AGENDA

CITY OF LENOIR
CITY COUNCIL MEETING
905 WEST AVENUE
TUESDAY, MARCH 18, 2025
6:00 P.M.

I. CALL TO ORDER

A. Moment of Silence & Pledge of Allegiance

B. Introduction of the Police Department's K-9's by Police Chief Brent Phelps.

C. Special Recognition: On behalf of City Council, Mayor Gibbons will read and present a resolution to Doug Johnson, Chief Executive Officer, Blue Ridge Energy upon his retirement effective June 30, 2025 following 46 years of dedicated and outstanding service to the citizens and community. Mayor Gibbons will also present Mr. Johnson with a key to the City.

D. Special Recognition: On behalf of City Council, Mayor Gibbons will read and present a proclamation to representatives of Blue Ridge Energy and Duke Energy in honor and celebration of Linemen Appreciation Day which is recognized annually on Tuesday, April 18.

II. MATTERS SCHEDULED FOR PUBLIC HEARINGS

A. Conditional Rezoning Request; 1373 Delwood Drive SW: A public hearing will be held to consider a Conditional Zoning District (CZ-11) request as submitted by applicant Joe Bogdahn to convert the education building on the Whitnel United Methodist Church Site at 1373 Delwood Drive into a group dwelling, with other site improvements and development standards. Staff recommends approval of the Conditional Zoning Ordinance based on the following statement. The Planning Board also approves this rezoning request based upon the evidence presented to the Planning Board. Note: The six special conditions proposed for the CZ-11 Ordinance are listed on page four of the Staff Report included in the agenda packet.

Consistency Statement

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 calls for progressive and sound land use policies that take stakeholder interests into consideration in order to ensure that the City grows fairly, effectively, and efficiently. Additionally, the Comprehensive Plan calls for the promotion of housing for people in all stages of life, and the desire to build community character and revitalize neighborhoods. Whitnel is a focus neighborhood of the 2045 Comprehensive Plan and this workforce housing proposal is a legitimate step in the right direction. The proposed CZ-11 district is consistent with the Comprehensive Plan because it allows for intensification of development on this property, with a variety of housing types to meet the changing needs of Lenoir's residents of all ages.

III. CONSENT AGENDA ITEMS

A. Minutes: Approval of the minutes of the City Council meeting of Tuesday, March 4, 2025 as submitted.
B. Minutes: Approval of the minutes of the Committee of the Whole meeting of Tuesday, February 25, 2025 as submitted.
C. Minutes: Approval of the minutes of the City Council Budget Retreat meeting of Friday, February 28, 2025 as submitted.
D. Resolution; Doug Johnson: Approval of the resolution presented to Doug Johnson upon his retirement as Chief Executive Officer (CEO), Blue Ridge Energy.
E. Location Approval; Rotary Peace Pole at Rotary Soccer Complex: Staff recommends approval of placing a Rotary Peace Pole at the Rotary Soccer Complex as requested by Jamie Willis with United Way. Note: A Peace Pole is a monument that displays the message *May Peace Prevail on Earth in different languages on each of its four or six sides. There are estimated over 250,000 Peace Poles in every country in the world dedicated as monuments to peace. The pole will have languages in English, Spanish Vietnamese and Hebrew.*

IV. REQUESTS AND PETITIONS OF CITIZENS

V. REPORTS OF BOARDS AND COMMISSIONS

VI. REPORT AND RECOMMENDATIONS OF THE CITY MANAGER

A. Items of Information

1. The Planning Board will meet on Monday, March 24 at 5:30 p.m. at the City/County Chambers.
2. The Committee of the Whole will meet on Tuesday, March 25 at 8:30 a.m. at City Hall, Third Floor Conference Room.
3. The Foothills Regional Airport Authority will meet on Wednesday, March 25 at noon.

B. Items for Council Action

1. Bid Award; TIP# EB-5806 Hospital Avenue Sidewalk Project: Staff recommends City Council award the acceptance of the lowest responsive responsible bid for the Transportation Improvement Project #EB-5806 Hospital Avenue Sidewalk Project to Neill Grading and Construction Company, Inc. for the sum of $2,594,361 as submitted. Note: Additional background information regarding this project is described on the Council Action Form included in the agenda packet.

VII. REPORT AND RECOMMENDATIONS OF THE CITY ATTORNEY

VIII. REPORT AND RECOMMENDATIONS OF THE MAYOR

IX. REPORT AND RECOMMENDATIONS OF COUNCIL MEMBERS

X. ADJOURNMENT

City of Lenoir Police

Council Action Form

I. Agenda Item:

This agenda item calls for the Mayor to recognize and introduce the (3) newly acquired Lenoir Police Department's K9's.

II. Background Information:

Over the past months, the Lenoir Police Department has purchased and trained (3) new police K9's. These K9's and their handlers will progress the department's goals of providing a safe environment for our city residents and visitors alike.
K9 Genghis is a 3 year old English Springer Spaniel assigned to Officer Cesar Rubio
K9 Mia is a 3 year old German Shorthaired Pointer assigned to Officer Logan Barret
K9 Cezar is a 1.5 year old Belgian Shepherd assigned to Coporal Herbert Reid

Federal Asset Forfeiture funds was utilized for this purchase.

III. Staff Recommendation:

Staff recommends placing the three newly acquired police K9's into service with the Lenoir Police Department.

IV. Reviewed by:

City Attorney:_____ Date:_____

City Manager:_____ Date:_____

Police Chief:_____ Date: 03/14/2025

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

Resolution honoring Douglas Wayne Johnson

WHEREAS, Blue Ridge Energy is a member-owned electric cooperative utility serving some 80,000 members in Caldwell, Watauga, Ashe and Alleghany counties and part of Wilkes, Avery, and Alexander counties; and

WHEREAS, Douglas Wayne Johnson graduated from Appalachian State University with a Bachelor of Science in Business Administration, started working at Blue Ridge Energy in 1979, and took over as Chief Executive Officer of the cooperative ten years later in 1989; and

WHEREAS, during his 46-year career, Doug led the cooperative with great distinction and vision and implemented many improvements to grow the business; and

WHEREAS, those improvements included adding a propane and fuels subsidiary in 1998 as well as RidgeLink, a business-to-business dark fiber provider, both of which added jobs and vital services locally, and their success continues to help hold down member rates; and

WHEREAS, in 2003, Doug provided the leadership necessary for the cooperative to secure and manage its own wholesale power purchases rather than using outside entities, which has also benefitted members by helping hold down rates due to more favorable wholesale power cost; and

WHEREAS, Blue Ridge Energy is consistently ranked among the top five of all utilities across the nation for its customer service and has been recognized in the top quartile of all utilities in the nation for reliability; and

WHEREAS, Blue Ridge Energy has been a wonderful community partner and has assisted with financing City of Lenoir Fire Station 3, lighting at Mack Cook Stadium in Downtown Lenoir, has pledged financing for a new City of Lenoir fire engine, as well as numerous other projects in Caldwell County; and

WHEREAS, Douglas has announced his retirement from Blue Ridge Energy at the end of June 2025.

NOW THEREFORE BE IT RESOLVED, that I, Joseph L. Gibbons, Mayor, on behalf of the City of Lenoir City Council and all of our citizens, do hereby congratulate Douglas Wayne Johnson on his retirement and thank him for providing reliable electricity to residents and businesses in the city of Lenoir, Caldwell County and the region.

SEAL

THIS, the 18th day of March 2025.

Joseph L. Gibbons, Mayor

CITY MANAGER
SCOTT E. HILDEBRAN

CITY OF LENOIR
NORTH CAROLINA

MAYOR
JOSEPH L. GIBBONS

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

PROCLAMATION

Line Worker Appreciation Day

WHEREAS, on April 10, 2013, the United States Senate passed a resolution to recognize April 18 annually as National Lineman (Line Worker) Appreciation Day; and

WHEREAS, the profession of the electrical line worker is steeped in personal, family, and professional tradition; and

WHEREAS, line workers are often first responders during storms and other catastrophic events, working to make the scene safe for other public safety officials, and to expedite the return of vital electrical power to our communities; and

WHEREAS, these brave men and women work with thousands of volts of electricity high atop power lines 24 hours a day, 365 days a year, risking and sometimes losing their lives to keep electricity flowing; and

WHEREAS, line workers are often faced with dangerous conditions, far from their families, as they work to construct and maintain energy infrastructure throughout the State of North Carolina and the United States; and

WHEREAS, line workers must use their technical knowledge, physical strength and ingenuity to achieve success in challenges they face every day; and

WHEREAS, the City of Lenoir City Council thanks these skilled and heroic line workers who brave hurricanes, ice storms, snow storms, floods, and other natural disasters to maintain our community's energy grid.

NOW THEREFORE BE IT RESOLVED that I, Joseph L. Gibbons, Mayor, on behalf of the City of Lenoir Council and all of our citizens, do hereby proclaim Friday, April 18, 2025 as "Line Worker Appreciation Day" in the City of Lenoir, North Carolina.

SEAL

This the 18th day of March 2025.

Joseph L. Gibbons, Mayor

CITY OF LENOIR

COUNCIL ACTION FORM: March 18, 2025

I. Agenda Item:

Applicant Joe Bogdahn is requesting a Conditional Zoning District (CZ-11) to convert the education building on the Whitnel United Methodist Church Site at 1373 Delwood Drive into a group dwelling, with other site improvements and development standards.

II. Background Information:

The subject property, consisting of four (4) parcels totaling 4.17 acres, is zoned R-15 on three parcels and R-6 on the fourth parcel (the church). Whitnel United Methodist Church closed its doors in 2023 and Blowing Rock Country Club is seeking to provide dormitory-style living for seasonal employees between May and October.

CZ-11 would have R-6 as its base zoning district and would permit group housing in the education building on-premises as well as the following uses: single-family residential, Group Dwelling for 1-6 non-related residents in the parsonage house, Cultural and Community Facilities, Churches, Synagogues, and Mosques, Day Care Center, and Event Venue in the fellowship hall. Other site-specific standards have been proposed.

III. Staff and Planning Board Recommendation:

Planning Board recommends approval of the CZ-11 conditional zoning ordinance based on the following consistency statement:

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 calls for progressive and sound land use policies that take stakeholder interests into consideration in order to ensure that the City grows fairly, effectively, and efficiently. Additionally, the Comprehensive Plan calls for the promotion of housing for people in all stages of life, and the desire to build community character and revitalize neighborhoods. Whitnel is a focus neighborhood of the 2045 Comprehensive Plan and this workforce housing proposal is a legitimate step in the right direction. The proposed CZ-11 district is consistent with the Comprehensive Plan because it allows for intensification of development on this property, with a variety of housing types to meet the changing needs of Lenoir's residents of all ages.

IV. Reviewed by:

City Attorney: _____
Finance Director: _____
Planning Director: Hannah Williams _____

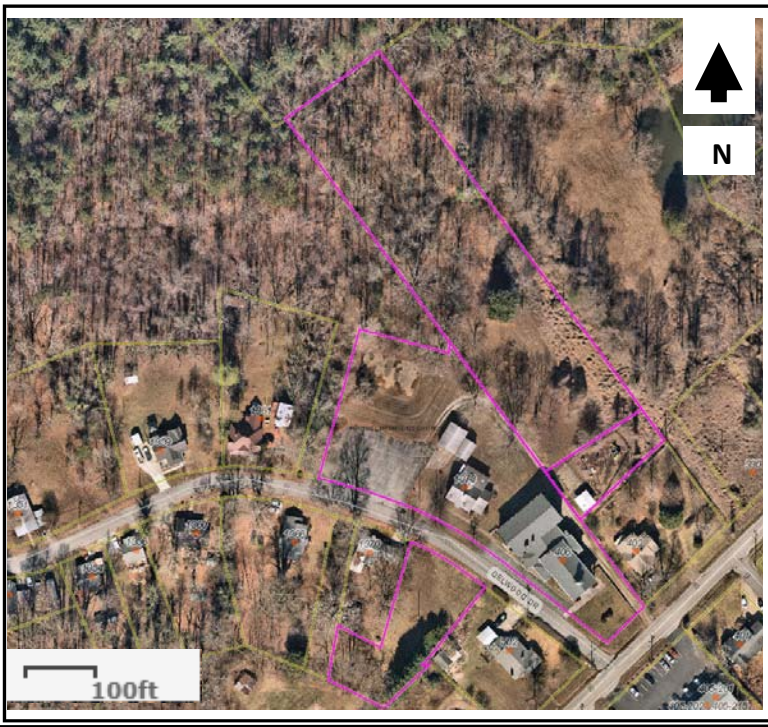
Staff Report

CONDITIONAL ZONING REQUEST

CASE NUMBER R #3-25

CITY OF LENOIR
PLANNING & COMMUNITY DEVELOPMENT

LOCATION MAP/AERIAL PHOTOGRAPH



1373 Delwood Drive

(Former Whitnel United Methodist Church)

Subject Property

SUMMARY

Owner

The Board of Trustees Western NC Conference United Methodist Church Inc. C/O Mark King

Applicant

Joe Bogdahn

Location

1373 Delwood Drive

NCPINs

2758173737, 2758174925, 2758175764, 2758173526

Project Planners

Hannah Williams, AICP, CZO
Matt Duchan, CZO

Updated February 14, 2025

Applicant's Request:

The applicant is requesting a Conditional Zoning District to convert the education building into a group dwelling, with other site improvements and development standards.

Staff Recommendation:

Approval of the requested conditional zoning district (CZ-11) ordinance, which is attached for reference.

Planning Board Recommendation:

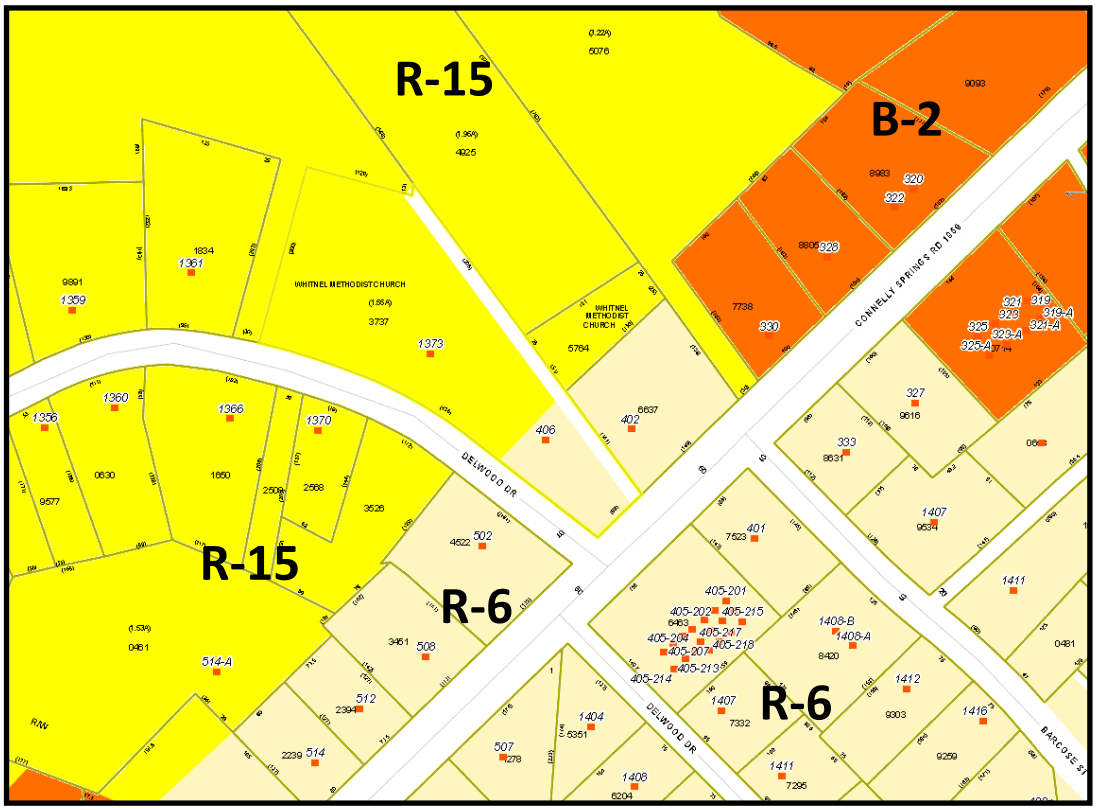
Approval of the request, based on the consistency statement on page 9.

Public Comment:

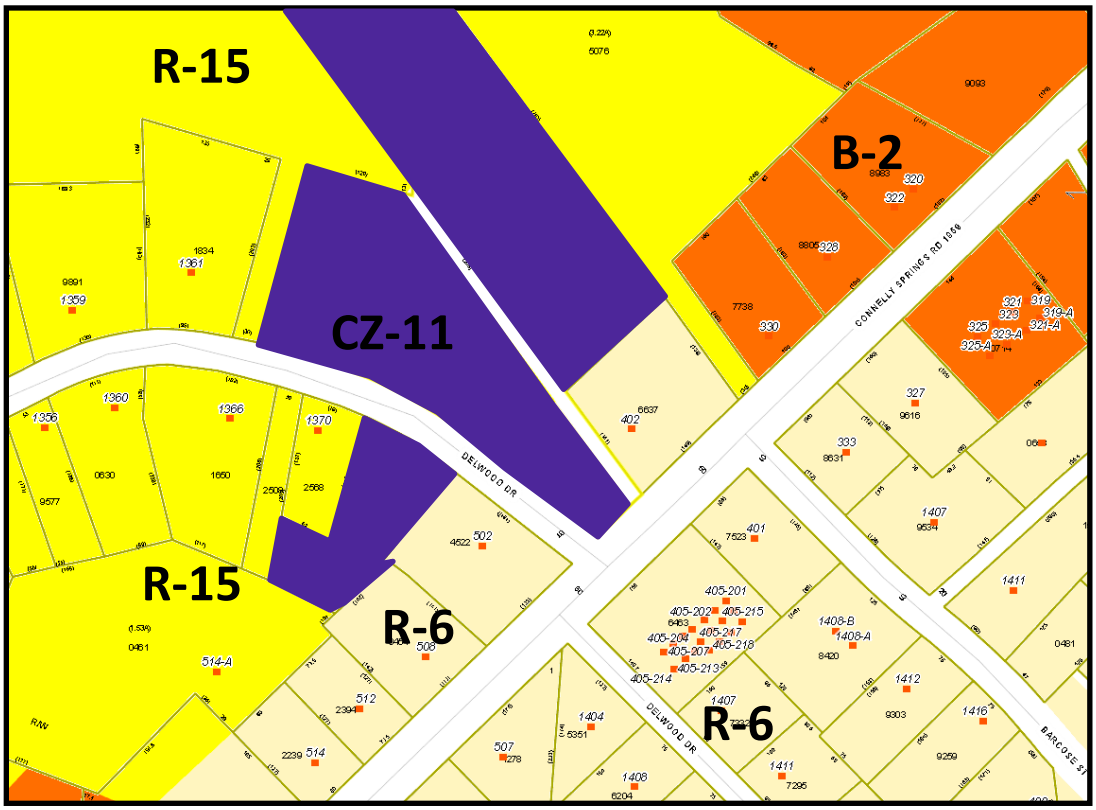
Planning Board Meeting: February 24, 2025. Notices were mailed to adjacent property owners on February 12, 2025.

City Council (Public Hearing): Scheduled for March 18, 2025.

EXISTING ZONING



PROPOSED ZONING



BACKGROUND AND ANALYSIS

Intent of Conditional Zoning

The City of Lenoir's Zoning Ordinance establishes an official zoning map/atlas for the City of Lenoir. The zoning map may be amended from time to time by the City Council when public necessity, convenience, general welfare, or good zoning practice justifies the amendment. The Conditional Zoning process is a process to amend the zoning map and associated district regulations intended for use in unique development scenarios when a development proposal does not fit into a conventional zoning district, but may be desirable and compatible with an area depending on the specific details of the project and its surroundings. The conditional zoning process gives the City sufficient flexibility to determine whether a specific project on a given site will be compatible with the environment and the Comprehensive Plan. In considering a request for a Conditional Zoning District, the Planning Board and City Council may approve conditions or use limitations that are mutually agreeable to the applicant, property owner, and the City, thereby establishing a realm of acceptability for the particular use that will be neither arbitrary nor capricious, and will address the interests of the landowners, neighbors, and the public. Conditional Zoning is a legislative process requiring the Planning Board to review and make a recommendation to the City Council on the request. The Conditional Zoning District is adopted as a map amendment and by ordinance.

Subject and Surrounding Properties

The subject property consists of four parcels, totaling 4.17 acres. The main parcel along Delwood Drive is 1.55 acres and consists of a sanctuary, a fellowship hall, and several classrooms. The northernmost parcel is 1.95 acres, zoned R-15, and is undeveloped. There are also several parking spaces along the parcel's frontage and a parking lot to the west of the buildings on-site. The parcel behind the church is .21 acres and features a playground, while the final parcel southwest of the church is .43 acres and undeveloped.

This property is in a primarily residential area. The properties to the south and west of the subject properties are zoned for single-family residential (R-15), while the properties to the immediate east of the property are zoned for high-density residential (R-6). There are multiple apartment complexes in the vicinity of the site. To the northeast towards the intersection of Connelly Springs Road and Norwood Street, properties are zoned for general business (B-2) along both Connelly Springs Road and Norwood Street. Most properties north along Norwood are single-family until Morganton Boulevard, while medium-density residential and business uses are more common along Norwood heading south towards the Joyceton area and Hudson.

History and Relevance to Comprehensive Plan

Whitnel United Methodist Church officially closed its doors on June 30, 2023, and was one of the original churches in operation in the City of Lenoir for well over 60 years. Whitnel is remembered by its residents as a bustling shopping and community hub in the region and a significant draw for Lenoir residents and beyond. In recent memory, Whitnel has assumed a peripheral role in Lenoir as a neighborhood with just a few shops and dining options, now serving as one of the focus neighborhoods in the 2045 Comprehensive Plan. This property will be identified as future high-density residential in the 2025 Future Land Use Map for the 2045 Comprehensive Plan.

Proposed Development

The applicant's main goal in acquiring the property is to provide workforce housing for Blowing Rock Country Club. He views the project to be constructed in three standalone phases. Phase 1 consists of converting the education building into 16 one– and two-bedroom dormitory-style units. He also proposes to update the parsonage house to be used as a traditional residence. Phase 2 consists of leasing the sanctuary space to be reused as several assembly-type uses, such as a church facility, daycare, preschool, or event venue. In Phase 3, the applicant proposes to develop the vacant tracts included in the purchase. He envisions building small residences for workforce housing, or to sell those homes individually to prospective buyers.

BACKGROUND AND ANALYSIS

Proposed Conditional Zoning District: CZ-11 Specific Standards

Special conditions proposed for CZ-11 ordinance:

1. **Base Zoning.** Base zoning district is R-6. Any development standards not specifically addressed in the Conditional Zoning Ordinance will default to the R-6 zoning district.

2. **Permitted Uses**. In addition to the uses allowed in the R-6 zoning district, the following additional uses are permitted:

    a. Building A: Low to High Density Multi-family, Group Dwelling for 7 or more non-related residents.

    b. Building B: Single Family Residential, Group Dwelling for 1-6 non-related residents.

    c. Building C: Cultural and Community Facilities, Churches, Synagogues, and Mosques, Day Care Center, Event Venue

        Event Venue shall be defined as a commercial establishment and associated grounds engaged in the hosting and production of pre-planned events like weddings, corporate parties, or reunions. Typical accessory uses include kitchens or meal preparation space, photography studios, facilities to accommodate live or recorded music, and on- and off-site parking.

    d. Undeveloped Lots: Lot D and Lot E have no additional permitted uses outside of the R-6 zoning district.

1. **Density.** Density of multi-family uses shall default to the R-6 zoning district. 7.2 du/acre is the density allowed by right, and 15 du/acre is the maximum density allowed with a Special Use Permit. For group dwellings that have shared kitchen facilities and common areas, with either single occupancy or shared occupancy rooms, two (2) beds shall be considered one dwelling unit.

2. **Minimum Lot Size and Frontage.** Parcels on the affected lots shall maintain the minimum lot size as identified in the City of Lenoir Zoning Ordinance. There shall be no public roadway frontage for individually platted residential lots (townhomes, bungalow court, patio homes) as long as the parent tract for the residential development maintains a minimum frontage of 25 ft on a public road. If private roads and/or common space are developed in conjunction with platted lots, a homeowner's association must be established to provide for the ongoing maintenance of private roads and common space.

3. **Ingress and Egress.** The access point along Delwood Drive shall be maintained, and shall be available for use by the existing buildings as well as future development on the site. A secondary access point must be provided for any development containing 30 or more residential units, which may be a private driveway off of Connelly Springs Road or Delwood Drive. A cross-access easement shall be required for use by both the upland acreage and the existing building.

4. **Lighting.** All new and replacement light fixtures shall be fully cut-off and shielded so as to prevent light spill-over onto adjacent residential properties.

5. **Design.** All new non-residential, attached single family, and multi-family structures and developments on the subject property must meet the Design Standards for Commercial, Office, Institutional, and Government Buildings in Section 714 of the code of ordinances. When a substantial improvement is made to any existing structure, the pre-existing portions of the building and building site must be brought into compliance with these design standards. These standards include but are not limited to building materials, building facades, customer/resident entrances, architectural features, parking, sidewalk, and landscaping.

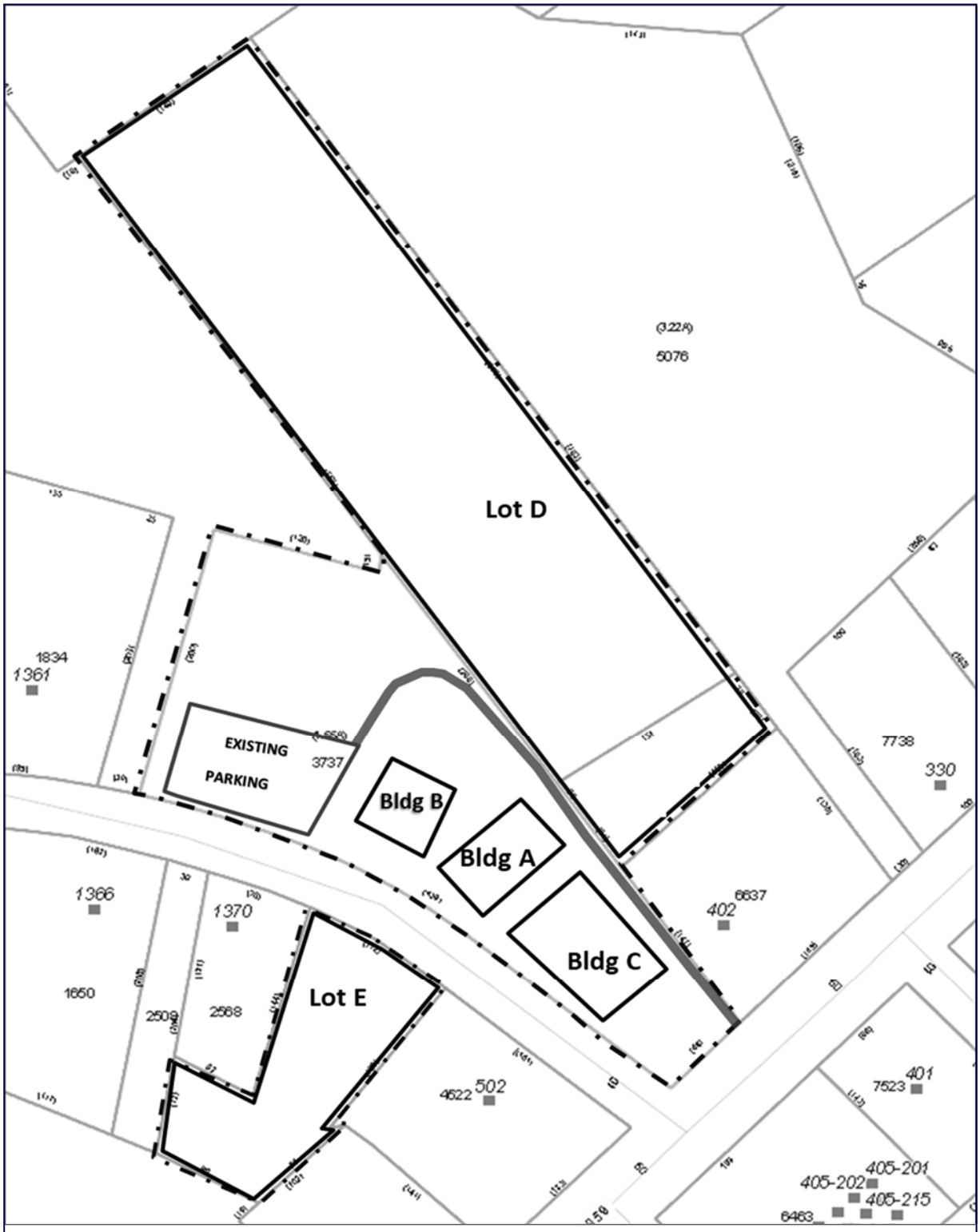
6. **Signage.** All development shall follow the sign standards for residential districts in Section 1108 of the sign ordinance. As needed, the developer of the property shall establish entrance signage to the group dwellings and other uses as development progresses that meet these standards.

BACKGROUND AND ANALYSIS

Comparison of Zoning Districts

	By-Right (R-15)	Current Proposal (CZ-11/R-6 Base Zoning)
Development Standards	Min Lot Size—15,000 SF for single-family Setbacks Front: 40' Side Yard: 15' (non-residential abutting residential, 30') Street Side Yard: 25' Minimum Rear Yard: 35'	Min Lot Size - 6,000 SF for single-family; 9,000 SF for multi-family Setbacks Front: 35' Side Yard: 10' Street Side Yard: 25' Minimum Rear Yard: 25'
Summary of Permitted Uses	Accessory Cottage or Apartment Attached Dwellings (Townhomes) Bungalow Court Dwelling, single-family detached Group Care Facility (1-6 non-related residents) Special Uses: Bed & Breakfast Communication Towers Cultural and Community Facilities Manufactured Home Parks (existing) Multi-Family, medium/high-density	Accessory Cottage or Apartment Attached Dwellings (Townhomes) Bungalow Court Cultural and Community Facilities Dwelling, single/two-family Day Care Centers Group Housing Manufactured Homes Multi-family, low-density (garden apartments) Zero Lot Line (single-family) Special Uses: Bed & Breakfast Communication Towers Group Care Facility (7+ residents) Group Housing (no care) (1-6 non-related residents) Manufactured Home Parks (existing) Multi-Family, medium/high-density Planned Residential Development Public Service Facilities

CONCEPT PLAN



Building A: Dormitory Building

Building B: Traditional House

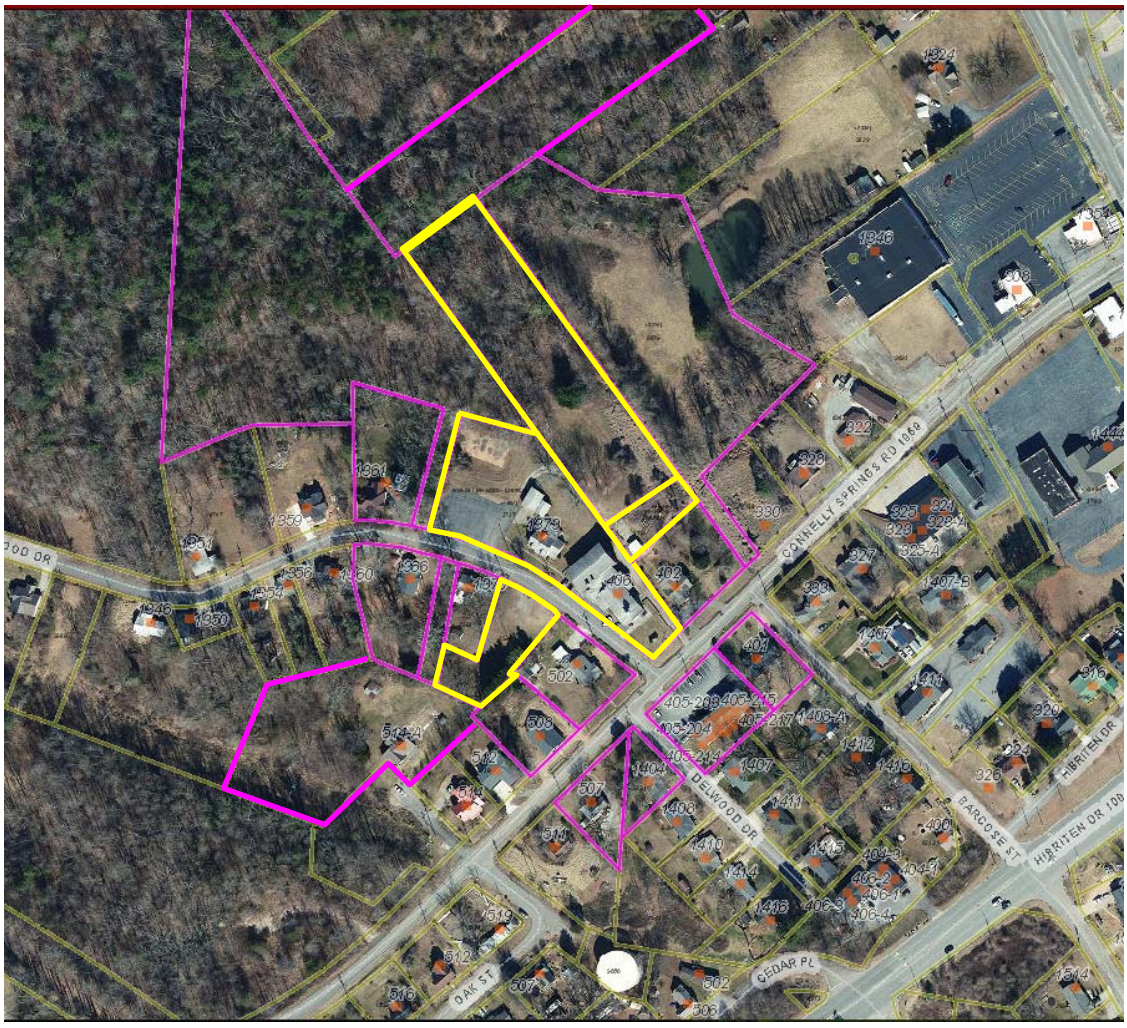
Building C: Sanctuary Conversion

Lot D: Potential redevelopment

Lot E: Potential redevelopment

Abutting Property Owners

Name(s)	Address	City	State	Zip Code
The Board of Trustees Western NC Conference United Methodist Church Inc.	PO BOX 2757	HUNTERSVILLE	NC	28070
James & Sara Ann Triplett	PO BOX 2152	LENOIR	NC	28645
Trustees of Joan H Livingston	1003 WELLINGTON CT	LENOIR	NC	28645
Helen Bradshaw	PO BOX 23	LENOIR	NC	28645
Eagleview Properties C/O Daniel De-santis	15708 EAGLEVIEW DR	CHARLOTTE	NC	28278
Joel Ixchajchal	401 CONNELLY SPRINGS RD	LENOIR	NC	28645
Yuk Fong Yue & Wing Yan Yuie	2627 GOSLING TERRACE RD	CHARLOTTE	NC	28262
Anna Griffin	1408 W CHELSEA AVE	DELAND	FL	32720
Tammy Auton	1366 DELWOOD DR SW	LENOIR	NC	28645
David Stallings	1361 DELWOOD DR	LENOIR	NC	28645
H&W Investors	44 DUKE STREET	GRANITE FALLS	NC	28630
William & Gladys Minton	PO BOX 168	LENOIR	NC	28645
Trustees of Edward & Carolyn Lutz	220 COUNTRYSIDE DR SE	LENOIR	NC	28645
KIDD ROGER	514A CONNELLY SPRINGS RD	LENOIR	NC	28645



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 calls for progressive and sound land use policies that take stakeholder interests into consideration in order to ensure that the City grows fairly, effectively, and efficiently. Additionally, the Comprehensive Plan calls for the promotion of housing for people in all stages of life, and the desire to build community character and revitalize neighborhoods. Whitnel is a focus neighborhood of the 2045 Comprehensive Plan and this workforce housing proposal is a legitimate step in the right direction. The proposed CZ-11 district is consistent with the Comprehensive Plan because it allows for intensification of development on this property, with a variety of housing types to meet the changing needs of Lenoir's residents of all ages.

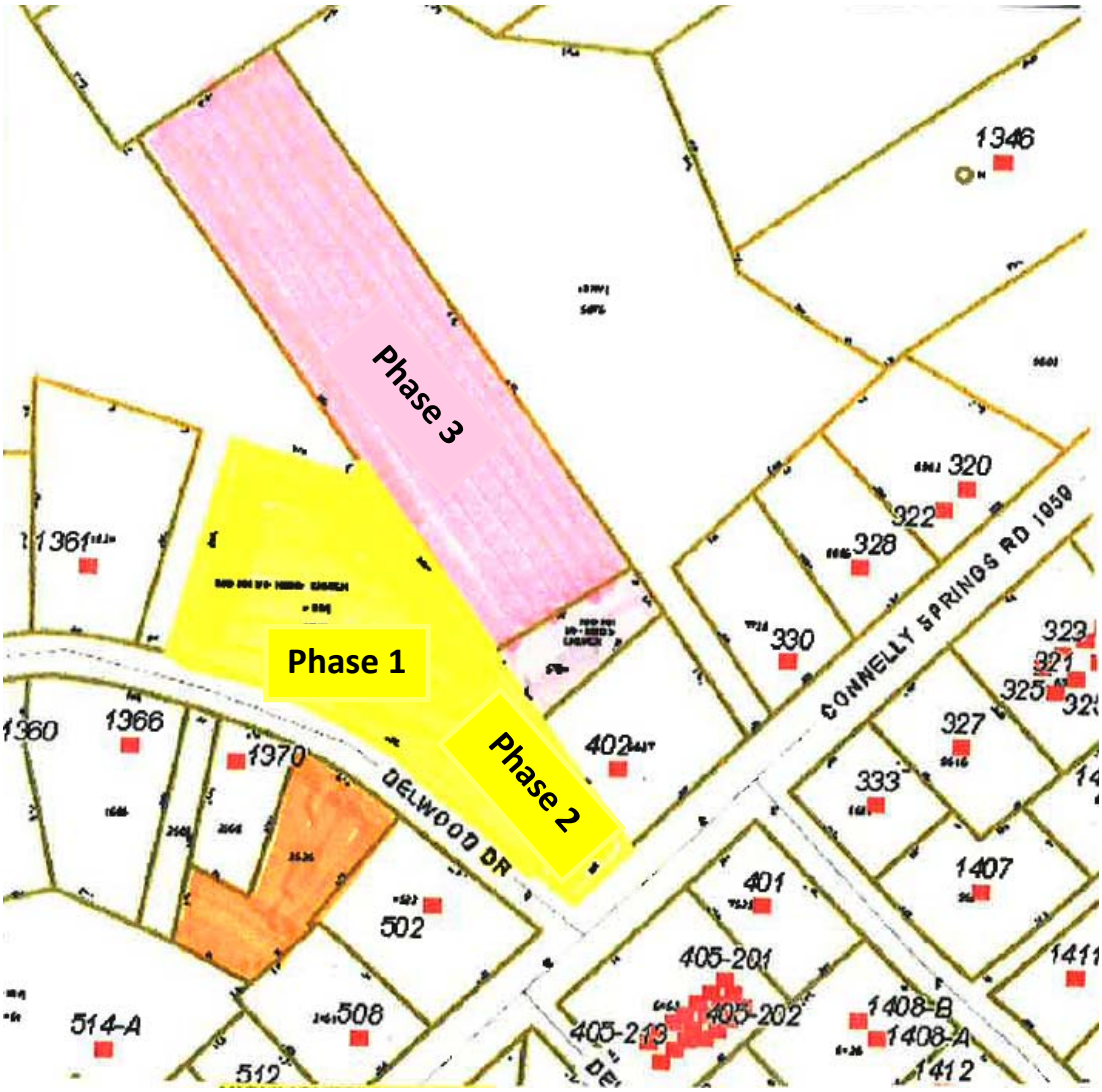
STAFF RECOMMENDATIONS

Staff recommends approval of the attached Conditional Zoning District (CZ-11) ordinance.

PLANNING BOARD RECOMMENDATIONS

Planning Board recommends approval of the Conditional Zoning District (CZ-11) based on the above consistency statement as presented at the Planning Board Meeting on February 24th.

CONCEPT PLAN SUBMITTED BY APPLICANT



Concept and Proposed Conditions.

- Phase One will update the existing buildings, with cosmetic updates to the existing home, and building new restrooms with showers within the same footprint of the restrooms on the main and upper floors of the education building. No major changes to the Sanctuary building. Access would be as currently situated, and building elevations would be unchanged.
- Phase Two would update the Sanctuary building to allow for use as a church, daycare or nursery school. Access would be as currently situated, and building elevations would be unchanged.
- Phase Three would be on Parcel 06152 1 4, where several 2BR1BA homes could be constructed. Access would either be through existing drive on Connelly Springs Road or modified to allow access through parking lot adjacent to the existing home off Delwood Drive.

LEGAL DESCRIPTION OF AFFECTED PROPERTIES

EXHIBIT A TO
NORTH CAROLINA SPECIAL WARRANTY DEED

Parcel 1A	**PIN 2758173737**	**Parcel ID 06152 1 1**	**1373 Delwood Drive, Lenoir**
Parcel 1B			
Parcel 2	**PIN 2758173526**	**Parcel ID 06152 2 7**	**Delwood Drive, Lenoir**
Parcel 3A	**PIN 2758175764**	**Parcel ID 06152 1 3**	**Off Delwood Drive, Lenoir**
Parcel 3B			
Parcel 4	**PIN 2758174925**	**Parcel ID 06152 1 4**	**371 Delwood Drive, Lenoir**

Parcel 1A

PIN 2758173737
Parcel ID 06152 1 1
Address: 1373 Delwood Drive, Lenoir

Tract 1: Being that property described at Deed Book 45 at Page 92, Deed 138 at Page 478, Deed Book 255 at Page 530, and Deed Book 315 at Page 512, all being recorded at the Caldwell County Registry of Deeds.

BEGINNING on a new ½ inch iron pipe on the northwest margin of the Connelly Springs Road (SR 1001), and also on the southwest side of a street which is shown on a plat recorded at Plat Book 1 at Page 66 in the Caldwell County Registry of Deeds, said BEGINNING POINT being located North 31° 28' 40" East 73.40 feet from a P.K. Nail in the center line of the Connelly Springs Road at the intersection of Delwood Drive and being located North 39° 02' 37" East 144.83 feet from a P.K. Nail found in the center line of the Connelly Springs Road at the intersection of Delwood Drive (leading to the southwest); thence from the POINT OF BEGINNING and with the northwest margin of the Connelly Springs Road South 46° 33' 27" West 58.26 feet to a new ½ inch iron pipe on the northwest margin of the Connelly Springs Road and the north right-of-way of Delwood Drive; thence with the north right-of-way of Delwood Drive for 8 calls: North 50° 33' 19" West 41.53 feet; North 49° 33' 03" West 56.36 feet; North 52° 08' 41" West 56.01 feet; North 53° 58' 14" West 57.16 feet; North 56° 50' 46" West 50.39 feet, North 61° 34' 45" West 51.86 feet; North 68° 31' 57" West 50.10 feet; North 75° 10' 48" West 106.88 feet to a point on the north right-of-way of Delwood Drive, a corner with that property belonging to David Stallings, a deed of which is recorded at Deed Book 1174 at Page 1336; thence leaving the road and with the Stallings property North 15° 36' 37" East, passing an existing ½ inch iron rod on line at 3.13 feet and continuing on the same bearing 216.87 feet, for a total distance along this bearing of 220.00 feet to a new ½ inch iron pipe, a corner with the David Stallings property and that property belonging to Weldon Stallings, a deed of which is recorded at Deed Book 648 at Page 482; thence with the Weldon Stallings property South 68° 41' 18" East 155.36 feet to a new ½ inch iron pipe, a corner with the Weldon Stallings property and on the southwest edge of a street shown at Plat Book 1 at Page 66 in the Caldwell County Registry of Deeds; thence with the southwest edge of the street South 35° 03' 18" East 420.49 feet to the POINT OF BEGINNING, containing 1.691 acres by coordinates.

LEGAL DESCRIPTION OF AFFECTED PROPERTIES

LESS AND EXCEPT the property conveyed to Donna Stallings Laws, Robin Stallings McRary, Jane Stallings Rose, and Tony Stallings in the Deed recorded in Book 1841 at Page 781, Caldwell County Registry, and being more fully described as follows:

The 30' Right of Way lying and being in Caldwell County, North Carolina, and being more particularly described as follows:

Beginning on a 7/8" pipe found in place, said pipe being the Northwest corner of Bk. 1499, Pg. 173, thence South 15 degrees 36 minutes 37 seconds West passing through a 1-1/2" pipe found in place at 216.97 feet a total distance of 220.10 feet to a point on the Northern side of Delwood Drive. Said R/W being 30' wide and running East and parallel of the above described line.

For further reference to the chain of title, see the Tract 1 of the Deed recorded in Book 1493 at Page 173 and the Deed recorded in Book 1841 at Page 780, Caldwell County Registry.

Parcel 1B

A certain tract or parcel of land containing 0.09 Acre lying in Lenoir Township, Caldwell County, NC and being more particularly described as follows:

Beginning on a 7/8" pipe found in place on the Northern side of SR 1001 (Connelly Springs Road), said pipe being the most Southern corner of Bk. 648, Pg. 482 and the most Southern corner of Pin #2758173737, thence leaving the Northern side of SR 1001 (Connelly Springs Road) North 35 degrees 04 minutes 50 seconds West 420.54 feet to a 7/8" pipe found in place, thence North 03 degrees 49 minutes 55 seconds East 13.33 feet to a 1-1/4" pipe found in place, thence South 35 degrees 45 minutes 35 seconds East 429.95 feet to a 1-1/2" pipe found in place on the Northern side of SR 1001 (Connelly Springs Road), thence with the Northern side of said road South 45 degrees 21 minutes 57 seconds West 12.18 feet to the point of Beginning. Containing 0.09 Acre by Coordinate Computation less Highway Right of Way. Actual field survey done under the direction and supervision of Richard C. Current, Pro. L. L-756. This description is subject to all notes on the plat of survey for Whitnel United Methodist Church (Job # C1304) dtd April 23, 2013 prepared by Current Surveying & Mapping, P.A.

For further reference to the chain of title, see the Deed recorded in Book 1841 at Page 780, Caldwell County Registry.

[Property Description Continues Next Page]

LEGAL DESCRIPTION OF AFFECTED PROPERTIES

Parcel 2

Parcel 2PIN 2758173526
Parcel ID 06152 2 7
Address: Delwood Drive, Lenoir

Tract 2: Being that property as described at Deed Book 663 at Page 264 at the Caldwell County Registry of Deeds.

BEGINNING on an existing ¾ inch iron pipe on the south margin of Delwood Drive and in a line with that property belonging to Clyde Coffey, a deed of which is recorded at Deed Book 1064 at Page 75 in the Caldwell County Registry of Deeds, said BEGINNING POINT being located North 55° 24' 44" West 200.86 feet from a P.K. Nail found in the center line of the Connelly Springs Road at the intersection of Delwood Drive, and being located North 34° 27' 18" 198.77 feet from a P.K. Nail found in the center line of the Connelly Springs Road at the intersection of Delwood Drive (leading to the southwest); thence from the POINT OF BEGINNING, and with the Coffey property South 38° 41' 37" West 127.01 feet to an existing ¾ inch iron rod, a corner with the Clyde Coffey property and that property belonging to Michael Edwards, a deed of which is recorded at Deed Book 1126 at Page 2096; thence with the Edwards property for 2 calls: North 55° 53' 59" West 4.75 feet to an existing ¾ inch rod; South 45° 47' 03" West 78.08 feet to an axle, a corner with the Edwards property and that property belonging to Woodrow Childers, a deed of which is recorded at Deed Book 914 at Page 738; thence with Childers North 62° 57' 43" West 89.23 feet to an existing ½ inch iron pipe, a corner with the Childers property and that property belonging to Inez Booth, a deed of which is recorded at Deed Book 935 at Page 503; thence with the Booth property North 17° 28' 23" East 69.96 feet to the center of a 36 inch sweetgum tree; a corner with the Booth property and that property belonging to John Griffin, a deed of which is recorded at Deed Book 251 at Page 609; thence with the Griffin property for 2 calls: South 60° 27' 06" East, passing a new ½ inch iron pipe on line at 10.00 feet and continuing on the same bearing 48.99 feet, for a total distance along this bearing of 58.99 feet to an existing 2 inch iron pipe; North 20° 00' 00" East, passing an existing ½ inch iron pipe on line at 143.85 feet and continuing on the same bearing 23.15 feet for a total distance along this bearing of 167.00 feet to a point near the north edge of Delwood Drive; thence South 50° 53' 19" East 122.37 feet to a point in Delwood Drive; thence South 38° 41' 37" West 8.99 feet to the POINT OF BEGINNING, containing 0.497 acres by coordinates.

For reference to the chain of title, see Tract 2 of the Deed recorded in Book 1499 at Page 173, Caldwell County Registry.

LEGAL DESCRIPTION OF AFFECTED PROPERTIES

Parcel 3A

PIN 2758175764
Parcel ID 06152 1 3
Address: Off Delwood Drive, Lenoir

Tract 3: Being that property belonging to Whitnel Methodist Church, a deed of which is recorded at Deed Book 289 at Page 42 and being Lot Number 7, Block E, of the J. Preston Rabb land, a plat of which is recorded at Plat Book 1 at Page 66; all being recorded in the Caldwell County Registry of Deeds.

BEGINNING on a point on the south side of a 30 foot right-of-way recorded at Plat Book 1 at Page 66 in the Caldwell County Registry of Deeds said BEGINNING POINT being a corner with that property belonging to Carl Walker, Jr., a deed of which is recorded at Deed Book 146 at Page 182 and said Walker property being Lot Number 8, Block ___, of the J. Preston Rabb land, a plat of which is recorded at Plat Book 1 at Page 66 in the Caldwell County Registry of Deeds, said BEGINNING POINT being located North 09° 03' 16" East 330.21 feet from a P.K. Nail found in the center line of the Connelly Springs Road at the intersection of Delwood Drive and being located North 15° 35' 05" East 390.32 feet from a P.K. Nail found in the center line of the Connelly Springs Road at the intersection of Delwood Drive (leading to the southwest); thence from the POINT OF BEGINNING and with the south side of a 30 foot right-of-way South 35° 03' 18" East 30.00 feet to an existing 1 inch iron pipe on the south side of the right-of-way, a corner with Lot Number 1 of the J. Preston Rabb land; thence with lots number 1, 2, 3, 4, 5, and 6 of the Rabb land South 44° 51' 56" West 152.99 feet to an existing ½ inch iron pipe, a corner with Lot Number 6 on the northeast edge of a street shown on the plat recorded at Plat Book 1 at Page 66; thence with the northeast edge of the street North 35° 03' 18" West 50.00 feet to a point on the northeast edge of the street, a corner with the aforementioned Carl Walker, Jr., property; thence with said Walker property North 52° 22' 09" East 150.78 feet to the POINT OF BEGINNING, containing 0.138 acres by coordinates.

[Property Description Continues Next Page]

LEGAL DESCRIPTION OF AFFECTED PROPERTIES

Parcel 3B

Tract 4: Being a part of that property belonging to Carl Walker, Jr., a deed of which is recorded at Book 146 at Page 182 and being Lot Number 8 as shown on a map of the J. Preston Rabb land, Block E, recorded at Plat Book 1 at Page 66 in the Caldwell County Registry of Deeds, being in the City of Lenoir, Lenoir Township, Caldwell County, North Carolina and being more particularly described as follows:

BEGINNING on a point on the south edge of a 30 foot right-of-way shown at Plat Book 1 at Page 66 in the Caldwell County Registry of Deeds, said BEGINNING POINT being a corner with that property belonging to Whitnel United Methodist Church, a deed of which is recorded at Deed Book 289 at Page 42, also recorded in the Caldwell County Registry of Deeds, said BEGINNING POINT being located North 09° 03' 16" East 330.21 feet from a P.K. Nail found in the center of the Connelly Springs Road at the intersection of Delwood Drive and being located North 15° 35' 05" East 390.32 feet from a P.K. Nail found in the center line of the Connelly Springs Road at the intersection of Delwood Drive (leading to the southwest); thence from the POINT OF BEGINNING and with the Whitnel United Methodist Church property South 52° 22' 09" West 150.78 feet to a point on the northeast edge of the street shown at Plat Book 1 at Page 66 in the Caldwell County Registry of Deeds, a corner with Whitnel United Methodist Church property; thence with the northeast edge of a street North 35° 03' 18" West 25.00 feet to a new ½ inch iron pipe, a corner with Lot Number 9 on the northeast edge of the street; thence leaving the street and with Lot Number 9 North 52° 22' 09" East 150.78 feet to a new ½ inch iron pipe, a corner with Lot Number 9 on the south side of a 30 foot wide right-of-way recorded at Plat Book 1 at Page 66; thence with the south side of the right-of-way South 35° 03' 18" East 25.00 feet to the POINT OF BEGINNING, containing 0.086 acres by coordinates.

[Property Description Continues Next Page]

LEGAL DESCRIPTION OF AFFECTED PROPERTIES

Parcel 4
PIN 2758174925
Parcel ID 06152 1 4
Address: 371 Delwood Drive, Lenoir

Lots Nos. 9 to 31 inclusive, in Block "E" as shown on plat of J. Preston Rabb land near Lenoir, made by James H. Isbell, surveyor, on November 9th, 1925, recorded in Plat Book No. 1, at page 66, to which map and the record thereof, reference is hereby made for greater certainty, said lots abutting on West Boundary Street, designated on said map, and said lots being thereon designated of the dimensions of 25 feet by 150 feet. Property also being known as 371 Delwood Dr. Lenoir, NC.

For reference to the chain of title, see the Deed recorded in Book 1820 at Page 454, Caldwell County Registry.

The foregoing properties are conveyed subject to all easements, restrictions and rights-of-way of record.

AN ORDINANCE OF THE CITY COUNCIL OF LENOIR, NORTH CAROLINA, DESIGNATING CERTAIN LAND AT THE NORTHEAST CORNER OF CONNELLY SPRINGS ROAD AND DELWOOD STREET, AND ALONG DELWOOD STREET COMPRISED OF 4.17 ACRES, MORE OR LESS, AS CONDITIONAL ZONING DISTRICT #11 (CZ-11) ON THE CITY'S OFFICIAL ZONING MAPS; DIRECTING AMENDMENT OF THE OFFICIAL ZONING MAP; PROVIDING FOR SEVERABILITY, AND AN EFFECTIVE DATE.

Whereas, at its regularly scheduled meeting on February 24, 2025, the Lenoir Planning Board considered zoning application case number CZ-11, requesting the Conditional Zoning district designation, for approximately 4.17 acres of land, described by the legal description attached to this ordinance as **Exhibit "A"** (hereinafter the "Property"); and

Whereas, the property owner desires to allow the re-use of the existing commercial building on the property, and provide for the development of the remainder of the property with multi-family housing, necessitating the need for Conditional Zoning; and

Whereas, based upon the evidence presented to the Lenoir Planning Board, including the information and analysis contained in the staff report for application case number CZ-11, and subject to certain conditions, the Lenoir Planning Board recommended that the Lenoir City Council approve said conditional zoning application and adopt an ordinance in accordance therewith; and

Whereas, the Lenoir Planning Board has found that approval of the application is consistent with the City's adopted Comprehensive Plan, which calls for creation of more housing opportunities for people at all stages of life and concentrating density away from environmental sensitive and flood-prone areas; and

Whereas, the Lenoir City Council hereby finds that this ordinance is consistent with the intent and purpose of the Conditional Zoning designation as established by Appendix A, Article V, Section 502, Lenoir City Code; and

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

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

SECTION 1. ZONING. After due notice and public hearing, and pursuant to Appendix A, Article XIV of the Lenoir City Code, and other relevant portions of the Lenoir City Code, the zoning designation for the Property is hereby changed from the R-15 and R-6 zoning districts to Conditional Zoning district on the City's Official Zoning Map (to be denoted as "CZ-11").

SECTION 2. OTHER DEVELOPMENT LAWS. Except as expressly provided otherwise by this ordinance, the CZ-11 zoning district remains subject to all applicable federal, state, and local laws, and nothing in this ordinance shall be construed to exempt the Property from the lawful authority or jurisdiction of any federal, state, or local agency.

SECTION 3. DEFAULT ZONING DISTRICT. Except as expressly provided otherwise by this ordinance, the Property shall be governed by the land development regulations of the R-6 zoning district.

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

1. **Concept Plan.** Subject to any modifications expressly contained in the text of this ordinance, development and maintenance of the Property must be consistent with the concept plan attached to this ordinance as **Exhibit "B"** (hereinafter the "Concept Plan"). In the event of a conflict between the text of this ordinance and the Concept Plan, the text of this ordinance shall control. References in this ordnance to lots, parcels, buildings, phases, and other development features refer to such features as identified on the Concept Plan.
2. **Variances.** Zoning variances to the standards of the default zoning district not modified by this ordinance may be approved pursuant to the procedures set forth in Appendix A, Article XIII, Section 1312.1 of the Lenoir City Code.
3. **Modification.** The special conditions specific to the CZ-11 zoning district may only be modified by application for a zoning map amendment following the procedures outlined in Appendix A, Article VIII, Section 820 of the Lenoir City Code.
4. **Permitted Uses.** In addition to the uses allowed in the R-6 zoning district, the following additional uses are permitted:
    a. Building A: Low to High Density Multi-family, Group Dwelling for 7 or more non-related residents.
    b. Building B: Single Family Residential, Group Dwelling for 1-6 non-related residents.
    c. Building C: Cultural and Community Facilities, Churches, Synagogues, and Mosques, Day Care Center, Event Venue
        i. Event Venue shall be defined as a commercial establishment and associated grounds engaged in the hosting and production of pre-planned events like weddings, corporate parties, or reunions. Typical accessory uses include kitchens or meal preparation space, photography studios, facilities to accommodate live or recorded music, and on- and off-site parking.
    d. Undeveloped Lots: Lot D and Lot E have no additional permitted uses outside of the R-6 zoning district.
5. **Density.** Density of multi-family uses shall default to the R-6 zoning district. 7.2 du/acre is the density allowed by right, and 15 du/acre is the maximum density allowed with a Special Use Permit. For group

dwellings that have shared kitchen facilities and common areas, with either single occupancy or shared occupancy rooms, two (2) beds shall be considered one dwelling unit.

6. **Minimum Lot Size and Frontage.** Parcels on the affected lots shall maintain the minimum lot size as identified in the City of Lenoir Zoning Ordinance. There shall be no public roadway frontage for individually platted residential lots (townhomes, bungalow court, patio homes) as long as the parent tract for the residential development maintains a minimum frontage of 25 ft on a public road. If private roads and/or common space are developed in conjunction with platted lots, a homeowner's association must be established to provide for the ongoing maintenance of private roads and common space.
7. **Ingress and Egress.** The access point along Delwood Drive shall be maintained, and shall be available for use by the existing buildings as well as future development on the site. A secondary access point must be provided for any development containing 30 or more residential units, which may be a private driveway off of Connelly Springs Road or Delwood Drive. A cross-access easement shall be required for use by both the upland acreage and the existing building.
8. **Lighting.** All new and replacement light fixtures shall be fully cut-off and shielded so as to prevent light spill-over onto adjacent residential properties.
9. **Design.** All new non-residential, attached single family, and multi-family structures and developments on the subject property must meet the Design Standards for Commercial, Office, Institutional, and Government Buildings in Section 714 of the code of ordinances. When a substantial improvement is made to any existing structure, the pre-existing portions of the building and building site must be brought into compliance with these design standards. These standards include but are not limited to building materials, building facades, customer/resident entrances, architectural features, parking, sidewalk, and landscaping.
10. **Signage.** All development shall follow the sign standards for residential districts in Section 1108 of the sign ordinance. As needed, the developer of the property shall establish entrance signage to the group dwellings and other uses as development progresses that meet these standards.

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

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

DONE, THE PUBLIC NOTICE, in a newspaper of general circulation in the City of Lenoir, North Carolina, by the City Clerk of the City of Lenoir, North Carolina, the 6th day of March and the 13th day of March, 2025.

DONE, THE PUBLIC HEARING, at a regular meeting, the 18th day of March, 2025.

DONE, ENACTED ON FINAL PASSAGE, by an affirmative vote of the a majority of a quorum present of the City Council of the City of Lenoir, North Carolina, at a regular meeting, this 18th day of March, 2025.

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

_____

Mayor/Mayor Pro Tempore

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

_____

City Clerk

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LENOIR CITY COUNCIL
TUESDAY, FEBRUARY 18, 2025
6:00 P.M.

PRESENT: Mayor Joe Gibbons presiding. Councilmembers present were Jonathan Beal, Ike Perkins, Todd Perdue, Ralph Prestwood, Kimmie Rogers, David Stevens, City Manager Scott Hildebran, City Clerk Shirley Cannon and City Attorney Timothy Rohr.

ABSENT: Councilmember Crissy Thomas.

CITY STAFF: In attendance was Finance Director Donna Bean, Fire Chief Norman Staines, Police Chief Brent Phelps, Police Major Andy Wilson, Planning Director Hannah Williams, Parks & Recreation Director Phil Harper, Public Services & Public Works Director Jon Hogan, Public Services Public Utilities Director Jeff Church, Economic Development Main Street Director Brenda Floyd, Director of Special Projects & Grants, Jared Wright and Public Information/Communication 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.

II. MATTERS SCHEDULED FOR PUBLIC HEARINGS

REZONING; 220 SUNSET ST. NW:

A. Rezoning; 220 Sunset Street NW: A public hearing was held to consider approval of the proposed rezoning of 220 Sunset Street NW, NCPIN# 2840940055, 0.71 acre and 25 additional parcels along Sunset Street and Calvary Place, from R-9 (Medium Density Residential) to R-6 (Medium and High Density Residential) as requested by applicant Marcus Sims, MWS Investments, LLC to accommodate a minor subdivision for two duplexes based on the following consistency statement. Planning Staff and the Planning Board are in approval of the request.

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's future land use map identifies this parcel as "existing high density residential", flanked by future commercial sites in the ETJ, existing low-density residential to the north, and non-commercial sites to the south. Staff finds the proposed rezoning to be consistent with the goals and policy concepts of the Comprehensive Plan, as this would establish and reinforce the presence of high-density residential in an area that calls for it.

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

Planning Director Hannah Williams stated the applicant plans to build two duplexes for a total of four units on the property. The two subject properties are 220 Sunset Street NW and Sunset Street and Calvary Place. Director Williams shared that the applicant plans to retain the house located on the property on a separate lot. She explained there was not enough square footage to build the duplexes in R-9 zoning as they require 15,000 square feet for each duplex and the | existing house requires 9,000 square feet. The R-6 district would allow the same development on 9,000 square foot parcels for the duplexes and a 6,000 square foot lot for the existing house.

Additionally, Director Williams explained the applicant could have garden apartments of 4 units in the R-9 zone. Two apartments could be accommodated with a different type of housing and this step would not require a rezoning.

Director Williams said that Planning Staff reviewed the neighborhood again to see if R-6 zoning may work for these properties and the additional twenty-five homes that connect with properties zoned as B-2 (General Business) on US Highway 321. She further reviewed a map of the properties zoned as R-9 which include churches, apartment complexes and a trailer park.

Director Williams reviewed two options for the Sunset Street and Calvary Place Rezoning and stated the Planning Board and Planning Staff approves Option 1 as follows:

Option 1	Option 2
Sunset St. and Calvary Place Twenty-five (25 Parcels)	220 Sunset St. NW only
• Currently zoned Medium Multi-family residential (R-9)	• Currently Zoned R-9
• Proposed to be rezoned to Medium and High Density Multifamily Residential (R-6)	• Proposed to be rezoned to R-6 The rezoning facilitates a minor subdivision that will result in two lots, and two proposed duplexes
• Rezoning to higher density closer to the US-321 corridor	• Spot Zone

As information, Director Williams clarified that spot zoning is legal in North Carolina as long as the rezoning is justified, reasonable and in the public interest. Also, she showed areas of properties that are zoned as R-6 and stated you can replace a single manufactured home in R-6 zoning. Director Williams also reviewed a table analyzing the density of the properties which is zoned existing high density and stated the rezoning proposal is in line with the current zoning.

Next, Director Williams explained there may be five vacant properties on the street and three smaller properties which would be brought into conformity. She reported that several of the Planning Board members were in favor of the proposal and several were against it.

A copy of the power point slides and the Staff Report were submitted as part of the record and are attached to these minutes.

The power point presentation includes the following information for the rezoning request:
1) Map of the two subject properties-Sunset Street NW & Sunset St. and Calvary Place
2) Map showing the proposed rezoning – Current R-9 and Proposed R-6
3) Map of surrounding area rezoning

4) Option 1 and Option 2 for Sunset St./Calvary Place Rezoning
5) Option 1 – Rezone the block to R-6
6) Option 2 – Spot Zone for Sunset Street
7) Photos of Sunset Street facing north and facing west
8) Existing and Proposed Zoning (R-9 Medium Density Multi-family and R-6 Medium to High Density Multi-family)
9) Existing and Proposed Density
10) Existing and Proposed Lot Development (existing R-9 and proposed R-6)
11) Recommendations and Statements along with Lenoir Future Land Use Map
12) List of Properties for rezoning to R-6

Director Williams further related this proposal is an up zoning and pointed out that if it were a down zoning, the properties could not be reversed back to R-9 without the approval of the property owners.

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

Upon a motion by Councilmember Perdue, City Council voted 6 to 0 to approve the rezoning case for 220 Sunset Street NW and 25 additional parcels from R-9 to R-6 and the consistency statement as recommended by Staff and Planning Board. City Council also moved to include the Staff Report for the record.

III. CONSENT AGENDA ITEMS

A. Minutes: Approval of the minutes of the City Council meeting of Tuesday, February 4, 2025, as submitted.
B. Design-Build Contract, Aquatics & Fitness Center Improvements: Staff recommends execution of the agreement, AIA Document A141-2014 with J.M. Cope, Inc. for Design-Build services for the 2022 PARTF Project – Lenoir Aquatic and Fitness Center Improvements interior renovation. The pre-construction services contract will be $25,000.00. The remainder of the project budget will be allocated to construction. (A copy of the contract is attached to these minutes as information.)
C. Surplus Property; Lenoir Police Department Disposal to Town of Glen Alpine Police Department: Pursuant to N.C.G.S. §160A-280, Donations of personal property to other governmental units, Staff recommends transferring the submitted list of surplus ballistic vests and helmets to the Glen Alpine Police Department for use in patrol and special response duties enhancing officer protection and operational capabilities. Note: These items are all past the manufacturer's 5-year warranty dates and Glen Alpine personnel are aware of the status of the warranty dates for these specific items. (A copy of the contract is attached to these minutes as information.)
D. Bid Award, Paving; Unity Park and Community Gardens: Following the review of bids submitted, Staff recommends awarding the bid to Asphalt Roads for the total sum of $58,000.00 for the paving of the parking lot and driveway of the Unity Park and Community Gardens. Asphalt Roads is appropriately licensed in the state of North Carolina, is adequately equipped to perform work of this nature and has completed many paving jobs throughout Caldwell County. (A copy of the bid award is attached to these minutes as information.)
E. Renewal; Side Street Pour House Café Permit: Staff recommends renewal of the Sidewalk Café Permit with the following conditions for Side Street Pour House Café (carried forward from the original approval):

1. The applicant must coordinate with the City's Public Works Director prior to modifying or installing any support structures for lights or awnings or modifying any enclosure fencing.
2. String lights installed over the sidewalk café are limited to white, non-blinking lights.
3. All provisions of Sec. 13-3(C) shall continue to apply to the use and operation of the sidewalk café area.
4. Current copy of Certificate of Liability Insurance naming the City as an additional insured must be provided to the Planning Department. (A copy of the Certificate of Insurance is attached to these minutes as information.)

Councilmember Perkins asked to further discuss Item C. on the Consent Agenda regarding the Police Department's request to surplus property to the Glen Alpine Police Department.

Councilmember Perkins asked if the City would have any liability due to the items being past the manufacturer's 5-year warranty dates.

Police Chief Brent Phelps explained that he discussed this issue with City Manager Scott Hildebran and Finance Director Donna Bean. Chief Phelps stated the Police Chief of Glen Alpine was a new chief with a small police department. He shared that they did not have much equipment and were glad to receive these items.

Chief Phelps further clarified that the City sent a letter to Glen Alpine's Police Chief stating that the City of Lenoir would not be held responsible for any issues due to the expired warranty and that the Chief responded back in writing certifying that he was aware the equipment was past warranty and the City of Lenoir would not be held accountable.

Also, Chief Phelps reported that being past the manufacturer's 5-year warranty date only means that the equipment is past warranty, but it is still functional.

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

IV. REQUESTS AND PETITIONS OF CITIZENS

COMMENTS; DOWNTOWN BUILDINGS: A. Shana Oakley, 305 Resaca Street, expressed concern about the empty buildings in the downtown area and mentioned how the owners could possibly put a display in their windows to make them more attractive and appealing. Ms. Oakley said she was passionate about downtown and suggested that Council consider having a plan in place to protect the vacant buildings.

Ms. Oakley also mentioned downtown did not have a play area for children. She shared that Dr. Terry owns the property of the former dog park site and he may possibly be interested in donating or leasing the property for a playground area.

On behalf of City Council, Mayor Gibbons thanked Ms. Oakley and said City Council would take her comments under advisement.

COMMENTS; KENTWOOD PARK: B. Crystal Moore, 537 Hill Street, addressed City Council about Kentwood Park that is located

behind Davenport Elementary School. Ms. Moore explained the park is not currently being maintained and needs a lot of work. Ms. Moore said she also spoke to school personnel about it and they informed her the park was owned by the City of Lenoir.

Mayor Gibbons responded the City has previously discussed the ownership of the park with the school system and that the park is owned by Caldwell County Schools. However, he reported the City would check into the matter and get back with her.

V. REPORTS OF BOARDS AND COMMISSIONS

VI. REPORT AND RECOMMENDATIONS OF THE CITY MANAGER

A. Items of Information

PLANNING BOARD:

1. The Planning Board will meet on Monday, February 24 at 5:30 p.m. at the City/County Chambers.

COMMITTEE OF THE WHOLE:

2. The Committee of the Whole will meet on Tuesday, February 25 at City Hall, Third Floor Conference Room.

FOOTHILLS REGIONAL AIRPORT AUTHORITY:

3. The Foothills Regional Airport Authority will meet on Wednesday, March 5 at noon at the Airport Facility.

CITY COUNCIL PLANNING RETREAT:

4. The City Council Planning Retreat will be held on Friday, February 28 at 8:30 a.m. at the Blue Ridge Energy meeting room.

B. Items for Council Action

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 6:35 p.m.

_____ _____

Shirley M. Cannon, City Clerk Joseph L. Gibbons, Mayor

City Council
Sunset Street Rezoning

February 18, 2025

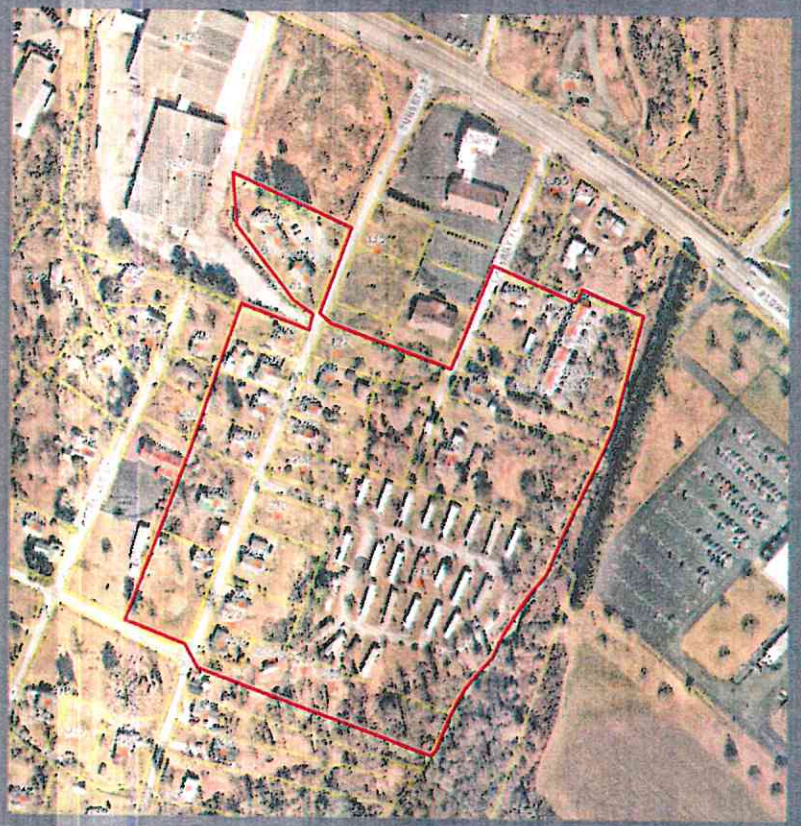
Case: Rezoning 2/25

Presented by Hannah Williams, AICP - Planning Director

Subject Properties

220 Sunset St NW

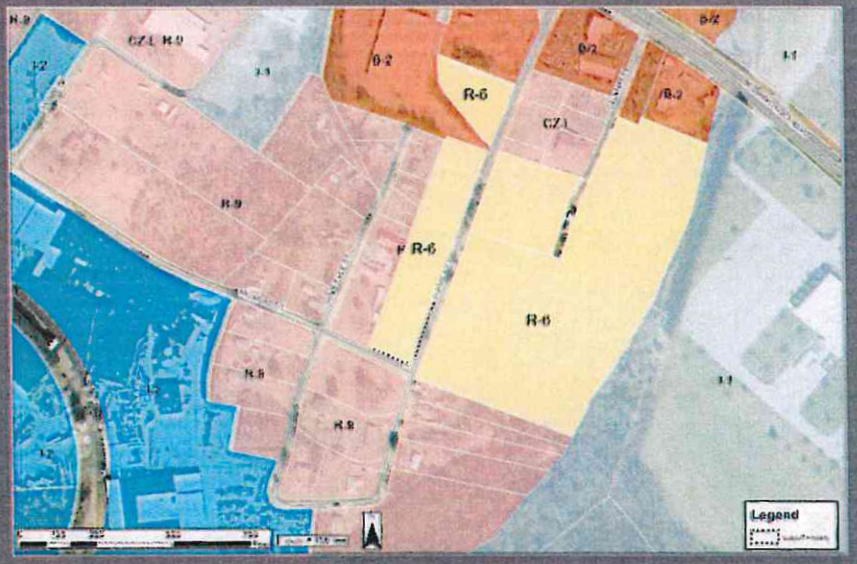
Sunset St and Calvary Pl



Proposed Rezoning

Current Zoning: R-9

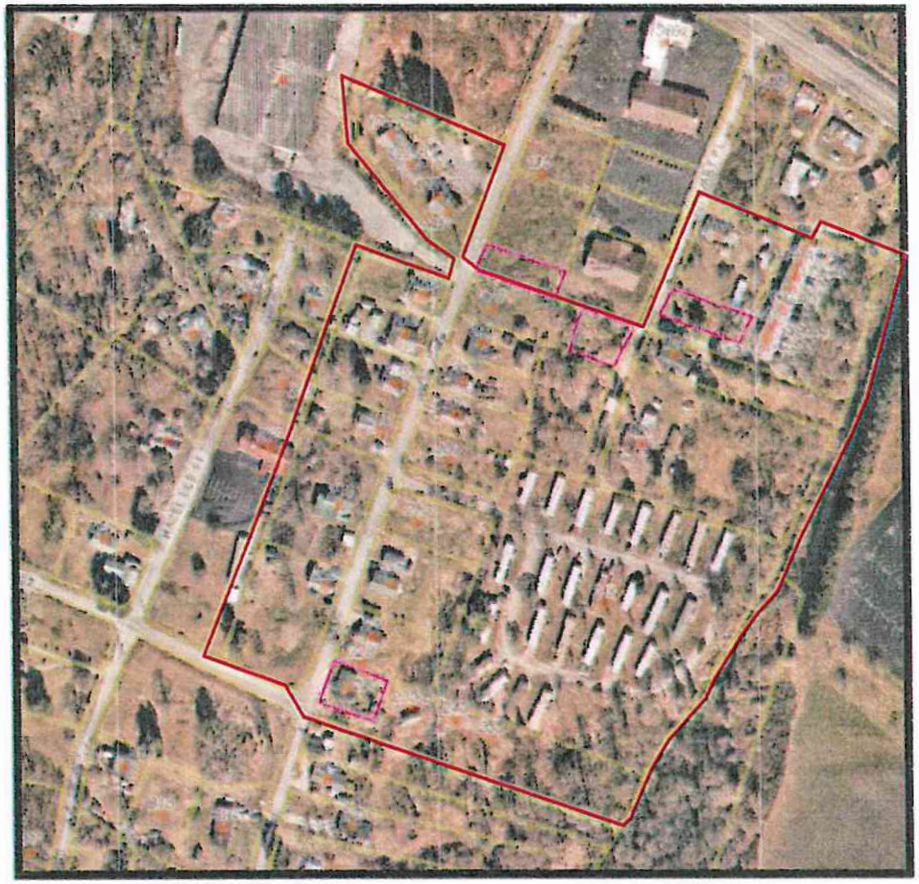
Proposed Zoning: R-6



Surrounding Area - Zoning

Option 1 – Rezone the Block

- Rezoning Sunset Pl to R-6
  - Changes lot size
    - Single Family: 6,000 SF
    - 2+ Family: 9,000 SF
  - Changes multi-family density
    - 7.2 Dwelling Units per Acre "by right"
    - 15 Dwelling Units per Acre with an SUP
  - "Fixes" some issues with existing non-conforming lots
    - Lot sizes
    - Calvary Pl Apartments



Properties identified under the minimum lot size in R-9 (< 9000 square feet)

Sunset St/Calvary Pl Rezoning

Option 1

- Sunset St and Calvary Pl
  - Twenty-five (25) Parcels
- Currently zoned Medium Multi-family residential (R-9)
- Proposed to be rezoned to Medium and High Density Multifamily Residential (R-6)
- Rezoning to higher density closer to the US-321 corridor

Option 2

- 220 Sunset St NW only
- Currently zoned R-9
- Proposed to be rezoned to R-6
- The rezoning facilitates a minor subdivision that will result in two lots, and two proposed duplexes
- Spot Zone

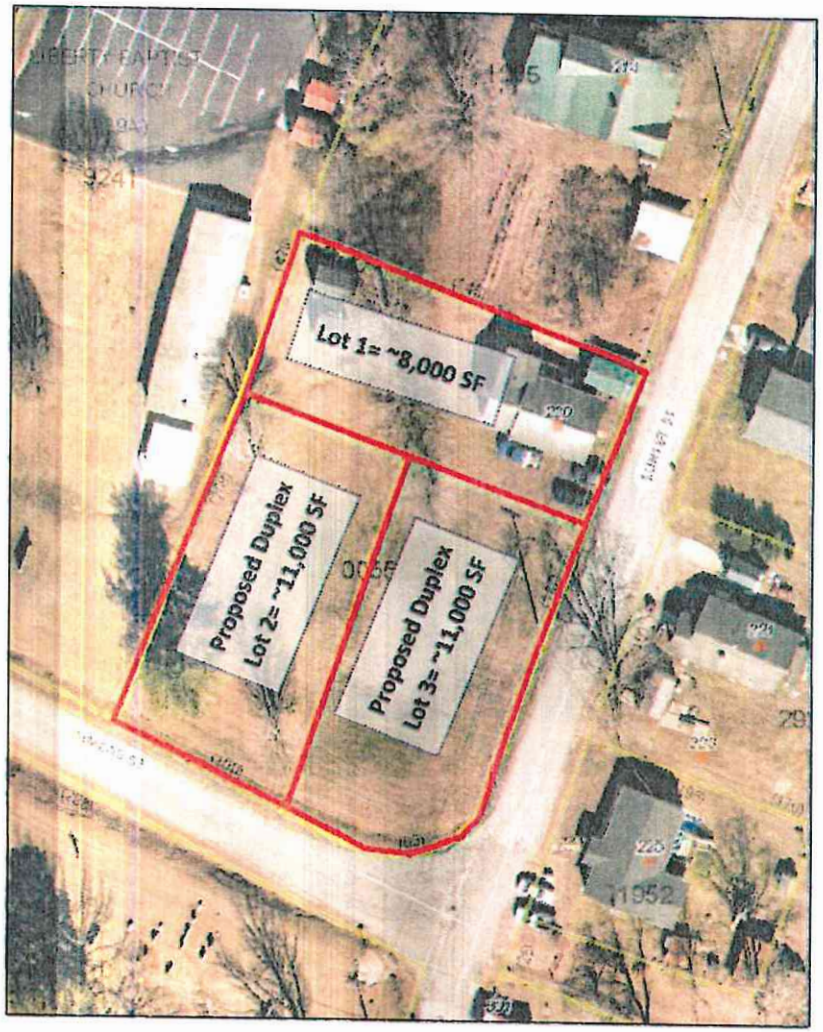
220 Sunset St

Facing North

Facing West

Option 2 – Spot Zone 220 Sunset St NW

- **Rezoning 220 Sunset St to R-6**
  - Reasonable "Spot Zone"
  - Proposed development shows rational connection to neighboring homes on Sunset St
  - Similar setbacks, lot sizes, and parking arrangement



Existing and Proposed Zoning

- **R-9 Medium Density Multifamily**
  - Accommodates "missing middle" housing at a medium density
  - Allows houses, duplexes, garden apartments, doublewides
  - Special uses: B&B's, Daycares, Churches, higher density apartments
  - Multi-family density: 4.8 to 9 Dwelling Units per Acre
- **R-6 Medium to High Density Multifamily**
  - Accommodates "missing middle" housing at a medium density
  - Allows houses, duplexes, garden apartments, doublewides, replacement singlewides *
  - Special uses: B&B's, Daycares, Churches, higher density apartments
  - Multi-family density: 7.2 to 15 Dwelling Units per Acre
  - *No singlewides to replace in the subject area outside of MHP

Existing and Proposed Density

	R-9	R-6
Low Density "By Right"	4.8 Dwelling Units per Acre	7.2 Dwelling Units per Acre
High Density w/ SUP	9 Dwelling Units per Acre	15 Dwelling Units per Acre

Note: Maximum densities do not apply to accessory apartments or any development of 4 or fewer total units (duplex, triplex, or quadplex developments).

Taken from Section 600, Permitted Use Chart, footnote A5 and Section 800, Table A & footnote A10

Existing and Proposed Lot Development

Existing R-9

- Min Lot Size—
  - 9,000 SF for single-family
  - 15,000 SF for multi-family
- Setbacks
  - Front: 35'
  - Side Yard: 12' (non-residential abutting residential, 30')
  - Street Side Yard: 25'
  - Minimum Rear Yard: 25'

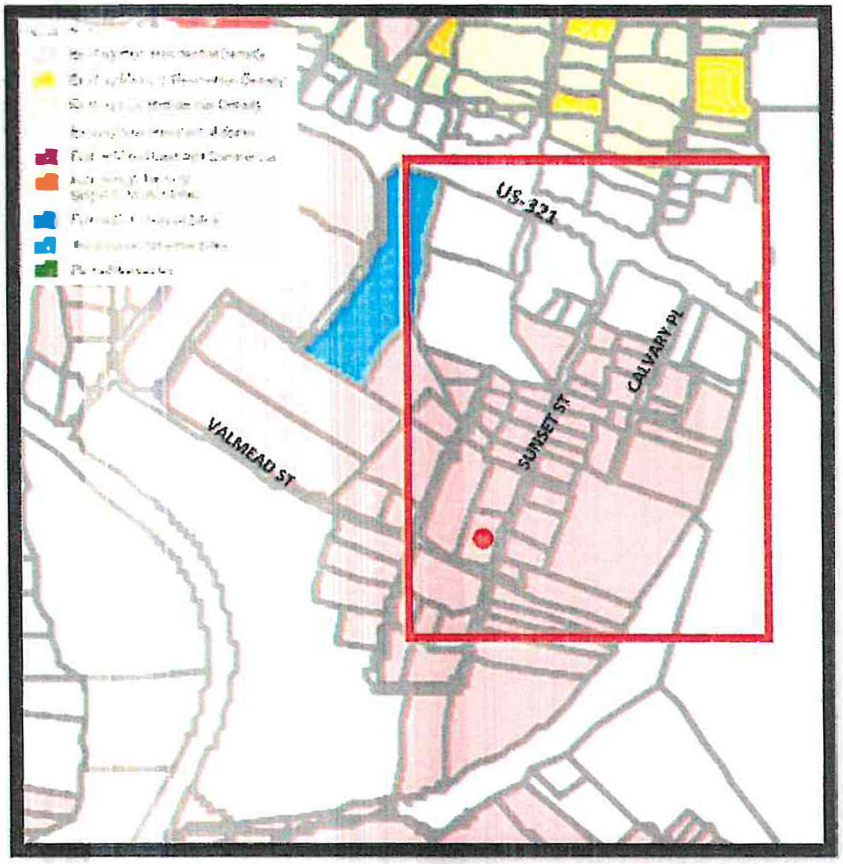
Proposed R-6

- Min Lot Size –
  - 6,000 SF for single-family
  - 9,000 SF for multi-family
- Setbacks
  - Front: 35'
  - Side Yard: 10'
  - Street Side Yard: 25'
  - Minimum Rear Yard: 25'

Recommendations and Statements

- Staff Recommendation
  - Approval of Request
  - Call for Public Hearing on February 18, 2025

- Consistency Statement
- 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's future land use map identifies this parcel/ area as "existing high density residential", flanked by future commercial sites in the ETJ, existing low-density residential to the north, and non-commercial sites to the south. Staff finds the proposed rezoning to be consistent with the goals and policy concepts of the Comprehensive Plan, as this would establish and reinforce the presence of high-density residential in an area that calls for it.



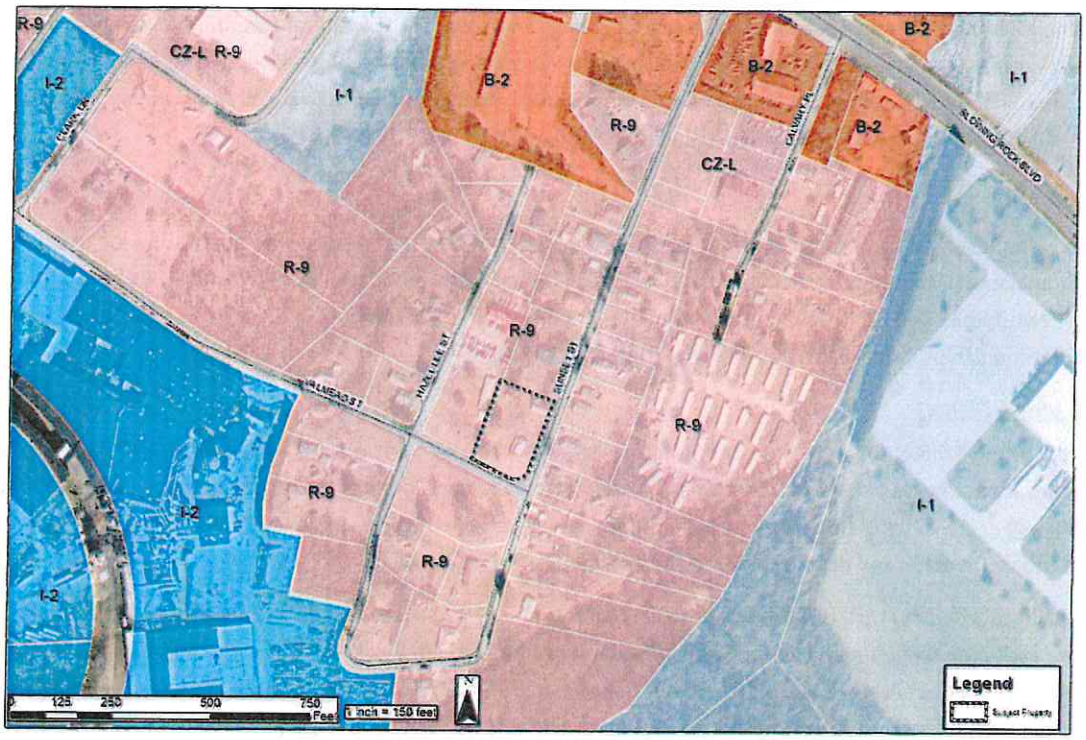
Lenoir Future Land Use Map

R 3-25 Rezone to R-6

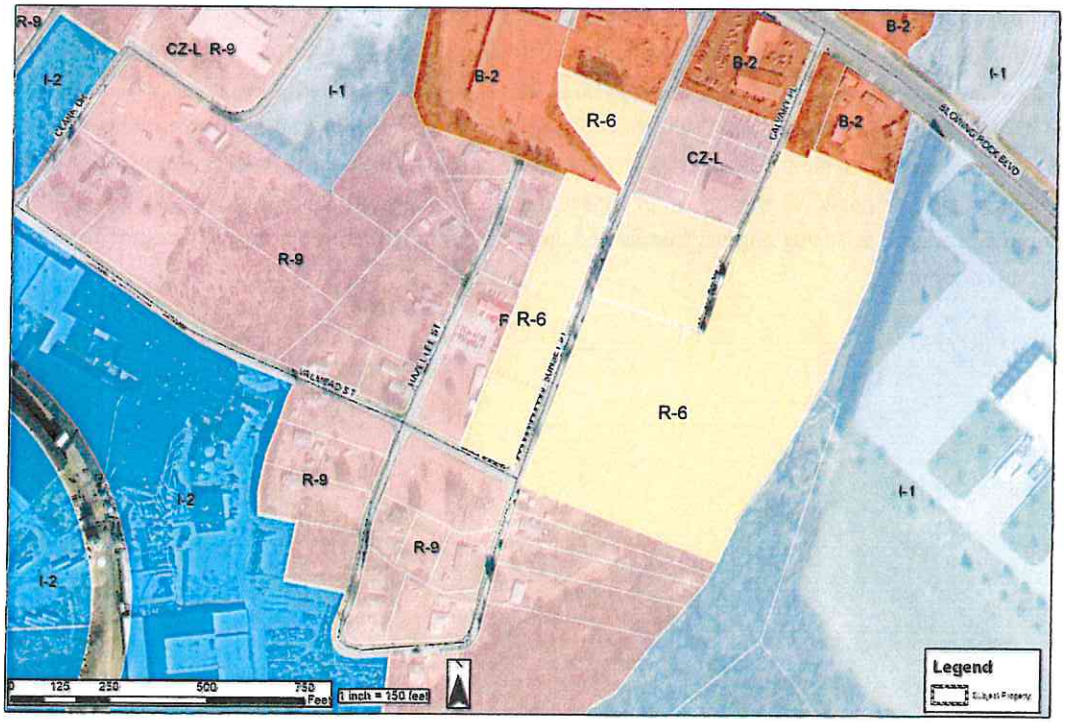
Name	Address	City	State	Zip	NCPIN
Ann Gragg	225 SUNSET ST NW	LENOIR	NC	28645	2840931952
Bobby & Adene James	PO BOX 2549 (127 Sunset St.)	LENOIR	NC	28645	2840944546, 2840945572
Caldwell Gardens Renewal LLC	11810 GRAND PARK AVE, SUITE 600 (122 Sunset St.)	ROCKVILLI	MD	20852	2840943801
Crystal Bryant	121 CALVARY PL	LENOIR	NC	28645	2840947494
David Hennson	201 SUNSET ST NW	LENOIR	NC	28645	284093590
Dorothy Hendrix	203 SUNSET ST NW	LENOIR	NC	28645	2840943484
Entrust Carolina LLC F/B/O Marcus !	PO Box 3495 (209 Sunset St.)	LENOIR	NC	28645	2840943342
Heather Gragg & Burlene Arnett	225 SUNSET ST	LENOIR	NC	28645	2840931952
Hubert & Helen Day	214 SUNSET ST NW	LENOIR	NC	28645	2840941205
JBRG LLC	135 COMMERCIAL CT NE	LENOIR	NC	28645	2840943526
Julian & Mary Baker	2310 HICKORY BLVD SW SUITE A (206 Sunset St.)	LENOIR	NC	28645	2840941496
Julio Garcia	106 CONLEY ST (113 Calvary Pl)	Morganto	NC	28655	2840947685
Larry & Arlene Soblotney	6155 VENICE CT (217 Sunset St)	HICKORY	NC	28601	2840942160
Louis & Cornelia Cornell	127 CALVARY PL NW	LENOIR	NC	28645	2840947546, 284097333, 2840945400
Madison & Natalie Crump	221/223 Sunset St.	LENOIR	NC	28645	2840932929
Marcus W. Sims	PO Box 3495 (211 Sunset St.)	LENOIR	NC	28648	2840945046
MWS Investments LLC	PO BOX 3495	LENOIR	NC	28645	2840940055
New Vision Trust Custodian FBO M	PO Box 3495	LENOIR	NC	28645	2840942290
Paula Gilbert	210 SUNSET ST NW	LENOIR	NC	28645	2840941367
Ricky & Cynthia Greene	202 SUNSET ST NW	Lenoir	NC	28645	2840942524
William & Karen Dickson	509 PINEHURST PL (205 Sunset St.)	LENOIR	NC	28645	2840943358

EXISTING AND PROPOSED ZONING MAPS

Existing Zoning: R-9



Proposed Zoning: R-6



BACKGROUND AND STAFF ANALYSIS

Zoning Map Amendments

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

Reason for Request

The applicant is requesting a zoning change from R-9 to R-6 in order to be able to subdivide an existing lot to build two duplexes. Under the current zoning, the lot is not large enough to subdivide and accommodate two duplex lots. Both R-9 and R-6 zoning districts allow for two-family and multi-family developments. The key difference between the two zoning districts is the minimum lot size (9,000 SF for multi-family in R-6; 15,000 SF for multi-family in R-9).

Intent of the Zoning Districts

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

R - 6 Residential (Multi-family) District is intended to establish and preserve areas of land within the city for medium and high density residences, including single family, doublewide manufactured homes, duplexes, townhomes, multi-family developments, and other compatible uses at appropriate densities. Higher density multi-family developments are allowed 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 at the intersection of Sunset Street and Valmead Street is .71 acres and can be accessed via Valmead Street coming from North Main Street or via Sunset Street coming from Blowing Rock Boulevard (US-321). The interior neighborhood is zoned R-9 on Sunset Street, Hazel Lee Street, and Calvary Place. There are two apartment complexes; one on Sunset Street with five units and one on Calvary Place with 12 units. which is considered non-conforming in the present zoning designation. The properties along US-321 are zoned B-2 (General Business), while properties to the south of the neighborhood are zoned I-2 (Heavy Industrial). The applicant owns a mobile home park off of Sunset Street called Sunset Manor, located at 211 Sunset Street. The neighborhood features a mix of stick-built single-family homes and doublewide manufactured homes in addition to the aforementioned two multi-family developments.

ZONING ANALYSIS

Minimum Lot Size

On the 220 Sunset site, the developer proposes to subdivide the lot into three lots: one lot for the existing house, and two lots for two new duplexes. Today, the existing lot is 30,990 square feet (.71 acres). Under the R-9 zoning, the single family house lot would be required to be 9,000 sq. ft., and each duplex lot would be required to have 15,000 square feet. The developer lacks around 8,000 square feet to accommodate his proposal under R-9 zoning.

In the R-6 zoning district, the single family house lot would be required to be 6,000 sq. ft., and each duplex lot would be required to have 9,000 square feet. To accomplish the proposal under R-6, the developer has more than enough land area to accommodate these minimum lot size standards. See illustration to the right, where each proposed resultant lot exceeds the minimum lot size requirement.

Approximation of proposed subdivision

Unit Count and Multi-family Densities

Under the current R-9 zoning, a quadplex (4-unit apartment building) is allowed by right on a 15,000 sq. ft. lot. The developer could achieve the same number of residential units as proposed if they were 4 attached apartments rather than detached duplexes. However, the developer desires to construct duplexes rather than apartments.

Aside from minimum lot sizes, there are a two major differences between R-9 and R-6. The first regards manufactured housing. While R-9 allows for doublewide manufactured homes on private lots, R-6 allows for doublewides and replacements of singlewide manufactured homes on private lots. In the proposed rezoning area, there are no singlewides outside of the existing manufactured home park, so there are no singlewides that will need replacing in the area. (Note: Manufactured Home Parks are permitted separately from manufactured homes on private lots.) The other major difference regards density—dwelling units per acre for multifamily complexes.

Dwelling units per acre vary between what is permitted "by right" as "low density" and what would be permitted with a Special Use Permit as high density. These numbers are different for R-9 and R-6, as illustrated in the table below and in the Zoning Ordinance:

	R-9	R-6
Low Density "By Right"	4.8 Dwelling Units per Acre	7.2 Dwelling Units per Acre
High Density w/ SUP	9 Dwelling Units per Acre	15 Dwelling Units per Acre

Note: Maximum densities do not apply to accessory apartments or any development of 4 or fewer total units (duplex, triplex, or quadplex developments).

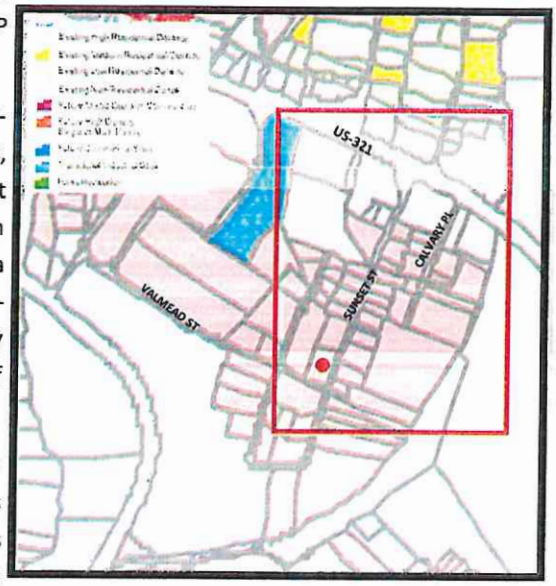
Taken from Section 600, Permitted Use Chart, footnote A5 and Section 800, Table A & footnote A10

ZONING ANALYSIS

Today under R-9 zoning, the subject property could have up to 4 multifamily units on .71 acres for a low density development. With an SUP, it could have up to 6 multifamily units. Under R-6 zoning, the property would be able to have 5 multifamily units by right. With an SUP, it could have up to 21 units. (Keep in mind, other factors, such as building height, landscaping, parking lots, and open space requirements can mitigate the amount of development allowed on a site.)

Rezoning the Block vs Spot Zoning

In considering the applicant's request to rezone his property, staff analyzed the area of Sunset Street to see if a spot zone was warranted, or if the neighborhood would also benefit from rezoning to R-6. Staff narrowed down the subject area to the streets with direct access onto US-321, in order to increase density near major transportation corridors. This neighborhood features small single family homes on small lots. Most of these lots, except for three, conform to the 9,000 sq. ft minimum lot size. Only one home conforms to the 35' front yard requirement, while the rest are within 20' of the road. There are two apartment complexes in the subject area. The one at 122 Sunset St has 5 units on .86 acres, resulting in a density of 5.8 units per acre—and conforms to the low density standard of the R-9 district. The other, 119 Calvary Place has 12 units on 1.14 acre, resulting in a density of 10.5 dwelling units per acre. This exceeds the maximum density allowed in R-9, but would be considered medium to high density in R-6. This complex would require an SUP today.



Lenoir Future Land Use Map

There is precedent in Lenoir for rezoning several properties in one neighborhood to accommodate a new development on one property in Lenoir (R 2-19, Summit Pl/Norwood St). It is uncommon but not illegal in NC planning to "spot zone" properties. A spot zone is a conscious to decision to rezone a property in a way that does not reflect the surrounding area's land use and zoning (e.g. a property zoned B-2 in the middle of an R-15 zoning district). Good zoning practice dictates that such requests be scrutinized for their overall compatibility with the surrounding districts, and not be arbitrarily applied to the benefit of one landowner.

This neighborhood is identified in the Future Land Use Map as Existing High Density Residential. Rezoning the subject area to R-6 would be closer to its designated land use category than R-9 currently is. There are already a few lots within the neighborhood that fulfill minimum lot size standards for R-6 and are therefore non-conforming to the current R-9 zoning district. A photo on the next page identifies those properties which fall under the minimum lot size for R-9. While R-9 and R-6 maintain the same permitted uses, a lowering of minimum lot size makes living in the neighborhood a more reasonable undertaking for those seeking lower-cost housing options in the future adjacent to US-321.

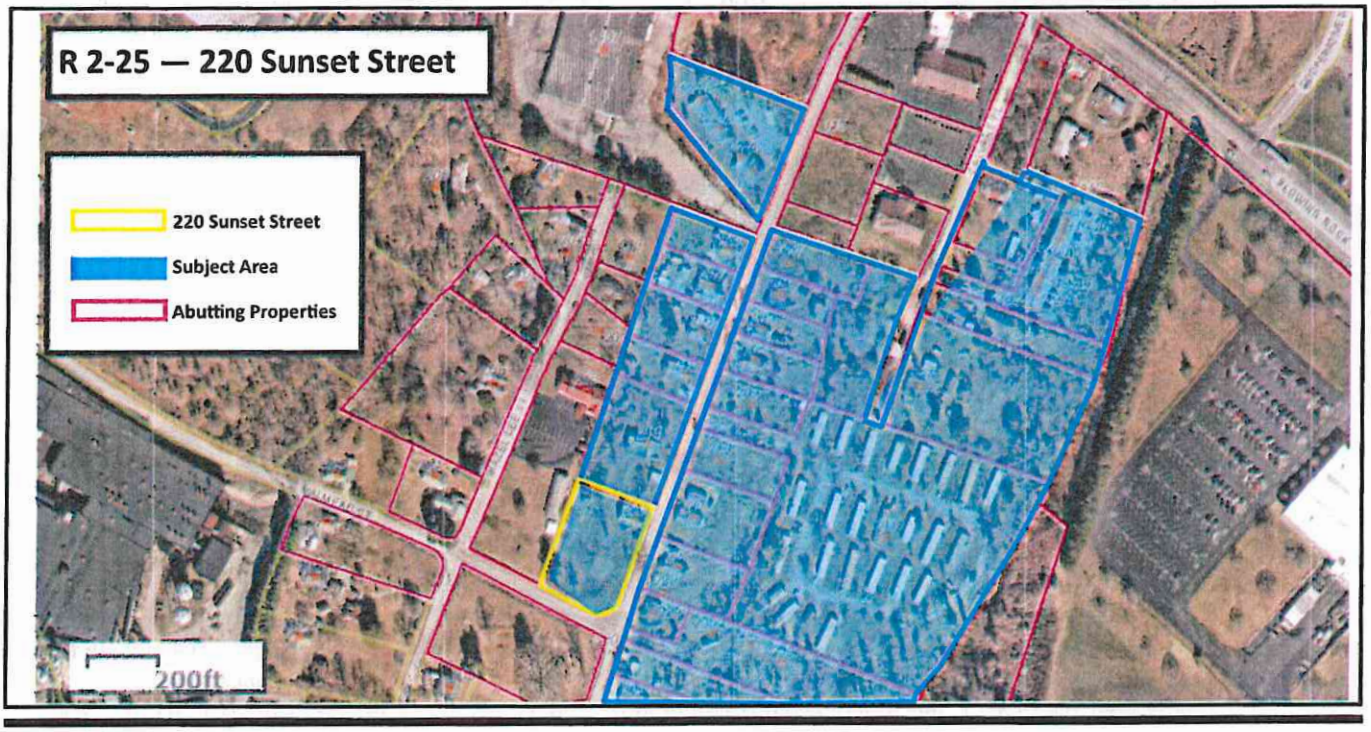
For the sake of continuity, it makes sense to not only rezone the subject property, but also properties in the surrounding area to R-6. Doing so would give way for further opportunities to (re-)develop property in this neighborhood to better serve the growing population in need of more affordable and convenient housing options.

SB 382

A bill was recently passed in North Carolina (SB 382) that precludes local governments from downzoning properties without expressed consent from property owners. What is proposed in this instance, however, is an "upzoning" or, an increase in residential density. Staff is not required to obtained expressed consent from all property owners to up-zone property.

Staff Report
Zoning Amendment
Case Number R #2-25

Location Map/Aerial Photograph



Summary

Owner

MWS Investments LLC (Marcus Sims)

Applicant

Marcus Sims

Location

220 Sunset St NW

NC PIN

2840940055; multiple

Project Planners

Hannah Williams, AICP, CZO
Matt Duchan, CZO

Description of Request:

The applicant is requesting to rezone the subject property (.71 AC) from R-9 (medium -density residential) to R-6 (medium– and high-density residential) to accommodate a minor subdivision for two duplexes. Planning staff recommends that the rezoning encompass the entire block of Sunset St and Calvary Pl to US-321, which is more consistent with the existing development pattern.

Staff Recommendation:

Approval of the request, based on the consistency statement on page 9.

Planning Board Recommendation:

Approval of the request as submitted by staff.

Public Comment:

Neighborhood residents, property owners, and churchgoers of Liberty Baptist Church addressed the board.

Planning Board Meeting: January 27, 2025. Notice of the meeting was mailed to the owners of all adjacent parcels (identified on map above) on January 17, 2025.

City Council (Public Hearing): Scheduled for February 18, 2025.

Aerial Photographs (Surrounding Area & Property Owners)

Letters regarding the rezoning request were mailed on January 17, 2024 informing the property owners on the following page.

Properties identified under the minimum lot size in R-9 (< 9000 square feet)

PROPERTY OWNERS

Name	Address	City	State	Zip
Hubert & Helen Day	214 SUNSET ST NW	LENOIR	NC	28645
MWS Investments LLC	PO BOX 3495	LENOIR	NC	28645
Julian & Mary Baker	2310 HICKORY BLVD SW SUITE A	LENOIR	NC	28645
Paula Gilbert	210 SUNSET ST NW	LENOIR	NC	28645
Ricky & Cynthia Greene	202 SUNSET ST NW	Lenoir	NC	28645
Trustees of Edward & Carolyn Lutz	220 COUNTRYSIDE DR SE	LENOIR	NC	28645
Jeremy Story & Allison Hoyle	205 HAZEL LEE ST NW	LENOIR	NC	28645
Liberty Baptist Church	213 HAZEL LEE ST NW	LENOIR	NC	28645
Heather Gragg & Burlene Arnett	225 SUNSET ST	LENOIR	NC	28645
Madison & Natalie Crump	PO BOX 1654	LENOIR	NC	28645
Larry & Arlene Soblotney	6155 VENICE CT	HICKORY	NC	28601
William & Karen Dickson	509 PINEHURST PL	LENOIR	NC	28645
Dorothy Hendrix	203 SUNSET ST NW	LENOIR	NC	28645
Bobby & Adene James	PO BOX 2549	LENOIR	NC	28645
David Henson	201 SUNSET ST NW	LENOIR	NC	28645
Louis & Cornelia Cornell	127 CALVARY PL NW	LENOIR	NC	28645
Ann Gragg	225 SUNSET ST NW	LENOIR	NC	28645
Crystal Bryant	121 CALVARY PL	LENOIR	NC	28645
JBRG LLC	135 COMMERCIAL CT NE	LENOIR	NC	28645
Julio Garcia	106 CONLEY ST	Morganton	NC	28655
Minnie Church W/ Hrs C/O Kathy Church	301 SUNSET ST	LENOIR	NC	28645
Scott Benge	PO BOX 2017	LENOIR	NC	28645
Jeffrey Nichols	216 HAZEL LEE ST NW	LENOIR	NC	28645
Caldwell Gardens Renewal LLC	11810 GRAND PARK AVE, SUITE 600	ROCKVILLE	MD	20852
Dale Triplett	1349 BLOWING ROCK BLVD	LENOIR	NC	28645
Calvary Baptist Church	PO BOX 2005	LENOIR	NC	28645
Marc & Karen Guerra	28 MEANDERING WAY	GRANITE FALLS	NC	28630
Structall Building Systems LLC	350 BURBANK RD	OLDSMAR	FL	34677
Alyson Pittman	1711 POPLAR ST NW APT 13	LENOIR	NC	28645
Mary Ann Mendez	202 HAZEL LEE ST NW	LENOIR	NC	28645

Comparison of Allowable Uses

Sec. 600 of the Lenoir Zoning Ordinance establishes a chart of permitted and special uses for each zoning district. The R-9 zoning district allows for medium-density residential including single-family homes, manufactured homes, duplexes, triplexes, quadplexes, and higher-density multi-family as a special use. The R-6 zoning district allows for high-density residential and other compatible uses at appropriate densities.

Comparison of Zoning Districts

	R-9	R-6
Development Standards	Min Lot Size—9,000 SF for single-family; 15,000 SF for multi-family Setbacks Front: 35' Side Yard: 12' (non-residential abutting residential, 30') Street Side Yard: 25' Minimum Rear Yard: 25'	Min Lot Size - 6,000 SF for single-family; 9,000 SF for multi-family Setbacks Front: 35' Side Yard: 10' Street Side Yard: 25' Minimum Rear Yard: 25'
Summary of Permitted Uses	Accessory Cottage or Apartment Attached Dwellings (Townhomes) Bungalow Court Dwelling, single/two-family Group Care Facility (1-6 non-related residents) Manufactured Homes Multi-family, low-density (garden apartments) Zero Lot Line (single-family)	Accessory Cottage or Apartment Attached Dwellings (Townhomes) Bungalow Court Dwelling, single/two-family Group Care Facility (1-6 non-related residents) Manufactured Homes Multi-family, low-density (garden apartments) Zero Lot Line (single-family)
	Special Uses: Bed & Breakfast Communication Towers Day Care Centers Cultural and Community Facilities Group Care Facility (7+ residents) Group Housing (no care) (1-6 non-related residents) Manufactured Home Parks (existing) Multi-Family, medium/high-density Planned Residential Development Public Service Facilities	Special Uses: Bed & Breakfast Communication Towers Day Care Centers Cultural and Community Facilities Group Care Facility (7+ residents) Group Housing (no care) (1-6 non-related residents) Manufactured Home Parks (existing) Multi-Family, medium/high-density Planned Residential Development Public Service Facilities

Consistency with the Comprehensive Plan and Next Steps

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's future land use map identifies this parcel as "existing high density residential", flanked by future commercial sites in the ETJ, existing low-density residential to the north, and non-commercial sites to the south. Staff finds the proposed rezoning to be consistent with the goals and policy concepts of the Comprehensive Plan, as this would establish and reinforce the presence of high-density residential in an area that calls for it.

Next Steps

Following Planning Board, the rezoning request will be brought before a City Council public hearing and voted on. Pending approval, the applicant will then submit a zoning permit application along with civil and architectural plans as applicable, which will be reviewed by City of Lenoir planning staff. Concurrently, the applicant will apply for a driveway permit to establish access to the property in the future.

Staff Recommendation And Consistency Statement

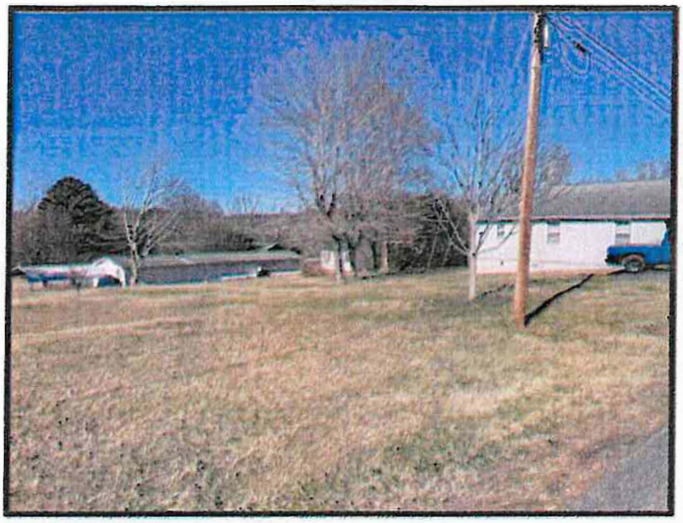
Staff recommends that the Planning Board recommend approval of the request, based on the following consistency statement, and call for a Public Hearing for City Council to consider the request on February 18th, 2025:

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's future land use map identifies this parcel as "existing high density residential", flanked by future commercial sites in the ETJ, existing low-density residential to the north, and non-commercial sites to the south. Staff finds the proposed rezoning to be consistent with the goals and policy concepts of the Comprehensive Plan, as this would establish and reinforce the presence of high-density residential in an area that calls for it.

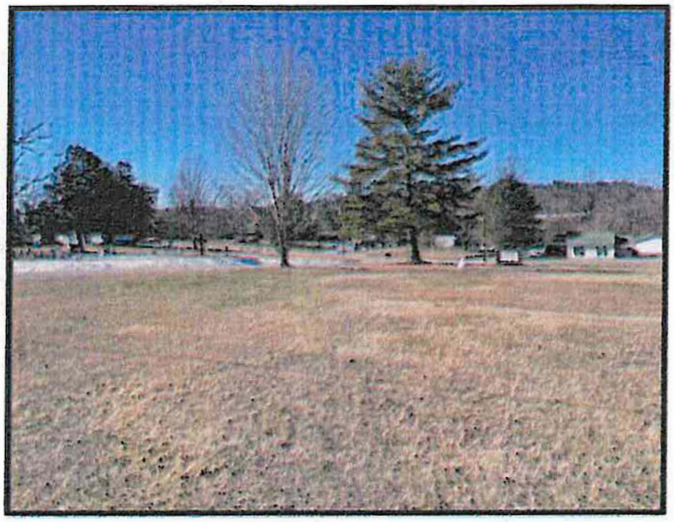
Planning Board Recommendation

Planning Board recommends approval of the rezoning of 220 Sunset Street and the 25 additional parcels from R-9 to R-6, as recommended by staff, based on the above consistency statement as presented at the Planning Board Meeting on January 27th.

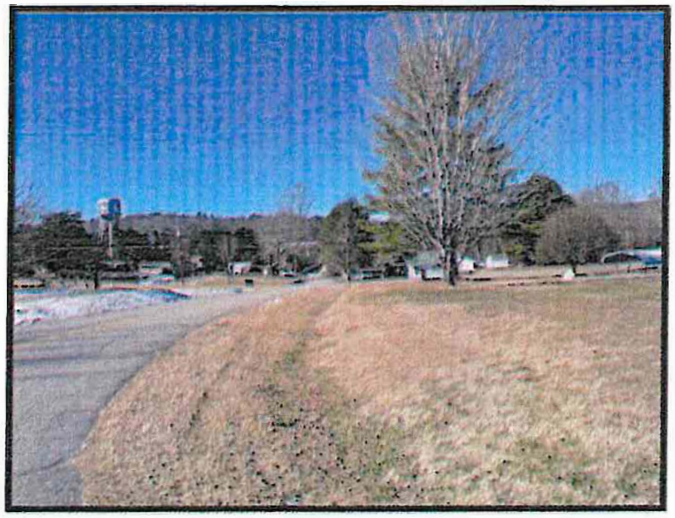
PROPERTY PHOTOS (220 SUNSET ST.)



View of 220 Sunset Street home located on north-east corner of site



West view of site with Liberty Baptist Church sign and cemetery across the street in the background



Valmead St. heading west towards Clark Dr., Elizabeth Dr., and North Main St.

North view of property encompassing home on property and adjacent Liberty Baptist Church on Hazel Lee St.

AIA® Document A141® – 2014

Standard Form of Agreement Between Owner and Design-Builder

AGREEMENT made as of the 7th day of February in the year 2025
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

City of Lenoir
801 West Avenue
Lenoir, NC 28645

and the Design-Builder:
(Name, legal status, address and other information)

J.M. Cope Inc.
346 9th Street SE
Hickory, NC 28602

for the following Project:
(Name, location and detailed description)

2022 PARTF PROJECT – Lenoir Aquatic & Fitness Center Improvements
1031 Jim Bargar Court NE
Lenoir, NC 28645
Provide design and construction services for Lenoir Aquatic & Fitness Center, including renovating / reconfiguring two (2) family-style restrooms, separate male and female locker rooms, and existing whirlpool room, and three (3) racquetball courts. In addition, reconfiguring, replacing, or relocating existing mechanical, electrical, and/or plumbing systems.

The Owner and Design-Builder agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Consultation with an attorney is also encouraged with respect to professional licensing requirements in the jurisdiction where the Project is located.

Init.
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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Owner's Criteria

This Agreement is based on the Owner's Criteria set forth in this Section 1.1.

(Note the disposition for the following items by inserting the requested information or a statement such as "not applicable" or "unknown at time of execution." If the Owner intends to provide a set of design documents, and the requested information is contained in the design documents, identify the design documents and insert "see Owner's design documents" where appropriate.)

§ 1.1.1 The Owner's program for the Project:

(Set forth the program, identify documentation in which the program is set forth, or state the manner in which the program will be developed.)

Provide design and construction services for Lenoir Aquatic & Fitness Center, to include renovating / reconfiguring two (2) family-style restrooms, separate male and female locker rooms, and existing whirlpool room, and three (3)

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racquetball courts. In addition, reconfiguring, replacing, or relocating existing mechanical, electrical, and/or plumbing systems.

§ 1.1.2 The Owner's design requirements for the Project and related documentation:
(Identify below, or in an attached exhibit, the documentation that contains the Owner's design requirements, including any performance specifications for the Project.)

See attached RFQ dated November 26, 2024

§ 1.1.3 The Project's physical characteristics:
(Identify or describe, if appropriate, size, location, dimensions, or other pertinent information, such as geotechnical reports; site, boundary and topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site; etc.)

See attached RFQ dated November 26, 2024

§ 1.1.4 The Owner's anticipated Sustainable Objective for the Project, if any:
(Identify the Owner's Sustainable Objective for the Project such as Sustainability Certification, benefit to the environment, enhancement to the health and well-being of building occupants, or improvement of energy efficiency. If the Owner identifies a Sustainable Objective, incorporate AIA Document A141™–2014, Exhibit C, Sustainable Projects, into this Agreement to define the terms, conditions and Work related to the Owner's Sustainable Objective.)

To be determined.

§ 1.1.5 Incentive programs the Owner intends to pursue for the Project, including those related to the Sustainable Objective, and any deadlines for receiving the incentives that are dependent on, or related to, the Design-Builder's services, are as follows:
(Identify incentive programs the Owner intends to pursue for the Project and deadlines for submitting or applying for the incentive programs.)

To be determined.

§ 1.1.6 The Owner's budget for the Work to be provided by the Design-Builder is set forth below:
(Provide total for Owner's budget, and if known, a line item breakdown of costs.)

The project budget is approximately $700,000.00

§ 1.1.7 The Owner's design and construction milestone dates:

.1 Design phase milestone dates:

To be developed

.2 Submission of Design-Builder Proposal:

January 15th, 2025

.3 Phased completion dates:

N/A

.4 Substantial Completion date:

October 31, 2025

.5 Other milestone dates:

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Final Completion – 60 days after Substantial Completion

§ 1.1.8 The Owner requires the Design-Builder to retain the following Architect, Consultants and Contractors at the Design-Builder's cost:
(List name, legal status, address and other information.)

.1 Architect

Ramsay Burgin Smith Architects, Inc.
225 N. Main Street, Suite 501
Salisbury, NC 28144

.2 Consultants

SE Collins Consulting – Mechanical & Plumbing Engineering
1817 E. Innes Street, Suite 201
Salisbury, NC 28146

Design Engineering – Electrical Engineering
817 E. Innes Street, Suite 201
Salisbury, NC 28146

Ramsay Burgin Smith Architects, Inc – Structural Engineering
225 N. Main Street, Suite 501
Salisbury, NC 28144

.3 Contractors

N/A

§ 1.1.9 Additional Owner's Criteria upon which the Agreement is based:
(Identify special characteristics or needs of the Project not identified elsewhere, such as historic preservation requirements.)

Funding agency requirements and contracts mandate a completion of October 31, 2025.

§ 1.1.10 The Design-Builder shall confirm that the information included in the Owner's Criteria complies with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities.

§ 1.1.10.1 If the Owner's Criteria conflicts with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Design-Builder shall notify the Owner of the conflict.

§ 1.1.11 If there is a change in the Owner's Criteria, the Owner and the Design-Builder shall execute a Modification in accordance with Article 6.

§ 1.1.12 If the Owner and Design-Builder intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions. Unless otherwise agreed, the parties will use AIA Document E203™–2013 to establish the protocols for the development, use, transmission, and exchange of digital data and building information modeling.

§ 1.2 Project Team

§ 1.2.1 The Owner identifies the following representative in accordance with Section 7.1.1:
(List name, address and other information.)

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Jared Wright, Director of Special Projects and Grants
801 West Avenue
Lenoir, NC 28645
828.757.2153
jwright@CI.LENOIR.NC.US

§ 1.2.2 The persons or entities, in addition to the Owner's representative, who are required to review the Design-Builder's Submittals are as follows:
(List name, address and other information.)

N/A

§ 1.2.3 The Owner will retain the following consultants and separate contractors:
(List discipline, scope of work, and, if known, identify by name and address.)

N/A

§ 1.2.4 The Design-Builder identifies the following representative in accordance with Section 3.1.2:
(List name, address and other information.)

Gary C. Webb, Vice President
346 9th Street SE
Hickory, NC 28602
704.917.9755
cwebb@jmcope.com

§ 1.2.5 Neither the Owner's nor the Design-Builder's representative shall be changed without ten days' written notice to the other party.

§ 1.3 Binding Dispute Resolution
For any Claim subject to, but not resolved by, mediation pursuant to Section 14.3, the method of binding dispute resolution shall be the following:
(Check the appropriate box. If the Owner and Design-Builder do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.)

[X] Arbitration pursuant to Section 14.4

[ ] Litigation in a court of competent jurisdiction

[ ] Other: *(Specify)*

§ 1.4 Definitions
§ 1.4.1 Design-Build Documents. The Design-Build Documents consist of this Agreement between Owner and Design-Builder and its attached Exhibits (hereinafter, the "Agreement"); other documents listed in this Agreement; and Modifications issued after execution of this Agreement. A Modification is (1) a written amendment to the Contract signed by both parties, including the Design-Build Amendment, (2) a Change Order, or (3) a Change Directive.

§ 1.4.2 The Contract. The Design-Build Documents form the Contract. The Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Design-Build Documents shall

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not be construed to create a contractual relationship of any kind between any persons or entities other than the Owner and the Design-Builder.

§ 1.4.3 **The Work.** The term "Work" means the design, construction and related services required to fulfill the Design-Builder's obligations under the Design-Build Documents, whether completed or partially completed, and includes all labor, materials, equipment and services provided or to be provided by the Design-Builder. The Work may constitute the whole or a part of the Project.

§ 1.4.4 **The Project.** The Project is the total design and construction of which the Work performed under the Design-Build Documents may be the whole or a part, and may include design and construction by the Owner and by separate contractors.

§ 1.4.5 **Instruments of Service.** Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Design-Builder, Contractor(s), Architect, and Consultant(s) under their respective agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, digital models and other similar materials.

§ 1.4.6 **Submittal.** A Submittal is any submission to the Owner for review and approval demonstrating how the Design-Builder proposes to conform to the Design-Build Documents for those portions of the Work for which the Design-Build Documents require Submittals. Submittals include, but are not limited to, shop drawings, product data, and samples. Submittals are not Design-Build Documents unless incorporated into a Modification.

§ 1.4.7 **Owner.** The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Design-Build Documents as if singular in number. The term "Owner" means the Owner or the Owner's authorized representative.

§ 1.4.8 **Design-Builder.** The Design-Builder is the person or entity identified as such in the Agreement and is referred to throughout the Design-Build Documents as if singular in number. The term "Design-Builder" means the Design-Builder or the Design-Builder's authorized representative.

§ 1.4.9 **Consultant.** A Consultant is a person or entity providing professional services for the Design-Builder for all or a portion of the Work, and is referred to throughout the Design-Build Documents as if singular in number. To the extent required by the relevant jurisdiction, the Consultant shall be lawfully licensed to provide the required professional services.

§ 1.4.10 **Architect.** The Architect is a person or entity providing design services for the Design-Builder for all or a portion of the Work, and is lawfully licensed to practice architecture in the applicable jurisdiction. The Architect is referred to throughout the Design-Build Documents as if singular in number.

§ 1.4.11 **Contractor.** A Contractor is a person or entity performing all or a portion of the construction, required in connection with the Work, for the Design-Builder. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor is referred to throughout the Design-Build Documents as if singular in number and means a Contractor or an authorized representative of the Contractor.

§ 1.4.12 **Confidential Information.** Confidential Information is information containing confidential or business proprietary information that is clearly marked as "confidential."

§ 1.4.13 **Contract Time.** Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, as set forth in the Design-Build Amendment for Substantial Completion of the Work.

§ 1.4.14 **Day.** The term "day" as used in the Design-Build Documents shall mean calendar day unless otherwise specifically defined.

§ 1.4.15 **Contract Sum.** The Contract Sum is the amount to be paid to the Design-Builder for performance of the Work after execution of the Design-Build Amendment, as identified in Article A.1 of the Design-Build Amendment.

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ARTICLE 2 COMPENSATION AND PROGRESS PAYMENTS

§ 2.1 Compensation for Work Performed Prior To Execution of Design-Build Amendment

§ 2.1.1 Unless otherwise agreed, payments for Work performed prior to Execution of the Design-Build Amendment shall be made monthly. For the Design-Builder's performance of Work prior to the execution of the Design-Build Amendment, the Owner shall compensate the Design-Builder as follows:

(Insert amount of, or basis for, compensation, including compensation for any Sustainability Services, or indicate the exhibit in which the information is provided. If there will be a limit on the total amount of compensation for Work performed prior to the execution of the Design-Build Amendment, state the amount of the limit.)

Preconstruction Services Lump Sum ($25,000.00)

- Develop a comprehensive understanding of program goals and requirements.
- Review and confirm programming requirements and goals are being met though the design phase.
- Participate in design meetings with Owner and design consultants.
- Prepare and coordinate Schematic Design, Design Development and Construction Documents in accordance to owner's program.
- Provide formal deliverable with budget analysis, schedule updates, constructability, and value management throughout the design phase.
- Manage bid procedures during the bid phase.
- Provide recommendations for each bid package.
- Open book approach with trade partners solicitation, budget reconciliation for final Guaranteed Maximum Price.

§ 2.1.2 The hourly billing rates for services of the Design-Builder and the Design-Builder's Architect, Consultants and Contractors, if any, are set forth below.

(If applicable, attach an exhibit of hourly billing rates or insert them below.)

See attached hourly billing rate for RBSA dated January 2025

Individual or Position	Rate
N/A	

§ 2.1.3 Compensation for Reimbursable Expenses Prior To Execution of Design-Build Amendment

§ 2.1.3.1 Reimbursable Expenses are in addition to compensation set forth in Section 2.1.1 and 2.1.2 and include expenses, directly related to the Project, incurred by the Design-Builder and the Design-Builder's Architect, Consultants, and Contractors, as follows:

.1 Transportation and authorized out-of-town travel and subsistence;
.2 Dedicated data and communication services, teleconferences, Project web sites, and extranets;
.3 Fees paid for securing approval of authorities having jurisdiction over the Project;
.4 Printing, reproductions, plots, standard form documents;
.5 Postage, handling and delivery;
.6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
.7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner;
.8 All taxes levied on professional services and on reimbursable expenses; and
.9 Other Project-related expenditures, if authorized in advance by the Owner.

§ 2.1.3.2 For Reimbursable Expenses, the compensation shall be the expenses the Design-Builder and the Design-Builder's Architect, Consultants and Contractors incurred, plus an administrative fee of seven percent (7 %) of the expenses incurred.

§ 2.1.4 Payments to the Design-Builder Prior To Execution of Design-Build Amendment

§ 2.1.4.1 Payments are due and payable upon presentation of the Design-Builder's invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Design-Builder.

(Insert rate of monthly or annual interest agreed upon.)

Two % Plus Prime rate as calculated by the Wall Street Journal on a daily basis.

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§ 2.1.4.2 Records of Reimbursable Expenses and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times for a period of two years following execution of the Design-Build Amendment or termination of this Agreement, whichever occurs first.

§ 2.2 Contract Sum and Payment for Work Performed After Execution of Design-Build Amendment
For the Design-Builder's performance of the Work after execution of the Design-Build Amendment, the Owner shall pay to the Design-Builder the Contract Sum in current funds as agreed in the Design-Build Amendment.

ARTICLE 3 GENERAL REQUIREMENTS OF THE WORK OF THE DESIGN-BUILD CONTRACT

§ 3.1 General

§ 3.1.1 The Design-Builder shall comply with any applicable licensing requirements in the jurisdiction where the Project is located.

§ 3.1.2 The Design-Builder shall designate in writing a representative who is authorized to act on the Design-Builder's behalf with respect to the Project.

§ 3.1.3 The Design-Builder shall perform the Work in accordance with the Design-Build Documents. The Design-Builder shall not be relieved of the obligation to perform the Work in accordance with the Design-Build Documents by the activities, tests, inspections or approvals of the Owner.

§ 3.1.3.1 The Design-Builder shall perform the Work in compliance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities. If the Design-Builder performs Work contrary to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, the Design-Builder shall assume responsibility for such Work and shall bear the costs attributable to correction.

§ 3.1.3.2 Neither the Design-Builder nor any Contractor, Consultant, or Architect shall be obligated to perform any act which they believe will violate any applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities. If the Design-Builder determines that implementation of any instruction received from the Owner, including those in the Owner's Criteria, would cause a violation of any applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Design-Builder shall notify the Owner in writing. Upon verification by the Owner that a change to the Owner's Criteria is required to remedy the violation, the Owner and the Design-Builder shall execute a Modification in accordance with Article 6.

§ 3.1.4 The Design-Builder shall be responsible to the Owner for acts and omissions of the Design-Builder's employees, Architect, Consultants, Contractors, and their agents and employees, and other persons or entities performing portions of the Work.

§ 3.1.5 **General Consultation.** The Design-Builder shall schedule and conduct periodic meetings with the Owner to review matters such as procedures, progress, coordination, and scheduling of the Work.

§ 3.1.6 When applicable law requires that services be performed by licensed professionals, the Design-Builder shall provide those services through qualified, licensed professionals. The Owner understands and agrees that the services of the Design-Builder's Architect and the Design-Builder's other Consultants are performed in the sole interest of, and for the exclusive benefit of, the Design-Builder.

§ 3.1.7 The Design-Builder, with the assistance of the Owner, shall prepare and file documents required to obtain necessary approvals of governmental authorities having jurisdiction over the Project.

§ 3.1.8 Progress Reports

§ 3.1.8.1 The Design-Builder shall keep the Owner informed of the progress and quality of the Work. On a monthly basis, or otherwise as agreed to by the Owner and Design-Builder, the Design-Builder shall submit written progress reports to the Owner, showing estimated percentages of completion and other information identified below:

.1 Work completed for the period;
.2 Project schedule status;
.3 Submittal schedule and status report, including a summary of outstanding Submittals;
.4 Responses to requests for information to be provided by the Owner;

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.5 Approved Change Orders and Change Directives;
.6 Pending Change Order and Change Directive status reports;
.7 Tests and inspection reports;
.8 Status report of Work rejected by the Owner;
.9 Status of Claims previously submitted in accordance with Article 14;
.10 Cumulative total of the Cost of the Work to date including the Design-Builder's compensation and Reimbursable Expenses, if any;
.11 Current Project cash-flow and forecast reports; and
.12 Additional information as agreed to by the Owner and Design-Builder.

§ 3.1.8.2 In addition, where the Contract Sum is the Cost of the Work with or without a Guaranteed Maximum Price, the Design-Builder shall include the following additional information in its progress reports:

.1 Design-Builder's work force report;
.2 Equipment utilization report; and
.3 Cost summary, comparing actual costs to updated cost estimates.

§ 3.1.9 Design-Builder's Schedules

§ 3.1.9.1 The Design-Builder, promptly after execution of this Agreement, shall prepare and submit for the Owner's information a schedule for the Work. The schedule, including the time required for design and construction, shall not exceed time limits current under the Design-Build Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Design-Build Documents, shall provide for expeditious and practicable execution of the Work, and shall include allowances for periods of time required for the Owner's review and for approval of submissions by authorities having jurisdiction over the Project.

§ 3.1.9.2 The Design-Builder shall perform the Work in general accordance with the most recent schedules submitted to the Owner.

§ 3.1.10 Certifications. Upon the Owner's written request, the Design-Builder shall obtain from the Architect, Consultants, and Contractors, and furnish to the Owner, certifications with respect to the documents and services provided by the Architect, Consultants, and Contractors (a) that, to the best of their knowledge, information and belief, the documents or services to which the certifications relate (i) are consistent with the Design-Build Documents, except to the extent specifically identified in the certificate, and (ii) comply with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities governing the design of the Project; and (b) that the Owner and its consultants shall be entitled to rely upon the accuracy of the representations and statements contained in the certifications. The Design-Builder's Architect, Consultants, and Contractors shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of their services.

§ 3.1.11 Design-Builder's Submittals

§ 3.1.11.1 Prior to submission of any Submittals, the Design-Builder shall prepare a Submittal schedule, and shall submit the schedule for the Owner's approval. The Owner's approval shall not unreasonably be delayed or withheld. The Submittal schedule shall (1) be coordinated with the Design-Builder's schedule provided in Section 3.1.9.1, (2) allow the Owner reasonable time to review Submittals, and (3) be periodically updated to reflect the progress of the Work. If the Design-Builder fails to submit a Submittal schedule, the Design-Builder shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of Submittals.

§ 3.1.11.2 By providing Submittals the Design-Builder represents to the Owner that it has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so and (3) checked and coordinated the information contained within such Submittals with the requirements of the Work and of the Design-Build Documents.

§ 3.1.11.3 The Design-Builder shall perform no portion of the Work for which the Design-Build Documents require Submittals until the Owner has approved the respective Submittal.

§ 3.1.11.4 The Work shall be in accordance with approved Submittals except that the Design-Builder shall not be relieved of its responsibility to perform the Work consistent with the requirements of the Design-Build Documents. The Work may deviate from the Design-Build Documents only if the Design-Builder has notified the Owner in writing

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of a deviation from the Design-Build Documents at the time of the Submittal and a Modification is executed authorizing the identified deviation. The Design-Builder shall not be relieved of responsibility for errors or omissions in Submittals by the Owner's approval of the Submittals.

§ 3.1.11.5 All professional design services or certifications to be provided by the Design-Builder, including all drawings, calculations, specifications, certifications, shop drawings and other Submittals, shall contain the signature and seal of the licensed design professional preparing them. Submittals related to the Work designed or certified by the licensed design professionals, if prepared by others, shall bear the licensed design professional's written approval. The Owner and its consultants shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals.

§ 3.1.12 Warranty. The Design-Builder warrants to the Owner that materials and equipment furnished under the Contract will be of good quality and new unless the Design-Build Documents require or permit otherwise. The Design-Builder further warrants that the Work will conform to the requirements of the Design-Build Documents and will be free from defects, except for those inherent in the quality of the Work or otherwise expressly permitted by the Design-Build Documents. Work, materials, or equipment not conforming to these requirements may be considered defective. The Design-Builder's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Design-Builder, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Owner, the Design-Builder shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.1.13 Royalties, Patents and Copyrights

§ 3.1.13.1 The Design-Builder shall pay all royalties and license fees.

§ 3.1.13.2 The Design-Builder shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and its separate contractors and consultants harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Owner, or where the copyright violations are required in the Owner's Criteria. However, if the Design-Builder has reason to believe that the design, process or product required in the Owner's Criteria is an infringement of a copyright or a patent, the Design-Builder shall be responsible for such loss unless such information is promptly furnished to the Owner. If the Owner receives notice from a patent or copyright owner of an alleged violation of a patent or copyright, attributable to the Design-Builder, the Owner shall give prompt written notice to the Design-Builder.

§ 3.1.14 Indemnification

§ 3.1.14.1 To the fullest extent permitted by law, the Design-Builder shall indemnify and hold harmless the Owner, including the Owner's agents and employees, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, but only to the extent caused by the negligent acts or omissions of the Design-Builder, Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by them or anyone for whose acts they may be liable. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.1.14.

§ 3.1.14.2 The indemnification obligation under this Section 3.1.14 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for Design-Builder, Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by them, under workers' compensation acts, disability benefit acts or other employee benefit acts.

§ 3.1.15 Contingent Assignment of Agreements

§ 3.1.15.1 Each agreement for a portion of the Work is assigned by the Design-Builder to the Owner, provided that

.1 assignment is effective only after termination of the Contract by the Owner for cause, pursuant to Sections 13.1.4 or 13.2.2, and only for those agreements that the Owner accepts by written notification to the Design-Builder and the Architect, Consultants, and Contractors whose agreements are accepted for assignment; and

.2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

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When the Owner accepts the assignment of an agreement, the Owner assumes the Design-Builder's rights and obligations under the agreement.

§ 3.1.15.2 Upon such assignment, if the Work has been suspended for more than 30 days, the compensation under the assigned agreement shall be equitably adjusted for increases in cost resulting from the suspension.

§ 3.1.15.3 Upon such assignment to the Owner under this Section 3.1.15, the Owner may further assign the agreement to a successor design-builder or other entity. If the Owner assigns the agreement to a successor design-builder or other entity, the Owner shall nevertheless remain legally responsible for all of the successor design-builder's or other entity's obligations under the agreement.

§ 3.1.16 Design-Builder's Insurance and Bonds. The Design-Builder shall purchase and maintain insurance and provide bonds as set forth in Exhibit B.

ARTICLE 4 WORK PRIOR TO EXECUTION OF THE DESIGN-BUILD AMENDMENT

§ 4.1 General

§ 4.1.1 Any information submitted by the Design-Builder, and any interim decisions made by the Owner, shall be for the purpose of facilitating the design process and shall not modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

§ 4.1.2 The Design-Builder shall advise the Owner on proposed site use and improvements, selection of materials, and building systems and equipment. The Design-Builder shall also provide the Owner with recommendations, consistent with the Owner's Criteria, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions.

§ 4.2 Evaluation of the Owner's Criteria

§ 4.2.1 The Design-Builder shall schedule and conduct meetings with the Owner and any other necessary individuals or entities to discuss and review the Owner's Criteria as set forth in Section 1.1.The Design-Builder shall thereafter again meet with the Owner to discuss a preliminary evaluation of the Owner's Criteria. The preliminary evaluation shall address possible alternative approaches to design and construction of the Project and include the Design-Builder's recommendations, if any, with regard to accelerated or fast-track scheduling, procurement, or phased construction. The preliminary evaluation shall consider cost information, constructability, and procurement and construction scheduling issues.

§ 4.2.2 After the Design-Builder meets with the Owner and presents the preliminary evaluation, the Design-Builder shall provide a written report to the Owner, summarizing the Design-Builder's evaluation of the Owner's Criteria. The report shall also include

.1 allocations of program functions, detailing each function and their square foot areas;

.2 a preliminary estimate of the Cost of the Work, and, if necessary, recommendations to adjust the Owner's Criteria to conform to the Owner's budget;

.3 a preliminary schedule, which shall include proposed design milestones; dates for receiving additional information from, or for work to be completed by, the Owner; anticipated date for the Design-Builder's Proposal; and dates of periodic design review sessions with the Owner; and

.4 the following:
(List additional information, if any, to be included in the Design-Builder's written report.)

N/A

§ 4.2.3 The Owner shall review the Design-Builder's written report and, if acceptable, provide the Design-Builder with written consent to proceed to the development of the Preliminary Design as described in Section 4.3. The consent to proceed shall not be understood to modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

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§ 4.3 Preliminary Design

§ 4.3.1 Upon the Owner's issuance of a written consent to proceed under Section 4.2.3, the Design-Builder shall prepare and submit a Preliminary Design to the Owner. The Preliminary Design shall include a report identifying any deviations from the Owner's Criteria, and shall include the following:

.1 Confirmation of the allocations of program functions;
.2 Site plan;
.3 Building plans, sections and elevations;
.4 Structural system;
.5 Selections of major building systems, including but not limited to mechanical, electrical and plumbing systems; and
.6 Outline specifications or sufficient drawing notes describing construction materials.

The Preliminary Design may include some combination of physical study models, perspective sketches, or digital modeling.

§ 4.3.2 The Owner shall review the Preliminary Design and, if acceptable, provide the Design-Builder with written consent to proceed to development of the Design-Builder's Proposal. The Preliminary Design shall not modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

§ 4.4 Design-Builder's Proposal

§ 4.4.1 Upon the Owner's issuance of a written consent to proceed under Section 4.3.2, the Design-Builder shall prepare and submit the Design-Builder's Proposal to the Owner. The Design-Builder's Proposal shall include the following:

.1 A list of the Preliminary Design documents and other information, including the Design-Builder's clarifications, assumptions and deviations from the Owner's Criteria, upon which the Design-Builder's Proposal is based;
.2 The proposed Contract Sum, including the compensation method and, if based upon the Cost of the Work plus a fee, a written statement of estimated cost organized by trade categories, allowances, contingencies, Design-Builder's Fee, and other items that comprise the Contract Sum;
.3 The proposed date the Design-Builder shall achieve Substantial Completion;
.4 An enumeration of any qualifications and exclusions, if applicable;
.5 A list of the Design-Builder's key personnel, Contractors and suppliers; and
.6 The date on which the Design-Builder's Proposal expires.

§ 4.4.2 Submission of the Design-Builder's Proposal shall constitute a representation by the Design-Builder that it has visited the site and become familiar with local conditions under which the Work is to be completed.

§ 4.4.3 If the Owner and Design-Builder agree on a proposal, the Owner and Design-Builder shall execute the Design-Build Amendment setting forth the terms of their agreement.

ARTICLE 5 WORK FOLLOWING EXECUTION OF THE DESIGN-BUILD AMENDMENT

§ 5.1 Construction Documents

§ 5.1.1 Upon the execution of the Design-Build Amendment, the Design-Builder shall prepare Construction Documents. The Construction Documents shall establish the quality levels of materials and systems required. The Construction Documents shall be consistent with the Design-Build Documents.

§ 5.1.2 The Design-Builder shall provide the Construction Documents to the Owner for the Owner's information. If the Owner discovers any deviations between the Construction Documents and the Design-Build Documents, the Owner shall promptly notify the Design-Builder of such deviations in writing. The Construction Documents shall not modify the Design-Build Documents unless the Owner and Design-Builder execute a Modification. The failure of the Owner to discover any such deviations shall not relieve the Design-Builder of the obligation to perform the Work in accordance with the Design-Build Documents.

§ 5.2 Construction

§ 5.2.1 Commencement. Except as permitted in Section 5.2.2, construction shall not commence prior to execution of the Design-Build Amendment.

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§ 5.2.2 If the Owner and Design-Builder agree in writing, construction may proceed prior to the execution of the Design-Build Amendment. However, such authorization shall not waive the Owner's right to reject the Design-Builder's Proposal.

§ 5.2.3 The Design-Builder shall supervise and direct the Work, using the Design-Builder's best skill and attention. The Design-Builder shall be solely responsible for, and have control over, construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work under the Contract, unless the Design-Build Documents give other specific instructions concerning these matters.

§ 5.2.4 The Design-Builder shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 5.3 Labor and Materials

§ 5.3.1 Unless otherwise provided in the Design-Build Documents, the Design-Builder shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services, necessary for proper execution and completion of the Work, whether temporary or permanent, and whether or not incorporated or to be incorporated in the Work.

§ 5.3.2 When a material or system is specified in the Design-Build Documents, the Design-Builder may make substitutions only in accordance with Article 6.

§ 5.3.3 The Design-Builder shall enforce strict discipline and good order among the Design-Builder's employees and other persons carrying out the Work. The Design-Builder shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 5.4 Taxes

The Design-Builder shall pay sales, consumer, use and similar taxes, for the Work provided by the Design-Builder, that are legally enacted when the Design-Build Amendment is executed, whether or not yet effective or merely scheduled to go into effect.

§ 5.5 Permits, Fees, Notices and Compliance with Laws

§ 5.5.1 Unless otherwise provided in the Design-Build Documents, the Design-Builder shall secure and pay for the building permit as well as any other permits, fees, licenses, and inspections by government agencies, necessary for proper execution of the Work and Substantial Completion of the Project.

§ 5.5.2 The Design-Builder shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, applicable to performance of the Work.

§ 5.5.3 Concealed or Unknown Conditions. If the Design-Builder encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Design-Build Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Design-Build Documents, the Design-Builder shall promptly provide notice to the Owner before conditions are disturbed and in no event later than 21 days after first observance of the conditions. The Owner shall promptly investigate such conditions and, if the Owner determines that they differ materially and cause an increase or decrease in the Design-Builder's cost of, or time required for, performance of any part of the Work, shall recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Owner determines that the conditions at the site are not materially different from those indicated in the Design-Build Documents and that no change in the terms of the Contract is justified, the Owner shall promptly notify the Design-Builder in writing, stating the reasons. If the Design-Builder disputes the Owner's determination or recommendation, the Design-Builder may proceed as provided in Article 14.

§ 5.5.4 If, in the course of the Work, the Design-Builder encounters human remains, or recognizes the existence of burial markers, archaeological sites, or wetlands, not indicated in the Design-Build Documents, the Design-Builder shall immediately suspend any operations that would affect them and shall notify the Owner. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Design-Builder shall continue to suspend such operations until otherwise instructed by the Owner

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but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 14.

§ 5.6 Allowances

§ 5.6.1 The Design-Builder shall include in the Contract Sum all allowances stated in the Design-Build Documents. Items covered by allowances shall be supplied for such amounts, and by such persons or entities as the Owner may direct, but the Design-Builder shall not be required to employ persons or entities to whom the Design-Builder has reasonable objection.

§ 5.6.2 Unless otherwise provided in the Design-Build Documents,

.1 allowances shall cover the cost to the Design-Builder of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;

.2 the Design-Builder's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts, shall be included in the Contract Sum but not in the allowances; and

.3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 5.6.2.1 and (2) changes in Design-Builder's costs under Section 5.6.2.2.

§ 5.6.3 The Owner shall make selections of materials and equipment with reasonable promptness for allowances requiring Owner selection.

§ 5.7 Key Personnel, Contractors and Suppliers

§ 5.7.1 The Design-Builder shall not employ personnel, or contract with Contractors or suppliers to whom the Owner has made reasonable and timely objection. The Design-Builder shall not be required to contract with anyone to whom the Design-Builder has made reasonable and timely objection.

§ 5.7.2 If the Design-Builder changes any of the personnel, Contractors or suppliers identified in the Design-Build Amendment, the Design-Builder shall notify the Owner and provide the name and qualifications of the new personnel, Contractor or supplier. The Owner may reply within 14 days to the Design-Builder in writing, stating (1) whether the Owner has reasonable objection to the proposed personnel, Contractor or supplier or (2) that the Owner requires additional time to review. Failure of the Owner to reply within the 14-day period shall constitute notice of no reasonable objection.

§ 5.7.3 Except for those persons or entities already identified or required in the Design-Build Amendment, the Design-Builder, as soon as practicable after execution of the Design-Build Amendment, shall furnish in writing to the Owner the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Owner may reply within 14 days to the Design-Builder in writing stating (1) whether the Owner has reasonable objection to any such proposed person or entity or (2) that the Owner requires additional time for review. Failure of the Owner to reply within the 14-day period shall constitute notice of no reasonable objection.

§ 5.7.3.1 If the Owner has reasonable objection to a person or entity proposed by the Design-Builder, the Design-Builder shall propose another to whom the Owner has no reasonable objection. If the rejected person or entity was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute person or entity's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Design-Builder has acted promptly and responsively in submitting names as required.

§ 5.8 Documents and Submittals at the Site

The Design-Builder shall maintain at the site for the Owner one copy of the Design-Build Documents and a current set of the Construction Documents, in good order and marked currently to indicate field changes and selections made during construction, and one copy of approved Submittals. The Design-Builder shall deliver these items to the Owner in accordance with Section 9.10.2 as a record of the Work as constructed.

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§ 5.9 Use of Site
The Design-Builder shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Design-Build Documents, and shall not unreasonably encumber the site with materials or equipment.

§ 5.10 Cutting and Patching
The Design-Builder shall not cut, patch or otherwise alter fully or partially completed construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld. The Design-Builder shall not unreasonably withhold from the Owner or a separate contractor the Design-Builder's consent to cutting or otherwise altering the Work.

§ 5.11 Cleaning Up
§ 5.11.1 The Design-Builder shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Design-Builder shall remove waste materials, rubbish, the Design-Builder's tools, construction equipment, machinery and surplus materials from and about the Project.

§ 5.11.2 If the Design-Builder fails to clean up as provided in the Design-Build Documents, the Owner may do so and Owner shall be entitled to reimbursement from the Design-Builder.

§ 5.12 Access to Work
The Design-Builder shall provide the Owner and its separate contractors and consultants access to the Work in preparation and progress wherever located. The Design-Builder shall notify the Owner regarding Project safety criteria and programs, which the Owner, and its contractors and consultants, shall comply with while at the site.

§ 5.13 Construction by Owner or by Separate Contractors
§ 5.13.1 Owner's Right to Perform Construction and to Award Separate Contracts
§ 5.13.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces; and to award separate contracts in connection with other portions of the Project, or other construction or operations on the site, under terms and conditions identical or substantially similar to this Contract, including those terms and conditions related to insurance and waiver of subrogation. The Owner shall notify the Design-Builder promptly after execution of any separate contract. If the Design-Builder claims that delay or additional cost is involved because of such action by the Owner, the Design-Builder shall make a Claim as provided in Article 14.

§ 5.13.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Design-Builder" in the Design-Build Documents in each case shall mean the individual or entity that executes each separate agreement with the Owner.

§ 5.13.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces, and of each separate contractor, with the Work of the Design-Builder, who shall cooperate with them. The Design-Builder shall participate with other separate contractors and the Owner in reviewing their construction schedules. The Design-Builder shall make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Design-Builder, separate contractors and the Owner until subsequently revised.

§ 5.13.1.4 Unless otherwise provided in the Design-Build Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or separate contractors, the Owner shall be deemed to be subject to the same obligations, and to have the same rights, that apply to the Design-Builder under the Contract.

§ 5.14 Mutual Responsibility
§ 5.14.1 The Design-Builder shall afford the Owner and separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Design-Builder's construction and operations with theirs as required by the Design-Build Documents.

§ 5.14.2 If part of the Design-Builder's Work depends upon construction or operations by the Owner or a separate contractor, the Design-Builder shall, prior to proceeding with that portion of the Work, prepare a written report to the

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Owner, identifying apparent discrepancies or defects in the construction or operations by the Owner or separate contractor that would render it unsuitable for proper execution and results of the Design-Builder's Work. Failure of the Design-Builder to report shall constitute an acknowledgment that the Owner's or separate contractor's completed or partially completed construction is fit and proper to receive the Design-Builder's Work, except as to defects not then reasonably discoverable.

§ 5.14.3 The Design-Builder shall reimburse the Owner for costs the Owner incurs that are payable to a separate contractor because of the Design-Builder's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Design-Builder for costs the Design-Builder incurs because of a separate contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 5.14.4 The Design-Builder shall promptly remedy damage the Design-Builder wrongfully causes to completed or partially completed construction or to property of the Owner or separate contractors as provided in Section 10.2.5.

§ 5.14.5 The Owner and each separate contractor shall have the same responsibilities for cutting and patching the Work as the Design-Builder has with respect to the construction of the Owner or separate contractors in Section 5.10.

§ 5.15 Owner's Right to Clean Up

If a dispute arises among the Design-Builder, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and will allocate the cost among those responsible.

ARTICLE 6 CHANGES IN THE WORK

§ 6.1 General

§ 6.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order or Change Directive, subject to the limitations stated in this Article 6 and elsewhere in the Design-Build Documents.

§ 6.1.2 A Change Order shall be based upon agreement between the Owner and Design-Builder. The Owner may issue a Change Directive without agreement by the Design-Builder.

§ 6.1.3 Changes in the Work shall be performed under applicable provisions of the Design-Build Documents, and the Design-Builder shall proceed promptly, unless otherwise provided in the Change Order or Change Directive.

§ 6.2 Change Orders

A Change Order is a written instrument signed by the Owner and Design-Builder stating their agreement upon all of the following:

.1 The change in the Work;

.2 The amount of the adjustment, if any, in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation; and

.3 The extent of the adjustment, if any, in the Contract Time.

§ 6.3 Change Directives

§ 6.3.1 A Change Directive is a written order signed by the Owner directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, or Contract Time. The Owner may by Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, and Contract Time being adjusted accordingly.

§ 6.3.2 A Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 6.3.3 If the Change Directive provides for an adjustment to the Contract Sum or, if prior to execution of the Design-Build Amendment, an adjustment in the Design-Builder's compensation, the adjustment shall be based on one of the following methods:

.1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;

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.2 Unit prices stated in the Design-Build Documents or subsequently agreed upon;
.3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
.4 As provided in Section 6.3.7.

§ 6.3.4 If unit prices are stated in the Design-Build Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed in a proposed Change Order or Change Directive so that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner or Design-Builder, the applicable unit prices shall be equitably adjusted.

§ 6.3.5 Upon receipt of a Change Directive, the Design-Builder shall promptly proceed with the change in the Work involved and advise the Owner of the Design-Builder's agreement or disagreement with the method, if any, provided in the Change Directive for determining the proposed adjustment in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, or Contract Time.

§ 6.3.6 A Change Directive signed by the Design-Builder indicates the Design-Builder's agreement therewith, including adjustment in Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 6.3.7 If the Design-Builder does not respond promptly or disagrees with the method for adjustment in the Contract Sum or, if prior to execution of the Design-Build Amendment, the method for adjustment in the Design-Builder's compensation, the Owner shall determine the method and the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 6.3.3.3, the Design-Builder shall keep and present, in such form as the Owner may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Design-Build Documents, costs for the purposes of this Section 6.3.7 shall be limited to the following:

.1 Additional costs of professional services;
.2 Costs of labor, including social security, unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;
.3 Costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;
.4 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Design-Builder or others;
.5 Costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work; and
.6 Additional costs of supervision and field office personnel directly attributable to the change.

§ 6.3.8 The amount of credit to be allowed by the Design-Builder to the Owner for a deletion or change that results in a net decrease in the Contract Sum or, if prior to execution of the Design-Build Amendment, in the Design-Builder's compensation, shall be actual net cost. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 6.3.9 Pending final determination of the total cost of a Change Directive to the Owner, the Design-Builder may request payment for Work completed under the Change Directive in Applications for Payment. The Owner will make an interim determination for purposes of certification for payment for those costs deemed to be reasonably justified. The Owner's interim determination of cost shall adjust the Contract Sum or, if prior to execution of the Design-Build Amendment, the Design-Builder's compensation, on the same basis as a Change Order, subject to the right of Design-Builder to disagree and assert a Claim in accordance with Article 14.

§ 6.3.10 When the Owner and Design-Builder agree with a determination concerning the adjustments in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Owner and Design-Builder shall execute a Change Order. Change Orders may be issued for all or any part of a Change Directive.

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ARTICLE 7 OWNER'S RESPONSIBILITIES

§ 7.1 General

§ 7.1.1 The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all Project matters requiring the Owner's approval or authorization.

§ 7.1.2 The Owner shall render decisions in a timely manner and in accordance with the Design-Builder's schedule agreed to by the Owner. The Owner shall furnish to the Design-Builder, within 15 days after receipt of a written request, information necessary and relevant for the Design-Builder to evaluate, give notice of or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 7.2 Information and Services Required of the Owner

§ 7.2.1 The Owner shall furnish information or services required of the Owner by the Design-Build Documents with reasonable promptness.

§ 7.2.2 The Owner shall provide, to the extent under the Owner's control and if not required by the Design-Build Documents to be provided by the Design-Builder, the results and reports of prior tests, inspections or investigations conducted for the Project involving structural or mechanical systems; chemical, air and water pollution; hazardous materials; or environmental and subsurface conditions and information regarding the presence of pollutants at the Project site. Upon receipt of a written request from the Design-Builder, the Owner shall also provide surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site under the Owner's control.

§ 7.2.3 The Owner shall promptly obtain easements, zoning variances, and legal authorizations or entitlements regarding site utilization where essential to the execution of the Project.

§ 7.2.4 The Owner shall cooperate with the Design-Builder in securing building and other permits, licenses and inspections.

§ 7.2.5 The services, information, surveys and reports required to be provided by the Owner under this Agreement, shall be furnished at the Owner's expense, and except as otherwise specifically provided in this Agreement or elsewhere in the Design-Build Documents or to the extent the Owner advises the Design-Builder to the contrary in writing, the Design-Builder shall be entitled to rely upon the accuracy and completeness thereof. In no event shall the Design-Builder be relieved of its responsibility to exercise proper precautions relating to the safe performance of the Work.

§ 7.2.6 If the Owner observes or otherwise becomes aware of a fault or defect in the Work or non-conformity with the Design-Build Documents, the Owner shall give prompt written notice thereof to the Design-Builder.

§ 7.2.7 Prior to the execution of the Design-Build Amendment, the Design-Builder may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Design-Build Documents and the Design-Builder's Proposal. Thereafter, the Design-Builder may only request such evidence if (1) the Owner fails to make payments to the Design-Builder as the Design-Build Documents require; (2) a change in the Work materially changes the Contract Sum; or (3) the Design-Builder identifies in writing a reasonable concern regarding the Owner's ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or the portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Design-Builder.

§ 7.2.8 Except as otherwise provided in the Design-Build Documents or when direct communications have been specially authorized, the Owner shall communicate through the Design-Builder with persons or entities employed or retained by the Design-Builder.

§ 7.2.9 Unless required by the Design-Build Documents to be provided by the Design-Builder, the Owner shall, upon request from the Design-Builder, furnish the services of geotechnical engineers or other consultants for investigation of subsurface, air and water conditions when such services are reasonably necessary to properly carry out the design

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services furnished by the Design-Builder. In such event, the Design-Builder shall specify the services required. Such services may include, but are not limited to, test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, ground corrosion and resistivity tests, and necessary operations for anticipating subsoil conditions. The services of geotechnical engineer(s) or other consultants shall include preparation and submission of all appropriate reports and professional recommendations.

§ 7.2.10 The Owner shall purchase and maintain insurance as set forth in Exhibit B.

§ 7.3 Submittals

§ 7.3.1 The Owner shall review and approve or take other appropriate action on Submittals. Review of Submittals is not conducted for the purpose of determining the accuracy and completeness of other details, such as dimensions and quantities; or for substantiating instructions for installation or performance of equipment or systems; or for determining that the Submittals are in conformance with the Design-Build Documents, all of which remain the responsibility of the Design-Builder as required by the Design-Build Documents. The Owner's action will be taken in accordance with the submittal schedule approved by the Owner or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Owner's judgment to permit adequate review. The Owner's review of Submittals shall not relieve the Design-Builder of the obligations under Sections 3.1.11, 3.1.12, and 5.2.3. The Owner's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Owner, of any construction means, methods, techniques, sequences or procedures. The Owner's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 7.3.2 Upon review of the Submittals required by the Design-Build Documents, the Owner shall notify the Design-Builder of any non-conformance with the Design-Build Documents the Owner discovers.

§ 7.4 Visits to the site by the Owner shall not be construed to create an obligation on the part of the Owner to make on-site inspections to check the quality or quantity of the Work. The Owner shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, because these are solely the Design-Builder's rights and responsibilities under the Design-Build Documents.

§ 7.5 The Owner shall not be responsible for the Design-Builder's failure to perform the Work in accordance with the requirements of the Design-Build Documents. The Owner shall not have control over or charge of, and will not be responsible for acts or omissions of the Design-Builder, Architect, Consultants, Contractors, or their agents or employees, or any other persons or entities performing portions of the Work for the Design-Builder.

§ 7.6 The Owner has the authority to reject Work that does not conform to the Design-Build Documents. The Owner shall have authority to require inspection or testing of the Work in accordance with Section 15.5.2, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Owner nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Owner to the Design-Builder, the Architect, Consultants, Contractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 7.7 The Owner shall determine the date or dates of Substantial Completion in accordance with Section 9.8 and the date of final completion in accordance with Section 9.10.

§ 7.8 Owner's Right to Stop Work

If the Design-Builder fails to correct Work which is not in accordance with the requirements of the Design-Build Documents as required by Section 11.2 or persistently fails to carry out Work in accordance with the Design-Build Documents, the Owner may issue a written order to the Design-Builder to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Design-Builder or any other person or entity, except to the extent required by Section 5.13.1.3.

§ 7.9 Owner's Right to Carry Out the Work

If the Design-Builder defaults or neglects to carry out the Work in accordance with the Design-Build Documents and fails within a ten-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner

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may have, correct such deficiencies. In such case, an appropriate Change Order shall be issued deducting from payments then or thereafter due the Design-Builder the reasonable cost of correcting such deficiencies. If payments then or thereafter due the Design-Builder are not sufficient to cover such amounts, the Design-Builder shall pay the difference to the Owner.

ARTICLE 8 TIME

§ 8.1 Progress and Completion

§ 8.1.1 Time limits stated in the Design-Build Documents are of the essence of the Contract. By executing the Design-Build Amendment the Design-Builder confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.1.2 The Design-Builder shall not, except by agreement of the Owner in writing, commence the Work prior to the effective date of insurance, other than property insurance, required by this Contract. The Contract Time shall not be adjusted as a result of the Design-Builder's failure to obtain insurance required under this Contract.

§ 8.1.3 The Design-Builder shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.2 Delays and Extensions of Time

§ 8.2.1 If the Design-Builder is delayed at any time in the commencement or progress of the Work by an act or neglect of the Owner or of a consultant or separate contractor employed by the Owner; or by changes ordered in the Work by the Owner; or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Design-Builder's control; or by delay authorized by the Owner pending mediation and binding dispute resolution or by other causes that the Owner determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Owner may determine.

§ 8.2.2 Claims relating to time shall be made in accordance with applicable provisions of Article 14.

§ 8.2.3 This Section 8.2 does not preclude recovery of damages for delay by either party under other provisions of the Design-Build Documents.

ARTICLE 9 PAYMENT APPLICATIONS AND PROJECT COMPLETION

§ 9.1 Contract Sum

The Contract Sum is stated in the Design-Build Amendment.

§ 9.2 Schedule of Values

Where the Contract Sum is based on a stipulated sum or Guaranteed Maximum Price, the Design-Builder, prior to the first Application for Payment after execution of the Design-Build Amendment shall submit to the Owner a schedule of values allocating the entire Contract Sum to the various portions of the Work and prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. This schedule, unless objected to by the Owner, shall be used as a basis for reviewing the Design-Builder's Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Design-Builder shall submit to the Owner an itemized Application for Payment for completed portions of the Work. The application shall be notarized, if required, and supported by data substantiating the Design-Builder's right to payment as the Owner may require, such as copies of requisitions from the Architect, Consultants, Contractors, and material suppliers, and shall reflect retainage if provided for in the Design-Build Documents.

§ 9.3.1.1 As provided in Section 6.3.9, Applications for Payment may include requests for payment on account of changes in the Work that have been properly authorized by Change Directives, or by interim determinations of the Owner, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Design-Builder does not intend to pay the Architect, Consultant, Contractor, material supplier, or other persons or entities providing services or work for the Design-Builder, unless such Work has been performed by others whom the Design-Builder intends to pay.

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§ 9.3.2 Unless otherwise provided in the Design-Build Documents, payments shall be made for services provided as well as materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Design-Builder with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage and transportation to the site for such materials and equipment stored off the site.

§ 9.3.3 The Design-Builder warrants that title to all Work, other than Instruments of Service, covered by an Application for Payment will pass to the Owner no later than the time of payment. The Design-Builder further warrants that, upon submittal of an Application for Payment, all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Design-Builder's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Design-Builder, Architect, Consultants, Contractors, material suppliers, or other persons or entities entitled to make a claim by reason of having provided labor, materials and equipment relating to the Work.

§ 9.4 Certificates for Payment

The Owner shall, within seven days after receipt of the Design-Builder's Application for Payment, issue to the Design-Builder a Certificate for Payment indicating the amount the Owner determines is properly due, and notify the Design-Builder in writing of the Owner's reasons for withholding certification in whole or in part as provided in Section 9.5.1.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Owner may withhold a Certificate for Payment in whole or in part to the extent reasonably necessary to protect the Owner due to the Owner's determination that the Work has not progressed to the point indicated in the Design-Builder's Application for Payment, or the quality of the Work is not in accordance with the Design-Build Documents. If the Owner is unable to certify payment in the amount of the Application, the Owner will notify the Design-Builder as provided in Section 9.4. If the Design-Builder and Owner cannot agree on a revised amount, the Owner will promptly issue a Certificate for Payment for the amount that the Owner deems to be due and owing. The Owner may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued to such extent as may be necessary to protect the Owner from loss for which the Design-Builder is responsible because of

.1 defective Work, including design and construction, not remedied;
.2 third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Design-Builder;
.3 failure of the Design-Builder to make payments properly to the Architect, Consultants, Contractors or others, for services, labor, materials or equipment;
.4 reasonable evidence that the Work cannot be completed fort he unpaid balance of the Contract Sum;
.5 damage to the Owner or a separate contractor;
.6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
.7 repeated failure to carry out the Work in accordance with the Design-Build Documents.

§ 9.5.2 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.3 If the Owner withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Design-Builder and to the Architect or any Consultants, Contractor, material or equipment suppliers, or other persons or entities providing services or work for the Design-Builder to whom the Design-Builder failed to make payment for Work properly performed or material or equipment suitably delivered.

§ 9.6 Progress Payments

§ 9.6.1 After the Owner has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Design-Build Documents.

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§ 9.6.2 The Design-Builder shall pay each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder no later than the time period required by applicable law, but in no event more than seven days after receipt of payment from the Owner the amount to which the Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder is entitled, reflecting percentages actually retained from payments to the Design-Builder on account of the portion of the Work performed by the Architect, Consultant, Contractor, or other person or entity. The Design-Builder shall, by appropriate agreement with each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder, require each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder to make payments to subconsultants and subcontractors in a similar manner.

§ 9.6.3 The Owner will, on request and if practicable, furnish to the Architect, a Consultant, Contractor, or other person or entity providing services or work for the Design-Builder, information regarding percentages of completion or amounts applied for by the Design-Builder and action taken thereon by the Owner on account of portions of the Work done by such Architect, Consultant, Contractor or other person or entity providing services or work for the Design-Builder.

§ 9.6.4 The Owner has the right to request written evidence from the Design-Builder that the Design-Builder has properly paid the Architect, Consultants, Contractors, or other person or entity providing services or work for the Design-Builder, amounts paid by the Owner to the Design-Builder for the Work. If the Design-Builder fails to furnish such evidence within seven days, the Owner shall have the right to contact the Architect, Consultants, and Contractors to ascertain whether they have been properly paid. The Owner shall have no obligation to pay or to see to the payment of money to a Consultant or Contractor, except as may otherwise be required by law.

§ 9.6.5 Design-Builder payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Design-Build Documents.

§ 9.6.7 Unless the Design-Builder provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Design-Builder for Work properly performed by the Architect, Consultants, Contractors and other person or entity providing services or work for the Design-Builder, shall be held by the Design-Builder for the Architect and those Consultants, Contractors, or other person or entity providing services or work for the Design-Builder, for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Design-Builder, shall create any fiduciary liability or tort liability on the part of the Design-Builder for breach of trust or shall entitle any person or entity to an award of punitive damages against the Design-Builder for breach of the requirements of this provision.

§ 9.7 Failure of Payment

If the Owner does not issue a Certificate for Payment, through no fault of the Design-Builder, within the time required by the Design-Build Documents, then the Design-Builder may, upon seven additional days' written notice to the Owner, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Design-Builder's reasonable costs of shut-down, delay and start-up, plus interest as provided for in the Design-Build Documents.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Design-Build Documents so that the Owner can occupy or utilize the Work for its intended use. The date of Substantial Completion is the date certified by the Owner in accordance with this Section 9.8.

§ 9.8.2 When the Design-Builder considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Design-Builder shall prepare and submit to the Owner a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Design-Builder to complete all Work in accordance with the Design-Build Documents.

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§ 9.8.3 Upon receipt of the Design-Builder's list, the Owner shall make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Owner's inspection discloses any item, whether or not included on the Design-Builder's list, which is not sufficiently complete in accordance with the Design-Build Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Design-Builder shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Owner. In such case, the Design-Builder shall then submit a request for another inspection by the Owner to determine Substantial Completion.

§ 9.8.4 Prior to issuance of the Certificate of Substantial Completion under Section 9.8.5, the Owner and Design-Builder shall discuss and then determine the parties' obligations to obtain and maintain property insurance following issuance of the Certificate of Substantial Completion.

§ 9.8.5 When the Work or designated portion thereof is substantially complete, the Design-Builder will prepare for the Owner's signature a Certificate of Substantial Completion that shall, upon the Owner's signature, establish the date of Substantial Completion; establish responsibilities of the Owner and Design-Builder for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Design-Builder shall finish all items on the list accompanying the Certificate. Warranties required by the Design-Build Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.6 The Certificate of Substantial Completion shall be submitted by the Design-Builder to the Owner for written acceptance of responsibilities assigned to it in the Certificate. Upon the Owner's acceptance, and consent of surety, if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Design-Build Documents.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Design-Builder, provided such occupancy or use is consented to, by endorsement or otherwise, by the insurer providing property insurance and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Design-Builder have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Design-Build Documents. When the Design-Builder considers a portion substantially complete, the Design-Builder shall prepare and submit a list to the Owner as provided under Section 9.8.2. Consent of the Design-Builder to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Design-Builder.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner and Design-Builder shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Design-Build Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Design-Builder's written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Owner will promptly make such inspection. When the Owner finds the Work acceptable under the Design-Build Documents and the Contract fully performed, the Owner will, subject to Section 9.10.2, promptly issue a final Certificate for Payment.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Design-Builder submits to the Owner (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work, for which the Owner or the Owner's property might be responsible or encumbered, (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Design-Build Documents to remain in force after final payment is currently in effect, (3) a written statement that the Design-Builder knows of no substantial reason that the insurance will not be renewable to cover the period required by the Design-Build Documents, (4) consent of surety, if any, to final payment, (5) as-constructed record

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copy of the Construction Documents marked to indicate field changes and selections made during construction, (6) manufacturer's warranties, product data, and maintenance and operations manuals, and (7) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, or releases and waivers of liens, claims, security interests, or encumbrances, arising out of the Contract, to the extent and in such form as may be designated by the Owner. If an Architect, a Consultant, or a Contractor, or other person or entity providing services or work for the Design-Builder, refuses to furnish a release or waiver required by the Owner, the Design-Builder may furnish a bond satisfactory to the Owner to indemnify the Owner against such liens, claims, security interests, or encumbrances. If such liens, claims, security interests, or encumbrances remains unsatisfied after payments are made, the Design-Builder shall refund to the Owner all money that the Owner may be compelled to pay in discharging such liens, claims, security interests, or encumbrances, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Design-Builder or by issuance of Change Orders affecting final completion, the Owner shall, upon application by the Design-Builder, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Design-Build Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Design-Builder to the Owner prior to issuance of payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

.1 liens, Claims, security interests or encumbrances arising out of the Contract and unsettled;
.2 failure of the Work to comply with the requirements of the Design-Build Documents; or
.3 terms of special warranties required by the Design-Build Documents.

§ 9.10.5 Acceptance of final payment by the Design-Builder shall constitute a waiver of claims by the Design-Builder except those previously made in writing and identified by the Design-Builder as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Design-Builder shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Design-Builder shall be responsible for precautions for the safety of, and reasonable protection to prevent damage, injury or loss to

.1 employees on the Work and other persons who may be affected thereby;
.2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Design-Builder or the Architect, Consultants, or Contractors, or other person or entity providing services or work for the Design-Builder; and
.3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, or structures and utilities not designated for removal, relocation or replacement in the course of construction.

§ 10.2.2 The Design-Builder shall comply with, and give notices required by, applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property, or their protection from damage, injury or loss.

§ 10.2.3 The Design-Builder shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations, and notify owners and users of adjacent sites and utilities of the safeguards and protections.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods, are necessary for execution of the Work, the Design-Builder shall exercise utmost care, and carry on such activities under supervision of properly qualified personnel.

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§ 10.2.5 The Design-Builder shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Design-Build Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3, caused in whole or in part by the Design-Builder, the Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Design-Builder is responsible under Sections 10.2.1.2 and 10.2.1.3; except damage or loss attributable to acts or omissions of the Owner, or anyone directly or indirectly employed by the Owner, or by anyone for whose acts the Owner may be liable, and not attributable to the fault or negligence of the Design-Builder. The foregoing obligations of the Design-Builder are in addition to the Design-Builder's obligations under Section 3.1.14.

§ 10.2.6 The Design-Builder shall designate a responsible member of the Design-Builder's organization, at the site, whose duty shall be the prevention of accidents. This person shall be the Design-Builder's superintendent unless otherwise designated by the Design-Builder in writing to the Owner.

§ 10.2.7 The Design-Builder shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 **Injury or Damage to Person or Property.** If the Owner or Design-Builder suffers injury or damage to person or property because of an act or omission of the other, or of others for whose acts such party is legally responsible, written notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials

§ 10.3.1 The Design-Builder is responsible for compliance with any requirements included in the Design-Build Documents regarding hazardous materials. If the Design-Builder encounters a hazardous material or substance not addressed in the Design-Build Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Design-Builder, the Design-Builder shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner in writing.

§ 10.3.2 Upon receipt of the Design-Builder's written notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Design-Builder and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Design-Build Documents, the Owner shall furnish in writing to the Design-Builder the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the task of removal or safe containment of such material or substance. The Design-Builder will promptly reply to the Owner in writing stating whether or not the Design-Builder has reasonable objection to the persons or entities proposed by the Owner. If the Design-Builder has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Design-Builder has no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Design-Builder. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased in the amount of the Design-Builder's reasonable additional costs of shut-down, delay and start-up.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Design-Builder, the Architect, Consultants, and Contractors, and employees of any of them, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area, if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to, or destruction of, tangible property (other than the Work itself), except to the extent that such damage, loss or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for materials or substances the Design-Builder brings to the site unless such materials or substances are required by the Owner's Criteria. The Owner shall be

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responsible for materials or substances required by the Owner's Criteria, except to the extent of the Design-Builder's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Design-Builder shall indemnify the Owner for the cost and expense the Owner incurs (1) for remediation of a material or substance the Design-Builder brings to the site and negligently handles, or (2) where the Design-Builder fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Design-Builder, the Design-Builder is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Design-Build Documents, the Owner shall indemnify the Design-Builder for all cost and expense thereby incurred.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Design-Builder shall act, at the Design-Builder's discretion, to prevent threatened damage, injury or loss.

ARTICLE 11 UNCOVERING AND CORRECTION OF WORK

§ 11.1 Uncovering of Work

The Owner may request to examine a portion of the Work that the Design-Builder has covered to determine if the Work has been performed in accordance with the Design-Build Documents. If such Work is in accordance with the Design-Build Documents, the Owner and Design-Builder shall execute a Change Order to adjust the Contract Time and Contract Sum, as appropriate. If such Work is not in accordance with the Design-Build Documents, the costs of uncovering and correcting the Work shall be at the Design-Builder's expense and the Design-Builder shall not be entitled to a change in the Contract Time unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs and the Contract Time will be adjusted as appropriate.

§ 11.2 Correction of Work

§ 11.2.1 Before or After Substantial Completion. The Design-Builder shall promptly correct Work rejected by the Owner or failing to conform to the requirements of the Design-Build Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for any design consultant employed by the Owner whose expenses and compensation were made necessary thereby, shall be at the Design-Builder's expense.

§ 11.2.2 After Substantial Completion

§ 11.2.2.1 In addition to the Design-Builder's obligations under Section 3.1.12, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of an applicable special warranty required by the Design-Build Documents, any of the Work is found not to be in accordance with the requirements of the Design-Build Documents, the Design-Builder shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Design-Builder a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of the Work, if the Owner fails to notify the Design-Builder and give the Design-Builder an opportunity to make the correction, the Owner waives the rights to require correction by the Design-Builder and to make a claim for breach of warranty. If the Design-Builder fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner, the Owner may correct it in accordance with Section 7.9.

§ 11.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 11.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Design-Builder pursuant to this Section 11.2.

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§ 11.2.3 The Design-Builder shall remove from the site portions of the Work that are not in accordance with the requirements of the Design-Build Documents and are neither corrected by the Design-Builder nor accepted by the Owner.

§ 11.2.4 The Design-Builder shall bear the cost of correcting destroyed or damaged construction of the Owner or separate contractors, whether completed or partially completed, caused by the Design-Builder's correction or removal of Work that is not in accordance with the requirements of the Design-Build Documents.

§ 11.2.5 Nothing contained in this Section 11.2 shall be construed to establish a period of limitation with respect to other obligations the Design-Builder has under the Design-Build Documents. Establishment of the one-year period for correction of Work as described in Section 11.2.2 relates only to the specific obligation of the Design-Builder to correct the Work, and has no relationship to the time within which the obligation to comply with the Design-Build Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Design-Builder's liability with respect to the Design-Builder's obligations other than specifically to correct the Work.

§ 11.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Design-Build Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 12 COPYRIGHTS AND LICENSES

§ 12.1 Drawings, specifications, and other documents furnished by the Design-Builder, including those in electronic form, are Instruments of Service. The Design-Builder, and the Architect, Consultants, Contractors, and any other person or entity providing services or work for any of them, shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements, or for similar purposes in connection with the Project, is not to be construed as publication in derogation of the reserved rights of the Design-Builder and the Architect, Consultants, and Contractors, and any other person or entity providing services or work for any of them.

§ 12.2 The Design-Builder and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 12.3 Upon execution of the Agreement, the Design-Builder grants to the Owner a limited, irrevocable and non-exclusive license to use the Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under the Design-Build Documents. The license granted under this section permits the Owner to authorize its consultants and separate contractors to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services or construction for the Project. If the Design-Builder rightfully terminates this Agreement for cause as provided in Section 13.1.4 or 13.2.1 the license granted in this Section 12.3 shall terminate.

§ 12.3.1 The Design-Builder shall obtain non-exclusive licenses from the Architect, Consultants, and Contractors, that will allow the Design-Builder to satisfy its obligations to the Owner under this Article 12. The Design-Builder's licenses from the Architect and its Consultants and Contractors shall also allow the Owner, in the event this Agreement is terminated for any reason other than the default of the Owner or in the event the Design-Builder's Architect, Consultants, or Contractors terminate their agreements with the Design-Builder for cause, to obtain a limited, irrevocable and non-exclusive license solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner (1) agrees to pay to the Architect, Consultant or Contractor all amounts due, and (2) provide the Architect, Consultant or Contractor with the Owner's written agreement to indemnify and hold harmless the Architect, Consultant or Contractor from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's alteration or use of the Instruments of Service.

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§ 12.3.2 In the event the Owner alters the Instruments of Service without the author's written authorization or uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Design-Builder, Architect, Consultants, Contractors and any other person or entity providing services or work for any of them, from all claims and causes of action arising from or related to such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Design-Builder, Architect, Consultants, Contractors and any other person or entity providing services or work for any of them, from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's alteration or use of the Instruments of Service under this Section 12.3.2. The terms of this Section 12.3.2 shall not apply if the Owner rightfully terminates this Agreement for cause under Sections 13.1.4 or 13.2.2.

ARTICLE 13 TERMINATION OR SUSPENSION

§ 13.1 Termination or Suspension Prior to Execution of the Design-Build Amendment

§ 13.1.1 If the Owner fails to make payments to the Design-Builder for Work prior to execution of the Design-Build Amendment in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Design-Builder's option, cause for suspension of performance of services under this Agreement. If the Design-Builder elects to suspend the Work, the Design-Builder shall give seven days' written notice to the Owner before suspending the Work. In the event of a suspension of the Work, the Design-Builder shall have no liability to the Owner for delay or damage caused by the suspension of the Work. Before resuming the Work, the Design-Builder shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Design-Builder's Work. The Design-Builder's compensation for, and time to complete, the remaining Work shall be equitably adjusted.

§ 13.1.2 If the Owner suspends the Project, the Design-Builder shall be compensated for the Work performed prior to notice of such suspension. When the Project is resumed, the Design-Builder shall be compensated for expenses incurred in the interruption and resumption of the Design-Builder's Work. The Design-Builder's compensation for, and time to complete, the remaining Work shall be equitably adjusted.

§ 13.1.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Design-Builder, the Design-Builder may terminate this Agreement by giving not less than seven days' written notice.

§ 13.1.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 13.1.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Design-Builder for the Owner's convenience and without cause.

§ 13.1.6 In the event of termination not the fault of the Design-Builder, the Design-Builder shall be compensated for Work performed prior to termination, together with Reimbursable Expenses then due and any other expenses directly attributable to termination for which the Design-Builder is not otherwise compensated. In no event shall the Design-Builder's compensation under this Section 13.1.6 be greater than the compensation set forth in Section 2.1.

§ 13.2 Termination or Suspension Following Execution of the Design-Build Amendment

§ 13.2.1 Termination by the Design-Builder

§ 13.2.1.1 The Design-Builder may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Design-Builder, the Architect, a Consultant, or a Contractor, or their agents or employees, or any other persons or entities performing portions of the Work under direct or indirect contract with the Design-Builder, for any of the following reasons:

.1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;

.2 An act of government, such as a declaration of national emergency that requires all Work to be stopped;

.3 Because the Owner has not issued a Certificate for Payment and has not notified the Design-Builder of the reason for withholding certification as provided in Section 9.5.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Design-Build Documents; or

.4 The Owner has failed to furnish to the Design-Builder promptly, upon the Design-Builder's request, reasonable evidence as required by Section 7.2.7.

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§ 13.2.1.2 The Design-Builder may terminate the Contract if, through no act or fault of the Design-Builder, the Architect, a Consultant, a Contractor, or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Design-Builder, repeated suspensions, delays or interruptions of the entire Work by the Owner as described in Section 13.2.3 constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 13.2.1.3 If one of the reasons described in Section 13.2.1.1 or 13.2.1.2 exists, the Design-Builder may, upon seven days' written notice to the Owner, terminate the Contract and recover from the Owner payment for Work executed, including reasonable overhead and profit, costs incurred by reason of such termination, and damages.

§ 13.2.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Design-Builder or any other persons or entities performing portions of the Work under contract with the Design-Builder because the Owner has repeatedly failed to fulfill the Owner's obligations under the Design-Build Documents with respect to matters important to the progress of the Work, the Design-Builder may, upon seven additional days' written notice to the Owner, terminate the Contract and recover from the Owner as provided in Section 13.2.1.3.

§ 13.2.2 Termination by the Owner For Cause

§ 13.2.2.1 The Owner may terminate the Contract if the Design-Builder

.1 fails to submit the Proposal by the date required by this Agreement, or if no date is indicated, within a reasonable time consistent with the date of Substantial Completion;

.2 repeatedly refuses or fails to supply an Architect, or enough properly skilled Consultants, Contractors, or workers or proper materials;

.3 fails to make payment to the Architect, Consultants, or Contractors for services, materials or labor in accordance with their respective agreements with the Design-Builder;

.4 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or

.5 is otherwise guilty of substantial breach of a provision of the Design-Build Documents.

§ 13.2.2.2 When any of the above reasons exist, the Owner may without prejudice to any other rights or remedies of the Owner and after giving the Design-Builder and the Design-Builder's surety, if any, seven days' written notice, terminate employment of the Design-Builder and may, subject to any prior rights of the surety:

.1 Exclude the Design-Builder from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Design-Builder;

.2 Accept assignment of the Architect, Consultant and Contractor agreements pursuant to Section 3.1.15; and

.3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Design-Builder, the Owner shall furnish to the Design-Builder a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 13.2.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 13.2.2.1, the Design-Builder shall not be entitled to receive further payment until the Work is finished.

§ 13.2.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Design-Builder. If such costs and damages exceed the unpaid balance, the Design-Builder shall pay the difference to the Owner. The obligation for such payments shall survive termination of the Contract.

§ 13.2.3 Suspension by the Owner for Convenience

§ 13.2.3.1 The Owner may, without cause, order the Design-Builder in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.

§ 13.2.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay or interruption as described in Section 13.2.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

.1 that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Design-Builder is responsible; or

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.2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 13.2.4 Termination by the Owner for Convenience

§ 13.2.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 13.2.4.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Design-Builder shall

.1 cease operations as directed by the Owner in the notice;

.2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and,

.3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing Project agreements, including agreements with the Architect, Consultants, Contractors, and purchase orders, and enter into no further Project agreements and purchase orders.

§ 13.2.4.3 In case of such termination for the Owner's convenience, the Design-Builder shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed.

OH&P is defined as 7%.

ARTICLE 14 CLAIMS AND DISPUTE RESOLUTION

§ 14.1 Claims

§ 14.1.1 Definition. A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Design-Builder arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim.

§ 14.1.2 Time Limits on Claims. The Owner and Design-Builder shall commence all claims and causes of action, whether in contract, tort, breach of warranty or otherwise, against the other, arising out of or related to the Contract in accordance with the requirements of the binding dispute resolution method selected in Section 1.3, within the time period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Design-Builder waive all claims and causes of action not commenced in accordance with this Section 14.1.2.

§ 14.1.3 Notice of Claims

§ 14.1.3.1 Prior To Final Payment. Prior to Final Payment, Claims by either the Owner or Design-Builder must be initiated by written notice to the other party within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 14.1.3.2 Claims Arising After Final Payment. After Final Payment, Claims by either the Owner or Design-Builder that have not otherwise been waived pursuant to Sections 9.10.4 or 9.10.5, must be initiated by prompt written notice to the other party. The notice requirement in Section 14.1.3.1 and the Initial Decision requirement as a condition precedent to mediation in Section 14.2.1 shall not apply.

§ 14.1.4 Continuing Contract Performance. Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 13, the Design-Builder shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Design-Build Documents.

§ 14.1.5 Claims for Additional Cost. If the Design-Builder intends to make a Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the portion of the Work that relates to the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 14.1.6 Claims for Additional Time

§ 14.1.6.1 If the Design-Builder intends to make a Claim for an increase in the Contract Time, written notice as provided herein shall be given. The Design-Builder's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

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§ 14.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

§ 14.1.7 Claims for Consequential Damages

The Design-Builder and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

.1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and

.2 damages incurred by the Design-Builder for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 13. Nothing contained in this Section 14.1.7 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Design-Build Documents.

§ 14.2 Initial Decision

§ 14.2.1 An initial decision shall be required as a condition precedent to mediation of all Claims between the Owner and Design-Builder initiated prior to the date final payment is due, excluding those arising under Sections 10.3 and 10.4 of the Agreement and Sections B.3.2.9 and B.3.2.10 of Exhibit B to this Agreement, unless 30 days have passed after the Claim has been initiated with no decision having been rendered. Unless otherwise mutually agreed in writing, the Owner shall render the initial decision on Claims.

§ 14.2.2 Procedure

§ 14.2.2.1 Claims initiated by the Owner. If the Owner initiates a Claim, the Design-Builder shall provide a written response to Owner within ten days after receipt of the notice required under Section 14.1.3.1. Thereafter, the Owner shall render an initial decision within ten days of receiving the Design-Builder's response: (1) withdrawing the Claim in whole or in part, (2) approving the Claim in whole or in part, or (3) suggesting a compromise.

§ 14.2.2.2 Claims initiated by the Design-Builder. If the Design-Builder initiates a Claim, the Owner will take one or more of the following actions within ten days after receipt of the notice required under Section 14.1.3.1: (1) request additional supporting data, (2) render an initial decision rejecting the Claim in whole or in part, (3) render an initial decision approving the Claim, (4) suggest a compromise or (5) indicate that it is unable to render an initial decision because the Owner lacks sufficient information to evaluate the merits of the Claim.

§ 14.2.3 In evaluating Claims, the Owner may, but shall not be obligated to, consult with or seek information from persons with special knowledge or expertise who may assist the Owner in rendering a decision. The retention of such persons shall be at the Owner's expense.

§ 14.2.4 If the Owner requests the Design-Builder to provide a response to a Claim or to furnish additional supporting data, the Design-Builder shall respond, within ten days after receipt of such request, and shall either (1) provide a response on the requested supporting data, (2) advise the Owner when the response or supporting data will be furnished or (3) advise the Owner that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Owner will either reject or approve the Claim in whole or in part.

§ 14.2.5 The Owner's initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) identify any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 14.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 14.2.6.1.

§ 14.2.6.1 Either party may, within 30 days from the date of an initial decision, demand in writing that the other party file for mediation within 60 days of the initial decision. If such a demand is made and the party receiving the demand

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fails to file for mediation within the time required, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 14.2.7 In the event of a Claim against the Design-Builder, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Design-Builder's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 14.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 14.3 Mediation

§ 14.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 14.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 14.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this Section 14.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 14.3.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction.

§ 14.4 Arbitration

§ 14.4.1 If the parties have selected arbitration as the method for binding dispute resolution in Section 1.3, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

§ 14.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations or statute of repose. For statute of limitations or statute of repose purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

§ 14.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction.

§ 14.4.3 The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

§ 14.4.4 Consolidation or Joinder

§ 14.4.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

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§ 14.4.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 14.4.4.3 The Owner and Design-Builder grant to any person or entity made a party to an arbitration conducted under this Section 14.4, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Design-Builder under this Agreement.

ARTICLE 15 MISCELLANEOUS PROVISIONS

§ 15.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located except that, if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 14.4.

§ 15.2 Successors and Assigns

§ 15.2.1 The Owner and Design-Builder, respectively, bind themselves, their partners, successors, assigns and legal representatives to the covenants, agreements and obligations contained in the Design-Build Documents. Except as provided in Section 15.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 15.2.2 The Owner may, without consent of the Design-Builder, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Design-Build Documents. The Design-Builder shall execute all consents reasonably required to facilitate such assignment.

§ 15.2.3 If the Owner requests the Design-Builder, Architect, Consultants, or Contractors to execute certificates, other than those required by Section 3.1.10, the Owner shall submit the proposed language of such certificates for review at least 14 days prior to the requested dates of execution. If the Owner requests the Design-Builder, Architect, Consultants, or Contractors to execute consents reasonably required to facilitate assignment to a lender, the Design-Builder, Architect, Consultants, or Contractors shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to them for review at least 14 days prior to execution. The Design-Builder, Architect, Consultants, and Contractors shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of their services.

§ 15.3 Written Notice

Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; or if delivered at, or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice.

§ 15.4 Rights and Remedies

§ 15.4.1 Duties and obligations imposed by the Design-Build Documents, and rights and remedies available thereunder, shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.

§ 15.4.2 No action or failure to act by the Owner or Design-Builder shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.

§ 15.5 Tests and Inspections

§ 15.5.1 Tests, inspections and approvals of portions of the Work shall be made as required by the Design-Build Documents and by applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of public authorities. Unless otherwise provided, the Design-Builder shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Design-Builder shall give the Owner timely notice of when and where tests and inspections are to be made so that the Owner may be present for such

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procedures. The Owner shall bear costs of (1) tests, inspections or approvals that do not become requirements until after bids are received or negotiations concluded, and (2) tests, inspections or approvals where building codes or applicable laws or regulations prohibit the Owner from delegating their cost to the Design-Builder.

§ 15.5.2 If the Owner determines that portions of the Work require additional testing, inspection or approval not included under Section 15.5.1, the Owner will instruct the Design-Builder to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Design-Builder shall give timely notice to the Owner of when and where tests and inspections are to be made so that the Owner may be present for such procedures. Such costs, except as provided in Section 15.5.3, shall be at the Owner's expense.

§ 15.5.3 If such procedures for testing, inspection or approval under Sections 15.5.1 and 15.5.2 reveal failure of the portions of the Work to comply with requirements established by the Design-Build Documents, all costs made necessary by such failure shall be at the Design-Builder's expense.

§ 15.5.4 Required certificates of testing, inspection or approval shall, unless otherwise required by the Design-Build Documents, be secured by the Design-Builder and promptly delivered to the Owner.

§ 15.5.5 If the Owner is to observe tests, inspections or approvals required by the Design-Build Documents, the Owner will do so promptly and, where practicable, at the normal place of testing.

§ 15.5.6 Tests or inspections conducted pursuant to the Design-Build Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 15.6 Confidential Information

If the Owner or Design-Builder transmits Confidential Information, the transmission of such Confidential Information constitutes a warranty to the party receiving such Confidential Information that the transmitting party is authorized to transmit the Confidential Information. If a party receives Confidential Information, the receiving party shall keep the Confidential Information strictly confidential and shall not disclose it to any other person or entity except as set forth in Section 15.6.1.

§ 15.6.1 A party receiving Confidential Information may disclose the Confidential Information as required by law or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity. A party receiving Confidential Information may also disclose the Confidential Information to its employees, consultants or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of Confidential Information as set forth in this Contract.

§ 15.7 Capitalization

Terms capitalized in the Contract include those that are (1) specifically defined, (2) the titles of numbered articles or (3) the titles of other documents published by the American Institute of Architects.

§ 15.8 Interpretation

§ 15.8.1 In the interest of brevity the Design-Build Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 15.8.2 Unless otherwise stated in the Design-Build Documents, words which have well-known technical or construction industry meanings are used in the Design-Build Documents in accordance with such recognized meanings.

ARTICLE 16 SCOPE OF THE AGREEMENT

§ 16.1 This Agreement is comprised of the following documents listed below:

.1 AIA Document A141™–2014, Standard Form of Agreement Between Owner and Design-Builder
.2 AIA Document A141™–2014, Exhibit A, Design-Build Amendment, if executed
.3 AIA Document A141™–2014, Exhibit B, Insurance and Bonds
.4 AIA Document A141™–2014, Exhibit C, Sustainable Projects, if completed
.5

Init. /

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(925584218)

N/A

.6 Other:

N/A

This Agreement entered into as of the day and year first written above.

OWNER *(Signature)*	**DESIGN-BUILDER** *(Signature)*
(Printed name and title)	Gary C. Webb Vice President *(Printed name and title)*

Init.

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Additions and Deletions Report for
AIA® Document A141® – 2014

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 15:58:24 ET on 02/13/2025.

PAGE 1

AGREEMENT made as of the 7th day of February in the year 2025

...

City of Lenoir
801 West Avenue
Lenoir, NC 28645

...

J.M. Cope Inc.
346 9th Street SE
Hickory, NC 28602

...

2022 PARTF PROJECT – Lenoir Aquatic & Fitness Center Improvements
1031 Jim Barger Court NE
Lenoir, NC 28645
Provide design and construction services for Lenoir Aquatic & Fitness Center, including renovating / reconfiguring two (2) family-style restrooms, separate male and female locker rooms, and existing whirlpool room, and three (3) racquetball courts. In addition, reconfiguring, replacing, or relocating existing mechanical, electrical, and/or plumbing systems.
PAGE 2

Provide design and construction services for Lenoir Aquatic & Fitness Center, to include renovating / reconfiguring two (2) family-style restrooms, separate male and female locker rooms, and existing whirlpool room, and three (3) racquetball courts. In addition, reconfiguring, replacing, or relocating existing mechanical, electrical, and/or plumbing systems.
PAGE 3

See attached RFQ dated November 26, 2024

...

See attached RFQ dated November 26, 2024

...

To be determined.

...

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User Notes: (925584218)

To be determined.

...

The project budget is approximately $700,000.00

...

To be developed

...

January 15th, 2025

...

N/A

...

October 31, 2025

PAGE 4

Final Completion – 60 days after Substantial Completion

...

Ramsay Burgin Smith Architects, Inc.
225N. Main Street, Suite 501
Salisbury, NC 28144

.2 Consultants

SE Collins Consulting – Mechanical & Plumbing Engineering
1817 E. Innes Street, Suite 201
Salisbury, NC 28146

Design Engineering – Electrical Engineering
817 E. Innes Street, Suite 201
Salisbury, NC 28146

Ramsay Burgin Smith Architects, Inc – Structural Engineering
225 N. Main Street, Suite 501
Salisbury, NC 28144

N/A

...

Funding agency requirements and contracts mandate a completion of October 31, 2025.

...

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§ 1.1.12 If the Owner and Design-Builder ~~and Contractor~~ intend to transmit Instruments of Service or any other information or documentation in digital form, ~~or utilize building information modeling, they shall endeavor to establish written protocols governing the development, use, transmission, reliance, and exchange of digital data, including~~ they shall endeavor to establish necessary protocols governing such transmissions. Unless otherwise agreed, the parties will use AIA Document E203™–2013 to establish the protocols for the development, use, transmission, and exchange of digital data and building information modeling.

PAGE 5

Jared Wright, Director of Special Projects and Grants
801 West Avenue
Lenoir, NC 28645
828.757.2153
jwright@CI.LENOIR.NC.US

...

N/A

...

N/A

...

Gary C. Webb, Vice President
346 9th Street SE
Hickory, NC 28602
704.917.9755
cwebb@jmcope.com

...

[X] Arbitration pursuant to Section 14.4

PAGE 7

Preconstruction Services Lump Sum ($25,000.00)

- Develop a comprehensive understanding of program goals and requirements.
- Review and confirm programming requirements and goals are being met though the design phase.
- Participate in design meetings with Owner and design consultants.
- Prepare and coordinate Schematic Design, Design Development and Construction Documents in accordance to owner's program.
- Provide formal deliverable with budget analysis, schedule updates, constructability, and value management throughout the design phase.
- Manage bid procedures during the bid phase.
- Provide recommendations for each bid package.
- Open book approach with trade partners solicitation, budget reconciliation for final Guaranteed Maximum Price.

...

See attached hourly billing rate for RBSA dated January 2025

...

N/A

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...

§ 2.1.3.2 For Reimbursable Expenses, the compensation shall be the expenses the Design-Builder and the Design-Builder's Architect, Consultants and Contractors incurred, plus an administrative fee of seven percent (7 %) of the expenses incurred.

...

§ 2.1.4.1 Payments are due and payable upon presentation of the Design-Builder's invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Design-Builder.

...

Two % Plus Prime rate as calculated by the Wall Street Journal on a daily basis.

PAGE 11

N/A

PAGE 30

OH&P is defined as 7%.

PAGE 34

.5 ~~AIA Document E202™ 2022, BIM Exhibit for Sharing Models with Project Participants, Where Model Versions May Not be Enumerated as a Contract Document, if completed, or the following:~~

N/A

PAGE 35

N/A

...

Gary C. Webb Vice President

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Gary C. Webb, VP, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 15:58:24 ET on 02/13/2025 under Order No. 4104242339 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A141™ – 2014, Standard Form of Agreement Between Owner and Design-Builder, other than those additions and deletions shown in the associated Additions and Deletions Report.

_____

(Signed)

_____

(Title)

_____

(Dated)

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User Notes:
(925584218)

RAMSAY • BURGIN • SMITH ARCHITECTS, INC.
ARCHITECTURE • PLANNING • DEVELOPING
225 North Main Street – Suite 501, Salisbury, North Carolina 28144 704-633-3121

OFFICE STANDARD RATE SHEET

January 2025

For additional architectural services above basic fees for projects, change orders, expert witnessing, special circumstance problem solving or projects without a clearly-defined scope, we provide services at the following hourly rates:

Principal **$ 190 per hour**

The Partner in responsible charge of each project. The Principal has controlling authority to obligate the Firm in all contractual areas of design, production and finance.

Project Architect/Engineer **$ 125 per hour**

The Architect responsible for overall project management. Oversees all design, construction consultations, site evaluations and preliminary studies, the preparation of plans, specifications and contract documents, administration of construction contracts and related

Intern Architect **$ 90 per hour**

Graduate of an accredited School of Design working in the Intern Development Program towards partial satisfaction of the architectural licensing and certification requirements.

Technical Draftsperson **$ 80 per hour**

Design and production personnel qualified in the preparation of plans, specifications and construction documents.

Administration **$ 60 per hour**

All clerical, accounting and office management personnel.

Professional Consultants **Cost plus 20%**

Additional structural, mechanical and electrical engineering or other specialized consultant services.

Travel Time

Travel time is billed at 1/2 the hourly rate if more than 3 hours total travel time is required for any trip.

Reimbursables

Expenses of reproduction **Cost plus 20%**
Expenses of postage and handling of drawings, specifications, and other Documents. **Cost plus 20%**
Expenses of renderings, models, and mock-ups **Cost plus 20%**
Expense of any additional insurance coverage or limits including professional liability insurance requested by the owner in excess of that normally carried. **At Cost**
Living expenses in connection with out-of-town travel. **At Cost**
Long distance communications **At Cost**
Fees paid for securing approval of authorities having jurisdiction over the Project. **At Cost**
Transportation in connection with Project **.70 cents/mile**

REQUEST TO SURPLUS CITY PROPERTY

Department Requesting Disposal of Surplus Property	
Date of Request	2/4/2025
Department Name	Police Department
Contact Name	Maj. Andy Wilson
Phone	828-757-2100

ITEM	QTY	CODE*	SERIAL/VIN #	MAKE	MODEL YEAR	MILEAGE/ MACHINE HOURS	REASON FOR REQUEST	CURRENT LOCATION OF THE ITEM	ORIGINAL PURCHASE PRICE	DATE OF PURCHASE	ESTIMATED SALVAGE VALUE	ITEM IN WORKING ORDER Y/N	APPROVED TO LIST ON GOVDEALS
Black Patrol Plate Carriers	21	S1	N/A	Rothco	NA / 2015	N/A	Transfer to Requesting Agency	Lenoir PD	$57.00 ea.	8/16/15	$1.00	Y	☐
Ballistic Plates	42	S1	See Attatched Doc for Serial Numbers	United Shield Int.	ZETA-6H / 2015	N/A	Transfer to Requesting Agency	Lenoir PD	$200.00 ea.	8/16/15	$1.00	Y	☐
Black Helmets	21	S1	See Attatched Doc for Serial Numbers	Ceradyne	BA3A - 2015	N/A	Transfer to Requesting Agency	Lenoir PD	$200 ea.	7/1/15	$1.00	Y	☐
SRT Tactical Vests	8	S1	N/A	Protech	Titan / 2014	N/A	Transfer to Requesting Agency	Lenoir PD	$3500.00 ea.	7/1/14	$1.00	Y	☐
Ballistic Plates	16	S1	See Attatched Doc for Serial Numbers	Protech	Titan / 2014	N/A	Transfer to Requesting Agency	Lenoir PD	$500.00	6/28/19	$1.00	Y	
Green Ballistic Helmet	3	S1	See Attatched Doc for Serial Numbers	Protech	Delta LT -2015	N/A	Transfer to Requesting Agency	Lenoir PD	$550.00 ea.	7/1/15	$1.00	Y	☐
													☐

** Please enter one CODE per item: (S1) Obsolete (S2) Too Costly to Maintain (S3) Beyond Repair (S4) Cannibalized*

APPROVED BY	DATE

ITEM	DATE OF SALE	SELLING PRICE	DATE OF DEPOSIT	BUDGET CODE FOR DEPOSIT	DATE ITEM REMOVED FROM INVENTORY		BY WHOM - SIGNATURE	DATE ITEM REMOVED FROM INSURANCE	BY WHOM - SIGNATURE	DATE TAG CANCELLED OR TRANSFERRED	BY WHOM - SIGNATURE

ALL SURPLUS ITEMS ARE LISTED ON GOVDEALS IN ACCORDANCE WITH CITY OF LENOIR RESOLUTION NO. 6-2007, NC GENERAL STATUTES 160A-270 AND NCGS 160A-270 (c)

SIDEWALK CAFE PERMIT APPLICATION

CITY OF LENOIR PLANNING DEPARTMENT

CITY HALL • 801 WEST AVENUE NW • PO BOX 958 • LENOIR, NC 28645

The City of Lenoir allows sidewalk cafes within the downtown Municipal Service District when a permit is approved by City Council, in accordance with Sec. 13-3 of the Lenoir City Code. For questions about this application form or the rules pertaining to sidewalk cafes in the City of Lenoir, please contact the Planning Department at 828.757.2200. PERMITS ARE GOOD FOR A PERIOD OF 1 YEAR AND MUST BE RENEWED ANNUALLY.

Submittal Checklist:

- ☐ Application Form
- ☐ Application Fee
- Site Plan (including dimensions):
  - Must show all tables, chairs, walkway areas, and entrances/exits to the restaurant.
  - Must show location and materials of temporary barrier to be erected around the café.
  - Must show 5 ft. clear pedestrian path on sidewalk adjacent to café area.
- ☐ Documentation of Public Liability Insurance
  - Must carry $1,000,000.00 insuring against personal injury, wrongful death and property damage, including the City as a party insured and insuring the City against any liability resulting from the uses permitted pursuant to Section 13-3 of the Lenoir City Code.
- ☐ Copies of All Permits and Licenses
  - County Health Department and any other applicable regulatory agencies
  - Current ABC/ALE permits if the sidewalk café intends to serve alcoholic beverages on the public sidewalk. NOTE: revised permits may be required to include the expanded areas.

Permit Information:

Property Address: 128 Main St. NC PIN: _____

Zoning District: B-3 Located within Municipal Service District? ☒ Yes ☐ No

Business Name: Side Street Pour House & Grill

Will ABC permit include sidewalk café area? ☒ Yes ☐ No

Number of seats in Restaurant: 100 Number of seats* proposed for sidewalk café: 24

*Note: seating in sidewalk café can not exceed 50% of the seating within the restaurant.)

Contact Information:

Kevin Eller
Name of Restaurant Operator

2606 Keyes Pl
Street Address

Lenoir NC 28645
City State Zip

Phone Number: 828-234-4535

Fax Number: _____

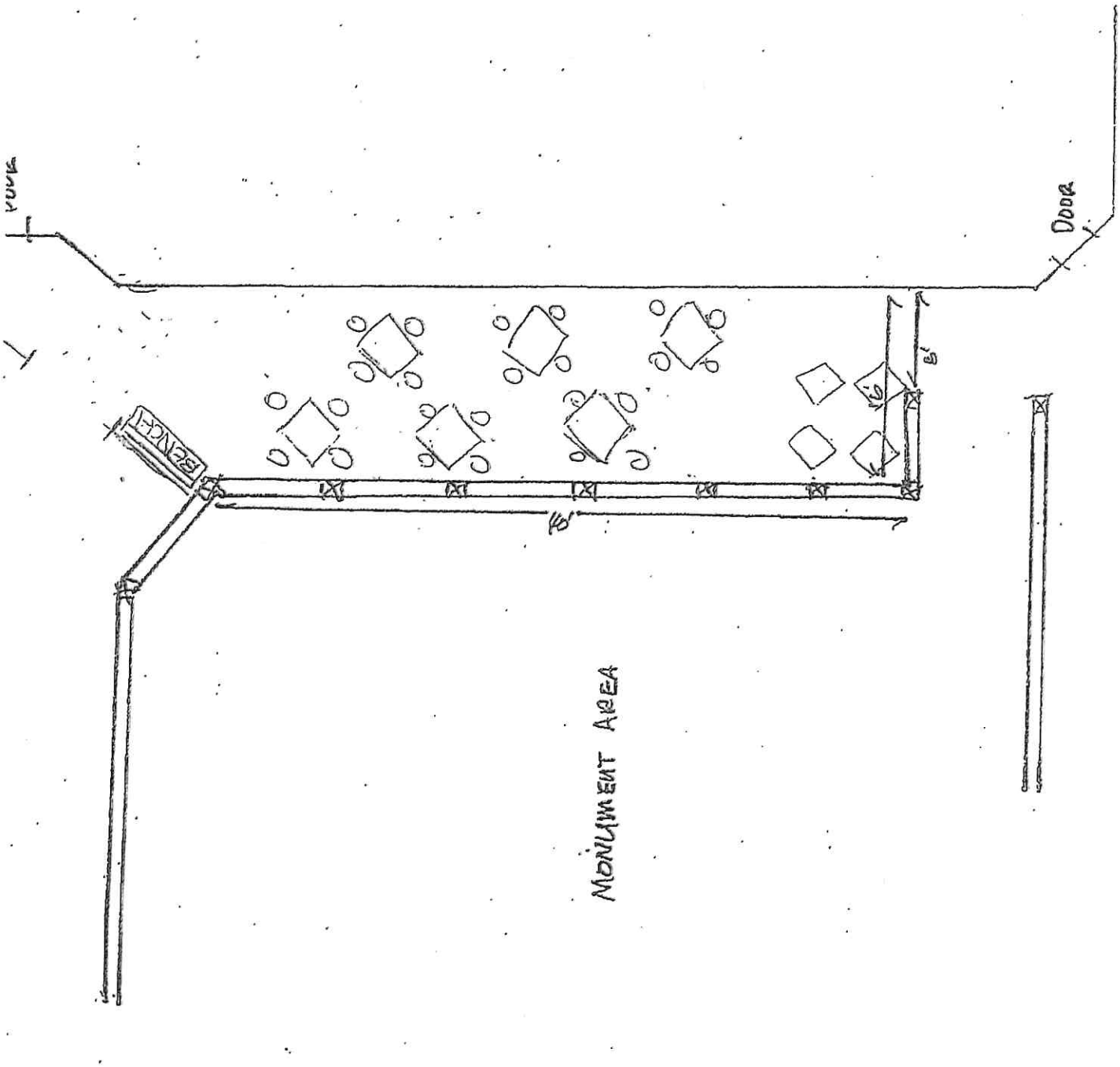
Email: kevin.ellere@yahoo.com

Owner's Signature:

By signing, I certify that the information presented in this application is true to the best of my knowledge and I consent to enter into a hold-harmless agreement with the City and comply with all provisions of the City ordinances in the establishment and operation of the sidewalk café described in this application.

OFFICIAL USE ONLY: City Council approved on _____ Permit No. _____

Form revised 3/3/2014


ROAD
DOOR
FENCE
MONUMENT AREA

GS508298

ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
02/21/2025

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Reliable Insurance Agency Inc 512 Mulberry Street SW Lenoir NC 28645	CONTACT NAME: Kimmie Rogers PHONE (A/C, No, Ext): 828-758-2364 FAX (A/C, No): 828-758-1736 E-MAIL ADDRESS: kimmie@reliableinsurance.biz	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A : Nautilus Insurance Company	17370
INSURED Side Street Entertainment DBA Side Street Pour House & Grill PO Box 850 Lenoir NC 28645	INSURER B :	
	INSURER C :	
	INSURER D :	
	INSURER E :	
	INSURER F :	

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: [X] POLICY [ ] PRO-JECT [ ] LOC	Y	N	NN1768729	03/30/2025	03/30/2026	EACH OCCURRENCE	$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 100,000
							MED EXP (Any one person)	$ 5,000
							PERSONAL & ADV INJURY	$ 1,000,000
							GENERAL AGGREGATE	$ 2,000,000
							PRODUCTS - COMP/OP AGG	$ 2,000,000
								$
	AUTOMOBILE LIABILITY ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident)	$
							BODILY INJURY (Per person)	$
							BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
								$
	UMBRELLA LIAB [ ] OCCUR EXCESS LIAB [ ] CLAIMS-MADE DED [ ] RETENTION $						EACH OCCURRENCE	$
							AGGREGATE	$
								$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y / N If yes, describe under DESCRIPTION OF OPERATIONS below	N / A					WC STATU-TORY LIMITS [ ] OTH-ER	
							E.L. EACH ACCIDENT	$
							E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
Restaurant

Certificate holder is listed as Additional Insured per form CG2026 (12/19).

CERTIFICATE HOLDER

City of Lenoir
Po Box 958
Lenoir NC 28645

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Danielle S Wade

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100
GS508298

ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
02/21/2025

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Reliable Insurance Agency Inc 512 Mulberry Street SW Lenoir NC 28645	CONTACT NAME: Kimmie Rogers PHONE (A/C, No, Ext): 828-758-2364 FAX (A/C, No): 828-758-1736 E-MAIL ADDRESS: kimmie@reliableinsurance.biz	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A : Nautilus Insurance Company	17370
INSURED Side Street Entertainment DBA Side Street Pour House & Grill PO Box 850 Lenoir NC 28645	INSURER B :	
	INSURER C :	
	INSURER D :	
	INSURER E :	
	INSURER F :	

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY PRO-JECT LOC	Y	N	NN1768729	03/30/2025	03/30/2026	EACH OCCURRENCE	$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 100,000
							MED EXP (Any one person)	$ 5,000
							PERSONAL & ADV INJURY	$ 1,000,000
							GENERAL AGGREGATE	$ 2,000,000
							PRODUCTS - COMP/OP AGG	$ 2,000,000
								$
	AUTOMOBILE LIABILITY ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident)	$
							BODILY INJURY (Per person)	$
							BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
								$
	UMBRELLA LIAB OCCUR EXCESS LIAB CLAIMS-MADE DED RETENTION $						EACH OCCURRENCE	$
							AGGREGATE	$
								$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y / N If yes, describe under DESCRIPTION OF OPERATIONS below	N / A					WC STATU-TORY LIMITS OTH-ER	
							E.L. EACH ACCIDENT	$
							E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
Restaurant

Certificate holder is listed as Additional Insured per form CG2011 (12/19).

CERTIFICATE HOLDER

Keystone Properties Llc
2606 Keyes Place
Lenoir NC 28645

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Danielle D Wade

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COMMITTEE OF THE WHOLE
TUESDAY, FEBRUARY 25, 2025
8:30 A.M.

Present: Mayor Pro-Tem David Stevens, Mayor Joe Gibbons, Jonathan Beal, Ike Perkins, Todd Perdue, Ralph Prestwood, Kimmie Rogers and Crissy Thomas.

Staff Present: City Manager Scott Hildebran, City Clerk Shirley Cannon, Finance Director Donna Bean, Public Services Public Works Director Jon Hogan, Public Services Public Utilities Director Jeff Church, Planner Matt Duchan, Parks & Recreation Director Phil Harper, Fire Chief Norman Staines, Police Chief Brent Phelps, Police Major Andy Wilson, Director of Special Projects & Grants Jared Wright, and Communications Director Joshua Harris.

Absent: Hannah Williams, Planning Director.

I. CALL TO ORDER

II. Mayor Pro-Tem David Stevens welcomed everyone and called the meeting to order.

III. CITIZEN COMMENT

IV. PUBLIC SAFETY

A. Update; Police Department: Police Chief Brent Phelps presented the following report:
- There are 2 openings in Patrol, 3 officers are in field training and 3 trainees are enrolled in the Basic Law Enforcement Training (BLET) programs at CCC&TI.
- The Department is half-way through the budget year and working to finish up outstanding projects with budget impact.
- Thank you to Building Maintenance crew for all of their hard work on the lounge and to Brenda Floyd for interior design assistance on lounge project.

B. Update; Fire Department: Fire Chief Norman Staines presented the following report:
- The Department has one open position.
- Cameras are going to be installed in all the large apparatus, the Quick Response Vehicles and the Battalion Chief's vehicle.
- The Department requested to participate in the Smoke Detector program again in June and requested 36 detectors as part of the grant process.
- Reviewed the annual 2024 Report and explained their response time.

A copy of the annual report is attached to these minutes as information.

V. PUBLIC SERVICES

A. Public Services Public Works: Public Services Public Works Director Jon Hogan presented updates on the following projects:

1. **Wayfinding Sign Project:** The City received NCDOT comments and are working with RiteLite Sign and Destination by Design to address DOT comments. Staff does feel like we now have a good path moving forward. Per DOT notes we will have to make some slight modifications such as shrinking the size of the city logo, removing the logo on the rear of the sign and routing "Create with Us" on the sign post. We will still be allowed to attach the local artwork and keep graphics on the back of the sign. Those rules will apply to signs on NCDOT roadways. We will stick to the original design on city streets. The city will also need to relocate 7 signs that were concerns. Once the changes have been made, we will resubmit for their final review. Manufacturing of the signs will take around 6 months, likely being a fall installation.
2. **Gateway Sign Project:** Destination by Design (DbyD) has created four conceptual sign designs. These options have been designed in a vertical orientation utilizing the city logo and having artistic similarities to the center sign at Smith Crossroads.

   City Council agreed with the vertical sign with letters top to bottom (A picture of the design is attached to these minutes as information.)

   DbyD did not want to recreate the Smith Crossroads sign at all four locations. Due to utilizing NCDOT ROW and needing to be out of the roadway clear zones, the signs were designed vertically versus horizontally. The final designs will include landscaping.
3. **Veteran's Pavers:** Staff has worked with local contractors on numerous designs for stones for this area. Unfortunately, due to the number of names we have to address and availability of materials to local monument companies, we have not yet been able to design a solution. Staff has designed a smaller monument (Presentation by Joshua Harris attached to these minutes) similar to what is already there. Staff has solicited 3 quotes and are awaiting responses on those.
4. **Creekway Drive Landscape Median:** Staff is currently working on numerous landscape projects to address cleaning up gateways into the city. Due to improper tree pruning and lack of mulch and maintenance this gateway has become an eyesore. Our plan is to remove and replace all plant material with 11 trees and a number of low maintenance shrubs. The zoysia sod will be removed and replaced by mulch beds and river rock to not only add aesthetic appeal but to also minimize maintenance or mowing needs.
5. **Self-Watering Planters Harper Avenue:** This is another gateway cleanup project. Staff has removed the unsightly crepe myrtles as they have been topped throughout the years creating a major eyesore and issues with pedestrian traffic and sight issues for drivers. Staff is proposing placing self-watering planters along Harper Avenue from Pennton Avenue to Ridge Street. These planters will be planted with a mix of shrubs, perennials and annuals to add some color and spruce up the aesthetics along Harper Avenue.
6. **321 Sculpture Landscape Design:** Staff has received some inquiries in reference to cleaning this area up. Unfortunately, due to lack of maintenance, the shrubs have become overgrown and mulch nonexistent creating an eyesore. Staff has worked on in-house design and design with Southern Lawnscapes. Due to lack of manpower, time and equipment we will self-perform the removal plant materials and soil prep. Southern

Lawnscapes will handle the installation of plant materials, rock, boulders and mulch. The plant materials will consist of low maintenance blooming shrubs and perennials to add seasonal color as well as evergreen trees to create a back drop for the sculpture.

A copy of the presentation is attached to these minutes as information.

B. Public Services Public Utilities: Public Services Public Utilities Director Jeff Church presented updates on the following projects:

1. Revised Water and Sewer Service Extension Policy: Staff recommends approval of the City of Lenoir's revised Water and Sewer Service Extension Policy as submitted. The City shall deal with each petition to construct extensions to its water and sewer systems on a case-by-case basis and the City Council reserves the right to accept or reject any proposal for such extension on its merits.

   A copy of the Revised Water and Sewer Extension Policy is attached to these minutes as information.

   Motion
   Upon a motion by Councilmember Perkins, City Council voted 7 to 0 to approve the City of Lenoir's revised Water and Sewer Service Extension Policy as submitted.

2. Finley Water Project: With the Public Water Supply approval in hand, the Division of Water Infrastructure will soon send their approval, which is the final approval needed to move forward. McGill is currently reviewing plans to ensure they are ready for bidding. In addition, they are finalizing all bid documents, verifying quantities, setting up alternate bid items, and developing a construction sequence plan for the tank. McGill expects the project could advertise for bids within the next few weeks.
3. Valdese Water Interconnection: The preliminary plan has been drafted with pump station alternatives, lake crossing methods, and alternative water main routes through Caldwell County to the tie-in.
4. East Harper Sewer Replacement: The proposed replacement has been upsized to 10" based on existing upstream sewer sizes. A sewer permit application will need to be submitted to the North Carolina Department of Environmental Quality (NCDEQ).
5. Ridge Street/West Avenue Sewer: The proposed sewer plans have been completed and are being reviewed internally by McGill Associates before bidding.
6. Water and Sewer AIA: Inventory work is underway. A site visit by McGill to Lower Creek Wastewater Treatment Plant (WWTP) and the pump stations is scheduled for next week. A meeting with City Staff is needed to review existing water and sewer mapping to fill in the inventory gaps.

V. COMMUNITY DEVELOPMENT

A. Lenoir Tourism Development Authority: The Lenoir Tourism Development Authority met on Thursday, February 6. Minutes of the October 30 meeting are submitted as information. Brenda Floyd, Economic & Main Street Director will report on current activities.

Director Floyd said several would be attending the Main Street Conference in Mooresville on March 11 through March 13. Also, she stated a ribbon cutting would be held at Pixel Planet Gaming Lounge located at 130 Church Street NW on Friday, February 28 at 5:00 p.m. Market Deli restaurant will be opening on Main Street.

B. Lenoir Business Advisory Board: The Lenoir Business Advisory Board met on Thursday, February 6. Minutes of the January 9, 2025 meeting were submitted as information. Brenda Floyd, Economic & Main Street Director will report on current activities.

Director Floyd stated she is trying to fill downtown vacancies. A local property owner has inquired about applying for a building grant, but noted it is interest only at the moment.

C. Planning Board: The Planning Board met on Monday, February 24. Matt Duchan, Planner presented the following report:

- Former site of Whitnel United Methodist Church; closed its doors in 2023.
- 4 parcels totaling 4.17 acres
- Currently split-zoned R-15/R-6
- Proposed base zoning is R-6
- Blowing Rock Country Club (BRCC) is under contract with this property
- Phase 1: BRCC intends to implement group housing/dormitory-style housing for seasonal employees (May-October), transportation will be provided by the club.
- Phase 2: BRCC will eventually convert the sanctuary into an event space or daycare.
- Added permitted uses include group housing, cultural and community facilities, and daycare.
- Phase 3: Develop the two vacant parcels with housing options for the workforce or individually platted plots for sale.
- Whitnel neighborhood is one of two focus neighborhoods in 2045 Comprehensive Plan efforts.

VAR 1-25 - 530A Wheeler Street

- R-6 zoning
- 3700 SF, 2300 SF below minimum lot size requirement.
- Variance for 10' setbacks on all sides.
- Current setbacks (35' front, 25' rear, 10' side) only allow for a building envelope of about 250 square feet.
- The variance would allow for about 1450 square feet of building space, with ample room for parking and site maneuvering.
- West End neighborhood is the other focus neighborhood in 2045 Comprehensive Plan efforts.
- Purchased on foreclosure in November 2024 by current property owner.
- West End features many lots that pre-date zoning standards, so this is one of many.

Other Business

- Freese & Nichols, our consultant for the 2045 Comprehensive Plan, will be presenting a project-to-date update at the City Council Planning Retreat at BREMCO on Friday, 2/28.

- The next round of community engagement meetings to receive public input for the 2045 Comprehensive Plan will take place on Wednesday, March 5, and Thursday, March 7 from 5:30 p.m. - 7:30 p.m.
- A Community Open House is scheduled for Wednesday, March 5 at the J. E. Broyhill Civic .Center from 5:30 p.m.- 7:30 p.m.

D. The Parks and Recreation Advisory Board met on Monday, February 17. Phil Harper, Parks and Recreation Director presented an update on the following current activities and projects.

1) Youth basketball/cheer regular season finished up last night at Mulberry Recreation Center.
2) All-Star games with Gamewell Optimist League begin on Monday, March 10 at Mulberry Recreation & Saturday, March 15 at Gamewell Middle.
3) Quiz Bowl rescheduled for Thursday, March 6 at 6:00 p.m. at the Martin Luther King, Jr. Center.
4) Adult Industrial Basketball league registrations continue until March 4 at 5:00 p.m.
5) Leprechaun Leap Race is scheduled for Saturday, March 15 at 10:00 a.m. starting at the Rotary Soccer Complex – 5K/10K races.

IV. Director of Special Projects and Grants Jared Wright gave the following report:

PROJECTS

1. **Mulberry Recreation Center –** (2) projects remaining: pickleball court conversion has been delayed due to weather – 50 degrees and dry, work should be complete this week; underground drainage replacement (phase 2 of the roof and drainage repairs project) will be performed by staff, material is on-site but need better weather and some free time ~ 1-week ~ to perform the work.
2. **MLK Improvements** – Work is ongoing, exterior doors have been replaced, exterior wooden trim repair(s) are underway; gutter replacement and exterior painting to follow, floor replacement will be priority in February. **Bids received for asbestos floor covering removal. Will award contract within the next week and schedule work for removal and installation of new floor.**
3. **PARTF Project** – LAFC Design-Build: Will schedule a project kickoff and scoping meeting within the next couple of weeks.
4. **Campus Improvements Project** – Plans are between 80 and 90%. On target for 90%+ submission in early to mid-March. A summary of ongoing tasks includes: architectural design, including MEP, civil/site design, geotechnical testing at LEOS site, A/V scoping, and budget review and refinement by CM (as plans continue to be developed).
5. **TH Broyhill Walking Park Retaining Wall Replacement** – Work began in December, demolition is mostly complete and boulder wall placement has begun, but the project was significantly delayed in December and January due to weather. Work resumed in February, appears to be 2-3 weeks away from completion.
6. **LFD Infrastructure Repair (Sinkhole**) – LFD sewer project will be bundled with East Harper sewer and advertised as a single project. Acquired easement from Caldwell County to relocate sewer line between West Ave and Ashe Ave away from creek and property line. Project could go to bid as quickly as 1-2 weeks.

GRANTS/FUNDING APPS

1. **Great Trails funding application** – $497,994 funding application for OVT Connector submitted 11.12.24 – Notification of award expected by March ("early 2025").
2. **Blue Ridge Energy/USDA REDLG** – loan application in development for loan funding to assist the Fire Department with acquisition of a new ladder engine. The application is due 3.31 and will be for the maximum amount of $1,180,000. The loan term will be for 7-years.

V11. Finance and Administration: Finance Director Donna Bean presented the Financial Summary as of January 31, 2025.

The over/under balance in the General Fund is $4,105,971.42 Downtown District ($150,406.31) and Water & Sewer Fund $1,340,864.34.

A copy of the January Financial Summary is attached to these minutes as information.

Director Bean stated all of the financials are on target and are where she anticipated them to be in the general fund budget at this time.

Next, Director Bean stated property values have gone up and the new tax values are located on the Caldwell County's website. City Manager Hildebran stated that Caldwell County recently completed its state-mandated property revaluation and have notified owners by mail of the 2025 appraised property values. The County will also be considering formal and informal appeals.

2. Training and Certification Increase Schedule: Staff recommends City Council's consideration of approval for the Training and Certification Increase Schedules by Department as presented.

A copy of the Training and Certification Increase Schedules are attached to these minutes as information.

Finance Director Bean stated the goal of these schedules is to standardize the pay increases throughout the City and to base the increases on the amount of time required for the certificates as well as job requirements and agency regulations.

Motion
Upon a motion by Councilmember Prestwood and seconded by Councilmember Beal, City Council voted 7 to 0 to approve the Training and Certification Increase Schedule as presented.

A. Update; Public Communications: Joshua Harris, Public Information Director referred to the January 2025 Communication Report. There were 5 new releases, 101 social posts, 71 photos, 2 videos, and 194 web updates. The website had a total of 45,137 views along with 1,069 video views. Social followers total 58,708 and there were 199 new followers this month. Director Harris asked Staff to send him any news/stories they would like to have published.

V111. OTHER

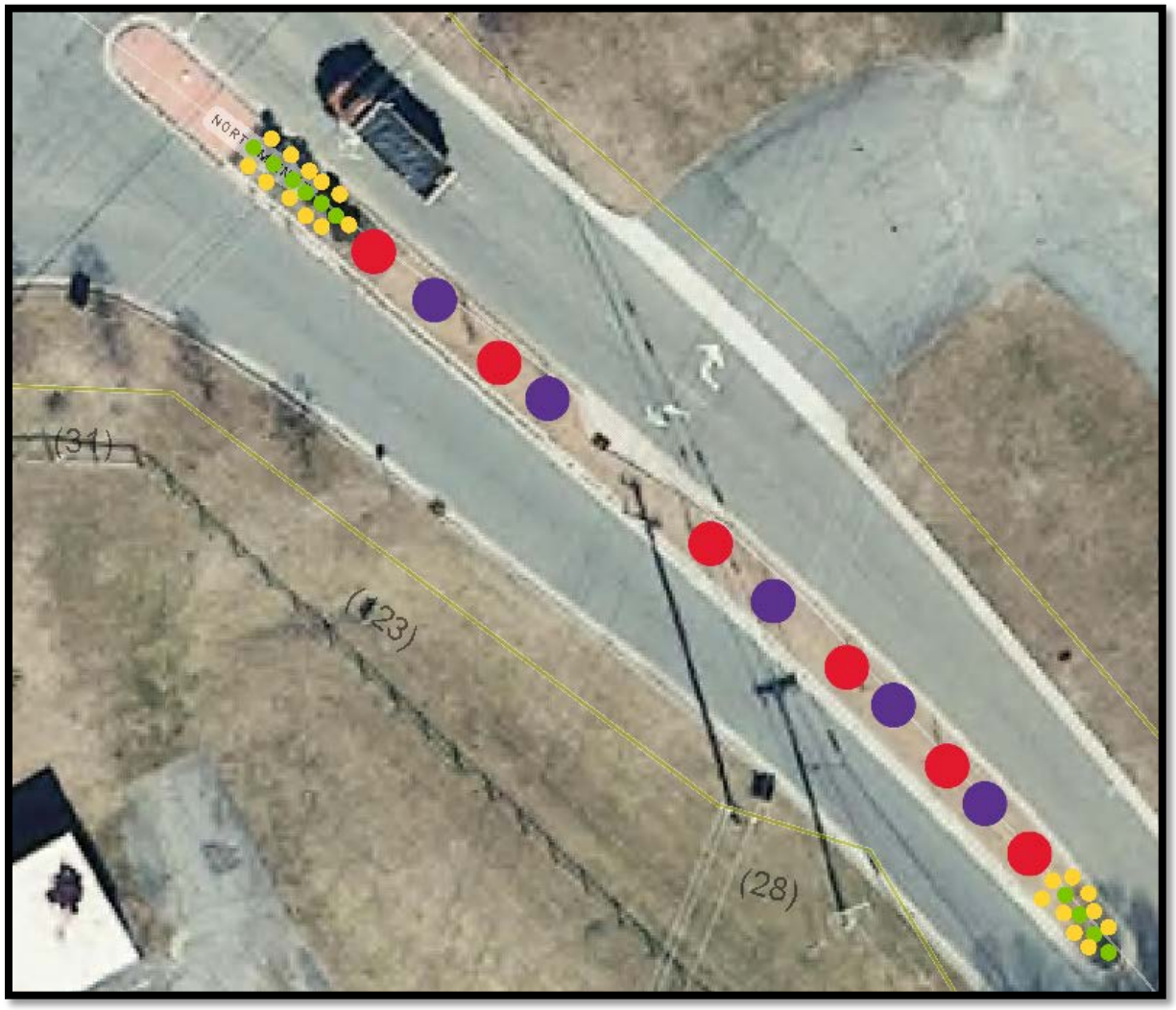
A. March Calendar: The calendar for the month of March was provided in the packet as information listing committee meetings and upcoming events.

1X. ADJOURN

A. There being no further business, the meeting was adjourned at 10:17 a.m.

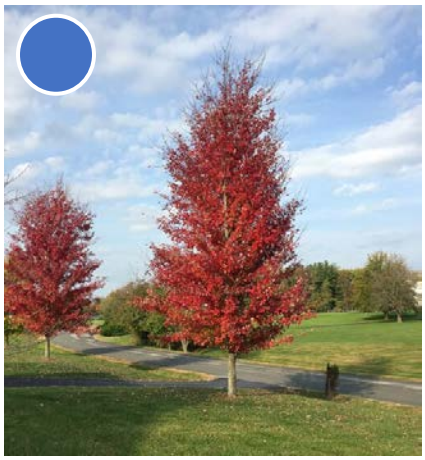
Attachments
Creekway Drive Landscape
Creekway Median Plant Materials
Monument Designs –Veterans Plaza Proposal (Options 1 and Option 2)
February Financial Summary
Certifications and Training Spreadsheets
Revised Water and Sewer Extension Policy

Creekway Median Landscape



Creekway Median Plant Materials

Acer ‘Autumn Blaze’



Chamaecyparis ‘Lemon Yellow’

Thuja ‘Degroots spire’

Acer ‘Hot Wings’

Downtown Lenoir Veterans Memorial Project

2/18/2025 | Joshua Harris

The City of Lenoir is working on a project to renovate the Veterans Memorial located at 140 N Main Street NW in Downtown Lenoir. The goal is to replace roughly 1,030 pavers with a more durable memorial.

The City renovated the Veterans Memorial in 2009 and sold pavers to anyone who wanted to honor military service. During the past 15+ years, many of the pavers have degraded and are either illegible or very hard to read.

City staff wants to get pavers off of the ground and place the names onto a more durable memorial.

Staff have talked with local monument providers and discussed several ideas. One of the challenges we face is the small footprint of the Veterans Memorial in Downtown. The memorial is located on the main intersection in Downtown Lenoir and is adjacent to local businesses. Using vertical walls similar to other memorials in the area would block the view of local businesses. This is probably why pavers were selected.

Our latest concept is to use a gray granite monuments with a slanted face to hold a bronze plaque. These new monuments would replace the small black granite monuments in the current memorial. See pics below.

Please review the Option 1 and Option 2 specs and info and let us know if you can source the monument and plaques, and provide cost estimates for both options.

Thank you for your time.

Joshua Harris

City of Lenoir, NC

Current Veterans Memorial

The current memorial sits in a square courtyard. It contains a center monument surround by five smaller, black granite monuments. The center monument has plaques dedicated to people who died in previous wars. The black monuments contain one of the five military branch seals on the slanted face. There are eight flag poles.

The black monuments and flag poles are arranged in an octagon around the center monument.

There is also an eternal flame monument at the entrance to this courtyard.

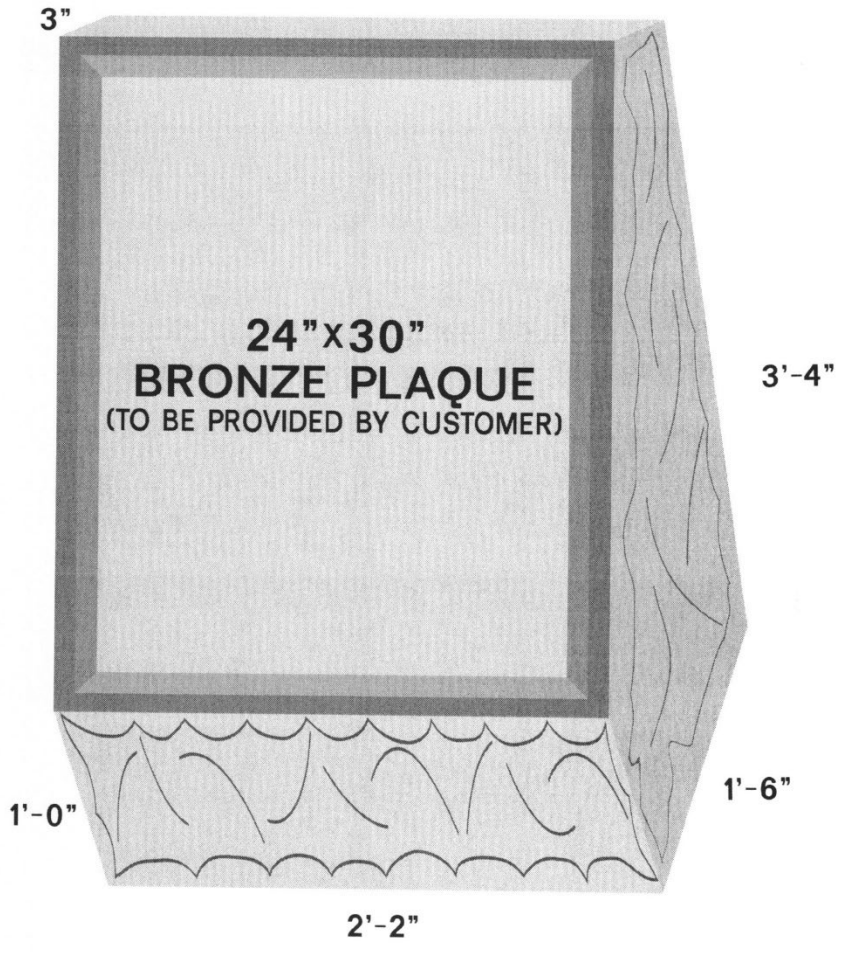
Slanted granite monument with bronze plaque

Option 1

- Granite monument = 2’-2” wide x 1’-6” deep x 3’-4” tall
    - The slant face is 2’-2” wide x 2’-8” tall (26” X 32”)
    - The face top and back are polished, the sides and front border are rough
    - All sides could be polished
    - There is a 1’ face on the front bottom of the slant face
    - See images and drawings below
- Bronze plaque – 24” wide x 30” tall
    - At least three columns of names, 1/4” (5/16?) tall to match plaques currently in the memorial, see images below of current plaque
    - We need at least five branch headers (maybe more headers depending on layout of names)
- We could fit 7 to 10 of these monuments (7 to 10 plaques) in the space

Questions

1. Can you source a similar monument based on these specs?
2. How many names can you fit on the 24” wide x 30” tall bronze plaque? The names need to be 1/4” to 5/16” tall.
    a. We currently need 22 characters per name if we list names under a branch header.
3. How many plaques would you need to cover 1,030 names?

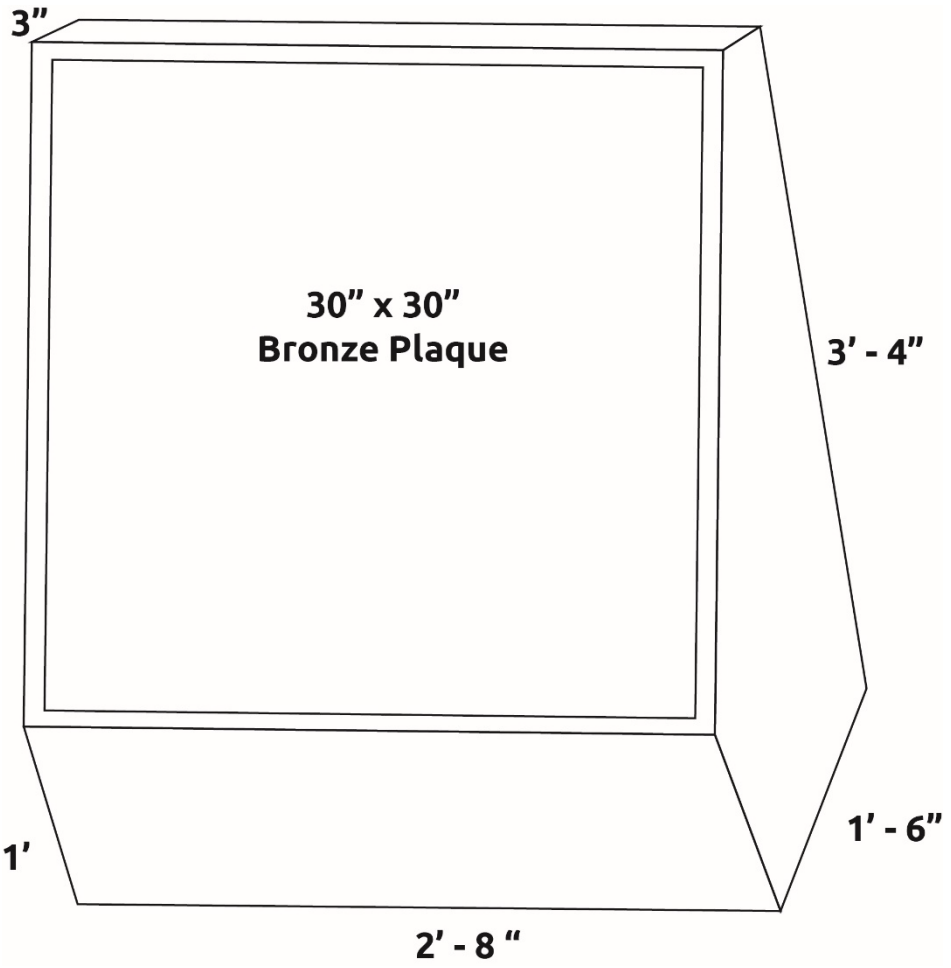


Option 2

- Granite monument = 2’-8” wide x 1’-6” deep x 3’-4” tall
    - The slant face is 2’-8” wide x 2’-8” tall (32” x 32”)
    - The face top and back are polished, the sides and front border are rough
    - All sides could be polished
    - There is a 1’ face on the front bottom of the slant face
    - See images and drawings below
- Bronze plaque – 30” x 30”
    - At least four columns of names, 1/4” (5/16?) tall to match plaques currently in the memorial, see images below of current plaque
    - We need at least five branch headers (maybe more headers depending on layout of names)
- We could fit 5 of these monuments (10 plaques) in the space

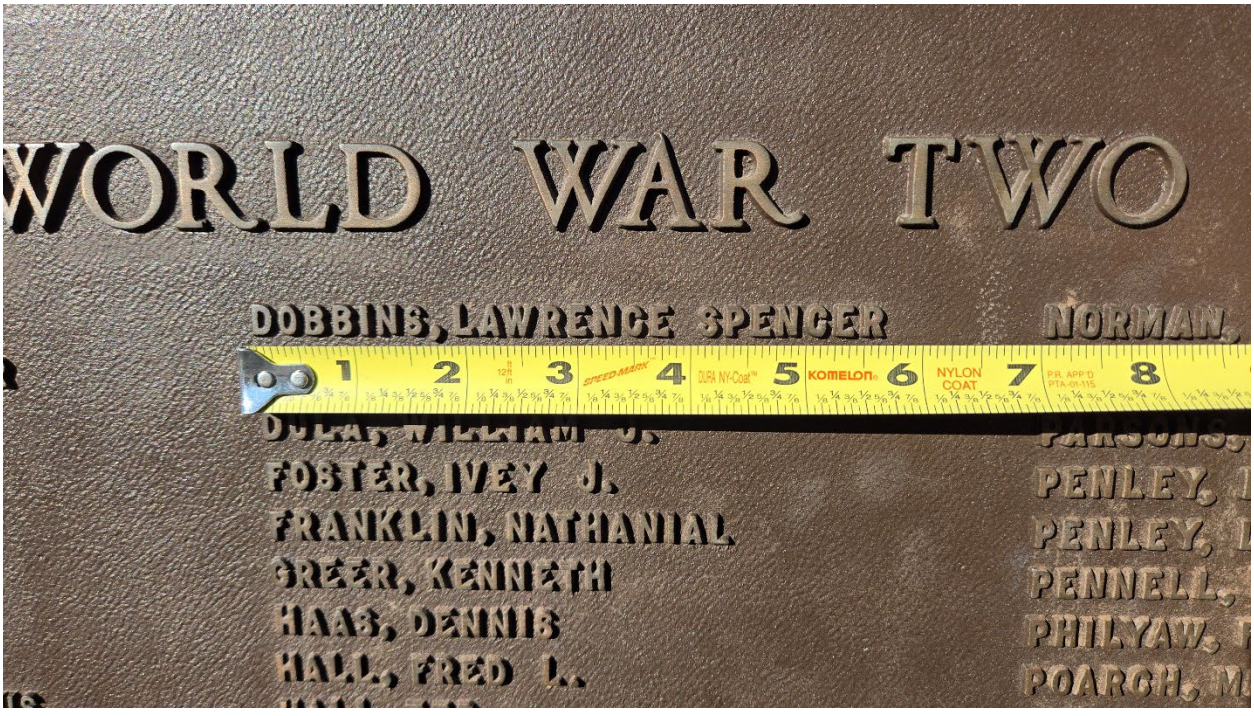
Questions

1. Can you source a similar monument based on these specs that could hold a 30” x 30” bronze plaque?
2. How many names could you fit on a 30” x 30” plaque? The names need to be 1/4” to 5/16” tall.
    a. We currently need 22 characters per name if we list names under a branch header.
3. How many plaques would you need to cover 1,030 names?



Current 24” x 30” Bronze plaque in the City of Lenoir Veterans Memorial

We currently have a 24” x 30” WW2 plaque in located on a monument in the center memorial. The names are roughly 1/4" to 5/16” tall. The longest line is 5.75” with 25 characters including spaces.



Training and Certification Increases

City of Lenoir

2025 Update

All increase are for certifications beginning 2-1-25. There will be no retroactive increases or decreases due to changes in this plan.

Pay incentives other than those listed, must be pre-approved by the department head, HR, Finance Director and City Manager and based on the relevancy of the certification or educational attainment to the individual's current or future employment status with the City of Lenoir.

Employees in a position that requires various certificates/licenses as a minimum requirement for employment will not be eligible for an increase.

Increases for training are given unless the education is required for promotion. In these cases, increases will be given in the form of the promotion.

Increases are given when initial certificates are received *but not each time they are renewed* .

All increases will become effective when proof of training/certification along with a Personnel Action Form has been submitted to HR and the recommendation has completed the approval process.

Pay increases for certifications that have maintenance requirements will be reversed by same amount should the employee fail to maintain the certification. It is the employee's supervisor's responsibility to notify HR if the certificate in not maintained.

Books, tuition, one-time bonuses, and other fees paid by the City on the employee's behalf for the attainment of any educational degree shall be pro-rated and repaid to the City by the employee should the employee voluntarily terminate employment before the time frame listed in the reimbursement agreement.

Achievement	% Increase	Hours of Training
City Wide		
Post Secondary Degree (AA, AAS, BS, MS)	2.5% per degree that is job related and pre-approved	
CDL- Class A Tractor and Trailer - if not required for the current position otherwise it will be included in the promotional raise	2.50%	Various
CDL- Class B - if not required for the current position otherwise it will be included in the promotional raise	1.50%	Various
Chainsaw Safety - Initial	$300	4 hours
Power Industrial Truck (Forklift) Certification - Initial	$300	8 hours
Bi-lingual/Multilingualism (Only one increase regardless of the number of languages spoken - must agree to be on call to interpret, increase will be reversed if the individual isn't available for interpreting)	$1000	
Notary - If required for position or utilized as a back-up - Initial	$300	6 hours
OSHA - 10 Hour - Initial	$300	10 hours
Other Certifications Not Listed – as authorized by the City Manager and are job related.	$10 per hour in class or pre-approved agreed upon rate by the City Manager	
Pesticide Certification/License - Initial	$300	8 hour course and exam
Public Executives Leadership Academy (PELA)	2.00%	65+ hours
OSHA 501 (general industry - to complete instructor certification w/ OSHA 511)	$300	
OSHA 511 (general industry - 30 hr. course - certificate + 1/2 of instructor certification - OSHA 501 to complete instructor certification)	$300	30 hours

UNC-SOG Municipal & County Administration	2.00%	95+ hours
Work Zone Flagger Training - Initial	$200	4 hours
Trenching "Competent Person" Certification - Initial	$300	8 hours
Administration		
IIMC Certified Municipal Clerk	2.50%	
Building Official Certifications	$300 for individual certification (Plumbing, Electrical, Building, and Mechanical)	
ICMA Manager	2.50%	
IIMC Master Municipal Clerk	2.50%	
UNC-SOG Certified Government Chief Information Officer	3.00%	
UNC-SOG Clerks Certification Institute	2.50%	
Finance		
APA-CPP Certification (Certified Payroll Professional)	2.50%	6-12 weeks
APA-FPC Certification	2.50%	6-12 weeks
Certified Local Government Purchasing Officer	2.50%	
Certified Public Accountant (CPA)	3.00%	MA + exam
IOFM Accounts Payable Certification Program - Accredited Payables Specialist	2.50%	
Local Government Finance Officer Certification	5.00%	180+ hours + 4 exams
Microsoft Office Training	10 per hour of class time	various
Risk Management Certification	1.50%	
Fire		
Certified Emergency Manager	3.00%	EM Degree, 3-5 years and exam
Certified Fire Investigator	2.00%	80-96 hours
Certified Firefighter (Firefighter II)	5.00%	428-514 hours
Driver Operator - Pumps	2.50%	110-132 hours
Fire & Life Safety Educator I	2.00%	36 -43 hours
Fire & Life Safety Educator II	1.00%	36 -43 hours
Fire & Life Safety Educator III	1.00%	36 -43 hours
Fire Inspector I	2.00%	51-61 hours
Fire Inspector II	2.00%	32-48 hours
Fire Inspector III	2.00%	24-39 hours
Fire Instructor I	2.00%	26-31 hours
Fire Instructor II	2.00%	38-46 hours
Fire Officer I	2.00%	36-43 hours
Fire Officer II	2.00%	28-34 hours
Fire Officer III	2.50%	80-96 hours
Fire Officer IV	2.50%	**Direct Delivery program with OSFM..no set hours as it is project based
Technical Rescuer	2.50%	156-187 hours
Human Resources		
APA-CPP Certification (Certified Payroll Professional)	2.50%	
APA-FPC Certification	2.50%	

IPMA-SCP Certification	2.50%	
IPMA-HR Certified Professional (IPMA-CP), Society of Human Resource Management Certified Professional (SHRM-CP), Senior Certified Professional (SHRM-SCP), Senior Professional in Human Resources (SPHR), Professional in Human Resources (PHR)	$400 for each certification obtained	
IT		
COMPTIA	2.00%	9-12 months of hands on training and 120-160 hours of exam prep.
COMPTIA A+	2.00%	9-12 months of hands on training and 120-280 hours of exam prep.
COMPTIA NETWORK+	2.00%	9-12 months of hands on training and 120-160 hours of exam prep.
COMPTIA SECURITY+	2.00%	9-12 months of hands on training and 120-280 hours of exam prep.
UBIQUITI Certificate	1.00%	30 + hours
UNC SOG CIO Certification	3.00%	
Parks and Recreation		
Certified Park and Recreation Professional	2.00%	
Certified Pool Operator	$500	
Certified Playground Safety Inspector	$500	
Playground Maintenance Technician (PMT) certificate program	$500	
Aquatic Facility Operator (AFO) certification	$500	
Planning		
American Institute of Certified Planners	2.00%	
Certified Floodplain Manager	2.00%	
Zoning Officer Certification	2.00%	
Police		
Accident Reconstruction/Traffic/Investigative Enforcement Certification	2.50%	
Advanced Certificate	5.00%	
Community Policing/DARE Certification	3.00%	
Crime Analyst Certificate Program	5.00%	
Criminal Investigations I Tactical Training Certification	3.00%	
Evidence and Property Technician Certification	3.00%	
FBI National Academy	3.00%	
Field Training Officer (FTO) Certification	3.00%	
General or Specialized Instructor	3.00%	
Intermediate Certificate	3.00%	
K-9 Handler Training	$500	
LE General Certificate	2.50%	
NCJA Traffic Certificate-Advanced	5.00%	
NCJA SRO Certificate Program	$500	

Public Works		
Advanced Sanitation Driver	2.50%	
609 AC Certification	$500	3-5 hours + exam
APWA Facilities & Grounds Manager Program	$10 per hour of class	8 hours w/Exam
EV & Hybrid Safety & Service Cert. Level 1 and Level 2	$300	Level 1 :20 Question Exam
	$300	Level 2: 30 Question Exam
Groundskeepers University Training - 100 Level Introduction to Grounds keeping Modules	$10 per hour of class	16 hours- 2 hr per module (8 modules + Exam)
Industrial Maintenance (each level)	$500	
Intermediate Sanitation Driver	2.50%	
Lift Truck (Forklift) Operator Course (Basic) - Initial	$200	
Lift Truck (Forklift) Operator Course (Instructor) - Initial	$200	
Mobile Air Certification (EPA Required) - Initial	$500	
Mobile Air Climate Systems Association - Initial	$500	
NC DOT Work Zone Installer Certificate - Initial	$500	
NC Road Scholar Designation - When all certificates complete or increases per certificate obtained as listed not both.	5% or increase per certificate	
NC Safety Inspection License - Initial	$500	
NC-LTAP Courses not listed individually	$300> 10 hours, $400 < 10 hours	
NC-LTAP Advanced Road Scholar - When all certificate complete or increases per certificate obtained as listed not both.	5% or increase per certificate	
NC-LTAP Master Road Scholar - When all certificate complete or increases per certificate obtained as listed not both.	5% or increase per certificate	
Scan Tool Certification (7 hour course, essential scan tool techniques by ATG) - Initial	$10 per hour of class	
Stihl Certification (small engine repair)	$10 per hour of class	
Turf Management	2.00%	
Water and Sewer		
Biosolids Land Application Certification	2.50%	Certificates required for plant operations
NCRWA Water University Utility Management Certificate	2.50%	Certificates required for plant operations
Wastewater Collection System Certifications I, II, III, and IV	2.50%	Certificates required for plant operations
Wastewater Treatment Plant Operator Certifications I, II, III and IV	2.50%	Certificates required for plant operations
Bacteriological Coliform Certification (WTP)	2.50%	Certificates required for plant operations
Phy/Chem I Cert (WTP)	2.50%	Certificates required for plant operations
B Surface in Water Treatment (WTP)	2.50%	Certificates required for plant operations
A Certification in Surface Water Treatment (WTP)	2.50%	Certificates required for plant operations
Pretreatment Program Spec Cert. (WWTP)	2.50%	Certificates required for plant operations
Land Application (Biosolids) Exam (WWTP)	2.50%	Certificates required for plant operations
Grade I Lab Cert. (WWTP)	Move from trainee to scale employee	Certificates required for plant operations
Wastewater, Biological, Well Water, Laboratory Analyst, Physical/Chemical Treatment, Total Coliforms & E. Coli, Land Application, Spray Irrigation	2.50%	Certificates required for plant operations
Water Backflow and Cross Connection	2.50%	Certificates required for plant operations
Water Distribution System Certifications - A, B and C	2.50%	Certificates required for plant operations
Water Treatment Plant Certifications - A, B and C	2.50%	Certificates required for plant operations

WATER AND SEWER SERVICE EXTENSION POLICY

Revised
February 25, 2025

GENERAL WATER AND SEWER SERVICE EXTENSION POLICY

The City of Lenoir, North Carolina (City) shall extend, or allow others to extend, its water and sewer systems according to the terms and conditions of its policies and procedures. Extension of water and sewer infrastructure and service may be accomplished at the initiative of the City or, with its consent, by allowing others to extend such facilities and services. When other parties are involved in such extensions, the City will be guided by this policy and other policies and ordinances of the City.

PURPOSE

The purpose of the Policy for Water and Sewer Service Extensions is to set forth guidelines and criteria for the extension of the water and sewer facilities of the City. Such extensions are intended to provide essential water and sewer service to unserved areas within the City's service area or in areas where Caldwell County is either unable or unwilling to serve outside the City limits as they currently exist and may exist in the future.

The objective of this policy for the extension of service from the City water and sewer systems is to define a process for evaluating and prioritizing capital water and sewer extensions for consideration by the City. This policy has a financial basis which recovers a portion of the City funded costs associated with each extension from the direct project beneficiaries, being those receiving water or sewer service from such extension projects.

The extension of water and sewer service facilities may consist of the construction of the following:

- Water distribution lines
- Water transmission lines
- Water storage tanks
- Water pumping stations
- Sewer collection lines or sewer interceptors
- Sewer pumping stations
- Other equipment and appurtenances necessary to provide water and sewer service

This Cost Recovery Policy is not intended to conflict with any other policies or procedures of the City or to be complete in all aspects of the extension of water and sewer services by the City. The City reserves the right to amend this policy from time to time at its discretion. The City shall deal with each petition to construct extensions to its water and sewer systems on a case-by-case basis and the City Council reserves the right to accept or reject any proposal for such extension on its merits.

OPTIONS FOR ACCOMPLISHING WATER AND SEWER EXTENSIONS

The City recognizes certain options by which to accomplish extensions of water and sewer service. The determination as to which option described below is most appropriate shall be at the sole discretion of the City.

Any petitioner having need for the extension of water and sewer service shall petition the City Council for such extension. The City Council, in response to a petition for an extension of service, may elect to address each request in one of the following ways:

a. Require the petitioner to install the extension to meet all City requirements, at his expense, and dedicate ownership of the improvements to the City for operation and maintenance.

b. Jointly finance and construct the proposed extension in cooperation with the petitioner initiating the request.

c. Construct the proposed extension solely at the expense of the City, as a component of the planned water and sewer system development program of the City, where the City deems said improvements to be instrumental to the development of the City's core water and sewer infrastructure and where said improvements are consistent with the City Master Water and Sewer Plan.

d. Deny the requested proposed water and sewer system extension.

The City Council may authorize the extension of water and sewer system facilities on its own volition without receipt of a petition. The City may, at its own discretion, make improvements to the City water and sewer system in order to remedy inadequacies in the existing system, to address public health issues, or to extend service as it deems appropriate.

MUNICIPAL EXTENSIONS OF SERVICE

Any municipality or owner of a public water or sewer system having need of connecting new service lines to the City's infrastructure shall petition the City for such interconnections. Such interconnections or extensions of services shall be accomplished at no cost to the City.

Since the City does not enjoy the benefits of property taxes from the beneficiaries of such extensions, the municipality and the City may elect to assess the beneficiaries of such extensions monthly availability fees until such time as the municipality has been repaid for its initial capital outlay related to said extensions. Such fees may be collected by the City as a component of its monthly water and sewer billing and shall remit such collection to the municipality on an annual basis.

COST RECOVERY POLICY FOR WATER AND SEWER EXTENSIONS

In instances where the City elects to participate in the initial cost of water and sewer extensions proposed by a petitioner, the following policies shall apply:

a. The City shall recover, at a minimum, its initial capital investment in any extension project within five (5) years of the beginning date of project operation. Cost recovery of the initial capital investment shall include direct capital contributions and principal and interest on funds borrowed for such investments, as well as any associated increases in operating and maintenance costs.

b. The recovery of costs may be achieved from cost recovery fees, user charges and other fees, taxes and charges received by the City over the five (5) year period, in accordance with the worksheet attached as Exhibit A.

c. Proposed water and sewer extension projects that can be cost recovered within the five (5) year recovery period will be prioritized for implementation based on their ability to provide investment return in the shortest time frame.

d. Water extension projects that do not meet the cost recovery criteria of five (5) years will not be funded with City participation unless capital funding contributions are provided by project beneficiaries and/or other parties willing to provide such contributions without restrictions, to the extent and amount necessary for the City to recover its financial participation within the five (5) year period.

e. The petitioner(s) for the extension will conduct a written survey of all potential project beneficiaries for the purpose of obtaining commitments to connect to proposed water and/or sewer extensions immediately upon completion of construction or to pay the prescribed minimum monthly water and/or sewer fees and charges if service is not desired immediately. The results of the survey, including written agreements with all beneficiaries for purchase of services, will be the basis for the five (5) year cost recovery evaluation.

f. The petitioner, project beneficiary contributions, and/or other party capital contributions will be provided to the City prior to beginning the engineering design, permitting and construction of the project. These contributions will be held in an interest-bearing escrow account by the City until such time as the project begins. Should the project not proceed within a reasonable time, the City will return all such contributions with interest.

g. Any other potential project beneficiaries that do not desire service or are not willing to pay the initial and minimum monthly fees and charges without service immediately at the completion of the project will be required to pay an amount equal to the cost recovery fee paid by the initial project participants during the five (5) year cost recovery period, should they desire water or sewer service during that time period.

h. The capital water and sewer projects would be identified each year for implementation during the next fiscal year based on the above prioritization/cost sharing policy.

CONSIDERATION FOR PROJECTS TO PROTECT THE PUBLIC HEALTH AND ENVIRONMENT

Proposed water projects that will mitigate a public health problem shall be considered when the public health problem meets the following criteria for the affected residences or businesses:

a. Existing and potential water sources in the area are contaminated beyond public drinking water regulatory standards and cannot be reasonably treated to meet those standards without excessive treatment processes; or

b. Residences or businesses are without water service from their existing water source and such water service cannot be restored due to their existing well being dry; other similar wells in the area are also dry and an existing well is not deep enough to otherwise achieve a water supply; and

c. Adequate water service from any other potential source such as another public or private water system, an additional well, a deeper well or a shared well is not possible or practical.

d. Existing on-site sewer disposal systems have failed and cannot be repaired to avoid serious public health issues.

The petitioner(s) for water or sewer service under this public health criteria shall provide whatever information, documentation and data is necessary to satisfy the City that the criteria has been met. This may require the petitioner(s) to retain professional technical services to assist in the criteria evaluations by the City.

Residences or businesses without water or sewer service under this public health criteria must be within 500 linear feet per affected residence or business of an existing water or sewer line owned by the City or must be willing to pay the additional costs of water or sewer service extension greater than 500 linear feet per affected residence or business.

Proposed water and sewer projects that meet the public health criteria as outlined above will be considered for funding by the City based on the cost recovery criteria in five (5) years as outlined herein.

APPLICATION FOR EXTENSION

All petitioners desiring to construct water or sewer improvements and to connect to the water and/or sewer system of the City of Lenoir for operation and maintenance by the City shall make application in writing to the City of Lenoir.

The application shall specify:

a. The name, address and telephone number of the petitioner(s);

b. The location of the property and geographic alignment for which the connection is desired;

c. The total number of residential units, commercial establishments or industrial facilities to be served with a description of each;

d. The size of the water and sewer services and facilities proposed;

e. The schedule by which the petitioner plans to construct and/or install the extension(s);

f. Evidence that all necessary permits, easements, rights-of-way, encroachments or other approvals necessary have been or will be obtained by the petitioner, at no expense to the City;

g. The estimated cost of proposed improvements;

h. The estimated water usage in gallons per day and peak gallons per hour;

i. The number and location of new jobs to be created, if commercial, industrial or institutional development is to be served, by the proposed improvements;

j. The tax value of the property to be developed or benefited in connection with the facilities extension(s) as of the date the initial request is made.

k. The application shall be accompanied by a plat and plans showing the proposed extensions in relation to all properties to be passed or served.

REQUIREMENTS, CONDITIONS AND PROVISIONS TO BE MET UPON RECEIPT OF APPLICATION

It shall be the responsibility of the petitioner to conduct the requisite engineering design and secure the regulatory approvals for proposed extensions to the City's water and sewer systems. The following requirements shall apply:

a. The petitioner shall employ, at his expense, a competent engineer, registered in the State of North Carolina, to prepare plans for the proposed water or sewer extensions or improvements. The City shall make available any master specifications that may be available and/or necessary to prepare the construction documents.

b. Three (3) sets of completed plans and specifications shall be submitted to the City for

review and approval before submittal to other agencies. The plans shall be prepared by a registered professional engineer, with the engineer's seal affixed thereto, and shall meet the utility requirements of the City of Lenoir Utilities Department, and/or the North Carolina Department of Environmental Quality/Water Resources Division. The plans shall be approved by the City. The engineer shall provide as-built plans and location maps for all valves, hydrants, manholes, pump stations, easements and service locations.

c. Approval of plans and specifications by the City does not release the petitioner from obtaining any and all approvals and permits necessary for the construction of said water or sewer facilities.

d. Upon City approval, the petitioner shall submit related construction documents to the appropriate State agencies for their approval, with such approval being granted before construction.

e. Upon approval of the project by the City, it shall issue an extension permit. The petitioner shall have one (1) year from the issuance of this permit to complete the project. Should the project not be completed within this period, the petitioner may request a permit extension. This request must be made in writing not less than ten (10) days before the date of expiration of the permit. Requests for extensions may be granted if the project is deemed to be substantially progressing toward completion.

f. The petitioner shall agree to indemnify and save harmless the City from any and all loss, cost, damages, expense and liability (including attorney's fees) caused by accident or occurrence causing bodily injury or property damage arising from the installation of such utilities by the petitioner or the petitioner's contractor(s).

CONSTRUCTION REQUIREMENTS

a. All water and sewer extensions shall be designed and constructed in conformance with the State of North Carolina's requirements and be approved by the City's Engineer or the City's Consulting Engineer, who must verify that adequate water pressure or hydraulic conditions exist or can be attained and the projected extension would not unduly tax the City's available water supply and/or sewage treatment capacity before any facilities may be extended.

b. The minimum distance for any extension of a water main or sanitary sewer main shall be determined by the City. In general, the minimum distance shall be across the entire length or width of all properties being developed in order to provide access to adjoining parcels of land, wherever feasible.

c. When the City determines that utility lines larger in size than the required minimums established are necessary to serve only the property of the petitioner, the petitioner shall install such larger lines at his expense.

d. The City will make applications for all necessary permits for extensions. No tie-ins to the existing system shall be made until all permits have been secured.

e. The City shall inspect the water and sewer facilities and appurtenances during and after construction to ensure conformity with approved design drawings. The facilities must be built in accordance with the approved plans and specifications before they may be placed in service. If any part of the system fails inspection, no further building permits will be issued until corrections are made.

f. Mains and lines shall be located within dedicated public rights-of-way; if this is not possible, easements must be provided. When required, the petitioner and/or present and future property owners shall grant to the City such utility easements as the City may require. The permanent rights-of-way or easement shall be a minimum of 25 feet. Within this boundary, the City shall have the right to operate, maintain, inspect, repair and replace such facilities.

g. Meters, expansion wheels, washers and locks meeting City specifications and of appropriate size for desired application shall be furnished to the City at the expense of the petitioner prior to final inspection of the project.

POST-CONSTRUCTION REQUIREMENTS

a. Upon completion of construction, the project engineer shall submit to the City certification that the project was completed in accordance with approved plans and specifications.

b. The petitioner shall guarantee the accepted facilities to be free of defects in materials and workmanship and to be properly functioning in all respects for a period of one (1) calendar year from the date of acceptance by the City. The date of acceptance shall be the date upon which the City records the deed transferring ownership to the City.

c. During the year of warranty, the petitioner shall correct or have corrected any defects that may develop in material, equipment, or workmanship. In the event that the petitioner neglects to correct defects, the City shall have the right to declare all or any of the rights of the petitioner under the contract forfeited, and to remove and/or disconnect any connections that might have been made to the City's water or sewer system, or the City may elect to make the necessary repairs and institute a lien on the petitioner's property, both real and personal.

d. As-built drawings shall be provided to the City prior to conveyance of the improvements to the City by the petitioner, in the form of computer files and reproducible drawings.

e. Upon completion of the utilities and connection thereof to the City's water and sewer system, the water lines or sewer lines and any fire hydrants, valves, manholes, sewer lift stations, force mains or other facilities or equipment required in connection therewith

shall thereupon and thereafter be the entire and sole property of the City and under the sole and exclusive control of the City.

OTHER CONSIDERATIONS

a. Allocation of funds by the City for any water or sewer system extension shall always be based on the sole determination by the City that funds are available for such extensions.

b. The full cost of the extension of facilities to serve private property within the boundaries of private developments shall be borne by the property owner or persons or entities other than the City. The extension of such facilities shall be accomplished in accordance with the applicable policies and procedures of the City.

c. The size, extent, layout and details of any water extension considered under this policy shall be determined solely by the City.

d. Any project cost overrun for any extension under this policy shall be paid by the beneficiary contributors prior to receiving service from the project.

e. The City's capital investment must not exceed the petitioner's investment, and the City shall solely determine the appropriate level of its participation for each project.

MINUTES

City Council Strategic Planning Meeting
Blue Ridge Energy Corporate Office
February 28, 2025
8:00 A.M.

Facilitator: Anthony Starr, Western Piedmont Council of Government.

Participants: Mayor Joseph Gibbons, Mayor Pro-Tem David Stevens, Jonathan Beal, Todd Perdue, Ike Perkins, Ralph Prestwood, Kimmie Rogers and Crissy Thomas.

City Staff: City Manager Scott Hildebran, City Clerk Shirley Cannon, Finance Director Donna Bean, Fire Chief Norman Staines, Police Chief Brent Phelps, Main Street & Economic Development Director Brenda Floyd, Public Information Officer Joshua Harris, Planning Director Hannah Williams, Public Utilities Public Services Director Jeff Church, Public Services Public Works Director Jon Hogan, Recreation Director Phil Harper and Grants & Special Projects Director Jared Wright. Customer Service Design Team Members in attendance were Joshua Harris and Crystal McCurry.

Others in Attendance: Ashley Smith, Downtown Events Coordinator.

Call to Order

Mayor Gibbons welcomed everyone and called the meeting to order. He remarked this is a very important meeting for City Council due to Council establishing their priorities for FY2025-26. Mayor Gibbons thanked City Council for all of their hard work and pointed out Council's goal is to make great decisions for the City.

Mayor Gibbons introduced Anthony Starr, Western Piedmont Council of Governments, Facilitator of the session. Mr. Starr stated the purpose of the meeting is to prioritize projects for the year.

Mission Statement and Vision Statement Review

Mr. Starr asked Council for there were any changes and/or additions they would like to address in the City's Mission & Vision statements. City Council was in consensus to have the City's Mission Statement and Vision Statement remain the same.

The mission of the City of Lenoir is:

- to serve our citizens and the community by providing a clean, safe, healthy, and attractive living and business environment, through the efficient deliver of essential city services in a fiscally responsible and equitable manner.
- to identify, prioritize, plan, and act on opportunities for preserving and improving the quality of life of all of our citizens and community.

VISION FOR THE CITY OF LENOIR

We aspire to be the city of choice in western North Carolina for current and future generations—beautiful, clean and safe.

We will achieve our vision through:

- *a healthy economy*
- *strong businesses*
- *vital neighborhoods*
- *a vibrant downtown*
- *extensive recreational and cultural opportunities*

We will preserve Lenoir's friendly, small town atmosphere and celebrate the diversity of our people.

We require a city government that is:

- *accessible and engaged with the public*
- *accountable*
- *efficient and responsive*
- *an employer of choice*
- *forward thinking*
- *honest and ethical*
- *inclusive and equitable*
- *innovative and collaborative*
- *transparent*
- *fiscally responsible*

Customer Service Update

Joshua Harris and Crystal McCurry, Customer Service Design Team members, stated the City's Customer Service Program, which began in 2008, meets monthly to plan events and review activities. City employees gave out 30 Golden Ticket nominations to their coworkers in 2023. Golden Tickets are given to employees who go above and beyond to provide customer service. The Customer Service Design Team votes on quarterly winners, who receive a half day of paid time off (PTO). The annual winner is chosen as the most deserving winner and is awarded a day off with pay.

In addition, Crystal displayed the Customer Service Team's new logo and goals and reviewed the keys. She also stated they held 8 new hire orientations in 2023. The Customer Service Team also hosts 2 employee appreciation events including a lunch in the spring and dinner in the fall. The Team further organized the Employee Litter Sweep in which a number of city employees participated in. Also, the Team is assisting the Human Resources Department with restarting and hosting the Employee Service Awards event.

On behalf of the Design Team, Joshua and Crystal thanked City Council for all of their support.

Mayor Gibbons stated implementing the City's Customer Service Program was one of the best decisions the City has done. City Manager Hildebran stated the program is employee driven and he appreciates everyone's hard work.

State of the City Presentation – Mayor Gibbons/City Manager Hildebran

Mayor Gibbons and City Manager Hildebran reviewed a power point presentation "2024 In Review" regarding the current state of the City. Mr. Hildebran stated the City has accomplished much and expressed appreciation to all of the Department Directors and Staff.

Please refer to the power point presentation for the full report. It is available for review at www.cityoflenoir.com/budgetretreat.

Mayor Gibbons and Mr. Hildebran reviewed a list of new businesses and/or expansions for 2024 to briefly name a few:

- Aspen Dental
- The Chateau (Wedding & Event Venue)
- T-Mobile
- El Dorado Restaurant
- Rhythm on Main Dance Studio
- Sinister Sweets
- Valvoline
- Shed's Direct Storage Sheds
- Biscuitville
- New Childcare Facility
- Sunshine Daycare & Academy
- Pixel Planet Gaming Lounge

Private Development Underway – Current Projects

Mr. Hildebran reviewed a list of private investment/expansions and improvements for City Council which is included in the attachment.

- NC Farm Bureau is currently building a new office at 1201 Wilkesboro Boulevard.
- UNC Healthcare - In December 2023, Caldwell broke ground on their Capstone Campaign, a $33+ million expansion to the hospital. The project includes the addition of a new cardiac catheterization lab, clinical lab, inpatient pharmacy, kitchen, and cafeteria.

Google Expansion- the Lenoir City Council and the Caldwell County Commissioners approved economic development incentives for the $600 million Google expansion of the data center in Lenoir. The City also agreed to provide adequate water services to the facility.

Upcoming Events

Mr. Hildebran and Mayor Gibbons reviewed a slide presentation of downtown Lenoir events to name a few:

- Bootlegger 100 Race
- Neon Night Ride
- NC Blackberry Festival
- Harambee Arts Festival (the City's oldest Festival)
- Mountain to Coast Ride
- Bicycle Festival
- Tattoo & Arts Gathering
- Sculpture Festival
- Wood, Fire, Smoke Festival

Presentation by Danny Wilson, Freese and Nichols

Please refer to the power point presentation for the full report. It is available for review at www.cityoflenoir.com/budgetretreat.

Lenoir Comprehensive Plan/Parks & Recreation Master Plan Update

What will the Comprehensive Plan Accomplish

- Define the overall community vision and long-term goals
- Establish a Future Land Use Map to guide future development
- Identify potential capital projects and policy priorities
- Create opportunities for community engagement
- Engage residents at the neighborhood-level
- Provide a template for future engagement

Why update the Comprehensive Plan?

- Current Comprehensive Plan was adopted in 2007
- A lot has changed in the past17 years

•Best practice: review every 5 years and update every10 years
•NC state law requires localities to have a Comprehensive Plan to have zoning (§160D-501)
•Important to keep plan elements current
•Basis for support of grant applications

Director Williams said several neighborhood meetings were held in June 2024 to July 24 to conduct a background analysis. Plan Development meetings were held from August 24 to May 2025. Implementation Plan meetings were held from June 2025 to July 2025 and a public hearing will be held for finalizing and adoption of the Comprehensive Plan.

Next, Director Williams reported the city has 13 parks and Staff has assessed each one. Councilmember Thomas asked if housing is a part of the Plan and will there be housing diversity. Director Williams stated she would include a background analysis with the Plan.

In addition, Director Williams revived a draft vision statement for the Plan as follows:
"Our city is vibrant and inclusive, where residents cherish Lenoir's history, foster safe neighborhoods, and build a thriving, family-friendly environment. We support creativity that enriches our cultural fabric and embraces the region's natural beauty. As we grow and innovate, we remain committed to diversifying our economic base, ensuring resilience and prosperity for future generations."

Next, Director Williams presented information about the vision for the West End and Whitnel areas.

Vision for West End	**Vision for Whitnel –fix line color**
More commercial property	Bring "back to life"
Housing and new homes	More events
Less dilapidated homes	Not just a "pass through area"
Beautification	Clean the area up
Greenways	More entertainment for children & older population
Beautification	
Greenways	

Director Williams shared that people want more single-family housing, a mix of housing types, mixed use, apartments and townhomes for senior population. Also, people cited more indoor & outdoor recreation along with small retail stores & large retail stores. The public said areas where the City is doing well include fire, police, water & sewer, trash collection, walking trails and street maintenance.

Please refer to the power point presentation for the full report. It is available for review at www.cityoflenoir.com/budgetretreat.

The Campus Project Update

Jared Wright, Director of Grants and Special Projects introduced David Mauer, Maurer Architecture, Chad Webb and Kevin Conrad, J.M. Cope, Inc., and Matthew Oetting, McGill Associates who are involved with The Campus Project which includes the LHS Auditorium, Gymnasium and band building. He stated he was glad the City has prioritized this project and explained what improvements have been done so far.

Mr. Mauer stated a lot has been accomplished in 2 years and commended Jared Wright for

overseeing this project. Mr. Mauer reviewed slides of amenities, future tenant space and a space for a Farmers Market.

Mr. Matt Oetting with McGill Associates showed slides of an overview of the proposed parking legend including the existing LHS parking and public parking, proposed OVT Pavilion parking, on street parking and walkable range for parking. In addition, Mr. Oetting showed slides of examples of an outdoor gathering area, vending and public restrooms. The auditorium will have ADA restrooms and dressing rooms, an ADA lift to stage, new carpet, seating, new ramp, and window treatment.

Mr. Oetting further showed a site survey of the area around the auditorium. He referred to landscaping along with a drop off area and reported the storm drain runs under the gymnasium. He stated the storm drain will be re-routed to run around the building and mentioned they are complying with the City's stormwater code regarding stormwater retention.

Chad Webb, J.M. Cope Construction Manager shared the design is 90% complete and talked about how to manage the unknown factors.

Director Wright stated a project begins with a pre-qualification process for a 30 day period which creates competitive bidding for the bid phase. He stated this is a buildable project and J.M. Cope is on budget. The band building will be a late phase project. The projected cost is $1.6 million and they have several different options for the project. Mr. Webb stated they will look at the final details and will focus on getting the best value during the improvements.

Homeless Response Team Program Update

Ben Willis, Executive Director, Western Piedmont Council of Governments (WPCOG) reviewed a power point presentation about the Homeless Response Team. He presented information about the Homeless Response Team members and their background. Their experience includes 26 years of HUD affordable housing experience, 16 years of substance abuse counseling, NCDA facilitating career development, 6 years of mobile crisis assistance, lived experience of homelessness, 7 years of public health expertise-certified domestic violence and sexual assault advocate, 5 years of career coaching experience, certified affordable housing management and housing choice voucher, ministerial experience, and volunteer experience.

He emphasized the WPCOG's goal is to get the unhoused population housed. Mr. Willis said the homeless is a transient population and shared there are a number of senior homeless people as well. Mr. Willis further shared data about their chart of Point in Time Count (PIT) which is done in the winter and summer. This step gives them a baseline to work with, but he said the statistics for each count were basically the same. Also, Mr. Willis reported in the 4th quarter, they reduced the by-names list (BNL) by 15% with a total of 689 individuals currently. This list is remaining current and these individuals are getting referrals to the appropriate services and programs they may need.

Mr. Willis reported they did conducted 43 Police ride along trips with Police Departments in Hickory, Conover, Newton, Morganton, Lenoir, Granite Falls, Valdese and the Sheriff's Department with the office of Alexander County.

Next, Mr. Willis reported there were 24 housing vouchers issued and one client received assistance in deposit and fees, there were referrals for assistance, 11 clients entered detox and/or transitional housing and there were 26 clients housed. In addition, they received 41,058 individual

correspondence including e-mails, phone calls, and text messages.

Mr. Willis further shared they have a Partnering for Warmth program where they utilize collaborative strategies to address homelessness through warming shelters. He stated the WPCOG is the only organization providing this service in the southeast.

Additionally, Mr. Willis stated the WPCOG was chosen to administer $235,000 of the Day 1 Family Funds for our region. These funds began in January 2025 and will end June 2026. The funds can be used for moving costs, household items, storage units (for 3 months), security deposits, first month's rent, child care, car repairs, work supplies and pet deposits.

In conclusion, Director Willis stated their top 2025 Goals are 1), create an annual report for local governments, 2) expand stakeholders outreach to hospitals, prisons, and schools, 3) host a regional conference, and 4) create a homeless mapping tool.

Please refer to the power point presentation for the full report. It is available for review at www.cityoflenoir.com/budgetretreat.

Caldwell County/Lenoir Housing Plan

Alison Adams, WPCOG, Regional Planning Director gave a power point presentation and stated that property values are not matching market value.

City Manager Hildebran reported the City issued applications for 49 building permits to build new single-family homes which is a 33% increase over 2023.

Planning Director Hannah Williams presented details of permits and tract availability and reviewed areas of development on a map as follows:
Demographics
Survey analysis
Housing Preference
Housing Tours
Interviews
Case Studies of Success
Recommendations
Resources

What We Know

Interest Rates have increased
Product cost is high
Limited financing options
Demand Continues to Outpace Supply
Generational Challenges in Achieving Home ownership
Barriers for First-Time Buyers-affordability
Shifting Market Preferences
Market Gaps-lack of workforce housing

Please refer to the power point presentation for the full report. It is available for review at www.cityoflenoir.com/budgetretreat.

Review of 2024-25 Strategic Priorities

City Manager Mr. Hildebran reviewed the Strategic Priorities for 2024-25. He reported there were 46 projects including The Campus and Harper Avenue for a total of amount of $119,502,153.

Please refer to the power point presentation for the full report. It is available for review at www.cityoflenoir.com/budgetretreat.

Presentation of Grant Funding/Projects Review

Finance Director Donna Bean reviewed several spreadsheets of the City's projects, funding source, description, cost, match (if applicable) and the total amount of the project.

Please refer to the power point presentation for the full report. It is available for review at www.cityoflenoir.com/budgetretreat.

Facilitated Discussion – Priorities

Next Mr. Starr asked Council to consider what current issues/projects should be continued as strategic priorities for 2025-26. Following discussion, City Council ranked and compiles a list of 2025 City Council Priorities.

City Council's 2025 Priorities

1. Continue efforts to offer competitive compensation and benefits for employees to improve recruitment and retention.
2. Develop options to increase code enforcement and improve beautification in three primary areas:
   - Abandoned and neglected housing
   - Dilapidated commercial properties
   - Appearance of downtown buildings
3. Update the Lenoir Comprehensive Pedestrian Plan and improve walkability.
4. Evaluate long-term Downtown parking needs.
5. Continue to fund and support the Water and Sewer Capital Improvements Plan.

Mr. Starr thanked everyone for the good meeting and great partnership between the Western Piedmont Council of Governments and the City of Lenoir. He stated City Council and Staff cooperates really well, which yields results.

Adjournment

There being no further business, the meeting was adjourned at 2:11 p.m.

CITY OF LENOIR

COUNCIL ACTION FORM

I. **Agenda Item:** Consider a request from the Lenoir Rotary Club for placing a Rotary Peace Pole at the Rotary Soccer Complex.

II. **Background Information:** This was brought to my attention a few weeks back from Lenoir Rotary President Jamie Willis (Caldwell County United Way Executive Director) asking if we could place a Rotary Peace Pole at the Rotary Soccer Complex. We met there last week and looked at what would be the best location for it to be and not disturb anything else. Mrs. Willis advised there is one other Peace Pole located in Lenoir and it is placed at Caldwell Heritage Museum. Lastly, the Rotary Peace Pole will have four languages: English-Spanish-Vietnamese and Hebrew.

III. **Staff Recommendation:**
I strongly suggest that City Council approve this being it's the 95th year of Rotary Club of Lenoir. Plus, we need more peace in this world.

IV. **Reviewed by:**

City Attorney: _____

Finance Director: _____

Parks and Recreation Director: Phil Harper II

Search

MAY PEACE PREVAIL ON EARTH INTERNATIONAL

The Peace Pole Project

We are the founders of the Peace Pole Project which is now a Global Movement
Spreading the universal message May Peace Prevail On Earth™

WHAT IS A PEACE POLE

A Peace Pole is an internationally-recognized symbol of the hopes and dreams of the entire human family, standing vigil in silent prayer for peace on earth. Each Peace Pole bears the message ***May Peace Prevail on Earth*** in different languages on each of its four or six sides. There are estimated over 250,000 Peace Poles in every country in the world dedicated as monuments to peace.

Privacy - Terms

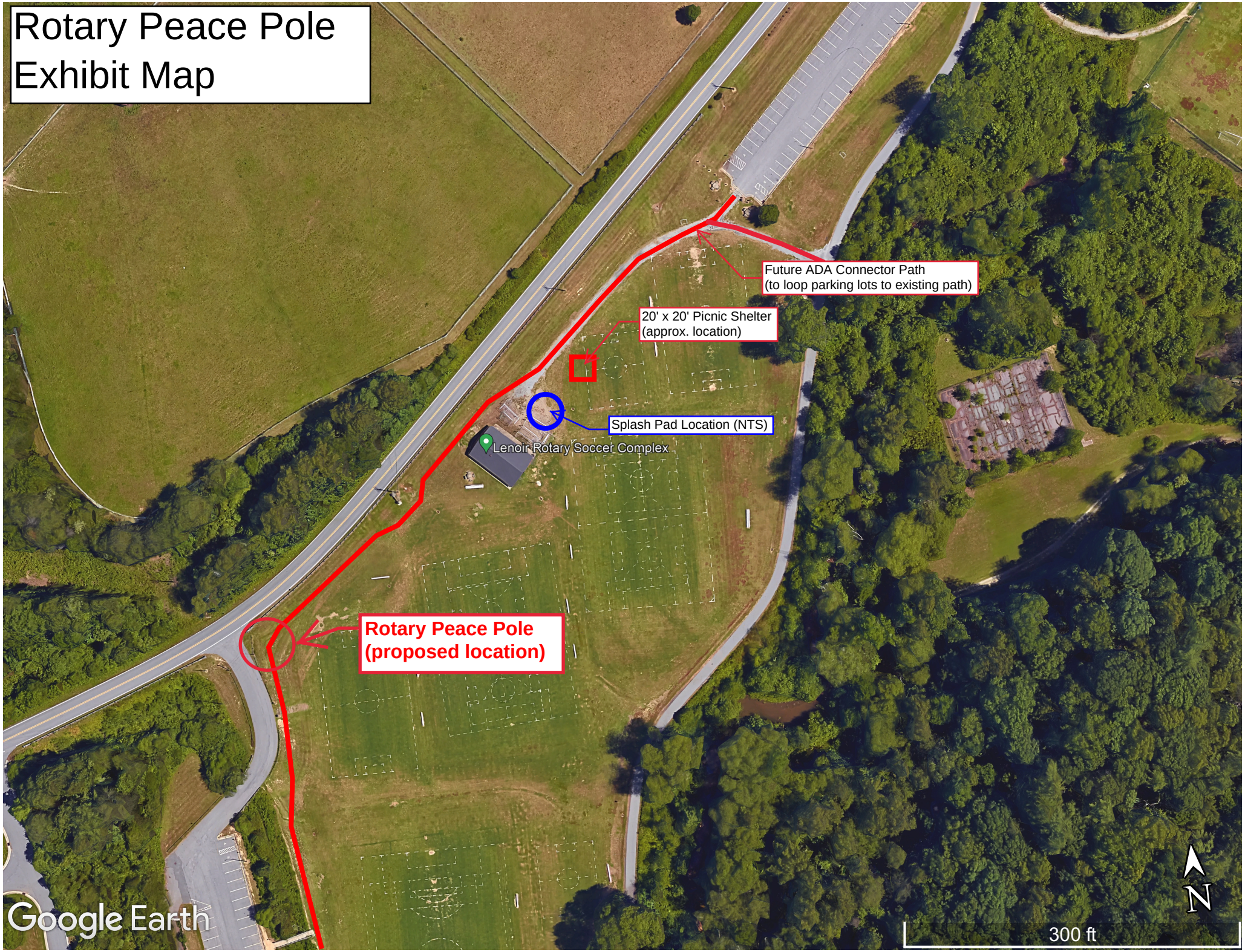
What Is A Peace Pole?

A Peace Pole is a monument that displays the message ***May Peace Prevail On Earth*** in the language of the country where it is placed. It usually displays 3 to 7 additional languages meaningful to the host site.
The message is referred to as an **affirmation of peace** and its placement furthers **Rotary's goal of building a culture of peace throughout the world.**

Peace Poles are intended to inspire unity among people of all cultures, ethnicities, and backgrounds. **We recommend a Peace Pole ceremony** to accompany the planting of each pole and **this ceremony can be held annually.** Many prefer the **International Day of Peace, September 21, for such an occasion**

The message ***May Peace Prevail On Earth*** was authored by the late **Masahisa Goi** of Japan after the bombings of Hiroshima and Nagasaki.
It is now an international message of peace with over **250,000 Peace Poles in every country in the world,** dedicated as monuments to peace. We welcome you planting your community Peace Pole and we will put it on our **Rotary Peace Poles Map.**

Copyright © 2025 Rotary World Peace Pole - All Rights Reserved.


Rotary Peace Pole
Exhibit Map
Future ADA Connector Path
(to loop parking lots to existing path)
20' x 20' Picnic Shelter
(approx. location)
Splash Pad Location (NTS)
Lenoir Rotary Soccer Complex
Rotary Peace Pole
(proposed location)
Google Earth
N
300 ft

CITY OF LENOIR

COUNCIL ACTION FORM

I. **Agenda Item:** Acceptance of the Lowest Responsive Responsible Bid for TIP# EB-5806 Hospital Avenue Sidewalk Project to Neill Grading and Construction Company, Inc. for the sum of $2,594,361.

II. **Background Information:** In 2016, the City was awarded funding for the Hospital Avenue Sidewalk Project from the Federal Highway Administration/North Carolina Department of Transportation Locally Administered Project Program (LAP). The project consists of construction of sidewalks along Hospital Avenue, connecting Harper Avenue to Blowing Rock Boulevard (U.S. 321). Approximately 950 feet of substandard sidewalk will be replaced and approximately 1,560 feet of new sidewalk will be constructed. Due to the constrained corridor, the sidewalk will be 5ft. wide and located at the back of curb. New curb and gutter will be installed to NCDOT standards. Some grading and installation of new retention walls will be required in some areas due to topography. The estimated project costs were $1,000,000, with the city receiving $800,000 in LAP funding and with a required 20% local match of $200,000. In 2017, City Council selected Wetherill Engineering to perform the planning and design phase of the project.

Due to NCDOT funding constraints, COVID and various other reasons, the project was paused. In August 2023, NCDOT provided a notice to proceed with project cost estimates now totaling $3,170,000. As such, the City applied for and was awarded new supplemental LAP funds totaling $2,536,000 and with a required 20% local match of $634,000. In 2024, City Council selected Mattern & Craig Engineering to perform the construction engineering inspection services phase of the project.

With the engineering design complete, rights-of-ways acquired, and utilities relocation work underway, the City initiated the bidding of the construction phase of the project. The construction portion of the project was initially bid in late December 2024 with a bid opening date of January 14, 2025. No bids were received. Per General Statutes, the project was re-bid with a bid opening date of February 27, 2025. One bid for construction was received from Neill Grading and Construction Company, Inc. (Hickory, NC) for the sum of $2,594,361. The bid has been reviewed by Wetherill Engineering for completeness and compliance with applicable bidding requirements and a letter of award recommendation is attached.

The new total project cost is $3,526,661, which includes planning and engineering design, rights-of-ways acquisition, utilities relocation, sidewalk construction and construction inspection services. The City has allocated $200,000 in local funds and $234,000 in ARPA funds to go toward our $634,000 local match. Based on discussions with the design engineer and low bidder, it is anticipated there will be cost savings through value engineering to bring the project back in to budget. Once the final cost estimates are received, an amended capital budget ordinance will be presented to Council for approval.

III. Staff Recommendation: Staff recommends City Council acceptance of the lowest responsive responsible bid to Neill Grading and Construction Company, Inc. for the construction of Project TIP#EB-5806 Hospital Avenue Sidewalks in the amount of $2,594,361. Neill Grading and Construction Company, Inc. is appropriately licensed with the NC General Contractor Board and has successfully completed similar projects. The award should be made contingent upon and subject to approval of bid documents by the North Carolina Department of Transportation.

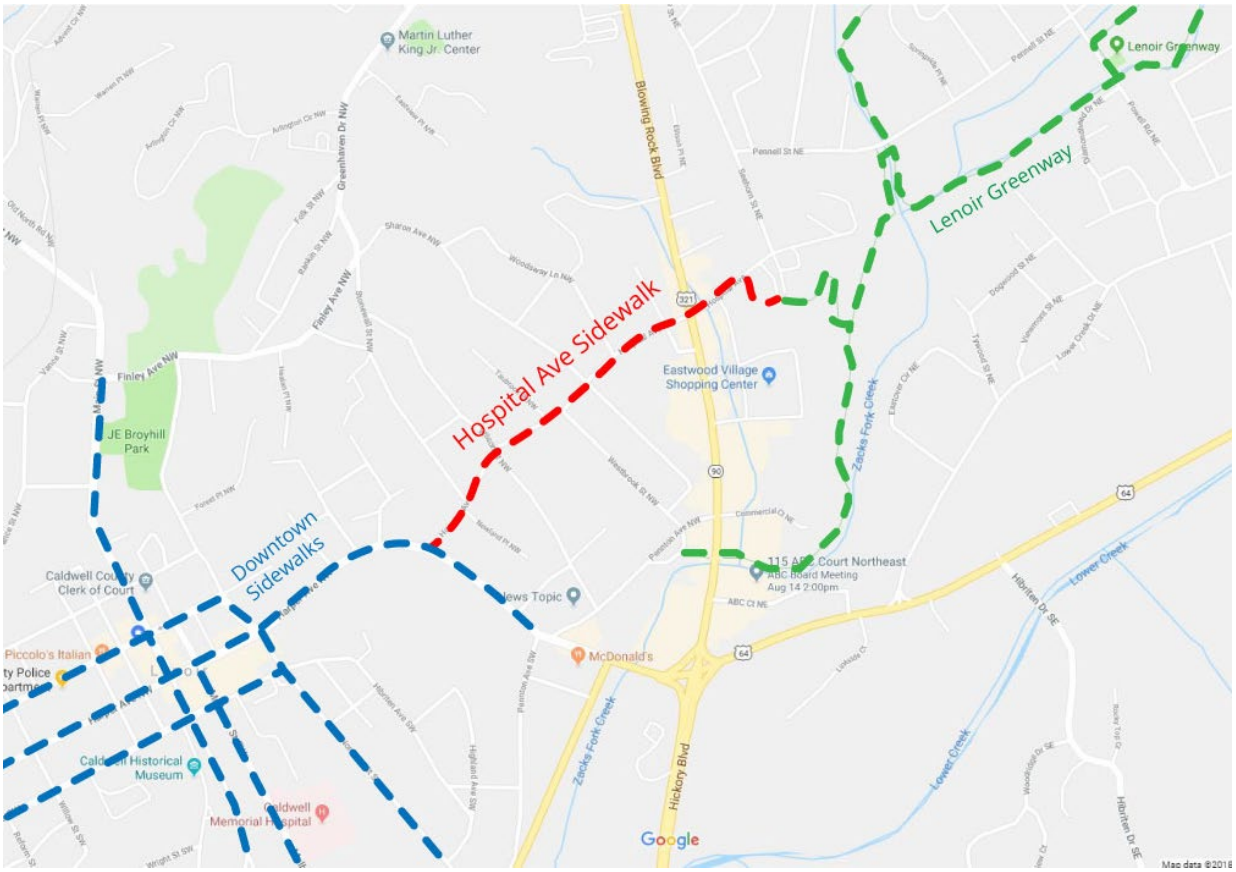
IV. Reviewed By:

City Attorney:
Finance Director: Donna Bean
Public Works Director: Jonathan Hogan
City Manager:

Hospital Avenue Sidewalk Project

3/13/2025

- This project will connect the greenway in northeast Lenoir with the downtown sidewalks via a new sidewalk on Hospital Avenue.
- The City obtained all the necessary right of way.
- Workers finished tree removal and Duke Energy relocated their utility poles. AT&T is the last pole utility to be moved, they estimate end of May 2025. PNG will relocate during road closure and construction. Water and sewer utilities are part of the project.
- Once the sidewalk is complete, the City plans to resurface Hospital Avenue.



INVITATION TO BID (REBID)

The City of Lenoir will be receiving bids for the project titled *EB-5806 Hospital Avenue Sidewalk.*

Sealed Bids will be received by the Public Works Office for the City of Lenoir (OWNER) located at 510-B Greer Circle, North Carolina 28645, until **February 27, 2025, 2:00 pm**, for EB-5806 Hospital Avenue Sidewalk from Harper Avenue to US 321 (Blowing Rock Blvd.).

A pre-bid meeting will be held on Thursday, February 20, 2025, at 2:00 P.M. at the City of Lenoir Public Works Facility, 510-B Greer Circle, SW, Lenoir, NC 28645. Attendance at this meeting is NOT mandatory but is strongly encouraged

The proposals will be opened promptly and read aloud at the City of Lenoir Public Works Facility, 510-B Greer Circle, SW, Lenoir, NC 28645. All bidders and the public are invited to attend the bid opening.

The proposed work is generally described as follows:

This contract is for installation of drainage, sidewalk, retaining walls and signal work in the City of Lenoir. The Contractor shall furnish all labor and materials for the project in accordance with the NCDOT 2024 Standard Specifications and/or Special Provisions.

Electronic Copies of the Bidding Documents may be obtained by contacting Jon Hogan at City of Lenoir at (828)-757-2183 or jon.hogan@ci.lenoir.nc.us. The bid package will be sent via email to the requesting Contractor or a link will be given to access the bid package online.

Bidders are required to be prequalified with NCDOT as Bidders or PO Prime Contractors prior to submitting a bid. Information regarding prequalification can be found at: https://connect.ncdot.gov/business/Prequal/Pages/default.aspx.

Bids will be received on a unit price basis, evaluated and awarded per the 2024 NCDOT Standard Specifications.

Upon confirmation of the lowest responsible bidder, the City will give the Successful Bidder a Notice of Award. The Successful Bidder will be required to furnish Construction Performance and Payment Bonds as security for the faithful performance and the payment of all bills and obligations arising from the performance of the Contract.

No exceptions, unrequested additions, deletions, purported clarifications, and/or any other types of modifications of the proposed forms, terms, conditions, and specifications may be submitted with the bid package. No information/documentation beyond what is specifically requested is to be submitted. Any bid containing such exceptions or modifications will be deemed non-responsive, and, accordingly will not be considered. The City of Lenoir reserves the right to reject any and all bids.

Questions shall be emailed no later than February 24, 2025, to Jon Hogan at jon.hogan@ci.lenoir.nc.us. Contact with any other City of Lenoir personnel concerning this project is strictly prohibited, unless otherwise noted, and may result in bids being considered non-responsive.

By: Jon Hogan

Public Works Director

City of Lenoir

1223 Jones Franklin Road • Raleigh, NC 27606
919-851-8077
www.wetherilleng.com

March 13, 2025
City of Lenoir
Jon Hogan
510B Greer Circle SW
Lenoir, NC 28645

MEMORANDUM TO: Mr. Jon Hogan
Public Works Operations Manager

FROM: Bob May, PE
Wetherill Engineering, Inc.

SUBJECT: EB-5806, Hospital Avenue from Harper Avenue to US 321 (Blowing Rock Blvd.) Recommendation for Award

Wetherill Engineering has reviewed the bids for the subject proposal. Neill Grading and Construction Co. was the lowest bidder on the proposal. Therefore, Wetherill Engineering recommends award to Neill Grading and Construction Co. in the amount of $2,594,361.00.

If you have any questions or need additional information, please let us know.

Sincerely,

Bob May, PE
Wetherill Engineering Project Manager
(984)-242-0574/bmay@wetherilleng.com

TIP No.: EB-5806 County **Caldwell**

Route: Hospital Avenue

From Harper Ave. to US 321 (Blowing Rock Blvd.)

						City of Lenoir		Neill Grading and Construction Co., LLC	
Line #	**Line Item**	**Sec No.**	**Description**	**Quantity**	**Unit**	**Unit Cost**	**Amount**	**Unit Cost**	**Amount**
1	0000100000-N	800	MOBILIZATION	1	LS	$117,693.48	$117,693.48	$125,000.00	$125,000.00
2	0043000000-N	226	GRADING	1	LS	$365,672.81	$365,672.81	$978,750.00	$978,750.00
3	0050000000-E	226	SUPPLEMENTAL CLEARING & GRUBBING	1	ACRE	$12,620.53	$12,620.53	$15,000.00	$15,000.00
4	0318000000-E	300	FOUNDATION CONDITIONING MAT. -MINOR STRUCTURES	110	TONS	$94.65	$10,411.94	$70.00	$7,700.00
5	0320000000-E	300	FOUNDATION CONDITIONING GEOTEXTILE	340	SY	$6.31	$2,145.49	$3.00	$1,020.00
6	0335200000-E	305	15" DRAINAGE	16	LF	$355.90	$5,694.38	$327.00	$5,232.00
7	0402000000-E	310	48" RC PIPE CULVERTS, CLASS III	16	LF	$697.92	$11,166.64	$750.00	$12,000.00
8	0448200000-E	310	15" RC PIPE CULVERTS, CLASS IV	468	LF	$135.04	$63,198.56	$111.00	$51,948.00
9	0448300000-E	310	18" RC PIPE CULVERTS, CLASS IV	24	LF	$262.51	$6,300.17	$140.00	$3,360.00
10	0448400000-E	310	24" RC PIPE CULVERTS, CLASS IV	132	LF	$200.67	$26,487.97	$174.00	$22,968.00
11	0995000000-E	340	PIPE REMOVAL	574	LF	$63.10	$36,220.92	$40.00	$22,960.00
12	1220000000-E	545	INCIDENTAL STONE BASE	15	TON	$63.10	$946.54	$160.00	$2,400.00
13	1491000000-E	610	ASPH. CONC. BASE COURSE, TYPE B25.0C	160	TONS	$441.72	$70,674.96	$450.00	$72,000.00
14	1575000000-E	620	ASPH. BINDER FOR PLANT MIX	10	TONS	$1,262.05	$12,620.53	$675.00	$6,750.00
15	1693000000-E	654	ASPH. PLANT MIX, PAVEMENT REPAIR	60	TONS	$441.72	$26,503.11	$500.00	$30,000.00
16	2209000000-E	838	ENDWALLS	8	CY	$3,786.16	$30,289.27	$1,900.00	$15,200.00
17	2253000000-E	840	PIPE COLLARS	1	CY	$5,048.21	$5,048.21	$2,500.00	$2,500.00
18	2286000000-N	840	MASONRY DRAINAGE STRUCTURES	22	EACH	$6,310.26	$138,825.82	$4,400.00	$96,800.00
19	2308000000-E	840	MASONRY DRAINAGE STRUCTURES	4	LF	$1,262.05	$5,048.21	$500.00	$2,000.00
20	2364000000-N	840	FRAME WITH 2 GRATES, STD. 840.16	2	EACH	$1,766.87	$3,533.75	$1,100.00	$2,200.00
21	2374000000-N	840	FRAME W/ GRATE & HOOD, STD. 840.03, TYPE E	3	EACH	$1,766.87	$5,300.62	$1,200.00	$3,600.00
22	2374000000-N	840	FRAME W/ GRATE & HOOD, STD. 840.03, TYPE F	4	EACH	$1,766.87	$7,067.50	$1,200.00	$4,800.00
23	2374000000-N	840	FRAME W/ GRATE & HOOD, STD. 840.03, TYPE G	12	EACH	$1,766.87	$21,202.49	$1,200.00	$14,400.00
24	2396000000-N	840	FRAME W/ COVER, STD. 840.54	1	EACH	$1,262.05	$1,262.05	$725.00	$725.00
25	2549000000-E	846	2'-6" CONC. CURB & GUTTER	2500	LF	$55.53	$138,825.82	$43.00	$107,500.00
26	2591000000-E	848	4" CONC. SIDEWALK	1300	SY	$94.65	$123,050.16	$76.00	$98,800.00
27	2605000000-N	848	CONC. CURB RAMPS	20	EACH	$3,786.16	$75,723.18	$4,600.00	$92,000.00
28	2612000000-E	848	6" CONC. DRIVEWAY	110	SY	$157.76	$17,353.23	$147.00	$16,170.00
29	3572000000-E	867	CHAIN LINK FENCE RESET	70	LF	$63.10	$4,417.19	$110.00	$7,700.00
30	3574000000-E	867	48" SPLIT RAIL FENCE RESET	150	LF	$63.10	$9,465.40	$110.00	$16,500.00
31	3890000000-E	SP	CONCRETE STEPS	7	CY	$6,310.26	$44,171.85	$5,500.00	$38,500.00
32	6895000000-E	SP	HANDRAIL ON STEPS	60	LF	$378.62	$22,716.95	$275.00	$16,500.00
33	4025000000-E	901	CONTRACTOR FURNISHED, TYPE "E" SIGN	33	SF	$25.24	$832.95	$34.00	$1,122.00
34	4072000000-E	903	SUPPORTS, 3-LB STEEL U-CHANNEL	48	LF	$12.62	$605.79	$14.00	$672.00
35	4110000000-N	904	SIGN ERECTION, TYPE "E" (GROUND MOUNTED)	8	EACH	$252.41	$2,019.28	$250.00	$2,000.00
36	4400000000-E	1110	STATIONARY WORK ZONE SIGNS	397	SF	$13.88	$5,511.39	$18.00	$7,146.00
37	4405000000-E	1110	PORTABLE WORK ZONE SIGNS	389	SF	$20.19	$7,855.02	$26.00	$10,114.00
38	4410000000-E	1110	BARRICADE MTD. WORK ZONE SIGNS	30	SF	$11.36	$340.75	$20.00	$600.00
39	4415000000-N	1115	FLASHING ARROW BOARD	2	EACH	$3,786.16	$7,572.32	$5,500.00	$11,000.00
40	4422000000-N	1120	PORTABLE CHANGEABLE MESSAGE SIGN (SHORT TERM)	15	DAY	$189.31	$2,839.62	$160.00	$2,400.00
41	4430000000-N	1130	DRUMS	40	EACH	$82.03	$3,281.34	$52.50	$2,100.00
42	4435000000-N	1135	CONES	60	EACH	$44.17	$2,650.31	$30.50	$1,830.00
43	4445000000-E	1145	BARRICADES (TYPE III)	60	LF	$44.17	$2,650.31	$36.00	$2,160.00
44	4455000000-N	1150	FLAGGER (BY DAY)	360	DAY	$851.89	$306,678.86	$400.00	$144,000.00
45	4480000000-N	1165	TMA	2	EACH	$63,102.65	$126,205.29	$8,450.00	$16,900.00
46	4510000000-N	1190	LAW ENFORCEMENT	168	HR	$94.65	$15,901.87	$45.00	$7,560.00
47	4516000000-N	1180	SKINNY DRUM	60	EACH	$63.10	$3,786.16	$42.00	$2,520.00
48	4685000000-E	1205	THERMOPLASTIC PVEMENT Marking LINES (4", 90 MILS)	102	LF	$12.62	$1,287.29	$11.00	$1,122.00
49	4709000000-E	1205	THERMOPLASTIC PAVEMENT MARKING LINES (24", 90 MILS)	232	LF	$25.24	$5,855.93	$22.00	$5,104.00
50	4850000000-E	1205	REMOVAL OF PAVEMENT MARKING (4")	4	LF	$25.24	$100.96	$110.00	$440.00
51	4870000000-E	1205	REMOVAL OF PAVEMENT MARKING (24")	12	LF	$63.10	$757.23	$110.00	$1,320.00
52	4905000000-N	1253	SNOWPLOWABLE RAISED PAVEMENT MARKERS	1	EACH	$126.21	$126.21	$550.00	$550.00
53	7048500000-E	1705	PEDESTRIAN SIGNAL HEAD (16", 1 SECTION W/ COUNTDOWN)	2	EACH	$1,640.67	$3,281.34	$1,200.00	$2,400.00
54	7060000000-E	1705	SIGNAL CABLE	200	LF	$5.05	$1,009.64	$5.00	$1,000.00
55	7300000000-E	1715	UNPAVED TRENCHING (2 CONDUITS - 2")	30	LF	$25.24	$757.23	$30.00	$900.00
56	7324000000-N	1716	JUNCTION BOX (STANDARD SIZE)	2	EACH	$946.54	$1,893.08	$800.00	$1,600.00
57	7420000000-E	1722	2" RISER WITH WEATHERHEAD	2	EACH	$1,262.05	$2,524.11	$975.00	$1,950.00
58	7444000000-E	1725	INDUCTIVE LOOP SAWCUT	300	LF	$15.14	$4,543.39	$18.00	$5,400.00
59	7456000000-E	1726	LEAD-IN CABLE (14 - 2 PAIR)	260	LF	$3.79	$984.40	$5.00	$1,300.00
60	7642100000-N	1743	TYPE I POST WITH FOUNDATION	2	EACH	$3,155.13	$6,310.26	$2,800.00	$5,600.00

61						$121.16	$0.00		$0.00
62	5648000000-N	1515	RELOCATE WATER METER	15	EACH	$2,524.11	$37,861.59	$5,000.00	$75,000.00
63	2845000000-N	858	ADJUSTMENT OF METER BOXES OR VALVE BOXES	2	EACH	$1,577.57	$3,155.13	$1,250.00	$2,500.00
64	5672000000-N	1515	RELOCATE FIRE HYDRANT	1	EACH	$5,048.21	$5,048.21	$15,175.00	$15,175.00
65	3656000000-E	876	GEOTEXTILE FOR DRAINAGE	225	SY	$6.31	$1,419.81	$5.00	$1,125.00
66	6000000000-E	1605	TEMPORARY SILT FENCE	2585	LF	$4.42	$11,418.42	$5.00	$12,925.00
67	6006000000-E	1610	EROSION CONTROL STONE, CLASS A	180	TONS	$88.34	$15,901.87	$82.00	$14,760.00
68	6009000000-E	1610	EROSION CONTROL STONE, CLASS B	10	TONS	$157.76	$1,577.57	$107.00	$1,070.00
69	6012000000-E	1610	SEDIMENT CONTROL STONE	390	TONS	$69.41	$27,071.04	$82.00	$31,980.00
70	6015000000-E	1615	TEMPORARY MULCHING	3	ACRE	$10.10	$30.29	$2,000.00	$6,000.00
71	6018000000-E	1620	SEED FOR TEMPORARY MULCHING	200	LBS	$10.10	$2,019.28	$4.00	$800.00
72	6021000000-E	1620	FERTILIZER FOR TEMPORARY SEEDING	1	TONS	$2,271.70	$2,271.70	$1,750.00	$1,750.00
73	6024000000-E	1622	TEMPORARY SLOPE DRAINS	200	LF	$25.24	$5,048.21	$40.00	$8,000.00
74	6029000000-E	SP	SAFETY FENCE	320	LF	$4.42	$1,413.50	$4.00	$1,280.00
75	6030000000-E	1630	SILT EXCAVATION	140	CY	$63.10	$8,834.37	$30.00	$4,200.00
76	6036000000-E	1631	MATTING FOR EROSION CONTROL	7500	SY	$2.52	$18,930.79	$3.50	$26,250.00
77	6037000000-E	1629	COIR FIBER MAT	100	SY	$10.10	$1,009.64	$6.00	$600.00
78	6042000000-E	1632	¼” HARDWARE CLOTH	1485	LF	$7.57	$11,244.89	$8.00	$11,880.00
79	6071012000-E	1642	COIR FIBER WATTLE	60	LF	$12.62	$757.23	$25.00	$1,500.00
80	6071002000-E	1642	FLOCCULANT	15	LBS	$50.48	$757.23	$50.00	$750.00
81	6084000000-E	1660	SEEDING AND MULCHING	3	ACRE	$3,407.54	$10,222.63	$4,000.00	$12,000.00
82	6087000000-E	1660	MOWING	3	ACRE	$315.51	$946.54	$750.00	$2,250.00
83	6090000000-E	1661	SEED FOR REPAIR SEEDING	50	LBS	$7.57	$378.62	$5.00	$250.00
84	6093000000-E	1661	FERTILIZER FOR REPAIR SEEDING	0.25	TONS	$1,893.08	$473.27	$1,500.00	$375.00
85	6096000000-E	1662	SEED FOR SUPPLEMENTAL SEEDING	75	LBS	$7.57	$567.92	$7.50	$562.50
86	6108000000-E	1665	FERTILIZER FOR TOPDRESSING	1.75	TONS	$1,893.08	$3,312.89	$1,750.00	$3,062.50
87	6114500000-N	1667	SPECIALIZED HAND MOWING	10	MHR	$157.76	$1,577.57	$75.00	$750.00
88	6117000000-N	1675	RESPONSE TO EROSION CONTROL	25	EACH	$378.62	$9,465.40	$1.00	$25.00
89	6117500000-N	SP	CONCRETE WASHOUT STRUCTURE	2	EACH	$2,524.11	$5,048.21	$10,000.00	$20,000.00
90	0000400000-N	801	CONSTRUCTION SURVEYING	1	LS	$8,960.58	$8,960.58	$50,000.00	$50,000.00
91	0001010000-N	200	SELECT TREE REMOVAL	20	EACH	$1,893.08	$37,861.59	$2,000.00	$40,000.00
92	0448500000-E	310	30” RC PIPE CULVERTS, CLASS IV	44	LF	$278.91	$12,272.20	$410.00	$18,040.00
93	8802030000-E	454	SEGMENTAL GRAVITY RETAINING WALL	1348	SF	$121.16	$163,319.75	$71.00	$95,708.00
			Total			$2,350,000.00		$2,594,361.00	

TIP No.: EB-5806 **Final** County: **CALDWELL**
Route: HOSPITAL AVENUE
From: HARPER AVE. TO US 321 (BLOWING ROCK BVLD.)
Typical Section: SIDEWALK

CONSTR. COST
$2,350,000

Prepared By: WEI Date: 10/28/2020
Requested By: Bob May, PE Date:3/1/2025
Priced By: Date:

Line Item	Sec No.	Description	Quantity	Unit	Price	Amount
0000100000-N	800	MOBILIZATION	1.00	LS	$ 93,255.58	$ 93,255.58
0000400000-N	801	CONSTRUCTION SURVEYING	1.00	LS	$ 73,000.00	$ 73,000.00
0001010000-N	200	SELECT TREE REMOVAL	20.00	EACH	$ 1,500.00	$ 30,000.00
0043000000-N	226	GRADING	1.00	LS	$289,744.43	$ 289,744.43
		Clearing & Grubbing	0.10	AC		$ -
		Unclassified Excavation	800.00	CY		$ -
		Removal of Existing Asphalt Pavement	1400.00	SY		$ -
0050000000-E	226	SUPPLEMENTAL CLEARING & GRUBBING	1.00	ACRE	$ 10,000.00	$ 10,000.00
0318000000-E	300	FOUNDATION CONDITIONING MAT.-MINOR STRUCTURE	110.00	TONS	$ 75.00	$ 8,250.00
0320000000-E	300	FOUNDATION CONDITIONING GEOTEXTILE	340.00	SY	$ 5.00	$ 1,700.00
0335200000-E	305	15" DRAINAGE	16.00	LF	$ 282.00	$ 4,512.00
0402000000-E	310	48" RC PIPE CULVERTS, CLASS III	16.00	LF	$ 553.00	$ 8,848.00
0448200000-E	310	15" RC PIPE CULVERTS, CLASS IV	468.00	LF	$ 107.00	$ 50,076.00
0448300000-E	310	18" RC PIPE CULVERTS, CLASS IV	24.00	LF	$ 208.00	$ 4,992.00
0448400000-E	310	24" RC PIPE CULVERTS, CLASS IV	132.00	LF	$ 159.00	$ 20,988.00
0448500000-E	310	30" RC PIPE CULVERTS, CLASS IV	344.00	LF	$ 221.00	$ 76,024.00
0995000000-E	340	PIPE REMOVAL	574.00	LF	$ 50.00	$ 28,700.00
1491000000-E	610	ASPH. CONC. BASE COURSE, TYPE B25.0C	160.00	TONS	$ 350.00	$ 56,000.00
1575000000-E	620	ASPH. BINDER FOR PLANT MIX	10.00	TONS	$ 1,000.00	$ 10,000.00
1693000000-E	654	ASPH. PLANT MIX, PAVEM,ENT REPAIR	60.00	TONS	$ 350.00	$ 21,000.00
2209000000-E	838	ENDWALLS	8.00	CY	$ 3,000.00	$ 24,000.00
2253000000-E	840	PIPE COLLARS	1.00	CY	$ 4,000.00	$ 4,000.00
2286000000-N	840	MASONRY DRAINAGE STRUCTURES	22.00	EACH	$ 5,000.00	$ 110,000.00
2308000000-E	840	MASONRY DRAINAGE STRUCTURES	4.00	LF	$ 1,000.00	$ 4,000.00
2364000000-N	840	FRAME WITH 2 GRATES, STD. 840.16	2.00	EACH	$ 1,400.00	$ 2,800.00
2374000000-N	840	FRAME W/ GRATE & HOOD, STD. 840.03, TYPE E	3.00	EACH	$ 1,400.00	$ 4,200.00
2374000000-N	840	FRAME W/ GRATE & HOOD, STD. 840.03, TYPE F	4.00	EACH	$ 1,400.00	$ 5,600.00
2374000000-N	840	FRAME W/ GRATE & HOOD, STD. 840.03, TYPE G	12.00	EACH	$ 1,400.00	$ 16,800.00
2396000000-N	840	FRAME W/ COVER, STD. 840.54	1.00	EACH	$ 1,000.00	$ 1,000.00
2549000000-E	846	2'-6" CONC. CURB & GUTTER	2500.00	LF	$ 44.00	$ 110,000.00
2591000000-E	848	4" CONC. SIDEWALK	1300.00	SY	$ 75.00	$ 97,500.00
2605000000-N	848	CONC. CURB RAMPS	20.00	EACH	$ 3,000.00	$ 60,000.00
2612000000-E	848	6" CONC. DRIVEWAY	110.00	SY	$ 125.00	$ 13,750.00
3572000000-E	867	CHAIN LINK FENCE RESET	70.00	LF	$ 50.00	$ 3,500.00
3574000000-E	867	48" SPLIT RAIL FENCE RESET	150.00	LF	$ 50.00	$ 7,500.00

6890000000-E	SP	CONCRETE STEPS	7.00	CY	$ 5,000.00	$ 35,000.00
6895000000-E	SP	HANDRAIL ON STEPS	60.00	LF	$ 300.00	$ 18,000.00
4025000000-E	901	CONTRACTOR FURNISHED, TYPE "E" SIGN	33.00	SF	$ 20.00	$ 660.00
4072000000-E	903	SUPPORTS, 3-LB STEEL U-CHANNEL	48.00	LF	$ 10.00	$ 480.00
4110000000-N	904	SIGN ERECTION, TYPE "E" (GROUND MOUNTED)	8.00	EACH	$ 200.00	$ 1,600.00
4400000000-E	1110	STATIONARY WORK ZONE SIGNS	397.00	SF	$ 11.00	$ 4,367.00
4405000000-E	1110	PORTABLE WORK ZONE SIGNS	389.00	SF	$ 16.00	$ 6,224.00
4410000000-E	1110	BARRICADE MTD. WORK ZONE SIGNS	30.00	SF	$ 9.00	$ 270.00
4415000000-N	1115	FLASHING ARROW BOARD	2.00	EACH	$ 3,000.00	$ 6,000.00
4422000000-N	1120	PORTABLE CHANGEABLE MESSAGE SIGN (SHORT TERM	15.00	DAY	$ 150.00	$ 2,250.00
4430000000-N	1130	DRUMS	40.00	EACH	$ 65.00	$ 2,600.00
4435000000-N	1135	CONES	60.00	EACH	$ 35.00	$ 2,100.00
4445000000-E	1145	BARRICADES (TYPE III)	60.00	LF	$ 35.00	$ 2,100.00
4455000000-N	1150	FLAGGER (BY DAY)	360.00	DAY	$ 675.00	$ 243,000.00
4480000000-N	1165	TMA	2.00	EACH	$ 50,000.00	$ 100,000.00
4510000000-N	1190	LAW ENFORCEMENT	168.00	HR	$ 75.00	$ 12,600.00
4516000000-N	1180	SKINNY DRUM	60.00	EACH	$ 50.00	$ 3,000.00
4685000000-E	1205	THERMOPLASTIC (4", 90 MILS)	100.00	LF	$ 10.00	$ 1,000.00
4686000000-E	1205	THERMOPLASTIC (4", 120 MILS)	2.00	LF	$ 20.00	$ 40.00
4710000000-E	1205	THERMOPLASTIC (24", 120 MILS)	232.00	LF	$ 20.00	$ 4,640.00
4850000000-E	1205	REMOVAL OF PAVEMENT MARKING (4")	4.00	LF	$ 50.00	$ 200.00
4870000000-E	1205	REMOVAL OF PAVEMENT MARKING (24")	12.00	LF	$ 50.00	$ 600.00
4905000000-N	1253	SNOWPLOWABLE RAISED PAVEMENT MARKERS	1.00	EACH	$ 100.00	$ 100.00
7048500000-E	1705	PEDESTRIAN SIGNAL HEAD (16", 1 SECTION W/ COUNTDOWN)	2.00	EACH	$ 1,300.00	$ 2,600.00
7060000000-E	1705	SIGNAL CABLE	200.00	LF	$ 4.00	$ 800.00
7300000000-E	1715	UNPAVED TRENCHING (2 CONDUITS - 2")	30.00	LF	$ 20.00	$ 600.00
7324000000-N	1716	JUNCTION BOX (STANDARD SIZE)	2.00	EACH	$ 750.00	$ 1,500.00
7420000000-E	1722	2" RISER WITH WEATHERHEAD	2.00	EACH	$ 1,000.00	$ 2,000.00
7444000000-E	1725	INDUCTIVE LOOP SAWCUT	300.00	LF	$ 12.00	$ 3,600.00
7456000000-E	1726	LEAD-IN CABLE (14 - 2 PAIR)	260.00	LF	$ 3.00	$ 780.00
7642100000-N	1743	TYPE I POST WITH FOUNDATION	2.00	EACH	$ 2,500.00	$ 5,000.00
5648000000-N	1515	RELOCATE WATER METER	15.00	EACH	$ 2,000.00	$ 30,000.00
2845000000-N	858	ADJUSTMENT OF METER BOXES OR VALVE BOXES	2.00	EACH	$ 1,250.00	$ 2,500.00
5672000000-N	1515	RELOCATE FIRE HYDRANT	1.00	EACH	$ 4,000.00	$ 4,000.00
3656000000-E	876	GEOTEXTILE FOR DRAINAGE	225.00	SY	$ 5.00	$ 1,125.00
6000000000-E	1605	TEMPORARY SILT FENCE	2585.00	LF	$ 3.50	$ 9,047.50
6006000000-E	1610	EROSION CONTROL STONE, CLASS A	180.00	TONS	$ 70.00	$ 12,600.00
6009000000-E	1610	EROSION CONTROL STONE, CLASS B	10.00	TONS	$ 125.00	$ 1,250.00
6012000000-E	1610	SEDIMENT CONTROL STONE	390.00	TONS	$ 55.00	$ 21,450.00
6015000000-E	1615	TEMPORARY MULCHING	3.00	ACRE	$ 1,500.00	$ 4,500.00
6018000000-E	1620	SEED FOR TEMPORARY SEEDING	200.00	LBS	$ 8.00	$ 1,600.00
6021000000-E	1620	FERTILIZER FOR TEMPORARY SEEDING	1.00	TONS	$ 1,800.00	$ 1,800.00
6024000000-E	1622	TEMPORARY SLOPE DRAINS	200.00	LF	$ 20.00	$ 4,000.00
6029000000-E	SP	SAFETY FENCE	320.00	LF	$ 3.50	$ 1,120.00
6030000000-E	1630	SILT EXCAVATION	140.00	CY	$ 50.00	$ 7,000.00
6036000000-E	1631	MATTING FOR EROSION CONTROL	7500.00	SY	$ 2.00	$ 15,000.00

6037000000-E	SP	COIR FIBER MAT	100.00	SY	$	8.00	$ 800.00
6042000000-E	1632	1/4" HARDWARE CLOTH	1485.00	LF	$	6.00	$ 8,910.00
6071012000-E	SP	COIR FIBER WATTLE	60.00	LF	$	10.00	$ 600.00
6071020000-E	SP	POLYACRYLAMIDE (PAM)	15.00	LBS	$	40.00	$ 600.00
6084000000-E	1660	SEEDING AND MULCHING	3.00	ACRE	$	2,700.00	$ 8,100.00
6087000000-E	1660	MOWING	3.00	ACRE	$	250.00	$ 750.00
6090000000-E	1661	SEED FOR REPAIR SEEDING	50.00	LBS	$	6.00	$ 300.00
6093000000-E	1661	FERTILIZER FOR REPAIR SEEDING	0.25	TONS	$	1,500.00	$ 375.00
6096000000-E	1662	SEED FOR SUPPPLEMENTAL SEEDING	75.00	LBS	$	6.00	$ 450.00
6108000000-E	1665	FERTILIZER TOPDRESSING	1.75	TONS	$	1,500.00	$ 2,625.00
6114500000-N	1667	SPECIALIZED HAND MOWING	10.00	MHR	$	125.00	$ 1,250.00
6117000000-N	1675	RESPONSE FOR EROSION CONTROL	25.00	EACH	$	300.00	$ 7,500.00
6117500000-N	SP	CONCRETE WASHOUT STRUCTURE	2.00	EACH	$	2,000.00	$ 4,000.00
8802030000-E	454	SEGMENTAL GRAVITY RETAINING WALLS	1348.00	SF	$	96.00	$ 129,408.00
		Utility Construction					
		Relocate Existing Water Line		LF			$ -
		Relocate Existing Sewer Line		LF			$ -
		Misc. (Str & Utilities)	0%	LS			$ -
		Misc. (Roadway) **Per Division**	0%	LS			$ -

Lgth ____ Mi.

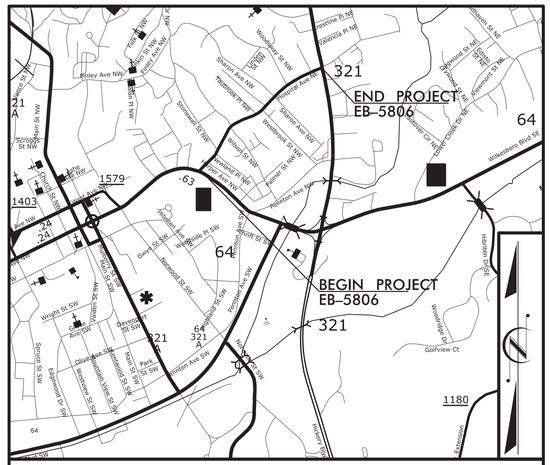
Contract Cost ……..	……..	$ 1,998,111.50
E. & C. 16% ……..	……..	
Construction Cost ……..	……..	**$ 2,350,000.00**

149

09/08/09

TIP PROJECT: EB–5806

See Sheet 1-A For Index of Sheets
See Sheet 1-B For Conventional Symbols



VICINITY MAP

NOTE: NOT TO SCALE

STATE OF NORTH CAROLINA
CITY OF LENOIR

CALDWELL COUNTY

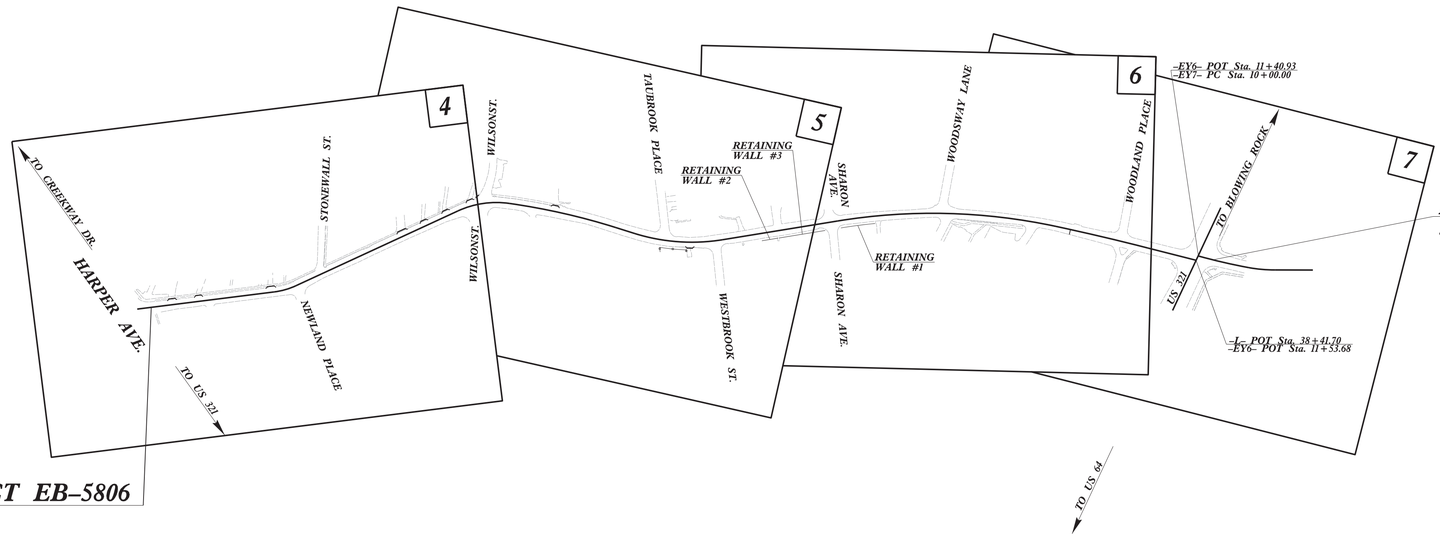
STATE	STATE PROJECT REFERENCE NO.	SHEET NO.	TOTAL SHEETS
N.C.	EB–5806	1	

STATE PROJ. NO.	F. A. PROJ. NO.	DESCRIPTION
46457.1.1	STPDA–0321(036)	PE
46457.2.1	STPDA–0321(036)	UTIL. & ROW
46457.3.1	STPDA–0321(036)	CONST.

LOCATION: HOSPITAL AVENUE FROM HARPER AVENUE TO US 321 (BLOWING ROCK BLVD.)

TYPE OF WORK: DRAINAGE, SIDEWALK, RETAINING WALLS & SIGNAL

NAD 83/2011



BEGIN TIP PROJECT EB–5806
–L– STA. 10+10.00

END TIP PROJECT EB–5806
–EY7– STA. 10+40.00

DOCUMENT NOT CONSIDERED FINAL UNLESS ALL SIGNATURES COMPLETED

CONTRACT:

GRAPHIC SCALES

40 20 0 40 80
PLANS

20 10 0 20 40
PROFILE (HORIZONTAL)

4 2 0 4 8
PROFILE (VERTICAL)

DESIGN DATA

ADT 2022 = 5,700
ADT 2042 = 8,100
K = 9 %
D = 60 %
T = 3 % *
V = 40 MPH
* TTST = 0% DUAL = 3%
FUNC CLASS = MAJOR COLLECTOR
SUB–REGIONAL TIER

PROJECT LENGTH

LENGTH ROADWAY TIP PROJECT EB–5806 = 0.544 MILES
TOTAL LENGTH TIP PROJECT EB–5806 = 0.544 MILES

NOTE: UTILIZED –L–& –EY7– FOR DETERMINATION OF PROJECT LENGTH.

THE CITY OF LENOIR: MR. JON HOGAN
PUBLIC WORKS & ENGINEERING
TEL. (828) 757–2183
PO BOX 958
LENOIR, NC 28645

Prepared in the Office of:
WETHERILL ENGINEERING
1223 Jones Franklin Rd. Raleigh, N.C. 27606
License No. F-0377
Bus: 919.851.8077 Fax: 919.851.8107

Prepared for:
DIVISION OF HIGHWAYS DIVISION 11
801 STATESVILLE RD. NORTH WILKESBORO NC, 28659

2024 STANDARD SPECIFICATIONS

RIGHT OF WAY DATE: JANUARY 2, 2019

LETTING DATE: SEPTEMBER 20, 2024

EDWARD G. WETHERILL, PE
PROJECT ENGINEER

BOB A. MAY, PE
PROJECT DESIGN ENGINEER

NCDOT CONTACT: RAMIE SHAW, PE
DIVISION PROJECT DEVELOPMENT ENGINEER

HYDRAULICS ENGINEER
NORTH CAROLINA PROFESSIONAL SEAL 31977 ENGINEER JUSTIN B ALFORD
SIGNATURE:

ROADWAY DESIGN ENGINEER
NORTH CAROLINA PROFESSIONAL SEAL 21116 ENGINEER BOBBY A MAY
SIGNATURE:

STATE OF NORTH CAROLINA • DEPARTMENT OF TRANSPORTATION •

7/2/2024
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USER: KEstep

CLEARING AND GRUBBING
EROSION CONTROL FOR
CONSTRUCTION SHEET 4

NOTE:
PLACE TEMPORARY ROCK SEDIMENT DAMS TYPE – B AND TEMPORARY ROCK SILT CHECKS TYPE – A AT DRAINAGE OUTLETS.

NOTE:
PERIMETER EROSION CONTROL MEASURES SHALL BE INSTALLED DURING CLEARING AND GRUBBING PHASE.

Roadway Standard Drawings

The "Roadway Standard Drawings"- Roadway Design Unit - N. C. Department of Transportation - Raleigh, N. C., dated January 2024 and the latest revision thereto are applicable to this project and by reference hereby are considered a part of these plans.

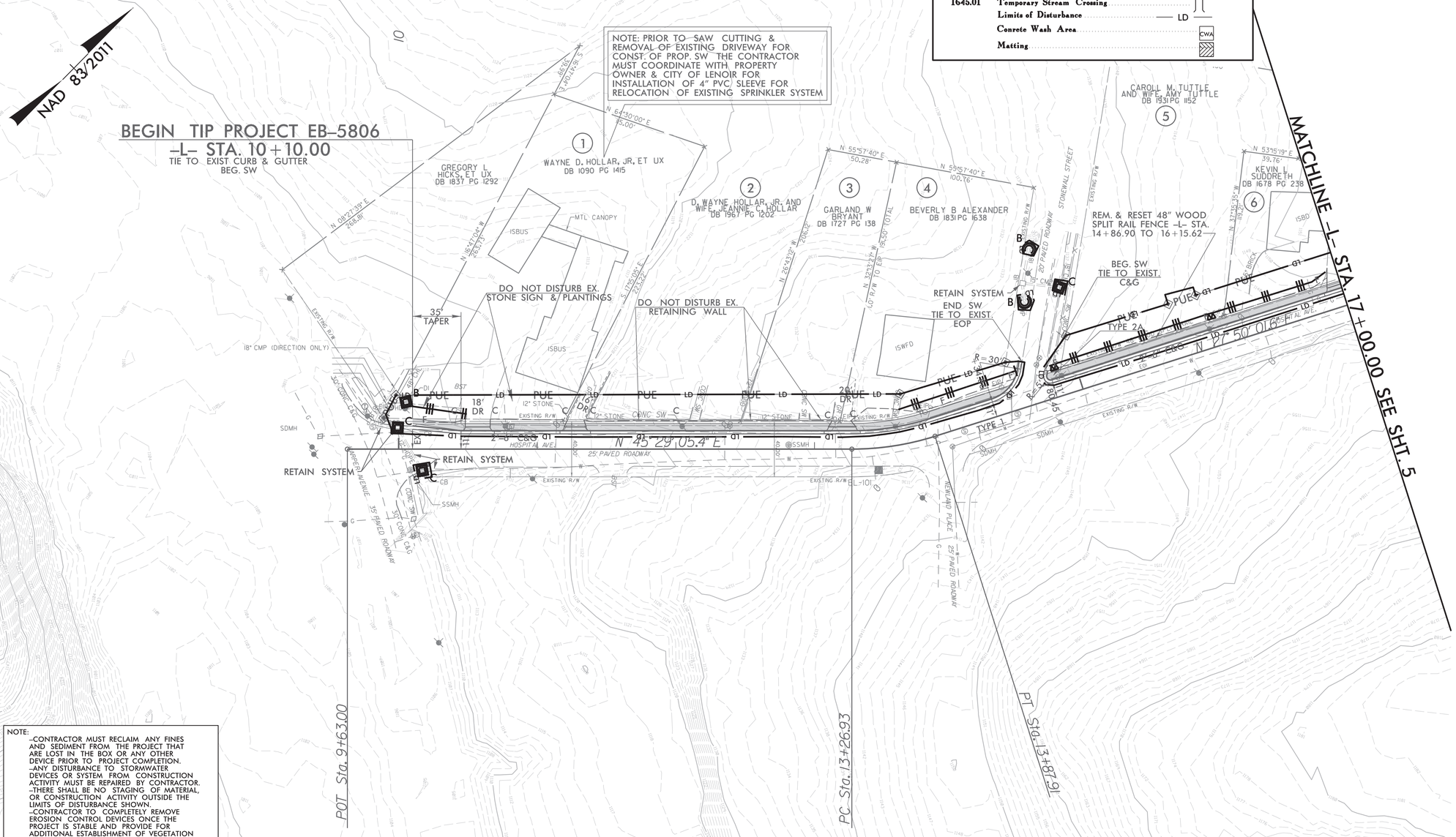
Std. #	Description	Symbol
1605.01	Temporary Silt Fence	
1606.01	Special Sediment Control Fence	
1607.01	Gravel Construction Entrance	
1630.03	Temporary Silt Ditch	TSD
1630.06	Spelling Stilling Basin	
1632.02	Rock Inlet Sediment Trap Type B	B
1632.03	Rock Inlet Sediment Trap Type C	C
1633.01	Temporary Rock Silt Check Type-A	
1633.03	Temporary Rock Silt Check Type-A with Excelsior Matting and Flocculant	
1633.02	Temporary Rock Silt Check Type-B	
1635.01	Rock Pipe Inlet Sediment Trap Type-B	B C
1645.01	Temporary Stream Crossing	
	Limits of Disturbance	LD
	Concrete Wash Area	CWA
	Matting	

ROADSIDE ENVIRONMENTAL UNIT
DEPARTMENT OF TRANSPORTATION
DIVISION OF HIGHWAYS
RALEIGH, N.C.

2024 STANDARD SPECIFICATIONS

NOTES: ANY DEVIATION FROM OPTIONS GIVEN WILL REQUIRE PRIOR APPROVAL BY ENGINEER.

ADDITIONAL EROSION CONTROL DEVICES MAY NEED TO BE INSTALLED AS DIRECTED BY THE ENGINEER.



NOTE:
–CONTRACTOR MUST RECLAIM ANY FINES AND SEDIMENT FROM THE PROJECT THAT ARE LOST IN THE BOX OR ANY OTHER DEVICE PRIOR TO PROJECT COMPLETION.
–ANY DISTURBANCE TO STORMWATER DEVICES OR SYSTEM FROM CONSTRUCTION ACTIVITY MUST BE REPAIRED BY CONTRACTOR.
–THERE SHALL BE NO STAGING OF MATERIAL, OR CONSTRUCTION ACTIVITY OUTSIDE THE LIMITS OF DISTURBANCE SHOWN.
–CONTRACTOR TO COMPLETELY REMOVE EROSION CONTROL DEVICES ONCE THE PROJECT IS STABLE AND PROVIDE FOR ADDITIONAL ESTABLISHMENT OF VEGETATION ONCE EROSION CONTROL DEVICES ARE REMOVED.
–IF BOTTOW OR WASTE FILL MATERIAL IS GENERATED BY GRADING OPERATIONS, AN APPROVED EROSION AND SEDIMENT CONTROL PERMIT MUST BE SECURED FOR THE BORROW OR WASTE MATERIAL SITE PRIOR TO INITIATION OF ANY LAND DISTURBING ACTIVITY.

THESE EROSION AND SEDIMENT CONTROL PLANS COMPLY WITH THE APPLICABLE REGULATIONS SET FORTH BY THE NCG–010000 GENERAL CONSTRUCTION PERMIT EFFECTIVE APRIL 1, 2019 AND ISSUED BY THE NORTH CAROLINA DEPARTMENT OF ENVIRONMENTAL QUALITY DIVISION OF WATER RESOURCES.

LENOIR

510-B Greer Circle
Lenoir, NC 28645
PHONE: (828) 757-2183
CONTACT: Jared Wright
Public Works Director

LENOIR SIDEWALK

TIP #EB-5806

PLANS PREPARED BY:
WETHERILL ENGINEERING
1223 Jones Franklin Rd.
Raleigh, N.C. 27606
License No. F-0377
Bus: 919 851 8077
Fax: 919 851 8107

NORTH CAROLINA PROFESSIONAL SEAL 31977 ENGINEER JARED M. WRIGHT

DATE: JULY 2, 2024

REVISIONS:

NO.	DATE

WEI PROJECT NO.:
17418.01

SHEET
EC–2

CLEARING AND GRUBBING
EROSION CONTROL FOR
CONSTRUCTION SHEET 5

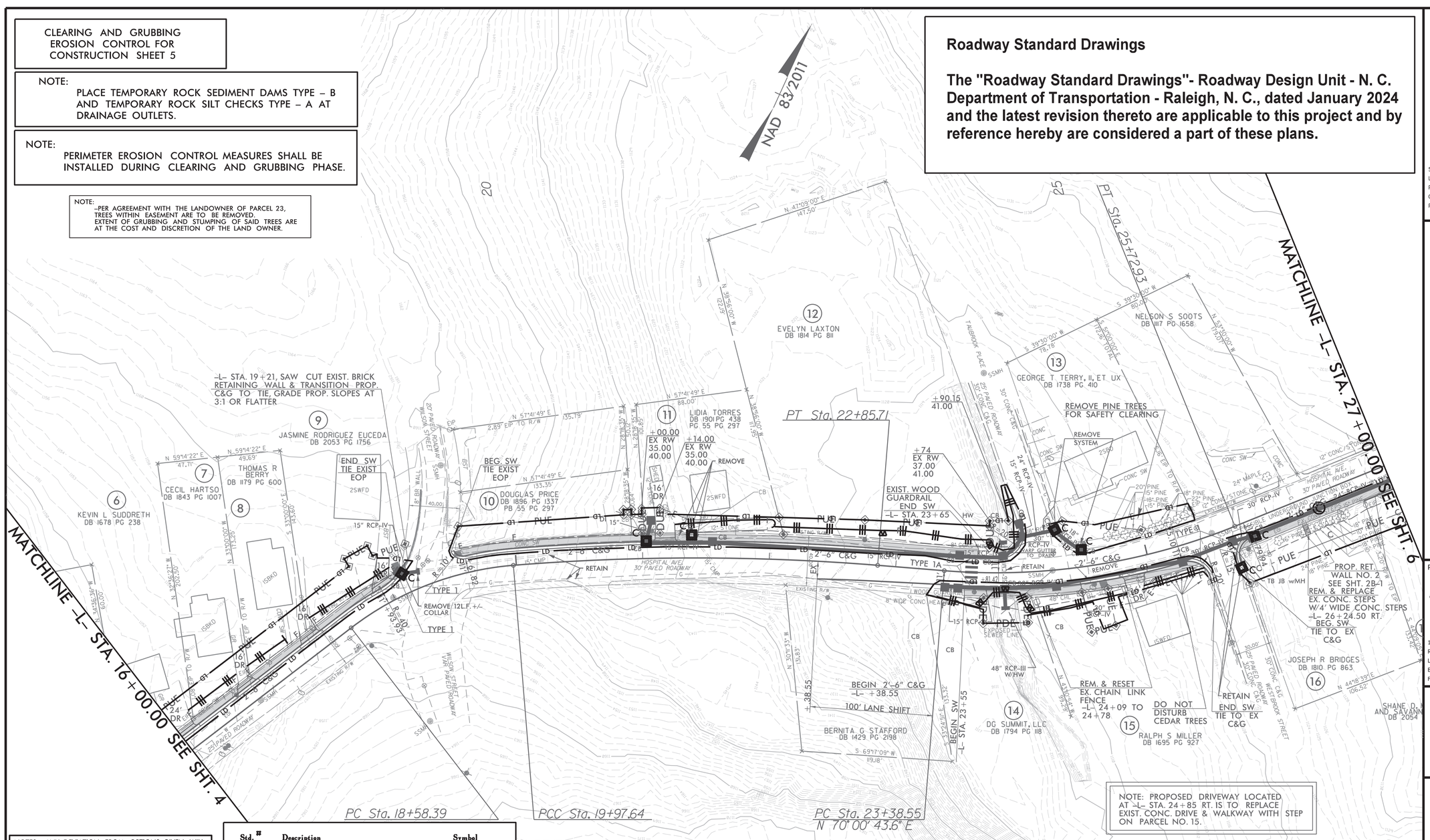
NOTE:
PLACE TEMPORARY ROCK SEDIMENT DAMS TYPE – B AND TEMPORARY ROCK SILT CHECKS TYPE – A AT DRAINAGE OUTLETS.

NOTE:
PERIMETER EROSION CONTROL MEASURES SHALL BE INSTALLED DURING CLEARING AND GRUBBING PHASE.

NOTE:
–PER AGREEMENT WITH THE LANDOWNER OF PARCEL 23, TREES WITHIN EASEMENT ARE TO BE REMOVED. EXTENT OF GRUBBING AND STUMPING OF SAID TREES ARE AT THE COST AND DISCRETION OF THE LAND OWNER.

Roadway Standard Drawings

The "Roadway Standard Drawings"- Roadway Design Unit - N. C. Department of Transportation - Raleigh, N. C., dated January 2024 and the latest revision thereto are applicable to this project and by reference hereby are considered a part of these plans.



NOTES: ANY DEVIATION FROM OPTIONS GIVEN WILL REQUIRE PRIOR APPROVAL BY ENGINEER.

ADDITIONAL EROSION CONTROL DEVICES MAY NEED TO BE INSTALLED AS DIRECTED BY THE ENGINEER.

NOTE:
–CONTRACTOR MUST RECLAIM ANY FINES AND SEDIMENT FROM THE PROJECT THAT ARE LOST IN THE BOX OR ANY OTHER DEVICE PRIOR TO PROJECT COMPLETION.
–ANY DISTURBANCE TO STORMWATER DEVICES OR SYSTEM FROM CONSTRUCTION ACTIVITY MUST BE REPAIRED BY CONTRACTOR.
–THERE SHALL BE NO STAGING OF MATERIAL, OR CONSTRUCTION ACTIVITY OUTSIDE THE LIMITS OF DISTURBANCE SHOWN.
–CONTRACTOR TO COMPLETELY REMOVE EROSION CONTROL DEVICES ONCE THE PROJECT IS STABLE AND PROVIDE FOR ADDITIONAL ESTABLISHMENT OF VEGETATION ONCE EROSION CONTROL DEVICES ARE REMOVED.
–IF BOTTOW OR WASTE FILL MATERIAL IS GENERATED BY GRADING OPERATIONS, AN APPROVED EROSION AND SEDIMENT CONTROL PERMIT MUST BE SECURED FOR THE BORROW OR WASTE MATERIAL SITE PRIOR TO INITIATION OF ANY LAND DISTURBING ACTIVITY.

Std. #	Description	Symbol
1605.01	Temporary Silt Fence	
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	Limits of Disturbance	LD
	Concrete Wash Area	CWA
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ROADSIDE ENVIRONMENTAL UNIT
DEPARTMENT OF TRANSPORTATION
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2024 STANDARD SPECIFICATIONS

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LENOIR

510-B Greer Circle
Lenoir, NC 28645
PHONE: (828) 757-2183
CONTACT: Jared Wright
Public Works Director

LENOIR SIDEWALK

TIP #EB-5806

PLANS PREPARED BY:
WETHERILL ENGINEERING
1223 Jones Franklin Rd.
Raleigh, N.C. 27606
License No. F-0377
Bus: 919 851 8077
Fax: 919 851 8107

NORTH CAROLINA PROFESSIONAL ENGINEER SEAL 31977 JARED S. WRIGHT

DATE: JULY 2, 2024

REVISIONS:

NO.	DATE

WEI PROJECT NO.:
17418.01

SHEET
EC–3

CLEARING AND GRUBBING
EROSION CONTROL FOR
CONSTRUCTION SHEET 6

NOTE:
PLACE TEMPORARY ROCK SEDIMENT DAMS TYPE – B AND TEMPORARY ROCK SILT CHECKS TYPE – A AT DRAINAGE OUTLETS.

NOTE:
PERIMETER EROSION CONTROL MEASURES SHALL BE INSTALLED DURING CLEARING AND GRUBBING PHASE.

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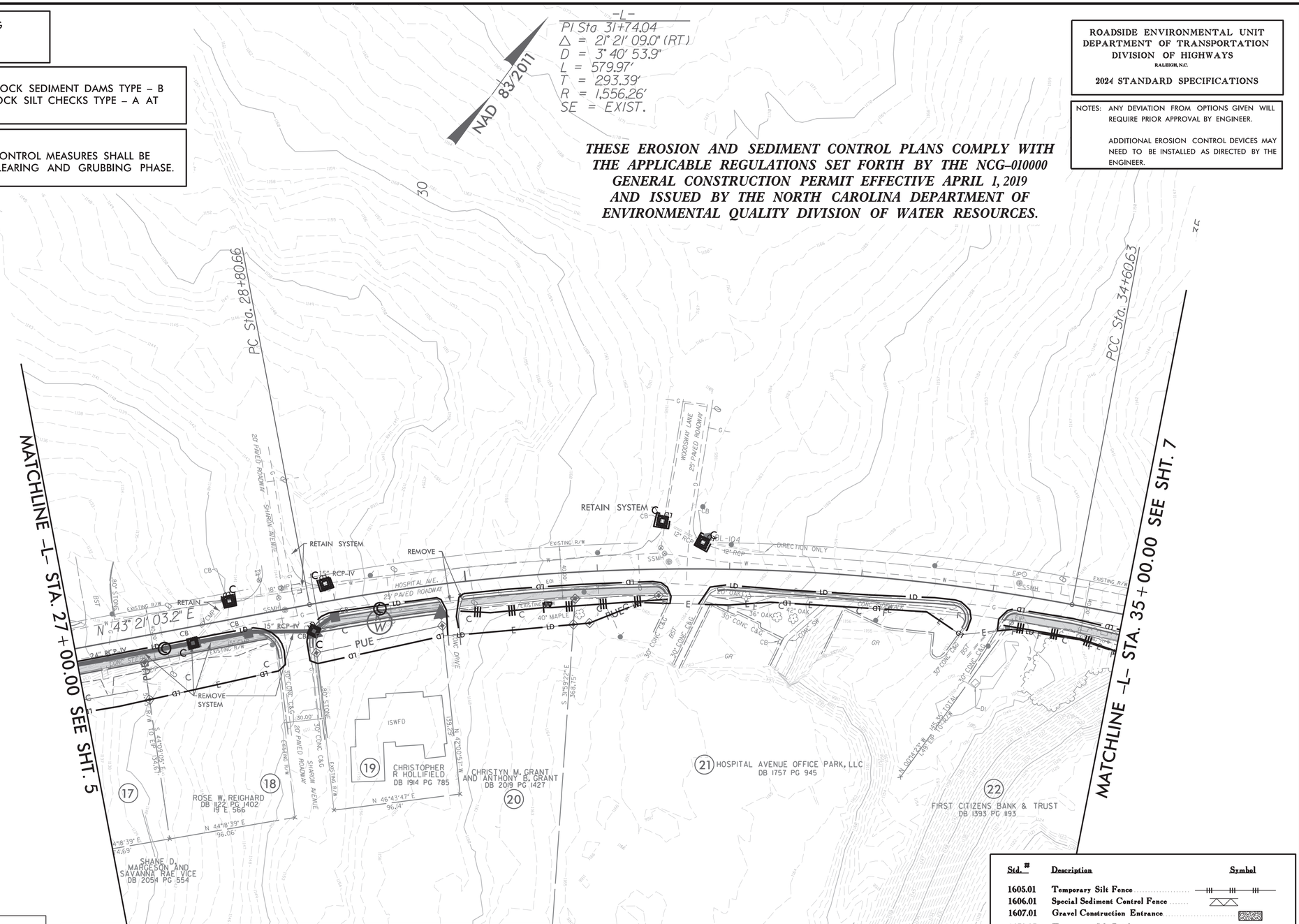

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REVISIONS:

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WEI PROJECT NO.:

17418.01

SHEET

EC–4

CLEARING AND GRUBBING EROSION CONTROL FOR CONSTRUCTION SHEET 7

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ROADSIDE ENVIRONMENTAL UNIT
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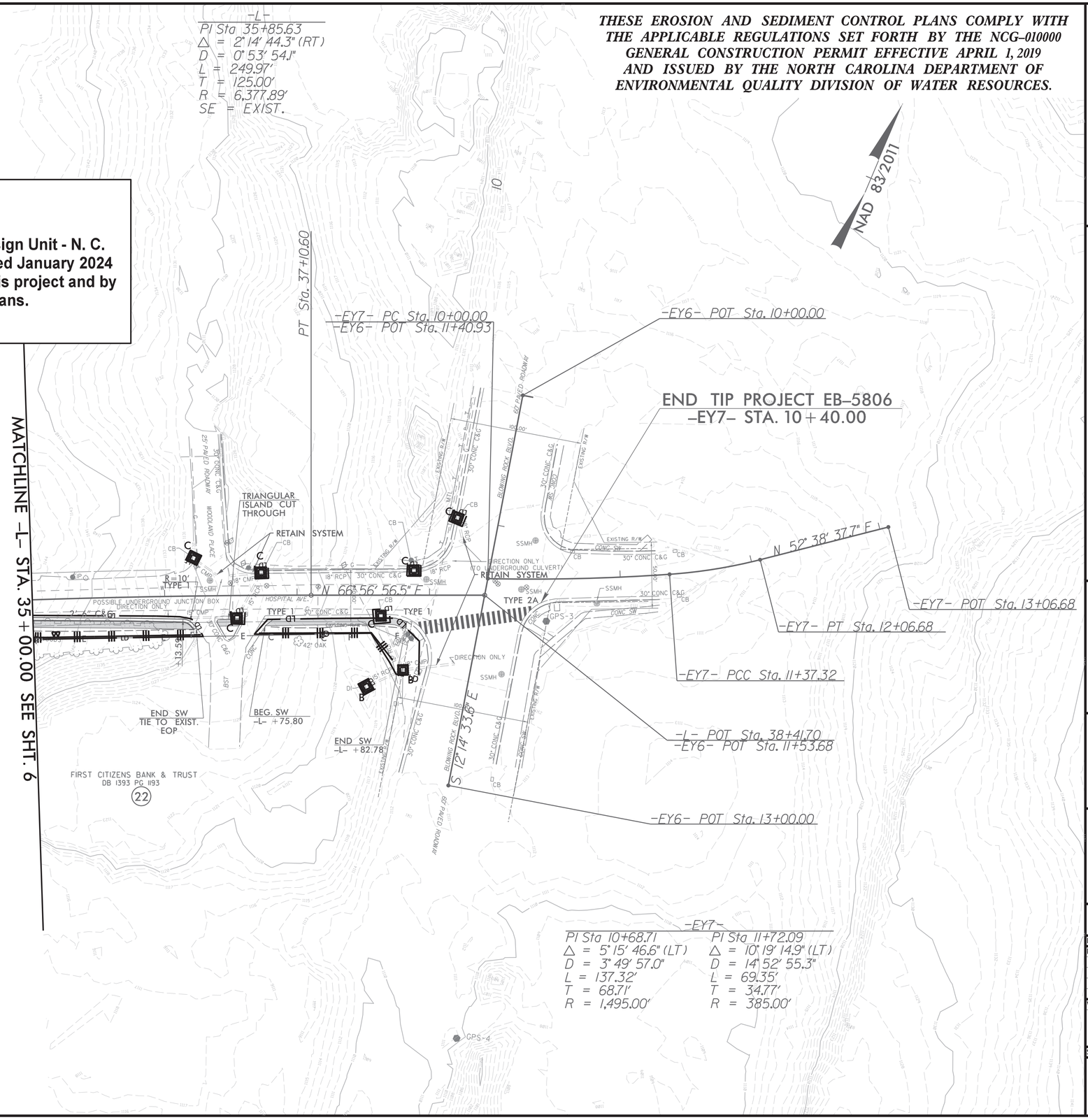

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DATE: JULY 2, 2024

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WEI PROJECT NO.:
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SHEET
EC–5

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NAD 83/2011

-L-
PI Sta 13+57.67
△ = 17° 39' 03.8" (LT)
D = 28° 56' 36.6"
L = 60.98'
T = 30.74'
R = 197.96'
SE = EXIST.

ROADSIDE ENVIRONMENTAL UNIT
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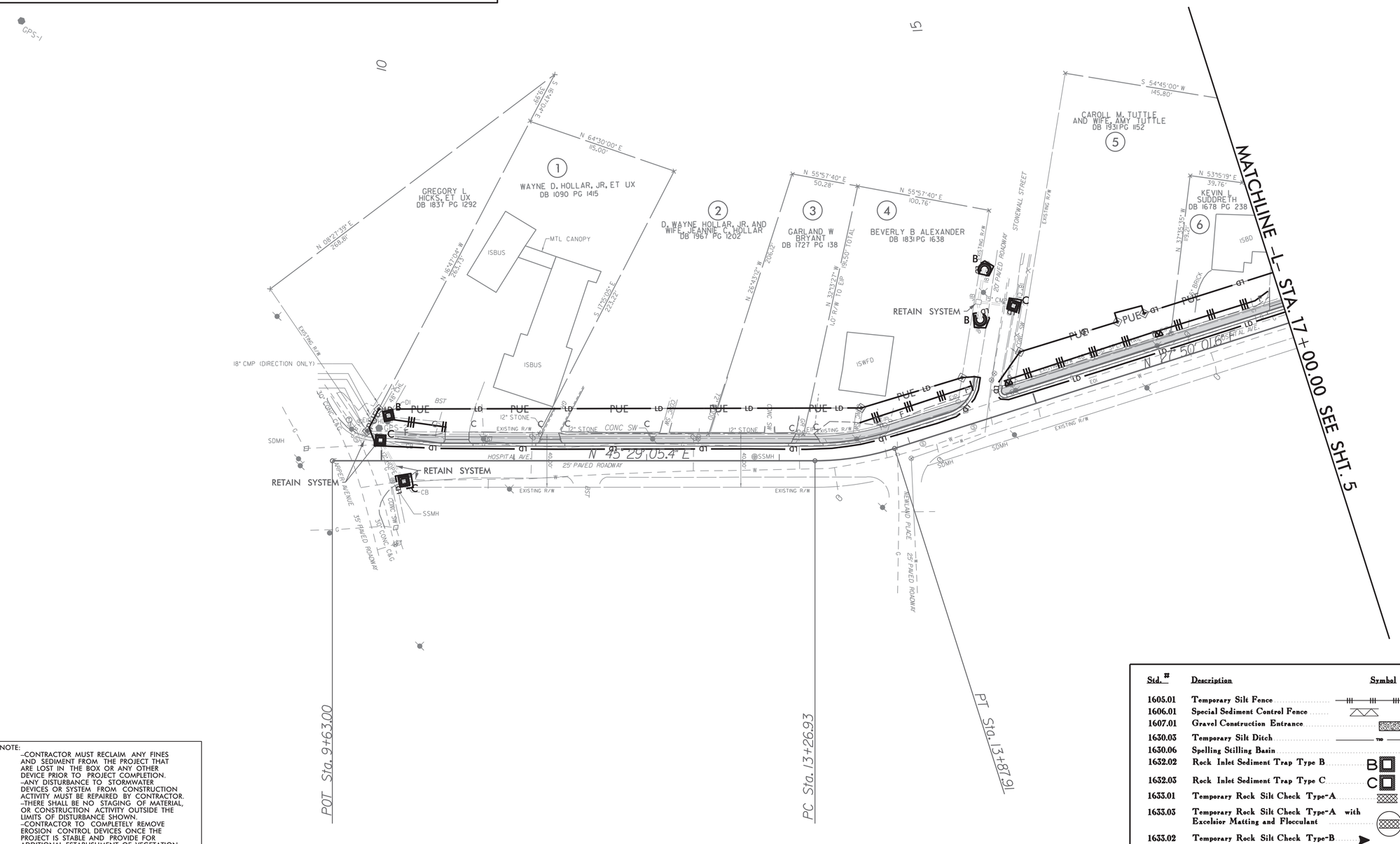

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NORTH CAROLINA PROFESSIONAL ENGINEER SEAL 31977 JARED B. AIKEN

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17418.01

SHEET
EC–6

NOTE:
–PER AGREEMENT WITH THE LANDOWNER OF PARCEL 23, TREES WITHIN EASEMENT ARE TO BE REMOVED. EXTENT OF GRUBBING AND STUMPING OF SAID TREES ARE AT THE COST AND DISCRETION OF THE LAND OWNER.

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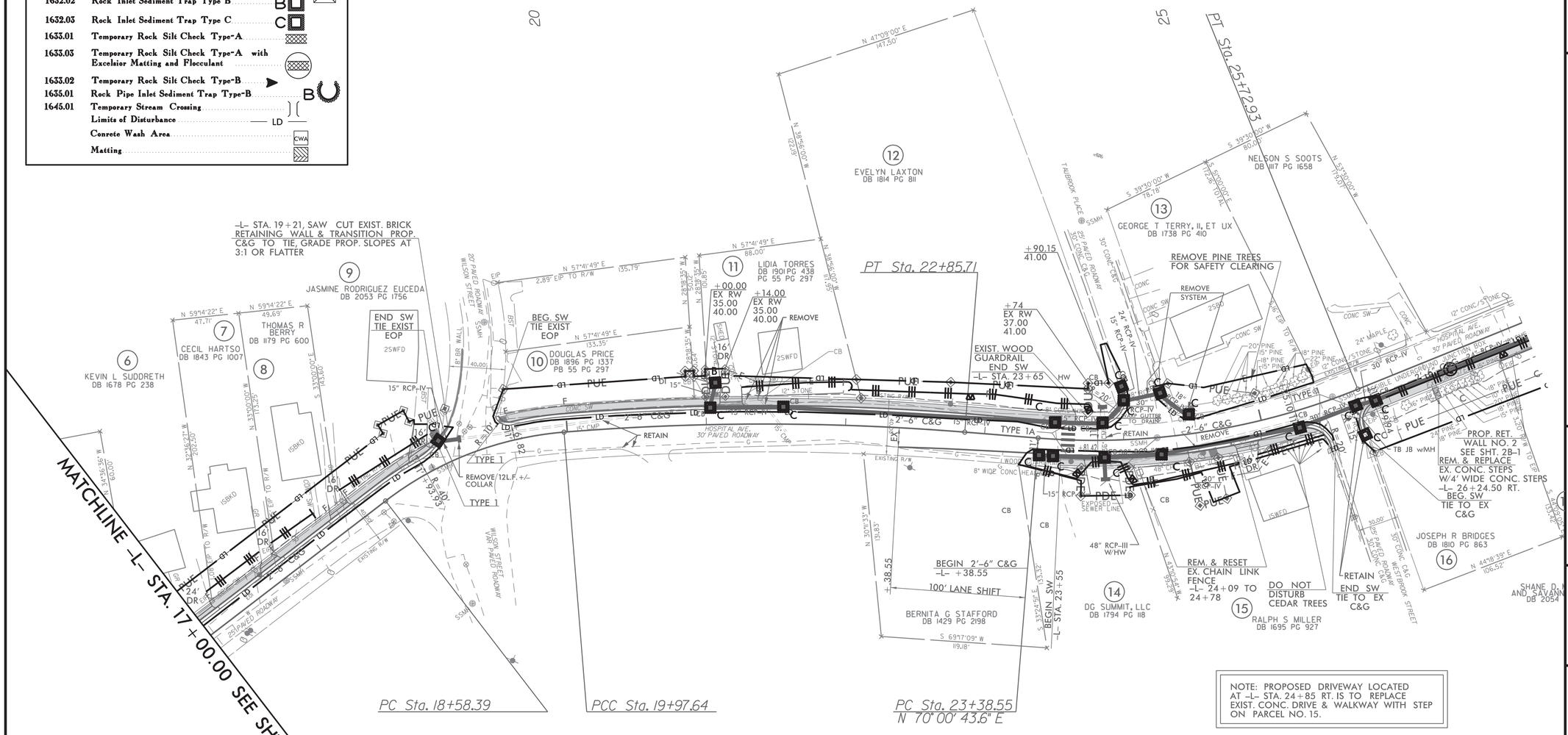

NOTE: PROPOSED DRIVEWAY LOCATED AT –L– STA. 24+85 RT. IS TO REPLACE EXIST. CONC. DRIVE & WALKWAY WITH STEP ON PARCEL NO. 15.

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NORTH CAROLINA PROFESSIONAL SEAL 31977 ENGINEER S. ALLEN

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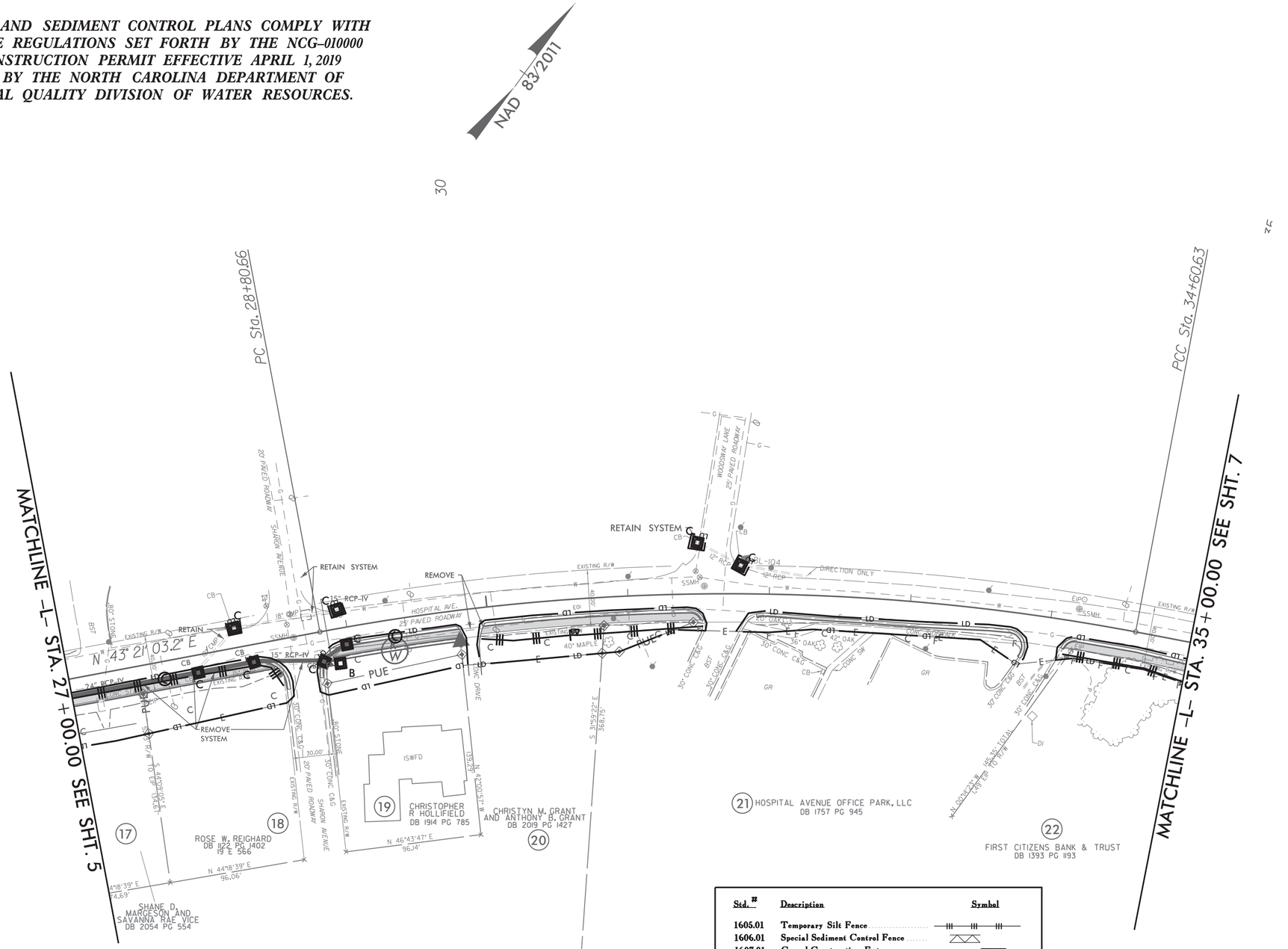

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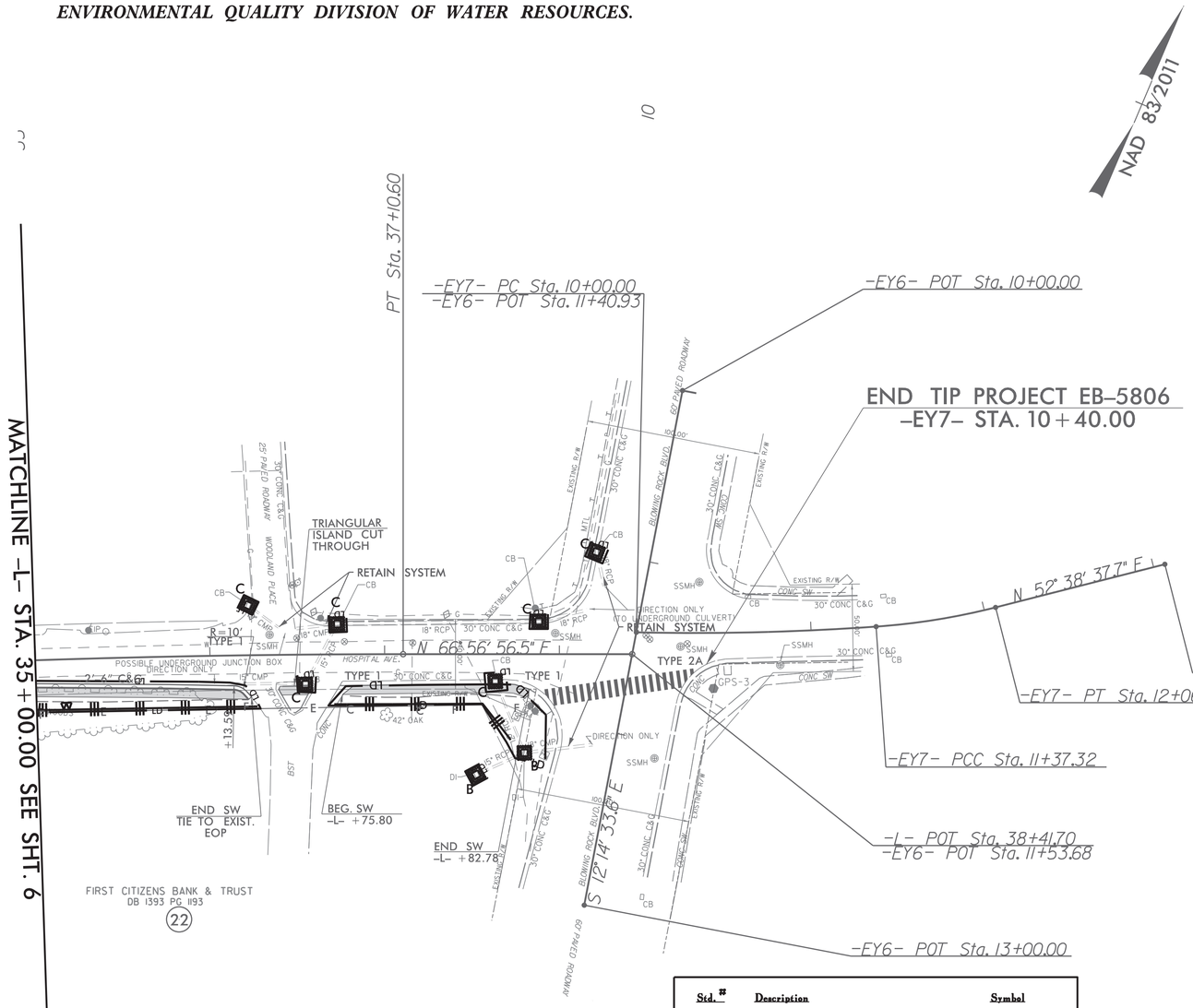

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