



CITY OF HENDERSONVILLE BOARD OF ADJUSTMENT

Operations Center - Assembly Room | 305 Williams St. | Hendersonville NC 28792
Tuesday, June 14, 2022 – 1:30 PM

AGENDA

1. **CALL TO ORDER**

2. **APPROVAL OF AGENDA**

3. **APPROVAL OF MINUTES**

A. Minutes of March 8, 2022

4. **OLD BUSINESS**

A. Approval of Decision B22-007-VAR

5. **NEW BUSINESS**

A. Special Use Application: Fire Station 1 (B22-41-SUP) - *Alexandra Hunt, Planner I*

B. Administrative Appeal - Oak Preserve (B22-051-ADMIN)

6. **OTHER BUSINESS**

7. **ADJOURNMENT**

The City of Hendersonville is committed to providing accessible facilities, programs and services for all people in compliance with the Americans with Disabilities Act (ADA). Should you need assistance or an accommodation for this meeting please contact the City Clerk no later than 24 hours prior to the meeting at 697-3005.

MINUTES OF THE HENDERSONVILLE BOARD OF ADJUSTMENT

Tuesday, March 8, 2022
1:30 p.m. in the City Operations Center

The Hendersonville Board of Adjustment held its regular monthly meeting on March 8, 2022 at 1:30 p.m. in the Assembly Room in City Operations Center, 305 Williams Street, Hendersonville, North Carolina. Those present were: Melinda Lowrance, Chair, Ernest Mowell, Vice-Chair, Roger Woosley, Charles Webb, Kathy Watkins, Stefan Grunwald, Libby Collina, Matthew Manley, Planning Manager, Alexandra Hunt, Planner I, Daniel Heyman, Staff Attorney and Terri Swann, Secretary to the Board.

Absent: Barbara McCoy, Michael Edney, Chris Freeman

Chair called the meeting to order at 1:30 p.m.

Approval of the Agenda: Chair revised the agenda to include the approval of the Decisions under Old Business.

Approval of the Minutes of the February 8, 2022 meeting. A motion was made by Mr. Woolsey and seconded by Ms. Watkins to approve the minutes as written. The motion passed unanimously.

Approval of the Decisions: **B22-003-SUP** – City of Hendersonville, Special Use Permit, **B22-005-VAR** – Todd Leoni/Osceola Landing LLC, PIN #9568-31-7733, **B22-001-VAR** – Halford Partners, LLC/Alpha Investments, LLC, PIN #9569-77-4636 and **B22-010-TUP** – Ginger Elliott, 214 Wilmont Drive. A motion was made by Mr. Mowell to approve the decisions as written. Mr. Grunwald seconded the motion which passed unanimously.

Variance – Dan Mock and AYD Partners, LLC – 824 Locust Street.

Chair stated today we have one public hearing to consider, a variance application from Dan Mock and AYD Partners, LLC for 824 Locust Street. Any persons desiring to testify in these hearings must first be sworn in. Since this is a quasi-judicial hearing, it is very important that we have an accurate record of what goes on here. Therefore, we must ask that you refrain from speaking until recognized by the Chair and, when recognized, that you come forward to the podium and begin by stating your name and address. Anyone present who has knowledge of anything of value that has been given or promised in exchange for a position to be taken on these applications should disclose it now.

Chair swore in all persons to give testimony. Those sworn in were Alexandra Hunt, Planner I, Matthew Manley, Planning Manager, Mike Baer, Carolyn Muer, Carleton Collins and Dan Mock.

Chair opened the public hearing.

Alexandra Hunt, Planner I stated her name and title for the record. She asked that the staff report, presentation and exhibits be submitted into the record. She stated this application was deferred from the February meeting. Since then, the Applicant has requested a change to the previously requested height increase of 3.2' to 4' and has submitted updated elevations that were included as an exhibit in the staff report.

Ms. Hunt gave the project background:

The applicant is requesting the following variances:

A variance to increase the maximum building height of 35' allowed under Section 5-12-3 (I-Industrial Zoning District Classification) to 38.2'. A variance of 9.8' from the front setback requirement and a variance of 21.6' and 6.6' from the side setback requirements of Section 5-12-3. A variance from Section 6-2-2(e) Nonconforming Structures.

The purpose of the variance is to add an approximately 31.166' x 58.625' Community Room / Gym addition (1,827 Sq Ft) and two Covered Patios (436 Sq Ft and 510 Sq Ft) to the roof of an existing structure.

Subject property is approximately 0.22 acres or 9,583.2 sq ft. The subject property was built in 1926 and the Gross Leasable Area of approximately 13,516 sq ft. A North Carolina Warranty Deed made on August 5, 2021, between Hunting Creek Associates, LLC (Grantor) and AYD Partners LLC (Grantee) was recorded with the Henderson County Register of Deeds on August 6, 2021. The subject property contains an existing chimney measuring 39' 11" from the base elevation at the location of the chimney.

Site photos were shown. Digital renderings of the proposed rooftop addition were also shown. The north and south and front and rear elevations were shown.

The variance requested is to increase the maximum building height of 35' to 38.2' (3.2' height increase from setback standards). This will require a variance from setback standards in Section 5-12-3.

Building's current height is 24.5'. Building contains a chimney stack that is 39' 11". Section 8-2 Height Limitations allows for an exception to height limitations for chimney stacks. Section 5-12-3 states: No building shall exceed 35 feet in height unless the depth of the front and total width of the side yards required herein shall be increased one foot for each two feet or fraction thereof of building in excess of 35 feet.

The applicant is requesting a variance of 9.8' from the required front setback and a variance of 21.6' from the required side setbacks to allow for the proposed height increase.

Front setback: Increase height by 4'. Increase of 4' in height = Required Setback increase of 2' per Section 5-12-3 (Dimensional Requirements). Typical Required Front Setback without height increase = 35'. Required Front Setback with proposed height increase = 37'. Applicant's Proposed Front Setback = 26.8'. Applicant's Requested Variance Amount = 10.2'.

Side setback: Typical Required Side Setback without height increase = 20'. Required Side Setback with proposed height increase = 22'. Applicant's Proposed Side Setback = 0' on Lynn St side / 15' on other side. Applicant's Requested Variance Amount = 22' on Lynn St side / 7' on other side.

The applicant is proposing to expand the building with an addition to the roof. The existing nonconforming structure does not meet setback requirements. The proposed addition could only be 6.8' wide to be in conformance with side setbacks. The proposed addition would have to be setback an additional 9.8' to be in conformance with the front setback. The existing parcel area (9,583 Sq Ft) does not meet minimum lot size requirements within the I-1 Zoning District (40,000 Sq Ft). **6-2-2(e)**

Nonconforming Structures: *A nonconforming structure may be expanded, without bringing the nonconforming structure into conformity with these regulations, only if the part of the structure to be expanded and the area of the lot into which the expansion is taking place are both brought into conformity with the requirements of this ordinance.*

Section 10-9 concerning Variances was read into the record. The Board of Adjustment shall not have authority to grant a Variance when to do so would: 1) result in the extension of a nonconformity regulated pursuant to Section 6-2, above, or 2) permit a use of land, building or structure which is not permitted within the applicable zoning district classification. Per NCGS 160D-705 (d), appropriate conditions may be imposed on any Variance, provided that the conditions are reasonably related to the Variance.

The suggested motions were shown. Ms. Hunt stated the applicant is here to give a brief presentation.

Chair asked if there were any questions for staff.

Ms. Watkins asked if the use they are proposing is permitted in this zoning district. Ms. Hunt stated yes.

There were no further questions for staff.

Dan Mock, 3616 Collinsville Road, Columbus, NC stated he is the applicant and is here with his architect Carleton Collins. Mr. Mock presented a handout to the Board. A copy was submitted for the record. Mr. Mock stated he is looking to do several projects in Hendersonville. He is a developer/contractor in California and moved his family here to Tryon two years ago. He loves the area and Main Street. He saw this building and decided he would like to do something with it other than industrial. The best use for the building is residential and he feels like a residential use could jump start the area. In order to create the open space for the roof he will need the variances on the setback requirements. He talked about sloping the roof so he will not have any water issues. He does not want a flat roof. He recently found out from Crystal Lyda, Building Services Director that they would have to install an elevator if they planned to enclose the rooftop area, so he has decided to just have a covered area on the rooftop to shield from the sun. The roof will be fully opened with only a covered area. This will not be a restaurant area. It will be an open area used only by the residents.

Carleton Collins, Architect 105 Cranford Road, Asheville NC explained reducing the footprint but still needing the height to make the project work. He explained the pitch of the roof and raising the roof level due to water issues but keeping the beams down.

Mr. Manley stated if the variance is approved, even though they plan to keep the rooftop open they could retain the right to enclose the roof if they decided to install the elevator.

Ms. Collina asked what the current height of the roof is. Mr. Collins stated 24'9" from the parapet to the sidewalk.

There were no further questions for the applicant.

Carolyn Muer, 852 Whites State Boulevard, Saluda, NC stated she is an affected party and owns a unit in the building. She understands Mr. Mock is in escrow for the unit that is beside her. She is big supporter of the Historic 7th Avenue discussions. Mr. Holloway and Mr. Connet have never used the word "development" for the 7th Avenue District. Instead, they use words such as revitalization and restoration. The Coca Cola building is an amazing building, and she is pleased they are making this a residential use. She does not have a problem with the height variance, but she was concerned about where Mr. Mock will go with the variance if it is approved. She was concerned about the public and the rooftop being open to the public for dining and drinking and the gym. There is a lack of parking on 7th Avenue. She requests that the Board in granting the 4' rooftop variance make sure that it be used for what Mr. Mock is promoting here today. She stated water is a problem and there is a water issue in the building. The Fire Chief is in the building often. She asked that the committee make sure that each of the requirements are met during the construction.

Mr. Mock stated the unit he is in escrow for is in the alley at the rear and not Elsa's unit beside Ms. Muer. The gym will be for the residents only and no one will have access to the rooftop except the residents. Concerning the parking, there is a vacant parcel in the back, and he is planning to put in a garage and a small parking lot for the residents. Concerning the water issues, that is part of the reason they need the height variance. They are planning to get a good slope and make sure they will not have any water issues. There will be a deck that can be removed on the rooftop. He has used the slope on roofs in LA and has never had any problems.

Mike Baer, 201 Crooked Creek Road stated he has a business adjacent to this proposed project. He feels that apartments would be a really good use for this building. Adding the rooftop would only help to support the other businesses in the area that are within walking distance. It will enhance the historic aspect of the area. He does support this project.

With no further questions or comments, Chair closed the public hearing for Board discussion.

Discussion was made on parking and the structure being nonconforming. Ms. Watkins stated if they approve the setback variance it will bring the structure into conformity. Mr. Mowell stated it is another case where if the Board does not grant the variance, no one can build on the property or make use of their property.

Mr. Webb made the following motion: *With regard to the request by AYD Partners LLC for a variance from Section 6-2-2(e) Nonconforming Structures, I move the Board to find that (a) strict enforcement of the regulations would result in practical difficulties or unnecessary hardship to the applicant, (b) the variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit, and (c) in the granting of the variance the public safety and welfare have been secured and substantial justice has been done, and with regard to the request by AYD Partners LLC for a variance from Section 5-12-3 Dimensional Requirements to reduce the front setback (for a principal structure measuring 3.2' above 35' in height) from 36.6' to 26.8' and to reduce the side setback (for a principal structure measuring 3.2' above 35' in height) from 21.6' to 0' on the Lynn St Side and 6.6' on the opposing side, I move the Board to find that (a) strict enforcement of the regulations would result in practical difficulties or unnecessary hardship to the applicant, (b) the variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit, and (c) in the granting of the variance the public safety and welfare have been secured and substantial justice has been done. Ms. Watkins seconded the motion.*

Chair called for the vote. The following vote was taken by a show of hands.

| | |
|--------------|-----|
| Mr. Woolsey | Yes |
| Mr. Mowell | Yes |
| Mr. Webb | Yes |
| Ms. Lowrance | Yes |
| Mr. Grunwald | Yes |
| Ms. Collina | Yes |
| Ms. Watkins | Yes |

The vote was unanimous. Motion approved.

Meeting adjourned at 2:15 p.m.

Melinda Lowrance, Chair

Terri Swann, Secretary

DRAFT

**STATE OF NORTH CAROLINA
HENDERSON COUNTY**

**BEFORE THE HENDERSONVILLE
BOARD OF ADJUSTMENT
FILE NO. B22-007-VAR**

**IN RE THE APPLICATION OF
DAN MOCK and
AYD PARTNERS, LLC,
FOR A ZONING VARIANCE
PIN 9569-80-2471**

DECISION

This matter came before the Hendersonville Board of Adjustment on 8 March 2022 for a quasi-judicial hearing on the application of Dan Mock and AYD Partners, LLC, for a variance from the Hendersonville Zoning Ordinance *Section 5-12-3 Dimensional Requirements* and *Section 6-2-2 Nonconforming Structures* in order to add a rooftop addition to an existing structure.

Giving testimony were Alexandra Hunt, Planner I, Matthew Manley, Planning Manager, Dan Mock, Applicant, Carleton Collins, an architect retained by the Applicant, Carolyn Muer, a neighboring property owner, and Mike Baer, a neighboring property owner, all of whom were sworn and placed under oath.

Issues

Section 10-9 of the Hendersonville Zoning Ordinance states in pertinent part:

Section 10-9 Variances. A variance is a means whereby the City may grant relief from the effect of the Zoning Ordinance in cases of hardship. A variance constitutes permission to depart from the literal requirements of the ordinance.

A variance from the dimensional requirements of this ordinance may be granted by the Board of Adjustment if it finds the following:

- a) strict enforcement of the regulations would result in practical difficulties or unnecessary hardships to the applicant for the variance,
- b) the variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit, and
- c) in the granting of the variance the public safety and welfare have been secured and substantial justice has been done. Such findings shall be based on the following considerations:

- 1) The fact that the property could be utilized more profitably or conveniently with the variance than without the variance shall not be considered as grounds for granting the variance.
- 2) The hardship relates to the applicant's property rather than to personal circumstances.
- 3) The hardship results from the application of the ordinance and from no other cause, including the actions of the owner of the property or previous owners.
- 4) The hardship is peculiar to the property in question rather than a hardship shared by the neighborhood or the general public.

The Board of Adjustment shall not have authority to grant a variance when to do so would: 1) result in the extension of a nonconformity regulated pursuant to Section 6-2, above, or 2) permit a use of land, building or structure which is not permitted within the applicable zoning district classification.)

Section 5-12-3 of the Hendersonville Zoning Ordinance states:

5-12-3 Dimensional Requirements:

| | |
|---|--|
| Minimum Lot Area in Square Feet: | 40,000 |
| Lot Area per Dwelling Unit in Square Feet: | N/A |
| Minimum Lot Width at Building Line in Feet: | 100 |
| Minimum Yard Requirements in Feet: | Front: 35 Side: 20 Rear: 20 |
| Maximum Height in Feet: | 35; No building shall exceed 35 feet in height unless the depth of the front and total width of the side yards required herein shall be increased one foot for each two feet or fraction thereof of building in excess of 35 feet. |

Section 6-2-2 of the Hendersonville Zoning Ordinance states:

6-2-2 Nonconforming structures. A nonconforming structure is a building or other structure which lawfully existed prior to the effective date of this ordinance, or an amendment thereto, and which no longer could be built under the terms of this ordinance, as amended, by reason of restrictions on area, footprint, open space, building height, setbacks, lot width, or other requirements concerning the structure.

- a) A nonconforming structure devoted to a use permitted in the zoning classification in which it is located may continue to be used only in accordance with the provisions of this section.
- b) Normal repair and maintenance may be performed to allow the continuation of nonconforming structures.
- c) Except as provided in subsections (d) and (e) below, a nonconforming structure shall not undergo a change of use, renovation or expansion.
- d) A nonconforming structure may undergo a change of use or renovation without having to bring the structure into conformity with the requirements of these regulations, provided that:
 - 1) The change in use or renovation does not increase the floor area of the structure.
 - 2) The change in use is to a permitted use within the district.
 - 3) The number of parking spaces provided for the use is in conformity with the requirements of these regulations.
- e) A nonconforming structure may be expanded, without bringing the nonconforming structure into conformity with these regulations, only if the part of the structure to be expanded and the area of the lot into which the expansion is taking place are both brought into conformity with the requirements of this ordinance.
- f) A nonconforming structure shall not be moved unless it thereafter conforms to the standards of the zoning classification in which it is located.
- g) Where a nonconforming structure is damaged by fire, flood, wind, or other act of God, and such damage does not exceed 50 percent of the current assessed taxable value of the structure, it may be restored to its original dimensions and conditions as long as a building permit for the restoration is issued within 12 months of the date of the damage.

TESTIMONY

Testimony is accurately reflected in the minutes.

FINDINGS OF FACT

Based on the above testimony, the Board finds as follows:

- 1) The subject property possesses a PIN of 9569-80-2471 and is zoned as I-1 Industrial.
- 2) Based on Henderson County records, the lot size is approximately 0.22 acres or 9,583.2 square feet.
- 3) Based on Henderson County records, the existing building located on the lot was built in 1926 and the Gross Leasable Area is 13,516 square feet. (Exhibit A)

- 4) A North Carolina Warranty Deed made on August 5, 2021, between Hunting Creek Associates, LLC (Grantor) and AYD Partners LLC (Grantee) was recorded with the Henderson County Register of Deeds on August 6, 2021. (Exhibit B)
- 5) Section 5-12-3 of the Zoning Ordinance requires the Maximum Height for I-1 Industrial is 35 feet with the following allowances:
 - a. No building shall exceed 35 feet in height unless the depth of the front and total width of the side yards required herein shall be increased one foot for each two feet or fraction thereof of building in excess of 35 feet.
- 6) The subject property contains an existing chimney measuring 39' 11" from the base elevation at the location of the chimney (Exhibit C). This exceeds the maximum height requirements in Section 5-12-3 but is allowed by an exception granted under Section 8-2.
- 7) The existing structure on the subject property does not meet the required front and side setbacks in Section 5-12-3 and is an existing nonconforming structure as defined in Section 6-2.
- 8) The existing non-conforming structure on the subject property may be renovated without bringing the structure into conformance given the provisions found in Section 6-2-2(d) Nonconforming Structures.
- 9) Section 8-2 Height Limitations of the Zoning Ordinance allows certain structures, including chimneys, to exceed the height limitations contained in Article V by no more than 20% of that specified for any zoning district classification.
- 10) The applicant submitted elevations that indicate the proposed roof will not exceed the height of the existing chimney. (Exhibit C)
- 11) Section 6-2-2(e) allows a nonconforming structure to be expanded without bringing the nonconforming structure into conformity only if the part of the structure to be expanded and the area of the lot into which the expansion is taking place are both brought into conformity with the requirements of the zoning ordinance.

CONCLUSIONS OF LAW

Based on the above findings of fact, the Board concludes as follows:

- 1) Strict enforcement of the regulations would result in practical difficulties or unnecessary hardships to the applicant for the variance, because the proposed addition will improve drainage as well as provide common area for a residential development which is necessary for the long-term success for the development.

- 2) The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit, because the applicant has tried to mitigate encroachments by making sure the addition cannot easily be seen from public rights-of-way.
- 3) In the granting of the variance the public safety and welfare have been secured and substantial justice has been done.
- 4) The fact that the property could be utilized more profitably or conveniently with the variance than without the variance has not been considered as grounds for granting the variance.
- 5) The hardship relates to the applicant's property rather than to personal circumstances. In particular, the hardship would be that the applicant would have to reduce usable space in the existing building to improve the drainage of the flat roof, and the applicant is attempting to re-use an existing structure.
- 6) The hardship results from the application of the ordinance and from no other cause, including the actions of the owner of the property or previous owners.
- 7) The hardship is peculiar to the property in question rather than a hardship shared by the neighborhood or the general public.

DECISION

For the above reasons,

The Board of Adjustment grants a variance to from Sections 5-12-3 and 6-2-2 of the Hendersonville Zoning Ordinance to reduce the front setback from 37' to 26.8', and to reduce the Lynn St side setback from 22' to 0' and to reduce the southeast side setback from 22' to 15' (for a principal structure measuring 4' above 25' in height) to the extent represented in the application and supporting materials.

Done this 14th day of June, 2022

Melinda Lowrance, Chair

MEMORANDUM

TO: Board of Adjustment Members

FROM: Community Development Department

DATE: June 14, 2022

RE: Special Use Application –City of Hendersonville – FS1

SUMMARY: The Community Development Department has received an application and preliminary site plan from the City of Hendersonville for a Special Use Permit (Exhibit A). The subject property is currently zoned C-2, Secondary Business. The Special Use requested is Public Utility Facilities under Section 5-9-2 of the Zoning Ordinance.

SPECIAL USE REQUEST: The Special Use requested is Public Utility Facilities under Section 5-9-2 of the Zoning Ordinance.

PROPOSED FINDINGS OF FACT:

- The subject property possesses a PIN of 9568-79-4916 and located at 851 N. Main St.
- The subject property is zoned as C-2 Secondary Business.
- Public Utility Facilities is a Special Use (subject to 16-4 supplementary standards) in C-2 Secondary Business.
- Based on Henderson County Records, a North Carolina General Warranty Deed between Hendersonville Board of Education (Grantors) and The City of Hendersonville (Grantee) was recorded June 23, 1993. (Exhibit B)
- The subject property is the current location of the City of Hendersonville Fire Station 1.
- Based on Henderson County records, the lot size is approximately 1.67 acres or 72,745.2 square feet.
- The applicant submitted a Preliminary Site Plan for the construction of the new Fire Station 1. (Exhibit C)
- Section 10-8-2 of the Zoning Ordinance requires that the preliminary site plan meet the requirements set out in this section.
- The applicant submitted 3D renderings of the new Fire Station 1. (Exhibit D)
- The Preliminary Site Plan for the Fire Station 1 meet the requirements of Section 10-8-2.
- The Preliminary Site Plan Fire Station 1 does not meet subsection (d) of the Supplementary Standards in Section 16-4-22 Public Utility Facilities.
- Alternative compliance is being requested for a reduction in the size of the required planting islands for parking lot trees. The tree islands are proposed to be 8’x20’ as an alternative to the required 18’x18’. Condition c) under Section 15-3 is satisfied with the provision of pervious pavers in lieu of asphalt throughout the parking area. This

will allow for sufficient water to drain to the roots of the parking lot trees without the need for the conventional-sized tree island.

CODE REFERENCES.

5-9-2 Special Uses: The following uses shall be permitted in the C-2 Secondary Business Zoning District Classification only upon issuance of a Special Use pursuant to Article X and shall be subject to Special Use requirements contained in Section 16-4, below:

- Bed & breakfast facilities
- Child care centers
- Civic clubs & fraternal organizations
- Pet-sitting
- Public utility facilities
- Restaurants

Section 12-2 Definition of Commonly Used Terms and Words.

Public Utility Facility: Any structure or facility transmitting a service provided by a government or public utility, including, without limitation, fire stations, emergency medical service centers, telephone and repeater stations, pumping substations, and water towers, but not including telecommunication towers, antennas, and other telecommunication devices.

16-4-22 Public Utility Facilities.

- a) Lots must conform to minimum setback and yard requirements of the district in which they are located. Unstaffed utility structures with internal floor space of less than 600 square feet are exempted from the minimum lot size requirement.
- b) Electric and gas substations and sewage treatment plants will be separated by a ten-foot B type buffer meeting the specifications of Article XV from the street and any abutting residential use or any property located in a residential zoning district.
- c) Control houses, pump and lift stations, and other similar uses shall be screened from the street and any abutting residential use or any property located in a residential zoning district.
- d) A fence not easily climbable or comparable safety devices must be installed and maintained in order to deter access to the facility.
- e) The design of buildings, structures and facilities on a site should conform as closely as possible to the character of the area or neighborhood.

- f) The facility's lighting shall be shielded to prevent light and glare spill-over on to any adjacent residential properties, if such exist.
- g) The Board of Adjustment may give relief from these requirements so long as public safety and neighborhood compatibility are protected, if strict adherence could constitute a hardship or is unnecessary.

Section 10-8 Special Use Permits. A Special Use Permit from the Board of Adjustment is required for all Special Uses.

10-8-1 Application. When a Special Use Permit is required by the terms of this

Ordinance, application for such permit, along with a fee established by resolution of City Council, shall accompany the application for a building permit.

10-8-2 Preliminary Site Plan. The application for a Special Use Permit shall be accompanied by seven copies of a preliminary site plan showing the following:

- a) The proposed title of the project and the name of the engineer, architect, designer, landscape architect, planner and/or licensed surveyor, developer and owner of record;
- b) The north arrow point, scale at not greater than one inch equals 40 feet, and such information as the names of adjacent roads, streams, railroads, subdivisions or other landmarks sufficient to clearly identify the location of the property;
- c) Location of site by an insert vicinity map at a scale no less than one inch equals 2,000 feet;
- d) Existing project zoning and zoning of adjacent property, to include properties abutting either side of a public right-of-way; City of Hendersonville Zoning Ordinance
- e) City limits line;
- f) Names of adjacent property owners;
- g) Boundary survey of site and the location of all existing easements, buildings, rights-of-way or other encroachments;
- h) Existing topography and proposed finished contours at not more than five feet intervals, with project bench mark clearly identified. Location of the 100 year floodplain, if applicable. Other significant natural features affecting the site including but not limited to marshes, major rock outcrops and lakes or streams;

- i) All proposed streets with proposed names, pavement widths and rights-of-ways. All alleys, driveways, curb cuts for public streets and handicap ramps, loading areas, and provisions for off-street parking spaces and sidewalks; calculations indicating the number of parking spaces required and the number provided. All streets shall be clearly identified as public or private; a typical cross-section of the public or private street shall be included;
- j) Preliminary utility layout including location and size of existing and proposed water, sanitary and storm sewer lines; proposed location of electrical transmission lines, gas pipelines, street lights, fire hydrants and the location of garbage disposal facilities or a note indicating arrangements for these facilities;
- k) Location and size of all entrances and exits to the site showing sight distances and their relationship to all street and driveway intersections within 25 feet for driveways and 200 feet for street intersections;
- l) A landscape plan showing wood line before site preparation with species and average diameter of trees indicated and areas to be screened, fenced, walled and/or landscaped; also location of buffer strips, if required;
- m) Proposed location and intended use of all buildings with their dimensions, the number of floors, total floor area and maximum height above lowest ground point of each building;
- n) Notations to include the total project area, the amount and percentage of the site to be covered by buildings, open space, streets and parking;
- o) General location, size, height, orientation, and appearance of proposed signs.

As a matter of discretion, the Administrative Officer may require additional items for preliminary site plans, which would be necessitated by conditions such as topography, location, and anticipated traffic volumes on or near the site. The requirements may include but not be limited to traffic, noise, visual or fiscal impact studies, architect's models, renderings and other studies or data. In addition, if the Administrative Officer determines that one or more of the above submittal requirements is not applicable to the proposed project, it may be waived.

Upon receipt of an application and site plan, the Administrative Officer shall review same to determine if all required information has been provided or if additional information is needed. If the site plan is insufficient, the Administrative Officer shall notify the applicant in writing of such deficiencies. An application for a Special Use Permit will not be scheduled for Evidentiary Hearing until such time as the Board of Adjustment is in receipt of a complete application and site plan, that is, an application and site plan containing all the information required under this Ordinance. City of Hendersonville Zoning Ordinance.

10-8-3 Evidentiary Hearings on Applications for Special Use Permits. Once the Administrative Officer is in receipt of a complete application and seven copies of a complete site plan, the Administrative Officer will schedule the application for an Evidentiary Hearing before the Board of Adjustment.

The Administrative Officer shall mail or deliver written notice of the public hearing to the person or entity whose application or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by the zoning ordinance. In the absence of evidence to the contrary, the city may rely on the county tax listing to determine owners entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the city shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

The Board of Adjustment shall conduct an Evidentiary Hearing (quasi-judicial hearing) on the application. Per NCGS 160D-406 (d), the applicant, the local government, and any person who would have standing under NCGS 160D-1402(c), shall have the right to participate as a party at the Evidentiary Hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the board.

10-8-4 Board of Adjustment Action on Applications for Special Use Permits. After the Evidentiary Hearing, and on consideration of the record, the Board of Adjustment shall take action on the application, either (1) denying it, (2) approving it, or (3) approving it subject to one or more reasonable and appropriate conditions. The Board of Adjustment shall not approve an application for a Special Use Permit, with or without conditions, unless it makes each of the following findings of fact:

- a) The proposed use complies with the standards for such use contained in Article XVI;
- b) The proposed use will not adversely affect the health or safety of persons residing or working in the neighborhood of such proposed use; and
- c) The proposed use will not be detrimental or injurious to property or public improvements in the neighborhood of such proposed use.

Sec. 15-3. Alternative compliance.

The landscape requirements are intended to set minimum standards for quality development and environmental protection and are not intended to be arbitrary or inhibit creative solutions. Site conditions or other reasons may justify the need to request an alternate method of compliance with the landscape requirements. The reviewing

authority, as specified in article VII, above, may alter the requirements of this section as long as existing or added landscape features of the development site comply with the intent of this article. Requests for alternative compliance shall be accepted if one or more of the following conditions are met:

- c) An alternative compliance proposal is equal or better than normal compliance in its ability to fulfill the intent of this article and exhibits superior design quality.

MOTION:

With regard to the request by the City of Hendersonville for a Special Use Permit with the following conditions:

- 1) *A fence not easily climbable as required in Section 16-4-22(d) shall not be required as it would interfere with access to the site by the City of Hendersonville Fire Department.*
- 2) *Alternative Compliance shall be granted in accordance with Section 15-3 for a reduction in the size of the required tree planting islands.*

I move the Board to find that a) the proposed use complies with the standards for such use contained in Article XVI; b) the proposed use will not adversely affect the health or safety of persons residing or working in the neighborhood of such proposed use; and c) the proposed use will not be detrimental or injurious to property or public improvements in the neighborhood of such proposed use.

(After the motion has been seconded, the movant should state the factual basis and reasoning for the motion. In doing so, bear in mind the considerations set out in Section 10-9 of the zoning ordinance.)

Remember: Staff suggest the motion be made in the affirmative regardless of whether it is your intention to support or oppose the issuance of the special use permit. This does not mean that staff is recommending approval of the application. RATHER, we believe it is better procedurally to approach it this way. Once you have made the motion, you should state your position as to the required findings. For special use applications, it takes a majority of affirmative votes to approve this application, if others are voicing support of the application, you should make it a point to state your position vis-à-vis the required findings since your vote, even standing by itself may represent the position of the Board.

EXHIBIT LIST

Exhibit A – Special Use Permit Application

Exhibit B – NC General Warranty Deed

Exhibit C – Preliminary Site Plan

Exhibit D – 3D Renderings



**CITY OF HENDERSONVILLE
COMMUNITY DEVELOPMENT DEPARTMENT**

100 N. King Street, Hendersonville, NC 28792

Phone (828) 697-3010 | Fax (828) 698-6185

www.hendersonvillenc.gov

**Special Use Permit Application
Section 10-8 of the City Zoning Ordinance**

The following information is **required** to be submitted prior to review by the Administrative Officer for placement on the Board of Adjustment agenda. Staff will not review applications until each item has been submitted and determined complete. Once the Administrative Officer is in receipt of a complete application and seven copies of a complete site plan, the Administrative Officer will schedule the application for an Evidentiary Hearing before the Board of Adjustment (*Section 10-8-3*).

The Board of Adjustment meets the second Tuesday of each month at 1:30PM at the Operations Center located at 305 Williams Street. Completed applications must be submitted to the Administrative Officer no later than the second Friday of each month, to be included on the following month's agenda.

The Board of Adjustment shall conduct an Evidentiary Hearing (quasi-judicial hearing) on the application. Per NCGS 160D-406(d), the applicant, the local government, and any person who would have standing under NCGS 160D-1402(c), shall have the right to participate as a party at the Evidentiary Hearing. Other witnesses may present, competent, material, and substantial evidence that is not repetitive as allowed by the board (*Section 10-8-3*).

The City Zoning Ordinance can be found on the City of Hendersonville Community Development website: www.hendersonvillenc.gov/community-development

By placing a check mark by each of the following items, you are certifying that you have performed that task.

- ☐ 1. Completed Application Form
- ☐ 2. Completed Signature Page (completed Owner's Affidavit if different from applicant)
- ☐ 3. Completed Preliminary Site Plan as described in Section 10-8-2 of the City Zoning Ordinance
- ☐ 4. Application Fee

NOTE: Staff has the discretion to require additional items for preliminary site plans.

Office Use:

Date Received: _____ By: _____ Fee Received? Y/N

A. Quasi-Judicial Decisions Process

The Board of Adjustment is given the authority under Section 10-3 of the Zoning Ordinance of the City of Hendersonville to hear and decide requests for Special Use Permits from the dimensional requirements of the Zoning Ordinance in accordance with Section 10-8. The Board conducts quasi-judicial hearings and may consider sworn testimony and evidence presented during the hearing. Applicants are advised to bring data or experts in the relevant field to provide fact-based evidence to support any information they want considered. The Board may not consider personal opinions, subjective observations, or personal preferences.

NOTE: The City Planning staff may not provide legal advice to applicants. Applicants are encouraged to consult the appropriate sections of the North Carolina General Statutes, City of Hendersonville Zoning Ordinance, and the Rules of Procedure for the Board of Adjustment, or to consult with an attorney, if more information is needed.

B. Property Information

Name of Project: City of Hendersonville, Fire Station 1

PIN(s): 9568-79-4916

Address(es) / Location of Property: 851 N Main St.; Hendersonville, NC 28792

Type of Development: ☐ Residential ☐ Commercial ☒ Other

Current Zoning: C-2

Total Acreage: 1.67

List of Requested Special Uses:

Public Utility Facilities

[APPLICATION CONTINUED ON NEXT PAGE]

C. Special Use Findings of Fact

Section 10-8-4 states that after the Evidentiary Hearing, and on consideration of the record, the Board of Adjustment shall take action on the application, either (1) denying it, (2) approving it, or (3) approving it subject to one or more reasonable and appropriate conditions. The Board of Adjustment shall not approve an application for a Special Use Permit, with or without conditions, unless it makes each of the following findings of fact:

- a) The proposed use complies with the standards for such use contained in Article XVI
- b) The proposed use will not adversely affect the health or safety of persons residing or working in the neighborhood of such proposed use; and
- c) The proposed use will be detrimental or injurious to property or public improvements in the neighborhood of such proposed use.

Instructions: *In the spaces provided below, indicate the facts you intend to demonstrate and the arguments that you intend to make to demonstrate to the Board that it can properly grant the Special Use Permit as provided in Section 10-8-4 of the City of Hendersonville Zoning Ordinance. (If additional space is required, please provide the information on a separate sheet of paper).*

A. Indicate how proposed use complies with the standards for such use contained in Article XVI
(Please see Article XVI Supplementary Standards if applicable)

The proposed development is a fire station facility that will provide fire, emergency medical services, and mutual aid to the City and surrounding neighborhoods. The City Zoning Ordinance definition of Public Utility Facilities includes "fire stations" and "other governmental facilities."

B. Indicate how the proposed use will not adversely affect the health or safety of persons residing or working in the neighborhood of such proposed use.

The proposed use will not adversely affect the health or safety of persons residing or working in the neighborhood. The use will improve the health and safety of the City and surrounding area by improving community access to fire protection, emergency medical services, and public administration services.

C. Indicate how the proposed use will be detrimental or injurious to property or public improvements in the neighborhood of such proposed use.

The proposed use will not be detrimental or injurious to property or public improvements.

[APPLICATION CONTINUED ON NEXT PAGE]

D. Applicant Contact Information and Signature

John Connet

Printed Applicant Name

City of Hendersonville

Printed Company Name (if applicable)
☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership

☒ **Other:** Local Government

☐ By signature below, I hereby acknowledge, as/on behalf of (circle one) the Applicant named above my understanding this application will be considered in a quasi-judicial proceeding and that neither I, nor anyone on my behalf, may contact the Board of Adjustment except through sworn testimony at the public hearing. (Applicable if box is checked.)

Applicant Signature

City Manager/Property Owner

Applicant Title (if applicable)

160 6th Avenue E.

Address of Applicant

Hendersonville, NC, 28792

City, State, and Zip Code

828.697.3000

Telephone

jconnet@hvlnc.gov

Email

[SIGNATURE CONTINUED ON NEXT PAGE]

E. Property Owner Contact Information and Signature (If different from Applicant)

John Connet

*Printed Owner Name

City of Hendersonville

*Printed Company Name (if applicable)

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership

☒ Other: Local Government

☐ By signature below, I hereby acknowledge, as/on behalf of (circle one) the Applicant named above my understanding this application will be considered in a quasi-judicial proceeding and that neither I, nor anyone on my behalf, may contact the Board of Adjustment except through sworn testimony at the public hearing. (Applicable if box is checked.)



*Property Owner Signature

City Manager

Property Owner Title (if applicable)

Hendersonville, NC, 28792

City, State, and Zip Code

828.697.3000

Telephone

jconnet@hvlnc.gov

Email

* Property owner hereby grants permission to the City of Hendersonville personnel to enter the subject property for any purpose required in processing this application.

* If signed by an agent on behalf of the Owner, this petition MUST be accompanied by a Limited Power of Attorney signed by the property owner (s) and notarized, specifically authorizing the agent to act on the owner (s) behalf in signing this application. Failure of each owner, or their duly authorized agent, to sign, or failure to include the authority of the agent signed by the property owner, will result in an INVALID APPLICATION.

678

North Carolina, Henderson County The foregoing certificate(s) of James R. Yarbrough filed and recorded in the Register of Deeds Office for Henderson County, N. C. this _____ day of _____, 19____.

Notary Public (Notaries Public) is/are certified to be correct. This _____ o'clock, _____ M. in Book _____ at page _____.

Instrument presented for registration and recorded in this office this 27 day of July 1993 at 11:25 A.M. in Book 825 Page 678.

Ruby H. Maxwell Eric H. Hester
Register of Deeds (Assistant) (Deputy)

Register of Deeds

Excise Tax -D-

Recording Time, Book and Page

Tax Lot No. _____ Parcel Identifier No. _____

Verified by _____ County on the _____ day of _____, 19____.

by _____

Mail after recording to Jim YARBROUGH - HENDERSON CO. PUBLIC SCHOOLS
414 4th AVENUE WEST, HUNTER, N.C. 28739

This instrument was prepared by Francis M. Coiner, Attorney

Brief description for the Index

NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED made this _____ day of _____, 1993, by and between

GRANTOR

GRANTEE

HENDERSONVILLE BOARD OF EDUCATION
(FORMERLY KNOWN AS THE TRUSTEES OF THE
HENDERSONVILLE GRADED SCHOOLS)

CITY OF HENDERSONVILLE

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g. corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the City of _____, Hendersonville Township, Henderson County, North Carolina and more particularly described as follows:

(See Attached Exhibit A)

The property hereinabove described was acquired by Grantor by instrument recorded in
.....

A map showing the above described property is recorded in Plat Book page.....

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated. Title to the property hereinabove described is subject to the following exceptions:

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

.....
(Corporate Name)

By:

..... President

ATTEST:

.....

..... Secretary (Corporate Seal)

USE BLACK INK ONLY

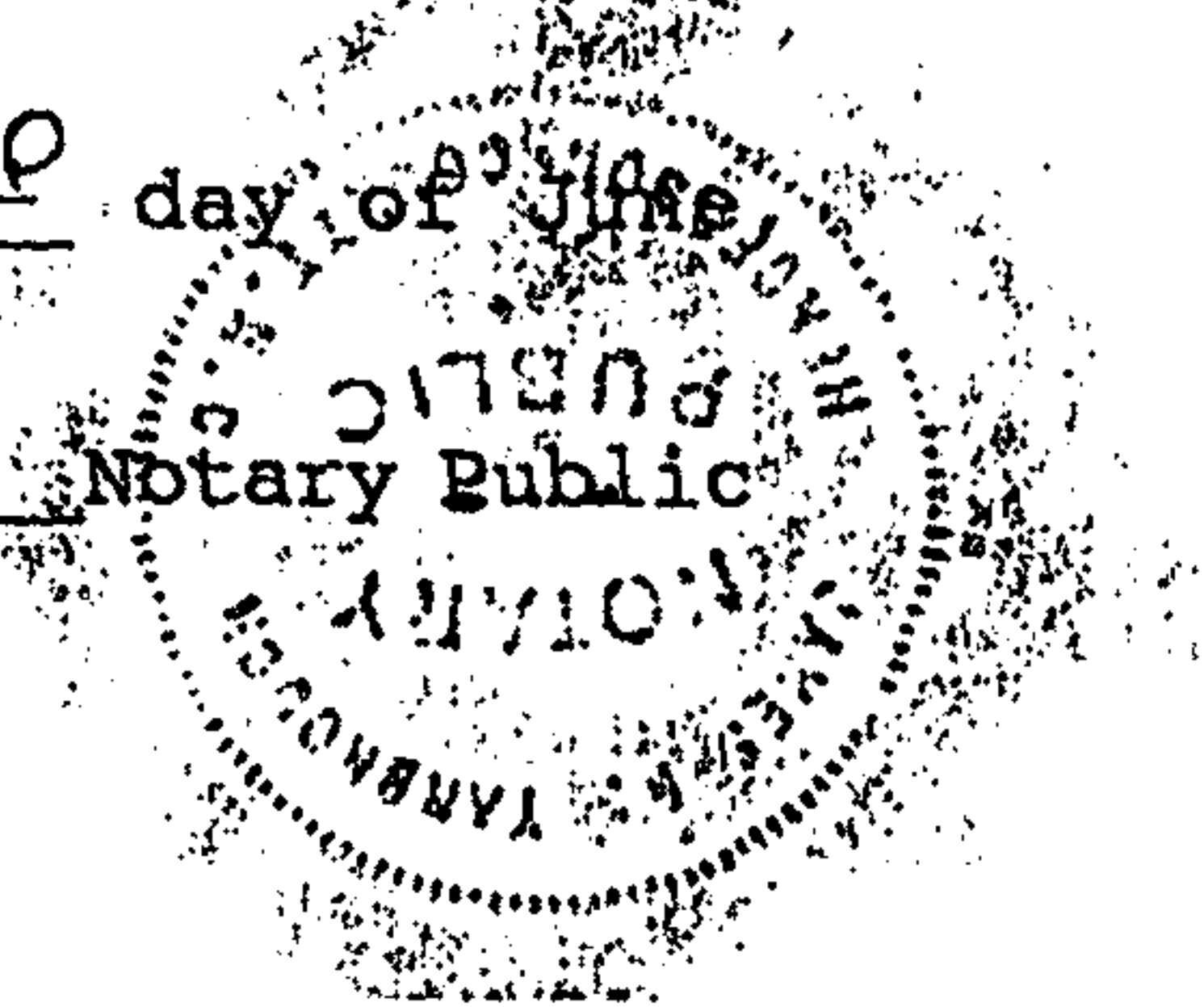
HENDERSONVILLE BOARD OF EDUCATION (SEAL)
(FORMERLY KNOWN AS THE TRUSTEES OF THE
HENDERSONVILLE GRADED SCHOOLS)
By Frank W. Ewbank (SEAL)
Frank W. Ewbank, Chairman
..... (SEAL)
Attest: Charles L. Byrd (SEAL)
Charles L. Byrd, Secretary

STATE OF NORTH CAROLINA, COUNTY OF HENDERSON

I, JAMES R. VANBROUGH, a Notary Public in and for the State and County aforesaid, do hereby certify that **FRANK W. EWBANK** personally appeared before me this day and after being by me duly sworn, says that he is Chairman and **CHARLES L. BYRD** is Secretary of the **HENDERSONVILLE BOARD OF EDUCATION**, the Board described in and which executed the foregoing instrument, and that the name of the Hendersonville Board of Education was subscribed thereto by the said Chairman, and that the said Chairman and Secretary subscribed their names thereto, all by order of the Hendersonville Board of Education, and that the said instrument is the act and deed of the said Hendersonville Board of Education.

* FORMERLY KNOWN AS THE TRUSTEES OF THE Hendersonville Graded Schools
WITNESS my hand and notarial seal, this 23rd day of JUNE 1993.

James R. Vanbrough
My commission expires 7-28-97



..... REGISTER OF DEEDS FOR COUNTY
By Deputy/Assistant - Register of Deeds

BEGINNING at a new steel pin in the back line of the sidewalk running adjacent to and parallel with North Main Street (U.S. Highway 25) and located at or near the point of confluence and intersection of North Main Street and Church Street (said steel pin also located South 09 deg. 46 min. East 286.13 feet from N. C. Grid Monument "Boyd" - 1988), and running thence from said beginning point and with the margin of the sidewalk the following calls and distances: in a southeasterly direction with the arc of a circle having a radius of 1,440.23 a distance of 287.49 feet (the chord of such call being South 28 deg. 41 min. 32 sec. East 287.01 feet) to a steel pin, South 33 deg. 40 min. 55 sec. East 53.04 feet to a steel pin, and South 33 deg. 39 min. 08 sec. East 240.96 feet to an iron pin; thence following the sidewalk as the same curves in a southwesterly direction and to the point where the same intersects with the margin of Eighth Avenue West, with the arc of a circle having a radius of 22.97 feet, a distance of 45.18 feet (said bearing having a chord of South 22 deg. 42 min. 22 sec. West 38.25 feet) to a steel pin which stands in the north margin of Eighth Avenue West; thence continuing with the back side margin of the sidewalk and parallel with the margin of Eighth Avenue West, South 79 deg. 03 min. 51 sec. West 217.67 feet to an iron pin standing at or near the eastern margin of the continuation of the sidewalk and near the point of intersection of the North margin of Eighth Avenue West with the East margin of Church Street (U. S. Highway 25); with the continuation of the concrete sidewalk, North 08 deg. 01 min. 46 sec. West 576.21 feet to an iron pin standing at the point of intersection of Church Street and North Main Street; thence with the point of intersection of Church Street and North Main Street and with the arc of a circle having a radius of 7.20 feet in an easterly direction, a distance of 9.22 feet (said call having a chord of North 73 deg. 04 min. 30 sec. East 8.60 feet) to a steel pin, the point and place of BEGINNING, containing 1.59 acres, more or less, and being all of that tract of land commonly referred to as "Boyd Park" and being a portion of that tract of land as described in deed recorded in Book 113, Page 144, in the Office of the Register of Deeds of Henderson County.

OWNER/DEVELOPER:
CITY OF HENDERSONVILLE
160 SIXTH AVENUE EAST
HENDERSONVILLE, NC 28792
(828) 697-3000

CIVIL ENGINEER:
BRIAN NEWMAN, PE
MATTERN & CRAIG, INC.
12 BROAD ST.
ASHEVILLE NC 28801
(828) 254-2201

ARCHITECT:
ASHLEY LOVE
ADW ARCHITECTS
SIX COLISEUM CENTRE
2185 COLISEUM CENTRE DRIVE, SUITE 500
CHARLOTTE NC 28217
(704) 379-1919

PROJECT LOCATION:
HENDERSONVILLE FIRE STATION 1
851 NORTH MAIN STREET
HENDERSONVILLE NC, 28792

ZONING:
SECONDARY BUSINESS (C-2)
SETBACKS:
SIDE: 5'
FRONT: 15'
REAR: ZERO

PARKING:
TOTAL SPACES REQUIRED: 51 SPACES
TOTAL SPACES PROVIDED: 51 SPACES
ACCESSIBLE SPACES REQUIRED: 3 SPACES
ACCESSIBLE SPACES PROVIDED: 3 SPACES

BUILDING INFORMATION:
GROSS FLOOR AREA: 19745 SF
NUMBER OF STORIES: 2 STORY

SITE INFORMATION:
COMMON DEVELOPMENT: 1.6 AC TOTAL
PIN: 9568794916

GRADING/DRAINAGE CALCULATIONS:
LIMITS OF DISTURBANCE: 1.6 AC TOTAL

PRE-DEVELOPMENT IMPERVIOUS: 0.9 AC (56%)
POST-DEVELOPMENT IMPERVIOUS: 0.7 AC (44%)
PRE-DEVELOPMENT PERVIOUS: 0.7 AC (44%)
POST-DEVELOPMENT PERVIOUS: 0.9 AC (56%)

SITE COVERAGE AREA CALCULATIONS:
TOTAL PROJECT AREA: 69,128 SF
BUILDINGS: 15,010 SF (21.7%)
OPEN SPACE: 19,687 SF (28.5%)
STREETS AND PARKING: 29,021 SF (42.0%)
OTHER FACILITIES: 5,410 SF (7.8%)
COMMON OPEN SPACE: 11,900 SF (17.2%)

OPEN SPACE CALCULATIONS:
REQUIRED SPACE: 10 % OF PARCEL AREA
69,128 SF x 10 % =
6913 SF (0.16AC)
PROVIDED SPACE: 11,900 SF (0.27 AC)

NOTE ON SITE LIGHTING: SECTION 6-13-4 REQUIRES THAT LIGHTING "SHALL BE AIMED, DIRECTED, SHIELDED OR ARRANGED SO THE LIGHT SOURCES FOR SUCH FACILITIES DO NOT CAUSE GLARE SPILL OVER ON NEIGHBORING PROPERTIES OR INTERFERE WITH THE SAFE USE OF PUBLIC RIGHTS-OF-WAY."

PROPERTY IS OUTSIDE OF THE FLOODPLAIN.

PARCEL IS COMPLETELY WITHIN HENDERSONVILLE CITY LIMITS



PROJECT
LOCATION

VICINITY MAP
1" = 500'

LEGEND

SIDEWALK
HEAVY DUTY
CONCRETE PAVEMENT
PERMEABLE PAVERS

PERMEABLE PAVERS WITH CURB EDGE RESTRAINT (8732 SF)

PROPOSED (18) 10x20 PARKING SPACES

STRIPING TO BE DESIGNATED BY CONTRASTING
COLORED PAVERS. CONTRACTOR TO PROVIDE SHOP
DRAWING TO BE APPROVED BY ARCHITECT.

PROPOSED CIP CONCRETE RETAINING WALL (SEE STRUCTURAL DRAWINGS)

EXISTING DRIVEWAY WILL BE DEMOLISHED AND CURB WILL BE REBUILT

PROPOSED DRIVEWAY

EXISTING DRIVEWAY
APRON REDUCED
WDTH. SIGHT TRIANGLE
SHOWN FOR ONE-WAY
TRAFFIC

15' FRONT SETBACK

EXISTING UTILITY
POLE

EXISTING MONUMENT TO REMAIN

EXISTING MEMORIAL WITH
FLAG TO REMAIN

WOODED AREA TO REMAIN

APPROXIMATE LOCATION
EX. 18" SD PER 1999 CITY
AS-BUILTS. ±2.25% SLOPE

APPROXIMATE SOUTHERN LIMIT OF
'5 POINTS' PROJECT

EXISTING TRAFFIC SIGNS

EXISTING 15" STORM DRAIN
INVERT ELV=2120.30

EXISTING 18" STORM DRAIN
INVERT ELV=2119.89

EXISTING STORM DRAIN MANHOLE
RIM ELV=2123.29

EXISTING FIRE HYDRANT
INVERT ELV=2119.10

EXISTING 18" IN STORM DRAIN
INVERT ELV=2118.95

EXISTING ROAD
ELV=2123.191

EXISTING 12" IN TERRA COTTA PIPE
INVERT ELV=2113.64

EXISTING 12" IN TERRA COTTA PIPE
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Hendersonville Fire Station No. 1

SCHEMATIC DESIGN | AUGUST 2021

HENDERSONVILLE, NC

adwarchitects
environmentsforlife®

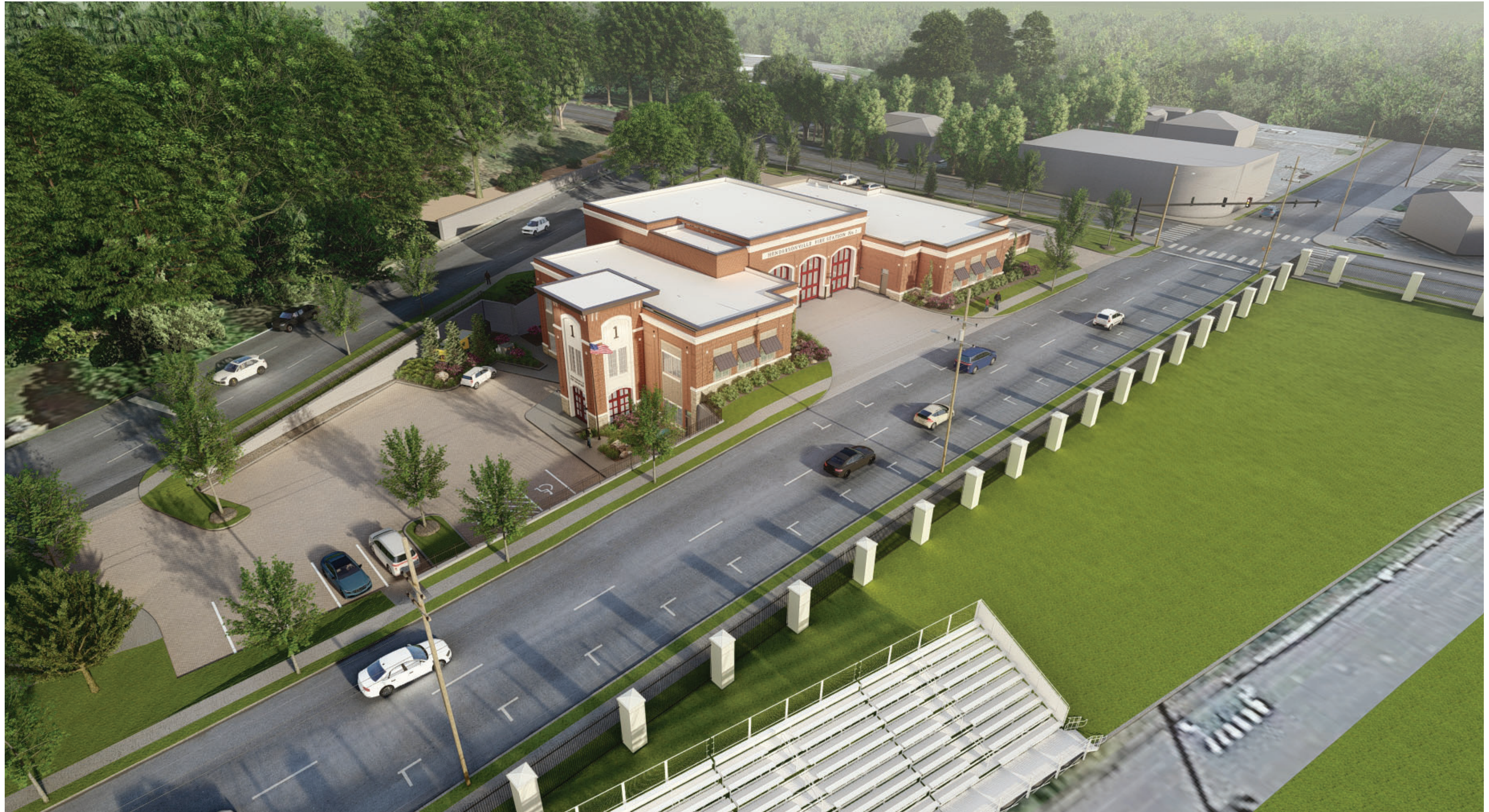




Option A

Hendersonville Fire Station No. 1







Hendersonville Fire Station No. 1 | Hendersonville, N.C.
Schematic Design - August 2021





Hendersonville Fire Station No. 1 | Hendersonville, N.C.
Schematic Design - August 2021







Hendersonville Fire Station No. 1 | Hendersonville, N.C.
Schematic Design - August 2021









adwarchitects
environmentsforlife®







NOTICE OF APPEAL



ATTN: City Clerk

I, TROY LEE,

PURSUANT TO ARTICLE 10 OF THE ZONING ORDINANCE I AM APPEALING THE VIOLATION DATED MAY 4, 2022 FOR THE OAK PRESERVE DEVELOPMENT PROJECT LOCATED AT 2201 OLD SPARTANBURG RD., HENDERSONVILLE, NC.. AS REQUIRED BY §10-7(a) THE GROUNDS FOR APPEAL ARE AS FOLLOWS:

- 1.) MANY OF THE TREES REMOVED WERE NOT VIABLE AND POSED SAFETY HAZARDS. SOME HAD BLOWN OVER INTO THE NEIGHBORS' ADJACENT PROPERTY CAUSING DAMAGE. WE SPOKE TO THE NEIGHBORING HOA PRESIDENT AND WERE ASKED TO REMOVE SEVERAL TREES THAT WERE SAFETY HAZARDS
 - 2.) SEVERAL TREES WERE IN DIRECT CONFLICT W/ STORM WATER STRUCTURES
 - 3.) TREE SURVEY FAILED TO ACKNOWLEDGE THE CONDITION OF THE TREES
 - 4.) SEVERAL TREES REQUIRING PROTECTION PURSUANT TO §15-4(c) OF THE ZONING CODE WERE IN THE ENVELOPE OF A BUILDING OR TOO CLOSE TO A STRUCTURE TO ALLOW FOR THE PROTECTIVE MEASURES REQUIRED.
 - 5.) THE COUNT OF REMOVED TREES IS INCORRECT
 - 6.) THE AMOUNT OF TIME GIVEN TO REMEDY THE VIOLATION IS UNREASONABLE
 - 7.) THE FINE BEING ASSESSED IS INCORRECTLY CALCULATED AND UNCONSCIONABLE.
 - 8.) ALL THE ABOVE CONDITIONS / ~~WERE~~ ^{CONCERNS} WERE RAISED AT THE ON SITE PRE CONSTRUCTION MEETING.
- PLEASE CONTACT ME AT 828-435-2216 OR BY EMAIL AT TROY@DARKHORSEBUILDS.COM.
- Troy Lee* TROY LEE

Notice to Remedy Code Violation

CITY OF HENDERSONVILLE, NORTH CAROLINA

Date: MAY 4, 2022

Name: OP MANAGEMENT LLC
Mailing Address: 707 BROOKLYN AVE
 HENDERSONVILLE, NC 2879

YOU ARE HEREBY NOTIFIED that at or on property owned or occupied by you is located at: **The Oak Preserve located at 2201 Old Spartanburg Rd. Hendersonville NC**

There exists Violations of the Code of Ordinances of the City of Hendersonville.

Upon investigation, your property is in violation of: **Conditional Rezoning Ordinance**

In accordance with Section 1-6 of said Code and rezoning Ordinance #0-21-31, which states the following:

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.

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

- i. Trees slated for preservation as shown on the site plan must be protected in accordance with section 15-4 of the Zoning Code prior to construction: and

And in accordance with Section 15-4-c) Protection of existing trees during construction, of said code which states the following:

- (1) No grading or other land-disturbing activity can occur on a site with existing trees which are designated to be preserved in order to meet landscaping requirements until protective barriers are installed by the developer and approved by the community development director or a designee appointed by the community development director. Trees designated for preservation which are counted toward the landscape requirements must be protected by barriers, while trees designated for preservation which do not count toward the landscape requirements are encouraged to be protected by barriers. The diameter of the preserved trees and the location of protective barriers must be shown on landscape and grading plans with the dimension between the tree trunk and barrier indicated.

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

City of Hendersonville Planning Staff identified 53 trees slated for preservation per the approved site plan dated April 22, 2021 were removed without approval. There was no evidence that the trees subject to preservation requirements were properly protected in accordance with Section 15-4-c) of the Zoning Code as agreed upon in the signed List of Conditions dated June 3, 2021. Additionally, 16 trees that were preserved were not properly protected according to the aforementioned Existing Vegetation protection measures.

You are hereby directed to remedy the violations by the end of day on: **MAY 20, 2022**

A Revegetation Plan shall be submitted to the Community Development Director for approval and shall be compliant with the City's approved species list and best practices. As derived from Section 15-4,

Removed trees which measured between 13"-18" in caliper will be replaced by 3 canopy trees.

Removed trees which measured between 19"-24" in caliper will be replaced by 4 canopy trees.

Removed trees which measured greater than +25" caliper will be replaced by 5 canopy trees.

All new plantings shall measure at least 1.5"-2" in caliper.

Should the violator refuse to remedy the violation with an approved revegetation plan as specified above, the City of Hendersonville will assess the following fines against OP Management LLC.:

Unlawful removal of 53 trees ordered to be preserved at \$500.00 per occurrence.

Failure to protect 53 trees slated for preservation as shown on the site plan must be protected in accordance with section 15-4 of the Zoning Code prior to construction at \$500.00 per occurrence.

Failure to protect 16 trees that were ordered to be preserved at \$500.00 per occurrence.

OP Management LLC is so ordered and shall submit a revegetation plan according to the specifications above or pay a fine in the amount of \$61,000.00 (Sixty-One Thousand Dollars)

or the City shall cause the same to be remedied and assess the cost to you in addition to any fines associated with said violations in accordance with the Ordinance, a copy is enclosed for your information.



STEPHEN CALVERLEY

Code Enforcement Officer

100 N. King Street, Hendersonville, NC 28712

Community Development Dept. – Planning Division Phone: 828-697-3010

Attached References / Evidence :

Signed 0-21-31_Conditional_Rezoning_ordinance; C6(1) -Oak Preserve Tree Preservation Plan; Photos

Ordinance #O-21-31

**AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO
AMEND THE OFFICIAL ZONING MAP OF THE CITY OF HENDERSONVILLE
FOR PARCEL NUMBER 9577-88-3870 BY CHANGING THE ZONING
DESIGNATION FROM COUNTY R1 TO PRD-CZD PLANNED RESIDENTIAL
DEVELOPMENT - CONDITIONAL ZONING DISTRICT**

IN RE: Parcel Number: 9577-88-3870 – 2201 Old Spartanburg Rd. (Oak Preserve)
(File # P21-11-CZD)

WHEREAS, the City is in receipt of a Conditional Rezoning application from applicant OP Management / Troy Lee (owner) for the development of 30 Residential Units / 15 Duplexes on approximately 5.6 acres; and

WHEREAS, the Planning Board took up this application at its regular meeting on May 10th, 2021; voting 5-0 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 June 3rd, 2021, and

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

1. Pursuant to Article XI of the Zoning Ordinance of the City of Hendersonville, North Carolina, the Zoning Map is hereby amended by changing the zoning designation of the following: Parcel number 9577-88-3870 from County R1 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, Two-Family.
 - b. Conditions that shall be satisfied prior to final site plan approval include:
 - i. Trees slated for preservation as shown on the site plan must be protected in accordance with Section 15-4 © of the Zoning Code prior to construction; and
 - ii. The developer shall work with staff to extend the driveways to increase parking for each unit; and

With their signatures below, the undersigned applicant(s) and property owner(s) consent to and agree to the imposition of all conditions stated.

Applicant: TMFL Consultants, LLC

Signature: _____



Printed Name: _____

Troy A. Lee

Title: _____

Member Manager

Property Owner: OP Management, LLC

Signature: _____

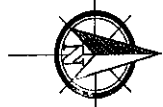


Printed Name: _____

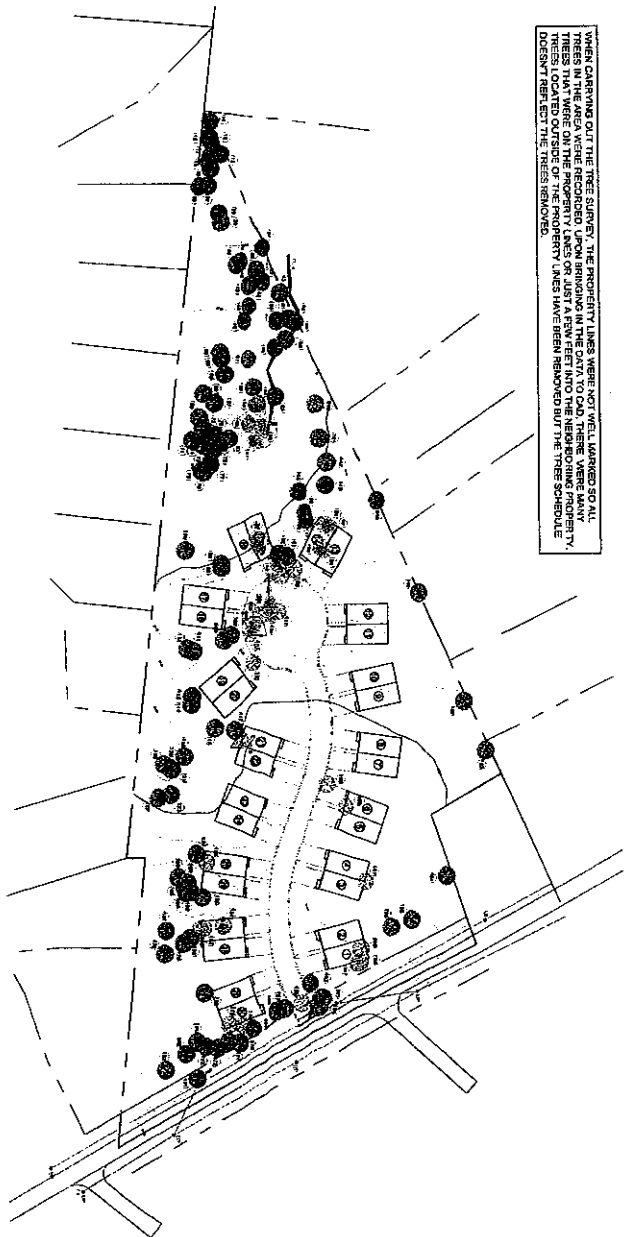
Troy A. Lee

Title: _____

Member Manager



WHEN CARRYING OUT THE TREE SURVEY, THE PROPERTY LINES WERE NOT WELL MARKED SO ALL TREES LOCATED OUTSIDE OF THE PROPERTY LINES ON JUST A FEW FEET AND THE NEIGHBORING PROPERTY, DOES NOT AFFECT THE TREES REMOVED.



1 TREE SURVEY

5-14-43 BUFFERING, SCREENING AND LANDSCAPING.

THE APPLICANT SHALL PROPOSE AND PLANT, CONSTRUCT AND MAINTAIN SATISFACTORY ARRANGEMENTS FOR THE PRESERVATION OF A BUFFER AND/OR SCREENING NEARBY TO PROTECT ADJACENT PROPERTIES FROM THE IMPACTS OF TRAFFIC AND NOISE. THE BUFFER AND/OR SCREENING SHALL BE DESIGNED TO PROVIDE A VIEW FROM THE ADJACENT PROPERTY TO THE DEVELOPMENT. THE BUFFER AND/OR SCREENING SHALL BE DESIGNED TO PROVIDE A VIEW FROM THE ADJACENT PROPERTY TO THE DEVELOPMENT. THE BUFFER AND/OR SCREENING SHALL BE DESIGNED TO PROVIDE A VIEW FROM THE ADJACENT PROPERTY TO THE DEVELOPMENT.

THE BUFFER AND/OR SCREENING SHALL BE DESIGNED TO PROVIDE A VIEW FROM THE ADJACENT PROPERTY TO THE DEVELOPMENT. THE BUFFER AND/OR SCREENING SHALL BE DESIGNED TO PROVIDE A VIEW FROM THE ADJACENT PROPERTY TO THE DEVELOPMENT. THE BUFFER AND/OR SCREENING SHALL BE DESIGNED TO PROVIDE A VIEW FROM THE ADJACENT PROPERTY TO THE DEVELOPMENT.

SECTION 15.5 GENERAL STANDARDS. THE FOLLOWING GENERAL STANDARDS SHALL APPLY TO ALL LANDSCAPING REQUIREMENTS IN THIS ARTICLE.

8) UNLESS OTHERWISE SPECIFIED, THE EXACT PLACEMENT OF REQUIRED PLANTS AND STRUCTURES SHALL BE THE DECISION OF THE DEVELOPER. THE TYPE OF PLANTS USED SHALL BE LIMITED TO THOSE ON THE APPROVED PLANT LIST. PLANTS SHALL BE INSTALLED IN ACCORDANCE WITH THE PLANTING SCHEDULE. PLANTS SHALL BE INSTALLED IN ACCORDANCE WITH THE PLANTING SCHEDULE. PLANTS SHALL BE INSTALLED IN ACCORDANCE WITH THE PLANTING SCHEDULE.

9) INSTALLATION. ALL LANDSCAPING SCREENING SHALL BE INSTALLED IN A SOUND WORKMANLIKE MANNER AND ACCORDING TO ACCEPTED GOOD PLANTING PROCEDURES WITH THE QUANTITY AND QUALITY OF PLANT MATERIALS AS DESCRIBED. ALL PLANTS SHALL BE INSTALLED SO AS TO MAINTAIN ALL OTHER APPROVED SCREENING AND GOOD REQUIREMENTS. SPECIES DIVERSITY. WHEN THE TOTAL NUMBER OF TREES REQUIRED UNDER THE PROVISIONS OF THIS ARTICLE EXCEEDS FIFTY (50), THE DEVELOPER SHALL SUBMIT A LIST OF SPECIES TO BE PLANTED ON THE DEVELOPMENT SITE.

| LEGEND | |
|-----------------------|--|
| HARDWOOD | |
| SOFTWOOD | |
| TREES TO BE PRESERVED | |

1. PROPOSED TO REMOVE 27 TREES (22 HARDWOODS, 15 PINES)
2. PROPOSED TO PRESERVE 100 TREES (81 HARDWOODS, 40 PINES)



TREE SURVEY DATA

| | | | |
|---------------------|-------------------|-------------------|--------------------|
| 1. 40' CROWNED OAK | 16. 10' WHITE OAK | 31. 10' WHITE OAK | 46. 10' WHITE OAK |
| 2. 40' CROWNED OAK | 17. 10' WHITE OAK | 32. 10' WHITE OAK | 47. 10' WHITE OAK |
| 3. 40' CROWNED OAK | 18. 10' WHITE OAK | 33. 10' WHITE OAK | 48. 10' WHITE OAK |
| 4. 40' CROWNED OAK | 19. 10' WHITE OAK | 34. 10' WHITE OAK | 49. 10' WHITE OAK |
| 5. 40' CROWNED OAK | 20. 10' WHITE OAK | 35. 10' WHITE OAK | 50. 10' WHITE OAK |
| 6. 40' CROWNED OAK | 21. 10' WHITE OAK | 36. 10' WHITE OAK | 51. 10' WHITE OAK |
| 7. 40' CROWNED OAK | 22. 10' WHITE OAK | 37. 10' WHITE OAK | 52. 10' WHITE OAK |
| 8. 40' CROWNED OAK | 23. 10' WHITE OAK | 38. 10' WHITE OAK | 53. 10' WHITE OAK |
| 9. 40' CROWNED OAK | 24. 10' WHITE OAK | 39. 10' WHITE OAK | 54. 10' WHITE OAK |
| 10. 40' CROWNED OAK | 25. 10' WHITE OAK | 40. 10' WHITE OAK | 55. 10' WHITE OAK |
| 11. 40' CROWNED OAK | 26. 10' WHITE OAK | 41. 10' WHITE OAK | 56. 10' WHITE OAK |
| 12. 40' CROWNED OAK | 27. 10' WHITE OAK | 42. 10' WHITE OAK | 57. 10' WHITE OAK |
| 13. 40' CROWNED OAK | 28. 10' WHITE OAK | 43. 10' WHITE OAK | 58. 10' WHITE OAK |
| 14. 40' CROWNED OAK | 29. 10' WHITE OAK | 44. 10' WHITE OAK | 59. 10' WHITE OAK |
| 15. 40' CROWNED OAK | 30. 10' WHITE OAK | 45. 10' WHITE OAK | 60. 10' WHITE OAK |
| 16. 40' CROWNED OAK | 31. 10' WHITE OAK | 46. 10' WHITE OAK | 61. 10' WHITE OAK |
| 17. 40' CROWNED OAK | 32. 10' WHITE OAK | 47. 10' WHITE OAK | 62. 10' WHITE OAK |
| 18. 40' CROWNED OAK | 33. 10' WHITE OAK | 48. 10' WHITE OAK | 63. 10' WHITE OAK |
| 19. 40' CROWNED OAK | 34. 10' WHITE OAK | 49. 10' WHITE OAK | 64. 10' WHITE OAK |
| 20. 40' CROWNED OAK | 35. 10' WHITE OAK | 50. 10' WHITE OAK | 65. 10' WHITE OAK |
| 21. 40' CROWNED OAK | 36. 10' WHITE OAK | 51. 10' WHITE OAK | 66. 10' WHITE OAK |
| 22. 40' CROWNED OAK | 37. 10' WHITE OAK | 52. 10' WHITE OAK | 67. 10' WHITE OAK |
| 23. 40' CROWNED OAK | 38. 10' WHITE OAK | 53. 10' WHITE OAK | 68. 10' WHITE OAK |
| 24. 40' CROWNED OAK | 39. 10' WHITE OAK | 54. 10' WHITE OAK | 69. 10' WHITE OAK |
| 25. 40' CROWNED OAK | 40. 10' WHITE OAK | 55. 10' WHITE OAK | 70. 10' WHITE OAK |
| 26. 40' CROWNED OAK | 41. 10' WHITE OAK | 56. 10' WHITE OAK | 71. 10' WHITE OAK |
| 27. 40' CROWNED OAK | 42. 10' WHITE OAK | 57. 10' WHITE OAK | 72. 10' WHITE OAK |
| 28. 40' CROWNED OAK | 43. 10' WHITE OAK | 58. 10' WHITE OAK | 73. 10' WHITE OAK |
| 29. 40' CROWNED OAK | 44. 10' WHITE OAK | 59. 10' WHITE OAK | 74. 10' WHITE OAK |
| 30. 40' CROWNED OAK | 45. 10' WHITE OAK | 60. 10' WHITE OAK | 75. 10' WHITE OAK |
| 31. 40' CROWNED OAK | 46. 10' WHITE OAK | 61. 10' WHITE OAK | 76. 10' WHITE OAK |
| 32. 40' CROWNED OAK | 47. 10' WHITE OAK | 62. 10' WHITE OAK | 77. 10' WHITE OAK |
| 33. 40' CROWNED OAK | 48. 10' WHITE OAK | 63. 10' WHITE OAK | 78. 10' WHITE OAK |
| 34. 40' CROWNED OAK | 49. 10' WHITE OAK | 64. 10' WHITE OAK | 79. 10' WHITE OAK |
| 35. 40' CROWNED OAK | 50. 10' WHITE OAK | 65. 10' WHITE OAK | 80. 10' WHITE OAK |
| 36. 40' CROWNED OAK | 51. 10' WHITE OAK | 66. 10' WHITE OAK | 81. 10' WHITE OAK |
| 37. 40' CROWNED OAK | 52. 10' WHITE OAK | 67. 10' WHITE OAK | 82. 10' WHITE OAK |
| 38. 40' CROWNED OAK | 53. 10' WHITE OAK | 68. 10' WHITE OAK | 83. 10' WHITE OAK |
| 39. 40' CROWNED OAK | 54. 10' WHITE OAK | 69. 10' WHITE OAK | 84. 10' WHITE OAK |
| 40. 40' CROWNED OAK | 55. 10' WHITE OAK | 70. 10' WHITE OAK | 85. 10' WHITE OAK |
| 41. 40' CROWNED OAK | 56. 10' WHITE OAK | 71. 10' WHITE OAK | 86. 10' WHITE OAK |
| 42. 40' CROWNED OAK | 57. 10' WHITE OAK | 72. 10' WHITE OAK | 87. 10' WHITE OAK |
| 43. 40' CROWNED OAK | 58. 10' WHITE OAK | 73. 10' WHITE OAK | 88. 10' WHITE OAK |
| 44. 40' CROWNED OAK | 59. 10' WHITE OAK | 74. 10' WHITE OAK | 89. 10' WHITE OAK |
| 45. 40' CROWNED OAK | 60. 10' WHITE OAK | 75. 10' WHITE OAK | 90. 10' WHITE OAK |
| 46. 40' CROWNED OAK | 61. 10' WHITE OAK | 76. 10' WHITE OAK | 91. 10' WHITE OAK |
| 47. 40' CROWNED OAK | 62. 10' WHITE OAK | 77. 10' WHITE OAK | 92. 10' WHITE OAK |
| 48. 40' CROWNED OAK | 63. 10' WHITE OAK | 78. 10' WHITE OAK | 93. 10' WHITE OAK |
| 49. 40' CROWNED OAK | 64. 10' WHITE OAK | 79. 10' WHITE OAK | 94. 10' WHITE OAK |
| 50. 40' CROWNED OAK | 65. 10' WHITE OAK | 80. 10' WHITE OAK | 95. 10' WHITE OAK |
| 51. 40' CROWNED OAK | 66. 10' WHITE OAK | 81. 10' WHITE OAK | 96. 10' WHITE OAK |
| 52. 40' CROWNED OAK | 67. 10' WHITE OAK | 82. 10' WHITE OAK | 97. 10' WHITE OAK |
| 53. 40' CROWNED OAK | 68. 10' WHITE OAK | 83. 10' WHITE OAK | 98. 10' WHITE OAK |
| 54. 40' CROWNED OAK | 69. 10' WHITE OAK | 84. 10' WHITE OAK | 99. 10' WHITE OAK |
| 55. 40' CROWNED OAK | 70. 10' WHITE OAK | 85. 10' WHITE OAK | 100. 10' WHITE OAK |



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DATE: 08/20/2011
BY: [Signature]
CHECKED: [Signature]
APPROVED: [Signature]

| NO. | DATE | DESCRIPTION |
|-----|------------|-------------------|
| 1 | 08/20/2011 | ISSUED FOR PERMIT |

TREE SURVEY

OLD SPARTANBURG RD PRD
HENDERSON COUNTY
TMFL CONSULTANTS INC.

PESTERFIELD CIVIL ENGINEERING
10000 W. HARRIS RD., HENDERSON COUNTY, NC 27534
(919) 486-1234

