



# MINUTES

November 4, 2021

## REGULAR MEETING OF THE CITY COUNCIL

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

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

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

Lynn Clark of 343 Yon Hill Rd. addressed City Council expressing thanks and appreciation of Tyler Morrow, Planner, for assistance given regarding a development approval. Ms. Clark expressed concerns of the number of developments being approved in the North Main Street area.

Larry Phillips of 1102 Pinebrook Circle addressed City Council regarding Boyd Park requesting the matter be placed on the Historic Preservation Commission agenda for designation as a historical site.

Eddie Moses of 343 Yon Hill Rd. addressed City Council expressing concerns regarding traffic along North Main Street and infrastructure. Mr. Moses stated the roads are narrow with no shoulder and expressed concerns of one sidewalk near Oklawaha Village. Mr. Moses asked for consideration of installation of a guardrail, addressing visibility concerns on Yon Hill Rd, and of road widening and installation of sidewalks in the area.

Lynne Williams of 309 Chadwick Ave. addressed City Council asking for consideration of preserving Boyd Park and the Laura Corn Mini Golf Course asking for consideration of forming a committee to save the park.

Franco Carrasco of 229 Strick Garden Lane addressed City Council via Zoom electronic software asking City Council to deny the request for Providence Walk rezoning and expressed concerns for safe streets in the area.

### 4. CONSIDERATION OF AGENDA

*Council Member Jeff Miller moved that City Council approve the agenda as amended by moving Rezoning: Conditional Zoning District – Providence Walk (P21-31-CZD) to Unfinished Business. A unanimous vote of the Council followed. Motion carried.*

### 5. CONSENT AGENDA

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

*I move that City Council adopt the minutes of the October 7, 2021, Regular Meeting as presented.*

#### B. Acceptance of October 5, 2021 Official Primary Election Results – Angela L. Reece, City Clerk

*I move that City Council accept the abstract of votes as provided by the Henderson County Board of Elections for the October 5, 2021 primary election.*

#### C. Henderson County Tax Adjustments -Amanda Lofton, Deputy Tax Collector

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

**D. Lead and Copper Rule Compliance Support** – Gracie Erwin, *Environmental Compliance Coordinator*

*I move that City Council adopt the Resolution by the City of Hendersonville City Council to Enter into a Contract for Engineering Services to Support the Service Line Inventory Compliance Project as presented.*

**Resolution #R-21-97**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO ENTER INTO A CONTRACT FOR ENGINEERING SERVICES TO SUPPORT THE SERVICE LINE INVENTORY COMPLIANCE PROJECT**

**WHEREAS**, the City is required as a water utility to develop a service line inventory by 2023, as outlined in the new Lead and Copper Rule Revisions (LCRR) from the Environmental Protection Agency; and

**WHEREAS**, City Staff are required to submit a detailed report of all services lines connected to the public water system, and the LCRR defines this to include privately owned service lines, and lines that lay on the customer side of water meters; and

**WHEREAS**, City Staff have solicited a proposal to provide Engineering Services to support City Staff in completing this inventory project from Hazen and Sawyer, P.C.

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

1. The scope of engineering services from Hazen and Sawyer, P.C. of Greensboro, NC is approved in the amount of \$40,000.
2. The City Manager is authorized to execute an agreement with Hazen and Sawyer consistent with the terms of this Resolution, as approved by the City Attorney.
3. The agreement is exempt from the requirements of the Mini-Brooks Act.

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

/s/Barbara G. Volk, Mayor

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

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

**E. Etowah Water Improvements Engineering Amendment 4** – Brent Detwiler, *City Engineer*

*I move that City adopt the Resolution by the City of Hendersonville City Council to Authorize the City Manager to Enter into An Amendment to An Agreement with Black & Veatch International Company as Part of the Etowah Water Improvements Project; as presented and recommended by staff.*

**Resolution #R-21-98**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO AUTHORIZE THE CITY MANAGER TO ENTER INTO AN AMENDMENT TO AN AGREEMENT WITH BLACK & VEATCH INTERNATIONAL COMPANY AS PART OF THE ETOWAH WATER IMPROVEMENTS PROJECT**

**WHEREAS**, the Etowah Water Improvements Project (Project No. 16003) is under construction; and

**WHEREAS**, an engineering agreement with Black and Veatch International Company was executed in November 2016 to complete the design, permitting, bidding and award work associated with the project; and

**WHEREAS**, construction of the project has been further delayed to due COVID-19 and other issues; and

**WHEREAS**, the schedule delay has resulted in the need to amend the agreement with Black & Veatch to cover Contractor O&M Manual Review, Contractor Startup and Commissioning Plan Review, Request for Information and Change Order Support, Booster Pump Station Record Drawing Production, and Site Visits/Inspections including Substantial and Final Completion punch lists.

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

1. The City Manager is authorized to enter into an Amendment to an Agreement with Black & Veatch International Company for the Etowah Water Improvements Project, in an amount not to exceed \$33,700.00, as presented.

2. The City Manager is authorized to approve change orders which, cumulatively, do not exceed 10% of the approved contract amount of \$33,700.00, provided however that any necessary budget ordinance or project ordinance amendments must be brought back to the City Council for approval.

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

/s/Barbara G. Volk, Mayor

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

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

**F. Agreement - NCDOT Administered Bicycle/Pedestrian Plan - Brent Detwiler, City Engineer**

*I move City Council adopt the Resolution by the City of Hendersonville City Council to Authorize the City Manager to Enter into an Agreement with the North Carolina Department of Transportation for Bicycle and Pedestrian Planning Grant (Tip#M-0551, Wbs#49600.8.16) as presented.*

**Resolution #R-21-99**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO AUTHORIZE THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR BICYCLE AND PEDESTRIAN PLANNING GRANT (TIP#M-0551, WBS#49600.8.16)**

**WHEREAS**, the North Carolina Department of Transportation has established a grant that provides funding to municipalities for the development of Comprehensive Municipal Bicycle and Pedestrian Plans; and

**WHEREAS**, the City of Hendersonville requested funding for a Pedestrian Plan Update to obtain the following objectives:

1. Provide for multimodal forms of transportation.
2. Provide guidance for modifying infrastructure to safely accommodate walking in appropriate locations.
3. Ensure that the North Carolina Department of Transportation (NCDOT) funded projects incorporate the City of Hendersonville's objectives.
4. Move towards an effective network for active transportation, recreation, and exercise.
5. Have an approved plan that will support funding from NCDOT for pedestrian improvements.
6. Ensure land use decisions effectively incorporate multimodal objectives.

**WHEREAS**, the City of Hendersonville has since been designated as a recipient to receive grant funds to complete the Pedestrian Plan Update (TIP#M-0551, WBS#49600.8.16), not to exceed the maximum award amount of \$36,000 with City matching funds of \$9,000 for a project total of \$45,000; and

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

1. The City agrees to participate in certain costs and to assume certain responsibilities in the manner and to the extent as hereinafter set out in the Agreement; and
2. The City Manager is authorized to enter into an Agreement with the North Carolina Department of Transportation for the Pedestrian Plan Update (TIP#M-0551, WBS#49600.8.16), as presented.

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

/s/Barbara G. Volk, Mayor

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

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

**G. Special Event: Holiday Carriage and Train Rides - Lew Holloway, Community Development Director**

*I move that City Council approve the special event permit for Holiday Carriage and Train Rides.*

**H. Street Closure: Resolution of Intent- Portion of Beech Street (AKA Richlieu Avenue) (P21-57-SCL) – Tyler Morrow, Planner II**

*I move that City Council accept the Resolution of Intent to close an unopened and unimproved portion of Beech Street (AKA Richelieu Avenue) between PINs 9578-09-0813 and 9568-99-9737 petitioned by Marie H. Flowers and Willie Lee Brown Jr and set the public hearing for December 2<sup>nd</sup>, 2021.*

## Resolution #R-21-100

**RESOLUTION OF INTENT TO CLOSE AN UNOPENED,  
UNIMPROVED PORTION OF BEECH STREET (AKA RICHLIEU AVENUE)**

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

**WHEREAS**, Marie H. Flowers and Willie Lee Brown Jr. have petitioned the City of Hendersonville City Council to close an unopened and unimproved portion of the street known as Beech Street (AKA Richlieu Avenue), located between PIN 9578-09-0813 and PIN 9568-99-9737; 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 2<sup>nd</sup> day of December 2021, in the Assembly Room of the City Operations Center to consider closing an unopened and unimproved portion of the street known as Beech Street (AKA Richlieu Avenue), located between PIN 9578-09-0813 and PIN 9568-99-9737. Persons shall be allowed to attend and comment in person or via Zoom at the following address:

<https://zoom.us/join>

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

Meeting ID: 957 4684 6396

Passcode: 28792

Digital public hearing 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 Beech Street (AKA Richlieu Avenue) proposed for closing is as follows:

Beginning at a 1 inch diameter open top iron pipe found recessed 0.6 feet below grade at the intersection of the Eastern margin of the right-of-way of Jonas Street with the Northern margin of an unopened section of Beech Street, said pipe being the most Westerly corner of the property of Willie Lee Brown Jr. (see Estate File 2020/1082), as described in Deed Book 481, page 85 of the Henderson County Register of Deeds, said pipe also being located at North Carolina State Plane Grid coordinates of Northing: 589907.42 US Survey feet and Easting: 970023.36 US Survey feet, said pipe being further located South 45°42'55" West a distance of 93.77 feet from a ½ inch diameter open top iron pipe found recessed 0.2 feet below grade in the Eastern margin of Jonas Street; thence from the Beginning thus established South 46°53'25" West a distance of 40.34 feet to a #4 rebar found recessed 0.8 feet below grade at the intersection of said margin of Jonas Street and the Southern margin of the unopened section of Beech Street, said rebar being the most Northerly corner of the property of Marie H. Flowers as described in Deed Book 1215, pages 129 & 131 of said Register; thence with Flowers' line and the margin of the unopened section of Beech Street South 44°17'05" East a distance of 86.30 feet to a point, the intersection of said street margin with the controlled access right-of-way of Martin Luther King Jr. Boulevard (US-64), said point lying North 53°56'06" East a distance of 4.74 feet from a concrete right-of-way monument found projecting 0.5 feet above grade; Thence, 3 calls with the controlled access right-of-way of US-64: (1) North 53°56'06" East a distance of 20.37 feet to a point at the intersection of the centerline of the unopened section of Beech Street ; (2) North 53°56'06" East a distance of 15.02 feet to a concrete right-of-way monument found projecting 0.5 feet above grade; (3) North 52°36'49" East a distance of 5.34 feet to a point in the Northern margin of the unopened section of Beech Street and the Southernmost corner of the aforementioned property of Willie Lee Brown Jr., said point also lying South 52°36'49" West a distance of 95.71 feet from another concrete right-of-way monument found in the margin of US-64; thence with the Northern margin of the unopened section of Beech Street and the line of Willie Lee Brown Jr. North 44°17'05" West a distance of 91.18 feet to the Beginning, containing 3582 square feet.

Subject to an easement, twenty feet in width for drainage and other utilities, reserved by the City of Hendersonville within the closed street as provided for in NCGS 160A-299, further described as follows: Beginning at a point, the intersection of the centerline of the unopened portion of Beech Street with the Eastern margin of Jonas Street, said point lying South 46°53'25" West a distance of 20.17 feet from the Point of Beginning of the previously described street closure area; thence with the Eastern margin of Jonas street, South 46°53'25" West a distance of 20.17 feet to a #4 rebar found recessed 0.8 feet below grade, a corner of said closure area; thence with the margin of said closure area, South 44°17'05" East a distance of 2.82 feet to a point; thence through said closure area 2 calls: (1) South 61°07'27" East a distance of 17.83 feet; (2) South

44°16'49" East a distance of 67.16 feet to a point in the margin of said closure area in the controlled access right-of-way of US-64; thence, with the line of the closure area and the with the margin of US-64, North 53°56'06" East a distance of 20.21 feet to a point, said point lying South 53°56'06" West a distance of 9.97 feet from a concrete right-of-way monument found; thence through said closure area 2 calls: (1) North 44°16'49" West a distance of 73.01 feet; (2) North 61°07'27" West a distance of 17.26 feet to the Beginning, containing 1781 square feet.

The above-described portion of Beech Street (AKA Richlieu Avenue) 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 Beech Street (AKA Richlieu Avenue) proposed for closure as required by G.S. 160A-299.
6. The City Council herewith declares its intent to close the street as described above.

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

/s/Barbara G. Volk, Mayor

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

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

#### **I. Utility Extension Agreement for the Blue Ridge Community College, Patton Hall Expansion**

– Brendan Shanahan, Engineering

*I move that City Council adopt the Resolution by the City of Hendersonville City Council to Authorize the City Manager to Enter into a Utility Extension Agreement with Henderson County and the Trustees of Blue Ridge Community College for the Blue Ridge Community College Patton Hall Expansion as presented and recommended by staff.*

**Resolution #R-21-101**

#### **RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO AUTHORIZE THE CITY MANAGER TO ENTER INTO A UTILITY EXTENSION AGREEMENT WITH HENDERSON COUNTY AND THE TRUSTEES OF BLUE RIDGE COMMUNITY COLLEGE FOR THE BLUE RIDGE COMMUNITY COLLEGE PATTON HALL EXPANSION**

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

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

**WHEREAS**, the Developer extends public water and sewer lines to their site, which upon completion and acceptance, are provided to the City to own, operate, and maintain; and

**WHEREAS**, the City requires a Utility Extension Agreement to be executed to establish requirements of both the Developer and the City for the water and sewer line extension process; and

**WHEREAS**, Henderson County, a body politic and corporate herein after referred to as the "County" and the Trustees of Blue Ridge Community College, herein after referred to as "Trustees," the County and the Trustees sometimes collectively herein referred to as "Developer" will enter into a Utility Extension Agreement with the City to provide water service to the Blue Ridge Community College Patton Expansion.

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

1. The City Manager is authorized to execute the Utility Extension Agreement with the "County" and the "Trustees", the "Developer" to provide water and sewer service to the Blue Ridge Community College Patton Expansion (the "Agreement") on behalf of the City of Hendersonville with such changes as he deems advisable, in consultation with the City Attorney, provided such changes do not impose any new financial obligations on the party of the City.
2. After execution of the Agreement, the City Manager is authorized to approve and execute any amendments to the Agreement as may be requested by the Developer or the City Attorney, provided such changes do not impose any new financial obligations on the party of the City.

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

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

**J. Utility Extension Agreement for the Pardee Partners ASC – Brendan Shanahan, Engineering**

*I move that City Council adopt the Resolution by the City of Hendersonville City Council to Authorize the City Manager to Enter into a Utility Extension Agreement with Henderson County and the Henderson County Hospital Corporation for the Pardee Partners ASC Commercial Subdivision as presented and recommended by staff.*

**Resolution #R-21-102**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO AUTHORIZE THE CITY MANAGER TO ENTER INTO A UTILITY EXTENSION AGREEMENT WITH HENDERSON COUNTY AND THE HENDERSON COUNTY HOSPITAL CORPORATION FOR THE PARDEE PARTNERS ASC COMMERCIAL SUBDIVISION**

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

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

**WHEREAS**, the Developer extends public water and sewer lines to their site, which upon completion and acceptance, are provided to the City to own, operate, and maintain; and

**WHEREAS**, the City requires a Utility Extension Agreement to be executed to establish requirements of both the Developer and the City for the water line extension process; and

**WHEREAS**, Henderson County, a body politic and corporate herein after referred to as the “County” and the Henderson County Hospital Corporation, a North Carolina nonprofit corporation, Henderson County and the Henderson County Hospital Corporation being herein after collectively referred to as “Developer” will enter into a Utility Extension Agreement with the City to provide water service to the Pardee Partners ASC Commercial Subdivision.

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

1. The City Manager is authorized to execute the Utility Extension Agreement with Henderson County and the Henderson County Hospital Corporation, the “Developer” to provide water service to the Pardee Partners ASC Commercial Subdivision (the “Agreement”) on behalf of the City of Hendersonville with such changes as he deems advisable, in consultation with the City Attorney, provided such changes do not impose any new financial obligations on the party of the City.
2. After execution of the Agreement, the City Manager is authorized to approve and execute any amendments to the Agreement as may be requested by the Developer or Owner or the City Attorney, provided such changes do not impose any new financial obligations on the party of the City.

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

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

**K. Approval of Subrecipient Agreement Between the City of Hendersonville and Housing Assistance Corporation for 2021 CDBG Grant – John Connet, City Manager**

*I move that City Council adopt the Resolution by the City of Hendersonville City Council Authorizing the City Manager and City Attorney to Negotiate and Execute a CDBG Subrecipient Agreement Between the City of Hendersonville and Housing Assistance Corporation as presented.*

**Resolution #R-21-103**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL AUTHORIZING THE CITY MANAGER AND CITY ATTORNEY TO NEGOTIATE AND EXECUTE A CDBG SUBRECIPIENT AGREEMENT BETWEEN THE CITY OF HENDERSONVILLE AND HOUSING ASSISTANCE CORPORATION**

**WHEREAS**, City Council has determined that the revitalization of the Ashe Street Neighborhood is critical to protecting the residents of this area; and

**WHEREAS**, the city applied for and was awarded a \$750,000 CDBG Neighborhood Revitalization grant to install public infrastructure and rehabilitate four homes in this neighborhood; and

**WHEREAS**, the city is partnering with Housing Assistance Corporation (Subrecipient) to oversee the rehabilitation of the four homeowner occupied dwellings; and

**WHEREAS**, CDBG regulations require a formal agreement between the grant recipient and subrecipient prior to the expending of any grant funds; and

**WHEREAS**, the City has received a draft subrecipient agreement from Housing Assistance Corporation proposing terms under which they would propose to act as a subrecipient for these funds;

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

1. A subaward in the amount of \$175,000.00 to The Housing Assistance Corporation is approved to be used for the rehabilitation of homes in the Ashe Street Neighborhood as presented.
2. An administrative fee of \$22,000.00 to be paid to the Housing Assistance Corporation from the CDBG funds is approved. The City Manager is authorized to approve increases in the administrative fee within budgeted funds to compensate Housing Assistance Corporation for unanticipated increases in their costs to act as subrecipient.
3. The Hendersonville City Manager and City Attorney are authorized to negotiate and execute the final subrecipient agreement between the City of Hendersonville and Housing Assistance Corporation for the rehabilitation of four homes, consistent with the terms of this Resolution.

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

/s/Barbara G. Volk, Mayor

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

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

**L. Approval of Job Descriptions for Public Works Superintendent Positions** – *Tom Wooten, Director of Public Works*

*I move that City Council approve the job descriptions for the Public Works Superintendent positions as presented.*

**M. Geotechnical Engineering and Environmental Services to Support the Mud Creek Interceptor Replacement** – *Adam Steurer, Utilities Engineer*

*I move to adopt the Resolution by the City of Hendersonville City Council to Enter into a Contract for Geotechnical Engineering and Environmental Services to Support the Mud Creek Interceptor Replacement Project as presented.*

**Resolution #R-21-104**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO ENTER INTO A CONTRACT FOR GEOTECHNICAL ENGINEERING AND ENVIRONMENTAL SERVICES TO SUPPORT THE MUD CREEK INTERCEPTOR REPLACEMENT PROJECT**

**WHEREAS**, the Mud Creek Interceptor Replacement project was identified in the City's Sanitary Sewer Asset Inventory and Assessment Master Plan Report; and

**WHEREAS**, City Council adopted a Resolution to Reduce Sanitary Sewer Overflows (SSOs) on April 2, 2020, in which construction of the Mud Creek Interceptor Replacement was listed as a SSO reduction activity; and

**WHEREAS**, geotechnical engineering and environmental services are necessary to support the design and permitting of the Mud Creek Interceptor Replacement project; and

**WHEREAS**, City Staff completed a qualifications-based selection process and is recommending based upon this process that S&ME, Inc. of Asheville, NC, be designated as the best qualified firm to provide the services.

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

1. S&ME, Inc. is best qualified to provide professional engineering services for the project, as recommended by Staff.
2. The scope of engineering services from S&ME, Inc. is approved in the amount of \$64,800.
3. The City Manager is authorized to execute an agreement with S&ME, Inc. consistent with the terms of this Resolution, as approved by the City Attorney.

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

/s/Barbara G. Volk, Mayor

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

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

**N. Resolution Approving Purchase of Less-Lethal Controlled Electronic Weapon Systems Pursuant to N.C.G.S. § 143-129(e)(3)– Blair Myhand, Chief of Police**

*I move that City Council adopt the Resolution by the City of Hendersonville City Council Approving Purchase of Less-Lethal Controlled Electronic Weapon Systems Pursuant to N.C.G.S. § 143-129(e)(3) as presented.*

**Resolution #R-21-105**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL APPROVING PURCHASE OF LESS-LETHAL CONTROLLED ELECTRONIC WEAPON SYSTEMS PURSUANT TO N.C.G.S. § 143-129(e)(3)**

**WHEREAS** the Hendersonville Police Department needs to purchase Tasers as a less-lethal controlled electronic weapon (CEW) system, and Axon Enterprises Inc. is the sole distributor of Tasers; and

**WHEREAS**, the Hendersonville Police Department currently uses Tasers as a less-lethal controlled electronic weapon system; and

**WHEREAS**, the League of Oregon Cities LOC has a cooperative group purchasing agreement which the City of Hendersonville has subscribed to which, after a competitive bidding process, offers their pricing to other units of local government; and

**WHEREAS**, N.C.G.S. § 143-129(e)(3) authorizes direct purchases from a competitive bidding group purchasing program; and

**WHEREAS**, the league of Oregon Cities LOC procured a contract through its competitive bidding process offering discount pricing to two or more public agencies for Tasers, and the City wishes to purchase the Tasers through this program; and

**WHEREAS**, Axon Enterprises Inc., has submitted a quote for the purchase of 45 Taser 7 CEWs, cartridges, holsters, training support and equipment, docking station, warranty and maintenance, and licensing at \$149,825.76, including tax; and

**WHEREAS** it is the recommendation of the City Manager, the Chief of Police, and the Procurement Manager that the city purchase the 45 Taser 7 CEWs, cartridges, holsters, training support and equipment, docking station, warranty and maintenance, and licensing at \$149,825.76, from Axon Enterprises, Inc.; and

**WHEREAS** the City of Hendersonville Finance Director has determined that sufficient funds are available to cover the cost of this purchase.

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

1. That the that the purchase of the 45 Taser 7 CEWs, cartridges, holsters, training support and equipment, docking station, warranty and maintenance, and licensing at \$149,825.76, from Axon Enterprises, Inc is approved pursuant to the authority granted by N.C.G.S. § 143-129(e)(3).
2. The City Manager is authorized to negotiate and execute a contract with Axon Enterprises, Inc., in consultation with the City Attorney, containing such terms as he, in his discretion deems appropriate provided such contract is consistent with the terms of this Resolution.

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

/s/Barbara G. Volk, Mayor

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

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

**I. Amendment of the Facility Use Agreement with Hendersonville Bridge Club – Tom Wooten, Director of Public Works**

*I move City Council amends the facility use agreement with the Hendersonville Bridge Club as presented.*

**J. Henderson County Tax Adjustments -Amanda Lofton, Deputy Tax Collector**

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

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

**6. PRESENTATIONS**

**A. Proclamation – Homeless Youth Awareness Month – Barbara G. Volk, Mayor**

Mayor Barbara G. Volk presented a proclamation designating the month of November 2021 as Homeless Youth Awareness Month to Michael Absher of Only Hope WNC.

## Proclamation

### Homeless Youth Awareness Month 2021

**WHEREAS**, the month of November is designated as National Homeless Youth Awareness Month as declared by the U. S. House and Senate in 2007 and serves as an outlet to increase public awareness of an ongoing issue occurring in every city across the United States; and

**WHEREAS**, the nation’s public schools report between 1.3 and 1.7 million homeless students grades pre-k through 12th grade; and

**WHEREAS**, we realize that when adolescents become homeless, being separated from their caregivers and homes for various reasons, which often places them in precarious situations; that school is often the most safe and stable environment for these youth; and

**WHEREAS**, we recognize in Henderson County that roughly 2.5 percent of our youth are identified as homeless; and

**WHEREAS**, Only Home WNC, Inc. is a local non-profit whose mission is to promote the value of education, honor individuality and diversity, nurture respect for self and others, and provide hope for young people in need in the community; and

**WHEREAS**, an effort is being made by the board members of Only Hope WNC, Inc. by hosting a sleep out on November 6 - November 7 at the Historic Courthouse on Main Street in Downtown Hendersonville in an effort to draw attention and support for youth homelessness in Henderson County.

**NOW, THEREFORE**, the City Council of the City of Hendersonville does hereby proclaim the month of November 2021 as

**NOW, THEREFORE**, I, Barbara Volk, Mayor of the City of Hendersonville, do hereby proclaim October 2021, as

**“Homeless Youth Awareness Month”**

in the City of Hendersonville and commend its observance to all citizens.

**PROCLAIMED** this 4<sup>th</sup> day of November 2021

/s/Barbara G. Volk, Mayor

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

**B. Proclamation – Native American Heritage Month – Barbara G. Volk, Mayor**

Mayor Barbara G. Volk presented a proclamation designating the month of November 2021 as Native American Heritage Month to Tonya Marthaler.

# Proclamation

## Native American Heritage Month 2021

**WHEREAS**, Native Americans, who have inhabited this continent since long before their first contact with English settlers, shared their knowledge of the land and its resources, and have continued to play a vital role in the development of our local communities, the state of North Carolina, and the nation; and

**WHEREAS**, North Carolina is home to more than 122,000 Native Americans, and has eight historic tribes: Coharie, Eastern Band of Cherokee, Haliwa Saponi, Lum bee, Meherrin, Occaneechi Band of Saponi, Sappony, and Waccamaw-Siouan; in accordance with Chapter 1E of the North Carolina General Statutes, and N.C. Gen. Stat. §§ 71A-3 - 7.2, these tribes are legally recognized by the State of North Carolina; and

**WHEREAS**, the North Carolina Commission of Indian Affairs was created in 1971 by the North Carolina General Assembly to advocate for local, regional, and national Native American concerns; and

**WHEREAS**, our state has enjoyed a positive relationship with the indigenous peoples of North Carolina, and continues to grow in our shared progress; we honor and respect the heritage, and the many cultural and economic contributions of our Native American tribes and people; and

**WHEREAS**, despite this relationship, there are disparities in the fair treatment of our Native American tribes, and insufficient acknowledgment of the historic destruction of our indigenous cultures; and

**WHEREAS**, Native American Awareness Week began in 1976 and recognition was expanded by Congress and approved by President George Bush in August 1990, designating the month of November as National American Indian Heritage Month, thereafter, commonly referred to as Native American Heritage Month; and

**WHEREAS**, Native American Heritage Month is celebrated every year to recognize Native American cultures, contributions, history, traditions, art, and land; and

**WHEREAS**, the State of North Carolina encourages all people to acknowledge the historic sacrifices of indigenous peoples and recognize their contributions to the emergence and development of our state, the nation, the free world, and the global economy.

**NOW, THEREFORE**, I, Barbara Volk, Mayor of the City of Hendersonville, do hereby proclaim October, 2021, as

### “Native American Heritage Month”

in the City of Hendersonville and commend its observance to all citizens.

**PROCLAIMED** this 4<sup>th</sup> day of November 2021

/s/Barbara G. Volk, Mayor

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

### **C. Recognition of Water and Sewer Crews – Jeff Miller, City Council Member**

Council Member Jeff Miller expressed thanks and appreciation to the Water and Sewer Crews for all they do. Mayor Barbara G. Volk presented certificates on behalf of the Council to each member for a job well done.

### **D. Quarterly MVP Recipients – John Connet, City Manager**

City Manager Connet recognized Kourtney Looper, Wastewater Treatment Plant, Brandon Roberts, Engineering, Larry Reeves, Public Works, Dwayne Jones, Austin Jones, Brad Duncan, and Tim Laughter, Water & Sewer, as the Quarterly MVP recipients thanking them for their service and for going above and beyond illustrating great customer service.

### **E. Resolution Accepting Donation- Clear Creek Greenway – Brendan Shanahan, Engineering**

Brendan Shanahan reminded everyone the City of Hendersonville has worked to expand and improve the linear parks and greenways that are available to residents and visitors and said in the last two years, the City has acquired grant funds to design and construct the Clear Creek Greenway, a 1.5-mile multi-use path to begin at the Oklawaha Greenway system and extend along Clear Creek past Carolina Village and to Lakewood Road. Mr. Shanahan stated throughout this process, the Carolina Village Retirement Community has been a staunch advocate of the project, showing their support, not only by attending meetings and providing valuable feedback, but also by offering financial support in the

amount of \$250,000 and the donation of easement as required for the trail. Mr. Shanahan reminded everyone it was this demonstration of local support and interest that the city was able to leverage into grant donations from the State and Federal levels totaling \$2.2 million. City Council Members and staff expressed thanks and appreciation to Carolina Village in helping this community vision to become a reality. Kevin Parries, Executive Director at Carolina Village was on hand present the donation.

***Council Member Jerry Smith moved that City Council adopt the resolution authorizing the acceptance of the Carolina Village donation for the Clear Creek Greenway as presented. A unanimous vote of the Council followed. Motion carried.***

**Resolution #R-21-106**

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL  
AUTHORIZING THE ACCEPTANCE OF THE CAROLINA VILLAGE  
DONATION FOR CLEAR CREEK GREENWAY**

**WHEREAS**, the Carolina Village wishes to make a donation in the amount of \$250,000 to be used for the design, and construction of the section of the Clear Creek Greenway that has been awarded, and to provide local match for grant funds under the 2019 Water Resources Development Grant, the 2020 Parks and Recreation Trust Fund, and the 2020 Surface Transportation Block Grant; and

**WHEREAS**, in addition to the donation of funds, Carolina Village intends to donate an easement of approximately 2.5 acres, to the City of Hendersonville to be used for the same section of the Clear Creek Greenway, which will traverse the property of Carolina Village from the right of way of Clear Creek Rd (SR 1503) to the right of way of Interstate 26 along the northern portion of the property, adjacent to the Clear Creek Mitigation Site (Conservation Easement);

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

1. The City Council accepts the donation of \$250,000.00 from Carolina Village for the purpose of designing and construction a portion of the Clear Creek Greenway.
2. The City Manager is authorized to accept the donation of the approximately 2.5-acre easement which will traverse the property of Carolina Village from the right of way of Clear Creek Rd (SR 1503) to the right of way of Interstate 26 along the northern portion of the property, adjacent to the Clear Creek Mitigation Site (Conservation Easement) funds.
3. The City Manager is authorized to execute such additional documents as may be required to complete the acceptance of the donated funds and the donated easement.
4. The City Council extends its thanks to Carolina Village for these generous donations.

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

/s/Barbara G. Volk, Mayor

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

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

**F. Trash Trout Jr. Eagle Scout Project** – *Elijah Bandy, Eagle Scout Candidate & Michael Huffman, Stormwater Administrator*

Elijah Bandy, a local boy scout, addressed City Council asking consideration of approval for the installation of a new Trash Trout Jr. device. Mr. Bandy stated the smaller Trash Trout Jr. will aid in removing additional litter from Mud Creek and will provide a public education opportunity for the community.

***Council Member Lyndsey Simpson moved that City Council Approve the installation of a new Trash Trout Jr. Device for the cost of \$3,500.00 as presented. A unanimous vote of the Council followed. Motion carried.***

**G. NCDEQ MS4 Stormwater Program Audit Results** – *Michael Huffman, Stormwater Administrator*

Stormwater Administrator Mike Huffman presented the results of the NCDEQ MS4 Stormwater Program Audit that was conducted in May 2021. Mr. Huffman stated the city was found to be in compliance with the audit criteria and discussed next steps including developing an updated stormwater management plan and metrics using the State of North Carolina's guidelines. Additional information and educational tools may be found in the Stormwater section on the City's website.

## 7. PUBLIC HEARINGS

### **A. Rezoning: Conditional Zoning District: World of Clothing Mini Warehouses (P21-52-CZD)**

– Tyler Morrow, Planner II

Community Development Planner Tyler Morrow stated the City is in receipt of an application for a conditional rezoning from Daniel Renckens of Canvass Capital, LLC, applicant and Dreams Dominion, Inc., property owners. The applicants are requesting to rezone the subject property, PIN 9579-56-0884 and PIN 9579-46-9642 and located at 135 Sugarloaf Road, from C-3, Highway Business to C-3 CZD, Highway Business Conditional Zoning District for the reuse/redevelopment of a 154,385 sq. ft. mini-warehouse facility on approximately 8.24 acres.

Staff presented and discussed with City Council an analysis of the consistency with the relevant portions of the Comprehensive Land Use Plan and the Planning Board's recommendation. Both were considered by the City Council in addition to supporting maps and documents provided in the agenda packet.

There was much discussion regarding allowed uses of the current zoning and change of use. City Council Member Jerry Smith raised concerns of allowing all uses for buildings over 50,000 square feet without further City Council approval and said he does not support this as its written. Mayor Volk stated she can't see any reason to limit the future uses given the proximity to the interstate. Council Member Jeff Miller stated he agreed with Mayor Volk.

The City Clerk confirmed this public hearing has been advertised in accordance with North Carolina General statutes. The public hearing was opened at 7:26 p.m.

Lynne Williams 309 Chadwick Ave. addressed City Council expressing concerns of density, removal of trees, and drainage on the site.

Jeff Doody of 156 Yon Hill Rd. addressed City Council expressing thanks and appreciation to City Council and said he agrees with Council Member Smith's comments regarding allowable uses for buildings over 50,000 square feet.

There were no further comments.

The public hearing was closed at 7:29 p.m.

Council Member Lyndsey Simpson acknowledged Council Member Smith's view but said while she did not have concerns with the current allowable uses.

Council Member Dr. Jennifer Hensley clarified developer agreed upon conditions with screening and buffer as well as lighting.

***City Council Member Dr. Jennifer Hensley moved that City Council adopt an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of the subject property PINs 9579-56-0884 and 9579-46-9642 from C-3 Highway Business to C-3 CZD Highway Business Conditional Zoning District based on the site plan submitted by the applicant and subject to the following:***

***Permitted Uses shall include:***

- 1) Mini-Warehouses***
- 2) All permitted C-3 Uses on November 4<sup>th</sup> 2021 which are listed in the ordinance***

***Conditions that shall be satisfied prior to final site plan approval including:***

**City Initiated:**

- 1) The developer agrees to paint the side of the building facing I-26, incorporating artistic elements and screening of mechanical and electrical components subject to staff approval during site plan review.***
- 2) The developer agrees to provide a photometric plan with zero-foot candles from proposed light fixtures at the property line therefore no new lighting will bleed off the property.***

**Developer Initiated:**

- 1) To maintain existing dimensional conditions in the parking lot at 135 Sugarloaf Road.***

*finding that the amended zoning 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:*

1. *This redevelopment is within a high intensity priority infill area as designated in the comprehensive plan (Chapter 8 - LU 1.1)*
2. *The development utilizes an existing large scale commercial building with a use that is compatible with the surrounding area.*
3. *The development provides additional storage options for the citizens of Hendersonville.*

*The motion carried by a vote of 4-1 with Council Member Jerry Smith voting against.*

**Ordinance #O-21-48**

**AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF HENDERSONVILLE FOR PARCEL NUMBERS 9579-56-0884 AND 9579-46-9642 BY CHANGING THE ZONING DESIGNATION FROM C-3 HIGHWAY BUSINESS TO C-3 CZD HIGHWAY BUSINESS CONDITIONAL ZONING DISTRICT**

IN RE: Parcel Numbers: 9579-56-0884 and 9579-46-9642 – World of Clothing Mini Warehouses  
(File # P21-52-CZD)

**WHEREAS**, the City is in receipt of a Conditional Rezoning application from Canvass Capital LLC (applicant) and Dreams Dominion LLC (Property Owners) for the development of a mini warehouse facility development on approximately 8.24 acres., and

**WHEREAS**, the Planning Board took up this application at its regular meeting on October 11th, 2021; voting unanimously 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 November 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 9579-56-0884 and 9579-46-9642 from C-3 Highway Business to C-3 CZD Highway Business Conditional Zoning District
2. Development of the parcel shall occur in accordance with the final site plan requirements of Article VII of the Zoning Ordinance of the City of Hendersonville, North Carolina, and shall be based on the site plan submitted by the applicant and subject to the following.

Permitted Uses shall include:

- 1) Accessory dwelling units subject to special requirements contained in Section 16-4, below
- 2) Accessory uses & structures
- 3) Adult care centers registered with the NC Department of Human Resources
- 4) Animal hospitals & clinics as long as they contain no outdoor kennels
- 5) Automobile car washes
- 6) Automobile sales & service establishments
- 7) Automotive paint & body work
- 8) Banks and other financial institutions
- 9) Bed & breakfast facilities
- 10) Business services
- 11) Congregate care facilities, subject to special requirements contained in Section 16-4, below
- 12) Construction trades facilities so long as the storage of equipment and materials is screened from view from any public rights-of-way
- 13) Convenience stores with or without gasoline sales
- 14) Cultural arts buildings
- 15) Dance and fitness facilities
- 16) Dry cleaning and laundry establishment containing less than 6,000 ft<sup>2</sup> of floor area

- 17) Farm equipment sales & service
- 18) Food pantries, subject to the special requirements contained in Section, 16-4 below)
- 19) Food processing establishments containing less than 10,000 ft2 of gross floor area
- 20) Funeral homes
- 21) Golf driving ranges & par three golf courses
- 22) Greenhouses & commercial nurseries
- 23) Home occupations
- 24) Hotels and motels
- 25) Laundries, coin-operated
- 26) Microbreweries, subject to special requirements contained in Section 16-4, below
- 27) Mobile food vendors, subject to special requirements contained in Section 16-4, below
- 28) Mobile homes sales establishments so long as they are situated on a major thoroughfare containing four or more traffic lanes
- 29) Music and art studios
- 30) Newspaper offices and printing establishments
- 31) Nursing homes subject to special requirements contained in Section 16-4, below
- 32) Offices, business, professional and public
- 33) Parking lots and parking garages
- 34) Parks
- 35) Personal services
- 36) Planned residential developments (minor), subject to the requirements of Article VII, below
- 37) Progressive care facilities subject to special requirements contained in Section 16-4, below
- 38) Public & semi-public buildings
- 39) Recreational facilities, indoors
- 40) Recreational facilities, outdoors, commercial
- 41) Religious institutions
- 42) Repair services, miscellaneous
- 43) Residential care facilities
- 44) Residential dwellings, single-family
- 45) Residential dwellings, two-family
- 46) Rest homes subject to special requirements contained in Section 16-4, below
- 47) Restaurants
- 48) Restaurants, drive-in
- 49) Retail stores
- 50) Schools, post-secondary, business, technical and vocational
- 51) Schools, primary & secondary
- 52) Service stations
- 53) Signs, subject to the provisions of Article XIII
- 54) Small Scale Manufacturing, subject to the Supplementary Standards contained in Section 16-4, below
- 55) Telecommunications antennas, subject to special requirements contained in Section 16-4, below.
- 56) Telecommunications towers, subject to special requirements contained in Section 16-4, below.
- 57) Theaters, indoor
- 58) Wholesale businesses
- 59) Mini warehouses

Conditions that shall be satisfied prior to final site plan approval include:

City initiated:

- 1) The developer agrees to paint the side of the building facing I-26, incorporating artistic elements and screening of mechanical and electrical components subject to staff approval during final site plan review.
- 2) The developer shall provide a photometric plan with zero foot-candles from proposed light fixtures at the property line therefore no new lighting will bleed off the property

Developer Initiated:

- 3) To maintain existing dimensional conditions in the parking lot at 135 Sugarloaf Road.

This ordinance shall not be effective until the stipulated list of conditions is consented to in writing by the applicant and all owners of the subject property. Upon such written consent, this ordinance shall be effective retroactive to the date of its adoption.

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

/s/Barbara G. Volk, Mayor

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

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

Mayor Volk briefly recessed the meeting at 7:36 p.m. and reconvene at 7:44 p.m. with all members in attendance.

**B. Rezoning: Conditional Zoning District – Half Moon Heights (P21-44-CZD) – Matthew Manley,**  
*AICP – Planning Manager*

Planning Manager Matthew Manley stated the City is in receipt of an application for a conditional rezoning from Joseph Schlotterbeck of Half Moon Land Holdings, LLC, applicant, and Triangle Ballantyne Hendersonville, Inc., property owners. The applicants are requesting to rezone the subject property located on Half Moon Trail, from PRD-CZD to PRD CZD for the construction of a housing development containing 95 single-family homes on approximately 33.65 acres with a density of 2.86 Units / Acre. Mr. Manley stated this project required a conditional rezoning due to the PRD Conditional Zoning District requirements.

Staff presented and discussed with City Council an analysis of the consistency with the relevant portions of the Comprehensive Land Use Plan and the Planning Board's recommendation. Both were considered by the City Council in addition to supporting maps and documents provided in the agenda packet.

The city's traffic impact analysis consultant Jonathan Guy of Kimley Horn addressed City Council discussing traffic analysis of the proposed area and NCDOT signal installation requirements. Mr. Guy stated NCDOT would want to see data after the development completion to determine if a signal would be permitted. Mr. Guy discussed speed studies and other options. Mr. Guy stated the traffic study should have been conducted during school hours and Council Member Lyndsey Simpson inquired if the information presented was accurate. Mr. Guy stated traffic volumes for the study area intersections could increase due to school traffic. City Council Member Dr. Jennifer Hensley stated she has contacted the area NCDOT representative to discuss traffic in this area.

Project developer, Joseph Schlotterbeck addressed City Council clarifying he requested the traffic study absent knowing the requirement of conducting the study during school hours and said he has since had the traffic engineer reconduct the study during school hours but clarified they spoke with NCDOT and together estimated the average increases in daily traffic volumes in the site area to be an additional 5 percent and said they also added an additional 2 percent for all other traffic in the area due to COVID. Mr. Schlotterbeck further discussed the city's street tree planting requirements stating they were lax and only requires planting of 29 street trees on this site. Mr. Schlotterbeck stated the amount of tree credits would allow him to plant no trees. Preserving 294 and planting 412 trees.

There was much discussion regarding the proposed trail and roadway standards and dedication. The developer agreed to construct the roads to city standards before they will be accepted by the city for maintenance.

The City Clerk confirmed this public hearing has been advertised in accordance with North Carolina General statutes. The public hearing was opened at 8:53 p.m.

Janice Valentine of 135 Creek Walk Ln., Wolf Chase HOA addressed City Council stating she is strongly opposed to the development and referred to concerns posed by residents during the Neighborhood Compatibility, Tree Board, and Planning Board meetings opposing the development. Ms. Valentine stated the concerns have been well documented and asked for protection of residents and for their concerns to be heard. Ms. Valentine stated the area lacks the infrastructure to deal with increased population, stormwater, erosion, and flooding and said she does not feel the proposed system is going to be adequate.

Gus Martschink of 40 Snowy Egret Way addressed City Council stating he is opposed to the proposed development and expressed concerns for ongoing development in the area and removal of the mature trees affecting stormwater runoff. Mr. Martschink asked City Council to oppose the project.

Lynne Williams 309 Chadwick Ave. addressed City Council expressing concerns of density, removal of trees, and drainage on the site asking Council to follow the Tree Board's recommendations and to oppose the project.

Mayor Volk acknowledged and read digital comments submitted by the following:

David Litigot of 68 Winter Wren Circle submitted digital comments in opposition of this development and expressing concerns that flooding, traffic, habitat, and flood plain concerns of the residents from Wolf Chase are being ignored.

Donna Watters of 73 Winter Wren Circle submitted digital comments in opposition to this development with regard to tree removal and steep slope.

There were no further comments.

The public hearing was closed at 9:14 p.m.

City Council Member Jeff Miller stated decisions like this are never easy and said he wanted everyone to know that all points are being considered. City Council Member Dr. Jennifer Hensley recalled discussions with area residents and said she believes the accommodations the developer has agreed to coupled with proposing a traffic light with the aid of NCDOT are steps in the right direction to mitigate some of resident's concerns. Mayor Barbara Volk agreed with Council Member Miller and reminded everyone that people do have a right to develop property they own unless it is purchased for conservation and said the density affects the affordability of housing. Mayor Volk asked for clarification regarding tree removal absent rezoning of this property and Planning Manger Matthew Manley confirmed the city does not have any type of tree protection ordinance in place outside of historic districts.

City Council Members further discussed liability and maintenance of the proposed trail system and City Attorney Angela Beeker clarified the trail is shown on the plat but said it would not become public unless the city accepted it.

Council Member Jerry Smith said that without exception there is no one who is in favor of this development that he has spoken with and said it was overwhelming and he cannot support the development due to density and removal of so many trees.

Council Member Lyndsey Simpson acknowledged the thought that the Schlotterbeck's have put into the project but clarified that the decision she makes is based on comprehensive plan which indicates this area is slated for growth management. Council Member Simpson also expressed concerns of adequate infrastructure, stormwater runoff, natural habitat loss, and traffic stating she has too many concerns to support this project at this time.

Council Member Jeff Miller said it is really difficult to be responsible for these decisions and reminded everyone that people have a right to develop their property. Council Member Miller stated he walked the property and said he hates to see it go but reminded the citizens attending the meeting that the area they live in now was once like this and said that someone was opposed to it when it was developed.

Council Member Jerry Smith confirmed these homes are not affordable housing and said he feels this development is taking more than it is giving in comparison to the adjacent ones. Council Member Smith thanked the developer for working to make accommodations but said his opinion was the development is too dense.

Mr. Schlotterbeck asked Council to defer voting in this matter to allow them to speak with the neighbors again.

***After much discussion, the consensus of City Council was to postpone a vote on this rezoning to the December 2, 2021 regular session meeting.***

Mayor Volk briefly recessed the meeting at 9:56 p.m. and reconvene at 10:09 p.m. with all members in attendance.

## 8. UNFINISHED BUSINESS

### A. **Rezoning: Conditional Zoning District – Providence Walk (P21-31-CZD) – Matthew Manley,** *AICP – Planning Manager*

Mayor Barbara G. Volk reminded everyone the public hearing was closed at 7:02p.m. during the October 7, 2021 City Council regular session meeting. Staff previously presented and discussed with City Council an analysis of the consistency with the relevant portions of the Comprehensive Land Use Plan and the Planning Board's recommendation. Both were considered by the City Council in addition to supporting maps and documents provided in the agenda packet.

City Council discussed connectivity requirements within the city's subdivision ordinance. City Council Members were not in favor of requiring connectivity in the context of this project. City Manager John Connet discussed conflicting interests with tree removal and reducing traffic congestion. City Attorney Beeker reminded Council in order to eliminate the connectivity requirement the subdivision ordinance would need to be amended.

Planning Manager Matthew Manley stated staff proposes a 25 feet setback with reservation due to the double frontage zoning and impact a future widening on North Main Street. Mr. Manley stated the developer does not agree to the 25 feet would agree to 20 feet. Council Member Jerry Smith supported leaving the 25 feet buffer in place.

Council Member Lyndsey Simpson agreed with Council Member Smith for keeping a 25 feet setback. Council Member Simpson stated she does not support the project with the road due to traffic concerns.

Michael Goforth and developer Travis Fowler addressed City Council discussing connectivity and traffic control. Mr. Fowler stated in his opinion a connection to Strick Garden Lane was never intended to be a paved vehicular connection. The developer clarified he will be seeking a variance from the Board of Adjustment regarding the connection in this matter.

*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 properties (Parcel Numbers: 9569857172; 9569834918; 9569853434; 9569851398; & 9569853178) from R-20 (Low Density Residential) & PCD-CZD (Planned Commercial Development-CZD) to PRD-CZD (Planned Residential Development - Conditional Zoning District) based on the site plan submitted by the applicant and subject to the following;*

*Permitted uses shall include:*

- 1. Residential Dwellings, Single-Family*

*Conditions that shall be satisfied prior to final site plan approval include:*

*City-Initiated:*

- 1. Require Development Project to comply with Section 15-4 of the Zoning Ordinance for preservation of existing trees*
- 2. Require all new tree plantings to be a minimum of two-inch caliper*
- 3. The developer will work with staff to recess the garages and create longer driveways in accordance with the Comp Plan Chapter 2: Population and Housing for Walkable Neighborhoods*
- 4. Eastern-most access on N. Main St point will be a right-in/right-out only*
- 5. Western-most, Main entrance on N. Main St. will include a deceleration lane*

*Developer-Proposed:*

- 6. Permit the rear setback to equal 20 feet for all single-family residential lots regardless of adjacent property uses or zoning with the exception of those fronting N Main St, which will retain a 20' rear setback per the City's Subdivision Ordinance that is reserved.*

*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:*

- 1. The location of the proposed Planned Residential Development is in keeping with the surrounding land uses. (Chapter 8 LU-6.1)).*

2. *Single-Family Detached is a primary use stated in the Land Use & Development Chapter (Chapter 8 – LU-6.2).*
3. *The proposed density of the development (4.6 Units / Acre) is in line with the Land Use & Development Chapter's guidance of 2 – 8 Units / Acre. (Chapter 9 – LU-6.4).*
4. *The development has been laid out to minimize the impact to environmentally-sensitive resources on the site and to preserve existing vegetation (Chapter 3 – NR-2.1).*

*The motion carried by a vote of 3-2 with Council Members Jerry Smith and Lyndsey Simpson voting against.*

Ordinance #O-21-49

**AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF HENDERSONVILLE FOR PARCELS POSSESSING PIN NUMBERS 9569857172; 9569834918; 9569853434; 9569851398; & 9569853178 BY CHANGING THE ZONING DESIGNATION FROM R-20 (LOW DENSITY RESIDENTIAL) & PCD-CZD (PLANNED COMMERCIAL DEVELOPMENT-CZD) TO PRD-CZD PLANNED RESIDENTIAL DEVELOPMENT - CONDITIONAL ZONING DISTRICT**

IN RE: Parcel Numbers: 9569857172; 9569834918; 9569853434; 9569851398; & 9569853178  
– 1828 N Main St (Providence Walk)  
(File # P21-31-CZD)

**WHEREAS**, the city is in receipt of a Conditional Rezoning application from applicant First Victory Construction, Inc. for the development of 93 detached single-family homes on approximately 20.22 acres; and

**WHEREAS**, the Planning Board took up this application at its regular meeting on September 13, 2021; 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 November 4, 2021.

**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: 9569857172; 9569834918; 9569853434; 9569851398; & 9569853178 from R-20 (Low Density Residential) & PCD-CZD (Planned Commercial Development-CZD) to PRD-CZD Planned Residential Development – Conditional Zoning District
2. Development of the parcel shall occur in accordance with the final site plan requirements of Article VII of the Zoning Ordinance of the City of Hendersonville, North Carolina, and shall be based on the site plan submitted by the applicant and subject to the following.
  - a. Permitted uses shall include:
    - i. Residential Dwellings, Single-Family.
  - b. Conditions that shall be satisfied prior to final site plan approval include:
 

City-initiated Conditions:

    - i. Developer to comply with Section 15-4 of the Zoning Ordinance for the preservation of existing vegetation, and
    - ii. Require all new tree plantings to be a minimum of two-inch caliper and;
    - iii. Developer will work with staff to recess the garages and create longer driveways in accordance with the Comp Plan Chapter 2: Population and Housing for Walkable Neighborhoods and;
    - iv. Eastern-most access point on N. Main St. to be a right-in/right-out only and;
    - v. Western-most main entrance on N. Main St. to include a deceleration lane.

Developer Proposed Condition:

    - vi. Permit the rear setback to equal 20 feet for all single-family residential lots regardless of adjacent property uses or zoning with the exception of those fronting N Main St, which will retain a 20' rear setback per the City's Subdivision Ordinance that is reserved.
3. This ordinance shall not be effective until the stipulated list of use(s) and conditions, established herein, is consented to in writing by the applicant and all owners of the subject property. Upon such written consent, this ordinance shall be effective retroactive to the date of its adoption.

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

/s/Barbara G. Volk, Mayor

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

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

## 9. NEW BUSINESS

### **A. Lease of Space in Thomas H. Thompson Emergency Services Center to Provide Temporary Housing for Fire Department Personnel and Equipment During Construction of Fire Station 1 – James Miller, Fire Chief**

City Manager John Connet stated the County has agreed to lease space to house the City of Hendersonville Fire Department personnel and equipment in the Thomas H. Thompson Emergency Services Center during the construction of the new Fire Station 1. The annual price for the lease is \$1.00 per year. City Council expressed thanks and appreciation to Henderson County for providing this space.

*Council Member Jerry Smith moved that City Council adopt the Resolution to Approve Lease of Space to Provide Temporary Facilities for the Hendersonville Fire Department as presented. A unanimous vote of the Council followed. Motion carried.*

#### **Resolution #R-21-107**

#### **RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO APPROVE LEASE OF SPACE TO PROVIDE TEMPORARY FACILITIES FOR THE HENDERSONVILLE FIRE DEPARTMENT**

**WHEREAS**, the City of Hendersonville is in the process of planning for the construction of a new Fire Station 1; and

**WHEREAS**, the Hendersonville Fire Department will need to locate personnel and equipment to temporary locations while the new Fire Station 1 is under construction; and

**WHEREAS**, Henderson County has agreed to lease certain portions of the Thomas H. Thompson Emergency Services Center to the City of Hendersonville for use by the City of Hendersonville Fire Department personnel during the construction of Fire Station 1 for the cost of \$1.00 per year; and

**WHEREAS**, the City Council wishes to enter into such a lease with Henderson County;

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

1. The Lease Agreement for the lease of space within the Thomas H. Thompson Emergency Services Center for use by the City of Hendersonville Fire Department personnel during the construction of Fire Station 1, for the cost of \$1.00 per year, for a term of two years is hereby approved as presented. The City Manager is authorized to sign the Lease Agreement on behalf of the City of Hendersonville.
2. The City Manager shall have the authority to extend the Lease Agreement as necessary through the completion of construction of Fire Station 1.
3. The City of Hendersonville hereby extends its thanks to the Henderson County Board of Commissioners.

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

/s/Barbara G. Volk, Mayor

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

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

### **B. Creation of a Staff Attorney Position – John Connet, City Manager**

City Manager John Connet requested City Council create a Staff Attorney position to assist with the workload in the legal department.

*Council Member Jeff Miller moved that the City Council create a Staff Attorney position in Pay Grade 24 of the City of Hendersonville Pay and Classification Schedule. A unanimous vote of the Council followed. Motion carried.*

**10. BOARD/COMMISSION/COMMITTEE APPOINTMENTS****A. Henderson County Rail2Trail Advisory Committee Appointment** – *John Connet, City Manager*

*City Council Member Jeff Miller moved that City Council appoint Brent Detwiler, City Engineer to fill a term as a Member on the Henderson County Rail2Trail Advisory Committee. A unanimous vote of the Council followed. Motion carried.*

**11. CITY COUNCIL COMMENTS**

Council Member Jeff Miller congratulated Mayor Barbara Volk, Council Member Jerry Smith, Council Member Elect Debbie O'Neal-Roundtree, and Town of Fletcher Mayor Elect Preston Blakely on their election to office.

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

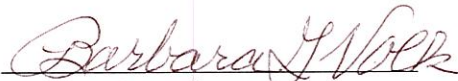
No report was provided.

**13. ADJOURN**

There being no further business, the meeting was adjourned at 11:00 p.m. upon unanimous assent of the Council.

ATTEST:

  
Angela L. Reece, City Clerk

  
Barbara G. Volk, Mayor