

**LENOIR CITY COUNCIL
TUESDAY, APRIL 2, 2019
6:00 P.M.**

PRESENT: Mayor Gibbons presiding. Councilmembers present were Beal, Perdue, Perkins, Stevens, Thomas and Willis. Also in attendance were City Manager Hildebran, City Clerk Cannon and City Attorney Rohr.

Note: Councilmember Rohr's seat is vacant on City Council due to his accepting the position of City Attorney.

I. CALL TO ORDER

- A. The meeting was opened by a moment of silence followed by the Pledge of Allegiance led by Mayor Gibbons.

SYMPATHY; FAMILY OF LOUANNE

KINCAID: B. On behalf of City Council, Mayor Gibbons asked everyone to continue to keep the family of LouAnne Kincaid in their thoughts and prayers as Ms. Kincaid passed away unexpectedly on Sunday, March 24. Ms. Kincaid served as the Caldwell County's Public Information Officer.

PROCLAMATION; FAIR HOUSING

MONTH: C. On behalf of City Council, Mayor Gibbons presented a proclamation to Ms. Lauren Hart, Catawba Valley Realtors Association, proclaiming the month of April as "Fair Housing Month" throughout the City of Lenoir and Caldwell County.

A copy of the proclamation is hereby incorporated into these minutes by reference. (Refer to page 336).

On behalf of the Catawba Valley Association of Realtors, Ms. Hart thanked City Council for their recognition and support of Fair Housing Month. Ms. Hart stated fair housing is allowing people of all walks of life to have the opportunity of applying for affordable housing without the fear of discrimination. In addition, Ms. Hart stated Lenoir currently has a thriving housing market.

Mayor Gibbons thanked Ms. Hart for coming and stated he hopes housing will continue to grow in our community.

**ANNUAL REPORT; LENOIR POLICE
DEPARTMENT:**

- D. Brent Phelps, Chief of Police, reviewed a power point presentation of the Department's Annual Report. The full report is available online at www.cityoflenoir.com/police.

Chief Phelps stated there was a 16% reduction in violent crimes from 2017 to 2018, but noted a 12% increase in property crimes. This increase is a result of motor vehicle thefts increasing from 42 in 2017 to 100 in 2018. Chief Phelps attributed the spike due to individuals using the Internet to search for specific models of cars and/or trucks. He reported the Department has made 32 arrests and stated they are currently working with the surrounding agencies and the North Carolina License and Theft Bureau to address this issue.

In addition, Chief Phelps reported Communications received 35,000 calls with an average of 5,000 of these calls being for 911 purposes. There were 31,000 Police service calls and a total of 865 follow-up calls which is an important part of their service to the community. He stated there were over 39,000 pieces of evidence in their evidence room of which the majority is digital media due to their use of body cameras. He remarked the Department is seeking ways to efficiently accomplish more.

Chief Phelps reported there was a 4% increase in vehicle crashes and remarked the Department does most of their speed enforcement on US Highway 321 where most vehicle crashes occur. He stated that inattention was the most attributing factor for these accidents.

Next, Chief Phelps stated the Department investigated 38 deaths in 2018 of which 6 were due to overdoses. He reported nine individuals were saved due to Police personnel administering the drug naran (naloxone) which works to reverse the respiratory depression that people experience with an opioid overdose.

Chief Phelps also explained there were 56 incidents of use of force, but pointed out that this number also includes every time an officer may have to point a weapon at an individual. He compared this number to the number of calls (35,000) and remarked he is proud of this percentage. Chief Phelps further reviewed the number of overtime hours Staff works during events paid by other organizations but noted this figure doesn't include coverage of city sponsored events.

Chief Phelps reported Staff investigated 1,200 crimes along with 382 nuisance Cases and pointed out the Department may have to reassess how they are going to handle the nuisance cases if they continue to increase.

In addition, Chief Phelps stated the Department does a great job with keeping up with mandated and specialized training for all personnel. Next, he shared the Department has changed the ways it reports data to the state by changing from the Uniform Crime Reporting System (UCR) to the National Incident-Based Reporting System, or NIBRS, which was implemented to improve the overall quality of crime data collected by law enforcement agencies. He reported the Police Department has implemented NIBRS and is ready to report to the state, but shared the state does not have their technology ready yet to receive the data

from agencies.

Chief Phelps shared they have experienced delays with implementing the City's Alarm Ordinance, but explained they have partnered with a company and hope to begin this project in July. He stated they would begin with a public education campaign. The Department also plans to review all of their current policies in the near future.

II. MATTERS SCHEDULED FOR PUBLIC HEARINGS

III. CONSENT AGENDA ITEMS

A. Upon a recommendation by City Manager Hildebran, the following Consent Agenda items were submitted for approval:

1. Minutes: Approval of the minutes of the City Council Meeting of Tuesday, March 19, 2019, as submitted.
2. Change Order No. 3; Water Treatment Plant: Staff recommends approval of Change Order No. 3 as recommended by McGill Associates for the Water Treatment Plant Improvements Project to reflect a net deduction in the contract amount of \$82,280.15. (A copy of the Change Order is hereby incorporated into these minutes by reference. Refer to page 337-339).
3. Resolution; General Records Retention and Disposition Schedule: Approval of a resolution adopting the updates to the General Retention and Disposition Schedule as requested by the North Carolina Department of Cultural Resources. (A copy of the resolution is hereby incorporated into these minutes by reference. Refer to page 340).

Upon a motion by Councilmember Stevens, Council voted 6 to 0 to approve the above listed items on the Consent Agenda as presented and as recommended by City Manager Hildebran.

IV. REQUESTS AND PETITIONS OF CITIZENS

V. REPORTS OF BOARDS AND COMMISSIONS

VI. REPORT AND RECOMMENDATIONS OF THE CITY MANAGER

A. Items of Information

CRUISE-IN: 1. A Cruise-In Event is scheduled for Saturday, April 6 at 4:00 p.m. in downtown Lenoir.

CITY/COUNTY SERVICES

COMMITTEE: 2. The City/County Services Committee will meet on Monday, April 8 at 11:45 a.m.

CALDWELL COUNTY ECONOMIC DEVELOPMENT

BOARD: 3. The Caldwell County Economic Development Commission will meet on Tuesday, April 9 at 8:00 a.m.

LENOIR TOURISM DEVELOPMENT

AUTHORITY: 4. The Lenoir Tourism Development Authority will meet on Thursday, April 11 at 4:00 p.m.

LENOIR BUSINESS ADVISORY

BOARD: 5. The Lenoir Business Advisory Board will meet on Thursday, April 11 at 6:00 p.m. at City Hall, Third Floor.

ABC BOARD: 7. The ABC Board will meet on Tuesday, April 16 at 2:00 p.m. at Lenoir Store #1.

MAYOR'S PRAYER

BREAKFAST: 8. The Mayor's Prayer Breakfast in conjunction with the National Day of Prayer will be held on Thursday, May 2 at Lenoir Presbyterian Church located at 1002 Kirkwood Street. Tickets are \$10.00 and will be available at City Hall.

CALDWELL IS HIRING

EVENT: 9. The annual Caldwell is Hiring Event will be held on Wednesday, April 17 from 8:30 a.m. – noon at the J.E. Broyhill Civic Center.

B. ITEMS FOR COUNCIL ACTION

CONDITIONAL USE PERMIT; 316 LOWER CREEK DRIVE:

A. A quasi-judicial public hearing was held on Tuesday, March 19, 2019 for City Council to consider a Conditional Use Permit (CUP) as submitted by MC Morgan & Associates, Inc. for property located at 316 Lower Creek Drive.

NOTE: This item was tabled for Council Action until the City Council Meeting of Tuesday, April 2 2019 in order to allow City Council

additional time to review the application. This request is for property located between Tywood Street and Eastover Circle, NCPIN#2759488961 and NCPIN#2759488577. The applicant is requesting a Conditional Use Permit for a 68-unit apartment complex in the R-9 and B-2 zoning districts. Staff recommends approval subject to the following conditions:

1. The development shall substantially comply with the site plan on page 8 of the staff report, inclusive of staff's additional notes and clarifications. The maximum number of units shall be 68.
2. The sidewalk along Lower Creek Drive will be 8' wide and straightened for accessibility. A pedestrian connection must be provided from the sidewalks along Lower Creek Drive to the internal pedestrian network.
3. The smaller parcel (NCPIN#2759488577) will be recombined with the larger tract (NCPIN# 2759488961), in compliance with City of Lenoir zoning and subdivision regulations, prior to permitting.
4. The vegetative buffer will be a minimum of 20' wide along the northwestern side property lines where adjacent to single-family residential properties.
5. The architectural standards for articulation through the provision of architectural features as well as the standards for materials and parking lot landscaping found in Section 714 of the Zoning Ordinance shall apply to

the entire site, not just the B-2 zoned portions. Primary facades shall be any façade that is visible from Lower Creek Drive or adjacent residential properties.

6. Dumpsters shall be screened on all sides with dumpster enclosures finished to match the principal buildings.
7. All lighting shall be fully cut-off and shielded so as to eliminate/minimize light spill-over onto adjacent residential properties.
8. Signage on Lower Creek Drive shall use exterior illumination only (no internal illumination). Exterior lighting shall be directed at the sign face and be fully shielded to prevent light spill-over onto neighboring residential properties.
9. Valid permits must be obtained for this project and all construction must meet the requirements of the City of Lenoir Code of Ordinances, the North Carolina State Building Code, the North Carolina State Fire Code, and any other federal, state, or local regulation that applies.
10. If a building permit has not been issued within 24 months of the adoption of the Conditional Use Permit, the approval shall be considered null and void.
11. A traffic calming device (e.g. speed hump, rumble strip, or similar treatment) shall be installed near the Lower Creek entrance, to encourage traffic leaving the site to utilize the southern driveway.

Mayor Gibbons read the above listed conditions and reported the CUP was tabled from the March 19 Council meeting in order to make sure City Council is doing everything they possibly can to protect the neighborhood.

Mayor Gibbons asked City Attorney Rohr to review the guidelines that City Council has to legally abide by when considering approval of a Conditional Use Permit.

City Attorney Rohr stated the purpose of a Conditional Use Permit is to show the proposed use and location will be harmonious to areas near the site and will not be detrimental to the surrounding property values.

Mr. Rohr stated the Planning Board and Staff has submitted eight findings of fact on pages 5 and 6 of the Staff Report for Council to consider and the Developer has to comply with all of them. (A copy of page 5 and page 6 of the Staff Report is hereby incorporated into these minutes. Refer to pages 341-342). Attorney Rohr reminded Council they are only to consider the evidence presented by sworn testimony at the March 19 Council meeting upon making their decision. He stated that Council may not discuss this issue with others or among themselves or be an advocate for the project, but noted they are required to remain neutral in order to retain the integrity of the Council. He stated Council may review the video of the meeting. Attorney Rohr further advised Council they are sitting as judges during a quasi-judicial hearing since it is not a legislative issue.

Mayor Pro-Tem Willis referred to his absence at the March 19 Council Meeting and asked Attorney Rohr whether he could vote on this issue. For the record,

Mr. Willis stated he has read the March 19 minutes, reviewed the meeting video and hasn't spoken with anyone about this project. Attorney Rohr stated he contacted the UNC School of Government and received clarification that Mr. Willis could vote as long as he has had the opportunity to review the all of the material. Attorney Rohr cited a case that occurred in the Town of Lincolnton in 2016 in which the Court stated that change in Board membership has no effect on the outcome. Attorney Rohr clarified that Mr. Willis could participate in the vote on the Conditional Use Permit.

Mayor Gibbons informed Council there were three issues brought up at the March 19 meeting for consideration:

- 1) Driveway location on Lower Creek Drive
- 2) 60-foot setback in order to decide if buildings would be 1 or 2 story
- 3) traffic control on Lower Creek Drive

Planning Director Jenny Wheelock was sworn in by the City Clerk. Attorney Rohr also informed the individuals in the audience that spoke at the March 19 meeting that they also had the opportunity to ask questions.

Councilmember Perdue asked Director Wheelock if she has conducted any research regarding the proposed requirement of a 60-foot buffer on the property.

Director Wheelock stated she has not received any new site plans, but she did review the conceptual site plan and has spoken with Mr. Morgan. Ms. Wheelock clarified the minimum setback is 35-feet and reported the grade of the site is going to determine the final placement of the buildings. She informed Council if they chose to make the setback 60-feet, it may cause issues with the site plan as far as the grading and whether the buildings would be one or two stories. Director Wheelock noted a retaining wall may also have to be constructed in front of the buildings if the buildings were moved further from the slope, but she is unsure of how close to the street it would need to be built. In addition, Director Wheelock clarified the building designs might change if the setback was increased.

Councilmember Stevens inquired about adding a traffic calming feature on the Lower Creek Drive side in order to encourage traffic to exit onto Highway 18.

Following a brief discussion regarding traffic calming, City Council was in consensus **to add Condition No. 11 to the Staff Report as follows: A traffic calming device (e.g. speed hump, rumble strip, or similar treatment) shall be installed near the Lower Creek entrance, to encourage traffic leaving the site to utilize the southern driveway.**

Director Wheelock said this was a feasible plan and pointed out motorists will have to make a turn anyway to go around the apartment complex.

Councilmember Thomas moved to approve the Conditional Use Permit based on

the evidence as presented. Mayor Gibbons suggested Ms. Thomas add the traffic calming recommendation made by Councilmember Stevens to the motion. Councilmember Perdue asked developer to consider constructing the buildings as far back as possible in order not to impede the integrity of the slopes.

Director Wheelock stated they could consider any additional setback above the 35-foot minimum that can be achieved with or without a retaining wall. Mr. Perdue also referenced the clubhouse and stated he didn't want to do anything to impede the view by going from one story to two story.

Amended Motion

Councilmember Thomas amended her motion to approve the Conditional Use Permit with the ten listed conditions and the eight findings of fact as listed on pages 5 and 6 of the Staff Report and to include **the new Condition No. 11 regarding traffic calming as cited above and as added to the report.** This motion carried with a 6 to 0 vote.

**LAND EXCHANGE REQUEST;
512 NORTH MAIN STREET:**

- C. City Manager Hildebran informed Council that a recent survey to combine two adjacent properties both owned by Joel Kincaid and Steven Hickel, it was discovered that a small portion of a city owned sidewalk slightly encroaches onto their property. As a resolution, Mr. Kincaid has recommended a land exchange to allow for the sidewalk to remain "as is".

The proposed exchange would convey Lot "B" – 0.01 acres of land (a portion of NCPIN#2749787948 owned by Joel Kincaid/Steven Hickel to the City of Lenoir in exchange for Lot "A" -0.01 acres of city owned land (a portion of NCPIN#2749890145 both located at or near 512 North Main Street NW. Both tracts are of similar size and value and would further a public purpose in maintaining a city park sidewalk.

Following a brief discussion, City Council was in consensus to proceed with the land exchange as described and place this item on the April 16 Agenda for consideration of approval by resolution. A public notice will be published for a minimum of ten days.

VII. REPORT AND RECOMMENDATIONS OF THE CITY ATTORNEY

VIII. REPORT AND RECOMMENDATIONS OF THE MAYOR

IX. REPORT AND RECOMMENDATIONS OF COUNCIL MEMBERS

X. ADJOURNMENT

- A. There being no further business, the meeting was adjourned at 7:03 p.m.

Shirley M. Cannon, City Clerk

Joseph L. Gibbons, Mayor



CITY MANAGER
SCOTT E. HILDEBRAN

CITY OF LENOIR
NORTH CAROLINA

MAYOR
JOSEPH L. GIBBONS

CITY COUNCIL
J. T. BEAL
T. H. PERDUE
J. I. PERKINS
T. J. ROHR
D. F. STEVENS
C. D. THOMAS
B. K. WILLIS

PROCLAMATION
FAIR HOUSING MONTH

WHEREAS, April 11, 2019 marks the 51st anniversary of the passage of the U.S. Fair Housing Law, Title VIII of the Civil Rights Act of 1968, as amended, which enunciates a national policy of Fair Housing without regard to race, color, creed, national origin, sex, familial status, and handicap, and encourages fair housing opportunities for all citizens; and

WHEREAS, the Catawba Valley Association of Realtors is committed to highlighting the Fair Housing Law, Title VIII of the Civil Rights Act of 1968, by continuing to address discrimination in our community, supporting programs that will educate the public about the right to equal housing opportunities, and planning partnership efforts with other organizations to help assure every American of their right to fair housing.

NOW, THEREFORE, I, Joseph L. Gibbons, Mayor of the City of Lenoir, North Carolina, and on behalf of the Lenoir City Council, do hereby resolve that April 2019, being *Fair Housing Month*, begins a year-long commemoration of the U.S. Fair Housing Law in the City of Lenoir and urge all citizens to wholeheartedly recognize this celebration throughout the year.

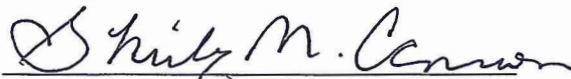
Adopted this the 2nd day of April, 2019.

SEAL



Joseph L. Gibbons, Mayor

ATTEST:



Shirley M. Cannon, City Clerk





Shaping Communities Together

March 28, 2019

Mr. Radford Thomas
Director of Public Utilities
City of Lenoir
801 West Avenue
Lenoir, North Carolina 28645

RE: Final Adjusting Change Order
Water Treatment Plant Improvements
City of Lenoir, North Carolina

Dear Mr. Thomas:

Please find enclosed for your review and approval *Change Order No. 3 – Final* for the Water Treatment Plant Improvements project for the City of Lenoir. The final adjusting change order includes the final quantity adjustments to the project. These final adjustments are based upon the contractor's schedule of values, as well as some additional work items.

The amount of the final adjusting change order will result in a deduction of \$82,280.15. The original construction contract amount was \$4,415,000.00. With the execution of this final change order the final construction contract amount will be in the amount of \$4,301,419.99. Should you have any questions regarding this change order submittal package please do not hesitate to contact us at (828) 328-2024.

Sincerely,
McGILL ASSOCIATES, P.A.

A handwritten signature in blue ink, appearing to read "Michael Patton".

MICHAEL PATTON
Construction Services Manager

Enclosures

:mp

L:\Hickory\Projects\2015 PROJECTS\15.01103 CITY OF LENOIR - DWSRF WTP Improvements\04_Construction
Phase\ChangeOrders\Change Order 3 - Final Adjusting CO\FinalAdjCO Cvr Ltr.docx

Change Order No. 03-Final

Date of Issuance: March 28, 2019	Effective Date: March 28, 2019
Owner: City of Lenoir	Owner's Contract No.: WIF-1875
Contractor: Frizzell Construction Company, Inc.	Contractor's Project No.:
Engineer: McGill Associates, P.A.	Engineer's Project No.: 15.01103
Project: Lenoir WTP Improvements	Contract Name:

The Contract is modified as follows upon execution of this Change Order:

Description: Adjustment of the Contract Price in order to deduct project work items

Attachments: Change Order Summary, with Contractor's change order request documentation

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES [note changes in Milestones if applicable]
Original Contract Price: \$ 4,415,000.00	Original Contract Times: Substantial Completion: 480 Ready for Final Payment: 510 days or dates
{Increase} [Decrease] from previously approved Change Orders No. <u>1</u> to No. <u>2</u> : \$ 31,299.86 (Cumulative decrease from original contract amount)	[Increase] {Decrease} from previously approved Change Orders No. <u>1</u> to No. <u>2</u> : Substantial Completion: 63 Ready for Final Payment: 63 days
Contract Price prior to this Change Order: \$ 4,383,700.14	Contract Times prior to this Change Order: Substantial Completion: 543 Ready for Final Payment: 573 days or dates
{Increase} [Decrease] of this Change Order: \$ 82,280.15	[Increase] [Decrease] of this Change Order: Substantial Completion: N/A Ready for Final Payment: N/A days or dates
Contract Price incorporating this Change Order: \$ 4,301,419.99	Contract Times with all approved Change Orders: Substantial Completion: 543 Ready for Final Payment: 573 days or dates

RECOMMENDED:		ACCEPTED:		ACCEPTED:	
By: _____	By: _____	By: _____	By: _____	By: _____	By: _____
Engineer (if required)	Owner (Authorized Signature)	Contractor (Authorized Signature)			
Title: _____	Title: _____	Title: _____			
Date: _____	Date: _____	Date: _____			

Approved by Funding Agency (if applicable)

By: _____ Date: _____
 Title: _____



CHANGE ORDER SUMMARY
City of Lenoir, North Carolina
Frizzell Construction Co.
15.01103 WIF-1875

APPROVED CHANGE ORDER SUMMARY

CO #	Description	Date Approved	# Days	Amounts
1	Upgraded Bfly Vlv Flg's, Hollow Shft, Quazite Box	11/14/2017	5	\$ 12,666.42
2	Various CO Items	7/25/2018	58	\$ (43,966.28)
PREVIOUSLY APPROVED CHANGE ORDER TOTAL			63	\$ (31,299.86)

CHANGE ORDER NO. 3 - PROPOSED CHANGE ORDER DETAILS

CONTRACT AMOUNT REVISIONS				
CO #3	Description	Date Submitted	# Days	Amounts
3-Final	Additional I/O Card for relays to stop 4 flocculators, 2 mixers, 3 raw water pumps	8/23/2018		2,855.00
3-Final	Blower Line Reactor	10/4/2018		1,071.00
3-Final	Chain Link Fence & Gates			(5,000.00)
3-Final	Allowance - Concrete Repairs to Filters			(75,000.00)
3-Final	Laboratory Equipment Allowance Remaining Amount			(4,706.15)
3-Final	Project Plaque			(1,500.00)
Change Order Total			0	\$ (82,280.15)

ADJUSTED CONTRACT AMOUNT	
Original Contract Amount	\$ 4,415,000.00
Executed CO No.1 - Adjusted Contract Amount	\$ 4,427,666.42
Executed CO No.2 - Adjusted Contract Amount	\$ 4,383,700.14
Current Change Order Contract Adjustment	\$ (82,280.15)
Contract Amount Incorporating Final Adjusting Change Order	\$ 4,301,419.99

**2019 Local Government Agencies
General Records Retention and Disposition Schedule**

The records retention and disposition schedule and retention periods governing the records series listed herein are hereby approved. In accordance with the provisions of Chapters 121 and 132 of the *General Statutes of North Carolina*, it is agreed that the records do not and will not have further use or value for official business, research, or reference purposes after the respective retention periods specified herein and are authorized to be destroyed or otherwise disposed of by the agency or official having custody of them without further reference to or approval of either party to this agreement. The local government agency agrees to comply with 07 NCAC 04M .0510 when deciding on a method of destruction. Confidential records will be destroyed in such a manner that the records cannot be practicably read or reconstructed. However, records subject to audit or those legally required for ongoing official proceedings must be retained until released from such audits or official proceedings, notwithstanding the instructions of this schedule. *Public records, including electronic records, not listed in this schedule are not authorized to be destroyed.*

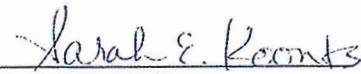
All local government agencies and the Department of Natural and Cultural Resources agree that certain records series possess only brief administrative, fiscal, legal, research, and reference value. These records series have been designated by retention periods that allow these records to be destroyed when "reference value ends." All local government agencies hereby agree that they will establish and enforce internal policies setting minimum retention periods for the records that Natural and Cultural Resources has scheduled with the disposition instruction "destroy when reference value ends." If a local government agency does not establish internal policies and retention periods, the local government agency is not complying with the provisions of this retention schedule and is not authorized by the Department of Natural and Cultural Resources to destroy the records with the disposition instruction "destroy when reference value ends."

All local government agencies and the Department of Natural and Cultural Resources concur that the long-term and/or permanent preservation of electronic records requires additional commitment and active management by the agency. Agencies agree to comply with all policies, standards, and best practices published by the Department of Natural and Cultural Resources regarding the creation and management of electronic records.

It is further agreed that these records may not be destroyed prior to the time periods stated; however, for sufficient reason they may be retained for longer periods. This schedule supersedes the general standards in all previous local government retention and disposition schedules and is to remain in effect from the date of approval until it is reviewed and updated.

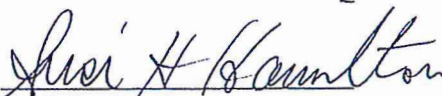
APPROVAL RECOMMENDED

Municipal/County Clerk or Manager
Title: _____


Sarah E. Koonts, Director
Division of Archives and Records

APPROVED

Head of Governing Body
Title: _____


Susi H. Hamilton, Secretary
Department of Natural and Cultural
Resources

Municipality/County: _____

FINDINGS

No Conditional Use Permit shall be approved unless the Planning Board and City Council find that:

1. The proposed conditional use will comply with all height, yard, lot and area requirements and other regulations of the district in which it is located unless otherwise specified. *The project site is currently split zoned (R-9 and B-2). The proposed development complies with all height, yard, and area requirements of the R-9 and B-2 zoning districts. It will also comply with the design standards of the B-2 zoning district.*
2. All driveways will be designed with respect to such matters as proper ingress and egress for automobiles in order to minimize traffic congestion and increase pedestrian safety and conveniences. *To reduce traffic on Lower Creek Drive and to have a second access point the proposed plans show the development of a second driveway along an existing 50' easement that travels south of the property through 509 Wilkesboro Blvd (Community One Bank) to provide ingress/egress on Wilkesboro Blvd. ITE trip generation rates for low-rise apartments project low traffic generation rates, especially for peak hour traffic. Sidewalks will be installed along Lower Creek Drive, which ultimately will connect to the City's overall sidewalk system, as Lower Creek Drive is listed as a priority corridor for pedestrian connections in Lenoir's Pedestrian Plan. There will also be internal pedestrian access between the apartment buildings and parking areas, as well as property recreation areas.*
3. Off-street parking and loading areas will be provided in compliance with the Zoning Ordinance. *Two parking spaces per dwelling unit are required by the zoning ordinance. For the proposed 68 unit complex, 136 parking spaces are provided.*
4. The establishment of the conditional use will not hinder the normal and orderly development and improvement of surrounding property for uses already permitted in the district. *Multi-family uses make good transitional uses between lower density residential areas and more intense commercial districts. The establishment of a multi-family use on this site will not hinder the surrounding B-2 properties from developing as either commercial or multi-family residential, nor will it hinder the improvement of other underutilized residential parcels for infill housing development (both detached and attached/multi-family).*
5. Any required screening and landscaping will be designed or planted with full consideration of the effectiveness of individual plant types, dimensions, and characteristics in minimizing the noise, glare, visual impacts and other economic effects on adjoining properties. *Where the subject property shares a boundary with single-family homes, a 20 foot vegetative buffer consisting of a combination of evergreen and deciduous trees is required to be installed in accordance with the standards in §712.8 of the zoning ordinance. Street trees and landscaped planting areas within the parking lots must meet the requirements of §1002. All trees and shrubs must be selected from §714.22, List of Approved Trees and Shrubs.*
6. Any permitted signs and proposed exterior lighting will be designed to reduce glare and to mitigate any adverse effects of sign size and height; so as to make the signs aesthetically pleasing and compatible with adjoining properties. *The applicant proposes one monument sign. All signage will meet the standards of the sign ordinance. As a condition of approval, all exterior lighting will be designed to reduce glare and light pollution on neighboring properties, and signage will have external illumination only.*
7. The exterior architectural appearance and functional plan of any proposed building or structure will not vary greatly from any buildings or structures already construction or in the course of construction in the immediate vicinity or from the character of the applicable district, so as to cause a substantial depreciation in the property values of the immediate vicinity. *The applicant is proposing 4 apartment buildings and one community building. Façade materials include brick veneer, fiber cement board trim, vinyl lap siding, and vinyl shakes. Two of the apartment buildings are split-level, which reduce visibility impacts on Lower Creek Drive and create a greater transition to the predominately single-story residential development surrounding the subject property. As a condition of approval, the architectural standards for the B-2 zoning district will be met throughout the site to ensure this criterion is satisfied.*
8. The type, size, hours of operations, location of the use upon the site, and intensity of the proposed conditional use will not be harmful or annoying to surrounding properties. *Great effort was made in the site planning and building designs to develop a*

plan that was sensitive to the context of the neighborhood and the natural lay of the land. The site plan is designed so that three-story buildings are located on the lower elevations of the site, closer to commercial neighbors, with the relative height of such structures all but hidden by creatively placing split-level designed buildings in front of them, facing Lower Creek Drive. Parking areas are largely screened by buildings, which also helps block light and noise from such areas. While at 68 units the proposed complex will be one of the most dense projects in the immediate vicinity, the intensity is camouflaged by creative site planning. Estimates on school and traffic impacts presented in the staff analysis show that this project will not have impacts that significantly exceed those of a typical single family development that could also be built out on the site today by right.

STAFF RECOMMENDATIONS

Staff recommends approval of the requested Conditional Use Permit, with the following conditions:

1. The development shall substantially comply with the site plan on page 8 of the staff report, inclusive of staff's additional notes and clarifications. The maximum number of units shall be 68.
2. An 8-ft wide sidewalk is required along Lower Creek Drive, as shown on the submitted site plan. A pedestrian connection must be provided from the sidewalks along Lower Creek Drive to the internal pedestrian network.
3. The smaller parcel (NCPIN 2759488577) will be recombined with the larger tract (NCPIN 2759488961), in compliance with City of Lenoir zoning and subdivision regulations, prior to permitting.
4. The vegetative buffer will be a minimum of 20' wide along the northwestern side property lines where adjacent to single-family residential properties.
5. The architectural standards for articulation through the provision of architectural features as well as the standards for materials and parking lot landscaping found in Section 714 of the Zoning Ordinance shall apply to the entire site, not just the B-2 zoned portions. Primary facades shall be any façade that is visible from Lower Creek Drive or adjacent residential properties.
6. Dumpsters shall be screened on all sides with dumpster enclosures finished to match the principal buildings.
7. All lighting shall be fully cut-off and shielded so as to eliminate/minimize light spill-over onto adjacent residential properties.
8. Signage on Lower Creek Drive shall use exterior illumination only (no internal illumination). Exterior lighting shall be directed at the sign face and be fully shielded to prevent light spill-over onto neighboring residential properties.
9. Valid permits must be obtained for this project and all construction must meet the requirements of the City of Lenoir Code of Ordinances, the North Carolina State Building Code, the North Carolina State Fire Code, and any other federal, state, or local regulation that applies.
10. If a building permit has not been issued within 24 months of the adoption of the Conditional Use Permit, the approval shall be considered null and void.

PLANNING BOARD RECOMMENDATIONS

Planning Board recommends approval of the Conditional Use Permit, with conditions listed by staff and the following:

11. The City of Lenoir Planning, Public Works, and Police Departments' staff will evaluate the location of the Lower Creek driveway entrance to maximize safety for the apartment complex and the existing driveways nearby. *NOTE: This has been done, and City of Lenoir staff supports the proposed driveway location in it's current configuration.*