

**TOWN OF WEDDINGTON
REGULAR PLANNING BOARD MEETING
MONDAY, APRIL 22, 2019 – 7:00 P.M.
WEDDINGTON TOWN HALL
1924 WEDDINGTON ROAD WEDDINGTON, NC 28104
AGENDA**

1. Open the Meeting
2. Determination of Quorum
3. Approval of Minutes – March 25, 2019 Regular Planning Board Meeting Minutes
4. Old Business
 - A. Discussion and Recommendation of Development Standards for Conservation Subdivision
5. New Business
 - A. Discussion and Recommendation of Erosion Control Amendments
 - B. Discussion and Recommendation of Lighting Ordinance Amendment
 - C. Discussion and Consideration of a Minor Subdivision: 542 Lochaven Road
 - D. Discussion of Minimum Buffer Requirements
6. Update from Town Planner and Report from the April Town Council Meeting
7. Adjournment

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MONDAY, MARCH 25, 2019 – 7:00 P.M.
WEDDINGTON TOWN HALL
MINUTES
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1. Open the Meeting

Vice Chairman Walt Hogan opened the meeting at 6:57 p.m.

2. Determination of Quorum

Quorum was determined with Vice Chairman Walt Hogan, Board members Tami Hechtel, Jim Vivian, Steve Godfrey, and Barbara Harrison present. Chairman Brad Prillaman and Board member Gerry Hartman were absent.

Staff present: Town Administrator/Planner Lisa Thompson

Visitors: Bill Deter, Mike Smith, Re Smith, Ronald Williams, French Scott

Staff requested removal item 5.B. from the agenda. The Planning Board agreed.

3. Approval of Minutes – February 25, 2019 Regular Planning Board Meeting Minutes

Motion: Board member Harrison made a motion to approve the February 25, 2019 Regular Planning Board Meeting minutes as presented.
Second: Board member Vivian
Vote: The motion passed with a unanimous vote.

4. Public Hearings

A. Discussion and Consideration of a Temporary Use Permit for the Town of Weddington for Food Truck Fridays in May

Ms. Thompson presented the application. The Town has submitted an application for a Temporary Use Permit for Food Truck Fridays. Events will be held on May 3, 10, 17 and 24 from 5:30 p.m. until 9:00 p.m. No lighting will be necessary. Temporary structures will include small canopies. There will be DJ equipment set up on the porch. Parking will be available at Weddington Corners. An Event Organizer Application will be submitted to Union County Environmental Health. There will be 3 signs advertising the event and Event Parking signs will be set up during the event. Attendance is projected to be approximately 500 people per event. An off-duty Union County Sheriff's Deputy will be hired for traffic/crowd control. An EMT will be onsite. There will be 2 Porta-Jons and 1 Hand Washing Station.

Vice Chairman Hogan opened the public hearing. There were no speakers. Vice Chairman Hogan closed the public hearing.

Board member Godfrey asked who oversees this event. Ms. Thompson responded that Mayor Callis and Mayor Pro Tem Propst are a part of a group planning the event. The Town is the host of the

event and staff is helping with logistics. Board member Godfrey stated that he believes there should be a hierarchy and have somebody in charge of the event.

Before issuing any temporary use permit, the Planning Board will make the following determinations:

- a. *The proposed temporary use will not materially endanger the public, health, welfare and safety:*

The Planning Board unanimously agreed, as the presences of the off-duty sheriff's deputy, the EMTs, as well as holding liability insurance and environmental health permits for the food trucks, this finding of fact is true.

- b. *The proposed temporary use will not have a substantial negative effect on adjoining properties*
Given that the event hours do not intrude on the business hours of the surrounding businesses, and adjoining properties have all been notified of the event and the Town has received no objections, the Planning Board unanimously agrees that this finding of fact is true.

- c. *The proposed temporary use is in harmony with the general purpose and intent of the ordinance and preserves its spirit*

The Planning Board unanimously agreed that this event will encourage community unity.

- d. *The proposed temporary use is held no more than four times (4) per year at any particular location.*

The Planning Board unanimously agreed that this event, which will be held on the first four Fridays of May, meets this finding of fact.

Motion: Board member Vivian made a motion to approve the Temporary Use Permit Application for Food Truck Fridays to be held on May 3, 10, 17, and 24, 2019 having found the application is consistent with the findings of fact.

Second: Board member Hechtel

Vote: The motion passed with a unanimous vote.

B. Discussion and Consideration of a Temporary Use Permit for Christ Lutheran Church to hold an Easter Egg Hunt and Egg Drop on April 20, 2019

Matt Simpkins with Christ Lutheran Church has submitted an application for a Temporary Use Permit for a Helicopter egg drop – Easter Egg Hunt Event on April 20, 2019 from 2:00 p.m. to 4:00 p.m. The projected attendance is 2000 people. The applicant has submitted a mass gathering permit and certification of review to Union County. Security and traffic control will be provided by the Union County Sheriff's Department. Parking will be available at Rea View Elementary and St. Margaret's Church. The Sheriff's Department suggested using a bus to get participants across Rea Road rather than have a deputy stopping traffic. Mr. Scott, representing the applicant was present to answer any questions.

- a. *The proposed temporary use will not materially endanger the public, health, welfare and safety:*

The Planning Board unanimously agreed that, with the presence of off-duty Sherriff's Deputies and security volunteers, as well as holding liability insurance and environmental health permits, this finding of fact is true. The Planning Board is recommending the applicant contact the Union County Sherriff's office to get a minimum of two deputies for the crowd in addition to what is needed for traffic control.

- b. *The proposed temporary use will not have a substantial negative effect on adjoining properties:*

The Planning Board unanimously agreed that, since all adjoining properties have been notified of this event and the Town has received no objections, this finding of fact is true.

- c. *The proposed temporary use is in harmony with the general purpose and intent of the ordinance and preserves its spirit*

The Planning Board unanimously agreed that this event promotes the spirit of community and the finding of fact is true.

- d. *The proposed temporary use is held no more than four times (4) per year at any particular location:*

The Planning Board unanimously agreed that since this event will be held once on April 20, 2019, this finding of fact is true.

Motion: Board member Godfrey made a motion to approve the Temporary Use Permit Application for Christ Lutheran Church to hold an Easter Egg Hunt and Egg Drop on April 20, 2019 having found the application consistent with the findings of fact, with the condition that the applicant contact the Union County Sheriff's office to request two deputies for crowd control in addition to what is needed for traffic control.

Second: Board member Hechtel

Vote: The motion passed with a unanimous vote.

5. New Business

A. Discussion of Conservation Subdivision Process

Ms. Thompson presented some of the proposed changes in the conservation subdivision ordinance. The amended process includes the Town receiving a yield plan and a resource analysis plan at the time of the application, which includes showing steep slopes/topo lines, tree save areas, and different conservation areas, usually on an aerial photo. The applicant will then lead staff, Council and Planning Board through a site walk and then return to review the 4-step process, in a charette-type setting. A public meeting will still be required, with the applicant hosting and having responsibility of sending notice to adjacent property owners. The plan will then move to the Planning Board for review and approval.

~~B. Discussion of Text Amendment to Section 46-45(b) Improvement and Guarantee Standards~~

6. Update from Town Planner and Report from the March Town Council Meeting

Ms. Thompson presented the update: The Council approved the amendment to Christ Lutheran Church CUP adding the 3rd lot into their plan. Council has one more section of the Land Use Plan to be caught up in their review. Staff will bring a clean version to Planning Board with updated statistics and tables next month. Council heard a presentation from Encounter Athletics proposing a 75,000 sq. ft. gymnasium and ball fields behind the fire station. Staff is trying to get those kinds of presentations to Council up front before developers spend a lot of money and time on plans. The Town is updating the lighting ordinance. An electrical engineer has been hired to help set some LED standards as the current ordinance doesn't cover LEDs. Council held a special meeting Friday to meet with the engineer and got some good ideas. The new ordinance will probably come to the Planning Board next month.

Vice Chairman Hogan asked if there was any feedback from DENR about the erosion control ordinance. Ms. Thompson responded that DENR had finished their review and needed some feedback on their comments. Ms. Thompson believes the Town will have erosion control designation in 2-3 weeks.

Board member Hechtel asked for the status on the Weddington Swim and Racquet Club CUP amendment. Ms. Thompson responded that the Council called for a public hearing to be held on April 8, 2019.

Vice Chairman Hogan thanked everybody for coming out and giving some good feedback.

7. Adjournment

Motion: Board member Harrison made a motion to adjourn the March 25, 2019 Regular Planning Board Meeting at 7:32 p.m.
Second: Board member Vivian
Vote: The motion passed with a unanimous vote.

Adopted: _____

Brad Prillaman, Chairman

Karen Dewey, Town Clerk

ARTICLE II. - PROCEDURE FOR REVIEW AND APPROVAL OF SUBDIVISION PLATS

Sec. 46-36. - Plat required on any subdivision of land.

Pursuant to G.S. 160A-372, a final plat shall be prepared, approved, and recorded in accordance with the provisions of this chapter as a condition precedent to the subdivision of any land within the town.

Sec. 46-37. - Approval prerequisite to plat recordation.

Pursuant to G.S. 160A-373, no plat of a subdivision within the jurisdiction of the town, as established in section 46-3, shall be recorded by the county register of deeds or the Mecklenburg County register of deeds until it has been finally approved as provided herein. To secure such approval of a subdivision plat, the subdivider shall follow the procedures established in this article.

Sec. 46-38. - Preliminary Conference

Any person contemplating the subdivision of property is encouraged to have a preliminary conference with the subdivision administrator in order that questions may be answered and that the subdivider may gain a better understanding of the requirements of this chapter. A preapplication meeting is required for conservation subdivisions.

Combined various statements from other sections here. Required pre-app for conservation subdivisions.

Sec. 46-39. - Procedures for review of major and minor subdivisions.

Minor subdivisions shall be reviewed in accordance with section 46-40 and 46-41. Major subdivisions shall be reviewed in accordance with the procedures set forth in sections 46-42 through 46-47.

Minor Subdivisions

Sec. 46-40 – Preliminary Plat for minor subdivisions.

All submittal requirements were moved to the chart. 46-46. All septic report /soils test items were removed. Applicant is required to get UC environmental health approval instead.

In order to facilitate the review and approval of a minor subdivision, a preliminary plat must be submitted to the zoning administrator along with a fee in accordance with a fee schedule adopted by the town council. No application shall be considered complete or processed by the subdivision administrator unless accompanied by said fee. In addition, the Town shall be reimbursed by the subdivider for all costs associated with the Town's engineering and/or consulting services with respect to review of the preliminary plat prior to approval.

- (a) The subdivision administrator shall review the preliminary plat within ten days of its submission for general compliance with the requirements of this chapter and [chapter 58](#), and shall advise the subdivider or his authorized agent of the regulations pertaining to the proposed subdivision and the procedures to be followed in the preparation and submission of the final plat, and shall approve, approve based on certain conditions, or disapprove the preliminary plat.

- (b) One copy of the preliminary plat along with the subdivision administrator's comments, recommendations, and/or conditions shall be returned to the subdivider and one copy of the same shall be retained by the subdivision administrator.
- (c) In the event the subdivider disagrees with the written comments and/or recommendations of the subdivision administrator, he may appeal the subdivision administrator's decision to the planning board.
- (d) In the event of an appeal of the subdivision administrator's decision, one copy of the preliminary plat along with the subdivision administrator's comments, recommendations, and his reasons for disapproval shall be forwarded to the planning board. In the event of an appeal of the subdivision administrator's decision, the planning board shall review and approve or disapprove the preliminary plat at its next regular meeting that follows at least 15 days after the subdivision administrator's recommendation regarding the preliminary plat, or at such other meeting as may be called by the planning board to consider same.
- (e) If the preliminary plat is not approved by the planning board, a written statement of the reasons for denial shall be provided to the subdivider, with a copy being returned to the subdivision administrator within seven days of disapproval. Upon making necessary changes, but not later than 180 days from receipt of the disapproved plat by the subdivider, the subdivider may resubmit the preliminary plat to the planning board for approval.
- (f) Preliminary plat approval of a minor subdivision shall constitute a vested right, as defined in G.S. 160A-385.1.

46-41- Final plat for minor subdivisions.

- (a) Upon approval of the preliminary plat the subdivider may proceed with preparation of the final plat in accordance with the requirements of this chapter. In the event that the subdivider fails to submit a proposed final plat within one year of approval of the preliminary plat, the approval of the preliminary plat becomes null and void, and the subdivider must begin the procedure as if no preliminary plat had been initially submitted, including the payment of another filing fee as required under this article.
- (b) *Number of Copies and Content*

The subdivider shall submit at least 2 copies of the proposed final plat so marked to the subdivision administrator. The subdivider shall also submit a fee in accordance with a fee schedule adopted by the Town Council. No application shall be considered complete or processed by the subdivision administrator unless accompanied by said fee. In addition, the Town shall be reimbursed by the subdivider for all costs associated with the town's engineering and/or consulting services with respect to review of the final plat prior to final plat approval.

 - (1) The proposed final plat shall be prepared by a registered land surveyor currently licensed and registered by the state board of registration for professional engineers and land surveyors. The final plat shall conform to the provisions for plats, subdivisions, and

mapping requirements set forth in G.S. 47-30 and the Manual of Practice for Land Surveying in North Carolina.

- (2) The proposed final plat shall be of such size as is suitable for recording with the appropriate county register of deeds and shall be of a scale of not less than one-inch equals 200 feet. Maps may be placed on more than one sheet with appropriate match lines.

Removed requirement that a minor subdivision plat is reviewed by the natural resources conservation service. And moved section on environmental health to the review procedures sections.

- (3) The final plat shall meet the specifications established in section 46-46.
- (4) The following signed certificates shall appear on all copies of the final plat:
- a. Certificate of ownership and dedication.

I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the Town of Weddington and that I hereby adopt this plan of subdivision with my free consent and establish minimum building setback lines as noted.

<hr/>	<hr/> /_____/_____/_____/
Owner	Date

- b. Certificate of survey and accuracy in accordance with the standards and practice for land surveying in the state.

On the face of each map prepared for recordation there shall appear a certificate acknowledged before an officer authorized to make acknowledgments and executed by the person making the survey or map including deeds and any recorded data shown thereon. The certificate shall include a statement of error of closure calculated by latitudes and departures. Any lines on the map which are not actually surveyed must be clearly indicated on the map and a statement included in the certificate revealing the source of the information. The certificate shall take the following general form:

State of North Carolina, _____ County

I, _____, certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description recorded in Book _____, Page _____, etc.) (Other); that the ratio of precision as calculated by latitudes and departures is 1: _____, (that the boundaries not surveyed are shown as broken lines plotted from information found in Book _____, Page _____); that this map was prepared in accordance with G.S. 47-30, as amended.

Witness my original signature, registration number and seal this _____ day of _____, A.D. 20 _____ .

	_____ Registered Land Surveyor
Official Seal	
	_____ Registration Number

I, (officer authorized to take acknowledgments), do hereby certify that (name of registered surveyor) personally appeared before me this day and acknowledged the due execution of this certificate. Witness my hand and (where an official seal is required by law) official seal this the _____ day of _____ (year).

	_____ Signature of Officer
Official Seal	

(c) *Final Plat review and approval procedure for minor subdivisions.*

- (1) The proposed final plat shall be submitted to the subdivision administrator, who within ten days of receipt of said plats shall review same and shall submit same to the Planning Board along with comments and recommendations. The subdivision administrator can recommend approval, approval conditional upon certain modifications to bring the plat into compliance, or disapproval of the final plat with reasons for disapproval.
- (2) If septic is proposed, prior to approval of the final plat by the Planning Board, the subdivider shall submit a copy of the plat to the county health department, for review and comment. The plat must be returned to the subdivision administrator accompanied by written recommendations.

Removed Septic reporting above and requiring a letter from the County health dept.

- (3) Following review and recommendation by the subdivision administrator, the Planning Board shall review the proposed final plat at or before its next regularly scheduled meeting.

Removed the requirement that the PB gets minor final plat 15 days prior to the meeting. If there isn't enough time to review the PB can always table a decision.

- (4) If the Planning Board recommends conditional approval of the final plat with modifications to bring the plat into compliance or disapproval, it shall return its written recommendations or reasons for such disapproval specifying the provisions of this chapter with which the final plat does not comply and a copy of the plat to the subdivider,

and subdivision administrator, and upon the subdivider complying with the recommendations of the Planning Board, the plat may be resubmitted for approval by the Planning Board at its next meeting following ten days from receipt of the evidence of compliance by the subdivider with the Planning Board's recommendations.

Combined conditional approval and disapproval section.

- (5) If the Planning Board approves the final plat, it shall transmit a written approval through the administrator and such approval shall be shown on each copy of the plat by the following signed certificate:

Certificate of Approval for Recording

I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Regulations of the Town of Weddington, North Carolina and that this plat has been approved by the planning board for recording in the Office of the Register of Deeds of _____ County.

_____ Date	_____ Chairman of the Planning Board Town of Weddington, North Carolina
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- (6) If the final plat is approved, the reproducible copy shall be recorded with the appropriate county register of deeds' office. The subdivider shall file the approved plat with the appropriate county register of deeds' office within 90 days of approval. Otherwise, such approval shall become null and void.

Major Subdivisions

Sec. 46-42. - Sketch plan for major subdivisions.

- (a) *Sketch plan—Required.* A sketch plan for conventional subdivisions shall be prepared by an engineer or land surveyor currently licensed and registered in the state by the state board of registration for professional engineers and land surveyors. A sketch plan for a conservation subdivision shall be prepared by a registered landscape architect or by a physical planner with experience designing conservation subdivisions, working with a registered land surveyor or professional engineer currently licensed and registered in the state by the state board of registration for professional engineers, land surveyors or landscape architects. The landscape architect or physical planner shall have primary responsibility for the design of conservation areas and house locations; the surveyor or engineer shall have primary responsibility for streets, drainage, and lot lines.

Add landscape architect requirement for conservation subdivisions. Moved vested rights to the approval procedure section

(b) *Number of copies and contents.*

(1) *Conventional Subdivision.*

Prior to the application for approval of a preliminary plat, the subdivider shall submit to the subdivision administrator two copies of a sketch plan of the proposed subdivision along with a fee, in accordance with a fee schedule adopted by the Town Council. No application shall be considered complete or processed by the subdivision administrator unless it is accompanied by said fee. In addition, the Town shall be reimbursed by the subdivider for all costs associated with the town's engineering and/or consulting services with respect to review of the sketch plan prior to sketch plan approval. It shall contain the information listed in 46-46. It must meet the requirements and submittal schedule described in both the Traffic Impact Analysis Process and Procedures Manual, and Appendix C: Traffic Impact Analysis.

Placed all review information required in the chart for conventional.

(2) *Conservation Subdivision.*

In addition to the requirements above, the following information shall be submitted for all proposed conservation subdivisions:

- a. Existing resources and site analysis plan, which shall be prepared to provide the developer and the town with a comprehensive analysis of existing conditions, both on the proposed development site and within 500 feet of the site (for tracts of 100 acres or less) or 1,000 feet of the site (for tracts over 100 acres.) Conditions beyond the tract boundaries may be described on a more general basis from existing published data available from governmental agencies, and from aerial photographs and need not be as specific as those that are required for the development site. Unless otherwise requested by the subdivision administrator to facilitate readability, such plans shall be prepared at a scale of one-inch equals 100 feet or one-inch equals 200 feet, whichever would fit best on a single standard size sheet (24 inches by 36 inches). The following information shall be included in this plan:
 1. An aerial photograph enlarged to a scale not less detailed than one-inch equals 400 feet, with the site boundaries clearly marked.
 2. Topography, the contour lines of which shall generally be at two-foot intervals, determined by photogrammetry. Slopes shall be clearly indicated when they are between ten and 15 percent, between 15 and 25 percent, or when exceeding 25 percent. Topography shall be prepared by a professional land surveyor or professional engineer from an actual field survey of the site or from stereoscopic aerial photography and shall be coordinated with official USGS benchmarks.
 3. The location and delineation of ponds, lakes, streams, ditches, natural drainage swales, wetlands, and floodplains. Additional areas of wetlands on the proposed development tract shall also be indicated, as evident from testing, visual inspection, or from the presence of wetland vegetation.
 4. Vegetative cover conditions on the property according to general cover type including cultivated land, permanent grass land, meadow, pasture, hedgerow, forestland and wetland, location of trees with a caliper in excess of 15 inches,

the actual canopy line of existing trees and forestlands. Vegetative types shall be described by plant community, relative age and condition.

5. Soil series, types and phases, as mapped by the U.S. Department of Agriculture, Natural Resources Conservation Service in the published soil survey for the county, and accompanying data published for each soil relating to its suitability for construction (and, in unsewered areas, for septic suitability).
 6. Ridge lines showing boundaries of catchment areas for stormwater runoff.
 7. A viewshed analysis showing the location and extent of views into the property from public roads and from public parks, and from the boundaries of lakes, ponds, and streams on the site.
 8. Geologic formations on the proposed development parcel, such as rock formations and outcroppings, and fault lines, based on available published information or more detailed data obtained by the applicant.
 9. All existing manmade features including, but not limited to, streets, driveways, farm roads, forest roads, buildings, foundations, walls, wells, drainage fields, dumps, utilities, fire hydrants, and sanitary sewers.
 10. Locations of all historic sites on the tract.
 11. Locations of trails that have been in public use (pedestrian, equestrian, bicycle, etc.).
 12. All easements and other encumbrances of property which are or have been filed of record with the county register of deeds.
 13. Total acreage of the tract, and the location and acreage of primary conservation lands.
- b. A yield plan, conservation subdivisions in the R-CD district are designed to be density neutral (i.e., allow for the same number of lots as that which could be platted under applicable subdivision requirements as a conventional subdivision, with a minimum lot size of 40,000 square feet).

Yield plans must be prepared with the sketch plan in accordance with the standards of this chapter, and must show all proposed lots, streets, rights-of-way, and other pertinent features that would be required for a sketch plan for major conventional subdivisions as identified in section 46-46. Although the yield plan must be drawn to scale, it need not be based on a field survey. However, the yield plan must be a realistic layout reflecting a development pattern that could reasonably be expected to be implemented, considering the presence of wetlands, floodplains, steep slopes, existing easements or encumbrances and, if unsewered, the suitability of soils for subsurface sewage disposal

- c. A Sketch plan using the 4-step design process after a site walk is completed. See subsection (c)(2)

(c) Sketch Plan review and approval procedure for major subdivisions.

This entire section was amended to add 4 step process, charrette, site walk and public meeting versus PIM

(1) Submission of Application and Fee

(2) Submission of Existing Resources and Site Analysis Map and Yield Plan; On-Site Visit; Mini-Charette (for conservation subdivision only)

- a. **On-Site Visit/Charette** After preparing the *Existing Resources and Site Analysis Map* and prior to the submission of a sketch plan, the applicant shall schedule time to walk the property with the subdivision administrator, Planning Board members, and adjacent property owners. The purpose of this visit is to familiarize staff and board members with the property's special features, and to provide them an informal opportunity to offer guidance to the applicant regarding the tentative location of Secondary Conservation Areas, potential house locations and street alignments.

A notice shall be sent by the Town to adjacent property owners at least 10 days prior to the site walk.

The applicant shall distribute copies of the *Existing Resources and Site Analysis Plan* at the on-site meeting. Applicants, their site designers, and the landowner are shall participate to show the town the property's special features. Comments made by town officials or staff and consultants shall be interpreted as being only suggestive. It shall be understood by all parties that no formal recommendations can be offered, and no official decisions can be made during this on-site visit. It is a Work Session of the Board and is duly noticed in the standard manner for all public meetings.

- b. **Design Charette:** Immediately following the site-visit the applicant shall sit down with the subdivision administrator and on-site visit attendees to review the findings and begin the 4 - step process below.

Sketch plans shall be prepared as "overlay sheets" to be lain on top of the Existing Resources and Site Analysis Plan, both prepared at the same scale, to facilitate cross-comparison.

Step One: Designation of Conservation Lands: During the first step, all potential Conservation Areas, both Primary and Secondary, shall be identified, using the Existing Features/Site Analysis Map. Primary Conservation Areas shall consist of those features described in Section 46-75(e). Secondary Conservation Areas shall comprise at least half of the remaining land and shall include the most sensitive and noteworthy natural, scenic, and cultural resources as described in Section 46-75 (e).

Guidance as to which parts of the remaining land to classify Secondary Conservation Areas shall be based upon discussions at the on-site meeting plus the design standards and specific conservation standards in Sections 46-75(e). An overall goal is to

minimize fragmentation of the conservation lands and to maximize connectivity among its parts, and with conservation lands on adjoining properties.

Step Two: House Site Location: During the second step, potential house sites are tentatively located. Generally, house sites should be located no closer than 100 feet from Primary Conservation Areas. Such sites may be situated 50 feet from Secondary Conservation Areas to permit the enjoyment of scenic views without negatively impacting Primary Conservation Areas.

Step Three: Street Alignment and Trail Networks: The third step consists of aligning proposed streets to provide vehicular access to each house in the most reasonable and economical manner, and in laying out a network of informal trails connecting neighborhood areas with open space features within the conservation lands. When lots and access streets are laid out, they shall be located in such a way that avoids or at least minimizes impacts on both Primary and Secondary Conservation Areas.

Step Four: Drawing in the Lot Lines: The fourth step consists of drawing in lot lines around potential house sites. Each lot must contain a buildable area of sufficient size to accommodate a single-family detached dwelling and customary accessory uses, including, but not limited to, storage buildings and garages, patios and decks, lawns, and driveways. Individual wells and septic systems, where these are to be provided, may be located within the undivided conservation lands if sufficient space is not available on the lots.

(3) Sketch Plan submittal

The subdivision administrator shall, within 30 days of receipt of the sketch plan, review for general compliance with the requirements of this Chapter and Chapter 58. The subdivision administrator shall advise the applicant of any changes needed to the plans.

(4) Required Community Meeting

- a. Before the Planning Board review and approval for a conservation subdivision or prior to staff approval on a conventional subdivision, the applicant must provide the administrator with a written report of at least one community meeting held by the applicant.
- b. Reasonable notice of the required community meeting must be given to nearby property owners and to affected and interested parties in accordance with public notice policies.

1. *Notice of public meeting.* Such notice shall, at a minimum, be given as follows:

A notice shall be sent by first class mail by the Town to adjacent property owners within 1,300 linear feet, as measured from the exterior boundaries of the proposed development up to the town limits, not less than ten days prior to the date of the meeting. The notification shall contain information regarding the meeting time and locations as well as a general description of the proposal. The

applicant shall reimburse the Town for all expenses incurred for such notifications.

- c. A meeting notification sign shall be posted by the Town in a conspicuous place at the property not less than ten days prior to the meeting.
- d. A report to the staff, which shall be included in Planning Board reports, must include a listing of those persons and organizations contacted about the meeting, date of contact, time, date, and location of the meeting, a roster of the persons in attendance at the meeting, a summary of issues discussed at the meeting, and a description of any changes to the application made by the applicant as a result of the meeting.
- e. The adequacy of the meeting and the meeting report must be considered by the Planning Board but is not subject to judicial review.

(5) Review and Action for sketch plan.

This section was added. Previously ordinances mentioned PB approval for conservation. (old 46-42(d)(1)).

After completing review of the sketch plan and allowing reasonable time for receipt of comments from review agencies and public meetings, the subdivision administrator must:

- a. Conventional Subdivision: approve the sketch plan, approve the sketch plan with conditions or deny approval of the sketch plan and notify the applicant, in writing, of the decision. The subdivision administrators' action must be based solely on whether the sketch plan is consistent with the applicable provisions of this ordinance. If the sketch plan is not approved, the written notice to the applicant must state the reasons for denial.
 - b. Conservation Subdivisions: send the plan to Planning Board to approve the sketch plan. The Planning Board can approve the sketch plan, approve the sketch plan with conditions or deny approval of the sketch plan and notify the applicant, in writing, of the decision. If the sketch plan is not approved, the written notice to the applicant must state the reasons for denial.
- (6) Under this chapter, an administrative approval by the zoning or subdivision administrator shall not constitute approval by the Town for common law vested rights. Sketch plan approval is merely a precursor to the submission of a preliminary plat requiring Town Council approval. Sketch plan approval is subject to be changed or modified and is not intended to provide a basis for common law vested rights claims.

Moved this section here.

Sec. 46-43. – Major subdivision preliminary plat submission and review.

- (a) *Applicability.* After sketch plan approval a preliminary plat shall be required prior to any land disturbing activities.
- (b) *Number of copies and contents.*

- (1) 2 copies of the preliminary plat shall be submitted to the subdivision administrator. The subdivider shall also submit a fee in accordance with a fee schedule adopted by the Town Council. No application shall be complete or processed by the subdivision administrator unless accompanied by said fee. In addition, the Town shall be reimbursed by the subdivider for all costs associated with the town's engineering and/or consulting services with respect to review of the preliminary plat prior to preliminary plat approval.
- (2) The preliminary plat shall be of a size suitable for recording with the appropriate county register of deeds and shall be at a scale of not less than one-inch equals 200 feet. The preliminary plat shall be prepared by a registered land surveyor or engineer currently licensed and registered by the state board for professional engineers and land surveyors. Maps may be placed on more than one sheet with appropriate match lines.
- (3) Preliminary plats shall meet the specifications in Section 46-46.
- (4) With subdivisions where individual septic tanks are the proposed method for wastewater treatment, the preliminary plat shall be accompanied by approval of the proposed lots for septic tanks by the county health department and a map of the subdivision showing the following:
 - a. All streets and property lines;
 - b. Proposed building area for each lot;
 - c. Septic tank drain field;
 - d. Site and repair area for each lot; and
 - e. Proposed well site for each lot.

Not requiring soils test. UC environmental health requires all this and is the approval agency.
We want to see that it was considered and can fit on the proposed lot.

- (5) Conservation maintenance plan and maintenance agreement. A conservation maintenance plan and maintenance agreement, in accordance with subsection 58-58(4)i,

Moved here for contents required at this stage.

(c) *Preliminary Plat review and approval procedure for major subdivisions.*

- (1) Administrative Review. After reviewing the preliminary plat, the subdivision administrator may provide the subdivider with comments on the preliminary plat. If the subdivider intends to amend the preliminary plat as a result of any comments provided by the subdivision administrator, the subdivider shall notify the subdivision administrator of his intent to amend the preliminary plat within 15 calendar days after receiving those comments. After the subdivider submits any amended preliminary plat, the subdivision administrator will review the amended preliminary plat to ensure that it is complete, and the subdivision administrator may provide the subdivider with comments on the amended preliminary plat.
- (2) Review by Outside agencies. Once the preliminary plat has been received by the subdivision administrator, he shall determine the agencies to which the preliminary plat shall be submitted for review and recommendation including, but not limited to, the state department of natural resources (including appropriate individual agencies within said

department), public works, NCDOT, environmental health and the appropriate county board of education.

- (3) The preliminary plat shall be deemed ready for submission to the planning board at such time that the most recent version of the preliminary plat is complete, the subdivision administrator has received sufficient comments on the preliminary plat from all appropriate agencies, and either the subdivision administrator completed his review of that version and did not provide the subdivider with any comments or the subdivision administrator provided the subdivider with comments on that version but the subdivider did not notify the subdivision administrator within the 15-calendar-day time period, provided that he intends to amend the preliminary plat.
- (4) The Planning Board shall, in writing, recommend approval, conditional approval with recommended changes to bring the plat into compliance, or disapproval with reasons within 30 days of its first consideration of the plat or at its next regularly scheduled meeting following the meeting at which the plat was first considered, whichever occurs later and transmit its recommendation to the Town Council.
- (5) If the Planning Board does not make a written recommendation within the time set forth above, the subdivider may apply to the Town Council for approval or disapproval.
- (6) If the Town Council approves the preliminary plat, such approval and conditions (if applicable) shall be noted on two copies of the plat. One copy of the plat shall be filed by the subdivision administrator and one copy shall be returned to the subdivider. If the Town Council approves the preliminary plat with conditions, approval shall be noted on two copies of the plat along with a reference to the conditions. One copy of the plat along with the conditions shall be retained by subdivision administrator, and one copy of the plat along with the conditions shall be returned to the subdivider. Once these conditions are met, the plat shall be resubmitted for approval by the Town Council and shall be filed in the town office by the subdivision administrator. If the Town Council disapproves the preliminary plat, the reasons for such disapproval shall be specified in writing. One copy of the plat and the reasons shall be retained by the Town Council, and one copy shall be returned to the subdivider. If the preliminary plat is disapproved, the subdivider may make such changes as will bring the preliminary plat into compliance and resubmit the same for reconsideration by the Planning Board and Town Council.

Sec. 46-44. - Final Plat major subdivision

This section used to be development and design standards for conservation subdivisions (this was moved to development standards section)

- (a) *Preparation of final plat and installation of improvements.* Upon approval of the preliminary plat by the Town Council, the subdivider may proceed with the preparation of the final plat and the installation of or arrangement for required improvements in accordance with the approved preliminary plat and the requirements of this chapter. Prior to initiation of the construction of utility and street improvements, plans shall have all necessary approvals from state agencies and appropriate county. Prior to approval of a final plat, the subdivider shall

have installed the improvements specified in this chapter or guaranteed their installation as provided herein. No final plat will be accepted for review by the Town Council unless accompanied by written notice by the subdivision administrator acknowledging compliance with the improvement and guarantee standards of this chapter. The final plat shall constitute only that portion of the preliminary plat which the subdivider proposes to record and develop at that time; such portion shall conform to all requirements of this chapter.

(b) *Improvement and guarantee standards.*

(1) *Optional agreement.* In lieu of requiring the completion, installation and, if applicable, dedication of all improvements prior to final plat approval, the Town may enter into an agreement with the subdivider whereby the subdivider shall guarantee completion of all required improvements as specified on the approved preliminary plat for that portion of the subdivision to be shown on the final plat within two years from the date of final plat approval, unless otherwise specified in the written agreement. Once said agreement is signed by both parties and the security required herein is provided, the final plat may be approved by the Town Council; provided, however, that all other requirements of this article are met. To secure this agreement, the subdivider shall provide either one or a combination of the following guarantees in an amount equal to 1.25 times the costs, as estimated by the subdivider and approved by the town planner or engineer, of installing all required improvements on the approved preliminary plat for that portion of the subdivision to be shown on the final plat. The amount shall be subject to the approval of the Town Council.

a. *Surety performance bond.* The subdivider shall obtain a performance bond from a surety bonding company satisfactory to the Town Council, as applicable. A surety bonding company must at minimum be: (1) registered to do business with the North Carolina Secretary of State; (2) licensed to issue surety bonds in the State of North Carolina by the North Carolina Department of Insurance; (3) rated at least "B+" by a reputable bond rating agency; and (4) possess a minimum of \$50,000,000.00 in assets. The Town Council may, within its sole discretion, insist upon alternative standards based upon the particular project, the estimated cost of completion of the improvements, and/or other factors indicating higher standards are warranted. The bond(s) must contain the following provisions: (1) the bond(s) shall remain in effect until such time as all improvements are installed and approved by the Town Council; (2) the surety bonding company, within 15 days of the town providing notice of default, shall take over and complete all improvements or pay the Town in cash the estimated costs of installing the improvements as determined by the Town's planner or engineer; and (3) the Town shall be able to draw upon the bond(s) in the event that the subdivider defaults upon its agreement with the Town in accordance with subsection (3). Any charges associated with cost calculation or verification shall be borne entirely by the subdivider.

b. *Letter(s) of credit.* The subdivider shall obtain an irrevocable letter(s) of credit issued by a commercial bank satisfactory to the town council. The commercial bank issuing the letter of credit must be: (1) organized under the laws of the United States of America or any state of the United States, or the District of Columbia; (2) authorized to do business in the State of North Carolina; (3) subject to regulation by the State of North Carolina or federal banking regulatory authorities; and (4) possess combined capital stock, surplus and undivided profits aggregating at least \$100,000,000.00. The Town Council may, within its sole discretion, insist upon

alternative standards based upon the particular project, the estimated cost of completion of the improvements, and/or other factors indicating higher standards are warranted. The letter(s) of credit must contain the following provisions: (1) the letter(s) of credit shall be evergreen and shall not be subject to expiration until such time as all improvements are installed and approved by the Town Council, and shall require the issuing commercial bank to give at least 60 days' notice of its intent to terminate the letter(s) of credit, upon which the Town can draw upon the letter(s) of credit; (2) the Town shall be able to draw upon the letter(s) of credit at any time on or before its expiration; (3) the commercial bank shall, upon written notification by the Town Council that the subdivider is in default, immediately pay to the Town the full amount, or any lesser amount of the letter(s) of credit, if requested by the Town Council; (4) the Town shall be able to draw upon the letter(s) of credit in the event that the subdivider defaults upon its agreement with the Town in accordance with subsection (2) of this section; and (5) the letter(s) of credit shall allow for presentment and collection at a location within a 30-mile radius of the town.

- c. *Cash or equivalent surety.* The subdivider shall deposit cash, or other instrument readily convertible into cash at face value, such as a certificate of deposit or treasury-issued security, either with the Town or in escrow with a financial institution designated as an official depository of the Town. The use of any instrument other than cash shall be subject to the approval of the Town Council.

If cash or other instrument is deposited in escrow with a financial institution as provided above, then the subdivider shall file with the Town Council an agreement between the financial institution and the subdivider guaranteeing the following:

1. Said escrow account shall be held in trust for the Town until released by the Town Council and may not be used or pledged by the subdivider in any other matter during the term of the escrow;
 2. That the financial institution shall, upon written notification by the Town Council stating that the subdivider is in default, immediately pay to the Town all funds in said account, excluding any interest earned; and
 3. That the duration of said escrow account(s) shall be until such time as all improvements are installed and approved by the Town Council, or until the subdivider provides the Town with an acceptable, alternative guarantee for the completion of installing all remaining required improvements on the approved preliminary plat for that portion of the subdivision to be shown on the final plat. Any charges associated with cost calculation or verification shall be borne entirely by the subdivider.
- (2) *Duration of financial guarantees.* The duration of a financial guarantee shall be of a reasonable period to allow for completion and acceptance of improvements. In no case shall the duration of the financial guarantee for improvements exceed 24 months, unless otherwise specified in the written agreement as described in subsection 46-44(b)(1). All subdivisions whose public improvements are not completed and accepted at least 30 days prior to the expiration of the financial guarantee shall be in default, unless said guarantee is extended with the consent of the Town Council to a future date not to exceed six months, or to a date determined by Council.

- (3) *Default.* Upon default by the subdivider, the Town Council, as applicable, may require the surety, the letter of credit issuer, or the financial institution holding the escrow account to pay all or a portion of the bond, letter of credit, or escrow account to the Town. Upon payment, the Town shall expend said funds to complete all or any portion of the required improvements as it deems necessary. For purposes of this section, default shall constitute any of the following: (1) failure on the part of the subdivider to complete, within the time period specified in the agreement in subsection (b)(1). of this section, the required improvements as specified on the approved preliminary plat for that portion of the subdivision to be shown on the final plat; (2) failure on the part of the subdivider to install any improvement in accordance with the specifications or the regulations in the Town's ordinances; or (3) transfer of ownership of any portion of the property or lots located within the subdivision to another person or entity under no legal obligation to install the required improvements (e.g., foreclosure). If one of the above events occurs, nothing herein shall prevent the town from declaring default prior to the expiration of the time period specified in subsection (b)(1) of this section.
- (4) *Release of guarantee surety.* In its sole discretion, the Town Council may release a portion of any security posted as the improvements are completed and recommended for approval by the town planner, so long as the Town maintains the posted security in an amount equal to at least 1.25 times the estimated costs of installation of the remaining improvements. However, notwithstanding the above, nothing shall require the Town Council to release any portion of security posted until such time as all improvements are installed and approved by the Town Council. Within 30 days after receiving the town planner's recommendation, the Town Council shall approve or not approve said improvements. Once all required improvements on the preliminary plat for that portion of the subdivision to be shown on the final plat have been installed and approved, then all security posted for said improvements shall be released by the Town Council.

(c) *number of copies and contents*

- (1) At least two copies of the final plat (additional copies may be required by the subdivision administrator to send to various agencies) shall be submitted to the subdivision administrator. A fee, in accordance with a fee schedule adopted by the Town Council, shall accompany such submission. No application shall be complete or processed by the subdivision administrator unless accompanied by said fee. In addition, the Town shall be reimbursed by the subdivider for all costs associated with the town's engineering and/or consulting services with respect to review of the final plat prior to final plat approval. Materials and drawing medium for the original shall be in accordance with the standards of practice for land surveying in the state, where applicable, and the requirements of the appropriate county register of deeds.
- (2) The final plat may be submitted in sections. In this case, at least one final plat section shall be submitted per year, on or before the anniversary date of preliminary plat approval. In no case shall preliminary plat approval for any section extend beyond five years from the date of approval.
- (3) Each phase's final plat must contain a comment stating common open space/conservation land requirements set forward by this chapter and Chapter 58 have been met.
- (4) The final plat shall conform substantially to the preliminary plat as approved, and if desired by the owner or subdivider, it may refer to that portion of the approved preliminary plat which he proposes to record as a final plat and begin selling within the following year.

(5) The final plat shall meet all applicable specifications in Section 46-46 and the following signed certificates shall appear on each copy of the plat:

a. Certificate of ownership and dedication.

I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the Town of Weddington and that I hereby adopt this plan of subdivision with my free consent, establish minimum building setback lines, and dedicate all streets, alleys, walks, parks, and other sites and easements to public or private use as noted.

_____	_____ / _____ / _____
Owner	Date

b. Certificate of survey and accuracy in accordance with the standards and practice for land surveying in the state. On the face of each map prepared for recordation there shall appear a certificate acknowledged before an officer authorized to take acknowledgments and executed by the person making the survey or map including deeds and any recorded data shown thereon. The certificate shall include a statement of error of closure calculated by latitudes and departures. Any lines on the map which were not actually surveyed must be clearly indicated of the map and a statement included in the certificate revealing the source of the information. The certificate shall take the following general form:

State of North Carolina, _____ County

I, _____, certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description recorded in Book _____, Page _____, etc.) (Other); that the ratio of precision as calculated by latitudes and departures is 1: _____, (that the boundaries not surveyed are shown as broken lines plotted from information found in Book _____, Page _____); that this map was prepared in accordance with G.S. 47-30, as amended. Witness my hand and seal this _____ day of _____, A.D. 20 _____.

	_____ Registered Land Surveyor
Official Seal	
	_____ Registration Number

I, (officer authorized to take acknowledgments) do hereby certify that (name of registered surveyor) personally appeared before me this day and acknowledged the due execution of this certificate. Witness my hand and (where an official seal is required by law) official seal this the _____ day of _____ year).

	_____ Signature of Officer
Official Seal	

- c. Certificate of approval of the design and installation of streets, utilities, and other required improvements.

I hereby certify that all streets and other required improvements have been installed in an acceptable manner and according to N.C. Department of Transportation and/or Town of Weddington specifications and standards in the _____ Subdivision or that guarantees of the installation of the required improvements in an amount and manner satisfactory to the Town of Weddington have been given and received.

_____ Mayor of the Town of Weddington, North Carolina	_____ / _____ / _____ Date
-------------------------------------------------------------	-------------------------------

(6) *Addresses and cluster mailboxes.*

- a. Final plats must include the location of cluster mailbox units (CBU) to serve all the lots included on the plat. The plat must also include a note stating that all CBU locations will be approved by the USPS. If the roadways on the plat are labeled as public rights-of-way, then the plat must also include a note stating that all CBU locations must be approved by NCDOT.
- b. The applicant may request an address for the property following final plat approval. All addresses will be assigned by the Union County Tax Administrator's office.
- c. Every lot shall display the distinctive house number assigned to that lot by Union County and recognized by Union County Emergency Services. The individual house number shall be no less than four inches in height and shall be in a contrasting color to the background. The house number shall be displayed in one of the following fashions:
 1. If the number is displayed on a house, the number shall be placed upon the front of the house in such a position as to remain plainly visible to all traffic coming to the premises from either direction, or
 2. If a house is more than 100 feet from the roadway or is not clearly visible from the roadway, the number shall be displayed within 50 feet of the

roadway, and on a surface that is plainly visible to all traffic coming to the premises from either direction.

(d) *Review and approval procedure for final plat for major subdivisions.*

- (1) Within two years following the approval of the preliminary plat, the subdivider shall submit a final plat as set forth in this subsection.
- (2) Failure to submit a final plat within two years after preliminary plat approval shall render the preliminary plat null and void.
- (3) The proposed final plat shall be submitted to the subdivision administrator for review and comment. During the review of the final plat, the subdivision administrator may appoint a registered land surveyor to confirm the accuracy of the final plat. If any error is found which exceeds five percent of the figures shown on the proposed final plat, the costs of the review shall be charged to the subdivider. The subdivision administrator shall note his comments regarding the proposed final plat and the costs of the review, which shall be paid by the subdivider before the final plat approval of the Town Council.
- (4) The Planning Board shall recommend approval, conditional approval with modifications to bring the plat into compliance, or disapproval of the final plat with reasons within 31 days of its first consideration of the proposed final plat.
- (5) The Planning Board shall transmit all copies of the plat and its written recommendations to the Town Council, through the subdivision administrator.
- (6) If the Planning Board recommends disapproval of the final plat, it shall instruct the subdivider concerning the resubmission of a revised plat and the subdivider may make such changes as will bring the plat into compliance with the provisions of this chapter, and resubmit same for reconsideration by the planning board, or may appeal the decision to the Town Council.
- (7) In the event the Planning Board fails to make a written recommendation to the Town Council within the time specified in this section, the subdivider may apply to the Town Council for approval of the proposed final plat.
- (8) If the Town Council approves the final plat, such approval shall be shown on each copy of the plat by the signed certificate specified below.
- (9) The mayor shall not execute any mylars without first obtaining written certification from the subdivision administrator that the mylars are identical to those approved by the Town Council.
- (10) The certification of approval for recording shall take the following general form:

I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Regulations of the Town of Weddington, North Carolina, and that this plat has been approved by the Weddington Town Council for recording in the Office of the Register of Deeds of _____ County, North Carolina. This _____ day of _____, _____.

_____ Mayor of the Town of Weddington,	DATE
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- (11) In the event the proposed final plat is disapproved by the Town Council, the reasons for such denial shall be stated in writing, specifying the provisions of this chapter with which the final plat does not comply. One copy of such reasons and one print of the plat shall be retained by the town clerk, as part of the town council proceedings, and one copy of the plat and a copy of the reasons shall be submitted to the subdivider.
 - (12) If the proposed final plat is disapproved, the subdivider may make such changes as will bring the proposed final plat into compliance, and resubmit same for reconsideration by the Town Council, provided such resubmission is made within 180 days from the date of disapproval. Otherwise, the subdivider must begin the subdivision plat approval process as though no plat had been previously submitted for consideration by the town.
 - (13) The subdivider shall file the approved final plat within 90 days of approval; otherwise such approval shall be null and void, and the subdivider must begin the procedure for approval from the sketch plan stage, with payment of the required fee.
- (e) All conservation lands shall be recorded at the county register of deeds in their entirety concurrent with the initial recordation of the final plat.



**EROSION AND
SEDIMENTATION CONTROL
ORDINANCE**

April
2019

**AN ORDINANCE TO ADD
ARTICLE 14 TO Chapter 58
IN THE
TOWN OF WEDDINGTON
CODE OF ORDINANCES**

BE IT ORDAINED by the Town Council of the Town of Weddington that the Town of Weddington Code of Ordinances be amended to add ~~Chapter 65~~Article 14, Erosion and Sedimentation Control, as follows:

CHAPTER ~~6558~~: Article XIV EROSION AND SEDIMENTATION CONTROL

PREAMBLE

~~58.601~~ PURPOSE

~~6558.602~~ JURISDICTION

~~6558.603~~ DEFINITIONS

~~6558.604~~ EXCLUSIONS

~~6558.605~~ GENERAL REQUIREMENTS AND OBJECTIVES

~~6558.606~~ MANDATORY STANDARDS FOR LAND DISTURBING ACTIVITIES

~~6558.607~~ DESIGN AND PERFORMANCE STANDARDS

~~6558.608~~ STORMWATER OUTLET PROTECTION

~~6558.609~~ BORROW AND WASTE AREAS

~~6558.610~~ ACCESS AND HAUL ROADS

~~6558.611~~ OPERATIONS IN LAKES OR NATURAL WATERCOURSES

~~6558.612~~ RESPONSIBILITY FOR MAINTENANCE

~~6558.613~~ ADDITIONAL MEASURES

~~6558.614~~ EXISTING UNCOVERED AREAS

~~6558.615~~ PERMITS

~~6558.616~~ EROSION AND SEDIMENTATION CONTROL PLANS

~~6558.617~~ TRANSFERS OF PLANS

~~6558.618~~ INSPECTIONS AND INVESTIGATIONS

~~6558.619~~ PENALTIES

~~6558.620~~ INJUNCTIVE RELIEF

~~6558.621~~ RESTORATION OF AREAS AFFECTED BY FAILURE TO COMPLY

~~6558.622~~ APPEALS

~~6558.623~~ SEVERABILITY

~~6558.624~~ EFFECTIVE DATE

PREAMBLE

The sedimentation of streams, lakes and other waters of this State constitute a major pollution problem. Sedimentation occurs from the erosion or depositing of soil and other materials into the waters, principally from construction sites and road maintenance. The continued development of this Town will result in an intensification of pollution through sedimentation unless timely and appropriate action is taken. Control of erosion and sedimentation is deemed vital to the public interest and necessary to the public health and welfare, and expenditures of funds for erosion and sedimentation control programs shall be deemed for a public purpose. It is the purpose of this Ordinance to provide for the creation, administration, and enforcement of a program and for the adoption of minimal mandatory standards which will permit development of this Town to continue with the least detrimental effects from pollution by sedimentation.

6558.601 PURPOSE. This Ordinance is adopted for the purpose of:

- (1) Regulating certain land-disturbing activity to control accelerated erosion and sedimentation in order to prevent the pollution of water and other damage to lakes, watercourses, and other public and private property by sedimentation; and
- (2) Establishing procedures through which these purposes can be fulfilled.

6558.602 JURISDICTION.

This Ordinance is hereby adopted by the Town Council to apply to all areas within the corporate limits of the Town of Weddington.

The Town shall not have jurisdiction ~~over, to the exclusion of local governments, to adopt rules concerning~~ land-disturbing activities that are:

- a. Conducted by the State.
- b. Conducted by the United States.
- c. Conducted by persons having the power of eminent domain other than a local government.
- d. Conducted by a local government.
- e. Funded in whole or in part by the State or the United States.
- f. Related to oil and gas exploration and development on the well pad site.

In addition, certain exclusions are set forth in Section 6558.04.

Where a conflict exists between any limitation or requirement contained in this Ordinance and those in any other ordinance, regulation, or plan, the more restrictive limitation or requirement shall apply. Except as otherwise provided herein, this ordinance shall not repeal, abrogate, or revoke any other ordinance, regulation, or plan.

6558.603 DEFINITIONS.

The words and phrases used in this Ordinance shall have the meaning assigned in this Section provided, unless the context clearly indicates otherwise. These definitions are derived from the North Carolina Sedimentation Control regulations, 15A NCAC § 4A.0105 and the Sedimentation Pollution Control Act of 1973, NCGS § 113A-52.

Accelerated Erosion – means any increase over the rate of natural erosion as a result of land disturbing activity.

Act – means the North Carolina Sedimentation Pollution Control Act of 1973 and all rules and orders adopted pursuant to it, as amended from time to time.

Adequate Erosion Control Measure, Structure, or Device – means one which controls the soil material within the land area under responsible control of the person conducting the land-disturbing activity, as such controls are specified in the Ordinance.

Affiliate – a person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control of another person.

Being Conducted – means a land-disturbing activity has been initiated and permanent stabilization of the site has not been completed.

Borrow – means fill material which is required for on-site construction and is obtained from other locations.

Buffer Zone – means the strip of land adjacent to a lake or natural watercourse.

Completion of Construction or Development – means that no further land-disturbing activity is required on a phase of a project except that which is necessary for establishing a permanent ground cover.

Commission/NCSCC – means the North Carolina Sedimentation Control Commission.

DEQ Planning & Design Manual – means the North Carolina Department of Environmental Quality Erosion and Sediment Control Planning and Design Manual, latest edition.

Department - means the North Carolina Department of Environmental Quality.

Discharge Point – means that point at which runoff leaves a tract.

District/SWCD – means the Union Soil and Water Conservation District (also referred to as the “SWCD”) created pursuant to Chapter 139 of the North Carolina Statutes.

Energy Dissipater – means a structure or a shaped channel section with mechanical armoring placed at the outlet of pipes or conduits to receive and break down the energy from high velocity flow.

Erosion – means the wearing away of land surface by the action of wind, water, gravity, or any combination thereof.

Ground Cover – means any natural vegetative growth or other material which renders the soil surface stable against accelerated erosion.

Lake or Natural Watercourse – means any stream, river, brook, swamp, creek, run, branch, and any reservoir, lake or pond, natural or impounded, in which sediment may be moved or carried in suspension, and which could be damaged by accumulation of sediment.

Land-Disturbing Activity – means any use of the land by any person in residential, industrial, educational, institutional, or commercial development, highways and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation.

Local Government – means any county, village, town, or city, or any combination of counties, villages, towns and cities, acting through a joint program with the Town pursuant to the provisions of the Act.

NCSCC – means the North Carolina Sedimentation Control Commission.

Natural Erosion – means the wearing away of the earth’s surface by water, wind or other natural agents under natural environmental conditions undisturbed by man.

Parent – means an affiliate that directly or indirectly, through one or more intermediaries, controls another person.

Person – means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, or other legal entity.

Person Conducting Land-Disturbing Activity – means any person who may be held responsible for a violation unless expressly provided otherwise by this Ordinance, the Act, or any order adopted pursuant to this Ordinance or the Act.

Person Responsible for the Violation – as used in this Ordinance and G.S. 113A-64 means:

- (1) The developer or other person who has or holds themselves out as having financial or operational control over the land-disturbing activity; and/or
- (2) The landowner or person in possession or control of the land who has directly or indirectly allowed the land-disturbing activity or has benefited from it or has failed to comply with any provision of this Ordinance, the Act, or any order adopted pursuant to this Ordinance or the Act.

Phase of Grading – means one of two types of grading, rough or fine.

Plan – means a complete Erosion and Sedimentation Control Plan, prepared in accordance with the NC Erosion and Sediment Control Planning and Design Manual, latest edition.

Sediment – means solid particulate matter, both mineral and organic, that has been or is being transported by water, air, gravity, or ice from its site of origin.

Sedimentation – means the process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land-disturbing activity or into a lake or natural watercourse.

Siltation – means sediment resulting from accelerated erosion which is removable by properly designed, constructed, and maintained control measures; and which has been transported from its point of origin within the site of a land-disturbing activity; and which has been deposited in or is in suspension in water.

Storm Drainage Facilities – means the system of inlets, conduits, channels, ditches and appurtenances which serve to collect and convey storm water through and from a given drainage area.

Storm Water Runoff – means the direct runoff of water resulting from precipitation in any form.

Subsidiary – an Affiliate that is directly or indirectly, through one or more intermediaries, controlled by another person.

SWCD/ Union SWCD – means the Union Soil and Water Conservation District.

Ten-Year Storm – means the surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in ten years, and of a duration which will produce the maximum peak rate of runoff, for the watershed of interest under average antecedent wetness conditions.

Town – means Town of Weddington.

Town Council – means the Town of Weddington Town Council.

Town of Weddington Erosion Control Inspector/ Erosion Control Inspector/ Inspector – includes the Town of Weddington Zoning Administrator, who is principally responsible for the administration of this Section, or his duly authorized designee. This term shall also include any persons, agents or other representatives of the town as authorized by the Zoning Administrator.

Tract – means all contiguous land and bodies of water being disturbed or to be disturbed as a unit, regardless of ownership.

Twenty-five Year Storm – means the surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in 25 years, and of a duration which will produce the maximum peak rate of runoff, from the watershed of interest under average antecedent wetness conditions.

Two-Year Storm – means the surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in 2 years, and of a duration which will produce the maximum peak rate of runoff, from the Watershed of interest under average antecedent wetness conditions.

Uncover(s)(ed)(ing) – means the removal of ground cover from, on, or above the soil surface.

Undertaken – means the initiating of an activity, or phase of activity, which results or will result in a change in the ground cover or topography of a tract of land.

Velocity – means the average speed of flow through the cross section of the main channel at the peak flow of the storm of interest. The cross section of the main channel shall be that area defined by the geometry of the channel plus the area of flow below the flood height defined by vertical lines at the main channel banks. Overload flows are not to be included for the purpose of computing velocity of flow.

Waste – means surplus materials resulting from on-site construction and being disposed of at locations either on or off site other than the initial source of the materials.

Watershed – means the region drained by or contributing water to a stream, lake or other body of water.

Working Days – means days exclusive of Saturday, ~~and~~ Sunday, and Federal and State holidays during which weather conditions or soil conditions permit land-disturbing activity to be undertaken.

Commented [CJ1]: Recommend excluding state & federal holidays as well unless work is being conducted on those days. This has been noted in the Model Ordinance for Local Programs.

6558.604 EXCLUSIONS.

This Section shall not apply to the following land-disturbing activities:

- (1) Activities including the production and relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture undertaken on agricultural land for the production of plants and animals useful to man, including, but not limited to:
 - a. Forages and sod crops, grains and feed crops, tobacco, cotton, and peanuts.
 - b. Dairy animals and dairy products.
 - c. Poultry and poultry products.
 - d. Livestock, including beef cattle, llamas, sheep, swine, horses, ponies, mules, and goats.
 - e. Bees and apiary products.
 - f. Fur producing animals.
 - g. Mulch, ornamental plants, and other horticultural products. For purposes of this section, "mulch" means substances composed primarily of plant remains or mixtures of such substances.
- (2) Activities undertaken on forestland for the production and harvesting of timber and timber products and conducted in accordance with standards defined by the best management practices set out in Forest Practice Guidelines Related to Water Quality, (Best Management Practices) as adopted by the North Carolina Department of Agriculture and Consumer Services. If land-disturbing activity undertaken on forestland for the production and harvesting of timber and timber products is not conducted in accordance with standards defined by the Forest Practice Guidelines Related to Water Quality, the provisions of this ordinance shall apply to such activity and any related land-disturbing activity on the tract.
- (3) Activities for which a permit is required under the Mining Act of 1971, Article 7 of Chapter 74 of the General Statutes.
- (4) For the duration of an emergency, activities essential to protect human life, including activities specified in an executive order issued under G.S. 166A-19.30(a)(5).
- (5) Activities undertaken to restore the wetland functions of converted wetlands to provide compensatory mitigation to offset impacts permitted under Section 404 of the Clean Water Act.
- (6) Activities undertaken pursuant to Natural Resources Conservation Service standards to restore the wetlands functions of converted wetlands as defined in Title 7 Code of Federal Regulations § 12.2

Commented [CJ2]: This paragraph has been updated. The Department now refers to the Department of Agriculture and Consumer Services. (Forestry is no longer under the Department as you have it defined). Refer to the Model Ordinance for the exact wording. ADDRESSED by BF

6558.605 GENERAL REQUIREMENTS AND OBJECTIVES.

- (A) **Plan Approval Required.** No Person shall initiate any land-disturbing activity which disturbs one (1) acre of more of land subject to this ordinance without first having plan approval from the Erosion Control Inspector.
- (B) **Plan Approval Exceptions.** Land-disturbing activities which disturb less than one (1) acre of land for single-family residential development are excluded from plan submittal and approval, provided that erosion control devices are installed as needed in accordance with the specifications and details found in the DEQ Planning & Design Manual. If the person performing the land-disturbing activity fails to provide and maintain proper erosion control measures, the Erosion Control Inspector may require a plan be submitted for review and approval within 30 days of notification.

(C) **Protection of Property.** Persons conducting land-disturbing activity shall take reasonable measures to protect all public and private property from damage caused by such activity.

(D) **Basic Control Objectives.** A plan may be disapproved pursuant to Section ~~6558~~.16 of this Ordinance if the plan fails to address the following control objectives:

- (1) Identify Critical Areas – On-site areas which are subject to severe erosion, and off-site areas which are especially vulnerable to damage from erosion and/or sedimentation, are to be identified and receive special attention.
- (2) Limit Time of Exposure – All land-disturbing activity is to be planned and conducted to limit exposure to the shortest feasible time.
- (3) Limit Exposed Areas – All land-disturbing activity is to be planned and conducted to minimize the size of the area to be exposed at any one time.
- (4) Control Surface Water – Surface water runoff originating upgrade of exposed areas should be controlled to reduce erosion and sediment loss during the period of exposure.
- (5) Control Sedimentation – All land-disturbing activity is to be planned and conducted so as to prevent off-site sedimentation damage.
- (6) Manage Storm Water Runoff – When the increase in the velocity of storm water runoff resulting from a land-disturbing activity is sufficient to cause accelerated erosion of the receiving watercourse, plans are to include measures to control the velocity to the point of discharge so as to minimize accelerated erosion of the site and increased sedimentation of the stream.

~~6558.606~~ MANDATORY STANDARDS FOR LAND DISTURBING ACTIVITIES.

No land-disturbing activity subject to the control of this Ordinance shall be undertaken except in accordance with the following mandatory standards:

(A) **Buffer Zone.**

- (1) No land-disturbing activity during periods of construction or improvement to land shall be permitted in proximity to a lake or natural watercourse unless a buffer zone is provided along the margin of the watercourse of sufficient width to confine visible siltation within the twenty-five percent (25%) of the buffer zone nearest the land-disturbing activity.
- (2) Unless otherwise provided, the width of the buffer zone begins and is measured landward from the normal pool elevation of impounded structures (lakes) to the nearest edge of the disturbed area and/ or five feet from the edge of the top of the bank of streams or rivers to the nearest edge of the disturbed area. Natural or artificial means of confining visible siltation must be placed, constructed or installed outside the undisturbed buffer zone.
- (3) For any watercourse, where more than one stream buffer width is imposed by Town of Weddington Code of Ordinance or other local, state or federal law(s), rule(s), or regulation(s), the greater buffer width stipulated shall apply.

(B) **Graded Slopes and Fills.** The angle for graded slopes and fills shall be no greater than the angle which can be retained by vegetative cover or other adequate erosion control devices or structures. In any event, slopes left exposed will, within 14 calendar days of completion of any phase of grading, be planted or otherwise be provided with ground cover, devices, or structures sufficient to restrain erosion.

- (C) **Fill Material.** Unless a permit from the Department's Division of Waste Management to operate a landfill is on file for the official site, acceptable fill material shall be free of organic or other degradable materials, masonry, concrete and brick in sizes exceeding twelve (12) inches, and any materials which would cause the site to be regulated as a landfill by the State of North Carolina.
- (D) **Ground Cover.** Whenever more than one (1) acre of land is uncovered, the person conducting the land-disturbing activity shall install such sedimentation and erosion control devices and practices as are sufficient to retain the sediment generated by the land-disturbing activity within the boundaries of the tract during construction upon and development of said tract. Provisions for a ground cover sufficient to restrain erosion must be accomplished within 15 working days or 60 calendar days, whichever is shorter following the land-disturbing activity.
- (E) **Prior Plan Approval.** No person shall initiate any land-disturbing activity that will disturb more than one acre on a tract unless a Plan for the activity is filed with and approved by the Town of Weddington. The land-disturbing activity may be initiated and conducted in accordance with the plan once the plan has been approved. The Town shall forward to the Director of the Division of Water Resources a copy of each Plan for a land-disturbing activity that involves the utilization of ditches for the purpose of de-watering or lowering the water table of the tract.

6558.607 DESIGN AND PERFORMANCE STANDARDS.

Erosion and sedimentation control measures, structures, and devices shall be so planned, designed, and constructed as to provide protection from the calculated maximum peak rate of storm water runoff from the ten-year storm. Storm water runoff rates shall be calculated using the procedures in the USDA, Natural Resources Conservation Service's "National Engineering Field Manual for Conservation Practices," or other acceptable calculation procedures.

6558.608 STORMWATER OUTLET PROTECTION.

- (A) Persons shall conduct land-disturbing activity so that the post-construction velocity of the ten-year storm runoff in the receiving watercourse to the discharge point does not exceed the greater of:
 - (1) The velocity established in Table 6558.608-1 of this Section;
 - or
 - (2) The velocity of the ten-year storm runoff in the receiving watercourse prior to the land-disturbing activity.
- (B) If the conditions of Section 6558.608 (A) cannot be met, then the receiving watercourse to and including the discharge point shall be designed and constructed to withstand the expected velocity anywhere the velocity exceeds the "prior to land-disturbing activity" velocity by ten percent (10%).
- (C) **Acceptable Management Measures.** Measures applied alone or in combination to satisfy the intent of this section are acceptable if there are no objectionable secondary consequences. The Town recognizes that the management of storm water runoff to minimize or control downstream channel and bank erosion is a developing technology. Innovative techniques and ideas will be considered and may be used when shown to have the potential to produce successful results. Some alternatives are to:

- (1) Avoid increases in surface runoff volume and velocity by including measures to promote infiltration to compensate for increased runoff from areas rendered impervious.
- (2) Avoid increases in storm water runoff discharge velocities by using vegetated or roughened swales and waterways in lieu of closed drains and high velocity paved sections.
- (3) Provide energy dissipaters at outlets of storm drainage facilities to reduce flow velocities to the point of discharge. These may range from simple rip-rapped sections to complex structures.
- (4) Protect watercourses subject to accelerated erosion by improving cross sections and/or providing erosion-resistant lining.

(D) **Exceptions.** This rule shall not apply where it can be demonstrated that storm water discharge velocities will not create an erosion problem in the receiving watercourse.

(E) Maximum permissible velocity for storm water discharges shall be regulated in accordance with Table 6558.608-1.

Table 6558.608-1 Maximum Permissible Velocities

Material	Feet/Second	Meters/Second
Fine sand (noncolloidal)	2.5	0.8
Sandy loam (noncolloidal)	2.5	0.8
Silt loam (noncolloidal)	3.0	0.9
Ordinary firm loam	3.5	1.1
Fine gravel	5.0	1.5
Stiff clay (very colloidal)	5.0	1.5
Graded, loam to cobbles (noncolloidal)	5.0	1.5
Graded, silt to cobbles (colloidal)	5.5	1.7
Alluvial silts (noncolloidal)	3.5	1.1
Alluvial silts (colloidal)	5.0	1.5
Coarse gravel (noncolloidal)	6.0	1.8
Cobbles and shingles	5.5	1.7
Shales and hard pans	6.0	1.8

6558.609 BORROW AND WASTE AREAS.

When the Person conducting the land-disturbing activity is also the person conducting the borrow or waste disposal activity, areas from which borrow is obtained and which are not regulated by the provisions of the Mining Act of 1971, and waste areas for surplus materials other than landfills regulated by the North Carolina Department of Environment and Natural Resources' Division of Solid Waste Management, shall be considered as part of the land-disturbing activity where the borrow material is being used or from which the waste material originated. When the person conducting the land-disturbing activity is not the person obtaining the borrow and/or disposing of the waste, these areas shall be considered a separate land-disturbing activity.

6558.610 ACCESS AND HAUL ROADS.

Temporary access and haul roads, other than public roads, constructed or used in connection with any land-disturbing activity shall be considered a part of such activity.

6558.611 OPERATIONS IN LAKES OR NATURAL WATERCOURSES.

Land-disturbing activity in connection with construction in, on, over, or under a lake or natural watercourse shall be planned and conducted in such a manner as to minimize the extent and duration of disturbance of the stream channel. The relocation of a lake, stream or other watercourse where relocation is an essential part of the proposed activity, shall be planned and executed so as to minimize changes in the lake, stream or other watercourse flow characteristics, except when justification acceptable to the Town for significant alteration to flow characteristic is provided.

6558.612 RESPONSIBILITY FOR MAINTENANCE.

During the development of a site, the person conducting the land-disturbing activity shall install and maintain all temporary and permanent erosion and sedimentation control measures as required by the approved plan or any provision of this Ordinance or the Act, or any order adopted pursuant to this Ordinance or the Act. After site development, the landowner or person in possession of the land shall install and/or maintain all necessary permanent erosion and sediment control measures, except those measures installed within a road or street right-of-way or easement accepted for maintenance by a governmental agency.

6558.613 ADDITIONAL MEASURES.

Whenever the Erosion Control Inspector determines that significant sedimentation is occurring as a result of land-disturbing activity, despite application and maintenance of protective practices, the person conducting the land-disturbing activity will be required to and shall take additional protective action.

6558.614 EXISTING UNCOVERED AREAS.

- (A) All uncovered areas existing on the effective date of this Ordinance which resulted from land-disturbing activity which exceed one (1) acre of land, that are subject to continued accelerated erosion and are causing off-site damage from sedimentation, shall be provided with a ground cover or other protective measures, structures, or devices sufficient to restrain accelerated erosion and control off-site sedimentation.
- (B) The Erosion Control Inspector will serve upon the landowner or other person in possession or control of that land a written notice of violation by registered or certified mail, return receipt requested, or other means reasonably calculated to give actual notice. The notice will set forth the measures needed to comply, and will state the time within which such measures must be completed. In determining the measures required and the time allowed for compliance, the Erosion Control Inspector shall take into consideration the economic feasibility, technology, and quantity of work required, and shall set reasonable and attainable time limits of compliance.
- (C) The Erosion Control Inspector reserves the right to require preparation and approval of a plan in any instance where control measures are required.

6558.615 PERMITS.

- (A) No person shall undertake any land-disturbing activity subject to this Ordinance without having first obtained a Plan Certificate and Letter of Approval or ESC Installation and Maintenance Agreement Approval from the Erosion Control Inspector, except that no Plan Certificate and Letter of Approval or ESC Installation and Maintenance Agreement Approval shall be required for any Land-Disturbing Activity:

- (1) For the purpose of fighting fires; or
 - (2) For the stock piling of raw or processed sand, stone, or gravel in material processing plants and storage yards, provided that sediment control measures have been utilized to protect against off-site damage; or
 - (3) That does not disturb more than one (1) acre in surface area. In determining the area, lands under one or multiple owners being developed as a unit will be aggregated.
- (B) Although a Plan Certificate and Letter of Approval is not required for land-disturbing activity comprising less than one (1) acre for **residential projects**, such activity shall be subject to all other requirements of this Ordinance and any other applicable standards or ordinances adopted by the Town of Weddington.
- (C) Submittals for erosion and sediment control plan approval and erosion control inspections shall be subject to any and all relevant fees as adopted by the Town Council and prescribed in the Town of Weddington Code of Ordinances. Fees shall accompany plan submittals, otherwise the submittal shall be determined incomplete and shall be returned to the applicant.

6558.616 EROSION AND SEDIMENTATION CONTROL PLANS.

- (A) Persons conducting land-disturbing activity shall be responsible for preparing a plan for all land-disturbing activities subject to this Ordinance whenever the proposed activity is to be undertaken on a tract disturbing more than one (1) acre of land, excluding **single-family residential development** addressed in Section 6558.605 (B).
- (B) An electronic submittal along with **Three complete hard copies** of the plan shall be filed with the Town of Weddington Zoning Administrator at least 30 days prior to the commencement of the proposed activity. A fee, made payable to the Town of Weddington, shall be charged for each plan review. Such fee shall be in accordance with a fee schedule adopted by the Town of Weddington Town Council. No plan shall be considered complete unless accompanied by such fee and a performance bond in the form of a certified check, cash or irrevocable letter of credit, in an amount deemed sufficient by the Town Engineer to cover all costs of protection or other improvements required to establish protective cover on the site in conformity with this ordinance. The performance bond shall remain effective until work has been completed, inspected and approved by the Town.
- (C) The Erosion Control Inspector ~~applicant~~ shall transmit a copy of the complete plan to the Union Soil and Water Conservation District (SWCD) for their review at least 30 days prior to the commencement of the proposed activity. The SWCD shall be given up to twenty (20) days to make comment on the plan. Failure of the SWCD to submit its comments to the Erosion Control Inspector within such time period shall not delay final action on the proposed plan by the Erosion Control Inspector.
- (D) The Erosion Control Inspector shall render a decision on a plan within thirty (30) days of submittal. The Erosion Control Inspector shall condition approval of a draft plan upon the applicants' compliance with local, state and federal water quality laws, regulations, ordinances and rules. Such decision shall be approval, approval with modifications, approval with performance reservations, or disapproval. Failure to approve, approve with modifications or performance reservations, or disapprove a complete plan within thirty (30) days of receipt shall be deemed approval.

Commented [CJ3]: Is Section 58.605(B) meant to address residential development of one acre or less in size, or is it meant to address ALL development of one acre or less in size? VERIFY INTENT WITH LISA

Commented [CJ4]: You can likely specify the number of copies you want here; we are looking to remove this specification by December, as more governments move towards e-permitting.

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Commented [CJ5]: You can also require the applicant submit the plan to the SWCD simultaneously.

(E) Any final decision made pertaining to the proposed plan shall be filed with the Town of Weddington Zoning Administrator (or as otherwise designated by the Town) and sent to the applicant by first class certified mail.

Commented [CJ6]: You may wish to send Disapproval or Approval with Modification letters via certified mail. In the event these decisions are appealed, you will need proof of service/delivery. AGREED

(F) Denial of a plan or a revised plan must specifically state in writing the reasons for disapproval. The Erosion Control Inspector must approve, approve with modifications, or disapprove a revised plan within fifteen (15) days of receipt, or it is deemed to be approved.

(G) Plan approval shall expire three (3) years following the date of approval, if no land-disturbing activity has been undertaken, or if no land-disturbing activity has occurred with three (3) years. If, following commencement of a land-disturbing activity pursuant to an approved plan, the Erosion Control Inspector determines that the plan is inadequate to meet the requirements of this ordinance, the Erosion Control Inspector may require any revision of the plan that is necessary to comply with this ordinance.

(H) Persons conducting land-disturbing activities which are addressed by Section ~~6-5-5.8~~ 616 shall have secured a Plan Certificate and Letter of Approval (in accordance with procedures described herein) before any land-disturbing activities commence. A copy of the approved plan and the Certificate of Plan Approval shall be maintained at the job site by the persons conducting the land-disturbing activity. After approving the plan, if the Erosion Control Inspector, either upon review of such plan or on inspection of the job site, determines that a significant risk of accelerated erosion or off-site sedimentation exists, the Inspector may require that a revised plan be submitted. Pending the preparation and approval of the revised plan, work shall cease or shall continue under conditions outlined by the Erosion Control Inspector.

(I) A plan may be disapproved unless accompanied by an authorized statement of financial responsibility and ownership. This statement shall be signed by the person financially responsible for the land-disturbing activity or their attorney-in-fact. The statement shall include the mailing and street addresses of the principal place of business of the person financially responsible and of the owner of the land or their registered agents. If the person financially responsible is not a resident of North Carolina, a North Carolina agent must be designated in the statement for the purpose of receiving notice of compliance or non-compliance with the plan, the Act, this ordinance, or rules or orders adopted or issued pursuant to this ordinance. If the applicant is not the owner of the land to be disturbed, the draft erosion and sedimentation control plan must include the owner's written consent for the applicant to submit a draft erosion and sedimentation control plan and to conduct the anticipated land disturbing activity.

(J) The person submitting a plan to the Erosion Control Inspector is, prior to submission of the plan, solely and exclusively responsible for determining whether the proposed land-disturbing activities require any form of state or federal environmental certification or documentation. Any plan submitted for a land-disturbing activity for which an environmental document is required by the North Carolina Environmental Policy Act (G.S. 113A-1, et seq.) shall be deemed incomplete until a complete environmental document is available for Town review. The Erosion Control Inspector, upon discovery that an environmental certification or documentation is required but was not obtained, shall promptly notify the person submitting the plan that the thirty (30) day time limit for review of the plan pursuant to Section ~~6-5-5.8~~ 616 (D) of this Ordinance shall not begin until a complete environmental document or certificate is available for review by the Erosion Control Inspector. However, no term or condition in the Ordinance shall be interpreted to place the burden for determining the necessity for an environmental certificate or documentation upon

the Erosion Control Inspector, and the person submitting the plan, as well as any other persons specified by law, rule or regulation, shall remain solely and exclusively responsible for such determination.

- (K) The plan required by this section shall contain architectural ~~and~~ or engineering drawings, maps, assumptions, calculations, and narrative statements as needed to adequately describe the proposed development of the tract and the measures planned to comply with the requirements of this Ordinance. Any erosion and sediment control measures and/or devices must be drawn to scale and contour when deemed applicable by the Erosion Control Inspector. Plan content may vary to meet the needs of specific site requirements. Detailed guidelines for plan preparation shall be found in the DEQ Erosion Control and Sedimentation Planning and Design Manual. The Erosion Control Inspector shall automatically disapprove a plan if it is determined that implementation of the plan would result in a violation of rules adopted by the Environmental Management Commission to protect riparian buffers along surface waters.

Commented [CJ7]: We updated this in the Model Ordinance to "or".

- (L) A plan may be disapproved upon a finding that an applicant, or a parent, subsidiary, or other affiliate of the applicant:

- (1) Is conducting or has conducted land-disturbing activity without an approved plan or has received notice of violation of a plan previously approved by the NCSCC or the Town pursuant to the Act and has not complied with the notice within the time specified in the notice.
- (2) Has failed to pay a civil penalty assessed pursuant to the Act or a local ordinance adopted pursuant to the Act by the time the payment is due.
- (3) Has been convicted of a misdemeanor pursuant to G.S. 113A-64(b) or any criminal provision of a local ordinance adopted pursuant to the Act; or
- (4) Has failed to substantially comply with applicable local, State or Federal laws, regulations, rules or ordinances adopted pursuant to the Act. For purposes of this subsection ~~6558.616~~ (L), an applicant's record may be considered for only the two (2) years prior to the application date.

- (M) Applications for amendment of a plan in written and/or graphic form may be made at any time under the same format as the original application. Until such time as said amendment is approved by Erosion Control Inspector, land-disturbing activity shall not proceed except in accordance with the plan as originally approved.

- (N) Any person engaged in land-disturbing activity who fails to file a plan in accordance with this Ordinance, or who conducts a land-disturbing activity except in accordance with provisions of an approved plan shall be deemed in violation of this Ordinance.

6558.617 TRANSFER OF PLANS.

- (A) The Town of Weddington may transfer a plan if all of the following conditions are met:

- (1) The successor-owner of the property submits to the local government a written request for the transfer of the plan and an authorized statement of financial responsibility and ownership, the successor-owner holds title to the property on which the permitted activity is occurring or will occur, the successor-owner is the sole claimant of the right to engage in the permitted activity, and there is no substantial change in the permitted activity.

(2) In addition to (1) above, the plan holder must also be one of the following:

- a. A natural person who is deceased.
- b. A partnership, Limited Liability Corporation, corporation, or any other business association that has been dissolved.
- c. A person who has been lawfully and finally divested of title to the property on which the permitted activity is occurring or will occur.
- d. A person who has sold the property on which the permitted activity is occurring or will occur.

(B) The plan holder shall comply with all terms and conditions of the plan until such time as the plan is transferred.

(C) The successor-owner shall comply with all terms and conditions of the plan once the plan has been transferred.

(D) Notwithstanding changes to law made after the original issuance of the plan, the local government may not impose new or different terms and conditions in the plan without the prior express consent of the successor-owner. Nothing in this subsection shall prevent the local government from requiring a revised plan pursuant to Section ~~6558.6~~16(G).

(E) Denials of transfer requests may be appealed pursuant to Section ~~6558.6~~22(A)

~~6558.6~~18 INSPECTIONS AND INVESTIGATIONS.

(A) The Erosion Control Inspector will periodically inspect land-disturbing activities to ensure compliance with the Act, this ordinance, or rules or orders adopted or issued pursuant to this ordinance, and to determine whether the measures required in the plan are effective in controlling erosion and sediment resulting from land-disturbing activity. Notice of the right to inspect shall be included in the certificate of approval of each plan. The landowner, the financially responsible party, or the landowner's or the financially responsible party's agent shall perform an inspection of the area covered by the plan after each phase of the plan has been completed and after establishment of temporary ground cover in accordance with ~~6558.6~~06 (C). The person who performs the inspection shall maintain and make available a record of the deviation from the approved erosion control plan, identify any measures that may be required to correct the deviation, and document the completion of those measures. The record shall be maintained until permanent ground cover has been established as required by the approved erosion and sedimentation control plan.

(B) No person shall willfully resist, delay, or obstruct the Erosion Control Inspector, while inspecting or attempting to inspect a land-disturbing activity under this section.

(C) If it is determined that a person engaged in the land-disturbing activity has failed to comply with the Act, this Ordinance, or rules, or orders adopted or issued pursuant to this Ordinance, or has failed to comply with an approved plan, a notice of violation shall be served upon that person. The notice shall be served by registered or certified mail or by any means authorized under GS 1A-1, Rule 4. The Notice of Violation shall specify a date by which, or a cure period within which, the person must comply with this Ordinance, and inform the person of the actions that need to be taken to comply with this Ordinance. The Notice shall set forth the measures necessary to achieve compliance with the plan, specify a reasonable time period within which such measures shall be completed, and warn that failure

to correct the violation within the time period stated is subject to a civil penalty and other enforcement actions. However, no time period for compliance need be given for failure to submit a plan for approval, for obstructing, hampering or interfering with an authorized representative while in the process of carrying out his official duties, or for the penalty that may be assessed pursuant to this Ordinance for the day the violation is assessed by the Erosion Control Inspector. Any person who fails to comply within the time specified in the Notice is subject to additional civil and criminal penalties for a continuing violation as provided in this Ordinance.

If the person engaged in the land-disturbing activity has not received a previous notice of violation under this section, the Erosion Control Inspector shall deliver the notice of violation in person. If the Erosion Control Inspector is unable to deliver the notice of violation in person within 15 days following discovery of the violation, the notice of violation may be served in the manner prescribed for service of process by G.S. 1A-1, Rule 4. The notice shall include information on how to obtain assistance in developing corrective measures. Assistance may be provided by referral to a technical assistance program in the Department (DEQ), referral to a cooperative extension program, or by the provision of written materials such as Department (DEQ) guidance documents.

- (D) The Erosion Control Inspector shall have the power to conduct such investigation as may be reasonably deemed necessary to carry out duties as prescribed in this ordinance, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting the sites of any land-disturbing activity. No person shall refuse entry or access to the Erosion Control Inspector who requests entry for purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper, or interfere with any such representative while in the process of carrying out their official duties as provided in this Ordinance.
- (E) The Erosion Control Inspector shall also have the power to require written statements, or the filing of reports under oath, with respect to pertinent questions relating to land-disturbing activity.
- (F) On any tract on which one (1) five (5) or more acres are disturbed, or that are disturbed under a common plan of development or sale, the person conducting land-disturbing activity will be responsible for self-inspection of erosion and sedimentation control facilities at least once every seven (7) days or within 24 hours of a storm event of greater than 0.5 1.0 inches of rain per 24-hour period.

Commented [CJ8]: This paragraph refers to an NPDES requirement. You may want to add the following text: "or that disturbed under a common plan of development or sale", as this will likely be effective on or about April 1, 2019.

Commented [CJ9]: This paragraph refers to an NPDES requirement. This value will be changed in the NCG01 permit to 1.0 inches, effective on or about April 1, 2019.

6558.619 PENALTIES; STOP WORK ORDERS.

(A) Civil Penalties.

- (1) Any person who violates any of the provisions of the applicable State, Federal or local laws, rules, regulations or ordinances, including this Ordinance, or rules or orders adopted or issued pursuant to applicable State, Federal or local laws, rules, regulations or ordinances, including this Ordinance, or who initiates or continues a land-disturbing activity for which an erosion and sedimentation control plan is required except in accordance with the terms, conditions, and provisions of an approved plan, is subject to a civil penalty. The maximum civil penalty ~~for~~ per violation is five thousand dollars (\$5,000). A civil penalty may be assessed from the date of the violation. Each day of a continuing violation shall constitute a separate violation. When the person has not been assessed any civil penalty under this subsection for any previous violation and that person

abated continuing environmental damage resulting from the violation within 180 days from the date of the notice of violation, the maximum cumulative total civil penalty assessed under this subsection for all violations associated with the land-disturbing activity for which the erosion and sedimentation control plan is required is twenty-five thousand dollars (\$25,000).

- (2) In determining the amount of the penalty, items which may be considered are the degree and extent of harm caused by the violation, the cost of rectifying the damage, the amount of money the violator saved by non-compliance, whether the violation was committed willfully and the prior record of the violator in complying with or failing to comply with this Ordinance.
- (3) The Erosion Control Inspector shall determine the amount of the civil penalty and shall notify the person who is assessed the civil penalty of the amount of the penalty, the reason for assessing the penalty, the option available to that person to request a remission of the civil penalty under G.S. 113A-64.2, the date of the deadline for that person to make the remission request regarding this particular penalty, and, when that person has not been assessed any civil penalty under this section for any previous violation, the date of the deadline for that person to abate continuing environmental damage resulting from the violation in order to be subject to the maximum cumulative total civil penalty under subdivision (1) of this subsection. The notice of assessment shall be served by any means authorized under G.S. 1A-1, Rule 4, and shall direct the violator to either pay the assessment ~~or~~ contest the assessment within 30 days by filing a petition for a contested case under Article 3 of Chapter 150B of the General Statutes, or file a request with the Sedimentation Control Commission for remission of the assessment within 60 days of receipt of the notice. A remission request must be accompanied by a waiver of the right to a contested case hearing pursuant to Chapter 150B of the North Carolina General Statutes and a stipulation of the facts on which the assessment was based.
- (4) The final decision on contested assessments shall be made by the governing body of the Town in accordance with the local ordinances or regulations adopted to establish and enforce the erosion and sedimentation control program. Appeal from the final decision of the governing body of the Town shall be to the Superior Court of the county where the violation occurred. Such appeals must be made within 30 days of the final decision of the governing body of the Town.
- (5) If payment is not received within 60 days after it is due, if a violator does not pay a civil penalty assessed by the Town of Weddington within 30 days after it is due, the Erosion Control Inspector may institute a civil action to recover the amount of the assessment. The civil action may be brought in the superior court of any county where the violation occurred or the violator's residence or principal place of business is located. A civil action must be filed within three years of the date the assessment was due. An assessment that is not contested is due when the violator is served with a notice of assessment. An assessment that is contested is due at the conclusion of the administrative and judicial review of the assessment.
- (3) In determining the amount of the penalty, items which may be considered are the degree and extent of harm caused by the violation, the cost of rectifying the damage, the amount of money the violator saved by non-compliance, whether the violation was committed willfully and the prior record of the violator in complying with or failing to comply with this Ordinance.
- (64) The clear proceeds of civil penalties collected by the Town must be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. Penalties collected by the Town may be diminished only by the actual costs of collection. The collection cost percentage to be used shall be established and approved by the North Carolina Office of State Budget and Management on an annual basis, based upon the

Commented [FB10]:

Commented [CJ11]: This has been changed in the latest Model Ordinance to account for the 60-day waiting period required for remission requests to be considered. (Thirty days is still required for petitions and payments.) SECTIONS ADDED

Commented [CJ12]: Would encourage adding the language included in the latest Model Ordinance. SECTON ADDED

computation of actual collection costs by each town for the prior fiscal year. In any event, the cost percentage shall not exceed twenty percent (20%) of penalties collected.

(B) Criminal Penalties. Any Person who knowingly or willfully violates any provision of this Ordinance, or rule, regulation or order adopted or issued pursuant to this Ordinance, or who knowingly or willfully initiates or continues a land-disturbing activity for which a plan is required, except in accordance with the terms, conditions, and provisions of an approved plan, shall be guilty of a Class 2 misdemeanor which may include a fine not to exceed \$5,000.00.

(C) Stop Work Orders.

- (1) The Erosion Control Inspector may issue a stop-work order per 58-3; if he finds that a land-disturbing activity is being conducted in violation of this Section or of any rule adopted or order issued pursuant to this Section, that the violation is knowing and willful, and that either:
 - (a) Off-site sedimentation has eliminated or severely degraded a use in a lake or natural watercourse or that such degradation is imminent.
 - (b) Off-site sedimentation has caused severe damage to adjacent land or that such damage is imminent.
 - (c) The land-disturbing activity is being conducted without an approved plan.
- ~~(2) The stop work order shall be in writing and shall state what work is to be stopped and what measures are required to abate the violation. The order shall include a statement of the findings made by the Town of Weddington pursuant to subsection (a) of this section, and shall list the conditions under which work that has been stopped by the order may be resumed. The delivery of equipment and materials which does not contribute to the violation may continue while the stop work order is in effect. A copy of this section shall be attached to the order.~~
- ~~(3) The stop work order shall be served by the sheriff of Union County or by some other person duly authorized by law to serve process as provided by G.S. 1A-1, Rule 4, and shall be served on the person at the site of the land disturbing activity who is in operational control of the land disturbing activity. The sheriff or other person duly authorized by law to serve process shall post a copy of the stop work order in a conspicuous place at the site of the land disturbing activity. The Town of Weddington shall also deliver a copy of the stop work order to any person that the Town of Weddington has reason to believe may be responsible for the violation.~~
- ~~(4) The directives of a stop work order become effective upon service of the order. Thereafter, any person notified of the stop work order who violates any of the directives set out in the order may be assessed a civil penalty as provided in Section 65.18(A). A stop work order issued pursuant to this section may be issued for a period not to exceed five days.~~
- ~~(5) The Erosion Control Inspector shall designate an employee (which may be the Erosion Control Inspector) to monitor compliance with the stop work order. The name of the employee so designated shall be included in the stop work order. The employee so designated, or the Erosion Control Inspector, shall rescind the stop work order if all the violations for which the stop work order are issued are corrected, no other violations have occurred, and all measures necessary to abate the violations have been taken. The Erosion Control Inspector shall rescind a stop work order that is issued in error.~~
- ~~(6) The issuance of a stop work order shall be a final agency decision subject to judicial review in the same manner as an order in a contested case pursuant to Article 4 of Chapter 150B of the General Statutes. The petition for judicial review shall be filed~~

~~in the superior court of the county in which the land-disturbing activity is being conducted.~~

~~(7) As used in this section, days are computed as provided in G.S. 1A-1, Rule 6.~~

~~(8) The Attorney for the Town of Weddington shall file a cause of action to abate the violations which resulted in the issuance of a stop work order within two business days of the service of the stop work order. The cause of action shall include a motion for an ex parte temporary restraining order to abate the violation and to effect necessary remedial measures. The resident superior court judge or any judge assigned to hear the motion for the temporary restraining order shall hear and determine the motion within two days of the filing of the complaint. The clerk of superior court shall accept complaints filed pursuant to this section without the payment of filing fees. Filing fees shall be paid to the clerk of superior court within 30 days of the filing of the complaint.~~

6558.620 INJUNCTIVE RELIEF.

- (A) Whenever the Erosion Control Inspector has reasonable cause to believe that any person is violating or threatening to violate this Ordinance or any term, condition, or provision of an approved plan, he/ she may, either before or after the institution of any other action or proceeding authorized by this Ordinance, institute a civil action for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the superior court in Union County.
- (B) Upon determination by a court that an alleged violation is occurring or is threatened, the court shall enter any order of judgment that is necessary to abate the violation, to ensure that restoration is performed, or to prevent the threatened violation. The institution of an action for injunctive relief under this section shall not relieve any party to the proceedings from any civil or criminal penalty prescribed for violations of this Ordinance.

6558.621 RESTORATION OF AREAS AFFECTED BY FAILURE TO COMPLY.

The Erosion Control Inspector may require a person who engaged in a land-disturbing activity and failed to retain sediment generated by the activity as required by subsection 6558.606 (C) to restore the waters and land affected by the failure so as to minimize the detrimental effects of the resulting pollution by sedimentation. This authority is in addition to any other civil or criminal penalty or injunctive relief authorized under this Ordinance.

6558.622 APPEALS.

Procedures which constitute the appeals process, related to the following actions:

- (A) **Plan Approval with Modifications or Plan Disapproval.** The appeal of an approval, approval with modifications or disapproval of a plan made by the Erosion Control Inspector with regard to this Ordinance shall be governed by the following provisions:
 - (1) The order of approval, disapproval, or modification of any proposed Plan made by the Erosion Control Inspector shall entitle the Person challenging such decision to a public hearing before the Town of Weddington Board of Adjustment if such Person submits written demand for a hearing and completes the necessary forms and pays the required appeals fee within fifteen (15) days following the date the decision was filed in The Town's Zoning Administrator office or mailed to the applicant, whichever date is later. Such written request and completed forms shall be submitted to the Clerk of the Board of Adjustment or his designee. Forms shall be available at the Town of

Weddington Town Hall, or as directed by the Erosion Control Inspector. A fee for such public hearing shall be in accordance with a fee schedule adopted by the Town of Weddington Town Council. No request shall be considered complete unless accompanied by such fee.

- (2) Notice of the Board of Adjustment public hearing shall be sent by first class mail to the applicant at least ten (10) days prior to the public hearing and to any person who has submitted written request to receive such notice at least ten (10) days prior to the date of the public hearing. The hearing shall be held no later than thirty (30) days after the date of receipt of said written request.
- (3) A hearing shall be conducted by the Board of Adjustment. A concurring vote per the Board of Adjustment's officially adopted by-laws will be necessary to reverse any order, requirement, decision, or determination of any official charged with the enforcement of this Ordinance, or to decide in favor of an appellant any matter upon which is required to pass or to grant variance from the provisions of this Ordinance. The Town shall keep minutes of the proceedings, showing the votes of each member upon each question and the attendance of each member at such hearings. The final disposition of the Town shall be based on findings of fact.
- (4) A party dissatisfied with the decision of the Board of Adjustment following the public hearing shall appeal such decision to the NCSCC pursuant to Title 15, Chapter 4B, Section .0018(d) of the North Carolina Administrative Code and as provided by NC GS 113A-61(c).

(B) Plan Disapproval Due To Prior Violation, Unpaid Penalties, or Non-compliance. In the event that a plan is disapproved pursuant to Subsection ~~6558.6~~16 (L) of this Ordinance, the Town of Weddington Inspector shall notify the Director of the Division of Land Resources of such disapproval, along with the reasons therefore, within ten (10) days after the date of the decision. The Erosion Control Inspector shall advise the applicant and the Director of the Division of Land Resources in writing as to the specific reasons that the plan was disapproved. The applicant may appeal the Erosion Control Inspector's disapproval of the plan pursuant to Subsection ~~6558.6~~16 (L) of this Ordinance directly to the NCSCC.

(C) Issuance of Notice of Violation, Penalties, or Order of Restoration. The appeal of Issuance of Notice of Violation, Assessment of Civil Penalty, or Order of Restoration made by the Town of Weddington with regard to this Ordinance shall be governed by the following provisions:

- (1) The issuance of a notice of violation, assessment of a civil penalty, or an order of restoration by the Erosion Control Inspector shall entitle the person alleged to be in violation of the Ordinance (petitioner) to appeal within thirty days by filing a petition for a contested case with the State Office of Administrative Hearings under Article 3 of Chapter 150B.

~~6558.6~~23 SEVERABILITY. If any section or specific provision or standard of this ordinance is found by a court to be unconstitutional or invalid for any reason, the decision of the court shall not affect the validity of any other section, provision, or standard of these regulations, except the provision in question. The other portions of these regulations not affected by the decision of the court shall remain in full force and effect.

~~6558.6~~24 EFFECTIVE DATE. This ordinance shall become effective upon approval of the North Carolina Sedimentation Control Commission.

Adopted the ____ day of _____, 201__

Elizabeth Callis, Mayor

Attest:

Karen Dewey, Town Clerk

ARTICLE IV. - LIGHTING

Sec. 14-81. - Purpose.

The purpose of this article is to improve nighttime public safety, utility, and security by restricting the nighttime emission of light rays. New lighting technologies have produced lights that are extremely powerful, and these lights may be improperly installed so that they create problems of excessive glare, light trespass, and higher energy use. Excessive glare can be annoying and may cause safety problems. Light trespass reduces everyone's privacy, may be detrimental to the aesthetic values of the town, and can restrict persons from the peaceful enjoyment of their property. Higher energy use results in increased costs for everyone. This article is intended to reduce the problems caused by excessive lighting, or by improperly designed and installed outdoor lighting.

(Ord. No. O-2000-01, 8-14-2000)

Sec. 14-82. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Average to minimum means the ratio of average footcandles to the minimum footcandle point calculation or reading for a given area. This ratio is generally maintained footcandles but could be initial. This ratio is an indicator of lighting uniformity. The lower the ratio, the better the uniformity.

Backlight, uplight, and glare (BUG) rating. A luminaire classification system that classifies backlight (B), uplight (U), and glare (G) ratings to evaluate luminaire optical performance related to light trespass, sky glow, and high angle brightness control.

~~*Candlepower* means luminous intensity. The term "candlepower" is normally associated with a directional type fixture such as a floodlight.~~

~~*Direct light* means light emitted directly from the lamp, off of the reflector or reflector diffuser, or through the refractor or diffuser lens, of a luminaire.~~

Fixture means the assembly that houses the lamp or lamps and can include all or some of the following parts: a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor or lens.

Floodlight or *spotlight* means any light fixture or lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction with a wide or narrow beam.

Footcandle means the amount of light falling on a surface, measured or calculated. It can be quantified as one lumen per square foot.

Footcandles, average, means the average of a number of points of footcandle calculations or footcandle readings in a given area. They could be initial or maintained.

Footcandles, average maintained, means the average of a number of points of footcandle calculations or footcandle readings in a given area which have been adjusted to account for maintenance factor, which includes luminaire dirt depreciation (LDD) and lamp lumen depreciation (LLD).

Footcandles, initial, means footcandles that are calculated with no adjustment for dirt build-up in the fixture or lamp lumen depreciation. Initial footcandles should be measured when a lighting system is new and after 100 hours of lamp burn-in time. Car dealerships are often designed using initial footcandles.

Footcandles, maintained, means footcandles that are calculated with an adjustment for a maintenance factor to include dirt buildup in the luminaire (fixture) and lamp lumen depreciation. The system is, in effect, overdesigned initially ~~and then, over time, allowed to reach a maintained~~so the gradual decrease in light output reaches the design footcandle level at a predetermined maintenance interval.

Full cutoff (fully shielded lights) means outdoor light fixtures shielded or constructed so that no light rays are emitted by the installed fixture at angles above the 90-degree horizontal plane, as certified by a photometric test report.

Commented [LT1]: These terms aren't used – okay deleting?

Glare means light emitting from a luminaire with an intensity great enough to reduce a viewer's ability to see or, in extreme cases, causing momentary blindness.

~~*Indirect light* means direct light that has been reflected or that has scattered off of other surfaces.~~

Lamp means the component of a luminaire that produces the actual light.

Light trespass means the shining of light produced by a luminaire beyond the boundaries of the property on which it is located.

Lumen output, initial, means ratings of a lamp as listed in a lamp catalog.

Lumens means the total quantity of light emitted from a light source, or a unit of luminous flux. One footcandle is one lumen per square foot. For the purpose of this article, the lumen output values shall be the initial lumen output ratings of a lamp.

Luminaire means a complete lighting system and includes a lamp or lamps and a fixture, housing, reflector, refractor, etc.

Maximum to minimum means the ratio of the maximum footcandle point calculation or reading to the minimum footcandle point calculation or reading for a given area. This ratio is generally maintained footcandles but could be initial. This ratio is an indicator of lighting uniformity. The lower the ratio, the better the uniformity.

Maximum means the maximum footcandle point calculation or reading in a given area. The maximum is generally maintained footcandles but could be initial.

Minimum means the minimum footcandle point calculation or reading in a given area. The minimum is generally maintained footcandles but could be initial.

Mounting height of luminaire means the vertical distance from the ground directly below the centerline of the luminaire to the center of the light source (lamp) in the luminaire.

Outdoor lighting means the nighttime illumination of an outside area or object by any manmade device located outdoors that produces light by any means.

~~*Preexisting*~~*Pre-existing* luminaires means luminaires not conforming to this article that were in place at the time the ordinance from which this article is derived was adopted.

Temporary outdoor lighting means the nighttime illumination of an outside area or object by any manmade device located outdoors that produces light by any means for a period of less than seven days, with at least 180 days passing before being used again.

(Ord. No. O-2000-01, art. 1, 8-14-2000)

Sec. 14-83. - Regulations.

All public and private outdoor lighting installed in the town shall be in conformance with the requirements established by this article. The provisions of this article are intended to supplement other applicable codes and requirements. Compliance with all applicable provisions of building, electrical and other codes must be observed. In the event of a conflict between the requirements of this article and other requirements, the more stringent requirement shall apply.

(Ord. No. O-2000-01, § 2-1, 8-14-2000)

Sec. 14-84. - Control of glare, light trespass and light levels.

- (a) *Glare control*. All fixtures other than floods shall be fully shielded and shall be classified as full cutoff, as classified by the IESNA. This shall mean that no light is to be emitted out of the fixture above the 90 degree-horizontal plane. Floodlights are to be equipped with shields and aimed so as to direct the light onto the area to be lighted.

- (b) *Light trespass.* The horizontal illuminance on the ground shall not exceed 0.4~~5~~ maintained footcandles ~~five feet beyond any adjacent~~at the property line.
- (c) *Light levels.* The following table summarizes the recommended light levels for general parking and pedestrian areas.

LIGHT LEVELS FOR GENERAL OUTDOOR

	Use/Task	Maximum Maintained Average Illuminance (Footcandles)	Uniformity Ratio (Average/ to Minimum)
(a)	Streets, local residential Local Street Classification (Residential/Low Pedestrian Activity)	0.4 avg.	6:1
(b)	Streets, local commercial Collector Street Classification (Commercial/Medium Pedestrian Activity)	0.9 avg.	64 :1
(c)	Parking, (residential, multifamily)		
	Low vehicular/pedestrian activity	0.2 min.	46 :1
	Medium vehicular/pedestrian activity	0.6 min.	46 :1
(d)	Parking, (industrial/commercial/institutional/municipal)		
	High activity, i.e., hospitals , regional shopping centers/fast-food facilities, major athletic/civic cultural events	0.9 min.	4:1
	Medium activity, i.e., community shopping, office parks, hospitals , commuter lots, cultural/civic/recreational events	0.6 min. 7	4:1
	Low activity, i.e., neighborhood shopping, industrial employee parking, schools, church parking	0.2 min. 4	4:1
(e)	Walkways and bikeways	0.5 avg.	5:1
	Low density residential (2 or less dwellings / acre)	0.3	6:1
	Medium density residential (more than 2 dwellings / acre)	0.4	4:1
(f)	Building entrances	5.0 avg.	2:1

Notes:

- ~~4.~~ Illumination levels are horizontal on the task, e.g. pavement or area surface.
- ~~2.~~ Uniformity ratios dictate that average illuminance values shall not exceed minimum values by more than the product of the minimum value and the specified ratio. For example, for commercial parking high activity, the average footcandles shall not be in excess of 3.6 (0.9 × 4).
- ~~3.~~ Any low or medium activity can be reclassified upward ~~when appropriate~~ with town approval when appropriate.

4. ~~Source: IESNA Lighting Handbook 8th edition.~~

4. 5. ~~Lighting levels may be less than the maximum maintained~~listed footcandles.

(d) ~~Sales/display areas. In some instances, higher values are required for retail sales/display areas such as car lots. Such values are given in the following table:~~

LIGHT LEVELS FOR SALES/DISPLAY

	Use/Task	Maximum Footcandles	Uniformity Ratio Max./Min.
(a)	Main Business District (highly competitive):		
	▲ Adjacent to roadway	10—20	5:1
	▲ Other rows	5—10	10:1
	▲ Entrances	5—10	10:1
	▲ Driveways	2—3	5:1
(b)	Secondary Business Districts (or small towns):		
	▲ Adjacent to roadway	5—10	5:1
	▲ Other rows	2.5—5	10:1
	▲ Entrances	2.5—5	5:1
	▲ Driveways	1—2	10:1

~~Source~~Sources: IESNA RP-33-99-14, RP-8-18, Lighting Handbook 10th edition

(e) *Gas station/convenience store lighting.* Lighting levels for convenience stores, gas station and other similar locations shall be adequate to facilitate the activities taking place in such locations. Lighting of such areas shall not be used to attract attention to such businesses. Signs allowed under article V of chapter 58 shall be used for that purpose. Facilities having canopies shall be restricted to ~~no more than 320 watt~~low-profile surface mounted or recessed fixtures, including lenses, mounted flush with the bottom of the canopy. The design light level shall ~~not exceed~~be 20 footcandles average maintained, ~~measured~~ at ground level at the gas pump island area. Canopy fixtures shall have lumen packages of 10,000 (maximum), 4000K; and meet the glare requirements for G1 BUG Rating. Lights shall not be mounted on the top or sides (fascias) of the canopy, and the sides (fascias) of the canopy shall not be illuminated.

(f) *Sportsfield lighting.* Lighting for sportsfields is generally in excess of general outdoor lighting levels. Recreation lighting levels established by the IESNA are to be used as the standard. Higher lighting levels for tournament or high league play are sometimes required and must be approved by the town prior to construction. All sportsfields must meet the following minimum standards:

- (1) Fixtures must not exceed 80 feet in mounting height, including bases and/or other mounting structures.
- (2) Fixtures must be fitted with the manufacturer's glare control package. If the manufacturer does not have a glare control package, the fixture specification must be changed to a manufacturer that offers a glare control package.
- (3) Fixtures must be designed with a sharp cutoff and aimed so that their light beams fall within the primary playing area and the immediate surroundings, so that off-site direct illumination is significantly restricted.
- (4) Lighting shall be extinguished no later than one hour after the event ends.

(g) *Signs.*

- (1) Lighting fixtures illuminating signs shall be carefully located, aimed and shielded so that light is directed only onto the sign facade and glare is significantly reduced. Lighting fixtures shall not be aimed toward adjacent streets, roads or properties.
- (2) Lighting fixtures illuminating signs shall be of a type such that the light source (bulb) is not directly visible from adjacent streets, roads or properties.
- (3) Internally illuminated signs are prohibited.
- (4) To the extent practicable, lighting fixtures shall be directed downward rather than upward.
- (5) This article does not regulate outdoor signs. Such regulations have been adopted and can be found in article V of chapter 58.

~~(h) —~~ *Building facades.*

- ~~(1) Minimum illumination on any vertical surface or angular roof shall not exceed 5.0 footcandles average maintained.~~
- ~~(2) Lighting, ornamental and general use lighting. All ornamental and general use fixtures attached to buildings or structures shall be carefully located, aimed, and shielded so that light direct illumination is directed only onto focused exclusively on the building facade. Lighting fixtures shall not be directed toward adjacent streets, facade or roads.~~

~~(3) —~~ To the extent practicable, lighting ground immediately below the fixture. Additionally, these fixtures shall also meet the following standards:

- ~~(1) All wall-mounted fixtures, wall packs, porch lights, ceiling mounted and pendant style fixtures shall be full cutoff fixtures.~~

~~Exception: The fixture delivers a maximum of 1,000 lumens output (equivalent to a 60 watt incandescent bulb) and utilizes a translucent lens covering the light source.~~

- ~~(2) All recessed ceiling fixtures incorporating a lens cover shall be directed downward rather than upward, restricted to lenses that are either recessed or flush with the ceiling.~~
- ~~(3) Lamps providing minimum exit discharge lighting as required by the NC Building Codes shall be shielded unless otherwise exempt.~~
- ~~(4) Dual purpose fixtures (general use and exit discharge) fitted with battery back-up for emergency use shall be full cut-off. Those fixtures that come on only during an emergency or power outage are exempt.~~
- ~~(5) All LED lighting attached to buildings or structures shall have a maximum BUG rating of B2, U0, G2, unless otherwise exempted or excepted.~~

(i) *Softscape/holiday/festive lighting.* All softscape (landscape) lighting shall be aimed and shielded, if necessary, so as not to cause a hazard to a motorist or pedestrian. All fixtures shall be less than 50 watts. All holiday lighting shall be temporary in nature and shall be used only during the holiday or festive celebration period.

(j) *Security lighting.* All dusk-to-dawn security lights (aka: barn light, yard light, power-arm refractor) shall be full cutoff fixtures with a maximum rating of 9,500 fixture lumens (6,000 fixture lumens in residential zoning districts) with a mounting height not to exceed 25 feet.

a. All new dusk-to-dawn utility type fixtures must be equipped with a reflector shield that provides a full cutoff light distribution as defined in Sec. 14-82 of this article. An approved alternative is to install a different type of fixture that has a full cutoff light distribution with a maximum rating of 9,500 lumens.

b. All new LED dusk-to-dawn utility type fixtures shall comply with the LED standards listed in subsection (k) below.

(k) All LED lighting shall meet the B-U-G ratings noted in the applicable subsections and comply with all other applicable requirements, and shall also meet the following standards:

a. The LED correlated color temperature (CCT) shall not exceed 4,000K (Kelvin degrees).

b. The maximum number of fixture lumens shall not exceed 6,500 in residential districts or 20,000 lumens in non-residential districts or for legal non-residential uses in residential districts, unless otherwise allowed or exempted.

(l) Street lighting.

(1) Existing non-LED street lights may be replaced with similar non-LED fixtures where warranted by NCDOT and approved by the administrator.

(2) General design standards.

a. Spacing. In areas where post-mounted fixtures (18-foot mounting height or less) are installed, the spacing of posts should be adjusted to the particular fixtures used and as approved by the director of public works or his/her designee. IESNA Recommended Practice 8 (Roadway Lighting) should be used as a guide for street lighting design.

b. Alignment. Street lighting on newly constructed streets shall be alternately staggered on each side of the street wherever possible.

c. Luminance. street lighting fixtures shall meet the following lumen ratings:

i. In residential districts — no greater than 6,500 fixture lumens, with exceptions noted in subsection (5) below.

ii. In non-residential districts — no greater than 20,000 fixture lumens, with exceptions noted in subsection (5) below.

d. Mounting support. It is preferred that existing poles and associated mounting hardware be used to mount street lights. However, decorative poles and associated mounting hardware may be used upon agreement between the requestor and the town.

e. Variations in land elevations. Where land elevations vary and cause the street lighting poles to be installed higher or lower than adjacent roads or property, thus causing offensive light trespass and/or glare, the administrator may require shields to be installed on the fixtures at the time of the installation or afterwards. If shields do not correct the problem sufficiently, the administrator may require that one or more of the following measures be implemented to mitigate the conflict to the maximum extent possible:

i. Change the aiming of offending fixtures.

ii. Change the location and/or mounting height of the offending poles.

iii. Change the light distribution pattern of the offending fixtures, or

iv. Remove the offending poles and fixtures from the site.

(5) LED street lighting shall comply with the standards in subsection (k) and shall have a maximum BUG rating of B3, U3, G3 on non-residential streets, and a maximum of B2, U1, G2 on residential streets.

Exceptions:

a. Use of LED street lights in residential areas over 6,500 and up to 8,200 fixture lumens are allowed at intersections and safety sensitive locations, as deemed necessary by the administrator.

Commented [LT2]: The majority of nonresidential use in residential district are Churches.(we have a lot of them) Is it normal for a church parking lot to be at 20,000 lumens?

Sec. 14-85. - Exceptions and exemptions to general design standards.

- (a) The design for an area may suggest the use of parking lot lighting, area lighting and roadway fixtures of a particular period or upscale architectural style such as the nostalgic lantern as either alternatives or supplements to the lighting described above. These decorative post-mounted fixtures are generally classified as noncutoff by the IESNA and are acceptable. The maximum lumens generated from each fixture shall not exceed 96,500 initial lamp lumens-per fixture, and each fixture must be equipped with a solid top to reduce the amount of light going into the sky. A BUG rating not exceeding B3, U3, G3 is acceptable for this application upon approval of the administrator.

(1) The adopted town standard is Streetworks model ACN-080-LED-E-U-33-2-4-2 with 7030 option for 3000K, or in Type V distribution (substitute 55 in place of 33), as manufactured by Eaton. Coordinate with the administrator if street lights are provided through the local utility.

- (b) All temporary emergency lighting needed by the sheriff or fire departments or other emergency services, as well as all vehicular luminaries, shall be exempt from the requirements of this article.
- (c) All hazard warning luminaries required by federal regulatory agencies are exempt from the requirements of this article, except that all luminaries must be shown to be as close as possible to the federally required minimum lumen output requirement for the specific task.
- (d) Motion detector security lights which are normally "off" and which are activated for less than five minutes occasionally when motion is detected are exempt from this article.
- (e) In the case of flags, statues or other top-of-pole mounted objects, including neighborhood entrances, which cannot be illuminated with down-lighting, upward lighting may be used only in the form of two narrow-beam spotlights which confines the illumination to the object of interest.

(Ord. No. O-2000-01, § 2-3, 8-14-2000)

Sec. 14-86. - Prohibitions.

- (a) The operation of searchlights, lasers or other high-intensity beams is prohibited.
- (b) The use of flashing, rotating or pulsating lighting devices is prohibited.

(Ord. No. O-2000-01, § 2-4, 8-14-2000)

Sec. 14-87. - Temporary outdoor lighting.

- (a) Any temporary outdoor lighting that conforms to the requirements of this article shall be allowed. Any temporary lighting as proposed through a temporary use permit shall be reviewed and approved by the planning board when considering said permit. Any other nonconforming temporary outdoor lighting may be permitted by the town council after considering:
- (1) The public and/or private benefits that will result from the temporary lighting;
 - (2) Any annoyance or safety problems that may result from the use of the temporary lighting; and
 - (3) The duration of the temporary nonconforming lighting.
- (b) The applicant shall submit a detailed description of the proposed temporary nonconforming lighting request to the town council in accordance with all applicable submittal procedures, who shall consider the request at the next regularly scheduled meeting. Prior notice of the meeting shall be provided to the applicant. The town council shall render its decision on the temporary lighting request and notify the applicant in writing within two weeks from the date of its decision. A failure of the town council to act on a request shall constitute a denial of the request.

(Ord. No. O-2000-01, § 2-5, 8-14-2000; Ord. No. O-2017-16, 11-13-2017)

Sec. 14-88. - Grandfather provision for ~~preexisting~~pre-existing luminaries.

Commented [LT3]: (5) above on this page, says G3 non residential streets, G2 for residential streets. This says G3 is acceptable street light.

- (a) All existing lighting installed on or before the adoption of the ordinance from which this article is derived is "grandfathered" and therefore is acceptable as is and is not required to be changed.
- (b) Luminaries that undergo a change in light source, wattage or fixture housing must be changed to come within compliance of this article.

(Ord. No. O-2000-01, art. 3, 8-14-2000)

Sec. 14-89. - Authorization for installation of public area and roadway lighting.

(a) Installation of any new public area and roadway lighting fixtures other than for traffic control shall be specifically approved by the town council.

(b) The administrator or his designee shall evaluate and approve requests for additions, removals or other changes to street lighting and respond to the requestor within 30 days.

Commented [LT4]: Moved here.

(Ord. No. O-2000-01, art. 4, 8-14-2000)

Sec. 14-90. - Construction.

(a) *Submission contents.*

- (1) Any applicant seeking lighting approval as required shall submit the information required by this subsection. Where applicable, this information shall be submitted as part of a final subdivision plat, as set forth in chapter 46. The submission shall contain, but not be limited to:
 - a. Plans indicating the location on the premises, a point-by-point footcandle diagram and the type of illuminating devices, fixtures, lamps, supports, reflectors, and other devices.
 - b. Description of the illuminating devices, fixtures, lamps, supports, reflectors and other devices. This may include, but is not limited to, catalog cuts by manufacturers and drawings (including sections where required).
 - c. Photometric data, such as that furnished by manufacturers, or similar, showing the angle of cutoff or light emissions.
 - (2) The electric utilities that serve the town, given the ongoing high volume of street lights and other outdoor lighting provided by these utilities, are granted a waiver to the procedures described in the appropriate section of this Code or ordinance of the town regarding regulation of utility companies.
 - (3) The town will require each electric utility company to comply as follows:
 - a. A materials specification book for the electric utility fixtures, lamps, supports, reflectors, poles, raised foundations and other devices will be supplied by the electric utility to the town with a table of contents showing the identification codes and page numbers for the electric utility's equipment available to customers. All lighting equipment in this book must be approved by the town as well as all subsequent new lighting equipment that is proposed to be added by the electric utility. Each project will not require individual approval provided the approved equipment in the book is utilized. *Note:* The use of this book will significantly reduce the paperwork required from the utility lighting supplier.
 - b. A point-by-point footcandle array in a printout format indicating the location, aiming and type of fixtures shall be provided for each project.
 - c. If at some future date, if said project is found to be out of compliance, corrections will be made by the electric utility to allow the project to come under compliance at the utility's expense.
- (b) *Additional submission.* The required plans, as herein called for, shall be sufficiently complete to enable the zoning administrator, or other such person assigned to administer the provisions of this article by the town council, to determine compliance with this article. The zoning administrator may

require the applicant to submit additional information, on a case-by-case basis, to determine compliance with this article. Such information may include certified reports of tests conducted by a recognized testing laboratory.

- (c) *Subdivision plat certification.* If any subdivision proposes to have installed street or other common or public area outdoor lighting, the final plat shall contain a statement certifying that the applicable provisions of this article will be adhered to.
- (d) *Lamp or fixture substitution.* Should any outdoor light fixture, or the type of light source therein, be changed after the final plat approval, a change request must be submitted to the zoning administrator for approval, together with adequate information to assure compliance with this article, which must be received prior to substitution.
- (e) *Technical assistance.* If the town requires technical assistance in determining whether plans and lighting equipment submitted for approval meet the requirements of this article, the cost for a lighting consultant's technical services will be paid to the town by the applicant requesting approval of the installation before final plat approval.

(Ord. No. O-2000-01, art. 5, 8-14-2000)

Sec. 14-91. - Notification requirements.

The town zoning permit shall include a statement asking whether the planned project will include any outdoor lighting.

(Ord. No. O-2000-01, art. 6, 8-14-2000)

Sec. 14-92. - Violations, legal actions and penalties.

- (a) *Violation.* It shall be a civil infraction for any person to violate any of the provisions of this article. Each and every day during which the violation continues shall constitute a separate offense.
- (b) *Violations and legal actions.* If, after investigation, the zoning administrator finds that any provision of this article is being violated, he shall give notice, by hand delivery or by certified mail, return-receipt requested, of such violation to the owner and/or to the occupant of such premises demanding that violation be abated within 30 days of the date of hand delivery or of the date of mailing of the notice. If the violation is not abated within said 30-day period, the zoning administrator may institute actions and proceedings, to enjoin, restrain or abate any violations of this article and to collect any penalties associated with such violations.
- (c) *Penalties.* A violation of this article shall be punishable in accordance with section 58-3.

(Ord. No. O-2000-01, art. 7, 8-14-2000)

Secs. 14-93—14-100. - Reserved.

TOWN OF WEDDINGTON

MEMORANDUM

TO: Chairman and Planning Board

FROM: Lisa Thompson, Town Administrator/Planner

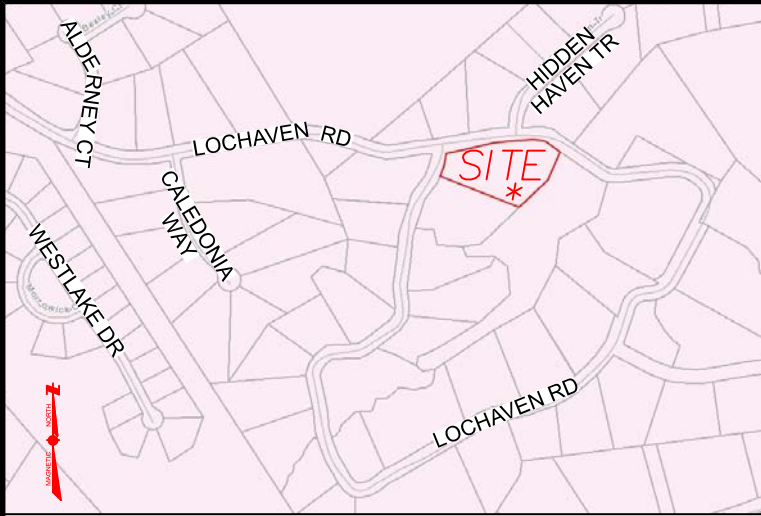
DATE: April 22, 2019

SUBJECT: Samuels/Lohwasser Minor Subdivision

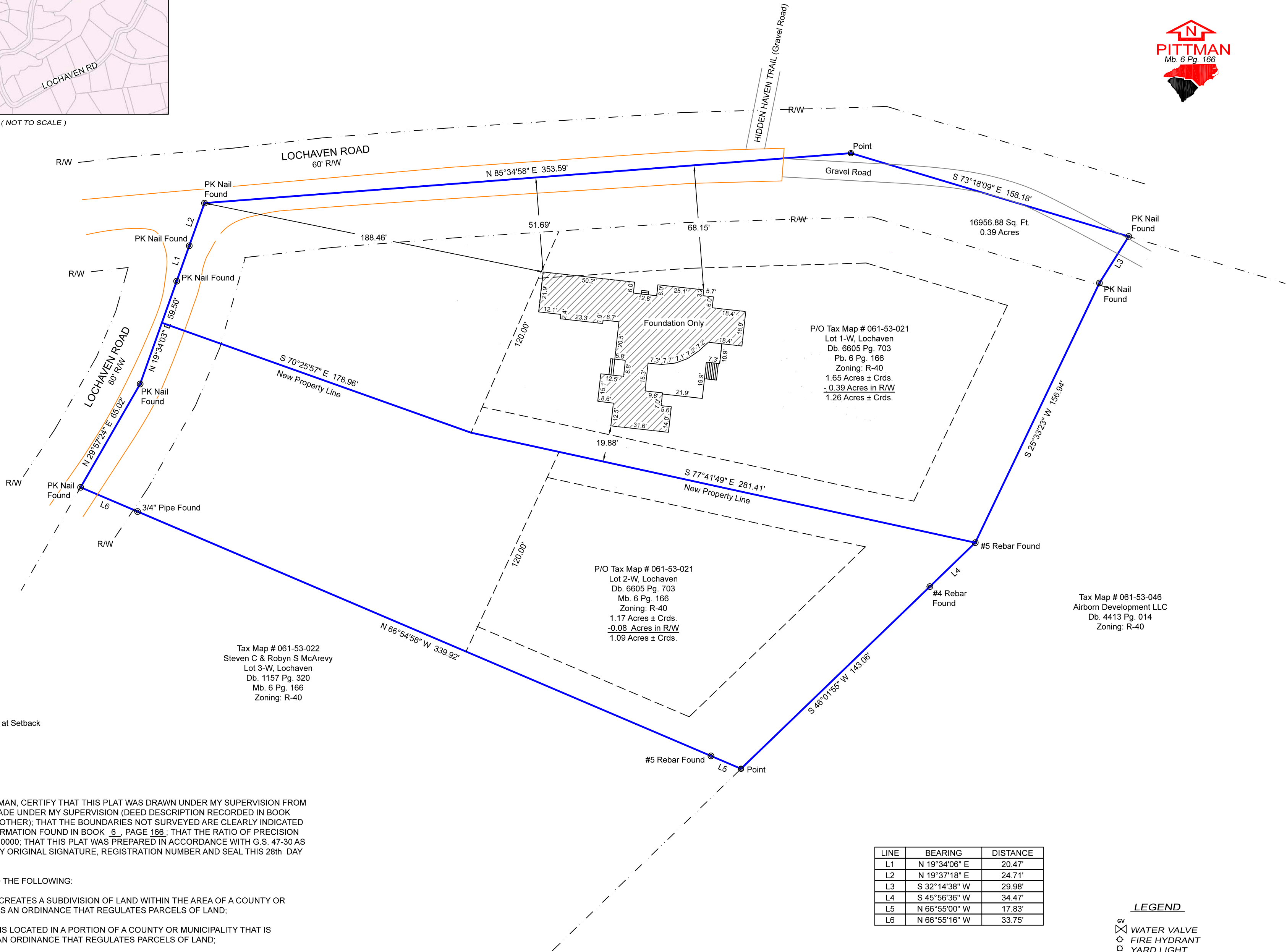
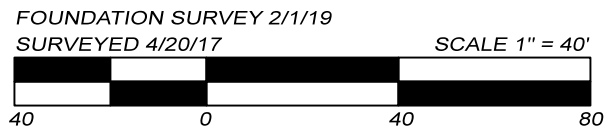
The applicant, Timothy Samuels is seeking a minor subdivision for property located at 542 Lochaven Road (parcel 06153021). It is a total of 2.55 acres and is zoned R40 residential.

The resultant lots are approximately 1.26 acres and 1.09 acres. Both lots meet the minimum size requirement, the minimum front, side and rear yard setbacks and are at least 120' wide at the established front setback.

The proposed minor subdivision is in general conformity with the Town of Weddington Zoning and Subdivision Ordinances; therefore, staff recommends approval.



VICINITY MAP (NOT TO SCALE)



Setbacks
Front has to be 120.00' at Setback
Side: 25.00' Street side
Side: 15.00'
Rear: 40.00'

"I, JAMES JETTER PITTMAN, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN BOOK 6605, PAGE 705, ETC.) (OTHER); THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN BOOK 6, PAGE 166; THAT THE RATIO OF PRECISION AS CALCULATED IS 1: 10000; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL THIS 28th DAY OF APRIL, A.D., 2017.

I FURTHER CERTIFY TO THE FOLLOWING:

X. THAT THE SURVEY CREATES A SUBDIVISION OF LAND WITHIN THE AREA OF A COUNTY OR MUNICIPALITY THAT HAS AN ORDINANCE THAT REGULATES PARCELS OF LAND;

___ THAT THE SURVEY IS LOCATED IN A PORTION OF A COUNTY OR MUNICIPALITY THAT IS UNREGULATED AS TO AN ORDINANCE THAT REGULATES PARCELS OF LAND;

ANY ONE OF THE FOLLOWING:

___(A). THAT THE SURVEY IS OF AN EXISTING PARCEL OR PARCELS OF LAND AND DOES NOT CREATE A NEW STREET OR CHANGE AN EXISTING STREET;

___(B). THAT THE SURVEY IS OF AN EXISTING BUILDING OR OTHER STRUCTURE, OR NATURAL FEATURE, SUCH AS A WATERCOURSE, OR

___(C). THAT THE SURVEY IS A CONTROL SURVEY.

___(D). THAT THE SURVEY IS OF ANOTHER CATEGORY, SUCH AS THE RECOMBINATION OF EXISTING PARCELS, A COURT-ORDERED SURVEY, OR OTHER EXCEPTION TO THE DEFINITION OF SUBDIVISION;

___(E). THAT THE INFORMATION AVAILABLE TO THE SURVEYOR IS SUCH THAT THE SURVEYOR IS UNABLE TO MAKE A DETERMINATION TO THE BEST OF THE SURVEYOR'S PROFESSIONAL ABILITY AS TO PROVISIONS CONTAINED IN (A) THROUGH (D) ABOVE.



I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the Town of Weddington and that I hereby adopt this plan of subdivision with my free consent and establish minimum building setback lines as noted.

Owner _____ Date _____

LINE	BEARING	DISTANCE
L1	N 19°34'06" E	20.47'
L2	N 19°37'18" E	24.71'
L3	S 32°14'38" W	29.98'
L4	S 45°56'36" W	34.47'
L5	N 66°55'00" W	17.83'
L6	N 66°55'16" W	33.75'

LEGEND	
	WATER VALVE
	FIRE HYDRANT
	YARD LIGHT
	UTILITY POLE
	TELEPHONE PEDESTAL
	POWER TRANSFORMER
	SPRINKLER CONTROL VALVE
	CLEAN OUT
	SANITARY SEWER MANHOLE
	SANITARY SEWER LINE
	STORM DRAIN MANHOLE
	STORM DRAIN CATCH BASIN/INLET
	STORM DRAIN LINE
	FENCE LINE
	OVER HEAD UTILITY
	UNDERGROUND UTILITY
	FOUND PROPERTY CORNER
	SET PROPERTY CORNER
	CALCULATED POINT
	SIGN
	UNDERGROUND WATER LINE

MINOR SUBDIVISION FOR

TIMOTHY R SAMUELS & PAULA J LOHWASSER

542 LOCHAVEN ROAD

SANDY RIDGE TOWNSHIP UNION COUNTY NORTH CAROLINA

PROJECT No:		No.	DATE	REVISION
U351B2		1	2/1/19	Foundation Survey
DATE 4/28/17		2	4/5/19	Revised New Property Lines
SCALE 1"=40'				
DES.				
DR. BSG				
CKD. JJP				

PITTMAN
professional land surveying

WWW.PITTMANLANDSURVEY.COM
P.O. BOX 1512, FORT MILL, SC 29716 (803) 547-7969



Staff Notes: Randall's suggested the language below in Red. This requires home to face a thoroughfare; or if not, require a 150' buffer that can be reduced to 50 provided a double row of evergreens.

Current language requires 100' thoroughfare buffer with a 10' planted strip for lots where the rear or side abut a thoroughfare.

The idea is best seen in the Retreat subdivision off Weddington Church Road (top picture) versus the steeple chase subdivision across the street.



46-77 *Buffering along thoroughfares.*

- (a) Residential developments shall be designed so that lots face toward either internal subdivision streets or toward existing state roads across conservation land such as “foreground meadows”. As an exception, the back ends or rear yards of lots may be oriented toward existing thoroughfares when buffered by at least 150 feet of existing woodland providing adequate visual screening throughout the year. That woodland buffer width may be reduced to 50 feet if a double row of evergreen trees is planted, utilizing a species that does not lose its lower branches as they age, as do many pines. To maintain year-round screening, evergreen shrubs shall not be of a species attractive to deer as winter food. ~~Where side and rear lot lines abut along a thoroughfare as defined in the Weddington Roadway Standards, the subdivider shall provide a natural buffer between the lot lines paralleling the thoroughfare and the thoroughfare road right of way. The natural buffer shall materially screen all principal and accessory uses from public view from the thoroughfare. The buffer shall consist of a natural plantings, or a berm.~~ Any walls, fences or other constructed devices shall be allowed within the buffer area, and shall be approved by the zoning administrator. **Earthen berms are not a permitted design approach as they are inherently nonrural and would inappropriately alter the rural character of the RCD, even if landscaped.**
- (b) The subdivider is encouraged to propose the use of existing natural vegetation and/or topography or a combination of existing features as prescribed in this section when the purpose and intent of this section can be met with such methods.
- (c) Such screening shall be located on the property with the use with which it is associated or required, and shall materially screen the subject use from the view of the adjoining properties. Screening shall be in the form of all natural material, including brick with no exposed cement block. When screening is in the form of natural vegetation, a buffer strip at least ten feet wide shall be planted. This strip shall be free of all encroachments by building, parking areas or impervious coverage.
- (d) The buffer requirement is 100 feet **between homes in the proposed subdivision and multi-family or nonresidential development on adjoining properties. for subdivisions,** which is the minimum distance separation from the edge of the road right-of-way. **This buffer width may be reduced to 50 feet if a double row of evergreen trees is planted, utilizing a species that does not lose its lower branches as they age, as do many pines. To maintain year-round screening, evergreen shrubs shall not be of a species attractive to deer as winter food. Table 46-76 lists the required planting of trees and shrubs within this buffer. If the required buffer exceeds 15 percent of the total acreage of the parcel, the zoning administrator may reduce the required buffer to an amount equal to 15 percent, provided that sufficient evergreens are planted to create an effective visual buffer, as described above**

TABLE 46-76

ACRES	< 0. 5	0. 5	1. 0	1. 5	2. 0	2. 5	3. 0	3. 5	4. 0	4. 5	5. 0	5. 5	6. 0	6. 5	7. 0	7. 5	8. 0	8. 5	9. 0	9. 5	10 or mor e
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TREES (per 100 ft.)	3	4	5	6	7	8	9															
SHRUB S (per 100 ft.)	20																					20

- (5) Any fence or wall shall be permitted with the following standards:
- Constructed in a durable fashion of brick, stone, other masonry materials or wood posts and planks or metal or other materials specifically designed as fencing materials, or any combination thereof as may be approved by the zoning administrator. No more than 25 percent of the fence surface shall be left open, and the finished side of the fence shall face the abutting property. A chainlink fence with plastic, metal or wooden slats may not be used when abutting residential uses and districts;
 - Walls and fences shall be a minimum height of six feet.
- (6) Required trees and shrubs within the buffer shall meet the following standards:
- Forty percent of the required trees within the buffer shall be large mature trees; Evergreen trees shall be of a species that does not lose its lower branches as the trees age, as do many pines. Evergreen shrubs shall not be of a species that are attractive to deer as winter food, to maintain year-round screening.
 - All trees shall have a minimum caliper of two inches measured six inches above ground at the time of planting;
 - Shrubs shall be evergreen and at least three feet tall when planted with the average height of six feet in three to four years. However, 25 percent of the shrubs may vary from the above standard. The allowed variations are as follows:
 - Shrubs may be deciduous;
 - Shrubs may be two feet tall when planted, provided an average height of three to four feet is expected as normal growth within four years;
 - Shrubs planted on a berm may be of lesser height, provided the combined height of the berm and plantings is at least eight feet after four years;
 - Shrubs and trees shall be on the approved plant list in appendix 1 to chapter 58;
 - All specifications for the measurement, quality, and installation of trees and shrubs shall be in accordance with the American Standards for Nursery Stock, published by the American Association of Nurserymen, and free of disease; and
 - Twenty-five percent of all trees will be evergreen.

- (7) Landscaping buffers to existing roadways or abutting nonresidential development shall have an arrangement of trees and shrubs in the buffer area, which shall be done in a manner that provides a visual separation between abutting land uses. Shrubs shall be massed in rows or groups to achieve the maximum screening effect. Guidelines for the arrangement of plant material are illustrated in table 46-76.
- (8) In the event that it can be demonstrated that existing vegetation meets the intent of this section, but the plant materials are not on the approved list, the zoning administrator may waive the requirements for plant materials. If a plant material is not on the approved list, the zoning administrator may determine whether it is acceptable.
- (10) Required buffers shall not be disturbed for any reason except for required driveways, sidewalks, or other pedestrian or bicycle paths, walls, fences, or required landscaping, landscaping maintenance or replacement, or maintenance and construction of berms, or utility lines. However, utility line construction must meet the following requirements:
 - a. The removal of any tree larger than six inches caliper or any dogwood or redbud larger than two inches in caliper shall require the approval of the zoning administrator;
 - b. No utility easements shall run longitudinally within a buffer yard.
- (11) To the extent possible, the path cleared for the utility lines shall be replaced with plant materials which are consistent with those that existed prior in the buffer yard.
- (12) In no case shall the plant species of *Pueraria lobata* (Kudzu), *Fallopia Japonica* (Japanese knotweed) or *Lythrum Salicaria* (purple loosestrife) be used for planting with the buffer.
- (13) The developer shall be required to replace any plant material which has not remained viable or has failed to stabilize the soil through two consecutive growing seasons.
- (14) All buffers shall be constructed in a manner that shall allow for adequate sight distance where subdivision streets intersect with the thoroughfare.
- (15) If utilities are located within the buffer yard, then the right-of-way width must be added to the total buffer width, in addition to the required width in table 46-76. This additional buffer width can be added into the calculated lot area.
- (16) If above ground utilities are to remain in the buffer yard, then all landscaping, including the location of a berm, must be located as follows:
 - a. *Overhead* . Trees next to power lines shall be planted using the table below. The measurement shall be made from the nearest edge of the tree trunk.

Distance from power line	Tree specification
40 feet or greater	Any tree listed in appendix I
18 feet or greater	Small maturing trees listed in appendix I. However, trees marked with an asterisk (*) shall not be located within the utility right-of-way.
0—18 feet	Shrubs with a mature height of less than 20 feet.

- b. *Underground.* Roots planted near underground utility or power lines may be damaged in the event that repairs are required. Utmost care shall be taken when planting new trees and when carrying out any excavation work near trees.
- (17) The area of the buffer shall be in addition to the lot area as required by chapter 58, and all setbacks as prescribed in chapter 58 shall be measured from the nearest edge of the buffer to any structure of the lot. The buffer area shall become part of the lot on which it is located, or, in the case of commonly-owned property, shall be deeded to the homeowner's association.
- (18) The preliminary plat shall be accompanied by a statement providing for buffer area permanent maintenance by a method acceptable to the town. Maintenance of the buffer by the town shall not be an acceptable method.

Wesley Chapel

155.080 BUFFERING ALONG THOROUGHFARES. (A) Where side and rear lot lines abut along a major or minor thoroughfare as designated on the village=s zoning map, the subdivider shall provide a natural buffer between the lot lines paralleling the thoroughfare and the thoroughfare road right-of-way. The natural buffer shall materially screen all principal and accessory uses from public view from the thoroughfare

. The minimum buffer requirements, which are based on the size of the tract to be subdivided, shall be in accordance herewith.

Acres	less than 0.5	0.5	1.0	1.5	2.0	2.5	3.0	3.5	4.0	4.5	5.0	5.5	6.0	6.5	7.0	7.5	8.0	8.5	9.0	9.5	10 or more
Buffer Width*	10	12	14	16	18	20	22	24	26	28	30	32	34	36	38	40	42	44	46	48	50
Trees (Per 100 Ft)	3	3	3	4	4	4	5	5	5	6	6	6	7	7	7	7	8	8	8	8	9
Shrubs (Per 100 Ft)	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20

NOTES TO TABLE:

* The minimum width of a buffer may be reduced by an additional 20% if a fence or wall is constructed in accordance with these regulations, ft = feet of buffer width.

: * The minimum width of a buffer may be reduced by an additional 20% if a fence or wall is constructed in accordance with these regulations, ft = feet of buffer width.

Waxhaw

Waxhaw doesn't have thoroughfare buffers.

R-1, R-2, & R-3 have a front setback of 30 ft. and R-4 is 20 ft.

If it is located off of Providence Rd. the front setback is 50 ft.

Wingate/Fairview/Monroe/Lake Park

None

Mineral Springs

1) Lots abutting thoroughfares shall meet the following standards.

Where side or rear lot lines abut along a major, minor, or local thoroughfare as designated in the Town of Mineral Springs Thoroughfare Plan, the subdivider shall provide a natural buffer between the lot lines paralleling the thoroughfare and the thoroughfare road right-of-way. The natural buffer shall materially screen all principal and accessory uses from public view from thoroughfare. The buffer shall consist of a natural planting. Any walls, fences or other constructed devices allowed within the buffer area by this Ordinance and/or the Town of Mineral Springs Zoning Ordinance shall be approved by the Zoning Administrator.

- f) Any lot created in a major or minor subdivision which abuts one or more major, minor, or local thoroughfares as designated in the Town of Mineral Springs Thoroughfare Plan and which is at least four (4) acres in size is not required to have the front yard abutting any of the thoroughfares provided that a natural buffer of at least one hundred (100) feet is maintained along the thoroughfare(s), and is not required to have a driveway connection to any of the thoroughfare(s).

Marvin

80 + (5x total acreage) – can't exceed 30%. 285' max

Marshville

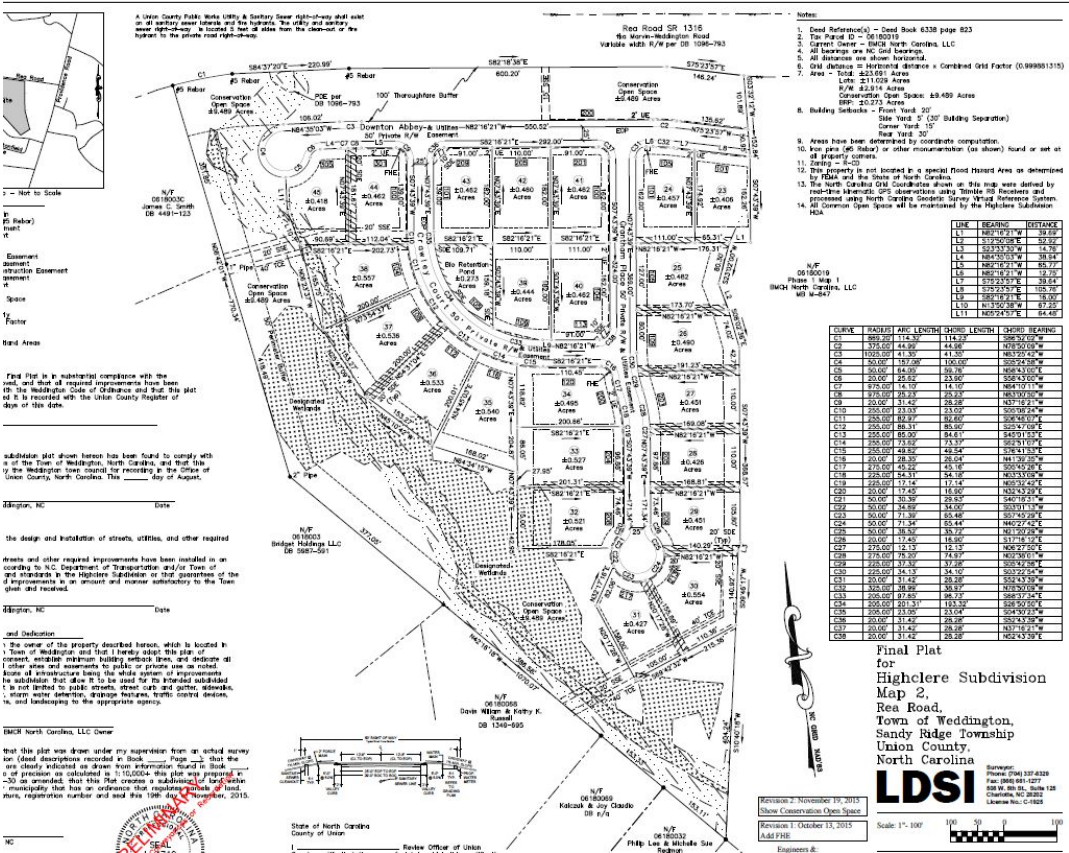
8.5-3 Scenic Corridor Overlay (SCO) (A.) Intent. The Scenic Corridor Overlay District (SCO) is established to protect the pastoral scenes and open spaces that provide a sense of arrival for residents and visitors traveling the major entrance roads and gateways to the Town. The pastoral scenes and undeveloped property along the entrance roads and gateways contribute significantly to Marshville's community character and sense of place. The Scenic Corridor Overlay District provides development options for the owners of the property abutting the entrance roads and gateways. The goal of this district is to protect the scenic value of the corridors through a mix of incentives and development standards. These standards will preserve the rural character of the Town by maintaining the sense of a rural corridor in an urban environment; provide an aesthetically appealing experience for those traveling the corridor; provide multi-modal transportation options for travel; and ensure a safe transportation corridor for motorists, bicyclists, and pedestrians. The Detached House lot/building type is allowed in this district.

(B.) Types. Three (3) types of scenic corridors are hereby created: (1.) Rural scenic corridor – A corridor along which development is limited, consisting largely of fields, pastures, and scattered residential uses. The rural scenic corridor evokes a sense of traveling through an undeveloped area, with pastoral scenes and a sense of being removed from the urban environment. (2.) Gateway scenic corridor - A corridor that serves as an entrance way to a place that is unique and different from other communities in the area. The gateway corridor provides a sense of arrival to a place that is special and different from the typical places. The gateway scenic corridor may be more developed than the rural scenic corridor, but the character of the development is such that those using the corridor are aware they are in a special place. (3.) Bypass scenic corridor - A corridor providing for buffering of the bypass to protect the traffic carrying capacity of the road and to provide for a pleasant experience for motorists using the bypass. The bypass scenic corridor requires an undeveloped setback from the bypass, ensuring that the bypass through Marshville is unique and portrays the character of the community while Article 8 – Page 24 enhancing the safety of motorists using the road. (C.) General Requirements: (1.) Development Pattern. Building placement, parking placement, building type, urban form, access, and lot arrangement shall be controlled by the lot and building type standards (Article 9) for the lot and building types permitted in the Scenic Corridor Overlay District. (2.) Activities Permitted in the Scenic Corridor. In order to preserve the aesthetic quality of the scenic corridors, uses and activities within the designated scenic corridors shall be limited to the following: (a.) The scenic corridor easement may be used for passive recreation, agricultural uses, and equestrian uses. No other use shall be permitted within the scenic corridor easement. (b.) No building construction, parking, land disturbing activity, signs, tree removal, lighting (other than street lighting provided by the Town of Marshville and driveway or private road lighting provided that said lighting is provided by full cutoff fixtures), or other development activity shall occur within the scenic corridor easement except as follows: (i.) A bikeway, greenway, and/or other pedestrian/bicycle facility may be located within the scenic corridor easement. (ii.) Underground utilities and easements for underground utilities may be located within the scenic easement, provided that no above ground transmission or other equipment is located within the scenic easement. (iii.) Buildings used primarily for agricultural and/or equestrian related activities may be built in the scenic corridor easement upon approval by the Town Council as a Conditional Use. Parking shall be located behind the building, shall not be located within the scenic easement, and shall be buffered from the scenic corridor. The Town Council shall consider the following items in making the decision to allow aforesaid buildings

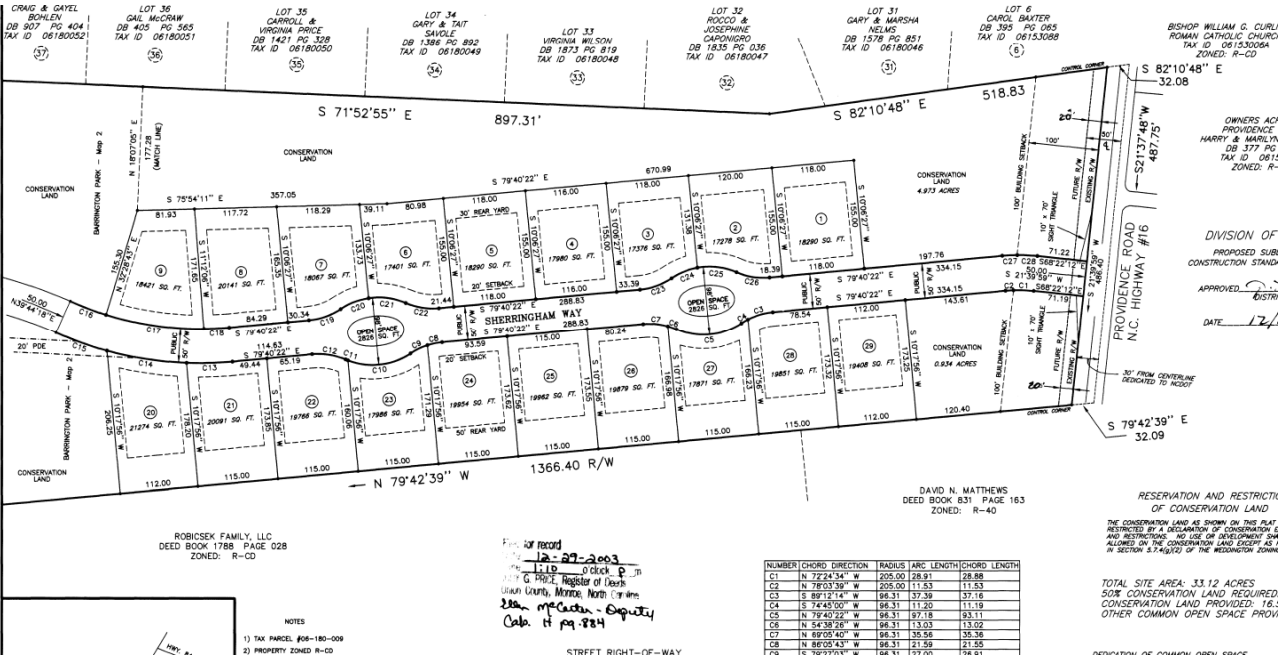
in the scenic easement: 1. The building's visual impact on the scenic corridor; 2. The building's size; 3. The compatibility of the building's architecture with community character and the purposes of the scenic corridor overlay district. (3.) Scenic Corridor Dimensions. The designated scenic corridors shall meet the following dimensional standards: (a.) The width of the scenic easement within the rural scenic corridor shall be 10% of the lot depth but no more than 100 feet from the edge of the public right-of-way. The Planning, Zoning and Subdivision Administrator may Article 8 – Page 25 require an additional scenic depth of up to 50 feet in order to preserve structures and/or vegetation deemed to be significant. (b.) The width of the scenic easement within the gateway scenic corridor shall be 10% of the lot depth but no more than 50 feet from the edge of the highway right-of-way. The Planning, Zoning and Subdivision Administrator may require an additional depth of up to 25 feet in order to preserve structures and/or vegetation deemed to be significant. (c.) The width of the scenic easement within the bypass scenic corridor shall be 10% of the lot depth but no more than 75 feet from the edge of the public right-of-way. The Planning, Zoning and Subdivision Administrator may require an additional depth of up to 25 feet in order to preserve structures and/or vegetation deemed to be significant. (4.) Scenic Corridor Provisions. The following provisions shall govern development within a designated scenic corridor: (a.) The area within the scenic easement may be dedicated to the Town as a conservation easement, provided it meets the standards for such an easement as established by applicable state and federal standards. (b.) Development density shall be calculated for the entire property, including the area within the scenic easement, with the exception that development density bonuses of up to 50 percent are given for the portion of the property within the scenic easement. In the event that the property owner provides a scenic easement wider than required by this ordinance, the density bonus may be increased up to 75% for the area located within the scenic easement. For example, the Jones family own a 10 acre property zoned Single Family Residential (SFR). Two (2) acres of the property are within the Scenic Corridor Overlay. The density is calculated as follows: Base density @ 3 units/acre x 10 acres = 30 units 50% density bonus for 2 acres in scenic corridor easement 50% of (2 acres x 3 units/acre) = 3 unit bonus Total Density = 33units If the Jones' provide an easement wider than required, then they would receive a 75% density bonus for the area within the easement: Base density @ 3units/acre x 10 acres = 30 units 75% density bonus for 2 acres with wider easement 75% of (2 acres x 3 units/acre) = 4.5 unit bonus Total Density = 35 units (c.) Development may be clustered on the portion of the property located outside the scenic easement. Article 8 – Page 26 (5.) Curb Cuts. There shall be a minimum separation of 500' between curb cuts in the rural scenic corridors. This separation requirement may be waived by the Planning, Zoning and Subdivision Administrator if the width of the property frontage would preclude a second curb cut meeting this spacing requirement. (6.) Lot Requirements. The lot type standards and building type standard permitted in the underlying district, as set forth in section 8.4 and further described in Article 9, shall apply in the Scenic Corridor Overlay District. (D.) Open Space. The provision and design of open space shall comply with the requirements set forth in Article 21. Land within the scenic easement may count for up to 100% of the minimum open space required by Article 21 of this Ordinance. (E.) Parking and Landscaping. Parking shall comply with the requirements set forth in Article 12. Landscaping shall comply with the requirements set forth in Article 11.



Highclere

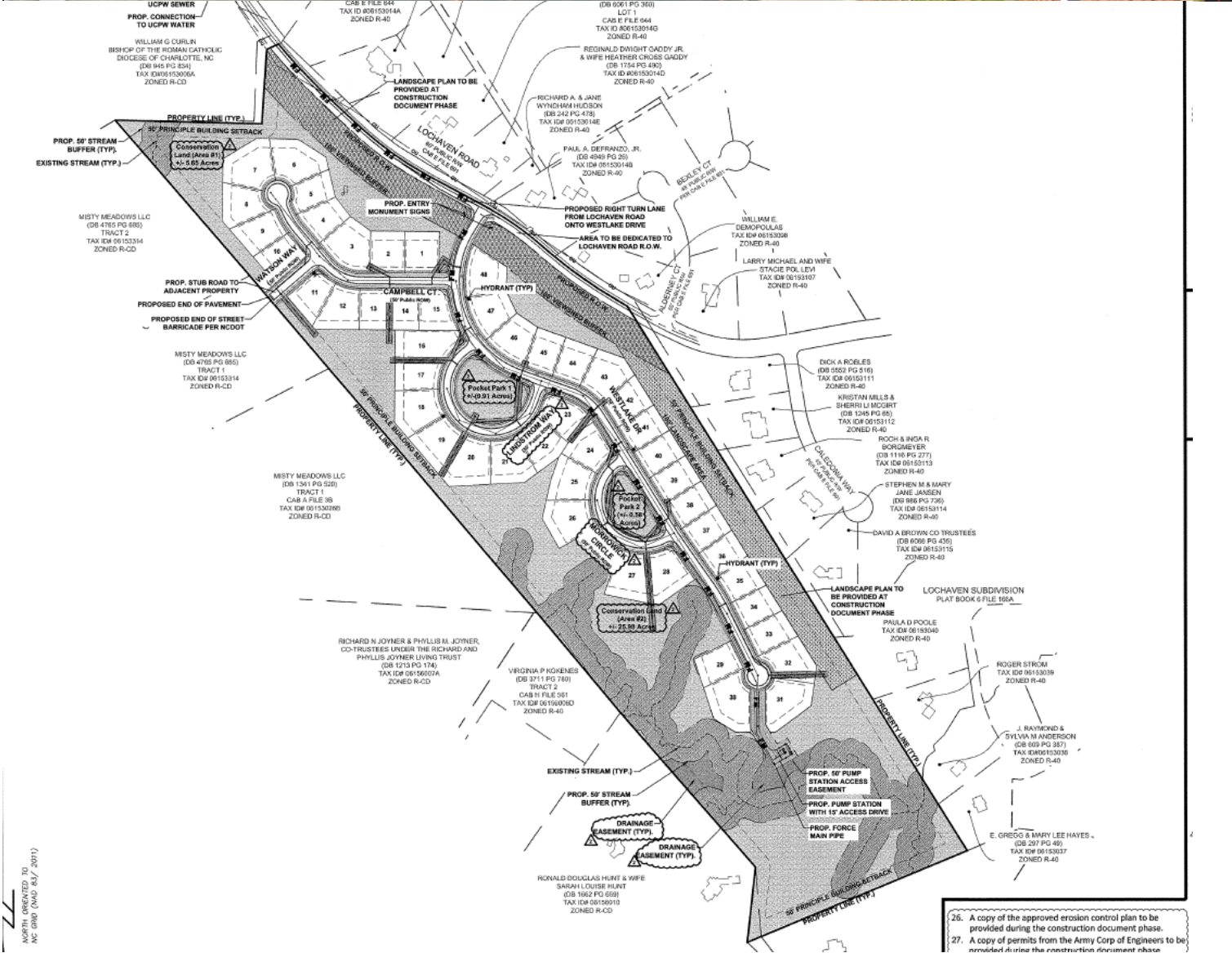


Gardens on Providence

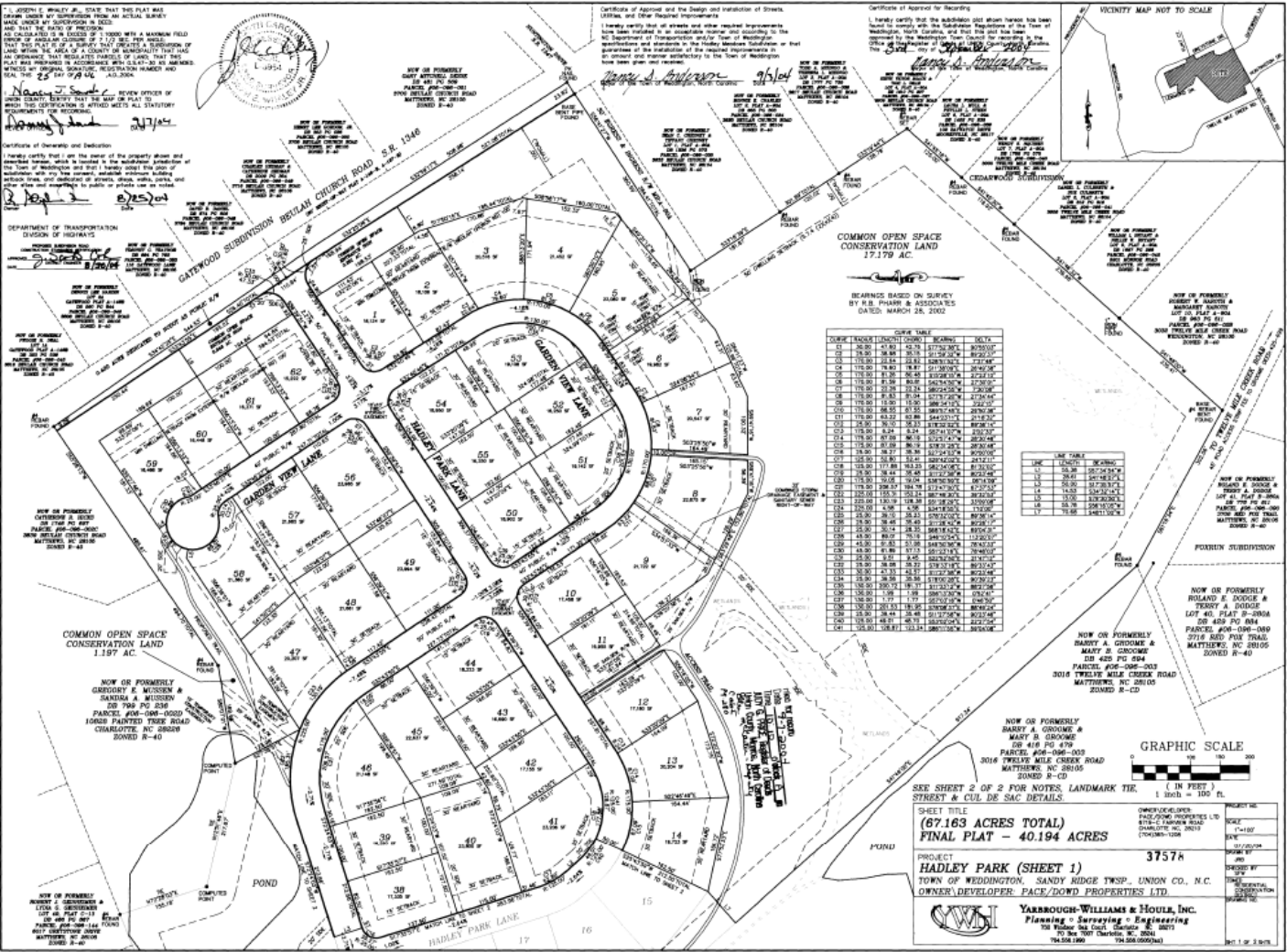
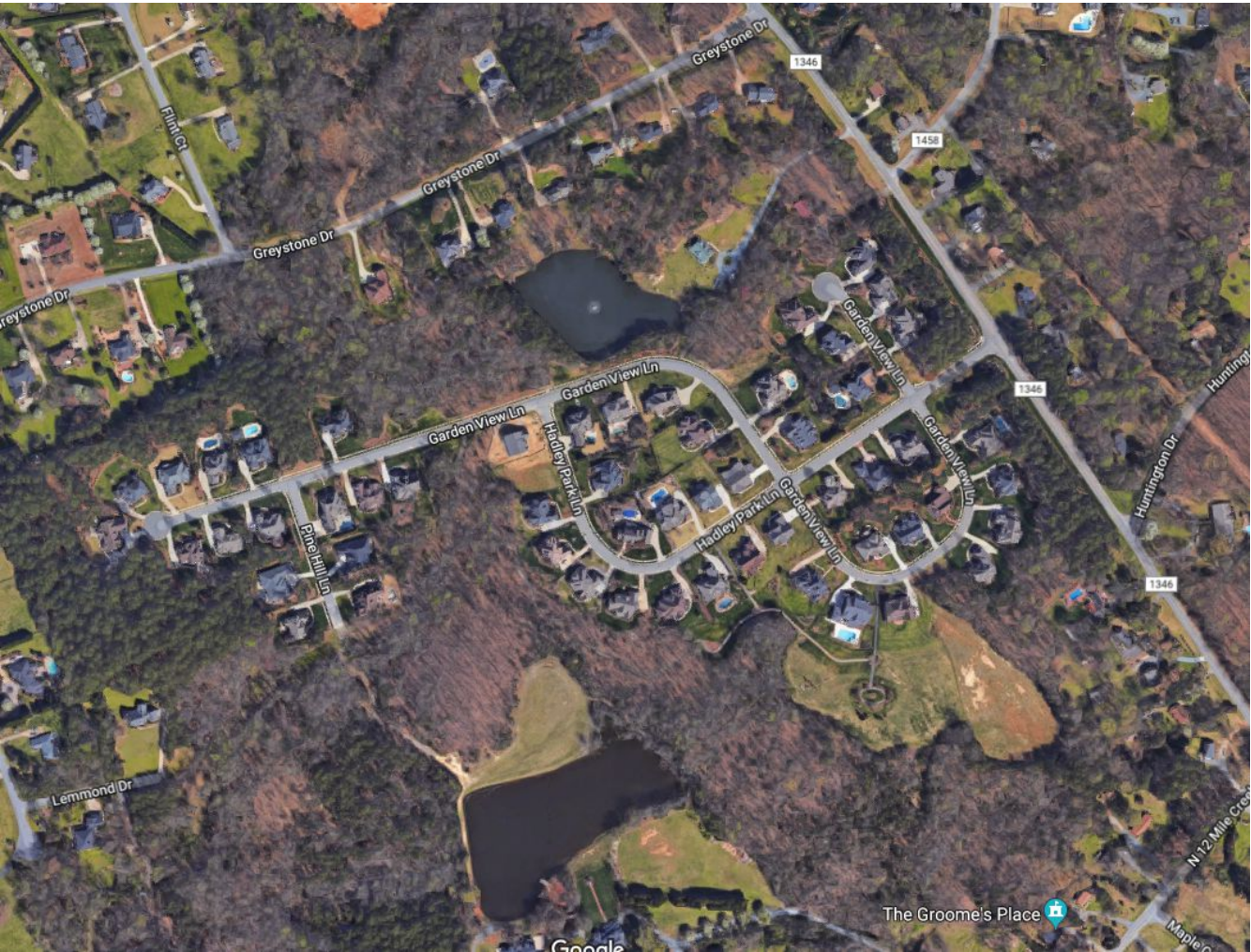


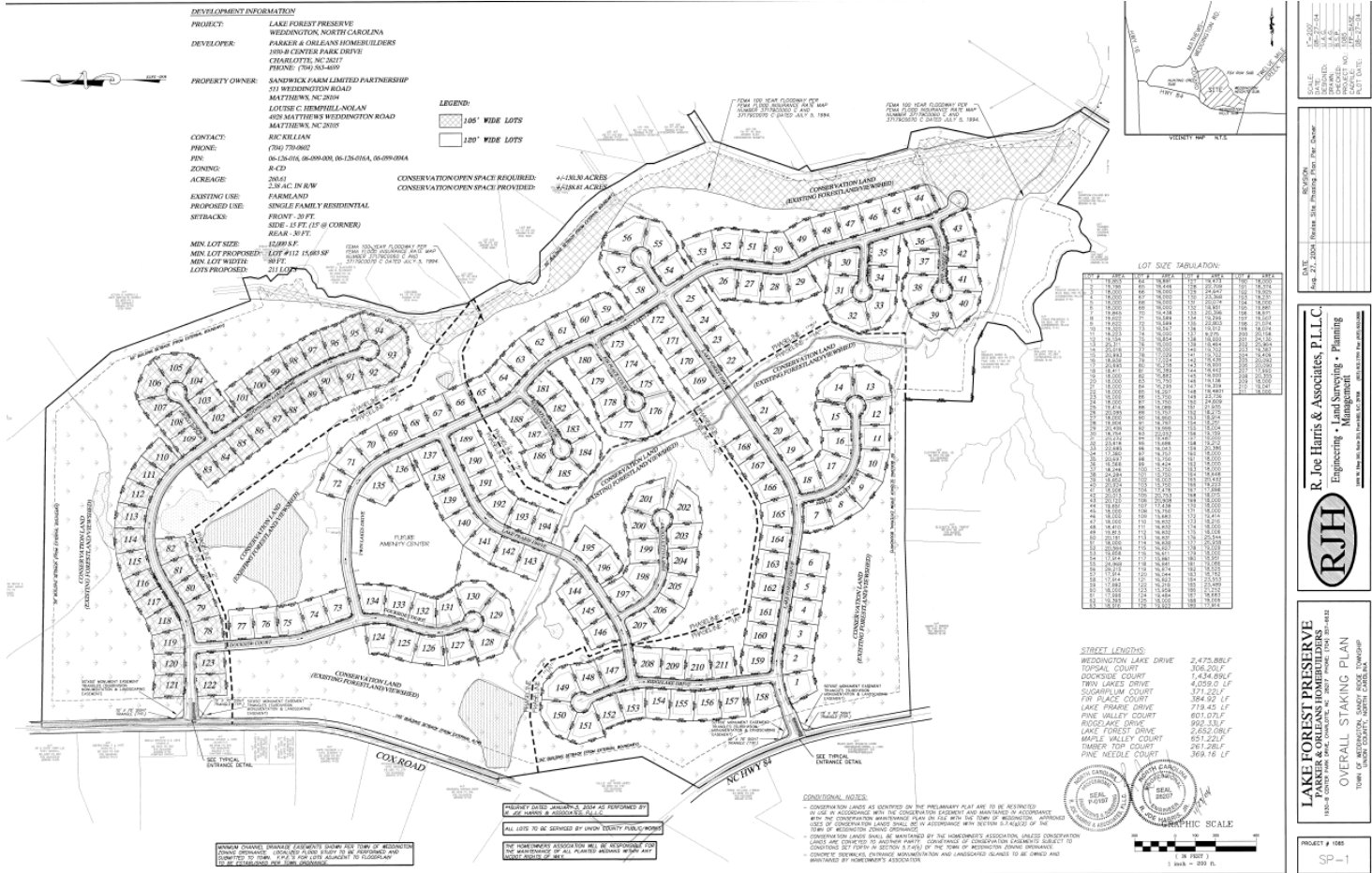
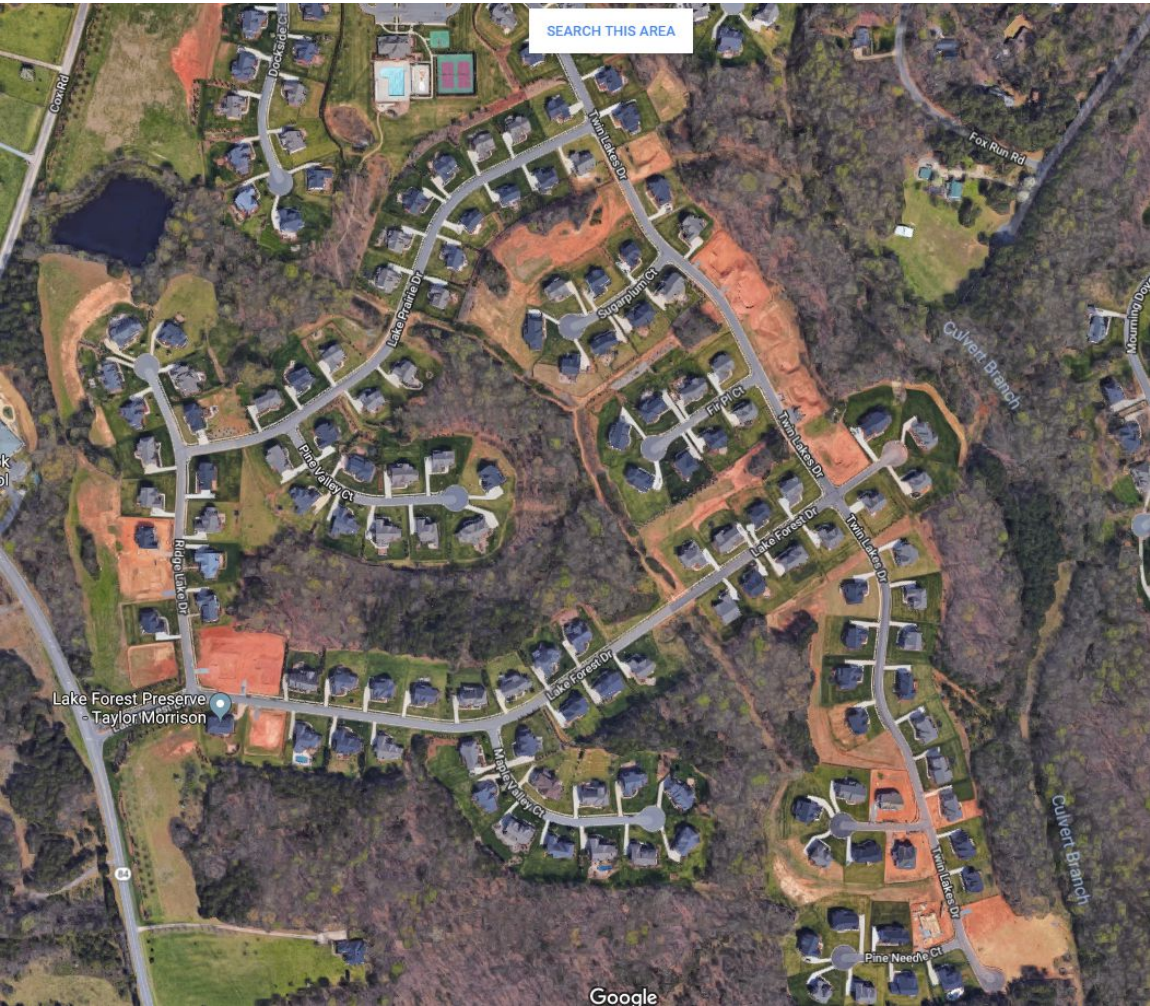


Weddington Preserve



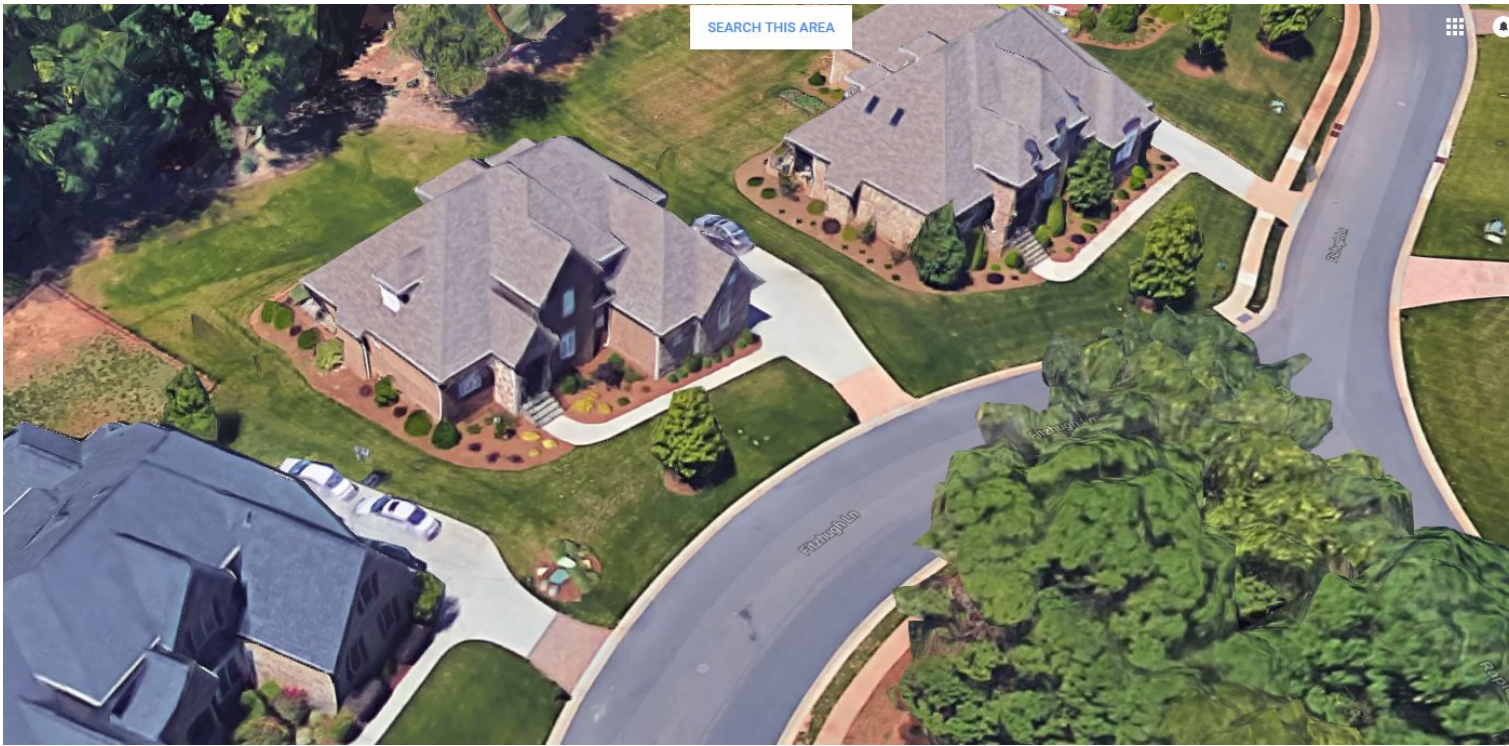
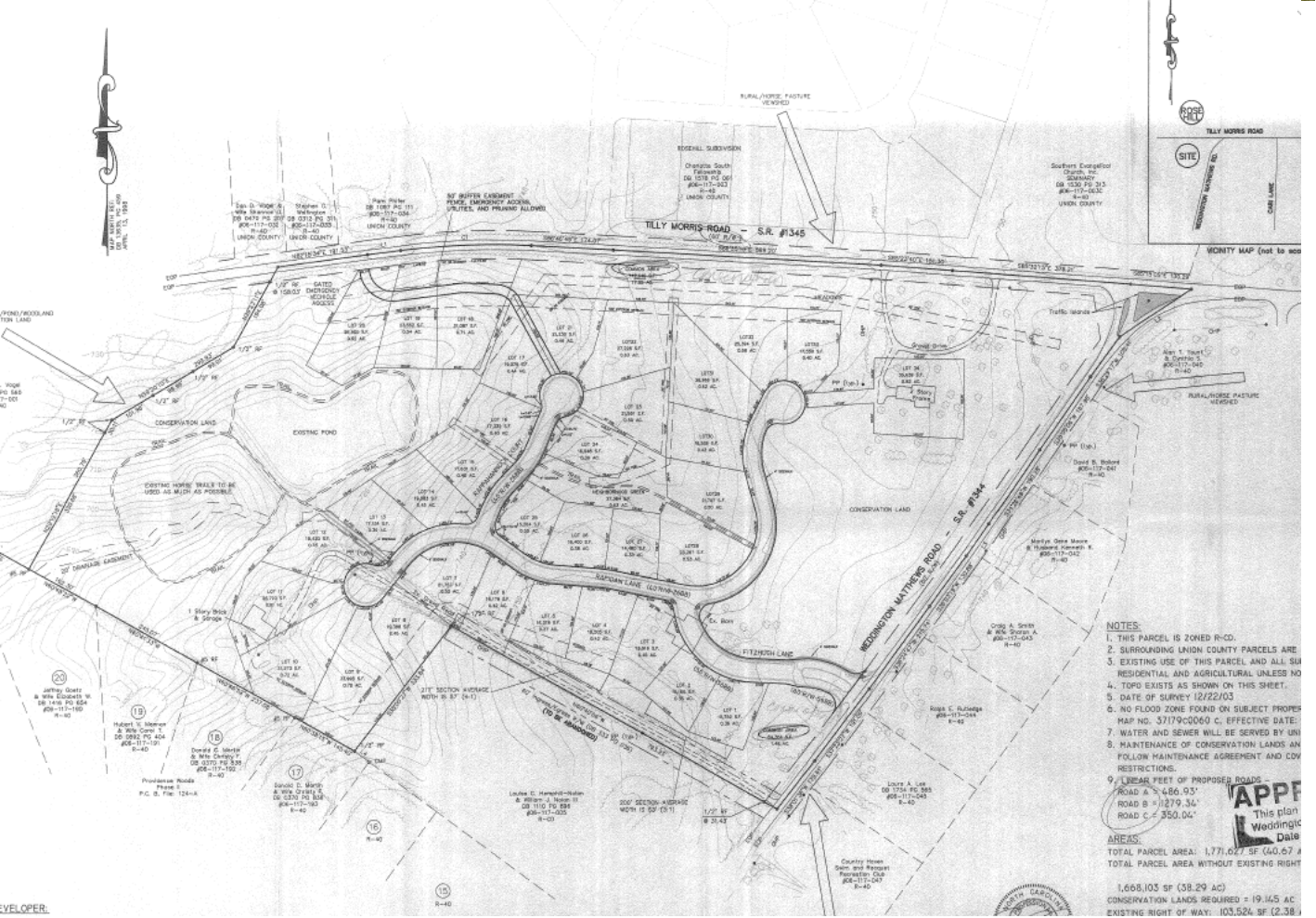
Hadley Park





Lake Forest Preserve

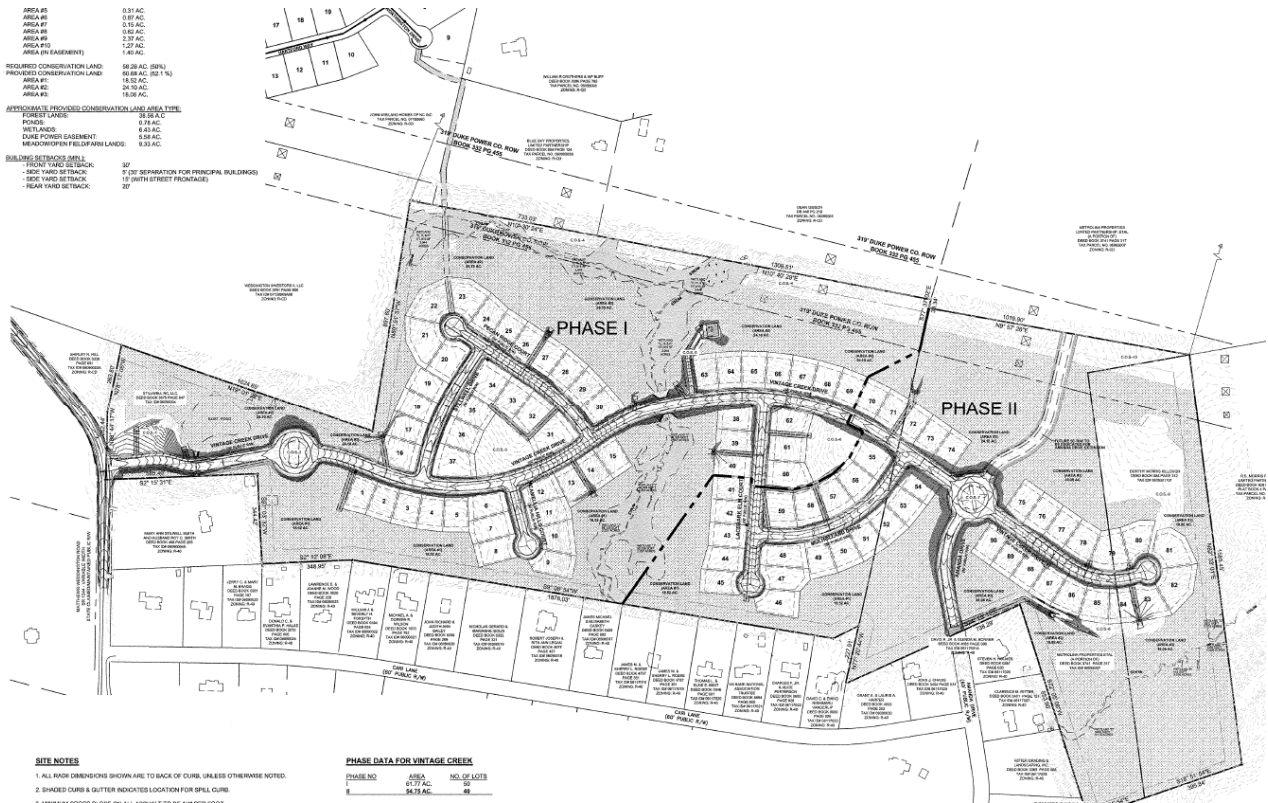




Stratford Hall

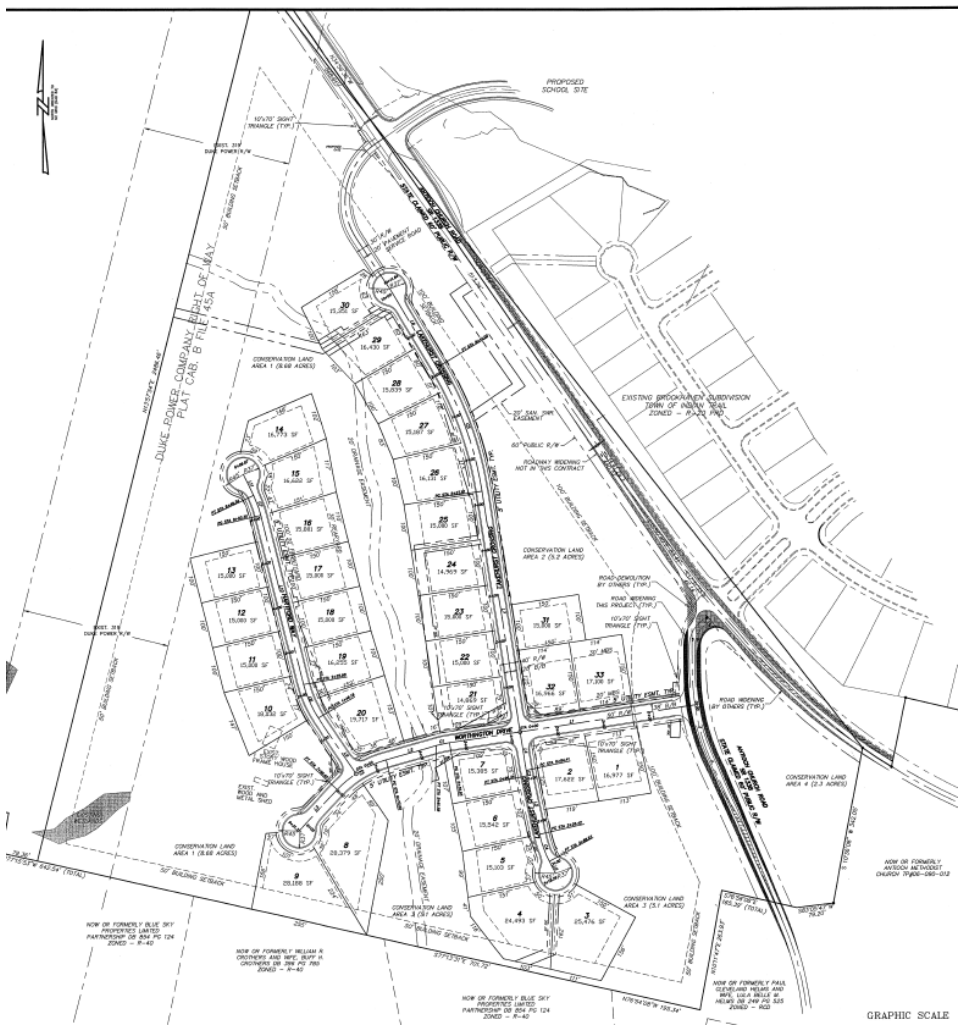


Vintage Creek





Brookhaven



**TOWN OF WEDDINGTON
HISTORIC PRESERVATION COMMISSION MEETING
WEDDINGTON TOWN HALL
1924 Weddington Road
Weddington, NC 28104
APRIL 26, 2019
AFTER THE PLANNING BOARD REGULAR MEETING
AGENDA**

1. OPEN THE MEETING
2. DETERMINATION OF QUORUM
3. APPROVAL OF MINUTES
 - A. January 28, 2019 Regular Historic Preservation Commission Meeting Minutes
4. OLD BUSINESS
5. NEW BUSINESS
 - A. Discussion of Historic Marker for Matthews Property on Providence Road
 - B. Discussion of Process for Veteran Identification and Verbiage for Recognition Plaques
6. ADJOURNMENT

**TOWN OF WEDDINGTON
REGULAR HISTORIC PRESERVATION COMMISSION MEETING
WEDDINGTON TOWN HALL
JANUARY 28, 2019
AFTER REGULAR PLANNING BOARD MEETING
MINUTES
PAGE 1 OF 2**

1. Open the Meeting

Chairman Harrison opened the meeting at 8:41 p.m.

2. Determination of Quorum

Quorum was determined with Chairperson Barbara Harrison, Members Tami Hechtel, Brad Prillaman, Jim Vivian, Steve Godfrey, and Gerry Hartman present. Member Walt Hogan was absent.

3. Election of Chairman and Vice-Chairman

Board member Hartman nominated Barbara Harrison as Chairman of the Historic Preservation Commission. Board member Prillaman seconded the nomination. The Commission agreed unanimously.

Board member Prillaman nominated Tami Hechtel for Vice Chairman of the Historic Preservation Commission. Board member Vivian seconded the nomination. The Commission agreed unanimously.

4. Approval of the 2019 Meeting Calendar

Motion: Board member Hartman made a motion to approve the 2019 Historic Preservation Commission meeting calendar.
Second: Board member Prillaman
Vote: The motion passed with a unanimous vote.

**2019 HISTORIC PRESERVATION COMMISSION MEETING SCHEDULE
4TH MONDAY OF THE FIRST MONTH OF EVERY QUARTER AFTER THE REGULARLY SCHEDULED PLANNING
BOARD MEETING AT 7:00 P.M.**

DATE	LOCATION
January 28, 2019	Town Hall Council Chambers
April 22, 2019	Town Hall Council Chambers
July 22, 2019	Town Hall Council Chambers
October 28, 2019	Town Hall Council Chambers
January 27, 2020	Town Hall Council Chambers

5. Approval of Minutes

A. October 22, 2018 Regular Historic Preservation Commission Meeting Minutes

Motion: Board member Hartman made a motion to approve the October 22, 2018 Regular Historic Preservation Commission Meeting Minutes.
Second: Board member Prillaman
Vote: The motion passed with a unanimous vote.

6. Old Business

Chairman Harrison stated her thanks to everybody that come out for dedication of the Veterans' memorial.

7. New Business

No new business to discuss

8. Adjournment

Motion: Board member Hartman made a motion to adjourn the January 28, 2019 Regular Historic Preservation Commission Meeting at 8:42 p.m.
Second: Board member Vivian
Vote: The motion passed with a unanimous vote.

Adopted: _____

Barbara Harrison, Chairman

Karen Dewey, Town Clerk