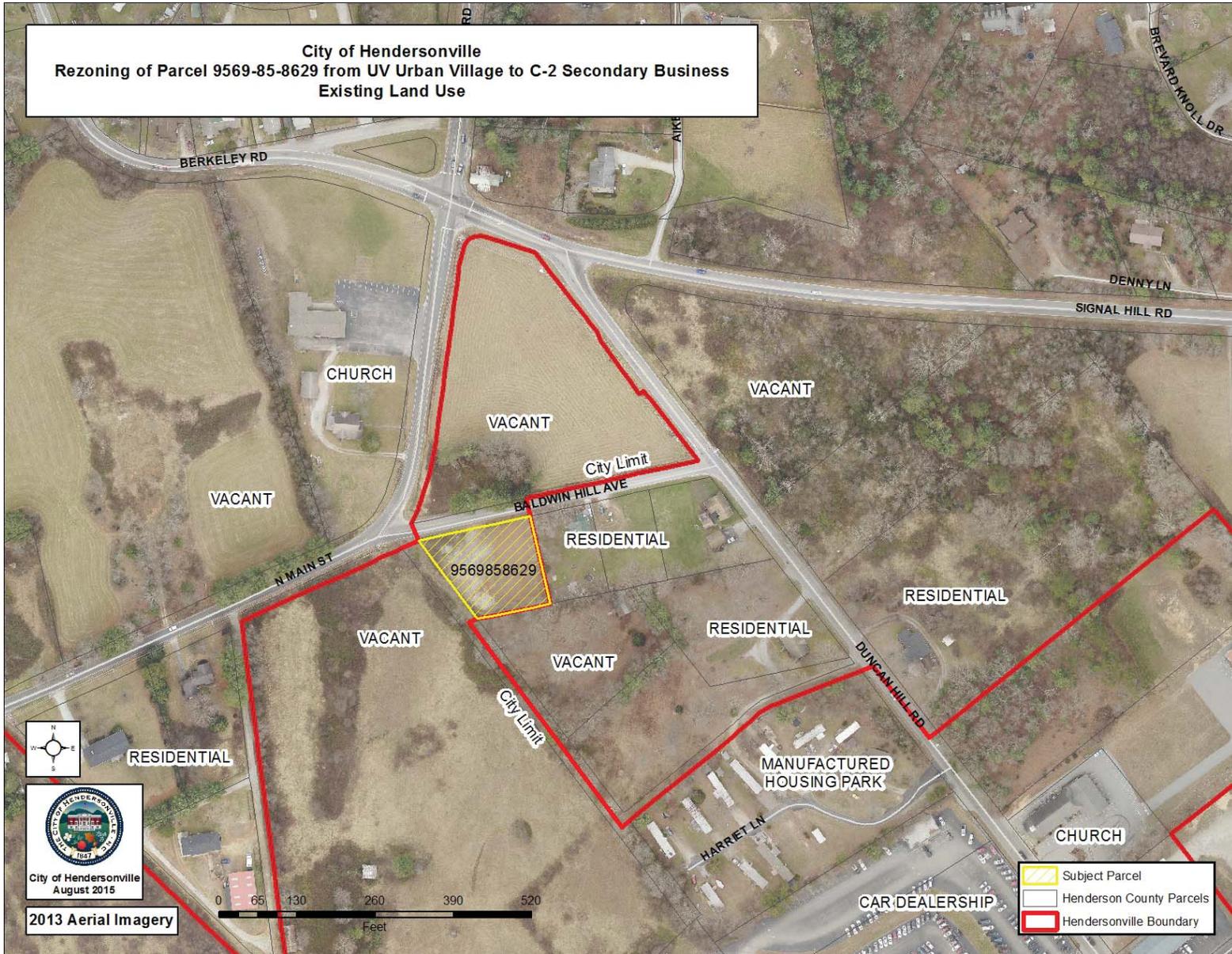
ATTEST:

Tammie K. Drake, CMC, City Clerk

Approved as to form:

Samuel H. Fritschner, City Attorney

City of Hendersonville
Rezoning of Parcel 9569-85-8629 from UV Urban Village to C-2 Secondary Business
Existing Land Use

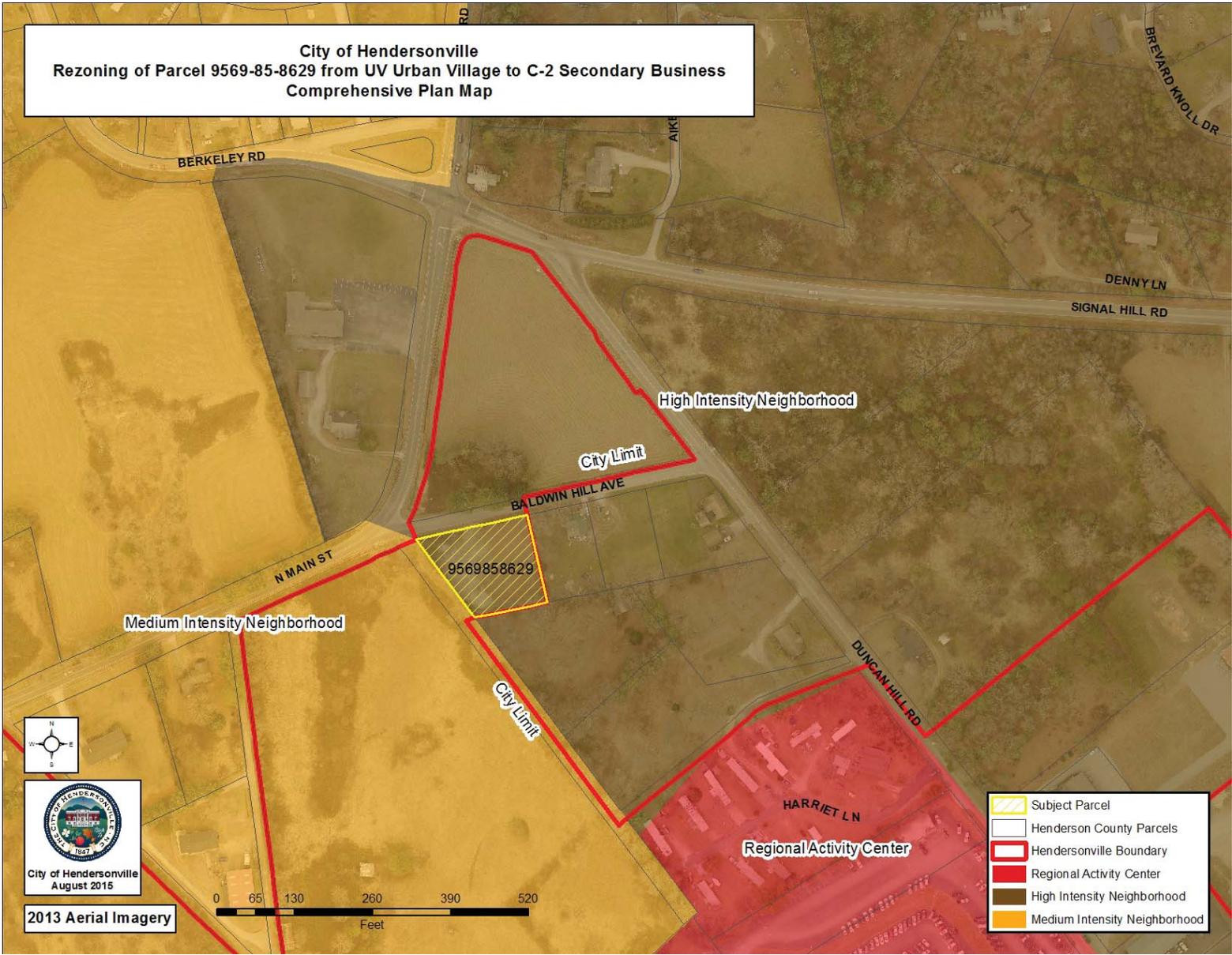


2013 Aerial Imagery

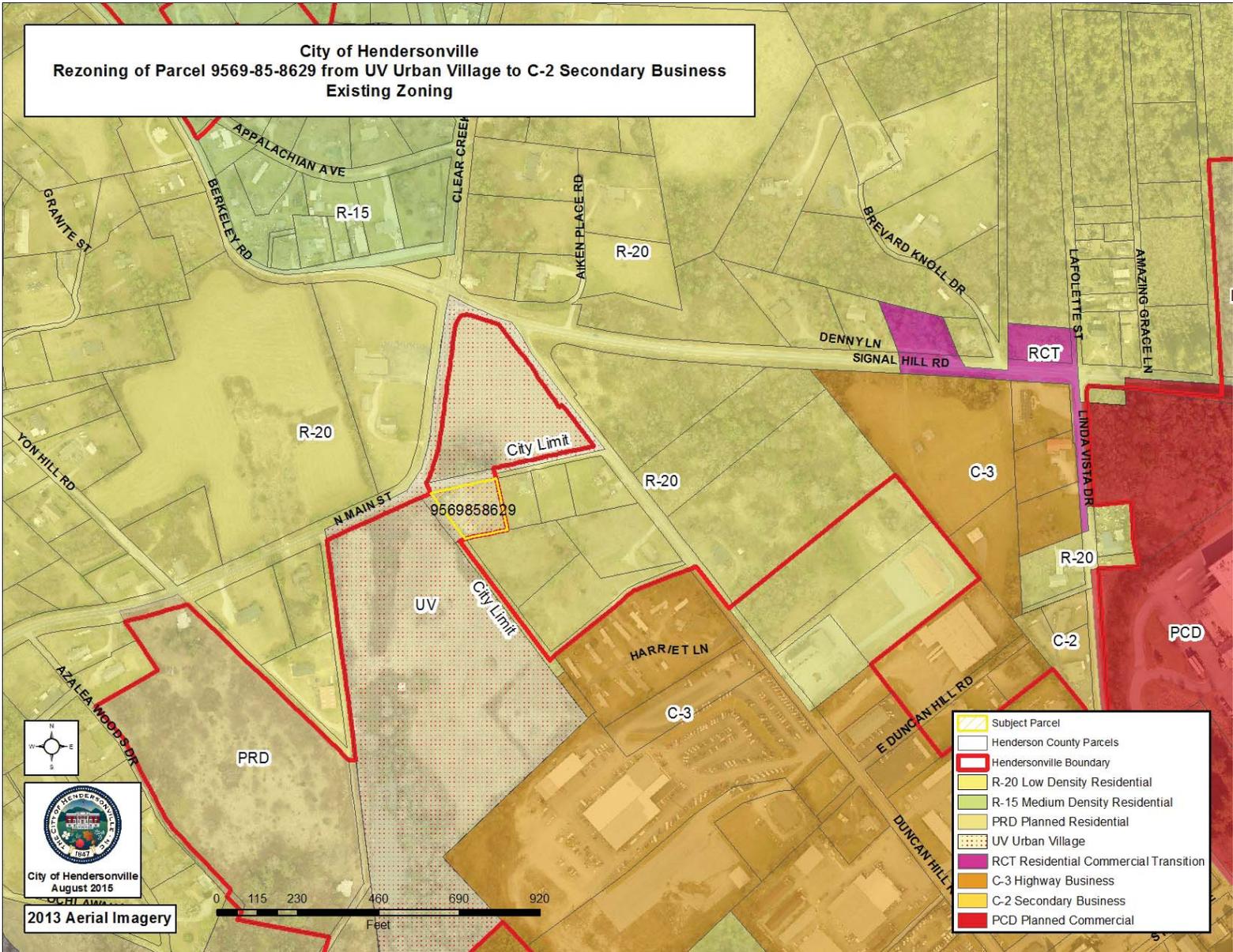


- Subject Parcel
- Henderson County Parcels
- Hendersonville Boundary

City of Hendersonville
Rezoning of Parcel 9569-85-8629 from UV Urban Village to C-2 Secondary Business
Comprehensive Plan Map



City of Hendersonville
Rezoning of Parcel 9569-85-8629 from UV Urban Village to C-2 Secondary Business
Existing Zoning



City of Hendersonville

PLANNING BOARD REPORT

Project Name: Cormier Rezoning

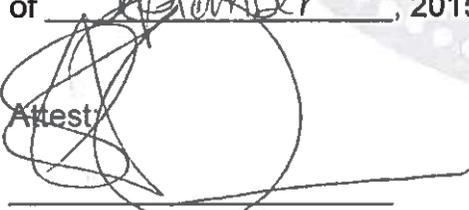
File Number: P15-35-Z

Approval – The map amendment is consistent with all of the objectives and policies for growth and development contained in the City of Hendersonville's Zoning Ordinance, 2030 Comprehensive Plan and Comprehensive Transportation Plan.

Denial – The map amendment is not consistent with all of the objectives and policies for growth and development of the City of Hendersonville's Zoning Ordinance, 2030 Comprehensive Plan and Comprehensive Transportation Plan.

This report reflects the recommendation of the Planning Board, this the 14th day of September, 2015.

Attest:



Planning Board Chair



Planning Director



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

Submitted By: Sam Fritschner

Department: Legal

Date Submitted: 16 September 2015

Presenter: John Connet

Date of Council Meeting to consider this item: 1 October 2015

Nature of Item: Council Action

Summary of Information/Request:

Item # 11

At the request of Council members I have drafted a proposed amendment to Code Section 36-87 respecting weapons on City-owned or City-maintained property.

The existing sections restricts the carrying of concealed handguns. The proposed amendment would create an exception for City Council members.

Budget Impact: \$0 _____ Is this expenditure approved in the current fiscal year budget? ^{N/A} If no, describe how it will be funded.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

I move the City Council adopt the ordinance amending the carrying of certain weapons on City-owned or City-maintained property.

Attachments:

Proposed ordinance

Ordinance #15-_____

AN ORDINANCE AMENDING SECTION 36-87 OF THE CODE OF ORDINANCES RESPECTING WEAPONS ON CITY-OWNED OR CITY-MAINTAINED PROPERTY

WHEREAS, the City of Hendersonville City Council has, pursuant to statute, determined who should be permitted to carry certain weapons on City-owned and City-maintained property, and

WHEREAS the City Council deems it desirable to add City Council members to the list of those excepted from the restrictions contained in City Code Section 36-87,

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

SECTION 1. Section 36-87 of the Hendersonville Code of is hereby amended to read as follows

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 in city owned and/or maintained nonresidential buildings and property as defined in G.S. 14-54(C), their appurtenant premises and parks.

(b) Exceptions. This prohibition of subsection (a) of this section shall not apply to the following persons:

- (1) Officers and enlisted personnel of the armed forces of the United States when discharging their official duties as such and acting under orders requiring them to carry arms and weapons;
- (2) Civil officers of the United States while in the discharge of their official duties;
- (3) Officers and soldiers of the militia and the national guard when called into actual service;
- (4) Sworn law enforcement officers;
- (5) County animal control officers while in the discharge of their official duties as such and acting under orders requiring them to carry arms and weapons;
- (6) Employees of the city, a utility company, or a contractor to the city, may possess tools approved by their employer so long as such tools are not used as a weapon; and
- (7) Persons possessing a written permit from the chief of police to possess weapons for ceremonial purposes or funerals.
- (8) City Council members with a valid North Carolina Concealed Carry Permit.

(c) Notice. A conspicuous notice shall be posted at each entrance to any property set forth in subsection (a) of this section indicating that: "Possession of concealed weapons or carrying a concealed handgun is prohibited." This indication may be given by use of the attached symbol or any other symbol decided upon by the city council.

(d) Penalty for violation of section. Any person in violation of this section shall be guilty of a misdemeanor and, upon conviction, shall be punished according to the provisions of section 1-6.

(e) Violating weapons declared contraband. Weapons possessed in violation of this section are hereby declared to be contraband. The chief of police or his designee shall hold such weapon for disposal pursuant to court order. In the absence of any such court order, the weapon shall be destroyed

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 first day of October 2015.

Barbara Volk, Mayor

Attest:

Tammie K. Drake, MMC, City Clerk

Approved as to form:

Samuel H. Fritschner, City Attorney



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

Submitted By: Brent Detwiler

Department: Engineering

Date Submitted: 9/23/15

Presenter: Brent Detwiler

Date of Council Meeting to consider this item: 10/1/15

Nature of Item: Council Action

Summary of Information/Request:

Item # 12

Over the last few years there has been some confusion on the part of designers and developers regarding the City's Stormwater Ordinance (Chapter 24, Article III adopted on April 7, 2011). These views were also expressed during the June meeting of the Business Advisory Committee. The confusion deals with the size of developments/redevelopments and the applicability of the ordinance, as well as the acceptable design and maintenance credentials. Staff has reviewed these items and feels that an update of several sections of Stormwater Ordinance is warranted.

The update in the form the attached ordinance seeks to provide clarity and modifies the following:

- The Stormwater Ordinance should be applicable to development and redevelopment projects which disturb one acre or more of ground area. A provision regarding 20,000 square feet or more of built upon area should be removed as it is confusing. The one acre or more provision is in line with Henderson County's erosion and sediment control requirements.
- The acceptable professionals who may prepare stormwater management design and maintenance should be modified to be in line with other municipalities as well as the state.

Staff is available to answer any questions.

Budget Impact: \$ _____ Is this expenditure approved in the current fiscal year budget? ^{N/A} If no, describe how it will be funded.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

I move that City Council adopt the motion amending the City's Stormwater Ordinance as provided.

Attachments:

Proposed ordinance amendment

Ordinance #15-_____

AN ORDINANCE AMENDING PORTIONS OF ARTICLE III OF CHAPTER 24 OF THE CODE OF ORDINANCES RESPECTING STORMWATER

WHEREAS, the City of Hendersonville City Council has established in Chapter 24, Article III of its Code of Ordinances a set of procedures for managing the safe and healthy discharge of stormwater, and

WHEREAS, it appears to the City Council that certain amendments and clarifications are necessary to produce a more efficient and effective management system,

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

SECTION 1. Chapter 24, Article III of the Code of Ordinances is hereby amended to read in full as shown on the appendix attached hereto.

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 first day of October 2015.

Barbara Volk, Mayor

Attest:

Tammie K. Drake, MMC, City Clerk

Approved as to form:

Samuel H. Fritschner, City Attorney

ARTICLE III. - STORMWATER ORDINANCE ^[39]

⁽³⁹⁾ **Editor's note**— Ord. No. 11-0419, §§ 1, 2, adopted Apr. 7, 2011, repealed the former Art. III, §§ 24-131—24-137, and enacted a new Art. III as set out herein. The former Art. III pertained to NPDES phase II stormwater and derived from Ord. No. 07-1157, § 1, 11-8-07; Ord. No. 08-0207, § 2, 2-7-08.

[Sec. 24-131. - Title.](#)

[Sec. 24-132. - Authority.](#)

[Sec. 24-133. - Findings.](#)

[Sec. 24-134. - Purpose.](#)

[Sec. 24-135. - Applicability and jurisdiction.](#)

[Sec. 24-136. - Interpretation.](#)

[Sec. 24-137. - Terms defined.](#)

[Sec. 24-138. - Design manual.](#)

[Sec. 24-139. - Relationship to other laws, regulations and private agreements.](#)

[Sec. 24-140. - Severability.](#)

[Sec. 24-141. - Effective date and transitional provisions.](#)

[Sec. 24-142. - Review and decision-making entities.](#)

[Sec. 24-143. - Review procedures.](#)

[Sec. 24-144. - Applications for approval.](#)

[Sec. 24-145. - Approvals.](#)

[Sec. 24-146. - Appeals.](#)

[Sec. 24-147. - General standards.](#)

[Sec. 24-148. - Standards for stormwater control measures.](#)

[Sec. 24-149. - Dedication of BMPs, facilities and improvements.](#)

[Sec. 24-150. - Variances.](#)

[Sec. 24-151. - Additional standards for special situations.](#)

[Sec. 24-152. - Onsite wastewater.](#)

[Sec. 24-153. - General standards for maintenance.](#)

[Sec. 24-154. - Operation and maintenance agreement.](#)

[Sec. 24-155. - Inspection program.](#)

[Sec. 24-156. - Performance security for installation and maintenance.](#)

[Sec. 24-157. - Notice to owners.](#)

[Sec. 24-158. - Records of installation and maintenance activities.](#)

[Sec. 24-159. - Nuisance.](#)

[Sec. 24-160. - General enforcement and violations.](#)

[Sec. 24-161. - Remedies and penalties.](#)

[Sec. 24-162. - Enforcement procedures.](#)

[Sec. 24-163. - Illicit discharges and connections.](#)

Sec. 24-131. - Title.

This article shall be officially known as "the stormwater ordinance." It is referred to herein as "this article."

(Ord. No. 11-0419, § 2, 4-7-11)

PART II - CODE OF ORDINANCES
Chapter 24 - FLOODS
ARTICLE III. - STORMWATER ORDINANCE

Sec. 24-132. - Authority.

The city council is authorized to adopt this article pursuant to North Carolina law, including but not limited to Article 14, Section 5 of the Constitution of North Carolina; City of Hendersonville; G.S. 143-214.7 and rules promulgated by the Environmental Management Commission thereunder; Session Law 2004-163; Chapter 160A, §§ 174, 185.

(Ord. No. 11-0419, § 2, 4-7-11)

Sec. 24-133. - Findings.

It is hereby determined that:

Development and redevelopment alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, soil erosion, stream channel erosion, nonpoint and point source pollution, and sediment transport and deposition, as well as reducing groundwater recharge;

These changes in stormwater runoff contribute to increased quantities of water-borne pollutants and alterations in hydrology that are harmful to public health and safety as well as to the natural environment; and

These effects can be managed and minimized by applying proper design and well-planned controls to manage stormwater runoff from development sites.

Further, the Federal Water Pollution Control Act of 1972 ("Clean Water Act") and federal phase II stormwater rules promulgated under it, as well as rules of the state environmental management commission promulgated in response to federal phase II requirements, compel certain urbanized areas, including this jurisdiction, to adopt minimum stormwater controls such as those included in this article.

Therefore, the city establishes this set of water quality and quantity regulations to meet the requirements of state and federal law regarding control of stormwater runoff and discharge.

(Ord. No. 11-0419, § 2, 4-7-11)

Sec. 24-134. - Purpose.

(a) *General.* The purpose of this article is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff and nonpoint and point source pollution associated with new development and redevelopment. It has been determined that proper management of construction-related and post-development stormwater runoff will minimize damage to public and private property and infrastructure; safeguard the public health, safety, and general welfare; and protect water and aquatic resources.

(b) *Specific.* This article seeks to meet its general purpose through the following specific objectives and means:

- (1) Establishing decision-making processes for development that protect the integrity of watersheds and preserve the health of water resources;
- (2) Requiring that new development and redevelopment maintain the pre-development hydrologic response in their post-development state as nearly as practicable for the applicable

PART II - CODE OF ORDINANCES
Chapter 24 - FLOODS
ARTICLE III. - STORMWATER ORDINANCE

design storm to reduce flooding, streambank erosion, nonpoint and point source pollution and increases in stream temperature, and to maintain the integrity of stream channels and aquatic habitats;

- (3) Establishing minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;
- (4) Establishing design and review criteria for the construction, function, and use of structural stormwater BMPs that may be used to meet the minimum post-development stormwater management standards;
- (5) Encouraging the use of better management and site design practices, such as the use of vegetated conveyances for stormwater and the preservation of greenspace, riparian buffers and other conservation areas to the maximum extent practicable;
- (6) Establishing provisions for the long-term responsibility for and maintenance of structural and nonstructural stormwater BMPs to ensure that they continue to function as designed, are maintained appropriately, and pose no threat to public safety;
- (7) Establishing administrative procedures for the submission, review, approval and disapproval of stormwater management plans, for the inspection of approved projects, and to assure appropriate long-term maintenance;
- (8) Coordinating site design plans that include open space and natural areas with the latest adopted Hendersonville Comprehensive Plan;
- (9) Controlling illicit discharges into the municipal separate stormwater system;
- (10) Assigning responsibility and processes for approving the creation and maintenance of adequate drainage and flood damage prevention.

(Ord. No. 11-0419, § 2, 4-7-11)

Sec. 24-135. - Applicability and jurisdiction.

(a) *General.* Beginning with and subsequent to its effective date, this article shall be applicable to all development and redevelopment, including, but not limited to, site plan applications, subdivision applications, and grading applications, unless exempt pursuant to subsection (b) of this section.

(b) *Exemptions.*

- (1) Development or redevelopment that cumulatively disturbs less than one acre ~~or contains less than 20,000 square feet of built-upon area and is not part of a larger common plan of development or sale.~~
- (2) Development or redevelopment that disturb less than one acre ~~or contains less than 20,000 square feet of built-upon area~~ are not exempt if such activities are part of a larger common plan of development or sale, even though multiple, separate or distinct activities take place at different times on different schedules.
- (3) Activities that are exempt from permit requirements of Section 404 of the federal Clean Water Act as specified in 40 CFR 232 (primarily, ongoing farming and forestry activities) are exempt from

PART II - CODE OF ORDINANCES
Chapter 24 - FLOODS
ARTICLE III. - STORMWATER ORDINANCE

the provisions of this article.

(c) *No development or redevelopment until compliance and permit.* No development or redevelopment shall occur except in compliance with the provisions of this article or unless exempted. No development or redevelopment for which a permit is required pursuant to this article shall occur except in compliance with the provisions, conditions, and limitations of the permit.

(d) *Map.* The provisions of this article shall apply within all planning and zoning jurisdictions of the city, including its extra-territorial jurisdiction. In the event of a dispute, the applicability of this article to a particular area of land or BMP shall be determined by reference to the North Carolina Statutes, the North Carolina Administrative Code, and local zoning and jurisdictional boundary ordinances. This article does not affect the legal requirements to obtain other permits which may be required by the division of water quality, the division of land resources, the local flood hazard prevention ordinance, zoning or building permits or any other state, federal or local government permit that may be required.

The engineering department shall develop and maintain a storm sewer system base map ("the stormwater map") of stormwater drainage system components including outfalls, BMP locations, drainage areas and receiving streams in accordance with the city's NPDES permit. The stormwater map shall be updated to take into account changes in the land area covered by this article and the geographic location of structural BMPs permitted under this article.

(Ord. No. 11-0419, § 2, 4-7-11)

Sec. 24-136. - Interpretation.

(a) *Meaning and intent.* All provisions, terms, phrases, and expressions contained in this article shall be construed according to the general and specific purposes set forth in section [24-134] of this article. If a different or more specific meaning is given for a term defined elsewhere in this Code, the meaning and application of the term in this article shall control for purposes of application of this article.

(b) *Text controls in event of conflict.* In the event of a conflict or inconsistency between the text of this article and any heading, caption, figure, illustration, table, or map, the text shall control.

(c) *Authority for interpretation.* The stormwater administrator has authority to determine the interpretation of this article. Any person may request an interpretation by submitting a written request to the stormwater administrator, who shall respond in writing within 30 days. The stormwater administrator shall keep on file a record of all written interpretations of this article.

(d) *References to statutes, regulations, and documents.* Whenever reference is made to a resolution, ordinance, statute, regulation, manual (including the design manual), or document, it shall be construed as a reference to the most recent edition of such that has been finalized and published with due provision for notice and comment, unless otherwise specifically stated.

(e) *Computation of time.* The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the city, the deadline or required date of action shall be the next day that is not a Saturday, Sunday or holiday observed by the city. References to days are calendar days unless otherwise stated.

(f) *Delegation of authority.* Any act authorized by this article to be carried out by the stormwater administrator of the city may be carried out by his or her designee.

(g) *Usage.*

PART II - CODE OF ORDINANCES
Chapter 24 - FLOODS
ARTICLE III. - STORMWATER ORDINANCE

(1) *Mandatory and discretionary terms.* The words "shall," "must," and "will" are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words "may" and "should" are permissive in nature.

(2) *Conjunctions.* Unless the context clearly indicates the contrary, conjunctions shall be interpreted as follows: The word "and" indicates that all connected items, conditions, provisions and events apply. The word "or" indicates that one or more of the connected items, conditions, provisions or events apply.

(3) *Tense, plurals, and gender.* Words used in the present tense include the future tense. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise. Words used in the masculine gender include the feminine gender, and vice versa.

(h) *Measurement and computation.* Lot area refers to the amount of horizontal land area contained inside the lot lines of a lot or site.

(Ord. No. 11-0419, § 2, 4-7-11)

Sec. 24-137. - Terms defined.

When used in this article, the following words and terms shall have the meaning set forth in this section, unless other provisions of this article specifically indicate otherwise.

Built-upon area (BUA). That portion of a development or redevelopment project that is covered by impervious surface including, but not limited to, buildings; pavement and gravel areas such as roads, parking lots, and paths; and recreation facilities such as tennis courts. "Built-upon area" does not include a wooden slatted deck, the water area of a swimming pool, or pervious paving material to the extent that the paving material absorbs water or allows water to infiltrate through the paving material.

Department. The state department of environment and natural resources.

Design manual. The stormwater design manual approved for use in phase II jurisdictions by the state division of water quality for the proper implementation of the requirements of the federal phase II stormwater program. All references herein to the design manual are to the latest published edition or revision.

Development. Any land-disturbing activity that increases the amount of built-upon area or that otherwise decreases the infiltration of precipitation into the soil.

Disturbed area. All land areas that are stripped, graded, grubbed, filled, or excavated at any time during the site preparation or removing vegetation for, or construction of, a project. "Disturbed area" does not include routine maintenance, but does include re-development and new impervious areas. "Routine maintenance" is maintenance performed to maintain the original line and grade, hydraulic capacity, and original purpose of the facility. Paving impervious gravel surfaces while maintaining the original line and grade, hydraulic capacity and original purpose of the facility is considered routine maintenance. Cutting of trees, without grubbing, stump removal, disturbance or exposure of soil is not considered "disturbed area".

Division. The division of water quality in the department.

Larger common plan of development or sale. Any area where multiple separate and distinct construction or land-disturbing activities will occur under one plan. A plan is any announcement or

PART II - CODE OF ORDINANCES
Chapter 24 - FLOODS
ARTICLE III. - STORMWATER ORDINANCE

piece of documentation (including but not limited to a sign, public notice or hearing, sales pitch, advertisement, loan application, drawing, permit application, zoning request, or computer design) or physical demarcation (including but not limited to boundary signs, lot stakes, or surveyor markings) indicating that construction activities may occur on a specific plot.

One-year, 24-hour storm. The surface runoff resulting from a 24-hour rainfall of an intensity expected to be equaled or exceeded, on average, once in 12 months and with a duration of 24 hours.

Owner. The legal or beneficial owner of land, including but not limited to a mortgagee or vendee in possession, receiver, executor, trustee, or long-term or commercial lessee, or any other person or entity holding proprietary rights in the property or having legal power of management and control of the property. "Owner" shall include long-term commercial tenants; management entities, such as those charged with or engaged in the management of properties for profit; and every person or entity having joint ownership of the property. A secured lender not in possession of the property does not constitute an owner, unless the secured lender is included within the meaning of "owner" under another description in this definition, such as a management entity.

Redevelopment. Any land-disturbing activity on previously-developed land.

Structural BMP. A physical device designed to trap, settle out, or filter pollutants from stormwater runoff; to alter or reduce stormwater runoff velocity, amount, timing, or other characteristics; to approximate the pre-development hydrology on a developed site; or to achieve any combination of these goals. Structural BMP includes physical practices such as constructed wetlands, vegetative practices, filter strips, grassed swales, and other methods installed or created on real property. "Structural BMP" is synonymous with "structural practice," "stormwater control facility," "stormwater control practice," "stormwater treatment practice," "stormwater management practice," "stormwater control measures," "structural stormwater treatment systems," and similar terms used in this article.

Substantial progress. For the purposes of determining whether sufficient progress has been made on an approved plan, one or more of the following construction activities toward the completion of a site or subdivision plan shall occur: obtaining a grading permit and conducting grading activity on a continuous basis and not discontinued for more than 30 days; or installation and approval of on-site infrastructure; or obtaining a building permit for the construction and approval of a building foundation. "Substantial progress" for purposes of determining whether an approved plan is null and void is not necessarily the same as "substantial expenditures" used for determining vested rights pursuant to applicable law.

(Ord. No. 11-0419, § 2, 4-7-11)

Sec. 24-138. - Design manual.

(a) *Reference to design manual.* The stormwater administrator shall use the policy, criteria, and information, including technical specifications and standards, in the design manual as the basis for decisions about stormwater permits and about the design, implementation and performance of structural and non-structural stormwater BMPs.

The design manual includes a list of acceptable stormwater treatment practices, including specific design criteria for each stormwater practice. Stormwater treatment practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards of the phase II laws.

(b) *Relationship of design manual to other laws and regulations.* If the specifications or guidelines of the design manual are more restrictive or apply a higher standard than other laws or regulations, that fact shall not prevent application of the specifications or guidelines in the design manual.

PART II - CODE OF ORDINANCES
Chapter 24 - FLOODS
ARTICLE III. - STORMWATER ORDINANCE

(c) *Changes to standards and specifications.* If the standards, specifications, guidelines, policies, criteria, or other information in the design manual are amended subsequent to the submittal of an application for approval pursuant to this article but prior to approval, the new information shall control and shall be utilized in reviewing the application and in implementing this article with regard to the application.

(Ord. No. 11-0419, § 2, 4-7-11)

Sec. 24-139. - Relationship to other laws, regulations and private agreements.

(a) *Conflict of laws.* This article is not intended to modify or repeal any other ordinance, rule, regulation or other provision of law. The requirements of this article are in addition to the requirements of any other ordinance, rule, regulation or other provision of law. Where any provision of this article imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human or environmental health, safety, and welfare shall control.

(b) *Private agreements.* This article is not intended to revoke or repeal any easement, covenant, or other private agreement. However, where the regulations of this article are more restrictive or impose higher standards or requirements than such an easement, covenant, or other private agreement, the requirements of this article shall govern. Nothing in this article shall modify or repeal any private covenant or deed restriction, but such covenant or restriction shall not legitimize any failure to comply with this article. In no case shall the city be obligated to enforce the provisions of any easements, covenants, or agreements between private parties.

(Ord. No. 11-0419, § 2, 4-7-11)

Sec. 24-140. - Severability.

If the provisions of any section, subsection, paragraph, subdivision or clause of this article shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this article.

(Ord. No. 11-0419, § 2, 4-7-11)

Sec. 24-141. - Effective date and transitional provisions.

(a) *Effective date.* This article shall take effect on April 7, 2011.

(b) *Final approvals, complete applications.* All development and redevelopment projects for which complete and full applications were submitted and approved by the city prior to the effective date of this article and which remain valid, unexpired, unrevoked and not otherwise terminated at the time of development or redevelopment shall be exempt from complying with the provisions of this article dealing with the control and/or management of post-construction runoff, but shall be required to comply with all stormwater provisions in effect at time of approval.

(c) *Violations continue.* Any violation of provisions existing on the effective date of this article shall continue to be a violation under this article and be subject to penalties and enforcement under this article unless the use, development, construction, or other activity complies with the provisions of this article.

(Ord. No. 11-0419, § 2, 4-7-11)

Sec. 24-142. - Review and decision-making entities.

(a) *Stormwater administrator.*

(1) *Designation.* The city engineer or his or her designee shall serve as the stormwater administrator and administer and enforce this article.

(2) *Powers and duties.* The stormwater administrator shall have the following powers and duties under this article:

- a. To review and approve, approve with conditions, or disapprove applications for approval of plans pursuant to this article.
- b. To make determinations and render interpretations of this article.
- c. To establish application requirements and schedules for submittal and review of applications and appeals, to review and make recommendations to the city council and/or other city departments on applications for development or redevelopment approvals.
- d. To enforce the provisions of this article in accordance with its enforcement provisions.
- e. To maintain records, maps, forms and other official materials as relate to the adoption, amendment, enforcement, and administration of this article.
- f. To provide expertise and technical assistance upon request.
- g. To designate appropriate other person(s) who shall carry out the powers and duties of the stormwater administrator.
- h. To take any other action necessary to administer the provisions of this article.

(Ord. No. 11-0419, § 2, 4-7-11)

Sec. 24-143. - Review procedures.

(a) *Permit required; must apply for permit.* A stormwater permit is required for all development and redevelopment unless exempt pursuant to this article. A permit may only be issued subsequent to a properly submitted and reviewed permit application, pursuant to this section.

(b) *Effect of permit.* A stormwater permit shall govern the design, installation, and construction of stormwater management and control practices on the site, including structural BMPs and elements of site design for stormwater management other than structural BMPs.

The permit is intended to provide a mechanism for the review, approval, and inspection of the approach to be used for the management and control of stormwater for the development or redevelopment site consistent with the requirements of this article, whether the approach consists of structural BMPs or other techniques such as low-impact or low-density design. The permit does not continue in existence indefinitely after the completion of the project; rather, compliance after project construction is assured by the maintenance provisions of this article.

(c) *Authority to file applications.* All applications required pursuant to this Code shall be submitted to the stormwater administrator by the land owner or the land owner's duly authorized agent.

(d) *Establishment of application requirements, schedule, and fees.*

PART II - CODE OF ORDINANCES
Chapter 24 - FLOODS
ARTICLE III. - STORMWATER ORDINANCE

(1) *Application contents and form.* The stormwater administrator shall establish requirements for the content and form of all applications and shall amend and update those requirements from time to time. At a minimum, the stormwater permit application shall describe in detail how post-development stormwater runoff will be controlled and managed, the design of all stormwater facilities and practices, and how the proposed project will meet the requirements of this article.

(2) *Submission schedule.* The stormwater administrator shall establish a submission schedule for applications. The schedule shall establish deadlines by which complete applications must be submitted for the purpose of ensuring that there is adequate time to review applications, and that the various stages in the review process are accommodated.

(3) *Permit review fees.* The city shall establish permit review fees as well as policies regarding refund of any fees upon withdrawal of an application, and may amend and update the fees and policies from time to time.

(4) *Administrative manual.* For applications required under this Code, the stormwater administrator shall compile the application requirements, submission schedule, fee schedule, a copy of this article, and information on how and where to obtain the design manual in an administrative manual, which shall be made available to the public.

(e) *Submittal of complete application.* Applications shall be submitted to the stormwater administrator pursuant to the application submittal schedule in the form established by the stormwater administrator, along with the appropriate fee established pursuant to this section.

An application shall be considered as timely submitted only when it contains all elements of a complete application pursuant to this article, along with the appropriate fee. If the stormwater administrator finds that an application is incomplete, the applicant shall be notified of the deficient elements and shall be provided with an opportunity to submit a complete application. However, the submittal of an incomplete application shall not suffice to meet a deadline contained in the submission schedule established above.

(f) *Review.* The stormwater administrator shall review the application and determine whether the application complies with the standards of this article.

(1) *Approval.* If the stormwater administrator finds that the application complies with the standards of this article, the stormwater administrator shall approve the application. The stormwater administrator may impose conditions of approval as needed to ensure compliance with this article. The conditions shall be included as part of the approval.

(2) *Fails to comply.* If the stormwater administrator finds that the application fails to comply with the standards of this article, the stormwater administrator shall notify the applicant and shall indicate how the application fails to comply. The applicant shall have an opportunity to submit a revised application.

(3) *Revision and subsequent review.* A complete revised application shall be reviewed by the stormwater administrator after its re-submittal and shall be approved, approved with conditions or disapproved.

If a revised application is not re-submitted within 30 calendar days from the date the applicant was notified, the application shall be considered withdrawn, and a new submittal for the same or substantially the same project shall be required along with the appropriate fee for a new submittal.

PART II - CODE OF ORDINANCES
Chapter 24 - FLOODS
ARTICLE III. - STORMWATER ORDINANCE

One re-submittal of a revised application may be submitted without payment of an additional permit review fee. Any re-submittal after the first re-submittal shall be accompanied by a permit review fee additional fee, as established pursuant to this article.

(Ord. No. 11-0419, § 2, 4-7-11)

Sec. 24-144. - Applications for approval.

(a) *Concept plan and consultation meeting.* Before a stormwater management permit application is deemed complete, the stormwater administrator or developer may request a consultation on a concept plan for the post-construction stormwater management system to be utilized in the proposed development project. This consultation meeting should take place at the time of the preliminary plan of subdivision or other early step in the development process. The purpose of this meeting is to discuss the post-construction stormwater management measures necessary for the proposed project, as well as to discuss and assess constraints, opportunities and potential approaches to stormwater management designs before formal site design engineering is commenced. Local watershed plans, the latest Hendersonville Comprehensive Plan, and other relevant resource protection plans should be consulted in the discussion of the concept plan.

To accomplish this goal, the following information should be included in the concept plan, which should be submitted in advance of the meeting:

(1) *Existing conditions/proposed site plans.* Existing conditions and proposed site layout sketch plans, which illustrate at a minimum: existing and proposed topography; perennial and intermittent streams; mapping of predominant soils from soil surveys, boundaries of existing predominant vegetation; proposed limits of clearing and grading; and location of existing and proposed roads, buildings, parking areas and other impervious surfaces.

(2) *Natural resources inventory.* A written or graphic inventory of natural resources at the site and surrounding area as it exists prior to the commencement of the project. This description should include a discussion of soil conditions, forest cover, geologic features, topography, wetlands, and native vegetative areas on the site, as well as the location and boundaries of other natural feature protection and conservation areas such as lakes, ponds, floodplains, stream buffers and other setbacks (e.g., drinking water well setbacks, septic setbacks, etc.). Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development and stormwater management.

(3) *Stormwater management system concept plan.* A written or graphic concept plan of the proposed post-development stormwater management system including: preliminary selection and location of proposed structural stormwater controls; low-impact design elements; location of existing and proposed conveyance systems such as grass channels, swales, and storm drains; flow paths; location of floodplain/floodway limits; relationship of site to upstream and downstream properties and drainages; and preliminary location of any proposed stream channel modifications, such as bridge or culvert crossings.

(b) *Stormwater management permit application.* The stormwater management permit application shall detail how post-development stormwater runoff will be controlled and managed and how the proposed project will meet the requirements of this article. All such plans shall be prepared by a qualified registered North Carolina professional engineer or landscape architect, and the ~~engineer~~ professional shall perform services only in their area of competence, and shall verify that the design of all stormwater management facilities and practices meets the submittal requirements for complete applications, that the designs and plans are sufficient to comply with applicable standards and policies found in the design manual, and that the designs and plans ensure compliance with this article.

PART II - CODE OF ORDINANCES
Chapter 24 - FLOODS
ARTICLE III. - STORMWATER ORDINANCE

The submittal shall include all of the information required in the submittal checklist established by the stormwater administrator. Incomplete submittals shall be treated pursuant to subsection 24-143(d) of this article.

(c) *As-built plans and final approval.* Upon completion of a project, and before a certificate of occupancy shall be granted, the applicant shall certify that the completed project is in accordance with the approved stormwater management plans and designs, and shall submit actual "as built" plans for all stormwater management facilities or practices after final construction is completed.

The plans shall show the final design specifications for all stormwater management facilities and practices and the field location, size, depth, and planted vegetation of all measures, controls, and devices, as installed. The designer of the stormwater management measures and plans shall certify, under seal, that the as-built stormwater measures, controls, and devices are in compliance with the approved stormwater management plans and designs and with the requirements of this article. A final inspection and approval by the stormwater administrator shall occur before the release of any performance securities.

(d) *Other permits.* No certificate of compliance or occupancy shall be issued by the zoning administrator or their designee without final as-built plans and a final inspection and approval by the stormwater administrator, except where multiple units are served by the stormwater practice or facilities, in which case the zoning administrator or their designee may elect to withhold a percentage of permits or certificates of occupancy until as-built plans are submitted and final inspection and approval has occurred.

(Ord. No. 11-0419, § 2, 4-7-11)

Sec. 24-145. - Approvals.

(a) *Effect of approval.* Approval authorizes the applicant to go forward with only the specific plans and activities authorized in the permit. The approval shall not be construed to exempt the applicant from obtaining other applicable approvals from local, state, and federal authorities.

(b) *Time limit/expiration.* An approved plan shall become null and void if the applicant fails to make substantial progress on the site within one year after the date of approval. The stormwater administrator may grant a single, one-year extension of this time limit, for good cause shown, upon receiving a written request from the applicant before the expiration of the approved plan.

In granting an extension, the stormwater administrator may require compliance with standards adopted since the original application was submitted unless there has been substantial reliance on the original permit and the change in standards would infringe the applicant's vested rights.

(Ord. No. 11-0419, § 2, 4-7-11)

Sec. 24-146. - Appeals.

Right of appeal. Any aggrieved person affected by any decision, order, requirement, or determination relating to the interpretation or application of this article made by the stormwater administrator may file an appeal to the board of adjustment within 30 calendar days after receipt of said written decision, order, requirement, or determination.

(Ord. No. 11-0419, § 2, 4-7-11)

Sec. 24-147. - General standards.

PART II - CODE OF ORDINANCES
Chapter 24 - FLOODS
ARTICLE III. - STORMWATER ORDINANCE

All development and redevelopment to which this article applies shall implement stormwater control measures that comply with each of the following standards:

(a) Required for all development or redevelopment which disturbs one acre or more of ground area ~~or any development or redevelopment which contains 20,000 square feet or more of built-upon area.~~

(b) *Stormwater treatment.*

(1) All stormwater treatment measures shall treat either:

a. the runoff volume from the disturbed area calculated utilizing the one-year, one-hour design storm rainfall depth; or

b. the difference in stormwater runoff volume between the pre- and post-development conditions for the one-year, 24-hour storm; whichever is greater.

(2) Runoff volume drawdown time shall be a minimum of 48 hours, but not more than 120 hours.

(3) All structural stormwater treatment systems used shall be designed to have a minimum of 85 percent average annual removal for total suspended solids (TSS).

(c) *Stormwater quantity control.* Discharge stormwater at a rate equal to or less than the pre-development discharge rate for both the two-year, 24-hour storm and the ten-year, 24-hour storm with the ability to pass the 25-year, 24-hour storm.

(d) General engineering design criteria for all projects shall be in accordance with 15A NCAC 2H .1008(c), as explained in the design manual.

(e) The approval of the stormwater permit shall require an enforceable restriction on property usage that runs with the land, such as recorded deed restrictions or protective covenants, to ensure that future development and redevelopment maintains the site consistent with the approved project plans. Every structural BMP installed pursuant to this ordinance shall be made accessible for adequate maintenance and repair by a maintenance easement. The easement shall be recorded and its terms shall specify who may make use of the easement and for what purposes.

(f) For best management practices that require a separation from the seasonal high water table, provide separation by at least 12 inches of naturally occurring soil above the seasonal high water table.

(Ord. No. 11-0419, § 2, 4-7-11)

Sec. 24-148. - Standards for stormwater control measures.

(a) *Evaluation according to contents of design manual.* All stormwater control measures and stormwater treatment practices (also referred to as best management practices, or BMPs) required under this article shall be evaluated by the stormwater administrator according to the policies, criteria, and information, including technical specifications and standards and the specific design criteria for each stormwater practice, in the design manual. The stormwater administrator shall determine whether proposed BMPs will be adequate to meet the requirements of this article.

(b) *Determination of adequacy; presumptions and alternatives.* Stormwater treatment practices that are designed, constructed, and maintained in accordance with the criteria and specifications in the design manual will be presumed to meet the minimum water quality and quantity performance

PART II - CODE OF ORDINANCES
Chapter 24 - FLOODS
ARTICLE III. - STORMWATER ORDINANCE

standards of this article. Whenever an applicant proposes to utilize a practice or practices not designed and constructed in accordance with the criteria and specifications in the design manual, the applicant shall have the burden of demonstrating that the practice(s) will satisfy the minimum water quality and quantity performance standards of this article. The stormwater administrator may require the applicant to provide the documentation, calculations, and examples necessary for the stormwater administrator to determine whether such an affirmative showing is made.

(Ord. No. 11-0419, § 2, 4-7-11)

Sec. 24-149. - Dedication of BMPs, facilities and improvements.

Unless otherwise approved by city council, ownership and maintenance responsibility of any existing or future stormwater management facilities shall remain with the owner of the property or a legally established property owner's association. Such facilities shall meet all the requirements of this article and include adequate and perpetual access and sufficient area, be easement or otherwise, for inspection and regular maintenance.

(Ord. No. 11-0419, § 2, 4-7-11)

Sec. 24-150. - Variances.

A variance is a means whereby the city may grant relief from the effect of this article in cases of hardship. A variance constitutes permission to depart from the literal requirements of [this article]. A variance from the dimensional requirements of this article may be granted by the board of adjustment if it finds the following:

- (1) Strict enforcement of the regulations would result in practical difficulties or unnecessary hardships to the applicant for the variance.
- (2) The variance is in harmony with the general purpose and intent of [this article] and preserves its spirit.
- (3) In the granting of the variance the public safety and welfare have been secured and substantial justice has been done. Such findings shall be based on the following considerations:
 - a. The fact that the property could be utilized more profitably or conveniently with the variance than without the variance shall not be considered as grounds for granting the variance.
 - b. The hardship relates to the applicant's property rather than to personal circumstances.
 - c. The hardship results from the application of [this article] and from no other cause, including the actions of the owner of the property or previous owners.
 - d. The hardship is peculiar to the property in question rather than a hardship shared by the neighborhood or the general public.

(Ord. No. 11-0419, § 2, 4-7-11)

Sec. 24-151. - Additional standards for special situations.

Trout waters. In addition to the standards for handling stormwater set out in the design manual, development and redevelopment that drains in whole or part to class TR waters shall design and implement the best stormwater practices that do not result in a sustained increase in receiving water temperature, while still meeting the other requirements of this article.

(Ord. No. 11-0419, § 2, 4-7-11)

Sec. 24-152. - Onsite wastewater.

(a) *Operation and maintenance requirements.* New and replaced onsite systems for domestic wastewater installed after the effective date of this article must be approved and permitted by the county health department. Both the county septic permit and documentation showing the operation and maintenance for the system are required before a certificate of occupancy may be issued.

(b) *Standards for operation and maintenance.* Onsite systems for domestic wastewater covered by this article shall be operated and maintained so as to avoid adverse effects on surface water and groundwater, including eutrophication of surface water and microbial or nitrate contamination of groundwater. Septic tank residuals shall be pumped whenever necessary to assure the proper operation of the system to meet these standards, and the septage shall be reused or disposed of in a manner that does not present significant risks to human health, surface water or groundwater.

(Ord. No. 11-0419, § 2, 4-7-11)

Sec. 24-153. - General standards for maintenance.

(a) *Function of BMPs as intended.* The owner of each structural BMP installed pursuant to this article shall maintain and operate it so as to preserve and continue its function in controlling stormwater quality and quantity at the degree or amount of function for which the structural BMP was designed.

(b) *Annual maintenance inspection and report.* The person responsible for maintenance of any structural BMP installed pursuant to this article shall submit to the stormwater administrator an inspection report from one of the following persons performing services only in their area of competence: a ~~qualified registered North Carolina professional engineer, or person certified by the North Carolina state cooperative extension service for stormwater treatment practice inspection and maintenance.~~ The inspection report shall contain all of the following:

- (1) The name and address of the land owner;
- (2) The recorded book and page number of the lot of each structural BMP;
- (3) A statement that an inspection was made of all structural BMPs;
- (4) The date the inspection was made;
- (5) A statement that all inspected structural BMPs are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this article; and
- (6) The original signature and seal (if applicable) of the qualified ~~registered North Carolina professional engineer or person certified by the North Carolina state cooperative extension service for stormwater treatment practice inspection and maintenance.~~

All inspection reports shall be on forms supplied by the stormwater administrator. An original inspection report shall be provided to the stormwater administrator beginning one year from the date of as-built certification and each year thereafter on or before the date of the as-built certification.

(Ord. No. 11-0419, § 2, 4-7-11)

Sec. 24-154. - Operation and maintenance agreement.

(a) *In general.* Prior to the conveyance or transfer of any lot or building site to be served by a

PART II - CODE OF ORDINANCES
Chapter 24 - FLOODS
ARTICLE III. - STORMWATER ORDINANCE

structural BMP pursuant to this article, and prior to issuance of any permit for development or redevelopment requiring a structural BMP pursuant to this article, the owner of the site must execute an operation and maintenance agreement that shall be binding on all subsequent owners of the site, portions of the site, and lots or parcels served by the structural BMP. Until the transference of all property, sites, or lots served by the structural BMP, the original owner shall have primary responsibility for carrying out the provisions of the maintenance agreement.

The operation and maintenance agreement shall require the owner or owners to maintain, repair and, if necessary, reconstruct the structural BMP, and shall state the terms, conditions, and schedule of maintenance for the structural BMP. In addition, it shall grant to city a right of entry in the event that the stormwater administrator has reason to believe it has become necessary to inspect, monitor, maintain, repair, or reconstruct the structural BMP; however, in no case shall the right of entry, of itself, confer an obligation on the city to assume responsibility for the structural BMP.

The operation and maintenance agreement must be approved by the stormwater administrator prior to plan approval, and it shall be referenced on the final plat, if required, and shall be recorded with the county register of deeds. A copy of the recorded maintenance agreement shall be given to the stormwater administrator within 14 days following its recordation.

(b) *Special requirement for homeowners' and other associations.* For all structural BMPs required pursuant to this article and that are to be or are owned and maintained by a homeowners' association, property owners' association, or similar entity, the required operation and maintenance agreement shall include all of the following provisions:

- (1) Acknowledgment that the association shall continuously operate and maintain the stormwater control and management facilities.
- (2) Establishment of an escrow account, which can be spent solely for sediment removal, structural, biological or vegetative replacement, major repair, or reconstruction of the structural BMPs. If structural BMPs are not performing adequately or as intended or are not properly maintained, the city, in its sole discretion, may remedy the situation, and in such instances the City of Hendersonville shall be fully reimbursed from the escrow account. Escrowed funds may be spent by the association for sediment removal, structural, biological or vegetative replacement, major repair, and reconstruction of the structural BMPs, provided that the city shall first consent to the expenditure.
- (3) Both developer contribution and annual sinking funds shall fund the escrow account. Prior to plat recordation or issuance of construction permits, whichever shall first occur, the developer shall pay into the escrow account an amount equal to 15 percent of the initial construction cost of the structural BMPs. Two-thirds of the total amount of sinking fund budget shall be deposited into the escrow account within the first five years and the full amount shall be deposited within ten years following initial construction of the structural BMPs. Funds shall be deposited each year into the escrow account. A portion of the annual assessments of the association shall include an allocation into the escrow account. Any funds drawn down from the escrow account shall be replaced in accordance with the schedule of anticipated work used to create the sinking fund budget.
- (4) The percent of developer contribution and lengths of time to fund the escrow account may be varied by the city depending on the design and materials of the stormwater control and management facility.
- (5) Granting to the city a right of entry to inspect, monitor, maintain, repair, and reconstruct structural BMPs.

PART II - CODE OF ORDINANCES
Chapter 24 - FLOODS
ARTICLE III. - STORMWATER ORDINANCE

(6) Allowing the city to recover from the association and its members any and all costs the city expends to maintain or repair the structural BMPs or to correct any operational deficiencies. Failure to pay the city all of its expended costs, after 45 days' written notice, shall constitute a breach of the agreement. In case of a deficiency, the city shall thereafter be entitled to bring an action against the association and its members to pay, or foreclose upon the lien hereby authorized by the agreement against the property, or both. Interest, collection costs, and attorney fees shall be added to the recovery.

(7) A statement that this agreement shall not obligate the city to maintain or repair any structural BMPs, and the city shall not be liable to any person for the condition or operation of structural BMPs.

(8) A statement that this agreement shall not in any way diminish, limit, or restrict the right of the city to enforce any of its ordinances as authorized by law.

(9) A provision indemnifying and holding harmless the City of Hendersonville for any costs and injuries arising from or related to the structural BMP, unless the city has agreed in writing to assume the maintenance responsibility for the BMP and has accepted dedication of any and all rights necessary to carry out that maintenance.

(Ord. No. 11-0419, § 2, 4-7-11)

Sec. 24-155. - Inspection program.

Inspections and inspection programs by the city may be conducted or established on any reasonable basis, including but not limited to routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in BMPs; and evaluating the condition of BMPs.

If the owner or occupant of any property refuses to permit such inspection, the stormwater administrator shall proceed to obtain an administrative search warrant pursuant to G.S. 15-27.2 or its successor. No person shall obstruct, hamper or interfere with the stormwater administrator while carrying out his or her official duties.

(Ord. No. 11-0419, § 2, 4-7-11)

Sec. 24-156. - Performance security for installation and maintenance.

(a) *May be required.* The City of Hendersonville may, at its discretion, require the submittal of a performance security or bond with surety, cash escrow, letter of credit or other acceptable legal arrangement prior to issuance of a permit in order to ensure that the structural BMPs are

(1) Installed by the permit holder as required by the approved stormwater management plan; and/or

(2) Maintained by the owner as required by the operation and maintenance agreement.

This requirement may be instituted in addition to and in conjunction with other performance security or bond requirements the city may require in conjunction with a subdivision or development plan.

(b) *Amount.*

(1) *Installation.* The amount of an installation performance security shall be the total estimated construction cost of the BMPs approved under the permit, plus 25 percent.

PART II - CODE OF ORDINANCES
Chapter 24 - FLOODS
ARTICLE III. - STORMWATER ORDINANCE

(2) *Maintenance.* The amount of a maintenance performance security shall be the present value of an annuity of perpetual duration based on a reasonable estimate of the annual cost of inspection, operation and maintenance of the BMPs approved under the permit, at a discount rate that reflects the jurisdiction's cost of borrowing minus a reasonable estimate of long-term inflation.

(c) *Uses of performance security.*

(1) *Forfeiture provisions.* The performance security shall contain forfeiture provisions for failure, after proper notice, to complete work within the time specified, or to initiate or maintain any actions which may be required of the owner in accordance with this article, approvals issued pursuant to this article, or an operation and maintenance agreement established pursuant to this article.

(2) *Default.* Upon default of the owner to construct, maintain, repair and, if necessary, reconstruct any structural BMP in accordance with the applicable permit or operation and maintenance agreement, the stormwater administrator shall obtain and use all or any portion of the security to make necessary improvements based on an engineering estimate. Such expenditure of funds shall only be made after requesting the owner to comply with the permit or maintenance agreement. In the event of a default triggering the use of installation performance security, the city shall not return any of the unused deposited cash funds or other security, which shall be retained for maintenance.

(3) *Costs in excess of performance security.* If the city takes action upon such failure by the owner, the city may collect from the owner the difference between the amount of the reasonable cost of such action and the amount of the security held, in addition to any other penalties or damages due.

(4) *Refund.* Within 60 days of the final approval, the installation performance security shall be refunded to the owner or terminated, except any amount attributable to the cost (plus 25 percent) of landscaping installation and ongoing maintenance associated with the BMPs covered by the security. Any such landscaping shall be inspected one year after installation with replacement for compliance with the approved plans and specifications and, if in compliance, the portion of the financial security attributable to landscaping shall be released.

(Ord. No. 11-0419, § 2, 4-7-11)

Sec. 24-157. - Notice to owners.

(a) *Deed recordation and indications on plat.* The applicable operations and maintenance agreement pertaining to every structural BMP shall be referenced on the final plat, if required, and shall be recorded with the county register of deeds. If no subdivision plat is recorded for the site, then the operations and maintenance agreement shall be recorded with the county Register of Deeds so as to appear in the chain of title of all subsequent purchasers under generally accepted searching principles.

(b) *Signage.* For homeowner's and other associations, and where appropriate in the determination of the stormwater administrator to assure compliance with this article, structural BMPs shall be posted with a conspicuous sign stating who is responsible for required maintenance and annual inspection. The sign shall be maintained so as to remain visible and legible.

(Ord. No. 11-0419, § 2, 4-7-11)

Sec. 24-158. - Records of installation and maintenance activities.

The owner of each structural BMP shall keep records of inspections, maintenance, and repairs for at

PART II - CODE OF ORDINANCES
Chapter 24 - FLOODS
ARTICLE III. - STORMWATER ORDINANCE

least five years from the date of creation of the record and shall submit the same upon reasonable request to the stormwater administrator.

(Ord. No. 11-0419, § 2, 4-7-11)

Sec. 24-159. - Nuisance.

The owner of each stormwater BMP, whether structural or nonstructural BMP, shall maintain it so as not to create or result in a nuisance condition.

(Ord. No. 11-0419, § 2, 4-7-11)

Sec. 24-160. - General enforcement and violations.

(a) *Authority to enforce.* The provisions of this article shall be enforced by the stormwater administrator, his or her designee, or any authorized agent of the city. Whenever this section refers to the stormwater administrator, it includes his or her designee as well as any authorized agent of the city.

(b) *Violation unlawful.* Any failure to comply with applicable requirements, prohibitions, standards, or limitations imposed by this article, or the terms or conditions of any permit, maintenance agreement, or other development or redevelopment approval or authorization granted pursuant to this article, is unlawful and shall constitute a violation of this article and is subject to the same civil or criminal penalties as other city Code (see section 1-6 of this Code) violations, with each day that a violation continues constituting a separate offense. Each day that a violation continues shall constitute a separate and distinct violation or offense.

(c) *Responsible persons/entities.* Any person who erects, constructs, reconstructs, alters (whether actively or passively), or fails to erect, construct, reconstruct, alter, repair or maintain any structure, BMP, practice, or condition in violation of this article shall be subject to the remedies, penalties, and/or enforcement actions in accordance with this section. Persons subject to the remedies and penalties set forth herein may include any architect, engineer, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that results in or constitutes a violation of this article, or fails to take appropriate action, so that a violation of this article results or persists; or an owner, any tenant or occupant, or any other person, who has control over, or responsibility for, the use or development of the property on which the violation occurs.

For the purposes of this article, responsible person(s) shall include but not be limited to:

(1) *Person maintaining condition resulting in or constituting violation.* An architect, engineer, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that constitutes a violation of this article, or fails to take appropriate action, so that a violation of this article results or persists.

(2) *Responsibility for land or use of land.* The owner of the land on which the violation occurs, any tenant or occupant of the property, any person who is responsible for stormwater controls or practices pursuant to a private agreement or public document, or any person, who has control over, or responsibility for, the use, development or redevelopment of the property.

(Ord. No. 11-0419, § 2, 4-7-11)

Sec. 24-161. - Remedies and penalties.

The remedies and penalties provided for violations of this article, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.

PART II - CODE OF ORDINANCES
Chapter 24 - FLOODS
ARTICLE III. - STORMWATER ORDINANCE

(a) *Remedies.*

(1) *Withholding of certificate of occupancy.* The stormwater administrator or other authorized agent may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site and served by the stormwater practices in question until the owner or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.

(2) *Disapproval of subsequent permits and development approvals.* As long as a violation of this article continues and remains uncorrected, the stormwater administrator or other authorized agent may withhold, and the approving body may disapprove, any request for permit or development approval or authorization provided for by this article or the zoning, and/or subdivision regulations, as appropriate for the land on which the violation occurs.

(3) *Injunction, abatements, etc.* The stormwater administrator may institute an action in a court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement to correct a violation of this article. Any person violating this article shall be subject to the full range of equitable remedies provided in the General Statutes or at common law.

(4) *Correction as public health nuisance, costs as lien, etc.* If the violation is deemed dangerous or prejudicial to the public health or public safety and is within the geographic limits prescribed by G.S. 160A-193, the stormwater administrator, may cause the violation to be corrected and the costs to be assessed as a lien against the property.

(b) *Civil penalties.* Violation of this article may subject the violator to a civil penalty to be recovered in a civil action in the nature of a debt if the violator does not pay the penalty within 30 days after notice of the violation is issued by the stormwater administrator. civil penalties may be assessed up to the full amount of penalty to which the city is subject for violations of its phase II stormwater permit, or if no phase II stormwater permit exists for the jurisdiction, civil penalties may be assessed up to the full amount allowed by law.

(c) *Criminal penalties.* Violation of this article may be enforced as a misdemeanor subject to the maximum fine permissible under North Carolina law.

(Ord. No. 11-0419, § 2, 4-7-11)

Sec. 24-162. - Enforcement procedures.

(a) *Initiation/complaint.* Whenever a violation of this article occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint shall state fully the alleged violation and the basis thereof, and shall be filed with the stormwater administrator, who shall record the complaint. The complaint shall be investigated promptly by the stormwater administrator.

(b) *Inspection.* The stormwater administrator shall have the authority, upon presentation of proper credentials, to enter and inspect any land, building, structure, or premises to ensure compliance with this article.

(c) *Notice of violation and order to correct.* When the stormwater administrator finds that any building, structure, or land is in violation of this article, the stormwater administrator shall notify, in writing, the property owner or other person violating this article. The notification shall indicate the nature of the violation, contain the address or other description of the site upon which the violation is occurring, order the necessary action to abate the violation, and give a deadline for correcting the violation. If civil penalties are to be assessed, the notice of violation shall also contain a statement of the civil penalties to be

PART II - CODE OF ORDINANCES
Chapter 24 - FLOODS
ARTICLE III. - STORMWATER ORDINANCE

assessed, the time of their accrual, and the time within which they must be paid or be subject to collection as a debt.

The stormwater administrator may deliver the notice of violation and correction order personally, by certified or registered mail, return receipt requested, or by any means authorized for the service of documents by Rule 4 of the state Rules of Civil Procedure.

If a violation is not corrected within a reasonable period of time, as provided in the notification, the stormwater administrator may take appropriate action under this article to correct and abate the violation and to ensure compliance with this article.

(d) *Extension of time.* A person who receives a notice of violation and correction order, or the owner of the land on which the violation occurs, may submit to the stormwater administrator a written request for an extension of time for correction of the violation. On determining that the request includes enough information to show that the violation cannot be corrected within the specified time limit for reasons beyond the control of the person requesting the extension, the stormwater administrator may extend the time limit as is reasonably necessary to allow timely correction of the violation. The stormwater administrator may grant time extensions in addition to the foregoing extension if the violation cannot be corrected within the permitted time due to circumstances beyond the control of the person violating this article. The stormwater administrator may grant an extension only by written notice of extension. The notice of extension shall state the date prior to which correction must be made, after which the violator will be subject to the penalties described in the notice of violation and correction order.

(e) *Enforcement after time to correct.* After the time has expired to correct a violation, including any extension(s) if authorized by the stormwater administrator, the stormwater administrator shall determine if the violation is corrected. If the violation is not corrected, the stormwater administrator may act to impose one or more of the remedies and penalties authorized by this article.

(f) *Emergency enforcement.* If delay in correcting a violation would seriously threaten the effective enforcement of this article or pose an immediate danger to the public health, safety, or welfare, then the stormwater administrator may order the immediate cessation of a violation. Any person so ordered shall cease any violation immediately. The stormwater administrator may seek immediate enforcement, without prior written each day that a violation continues shall constitute a separate and distinct violation or offense notice, through any remedy or penalty authorized by this article.

(Ord. No. 11-0419, § 2, 4-7-11)

Sec. 24-163. - Illicit discharges and connections.

(a) *Illicit discharges.* No person shall cause or allow the discharge, emission, disposal, pouring, or pumping directly or indirectly to any stormwater conveyance, the waters of the state, or upon the land in manner and amount that the substance is likely to reach a stormwater conveyance or the waters of the state, any liquid, solid, gas, or other substance, other than stormwater; provided that non-stormwater discharges associated with the following activities are allowed and provided that they do not significantly impact water quality:

- (1) Water line flushing; (2)
Landscape irrigation;
- (3) Diverted stream flows;
- (4) Rising ground waters;

PART II - CODE OF ORDINANCES
Chapter 24 - FLOODS
ARTICLE III. - STORMWATER ORDINANCE

- (5) Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20));
- (6) Uncontaminated pumped ground water;
- (7) Discharges from potable water sources;
- (8) Foundation drains;
- (9) Air conditioning condensation;
- (10) Irrigation water;
- (11) Springs;
- (12) Water from crawl space pumps;
- (13) Footing drains;
- (14) Lawn watering;
- (15) Individual residential car washing;
- (16) Flows from riparian habitats and wetlands;
- (17) Dechlorinated swimming pool discharges;
- (18) Street wash water; and
- (19) Other non-stormwater discharges for which a valid NPDES discharge permit has been approved and issued by the state, and provided that any such discharges to the municipal separate storm sewer system shall be authorized by the city.

Prohibited substances include but are not limited to: oil, anti-freeze, chemicals, animal waste, paints, garbage, and litter.

(b) *Illicit connections.*

- (1) Connections to a stormwater conveyance or stormwater conveyance system that allow the discharge of non-stormwater, other than the exclusions described in subsection (a) above, are unlawful. Prohibited connections include, but are not limited to: floor drains, waste water from washing machines or sanitary sewers, wash water from commercial vehicle washing or steam cleaning, and waste water from septic systems.
- (2) Where such connections exist in violation of this section and said connections were made prior to the adoption of this provision or any other ordinance prohibiting such connections, the property owner or the person using said connection shall remove the connection within one year following the effective date of this article. However, the one-year grace period shall not apply to connections which may result in the discharge of hazardous materials or other discharges which pose an immediate threat to health and safety, or are likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat.
- (3) Where it is determined that said connection:
 - a. May result in the discharge of hazardous materials or may pose an immediate threat to health and safety, or is likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat; or

PART II - CODE OF ORDINANCES
Chapter 24 - FLOODS
ARTICLE III. - STORMWATER ORDINANCE

b. Was made in violation of any applicable regulation or ordinance, other than this section;

The stormwater administrator shall designate the time within which the connection shall be removed. In setting the time limit for compliance, the stormwater administrator shall take into consideration:

1. The quantity and complexity of the work,
2. The consequences of delay,
3. The potential harm to the environment, to the public health, and to public and private property, and
4. The cost of remedying the damage.

(c) *Spills*. Spills or leaks of polluting substances released, discharged to, or having the potential to be released or discharged to the stormwater conveyance system, shall be contained, controlled, collected, and properly disposed. All affected areas shall be restored to their preexisting condition.

Persons in control of the polluting substances immediately prior to their release or discharge, and persons owning the property on which the substances were released or discharged, shall immediately notify the city of the release or discharge, as well as making any required notifications under state and federal law. Notification shall not relieve any person of any expenses related to the restoration, loss, damage, or any other liability which may be incurred as a result of said spill or leak, nor shall such notification relieve any person from other liability which may be imposed by state or other law.

(d) *Nuisance*. Illicit discharges and illicit connections which exist within the city extraterritorial jurisdiction are hereby found, deemed, and declared to be dangerous or prejudiced to the public health or public safety and are found, deemed, and declared to be public nuisances. Such public nuisances shall be abated in accordance with the procedures set forth in section 26-39 of this Code.

(Ord. No. 11-0419, § 2, 4-7-11)



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

Submitted By: Brian D. Pahle

Department: Admin

Date Submitted: 09/09/15

Presenter: N/A

Date of Council Meeting to consider this item: 10/01/15

Nature of Item: Council Action

Summary of Information/Request:

Item # 13

An agenda item which will revise the City Personnel Policy addressing compensatory time provisions (Article III, Sec. 12). The following memo provides an overview of the revisions and purpose.

Budget Impact: \$ _____ Is this expenditure approved in the current fiscal year budget? ^{N/A} If no, describe how it will be funded.

The budget impact is unknown at this point. It is estimated that the impact will be less than \$175,000.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

I move to approve the personnel policy revisions as presented.

Attachments:

See below...

TO: MAYOR VOLK & CITY COUNCIL
RE: COMPENSATORY TIME REVISIONS
DATE: 8/18/2015
FROM: BRIAN D PAHLE
CC: JOHN CONNET & DEPARTMENT HEADS

Compensatory Time

An arrangement by which eligible employees are entitled to time off in lieu of overtime pay.

What are the Current Guidelines?

Understanding the Regulations (FLSA)

- Overtime is considered excess of...
 - Regular Employees = 40 hours, in a 7-day period
 - Sworn Police = 171 hours, in a 28-day cycle
 - Fire Personnel = 212 hours, in a 28-day cycle
- Only “Non-Exempt” employees are eligible for overtime or compensatory time
 - There are tests used to determine if an employee is “exempt” or “non-exempt”
- Employees will be compensated for overtime worked by “one and one-half” hours of compensatory time or pay

Understanding the Regulations (City Personnel Policy)

- Limits on Maximum Accrued Comp. Time
 - Regular Employees = 240 Hours Max (Accrual)
 - Sworn Police and Fire Personnel = 480 Hours Max (Accrual)

Issues with Current Guidelines

An employee is able to build compensatory time without being required to use it. Additionally, current workload and staffing levels prohibit departments from forcing employees to take compensatory time.

- Allows employees to get paid at a higher rate than the rate at which they earned the comp. time
 - Example: Employee X acquires 134 hours of comp. time at \$33,400 salary
Employee X retires after 25 years at \$52,432 salary
City pays \$5,066 for work completed at \$3,228 rate
- Creates a large unfunded liability for the City over time
 - Current Unfunded Liability \approx \$180,000
- Hides the real personnel costs of overtime for Departments
 - Knowing the cost will justify and enhance decision-making when creating new positions

Recommendation

- ❑ Revise the City Personnel Policy as follows (Art. III Sec. 12)...

Non-exempt employees will be paid at a straight time rate for hours up to the FLSA established limit for their position (usually 40 hours in a 7-day period; 171 hours for police and 212 hours for fire personnel in a 28 day cycle). Hours worked beyond the FLSA established limit will be compensated in either time or pay at the appropriate overtime rate. In determining eligibility for overtime in a work period, only hours actually worked shall be considered; in no event will vacation, sick leave, or holidays be included in the computation of hours worked for FLSA purposes. Compensatory leave balances may not exceed 240 hours except for public safety employees (sworn police and firefighting employees) who may not accrue more than 480 hours. Any overtime worked after such maximum balances must be compensated in pay. Employees are required to use or be paid for compensatory time before the start of each fiscal year, by June 30th. Any unused compensatory time will be paid out, in accordance with FLSA standards, upon the last pay period for the fiscal year. Departments 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. Whenever practicable, departments will schedule time off on an hour-for-hour basis within the applicable work period for non-exempt employees, instead of paying overtime. ~~When time off within the work period cannot be granted, overtime worked will be paid in accordance with the FLSA. Compensatory time balances may be carried by employees not to exceed 240 hours for regular employees and 480 hours for police and fire employees.~~

Employees in positions determined to be “exempt” from the FLSA (as Executive, Administrative or Professional staff) will not receive pay for hours worked in excess of their normal work periods. These employees may be granted ~~compensatory leave~~ flexible time by their supervisor on an hour for hour basis where the convenience of the department allows, ~~and in accordance with procedures established by the City Manager.~~ Such ~~compensatory~~ flexible-time is not guaranteed to be taken and ends without compensation upon separation from the organization.

- ❑ Rescind the “Guidelines for Use of Flex Time by Department Heads and Management Team Members” Policy

The Bottom Line

These revisions will create equity across the organization and lessen City risk. This will require the City to pay for the liability now rather than later. We recommend paying this out upon year end and getting out from under this unfunded liability. The following is a five-year projection if the liability is not paid...

5-Year Increase					
	\$ Increase	\$18,698			
	% Increase	10.38%			
	FY15-16	FY16-17	FY17-18	FY18-19	FY19-18
Governmental Funds	\$ 83,137.46	\$ 85,215.90	\$ 87,346.30	\$ 89,529.96	\$ 91,768.20
Enterprise Funds	\$ 96,975.34	\$ 99,399.72	\$ 101,884.72	\$ 104,431.83	\$ 107,042.63
Total	\$ 180,112.80	\$ 184,615.62	\$ 189,231.01	\$ 193,961.79	\$ 198,810.83



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

Submitted By: Tammie Drake

Department: Admin

Date Submitted: 09/23/15

Presenter: Tammie Drake

Date of Council Meeting to consider this item: 10/01/15

Nature of Item: Council Action

Summary of Information/Request:

Item # 16

Historic Preservation Committee: The term of three members on the Historic Preservation Committee will expire in November: Mia Freeman, Cheryl Jones, and Charles Reed. All three would like to continue serving.

Reminder: ENVIRONMENTAL SUSTAINABILITY BOARD: The ESB consists of five City residents and up to four additional members residing outside the City may be appointed for their particular areas of expertise. The ESB has two vacant City positions.

Announcements/Upcoming Appointments:

Planning Board: The term of Ben Pace will expire December 1, 2015. Mr. Pace would like to be considered for reappointment. This will be on your November agenda for consideration.

Tree Board: Two members on the Tree Board, David Wilson and Alex Rodriguez, were not available to attend the required number of meetings as specified in the Ordinance (Section 46-147 of the Code of Ordinances), You have received an application from Mia Freeman to serve on the Tree Board.

Budget Impact: \$ n/a Is this expenditure approved in the current fiscal year budget? N/A If no, describe how it will be funded.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

i nominate ... for a three-year term on the Historic Preservation Commission. This term will expire 11-01-18.

Attachments:

board membership lists, applications



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

Submitted By: John Connet

Department: Admin

Date Submitted: 9/23/2015

Presenter: John Connet

Date of Council Meeting to consider this item: 10/01/2015

Nature of Item: Discussion/Staff Direction

Summary of Information/Request:

Item # 18

City Manager John Connet requests a closed session in accordance with NCGS 143-318.11(a) (5) to establish or instruct he staff concerning the position to be taken by or on behalf of the City Council on negotiating for the acquisition of real property.

Budget Impact: \$ TBD Is this expenditure approved in the current fiscal year budget? N/A If no, describe how it will be funded.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

I move that the City Council enter closed session in accordance with 143-318.11 (11)(5) to establish or instruct he staff concerning the position to be taken by or on behalf of the City Council on negotiating for the acquisition of real property.

Attachments:

None