



MINUTES

May 5, 2022

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

Present: Mayor Barbara G. Volk and Council Members: Mayor Pro Tem Lyndsey Simpson, Dr. Jennifer Hensley, 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, Communications Manager Allison Justus, Budget Manager Adam Murr, and others

Staff Present Remotely: City Clerk Angela Reece

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 2 and ½ minutes to each speaker.

Virginia Tegel of Midway addressed City Council and expressed thanks and appreciation to various staff and departments for assisting her with relocating to the city. Ms. Tegel also thanked the City Manager regarding street speed asking for it not to exceed 20mph.

Lynne Williams of Chadwick Ave. addressed City Council via zoom electronic software announcing the Friends of Chadwick Avenue conducted a community trash pickup in the area of South Grove and Chadwick Avenue. Ms. Williams discussed ongoing concerns and suggestions regarding Boyd Park and the Laura E. Corn Mini Golf. Ms. Williams asked Council to consider leaving Fire Department Administration staff located at Fire Station #2.

Mayor Volk read comments submitted electronically from the following persons.

Amos Dawson of Little Mine Mtn. Dr. submitted digital comments requesting that the City Council consider and adopt a resolution requesting our federal Congressional representatives to adopt the Energy Innovation and Carbon Dividend Act to reduce carbon emissions.

Ann-Marie Sanservero of Highland Golf Dr. submitted digital comments asking the City Council to pledge their support of federal legislation which would create carbon pricing consistent with Citizen's Climate Lobby legislation.

Jan Partin of Beaumont Dr. submitted digital comments requesting that the City Council consider adopting a resolution supporting the Energy Innovation and Carbon Dividend Act

Mark Goldstein of Chatsworth Court submitted digital comments asking the City Council to support federal climate change legislation.

Stuart Rundlett of Dartmouth Rd. submitted digital comments requesting that the City Council consider Council to adopt a resolution supporting the Energy Innovation and Carbon Dividend Act

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 approve the minutes of adopt the minutes of the March 23, 2022, Second Monthly Meeting, April 7, 2022 Regular Meeting, and April 21, 2022 Special Call Meeting. as presented.

B. **Revision of the Inclement Weather Policy** – Jennifer Harrell, HR Director

I move City Council adopt the Inclement Weather Policy as presented.

C. **Revision of the Travel Policy** – Jennifer Harrell, HR Director

I move City Council adopt the Travel Policy as presented.

D. **Special Event: Hendersonville’s 175th Birthday Party-** Lew Holloway, Community Development Director

I move that City Council approve the special event permit for Hendersonville’s 175th Birthday Party.

E. **Special Event: July Fourth Festival and Fireworks -** Lew Holloway, Community Development Director

I move that City Council approve the special event permit for July Fourth Festival and Fireworks.

F. **May 2022 Budget Amendments** – Adam Murr, Budget Manager

I move City Council adopt budget amendment(s) 05052022-02, and 05052022-03 as presented.

G. **May 2022 Grant Project Ordinances** – Adam Murr, Budget Manager

I move City Council adopt the grant and capital project ordinance(s) for the Mud Creek Stormwater Planning Project, #G2204, and the SCIF Grant Project #G2205 and the budget(s) as presented.

Grant Project Ordinance #O-22-19

**GRANT PROJECT ORDINANCE FOR
THE EXECUTION, ACQUISITION, CONSTRUCTION, AND INSTALLATION OF THE
MUD CREEK STORMWATER PLANNING 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 Mud Creek Stormwater Planning Project.

Section 2: The project will be complete in accordance with the requirements set by grant requirements and 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		
467	7555	550103	G2204	Capital Outlay – CIP	\$ 49,620

Total Project Appropriation **\$ 49,620**

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

Account Codes				Account Name	Total Budget
Fund	Dept.	Account	Project		
467	0000	460090	G2204	Contribution/Donations	\$24,620

467	0000	470100	G2204	Transfers In	\$25,000
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Total Project Revenue

\$49,620

- Section 5:** 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 6:** Funds may be advanced from the Stormwater Fund and General Fund 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 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 5th day of May 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-22-20

GRANT PROJECT ORDINANCE FOR
THE EXECUTION, ACQUISITION, CONSTRUCTION, AND INSTALLATION OF THE
SCIF GRANT 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 SCIF Grant Project.
- Section 2:** The project will be complete in accordance with the requirements set by grant requirements and 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		
301	1502	550103	G2205	Capital Outlay CIP	\$250,000

Total Project Appropriation

\$250,000

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

Account Codes				Account Name	Total Budget
Fund	Dept.	Account	Project		
301	0000	420050	G2205	Grant Revenue	\$250,000

Total Project Revenue

\$250,000

- Section 5:** 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 6:** 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 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 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 5th day of May 2022.

/s/Barbara G. Volk, Mayor

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

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

H. Final Acceptance of Negotiated Offer to Purchase Lot 15, Overlook Subdivision, Plat Cabinet B, Slide 375A – Daniel Heyman, Staff Attorney

I move City Council to adopt the Resolution by The City of Hendersonville City Council of Final Acceptance of Negotiated Offer as presented.

Resolution #R-22-52

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL OF FINAL
ACCEPTANCE OF NEGOTIATED OFFER**

WHEREAS, the City of Hendersonville owns certain property described as 328 N Overlook Terrace, Hendersonville, NC 28739, being all of lot 15 of the Overlook Subdivision as shown on the plat thereof recorded in Plat Cabinet B, at Slide 375A, in the Office of the Register of Deeds for Henderson County, having a tax parcel ID of 9568057733, and having been acquired by the City of Hendersonville in Deed Book 773 at Page 879 of the Henderson County Register of Deeds Office (“Property”); and

WHEREAS, North Carolina General Statute Section 160A-269 permits the City to sell property by upset bid after receiving and offer to purchase; and

WHEREAS, the City has received a NEGOTIATED OFFER RECEIVED PURSUANT TO N.C.G.S. § 160A-269 (“Offer”), a copy of which is attached hereto and incorporated herein by reference; and

WHEREAS, pursuant to the Offer, Keith M. Maxwell and Cynthia E. Maxwell, Trustees of the Keith M. Maxwell Living Trust; and Keith M. Maxwell and Cynthia E. Maxwell, Trustees of the Cynthia E. Maxwell Living Trust, (“Buyers”), are offering to purchase the Property for the sum of \$10,000, subject to the terms and conditions contained within the Offer; and

WHEREAS, on April 7, 2022, the City Council issued a proposed acceptance of the Offer and authorized the Offer to be advertised for upset bids pursuant to N.C.G.S. § 160A-269; and

WHEREAS, the Offer was advertised in the Hendersonville Times-News on April 15, 2022 and no upset bids were received; and

WHEREAS, subject to the terms below, the City Council wishes to issue a final acceptance of the Offer.

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

1. The Council issues a final acceptance of the Offer pursuant to the procedures of 160A-269, and authorizes the sale to the Buyers, Keith M. Maxwell and Cynthia E. Maxwell, Trustees of the Keith M. Maxwell Living Trust; and Keith M. Maxwell and Cynthia E. Maxwell, Trustees of the Cynthia E. Maxwell Living Trust, or an authorized assignee as allowed by Offer. The City Manager, City Clerk, and the City Attorney are authorized to take all actions on behalf of the City which are consistent with the terms of the Offer, including but not limited to the signature of all necessary documentation, to effectuate the closing on the sale of the Property.

Adopted by the City Council of the City of Hendersonville, North Carolina this 5th day of May 2022.

/s/Barbara G. Volk, Mayor

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

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

I. Utility Extension Agreement for the Heritage Park Subdivision – Brendan Shanahan, Engineering

I move that City Council approve the Resolution authorizing the City Manager to enter into a Utility Extension Agreement with Richard Eugene Lance, Jennifer Michelle Lance, Ronald Page Lance, Christopher Page Lance, Tonya Lance Rice, and Jackson Family Developers, LLC for the Heritage Park Subdivision as presented.

Resolution #R-22-53

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO
AUTHORIZE THE CITY MANAGER TO ENTER INTO A UTILITY EXTENSION
AGREEMENT WITH RICHARD EUGENE LANCE, JENNIFER MICHELLE LANCE,
RONALD PAGE LANCE, CHRISTOPHER PAGE LANCE, TONYA LANCE RICE, AND
JACKSON FAMILY DEVELOPERS, LLC FOR THE HERITAGE PARK SUBDIVISION**

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

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

WHEREAS, the Developer extends public water 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 line extension process; and

WHEREAS, Richard Eugene Lance, Jennifer Michelle Lance, Ronald Page Lance, Christopher Page Lance, Tonya Lance Rice, the “Owners,” and Jackson Family Developers, LLC., the “Developer,” will enter into a Utility Extension Agreement with the City to provide water service to the Heritage Park Subdivision.

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

1. The Utility Extension Agreement with Richard Eugene Lance, Jennifer Michelle Lance, Ronald Page Lance, Christopher Page Lance, Tonya Lance Rice, the “Owners”, and Jackson Family Developers, LLC., the “Developer”, to provide water service to the Heritage Park Subdivision 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.

Adopted by the City Council of the City of Hendersonville, North Carolina this 5th day of May 2022.

/s/Barbara G. Volk, Mayor

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

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

J. Utility Extension Agreement for the Providence Walk Subdivision – Brendan Shanahan, Engineering

I move that City Council approve the Resolution authorizing the City Manager to enter into a Utility Extension Agreement with Providence Walk, LLC., and First Victory, Inc. for the Providence Walk Subdivision as presented.

Resolution #R-22-54

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO
AUTHORIZE THE CITY MANAGER TO ENTER INTO A UTILITY EXTENSION
AGREEMENT WITH PROVIDENCE WALK, LLC AND FIRST VITORY, INC. FOR THE
HERITAGE PARK SUBDIVISION**

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

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

WHEREAS, the Developer extends public water and gravity 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, First Victory, Inc., the “Developer” and Providence Walk, LLC, the “Owner,” will enter into a Utility Extension Agreement with the City to provide water and sewer services to the Providence Walk Subdivision.

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

1. The Utility Extension Agreement with First Victory, Inc., the “Developer” and Providence Walk, LLC., the “Owner” to provide water service to the Providence Walk Subdivision 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.

Adopted by the City Council of the City of Hendersonville, North Carolina this 5th day of May 2022.

/s/Barbara G. Volk, Mayor

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

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

K. Selection of ADW’s Proposal for Phase I of the City Hall and City Operations Facilities Renovations Project – Drew Finley, Assistant Utilities Director

I move that City Council adopt the Resolution Accepting ADW’s Proposal For Architectural And Engineering Services for Phase I of the City Hall and City Operations Facilities Renovations Project in the Not to Exceed amount of \$279,000.

Resolution #R-22-55

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL ACCEPTING
ADW’S PROPOSAL FOR ARCHITECTURAL AND ENGINEERING SERVICES FOR
PHASE I OF THE CITY HALL AND CITY OPERATIONS FACILITIES RENOVATIONS
PROJECT**

WHEREAS City Council has determined that renovations are needed for both the City Hall building and the City Operations Facility; and

WHEREAS ADW Architects recently completed a space needs analysis study for the City that included an evaluation of the City’s physical space need; and

WHEREAS City staff conducted a qualifications-based selection process in accordance with the provisions of G.S.143-64.31 to determine the most qualified firm to perform the architectural and engineering services required for Phase I of the project as described in the attached proposal from ADW Architects; and

WHEREAS, City staff recommends that ADW Architects be determined as the most qualified firm to perform the architectural and engineering services required for Phase I of the project.

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

1. ADW Architects is declared to be the most qualified firm to perform the architectural and engineering services required for Phase I of the project.

2. The City of Hendersonville hereby accepts the attached proposal from ADW Architects to perform architectural and engineering services for Phase I of the City Hall and City Operations Facilities Renovations project and finds that ADW Architects is the most qualified firm.
3. The City Manager and City Attorney are hereby authorized to negotiate and execute a final contract with ADW Architects for architectural and engineering services in connection with this project not to exceed \$279,000.

Adopted by the City Council of the City of Hendersonville, North Carolina this 5th day of May 2022.

/s/Barbara G. Volk, Mayor

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

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

L. Adoption of Uniform Guidance Policies—Angela S. Beeker, City Attorney

I move that City Council adopt the By the City of Hendersonville City Council to Adopt Certain Policies to Comply With 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, And Audit Requirements For Federal Awards as presented.

Resolution #R-22-60

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO ADOPT CERTAIN POLICIES TO COMPLY WITH 2 CFR PART 200 UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

WHEREAS, the City of Hendersonville receives grants, subgrants, awards, subawards, and loans that are funded in whole or in part by federal funds; and;

WHEREAS, federal funding necessitates the adoption of certain policies required by 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, hereinafter “Uniform Guidance”; and

WHEREAS, City Council wishes to adopt the following policies in compliance with Uniform Guidance;

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

1. The following policies, attached hereto and incorporated by reference, hereinafter “Uniform Guidance Policies,” are hereby adopted as required by Uniform Guidance:
 - a. Conflict of Interest Policy Applicable to Contracts and Subawards of the City Of Hendersonville Funded In Whole or In Part With Federal Funds;
 - b. Policy of the City of Hendersonville City Council to Prohibit Discrimination in Programs and Services and in Activities Receiving Federal Financial Assistance (A Supplement to the Title Vi Plan);
 - c. Record Retention Policy: Documents Created or Maintained Pursuant to the ARP/CSLFRF Award
 - d. City of Hendersonville Property Management Policy for Real and Personal Property Purchased in Whole or in Part With Federal Funds;
 - e. Eligible Project Policy for the Expenditure of American Rescue Plan Act Of 2021 Coronavirus State and Local Fiscal Recovery Funds by the City of Hendersonville;
 - f. The City of Hendersonville Policy for Program Income Related to the Expenditure of Federal Funds;
 - g. The City of Hendersonville Policy for Allowable Costs and Cost Principles for Expenditure of Federal Funds;
2. The Uniform Guidance Conflict of Interest Policy for the City of Hendersonville adopted on December 3, 2020, is hereby repealed.

3. The City of Hendersonville Uniform Guidance Procurement Policy adopted on November 23, 2020 and amended on February 10, 2022, is ratified, and approved.
4. To the extent permitted by law, the Uniform Guidance Policies shall be considered administrative policies which may be amended by the City Manager in consultation with the City Attorney. Amendments which must be approved by City Council under applicable law shall be brought to City Council for approval.

Adopted by the City Council of the City of Hendersonville, North Carolina this 5th day of May 2022.

/s/Barbara G. Volk, Mayor

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

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

M. Resolution to Approve Interlocal Agreement for Ecusta Trail Construction Between S. Main and Kanuga Road - John Connet, City Manager

I move that City Council adopt the Resolution to Approve Interlocal Agreement for Ecusta Trail Construction Between S. Main and Kanuga Road as presented.

Resolution #R-22-62

RESOLUTION TO APPROVE INTERLOCAL AGREEMENT FOR ECUSTA TRAIL CONSTRUCTION BETWEEN S. MAIN AND KANUGA ROAD

WHEREAS, Henderson County is the Tenant of the property, owned by the Ecusta Rails2Trail, LLC, a North Carolina nonprofit corporation (“ER2T”), obtained by ER2T by way of that special warranty deed recorded in Book of Record 2764 at Page 590 of the Henderson County Registry, for the development of a greenway along the former railroad corridor, running from Transylvania County to a point in Henderson County (the “R2T Property”); and

WHEREAS, the lease (the “Lease”) between Henderson County and ER2T dated November 1, 2021, for the R2T Property provides that the County will construct and maintain a greenway within the portions of the R2T Property lying in Henderson County (the “R2T Greenway”); and

WHEREAS, Henderson County has agreed to begin the R2T Greenway in Henderson County at a property owned by the City of Hendersonville on South Main Street, said property having a PIN of 9568850368, having been acquired by the City pursuant to that deed recorded in Book 1357 at Page 559 of the Henderson County Registry, (the “South Main Property”) and the City has agreed to contribute a lump sum amount of \$46,000.00 to be used for engineering costs associated with the construction of the R2T Greenway from the South Main Property to Kanuga Road; and

WHEREAS, Henderson County and the City of Hendersonville wish to enter into an interlocal agreement as allowed by N.C.G.S. Chapter 160A, Article 20, to carry out these terms as agreed.

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

1. The Interlocal Agreement between Henderson County and the City of Hendersonville providing for the construction of the R2T Greenway from the South Main Property to Kanuga Road, and the City’s payment of \$46,000 towards the cost of engineering and design is approved as presented.

Adopted by the City Council of the City of Hendersonville, North Carolina this 5th day of May 2022.

/s/Barbara G. Volk, Mayor

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

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

Council Member Lyndsey Simpson moved that City Council approve the consent agenda as presented. A unanimous vote of the Council followed. Motion carried.

6. PRESENTATIONS

A. Proclamation - Mental Health Awareness Month - Week of the Young Child - Mayor Barbara G. Volk

Mayor Barbara G. Volk issued a proclamation declaring the month of May 2022 as Mental Health Awareness Month in the City of Hendersonville and she called upon the citizens, government agencies, public and private institutions, businesses, and schools in the community to recommit increasing awareness and understanding of mental health, the steps our citizens can take to protect their mental health, and the need for appropriate and accessible services for all people with mental illnesses at all stages to ensure that community members who are struggling know they are not alone.

D. Quarterly MVP Recipients – John Connet, City Manager

City Manager John Connet and Mayor Barbara G. Volk recognized quarterly MVP recipients Robbie Baird (Police), Isaac Walden, Garrett Cairnes, James Clugh, Evan Doughty, Montana Riley, Bo Stepp, Kevin Albertson, Brandon Smith, Damian Bingham, Brandon Taylor, Hunter Wright, and Andrew Jones (Water & Sewer) for assisting two disabled persons and for repairs to high pressure water lines that enabled downtown businesses to continue to operate.

7. PUBLIC HEARINGS

A. Annexation: Public Hearing- 1448 and 1450 Old Spartanburg Road (C22-21-ANX) – Tyler Morrow, Planner II

Planner Tyler Morrow stated the City received a petition from Samuel R. Henderson of Appalachian Dew, LLC for contiguous annexation of PINs 9578-52-0340, and 9578-52-1337 located on Old Spartanburg Road that is approximately 1.21 acres. Mr. Morrow recalled the City Council accepting the City Clerk's Certificate of Sufficiency on April 7th, 2022.

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 Attorney confirmed this public hearing has been advertised in accordance with North Carolina General Statutes. The public hearing was opened at 6:10 p.m.

There were no comments. The public hearing was closed at 6:10 p.m.

Council Member Jerry A. Smith Jr., J.D. moved that City Council adopt an ordinance of the City of Hendersonville to extend the Corporate Limits of the City as a contiguous annexation, to annex that property owned by Appalachian Dew, LLC, identified as PINs 9578-52-0340, and 9578-52-1337, finding that the standards established by North Carolina General Statute 160A-31 have been satisfied and that the annexation is in the best interest of the City. A unanimous vote of the Council followed. Motion carried.

Ordinance #O-22-21

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

Re: Petition for Contiguous Annexation
Petitioners: Appalachian Dew, LLC (Samuel R. Henderson, Vice President)
File No. C22-21-ANX

WHEREAS, The City of Hendersonville has been petitioned by Samuel R. Henderson of Appalachian Dew, LLC. pursuant to North Carolina General Statutes (NCGS) 160A-31, as amended, to annex the area described herein below; and,

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

WHEREAS, a public hearing on the question of this annexation was held at 305 Williams Street (City Operations Center), Hendersonville, NC at 5:45 pm, on the 5th day of May, 2022, after due notice by publication as provided by law on April 24th, 2022; and,

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

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

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

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

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

Being all of that real property shown on that annexation plat recorded in Plat Book 2022 at Page _____ of the Henderson County Registry, and being also all of that real property shown on that plat recorded on Deed Book 3868; pages 411-412, and shown on Plat Slide 10786 of the Henderson County Registry, and 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:

Commencing at an existing iron pin on the eastern margin of Old Spartanburg Road and being the northwest corner of Lot 1 as shown on Plat Slide 10786 as recorded in the Register of Deeds for Henderson County, North Carolina and running with the northern line of Lot 1 N58-03-07E for a distance of 191.68 feet to the Point of Beginning being the northwest corner of Lot 4 as shown on Plat Slide 10786, thence running N58-03-07E for a distance of 210.85 feet to an existing bedrail; thence running S36-45-28E for a distance of 168.69 feet to a point; thence running S36-16-28E for a distance of 47.89 feet to an existing iron pin; thence running with an unnamed private gravel road S50-41-48W for a distance of 245.62 feet to an existing iron pin; thence running N28-28-41W for a distance of 247.75 feet with the boundary of the City of Hendersonville to an existing iron pin being the Point of Beginning.

Said property contains 1.21 Acres more or Less

2: Upon and after the fifth day of May 2022, the above-described territory, and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the City of Hendersonville and shall be entitled to the same privileges and benefits as other parts of the City of Hendersonville. Said territory shall be subject to municipal taxes according to NCGS 160A-58.10, as amended.

3. The Mayor of the City of Hendersonville shall cause to be recorded in the office of the Register of Deeds of Henderson County and at the Office of the Secretary of State in Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1, above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the Henderson County Board of Elections, as required by G. S. 163-288.1.

Adopted by the City Council of the City of Hendersonville, North Carolina this 5th day of May 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) – Lew Holloway; Community Development Director

Community Development Director Lew Holloway stated this is a City initiated zoning text amendment and explained the amendment addresses the thresholds for development which will trigger a Conditional Zoning District. Director Holloway recalled a recent development project within the City of Hendersonville's Greenville Highway Mixed Use District (GHMU) and said staff were directed to investigate a zoning text amendment that would require conditional rezoning for development or redevelopment of 50,000 square feet or greater that would apply to all zoning districts classifications. Director Holloway stated the best way to accomplish this is with an amendment to Article 4: Sec. 4-5 to establish a development and redevelopment threshold, alongside individual clarifying amendments to the "mirror Conditional Zoning Districts" within Article V: Zoning District Classifications.

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 Attorney confirmed this public hearing has been advertised in accordance with North Carolina General Statutes. The public hearing was opened at 6:18 p.m.

Lynne Williams of Chadwick Ave. addressed City Council via zoom electronic software expressing thanks and appreciation to staff with addressing compatibility issues within these districts.

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

Council Member Jerry A. Smith Jr., J.D. moved that City Council adopt an ordinance amending the official City of Hendersonville Zoning Ordinance, Article IV – Section 4-5 and Article V – Sections 5-1-4; 5-2-4; 5-3-4; 5-4-4; 5-5-4; 5-6-5; 5-7-4; 5-8-4; 5-9-1; 5-9-5; 5-10-4; 5-12-4; 5-13-5; 5-19-4; 5-22-5; 5-23-6 & 5-27-5 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 adjustment of review procedures to accomplish this goal as needed. 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 an incongruency in our existing zoning ordinance regarding the standard review process required of projects of a particular size and the text amendment will permit the community to address potential short-term incompatibilities caused by new development, particularly infill development. A unanimous vote of the Council followed. Motion carried.

REZONING Ordinance #O-22-22

ARTICLE 4 - ESTABLISHMENT OF DISTRICTS: SECTION 4-5; ARTICLE 5 – ZONING DISTRICT CLASSIFICATIONS: SECTIONS 5-1-4, 5-2-4; 5-3-4; 5-4-4; 5-5-4; 5-6-5; 5-7-4; 5-8-4; 5-9-1; 5-9-5; 5-10-4; 5-12-4; 5-13-5; 5-19-4; 5-22-5; 5-23-6 AND 5-27-5 OF THE CITY OF HENDERSONVILLE ZONING ORDINANCE TO ESTABLISH A CONDITIONAL ZONING REQUIREMENT FOR DEVELOPMENT AND REDEVELOPMENT OF 50,000 SQUARE FEET AND/OR 51 DWELLING UNITS OR MORE

WHEREAS, the City of Hendersonville's Planning Board reviewed this City initiated zoning text amendment establishing a conditional zoning requirement for development and redevelopment of 50,000 square feet and/or 51 dwelling units or more at its regular meeting on April 11th, 2022; voting 8-0 to recommend City Council adopt an ordinance amending the City of Hendersonville Zoning Ordinance, and

WHEREAS, City Council desires to provide for the consistent application of conditional zoning requirements across the Zoning District Classifications, and

WHEREAS, City Council took up this application at its regular meeting on May 5th, 2022, and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Hendersonville, North Carolina that Article 4 – Establishment of Districts: Section 4-5; Article 5 – Zoning District Classifications: Sections 5-1-4, 5-2-4; 5-3-4; 5-4-4; 5-5-4; 5-6-5; 5-7-4; 5-8-4; 5-9-1; 5-9-5; 5-10-

4; 5-12-4; 5-13-5; 5-19-4; 5-22-5; 5-23-6 and 5-27-5 be amended as follows to establish a Conditional Zoning Requirement for Development and Redevelopment of 50,000 square feet and/or 51 dwelling units or more:

ARTICLE IV ESTABLISHMENT OF DISTRICT CLASSIFICATIONS

Sec. 4-5. Classification of uses.

The range of uses allowed in each district established in this ordinance is summarized in Table 4-5 Table of Permitted Uses, which is a part of this section. In the event of a conflict between Table 4-5 and the text of this appendix, the text shall control.

The Table of Uses orders uses into the following four classifications. All uses must comply with regulations of general application in the zoning ordinance, including, without limitation, those in articles VI, VII, and XV. In addition, uses must comply with specific development standards as noted below:

- a) **Permitted by right (P).** A use which is permitted by right must comply with the development standards for the relevant zoning district. This process requires administrative (i.e. professional city staff) review leading to an administrative decision.
- b) **Permitted by right subject to supplementary standards (SS).** Same as above except that the use must comply with one or more additional standards not required of other permitted uses in the district. These additional standards are either incorporated into the description of the use or, when they are too lengthy, a reference is given to their location in the ordinance. This process requires administrative (i.e. professional city staff) review leading to an administrative decision.
- c) **Special Use (SU).** A use which may be authorized only by means of a special use permit (SUP) issued by the board of adjustment pursuant to article X, below. This process requires initial administrative review (i.e. professional city staff) and a final quasi-judicial decision by the board of adjustment (quasi-judicial process).
- d) **Limited (L).**
- e) **Uses permitted only pursuant to a rezoning to a conditional zoning district.**
 - 1) Any building or structure that exceeds the maximum square footage as stated in a conventional zoning district shall require a rezoning to a conditional zoning district which allows the proposed square footage for the building or structure in order to be permitted.
 - 2) ~~Any building of the following development or structure that is more than 50,000 square feet of gross floor area redevelopment shall be required a rezoning to a conditional zoning district which allows the proposed gross square footage for the building it:~~
 - (a) Any nonresidential development or redevelopment that includes a cumulative total gross floor area for all buildings combined for all phases combined of the development or redevelopment of 50,000 square feet or more;
 - (b) Any mixed-use development or redevelopment that includes a cumulative total gross floor area for all buildings combined (including both residential and nonresidential) for all phases combined of the development or redevelopment of 50,000 square feet or more;
 - (c) Any amendment to an approved nonresidential or mixed-use development or redevelopment that, when added to the approved development or redevelopment for all phases of the development or redevelopment combined, brings the development or redevelopment (including the amendment) within the parameters of (a) or (b) above.
 - (d) Any single, two or multi-family residential development or redevelopment that includes 51 or more residential dwelling units for all phases combined; or
 - (e) Any amendment to an approved single, two or multi-family residential development or redevelopment that, when added to the approved number of dwelling units for all phases combined, brings the total number of dwelling units (including the amendment) for all phases of the development or redevelopment combined to 51 or more dwelling units.
 - 3) ~~The provisions in this Section 4-5(e) The 50,000 square foot gross floor area threshold~~ for requiring a rezoning to a conditional zoning district ~~is~~ are subject to any exemptions established in article V, zoning district classifications.

ARTICLE V ZONING DISTRICT CLASSIFICATIONS

5-1-4. R-40 CZD Estate Residential Conditional Zoning District Classification.

The purpose, ~~and~~ requirements and standards of this zoning district classification are identical to the R-40 Estate Residential Zoning District Classification except that rezoning to R-40 Conditional Zoning District as provided for in article VII herein, is required as a prerequisite to any use or development. The following uses shall be permitted in the R-40 Estate Residential Conditional Zoning District

Classification only upon rezoning to R-40CZD, regardless of the square footage or number of residential units for the use:

Adaptive reuses

Telecommunications towers

Permitted uses for the R-40, Estate Residential Zoning District Classification as specified in subsection 5-1-1, above.

Special uses for the R-40, Estate Residential Zoning District Classification as specified in subsection 5-1-2, above.

5-2-4. R-20CZD Low-Density Residential Conditional Zoning District Classification.

The purpose, ~~and~~ requirements and standards of this zoning district classification are identical to the R-20 Low-Density Residential Zoning District Classification except that rezoning to R-20 Conditional Zoning District as provided for in article VII herein, is required as a prerequisite to any use or development. The following uses shall be permitted in the R-20 Low-Density Residential Conditional Zoning District Classification only upon rezoning to R-20CZD, regardless of the square footage or number of residential units for the use:

Adaptive reuses

Telecommunications towers

Permitted uses for the R-20, Low-Density Residential Zoning District Classification as specified in subsection 5-2-1, above.

Special Uses for the R-20, Low Density Residential Zoning District Classification as specified in subsection 5-2-2 above.

5-3-4. R-15CZD Medium-Density Residential Conditional Zoning District Classification.

The purpose, ~~and~~ requirements and standards of this zoning district classification are identical to the R-15 Medium-Density Residential Zoning District Classification except that rezoning to R-15 Conditional Zoning District as provided for in article VII herein, is required as a prerequisite to any use or development. The following uses shall be permitted in the R-15 Medium-Density Residential Conditional Zoning District Classification only upon rezoning to R-15CZD, regardless of the square footage or number of residential units for the use:

Adaptive reuses

Telecommunications towers

Permitted uses for the R-15 Medium-Density Residential Zoning District Classification as specified in subsection 5-3-1, above.

Special Uses for the R-15 Medium-Density Residential Zoning District Classification as specified in subsection 5-3-2, above.

5-4-4. R-10 CZD Medium-Density Residential Conditional Zoning District Classification.

The purpose, ~~and~~ requirements and standards of this zoning district classification are identical to the R-10 Medium-Density Residential Zoning District Classification except that rezoning to R-10 Conditional Zoning District as provided for in article VII herein, is required as a prerequisite to any use or development. The following uses shall be permitted in the R-10 Medium-Density Residential Conditional Zoning District Classification only upon rezoning to R-10CZD, regardless of the square footage or number of residential units for the use:

Adaptive reuses

Telecommunications towers

Permitted uses for the R-10 Medium-Density Residential Zoning District Classification as specified in subsection 5-4-1, above.

Special uses for the R-10 Medium-Density Residential Zoning District Classification as specified in subsection 5-4-2, above.

5-5-4. R-6 CZD High-Density Residential Conditional Zoning District Classification.

The purpose, ~~and~~ requirements and standards of this zoning district classification are identical to the R-6 High-Density Residential Zoning District Classification except that rezoning to R-6 Conditional Zoning District as provided for in article VII herein, is required as a prerequisite to any use or development. The following uses shall be permitted in the R-6 High-Density Residential Conditional Zoning District Classification only upon rezoning to R-6CZD, regardless of the square footage or number of residential units for the use:

Adaptive reuses

Telecommunications towers

Permitted uses for the R-6 High-Density Residential Zoning District Classification as specified in subsection 5-5-1, above.

Special Uses for the R-6 High-Density Residential Zoning District Classification as specified in subsection 5-5-2, above.

5-6-5. C-1 CZD Central Business Conditional Zoning District Classification.

The purpose, ~~and~~ requirements and standards of this zoning district classification are identical to the C-1 Central Business Zoning District Classification except that rezoning to C-1 Conditional Zoning District as provided for in article VII herein, is required as a prerequisite to any use or development. The following uses shall be permitted in the C-1 Central Business Conditional Zoning District Classification ~~only~~ upon rezoning to C-1CZD, regardless of the square footage or number of residential units for the use:

- ~~a) Any development or redevelopment involving more than 50,000 square feet of gross floor area.~~
- b) Shelter facilities, subject to supplementary standards contained in section 16-4, below.
- e) Permitted uses for the C-1 Central Business Zoning District Classification as specified in subsection 5-6-1, above.
- d) Special uses for the C-1 Central Business Zoning District Classification as specified in subsection 5-6-2, above.

5-7-4. C-2 CZD Secondary Business Conditional Zoning District Classification.

The purpose, ~~and~~ requirements and standards of this zoning district classification are identical to the C-2 Secondary Business Zoning District Classification except that rezoning to C-2 Conditional Zoning District as provided for in article VII herein, is required as a prerequisite to any use or development. The following uses shall be permitted in the C-2 Secondary Business Conditional Zoning District Classification ~~only~~ upon rezoning to C-2CZD, regardless of the square footage or number of residential units for the use:

Day center.

Shelter facilities.

Telecommunications towers.

~~Development or redevelopment involving more than 50,000 square feet of floor area.~~

Permitted uses for the C-2 Secondary Business Zoning District Classification as specified in subsection 5-7-1, above.

Special uses for the C-2 Secondary Business Zoning District Classification as specified in subsection 5-7-2, above.

5-8-4. C-3CZD Highway Business Conditional Zoning District Classification.

The purpose, ~~and~~ requirements and standards of this zoning district classification are identical to the C-3 Highway Business Zoning District Classification except that rezoning to C-3 Conditional Zoning District as provided for in Article VII herein, is required as a prerequisite to any use or development. The following uses shall be permitted in the C-3 Highway Business Conditional Zoning District Classification ~~only~~ upon rezoning to C-3CZD, regardless of the square footage or number of residential units for the use:

Day centers

Shelter facilities

~~Development or redevelopment involving more than 50,000 square feet of floor area~~

Permitted uses for the C-3, Highway Business Zoning District Classification as specified in subsection 5-8-1, below)

Special uses for the C-3, Highway Business Zoning District Classification as specified in subsection 5-8-2, below

Sec. 5-9. C-4 Neighborhood Commercial Zoning District Classification.

The purpose of this zoning district classification is to provide for the most frequent daily needs of residents of an immediate neighborhood. Because these shops and stores will be most closely associated with residential uses, more restrictive requirements for light, air, open space, etc., are necessary.

5-9-1. Permitted uses.

The following uses are permitted by right in the C-4 Neighborhood Commercial Zoning District

Classification, provided they meet all requirements of this Section and all other requirements established in this appendix:

Accessory dwelling units
 Accessory uses and structures
Dry cleaning and laundry establishment containing less than 2,000 square feet of floor area
Garage apartments
Home occupations
Parks
Residential dwellings, single-family
Signs, subject to the provisions of article XIII
Telecommunications antennas, subject to supplementary standards contained in section 16-4, below

The following uses are permitted by right in the C-4 Neighborhood Commercial Zoning District Classification, provided they meet all requirements of this Section and all other requirements established in this appendix and have no more than 10,000 gross square feet of floor area, including all proposed phases of development or redevelopment. Expansions of any of the following uses which, when added to the gross floor area of the existing use, bring the total gross square footage of floor area, for all existing and planned phases to more than 10,000 square feet are prohibited.

Adult care centers registered with the NC Department of Health and Human Services (DHSS)
 Automobile car washes so long as no attendants are employed on the premises
 Banks and other financial institutions
 Business services
 Convenience stores with or without gasoline sales
 Dance and fitness facilities
~~Dry cleaning and laundry establishment containing less than 2,000 square feet of floor area~~
~~Garage apartments~~
~~Home occupations~~
 Laundries, coin-operated
 Music and art studios
 Offices, business, professional and public
 Parks
 Personal services
 Religious institutions
~~Residential dwellings, single-family~~
 Retail stores customarily serving neighborhoods and designed to serve a neighborhood
 Service stations
~~Signs, subject to the provisions of article XIII~~
~~Telecommunications antennas, subject to supplementary standards contained in section 16-4, below~~

5-9-5. C-4CZD Neighborhood Commercial Conditional Zoning District Classification.

The purpose, ~~and~~ requirements and standards of this district are identical to the C-4 Neighborhood Commercial Zoning District Classification except that a rezoning to C-4 Conditional Zoning District, as provided for in article VII herein, is required as a prerequisite to any use or development. The following uses shall be permitted in the C-4 Neighborhood Commercial Conditional Zoning District Classification ~~only~~ upon rezoning to C-4CZD, regardless of the square footage or number of residential units for the use:

Permitted uses for the C-4 Neighborhood Commercial Zoning District classification as specified in subsection 5-9-1, above.

Special uses for the C-4 Neighborhood Commercial Zoning District classification as specified in subsection 5-9-2, above.

~~Development or redevelopment involving more than 10,000 square feet of floor area.~~

5-10-4. MICCZD Medical, Institutional, Cultural Conditional Zoning District Classification.

The purpose, ~~and~~ requirements and standards of this zoning district classification are identical to the MIC Medical, Institutional and Cultural Zoning District Classification except that rezoning to MIC Conditional Zoning District as provided for in article VII herein, is required as a prerequisite to any use or development. The following uses shall be permitted in the MIC Medical, Institutional and Cultural Zoning District Classification ~~only~~ upon rezoning to MICCZD, regardless of the square footage or number of residential units for the use:

Telecommunications towers, subject to supplementary standards contained in section 16-4 below

~~Any development or redevelopment involving more than 50,000 square feet of gross floor area.~~

Permitted uses for the MIC, Medical, Institutional, Cultural Zoning District Classification as specified in subsection 5-10-1, above

Special Uses for the MIC, Medical, Institutional, Cultural Zoning District Classification as specified in subsection 5-10-2, above

5-12-4. I-1CZD Industrial Conditional Zoning District Classification.

The purpose, ~~and~~ requirements and standards of this zoning district classification are identical to the I-1 Industrial Zoning District Classification except that rezoning to I-1 Conditional Zoning District as provided for in article VII herein, is required as a prerequisite to any use or development. The following uses shall be permitted in the I-1 Industrial Conditional Zoning District Classification ~~only~~ upon rezoning to I-1CZD, regardless of the square footage or number of residential units for the use:

Day centers

Shelter facilities

Permitted uses for the I-1 Industrial Zoning District Classification as specified in subsection 5-12-1, above

Special uses for the I-1 Industrial Zoning District Classification as specified in subsection 5-12-2, above

~~Development or redevelopment involving more than 50,000 square feet of floor area unless exempted in section 5-12-1(b), above~~

5-13-5. RCTCZD Residential Commercial Transition Conditional Zoning District Classification.

The purpose, ~~and~~ requirements and standards of this classification are identical to the RCT Residential Commercial Transition Zoning District Classification except that rezoning to RCT Conditional Zoning District as provided for in article VII herein, is required as a prerequisite to any use or development. The following uses shall be permitted in the RCTCZD Residential Commercial Transition Conditional Zoning District Classification ~~only~~ upon rezoning to RCTCZD, regardless of the square footage or number of residential units for the use:

Permitted uses for the RCT, Residential Commercial Transition Zoning District Classification as specified in subsection 5-13-1, below)

~~Conditional~~ Special uses for the RCT, Residential, Commercial Transition Zoning District Classification as specified in subsection 5-13-2, below

5-19-4 CMUCZD Central Mixed Use Conditional Zoning District Classification.

The purpose, ~~and~~ requirements and standards of this classification are identical to the CMU Central Mixed Use Zoning Classification except that a, rezoning as provided for in article VII herein, is required as a prerequisite to any use or development. The following uses shall be permitted in the CMU Central Mixed Use Conditional Zoning District Classification ~~only~~ upon rezoning to CMUCZD, regardless of the square footage or number of residential units for the use:

~~Any development involving more than 50,000 square feet of gross floor area and/or 50 residential dwelling units.~~

Day centers, subject to the supplementary standards contained in section 16-4, below.

Shelter facilities, subject to the supplementary standards contained in section 16-4, below.

Telecommunications towers, subject to supplementary standards contained in section 16-4, below.

Permitted uses for the CMU Central Mixed Use Zoning District Classification as specified in section 5-19-1, above.

Conditional uses for the CMU Central Mixed Use Zoning District Classification as specified in section 5-19-2, above.

5-22-5 GHMUCZD Greenville Highway Mixed Use Conditional Zoning District Classification.

The purpose, ~~and~~ requirements and standards of this zoning district classification are identical to the Greenville Highway Mixed Use Zoning District Classification except that rezoning to GHMU Conditional Zoning District as provided for in article VII herein, is required as a prerequisite to any use or development. The following uses shall be permitted in the GHMU Greenville Highway Mixed Use Conditional Zoning District Classification ~~only~~ upon rezoning to GHMUCZD, regardless of the square footage or number of residential units for the use:

Telecommunications towers, subject to supplementary standards contained in section 17-4 below.

Structures with a footprint greater than the maximum allowed under section 5-22-3.2 dimensional ~~Requirements, above.~~

Permitted uses for the GHMU Zoning District Classification as specified in 5-22-1, above.

Special uses for GHMU Zoning District Classification as specified in 5-22-2, above.

5-23-6 HMUCZD Highway Mixed Use Conditional Zoning District Classification.

The purpose, ~~and~~ requirements and standards of this zoning district classification are identical to the Highway Mixed Use Zoning District Classification except that rezoning to HMU Conditional Zoning District as provided for in article VII herein, is required as a prerequisite to any use or development. The following uses shall be permitted in the HMU Highway Mixed Use Conditional Zoning District Classification ~~only~~ upon rezoning to HMUCZD, regardless of the square footage or number of residential units for the use:

Telecommunications towers, subject to supplementary standards contained in section 16-4, below.

Structures with a footprint greater than the maximum allowed under section 5-23-3.2 dimensional Requirements, above.

Permitted uses for the GHMU Zoning District Classification as specified in 5-23-1, above.

Special uses for GHMU Zoning District Classification as specified in 5-23-2, above.

5-27-5 CHMUCZD Commercial Highway Mixed Use Conditional Zoning District Classification.

The purpose, ~~and~~ requirements and standards of this classification are identical to the CHMU Commercial Highway Mixed Use Zoning District Classification except that a rezoning to CHMU Conditional Zoning District as provided for in article VII herein, is required as a prerequisite to any use or development. The following uses shall be permitted in the CHMU Commercial Highway Mixed Use Conditional Zoning District Classification ~~only~~ upon rezoning to CHMUCZD, regardless of the square footage or number of residential units for the use:

~~Development or redevelopment exceeding 50,000 square feet of gross floor area.~~

Telecommunications towers, subject to supplementary standards contained in section 16-4, below.

Permitted uses for the CHMU Commercial Highway Mixed Use Zoning District Classification as specified in section 5-27-1, above.

Special uses for the CHMU Commercial Highway Mixed Use Zoning District Classification as specified in section 5-27-1, above.

Adopted by the City Council of the City of Hendersonville, North Carolina this 5th day of May 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 – Hawkins Pointe (P22-16-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 David & Clay Cooper with Woda Cooper Companies, Inc (applicant) and Dr. Leon Elliston with Regional Properties ANC General Partnership and Nicholas Iosue with Castles & Cottages, LLC, (property owners). Mr. Manley stated the applicants are requesting to rezone the subject properties (PINs 9568-58-3734; 9568-58-4911; 9568-58-2974; 9568-48-9996; 9568-58-1916 and 9568-48-9860) from MIC (Medical Institutional Cultural) to UR-CZD (Urban Residential – Conditional Zoning District), for the construction of 49' 5" tall, 52-unit affordable housing tax credit apartment building on approximately 1.66 acres (Density = 31.3 units/acre). Mr. Manley stated the UR district does not have a density cap and explained there is one 3/4-story split building proposed with a total of 55,500 Sq Ft (Gross Floor Area). Mr. Manley stated the use of the site is residential, multi-family and clarified this is a redevelopment project. Mr. Manley stated the site is currently vacant with the exception of one building and was previously occupied by multiple buildings. Mr. Manley discussed the Planning Board's rationale and recommendation to deny the project. Mr. Manley stated two additional rationales for the denial included lack of community greenspace and of a ten-year stormwater management plan.

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.

Clay Cooper of Woda Cooper Companies addressed City Council regarding the project Mr. Cooper stated his company are long term property owners and outlined the project overview Mr. Cooper outlined the affordability of the units being proposed stating it is a top competitor for affordable housing and discussed the current MIC zoning uses of surrounding businesses and homes. Mr. Cooper

stated there is an increased demand for smaller units with less maintenance to assist aging population with affordable housing. Mr. Cooper stated he believes the higher intensity and density use is consistent with the City's comprehensive plan and growth management map said he believes the project to be a priority infill area. Mr. Cooper discussed traffic and trip generation being conducted by a local traffic engineer stating their calculation indicate 118 peak hours a.m. trips and 160 peak hour pm trips. Mr. Cooper discussed community engagement and concessions to the plan they have made to accommodate the surrounding neighbors' requests. Mr. Cooper stated his company is willing to reduce the height to three stories at a cost of losing 9 units and said he recently spoke with the Housing Finance Agency yesterday about amending the plan and they agreed. Mr. Cooper stated he feels the project does comply with open space requirements as set forth in the zoning ordinance and said the project is located adjacent to two open spaces. He also discussed connectivity and walkability illustrating sidewalk connections stating the project has a 68-walk score which is a high score. Mr. Cooper stated he believes the bus location is perfect where it is.

Council Member Jerry A. Smith Jr., J.D. expressed appreciation for the thorough presentation.

Mayor Barbara G. Volk inquired if the rental rates would change with the reduction of units and Mr. Cooper stated the percentages of affordability will change but said the rental rates would still be applicable. Mayor Volk also inquired if the parking spaces would be reduced, and Mr. Cooper stated they would request the number of spaces be preserved but further clarified some could be reduced at the turnaround.

Council Member Dr. Jennifer Hensley inquired how the reduction in building footprint would impact parking and Mr. Cooper illustrated removal of some parking spaces and installation of a turnaround.

The City Attorney confirmed this public hearing has been advertised in accordance with North Carolina General Statutes. The public hearing was opened at 7:07 p.m.

Ginny Faust addressed the City Council stating she believes the project is over development and is not a good fit. Ms. Faust asked for consideration of the applicant to provide a sidewalk or turnaround on the site. Ms. Faust stated she does not believe the project is oriented around open space and stated she believes the intent of the zoning ordinance is to require open space within the project area. Ms. Faust stated she believes the two parking lots within the project area are not connected due to limited space on the site and expressed concerns of traffic having to drive around the block to enter in the opposite side of the development and said this would be an inconvenience to future residents and neighboring residents. Ms. Faust expressed concerns if the project does not receive the tax credits and asked if another developer could build the same project. Ms. Faust stated she believes this is the first rezoning to the urban residential district and said it will set a precedent for future applications and said it is important to set the right tone for the future. Ms. Faust stated the applicant has proven they can build a first-class award-winning project and said the city deserves the same.

Ellen Keates of Florida Ave. addressed City Council expressing concerns of traffic lights and stated the developer agreed to build a 10ft fence on the property line. Ms. Keates inquiring if this would be approved through the zoning ordinance. Planner Tyler Morrow clarified a 9ft fence would be required to meet certain setbacks.

Ken Fitch of Patton St. addressed City Council via Zoom electronic software stating this project would bring an interruption to the area residents and said it would bring uncertainty and incompatibility as well. Mr. Fitch stated he believed there is inadequate parking and said the unconnected parking lots pose a hazard and facilitates potential parking on Florida Avenue. Mr. Fitch stated he believes the impact to the adjacent historic district due to the project mass and size would diminish the historic district's character.

Mayor Volk read the following digital comments.

Beverly Hiott of North Oak Street submitted digital comments to City Council in opposition to the project. Ms. Hiott requested City Council follow the wishes of the residents and Planning Board not to approve the project.

TD King of North Oak Street submitted digital comments to City Council in opposition to the project. Mr. King stated he supported the Planning Boards recommendation not to approve and said the Medical, Institutional, and Cultural Zoning is correct, proper, and desirable for this Historical District.

The public hearing was closed at 7:37p.m.

Council Member Jerry A. Smith Jr., J.D. expressed concerns of the developer previously indicating that the project would not be viable by reducing the height of the building and inquired why it was changed at the last minute. Council Member Smith stated he feels this is a significant change in the plan and said he believes the Planning Board should be able to review the newly proposed changes. Council Member Smith additionally acknowledged parking and stated he feels it is inadequate. Council Member Smith asked City Council to send this matter back to Planning Board for review. Council Member Smith stated the process could have been started any time in the last year and said the tax credit application is due next week and inquired why the plan was altered the day prior to the Council meeting. The developer, Mr. Clay Cooper, stated their pre-application process is very lengthy and stated the property brokers negotiate to hold property for over a year during the process. The property owner stated they discussed the change with the NC Housing Finance Agency late yesterday afternoon and received approval for height reduction at that time.

Council Member Lyndsey Simpson stated she supports the project with the concessions the developer has made in conjunction with the 10-year stormwater management plan, fencing, building height, and assigned parking. She clarified that the zoning changes would stay with the property unless modifications were requested. Council Member Simpson stated she feels the property is suitable for this type of affordable housing.

Mayor Barbara G. Volk agreed with Council Member Simpson acknowledging it is a difficult piece of property to develop. Mayor Volk disagreed with Council Member Smith on parking stating not everyone would have a vehicle who lives there and said a reduction to three stories will make a big difference.

Council Member Jerry A. Smith Jr., J.D. stating he feels it needs to go back to Planning Board with all the changes. Mayor Volk stated she disagreed and acknowledged that although it is not easy for the neighbors, she believes the reduction to three stories is adequate and clarified that City Council could have made this a requirement without going back to Planning Board. Council Member Smith expressed additional concerns that developers continue to make last minute changes which do not allow Council adequate time to consider and said they are absent any Planning Board input on newly proposed changes.

Council Member Dr. Jennifer Hensley stated she spoke with Planning Board members who indicated they would have recommended the project with conditions and commended Council Member Smith for asking that the project be reduced in height. Council Member Hensley stated she has several clients who are on a very long housing wait list who would benefit from a project of this type in the area.

Council Member Debbie O'Neal-Roundtree stated she agreed with Council Member Smith in that the plan should go back to Planning Board for review and approval.

Council Member Jerry A. Smith Jr., J.D. moved that City Council send this application back to the Planning Board with changes discussed during this meeting for review and recommendation. The motion failed by 3-2, with Council Members Hensley, Simpson, and Mayor Volk voting against.

Council Member Dr. Jennifer 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: 9568-58-3734; 9568-58-4911; 9568-58-2974; 9568-48-9996; 9568-58-1916 and 9568-48-9860 from MIC (Medical Institutional Cultural) to UR (Urban Residential – Conditional Zoning District) based on the site plan and list of conditions submitted by and agreed to by the applicant, today, May 5, 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, Multi-Family. The permitted uses and applicable conditions presented on the site plan shall be amended to include: the developer shall provide a 9' fence along the Keats property (PIN 9568-58-0820); the developer shall provide assigned parking for residents of the project; the developer shall install a 10-year stormwater management system; and; the developer shall limit the building to a max of 3-stories 35' height. 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 Urban Institutional designation calls for Multi-Family Residential as a secondary recommended land use and compliments the surrounding primary recommended land uses (public & institutional uses and offices) and the proposed location and site plan aligns with a majority of development guidelines listed under LU 11.4/12.4.

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 petition is located in a Priority Infill Area which recommends redevelopment of underutilized lots; the petition provides infill development utilizing existing infrastructure; the petition provides additional housing in close proximity to large employment opportunities, medical needs, shopping and educational centers; the petition proposes affordable homes for those aged 55+; the petition is in scale with other large medical, institutional, and educational along 6th Ave/US 64 major throughfare corridor; the MIC zoning district permits hospitals and office buildings by-right up to 50,000 Sq Ft. The proposed multi-family development is less intense than these other permitted uses; the MIC zoning permits Congregate Care, Nursing Homes, Rest Homes, and Progressive Care Facilities; and Portions of the site plan that are within the National Register Historic District do not contain any existing or proposed structures.

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

CONDITIONAL REZONING Ordinance #O-22-23

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 9568-58-3734; 9568-58-4911; 9568-58-2974; 9568-48-9996; 9568-58-1916 and 9568-48-9860 BY CHANGING THE ZONING DESIGNATION FROM MIC (MEDICAL INSTITUTIONAL CULTURAL) TO UR (URBAN RESIDENTIAL – CONDITIONAL ZONING DISTRICT)

IN RE: Parcel Numbers: 9568-58-3734; 9568-58-4911; 9568-58-2974; 9568-48-9996; 9568-58-1916 and 9568-48-9860
Addresses: 745 Florida Ave; 738 6th Ave W; 728 6th Ave W; and 714 6th Ave W
Hawkins Pointe (File # P22-16-CZD)

WHEREAS, the City is in receipt of a Conditional Rezoning application from applicant, David & Clay Cooper with Woda Cooper Companies, Inc and property owners, Dr. Leon Elliston with Regional Properties ANC General Partnership and Sixth Ave LLC and Nicholas Iosue with Castles & Cottages, LLC for the development of 52 Apartments on approximately 1.66 acres, and

WHEREAS, the Planning Board took up this application at its regular meeting on April 11, 2022; voting 7-1 to recommend City Council deny 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 May 5, 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: 9568-58-3734; 9568-58-4911; 9568-58-2974; 9568-48-9996; 9568-58-1916 and 9568-48-9860 from MIC (Medical Institutional Cultural) to UR (Urban Residential – Conditional Zoning District).
2. Development of the parcel shall occur in accordance with the final site plan requirements of Article VII of the Zoning Ordinance of the City of Hendersonville, North Carolina, and shall be based on the site plan submitted by the applicant and conditions 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 therein as submitted and dated April 1, 2022 to be modified to comply with conditions imposed by City Council.
 - ii. The developer shall provide a 9' fence along the Keats property (PIN 9568-58-0820);
 - iii. The developer shall provide assigned parking for residents of the project;

- iv. The developer shall install a 10-year stormwater management system; and
 - v. The developer shall limit the building to a max of 3-stories 35' height
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 5th day of May 2022.

/s/Barbara G. Volk, Mayor

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

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

The meeting was briefly recessed at 8:00 p.m. for a short break and reconvened at 8:05 p.m.

D. Rezoning: Conditional Zoning District –White Pine Villas (P22-13-CZD)– Tyler Morrow, Planner II

Planner Tyler Morrow stated the City is in receipt of an application for a conditional zoning district from Dennis Tharrington and Stephen Drake of WDT Development, LLC. Mr. Morrow stated the applicants are requesting to rezone the subject properties identified as PINs 9670-70-6498, 9670-70-8607 and 9670-70-8864 and located at 2620 Chimney Rock Road. from PRD CZD, Planned Residential Development Conditional Zoning District to PRD CZD, Planned Residential Development Conditional Zoning District for the construction of a four-story, 88,500 sq. ft. apartment building with 78 units on approximately 4.64 acres. Mr. Morrow explained the underlying zoning on the site currently permits a 78-unit apartment building with a height of 34' 11" to the midpoint of the roof and said the developer is proposing a 78-unit 55+ senior living apartment building with a height of 50' at the midpoint of the roof. Mr. Morrow stated the request for increased height, reconfiguration of the vehicular use area, and the reduction in building footprint are the main deviations from the previously approved site plan. Mr. Morrow presented a sun study and discussed a proposed condition regarding improving the vegetation around the stormwater control measure stating the developer did not agree to this condition due to the type of stormwater measure they are proposing. Mr. Morrow clarified the term "turf" means natural grass and not artificial grass.

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.

Stephen Drake of WDT Development LLC addressed City Council stating his company is responding to the need for senior affordable housing group in the area. Mr. Drake discussed the design of the development and benefits to the residents and city. Mr. Drake stated there would be two elevators and said each unit would have its own washer and dryer with access to a large community room and outside gazebo and ample outdoor sitting areas.

Council Member Jerry A. Smith Jr., J.D. expressed thanks and appreciation to Mr. Drake for the addition of two high speed elevators in the project design.

The City Attorney confirmed this public hearing has been advertised in accordance with North Carolina General Statutes. The public hearing was opened at 8:25 p.m.

Ken Fitch of Patton St. addressed Council via Zoom electronic software stating the improvements made by the developer are important to emergency access. Mr. Fitch expressed concern for preservation of mature trees on the property and of parking. Mr. Fitch also asked Council to consider flood impacts to the adjacent NCDOT structure. Mr. Drake clarified they have planned the 68 trees and are adding another 25 to the project.

The public hearing was closed at 8:28p.m.

Council Member Jerry A. Smith Jr., J.D. moved that City Council adopt an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of the subject property (PINs: 9670-70-6498, 9670-70-8607 and 9670-70-8864) 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 revision 4-19-22,] 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. There are no additional conditions added to the 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 neighborhood activity center designates multi-family residential as a secondary recommended land use and the addition of more multi-family in this area further diversifies the mix of uses present while retaining neighborhood retail sales and services as the prominent use within this Future Land Use category's boundaries. 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 current underlying zoning on the subject property permits the requested density; this development will provide senior multi-family within walking distance (+0.15 miles) of Miracle-Ear Hearing Aid Center, Blue Ridge Health and Ingles/Ingles Pharmacy; the project is proposed to be 100% affordable (at 80% AMI or below); and the subject property is identified as a priority infill area.

A unanimous vote of the Council followed. Motion carried.

CONDITIONAL REZONING Ordinance #O-22-24

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 9670-70-6498, 9670-70-8607 AND 9670-70-8864 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: 9670-70-6498, 9670-70-8607 and 9670-70-8864– 2620 Chimney Rock Road (White Pine Villas) - (File # P22-13-CZD)

WHEREAS, the City is in receipt of a Conditional Rezoning application from Dennis Tharrington, WDT Development LLC for the development of 78 affordable senior living (55+) multi-family units on approximately 4.64 acres, and

WHEREAS, the Planning Board took up this application at its regular meeting on April 11th, 2022; voting 7-1 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 May 5th, 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: 9670-70-6498, 9670-70-8607 and 9670-70-8864 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 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. Developer shall be granted a height limitation exemption in accordance with section 5-14-6.5 of the Zoning Ordinance. The height limitation exemption shall be for a structure measuring 50' to the midpoint of a gable, hip or gambrel roof.
 - ii. Developer shall be granted a density bonus in accordance with 5-14-5 of the Zoning Ordinance. The density bonus shall allow a density of 16.8 units per acre.

- iii. All preserved trees must be protected from construction activities as prescribed in the zoning code 15-4-C regardless of use as tree credits.
 - iv. An additional 25 large and medium canopy trees, 2 ½" or larger caliper, beyond those shown as preserved (10) on the site plan reviewed by the Tree Board, must be planted throughout the site.
 - v. Implement a vegetative planting plan that will enhance the banks of and a 20-foot corridor around the stormwater pond to provide filtration and infiltration of stormwater from turf managed areas and enhance wildlife habitat. The plan must include diverse and appropriate species of native upland shrubs and perennial herbaceous plants (including warm season grasses, sedges, and plants important to pollinators) selected from the city's Recommended Landscape Species List for Street Trees and Land Development Projects.
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 5th day of May 2022.

/s/Barbara G. Volk, Mayor

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

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

E. Rezoning: Conditional Zoning District – Southgate Apartments (P21-62-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 Suzanne Godsey of Sitework Studios, applicant and David W. Royster, III of Capitol Funds, Inc., property owner. Mr. Manley stated the applicants are requesting to rezone the subject property (PIN 9568-75-5382) from C-2, Secondary Business to CMU-CZD, for the construction of a 60' tall, 70-unit apartment building on approximately 3.63 acres and said the Central Mixed-Use district does not have a density cap. Mr. Manley stated there is one 4-story building proposed with a total of 81,897 Sq Ft (Gross Floor Area) and said the stated use of the site is residential, multi-family. Mr. Manley stated the site is currently vacant and contains approximately 1.44 Acres of 100-year floodplain (40%). He said the site features a cluster of mature trees alongside Israel Street are proposed to be removed and the area will be replanted. Mr. Manley stated the site had previously been occupied for outdoor storage and reminded everyone this project required a conditional rezoning due to the scale of the proposed development exceeding 50,000 Sq Ft and more than 50 units.

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.

Attorney Craig Justus of the Van Winkle Law Firm represented the project applicant and addressed City Council clarifying there are no tax credits associated with this project. Suzanne Godsey, project landscape architect with SiteWorks discussed site plan. Chris Day of Civil Design Concepts addressed Council discussing stormwater and flood concerns. Mr. Day stated they are requesting to utilize a portion of the zoning ordinance that allows up to ten percent fill within a flood plain to construct their parking lot and said Andrew Bick has conducted a preliminary analysis of the parking area and flood plain and said it did not have an impact on conditions. Mr. Bick presented renderings of the 100-year flood plain and said the project site is elevated and the building will not flood. Mr. Bick stated he believes they have provided safe parking access and discussed concerns of the site being along the watershed for Wash Creek and presented stormwater retention measures to mitigate stormwaters. Attorney Justus further discussed the sidewalk on Israel Street and said it was not feasible due to the right of way being less than sixteen feet. David Royster, property owner, stated his family has owned the property for over sixty years and said he feels that this project is an opportunity to do something with the parcel that has been sitting vacant.

Council Member Jerry A. Smith Jr., J.D. inquired if the developer would be willing to build the project at 3 stories rather than 4. Attorney Justus stated they have reduced the units previously but are unable to reduce the height and clarified the project height is 52 feet and the district allows 68 feet. Council Member Smith additionally asked if the gates could be removed, and Attorney Justus stated they are providing a greenway on the property that they are turning over to the city but expressed concerns of

persons parking on their property to visit the trail as well as the potential use as a cut through. Attorney Justus cited concerns of traffic, safety, privacy and security of the residents and said the gate could not be negotiated away.

Council Member Smith asked if they could negotiate the parking infill and Attorney Justus clarified the current zoning ordinance allows 10% infill and said their project is at 5%. Attorney Justus stated as a condition for parking, they are willing to install pervious paving in 14 parking spaces to assist in flood storage. Council Member Smith asked if they were willing to replace the existing Wash Creek culvert to assist with better flood conditions and Attorney Justus clarified their project has a very low impact to stormwater in the area and said the external culvert is beyond their control. Council Member Smith inquired about the culvert being cleaned out and Attorney Justus said they were open to cleaning it out but said it would be to the extent and in accordance with what the State of NC will allow.

The City Attorney confirmed this public hearing has been advertised in accordance with North Carolina General Statutes. The public hearing was opened at 9:22 p.m.

Kelly McKlinton of White Street addressed City Council expressing concerns regarding ingress and egress, parking, and potential for flooding asking Council to delay a decision on the project to investigate if the site is a wetland. Attorney Justus clarified there will be two entrances for public safety to the project and stated necessary grading permits are issued by the state and will be vetted for appropriateness in the future.

Lynne Williams of Chadwick Ave. addressed Council stating she believes this development is in direct violation of the City's flood prevention ordinance and said she witnessed marsh like conditions on the site and asked Council not to approve the project.

Ken Fitch of Patton St. addressed Council via Zoom electronic software stating he believes this project does not match the structure of the trail and expressed concerns regarding flooding in the area and of the undersized culvert and the role it plays in the area and the impact to nearby developments for the future. Attorney Justus stated the staff report was updated to clarify an incorrect earlier interpretation of the zoning ordinance compliance and said the project is compliant with the ordinance and infill requirements and further clarified the project is not within the floodway.

The public hearing was closed at 9:45p.m.

Council Member Jerry A. Smith Jr., J.D. addressed concerns regarding the culvert as indicated by the City's Stormwater Administrator, Mike Huffman who indicated the proposed development would have impact on the culvert.

Council Member Lyndsey Simpson stated she toured the area and suggested Council making Israel Street a one-way street to address ingress and egress.

Stormwater Administrator Mike Huffman stated the culvert is undersized and the proposed development is proposing to utilize this area as a primary entrance. Mr. Huffman said this area is one of the first areas to be inundated with flooding with more frequent storm events. Council Member Simpson inquired if there were any plans to replace the culvert and Mr. Huffman clarified it was located on private property. Suzanne Godsey, project landscape architect with SiteWorks provided illustrations and stated NCDOT will be conducting a large flood study of the area and said it is not conceivable that they may have to make improvements to the culvert due to the proposed roundabout and the entrance location approved by NCDOT. She clarified that right of way acquisition would begin in 2023 with construction beginning in 2025.

Council Member Jerry A. Smith Jr., J.D. inquired if the developer would consider moving the entrance gate slightly back into the garden area to allow the public to have a small area to park to access the greenway. Attorney Justus stated if parking is provided it could be problematic for the site and people wanting to use private amenities as a park.

Council Member Lyndsey Simpson moved that City Council adopt an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of the subject property (PIN: 9568-75-5382) from C-2, Secondary Business to CMU-CZD Central Mixed Use - Conditional Zoning District based on the site plan and list of conditions submitted by and agreed to by the applicant, [dated April 8, 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, Multi-Family. Permitted uses and applicable conditions presented on the site plan shall be amended to include pervious pavers will be used for the construction of the 14 parking spaces located on the far side of the drive aisle within the floodplain. The 14 spaces to be constructed with pervious pavers shall be noted on the final 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 as a primary land use and the proposed site plan aligns with a majority of development guidelines listed under LU 7.4. 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 petition is located in a Priority Infill Area which recommends redevelopment of underutilized lots; the petition provides infill development utilizing existing infrastructure; the petition provides additional housing in close proximity to downtown and the future Ecusta Trail and in close proximity to goods and services; the petition provides a transition from uses of high intensity to lower intensity uses; the existing C-2 zoning provides a wide range of high intensity commercial uses including car washes, automobile and farm equipment sales, hotels, animal hospitals, service stations, and small-scale manufacturing by right up to 50,000 Sq Ft. The petition for multi-family housing in the CMU District provides greater compatibility with surrounding land uses than other potential by-right developments; and the proposed development provides access from a major thoroughfare.

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

Council Member Dr. Jennifer Hensley clarified staff would need to prepare a recommendation to make Israel Street one-way.

CONDITIONAL REZONING Ordinance #O-22-25

AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF HENDERSONVILLE FOR PARCEL POSSESSING PIN NUMBER 9568-75-5382 BY CHANGING THE ZONING DESIGNATION FROM C-2 (SECONDARY BUSINESS) TO CMU-CZD (CENTRAL MIXED USE - CONDITIONAL ZONING DISTRICT)

IN RE: Parcel Numbers: 9568-75-5382
Addresses: No Address Assigned
Southgate Apartments (File # P21-62-CZD)

WHEREAS, the City is in receipt of a Conditional Rezoning application from applicant, Suzanne Godsey and property owner, David Royster with Capitola Funds, Inc. for the development of 70 Apartments on approximately 3.63 acres, and

WHEREAS, the Planning Board took up this application at its regular meeting on April 11, 2022; voting 3-5 (motion failed) to recommend City Council adopt an ordinance amending the official zoning map of the City of Hendersonville, and

WHEREAS, the Planning Board took up this application again at its regular meeting on April 11, 2022; voting 4-4 (motion failed) to recommend City Council deny 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 May 5, 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: 9568-75-5382 from C-2 (Secondary Business) to CMU-CZD (Central 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. 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 revised preliminary site plan dated April 25, 2022, and conditions listed therein, as presented at the public hearing, which shall be updated to include the additional conditions imposed by City Council stated in 2.b.ii. below.
 - ii. Pervious pavers will be used for the construction of the 14 parking spaces located on the far side of the drive aisle within the floodplain. The 14 spaces to be constructed with pervious pavers shall be noted on the final site plan.
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 5th day of May 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. Local Option Sales Tax Resolution – John Connet, City Manager

City Manager recalled prior discussions by City Council and direction for staff to prepare a resolution asking the local delegation to adopt in the upcoming short session.

Council Member Dr. Jennifer Hensley moved that the City Council adopt the resolution asking the Henderson County legislative delegation to introduce a local bill authorizing the establishment of a new one-quarter cent sales and use tax for the City of Hendersonville. A unanimous vote of the Council followed. Motion carried.

Resolution #R-22-61

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL REQUESTING A LOCAL OPTION ONE-QUARTER CENT (1/4) CITY SALES AND USE TAX

WHEREAS, the City of Hendersonville is the commercial center of Henderson County and provides services to all Henderson County residents and visitors, including public safety, street maintenance and general public services; and

WHEREAS, the property tax is currently the only revenue source that is within complete control of the City Council; and

WHEREAS, the City of Hendersonville's property tax rate for fiscal year 2021-22 is \$0.52 per \$100, and the City Council is often faced with increasing this rate to fund services that are used by all county residents and visitors; and

WHEREAS, the City of Hendersonville City Council is seeking alternative revenue sources to fund city services; and

WHEREAS, it is estimated that a one-quarter cent City sales and use tax would bring an estimated \$2.5 million dollars in additional revenues per year.

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

1. We request the Henderson County legislative delegation to introduce a local bill authorizing the City of Hendersonville to hold a public referendum to authorize the establishment of an additional one-quarter cent sales tax for all qualified purchases within the City of Hendersonville.
2. This tax would be collected by the North Carolina Department of Revenue and directly allocated to the City of Hendersonville as unrestricted revenue for the provision of local government serves as directed by the Hendersonville City Council.

Adopted by the City Council of the City of Hendersonville, North Carolina this 5th day of May 2022.

/s/Barbara G. Volk, Mayor

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

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

B. Resolutions of Support for Apple Ridge, Hawkins Pointe and White Pine Villas Low Income Housing Tax Credit (LIHTC) Applications – John Connet City Manager

Council Member Jerry A. Smith Jr., J.D. moved that the City Council adopt the resolutions of support for the Apple Ridge low-income housing tax credit project. A unanimous vote of the Council followed. Motion carried.

Council Member Jerry A. Smith Jr., J.D. moved that the City Council adopt the resolutions of support for the White Pine Villas low-income housing tax credit project. A unanimous vote of the Council followed. Motion carried.

Council Member Dr. Jennifer Hensley move that the City Council adopt the resolutions of support for the Hawkins Pointe low-income housing tax credit project. The motion carried by 3-2, with Council Members Smith and O'Neal-Roundtree voting against.

Resolution #R-22-56

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO SUPPORT THE FEDERAL TAX CREDIT APPLICATION FOR APPLE RIDGE DEVELOPMENT

WHEREAS, Housing Assistance Corporation has submitted a federal tax credit application to the North Carolina Housing Finance Agency for Apple Ridge Apartments and Subdivision, Application #APP22-0058, Project # 9279272; and

WHEREAS, Apple Ridge consists of sixty (60) multi-family housing units and twenty (20) single family units on Sugarloaf Road; and

WHEREAS, the Bowen Research Report indicates that Henderson County has 99.8% occupancy rate for multi-family projects, 453 families on rental housing wait lists and 42.8% of renters are cost burdened; and

WHEREAS, the City Council has a core belief that it must pursue and provide opportunity for responsible growth in order to generate affordable housing options and reduce the impacts of high cost of living within our community.

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

1. The City Council supports Housing Assistance Corporation's application for federal tax credits and requests that the North Carolina Housing Finance Agency give the application serious consideration for approval.

Adopted by the City Council of the City of Hendersonville, North Carolina this 5th day of May 2022.

/s/Barbara G. Volk, Mayor

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

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

Resolution #R-22-58

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO SUPPORT THE FEDERAL TAX CREDIT APPLICATION FOR WHITE PINE VILLAS

WHEREAS, WDT Development, LLC has submitted a federal tax credit application to the North Carolina Housing Finance Agency for White Pine Villas, Application #APP22-0132, Project #9279483; and

WHEREAS, White Pine Villas consists of seventy-eight (78) multi-family housing units on Chimney Rock Road (U.S. 64 East); and

WHEREAS, the Bowen Research Report indicates that Henderson County has 99.8% occupancy rate for multi-family projects, 453 families on rental housing wait lists and 42.8% of renters are cost burdened; and

WHEREAS, the City Council has a core belief that it must pursue and provide opportunity for responsible growth in order to generate affordable housing options and reduce the impacts of high cost of living within our community.

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

1. The City Council supports WDT Corporation's application for federal tax credits and requests that the North Carolina Housing Finance Agency give the application serious consideration for approval.

Adopted by the City Council of the City of Hendersonville, North Carolina this 5th day of May 2022.

/s/Barbara G. Volk, Mayor

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

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

Resolution #R-22-57

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO SUPPORT THE FEDERAL TAX CREDIT APPLICATION FOR HAWKINS POINTE APARTMENTS

WHEREAS, Woda Cooper Companies, Inc. has submitted a federal tax credit application to the North Carolina Housing Finance Agency for Hawkins Pointe Apartments, Application #APP22-0141, Project #9279496; and

WHEREAS, Hawkins Pointe consists of forty-three (43) multi-family housing units on 6th Avenue W. (U.S. 64); and

WHEREAS, the Bowen Research Report indicates that Henderson County has 99.8% occupancy rate for multi-family projects, 453 families on rental housing wait lists and 42.8% of renters are cost burdened; and

WHEREAS, the City Council has a core belief that it must pursue and provide opportunity for responsible growth in order to generate affordable housing options and reduce the impacts of high cost of living within our community.

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

1. The City Council supports Woda Cooper Companies Inc's application for federal tax credits and requests that the North Carolina Housing Finance Agency give the application serious consideration for approval.

Adopted by the City Council of the City of Hendersonville, North Carolina this 5th day of May 2022.

/s/Barbara G. Volk, Mayor

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

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

C. City of Hendersonville, NC participation in the French Broad River Partnership –
Michael Huffman, Stormwater Administrator

Stormwater Administrator Michael Huffman addressed Council stating the City of Hendersonville has been invited to participate in the French Broad River Partnership

Council Member Debbie O'Neal-Roundtree moved that City Council adopt the Resolution Approving the City's Participation in the French Broad River Partnership and to appoint Stormwater Administrator Mike Huffman as liaison. A unanimous vote followed. Motion carried.

Resolution #R-22-59

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL APPROVING
THE CITY'S PARTICIPATION IN THE FRENCH BROAD RIVER PARTNERSHIP**

WHEREAS, the French Broad River basin is a vital resource that provides critical aquatic habitat for wildlife, supplies drinking water to many communities and supports a variety of forms of recreation; and

WHEREAS, the City of Hendersonville represents the 2nd largest municipality by population in the French Broad River basin; and

WHEREAS, the City of Hendersonville is directly affected by water quality impairments in Mud Creek and the French Broad River basin and strives for excellent water quality in our community; and

WHEREAS, the French Broad River Partnership are a group of 50+ nonprofits, businesses, and government agencies working "To maintain and improve stream health within the French Broad River Watershed for environmental and economic benefits"; and

WHEREAS, the City of Hendersonville believes that it is our responsibility to protect all our natural resources and the environment through the implementation of sustainable and responsible projects and the City must lead by example to ensure we protect or repair the natural environment and are environmentally sustainable.

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

1. The City of Hendersonville accepts the invitation from the French Broad River Partnership to participate as a member organization.

Adopted by the City Council of the City of Hendersonville, North Carolina this 5th day of May 2022.

/s/Barbara G. Volk, Mayor

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

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

D. Code of Ethics Complaint – John Connet, City Manager

City Manager John Connet stated Ms. Lynne Williams has filed a code of ethics complaint against Council Member Dr. Jennifer Hensley. Mayor Barbara G. Volk instructed parties on decorum of the proceeding and opened the floor for discussion.

Lynne Williams of Chadwick Ave. addressed Council regarding the complaint she has filed stating she believes provisions of the Council's Code of Ethics were violated citing abuse of power, access to privileged information, and harassment. Ms. Williams discussed an email exchange between herself, the City Manager, and Council Member Hensley and stated she feels the responses were unethical

citing Section 2 of the Code of Ethics: The City Council Member did not demonstrate the highest standards of personal integrity, truthfulness, honesty and fortitude in their public activities in order to inspire public confidence and trust in City government. Ms. Williams also cited Section 4 (B3): The City Council Member was not honest, patient, dignified and courteous to those with whom they deal in their official capacity, and did not require similar conduct of their staff and others subject to their direction and control.

Council Member Dr. Jennifer Hensley stated in the last ten months city staff have received and responded professionally to Ms. Williams' approximately 500 emails, 10 special meetings, 26 phone calls, several text messages, and countless Tree Board and Planning Board meeting questions and complaints. Council Member Hensley stated on the evening of December 2, 2021 Ms. Williams exhibited behavior that was concerning to herself and others. Council Member Hensley expressed concern of an ethics complaint being filed several months after the December 2, 2021 meeting and said she takes her position seriously and said she will continue to advocate for staff, residents, and visitors as their health and well being is her top priority.

Mayor Barbara Volk allowed rebuttal and cautioned there will be not back and forth.

Lynne Williams stated she has been involved in many public meetings as she has been encouraged to do.

Council Member Jerry A. Smith Jr., J.D. moved that City Council find that Council Member JH did not violate the Code of Ethics. A unanimous vote followed. Motion carried.

Mayor Barbara G. Volk stated City Council feels it was not justified that Council Member Hensley violated the Code of Ethics with regard to this complaint.

10. CITY COUNCIL COMMENTS

There were no comments.

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

No report was provided.

13. ADJOURN

There being no further business, the meeting was adjourned at 10:18 p.m. upon unanimous assent of the Council.

Barbara G. Volk, Mayor

ATTEST:

Angela L. Reece, City Clerk