

**LENOIR CITY COUNCIL
TUESDAY, OCTOBER 15, 2019
6:00 P.M.**

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

ABSENT: Councilmember Ralph Prestwood and Ben Willis.

I. CALL TO ORDER

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

II. MATTERS SCHEDULED FOR PUBLIC HEARINGS

**AMENDMENT; APPENDIX A, ARTICLE IV,
SECTION 611, ADULT GAMING
ESTABLISHMENTS:**

- A. A public hearing was held to consider amending Appendix A, Article IV, Section 611, Performance Standards for Adult Gaming Establishments of the adopted Ordinance as Related to Adult Gaming Establishments, Providing for Codification and an Effective Date. The purpose of this amendment is to re-insert lost text that was inadvertently deleted and related to the location standards for Adult Gaming Establishments when City Council adopted a major overhaul to the zoning district and use standards for the City of Lenoir in March 2019.

A copy of the proposed ordinance is hereby incorporated into these minutes by reference. (Refer to pages 504-505).

Mayor Gibbons opened the public hearing to receive public comments regarding the proposed amendment.

Planning Director Jenny Wheelock informed Council that fifteen (15) words were inadvertently omitted from the code and Staff is requesting approval of the proposed ordinance to correct this error.

There being no further public participation, Mayor Gibbons closed the public hearing and asked Council for action.

Upon a motion by Councilmember Stevens, Council voted 5 to 0 to adopt the Ordinance amending Appendix A, Article IV, Section 611 of the Code of Ordinances; Zoning Regulations as related to Adult Gaming Establishments as described above and as recommended by City Staff.

**CONTIGUOUS ANNEXATION PETITION;
1336 CONNELLY SPRINGS ROAD SW:**

- B. A public hearing was held to consider a Contiguous Annexation Petition for the entirety of property located at 1336 Connelly Springs Road SW and approval of an Ordinance to Extend the Corporate Limits of the City of Lenoir, North Carolina, to include the entire Callie Knight Brown property located at 1336 Connelly Springs Road SW as Recorded in Plat Book 303, Page 307 in the Caldwell County Registry. The front acre of the parcel is currently inside the City limits and the back 4.6 acres are in the Extra Territorial Jurisdiction (ETJ) area.

A copy of the Annexation Ordinance to Extend, legal description and map are hereby incorporated into these minutes by reference. (Refer to pages 506-509).

Mayor Gibbons opened the public hearing to receive public comments regarding the proposed annexation ordinance.

Planning Director Jenny Wheelock stated the effective date of the proposed ordinance is October 31, 2019. Director Wheelock further stated the property has two different zonings, but following approval of the rezoning request, all of the acreage will be zoned as B-2 (General Business) which allows for more intense development.

There being no further public participation, Mayor Gibbons closed the public hearing and asked Council for action.

Councilmember Perdue stated this request fits the consistency of the City's Comprehensive Plan and due to no opposition, he moved to approve the proposed Annexation Ordinance as presented.

Upon the motion by Councilmember Perdue, Council voted 5 to 0 to adopt the proposed Annexation Ordinance and map as submitted and as recommended by City Staff.

**REZONING; OLD MORGANTON ROAD
AND BRUSHY PLACE:**

- C. A public hearing was held to consider rezoning the portion of 1336 Connelly Springs Road SW, NCPIN#2748823036, currently in the Extra Territorial Jurisdiction (ETJ) from R-R (Low Density Single Family) to B-2 (General Business). Staff recommends approval based on the following Consistency Statement:

The proposed zoning map amendment is consistent with the adopted Comprehensive Plan because it provides an opportunity to correct a split zoned parcel and facilitates straightforward zoning standards. The proposed amendment is reasonable and in the public interest because it will allow for commercial redevelopment in areas close to major transportation corridors.

Mayor Gibbons opened the public hearing to receive public comments regarding the rezoning request.

A copy of the Staff Report is hereby incorporated into these minutes by reference. (Refer to pages 510-515).

Planning Director Jenny Wheelock stated the effective date of the proposed rezoning request is October 31, 2019.

There being no further public participation, Mayor Gibbons closed the public hearing and asked Council for action.

Upon a motion by Councilmember Thomas, Council voted 5 to 0 to approve the rezoning request for the portion of 1336 Connelly Springs Road SW, NCPIN#2748823036 currently in the Extra Territorial Jurisdiction (ETJ) from R-R (Low Density Single Family) to B-2 (General Business) and the Consistency Statement as requested by City Staff.

**REZONING; OLD MORGANTON ROAD AND
BRUSHY PLACE:**

- D. A public hearing was held to consider rezoning property located on the Old Morganton Road and Brushy Place NCPIN#27386774351, NCPIN#2738650432 and 26 acres of NCPIN#2738679061 from R-12 and R-15 (Medium and Low Density Single Family) to R-20 (Low Density Single Family). The purpose of this rezoning is to facilitate a Conditional Use Permit (CUP) for agricultural uses. Staff recommends approval based on the following Consistency Statement:

All decisions of the Planning Board and City Council should be based on the consistency of the proposal with the comprehensive plan and any other officially adopted plan that is applicable. While the comprehensive plan does not specifically discuss agriculture in the City; there is a guideline to adopt sensible, straightforward zoning standards and procedures easily understood by the general public. There is also an environmentally-conscious theme throughout the plan for any new and existing development through protecting riparian areas and adding BMPs (Best Management Practices for water quality) when possible. The proposed development meets these guidelines by correcting a zoning map error, as well as creating a functional BMP that helps to improve water quality in Lower Creek.

Mayor Gibbons opened the public hearing to receive public comments regarding the rezoning request.

Planning Director Wheelock stated the proposed R-20 (Low Density Single Family) zoning request is a more appropriate use of the land and will also make the zoning more consistent.

Roger Coffey, applicant, 5610 Valley View Circle, Lenoir, North Carolina,

stated he has been farming this land for a number of years. He reported the North Carolina Soil and Water Conservation contacted him about installing a chemical mixing facility to help address the current water quality issues occurring within the Lower Creek stream. Mr. Coffey stated individuals from the Soil and Water Conservation informed him they were applying for a grant and they would assist with the cost of this project upon approval. Mr. Coffey also shared he was unaware that he should have contacted the City about applying for a permit as the County did not make him aware of this fact. Mr. Coffey explained that he uses this facility to mix the chemicals at night because his goal is to create a cleaner facility and to help make the stream water more clear.

There being no further public participation, Mayor Gibbons closed the public hearing and asked Council for action.

Upon a motion by Councilmember Beal, Council voted 5 to 0 to rezone the property located on the Old Morganton Road and Brushy Place NCPIN#27386774351, NCPIN#2738650432 and 26 acres of NCPIN#2738679061 from R-12 and R-15 (Medium and Low Density Single Family) to R-20 (Low Density Single Family) as requested by City Staff and Council also approved the Consistency Statement as presented.

**CONTITIONAL USE PERMIT; OLD MORGANTON
ROAD AND BRUSHY PLACE:**

- E. A Quasi- Judicial public hearing was held to consider a Conditional Use Permit for property located on Old Morganton Road and Brushy Place as submitted by Roger and Deborah Coffey for the expansion of the established agriculture use and construction of a 18' x 24' Agrichemical Handling Facility and tree farm, with the following conditions:
- 1) The Conditional Use Permit is for a tree and shrub farm agriculture use and associated activities. Animals are not permitted, except in accordance with the standards of Chapter 3 of the Lenoir Code of Ordinances.
 - 2) If the agriculture use or agrichemical facility has not been established within 24 months of the adoption of the Conditional Use Permit, the approval shall be considered null and void.
 - 3) A 30' setback will be required along the street side property lines and property lines adjacent to single family residential properties.
 - 4) All development standards of the R-20 and I-1 districts shall apply to new buildings and uses within the respective areas of each zone on this property.
 - 5) All lighting shall be fully cut-off and shielded so as to eliminate/minimize light spill-over onto adjacent residential properties.

Mayor Gibbons asked City Attorney Rohr to review the criteria for a quasi-judicial public hearing.

Attorney Rohr explained that City Council makes legislative decisions, but during a quasi- judicial public hearing, Council sits as a judge and

receives sworn evidence. He stated that if an applicant has met all of the standards for a conditional use permit, they are entitled to receive it.

Attorney Rohr also instructed Council that it is inappropriate for any Council member to form a prior opinion, have any financial interest in the project, visit the site, talk with an applicant or have a close relationship with them. If so, he stated that Council should disclose that fact prior to the public hearing.

Councilmember Jonathan Beal disclosed that he knew the applicants with Attorney Rohr stating that was fine.

Attorney Rohr further shared if a citizen opposes a conditional use permit, Council would need to have someone with training and experience address the matter with the individual during the public hearing. He explained that Caldwell County has their County Attorney handle these types of disputes during their Commissioners meetings. Attorney Rohr suggested City Council consider having him advise them during any future contested hearings as to whether the evidence submitted is permissible or not. It was the consensus of the City Council to allow Mr. Rohr to preside over any future contested hearings.

Mayor Gibbons opened the public hearing to receive public comments regarding the conditional use permit.

Planning Director Wheelock and Roger Coffey were sworn in by the City Clerk.

Director Wheelock submitted the Staff Report for the official record and clarified the facility was already constructed when Staff became aware of it. Director Wheelock stated the Staff Report also includes the Findings of Fact report as listed on page 4 and 5 of the report.

A signed copy of the Conditional Zoning Permit and a copy of the Staff Report are hereby incorporated into these minutes by reference. (Refer to pages 516-531).

Director Wheelock reiterated the chemicals mixed in the facility would be captured before entering into the stream and stated that Staff was trying to be proactive to assist with this situation.

Councilmember Perdue asked whether the purpose of Condition No. 2 is for both an agriculture use or an agrichemical facility with Attorney Rohr responding the intent is to allow for both.

Director Wheelock reiterated Mr. Coffey was informed by Caldwell County that he didn't need a permit due to the property already being used as farm land.

Mr. Coffey restated he has been farming his land since the 1980's. He emphasized he mixes his sprays at night because there is less drift and it requires

less chemicals. Mr. Coffey stated he is restricted more than any grain farmer and all of the materials he uses have to be labeled for horticulture use because it is better for the environment. He remarked the Lower Creek stream is the only stream in the area with protections. Mr. Coffey thanked City Council for their time.

There being no further public participation, Mayor Gibbons closed the public hearing and asked Council for action.

City Attorney Rohr advised Council they should include approval of the Findings of Fact report in their motion as well should this permit ever be contested because a Judge would need to make a determination on what facts Council's approval was based upon.

Upon a motion by Councilmember Perdue, Council voted 5 to 0 to approve the Conditional Use Permit and the five listed conditions along with the Staff Report which includes the Findings of Fact report on page 4 as recommended by City Staff.

RESIDENTIAL PARKING CODE AMENDMENT:

- F. A public hearing was held to consider approval of an Ordinance Amending Appendix A, Section 1000.9 of the Lenoir Zoning Code, related to parking regulations for multi-family residential uses in the City of Lenoir.

A copy of the amendment and comparison chart of multi-family parking requirements are hereby incorporated into these minutes by reference. (Refer to pages 532-536).

Mayor Gibbons opened the public hearing to receive public comments regarding the proposed parking code amendment.

Planning Director Wheelock stated the proposed amendment is the last one in a series to try and make the regulations easier for infill development. She stated the parking code was not changed during the zoning overhaul in March 2019. Director Wheelock explained the current ordinance requires 2 spaces per dwelling unit for multi-family uses, regardless of the number of bedrooms. The proposed amendment changes the parking requirements to be more sensitive to the actual parking demands of a proposed development, with less parking required for studios and 1-bedroom apartments than those with more bedrooms.

Director Wheelock further explained the amendment represents a reduction in parking requirements for multi-family uses, reducing construction costs and impervious surface impacts of parking for multi-family projects while ensuring that sufficient parking is constructed for each project. She also stated a comparison chart of parking requirements that are in place for surrounding communities was included in the agenda packet as information.

Councilmember Beal remarked that some people may have more vehicles and asked whether this amendment may create traffic situations where individuals are parking vehicles on the street.

Director Wheelock stated the amendment allows apartment managers more flexibility to assign parking spaces and guest parking spaces and remarked this is a fairly moderate proposal. She further shared the amendment allows for bike/motorcycle parking as part of the City's Bike Plan, but pointed out the ordinance does not provide for all motorcycle parking. Director Wheelock stated parking lots are under-utilized in general and commented the proposed ordinance is in line with the City's philosophy regarding parking.

Director Wheelock also reminded Council they could always add another condition to the conditional use permit if it was related to Staff's findings of fact report.

There being no further public participation, Mayor Gibbons closed the public hearing and asked Council for action.

Upon a motion by Councilmember Perdue, Council vote 5 to 0 approve the Ordinance Amending Appendix A, Section 1000.9 of the Lenoir Zoning Code, related to parking regulations for multi-family residential uses in the City of Lenoir as requested by City Staff.

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, October 1, 2019, as submitted.
2. Minutes: Approval of the closed session minutes of Tuesday, October 1, 2019 as reviewed by the City Attorney, City Council and City Manager.

Upon a motion by Councilmember Thomas, Council voted 5 to 0 to approve the above listed items on the Consent Agenda 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

SMOKING IN THE FOOTHILLS**BARBEQUE FESTIVAL:**

1. The Smoking in the Foothills Barbeque Festival will be held on Friday, October 18 from 5:00 p.m. – 10:30 p.m. and on Saturday, October 19 from 10:00 a.m. – 10:30 p.m. in downtown Lenoir.

COMMITTEE OF THE**WHOLE:**

2. The Committee of the Whole will meet on Tuesday, October 22 at 8:30 a.m. at City Hall, Third Floor.

PLANNING BOARD:

3. The Planning Board will meet on Monday, October 28 at 5:30 p.m.

FOOTHILLS REGIONAL**AIRPORT:**

4. The Foothills Regional Airport Authority will meet on Wednesday, October 30 at noon.

PUMPKIN PATCH**PARADE:**

5. The annual Pumpkin Patch Parade will be held on Thursday, October 31 from 3:00 p.m. – 6:00 p.m. in downtown Lenoir.

HALLOWEEN CARNIVAL:

6. The annual Halloween Carnival will be held on Thursday, October 31 from 6:00 p.m. – 8:30 p.m. at the Martin Luther King, Jr. Center.

MEETING CANCELLATION:

7. The City Council meeting for Tuesday, November 5 has been cancelled due to Election Day. City Council will conduct one meeting in November on Tuesday, November 12 at 6:00 p.m. in the City/County Chambers.

ANNUAL LIGHT-UP LENOIR**EVENT:**

8. The annual Light Up Lenoir event is scheduled for Thursday, November 21 from 4:00 p.m. – 6:00 p.m. in downtown Lenoir.

ANNUAL LIGHT**SHOW:**

9. The annual Light Show begins on Thursday, November 21 through Wednesday, January 1 from 6:00 p.m. – 10:00 p.m. in downtown Lenoir.

CALDWELL ROTARY CLUB**CHRISTMAS FESTIVAL:**

10. The annual Caldwell Rotary Club Christmas Festival will be held on Saturday, November 23 from 10:00 a.m. – 4:00 p.m. in downtown Lenoir.

ANNUAL COMMUNITY TURKEY**TUESDAY:**

11. The sixth annual Community Turkey Tuesday will be held on Tuesday, November 26 from 8:00 a.m. – 5:00 p.m. at the Martin Luther King, Jr. Center.

B. ITEMS FOR COUNCIL ACTION

BID AWARD; BIOSOLIDS

PROJECT: 1. Bids were received on Thursday, October 3 for the Lower Creek Wastewater Treatment Plant Biosolids Improvements Project. Staff recommends approval of the proposed Resolution to award the project to Brushy Mountain Builders in the amount of \$4,259,000.00 contingent upon approval of the N.C. Division of Environmental Quality, Division of Water Infrastructure.

Staff further recommends that the City establish a construction contingency of 4.5% (\$192,000.00) of the construction amount due to the unknowns that could exist within a facility of this type and age. In addition, Staff recommends Council grant the City Manager authority to execute necessary change orders associated with the project (within the established project contingency) and report those changes to City Council.

A copy of the resolution and bid tab is hereby incorporated into these minutes by reference. (Refer to pages 537-538).

Councilmember Todd Perdue asked Council to recuse him from voting due to a conflict.

First Motion

Upon a motion by Councilmember Stevens, Council voted 4 to 0 to recuse Councilmember Perdue from voting on this request.

Second Motion

Upon a motion by Councilmember Stevens, Council voted 4 to 0 to award the low bid to Brushy Mountain Builders in the amount of \$4,259,000.00 contingent upon approval of the N.C. Division of Environmental Quality, Division of Water Infrastructure and authorized the City to establish a construction contingency of 4.5% (\$192,000.00). Council further authorized the City Manager to execute necessary change orders associated with the project (within the established project contingency) and report those changes to City Council.

REQUEST FOR ADDITIONAL FUNDS; BIOSOLIDS PROJECT:

2. The low bid combined with other project costs were in excess of \$7.0 million and the approved State Revolving Fund Program (SRP) loan amount of \$6,600,000.00. Staff, in conjunction with McGill Associates, has utilized cost reducing alternatives to lower the total project cost to \$6,995,000.00. The City also received notification that a request for an additional \$395,000.00 of loan funding at 1.53% interest from the SRP Loan Program has been approved.

Staff recommended approval of the request for additional loan funds in the amount of \$395,000.00 by resolution and to authorize the City Manager to execute the loan documents related to the additional funds request.

City Manager Hildebran stated officials with the state were in approval of the funding

increase due to the amount being less than 5% of the projected project cost.

A copy of the resolution, letter requesting additional funding, and the project cost summary is hereby incorporated into these minutes by reference. (Refer to pages 539-541).

Upon a motion by Councilmember Perkins, Council voted 5 to 0 to approve the request for additional loan funds in the amount of \$395,000.00 and authorized the City Manager to execute the loan documents related to the additional funds request as recommended.

BID AWARD; RESTROOMS AT OPTIMIST PARK:

3. Bids were received on Monday, September 30 for the Restroom Project at Optimist Park. Staff recommends Council award the low bid in the amount of \$31,250.00 to Seagle's Electrical Services, Inc. for the construction of two new restrooms at Optimist Park.

A copy of the bid tab is hereby incorporated into these minutes by reference. (Refer to page 542).

Upon a motion by Councilmember Thomas, Council voted 5 to 0 to award the low bid of \$31,250.00 to Seagle's Electrical Services, Inc. for the construction of two new restrooms at Optimist Park as recommended by City Staff.

2019 ROOF RELACEMENTS CONTRACT; CITY FACILITIES:

4. Following review of bids received for this contract, Staff recommends Council award the low bid of \$158,000.00 to Barger Ashe Roofing Company for roof replacements at four (4) City facilities. The locations include the Public Works and Public Utilities Facility, Water Treatment Plant, Fire Station No. 2 and the Police Department.

A copy of the bid tab is hereby incorporated into these minutes by reference. (Refer to page 543).

Upon a motion by Councilmember Stevens, Council voted 5 to 0 to award the low bid of \$158,000.00 to Barger-Ashe Roofing Company for roof replacements at four (4) City facilities include the Public Works and Public Utilities Facility, Water Treatment Plant, Fire Station No. 2 and the Police Department as recommended by City Staff.

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 6:53 p.m.

Shirley M. Cannon, City Clerk

Joseph L. Gibbons, Mayor

**AN ORDINANCE OF THE CITY COUNCIL OF LENOIR,
NORTH CAROLINA, AMENDING APPENDIX A OF THE
LENOIR CITY CODE RELATED TO ADULT GAMING
ESTABLISHMENTS, PROVIDING FOR CODIFICATION, AND
AN EFFECTIVE DATE.**

Whereas, the City adopted standards in 2017 related to the location and performance standards for adult gaming establishments; and

Whereas, separation distances were established in order to mitigate negative secondary impacts related to these uses; and

Whereas, the City adopted a major overall to the zoning district standards in March of 2019, which re-arranged some code sections related to use regulations, including adult gaming establishments, and in doing so inadvertently omitted a previously adopted provision related to the separation of adult gaming establishments from each other, as well as from other land uses like ABC stores and treatment and recovery facilities; and

Whereas, the Lenoir Planning Board and the Lenoir City Council desire to retain the regulations on adult gaming uses as they were originally adopted; and

Whereas, the Lenoir Planning Board finds and declares that this ordinance consistent with the City's adopted Comprehensive Plan, which calls for the adoption of sensible, straightforward zoning standards and procedures that are easily understood by developers and the general public; and

Whereas, the Lenoir City Council hereby finds and declares that this ordinance and these amendments are in the best interest of the public health, safety, and welfare; and

NOW, THEREFORE, LET IT BE ENACTED BY THE CITY COUNCIL OF THE CITY OF LENOIR, NORTH CAROLINA, AS FOLLOWS:

SECTION 1. Appendix A, Article IV, Section 611 of the Code of Ordinances, City of Lenoir, North Carolina, "Performance Standards for Adult Gaming Establishments" is hereby amended to read as follows:

Section 611 Performance Standards for Adult Gaming Establishments

1. Adult Gaming Establishments must be located at least 350 ft. away from any residential zoning district, measured from the edge of the residential district to the closest door of the adult gaming establishment open to the public in a straight line.

2. Adult Gaming Establishments must be located at least 1,000 ft. away from any school, youth day care, church, park, or playground, measured from the property line of the protected use to the closest door open to the public of the adult gaming establishment in a straight line.
3. Adult Gaming Establishments must be located at least 1,000 ft. away from any other Adult Gaming Establishment, Adult Use, Liquor (ABC) Store, or Addiction Treatment and Recovery Facility, measured from door to door in a straight line.
4. Alcohol Sales are prohibited.
5. Hours of operation are limited to the hours between 11 a.m. and 12:00 midnight.
6. Adult Gaming Establishments are limited to 1,500 sq. ft. of floor area dedicated to gaming operations and must provide 1 parking space for every 150 sq. ft. of floor area.
7. A zoning permit issued by the Planning and Community Development department is required prior to the establishment of any Adult Gaming Establishment within the City.

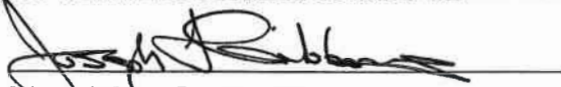
SECTION 2. CODIFICATION. The City Clerk shall cause the Code of Ordinances of Lenoir, North Carolina to be amended as provided by this ordinance and may renumber, re-letter, and rearrange the codified parts of this ordinance if necessary to facilitate the finding of the law.

SECTION 3. EFFECTIVE DATE. This ordinance takes effect upon adoption.

DONE, THE PUBLIC NOTICE, in a newspaper of general circulation in the City of Lenoir, North Carolina, by the City Clerk of the City of Lenoir, North Carolina, this 4th day of October, and this 11th day of October 2019.

DONE, THE PUBLIC HEARING, AND ENACTED ON FINAL PASSAGE, by an affirmative vote of the a majority of a quorum present of the City Council of the City of Lenoir, North Carolina, at a regular meeting, this 15th day of October, 2019.

BY THE MAYOR/MAYOR PRO TEMPORE OF THE CITY OF LENOIR, NORTH CAROLINA:


Mayor/Mayor Pro Tempore

ATTEST, BY THE CLERK OF THE CITY COUNCIL OF THE CITY OF LENOIR, NORTH CAROLINA:


City Clerk

BK 1974 PG 1787 - 1789 (3)

This document presented and filed:
10/31/2019 12:30:17 PM

Fee \$26.00



Caldwell County North Carolina
Wayne L. Rash, Register of Deeds

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF LENOIR, NORTH CAROLINA TO INCLUDE THE ENTIRE CALLIE KNIGHT BROWN PROPERTY LOCATED AT 1336 CONNELLY SPRINGS ROAD, AS RECORDED IN PLAT BOOK 35 , PAGE 26 IN THE CALDWELL COUNTY REGISTRY.

WHEREAS, the Lenoir City Council has been petitioned under NCGS 160A-31, as amended, to annex the area described herein; and

WHEREAS, the Lenoir City Council has by resolution directed the City Clerk to investigate the sufficiency of said petition, **A#1-19**; and

WHEREAS, the City Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation was held on **the 15th day of October, 2019** after due notice by publication on **October 4 and October 11, 2019**; and

WHEREAS, the Lenoir City Council further finds that the area described therein meets the standards for contiguous annexation of NCGS 160A-31; and

WHEREAS, the Lenoir City Council does hereby find as a fact that said petition has been signed by all the owners of real property in the area who are required by law to sign; and

WHEREAS, the Lenoir City Council further finds that the petition is otherwise valid, and that the public health, safety and welfare of the City of Lenoir and the area proposed for annexation will be best served by annexing the area described herein;

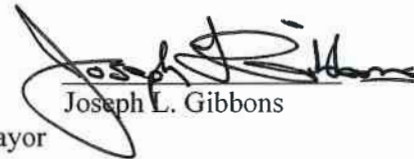
NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Lenoir, North Carolina:

Section 1. By virtue of the authority granted by NCGS 160A-58, the contiguous territory described in Exhibit "A" is hereby annexed and made part of the City of Lenoir as of the **31st day of October, 2019**.

Section 2. Upon and after the **31st day of October, 2019** the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Lenoir and shall be entitled to the same privileges and benefits as other parts of the City of Lenoir. Said territory shall be subject to municipal taxes according to NCGS 160A-31(e).

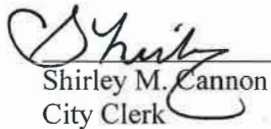
Section 3. The Mayor of the City of Lenoir shall cause to be recorded in the office of the Register of Deeds of Caldwell County, and in the office of the Secretary of State of Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 hereof, together with a duly certified copy of this ordinance.

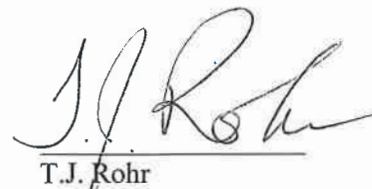
Adopted this the 15th day of October, 2019. Effective the 31st day of October, 2019.


Joseph L. Gibbons
Mayor

ATTEST:

APPROVED AS TO FORM:


Shirley M. Cannon
City Clerk


T.J. Rohr
City Attorney

CITY OF LENOIR, NC
CHARTERED
JANUARY 28, 1851

SEAL

Exhibit A

Beginning on a new $\frac{1}{2}$ " rebar set, said rebar being the northwest corner of Deed Book 1105 Page 136 and said rebar being located N $70^{\circ}00'23''$ W 203.61' for an existing 1" pipe, thence from new rebar S $31^{\circ}21'21''$ W 170.39' to a new $\frac{1}{2}$ " rebar set in the centerline of a 40' right-of-way, said rebar also being the southwest corner of Deed Book 1105 Page 136, thence with the centerline of right-of-way S $70^{\circ}02'34''$ E 203.57' to a mag nail set and continuing the same call for 31.06' to a calculated point in Connelly Springs Road, thence with said road S $31^{\circ}10'04''$ W 30.42' to a calculated point, thence S $31^{\circ}58'12''$ W 126.28' to a calculated point, thence leaving road N $87^{\circ}56'38''$ W 12.50' to a calculated point, thence S $31^{\circ}39'42''$ W 7.50' to a calculated point in the northern line of Deed Book 1866 Page 1356, thence with the northern line of said deed N $87^{\circ}10'15''$ W 22.39' to an existing $\frac{1}{2}$ " pipe, thence continuing the same call for 303.54' to an existing 1" pipe, thence with the northern line of Deed Book 998 Page 160, N $85^{\circ}57'58''$ W 61.55' to an existing $\frac{3}{4}$ " pipe, thence N $89^{\circ}02'42''$ W 194.46' to an existing $\frac{7}{8}$ " pipe, thence with the northern line of Deed Book 896 Page 754, N $86^{\circ}25'53''$ W 324.95' to an existing 1 $\frac{1}{8}$ " pipe, thence with the eastern line of Deed Book 1055 Page 1067, N $13^{\circ}19'53''$ E 318.76' to an existing 1" pipe in the centerline of a branch, thence with the centerline of said branch and the southern line of Deed Book 1931 Page 290, the following 14 calls, N $62^{\circ}39'22''$ E 11.82', S $23^{\circ}12'30''$ E 23.98', S $75^{\circ}26'05''$ E 55.68', N $84^{\circ}08'58''$ E 21.66', S $12^{\circ}01'03''$ E 32.02', S $74^{\circ}36'00''$ E 56.86', N $73^{\circ}19'19''$ E 41.16', S $60^{\circ}58'02''$ E 97.04', N $82^{\circ}00'05''$ E 12.13', N $49^{\circ}01'22''$ E 30.97', S $86^{\circ}04'12''$ E 116.13', N $39^{\circ}32'57''$ E 46.95', N $81^{\circ}47'00''$ E 13.77', S $72^{\circ}49'59''$ E 27.11', thence N $75^{\circ}17'55''$ E 267.84' to an existing 1" pipe, thence S $73^{\circ}43'48''$ E 18.79' to an existing 1" pipe, thence with the southern line of Deed Book 1262 Page 1395, S $70^{\circ}00'23''$ E 10.42' to a new $\frac{1}{2}$ " rebar the point and place of beginning containing 5.576 acres more or less according to a survey by Fox Surveying Company, P.C. entitled "Callie Knight Brown" recorded at Caldwell County Register of Deeds Book 35, Page 206.



LOCATION MAP/AERIAL PHOTOGRAPH



Subject Property ☐

Left: 1336 Connelly Springs Rd

SUMMARY

Owner

Callie Brown

Applicant

Tyra Edwards, Daughter/POA

Location

1336 Connelly Springs Rd SW

Adjacent to the ABC Store on
Connelly Springs Road

NC PIN

2748823036

Project Planner

Hannah Williams, CZO

Updated October 4, 2019

Description of Request:

The applicant requests that the City re-zone the portion of 1336 Connelly Springs Rd SW (currently in ETJ) from R-R (Low Density Single Family) to B-2 (General Business). An annexation petition has also been submitted.

Staff Recommendation:

Approval of the request, based on the consistency statement on page 6.

Planning Board Recommendation:

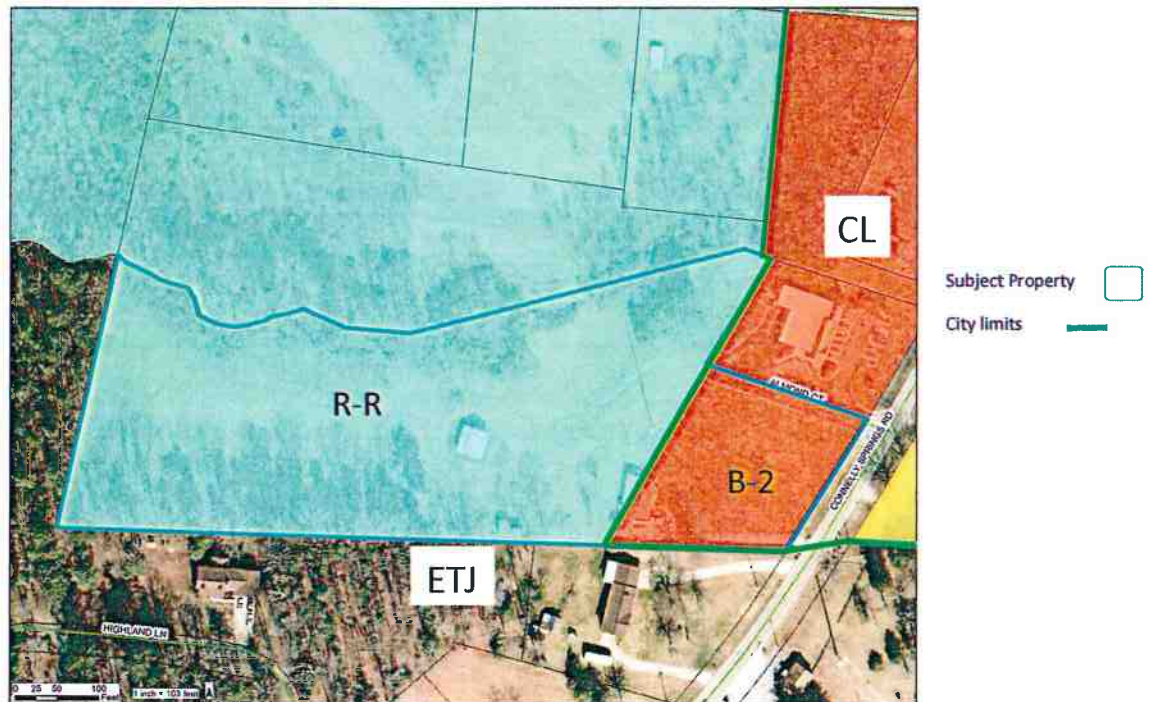
Public Comment:

Planning Board Meetings: September 23, 2019. Notices were mailed to property owners within 100 ft. of the subject property on September 13, 2019.

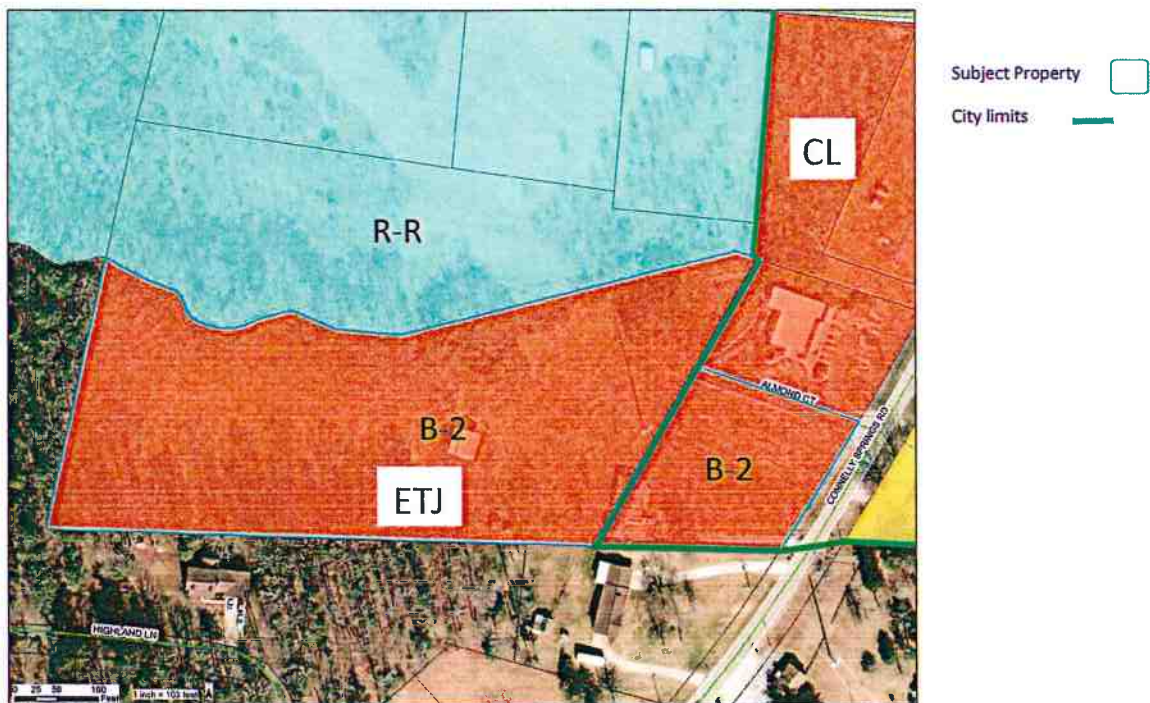
City Council (Public Hearing): Scheduled for October 15, 2019. Notices were mailed to property owners within 100 ft. of the subject property on October 15, 2019.

EXISTING AND PROPOSED ZONING MAPS

Existing Zoning: R-R



Proposed Zoning: B-2



BACKGROUND AND STAFF ANALYSIS

Zoning Map Amendments

The City of Lenoir Ordinance establishes an official zoning map/atlas for the City of Lenoir. The zoning map may be amended from time to time by the City Council when public necessity, convenience, general welfare, or good zoning practice justifies the amendment. The zoning map cannot be changed until the Planning Board reviews the request and makes a report to City Council on the proposed change and the City Council holds a public hearing to consider the request.

Intent of the Zoning Districts

The B-2 General Business zoning district is intended to provide for a wide variety of retail, service and other activities, controlled by performance standards, at locations along major transportation routes, to the motoring public both local and transient.

The R-R (Rural Residential) zoning district is intended to develop and maintain, in keeping with the existing and future land development patterns, those areas of extraterritorial jurisdiction for low density single family residences, double wide manufactured homes, and compatible uses. The regulations for this district are designed to stabilize and encourage a healthful environment for family life in areas where public or community water or public sewer may not be available. Any uses which would adversely affect or interfere with the residential character and development of these areas are excluded.

Subject and Surrounding Properties

The subject property is located on Connelly Springs Road at the southern city limits, adjacent to Cajahs Mountain. The lot is developed with a single family home and two detached outbuildings. The parcel is split zoned; about an acre in the front is zoned B-2 (General Business), and the back 4.6 acres is zoned R-R (Rural Residential). The subject property is also split by the city limits line in the same place, with the ETJ in the back acreage. There is a Duke Energy right-of-way easement on this property for overhead power lines.

This property borders the Cajahs Mountain city limits on the southern side. The zoning on the adjacent Cajahs Mountain parcel is residential and developed with a single family house. Directly across from the subject property are other single family homes. To the north are a gas station and a City of Lenoir ABC store. The subject property is .2 mi from the Southwest Boulevard and Connelly Springs Road intersection.

Consistency with the Comprehensive Plan

All decisions of the Planning Board and City Council should be based on consistency of the proposal with the comprehensive plan and any other officially adopted plan that is applicable. The subject property is already identified as "existing nonresidential" on the future land use map of the comprehensive plan, despite the current single family development. The applicant's request to rezone this property is an opportunity to correct a split zoned parcel and to make the zoning standards compatible with surrounding land use. Staff finds the proposed re-zoning to be consistent with the goals and policy concepts of the Comprehensive Plan.

Annexation

As stated, this property is partially in the city and partially in Lenoir's ETJ at this time. The rezoning request is concurrent with an annexation petition. Typically, the City does not assign B-2 zoning outside of the city limits. The more intense the land use, the better suited it is to be inside the city limits—for police and fire protection, environmental quality concerns, and compatible, well-designed development. The City also benefits through the capacity to collect full property tax revenue. We prefer not to have parcels split by zoning lines or jurisdiction, because it creates confusion for taxing, regulation, and redevelopment. This request will bring the entire parcel into the city with one consistent zoning district. The Planning Board must review the zoning for annexation requests when the applicant requests a different zoning classification than the current zoning on the parcel in the ETJ.

Comparison of Allowable Uses

Sec. 600 of the Lenoir Zoning Ordinance establishes a chart of permitted and conditional uses for each zoning district. The B-2 zoning district allows a wide range of residential, commercial, and other non-residential uses. There is some overlap with residential

STAFF ANALYSIS CONTINUED

uses allowed in the R-R district, however, the R-R district is reserved for low density single family houses and manufactured homes. The B-2 district is primarily used for non-residential uses in the city, and comes with architectural and landscape design standards for new development.

Comparison of Zoning Districts

	R-R	B-2
Development Standards	Min Lot Size - 20,000 ft ² Setbacks Front: 40' Side Yard: 15' Abutting side Street: 25' Minimum Rear Yard: 35'	Minimum Lot Size - None Setbacks Front: 10' Side Yard: 0' Abutting side Street: 0' Minimum Rear Yard: 20'
Summary of Permitted Uses	Accessory Cottage or Apartment Dwelling, Group Dwelling, Single-Family Detached	Accessory Cottage or Apartment Attached Dwellings Bed and Breakfast Dwelling, Single/Two Family/Multi-Family/Group Pool Halls Day Care Centers Community Facilities Kennels Eating and Drinking (W/ or W/O Drive-throughs) Greenhouses Hospitals Hotels Office Personal Storage Indoor Retailing Light Retailing Indoor Recreation Automotive Services Business and Personal Services Indoor Shooting Range Studios and Specialty Schools Veterinarian Warehousing **For conditional uses see Section 600, Table A in Lenoir Zoning Ordinance**

SUBJECT PROPERTY 1336 CONNELLY SPRINGS RD SW



Left: Facing subject property (B-2)

Right: Rear of subject property (R-R)

SURROUNDING AREA—CONNELLY SPRINGS RD



Above: Northern view towards Southwest Blvd

Upper Right: Southern neighbor in Cajahs Mtn

Lower Right: Across the street from subject property, facing west

STAFF RECOMMENDATION AND CONSISTENCY STATEMENT

Staff recommends that the Planning Board recommend approval of the request, based on the following consistency statement, and call for a Public Hearing for City Council to consider the request on October 15, 2019:

The proposed zoning map amendment is consistent with the adopted Comprehensive Plan because it provides an opportunity to correct a split zoned parcel and facilitates straightforward zoning standards. The proposed amendment is reasonable and in the public interest because it will allow expansion for commercial redevelopment in areas close major transportation corridors.

PLANNING BOARD RECOMMENDATION

Planning Board recommends approval of the request, based on the above consistency statement, and call for a Public Hearing for City Council to consider the request on October 15, 2019.

CONDITIONAL ZONING PERMIT #2/19

PLANNING DEPARTMENT

CITY OF LENOIR, 801 WEST AVENUE, LENOIR, NC 28645

APPLICANT: ROGER COFFEY & SONS WHOLESALE NURSERY
 OWNER: ROGER COFFEY
 SUBJECT: ORDER OF THE CITY OF LENOIR ISSUING CUP 2/19
 SITE: OLD MORGANTON RD & BRUSHY PLACE
 ZONING: R-20/I-1
 PROPOSAL: AGRICHEMICAL MIXING FACILITY AND EXISTING TREE FARM
 DATE EFFECTIVE: OCTOBER 15, 2019

The Lenoir City Council took action on October 15, 2019 to APPROVE with conditions the Conditional Use Permit (CUP # 2/19). The Conditional Use Permit is for an agrichemical mixing facility and an existing tree farm in the R-20 Single Family and I-1 Light Industrial Districts.

The Lenoir City Council having heard the evidence presented by witnesses duly sworn, considered the argument of the parties, makes the following findings of fact:

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 development will comply with all requirements of the R-20 district and I-1 district, respectively.*
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. *The applicant's site plan proposes an onsite driveway off of Brushy Place. There is an existing driveway at the dead end of Brushy Place to access the lots under cultivation. The two points of access will reduce vehicular impacts to this property.*
3. Off-street parking and loading areas will be provided in compliance with the Zoning Ordinance. *Parking and loading on this site will not be allowed in the required setbacks.*
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. *The subject property has been used as a tree farm for many years without hindrance in the surrounding neighborhood. Vehicles accessing the mixing facility will have two points of access, having minimal impacts on Brushy Place.*
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. *A landscape plan was not submitted, however, the property owner will maintain a 30' wide setback on each property line along the property lines adjacent to Old Morganton Road and Brushy Place, as well as along the property lines shared with the property at 2508 Brushy Place.*
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. *No signage is currently planned for this development, but any future signage will be regulated to meet code. Any exterior lighting will be incidental to the needs of the agricultural use, and will be designed to be fully cut-off and shielded from neighboring residential property as a condition.*
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 proposed development is setback about 100 feet from Old Morganton Road and about 200 feet from Brushy Place. There is a significant grade change, and the facility sits lower than the road. This development does not vary greatly from this low density area.*

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. *The new development on this site will not vary the intensity of the existing tree farm use.*

The Lenoir City Council grants the Conditional Use Permit with the following conditions:

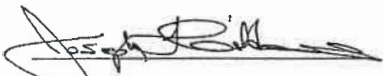
1. The Conditional Use Permit is for a tree and shrub farm agriculture use and associated activities. Animals are not permitted, except in accordance with the standards of Chapter 3 of the Lenoir Code of Ordinances.
2. If the agriculture use or agri-chemical facility has not been established within 24 months of the adoption of the Conditional Use Permit, the approval shall be considered null and void.
3. A 30' setback will be required along the street side property lines and property lines adjacent to single family residential properties.
4. All development standards of the R-20 and I-1 districts shall apply to new buildings and uses within the respective areas of each zone on this property.
5. All lighting shall be fully cut-off and shielded so as to eliminate/minimize light spill-over onto adjacent residential properties.

This Conditional Use Permit shall be effective immediately upon approval and execution. Site plan approval shall be required prior to issuance of the zoning permit.

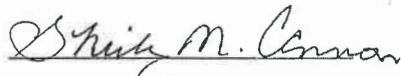
An appeal by those with standing may be taken to the Superior Court of Caldwell County within 30 days of the receipt of this letter.

SO ORDERED this 15th day of October, 2019 by the Lenoir City Council

ATTEST:



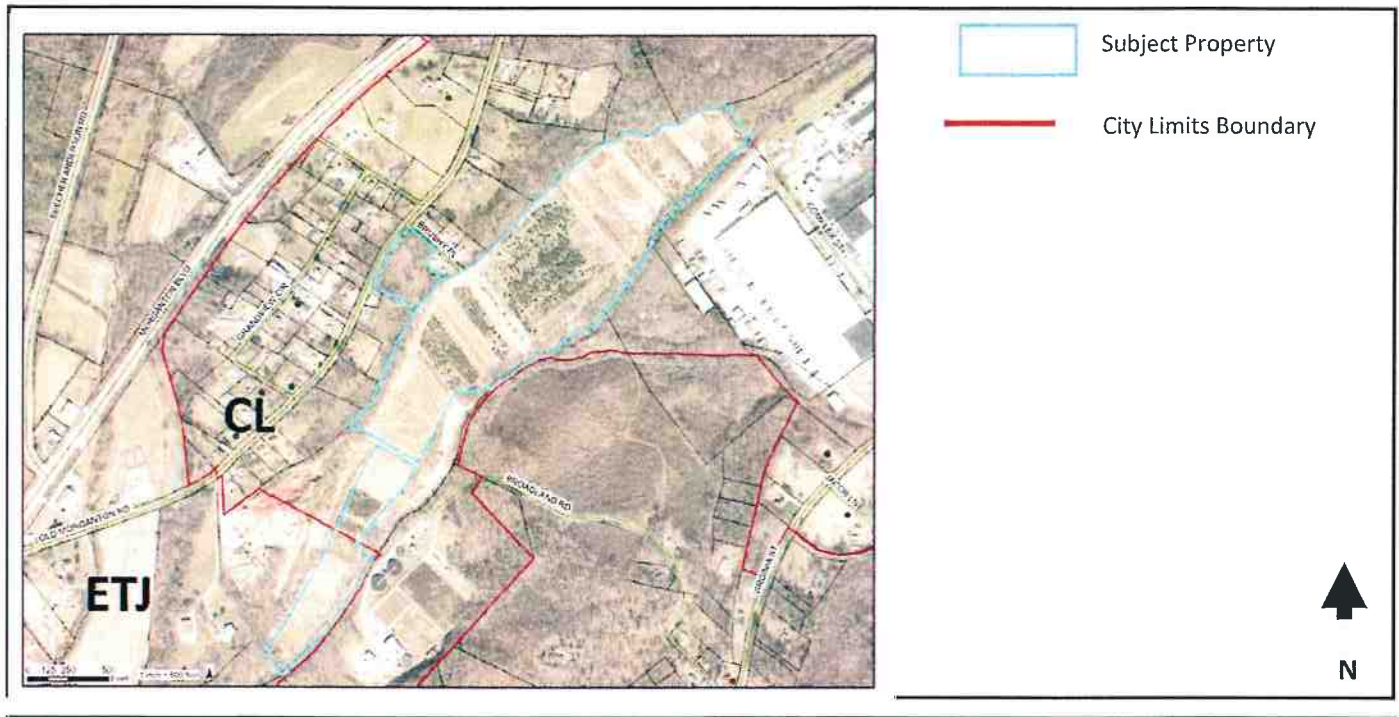
Joseph A. Gibbons, Mayor



Shirley Cannon, Clerk



LOCATION MAP/AERIAL PHOTOGRAPH



SUMMARY

Owner

Roger and Deborah Coffey

Applicant

Roger Coffey

Location

Old Morganton Road and
Brushy Place

NC PIN

2738674351, 2738650432, and
26 AC of 2738679061

Project Planner

Hannah Williams

Updated October 4, 2019

Applicant's Request:

The applicant is requesting a rezoning from R-12 and R-15 to R-20 and a Conditional Use Permit for the expansion of the established agriculture use and construction of a 18' x 24' agri-chemical handling facility.

Staff Recommendation:

Approval of the rezoning request, based on the consistency statement on page 4 and approval of the conditional use permit based on the conditions in this report.

Planning Board Recommendation:

Public Comment:

Planning Board Meeting: Scheduled for September 23, 2019. Notices were mailed to property owners within 100 ft. of the subject property on September 13, 2019.

City Council (Public Hearing): Scheduled for October 15, 2019. Notices were mailed to property owners within 100 ft. of the subject property on October 4, 2019.

*****The CUP request is considered quasi-judicial. You should not discuss this case with decision makers outside of the scheduled public meeting*****

BACKGROUND AND ANALYSIS

Zoning Map Amendments

The City of Lenoir Ordinance establishes an official zoning map/atlas for the City of Lenoir. The zoning map may be amended from time to time by the City Council when public necessity, convenience, general welfare, or good zoning practice justifies the amendment. The zoning map cannot be changed until the Planning Board reviews the request and makes a report to City Council on the proposed change and the City Council holds a public hearing to consider the request.

Intent of Conditional Use Permits

Conditional uses are recognized in the zoning ordinance as uses which may be compatible with an area depending on the specific details of the project, its surroundings, and the level of services available to the site, but are not permitted "by right" in the zoning district. The conditional use permit process gives the City sufficient flexibility to determine whether a specific land use on a given site will be compatible with the environment and the Comprehensive Plan. Through the approval of a Conditional Use Permit, the Planning Board and City Council may set conditions or use limitations, thereby establishing a realm of acceptability for the particular use that will be neither arbitrary nor capricious, and will promote the spirit and character of the surrounding neighborhood. The process requires the Planning Board to review and make a recommendation to the City Council on the request. The City Council must then decide whether or not to issue a Conditional Use Permit following a quasi-judicial hearing.

Subject Property

The subject property is located on the western boundary of the city limits. The parcel at the intersection of Brushy Place and Old Morganton Road is zoned R-12, is 2.77 AC in size, and is not currently under cultivation. The largest parcel, NCPIN 2738679061, is 44.1 AC in size and is split zoned between I-1 (~14.1 AC) and R-12 (~30 AC). The third parcel is intersected by the City Limits and extends into the ETJ and is split zoned between R-12 (~3.1 AC) and R-15 (~5 AC). The majority of this property is used for tree and shrub cultivation. About 50 acres of the subject property are in the "flood zone." There are no buildings on the subject property at this time. There is the foundation and frame of the mixing facility as the permits were issued by Caldwell County Building Inspections in error, without City of Lenoir approval. When Building Inspections discovered the error, the applicant was routed to City of Lenoir Planning Department for permit review.

Surrounding Properties

The subject parcel at the intersection of Brushy Place and Old Morganton Road (NCPIN 2738674351) is across from several manufactured homes to the east and other low density single family homes to the north and west. The rest of the property extends behind the low density residential area to the western city limits. The parcel at NCPIN 2738650432 is adjacent to the City of Lenoir Lower Creek Waste Water Treatment Facility to the south, the Gamewell city limits to the west, and a paving company to the north.

Intent of the Zoning Districts

The applicant is seeking to rezone the parts of his property that are zoned R-12 and R-15 to R-20 in order to allow for a CUP request for expanded agricultural uses. The applicant is also seeking a conditional use permit for his entire property to be used for tree cultivation. The R-12 and R-15 single family districts are intended to establish and preserve land within the city for low or medium density single-family residences and compatible land uses. Any uses which would adversely affect or interfere with the residential character and development of these areas are excluded. The R-20 single-family district allows for single family homes on large lots, as well as Agriculture as a conditional use. The I-1 Light Industrial district also allows for a Agriculture as a conditional use.

Proposed Development

The applicant proposes to build an 18' x 24' building to be used to mix agricultural chemicals in a well-ventilated environment on the parcel at the intersection of Brushy Place and Old Morganton Road (NCPIN 2738674351), out of the flood zone. The majority of the acreage owned by the applicant has been used for tree cultivation for several decades, despite not conforming to the uses allowed in the R-12 zone. While the agriculture use can continue in its existing footprint under the nonconforming ordinances, the

BACKGROUND AND ANALYSIS

new mixing facility is being developed on a separate parcel, and must meet current zoning standards. R-20 is one of the zoning districts that allows agriculture with a conditional use permit. The applicant is requesting to retain the existing acreage in the I-1 zoning district "as-is", in order to preserve future industrial activity in an appropriate zone.

The applicant is the recipient of a matching grant through Soil and Water Conservation's Agriculture Cost Share Program that provides funding for best management practices for water quality, also known as BMPs. The funded BMP is a Agrichemical Handling Facility which is a "permanent structure that provides environmentally safe means of mixing agrichemicals and filling tanks with agrichemicals for the application [...] of agrichemicals to improve water quality." The mixing facility is built on a thick concrete pad that is designed to prevent cracks and reduce spillage. For additional information, see the letter of support from Soil and Water Conservation chairman Mike Willis as well as Best Management Practices specification document from the NC Department Agriculture and Consumer Services in Appendix A, attached to this report.

Consistency with the Comprehensive Plan

All decisions of the Planning Board and City Council should be based on consistency of the proposal with the comprehensive plan and any other officially adopted plan that is applicable. While the comprehensive plan does not specifically discuss agriculture in the city, there is a guideline to adopt sensible, straightforward zoning standards and procedures easily understood by the general public. There is also an environmentally-conscious theme throughout the plan for new and existing development through protecting riparian areas and adding BMPs when possible. The proposed development meets these guidelines by "correcting" a zoning map error, as well as creating a functional BMP that helps to improve water quality in Lower Creek.

Comparison of Zoning Districts

	Existing	Existing	Proposed
	R-15	R-12	R-20
Development Standards	Min Lot Size - 15,000 ft ²	Minimum Lot Size - 12,000 ft ²	Min Lot Size—20,000 ft ²
	Setbacks	Setbacks	Setbacks
	Front - 40'	Front - 40'	Front—40'
	Side Yard—15'	Side Yard—12'	Side Yard—15'
	Abutting side Street: 25'	Abutting side Street: 25'	Abutting side Street: 25'
	Minimum Rear Yard -	Minimum Rear Yard - 30'	Minimum Rear Yard - 35'
Summary of Permitted Uses	Accessory Cottage or Apartment	Accessory Cottage or Apartment	Accessory Cottage or Apartment
	Dwelling, Group	Dwelling, Group	Dwelling, Group
	Dwelling, Single-Family Detached	Dwelling, Single-Family Detached	Dwelling, Single-Family Detached
Summary of Conditional Uses	Bed and Breakfast	Attached Dwellings	Bed and Breakfast
	Communication Towers	Bed and Breakfast	Agriculture (Limits on Livestock, Chp 3 of Lenoir Code)
	Community Facility	Dwellings, 2 Family	Communication Towers
		Low Density MultiFamily	Community Facilities
		Day Care	Commercial Greenhouses
		Communication Towers	Retailing: Neighborhood Business

STAFF REZONING RECOMMENDATION & CONSISTENCY STATEMENT

Staff recommends approval of the requested rezoning based on the following consistency statement:

The proposed zoning map amendment is consistent with the adopted Comprehensive Plan because it facilitates straightforward zoning standards for the expansion of an existing business. The proposed amendment is reasonable and in the public interest because it provides an opportunity for the business to install a BMP that will aid in improving water quality, and will yield compliance with the zoning standards, preventing future complications if the agriculture business expands or changes in this area.

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 development will comply with all requirements of the R-20 district and I-1 district, respectively.*
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. *The applicant's site plan proposes an onsite driveway off of Brushy Place. There is an existing driveway at the dead end of Brushy Place to access the lots under cultivation. The two points of access will reduce vehicular impacts to this property.*
3. Off-street parking and loading areas will be provided in compliance with the Zoning Ordinance. *Parking and loading on this site will not be allowed in the required setbacks.*
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. *The subject property has been used as a tree farm for many years without hindrance in the surrounding neighborhood. Vehicles accessing the mixing facility will have two points of access, having minimal impacts on Brushy Place.*
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. *A landscape plan was not submitted, however, the property owner will maintain a 30' wide setback on each property line along the property lines adjacent to Old Morganton Road and Brushy Place, as well as along the property lines shared with the property at 2508 Brushy Place.*
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. *No signage is currently planned for this development, but any future signage will be regulated to meet code. Any exterior lighting will be incidental to the needs of the agricultural use, and will be designed to be fully cut-off and shielded from neighboring residential property as a condition.*
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 proposed development is setback about 100 feet from Old Morganton Road and about 200 feet from Brushy Place. There is a significant grade change, and the facility sits lower than the road. This development does not vary greatly from this low density area.*

FINDINGS CONTINUED

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. *The new development on this site will not vary the intensity of the existing tree farm use.*

STAFF CUP RECOMMENDATION

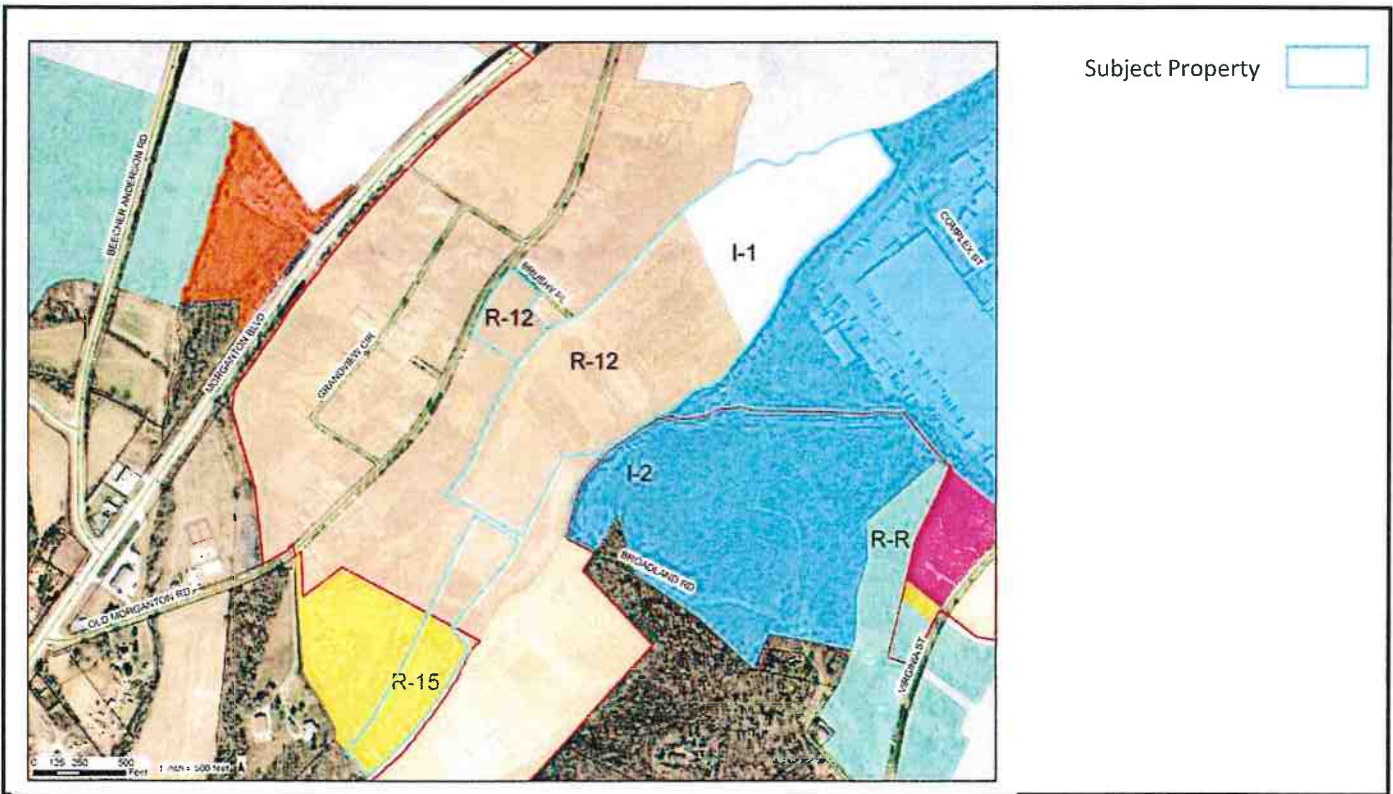
Staff recommends approval of the Conditional Use Permit for the proposed Agrichemical Handling Facility and tree farm, with the following conditions:

1. The Conditional Use Permit is for a tree and shrub farm agriculture use and associated activities. Animals are not permitted, except in accordance with the standards of Chapter 3 of the Lenoir Code of Ordinances.
2. If the agriculture use or agri-chemical facility has not been established within 24 months of the adoption of the Conditional Use Permit, the approval shall be considered null and void.
3. A 30' setback will be required along the street side property lines and property lines adjacent to single family residential properties.
4. All development standards of the R-20 and I-1 districts shall apply to new buildings and uses within the respective areas of each zone on this property.
5. All lighting shall be fully cut-off and shielded so as to eliminate/minimize light spill-over onto adjacent residential properties.

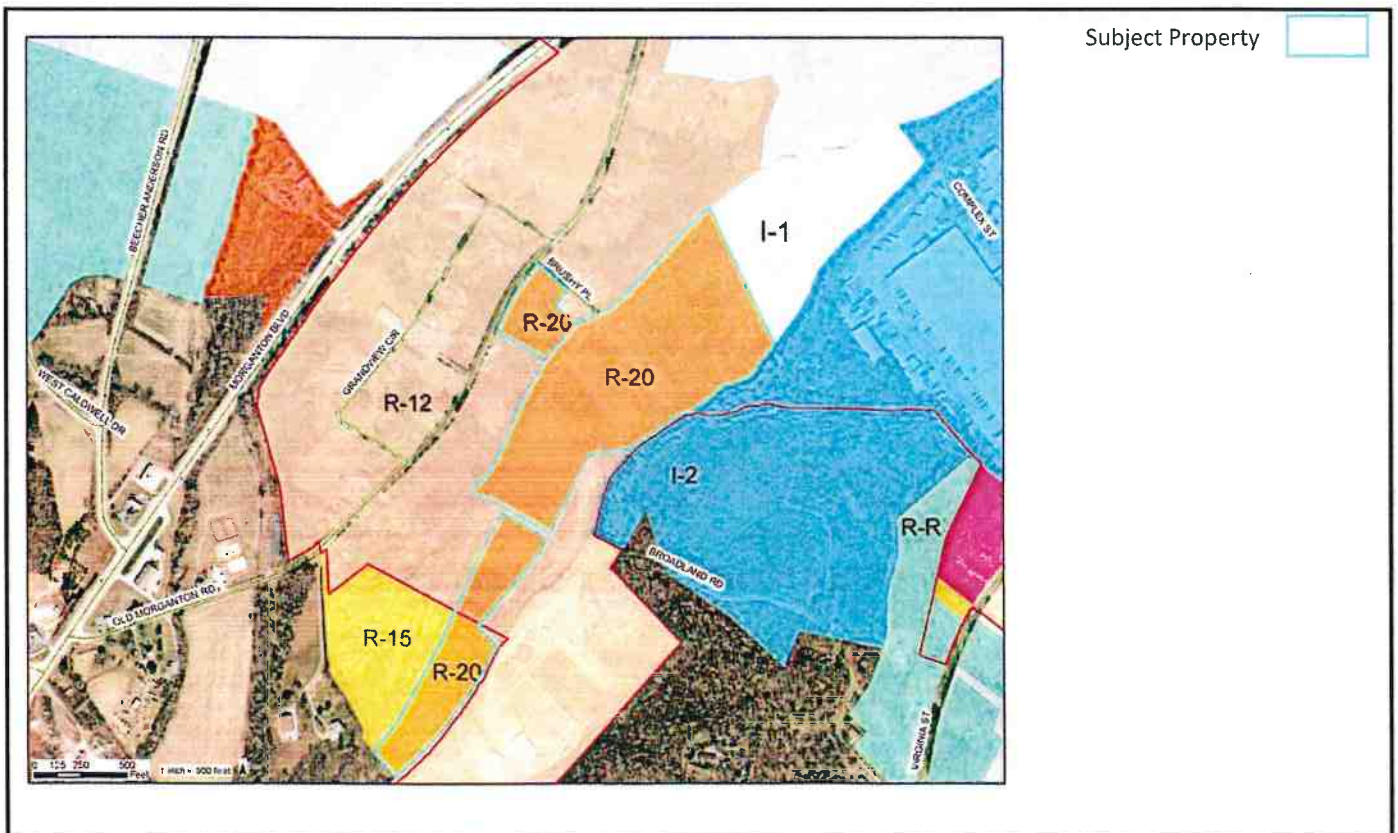
PLANNING BOARD RECOMMENDATIONS

Planning Board recommends approval of the Conditional Use Permit with conditions listed by staff above.

EXISTING ZONING MAP



PROPOSED ZONING MAP



APPLICANT'S SITE PLAN



EXISTING CONDITIONS ON SITE



Street view facing subject property from Brushy Place



Street view facing subject property from Old Morganton Road

SURROUNDING PROPERTIES



Three manufactured homes across from subject property



Property adjacent to subject property with several outbuildings

NATURAL RESOURCES CONSERVATION SERVICE CONSERVATION PRACTICE STANDARD

AGRICHEMICAL HANDLING FACILITY

(No.)

CODE 309

DEFINITION

A facility with an impervious surface to provide an environmentally safe area for the handling of on-farm agrichemicals.

PURPOSE

To provide an environmentally-safe facility to:

- Mix, load, and clean-up agrichemicals;
- Retain incidental spillage or leakage; and
- Reduce pollution to surface water, ground water, air, and/or soil.

CONDITIONS WHERE PRACTICE APPLIES

This practice applies where:

- The handling of agrichemicals creates significant potential for pollution of surface water, ground water, air and/or soil, and a facility is needed to properly manage and handle the chemical;
- An adequate water supply is available for filling application equipment tanks, rinsing application equipment and chemical containers as needed for the operation;
- Soils and topography are suitable for construction.

This practice does not apply for the following uses:

- Secure and dry storage of unmixed agrichemicals. Refer to NFPA 30 and other applicable codes and regulations for security and dry storage of agrichemicals.
- Fully enclosed or heated structures
- Handling or storage of fuels.
- Commercial or multi-landowner agrichemical handling operations.

CRITERIA

General Criteria Applicable to All Purposes

Plan, design and construct agrichemical handling facilities to meet all federal, tribal, state and local regulations.

Base the size of the temporary agrichemical rinsate storage on the maximum agrichemical use on the farm for a single growing season from any of the last 5 years.

Ensure the materials in the pad, hoses, pipes, valves, seals, connectors, filters, tanks, and related plumbing are compatible with the agrichemicals being handled and capable of withstanding the intended use.

Outlet drains are not permitted in the agrichemical handling facility.

Posts, pipes, hoses, discharge valves, or other features that may leak liquid chemicals will not pass through the floor, containment storage walls, or the sump.

Where the agrichemical handling facility is separate from the mixing/loading area and a hose is used to load the application equipment, provide containment on the mixing/loading area equal to that in the handling facility.

Criteria for Permanent Facilities

Location. Locate the agrichemical handling facility as follows:

- Adjacent to or as near as practical to the existing agrichemical storage building;
- As far as practical from streams, channels, ponds, lakes, wetlands, sinkholes, and water wells, with a minimum setback distance of 100 feet;

- Isolated and located downwind from residences and other buildings used to store feed, seed, petroleum products, or livestock with a minimum distance as required by local regulations (A minimum distance of 200 feet from residences or other occupied buildings is recommended);
- At sites that have not been previously used for stationary pesticide storage and/or mixing/loading sites that may have been contaminated in the past.

Locate the bottom of the facility a minimum of two feet above any seasonal high water table.

Artificially lowering the water table would be acceptable under the following conditions:

- The artificial drainage system is at least 20 feet from any portion of the agrichemical handling facility including mix/load and transfer pads.
- The drawdown is analyzed using the ellipse equation or equivalent to illustrate the modified seasonal high water table.
- The artificial drainage system discharges to an observable sump with a shut off valve on the outlet pipe that may be closed in the event of an agrichemical spill in or around the agrichemical handling facility
- The design is approved by the State Conservation Engineer.

Locate above the 100-year floodplain elevation. However, if site restrictions require location within a floodplain, design to protect the facility from inundation and damage from the 25-year flood event, or larger if required by laws, rules, and regulations.

Agrichemical Handling Pad. Size the pad to accommodate the largest spraying equipment. Equipment access is allowed from more than one direction. Provide adequate space on pad for maneuvering around equipment. Use a minimum of 2 feet for open facilities and 4 feet for partially enclosed facilities. When practical, base the minimum width of the mixing pad on the width of the spray equipment with the booms retracted. Additional room shall be included as necessary to accommodate worker access, tanks, pumps, hoses, and other equipment.

Slope the pad a minimum of 2% or ¼ inch per foot to allow for drainage to a water-tight collection area or sump.

Design Storage Capacity. Provide a minimum storage volume on the agrichemical handling pad of 250 gallons or 1.25 times the volume of the largest storage or spray tank on the pad, whichever is greater.

For unroofed facilities, provide storage on the pad as stated above or the volume of the 25-year, 24-hour storm, whichever is greater.

Provide a means of storing the accumulated rainfall or spilled agrichemical or field applying the collected volume according to the agrichemical label within 72-hours following the rain or spill event.

Prevent outside runoff water from entering the facility for storms up to the 25-year, 24-hour event.

A curb may be required around the pad to prevent outside runoff from entering the pad area or to contain the design storage volume within the pad area.

Agrichemical Collection. Provide a collection area or sump with adequate dimensions for sediment removal and pump operation. The collection area or sump shall be covered with an appropriate grate. Use a manually activated pump to remove accumulated liquids. A filter shall be installed between the pump and outlet.

Equipment Wash Bay. An equipment wash bay may be included as part of the agrichemical handling facility. A sump common to the mixing/handling area and the wash bay could be utilized.

Rinsate Tanks. Provide rinsate tanks of adequate number and size as needed for the type of operation, allowing for separation of non-compatible agrichemicals. Rinsate tanks shall be located so that any spillage or overflow drains to the sump.

Manufactured Components. Manufactured tanks and components will be structurally sound, capable of withstanding all anticipated loads, and constructed of suitable materials for their intended use. Base the tank sizes on the farm owner or operator agrichemical needs.

Liquid Tight. Design the agrichemical handling pad and other areas needing to be liquid tight with either a flexible membrane liner or according to the structural design section for liquid tight concrete.

Flexible Membrane Liners. All flexible membrane installations will meet the material and installation requirements of the plans and specifications provided for each installation

Flexible membrane liners will be installed under the supervision of a qualified representative of the manufacturer and all field constructed seams shall be tested and repaired in accordance with the manufacturer's recommendations.

Minimum Thickness for Membranes	
Type	Minimum Thickness
HDPE	40 mil thickness
LLDPE	40 mil thickness
PVC	30 mil thickness
FPP-R	45 mil thickness
EPDM	45 mil thickness

Concrete Exposed to Agrichemicals.

Concrete exposed to agrichemicals will meet the requirements of NEH Part 642 Construction Specification 31 – Concrete for Major Structures. Use Class 5000 concrete with a water to cementitious materials ratio (w/cm) less than or equal to 0.40.

Use Type II or V Portland cement meeting the requirements of ASTM C150. Use concrete containing a supplementary cementitious material such as fly ash or natural pozzolan meeting the requirements of ASTM C618, silica fume meeting the requirements of ASTM C1240, ground blast furnace slag meeting the requirements of ASTM C989, or blended supplementary cementitious materials meeting the requirements of ASTM C1697. Use concrete that is air entrained and continuously cured for a period of seven days. The use of a curing compound may not be allowed when a chemically resistant coating is being applied. Refer to manufacturer's product data for these two products when considering using a curing compound and chemically resistant coating.

Any portion of the concrete that could potentially be subjected to continual exposure to caustic chemicals or the abrasive effects of prolonged spray, such as might occur from a leaking pressurized vessel, shall be sealed with a chemically resistant coating. Use a non-vapor barrier coating unless measures are successfully implemented to prevent vapor formation. Coatings must be resistant to the agrichemicals that will be handled at the facility and be installed in accordance with manufacturer recommendations.

Structural Design. For the structural design, address all items that will influence the performance of the structure, including loading assumptions, rinsate storage tanks, material properties, and construction quality. Indicate design assumptions and construction requirements on the plans.

Locate footings below the anticipated frost depth unless measures are designed to accommodate frost/freeze conditions.

Concrete slabs shall be a minimum of 6" thick with a minimum reinforcement of #4 bars each way on 12" center.

Permanent structures will be designed according to the criteria in the following references as appropriate:

- Timber - *National Design Specifications for Wood Construction*, American Forest and Paper Association;
- Steel – *Manual of Steel Construction*, AISC, American Institute of Steel Construction;
- Masonry - *Building Code Requirements for Masonry Structures*, ACI 530, American Concrete Institute;
- Concrete non-liquid tight – *Building Code Requirements for Reinforced Concrete*, ACI 318, American Concrete Institute, for concrete structures; *Guide for the Design and Construction of Concrete Parking Lots*, ACI 330R, American Concrete Institute, for slabs-on-ground subject to distributed stationary loads, light vehicular traffic, or infrequent use by heavy trucks or agricultural equipment; *Guide to Design of Slabs-on-Ground*, ACI 360R, American Concrete Institute, for slabs-on-ground

subject to regular or frequent heavy truck or heavy agricultural equipment traffic.

- Concrete liquid tight – *Structural Engineering*, NRCS National Engineering Manual (NEM) Part 536, for concrete structures; *Requirements for Environmental Concrete Structures, Slabs-on-Soil, ACI 350 Appendix H*, for concrete slabs.

Roofed Facilities. When using a roof to cover the facility, use minimum snow and wind loads as specified in the current edition of ASCE 7, *Minimum Design Loads for Buildings and Other Structures*. Roof columns shall be located at the perimeter of the chemical handling pad to prevent interference with equipment. Ensure adequate clearance is provided between the lowest roof member and the highest area of the pad for the equipment being used. Roof structures shall provide a roof overhang a minimum of 2 feet to prevent rainfall from blowing into the facility. For partially enclosed facilities, a ridge vent shall also be provided.

Partially Enclosed Facilities. Facilities shall not be fully enclosed or heated structures. Facilities are allowed to be partially enclosed to prevent precipitation from entering through the endwalls and sidewalls. Partially enclosed facilities shall provide for a sufficient amount of natural ventilation to occur and should include a minimum of 2 feet opening between the roof and sidewalls. The facility may contain endwalls and doors for security and safety purposes to restrict access when the facility is not in use. If doors are installed, they shall remain open when the facility is being used for the mixing of agrichemicals.

Electrical Components. All electrical systems and components shall meet the requirements of the National Electric Code (NEC).

Water Supply. Provide an adequate water supply for mixing agrichemicals, rinsing tanks and containers, and for emergency health and safety needs as appropriate for the facility. Provide all pipelines and hoses with backflow prevention and other hardware, as needed. Backflow preventers, anti-siphon devices or a minimum 2 inch air gap shall be installed on a water supply lines. If a pump and well are planned, they shall be located outside of the facility and meet the distance requirements listed under Location.

NRCS, NC

June 2015

Safety. Include appropriate safety features in an easily accessible location to minimize the hazards of the facility. Provide warning signs, emergency eyewash station, deluge shower, spill response kits, fire extinguishers and other devices to ensure the safety of humans. Provide adequate natural ventilation at all times for partially enclosed facilities. Fully enclosed facilities shall not be allowed. Provide controlled access for the facility to prevent entry of unauthorized personnel, livestock, or other animals.

Vegetation. Stabilize disturbed areas, as necessary, using the criteria listed under "Establishment of Vegetation" in the conservation practice standard Critical Area Planting (342) and/or the state planting guide to prevent erosion. Vegetation used to stabilize areas adjacent to the facility must be resistant to herbicide drift and accidental runoff.

Criteria for Portable Facilities

A portable agrichemical handling facility is a manufactured portable device that can be easily moved from field to field and will meet the needs of the user.

Pad. The pad will be constructed of durable material that is chemically resistant for the intended agrichemicals. The minimum containment capacity of the pad is 1.25 times the volume of the largest individual agrichemical container or tank that will be located on the pad. Include a sump or other provisions for easy recovery of spilled liquid.

CONSIDERATIONS

For permanent facilities, the agrichemical handling facility may cause an increase in water use at the site from the mixing of agrichemicals and rinsing of agrichemical sprayers, containers and agrichemical-handling pad.

Consider installing rinsing devices so that residual contents of agrichemical containers can be adequately rinsed. The rinse system could operate from the nurse tank discharge pump or a separate pump that provides adequate pressure. Verify with the manufacturer of the facility that any pump to be used in pressure rinsing is compatible with the rinse device. Dispose of clean, empty agrichemical containers in accordance with local and State requirements.

Consider providing a roof over permanent facilities.

Consider installing an apron at the facility entrance to minimize sediment transport onto the pad.

Consider providing a mixing platform for filling agrichemical sprayers and mounting tanks high enough to provide for gravity flow into mixing tanks or sprayers.

For portable handling facilities, consider using a top/bottom-loading valve with built-in check valve in the hose from the nurse tank to the spray tank. This will enable the operator to remain on the ground while filling the sprayer.

PLANS AND SPECIFICATIONS

Plans and specifications shall describe the requirements for applying this practice. At a minimum, include the following:

1. A plan view of facility layout.
2. Pertinent elevations of the facility.
3. Location of water features.
4. Location of electrical lines, gas lines, and requirements for burial and quality of materials.
5. Structural details of all components.
6. Electrical details of all components.
7. Plumbing details of all components.
8. Locations and details of safety features.
9. Where a roof structure is used to protect the facility, include design data and building dimensions.
10. Ingress/egress to the facility
11. Vegetative requirements.
12. Quantities.
13. Drainage/grading plan if needed.
14. Soil and foundation findings, interpretations, and reports.
15. Temporary erosion control measures during construction.

Review plans and specifications of portable agrichemical handling facilities. Ensure that the information submitted by the manufacturer on the proposed facility meets the requirements of this standard.

OPERATION AND MAINTENANCE

Develop an operation and maintenance (O&M) plan that is consistent with the purpose of the practice, the intended design life, safety requirements, design criteria, and all local, state,

and federal laws and regulations. A copy of the O&M plan shall be located at the facility.

The O&M Plan is to address the following:

- Brief description of the facility. Define parameters used to size and design the facility such as storage tank and equipment sizes.
- The facility will not be used for purposes other than the storing, mixing, loading, cleaning, and maintenance of materials and equipment used for agrichemical application.
- An inventory of agrichemicals to be stored or handled at the facility. Material Safety Data Sheets must be available on site.
- The proposed method of handling and disposing of rinsate, washwater, and spills.
- A process for handling accumulated rainfall.
- A process for handling accumulated sediment.
- A strategy for cleaning surfaces between different agrichemical mixing operations.
- An inspection plan of structural components such as the condition of concrete, curbing, sump, access roads, building structure, etc. Note the timing of inspections, conditions that would cause concern, and required actions as appropriate.
- Any weekly, monthly, or annual maintenance that may be necessary for the proper functioning of the system components including, but not limited to, concrete surfaces, sumps, pumps, hoses, pipelines, building materials, electrical equipment, and other materials and equipment.
- A schedule of any required written inspection and maintenance reports.
- Proper winterization of the facility.
- Required safety signage.
- An Emergency Response Plan with safety procedures in the event of an accidental spill, exposure, fire, or other hazardous incident. Provide a list of safety equipment, contact names, and phone numbers.

**AN ORDINANCE OF THE CITY COUNCIL OF LENOIR,
NORTH CAROLINA, AMENDING APPENDIX A OF THE
LENOIR CITY CODE RELATED TO REQUIRED PARKING
RATIOS, PROVIDING FOR SEVERABILITY, CODIFICATION,
AND AN EFFECTIVE DATE.**

Whereas, the Lenoir Zoning Ordinance currently requires 2 spaces for every multi-family apartment unit, regardless of size, rather than linking parking requirements to the number of bedrooms in each unit; and

Whereas, the Lenoir City Council and the Lenoir Planning Board recognize the need for additional housing types to be developed within the City, especially smaller units to serve young professionals and retirees looking for an alternative to detached single family homes; and

Whereas, the development of parking areas adds to the overall cost of development, as well as the overall environmental impact of the development, and therefore requiring parking to be provided in excess of typical demand unnecessarily increases the cost and impact of development; and

Whereas, the code currently does not provide any standards for, or incentive for, the provision of parking for motorcycles and bicycles, despite the growing popularity of these alternative personal transportation modes; and

Whereas, the Lenoir Planning Board finds and declares that this ordinance and these amendments consistent with the City's adopted Comprehensive Plan, which calls for sensible, straight-forward zoning standards, a reduction in large expanses of asphalt for parking, and the encouragement of affordable housing for all stages of life, as well as the Bicycle Plan, which calls for code changes to address bicycle parking; and

Whereas, the Lenoir City Council hereby finds and declares that this ordinance and these amendments are in the best interest of the public health, safety, and welfare; and

NOW, THEREFORE, LET IT BE ENACTED BY THE CITY COUNCIL OF THE CITY OF LENOIR, NORTH CAROLINA, AS FOLLOWS:

SECTION 1. Appendix A, Article X of the Code of Ordinances, City of Lenoir, North Carolina, "Off-Street Parking and Loading Requirements" is hereby amended to read as follows:

TABLE OF MINIMUM PARKING REQUIREMENTS

~~Where parking ratios are based on ratios per 1,000 sq. ft. of gross floor area, a~~All partial parking spaces space requirements of .4 or less will be rounded down and all partial parking spaces of .5 or greater will be rounded up to the next nearest whole number to determine the minimum number of parking spaces required for the particular use or development.

For uses required to have more than 4 parking spaces, providing designated and marked areas for motorcycle and/or bicycle parking shall count towards the required parking requirements as follows: Every 2 motorcycle parking spaces or bike rack spaces provided shall reduce the required number of automobile parking spaces by 1 space, for up to a 10% reduction of the required parking.

TYPE OF USE	OFF-STREET PARKING REQUIRED
Multifamily Residential** (elderly and handicapped units)	<u>1 space per dwelling unit</u>
Multifamily Residential** (non-elderly)	<u>2 spaces per dwelling unit</u> <u>1 space for every studio or 1-bedroom unit</u> <u>1.5 spaces for every 2-bedroom unit</u> <u>2 spaces for 3+ bedroom units</u> <u>Required parking is calculated based on the overall breakdown of unit types in the proposed development.</u>
Manufactured Home Park	2 spaces per manufactured home space
Automobile Service Stations	3 spaces for each grease or wash rack and 3 parking spaces for each 1,000 square feet of gross floor area
Bank or Savings & Loan	3 space for each 1,000 square feet gross floor area plus stacking space for 5 vehicles at each drive-through window (including the car being served)(1)
Business and Professional Offices	3 spaces for each 1,000 square feet gross floor area
Cultural and Community Facility	3 spaces for each 1,000 square feet gross floor area
Doctors and Dentists Offices	3 spaces per 1,000 square feet gross floor area
Educational Facility Elementary or Junior High School* Senior High School or College*	1 space for each 20 students plus one bus space per 100 students for students 1 space for each 4 students plus 1 space for each 100 students plus 1 space for each 15 students for staff
Funeral Home	1 space for each 3 seats in the chapel or parlor or 3 spaces for each 1,000 square feet of gross floor area, whichever is greater
Group Care Facility * (Nursing Homes, Rest Homes, etc.)	1 space for each 3 patient beds
Hospital *	2 spaces for each patient bed
Hotel	1 parking space for each room to be rented

Manufacturing	1 space for each 2 employees at maximum employment on a single shift, plus sufficient parking space for each company vehicle, plus 3 spaces for each 1,000 square feet of sales and service area
Tennis court	2 spaces per court
Ball field	1 space per 5 seats in stand
Religious Complexes	1 space for each 3 seats in principal assembly room
Restaurants * (no drive-through)	1 space for each 3 seats
Restaurants (drive-through)	1 space for each 3 seats plus stacking space for 5 vehicles at each drive-through window (including the car being served) (1)
Retail Business	3 spaces for each 1,000 square feet of gross floor area
Service and Repair Establishment	3 spaces for each 1,000 square feet of floor area not used for storage
Warehouse	3 spaces for each 1,000 square feet of sales and office area and 1 space for each 2 employees at maximum employment
* Based on Design Capacity	
** Units designated for occupancy by persons over 60 years of age or handicapped or disabled <u>shall be required to provide 80 percent of the parking required for other types of multi-family housing.</u> Such designations shall be made by a public agency (such as Lenoir Housing Authority, HUD, Farmers Home Administration) for subsidized apartments or by the private developer in a form prescribed by the Planning Department which would be attached to and made a part of the Certificate of Occupancy. (1) Stacking spaces must be (a) a minimum of 9 ft. in width, as measured from any service window to the outside edge of the driveway, and 18 ft. in length; (b) placed in a single or double line behind the drive through window; and (c) located so that, when in use, they do not obstruct ingress/egress to the site and do not obstruct access to required parking or loading spaces.	

SECTION 2. SEVERABILITY. If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

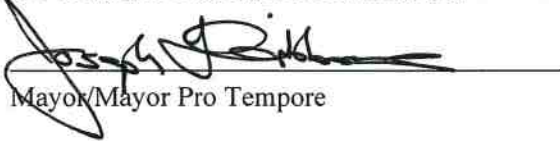
SECTION 3. CODIFICATION. The City Clerk shall cause the Code of Ordinances of Lenoir, North Carolina to be amended as provided by this ordinance and may renumber, re-letter, and rearrange the codified parts of this ordinance if necessary to facilitate the finding of the law.

SECTION 4. EFFECTIVE DATE. This ordinance takes effect upon adoption.

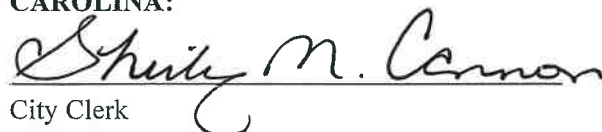
DONE, THE PUBLIC NOTICE, in a newspaper of general circulation in the City of Lenoir, North Carolina, by the City Clerk of the City of Lenoir, North Carolina, this 4th day of October and this 11th day of October, 2019.

DONE, THE PUBLIC HEARING, AND ENACTED ON FINAL PASSAGE, by an affirmative vote of the a majority of a quorum present of the City Council of the City of Lenoir, North Carolina, at a regular meeting, this 15th day of October, 2019.

BY THE MAYOR/MAYOR PRO TEMPORE OF THE CITY OF LENOIR, NORTH CAROLINA:


Mayor/Mayor Pro Tempore

ATTEST, BY THE CLERK OF THE CITY COUNCIL OF THE CITY OF LENOIR, NORTH CAROLINA:


City Clerk

****[Remainder of page intentionally left blank.]****

Comparison of Multi-Family Parking Requirements						
Town	Studio	1-bedroom	2-bedroom	3-bedroom	Senior Housing Reductions	Other requirements
	(Numbers below represent number of spaces required per unit)					
Asheville	1	1	1	2	-	-
Blowing Rock	1.5	1.5	2	2.5	1/unit for seniors	+1 additional space for every 4 units in development
Hickory	1.5	1.5	1.5	1.5	.6/unit for Seniors	-
Morganton	2	2	2	2	1/accessory dwelling units	-
Salisbury	1	1	2	2	-	Bike parking required at 5% of automobile parking
Wilkesboro	2	2	2	2.5	1 space/resident – senior and group homes	-
Lenoir – Existing	2	2	2	2	1/unit	-
Lenoir – Proposed	1	1	1.5	2	80% of required parking for senior housing	Up to 20% reduction in parking when motorcycle parking and/or bicycle racks are required.

RESOLUTION BY LENOIR CITY COUNCIL

WHEREAS, the City of Lenoir, North Carolina has received bids, pursuant to duly advertisement notice therefore, for construction of the Biosolids Facility Improvements, and

WHEREAS, the City's Consulting Engineer, McGill Associates, has reviewed the bids; and

WHEREAS, of six (6) bids, Brushy Mountain Builders of Lenoir, North Carolina was the lowest responsive, responsible bidder for the Biosolids Facility Improvements, in the total bid amount of \$4,259,000, and

NOW, THEREFORE, BE IT RESOLVED BY THE LENOIR CITY COUNCIL

That TENTATIVE AWARD is made to Brushy Mountain Builders in the Total Bid Amount of \$4,259,000.

That such TENTATIVE AWARD be contingent upon the approval of the North Carolina Department of Environmental Quality, Division of Water Infrastructure.

That Scott Hildebran, the Authorized Official, and successors so titled, is hereby authorized to execute all contract documents and change orders for this project on behalf of the City of Lenoir.

Adopted this the 15th day of October, 2019 at Lenoir, North Carolina.

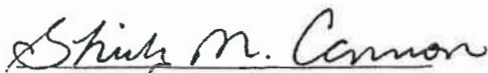


Joseph L. Gibbons, Mayor



CERTIFICATION SEAL
RECORDING OFFICER

The undersigned duly qualified and acting City Clerk of the City of Lenoir does hereby certify: That the above/attached resolution is a true and correct copy of the resolution, as regularly adopted at a legally convened meeting of the City Council of Lenoir duly held on the 15th day of October, 2019; and, further, that such resolution has been fully recorded in the journal of proceedings and records in my office. IN WITNESS WHEREOF, I have hereunto set my hand this 15th day of October, 2019.



Shirley M. Cannon, City Clerk

CERTIFIED BID TABULATION
BIOSOLIDS FACILITY IMPROVEMENTS
CITY OF LENOIR NORTH CAROLINA

Thursday, October 3, 2019; 2:00 pm

Former City Council Chambers, 3rd Floor, City Hall, 801 West Main Street, Lenoir, North Carolina 28645

BIDDER	TOTAL BASE BID INCLUDING ALLOWANCES	ALTERNATE BID ITEMS				
		No. 1 <i>Add</i>	No. 2 <i>Deduct</i>	No. 3 <i>Add</i>	No. 4 <i>Add</i>	No. 5 <i>Add</i>
Brushy Mountain Builders	\$4,259,000	\$350,000	(\$100,000)	\$91,000	\$86,000	\$0
The Harper Corporation	\$4,509,000	\$57,715	(\$128,671)	\$88,096	\$88,096	\$16,250
Gilbert Engineering Company	\$4,755,930	\$170,360	(\$247,300)	\$86,150	\$86,000	\$10,200
Frizzell Construction Co., Inc.	\$4,887,000	\$500,000	(\$150,000)	\$65,000	\$65,000	\$0
M. B. Kahn Construction	\$5,187,000	\$56,000	(\$280,574)	\$67,767	\$66,228	\$9,728
Carolina Grading & Utilities, Inc.	\$5,509,432	\$250,000	(\$168,000)	\$70,843	\$68,882	\$67,000
J S Haren Company	No Bid	----	----	----	----	----

This is to certify that the bids tabulated herein were accompanied by a 5% bid bond or certified check and publicly opened and read aloud at 2:00 pm local time on the 3rd day of October 2019 in the former Council Chambers (3rd Floor), City Hall, 801 West Avenue NW, Lenoir, North Carolina 28645.

JOEL WHITFORD, PE



1240 19th Street Lane NW
Hickory, North Carolina 28601
License No. C-0459





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
R. S. PRESTWOOD
D. F. STEVENS
C. D. THOMAS
B. K. WILLIS

**RESOLUTION BY LENOIR CITY COUNCIL TO
ACCEPT AN OFFER OF FUNDING**

WHEREAS, the North Carolina Department of Environmental Quality Division of Water Infrastructure has offered a revised State Reserve Loan in the amount of **\$6,995,000** for the construction of the **Lenoir Biosolids Facility Improvements**, and

WHEREAS, the **City of Lenoir** intends to construct said project in accordance with the approved plans and specifications.

NOW, THEREFORE, BE IT RESOLVED BY THE LENOIR CITY COUNCIL:

That **City of Lenoir** does hereby accept the revised State Reserve Loan offer of **\$6,995,000**.

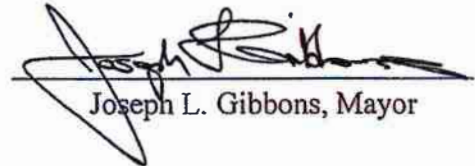
That **City of Lenoir** does hereby give assurance to the North Carolina Department of Environmental Quality that all items specified in the loan offer Section II-Assurance will be adhered to.

That **Scott Hildebran, City Manager**, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project; to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

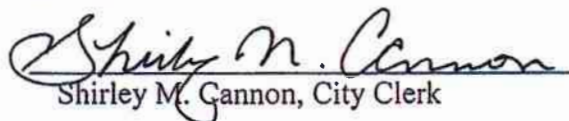
That **City of Lenoir** has substantially complied or will substantially comply with all applicable Federal, State and local laws, rules, regulations and ordinances to the project and to funding pertaining thereto.

Adopted this the 15th day of October, 2019 at Lenoir, North Carolina.

SEAL


Joseph L. Gibbons, Mayor

ATTEST:


Shirley M. Cannon, City Clerk





CITY MANAGER
SCOTT E. HILDEBRAN

CITY OF LENOIR
NORTH CAROLINA

MAYOR
JOSEPH L. GIBBONS

CITY COUNCIL
J. T. BEAL
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D. F. STEVENS
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B. K. WILLIS

October 7, 2019

Mr. Mark Hubbard, PE
NC Division of Water Infrastructure
8th Floor Archdale Building
512 N. Salisbury Street
Raleigh, North Carolina 27604

RE: Request to Increase Funding Amount
Project No. E-SRP-W-17-0044
Biosolids Facility Improvements
City of Lenoir, North Carolina

Dear Mr. Hubbard:

On October 3, 2019, the City of Lenoir received bids for the subject project. Brushy Mountain Builders submitted the lowest responsible, responsive bid with a bid amount of \$4,290,000.

Since bids were higher than anticipated, the City of Lenoir hereby requests an additional \$395,000 of low-interest SRP loan funding for this project. The attached project cost summary indicates the project costs and funding amounts, including the SRP and local funds.

Please do not hesitate to contact me at (828) 757-2200, or Joel Whitford with McGill Associates at (828) 328-2024, with any questions related to this request. We appreciate your assistance with this important project.

Sincerely,

CITY OF LENOIR

Scott E. Hildebran
City Manager

Enclosure

Cc: Anita Robertson, PE, Division of Water Infrastructure
Radford Thomas, Public Utilities Director
Joel Whitford, PE, McGill Associates

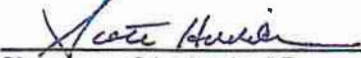


PROJECT COST SUMMARY (as-bid)		
List contractor names below:	TOTAL	ELIGIBLE*
1. Brushy Mountain Builders	\$ 4,259,000	\$ 4,259,000
2. Gryphon Environmental LLC	\$ 1,711,275	\$ 1,711,275
3.		
4.		
5.		
EQUIPMENT AND MATERIALS		
SUBTOTAL	\$ 5,970,275	\$ 5,970,275
PLANNING AND DESIGN (attach contract)	\$ 455,000	\$ 455,000
CONSTRUCTION PHASE ENGINEERING	\$ 325,000	\$ 325,000
CONTINGENCY (4.5% of construction)	\$ 192,000	\$ 192,000
LEGAL, TESTING, ETC.	\$ 10,725	\$ 10,725
OTHER (specify) ⇨ Bidding & Award Phase	\$ 17,000	\$ 17,000
OTHER (specify) ⇨ Funding Administration	\$ 25,000	\$ 25,000
CLOSING COSTS (Not eligible in CWSRF)	\$ 139,900	-----
TOTAL	\$ 7,134,900	\$ 6,995,000

*Please see eligibility guidance for a full accounting of eligible costs. ** Please use the form provided on the website in addition to land cost invoices.

REVENUE SOURCES FOR PROJECT CONSTRUCTION	
List funds that are available for this project	AMOUNT
DENR FUNDING (specify) ⇨ SRP Loan at 1.53% Interest	\$ 6,600,000
CASH	-----
GENERAL OBLIGATION or REVENUE BONDS	-----
OTHER AGENCY (specify) ⇨ Additional SRP Loan Amount	\$ 395,000
OTHER AGENCY (specify) ⇨	-----
OTHER (specify) ⇨	-----
OTHER (specify) ⇨	-----
TOTAL	\$ 6,995,000

The undersigned representative of the Recipient certifies that the information contained above and in any attached statements and material in support thereof is true and correct to the best of his or her knowledge.


Signature of Authorized Representative

Scott Hildebran, City Manager
Name and Title (type or print)

10/7/2019
Date



BID TAB

2019 Lenoir Optimist Park
City of Lenoir
30-Sep-19

Kenny Story
Recreation Director

[illegible]



BID TAB

**Bid Results
2019 Roof Replacements
City of Lenoir
October 07, 2019**

Minutes-City of Lenoir Council Meeting
Tuesday, October 15, 2019

Contractor	Public Works/ Public Utilities Facility	Water Treatment Plant	Fire Station Number 2	Police Department	TOTAL BID
Barger-Ashe Roofing	\$50,000.00	\$35,000.00	\$31,000.00	\$42,000.00	\$158,000.00
Price Roofing	\$77,737.00	\$64,834.00	\$33,600.00	\$61,489.00	\$237,660.00
Turner Waterproofing	-	-	-	-	No bid