

**LENOIR CITY COUNCIL
TUESDAY, JULY 18, 2023
6:00 P.M.**

PRESENT: Mayor Joe Gibbons presiding. Councilmembers present were Mayor Pro-Tem Crissy Thomas, Jonathan Beal, Kent Greer, Todd Perdue, Ike Perkins, Ralph Prestwood, David Stevens, City Manager Scott Hildebran, City Clerk Shirley Cannon and City Attorney Timothy Rohr.

CITY STAFF: In attendance was Finance Director Donna Bean, Fire Chief Norman Staines, Deputy Fire Chief Kenny Nelson, Police Chief Brent Phelps, Planning Director Hannah Williams, Parks & Recreation Director Phil Harper, Public Services Director Radford Thomas, Public Utilities Operations Manager Jeff Church, Public Works Operations Manager Jon Hogan, Downtown Event Coordinator Matthew Anthony and Communications Director Joshua Harris.

I. CALL TO ORDER

- A. The meeting was opened by a moment of silence and the pledge of allegiance as led by Mayor Gibbons.

**COMMENDED; CITY
STAFF:**

- B. On behalf of City Council, Mayor Gibbons commended Kaylynn Horn, Economic Development & Main Street Director, Matthew Anthony, Downtown Event Coordinator, and Sara Wert for all of their hard work in organizing the NC Blackberry Festival held on July 14 & 15 in downtown Lenoir. Mayor Gibbons stated the Downtown Alliance runs and operates the festival. In addition, Mayor Gibbons commended the staff of Fire, Police, Public Utilities, Public Works, Building Maintenance and the Sanitation Division for their hard work and assistance in keeping everything running smoothly during the event.

Mayor Gibbons stated everyone was very complimentary and the event was a great success with over 29,300 people attending as well as 230+ vendors in attendance. In addition, Mayor Gibbons shared that Dino DeBernardi, Chief Officer with Caldwell County EMS and their Staff assisted with several medical incidents due to individuals getting overheated.

Mayor Gibbons also thanked Ruth Horn, Becky Gibbons and over 150 volunteers that helped during the festival. He further thanked the Caldwell Crooners for performing the national anthem along with all of the sponsors of the event.

Matthew Anthony, Downtown Event Coordinator, thanked City Council and City Staff for all of their support. He stated attendance increased by 10,000 this year and further commended Fire and Police personnel, Parks & Recreation, and Sanitation for doing a great job. He stated the City has a great partnership with Caldwell County and he appreciates being a part of it.

Mayor Gibbons also thanked City Manager Scott Hildebran for his leadership and Joshua Harris, Communications & Resource Director for promoting the event through social media. This was the 20th anniversary of the festival.

II. MATTERS SCHEDULED FOR PUBLIC HEARINGS

WATER SHORTAGE RESPONSE

PLAN:

- A. Water Shortage Response Plan: A public hearing was held at the July 18, 2023 City Council meeting to receive public comments on the Water Shortage Response Plan (WSRP.) The WSRP will be posted on the City website at www.cityoflenoir.com and made available at City Hall for public review during regular business hours. Council will be asked to consider adoption of the resolution to approve the Water Shortage Response Plan for the City of Lenoir (as revised) at the July 18, 2023 meeting.

Mayor Gibbons opened the public hearing to receive public comments regarding the Water Shortage Response Plan.

A copy of the resolution is hereby incorporated into these minutes by reference. Refer to page 203.)

Radford Thomas, Director of Public Services, informed Council there is not a lot of water shortage due to the recent heavy rainfall. Director Thomas explained the City submits its Water Shortage Response Plan every five years as required by the NC Department of Environmental Quality (NCDEQ). He reported the City's plan meets their minimum criteria. Also, he shared the City of Lenoir is part of the Catawba Wateree Management Group.

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

Upon a motion by Councilmember Stevens, City Council voted 7 to 0 to adopt the resolution to approve the Water Shortage Response Plan for the City of Lenoir as presented and as recommended.

SPECIAL USE PERMIT; 537

WILKESBORO BLVD. NE:

- B. A quasi-judicial public hearing was held to consider a Special Use Permit #1-23 as requested by Maxwell Barlowe to permit a Major Vehicle Services business in the General Business District (B-2) zoning district for property located at 537 Wilkesboro Boulevard NE., NCPIN #2759596079 subject to the following conditions:
1. All lighting shall be fully cut-off and shielded so as to eliminate/maximize light spill-over onto adjacent residential properties.
 2. The mature buffer and berm are required to remain and must be maintained by the subject property owner in accordance with Finding #5 as listed in the Staff Report. If the existing tree line is damaged or dies, it must be replaced with a 20' vegetative buffer. The berm must also be maintained.
 3. The applicant must obtain zoning and sign permits from the Lenoir Planning Department within two years of the issuance of the SUP. All proposed changes must adhere to Section 714 of the Lenoir Zoning Ordinance.

Mayor Gibbons opened the public hearing to receive public comments regarding the Special Use Permit.

Hannah Williams, Planning Director, was sworn in by the City Clerk.

Director Williams stated the business is located west of Bobcat near the rear of the old Corriher Tractor. She further clarified that auto service is allowed in a B-2 zone. Director Williams shared the business is a major vehicle services operation which is permitted by right in industrial zoning. Director Williams also reported several other large businesses are located nearby including Bobcat and the Caldwell County School Garage.

Director Williams pointed out the property is landlocked but she explained there is a 45-foot driveway easement across the Corriher property that the owner may use to get to his business. A copy of Appendix A that is recorded at the Register of Deeds is included in the packet. In addition, the property abuts residential property in the rear section and a large, thick berm is already there. Councilmember Stevens along with Councilmember Perdue pointed out the elevation changes for the properties that abut Mr. Barlowe's property are significant. Director Williams stated this berm should protect the neighbors and reiterated the owner has to maintain the berm as per the cited conditions for the property.

Councilmember Prestwood inquired about the hours of operation. Director Williams stated they weren't included in the staff report, but they should be standard hours from 8:00 a.m. until 5:00 p.m.

Councilmember Perkins asked for clarification about vehicles crossing over the 45' easement. Director Williams restated the 45-foot easement already existed before Mr. Barlowe purchased the property and it remains current with his ownership.

Director Williams submitted the Staff Report as evidence and for the record. (Refer to pages 204-211.)

Councilmember Beal asked if the business planned to expand. Director Williams stated the business opened in 2022 and does not have plans for expansion at this time.

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

Councilmember Perdue moved to approve the Special Use Permit as recommended and to adopt the Findings of Fact as listed in the Staff Report. This motion carried by a 7 to 0 vote by City Council.

III. CONSENT AGENDA ITEMS

- A. Minutes: Approval of the minutes of the City Council Meeting of Tuesday, June 20, 2023 as submitted.
- B. Minutes: Approval of the minutes of the Committee of the Whole Meeting of Tuesday, June 27, 2023 as submitted.
- C. Contract for Services; Request for Qualifications, Lenoir Fire Department Station #1 Infrastructure Repair (Stormwater): Request for Qualifications (RFQ's) were sent out on Friday, May 26 with a closing date of Friday, June 9. Based on the selection committee

responses and RFQ's submitted, Staff recommends approval to award the contract for the LFD Infrastructure Repair (Stormwater) to WK Dickson for Basic Engineering Services not to exceed the sum of \$546,366.00 as submitted and as recommended by City Staff. (A copy of the RFQ is hereby incorporated into these minutes as information. Refer to pages 212-218.)

- D. Street Naming for shared driveway off Walt Arney Road, Stallings Place: Staff recommends the naming of Stallings Place, as it is currently a shared driveway that serves three (3) dwellings without appropriate signage to allow for E-911 addressing and access to rear properties.

Upon a motion by Mayor Pro-Tem Thomas, City Council voted 7 to 0 to adopt items A through D on the Consent Agenda as described above and as recommended by City Staff.

IV. REQUESTS AND PETITIONS OF CITIZENS

COMMENDED; CITY OF LENOIR; SOCIAL DISTRICT:

- A. Jennifer Indicott, 107 Main Street NW, read a statement thanking City Council for their support and approval of a Social District in the downtown area. Ms. Indicott shared she experienced a record number of sales during the Blackberry Festival and received a number of positive comments.

Next, Ms. Indicott reported she has spoken with several other downtown business owners and they are respectfully requesting City Council to consider expanding the number of days the Social District can operate. The Social District is currently Wednesday through Sunday. Ms. Indicott further shared the Social District has changed the direction of her business and reiterated her appreciation to City Council.

On behalf of City Council, Mayor Gibbons thanked Ms. Indicott and stated that Council would take her request under advisement.

REQUEST; CALDWELL COUNTY BLACK

HALL OF FAME: B. Mr. James Patterson, 2268 Tuthill Drive, Gamewell, NC, respectfully addressed City Council and stated he was a member of the committee in support of creating a Caldwell County Black Hall of Fame at the Martin Luther King, Jr. Center.

Mr. Patterson shared he grew up in Lenoir and Mayor Gibbons, along with his brother, supported him as he played sports here. Mr. Patterson stated he was part of the committee that wishes to honor Schonna Banner, local basketball star and others by creating a Caldwell County Black Hall of Fame at the Martin Luther King, Jr. Center. Mr. Patterson shared that Ms. Banner played AA and Division 1 College basketball and was recently selected to be inducted into the Caldwell County Hall of Fame that is located inside the J.E. Broyhill Civic Center. Mr. Patterson stated he became aware of opposition by the City and inquired why the City opposes placing a Black Hall of Fame at the MLK Center.

Mayor Gibbons explained that no member of the City Council is opposed to having a Caldwell County Black Hall of Fame at MLK and Council does not view placing it there as an issue. Mayor Gibbons pointed out City Council simply has to follow the proper procedures because it is a City owned facility.

Mr. Patterson stated the committee would only be hanging pictures and plaques at MLK and would not be making any adjustments to the walls of the Center.

Mr. Derek Witherspoon, 203 Newland Place NW, Lenoir, NC, stated he was a retired teacher and coach. Mr. Witherspoon shared he started a summer camp for youth in 1979 which is still ongoing today. As information, he stated he previously was inducted into the Caldwell County Sports Hall of Fame. Mr. Witherspoon said he played on the first championship team here and he was proud of that accomplishment. Mr. Witherspoon pointed out pictures and other items are already being displayed at the MLK Center.

Mayor Gibbons explained that four individuals are selected per year by the committee to be inducted into the Caldwell County Sports Hall of Fame and it may take several years for an individual to be selected. He clarified that Ms. Banner was selected to be inducted into the Caldwell County Hall of Fame which is not part of the City.

Councilmember Perkins pointed out the issue wasn't so much about hanging plaques at MLK, but so that the youth that support the Center can come to see our history and be inspired. Mr. Perkins said he would like to see a showcase placed on the wall so our community and children can visit and be motivated by it.

Mayor Pro-Tem Thomas commented it was a sensitive situation for members of the community and stated the Black Hall of Fame can co-exist in the community. Ms. Thomas remarked in her eight years as a member of City Council, she couldn't remember everything that is on the walls at City facilities being approved by Council. Ms. Thomas also remarked that black children cannot get to the Civic Center.

Mayor Gibbons reiterated the issue is the MLK Center is City owned property and therefore, Council has to follow the proper procedures.

Much discussion centered on placing pictures/plaques on a corridor of the gymnasium at the MLK Center. Councilmember Beal thanked Mr. Patterson and Mr. Witherspoon for coming to the meeting. He asked City Manager Hildebran to explain the process to address a citizen's request to place items at a City facility.

As an example, City Manager Hildebran referred to Council naming the field at Optimist Park as the Kenny Story Field. He clarified a Department Director should first submit their request to City Council for consideration of approval. Following approval, proper signage would be installed and a dedication ceremony to honor and recognize an individual(s) would be held.

Mayor Gibbons stated he wants to honor all citizens and do so by using the proper procedures. He stated the City wants to take the best path forward and pointed out all Councilmembers are interested in moving Lenoir forward.

Motion

Upon a motion by Councilmember Beal, City Council voted 7 to 0 to approve the corridor leading into the gymnasium at the Martin Luther King, Jr. Center to be utilized for the Lenoir Black Hall of Fame in order to honor our residents and help our children be the best they can be.

Councilmember Perdue also asked Joshua Harris to place this information regarding the Lenoir Black Hall of Fame on the City's website.

V. REPORTS OF BOARDS AND COMMISSIONS

VI. REPORT AND RECOMMENDATIONS OF THE CITY MANAGER

A. Items of Information

SUMMER MUSIC

- MADNESS:** 1. The Shelby Rae Moore Band will perform on the downtown stage on Friday, July 21 from 7:00 p.m. – 10:00 p.m.

PLANNING

- BOARD:** 2. The Planning Board will meet on Monday, July 24 at 5:30 p.m. at the City/County Chambers.

CANCELLED-COMMITTEE

OF THE WHOLE:

3. The Committee of the Whole meeting for July has been cancelled. The next meeting will be held on Tuesday, August 22 at 8:30 a.m. at City Hall, Third Floor.

SUMMER MOVIE

- EVENT:** 4. The movie “The Bad Guys” will be shown on the downtown square on Friday, July 28 at 8:30 p.m.

ANNUAL HARAMBEE

- FESTIVAL:** 5. The annual Harambee Festival will be held from Saturday, August 5 through Friday, August 11 at the Martin Luther King, Jr. Center. Events will be scheduled throughout the week.

B. Items for Council Action

1. Order of Abatement; 712 Hillcrest Street NW: City Staff recommends adoption of an Order of Abatement for property located at 712 Hillcrest Street NW, Parcel ID#06 19 2 25 and NCPIN#2749581926 directing Staff to proceed with the demolition and removal of the structure.

A copy of the Order of Abatement is hereby incorporated into these minutes by reference. (Refer to pages 215-216.)

Upon a motion by Councilmember Perdue, Council voted 7 to 0 to adopt the Order of Abatement for property located at 712 Hillcrest Street NW as described above and as recommended by City Staff.

Additional Informational Items by City Manager Hildebran

6. City Manager Hildebran informed Council NCDOT inspected the City owned bridge on Countryside Drive and notified the City of needed repairs. Mr. Hildebran stated Jon Hogan, Public Works Operations Manager received a quote in the amount of \$65,000 to use shotcrete for the bridge repairs. Mr. Hildebran stated the damage was caused by a hit and run driver.
7. City Manager Hildebran reported the developer needs additional environmental work for the Steele Mill Project at a cost of \$69,560. He stated the City could use Brownfield funding for this project.

VII. REPORT AND RECOMMENDATIONS OF THE CITY ATTORNEY**VIII. REPORT AND RECOMMENDATIONS OF COUNCILMEMBERS****IX. REPORT AND RECOMMENDATIONS OF THE MAYOR****BOARD ANNOUNCEMENTS;****BOARD OF ADJUSTMENT:**

- A. Alternate; Board of Adjustment: Mayor Gibbons recommended Michael Careccia to City Council for consideration of approval to serve as an Alternate on the Board of Adjustment. Mr. Careccia currently serves as a member of the Lenoir Planning Board.

LENOIR TOURISM DEVELOPMENT

AUTHORITY: B. Announcement; Lenoir Tourism Development Authority: Mayor Gibbons presented Karin Davidson to City Council for consideration of approval to serve a four-year term on the Lenoir Tourism Development Authority LTDA).

These appointments will be placed on the August 1 Agenda for consideration of approval by City Council.

X. ADJOURNMENT

- A. There being no further business, the meeting was adjourned 7:04 p.m.

Shirley M. Cannon, City Clerk

Joseph L. Gibbons, Mayor



CITY MANAGER
SCOTT E. HILDEBRAN

CITY OF LENOIR
NORTH CAROLINA

MAYOR
JOSEPH L. GIBBONS

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

RESOLUTION FOR APPROVING LENOIR WATER SHORTAGE RESPONSE PLAN

WHEREAS, North Carolina General Statute 143-355 (l) requires that each unit of local government that provides public water service and each large community water system shall develop and implement water conservation measures to respond to drought or other water shortage conditions as set out in a Water Shortage Response Plan and submitted to the NC Department of Environmental Quality for review and approval; and

WHEREAS, as required by the statute and in the interests of sound local planning, a Water Shortage Response Plan for the City of Lenoir, has been developed and submitted to the Mayor and City Council for approval; and

WHEREAS, the Mayor and City Council find that the Water Shortage Response Plan is in accordance with the provisions of North Carolina General Statute 143-355 (l) and that it will provide appropriate guidance for the future management of water supplies for the City of Lenoir, as well as, useful information to the Department of Environmental Quality for the development of a state water supply plan as required by statute;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Lenoir that the Water Shortage Response Plan entitled, Lenoir Water Shortage Response Plan dated July 18, 2023, is hereby approved and shall be submitted to the Department of Environmental Quality, Division of Water Resources; and

BE IT FURTHER RESOLVED that the Mayor and City Council intend that this plan shall be revised to reflect changes in relevant data and projections at least once every five years or as otherwise requested by the Department, in accordance with the statute and sound planning practice.

This the 18th day of July, 2023.

SEAL

Name: Joseph L. Gibbons

Title: Mayor

Signature: Joseph L. Gibbons

ATTEST:

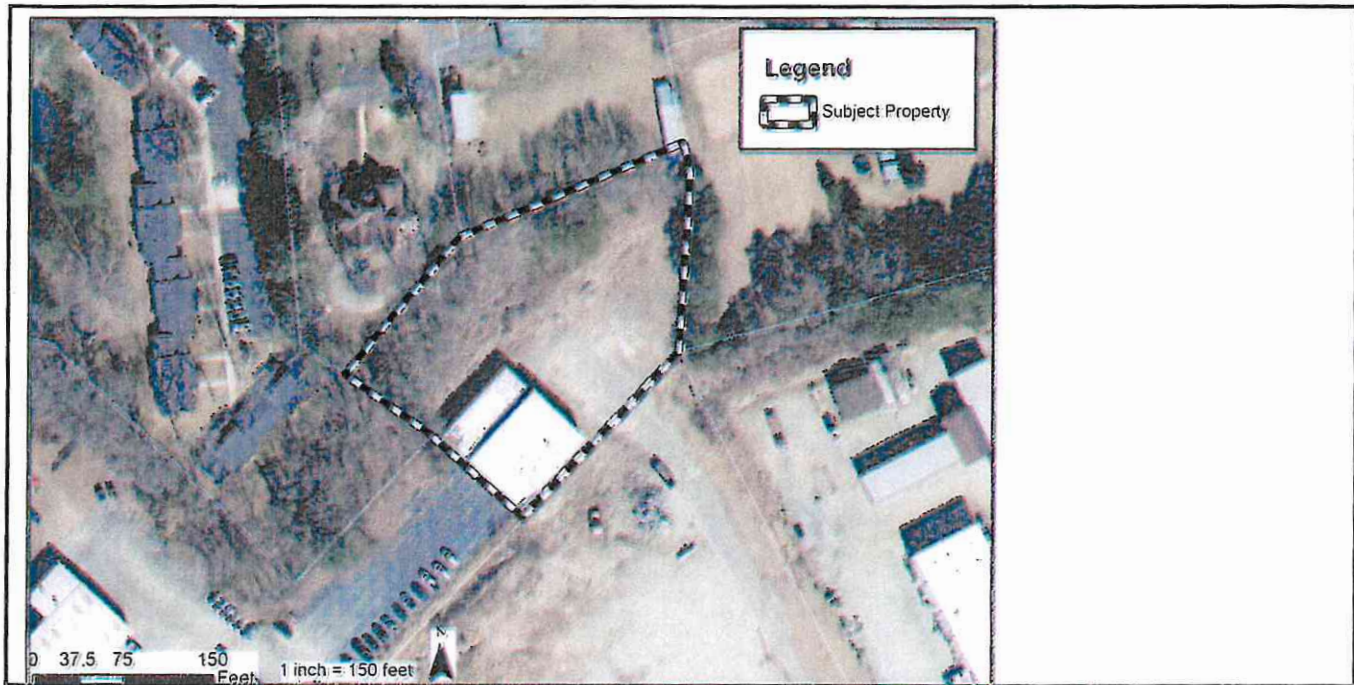
Shirley M. Cannon
Shirley M. Cannon, City Clerk





Staff Report
Special Use Permit
CASE NUMBER SUP #1/23

LOCATION MAP/AERIAL PHOTOGRAPH



SUMMARY

Owner

BARLOWE SOLUTIONS LLC

Applicant

Maxwell Barlowe

Location

537 Wilkesboro Blvd, between
intersections of Hibriten Drive
and Tremont Park Dr

NC PIN

2759596079

Project Planner

Hannah Williams

Updated July 13, 2023

Applicant's Request:

The applicant is requesting a Special Use Permit for Major Vehicle services in the General Business District (B-2) zoning district.

Staff Recommendation:

Approval of the request, subject to the conditions in this report.

Planning Board Recommendation:

Approval of the request, see page 6.

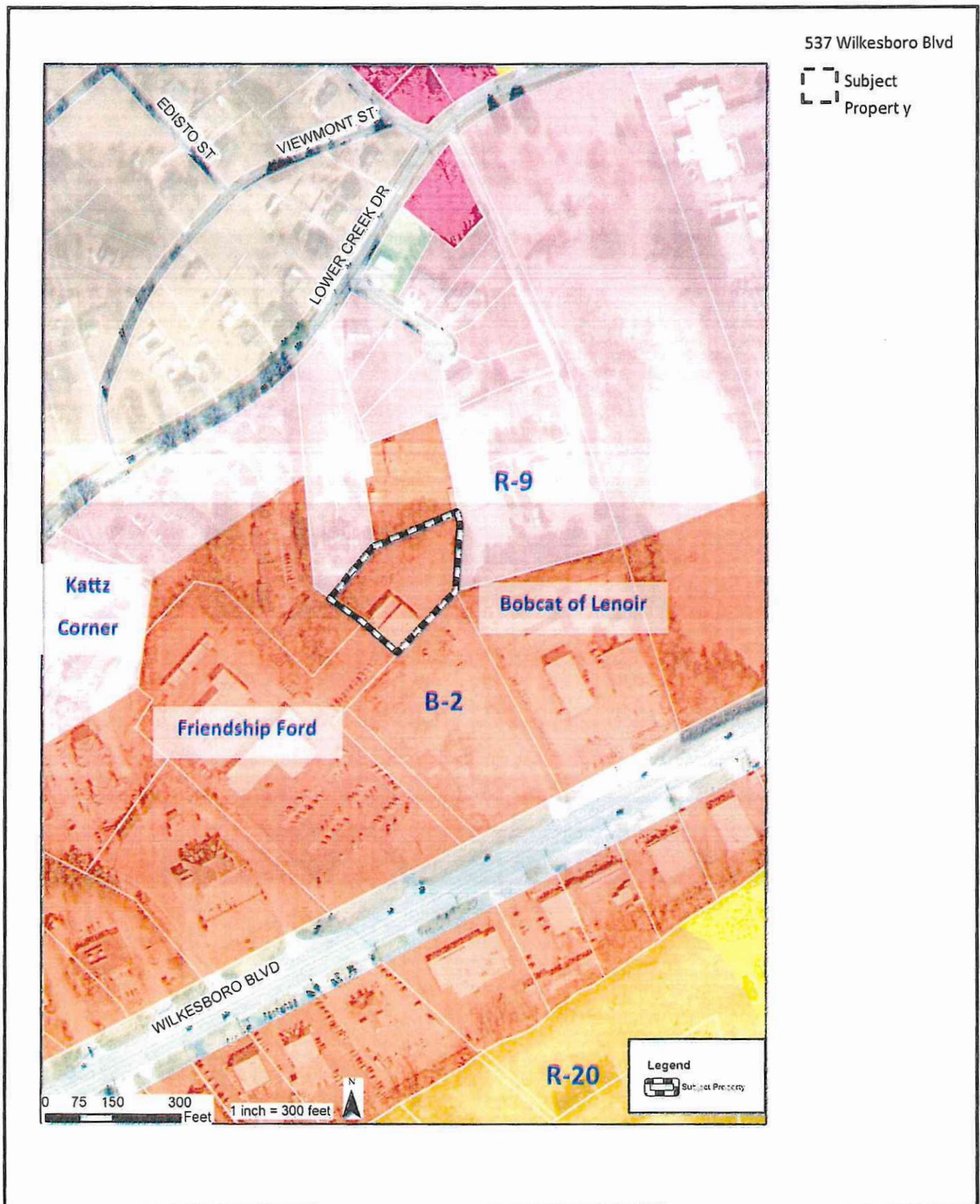
Public Comment:

Planning Board Meeting: Scheduled for June 26, 2023. Notices were mailed to adjacent property owners on June 16, 2022.

City Council (Evidentiary Hearing): Scheduled for July 18, 2023.

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

ZONING MAP



BACKGROUND AND ANALYSIS

Intent of Special Use Permits

Special 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 special 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 Special 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 Special Use Permit following a quasi-judicial hearing.

Intent of the Zoning District

Article V of the Lenoir Zoning Code states:

B - 2 (General Business) 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 serve both local and transient traffic. While generally located in areas that are auto-centric, the General Business zoning district is intended to promote development that equally considers pedestrian traffic, because this district is often located in close proximity to multi-family developments and short-term lodging. This district is designed to accommodate a moderate to high intensity of development along key commercial corridors in the City, with robust design standards to encourage a unique sense of place and promote a multi-modal future with support for transit, bike, and pedestrian infrastructure.

Subject and Surrounding Properties

The subject property is just over one acre in size, and developed with one service garage. The building was built in 1970, with a rear addition completed in 1981. There is a large gravel parking area east of the building. In the rear of the lot, there is an incline and a mature tree line which borders residential properties. Elevation changes from 1120 ft to 1150 ft in short span, creating a berm that offers a sense of separation between the residential uses and the subject property. The building had not been used for some time prior to Barlowe Solutions beginning operations in late 2022. The lot is considered legally non-conforming because it does not have 25' of public road frontage, as is required in Sec. 800 of the Lenoir Zoning Ordinance. However, there is a 30' driveway easement that runs with the land across the abutting property to the south, giving the subject property access to Wilkesboro Blvd (See Appendix A).

The NC-18/Wilkesboro Blvd corridor is largely zoned B-2, like the subject property. Directly to the south of the subject property is an undeveloped, vacant lot that recently was used as a shed retailer. To the south of and abutting the subject property are several automotive-oriented businesses. Specifically, two other major vehicle service uses are also located in the vicinity, Bobcat of Lenoir and Caldwell County School's bus garage. The Friendship Ford dealership is located to the west of the subject property. To the north are a mix of residential uses that are accessed on Lower Creek Drive, in the R-9 zoning district. Several apartment complexes, duplexes, and single family homes are located on this section of Lower Creek Drive.

Proposed Use

The applicant is using the property and building for a heavy equipment repair and hydraulic hose shop. According to the Permitted Use Chart in Sec. 600, Table B, Major Vehicle Services requires a Special Use Permit in the B-2 zoning district. At this time, the business operates out of bays in the building and uses the parking on site. No substantial improvement or exterior changes are proposed at this time beyond painting.

Major Vehicle Services has the following definition, according to the Lenoir Zoning Ordinance (Article IV): "Service uses involving the repair, alteration, restoration, towing, painting, or finishing of automobiles, trucks, recreational vehicles, boats, and other vehicles as a primary use, including the incidental wholesale and retail sale of vehicle parts as an accessory use. This use includes major

BACKGROUND AND ANALYSIS

repair and body work-repair facilities dealing with entire vehicles; such establishments typically provide towing, collision repair, other body work, and painting services and may also include tire recapping establishments. Bus terminals, fleet and bus garages, and similar large-scale vehicle maintenance facilities are also considered major vehicle uses." Major vehicle service is allowed by right in Industrial districts and considered a special use in B-2 and B-7 (Highway Business). (Note: B-7 is virtually an unused zoning district in Lenoir, with only one vacant property zoned B-7.) East of the Hibriten Drive intersection, Wilkesboro Boulevard has a more industrial-commercial feel than the corridor closer to Smith's Crossroads. This vicinity of Wilkesboro Boulevard has a variety of commercial uses that develop with large buildings on large tracts. Although the uses are intensive, the large lots make this area less dense.

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 comprehensive plan lays out several policy goals regarding commercial and industrial sites, and encourages reuse of commercial and industrial buildings. The plan also calls for considering the existing topography to avoid grading and filling unnecessarily. This establishment is right-sized for the existing building and lot without the need to grade, meeting several of the plan's goals.

SITE PHOTOS



Existing building and customer
equipment



Driveway across Corriher Property



FINDINGS

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

1. The proposed special 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 existing building does not comply with the B-2 front yard setback of 10', nor does it have 25' of public road frontage, but complies with all other setback, lot size, and height requirements. Because the existing development does not propose expansion at this time, the two legally non-conforming conditions are allowed to remain.*
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. *There is one existing driveway across the abutting property to access this development. The easement in place in Deed Book 2083 Page 581 and drawn in Plat Book 37 Page 91 ensure that this access will be available without issue.*
3. Off-street parking and loading areas will be provided in compliance with the Zoning Ordinance. *This site has a large parking area on the east side of the property that is used to store customer vehicles and equipment. Three parking spaces per 1,000 SF of floor area is required by the zoning ordinance. For this space, 22 spaces are required, and more than that are provided.*
4. The establishment of the special use will not hinder the normal and orderly development and improvement of surrounding property for uses already permitted in the district. *The establishment of this use will have minimal impacts to surrounding properties because it is located along Wilkesboro Blvd, an area where automotive service and sales, and major vehicle service is already common. This use will not hinder the development of the southern lot fronting Wilkesboro Blvd, which is also zoned B-2, nor will it hinder the residential zones to the north due to the mature tree buffer.*
5. Any required screening and landscaping will be designed or planted with full consideration of the effectiveness of individual plant types, dimensions, and characteristics in minimizing the noise, glare, visual impacts and other economic effects on adjoining properties. *Where the subject property shares a boundary with residential properties, the mature tree line and berm must be maintained by the property owner. If the existing tree line is damaged or dies, it must be replaced with a 20' vegetative buffer as a condition of approval, consisting of a combination of evergreen and deciduous trees, in accordance with the standards in Sec. 712.8 of the Lenoir zoning ordinance. The berm must also be maintained and replaced should it be damaged.*
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. *This development will be permitted signs as allowed in the General Business zone, according to Article 11 of the Lenoir Zoning Ordinance with a valid Zoning Permit. No additional lighting is proposed at this time. As a condition of approval, all exterior lighting will be designed to reduce glare and light pollution on neighboring properties.*
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. *No major renovation or substantial improvement has been proposed at this time outside of basic maintenance of the building, so the appearance and character will remain the same. Substantial improvements to this property will be subject to the architectural and site design standards for the B-2 zoning district, according to Sec. 714 of the Lenoir Zoning Ordinance. An expansion to the floor area greater than 10% is considered a major modification and would require SUP approval.*
8. The type, size, hours of operations, location of the use upon the site, and intensity of the proposed special use will not be harmful or annoying to surrounding properties. *The proposed use has similar hours and intensity to nearby automotive and major vehicle uses. The use will be limited to the size of the lot and location of the existing building and parking lot in its current configuration.*

STAFF RECOMMENDATIONS

Staff recommends approval of the requested Special Use Permit for the proposed major vehicle service, with the following conditions:

1. *All lighting shall be fully cut-off and shielded so as to eliminate/minimize light spill-over onto adjacent residential properties.*
2. *The mature buffer and berm are required to remain and must be maintained by the subject property owner in accordance with Finding #5. If the existing tree line is damaged or dies, it must be replaced with a 20' vegetative buffer. The berm must also be maintained.*
3. *The applicant must obtain zoning and sign permits from the Lenoir Planning Department within two years of the issuance of the SUP. All proposed changes must adhere to Sec. 714 of the Lenoir Zoning Ordinance.*

PLANNING BOARD RECOMMENDATIONS

Approval as submitted by staff, subject to the conditions above.

APPENDIX A—DRIVEWAY EASEMENT

Deed Book 2063, Page 581

2063 581 - 582 (2)

This document generated and filed
with the State of North Carolina
on 07/18/2023 at 11:33:12 AM



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

Charles H. Condit, Jr.
Construction Attachments, Inc.
By: Charles H. Condit, Jr. President

W.R. Slayle and Sandra D. Slayle, Trustees, of their successors in trust, under the Slayle Living Trust dated August 23, 1995

Prepared by: *Dorothy Hallen, Attorney at Law, PLLC*
NORTH CAROLINA

JOINT RIGHT OF WAY AND ROAD MAINTENANCE AGREEMENT

CALDWELL COUNTY

THIS JOINT RIGHT OF WAY AND ROAD MAINTENANCE AGREEMENT, made and entered into this 3rd day of November, 2023, by and between Construction Attachments, Inc., a Corporation, hereinafter and assigns, and W.R. Slayle and Sandra D. Slayle, Trustees, of their successors in trust, under the Slayle Living Trust dated August 23, 1995, Grantors, their heirs and assigns:

WITNESSETH

WHEREAS, Construction Attachments, Inc. is the owner of a certain tract of land located in Caldwell County, North Carolina recorded in Deed Book 1333, Page 514 in the Caldwell County Registry and:

WHEREAS, W.R. Slayle and Sandra D. Slayle, Trustees, of their successors in trust, under the Slayle Living Trust dated August 23, 1995 is the owner of a certain tract of land located in Caldwell County, North Carolina recorded in Deed Book 1763 Page 419 in the Caldwell County Registry and:

WHEREAS, Grantors, their heirs and assigns to convey a nonexclusive 30 foot Right of Way as shown on Plat Book 17, Page 91, Caldwell County Register of Deeds ingress and egress from NC Hwy 24 to 90 to the property belonging to Grantees. This right of shall run with the land. Both parties agree to use the right of way and agree to maintain said right of way on a pro rata basis.

IN WITNESS WHEREOF, the said parties to this instrument have hereunto set their hands and seals, this the 3rd day of November, 2023.

W.R. Slayle (Seal)
W.R. Slayle, Trustee

Sandra D. Slayle
Sandra D. Slayle, Trustee

NORTH CAROLINA
CALDWELL COUNTY

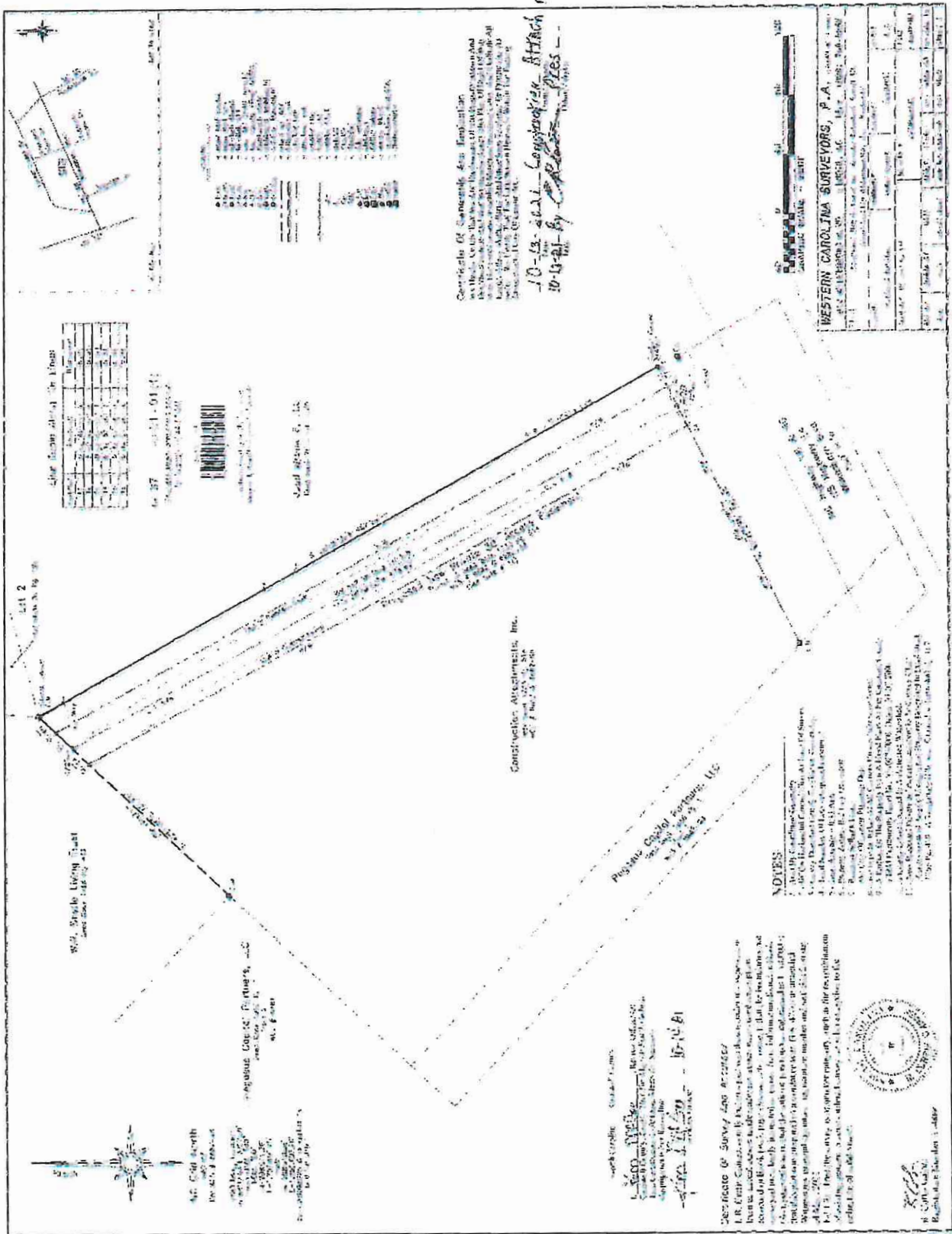
I, a Notary Public in and for said County and State, do hereby certify that *Charles H. Condit, Jr.*, President of Construction Attachments, Inc. personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

This the 2nd day of August, 2023.
Roberta D. Dyer
My commission expires
9-22-25
Notary Public

NORTH CAROLINA
CALDWELL COUNTY

I, a Notary Public in and for said County and State, do hereby certify that *W.R. Slayle and Sandra D. Slayle*, Trustees, of their successors in trust, under the Slayle Living Trust dated August 23, 1995 personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

This the 3rd day of November, 2023.
Roberta D. Dyer
My commission expires
9-22-25
Notary Public

Plat Book 37, Page 91

SPECIAL USE PERMIT #1/23
PLANNING DEPARTMENT
CITY OF LENOIR, 801 WEST AVENUE, LENOIR, NC 28645

APPLICANT: MAX BARLOWE
OWNER: BARLOWE SOLUTIONS ✓✓
SUBJECT: ORDER OF THE CITY OF LENOIR ISSUING SUP #1/23
SITE: 537 WILKESBORO BLVD NE
ZONING: B-2 GENERAL BUSINESS DISTRICT
PROPOSAL: MAJOR VEHICLE SERVICE
DATE EFFECTIVE: JULY 18, 2023

BK 2088 PG 1023 - 1024 (2)
 This document presented and filed:
 07/19/2023 03:41:37 PM

Fee \$26.00



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

The Lenoir City Council took action on July 19, 2023 to APPROVE with conditions the Special Use Permit (SUP #1/23). The Special Use Permit is for major equipment service in the B-2 (General Business) zone.

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

1. The proposed special 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 existing building does not comply with the B-2 front yard setback of 10', nor does it have 25' of public road frontage, but complies with all other setback, lot size, and height requirements. Because the existing development does not propose expansion at this time, the two legally non-conforming conditions are allowed to remain.*
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. *There is one existing driveway across the abutting property to access this development. The easement in place in Deed Book 2083 Page 581 and drawn in Plat Book 37 Page 91 ensure that this access will be available without issue.*
3. Off-street parking and loading areas will be provided in compliance with the Zoning Ordinance. *This site has a large parking area on the east side of the property that is used to store customer vehicles and equipment. Three parking spaces per 1,000 SF of floor area is required by the zoning ordinance. For this space, 22 spaces are required, and more than that are provided.*
4. The establishment of the special use will not hinder the normal and orderly development and improvement of surrounding property for uses already permitted in the district. *The establishment of this use will have minimal impacts to surrounding properties because it is located along Wilkesboro Blvd, an area where automotive service and sales, and major vehicle service is already common. This use will not hinder the development of the southern lot fronting Wilkesboro Blvd, which is also zoned B-2, nor will it hinder the residential zones to the north due to the mature tree buffer.*
5. Any required screening and landscaping will be designed or planted with full consideration of the effectiveness of individual plant types, dimensions, and characteristics in minimizing the noise, glare, visual impacts and other economic effects on adjoining properties. *Where the subject property shares a boundary with residential properties, the mature tree line and berm must be maintained by the property owner. If the existing tree line is damaged or dies, it must be replaced with a 20' vegetative buffer as a condition of approval, consisting of a combination of evergreen and deciduous trees, in accordance with the standards in Sec. 712.8 of the Lenoir zoning ordinance. The berm must also be maintained and replaced should it be damaged.*

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. *This development will be permitted signs as allowed in the General Business zone, according to Article 11 of the Lenoir Zoning Ordinance with a valid Zoning Permit. No additional lighting is proposed at this time. As a condition of approval, all exterior lighting will be designed to reduce glare and light pollution on neighboring properties.*
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. *No major renovation or substantial improvement has been proposed at this time outside of basic maintenance of the building, so the appearance and character will remain the same. Substantial improvements to this property will be subject to the architectural and site design standards for the B-2 zoning district, according to Sec. 714 of the Lenoir Zoning Ordinance. An expansion to the floor area greater than 10% is considered a major modification and would require SUP approval.*
8. The type, size, hours of operations, location of the use upon the site, and intensity of the proposed special use will not be harmful or annoying to surrounding properties. *The proposed use has similar hours and intensity to nearby automotive and major vehicle uses. The use will be limited to the size of the lot and location of the existing building and parking lot in its current configuration.*

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

1. *All lighting shall be fully cut-off and shielded so as to eliminate/minimize light spill-over onto adjacent residential properties.*
2. *The mature buffer and berm are required to remain and must be maintained by the subject property owner in accordance with Finding #5. If the existing tree line is damaged or dies, it must be replaced with a 20' vegetative buffer. The berm must also be maintained.*
3. *The applicant must obtain zoning and sign permits from the Lenoir Planning Department within two years of the issuance of the SUP. All proposed changes must adhere to Sec. 714 of the Lenoir Zoning Ordinance.*

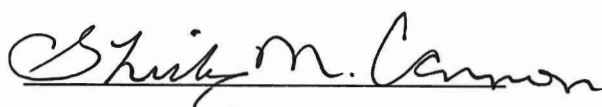
This Special Use Permit shall be effective immediately upon approval and execution. Site plan approval shall be required prior to issuance of the zoning permit.

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 the 18th day of July, 2023 by the Lenoir City Council

ATTEST:


Joseph L. Gibbons, Mayor


Shirley Cannon, Clerk





CONTRACT FOR SERVICES

This contract ("Contract") for Lenoir – Fire Department Infrastructure Repair ("Project") by and between City of Lenoir, North Carolina, hereinafter called the OWNER, and W.K. Dickson & Co., Inc., hereinafter called the CONSULTANT;

The parties hereto do mutually agree as follows:

1. Employment of CONSULTANT. The OWNER hereby engages the CONSULTANT and the CONSULTANT hereby agrees to perform the professional services hereinafter set forth.
2. Scope of Services. The CONSULTANT shall perform the services set forth in Attachment A, Scope of Services, which attachment is incorporated herein. Hereafter, these services may be referred to as the "Basic Services."
3. Additional Services. The CONSULTANT shall provide additional services, not specifically called for in Attachment A, Scope of Services, upon written authorization of the OWNER.
4. Time of Performance. The CONSULTANT will commence work on or as soon as practicable after the date of execution of this Contract and receipt of written Notice to Proceed. All work as set forth in the Scope of Services shall be completed as shown in the Project Schedule in Attachment A, assuming: (i) the timely submission of all required data and the scheduling of all meetings and reviews by the OWNER; (ii) no other impacts or delays caused by third parties, including the contractor(s) or its subcontractors; and (iii) no other delays beyond CONSULTANT's control.

If the OWNER requests modifications to the Scope of Services of the Project, or if CONSULTANT's services extend past the completion date in the Project Schedule through no fault of the CONSULTANT, the CONSULTANT shall be paid for the additional work as an additional service as set forth in Attachment B, Basis of Compensation, and CONSULTANT's time of performance shall be extended appropriately.

Except for construction administration services, CONSULTANT's services under this Contract, and each phase of services, if the Scope of Services is so divided, shall be considered complete at the earlier of (1) the date when the submissions for that phase have been accepted by the OWNER or (2) thirty days after the date when such submissions are delivered to the OWNER. For construction administration services, the services shall be considered complete at final completion of the Project.

5. Compensation. The CONSULTANT agrees to perform the services provided for in the Scope of Services, and the OWNER agrees to compensate the CONSULTANT for such services as set forth in Attachment B, Basis of Compensation, which attachment is incorporated herein. Compensation for additional services shall also be as set forth in Attachment B, Basis of Compensation.

of the construction contractor nor assumes responsibility for construction contractor's failure to perform its work in accordance with the Contract Documents.

9. Responsibilities of the OWNER. It is agreed that the OWNER will have the following responsibilities under this Contract:

- a. Timely providing all information, data, reports, records, and maps to which the OWNER has access and which are needed by the CONSULTANT for the performance of the services provided for herein.
- b. Providing assistance and cooperation for the CONSULTANT in obtaining any other needed material which the OWNER does not have in its possession.
- c. Making available the services of the OWNER as may be necessary to obtain information as needed to perform the work program set forth in the Scope of Services.
- d. Designating a single representative who will be authorized to make necessary decisions required on behalf of the OWNER and will serve to provide the necessary direction and coordination for the project.
- e. Bearing all costs for permitting, reviewing, recording and advertising for the project, as well as any other cost not specifically included in Attachment A or B as a cost to be borne by the CONSULTANT.
- f. Providing legal right of access to all affected private property for CONSULTANT to perform all necessary surveying, engineering and site visits.

All such OWNER responsibilities shall be conducted in a timely manner and without undue delay so as not to delay the CONSULTANT in the performance of its services. The CONSULTANT shall coordinate its services with those services provided by the OWNER and the OWNER's consultants. The CONSULTANT shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness and timeliness of services and information furnished by the OWNER and the OWNER's consultants. The CONSULTANT shall provide prompt written notice to the OWNER if the CONSULTANT becomes aware of any error, omission or inconsistency in such services or information.

10. Opinion of Probable Construction Costs. CONSULTANT's opinion of probable construction costs, if rendered as a service under this Contract, is based on assumed labor costs and approximate quantities of material and equipment, and therefore is of a conditional character. CONSULTANT cannot and does not guarantee the cost of work to be performed by others since market or bidding conditions can change at any time and changes in the scope or quality of the project may affect estimates. OWNER waives and releases CONSULTANT from any loss, liability or claim arising out of or in any way related to CONSULTANT's opinion of probable construction costs.

11. Ownership and Use of Work Products. Upon payment in full of all sums due to CONSULTANT, the OWNER shall own title to the latest versions of all reports, drawings and specifications, and other

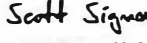
the CONSULTANT's compensation or time of performance, which are mutually agreed upon by and between the OWNER and the CONSULTANT, shall be incorporated in written amendments (Attachment C), and compensated as additional services as set forth in Attachment B.

14. Termination of Contract. This Contract may be terminated by either the OWNER or the CONSULTANT, with or without cause, upon 7 calendar days written notice. In the event of termination, the CONSULTANT shall be entitled to its fees and reimbursable expenses incurred prior to termination. In the event of a termination by OWNER for any reason or by CONSULTANT without cause, copies of all Deliverables shall, at the option of the OWNER, be made available to OWNER, provided CONSULTANT is paid in full for all services provided and expenses incurred through the date of termination and otherwise as provided for in Paragraph 11. If termination is by CONSULTANT for non-payment, no rights for ownership or continued use of the Deliverables shall inure to OWNER unless and until CONSULTANT is paid all amounts due.
15. Assignability. This Contract shall not be assigned or transferred by either the CONSULTANT or the OWNER without the prior written consent of the other. Notwithstanding the foregoing, however, the CONSULTANT shall not be prohibited from contracting with qualified sub-consultants or from assigning to a bank, trust company, or other financial institution any claims for compensation due, or to become due, without such prior written consent.
16. Insurance. CONSULTANT shall provide and maintain at a minimum the following coverage and limits during the life of the Contract:
 - a. Statutory Workers Compensation Insurance, a minimum of \$500,000 or greater amount if required by the state(s) in which the work is to be performed.
 - b. Commercial General Liability Insurance, including coverage for premises and operations, products and completed operations, independent contractors, and contractual liability. Such insurance shall be not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
 - c. Automobile Liability Insurance for all owned, hired and non-owned automobiles in the minimum amount of \$1,000,000 per occurrence.
 - d. Professional Liability Insurance of \$1,000,000 per claim and annual aggregate.
17. Indemnification. CONSULTANT and OWNER each agree to indemnify and hold the other harmless, and their respective officers, directors, employees, agents, owners and successors, from and against liability to third parties for all claims, losses, damages and expenses, including reasonable attorneys' fees, to the extent such claims, losses, damages, or expenses are caused by the negligent or willful acts or omissions of the indemnifying party or its employees, agents, officers, directors, owners or successors. In the event claims, losses, damages or expenses are caused by the joint or concurrent negligence of CONSULTANT and OWNER, they shall be borne by each party in proportion to its negligence. This indemnification shall survive termination of this Contract.

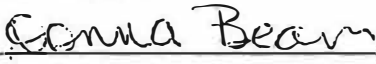
Tuesday, July 18, 2023
Minutes-City of Lenoir Council Meeting

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IN WITNESS WHEREOF, the CONSULTANT and the OWNER have executed this Contract as of the date written below.

OWNER:**CITY OF LENOIR, NORTH CAROLINA**By: Name: Jonathan HoganTitle: Public Works Operations ManagerDate: 7-19-2023**CONSULTANT:****W.K. DICKSON & CO., INC.**By: Name: Scott Sigmon, PETitle: Vice President & Raleigh Regional ManagerDate: 7/19/2023

This instrument has been preaudited in the manner required by the "Local Government Budget and Fiscal Control Act".

By: 
Finance OfficerDate: 7-19-23**Address for giving notices:**Post Office Box 958Lenoir, NC 28645**Address for giving notices:**720 Corporate Center DriveRaleigh, NC 27607**Designated Representative:**Name: Jonathan HoganTitle: Public Works Operations ManagerPhone: (828) 757-2183E-mail: jon.hogan@ci.lenoir.nc.us**Designated Representative:**Name: Marc T. Horstman, PE, PH, D.WRETitle: Senior Project ManagerPhone: (919) 256-5642E-mail: mhorstman@wkdickson.com

AN ORDINANCE DIRECTING THE MINIMUM HOUSING INSPECTOR TO REMOVE OR DEMOLISH THE PROPERTY HEREIN DESCRIBED AS UNFIT FOR HUMAN HABITATION AND DIRECTING THAT A NOTICE BE PLACED THEREON THAT THE SAME MAY NOT BE OCCUPIED.

WHEREAS, the City Council of the City of Lenoir finds that the dwelling described herein is unfit for human habitation under the City Housing Standards, and that all of the procedures of the Minimum Housing Standards have been complied with; and

WHEREAS, this dwelling should be removed or demolished, as directed by the Minimum Housing Inspector, and should be placard thereon the notice prohibiting use for human habitation; and

WHEREAS, the owners of this dwelling, **HARPER CLAUDE MCKINELY HARPER BOBBIE**, have been given a reasonable opportunity to bring the dwelling up to the standards of the Minimum Housing Standards accordance with G.S. 160A-443 (5) pursuant to an order issued by the Minimum Housing Inspector on March 3, 2023 and the owner has failed to comply with the order;

NOW THEREFORE BE IT ORDAINED BY the City Council of the City of Lenoir that:

Section 1. The Minimum Housing Inspector is hereby authorized and directed to place a placard containing the following:

"This building is unfit for human habitation: the use or occupation of this building for human habitation is prohibited and unlawful."

On the building located at the following address: **712 Hillcrest St NW**
Lenoir, North Carolina
Parcel-ID 06 19 2 25
NCPIN 2749581926

Section 2. The Minimum Housing Inspector is hereby authorized and directed to proceed to remove or demolish the described above dwelling in accordance with this Order, and in accordance with the City of Lenoir Minimum Housing Code, and NCGS 160D-1203.

Section 3. The cost of demolition and improvement of the lot shall be a tax lien on the real property as provided by G.S. 160D-1203 (7).

Section 4. It shall be unlawful for any person to remove or cause to be removed the placard from any building to which it is affixed. It shall be likewise unlawful for any person to occupy or to permit the occupancy of any building therein declared to be unfit for human habitation.

Section 5. A copy of this ordinance shall be recorded in the Register of Deeds of Caldwell County, North Carolina, and indexed in the name of the property owner or owners in the grantor index.

Adopted this the 18th day of July, 2023.

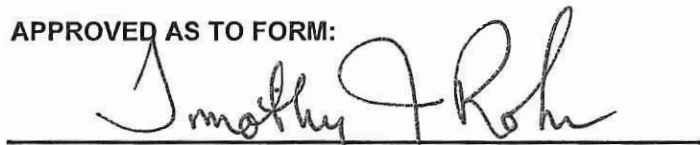
JOSEPH L. GIBBONS
MAYOR

ATTEST:



SHIRLEY M. CANNON
CITY CLERK

APPROVED AS TO FORM:



TIMOTHY J. ROHR
CITY ATTORNEY

CITY OF LENOIR, NC
CHARTERED
JANUARY 28, 1851

SEAL