

**LENOIR CITY COUNCIL
TUESDAY, AUGUST 20, 2024
6:00 P.M.**

PRESENT: Mayor Joe Gibbons presiding. Councilmembers present were Jonathan Beal, Todd Perdue, Ralph Prestwood, Kimmie Rogers, David Stevens, Crissy Thomas, 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, Police Major Andy Wilson, Planning Director Hannah Williams, Planner & GIS Matt Duchan, Economic Development & Main Street Director Brenda Floyd, Parks & Recreation Director Phil Harper, Public Services & Public Works Director Jon Hogan, Public Services & Public Utilities Director Jeff Church, and Communication and Public Information Director, Joshua Harris.

ABSENT: Councilmember Ike Perkins.

I. CALL TO ORDER

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

CONDOLENCES:

- B. On behalf of City Council, Mayor Gibbons asked everyone to keep the family of Charles Troutman in their thoughts and prayers as Mr. Troutman passed away on August 16. Mr. Troutman retired from Blue Ridge Energies following 39 years of service and was a member of the Rotary Club and the Boy Scouts organization. Mayor Gibbons said Mr. Troutman served the community well.

II. MATTERS SCHEDULED FOR PUBLIC HEARINGS

CONDITIONAL REZONING

ORDINANCE; ELLISON PLACE:

- A. A public hearing was held to consider a Conditional Rezoning Ordinance for property located on Ellison Place (east of US-321/Blowing Rock Boulevard), NCPIN Numbers 2859211695, 285021427, 285212266 and 2850212174 be rezoned from B-6 Transitional Business to Conditional Zoning as requested by property owner Virginia M. Mullis for four (4) vacant properties to accommodate eleven (11) single-family lots subject to the following four (4) conditions and based on the Consistency Statement below:
1. Except as expressly provided otherwise by this ordinance, the Property shall be governed by the land development regulations of the B-6 Transitional Business zoning district.
 2. All uses permitted within the B-6 zoning district are allowed in conditional zoning.
 3. Special Standards for Single-Family Development:
 - a. Each lot will be a minimum of 6,000 square feet.
 - b. Houses shall be oriented to front along and accessed by Ellison Place.
 - c. Landscape Buffer: The mature tree line and natural buffer along the rear of the lots must be retained for single family development. If the natural buffer is removed or

damaged, a fifteen (15) foot wide planted buffer strip shall be established and maintained in accordance with Section 712 of the Lenoir Zoning Ordinance.

d. A subdivision plat showing all new utilities, road layout, easement and setbacks referencing this ordinance must be approved and recorded prior to any permitting.

4. Access:

a. A private shared driveway extending beyond the end of current city maintenance of Ellison Place shall be permitted for access to Lots 1, 2 and 3 as indicated in the Concept Plan. A shared driveway agreement detailing the private maintenance responsibility shall be drafted and recorded with the Register of Deeds and noted on the final subdivision plat. The shared driveway must provide access and allow to all service vehicles, including utility emergency and sanitation vehicles. The shared driveway agreement must hold the City harmless for any driveway damage caused by City service vehicles.

b. The maintenance of Ellison Place shall be adequate for the ingress and egress of emergency vehicles.

Consistency Statement:

The proposed Conditional Zoning Ordinance is consistent with the adopted Comprehensive Plan because it enables this area to protect the distinctive residential character of Lenoir's neighborhoods from the encroachment of inappropriate non-residential development. Provided that no businesses have opened in this transitional business zoning district, it would be more pertinent to provide housing in an area otherwise not providing a service to the public.

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

Hannah Williams, Planning Director reviewed a slide presentation of the proposed rezoning outlining the comparison of the B-6 Transitional Business and Conditional Zoning. Director Williams shared that Ellison Place NE has four (4) existing lots on the western side of Ellison Place and the average acreage totals 1.84 an acre. These 4 lots are zoned as B-6 Transitional Business and Staff's recommendation is to reduce the minimum lot size to 6,000 square feet with driveway options.

Director Williams stated the current B-6 Transitional Business would allow for seven (7) 10,000 square-foot lots with a 10-foot setback for the front, side and rear of the property. The uses for a B-6 zone include townhomes, single family homes, low density apartments, a restaurant (no drivethru), office, light retail, business services and specialty studio.

The proposed Conditional Zoning would allow for eleven (11) 6,000 square-foot lots with no change in the setbacks or uses as listed above. The Conditional Zoning Ordinance includes the following:

- Base Zoning is B-6
- Special standards for single-family development include the following:
 - a) Minimum lot size: 6,000 square feet
 - b) Private shared driveway
 - Maintenance agreement with service access required
 - Hold harmless City vehicles
 - c) Landscape buffers along rear lot line (US-321)
 - Front orientation along Ellison Place

Director Williams reported the City's Technical Review Committee (TAC) met and made the following recommendations:

- a) New water line within ROW of Ellison Place
- b) Ensure private road/driveway maintenance has:
 - Adequate turnaround space for service/emergency vehicles
 - holds city harmless in case of damage to private property

In addition, Director Williams pointed out this is a zoning request and not a subdivision. She stated the conditional zoning would guide a major subdivision process and create lot lines. Also, the preliminary plat would be reviewed by the Planning Board and City Council.

Thad Mullis, 119 Ellison Place, addressed City Council and read a list of his concerns. He also distributed a copy to each Councilmember. Mr. Mullis shared background information regarding when he purchased his property and commented he takes care of any stormwater issues at his residence.

Mr. Mullis stated the land has remained unsold for a number of years due to zoning restrictions.

Mr. Mullis stated there is only one ingress and egress at Ellison Place and referred to the potential traffic congestion plus gave statistics on the number of accidents that have occurred at the Smith Crossroads intersection and at the entrance into the Walmart shopping center over the past two (2) years. Additionally, Mr. Mullis stated seven (7) homes would be doable but not eleven (11). He stated if eleven homes were built, a second ingress and egress is needed.

Mr. Mullis further stressed a traffic study is needed or possibly a stop light installed as well as reducing the speed limit to 35 mph. He reiterated his density concerns.

Director Williams reported that 2 parking spaces would be allotted for each home. She also shared that, for single-family detached housing, the trip rate estimate would be 9.43 and/or equal to 28 trips per day for three (3) units based upon trip generation rates compiled by the Institute of Transportation Engineers in September 2021.

Debbie Hawn, 415 Blue Ridge Drive, addressed City Council and stated her family is not against houses or businesses being built, but their major concern is the number of proposed homes for these four (4) lots. Ms. Hawn stated her father, Jim Greene lives on Ellison Place and is 95 years of age. She shared the road is narrow with a ditch on one side. Ms. Hawn noted if two (2) parking spaces are allotted for each driveway, Council should factor in teenage drivers as well. Ms. Hawn respectfully asked City Council to table this proposal or keep the zoning as B-6.

Karen Cannon, 512 Golfview Court addressed City Council and stated she lives in Lenoir and is a pharmacist. Mrs. Cannon mentioned Jim Greene is also her father and shared her daughter and son-in-law have a medical practice in Lenoir. Mrs. Cannon cited safety concerns when pulling out into traffic on US Hwy 321 from Ellison Place. She further shared she has spoken with Matt Duchan and Ms. Williams about the size of the homes, but they didn't have that information at the time.

Mrs. Cannon referred to the proposed turn around at the top of Ellison Place and reiterated the road is only 22-feet wide. She pointed out if curb and gutter along with a sidewalk were installed, there would not be enough room for school buses or emergency personnel to travel up the road.

She emphasized the road is just not big enough. In addition, Mrs. Cannon cited water runoff as a major concern as there is a sinkhole already there and approval of this permit could possibly create more. Mrs. Cannon distributed photos to City Council showing the effects of the stormwater on the property.

Director Williams responded the City of Lenoir contracts with the Western Piedmont Council of Governments (WPCOG) in Hickory to take care of any stormwater issues for the city.

Mrs. Cannon further stated the area is dark having only one (1) street light and additional street lights are needed. She remarked the residents are being encroached upon and no one is answering their questions.

Mr. Thad Mullis clarified the road is 22-feet wide at the entrance, but it increases to 30-feet at the top of the road. He mentioned the neighbors previously put in a speed bump and briefly discussed the stormwater issue.

Mr. Steve Blanchard, 811 Seehorn Street addressed City Council and expressed concern about the density of the proposed eleven (11) homes.

Joe Barrett, 729 Seehorn Street addressed City Council and asked about the size of the proposed houses.

Mr. David Reule, applicant discussed the size of the proposed houses and also stated he doesn't agree with the number of cars the residents are referring to. He remarked the cars would not overwhelm the street.

In addition, Mr. Reule clarified each resident would take care of their own stormwater issues and pointed out he proposed a turn-around in order not to have the expense of installing a cul-de-sac. He stated there would be a Home Owners Association (HOA) established that would invoice the homeowners for the maintenance agreement.

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

Following additional discussion and upon a motion by Councilmember Perdue, City Council voted 6 to 0 to table the Conditional Zoning Ordinance for Ellison Place until Tuesday, September 3 in order to allow the developer and Planning Director Williams the opportunity to submit additional information for the project as requested by Council.

**SPECIAL USE PERMIT;
117 MAPLE DRIVE NW:**

- B. A quasi-judicial public hearing was held to consider the requested Special Use District (SUP) as submitted by Josh Clark, Outcast Community Church, to permit a church in the (R-12) Single-Family zoning district on property located at 117 Maple Drive NW, NCPIN#2749450612 based on the findings of page 6 of the submitted Staff Report and subject to the following three (3) conditions:
1. The applicant must maintain and improve upon landscaping where necessary on the site. A zoning permit will be required.
 2. Any new lighting for the church use shall be fully cut-off and shielded so as to eliminate and minimize light spill-over onto adjacent residential properties.

3. The applicant must obtain zoning and sign permits from the Lenoir Planning Department within two years of the issuance of the SUP.

Attorney Rohr reminded City Council they are acting more as judges when considering a Special Use Permit request. He stated Council cannot have any pre-conceived opinion about the case, discuss it with anyone, or visit the proposed site. Attorney Rohr said if they have, Council should disclose it at this time.

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

Director Williams explained there is a small church located on the property along with an existing driveway. She reviewed each condition listed above and reported the Planning Board also recommended approval with the proposed conditions.

Director Williams also submitted the Staff Report as evidence to be included in the minutes of the meeting.

Karen Fulbright, 1516 Poplar Street was sworn in by the City Clerk.

Ms. Fulbright stated she lives across the street from the school and asked if any other things were planned for the property.

Director Williams stated HASO Holdings, LLC, (Jay Harrill) in Boone own the property and the applicant Josh Clark is requesting to allow a church to operate in the auditorium and two classrooms at West Lenoir Elementary School located at 117 Maple Drive.

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

Upon a motion by Councilmember Beal, City Council voted 6 to 0 to approve the Special Use Request along with the three (3) conditions as described above and as recommended by City Staff and the Planning Board.

III. CONSENT AGENDA ITEMS

- A. Minutes: Approval of the minutes of the City Council meeting of Tuesday, August 6, 2024 as submitted.
- B. Resolution; Sealed Air Corporation - Pump House (Hudson): Staff recommends City Council adopt a resolution authorizing the sale of the fire pump premises located at 2001 International Boulevard, Hudson, NC and as described in Deed Book Volume 724, Page 296 at the Caldwell County Register of Deeds to Sealed Air Corporation. The offer is for \$1,000 and was subject to the upset bid process. The City did not receive any upset bids. (A copy of the Resolution is attached to these minutes as information.)
- C. Engineering Services Contract; Harper Avenue Sewer Line Replacement: Staff recommends City Council approval to enter into an Engineering Services Contract with McGill Associates for the Harper Avenue Sewer Line Replacement Project as submitted. (A copy of the Engineering Services Contract is attached to these minutes as information.)
- D. Bid Award; Mulberry Recreation Center Gymnasium Floor Replacement Project: Staff recommends awarding the construction contract for the Mulberry Recreation Center

- Gymnasium Floor Replacement Project to The Sports Flooring Group for a contract price of \$139,432.35. Please note that this contract price is inclusive of alternate bid item No. 1 (upgrading to Grade 2 maple). The Sports Flooring Group is appropriately licensed and specializes in this type of work, included a detailed scope of work in the submitted proposal, and is the lowest, responsive, responsible bidder in consideration of the selected alternate bid item(s). (A copy of the bid tab is attached to these minutes as information.)
- E. Resolution of Support; NC Division of Parks & Recreation - Great Trails State Grant Program: Staff recommends City Council adopt a Resolution of Support for the grant funding application to the North Carolina Division of Parks and Recreation- Great Trails State Grant Program, with the requested funding amount of \$497,994.00 as submitted.

The City of Lenoir pledges a local match of \$248,997.00 (1/3 of the project cost), should the City be awarded funding. (A copy of the Resolution of Support is attached to these minutes as information.)

Upon a motion by Councilmember Thomas, City Council voted 6 to 0 to adopt items A through E on the Consent Agenda as described above and as recommended by City Staff.

IV. REQUESTS AND PETITIONS OF CITIZENS

V. REPORTS OF BOARDS AND COMMISSIONS

VI. REPORT AND RECOMMENDATIONS OF THE CITY MANAGER

Items of Information

PLANNING

- BOARD:** 1. The Planning Board will meet on Monday, August 26 at 5:30 p.m. at the City/County Meeting room.

COMMITTEE OF THE WHOLE:

2. The Committee of the Whole will meet on Tuesday, August 27 at 8:30 a.m. at City Hall, Third Floor Conference Room.

FOOTHILLS REGIONAL AIRPORT AUTHORITY:

3. The Foothills Regional Airport Authority will meet on Wednesday, August 28 at noon at the airport facility.

HOLIDAY

- CLOSING:** 4. City offices will be closed on Monday, September 2 in observance of Labor Day.

B. Items for Council Action

MINIMUM HOUSING ORDINANCE; 542 WHEELER ST.:

1. Staff request that City Council adopt a Minimum Housing Ordinance directing Staff to abate the property located at 542 Wheeler Street, NCPIN#2749571542, Parcel ID #06-17-3-57 by demolishing the structure.

A copy of the recorded Minimum Housing Ordinance is attached to these minutes as reference.

City Manager Hildebran pointed out that staff included photos of the property in the agenda packet along with other supporting documents.

Upon a motion by Councilmember Beal, City Council voted 6 to 0 to adopt the Minimum Housing Ordinance as presented and as recommended by City Staff.

VII. REPORT AND RECOMMENDATIONS OF THE CITY ATTORNEY

VIII. REPORT AND RECOMMENDATIONS OF THE MAYOR

IX. REPORT AND RECOMMENDATIONS OF COUNCILMEMBERS

X. ADJOURNMENT

A. There being no further business, the meeting was adjourned at 7:35 p.m.

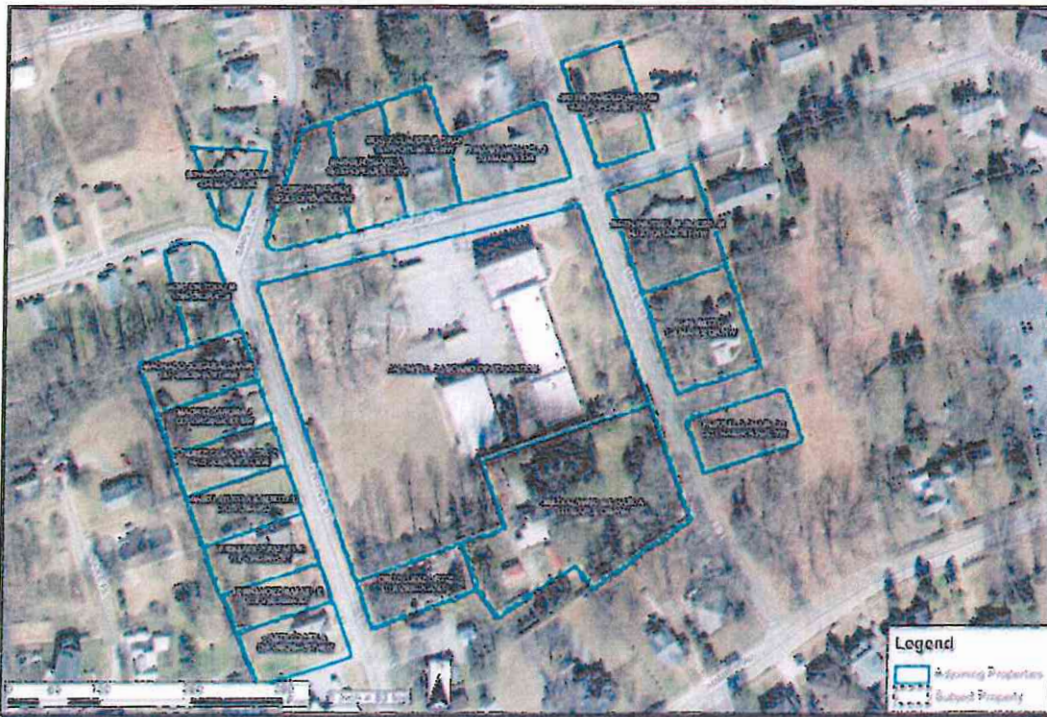
Shirley M. Cannon, City Clerk

Joseph L. Gibbons, Mayor



Staff Report Special Use Permit CASE NUMBER SUP #2/24

LOCATION MAP/AERIAL PHOTOGRAPH



Parcel addresses and owner information shown for all properties required to receive notice of these proceedings.

SUMMARY

Owner

HASO Holdings LLC (Jay Harrill)

Applicant

Outcast Community Church
(Josh Clark)

Location

117 Maple Dr NW

NC PIN

2749450612

Project Planner

Hannah Williams, AICP, CZO
Matt Duchan

Updated August 7, 2024

Applicant's Request:

The applicant is requesting a Special Use Permit for a church to locate in the former West Lenoir Elementary school.

Staff Recommendation:

Approval of the request.

Planning Board Recommendation:

Approval of the request.

Public Comment:

A neighbor in attendance vocalized opposition to the proposal.

Planning Board Meeting: Scheduled for July 22, 2024. Notices were mailed to adjacent property owners on July 12, 2024.

City Council (Public Hearing): Scheduled for August 20, 2024. Notices were mailed to adjacent property owners on August 9, 2024. Notice of the meeting was published in the News-Topic on August 8 and 15, 2024. Notice has been posted on the property at least ten days in advance of the public hearing.

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

This is an aerial photograph of a residential area, overlaid with a zoning map. The map shows several parcels of land, some of which are outlined with a dashed line to indicate a 'Subject Property'. The zoning labels are as follows:

- R-9:** Residential Single-Family, shown in pinkish-red areas.
- R-12:** Residential Single-Family, shown in tan/brown areas.
- O-1:** Office, shown in yellow areas.
- B-2:** Business, shown in dark brown areas.

The map includes a scale bar at the bottom left, indicating distances from 0 to 300 feet. A north arrow is located at the bottom center. A legend at the bottom right identifies the dashed line as the 'Subject Property'.

Subject Property

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:

R - 12 Residential (Single-family) District is intended to establish and preserve land within the city for medium density single-family residences and compatible land uses. Regulations are designed to allow predominately single-family residences at medium densities, with duplex, townhome, low-rise apartments, and planned residential developments allowed at compatible densities as special uses. Any uses which would adversely affect or interfere with the residential character and development of these areas are excluded.

Subject and Surrounding Properties

The subject property is 4.01 acres and is zoned R-12. This single parcel includes the main West Lenoir Elementary School building with classrooms, as well as the auditorium on the north side of the building and the standalone gym on the south side of the property. There is a large parking lot as well as a small playground area on the west side of the parcel.

West Lenoir Elementary ceased operations at the close of the 2021-2022 school year. It was sold to HASO Holdings LLC in 2023. No other use or development has occurred on the site since the school closed.

The surrounding area largely features residential zoning. All parcels to the north and east including the subject property are zoned R-12 for single-family residential. Properties west of the subject parcel are zoned R-9 for multi-family residential but the majority of dwellings in this area are single-family. However, there is a long stretch of Lenoir Housing Authority properties along Poplar Street towards Creekway Drive. South of the property is a mix of B-2 and O-I zoning, which is customary for a main thoroughfare such as Harper Avenue.

Proposed Use

The applicant intends to turn the auditorium and two classrooms in the elementary school into a church with Sunday School. The remainder of the building will go unused. The gym and remaining classrooms will be untouched as part of this project. The applicant does not intend to make any changes to parking and will maintain existing fencing and landscaping on the property. The Lenoir Zoning Ordinance requires 3 spaces per 1000 square feet of gross floor area. The space the church will use is about 4,000 square feet, so it requires 12 spaces. The site contains 47 off-street parking spaces, which is more than enough of the required amount.

Church hours will be Sunday mornings. No major changes will be made to the property nor the buildings.

BACKGROUND AND ANALYSIS (CONT'D.)

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 policy goals regarding adaptive reuse. In the 2007 Comprehensive Planning Process, one of the citizens' biggest concerns was vacant and underused properties. Turning a vacant school into a church facility that could serve many families in the local community would address those citizens' concerns and help to further develop the area.

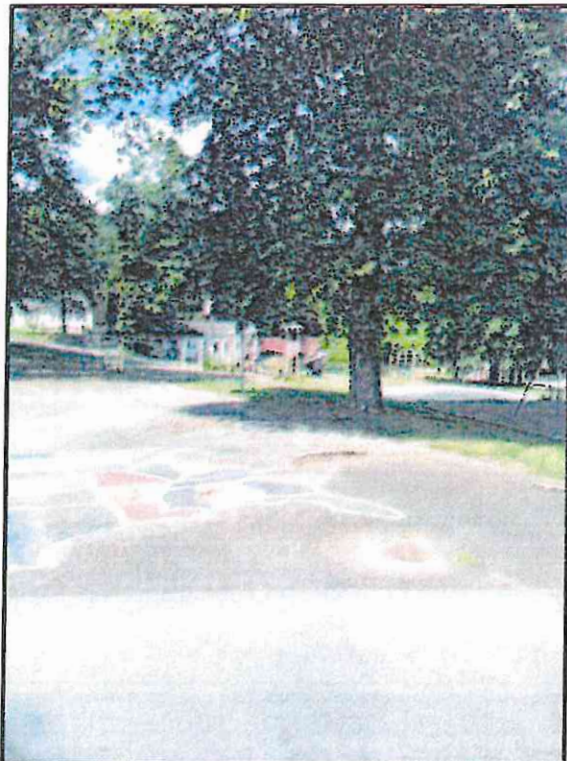
SITE PHOTOS



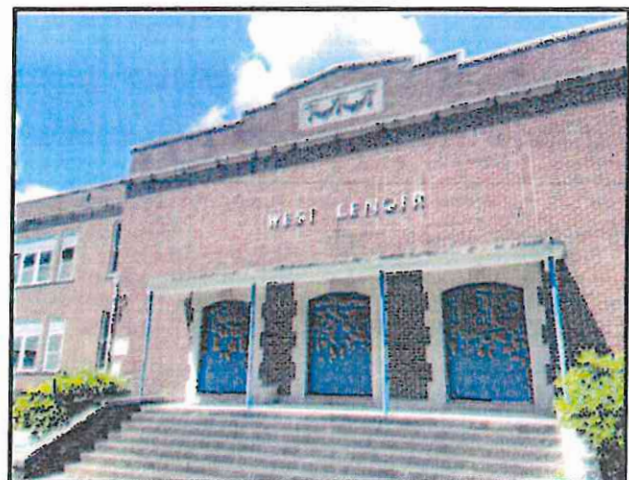
Above: Back of West Lenoir Elementary; auditorium (left), classrooms (right)



Above: Side entrance to Auditorium (top) and basement (bottom)

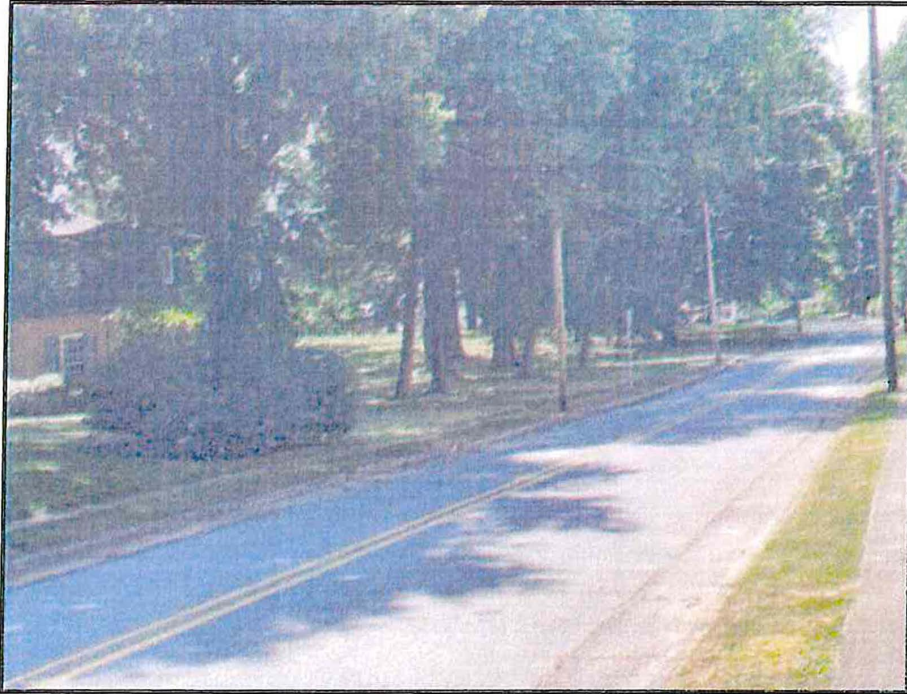


Above: Playground behind West Lenoir Elementary

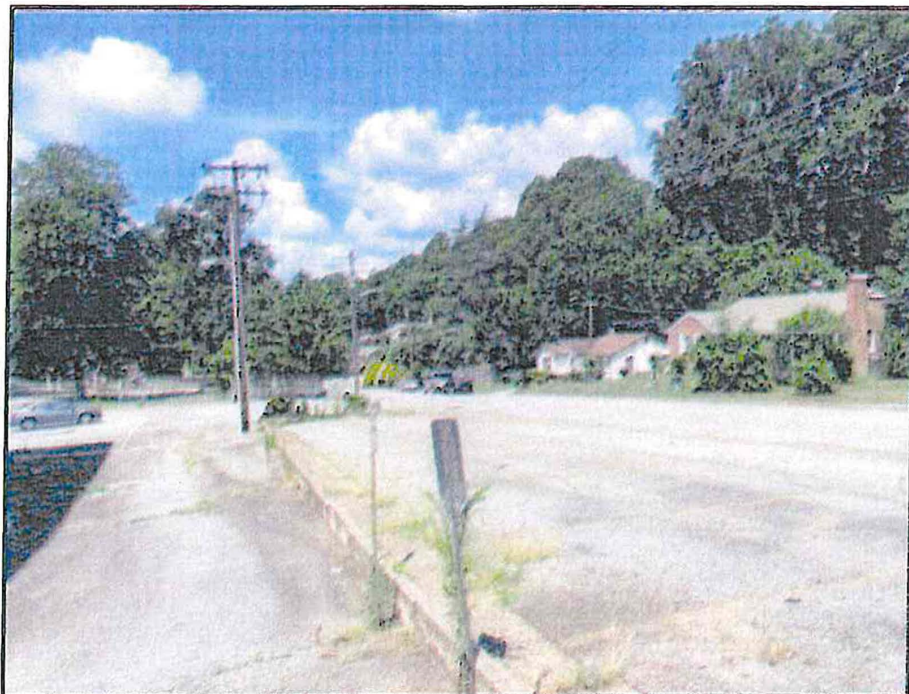


Above: Front of West Lenoir Elementary Auditorium where church service will take place

SITE PHOTOS CONT'D.



Above: Maple Street along front of West Lenoir Elementary facing neighborhood park towards Harper Avenue



Above: Poplar Street along side of West Lenoir Elementary

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 applicant does not intend to make any structural or physical changes to the building nor any additions to accommodate a cultural/religious facility use.*
2. All driveways will be designed with respect to such matters as proper ingress and egress for automobiles in order to minimize traffic congestion and increase pedestrian safety and conveniences. *The applicant will utilize the existing driveways to the existing parking areas. Off-street parking is large enough that it will limit traffic congestion in the neighborhood.*
3. Off-street parking and loading areas will be provided in compliance with the Zoning Ordinance. *The existing parking spaces will accommodate the applicant's parking needs and will be in compliance with the zoning ordinance.*
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. *All uses created by the church will be contained inside existing structures and will not affect surrounding areas in any way.*
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. *All landscaping is managed by the existing owners, HASO Holdings, and will comply with standards set out by the planning department concerning buffer standards (Sec. 712).*
6. Any permitted signs and proposed exterior lighting will be designed to reduce glare and to mitigate any adverse effects of sign size and height; so as to make the signs aesthetically pleasing and compatible with adjoining properties. *The applicant will use the existing signage incorporating the name and logo of the church, where necessary. Any exterior lighting will be incidental to the needs of the church use and will be fully shielded and cut off from spilling over onto residential property.*
7. The exterior architectural appearance and functional plan of any proposed building or structure will not vary greatly from any buildings or structures already construction or in the course of construction in the immediate vicinity or from the character of the applicable district, so as to cause a substantial depreciation in the property values of the immediate vicinity. *The applicant intends to wrap exterior doors in vinyl with Outcast Community Church logo displayed; a sign permit is required.. There will be no structural changes.*
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. *Sunday mornings are the hours of operation for the church and will always take place inside the building. There will be no neighbors affected unless they attend the church.*

STAFF RECOMMENDATIONS

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

1. *The applicant must maintain and improve upon landscaping where necessary on the site. A zoning permit will be required.*
2. *Any new lighting for the church use shall be fully cut-off and shielded so as to eliminate and minimize light spill-over onto adjacent residential properties.*
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. 817 (B-6 Transitional Business District Design Standards) of the Lenoir Zoning Ordinance.*

PLANNING BOARD RECOMMENDATIONS

Approval of the request, subject to the findings of fact and the conditions as recommended by staff.

APPENDIX A—APPLICANT'S RESPONSES

SPECIAL USE APPLICATION—PAGE 2

The Planning Board shall not recommend and the City Council shall not grant a request for a Special Use unless the requested use is (1) not detrimental to the public health or general welfare; (2) is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal and similar services; and (3) will not violate neighborhood character and not adversely affect surrounding land uses. To that end, the ordinance specifies criteria and standards that, when satisfied, allow the granting of the Special Use. In the spaces below, provide your responses as to how you believe your proposed project satisfies each of the standards. (Attach additional sheets as necessary.)

The Planning Board and City Council must find that ALL of the standards are met and may impose specific conditions to assure that the proposed use and its location will be harmonious with the area in which it is located and with the spirit of the zoning ordinance and to insure that the proposed use will not be detrimental to surrounding environment and property values.

Criteria for SUP approval

- (1) The proposed special use will comply with all height, yard, lot and area requirements and other regulations for the district in which it is located unless otherwise specified.
No structural or physical changes will be made to the existing building. Nothing added as well.
- (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.
We will utilize only the existing parking areas of the building.
- (3) Off-street parking will be provided in compliance with Section 1000 and off-street loading will be provided in compliance with Section 1001 of Lenoir's Zoning Ordinance.
~~None~~ The building has two designated parking areas and should not require additional spots.
- (4) The establish of the special use will not hinder the normal and orderly development and improvement of surrounding property for uses already permitted in the district.
All use will be contained inside the existing structure and will not affect any surrounding areas.
- (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.
All landscaping is managed by the existing owners HASS Holdings
- (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.
Any exterior signage will be limited to using the existing signs.
- (7) The exterior architectural appearance and function plan of any proposed building or structure will not vary greatly from any buildings or structures already constructed 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.
Our only plan is to wrap exterior doors in vinyl with our logo displayed. No structural changes at all.
- (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.
Use hours will be Sunday mornings and always contained inside the building. No effect on neighbors should be expected.

City of Lenoir

Resolution Authorizing Sale of Property

August 20, 2024

WHEREAS, the City of Lenoir owns certain property, the fire pump premises described as follows in that Special Warranty Deed at Volume 724, Page 296 ("the Property"):

Starting at a reference point, a point in the center line on the C and NW Railroad Track, said point also being in the center line of a 40 foot street leading from old Highway 321 in the International Paper Company line: thence two reference lines as follows: South 25°31 '09" East 20.00 feet to a point in the center of the railroad track; South 63°09'26" West 50.01 feet to an iron stake on the west right-of-way of the railroad track, the true point of beginning; thence with the right-of-way for two calls South 25°31 '09" East 30.90 feet to an iron stake: South 28°41 '3 l" East 9.10 feet to an iron stake; thence leaving the right-of- way for three new calls: South 68 °09'26" West 50.50 feet to an iron stake; North 25°31 '09" West 40.00 feet to an iron stake; North 63°09'26" East 50.00 feet to an iron stake, the true point of beginning, containing 2,002 square feet by coordinates as surveyed by Western Carolina Surveyors, T. R. Bishop, R.L.S., on the 2nd day of January, 1979;

And

WHEREAS, N.C. Gen. Stat. § 160A-269 permits the city to sell property by upset bid after receipt of an offer for the property; and

WHEREAS, the City has received an offer to purchase the Property described above, in the amount of \$1,000, submitted by Sealed Air Corporation of Hudson, NC; and

WHEREAS, the City followed the upset bid procedure required by N.C. Gen. Stat. § 160A-269 and received no additional offers for the Property.

THEREFORE, the City Council of the City of Lenoir resolves that:

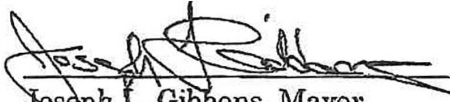
1. It authorizes the sale of the Property to Sealed Air Corporation.
2. The terms of the final sale are that:
 - a. The buyer must pay with cash or certified funds at the time of closing.

b. The buyer must assume all property taxes associated with the Property.

c. The buyer must pay all recording fees regarding the transfer of the Property from the City to the buyer.

d. The Property will be sold as-is, with no warranties other than warranties of title.

This 20th day of August, 2024.


Joseph L. Gibbons, Mayor

Attest:


Shirley M. Cannon, Clerk



AGREEMENT FOR ENGINEERING SERVICES

This AGREEMENT, made and entered into this the 20th day of August 2024, by and between the City of Lenoir (OWNER) and McGill Associates, P.A. (ENGINEER).

WHEREAS, the OWNER proposes to do certain work toward the accomplishment of the Project entitled Harper Avenue Sewer Replacement as generally described in Attachment "A", and

WHEREAS, the ENGINEER desires to render professional services in accordance with this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and benefits contained herein, it is hereby mutually understood and agreed as follows:

SECTION 1 - GENERAL SERVICES

The ENGINEER shall:

- 1.1. The ENGINEER shall, as directed by the OWNER, provide professional engineering services for the OWNER in all phases of the Project; serve as OWNER's professional engineering representative for the Project; and provide professional consultation and advice to OWNER during the performance of the services hereunder.
- 1.2. The ENGINEER shall provide all personnel required in performing the Project unless otherwise provided herein. Such personnel shall not be employees of or have any contractual relationship with the OWNER. All services rendered hereunder shall be performed by the ENGINEER or under his supervision and all personnel engaged in the Project shall be fully qualified under North Carolina law to perform such services.
- 1.3. The ENGINEER shall assist in the pursuit of obtaining approvals and permits from governmental authorities having jurisdiction over the Project, unless otherwise agreed to herein.
- 1.4. The ENGINEER shall seek and obtain authorization from the OWNER or the OWNER's assignee before proceeding with the Project, or before performing any Additional Services as described in Section 3, or before performing any other services which would not be included in the fee for Basic Services set forth in Section 6 hereof, subject to OWNER's right to terminate as herein provided.
- 1.5. The ENGINEER shall comply with applicable federal, state and local laws and regulations regarding equal employment opportunity. The ENGINEER is further obligated to include all requirements hereunder in any subcontract written by him in association with this Agreement.

SECTION 2 - BASIC SERVICES

2.1 DESIGN PHASE

- 2.1.1 Consult with the OWNER to discuss project objectives for concurrence and acceptance.
- 2.1.2 Conduct a route survey to provide topography of the proposed work area and to locate existing conflicts. The survey will include a determination of rim and invert elevations for existing manholes in the proposed work area, for the upstream manhole on each existing connecting sewer line, and for several downstream existing manholes.
- 2.1.3 Prepare planning documents including preliminary design, sewer routing, and design calculations.
- 2.1.4 Review preliminary design with OWNER for concurrence and acceptance.
- 2.1.5 Coordinate the provision of any subsurface investigation by others, if any, and assist with solicitations and preparing site maps identifying test locations.
- 2.1.6 Prepare bid documents, contract documents, technical specifications and construction drawings to detail the character and scope of the work including all design functions and coordination for all construction sequencing of the Project as determined in the Engineering Report.
- 2.1.7 Prepare and submit permit application and supporting documents to NCDEQ Division of Water Resources to assist in obtaining the construction approval.
- 2.1.8 Prepare and submit permit application and supporting documents to NCDEMLR Land Quality Section to assist in obtaining the erosion and sediment control approval, if required.
- 2.1.9 Respond to review agency comments and modify documents as necessary to achieve permit approvals, if required.
- 2.1.10 Prepare opinion of probable cost after submission of plans and specifications and advise the OWNER of any adjustment of the Project cost caused by changes in scope, design requirements or construction costs.
- 2.1.11 Furnish up to two (2) hard copies of the final design documents to the OWNER.

2.2 BIDDING AND AWARD PHASE

- 2.2.1 Assist the OWNER with informal bidding, receiving, opening and evaluating bids.
- 2.2.2 Consult with and advise the OWNER as to the acceptability of contractors and subcontractors and make recommendations as to the lowest, responsive, responsible bidder.
- 2.2.3 Assist the OWNER in the preparation and execution of construction contracts and in checking Performance and Payment Bonds and Insurance Certificates for compliance.

2.3 CONSTRUCTION PHASE

Upon successful completion of the Bidding and Award Phase, ENGINEER shall:

- 2.3.1 Schedule a Pre-Construction Conference with the OWNER, Contractor, ENGINEER and other applicable parties to assure discussion of all matters related to the Project. Prepare and distribute minutes of the Pre-Construction Conference to all parties.
- 2.3.2 Provide General Administration of Construction Contract. Consult with OWNER and act as OWNER's representative as provided in the General Conditions. The extent and limitations of the duties, responsibilities, and authority of ENGINEER as assigned in the General Conditions shall not be modified, except as ENGINEER may otherwise agree in writing. All of OWNER's instructions to Contractor will be issued through ENGINEER, which shall have authority to act on behalf of OWNER in dealings with Contractor to the extent provided in this Agreement and the General Conditions except as otherwise provided in writing. ENGINEER shall not be responsible for the acts or omissions of any Contractor, or of any subcontractors, suppliers, or other individuals or entities performing or furnishing any of the Work. ENGINEER shall not be responsible for the failure of any Contractor to perform or furnish the Work in accordance with the Contract Documents.
- 2.3.3 Provide a Construction Field Representative (CFR) to periodically observe the progress and quality of the executed work and to determine in general if the work is proceeding in accordance with the Contract Documents. During such visits and on the basis of on-site observations as an experienced and qualified design professional, keep the OWNER informed of the progress of the work, endeavor to guard the OWNER against defects and deficiencies in the work of the Contractor.
- 2.3.4 The total construction contract time is planned to be two (2) months. As part of this contract, field observation will be provided by a CFR on a part-time basis during active work. Additional CFR time or construction phase services provided beyond this timeframe will involve an increase in the payments to the ENGINEER as Additional Services under Section 3 of this Agreement.
- 2.3.5 The purpose of ENGINEER's visits and the representation by the Construction Field Representative, (CFR) at the Site, will be to enable ENGINEER to better carry out the duties and responsibilities assigned to and undertaken by ENGINEER during the Construction Phase, and, in addition, by the exercise of ENGINEER's efforts as an experienced and qualified design professional, to provide for OWNER a greater degree of confidence that the completed Work will conform in general to the Contract Documents and that Contractor has implemented and maintained the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents. ENGINEER shall not, during such visits or as a result of such observations of Contractor's Work in progress, supervise, direct, or have control over Contractor's Work, nor shall ENGINEER have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by Contractor, for security or safety on the Site, for safety precautions and programs incident to Contractor's Work, nor for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's furnishing and performing the Work. Accordingly, ENGINEER neither guarantees

the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform the Work in accordance with the Contract Documents. However, ENGINEER shall give prompt notice to the OWNER whenever ENGINEER observes or otherwise becomes aware of any defect in the Project or of any material deviation of Contractor's work from the Contract Documents.

2.3.6 Review and determine the acceptability of any schedules that Contractor is required to submit to ENGINEER, including Progress Schedule, Schedule of Submittals and Schedule of Values.

2.3.7 Review and take action in respect to Shop Drawings and Samples and other data which Contractor is required to submit, but only for conformance with the information given in the Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such reviews and any actions will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto. Review of Shop Drawings and Samples identified as frivolous in the General Conditions of the construction contract documents, or review of substitute materials as defined in the same, shall be deemed as Additional Services.

2.3.8 Schedule monthly construction progress meetings during active work periods with the OWNER, Contractor, ENGINEER and all other applicable parties discuss matters related to the Project. Prepare and distribute minutes of the meeting to all parties.

2.3.9 Based on ENGINEER's observations as an experienced and qualified design professional and on review of Applications for Payment and accompanying supporting documentation:

- a. Determine the amounts that ENGINEER recommends Contractor be paid. Such recommendations of payment will be in writing and will constitute ENGINEER's representation to OWNER, based on such observations and review, that, to the best of ENGINEER's knowledge, information and belief, Contractor's Work has progressed to the point indicated, the quality of such Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, and to any other qualifications stated in the recommendation), and the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is ENGINEER's responsibility to observe Contractor's Work. In the case of unit price work, ENGINEER's recommendations of payment will include final determinations of quantities and classifications of Contractor's Work (subject to any subsequent adjustments allowed by the Contract Documents).
- b. By recommending any payment, ENGINEER shall not thereby be deemed to have represented that observations made by ENGINEER to check the quality or quantity of Contractor's Work as it is performed and furnished have been exhaustive, extended to every aspect of Contractor's Work in progress, or involved detailed inspections of the Work beyond the responsibilities

specifically assigned to ENGINEER in this Agreement and the Contract Documents. Neither ENGINEER's review of Contractor's Work for the purposes of recommending payments nor ENGINEER's recommendation of any payment including final payment will impose on ENGINEER responsibility to supervise, direct, or control Contractor's Work in progress or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance with Laws and Regulations applicable to Contractor's furnishing and performing the Work. It will also not impose responsibility on ENGINEER to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or to determine that title to any portion of the Work in progress, materials, or equipment has passed to OWNER free and clear of any liens, claims, security interests, or encumbrances, or that there may not be other matters at issue between OWNER and Contractor that might affect the amount that should be paid.

- 2.3.10 Require such testing of Contractor's work as deemed reasonably necessary, and receive and review all certificates of inspections, tests, and approvals required by Laws and Regulations or the Contract Documents. ENGINEER's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Contract Documents. ENGINEER shall be entitled to rely on the results of such tests.
- 2.3.11 Recommend Change Orders and Work Change Directives to Owner, as appropriate, and prepare documentation as required.
- 2.3.12 Issue instructions to the Contractor from the OWNER as to interpretations and clarifications to the project design plans, specifications and contract documents.
- 2.3.13 Prepare information required to resolve problems due to actual field conditions and to respond to Requests for Information (RFI) from the Contractor.
- 2.3.14 Render formal written decisions on all duly submitted issues relating to the acceptability of Contractor's work or the interpretation of the requirements of the Contract Documents pertaining to the execution, performance, or progress of Contractor's Work; review each duly submitted Claim by OWNER or Contractor, and in writing either deny such Claim in whole or in part, approve such Claim, or decline to resolve such Claim if ENGINEER in its discretion concludes that to do so would be inappropriate. In rendering such decisions, ENGINEER shall be fair and not show partiality to OWNER or Contractor and shall not be liable in connection with any decision rendered in good faith in such capacity.
- 2.3.15 Recommend to OWNER that Contractor's Work be rejected while it is in progress if, on the basis of ENGINEER's observations, ENGINEER believes that such Work will not produce a completed Project that conforms generally to the Contract Documents or that it will threaten the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents.
- 2.3.16 Promptly after notice that Contractor considers the entire Work ready for its intended use, in company with OWNER, DWI, and Contractor, conduct a pre-final

observation site visit to determine if the Work is substantially complete. If after considering any objections of OWNER, ENGINEER considers the Work substantially complete, ENGINEER shall deliver a certificate of Substantial Completion to OWNER, DWI, and Contractor.

- 2.3.17 In company with OWNER's and DWI's representatives, conduct a final site visit to determine if the completed Work of Contractor is acceptable so that ENGINEER may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, ENGINEER shall also provide a notice that the Work is acceptable to the best of ENGINEER's knowledge, information, and belief and based on the extent of the services provided by ENGINEER under this Agreement.
- 2.3.18 Review Contractor's final application for payment and make recommendation as to approval once all issues with the project final observation site visit have been completed and resolved.
- 2.3.19 Prepare for the OWNER a set of record drawings showing changes made during the construction process, based on marked-up prints and other data furnished.
- 2.3.20 Provide or make available Project files and information to effect project closeout.

SECTION 3 - ADDITIONAL SERVICES

If authorized by the OWNER, the ENGINEER will furnish or obtain from others additional services of the following types, which are not considered Basic Services under this Agreement.

- 3.1 Additional services resulting from significant changes in general scope of the Project or its design including, but not limited to, changes in size, complexity, OWNER's schedule, or character of construction.
- 3.2 Revising previously approved studies, reports, design documents, drawings or specifications, when such revisions are due to causes beyond the control of the ENGINEER.
- 3.3 Providing geotechnical and subsurface investigations, archeological surveys and any other environmental site surveys necessary for the construction of the project.
- 3.4 Preparing easement maps or plats.
- 3.5 Preparing documents for alternate bids requested by the OWNER for work, which is not executed, or documents for out-of-sequence work other than agreed upon in the Design Phase.
- 3.6 Bidding the project multiple times either due to an insufficient number of bids, or due to the need or desire by the OWNER to re-bid the project.
- 3.7 Additional or extended services during construction made necessary by prolongation of the construction contract, award of multiple contracts, or default by the Contractor under any prime construction contract if such construction contract is delayed beyond the original completion date.
- 3.8 Review of Shop Drawings and Samples identified as frivolous in the General Conditions of the construction contract documents, or review of substitute materials as defined in the same General Conditions.
- 3.9 Preparing to serve or serving as a witness for the OWNER in any litigation, condemnation or other legal or administrative proceeding involving the Project.
- 3.10 Evaluation of unsuitable subgrade materials during construction.
- 3.11 Additional services in connection with the Project, including services normally furnished by OWNER and services not otherwise included in this Agreement.

SECTION 4 - OWNERS RESPONSIBILITIES

The OWNER shall:

- 4.1 Provide full information as to the requirements for the Project.
- 4.2 Assist the ENGINEER by placing at his disposal in a timely manner all available information pertinent to the Project including previous documents and plans and any other data relative to the evaluation, design, and construction of the Project. Subject to the generally accepted standard of care, ENGINEER and its consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to the OWNER.
- 4.3 Designate a person to act as OWNER's representative with respect to the work to be performed under this Agreement; and such person shall have complete authority to transmit instructions, receive information, interpret and define OWNER's policies and decisions pertinent to the services in this Agreement.
- 4.4 Examine all studies, reports, sketches, estimates, specifications, drawings, proposals and other documents presented by the ENGINEER and render decisions and comments pertaining thereto within a reasonable time so as not to delay the services of the ENGINEER.
- 4.5 Guarantee access to and make all provisions for the ENGINEER to enter upon public and private property as required for the ENGINEER to perform the services under this Agreement, provided the same does not unreasonably interfere with the operation of the existing facilities.
- 4.6 Obtain any right-of-way easements from public bodies, entities or persons necessary for satisfactory construction of the Project.
- 4.7 Obtain any subsurface geotechnical investigations or other types of testing and analysis needed for the Project.
- 4.8 Pay for permit fees, and all costs incidental to advertising for bids, and receiving bids or proposals from licensed Contractors.
- 4.9 Provide such legal, accounting and insurance counseling services as may be required for the Project, and such auditing services as may be required to ascertain how or for what purpose any Contractor will or has used the monies paid to him under the construction contract.
- 4.10 Give prompt notice to the ENGINEER whenever the OWNER observes or otherwise becomes aware of any defect in the Project.
- 4.11 Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project, subject to the obligations of the ENGINEER outlined in Sections 1.3 and 2.2 of this Agreement.
- 4.12 Furnish, or direct the ENGINEER to provide necessary Additional Services as stipulated in Section 3 of this Agreement or other services as required.
- 4.13 Bear all costs incident to compliance with the requirements of this Section 4, except where Contractor will assume responsibility for the same.

SECTION 5 - PERIOD OF SERVICES

- 5.1 Unless this Agreement has been terminated as provided in paragraph 7.1, the ENGINEER will be obligated to render services hereunder for a period, which may reasonably be required for the services described herein. The ENGINEER may decline to render further services hereunder if the OWNER fails to give prompt approval of the various phases as outlined. Upon receiving a written authorization to proceed, the ENGINEER shall provide the OWNER with a written schedule of completion for the services so authorized.
- 5.2 If the Project is delayed significantly for reasons beyond the ENGINEER's control, the various rates of compensation provided for elsewhere in this Agreement shall be subject to renegotiation.

SECTION 6 - PAYMENT TO THE ENGINEER

6.1 PAYMENT FOR BASIC SERVICES

- 6.1.1 The OWNER agrees to pay the ENGINEER for Basic Services as outlined in Section 2 of the following lump sum and hourly fees, inclusive of all reimbursable expenditures.

Design Phase	\$46,000
Bidding and Award Phase	\$5,000
Construction Phase	\$34,000

6.2 PAYMENT FOR ADDITIONAL SERVICES

- 6.2.1 The OWNER will pay the ENGINEER for Additional Services as outlined in Section 3 an amount based on actual time spent and expenses incurred by principals and employees of the ENGINEER assigned to the Project in accordance with the attached ENGINEER's standard rate and fee schedule Attachment "B", which is subject to update on an annual basis.

6.3 TIMES OF PAYMENT

- 6.3.1 The OWNER will make prompt monthly payments in response to the ENGINEER's monthly statements for services rendered under this Agreement.

6.4 GENERAL

- 6.4.1 If the OWNER fails to make any payment due the ENGINEER on account of his services and expenses within sixty days after receipt of the ENGINEER's bill therefor, the ENGINEER may, after giving seven days written notice to the OWNER, suspend services under this Agreement until he has been paid in full all amounts due him on account of his services and expenses.
- 6.4.2 If the Agreement is terminated at the completion of any phase of the Basic Services called for under Section 2, progress payment to be made to the ENGINEER on account of services rendered shall constitute total payment for services rendered. If this Agreement is terminated during any phase of the Basic Services, the ENGINEER shall be paid for services rendered on the basis of a reasonable estimate of the portion of such phase completed prior to termination. In the event of any termination, the ENGINEER will be paid for all his reasonable expenses resulting from such termination, and for unpaid reimbursable expenses.
- 6.4.3 If, prior to termination of this Agreement, any work performed by the ENGINEER, under Section 2, is suspended in whole or in part for more than three months or is abandoned, after written notice from the OWNER, the ENGINEER shall be paid for services performed prior to receipt of such notice from the OWNER as provided in paragraph 6.4.2 for termination during any phase of service.

SECTION 7 - GENERAL CONDITIONS

7.1 TERMINATION

- 7.1.1 The OWNER has the right to terminate this agreement for any reason, and without cause by providing fifteen (15) days written notice to the ENGINEER of such termination and specifying the effective date of such termination; provided, however, that during such period of ten (10) days the ENGINEER shall have the opportunity to remedy such failures or violations to avoid such termination.
- 7.1.2 In the event of termination, as provided herein, the ENGINEER shall be paid for all services performed and actual expenses incurred up to the date of termination pursuant to Section 6.4.2 herein.

7.2 OWNERSHIP OF DOCUMENTS

- 7.2.1 All documents, calculations, drawings, specifications, maps, field notes, data and other items generated during the performance of services shall be considered intellectual property and remain the property of the ENGINEER as instruments of service. After ENGINEER has been paid in full, the OWNER shall be provided a set of record drawings, and copies of other documents, in consideration of which the OWNER will use them solely in connection with the Project, and not for the purpose of making subsequent extensions or enlargements hereto and not for resale. Re-use for extension of the Project, or for new projects shall require written permission of the ENGINEER and shall entitle him to further compensation at a rate to be agreed upon by OWNER and ENGINEER at the time of such re-use.

7.3 CHOICE OF LAW

- 7.3.1 This Agreement shall be governed by the internal laws of the State of North Carolina.

7.4 OPINIONS OF PROBABLE COSTS

- 7.4.1 Since the ENGINEER has no control over the cost of labor, materials, or equipment, or over the Contractor(s)' methods of determining prices, or over competitive bidding or market conditions, the opinions of probable costs for the Project provided for herein are to be made on the basis of his experience and qualifications and represent his best judgment as a design professional familiar with the construction industry, but the ENGINEER cannot and does not guarantee that proposals, bids or the Project construction cost will not vary from opinions of probable costs prepared by him.
- 7.4.2 If the lowest bona fide proposal or bid exceeds the established Project construction cost limit, the OWNER will (1) give written approval to increase such cost limit, or (2) authorize negotiating or rebidding the project within a reasonable time. The providing of such service shall be the limit of the ENGINEER's responsibility in this regard and having done so, the ENGINEER shall be entitled to payment for his services in accordance with this Agreement.

7.5 INSURANCE AND CLAIMS

7.5.1 ENGINEER shall provide and maintain, at its own expense, during the term of this Agreement the following insurance covering its operations.

- A. AUTOMOBILE LIABILITY - Bodily injury and property damage liability insurance covering all owned, and hired automobiles for limits for bodily injury of not less than \$1,000,000 per person and \$2,000,000 per accident, and property damage limits of not less than \$1,000,000 per accident. The automobile liability insurance coverage amounts may be satisfied with a combination of primary and excess/umbrella coverage.
- B. COMMERCIAL GENERAL LIABILITY - Bodily injury and property damage liability shall protect the ENGINEER performing work under this Agreement from claims of bodily injury or property damage which arise from operation of this Agreement, whether such operations are performed by ENGINEER or anyone directly or indirectly working for or on ENGINEER'S behalf. The amounts of such insurance shall not be less than \$1,000,000 bodily injury each occurrence/\$2,000,000 aggregate and \$1,000,000 property damage each occurrence/\$2,000,000 aggregate. This insurance shall include coverage for products/completed operations, personal and advertising injury liability and contractual liability in an amount not less than \$1,000,000 each occurrence / \$2,000,000 aggregate. The liability insurance coverage amounts may be satisfied with a combination of primary and excess/umbrella coverage.
- C. PROFESSIONAL LIABILITY – Insuring against professional negligence/ errors and omissions on an occurrence basis with policy limits of \$2,000,000 per claim/\$2,000,000 annual aggregate.
- D. WORKERS' COMPENSATION – Worker's Compensation insurance meeting the statutory requirements of the State of North Carolina, even if not required by law to maintain such insurance. Said Workers' Compensation insurance shall have at least the following limits: Employers Liability - \$500,000 per accident limit, \$500,000 disease per policy limit, \$500,000 disease each employee limit.

7.5.2 ENGINEER's total liability, in the aggregate, of ENGINEER and ENGINEER's officers, directors, members, partners, agents, employees, and sub-consultants, to the OWNER and to anyone claiming by, through, or under OWNER for any and all claims, losses, cost, or damages whatsoever arising out of, resulting from, or in any way related to the Project, this Agreement, or ENGINEER's performance, from any cause including but not limited to negligence, professional errors or omissions, strict liability, breach of contract, or indemnity, shall not exceed the total insurance proceeds paid on behalf of or to ENGINEER by ENGINEER's insurers in settlement or satisfaction of claims under the terms and conditions of ENGINEER's insurance policies applicable thereto.

7.6 SUCCESSORS AND ASSIGNS

7.6.1 The OWNER and the ENGINEER each binds himself and his partners, successors, executors, administrators and assigns to the other party of this Agreement and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement; except as above, neither the OWNER nor the ENGINEER will assign, sublet or transfer his interest in this Agreement without

the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body which may be party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the OWNER and the ENGINEER.

7.7 INDEMNIFICATION

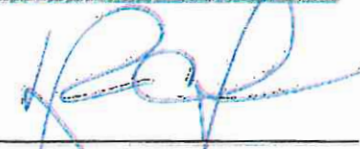
- 7.7.1 OWNER agrees to indemnify, defend and hold ENGINEER, its owners, agents, employees, officers, directors and subcontractors harmless from any and all claims, and costs brought against ENGINEER which arise in whole or in part out of the failure by the OWNER to promptly and completely perform its obligations under this agreement, and as assigned in the Exhibit "Scope of Services" and any Additional Services or from the inaccuracy or incompleteness of information supplied by the OWNER and reasonably relied upon by ENGINEER in performing its duties or for unauthorized use of the deliverables generated by ENGINEER.

7.8 ENTIRE AGREEMENT

- 7.8.1 This Agreement contains all of the agreements, representations and understandings of the parties hereto and supersedes any previous understandings, commitments, proposals, or agreements, whether oral or written, and may only be modified or amended as herein provided; and as mutually agreed.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as of the day and year first written above.

McGILL ASSOCIATES, P.A.

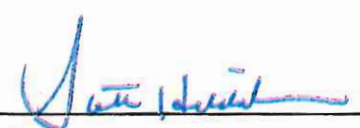
By: 

Douglas Chapman, PE
Principal – Hickory Office Manager

CITY OF LENOIR

ATTEST: 

Shirley M. Cannon
City Clerk

By: 

Scott Hildebran
City Manager

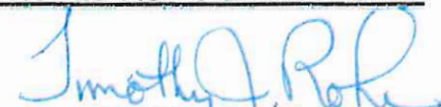
PRE-AUDIT CERTIFICATION:

THIS INSTRUMENT has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act as amended.

By: 

Donna Bean, Finance Director
City of Lenoir

APPROVED AS TO LEGAL FORM:

By: 

Timothy J. Rohr, Wilson Lackey, Rohr & Hall, P.C.
City Attorney



ATTACHMENT "A"

PROJECT UNDERSTANDING

HARPER AVENUE SEWER REPLACEMENT

The Harper Avenue Sewer Replacement project generally involves the replacement of approximately 1,400 linear feet of an existing 8-inch gravity sewer line that is a contributor to inflow and infiltration and has limited capacity due to insufficient pipe slopes. The proposed sewer is planned to parallel a tributary to Zacks Fork Creek and the existing sewer within the existing sewer easement. The sewer is expected to begin at the downstream end connecting to an existing sewer line located on NCPIN 2759079256 (Shields of Lenoir Inc), then extending northwest through the City's existing sewer easement to NCPIN 2749989016 (U Save Mart LLC), if funds allow. If easements are necessary for installation of the sewer line and/or to gain access to the existing sewer easement, the City will be notified.

ATTACHMENT "B"

FEE SCHEDULE



Shaping Communities Together

BASIC FEE SCHEDULE

July 2024

PROFESSIONAL FEES	I	II	III	IV
Senior Principal	\$300			
Principal – Regional Manager – Director	\$245	\$255	\$280	\$290
Practice Area Lead	\$220	\$240	\$270	\$280
Senior Project Manager	\$220	\$235	\$260	\$270
Senior Engineer	\$220	\$235	\$260	\$270
Project Manager	\$190	\$205	\$210	\$215
Senior Project Engineer	\$190	\$205	\$210	\$215
Project Engineer	\$155	\$165	\$175	\$185
Engineering Associate	\$135	\$140	\$145	\$150
Planner- Consultant – Designer	\$140	\$150	\$175	\$190
Engineering Technician	\$120	\$135	\$140	\$150
CAD Operator – GIS Analyst	\$100	\$110	\$120	\$130
Construction Services Manager	\$155	\$165	\$180	\$200
Construction Administrator	\$130	\$145	\$155	\$165
Financial Services Manager	\$140	\$150	\$160	\$170
Grant Administrator	\$125	\$140	\$150	\$160
Construction Field Representative	\$105	\$115	\$125	\$140
Environmental Specialist	\$105	\$115	\$120	\$125
Administrative Assistant	\$85	\$90	\$100	\$115
Survey Party Chief	\$100	\$115	\$130	\$150
Survey Field Technician	\$85	\$90	\$95	\$100

EXPENSES

- a. Mileage - \$0.70/mile
- b. Flow Monitoring Equipment: Pressure Flow Meter- \$400/wk.; Gravity Flow Meter - \$1,000/deployment
- c. Robotics/GPS Equipment: \$30/hr.
- d. Telephone, reproduction, postage, lodging, and other incidentals shall be a direct charge per receipt.

ASSOCIATED SERVICES

- a. Associated services required by the project such as soil analysis, materials testing, etc., shall be at cost plus ten (10) percent.



City of Lenoir
Parks and Recreation Department
Mulberry Recreation Center - Gymnasium Floor Replacement
Bid Tabulation - August 16, 2024



****NOT AWARDED****

Bidder	Base Bid	Alt. No. 1 (2nd Grade Maple)	Alt. No. 2 (Water- Based Sealer)	Total with Alternate No. 1
Motley Krue Construction	\$274,774.50	Not priced	Not priced	\$274,774.50
Floor Action (Superior Court Systems)	\$131,404.00	\$17,550.00	\$2,500.00	\$148,954.00
Sports Flooring Group	\$130,771.15	\$8,661.20	\$2,745.79	\$139,432.35

*Pricing is based upon the attached *Request for Proposals* dated August 13, 2024 (Rev. August 14, 2024)*

Base Bid includes Grade 3 maple flooring and polyethylene vapor barrier



CITY MANAGER
SCOTT E. HILDEBRAN

CITY OF LENOIR
NORTH CAROLINA

MAYOR
JOSEPH L. GIBBONS

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

City of Lenoir Resolution
Application for North Carolina Division of Parks & Recreation
Great Trails State Grant Program
OVT Connector and Support Building Project

WHEREAS, the City of Lenoir City Council has indicated its desire to assist in development efforts within the City; and,

WHEREAS, the City Council fully supports the proposed OVT Connector and Support Building Project which will result in construction of the Overmountain Victory National Historic Trail Connector and renovation of the City-owned building at 1129 West Avenue to provide public facilities to support the trail; and,

WHEREAS, the City Council wishes to pursue a formal application for a Great Trails State Grant in the amount of \$497,994.00 from the North Carolina Division of Parks & Recreation Great Trails State Grant Program and will contribute the required 1/3rd match (\$248,997.00) of the awarded amount; and,

NOW, THEREFORE, BE IT RESOLVED, by the City of Lenoir City Council:

That the City of Lenoir is authorized to submit a formal application to the North Carolina Division of Parks & Recreation Great Trails State Grant Program in order to provide assistance to benefit the OVT Connector and Support Building Project.

That this Resolution shall take effect immediately upon its adoption.

Adopted this the 20th day of August, 2024 in Lenoir, North Carolina.

SEAL



Joseph L. Gibbons, Mayor

ATTEST:



Shirley M. Cannon, City Clerk

