



MINUTES

June 2, 2022

REGULAR MEETING OF THE CITY COUNCIL

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, Debbie O'Neal-Roundtree, and 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.*

Mayor Barbara G. Volk limited comments to around 3 and ½ minutes to each speaker.

Chris Walters addressed City Council regarding development asking Council to consider not allowing development of farmland, getting best deal from the developer, and not to planning the annual budget on projected revenue for a development that has not been approved.

Bruce Macdonald addressed City Council regarding development stating he feels the elected officials have done a good job of being stewards of the land but expressed concerns of young people leaving the area and trying to return in the future. Mr. Macdonald asked Council to keep in mind what their legacy will be when people look back.

Sandy Williams addressed City Council via zoom electronic software expressing concerns for development in the City and environmental impacts.

Mayor Volk read comments submitted electronically from the following persons.

Crystal Cauley submitted digital comments expressing thanks and appreciation to Council for recognizing diversity and acknowledging Pride Month.

4. CONSIDERATION OF AGENDA

Council Member Debbie O'Neal-Roundtree moved that City Council approve the agenda as presented. A unanimous 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 adopt the minutes of the April 29, 2022, Special Call Meeting, and May 5, 2022 Regular Meeting, as presented.

B. **Annexation: Certificate of Sufficiency- Upward Road & Ballenger Road (Justus & Erwin) (C22-45-ANX)** – Tyler Morrow, Planner II

I move that City Council accept the City Clerk's Certificate of Sufficiency for the petition submitted by Jeff C. Justus, James S. & Ruth G. Erwin Jr. and set July 7th, 2022, as the date for public hearing.

Resolution #R-22-63

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. July 7th, 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 PINs 9588-40-8795, 9588-40-7844, and 9588-40-6934 described in the plat recorded in Book 2022 - ____ [to be inserted at recording of the plat] of the Henderson County Registry, said PINs 9588-40-8795, 9588-40-7844, and 9588-40-6934 being described by metes and bounds as follows:

Situated in the City of Hendersonville, Henderson County, North Carolina and being more particularly described 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.

Re: Petition for Satellite Annexation
Petitioners: Jeff C. Justus, James S. & Ruth G. Erwin Jr.
File No. C22-45-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 2nd day of June 2022.

/s/Barbara G. Volk, Mayor

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

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

C. Annexation: Certificate of Sufficiency- Erkwood Drive (Kilpatrick) (C22-38-ANX) –
Tyler Morrow, Planner II

I move that City Council accept the City Clerk's Certificate of Sufficiency for the petition submitted by Cameron and Kina Kilpatrick and set July 7th, 2022, as the date for public hearing.

Resolution #R-22-64

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL FIXING DATE OF
PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-31**

WHEREAS, a petition requesting annexation of the contiguous 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 contiguous area described herein will be held at the City Operations Center located at 305 William St. Hendersonville NC, 28792 at 5:45 p.m. July 7th, 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 9577-18-7316, described in the plat recorded in Book 2022 - ____ [to be inserted at recording of the plat] of the Henderson County Registry, said PIN 9577-18-7316 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.

Re: Petition for Contiguous Annexation
Petitioners: Cameron and Kina Kilpatrick
File No. C22-38-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 2nd day of June 2022.

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

D. June 2022 Budget Amendments - Adam Murr, Budget Manager

I move that City Council adopt budget amendment(s) 06022022-01, 06022022-02, 06022022-03, 06022022-04, and 06022022-05 as presented.

E. June 2022 Capital Project Ordinances – Alex Norwood, Budget Analyst

I move that City Council adopt the grant/capital project ordinance(s) for the FY22 CIP Vehicle and Equipment Project (#22010), the Police Virtual Lab Equipment Project (#G2206), and the Comprehensive Plan Project (#22014).

CAPITAL PROJECT Ordinance #O-22-26

**CAPITAL PROJECT ORDINANCE FOR
THE EXECUTION, ACQUISITION, CONSTRUCTION, AND INSTALLATION OF THE
FY22 CIP VEHICLE AND EQUIPMENT PROJECT**

BE IT ORDAINED by the Governing Board of the City of Hendersonville, North Carolina that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

Section 1: The project authorized is a City project described as the FY22 CIP Vehicle and Equipment Project.

Section 2: The project will be complete in accordance with the requirements set by all relevant North Carolina state statutes.

Section 3: The following amounts are appropriated for the project:

Account Codes				Account Name	Total Budget
Fund	Dept.	Account	Project		
410	1300	554002	22010	Capital Outlay – Vehicles	\$ 28,500
410	1560	554002	22010	Capital Outlay – Vehicles	\$159,365
410	1502	554002	22010	Capital Outlay – Vehicles	\$39,000
460	7002	554002	22010	Capital Outlay – Vehicles	\$128,510
460	7155	554002	22010	Capital Outlay – Vehicles	\$349,530
467	7855	554001	22010	Capital Outlay – Vehicles	\$380,000
Total Project Appropriation					\$ 1,084,905

Section 4: The following revenues are anticipated to be available for the project:

Account Codes				Account Name	Total Budget
Fund	Dept.	Account	Project		
410	0000	470010	22010	Debt Obligations Issued	\$226,865
460	0000	470100	22010	Transfers In (from 060)	\$478,040
467	0000	470010	22010	Debt Obligations Issued	\$380,000
Total Project Revenue					\$1,084,905

Section 5: The Finance Director is hereby directed to maintain within the capital project fund sufficient specific detailed accounting records to satisfy the disclosure requirements of all the contractual agreements, if applicable.

Section 6: Funds may be advanced from the General, Water/Sewer, and Environmental Services Funds as necessary for the purpose of making payments as due. Reimbursement requests shall be made in an orderly and timely manner.

Section 7: The Finance Director is directed to report, on a quarterly basis, on the financial status of each project element in Section 3 and Section 4.

Section 8: The Finance Director is further instructed to include a detailed analysis of past and future revenues and expenses during each annual budget submission made to the Governing Board.

Section 9: Copies of this project ordinance shall be furnished to the City Clerk, Finance Director and City Manager for direction in carrying out this project.

Adopted by the City Council of the City of Hendersonville, North Carolina this 2nd day of June 2022.

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

GRANT PROJECT Ordinance #O-22-27

**GRANT PROJECT ORDINANCE FOR
THE EXECUTION, ACQUISITION, CONSTRUCTION, AND INSTALLATION OF THE
COMPREHENSIVE PLAN PROJECT**

BE IT ORDAINED by the Governing Board of the City of Hendersonville, North Carolina that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following grant project ordinance is hereby adopted:

Section 1: The project authorized is a City project described as the Comprehensive Plan Project.

Section 2: The following amounts are appropriated for the project:

Account Codes				Account Name	Total Budget
Fund	Dept.	Account	Project		
410	1200	519200	22014	Contracted Services	\$200,000
Total Project Appropriation					\$200,000

Section 3: The following revenues are anticipated to be available for the project:

Account Codes				Account Name	Total Budget
Fund	Dept.	Account	Project		
410	0000	460090	22014	Contributions/Donations	\$50,000
410	0000	470100	22014	Transfers In (From 010)	\$150,000
Total Project Appropriation					\$200,000

PROJECT TO BE FUNDED USING

Section 4: The Finance Director is hereby directed to maintain within the grant project fund sufficient specific detailed accounting records to satisfy the disclosure requirements of all the contractual agreements, if applicable.

Section 5: Funds may be advanced from the General Fund (010) as necessary for the purpose of making payments as due. Reimbursement requests shall be made in an orderly and timely manner.

Section 6: The Finance Director is directed to report, on a quarterly basis, on the financial status of each project element in Section 3 and Section 4.

Section 7: The Finance Director is further instructed to include a detailed analysis of past and future revenues and expenses during each annual budget submission made to the Governing Board.

Section 8: Copies of this grant project shall be furnished to the City Clerk, Finance Director and City Manager for direction in carrying out this project.

Adopted by the City Council of the City of Hendersonville, North Carolina this 2nd day of June 2022.

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

GRANT PROJECT Ordinance #O-22-28

GRANT PROJECT ORDINANCE FOR
THE EXECUTION, ACQUISITION, CONSTRUCTION, AND INSTALLATION OF THE
POLICE VIRTUAL LAB EQUIPMENT PROJECT

BE IT ORDAINED by the Governing Board of the City of Hendersonville, North Carolina that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following grant project ordinance is hereby adopted:

Section 1: The project authorized is a City project described as the Police Virtual Lab Equipment Project.

Section 2: The following amounts are appropriated for the project:

Account Codes				Account Name	Total Budget
Fund	Dept.	Account	Project		
410	1300	554001	G2206	Capital Outlay Equipment	\$34,100
Total Project Appropriation					\$34,100

Section 3: The following revenues are anticipated to be available for the project:

Account Codes				Account Name	Total Budget
Fund	Dept.	Account	Project		
410	0000	420050	G2206	Grant Revenue	\$24,500
410	0000	470100	G2206	Transfers In (From 199)	\$9,600
Total Project Appropriation					\$34,100

PROJECT TO BE FUNDED USING

Section 4: The Finance Director is hereby directed to maintain within the grant project fund sufficient specific detailed accounting records to satisfy the disclosure requirements of all the contractual agreements, if applicable.

Section 5: Funds may be advanced from the General Fund (010) as necessary for the purpose of making payments as due. Reimbursement requests shall be made in an orderly and timely manner.

Section 6: The Finance Director is directed to report, on a quarterly basis, on the financial status of each project element in Section 3 and Section 4.

Section 7: The Finance Director is further instructed to include a detailed analysis of past and future revenues and expenses during each annual budget submission made to the Governing Board.

Section 8: Copies of this grant project shall be furnished to the City Clerk, Finance Director and City Manager for direction in carrying out this project.

Adopted by the City Council of the City of Hendersonville, North Carolina this 2nd day of June 2022.

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

F. Henderson County Tax Adjustments -Amanda Lofton, Deputy Tax Collector

I move that City Council resolve to direct and authorize the tax releases submitted by Henderson County Tax Collector as presented and relieve the Henderson County Tax Collector and the Deputy Tax Collectors of the charges owed.

G. Approval of Utility Billing Analyst Position and Job Description– John Buchanan, Finance Director

I move that City Council approve the position job description for the Utility Billing Analyst as presented effective retroactively to May 9, 2022.

H. Utility Extension Agreement for the Waterleaf at Flat Rock Apartments – 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 Peggy C. Cabe, Enno F. Camenzind, Joan C. Fleming, Paula Camenzind Carter, Robert O. Camenzind, and Graycliff Capital Development, LLC for the Waterleaf at Flat Rock Apartments as presented and recommended by staff.

Resolution #R-22-65

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO
AUTHORIZE THE CITY MANAGER TO ENTER INTO A UTILITY EXTENSION
AGREEMENT WITH PEGGY C. CABE, ENNO F. CAMENZIND, JOAN C. FLEMING,
PAULA CAMENZIND CARTER, ROBERT O. CAMENZIND AND GRAYCLIFF CAPITAL
DEVELOPMENT, LLC FOR THE WATERLEAF AT FLAT ROCK APARTMENTS**

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

WHEREAS, residential, commercial, and industrial developments often require public water and sanitary sewer 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, Graycliff Capital Development, LLC, the “Developer” and Peggy C. Cabe, Enno F. Camenzind, Joan C. Fleming, Paula Camenzind Carter, and Robert O. Camenzind, the “Owners,” will enter into a Utility Extension Agreement with the City to provide water and sanitary sewer services to the Waterleaf at Flat Rock Apartments.

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

1. The Utility Extension Agreement with Graycliff Capital Development, LLC, the “Developer” and Peggy C. Cabe, Enno F. Camenzind, Joan C. Fleming, Paula Camenzind Carter, and Robert O. Camenzind, the “Owners” to provide water and sanitary sewer services to the Waterleaf at Flat Rock Apartments 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 2nd day of June 2022.

/s/Barbara G. Volk, Mayor

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

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

I. Street Closure: Resolution of Intent- Portion of Fitzsimmons Street (C22-36-SCL) – Tyler Morrow, Planner II

I move that City Council adopt the Resolution of Intent to close an unopened and unimproved portion of Fitzsimmons Street between PINs 9578-30-6667 and PIN 9578313322 petitioned by Lawrence Douglas Marshall and set the public hearing for July 7th, 2022.

Resolution #R-22-66

**RESOLUTION OF INTENT TO CLOSE AN UNOPENED,
UNIMPROVED PORTION OF FITZSIMMONS STREET**

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

WHEREAS, Lawrence Douglas Marshall has petitioned the City of Hendersonville City Council to close an unopened and unimproved portion of the street known as Fitzsimmons Street, located between PIN 9578-30-6667 and PIN 9578-31-3322; and

WHEREAS, NC General Statute 160A-299 requires that City Council conduct a public hearing for the purpose of giving consideration to the petition; and

WHEREAS, At the public hearing, any person may be heard on the question of whether or not the closing would be detrimental to the public interest, or the property rights of any individual; and

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

1. City Council herewith calls a public hearing to be held at 5:45 p.m. (or as soon thereafter as it may be heard) on the 7th day of July 2022, in the Assembly Room of the City Operations Center to consider closing an unopened and unimproved portion of the street known as Fitzsimmons Street located between PIN 9578-30-6667 and PIN 9578-31-3322. Persons shall be allowed to attend and comment in person or via Zoom at the following address:

<https://zoom.us/join>

Dial-in by phone: (646) 558-8656

Meeting ID: 822 0104 2528

Passcode: 1847

Digital public hearing comments may be submitted prior to the public hearing on the City's webpage at www.hendersonvillenc.gov/public-comment or directly to the City Clerk, Angela Reece, areece@hvlnc.gov, 160 6th Avenue East, Hendersonville, NC 28792.

2. The legal description for the portion of Fitzsimmons Street proposed for closing is as follows:

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

3. The City Clerk is hereby directed to publish this Resolution of Intent once a week for four successive weeks.
4. The City Clerk is further directed to transmit by registered or certified mail to each owner of property abutting upon that portion of said street a copy of the Resolution of Intent.
5. The City Clerk is further directed to cause adequate notices of the Resolution of Intent and the scheduled public hearing to be prominently posted in at least two along the portion of Fitzsimmons Street proposed for closure as required by G.S. 160A-299.
6. The City Council herewith declares its intent to close the street as described above.

Adopted by the City Council of the City of Hendersonville, North Carolina this 2nd day of June 2022.

/s/Barbara G. Volk, Mayor

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

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

J. Speed Limit Reduction on Midway Street – John Connet, City Manager

I move that City Council adopt the ordinance reducing the speed limit on Midway Street from thirty-five miles per hour to twenty-five miles per hour.

Ordinance #O-22-29

**AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO
REDUCE THE SPEED LIMIT ON MIDWAY STREET FROM THIRTY -FIVE MILES
PER HOUR TO TWENTY-FIVE MILES PER HOUR**

WHEREAS, § 50-142 of the Hendersonville City Code specifies that it shall be unlawful for any person to operate a vehicle in excess of thirty-five miles per hour in a residential district; and

WHEREAS, §50-144 of the Hendersonville City Code authorizes the City Council to alter the speed limit when it is in the best interest of the City; and

WHEREAS, a resident has requested that the speed limit on Midway Street be reduced due to the lack of sidewalks and larger number of pedestrians that utilize the street; and

WHEREAS, the Chief of Police and Public Works Director support reducing the speed limit on Midway Street from thirty-five miles per hour to twenty-five miles per hour.

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

1. That the official speed limit on Midway Street shall be reduced from thirty-five (35) miles per hour to twenty-five (25) miles per hour.
2. The Public Works Director is hereby directed to install twenty-five (25) miles per hour speed limit signs in conspicuous locations on Midway Street

Adopted by the City Council of the City of Hendersonville, North Carolina this 2nd day of June 2022.

/s/Barbara G. Volk, Mayor

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

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

K. Resolution to Approve Agreement for Janitorial Services – Tom Wooten, Public Works Director

I move that City Council adopt the Resolution to Authorize The City Manager to Execute an Agreement With Spartanburg Maintenance LLC Db a City Wide Facility Solutions for Spartanburg Maintenance LLC, Db a City Wide Facility Solutions Janitorial Services.

Resolution #R-22-67

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO
AUTHORIZE THE CITY MANAGER TO EXECUTE AGREEMENT WITH
SPARTANBURG MAINTENANCE LLC DBA CITY WIDE FACILITY SOLUTIONS
FOR SPARTANBURG MAINTENANCE LLC, DBA CITY WIDE FACILITY
SOLUTIONS JANITORIAL SERVICES**

WHEREAS, the City Council approved janitorial services as part of the 2023 budget, the “Project”; and;

WHEREAS, the Public Works Department has solicited bids in an effort to hire a reputable and responsible Contractor to perform the Project; and

WHEREAS, Spartanburg Maintenance LLC, dba City Wide Facility Solutions, submitted the lowest price proposal, the best strategy to address the overall scope of work, the technical competency to address our needs, the appropriate staff and schedule to address our requirements, and references indicate that they are a responsible Contractor, able to complete the Project within the bid or price stated, and within the time frames requested; and

WHEREAS, Public Works Department is recommending that the Project be awarded to Spartanburg Maintenance LLC dba City Wide Facility Solutions, and that the City Manager be authorized to sign an Agreement with this vendor;

THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HENDERSONVILLE, NORTH CAROLINA that:

4. The Project is awarded to Spartanburg Maintenance LLC, dba City Wide Facility Solutions in the amount of \$144,937.67.
5. The City Manager is authorized to sign an Agreement Spartanburg Maintenance LLC, dba City Wide Facility Solutions in such form as he deems appropriate after consultation with the City Attorney, consistent with the terms of this Resolution.
6. The City Manager, City Attorney, and City Staff are authorized to take such other actions as may be necessary to carry out the terms and provisions of the Agreement as signed by the City Manager.

Adopted by the City Council of the City of Hendersonville, North Carolina this 2nd day of June 2022.

/s/Barbara G. Volk, Mayor

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

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

L. Special Event: Friday Main Streetcar Shows - Lew Holloway, Community Development Director

I move that City Council approve the special event permit for the Friday Main Streetcar Shows.

M. Special Event: Give Back to Old Brooklyn - Lew Holloway, Community Development Director

I move that City Council approve the special event permit for Give Back to Old Brooklyn.

N. Special Event: Lazr Luvr at Oklawaha Brewing - Lew Holloway, Community Development Director

I move that City Council approve the special event permit for Lazr Luvr at Oklawaha Brewing.

O. Special Event: Smart Start Sesame Street - Lew Holloway, Community Development Director

I move that City Council approve the special event permit for Smart Start Sesame Street.

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

6. PRESENTATIONS

A. Presentation of Certificate - Matthew Selves, NCLM

Matthew Selves, Public Safety Risk Management Review Consultant for the North Carolina League of Municipalities presented a plaque to Hendersonville Police Department Chief, Blair Myhand recognizing the department for their efforts in demonstrating a high level of commitment to the community, best practices to enhance professional policing to positively impact communities and relationships.

7. PUBLIC HEARINGS

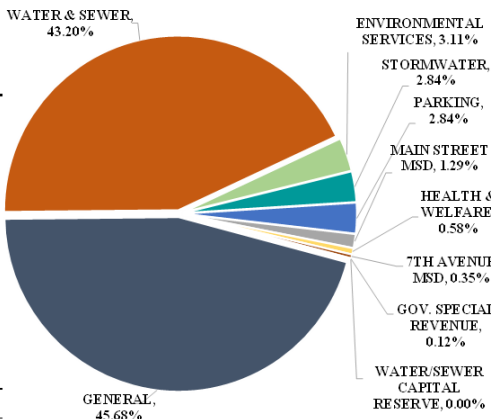
A. Budget Adoption, Fiscal Year 2022-2023

City Manager John F. Connet presented the FY22-23 Recommended Budget to Council for consideration.

Fiscal Year 2022-2023
Recommended Budget in Total

MAJOR FUNDS OVERVIEW FY22-23

FUND	EXPENDITURES	REVENUES	FUND BALANCE APPROP.
GENERAL	\$ 23,965,983	\$ 22,299,393	\$ 1,666,590
WATER & SEWER	22,664,786	22,100,250	564,536
ENVIRONMENTAL SERVICES	1,631,401	1,523,100	108,301
STORMWATER	1,490,476	1,298,290	192,186
PARKING	1,488,666	806,063	682,603
MAIN STREET MSD	675,218	559,285	115,933
HEALTH & WELFARE	304,025	304,025	-
7TH AVENUE MSD	183,919	99,638	84,281
GOV. SPECIAL REVENUE	65,500	16,000	49,500
WATER/SEWER CAPITAL RESERVE	-	-	-
SUB-TOTAL	\$ 52,469,974	\$ 49,006,044	\$ 3,463,930
TOTAL IN BALANCE		\$ 52,469,974	



Manager Connet discussed the total recommended budget and outlined the following:

• Float to Revaluation (FY24)

Manager Connet reminded everyone the Henderson County property revaluation will occur in 2024.

• Year of “No”

Manager Connet stated staff approached the recommended budget with Council direction of no property tax increases and of keeping fees and charges stable prior to the property revaluation in the next fiscal year.

• Pay and Classification → 75th Percentile July 1, 2022

Manager Connet recalled Council’s priority of keeping and recruiting high quality employees and expressed thanks and appreciation on behalf of all City employees to the City Council for their support and investment in the organization through approving the Pay and Classification Plan.

• Merit-Based Pay (+0.25%) → 1.0% achieves | 2.0% exceeds | 3.0% outstanding

Manager Connet reminded everyone that employees are subject to annual reviews and said their performance is indicative of any merit-based bonuses that may be awarded each year to employees who go above and beyond.

• Health Insurance → 12.0% decrease in cost

Manager Connet stated the City’s health insurance premiums have decreased mainly in part to the City’s Safety Program and employee participation.

• Retirement → 13.24% for law enforcement | 12.14% for all other employees

Manager Connet stated the retirement system is anticipated to be fully funded by the year 2025.

• Market-Based Increases for Operating Expenditures:

- Fuel, Chemicals, Utilities, Sludge/Waste Hauling, etc.

Manager Connet stated inflation is driving increases particularly in fuel and chemicals.

• American Rescue Plan (ARP):

- \$1.25M FY23 ARP Revenue Loss Coverage
- \$5.0M investment in Water and Sewer Projects
- \$2.0M available for transformative community projects

Manager Connet stated the City is utilizing the ARP funds and stated the five million dollars allocated to the City from the General Assembly will directly go back into water and sewer infrastructure which will benefit all citizens in City and surround area by upgrading the disinfection systems and repairs to a basin wall.

Manager Connet discussed the General Fund as outlined below and said staff will continue to monitor inflation and sales tax revenues.

Fiscal Year 2022-2023

General Fund

Tax Rate = \$0.52 per \$100 valuation

Revenues	\$	(19,940,693)
Expenditures	\$	23,965,983
Other Financing	\$	(2,358,700)
Fund Balance		
Appropriated	\$	1,666,590
Fund Balance,		
Start of Year	\$	9,955,678
Fund Balance,		
End of Year	\$	8,289,088

Highlights

- Revenues
 - No Ad Valorem Tax Increase (\$0.52)
 - \$325k Sales Tax Collection Increase
 - Parking Revenues → Parking Fund
 - \$1.25M ARP Revenue Loss
 - County SRO Reimbursement
- Expenditures
 - SAFER Grant End → March 2023
 - Positions Added (9.5 FTE): Sustainability Manager, Police Sergeant, Animal Enforcement Officer, Deputy Fire Chief, IT Director, Communications Coordinator, Analyst, Street Maintenance Crew (3)
 - \$422k Operating Increase
 - \$1.1M Capital: 7 PD Vehicles, 3 FD Vehicles, 3 PW Equipment, body-worn camera system, FD protective equipment
 - \$2.31M Debt Service: increase for PD HQ, FS#1, Vehicles and Equipment Loan

Manager Connet additionally discussed the Main Street and 7th Avenue MSD Funds and projects reminded everyone Main Street MSD’s tax rate is \$0.24 per \$100 valuation and 7th Avenue MSD’s tax rate is \$0.17 per \$100 valuation. Manager Connet discussed funds and projects within these funds and how they are being reinvested into the respective areas. He reminded everyone that the funds come directly from the property owners in the districts.

Manager Connet discussed the Water and Sewer Fund as outlined below discussing the increase within the fund due to capital projects which are necessary to maintain the system. Manager Connet stated there will be a rate study and discussed rate equalization and said it will be further reduced by 5% with the goal of having equal rates by the year 2030.

Fiscal Year 2022-2023

Water and Sewer Fund

User Fees ≈ 11.5% Increase

Revenues	\$	(22,100,250)
Expenditures	\$	22,664,786
Other Financing	\$	-
Fund Balance		
Appropriated	\$	564,536
Fund Balance,		
Start of Year	\$	8,971,108
Fund Balance,		
End of Year	\$	8,406,572

Highlights

- Revenues
 - User Charge Increases, ~11.5%
 - Rate Study and SDC discussion
 - 135% Rate Differential (-5.0%)
 - Last Year of Commercial Declining Rate
 - Est. FY22 EoY Bond Covenant:
 - test(a) 1.159 – covenant met
 - test(b) 1.064 – covenant met
- Expenditures
 - Positions Added (+7 FTE): Excavation Crew (3), Facilities Maintenance, CCTV Crew (2), Environmental Compliance Tech.
 - \$560k Operating Increase → Market
 - \$1.0M Capital: Vehicle replacements, excavator, generators, fleet equipment, dump truck, pump station pressure controls
 - \$3.22M Debt Service → FY23 Rev. Bond

Manager Connet discussed the Parking Fund as outlined below reminding everyone no fees will be charged until the parking deck and meters are fully operational.

Fiscal Year 2022-2023

Parking Fund

No Monthly User Fee Increases

Revenues	\$	(548,810)
Expenditures	\$	1,488,666
Other Financing	\$	(257,253)
Fund Balance		
Appropriated	\$	682,603
Fund Balance,		
Start of Year	\$	682,603
Fund Balance,		
End of Year	\$	-

Highlights

- Revenues
 - New fund
 - No fee changes until Parking Deck and new meters operational
- Expenditures
 - \$119k salaries and benefits
 - Parking Enforcement
 - Salary Splits
 - \$512k pay-go capital
 - \$457k parking meters
 - \$55k parking enforcement vehicle and street/parking deck cleaning vehicle
 - \$818k debt service - parking deck

Manager Connet discussed the Stormwater Fund highlights and projects stating there would be no fee increases and said staff will continue to identify grant opportunities to assist with capital projects.

Manager Connet discussed the Environmental Services Fund highlights stating there would be no fee increases and cautioned the monthly land fill tipping fees continue to increase.

City Council Member Jerry A. Smith Jr., J.D. clarified the increase in revenue needed to balance FY23-24 Budget would equate to 7 pennies on the dollar.

Mayor Volk thanked staff for their hard work in preparing the recommended budget.

The City Clerk confirmed this public hearing has been advertised in accordance with North Carolina General Statutes. The public hearing was opened at 6:23 p.m.

There were no in-person comments.

Mayor Volk read comments submitted electronically from the following persons.

Ann Twiggs submitted digital comments requesting support of including a full-time sustainability managerial position in the budget.

Mary Ellen Kustin submitted digital comments requesting support of including a full-time sustainability managerial position in the budget.

The public hearing was closed at 6:26 p.m.

Council Member Jerry A. Smith Jr., J.D. moved that City Council adopt: (1) the Fiscal Year 2022-23 Budget Ordinance, (2) the Fiscal Year 2022-2023 Capital Reserve Fund Ordinance, (3) the Resolution of Intent for the Fiscal Year 2022-2023 Capital Improvement Plan and Rate Schedule, (4) Capital Project Ordinances (CPOs) #21044, #22011, #22012, and #22013, (5) Reimbursement Resolutions for CPOs #21044, #22011, and 22013, and (6) the Pay and Classification Schedule as presented. A unanimous vote of the Council followed. Motion carried.

FY22-23 Budget Ordinance #O-22-30

BUDGET ORDINANCE

AN ORDINANCE MAKING APPROPRIATIONS FOR CERTAIN EXPENSES,
CAPITAL IMPROVEMENTS AND INDEBTEDNESS OF

THE CITY OF HENDERSONVILLE, NORTH CAROLINA
FOR THE FISCAL YEAR BEGINNING JULY 1, 2022, AND ENDING JUNE 30, 2023

WHEREAS, the City of Hendersonville is coming to the conclusion of its fiscal year and will enter into a new fiscal year on July 1, 2022; and

WHEREAS, it is necessary and required that prior to entering into a new fiscal year a budget must be passed and adopted for the operation of the city government; and

WHEREAS, the FY 22-23 budget and budget message were submitted to the Hendersonville City Council by the budget officer, the City Manager, on May 18, 2022 as required by N.C.G.S. § 159-11(b); and

WHEREAS, a copy of the FY 22-23 budget was filed with the Hendersonville City Clerk on May 18, 2022 as required by N.C.G.S. § 159-12(a); and

WHEREAS, a duly advertised public hearing and a work session has been held wherein the public has been notified and invited to be present.

THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
HENDERSONVILLE, NORTH CAROLINA:

SECTION 1: That the following amounts are hereby appropriated for the following governmental and proprietary funds for the fiscal year beginning July 1, 2022, and ending June 30, 2023, with the estimated, budgeted revenues and other finance sources for each fund being as stated:

GOVERNMENTAL FUNDS	
General Fund	
General Fund	
Budgeted Revenues	\$(19,940,693)
Ad Valorem Taxes	(11,469,868)
Other Taxes & Licenses	(9,000)
Unrestricted Intergovernmental	(6,694,346)
Restricted Intergovernmental	(757,779)
Permits & Fees	(440,600)
Sales & Services	(386,100)
Investment Earnings	(175,000)
Miscellaneous	(8,000)
Budgeted Expenditures	23,136,983
General Government	3,948,020
Community Development	717,710
Fire	4,306,904
Police	6,727,812
Public Works	5,122,969
Debt Service	2,313,568
Other Finance (Sources)/Uses	(3,196,290)
Proceeds of Debt	(1,088,700)
Sale of Capital Assets	(20,000)
Transfers (In)	(1,250,000)
Transfers Out	829,000
Fund Balance Appropriated	(1,666,590)
Sub-Total Estimated Revenues & Other Finance Sources	\$(23,965,983)
Sub-Total Appropriations	\$23,965,983
Special Revenue Funds	
Governmental Special Revenue Fund	
Budgeted Revenues	\$(16,000)
Miscellaneous	(16,000)
Budgeted Expenditures	65,500
Fire	4,000
Historic Preservation	7,500
Police	50,000
Walk of Fame	4,000
Other Finance (Sources)/Uses	(49,500)
Fund Balance Appropriated	(49,500)
Sub-Total Estimated Revenues & Other Finance Sources	\$(65,500)
Sub-Total Appropriations	\$65,500

Main Street MSD Fund

Budgeted Revenues	\$(559,285)
Ad Valorem Taxes	(279,660)
Other Taxes & Licenses	(-)
Unrestricted Intergovernmental	(266,175)
Restricted Intergovernmental	(-)
Permits & Fees	(13,250)
Sales & Services	(-)
Investment Earnings	(100)
Miscellaneous	(100)
Budgeted Expenditures	675,218
Downtown Program	629,950
Debt Service	45,268
Other Finance (Sources)/Uses	(115,933)
Fund Balance Appropriated	(115,933)
Sub-Total Estimated Revenues & Other Finance Sources	\$(675,218)
Sub-Total Appropriations	\$675,218

Seventh Avenue MSD Fund

Budgeted Revenues	\$(99,638)
Ad Valorem Taxes	(41,303)
Other Taxes & Licenses	(-)
Unrestricted Intergovernmental	(53,235)
Restricted Intergovernmental	(-)
Permits & Fees	(-)
Sales & Services	(5,000)
Investment Earnings	(100)
Miscellaneous	(-)
Budgeted Expenditures	183,919
Downtown Program	183,919
Other Finance (Sources)/Uses	(84,281)
Fund Balance Appropriated	(84,281)
Sub-Total Estimated Revenues & Other Finance Sources	\$(183,919)
Sub-Total Appropriations	\$183,919

PROPRIETARY FUNDS**Environmental Services Fund**

Budgeted Revenues	\$(1,523,100)
Sales & Services	(1,521,000)
Permits & Fees	(-)
Investment Earnings	(300)
Miscellaneous	(1,800)
Budgeted Expenditures	1,631,401
Sanitation	1,538,108
Debt Service	93,293
Other Finance (Sources)/Uses	(108,301)
Proceeds of Debt	(-)
Fund Balance Appropriated	(108,301)
Transfers (In)	(-)
Transfers Out	-
Sub-Total Estimated Revenues & Other Finance Sources	\$(1,631,401)
Sub-Total Appropriations	\$1,631,401

Parking Fund

Budgeted Revenues	\$(548,810)
Sales & Services	(538,410)
Permits & Fees	(-)
Investment Earnings	(-)
Miscellaneous	(10,400)
Budgeted Expenditures	1,488,666
Parking	670,264
Debt Service	818,402
Other Financing (Sources)/Uses	(939,856)
Proceeds of Debt	(55,000)
Fund Balance Appropriated	(682,603)
Transfers (In)	(202,253)
Transfers Out	-
Sub-Total Estimated Revenues & Other Finance Sources	\$(1,488,666)
Sub-Total Appropriations	\$1,488,666

Stormwater Fund	
Budgeted Revenues	\$(1,158,290)
Sales & Services	(1,157,000)
Permits & Fees	(1,040)
Investment Earnings	(50)
Miscellaneous	(200)
Budgeted Expenditures	1,490,476
Stormwater	1,429,096
Debt Service	61,380
Other Finance (Sources)/Uses	(332,186)
Proceeds of Debt	(140,000)
Fund Balance Appropriated	(192,186)
Transfers (In)	(-)
Transfers Out	-
Sub-Total Estimated Revenues & Other Finance Sources	\$(1,490,476)
Sub-Total Appropriations	\$1,490,476
Water & Sewer Capital Reserve Fund	
Budgeted Revenues	\$(-)
Budgeted Expenditures	-
Other Financing (Sources)/Uses	-
Transfers (In)	-
Transfers Out	-
Sub-Total Estimated Revenues & Other Finance Sources	\$(-)
Sub-Total Appropriations	\$ -
Water & Sewer Fund	
Budgeted Revenues	\$(22,100,250)
Sales & Services	(21,213,200)
Permits & Fees	(470,350)
Water & Sewer Taps	(382,500)
Investment Earnings	(8,000)
Miscellaneous	(26,200)
Budgeted Expenditures	22,664,786
General Business	7,990,354
Water Distribution	2,884,050
Water Facilities Maintenance	1,298,627
Water Operations Support	998,279
Water Treatment Plant	2,212,956
Wastewater Collection	1,570,494
Wastewater Facilities Maintenance	457,670
Wastewater Operations Support	257,672
Wastewater Treatment Plant	1,778,094
Debt Service	3,216,590
Other Finance (Sources)/Uses	(564,536)
Transfers (In)	(-)
Transfers Out	-
Fund Balance Appropriated	(564,536)
Sub-Total Estimated Revenues & Other Finance Sources	\$(22,664,786)
Sub-Total Appropriations	\$22,664,786
<u>INTERNAL SERVICE FUNDS</u>	
Health & Welfare Fund	
Budgeted Revenues	\$(304,025)
Sales & Services	(292,025)
Grant Revenue	(-)
Miscellaneous	(12,000)
Budgeted Expenditures	304,025
Employee Benefits	304,025
Other Finance (Sources)/Uses	(-)
Fund Balance Appropriated	(-)
Sub-Total Estimated Revenues & Other Finance Sources	\$(304,025)
Sub-Total Appropriations	\$304,025
Total Estimated Revenues & Other Finance Sources	\$(52,469,974)
Total Appropriations	\$52,469,974

SECTION 2: That the attached detailed budget document reflects the estimated revenues, revenue contributions, and budget appropriations of the City of Hendersonville, North

Carolina, for the period beginning July 1, 2022, and ending June 30, 2023. A copy of the budget document shall be furnished to the City Clerk, City Manager and Finance Officer to be kept on file by them for their direction in the disbursement of funds.

SECTION 3: That the financial plan supporting the Internal Service Fund as required by N.C.G.S. § 159-13.1 is approved. The *Financial Plan* for the Internal Service Fund is incorporated herein by reference and shall be placed on file in the office of the City Clerk.

SECTION 4: That no appropriations for salaries shall be changed unless authorized by the Council. Appropriations between departments or divisions within one fund, other than salaries, including contingency appropriations, may be transferred therein by the City Manager for the purpose of equalizations, when necessary, if the original total appropriated balance for the fund is not changed. Appropriations within a department, other than salaries, may be transferred by the department head to make equalizations when necessary.

SECTION 5: That there is hereby levied a tax at the rate of fifty-two cents (\$0.52) per one hundred dollars (\$100) valuation of property. This rate is based on an estimated total valuation of property for the purpose of taxation of \$2,260,199,815 and estimated collection rate of 98.00%.

SECTION 6: That there is hereby levied a tax at the rate of twenty-four cents (\$0.24) per one hundred dollars (\$100) valuation of property, for the Main Street Municipal Service District formed upon a petition of some of the property owners, established for the purpose of infrastructure improvements and special events in the district. This rate is based on an estimated total valuation of property for the purpose of taxation of \$118,872,132 and an estimated collection rate of 98.00%.

SECTION 7: That there is hereby levied a tax at the rate of seventeen cents (\$0.17) per one hundred dollars (\$100) valuation of property, for the Seventh Avenue Municipal Service District formed upon a petition of some of the property owners, established for the purpose of infrastructure improvements and special events in the district. The rate is based on an estimated total valuation of property for the purpose of taxation of \$25,685,138 and an estimated collection rate of 98.00%.

SECTION 8: That there is hereby adopted an official Fee Schedule listing specific fees, licenses, and utility rates charged by the City of Hendersonville for the use of City facilities and equipment for the purposes of making them available to public, specific utility rates the proceeds of which are for the maintenance and expansion of its utility systems, the reproduction of public records and other miscellaneous services to cover the actual cost of producing these documents and information under the provision of NCGS §132-6.2, and other various fees associated with enhanced direct services provided by the City. The *Fee Schedule* is incorporated herein by reference and shall be placed on file in the office of the City Clerk.

SECTION 9: That the City's Position Allocation to Salary Range which provides all jobs and associated pay bands be adopted as the official Pay and Classification Schedule of the City of Hendersonville. The *Pay and Classification Schedule* is incorporated by reference and shall be placed on file in the office of the City Clerk.

SECTION 10: This ordinance shall become effective on and after July 1, 2022.

SECTION 11: That all ordinances and parts of ordinances in conflict herewith be and the same hereby repealed.

Adopted by the City Council of the City of Hendersonville, North Carolina this 2nd day of June 2022.

/s/Barbara G. Volk, Mayor

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

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

CAPITAL RESERVE FUND Ordinance #O-22-31

CAPITAL RESERVE FUND ORDINANCE

AN ORDINANCE SETTING CAPITAL RESERVE GUIDELINES FOR THE CITY OF HENDERSONVILLE, NORTH CAROLINA

FOR THE YEAR BEGINNING JULY 1, 2022, AND ENDING JUNE 30, 2023

WHEREAS, under North Carolina General Statute 159-18 the City of Hendersonville is authorized to establish and maintain a capital reserve for any purposes for which bonds may be issued; and

WHEREAS, the City Council deems it is in the best interest of the citizens of Hendersonville to establish a capital reserve to fund future capital improvements; and

WHEREAS, the capital reserve fund will be used in conjunction with a multi-year capital improvement program to be reviewed annually during the budget process;

**THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
HENDERSONVILLE, NORTH CAROLINA:**

SECTION 1 BUDGET: That the following Capital Reserve Fund (CRF) budget, purpose, anticipated revenues, and project appropriations are hereby adopted for the operation of the City of Hendersonville and its activities for the fiscal year beginning July 1, 2022 and ending June 30, 2023, in the amount of \$0.00.

SECTION 2 PURPOSE: That the purpose of the City of Hendersonville CRF will be to (1) raise funds for water and sewer system expansion projects, (2) provide greater levels of transparency and flexibility in raising and expending funds on capital projects, (3) delineate the timeframe for which revenues will be raised for and expended on capital projects, (4) display the amounts of revenues and expenditures for capital projects funded through the CRF, and (5) detail revenue sources of the fund.

This Capital Reserve Fund Ordinance will, more specifically, be established alongside the City's Budget Ordinance to provide for Water and Sewer Fund system expansion. The City has recognized the need to fund future system expansion projects and desires to fund such projects through a CRF to enhance transparency and accountability.

SECTION 3 TIMEFRAME: That revenues for Water and Sewer Fund related capital projects will be raised over a period of five (5) fiscal years- from July 1, 2022 to June 30, 2026.

SECTION 4 AMOUNTS ACCUMULATED: That this fiscal year (FY23), the City will transfer \$0.00 from the Water and Sewer Fund (060) to the Capital Reserve Fund (459). The Capital Reserve Fund has an estimated balance to end the fiscal year June 30th, 2022 of \$100,000. The City will save \$500,000 of revenue in the CRF for future system expansion projects. The City anticipates expending \$500,000 on system expansion projects.

SECTION 5 REVENUE SOURCES: That the revenue source planned for the CRF is the Water and Sewer Fund. Each year delineated, the City will transfer \$0.00 from the Water and Sewer Fund to the CRF until \$500,000 is accumulated.

Adopted by the City Council of the City of Hendersonville, North Carolina this 2nd day of June 2022.

/s/Barbara G. Volk, Mayor

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

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

CAPITAL IMPROVEMENT PLAN Resolution #R-22-68

RESOLUTION OF INTENT

**A RESOLUTION TO CONSIDER AND ADOPT THE RECOMMENDED CAPITAL
IMPROVEMENT PLAN (CIP) AND FOLLOW THE RATE SCHEDULE FOR
THE CITY OF HENDERSONVILLE, NORTH CAROLINA
FOR THE FISCAL YEAR 2022-23 THROUGH THE FISCAL YEAR 2032-33**

WHEREAS, the City of Hendersonville recognizes that a Capital Improvement Plan (CIP) enables staff and the Board to plan for a vibrant community; and

WHEREAS, the CIP is a 10-year planning tool designed to help the City plan for the repair, replacement, and acquisition of capital items; to assist in financial planning; to ensure better coordination and evaluation of projects; to provide necessary lead time for project planning, and to

maintain or improve the City’s credit rating and fiscal health; and

WHEREAS, the recommended FY22-23 through FY32-33 CIP updates preceding budgets and CIPs of prior fiscal years; and

WHEREAS, this plan is updated annually for Board review; and

WHEREAS, this flexibility in the planning and implementation of capital needs makes the City’s CIP responsive to the changing needs of its community; and

WHEREAS, the City intends to reimburse itself for funds expended with debt proceeds for any projects identified as such in the CIP table; and

WHEREAS, the Board intends to follow the recommendations of the water and sewer rate recommendations as to provide adequate funding for the projects identified in the CIP while maintaining a strong financially sustainable fiscal position; and

WHEREAS, this CIP will provide a vibrant future for our community and is intended to further the vision and mission of the City.

THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HENDERSONVILLE, NORTH CAROLINA that the City of Hendersonville City Council has received and adopts the recommended Capital Improvement Plan (CIP) in conjunction with the annual City Budget for Fiscal Year 2022-2023.

Adopted by the City Council of the City of Hendersonville, North Carolina this 2nd day of June 2022.

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

CAPITAL PROJECT Ordinance #O-22-32

**CAPITAL PROJECT ORDINANCE FOR
THE EXECUTION, ACQUISITION, CONSTRUCTION, AND INSTALLATION OF THE
ECUSTA TRAIL PROJECT**

BE IT ORDAINED by the Governing Board of the City of Hendersonville, North Carolina that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

Section 1: The project authorized is a City project described as the Ecusta Trail Project.

Section 2: The following amounts are appropriated for the project(s):

Account Codes				Account Name	Total Budget
Fund	Dept.	Account	Project		
410	1014	550103	21044	Capital Outlay - CIP	\$3,831,000

Total Project Appropriation \$3,831,000

Section 3: The following revenues are anticipated to be available for the project(s):

Account Codes				Account Name	Total Budget
Fund	Dept.	Account	Project		
410	0000	470010	21044	Debt Proceeds	\$3,831,000

Total Project Appropriation \$3,831,000

PROJECT TO BE FUNDED USING

Section 4: The Finance Director is hereby directed to maintain within the capital project fund sufficient specific detailed accounting records to satisfy the disclosure requirements of all the contractual agreements, if applicable.

Section 5: Funds may be advanced from the General Fund as necessary for the purpose of making payments as due. Reimbursement requests shall be made in an orderly and timely manner.

Section 6: The Finance Director is directed to report, on a quarterly basis, on the financial status of each project element in Section 3 and Section 4.

Section 7: The Finance Director is further instructed to include a detailed analysis of past and future revenues and expenses during each annual budget submission made to the Governing Board.

Section 8: Copies of this capital project shall be furnished to the City Clerk, Finance Director, and City Manager for direction in carrying out this project.

Adopted by the City Council of the City of Hendersonville, North Carolina this 2nd day of June 2022.

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

CAPITAL PROJECT Ordinance #O-22-33

CAPITAL PROJECT ORDINANCE FOR
THE EXECUTION, ACQUISITION, CONSTRUCTION, AND INSTALLATION OF THE
SEWER VACTOR TRUCK PROJECT

BE IT ORDAINED by the Governing Board of the City of Hendersonville, North Carolina that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

Section 1: The project authorized is a City project described as the Sewer Vactor Truck Project.

Section 2: The following amounts are appropriated for the project(s):

Account Codes				Account Name	Total Budget
Fund	Dept.	Account	Project		
460	7155	554002	22011	Capital Outlay - Vehicles	\$480,000
Total Project Appropriation					\$480,000

Section 3: The following revenues are anticipated to be available for the project(s):

Account Codes				Account Name	Total Budget
Fund	Dept.	Account	Project		
460	0000	470010	22011	Debt Issuance	\$480,000
Total Project Appropriation					\$480,000

PROJECT TO BE FUNDED USING

Section 4: The Finance Director is hereby directed to maintain within the capital project fund sufficient specific detailed accounting records to satisfy the disclosure requirements of all the contractual agreements, if applicable.

Section 5: Funds may be advanced from the Water and Sewer Fund as necessary for the purpose of making payments as due. Reimbursement requests shall be made in an orderly and timely manner.

Section 6: The Finance Director is directed to report, on a quarterly basis, on the financial status of each project element in Section 3 and Section 4.

Section 7: The Finance Director is further instructed to include a detailed analysis of past and future revenues and expenses during each annual budget submission made to the Governing Board.

Section 8: Copies of this capital project shall be furnished to the City Clerk, Finance Director, and City Manager for direction in carrying out this project.

Adopted by the City Council of the City of Hendersonville, North Carolina this 2nd day of June 2022.

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

CAPITAL PROJECT Ordinance #O-22-34

**CAPITAL PROJECT ORDINANCE FOR
THE EXECUTION, ACQUISITION, CONSTRUCTION, AND INSTALLATION OF THE
WATER DISTRIBUTION MASTER PLAN PROJECT**

BE IT ORDAINED by the Governing Board of the City of Hendersonville, North Carolina that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

Section 1: The project authorized is a City project described as the Water Distribution Master Plan Project.

Section 2: The following amounts are appropriated for the project(s):

Account Codes				Account Name	Total Budget
Fund	Dept.	Account	Project		
460	7055	519200	22012	Contracted Services	\$200,000
Total Project Appropriation					\$200,000

Section 3: The following revenues are anticipated to be available for the project(s):

Account Codes				Account Name	Total Budget
Fund	Dept.	Account	Project		
460	0000	470100	22012	Transfer In	\$200,000
Total Project Appropriation					\$200,000

PROJECT TO BE FUNDED USING

Section 4: The Finance Director is hereby directed to maintain within the capital project fund sufficient specific detailed accounting records to satisfy the disclosure requirements of all the contractual agreements, if applicable.

Section 5: Funds may be advanced from the Water and Sewer Fund as necessary for the purpose of making payments as due. Reimbursement requests shall be made in an orderly and timely manner.

Section 6: The Finance Director is directed to report, on a quarterly basis, on the financial status of each project element in Section 3 and Section 4.

Section 7: The Finance Director is further instructed to include a detailed analysis of past and future revenues and expenses during each annual budget submission made to the Governing Board.

Section 8: Copies of this capital project shall be furnished to the City Clerk, Finance Director, and City Manager for direction in carrying out this project.

Adopted by the City Council of the City of Hendersonville, North Carolina this 2nd day of June 2022.

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

CAPITAL PROJECT ORDINANCE FOR
THE EXECUTION, ACQUISITION, CONSTRUCTION, AND INSTALLATION OF THE
WATER TREATMENT PLANT RESIDUALS STORAGE PROJECT

BE IT ORDAINED by the Governing Board of the City of Hendersonville, North Carolina that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

Section 1: The project authorized is a City project described as the Water Treatment Plant Residuals Storage Project.

Section 2: The following amounts are appropriated for the project(s):

Account Codes				Account Name	Total Budget
Fund	Dept.	Account	Project		
460	7035	550103	22013	Capital Outlay - CIP	\$1,480,000
Total Project Appropriation					\$1,480,000

Section 3: The following revenues are anticipated to be available for the project(s):

Account Codes				Account Name	Total Budget
Fund	Dept.	Account	Project		
460	0000	470010	22013	Debt Proceeds	\$1,480,000
Total Project Appropriation					\$1,480,000

PROJECT TO BE FUNDED USING

Section 4: The Finance Director is hereby directed to maintain within the capital project fund sufficient specific detailed accounting records to satisfy the disclosure requirements of all the contractual agreements, if applicable.

Section 5: Funds may be advanced from the Water and Sewer Fund as necessary for the purpose of making payments as due. Reimbursement requests shall be made in an orderly and timely manner.

Section 6: The Finance Director is directed to report, on a quarterly basis, on the financial status of each project element in Section 3 and Section 4.

Section 7: The Finance Director is further instructed to include a detailed analysis of past and future revenues and expenses during each annual budget submission made to the Governing Board.

Section 8: Copies of this capital project shall be furnished to the City Clerk, Finance Director, and City Manager for direction in carrying out this project.

Adopted by the City Council of the City of Hendersonville, North Carolina this 2nd day of June 2022.

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

REIMBURSEMENT Resolution #R-22-69

HENDERSONVILLE, NORTH CAROLINA
DECLARATION OF OFFICIAL INTENT TO REIMBURSE

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

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

Expenditures to be Incurred. The Issuer anticipates incurring expenditures (the "Expenditures") for THE ACQUISITION, CONSTRUCTION, AND INSTALLATION OF THE ECUSTA TRAIL PROJECT (#21044), ORDINANCE #O-22-32 (the "Projects").

Plan of Finance. The Issuer intends to finance the costs of the Projects with the proceeds of debt to be issued by the Issuer (the "Borrowing"), the interest on which is to be excluded from gross income for Federal income tax purposes.

Maximum Principal Amount of Debt to be Issued. The maximum principal amount of the Borrowing to be incurred by the Issuer to finance the Project is **\$3,831,000**.

Declaration of Official Intent to Reimburse. The Issuer hereby declares its official intent to reimburse itself with the proceeds of the Borrowing for any of the Expenditures incurred by it prior to the issuance of the Borrowing.

Adopted by the City Council of the City of Hendersonville, North Carolina this 2nd day of June 2022.

/s/Barbara G. Volk, Mayor

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

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

REIMBURSEMENT Resolution #R-22-70

HENDERSONVILLE, NORTH CAROLINA DECLARATION OF OFFICIAL INTENT TO REIMBURSE

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

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

Expenditures to be Incurred. The Issuer anticipates incurring expenditures (the "Expenditures") for THE ACQUISITION, CONSTRUCTION, AND INSTALLATION OF THE SEWER VACTOR TRUCK PROJECT (#22011), ORDINANCE #O-22-33(the "Projects").

Plan of Finance. The Issuer intends to finance the costs of the Projects with the proceeds of debt to be issued by the Issuer (the "Borrowing"), the interest on which is to be excluded from gross income for Federal income tax purposes.

Maximum Principal Amount of Debt to be Issued. The maximum principal amount of the Borrowing to be incurred by the Issuer to finance the Project is **\$480,000**.

Declaration of Official Intent to Reimburse. The Issuer hereby declares its official intent to reimburse itself with the proceeds of the Borrowing for any of the Expenditures incurred by it prior to the issuance of the Borrowing.

Adopted by the City Council of the City of Hendersonville, North Carolina this 2nd day of June 2022.

/s/Barbara G. Volk, Mayor

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

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

REIMBURSEMENT Resolution #R-22-71

HENDERSONVILLE, NORTH CAROLINA DECLARATION OF OFFICIAL INTENT TO REIMBURSE

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

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

Expenditures to be Incurred. The Issuer anticipates incurring expenditures (the "Expenditures") for THE ACQUISITION, CONSTRUCTION, AND INSTALLATION OF THE WATER TREATMENT PLANT RESIDUAL STORAGE PROJECT (#22013), ORDINANCE #O-22-35 (the "Projects").

Plan of Finance. The Issuer intends to finance the costs of the Projects with the proceeds of debt to be issued by the Issuer (the "Borrowing"), the interest on which is to be excluded from gross income for Federal income tax purposes.

Maximum Principal Amount of Debt to be Issued. The maximum principal amount of the Borrowing to be incurred by the Issuer to finance the Project is **\$1,480,000**.

Declaration of Official Intent to Reimburse. The Issuer hereby declares its official intent to reimburse itself with the proceeds of the Borrowing for any of the Expenditures incurred by it prior to the issuance of the Borrowing.

Adopted by the City Council of the City of Hendersonville, North Carolina this 2nd day of June 2022.

/s/Barbara G. Volk, Mayor

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

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

B. Zoning Text Amendment: Conditional Zoning District Rezoning Required Triggers (P22-25-ZTA) – Matthew Manley, AICP – Planning Manager

Community Development Manager Matthew Manley stated this is a City is in receipt of an application for a Zoning Text Amendment from Tamara Peacock Company Architects and Morgan Marks for the revision of the Supplementary Standards for Day Centers (Sec. 16-4-12)

Mr. Manley stated the applicant is proposing the following revisions to the text:

A Day Center may be adjacent to a residential use and/or residential district in the case in which a buffer is implemented. A Buffer must consist of twenty- five feet (25 ft) of landscaped separation or fifteen feet (15 ft) of separation with a vertical barrier of at least six feet (6 ft) in height. Mr. Manley stated Day Centers are currently not permitted adjacent to a residential use nor within 200' of a residential district in any zoning district and said the Planning Board voted 6-0 to recommend approval of the proposed text revisions.

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 6:32 p.m.

Dennis Bro of Tamara Peacock Architects addressed City Council in support of the rezoning.

The public hearing was closed at 6:33p.m.

Council Member Lyndsey Simpson moved that City Council adopt an ordinance amending the official City of Hendersonville Zoning Ordinance, Article XVI, Supplementary Standards for Certain Uses, Section 16-4-12 Day Center, 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 Land Use and Development Chapter calls for the City to consider short- and long-term impacts on compatibility with existing development and further recommends the consideration be given to determine if an application demonstrates a clear public purpose. 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 petition addresses the provision of services for the needy, homeless and transient population within the City of Hendersonville's zoning jurisdiction, and the text amendment addresses separation of day centers from

residential uses through the provision of buffers that exceed standard commercial residential buffers. A unanimous vote of the Council followed. Motion carried.

ZONING ORDINANCE AMENDMENT #O-22-36

AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND ARTICLE XVI. - SUPPLEMENTARY STANDARDS FOR CERTAIN USES, SECTION 16-4-12 'DAY CENTER' OF THE CITY OF HENDERSONVILLE ZONING ORDINANCE TO ADDRESS STANDARDS FOR ADJACENCY AND PROXIMITY BETWEEN DAY CENTERS AND RESIDENTIAL USES & RESIDENTIAL DISTRICTS

IN RE: P22-29-ZTA (Supplementary Standards for Day Centers)

WHEREAS, the City of Hendersonville's Planning Board reviewed this petition for a zoning text amendment at its regular meeting on May 9th, 2022; voting 6-0 to recommend City Council adopt an ordinance amending the City of Hendersonville Zoning Ordinance, 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 June 2nd, 2022, and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Hendersonville, North Carolina that Article XVI. - Supplementary Standards For Certain Uses, Section 16-4-12 'Day Center' be amended as follows:

16-4-12 Day center.

- a) The parcel on which a day center is situated shall not be closer than 1,500 feet to any parcel on which another day center is situated. The application of the 1,500-foot separation standard shall be determined by measuring from the two points which represent the closest two points between the two-day center parcel boundaries, and shall be measured as the crow flies.
- b) ~~The parcel on which a day center is situated shall not be adjacent to a residential use.~~ A day center shall be separated from any adjacent residential use, regardless of the zoning district where located, by a 15-foot B-type buffer meeting the requirements of article XV. Additionally, the buffer shall include a fully opaque vertical masonry wall or wood fence at least six feet (6') in height. "Fully opaque" shall mean that no more than ten percent (10%) of the surface of the fence or wall shall be left open and the finished side of the fence or wall shall face the abutting property. For purposes of this paragraph, parcels situated across a public or private street right-of-way from a proposed day center shall be deemed to be adjacent. Additionally, for the purposes of this paragraph, these buffer standards shall prevail over the standards found in Section 15-6 b).
- c) ~~The parcel on which a day center is situated shall not be within 200 feet of a residential district.~~ A day center parcel shall be buffered from any residential district within 200 feet by a 15-foot B-type buffer meeting the requirements of article XV. Additionally, the buffer shall include a fully opaque vertical masonry wall or wood fence barrier at least six feet (6') in height. "Fully opaque" shall mean that no more than ten percent (10%) of the surface of a fence or wall shall be left open and the finished side of the fence or wall shall face the abutting property. For the purposes of this paragraph:
 - 1) These buffer standards shall prevail over the standards found in Section 15-6 b);
 - 2) The application of the 200-foot separation standard shall be determined by measuring from the two points which represent the closest two points between the proposed day center parcel boundary and any residential zoning district boundary, and shall be measured as the crow flies; and
 - 3) Residential zoning district means the following use districts: R-40, R-20, R-15, R-10, R-6, RCT, PRD.
- d) Permissible hours of operations shall be limited to the hours between 6:00 a.m. and 6:00 p.m.

Adopted by the City Council of the City of Hendersonville, North Carolina this 2nd day of June 2022.

/s/Barbara G. Volk, Mayor

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

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

C. Rezoning: Conditional Zoning District – Upward Rd Restaurant (P22-15-CZD)–

Matthew Manley, AICP – Planning Manager

Planning Manager Matthew Manley stated the City is in receipt of an application for a Conditional Zoning District from Dennis Terry (applicant) and Upward Road, LLC (Property Owners). Mr. Manley stated the applicants are requesting to rezone the subject property, PIN 9588-20-6649 and located on Upward Road, from PCD, Planned Commercial Development to CHMU CZD, Commercial Highway Mixed Use Conditional Zoning District for the construction of a 950 square foot drive in restaurant on approximately 0.75 acres. Mr. Manley stated the CHMU permits drive-in restaurants and said the subject parcel was previously a part of a multi-phased Planned Commercial Development. Mr. Manley reminded everyone the special use permit was first approved in 2008 and later re-approved in 2014 and said the approved site plan expired in 2019. Mr. Manley recalled the portion of the PCD involving the subject parcel being previously slated for a 3,080 Sq Ft restaurant.

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 6:45 p.m.

There were no comments.

The public hearing was closed at 6:46p.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 (PIN: 9588-20-6649) from PCD, Planned Commercial Development to CHMU CZD, Commercial Highway Mixed Use Conditional Zoning District, based on the site plan and list of conditions submitted by and agreed to by the applicant, dated May 10, 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: Restaurant and Drive- in Restaurants. 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 Regional Activity Center recommends restaurant as a primary land use and the location and site design of the project align with the goals and strategies of LU-9. 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 Upward Road corridor is classified as a Boulevard and is appropriate for drive-in restaurants, the development will provide additional food options for residents and visitors, the subject property is consistent with the interstate interchange-oriented development occurring in this area, and the subject property is located in a "Priority Growth Area" A unanimous vote of the Council followed. Motion carried.

CONDITIONAL REZONING Ordinance #O-22-37

**AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO
AMEND THE OFFICIAL ZONING MAP OF THE CITY OF HENDERSONVILLE FOR
PARCEL POSSESSING PARCEL IDENTIFICATION NUMBER 9588-20-6649 BY
CHANGING THE ZONING DESIGNATION FROM PCD, PLANNED COMMERCIAL
DEVELOPMENT TO CHMU-CZD, COMMERCIAL HIGHWAY MIXED USE -
CONDITIONAL ZONING DISTRICT**

IN RE: Parcel Number: 9588-20-6649 – (Upward Road Restaurant) - (File # P22-15-CZD)

WHEREAS, the City is in receipt of a Conditional Rezoning application from Dennis Terry (Applicant) and Philip Wilson of NC Hendersonville Upward Road, LLC. (Owner) for the development of a 950 square foot drive-in/walk-up restaurant on approximately 0.75 acres, and

WHEREAS, the Planning Board took up this application at its regular meeting on May 9th, 2022; voting 7-0 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 June 2nd, 2022, and

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: 9588-20-6649 by changing the zoning designation from PCD, Planned Commercial Development to CHMU-CZD, Commercial Highway Mixed Use - 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 the conditions listed therein and subject to the following.
 - a. Permitted uses shall include:
 - i. Restaurant
 - ii. Drive-in Restaurants
 - b. Conditions that shall be satisfied prior to final site plan approval include:
 - i. The development shall be consistent with the preliminary site plan and conditions listed therein as submitted and dated May 10, 2022 [or as modified and presented].
3. This ordinance shall not be effective until the stipulated list of use(s) and conditions, 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 2nd day of June 2022.

/s/Barbara G. Volk, Mayor

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

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

Mayor Barbara G. Volk briefly recessed the meeting at 8:00 p.m. for a short break and reconvened at 8:05 p.m.

D. Rezoning: Conditional Zoning District – Washburn Tract (P22-19-CZD) – Matthew Manley, AICP – Planning Manager

Planning Manager Matthew Manley stated the City is in receipt of an application for a Zoning Text Amendment for a conditional rezoning from Mike Washburn (applicant) who is requesting to rezone the subject property, PIN 9579-11-8417 and 9578-39-5229 located off of Tracy Grove Road., from PRD CZD, Planned Residential Development Conditional Zoning District to PRD CZD, Planned Residential Development Conditional Zoning District, for the construction of a multi-family and single-family development consisting of 300 apartment units and 160 single family homes on approximately 162 acres with a density of 2.8 Units / Acre. Mr. Manley clarified there are 13 apartment buildings proposed which will be three-story or three- or four-story split consisting of 270 one-to-two-bedroom units and thirty, three-bedroom units. Mr. Manley stated a clubhouse and pool are also featured in the site plan for the apartments. Mr. Manley further stated the single-family home lots are proposed to be 50'x100' (5,000 Sq Ft or .115 Acres) and feature a 20' wide driveway in front of the building area. Mr. Manley stated approximately 86% of the Site (139.4 Acres) would be preserved as open space and 80,000 Sq Ft (1.84 Acres) of the tract will be dedicated to the City for parkland. Mr. Manley stated the developer is working with Conserving Carolina to mitigate impacts to the wetlands and make improvements to the natural habitat on the site. Mr. Manley stated any development proposal for this site requires a rezoning due to the existing zoning for the subject property being an expired PRD-CZD. Mr. Manley stated the Planning Board voted 4-2 in support of a recommendation for approval of the project with conditions.

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.

Mike Washburn and Steve Keller and other project representative of Washburn Property Development discussed the project with City Council. Representatives stated the wetlands would be preserved on the site and said they have agreed to go beyond the City's stormwater requirements by causing minimal disturbance in the floodplain which would only be for underground utility connections and greenway paths. Rob Dole of Siteworks Engineering discussed open space and the Sun Study with City Council stating their project is not projecting any shade onto neighboring properties. David Hyder, Traffic Engineer of JM Teague Engineering discussed the Traffic Impact Analysis (TIA) with Council.

Tom Fanslow, Land Protection Director of Conserving Carolina addressed City Council in support of the proposed project. Mr. Fanslow discussed interests along the flood plain of the project recalling prior efforts and grant fundings from the NC Clean Water Trust Fund to conserve portions of this area. Mr. Fanslow stated Conserving Carolina has partnered with Mr. Washburn to evaluate stormwater controls and restoration and enhancement of the wetlands and flood plain of this project and said they plan to plant live stakes to enhance the natural plant species in the project area. Mr. Fanslow stated they have applied for grant funding through the state for this project. Mr. Fanslow stated the project would have great benefits for the area and property owners downstream.

Attorney Brian Gulden of the Van Winkle Law Firm addressed City Council providing an overview of conditional zoning and comprehensive planning. Attorney Gulden discussed the proposed development goals of connecting it to the downtown area. Attorney Gulden stated he believes they have satisfied the elements of the long-range plan and that the project is reasonable.

The City Clerk confirmed this public hearing has been advertised in accordance with North Carolina General Statutes. The public hearing was opened at 8:09 p.m.

June Miller addressed City Council in opposition of the project and asked Council to consider traffic impacts on Tracy Grove Road. Ms. Miller stated she feels the city is not in need of additional housing at this time.

Dianne Rhodes addressed City Council in opposition to the project stating she is opposed to development on farmland.

Julie Conner addressed City Council in opposition to the project regarding questions about the Traffic Impact Analysis with regard to adjacent properties and of the right of way from Dana to Tracy Grove. Ms. Conner also inquired if a bridge could be constructed.

Stephanie Sawyer addressed City Council in opposition to the project expressing concerns of the amount of multi-family housing and of protecting white squirrels in this area. Ms. Sawyer further expressed concerns of the traffic impact to Wilmont Drive. Ms. Sawyer provided a letter to Council from her neighbor, Will Green of Wilmont Drive. Mr. Green's letter stated he is disabled and rides his electric wheelchair on Wilmont. Mr. Green expressed concerns of additional traffic and his safety.

Lynne Williams addressed City Council in opposition to the project stating neighbors have attended multiple hearings and meetings and asked Council to approach the project with an open mind. Ms. Williams asked for a revised TIA and environmental study. Ms. Williams expressed concerns of water retention in the bog area with heavy storm events.

Steve Easler addressed City Council expressing concerns of the entrance to the property being located next to his driveway. Mr. Easler asked Council to think about future traffic concerns on Tracy Grove Rd.

Mayor Volk asked all remaining commenters to limit their comments to 4 minutes or less each.

Ken Fitch addressed City Council via Zoom electronic software expressing concerns of the larger extended bog area and of traffic concerns and mountain views. Mr. Fitch expressed concerns of the traffic impacts to the Wilmont community.

Mayor Volk read the following digital comments.

Caroline Beamer submitted digital comments to City Council in opposition to the project expressing concerns of tree removal and high-density housing.

Kathleen Kurke submitted digital comments to City Council in opposition to the project. Ms. Kurke expressed concerns of tree removal and traffic.

Council Member Jerry A. Smith Jr., J.D. referred to chapter 160D 605 stating that the planned consistency statement is not subject to judicial review and said with regard to the comprehensive plan, the map of the area indicates it is able to be developed, but not over developed, and said he feels it is too intense and is inconsistent with the comprehensive plan. Council Member Smith said there is no legal standard to define reasonableness and said he feels the size of this development is unreasonable due to the proposed size and density of the development and said he believes it cannot be safely supported by the existing transportation network and will create unsafe congestion and traffic. Council Member Smith provide additional reasoning stating he feels what is allowed is unreasonable for public interest and said the largest building will sit at the highest place of the proposed project area. Council Member Smith recalled many approved housing projects which Council has approved and said he believes Council has more than adequately addressed the housing problem.

Mayor Barbara G. Volk stated the main concern she has is with the traffic and acknowledged the City does need denser development but said she does not know if this is the deciding factor. Mayor Volk acknowledged previously approved housing projects stating many are no longer going to happen and said she is willing to approve this project. Mayor Volk acknowledged neighbor concerns.

Council Member Dr. Jennifer Hensley agreed with Mayor Volk's comments and stated she understands the community's concerns but reminded everyone it is not Council's job to set market rates or to tell developers what they can charge for rent. Council Member Hensley cited housing shortages outlined in the Bowen Study and said the question of what is affordable is subjective and said we need homes at all price points. Council Member Hensley reminded everyone that just because a development is approved it does not mean it gets built.

Council Member Lyndsey Simpson stated Council has to look at many properties with various challenges and said she feels the developer has reached out to Conserving Carolina to partner and said she would like to see more of this. Council Member Simpson acknowledged the project site is a historical farm but said the person has chosen to sell it and the developer has chosen to utilize it which is their right. Council Member Simpson stated she feels Tracy Grove is already being utilized for traffic coming into town.

Council Member Debbie O'Neal-Roundtree stated she does not support the project due to the threat to white squirrel and hawk habitat loss, floodplain, traffic impacts to the surrounding area and the need of affordable housing.

Council Member Jerry A. Smith Jr., J.D. said the developer can address many of the concerns by making the project less dense. Mayor Barbara G. Volk stated reducing density increases the price.

Attorney Beeker clarified traffic improvements which are proposed for Tracy Grove Road says developer will use best efforts to acquire the needed right-of-way from the affected property owner subject to the developer repaying the fair market value of the right-of-way obtained by eminent domain. In this instance, fair market value shall be the value as determined by the condemning authorities' certified MAI appraisal or jury verdict, including any cost and attorneys' fees. If the NCDOT and/or the City chose not to use their powers of eminent domain, the developer shall install, within the existing right-of-way, as much of the required improvements as physically feasible.

The public hearing was closed at 9:14 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 PIN: 9578-39-5229 & 9579-11-8417 from PRD-CZD (Planned Residential Development-Conditional Zoning District) to PRD-CZD (Planned Residential Development – Conditional Zoning District) based on the site plan and list of conditions submitted by the applicant, dated March 2, 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: Residential Dwellings, Single-Family Residential Dwellings, Multi-Family. Permitted uses and applicable conditions presented on the site plan shall be amended to include: The developer agrees to install a right turn lane and appropriate taper at the intersection of Tracy Grove Road and Wilmont Drive; the developer agrees to install a left turn lane on Tracey Grove Road at entrance 1 to the development. 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 Medium Intensity Neighborhood designation calls for Planned Residential Developments as a secondary recommended land use and the proposed site plan aligns with

development guidelines under strategy LU 6.4. Furthermore, 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 development would provide 300 “market-rate” rental units. These units would help reduce the rental housing gap estimated to be between 1,364 and 1,722 units that are needed within Henderson County to satisfy demand according to the 2021 Housing Needs Assessment (Bowen Study); the development would provide 161 owner housing units. These units would help reduce the owner housing gap estimated to be between (-268) and 585 units that are needed within Henderson County to satisfy demand according to the 2021 Housing Needs Assessment (Bowen Study); the development is near the US 64 commercial corridor, an area of the city experiencing on-going development and redevelopment; the addition of multi-family and single-family residential is in keeping with the surrounding land uses; the proposal to conserve, via a conservation easement, the floodplain area on the site, including efforts to restore the ecological function of this important area is a general public good for the community; the site plan clusters development impacts away from the Natural Resource/Agriculture designated portions of the site, aligning with guidance from the Natural & Environmental Resource Chapter of the Comprehensive Plan; and the Greenway construction and ROW dedication adds to existing greenway network of aligns with specific goals established for greenways.

The motion carried by 3-2, with Council Members Smith and O’Neal-Roundtree voting against.

CONDITIONAL REZONING Ordinance #O-22-38

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 9578-39-5229 & 9579-11-841 BY CHANGING THE ZONING DESIGNATION FROM PRD-CZD (PLANNED RESIDENTIAL DEVELOPMENT-CONDITIONAL ZONING DISTRICT) TO PRD-CZD (PLANNED RESIDENTIAL DEVELOPMENT – CONDITIONAL ZONING DISTRICT)

IN RE: Parcel Numbers: 9578-39-5229 & 9579-11-841– 240 Wilmont Dr (Washburn Tract Development) - (File # P22-19-CZD)

WHEREAS, the City is in receipt of a Conditional Rezoning application from applicant Mike Washburn for the development of 300 Apartments and 160 detached single-family homes on approximately 162.1 acres, and

WHEREAS, the Planning Board took up this application at its regular meeting on May 9, 2022; voting 4-2 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 June 2, 2022, and

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: 9578-39-5229 & 9579-11-841 from PRD-CZD (Planned Residential Development-Conditional Zoning District) to PRD-CZD (Planned Residential 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 the conditions and developer concessions listed therein and subject to the following.
 - c. Permitted uses shall include:
 - i. Residential Dwellings, Single-Family
 - ii. Residential Dwellings, Multi-Family
 - iii. The developer agrees to install a right turn lane and appropriate taper at the intersection of Tracy Grove Road and Wilmont Drive, so long as sufficient right-of-way is available for that purpose. If right-of-way is not currently available, then the developer shall use best efforts to obtain sufficient right-of-way from affected property owners. In this instance, best efforts include an offer to purchase the affected land at market value

- as determined by a certified MAI appraisal. If the developer is unable to obtain sufficient right-of-way from the affected property owners then the developer may request that the NCDOT or the City of Hendersonville obtain the needed right-of-way from the affected property owner subject to the developer repaying the fair market value of the right-of-way obtained by eminent domain. In this instance, fair market value shall be the value as determined by the condemning authorities' certified MAI appraisal or jury verdict, including any cost and attorneys' fees. If the NCDOT and/or the City chose not to use their powers of eminent domain, the developer shall install, within the existing right-of-way, as much of the required improvements as physically feasible.
- iv. The developer agrees to install a left turn lane on Tracey Grove Road at entrance 1 to the development, so long as sufficient right-of-way is available for that purpose. If right-of-way is not currently available, then the developer shall use best efforts to obtain sufficient right-of-way from affected property owners. In this instance, best efforts include an offer to purchase the affected land at market value as determined by a certified MAI appraisal. If the developer is unable to obtain sufficient right-of-way from the affected property owners then the developer may request that the NCDOT or the City of Hendersonville obtain the needed right-of-way from the affected property owner subject to the developer repaying the fair market value of the right-of-way obtained by eminent domain. In this instance, fair market value shall be the value as determined by the condemning authorities' certified MAI appraisal or jury verdict, including any cost and attorneys' fees. If the NCDOT and/or the City chose not to use their powers of eminent domain, the developer shall install, within the existing right-of-way, as much of the required improvements as physically feasible.
- d. 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 as submitted March 2, 2022, as modified and presented at this meeting.
- ii. Based on the proposed site trip distribution a right-turn lane may be warranted at the intersection of Tracey Grove Rd at Wilmont Dr. The TIA should be revised based on the comments from Kimley-Horn dated May 5.
3. This ordinance shall not be effective until the 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 2nd day of June 2022.

/s/Barbara G. Volk, Mayor

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

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

Mayor Barbara G. Volk briefly recessed the meeting at 9:20 p.m. and reconvened at 9:25 p.m. for a short break.

E. Rezoning: Conditional Zoning District – Duncan Terrace (P21-79-CZD) – Matthew Manley, AICP – Planning Manager

Planning Manager Matthew Manley stated the City is in receipt of an application for a conditional rezoning from Leah Bergman of Lee Ray Bergman LLC. Mr. Manley stated the applicant is requesting to rezone the subject property, PINs 9569-95-7758, 9569-95-5941, and 9569-96-4013 and located between Duncan Hill Road and Signal Hill Road, from PRD CZD, Planned Residential Development Conditional Zoning District to PRD CZD, Planned Residential Development Conditional Zoning District for the construction of a multi-family development consisting of 132 apartment units on approximately 8.66 acres, a density of 15.24 units per acre. Mr. Manley state the project would provide 25% of the units to those with an AMI of 80% or less and said the site plan shows six three-story multi-family structures, a club house and a pool. Mr. Manley stated the total footprint of buildings is 52,242 Sq Ft. with a total proposed gross floor area of 150,636 Sq Ft. which includes twelve three-bedroom units, seventy-two two-bedroom units and forty-eight one-bedroom units. Mr. Manley stated the site would have access from Duncan Hill Road and Signal Hill Road.

Mr. Manley stated the Planning Board voted 7-0 in favor of approval for this development.

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.

Council Member Jerry A. Smith Jr., J.D. clarified the project tax credits would be for a period of 15 years and would be 25% AMI.

Project developer Leah Bergman addressed Council regarding the project and clarified the gravity sewer line is 125 feet from the site and said it is not feasible for them to run the line at an added project cost of approximately \$700,000.00.

The City Clerk confirmed this public hearing has been advertised in accordance with North Carolina General Statutes. The public hearing was opened at 9:52 p.m.

Glen Lang addressed City Council on behalf of the Tree Board stating the project is incompatible with the City's goal of preserving the tree canopy and said the property is one of the last in the area of this nature. Mr. Lang stated the Tree Board impose a condition of requiring 75 additional trees and asked Council to require this condition.

Lynn Clark addressed City Council recalling a news story on Arbor Day. Ms. Clark stated the clear cutting of trees has been escalating all around her neighborhood and expressed concerns of increased traffic and traffic counts. Ms. Clark additionally expressed concerns of retention ponds not being maintained.

Jeff Dooty addressed City Council asking if the affordable housing rate the developer quotes was for the life of the project and expressing concerns of loss of tree canopy and increased traffic.

Lynne Williams of Chadwick Avenue addressed City Council expressing concerns of increased traffic, tree loss and affordable housing density.

Ken Fitch of Patton St. addressed City Council via Zoom electronic software expressing concerns of the affordability of the units being proposed.

Mayor Volk read the following digital comments.

Ester Padula submitted digital comments to City Council in opposition to the project stating she was unaware of developments and clear cutting in the neighborhood.

The public hearing was closed at 10:17 p.m.

Project developer Leah Bergman addressed concerns of Tree Board and reminded everyone there is no final grading plan at this point in the process but said they are in compliance with current ordinance requirements. Ms. Bergman said she cannot make a guarantee to plant additional trees as recommended but said she will make a donation or fee in lieu of to the Neighborwoods Program. Council Member Jerry A. Smith Jr., J.D. discussed the proposed site plan with the developer and asked if she would commit to planting an additional 35 large canopy trees for a total of 100. Council Member Smith asked if some of the 87 planned trees can be converted to large canopy trees. Ms. Bergman stated if it were not possible to add additional canopy trees after speaking with her engineer she could donate \$10,000 to the Neighborwoods Program as a fee in-lieu of this condition. After much discussion, the developer agreed to plant a total of 75 large canopy trees.

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: 9569-95-7758, 9569-95-5941 and 9569-96-4013 from PRD-CZD (Planned Residential Development – Conditional Zoning District) to PRD-CZD (Planned Residential Development – Conditional Zoning District) based on the site plan submitted by the applicant, dated May 17, 2022 and the conditions listed therein and presented at this meeting and subject to the following: the development shall be consistent with the site plan, including the list of permitted uses and applicable conditions as presented on the site plan.

Permitted uses and applicable conditions presented on the site plan shall be amended to include of the 87 trees that are going to be planted the developer has agreed to plant 55 large canopy trees from the City's recommended species list. The condition to require a revised TIA shall be removed from the list of conditions on the approved site plan. 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 High Intensity Neighborhood designation calls for multi-family residential, Planned Residential Developments and open space as primary recommended land uses. The proposed project satisfies a majority of design guidelines under LU-7.4. We find this petition to be reasonable and in the public interest based on the information from the staff analysis and the public comment, and because the development would provide 25% of the units to be affordable for fifteen years, for those with household incomes at 80% AMI or less. These units would help to fill the need for affordable housing which currently has a projected gap (shortage) of approximately between 1,329 – 1,622 units in Henderson County according to the 2021 Housing Needs Assessment (Bowen Study); the development would provide 755 of the rental units at "market-rate". These units would help reduce the rental housing gap estimated to be between 1,364 and 1,722 units needed within Henderson County to satisfy demand according to the 2021 Housing Needs Assessment (Bowen Study); the applicant is dedicating +/- 0.59 Acres of right of way at the intersection of Signal Hill and Duncan Hill Road to facilitate future NCDOT road improvements; the area in proximity to the subject property includes similar and comparable development, including multi-family residential within 0.25 miles of the project; this development would serve as a transition between the US-64 commercial corridor and the lower density residential northeast of Signal Hill Rd / Berkeley Rd.

A unanimous vote of the Council followed. Motion carried.

CONDITIONAL REZONING Ordinance #O-22-39

AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF HENDERSONVILLE FOR PARCELS POSSESSING PARCEL IDENTIFICATION NUMBERS 9569-95-7758, 9569-95-5941 AND 9569-96-4013 BY CHANGING THE ZONING DESIGNATION FROM PRD-CZD (PLANNED RESIDENTIAL DEVELOPMENT– CONDITIONAL ZONING DISTRICT TO PRD-CZD (PLANNED RESIDENTIAL DEVELOPMENT– CONDITIONAL ZONING DISTRICT)

IN RE: Parcel Numbers: 9569-95-7758, 9569-95-5941 and 9569-96-4013 –710 Duncan Hill Road (Duncan Terrace) - (File # P21-79-CZD)

WHEREAS, the City is in receipt of a Conditional Rezoning application from Leah Bergman of Lee Ray Bergman LLC (applicant) and Lee Ray Bergman LLC (property owner) for the development of 132 apartments on approximately 8.66 acres, and

WHEREAS, the Planning Board took up this application at its regular meeting on May 9th, 2022; voting 7-0 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 June 2nd, 2022, and

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: 9569-95-7758, 9569-95-5941 and 9569-96-4013 from PRD-CZD (Planned Residential Development – Conditional Zoning District) to PRD-CZD (Planned Residential 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, the conditions and developer concessions listed therein and subject to the following.
 - a. Permitted uses shall include:
 - i. Residential Dwellings, Multi-Family
 - b. Conditions that shall be satisfied prior to final site plan approval include:
 - i. The development shall be consistent with the preliminary site plan and

- conditions and developer concessions listed therein as submitted on May 17, 2022,.
- ii. Of the 87 trees that are going to be planted the developer has agreed to plant 55 large canopy trees from the City's recommended species list.
 - iii. The condition to require a revised TIA shall be removed from the list of conditions on the approved site plan.
3. This ordinance shall be not be effective until the 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 2nd day of June 2022.

/s/Barbara G. Volk, Mayor

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

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

F. Public Hearing: Landscape Contract for Main Street and 7th Avenue Municipal Service Districts - Jamie Carpenter, Downtown Manager

Downtown Manager Jamie Carpenter stated this public hearing is to consider a proposed contract for landscaping services with the apparent successful bidder Bruce Lowe and explained the scope of work includes landscaping ground level and raised beds within the Main Street Municipal Service District and the 7th Avenue Service District, as well as to developing and installing the hanging planters. Ms. Carpenter stated the contract is proposed to be three years at a price of \$126,650 per year and reminded everyone the apparent successful bidder was selected through a competitive bid process pursuant to N.C.G.S. § 160A-536.

The City Clerk confirmed this public hearing has been advertised in accordance with North Carolina General Statutes. The public hearing was opened at 10:39 p.m.

There were no comments.

The public hearing was closed at 10: 39 p.m.

Council Member Dr. Jennifer Hensley moved that City Council adopt the resolution to authorize the City Manager to execute an agreement with Bruce Lowe for landscaping in the Main Street and Seventh Avenue Municipal Service Districts. A unanimous vote of the Council followed. Motion carried.

Resolution #R-22-72

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO
AUTHORIZE THE CITY MANAGER TO EXECUTE AGREEMENT WITH
BRUCE LOWE FOR LANDSCAPING IN THE MAIN STREET & SEVENTH AVENUE
MUNICIPAL SERVICE DISTRICTS**

WHEREAS, the City Council approved Landscaping and Maintenance in the Main Street and 7th Avenue Municipal Service Districts as part of the 2023 budget, the "Project"; and;

WHEREAS, the Community Development Department has solicited proposals in an effort to hire a reputable and responsible Contractor to perform the Project; and

WHEREAS, Bruce Lowe submitted the lowest price proposal, and references indicate that they are a responsible Contractor able to complete the Project within the bid or price stated, and within the time frames requested; and

WHEREAS, a draft contract with Bruce Lowe has been presented to the City Council for consideration, the "Agreement;" and

WHEREAS, the Community Development Department is recommending that the Project be awarded to Bruce Lowe and the Agreement be approved;

THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HENDERSONVILLE, NORTH CAROLINA that:

1. The Project is awarded to Bruce Lowe in the amount of \$126,650 per year for a three-year agreement.
2. The Agreement with Bruce Lowe is approved as presented.
3. The City Manager is authorized to sign the Agreement with such changes as he may deem appropriate, after consultation with the City Attorney, provided that the price may not be changed without approval from the City Council.
4. The City Manager, City Attorney, and City Staff are authorized to take such other actions as may be necessary to carry out the terms and provisions of the Agreement as signed by the City Manager.

Adopted by the City Council of the City of Hendersonville, North Carolina this 2nd day of June 2022.

/s/Barbara G. Volk, Mayor

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

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

G. Public Hearing: 7th Avenue Municipal Service District - Jamie Carpenter, Downtown Manager

Downtown Manager Jamie Carpenter stated this public hearing is to consider the contract for branding strategy with the apparent successful bidder Arnett Muldrow. The scope of work includes information gathering and background review, community resource visit and public information, draft strategy, implementation workshop and Brand Print Report which includes a logo and tagline for the 7th Avenue district, refinement of the current downtown "H" logo and recommended uses for the final design. The contract is proposed to be \$10,500. The apparent successful bidder was selected through a competitive bid process pursuant to N.C.G.S. § 160A-536.

Arnett Muldrow addressed City Council regarding branding he has done for the city in prior years stating he is excited to be part of this project.

The City Clerk confirmed this public hearing has been advertised in accordance with North Carolina General Statutes. The public hearing was opened at 10:43 p.m.

There were no comments.

The public hearing was closed at 10:44 p.m.

Council Member Dr. Jennifer Hensley moved that City Council adopt the resolution authorizing the City Manager to execute an agreement with Arnett Muldrow & Associates, Ltd. for branding and visioning services for the Seventh Avenue Municipal Service District. A unanimous vote of the Council followed. Motion carried.

Resolution #R-22-73

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO
AUTHORIZE THE CITY MANAGER TO EXECUTE AGREEMENT WITH
ARNET MULDROW & ASSOCIATIES LTD FOR BRANDING AND VISIONING FOR
THE SEVENTH AVENUE MUNICIPAL SERVICE DISTRICT**

WHEREAS, the Downtown Advisory Board recommended branding and visioning process for the Seventh Avenue Municipal Service Districts as part of the 2023 budget, the "Project"; and;

WHEREAS, the Community Development Department has solicited proposals in an effort to hire a reputable and responsible Contractor to perform the Project; and

WHEREAS, Arnett Muldrow & Associates, Ltd submitted most fitting proposal and references indicate that they are a responsible Contractor able to complete the Project within the bid or price stated, and within the time frames requested; and

WHEREAS, a draft contract with Arnett Muldrow & Associates, Ltd has been presented to the City Council for consideration, the “Agreement;” and

WHEREAS, the Community Development Department is recommending that the Project be awarded to Arnett Muldrow & Associates, Ltd and the Agreement be approved;

THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HENDERSONVILLE, NORTH CAROLINA that:

1. The Project is awarded to Arnett Muldrow & Associates, Ltd in the amount of \$10,500.
2. The Agreement with Arnett Muldrow & Associates, Ltd is approved as presented.
3. The City Manager is authorized to sign the Agreement with such changes as he may deem appropriate, after consultation with the City Attorney, provided that the price may not be changed without approval from the City Council.
4. The City Manager, City Attorney, and City Staff are authorized to take such other actions as may be necessary to carry out the terms and provisions of the Agreement as signed by the City Manager.

Adopted by the City Council of the City of Hendersonville, North Carolina this 2nd day of June 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

There was no unfinished business.

9. NEW BUSINESS

A. Fund Balance Policy Revision – Adam Murr, Budget Manager

Budget Manager Adam Murr recalled prior discussions and recommendations by the Local Government Commission to update the policy to match the revenue bond covenants.

Council Member Jerry A. Smith Jr., J.D. moved that the City Council adopt the revised fund balance policy as presented. A unanimous vote of the Council followed. Motion carried. A unanimous vote of the Council followed. Motion carried.

B. Edwards Park Design-Build Selection – John F. Connet, City Manager

City Manager John Connet stated staff have received proposals for design-build services for Edwards Park.

Council Member Lyndsey Simpson moved that the City Council adopt the resolution to authorize the City Manager to enter into a contract with Harris Miniature Golf Courses Inc. to provide design-build services for the Edwards Park Project. A unanimous vote of the Council followed. Motion carried.

Resolution #R-22-74

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO AUTHORIZE THE CITY MANAGER TO ENTER INTO A CONTRACT WITH HARRIS MINIATRURE GOLF

WHEREAS, the North Carolina General Statute 123-128.1A guides the procurement of design-build services; and

WHEREAS, the City received qualifications in accordance with said statute for the Edwards Park project; and

WHEREAS, Harris Miniature Golf Courses Inc. is determined to be a responsible and most qualified submitter; and

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 contract with Harris Miniature Golf Courses Inc. to serve as design-builder for the City of Hendersonville Edwards Park project, in an amount not to exceed \$350,575.

Adopted by the City Council of the City of Hendersonville, North Carolina this 2nd day of June 2022.

/s/Barbara G. Volk, Mayor

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

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

10. CITY COUNCIL COMMENTS

There were no comments.

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

No report was provided.

12. BOARDS/COMMISSIONS/COMMITTEE APPOINTMENTS

Upon consensus of Council this item was deferred until the July meeting. Council further clarified any person holding a seat will continue to hold that seat until a successor is appointed.

13. ADJOURN

There being no further business, the meeting was adjourned at 10:47 p.m. upon unanimous assent of the Council.

Barbara G. Volk, Mayor

ATTEST:

Angela L. Reece, City Clerk