

Wilmer Gonzales and Gainer Jernigan. The amendment request is for the addition of religious institutions as a permitted use in the I-1 Industrial zoning district classification.

Ms. Anderson reviewed the district purpose and provided an analysis of the classification.

Ms. Anderson reported the Planning Board voted six in favor and two opposed to recommend that City Council adopt an ordinance adding religious institutions as a permitted use in the I-1 Industrial District. She explained this would automatically add them in the Planned Manufactured District also.

Mayor Volk opened the public hearing at 6:31 p.m. in accordance with NCGS by notice published in the Times News. The following spoke:

Gainer Jernigan, representing a church congregation, stated this is a foreclosed property that they want to fix it up to service the congregation. It was previously used as a woodworking shop and is located between residential and the railroad tracks, between N. Main Street and Seventh Avenue.

No one spoke in opposition to the text amendment. The public hearing was closed.

Mayor Pro Tem Collis moved City Council to adopt an ordinance amending the City of Hendersonville Zoning Ordinance, Article V Zoning District Classifications, Section 5-12-1 Permitted Uses, adding religious institutions as a permitted use. A unanimous vote of the Council followed. Motion carried.

Ordinance #11-0310

AN ORDINANCE AMENDING ARTICLE V SECTION 5-12-1 OF THE ZONING ORDINANCE OF THE CITY OF HENDERSONVILLE ADDING RELIGIOUS INSTITUTIONS AS A PERMITTED USE IN THE I-1 INDUSTRIAL ZONING DISTRICT CLASSIFICATION

WHEREAS, the General Assembly of the State of North Carolina has granted authority to municipalities to adopt, administer and enforce zoning and subdivision regulation ordinances, building codes, and minimum housing standards and other related measures; and

WHEREAS, the General Assembly of the State of North Carolina has granted authority to municipalities to amend, supplement, change, modify or repeal zoning regulation ordinances; and

WHEREAS, the City of Hendersonville desires to amend those regulations with regards to permitted uses.

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

1. Article V Zoning District Classifications, Section 5-12-1 Permitted Uses is hereby amended to include the following permitted use:

Religious institutions

2. Any person violating the provisions of this ordinance shall be subject to the penalties set forth in Section 9-8 of the Zoning Ordinance.

3. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

4. If any section, subsection, paragraph, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

5. The enactment of this ordinance shall in no way affect the running of any amortization provisions or enforcement actions, or otherwise cure any existing zoning violations.

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

Adopted this third day of March, 2011.

/s/Barbara G. Volk, Mayor

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

Approved as to form: /s/Samuel H. Fritschner, City Attorney

8. Public Hearing - Consideration of Zoning Ordinance Text Amendment: Adding a new Section 5-27 entitled Commercial Highway Mixed Use Zoning District Classification: Ms. Anderson explained while undergoing the process to expand the Extraterritorial Jurisdiction (ETJ) along Upward Road, staff developed a new zoning classification to apply to this area per City Council's direction. The Henderson County Board of Commissioners denied the City's request to expand the ETJ in that area.

Ms. Anderson explained City Council directed staff and the Planning Board to move forward with the new zoning classification. The intent is to apply this zoning classification to properties in the Upward Road area that wish to annex into the City of Hendersonville in order to obtain sewer connections. She explained the new zoning classification was closely modeled after the Highway Mixed Use zoning district which includes design guidelines for buildings and development sites. She reviewed the proposed district, dimensional requirements, design guidelines, etc. She noted if the guidelines cannot be met, there is an option for the applicant to go through the Alternative Design Review Committee.

Ms. Anderson reported the Planning Board voted unanimously to recommend that City Council adopt the ordinance enacting a new Commercial Highway Mixed Use Zoning District Classification of the Zoning Ordinance.

Mayor Volk opened the public hearing at 6:38 p.m. in accordance with NCGS by notice published in the Times News. No one expressed a desire to speak. The public hearing was closed.

Mayor Pro Tem Collis moved City Council to adopt an ordinance enacting a new Section 5-27 Commercial Highway Mixed Use Zoning District Classification of the Zoning Ordinance. A unanimous vote of the Council followed. Motion carried.

Ordinance #11-0311

AN ORDINANCE ENACTING A NEW SECTION 5-27 COMMERCIAL HIGHWAY MIXED USE ZONING DISTRICT CLASSIFICATION of the Zoning Ordinance OF THE CITY OF HENDERSONVILLE

WHEREAS, the General Assembly of the State of North Carolina has granted authority to municipalities to adopt, administer and enforce zoning and subdivision regulation ordinances, building codes, and minimum housing standards and other related measures; and

WHEREAS, the General Assembly of the State of North Carolina has granted authority to municipalities to amend, supplement, change, modify or repeal zoning regulation ordinances; and

WHEREAS, the City of Hendersonville desires to amend those regulations with regards to zoning district classifications.

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

1. A new Section 5-27 Commercial Highway Mixed Use Zoning District Classification is hereby enacted to read as follows:

Commercial Highway Mixed Use Zoning District Classification

Section 5-27 CHMU Commercial Highway Mixed Use Zoning District Classification. The Commercial Highway Mixed Use Zoning District Classification is intended to encourage a mix of high density residential development in conjunction with appropriately scaled and compatible commercial development, consisting of community and regional retail sales and services, professional offices, research facilities, restaurants, accommodations services and similar uses. Development design becomes a critical consideration when establishing regional activity centers that create attractive and functional roadway corridors which also encourage mixed-use and walkable design. In addition to the general dimensional and use provisions, the regulations contained herein, along with those in Article XVIII which apply to mixed use zoning district classifications generally, address the design of buildings and development sites.

5-27-1 Permitted Uses. The following uses are permitted by right in the CHMU Commercial Highway Mixed Use Zoning District Classification, provided they meet all requirements of this Section and all other requirements established in this Ordinance:

Accessory dwelling units subject to special requirements contained in Section 16-4, below
Accessory uses & structures
Adult care centers registered with the NC Department of Human Resources
Adult care homes
Agriculture
Animal hospitals & clinics so long as they contain no outdoor kennels
Automobile car washes
Automobile sales & service
Banks & other financial institutions
Business services
Camps
Child care centers, subject to special requirements contained in Section 16-4, below
Child care homes
Civic clubs & fraternal organizations, subject to special requirements contained in Section 16-4, below
Congregate care facilities, subject to special requirements contained in Section 16-4, below
Construction trades facilities, so long as the storage of equipment and materials is screened from view from any public rights-of-way
Convenience stores with or without gasoline sales
Cultural arts buildings
Dance, health & fitness facilities
Day care facilities
Dry cleaning and laundry establishments containing less than 6,000 square feet of floor area
Equipment rental & sales

Funeral homes
Greenhouses & commercial nurseries
Health clubs & athletic facilities
Home occupations
Hotels & motels
Laundries, coin-operated
Lawn & garden centers
Manufacturing, light
Music & art studios
Neighborhood community centers
Newspaper offices & printing establishments
Nursing homes, subject to special requirements contained in Section 16-4, below
Offices, business, professional and public
Parking lots & parking garages
Parks
Personal services
Progressive care facilities, subject to special requirements contained in Section 16-4, below
Public & semi-public buildings
Recreational facilities, indoors
Recreational facilities, outdoors, commercial
Religious institutions
Repair services, miscellaneous
Research & development with no outdoor storage and operations
Residential care facilities
Residential dwellings, single family
Residential dwellings, multi-family
Residential dwellings, two-family
Restaurants
Restaurants, drive-in
Retail stores (not including manufactured housing, boat & heavy equipment sales)
Schools, post-secondary, business, technical and vocational
Schools, primary & secondary
Service stations
Signs, subject to the provisions of Article XIII, below
Telecommunications antennas, subject to special requirements contained in Section 16-4, below
Theaters, indoors

5-27-2 Conditional Uses. The following uses shall be permitted in the CHMU Commercial Highway Mixed Use Zoning District Classification only upon issuance of a conditional use permit pursuant to Article X and shall be subject to special requirements contained in Section 16-4, below:

Bus stations
Public utility facilities

5-27-3 Special Uses. Within the CHMU Commercial Highway Mixed Use Zoning District Classification, the following uses may only be authorized by issuance of a special use permit and shall be processed under special use review in accordance with Section 7-4 of the Zoning Ordinance. Such development shall not require rezoning of the property to a special use or planned development district.

Development or redevelopment exceeding 50,000 square feet of gross floor area.
Telecommunications towers, subject to special requirements contained in Section 16-4, below.

5-27-4 Development Standards. The following standards shall apply to development within the CHMU Commercial Highway Mixed Use Zoning District Classification.

5-27-4.1 Parking & Loading. The requirements of Section 6-5, below, shall apply.

5-27-4.2 Dimensional Requirements.

Minimum Lot Area in

Square Feet: None

Minimum Lot Width: None

Open Space Ratio: ≥.30

Common Space Ratio: ≥.10

Yard Requirements: Varies with building type. See Design Standards.

Building Separation: If buildings are separated, they must be separated by at least 15 feet. This provision shall not be construed to qualify any setback provisions contained elsewhere in this ordinance.

Building Height: Varies with building type. See Design Standards.

5-27-4.3 Residential Density. The number of residential dwellings permitted on any development tract varies with regard to the open space ratio provided as noted on the following table.

| <u>Open Space Ratio</u> | <u>Maximum Dwelling Units / Acre</u> |
|-------------------------|--------------------------------------|
| <u>.40</u> | <u>8</u> |
| <u>.50</u> | <u>10</u> |
| <u>.60</u> | <u>12</u> |

5-27-5 Design Standards. These standards are intended to apply to all development and redevelopment within the CHMU Commercial Highway Mixed Use Zoning District Classification. Applicants for authorization to undertake development or redevelopment within such zoning district shall demonstrate compliance with

these standards or shall undergo alternative design review as provided for in Article XVIII, below.

5-27-5.1 Standards of General Applicability. The following standards shall apply to all development in the CHMU Commercial Highway Mixed Use Zoning District Classification regardless of use or building type.

5-27-5.1.1 General Site Development. Site development shall not result in the removal of lateral support for adjoining properties. Furthermore, development shall not create hazardous or dangerous conditions or result in the creation of a nuisance as specified in Section 6-13, below.

5-27-5.1.2 Physical Integration of Uses. Residential and commercial uses may be located within the same or adjoining structures provided appropriate health and safety regulations are followed.

5-27-5.1.3 Building Orientation. Primary façades, which may or may not contain an entrance to the building, shall face primary vehicular access or significant public space. A main entrance shall face a connecting walkway with a direct, safe, pedestrian connection to the street.

5-27-5.1.4 Common Space. Common space is intended to shape the design and character of a project through a connecting system of pedestrian areas that create a relationship among the various components of the built environment. It shall be designed to create areas where workers, residents and shoppers, as the case may be, are directly or indirectly invited to gather, browse, sit, interact or congregate. It shall be arranged as community space with open areas, landscaping, seating facilities and lighting fixtures which provide for safety and visual effects.

Common spaces are intended to be places for social interaction and, thus, may include impervious surfaces. Unless interior common space is approved by the reviewing authority, common space shall be out-of-doors. Common space design shall comply with the following:

a) Size. At least ten percent of the acreage of a site shall be devoted to common space. Common space shall count toward meeting open space requirements for a project.

b) Trees. One tree shall be planted for each 1000 square feet of common space. Trees shall have a minimum caliper of 3-3½ inches measured six inches above ground at the time of planting.

c) Utilities. All utilities service lines and connections shall be underground.

d) Seating. Seating shall be provided to accommodate workers, residents and/or shoppers. Seating may be accomplished in whole or in part using planters or other similar structures.

e) Amenities. Common space for a development shall contain adequate amenities to animate and enliven the environment and to make it conducive for social interaction. Following is a list of such amenities: ornamental fountains, stairways, waterfalls, public art, arbors, trellises, planted beds, drinking fountains, clock pedestals, awnings, canopies, informational kiosks, and similar structures. This list is not intended to be exhaustive.

5-27-5.1.5 Architectural Details. The appearance of all streetside façades is important and shall be addressed in development design. Architectural elements like openings, sill details, posts, and other architectural features shall be used to establish human scale at the street level. On corner lots, the applicant shall provide distinctive architectural elements at the corner of buildings facing the intersection. Windows, doors, columns, eaves, parapets, and other building components shall be proportional to the overall scale of the building. Windows shall be vertically aligned.

All buildings shall provide detailed design along all façades which are visible from a street or common space. Detailed design shall be provided by using at least three of the following architectural features.

Dormers.

Gables.

Recessed entries.

Covered porch, entries.

Cupolas or towers.

Pillars or posts.

Eaves (minimum 6-inch projection).

Off-sets in building face or roof.

Window trim (minimum nominal four inches wide).

Bay windows.

Balconies.

Decorative patterns on exterior finish (e.g. scales / shingles, wainscoting, ornamentation).

Decorative cornices and roof lines (for flat roofs).

5-27-5.1.6 Building Façades. Front, rear and side façades of buildings shall contain at least two building materials which shall contrast in color and texture. At least 15% of the façade, exclusive of windows, doors and trim, shall consist of stone, brick, decorative concrete or decorative block.

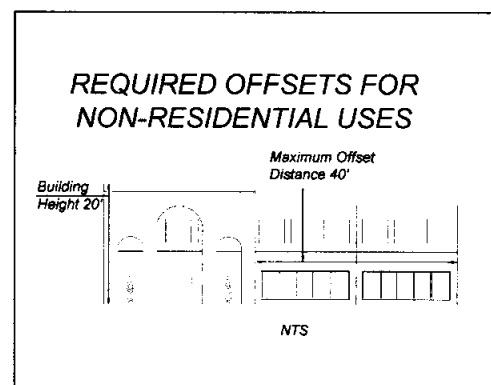
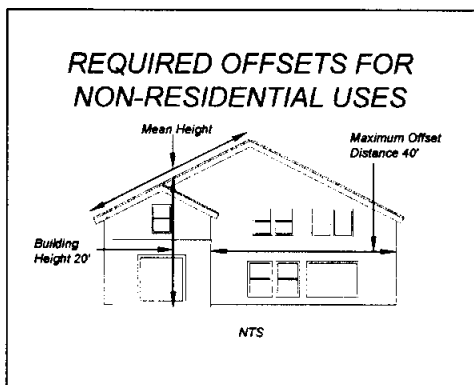
5-27-5.1.7 Windows. Windows shall either be (1) recessed a minimum of three inches from the façade or (2) trimmed. If trim is used, it shall be a minimum of four inches (nominal) in width and shall project beyond the façade.

5-27-5.1.8 Building Scale. The scale of a building is a function of the size of the individual pieces of a building and their relationship to each other. The scale of a building is important in order to contribute

to the overall diversity of building types, to give visual interest, and to maintain compatibility between buildings. These design standards regulate scale by means of offsets, that is, protrusions or breaks in the plane of façades.

a) Scale, Buildings Containing Nonresidential Uses. The following requirements apply to any building containing nonresidential uses, regardless whether the building also contains residential uses:

- 1) The distance between required offsets is related to the height of the building wall on a two-to-one basis. A building façade which is less than or equal to the height of the building shall not require an offset.



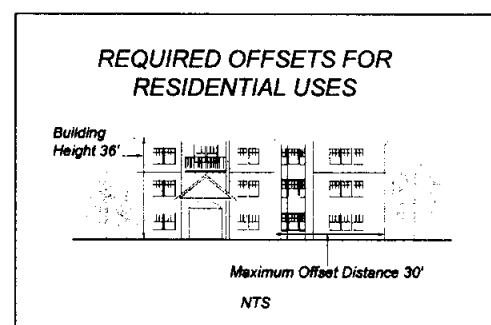
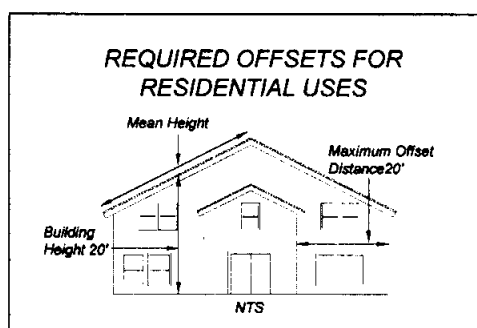
- 2) The height of any particular façade shall be measured from the average ground level to the mean height level between the eaves and ridge of a gable, hip or gambrel roof, or for flat roofs, to the top of the parapet.

- 3) The depth or projection of the offset shall be 1/10th the length of the longest adjacent wall panel; provided, however, the minimum offset depth shall be one foot. By means of illustration, a building with a 20-foot wall panel shall have a two-foot offset adjacent to such wall panel.

- 4) Each façade of a building visible from a street or common space shall comply with the offset requirements contained herein.

b) Scale, Buildings Containing Only Residential Uses. The following requirements apply to any building containing only residential uses:

- 1) The distance between required offsets shall be related to the height of the building on a one-to-one basis; provided, however, no wall shall exceed 30 feet in length without an offset. A building façade which is less than or equal to the height of the building shall not require an offset. Provided, however, the provisions of this paragraph shall not be construed to require an offset for that portion of a façade containing a two-car garage.



- 2) The height of any particular façade shall be measured from the average ground level to the mean height level between the eaves and ridge of a gable, hip or gambrel roof, or, for flat roofs, to the top of the parapet.

- 3) Offsets shall have a minimum depth or projection of two feet regardless of the length of adjacent wall façades.

- 4) Each façade of a building visible from a street or common space shall comply with the offset requirements contained herein.

5-27-5.1.9 Streets and Sidewalks. Streets and sidewalks shall comply with the circulation and access requirements contained in Section 18-6-4.6, below.

5-27-5.1.10 Building Materials. Building materials shall be used consistently on the exterior of the building and shall comply with the lists of prohibited materials contained herein.

Prohibited Building Materials. Unless authorized through alternative design compliance, the following building materials shall be prohibited within the CHMU Commercial Highway Mixed Use Zoning District Classification: plain concrete block (with or without paint); corrugated or ribbed metal siding; reflective glass; more than 50% glass on any façade; roll roofing; roll siding; plain unfinished concrete (painting does not constitute a finish); aluminum; unpainted metal; exposed plain pipe columns; metal wall siding; and any other materials not customarily used in conventional construction.

5-27-5.1.11 Certain Exemptions for Single-Family and Two-Family Detached Dwellings. Detached single-family and two-family dwellings shall be exempt from the requirements contained in Sections 5-27-5.1.4 (common space) and 5-27-5.1.8 (building scale).

5-27-5.2 General Standards for Residential Developments. The following standards shall apply to developments containing only residential uses with the exception that multi-family buildings must comply with the general standards contained in Section 5-27-5.3, below.

5-27-5.2.1 General Appearance. Residential development shall contain a variation of façades and materials so that there shall not be a row or strip housing appearance. Means to accomplish this goal may include the use of dormers, gables, recessed entries, covered porch entries, bay windows, cupolas or towers, and a variation in the depth and height of walls, among others.

5-27-5.2.2 Architectural.

a) Useable porches and/or stoops, at least eight feet in width, shall be located on the front and/or side of the home.

b) Front-loading garages and carports shall be offset from the front façade of the house and visually designed to form a secondary building volume. Developers are encouraged to turn garages and carports so the openings or doors are not visible from the street. At no time shall the width of an attached garage exceed 50% of the total building façade.

c) Accessory buildings with a floor area greater than 150 square feet shall be clad in materials similar in appearance to the principal structure.

d) Walls and fences located in the front yard shall be decorative and limited in height to no more than four feet above grade. Front-yard walls shall be of brick, stone or stucco. Front yard fences shall be wood, wrought iron or materials similar in appearance and durability. Side and rear yard fences may be chain link, wood, wrought iron, or similar material.

5-27-5.2.3 Configurations.

a) Main roofs on residential buildings shall be gables, hips or clerestory with a pitch between 5:12 and 12:12. Monopitch (shed) roofs are allowed only if they are attached to a wall of the main building.

b) Foundation walls (except those under porches) shall be finished with brick, stucco or stone. If crawlspaces of porches are enclosed, they shall be enclosed with brick, stone, and lattice or any combination thereof.

5-27-5.3 General Standards for Nonresidential and Multi-Family Buildings. The following standards shall apply to all buildings containing nonresidential uses and multi-family dwellings.

5-27-5.3.1 Storage, Utility & Service Areas. Areas devoted to storage, garbage, recycling collection and utilities shall be enclosed and screened around their perimeter, and constructed of materials consistent with the principal building. Gas meters, electric meters, ground-mounted mechanical units, and any other similar structures shall be hidden from public view or screened with approved construction materials. Fences designed for screening shall be constructed of brick, stone, architectural stucco, concrete, wood or iron. Roof vents, mechanical units, utility equipment and telecommunication receiving devices located on the roof shall be screened from view. Solar technology components including solar panels and solar thermal collectors are exempt from this provision.

5-27-5.3.2 Parking & Vehicular Access. All vehicular use areas shall be set back a minimum of 20 feet from the right-of-way line of public right-of-way and shall be screened from view from such rights-of-way in accordance with Article XV, below.

5-27-5.3.3 Encroachments. Balconies, stoops, chimneys and bay windows are permitted to encroach into any setback up to five feet.

5-27-5.3.4 Roofs. Parapets and decorative cornices are required for buildings with a flat roof. Eaves shall be provided with a pitched roof.

5-27-5.4 Specific Standards for Single-Family and Two-Family Detached Dwellings.

Minimum Setbacks:

Front: 15 feet

Sides: 20% of lot width. The entire setback may be allocated to one side.

Rear: 10 feet

Minimum Lot Width: 50 feet

Maximum Height: 2 ½ stories.

Encroachments: Balconies, stoops, stairs, chimneys, open porches, bay windows, roof

overhangs and raised doorways are permitted to encroach into the front setback a maximum of five feet.

Accessory Structures

Side/Rear Setback: 3 feet

5-27-5.5 Specific Standards for Townhouses. The townhouse is a building with two or more residential units that are located side-by-side. When an entrance is provided at-grade, the townhouse may be used as a live-work unit.

Minimum Setbacks:

Front: 8 feet

Sides: 0 feet (Corner 8 feet). Buildings within a development must be separated by a minimum of 15 feet

Rear: 15 feet from centerline of alley, if applicable.

Minimum Lot Width: 16 feet

Maximum Height: 3 stories.

Encroachments: Balconies, stoops, stairs, chimneys, open porches, bay windows, roof overhangs and raised doorways are permitted to encroach into the front setback a maximum of five feet.

Upper story balconies may encroach into the right-of-way up to five feet with permission from the City.

Accessory Structures: 3 feet

Side / Rear Setback: 0 feet

Maximum Footprint: 400 square feet

Maximum No. of Structures: 1

5-27-5.6 Specific Standards for Multi-Family Dwellings. Multi-family dwelling consists of three or more dwelling units vertically and/or horizontally arranged. The ground floor may be available for commercial uses.

Minimum Setbacks:

Front: 10 feet

Sides: 15 feet plus 5 feet for each floor above 2.

Rear: 15 feet plus 5 feet for each floor above 2.

Parking: Off-street parking shall be located in the rear or side yard only and shall be screened from view from public roadways. On-street parking is encouraged for private streets and drives.

Vehicular Access: Primary vehicular access from public roads shall be accomplished by means of a rear lane or alley only. No curb cuts or driveways are permitted along the frontage except for vehicular access to rear parking. These limitations shall not apply to parcels or buildings where primary vehicular access is by means of a private street or drive.

Maximum Height: 4 stories.

Encroachments: Balconies, stoops, stairs, chimneys, open porches, bay windows, roof overhangs and raised doorways are permitted to encroach into the front setback a maximum of five feet. Upper story balconies may encroach into the right-of-way up to five feet with permission from the City.

Accessory Structures:

Side / Rear Setback: 0 feet.

Maximum Footprint: 400 square feet.

5-27-5.7 Specific Standards for Commercial & Institutional Buildings. Commercial buildings are structures which can accommodate a variety of uses mixed either horizontally (shopping center) or vertically (dwelling unit over a store). Office buildings, hotels and inns can be placed in commercial buildings. Buildings containing both commercial and residential uses shall be classified as commercial buildings for the purposes of this section. Institutional buildings are specialized public or semi-public buildings intended to serve as public gathering places. Such uses include governmental offices, churches or other places of worship, schools, hospitals, post offices, and nonprofit or charitable clubs and organizations. Note there are exceptions from the maximum height restrictions for steeples, cupolas and similar structures. These are contained in Section 8-2, below.

Minimum Height: 14 feet to the top of the parapet for buildings with flat roofs. There is no minimum height requirement for other buildings.

Maximum Height: 4 stories

Minimum Setbacks:

Front: 10 feet

Sides: 15 feet plus 5 feet for each floor above 2.

Rear: 15 feet plus 5 feet for each floor above 2.

Minimum Lot Width: None.

Encroachments: Balconies, stoops, chimneys, roof overhangs and bay windows are permitted to encroach into any setback up to 5 feet.

Accessory Structures:

Side/Rear Setback: 3 feet.

Section 5-27S CHMUSU Commercial Highway Mixed Use Special Use Zoning District Classification. The purpose and requirements of this classification are identical to the CHMU Commercial Highway Mixed Use Zoning District Classification except that a special use permit, as provided for in Article VII herein, is required as a prerequisite to any use or development.

2. Any person violating the provisions of this ordinance shall be subject to the penalties set forth in Section 9-8 of the Zoning Ordinance.

3. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

4. If any section, subsection, paragraph, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

5. The enactment of this ordinance shall in no way affect the running of any amortization provisions or enforcement actions, or otherwise cure any existing zoning violations.

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

Adopted this third day of March, 2011.

/s/Barbara G. Volk, Mayor

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

Approved as to form: /s/Samuel H. Fritschner, City Attorney

9. Consideration of an Ordinance Amending Chapter 10 of the Code of Ordinances to Restrict the Tethering of Domestic Animals within the Enforcement Jurisdiction of the City of Hendersonville:

Mr. Ferguson presented a draft ordinance as directed by the City Council with changes to further govern and restrict the tethering of animals in the City. He stated these amendments were based on elements of the City of Charlotte's recently-adopted ordinance. He stated the Police are prepared to implement the changes if adopted by the Council. He requested a delayed effective date if the changes are adopted so all officers may be adequately trained.

Mr. Ferguson reviewed the amendments and asked for Council's input on each. Mayor Pro Tem Collis asked for an amendment requiring adequate water be available at all times instead of suitable intervals. The Council agreed by consensus. Regarding the weight of the tether, Mr. Ferguson explained officers will not have the equipment to weigh the dog and/or chain but enables the officer to make judgment calls and if disputed, equipment may be used.

Mr. Ferguson reviewed a revision allowing an animal control officer to order more restrictive tethering requirements if circumstances require.

Council Member Caraker reported the Animal Services Board will be considering tethering issues at their next meeting so there is consistency between the ordinances. Mayor Pro Tem Collis commented on the many e-mails in support of banning tethering that he received from areas such as Greensboro and Raleigh. He voiced support of the proposed amendments stating it addresses problems in Hendersonville. He stated he does not plan to adopt the same ordinance as Buncombe County. He stated the City can work with Henderson County to address concerns. Council Member Caraker also voiced support of the amendments stating this is a step in the right direction but may require amendments but it will help provide consistency between the County and the City, provided an exchange of education and cooperation. He stated the Council has made great steps in improving the lives of animals. Council Member Freeman commented he has neighbors who are responsible pet owners who tether their dogs without any problems. He also voiced support of the amendments.

Council Member Smith moved to amend the Code of Ordinances pertaining to the tethering of animals in the City of Hendersonville, as presented by staff, with the following amendments: 10. An animal control officer may in his/her discretion order a more restrictive tethering requirement if circumstances require and it is not detrimental to the health, safety or welfare of the domestic animal. Under Definitions: Adequate water shall mean the ready availability to the domestic animal at all times of clean, fresh water. The effective date of the ordinance is April 4, 2011. A unanimous vote of the Council followed. Motion carried.

Ordinance #11-0312

AN ORDINANCE AMENDING CHAPTER 10 OF THE CODE OF ORDINANCES TO RESTRICT THE TETHERING OF DOMESTIC ANIMALS WITHIN THE ENFORCEMENT JURISDICTION OF THE CITY OF HENDERSONVILLE

WHEREAS, the State of North Carolina has declared that municipalities may define and regulate animal cruelty; and

WHEREAS, the City of Hendersonville has determined that cruelty to animals is a danger to the public health, safety and welfare; and

WHEREAS, the City Council has determined that the tethering of domestic animals constitutes in many cases animal cruelty,