



# MINUTES

July 7, 2022

REGULAR MEETING OF THE CITY COUNCIL [ELECTRONIC]  
CITY OPERATIONS CENTER | 305 WILLIAMS ST. | 5:45 p.m.

Present: Mayor Barbara G. Volk and Council Members: Mayor Pro Tem Lyndsey Simpson, Dr. Jennifer Hensley, and Debbie O'Neal-Roundtree

Participating Remotely: Jerry A. Smith Jr., J.D.

Staff Present: City Manager John F. Connet, Assistant City Manager Brian Pahle, City Attorney Angela Beeker, City Clerk Angela Reece, Communications Manager Allison Justus, Budget Manager Adam Murr, and others

## 1. CALL TO ORDER

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

## 2. INVOCATION AND PLEDGE OF ALLEGIANCE TO THE FLAG

The City Council observed a moment of silence for prayer or reflection followed by the Pledge of Allegiance to the Flag.

## 3. PUBLIC COMMENT *Up to 15 minutes is reserved for comments from the public not listed on the agenda.*

Lynn Williams addressed City Council regarding the Washburn tract and sustainability in the community. Ms. Williams expressed concerns regarding tree canopy loss and increasing temperatures.

## 4. CONSIDERATION OF AGENDA

*Council Member Jerry A. Smith Jr., J.D. moved that Council remove item 9B, Municipal Service District Noise Ordinance, and place it on their August 4, 2022 meeting to allow more time to speak with affected business owners. A unanimous roll-call vote of the Council followed. Motion carried.*

*Council Member Debbie O'Neal-Roundtree moved that City Council approve the agenda as amended. A unanimous roll-call vote of the Council followed. Motion carried.*

## 5. CONSENT AGENDA

### A. Adoption of City Council Minutes – Angela L. Reece, City Clerk

*I move that City Council approve the minutes of adopt the minutes of the May 25, 2022, Second Monthly Meeting, and June 2, 2022 Regular Meeting.*

### B. Annexation: Certificate of Sufficiency- Crest Road (Army Corps. of Engineers) (C22-43-ANX) – Tyler Morrow, Planner II

*I move Council to accept the City Clerk's Certificate of Sufficiency for the petition submitted by Ralph J. Werthmann- Army Corps of Engineers- Savannah District and set August 4th, 2022, as the date for public hearing.*

**Resolution #R-22-75**

## RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-58.2

**WHEREAS**, a petition requesting annexation of the satellite area described herein has been received; and

**WHEREAS**, certification by the City Clerk as to the sufficiency of the petition has been made;

**NOW, THEREFORE BE IT RESOLVED**, by the City Council of the City of Hendersonville, North Carolina that:

**Section 1.** A public hearing on the question of annexation of the satellite area described herein will be held at City Operations Center located at 305 William St. Hendersonville NC, 28792 at 5:45 p.m. August 4<sup>th</sup>, 2022, or as soon thereafter as it may be heard.

**Section 2.** The area proposed for annexation is described as follows:

BEING all of that real property consisting of PIN 9587-68-8771 described in the plat recorded in Book 2022 - \_\_\_\_ [to be inserted at recording of the plat] of the Henderson County Registry, said PIN 9587-68-8771 being described by metes and bounds as follows:

A legal description of an existing tract of land containing 20.603 acres situated in Blue Ridge Township, Henderson County, North Carolina and being the tract of land now or formerly owned by United States of America as described in Deed Book 3904, Pages 139-142 and being the property identified as Henderson County Tax PIN # 9587688771 and being more fully described as follows:

Beginning at the **Point of Beginning (POB)** at a magnetic nail set in the centerline of Crest Road (SR1803) at the southwestern corner of the subject property and having (NAD 83/2011) North Carolina grid coordinates of North 578,010.020 feet, East 986,549.356 feet and being located N32°00'04"W and a grid distance of 4,930.99 feet from NGS monument "DEND" (PID:DG4651) with the published (NAD83/2011) North Carolina grid coordinates of North 573827.40 feet, East 989163.05 feet; thence from the **POB** and with the line of now or formerly (N/F) Bobby Ramey and wife, Wendy H. Ramey (DB 3384, PG 712; DB 1173, PG 1) N06°10'46"E a distance of 707.56 feet to a 3/4" iron pipe found; thence continuing with the Ramey line N53°49'25"W a distance of 314.22 feet to an iron axle found, a common corner between Ramey and N/F Jeffery C. Justus (DB 700, PG 854); thence with Justus line N53°27'04"W a distance of 81.78 feet to an 3/4" iron pipe found beside a stone and being a common corner between Jeffery C. Justus and N/F Boyd L. Hyder (DB 1157, PG 751); thence along the Hyder line N14°35'43"E a distance of 473.78 feet to a 1/2" iron pipe found in a ditch and being also a corner for N/F Henderson County Board of Public Education (DB 824, PG 216); thence with the Henderson County Board of Public Education line S65°43'08"E a distance of 1,014.61 feet to a 1/2" iron pipe found; thence continuing and passing through a corner for the Henderson County Board of Public Education and along the line of N/F Douglas Nichols and Cathy Nichols (DB 1165, PG 213) S54°51'37"E a distance of 253.37 feet to a magnetic nail set in the centerline of Crest Road (SR 1804); thence along the centerline of Crest Road the following nine (9) courses:

- (1) S41°25'14"W a distance of 27.75 feet to a computed point,
- (2) thence along a curve to the left with an arc length of 217.51 feet having a radius of 2,065.79 feet and a chord bearing of S38°24'15"W and chord distance of 217.41 feet to a computed point,
- (3) thence along a tangent S35°23'16"W a distance of 295.16 feet to a computed point,
- (4) thence along a tangent S36°18'13"W a distance of 77.31 feet to a computed point,
- (5) thence along a curve to the right with an arc length of 195.34 feet having a radius of 671.75 feet and a chord bearing of S44°38'11"W and chord distance of 194.65 feet to a computed point,
- (6) thence along a tangent S52°58'01"W a distance of 46.25 feet to a computed point,
- (7) thence along a curve to the right with an arc length of 163.56 feet having a radius of 654.19 feet, and a chord bearing of S60°07'46"W and chord distance of 163.13 feet to a computed point,
- (8) thence continuing along a curve to the right with the arc length of 157.98 feet having a radius of 1876.45 feet, and a chord bearing of S69°42'14"W and chord distance of 157.94 feet to a computed point,
- (9) thence continuing along a curve to the right with the arc length of 178.98 feet having a radius of 843.77 feet, and a chord bearing of S78°11'34"W and chord distance of 178.65 feet to a magnetic nail set in the centerline of Crest Road (SR1803) and being the **POB** and containing 20.603 acres more or less and more completely shown on a unrecorded map entitled Satellite Annexation Plat for: "The City of Hendersonville" dated May 24, 2022 by Joyner Keeny, PLLC of Rocky Mount, North Carolina. All distances are ground horizontal distances in U.S. Survey Feet, unless otherwise noted.

Re: Petition for Satellite Annexation

Petitioners: United States of America- Ralph J. Werthmann, Army Corps of Engineers-  
Savannah District

File No. C22-43-ANX

**Section 3.** Notice of the public hearing shall be published once in The Hendersonville Times-News, a newspaper having general circulation in the City of Hendersonville, at least 10 days prior

to the date of the public hearing.

Adopted by the City Council of the City of Hendersonville, North Carolina this 7<sup>th</sup> day of July 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

**C. Contract Award – Comprehensive Multi-Functional Copier/Printing Cost per Copy and Copy Management Service Leasing Agreement – Angela Reece, City Clerk**

*I move City Council adopt the Resolution by the City of Hendersonville City Council to Authorize the City Manager to Enter into a Contract for Comprehensive Multi-Functional Copier/Printing Cost per Copy and Copy Management Service Leasing Agreement as presented.*

**Resolution #R-22-76**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO  
AUTHORIZE THE CITY MANAGER TO ENTER INTO A CONTRACT FOR  
COMPREHENSIVE MULTI-FUNCTIONAL COPIER/PRINTING COST PER COPY AND  
COPY MANAGEMENT SERVICE LEASING AGREEMENT**

**WHEREAS**, the City solicited proposals for cost per copy services and received two responses on November 12, 202; and

**WHEREAS**, the City's Technology Committee reviewed each proposal for completeness and accuracy determining RICCOH USA Inc., to have provided the lowest responsive, responsible proposal; and

**WHEREAS**, the proposal received is determined to be within budget.

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Hendersonville, North Carolina that:

1. The proposal for *Comprehensive Multi-Functional Copier/Printing Cost per Copy and Copy Management Service Leasing Agreement* is awarded to RICCOH USA Inc, the lowest responsive and responsible proposal at a cost of \$0.0411 per copy for black and white (35,000 per month minimum) and \$0.0646 per copy for color (15,000 per month minimum) for a term of five years.
2. The City Manager is authorized to execute a service agreement and contract to provide a copying service consistent with the terms of this resolution.

Adopted by the City Council of the City of Hendersonville, North Carolina this 7<sup>th</sup> day of July 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

**D. Resolution Ratifying the Signing of Revised Automatic Aid Agreements with Dana, Blue Ridge, Valley Hill and Mountain Home Rural Fire Protection Districts – John Connet, City Manager**

*I move that the City Council adopt the resolution ratifying the City Manager's signing of the revised Automatic Aid Agreements with Dana, Blue Ridge, Valley Hill and Mountain Home Rural Fire Protection Districts.*

**Resolution #R-22-77**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL RATIFYING  
THE EXECUTION OF REVISED AUTOMATIC AID AGREEMENTS WITH DANA, BLUE  
RIDGE, VALLEY HILL AND MOUNTAIN HOME RURAL FIRE PROTECTION  
DISTRICTS**

**WHEREAS**, the North Carolina General Assembly has enacted Chapter 58, Section 83-1 of the North Carolina General Statutes authorizing automatic aid assistance agreements between the City of Hendersonville Fire Department and adjoining Rural Fire Protection Districts (Districts); and

**WHEREAS**, the City of Hendersonville has the authority to annex real property into the municipal limits of the City, including properties located within Rural Fire Protection Districts; and

**WHEREAS**, when property located within the Rural Fire Protection Districts are annexed by the City of Hendersonville, any such property ceases to be a part of the Districts and ceases to be subject to the fire district tax for the Districts, resulting in lost revenue; and

**WHEREAS**, the City Council directed staff to amend the current automatic aid agreements to compensate the Rural Fire Protection Districts for lost revenue due to annexation by the City of Hendersonville; and

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Hendersonville, North Carolina that:

The City Manager is authorized to enter into revised automatic aid agreements with Dana, Blue Ridge, Valley Hill and Mountain Home Rural Fire Protection Districts. Adopted by the City Council of the City of Hendersonville, North Carolina this 7<sup>th</sup> day of July 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

**E. Resolution Authorizing the City Manager to Enter into a Contract with Ahkirah Legal and Diversity Consulting – John Connet, City Manager**

*I move the adoption of the resolution authorizing the City Manager to enter into a contract with Ahkirah Legal and Diversity Consulting.*

**Resolution #R-22-78**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO  
AUTHORIZE THE CITY MANAGER TO ENTER INTO A CONTRACT WITH AHKIRAH  
LEGAL AND DIVERSITY CONSULTANTS**

**WHEREAS**, advertised for consultant proposals to assist the City of Hendersonville with Diversity, Equity and Inclusion (DEI) efforts; and

**WHEREAS**, the City of Hendersonville received nine proposals from consulting companies who specialize in DEI work; and

**WHEREAS**, following an extensive evaluation of all proposals by internal and external stakeholders the selection committee recommend the hiring of Ahkirah Legal and Diversity Consultants.

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Hendersonville, North Carolina that:

The City Manager is authorized to enter into a contract with Ahkirah Legal and Diversity Consultants to assist with the development of a comprehensive Diversity, Equity and Inclusion Program in the amount not to exceed \$147,500, as presented.

Adopted by the City Council of the City of Hendersonville, North Carolina this 7<sup>th</sup> day of July 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

**F. Resolution Designating The City's Zoning Administrator and Code Enforcement Officer(s) – Lew Holloway, Community Development Director**

*I move City Council ADOPT a resolution designating the Community Development Director as the City's Zoning Administrator. Furthermore, that the resolution also designates the Community Development Director and Zoning Enforcement Officer(s) as the City's Code Enforcement Officer(s).*

**Resolution #R-22-79**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL DESIGNATING THE CITY'S ZONING ADMINISTRATOR & CODE ENFORCEMENT OFFICER(S)**

**WHEREAS**, the Zoning Administrator and Code Enforcement Officer(s) have defined roles within the City's Code of Ordinances, Zoning Code and Subdivision Code in the areas of enforcement and implementation of parts or all of these code requirements; and

**WHEREAS**, the City of Hendersonville wishes to associate these responsibilities with specific job titles as designated within the City's employment classification system; and

**WHEREAS**, the City of Hendersonville's recent updates and modification to this classification system and associated job descriptions necessitates establishing these roles by resolution;

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Hendersonville, North Carolina that:

3. The City of Hendersonville does designate the Community Development Director as the City's Zoning Administrator with all associated rights and responsibilities conveyed to whomever occupies that position within the organization.
4. Furthermore, the City of Hendersonville does designate the Community Development Director and Zoning Enforcement Officer(s) as the City's Code Enforcement Officer(s) with all associated rights and responsibilities conveyed to whomever occupies those positions within the organization.

Adopted by the City Council of the City of Hendersonville, North Carolina this 7<sup>th</sup> day of July 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

**G. Resolution to Approve Agreement for Bridge Inspections Services NCDOT – Tom Wooten, Public Works Director**

*I move that City Council adopt the Resolution to Authorize The City Manager to Execute an Agreement to Enter Into A Ten-Year Agreement With The North Carolina Department Of Transportation For Bridge Inspection Services Contract.*

**Resolution #R-22-80**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO AUTHORIZE THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION**

**WHEREAS**, the National Bridge Inspection Standards (NBIS) requires that all structures defined as bridges located on public roads must be inspected on a cycle, not to exceed twenty-four (24) months.

**WHEREAS**, the City of Hendersonville has requested the North Carolina Department of Transportation (hereinafter referred to as the Department) or a Consultant retained by the Department to inspect and analyze all public bridges located on its Municipal Street System in compliance with the National Bridge Inspection Standards; and

**WHEREAS**, the Department and the City of Hendersonville are authorized to enter into an agreement for such work under the provisions of G.S. 136-18(12), G.S. 136-41.3, and G.S. 136-66.1; and,

**WHEREAS**, the City of Hendersonville has approved the herein above referenced inspections and analysis and the City of Hendersonville has agreed to participate in certain costs thereof in the manner and to the extent as hereinafter set out.

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Hendersonville, North Carolina that:

1. The City Manager is authorized to enter into a ten-year agreement with the North Carolina Department of Transportation for bridge inspection services contract.

Adopted by the City Council of the City of Hendersonville, North Carolina this 7<sup>th</sup> day of July 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

**H. Utility Extension Agreement for the Asheville U.S. Army Reserve Center – Brendan Shanahan, Civil Engineer IV**

*I move that City Council approve the Resolution authorizing the City Manager to enter into a Utility Extension Agreement with the United States of America for the Asheville U.S. Army Reserve Center as presented and recommended by staff.*

**Resolution #R-22-81**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO  
AUTHORIZE THE CITY MANAGER TO ENTER INTO A UTILITY EXTENSION  
AGREEMENT WITH THE UNITED STATES OF AMERICA FOR THE ASHEVILLE U.S.  
ARMY RESERVE CENTER**

**WHEREAS**, the City of Hendersonville owns, operates and maintains water and sewer systems to serve customers throughout Henderson County; and

**WHEREAS**, residential, commercial, and industrial developments often require public water service as a part of their development projects; and

**WHEREAS**, the Developer extends public water and sewer lines to their site, which upon completion and acceptance, are provided to the City to own, operate, and maintain; and

**WHEREAS**, the City requires a Utility Extension Agreement to be executed to establish requirements of both the Developer and the City for the water and sewer line extension process; and

**WHEREAS**, the United States of America, the “Developer” and “Owner”, will enter into a Utility Extension Agreement with the City to provide water and sewer service to the Asheville U.S. Army Reserve Center.

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Hendersonville, North Carolina that:

1. The Utility Extension Agreement with the United States of America, the “Developer” and “Owner” to provide water and sewer service to the Asheville U.S. Army Reserve Center is approved, as presented.
2. City Manager is authorized to execute the Utility Extension Agreement, and to approve and execute amendments to the Utility Extension Agreement in the future provided such amendments do not impose a financial obligation upon the City.
3. City Manager is authorized to acquire easements, rights-of-way, and other interests in real property consistent with the terms of the Utility Extension Agreement, provided that such acquisition does not impose a financial obligation upon the City.

Adopted by the City Council of the City of Hendersonville, North Carolina this 7<sup>th</sup> day of July 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

**I. Utility Extension Agreement for the Dairi-O Restaurant – Brendan Shanahan, Civil Engineer IV**

*I move that City Council approve the Resolution authorizing the City Manager to enter into a Utility Extension Agreement with D2/Dairi-O, LLC for the Dairi-O Restaurant as presented and recommended by staff.*

**Resolution #R-22-82**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO  
AUTHORIZE THE CITY MANAGER TO ENTER INTO A UTILITY EXTENSION  
AGREEMENT WITH D2/DAIRIO, LLC FOR THE DAIRI-O RESTAURANT**

**WHEREAS**, the City of Hendersonville owns, operates and maintains a sewer system to serve customers throughout Henderson County; and

**WHEREAS**, residential, commercial, and industrial developments often require public water service as a part of their development projects; and

**WHEREAS**, the Developer extends public sewer lines to their site, which upon completion and acceptance, are provided to the City to own, operate, and maintain; and

**WHEREAS**, the City requires a Utility Extension Agreement to be executed to establish requirements of both the Developer and the City for the sewer line extension process; and

**WHEREAS**, D2/Dairio, LLC, the “Developer” and “Owner”, will enter into a Utility Extension Agreement with the City to provide sewer service to the Dairi-O Restaurant.

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Hendersonville, North Carolina that:

1. The Utility Extension Agreement with D2/Dairio, LLC, the “Developer” and “Owner” to provide sewer service to the Dairi-O Restaurant is approved, as presented.
2. City Manager is authorized to execute the Utility Extension Agreement, and to approve and execute amendments to the Utility Extension Agreement in the future provided such amendments do not impose a financial obligation upon the City.
3. City Manager is authorized to acquire easements, rights-of-way, and other interests in real property consistent with the terms of the Utility Extension Agreement, provided that such acquisition does not impose a financial obligation upon the City.

Adopted by the City Council of the City of Hendersonville, North Carolina this 7<sup>th</sup> day of July 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

**J. Annual Resolution Authorizing Increase in Micro-Purchase Threshold – Daniel Heyman, Staff Attorney**

*I move City Council adopt the Resolution by the City of Hendersonville City Council Authorizing Increase of Micro-Purchase Thresholds as presented.*

**Resolution #R-22-83**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL AUTHORIZING  
INCREASE IN MICRO-PURCHASE THRESHOLD**

**WHEREAS**, from time to time, the City of Hendersonville purchases goods and services using federal funding subject to the procurement standards in 2 C.F.R. Part 200, Subpart D; and

**WHEREAS**, the City of Hendersonville’s procurement of such goods and services is subject to the purchasing policies of the City, including but not limited to the City of Hendersonville Uniform Guidance Procurement Policy; and

**WHEREAS**, the City of Hendersonville is a non-Federal entity under the definition set forth in 2 C.F.R. § 200.1; and

**WHEREAS**, pursuant to 2 C.F.R. § 200.320(a)(1)(ii), a non-Federal entity may award micro-purchases without soliciting competitive price or rate quotations if the non-Federal entity considers the price to be reasonable based on research, experience, purchase history or other information and documents that the non-Federal entity files accordingly; and

**WHEREAS**, pursuant to 2 C.F.R. § 200.320(a)(1)(iii), a non-Federal entity is responsible for determining and documenting an appropriate micro-purchase threshold based on internal controls, an evaluation of risk, and its documented procurement procedures; and

**WHEREAS**, pursuant to 2 C.F.R. § 200.320(a)(1)(iv), a non-Federal entity may self-certify on an annual basis a micro-purchase threshold not to exceed \$50,000 and maintain documentation to be made available to a Federal awarding agency and auditors in accordance with 2 C.F.R. § 200.334; and

**WHEREAS**, pursuant to 2 C.F.R. § 200.320(a)(1)(iv), such self-certification must include (1) a justification for the threshold, (2) a clear identification of the threshold, and (3) supporting documentation, which, for public institutions, may be a “higher threshold consistent with State law”; and

**WHEREAS**, G.S. 143-129(a) and G.S. 143-131(a) require the City of Hendersonville to conduct a competitive bidding process for the purchase of (1) “apparatus, supplies, materials, or equipment” where the cost of such purchase is equal to or greater than \$30,000, and (2) “construction or repair work” where the cost of such purchase is greater than or equal to \$30,000; and

**WHEREAS**, North Carolina law does not require a unit of local government to competitively bid for purchase of services other than services subject to the qualifications-based selection process set forth in Article 3D of Chapter 143 of the North Carolina General Statutes (the “Mini-Brooks Act”); and

**WHEREAS**, G.S. 143-64.32 permits units of local government to exercise, in writing, an exemption to the qualifications-based selection process for services subject to the Mini-Brooks Act for particular projects where the aggregate cost of such services do not exceed \$50,000; and

**WHEREAS**, pursuant to 2 C.F.R. § 200.320(a)(1)(iv), the City Council for the City of Hendersonville now desires to adopt higher micro-purchase thresholds than those identified in 48 C.F.R. § 2.101 in order to take advantage of increased efficiencies and cost savings that are available under an increased micro-purchase threshold exemption.

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Hendersonville, North Carolina that:

1. In accordance with 2 C.F.R. § 200.320(a)(1)(iv) and the applicable provisions of North Carolina law, the City of Hendersonville hereby self-certifies the following micro-purchase thresholds, each of which is a “higher threshold consistent with State law” under 2 C.F.R. § 200.320(a)(1)(iv)(C) for the reasons set forth in the recitals to this resolution:

A. \$30,000, for the purchase of “apparatus, supplies, materials, or equipment”;  
and

B. \$30,000, for the purchase of “construction or repair work”; and

C. \$50,000, for the purchase of services not subject to competitive bidding under North Carolina law;

D. \$50,000, for the purchase of services subject to the qualifications-based selection process in the Mini-Brooks Act; provided that such threshold shall apply to a contract only if the City has exercised an exemption to the Mini-Brooks Act, in writing, for a particular project pursuant to G.S. 143-64.32. If the exemption is not authorized, the micro-purchase threshold shall be \$10,000.

E. \$50,000 for any contract, other than those described in A-D above, that is exempt from competitive procurement requirements under North Carolina State Law.

2. The self-certification made herein shall be effective as of the date hereof and shall be applicable until the end of the current fiscal year of the City of Hendersonville but shall not be



applicable to Federal financial assistance awards issued prior to November 12, 2020, including financial assistance awards issued prior to that date under the Coronavirus Aid, Relief, and Economic Support (CARES) Act of 2020 (Pub. L. 116-136).

3. In the event that the City of Hendersonville receives funding from a federal grantor agency that adopts a threshold more restrictive than those contained herein, the City shall comply with the more restrictive threshold when expending such funds.

4. The City of Hendersonville shall maintain documentation to be made available to a Federal awarding agency, any pass-through entity, and auditors in accordance with 2 C.F.R. § 200.334.

5. The City Manager, Assistant City Manager, Finance Director, and Budget Manager of the City of Hendersonville are hereby authorized, individually and collectively, to revise the purchasing policies of the City, including but not limited to the City of Hendersonville Uniform Guidance Procurement Policy, to reflect the increased micro-purchase thresholds specified herein, and to take all such actions, individually and collectively, to carry into effect the purpose and intent of the foregoing resolution.

Adopted by the City Council of the City of Hendersonville, North Carolina this 7<sup>th</sup> day of July 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

**K. July Budget Amendments, FY22 – Adam Murr, Budget Manager**

*I move City Council adopt budget amendment(s) 07072022-01 and 07072022-02 as presented.*

**L. July Budget Amendments, FY23 – Adam Murr, Budget Manager**

*I move City Council adopt budget amendment(s) 07072022-03 and 07072022-04 as presented.*

**M. Water Resource Development Grant Resolution (Sullivan Park Stream Restoration)–  
Michael Huffman, Stormwater Administrator**

*I move City Council approve a resolution supporting a grant application to the NC Division of Water Resources Water Resource Development Grant Program in the amount of \$65,000.*

**Resolution #R-22-84**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL  
IN SUPPORT OF APPLICATION FOR  
NCDWR WATER RESOURCE DEVELOPMENT GRANT**

**WHEREAS**, the North Carolina Department of Water Resources has established a grant that provides funding to municipalities for water resource development projects; and

**WHEREAS**, the City of Hendersonville, NC City Council desires to sponsor, The Sullivan Park Stream Restoration, to restore a heavily degraded stream using natural channel design practices and bioengineering methods that will allow this flashy urban stream to access the adjacent floodplain, reduce erosion rates in the channel, establish a healthy forested buffer zone, and improve water quality and aquatic habitat.; and

**WHEREAS**, the City of Hendersonville is planning to incorporate green stormwater infrastructure into the Fire Station 1 renovations; and

**WHEREAS**, the City of Hendersonville desires to include green infrastructure in the Fire Station 1 project to achieve the following objectives:

1. Enhance natural ecosystem resilience and improve water quality within the community.
2. Reduce the impacts of increased stormwater runoff on downstream areas.
3. Address sources of impairment to Mud Creek identified in the 2003 Mud Creek Watershed Restoration Plan.

**WHEREAS**, the North Carolina Department of Water Resources has announced a competitive Grant to award funding for Watershed Improvement Projects; and

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Hendersonville, North Carolina that:

- 1) The Council requests the State of North Carolina to provide financial assistance to The City of Hendersonville, NC for Sullivan Park Stream Restoration in the amount of \$ 65,000 or 50 percent of the nonfederal project costs, whichever is the lesser amount;
- 2) The Council assumes full obligation for payment of the balance of project costs;
- 3) The Council will obtain all necessary State and Federal permits;
- 4) The Council will comply with all applicable laws governing the award of contracts and the expenditure of public funds by local governments.
- 5) The Council will supervise construction of the project to assure compliance with permit conditions and to assure safe and proper construction according to approved plans and specifications;
- 6) The Council will obtain suitable spoil disposal areas as needed and all other easements or rights-of-way that may be necessary for the construction and operation of the project without cost or obligation to the State;
- 7) The Council will assure that the project is open for use by the public on an equal basis with no restrictions;
- 8) The Council will hold the State harmless from any damages that may result from the construction, operation and maintenance of the project;
- 9) The Council accepts responsibility for the operation and maintenance of the completed project.

Adopted by the City Council of the City of Hendersonville, North Carolina this 7<sup>th</sup> day of July 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

**N. Water Resource Development Grant Resolution (Fire Station 1 Green Infrastructure)**

– Michael Huffman, Stormwater Administrator

*I move City Council approve a resolution supporting a grant application to the NC Division of Water Resources Water Resource Development Grant Program in the amount of \$70,000.*

**Resolution #R-22-85**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL  
IN SUPPORT OF APPLICATION FOR  
NCDWR WATER RESOURCE DEVELOPMENT GRANT**

**WHEREAS**, the North Carolina Department of Water Resources has established a grant that provides funding to municipalities for water resource development projects; and

**WHEREAS**, the City of Hendersonville, NC City Council desires to sponsor, Fire Station 1 Green Stormwater Infrastructure, to install a rainwater harvesting system that will allow the fire department to reuse runoff from the building to wash equipment, reduce stormwater runoff from the site, enhance natural ecosystem resilience and improve water quality within the community, and address sources of impairment to Mud Creek identified in the 2003 Mud Creek Watershed Restoration Plan; and

**WHEREAS**, the North Carolina Department of Water Resources has announced a competitive Grant to award funding for Watershed Improvement Projects; and

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Hendersonville, North Carolina that:

- 1) The Council requests the State of North Carolina to provide financial assistance to The City of Hendersonville, NC for Fire Station #1 Green Infrastructure in the amount of \$ 70,000 or 50 percent of the nonfederal project costs, whichever is the lesser amount;

- 2) The Council assumes full obligation for payment of the balance of project costs;
- 3) The Council will obtain all necessary State and Federal permits;
- 4) The Council will comply with all applicable laws governing the award of contracts and the expenditure of public funds by local governments.
- 5) The Council will supervise construction of the project to assure compliance with permit conditions and to assure safe and proper construction according to approved plans and specifications;
- 6) The Council will obtain suitable spoil disposal areas as needed and all other easements or rights-of-way that may be necessary for the construction and operation of the project without cost or obligation to the State;
- 7) The Council will assure that the project is open for use by the public on an equal basis with no restrictions;
- 8) The Council will hold the State harmless from any damages that may result from the construction, operation and maintenance of the project;
- 9) The Council accepts responsibility for the operation and maintenance of the completed project.

Adopted by the City Council of the City of Hendersonville, North Carolina this 7<sup>th</sup> day of July 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

**O. Special Event: Earth Celebration and Tree Planting Ceremony** - *Lew Holloway, Community Development Director*

*I move that City Council approve the special event permit for the Earth Celebration and Tree Planting Ceremony.*

***Council Member Dr. Jennifer Hensley moved that City Council approve the consent agenda as presented. A unanimous roll-call vote of the Council followed. Motion carried.***

## **6. PRESENTATIONS**

**A. Introduction of Fire Marshal** – *James Miller, Fire Chief*

Fire Chief James Miller introduced Fire Marshal, Ted Williams. Mr. Williams has more than 30 years of fire service experience, starting as a volunteer in 1992 and progressing to Leicester Fire Chief, Deputy Chief and Fire Chief in Weaverville. He is a graduate of the UNC School of Government Municipal and County Administration and holds an extensive list of certifications and course work.

## **7. PUBLIC HEARINGS**

**A. Annexation: Public Hearing- Upward Road & Ballenger Road (Justus & Erwin) (C22-45-ANX)** – *Tyler Morrow, Planner II*

Community Development Planner II, Tyler Morrow stated the city has received a petition from Jeff C. Justus, James S. & Ruth G. Erwin Jr. for satellite annexation of PINs 9588-40-8795, 9588-40-7844, and 9588-40-6934 located on Upward Road and Ballenger Road that is approximately 3.795 acres.

Staff presented and discussed with City Council an analysis of the consistency with the relevant portions of the Comprehensive Land Use Plan and the Planning Board's recommendation. Both were considered by the City Council in addition to supporting maps and documents provided in the agenda packet.

The City Clerk confirmed this public hearing has been advertised in accordance with North Carolina General Statutes. The public hearing was opened at 5:59 p.m.

There were no comments.

The public hearing was closed at 6:00 p.m.

*Council Member Lyndsey Simpson moved that City Council adopt an ordinance of the City of Hendersonville to annex noncontiguous property owned by Jeff C. Justus, James S. Erwin Jr. & Ruth G. Erwin, identified as PINs 9588-40-8795, 9588-40-7844, and 9588-40-6934, finding that the standards established by North Carolina General Statute 160A-58.1 have been satisfied and that the annexation is in the best interest of the City. A unanimous roll-call vote of the Council followed. Motion carried.*

**ANNEXATION Ordinance #O-22-40**

**AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO  
EXTEND THE CORPORATE LIMITS OF THE CITY AS A SATELLITE ANNEXATION**

Re: Petition for Satellite Annexation  
Petitioners: Jeff C. Justus, James S. Erwin Jr. & Ruth G. Erwin  
File No. C22-45-ANX

**WHEREAS**, The City of Hendersonville has been petitioned by Jeff C. Justus, James S. Erwin Jr. & Ruth G. Erwin pursuant to North Carolina General Statutes (NCGS) 160A-58.1, as amended, to annex the area described herein below; and,

**WHEREAS**, the City Clerk has investigated and certified the sufficiency of said petition; and,

**WHEREAS**, a public hearing on the question of this annexation was held at the City Operations Center at 305 Williams Street, Hendersonville, NC at 5:45 pm, on the 7<sup>th</sup> day of July 2022, after due notice by publication as provided by law on June 19<sup>th</sup>, 2022; and

**WHEREAS**, the City Council further finds the areas described therein meets the standards of N.C. G.S. 160A-58.1(b), to wit;

- a) The Petition includes a metes and bounds description of the area proposed for annexation and has attached a map showing the proposed satellite area.
- b) The nearest point on the proposed satellite corporate limit is approximately 8,060 from the primary corporate limits of the City of Hendersonville, which is less than 3 miles.
- c) The Petition includes the names and addresses and signatures of all owners of real property lying in the area described therein, except those not required to sign by G.S.160A-58.1 (a).
- d) No point on the proposed satellite corporate limits is closer to the primary corporate limits of another city than to the primary corporate limits of Hendersonville.
- e) The area is situated so the City will be able to provide the same services within the proposed corporate limits that is provided within the primary corporate limits.
- f) The area proposed for annexation is not a subdivision as defined in N.C.G.S. § 160D-802.
- g) The total area within the proposed satellite corporate limits, when added to the area within all the other satellite corporate limits of the City, does not exceed ten (10%) of the area within the primary corporate limits of the City.
- h) The area for annexation meets all other requirements defined in NC 160A-58.54 regarding the character of the area to be annexed.

**WHEREAS**, the City further finds that the petition has been signed by all the owners of real property in the area who are required by law to sign; and

**WHEREAS**, the City further finds that the petition is otherwise valid, and that the public health, safety and welfare of the City and of the area proposed for annexation will be best served by annexing the area described;

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Hendersonville, North Carolina:

- 1: By virtue of the authority granted by N.C.G.S. 160A-58.2, as amended, the following described noncontiguous area is hereby annexed and made part of the City of Hendersonville as of the seventh day of July 2022.

Being all of that real property shown on that annexation plat recorded in Plat Book 2022 at Page \_\_\_\_\_ of the Henderson County Registry, and being also all of that real property described in deeds of record in Deed Book 1563, page 383; Deed Book 3551, page 500; and Deed Book 711, page 217 of the Henderson County Registry, and being described by metes and bounds as follows:

PROPOSED ANNEXATION AREA DESCRIPTION:

ALL THAT CERTAIN PIECE, PARCEL, OR TRACT OF LAND LYING AND BEING IN HENDERSON COUNTY, NORTH CAROLINA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A MONUMENT (POB 1) ON THE MITER FORMING THE INTERSECTION OF THE NORTHERLY MARGIN OF THE RIGHT-OF-WAY OF UPWARD ROAD (S.R. 1722) (VARIABLE WIDTH PUBLIC RIGHT-OF-WAY) AND THE WESTERLY MARGIN OF THE RIGHT-OF-WAY OF BALLENGER ROAD (S.F. 1791) (VARIABLE WIDTH PUBLIC RIGHT-OF-WAY) HAVING NC GRID COORDINATES OF N 580,610.84, E 984,932.78; THENCE ALONG THE NORTHERLY MARGIN OF THE RIGHT-OF-WAY OF UPWARD ROAD N69°52'41"W A DISTANCE OF 135.03 FEET TO A MONUMENT, THENCE S20°22'38"W A DISTANCE OF 7.61 FEET TO A MONUMENT, THENCE N69°54'11"W A DISTANCE OF 135.97 FEET TO A MONUMENT, THENCE N66°07'48"W A DISTANCE OF 64.14 FEET TO AN IRON PIN, N65°48'42"W A DISTANCE OF 48.68 FEET TO AN IRON PIN, THENCE ALONG A COUNTERCLOCKWISE CURVE FOR 29.33 FEET HAVING A RADIUS OF 922.70 FEET A CHORD BEARING OF N76°26'00"W AND A CHORD DISTANCE OF 29.33 FEET TO AN IRON PIN, THENCE ALONG THE COMMON LINE OF OATES N13°14'56"E A DISTANCE OF 422.58 FEET TO AN IRON PIN, THENCE ALONG THE COMMON LINE OF MOUNTAIN INN & LODGES, LLC. S46°57'39"E A DISTANCE OF 93.64 FEET TO AN IRON PIN, THENCE S46°56'39"E A DISTANCE OF 114.57 FEET TO AN IRON PIN, THENCE ALONG THE COMMON LINE OF JUSTUS S76°08'56"E A DISTANCE OF 278.66 FEET TO AN IRON PIN, THENCE ALONG THE WESTERLY MARGIN OF THE RIGHT-OF-WAY OF BALLENGER ROAD (FOR THE FOLLOWING FOUR CALLS) (1) S12°45'24"W A DISTANCE OF 126.10 FEET TO AN IRON PIN, (2) THENCE S18°04'21"W A DISTANCE OF 149.78 FEET TO AN IRON PIN, (3) THENCE S19°44'13"W A DISTANCE OF 43.03 FEET TO AN IRON PIN, (4) THENCE S49°50'55"W A DISTANCE OF 54.96 FEET TO THE POINT OF BEGINNING AND CONTAINING 165,300 S.F. OR 3.795 ACRES MORE OR LESS.

- 2: Upon and after the seventh day of July 2022, the above-described territory, and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Hendersonville and shall be entitled to the same privileges and benefits as other parts of the City of Hendersonville. Said territory shall be subject to municipal taxes according to NCGS 160A-58.10, as amended.
3. The Mayor of the City of Hendersonville shall cause to be recorded in the office of the Register of Deeds of Henderson County and at the Office of the Secretary of State in Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1, above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the Henderson County Board of Elections, as required by G. S. 163-288.1.

Adopted by the City Council of the City of Hendersonville, North Carolina this 7<sup>th</sup> day of July 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

**B. Annexation: Public Hearing- Erkwood Drive (Kilpatrick) (C22-38-ANX) – Tyler Morrow, Planner II**

Community Development Planner II, Tyler Morrow stated the city has received annexation of PIN 9577-18-7316 located on Erkwood Drive that is approximately 1.89 acres.

Staff presented and discussed with City Council an analysis of the consistency with the relevant portions of the Comprehensive Land Use Plan and the Planning Board's recommendation. Both were considered by the City Council in addition to supporting maps and documents provided in the agenda packet.

The City Clerk confirmed this public hearing has been advertised in accordance with North Carolina General Statutes. The public hearing was opened at 6:03 p.m.

There were no comments.

The public hearing was closed at 6:03 p.m.

*Council Member Dr. Jennifer Hensley moved that City Council adopt an ordinance of the City of Hendersonville to extend the Corporate Limits of the City as a contiguous annexation, to annex that property owned by Cameron and Kina Kilpatrick, identified as PIN 9577-18-7316, finding that the standards established by North Carolina General Statute 160A-31 have been satisfied and that the annexation is in the best interest of the City. A unanimous roll-call vote of the Council followed. Motion carried.*

**CONTIGUOUS ANNEXATION Ordinance #O-22-41**

**AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO EXTEND THE CORPORATE LIMITS OF THE CITY AS A CONTIGUOUS ANNEXATION**

IN RE: Parcel Number: 9577-18-7316. Erkwood Drive- Kilpatrick (File# C22-38-ANX)

**WHEREAS**, The City of Hendersonville has been petitioned by Cameron and Kina Kilpatrick pursuant to North Carolina General Statutes (NCGS) 160A-31, as amended, to annex the area described herein below; and

**WHEREAS**, the City Clerk has investigated and certified the sufficiency of said petition; and,

**WHEREAS**, a public hearing on the question of this annexation was held at 305 Williams Street (City Operations Center), Hendersonville, NC at 5:45 pm, on the 7<sup>th</sup> day of July 2022, after due notice by publication as provided by law on June 19<sup>th</sup>, 2022; and

**WHEREAS**, the City Council further finds the areas described therein meets the standards of N.C. G.S. 160A-31.

**WHEREAS**, the City further finds that the petition has been signed by all the owners of real property in the area who are required by law to sign; and

**WHEREAS**, the City further finds that the petition is otherwise valid, and that the public health, safety and welfare of the City and of the area proposed for annexation will be best served by annexing the area described;

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Hendersonville, North Carolina that:

- 1: By virtue of the authority granted by N.C.G.S. 160A-31, as amended, the following described contiguous area is hereby annexed and made part of the City of Hendersonville as of the 7<sup>th</sup> day of July 2022.

Being all of that real property shown on that annexation plat recorded in Plat Book 2022 at Page \_\_\_\_\_ of the Henderson County Registry, and being also all of that real property described in deed of record in Deed Book 3875, page 309 of the Henderson County Registry, and being described by metes and bounds as follows:

Beginning at a Point in the South Margin of Erkwood Drive, Point being the southeast corner of the property conveyed to Rick and Carol Huhn by Deed Book 1325, Pg. 382, and running thence from said beginning point North 38-38-31 W 63.90 feet to a Point as recorded and described in Deed Book 3112, Pg. 112 to the Department of Transportation as a Permanent Utility Easement; running thence N 38-38-31 W 348.14 feet to an Existing 1" Iron Pipe; thence running N 15-09-03 E 23.01 feet to an Existing 3" Iron Pipe located at the Southwest corner of the Friebus and Kilpatrick property as recorded at D.B. 788, Pg. 731 and a point in the Boundary of the City of Hendersonville; running thence with Friebus and Kilpatrick Line and with the Boundary of the City of Hendersonville the following two calls, N 87-21-39 E 290.74 feet to an Existing ½" Iron Stake; thence N 43-26-07 E 35.74 feet to a Point located at the Northwest corner of the Flat Rock Centre LLC property as recorded at D.B. 3285, Pg. 382, Plat Slide 4193 and a point in the Boundary of the City of Hendersonville, and thence running with the Boundary of the City of Hendersonville the following five calls, S 76-34-36 E 98.91 feet to a Point; thence S 87-11-44 W 10.78 feet to a Point; thence S 19-29-51 E 23.54 feet to an Existing 1" Iron Pipe located at the Northwest corner of the Sherman Business Park property recorded at D.B. 3285, Pg. 380 and Plat Slide 4193; thence running S 18-44-33 E 43.46 feet to a Point as recorded and described in in D.B. 3112, Pg. 112 to the Department of Transportation as a Permanent Utility Easement; running thence with the same line, S-18-44-33 E 19.85 feet to a point located in the Boundary of the City of Hendersonville, said Point being located S 71-40-39 W 60.94 feet from an Existing Right of Way Monument; running thence S 71-43-18 W 14.15 feet to a Point; thence S 49-28-04 W 58.84 feet to a Point; thence S 38-23-43 W 55.60 to an Existing Right of Way Monument; thence S 36-17-41 W 92.98 feet to an Existing Right of Way Monument; thence S 34-00-10 E 27.47 feet to a Point; thence S 53-08-23 E 19.95 feet to a Point in the Southern Margin of Erkwood Drive; thence S 31-25-42 W 29.02' to a Point and thence S 38-46-12 W 73.17 feet to the Point of Beginning

- 2: Upon and after the seventh day of July 2022, the above-described territory, and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the City of Hendersonville and shall be entitled to the same privileges and benefits as other parts of the City of Hendersonville. Said territory shall be subject to municipal taxes according to NCGS 160A-58.10, as amended.
3. The Mayor of the City of Hendersonville shall cause to be recorded in the office of the Register of Deeds of Henderson County and at the Office of the Secretary of State in Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1, above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the Henderson County Board of Elections, as required by G. S. 163-288.1.

Adopted by the City Council of the City of Hendersonville, North Carolina this 7<sup>th</sup> day of July 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

**C. Street Closure: Order to Close- Portion of Fitzsimmons Street (C22-36-SCL) – Tyler Morrow, Planner II**

Community Development Planner II, Tyler Morrow stated the city has received application from Lawrence Douglas Marshall to close an unopened and unimproved portion of Fitzsimmons Street between PINs 9578-30-6667 and PIN 9578-31-3322.

The City Clerk confirmed this public hearing has been advertised in accordance with North Carolina General Statutes. The public hearing was opened at 6:05 p.m.

There were no comments.

The public hearing was closed at 6:06 p.m.

***Council Member Debbie O'Neal-Roundtree moved that City Council adopt an order permanently closing an unopened and unimproved portion of Fitzsimmons Street between PINs 9578-30-6667 and 9578-31-3322 as petitioned by Lawrence Douglas Marshall. A unanimous roll-call vote of the Council followed. Motion carried.***

ORDER #O-22-42

**ORDER TO PERMANENTLY CLOSE, AN UNOPENED,  
UNIMPROVED PORTION OF AN UNIMPROVED RIGHT-OF-WAY LYING BETWEEN  
PINS: 9578-30-6667 and 9578-31-3322**

(Petition from Lawrence Douglas Marshall)  
For a portion of Fitzsimmons Street

NORTH CAROLINA  
HENDERSON COUNTY

TO WHOM IT MAY CONCERN:

**WHEREAS**, North Carolina General Statue 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 such streets or alleyways; and

**WHEREAS**, Lawrence Douglas Marshall, owner, has petitioned the City of Hendersonville City Council to close a portion of unimproved right-of-way that abuts property described in a deed recorded in the Henderson County Registry in Deed Book 872 at page 341, having PIN of 9578-30-6667.

**WHEREAS**, on June 2<sup>nd</sup>, 2022, the Hendersonville City Council adopted a resolution expressing the intention of the municipality to close a portion of this street and setting July 7<sup>th</sup>, 2022, as the date of a public hearing regarding such closure; and

**WHEREAS**, the aforementioned resolution has been published once a week for four successive weeks prior to the public hearing in the Hendersonville Times-News (a newspaper of general and regular circulation in Hendersonville and Henderson County) and a copy thereof has been sent by certified mail to all owners of property adjoining the street 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 streets; and

**WHEREAS**, a public hearing was held in conformance with the aforementioned public notice on the seventh day of July, 2022.

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

1. The closing of the street portion hereafter described are not contrary to the public interest.
2. No individual owning property in the vicinity of the streets or in the subdivision in which it is located would be deprived by the closing of such streets of reasonable means of ingress and egress to his property.

**IN CONSIDERATION THEREOF, IT IS HEREBY ORDERED:**

1. The following portions of streets are permanently closed and no longer existent as of the effective date of this order:

Description of a portion of Fitzsimmons Street

to be closed under NCGS 160A-299

Being a Portion of the 40' Right of Way for Fitzsimmons Street for closure adjoining Deed Book 872, Page 341, Deed Book 597, Page 899 and Norfolk Southern Railroad.  
Beginning at a #5 Rebar set at the Southwest corner of Deed Book 597, Page 899 and Lot 20, Block "A", W.R. E.B. Sherman Subdivision Revised, Shown on Plat Cabinet "C", Slide 038. Also being at the intersection of the Northern margin of said right of way and the Eastern Margin of the unopened 1st Avenue, Shown on Plat Cabinet "C", Slide 038;  
Thence with the Northern margin of Fitzsimmons Street N 58°17'09" E a distance of 199.32' to a #5 Rebar set at the Southeast corner of Deed Book 597, Page 899 and Lot 17,



Block "A", W.R. E.B. Sherman Subdivision Revised, Shown on Plat Cabinet "C", Slide 038; Also being 50' west of the centerline of Norfolk Southern Railroad.  
Thence on a line 50' west of the centerline of Norfolk Southern Railroad and parallel with said railroad S 25°48'00" E a distance of 40.21'to a point being in the Southern margin of Fitzsimmons Street and 50' west of the centerline of Norfolk Southern Railroad;  
Thence with the Southern margin of Fitzsimmons Street S 58°17'09" W a distance of 192.36'to a point in the Western line of Deed Book 872, Page 341 and Eastern line of Book of Record 3474, Page 097;  
Thence with the Western line Deed Book 872, Page 341 and the Eastern line of Book of Record 3474, Page 097 N 21°13'18" W a distance of 12.06'to a 1 1/2" Iron Pipe, the Northwest corner of Deed Book 872, Page 341 and the Northeast corner of Book of Record 3474, Page 097;  
Thence N 31°42'51" W a distance of 8.14'to a #5 Rebar set in the centerline of Fitzsimmons Street;  
Thence with the centerline of Fitzsimmons Street S 58°17'09" W a distance of 5.01'to a #5 Rebar set;  
Thence N 31°42'51" W a distance of 20.00'to a #5 Rebar set which is the point of beginning; Having an area of 7803 square feet, 0.18 acres

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

Adopted by the City Council of the City of Hendersonville, North Carolina this 7<sup>th</sup> day of July 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

There were no comments.

**D. Rezoning: Conditional Zoning District – AAA Storage (P22-37-CZD) – Matthew Manley, AICP – Planning Manager**

Community Development Planning Manager Matthew Manley stated the city has received an application from Lawrence Douglas Marshall to close an unopened and unimproved portion of Fitzsimmons Street between PINs 9578-30-6667 and PIN 9578-31-3322.

Staff presented and discussed with City Council an analysis of the consistency with the relevant portions of the Comprehensive Land Use Plan and the Planning Board's recommendation. Both were considered by the City Council in addition to supporting maps and documents provided in the agenda packet.

Will Buie, Project Engineer with WGLA Engineering addressed City Council on behalf of the applicant in support of the project.

The City Clerk confirmed this public hearing has been advertised in accordance with North Carolina General Statutes. The public hearing was opened at 6:19 p.m.

Ken Fitch addressed City Council via Zoom electronic software in support of the project stating that the project represents a demonstration of the process of orderly development with the expansion of an existing business and requested consideration of the addition of a gate off the Apple Ridge Road area of the site.

The public hearing was closed at 6:20 p.m.

***Council Member Jerry A. Smith Jr., J.D. moved that City Council adopt ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of the subject property (PIN: 9579-75-6816) from R-15 (Medium Density Residential) to PCD (Planned Commercial Development – Conditional Zoning District) based on the site plan and list of conditions submitted by and agreed to by the applicant, [dated May 18, 2022,] and presented at this meeting and subject to the following: The development shall be consistent with the site plan, including the list of applicable conditions contained therein, and the following permitted uses: Mini warehouses. The petition is found to be consistent with the City of Hendersonville 2030 Comprehensive Plan based on the information from the staff analysis and because the subject property is located in an area designated as a 'development opportunity' and 'priority growth area' according to the City's 2030 Comprehensive Plan. Furthermore, we find this petition to be***

*reasonable and in the public interest based on the information from the staff analysis, public hearing and because: the development of mini warehouses will be an extension of an existing use next door; the mini warehouses will be in close proximity to recently approved multi-family housing; and the petition provides access from a minor thoroughfare as required in the PCD zoning district. A unanimous roll-call vote of the Council followed. Motion carried.*

**ORDINANCE #O-22-43**

**AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF HENDERSONVILLE FOR PARCEL POSSESSING PIN NUMBER 9579-75-6816 BY CHANGING THE ZONING DESIGNATION FROM R-15 (MEDIUM DENSITY RESIDENTIAL) TO PCD (PLANNED COMMERCIAL DEVELOPMENT – CONDITIONAL ZONING DISTRICT)**

IN RE:            Parcel Number:        9579-75-6816  
                      Addresses:            750, 762, and 780 Sugarloaf Rd  
                      Project Name:        AAA Storage (File # P22-37-CZD)

**WHEREAS**, the City is in receipt of a Conditional Rezoning application from applicant, Dennis J. Dorn – CD-MAT LLC, an NC Limited Liability Company and property owners, Thomas and Sherry Thompson for the development of 5 mini-warehousing structures on approximately 2.48 acres as an expansion of the existing AAA Storage Facility, and

**WHEREAS**, the Planning Board took up this application at its regular meeting on June 13, 2022; voting 6-0 to recommend City Council approve an ordinance amending the official zoning map of the City of Hendersonville, and

**WHEREAS**, City Council took up this application at its regular meeting on July 7, 2022,

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Hendersonville, North Carolina:

1. Pursuant to Article XI of the Zoning Ordinance of the City of Hendersonville, North Carolina, the Zoning Map is hereby amended by changing the zoning designation of the following: Parcel Number: 9579-75-6816 from R-15 (Medium Density Residential) to PCD (Planned Commercial Development – Conditional Zoning District).
2. Development of the parcel shall occur in accordance with the final site plan requirements of Article VII of the Zoning Ordinance of the City of Hendersonville, North Carolina, and shall be based on the site plan submitted by the applicant and conditions and developer concessions listed therein and subject to the following.
  - a. Permitted uses shall include:
    - i. Mini warehouses
  - b. Conditions and developer concessions that shall be satisfied prior to final site plan approval include:
    - i. The development shall be consistent with the preliminary site plan and the conditions and developer concessions listed therein as submitted and dated May 18, 2022.
3. This ordinance shall not be effective until the stipulated list of use(s) and conditions and developer concessions, established herein, is consented to in writing by the applicant and all owners of the subject property. Upon such written consent, this ordinance shall be effective retroactive to the date of its adoption.

Adopted by the City Council of the City of Hendersonville, North Carolina this 7<sup>th</sup> day of July 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

**E. Zoning Text Amendment: Sidewalk Requirements (P22-46-ZTA) – Matthew Manley,  
AICP – Planning Manager**

Community Development Planning Manager Matthew Manley stated the city has initiated zoning text amendment related to requirements for sidewalks and said staff recommend adjusting the standards to reduce the distance a property can be from public amenities in determining if sidewalks are required. Mr. Manley clarified the current distance triggering construction of sidewalks are for properties within 1.5 miles of specified public amenities and said the proposal is to reduce the distance to .5 miles while also increasing the type/number of amenities that would trigger the construction of sidewalks. Mr. Manley stated in all circumstances, expedited subdivisions, minor subdivisions, major subdivisions, CZDs and multi-family projects would be required to construct sidewalks under the proposed changes and in accordance with existing subdivision ordinance requirements. Mr. Manley stated the proposed revisions also clarify how measurements are determined and the fee-in-lieu process.

Staff presented and discussed with City Council an analysis of the consistency with the relevant portions of the Comprehensive Land Use Plan and the Planning Board's recommendation. Both were considered by the City Council in addition to supporting maps and documents provided in the agenda packet.

The City Clerk confirmed this public hearing has been advertised in accordance with North Carolina General Statutes. The public hearing was opened at 6:28 p.m.

There were no comments.

The public hearing was closed at 6:28 p.m.

*Council Member Dr. Jennifer Hensley moved that City Council adopt an ordinance amending the official City of Hendersonville Zoning Ordinance, Article VI. – General Provisions, Section 6-12 Sidewalks, based on the following: The petition is found to be consistent with the City of Hendersonville 2030 Comprehensive Plan based on the information from the staff analysis and the public hearing, and because the 2030 Comprehensive Plan calls for the City to continue to require adequate public facilities for new developments, to promote safe & walkable neighborhoods, to provide pedestrian connections to services and public facilities, and to develop a multi-modal transportation network. We find this petition to be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because the text amendment reduces the trigger for sidewalk construction for new developments to a ten-minute walk (0.5 miles); the text amendment ensures that additional public amenities are considered when determining if sidewalks are required as part of a new development; the text amendment aligns with requirements for sidewalks found in the Subdivision Ordinance; and the text amendment ensures that multi-family developments will require sidewalks or a fee-in-lieu of sidewalks. A unanimous roll-call vote of the Council followed. Motion carried.*

**ZONING ORDINANCE #O-22-44**

**AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO  
AMEND ARTICLE VI – GENERAL PROVISIONS, SECTION 6-12. 'SIDEWALKS' OF  
THE CITY OF HENDERSONVILLE ZONING ORDINANCE TO ADDRESS  
STANDARDS FOR REQUIRING SIDEWALK CONSTRUCTION OR FEE-IN-LIEU OF  
SIDEWALKS**

**WHEREAS**, the City of Hendersonville's Planning Board reviewed this petition for a zoning text amendment at its regular meeting on June 13, 2022; voting 6-0 to recommend City Council adopt an ordinance amending the City of Hendersonville Zoning Ordinance, and

**WHEREAS**, City Council took up this application at its regular meeting on July 7, 2022, and

**WHEREAS**, City Council has found that this text amendment is consistent with the City's comprehensive plan, and that it is reasonable and in the public interest for the reasons stated, and

**WHEREAS**, City Council has conducted a public hearing as required by the North Carolina General Statutes on July 7<sup>th</sup>, 2022,

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Hendersonville, North Carolina that Article VI – General Provisions, Section 6-12. 'Sidewalks' be amended as

follows:

### **Sec. 6-12. Sidewalks.**

It is the intent of this section that sidewalks shall be provided in residential zoning districts on one side of every street and in nonresidential districts along both sides of the street.

Where sidewalks are required by this Section 6-12, sidewalks shall be constructed from property line to property line within the street right-of-way, or, in the alternative, within areas set aside by dedication, or otherwise, in accordance with the city's sidewalks and driveway entrance standards.

For purposes of this section, distance is measured between closest points of the properties' boundaries, as the crow flies.

**6-12-1 Residential districts.** Sidewalks shall be required for new construction in areas zoned PRDCZD, PMH, R-40, R-40 SUCZD, R-20, R-SU20CZD, R-15, R-15SUCZD, R-10, R-10SUCZD, R-6, R-6SUCZD, when one of the following conditions is present:

- a) When the property adjoins property with an existing sidewalk;
- b) When the property adjoins property for which a development approval, or other governmental approval (e.g. conditional zoning) has been issued requiring the construction of sidewalks;
- c) When an existing segment of sidewalk is within 400 feet of the property on the same side of the street;
- d) When the required sidewalk for a property described in Section 6-12-1(b) is within 400 feet of the property on the same side of the street;
- e) The development contains multi-family uses.
- f) When the property is within one and one-half miles linear traverse of a public or private school, public or private hospital, public library, public safety station (e.g. police, fire, rescue), public transit stop or station, government building, courthouse, government administrative office building, public park, public greenway, or any of the foregoing contained within a local government capital improvement plan (CIP).

In the case of corner lots, sidewalk requirements shall be met along both streets.

**6-12-1.1 Extraterritorial Jurisdiction.** ~~Notwithstanding the foregoing subsections 6-12-1(a)-(f) above, however,~~ within the city's area of extraterritorial jurisdiction sidewalks shall not be required in the following circumstances:

- ~~a) The platting of a minor subdivision as defined in the subdivision ordinance;~~
- a) The construction of a single-family or two-family dwelling on previously platted property.

**6-12-1.2 Other Circumstances Requiring Sidewalks.** The city manager may require that a sidewalk be built across the street from the site of new construction when the following conditions exist:

- a) No sidewalk adjoins the site;
- b) A sidewalk exists on the other side of the street ~~in the vicinity~~ within 400 feet of the site; and
- c) There is no legal impediment to constructing the sidewalk on the other side of the street.

In cases where a sidewalk already exists on the opposite side of the street for the entire length of the city block where the subject property is located, and no sidewalk exists along the properties adjacent to the subject property, then a sidewalk is not required to be built along the frontage of the subject property.

**6-12-1.3 No sidewalks required.** No sidewalks shall be required in the following locations:

- a) Along freeways and interstate highways maintained by NCDOT. As used herein the terms "freeway" shall mean streets designated as a freeway on the Comprehensive Transportation Plan for French Broad River MPO, as amended.
- b) Along alleys and accessways to individual lots not served by a street; and
- c) Along gravel streets.

**6-12-2 Other districts.** In all other zoning district classifications sidewalks shall be required for new construction from property line to property line. In the case of corner lots, sidewalks shall be provided along both streets.

Furthermore, if the new construction is intended for a commercial, industrial, or institutional use, sidewalks shall be required to connect street sidewalks with any building entrances intended for public use.

**6-12-3 Payment of fee in lieu of construction of sidewalks.** In lieu of requiring construction of the sidewalks, the city manager may allow the applicant to pay a fee of \$75.00\* per linear foot of sidewalk not constructed, which is hereby determined to be the cost of constructing sidewalks, into the City sidewalk fund in lieu of requiring construction of the sidewalks when one or more of the following conditions exist.

- ~~a) Construction of sidewalks will result in a hardship~~
- a) An administrative decision is made determining that ~~C~~construction of sidewalks will not result in useful pedestrian walkways due to one or more of the following:
  - 1) Topographical features will result in impractical design.
  - 2) The lack of ~~adjacent~~ right-of-way for the construction of future sidewalks on adjacent properties ~~construction.~~
- b) The sidewalk location is not identified as a short-term recommendation, long-term recommendation or is not included as part of the comprehensive recommended pedestrian network in the most recently adopted City of Hendersonville Pedestrian Plan.

\* In the event that the City of Hendersonville includes the fee for this Section 6-12-3 in the City's fee schedule, the fee as stated in the fee schedule shall be deemed to control.

As an alternative to a payment in lieu of the installation and construction of sidewalks or a portion thereof, the city manager may approve the applicant constructing an equivalent linear footage of sidewalk off site. The specific location for the sidewalk construction shall be at the city manager's discretion. The off-site sidewalk construction shall be completed, inspected and approved prior to a certificate of occupancy being issued.

Adopted by the City Council of the City of Hendersonville, North Carolina this 7<sup>th</sup> day of July 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

**F. Zoning Map Amendment – Erkwood Dr - Kilpatrick (P22-48-RZO) – Matthew Manley, AICP – Planning Manager**

Community Development Planning Manager Matthew Manley stated the city has received an annexation application from Cameron & Kina Kilpatrick (owner) for a 1.89-acre tract along Erkwood Dr. near the intersection of Greenville Highway and Shepperd St. adjacent to city limits on the southern edge of Hendersonville. Mr. Manley said the applicant has not requested zoning, therefore the City is initiating zoning for this parcel from County R-40, Estate Residential District to GHMU, Greenville Highway Mixed Use.

Staff presented and discussed with City Council an analysis of the consistency with the relevant portions of the Comprehensive Land Use Plan and the Planning Board's recommendation. Both were considered by the City Council in addition to supporting maps and documents provided in the agenda packet.

The City Clerk confirmed this public hearing has been advertised in accordance with North Carolina General Statutes. The public hearing was opened at 6:37 p.m.

There were no comments.

The public hearing was closed at 6:37p.m.

*Council Member Lyndsey Simpson moved that City Council adopt an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of the subject property (PINS: 9577-18-7316) from Henderson County R-40, Estate Residential zoning district to City of Hendersonville GHMU (Greenville Highway Mixed Use) based on the following: The petition is found to be consistent with the City of Hendersonville 2030 Comprehensive Plan based on the information from the staff analysis and because the proposed zoning presents an opportunity for compatible infill development and a mix of land uses as called for in Chapters 2, 8 and 9 of the City's 2030 Comprehensive Plan. Additionally, we find this petition to be reasonable and in the public interest based on the information from the staff analysis, public hearing and because Greenville Highway is the predominant zoning in this area and the petition aligns with the Henderson County's Future Land Use designation. Furthermore, we recommend designating the Future Land Use of the parcel as High Intensity Neighborhood and Natural / Agricultural Resources for the portion of the subject property located in the 100-year Floodplain. A unanimous roll-call vote of the Council followed. Motion carried.*

**ORDINANCE #O-22-45**

**AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF HENDERSONVILLE FOR PARCEL POSSESSING PIN NUMBERS 9577-18-7316 BY CHANGING THE ZONING DESIGNATION FROM MIC HENDERSON COUNTY R-40, ESTATE RESIDENTIAL ZONING DISTRICT TO CITY OF HENDERSONVILLE GHMU (GREENVILLE HIGHWAY MIXED USE)**

IN RE: Parcel Numbers: 9577-18-7316  
Erkwood Dr – Kilpatrick (File # P22-48-RZO)

**WHEREAS**, the Planning Board took up this application at its regular meeting on June 13, 2022; voting 5-0 to recommend City Council adopt an ordinance amending the official zoning map of the City of Hendersonville, and

**WHEREAS**, City Council took up this application at its regular meeting on July 7, 2022, and

**WHEREAS**, City Council has found that this zoning map amendment is consistent with the City's comprehensive plan, and that it is reasonable and in the public interest for the reasons stated, and

**WHEREAS**, City Council has conducted a public hearing as required by the North Carolina General Statutes on July 7th, 2022,

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Hendersonville, North Carolina:

1. Pursuant to Article XI of the Zoning Ordinance of the City of Hendersonville, North Carolina, the Zoning Map is hereby amended by changing the zoning designation of the following: Parcel Numbers: 9577-18-7316 from Henderson County R-40, Estate Residential Zoning District to City of Hendersonville GHMU (Greenville Highway Mixed Use).
2. Any development of this parcel shall occur in accordance with the Zoning Ordinance of the City of Hendersonville, North Carolina.
3. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted by the City Council of the City of Hendersonville, North Carolina this 7<sup>th</sup> day of July 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

**G. Rezoning: Standard Rezoning – Upward Rd-Justus-Erwin (P22-49-RZO)–** *Matthew Manley, AICP – Planning Manager*

Community Development Planning Manager Matthew Manley stated the city has received an application from Jeff Justus and James & Ruth Erwin (owners) for a group of 3 parcels totaling 3.795 Acres along Upward Rd at the intersection of Ballenger Rd. Mr. Manley stated the applicant has not requested zoning; therefore the City is initiating zoning for this parcel from County Regional Commercial to CHMU, Commercial Highway Mixed Use. Mr. Manley stated the subject property is outside of the corporate city limits on the southeastern edge of Hendersonville and clarified the subject property sits outside of the City's ETJ but within the Upward Road Planning District.

Staff presented and discussed with City Council an analysis of the consistency with the relevant portions of the Comprehensive Land Use Plan and the Planning Board's recommendation. Both were considered by the City Council in addition to supporting maps and documents provided in the agenda packet.

The City Clerk confirmed this public hearing has been advertised in accordance with North Carolina General Statutes. The public hearing was opened at 6:46 p.m.

There were no comments.

The public hearing was closed at 6:46 p.m.

*Council Member Jerry A. Smith Jr., J.D. moved that City Council adopt an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of the subject property (PINS: 9588-40-6934; 9588-40-7844; 9588-40-8795) from Henderson County RC, Regional Commercial zoning district to City of Hendersonville CHMU (Commercial Highway Mixed Use) based on the following: The petition is found to be consistent with the City of Hendersonville 2030 Comprehensive Plan based on the information from the staff analysis and because the proposed zoning provides design standards which align with most of the design guidelines outlined under Strategy LU-9.4 of the City's 2030 Comprehensive Plan. Furthermore, we find this petition to be reasonable and in the public interest based on the information from the staff analysis, public hearing and because Commercial Highway Mixed Use is the zoning district established for the Upward Rd Planning Area; the Commercial Highway Mixed Use zoning district is well suited to achieve the goals of the Comprehensive Plan for this area; and the property is located in an area designated as a "Priority Growth Area" according to the City's Comprehensive Plan. A unanimous roll-call vote of the Council followed. Motion carried.*

**ORDINANCE #O-22-46**

**AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO  
AMEND THE OFFICIAL ZONING MAP OF THE CITY OF HENDERSONVILLE FOR  
PARCEL POSSESSING PIN NUMBERS 9588-40-6934; 9588-40-7844; 9588-40-8795 BY  
CHANGING THE ZONING DESIGNATION FROM HENDERSON COUNTY RC,  
REGIONAL COMMERCIAL ZONING DISTRICT TO CITY OF HENDERSONVILLE  
CHMU (COMMERCIAL HIGHWAY MIXED USE)**

IN RE: Parcel Numbers: 9588-40-6934; 9588-40-7844; 9588-40-8795  
Upward Rd-Justus-Erwin (File # P22-49-RZO)

**WHEREAS**, the Planning Board took up this application at its regular meeting on June 13, 2022; voting 5-0 to recommend City Council adopt an ordinance amending the official zoning map of the City of Hendersonville, and

**WHEREAS**, City Council took up this application at its regular meeting on July 7, 2022, and

**WHEREAS**, City Council has found that this zoning map amendment is consistent with the City's comprehensive plan, and that it is reasonable and in the public interest for the reasons stated, and

**WHEREAS**, City Council has conducted a public hearing as required by the North Carolina General Statutes on July 7th, 2022,

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Hendersonville, North Carolina:

1.

Pursuant to Article XI of the Zoning Ordinance of the City of Hendersonville, North Carolina, the Zoning Map is hereby amended by changing the zoning designation of the following: Parcel Numbers: 9588-40-6934; 9588-40-7844; 9588-40-8795 from Henderson County RC, Regional Commercial Zoning District to City of Hendersonville CHMU (Commercial Highway Mixed Use)
2.

Any development of this parcel shall occur in accordance with the Zoning Ordinance of the City of Hendersonville, North Carolina.
3.

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

Adopted by the City Council of the City of Hendersonville, North Carolina this 7<sup>th</sup> day of July 2022.

/s/Barbara G. Volk, Mayor  
Attest: /s/Angela L. Reece, City Clerk  
Approved as to form: /s/Angela S. Beeker, City Attorney

**H. Rezoning: Standard Rezoning – Edwards Park (P22-52-RZO) – Matthew Manley, AICP – Planning Manager**

Community Development Planning Manager Matthew Manley stated the City is initiating a rezoning for a remnant of property zoned C-3 on a parcel (PIN: 9569-70-5860) owned by the Hendersonville Board of Education. Mr. Manley said the parcel is split zoned R-6 & C-3 and is 1.47 acres. Mr. Manley stated the portion currently zoned R-6 makes up approximately 93% of property and said the remaining 1/10<sup>th</sup> of an acre is zoned C-3. Mr. Manley recalled an exempt subdivision occurring on September 3, 2021 involving the subject property which reduced the size of the parcel and reduced the portion zoned C-3. Mr. Manley said the proposed rezoning would eliminate the split zoning making the entire parcel R-6, High Density Residential and reminded everyone this would be considered a downzoning and would change the dimensional requirements as follows:

<u>C-3 (non-residential)</u>	<u>C-3 (residential)</u>	<u>R-6</u>
Front: 35’	20’	Front: 20’
Side: 15’	8’	Side: 8’
Rear: 20	10’	Rear: 10’

Staff presented and discussed with City Council an analysis of the consistency with the relevant portions of the Comprehensive Land Use Plan and the Planning Board’s recommendation. Both were considered by the City Council in addition to supporting maps and documents provided in the agenda packet.

The City Clerk confirmed this public hearing has been advertised in accordance with North Carolina General Statutes. The public hearing was opened at 6:55 p.m.

There were no comments.

The public hearing was closed at 6:55 p.m.

*Council Member Dr. Jennifer Hensley moved that City Council adopt an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of the subject property (PINS: 9569-70-5860) from C-3, Highway Business & R-6, High Density Residential to R-6, High Density Residential based on the following: the petition is found to be consistent with the City of Hendersonville 2030 Comprehensive Plan based on the information from the staff analysis and because the Future Land Use designation of Natural Resource / Agricultural Area recommends primary uses which are compatible with publicly owned properties zoned R-6, High Density Residential. Furthermore, we find this petition to be reasonable and in the public interest based on the information from the staff analysis, public hearing and because: R-6 zoning would be an expansion of the primary zoning classification of the subject property; R-6 zoning permits uses which are compatible with surrounding land uses; and R-6 zoning contains dimensional standards which are compatible with the surrounding built environment. A unanimous roll-call vote of the Council followed. Motion carried.*

**ORDINANCE #O-22-47**

**AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO  
AMEND THE OFFICIAL ZONING MAP OF THE CITY OF HENDERSONVILLE FOR**



**PARCEL POSSESSING PIN NUMBERS 9569-70-5860 BY CHANGING THE ZONING DESIGNATION FROM R-6, HIGH DENSITY RESIDENTIAL & C-3, HIGHWAY BUSINESS TO R-6 HIGH DENSITY RESIDENTIAL**

IN RE: Parcel Numbers: 9569-70-5860  
Edwards Park (File # P22-52-RZO)

**WHEREAS**, the Planning Board took up this application at its regular meeting on June 13, 2022; voting 6-0 to recommend City Council adopt an ordinance amending the official zoning map of the City of Hendersonville, and

**WHEREAS**, City Council took up this application at its regular meeting on July 7, 2022, and

**WHEREAS**, City Council has found that this zoning map amendment is consistent with the City's comprehensive plan, and that it is reasonable and in the public interest for the reasons stated, and

**WHEREAS**, City Council has conducted a public hearing as required by the North Carolina General Statutes on July 7th, 2022,

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Hendersonville, North Carolina:

1. Pursuant to Article XI of the Zoning Ordinance of the City of Hendersonville, North Carolina, the Zoning Map is hereby amended by changing the zoning designation of the following: Parcel Numbers: 9569-70-5860 from R-6, High Density Residential & C-3, Highway Business to R-6 High Density Residential
2. Any development of this parcel shall occur in accordance with the Zoning Ordinance of the City of Hendersonville, North Carolina.
3. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted by the City Council of the City of Hendersonville, North Carolina this 7<sup>th</sup> day of July 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

**8. UNFINISHED BUSINESS**

**A. Board & Commission Vacant Seat Appointments – Angela L. Reece, City Clerk**

Mayor Barbara G. Volk asked for nominations for the following advisory boards. Mayor Volk called for a vote in the order in which multiple nominations were received.

**1. ABC Board**

*Council Member Jerry A. Smith Jr., J.D. moved that City Council appoint Chuck McGrady, to serve a term on the ABC Board ending June 30, 2025. A unanimous roll-call vote of the Council followed. Motion carried.*

**2. Animal Services Advisory Committee**

*Council Member Dr. Jennifer Hensley moved that City Council appoint Jean Greeson and Melissa Vazquez to serve a term on the Animal Services Advisory Committee ending June 30, 2025. A unanimous roll-call vote of the Council followed. Motion carried.*

### 3. Board of Adjustment

*Council Member Lyndsey Simpson moved that City Council appoint Melinda Lowrance and Libby Collina to serve a term on the Board of Adjustment ending June 30, 2025. A unanimous roll-call vote of the Council followed. Motion carried.*

The City Council postponed further appointments pending review of the board seats and vacancies.

### 4. Business Advisory Committee

*Council Member Dr. Jennifer Hensley moved that City Council appoint Jay Egolf and John Stevens to serve a term on the Business Advisory Committee ending June 30, 2025. A unanimous roll-call vote of the Council followed. Motion carried.*

### 5. Diversity & Inclusion Advisory Committee

(3 vacancies/ ending June 30, 2025)

*Council Member Dr. Jennifer Hensley moved that City Council appoint Nancy Diaz, Melinda Lowrance, and Josh Williams to serve a term on the Diversity and Inclusion Advisory Committee ending June 30, 2025. A unanimous roll-call vote of the Council followed. Motion carried.*

### 6. Downtown Advisory Board

*Council Member Jerry A. Smith Jr., J.D moved that City Council appoint Phil Wilmot to serve a term on the Downtown Advisory Board as 7<sup>th</sup> Avenue Stakeholder ending June 30, 2025. A unanimous roll-call vote of the Council followed. Motion carried.*

*Council Member Dr. Jennifer Hensley moved that City Council appoint Mark Pavao to serve a term on the Downtown Advisory Board as a Main Street Stakeholder ending June 30, 2025. A unanimous roll-call vote of the Council followed. Motion carried.*

*Council Member Jerry A. Smith Jr., J.D moved that City Council appoint Gerald Fitzgerald and Keang H Uy to serve a term on the Downtown Advisory Board as an At-Large member ending June 30, 2025. A unanimous roll-call vote of the Council followed. Motion carried.*

### 7. Environmental Sustainability Board

*Council Member Lyndsey Simpson moved that that City Council amend the Environmental Sustainability Board Charter and Rules of Procedure, Article IV- Membership and Duties- to designate one of the At-Large seats to be filled by an individual, principal or other significant representative of an organization or business that demonstrates a commitment to an environmentally sustainable future, as determined by the City Council. This term shall be un-expiring. A unanimous roll-call vote of the Council followed. Motion carried.*

*Council Member Lyndsey Simpson moved that City Council appoint Virginia Tegel and Anthony Baltiero to serve an unexpired term on the Environmental Sustainability Board as a City Resident member ending June 30, 2024. A unanimous roll-call vote of the Council followed. Motion carried.*

*Council Member Dr. Jennifer Hensley moved that City Council appoint a representative of Mountain True to fill an un-expiring term as an At-Large member of the ESB Board. A unanimous roll-call vote of the Council followed. Motion carried.*

8. Historic Preservation Commission

*Council Member Jerry A. Smith Jr., J.D moved that City Council appoint Anthony Baltiero, Jim Boyd, and Jane Branigan to serve an unexpired term on the Historic Preservation Commission ending December 31, 2022. A unanimous roll-call vote of the Council followed. Motion carried.*

9. Planning Board

*Council Member Lyndsey Simpson moved that City Council appoint Laura Flores to serve an unexpired term on the Planning Board ending December 31, 2022. A unanimous roll-call vote of the Council followed. Motion carried.*

10. TDA

*Council Member Jerry A. Smith Jr., J.D moved that City Council appoint Julie Hall to serve a term in Seat #4 on the TDA Board ending June 30, 2027. A unanimous roll-call vote of the Council followed. Motion carried.*

9. NEW BUSINESS

A. Special Appropriation – Adam Murr, Budget Manager

Budget Manager Adam Murr recalled prior discussions and recommendations by City Council regarding special appropriation allocation procedures. Mr. Murr provided an updated policy as requested by Council. Council discussed various applicants and appropriation amounts agreeing to the following:

Special Appropriation Requests - Discretionary Funding		
City Manager Appropriation Target	\$ 125,000	
Organization	Request FY22-23	Council Appropriation
Appropriation Available (25% of Budget)	31,250	(2,600)
Arts Council of Henderson County, Inc.	5,000	2,700
Blue Ridge Literacy Council	5,000	2,900
Boy's & Girl's Club of Henderson County	20,000	9,050
BRCC Educational Foundation, Inc.	3,500	2,700
Carolina Concert Choir	-	-
Flat Rock Playhouse (Vagabond School)	14,000	3,000
Henderson County Education Foundation	3,500	1,700
Henderson County Heritage Museum	-	-
Henderson County NAACP - CDL Training	7,500	2,600
Henderson County NAACP - Medical Training	5,000	2,500
Hendersonville Community Theatre	85,500	1,800
Hendersonville Shuffleboard Club	1,200	580
Hendersonville Sister Cities, Inc. (HSC)	-	-
Hendersonville Symphony - Second Series	3,000	400
Hendersonville Symphony - Youth Education	5,000	1,600
Latino Advocacy Coalition	25,000	-
Mineral & Lapidary Museum	10,000	1,300
Team ECCO	3,500	1,020
The Art & Inspiration Center	-	-
Sub-Total	196,700	33,850

<b>Appropriation Available (75% of Budget)</b>	<b>93,750</b>	<b>2,450</b>
Blue Ridge Community Health Services	10,000	9,100
Blue Ridge Humane	8,000	5,600
Chamber of Commerce	-	-
Children & Family Resource Center	10,000	7,500
Henderson County Council on Aging	4,700	4,220
Henderson County Young Leaders (Camplify)	3,500	3,100
Interfaith Assistance Ministry - Rent Asst.	40,000	15,700
Mayor's Advocacy Council	-	-
Medical Loan Closet of Henderson County	3,500	2,600
Pisgah Legal Services - Domestic Violence	5,000	4,600
Pisgah Legal Services - Homeless Prevent.	5,000	3,800
Safelight, Inc.	20,000	13,830
St. Gerard House	8,000	5,600
The Mediation Center	1,500	1,400
Thrive	15,000	8,450
True Ridge	10,000	5,800
<b>Sub-Total</b>	<b>144,200</b>	<b>91,300</b>

<b>Total</b>	<b>340,900</b>	<b>\$ 125,150</b>
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Special Appropriation Requests - Full Funding		
Organization	Request FY22-23	Council Appropriation
Agribusiness Henderson County (AgHC)	5,000	5,000
Hand On! - A Child's Gallery	42,000	42,000
Henderson County Economic Investment Fund	50,000	50,000
Henderson County Partnership for Econ. Dev.	20,000	20,000
Henderson County Planning Department	166,018	166,018
Henderson County Rescue Squad	15,000	15,000
Interfaith Assistance Ministry	30,000	30,000
Merchant's and Business Association	1,500	1,500
Mills River Partnership	70,000	70,000
<b>Total</b>	<b>399,518</b>	<b>\$ 399,518</b>

*Council Member Dr. Jennifer Hensley moved that City Council approve the fiscal year 2022-2023 special appropriations as presented. A unanimous roll-call vote of the Council followed. Motion carried.*

*Council Member Dr. Jennifer Hensley moved that City Council approve the revised special appropriations policy as presented. A unanimous roll-call vote of the Council followed. Motion carried.*

**B. Parking Deck Update – Brian Pahle, Assistant City Manager**

Assistant City Manager Brian Pahle provided an update to Council regarding the construction progress of the parking deck project. Manager Pahle advised the parking deck construction will impact traffic along 5th Avenue and Church Street at various times starting in mid-July and continuing through August. Manager Pahle stated a crane will be assembled on-site the week of July 11 and then starting the week of July 18 and for approximately six weeks, pre-cast concrete pieces will be lifted and positioned to build the parking deck structure. He said during construction, there will be multiple daily deliveries where Church Street will be blocked for very short periods while sections are unloaded with the crane and said at the end of this process, a temporary street closure of 5th Avenue West will occur to facilitate the garage's construction. He stated the goal was completion of construction prior to the Apple Festival.

**10. CITY COUNCIL COMMENTS**

Council Member Jerry A. Smith Jr., J.D. stated Hendersonville High School will be officially dedicated on August 3, 2022 and invited fellow Council Members and the public to come see the new facility.

Council Member Debbie O’Neal-Roundtree reminded everyone of the Back to School Fest on August 21, 2022 at Sullivan Park from 11a.m to 3 p.m. and encouraged all to attend.

Council Member Dr. Jennifer Hensley responded to earlier public comments by Ms. Lynne Williams and advised she has not corresponded to any emails with Ms. Williams since December 3, 2021.

**11. CITY MANAGER REPORT – John F. Connet, City Manager**

City Manager John Connet introduced Rodney Gilliam who is participating in the Veterans ICMA Fellowship Program and said he will be assisting with recruitment strategy for veterans leaving military service and entering the civilian workforce

**12. CLOSED SESSION**

A. Closed Session – John Connet, City Manager

*At 7:34 p.m. Council Member Lyndsey Simpson moved that City Council enter into closed session pursuant to NCGS § 143-318.11 (a) (1) and (5) to prevent the disclosure of information that is privileged or confidential pursuant to the law of this State or of the United States, or not considered a public record within the meaning of Chapter 132 of the General Statutes and to establish, or to instruct the public body’s staff concerning the position to be taken by or on the behalf of the public body in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, lease, option, or exchange. A unanimous roll-call vote followed. Motion carried.*

*At 7:59 p.m. Council Member Debbie O’Neal-Roundtree moved that City Council return to open session. A unanimous roll-call vote of the Council followed. Motion carried.*

**13. ADJOURN**

There being no further business, the meeting was adjourned at 7:59 p.m. upon unanimous assent of the Council.

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Barbara G. Volk, Mayor

ATTEST:

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Angela L. Reece, City Clerk