



# MINUTES

March 4 AND 24, 2021

## REGULAR MEETING OF THE CITY COUNCIL

CITY COUNCIL CHAMBERS – 2<sup>ND</sup> FLOOR, CITY HALL | 160 SIXTH AVE. E. 5:45 p.m.

Present: Mayor Barbara G. Volk, Mayor Pro Tem Jerry Smith and Council Members: Jeff Miller, Dr. Jennifer Hensley and Lyndsey Simpson

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

### 1. CALL TO ORDER

Mayor Volk called the meeting to order at 5:50 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.*

*Beverly Donahue* of 177 Fairground Ave. addressed City Council expressing concerns with gates being left open next to her home during vaccination clinics at Hendersonville Highschool.

*Daniel Carey, Director of Development for Henderson County Council on Aging* addressed City Council encouraging support of the March for Meals program.

*Brenda Ramer* of 511 N. Main Street addressed City Council requesting support for the 2021 Balloon Fest event on May 6<sup>th</sup> through the 8<sup>th</sup>.

*Ken Fitch* of 1046 Patton St. addressed City Council expressing concerns about a round-a-bout being proposed by NCDOT stating he feels there should be public input and discussion during the engagement of the process before a project is placed on the STIP.

### 4. CONSIDERATION OF AGENDA

City Council Members added New Item 5I, Resolution Opposing HB119, New Item 9F Balloon Fest 2021, and removed Items 7C, Public Hearing Special Use Permit Amendment: Beacon Commons, and Item 9E, Briefing on Permitting for Duke Energy Coal Ash Contact Water Presentation from consideration at this time.

*Council Member Jerry Smith moved that City Council approve the agenda as amended, with the addition of New Item 5I, Resolution Opposing HB119, New Item 9F Balloon Fest 2021, and removing Items 7C, Public Hearing Special Use Permit Amendment: Beacon Commons, and Item 9E, Briefing on Permitting for Duke Energy Coal Ash Contact Water Presentation. A unanimous vote of the Council Member followed. Motion carried.*

### 5. CONSENT AGENDA

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

- i. January 27, 2021, Second Monthly Meeting
- ii. February 4, 2021 Regular Session

*I move that City Council adopt the minutes of the January 27, 2021 Second Monthly meeting and February 4, 2021 Regular meetings as presented [or as amended].*

**B. Henderson County Tax Adjustments - Jennifer Musselwhite, Deputy Tax Collector**

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

**C. Budget Amendments: March FY20-21 – Adam Murr, Sr. Analyst**

- 1. I move the City Council increase the City Operations and City Hall upgrades project (Fund 410 and 460, Project 19140) by \$126,724 by transferring \$63,362 from the General Fund and \$63,362 from the Water and Sewer Fund.*
- 2. I move the City Council increase the Governor's Crime Commission grant (Fund 301, Project 00420) revenue by \$24,480 and increase the Non-Capital Equipment expenditure line item by \$24,480.*

**D. Locust Street Curb, Gutter & Sidewalk – Tom Wooten, PW Director**

*I move that City Council award the Locust Street Curb & Gutter and Sidewalk Replacement Project to Trace and Company as the lowest responsive, responsible bidder, for the amount of \$225,751.00 and authorize the City Manager to sign the construction agreement in such form as is approved by the City Attorney.*

**E. Street Closure: 911 Tebeau Dr. Resolution of Intent (P21-13-SC) – Tyler Morrow, Planner II**

*I move that City Council adopt the Resolution Of Intent To Close An Unopened, Unimproved Portion Of Tebeau Drive as presented.*

**Resolution #R-21-12**

**RESOLUTION OF INTENT TO CLOSE AN UNOPENED,  
UNIMPROVED PORTION OF TEBEAU DRIVE**

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

**WHEREAS**, David White, Chief Executive Officer of Western Carolina Community Action has petitioned the City of Hendersonville City Council to close an unopened and unimproved unnamed portion of the street known as Tebeau Drive, located on Tract 2 of the property described in that deed recorded in the Henderson County Registry in Deed Book 3607 at page 622, having a PIN of 9569-40-9564; and

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

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

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

1. City Council herewith calls a public hearing to be held at 5:45 p.m. (or as soon thereafter as it may be heard) on the 1<sup>st</sup> day of April 2021, in the Council Chambers of City Hall to consider closing an unopened and unimproved unnamed portion of the street known as Tebeau Drive, located on Tract 2 of the property described in that deed recorded in the Henderson County Registry in Deed Book 3607 at page 622, having a PIN of 9569-40-9564. Persons shall be allowed to attend and comment in person or via Zoom at the following address:

<https://zoom.us/j/95746846396?pwd=YmlXdXdhcjlRFVlM2VElqcEVwT1ZLZz09#success>

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

Meeting ID: 957 4684 6396

Passcode: 28792

Written comments may be submitted prior to the public hearing on the City's webpage at [www.hendersonvillenc.gov/public-comment](http://www.hendersonvillenc.gov/public-comment) or directly to the City Clerk, Angela Reece, [areece@hvlnc.gov](mailto:areece@hvlnc.gov), 160 6<sup>th</sup> Avenue East, Hendersonville, NC 28792.

2. The legal description for the portion of Tebeau Drive proposed for closing is as follows:

Beginning on a ½" Iron pipe, said iron pipe being located S 83°46'01"E 134.58 feet from an Existing Iron Stake having State Plane Coordinates of N = 590444.065, and E = 964834.239, said iron pipe also being the southwestern corner of Tract 2 of the property described in that deed recorded in the Henderson County Registry in Deed Book 3607 at page 622, having a PIN of 9569-40-9564, and running thence from said beginning point N 16°38'43" E 17.34' to a point, thence on a curve to the right, said curve having a radius of 199.08' and an arc length of 95.94' (chord bearing N 36°49'42" E and chord distance 95.01') to a point, thence on a curve to the left, said curve having a radius of 220.5' and an arc length of 54.48' (chord bearing N 46°08'13" E and chord distance 54.34') to a point, thence on a curve to the left, said curve having a radius of 157.83' and an arc length of 52.10' (chord bearing N 29°48'38" E and chord distance of 51.86') to a point, thence on a curve to the left, said curve having a radius of 225.21' and an arc length of 37.20' (chord bearing N 17°36'58" E and chord distance of 37.16') to a point, thence S 04°48'49" E a distance of 105.31' to a point, thence on a curve to the right, said curve having a radius of 155.31' and an arc length of 62.09' (chord bearing S 43°43'12" W and chord distance of 61.68') to a point, thence on a curve to the left, said curve having a radius of 159.08' and an arc length of 30.70' (chord bearing S 44°48'41" W and chord distance of 30.66') to a point, thence on a curve to the left, said curve having a radius of 159.08' and an arc length of 43.04' (chord bearing S 31°31'54" W and chord distance of 42.91') to a point, thence S 16°38'43" W 7.63' to a point, thence N 83°46'01" E 40.67' to the point and place of beginning. Containing 0.17 Acre and being a portion of the right of way of Tebeau Drive running between Lots 1 and of Rosemont subdivision to the west, and Lots 17 and 18 of Rosemont subdivision to the East, as shown on Plat Cabinet B, Slide 103 of the Henderson County Registry.

The above-described portion of Tebeau Drive to be closed will also be shown on a plat to be recorded in the Henderson County Registry if approved by City Council.

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

Adopted by the City Council of the City of Hendersonville, North Carolina on this 4<sup>th</sup> day of March 2021.

/s/Barbara G. Volk, Mayor

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

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

**F. Authorize Engagement of Parker Poe Adams & Bernstein, LLP, For Legal Services Related to Financing and Construction of the Parking Deck – Angela S. Beeker, City Attorney**

*I move that City Council adopt the Resolution Authorizing the Engagement of Parker, Poe, Adams & Bernstein, for Legal Services Related to Financing and Construction of the Parking Deck as presented.*

**Resolution #R-21-13**

**RESOLUTION AUTHORIZING THE ENGAGEMENT OF PARKER, POE, ADAMS & BERNSTEIN, FOR LEGAL SERVICES RELATED TO FINANCING AND CONSTRUCTION OF THE PARKING DECK**

**WHEREAS**, the City of Hendersonville is planning for the construction of a parking deck on Church Street in Hendersonville, NC; and

**WHEREAS**, the City of Hendersonville proposes to finance the construction of the parking deck through the use of Limited Obligation Bonds, as allowed under applicable laws

**WHEREAS**, City Council wishes to engage the services of outside counsel regarding the financing and construction of the parking deck;

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

1. The City of Hendersonville hereby selects the firm of Parker, Poe, Adams & Bernstein, LLP, to provide legal services to the City for any matters related to the financing (including acting as bond counsel) and construction of the Parking Deck.
2. The City Attorney is authorized to execute the engagement letters for these services dated February 23, 2021 on behalf of the City of Hendersonville as presented.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 4<sup>th</sup> day of March 2021.

/s/Barbara G. Volk, Mayor

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

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

**G. Governor's Crime Commission Technology & Rescue Grant Resolution – Blair Myhand, HPD Chief**

*I move that the City of Hendersonville City Council approve the resolution accepting the Governor's Crime Commission Technology and Rescue Grant offer of \$24,480.00.*

**Resolution #R-21-14**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO ACCEPT THE GOVERNOR'S CRIME COMMISSION TECHNOLOGY AND RESCUE GRANT FOR THE HENDERSONVILLE POLICE DEPARTMENT OFFER OF \$24,480.00**

**WHEREAS**, the City is in receipt of a grant award from the Department of Public Safety Governor's Crime Commission in the amount of \$24,480.00; and

**WHEREAS**, the City Manager is the authorizing official for the grant; and

**WHEREAS**, the grant will assist the city in purchasing Forty (40) Stop the Bleed IFAK Kits, four (4) police radios, and six (6) Taser's and holsters, battery packs, cartridges with a 4-year warranty on each Taser for police officers. Having this equipment, police officers will have the ability to control bleeding on the onset of a critical incident. Our police officers will have a less than lethal option to effectively make arrests with limited use of force, building trust within our community in Hendersonville, NC; and

**WHEREAS**, City of Hendersonville Police Officers will successfully improve the high quality of public service expected; and

**WHEREAS**, the City of Hendersonville intends to act and perform duties in accordance with the award grant; and

**NOW, THEREFORE, BE IT RESOLVED BY THE HENDERSONVILLE CITY COUNCIL**

1. That the City of Hendersonville does hereby accept the Governor's Crime Commission Technology and Rescue Grant offer of \$24,480.00.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 4<sup>th</sup> day of March 2021.

/s/Barbara G. Volk, Mayor

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

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

**H. Annexation: 1601 Old Spartanburg Road-Survey Resubmittal (P20-25-ANX) – Tyler Morrow, Planner II**

*I move the City Council adopt an Ordinance to Amend Ordinance #20-0565, Which Extended The Corporate Limits Of The City Of Hendersonville, North Carolina As A Contiguous Annexation*

**Ordinance #O-21-03**

**AN ORDINANCE TO AMEND ORDINANCE #20-0565, WHICH EXTENDED THE CORPORATE LIMITS OF THE CITY OF HENDERSONVILLE, NORTH CAROLINA AS A CONTIGUOUS ANNEXATION**

Original Adoption date: 8-06-2020

Effective date: 8-06-2020

Amendment date: 3-04-2021

**WHEREAS**, the City Council of the City of Hendersonville, North Carolina, was petitioned under G.S. 160A-31 by Jeff Justus to annex certain territory into the primary municipal limits for the City of Hendersonville; and

**WHEREAS**, the City Clerk certified the sufficiency of the petition and a public hearing on the question of this annexation was held at Hendersonville, NC, at 5:45 p.m. on August 6, 2020, after due notice by publication on July 19, 2020 and July 26, 2020; and

**WHEREAS**, Ordinance #20-0565, *An Ordinance to Extend the Corporate Limits of the City of Hendersonville, North Carolina as a Contiguous Annexation*, was adopted on August 6, 2020, at the close of the public hearing, with an effective date of August 6, 2020, hereinafter “**Annexation Ordinance**”; and

**WHEREAS**, the **Annexation Ordinance** was recorded in Book 3565 at page 181 of the Henderson County Registry on September 21, 2020; and

**WHEREAS**, the City Council for the City of Hendersonville wish to amend the **Annexation Ordinance** to attach a survey depicting the legal description of the territory annexed by the **Annexation Ordinance** was based, the survey to become part and parcel of the **Annexation Ordinance**;

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

**Section 1.** The **Annexation Ordinance** is hereby amended to include the survey depicting the legal description of the territory annexed by the City pursuant to the **Annexation Ordinance**, the survey being that survey prepared by Stacey Kent Rhodes, surveyor, bearing a job number of 19-095, dated January 2, 2020, attached hereto an incorporated herein by reference, hereinafter “**Survey**.”

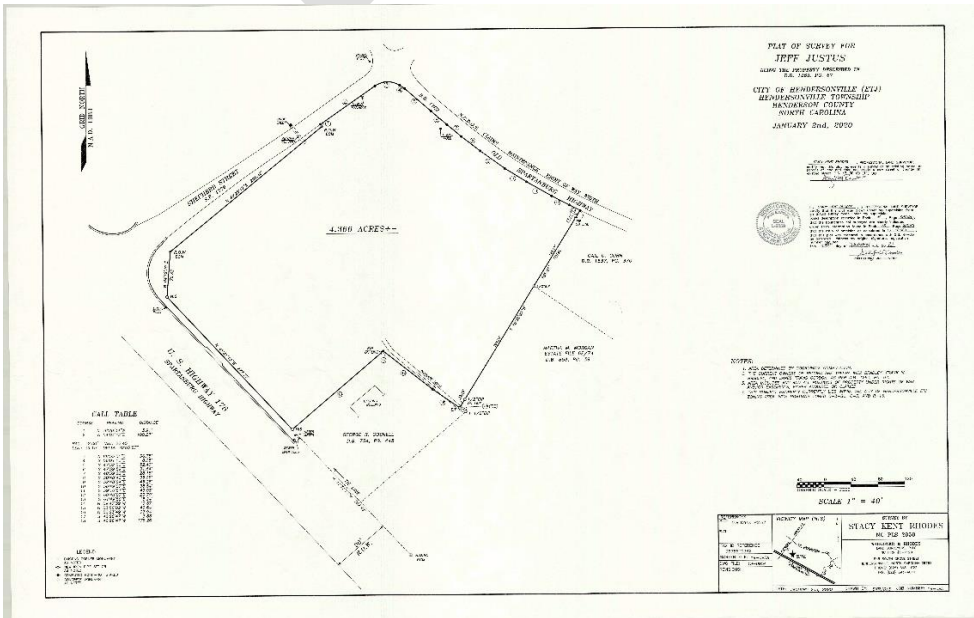
**Section 2.** The **Survey** shall be attached to the **Annexation Ordinance** as Exhibit B and shall be deemed incorporated by reference into the **Annexation Ordinance** for all intents and purposes.

**Section 3.** Except as modified by this amendment, the **Annexation Ordinance** shall remain in full force and effect as of August 6, 2020, and the same is hereby ratified.

**Section 4.** The Mayor of the City of Hendersonville shall cause the **Annexation Ordinance** appended by the **Survey** (as Exhibit B) to be re-recorded and this Ordinance To Amend Ordinance #20-0565, Which Extended The Corporate Limits Of The City Of Hendersonville, North Carolina As A Contiguous Annexation, hereinafter “**Amendment**,” to be recorded in the office of the Register of Deeds of Henderson County, and in the office of the Secretary of State at Raleigh, North Carolina. Both the appended **Annexation Ordinance** and this **Amendment** shall be delivered to the County Board of Elections, as required by G.S. 163-288.1.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 4<sup>th</sup> day of March 2021.

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



This image is only an illustrative reference. The full-size survey is recorded at the Henderson County Register of Deeds in Deed Book 1263, Page 67.

## APPENDED ORDINANCE # 20-0565- ORIGINAL

Ordinance #20-0565

**AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF  
HENDERSONVILLE, NORTH CAROLINA  
AS A CONTIGUOUS ANNEXATION**

Adopted date: _____8-06-2020_____
Effective date: _____8-06-2020_____
Total Acreage: _____4.17 acres_____
Petitioner: _____Jeff Justus_____

**WHEREAS**, the City Council of the City of Hendersonville, North Carolina, has been petitioned under G.S. 160A-31 to annex the area described below; and

**WHEREAS**, the City Council has by resolution directed the City Clerk to investigate the sufficiency of the petition; and

**WHEREAS**, the City Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at Hendersonville, NC, at 5:45 p.m. on August 6, 2020, after due notice by publication on July 19, 2020 and July 26, 2020; and

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

**Section 1.** By virtue of the authority granted by G.S. 160A-31, the following described contiguous territory is hereby annexed and made part of City of Hendersonville as of August 6, 2020:

**METES AND BOUNDS DESCRIPTION**

3460/367

Bradley/Gordon /Justus Description

BEGINNING at a new iron stake in the northern boundary of the right-of-way of U.S. Highway 176 (Spartanburg Highway) with said new iron stake being the southernmost corner of that property described in deed found in Deed Book 1263 at Page 67 in the office of the Registry for Henderson County, North Carolina, and said new iron stake is also the westernmost corner of the Gosnell tract found in Deed Book 754 at Page 445 of the records of the Henderson County Registry and moving thence from said beginning point along and with the approximate northern boundary of Highway 176, North 41 deg. 31 min. 13 sec. West 277.27 feet to a new iron stake near the intersection of Highway 176 with Shepherd Street (S.R. 1779); thence with the southern boundary of Shepherd Street, North 04 deg. deg. 12 min. 29 sec. East 70.32 feet to an existing right-of-way corner monument; thence along and with the approximate southern boundary of the right-of-way of Shepherd Street, North 49 deg. 28 min. 17 sec. East 298.48 feet to an existing right-of-way monument; thence 18 courses as follows:

North 36 deg. 26 min. 34 sec. West 3.91 feet; North 54 deg. 03 min. 42 sec. East 100.27 feet; thence on an arc to the right in a northeasterly direction with the arc having a radius of 32.00 feet, an arc length of 39.15 feet , chord bearing and distance are North 88 deg. 55 min. 51 sec. East 36.75 feet; thence South 56 deg. 01 min. 10 sec. East 8.98 feet; South 47 deg. 32 min. 50 sec. East 52.49 feet; South 47 deg. 59 min. 59 sec. East 31.64 feet; South 48 deg. 39 min. 22 sec. East 28.15 feet; South 50 deg. 48 min. 40 sec. East 35.95 feet; South 52 deg. 48 min. 24 sec. East 45.25 feet; South 56 deg. 49 min. 07 sec. East 38.84 feet; South 59 deg. 10 min. 51 sec. East 43.08 feet; South 60 deg. 48 min. 07 sec. East 29.70 feet; South 61 deg. 49 min. 50 sec. East 18.24 feet; thence North 59 deb. 47 min. 59 sec. West 10.87 feet; North 53 deg. 58 min. 02 sec. West 49.64 feet; North 50 deg. 23 min. 49 sec. West 93.94 feet; thence South 48 deg. 28 min. 47 sec. West 3.88 feet and South 48 deg. 28 min. 47 sec. West 178.26 feet to the point and place of BEGINNING, and containing 4.366 acres more or less according to a survey for Jeff Justus by Stacy Kent Rhodes dated January 2, 2020 and being Job Number 19-095.

This conveyance is made and accepted subject to the rights-of-way of U. S. Highway 176 Shepherd Street and Old Spartanburg Highway as they extend to their full legal widths.

For legal reference see deed found in Deed Book 1263 at Page 67 of the Henderson County registry.

This conveyance is further subject to such other easements, restrictions, and rights-of-way of record, if any.

Recorded in the Henderson County, NC Register of Deeds



**Section 2.** Upon and after August 6, 2020, the above-described territory and its citizens and property shall be subject of all debts, laws, ordinances and regulations in force in City of Hendersonville, North Carolina. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

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

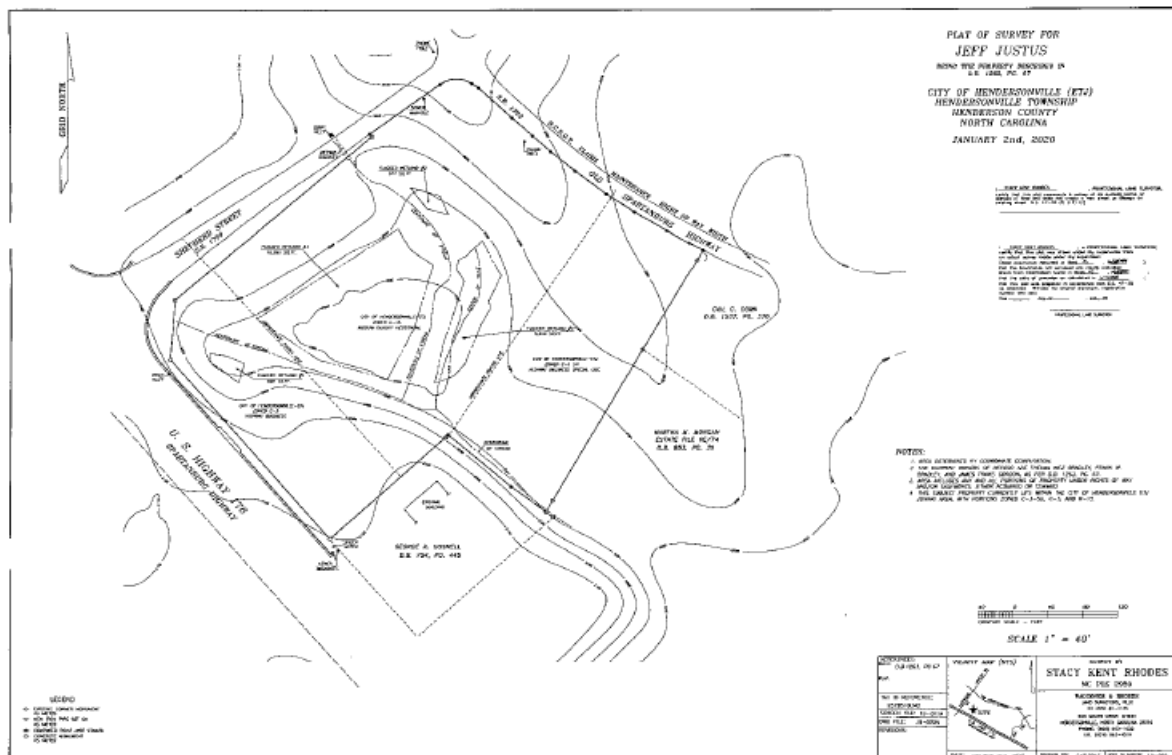
Adopted by the City Council of the City of Hendersonville, North Carolina on this 6<sup>th</sup> day of August 2020.

/s/Barbara G. Volk, Mayor

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

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

### Original Map



This image is only an illustrative reference. The full-size survey is recorded at the Henderson County Register of Deeds in Deed Book 1263, Page 67.

### I. Resolution Opposing House Bill 119 – John F. Connet, City Manager

*I move the City Council adopt the Resolution opposing House Bill 119 as presented.*

**Resolution #R-21-15**

### RESOLUTION BY THE RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL IN OPPOSITION OF HOUSE BILL 119-PROPERTY TAX RELIEF FOR COVID AFFECTED BUSINESSES

- WHEREAS,** North Carolina cities are on the front lines of COVID response, and are working closely with local businesses affected by the pandemic to help them get through these challenging times; and
- WHEREAS,** House Bill 119 Property Tax Relief for COVID Affected Businesses would reduce property tax revenue to cities and compromise cities' ability to provide state-mandated services, including public safety, street maintenance, solid waste collection, and planning and development services; and
- WHEREAS,** Property taxes, from both residential and business taxpayers, make up the primary source of revenue for cities. Property tax forgiveness, waiver, or across the board value reductions pose several policy challenges in their implementation; and
- WHEREAS,** City leaders are well aware of the impact experienced by some businesses and continue to assist on an individualized basis to determine the appropriate mechanism for assistance; and

**WHEREAS,** City of Hendersonville, through our partnership with Henderson County, is assisting businesses by offering payment plans and halted foreclosure sales, to work with taxpayers during the public health pandemic.

**WHEREAS,** Property tax relief or forgiveness would also be extremely challenging to implement and apply equitably across the city, particularly because the impact on businesses is not uniform, with variation between cities and even between industries within a city; and

**NOW, THEREFORE, BE IT RESOLVED** that we the Hendersonville City Council urge legislators to protect property tax revenue so cities can continue to provide state-mandated services, including critical public health and safety services that support COVID-19 response and vaccination efforts.

Adopted by the City Council of the City of Hendersonville, North Carolina this 4<sup>th</sup> day of March 2021.

/s/Barbara G. Volk, Mayor

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

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

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

## **6. PRESENTATIONS**

### **A. Introduction and Swearing in Ceremony for Chief Blair Myhand – *John Connet, City Manager***

Mayor Barbara G. Volk issued the oath of office to Police Chief Blair Myhand.

### **B. Recognition of LuAnn Welter, MESH Public Sector Certification – *Jennifer Harrell, HR Director***

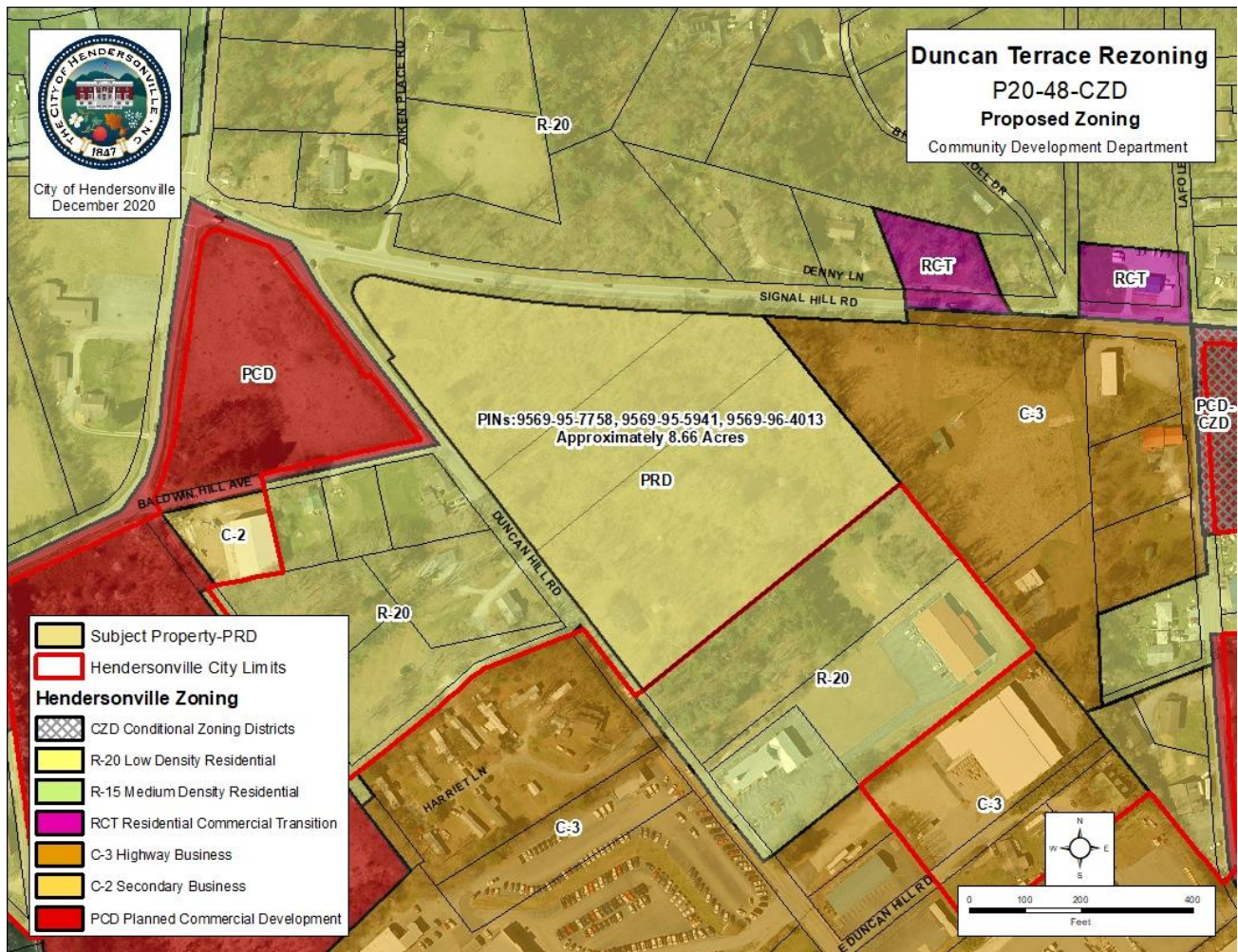
HR Director Jennifer Harrell presented the Public Sector- Manager of Environmental Safety and Health Certificate to Lu Ann Welter. The MESH Certificate is awarded to individuals who demonstrate achievement through education in occupational safety, health, and the environment and is sponsored by the Safety and Health Council of North Carolina, NC State University, and the North Carolina Department of Labor. City Manager John Connet praised Ms. Welter's efforts and success to affect positive organizational culture in the City of Hendersonville.

## **7. PUBLIC HEARINGS**

### **A. Conditional Rezoning: Duncan Terrace Apartments (P20-48-CZD) – *Tyler Morrow, Planner II***

Community Development Planner Tyler Morrow stated the City is in receipt of a Conditional Rezoning application from Bobby Funk of Mills Construction, Green Holdings LLC and North Main Street Properties of Hendersonville, LLC. for the development of seven, 3-story multifamily structures and a community center on approximately 8.66 acres and said the subject property is identified as parcel numbers 9569-95-7758, 9569-95-5941 and 9569-96-4013. Mr. Morrow stated one parcel currently contains a vacant single-family structure at 710 Duncan Hill Road and said the applicant is requesting to rezone the subject property from R-20 Low Density Residential to PRD Planned Residential Development Conditional Zoning District. City Council members discussed Tree Board recommendations regarding preservation of trees as well as Planning Board recommendations regarding installation of sidewalk and infrastructure being maneuvered around the trees.





This image is only an illustrative reference.

Project Developer Bobby Funk of Mills Construction Company addressed City Council regarding the project standards stating during pre-development they will conduct a full environmental review of the property. Mr. Funk discussed the proposed site plan and setbacks stating the proposed parking exceeds the local requirements with 147 spaces and said they are working with NCDOT on a safe ingress and egress route off of Duncan Hill Rd. Mr. Funk discussed utilities and municipal services stating there were many unknowns at this point in the project. Community Development Director Lew Holloway confirmed building height allowances and Mr. Funk asked for consideration of a 35' 8" height in order to avoid adjustments to the roof line pitch and shadows lines not exceeding the property. Mr. Funk discussed housing needs traffic patterns and stated he has engaged the traffic engineering firm, JM Teague to conduct further analysis stating the initial findings were that there would be a minimal impact to the roadways. Mr. Funk stated the NCDOT proposed realignment (round-a-bout) is an unfunded rerouting and stated he believes they can accommodate the planned improvement by retaining right-of-way for NCDOT use. Mr. Funk stated they will engineer a stormwater management system to the specifications of the zoning ordinance.

City Council Members discussed preference to retain the three trees as recommended by the Tree Board and preference that the project be Dark Sky Compliant so long as it is approved by the other approving agencies that must be satisfied with regards to security/safety and that any lighting plans are reviewed for adequacy.

City Attorney Beeker suggested City Council make a recommendation to direct staff to make a text amendment to require Dark Sky Compliance for future developments. City Council concurred.

Project Attorney, Ian Bird stated the lighting plan for the project will be submitted to the State for ADA and Fair Housing Compliance and said Dark Sky Requirements may be in conflict but said they are happy to explore this and to comply with this condition if there is no conflict.

The City Clerk confirmed the public hearing has been advertised in accordance with General Statutes. The public hearing was opened at 7:12 p.m.

Lynn Williams of 309 Chadwick Ave. addressed City Council via Zoom expressing concerns of preserving additional vegetation and protections for the existing trees on the property over 12 inches in diameter as well as concerns of the project being located next to a communications tower.

*Ken Fitch* of 1046 Patton S t. addressed City Council electronically via Zoom expressing concerns regarding traffic impact and the ingress and egress on Signal Hill Road and additional privacy buffer between the upper and lower buildings.

There were no other comments. The public hearing was closed at 7:18 p.m.

The following conditions were agreed upon:

**1. STIPULATED USES:**

**Only the following uses are authorized for the referenced development:**

- a) Residential dwellings, multi-family
- b) Accessory structures
- c) Parks
- d) Home Occupations
- e) Customary accessory uses.

**2. CONDITIONS:**

- a) Shall be attached to the conditional rezoning and satisfied prior to issuance of final Site Plan approval:**

City-Initiated Conditions:

- 1) The Duncan Hill Road entrance/exit will be realigned to match Baldwin Hill Ave.
- 2) Make all reasonable efforts to preserve the three (3) existing trees in front of the existing single-family home at 710 Duncan Hill Road
- 3) Exterior site lighting should be in accordance with the International Dark Sky Association's recommendations subject to any ADA and the North Carolina Housing Finance Agency requirements.

- b) Shall be attached to the conditional rezoning:**

- 1) Final plans for the project shall comply with approved plans, the conditions agreed to on the record of this proceeding and applicable provisions of the Hendersonville Zoning Ordinance and Code of Ordinances.

Council Member Jerry Smith clarified there would be 18 trees removed and 17 replaced. There was no other discussion by City Council.

*Council Member Jerry Smith 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 from R-20 Low density residential to PRD Planned Residential Development Conditional Zoning District, based on the site plan submitted by the applicant and subject to the limitations and conditions stipulated on the List of Uses and Conditions, specifically that the developer that will construct lighting that is dark sky compliant so long as it meets the requirements of the NC Housing Finance Agency, and that the developer will make all reasonable efforts to preserve the three (3) existing trees in front of the existing single-family home at 710 Duncan Hill Road , finding that the rezoning is consistent with the Comprehensive Plan's Future Land Use map, and that the rezoning is reasonable and in the public interest for the following reason: the development will provide additional housing options for residents of the City, specifically those needing workforce housing. A unanimous vote of the Council Members followed. Motion carried.*

Ordinance #O-21-04

**AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF HENDERSONVILLE FOR PARCEL NUMBERS 9569957758, 9569955941 AND 9569964013 BY CHANGING THE ZONING DESIGNATION FROM R-20 LOW DENSITY RESIDENTIAL TO PRD PLANNED RESIDENTIAL DEVELOPMENT CONDITIONAL ZONING DISTRICT**

IN RE: Parcel Numbers:9569957758, 9569955941 and 9569964013- Duncan Terrace  
Conditional Zoning District  
(File # P20-48-CZD)



**WHEREAS**, the City is in receipt of a Conditional Rezoning application from Bobby Funk of Mills Construction, Green Holdings LLC and North Main Street Properties of Hendersonville, LLC. for the development of 7, 3 story multifamily structures and a community center on approximately 8.66 acres., and

**WHEREAS**, the Planning Board took up this application at its regular meeting on February 8<sup>th</sup>, 2021; voting 6-0 to recommend City Council adopt an ordinance amending the official zoning map of the City of Hendersonville, and

**WHEREAS**, City Council took up this application at its regular meeting on March 4<sup>th</sup>, 2021, and

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

1. Pursuant to Article XI of the Zoning Ordinance of the City of Hendersonville, North Carolina, the Zoning Map is hereby amended by changing the zoning designation of the following:

Parcel numbers 9569957758, 9569955941 and 9569964013 from R-20 Low Density Residential to PRD Planned Residential Development Conditional Zoning District

2. Development of the parcel shall occur in accordance with the final site plan requirements of Article VII of the Zoning Ordinance of the City of Hendersonville, North Carolina, and shall be subject to the site limitations and conditions stipulated on the list of uses and conditions.
3. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted by the City Council of the City of Hendersonville, North Carolina this 4th, day of March 2021.

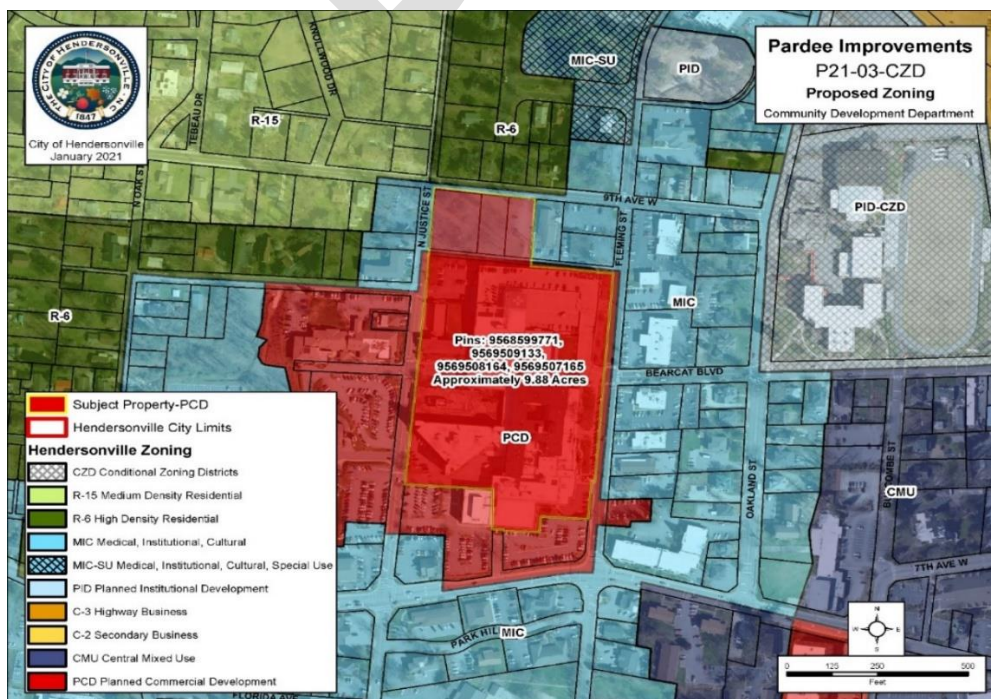
/s/Barbara G. Volk, Mayor

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

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

**B. Conditional Rezoning: Pardee Entrance & Parking Lot (P21-03-CZD – Matthew Manley, Planning Manager**

Community Development Planning Manager, Matthew Manley addressed City Council stating the City is in receipt of a Conditional Rezoning application from Pardee Hospital for a multi-faceted project centered around enhanced access/circulation and additional surface parking and said the project involves the removal of the former EMS building, a partial closure of the Brown Street Right-of-Way (ROW), improvements to the hospital's main entrance, an addition of new surface parking off of N. Justice St and 9<sup>th</sup> Ave W (111 new spaces), and enhancements for vehicular and pedestrian circulation between the added parking lot and the main entrance. Mr. Manley stated possible City Council imposed conditions could involve tree preservation and Dark Sky Lighting compliance and sidewalks. Mr. Manley discussed fee-in-lieu of sidewalks would be based on requirements of the Zoning Code and clarified 18 hard wood trees are selected for preservation but said there was one very large oak tree that is not included in the center of the proposed parking area. Mr. Manley clarified there would be 472 standard parking spaces, 6 ambulance spaces, and 60 accessible spaces. Manager Connet reminded everyone that hospital campuses have evolved over the years and encompass many more services at and adjacent to the hospital.



This image is only an illustrative reference.

Civil Engineer Jared DeRidder, P.E., addressed City Council stating modifications to the entrance to the hospital by closing Brown Street yields opportunities for pedestrian accessibility and circulation as well as tree preservation. He discussed a fee-in-lieu of sidewalks to preserve as many trees as possible and said they are happy to build the sidewalk around the parameter as required by ordinance but said the trees cannot be saved if this is done. He proposed installation of a pedestrian pathway which circulates through the center of the parking lot and down onto 9<sup>th</sup> Avenue. Mr. DeRidder Stated installation of a retaining wall would preserve four more mature trees but would come at a substantial cost of approximately \$75,000 to the hospital.

The City Clerk confirmed the public hearing has been advertised in accordance with General Statutes. The public hearing was opened at 8:02 p.m.

*Lynn Williams* of 309 Chadwick Ave. addressed City Council via Zoom expressing concerns of tree preservation.

*Ken Fitch* of 1046 Patton Street addressed City Council electronically via Zoom expressing concerns of tree preservation and requested consideration of the addition of green infrastructure to the site to reduce impervious surface and aid in stormwater runoff.

There were no other comments. The public hearing was closed at 8:07 p.m.

City Council Members discussed the pro's and cons of parking needs, sidewalks, and longer term parking solutions and conceded to be in favor of the project without sidewalks (fee-in-lieu of) to preserve the most trees.

Mr. DeRidder stated they would agree to additional landscaping standards in ordinance listed as a Type C Buffer and also agreed to Dark Sky Compliant lighting if the cost is lesser and said they would need to come back before Council if the cost was more.

The following conditions were agreed upon:

**1. STIPULATED USES:**

**Only the following uses are authorized for the referenced development:**

- a) Parking lots

**2. CONDITIONS:**

- a) **Shall be attached to the conditional rezoning and satisfied prior to issuance of final Site Plan approval:**

City-Initiated Conditions:

- 1) Developer will install plantings equivalent to the Type C Buffer vegetative requirements along the 9th Ave portion of the site.
- 2) Exterior site lighting should be in accordance with the International Dark Sky Association's recommendations.
- 3) The developer will preserve the trees noted on the landscape plan (shaded blue), in addition to any others over 30 inches dbh, to the greatest extent possible and in accordance with Zoning Ordinance, Section 15-4 Existing Vegetation (c) regardless of whether the identified trees are credited towards the landscape requirements.

- b) **Shall be attached to the conditional rezoning:**

- 1) Final plans for the project shall comply with approved plans, the conditions agreed to on the record of this proceeding and applicable provisions of the Hendersonville Zoning Ordinance and Code of Ordinances.

*City Council Member Jeff Miller 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 from MIC (Medical, Institutional, Cultural) to PCD (Planned Commercial Development Conditional Zoning District), based on the site plan submitted by the applicant and subject to the limitations and conditions stipulated on the List of Uses and Conditions, including the addition of landscape requirements for Type C Buffer as per ordinance along the 9<sup>th</sup> Street area of the project, and that the project be Dark Sky Compliant if such is more cost*

*effective, finding that the rezoning is consistent with the Comprehensive Plan's Future Land Use map, and that the rezoning is reasonable and in the public interest for the following reasons: that the proposed use is compatible with the area. A unanimous vote of the Council Members followed. Motion carried.*

Ordinance # O-21-05

**AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF HENDERSONVILLE FOR PARCELS OF THE HENDERSON COUNTY HOSPITAL CORPORATION & HENDERSON COUNTY (PARDEE HOSPITAL CAMPUS - PIN# 9569507165, 9569508164, & 9569509133) BY CHANGING THE ZONING DESIGNATION FROM MIC (MEDICAL INSTITUTIONAL, CULTURAL ZONING DISTRICT) TO PCD (PLANNED COMMERCIAL DEVELOPMENT CONDITIONAL ZONING DISTRICT)**

IN RE: 0 N. Justice St (PIN 9569507165), 0 9<sup>th</sup> Ave W (9569508164), 650 Brown St (PIN 9569509133)  
(File # P21-03-CZD)

**WHEREAS**, the City is in receipt of a Conditional Rezoning application from Pardee Hospital for the construction of circulation enhancements and expanded surface parking;

**WHEREAS**, the Planning Board took up this application at its regular meeting on February 8, 2021; voting to neither approve nor deny a recommendation to City Council to 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 March 4<sup>th</sup>, 2021, 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:

PINS 9569507165, 9569508164, 9569509133 from MIC Medical Institutional Cultural to PCD Planned Commercial Development Conditional Zoning District.

2. Development of the parcels shall occur in accordance with the final site plan requirements of Article VII of the Zoning Ordinance of the City of Hendersonville, North Carolina, and shall be subject to the site limitations and conditions stipulated on the List of Uses and Conditions.

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

Adopted by the City Council of the City of Hendersonville, North Carolina this 4th, day of March 2021.

/s/Barbara G. Volk, Mayor

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

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

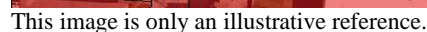
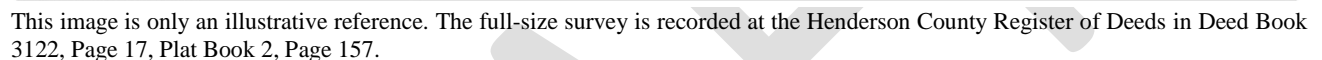
Mayor Barbara G. Volk briefly recessed the meeting at 8:43 p.m. and reconvened at 8:49 p.m. All members continuously remained in attendance.

~~C. REMOVED Special Use Permit Amendment: Beacon Commons (P21-10-SUR) Tyler Morrow, Planner~~

**D. Conditional Rezoning: Fleming Street Medical Office Building, P20-41-CZD – Lew Holloway, Community Development Director**

Community Development Director Lew Holloway stated the City is in receipt of a Conditional Rezoning application from Carleton Collins of Carleton Collins Architecture and CCP Fleming LLC for the development of a 3 story 13,536 square foot medical office on approximately 0.86 acres. He stated the subject property is currently vacant and is identified as parcel numbers 9569-60-1341 and 9569-60-1454 is currently vacant and said the applicant is requesting to rezone the subject property from MIC Medical, Institutional, Cultural and MIC-SU Medical, Institutional, Cultural, Special Use to MIC-CZD Medical, Institutional, Cultural Conditional Zoning District.





*Zach Forrest* of 520 Fassifern Court submitted written comments electronically and addressed City Council via Zoom expressing ongoing concerns of the project regarding landscaping and tree removal, size of building, retaining walls, and drainage as well as lighting at night.



*Ken Fitch* of 1046 Patton St. addressed City Council by Zoom expressing concerns of neighborhood compatibility and protection of tree canopy and preservation of the existing buffer for neighborhood compatibility.

There were no other comments. The public hearing was closed at 9:13 p.m.

Council Member Jerry Smith stated he is not in support of the project due to the size of the building, retaining wall, and buffer. Mayor Volk clarified that vegetation must be maintained according to the conditions stipulated. Council Member Jeff Miller inquired regarding disposal of medical waste in the dumpster outside the proposed facility and Mr. Collins clarified that medical waste would be disposed of properly and not in the dumpster on site. Mr. Collins clarified stormwater infrastructure would be installed under the parking lot and tied into the City's existing stormwater infrastructure. Mr. Collins proposed reducing the size of the building to two story to comply with City Council concerns but would ask to finalize parking design with Planning Staff to negate an additional presentation. Council Members Simpson and Smith expressed concerns of neighborhood compatibility and pedestrian safety. Mayor Volk clarified that the area is currently zoned as MIC and wanted to make sure everyone understood City Council was not changing the current zoning designation.

The following conditions were agreed upon:

**1. STIPULATED USES:**

Only the following uses are authorized for the referenced development:

- a) Offices, business, professional and public
- b) Personal services consistent with the purposes of this classification, such as medical & dental labs and clinics, opticians & optical services, and prosthetics & orthopedics

**2. CONDITIONS:**

- a) Shall be attached to the conditional rezoning and satisfied prior to issuance of final Site Plan approval:

City-Initiated Conditions:

- 1) That the building set-back requirements be reduced from 30' to 10' along the Fleming Street property edge and from 10' to 0' along the 9th Avenue property edge. Furthermore, that the building be sited on the 10' Fleming Street setback and the 0' 9th Avenue setback accordingly and that the parking be relocated to the side and rear of the site plan.
- 2) That a stormwater management plan be submitted by the applicant demonstrating compliance with Chapter 24 Article 3: Stormwater Ordinance in the City Code of Ordinances.
- 3) That site lighting be dark sky compliant.
- 4) That the existing type B buffer along the western property line of parcel number 956-960-1454 and the existing buffer along the western property line of parcel number 956-960-1341 be preserved during the redevelopment of the site. Furthermore, that this combined existing buffer be supplemented with 5 additional broadleaf canopy trees and 25 evergreen shrubs. All vegetation preserved and planted within this buffer shall be maintained in accordance with Section 15-4 Existing Vegetation of the City's zoning ordinance.
- 5) That the building will have a maximum footprint of 5,000 square feet.
- 6) The building shall be 2-stories and shall not exceed 30' in height.
- 7) The Community Development Department staff shall have the authority to approve the final site plan configuration including parking, provided the standards established herein and by the Zoning Ordinance are met.

**b) Shall be attached to the conditional rezoning:**

- 1) Final plans for the project shall comply with approved plans, the conditions agreed to on the record of this proceeding and applicable provisions of the Hendersonville Zoning Ordinance and Code of Ordinances.

*Council Member Jerry Smith 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 from MIC Medical, Institutional, Cultural and MIC-SU Medical, Institutional, Cultural, Special Use to MIC-CZD Medical, Institutional, Cultural Conditional Zoning District, with the following based on the site plan submitted by the applicant and subject to the limitations and conditions stipulated on the List of Uses and Conditions, specifically that the maximum footprint of the building be no greater than 5,000 square feet or 30' in height, finding that the rezoning is consistent with the Comprehensive Plan's Future Land Use map, and that the rezoning is reasonable and in the public interest for the following reasons: the building is compatible because it is a medical office building. A unanimous vote of the Council Member followed. Motion carried.*

Ordinance # O-21-06

**AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF HENDERSONVILLE FOR PARCEL NUMBERS 9569-60-1341 and 9569-60-1454 BY CHANGING THE ZONING DESIGNATION FROM MIC MEDICAL, INSTITUTIONAL, CULTURAL AND MIC-SU MEDICAL, INSTITUTIONAL, CULTURAL, SPECIAL USE TO MIC-CZD MEDICAL, INSTITUTIONAL, CULTURAL CONDITIONAL ZONING DISTRICT**

IN RE: Parcel Numbers 9569-60-1341 and 9569-60-1454- Fleming Street Medical Office Building  
(File # P20-41-CZD)

**WHEREAS**, the City is in receipt of a Conditional Rezoning application from Carleton Collins of Carleton Collins Architecture and CCP Fleming LLC for the development of a of a 3 story 13,608 square foot medical office on approximately 0.86 acres, and

**WHEREAS**, the Planning Board took up this application at its regular meeting on December 14<sup>th</sup>, 2020; voting 5 to 1 to recommend City Council adopt an ordinance amending the official zoning map of the City of Hendersonville, and

**WHEREAS**, City Council took up this application at its regular meeting on February 4<sup>th</sup>, 2021, and

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

1. Pursuant to Article XI of the Zoning Ordinance of the City of Hendersonville, North Carolina, the Zoning Map is hereby amended by changing the zoning designation of the following:

Parcel numbers 9569-60-1341 and 9569-60-1454 from MIC Medical, Institutional, Cultural And MIC-SU Medical, Institutional, Cultural, Special Use To MIC-CZD Medical, Institutional, Cultural Conditional Zoning District.

2. Development of the parcel shall occur in accordance with the final site plan requirements of Article VII of the Zoning Ordinance of the City of Hendersonville, North Carolina, and shall be subject to the site limitations and conditions stipulated on the List of Uses and Conditions.

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

Adopted by the City Council of the City of Hendersonville, North Carolina this 4th, day of March 2021.

/s/Barbara G. Volk, Mayor

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

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

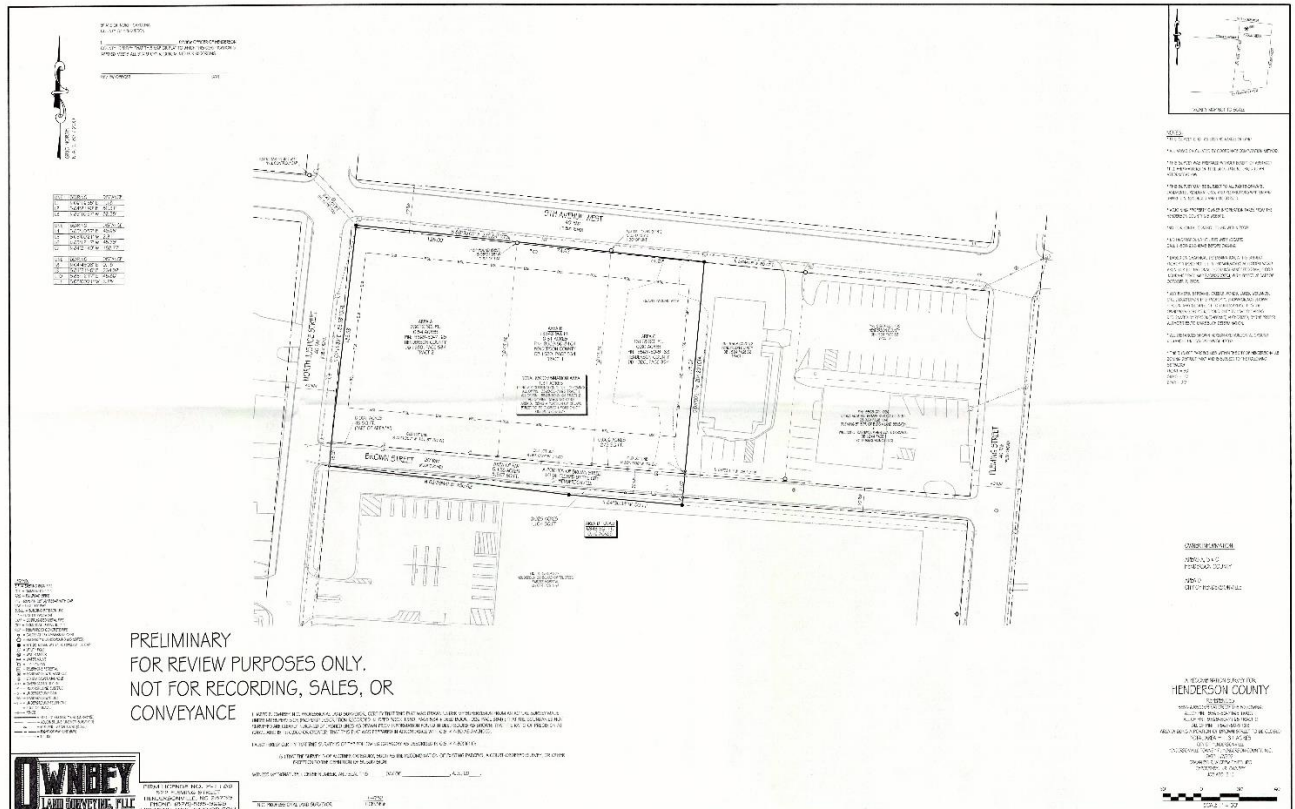
**E. Brown Street ROW Abandonment (P21-04-SC) – Lew Holloway, Community Development Director**

Community Development Director Lew Holloway stated the City has received an application from the Henderson County Hospital Corporation to close a portion of an opened and improved ROW for Brown Street located on PIN 9569-50-9133, 9569-50-8164, 9569-50-7165 and 9568-59-9771.

Director Holloway clarified that NC General Statue 160A-299 outlines procedures and provides the City with authority for permanently closing streets and alleys and said whenever there is a proposal to permanently close any street or public alley, the City Council must first adopt a resolution declaring its intent to close the street or alley and shall set a date for a public hearing. Director

Holloway recalled at the February 4<sup>th</sup>, 2021 City Council meeting, the Council adopted a Resolution of Intent to close a portion of an opened and improved ROW for Brown Street.

There were no questions and no discussion.



This image is only an illustrative reference of a recombination survey. The full-size survey will be recorded at the Henderson County Register of Deeds as Plat Slide 2021-13109.

The City Clerk confirmed this public hearing has been advertised in accordance with NC General Statutes. The public hearing was opened at 9:39 p.m.

*Ken Fitch* of 1046 Patton S t. addressed City Council electronically via Zoom expressing concerns regarding a pedestrian walkway along the proposed closure.

The public hearing was closed at 9:41 p.m.

Mayor Volk advised due to this hearing being advertised as a remote public hearing it is necessary reconvene on Wednesday, March 24, 2021 at 4:00 p.m. at 160 6<sup>th</sup> Ave. E. City Hall 2<sup>nd</sup> Floor Chambers for the purposes of voting on this matter.

**8. UNFINISHED BUSINESS** There was no unfinished business.

## **9. NEW BUSINESS**

### **A. Request from Flat Rock Playhouse for Special Funding in the FY 21-22 Budget – Council Member Jeff Miller and Lisa Bryant, FRPH Executive Director**

Lisa Bryant, Flat Rock Playhouse (FRP) Executive Director addressed City Council requesting support of their Rock-Solid Campaign. Ms. Bryant said as a result of the COVID-19 Pandemic, reserve funds are being exhausted for ongoing maintenance and facility upkeep. Ms. Bryant stated if FRP were to close down completely, it would take a full six months or more to acquire necessary funding to restart and prepare/repair the unused facilities and property, recapture students, and assemble a full staff to create a new season of live performances and music. Ms. Bryant stated the Playhouse is requesting funding in the amount of \$25,000 for safety improvements to the HVAC system in the facility. She stated the grand total is estimated to be approximately \$250,000 and said staff are seeking on alternative funding sources through grants and donations.

City Manager stated if City Council chooses to fund this request staff suggests any funding be dedicated to HVAC system upgrades as it would provide a safe environment for citizens to return to the theater to see productions. City Attorney clarified any funding spent within the current fiscal year

must be pre-audited. After much discussion, City Council Members agreed to approve the funding request in the amount of \$25,000.

*Council Member Jeff Miller moved that City Council enter into a contract with Flat Rock Playhouse to provide safe programing by upgrading the HVAC system for which the City of Hendersonville will provide \$25,000 in funding from the current fiscal year budget. A unanimous vote of the Council Member followed. Motion carried.*

**B. ~~REMOVED Berkeley Road & North Main Street Intersection~~ — ~~Lew Holloway, Community Development Director~~**

**C. Request by Bird Ride to Provide Share Ride Scooters in Downtown Hendersonville – John F. Connet, City Manager**

City Manager John Connet stated Chris Stockwell with Bird Ride has approached the City requesting to provide an alternate form of transportation in Downtown Hendersonville.

Chris Stockwell, Senior Manager with Bird Ride presented a proposal to City Council stating the electric vehicle (scooters) ride sharing program is operated by using the Bird smartphone app where riders find the closest Bird scooter on a map, unlock it and complete the safety tutorial to start their ride. He stated the cost is \$1 to start, then a per minute fee would be charged. Mr. Stockwell clarified there is no cost to the City. Mr. Stockwell discussed parking management stating they will work with a local entrepreneur to act as their logistics partner within the City and said Bird offers a comprehensive suite of parking tools that bridges the gap between technology and infrastructure by both directing and incentivizing riders to park in city-designated areas.

City Council Member Dr. Jennifer Hensley inquired about liability and Mr. Stockwell stated Bird Ride would indemnify the City and encourage all riders to wear a helmet.

Mayor Volk thanked Mr. Stockwell and advised City Council will not make a decision at this time.

**D. Action by Hendersonville City Council to Cease Negotiations for a Hotel on the Dogwood Parking Lot – John F. Connet, City Manager**

City Manager John Connet recalled the City entering into a Memorandum of Understanding with Blue Star Hospitality LLC to develop a hotel on the Dogwood Parking Lot and said the Memorandum of Understanding (MOU) expired on March 1, 2020 and advised the developer did not submit a written request to extend the MOU for 120 days. Mr. Connet recalled the City Council approving two additional downtown hotel plans by other developers and recent discussions with staff of the desire to no longer pursue a hotel on the Dogwood Parking Lot. City Manager Connet requested City Council to take formal action on the matter.

*City Council Member Jeff Miller move that the City Council direct staff to cease negotiations for the development of a hotel on the Dogwood Parking Lot. A unanimous vote of the Council Member followed. Motion carried.*

**E. ~~REMOVED Briefing on Permitting for Duke Energy Coal Ash Contact Water~~ — ~~Graecie Erwin, Environmental Compliance Coordinator, & Drew Finley, Lead for NC Fellow~~**

**F. ADDED - Balloon Fest 2021 Event – Team ECCO, Aquarium & Shark Lab**

*Council Member Jerry Smith moved that City Council enter into a contract with team Echo to fund the event Balloon Fest 2021 in the amount of \$1,000 in funding from the current fiscal year budget. A unanimous vote of the Council Member followed. Motion carried.*

**10. CITY COUNCIL COMMENTS**

Council Member Lyndsey Simpson announced fund raising has begun for the splash pad.

**11. CITY MANAGER REPORT – John F. Connet, City Manager****A. Fiscal Year 2021 2<sup>nd</sup> Quarter Cash and Investment Report**

City Manager Connet provided the Fiscal Year 2021 2<sup>nd</sup> Quarter Cash and Investment Report to City Council.

**12. CLOSED SESSION**

*At 10:19 p.m. City Council Member Jeff Miller moved that City Council enter into closed session pursuant to NCGS § 143-318.11(a)(1)(3) and (5) (1) to prevent the disclosure of information that is privileged or confidential pursuant to the law of this State or of the United States, or not considered a public record within the meaning of Chapter 132 of the General Statutes; and (3) to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body; and (5) to establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating the price and other material items of a contract for the acquisition of real property by purchase, option, exchange or lease and the amount of compensation and other material consideration of an employment contract.*

*Council Member Lyndsey Simpson moved that City Council return to Open Session at 10:36 p.m. A unanimous roll call vote of the Council followed. Motion carried.*

The meeting was recessed at 10:36 p.m. on March 4, 2021 upon unanimous assent of the Council and scheduled to reconvene on Wednesday, March 24, 2021 at 4:00 p.m. at 160 6<sup>th</sup> Ave. E. City Hall 2<sup>nd</sup> Floor Chambers for the purposes of voting on Item 7E, Brown Street ROW Abandonment (P21-04-SC).

**March 24, 2020**

**RECONVENED REGULAR MEETING OF THE CITY COUNCIL**

**Present:** Mayor Barbara G. Volk, Mayor Pro Tem Jerry Smith, and Council Members: Jeff Miller, Dr. Jennifer Hensley, and Lyndsey Simpson

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

**1. CALL TO ORDER**

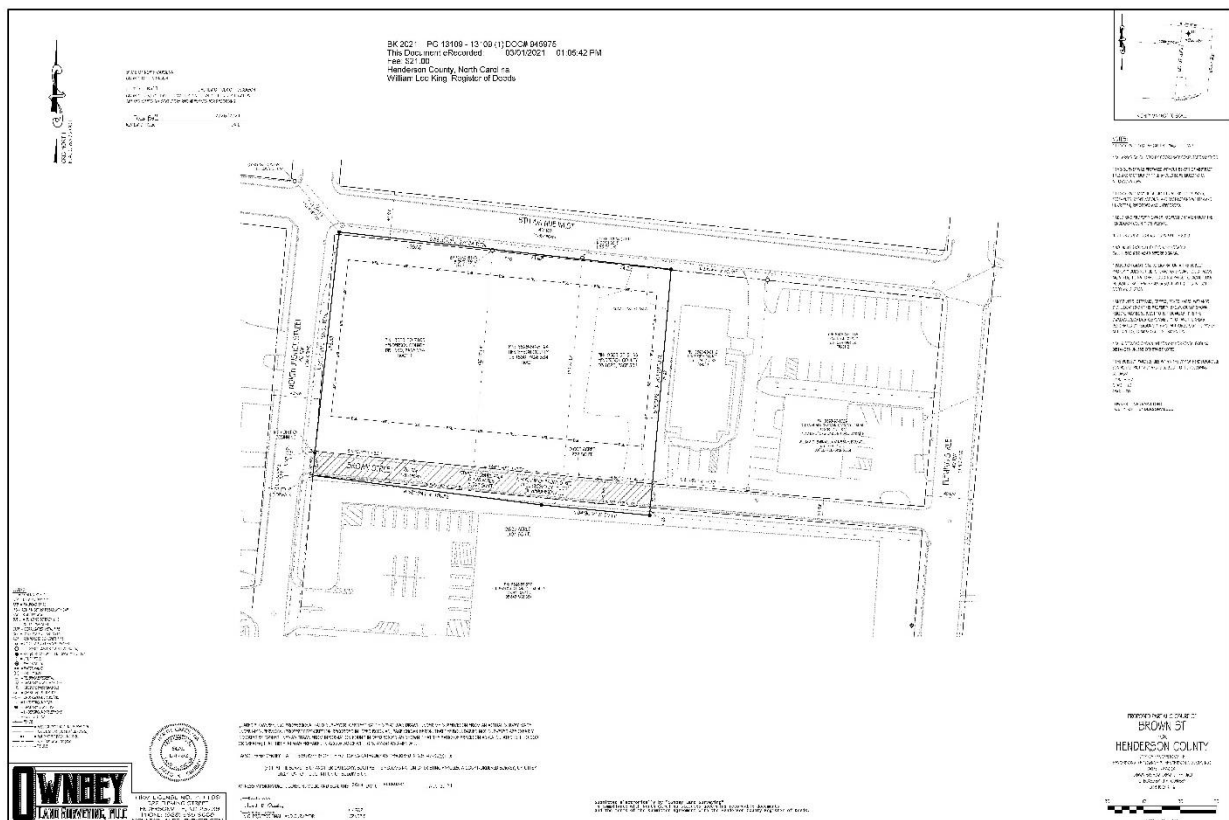
Mayor Barbara G. Volk reconvened the meeting at 4:00 p.m. and welcomed those in attendance. A quorum was established with all members in attendance.

**PUBLIC HEARING CONTINUED:**

**7E. CONTINUATION Brown Street Right-Of-Way Abandonment (P21-04-SC) – Lew Holloway, Community Development Director**

There were no further comments.

*Council Member Jeff Miller moved that City Council adopt the Order to Permanently Close a portion of an opened and improved ROW for Brown Street located on PIN 9569-50-9133, 9569-50-8164, 9569-50-7165 and 9568-59-9771 as petitioned by Henderson County Hospital Corporation. A unanimous vote of the Council followed. Motion carried.*



This image is only an illustrative reference of a recombination survey. The full-size surveys are recorded at the Henderson County Register of Deeds in Plat Slice 2021-13109.

Ordinance # O-21-07

## AN ORDER OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO PERMENATELY CLOSE A PORTION OF BROWN STREET

(Petition of the Henderson County Hospital Corporation)

NORTH CAROLINA  
HENDERSON COUNTY

TO WHOM IT MAY CONCERN:

**WHEREAS**, North Carolina General Statute Section §160A-299 authorizes a city council to permanently close any street or public alley way within its corporate limits or area of extraterritorial jurisdiction and provides a procedure for the closing such streets or alleyways; and

**WHEREAS**, Henderson County Hospital Corporation has petitioned the City of Hendersonville to close a portion of an open and improved ROW for Brown Street located on PIN 9569-50-9133, 9569-50-8164, 9569-50-7165 and 9568-59-9771; and

**WHEREAS**, on February 4<sup>th</sup>, 2021, the Hendersonville City Council adopted a resolution expressing the intention of the municipality to close portions of these streets and setting March 4<sup>th</sup>, 2021 as the date of a public hearing regarding such closure; and

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

**WHEREAS**, notice of the closings and of the public hearing has been posted in at least two places along the streets; and

**WHEREAS**, a public hearing was held in conformance with the aforementioned public notice on the fourth day of March 2021.

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

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



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

1. The following portions of Brown Street is permanently closed and no longer existent as of the effective date of this order:

**BEGINNING at an iron pin set, being the southwest corner of Tract 2 as described in deed book 1580 page 534; thence from said beginning point N 06°16'35" E 1.18' to a calculated and unmarked point, said point being the intersection of the east margin of the right-of-way for North Justice Street and the north margin of the right-of-way for Brown Street; thence with the north margin of the right-of-way of Brown Street S 85°10'57" E 82.28' to a calculated and unmarked point; thence S 84°21'40" E 152.77' to a calculated and unmarked point; thence S 85°12'17" E 45.79' to a calculated and unmarked point, said point being the intersection of the north margin of the right-of-way for Brown Street and the east line of that property as described in deed book 1026 page 394; thence crossing Brown Street and with the east line of said property S 05°00'21" W 20.00' to a calculated and unmarked point, said point being the intersection of the south margin of the right-of-way for Brown Street and the east line of said property; thence with the southern margin of the right-of-way of Brown Street N 85°12'17" W 45.86' to a calculated and unmarked point; thence still with the southern margin of the right-of-way N 84°21'40" W 234.92' to a calculated and unmarked point, said point lying N 04°49'03" E 0.18' from a chiseled "X" in the sidewalk, the northwest corner of the Pardee Hospital tract; thence N 04°49'03" E 18.82' to the point and place of BEGINNING. Having an area of 5,567 square feet, or 0.128 acres as shown on plat by Ownbey Land Surveying, PLLC entitled Exhibit Map Illustrating Proposed Partial Closure of Brown Street for Henderson County dated January 7, 2021.**

2. The plat, depicting the above-described portion of Brown Street to be closed, recorded on Plat Slide 2021-13109 of the Henderson County Registry, is attached hereto and incorporated by reference.
3. The City Clerk shall forthwith cause a certified copy of this order to be filed in the Office of the Register of Deeds of Henderson County.

Adopted by the City Council of the City of Hendersonville, North Carolina this 24<sup>th</sup> day of March 2021.

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

**13. ADJOURN**

There being no further business, the meeting was adjourned at 4:02 p.m. on March 24, 2021 upon unanimous assent of the Council.

ATTEST:

\_\_\_\_\_  
Barbara G. Volk, Mayor

\_\_\_\_\_  
Angela L. Reece, City Clerk