

# AGENDA



CITY OF LENOIR  
CITY COUNCIL MEETING  
905 WEST AVENUE  
**TUESDAY, NOVEMBER 12, 2019**  
6:00 P.M.



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## I. CALL TO ORDER

- A. Moment of Silence & Pledge of Allegiance
- B. Presentation; K-9 Retirements and Approval of Resolutions for Service Animal Retirements.

Pursuant to N.C.G.S. §20-187.4 Disposition of Retired Service Animals, Staff respectfully requests City Council declare K-9 Cerik and K-9 Mato as surpluses by the City to be transferred into the personal care of their current handlers, Corporal Justin Reid and Sergeant Nathaneal Blache, as recommended by Police Chief Brent Phelps and adopt the appropriate resolutions.

## II. MATTERS SCHEDULED FOR PUBLIC HEARINGS

- A. Phase II Stormwater Ordinance: A public hearing will be held to consider adoption of a Phase II Stormwater Ordinance as submitted and to direct the City Clerk to codify the ordinance as Appendix C of the Lenoir Code of Ordinances.

**Note:** The City of Lenoir is subject to Phase II requirements of the Clean Water Act which includes maintaining the legal authority to enforce certain land development and code enforcement provisions related to the management of stormwater run-off and the prevention of illicit discharge and non-source point stream pollution. The attached ordinance was prepared by the Western Piedmont Council of Governments (WPCOG) in consultation with Lenoir Planning Staff and Public Works Director to comply with the state and federal requirements for Phase II communities.

- B. Rezoning Request; 103 Virginia Street SW: A public hearing will be held to consider a rezoning request for property located at 103 Virginia Street SW to be rezoned from R-9 (Mixed Density Residential) to B-6 (Transitional Business) based on the following consistency statement:

The proposed zoning map amendment is consistent with the adopted Comprehensive Plan because it facilitates straightforward zoning standards, consistent with the adopted future land use map. The proposed amendment is reasonable and in the public interest because it will allow one development site in common ownership to follow the zoning requirements of a single zoning district and simplify development review for the site in the future.

### III. CONSENT AGENDA ITEMS

- A. Minutes: Approval of the minutes of the City Council meeting of Tuesday, October 15, 2019, as submitted.
- B. Minutes: Approval of the minutes of the Committee of the Whole meeting of Tuesday, October 22, 2019 as submitted.
- C. Amended; Capital Project Budget Ordinance; Biosolids Project: Approval of an Amended Capital Project Budget Ordinance in the amount of \$7,134,900.00 to appropriate funds for the Biosolids Facility Improvements Project as submitted.
- D. Sanitation Automated Collection Study; WPCOG: Approval of the Lenoir Sanitation Automated Collection Study proposal as prepared by the Western Piedmont Council of Governments (WPCOG). **Note:** The revised proposal includes updated customer counts, route re-design and logistics, current and future operation and maintenance budgeting, solid waste ordinance review and public education assistance.
- E. Request for Meeting Time Change: City Council recommends moving back the time of the December 3 Council Meeting to 5:00 p.m. in lieu of the regular scheduled time of 6:00 p.m. due to a meeting conflict. **Note:** There will only be one Council meeting in December.

### IV. REQUESTS AND PETITIONS OF CITIZENS

### V. REPORTS OF BOARDS AND COMMISSIONS

### VI. REPORT AND RECOMMENDATIONS OF THE CITY MANAGER

#### A. Items of Information

- 1. The Foothills Regional Airport Authority will meet on Wednesday, November 20 at noon.
- 2. The annual Light-Up Lenoir Event is scheduled for Thursday, November 21 from 4:00 p.m. – 6:00 p.m. in downtown.
- 3. The annual Musical Light Show on the downtown square begins daily on Thursday, November 21 through Wednesday, January 1 from 6:00 p.m. – 10:00 p.m.
- 4. The 6<sup>th</sup> Annual Community Turkey Tuesday is scheduled for Tuesday, November 26 at 5:00 p.m. at the Martin Luther King, Jr. Center to assist families in need. The first 50 senior citizens or individuals with a disability will receive a turkey. This accommodation will be limited to one per person or one per vehicle. Following the distribution of these 50 turkeys, turkeys will be given out to the general public until the supply is gone.
- 5. The Planning Board will meet on Monday, November 25 at 5:30 p.m. at the City/County Chambers.
- 6. The Committee of the Whole will meet on Tuesday, November 26 at 8:30 a.m. at City Hall, Third Floor, former Council Chambers.
- 7. The annual Rotary Christmas Tree Festival will be held on Saturday, November 23 from 10:00 a.m. until 4:00 p.m. in downtown Lenoir.
- 8. City offices will be closed on Thursday, November 28 and Friday, November 29 in observance of the Thanksgiving holidays.
- 9. The annual Christmas Parade will be held on Friday, December 6 at 6:30 p.m. in downtown Lenoir.

B. Items for Council Action

1. Resolution; Historic Properties: Pursuant to N.C.G.S. §160A-458.3, City Council does hereby resolve that the properties depicted in Exhibit A as attached are considered part of Lenoir's Central Business District (CBD) and the rehabilitation and re-use of the buildings and associated site improvements are considered by the Lenoir City Council to be "downtown development projects". Staff recommends approval of the attached resolution.

**VII. REPORT AND RECOMMENDATIONS OF THE CITY ATTORNEY**

**VIII. REPORT AND RECOMMENDATIONS OF THE MAYOR**

**IX. REPORT AND RECOMMENDATIONS OF COUNCIL MEMBERS**

**X. ADJOURNMENT**



# City of Lenoir Police

1035 West Avenue NW  
Lenoir, North Carolina 28645  
(828) 757-2100 • Fax (828) 757-2103



## Council Action Form

### I. Agenda Item:

We respectfully request the surplus of two department canines, Cerik & Mato, so that they may be given to their respective handlers. The cost of \$1 each will be covered by an unnamed member of the Lenoir Police Department. These canines have aged out of the recommended service years.

See attached G.S. 20-187.4 and letters of intent from each handler.

next council meeting: 11/12/19

### II. Background Information:

K9 Cerik was born on 1/30/2011 and began his service in Dec. 2011  
His current handler is SGT Nathaneal Blache

K9 Mato was born on 12/2/2012 and began his service in Feb. 2014  
His current handler is CPL Justin Reid

### III. Staff Recommendation:

I fully recommend that the two K-9's, Cerik and Mato, be recognized as surpluses by the city and transfer into the personal care of their current handlers. I wish to thank both Sergeant Blache and Corporal Reid for their dedication to these two animals and to our department during their years in service.

Chief Brent Phelps  
10/30/2019

### IV. Reviewed by:

City Attorney: \_\_\_\_\_ Date: \_\_\_\_\_

City Manager: \_\_\_\_\_ Date: \_\_\_\_\_

Police Chief: *Brent Phelps* Date: 10/30/2019



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**

**WHEREAS**, the City of Lenoir, North Carolina City Council, in accordance with § 20-187.4, desires to dispose of a retired service animal, Police K-9 Mato of the City of Lenoir and award the service animal to Corporal Justin Reid for the purchase price of one dollar (\$1.00) from the City of Lenoir.

**NOW, THEREFORE BE IT RESOLVED,**

- 1) the Mayor and City Council of the City of Lenoir acknowledges Police K-9 Mato's loyal and dedicated service to the citizens of Lenoir, and
- 2) the Mayor and City Council declare the badge of Police K-9 Mato, upon retirement, as surplus and no longer has any additional use to the City of Lenoir.
- 3) the Mayor and City Council authorize the City Manager to proceed with the procedures as outlined in N.C.G.S. § 20-187.4 regarding the disposition of retired service animals.

**NOW, THEREFORE BE IT FURTHER RESOLVED** that, I, Joseph L. Gibbons, Mayor of the City of Lenoir, and on behalf of the Lenoir City Council and all the citizens, do hereby wish the very best for Police K-9 Mato in his retirement and commend him for the service.

Adopted this the 12th day of November, 2019

SEAL

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Joseph L. Gibbons, Mayor

ATTEST:

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Shirley M. Cannon, City Clerk





CITY MANAGER  
SCOTT E. HILDEBRAN

CITY OF LENOIR  
NORTH CAROLINA

MAYOR  
JOSEPH L. GIBBONS

CITY COUNCIL  
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C. D. THOMAS  
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**RESOLUTION**

**WHEREAS**, the City of Lenoir, North Carolina City Council, in accordance with § 20-187.4, desires to dispose of a retired service animal, Police K-9 Cerik of the City of Lenoir and award the service animal to Sergeant Nathaniel Blache for the purchase price of one dollar (\$1.00) from the City of Lenoir.

**NOW, THEREFORE BE IT RESOLVED,**

- 1) the Mayor and City Council of the City of Lenoir acknowledges Police K-9 Cerik's loyal and dedicated service to the citizens of Lenoir, and
- 2) the Mayor and City Council declare the badge of Police K-9 Cerik, upon retirement, as surplus and no longer has any additional use to the City of Lenoir.
- 3) the Mayor and City Council authorize the City Manager to proceed with the procedures as outlined in N.C.G.S. § 20-187.4 regarding the disposition of retired service animals.

**NOW, THEREFORE BE IT FURTHER RESOLVED** that, I, Joseph L. Gibbons, Mayor of the City of Lenoir, and on behalf of the Lenoir City Council and all the citizens, do hereby wish the very best for Police K-9 Cerik in his retirement and commend him for the service.

Adopted this the 12th day of November, 2019

SEAL

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Joseph L. Gibbons, Mayor

ATTEST:

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Shirley M. Cannon, City Clerk





*Brent Phelps*  
Chief

# CITY OF LENOIR POLICE

*1035 West Avenue NW*  
*Lenoir, NC 28645*  
*828-757-2100*



*Scott Hildebran*  
City Manager

Dear Sir or Madam:

I, Corporal Justin Reid, do hereby request that I be granted to take ownership of the Lenoir Police Department K-9 Mato from the City of Lenoir. My understanding is that K-9 Mato has been purchased on my behalf by a member of the Lenoir Police Department.

Upon the completion of the sale, I, Corporal Justin Reid, agree to release the City of Lenoir, the Lenoir Police Department, the Chief of Police, and any official of the City of Lenoir from any and all liability associated with the purchase and transfer of K-9 Mato from the City of Lenoir. The City of Lenoir, the Lenoir Police Department, the Chief of Police and all other City Officials are hereby released from any and all liability associated with the care, use and upkeep of the K-9 Mato. I understand that K-9 Mato is not to be used in any way in the official performance of my police duties and that K-9 Mato is not to be involved in any further police activities effective November 12, 2019.

I further agree and understand that the K-9 Mato is no longer associated with the City of Lenoir, the Lenoir Police Department, the Chief of Police or any other City Official as to any ownership or liability associated with the K-9 Mato upon the signing of this document by myself. Any and all equipment purchased by the Lenoir Police Department will be returned to the Logistics Sergeant Greg Snider, upon completion of this transfer. (Ref: G.S. 20-187.4)

\_\_\_\_\_  
Corporal Justin Reid

\_\_\_\_\_  
Witnessed by:

Caldwell County, North Carolina

I certify that the following persons personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document.

Date: \_\_\_\_\_

\_\_\_\_\_  
Sandra Parlier, Notary Public

My commission expires: March 20, 2024



*Brent Phelps*  
Chief

# CITY OF LENOIR POLICE

*1035 West Avenue NW*  
*Lenoir, NC 28645*  
*828-757-2100*



*Scott Hildebran*  
City Manager

Dear Sir or Madam:

I, Sergeant Nathaneal Blache, do hereby request that I be granted to take ownership of the Lenoir Police Department K-9 Cerik from the City of Lenoir. My understanding is that K-9 Cerik has been purchased on my behalf by a member of the Lenoir Police Department.

Upon the completion of the sale, I, Sergeant Nathaneal Blache, agree to release the City of Lenoir, the Lenoir Police Department, the Chief of Police, and any official of the City of Lenoir from any and all liability associated with the purchase and transfer of K-9 Cerik from the City of Lenoir. The City of Lenoir, the Lenoir Police Department, the Chief of Police and all other City Officials are hereby released from any and all liability associated with the care, use and upkeep of the K-9 Cerik. I understand that K-9 Cerik is not to be used in any way in the official performance of my police duties and that K-9 Cerik is not to be involved in any further police activities effective November 12, 2019.

I further agree and understand that the K-9 Cerik is no longer associated with the City of Lenoir, the Lenoir Police Department, the Chief of Police or any other City Official as to any ownership or liability associated with the K-9 Cerik upon the signing of this document by myself. Any and all equipment purchased by the Lenoir Police Department will be returned to the Logistics Sergeant Greg Snider, upon completion of this transfer. (Ref: G.S. 20-187.4)

\_\_\_\_\_  
Sergeant Nathaneal Blache

\_\_\_\_\_  
Witnessed by:

Caldwell County, North Carolina

I certify that the following persons personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document.

Date: \_\_\_\_\_

\_\_\_\_\_  
Sandra Parlier, Notary Public

My commission expires: March 20, 2024

**§ 20-187.4. Disposition of retired service animals.**

(a) Upon determination that any service animal is no longer fit or needed for public service, the State or unit of local government may transfer ownership of the animal at a price determined by the State or unit of local government and upon any other terms and conditions as the State or unit of local government deems appropriate, to any of the following individuals, if that individual agrees to accept ownership, care, and custody of the service animal:

- (1) The officer or employee who had normal custody and control of the service animal during the service animal's public service to the State or unit of local government.
- (2) A surviving spouse, or in the event such officer or employee dies unsurvived by a spouse, surviving children of the officer or employee killed in the line of duty who had normal custody and control of the service animal during the service animal's public service to the State or unit of local government.
- (3) An organization or program dedicated to the assistance or support of service animals retired from public service.

(b) For purposes of this section, the following definitions apply:

- (1) "Service animal." – Any horse, dog, or other animal owned by the State or a unit of local government that performs law enforcement, public safety, or emergency service functions.
- (2) "Unit of local government." – As defined in G.S. 159-7(b)(15). (2016-101, s. 1.)

**CITY OF LENOIR****COUNCIL ACTION FORM: November 12, 2019****I. Agenda Item:**

Adoption of the Lenoir Stormwater Ordinance, to be codified as Appendix C of the Lenoir Code of Ordinances.

**II. Background Information:**

The City of Lenoir is subject to Phase 2 requirements of the Clean Water Act, which includes maintaining the legal authority to enforce certain land development and code enforcement provisions related to the management of stormwater water run-off and the prevention of illicit discharge and non-source-point stream pollution.

While the City has been operating under these guidelines since 2007, we were using a Caldwell County ordinance. The attached ordinance was prepared by the Western Piedmont Council of Governments (WPCOG), in consultation with Lenoir Planning and Public Work Directors, as a part of our contract to use their services to comply with the state and federal requirements for Phase 2 communities.

The attached ordinance was developed using the model ordinance for North Carolina. Council called for a public hearing for this ordinance at the October 22, 2019 Committee of the Whole meeting, and the public hearing was advertised in the Lenoir News Topic on November 1 and November 8, 2019.

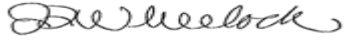
**III. Staff Recommendation:**

Adoption of the attached ordinance, and direct the Clerk to codify the ordinance as Appendix C in the Lenoir Code of Ordinances.

**IV. Reviewed by:**

City Attorney: \_\_\_\_\_

Finance Director: \_\_\_\_\_

Planning Director:  \_\_\_\_\_

## **APPENDIX C**

**City of Lenoir, North Carolina**

**Phase II Stormwater Ordinance**

## Phase II Stormwater Ordinance

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## SECTION 1: GENERAL PROVISIONS

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### 101 TITLE

This ordinance shall be officially known as “The Phase II Stormwater Ordinance.” It is referred to herein as “this ordinance.”

### 102 AUTHORITY

The City of Lenoir is authorized to adopt this ordinance pursuant to North Carolina law, including but not limited to Article 14, Section 5 of the Constitution of North Carolina; City of Lenoir; North Carolina General Statutes 143-214.7 and rules promulgated by the Environmental Management Commission thereunder; Session Law 2004-163; Chapter 160A, §§ 174, 185.

### 103 FINDINGS

It is hereby determined that:

*Development* and *redevelopment* alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, soil erosion, stream channel erosion, nonpoint and point source pollution, and sediment transport and deposition, as well as reducing groundwater recharge;

These changes in stormwater runoff contribute to increased quantities of water-borne pollutants and alterations in hydrology that are harmful to public health and safety as well as to the natural environment; and

These effects can be managed and minimized by applying proper design and well-planned controls to manage stormwater runoff from *development* sites.

Further, the Federal Water Pollution Control Act of 1972 (“Clean Water Act”) and federal Phase II Stormwater Rules promulgated under it, as well as rules of the North Carolina Environmental Management Commission promulgated in response to federal Phase II requirements, compel certain urbanized areas, including this jurisdiction, to adopt minimum stormwater controls such as those included in this ordinance.

Therefore, the City of Lenoir establishes this set of water quality and quantity regulations to meet the requirements of state and federal law regarding control of stormwater runoff and discharge.

### 104 PURPOSE

#### (A) General

The purpose of this ordinance is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-*development* stormwater runoff and nonpoint and point source pollution associated with new *development* and *redevelopment* [as well as illicit discharges into municipal stormwater systems]. It has been determined that proper management of construction-related and post-*development* stormwater runoff will minimize damage to public and private property

and infrastructure; safeguard the public health, safety, and general welfare; and protect water and aquatic resources.

**(B) Specific**

This ordinance seeks to meet its general purpose through the following specific objectives and means:

1. Establishing decision-making processes for *development* that protect the integrity of watersheds and preserve the health of water resources;
2. Requiring that new *development* and *redevelopment* maintain the pre-*development* hydrologic response in their post-*development* state as nearly as practicable for the applicable design storm to reduce flooding, streambank erosion, nonpoint and point source pollution and increases in stream temperature, and to maintain the integrity of stream channels and aquatic habitats;
3. Establishing minimum post-*development* stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;
4. Establishing design and review criteria for the construction, function, and use of *structural stormwater BMPs* that may be used to meet the minimum post-*development* stormwater management standards;
5. Encouraging the use of better management and site design practices, such as the use of vegetated conveyances for stormwater and the preservation of greenspace, riparian buffers and other conservation areas to the maximum extent practicable;
6. Establishing provisions for the long-term responsibility for and maintenance of *structural and nonstructural stormwater BMPs* to ensure that they continue to function as designed, are maintained appropriately, and pose no threat to public safety;
7. Establishing administrative procedures for the submission, review, approval and disapproval of *stormwater management plans*, for the inspection of approved projects, and to assure appropriate long-term maintenance.
8. Coordinating site design plans that include open space and natural areas with the City of Lenoir,
9. Controlling illicit discharges into the municipal separate stormwater system.

**105 APPLICABILITY AND JURISDICTION**

**(A) General**

Beginning with and subsequent to its effective date, this ordinance shall be applicable to all *development* and *redevelopment*, including, but not limited to, site plan

applications, subdivision applications, and grading applications, unless exempt pursuant to Subsection (B) of this Section, Exemptions.

**(B) Exemptions**

*Development* that cumulatively disturbs less than one acre and does not exceed 20,000 square feet or impervious area and does not include disturbances within a stream buffer, filling or excavation in excess of 1,000 cubic yards or filling and excavation that would impact an adjoining parcel through alteration or drainage paths, ponding or water or velocity of stormwater flow is not part of a *larger common plan of development or sale* is exempt from the provisions of this ordinance.

*Redevelopment* that cumulatively disturbs less than one acre and does not have a net increase in impervious area and is not part of a larger common plan of *development* or sale is exempt from the provisions of this ordinance.

*Development* and *redevelopment* that disturb less than one acre are not exempt if such activities are part of a *larger common plan of development or sale*, even though multiple, separate or distinct activities take place at different times on different schedules.

Activities that are exempt from permit requirements of Section 404 of the federal Clean Water Act as specified in 40 CFR 232 (primarily, ongoing farming and forestry activities) are exempt from the provisions of this ordinance.

**(C) No Development or Redevelopment Until Compliance and Permit**

No *development* or *redevelopment* shall occur except in compliance with the provisions of this ordinance or unless exempted. No *development* for which a permit is required pursuant to this ordinance shall occur except in compliance with the provisions, conditions, and limitations of the permit.

**(D) Map**

The provisions of this ordinance shall apply within the areas designated on the map titled "Phase II Stormwater Map of City of Lenoir, North Carolina" ("the Stormwater Map"), which is adopted simultaneously herewith. The Stormwater Map and all explanatory matter contained thereon accompanies and is hereby made a part of this ordinance.

The Stormwater Map shall be kept on file by the Stormwater Administrator and shall be updated to take into account changes in the land area covered by this ordinance and the geographic location of all *structural BMPs* permitted under this ordinance. In the event of a dispute, the applicability of this ordinance to a particular area of land or BMP shall be determined by reference to the North Carolina Statutes, the North Carolina Administrative Code, and local zoning and jurisdictional boundary ordinances.

**106 INTERPRETATION**

**(A) Meaning and Intent**

All provisions, terms, phrases, and expressions contained in this ordinance shall be construed according to the general and specific purposes set forth in Section 104,

Purpose. If a different or more specific meaning is given for a term defined elsewhere in City of Lenoir Code of Ordinances, the meaning and application of the term in this ordinance shall control for purposes of application of this ordinance.<sup>1</sup>

**(B) Text Controls in Event of Conflict**

In the event of a conflict or inconsistency between the text of this ordinance and any heading, caption, figure, illustration, table, or map, the text shall control.

**(C) Authority for Interpretation**

The Stormwater Administrator has authority to determine the interpretation of this ordinance. Any person may request an interpretation by submitting a written request to the Stormwater Administrator, who shall respond in writing within 30 days. The Stormwater Administrator shall keep on file a record of all written interpretations of this ordinance.

**(D) References to Statutes, Regulations, and Documents**

Whenever reference is made to a resolution, ordinance, statute, regulation, manual (including the *Design Manual*), or document, it shall be construed as a reference to the most recent edition of such that has been finalized and published with due provision for notice and comment, unless otherwise specifically stated.

**(E) Computation of Time**

The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the City of Lenoir, the deadline or required date of action shall be the next day that is not a Saturday, Sunday or holiday observed by the City of Lenoir. References to days are calendar days unless otherwise stated.

**(F) Delegation of Authority**

Any act authorized by this Ordinance to be carried out by the Stormwater Administrator of City of Lenoir may be carried out by his or her designee.

**(G) Usage**

**(1) Mandatory and Discretionary Terms**

The words “shall,” “must,” and “will” are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words “may” and “should” are permissive in nature.

**(2) Conjunctions**

Unless the context clearly indicates the contrary, conjunctions shall be interpreted as follows: The word “and” indicates that all connected items,

conditions, provisions and events apply. The word “or” indicates that one or more of the connected items, conditions, provisions or events apply.

**(3) Tense, Plurals, and Gender**

Words used in the present tense include the future tense. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise. Words used in the masculine gender include the feminine gender, and vice versa.

**(H) Measurement and Computation**

Lot area refers to the amount of horizontal land area contained inside the lot lines of a lot or site.

**107 DESIGN MANUAL**

**(A) Reference to Design Manual**

The Stormwater Administrator shall use the policy, criteria, and information, including technical specifications and standards, in the *Design Manual* as the basis for decisions about stormwater permits and about the design, implementation and performance of *structural and non-structural stormwater BMPs*.

The *Design Manual* includes a list of acceptable stormwater treatment practices, including specific design criteria for each stormwater practice. Stormwater treatment practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards of the Phase II laws.

**(B) Relationship of Design Manual to Other Laws and Regulations**

If the specifications or guidelines of the *Design Manual* are more restrictive or apply a higher standard than other laws or regulations, that fact shall not prevent application of the specifications or guidelines in the *Design Manual*.

**(C) Changes to Standards and Specifications**

If the standards, specifications, guidelines, policies, criteria, or other information in the *Design Manual* are amended subsequent to the submittal of an application for approval pursuant to this ordinance but prior to approval, the new information shall control and shall be utilized in reviewing the application and in implementing this ordinance with regard to the application.

**108 RELATIONSHIP TO OTHER LAWS, REGULATIONS AND PRIVATE AGREEMENTS**

**(A) Conflict of Laws**

This ordinance is not intended to modify or repeal any other ordinance, rule, regulation or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation or other provision of law. Where any provision of this ordinance imposes restrictions

different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human or environmental health, safety, and welfare shall control.

**(B) Private Agreements**

This ordinance is not intended to revoke or repeal any easement, covenant, or other private agreement. However, where the regulations of this ordinance are more restrictive or impose higher standards or requirements than such an easement, covenant, or other private agreement, the requirements of this ordinance shall govern. Nothing in this ordinance shall modify or repeal any private covenant or deed restriction, but such covenant or restriction shall not legitimize any failure to comply with this ordinance. In no case shall City of Lenoir be obligated to enforce the provisions of any easements, covenants, or agreements between private parties.

**109 SEVERABILITY**

If the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this ordinance.

**110 EFFECTIVE DATE AND TRANSITIONAL PROVISIONS**

**(A) Effective Date**

This Ordinance shall take effect on November 5, 2019.

**(B) Final Approvals, Complete Applications**

All *development* and *redevelopment* projects for which complete and full applications were submitted and approved by the City of Lenoir prior to the effective date of this ordinance and which remain valid, unexpired, unrevoked and not otherwise terminated at the time of *development* or *redevelopment* shall be exempt from complying with all provisions of this ordinance dealing with the control and/or management of post-construction runoff, but shall be required to comply with all other applicable provisions, including but not limited to illicit discharge provisions.

A phased development plan shall be deemed approved prior to the effective date of this ordinance if it has been approved by all necessary government units, it remains valid, unexpired, unrevoked and not otherwise terminated, and it shows:

1. For the initial or first phase of development, the type and intensity of use for a specific parcel or parcels, including at a minimum, the boundaries of the project and a subdivision plan that has been approved.
2. For any subsequent phase of development, sufficient detail so that implementation of the requirements of this ordinance to that phase of development would require a material change in that phase of the plan.

**(C) Violations Continue**

Any violation of provisions existing on the effective date of this ordinance shall continue to be a violation under this ordinance and be subject to penalties and enforcement under this ordinance unless the use, *development*, construction, or other activity complies with the provisions of this ordinance.

## SECTION 2: ADMINISTRATION AND PROCEDURES

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### 201 REVIEW AND DECISION-MAKING ENTITIES

#### (A) Stormwater Administrator

##### (1) Designation

A Stormwater Administrator shall be designated by the City Council to administer and enforce this ordinance.

##### (2) Powers and Duties

In addition to the powers and duties that may be conferred by other provisions of the City Code of Ordinances and other laws, the Stormwater Administrator shall have the following powers and duties under this ordinance:

- a. To review and approve, approve with conditions, or disapprove applications for approval of plans pursuant to this ordinance.
- b. To make determinations and render interpretations of this ordinance.
- c. To establish application requirements and schedules for submittal and review of applications and appeals, to review and make recommendations to the City Council on applications for *development* or *redevelopment* approvals.
- d. To enforce the provisions of this ordinance in accordance with its enforcement provisions.
- e. To maintain records, maps, forms and other official materials as relate to the adoption, amendment, enforcement, and administration of this ordinance.
- f. To provide expertise and technical assistance to the City Council, upon request.
- g. To designate appropriate other person(s) who shall carry out the powers and duties of the Stormwater Administrator.
- h. To take any other action necessary to administer the provisions of this ordinance.

### 202 REVIEW PROCEDURES

#### (A) Permit Required; Must Apply for Permit

A stormwater permit is required for all *development* and *redevelopment* unless exempt pursuant to this ordinance. A permit may only be issued subsequent to a properly submitted and reviewed permit application, pursuant to this section.

**(B) Effect of Permit**

A stormwater permit shall govern the design, installation, and construction of stormwater management and control practices on the site, including *structural BMPs* and elements of site design for stormwater management other than *structural BMPs*.

The permit is intended to provide a mechanism for the review, approval, and inspection of the approach to be used for the management and control of stormwater for the *development* or *redevelopment* site consistent with the requirements of this ordinance, whether the approach consists of *structural BMPs* or other techniques such as low-impact or low-density design. The permit does not continue in existence indefinitely after the completion of the project; rather, compliance after project construction is assured by the maintenance provisions of this ordinance.

**(C) Authority to File Applications**

All applications required pursuant to this Code shall be submitted to the Stormwater Administrator by the land *owner* or the land *owner's* duly authorized agent.

**(D) Establishment of Application Requirements, Schedule, and Fees****(1) Application Contents and Form**

The Stormwater Administrator [Stormwater Advisory Board] shall establish requirements for the content and form of all applications and shall amend and update those requirements from time to time. At a minimum, the stormwater permit application shall describe in detail how post-*development* stormwater runoff will be controlled and managed, the design of all stormwater facilities and practices, and how the proposed project will meet the requirements of this ordinance.

**(2) Submission Schedule**

The Stormwater Administrator shall establish a submission schedule for applications. The schedule shall establish deadlines by which complete applications must be submitted for the purpose of ensuring that there is adequate time to review applications; and that the various stages in the review process are accommodated.

**(3) Permit Review Fees**

The City Council shall establish permit review fees, as well as, policies regarding refund of any fees upon withdrawal of an application, and may amend and update the fees and policies from time to time.

**(4) Administrative Manual**

For applications required under this Code, the Stormwater Administrator shall compile the application requirements, submission schedule, fee schedule, a copy of this ordinance, and information on how and where to obtain the Design

Manual in an Administrative Manual, which shall be made available to the public.

**(E) Submittal of Complete Application**

Applications shall be submitted to the Stormwater Administrator pursuant to the application submittal schedule in the form established by the Stormwater Administrator, along with the appropriate fee established pursuant to this section.

An application shall be considered as timely submitted only when it contains all elements of a complete application pursuant to this ordinance, along with the appropriate fee. If the Stormwater Administrator finds that an application is incomplete, the applicant shall be notified of the deficient elements and shall be provided with an opportunity to submit a complete application. However, the submittal of an incomplete application shall not suffice to meet a deadline contained in the submission schedule established above.

**(F) Review**

Within 30 working days after a complete application is submitted, the Stormwater Administrator shall review the application and determine whether the application complies with the standards of this ordinance.

**(1) Approval**

If the Stormwater Administrator finds that the application complies with the standards of this ordinance, the Stormwater Administrator shall approve the application. The Stormwater Administrator may impose conditions of approval as needed to ensure compliance with this ordinance. The conditions shall be included as part of the approval.

**(2) Fails to Comply**

If the Stormwater Administrator finds that the application fails to comply with the standards of this ordinance, the Stormwater Administrator shall notify the applicant and shall indicate how the application fails to comply. The applicant shall have an opportunity to submit a revised application.

**(3) Revision and Subsequent Review**

A complete revised application shall be reviewed by the Stormwater Administrator within 15 working days after its re-submittal and shall be approved, approved with conditions or disapproved.

If a revised application is not re-submitted within thirty (30) calendar days from the date the applicant was notified, the application shall be considered withdrawn, and a new submittal for the same or substantially the same project shall be required along with the appropriate fee for a new submittal.

One re-submittal of a revised application may be submitted without payment of an additional permit review fee. Any re-submittal after the first re-submittal

shall be accompanied by a permit review fee additional fee, as established pursuant to this ordinance.

## 203 APPLICATIONS FOR APPROVAL

### (A) Concept Plan and Consultation Meeting

Before a stormwater management permit application is deemed complete, the Stormwater Administrator or developer may request a consultation on a concept plan for the post-construction stormwater management system to be utilized in the proposed *development* project. This consultation meeting should take place at the time of the preliminary plan of subdivision or other early step in the *development* process. The purpose of this meeting is to discuss the post-construction stormwater management measures necessary for the proposed project, as well as to discuss and assess constraints, opportunities and potential approaches to stormwater management designs before formal site design engineering is commenced. Local watershed plans and other relevant resource protection plans should be consulted in the discussion of the concept plan.

To accomplish this goal, the following information should be included in the concept plan, which should be submitted in advance of the meeting:

#### (1) Existing Conditions / Proposed Site Plans

Existing conditions and proposed site layout sketch plans, which illustrate at a minimum: existing and proposed topography; perennial and intermittent streams; mapping of predominant soils from soil surveys (if available); boundaries of existing predominant vegetation; proposed limits of clearing and grading; and location of existing and proposed roads, buildings, parking areas and other impervious surfaces.

#### (2) Natural Resources Inventory

A written or graphic inventory of natural resources at the site and surrounding area as it exists prior to the commencement of the project. This description should include a discussion of soil conditions, forest cover, geologic features, topography, wetlands, and native vegetative areas on the site, as well as the location and boundaries of other natural feature protection and conservation areas such as lakes, ponds, floodplains, stream buffers and other setbacks (e.g., drinking water well setbacks, septic setbacks, etc.). Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for *development* and stormwater management.

#### (3) Stormwater Management System Concept Plan

A written or graphic concept plan of the proposed post-*development* stormwater management system including: preliminary selection and location of proposed structural stormwater controls; low-impact design elements; location of existing and proposed conveyance systems such as grass channels, swales, and storm drains; flow paths; location of floodplain/floodway limits; relationship of site to upstream and downstream properties and drainages; and preliminary location of any proposed stream channel modifications, such as bridge or culvert crossings.

**(B) Stormwater Management Permit Application**

The stormwater management permit application shall detail how post-*development* stormwater runoff will be controlled and managed and how the proposed project will meet the requirements of this ordinance, including Section 3, Standards. All such plans shall be prepared by a qualified registered North Carolina professional engineer, surveyor, soil scientist or landscape architect, and the engineer, surveyor, soil scientist or landscape architect shall perform services only in their area of competence, and shall verify that the design of all stormwater management facilities and practices meets the submittal requirements for complete applications, that the designs and plans are sufficient to comply with applicable standards and policies found in the *Design Manual*, and that the designs and plans ensure compliance with this ordinance.

The submittal shall include all of the information required in the submittal checklist established by the Stormwater Administrator. Incomplete submittals shall be treated pursuant to Section 2-202(D).

**(C) As-Built Plans and Final Approval**

Upon completion of a project, and before a certificate of occupancy shall be granted, the applicant shall certify that the completed project is in accordance with the approved stormwater management plans and designs, and shall submit actual “as built” plans for all stormwater management facilities or practices after final construction is completed.

The plans shall show the final design specifications for all stormwater management facilities and practices and the field location, size, depth, and planted vegetation of all measures, controls, and devices, as installed. The designer of the stormwater management measures and plans shall certify, under seal, that the as-built stormwater measures, controls, and devices are in compliance with the approved stormwater management plans and designs and with the requirements of this ordinance. A final inspection and approval by the Stormwater Administrator shall occur before the release of any performance securities.

**(D) Other Permits**

No certificate of compliance or occupancy shall be issued by the Caldwell County Building Inspectors without final as-built plans and a final inspection and approval by the Stormwater Administrator, except where multiple units are served by the stormwater practice or facilities, in which case the Caldwell County Building Inspections Department may elect to withhold a percentage of permits or certificates of occupancy until as-built plans are submitted and final inspection and approval has occurred.

**204 APPROVALS**

**(A) Effect of Approval**

Approval authorizes the applicant to go forward with only the specific plans and activities authorized in the permit. The approval shall not be construed to exempt the applicant from obtaining other applicable approvals from local, state, and federal authorities.

**(B) Time Limit/Expiration**

An approved plan shall become null and void if the applicant fails to make *substantial progress* on the site within one year after the date of approval. The Stormwater Administrator may grant a single, one-year extension of this time limit, for good cause shown, upon receiving a written request from the applicant before the expiration of the approved plan.

In granting an extension, the Stormwater Administrator may require compliance with standards adopted since the original application was submitted unless there has been substantial reliance on the original permit and the change in standards would infringe the applicant's vested rights.

**205 APPEALS****(A) Right of Appeal**

Any aggrieved person affected by any decision, order, requirement, or determination relating to the interpretation or application of this ordinance made by the Stormwater Administrator, may file an appeal to the Board of Adjustment within 30 days.

**(B) Filing of Appeal and Procedures**

Appeals shall be taken within the specified time period by filing a notice of appeal and specifying the grounds for appeal on forms provided by City of Lenoir. The Stormwater Administrator shall transmit to the Board of Adjustment all documents constituting the record on which the decision appealed from was taken.

The hearing conducted by the Board of Adjustment shall be conducted in the nature of a quasi-judicial proceeding with all findings of fact supported by competent, material evidence.

**(C) Review by Superior Court**

Every decision of the Board of Adjustment shall be subject to Superior Court review by proceedings in the nature of certiorari. Petition for review by the Superior Court shall be filed with the Clerk of Superior Court within thirty (30) days after the latter of the following:

- (1) The decision of the Board of Adjustment is filed; or
- (2) A written copy of the decision is delivered to every aggrieved party who has filed a written request for such copy with the Chair of the Board of Adjustment at the time of its hearing of the case.

## SECTION 3: STANDARDS

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### 301 GENERAL STANDARDS

All *development* and *redevelopment* to which this ordinance applies shall comply with the standards of this section.

### 302 DEVELOPMENT STANDARDS FOR LOW-DENSITY PROJECTS

*Low-density projects* shall comply with each of the following standards:

- (A) Stormwater runoff from the *development* shall be transported from the *development* by vegetated conveyances to the maximum extent practicable.
- (B) Stream buffers shall be maintained on all sides of perennial and intermittent surface waters. The size of the buffer for perennial surface waters shall be an undisturbed width of 30 feet, plus a vegetated setback of 20 feet. Buffers for intermittent surface waters shall be an undisturbed width of 30 feet. The buffer width is measured perpendicularly from the top of the streambank. A perennial or intermittent surface water shall be deemed present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture (USDA) or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 2B .0233 (3) (a) or similar site-specific determination made using Division-approved methodology.
- (C) The approval of the stormwater permit shall require an enforceable restriction on property usage that runs with the land, such as a recorded deed restriction or protective covenants, to ensure that future *development* and *redevelopment* maintains the site consistent with the approved project plans.

### 303 DEVELOPMENT STANDARDS FOR HIGH-DENSITY PROJECTS

*High-density projects* shall implement stormwater control measures that comply with each of the following standards:

- (A) The measures shall control and treat runoff from the first inch of rain, runoff volume drawdown time shall be a minimum of 48 hours, but not more than 120 hours.
- (B) All structural stormwater treatment systems used to meet these requirements shall be designed to have a minimum of 85% average annual removal for Total Suspended Solids (TSS);
- (C) General engineering design criteria for all projects shall be in accordance with 15A NCAC 2H .1008(c), as explained in the *Design Manual*;

- (D) Stream buffers shall be maintained on all sides of perennial and intermittent surface waters. The size of the buffer for perennial surface waters shall be an undisturbed width of 30 feet, plus a vegetated setback of 20 feet. Buffers for intermittent surface waters shall be an undisturbed width of 30 feet. The buffer width is measured perpendicularly from the top of the streambank. A surface water shall be deemed present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture (USDA) or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 2B .0233 (3) (a) or similar site-specific determination made using Division-approved methodology.
- (E) On-site verification of intermittent and perennial streams by a qualified professional is required for all development exceeding a cumulative 5 acres and 24 percent impervious coverage, or any commercial development.
- (F) The approval of the stormwater permit shall require an enforceable restriction on property usage that runs with the land, such as recorded deed restrictions or protective covenants, to ensure that future *development* and *redevelopment* maintains the site consistent with the approved project plans.

#### 304 STANDARDS FOR STORMWATER CONTROL MEASURES

##### (A) Evaluation According to Contents of Design Manual

All stormwater control measures and stormwater treatment practices (also referred to as Best Management Practices, or BMPs) required under this ordinance shall be evaluated by the Stormwater Administrator according to the policies, criteria, and information, including technical specifications and standards and the specific design criteria for each stormwater practice, in the *Design Manual*. The Stormwater Administrator shall determine whether proposed BMPs will be adequate to meet the requirements of this ordinance.

##### (B) Determination of Adequacy; Presumptions and Alternatives

Stormwater treatment practices that are designed, constructed, and maintained in accordance with the criteria and specifications in the *Design Manual* will be presumed to meet the minimum water quality and quantity performance standards of this ordinance. Whenever an applicant proposes to utilize a practice or practices not designed and constructed in accordance with the criteria and specifications in the *Design Manual*, the applicant shall have the burden of demonstrating that the practice(s) will satisfy the minimum water quality and quantity performance standards of this ordinance. The Stormwater Administrator may require the applicant to provide the documentation, calculations, and examples necessary for the Stormwater Administrator to determine whether such an affirmative showing is made.

##### (C) Separation from Seasonal High Water Table

For BMPs that require a separation from the seasonal high-water table, the separation shall be provided by at least 12 inches of naturally occurring soil above the seasonal high-water table.

### **305 DEDICATION OF BMPs, FACILITIES & IMPROVEMENTS**

The Lenoir City Council may accept dedication of any existing or future stormwater management facility for maintenance, provided such facility meets all the requirements of this ordinance and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

### **306 VARIANCES**

**(A)** Any person may petition the City of Lenoir for a variance granting permission to use the person's land in a manner otherwise prohibited by this ordinance. To qualify for a variance, the petitioner must show all of the following:

- (1) Unnecessary hardships would result from strict application of this ordinance.
- (2) The hardships result from conditions that are peculiar to the property, such as the location, size, or topography of the property.
- (3) The hardships did not result from actions taken by the petitioner.
- (4) The requested variance is consistent with the spirit, purpose, and intent of this ordinance; will secure public safety and welfare; and will preserve substantial justice.

**(B)** The City of Lenoir may impose reasonable and appropriate conditions and safeguards upon any variance it grants.

**(C)** Statutory exceptions

Notwithstanding subdivision (A) of this section, exceptions from the 30-foot landward location of built-upon area requirement as well as the deed restrictions and protective covenants requirements shall be granted in any of the following instances:

- (1) When there is a lack of practical alternatives for a road crossing, railroad crossing, bridge, airport facility, or utility crossing as long as it is located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of BMPs.
- (2) When there is a lack of practical alternatives for a stormwater management facility; a stormwater management pond; or a utility, including, but not limited to, water, sewer, or gas construction and maintenance corridor, as long as it is located 15 feet landward of all perennial and intermittent surface waters and as long as it is located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of BMPs.

(3) A lack of practical alternatives may be shown by demonstrating that, considering the potential for a reduction in size, configuration, or density of the proposed activity and all alternative designs, the basic project purpose cannot be practically accomplished in a manner which would avoid or result in less adverse impact to surface waters.

### 307 **ADDITIONAL STANDARDS FOR SPECIAL SITUATIONS**

#### **(A) Pet waste**

- (1) It shall be unlawful for the owner or custodian of any dog to take it off the owner's own property limits without the means to properly remove and dispose of the dog's feces from any public or private property.
- (2) It is the responsibility of a dog's owner or custodian to clean up the dog's feces from any public or private property outside of the dog's owner's own property limits. Such property includes, but is not limited to, parks, rights-of-way, paths, and public access areas.
- (3) "Means to properly remove and dispose of feces" shall consist of having on or near one's person a device such as a plastic bag, or other suitable plastic or paper container, that can be used to clean up and contain dog waste until it can be disposed of in an appropriate container. Such a device must be produced and shown, upon request, to anyone authorized to enforce these ordinances.
- (4) This provision shall not apply to handicapped persons assisted by trained guide or assistance dogs.
- (5) "Public nuisance" is defined to include "a dog which deposits feces on public property or on private property without the consent of the owner or person in lawful possession of the private property, and the person owning, possessing, harboring or having the care, charge, control or custody of the dog fails to remove the feces so deposited. Provided, however, this definition shall not apply to any dog assisting a handicapped person. Reference Section 5 for abatement and penalty.

### 308 **ONSITE WASTEWATER**

#### **(A) Operation and Maintenance Requirements**

New and replaced onsite systems for domestic wastewater installed after the effective date of this ordinance shall be subject to the same requirements for operation and maintenance as *structural BMPs* for stormwater, including, at a minimum, annual inspection reports and a recorded operation and maintenance agreement, pursuant to Section 4 of this ordinance.

#### **(B) Standards for Operation and Maintenance**

Onsite systems for domestic wastewater covered by this ordinance shall be operated and maintained so as to avoid adverse effects on surface water and groundwater, including eutrophication of surface water and microbial or nitrate contamination of groundwater. Septic tank residuals shall be pumped

whenever necessary to assure the proper operation of the system to meet these standards, and the septage shall be reused or disposed of in a manner that does not present significant risks to human health, surface water or groundwater.

## SECTION 4: MAINTENANCE

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### 401 GENERAL STANDARDS FOR MAINTENANCE

#### (A) Function of BMPs As Intended

The *owner* of each *structural BMP* installed pursuant to this ordinance shall maintain and operate it so as to preserve and continue its function in controlling stormwater quality and quantity at the degree or amount of function for which the *structural BMP* was designed.

#### (B) Annual Maintenance Inspection and Report

The person responsible for maintenance of any *structural BMP* installed pursuant to this ordinance shall submit to the Stormwater Administrator an inspection report from one of the following persons performing services only in their area of competence: a qualified registered North Carolina professional engineer, surveyor, landscape architect, soil scientist, aquatic biologist, or person certified by the North Carolina Cooperative Extension Service for stormwater treatment practice inspection and maintenance. The inspection report shall contain all of the following:

- (1) The name and address of the land *owner*;
- (2) The recorded book and page number of the lot of each *structural BMP*;
- (3) A statement that an inspection was made of all *structural BMPs*;
- (4) The date the inspection was made;
- (5) A statement that all inspected *structural BMPs* are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this ordinance; and
- (6) The original signature and seal of the engineer, surveyor, or landscape architect.

All inspection reports shall be on forms supplied by the Stormwater Administrator. An original inspection report shall be provided to the Stormwater Administrator beginning one year from the date of as-built certification and each year thereafter on or before the date of the as-built certification.

### 402 OPERATION AND MAINTENANCE AGREEMENT

#### (A) In General

Prior to the conveyance or transfer of any lot or building site to be served by a *structural BMP* pursuant to this ordinance, and prior to issuance of any permit for *development* or *redevelopment* requiring a *structural BMP* pursuant to this ordinance, the applicant or *owner* of the site must execute an operation and maintenance agreement that shall be binding on all subsequent *owners* of the site, portions of the site, and lots or parcels served by the *structural BMP*. Until the transference of all property,

sites, or lots served by the *structural BMP*, the original *owner* or applicant shall have primary responsibility for carrying out the provisions of the maintenance agreement.

The operation and maintenance agreement shall require the *owner* or *owners* to maintain, repair and, if necessary, reconstruct the *structural BMP*, and shall state the terms, conditions, and schedule of maintenance for the *structural BMP*. In addition, it shall grant to City of Lenoir a right of entry in the event that the Stormwater Administrator has reason to believe it has become necessary to inspect, monitor, maintain, repair, or reconstruct the *structural BMP*; however, in no case shall the right of entry, of itself, confer an obligation on City of Lenoir to assume responsibility for the *structural BMP*.

The operation and maintenance agreement must be approved by the Stormwater Administrator prior to plan approval, and it shall be referenced on the final plat and shall be recorded with the county Register of Deeds upon final plat approval. A copy of the recorded maintenance agreement shall be given to the Stormwater Administrator within fourteen (14) days following its recordation.

**(B) Special Requirement for Homeowners' and Other Associations**

For all *structural BMPs* required pursuant to this ordinance and that are to be or are owned and maintained by a homeowners' association, property owners' association, or similar entity, the required operation and maintenance agreement shall include all of the following provisions:

- (1) Acknowledgment that the association shall continuously operate and maintain the stormwater control and management facilities.
- (2) Establishment of an escrow account, which can be spent solely for sediment removal, structural, biological or vegetative replacement, major repair, or reconstruction of the *structural BMPs*. If *structural BMPs* are not performing adequately or as intended or are not properly maintained, the City of Lenoir, in its sole discretion, may remedy the situation, and in such instances the City of Lenoir shall be fully reimbursed from the escrow account. Escrowed funds may be spent by the association for sediment removal, structural, biological or vegetative replacement, major repair, and reconstruction of the *structural BMPs*, provided that the City of Lenoir shall first consent to the expenditure.
- (3) Both developer contribution and annual sinking funds shall fund the escrow account. Prior to plat recordation or issuance of construction permits, whichever shall first occur, the developer shall pay into the escrow account an amount equal to fifteen (15) per cent of the initial construction cost of the *structural BMPs*. Two-thirds (2/3) of the total amount of sinking fund budget shall be deposited into the escrow account within the first five (5) years and the full amount shall be deposited within ten (10) years following initial construction of the *structural BMPs*. Funds shall be deposited each year into the escrow account. A portion of the annual assessments of the association shall include an allocation into the escrow account. Any funds drawn down from the escrow account shall be replaced in accordance with the schedule of anticipated work used to create the sinking fund budget.

- (4) The percent of developer contribution and lengths of time to fund the escrow account may be varied by the City of Lenoir depending on the design and materials of the stormwater control and management facility.
- (5) Granting to the City of Lenoir a right of entry to inspect, monitor, maintain, repair, and reconstruct *structural BMPs*.
- (6) Allowing the City of Lenoir to recover from the association and its member's any and all costs the City of Lenoir expends to maintain or repair the *structural BMPs* or to correct any operational deficiencies. Failure to pay the City of Lenoir all of its expended costs, after forty-five days written notice, shall constitute a breach of the agreement. In case of a deficiency, the City of Lenoir shall thereafter be entitled to bring an action against the association and its members to pay, or foreclose upon the lien hereby authorized by the agreement against the property, or both (interest, collection costs, and attorney fees) shall be added to the recovery.
- (7) A statement that this agreement shall not obligate the City of Lenoir to maintain or repair any *structural BMPs*, and the City of Lenoir shall not be liable to any person for the condition or operation of *structural BMPs*.
- (8) A statement that this agreement shall not in any way diminish, limit, or restrict the right of the City of Lenoir to enforce any of its ordinances as authorized by law.
- (9) A provision indemnifying and holding harmless the City of Lenoir for any costs and injuries arising from or related to the structural BMP, unless the City of Lenoir has agreed in writing to assume the maintenance responsibility for the BMP and has accepted dedication of any and all rights necessary to carry out that maintenance.

#### 403 INSPECTION PROGRAM

Inspections and inspection programs by City of Lenoir may be conducted or established on any reasonable basis, including but not limited to routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in BMPs; and evaluating the condition of BMPs.

If the *owner* or occupant of any property refuses to permit such inspection, the Stormwater Administrator shall proceed to obtain an administrative search warrant pursuant to G.S. 15-27.2 or its successor. No person shall obstruct, hamper or interfere with the Stormwater Administrator while carrying out his or her official duties.

## 404 PERFORMANCE SECURITY FOR INSTALLATION AND MAINTENANCE

### (A) May Be Required

The City of Lenoir may, at its discretion, require the submittal of a performance security or bond with surety or other acceptable legal arrangement prior to issuance of a permit in order to ensure that the *structural BMPs* are

- (1) Installed by the permit holder as required by the approved stormwater management plan, and/or
- (2) Maintained by the *owner* as required by the operation and maintenance agreement.

### (B) Amount

#### (1) Installation

The amount of an installation performance security shall be the total estimated construction cost of the BMPs approved under the permit, plus 25%.

#### (2) Maintenance

The amount of a maintenance performance security shall be the present value of an annuity of perpetual duration based on a reasonable estimate of the annual cost of inspection, operation and maintenance of the BMPs approved under the permit, at a discount rate that reflects the jurisdiction's cost of borrowing minus a reasonable estimate of long-term inflation.

### (C) Uses of Performance Security

#### (1) Forfeiture Provisions

The performance security shall contain forfeiture provisions for failure, after proper notice, to complete work within the time specified, or to initiate or maintain any actions which may be required of the applicant or *owner* in accordance with this ordinance, approvals issued pursuant to this ordinance, or an operation and maintenance agreement established pursuant to this ordinance.

#### (2) Default

Upon default of the *owner* to construct, maintain, repair and, if necessary, reconstruct any *structural BMP* in accordance with the applicable permit or operation and maintenance agreement, the Stormwater Administrator shall obtain and use all or any portion of the security to make necessary improvements based on an engineering estimate. Such expenditure of funds shall only be made after requesting the *owner* to comply with the permit or maintenance agreement. In the event of a default triggering the use of installation performance security, the City of Lenoir shall not return any of the unused deposited cash funds or other security, which shall be retained for maintenance.

### (3) Costs in Excess of Performance Security

If City of Lenoir takes action upon such failure by the applicant or *owner*, the City of Lenoir may collect from the applicant or *owner* the difference between the amount of the reasonable cost of such action and the amount of the security held, in addition to any other penalties or damages due.

### (4) Refund

Within sixty days of the final approval, the installation performance security shall be refunded to the applicant or terminated, except any amount attributable to the cost (plus 25%) of landscaping installation and ongoing maintenance associated with the BMPs covered by the security. Any such landscaping shall be inspected one (1) year after installation with replacement for compliance with the approved plans and specifications and, if in compliance, the portion of the financial security attributable to landscaping shall be released.

## 405 NOTICE TO OWNERS

### (A) Deed Recordation and Indications On Plat

The applicable operations and maintenance agreement, conservation easement, or dedication and acceptance into public maintenance (whichever is applicable) pertaining to every *structural BMP* shall be referenced on the final plat and shall be recorded with the county Register of Deeds upon final plat approval. If no subdivision plat is recorded for the site, then the operations and maintenance agreement, conservation easement, or dedication and acceptance into public maintenance, whichever is applicable shall be recorded with the county Register of Deeds so as to appear in the chain of title of all subsequent purchasers under generally accepted searching principles.

### (B) Signage

Where appropriate in the determination of the Stormwater Administrator to assure compliance with this ordinance, *structural BMPs* shall be posted with a conspicuous sign stating who is responsible for required maintenance and annual inspection. The sign shall be maintained so as to remain visible and legible.

## 406 RECORDS OF INSTALLATION AND MAINTENANCE ACTIVITIES

The *owner* of each *structural BMP* shall keep records of inspections, maintenance, and repairs for at least five years from the date of creation of the record and shall submit the same upon reasonable request to the Stormwater Administrator.

## 407 NUISANCE

The *owner* of each stormwater BMP, whether *structural* or non-*structural BMP*, shall maintain it so as not to create or result in a nuisance condition.

## 408 MAINTENANCE EASEMENT

Every *structural BMP* installed pursuant to this ordinance shall be made accessible for adequate maintenance and repair by a maintenance easement. The easement shall be

recorded and its terms shall specify who may make use of the easement and for what purposes.

## SECTION 5: ENFORCEMENT AND VIOLATIONS

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### 501 GENERAL

#### (A) Authority to Enforce

The provisions of this ordinance shall be enforced by the Stormwater Administrator, his or her designee, or any authorized agent of City of Lenoir. Whenever this section refers to the Stormwater Administrator, it includes his or her designee as well as any authorized agent of City of Lenoir.

#### (B) Violation Unlawful

Any failure to comply with an applicable requirement, prohibition, standard, or limitation imposed by this ordinance, or the terms or conditions of any permit or other *development* or *redevelopment* approval or authorization granted pursuant to this ordinance, is unlawful and shall constitute a violation of this ordinance.

#### (C) Each Day a Separate Offense

Each day that a violation continues shall constitute a separate and distinct violation or offense.

#### (D) Responsible Persons/Entities

Any person who erects, constructs, reconstructs, alters (whether actively or passively), or fails to erect, construct, reconstruct, alter, repair or maintain any structure, BMP, practice, or condition in violation of this ordinance shall be subject to the remedies, penalties, and/or enforcement actions in accordance with this section. Persons subject to the remedies and penalties set forth herein may include any architect, engineer, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that results in or constitutes a violation of this ordinance, or fails to take appropriate action, so that a violation of this ordinance results or persists; or an *owner*, any tenant or occupant, or any other person, who has control over, or responsibility for, the use or *development* of the property on which the violation occurs.

For the purposes of this article, responsible person(s) shall include but not be limited to:

##### (1) Person Maintaining Condition Resulting In or Constituting Violation

An architect, engineer, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that constitutes a violation of this ordinance, or fails to take appropriate action, so that a violation of this ordinance results or persists.

##### (2) Responsibility For Land or Use of Land

The *owner* of the land on which the violation occurs, any tenant or occupant of the property, any person who is responsible for stormwater controls or practices pursuant to a private agreement or public document, or any person,

who has control over, or responsibility for, the use, *development* or *redevelopment* of the property.

## 502 REMEDIES AND PENALTIES

The remedies and penalties provided for violations of this ordinance, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.

### (A) Remedies

#### (1) Withholding of Certificate of Occupancy

The Stormwater Administrator or other authorized agent may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site and served by the stormwater practices in question until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.

#### (2) Disapproval of Subsequent Permits and Development Approvals

As long as a violation of this ordinance continues and remains uncorrected, the Stormwater Administrator or other authorized agent may withhold, and the City of Lenoir Planning Board may disapprove, any request for permit or *development* approval or authorization provided for by this ordinance or the zoning, subdivision, and/or building regulations, as appropriate for the land on which the violation occurs.

#### (3) Injunction, Abatements, etc.

The Stormwater Administrator, with the written authorization of the City Administrator, may institute an action in a court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement to correct a violation of this ordinance. Any person violating this ordinance shall be subject to the full range of equitable remedies provided in the General Statutes or at common law.

#### (4) Correction as Public Health Nuisance, Costs as Lien, etc.

If the violation is deemed dangerous or prejudicial to the public health or public safety and is within the geographic limits prescribed by North Carolina G.S. § 160A-193, the Stormwater Administrator, with the written authorization of the City Administrator, may cause the violation to be corrected and the costs to be assessed as a lien against the property.

#### (5) Stop Work Order

The Stormwater Administrator may issue a stop work order to the person(s) violating this ordinance. The stop work order shall remain in effect until the person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein. The stop work

order may be withdrawn or modified to enable the person to take the necessary remedial measures to cure such violation or violations.

**(B) Civil Penalties**

Violation of this ordinance shall follow the procedure for notice of violation and civil penalty schedule outlined in Section 1-15 of the Lenoir City Code. If the violation of the ordinance causes the City of Lenoir to incur a penalty for violation of its Phase II Stormwater permit, civil penalties may be assessed up to the full amount of penalty to which City of Lenoir is subject.

**(C) Criminal Penalties**

Violation of this ordinance may be enforced as a misdemeanor subject to the maximum fine permissible under North Carolina law.

**503 PROCEDURES**

**(A) Initiation/Complaint**

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint shall state fully the alleged violation and the basis thereof, and shall be filed with the Stormwater Administrator, who shall record the complaint. The complaint shall be investigated promptly by the Stormwater Administrator.

**(B) Inspection**

The Stormwater Administrator shall have the authority, upon presentation of proper credentials, to enter and inspect any land, building, structure, or premises to ensure compliance with this ordinance.

**(C) Notice of Violation and Order to Correct**

When the Stormwater Administrator finds that any building, structure, or land is in violation of this ordinance, the Stormwater Administrator shall notify, in writing, the property *owner* or other person violating this ordinance. The notification shall indicate the nature of the violation, contain the address or other description of the site upon which the violation is occurring, order the necessary action to abate the violation, and give a deadline for correcting the violation. If civil penalties are to be assessed, the notice of violation shall also contain a statement of the civil penalties to be assessed, the time of their accrual, and the time within which they must be paid or be subject to collection as a debt.

The Stormwater Administrator may deliver the notice of violation and correction order personally, by the law enforcement or code enforcement personnel, by certified or registered mail, return receipt requested, or by any means authorized for the service of documents by Rule 4 of the North Carolina Rules of Civil Procedure.

If a violation is not corrected within a reasonable period of time, as provided in the notification, the Stormwater Administrator may take appropriate action under this ordinance to correct and abate the violation and to ensure compliance with this ordinance.

**(D) Extension of Time**

A person who receives a notice of violation and correction order, or the *owner* of the land on which the violation occurs, may submit to the Stormwater Administrator a written request for an extension of time for correction of the violation. On determining that the request includes enough information to show that the violation cannot be corrected within the specified time limit for reasons beyond the control of the person requesting the extension, the Stormwater Administrator may extend the time limit as is reasonably necessary to allow timely correction of the violation, up to, but not exceeding 30 days. The Stormwater Administrator may grant 15-day extensions in addition to the foregoing extension if the violation cannot be corrected within the permitted time due to circumstances beyond the control of the person violating this ordinance. The Stormwater Administrator may grant an extension only by written notice of extension. The notice of extension shall state the date prior to which correction must be made, after which the violator will be subject to the penalties described in the notice of violation and correction order.

**(E) Enforcement After Time to Correct**

After the time has expired to correct a violation, including any extension(s) if authorized by the Stormwater Administrator, the Stormwater Administrator shall determine if the violation is corrected. If the violation is not corrected, the Stormwater Administrator may act to impose one or more of the remedies and penalties authorized by this ordinance.

**(F) Emergency Enforcement**

If delay in correcting a violation would seriously threaten the effective enforcement of this ordinance or pose an immediate danger to the public health, safety, or welfare, then the Stormwater Administrator may order the immediate cessation of a violation. Any person so ordered shall cease any violation immediately. The Stormwater Administrator may seek immediate enforcement, without prior written notice, through any remedy or penalty authorized by this article.

## SECTION 6: DEFINITIONS

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### 601 TERMS DEFINED

When used in this Ordinance, the following words and terms shall have the meaning set forth in this section, unless other provisions of this Ordinance specifically indicate otherwise.

#### ***Built-upon area (BUA)***

That portion of a *development* project that is covered by impervious or partially impervious surface including, but not limited to, buildings; pavement and gravel areas such as roads, parking lots, and paths; and recreation facilities such as tennis courts. “Built-upon area” does not include a wooden slatted deck, the water area of a swimming pool, or pervious or partially pervious paving material to the extent that the paving material absorbs water or allows water to infiltrate through the paving material.

#### ***Department***

The North Carolina Department of Environment Quality.

#### ***Design Manual***

The stormwater design manual approved for use in Phase II jurisdictions by the *Department* and certified by this jurisdiction for the proper implementation of the requirements of the federal Phase II stormwater program. All references herein to the *Design Manual* are to the latest published edition or revision.

#### ***Development***

Any land-disturbing activity that increases the amount of *built-upon area* or that otherwise decreases the infiltration of precipitation into the soil.

#### ***Division***

The Division of Energy, Mineral and Land Resources in the *Department*.

#### ***High-density project***

Any project that exceeds the *low-density* threshold for dwelling units per acre or *built-upon area*.

#### ***Larger common plan of development or sale***

Any area where multiple separate and distinct construction or land-disturbing activities will occur under one plan. A plan is any announcement or piece of documentation (including but not limited to a sign, public notice or hearing, sales pitch, advertisement, loan application, drawing, permit application, zoning request, or computer design) or physical demarcation (including but not limited to boundary signs, lot stakes, or surveyor markings) indicating that construction activities may occur on a specific plot.

#### ***Low-density project***

For a project that is not located within one-half mile of and draining to Shellfish Resource Waters: the project is a low -density project if it has no more than two dwelling units per acre or twenty-four percent *built-upon area* (BUA) for all residential and non-residential *development*.

A project with an overall density at or below the relevant low-density threshold, but containing areas with a density greater than the overall project density, may be considered low density as long as the project meets or exceeds the post-construction model practices for

low-density projects and locates the higher density in upland areas and away from surface waters and drainage ways to the maximum extent practicable.

***1-year, 24-hour storm***

The surface runoff resulting from a 24-hour rainfall of an intensity expected to be equaled or exceeded, on average, once in 12 months and with a duration of 24 hours.

***Owner***

The legal or beneficial owner of land, including but not limited to a mortgagee or vendee in possession, receiver, executor, trustee, or long-term or commercial lessee, or any other person or entity holding proprietary rights in the property or having legal power of management and control of the property. "Owner" shall include long-term commercial tenants; management entities, such as those charged with or engaged in the management of properties for profit; and every person or entity having joint ownership of the property. A secured lender not in possession of the property does not constitute an owner, unless the secured lender is included within the meaning of "owner" under another description in this definition, such as a management entity.

***Redevelopment***

Any *development* on previously-developed land, other than a rebuilding activity that results in no net increase in *built-upon area* and provides equal or greater stormwater control than the previous *development*.

***Structural BMP***

A physical device designed to trap, settle out, or filter pollutants from stormwater runoff; to alter or reduce stormwater runoff velocity, amount, timing, or other characteristics; to approximate the *pre-development* hydrology on a developed site; or to achieve any combination of these goals. Structural BMP includes physical practices such as constructed wetlands, vegetative practices, filter strips, grassed swales, and other methods installed or created on real property. "Structural BMP" is synonymous with "structural practice," "stormwater control facility," "stormwater control practice," "stormwater treatment practice," "stormwater management practice," "stormwater control measures," "structural stormwater treatment systems," and similar terms used in this ordinance.

***Substantial progress***

For the purposes of determining whether sufficient progress has been made on an approved plan, one or more of the following construction activities toward the completion of a site or subdivision plan shall occur: obtaining a grading permit and conducting grading activity on a continuous basis and not discontinued for more than thirty (30) days; or installation and approval of on-site infrastructure; or obtaining a building permit for the construction and approval of a building foundation. "Substantial progress" for purposes of determining whether an approved plan is null and void is not necessarily the same as "substantial expenditures" used for determining vested rights pursuant to applicable law.<sup>2</sup>

## SECTION 7: ILLICIT DISCHARGES

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### 701 TITLE AND PURPOSE

#### (A) Title

This ordinance shall be officially known as "The Phase II Stormwater Illicit Discharge Detection and Elimination Ordinance." It is referred to herein as "this ordinance."

#### (B) Purpose

The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of the City Lenoir through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this ordinance are:

- (1) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by Stormwater discharges by any user
- (2) To prohibit Illicit Connections and Discharges to the municipal separate storm sewer system
- (3) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance

### 702 AUTHORITY

The City of Lenoir is authorized to adopt this ordinance pursuant to North Carolina law, including but not limited to Article 14, Section 5 of the Constitution of North Carolina; North Carolina General Statutes 143-214.7 and rules promulgated by the Environmental Management Commission thereunder; Session Law 2004-163; Chapter 160A § 174, 185.

### 703 DEFINITIONS

For the purposes of this section, the following shall mean:

#### ***Best Management Practices (BMPs)***

schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to Stormwater, receiving waters, or Stormwater conveyance systems BMPs also include treatment practices, operating procedures and practices to control site runoff, spillage or leaks sludge or water disposal, or drainage from raw materials storage.

#### ***Clean Water Act***

The federal Water Pollution Control Act (33 U.S. C. 5 1251 et seq.), and any subsequent amendments thereto.

### ***Hazardous Materials***

Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported disposed of, or otherwise managed.

### ***Illegal Discharge***

Any direct or indirect non-storm water discharge to the storm drain system.

### ***Illicit Connections***

An illicit connection is defined as either of the following:

Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted or approved by an authorized enforcement agency or,

Any drain or conveyance connected from a commercial or industrial land use to the storm drain system, which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

### ***Industrial Activity***

Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b) (14).

### ***Municipal Separate Storm Sewer System (MS4)***

Pursuant to 40 CFR 122.26(b)(8) means a conveyance or system of conveyances (including roads with drainage systems, municipal streets catch basins, curbs, gutters, ditches, manmade channels, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures or storm drains):

- (i) Owned or operated by a City, city, county, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, Stormwater, or other wastes, that discharges to waters of the United States or waters of the State.
- (ii) Designed or used for collecting or conveying Stormwater;
- (iii) Which is not a combined sewer; and
- (iv) Which is not part of a Publicly Owned Treatment Works (POTW), as defined in 40 CFR 122.2

***National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit***

A permit issued by the North Carolina Department of Environment and Natural Resources, Division of Water Quality\* that authorizes the discharge of pollutants to waters of the State, whether the permit is applicable on an individual, group, or general area-wide basis.

***Non-Stormwater Discharge***

Any discharge to the storm drain system that is not composed entirely of storm water.

***Person***

Means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting either as the owner or as the owner's agent.

***Pollutant***

Anything that causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

***Premises***

Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

***Storm Water***

Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

***Stormwater Pollution Prevention Plan***

A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Stormwater, Stormwater Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

***Wastewater***

Means water or other liquid, other than uncontaminated storm water, discharged from a facility.

\*Ultimately the federal Environmental Protection Agency regulates the NPDES permit, but it has been delegated to the state for any non-tribal lands within North Carolina

## 704 ILLICIT DISCHARGES AND CONNECTIONS

### (A) Illicit Discharges

No person shall cause or allow the discharge, emission, disposal, pouring, or pumping directly or indirectly to any Stormwater conveyance, the waters of the State, or upon the land in manner and amount that the substance is likely to reach a Stormwater conveyance or the waters of the State, any liquid, solid, gas, or other substance, other than Stormwater; provided that non-Stormwater discharges associated with the following activities are allowed and provided that they do not significantly impact water quality:

- (1) Water line flushing,
- (2) Landscape irrigation,
- (3) Diverted stream flows,
- (4) Rising ground waters,
- (5) Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)),
- (6) Uncontaminated pumped ground water,
- (7) Discharges from potable water sources,
- (8) Foundation drains,
- (9) Flows from emergency firefighting,
- (10) Air conditioning condensation,
- (11) Irrigation water,
- (12) Springs,
- (13) Water from crawl space pumps,
- (14) Footing drains,
- (15) Lawn watering,
- (16) Individual residential car washing - Designated vehicle wash areas at multi-family residential complexes are not allowed if they connect, directly or indirectly, to the Stormwater System or surface waters. Charity Vehicle Washing performed by the same organization or at the same location on a routine basis (more than one time in a thirty-day period) is not allowed under this article.
- (17) Flows from riparian habitats and wetlands,

(18) Dechlorinated swimming pool discharges - "Salt Water" swimming pools cannot be directly discharged into the storm drain due to the salinity, bromoform/bromine concentration, and chlorine generated.

(19) Street wash water, and

(20) Other non-Stormwater discharges for which a valid NPDES discharge permit has been approved and issued by the State of North Carolina, and if any such discharges to the municipal separate storm, The City of Lenoir shall authorize sewer system.

(21) Removal of Stormwater System blockages with Unmodified Potable Water.

Prohibited substances include but are not limited to oil, anti-freeze, chemicals, animal waste, paints, garbage, and litter.

### **(B) Illicit Connections**

(1) Connections to a Stormwater conveyance or Stormwater conveyance system that allows the discharge of non-Stormwater, other than the exclusions described in section (a) above, are unlawful. Including but not limited to: prohibited washing machines or sanitary sewers, wash water from commercial vehicle washing or steam cleaning, and wastewater from septic systems.

(2) Where such connections exist in violation of this section and said connections were made prior to the adoption of this provision or any other ordinance prohibiting such connections, the property owner or the person using said connection shall remove the connection within one year following the effective date of this ordinance, However, the one-year grace period shall not apply to connections which may result in the discharge of hazardous materials or other discharges which pose an immediate threat to health and safety, or are likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat.

(3) Where it is determined that said connection:

- i. May result in the discharge of hazardous materials or may pose an immediate threat to health and safety, or is likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat, or
- ii. Was made in violation of any applicable regulation or ordinance, other than this section:

The Stormwater Administrator/ Illicit Discharge Officer shall designate the time within which the connection shall be removed - in setting the time limit for compliance the Stormwater Administrator/ Illicit Discharge Officer shall take into consideration:

- i. The quantify and complexity of the work,
- iii. The consequences of delay,
- iv. The potential harm to the environment, to the public health, and to public and private property, and
- v. The cost of remedying the damage.

**(C) Spills**

Spills or leaks of polluting substances released, discharged to, or having the potential to be released or discharged to the Stormwater conveyance system, shall be contained, controlled, collected, and properly disposed of. All affected areas shall be restored to their pre-existing condition.

Persons in control of the polluting substances immediately prior to their release or discharge, and persons owning the property on which the substances were released or discharged, shall immediately notify the Lenoir Fire Department of the release or discharge, as well as making any required notifications under state and federal law. Notification shall not relieve any person of any expenses related to the restoration, loss damage, or any other liability which may be incurred as a result of said spill or leak, nor shall such notification relieve any person from other liability which may be imposed by State or other law.

**(D) Industrial or Construction Activity Discharges**

Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit; Proof of compliance with said permit may be required in a form acceptable to the City of Lenoir prior to the allowing of discharges to the MS4.

**705 RIGHT OF ENTRY/POWERS AND AUTHORITY FOR INSPECTION**

**(A) Authority to Inspect and Monitor**

The Stormwater Administrator/ Illicit Discharge Officer, bearing proper identification, may enter public or private properties at all reasonable times to inspect, investigate, or monitor activities and conditions subject to this article. Persons occupying premises to be inspected shall allow the Stormwater Administrator/ Illicit Discharge Officer ready access at all times to all parts of the premises to perform inspection, monitoring, records examination, copying, photography, video recording or other duties. Stormwater Administrator/ Illicit Discharge Officer shall have the right to set up on the Person's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a Person has security measures in force that would require identification and clearance before entry into the premises, the Person shall make arrangements with security personnel so that, upon presentation of identification, personnel from Stormwater Administrator/ Illicit Discharge Officer will be permitted to enter and perform their specific responsibilities without delay. Denial of Stormwater Administrator/ Illicit Discharge Officer access to the Person's premises or portions thereof shall be a violation of this article. Denial of access may also occur if a Person fails to provide, without unreasonable delay, such facilities, equipment, or devices as are reasonably necessary to permit Stormwater Administrator/ Illicit Discharge Officer personnel to perform their duties in a safe manner. Unreasonable delays may constitute denial of access. Any delay of more than five minutes may be considered unreasonable.

**(B) Search Warrants**

To the extent permitted by law, Administrator/ Illicit Discharge Officer may seek the issuance of a search warrant to determine compliance with this article.

**(C) Confidential Information**

- (1) To the extent permitted by applicable law and except as otherwise provided in this section, information and data on a Person obtained from reports, questionnaires, permit applications, permits, monitoring programs and inspections shall be available to the public or other government agencies without restriction, unless the Person specifically requests, and is able to demonstrate to the satisfaction of Administrator/ Illicit Discharge Officer, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the Person. Any such request must be asserted at the time of submission of the information or data.
- (2) To the extent permitted by applicable law, when requested by a Person furnishing a report, the portions of a report that might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available upon request to governmental agencies for uses related to this article provided, however, that such portions of a report shall be available for use by the State or any State agency in judicial review or enforcement proceedings involving the Person furnishing the report.
- (3) Documents that are not public records and the information set forth therein may be withheld and released only as provided by applicable law.

**(D) Obstruction**

No person shall obstruct, hamper, or interfere with Administrator/ Illicit Discharge Officer while carrying out official duties. Upon presentation of credentials by Administrator/ Illicit Discharge Officer, necessary arrangements shall be made to allow immediate access onto premises or into an area protected by security measures. Any obstruction to the safe and easy access to property, a facility or enclosure on property, or to monitoring devices shall immediately be removed. Unreasonable delays in providing safe and reasonable access or removing obstructions shall be a violation of this article.

**706 ENFORCEMENT**

**(A) Notice of Violation**

Whenever the Stormwater Administrator/ Illicit Discharge Officer finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the Stormwater

Administrator/ Illicit Discharge Officer may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- (1) The performance of monitoring analyses, and reporting,
- (2) The elimination of illicit connections or discharges,
- (3) That violating discharges, practices, or operations shall cease and desist,
- (4) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property, and
- (5) Payment of a fine to cover administrative and remediation costs, and
- (6) The implementation of source control or treatment BMPs.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or the City or a contractor designated by the Stormwater Administrator/ Illicit Discharge Officer will perform the restore, within the established deadline, the work and the expense thereof shall be charged to the violator.

#### **(B) Violations Deemed a Public Nuisance**

Illicit discharges and illicit connections which exist within the Lenoir City Limits and Extra-territorial Jurisdiction are hereby found, deemed, and declared to be dangerous or prejudiced to the public health or public safety and are found, deemed, and declared to be public nuisances and may be summarily abated or restored by the City at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken by the City.

**CITY OF LENOIR****COUNCIL ACTION FORM: November 12, 2019****I. Agenda Item:**

R6-19: Re-zoning lot at 103 Virginia St SW from R-9 to B-6

**II. Background Information:**

The applicant requests that the City re-zone the portion of 103 Virginia St SW from R-9 (Mixed Density Residential) to B-6 (Transitional Business).

See attached staff report for the analysis and consistency statement supporting this request.

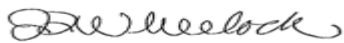
**III. Staff and Planning Board Recommendation:**

Approval of the re-zoning based on the consistency statement provided.

**IV. Reviewed by:**

City Attorney: \_\_\_\_\_

Finance Director: \_\_\_\_\_

Planning Director:  \_\_\_\_\_



# Staff Report

## Zoning Amendment

### CASE NUMBER R #6-19

## LOCATION MAP/AERIAL PHOTOGRAPH



Subject Property ☐

Left: 103 Virginia St SW

## SUMMARY

### Owner

Unitarian Universalists of Caldwell County

### Applicant

Kathleen Kaminski

### Location

103 Virginia St SW

Vacant lot adjacent to church

### NC PIN

2749440880

### Project Planner

Hannah Williams, CZO

*Updated November 5, 2019*

### Description of Request:

The applicant requests that the City re-zone the portion of 103 Virginia St SW from R-9 (Residential Multi-family) to B-6 (Transitional Business).

### Staff Recommendation:

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

### Planning Board Recommendation:

Rezone lot from R-9 to B-6.

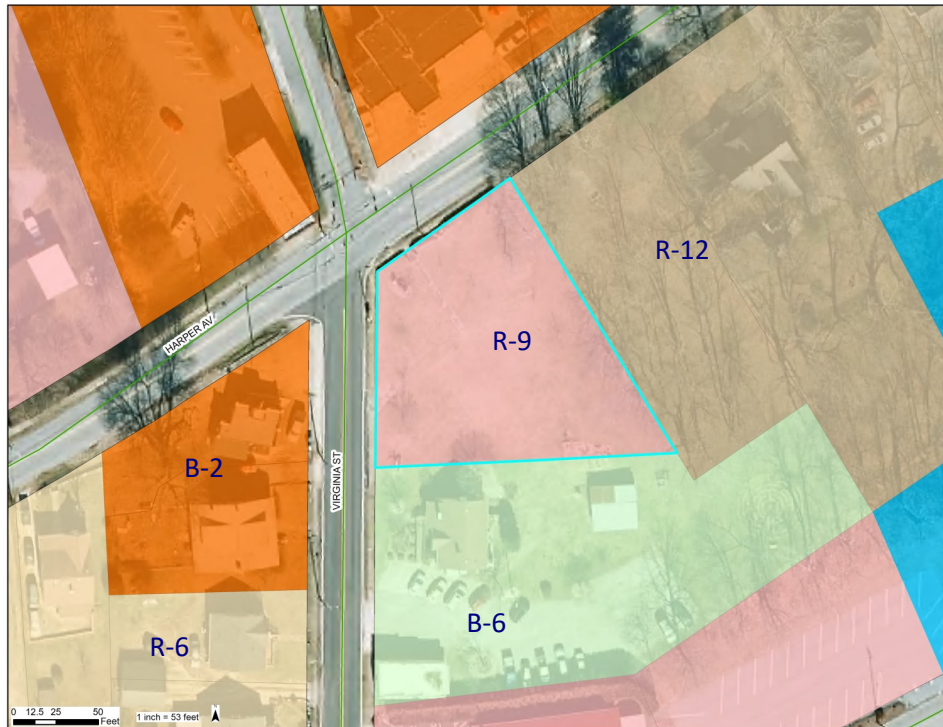
### Public Comment:

**Planning Board Meetings:** October 28, 2019. Notices were mailed to property owners within 100 ft. of the subject property on October 18, 2019.

**City Council (Public Hearing):** Scheduled for November 12, 2019.

## EXISTING AND PROPOSED ZONING MAPS

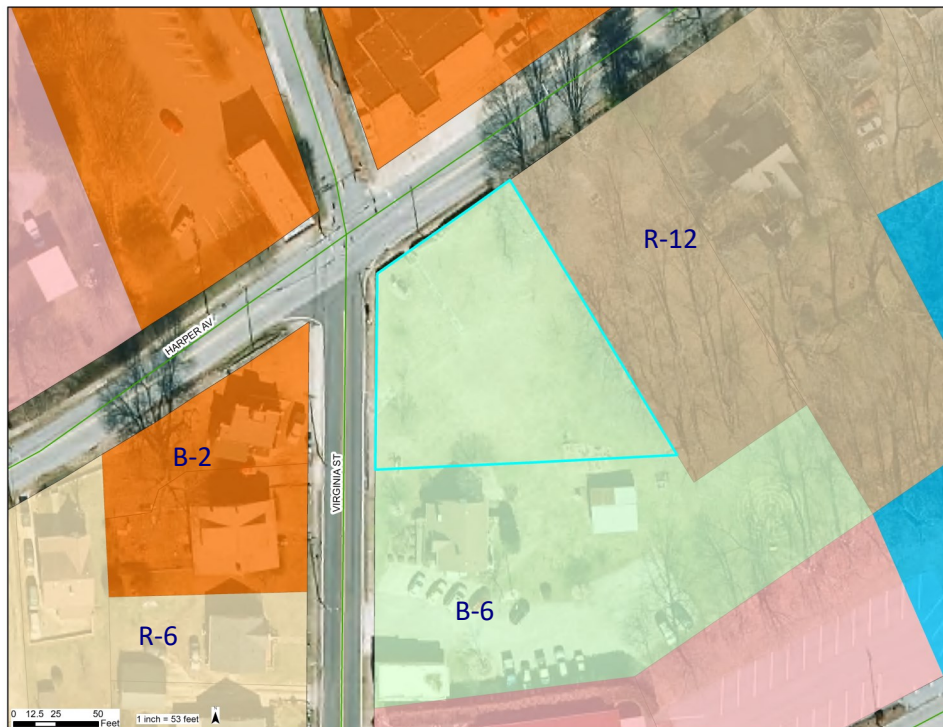
## Existing Zoning: R-9



Subject Property



## Proposed Zoning: B-6



Subject Property



## 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 R - 9 Residential (Multi-family) District is intended to establish and preserve areas of land within the city for medium density single-family residences, doublewide manufactured homes, duplexes, townhomes, low-rise garden apartments, and other compatible land uses, with higher density multi-family apartments allowed as conditional uses. Any uses which would adversely affect or interfere with the residential character and development of these areas are excluded.

The B - 6 (Transitional Business) District is intended to serve the needs of the traveling public as well as provide convenience goods and services to surrounding residential neighborhoods. This district is further intended to promote commercial activity in a high-volume traffic corridor that is in close proximity to well established, economically healthy residential neighborhoods, and as such requires design and performance standards to ensure commercial development occurs at compatible intensities, with appropriate architectural standards and buffering/screening requirements. Areas zoned B-6 tend to be already developed with medium density single family homes and a variety of multi-family uses, and are experiencing pressure for commercial expansion due to their close proximity to major transportation facilities. This district promotes incremental change to accommodate the conversion of existing structures into offices and low intensity retail or service uses, along with new development of non-residential uses, while allowing single family residences to remain as permitted land uses as the areas undergo gradual change.

### Subject and Surrounding Properties

The subject property is located at the intersection of Harper Avenue and Virginia Street at 103 Virginia St SW. It is owned by the Unitarian Universalist Church, the buildings of which are located on the adjacent parcel to the south. It is .45 AC in size. Currently there are no buildings on the site and there is no planned development for the property. The subject property was once developed with a single family house, which was demolished many years ago. There is a post and panel sign on the property with the church's name.

Recently, the property with the Unitarian Universalist Church buildings was rezoned from B-4 (Limited Business) to B-6, during the City-initiated elimination of the B-4 zoning district in February of 2019. The subject property was not identified for rezoning at the time because it was not in the B-4 zoning district. However, the church became aware that their properties were not under a single zoning district during that time.

Property surrounding the intersection at Harper and Virginia is zoned B-2 (General Business) with several commercial buildings. Lenoir Automotive operates off Harper Avenue facing the subject property. Small brick commercial buildings line the other sides of the intersection. There are several large houses adjacent to the subject property along Harper Avenue headed east that are zoned R-12 (Medium Density Single Family). There is more single family housing across from the subject property along Virginia Street headed south that are zoned R-6 (High Density Multi-family).

### 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 high density residential" on the future land use map of the comprehensive plan, despite the current church development. The applicant's request to rezone this property is an opportunity to extend the B-6 Transitional Business zone so that the entire church property has one zoning district, 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. Since the B-6 zoning district accommodates high density resi-

## STAFF ANALYSIS CONTINUED

dential development

### Comparison of Allowable Uses

Sec. 600 of the Lenoir Zoning Ordinance establishes a chart of permitted and conditional uses for each zoning district. The R-9 zoning district allows for medium density single-family residences, doublewide manufactured homes, duplexes, townhomes, low-rise garden apartments, and other compatible land uses. There is some overlap with residential uses allowed in the R-9 and B-6 (Transitional Business) district, however, the B-6 district does not allow for manufactured housing, allows more non-residential uses “by right”, and comes with architectural and landscape design standards for new development.

| Comparison of Zoning Districts |                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                        |
|--------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                | R-9                                                                                                                                                              | B-6                                                                                                                                                                                                                                                                                                                                                    |
| Development Standards          | Min Lot Size - 9,000 ft <sup>2</sup><br><br>Setbacks<br>Front: 35'<br>Side Yard: 10'<br>Abutting side Street: 25'<br>Minimum Rear Yard: 25'                      | Minimum Lot Size - 10,000 ft <sup>2</sup><br><br>Setbacks<br>Front: 10'<br>Side Yard: 10'<br>Abutting side Street: 10'<br>Minimum Rear Yard: 10'                                                                                                                                                                                                       |
| Summary of Permitted Uses      | Accessory Cottage or Apartment<br>Attached Dwellings<br>Bungalow Court<br>Dwelling, Single/Two-Family/Group<br>Doublewide manufactured home<br>Garden Apartments | Accessory Cottage or Apartment<br>Attached Dwellings<br>Dwelling, Single/Multi-Family/Group<br>Eating and Drinking (No Drive-throughs)<br>Office<br>Retailing, Light & Neighborhood<br>Business and Personal Services<br>Studios and Specialty Schools<br>Veterinarian<br>**For conditional uses see Section 600, Table A in Lenoir Zoning Ordinance** |

## SUBJECT PROPERTY 103 VIRGINIA ST SW



Above: Facing subject property from Virginia St



Above: Facing subject property from Virginia, driveway shown

## SURROUNDING AREA—HARPER AVE & VIRGINIA ST



Above: Former Kelley Realty Building (west of subject property)



Right: Baptist Church and Lenoir Automotive (north of subject property)

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## 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 November 12, 2019:

The proposed zoning map amendment is consistent with the adopted Comprehensive Plan because it facilitates straightforward zoning standards, consistent with the adopted future land use map. The proposed amendment is reasonable and in the public interest because it will allow one development site in common ownership to follow the zoning requirements of a single zoning district and simplify development review for the site in the future.

## PLANNING BOARD RECOMMENDATION

Approval of rezoning lot from R-9 to B-6 based on the consistency statement above.

**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.

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Shirley M. Cannon, City Clerk

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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.

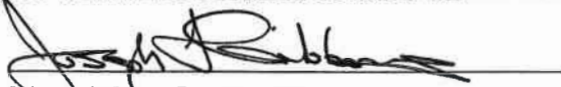
**SECTION 2. CODIFICATION.** The City Clerk shall cause the Code of Ordinances of Lenoir, North Carolina to be amended as provided by this ordinance and may renumber, re-letter, and rearrange the codified parts of this ordinance if necessary to facilitate the finding of the law.

**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 4<sup>th</sup> day of October, and this 11<sup>th</sup> 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 15<sup>th</sup> 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;

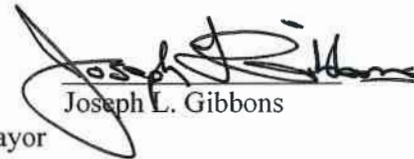
NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Lenoir, North Carolina:

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).

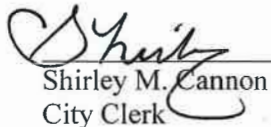
Section 3. The Mayor of the City of Lenoir shall cause to be recorded in the office of the Register of Deeds of Caldwell County, and in the office of the Secretary of State of Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 hereof, together with a duly certified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

## FOX SURVEYING COMPANY, P.C.

770 N.C. HIGHWAY 16 SOUTH  
P.O. BOX 637  
TAYLORSVILLE, N.C. 28681  
OFFICE: 828-635-1902 FAX: 828-635-1912  
E-MAIL: wfox@foxsurveying.com  
BUSINESS LICENSE NC-1902

IN 35 PG. 206 - 206 (1)

This document created and filed

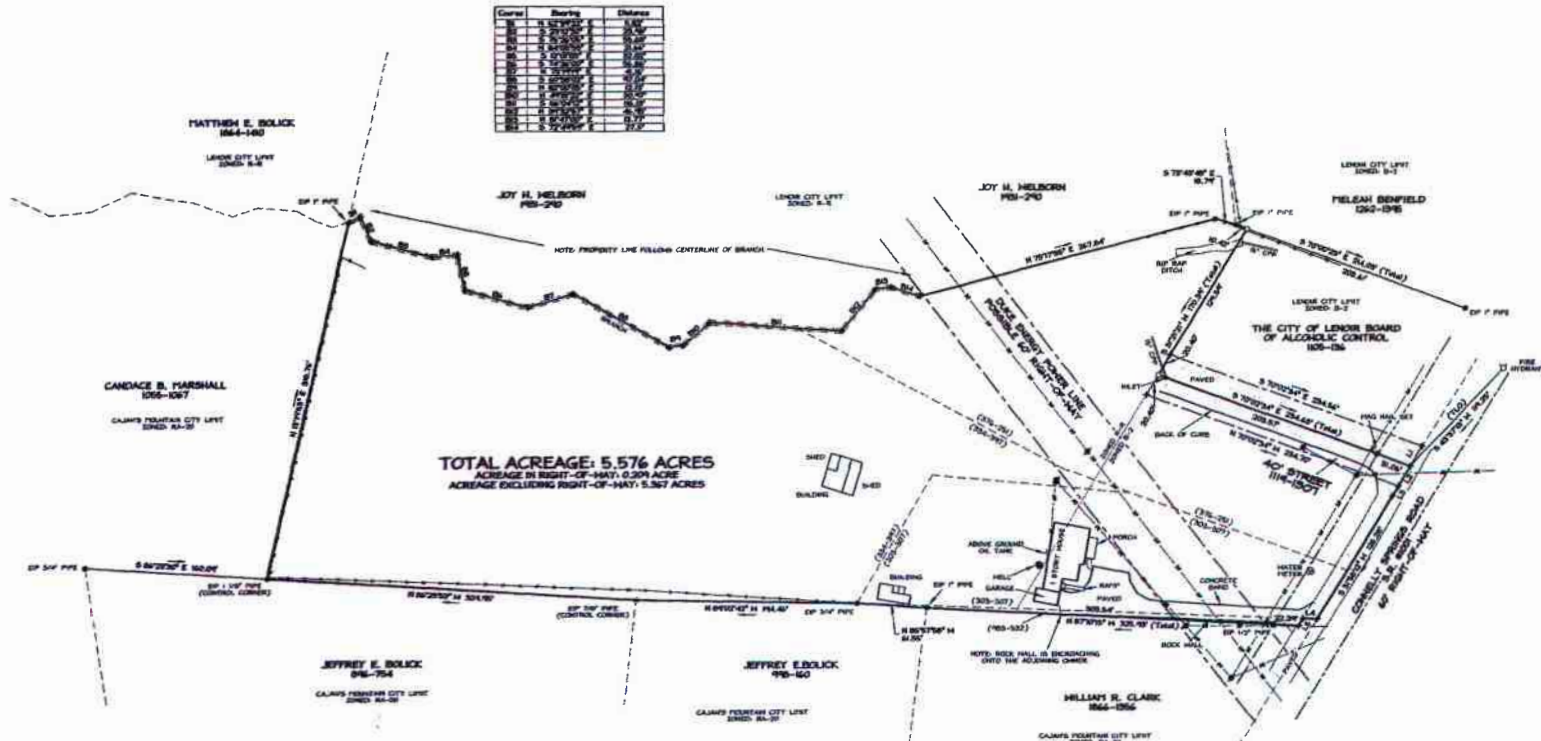
10/31/2019 12:24:29 PM

Calhoun County North Carolina  
Wayne L. Rusk, Register of Deeds

| PROPERTY SURVEY FOR: |                     |          |          |
|----------------------|---------------------|----------|----------|
| CALLIE KNIGHT BROWN  |                     | 10-23-19 |          |
| OWNER                | CALLIE KNIGHT BROWN | DATE     | 10-23-19 |
| PREPARED BY          | FOX SURVEYING       | DATE     | 10-23-19 |
| PROJECT NO.          | 277-19              | DATE     | 10-23-19 |
| REFERENCE PLAT       | PLS-3074            | DATE     | 10-23-19 |
| DATE                 | 10-23-19            | DATE     | 10-23-19 |
| DATE                 | 10-23-19            | DATE     | 10-23-19 |

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

DEED NORTH  
ORIENTED TO DEED BOOK 403 PAGE 532



OWNER:  
CALLIE KNIGHT BROWN  
100 CONNELL SPRING ROAD  
LENOIR, NC 28645

STATE OF NORTH CAROLINA  
COUNTY OF CALHOUN  
I, Callie Knight Brown, being the owner of the above described property, do hereby certify that the above plat is a true and correct copy of the original survey and that the same is in accordance with the requirements of the laws of the State of North Carolina.  
DATE 10-23-2019

**SPECIAL NOTES**  
NOTE: ALL AREAS SHOWN HEREON WERE DETERMINED BY COORDINATE COMPUTATION.  
NOTE: THIS SURVEY IS SUBJECT TO ANY AND ALL SURVEYING, ENGINEERING, EASING, ETC., RECORDS, AND ALL OTHER RECORDS OF RECORDS AFFECTING THE SAME PROPERTY.  
NOTE: SHOWN LINES REPRESENT PROPERTY LINES AND ARE NOT ACTUALLY SURVEYED. THE POSITION OF SHOWN LINES AND THEREFROM DEPEND ON OTHER RECORDS.  
NOTE: THERE ARE NO OTHER RECORDS, RECORDS AFFECTING THE SAME OF THIS PROPERTY.  
NOTE: AREA SHOWN FOR PLAT IS APPROXIMATE.

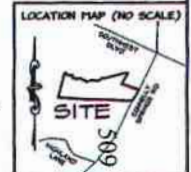
North Carolina  
I, Jeffrey E. Bolick, Secretary of the County and State Records, certify that the above plat is a true and correct copy of the original survey and that the same is in accordance with the requirements of the laws of the State of North Carolina.  
DATE 10-23-2019



1. HEBLEY & FOX, CERTIFY ANY ONE OF THE FOLLOWING:  
1. THAT THE SURVEY IS OF AN EXISTING PARCEL, (S) OF LAND AND DOES NOT CREATE A NEW STREET OR DRIVE OR EXISTING STREET.  
2. THAT THE SURVEY IS OF AN EXISTING BUILDING OR OTHER STRUCTURE, OR NATURAL FEATURES, SUCH AS A WATERCOURSE, OR  
3. THAT THE SURVEY IS A CONTROL SURVEY.  
DATE 10-23-19  
LAND SURVEYOR



1. HEBLEY & FOX, PLAT-INTL, CERTIFY THAT THIS PLAT WAS DRAWN UNDER THE SUPERVISION OF AN ACTUAL SURVEY MADE UNDER THE SUPERVISION OF THE SURVEYOR AND THAT THE SURVEYOR HAS REVIEWED THE PLAT AND THAT THE PLAT IS A TRUE AND CORRECT COPY OF THE ORIGINAL SURVEY AND THAT THE PLAT IS IN ACCORDANCE WITH THE REQUIREMENTS OF THE LAWS OF THE STATE OF NORTH CAROLINA.  
DATE 10-23-2019  
PLS-3074  
REGISTRATION NUMBER





## 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:

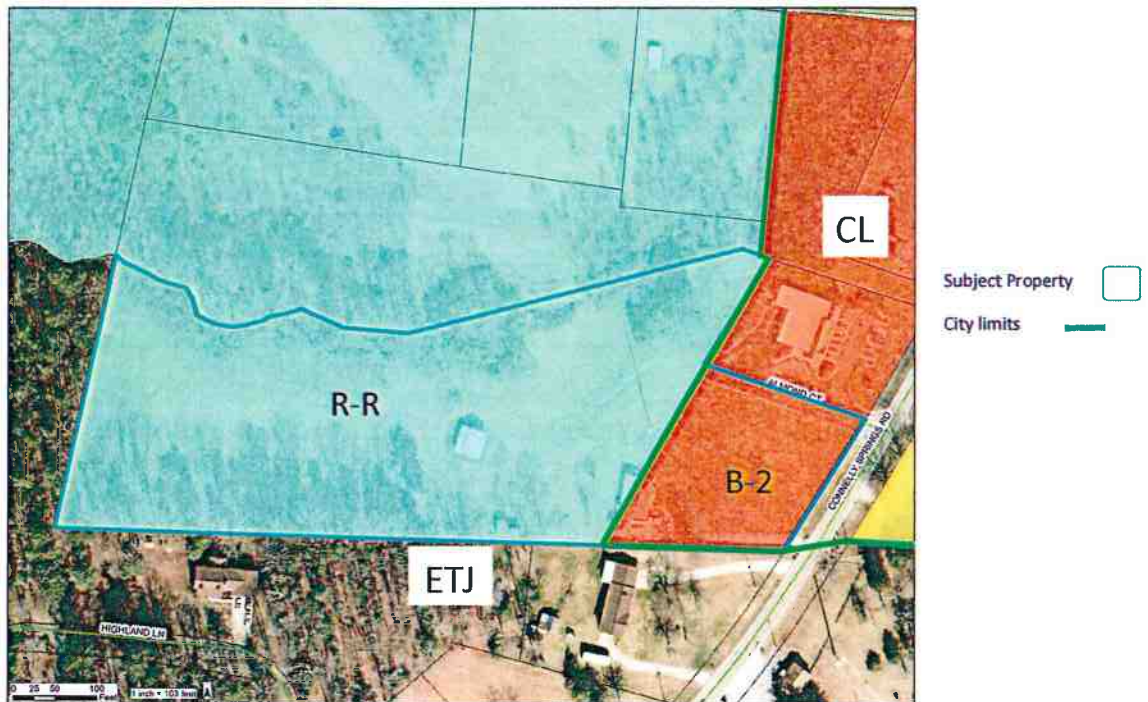
### Public Comment:

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

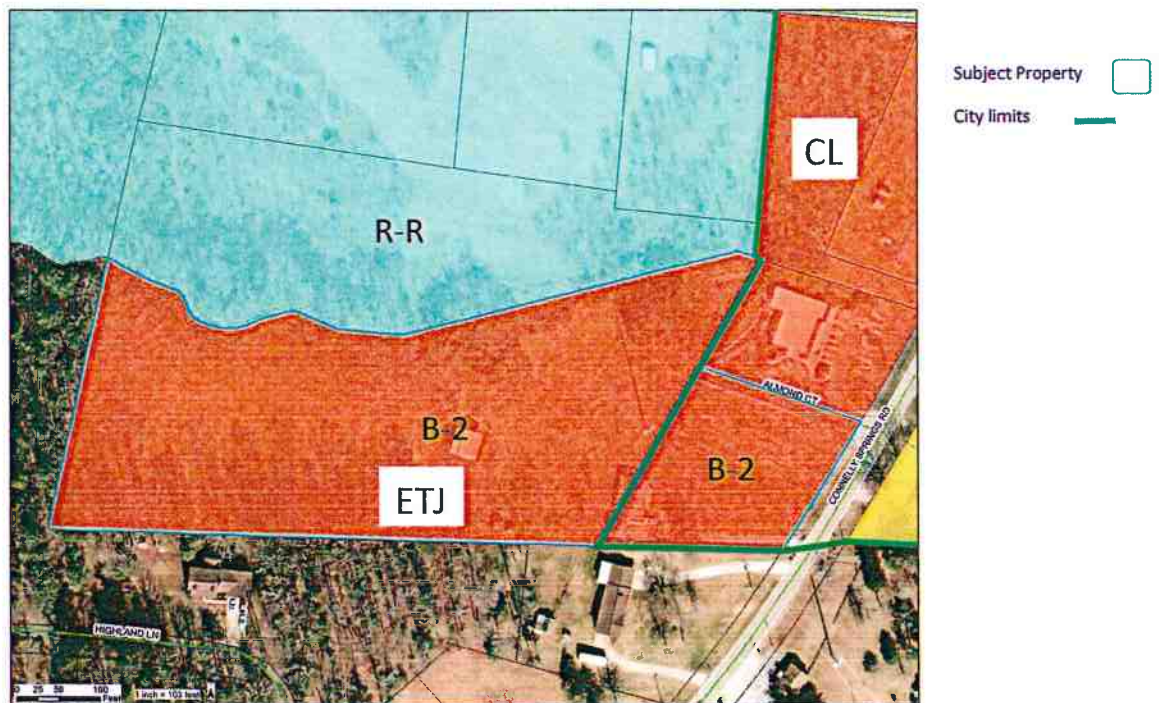
**City Council (Public Hearing):** Scheduled for October 15, 2019. Notices were mailed to property owners within 100 ft. of the subject property on October 15, 2019.

## 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 <sup>2</sup><br>Setbacks<br>Front: 40'<br>Side Yard: 15'<br>Abutting side Street: 25'<br>Minimum Rear Yard: 35' | Minimum Lot Size - None<br>Setbacks<br>Front: 10'<br>Side Yard: 0'<br>Abutting side Street: 0'<br>Minimum Rear Yard: 20'                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| Summary of Permitted Uses | Accessory Cottage or Apartment<br>Dwelling, Group<br>Dwelling, Single-Family Detached                                                    | Accessory Cottage or Apartment<br>Attached Dwellings<br>Bed and Breakfast<br>Dwelling, Single/Two Family/Multi-Family/Group<br>Pool Halls<br>Day Care Centers<br>Community Facilities<br>Kennels<br>Eating and Drinking (W/ or W/O Drive-throughs)<br>Greenhouses<br>Hospitals<br>Hotels<br>Office<br>Personal Storage<br>Indoor Retailing<br>Light Retailing<br>Indoor Recreation<br>Automotive Services<br>Business and Personal Services<br>Indoor Shooting Range<br>Studios and Specialty Schools<br>Veterinarian<br>Warehousing<br>**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

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## 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:

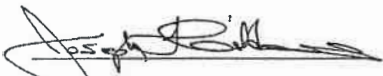
1. The Conditional Use Permit is for a tree and shrub farm agriculture use and associated activities. Animals are not permitted, except in accordance with the standards of Chapter 3 of the Lenoir Code of Ordinances.
2. If the agriculture use or agri-chemical facility has not been established within 24 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.

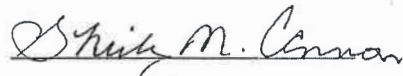
An appeal by those with standing may be taken to the Superior Court of Caldwell County within 30 days of the receipt of this letter.

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

ATTEST:



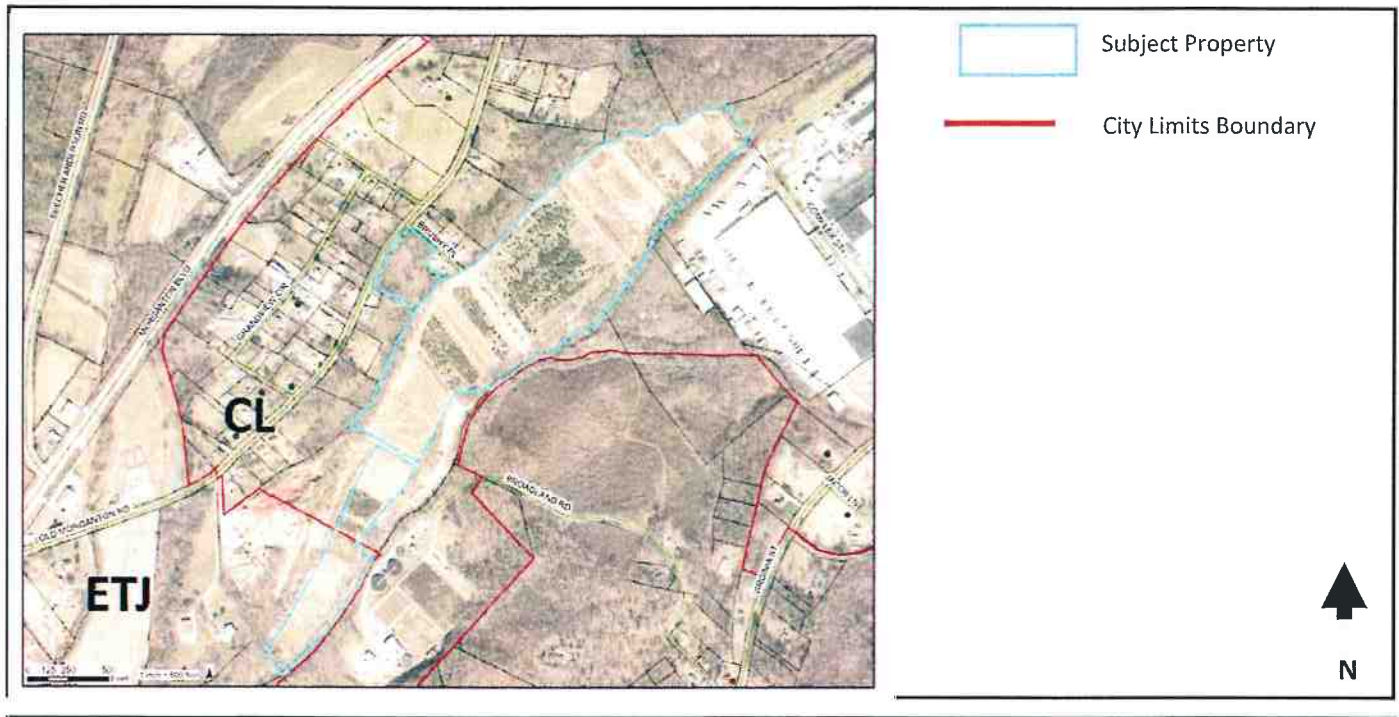
Joseph L. Gibbons, Mayor



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 <sup>2</sup> | Minimum Lot Size - 12,000 ft <sup>2</sup> | Min Lot Size—20,000 ft <sup>2</sup>                     |
|                             | Setbacks                              | Setbacks                                  | Setbacks                                                |
|                             | Front - 40'                           | Front - 40'                               | Front—40'                                               |
|                             | Side Yard—15'                         | Side Yard—12'                             | Side Yard—15'                                           |
|                             | Abutting side Street:<br>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<br>Apartment     | Accessory Cottage or Apartment            | Accessory Cottage or Apartment                          |
|                             | Dwelling, Group                       | Dwelling, Group                           | Dwelling, Group                                         |
|                             | Dwelling, Single-Family<br>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.*

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## 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

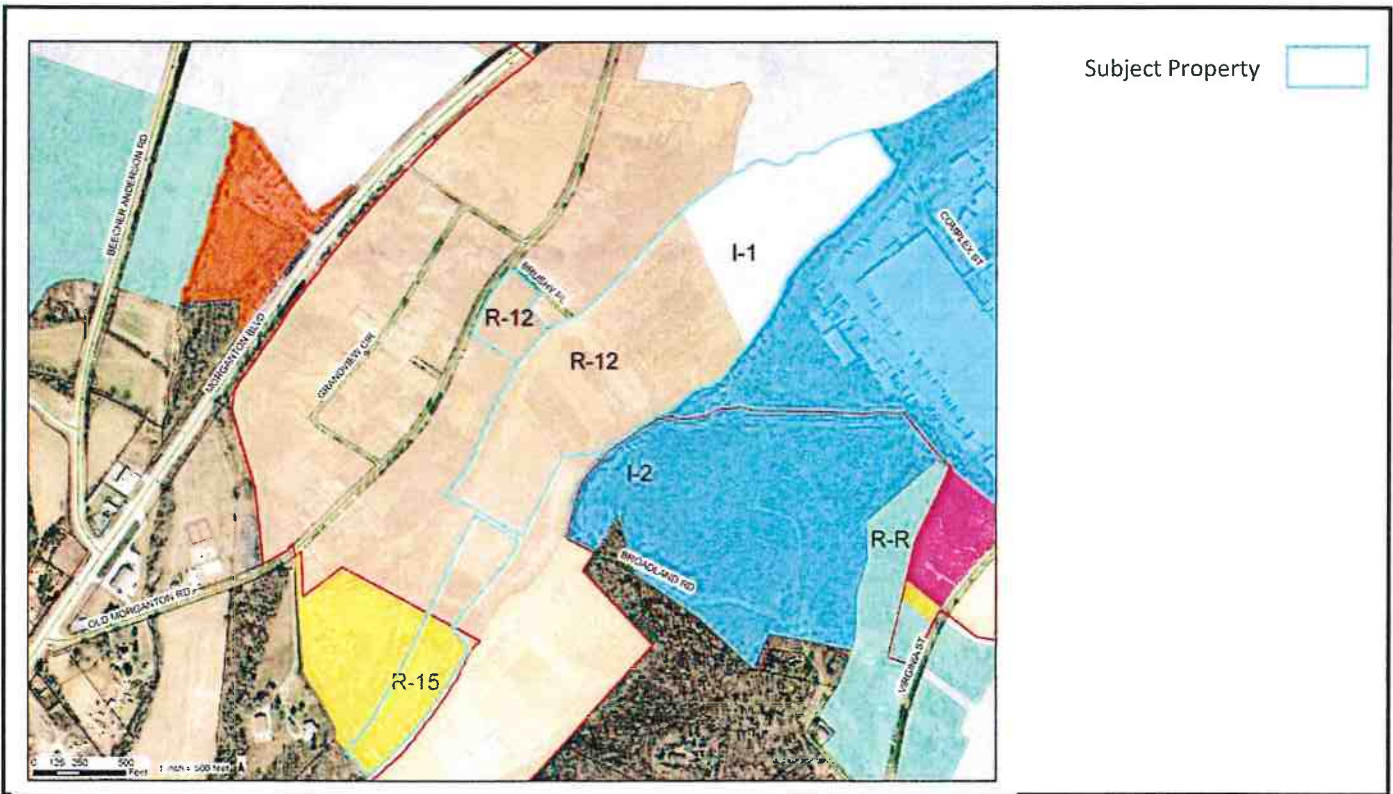
Staff recommends approval of the Conditional Use Permit for the proposed Agrichemical Handling Facility and tree farm, with the following conditions:

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.

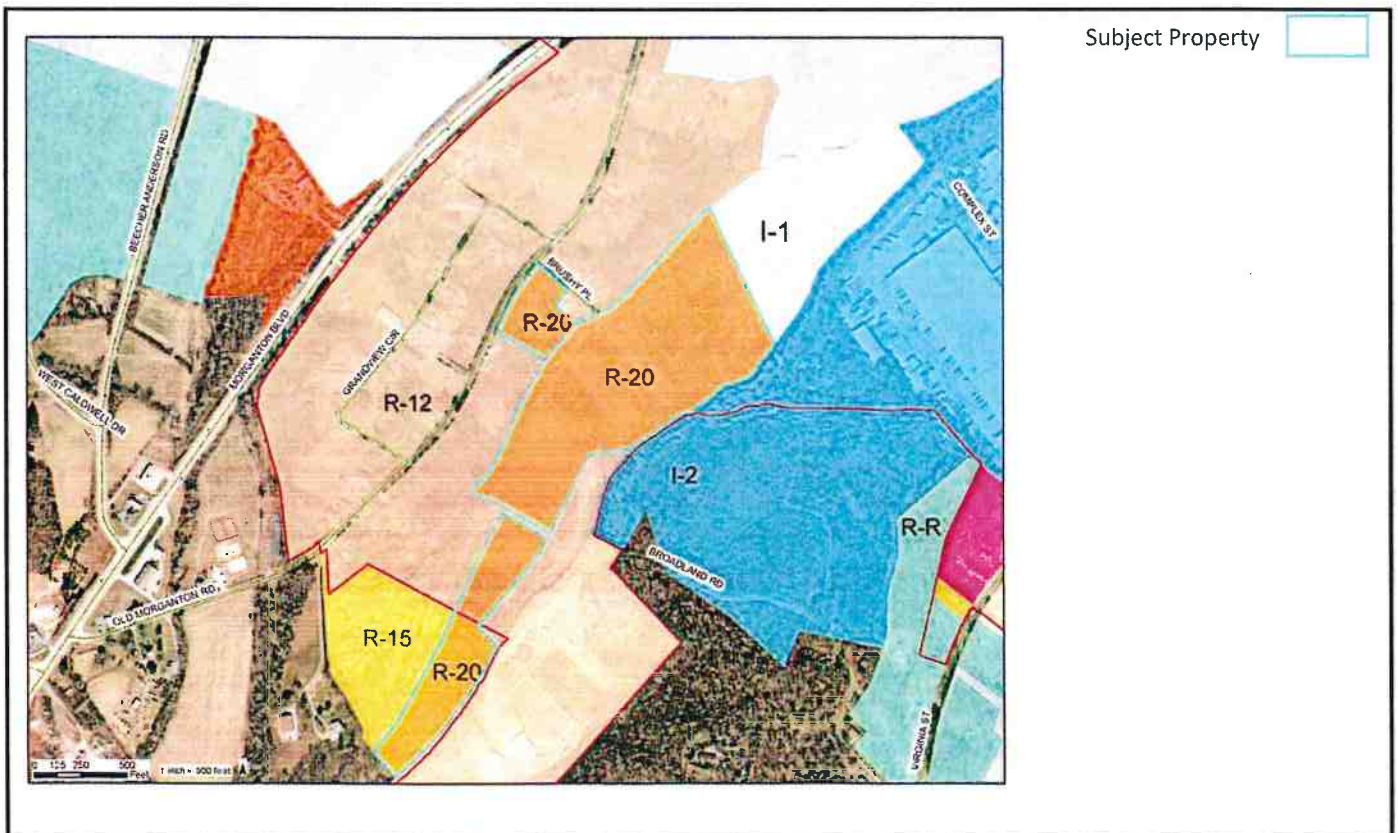
## PLANNING BOARD RECOMMENDATIONS

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.

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**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                                                                                                                                                                                                                                                                  |
|---------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <del>Multifamily Residential**</del><br>(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><br><u>1.5 spaces for every 2-bedroom unit</u><br><u>2 spaces for 3+ bedroom units</u><br><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<br>Elementary or Junior High School*<br>Senior High School or College* | 1 space for each 20 students plus one bus space per 100 students for students<br>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 *<br>(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                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                  |
| <p>** 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.</p> <p>(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.</p> |                                                                                                                                                                                                  |

**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.

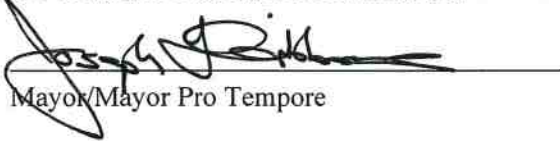
**SECTION 3. CODIFICATION.** The City Clerk shall cause the Code of Ordinances of Lenoir, North Carolina to be amended as provided by this ordinance and may renumber, re-letter, and rearrange the codified parts of this ordinance if necessary to facilitate the finding of the law.

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

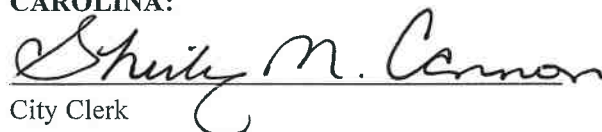
**DONE, THE PUBLIC NOTICE**, in a newspaper of general circulation in the City of Lenoir, North Carolina, by the City Clerk of the City of Lenoir, North Carolina, this 4<sup>th</sup> day of October and this 11<sup>th</sup> day of October, 2019.

**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 15<sup>th</sup> 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 15<sup>th</sup> day of October, 2019 at Lenoir, North Carolina.

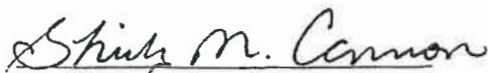


Joseph L. Gibbons, Mayor



~~CERTIFICATION~~  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 15<sup>th</sup> 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 15<sup>th</sup> 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<br>INCLUDING<br>ALLOWANCES | ALTERNATE BID ITEMS |                        |                     |                     |                     |
|------------------------------------|-------------------------------------------|---------------------|------------------------|---------------------|---------------------|---------------------|
|                                    |                                           | No. 1<br><i>Add</i> | No. 2<br><i>Deduct</i> | No. 3<br><i>Add</i> | No. 4<br><i>Add</i> | No. 5<br><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.

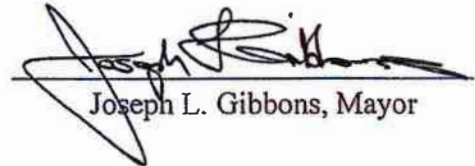
That City of Lenoir does hereby give assurance to the North Carolina Department of Environmental Quality that all items specified in the loan offer Section II-Assurance will be adhered to.

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.

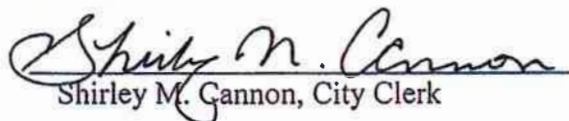
That City of Lenoir has substantially complied or will substantially comply with all applicable Federal, State and local laws, rules, regulations and ordinances to the project and to funding pertaining thereto.

Adopted this the 15<sup>th</sup> 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  
C. D. THOMAS  
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

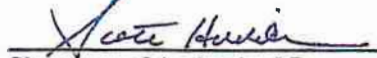


| PROJECT COST SUMMARY (as-bid)            |                     |                     |
|------------------------------------------|---------------------|---------------------|
| List contractor names below:             | TOTAL               | ELIGIBLE*           |
| 1. Brushy Mountain Builders              | \$ 4,259,000        | \$ 4,259,000        |
| 2. Gryphon Environmental LLC             | \$ 1,711,275        | \$ 1,711,275        |
| 3.                                       |                     |                     |
| 4.                                       |                     |                     |
| 5.                                       |                     |                     |
| EQUIPMENT AND MATERIALS                  |                     |                     |
| <b>SUBTOTAL</b>                          | <b>\$ 5,970,275</b> | <b>\$ 5,970,275</b> |
| 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          | -----               |
| <b>TOTAL</b>                             | <b>\$ 7,134,900</b> | <b>\$ 6,995,000</b> |

\*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.

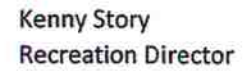
| REVENUE SOURCES FOR PROJECT CONSTRUCTION            |                     |
|-----------------------------------------------------|---------------------|
| List funds that are available for this project      | AMOUNT              |
| DENR FUNDING (specify) ⇨ SRP Loan at 1.53% Interest | \$ 6,600,000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

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

[illegible]



## **BID TAB**

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

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

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

**COMMITTEE OF THE WHOLE  
CITY HALL, THIRD FLOOR  
TUESDAY, OCTOBER 22, 2019  
8:30 A.M.**

**PRESENT:** Mayor Pro-Tem Willis presiding. Committee members, Gibbons, Perdue, Perkins, Prestwood, Thomas and Stevens.

City Clerk Cannon, Fire Chief Hair, Economic Development Director Horn, Finance Director Bean, Recreation Director Story, Planning Director Wheelock, Public Utilities Director Thomas and Public Works Director Wright, Public Information Officer Harris.

**ABSENT:** Councilmember Jonathan Beal, City Manager Scott Hildebran and Police Chief Brent Phelps.

**OTHERS:** Virginia Annable, *News-Topic*, City Attorney T. J. Rohr and Brian Smith, Police Department.

**I. CALL TO ORDER**

A. Mayor Pro-Tem Willis welcomed everyone and called the meeting to order.

B. Update: Quasi-Judicial Public Hearings: City Attorney T.J. Rohr suggested the City update its process for quasi-judicial public hearings in order to conduct the hearings more like a trial. 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.

Attorney Rohr also mentioned he would be working with Planning Director Jenny Wheelock to amend the language in the notification letter that is mailed out to adjoining property owners in order to make them aware of the procedures for a quasi-judicial hearing and that they should have a qualified person present who is knowledgeable about the issue to represent them and be able to ask questions.

Planning Director Wheelock informed Council the state has also approved legislation to eliminate special use zoning and to change the name of the permit from a Conditional Use Permit to a Special Use Permit. She reported the North Carolina House of Representatives is currently considering this request.

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. In addition, Attorney Rohr reminded Council, if a petitioner meets all of the requirements of the permit, Council's first step is to approve the permit. He clarified Council would need to have actual facts or evidence to deny a permit.

Attorney Rohr further shared if a citizen opposes a conditional use permit, Council would need to have someone with training and experience address the issue with the individual during the public hearing. He pointed out the County Attorney handles these types of disputes during Commissioners meetings and 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 City Council to allow Mr. Rohr to preside over future contested hearings and, upon receiving the evidence, he will turn the meeting back over to the Mayor for any discussion and/or action.

Planning Director Wheelock referred to the housing tax credit projects and asked what type of reason is needed to deny a project. Attorney Rohr reported they could be denied if the applicant hasn't met all of the standards, but he emphasized there has to be a good reason to deny a project.

Attorney Rohr reiterated adequate proper notice has to be given and it is important for Staff to do a findings of facts list because these findings are what a judge will refer to should there be a lawsuit. Also, he reported Council has the option to strike a condition and replace it should an individual submit additional evidence.

On behalf of City Council, Mayor Pro-Tem Willis thanked Director Wheelock and Attorney Rohr for the good report.

## II. CITIZEN COMMENT PERIOD

## III. COMMITTEE ITEMS

### A. Public Works

#### 1. Public Works Director Jared Wright updated City Council on the following Projects:

- a) Paving of Greenway – sub-prep work has been done from North Main to Willow to Hospital Avenue for the greenway paving project. The project timeline is six months and should be complete in 2020. Staff continues to work on obtaining rights-of-ways. Director Wright stated there would be significant traffic impacts which the contractors would address and take care of.
- b) Update; Sanitation Study –the City will begin Phase II (Route Design) of the Sanitation Study followed by public education of the proposed change to an automated side-loading truck. Director Wright stated the route design will take around two months and carts will be ordered for City residents. A brief discussion was held regarding notifying the general public about the Hospital Avenue Sidewalk Project and the change to side-loading sanitation truck.
- c) Update; Blue Ridge Memorial Park – reported rebar is being installed at Blue Ridge Memorial Park for the purpose of making 1,500 new grave plots available.
- d) New Fuel Pump – reported this project is included in the FY2019/2020 Capital Improvements Project listing (CIP). Director Wright explained that maintenance needs to be done on the tank to try and prevent the fuel from freezing in the

tank. The maintenance should be complete by the end of the month.

- e) Educational Project; Community Gardens – reported he will be attending a presentation by Appalachian State University students that are working on the educational project at the Community Gardens.

**D. Update; Public Utilities:** Director Thomas on the following items:

- 1) Water Treatment Plant Improvements Project – paving will be completed this week and all of the piping has been changed out.
- 2) Update; Brownfields Project – reported the City has expended \$115,000 of the \$300,000 grant award and stated the City is on track to clean up all of the environmental issues for the properties as listed in the grant application.
- 3) Biosolids Project – the Notice to Proceed will be submitted in November.
- 4) MeterSys Project – the communication network is complete and two additional repeaters will be installed for the project.
- 5) Reported a guard rail contractor drove a post through the 12 inch water line. The line water pressure was reduced due to the incident.

**E. Planning Board:** The Planning Board will meet on Monday, October 28.

Planning Director Jenny Wheelock reported on the following items:

- 1) Rezoning; 103 Virginia Street SW – a public hearing will be held on Tuesday, November 12 to consider a rezoning request for property located at 103 Virginia Street SW to change the zoning from R-9 (Mixed Density Residential) to B-6 (Transitional Business) as submitted by Kathleen Kaminski.
- 2) Hospital Avenue/Stonewall Street – upcoming demolition of property.
- 3) Stormwater Ordinance – Requested Council call for a public hearing to be held on Tuesday, November 12 to consider approval of a Phase II Stormwater Ordinance.

Director Wheelock reminded Council the County previously took over stormwater in 2009. She referred to a letter received from the Western Piedmont Council of Governments (WPCOG) which states the City is required to adopt a stormwater and illicit discharge ordinance in order to comply with the North Carolina General Statutes. It was noted the adoption of the proposed changes will enhance the overall protection of stormwater. Director Wheelock stated the City's ordinance includes a few new items but generally remains unchanged.

**Motion**

Upon a motion by Councilmember Thomas, Council voted 6 to 0 to schedule a public hearing on Tuesday, November 12 to consider approval of the Phase II Stormwater Ordinance as recommended by City Staff.

**IV. COMMUNITY DEVELOPMENT**

- A. The Lenoir Tourism Development Authority (LTDA) cancelled its meeting of Thursday, October 3. A report was not given at this time.
- B. The Lenoir Business Advisory Board (LTDA) met on Thursday, October 10.

Kaylynn Horn, Economic Development Director reviewed the schedule for upcoming events. Light-Up Lenoir begins on Thursday, November 21 and the annual Rotary Christmas Festival will be held on Saturday, November 23. The annual Christmas parade is scheduled for Friday, December 6 at 6:30 p.m. in downtown Lenoir.

Director Horn also reported she has met with several business owners and currently there are two active projects ongoing in the downtown area.

#### C. Financial and Administration

1. Finance Director Bean reviewed the Financial Summary as of September 30, 2019. The over/under balance in the General Fund is \$10,779,851.19, Downtown District (\$50,423.12), and Water & Sewer Fund \$953,765.93. (A copy of the September financial summary is attached to these minutes as information).

#### D. Parks & Recreation Advisory Board: The Parks & Recreation Advisory Board met on Monday, October 21. Minutes of the meeting will be submitted. Kenny Story, Recreation Director reported on the following:

- 1) Applications are currently being accepted for the basketball and wrestling programs. The baseball and softball programs are now finished.
  - 2) The indoor pool at the Aquatic & Fitness Center will be open for kayaking on Wednesdays from 6:00 to 8:00 p.m. through October 30.
  - 3) 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.
  - 4) The restrooms are under construction and paving will begin at the new parking lot located at Optimist Park once the prep work is complete.
  - 5) New basketball goals have been installed at Mulberry Recreation Center which will allow Staff to host basketball tournaments for younger children.
  - 6) Repairs are complete on the slide at the outdoor pool at the Aquatic & Fitness Center.
  - 7) The gym floors will be refinished at the Martin Luther King, Jr. Center and at Mulberry Recreation Center on Monday, November 4. The two facilities will remain closed until Tuesday, November 12.
  - 8) Two new bollards will be installed at the J. E. Broyhill Walking Park due to recent damage caused by two cars driving over the track inside the park.
- 5) Update; Public Communications: Joshua Harris, Public Information Officer, reviewed the highlights of the Communications Reports for September. (A copy of the report is attached to these minutes as information). Activity included 202 social posts, 78 photos, 2 radio spots, 6 videos, 56 notify me, 13 questions & answers and 11 news releases. In addition, the website experienced 27,517 views and the City's Facebook had 4,236 views.

In addition, Director Harris reported the first episode of "More in Lenoir" with Kaylynn Horn and Kyle Case has aired on the Caldwell County Government TV Channel. He encouraged everyone to submit ideas for new segments. A

brief discussion was held regarding doing videos onsite at several of the facilities for this program.

#### IV. PUBLIC SAFETY

##### A. Police Department

1. Update: Captain Brian Smith reported the Department has hired two new staff members and two additional staff will be hired following their graduation from the Basic Law Enforcement Training course. He also stated Staff is currently conducting in-service training.

##### B. Fire Department

1. Fire Chief Ken Hair referenced the recent fuel spill on Harper Avenue which Staff assisted with cleanup and noted the Department responded to three fires last week.

#### V. OTHER

- ##### A. November Calendar: By consensus of the Council, the calendar for the month of November was approved listing various meetings and events.

1. Caldwell is Hiring will be held on Thursday, October 31 from 8:00 – noon at the J.E. Broyhill Civic Center.

#### VI. Adjourn:

There being no further business; the meeting was adjourned at 10:05 a.m.

#### Attachments

September Financial Summary



**City of Lenoir  
Financial Summary  
As of 9/30/2019**



Minutes-Committee of the Whole Meeting  
Tuesday, October 22, 2019

| General Fund  |                     |                  |             |                              |                  |
|---------------|---------------------|------------------|-------------|------------------------------|------------------|
|               | 2019-2020<br>Budget | 9/30/2019        | % of Budget | Change from<br>Previous Year | 9/30/2018        |
| Total Revenue | \$ 17,362,391.00    | \$ 15,602,932.12 | 90%         | \$ 2,731,151.60              | \$ 12,871,780.52 |
| Expenditures  | \$ 17,362,391.00    | \$ 4,823,080.93  | 28%         | \$ 478,646.11                | \$ 4,344,434.82  |
| Over/Under    | \$ -                | \$ 10,779,851.19 |             | \$ 2,252,505.49              | \$ 8,527,345.70  |

| Downtown District |                     |                |             |                              |                |
|-------------------|---------------------|----------------|-------------|------------------------------|----------------|
|                   | 2019-2020<br>Budget | 9/30/2019      | % of Budget | Change from<br>Previous Year | 9/30/2018      |
| Revenues          | \$ 183,736.00       | \$ 286.17      | 0.2%        | \$ (1,998.44)                | \$ 2,284.61    |
| Expenditures      | \$ 183,736.00       | \$ 50,709.29   | 28%         | \$ 9,453.41                  | \$ 41,255.88   |
| Over/Under        | \$ -                | \$ (50,423.12) |             | \$ (11,451.85)               | \$ (38,971.27) |

| Water/Sewer Fund |                     |                 |             |                              |                 |
|------------------|---------------------|-----------------|-------------|------------------------------|-----------------|
|                  | 2019-2020<br>Budget | 9/30/2019       | % of Budget | Change from<br>Previous Year | 9/30/2018       |
| Revenues         | \$ 8,941,688.00     | \$ 2,472,873.64 | 28%         | \$ 179,862.57                | \$ 2,293,011.07 |
| Expenditures     | \$ 8,941,688.00     | \$ 1,519,107.71 | 17%         | \$ (44,914.72)               | \$ 1,564,022.43 |
| Over/Under       | \$ -                | \$ 953,765.93   |             | \$ 224,777.29                | \$ 728,988.64   |

**CITY OF LENOIR**  
**COUNCIL ACTION FORM**

I. **Agenda Item:** Biosolids Facility Improvements Project Ordinance - Amended

**Background Information:** The original project ordinance authorized activities for the Biosolids Facility Improvements Project, which included the expenditure of loan funds to improve the handling and treatment the City's sludge generated from wastewater treatment. The original funding approved from the Division of Water Infrastructure's State Reserve Project Loan was in the amount of \$6,600,000.00. Based on the bids received, the state of North Carolina increased the loan amount to \$6,995,000.00 and adding additional local funding in the amount of \$139,900.00 for closings costs.

II. **Staff Recommendation:** Staff recommends approval of the proposed Capital Project Ordinance to appropriate funds.

III. **Reviewed by:**

City Attorney: \_\_\_\_\_

Finance Director: \_\_\_\_\_

*Donna Bean*

Public Works/Public Utilities Director: \_\_\_\_\_

# Capital Project Ordinance for the City of Lenoir

## Biosolids Facility Improvements Project - Amended

BE IT ORDAINED by the City Council Members of the City of Lenoir, North Carolina that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

**Section 1:** The project authorizes activities for the Biosolids Facility Improvements Project to include the expenditure of loan and local funds to improve the handling and treatment the City's sludge generated from wastewater treatment. Funding will be received from the Division of Water Infrastructure's State Reserve Project Loan and local funds.

**Section 2:** The officers of this unit are hereby directed to proceed with the capital project within the terms of the budget contained herein.

**Section 3:** The following amounts are appropriated for the project:

|                      |                |
|----------------------|----------------|
| Administration Costs | 52,725         |
| Engineering Costs    | 780,000        |
| Construction Cost    | 5,970,275      |
| Closing Fees         | 139,900        |
| Contingency          | <u>192,000</u> |
| Total                | \$ 7,134,900   |

**Section 4:** The following revenues are anticipated to be available to complete this project:

|                                                               |                |
|---------------------------------------------------------------|----------------|
| Division of Water Infrastructure's State Reserve Project Loan | 6,995,000      |
| Local Funds                                                   | <u>139,900</u> |
| Total                                                         | \$ 7,134,900   |

**Section 5:** The Finance Officer is hereby directed to maintain within the Capital Project Fund sufficient specific detailed accounting records to satisfy the requirements of the Project Ordinance.

**Section 6:** The Finance Officer is directed to report, on a quarterly basis, on the financial status of each project element in Section 3.

**Section 7:** The Budget Officer is directed to include a detailed analysis of past and future costs and revenues on this capital project in every budget submission made to this Board.

**Section 8:** Copies of this capital project ordinance shall be furnished to the Budget Officer and the Finance Officer for direction in carrying out this project.

Adopted this 12<sup>th</sup> day of November 2019.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Clerk

**CITY OF LENOIR**  
**COUNCIL ACTION FORM**

**I. Agenda Item:**

Proposal Acceptance: Western Piedmont Council of Governments (WPCOG),  
Lenoir Sanitation Automated Collection Study

**II. Background Information:**

In August of 2019 the City solicited a proposal from the WPCOG to perform a feasibility study to assess a transition to automated (one-arm) garbage collection. That proposal was received on September 20, 2019. During the time between the original solicitation and the City's receipt of the proposal, the City submitted bids on two (2) automated collection trucks that were being auctioned by a nearby municipality. The City was the successful bidder, therefore we asked the WPCOG to revise the proposal, moving beyond transition feasibility to implementation, including updated customer counts, route re-design and logistics, current and future operation and maintenance budgeting, solid waste ordinance review, and public education assistance. The revised proposal was received on October 22, 2019. The proposed fee for the study is \$27,500.00.

**III. Staff Recommendation:**

After review of the scope, schedule, and deliverables proposed by the WPCOG, staff recommends acceptance of the proposal.

**IV. Reviewed by:**

City Attorney: \_\_\_\_\_

Finance Director: \_\_\_\_\_

Public Works/Public Utilities Director: \_\_\_\_\_



# City of Lenoir

## Solid Waste Automated Collection Study



**Western Piedmont**  
Council of Governments

*Planning & Transportation*

Proposal Submitted by:

## 1. Agency information

The Western Piedmont Council of Governments (WPCOG) will be the lead agency to prepare the Lenoir Solid Waste Automated Collection Study. Name, address, and contact information are listed in the tables below.

|                       |                                                                                   |                          |  |
|-----------------------|-----------------------------------------------------------------------------------|--------------------------|--|
| Name of Organization: | Western Piedmont Council of Governments, Community & Regional Planning Department |                          |  |
| Street Address:       | 1880 Second Avenue, NW                                                            |                          |  |
| City, State, Zip:     | Hickory, NC 28601                                                                 |                          |  |
| Phone Number:         | 828-322-9191                                                                      | Fax Number: 828-322-5991 |  |
| Email:                | hunter.nestor@wpcog.org                                                           |                          |  |

## 2. Established

Regional Councils of Governments were established by the State of North Carolina in 1968.

The WPCOG is a regional planning organization which serves 28 local governments in the four-county area of Alexander, Burke, Caldwell, and Catawba Counties.

Since 1968, WPCOG has provided planning services, project administration, and technical assistance to member governments throughout the region. Its professional staff of 58 persons is located in Long View, North Carolina.

## 3. Personnel

WPCOG Personnel who will work on the Lenoir Solid Waste Automated Collection Study are listed below:

- Alison Adams, MSSL, Director of Community and Regional Planning
- Taylor Dellinger, GISP, Senior Data Analyst
- Brian Horton, AICP, Transportation Planning Manager
- Averi Ritchie, Transportation Planner/ADA Administrator
- Duncan Cavanaugh, AICP, Transportation/ Planner Data Analyst
- Dustin Millsaps, Transportation/Planning Tech
- Todd Stroupe, GIS Technician
- Hunter Nestor, MPA, Community and Regional Planner
- Ashley Kale, Community and Regional Planner
- Brad Moody, Code Enforcement Officer

## 4. Statement of Qualifications

The Western Piedmont Council of Governments has extensive experience in planning and project management at the local and regional levels. WPCOG's expertise ranges from GIS mapping and economic analysis to transportation policy development and data analysis. Section 8 of this document contains a sample listing of projects which summarize WPCOG's overall project management experience.

WPCOG is a non-profit regional planning entity that maintains a strong day-to-day working relationship with the municipalities and counties within the region. Local governments are deeply familiar with WPCOG, and frequently contact WPCOG for planning and project management assistance. This distinctive relationship, cultivated over 50 years, sets WPCOG from other entities that may seek to work with local governments in the region. WPCOG's inclusive planning process ensures buy-in from key decision makers – which helps ensure that strategies are implemented. As a regional Data Center, WPCOG also has access to a significant amount of local, state and national data, and also has offers a broad array of GIS mapping services.

## 5. Overview of the Study

The purpose of the Lenoir Solid Waste Automated Collection Study is to evaluate the City's solid waste operations, and make recommendations regarding possible cost savings and implementation alternatives in the following specific areas:

- Study and analyze a conversion to automated solid waste collection for the City's residential customers.
- Develop a cost estimate and an implementation timeline for the automated program.

### Background

For the past several years Lenoir has considered moving to automated (one-arm) residential garbage collection. Their current collection method utilizes traditional, rear loading compactor trucks and is supplemented by a small (non-CDL) truck to perform service on narrow and dead-end streets. The City has purchased two automated trucks from a neighboring municipality. One-arm collection will be used for a large part of the City. Lenoir should plan, budget, and prepare staff and the community for a shift to automated collection.

Many solid waste agencies have transitioned from the manual collection of solid waste to semi/fully-automated methods. In order evaluate the advantages and disadvantages of automated collection, WPCOG Staff will conduct a solid waste collection analysis which will take into account the following factors:

- Current budget implications for automation and projected budget requirements for automated service.
- Existing sanitation routes and street analysis.
- New route design for automated collection and optimized existing rear loading
- Fleet replacement and maintenance planning for current and future trucks.
- Full-cost analysis of all capital requirements.
- Current staffing and recommend staffing for automation.
- Sanitation staff work environment/safety and associated costs.
- Transition and implementation timelines.
- Solid waste collection public education initiatives.

### Scope of Work/Study Process

The Lenoir Solid Waste Automated Collection Study will result in a report that analyzes the current state of residential solid waste collection in Lenoir and provides recommendations to establish an automated collection program. The Lenoir Solid Waste Automated Collection Study will be developed by the WPCOG using multiple data sources provided by City Staff and additional resources from the public and private sectors.

Evaluating Lenoir's solid waste system will begin with a detailed system analysis. This analysis will enable the City to select collection improvement strategies that make the most sense for the community. The analysis will also allow the City to establish a baseline measurement that can be used to develop a cost-effective, long-range plan that creates a method for continuous program improvement and re-evaluation. In addition, this plan will provide the City with the strategic flexibility it needs to address the rapid changes occurring within the solid waste management industry.

WPCOG will begin the system analysis by gathering background information, data, and other materials relevant to solid waste collection operations. WPCOG will review this information and conduct an analysis of the department's existing financial structure, procedures, and applicable ordinances.

Implementation of the automated collection program will be achieved using a phased approach – by adding subdivisions and areas of the City to the program over time. The City will begin with a pilot program where a small sector of the City is converted to the new system. This sector's size will be based roughly on the collection capacity of one vehicle (900 – 1200 households per route each day), and will be comprised of residents who are highly engaged in community activities.

WPCOG will conduct field observations of the City's collection operations. The team will first identify current routes that are suitable for automated collection and identify areas for a pilot program. Set-out volumes and pick up time will be observed. The City's current rear-end load workers are collecting materials in a variety of containers. In many cases, waste is contained in plastic or metal garbage cans, including oversized containers. In other cases, waste is being collected in bags, or loose solid waste is picked up from the ground. 95 or 96-gallon carts (depending on the supplier) are the standard sizes used in automated container programs nationwide. In cases of above average generation (e.g. large families), WPCOG will provide the City with cost projections for the provision of a second container and fee recommendations.

WPCOG staff will identify how many trash collection routes the City should plan to develop. These routes will be developed with considerable input from Sanitation Division staff. WPCOG will also examine the performance of collection vehicles and containers under various roadway, weather and traffic conditions. Narrow streets, one-way streets, streets with "bumper-to-bumper" on-street parking, and dead ends or tight cul-de-sacs present special challenges for automated collection vehicles. WPCOG staff will then provide the City with an updated route design for Solid Waste Collection. WPCOG staff will also provide policy recommendations for Solid Waste Collection and other ordinance sections that will need to be updated for optimized efficiency.

Educating the public will be a significant component of both the pilot program and the new solid waste collection routes. Community meetings, mailings, and promotional activities will be conducted by the City and WPCOG staff. These outreach efforts will begin a month and a half to two months prior to any new service, and should clearly communicate all of the requirements of the new program, information about why the City is making the change, and should proactively anticipate how the change in service will impact residents. Once the pilot community is established, public outreach planning can begin for the project's full scale implementation.

**This study will be comprised of the following:**

- I. Existing Solid Waste System – (November 2019- January 2019)
  - a) Residential Collection
  - b) Updated house count
  - c) Municipal solid waste tonnages
  - d) Daily productivity
- II. System Operations - (November 2019- January 2019)
  - a) Staffing
  - b) Equipment
  - c) Health and Safety
  - d) Current Municipal Codes and Policies
- III. Financial Overview - (December 2019- February 2020)
  - a) Operating Cost and Revenues
  - b) Capital requirements
- IV. Solid Waste Collection Automation Implementation – (January 2020-June 2020)
  - a) Pilot Program (Begin by May 1, 2020)
  - b) Full Implementation Route Design
  - c) Education and Outreach
  - d) Staffing
  - e) Fleet Plan
- V. Recommendations – (March 2020 – July 2020)
  - a) Ordinance and Policy Recommendations
  - b) Staffing
  - c) Financials

## 6. Unique Qualifications

The WPCOG has served the Unifour Region since 1968, and has extensive planning experience in the region with projects involving utility services, transportation, community planning, data and many other areas.

WPCOG has established a record of success with the region's local governments by:

- Customizing the process to meet the local government's needs.
- Serving as the region's central data warehouse.
- Utilizing in-house GIS mapping capabilities to serve the local governments.
- Demonstrating a history of successfully managing projects and meeting necessary deadlines.
- Conducting public meetings and integrating public participation into the planning process.

The members of the WPCOG team have extensive professional experience across a range of planning expertise. Personnel biographies of staff working on the Lenoir Solid Waste Automated Collection Study can be provided.

## 7. Project Track Record

The following table is a list of projects that the WPCOG completed on over the past ten years.

| Project                             | Client                                          | Year         |
|-------------------------------------|-------------------------------------------------|--------------|
| Economic Indicators Newsletter      | Unifour                                         | 1998-Present |
| Catawba County Student Growth Model | Catawba County, Catawba County Schools, Newton- | 2000-Present |

|                                                                          |                                                                         |                      |
|--------------------------------------------------------------------------|-------------------------------------------------------------------------|----------------------|
|                                                                          | Conover Schools, Hickory Public Schools                                 |                      |
| Morganton Water, Sewer, Stormwater & Electric GPS/GIS Creation           | City of Morganton                                                       | 2004-2009            |
| Western Piedmont Comprehensive Economic Development Strategy             | US Economic Development Administration (EDA), WPCOG Policy Board        | 2007<br>2012<br>2017 |
| Hildebran Zoning Ordinance                                               | Town of Hildebran                                                       | 2008                 |
| Redwood Park Master Plan                                                 | Town of Hudson                                                          | 2008                 |
| Western Piedmont Industry Growth Analysis                                | Western Piedmont Workforce Development Board                            | 2004<br>2009<br>2013 |
| Greenway Transit – Locally Coordinated Transportation Plan               | Unifour Region                                                          | 2009                 |
| Rocky Face Park Master Plan                                              | Alexander County                                                        | 2009                 |
| Urban Corridor Small Area Plan                                           | Burke County                                                            | 2009                 |
| Lake Rhodhiss Watershed Plan                                             | Carolina Land and Lakes RC&D                                            |                      |
| Hickory Stormwater GPS                                                   | City of Hickory                                                         | 2009/2010            |
| Regional Trails Plan                                                     | Unifour Region                                                          | 2009-2010            |
| An Analysis of Catawba County Hotel's Property and Visitor Related Taxes | Hickory Metro Visitor and Convention Bureau                             | 2010                 |
| 2035 Greater Hickory Long Range Transportation Plan                      | Unifour Region                                                          | 2010                 |
| Oak Hill Small Area Plan                                                 | Burke County                                                            | 2010                 |
| Hildebran Comprehensive Plan                                             | Town of Hildebran                                                       | 2010                 |
| Rutherford College Zoning Ordinance                                      | Town of Rutherford College                                              | 2010                 |
| Unifour Strategic Air Quality Plan                                       | Unifour Region                                                          | 2010                 |
| Lake Rhodhiss Watershed Management Plan                                  | Unifour Region                                                          | 2010                 |
| Burke County Broadband Commission                                        | Burke County                                                            | 2010                 |
| Burke County CAD/GIS Data Conversion                                     | Burke County                                                            | 2010                 |
| Youth Gang activity Assessment                                           | Juvenile Crime Prevention Councils, Burke Caldwell and Catawba Counties | 2010                 |
| Caldwell County Student Growth Model                                     | Caldwell County Schools, Caldwell County Government                     | 2011<br>2014<br>2017 |
| Rutherford College Comprehensive Plan                                    | Town of Rutherford College                                              | 2011                 |
| Maiden Stormwater GPS/GIS Creation                                       | Town of Maiden                                                          | 2011                 |
| Claremont Water/Sewer Utility Mapping GPS                                | Town of Claremont                                                       | 2011                 |
| Claremont Utility Mapping GPS Updates                                    | Town of Claremont                                                       | 2014<br>2017         |
| Triple Community Water Service Mapping GPS                               | Unifour Region                                                          | 2011                 |
| LOS Green Energy Initiative                                              | Unifour Region                                                          | 2011-2012            |
| Hildebran subdivision Ordinance                                          | Town of Hildebran                                                       | 2012                 |
| Lower Creek Source Water Protection Plan                                 | Caldwell County and Burke County                                        | 2012                 |
| Valdese Comprehensive Parks and Recreation Plan                          | Town of Valdese                                                         | 2013                 |
| City of Hickory Economic Indicators Report                               | City of Hickory                                                         | 2013-Present         |
| Burke County School Growth Model (BurkeGEM)                              | Burke County Schools, Burke County Government                           | 2014                 |

|                                                      |                                                                                                  |              |
|------------------------------------------------------|--------------------------------------------------------------------------------------------------|--------------|
| Greenway Passenger Sampling and Analysis             | Greenway Transportation                                                                          | 2014-Present |
| Catawba County Early Head Start Community Assessment | Catawba Early Head Start, Catawba County Schools, Hickory Public Schools, Newton-Conover Schools | 2011, 2014   |
| Western Piedmont Source Water Protection Plan        | US EPA                                                                                           | 2014         |
| City of Newton Strategic Growth Plan                 | City of Newton                                                                                   | 2015         |
| Maiden Water, Sewer & Electric GPS/GIS Creation      | Town of Maiden                                                                                   | 2015         |
| Annual Report                                        | WPCOG                                                                                            | 2015-2018    |
| WP Workforce Development Board - Website             | Western Piedmont Workforce Development                                                           | 2016         |
| Sawmills Comprehensive Parks and Recreation Plan     | Town of Sawmills                                                                                 | 2017         |
| Drexel Comprehensive Parks and Recreation Plan       | Town of Drexel                                                                                   | 2017         |
| Taylorsville Water GPS/GIS Creation                  | Town of Taylorsville                                                                             | 2017         |
| Catawba Chamber Young Professionals Survey Analysis  | Catawba County Chamber                                                                           | 2017         |
| Comprehensive Economic Development Strategy          | WPCOG                                                                                            | 2017         |
| McGalliard Creek Watershed Plan                      | EPA/Valdese                                                                                      | 2017         |
| Town of Long View, NC - Website                      | Town of Long View                                                                                | 2018         |
| North Carolina Area Agencies on Aging - Website      | NC4A                                                                                             | 2018         |
| Rutherford College Water GPS/GIS Creation            | Town of Rutherford College                                                                       | 2018         |
| Drexel Water, Sewer & Electric GPS/GIS Creation      | Town of Drexel                                                                                   | 2018         |
| Hickory Trails Report                                | City of Hickory                                                                                  | 2018         |
| Hudson Comprehensive Parks and Recreation Plan       | Town of Hudson                                                                                   | 2018         |
| Catawba County Chamber Business Survey Analysis      | Catawba County Chamber                                                                           | 2018         |
| Bethlehem Community Plan                             | Alexander County                                                                                 | 2019         |
| Caldwell County Comprehensive Plan                   | Caldwell County                                                                                  | 2019         |
| Jacob Fork and Henry Fork Watershed Study            | Foothills Conservancy                                                                            | 2019-Present |
| Glen Alpine Town Code/Zoning/Subdivision Rewrite     | Town of Glen Alpine                                                                              | 2019-Present |

## 8. List of previous clients

|                                                                                                        |                                                                                                                                                                                                         |
|--------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Alexander County <ul style="list-style-type: none"> <li>Taylorsville</li> </ul>                        | Burke County <ul style="list-style-type: none"> <li>Connelly Springs</li> <li>Drexel</li> <li>Glen Alpine</li> <li>Hildebran</li> <li>Morganton</li> <li>Rutherford College</li> <li>Valdese</li> </ul> |
| Caldwell County <ul style="list-style-type: none"> <li>Cajah's Mountain</li> <li>Cedar Rock</li> </ul> | Catawba County <ul style="list-style-type: none"> <li>Brookford</li> <li>Catawba</li> </ul>                                                                                                             |

|                                                                                                                                                                   |                                                                                                                                                                                                                                                               |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>• Gamewell</li> <li>• Granite Falls</li> <li>• Hudson</li> <li>• Lenoir</li> <li>• Rhodhiss</li> <li>• Sawmills</li> </ul> | <ul style="list-style-type: none"> <li>• Claremont</li> <li>• Conover</li> <li>• Hickory</li> <li>• Long View</li> <li>• Maiden</li> <li>• Newton</li> </ul>                                                                                                  |
| Catawba County Schools<br>Caldwell County Schools<br>Newton-Conover City Schools<br>Hickory City Schools                                                          | Burke Development Inc.<br>Catawba County Chamber of Commerce<br>Foothills Conservancy<br>Greenway Public Transportation System<br>Hickory Metro Visitor and Convention Bureau<br>US Environmental Protection Agency<br>US Economic Development Administration |

## 9. Lenoir Solid Waste Automated Collection Study Cost

The cost for the Western Piedmont Council of Governments to complete a **Lenoir Solid Waste Automated Collection Study Cost** for the City of Lenoir will be [\\$27,500.00](#). This includes 520 hours of staff time, travel, subsistence, and supplies. All deliverables will be provided to the City in digital format.

**CITY OF LENOIR****COUNCIL ACTION FORM: November 12, 2019****I. Agenda Item:**

Resolution to Declare the Residential-Commercial properties on the western edge of Downtown as a part of the City's Central Business District, for the purposes of supporting Downtown Development Projects under NCGS 160A-458.3

**II. Background Information:**

"Downtown Development Projects" under NCGS 160A-458.3 are capital projects within the City's central business district, *as defined by the City Council*, comprising one or more buildings and including both public and private facilities.

Due to the potential for the three residential-commercial zoned properties to meet the definition of a "downtown development project," particularly given their close proximity to Downtown, the Rail Trail, the impact of housing on the Downtown area, their recent designations as Local Historic Landmarks, and their designations on the National Register of Historic Places, this resolutions clarifies Council's long-held intent to consider these properties a part of the Historic Downtown area.

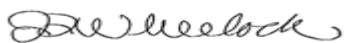
**III. Staff Recommendation:**

Adoption of the attached resolution.

**IV. Reviewed by:**

City Attorney: \_\_\_\_\_

Finance Director: \_\_\_\_\_

Planning Director:  \_\_\_\_\_



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

CITY OF LENOIR

RESOLUTION

**WHEREAS**, The Lenoir City Council recognizes the need for high density housing and mixed-use developments in the Downtown area; and,

**WHEREAS**, the properties shown in Exhibit A are located adjacent to the City's B-3 Central Business zoning district, and were recently re-zoned to Residential-Commercial (R-C) zoning, a newly created zoning classification specifically intended to facilitate high density housing and mixed-use developments; and,

**WHEREAS**, one of the properties is a historic rail freight depot, and all three properties abut a public multi-use greenway trail constructed on the former rail bed, forming a vital public pedestrian connection to the City's greenway network and the Downtown, as well as serving as a western gateway to the Downtown as depicted in the City's Comprehensive Plan; and,

**WHEREAS**, the three properties have all been listed on the National Register of Historic Places as well as designated as Historic Landmarks by the local Historic Preservation Commission and the City Council; and

**WHEREAS**, the properties are commonly thought of as being a part of the Lenoir's Downtown, with Lenoir's Main Street Director spending time on economic development efforts related to the preservation and re-use of these historic buildings, similar to her duties on other preservation and economic development projects located elsewhere in the Downtown area; and

**NOW BE IT THEREFORE RESOLVED THAT**, the Lenoir City Council, pursuant to the provisions of N.C.G.S. § 160A-458.3, does hereby resolve that the properties depicted in Exhibit A are considered part of Lenoir's Central Business District (CBD) and the rehabilitation and re-use of the buildings and associated site improvements are considered by the Lenoir City Council to be "downtown development projects."

Adopted this the 12th day of November, 2019.

SEAL

\_\_\_\_\_  
Joseph L. Gibbons, Mayor

ATTEST:

\_\_\_\_\_  
Shirley M. Cannon, City Clerk



