



MINUTES

April 4, 2024

REGULAR MEETING OF THE CITY COUNCIL

CITY OPERATIONS CENTER | 305 WILLIAMS ST. | 5:45 p.m.

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

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

1. **CALL TO ORDER**

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

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

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

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

In Person:

Gina Baxter of Hebron Rd spoke about on behalf of the Environmental Sustainability Board regarding the tree ordinance. The ESB supports the efforts to revise the Tree Board, and we recognize the value of the Tree Board and remain concerned that the fee in lieu schedule does not adequately reflect the value of trees in the city's canopy. The ESB would like to suggest an incentive plan to replace lost tree canopy with native trees.

Steve Pettis of Lyndhurst Drive who is a Henderson County Extension agent as well as, a new Henderson City resident. I just learned about the tree ordinance today. I am advocate for tree protection and tree health, that's what I do and I just wanted to mention a few things that I hope you'll include in your ordinance.

- If you don't require tree plans from developers, assessing all of the trees on the property, then you don't know what you're starting with.
- Require them to replace a certain percentage of trees that were removed and then replace them with ones on an approved list.
- The City needs a community forester or City arborist.
- Do a complete inventory of trees that the City owns. These are trees that are within the City's right-of-way so that you know what you have and how to protect them.

Via Zoom:

Lynne Williams of Chadwick Avenue, spoke in favor of the tree ordinance with continued tree board oversight. Continue the requirement of a tree survey. We also need a stringent fee in lieu schedule that reflects the value of the trees. She added that the committee should approve the fee in lieu and the city needs a tree inventory.

Ken Fitch of Patton Street congratulated Barbara Hughes as the recent recipient of the House for Hospitality award. He also spoke in favor of the tree ordinance, and asked reconsideration of getting rid of the tree board. We are a tree city and bee city largely in part due to our tree board. In regards to the water and sewer System Development Fees, he questioned whether these housing projects would be able to apply for grant funding and other outside funding sources to enable such projects to move forward.

4. CONSIDERATION OF AGENDA

Council Member Jeff Miller moved that City Council approve the agenda as presented. A unanimous vote of the Council followed. Motion carried.

5. CONSENT AGENDA

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

A. Adoption of City Council Minutes – Jill Murray, City Clerk

March 7, 2024 Regular Meeting

March 14 & 15, 2024 Budget Meeting

March 27, 2024 Second Monthly Meeting

B. Henderson County Tax Adjustments – Amanda Lofton, Deputy Tax Collector

C. Division of Water Infrastructure Funding Offer Resolution of the Lower Mud Creek Restoration Project – Michael Huffman, Stormwater Division Manager

Resolution #R-24-13

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL
ACCEPTING A GRANT FROM THE DIVISION OF WATER INFRASTRUCTURE
FOR THE PURPOSE OF IMPLEMENTING THE LOWER MUD CREEK FLOODPLAIN
RESTORATION**

WHEREAS, the City of Hendersonville, NC has received an earmark for the American Rescue Plan (ARP) funded from the State Fiscal Recovery Fund established in S.L. 2022-74 to assist eligible units of government with meeting their water/wastewater infrastructure needs, and

WHEREAS, the North Carolina Department of Environmental Quality has offered American Rescue Plan (ARP) funding in the amount of \$1,891,236 to perform work detailed in the submitted application, and

WHEREAS, the City of Hendersonville, NC intends to perform said project in accordance with the agreed scope of work,

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

1. That City of Hendersonville, NC does hereby accept the American Rescue Plan Grant offer of \$1,891,236.
2. That the City of Hendersonville, NC does hereby give assurance to the North Carolina Department of Environmental Quality that any Conditions or Assurances contained in the Award Offer will be adhered to.
3. That John Connet, City Manager, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with this project; to make the assurances as contained above; and to execute such other documents as may be required by the Division of Water Infrastructure.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 4th day of April, 2024.

Barbara G. Volk, Mayor

Attest: /s/Jill Murray, City Clerk

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

D. Purchase of Water and Sewer Operations Inventory – Chad Freeman

Resolution #R-24-14

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO AUTHORIZE THE
RATIFICATION OF INVENTORY PURCHASING FOR THE CITYE'S WATER AND SEWER
OPERATIONS FOR THE CURRENT FISCAL YEAR**

WHEREAS, the City of Hendersonville Operations Department utilizes the following wide variety of inventory to ensure that the City continues to function effectively as inventory items become necessary (AMI products, Meters,

Transmitters, Sensus Items, Brass fittings, Clamps, Ductile pipe, Hydrants, Gate valves, Other inventory as needed); and,

WHEREAS, for many years, the City has utilized various Group Purchasing Organization contracts to purchase this inventory as is permitted by GS 143-129(e)(3) and under various previous council approvals; and,

WHEREAS, over the previous three fiscal years (FY21, FY22, FY23), between Repair/Maintenance and Capital accounts, the City has purchased an average of \$854,211.00 of inventory yearly; and,

WHEREAS, moving forward, we would like to combine all inventory purchases under the same category of approval and to ratify Fiscal Year 2023/2024 under a single approval for all applicable contracts and vendors; and,

WHEREAS, Specifically, we will utilize Omnia Partners contracts. Below are the three contracts and corresponding vendors. The approval is for the total amount towards these contracts and can be utilized as needed under each contract (Graybar Electric – Contract # EV2370, Ferguson Waterworks – Contracts # 02-104, Fortiline Waterworks – Contract # 02-76); and,

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville, North Carolina that the City's Water and Sewer Operations Department is authorized to continue purchasing inventory items up to \$1,000,000.00, annually, including but not limited to FY 2023-24, under the contracts listed in this resolution to the vendors listed.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 4th day of April, 2024.

Barbara G. Volk, Mayor

Attest: /s/Jill Murray, City Clerk

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

E. Utility Extension Agreement for the Standard at Wilmont Subdivision – Adela Gutierrez-Ramirez, Civil Engineer

Resolution #R-24-15

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO AUTHORIZE THE CITY MANAGER TO ENTER INTO A UTILITY EXTENSION AGREEMENT WITH CREEKSTONE HOLDINGS HENDERSONVILLE, LLC., AND THE STANDARD AT WILMONT OWNER, LLC FOR THE STANDARD AT WILMONT

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

WHEREAS, residential, commercial, and industrial developments often require public water and gravity sewer 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 processes; and

WHEREAS, Creekstone Holdings Hendersonville, LLC, and The Standard at Wilmont Owner, LLC, the "Developer" and "Owner", have entered into a Utility Extension Agreement with the City to provide water and sewer services to The Standard at Wilmont.

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

1. The Utility Extension Agreement with Creekstone Holdings Hendersonville, LLC., and The Standard at Wilmont Owner, LLC, the "Developer" and "Owner" to provide water and sewer service to the Standard at Wilmont is approved and ratified, as presented.
2. City Manager is authorized to execute the Utility Extension Agreement, and to approve and execute amendments to the Utility Extension Agreement in the future provided such amendments do not impose a financial obligation upon the City.
3. City Manager is authorized to acquire easements, rights-of-way, and other interests in real property consistent with the terms of the Utility Extension Agreement, provided that such acquisition does not impose a financial obligation upon the City.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 4th day of April, 2024.

Barbara G. Volk, Mayor

Attest: /s/Jill Murray, City Clerk

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

F. April 2024 Budget Amendments – Adam Murr, Budget Manager

TO MAYOR & COUNCIL
APPROVAL: April 04, 2024

FISCAL YEAR 2024
FORM: 04042024-01

BUDGET AMENDMENT

FUND 060 | 460

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
460-0000-470100-22012	Transfer In (from 459)	200,200	-	-	200,200
460-7055-519200-22012	Contracted Services	200,200	-	94,407	105,793
460-0000-598901-22012	Transfer Out (to 060)	-	94,407	-	94,407
FUND 460	TOTAL REVENUES	200,200	-	-	200,200
	TOTAL EXPENDITURES	200,200	94,407	94,407	200,200
060-0000-470100	Transfer In (from 460)	-	94,407	-	94,407
060-0000-534999	Contingency	85,225	-	12,000	73,225
060-7055-519200	Contracted Services	120,000	106,407	-	226,407
FUND 060	TOTAL REVENUES	200,200	12,000	-	212,200
	TOTAL EXPENDITURES	200,200	12,000	12,000	212,200

An amendment transferring budgeted expenditures for the water distribution master plan from fund 460 to the water and sewer operating fund (060), and utilizing available contingency for the completion of the project in fiscal year 2023-2024.

The City Manager and City Clerk certify budget ordinance amendment 04042024-01 was approved by City Council on April 04, 2024.

TO MAYOR & COUNCIL
APPROVAL: April 04, 2024

FISCAL YEAR 2024
FORM: 04042024-02

BUDGET AMENDMENT

FUND 459 | 460

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
459-0000-470090	Fund Balance Appropriated	406,000	25,000	-	431,000
459-0000-598901	Transfer Out (to 460, #19014)	406,000	25,000	-	431,000
FUND 459	TOTAL REVENUES	406,000	25,000	-	431,000
	TOTAL EXPENDITURES	406,000	25,000	-	431,000
460-0000-470010-19014	Debt Proceeds ('23 Rev. Bond)	636,000	-	-	636,000
460-0000-470100-19014	Transfer In (from 459)	406,000	25,000	-	431,000
460-7055-550103-19014	Capital Outlay CIP	1,042,000	25,000	-	1,067,000
FUND 460	TOTAL REVENUES	1,042,000	25,000	-	1,067,000
	TOTAL EXPENDITURES	1,042,000	25,000	-	1,067,000

A budget amendment to increase the Church St. Sewer Project (#19014) for a total budget of \$1,067,000 using a \$25,000 transfer in from the Water & Sewer Capital Reserve Fund (459).

The City Manager and City Clerk certify budget ordinance amendment 04042024-02 was approved by City Council on April 04, 2024.

G. Economic Development Incentive Budget Amendment – Adam Murr, Budget Manager

TO MAYOR & COUNCIL
APPROVAL: April 04, 2024

FISCAL YEAR 2024
FORM: 004042024-03

BUDGET AMENDMENT

FUND 010

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
010-0000-470900	Fund Balance Appropriated	3,370,640	175,905	-	3,546,545
010-1002-532105	Incentive Program	-	175,905	-	175,905
FUND 010	TOTAL REVENUES	-	175,905	-	3,546,545
	TOTAL EXPENDITURES	-	175,905	-	175,905

A budget amendment appropriating fund balance for an economic development incentive payment due to a recently completed industrial development.

The City Manager and City Clerk certify budget ordinance amendment 004042024-03 was approved by City Council on April 04, 2024.

H. Approval to Declare and Sell Surplus – Logan Hickey, Procurement and Contract Administrator

Resolution #R-24-16

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO DECLARE THE FOLLOWING ITEMS AS INVENTORY AND TO AUTHORIZE THEM TO BE SOLD VIA INTERNET AUCTION

WHEREAS, The City of Hendersonville Public Works Department has determined that the following items are no longer in use by the city. Representing Public Works, the Finance Department is requesting that these items be declared surplus with the intent to sell them by internet auction; and,

WHEREAS, This is being submitted for Council approval per N.C.G.S. § 265 as the value of the assets are greater than \$29,999.99; and,

WHEREAS, Per the attached Resolution # 11-1051 from October 2011 and per 160A-270(C), internet auction is legally appropriate provided Council approves this Resolution; and,

WHEREAS, The items and their estimated fair market values include the following:

1. Four office desks from engineering dept. Approximate Value: \$50 each
2. Asset # 14-08: 2003 Dodge Durango AV: \$4000
3. Asset # 44-02: 1997 New Holland B95 Backhoe AV: \$10,000
4. Asset # 59-24: 1999 MPH IND. Trailer/Speed Radar AV: \$600
5. Asset # 59-16: 1991 Brewer Trailer AV: \$350
6. Asset # 40-17: 1992 John Deere F935 Mower AV: \$300
7. Asset # 16-08: 2000 Ford F250 ¾ Ton Pickup Truck AV: \$3500
8. Asset # 14-80: 2018 Ford F150 Crew Cab 4x4 Pickup AV: \$8000
9. Asset # 16-21: 2006 Chevrolet 2500 Service Body Truck AV: \$2500
10. Asset # 14-01: 2002 Ford F150 ½ Ton 4x4 Pickup AV: \$2000
11. Asset # 22-02: 2005 Freightliner Knuckle boom Truck AV: \$40,000

; and,

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville, North Carolina that the City's Public Works Department is authorized to declare the preceding items as surplus and to proceed with selling these items via internet auction.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 4th day of April, 2024.

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

I. Acceptance of Real Property and Approval of Agreements – Angela S. Beeker, City Attorney

Resolution #R-24-17

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO ACCEPT REAL PROPERTY AND APPROVE AGREEMENTS

WHEREAS, the City Council approved a conditional zoning (O-23-21, P22-54-CZD) of that property now owned by Lakewood Hendersonville, LLC, (formerly owned by Group Ventures, Inc.) the property being shown as Subject Parcels 1-3 on that plat recorded in Plat Book 2024 at Page 15475 of the Hendersonville Registry, zoning it from I-1 Industrial to UR-CZD, Urban Residential Conditional Zoning District; and;

WHEREAS, as a condition of O-23-21, the property owner is required to donate Subject Parcel 1 shown on that plat recorded in Plat Book 2024 at Page 15475 to either the City of Hendersonville or a nonprofit corporation; and

WHEREAS, Lakewood has agreed to donate said Subject Parcel 1 to the City pursuant to the terms of a Development Agreement, attached hereto as Exhibit 1 (the "Development Agreement"); and

WHEREAS, the Development Agreement provides that in addition to the donation of Subject Parcel 1, Lakewood will pay to the City the sum of \$50,000 in exchange for the City's allowing Lakewood to encroach into a streambank maintenance easement running along Allen Branch as shown on that plat recorded in Plat Book 2018 at page 11458 of the Henderson County Registry, the streambank encroachment to be granted pursuant to the Streambank Encroachment Agreement, attached hereto as Exhibit 2 (the "Streambank Encroachment Agreement"); and

WHEREAS, the City is planning a greenway on Subject Parcel 1, and the Development Agreement provides that the City will use the \$50,000 to plant 140 trees on Subject Parcel 1 in locations that in the City's discretion will best benefit the greenway;

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

4. The Development Agreement and the Streambank Encroachment Agreement are hereby approved as presented.
5. The City's acceptance of title to Subject Parcel 1 is approved.
6. The City Manager is authorized to sign the Development Agreement and the Streambank Encroachment Agreement with such changes as he may deem appropriate, after consultation with the City Attorney.

- 7. The City Manager, City Attorney, and City Staff are authorized to take such other actions as may be necessary to carry out the terms and provisions of the Development Agreement and the Streambank Encroachment Agreement as signed by the City Manager.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 4th day of April, 2024.

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

6. PRESENTATIONS

A. True Ridge Latinx – Melisa Escobar, Executive Director

Melisa Escobar gave the following brief PowerPoint presentation giving an update on what has been going on and what they have been going through for the last few years. Family Immigration Program Director & Immigration Attorney at True Ridge, Christina Holtgreven also spoke about volunteering her time to help.



Comunidad-Cultura-Conección
COMMUNITY-CULTURE-CONNECTION

Our Founders



Edward McCammon



Lori Garcia-McCammon

We are located at First United Methodist Church(FUMC)



Our Mission

We advocate on behalf of the Latino community and on behalf of other groups by providing a safe, kind, and supportive space towards self-sufficiency, resilience, healing and well-being. We educate and encourage those who remain silent in the face of injustice to speak up and be heard by providing culturally appropriate services.



Areas of Service

Advocacy:

- ❖ Protective orders
- ❖ Documentation
- ❖ Court accompaniment
- ❖ Interpretation and translations
- ❖ Case management for cases of domestic violence
- ❖ Abuse and other crimes



USDA: Farm and Food worker relieve Program (FFWR)

This is a program from the U.S. Department of Agriculture through which we can provide a one time \$600 relief payments to eligible farm and food workers who incurred expenses preparing for, preventing exposure to, and responding to the COVID-19 pandemic. Agricultural and meatpacking workers, as well as select grocery workers, may receive one relief payment.



Education:

La Promesa Program:

- ❖ Information and referrals to education resources
- ❖ RDS, and FAFSA applications and appeals
- ❖ Financial aid guidance
- ❖ College applications and Scholarships
- ❖ Support during the first year of college
- ❖ 165 students are part of this program.



Health:

- ❖ Referrals to health services and transportation
- ❖ Implement strategies to increase access to vaccines
- ❖ Outreach and education efforts
- ❖ Coordinating local efforts for events in trusted and accessible locations
- ❖ Help our community to schedule vaccine appointments
- ❖ Provide onsite interpretation



Immigration:

- Family Immigration Program started January of 2023
- Funded this year by private donors, Fernandez Pave the Way Foundation and Duke Energy
- Staff 1 immigration attorney, bilingual paralegal and 1 bilingual intake coordinator
- Serve clients who don't qualify for Pisgah Legal but can't afford a private immigration attorney
- Walk-in consultations on Wednesday for \$35 and low bono legal fees

Immigration Myths

Myth 1: It is easy to immigrate here, they should apply for a green card or citizenship.

Fact: It not easy. It's very difficult to immigrate legally to the United States. Immigration law is second only to the income tax code in legal complexity.

Myth 2: Undocumented people don't pay taxes.

Fact: Undocumented people pay \$11.64 billion in state and local taxes a year (break down \$6.9 billion in sales and excise taxes, \$3.6 billion in property taxes, and just under \$1.1 billion in personal income taxes.) Source The Institute on Taxation & Economic Policy



Resources

TV: Immigration Nation on Netflix documentary limited series

Books: *Refugee* by Alan Gratz, *In the Country we Love* by Diane Guerrero, *The Undocumented Americans* by Karla Cornejo Villavicencio, *Solito* by Javier Zamora

Websites:

Immigrant Legal Resource Center, <https://www.ilrc.org/>

Catholic Legal Immigration Network, <https://cliniclegal.org/>

National Immigration Law Center, <https://www.nilc.org/>

Challenges

- **Sustainability:** How do we advance our mission with limited funding, Nonstable budgeting.
- **Reporting:** there is so much pressure to show results and social impact
- **Increase** in the need of **services** (economic hardships)
- **Employees:** Our people drive the mission. How do we offer living wages and retain our talent?
- **Burnout** is real, we were may hats.




 “Non-Profits serve as the great equalizer, when individuals come together to amplified the voice of those who truly have no voice”
Thank you !!!

B. NCLTAP Roads Scholar Awards – Tom Wooten, Public Works Director

Tom Wooten presented Public Work’s Traffic Supervisor Brent Pope (not in attendance) and Public Work’s Superintendent Brandon Mundy certificates for completing the North Carolina Local Technical Assistance Program’s Advanced Roads Scholar Program. This second level certification requires completion of the Roads Scholar Program plus 8 additional training classes

and completion of a technical review paper. By completing this program, they have earned this professional distinction for themselves and the City of Hendersonville.

C. ESB Sustainability Hero Award – Mary Ellen Custin, ESB Board

Mary Ellen Custin presented the 2nd Annual Environmental Sustainability Hero Award to Public Work's Superintendent Brandon Mundy.

D. Special Presentation from Congressman Chuck Edwards – Tommy Laughter, District

Tommy Laughter, District Representative for Congressman Chuck Edwards, presented an award to Chief Blair Myhand to recognize what he does for the City of Hendersonville, State of North Carolina and for law enforcement as a whole. He presented him with a plaque and a flag that has been flown over the Capitol.

7. PUBLIC HEARINGS

A. Rezoning: Conditional Zoning District – The Lofts at Chadwick (P24-04-CZD) – Tyler Morrow, Planner II

Tyler Morrow explained that the City of Hendersonville is in receipt of an application for a Conditional Rezoning from Stephen Drake of Broadcast Construction & Development Inc., applicant and Brett Barry of Gordon Dooley Holdings LLC., property owner. The applicant is requesting to rezone the subject property, PIN 9568-92-1924 and located at 904 Greenville Highway, from GHMU-CZD, Greenville Highway Mixed Use Conditional Zoning District to GHMU-CZD, Greenville Highway Mixed Use Conditional Zoning District for the construction of 60 low income housing tax credit senior multi-family units on approximately 2.25 acres. This equates to a density of 26.67 units per acre. The proposal includes the construction of 1 L-shaped multi-family structure with a proposed footprint of 24,500 square feet and a gross floor area of 73,500 square feet. Additionally, the development proposes 70 parking spaces. The proposed site is outside of the floodplain and floodway. According to the latest USGS 7.5 minute quad maps, there is a blueline stream along the northeastern property boundary.

The Lofts at Chadwick

(P24-04-CZD)

Conditional Rezoning

City of Hendersonville City Council

April 4th, 2024

Community Development | Planning Division

Tyler Morrow | Planner



Location:

- + 9568-92-1924
- + 904 Greenville Highway

Applicant/Owner:

- + Stephen Drake of Broadcraft Construction & Development Inc. (Applicant)
- + Brett Barry of Gordon Dooley Holdings LLC. (Property Owner)

Existing Zoning: GHMU-CZD

Proposed Zoning: GHMU-CZD

Acreage: 2.25 Acres

Proposed Use: Residential, Multi-Family

Project Details:

- + 60 Low Income Housing Tax Credit Senior Multi Family Residential Units

Future Land Use Designation:

- + High Intensity Neighborhood

Project Background

+ Prior Rezoning

- + **Previous Zoning:** GHMU
- + **Approved Zoning:** GHMU-CZD
- + **Date:** March 3, 2022 (Active Entitlements)
- + **Uses:** Multi-Family
- + **Gross Building Square Footage:** 117,600 Square Feet
- + **Project Details:**
 - + 3 Buildings (9,800 square foot footprints)
 - + 70 Units
 - + Height:
 - + 3 and 4 story split.
 - + 42' max height.
 - + 91 spaces proposed.

Rezoning History



Previous Conditions (3-3-2022)

1. Driveway location shall be shifted as far from the intersection of Chadwick Ave and Greenville Highway as possible.
2. ROW shall be dedicated along Chadwick Ave to include all areas from the back of the proposed sidewalk to the existing ROW/property boundary. At a minimum, the ROW dedication will provide an additional 7.5' measured from the Centerline of Chadwick Ave. Final details of width needed will be coordinated with Traffic Consultant and Public Works Director. The provision of ROW to the City will not reduce the Open Space accounted towards the proposed development.
3. Open greenspace shall be used and preserved around parking areas for green infrastructure: bioswales, bioretention areas, and rain gardens to the degree feasible.
4. The existing natural drainage way along the eastern boundary of the parcel must be preserved at a minimum but should be improved.
5. Trees along the edge of the parking lots and the drainage way along eastern boundary shall be protected in compliance with Article XV, Section 15-4 (C) of the Zoning Ordinance.
6. Additional hardscaping elements to be installed at intersection of Chadwick Ave and Greenville Hwy to demonstrate compliance with Section 18-6-4.5 which states, "On corner lots, the applicant is encouraged to provide a building entry, additional building mass, and distinctive architectural elements at corner of buildings."

Proposed Conditions (Developer Agreed)

Developer Proposed Conditions :

1. Tree Protection

1. Developer shall provide tree protection during construction process. The proposed tree protection fence limits will not meet the code requirements of 1' for every 1" of tree diameter based on the existing impervious coverage and tight constraints of the site. Proposed tree protection will provide the maximum amount of tree protection as possible. Any preserved trees (large maturing or pine) counted towards credit that dies within 10 years will be re-planted with a single *Quercus* (Oaks), *Acer* (Maples), or *Carya* (Hickories). **Counter to a Tree Board recommended condition.**

2. Loading and Unloading

1. Developer is requesting not to provide a loading/unloading zone. The project includes vehicle parking above the code minimum requirement.

3. Stream Buffer Requirements

1. At this point it is not clear if the drainage feature along the eastern property line lies within our site or the adjacent property and whether it would be classified as a jurisdictional stream per the ASAAOE criteria. Based on the revision from the 2019 to the 2022 USGS quad maps the drainage feature now shows as a stream. Prior to the construction document phase developer shall have the surveyor complete a field survey of the existing drainage feature and have an environmental scientist complete a site assessment to determine if the stream is jurisdictional. The developer does not proposed to have any impacts with the stream and agrees to as much as possible clean up the stream and stabilize the stream banks within our property. In either case the developer is requesting the required stream buffers to be waived. **Counter to parts of a Tree Board recommended condition and zoning ordinance requirement.**

Proposed Conditions (Developer Agreed)

Developer Proposed Conditions :

1. Façade

1. The developer is requesting the north, south and east facades of the building to have a maximum offset distance of 24 versus the required 16' as indicated on the architectural building elevations.

2. Low-income Housing Tax Credits

1. Proposed development is LIHTC (Low Income Housing Tax Credit) with all (60 units) of the units at or below 80% AMI. The proposed development will provide senior affordable housing as governed by North Carolina Housing Finance Agency requirements.

Proposed Conditions (Developer Agreed)

City Proposed Conditions :

1. **Tree Board:** Invasive trees, shrubs and ground cover shall be removed, particularly English Ivy, throughout the site, especially for the trees that are preserved. Care shall be taken to not substantively disturb the root systems of preserved trees. Invasive trees and shrubs can be cut off at ground level and the stump treated to kill the roots. Control of English Ivy shall be confined to the recommendations found in the North Carolina Extension publication "Controlling English Ivy in Urban Landscapes".
2. **Tree Board:** Oak trees are part of a group of native plants known as Keystone Plants which are defined as plants critical to the food web and necessary for many wildlife species to complete their life cycle. Since this development will be removing 35 oak trees, it is the Tree Board's recommendation that where required large maturing or canopy trees are to be planted, species of the genera *Quercus* (oaks), *Acer* (maples), and *Carya* (hickories) be used.

Proposed Conditions (Developer Not Agreed)

City Proposed Conditions :

1. **Tree Board:** All preserved trees shall be protected from grading and construction activities as prescribed in the zoning code Section 15-4 regardless of use as tree credits.
2. **Tree Board:** Since a stream buffer is required on the east side of this site, the Tree Board recommends that the waterway along the east side of the site be naturally restored using native plants to reduce erosion, provide additional wildlife habitat, and incorporate the necessary buffer yard planting materials within the boundaries of the subject property. The area to be restored and planted shall be a minimum of 30 feet wide. A restoration plan must be approved by the planning staff and the Tree Board requests the opportunity to review the plan. Restoration guidelines contained in the following publications shall be followed: *Small-scale Solutions to Eroding Stream Banks* (published by the NC Cooperative Extension) and *Stream Restoration: A Natural Channel Design Handbook* (published by the NC Stream Restoration Institute)

Neighborhood Compatibility Meeting

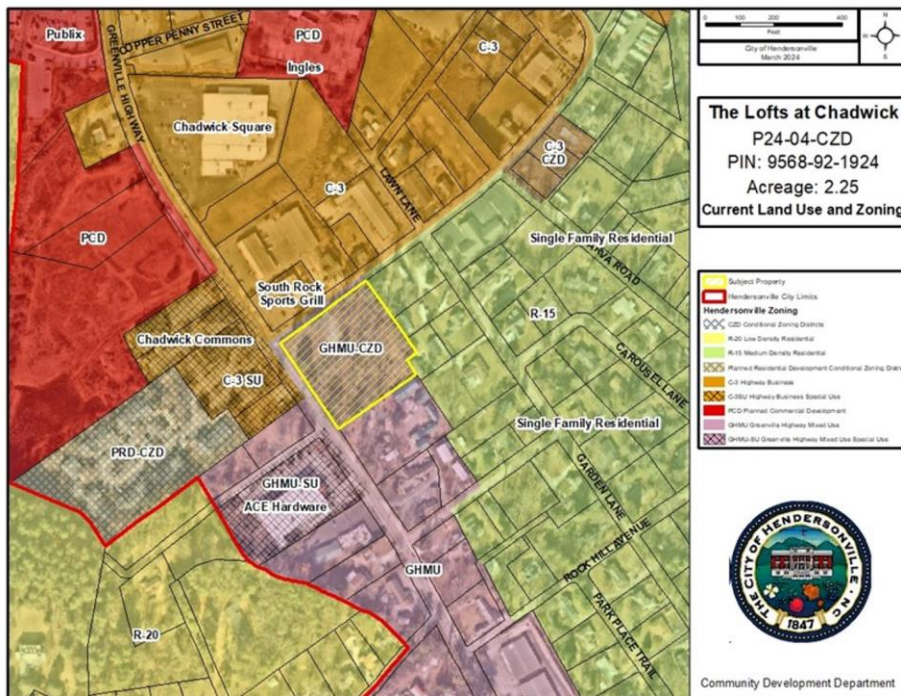
+ **Dates:** February 1st, 2024

+ **Attendees:**

- + In-person - 16 residents
- + Online - 5 residents

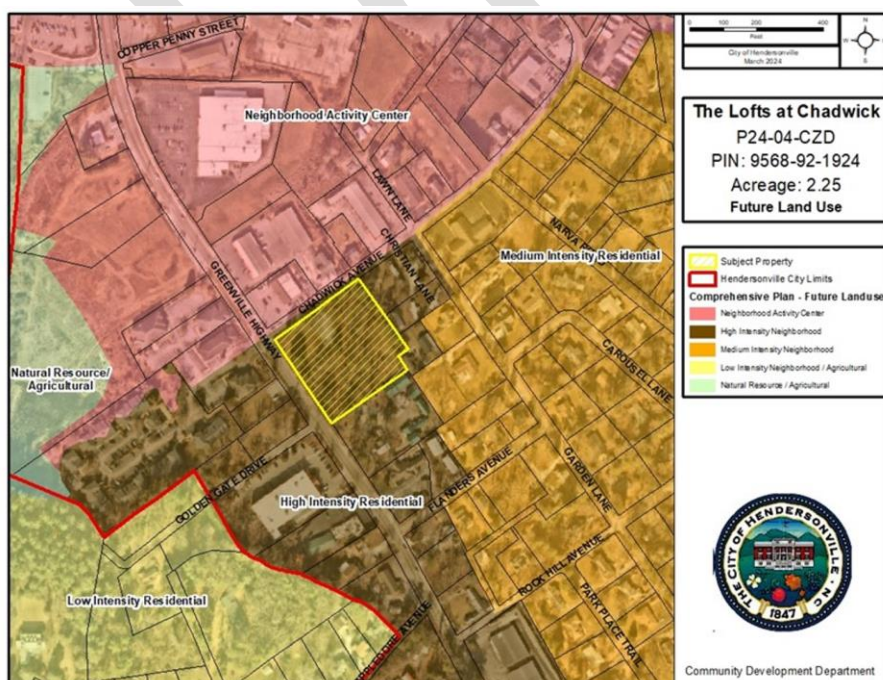
+ **Topics Discussed:**

- + Consideration of impacts from increased traffic
- + Flooding impacts
- + Adding impervious surfaces.
- + Entrance location in relation to the intersection of Chadwick Ave. and Greenville Highway.
- + Additional Parking needs.



Current Land Use & Zoning

- + GHMU-CZD
- + C-3
- + C-3 SU
- + GHMU
- + GHMU-SU
- + PRD-CZD
- + R-15
- + R-20



Future Land Use

- + High Intensity Neighborhood
- + Neighborhood Activity Center
- + Natural Resource / Agricultural
- + Medium Intensity Residential
- + Low Intensity Residential

<p style="writing-mode: vertical-rl; transform: rotate(180deg);">General Rezoning Standards: 1) Comprehensive Plan Consistency</p>	<p>Future Land Use</p>	<p>Goal LU-7. High-Intensity Neighborhood: Create Encourage low-maintenance, high density housing that supports Neighborhood and Regional Activity Centers and downtown and provides a transition between commercial and single-family development. Promote walkable neighborhood design that creates attractive and functional roadway corridors and multi-family residential neighborhoods</p>
	<p>Land Use & Development</p>	<p>The Land Use and Development element analyzes existing development patterns and recommends land uses and development standards for future growth and redevelopment in all areas of the City and Extra-Territorial Jurisdiction (ETJ). This element also recommends areas for future expansion of the ETJ. <u>The framework for land use policies and decision making in this element reflects the vision statements, principles and strategies of all elements of the 2030 Comprehensive Plan.</u></p>

<p style="writing-mode: vertical-rl; transform: rotate(180deg);">General Rezoning Standards: 1) Comprehensive Plan Consistency</p>	<p>Population & Housing</p>	<p>The Population & Housing element of the 2030 Comprehensive Plan identifies and analyzes existing and forecasted housing needs in Hendersonville. This chapter of the plan is concerned with identifying standards and programs for the elimination of substandard dwelling conditions, the improvement of housing quality, variety and affordability, and with the provision of adequate sites for housing.</p>
	<p>Natural & Environmental Resources</p>	<p>The Natural and Environmental Resources element of the 2030 Comprehensive Plan creates a framework for the preservation of sensitive natural areas, working lands and ecological systems in concert with future development. Preserving these features will help to sustain air and water resources and contribute to the health and quality of life of Hendersonville residents. Additionally, the concepts presented in the chapter are intended to facilitate the preservation of the natural character that defines Hendersonville's identity.</p>

<p style="writing-mode: vertical-rl; transform: rotate(180deg);">General Rezoning Standards: 1) Comprehensive Plan Consistency</p>	<p>Cultural & Historic Resources</p>	<p>The Cultural and Historic Resources element of the 2030 Comprehensive Plan provides an inventory of Hendersonville's existing cultural and historic resources and opportunities and recommends strategies to preserve and supplement these resources. Historic districts and landmarks connect residents to Hendersonville's past and contribute to the community's uniqueness. Maintaining and building upon these resources as the community grows will help to create an enduring identity and sense of place in Hendersonville.</p>
	<p>Community Facilities</p>	<p>The Community Facilities element of the 2030 Comprehensive Plan provides and analysis of Hendersonville's existing public facilities and services such as schools, parks and public safety, and identifies community needs in each area. This element provides a vision to efficiently use public facilities, meet long term public safety needs and provide residents with ample park and recreation amenities and opportunities.</p>
	<p>Water Resources</p>	<p>The Water Resources element of the 2030 Comprehensive Plan provides policies to maintain and improve the quality of water, stormwater and wastewater facilities in a sustainable, efficient manner as the community grows.</p>
	<p>Transportation & Circulation</p>	<p>The Transportation and Circulation element of the 2030 Comprehensive Plan classifies and analyzes performance of existing roadways, bicycle routes and other modes of transportation, while providing direction for future improvements in all modes of travel. Analysis and recommendations reflect coordination the Land Use and Development element of the 2030 Comprehensive Plan, ensuring that transportation and land use decisions are not made in isolation.</p>

General Rezoning Standards	2) Compatibility	<p>Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject property.</p> <ul style="list-style-type: none"> The subject property is currently a vacant and previously developed site. The proposed development site is located in a commercial corridor near the US and State route intersection of Spartanburg Highway (US 176) and Greenville Highway (NC225). The subject property is also in the general proximity of downtown. The design guidelines of the GHMU Zoning District, further ensures that a development of this scale is compatible with the surrounding area and corridor.
	3) Changed Conditions	<p>Whether and the extent to which there are changed conditions, trends or facts that require an amendment.</p> <ul style="list-style-type: none"> The southern end of Hendersonville has continued to develop as a key commercial node for the City with a wide range of groceries, restaurants, pharmacies, retail shops, services, and high density residential.

General Rezoning Standards	4) Public Interest	<p>Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern that benefits the surrounding neighborhood, is in the public interest and promotes public health, safety and general welfare.</p>
		<ul style="list-style-type: none"> Based on the 2021 Bowen Housing Needs Assessment for Western North Carolina, Henderson County has an estimated rental housing gap of 1,650 to 2,008 Units for incomes between <50%-120% AMI. This represents one of the largest gaps in the WNC region. Over the last 4 years, the City of Hendersonville has approved 1,915 rental units (218 of the units are inactive "been dormant for more than 6 months"). If this project is approved, Hendersonville's recently approved rental units would total 1,975. However, of the 1,915 units approved over the last 4 years, only 103 of the units have been affordable units for residents making 30% to 80% AMI. It should also be noted that the Housing Needs Assessment Study does not account for the housing gap for incomes below 50% AMI. An additional gap, beyond that reflected in the "1,650 to 2,008-unit gap", exists for those income levels lower than 50% AMI.

General Rezoning Standards	5) Public Facilities	<p>Whether and the extent to which adequate public facilities and services such as water supply, wastewater treatment, fire and police protection and transportation are available to support the proposed amendment.</p>
		<ul style="list-style-type: none"> This development would be considered an infill development. It would utilize existing roadways and infrastructure. Water and sewer infrastructure are already present in Greenville Highway and Chadwick Ave. The site is already served by Hendersonville police and fire

<p style="writing-mode: vertical-rl; transform: rotate(180deg);">General Rezoning Standards</p>	<p>6) Effect on Natural Environment</p>	<p>Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment including but not limited to water, air, noise, storm water management, streams, vegetation, wetlands and wildlife.</p>
		<ul style="list-style-type: none"> • Blueline Stream: The most recent USGS seven-and-one-half minute quadrangle topographic maps covering the City of Hendersonville shows that this property has a blueline stream along the northeastern property boundary. The site plan does not currently show the required 30' stream buffer and 20' transitional area. The developer proposed a condition that states "...Based on the revision from the 2019 to the 2022 USGS quad maps the drainage feature now shows as a stream. Prior to the construction document phase developer shall have the surveyor complete a field survey of the existing drainage feature and have an environmental scientist complete a site assessment to determine if the stream is jurisdictional. The developer does not proposed to have any impacts with the stream and agrees to as much as possible clean up the stream and stabilize the stream banks within our property. In either case the developer is requesting the required stream buffers to be waived." • Mature Trees: There are a total of 60 trees that are 12" or greater DBH on the site. 12 of the existing trees are proposed to be preserved while 48 trees are slated for removal. The developer proposed the following condition "Developer shall provide tree protection during construction process. The proposed tree protection fence limits will not meet the code requirements of 1' for every 1" of tree diameter based on the existing impervious coverage and tight constraints of the site. Proposed tree protection will provide the maximum amount of tree protection as possible. Any preserved trees (large maturing or pine) counted towards credit that dies within 10 years will be re-planted with a single Genera Quercus (Oaks), Acer (Maples), or Carya (Hickories)." This condition was a counter to a Tree Board' recommended condition. • Floodplain: The subject site is completely outside of the special flood hazard areas. However, the site is approximately 31' from the 500 year floodplain boundary and approximately 53' from the 100 year floodplain boundary.

Planning Board Recommendation

The City of Hendersonville Planning Board made a motion recommending ***denial***, finding the petition to be consistent with the comprehensive plan but ***not*** finding it to be reasonable and in the public interest based on the information from the staff analysis and the public comments presented at their meeting on March 14th, 2024.

The Motion carried 4 to 2.

Planning Board: Comprehensive Plan Consistency Statement

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 petition aligns with the City's 2030 Comprehensive Plan's Goals because it encourages infill development in an area planned for high-intensity development, as indicated by its "Priority Infill Area" designation and because multi-family residential of 8 or more units per acre is a primary recommended land use for the High Intensity Neighborhood Designation.

Planning Board: Planning Board Reasonableness Statement

We do not 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:

[Rationale for Denial]

1. The proposed development proposes to remove 48 mature trees from the site while only maintaining 12 mature trees.
2. The project is not providing all required stream buffer and transitional area protections measures for a blueline stream identified in the most recent USGS seven-and-one-half minute quadrangle topographic maps

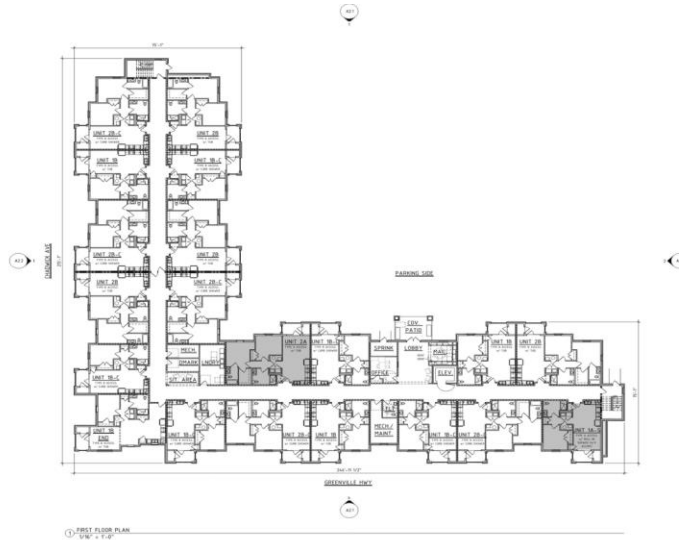
DRAFT: Planning Board Reasonableness Statement

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:

[Rationale for Approval]

1. The petition proposes to provide additional affordable housing to offset the large affordable local rental demand.
2. The petition proposes to provide affordable housing on a long vacant and underutilized piece of property near commercial corridors and is within walking distance to downtown.
3. The proposed project would be a reduction in permitted by right intensity for the subject property by going from a 70 unit, 3-4 story spilt market rate multi-family development to a 60 unit, 3 story affordable senior housing multi-family development.
4. The proposed development is the only LIHTC (Low Income Housing Tax Credit) project going through the tax credit process in the City of Hendersonville this cycle. If the project is approved and receives tax credits; the development would provide senior affordable housing as governed by North Carolina Housing Finance Agency requirements.





Noticing

+ Planning Board Sign:

- + Posted February 23, 2024
- + 20 days prior to the meeting.
- + The city shall prominently post a notice of the public hearing not less than ten nor more than 25 days prior to the date of the hearing. (Planning Board is not a "Public Hearing", City Council is). However, Staff uses the same timeline for both to remain consistent.

+ Planning Board Packet:

- + Sent to Planning Board- Thu 3/7/2024 2:51 PM
- + Was "live" on the City's website on Thu 3/7/2024 2:48 PM



Noticing

+ City Council Sign:

- + Posted March 22, 2024
- + 14 days prior to the meeting.
- + The city shall prominently post a notice of the public hearing not less than ten nor more than 25 days prior to the date of the hearing.



Traffic Impact Analysis

Traffic Impact Analysis	Approved Plan	Proposed Plan
Daily Trips	380 Trips/Day	209 trips/day
AM Peak	26	8
Pm Peak	33	11

Site Features Comparison

Site Features	Approved Plan	Proposed Plan
Use	Market Rate Multi-Family	Senior (55+ Low Income)
Rent	100% Market Rate	Max 80% AMI
R/W Dedication Greenville Hwy	0'	25'
R/W Dedication Chadwck	7.5'	25'
Building Gross Floor	117,600 SF	71,842 SF
Unit Count	70	60
Stream Buffer	0'	0'
Building Height	42'	36'-3"

The public hearing was opened at 6:51 p.m.

Sandy Williams of Chadwick Avenue is against the development by making traffic even worse than it already is.

Joseph Williams of Chadwick Avenue is against the development for the same reason his wife is.

Ken Fitch spoke via electronic Zoom and is against the development at this location.

Lynne Williams is against the development for numerous and various reasons and would be for it at another location.

The public hearing was closed at 7:16 p.m.

Council Member Jennifer Hensley moved that City Council adopt an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of the subject property (PIN: 9568-92-1924) from GHMU-CZD, Greenville Highway Mixed Use Conditional Zoning District to GHMU-CZD, Greenville Highway Mixed Use Conditional Zoning District, for the construction of 60 low income housing tax credit senior multi-family units based on the master site plan and list of conditions submitted by and agreed to by the applicant [revision dated 3-5-24] and presented at this meeting and subject to the following:

1. The development shall be consistent with the site plan, including the list of applicable conditions contained therein, and the following permitted uses

Permitted Uses:

1. Residential Dwellings, Multi-Family

2. *Permitted uses and applicable conditions presented on the site plan shall be amended to include:*

- I. *The developer is required to use pervious materials to construct the 10 parking spaces along the driveway entrance stem, due to their proximity to the blueline stream along the northeastern property boundary.*
- II. *The developer proposed condition listed on the site plan requesting the elimination of a loading and unloading space is denied and shall be stricken from the development plan. The developer shall reserve two parking spaces within the site for loading and unloading activities.*

3. *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 petition aligns with the City's 2030 Comprehensive Plan's Goals because it encourages infill development in an area planned for high-intensity development, as indicated by its "Priority Infill Area" designation and because multi-family residential of 8 or more units per acre is a primary recommended land use for the High Intensity Neighborhood Designation.

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:*

1. *The petition proposes to provide additional affordable housing to offset the large affordable local rental demand.*
2. *The petition proposes to provide affordable housing on a long vacant and underutilized piece of property near commercial corridors and is within walking distance to downtown.*
3. *The proposed project would be a reduction in permitted by right intensity for the subject property by going from a 70 unit, 3-4 story spilt market rate multi-family development to a 60 unit, 3 story affordable senior housing multi-family development.*
4. *The proposed development is the only LIHTC (Low Income Housing Tax Credit) project going through the tax credit process in the City of Hendersonville this cycle. If the project is approved and receives tax credits; the development would provide senior affordable housing as governed by North Carolina Housing Finance Agency requirements.*

A unanimous vote of the Council followed. Motion carried.

Ordinance #O-24-09

AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF HENDERSONVILLE FOR THE PARCEL POSSESSING PIN NUMBER: 9568-92-1924 BY CHANGING THE ZONING DESIGNATION FROM GHMU-CZD, GREENVILLE HIGHWAY MIXED USE CONDITIONAL ZONING DISTRICT TO GHMU-CZD, GREENVILLE HIGHWAY MIXED USE CONDITIONAL ZONING DISTRICT

IN RE: Parcel Number: 9568-92-1924
Address: 904 Greenville Highway

The Lofts at Chadwick: (File # P24-04-CZD)

WHEREAS, the City is in receipt of a Conditional Rezoning application from applicant, Stephen Drake (President), of Broadcraft Construction & Development Inc. and property owner, Brett Barry (Manager) of Gordon Dooley Holdings LLC., for the construction of 60 low income housing tax credit senior multi-family units on approximately 2.25 acres, and

WHEREAS, the Planning Board took up this application at its regular meeting on March 14th, 2024; voting 4-2 to not recommend City Council approve an ordinance amending the official zoning map of the City of Hendersonville, and

WHEREAS, City Council took up this application at its regular meeting on April 4th, 2024, and

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

1. Pursuant to Article XI of the Zoning Ordinance of the City of Hendersonville, North Carolina, the Zoning Map is hereby amended by changing the zoning designation of the following: Parcel Number: 9568-92-1924, changing the zoning designation from GHMU-

CZD, Greenville Highway Mixed Use Conditional Zoning District to GHMU-CZD, Greenville Highway Mixed Use Conditional Zoning District.

2. Development of the parcel pursuant to this Ordinance is subject to the following.
 - a. Development shall comply with the master site plan submitted by the applicant revision dated March 5th, 2024, including the conditions listed therein, and including modifications and additional conditions approved by City Council which shall be added to the site plan. The updated site shall be submitted to the City at or before the applicant's execution of this Ordinance.
 - b. Permitted uses shall include:
 - i. Residential, Multi-Family
 - c. Additions and modifications to conditions approved by City Council at their April 4th meeting that were not included on the March 5th 2024 master plan:
 - i. The developer is required to use pervious materials to construct the 10 parking spaces along the driveway entrance stem, due to their proximity to the blueline stream along the northeastern property boundary.
 - ii. The developer proposed condition listed on the site plan requesting the elimination of a loading and unloading space is denied and shall be stricken from the development plan. The developer shall reserve two parking spaces within the site for loading and unloading activities.
3. Except where modified by the terms of this Ordinance, development of the parcel(s) shall occur in accordance with the final site plan requirements of Article VII of the Zoning Ordinance of the City of Hendersonville, North Carolina.
4. Except where explicit relief is granted by the terms of this Ordinance, the development of the parcel(s) shall occur in accordance with all applicable standards within local ordinances and policies.

This ordinance shall be not be effective until the 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 this 4th day of April 2024.

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

~City Council took a 7 minute recess from 7:26 p.m. to 7:33p.m.~

B. Rezoning: Conditional Zoning District – Kid City USA (P23-066-CZD) – Lew Holloway, Community Development Director

Lew Holloway explained that the site plan highlights a desire to change the permitted use of an existing 11,441 square footage single story building which was most recently used as Blue Ridge Retirement Home at 913 9th Ave. W. 917 9th Ave. W. previously had a single family dwelling on it which has since been demolished. The subject property is made up of two individual parcels totaling 0.95 acres. The site plan shows no new building construction. The existing single story structure, which is approximately 11,441 sqft, remains, with the primary change to the site consisting of a revised parking layout. The parking reconfiguration utilizes the now vacant 917 parcel. The site plan is required to meet common open space requirements. Although not identified, the preliminary plan appears to meet that standard, a condition is included for confirmation. The site plan includes the preservation of 7 hardwoods along the northern boundary and 3 hardwoods along the southern boundary, including a 48" Oak & 60" Maple. The existing structure location requires relief from certain buffering standards along the northern and eastern edge of the property, the landscape plan illustrates the treatment proposed on these edges.

Kid City (P23-04-CZD)

Conditional Rezoning

City of Hendersonville City Council

April 4th, 2024

Community Development | Planning Division

Low Holloway | Director

+ Location:

- + 9569-40-2580 & 9569-40-3593
- + 913 & 917 9th Avenue West

+ Applicant/Owner:

- + David Lee (Applicant/Owner)

+ Existing Zoning: R-15

+ Proposed Zoning: PID-CZD

+ Acreage: 0.95 Acres

+ Proposed Use: Childcare Center

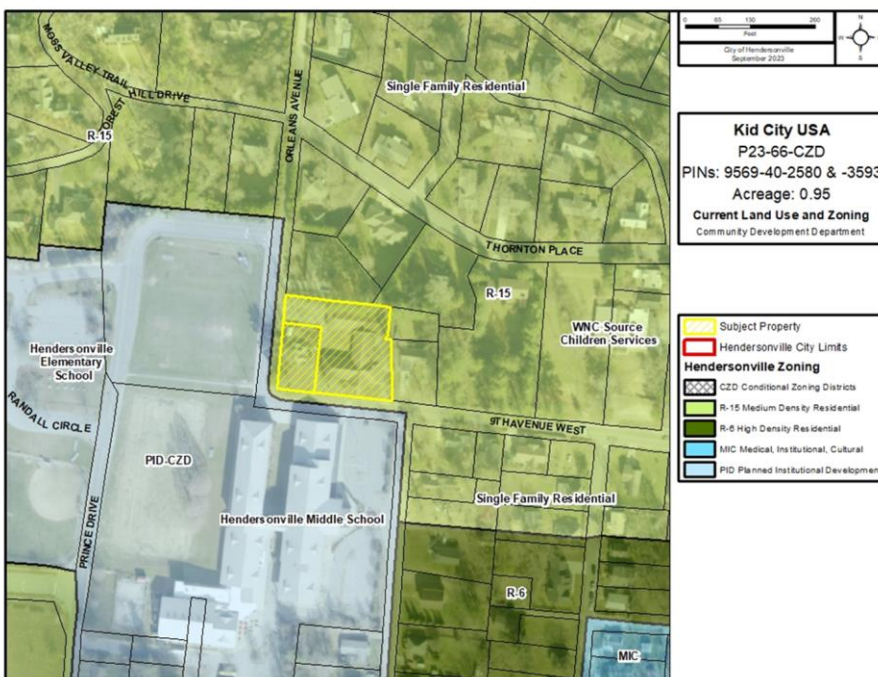
+ Project Details:

- + Reuse existing 11,441 square foot single story building, most recently occupied by Blue Ridge Retirement Home

+ Future Land Use Designation:

- + Medium Intensity Neighborhood

Project Background

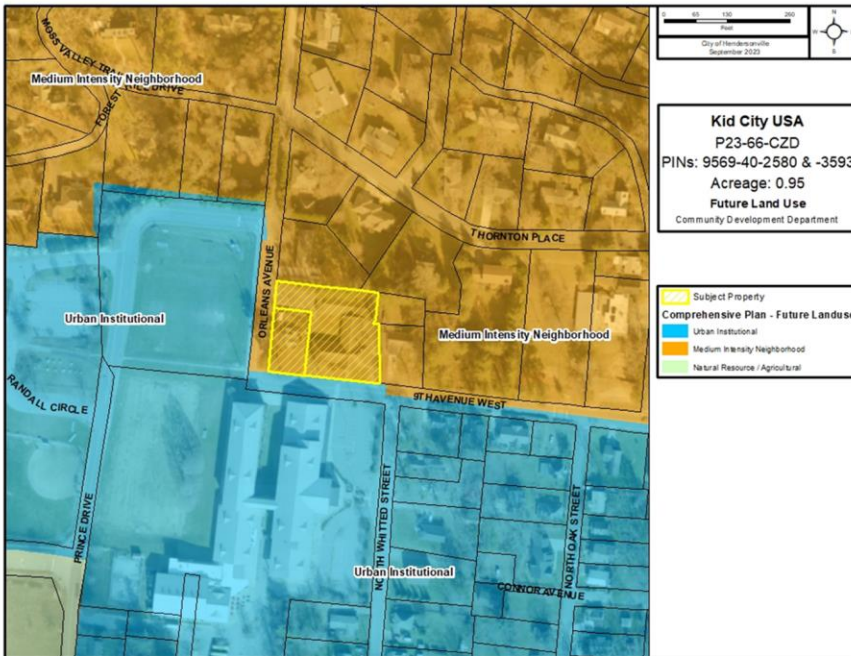


Current Land Use & Zoning

- + R- 15
- + PID-CZD
- + R-6
- + MIC



Site Photos



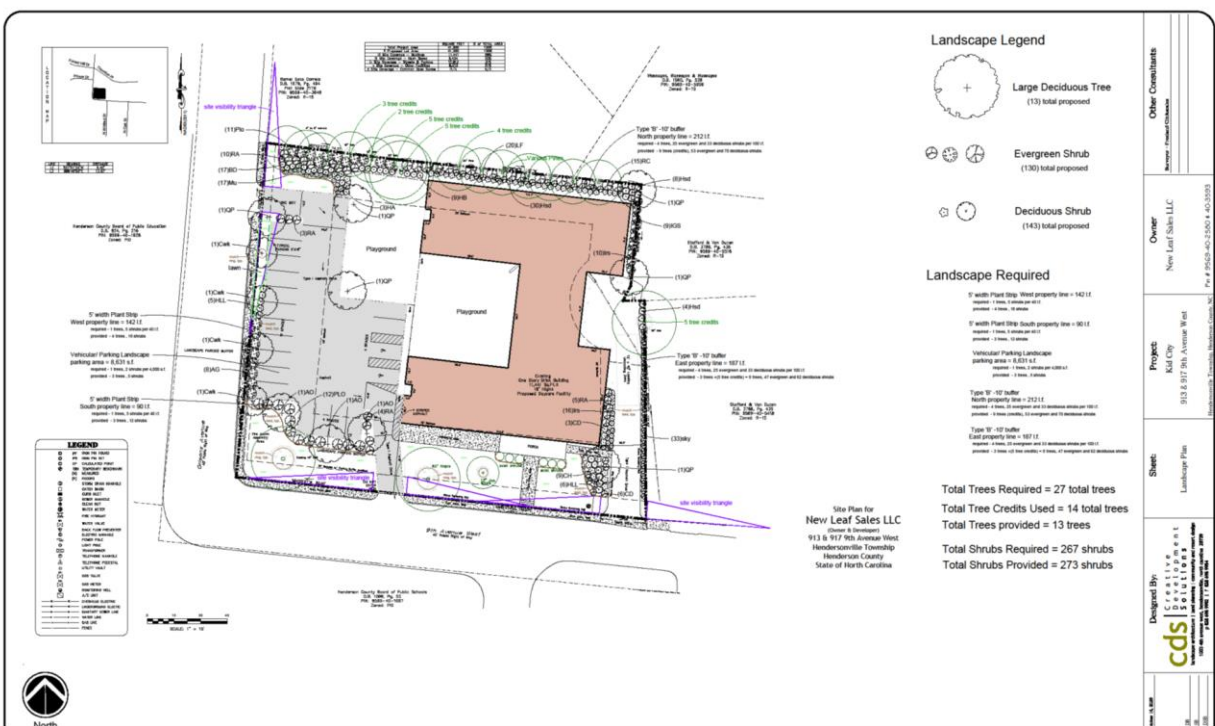
City of Hendersonville
September 2023

Kid City USA
P23-66-CZD
PINs: 9569-40-2580 & -3593
Acreage: 0.95
Future Land Use
Community Development Department

Subject Property
Comprehensive Plan - Future Landuse
Urban Institutional
Medium Intensity Neighborhood
Natural Resource / Agricultural

Future Land Use

- + Medium Intensity Neighborhood
- + Urban Institutional
- + Natural Resource/ Agricultural



Landscape Legend

- Large Deciduous Tree (13) total proposed
- Evergreen Shrub (130) total proposed
- Deciduous Shrub (143) total proposed

Landscape Required

- 5' width Plant Strip, West property line = 142 TL
 - 5' width Plant Strip, South property line = 90 TL
 - Vertical Parking Landscape parking area = 0.031 AL
 - Type W-102 buffer North property line = 212 TL
 - Type W-102 buffer East property line = 107 TL
 - Type W-102 buffer South property line = 107 TL
 - Type W-102 buffer West property line = 107 TL
- Total Trees Required = 27 total trees
Total Tree Credits Used = 14 total trees
Total Trees provided = 13 trees
- Total Shrubs Required = 267 shrubs
Total Shrubs Provided = 273 shrubs

Site Plan for
New Leaf Sales LLC
(Owner & Consultant)
913 & 917 9th Avenue West
Hendersonville Township
Henderson County
State of North Carolina

Other Consultants	
Owner	New Leaf Sales LLC
Project	Kid City 913 & 917 9th Avenue West
Sheet	Landscape Plan
Designed By	CRAIG L. BOYD
Drawn By	CRAIG L. BOYD
Checked By	CRAIG L. BOYD
Scale	AS SHOWN
Date	11/20/23

Proposed Conditions (Developer Agreed)

Developer Proposed Conditions :

1. Tree Protection

1. Developer shall provide tree protection during construction process. The proposed tree protection fence limits will not meet the code requirements of 1' for every 1" of tree diameter based on the existing impervious coverage and tight constraints of the site. Proposed tree protection will provide the maximum amount of tree protection as possible. **Counter to a Tree Board recommended condition.**
2. Invasive trees, shrubs and ground cover shall be removed, particularly English Ivy, throughout the site, especially for the trees that are preserved. Care shall be taken to not substantively disturb the root systems of preserved trees. Invasive trees and shrubs can be cut off at ground level and the stump treated to kill the roots. Control of English Ivy shall be confined to the recommendations found in the North Carolina Extension publication "Controlling English Ivy in Urban Landscapes".

2. Buffer Requirements

1. To allow the Type B buffer, which typically requires a 10' wide planting strip, to be reduced to accommodate existing building & driveway location and resulting spatial constraints along the northern and eastern property boundaries as shown on the site plan. **Addresses zoning ordinance requirement for buffer.**

Proposed Conditions (Developer Agreed)

City Proposed Conditions :

1. **Tree Board:** Invasive trees, shrubs and ground cover shall be removed, particularly English Ivy, throughout the site, especially for the trees that are preserved. Care shall be taken to not substantively disturb the root systems of preserved trees. Invasive trees and shrubs can be cut off at ground level and the stump treated to kill the roots. Control of English Ivy shall be confined to the recommendations found in the North Carolina Extension publication "Controlling English Ivy in Urban Landscapes".
2. **Tree Board:** Oak trees are part of a group of native plants known as Keystone Plants which are defined as plants critical to the food web and necessary for many wildlife species to complete their life cycle. Since this development will be removing 35 oak trees, it is the Tree Board's recommendation that where required large maturing or canopy trees are to be planted, species of the genera Quercus (oaks), Acer (maples), and Carya (hickories) be used.

Rezoning Standards: Article 11; Section 4

- +Comprehensive plan consistency
- +Compatibility with surrounding uses
- +Changed conditions
- +Public interest
- +Public facilities
- +Effect on the natural environment

+ Full details provided in Staff Report

Neighborhood Compatibility Meeting

- + **Dates:** August 30th, 2023
- + **Attendees:**
 - + In-person - 7 residents (3 staff; 2 applicants)
 - + Online - 3 residents
- + **Topics Discussed:**
 - + Staffing Centers; difficulty of doing so.
 - + Rates for attending
 - + Traffic impacts from additional facilities in area.

+ Specifically with regards to Thorton Place and Orleans Ave.



Noticing

- + **Planning Board Sign:**
 - + Posted February 23, 2024
 - + 20 days prior to the meeting.
 - + The city shall prominently post a notice of the public hearing not less than ten nor more than 25 days prior to the date of the hearing. (Planning Board is not a "Public Hearing", City Council is). However, Staff uses the same timeline for both to remain consistent.
- + **Planning Board Packet:**
 - + Sent to Planning Board- Thu 3/7/2024 2:51 PM
 - + Was "live" on the City's website on Thu 3/7/2024 2:48 PM



Planning Board Meeting

- + **Dates:** March 14th, 2024
- + **Board:**
 - + The Planning Board, Jim Robertson (Chair), Peter Hanley, Laura Flores, Donna Waters, Tamara Peacock, Yolanda Robinson and Chauncey Whiting, voted 7-0 to recommend **approval** of this petition.

PB Recommended Comprehensive Plan Consistency Statement

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 petition aligns with the City's 2030 Comprehensive Plan's Goals for the "Medium Intensity Neighborhood" Future Land Use Designation to provide local and public and institutional uses.

Planning Board Recommended Reasonableness Statement

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:

[Rationale for Approval]

1. The proposed rezoning includes no new construction but enhances existing site parking.
2. The proposed site plan includes compliance with landscaping standards, existing tree preservation and enhanced site buffering to adjacent residential uses.
3. The proposed use meets a community need for additional childcare options for working parents.

The applicant, David Lee, spoke to Council and said he has five children and now five grandchildren and he's watched his kids struggle to find child care that they can reasonably afford, so I was excited when we could purchase this building and partner with Kid City USA. We're serving from 6 months old to six years old, basically preschool years. I hope you will consider approving this project as we desperately need it.

The public hearing was opened at 7:50 p.m.

Public comments:

Via Zoom: Ken Fitch spoke in approval of the project.

The public hearing was closed at 7:52 p.m.

Council Member Lyndsey Simpson moved that City Council adopt an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of the subject property (PIN: 9569-40-2580 and 9569-40-3593) from R-15, Medium Density Residential, to PID-CZD, Planned Institutional Development Conditional Zoning District, for the rehabilitation and reuse of an existing 11,441 sqft commercial building as Childcare Center based on the master site plan and list of conditions submitted by and agreed to by the applicant, [revision dated 10-16-24] and presented at this meeting and subject to the following:

1. The development shall be consistent with the site plan, including the list of applicable conditions contained therein, and the following permitted uses

Permitted Uses:

1. Childcare Center

2. 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 petition aligns with the City's 2030 Comprehensive Plan's Goals for the "Medium Intensity Neighborhood" Future Land Use Designation to provide local and public and institutional uses.

3. 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:

- 1. The proposed rezoning includes no new construction but enhances existing site parking.*
- 2. The proposed site plan includes compliance with landscaping standards, existing tree preservation and enhanced site buffering to adjacent residential uses.*
- 3. The proposed use meets a community need for additional childcare options for working parents.*

A unanimous vote of the Council followed. Motion carried.

Ordinance #O-24-10

AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF HENDERSONVILLE FOR THE PARCELS POSSESSING PIN NUMBERS: 9569-40-2580 & 9569-40-3593 BY CHANGING THE ZONING DESIGNATION FROM R-15, MEDIUM DENSITY RESIDENTIAL TO PID-CZD, PLANNED INSTITUTIONAL DEVELOPMENT CONDITIONAL ZONING DISTRICT

IN RE: Parcel Numbers: 9569-40-2580 & 9569-40-3593
Address: 913 9th Avenue West

Kid City USA: (File # P23-066-CZD)

WHEREAS, the City is in receipt of a Conditional Rezoning application from applicant/owner, David Lee (President), New Leaf Sales LLC, for the rehabilitation of an existing 11,441 sq. ft commercial building on approximately 0.95 acres, and

WHEREAS, the Planning Board took up this application at its regular meeting on March 14th, 2024; voting 0-0 to recommend/not recommend City Council approve an ordinance amending the official zoning map of the City of Hendersonville, and

WHEREAS, City Council took up this application at its regular meeting on April 4th, 2024, and

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

2. Pursuant to Article XI of the Zoning Ordinance of the City of Hendersonville, North Carolina, the Zoning Map is hereby amended by changing the zoning designation of the following: Parcel Numbers: 9569-40-2580 & 9569-40-3593, changing the zoning designation from R-15, Medium Density Residential to PID-CZD, Planned Institutional Development Conditional Zoning District.
2. Development of the parcel pursuant to this Ordinance is subject to the following.
 - d. Development shall comply with the master site plan submitted by the applicant revision dated October 16, 2023, including the conditions listed therein, [and/or as modified and presented to City Council][and/or including modifications approved by City Council which shall be added to the site plan. The updated site shall be submitted to the City at or before the applicant's execution of this Ordinance].
 - e. Permitted uses shall include:
 - i. Childcare Center
 - f. Additional conditions that shall be satisfied prior to final site plan approval include:
 - i. Developer requests that the Type B buffer, which typically requires a 10' wide planting strip, be reduced to accommodate existing building and driveway location and resulting spatial constraints along the northern and eastern property boundaries as shown on the site plan dated October 16th, 2023.
3. Except where modified by the terms of this Ordinance, development of the parcel(s) shall occur in accordance with the final site plan requirements of Article VII of the Zoning Ordinance of the City of Hendersonville, North Carolina.
4. Except where explicit relief is granted by the terms of this Ordinance, the development of the parcel(s) shall occur in accordance with all applicable standards within local ordinances and policies.

This ordinance shall be not be effective until the 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 this 4th day of April 2024

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

C. Zoning Text Amendment: Updates to Childcare Home and Child Care Center (P23-99-ZTA) – Matthew Manley AICP Strategic Projects Manager

Matt Manley explained as part of the budget bill, NC General Statute 110-8 and NC General Statute 110-91 revised the definition and capacity for “family child care homes”. This revision increased the maximum capacity of children a family child care home operator is permitted to

serve. The new standards exceed what is currently permitted under the City's Zoning Ordinance. Both family child care homes and child care centers are required to be licensed by the Division of Child Development and Early Education within the NC Department of Health and Human Services. Part of the process to obtain a license requires that the child care facility (home or center) comply with all local ordinances. This proposed zoning text amendment would align with these licensing requirements and allow child care home operators the ability to increase the maximum capacity of children thereby increasing child care options within the city. Staff is also proposing to amend the definition for 'Child Care Center' to align with the state statute definition and capacity requirements. After reviewing the revisions made to family child care homes, staff also reviewed the existing state statutes for child care centers and determined that the current zoning ordinance definition should also be updated to reflect the state definition and capacity requirements for child care centers. For these reasons, staff is proposing to amend the current definition for "child care homes" to meet the revised standards of NCGS 110-86(3)b. and NCGS 110-91(7); and to amend the current definition for "child care center" to align with the state statute definition and state capacity requirements for child care facilities. At their meeting on March 14th, 2024, Planning Board supported the staff recommendations voting unanimously to recommend approval of the proposed zoning text amendment.

ALIGNING CHILD CARE HOMES AND CHILD CARE CENTERS WITH STATUTE (P23-99-ZTA)

Zoning Text Amendment

City of Hendersonville City Council
April 4, 2024

Community Development | Planning Division
Matthew Manley, AICP | Strategic Projects Manager



Project Background

- + **Applicant:** City of Hendersonville
- + **Zoning Ordinance Articles Amended:**
 - + 12-2-2: [Child Care Center](#)
 - + 12-2-2: [Child Care Home](#)
- + **Proposed Changes:**
 - + Staff is proposing to amend the definition for "[Child Care Home](#)" to align with the state statute definition and capacity requirements for [Child Care Homes](#).
 - + Staff is also proposing to amend the definition for "[Child Care Center](#)" to better align with the state statute definition and capacity requirements for [Child Care Centers](#).
- + **Rationale:**
 - + To provide property owners, businesses, and the community continued transparency and better customer service via accurate and complete information
- + **Planning Board:** Unanimous Support



Staff Recommended Changes: Section 12-2

12-2-2 Child Care Home.

Child Care Home: A facility run by an individual that provides supervision or care on a regular basis in the individual's home where at any one time, more than two children, but less than 10 children, receive child care, provided the arrangement is in accordance with the requirements under G.S. 110-91(7)(b), for not more than six children, who are not related by blood or marriage to, and who are not the legal wards or foster children of, the supervising adult.

12-2-2 Child Care Center.

Child Care Center: An individual, agency or organization, located within a commercial facility, providing supervision or care on a regular basis to three or more preschool-age children or nine or more school-age children receiving child care per G.S. 110-91(7)a, more than six children, who are not related by blood or marriage to, and who are not the legal wards or foster children of, the supervising adult.



Priority

+ Child Care Homes/Centers were not included in the ZTA Priority List rankings

Legislative Committee

+ Proposed language for Child Care Homes / Centers were not brought to the Legislative Committee for review.

1) COMPREHENSIVE PLAN CONSISTENCY	Land Use & Development	The Land Use and Development element analyzes existing development patterns and recommends land uses and development standards for future growth and redevelopment in all areas of the City and Extra-Territorial Jurisdiction (ETJ). This element also recommends areas for future expansion of the ETJ. The framework for land use policies and decision making in this element reflects the vision statements, principles and strategies of all elements of the 2030 Comprehensive Plan.
	Population & Housing	The Population & Housing element of the 2030 Comprehensive Plan identifies and analyzes existing and forecasted housing needs in Hendersonville. This chapter of the plan is concerned with identifying standards and programs for the elimination of substandard dwelling conditions, the improvement of housing quality, variety and affordability, and with the provision of adequate sites for housing.
	Natural & Environmental Resources	The Natural and Environmental Resources element of the 2030 Comprehensive Plan creates a framework for the preservation of sensitive natural areas, working lands and ecological systems in concert with future development. Preserving these features will help to sustain air and water resources and contribute to the health and quality of life of Hendersonville residents. Additionally, the concepts presented in the chapter are intended to facilitate the preservation of the natural character that defines Hendersonville's identity.

1) COMPREHENSIVE PLAN CONSISTENCY	Cultural & Historic Resources	The Cultural and Historic Resources element of the 2030 Comprehensive Plan provides an inventory of Hendersonville's existing cultural and historic resources and opportunities and recommends strategies to preserve and supplement these resources. Historic districts and landmarks connect residents to Hendersonville's past and contribute to the community's uniqueness. Maintaining and building upon these resources as the community grows will help to create an enduring identity and sense of place in Hendersonville.
	Community Facilities	The Community Facilities element of the 2030 Comprehensive Plan provides and analysis of Hendersonville's existing public facilities and services such as schools, parks and public safety, and identifies community needs in each area. This element provides a vision to efficiently use public facilities, meet long term public safety needs and provide residents with ample park and recreation amenities and opportunities.
	Water Resources	The Water Resources element of the 2030 Comprehensive Plan provides policies to maintain and improve the quality of water, stormwater and wastewater facilities in a sustainable, efficient manner as the community grows.
	Transportation & Circulation	The Transportation and Circulation element of the 2030 Comprehensive Plan classifies and analyzes performance of existing roadways, bicycle routes and other modes of transportation, while providing direction for future improvements in all modes of travel. Analysis and recommendations reflect coordination the Land Use and Development element of the 2030 Comprehensive Plan, ensuring that transportation and land use decisions are not made in isolation.

GENERAL AMENDMENT STANDARDS

2) Compatibility	Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject property -
	The proposed text amendment is compatible with existing <u>child care</u> homes and <u>child care</u> centers in the City. Currently <u>Child Care</u> Homes are permitted in all Residential and Mixed-Use Zoning Districts. <u>Child Care</u> Centers are permitted in all Non-residential and Mixed-Use Zoning Districts.
3) Changed Conditions	Whether and the extent to which there are changed conditions, trends or facts that require an amendment -
	There has been an increased demand for <u>child care</u> options within the City and the proposed text amendment would help address those demands for both residents and the workforce.

4) Public Interest	Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern that benefits the surrounding neighborhood, is in the public interest and promotes public health, safety and general welfare -
	The proposed text amendment aligns with the public interest in that it addresses an increased need for <u>child care</u> within the City. It also aligns local regulations with state regulations. Both <u>child care</u> centers and <u>child care</u> home are required to comply with all state, federal, and local ordinances that pertain to child health, safety and welfare.
5) Public Facilities	Whether and the extent to which adequate public facilities and services such as water supply, wastewater treatment, fire and police protection and transportation are available to support the proposed amendment -
	There are not any direct connections between this text amendment and public facilities.
6) Effect on Natural Environment	Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment including but not limited to water, air, noise, storm water management, streams, vegetation, wetlands and wildlife -
	There are not any direct connections between this text amendment and the environment/natural resources.

Planning Board

+ March 14, 2024

+ Voted 7-0 to recommend approval

Planning Board Consistency Statement

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 petition aligns with the Comprehensive Plan's Strategy LU-3.5. of minimizing negative impacts from growth and land use changes on existing land uses by reflecting current and ongoing trends in the community concerning the need for more child care services within the City.*

Planning Board Rationale for Approval

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 proposed text amendment aligns with the state licensing requirements for child home care and child care centers.*
- *The proposed text amendment allows existing and future child care facilities to increase their child home care capacity and thereby increasing the child care opportunities within the City.*

The public hearing was opened at 8:01 p.m.

There were no public comments.

The public hearing was closed at 8:01 p.m.

Council Member Jeff Miller moved that City Council adopt an ordinance amending the official City of Hendersonville Zoning Ordinance, Section 12-2-2, Child care home and Section 12-2-2 Child care center, based on the following:

1. 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 petition aligns with the Comprehensive Plan's Strategy LU-3.5. minimizing negative impacts from growth and land use changes on existing land uses by reflecting current and ongoing trends in the community concerning the need for more childcare services within the City.

2. We [find] this petition, in conjunction with the recommendations presented by staff, to be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because:

- 1. The proposed text amendment aligns with the state licensing requirements for child home care and childcare centers.***
- 2. The proposed text amendment allows existing and future childcare facilities to increase their child home care capacity and thereby increasing the child care opportunities within the City.***

A unanimous vote of the Council followed. Motion carried.

Ordinance #O-24-11

AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND THE OFFICIAL ZONING ORDINANCE, SECTION 12-2-2 CHILD CARE HOME AND SECTION 12-2-2 CHILD CARE CENTER

WHEREAS, the Planning Board took up this application at its regular meeting on March 14th, 2024; voting 7-0 to recommend City Council adopt an ordinance amending the official zoning map of the City of Hendersonville, and

WHEREAS, City Council took up this application at its regular meeting on April 4, 2024, and

WHEREAS, the proposed amendment is intended to not duplicate regulations enforced by other agencies and to keep the requirements up to date and reflective of current trends; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Hendersonville, North Carolina that Section 12-2-2 Child Car Home and Section 12-2-2 Child Care Center of the Zoning Ordinance of the City of Hendersonville be amended as follows:

12-2-2 Child Care Home.

Child care home: A facility run by an individual that provides supervision or care on a regular basis in the individual's home where at any one time, more than two children, but less than 10 children, receive child care, provided the arrangement is in accordance with the requirements under G.S. 110-91(7)(b). ~~for not more than six children who are not related by blood or marriage to, and who are not the legal wards or foster children of, the supervising adult.~~

12-2-2 Child Care Center.

Child care center: An individual, agency or organization, located within a commercial facility, providing supervision or care on a regular basis to three or more preschool-age children or nine or more school-age children receiving child care. ~~more than six children who are not related by blood or marriage to, and who are not the legal wards or foster children of, the supervising adult per G.S. 110-91(7).~~

Adopted by the City Council of the City of Hendersonville, North Carolina on this 4th day of April, 2024.

/s/Barbara G. Volk, Mayor

Attest: /s/Jill Murray, City Clerk

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

D. Annexation: Enclave on W. Park Avenue (C24-11-ANX) – Matthew Manley, AICP/Special Projects Manager

Matt Manley explained that the City of Hendersonville has received a petition from Eric Oursler, Nichole Oursler, and Ourco Construction Company LLC for satellite annexation of PINs 9577-27-2609, 9577-27-0679, 9577-17-9673, 9577-27-0588, 9577-27-2529 located off Greenville Highway on W. Park Avenue and is approximately 1.62 acres. On March 7th, 2024, City Council accepted the City Clerk's Certificate of Sufficiency for the petition submitted by Eric Oursler, Nichole Oursler, and Ourco Construction Company LLC and set April 4th, 2024, as the date for the public hearing. The proposed project for this property, The Enclave on West Park, is a 5-lot subdivision on a private drive. The subdivision and site plan were processed and approved under Henderson County standards. The County's approval was contingent upon connection to City sewer infrastructure. By policy, the City requires that a property owner petition for annexation in order to be granted authority to connect to sewer facilities. According to staff analysis, the project would generate a slightly above average cost of service value per acre when taking into account the provision of city services, travel distance, and density. Additional considerations include that the subdivision and site plan approvals were not processed according to City standards and that the development will feature a private drive that could be requested to be maintained by the City at some point in the future.

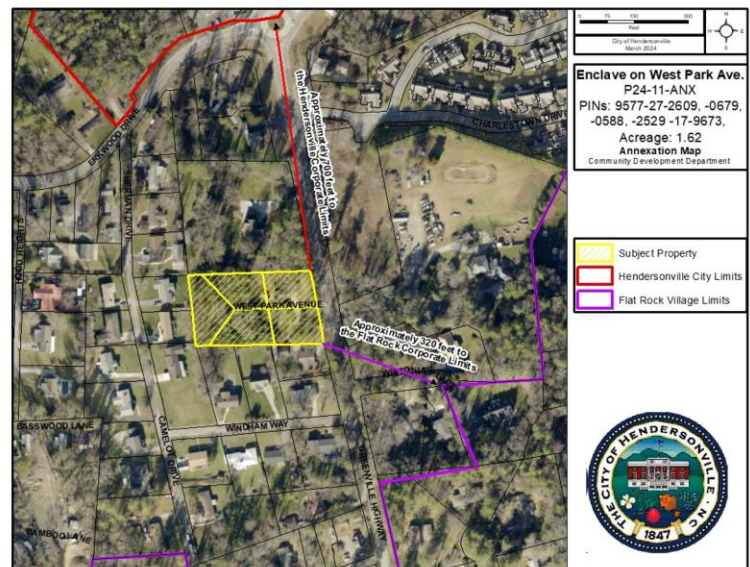
Enclave on West Park (C23-11-ANX) Satellite Annexation Petition

City of Hendersonville City Council April 4th, 2024

Community Development | Planning Division
Matthew Manley, AICP | Strategic Projects Manager

Background

- + **Petitioner:**
 - + Eric Oursler / Ourco Construction Company
 - + Nichole Oursler
- + **PINs:**
 - + 9577-27-2609, 9577-27-0679, 9577-17-9673, 9577-27-0588, 9577-27-2529
- + **Acreege:**
 - + Approximately 1.62 acres



Background

- + **Additional Considerations:**
 - + Slightly Above Average Cost of Service Value
 - + Approved under County Development Standards
 - + Private Street
 - + Complicates provision of City Services

Cost of Services Analysis	
Assessed Value	Avg. Distance (miles)
30,684,470	1.59
Net Tax Rev. +/-	Equiv. Pennies
150,354	0.52

Modified Cost of Service Value per Acre	Net Tax Revenue Per Acre
282,803	1,386



CITY OF HENDERSONVILLE

Water and Sewer System Development Fees



April 4, 2024

System Development Fees (SDFs)

- Fees assessed to new development for water and sewer capacity.
- SDFs recover costs necessary for expansion and additional capacity - “Growth pays for Growth”
- Lack of SDFs places the full cost of infrastructure capacity on existing ratepayers
- SDFs should be viewed as a mechanism to ensure the equitable distribution of cost responsibilities between existing and future utility customers

Residential Calculated SDFs

Dwelling Heated Sq Ft	Calculated Water SDF	Calculated Wastewater SDF	Combined SDF
<1000	\$1,247	\$2,048	\$3,295
1,000 - 1,500	\$1,332	\$2,188	\$3,519
1,501 - 2,000	\$1,359	\$2,233	\$3,592
2,001 - 2,500	\$1,443	\$2,370	\$3,813
2,501 - 3,000	\$1,500	\$2,465	\$3,965
3,001 - 3,500	\$1,613	\$2,650	\$4,263
3,501 - 4,000	\$1,724	\$2,833	\$4,558
4,000+	\$1,992	\$3,273	\$5,265
Multi-Family (per unit)	\$894	\$1,469	\$2,364
Mobile Home Park (per unit)	\$1,399	\$2,299	\$3,699

Non-Residential Calculated SDFs

Meter Size	Calculated Water SDF	Calculated Wastewater SDF	Combined SDF
3/4"	\$2,494	\$4,097	\$6,591
1"	\$4,156	\$6,828	\$10,984
1 1/2"	\$8,312	\$13,657	\$21,969
2"	\$13,300	\$21,850	\$35,150
3"	\$29,093	\$47,798	\$76,891
4"	\$52,368	\$86,036	\$138,405
6"	\$108,062	\$177,535	\$285,597
8"	\$232,748	\$382,383	\$615,131
10"	\$349,122	\$573,575	\$922,697

Implementation Options

Many projects across the utility service area are in various stages of the development process...

Implementation Options:

1. Adopt with an effective date of April 4, 2024.
2. Adopt with a delayed effective date (July 1, 2024) to allow for new development projects nearing completion reasonable time to apply for utility service, pay meter/tap fee, AND apply for building permit(s).
3. Implement SDFs in phased percentage increments over time.

Process and Engagement

Group	Action	Date
Staff	SDF written analysis begins	9/7/2022
Water & Sewer Advisory Committee	SDF 101 presentation	10/24/2022
City Council	SDF 101 presentation	10/26/2022
City Council	Initial results presentation	4/26/2023
Business Advisory Committee	Presentation	7/10/2023
Water & Sewer Advisory Committee	Presentation	7/24/2023
City Council	Presentation	8/23/2023
Business Advisory Committee	Final Presentation & board recommendations	10/9/2023
Water & Sewer Advisory Committee	Final Presentation & board recommendations	10/23/2023
City Council	Final Presentation & council recommendations	10/25/2023
Public	Written analysis available for public comment	11/1/2023 - 12/18/2023
Chamber of Commerce-Public Policy Committee	Presentation	12/14/2023
City Council	Public Hearing	3/7/2024

Reduced SDF

	100%			75%			50%			25%		
	Water	Wastewater	Combined	Water	Wastewater	Combined	Water	Wastewater	Combined	Water	Wastewater	Combined
RESIDENTIAL												
<1000 sq ft	\$1,247	\$2,048	\$3,295	\$935	\$1,536	\$2,471	\$624	\$1,024	\$1,648	\$312	\$512	\$824
1,000 - 1,500 sq ft	\$1,332	\$2,188	\$3,519	\$999	\$1,641	\$2,639	\$666	\$1,094	\$1,760	\$333	\$547	\$880
1,501 - 2,000 sq ft	\$1,359	\$2,233	\$3,592	\$1,019	\$1,675	\$2,694	\$680	\$1,117	\$1,796	\$340	\$558	\$898
2,001 - 2,500 sq ft	\$1,443	\$2,370	\$3,813	\$1,082	\$1,778	\$2,860	\$722	\$1,185	\$1,907	\$361	\$593	\$953
2,501 - 3,000 sq ft	\$1,500	\$2,465	\$3,965	\$1,125	\$1,849	\$2,974	\$750	\$1,233	\$1,983	\$375	\$616	\$991
3,001 - 3,500 sq ft	\$1,613	\$2,650	\$4,263	\$1,210	\$1,988	\$3,197	\$807	\$1,325	\$2,132	\$403	\$663	\$1,066
3,501 - 4,000 sq ft	\$1,724	\$2,833	\$4,558	\$1,293	\$2,125	\$3,419	\$862	\$1,417	\$2,279	\$431	\$708	\$1,140
4,000+ sq ft	\$1,992	\$3,273	\$5,265	\$1,494	\$2,455	\$3,949	\$966	\$1,637	\$2,633	\$498	\$818	\$1,316
Multi-Family (per unit)	\$894	\$1,469	\$2,364	\$671	\$1,102	\$1,773	\$447	\$735	\$1,182	\$224	\$367	\$591
Mobile Home Park (per unit)	\$1,399	\$2,299	\$3,699	\$1,049	\$1,724	\$2,774	\$700	\$1,150	\$1,850	\$350	\$575	\$925
NON-RESIDENTIAL												
3/4" meter	\$2,494	\$4,097	\$6,591	\$1,871	\$3,073	\$4,943	\$1,247	\$2,049	\$3,296	\$624	\$1,024	\$1,648
1" meter	\$4,156	\$6,828	\$10,984	\$3,117	\$5,121	\$8,238	\$2,078	\$3,414	\$5,492	\$1,039	\$1,707	\$2,746
1 1/2" meter	\$8,312	\$13,657	\$21,969	\$6,234	\$10,243	\$16,477	\$4,156	\$6,829	\$10,985	\$2,078	\$3,414	\$5,492
2" meter	\$13,300	\$21,850	\$35,150	\$9,975	\$16,388	\$26,363	\$6,650	\$10,925	\$17,575	\$3,325	\$5,463	\$8,788
3" meter	\$29,093	\$47,798	\$76,891	\$21,820	\$35,849	\$57,668	\$14,547	\$23,899	\$38,446	\$7,273	\$11,950	\$19,223
4" meter	\$52,368	\$86,036	\$138,405	\$39,276	\$64,527	\$103,804	\$26,184	\$43,018	\$69,203	\$13,092	\$21,509	\$34,601
6" meter	\$108,062	\$177,535	\$285,597	\$81,047	\$133,151	\$214,198	\$54,031	\$88,768	\$142,799	\$27,016	\$44,384	\$71,399
8" meter	\$232,748	\$382,383	\$615,131	\$174,561	\$286,787	\$461,348	\$116,374	\$191,192	\$307,566	\$58,187	\$95,596	\$153,783
10" meter	\$349,122	\$573,575	\$922,697	\$261,842	\$430,181	\$692,023	\$174,561	\$286,788	\$461,349	\$87,281	\$143,394	\$230,674

Reduced SDF – Revenue Projections

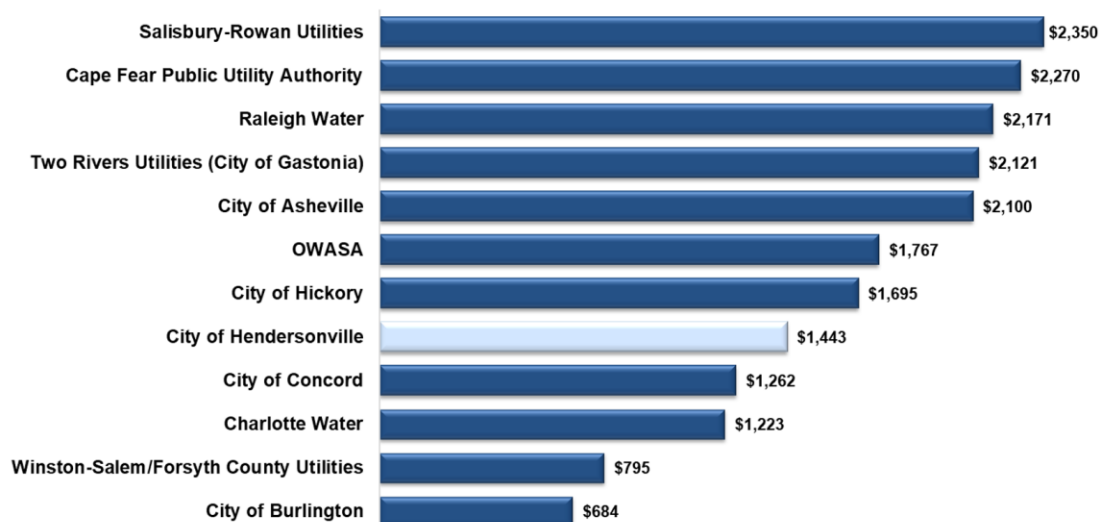
	100%			75%			50%			25%		
	Water	Wastewater	Combined	Water	Wastewater	Combined	Water	Wastewater	Combined	Water	Wastewater	Combined
Projected Annual SDF Revenue	\$ 1,420,000.00	\$ 1,360,000.00	\$ 2,780,000.00	\$ 1,065,000.00	\$ 1,020,000.00	\$ 2,085,000.00	\$ 710,000.00	\$ 680,000.00	\$ 1,390,000.00	\$ 355,000.00	\$ 340,000.00	\$ 695,000.00
Conservative Annual SDF Revenue	\$ 596,000.00	\$ 545,000.00	\$ 1,141,000.00	\$ 447,000.00	\$ 408,750.00	\$ 855,750.00	\$ 298,000.00	\$ 272,500.00	\$ 570,500.00	\$ 149,000.00	\$ 138,250.00	\$ 285,250.00

Projected Annual Revenue: 50% of current projects in development process are completed

Conservative Annual Revenue: 20% of current projects in development process are completed

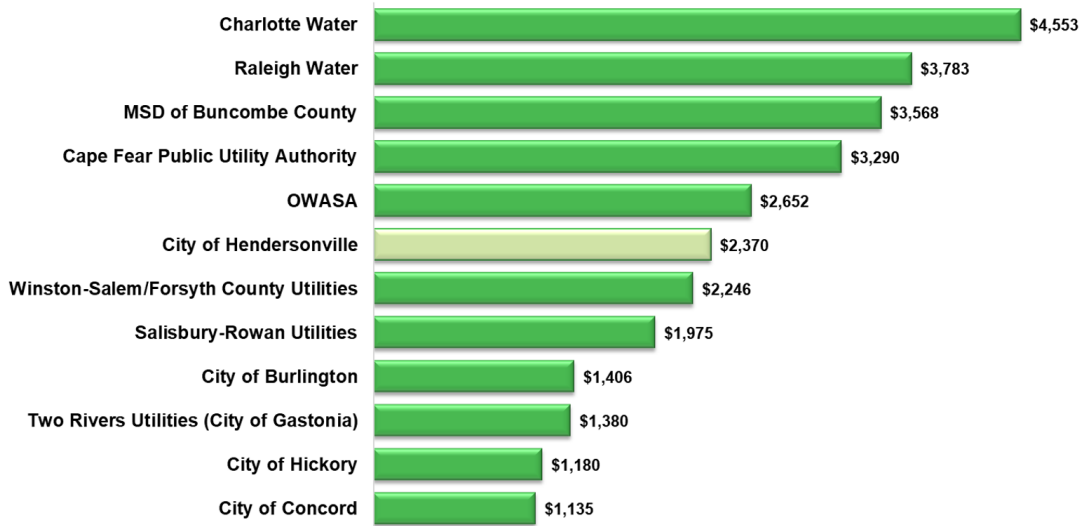
Water SDF – Residential Comparison

Figure 3.1 - Water System Development Fees (Residential 2,100 Sq. Ft.)



Sewer SDF – Residential Comparison

Figure 3.2 - Sewer System Development Fees (Residential 2,100 Sq. Ft.)



MSD of Buncombe County: - Multi-Family per unit \$2,390 (67% of single family)

After much discussion, consensus of Council was to direct staff to make changes to the SDF ordinance to implement a phased approach and bring it back to the meeting in May for a vote. No motion was made.

B. Zoning Text Amendment: Tree Canopy Preservation & Enhancement (P24-08-ZTA) – Lew Holloway, Community Development Director

Lew Holloway recapped the tree canopy and preservation enhancement and shared the following PowerPoint presentation.

TREE CANOPY PRESERVATION & ENHANCEMENT
(P24-08-ZTA)

Zoning Text Amendment

City of Hendersonville City Council
April 4th, 2024

Community Development | Planning Division
Lew Holloway | Community Development Director

Project Background

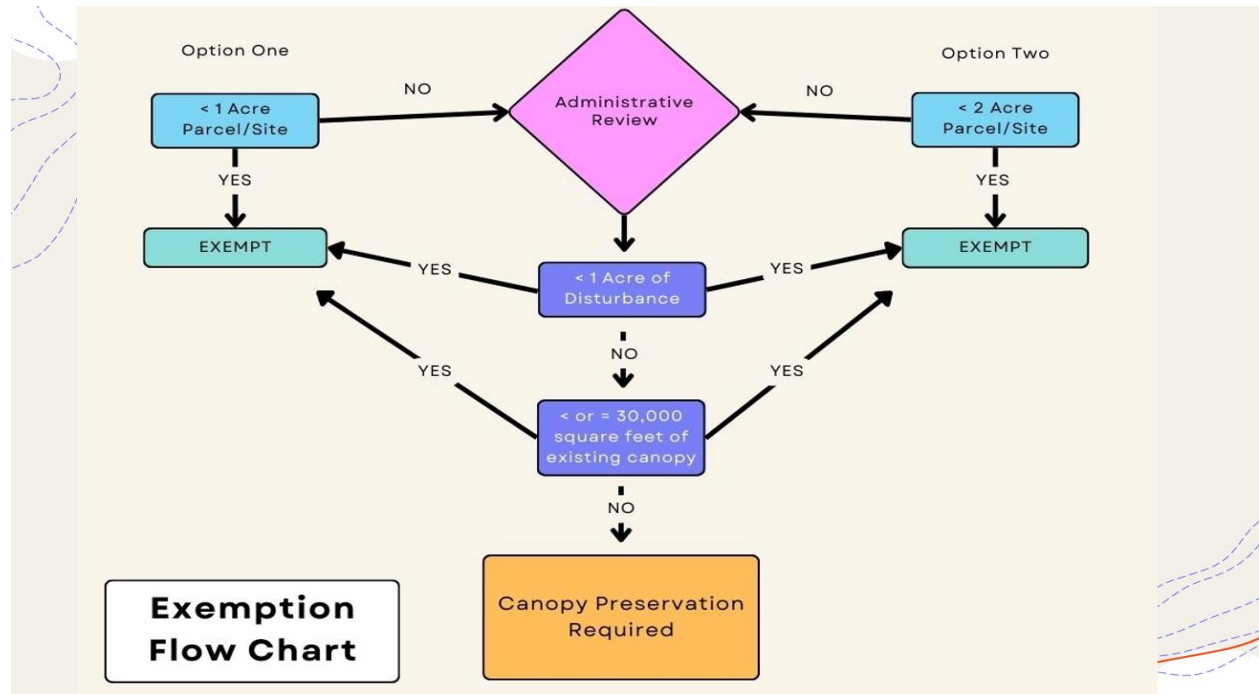
- + **Applicant:** City of Hendersonville
- + **Zoning Districts Impacted:** Applies to Various Zoning Districts dependent on type and scale of development.
- + **Proposed Changes:**
 - + Establishes Tree Canopy Preservation standards for new residential and commercial development.
 - + Establishes new planting requirements for Common Open Space and Open Space.
 - + Establishes Street Tree requirements applicable to new development and certain redevelopment projects.
 - + Establishes requirements for planting Native Species.
 - + Makes changes to vehicular use area planting requirements, increasing total plantings required while also enhancing flexibility around planting locations.
 - + Makes various changes to submittal requirements and administrative duties to accommodate the enforcement of the new ordinance requirements.

Remaining Points of Discussion

Exemption Standard

Option 1: Exempt parcels and project sites which are “less than 1 acre” in size.

Option Two: Exempt parcels and project sites which are “less than 2 acres” in size.



Remaining Points of Discussion

Tree Board Role

Option 1: Remove the Tree Board from the Conditional Zoning District review process.

Option Two: Leave the Tree Board in the role currently established, reviewing site plans and recommending conditions prior to the Planning Board.

Remaining Points of Discussion

Fee-in-Lieu

Option 1: Implement the ordinance with the Fee-in-Lieu schedule as presented by staff at the March Council Meeting.

Option Two: Delay implementation of the Fee-in-Lieu to allow additional discussion and recommendations.

PB Recommended Consistency Statement

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 petition aligns with the Comprehensive Plan's Strategies; NR-2.3. Promote preservation of woodlands. Mature trees and wooded areas are significant community-defining natural features that contribute to Hendersonville's identity, LU-3.5. Minimize negative impacts from growth and land use changes on existing land uses and LU-3.6. Update the Zoning Code to ensure conformance with the Comprehensive Plan

We [find] this proposed zoning text amendment petition to be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because:

Under the remaining points of discussion, Council agreed to the following:

- Exemption Standard – Option 1, Exempt parcel and project sites which are “less than 1 acre” in size.
- Tree Board Roll – Option 1, Remove the Tree Board from the Conditional Zoning District Review Process.
- Fee-In-Lieu – Option 1, Implement the ordinances with the Fee-In-Lieu schedule as presented by staff at the March Council meeting.

Council Member Lyndsey Simpson moved that City Council adopt an ordinance amending the official City of Hendersonville Zoning Ordinance, Article VII, Sections 7-3-3 and 7-3-4 and Article XV, Sections 15-4, 15-5, 15-6, 15- 9 and 15-9 and to add the new Section 15-14 and 15-15 to establish additional requirements for the provision and protection of trees:

1. 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 petition aligns with the Comprehensive Plan's Strategies; NR-2.3. Promote preservation of woodlands. Mature trees and wooded areas are significant community-defining natural features that contribute to Hendersonville's identity, LU-3.5. Minimize negative impacts from growth and land use changes on existing land uses and LU-3.6. Update the Zoning Code to ensure conformance with the Comprehensive Plan.

2. We [find] this petition, in conjunction with the recommendations presented by staff, to be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because:

1. The proposed text amendment seeks to promote compatibility between new development on sites with surrounding existing development, by reducing the removal of existing site vegetation and tree canopy and enhancing the integration of new plantings in required open space.

2. The proposed text amendment aligns with the public interest in that it seeks to offset some of the impacts of large scale development on adjacent properties and on existing natural resources.

3. The proposed text amendment will offset a portion of the ongoing impacts of new development on the natural environment within the City.

A unanimous vote of the Council followed. Motion carried.

Ordinance #O-24-08

AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND ARTICLE XII – DEVELOPMENT REVIEW, SECTION 7-3-3 AND SECTION 7-3-4 AND ARTICLE XV – BUFFERING, SCREENING, AND LANDSCAPING, SECTIONS 15-4 THROUGH 15-6, SECTION 15-9, SECTION 15-13, AND TO ADD NEW SECTIONS 15-14 AND 15-15 OF THE CITY OF HENDERSONVILLE ZONING ORDINANCE TO ESTABLISH ADDITIONAL REQUIREMENTS FOR THE PROVISION AND PROTECTION OF TREES.

WHEREAS, The City of Hendersonville has authority pursuant to N.C.G.S. Chapter 160D to adopt development regulations; and

WHEREAS, The City of Hendersonville recognizes that tree canopy within the City is beneficial to the health and welfare of the citizens of Hendersonville; and

WHEREAS, Preserving existing tree canopy and promoting new growth thereof promotes the natural beauty of the City, reduces soil erosion, enhances property values, improves air quality, aids in water absorption, and reduces energy consumption; and

WHEREAS, The City’s Comprehensive Plan encourages the preservation of mature trees; and

WHEREAS, The City also wishes to balance requirements related to the preservation of tree canopy with individual rights to develop private property; and

WHEREAS, the City now desires to enact the following regulations regarding the preservation and provision of tree canopy within the City’s planning and development regulation jurisdiction.

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

SECTION 1. This Ordinance shall be known as “An Ordinance to Establish New Requirements for the Provision and Protection of Trees.”

SECTION 2. Article XII. Development Review is hereby amended as follows:

Sec. 7-3-3. Review of preliminary site plans.

7-3-3.2 Contents of preliminary site plan. Applicants for developments required to undergo preliminary site plan review shall, as a part of the application for such development, submit a preliminary site plan which shall show the following:

n) A plan showing tree line before site preparation, identifying existing tree canopy, tree canopy proposed to be preserved, and new canopy installation areas, identifying the acreage of each, as well as areas to be screened, fenced, walled and/or landscaped;

t) Proposed limits of land disturbing activity.

Sec. 7-3-4. Review of final site plans.

Sec. 7-3-4.3 Contents of final site plan. A site plan showing the following shall accompany an application for site plan approval:

w) A plan showing tree line before site preparation, identifying existing tree canopy, tree canopy proposed to be preserved, and new canopy installation areas, identifying the acreage of each, as well as areas to be screened, fenced, walled and/or landscaped.

x) Proposed limits of land disturbing activity.

Sec. 7-4-6 Conditions to approval of conditional zoning district.

In considering an application for the reclassification of property to a conditional zoning district, the planning board may recommend, and the city council may recommend that reasonable and appropriate conditions be attached to the approval of the rezoning. Conditions and site specific standards shall be limited to those that address the conformance of the development and use of the site to City of Hendersonville ordinances and comprehensive plan. Any such conditions should relate to the impact of the proposed use on surrounding properties, support facilities, pedestrian and vehicular circulation systems, screening and buffering areas, timing of development, road and right-of-way improvements, water and sewer improvements, stormwater drainage, open space and other matters that the planning board and/or city council may find appropriate or the applicant may propose. The applicant shall have a reasonable opportunity to consider and respond to any such conditions prior to the final action by the city council. Only those conditions mutually approved by the city council and the applicant may be incorporated into the rezoning approval.

SECTION 3. Article XII. Definition of Terms is hereby amended as follows:

Sec. 12-2. Definition of commonly used terms and words.

Canopy tree: A tree with a large, broad spreading crown, usually broadleaf and deciduous with a minimum mature height of 50 feet.

Recommended Species List: The Recommended Landscape Species List for Street Trees and Land Development Projects adopted by the Hendersonville Tree Board, as amended.

Site: The spatial location of actual or planned development. A site may be a single lot, or a combination of lots under a unified plan of development.

Specimen Tree: A large or medium maturing tree that is 25 inch DBH or greater; or a small maturing tree that is 10 inch DBH or greater, as designated on the Recommended Species List.

Tree Canopy: The area of a tree or trees where the outermost leaves, stems, and branches extend. Tree canopy is measured on a horizontal plane and is typically represented in square feet or acres.

SECTION 3. Article XV. Buffering, Screening, and Landscaping is hereby amended as follows:

Sec. 15-2. Landscaping, buffering and screening required.

Landscaping, buffering and screening shall be required for developments within the planning jurisdiction of the City of Hendersonville, including its extraterritorial jurisdiction, as set forth herein.

a) Unless exempted pursuant to Section 15-4(c)(10) below, the following developments must bring the entire site into full compliance with the requirements of this article:

- 1) Any new public or private development, with the exception of single or two-family homes on lots that were created by a method excluded from subdivision authority pursuant to G.S. 160D-802(1)-(5);
- 2) A change of use to a higher impact. For purposes of this section, the following list ranks differing uses from lowest to highest impact: residential, mobile home park, institutional & cultural, commercial, industrial;
- 3) Renovations with a total cost exceeding 50 percent of the assessed value of the building according to Henderson County tax records or an appraisal by a state licensed appraiser;
- 4) Expansions exceeding 50 percent of the pre-expansion floor area or paved surface;
- 5) Existing unpaved parking lots which are paved over.

Sec. 15-4. Existing vegetation.

- a) **Preservation of existing vegetation.** Preserving trees can improve the aesthetic quality of the site and improve property values, provide environmental benefits, mitigate the impacts of development on the community, and help minimize opposition to a proposed development. It is recommended that groups of trees be preserved, as well as individual trees. Existing preserved trees and shrubs may be credited towards required buffer trees, street trees, and parking lot trees, in accordance with paragraph b), below.
- b) **Credits and other incentives to preserve vegetation.** Preserved trees may be credited at the following rate:
- 2—12 inch DBH (diameter at breast height) tree = 1 tree
 - 13—18 inch DBH tree = 2 trees
 - 19—24 inch DBH tree = 3 trees
 - 25+ inch DBH tree = 4 trees

In order to receive credit, preserved vegetation must be in good health and condition, and must not be listed as an Invasive Plant on the Recommended Species List. Trees designated to be preserved must be indicated on the site plan and on landscape and grading plans. Protective barriers, if utilized in accordance with paragraph d), below, must also be shown on the landscape and grading plans. A preserved tree shall be replaced with the total number of trees which were credited to the existing tree if the preserved tree dies within ten years of completion of the project.

- c) **Tree Canopy Preservation.** All developments required to comply with this Article pursuant to Sec. 15-2 herein, with the exception of development of sites with existing tree canopy of less than 30,000 square feet, shall preserve existing tree canopy in compliance with this Section.
- (1) **Tree Canopy Coverage Map:** The Tree Canopy Coverage Map is hereby adopted. The Tree Canopy Coverage Map is based on the existing tree canopy data as established by the City's tree canopy cover assessment. The Tree Canopy Coverage Map shall be rendered digitally and maintained via GIS or similar software. The Tree Canopy Coverage Map shall be updated at least every five-years to reflect the City's most recent tree canopy cover assessment.
 - (2) **Existing Tree Canopy:** Any reference in this Chapter to existing tree canopy shall refer to the most recent Tree Canopy Coverage Map created by the City of Hendersonville.
 - (3) **Methodology:** Developers must comply with the requirements of Sections 7-3-3.2(n) and 7-3-4.3(w) by one of the following methods:
 - a. Using the Tree Canopy data shown on the Tree Canopy Coverage Map (reference definition of Tree Canopy in Section 12-2);
 - b. For any development site for which the Tree Canopy Coverage Map does not provide data, the developer shall submit a plan, showing the dripline of the existing tree canopy, and such plan shall be prepared by a land surveyor, civil engineer, landscape architect licensed by the State of North Carolina or Arborist certified by the International Society of Arboriculture; or
 - c. A developer may submit a plan showing the existing tree canopy as of the date of the most recent Tree Canopy Coverage Map, such plan prepared and sealed by a land surveyor, civil engineer, landscape architect licensed by the State of North Carolina or Arborist certified by the International Society of Arboriculture.
 - (4) **Preservation Requirements**
 - a. **Tier One Requirement:** 20 percent of the existing tree canopy on the site shall be preserved. The specific tree canopy preserved shall be at the discretion of the developer. Tier One Canopy is not eligible for fee-in-lieu without a variance issued by the Board of Adjustment.
 - b. **Tier Two Requirement:** In addition to the Tier One Requirement, existing tree canopy on the site shall be preserved, and new tree canopy shall be installed, in accordance with one of the options in the table below:

Tier Two Tree Canopy Requirement

Select One:	Percentage of Tier Two Tree Canopy Preserved (in addition to Tier One Canopy) ¹	Percentage of New Tree Canopy Installation Required ²	Percentage of Total Tier Two Canopy Required
Option 1	10%	0%	10%
Option 2	5%	7%	12%
Option 3	0%	15%	15%

¹ Percentages of Tier Two Tree Canopy Preserved refer to the total existing Tree Canopy on a site before calculation of the Tier One Requirement and are in addition to the Tier One Requirement.
² Percentages of New Tree Canopy Installation refer to the total existing Tree Canopy on a site and shall be installed in accordance with the Credit for New Tree Canopy Installation table below.

Credit for New Tree Canopy Installation	
Size of Tree*	Tree Canopy Credit
Large Maturing	872 sq. ft.
Medium Maturing	350 sq. ft.
Small Maturing	144 sq. ft.

*As designated in the Recommended Species List

The developer may request to pay a fee-in-lieu of the Tier Two Canopy preservation requirements pursuant to this section.

- c. In calculating the percentage preserved, only trees that are fixtures on the site shall be counted towards existing tree canopy preserved.
- d. Specimen trees preserved shall receive 1.5 times their actual canopy coverage in the calculation of preserved tree canopy if such tree is protected during construction in accordance with the standards contained in Sec. 15-4(d) below.
- e. As an example, a five-acre development site with two-acres, or 87,120 sq. ft., of existing tree canopy would be required to preserve existing tree canopy as shown in the table below:

Example of Tree Canopy Preservation Requirement				
Select One:	Tier One Tree Canopy Preservation Requirement	Tier Two Tree Canopy Preserved (in addition to Tier One Canopy)	Tier Two New Tree Canopy Installation Required	Total Tree Canopy Requirement
Option 1	17,424 sq. ft. (20%)	8,712 sq. ft. (10%)	0 sq. ft. (0%)	26,136 sq. ft. (30%)
Option 2	17,424 sq. ft. (20%)	4,356 sq. ft. (5%)	6,098 sq. ft. (7%)	27,878 sq. ft. (32%)
Option 3	17,424 sq. ft. (20%)	0 sq. ft. (0%)	13,068 sq. ft. (15%)	30,492 sq. ft. (35%)

- (5) **Protection of trees during construction:** All trees required to be preserved by this Section shall be protected during construction in accordance with the standards contained in Sec. 15-4(d) below.
- (6) **Credit for existing vegetation:** All trees preserved pursuant to this Section may be credited towards the requirements of this Article in accordance with the provisions of Sec. 15-4(b) above.
- (7) **Fee in lieu.** Where specifically provided, Community Development Director shall, in lieu of preserving trees pursuant to this Section, allow the developer to pay a fee-in-lieu of tree preservation to the City’s Tree Fund. The fee-in-lieu shall be established in the City’s Fee Schedule.

The fee-in-lieu shall be based on the average cost of tree canopy replacement per square foot, and shall be calculated using a weighted average of large, medium, and small maturing trees as shown below:

Calculation of Fee-in-Lieu of Tree Canopy Preservation			
Size of Tree	Average Tree Canopy	Trees per Acre	Weight Factor
Large Maturing	872 sq. ft.	49.943	0.105
Medium Maturing	350 sq. ft.	124.305	0.261
Small Maturing	144 sq. ft.	301.507	0.634
Weighted Average:			228.84 sq. ft. per tree

As an example, assume the City’s cost to plan and establish a tree is \$350.00. \$350.00 divided by 228.84 square feet equals \$1.53 per square foot of tree canopy.

Now assume the Tier Two Requirement for tree canopy preservation is 8,712 square feet. The fee-in-lieu of tree canopy preservation would be 8,712 square feet multiplied by \$1.53 for a total fee-in-lieu of \$13,329.36.

- (8) **Delay of development approval.** In addition to any other method of enforcement or remedy available, the City may refuse to issue a development approval for a period of three years following the removal of all or substantially all of the trees that are required to be protected under this Article.
 - (9) **Civil penalties.** Civil penalties for violation of this subsection, including but not limited to removal of tree canopy required to be preserved and failure to protect trees during construction, shall be assessed on a per tree basis.
 - (10) The following development sites shall be exempt from the Tree Canopy Preservation Requirements of this Section 15-4(c):
 - a. The development site has less than **or equal to** 30,000 square feet of existing tree canopy;
 - b. Less than one acre of the site will be disturbed; or
 - c. The site is less than 1 acre in area.
- d) **Protection of existing trees during construction.** The regulations contained in this paragraph shall apply in those circumstances when a developer has either: (1) elected to protect trees during construction in order to receive credit under Sec. 15-2(b), or (2) been required to preserve canopy under Sec. 15-2(c).
- 1) No grading or other land-disturbing activity can occur on a site with existing trees which are designated to be preserved in order to meet landscaping requirements until protective barriers are installed by the developer and approved by the community development director or a designee appointed by the community development director. Trees designated for preservation which are counted toward the landscape requirements must be protected by barriers, while trees designated for preservation which do not count toward the landscape requirements are encouraged to be protected by barriers. The diameter of the preserved trees and the location of protective barriers must be shown on landscape and grading plans with the dimension between the tree trunk and barrier indicated.

Barricades shall be placed around the critical root zone of preserved trees that are within 50 feet of any grading or construction activity. The critical root zone is a circle extending around the tree with a one-foot radius for every one inch of tree diameter. For example, a ten-inch diameter tree would have a barricade surrounding it, erected ten feet away from the trunk. All protective barriers must be maintained throughout the building construction process.

Protective barriers shall consist of either:

 - A) A fence which is at least three feet high and constructed in a post and rail configuration, using two-by-four posts and one-by-four rails; or
 - B) A fence with two-by-four posts placed no farther than ten feet apart covered with a four-foot orange polyethylene laminar safety fencing.
 - 2) All contractors must be made aware of the areas designated for protection. No disturbance can occur within the tree protection areas including the following:
 - A) Grading;
 - B) Filling, unless an aeration system, certified by a registered landscape architect, certified arborist, or North Carolina Agricultural Extension Specialist, is installed to protect the tree from suffocation;
 - C) Parking;
 - D) Storage of debris or materials, including topsoil;
 - E) Disposal of hazardous wastes or concrete washout; and
 - F) Attaching of nails, ropes, cables, signs, or fencing to any tree designated for preservation.

If any area within the critical root zone will be disturbed for any reason, a registered landscape architect, certified arborist, or North Carolina Agricultural Extension Specialist must recommend measures to minimize any potential impact and certify that the activity will not damage the tree under normal circumstances.
 - 3) The developer should coordinate with utility companies early in the design process to resolve potential conflicts about the placement of utilities and landscape requirements. Utilities must either be placed outside of the tree protection area or, with planning department approval, tunneled at least two feet directly below the tree roots, to minimize root damage.

- 4) If silt fencing is required to control sedimentation, the fencing must be placed along the uphill edge of a tree protection zone in order to prevent sediment from accumulating in the critical root zone area.
- e) Trees in public rights-of-way. Trees located in any public right-of-way cannot be pruned or removed without a permit from the public works department in accordance with the City of Hendersonville Tree Ordinance.

Sec. 15-5. General standards.

The following general standards shall apply to all landscaping requirements in this article.

- a) Unless otherwise specified, the exact placement of required plants and structures shall be the decision of the developer. The type of plants used shall be limited to those on the Recommended Species List. No plants listed as an Invasive Plant in the Recommended Species List may be used to meet the requirements of this ordinance. Required landscaping shall be designed in such a manner as to impart its aesthetic character when viewed from any area accessible to the public or from adjacent properties.

- h) **Native species.** For each development site, at least 75 percent of the trees required to be planted under the provisions of this article shall be native species as listed on the Recommended Species List.

Sec. 15-6. Bufferyards.

TABLE OF BUFFER REQUIREMENTS

Proposed Land Use	Existing Land Use /Zoning District ¹					
	Residential ²	Residential, multi-family ³	Mobile Home Park ⁴	Institutional & Cultural ⁵	Commercial ⁶	Industrial ⁷
Residential	X	X	X	X	X	X
Residential, multi-family	8-foot A	X	X	X	X	X
Mobile Home Park	10-foot B	10-foot B	X	8-foot A	10-foot B	X
Institutional & Cultural	10-foot B	10-foot B	8-foot A	X	X	X
Commercial	10-foot B	10-foot B	10-foot B	8-foot A	X	X
Industrial	25-foot C	25-foot C	25-foot C	15-foot B	15-foot B	X

Notes for Table of Buffer Requirements:

- 1 Buffering is required if adjacent parcel of land is used or zoned for the category noted regardless whether adjacent parcel is located in the city, the city's extraterritorial jurisdiction (ETJ), or the planning jurisdiction of another governmental entity. Existing adjacent land use takes precedence over zoning district. Buffer requirement for the district will be used if adjacent land is vacant.
- 2 Includes the following use districts: R-40, R-20, R-15, R-10, R-6, RCT, PRD.
- 3 Includes only those sites developed as multi-family.
- 4 Includes the PMH district or an existing mobile/manufactured home park.
- 5 This category includes religious, recreational, child care and educational uses and the following use districts: MIC and PID.
- 6 Includes the following use districts: C-1, C-2, C-3, C-4, PCD, CMU, GHMU, HMU, UV, UR and CHMU.
- 7 Includes the following use districts: I-1, PMD.

Sec. 15-9. Landscaping for vehicular use areas.

Trees and shrubs are required in and around vehicular use areas with more than six spaces to provide attractive views from roads and adjacent properties, provide shade to reduce the heat generated by impervious surfaces, reduce glare from vehicular use areas, and to help filter exhaust from vehicles.

- a) **Perimeter and interior plantings.** Vehicular use areas must be planted with at least one tree and two shrubs for every 3,000 square feet of vehicular use area, which includes parking spaces, aisles, driveways, and loading areas. Trees shall be evenly distributed throughout the vehicular use area. . At least 75 percent of the required parking lot trees must be broadleaf canopy trees. Trees and shrubs must be planted within 20 feet of the vehicular use area to

count as parking lot landscaping; provided, however, all street trees required by other provisions of this zoning ordinance shall count as parking lot landscaping.

When a parking lot contains 20 or more parking spaces, 50 percent of the trees and shrubs required by paragraph a), above, must be planted in islands or medians located within the parking lot. Tree islands shall be evenly distributed throughout the parking lot in order to provide an even tree canopy throughout the lot. At a minimum, such tree islands shall consist of an area at least equal in size to two parking places side-by-side (360 square feet). Parking bays shall be broken up with landscaped islands or medians to avoid long monotonous rows of parking. Planting trees in groups is encouraged to increase the total amount of planting area for roots to grow.

- b) **Planting strips.** When a vehicular use area lot is located within 100 feet of an abutting property and no bufferyard is required, a planting strip which is a minimum of five feet wide shall be planted between the vehicular use area and the abutting property, except along approved driveway openings which run perpendicular to the planting strip. One large evergreen or deciduous tree and five evergreen or deciduous shrubs shall be planted for every 40 linear feet of property line that parallels the vehicular use area. Fifty percent of these trees and shrubs may be counted toward the parking lot trees and shrubs required in paragraph a), above, if the planting strip is located within 20 feet of the vehicular use area. Adjacent businesses on separate lots which share parking or driveways shall be exempt from this requirement provided that the required planting strip would interfere with the reasonable use of the shared parking or driveway. Vehicular use areas located behind buildings and screened from view from public rights-of-way shall be exempt from this requirement.

Sec. 15-13. Common open space landscaping. In addition to all other landscaping required by this zoning ordinance, each development parcel required to provide common open space pursuant to Sec. 6-16 shall contain a minimum of one tree and five shrubs for every 1,200 square feet of common open space on such development parcel. A minimum of 50 percent of the trees shall be canopy trees.

At least 70 percent of the street trees planted shall be large-maturing trees (>50 feet in height). The remaining trees shall be medium maturing trees (25-50 feet in height).

No landscaped area shall be constructed with more than ten percent of the total area of gravel, stone, concrete, asphalt, or other similar material, excepting necessary walks.

Sec. 15-14. Open space landscaping. In addition to all other landscaping required by this zoning ordinance, each development parcel required to provide open space shall contain a minimum of one tree and five shrubs for every 4,000 square feet of common open space on such development parcel. A minimum of 50 percent of the trees shall be canopy trees.

At least 70 percent of the street trees planted shall be large-maturing trees (>50 feet in height). The remaining trees shall be medium maturing trees (25-50 feet in height).

No landscaped area shall be constructed with more than ten percent of the total area of gravel, stone, concrete, asphalt, or other similar material, excepting necessary walks.

Sec. 15-15. Street Trees. Street trees shall be required at the rate of one tree for every 35 linear feet of property abutting a street. Trees do not need to be spaced evenly. They may be clustered with a minimum spacing of 15 feet and a maximum spacing of 75 feet.

At least 70 percent of the street trees planted shall be large-maturing trees (>50 feet in height). The remaining street trees shall be medium maturing trees (25-50 feet in height).

Where overhead utility lines are present, streets trees shall be planted at the rate of one small-maturing tree (<25 feet in height) for every 25 linear feet of property abutting a street. Nothing herein shall be construed to prohibit a deviation from the mature height requirements or planting distance from the street right-of-way to accommodate existing overhead utility lines.

Street trees shall be placed in a planting strip on private property and not within the street right-of-way. No street tree can be planted farther than 35 feet from the edge of the right-of-way to count as a street tree. The width of the planting strip may vary, but the minimum width cannot be less than seven feet and the average width shall be at least ten feet. The planting area must be covered with living material, including ground cover and/or shrubs, except for mulched areas directly around trees and shrubs, so that no soil is exposed. When a sidewalk is proposed to be constructed on a development site and right-of-way configuration requires that it be constructed on the developer's property, the width of the planting strip may be reduced to an average of seven feet.

Street trees shall not be required on a property line abutting a street when the minimum setback provided is less than ten feet. By way of example, if the minimum setback required for a development is less than 10 feet from a property line abutting a street, but the setback provided is 10 feet or more, street trees are required.

During the development review process, the approving authority for the city may permit minor deviations in the placement of trees in order to avoid conflict with utility structures and utility lines.

SECTION 3. Section 8 of the Fiscal Year 2023-24 Budget Ordinance for the City of Hendersonville shall be amended to adopt and incorporate the Fee-in-Lieu of Tree Canopy Preservation pursuant to 15-4(c)(6) of the Zoning Ordinance of the City of Hendersonville, North Carolina as follows:

Fee-in-Lieu of Tree Canopy Preservation	
Per square foot of Existing Tree Canopy required to be preserved	\$1.53

SECTION 4. If any provision of this ordinance or its application is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provisions or application, and to this end the provisions of this ordinance are severable.

SECTION 5. It is the intention of the City Council and it is hereby ordained, that the provisions of this ordinance shall become and be made part of the Code of Ordinances, City of Hendersonville, North Carolina, and the sections of this ordinance may be renumbered to accomplish such intention.

SECTION 6. This Ordinance shall be effective upon its adoption.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 4th day of April, 2024.

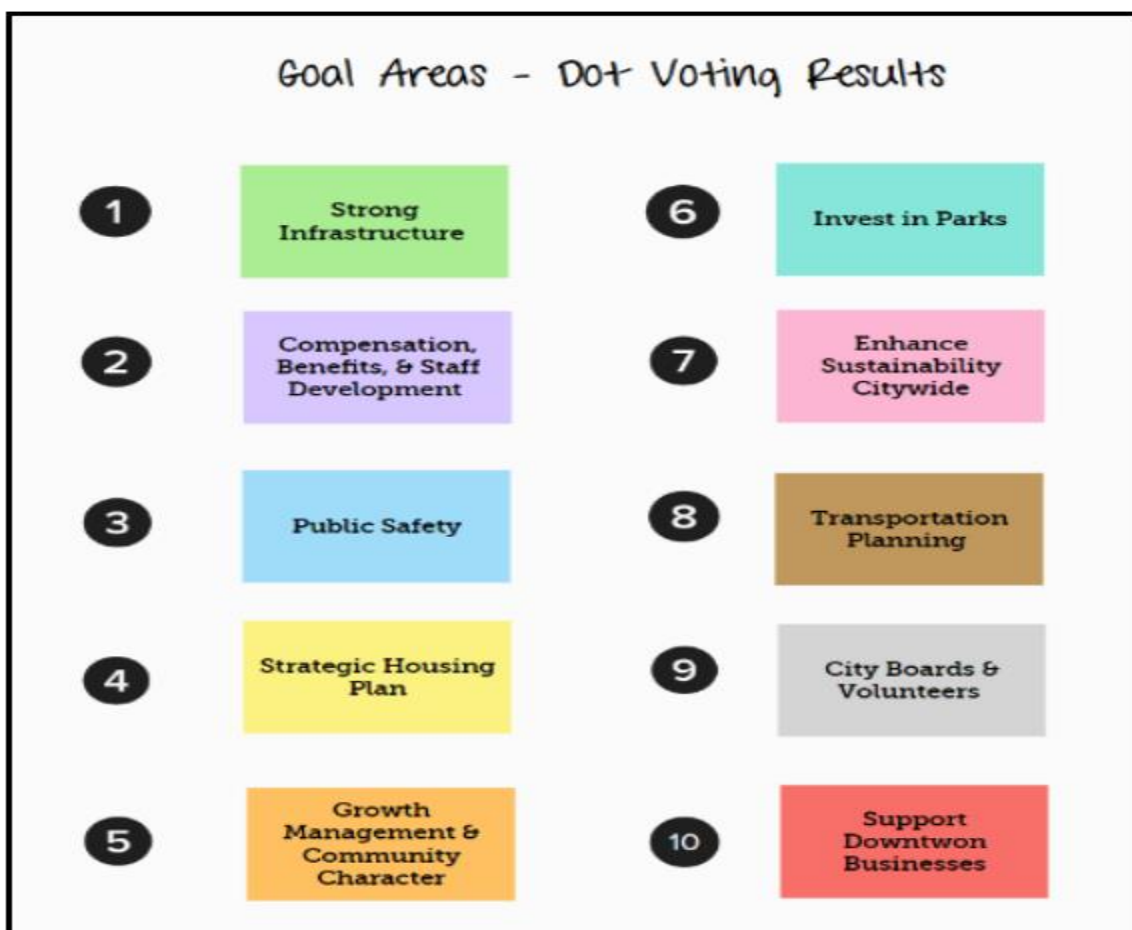
/s/Barbara G. Volk, Mayor

Attest: /s/Jill Murray, City Clerk

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

C. Clarification of City Council Priorities – John Connet, City Manager

City Manager Connet explained that Council Member Miller had asked staff to review the City Council priority rankings and confirm that the top three are ranked appropriately.



Council Member Jeff Miller moved that City Council confirm their top three priorities as follows:

- **Public Safety**
- **Compensation, Benefits, & Staff Development**
- **Strong Infrastructure**

A unanimous vote of the Council followed. Motion carried.

9. NEW BUSINESS

A. Approval of Letter to Henderson County Legislative Delegation – John Connet, City Manager

City Manager Connet explained that following recent comments at their March 20, 2024 Henderson County Board of Commissioners' meeting regarding their comp plan adoption, the Board of Commissioners presented some negative comments about the work of the City and City Council, made some accusations regarding growth in and around the county and I understand there was some discussion about contacting our state legislators so staff has drafted a letter explaining our position. Over the last 24 years we have spent time trying to work with the county and negotiate with the county to ease concerns about growth and ease concerns about management of the utility system so we put this letter together to reiterate that we have worked very hard to maintain a positive relationship. This is a bulleted list of things that we've done that dates back to 2000 and is as recent as two weeks ago. We just want to show our legislators what we've done and what we will continue to do. Staff requests that the City Council approve the letter and have each of you sign it and authorize the City Manager to distribute to the delegation of Senator Tim Moffitt, Representative Jennifer Balkcom & Representative Jake Johnson as follows:

Based on a recent Henderson County Board of Commissioners meeting, Hendersonville City Council feels that it is beneficial to provide our State Legislators additional context and background. The City of Hendersonville has acted in good faith and tried to negotiate with Henderson County over the past twelve months to resolve the long-standing dispute over governance of the utility system and growth of the City of Hendersonville. In addition, the City has strived to cooperate with Henderson County over the last twenty-four years, as illustrated in the list below.

- Executed the 2000 Contract of Purchase and Interlocal Cooperation and Settlement Agreement
- Re-established the Water and Sewer Advisory Committee comprised of representatives across the utility service area (Henderson County, Mills River, Flat Rock, Fletcher, Laurel Park etc.)
- Partnership with Henderson County, UNC Pardee, Wingate University and Blue Ridge Community College to construct the Health Sciences Center
- Partnership with Henderson County and Housing Assistance Corporation to construct Apple Ridge Affordable Housing Development
- Partnership with Housing Assistance Corporation to construct Oklawaha Affordable Housing Development
- Partnership with Housing Assistance Corporation to construct infill affordable housing units
- Inside water rates for all Henderson County Public Schools
- Agreed to equalize inside/outside City water rates over a ten-year period (currently in 5th year)
- Compensating rural fire departments for annexed properties. Lump sum payment for 5 years of lost tax revenue.
- Adopted formal resolution ensuring that no water and sewer lines serving new development are extended without approval of respective governing boards.
- Partnered with economic development agencies to extend public utilities to new industry:
 - School House Road, Mills River – AgHC
 - Ladson Road, Mills River – AgHC
 - Demmel / Elkamet – HCPED
 - Garrison Industrial Park – HCPED
- Offer to purchase distressed Etowah Sewer Company. Henderson County objected and City of Hendersonville withdrew the offer to purchase.
- Assumed responsibility of Laurel Park Water System in April 2021 and have since made significant investments in the system. Customers in Laurel Park immediately noticed a reduction in water rates and an improved level of service.
- Obtained grants with help of Henderson County staff and installed public water lines to homes in the Academy Road area of Henderson County. Private wells were contaminated with pesticides.
- Assisted with the relocation of public sewer line under Hendersonville High School
- Partnered with Henderson County to extend sewer to Atkinson Elementary School
- Worked with Henderson County to extend Jackson Park Interceptor Sewer eliminating a large pump station from the park.
- Completed the following water pressure and fire flow improvement projects:
 - Etowah Water Improvement Project
 - Northside Water Improvement Project (Fletcher)
 - Hebron Pressure Zone Project (Laurel Park)
- Water System Hydraulic Model development assists rural fire departments with improving ISO ratings.
- Assistance of the provision of sewer to the Halfway Tree Mobile Home Park (Flat Rock) to resolve a public health/failing septic issue.
- Replacement of Clear Creek Sewer Interceptor, which was installed to accommodate anticipated future growth in the Edneyville Community.
- 2023 Joint Water and Sewer Commission Proposal
 - Proposed an Urban Growth Boundary / Annexation Agreement
 - Eliminate ETJ
 - Limited annexation to new developments

- Established a joint Water and Sewer Commission
- Established a joint planning area around the City of Hendersonville
- Include a land use map that limited high density development to the west side of I-26
- Offered to assist with sewer provision in the Edneyville Community

The City Council will continue to attempt to resolve this dispute at the local level with a balanced approach of protecting the interests of utility customers, Hendersonville residents and businesses while attempting to address the concerns of the Henderson County Board of Commissioners. We thank you for your consideration in this matter and request a formal meeting to discuss it further.

Sincerely,

Council Member Jennifer Hensley moved that the City Council approve the attached letter to the Henderson County legislative delegation and authorize the City Manager to distribute to the delegation. A unanimous vote of the Council followed. Motion carried

10. CITY MANAGER REPORT

A. Surplus Items – John Connet, City Manager

MEMO

TO: John Connet, City Manager

FROM: Jennifer Case, Public Works

DATE: 03/12/2024

RE: A Request for Declaration of Surplus Items

The following items are no longer in use by the city and we are requesting that these items be declared

surplus with the intent to sell them by internet auction:

1. Four office desks from engineering dept. Approximate Value: \$50 each
2. 14-08 2003 Dodge Durango AV: \$4000
3. 44-02 1997 New Holland B95 Backhoe AV: \$10,000
4. 59-24 1999 MPH IND. Trailer/Speed Radar AV: \$600
5. 59-16 1991 Brewer Trailer AV: \$350
6. 40-17 1992 John Deere F935 Mower AV: \$300
7. 16-08 2000 Ford F250 ¾ Ton Pickup Truck AV: \$3500
8. 14-80 2018 Ford F150 Crew Cab 4x4 Pickup AV: \$8000
9. 16-21 2006 Chevrolet 2500 Service Body Truck AV: \$2500
10. 14-01 2002 Ford F150 ½ Ton 4x4 Pickup AV: \$2000
11. 22-02 2005 Freightliner Knuckle boom Truck AV: \$40,000

MEMO

APPROVED

By John Connet at 8:39 am, Mar 11, 2024

TO: John Connet, City Manager

FROM: Jennifer Case, Public Works

DATE: 03/08/2024

RE: A Request for Disposal of Damaged Equipment

The following items are no longer in use by the city and we are requesting that these items be disposed of as scrap metal due to their poor condition.

1. 80-17 2001 Swenson EV100 Salt Spreader Serial#94505
Approximate Value: \$150
2. 80-18 2004 Swenson EV100 Salt Spreader Serial#04105-Z85-00
Approximate Value: \$150

B. March 2024 Contingency and Adjustment Report – John Connet, City Manager

In accordance with North Carolina General Statute (NCGS) 159-13(b) it is required that all expenditures resulting from a contingency appropriation budget be reported to the governing board at its next regular meeting and recorded in the minutes.

NCGS 159-15 permits the Budget Officer (City Manager), to transfer budget from one appropriation to another within the same fund, provided any such transfers are reported to the Governing Board. The City of Hendersonville refers to transfers of budget from one appropriation to another within the same fund as a “budget adjustment”. City Council authorizes budget adjustments each year with the adoption of the annual budget ordinance (SECTION 4). This agenda item serves to fulfill the reporting requirements of both NCGS 159-13(b) and 159-15 by providing City Council a summary of all amendments and adjustments occurring thus far in the fiscal year.

11. CITY COUNCIL COMMENTS – Councilwoman Lyndsey Simpson wanted to wish a belated Happy Birthday to Councilwoman Jennifer Hensley and presented her with a cake and balloon.

12. ADJOURN

There being no further business, the meeting was adjourned at 9:14 p.m. upon unanimous assent of the Council.

Barbara G. Volk, Mayor

ATTEST:

Jill Murray, City Clerk