

**MINUTE BOOK , PAGE**

**CITY OF STATESVILLE PRE-AGENDA MEETING MINUTES – MAY 15, 2023**

**CITY HALL – 227 S. CENTER STREET, STATESVILLE, NC – 6:00 P.M.**

**Council Present:** Mayor Kutteh presiding, J. Johnson, Wasson, Jones, Allison, Lawton, Hudson, S. Johnson, Foster

**Council Absent:** 0

**Staff Present:** Ron Smith, Fugett, Messick, Pierce, Harrell, E. Kurfees, Nesbit, Taylor, Ashley, Gregory, G. Kurfees, Onley, Griggs, Harrell, Holman, Ferguson, Harrod, Weatherman, Everette, Bridges

**I Call to Order**

Mayor Kutteh called the meeting to order and advised that a Closed Session would be held following the Pre-Agenda meeting to discuss an Economic Development matter and to consult with the City Attorney.

**II Invocation**

**III Pledge of Allegiance**

**IV Adoption of the Agenda**

**V Code of Ethics**

**VI Presentations & Recognitions**

1. Receive a presentation from representatives of the Mayor's Youth Advisory Council.

**VII Public Comment**

**VIII Consent Agenda** – All items below are considered to be routine by City Council and will be enacted by one motion. There will be no separate discussion on these items unless a Council member requests, in which event, the item will be removed from the Consent Agenda and considered with the other items listed in the Regular Agenda.

Mayor Kutteh reviewed the following Consent Agenda items.

**A. Consider approving the May 01, 2023 Pre-Agenda and City Council meeting minutes.**

**B. Consider approving a request to demolish the existing structure located at 113 Garfield Street. (Ashley)**

**C. Consider approving 2<sup>nd</sup> reading of AX23-05, an ordinance to annex the property located at the corner of James Farm Road and Glenway Drive. PIN #4745-78-7821 Falls Park (James Glen Multi-Family) property. (Ashley)**

**D. Consider approving a contract with Samet Corporation for the construction of the Airport Terminal building. (Ferguson)**

- E. Consider approving Budget Amendment #2023-32 to move the interest accrued up to \$30,000 on a \$500,000 grant from the North Carolina SCIF Fund. (Ferguson)**  
 Mayor Kutteh explained that per State policy, interest that accrues on SCIF funds must be used for the stated purpose of the grant. This grant was used for hangar improvements and land acquisition at the airport. This BA will move the interest that has accrued so that 100% of the funds can be expended. These funds were used to purchase property on Eldorado Road and hangar improvements to include LED lighting, replace hangar insulation, hangar door replacement, and concrete steps to a hangar.
- F. Consider approving a request to transfer an insurance reimbursement in the amount of \$32,500 to the Police Department and approval of Budget Amendment #2023-33. (Onley)**  
 Mayor Kutteh stated that the City received an insurance reimbursement check in the amount of \$32,500 for police vehicle #199 that was totaled last year in a vehicle collision. The Police Department is requesting those funds be placed in account # 010-5100-74.00 for the purchase of a replacement vehicle.
- G. Consider approving Budget Amendment #2023-34 to increase the overall budget of the Fund 210 – Occupancy Tax. (Holman)**  
 Mayor Kutteh reported that the Occupancy Tax Fund has exceeded its conservative revenue estimates during the fiscal year. The fund now needs appropriation in order to distribute that excess to the Civic Center, General Fund, and SCVB.

## **REGULAR AGENDA**

- IX Conduct a public hearing and consider approving first reading of AX23-07, an ordinance to annex PIN #4753-99-3612, a property located at 413 Twin Oaks Road submitted by Clayton Homes of Statesville. (Ashley)**  
 Mayor Kutteh stated that the property being considered for annexation has been submitted by Clayton Homes of Statesville. The applicant requests voluntary annexation to utilize city electric and water services. The parcel is approximately .5 acres and is located at 413 Twin Oaks Road. The applicant has placed a manufactured home on the property. The parcel is located in the Iredell County zoning jurisdiction; and is currently zoned Iredell County RA (Residential Agricultural). A City-initiated rezoning request will follow the annexation process; staff and the property owner support a zoning designation of RA (Residential Agricultural) District, which mirrors the designation assigned to the neighboring lot located inside the City limits. The current tax value of the parcel requesting annexation is \$11,250. The applicant estimates that the project value would be approximately \$196,000. City of Statesville electric and water services are available, a private septic system will be installed. Without annexation the city would not collect property taxes. Without annexation, the property owner could still access water at 2½ times the rate. The Department and the City Manager both recommend approving first reading of the ordinance to annex the property.
- X Conduct a public hearing and consider approving first reading of rezoning request ZC23-05, Greenbriar Ridge, Tax Parcel #4754-23-6335; a proposal for a major amendment to the concept plan for the rezoning of approximately 87.39 acres located on E. Greenbriar Road; zoned R-8CZ Cluster for the Greenbriar Ridge subdivision.**  
 Mayor Kutteh stated that D.R. Horton, Inc. (applicant), on behalf of Chelsea L. Sharpe Heirs & Bettye Tull (owners), is requesting significant changes (major amendment) to the Concept Plan for the Greenbriar Ridge development; an 87.39-acre parcel of property, which was

recently rezoned from R-A and R-8 MFM to R-8 CZ Cluster Subdivision on October 3, 2022 to provide a single-family residential development utilizing the Cluster Subdivision development pattern. The major significant changes are as follows:

1. Development Phasing Lines moved.
2. Units developed in phases changed:
  - Phase 1 - From 99 units to 150 units
  - Phase 2 - From 145 units to 90 units (Revised to 92 units) (loss of 4 lots, revised loss of 2 lots)
3. Shifted position of stormwater ponds
4. Public street layout changed
5. Creek crossing changed
6. Alteration to walking trail
7. Walking trail not showing in Phase 1
8. Portion of building lots have been repositioned or have a change in size

The concept plan still exceeds the required active open space and will provide a substantial amount of constructed greenway that will become part of a designated corridor between Kimbrough Park to the Fourth Creek Greenway and beyond. In addition, the project continues to meet the density requirements and lot standards of the Unified Development Code. Although some of the public roads and stormwater ponds have been slightly shifted or changed, they still meet the requirements. No Ingress or egress points were changed. The change to the greenway trail is minimal and should have no detrimental effect on the project. This is a procedural step per Section 2.07 (c) of the UDC, therefore substantial changes must be approved by the Planning Board and City Council. Staff recommends approval of the major amendment contingent upon the applicant meeting all the former conditions of the original rezoning.

**XI Conduct a public hearing and consider approving a Resolution of Closure and Declaration of Withdrawal to permanently close a portion of Wall Street. (Harrod)**

Mayor Kutteh explained that the abandonment of Wall Street officially began back on December 5, 2022. The process proceeded past its public hearing but was halted because the applicant did not give notice to a property owner. Therefore, the applicant must repeat the abandonment process to give due notice to all property owners as required by law.

**XII Conduct a public hearing and consider approving first reading of TA23-07 Text Amendments to the Unified Development Code filed by the City of Statesville to amend Article 3 Zoning, Section 3.04 Zoning District Regulations; Table 3-1 Use Matrix. Article 5. Supplemental Regulations Performance/Standards for Specific Uses, Section 5.04 Primary Uses and Structures, to include subsection III. Tobacco Shops; Article 6. Development Standards, Section 6.05 Lighting, 1-4; and amend definitions section for: Hookah, Vape, E-Cigarette, Cigar and Cigarette Shop/Lounge, Tobacco Paraphernalia and Tobacco Product to address the lighting standards and zoning districts pertaining to such uses. (Ashley)**

Sherry Ashley stated that the text amendment addresses vape shops, hookah bars and tobacco shops, including their intended use, which zoning districts to allow them and the lighting standards thereof. The amendment delineates between a “shop”, which is intended for its “primary” use to be the sale of such products and a “bar/lounge” whose “primary” use is to allow the consumption of such products. It is noted that state law does not permit the sale of food or alcohol in a business whose primary purpose is to allow the consumption of such products. The city already has several existing tobacco shops that sell these products,

and they are currently allowed in the B-2, B-3, B-4, CB, CBP, CB/H-115, B-5 and LI districts. The amendment would only allow them in the B-4 and B-5 districts with supplemental regulations. Lighting would not be allowed to define, outline, or highlight any architectural feature of the building such as windows, doors, roof lines, eaves, ownings, railings, etc. Neon and LED signs would be allowed in windows as long as they are consistent with applicable sign regulations.

**XIII Conduct a public hearing and consider approving first reading of TA23-08, Text Amendments to the Unified Development Code filed by the City of Statesville to amend Article 2. Development Review Process, Section 2.01 Application Process, Table 2-1: Summary of Application Procedures, Article 3. Zoning, Section 3.04 Zoning District Regulations, M. O-1-Office Single Lot District, N. O & I-2-Office and Institutional District, O.-1 – Neighborhood Service District, P. B-2 – Neighborhood Business District, Article 5. Supplemental Regulations/Performance Standards for Specific Uses, Section 5.04 Primary Uses and Structures, Z. Dwellings, Planned Multi-family Dwellings and Article 6. Development Standards, Section 6.02 Density and Dimensional Standards, B. Residential Density, 2. to clarify regulations for Duplexes, Townhomes and Multi-family in O-1, O & I-2, B-1, and B-2 Zoning Districts.**

Ashley stated that due to continued growth within and around the city, additional requests for Townhomes and Multi-family Developments are being made. In reviewing several of these projects, staff has discovered there is some ambiguity in the language for Townhomes and Multi-family developments in the O-1, O & I-2, B-1, and B-2 Zoning Districts. In the City's UDO, Townhomes and Multi-family developments are uses allowed in these districts. However, the density is what is ambiguous. Staff thinks the intent may have been to allow the O-1, O & I-2, B-1, and B-2 districts to be considered a MF zone however the code does not indicate this. So, staff has consistently been interpreting the code to allow density as follows: Overall acreage divided by 5,000 sq. ft. to get number of units permitted. Staff used this interpretation based on the language in the code which allows the use and the language that states minimum lot size if used for residential purposes in 5,000 sq. ft. B-2 does not specify. In addition, another interpretation could be that there are no density limitations in these districts. However, after further discussion with management, I think the intent was to allow these districts to be MF zones. In staff's opinion, the best option is to remove any ambiguity by amending the code to allow the O-1, O & I-2, B-1 and B-2 to use the R-5MF Density calculations. Calculations in the R-5MF District are as follows: Townhomes- Overall acreage divided by 5,000 sq. ft. to get number of Townhome units permitted. May reduce lot size from 5,000 sq. ft. to 2,000 sq. ft. for open space trade-off.

Example - 10 acres = 435,600 divided by 5,000 sq. ft. = 87.12 or 87 Townhomes units  
87 units reduce from 5,000 sq. ft. to 2,000 sq. ft. = 261,000 sq. ft. of open space (5.99 acres)  
Multi-family - Minimum lot size 7,500 sq. ft. for units 1 and 2, plus 2,500 sq. ft. for each additional unit. Example - 100 units would require 5.79 acres.

**XIV Consider approving first reading of an ordinance to prohibit camping and improper use of City property.**

Police Chief David Onley stated that the City has seen a rise in the use of City properties to camp, store personal property and erect temporary shelters. To address this increase, surrounding cities have enacted ordinances prohibiting the misuse of city properties. The attached ordinance will allow officers to address the public safety concerns surrounding camping, creating campfires or bonfires, storing personal property and other prohibited activities. This will include people sleeping in cars in front of homes.

Council member Jones asked if “alleys” should be included in this. Chief Onley explained that unless the city owns and maintains the alley, then it would be private property and would have to be posted by the owner.

**XV Consider authorizing the upset bid procedure for 1203 Free Nancy Ave (PIN 4745-54-1924.000) and 1213 Free Nancy Ave (PIN 4745-43-9618.000). (Pierce)**

Mayor Kutteh stated that the City owns properties 1203 Free Nancy Ave (PIN 4745-54-1924.000) and 1213 Free Nancy Ave (PIN 4745-43-9618.000), located along Free Nancy Avenue. North Carolina General Statute §160a-269 permits the city to sell property by upset bid, after receipt of an offer for the property. The City has received an offer to purchase the property in the amount of \$650,000, submitted by Jai Amba Maa (JAM) Hospitality Statesville and they have paid the required five percent (5%, \$32,500) deposit on their offer. Council may authorize staff to proceed with the upset bid procedure or not. If Council decides to proceed with the sales process, then the City Clerk will advertise the sale of the property per NCGS § 160A-269 requirements, accepting bids until no further qualifying upset bids are received. Lane Construction currently has a lease on the properties until July 2024. City staff will also have the property posted on MLS. Sale of the properties is conditioned upon the following:

- retention of twelve (12) existing parking spots,
- addition of eight (8) additional parking spots,
- buyer must provide and install a minimum of six (06) directional signs to the greenway as well as hours of use (sunrise to sunset),
- City will retain an easement of approximately fifty feet from top of bank on the western portion of PIN 4745-54-1924.000, and
- the southern portion of 1213 Free Nancy Ave/PIN 4745-43-6918.000 will be separated from the remaining portion of the parcel and will be retained by the City as City property.

**XVI Receive the Fiscal Year 2023-2024 recommended budget from the City Manager and Staff and set a public hearing on the budget for June 5, 2023 at 7:00 p.m. Consider setting Board Workshop Sessions on June 6, 2023, June 7, 2023, and June 8, 2023 from 4:00 p.m. to 7:00 p.m. (Smith)**

Mayor Kutteh said that Smith will present the budget then the public hearing will be held at the next meeting.

**XVII City Manager’s Report**

**XVIII Advisory Boards and Commissions Meeting Minutes**

04/12/2023 Airport Commission Meeting Minutes

**XIX Other Business**

Council member Jones gave a report on the Charlotte Regional Transportation Planning Organization (CRTPO) and the Gaston Cleveland Lincoln Metropolitan Planning Organization (GCLMPO) Joint MPO Roundtable meeting that he attended. The Roundtable included speakers and a facilitated work session that focused on existing and potential funding opportunities and ways to work with adjoining municipalities to create a vision to make an impact 15 years down the road.

**XX Closed Session**

**Council member J. Johnson made a motion to move to Closed Session to discuss an Economic Development matter and to consult with the City Attorney, seconded by Council member Allison. The motion carried unanimously.**

Mayor Kutteh stated that while in Closed Session, City Council discussed an Economic Development matter and consulted with the Attorney and no action was taken.

**Council member J. Johnson made a motion to adjourn, seconded by Council member Allison. The motion carried unanimously.**

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Constantine H. Kutteh, Mayor

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Brenda Fugett, City Clerk

**MINUTE BOOK , PAGE**

**CITY OF STATESVILLE COUNCIL MEETING MINUTES – MAY 15, 2023**

**CITY HALL – 227 S. CENTER STREET, STATESVILLE, NC – 7:00 P.M.**

**Council Present:** Mayor Kutteh presiding, J. Johnson, Wasson, Jones, Allison, Lawton, Hudson, S. Johnson, Foster

**Council Absent:** 0

**Staff Present:** Ron Smith, Fugett, Messick, Pierce, Harrell, E. Kurfees, Nesbit, Taylor, Ashley, Gregory, G. Kurfees, Onley, Griggs, Harrell, Holman, Ferguson, Harrod, Weatherman, Everette, Bridges, Caulder

**I Call to Order**

Mayor Kutteh called the meeting to order.

**II Invocation**

The City Clerk gave the invocation.

**III Pledge of Allegiance**

Mayor Kutteh led the pledge of allegiance.

**IV Adoption of the Agenda**

**V Code of Ethics**

**VI Presentations & Recognitions**

**Receive a presentation from representatives of the Mayor's Youth Advisory Council.**

Ariyanna "Ace" Johnson, Oakwood IB Middle, Hannah Roseman, Oakwood IB Middle, Ben McMiller, ARS Middle, Mikayla Lenahan, ARS Middle gave background information on the group and their planned activities, one of which is a Teen Center. The group is hosting "Middle Schoolers Got Talent", on Thursday, May 18<sup>th</sup> at 7:00 p.m. at the Statesville Civic Center. This is a free event with donations accepted at the door. All proceeds will be presented to City Council towards the creation of a future Teen Center. It is the groups hope that the talent show will continue with future Youth Advisory Councils and that one day a downtown Teen Center will be a safe, fun place for the youth in the community.

Mayor Kutteh said it is very encouraging to him to see such fine young people who are going to be the future of our community.

Marlene Scott, Director of Community Engagement and Recruitment, stated that this is the second year that Mayor Kutteh has met with this group. She said they are great leaders who will impact their school and others. Those that participated last year are now becoming leaders in high school and want to join the Chamber of Commerce high school leadership group to continue this legacy.

**VII Public Comment**

Lisa Mozer, Falls Street, spoke about the Green Street cemetery. She expressed concern that it was taking a very long time for the GPR survey to be completed. Getting this data is a priority because they cannot apply for landmark designation without it.

Deloris Hobbs, 139 Broom Street, stated that there is a speeding problem on Broom Street. She asked for speed bumps to be installed stating that there are many children that live on this street and summer is coming. The residents have called the police numerous times and have put up speeding signs, none of which have worked.

Tyrone Phifer, 223 Trailway Drive, spoke about the recent rise in the homeless population in Statesville. He said help is needed from the City to alleviate this. He is part of the Boots on the Ground organization and saw many homeless that could not get into a shelter this winter. He said another shelter is needed.

Marlene Scott, 116 Natawest, thanked City Council for their time in collaborating with the school board to secure grant funds.

Chauntee Hardy, 204 Berry Street, expressed concern about the rise in crime. She said that students will be out of school soon. She asked Council for more parks, public transportation and for more things for youth to do.

Council member Allison advised that there are programs out there that are working together as well as with the City to improve this, and that the city now has a Community Coordinator that is working on this as well.

Council member Foster recognized the new Community Coordinator, NaKayla Griffin, in the audience, stating that she has several projects that she is working on. A list of these will be posted on the City website and Facebook. Foster thanked Lisa Mozer for her input on the Green Street Cemetery. He said this has been an issue for a while and asked his fellow Council members to work with him on this project because the south side of town has a rich history that contributes not only to African American history, but to the city's history as well. He wants the city to work on redeveloping and revitalizing the south side of the city. Foster stated that there will be input meetings on the Green Street Cemetery at the Iredell Public Library on May 16<sup>th</sup> and 30<sup>th</sup>.

Mike Kubiniec, 125 Huntington Ridge Place, Mooresville, expressed concern about businesses selling vaping equipment to minors and asked City Council to send a letter to businesses that sell this equipment to minors. He said it appears that the City is going to participate in funding assistance for additional pre-k classes at NB Mills school.

Betty Quintero, 198 Barnyard Lane, stated that she does genealogy searches and that the names in the Green Street cemetery represent the history of current citizens. She asked Council to press forward with this project.

## **VIII Consent Agenda**

Mayor Kutteh stated that all items below are considered to be routine by City Council and will be enacted by one motion. There will be no separate discussion on these items unless a Council member requests, in which event, the item will be removed from the Consent Agenda and considered with the other items listed in the Regular Agenda.

Mayor Kutteh reviewed the following Consent Agenda items.



- A. Consider approving the May 01, 2023 Pre-Agenda and City Council meeting minutes.
- B. Consider approving a request to demolish the existing structure located at 113 Garfield Street. *(Ashley)*
- C. Consider approving 2<sup>nd</sup> reading of AX23-05, an ordinance to annex the property located at the corner of James Farm Road and Glenway Drive. PIN #4745-78-7821 Falls Park (James Glen Multi-Family) property. *(Ashley)*
- D. Consider approving a contract with Samet Corporation for the construction of the Airport Terminal building. *(Ferguson)*
- E. Consider approving Budget Amendment #2023-32 to move the interest accrued up to \$30,000 on a \$500,000 grant from the North Carolina SCIF Fund. *(Ferguson)*
- F. Consider approving a request to transfer an insurance reimbursement in the amount of \$32,500 to the Police Department and approval of Budget Amendment #2023-33. *(Onley)*
- G. Consider approving Budget Amendment #2023-34 to increase the overall budget of the Fund 210 – Occupancy Tax. *(Holman)*

Mayor Kutteh asked if any Council member wanted any of these items moved to the Regular Agenda. Hearing none, he asked for a motion to approve the Consent Agenda.

**Council member Jones made a motion to approve the Consent Agenda, seconded by Council member Hudson. The motion carried unanimously.**

## **REGULAR AGENDA**

- IX **Conduct a public hearing and consider approving first reading of AX23-07, an ordinance to annex PIN #4753-99-3612, a property located at 413 Twin Oaks Road submitted by Clayton Homes of Statesville. *(Ashley)***

Sherry Ashley stated that the property being considered for annexation has been submitted by Clayton Homes of Statesville. The applicant requests voluntary annexation to utilize city electric and water services. The parcel is approximately .5 acres and is located at 413 Twin Oaks Road. The applicant has placed a manufactured home on the property. The parcel is located in the Iredell County zoning jurisdiction; and is currently zoned Iredell County RA (Residential Agricultural). A City-initiated rezoning request will follow the annexation process; staff and the property owner support a zoning designation of RA (Residential Agricultural) District, which mirrors the designation assigned to the neighboring lot located inside the City limits. The current tax value of the parcel requesting annexation is \$11,250. The applicant estimates that the project value would be approximately \$196,000. City of Statesville electric and water services are available, a private septic system will be installed. Without annexation the city would not collect property taxes. Without annexation, the property owner could still access water at 2½ times the rate. The Department and the City Manager both recommend approving first reading of the ordinance to annex the property.

Mayor Kutteh declared the public hearing open and asked if anyone present wished to speak.

Adam Casstevens, 7026 Northside Drive, briefly described the project and explained that due to the size of the lot it makes it difficult to have a well on it.

There being no other speakers, Mayor Kutteh closed the public hearing.

**Council member S. Johnson made a motion to approve first reading of AX2307, seconded by Council member Hudson. The motion carried unanimously.**

**X Conduct a public hearing and consider approving first reading of rezoning request ZC23-05, Greenbriar Ridge, Tax Parcel #4754-23-6335; a proposal for a major amendment to the concept plan for the rezoning of approximately 87.39 acres located on E. Greenbriar Road; zoned R-8CZ Cluster for the Greenbriar Ridge subdivision.**

Sherry Ashley stated that D.R. Horton, Inc. (applicant), on behalf of Chelsea L. Sharpe Heirs & Bettye Tull (owners), is requesting significant changes (major amendment) to the concept map for Greenbriar Ridge development; an 87.39-acre parcel of property, which was recently rezoned from R-A and R-8 MFM to R-8 CZ Cluster Subdivision on October 3, 2022 to provide a single-family residential development utilizing the Cluster Subdivision development pattern.

The major significant changes are as follows:

1. Development Phasing Lines moved.
2. Units developed in phases changed:  
Phase 1 - From 99 units to 150 units  
Phase 2 - From 145 units to 90 units (Revised to 92 units) (loss of 4 lots, revised loss of 2 lots)
3. Shifted position of stormwater ponds
4. Public street layout changed
5. Creek crossing changed
6. Alteration to walking trail
7. Walking trail not showing in Phase 1
8. Portion of building lots have been repositioned or have a change in size

The proposed project site is on approximately 87.39 wooded acres primarily located along the north side of East Greenbriar Road, generally between Industrial Drive and South Greenbriar Road in southeast Statesville. The property was originally rezoned on October 3, 2022, and annexed on December 31, 2022. There are the remnants of an existing home and outbuilding on the property that will require demolition permits. The intent is to amend the concept plan (major amendment) that will allow them to make changes to Open Space location, Public Road layout, Walking Trail routing and relocation of Development Phasing Lines.

The significant changes are as follows:

1. Some of the Open Space areas were decreased while some were increased, but the applicant attests that the project still meets the open space requirements. Need to provide a table for open space on the plan. Table has been provided.
2. Some of the public streets inside the development have been moved, some removed, and some added. The creek crossing on the west side, near BMP A (sediment pond)

has been removed, while a new creek crossing has been added on the Northeast side, near Open Space C (on the concept plan). A new cul-de-sac has been added to the Northwest end of Road L, close to the entrance from Ora Drive. It is important to note that the entrance to Ora Drive has not been changed.

3. The creek crossing for the walking trail near BMP B has been removed and the trail will now continue along the West side of the creek to a new creek crossing where the new road crosses the creek due Northeast of the former location.
4. Building lots 72 thru 93 have been moved around to accommodate the revisions.
5. BMP C and BMP D (stormwater ponds) have been shifted.
6. Finally, the development phasing lines have been re-drawn, shifting most of phase 1 toward the Eastern part of the development. Phase 1 does not include the walking trail as specified in the conditions of approval and the buffer in Northwest corner near Ora Drive cannot be part of the lots. The concept plan has been revised since the Planning Board meeting. The walking trail is within Phase 1 and the 15 ft. buffer between lots 86, 97, 98 and the adjacent property is in compliance.

City Council approved the original rezoning request on October 3, 2022. The Planning Board at their April 25, 2023, meeting voted unanimously to approve the major amendment with the following conditions: Contingent upon the applicant meeting all the former conditions of the original rezoning along with providing a table for open space calculations, greenway must be constructed as part of Phase 1 and the buffer must be outside of lots. The applicant has since submitted a revised concept plan with these corrections.

The current total taxable value of the subject parcel is approximately \$460,610. The applicant estimates that the current tax value plus estimated costs of land development construction is \$17.5 million. City water, sewer and electrical services are available. The city will need to provide sanitation, fire, and police services as requested.

The concept plan still exceeds the required active open space and will provide a substantial amount of constructed greenway that will become part of a designated corridor between Kimbrough Park to the Fourth Creek Greenway and beyond. In addition, the project continues to meet the density requirements and lot standards of the Unified Development Code. Although some of the public roads and stormwater ponds have been slightly shifted or changed, they still meet the requirements. No Ingress or egress points were changed. Finally, the change to the greenway trail is minimal and should have no detrimental effect on the project. This is a procedural step per Section 2.07 (c) of the UDC, therefore substantial changes must be approved by the Planning Board and City Council. Staff recommends approval of the major amendment contingent upon the applicant meeting all the former conditions of the original rezoning. The City Manager concurs with department's recommendation. If approved, the 2<sup>nd</sup> reading would be on June 5, 2023.

Council member S. Johnson asked if it is correct that traffic calming improvements will take place upon completion of 150 dwellings. He asked if these changes would impact that number. Ashley replied they will not.

Mayor Kutteh declared the public hearing open and asked if anyone present wished to speak.

Tim with D.R. Horton, Inc. explained what situation created the amended concept plan.

There being no other speakers, Mayor Kutteh declared the public hearing closed.

Council member Wasson made a motion to approve first reading of ZC23-05, seconded by Council member Allison. The motion carried unanimously.

Wasson read the following Consistency Statement:

The zoning amendment is approved and is consistent with the City's comprehensive land use plan, is reasonable, and in the public interest because: The major amendments meet the 2045 Land Development Plan which projects the parcel as suitable for Complete Neighborhood 2, which is intended primarily for residential development and recommends many of the features—gridded street network, connectivity between neighborhoods, pedestrian/bicycle facilities and planned open space—proposed in the requested Concept Plan. Additionally, with the major amendments, this project fills in a substantial gap between existing neighborhoods and provides beneficial improvements to both sides of E. Greenbriar Road that includes a portion of a multi-use path recommended in the Mobility + Development Plan. Finally, the concept plan exceeds the required active additional open space and will provide a substantial amount of constructed greenway that will become part of a designated corridor between Kimbrough Park to the Fourth Creek Greenway and beyond.

**XI Conduct a public hearing and consider approving a Resolution of Closure and Declaration of Withdrawal to permanently close a portion of Wall Street. (Harrod)**

Genesis Harrod explained that the abandonment of Wall Street officially began back on December 5, 2022. The process proceeded past its public hearing but was halted because the applicant did not give notice to a property owner. Therefore, the applicant must repeat the abandonment process to give due notice to all property owners as required by law. The abandonment process must follow the requirements of NCGS 160A-299.

Mr. Holden Sabato, on behalf of SL Statesville LLC, has petitioned for NCDOT, and now the City, to abandon a portion of Wall Street. The Silverman Group would like for maintenance to be abandoned for their industrial development off Wall Street and Landson Drive. Wall Street is in the process of being abandoned by the North Carolina Department of Transportation. The NCDOT supports the maintenance abandonment process and is transferring maintenance of a 2,074 LF portion of Wall Street over to the City.

On December 5, 2023, Council passed the *Resolution in Support* of the NCDOT maintenance abandonment process and the *Resolution of Intent to Close*, which began the public notification process and scheduled the public hearing on January 9, 2023. The hearing was held, and council approved the closing contingent upon the recombination of the two parcels to ensure access prior to closing. However, after the public hearing, staff was contacted by Mr. West Hunter (Iredell Partners, LLC) who owns property along Wall Street. Mr. Hunter did not get notification of the hearing. Therefore, the process must be started over. The applicant agreed to restart the abandonment process and give proper notice to all property owners.

Section 8.06 A.5. c. of the UDC states that “streets should connect with those already dedicated in adjoining or adjacent subdivisions”, thus Wall Street has a grade separation intersection recommended to connect to Barkley Road W., as stated in the 2019 Mobility + Development Plan. However, Landson Drive is proposed to be extended through the industrial development and stubbed for a future connection to Barkley Road. The review

criteria in Section 2.13 of the UDC are met by pursuing the maintenance abandonment process, as neighborhood access is not restricted nor is health and safety impacted, since the remaining portion of Wall Street will remain intact. It was brought to our attention that Mr. Hunter would not have access to his property abutting Wall Street, if the current portion of Wall Street indicated is abandoned as written. It is possible for the applicant to proceed with their abandonment farther down the roadway, to provide access to Wall Street to Mr. Hunter's property. Therefore, staff's recommendation is favorable to abandon a portion of Wall Street, but to what extent will depend upon the findings of the public hearing. The survey and extent of the abandonment may need to be revised. If the *Resolution to Close* and *Declaration of Withdrawal* documents are approved, they must be recorded by the applicant along with the fully signed abandonment plat at the Iredell County Register of Deeds.

Council member S. Johnson said he spoke with Mr. Hunter, who voiced concerns about this. He believes that these concerns should be considered. He pointed out that Mr. Hunter's property would essentially be isolated because of the creek if the road is closed, which would render it basically unmarketable. He said the road abandonment should be moved further to the south in order to avoid this.

Harrod pointed out that Mr. Hunter has access via another area of his property to different roadways.

Mayor Kutteh declared the public hearing open and asked if anyone wished to speak.

West Hunter, 165 Asbury Circle, Mooresville, representing Iredell Partners, stated that if he abandons the road at that point, he will lose access to 2-3 acres of his property. He is in favor of moving it up so he still has access, but it does not appear that would meet the criteria. He would abandon it to the south of his property. It would be financially prohibitive to cross the creek into that marsh land to access these 2-3 acres. Right now, he already has access via Wall Street.

Alan Guffy, attorney with Jones, Childers, Donaldson & Webb, PLLC, stated he represents the sellers. He said his clients all use this road. For two of them it would totally deprive them of access to not have it should the road be closed. His clients are asking that the closing of the road be contingent upon the sale of the property to S.L. Statesville. Previously they formally made it conditioned upon the recombination of the land into a single tract, which would not happen until after the closing on the property. They also asked that city maintenance continue until that point as well. Mayor Kutteh said he does not believe that Council will have a problem doing that.

Holden with the Silverman Group stated that their goal is not to remove access from Mr. Hunter's property. They are more than willing to reroute what they are showing right now. They would abandon the right-of-way as shown with the condition to reroute a new right-of-way. Mayor Kutteh asked if he would provide new access to the property and that Mr. Hunter's property had access from the east. Holden replied that was correct.

Sherry Ashley stated she is not sure how they plan to provide access and where. She would like to see it.

Council member S. Johnson said he is concerned how the alternative access is going to happen and who is going to pay for it. He does not understand why it cannot go south of where it is now.

Holden asked if Council could approve it contingent upon approval by the Technical Review Committee.

City Attorney Messick stated that the issue is the review criteria that the Council has in front of them to consider. There is an element that states: *The abandonment does not restrict access to any parcel or result in access that is unreasonable, economically prohibitive, or devalues any property.* She said that must be dealt with here, by the Council, not by the TRC.

Messick said that the contingency needs to be made very clear at this time, that the abandonment is only effective when another avenue is already plotted and constructed because if this gets abandoned on the contingency that someday he is going to build some other access to this point, the Council has no way to hold him to that except to say that the contingency is dependent upon access being in place at the time of the abandonment. Access is not in place right now at the time of the abandonment. The road needs to be closed and the new access constructed before it can be abandoned.

Council decided to postpone a decision on this until the revisions are made.

Mayor Kutteh declared the public hearing closed.

**Council member S. Johnson made a motion to postpone consideration of a Resolution of Closure and Declaration of Withdrawal to permanently close a portion of Wall Street to the June 5<sup>th</sup> City Council meeting, seconded by Council member J. Johnson. The motion carried unanimously.**

**XII Conduct a public hearing and consider approving first reading of TA23-07 Text Amendments to the Unified Development Code filed by the City of Statesville to amend Article 3 Zoning, Section 3.04 Zoning District Regulations; Table 3-1 Use Matrix. Article 5. Supplemental Regulations Performance/Standards for Specific Uses, Section 5.04 Primary Uses and Structures, to include subsection III. Tobacco Shops; Article 6. Development Standards, Section 6.05 Lighting, 1-4; and amend definitions section for: Hookah, Vape, E-Cigarette, Cigar and Cigarette Shop/Lounge, Tobacco Paraphernalia and Tobacco Product to address the lighting standards and zoning districts pertaining to such uses. (Ashley)**

Sherry Ashley stated that the text amendment addresses vape shops, hookah bars and tobacco shops, including their intended use, which zoning districts to allow them and the lighting standards thereof. The amendment delineates between a “shop”, which is intended for its “primary” use to be the sale of such products and a “bar/lounge” whose “primary” use is to allow the consumption of such products. It is noted that state law does not permit the sale of food or alcohol in a business whose primary purpose is to allow the consumption of such products. The city already has several existing tobacco shops that sell these products, and they are currently allowed in the B-2, B-3, B-4, CB, CBP, CB/H-115, B-5 and LI districts. The amendment would only allow them in the B-4 and B-5 districts with supplemental regulations. Lighting would not be allowed to define, outline, or highlight any architectural feature of the building such as windows, doors, roof lines, eaves, ownings, railings, etc. Neon

and LED signs would be allowed in windows as long as they are consistent with applicable sign regulations.

Mayor Kutteh declared the public hearing open and asked if anyone wished to speak. Hearing none, he declared the public hearing closed.

**Council member Foster made a motion to approve first reading of TA23-07, seconded by Council member Hudson. The motion carried unanimously.**

**XIII Conduct a public hearing and consider approving first reading of TA23-08, Text Amendments to the Unified Development Code filed by the City of Statesville to amend Article 2. Development Review Process, Section 2.01 Application Process, Table 2-1: Summary of Application Procedures, Article 3. Zoning, Section 3.04 Zoning District Regulations, M. O-1-Office Single Lot District, N. O & I-2-Office and Institutional District, O.-1 – Neighborhood Service District, P. B-2 – Neighborhood Business District, Article 5. Supplemental Regulations/Performance Standards for Specific Uses, Section 5.04 Primary Uses and Structures, Z. Dwellings, Planned Multi-family Dwellings and Article 6. Development Standards, Section 6.02 Density and Dimensional Standards, B. Residential Density, 2. to clarify regulations for Duplexes, Townhomes and Multi-family in O-1, O & I-2, B-1, and B-2 Zoning Districts.**

Ashley stated that due to continued growth within and around the city, additional requests for Townhomes and Multi-family Developments are being made. In reviewing several of these projects, staff has discovered there is some ambiguity in the language for Townhomes and Multi-family developments in the O-1, O & I-2, B-1, and B-2 Zoning Districts. In the City's UDO, Townhomes and Multi-family developments are uses allowed in these districts. However, the density is what is ambiguous. Staff thinks the intent may have been to allow the O-1, O & I-2, B-1, and B-2 districts to be considered a MF zone however the code does not indicate this. So, staff has consistently been interpreting the code to allow density as follows: Overall acreage divided by 5,000 sq. ft. to get number of units permitted. Staff used this interpretation based on the language in the code which allows the use and the language that states minimum lot size if used for residential purposes in 5,000 sq. ft. B-2 does not specify. In addition, another interpretation could be that there are no density limitations in these districts. However, after further discussion with management, I think the intent was to allow these districts to be MF zones. In staff's opinion, the best option is to remove any ambiguity by amending the code to allow the O-1, O & I-2, B-1 and B-2 to use the R-5MF Density calculations. Calculations in the R-5MF District are as follows: Townhomes- Overall acreage divided by 5,000 sq. ft. to get number of Townhome units permitted. May reduce lot size from 5,000 sq. ft. to 2,000 sq. ft. for open space trade-off.

Example - 10 acres = 435,600 divided by 5,000 sq. ft. = 87.12 or 87 Townhomes units  
87 units reduce from 5,000 sq. ft. to 2,000 sq. ft. = 261,000 sq. ft. of open space (5.99 acres)  
Multi-family - Minimum lot size 7,500 sq. ft. for units 1 and 2, plus 2,500 sq. ft. for each additional unit. Example - 100 units would require 5.79 acres.

Council member S. Johnson stated that he is still concerned about zoning residential on road frontage along highways. He asked if that is the highest and best use of this property. Council member Hudson agreed. S. Johnson emphasized that the city needs to protect its corridors.

Mayor Kutteh stated that is not what this text amendment is about.

Council member Wasson asked if the zoning map needs to be amended. Sherry Ashley replied that is up to Council what they want to do.

Mayor Kutteh declared the public hearing open.

Laury Brown, 420 Beverly Drive, stated that she lives in Beverly Heights and that this proposal to allow very dense development has the potential to destabilize some of the old nicer neighborhoods. She said this needs to be part of a larger conversation. She is not opposed to multi-family development, but a gross misuse of ??????. She asked Council to table this item and to place a moratorium on all new development in these areas.

There being no other speakers, Mayor Kutteh declared the public hearing closed.

**Council member Allison made a motion to postpone TA23-08 to the August 21<sup>st</sup> meeting, seconded by Council member Lawton. The motion carried unanimously.**

**XIV Consider approving first reading of an ordinance to prohibit camping and improper use of City property.**

Police Chief David Onley stated that the City has seen a rise in the use of City properties to camp, store personal property and erect temporary shelters. To address this increase, surrounding cities have enacted ordinances prohibiting the misuse of city properties. The attached ordinance will allow officers to address the public safety concerns surrounding camping, creating campfires or bonfires, storing personal property and other prohibited activities. This will include people sleeping in cars in front of homes.

**Council member S. Johnson made a motion to approve, seconded by Council member Hudson. The motion carried unanimously.**

**XV Consider authorizing the upset bid procedure for 1203 Free Nancy Ave (PIN 4745-54-1924.000) and 1213 Free Nancy Ave (PIN 4745-43-9618.000). (Pierce)**

Matthew Pierce stated that the City owns properties 1203 Free Nancy Ave (PIN 4745-54-1924.000) and 1213 Free Nancy Ave (PIN 4745-43-9618.000), located along Free Nancy Avenue. North Carolina General Statute §160a-269 permits the city to sell property by upset bid, after receipt of an offer for the property. The City has received an offer to purchase the property in the amount of \$650,000, submitted by Jai Amba Maa (JAM) Hospitality Statesville and they have paid the required five percent (5%, \$32,500) deposit on their offer. Council may authorize staff to proceed with the upset bid procedure or not. If Council decides to proceed with the sales process, then the City Clerk will advertise the sale of the property per NCGS § 160A-269 requirements, accepting bids until no further qualifying upset bids are received. Lane Construction currently has a lease on the properties until July 2024. City staff will also have the property posted on MLS. Sale of the properties is conditioned upon the following:

- retention of twelve (12) existing parking spots,
- addition of eight (8) additional parking spots,
- buyer must provide and install a minimum of six (06) directional signs to the greenway as well as hours of use (sunrise to sunset),
- City will retain an easement of approximately fifty feet from top of bank on the western portion of PIN 4745-54-1924.000, and



- the southern portion of 1213 Free Nancy Ave/PIN 4745-43-6918.000 will be separated from the remaining portion of the parcel and will be retained by the City as City property.

**Council member S. Johnson made a motion to authorize the upset bid procedure for 1203 Free Nancy Avenue, PIN #4745-54-1924.000 and 1213 Free Nancy Avenue, PIN #4745-43-9618.000, seconded by Council member Foster. The motion carried unanimously.**

- XVI Receive the Fiscal Year 2023-2024 recommended budget from the City Manager and Staff and set a public hearing on the budget for June 5, 2023 at 7:00 p.m. Consider setting Board Workshop Sessions on June 6, 2023, June 7, 2023, and June 8, 2023 from 4:00 p.m. to 7:00 p.m.**  
City Manager Ron Smith gave the attached budget message.

**XVII City Manager's Report**

Smith reported that staff was asked to report on the S. Yadkin intake project. He stated that the city has two intakes, High Rock Lake and S. Yadkin. The Yadkin intake has been down. The electrical must be tested and Council needs to determine at some point if they want to elevate this or it will happen again.

Council member J. Johnson asked if the city would lose it if it does not repair it. Smith replied that it could, but we do not want to do that.

Council member Hudson advised that the city definitely does not want to lose it because we would probably never get it back.

**XVIII Advisory Boards and Commissions Meeting Minutes**  
04/12/2023 Airport Commission Meeting Minutes

**XIX Other Business: None**

**XX Closed Session: None**

**Council member J. Johnson made a motion to adjourn, seconded by Council member Allison. The motion carried unanimously.**

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Constantine H. Kutteh, Mayor

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Brenda Fugett, City Clerk