



Meeting Information

Location

Virtual

Time

5:30 p.m.

Board Members

Lucy McCarl, Chairperson

Jeff Church, Vice-Chair

Curtis Baker

James Bradshaw

Sharon Bryant

Kent Greer

Marta Lazo

Mac Martin

Tim Scobie

Lenoir Planning Board

Agenda • January 24, 2022

Welcome!

We are glad you have joined us for tonight's meeting. The Lenoir Planning Board is an advisory board to City Council comprised of citizen members who voluntarily devote their time and talents to a variety of zoning and land development issues in the community. All Planning Board recommendations are subject to final action by City Council. We anticipate the recommendations of today's meeting will be presented at the City Council meeting on February 15, 2022 for approval of recommended actions.

General Rules of Order

The Board is pleased to hear all non-repetitive comments. However, since a general time limit of five (5) minutes is allotted to the proponents/opponents of an issue, large groups are asked to name a spokesperson. If you wish to appear before the Board, please fill out an Appearance Request/Lobbyist Registration Form and give it to the Recording Secretary. When the Chairperson recognizes you, state your name and address and speak directly into the microphone. ROBERT'S RULES OF ORDER govern the conduct of the meeting.

OPENING SESSION

- Determination of a Quorum
- Call to Order
- Consideration of November 22, 2021 Minutes

NEW BUSINESS

1. CZ# 1-22 413 Rocky Top Ct SE

Applicant: Dianne Swanson/Michele Willis

Owner: Dianne Swanson/Michele Willis

Location: 413 Rocky Top Ct SE

The applicant is requesting a Conditional Zoning District to reduce the front setback from 40 ft to 30 ft.

Recommended Action: Approval of the request, and call for a public hearing at City Council on February 15, 2022.

OTHER BUSINESS

1. Update on zoning permits issued.

ADJOURNMENT

MINUTES
PLANNING BOARD MEETING
November 22, 2021
5:30 P.M.

LOCATION:
City /County Meeting Room
905 West Avenue

MEMBERS PRESENT:
Curtis Baker, Sharon Bryant, Jeff Church, Kent Greer, Lucy McCarl, Tim Scobie

MEMBERS ABSENT: James Bradshaw, Marta Lazo, Mac Martin, Kaye Reynolds

STAFF PRESENT:
Jenny Wheelock, Hannah Williams

Chairperson McCarl called the meeting to order.

MINUTES:
Board Member Baker moved approval of the meeting minutes of October 25, 2021. All were in favor, none opposed.

NEW BUSINESS:

1. ZOA# 1-21 B6 Design Standards text amendment

Applicant: City of Lenoir
Location: Citywide

A zoning ordinance amendment is proposed that would add a landscaped buffer yard option to Sec. 817 B6 (Transitional Business) Design Standards.

Jenny Wheelock, Planning Director stated that the B-6 design standards require a 6 foot tall brick wall screen when new construction abuts a residential zone. The text amendment as proposed offers a landscaping buffer as an alternative to the brick wall. Ms. Wheelock also stated that it is worth looking at all B-6 standards during the Comprehensive Plan update.

Chairperson McCarl stated her reluctance regarding allowing landscaping, due to maintenance. Board Member Bryant asked if maintenance of landscaping is enforceable. Board Members Bryant, Baker, and Scobie discussed different types of wall materials, buffers, and berms and their effectiveness at screening.

Board Member Church requested to approve the text amendment as is, and to look at the landscape buffer ordinance at a later time.

Board Member Bryant requested to table the text amendment and recommended that staff provide the board with more information about B-6 locations and landscape buffer changes.

This motion was seconded by Board Member Baker, which was voted on and passed unanimously.

OTHER BUSINESS

1. Jenny Wheelock, Planning Director gave a presentation on Lenoir's demographics following the Census 2020. She discussed population changes and housing market trends. Ms. Wheelock stated that she will provide the board with the presentation and wants to make meeting materials available online.
2. Chairperson McCarl, after conferring with the board, decided that the Christmas Luncheon will take place in person at the City Hall conference room with a catered lunch on December 13.

ADJOURNMENT:

Having no other matters to bring before the Board, Chairperson McCarl adjourned the Planning Board meeting at 6:48 p.m.

Lucy McCarl
Chairperson

Jenny Wheelock
Planning Director

Staff Report

CONDITIONAL ZONING REQUEST

CASE NUMBER CZ #7/22



LOCATION MAP/AERIAL PHOTOGRAPH



Subject Properties:

Rocky Top Ct SE

SUMMARY

Owner

Multiple — see page 8

Applicant

Dianne Swanson & Michele Willis

Location

Rocky Top Ct Subdivision

NC PIN

Multiple

Project Planner

Hannah Williams, CZO

Updated January 18, 2022

Applicant's Request:

The applicant is requesting to amend the existing Rocky Top Planned Unit Development (PUD) to reduce the minimum front yard setback from 40' to 30' to better accommodate the existing topography.

Staff Recommendation:

Adoption of the conditional zoning ordinance, attached.

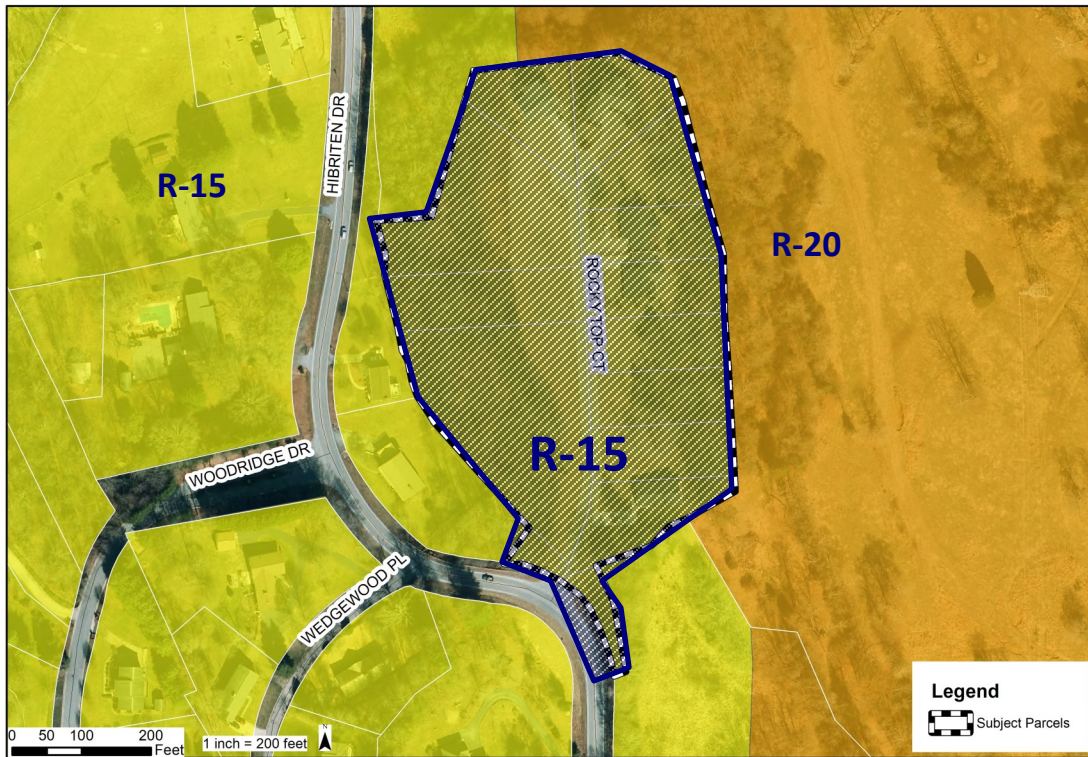
Planning Board Recommendation:

Public Comment:

Planning Board Meeting: January 24th, 2022. Notices were mailed to all Rocky Top owners and adjacent property owners on January 14th, 2022.

City Council (Public Hearing): Anticipated to be scheduled for February 15, 2022.

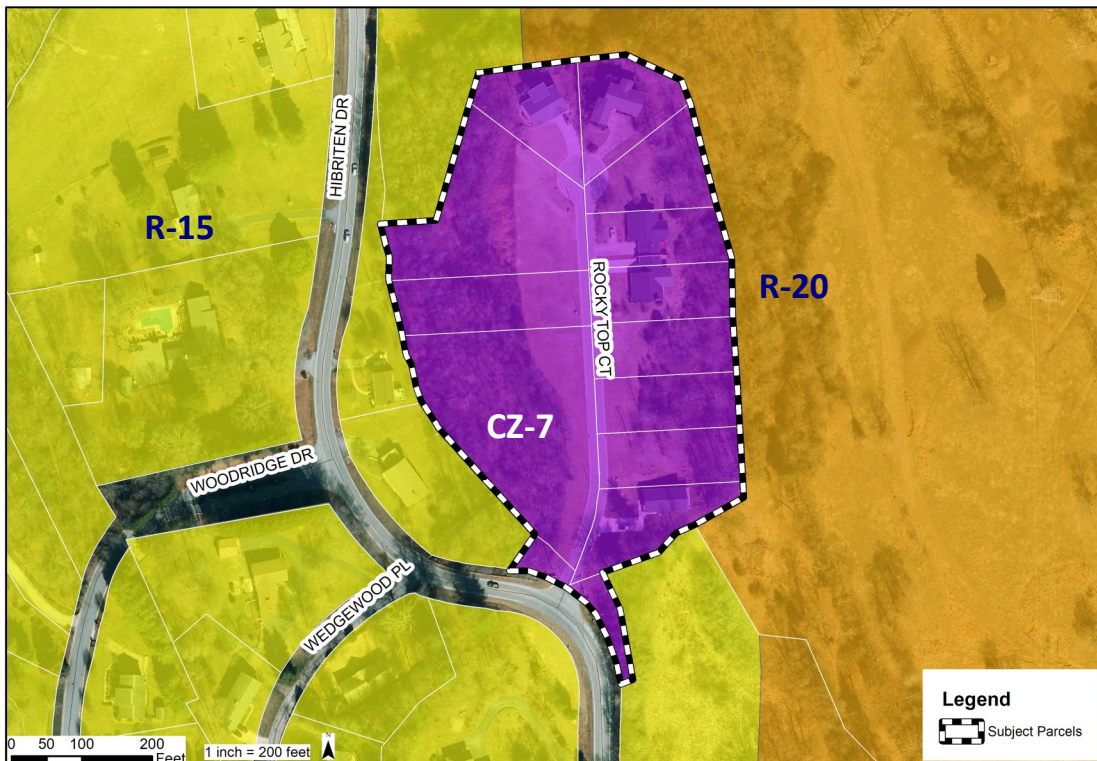
EXISTING ZONING



Subject Property:

Zoned R-15, with a “legacy” Special Use District (SUD) overlay. (Now considered a Conditional Zoning District, see discussion next page)

PROPOSED ZONING



Subject Property &

Proposed CZ-7 District

“LEGACY” SPECIAL USE DISTRICTS: TRANSITIONING TO A CONDITIONAL ZONE

In 2015, the City of Lenoir amended the Zoning ordinance to remove Special Use Districts (SUDs) and add the legislative zoning tool “Conditional Zoning” (CZ) instead. Under the old ordinance, Special Use Districts were applied as overlay districts, and all uses within an SUD overlay were “Special Uses.” As soon as the legislative SUD overlay was approved (usually within the same meeting), a quasi-judicial “special use permit” could be approved for whatever use the applicant was requesting that wasn’t allowed under the conventional zone. The process was confusing and often not followed properly (for example, there is no record in the minutes that a SUP for Rocky Top was ever adopted, even though the SUD alone was insufficient to approve the requested attached dwellings.) With Conditional Zoning, all aspects of a proposed development are addressed within a single legislative action, and modifications to development standards and permitted uses are memorialized with a recorded ordinance — it’s flexible, transparent, and much simpler for staff, the Planning Board, the City Council, the applicant, and the public to understand.

With N.C.G.S. Chapter 160D now in full effect, SUDs are eliminated state-wide, in favor of Conditional Zoning. When Lenoir eliminated SUDs in 2015, the ordinance specified that all existing SUDs were still valid, but that new SUDs weren’t allowed. The legislature took this a step further. Under S.L.2019-111(2)(b), any SUD that was valid and in effect on January 1, 2021 was automatically deemed to now be a Conditional Zoning district.

This automatic converting of all of Lenoir’s “legacy” SUDs/SUPs into CZ districts highlights the confusion over the process — Conditional Zoning districts are ruled by the written, agreed-upon parameters of a concept plan and written ordinance. But Lenoir’s legacy SUD/SUP approvals typically were not reduced to writing in the form of a final ordinance or permit, outside of the motion of approval in the Council minutes. Sometimes conditions were stated in the motion, but most times they were not — motions refer back to approving projects “as presented.” Therefore, staff relies on case notes and site plans to piece together conditions and approvals. For the legacy cases that were built-out and have been operating without incident since then, the distinction of being an “SUD” or a “CZ” is immaterial — these established uses are now part of the community fabric (essentially “grandfathered”), and the technicalities behind their zoning approvals rarely, if ever, come up.

Staff is working on updating the Official Zoning Map to designate all active SUDs/SUPs as CZ-L (for “legacy”). These CZ-L districts would not have ordinances in place, but rather would rely on whatever documentation was in the record for the SUD/SUP approval. If/when amendments are proposed to CZ-L districts, staff should work with the owner to reduce past approvals and proposed changes into a written ordinance with a definitive concept plan, and it should be considered essentially like an “amended and restated” CZ ordinance. When adopted, the new CZ ordinance would then supersede/replace the previous approvals and will be recorded with the Register of Deeds. This is the approach proposed for the subject of this report.

BACKGROUND AND ANALYSIS

Intent of Conditional Zoning

The City of Lenoir’s Zoning Ordinance establishes an official zoning map/atlas for the City of Lenoir. The zoning map may be amended from time to time by the City Council when public necessity, convenience, general welfare, or good zoning practice justifies the amendment. Conditional Zoning is intended for use in unique development scenarios when a development proposal does not fit into a conventional zoning district, but may be desirable and compatible with an area depending on the specific details of the project and its surroundings. The conditional zoning process gives the City sufficient flexibility to determine whether a specific project on a given site will be compatible with the environment and the Comprehensive Plan.

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. Each Conditional Zoning district is adopted as an ordinance and is recorded with the Register of Deeds.

BACKGROUND AND ANALYSIS

Subject and Surrounding Properties

The Rocky Top development is located on the northeast side Hibriten Drive, about a quarter mile south of Wilkesboro Blvd, and is zoned R-15. Currently, there are 12 lots in the subdivision (originally platted as 14 lots, some were re-combined), developed with 6 single family homes (2 attached and 4 detached). A 7th home is under construction on lots 4-5 (owned by the applicants). The lots on the west side of Rocky Top slope off steeply towards the rear, and have remained vacant for many years.

The surrounding area is also zoned R-15. Directly east of Rocky Top is a pasture tract, zoned R-20. Across from the Rocky Top entrance are low-density residential houses. Nearby is the entrance to Woodridge Estates, another R-15 zoned subdivision.

Rocky Top Planned Unit Development (PUD) History

In 1994, the subject properties were approved as a Planned Unit Development (PUD) for attached single family development through the Special Use District process (SUD-6/7-93). The approved plan showed Rocky Top Ct. as a cul-de-sac with a 40' wide right-of-way, and 14 lots developed in a pattern often referred to as "semi-detached" because each dwelling unit shares only one wall of living space with another unit — garages are staggered such that garage-meets-garage on alternating property lines. The front setbacks for the attached units are shown on the site plan as 40' from the right of way, and the recorded plat states the front setbacks as 40' from the right of way or 60' from the centerline (which is the same distance). While some of the discussion in the record implies that the SUD approved lesser setbacks for the attached units, the front setbacks are consistent with the standards of the R-15 zone.

Only two lots (9 & 10) were developed as attached units — the remaining lots were either developed with detached single family homes, or remain vacant. Many side-by-side lots have common ownership, representing possible infill opportunities in the future, even if the current owners intentions are to reserve that space for their private yards.

The final approval for the Rocky Top PUD contained the site plan on Page 7 of this report, and the following conditions:

1. Not more than 14 dwellings units be permitted.
2. That attached dwelling units not exceed 2 as presented on said plan.
3. No unit, exclusive of decks, porches, garages containing less than 1,500 square feet.
4. A home owner association be established, approved by the City Attorney and recorded in relation to said development
5. Lots not developed as single-family attached shall meet all requirements under the R-15 (Single Family Residential). Whereas this may require redesign by property owner(s) and approval of City Council, no lot may be resubmitted for single-family attached.

Proposed Amendment

The applicant obtained a zoning permit to build a house from the Planning Department in May 2021 (ZP 2021056). The zoning permit lists the R-15 setbacks as 40' the front property line and 15' from the side property line. However, once the foundation and framing on the house was done, the applicant obtained a survey for financing purposes. The survey revealed that the house encroached into the front setback 5' along the front and increasing along the cul-de-sac frontage to 9' (see survey on page 6). The builder stated that he had used the recently constructed house on lots 1-2 as a point of reference when siting the foundation. Staff measured the setback on that home, constructed in 20XX, at approximately 35' from the right-of-way, encroaching ~5' (the zoning permit for that house also clearly stated the setback as 40').

The proposed amendment would reduce the front setback from 40' to 30', accommodating the existing encroachments and facilitating the remaining lots to be developed within the constraints of the terrain. It would also allow for changes over time to existing homes built at 40' — front porches, additional living space, etc. No other changes are proposed.

Neither home appears out of place within the context of the rest of the development, and the 40' wide right-of-way provides additional distance between the curb and the houses. Given the original development concept for attached dwellings, which often are located closer to the street, and the steep terrain, reduced setbacks would have made sense for the original approval and likely would have resulted in development long before now.

BACKGROUND AND ANALYSIS

Proposed Conditional Zoning District: CZ 7 Specific Standards

Special conditions proposed for CZ-7 ordinance:

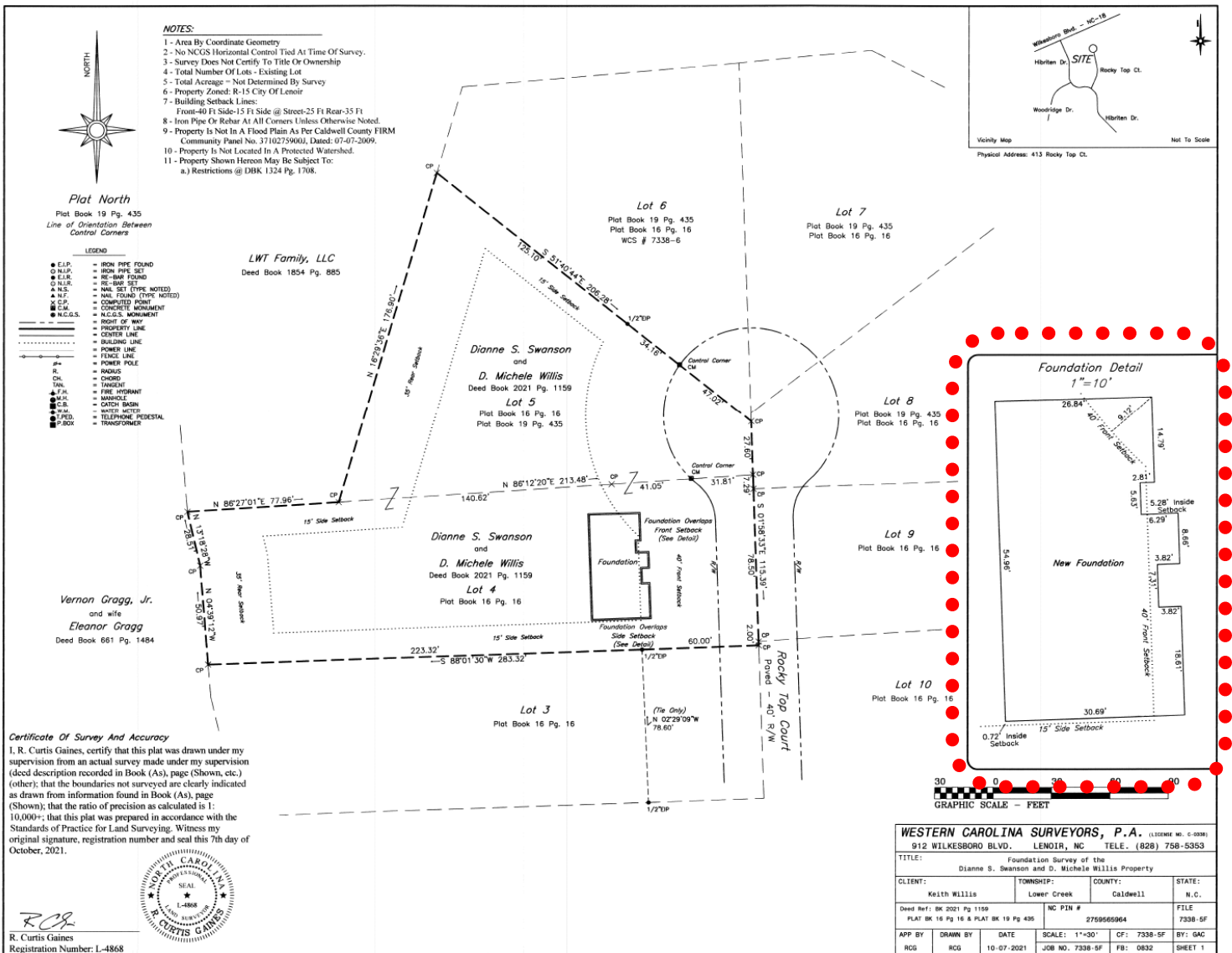
1. **Base Zoning.** Base zoning district is R-15. Any development standards not specifically addressed in the Conditional Zoning Ordinance will default to the R-15 zoning district.
2. **Permitted Uses.** All uses permitted within the R-15 zoning district, and single-family attached dwellings, when no more than two units are attached except when separated by garages (see Concept Plan).
3. **Minimum Setbacks.**
 - Front (measured from the edge of the right-of-way): 30 ft.
 - Side (for detached dwellings): 15 ft.
 - Side (for attached dwellings): 0 ft., except where the adjacent lot is not an attached dwelling lot, in which case the setback is 15 ft.
 - Rear: 30% of total lot depth
4. **Special Conditions Originally established under SUD-6/7-93:**
 - a. Not more than 14 dwellings units be permitted.
 - b. That attached dwelling units not exceed 2 as presented on said plan.
 - c. No unit, exclusive of decks, porches, garages containing less than 1,500 square feet.
 - d. A home owner association be established, approved by the City Attorney and recorded in relation to said development
 - e. Lots not developed as single-family attached shall meet all requirements under the R-15 (Single Family Residential). Whereas this may require redesign by property owner(s) and approval of City Council, no lot may be resubmitted for single-family attached.

Consistency with the Comprehensive Plan/Reasonableness of Amendment

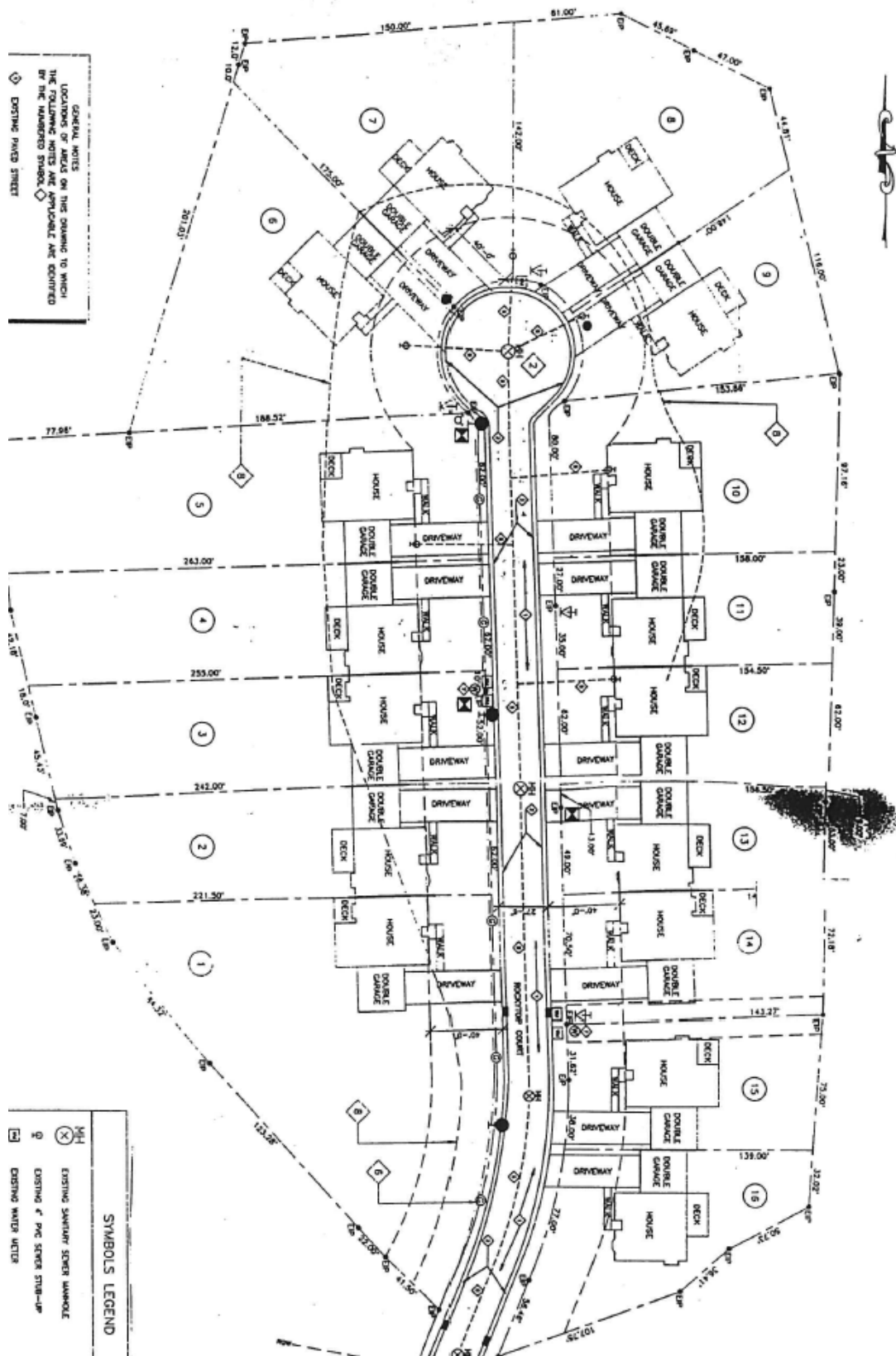
When adopting or rejecting any zoning amendment, City Council must adopt a brief statement describing whether or not the action is consistent with the City's Comprehensive Plan, in accordance with G.S. 160D-605(a), and must also address the reasonableness of any proposed map amendments. Staff offers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

The proposed Conditional Zoning Ordinance is consistent with the adopted Comprehensive Plan because it entitles the lots in the Rocky Top subdivision to efficiently use the existing lot layout for house construction. It does not change the character of the neighborhood as built, and enables the existing homes to be legally conforming to the zoning standards. This area is identified as Existing Medium Density Residential on the Future Land Use Map, and this proposal meets that designation. The proposed Conditional Zoning Ordinance is reasonable and in the public interest because it relaxes regulation for residential construction and makes more efficient use of the City's existing infrastructure investments.

SITE SURVEY FOR 413 ROCKY TOP CT SE



House under construction encroaches into the front setback.



APPENDIX B: ROCKY TOP OWNERS



11/12/2021 - 01/14/2022

Permit #	Permit Date	Permit Type	Applicant Name	Issued Date	Description	Parcel Address
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Group:

2022004	1/10/2022		Scott Frye		QSR with Drive-Thru	102 HARPER AV

Group Total: 1

Group: Accessory/Addition

2021165	12/14/2021	Accessory/Addition	David Reese	12/14/2021	10'x12' deck	841 CONNELLY SPRINGS RD
2021162	12/7/2021	Accessory/Addition	Roy Hall Construction	12/7/2021	Roof and screened-in enclosure of concrete pad	1010 CAMBRIDGE CT
2021159	11/17/2021	Accessory/Addition	A.S. Harrill Construction Inc	11/17/2021	16'x16' deck with roof	1004 EDINBURG CT

Group Total: 3

Group: Driveway

2021160	11/29/2021	Driveway	Fielder Quesenberry	11/29/2021	driveway	1260 DELWOOD DR
2021158	11/16/2021	Driveway	Danny Coffey	11/16/2021	driveway permit	415 HUNTINGTON WOODS ST

Group Total: 2

Group: Floodplain Development

2021172	12/20/2021	Floodplain Development	Michael Willis		Hardscape material retail sales yard	365 WILKESBORO BV
2021169	12/20/2021	Floodplain Development	CY Real Estate LLC		3-sided pole building for storage	701 NORWOOD ST

Permit Report

Permit #	Permit Date	Permit Type	Applicant Name	Issued Date	Description	Parcel Address
2021168	12/20/2021	Floodplain Development	Hamby Brothers Concrete		create new entrance driveway	2151 MORGANTON BV

Group Total: 3

Group: Manufactured Home

2021166	12/16/2021	Manufactured Home	Lisa Yost	12/16/2021	manufactured home/accessory structure	1642 Bradford Mountain Rd
2021156	11/15/2021	Manufactured Home	Oakwood Homes of Shelby	11/15/2021	1280 sf single-wide	416 Nuway Cir NE

Group Total: 2

Group: Non-residential

2022009	1/14/2022	Non-residential	David Gray		30' x 32' Metal Building	320 COOPERATIVE WY
2022005	1/10/2022	Non-residential	Brushy Mtn Builders		4490 SSF Addition	224 SHARON AV
2022003	1/5/2022	Non-residential	Ben Griffin		Replace porch overhang	1035 HARPER AV
2021173	12/20/2021	Non-residential	Michael Willis		Hardscape material retail sales yard	365 WILKESBORO BV
2021170	12/20/2021	Non-residential	CY Real Estate LLC		3-sided pole building for storage	701 NORWOOD ST
2021164	12/10/2021	Non-residential	Marta Lazo	12/10/2021		1302 & 1308 HARPER AV
2021155	11/12/2021	Non-residential	Ben Griffin		real estate office and site improvements	635 MORGANTON BV

Group Total: 7

Permit #	Permit Date	Permit Type	Applicant Name	Issued Date	Description	Parcel Address
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Group: Permanent Sign

2022007	1/14/2022	Permanent Sign	Gareth Gough	1/14/2022	Sign changes	160 BLOWING ROCK BV
2022002	1/4/2022	Permanent Sign	Burchette Sign Corp	1/5/2022	sign	954 BLOWING ROCK BV
2022001	1/3/2022	Permanent Sign	North State Hardwoods	1/3/2022	sign	2402 NORWOOD ST
2021171	12/20/2021	Permanent Sign	Sandy Hoyle	12/20/2021	sign permit	206 BLOWING ROCK BV
2021167	12/17/2021	Permanent Sign	Rev. Joshua Edwards	12/17/2021	pylon sign	906 CREEKWAY DR NW
2021154	11/12/2021	Permanent Sign	Diversified Signs & Graphics	11/12/2021	sign permit-Jersey Mike's	112 WILKESBORO BV

Group Total: 6

Group: Residential Addition

2021161	12/1/2021	Residential Addition	Michael Herndon	12/1/2021	Covered Patio 25' x 25'	2783 ELLERWOOD RD

Group Total: 1

Group: Single Family Home

2022006	1/12/2022	Single Family Home	Loria Angeles	1/12/2022	2100 SF House	1313 WINHURST ST
2021174	12/28/2021	Single Family Home	Alvin Hoyle	12/28/2021	Single Family Dwelling	1315-B MAIN ST NW
2021153	11/12/2021	Single Family Home	Andrew Kanagy	11/12/2021	1500 sf single family dwelling	1208 Spring Time Ct SW
2021152	11/12/2021	Single Family Home	Andrew Kanagy	11/12/2021	1500 sf single family dwelling	1206 Spring Time Ct SW
2021151	11/12/2021	Single Family Home	Andrew Kanagy	11/12/2021	1500 sf single family dwelling	1215 Winter Pl SW

Permit #	Permit Date	Permit Type	Applicant Name	Issued Date	Description	Parcel Address
2021150	11/12/2021	Single Family Home	Andrew Kanagy	11/12/2021	1500 sf single family dwelling	1213 Winter PI SW

Group Total: 6

Group: Temporary Advertising

2022008	1/14/2022	Temporary Advertising	Riley Thaman - ASAP Events		30 SF Banner	208 MORGANTON BV

Group Total: 1

Group: Zoning Verification

2021163	12/9/2021	Zoning Verification	Toni Fiasco	12/9/2021	zoning ver. letter	440 BLOWING ROCK BV
2021157	11/16/2021	Zoning Verification	Caitlin Garvey	11/16/2021	zoning verification letter	801 NORTH MAIN ST

Group Total: 2

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Total Records: 34

1/14/2022