



CITY OF HENDERSONVILLE
JUNE 2021 DOWNTOWN ADVISORY BOARD
Downtown Program Offices - 125 5th Avenue W, Suite 200
Tuesday, June 08, 2021 – 4:00 PM



AGENDA

1. **CALL TO ORDER**

2. **PUBLIC HEARING**

3. **APPROVAL OF AGENDA**

4. **APPROVAL OF MINUTES**

A. **Downtown Advisory Board May 2021 Minutes**

5. **OLD BUSINESS**

A. **Next Steps on Proposals for 7th Avenue Branding**

Proposals: https://hvlncgov-my.sharepoint.com/:f/g/personal/jcarpenter_hvlnc_gov/EmQigGuNZYxJq-hSoZ91oiQBtdwU5OwES99wujU2C12vmQ?e=w9MJzb

Top 4 Survey: <https://survey123.arcgis.com/share/70e222cabcaa42d6947f5ff8f379b286>

6. **NEW BUSINESS**

A. **Proposal for Light Industrial Ordinance in Main Street District**

B. **MSD Overlay Districts (Sidewalk Dining)**

C. **Budget Update for 2021**

7. **OTHER BUSINESS**

A. **May 2021 Street Tree Update from Bill Leatherwood**

8. **ADJOURNMENT**

9.

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.



CITY OF HENDERSONVILLE
DOWNTOWN ADVISORY BOARD MAY 2021
 125 5th Avenue W, Suite 200 | Hendersonville NC 28792
 Tuesday, May 11, 2021 – 4:00 PM



MINUTES

1. CALL TO ORDER

Present Virtual: Matthew Hickman, Mark Pavao, Patsy DuPre, Jared Bellmund, Becky Ayers, Matt Johnes (late signing on)

Present in person: Walt Slagel, Caroline Gunther

Absent: Chris Cormier, John Ryan, Carole Sitzer

2. PUBLIC COMMENT

There were no public comments.

3. APPROVAL OF AGENDA

Matthew Hickman made a motion to approve the April 2021 minutes. Caroline Gunther seconded.

Matthew Hickman, Mark Pavao, Patsy DuPre, Jared Bellmund, Becky Ayers, Walt Slagel, and Caroline Gunther all voted in favor of approving the agenda.

4. APPROVAL OF MINUTES

1. April 2021 Downtown Advisory Board Minutes

Matthew Hickman made a motion to approve the April 2021 minutes. Jared Bellmund seconded.

Matthew Hickman, Mark Pavao, Patsy DuPre, Jared Bellmund, Becky Ayers, Walt Slagel, and Caroline Gunther all voted in favor of approving the minutes.

5. OLD BUSINESS

6. NEW BUSINESS

1. Facade Grant Application - 330 7th Avenue E

This grant item was recommended unanimously by the Community Character Team on May 11, 2021.

Patsy DuPre made a motion to approve the Facade Grant for 330 7th Avenue E. Becky Ayers seconded.

Matthew Hickman, Mark Pavao, Patsy DuPre, Jared Bellmund, Becky Ayers, Walt Slagel, and Caroline Gunther

2. Rhythm & Brews 2021 - M. Friedheim

Meredith Fridheim, downtown events coordinator, gave a review of upcoming Rhythm & Brews events, starting in July.

3. July 10 LoveHendo Saturday Beer Garden Proposal - J. Carpenter

Jamie Carpenter, downtown manager, asked the downtown advisory board about their opinions on allowing breweries to set up on Main Street using their special event off premise permits during LoveHendo Saturday. This would essentially allow Main Street as an open container district during LoveHendo Saturday. There was a lengthy discussion on liability for downtown businesses. The general conclusion was that while the idea had some possibilities it needs to be further explored and should be considered when planning for events next year when staff can plan with more time.

4. Letter of Support - Pedestrian Plan Update

Jared Bellmund made a motion to approve the letter of support for the Pedestrian Plan update. Walt Slagel seconded.

Matthew Hickman, Mark Pavao, Patsy DuPre, Jared Bellmund, Becky Ayers, Walt Slagel, and Caroline Gunther voted in favor.

7. OTHER BUSINESS

1. No other business was reported.



CITY OF HENDERSONVILLE
Downtown Advisory Board
AGENDA ITEM SUMMARY

Item A.

TITLE OF ITEM: 7th Avenue Branding Update

SUGGESTED MOTION(S): I move to direct staff to create an ad hoc selection committee to choose final consultant for the 7th Avenue Branding Project. (*Advisory board may put additional parameters*)

SUMMARY:

Selecting Proposals Process:

1. RFP Posted April 14
2. Downtown Manager received proposals (deadline was May 21)
3. Downtown Manager reviewed proposals (21 total) and reduced to 8 proposals that were regional (NC, SC, TN), and provided comparable quality of work and depth of services. (May 21-25)
4. Community Development Staff reviewed and ranked the 8 proposals. (May 25-28)
5. The Downtown Advisory Board's Community Character Team (design subcommittee) had their monthly meeting on June 1 and reviewed the values and end result for the process. They also reviewed and ranked the 8 proposals. (May 28-June 2)
6. The top four proposals were selected to review by the Downtown Advisory Board June 8 and the board has the opportunity to provide their input via [ranking survey](#). [All proposals can be viewed here](#). Complete review/survey by June 10. Downtown Advisory Board to give authority to a selection committee to select final proposal (*suggested*).
7. After the June 8 Downtown Advisory Board meeting, 2-3 will be selected for interviews by selection committee to make final decision. If selections are made, the final selection will be included in the July 2021 City Council Agenda for approval. This will need to be submitted as a budget adjustment due to it taking place in the new fiscal year.

Staff proposes to create a selection committee that will interview the top 2 consultants and make the final selection for approval to council. This selection committee to include (based on availability)

- Community character team members
- 7th Avenue community members (Crystal Cauley – confirmed, Josh Williams – asked)
- Community development staff (Jamie Carpenter, Lew Holloway, Matt Manley)
- TDA Representative (Michelle Owens)
- Others as recommended.



CITY OF HENDERSONVILLE
Downtown Advisory Board
AGENDA ITEM SUMMARY

Item A.

TITLE OF ITEM: Light Industrial Zoning in Main Street

SUGGESTED MOTION(S): I move to recommend adding light industrial with special restrictions in the C-1 district.

SUMMARY:

There is an interest in some of the large buildings downtown for light industrial uses.

The current zoning definition defines light industrial as:

Definition: Manufacturing, Light: The assembly, fabrication, or processing of goods and materials using processes that ordinarily do not create noise, smoke, fumes, odors, glare, or health or safety hazards outside of the building or lot where such assembly, fabrication, or processing takes place, where such processes are housed entirely within a building, or where the area occupied by outdoor storage of goods and materials used in such processes does not exceed 25% of the floor area of all buildings on the property.

This was discussed at the Community Character Team Meeting on June 1. The following was the general consensus:

- There should be a retail component (suggested by Mark Pavao)
- It should not be allowed on Main Street, but fine on side streets (suggested by Carole Sitzer), some committee members disagreed if it had a retail component
- Recommended it as a conditional use.
- After meeting with Community Character Team, staff met (Jamie Carpenter, Lew Holloway, Matt Manley) and determined “Special restrictions” would be better suited than a conditional use. This recommendation would then need to go through multiple committees within the Planning Department before going before council.

Example from Johnson City, TN:

Production and assembly of hand-crafted items and custom designed products provided:

A. Such uses shall not produce exterior smoke, dust, noise, odor, unusual lighting, vibrations, fumes, hazards, or other objectionable, noxious or injurious conditions and shall conform to applicable building and fire codes;

B. The front of the building at street level shall remain open and visible from the sidewalk with a view of the activities inside; and

C. A showroom or display area, or a sales area shall be provided.

Additional examples: <https://localprogress.org/wp-content/uploads/2013/09/Artisan-Zoning.pdf>
<https://www.urbanmfg.org/webinar/how-to-retain-maker-and-manufacturer-industries-through-creative-zoning-tools/>

Adaptive reuses

Telecommunications towers

Permitted uses for the R-6 High-Density Residential Zoning District Classification as specified in Section 5-5-1, above.

Conditional uses for the R-6 High-Density Residential Zoning District Classification as specified in Section 5-5-2, above.

Section 5-6 C-1 Central Business Zoning District Classification. This zoning district classification is designed to provide a) a concentrated central core of retailing and services, b) areas accommodating central administrative business, financial, general, and professional offices and related services and c) residential uses. The district regulations are designed to promote convenient, pedestrian shopping and the stability of retail development by encouraging continuous retail frontage in a concentrated area.

5-6-1 Permitted Uses: The following uses are permitted by right in the C-1 Central Business Zoning District Classification, provided that they meet all requirements of this Section and all other requirements established in this Ordinance:

Accessory dwelling units subject to special requirements contained in Section 16-4, below

Adult care centers registered with the NC Department of Human Resources

Banks and other financial institutions

Bed & breakfast facilities

Business services

Convenience stores (not including gasoline sales)

Dance and fitness facilities

Dry cleaning and laundry establishment containing less than 6,000 ft² of floor area

Home occupations

Hotels and motels

Laundries, coin-operated

Microbreweries, subject to special requirements contained in Section 16-4, below

Music and art studios

Newspaper offices and printing establishments

Offices, business, professional and public

Parking lots and parking garages

Parks

Personal services

Public & semi-public buildings

Recreational facilities, indoors

Religious institutions

Repair services, miscellaneous, so long as the use is contained within an enclosed building

Residential dwellings, single-family

Residential dwellings, two-family

Residential dwellings, multi-family, subject to special requirements contained in this Section

Restaurants

Retail stores

Schools, post-secondary, business, technical and vocational

Service stations

Signs, subject to the provisions of Article XIII

Telecommunications antennas, subject to special requirements contained in Section 16-4, below

Theaters, indoor

5-6-2 Conditional Uses: The following uses shall be permitted in the C-1 Central Business Zoning District Classification only upon issuance of a conditional use permit pursuant to Article X and shall be subject to special requirements contained in Section 16-4, below:

Child care centers
Civic clubs & fraternal organizations
Cultural arts buildings
Private clubs
Public utility facilities

5-6-3 Development Standards. The following standards shall apply to development within the C-1 Central Business Zoning District Classification and Central Business Conditional Zoning District Classification in addition to all other applicable standards contained in this Ordinance.

5-6-3.1 Parking & Loading. For non-residential developments and residential developments containing fewer than five dwelling units, no off-street parking is required. For residential developments containing five or more dwelling units, off-street parking of one and one-half spaces per dwelling unit shall be provided.

As far as practicable, off-street parking, when provided, shall be accessed by means of east-west streets or alley ways and shall be designed so that it is screened, as far as practicable, to minimize motor vehicles and parking areas from view from Main, Church and King Streets. This provision is not intended to require that buildings be screened from view.

5-6-3.2 Dimensional Requirements.

Minimum Lot Area in Square Feet:	None
Lot Area per Dwelling Unit in Square Feet:	N/A
Minimum Lot Width at Building Line in Feet:	85
Minimum Yard Requirements in Feet:	Front: None Side: None Rear: None
Maximum Height in Feet:	64 feet

5-6-3.3 Streetscape Design. The relationship between a building and areas for pedestrian or vehicular circulation shall be carefully planned in order to avoid negative impacts of one upon the other. All buildings and uses developed in this zoning district classification shall meet the following minimum standards; provided, however, buildings undergoing renovation and rehabilitation, in which the footprint of existing structures is not being increased or altered, may be exempted from regulations regarding street walls and urban open spaces if site conditions make compliance therewith impractical.

a) **Street Walls.** The first floors of all buildings, including structured parking, shall be designed to encourage and complement pedestrian-scale interest and activity.

To the extent practicable, in consideration of the nature of the uses proposed, this is to be accomplished in part by the use of transparent windows and doors arranged so that the uses are visible from and/or accessible to the street on the first floor street frontage.

In addition, a combination of design elements shall be used on the building facade and/or in relationship to the building at street level to animate and enliven the streetscape. These design elements may include, but are not limited to, the following: ornamentation, molding, changes in material or color, architectural

lighting, works of art, fountains and pools, street furniture, landscaping and garden areas, and display areas.

Any design elements which extend into the public right-of-way on city or state maintained streets require an encroachment agreement with the City of Hendersonville Department of Public Works or the NC Department of Transportation (NCDOT), as appropriate.

Where expanses of blank wall are necessary, they may not exceed 20 feet in length. A blank wall is a facade which does not add to the character of the streetscape and does not contain transparent windows or doors or sufficient ornamentation, decoration or articulation as listed in the above paragraph.

The first floor and street level shall be designed with attention to adjacent public or private open spaces and existing streetscape improvements. The provision of multiple entrances from the public sidewalk or open spaces is encouraged.

b) **Structured Parking Facilities.** In addition to the above requirements, in the event that any openings for ventilation, service, or emergency access are located at the first floor level in the building facade, then they shall be an integral part of the overall building design. These openings as well as pedestrian and vehicular entrances shall be designed to minimize visibility of parked cars. The remainder of the street level frontage shall be either commercial space or an architecturally articulated facade designed to minimize the visibility of parked cars.

All levels of a structured parking facility shall be designed and screened in such a way as to minimize visibility of parked cars. In no instance will rails or cabling alone be sufficient to meet this screening requirement.

The design requirements of paragraph (b) apply to all building facades which are visible from any public right-of-way.

c) **Screening.** All structures and facilities for trash, loading, outdoor equipment, and storage, including the storage of inventory, shall be screened so as not to be visible from the street and pedestrian circulation areas. Solar technology components including solar panels and solar thermal collectors used for on-site private purposes are exempt from this provision provided that no other functional location exists for optimized performance that is not visible from the street and pedestrian circulation areas. This determination may be made either by the Development Assistance Director or a designee.

Solid walls shall be faced with brick, stone or other decorative finish with the decorative side adjacent to the public right-of-way. Fences shall be opaque and either painted or stained with the decorative side adjacent to the public right-of-way. In no instance will a chain link or barbed wire fence be acceptable.

Trees used to fulfill this requirement shall be located on private property in planters, a planting strip, berm or tree lawn, any of which shall be at least 8 feet wide and at least 2 feet deep. The trees shall be of a small maturing evergreen variety and be at least 10 feet tall at the time of planting. All shrubs shall be between 24 inches and 36 inches tall at time of planting. All plant material shall conform to the American Standard for Nursery Stock published by the American Association of Nurserymen. Trees employed to meet the screening requirement may not be counted toward the street tree planting or urban open space tree requirements.

Any lot which becomes vacant through the removal of a structure for any reason shall be screened from all abutting public street rights-of-way in accordance with the provisions of this section or cleared of rubbish

and debris and seeded with grass. However, if the lot is to be used for parking either as a transitional permanent use, it shall meet all the minimum requirements for that use as established by this ordinance.

Maintenance of screening required under these provisions shall conform to the requirements of Article XV of this Ordinance, including the requirement to promptly replace dead vegetation with healthy, living plantings.

d) **Street Trees.** In addition to all other requirements of this Section, at least one tree of 3 - 3½- inches caliper minimum, measured 6 inches above ground, shall be planted for each 25 feet for small maturing trees and for each 35 feet for large maturing trees of the entire building lot which abuts any public street right-of-way with a minimum of one tree required for any distance up to 35 feet. Trees shall not be planted closer than 2 feet, nor more than 10 feet, from the back of the curb. Street trees shall not be required within the boundaries of the Downtown Municipal Services District.

For the purposes of this paragraph, all specifications for measurement and quality of trees shall be in accordance with the American Standard for Nursery Stock published by the American Association of Nurserymen. All trees planted to meet this requirement shall be well-matched specimen grade and shall be limbed up 6 feet. Trees used to fulfill this requirement may be located on public or private property. Maintenance of street trees required under these provisions shall conform to the requirements of Section 15-5 of this Ordinance, including the requirement to promptly replace dead vegetation with healthy, living plantings.

e) **Reflective Surfaces.** No development subject to these provisions may have exterior walls with a reflectivity value in excess of 36%, as measured under the applicable provisions of ASTM-C-1036. No reflective surfaces may be used on street level exterior facades.

f) **Urban Open Spaces.** Open spaces for public congregation and recreational opportunities are required for non-residential developments and shall be equipped or designed to allow pedestrian seating and to be easily observed from the street or pedestrian circulation areas. All urban open spaces shall comply with the minimum required design standards of this ordinance. In light of the requirement for urban open space, development in the C-1 Central Business Zoning District Classification is excused from complying with the requirements for common open space contained in Section 6-16 of this ordinance.

1) **Urban open space size.** Buildings shall be provided with public open space behind the required setback and on private property on the basis of five ft² of urban open space per 100 ft² of gross floor area (5/100). A maximum of 30% of this required urban open space may be provided on an enclosed ground floor level provided the enclosed space meets all other requirements of these provisions.

2) **Accessibility to the street.** Urban open space shall be designed so that it is accessible to and visible from the street.

3) **Trees.** Within the open space area(s), 1 tree shall be planted for each 500 ft². Trees shall have a minimum caliper of 3-3½ inches measured 6 inches above ground at the time of planting.

4) **Amenities.** The following amenities are permitted within an urban open space area: ornamental fountains, stairways, seating, waterfalls, sculptures, arbors, trellises, planted beds, drinking fountains, clock pedestals, public telephones, awnings, canopies, and similar structures.

5) **Maintenance.** The building owner, lessee, management entity or authorized agent are jointly and severally responsible for the maintenance of the urban open space area including litter control and care and the replacement of trees and shrubs, as required by Section 15-4.

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

g) **Exceptions for Single-Family and Two-Family Residences.** Single-family and two-family residential dwellings shall not be required to comply with the Streetscape Design regulations contained in Section 5-6-4.3.

5-6-4 Residential Development. There shall be no density cap for developments within the C-1 Central Business Zoning District Classification.

Section 5-6-5 C-1 CZD Central Business Conditional Zoning District Classification. The purpose and requirements of this zoning district classification are identical to the C-1 Central Business Zoning District Classification except that rezoning to C-1 Conditional Zoning District as provided for in Article VII herein, is required as a prerequisite to any use or development. The following uses shall be permitted in the C-1 Central Business Conditional Zoning District Classification only upon rezoning to C-1CZD.

- a) Any development or redevelopment involving more than 50,000 ft² of gross floor area;
- b) Shelter facilities, subject to special requirements contained in Section 16-4, below.
- c) Permitted uses for the C-1 Central Business Zoning District Classification as specified in Section 5-6-1, above.
- d) Conditional uses for the C-1 Central Business Zoning District Classification as specified in Section 5-6-2, above.

Section 5-7 C-2 Secondary Business Zoning District Classification. This zoning district classification is designed primarily to accommodate a) existing developments of mixed commercial and light industrial uses, and b) certain commercial and light industrial uses compatible with one another but inappropriate in certain other zoning district classifications.

5-7-1 Permitted Uses: The following uses are permitted by right in the C-2 Secondary Business Zoning District Classification, provided that they meet all requirements of this Section and all other requirements established in this Ordinance:

Accessory dwelling units subject to special requirements contained in Section 16-4, below
 Accessory uses & structures
 Adult care centers registered with the NC Department of Human Resources
 Animal hospitals & clinics so long as the use contains no outdoor kennels
 Automobile car washes
 Automobile sales & service establishments
 Banks and other financial institutions
 Bed & breakfast facilities
 Business services
 Congregate care facilities, subject to special requirements contained in Section 16-4, below
 Construction trades facilities so long as the storage of equipment and materials is screened from view from public rights-of-way
 Convenience stores with or without gasoline sales
 Cultural arts buildings
 Dance and fitness facilities
 Dry cleaning and laundry establishments containing less than 6,000 ft² of floor area
 Farm equipment sales & service
 Food pantries, subject to the special requirements contained in Section 16-4, below
 Funeral homes



CITY OF HENDERSONVILLE
Downtown Advisory Board
AGENDA ITEM SUMMARY

TITLE OF ITEM: MSD Overlay Districts (Sidewalk Dining)

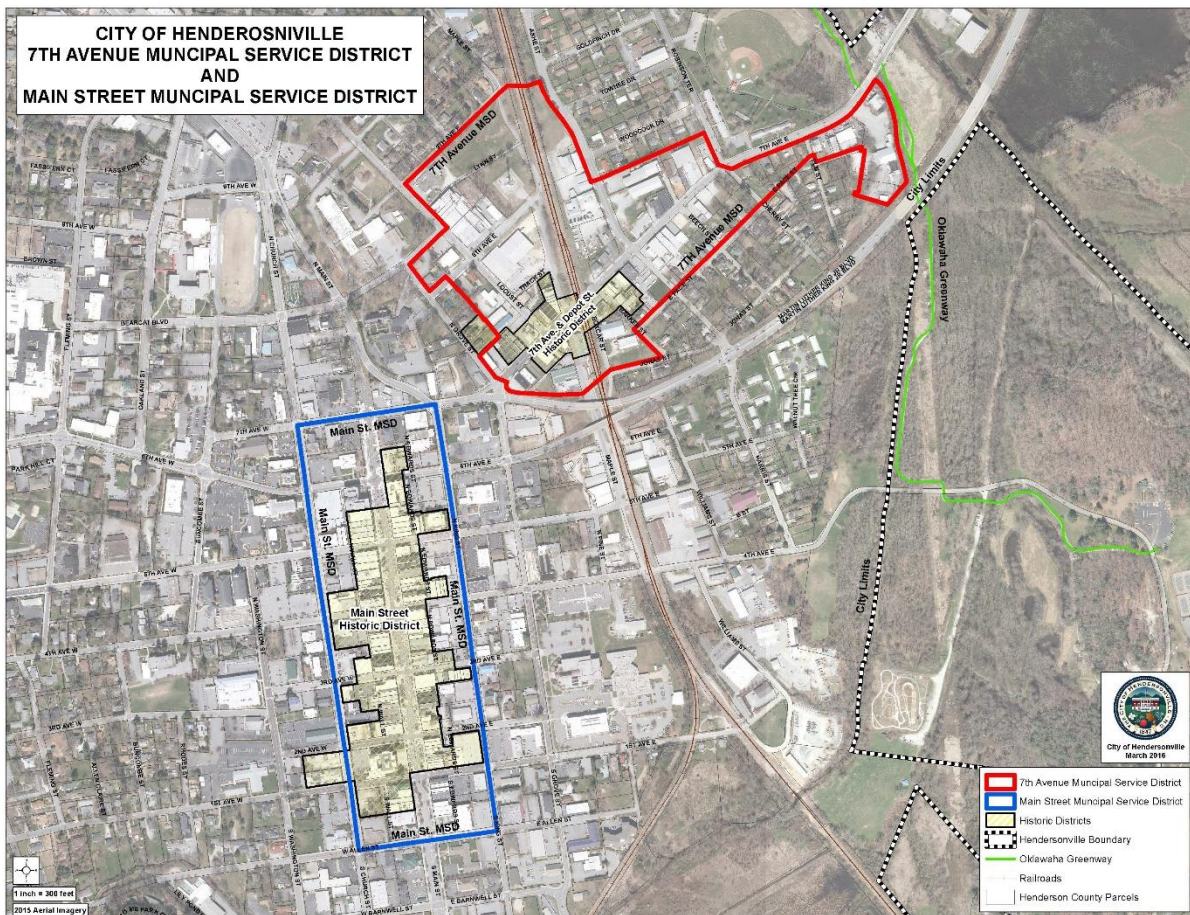
SUGGESTED MOTION(S):

1. I move to recommend the 7th Avenue overlay district and the Main Street overlay district with the same geographic boundaries as the current municipal service districts.
2. I move to recommend the updates to the Sidewalk Dining ordinance pending staff updates.

SUMMARY:

Selecting Proposals Process: Review and discuss proposed updates to sidewalk dining text amendment to change the area allowed to include "all municipal service districts" instead of just "central business district".

Recommendation from City Attorney is to create two overlay districts - one for the 7th Avenue MSD and one for the Main Street MSD. This will allow us to create ordinances as needed for each district. The only current plans for that would be for allowing sidewalk dining in both districts.



Ordinance #11-1053

**AN ORDINANCE RELATING TO SIDEWALK DINING;
AMENDING SECTION 46-86 OF THE CITY CODE OF HENDERSONVILLE**

Be it ordained by the City Council of the City of Hendersonville:

1. Section 46-86 of the Code of Ordinances of the City of Hendersonville, concerning regulations for sidewalk dining in the central business district is hereby amended to read as follows:

Sec. 46-86. Exception; sidewalk dining in the central business district.

- (a) *General.* Notwithstanding any other provisions of this code to the contrary, sidewalk cafes or sidewalk dining shall be permitted in the Main Street Overlay District and the 7th Avenue Overlay District ~~central business district~~ as indicated on the official zoning map of the city and shall be subject to such regulations as are set forth in this section.
- (b) *Permit required.* No restaurant owner may operate a sidewalk café without first obtaining a permit from the city manager in accordance with the requirements of this article. As used in this section, the term city manager includes his authorized representative.
- (c) *Application.* Any restaurant owner desiring to operate a sidewalk café shall prepare and file an application with the city manager which shall contain the following information:
 - (1) The name, addresses, and telephone number of the restaurant desiring to operate a sidewalk café.
 - (2) The name, address, and telephone number of the restaurant operator.
 - (3) The type of food, beverage, or food product to be sold and served at the sidewalk café.
 - (4) The hours of operation of the restaurant and the proposed hours of operation of the sidewalk café.
 - (5) A drawing or site plan showing the section of sidewalk or pedestrian way to be used for the sidewalk café, and the section to be kept clear for pedestrian and fire lane use, and depicting the proposed placement of tables, chairs, barricades, umbrellas, trash receptacles, and other furnishings on the sidewalk or pedestrian way.
 - (6) A description and images, drawings and other illustrative graphics of the barricades to be used (if any) around the sidewalk café and of the furniture to be used, i.e. tables, chairs, umbrellas, etc.
 - (7) Proof of an insurance policy, issued by an insurance company licensed to do business in the state, protecting the permittee and the city from all claims for damages to property and bodily injury, including death, which may arise from operation under or in connection with the permit. Such insurance shall name the city as additional insured and shall provide that the policy shall not terminate or be canceled prior to the expiration date without 30 days advance written notice to the city. Such insurance shall afford minimum limits of \$500,000.00 aggregate annually.

- (8) A copy of all the permits and licenses issued by the county, state, or the city, including health and ABC permits and business licenses, necessary for the operation of the restaurant business, or a copy of the application for the permit if no permit has been issued. This requirement includes any permits or certificates issued by the city or other governmental authority, for exterior alterations or improvements to the restaurant.
 - (9) A sworn statement describing any violation by the restaurant operator of any laws, regulations, or ordinances relating to the possession, sale consumption, or transportation of intoxicating beverages or controlled substances during the five years immediately preceding the date of the permit application.
 - (10) Such additional information as may be requested by the city manager or his designee in order to determine compliance with this section.
 - (11) An annual fee equal to \$0.50 per sq.ft. of sidewalk café area to cover the cost of processing and investigating the application, and issuing the permit and additional maintenance for dining areas.
- (d) *Issuance of permit.* No permit for the operation of a sidewalk café may be issued unless the application is complete and the following requirements are met:
- (1) The sidewalk café must be associated with an operating restaurant such that it is under the same management and shares the same food preparation facilities, rest room facilities, and other customer convenience facilities as the restaurant. The sidewalk café must be operated under the same name as the restaurant and may not be open or operated at any time when the restaurant is not open for business.
 - (2) The operation of the sidewalk café must be clearly incidental to the associated restaurant business. The seating capacity of the sidewalk café may not be more than 50 percent of the interior seating capacity of the associated restaurant.
 - (3) The placement of tables, chairs and other furnishings as shown in the drawing submitted with the site plan must be done in such a manner that at least five feet of unobstructed space remains on the sidewalk or pedestrian way for the passage of pedestrians. No fire exits or lanes may be blocked and such must remain clear at all times. The pedestrian passage may not be used for the display of merchandise or for portable signs otherwise authorized pursuant to subsection 46-81(e).
 - (4) The restaurant seeking to operate the sidewalk café must front on and open onto the sidewalk or pedestrian way proposed for the sidewalk café. The placement of tables, chairs, and other furnishings may not extend beyond the sidewalk or pedestrian way frontage of the associated restaurant, with the following exception: café furnishings and barricades may extend up to eight feet onto adjacent property frontage in either or both directions with the written permission (provided at the time of application) of the occupant of the adjacent property.
 - (5) The tables, chairs and other furnishings used in the sidewalk café shall not be anchored and shall be of a type of street furniture that is easily movable. Café furnishings other than tables, chairs, trash receptacles and umbrellas are not approved for use in sidewalk café areas. Café furnishings must be constructed of metal (aluminum, steel, wrought

iron, etc.). Commercial umbrellas must be made with outdoor fabric and a metal or commercial grade plastic stand and must be free of logos or other signage.

- (6) Except as elsewhere permitted by the Code, the operation or furnishing of the sidewalk café shall involve no permanent alteration to or encroachment upon any street, sidewalk, or pedestrian way or to the exterior of the associated restaurant.
 - (7) Each sidewalk café shall provide adequate trash receptacles for its patrons within the perimeter of the barricades. At the end of each business day and during operating hours, the operator shall remove all trash and debris of any sort from the area within the barricade and between it and the curb. In addition, the operator shall remove from the sidewalk alongside and abutting properties any trash or debris originating as a result of the operation of the sidewalk café.
 - (8) Tables, chairs and other furnishings that remain on the sidewalk at times when the business is not in operation shall be secured in a manner that allows clear access from the street equal to or exceeding half of the frontage of the associated restaurant.
 - (9) The leading edge of sidewalk café barricades must be perpendicular to the sidewalk direction and be a minimum height of 3' and maximum height of 4'2". The barrier must be detectable by the visually impaired. Sidewalk café barricade stanchions/posts must not be a tripping hazard. If a stanchion or other vertical element is attached to a base, that base must be flat and must measure no more than 1" above the sidewalk surface. Sidewalk café stanchions/posts must be constructed of metal (aluminum, steel, wrought iron, etc.), wood (wood must be painted or stained) or commercial grade planters. Commercial planters used as vertical support posts may not exceed 3' in height and vegetation within the planter may not exceed 6' from ground level. Sidewalk café railings must be steel chain coated with black plastic, heavy duty black plastic chain, heavy duty black rope or black velour rope.
 - (10) The sidewalk in and around the sidewalk café area must be kept clean and unblemished. Spills and stains from general use must be removed on a weekly basis. Café furnishings and barricades must be cleaned and properly maintained at all times. Café furnishings and barricades must receive regular maintenance of fit and finish as required by the nature of the material being used. Damaged or deteriorating furnishings, barricades or elements of either must be repaired or replaced in a timely manner. All planters must contain live plants in healthy condition.
- (e) *Alcoholic beverages.* Notwithstanding any other provisions of this Code, alcoholic beverages may be served in approved sidewalk cafes provided that the following requirements are met:
- (1) The sidewalk café shall be part of a **food or beverage establishment** restaurant and shall otherwise be authorized, permitted, or licensed under the state law and this Code to serve and sell alcoholic beverages for on-premises consumption.
 - (2) The sidewalk café must be included as part of the premises for which an ABC permit is issued pursuant to state law, for the purpose of applying and enforcing state laws regarding the sale or consumption of alcoholic beverages.
 - (3) Signs shall be posted, visible at all exit points from the sidewalk café, that it is unlawful to remove alcoholic beverages from the premises.

- (4) The restaurant operator shall not have violated any law, regulation, or ordinance relating to the possession, sale, transportation or consumption of intoxicating beverages or controlled substances for the three years preceding the commencement of the sale of alcoholic beverages at the sidewalk café.
- (5) No outdoor bar is allowed within the sidewalk café, nor shall outdoor preparation of alcoholic beverages be permitted except that unfortified wine may be decanted or beer poured at a table as part of a meal.
- (f) *Denial.* A permit may be denied if it is found that the application does not demonstrate compliance with this section and/or that the granting of the permit would not be in the public interest. Any applicant denied a permit to operate a sidewalk café shall receive a written statement outlining the grounds on which the denial is based. The applicant may appeal the denial of the permit to city council within 15 working days after the date of the written denial, and city council may take such action as it shall find necessary. The finding and determination of city council shall constitute final action by the city.
- (g) *Terms and transfer.* Permits for a sidewalk café issued in accordance with the provisions of this article shall be issued for the period beginning July 1 or thereafter and expiring June 30 of each year. If a permittee discontinues the restaurant operation or the sidewalk café, no refund of the permit fee shall be made. Permits issued pursuant to this section shall not be transferable or assignable. Permits may prohibit operation of sidewalk cafes during special events and contain other conditions and restrictions as may be necessary to protect the public health, safety and welfare.
- (h) *Permit suspension.* The city manager may suspend a permit issued pursuant to this section if he finds one or more of the following conditions exist:
 - (1) Violation of any provision of the county health department regulations or of this section.
 - (2) Violation of any law, regulation, or ordinance regarding the possession, sale, transportation, or consumption of intoxicating beverages or controlled substances.
 - (3) Operation of the restaurant or sidewalk café in such a manner as to create a public nuisance or to constitute a hazard to the public health, safety, or welfare; specifically including failure to keep the café area clean and free of refuse.
 - (4) Operation of the restaurant or sidewalk café in violation of any city, county or state law, ordinance, or regulation.

Such permit suspension shall take effect immediately upon delivery of a citation to the restaurant operator or, in his absence, the person with supervisory authority over the operation of the restaurant. The City Manager shall designate a period of time for the suspension to be in effect up to 45 days from the date of violation, and shall include the length of the suspension in the notice of suspension. In designating a suspension period pursuant to this section the City Manager shall consider the factors set forth in this subsection (h) and subsection (i) below.

Such decision of the city manager may be appealed to the city council by written notice thereof filed with the city clerk within fifteen days of the date of receipt of notice of suspension.

(I) *Permit revocation.* The city manager may revoke a permit issued pursuant to this section if he finds that the restaurant operator has:

- (1) Deliberately misrepresented or provide false information in the permit application.
- (2) Violated any provision of the county health department regulations or of this section.
- (3) Violated any law, regulation, or ordinance regarding the possession, sale, transportation, or consumption of intoxicating beverages or controlled substances.
- (4) Operated the sidewalk café in such a manner as to create a public nuisance or to constitute a hazard to the public health, safety, or welfare; specifically including failure to keep the café area clean and free of refuse.
- (5) Failed to maintain any health, business or other permit or license required by law for the operation of a restaurant business.
- (6) Fails to consistently maintain the sidewalk café in a neat and trash free manner.
- (7) Operated the restaurant or sidewalk café in violation of any city, county or state law, ordinance, or regulation. In the event the city manager determines good grounds exist for the revocation of a permit issued under this section, he shall provide the restaurant operator a notice to show cause, stating with particularity the grounds therefore, why the sidewalk café permit should not be revoked. The restaurant operator shall be provided an opportunity for a hearing, following which the city manager shall render an order in writing. The restaurant operator may appeal any such order by filing a written appeal with the city clerk within 15 days of receipt thereof. City council shall conduct a hearing on the appeal and render its decision thereon. The finding and determination of city council shall constitute final action by the city.

[Key: deletions are ~~struck through~~; additions are underlined and red]

2. Any person violating the provisions of this ordinance shall be subject to the penalties set forth in Section 1-6 of the City Code of Ordinances.

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

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

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

This ordinance shall be in full force and effect beginning with the new permit year on July 1st, 2018.

~~Adopted this sixth of February, 2018.~~

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Tammie K. Drake, MMC, City Clerk

Approved as to form:

Samuel H. Fritschner, City Attorney



CITY OF HENDERSONVILLE
Downtown Advisory Board
AGENDA ITEM SUMMARY

Item C.

TITLE OF ITEM: Budget Update / Amendment

SUGGESTED MOTION(S): I move to recommend the budget amendments to complete the purchase of Main Street District Christmas decorations and the 7th Avenue branding project.

SUMMARY:

City Council approved the 2021 Budget at the June 1 Council Meeting. Main Street has reduced property tax by \$0.02, 7th Avenue tax remains the same. Downtown budgeted expenses remained similar to previous years, with a decrease in staffing costs due to department reorganization.

Two budget adjustments need to be made for the Main Street MSD budget and 7th Avenue Budget to account for expenses that were not completed before the spending deadline for FY 20-21.

These funds were rolled over into the fund balance for each district and will not impact tax rate or other expenses:

Main Street Budget Amendment: *Purchase of updated Christmas decorations - \$42,000.* This is a complete replacement of wreaths, bows and garlands for light posts and flower posts in the Main Street district. The past decorations have lasted nearly 10 years, and the new decorations are expected to have an even longer life span, and better quality for a comparable price. The order was delayed so staff could get multiple samples to ensure quality and that they will work with our equipment.

NOTE: in 2022, we should expect to purchase decorations for 7th Avenue after completion of streetscape.

7th Avenue Budget Amendment: *Branding / Visioning Project - \$15,000.* This is for the consultant for the RFP's you are reviewing. The expenses were intended to be spent in the FY 21 budget, however that project will not be completed before the close out of the fiscal year.

Other Funds

In addition to the two largest City funds, the City budgets for a variety of other funds. These include enterprise funds, special revenue funds, capital reserve funds, and internal service funds. These remaining funds make up approximately 9.5%, or \$4,181,024, of the total budget for FY22.

Downtown Program

Under the authority provided by N.C.G.S. 160A-536, the City levies two separate municipal service district (MSD) taxes in addition to its base ad valorem taxing authority. These two MSDs participate in the North Carolina Main Street Program and provide services above and beyond the standard services provided throughout the City. Using the National Trust for Historic Preservation's Main Street Four Point Approach, the Advisory Committees seek to support and build upon inherent strengths in the City's two historic commercial districts. The Main Street Four Point approach includes Organization, Design, Economic Restructuring and Promotions. The two historic commercial districts that are part of the City of Hendersonville's Downtown Economic Development Program are each defined by Municipal Service Districts.

Advisory Boards. In February of FY21, the City Council voted to merge the two downtown advisory groups to form one board, the Downtown Advisory Board (DAB). This Board serves to advise City Council in matters pertaining to the Main Street and 7th Avenue Municipal Service Districts (MSDs). The merger is one result of the desire to create one vision for downtown, initially conceived as a strategic goal during a 2016 community charette focused on the future of downtown. The intervening years have seen several the identified strategies implemented, such as the restoration of the Grey Hosiery Mill, facilitating the advisory committees' merger. The proposed budget reflects recommendations from this joint Board and Staff.

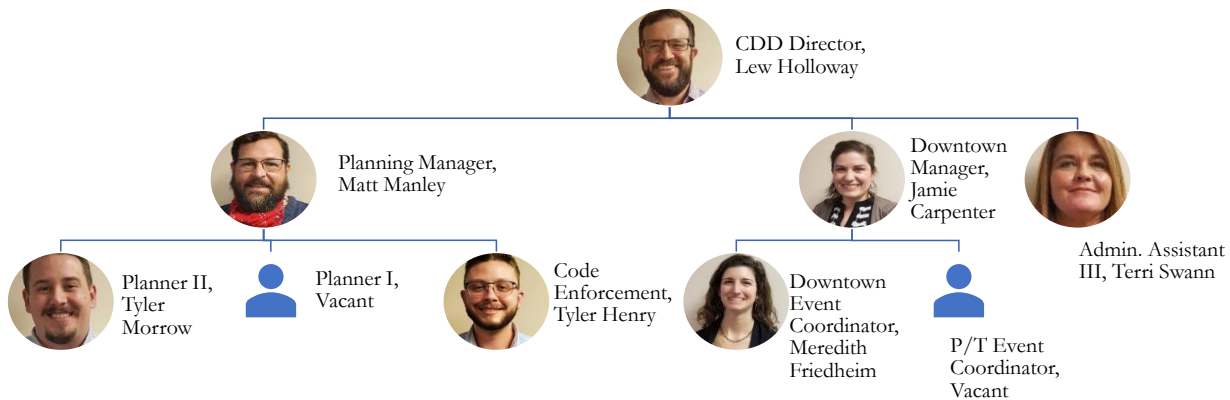
Department Structure. The new structure of the Community Development Department has led to a variety of changes in vision and function within what had previously been the Development Assistance and Downtown Departments. Additionally, increased development activity and a need for enhanced community engagement are necessitating a more involved approach from Staff and Council.

The Community Development Department has two divisions, the Downtown Division, and the Planning Division. The Downtown Division focuses on the City's two municipal service districts, their connection, and the surrounding areas that directly impact the districts. The Planning Division provides site plan review and support, zoning, and code enforcement. The Planning Division looks to develop a focus on long range planning, transportation planning, affordable housing, and growth strategies.

The new divisions have developed a focus and vision as follows:

1. Encourage representative and meaningful public participation and partner with our citizens to contribute to vision-building and overall community development with a focus that goes beyond statutory requirements.
2. Identify methods to “hyper-share” development-related information.
3. Connect the community’s vision to their daily work.
4. Actively work with the development community to provide them the tools to understand the vision for the community and to transparently represent the process for development approval.

The new Community Development Department is structured as follows:



Main Street MSD Fund. The Main Street municipal service district is bounded by Church and King Streets to the west and east and 7th Avenue and Allen Street to the north and south. In the FY22 budget, the Main Street MSD tax rate is recommended to decrease by \$0.02 to **\$0.24 per \$100** valuation. The total FY22 budget is **\$522,366**. Notable budget items include:

- Sales tax budgeted revenue increased **\$60k** over the adopted FY21 budget.
- Fund balance is stable and available to fund needed surprise repairs or to take advantage of unforeseen capital opportunities.
- Increased staff capacity by adding a part-time events coordinator position.
- Personnel and benefits costs decreased **\$40k** compared to the adopted FY21 budget.
- Capital outlay includes electric panel upgrades, water barricades, and holiday decorations.
- Debt service for the public restroom project totals **\$47,002** for FY22.

7th Avenue MSD Fund. The 7th Avenue District's boundary encompasses the Avenue from Four Seasons Boulevard east to the Oklawaha Greenway and extends down Locust Street at its intersection with 7th north to 9th Avenue. The 7th Avenue MSD is proposed to stay at **\$0.17 per \$100 valuation**. The total budget for the Fund is **\$100,982** in FY22. Important facts and trends include:

- Upon completion of the 7th Ave. Streetscape Project, an increase in the tax rate is recommended.
- Sales tax budgeted revenue increased **\$11k** over the adopted FY21 budget.
- Fund balance is estimated to end FY21 at **\$116,407**, or **115.3%** of budgeted FY22 expenditures.
- This budget will share in the costs of the new part-time events coordinator position.
- Personnel and benefits costs decreased **\$6k** compared to the adopted FY21 budget.
- There are no funds included for capital outlay.
- The 7th Ave. Streetscape Project is budgeted in a capital project ordinance with a budget of \$1.4M and is expected to start this fall 2021.
- There are no current debt service requirements for this budget.

Environmental Services Fund

The Environmental Services Fund (ESF) provides sanitation services to rate payers within the City. The ESF's total budget for FY22 is **\$1,892,981**, including a fund balance appropriation of **\$20,881**. The Fund's balance as of June 30th, 2020 totals **\$242,578**. The Fund balance is anticipated to decrease in FY21 by approximately **\$67,137**.

Important budget facts and trends include:

- If estimates prove accurate, the ESF could end FY21 (current year) with **\$175,441** remaining fund balance, down from **\$242,578** at the end of FY20.
 - FY18-19 Actual Fund Balance \$294,357
 - FY19-20 Actual Fund Balance \$242,578
 - FY20-21 Estimated Fund Balance \$175,441
- If the ESF follows budget precisely, it will end FY22 with a remaining fund balance of **\$154,560**.
- On Feb. 26, 2021, City Council reviewed a rate proposal for next budget year, which will increase revenues to sustain operations and enable Staff to study operational efficiencies and best-practices.
- The City Manager recommends City Council adopt an updated schedule of rates and fees for the ESF, summarized below:
- Residential 32gal Waste and Recycling Fees **\$20.00**
 - Increase of **\$3.75 per month**.
 - Raises the rate for customers who participate in recycling to the same rate as customers who do not recycle.
- Residential 96gal Waste and Recycling Fees **\$22.00**
 - Increase of **\$3.50 per month**.
 - Raises the rate for customers who participate in recycling to the same rate as customers who do not recycle.



CITY OF HENDERSONVILLE
Downtown Advisory Board
AGENDA ITEM SUMMARY

Item A.

TITLE OF ITEM: Street Tree Update – Spring 2021

SUGGESTED MOTION(S): NONE

SUMMARY: Spring 2021 Update from Bill Leatherwood, Arborist

It's been a busy spring maintaining street trees in Hendersonville.

Pruning – Over the winter we completed some overdue pruning on several trees and general routine pruning for most of the rest. Almost all of our spring clean-up has been completed and downtown is looking great.

Tree Nutrition – Last fall we divided the Main St trees into 9 different categories for soil testing. Samples were submitted and this spring we developed a specialized nutrition program to meet the recommendations from soil testing. This year I began using Nature's Pro Bio-Soil Science products. These organic-based products include complete and balanced plant nutrition, soil conditioners along with enhanced health and biological support products.

Pest Management – Winter applications of horticultural oil have been great in reducing several pest issues. With green-up in the spring pests can and have appeared overnight. Quick reports of problems and prompt actions of pesticide applications have helped to maintain a healthy tree canopy. Insect monitoring through the use of sticky traps gives us the proper analysis of what is occurring and when pest management practices need to be implemented. Just this week the honeylocust plantbug reappeared and quick actions were taken to manage this pest. The application of tree growth regulator products to certain species is showing good results. Reducing pruning needs and better resistance to disease issues are our main observations so far.

Main Street and Downtown is looking great with the sidewalk cleaning and flower bed planting and mulching completed.

Bring on the Garden Jubilee and all the other spring and summer activities!