

**LENOIR CITY COUNCIL
TUESDAY, APRIL 19, 2022
6:00 P.M.**

PRESENT: Mayor Joe Gibbons presiding. Councilmembers present were Jonathan Beal, Kent Greer, Ike Perkins, Ralph Prestwood, Todd Perdue, City Manager Scott Hildebran, City Attorney T. J. Rohr, City Clerk Shirley Cannon, Planning Director Jenny Wheelock, Police Chief Brent Phelps and Communications Director Joshua Harris.

ABSENT: Councilmember David Stevens and Mayor Pro-Tem Crissy Thomas.

ZOOM: Fire Chief Ken Hair, Recreation Director Kenny Story, Economic Development Director Kaylynn Horn, Finance Director Donna Bean, Public Utilities Director Radford Thomas, Interim Public Works Director, Ed Evans, and Hannah Williams.

Others in attendance was Cady Davis, *News-Topic*.

I. CALL TO ORDER

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

**SPECIAL RECOGNITION;
POLICE DEPARTMENT:**

- B. On behalf of City Council, Mayor Gibbons presented a proclamation to Brent Phelps, Chief of Police, recognizing the week of April 10 through April 16 as “National Public Safety Telecommunicators Week” in the City of Lenoir.

Chief Phelps thanked Mayor Gibbons and City Council for the recognition and stated the Department’s Telecommunicators provide a vital service for the City of Lenoir while working behind the scenes. He remarked the Telecommunicators are the key to the Department being able to serve and do their job.

Mayor Gibbons thanked Chief Phelps and Staff for all they do for the City of Lenoir and its citizens.

II. MATTERS SCHEDULED FOR PUBLIC HEARINGS

**AMENDMENTS; PHASE II
STORMWATER ORDINANCE:**

- A. A public hearing was held to consider amendments to the Phase II Stormwater Ordinance (codified as Appendix C of Lenoir’s Code of Ordinances) as submitted.) An outline of the proposed changes is included in the memorandum as submitted by Mr. Jack Cline, WPCOG Stormwater Administrator.

A copy of the Memorandum and Stormwater Ordinance is hereby incorporated into these minutes by reference. (Refer to pages 85-97.)

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

Planning Director Jenny Wheelock clarified for Council that the proposed amendments would not change the administrative purpose of the ordinance. The majority of these changes were required by the Department of Environmental Quality (DEQ) when they approved the City's Stormwater Management Plan (SWMP).

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

Upon a motion by Councilmember Perdue, City Council voted 5 to 0 to approve the amendments to the Phase II Stormwater Ordinance (Appendix C of Lenoir's Code of Ordinances) as submitted and as recommended by Planning Director Jenny Wheelock.

**CONDITIONAL ZONING ORDINANCE;
SUMMERHILL SUBDIVISION:**

- B. A public hearing was held to consider a Conditional Zoning Ordinance for the Summerhill Subdivision as requested by Munroe and Becky Cobey, Cape Hatteras, LLC, as submitted.

A copy of the ordinance and Staff Report is hereby incorporated into these minutes by reference. (Refer to pages 98-115.)

Mayor Gibbons opened the public hearing to receive public comments regarding the proposed Conditional Zoning Ordinance request.

Planning Director Jenny Wheelock reviewed a brief presentation of the Summerhill Subdivision along with a map of the property regarding the conditional zoning request.

Director Wheelock reported the owners of Summerhill Subdivision requested a zoning change from R-12 to Conditional Zoning in order to adopt special conditions for development of the remaining lots and designate additional open space for the management of stormwater run-off. The special conditions are included in the CZ-8 Ordinance.

As background information, Director Wheelock reported the subdivision is zoned as R-12 and contains 69 lots, the majority of which remain vacant. She stated there are now six completed homes and four additional homes under construction. There is also an un-named intermittent stream, which runs east-west through the center of the development, feeding a tributary to Lower Creek located on the western boundary.

Director Wheelock further explained that Section No. 8 in the ordinance states a Home Owners Association (HOA) must be established and maintained in perpetuity. The HOA must, at a minimum, be responsible for maintaining all commonly owned private improvements, including open space, stormwater conveyance systems, and neighborhood entrance signage.

Following a brief discussion, Director Wheelock clarified the owners have requested that entrance signage be removed from the ordinance and she clarified they are not required to have them. She stated this will be a minor change to the ordinance.

Mrs. Becky Cobey, 303 Lone Pine Road, Chapel Hill, NC, addressed City Council and stated they purchased the land in 2005-06 in order to build smaller homes for people

that wanted to downsize. A “spec” home was built in 2007 that did not sell until 2011. Mrs. Cobey stated they were unaware of the runoff and setback issues until they met recently with Director Wheelock to discuss the Phase II addition. Mrs. Cobey commended Director Wheelock for all of her hard work in addressing the stormwater issue for future development.

A resident of the neighborhood addressed Council and asked what is required to create an HOA. He stated residents were promised by the owners there would not be an HOA when the lots were sold. However, he remarked that was not correct because the owners fought for control over the HOA.

Mrs. Cobey stated she was unaware of what HOA may have been involved with since only one house was built in 2007. Mrs. Cobey said they never charged anyone a fee and thought the HOA would go away.

Director Wheelock clarified the HOA is required by the City of Lenoir and that Planning Staff has to have a copy on file should there be any enforcement issues. In addition, she pointed out the City is regulated by state guidelines.

Following a brief discussion and upon a motion by Councilmember Perkins, City Council voted 5 to 0 to approve the Conditional Zoning Ordinance as presented by Staff, with the changes to special condition number 8 related to removing language about HOA maintenance of entrance signs as requested by the property owner.

III. CONSENT AGENDA ITEMS

- A. Minutes: Approval of the minutes of the City Council meeting of Tuesday, April 5, 2022 as submitted.
- B. Minutes: Approval of the minutes of the Budget Retreat held during the Committee of the Whole meeting of Tuesday, March 22, 2022 as submitted.
- C. Resolution; Water & Sewer Enterprise Fund CIP: Approval of a resolution to adopt the updated Water and Sewer Fund Capital Improvements Project (CIP) list as presented to City Council at the March 22, 2022 Budget Meeting in order to meet the requirements of the Division of Water Infrastructure SRF funding application. (A copy of the resolution and certification statement are hereby incorporated into these minutes by reference. Refer to page 116-117.)
- D. Proclamation; National Public Safety Telecommunicators Week: Approval of a proclamation recognizing the week of April 11 through April 15 as “National Public Safety Telecommunicators Week” in the City of Lenoir. (A copy of the proclamation is hereby incorporated into these minutes by reference. Refer to page 118.)

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

IV. REQUESTS AND PETITIONS OF CITIZENS

V. REPORTS OF BOARDS AND COMMISSIONS

VI. REPORT AND RECOMMENDATIONS OF THE CITY MANAGER

A. Items of Information

- PLANNING BOARD:** 1. A training and orientation session for the Board of Adjustment members is scheduled for Monday, April 25 beginning at 4:30 p.m. and the Board of Adjustment/Planning Board meeting will follow at 5:30 p.m. at the City/County Chambers.
- PARKS & RECREATION
ADVISORY BOARD:** 2. The Parks and Recreation Advisory Board will meet on Monday, April 25 at 6:00 p.m. at Mulberry Recreation Center.
- NCLM CITY VISION
CONFERENCE:** 3. The North Carolina League of Municipalities (NCLM) City Vision Conference will be held on Tuesday, April 26 through Thursday, April 28 in Wilmington.
- MEETING CANCELLATION;
COMMITTEE OF THE WHOLE:** 4. The Committee of the Whole meeting for Tuesday, April 26 was cancelled due to the NCLM City Vision Conference.
- EMPLOYEE LITTER
SWEEP:** 5. The City of Lenoir's Employee Litter Sweep is scheduled for Wednesday, April 20 A group of City volunteers will be collecting litter in the downtown area and along different City routes.

A. Items for Council Action

VII. REPORT AND RECOMMENDATIONS OF THE CITY ATTORNEY

VIII. REPORT AND RECOMMENDATIONS OF THE MAYOR

**RE-APPOINTMENT; FOOTHILLS
REGIONAL AIRPORT AUTHORITY:**

- B. Mayor Gibbons recommended Charles Thomas be re-appointed to serve a two-year term on the Foothills Regional Airport Authority, which will expire June 30, 2024. This re-appointment was announced at the April 5 meeting.

Upon a motion by Councilmember Prestwood, City Council voted 6 to 0 to re-appoint Charles Thomas to serve a two-year term on the Foothills Regional Airport Authority, which will expire June 30, 2024 as recommended by Mayor Gibbons.

In addition, Mayor Gibbons stated he is continuing to work with Staff regarding approving all board appointment recommendations annually with all terms to begin July 1 through June 30 each year.

IX. REPORT AND RECOMMENDATIONS OF COUNCILMEMBERS

X. ADJOURNMENT

- A. There being no further business, the meeting was adjourned at 6:42 p.m.

Shirley M. Cannon, City Clerk

Joseph L. Gibbons, Mayor



**Western Piedmont
Council of Governments**

Creative Regional Solutions Since 1968

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MEMORANDUM

To: Lenoir City Council
From: Jack Cline, WPCOG Stormwater Administrator
Date: April 13, 2022
Re: Updates to the City of Lenoir Phase II Stormwater Ordinance

The attached ordinance proposes modifications to Lenoir's adopted Phase II Stormwater Ordinance (codified as Appendix C in the City's Code of Ordinances), consistent with the Best Management Practices (BMPs) prescribed by the City's state-approved Stormwater Management Plan (SWMP). Specifically, BMP 35 in the SWMP calls for the City to "require construction site operators to control waste at the construction site that may cause adverse impact to water quality."

Proposed Sec. 309 does not impose additional permitting requirements, but rather establishes clear standards and expectations for construction operations and provides "teeth" to field enforcement. The target is stock piles and materials outside of the typical Sediment and Erosion Control requirements currently handled by NCDEQ. Additional edits are also proposed, aimed at clarifying enforcement procedures, remedies, and penalties in light of recent changes made by SB300 last year.

Outline of proposed changes:

- Addition of Sec. 309 Construction Waste Management
 - Requires that construction sites follow the outlines procedures within the ordinance
 - Provides the City with more control over construction site stormwater runoff pollution
 - Establishes standards for field enforcement – does not add additional permitting requirements
 - Broken into 5 parts:
 - (1) Discarding building materials and construction waste disposal requirements (general waste and material disposal)
 - (2) Storage and disposal of construction site waste (stock piles)
 - (3) Disposal of Hazardous Waste
 - (4) Disposal of Pesticides
 - (5) Maintenance Requirements (maintain containers, storage areas, equipment, etc.)
- Fixing minor errors/typos present in the ordinance
- Updated provisions related to the enforcement procedures and remedies/penalties to be in line with S.B. 300 and clarify when and how city abatement of stormwater violations as public nuisances can occur.

AN ORDINANCE OF THE CITY COUNCIL OF LENOIR, NORTH CAROLINA, AMENDING APPENDIX C OF THE LENOIR CITY CODE, "PHASE II STORMWATER ORDINANCE," RELATED TO CONSTRUCTION SITE WASTE AND ENFORCEMENT PROCEDURES, PROVIDING FOR SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

Whereas, the City of Lenoir is subject to Phase II of the Clean Water Act and holds a National Pollution Discharge and Elimination System (NPDES) permit for our Municipal Separate Storm Sewer System (MS4); and

Whereas, the City of Lenoir's NPDES permit requires the City to adopt and maintain a Stormwater Management Plan (SWMP) and local ordinances to address stormwater runoff and illicit discharge; and

Whereas, the City's adopted SWMP contains Best Management Practices (BMPs) related to the control of stormwater pollution, including BMP 35 which requires the City to develop, adopt, maintain, and enforce an ordinance addressing the control of construction site waste that has the potential to adversely affect water quality; and

Whereas, additional changes to clarify the enforcement process, particularly related to sections addressing remedies and penalties, are deemed necessary to ensure enforcement complies with the standards contained in NCGS14-4, as recently amended by SB300; 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 C of the Code of Ordinances, City of Lenoir, North Carolina, "Phase II Stormwater Ordinance" is hereby amended to read as follows:

APPENDIX C - PHASE II STORMWATER ORDINANCE

SECTION 1: - GENERAL PROVISIONS

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 of~~ 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.

203 - APPLICATIONS FOR APPROVAL

(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)~~, 202(E) of this ordinance.

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. The City Council may consider a developer's request under this subpart concurrently with a preliminary subdivision plat or other discretionary land use approval, as applicable, or as a stand-alone request. Before entering into an agreement or accepting the dedication, a legislative hearing is required pursuant to NCGS160D-1005.

306 - VARIANCES

- (A) Any person may petition the ~~City of Lenoir~~ Board of Adjustment 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) Restrictions on 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.~~

(B) Reserved.

309 – CONSTRUCTION WASTE MANAGEMENT

(A) Discarding building materials and construction waste disposal requirements

The following shall apply to all owners and developers at construction sites:

(1) Discarded building materials, concrete truck washout, chemicals, paint washout, litter, sanitary waste, and other construction site wastes must be properly managed and disposed of to reduce the risk of pollution from materials such as surplus or refuse building materials or hazardous waste.

(2) Practices such as trash disposal, recycling, proper material handling, and spill prevention and clean up measures must be implemented to reduce the potential for stormwater runoff to mobilize construction site wastes and contaminate surface or ground water.

(3) The proper waste management and disposal of wastes must be practiced at all construction sites to reduce pollution risk from stormwater runoff:

a) Waste management practices must be used to properly locate refuse piles

b) Materials that may be displaced by rainfall or stormwater runoff must be covered.

c) Prevent all spills and leaks of hazardous waste

(4) Guidelines for the proper handling, storage, and disposal of construction site waste must be posted in storage and use areas on site

(B) Storage and disposal of construction site waste

Owners and developers shall do the following at all times at construction sites:

(1) Designate a waste collection area onsite that does not receive a substantial amount of runoff from upland areas and does not drain directly to a water body.

(2) Designate areas for concrete trucks and equipment to be washed down so that wash water does not flow into storm drains or become surface water runoff that would lead to drains. Under no circumstances should concrete truck wash out be conducted in the road or directly into storm drains.

(3) Designate areas for paint cans and equipment to wash down that will not flow into storm drains or become surface water runoff that would lead to the storm drains or ground water recharge areas. Under no circumstances should excess paint be washed out into the road or directly into storm drains.

(4) Ensure that containers have lids so they can be covered before periods of rain. Keep containers in a covered area whenever possible.

(5) Schedule waste collection to prevent containers from overfilling, which would prevent them from being able to be covered.

(6) Clean up spills immediately. For hazardous materials, follow cleanup instructions on the package, SDS, or other approved and documented SOPs. Use an absorbent material such as sawdust or cat litter to contain the spill.

(7) During the demolition phase of construction, provide extra containers and schedule more frequent pick-ups.

(8) Collect, remove, and dispose of all construction site waste at authorized disposal areas.

(C) Disposal of hazardous materials

The following steps must be taken by owners and developers at construction sites to ensure the proper disposal of hazardous materials

(1) Local waste management authorities must be consulted about the requirements of disposing of hazardous materials

(2) A hazardous waste container must be emptied and cleaned before it is disposed of to prevent leaks

(3) The original product label must never be removed from the container as it contains important safety information. Follow manufactures recommended method of disposal, which should be printed on the label

(4) If excess products need to be disposed of, they must never be mixed during disposal unless specifically recommended by the manufacturer

(5) Consult state and local solid waste regulatory agencies and private firms to ensure the proper disposal of contaminated soils that have been exposed and still contain hazardous substances

(D) Disposal of pesticides

Owners and developers shall engage in the following actions at construction sites to reduce risks associated with pesticides and to reduce the amount of pesticides that come in contact with stormwater:

(1) Follow all federal, state, and local regulations that apply to the use, handling, and disposal of pesticides

(2) Do not handle pesticide any more than necessary

(3) Store pesticides in a dry, covered area

(4) Construct curbs or dikes to contain pesticides in case of spillage

(5) Follow the recommended application rates and methods for any handled pesticide

(6) Have equipment and absorbent materials available in areas where pesticides are stored and used in order to contain and clean up any spills that occur

(E) Maintenance requirements

Owners and developers shall comply with the following regulations at construction sites:

(1) Containers or equipment that may malfunction and cause leaks or spills must be identified through regular inspection of storage and use areas

(2) Equipment and containers must be inspected regularly for leaks, corrosion, support or foundation failure, or any other signs of deterioration and should be tested for soundness. Any found to be effective must be repaired or replaced immediately

(3) If failures to the onsite BMPs occur, such as sediment build up in the road way, this must be shoveled by hand or with a road sweeper. Under no circumstances should this sediment be washed down into the storm drainage system or waterways

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 a letter of credit ~~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.

SECTION 5: - ENFORCEMENT AND VIOLATIONS

502 - REMEDIES AND PENALTIES

The remedies and penalties provided for violations of this ordinance shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order. A violation of this ordinance is a civil violation and does not constitute a misdemeanor or infraction.

(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 or City Council 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., 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 City Council may, in the form of an ordinance, find and declare the violations to be a danger to the public health, safety, morals, and general welfare of the inhabitants of the City and constituting a public nuisance, and order the Stormwater Administrator, with the written authorization of the City Administrator, may to~~ cause the violation(s) to be corrected and the costs to be assessed as a lien against the property. This subsection is adopted pursuant to NCGS 160A-193.
- (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 may result in the assessment of civil penalties-, in accordance with the following schedule:

<u>First</u> <u>Penalty</u>	<u>Second</u> <u>Penalty</u>	<u>Third</u> <u>Penalty</u>	<u>Fourth</u> <u>Penalty</u>	<u>Fifth</u> <u>Penalty</u>	<u>Sixth</u> <u>Penalty</u>	<u>Seventh</u> <u>Penalty</u>	<u>Eighth</u> <u>Penalty</u>	<u>Ninth</u> <u>Penalty</u>	<u>Tenth</u> <u>Penalty</u>
\$50.00	\$50.00	\$50.00	\$100.00	\$100.00	\$100.00	\$250.00	\$250.00	\$250.00	\$250.00

If violations continue to exist past the tenth penalty, subsequent penalties shall be \$500.00 each. Each day that a violation continues to exist, beginning 72 hours after the issuance of the original citation, may constitute a separate and distinct offense, and may be subject to additional civil penalties at the discretion of the Stormwater Administrator in accordance with the citation schedule above. All penalties must be paid within 72 hours. Penalties imposed under this Section may be recovered by the City in a civil action in the nature of debt.

~~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.

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~~ as described in Sec. 502 of 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

601 - TERMS DEFINED

Design Manual

The stormwater design manual approved for use in Phase II jurisdictions by the Department of Environmental Quality 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 to the NCDEQ Stormwater Design Manual.

SECTION 7: - ILLICIT DISCHARGES

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.

703 - DEFINITIONS

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

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

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:

(16) Individual residential car washing^[1] ~~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^[2] ~~"Salt Water" swimming pools cannot be directly discharged into the storm drain due to the salinity, bromoform/bromine concentration, and chlorine generated.~~

Footnotes:

[1] 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.

[2] "Salt Water" swimming pools cannot be directly discharged into the storm drain due to the salinity, bromoform/bromine concentration, and chlorine generated

(B) Illicit Connections.

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

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 by the date specified, ~~or the City may cause the violations to be abated, the cost of which 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, and may be added to the property as a lien.~~

(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.

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.

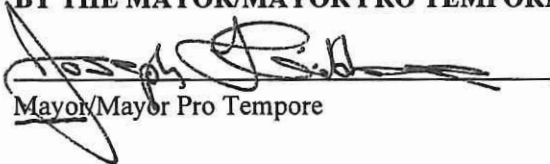
SECTION 3. CODIFICATION. The City Clerk shall cause the Code of Ordinances of Lenoir, North Carolina to be amended as provided by this ordinance and may renumber, re-letter, and rearrange the codified parts of this ordinance if necessary to facilitate the finding of the law.

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

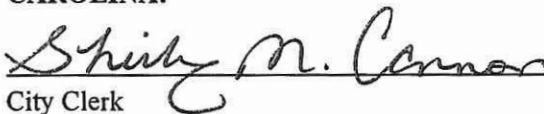
DONE, THE PUBLIC NOTICE, in a newspaper of general circulation in the City of Lenoir, North Carolina, by the City Clerk of the City of Lenoir, North Carolina, this 8th day of April and this 15th day of April, 2022.

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 19th day of April, 2022.

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

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CITY OF LENOIR, NC
CHARTERED
JANUARY 28, 1851

SEAL

Staff Report

CONDITIONAL ZONING REQUEST

CASE NUMBER R #2/22



LOCATION MAP/AERIAL PHOTOGRAPH



Subject Properties:

Summerhill Subdivision

Phases I & II

SUMMARY

Owner

Multiple

Applicant

Munroe & Becky Cobey,
Cape Hatteras LLC

Location

Summerhill Subdivision

NC PIN

Multiple

Project Planner

Jenny Wheelock, AICP, CZO

Updated April 8, 2022

Applicant's Request:

The applicant is requesting to re-zone the subject properties to a Conditional Zoning district (CZ-8), to officially adopt reduced setbacks and to modify conditions related to stormwater management that were attached to the previous approval.

Staff Recommendation:

Approval, with the conditions outlined in the staff report.

Planning Board Recommendation:

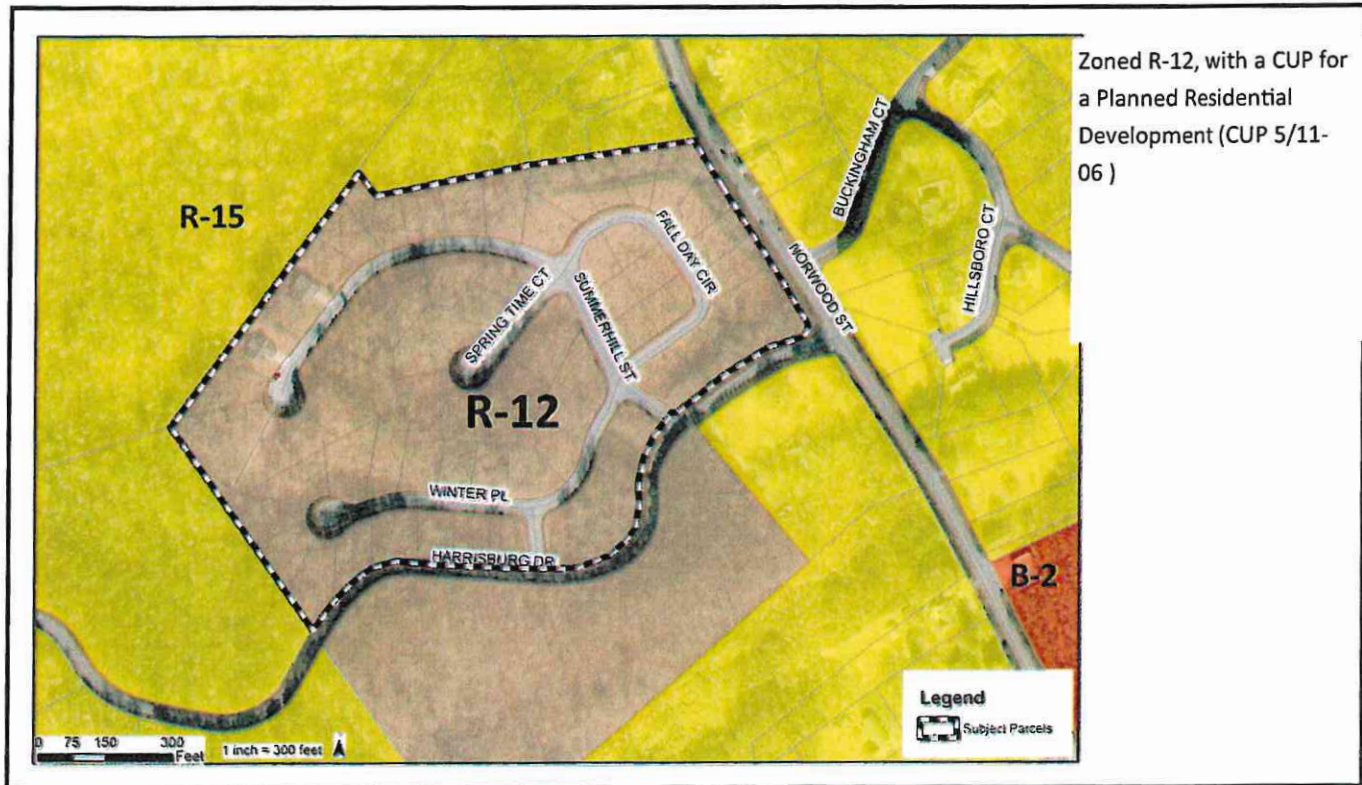
Public Comment:

Planning Board Meeting: Tabled on February 28, 2022. Notices were mailed to all Summerhill owners and adjacent property owners on February 18, 2022, and several participated via Zoom to ask questions about the request.

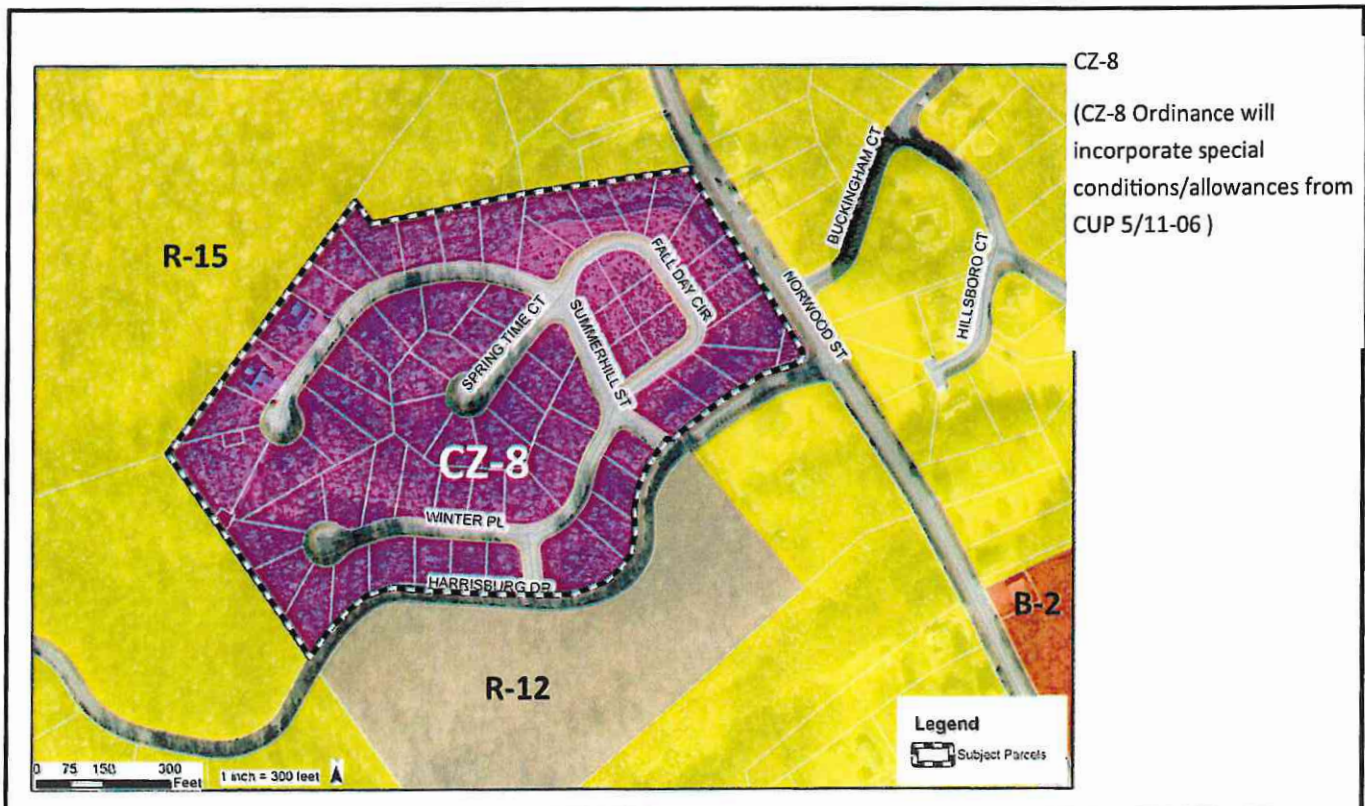
Staff re-sent courtesy notices to owners and adjacent property owners on March 18, 2022, for the March 28, 2022 Planning Board meeting.

City Council (Public Hearing): Scheduled for April 19, 2022

EXISTING ZONING



PROPOSED ZONING



BACKGROUND AND ANALYSIS

Intent of Conditional Zoning

The City of Lenoir's Zoning 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. Conditional Zoning is intended for use in unique development scenarios when a development proposal does not fit into a conventional zoning district, but may be desirable and compatible with an area depending on the specific details of the project and its surroundings.

The conditional zoning process gives the City sufficient flexibility to determine whether a specific project on a given site will be compatible with the environment and the Comprehensive Plan. Conditional Zoning is a legislative process requiring the Planning Board to review and make a recommendation to the City Council on the request. Each Conditional Zoning district is adopted as an ordinance and is recorded with the Register of Deeds.

Subject and Surrounding Properties

The Summerhill Subdivision is located west of Norwood Street and north of Harrisburg Drive in the southwest quadrant of the City. The subdivision is zoned R-12 and contains 69 lots, the majority of which remain vacant. Building activity has picked up in recent years — there are now six completed homes and four additional homes under construction. An un-named intermittent stream runs east-west through the center of the development, feeding a tributary to Lower Creek located on western boundary.

The surrounding area to the west, north, and east is zoned R-15, with about 10 acres to the south zoned R-12. Most of the surrounding properties are large wooded tracts, with a handful of older single family homes along Norwood Street. Summerhill is located about half a mile north of the McLean Drive and Norwood Street intersection in Whitnel, about half a mile east of the Google Data Center, and about a mile south of Caldwell Memorial Hospital.

Summerhill Subdivision History

The Summerhill development was initially approved in February 2006 as a Conditional Use Permit (CUP 1/2-06) for a "Planned Residential Development" with a preliminary plat (SP-1/2-06) showing 51 single family lots and 38 townhome lots. In 2007, there was no explicit authority in the zoning ordinance to adopt alternative development standards through a CUP, but like many Planned Residential Developments approved during this time period, the lots shown on the plat were smaller than the 12,000 sq. ft. minimum lot size required by the R-12 zoning district.

In March of 2007, City Council approved a request to amend the Conditional Use Permit to allow 18 single family lots instead of the 38 townhome lots initially contemplated (CUP 5/11-06), along with a preliminary plat showing the same as "Phase II" (SP-3/11-06), and a final plat for "Phase I" to record the 51 single family lots initially approved in Feb. 2006 (SF- 1/2-07). There was no indication in the application, staff analysis, or meeting minutes that modifications to the R-12 setbacks were proposed, but at some point prior to recording the final mylar for Phase I, the setback notes on the face of the plat were changed to state the setbacks would be: 20' front yard (R-12 minimum is 40') , 10' side yard (R-12 minimum is 12'), and a 20' rear yard (R-12 minimum is 35').

While plat notes aren't legally binding, the incorrect setbacks on the plat create confusion for would-be buyers. Some of the existing houses have been built relying on the lesser setbacks. The final plat for Phase II was approved by the City Council in January 2022 and was recorded with conventional R-12 setback standards. However, reduced setbacks create more opportunities to thoughtfully site homes with respect to the topography of an individual lot, and the conventional R-12 setbacks make building on some of the smaller lots nearly impossible

One of the conditions proposed for this conditional zoning district would officially adopt the setbacks shown on the 2007 plat. However, due to concerns of over-building and the resultant stormwater run-off (see next section for full discussion), a limit on built-upon area is also added as a condition of approval.

BACKGROUND AND ANALYSIS

Stormwater Concerns

During street construction (early 2007), the developer was cited by the NCDNR for construction site run-off, and was subsequently required by NCDNR to install sediment control measures. Neither the Asheville DEQ office (f/k/a NCDNR) nor the applicant have been able to locate drawings or design details of the sediment ponds or the rock step dams/weirs, but historic aerials show the general location of the drainage structures.

In 2007, the Planning Board and Council both expressed concerns over the prevention of future stormwater issues in Summerhill. Recognizing the need for stormwater control would not end with construction, they required that some of the temporary SW features become permanent, with an expectation that the HOA would be responsible for owning and maintaining these facilities. Specifically, lots 13 and 41B were to be deeded to the HOA, and the two sedimentation collection ponds located on those lots were to become permanent. However, design standards for permanent stormwater control or maintenance expectations were not addressed. Likewise the drainage areas on Lots 28,29, 14,15, 16 or 17 were not addressed at all — but these lots contain the natural drainage area for the Phase II portion of the development and show serious erosion just from the street run-off.

The applicant now proposes to deed the entire drainage area to the HOA (see stormwater analysis, page 7, and the Concept Plan in Appendix A), creating approximately 2.5 acres of open space and reducing the overall density of the project from 3 du/acre to just under 2.5 du/acre.

STORMWATER PARCELS/HISTORIC AERIALS



BACKGROUND AND ANALYSIS

Proposed Amendment

The applicant requests that the setbacks for Summerhill Phases I & II be reduced from the standard setbacks of R-12, to the setbacks listed on the final recorded plat on Plat Book 24, Page 82 (20' front yard, 10' side yard, 20' rear yard, 15' streetside yard). Limitations on overall built upon area are proposed to lessen the volume of stormwater runoff, and parcels dedicated to storage, treatment, and conveyance of stormwater are expanded. Overall, the changes represent additional flexibility for building on challenging lots with lots of grade changes, with better overall consideration/protection against future stormwater violations.

PROPOSED SPECIAL CONDITIONS

Proposed Conditional Zoning District: CZ-8 Specific Standards

Special conditions proposed for CZ-8 ordinance:

1. **Base Zoning.** Base zoning district is R-12. Any development standards not specifically addressed in the Conditional Zoning Ordinance will default to the R-12 zoning district.
2. **Permitted Uses.** Single family detached homes, incidental accessory uses to single family homes, passive recreation/open space, residential community amenities.
3. **Minimum Setbacks.**
 - Front (measured from the edge of the right-of-way): 20 ft.
 - Side: 10 ft.
 - Rear: 20 ft.
 - Street side: 15 ft.
4. **Maximum Built Upon Area.** Built upon area/impervious surfaces on each lot/combination of lots shall be determined using the following formula:

$$(\text{Lot Depth} - 75 \text{ ft.})(\text{Lot Width} - 24 \text{ ft.}) = \text{Maximum s.f. BUA}$$
5. **Combination/Recombination.** Lots 11 and 12 must be combined as a single building site. Other lots may be combined, or split and recombined, provided that the overall density remains unchanged or is reduced.
6. **Home Owners Association (HOA) Required.** An HOA must be established and maintained in perpetuity. The HOA must, at a minimum, be responsible for maintaining all commonly owned private improvements, including open space, stormwater conveyance systems, and neighborhood entrance signage.
7. **Open Space/Drainage Areas.** Lots 13, 14, 15, 16, 17, 28, 29, 41a, and 41b must be held in common ownership under the Summerhill Homeowner's Association. Permitted uses of these lots are passive recreation, open space, and stormwater control. Walking paths, trails, picnic tables, and non climate-controlled structures less than 200 sq. ft. (gazebo, deck) may also be permitted, when located outside of the drainage basins.
8. **Drainage Easements/Environmentally Sensitive Areas.**
 - A. **Lots 38-39:** Prior to making application for zoning permits, the rear lot lines must be marked on the property by a licensed surveyor, or a survey drawing showing the location of the lot lines relative to the drainage area described in condition #7 must be submitted with the permit application. Dedication of a private drainage easement to limit land disturbance and allow for maintenance by the HOA may be required, at the discretion of the Lenoir Planning Director, depending on the extent of impacts shown by survey.
 - B. **Lots 6-8:** Development of these lots shall accommodate/preserve the existing vegetative conveyance located in the

front 1/3 of the lots to the maximum extent practicable. Modifications to the drainage patterns require review and approval by the Stormwater Administrator and must maintain the pre-development hydrologic response. Consolidation of these lots into fewer building sites, or limiting the impacts of driveways by utilizing shared driveways, is encouraged. Dedication of a private drainage easement to limit land disturbance and allow for maintenance by the HOA may be required.

9. Low Density Design. Development must conform to NCDEQ's SW Design Manual's low density design requirements for dispersed flow and vegetative conveyances whenever feasible.

10. Erosion Control and Stormwater Maintenance Plan. A site plan showing the overall stormwater drainage system for the subdivision must be submitted the Planning Department for review and approval prior to the issuance of any zoning permit on lots 1-3, 6-12, 30-40, 42, or 46-69. The site plan must include the following information:

1. Location of all curb inlets and their outfalls, with a brief assessment of the condition of each.
2. Location/size/detail of existing conveyance, including sediment basins, swales, channelized areas, rock dams/weirs, etc.
3. Grading plan
4. Landscaping plan
5. Public amenities/features (if proposed) - ex. walking trails

11. Improvements Required.

A. Outfalls — secured against erosion using permanent matting, rip rap, or other approved methods of erosion control. (see Appendix B)

B. Sediment Basins — remove sediment as necessary

C. Grading/Landscaping — 3:1 slopes

D. Design of required improvements should follow the best practices recommended by DEQ's Stormwater Design Manual and/or NC State's Small Scale Solutions to Eroding Streambanks manual.

E. Improvements may be phased and/or timed to coincide with stages of build-out (for example, 50% build out or 70% build out)

12. Landscape Screen.

A continuous evergreen landscape screen must be maintained along the northern and eastern development boundaries (on lots 53-60; see Appendix A). The width may be reduced from 15' where continuous screening can be achieved in less space, in order to allow utilization of the setback reduction.

CONSISTENCY STATEMENT/STAFF RECOMMENDATIONS

Consistency with the Comprehensive Plan/Reasonableness of Amendment

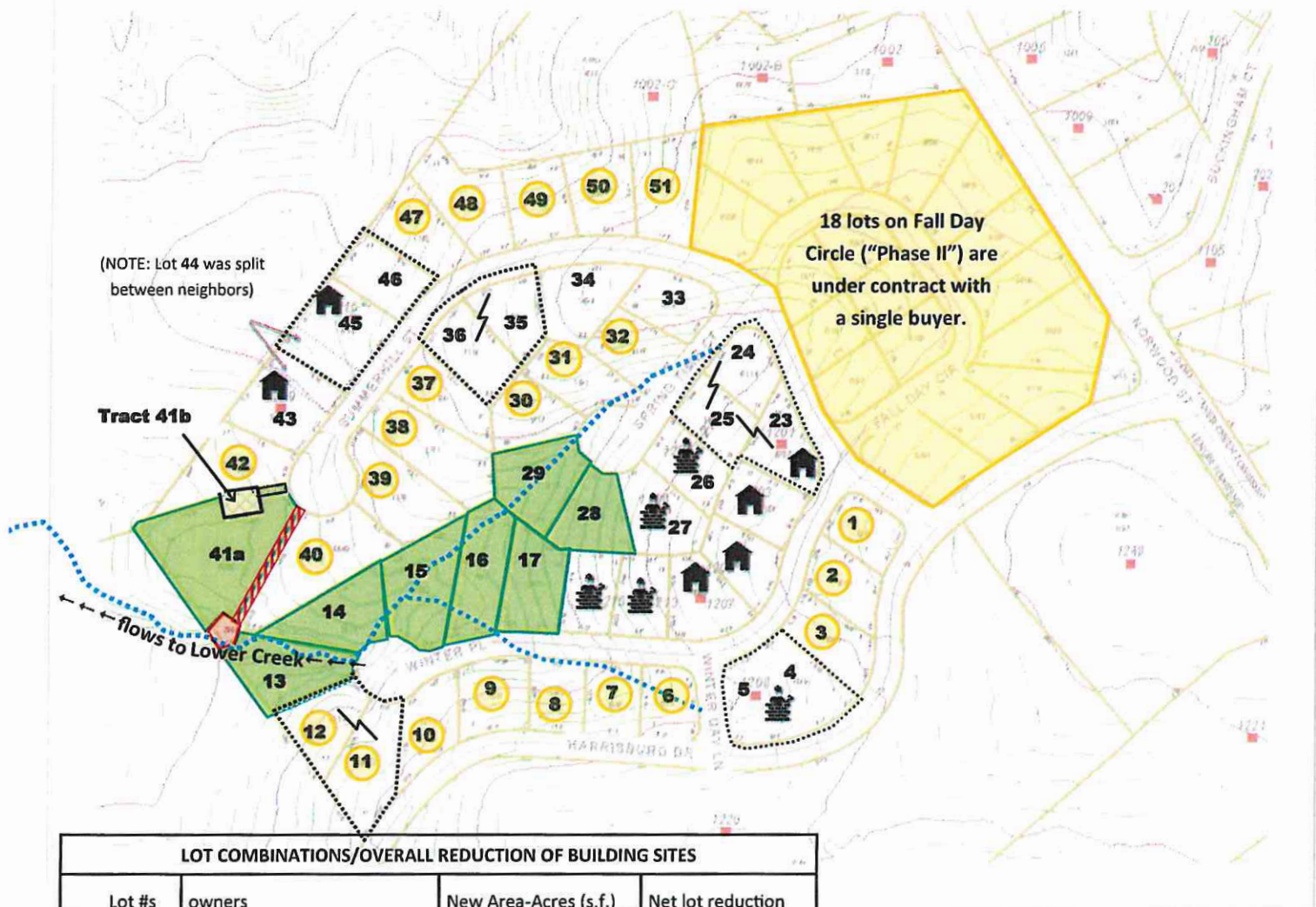
When adopting or rejecting any zoning amendment, City Council must adopt a brief statement describing whether or not the action is consistent with the City's Comprehensive Plan, in accordance with G.S. 160D-605(a), and must also address the reasonableness of any proposed map amendments. Staff offers the following draft statement on the consistency and reasonableness of the request.

The proposed Conditional Zoning Ordinance is consistent with the adopted Comprehensive Plan, and is reasonable and in the public interest, because it facilitates quality residential development that's already served by existing infrastructure, while providing additional open space for both community enjoyment and stormwater control. This amendment is consistent with the property's future land use designation of Medium Density Residential on the Future Land Use Map.

PLANNING BOARD RECOMMENDATIONS

Planning Board recommends approval of the rezoning request to Conditional Zoning.

LOT ANALYSIS— OWNERSHIP PATTERNS/DRAINAGE AREAS



LOT COMBINATIONS/OVERALL REDUCTION OF BUILDING SITES

Lot #s	owners	New Area-Acres (s.f.)	Net lot reduction
① 4+5	[tax card not updated; insert new owner info]	0.49 acres (21,344 s.f.)	-1
② 11+12	CAPE HATTERAS LLC	0.79 acres (34,412 s.f.)	-1
③ 23,24,25	BROWN TREVOR WESLEY CARPENTER HAILEY MICHELLE	.64 acres (27,878 s.f.)	-2
④ 35+36	POST WILLIAM H POST JAEHEE KIM	0.48 acres (20,908 s.f.)	-1
⑤ 43+part of 44	WEST ERIC BARTON KELLY	0.34 acres (14,810 s.f.)	-0.5
⑥ Part of 44+45+46	CASELL STEVEN RAY CASELL LAURA LINDSEY	0.59 (25,700 s.f.)	-1.5
	Total:		-7

- Lot consolidations (7 fewer lots)
- Stormwater tracts to be deeded to HOA (8 fewer lots)
- Pump Station on Lot 70, to be deeded to City of Lenoir.
- Owned by Cape Hatteras, LLC
- Existing House
- Under construction

Density Analysis

2006 Approval: 89 lots (51 SF plus 38 townhomes)
4.08 du/acre

2007 Amendment: 68 buildable lots (69 lots, but 13 isn't buildable) 3.12 du/acre

Current Proposal: Net reduction of 15 lots (54/69)
2.48 du/acre

LEGEND

EXISTING ROAD RIGHT - FR - 

EXISTING ROAD LEFT - CL - 

NEW TYPED ROAD -  - 

NEW "X" - 

EXISTING STONE CORNER - 

CHANGING MONUMENT - 

DEED IS A CORNER MONUMENT - 

DEED, FR - 

CHANGING MONUMENT - 

BOST LUMBER COMPANY, INC.
1158/119

3. Name of Officer of School County,
to which this certificate is filed
ready for recording.

RESEARCH FRONTIER

D. CLYDE KEYS
386/141

[illegible]

JOB #0801001
 FILE NAME: "0801001" 4
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 GRAPHIC SCALE -- FEET

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DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D. C. 20535
JAN 28 1964
3-28-2007
Date
ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 01-28-2007 BY 60322
UCBAW

WENTWORTH COUNTY, GA. JUNE 11, 1902
 To the Honorable House of the Good
 People of the State of Georgia
 I have the honor to acknowledge the receipt of your
 letter of the 10th inst. and in reply to inform you
 that the same has been forwarded to the proper
 authorities for their consideration.
 Very respectfully,
 J. H. H. H. H.

City of Lenoir
 I hereby certify that all original resolutions of the Board, orders and orders and ordinances have been published in accordance with City of Lenoir standards and examples prior to recording of the final day.

Charles L. Bush
 City of Lenoir
 Director of Public Works

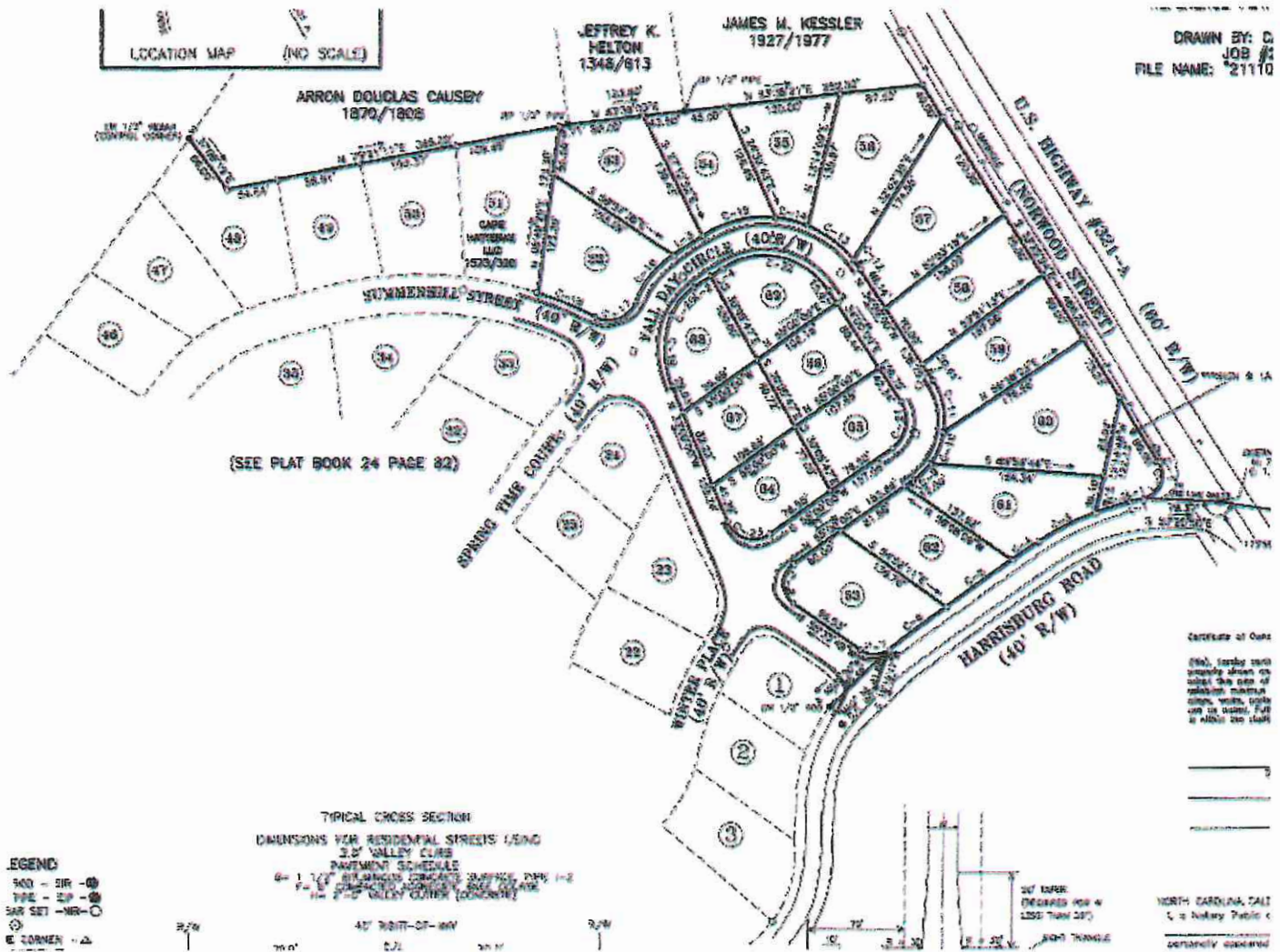
1. **THESE ARE THE PRINCIPAL REASONS WHY THE**
UNITED STATES GOVERNMENT SHOULD NOT
INTERFERE WITH THE FREEDOM OF THE
PEOPLE OF THE UNITED STATES TO
RECEIVE INFORMATION FROM ANY SOURCE
WHICH THEY MAY DESIRE.



New Construction on Winter Place
in Summerhill Phase I.

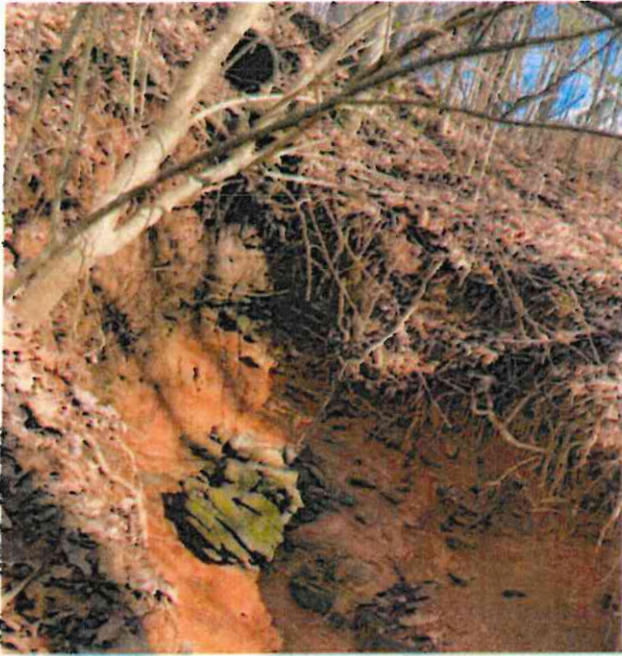
FINAL PLAT: SUMMERHILL PHASE II

Plat Book 38, Page 18



Fall Day Circle in Summerhill Phase II.

SITE PHOTOS — 2.23.2022



Erosion on Lot 29 below the outfall



Basin holding stormwater following 1" rain event (Lot 16)



Erosion and channelization (foreground) on Lot 13; sediment basin holding water following 1" storm event (background).

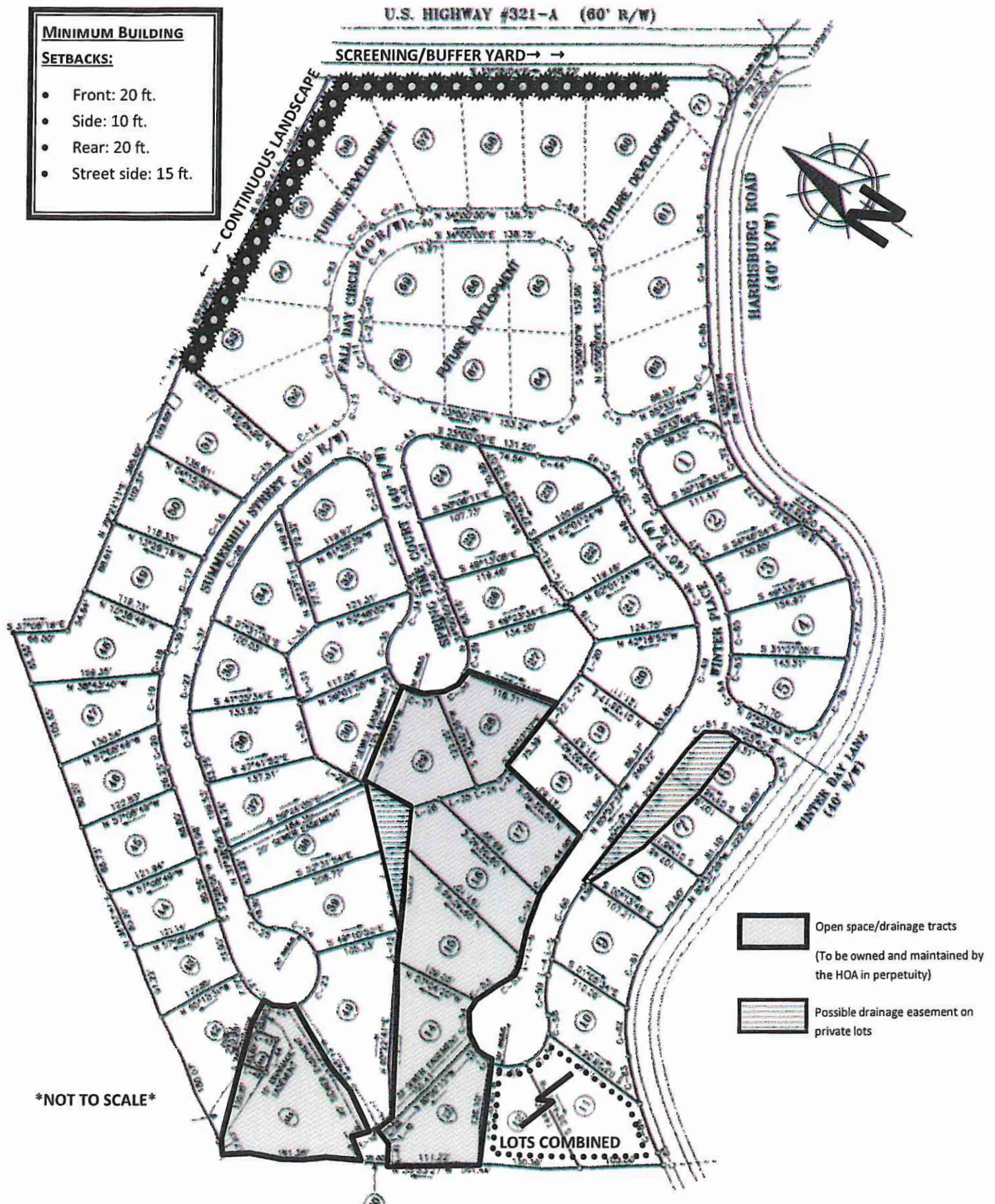


Stormwater conveyance swale on lots 6-8

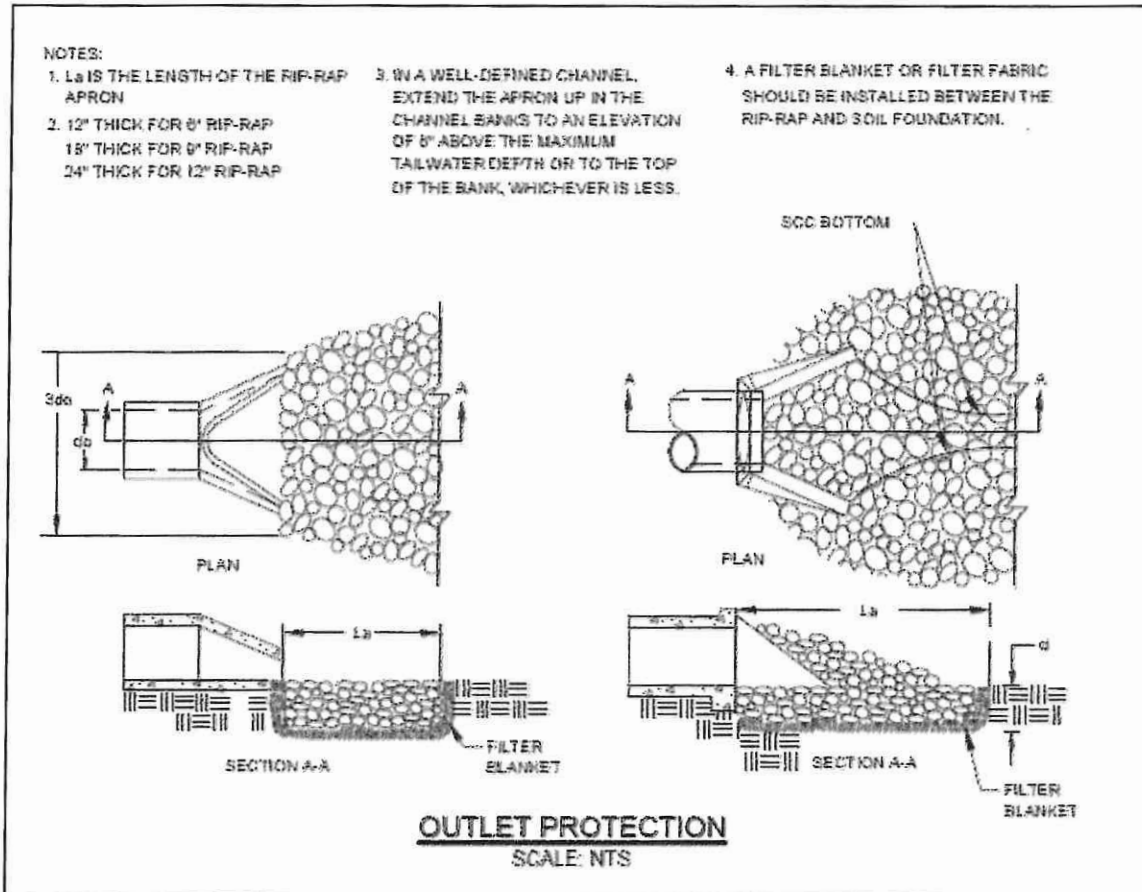


Homes under construction on lots 25-26 on Spring Time Court (foreground) and recently completed on lots 20-23 on Winter Place

APPENDIX A: SUMMERHILL CZ-8 CONCEPT PLAN (2022)



APPENDIX B: OUTLET PROTECTION DETAILS



Additional guidance on outlet protection from the NC Erosion and Sediment Control Planning and Design Manual is as follows:

1. Ensure that the subgrade for the filter and riprap follows the required lines and grades shown in the plan. Compact any fill required in the subgrade to the density of the surrounding undisturbed material. Low areas in the subgrade on undisturbed soil may also be filled by increasing the riprap thickness.
2. The riprap and gravel filter must conform to the specified grading limits shown on the plans.
3. Filter cloth, when used, must meet design requirements and be properly protected from punching or tearing during installation. Repair any damage by removing the riprap and placing another piece of filter cloth over the damaged area. All connecting joints should overlap so the top layer is above the downstream layer a minimum of 1 foot. If the damage is extensive, replace the entire filter cloth.
4. Riprap may be placed by equipment, but take care to avoid damaging the filter.
5. The minimum thickness of the riprap should be 1.5 times the maximum stone diameter.
6. Riprap may be field stone or rough quarry stone. It should be hard, angular, highly weather-resistant and well graded.
7. Construct the apron on zero grade with no overfill at the end. Make the top of the riprap at the downstream end level with the receiving area or slightly below it.
8. Ensure that the apron is properly aligned with the receiving stream and preferably straight throughout its length. If a curve is needed to fit site conditions, place it in the upper section of the apron.
9. Immediately after construction, stabilize all disturbed areas with vegetation

AN ORDINANCE OF THE CITY COUNCIL OF LENOIR, NORTH CAROLINA, DESIGNATING CERTAIN LAND GENERALLY LOCATED NORTH OF HARRISBURG DRIVE AND WEST OF NORWOOD STREET, BEING ALL OF THE PROPERTY IN THE SUMMERHILL SUBDIVISION RECORDED ON PLAT BOOK 24, PAGE 82 AT THE CALDWELL REGISTER OF DEEDS, AS CONDITIONAL ZONING DISTRICT #8 (CZ-8) ON THE CITY'S OFFICIAL ZONING MAPS; DIRECTING AMENDMENT OF THE OFFICIAL ZONING MAP; PROVIDING FOR SEVERABILITY, AND AN EFFECTIVE DATE.

Whereas, at its regularly scheduled meeting of March 28, 2022, the Lenoir Planning Board considered re-zoning application case number R2-22, requesting the Conditional Zoning district designation, for approximately 23 acres of land platted as "Summerhill" on Plat Book 24, Page 82 (hereinafter the "Property"); and

Whereas, the development was designed with small lots that utilized reduced setbacks, but the reduced setbacks were not officially adopted with the initial approval; and

Whereas, during construction, the original development partner was cited for stormwater violations, resulting in the construction of sediment control measures throughout the low-lying areas of the property; and

Whereas, a condition of the original approval required some lots to retain stormwater control features in perpetuity, but maintenance and design standards were not established, and subsequent erosion has continued to occur; and

Whereas, the current majority owner and master developer desires to sell the remaining lots to be developed with the flexibility of reduced setbacks, but also has proposed to expand the area dedicated to stormwater run-off and collection; and

Whereas, based upon the evidence presented to the Lenoir Planning Board, including the information and analysis contained in the staff report for application case number CZ-8, and subject to certain conditions, the Lenoir Planning Board recommended that the Lenoir City Council approve said conditional zoning application and adopt an ordinance in accordance therewith; and

Whereas, the Lenoir Planning Board has found that the proposed Conditional Zoning Ordinance is consistent with the adopted Comprehensive Plan, and is reasonable and in the public interest, because it facilitates quality residential development that's already served by existing infrastructure, while providing

additional open space for both community enjoyment and stormwater control, and is consistent with the property's medium density residential future land use designation; and

Whereas, the Lenoir City Council hereby finds that this ordinance is consistent with the intent and purpose of the Conditional Zoning designation as established by Appendix A, Article V, Section 502, Lenoir City Code; 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. ZONING. After due notice and public hearing, and pursuant to part Appendix A, Article XIV of the Lenoir City Code, and other relevant portions of the Lenoir City Code, the zoning designation for the Property is hereby changed from the R-12 district to Conditional Zoning district on the City's Official Zoning Map (to be denoted as "CZ-8"), as depicted in Exhibit "A" to this ordinance.

SECTION 2. OTHER DEVELOPMENT LAWS. Except as expressly provided otherwise by this ordinance, the CZ-8 zoning district remains subject to all applicable federal, state, and local laws, and nothing in this ordinance shall be construed to exempt the Property from the lawful authority or jurisdiction of any federal, state, or local agency.

SECTION 3. DEFAULT ZONING DISTRICT. Except as expressly provided otherwise by this ordinance, the Property shall be governed by the land development regulations of the R-12 Single Family zoning district.

SECTION 4. SPECIAL CONDITIONS. The Conditional Zoning district for the Property is subject to the following special conditions:

1. **Concept Plan.** Subject to any modifications expressly contained in the text of this ordinance, development and maintenance of the Property must be consistent with the concept plan attached to this ordinance as Exhibit "B" (hereinafter the "Concept Plan"). In the event of a conflict between the text of this ordinance and the Concept Plan, the text of this ordinance shall control. References in this ordinance to lots, parcels, buildings, phases, and other development features refer to such features as identified on the Concept Plan.
2. **Variances.** Zoning variances to the standards of the default zoning district not modified by this ordinance may be approved pursuant to the procedures set forth in Appendix A, Article XIII, Section 1312.1 of the Lenoir City Code.

3. **Modification.** The special conditions specific to the CZ-8 zoning district may only be modified by application for a zoning map amendment following the procedures outlined in Appendix A, Article VIII, Section 820 of the Lenoir City Code.
4. **Permitted/Special Uses.** The only permitted uses shall be single family detached homes, incidental accessory uses to single family homes, passive recreation/open space, stormwater control/conveyance features, and residential community amenities.
5. **Minimum Setbacks.** Measured from the property line or edge of the right-of-way:
 - a. Front: 20 ft.
 - b. Side: 10 ft.
 - c. Rear: 20 ft.
 - d. Street side: 15 ft.
6. **Maximum Built Upon Area.** Built upon area/impervious surfaces on each lot/combination of lots shall be determined using the following formula:

$$(\text{Lot Depth} - 75 \text{ ft.})(\text{Lot Width} - 24 \text{ ft.}) = \text{Maximum s.f. BUA}$$
7. **Combination/Recombination.** Lots 11 and 12 must be combined as a single building site. Other lots may be combined, or split and recombined, provided that the overall density remains unchanged or is reduced.
8. **Home Owners Association (HOA) Required.** An HOA must be established and maintained in perpetuity. The HOA must, at a minimum, be responsible for maintaining all commonly owned private improvements, including open space, stormwater conveyance systems, and neighborhood entrance signage.
9. **Open Space/Drainage Areas.** Lots 13, 14, 15, 16, 17, 28, 29, 41a, and 41b must be held in common ownership under the Summerhill Homeowner's Association. Permitted uses of these lots are passive recreation, open space, and stormwater control. Walking paths, trails, picnic tables, and non climate-controlled structures less than 200 sq. ft. (gazebo, deck) may also be permitted, when located outside of the drainage basins.

10. Drainage Easements/Environmentally Sensitive Areas.

A. Lots 38-39: Prior to making application for zoning permits, the rear lot lines must be marked on the property by a licensed surveyor, or a survey drawing showing the location of the lot lines relative to the drainage area described in condition #9 must be submitted with the permit application. Dedication of a private drainage easement to limit land disturbance and allow for maintenance by the HOA may be required, at the discretion of the Lenoir Planning Director, depending on the extent of impacts shown by survey.

B. Lots 6-8: Development of these lots shall accommodate/preserve the existing vegetative conveyance located in the front 1/3 of the lots to the maximum extent practicable. Modifications to the drainage patterns require review and approval by the Stormwater Administrator and must maintain the pre-development hydrologic response. Consolidation of these lots into fewer building sites, or limiting the impacts of driveways by utilizing shared driveways, is encouraged. Dedication of a private drainage easement to limit land disturbance and allow for maintenance by the HOA may be required.

11. Low Density Design. Development must conform to NCDEQ's SW Design Manual's low density design requirements for dispersed flow and vegetative conveyances whenever feasible.

12. Erosion Control and Stormwater Maintenance Plan. A site plan showing the overall stormwater drainage system for the subdivision must be submitted the Planning Department for review and approval prior to the issuance of any zoning permit that utilizes setbacks less than those typically required under the R-12 zoning district on lots 1-3, 6-12, 30-40, 42, or 46-69. The site plan must include the following information:

1. Location of all curb inlets and their outfalls, with a brief assessment of the condition of each.
2. Location/size/detail of existing conveyance, including sediment basins, swales, channelized areas, rock dams/weirs, etc.
3. Grading plan
4. Landscaping plan
5. Public amenities/features (if proposed) - ex. walking trails

13. Required Improvements. Improvements shall be installed as required by the Erosion Control and Stormwater Maintenance Plan. The best practices recommended by DEQ's Stormwater Design Manual and/or NC State's Small Scale Solutions to Eroding Streambanks manual shall be followed to the maximum extent practicable.

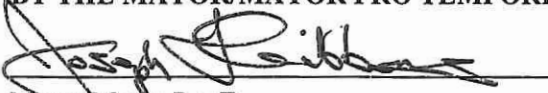
SECTION 5. SEVERABILITY. If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION 6. EFFECTIVE DATE. This ordinance takes effect upon adoption.

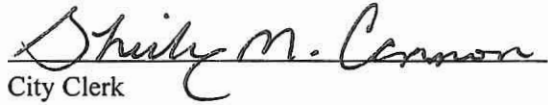
DONE, THE PUBLIC NOTICE, in a newspaper of general circulation in the City of Lenoir, North Carolina, by the City Clerk of the City of Lenoir, North Carolina, this 8th day of April and this 15th day of April, 2022.

DONE, THE PUBLIC HEARING, AND ENACTED ON FINAL PASSAGE, by an affirmative vote of the majority of a quorum present of the City Council of the City of Lenoir, North Carolina, at a regular meeting, this 19th day of April, 2022.

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

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CITY OF LENOIR, NC
CHARTERED
JANUARY 28, 1851

SEAL



CITY MANAGER
SCOTT E. HALDEBRAN

CITY OF LENOIR
NORTH CAROLINA

MAYOR
JOSEPH L. GIBBONS

CITY COUNCIL
J. T. BEAL
F. KENT GREER
T. H. PERDUE
J. I. PERKINS
R. S. PRESTWOOD
D. F. STEVENS
C. D. THOMAS

RESOLUTION BY THE LENOIR CITY COUNCIL

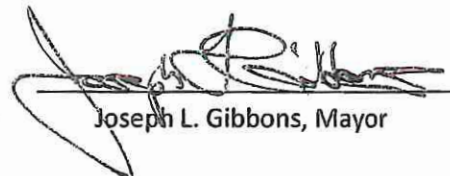
- WHEREAS,** The City of Lenoir has a current Capital Improvement Plan (CIP) for the Water and Sewer Enterprise Fund that spans 10-years, and
- WHEREAS,** The City of Lenoir annually updates its 10-Year Water and Sewer CIP, and
- WHEREAS,** The City of Lenoir held a City Council Budget Retreat on March 22, 2022 to present the 10-Year Water and Sewer CIP, and
- WHEREAS,** Applications for funding submitted to the NC Department of Environment Quality (DEQ) Division of Water Infrastructure (DWI) may earn points if the Applicant has a CIP adopted by the City Council within two years of the application date.

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

That City of Lenoir does hereby adopt the Capital Improvements Plan (CIP) as updated for the Fiscal Year 2021-22 budget, as presented at the March 22, 2022 City Council Budget Retreat.

Adopted this the 19th day of April, 2022 at Lenoir, North Carolina.

SEAL



Joseph L. Gibbons, Mayor

ATTEST:



Shirley M. Cannon, City Clerk



CERTIFICATION BY 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 authorizing the adoption of the 10-Year Capital Improvement Plan, as regularly adopted at a legally convened meeting of the City Council of the City of Lenoir duly held on the 19th day of April, 2022; 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 19th day of April, 2022.

Shirley M. Cannon
Signature

Shirley Cannon, City Clerk

Printed Name and Title





PROCLAMATION

In Recognition of

Public Safety Telecommunicators Week

April 10 – 16, 2022



Whereas, the Lenoir Police Department Telecommunicators play a vital role in the protection of human life and property in our community; and

Whereas, the Lenoir Police Department Telecommunicators have been successfully serving the public safety communication needs of the City of Lenoir throughout the year; and

Whereas, while enduring long hours, abnormal schedules, and handling frequent life and death emergencies, Telecommunicators set high standards in performing their duties in a dedicated, diligent, and compassionate manner; and

Whereas, Telecommunicators provide a critical communication link between the residents and Emergency Responders; and

Whereas, these individuals efficiently coordinate emergency services to ensure the health and safety of our residents, visitors, and travelers in our community, 24-hours a day, seven days a week; and

Whereas, our Public Safety Communications personnel serve the public daily in countless ways without due recognition by the beneficiaries of their services;

Therefore Be It Resolved, that I, Joseph L. Gibbons, Mayor of the City of Lenoir, and on behalf of the Lenoir City Council, do hereby proclaim and declare the week of April 10 – April 16, 2022

"National Public Safety Telecommunicators Week"

in the City of Lenoir, in honor of the men and women whose diligence and professionalism keep our city and first responders safe.

Witness, my hand and seal this the 19th *day of* April, 2022.

SEAL


Joseph L. Gibbons, Mayor

ATTEST:


Shirley M. Cannon, City Clerk