



TOWN OF CORNELIUS

Cornelius Town Hall

BOARD OF COMMISSIONERS

November 5, 2018

Agenda

PRE-MEETING - 5:45 PM

- Closed Session - Real Estate Acquisition Matters
- Agenda Overview

TOWN BOARD - 7:00 PM

1. CALL TO ORDER
2. DETERMINATION OF QUORUM
3. APPROVAL OF AGENDA
4. MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE
5. PRESENTATIONS
 - A. Devin Gilroy's Achievement Recognition
6. MAYOR/COMMISSIONERS/MANAGER REPORTS
7. CITIZEN CONCERNS/COMMENTS
8. PUBLIC HEARING AND CONSIDERATION OF APPROVAL
 - A. REZ 03-18 Cambridge Square
 - B. TA 09-17 Small Wireless Facilities
 - C. TA 02-18 Watershed Built Upon Area Averaging
9. CONSIDERATION OF APPROVAL
 - A. Code of Ordinances - Title 9, Chapter 94 Utility Right-of-Way Use Amendment
 - B. Code of Ordinances - Title 15, Chapter 154 Floodplain Amendment
 - C. Electric Fund Write-offs
 - D. FY19 Resurfacing Projects and Contract
10. CONSENT AGENDA
 - A. Approve Minutes - Closed Session
 - B. Approve Minutes - Regular Meeting
11. COMMISSIONER CONCERNS
12. ADJOURNMENT

Please note that to speak during **CITIZENS CONCERNS/COMMENTS** or **PUBLIC COMMENT**, please use the signup sheet provided before the Board meeting and list your name, address and topic. Each speaker will be allowed 3 minutes to speak. A "hard stop" will occur after 3 minutes for each speaker. Any information displayed must be submitted to the Town Clerk within 48 hours

prior meeting.

REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: November 5, 2018

To: Mayor and Board of Commissioners

From: Andrew Grant, Town Manager

Action Requested:

Hold a Closed Session to discuss potential real estate acquisition matters.

Manager's Recommendation:

Hold a Closed Session.

ATTACHMENTS:

Name:	Description:	Type:
No Attachments Available		

REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: November 5, 2018

To: Mayor and Board of Commissioners

From: Andrew Grant, Town Manager

Action Requested:

Devin became the #1 Girls 10 & Under tennis player in North Carolina as of October 1, 2018. 135 players are qualified for the official ranking (meaning that they play United States Tennis Association, or USTA, tournaments regularly), and Devin has made her way to #1 after winning several statewide and regional tournaments in the last 6 months. She even recently won a tournament while competing in the Girls 14 & Under category as a 10 year old. She has won a total of 131 official matches.

Manager's Recommendation:

Recognize Devin Gilroy's #1 ranking accomplishment.

ATTACHMENTS:

Name:	Description:	Type:
No Attachments Available		

REQUEST FOR BOARD ACTION

 **Print**

Date of Meeting: November 5, 2018

To: Mayor and Board of Commissioners

From: Aaron Tucker - Senior Planner












Action Requested:

David Smith in association with Landworks Design Group Engineers are requesting a conditional rezoning for property located at 18745 West Catawba Avenue to develop the site with one new 12,500 square foot commercial building and 20 single family homes in the rear. The developer is proposing to re-purpose the existing church building on site for general commercial use. The 20 single family lots will front on an internal gated private street.

Manager's Recommendation:

Approve an Ordinance to amend the zoning map with conditions and a Resolution declaring that REZ 03-18 is consistent with the Town's Land Use Plan and reasonable in the public's interest.

ATTACHMENTS:

Name:	Description:	Type:
 Application.pdf	Application	Cover Memo
 18731_W_Catawba_Ave_Zoning.pdf	Zoning Map	Cover Memo
 18731_W_Catawba_Ave_LU.pdf	Future Land Use Map	Cover Memo
 18731_W_Catawba_Ave_Vicinity.pdf	Aerial Vicinity Map	Cover Memo
 18731_W_Catawba_Ave_Property.pdf	Aerial Property Map	Cover Memo
 REZ_03-18(TB)_Cambridge_Sq_Staff_Report.docx	Staff Report	Backup Material
 3rd_submittal_color.pdf	Color Site Plan	Cover Memo
 3rd_submittal_current_Cambridge_Square_Site_Plan_11.5.18.pdf	Site Plan	Cover Memo
 Cambridge_Square_Options_I_II.pdf	Elevations	Cover Memo
 Ordinance_on_Rezoning_Property_REZ_03-18_(Cambridge_Sq).pdf	Ordinance	Cover Memo
 RESOLUTION_OF_THE_TOWN_OF_CORNELIUS_BOARD_REZ_03-18_(Cambridge_Sq)_Consistency_Statement.pdf	Resolution	Cover Memo



TOWN OF CORNELIUS

Planning Department

PO Box 399 | Cornelius, NC 28031 | Phone: 704-896-2461 | Fax: 704-896-2462

LAND DEVELOPMENT APPLICATION FORM

Staff Only:

Date Rec'd: 7-27-18

Rec'd by: _____

Case #: REZ 03-18

1. Application Type

- ☒ Sketch Plan/Plat (Major Sub):
- ☒ Preliminary Plat (Major Sub):
- ☐ Final Plat (Major Sub):
- ☒ Construction Documents:
- ☐ General Rezoning

Fee

- ☒ Conditional Zoning (CZ)
- ☐ Special Use Permit (SUP)
- ☐ Major Architectural Variation
- ☐ Minor Architectural Variation
- ☐ Other: _____

Fee

Fee Total:

\$1250.00

Per email
from David
8-3-2018

2. Project Information

Date of Application: 7/24/18

Name of Project: CAMBRIDGE SQUARE

Location: 18731 W CATAWBA AVE

Property Size (acres): 8.41^{AC} # of Units/Lots: 21

Current Zoning: NMX

Proposed Zoning: NMX-CZ

Current Land Use: CHURCH/RURAL

Proposed Land Use: RESIDENTIAL / COMMERCIAL

Tax Parcel Number(s): 00186148

CZ per email
from David
Smith 8-3-18

3. Contact Information

David Smith

Owner, Applicant, or Developer

112 S Tryon Suite 1600

Address

Charlotte, NC 28284

City, State Zip

704-964-8845

Telephone

Fax 07/23/2018

Signature David Smith

Print Name

Date

Email - David@Barringersmith.com

LANDWORKS DESIGN GROUP (MICHAEL HUBERT)

Agent(s) (Engineer, Architect, Etc.)

7621 LITTLE AVE

Address

CHARLOTTE, NC 28226

City, State Zip

980 505 3421

704-841-1604

Telephone

Fax

Signature Michael Hubert 7/26/18

Print Name

Print Name

Date

Email - MICHAEL.HUBERT@LANDWORKS-PA.COM

4. The following items may also be required to be considered part of a complete application, please check all that apply on this list:

☒ Signed "Original" application

☒ Project Fee(s) - See Fee Schedule

☒ Written Summary/Description of Request can be on company letterhead. Shall include requested use or uses, sq. feet of non-residential space, or density and number of units/lots for residential, or any other applicable information. For CZ's, must also describe any variations proposed from the Land Development Code

☒ Property Survey (at least one copy), including existing buildings, topography, wetlands, streams, vegetation (trees over 18" in diameter), and other natural features.

☒ Site/sketch plan (at least one copy), may contain multiple pages and must be drawn to scale by an engineer or landscape architect. Shall include locations of buildings and/or lots, streets, parking, proposed grading, landscaping/screening, open space, watershed/storm water information, associated storm water measures, and proposed utilities and lighting. Shall also include general information from adjoining lots

☒ Illustrative (color) site/sketch plan for presentation purposes with same layers as described above

☒ Architectural elevations, Perspective Renderings, and Architectural Review Board Checklist may include multiple pages and must be drawn to scale by an architect. Include all primary and accessory buildings (all building sides), an illustrative color package, and black and white w/dimensions. Other architectural elements/features of the site such as gazebos, trellis's, garden walls, retaining walls, or other items over 4-feet in height must also be included (NOT REQUIRED, BUT OPTIONAL FOR SINGLE-FAMILY RESIDENTIAL DEVELOPMENTS).

☐ Charlotte Water Capacity Assurance Review Application Provide copy with application, and send original to CW. SUBMITTED 7/2/18

☒ Illustrative (color) elevations for presentation purposes for all items described above, as well as perspective (3D) renderings and photograph examples

☐ Digital Files of all items listed above

Via Email

Mr. Wayne Herron

Planning Director – Town of Cornelius

21445 Catawba Avenue

Cornelius, NC 28031

RE: Written Summary of Request for Cambridge Square

Project Address: 18731 W Catawba Ave, Cornelius, NC 28031

Parcel ID: 00186108

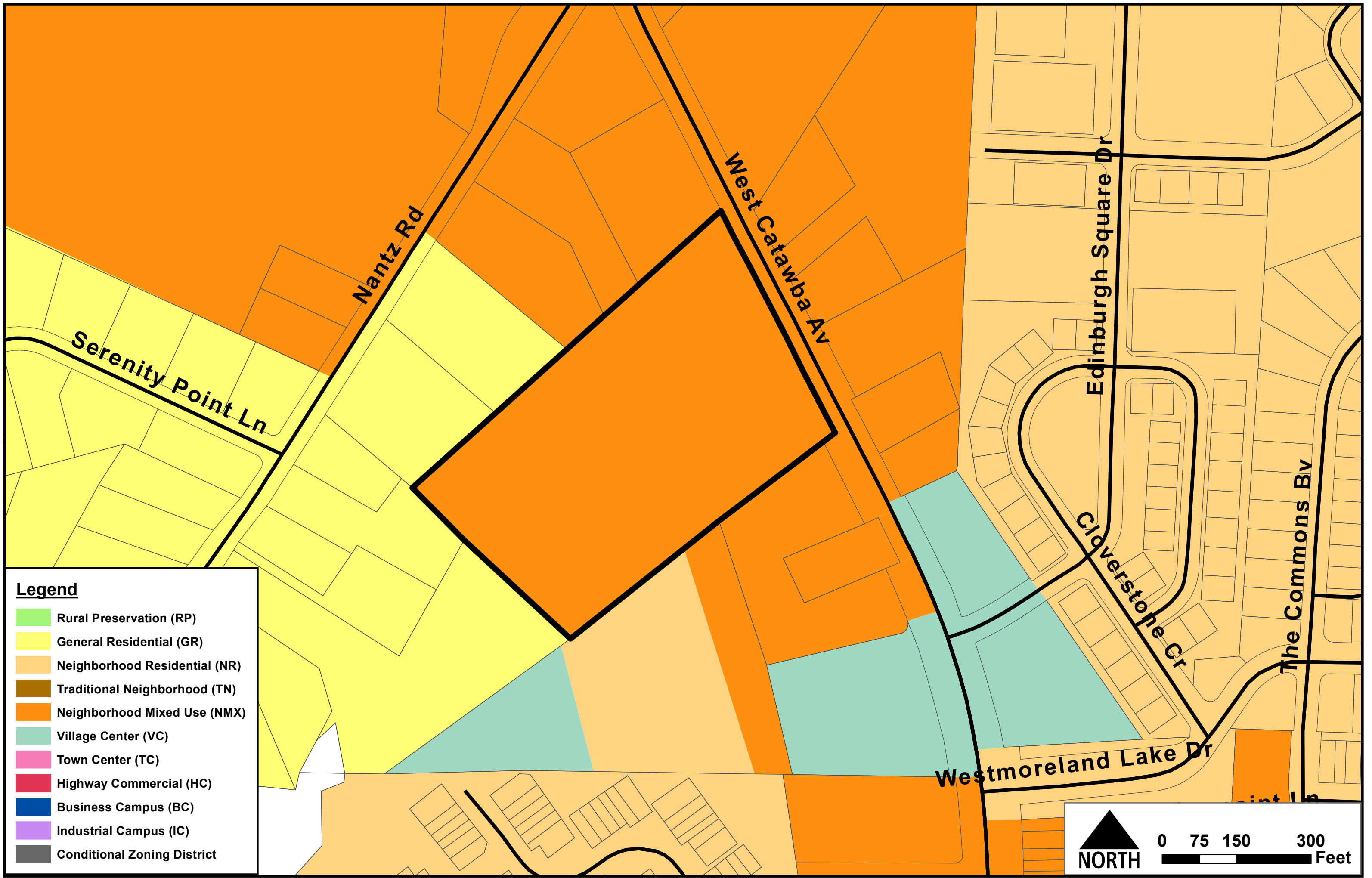
Wayne,

In accordance with the property's current NMZ zoning designation, the requested uses include 21 residential lots organized around central open space, the reuse of an existing structure as illustrated on the schematic site plan and a new commercial structure; both old and new commercial buildings will not exceed 9,900 SF each. The subject property consists of one parcel, and the total acreage of the area is +/- 8.41 AC. Please note the associated site plan does reflect the future NCDOT roadway improvements to W Catawba Avenue. To promote walkability within the local business corridor, the residential portion of the site will be linked to W Catawba Ave via a pedestrian pathway.

In association, please find the supporting survey with GIS topo, the schematic site plan, rendered site plan, rendered elevations of the proposed buildings, the land development application, a check in the amount \$1250 and the digital files of the same. Please let me know if you have any questions.

Sincerely,

Michael Hubert

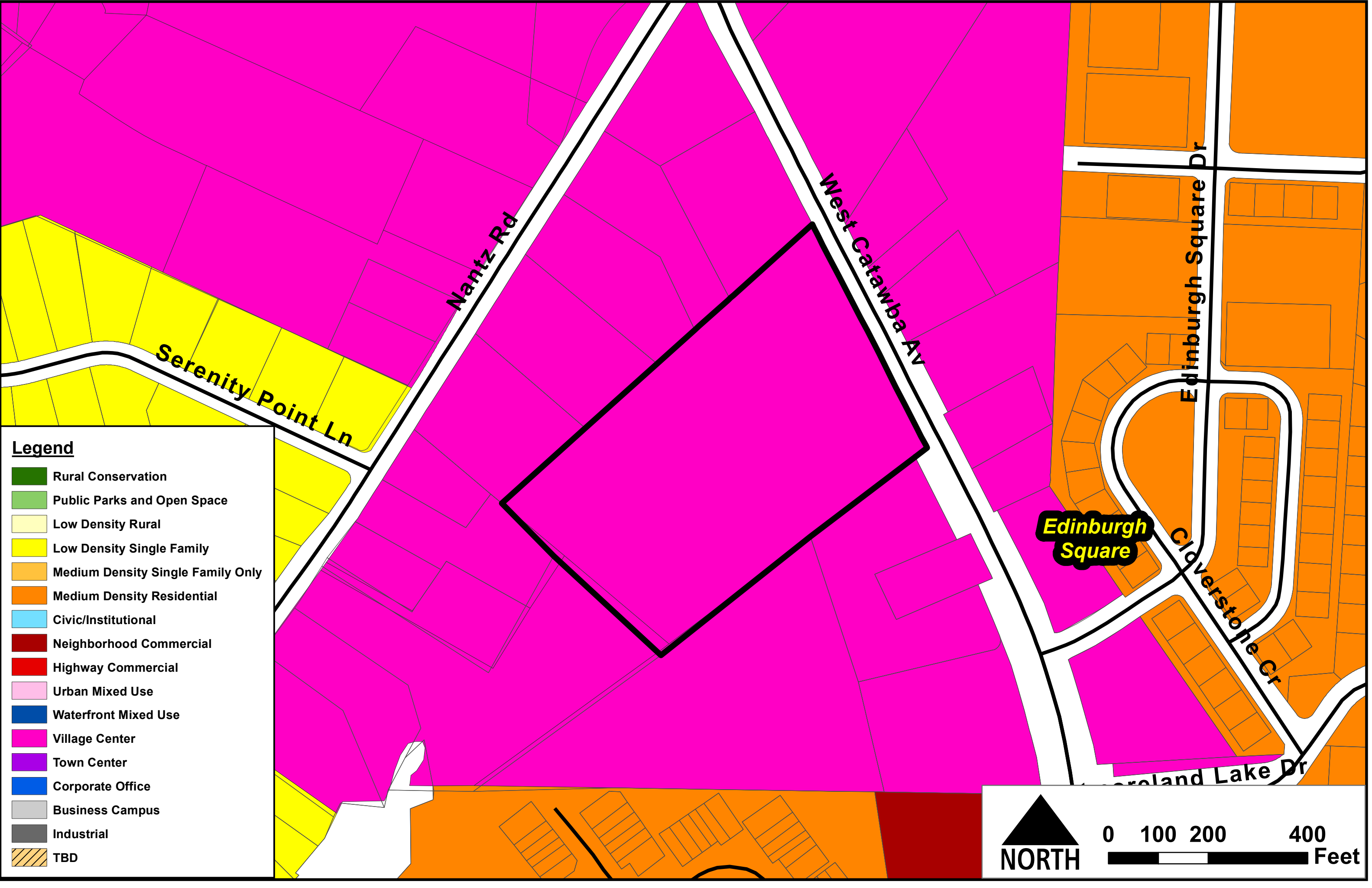


Legend

- Rural Preservation (RP)
- General Residential (GR)
- Neighborhood Residential (NR)
- Traditional Neighborhood (TN)
- Neighborhood Mixed Use (NMX)
- Village Center (VC)
- Town Center (TC)
- Highway Commercial (HC)
- Business Campus (BC)
- Industrial Campus (IC)
- Conditional Zoning District

NORTH

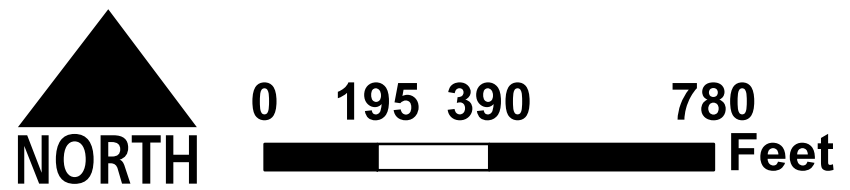
0 75 150 300 Feet



Legend

-  Rural Conservation
-  Public Parks and Open Space
-  Low Density Rural
-  Low Density Single Family
-  Medium Density Single Family Only
-  Medium Density Residential
-  Civic/Institutional
-  Neighborhood Commercial
-  Highway Commercial
-  Urban Mixed Use
-  Waterfront Mixed Use
-  Village Center
-  Town Center
-  Corporate Office
-  Business Campus
-  Industrial
-  TBD



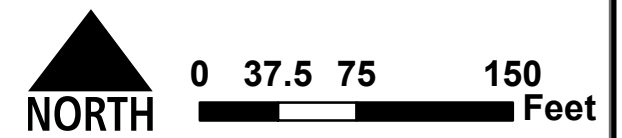




Nantz Rd

West Catawba Av

Cloverstone Cr





REZ 03-18
Cambridge Square

Conditional Zoning Request

Town Board Meeting
November 5, 2018

OWNER/APPLICANT: David Smith.
112 S Tryon
Suite 1600
Charlotte, NC 28284

AGENT: Michael Hubert
Landworks Design Group
7621 Little Ave.
Charlotte, NC 28226

PROPERTY LOCATION: 18731 W. Catawba Ave. (PID#: 00186108)

PROPERTY SIZE: 7.63 acres total

CURRENT LAND USE: Vacant

PROPOSED LAND USE: 2 commercial buildings and 20-lot single-family residential subdivision

EXISTING ZONING: NMX (Neighborhood Mixed Use)

PROPOSED ZONING: CZ (Conditional Zoning)

EXISTING CONDITIONS:

1. Description of Adjoining Zoning and Land Uses – This property has road frontage along West Catawba Avenue. To the north, this parcel directly touches a business community that is also zoned NMX as well as some GR (General Residential) parcels. To the South and west, properties are zoned NR (Neighborhood Residential). Directly east, properties that front on West Catawba Avenue are zoned NR, and are a mix of single family homes and offices.
2. Topography – The property is mostly flat but has a slight slope towards the rear of the property.
3. Vegetation – Of the 7.63 acres, most of the property is an open field, and the perimeter of the property does have heavy vegetation. Currently, the site has one large building and two smaller buildings on the site.

4. Infrastructure – Currently, water and sewer access is available. Water and sewer would need to be installed for the single family houses. There is one driveway for incoming traffic. The single family portion of the development will be a private gated street. Connectivity stub is required to the South (PID 00186159) as shown on the site plan.

STAFF COMMENTS:

1. Project Overview – The applicants are proposing 20 new single-family lots and two commercial buildings on 7.63 acres, which equates to an overall density of 2.62 dwelling units per acre along with 22,400 proposed commercial square feet. The existing 9,900 square foot church building will be re-purposed for general commercial use. The proposal also includes an impervious allowance of 50% for the entire project, thereby requiring storm water bmp structures which will be located in the rear of the property.
2. Land Use Plan Consistency – The Land Use Plan adopted by the Town Board on January 6th, 2014 designates this property as “Village Center,” which provides an average of 4 dwelling units per acre. At roughly 2.6 dwelling units per acre proposed, this development is less than the average in the land use plan. Commercial uses are also encouraged in the Village Center land use designation.
3. Pre-Development Review Committee – The sketch plan was presented to the PDRC in November 2017. The PDRC was supportive of the proposed subdivision.
4. Community Meeting – The applicant held the required community meeting on Wednesday, September 6, 2018. The attendance was mainly by property owners nearby who were interested in the proposal. Concerns raised at the meeting were about traffic already on West Catawba and how much this proposal would be adding.
5. Town Board Public Hearing #1 – The meeting was held on September 17, 2018. No significant issues were raised.
6. Architectural Review – The project went before the ARB on September 28, 2018. The building on the left of the site that is being proposed will have a retail feel. ARB asked that the proposed layout of this building be correctly shown on the site plan or provide two options for approval. The current church building will need to be reworked to look more like a commercial building and address the minimum height requirement of 26 feet. If the applicant would like the two buildings to be different, they should look at using different materials.
7. Planning Board – The Planning Board meeting was held on October 8th. The Planning Board unharmoniously recommended approval for this project.
8. Internal Circulation and Parking – It is rare that Staff will recommend a gated situation with no neighborhood connectivity, but after extensive evaluation, this is exactly the scenario that Staff feels works best for this proposal and the applicant has agreed. The gate will be installed between the commercial parking and the beginning of the single family development to discourage commercial parking overflow into the single family area.

STAFF RECOMMENDATIONS:

Staff recommends approval of this project subject to the following conditions.

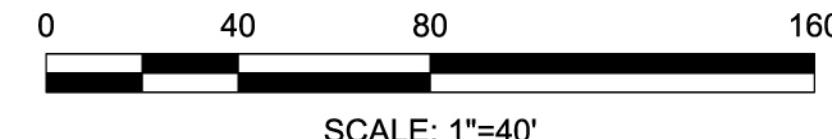
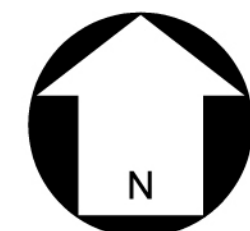
1. Town approval is contingent on review and approval by other applicable local, state and federal agencies.
2. The development shall comply with all other applicable requirements of the Town of Cornelius Land Development Code.
3. Town approval incorporates and shall comply with any and all submittals in the case file and correspondence presented to the board in support of this application, including, but not limited to the following: The site/sketch plan, architectural elevations, and any other information related to this case or improvements recommended by the Town and/or other agencies.
4. The US Postal Service has notified the Town that all future subdivision approvals must utilize a community mail delivery system. Locations and details of the proposed community mailboxes must be included in the Construction Documents, and must be reviewed and approved by the Post Master for this area. The applicant(s) must provide the Town with written confirmation that the local Post Master is in agreement with the proposed box locations.
5. A gate will be required for the residential portion of the plan. The gated private street will not be maintained by the Town but must be built to Town standards and conform to Chapter 7 of the Land Development Code.
6. All civic uses shall be prohibited. All other standard commercial, retail, service, office, restaurant and micro-brewery uses shall be permitted within the two non-residential buildings.
7. Applicant shall apply for a building permit to renovate the exterior of the existing commercial building on or before one (1) year after final conditional zoning approval (provided the preliminary plat approval has been obtained for the residential portion of the site) and shall diligently pursue completion of such work. Building must be renovated with the exterior matching the plan that shall be approved by the Architectural Review Board or have an amended architectural plan approved in accordance with Land Development Code.
8. Coordinate with NCDOT on constructing the multi-purpose path and all other required improvements on West Catawba Avenue for widening project R-2555B.
9. To ensure southern connectivity, the abutting property to the south must be granted access and construction easements upon the initiation of development and connectivity will be provided in accordance with what is shown on the approved plan.
10. Landscape buffer cross-sections shall be shown on the landscape plan, specifically showing the required masonry wall within the proposed type "A" buffer, for construction document review.

P:\2018 Jobs\18015 - Corneliu Mixed Use - Barringer\CAD\Sketch Planning\18015 Sketch Plan_ALT3 Render.dwg



1 ROAD TYPE - LOCAL RESIDENTIAL STREET
SCALE: 1" = 10'

This Plan Is A
Preliminary Design.
NOT Released For
Construction.



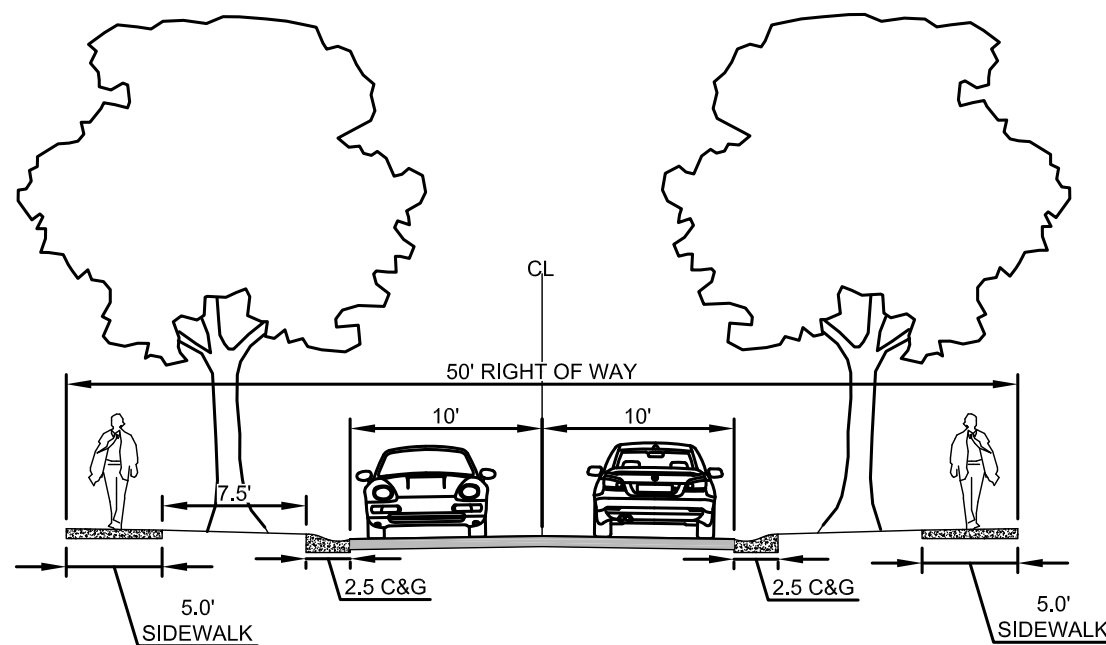
REVISIONS:			
No.	Date	By	Description
1	9/17/18	MDH	REVISIONS PER STAFF AND DEVELOPER COMMENTS
2	10/4/18	MDH	REVISIONS PER STAFF AND DEVELOPER COMMENTS

M-D-YY
CORPORATE CERTIFICATIONS
NC PE: C-2930 NC LA: C-253
SC ENG: NO. 3599 SC LA: NO. 211
Project Manager: MEA
Drawn By: MDH
Checked By: MDL
Date: 7/12/18
Project Number: 18015
Sheet Number:

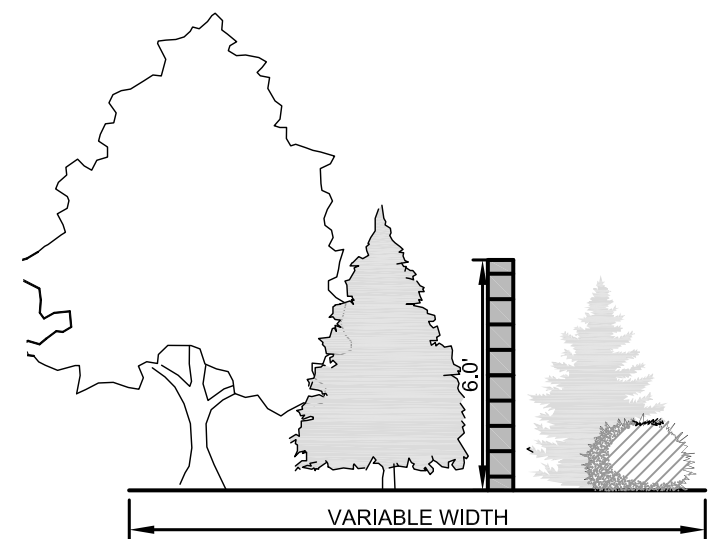
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SHEET # 02 OF 02

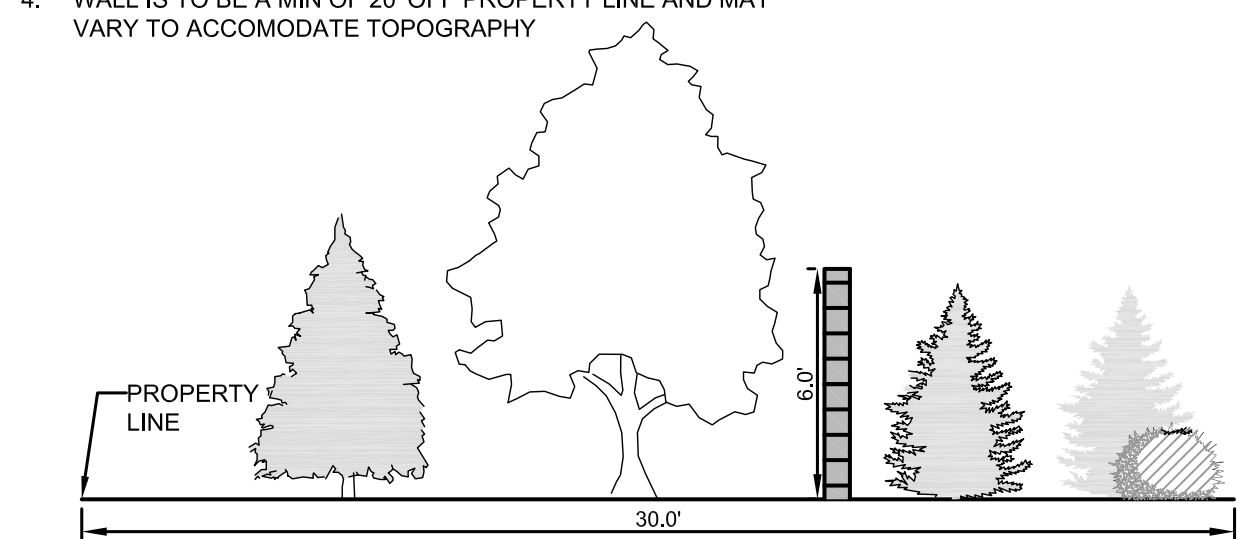
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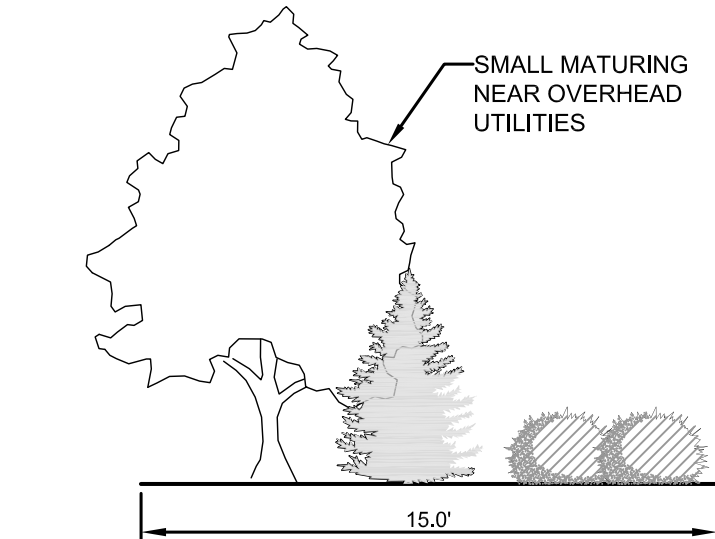
1 ROAD TYPE - LOCAL RESIDENTIAL STREET (PRIVATE)
L-100
SCALE: 1" = 10'



2 MODIFIED B-1 BUFFER
L-100
SCALE: 1" = 10'



3 A-2 BUFFER
L-100
SCALE: 1" = 10'



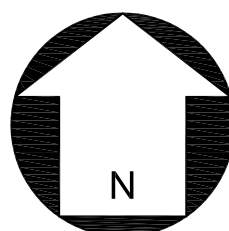
4 B-2 BUFFER
L-100
SCALE: 1" = 10'

MODIFIED B-1 BUFFER COMPONENTS
1. OPAQUE SCREEN WALL OR FENCE 6' TO 7' (DEVELOPER OPTION)
2. VARIABLE WIDTH
3. AREA TO BE LANDSCAPED

A-2 BUFFER REQUIREMENTS
1. PETITIONER MAY NEGOTIATE PERIMETER BUFFER REQUIREMENTS WITH ADJOINING PARCEL OWNERS IN ACCORDANCE WITH CORNELIUS LAND DEVELOPMENT CODE TO REDUCE OR ELIMINATE SCREENING
2. PETITIONER MAY USE EXISTING VEGETATION TO SATISFY VEGETATIVE BUFFER REQUIREMENTS
3. MASONRY WALL OF BRICK OR STONE WITH MIN. HT OF 6' WALL IS TO BE A MIN OF 20' OFF PROPERTY LINE AND MAY VARY TO ACCOMMODATE TOPOGRAPHY

B-2 BUFFER REQUIREMENTS
1. DECIDUOUS TREE REQUIREMENTS
1.1. MIN 3" CALIPER AT PLANTING TIME
1.2. OVERSTORY TREES: 1/100 LF
1.3. MIXTURE OVERSTORY/UNDERSTORY/ORNAMENTAL: 1.5/100 LF
1.4. UNDERSTORY/ORNAMENTAL 2/100 LF
2. SHRUB REQ.: 20/100 LF

This Plan Is A Preliminary Design.
NOT Released For Construction.



0 40 80 160
SCALE: 1"=40'

REVISIONS:			
No.	Date	By	Description
1	9/17/18	MDH	REVISIONS PER STAFF AND DEVELOPER COMMENTS
2	10/4/18	MDH	REVISIONS PER STAFF AND DEVELOPER COMMENTS
3	11/5/18	MDH	REVISIONS PER STAFF AND DEVELOPER COMMENTS

CORPORATE CERTIFICATIONS
NC PE: C-2930 NC LA: C-253
SC ENG: NO. 3599 SC LA: NO. 211

Project Manager: MEA

Drawn By: MDH

Checked By: MDL

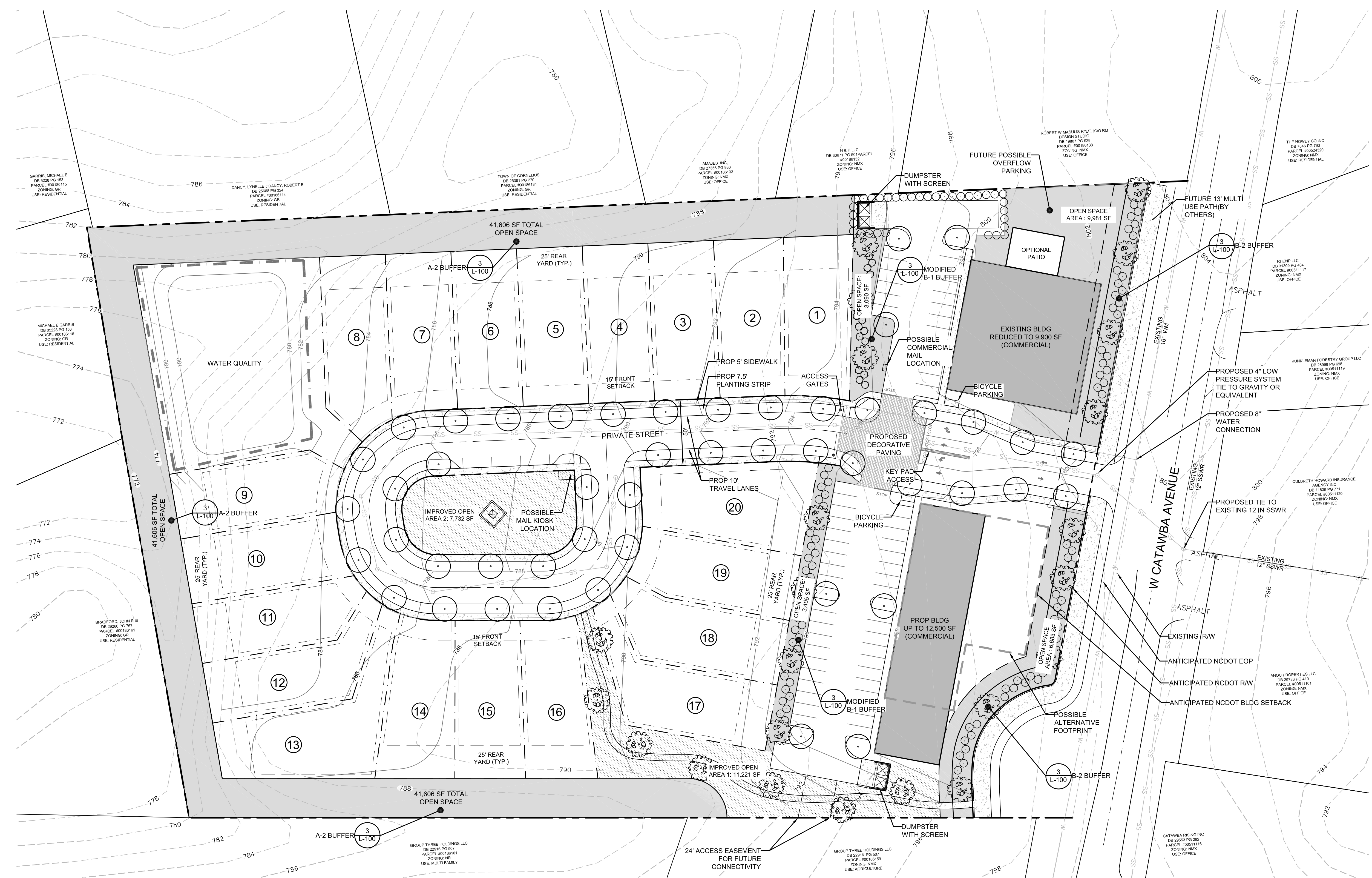
Date: 7/12/18

Project Number: 18015

Sheet Number:

L-100

SHEET # 02 OF 02



SITE DATA	
PARCEL ID:	00186108
SITE AREA:	±8.08 AC
EXISTING ZONING:	NMX
IMPERVIOUS REQUIREMENTS:	50% BUA(171,156 SF +10,000 SF EXISTING)
PROJECTED IMPERVIOUS:	UP TO 50% BUA MAX
UNITS PROPOSED:	20 SINGLE FAMILY
COMMERCIAL PROPOSED:	22,500 SF(10,000 EX BLDG)
FRONT SETBACK(STATE RD):	25'
FRONT SETBACK (NMX):	MIN: NA MAX: 15'
MIN SIDE YARD:	N/A; 3' PROVIDED
CORNER SETBACK:	6'
MIN REAR YARD:	25'
RECD O/S:	1.61 AC (20%)
O/S PROVIDED:	1.92 AC (23.7%)
RECD IMPROVED O/S:	40 AC (25%)
IMPROVED O/S PROVIDED:	43 AC(26.7%)
PARKING REQUIRED (COMMERCIAL):	2-4 SPACES/1000 SF
PARKING PROVIDED (COMMERCIAL):	59 SPACES; UP TO 5/1000SF
PARKING REQUIRED (RESIDENTIAL):	2/UNIT
PARKING PROVIDED (RESIDENTIAL):	2/UNIT

NOTES:
1. PETITIONER MAY NEGOTIATE PERMITTER BUFFER REQUIREMENTS WITH ADJOINING PARCELS OWNERS, WRITTEN AGREEMENT TO BE PRESENTED TO PLANNING DEPARTMENT OF CORNELIUS ONCE AGREEMENT IS IN PLACE.
2. PETITIONER RESERVES THE OPTION TO GATE PEDESTRIAN ACCESS TO RESIDENTIAL LOTS PER AGREEMENT WITH PLANNING DEPARTMENT OF CORNELIUS
3. SINGLE FAMILY WASTE WILL BE COLLECTED BY ROLLOUT CONTAINERS
4. COMMERCIAL WASTE WILL BE COLLECTED VIA DUMPSTER
5. PARKING CONFIGURATION AND COUNT MAY CHANGE IN CONJUNCTION WITH ALTERNATIVE COMMERCIAL FOOTPRINT. DEVELOPER WILL ADHERE TO PARKING STANDARDS OF THE TOWN OF CORNELIUS

CAMBRIDGE SQUARE
CORNELIUS, NC
BARRINGER & SMITH PROPERTIES

SCHEMATIC
SITE PLAN



OPTION I

CAMBRIDGE SQUARE
CORNELIUS, 10.18.18



OPTION I

CAMBRIDGE SQUARE
CORNELIUS, 10.18.18



OPTION I

CAMBRIDGE SQUARE
CORNELIUS, 10.18.18



OPTION II

CAMBRIDGE SQUARE
CORNELIUS, 10.18.18



OPTION II

CAMBRIDGE SQUARE
CORNELIUS, 10.18.18



OPTION II

CAMBRIDGE SQUARE
CORNELIUS, 10.18.18

AN ORDINANCE TO AMEND THE TOWN OF CORNELIUS ZONING MAP

REZ 03-18 Cambridge Square

WHEREAS, the Town of Cornelius has received an application requesting that the zoning classification of parcels of land subject to the zoning regulations of the Town be reclassified; and

WHEREAS, notice of public hearing on the question of the reclassification of the subject parcels has been provided through posting of the property; and

WHEREAS, notice of public hearing on the question of the reclassification of the subject parcels has been provided through advertisement in a newspaper of general circulation in the Town; and

WHEREAS, property owners contiguous to the subject parcels have been notified by first class mail of the public hearing on the question of the reclassification; and

WHEREAS, a public hearing on the question of the reclassification of the subject parcel has been held by the Board of Commissioners of the Town of Cornelius; and

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF CORNELIUS THAT:

Tax Parcel Number 00541102 consisting of approximately 8.41 acres located at 18745 West Catawba Avenue, be reclassified as *Conditional Zoning (CZ) District* as shown on *Exhibit A* and as further subject to the conditions shown on *Exhibit B* attached hereto and incorporated herein by reference.

Adopted this the 5th day of November, 2018.

Woody T. Washam, Jr., Mayor

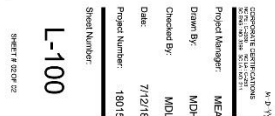
ATTEST:

APPROVED AS TO FORM:

Lori A. Harrell, Town Clerk

Town Attorney

P:\2018 Jobs\18015 - Cornelius Mixed Use - Barringer\CAD\Sketch Planning\18015 Sketch Plan_ALT3 Render.dwg



 **Landworks**
Design Group, PA
CREATING SPACES TO LIVE, WORK AND PLAY

7621 Little Avenue, Suite 111
Charlotte, NC 28226

tel: 704-841-1604
fax: 704-841-1604

Exhibit B

Conditions of REZ 03-18

1. Town approval is contingent on review and approval by other applicable local, state and federal agencies.
2. The development shall comply with all other applicable requirements of the Town of Cornelius Land Development Code.
3. Town approval incorporates and shall comply with any and all submittals in the case file and correspondence presented to the board in support of this application, including, but not limited to the following: The site/sketch plan, architectural elevations, and any other information related to this case or improvements recommended by the Town and/or other agencies.
4. The US Postal Service has notified the Town that all future subdivision approvals must utilize a community mail delivery system. Locations and details of the proposed community mailboxes must be included in the Construction Documents, and must be reviewed and approved by the Post Master for this area. The applicant(s) must provide the Town with written confirmation that the local Post Master is in agreement with the proposed box locations.
5. A gate will be required for the residential portion of the plan. The gated private street will not be maintained by the Town but must be built to Town standards and conform to Chapter 7 of the Land Development Code.
6. All civic uses shall be prohibited. All other standard commercial, retail, service, office, restaurant and micro-brewery uses shall be permitted within the two non-residential buildings.
7. The existing commercial building must be renovated and receive a certificate occupancy prior to the recording of any plats for the residential portion of the plan. Building must be renovated with the exterior matching the plan that shall be approved by the Architectural Review Board.
8. Coordinate with NCDOT on constructing the multi-purpose path and all other required improvements on West Catawba Avenue for widening project R-2555B.
9. To ensure southern connectivity, the abutting property to the south must be granted access and construction easements upon the initiation of development and connectivity will be provided in accordance with what is shown on the approved plan.
10. Final concept approval is required by the Architectural Review Board, along with the submission of both layout options for the new commercial building as well as the redesign of the existing building to reflect more of a commercial design. This final concept approval must be obtained prior to Town Board final consideration.
11. Landscape buffer cross-sections shall be shown on the landscape plan, specifically showing the required masonry wall within the proposed type A buffer, prior to Town Board review.

**RESOLUTION OF THE TOWN OF CORNELIUS BOARD OF
COMMISSIONERS PERTAINING TO THE REASONABLENESS AND
CONSISTENCY OF PROPOSED ZONING MAP AMENDMENTS**

REZ 03-18 Cambridge Square

WHEREAS, David Smith, applicant, initiated the process to rezone the property located at 18745 West Catawba Avenue (PID #: 00186108), which consists of 8.41 acres, to *Conditional Zoning District* as shown in *Exhibit A*, and to use the property in accordance with the conditions set forth in *Exhibit B*; and

WHEREAS, in accordance with the provisions of North Carolina General Statutes 160A-382 and 383, the Town Board has considered the reasonableness and consistency of rezoning the above described property and adopts the following statement.

NOW, THEREFORE, BE IT RESOLVED, by the Town of Cornelius Board of Commissioners that the rezoning _____ IS _____ IS NOT consistent with the Town's adopted comprehensive land use plan as proposed and _____ IS _____ IS NOT reasonable and in the public interest.

Adopted this 5th day of November, 2018.

Woody T. Washam, Jr., Mayor

ATTEST:

Lori A. Harrell, Town Clerk

APPROVED AS TO FORM:

Town Attorney

Exhibit A



L-100
SHEET # 1 OF 12

SCHEMATIC
SITE PLAN

CAMBRIDGE SQUARE
CORNELIUS, NC
BARRINGER & SMITH PROPERTIES

Landworks
Design Group, P.A.
CREATING SPACES TO LIVE, WORK AND PLAY
7621 Little Avenue, Suite 111
Charlotte, NC 28226
tel: 704-841-1604
fax: 704-841-1604

Exhibit B

Conditions of REZ 03-18

1. Town approval is contingent on review and approval by other applicable local, state and federal agencies.
2. The development shall comply with all other applicable requirements of the Town of Cornelius Land Development Code.
3. Town approval incorporates and shall comply with any and all submittals in the case file and correspondence presented to the board in support of this application, including, but not limited to the following: The site/sketch plan, architectural elevations, and any other information related to this case or improvements recommended by the Town and/or other agencies.
4. The US Postal Service has notified the Town that all future subdivision approvals must utilize a community mail delivery system. Locations and details of the proposed community mailboxes must be included in the Construction Documents, and must be reviewed and approved by the Post Master for this area. The applicant(s) must provide the Town with written confirmation that the local Post Master is in agreement with the proposed box locations.
5. A gate will be required for the residential portion of the plan. The gated private street will not be maintained by the Town but must be built to Town standards and conform to Chapter 7 of the Land Development Code.
6. All civic uses shall be prohibited. All other standard commercial, retail, service, office, restaurant and micro-brewery uses shall be permitted within the two non-residential buildings.
7. The existing commercial building must be renovated and receive a certificate occupancy prior to the recording of any plats for the residential portion of the plan. Building must be renovated with the exterior matching the plan that shall be approved by the Architectural Review Board.
8. Coordinate with NCDOT on constructing the multi-purpose path and all other required improvements on West Catawba Avenue for widening project R-2555B.
9. To ensure southern connectivity, the abutting property to the south must be granted access and construction easements upon the initiation of development and connectivity will be provided in accordance with what is shown on the approved plan.
10. Final concept approval is required by the Architectural Review Board, along with the submission of both layout options for the new commercial building as well as the redesign of the existing building to reflect more of a commercial design. This final concept approval must be obtained prior to Town Board final consideration.
11. Landscape buffer cross-sections shall be shown on the landscape plan, specifically showing the required masonry wall within the proposed type A buffer, prior to Town Board review.

REQUEST FOR BOARD ACTION

 **Print**

Date of Meeting: November 5, 2018

To: Mayor and Board of Commissioners
From: Becky Partin
Senior Planner

Action Requested:

In 2017, the General Assembly of North Carolina adopted House Bill 310 into law. This bill was an "act to reform collocation of small wireless communications infrastructure to aid in deployment of new technologies". The bill facilitates the deployment of such structures with expeditious processes and reasonable and nondiscriminatory rates, fee, and terms. The following is a summary of the basic changes mandated by the new law:






1. Local governments may not require CZ for small wireless in the right-of-way. Will be allowed through our encroachment agreement process.
2. On all private, non residential property, will be allowed by zoning permit.
2. Small wireless may be on a pole up to 50 feet tall with a ten foot antenna.
3. Must match decorative polls in the area, if they exist, and must underground, if existing lines are underground.
4. On private residential property, the Town may require a special use permit.

Staff has been working closely with all of the major pole, tower and communication companies to prepare and refine this amendment. The Land Development Code Advisory Board and the Planning Board unanimously recommended approval of this text amendment.

Manager's Recommendation:

Approve an Ordinance to amend the Land Development Code.

ATTACHMENTS:

Name:	Description:	Type:
 ORD TA 09-17 Small Wireless Facilities.pdf	ORD TA 09-17 Small Wireless Facilities	Ordinance
 CH 02 Definitions-Novus.pdf	Chapter 2 - Definitions	Backup Material
 CH 04 Building Design Specifications-Novus.pdf	Chapter 4 - Building Design Specifications	Backup Material
 CH 05 Zoning Use Regulations-Novus.pdf	Chapter 5 - Zoning & Use Regulations	Backup Material
 CH 06 Uses Permitted With Conditions-Novus.pdf	Chapter 6 - Uses Permitted with Conditions	Backup Material

**AN ORDINANCE TO AMEND THE TOWN OF CORNELIUS
LAND DEVELOPMENT CODE**

WHEREAS, the Town Board of Commissioners on March 19, 2018 adopted an ordinance which regulates the classification and use of property within its zoning jurisdiction, including its extra-territorial jurisdiction; and,

WHEREAS, proper statutory notice of public hearing on the issue of amending the Cornelius Land Development Code has been provided through advertisement in a newspaper of general circulation in the Town; and,

WHEREAS, the Planning Board of the Town of Cornelius has recommended that the Town Board of Commissioners amend the Cornelius Land Development Code; and

WHEREAS, a public hearing on the amendment has been held by the Town Board of Commissioners on November 5, 2018.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Town of Cornelius, North Carolina that the following chapters of the Land Development Code be amended as described in Exhibit A:

- AMEND Chapter 2: Definitions
- AMEND Chapter 4: Building Design
- AMEND Chapter 5: Zoning & Use Regulations
- AMEND Chapter 6: Uses Permitted with Conditions

Adopted this 5th day of November, 2018.

Woody T. Washam, Jr., Mayor

ATTEST:

Lori A. Harrell, Town Clerk

APPROVED AS TO FORM:

Town Attorney

Exhibit A

TA 09-17: SMALL WIRELESS FACILITIES

AMEND Chapter 2, Section 2.6: Definitions

DELETE Antenna Systems

ADD

Wireless Facility

Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including: (1) equipment associated with wireless communications; and (2) radio transceivers, antennas, wires, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes small wireless facilities. The term shall not include the following: (A) the structure or improvements on, under, within, or adjacent to which the equipment is collocated (B) Wireline backhaul facilities; (C) Coaxial or fiber-optic cable that is between wireless structures or utility poles or city utility poles that is otherwise not immediately adjacent to or directly associated with a particular antenna.

Wireless Facility, Small

A wireless facility that meets both of the following qualifications: (1) each antenna is located inside an enclosure of no more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six cubic feet; and (2) all other wireless equipment associated with the facility is cumulatively no more than 28 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, ground-based enclosures, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and other services. Such facilities may be installed on a new, modified, or replacement pole no greater than 50' in height or extended no more than 10' above such pole or wireless support structure.

AMEND Chapter 4, Building Design

ADD Section 4.2.4

4.2.4: Small Wireless Facilities

- a. Shall be collocated on existing poles where feasible;
- b. May be installed on a new, modified, or replacement pole not to exceed 50' in height or extend no more than 10' above the utility pole, city utility pole, or wireless support structure on which it is located;
- c. Shall be blended with the natural surroundings as much as possible. Colors and materials shall be used that are compatible with the surrounding area, except when otherwise required by applicable federal or state regulations. Small wireless facilities shall be located, designed, and/or screened to blend in with the existing natural or built surroundings to reduce the visual impacts as much as possible, and to be compatible with neighboring land uses and the character of the community;
- d. Shall be installed at property lines and street corners where feasible;
- e. Shall be located such that they do not interfere with public health or safety, such as but not limited to a fire hydrant, fire station, fire escape, water valve, underground vault, valve housing structure, or any other public health or safety facility. New facilities shall not be installed directly over any water, sewer, or service line;
- f. Shall be of the same or better nature as other utilities in the immediate area (same or better decorative pole type; underground; etc.)
- g. Shall Bear no signs or advertising devices except as required by law.

AMEND Chapter 5, Zoning & Use Regulations, Section 5.4.2: Table of Uses

- **DELETE Antenna Systems**
- **ADD Small Wireless Facility, requiring a Special Use Permit in single-family residential districts**

P - Permitted By Right PC - Permitted w/ Supp. Conditions		S - Special Use Permit Required CZ - Conditional Zoning Approval Required						A - Accessory Use Only AC - Accessory w/ Supp. Conditions			
Use Category	RP	GR	NR	NMX	WMX	TC	VC	HC	BC	CO	IC
Adult Establishment*								CZ			
Agricultural Uses	P										
Animal Hospital and Boarding & Grooming Service (no outdoor kennels)				P		P	P	P			P
Animal Hospital (w/outdoor kennel)								CZ			CZ
ATM (Automated Teller Machine)				AC	AC	AC	AC	AC	AC	AC	AC
Automobile, Truck, Motorcycle, Boat, Manufactured Home, Recreational Vehicle Repair & Service*											
Automobile, Recreational Vehicle, Boat & Tractor Trailer Parking/Storage*											
Automobile, Truck, Motorcycle, Boat, Manufactured Home, Recreational Vehicle Sales & Rental*											
Bar				A	AC	A	A	A	A	A	A
Bed & Breakfast Inn	PC		PC	PC	PC	PC	PC				
Brewery, Large									PC		PC
Brewery, Micro				CZ	CZ	PC	PC	PC	PC	PC	PC
Bus Stop Shelter				PC	PC	PC	PC	PC	PC	PC	PC
Car Wash – Automatic & Self Service								CZ			
Cemetery/Columbarium	AC	AC	AC	AC	AC	AC	AC	AC	AC	AC	AC
Child Care/Preschools				PC	AC	PC	PC	PC	PC	PC	
Civic*	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	
Commercial, Retail & Service Uses 0 - 9,999 square feet				P	P	P	P	P	P	P	
Commercial, Retail & Service Uses 10,000 - 29,999 square feet				CZ	CZ	P	P	P	P	P	
Commercial, Retail & Service Uses 30,000 - 49,999 square feet				CZ	CZ	CZ	CZ	P	P	P	

P - Permitted By Right
PC - Permitted w/ Supp.
Conditions

S -Special Use Permit Required
CZ - Conditional Zoning Approval
Required

A - Accessory Use Only
AC - Accessory w/ Supp.
Conditions

<u>Use Category</u>	<u>RP</u>	<u>GR</u>	<u>NR</u>	<u>NMX</u>	<u>WMX</u>	<u>TC</u>	<u>VC</u>	<u>HC</u>	<u>BC</u>	<u>CO</u>	<u>IC</u>
Commercial, Retail and Service Uses 50,000+ square feet						CZ	CZ	CZ	CZ	CZ	
Convenience Store							PC	PC	PC	PC	
Country Club*	CZ	CZ	CZ		CZ			CZ			
Cruise/Excursion/Dinner Boat				PC	AC		PC				
Distribution/Wholesale									P		P
Drive-Through Facilities (Excluding Restaurants)				PC	PC	PC	PC	PC	PC	PC	PC
Duplex			PC	PC							
Dwelling, Manufactured Home, Class A	PC										
Dwelling, Multi-Family*				CZ			CZ			CZ	
Dwelling, Single-Family	P	P	P	P						CZ	
Essential Services, Class I & Class II	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC
Essential Services, Class III											CZ
Essential Services, Class IV	CZ	CZ	CZ	P	P	P	P	P	P	P	P
Events/Gathering Facility, Indoor				CZ	CZ	CZ	CZ	P	P	P	P
Events/Gathering Facility, Outdoor	CZ			CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ
Firing Range (Indoor only)											CZ
Funeral Homes/Crematory				PC			PC	PC			
Golf Course	CZ	CZ						CZ			
Golf Driving Range	AC	AC						PC			
Golf, Miniature				CZ	P	P	P	P			
Greenways and Trails	P	P	P	P	P	P	P	P	P	P	P
Home Occupation	AC	AC	AC	AC	AC	AC	AC				
Hospital								CZ	CZ	CZ	
Hotel, Motel, Inn				CZ	CZ	CZ	CZ	PC	PC	PC	
Innovative Master Planned Development	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ
Kennel*	CZ							CZ			CZ
Manufacturing, Heavy											PC
Manufacturing, Light									P	P	P
Mining/Fracking/Quarry Operations											
Mini-Warehouse/Storage											
Mixed Use Building				PC	PC	PC	PC				
Nightclub*					CZ	CZ	CZ	CZ	CZ	CZ	
Nursery (wholesale only)	CZ										
Office				P	P	P	P	P	P	P	A
Park	P	P	P	P	P	P	P	P	P	P	P
Park & Ride Facility				CZ		PC	PC	PC	PC	PC	PC
Parking Area and/or Facility	AC	AC	AC	AC	AC	CZ	AC	AC	AC	AC	AC

[illegible]

AMEND Chapter 6, Uses with Conditions, Section 6.2: Use Conditions

- **DELETE Antenna Systems**
- **ADD Small Wireless Facility**

6.2.38: SMALL WIRELESS FACILITY

- A. All Small Wireless Facilities located on single-family residential lots must follow the requirements of Section 16.7, Special Use Permits, unless located within a public right-of-way. If placed within a public right-of-way a utility right-of-way encroachment agreement must be obtained from the Town. On private property, an agreement properly approved by the private property owner authorizing the use is required. Copies of all approvals must be provided to the Town.
- B. The maximum height of each new, modified, or replacement utility pole shall not exceed 50' above ground level. Each new small wireless facility shall not extend more than 10' above the pole on which it is located.
- C. Documentation including engineered plans, photographic renderings, GIS mapping and all other pertinent requirements of Chapter 13 are required to be submitted at time of application.
- D. All ground mounted components of the Small Wireless Facility shall be screened with a Type A buffer.
- E. Must comply with Section 4.2.4, Building Design-Small Wireless Facilities.

CHAPTER 2: DEFINITIONS

4. Adult or Sexually Oriented Mini Motion Picture Theater
5. Adult or Sexually Oriented Motion Picture Theater

Agricultural Uses

The production, keeping, or maintenance of plants and animals useful to man, used exclusively as a bona fide agricultural operation by the owner or tenant.

Alley

A privately maintained service roadway providing a secondary means of access to abutting property and not intended for general traffic circulation.



Amendment, Major

An amendment to any Town Board approved Plan, except Minor Amendments and changes allowed through the Administrative Amendment Process as specified in Section 18.5.12, Alterations and Amendments to Approvals. A Major Amendment also includes a change of use that differs from the uses previously approved under a Special Use Permit or Conditional Use Permit. A Major Amendment to a Town Board approved plan shall follow the conditional zoning process. Any amendment to an approved residential development plan will follow the procedures specified in Section 18.5.12.

Amendment, Minor

An amendment to any Town Board approved Plan that, excluding conditional zoning approved plans, shall follow the Special Use Permit process, pursuant to Section 16.7, Special Use Permits. A Minor Amendment does not include a change of use that differs from the uses previously approved under a Special Use Permit or Conditional Use Permit.

Amendment, Text

A change to any text of the Land Development Code.

Amendment, Zoning Map

A change to the zoning map in accordance with Chapter 18.

Animal Hospital

A place where animals are given medical or surgical treatment and the boarding of animals is incidental to the hospital use. Facilities may be located outdoors and may include but not be limited to kennels and training/exercise areas.

Antenna Systems

~~A network of spatially separated antenna nodes or similar technology connected to a common source via a transport medium that provides or enhances wireless service within a geographic area or structure(s). Antenna or similar technology elevations are generally at or below 30 feet high and node installations are compact. This definition does not include cell towers, other essential services as defined within this chapter or similar transmission devices. Antenna systems may be within public or private street right-of-way or on private property and may be owned by public and/or private entities. Nothing in this definition shall limit its applicability to future antenna or transmission technology that performs functionally in the same or similar manner.~~



CHAPTER 2: DEFINITIONS

bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not water-related structures.

Watershed

The entire land area that contributes surface drainage to a specific point. The watershed delineates the boundaries of the Watershed District, which sets development standards for impervious surface areas and water quality.

Watershed Administrator

An official or designated person of the Town of Cornelius responsible for administration and enforcement of the Watershed Protection provisions of this Ordinance.

Watershed Protection District

Any area designated by the State of North Carolina and shown on the Town of Cornelius Watershed & Environmental Features Map where development restrictions are imposed to increase water quality for water supply sources. All development within the designated water supply watershed district shall conform to the provisions of this Code concerning activity with the Watershed Overlay Districts.

Watershed Variance (Major)

A variance from the minimum statewide watershed protection rules that results in any one or more of the following:

1. The relaxation, by a factor greater than ten percent (10%), of any management requirement under the low impervious cover option;
2. The relaxation, by a factor greater than five percent (5%), of any buffer, density or built-upon area requirement under the high impervious cover option;
3. Any variation in the design, maintenance or operation requirements of a wet detention pond or other approved stormwater management system.

Watershed Variance (Minor)

A variance from the minimum statewide watershed protection rules that results in a relaxation, by a factor of up to five percent (5%) of any buffer, density or built-upon area requirement under the high impervious cover option; or that results in a relaxation, by a factor of up to ten percent (10%), of any management requirement under the low impervious cover option.

Wetlands

Areas defined as wetlands under the jurisdiction of the US Army Corps of Engineers and subject to State and Federal regulation and protection. Wetlands generally include, swamps, marshes, bogs, and similar areas characterized by alluvial soils, plants, or hydrology.

Wireless Facility

Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including: (1) equipment associated with wireless communications; and (2) radio transceivers, antennas, wires, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes small wireless facilities. The term shall not include the following: (A) the structure or improvements on,



CHAPTER 2: DEFINITIONS

under, within, or adjacent to which the equipment is collocated (B) Wireline backhaul facilities; (C) Coaxial or fiber-optic cable that is between wireless structures or utility poles or city utility poles that is otherwise not immediately adjacent to or directly associated with a particular antenna.

Wireless Facility, Small

A wireless facility that meets both of the following qualifications: (1) each antenna is located inside an enclosure of no more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six cubic feet; and (2) all other wireless equipment associated with the facility is cumulatively no more than 28 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, ground-based enclosures, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and other services. Such facilities may be installed on a new, modified, or replacement pole no greater than 50' in height or extended no more than 10' above such pole or wireless support structure.

Y

Yard

Open space that lays between the principal building or buildings and the nearest lot line. The minimum required yard is unoccupied and unobstructed from the ground upward except as may be specifically provided in this ordinance. Yards are further classified as front, rear, and side. Uses and structures that may be permitted in required yards include accessory structures, patios, decks and open porches, bay windows, open steps, driveways, fences, and permitted signs, underground utilities, existing vegetation, required landscaping and lighting.

Yard, Front

A space extending the full width of the lot between the building and the front lot line or the fronting street right-of-way measured perpendicular to the building at the closest point to the front lot line. Typically, this yard is required to remain open and unoccupied, with the exception of certain encroachments such as bay windows, sidewalks, street trees, street furniture, fences, walls, and landscaping. No lot shall be deemed to have frontage on or along any water front or any other similar features.

Yard, Rear

A space extending across the full width of the lot between the principal building and the rear lot line and measured perpendicular to the building to the closest point of the rear lot line. Generally, accessory structures are permitted within this yard.

Yard, Side

A space extending from the front yard to the rear yard between the principal building façade and the side lot line and measured perpendicular from the side lot line to the closest point of the principal building facade.



CHAPTER 4: BUILDING DESIGN

- e. For buildings less than seventy-five feet (75'), one interruption is required within thirty feet (30') on either side of the center of the building.
- f. At least one (1) ground entrance to every dwelling shall be located within a walking distance of one-hundred feet (100') to the parking area within the development designated to serve that dwelling.
- g. Garage doors are not permitted on the front elevation of any multi-family dwelling.
- h. Detached garages or garage buildings shall be located in the side or rear yard only.

C. Techniques

- 1. Stucco shall be float finish.
- 2. Windows shall be set to the inside of the building face wall.

4.2.3: School and Civic Buildings (Churches, Government Offices, and other Civic Facilities)

Schools, churches, and government buildings should be built so that they terminate a street vista whenever possible, and shall be of sufficient design to create visual anchors for the community. Such buildings shall adhere to the provisions as marked below.

A. Materials

- 1. Building walls shall be clad in stone, stucco, brick, marble. Decorative cast concrete and wood or vinyl siding may be used as a minority element on facades facing public streets.
- 2. Roofs shall be clad in slate, sheet metal, corrugated metal, or diamond tab asphalt shingles, or other material similar in appearance and durability.
- 3. Gutters and down spouts shall be made of copper or galvanized painted metal.
- 4. Columns, if provided, shall be made of wood, cast concrete, or fiberglass.
- 5. Stained glass or other decorative window treatments are encouraged.

B. Configurations

- 1. Two wall materials may be combined horizontally on one facade. The heavier material should be below.
- 2. Flat roofs are permitted; however, buildings adjacent to residential structures shall have pitched roofs or architectural features similar to the adjacent residential structures to ensure compatibility. This requirement may be waived when it is deemed to serve no meaningful purpose or public benefit.

C. Techniques

Windows shall be set to the inside of the building face wall.

4.2.4: Small Wireless Facilities

- a. Shall be collocated on existing poles where feasible;
- b. May be installed on a new, modified, or replacement pole not to exceed 50' in height or extend no more than 10' above the utility pole, city utility pole, or wireless support structure on which it is located;
- c. Shall be blended with the natural surroundings as much as possible. Colors and materials shall be used that are compatible with the surrounding area, except when otherwise



CHAPTER 4: BUILDING DESIGN

required by applicable federal or state regulations. Small wireless facilities shall be located, designed, and/or screened to blend in with the existing natural or built surroundings to reduce the visual impacts as much as possible, and to be compatible with neighboring land uses and the character of the community;

d. Shall be installed at property lines and street corners where feasible;

e. Shall be located such that they do not interfere with public health or safety, such as but not limited to a fire hydrant, fire station, fire escape, water valve, underground vault, valve housing structure, or any other public health or safety facility. New facilities shall not be installed directly over any water, sewer, or service line;

f. Shall be of the same or better nature as other utilities in the immediate area (same or better decorative pole type; underground; etc.)

g. Shall Bear no signs or advertising devices except as required by law.



CHAPTER 5: ZONING & USE REGULATIONS

- Uses designated with an “A” are only allowed as accessory uses. Conditions for “accessory uses with supplemental conditions” (AC), may be found in Chapter 6 of this Code.

P - Permitted By Right PC - Permitted w/ Supp. Conditions	S - Special Use Permit Required CZ - Conditional Zoning Approval Required						A - Accessory Use Only AC - Accessory w/ Supp. Conditions				
<u>Use Category</u>	<u>RP</u>	<u>GR</u>	<u>NR</u>	<u>NMX</u>	<u>WMX</u>	<u>TC</u>	<u>VC</u>	<u>HC</u>	<u>BC</u>	<u>CO</u>	<u>IC</u>
Adult Establishment*								CZ			
Agricultural Uses	P										
Animal Hospital and Boarding & Grooming Service (no outdoor kennels)				P		P	P	P			P
Animal Hospital (w/outdoor kennel)								CZ			CZ
Antenna Systems*	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ
ATM (Automated Teller Machine)				AC	AC	AC	AC	AC	AC	AC	AC
Automobile, Truck, Motorcycle, Boat, Manufactured Home, Recreational Vehicle Repair & Service*											
Automobile, Recreational Vehicle, Boat & Tractor Trailer Parking/Storage*											
Automobile, Truck, Motorcycle, Boat, Manufactured Home, Recreational Vehicle Sales & Rental*											
Bar				A	AC	A	A	A	A	A	A
Bed & Breakfast Inn	PC		PC	PC	PC	PC	PC				
Brewery, Large									PC		PC
Brewery, Micro				CZ	CZ	PC	PC	PC	PC	PC	PC
Bus Stop Shelter				PC	PC	PC	PC	PC	PC	PC	PC
Car Wash – Automatic & Self Service								CZ			
Cemetery/Columbarium	AC	AC	AC	AC	AC	AC	AC	AC	AC	AC	AC
Child Care/Preschools				PC	AC	PC	PC	PC	PC	PC	
Civic*	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	
Commercial, Retail & Service Uses 0 - 9,999 square feet				P	P	P	P	P	P	P	
Commercial, Retail & Service Uses 10,000 - 29,999 square feet				CZ	CZ	P	P	P	P	P	
Commercial, Retail & Service Uses 30,000 - 49,999 square feet				CZ	CZ	CZ	CZ	P	P	P	



CHAPTER 5: ZONING & USE REGULATIONS

P - Permitted By Right
PC - Permitted w/ Supp.
Conditions

S -Special Use Permit Required
CZ - Conditional Zoning Approval
Required

A - Accessory Use Only
AC - Accessory w/ Supp.
Conditions

<u>Use Category</u>	<u>RP</u>	<u>GR</u>	<u>NR</u>	<u>NMX</u>	<u>WMX</u>	<u>TC</u>	<u>VC</u>	<u>HC</u>	<u>BC</u>	<u>CO</u>	<u>IC</u>
Commercial, Retail and Service Uses 50,000+ square feet						CZ	CZ	CZ	CZ	CZ	
Convenience Store							PC	PC	PC	PC	
Country Club*	CZ	CZ	CZ		CZ			CZ			
Cruise/Excursion/Dinner Boat				PC	AC		PC				
Distribution/Wholesale									P		P
Drive-Through Facilities (Excluding Restaurants)				PC	PC	PC	PC	PC	PC	PC	PC
Duplex			PC	PC							
Dwelling, Manufactured Home, Class A	PC										
Dwelling, Multi-Family*				CZ			CZ			CZ	
Dwelling, Single-Family	P	P	P	P						CZ	
Essential Services, Class I & Class II	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC
Essential Services, Class III											CZ
Essential Services, Class IV	CZ	CZ	CZ	P	P	P	P	P	P	P	P
Events/Gathering Facility, Indoor				CZ	CZ	CZ	CZ	P	P	P	P
Events/Gathering Facility, Outdoor	CZ			CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ
Firing Range (Indoor only)											CZ
Funeral Homes/Crematory				PC			PC	PC			
Golf Course	CZ	CZ						CZ			
Golf Driving Range	AC	AC						PC			
Golf, Miniature				CZ	P	P	P	P			
Greenways and Trails	P	P	P	P	P	P	P	P	P	P	P
Home Occupation	AC	AC	AC	AC	AC	AC	AC				
Hospital								CZ	CZ	CZ	
Hotel, Motel, Inn				CZ	CZ	CZ	CZ	PC	PC	PC	
Innovative Master Planned Development	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ
Kennel*	CZ							CZ			CZ
Manufacturing, Heavy											PC
Manufacturing, Light									P	P	P
Mining/Fracking/Quarry Operations											
Mini-Warehouse/Storage											
Mixed Use Building				PC	PC	PC	PC				
Nightclub*					CZ	CZ	CZ	CZ	CZ	CZ	
Nursery (wholesale only)	CZ										
Office				P	P	P	P	P	P	P	A
Park	P	P	P	P	P	P	P	P	P	P	P



CHAPTER 5: ZONING & USE REGULATIONS

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Conditions

S -Special Use Permit Required
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A - Accessory Use Only
AC - Accessory w/ Supp.
Conditions

<u>Use Category</u>	<u>RP</u>	<u>GR</u>	<u>NR</u>	<u>NMX</u>	<u>WMX</u>	<u>TC</u>	<u>VC</u>	<u>HC</u>	<u>BC</u>	<u>CO</u>	<u>IC</u>
Park & Ride Facility				CZ		PC	PC	PC	PC	PC	PC
Parking Area and/or Facility	AC	AC	AC	AC	AC	CZ	AC	AC	AC	AC	AC
Private Club					PC	PC		PC			
Recreation Center, Public (0 – 14,999 square feet)				P		P	P	P	P	P	P
Recreation Center, Public (15,000+ square feet)				CZ		P	P	P	P	P	P
Recreation Facilities	CZ	CZ	CZ	CZ	PC	PC	PC	PC	AC	AC	PC
Rental Cottages	AC	AC	AC	AC							
Residential Care Facility	PC	PC	PC	PC							
Residential Care Home	PC	PC	PC	PC							
Restaurant, Drive Through							PC	PC			
Restaurant, Non-Drive Through				P	P	P	P	P	P	P	
Restaurant, Brewpub				CZ	PC	PC	PC	PC	PC	PC	
Salvage											
School, Elementary, Middle, Senior High and College (public & private)*	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	
School, Vocational*				CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ
<u>Small Wireless Facility*</u> <u>(Wireless Facility, Small)</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>
Storage, Outdoor	AC	AC	AC					AC			AC
Subdivision, Conservation Rural*	CZ										
Subdivision, Conservation Low*	CZ										
Subdivision, Conservation Medium*	CZ										
Subdivision, Family	PC										
Subdivision, Farmhouse Cluster	PC										
Subdivision, Major	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ
Subdivision, Minor	P	P	P	P	P	P	P	P	P	P	P
Taproom				AC	AC	AC	AC	AC	AC	AC	AC
Traditional Neighborhood											
Transient Occupancy	PC			PC		PC	PC				
Transient Occupancy in multi-family buildings only		PC	PC								
Warehouse									A		P

* See Chapter 6 for specific conditions.



CHAPTER 6: USES PERMITTED WITH CONDITIONS

- C. Minimum size of associated restaurant shall be twenty percent (20%) of the gross floor area, or fifteen hundred (1,500) square feet, whichever is less.
- D. Cannot exceed five thousand (5,000) square feet in Neighborhood Mixed Use, Village Center and Town Center Districts.
- E. A Type 'A' screening buffer is required where a restaurant/brewpub is adjacent to a residentially zoned property.

6.2.37: SCHOOLS

- A. Parking shall be located towards the interior of the lot. Parking may not occur within a front setback or corner side setback.
- B. Front setbacks may be altered to preserve views or significant trees.
- C. School sites over three (3) acres shall provide ninety percent (90%) of the parking on-site.

6.2.38: ANTENNA SYSTEMS/SMALL WIRELESS FACILITY

- A. All ~~Antenna Systems~~ Small Wireless Facilities located on single-family residential lots must follow the requirements of Section ~~18.5.16.7, Special Use Permits~~, unless located within a public right-of-way. If placed within a public right-of-way ~~the applicable approval including a utility right-of-way use~~ encroachment agreement permit for town streets and/or encroachment agreement for state streets must be obtained ~~from the Town in accordance with the definition of "Antenna Systems" in Chapter 2.~~ On private property ~~or right of way~~, an agreement properly approved by the private property owner authorizing the use is required. Copies of all approvals must be provided to the Town. ~~Placement of Antenna Systems on buildings, public spaces, and existing poles should be given priority.~~
- B. ~~Maximum height of Small Cell Wireless Facilities shall be 50' above the mean grade elevation of the road and shall not extend more than 10' above the utility pole, city utility pole, or wireless support structure on which it is located. Antenna Systems, including the pole and antenna on the top of the pole, shall be at or below thirty feet (30') unless otherwise approved higher or lower by the Town Board of Commissioners based on unique site circumstances.~~
- C. The maximum height of each new, modified, or replacement utility pole shall not exceed 50' above ground level. Each new small wireless facility shall not extend more than 10' above the pole on which it is located.
- ~~C.D.~~ Documentation including engineered plans, photographic renderings, GIS mapping and all other pertinent requirements of Chapter 13 are required to be submitted at time of application.
- ~~D. After Conditional Zoning approval, placement of Antenna Systems node locations may be altered subject to the Administrative Amendment process in Section 18.5.12.~~
- E. All ground mounted components of the ~~Antenna Systems~~ Small Wireless Facility shall be screened with a Type A buffer.
- ~~E.F. Must comply with Section 4.2.4, Building Design-Small Wireless Facilities.~~
- ~~F. A Radio Frequency study shall be submitted with as built documentation and plans upon installation completion.~~
- G. ~~Antenna Systems are required to have underground fiber/cable to connect node locations of Antenna Systems if underground lines are consistent with the existing utility lines within a neighborhood or node location.~~
- H. ~~Co location is encouraged. Co location may occur on poles of non-conforming Antenna Systems. Co location of additional equipment is permitted for public uses of antenna nodes.~~

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CHAPTER 6: USES PERMITTED WITH CONDITIONS

- ~~I. Antenna Systems in existence before the adoption of this Ordinance may expand and change after going through an amendment process for the appropriate right-of-way permit or similar approval and an administrative zoning approval process.~~
- ~~J. Obsolete equipment or unused portions of Antenna Systems that are abandoned must be removed within 180 days of abandonment. In the event of non-removal of outdated and unused antenna systems equipment, all other projects involving the company who has not removed equipment shall not be allowed to obtain additional permits for new antenna system service.~~

6.2.39: STORAGE, OUTDOOR

Residential Properties/ Uses:

The storage of goods or products as an ancillary use. The goods or products shall be stored in the side or rear yard and screened with an opaque fence, a tarp/ cover, or within a shed or building.

- Vehicles: With the exception of junked vehicles as allowed in Section 90.18 of the Code of Ordinances, if not parked on an improved driveway, vehicles shall be stored in the side or rear yard. Vehicles that are not parked on an improved driveway for a party or special event are exempt.
- Recreational vehicles (which includes motorhomes, towables/ 5th wheels, and folding/ tent campers) and trailers (excluding boat trailers discussed below): If not parked on an improved driveway, recreational vehicles and/ or trailers shall be stored in the side or rear yard. A limit of one recreational vehicle or trailer per property is allowed to be parked on an improved driveway in the front yard.
- Boats/ vessels/ personal watercraft: If not parked on an improved driveway, boats/ vessels/ personal watercraft shall be stored in the side or rear yard. Boats/ vessels/ personal watercraft stored in the front yard must be on an appropriate trailer parked on an improved driveway. A limit of two trailers for boat/ vessel/ personal watercraft are allowed in the front yard. Each boat/ vessel shall not exceed twenty-six (26) feet in length by the manufacturer' s published overall length. In addition, each trailer's load may not exceed 6,500 pounds by the manufacture's published dry weight.

Commercial Properties/ Uses:

Goods or products shall be stored in the rear yard and screened with an opaque fence or masonry fence/wall that shall match or complement the appearance of the principal structure. In addition, the storage area shall be screened with a type " A" buffer.

6.2.40: SUBDIVISION, CONSERVATION

- A. Purpose and Findings: The purpose of this section is to provide flexibility in site design to allow developers to preserve common open space and natural resources. The specific purposes of this section are to:
1. Protect the public health, safety, and general welfare by avoiding surface and groundwater pollution, contaminated run-off, air quality contamination, and urban heat islands that result from pavement and the clearing of natural vegetation
 2. Protect and preserve natural resources, such as wetlands, streams, lakes, steep slopes (18% or greater), woodlands, and water recharge areas



REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: November 5, 2018

To: Mayor and Town Board Members

From: Becky Partin, Senior Planner

Action Requested:

Earlier this year, the North Carolina Division of Energy, Mineral and Land Resources (DEMLR) informed the Town that our practice of allowing impervious area transfers between properties was not in compliance with state statute. To comply with state statute, Section 11.3, Built-Up Area Averaging, is proposed to be added to the Land Development Code.

Section 11.3 specifies the necessary process for a property owner to obtain additional built-upon area rights with the approval of a Built-Up Area Averaging Certificate issued by the Watershed Review Board.





As a result of this change, an additional signature block on plats is necessary and is reflected in Chapter 13, Development Plan Specifications.

DEMLR approved these changes on September 20, 2018. The Planning Board and the Land Development Code Advisory Board unanimously approved the proposed text amendment.

Manager's Recommendation:

Approve an Ordinance to amend the Land Development Code as presented in TA 02-18.

ATTACHMENTS:

Name:	Description:	Type:
 ORD_TA_02-18_Watershed_BUA_Averaging.pdf	ORD TA 02-18 Watershed Built-Up (BUA) Averaging	Ordinance
 Cornelius_BUA_Avg_Ord_Concurrence_20180920.pdf	TA 02-18 DEMLR Approval Letter	Backup Material
 CH_11_Watershed_Protection-Novus.pdf	Chapter 11 - Watershed Protection	Backup Material
 CH_13_Development_Plan_Specifications-Novus.pdf	Chapter 13 - Development Plan Specifications	Backup Material

**AN ORDINANCE TO AMEND THE TOWN OF CORNELIUS
LAND DEVELOPMENT CODE**

WHEREAS, the Town Board of Commissioners on March 19, 2018 adopted an ordinance which regulates the classification and use of property within its zoning jurisdiction, including its extra-territorial jurisdiction; and,

WHEREAS, proper statutory notice of public hearing on the issue of amending the Cornelius Land Development Code has been provided through advertisement in a newspaper of general circulation in the Town; and,

WHEREAS, the North Carolina Division of Energy, Mineral and Land Resources has reviewed and approved the requested changes; and

WHEREAS, the Planning Board of the Town of Cornelius has recommended that the Town Board of Commissioners amend the Cornelius Land Development Code; and

WHEREAS, a public hearing on the amendment has been held by the Town Board of Commissioners on November 5, 2018.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Town of Cornelius, North Carolina that the following chapters of the Land Development Code be amended as described in Exhibit A:

- AMEND Chapter 11: Watershed Protection to define a process to allow Built-Upon Area (BUA) Averaging
- AMEND Chapter 13: Development Plan Specifications to add a signature block

Adopted this 5th day of November, 2018.

Woody T. Washam, Jr., Mayor

ATTEST:

Lori A. Harrell, Town Clerk

APPROVED AS TO FORM:

Town Attorney

Exhibit A

TA 02-18 Watershed Built-Upon Area Averaging

AMEND Chapter 11, Watershed Protection

ADD SECTION 11.3: BUILT-UPON AREA AVERAGING

Built-upon area averaging (also known as density averaging) allows parcels located within the Town of Cornelius corporate boundaries and extraterritorial jurisdictional limits that have been designated as a Public Water Supply Watershed by the N.C. Environmental Management Commission to obtain additional development rights through an increase in a site's built-upon-area ("BUA") by averaging the total BUA of the developing lot (i.e. "receiving lot") with the total BUA of an undeveloped/less developed lot within the same watershed and jurisdiction ("donating lot"). This is accomplished by transferring undeveloped area on a donating lot to a receiving lot via a BUA Averaging Certificate, which includes a non-revocable easement, metes and bounds description, and recorded plat(s) of the affected lots including the area(s) to remain undisturbed. The BUA Averaging Certificate requires approval by the Watershed Review Board, a sub-set of the Planning Board; for the purposes of this ordinance, the Planning Board may act as the Watershed Review Board.

11.3.1 PURPOSE & ELIGIBILITY

- A. Purpose:** The purpose of this provision is to preserve open space in the more sensitive areas of the watershed, and to ensure orderly and planned development throughout the watershed.
- B. Uses:** All parcels are eligible to be a receiving lot or a donating lot.
- C. Requirements:** The following requirements must be met by all parcels:
 - 1. Ownership:** Only the owner(s) of the participating parcels may submit a Built-Upon Area Averaging Certificate application. Areas subject to easements, covenants, and/or development restrictions not legally controlled by the owner may not be included as donated parcel area; this includes right-of-way area.
 - 2. Pre-Existing Variance:** No parcel for which a watershed variance has been granted, or would be required, may be included as a donating or receiving parcel.
 - 3. Location:** Participating parcels shall be located in the same water supply watershed. BUA transfers may not occur between critical areas and protected areas. All parcels must be located within the Town of Cornelius' planning jurisdiction.
 - 4. Overall Area:** The cumulative BUA of all participating parcels shall not exceed the BUA that would be allowed if the parcels were developed separately under applicable Ordinance standards.

5. Preservation: The donated area shall remain in an undisturbed vegetated or natural state. Previously developed or graded lots may be used as donating parcels so long as the donated area of the lot is revegetated in accordance with Section 9.9.6, Replacement of Vegetation, of this Code. The donated area shall be irrevocable unless amended per the requirements of this ordinance prior to the undertaking of any development activity on the participating parcels.
6. Stormwater Design: All participating parcels must meet the applicable buffer and engineered stormwater controls as outlined in the ordinance. For clarity any participating parcels buffers shall at least meet the applicable, minimum ordinance requirements for parcels located in water supply watersheds. For further clarity, development meeting applicable high density requirements shall have on-site stormwater facilities and development meeting applicable low density requirements shall transport stormwater runoff by vegetated conveyances to the maximum extent practicable; all in accordance with applicable ordinance requirements.
7. Design: Built-upon areas shall be designed and located to minimize stormwater runoff impact to the receiving waters, minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas, and maximize the flow length through vegetated areas.

11.3.2: PROCESS

A Built-Upon Area (BUA) Averaging Certificate shall be obtained from the Watershed Review Board to ensure that all participating parcels considered together meet the standards of the ordinance, including any standards and requirements on previously recorded subdivision plats, and that potential owners have a record of how the watershed regulations were applied to each parcel.

- A. Applicability:** All participating parcels may be processed under a single BUA Averaging Certificate application, and will be considered as one development for the purpose of counting total built-upon-area. If approved by the Watershed Review Board, one BUA Averaging Certificate will be issued per application. Unless otherwise specified, the application shall follow the rules and procedures specified by the Planning Board and Appeals & Variances sections of this ordinance.
- B. Process:** The following steps outline the typical process for obtaining a BUA Averaging Certificate. Note: Application preparation is considered an iterative process; an application must be deemed complete by the Planning Director or designee, and all revisions addressed in order for the request to be added to the next regularly scheduled Planning Board meeting agenda for their consideration as the Watershed Review Board. Incomplete, improperly formatted, or documentation errors may require revision prior to acceptance by the Planning Director or designee.
 1. Lot Identification: The applicant shall identify participating lots, prepare draft plats, and complete a BUA Averaging Certificate Application.

2. Pre-Application Meeting: The applicant must set up an appointment with the Planning Director or designee. At the initial meeting the Planning Director or designee will explain the BUA averaging process and review with the applicant the appropriate ordinances, documents, and plans relevant to the project. Additional meetings may be required prior to application submission, as deemed necessary by the Planning Director or designee.
3. Submit Application & Fee: The applicant must submit the following documents (see the Documentation section for further information):

 - Town of Cornelius BUA Averaging Certificate Application and Application Fee
 - Surveys of Existing Conditions
 - Existing Plats and Deeds
 - Metes & Bounds Description(s) (a metes and bounds description of the undisturbed natural area, intended for recordation.)
 - Final Plats (Drafts)
 - Existing development materials (as applicable)
 - Preliminary Sketch Plan (if required)
4. Application Review: Staff will review the application and determine whether the materials constitute a complete submittal. Application revisions, and additional meetings, may be required by the Planning Director or designee prior to the application being deemed complete. Once the application is determined to satisfy the requirements, the request will be added to the next regularly scheduled Planning Board meeting agenda for their consideration as the Watershed Review Board.
5. Watershed Review Board Decision: The Watershed Review Board shall issue a decision within 31 days from the date they first meet to hear the request. The board shall make written findings supported by appropriate calculations and documentation that the participating parcels as a whole conform to the intent and requirements of this Section, and that the proposed application and supporting documents assures protection of the preserved area. The request must be consistent with adopted plans and/or policies, approved development plans, Cornelius Land Development Code requirements, and the Watershed Review Board's determination based on these resources that the proposal achieves an identified public interest.
6. Certificate Issued: If approved, the Town of Cornelius will issue a BUA Averaging Certificate to the applicant. The BUA Averaging Certificate shall constitute the Watershed Review Board decision, staff approval letter, and application documentation.
7. Document Submission: If approved by the Watershed Review Board, the applicant must submit the following documents via the current Mecklenburg County online review system:

- Mecklenburg County Application
- Final Plats and any applicable Deeds, Covenants or Conservation Easement documents

8. Plat Approval/Signature: Once approved in the current Mecklenburg County online review system, the applicant must submit two (2) mylar copies of each plat in accordance with the requirements of Section 13.8, Final Plat Requirements, of this Code for signature. One mylar of each plat included in the application and filed with the Register of Deeds must be provided to the Town of Cornelius for filing.

9. Amendment: If a BUA certificate is approved by the Watershed Review Board, no change in the development proposal authorized for participating parcels shall be made unless the certificate is amended by the Watershed Review Board.

11.3.3: DOCUMENTATION REQUIREMENTS

The following documentation shall be provided to constitute a complete Built-Upon Area (BUA) Averaging Certificate application:

A. Administrative:

- 1. Town of Cornelius Application:** A completed BUA Averaging Certificate Application including a chart summarizing the existing and proposed BUA for all participating properties.
- 2. Fee:** A remitted fee in accordance with the fee schedule approved by the Town of Cornelius Board of Commissioners.

B. Surveys: Surveys of all participating parcels showing current BUA and current maximum BUA allowances, along with easements and/or development restrictions. The surveys must be performed by a licensed surveyor.

C. Existing Plats & Deeds: Copies of the existing, registered plats and deeds for all participating parcels.

D. Metes & Bounds Description (Donating Parcel): A metes and bounds description of the undisturbed natural area intended for recordation. The description must specify any limits on use and shall be recorded on the plat, in homeowner covenants (if applicable), and on the donating parcel's individual deed and shall be irrevocable unless amended per the ordinance.

E. Final Plats (Draft): Revised plats for all participating parcels. The plats must be in accordance with the requirements of Section 13.8, Final Plat Requirements, of this Code. Additionally, the plats must include:

1. Purpose Statement:

The purpose of this plat is to allocate xxxxx square feet of allowable built-upon area from PID xxxxxxxx (donor parcel) to PID xxxxxxxx (receiving parcel). Each parcel is located within the same watershed.

2. Site Data

	<u>Donor Parcel</u>	<u>Recipient Parcel</u>
<u>PID:</u>		
<u>Total Site Area</u>		
<u>Current Allowed Built-Upon Area for Parcel</u>		
<u>Built-Upon Area Allocated</u>	<u>-</u>	<u>±</u>
<u>New Allowed Built-Upon Area</u>		
<u>Existing Surveyed Built-Upon Area</u>		
<u>Remaining Allowed Built-Upon Area</u>		

3. Metes/Bounds Description: Metes/bounds description(s) of designated undisturbed natural area(s).

4. Designation in Perpetuity: A note that the natural area will remain undisturbed in perpetuity.

5. BUA Averaging Certification on Plat: See Chapter 13.

F. Existing Development: If a participating parcel(s) is part of an existing development, then the following documentation shall be provided:

1. Approved Stormwater Mitigation Plan: A storm water mitigation plan approved by Mecklenburg County Storm Water Services, Water Quality Program, for the receiving parcel based on the pathway pursued:

a. Buffer/Vegetative Conveyances: Must meet all applicable ordinance requirements for parcels located in water supply watersheds.

b. Engineered Stormwater Controls: Must confirm the following:

- The effected BMP(s) has been designed to handle the additional BUA.
- All participating lots are in the same drainage basin.
- Verified as-built information of the existing, approved BMP.
- Sealed engineer calculations to prove existing and future compliance with the water quality requirements based on the proposed BUA to be transferred.

2. Homeowner's Covenant Agreements: A draft of revised covenant documents reflecting the additional BUA and other pertinent information for all affected parcels.

AMEND Chapter 13, Development Plan Specifications

This certification is to appear on all Built-Upon Area (BUA) averaging plats:

Built-Upon-Area Transfer Plat

This plat represents a transfer of built-upon-area through preservation of a dedicated, undisturbed natural area for properties within the jurisdiction of the Town of Cornelius. The resulting action may or may not create tracts of land that are compliant with the Cornelius Land Development Code (LDC). This parcel is subject to the LDC built-upon area averaging standards: Any change to the development proposal affecting the approved built-upon-area allowance requires amendment to the existing Built-Upon Area Averaging Certificate and approval by the Cornelius Watershed Review Board. The Planning Director reserves the right to make periodic site inspections to ensure compliance with these conditions.

Date

Planning Director, Town of Cornelius



ROY COOPER
Governor

MICHAEL S. REGAN
Secretary

WILLIAM E. (TOBY) VINSON, JR.
Interim Director

September 20, 2018

Wayne Herron, Deputy Town Manager
Town of Cornelius
P.O. Box 399
Cornelius, NC 28031

**Subject: Draft Ordinance for Built Upon Area Averaging
Town of Cornelius
Mecklenburg County**

Dear Mr Herron:

The Division of Energy, Mineral and Land Resources (DEMLR) received a request to review the proposed change to the Town of Cornelius Land Development Code, Chapter 11 on July 2, 2018 and provided comments on August 16, 2018. A revised submittal was received on September 17, 2018 which addressed all of DEMLR's comments. The proposed ordinance language is to establish requirements for built upon area averaging in Section 11.3 of the town's existing ordinance.

DEMLR has performed a review of the proposed revision for compliance with 15A NCAC 143-214.5 water supply watershed protection rules, and concurs that the proposed changes as submitted will satisfy the requirements.

If you have any questions concerning this matter please feel free to contact me at Jeanette.Powell@ncdenr.gov or (919) 707-3620.

Sincerely,

Jeanette Powell
MS4 Program Coordinator
Stormwater Program

Cc: Becky Partin, Senior Planner
Annette Lucas, Stormwater Program Manager
DEMLR Mooresville Regional Office



CHAPTER 11: WATERSHED PROTECTION

Activities necessary to maintain uses are allowed provided that no additional disturbance occurs in the buffer.

2. A use shall be considered as existing if projects or proposed development at a minimum have established a vested right under North Carolina zoning law as of the effective date of this rule, based on at least one of the following criteria:
 - a. Substantial expenditures of resources (time, labor, and money) based on good faith reliance upon having received a valid local government approval to proceed with the project.
 - b. Having an outstanding valid building permit in compliance with G.S. 153A-344.1 or G.S. 160A-385.1.
 - c. Having an approved site specific or phased development plan in compliance with G.S. 153A-344.1 or G.S. 160A-385.1.
 - d. Project requires a 401 Certification/404 Permit and these were issued prior to the effective date of this rule.

SECTION 11.3: BUILT-UPON AREA AVERAGING

Built-upon area averaging (also known as density averaging) allows parcels located within the Town of Cornelius corporate boundaries and extraterritorial jurisdictional limits that have been designated as a Public Water Supply Watershed by the N.C. Environmental Management Commission to obtain additional development rights through an increase in a site's built-upon-area ("BUA") by averaging the total BUA of the developing lot (i.e. "receiving lot") with the total BUA of an undeveloped/less developed lot within the same watershed and jurisdiction ("donating lot"). This is accomplished by transferring undeveloped area on a donating lot to a receiving lot via a BUA Averaging Certificate, which includes a non-revocable easement, metes and bounds description, and recorded plat(s) of the affected lots including the area(s) to remain undisturbed. The BUA Averaging Certificate requires approval by the Watershed Review Board, a sub-set of the Planning Board; for the purposes of this ordinance, the Planning Board may act as the Watershed Review Board.

11.3.1 PURPOSE & ELIGIBILITY

- A. Purpose:** The purpose of this provision is to preserve open space in the more sensitive areas of the watershed, and to ensure orderly and planned development throughout the watershed.
- B. Uses:** All parcels are eligible to be a receiving lot or a donating lot.
- C. Requirements:** The following requirements must be met by all parcels:
 - 1. Ownership:** Only the owner(s) of the participating parcels may submit a Built-Upon Area Averaging Certificate application. Areas subject to easements, covenants, and/or development restrictions not legally controlled by the owner may not be included as donated parcel area; this includes right-of-way area.
 - 2. Pre-Existing Variance:** No parcel for which a watershed variance has been granted, or would be required, may be included as a donating or receiving parcel.



CHAPTER 11: WATERSHED PROTECTION

3. Location: Participating parcels shall be located in the same water supply watershed. BUA transfers may not occur between critical areas and protected areas. All parcels must be located within the Town of Cornelius' planning jurisdiction.
4. Overall Area: The cumulative BUA of all participating parcels shall not exceed the BUA that would be allowed if the parcels were developed separately under applicable Ordinance standards.
5. Preservation: The donated area shall remain in an undisturbed vegetated or natural state. Previously developed or graded lots may be used as donating parcels so long as the donated area of the lot is revegetated in accordance with Section 9.9.6, Replacement of Vegetation, of this Code. The donated area shall be irrevocable unless amended per the requirements of this ordinance prior to the undertaking of any development activity on the participating parcels.
6. Stormwater Design: All participating parcels must meet the applicable buffer and engineered stormwater controls as outlined in the ordinance. For clarity any participating parcels buffers shall at least meet the applicable, minimum ordinance requirements for parcels located in water supply watersheds. For further clarity, development meeting applicable high density requirements shall have on-site stormwater facilities and development meeting applicable low density requirements shall transport stormwater runoff by vegetated conveyances to the maximum extent practicable; all in accordance with applicable ordinance requirements.
7. Design: Built-upon areas shall be designed and located to minimize stormwater runoff impact to the receiving waters, minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas, and maximize the flow length through vegetated areas.

11.3.2: PROCESS

A Built-Upon Area (BUA) Averaging Certificate shall be obtained from the Watershed Review Board to ensure that all participating parcels considered together meet the standards of the ordinance, including any standards and requirements on previously recorded subdivision plats, and that potential owners have a record of how the watershed regulations were applied to each parcel.

- A. Applicability:** All participating parcels may be processed under a single BUA Averaging Certificate application, and will be considered as one development for the purpose of counting total built-upon-area. If approved by the Watershed Review Board, one BUA Averaging Certificate will be issued per application. Unless otherwise specified, the application shall follow the rules and procedures specified by the Planning Board and Appeals & Variances sections of this ordinance.
- B. Process:** The following steps outline the typical process for obtaining a BUA Averaging Certificate. Note: Application preparation is considered an iterative process; an application must be deemed complete by the Planning Director or designee, and all revisions addressed in order for the request to be added to the next regularly scheduled Planning Board meeting



CHAPTER 11: WATERSHED PROTECTION

agenda for their consideration as the Watershed Review Board. Incomplete, improperly formatted, or documentation errors may require revision prior to acceptance by the Planning Director or designee.

1. Lot Identification: The applicant shall identify participating lots, prepare draft plats, and complete a BUA Averaging Certificate Application.
2. Pre-Application Meeting: The applicant must set up an appointment with the Planning Director or designee. At the initial meeting the Planning Director or designee will explain the BUA averaging process and review with the applicant the appropriate ordinances, documents, and plans relevant to the project. Additional meetings may be required prior to application submission, as deemed necessary by the Planning Director or designee.
3. Submit Application & Fee: The applicant must submit the following documents (see the Documentation section for further information):
 - Town of Cornelius BUA Averaging Certificate Application and Application Fee
 - Surveys of Existing Conditions
 - Existing Plats and Deeds
 - Metes & Bounds Description(s) (a metes and bounds description of the undisturbed natural area, intended for recordation.)
 - Final Plats (Drafts)
 - Existing development materials (as applicable)
 - Preliminary Sketch Plan (if required)
4. Application Review: Staff will review the application and determine whether the materials constitute a complete submittal. Application revisions, and additional meetings, may be required by the Planning Director or designee prior to the application being deemed complete. Once the application is determined to satisfy the requirements, the request will be added to the next regularly scheduled Planning Board meeting agenda for their consideration as the Watershed Review Board.
5. Watershed Review Board Decision: The Watershed Review Board shall issue a decision within 31 days from the date they first meet to hear the request. The board shall make written findings supported by appropriate calculations and documentation that the participating parcels as a whole conform to the intent and requirements of this Section, and that the proposed application and supporting documents assures protection of the preserved area. The request must be consistent with adopted plans and/or policies, approved development plans, Cornelius Land Development Code requirements, and the Watershed Review Board's determination based on these resources that the proposal achieves an identified public interest.
6. Certificate Issued: If approved, the Town of Cornelius will issue a BUA Averaging Certificate to the applicant. The BUA Averaging Certificate shall constitute the Watershed Review Board decision, staff approval letter, and application documentation.



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7. Document Submission: If approved by the Watershed Review Board, the applicant must submit the following documents via the current Mecklenburg County online review system:
 - Mecklenburg County Application
 - Final Plats and any applicable Deeds, Covenants or Conservation Easement documents
8. Plat Approval/Signature: Once approved in the current Mecklenburg County online review system, the applicant must submit two (2) mylar copies of each plat in accordance with the requirements of Section 13.8, Final Plat Requirements, of this Code for signature. One mylar of each plat included in the application and filed with the Register of Deeds must be provided to the Town of Cornelius for filing.
9. Amendment: If a BUA certificate is approved by the Watershed Review Board, no change in the development proposal authorized for participating parcels shall be made unless the certificate is amended by the Watershed Review Board.

11.3.3: DOCUMENTATION REQUIREMENTS

The following documentation shall be provided to constitute a complete Built-Upon Area (BUA) Averaging Certificate application:

A. Administrative:

1. Town of Cornelius Application: A completed BUA Averaging Certificate Application including a chart summarizing the existing and proposed BUA for all participating properties.
2. Fee: A remitted fee in accordance with the fee schedule approved by the Town of Cornelius Board of Commissioners.

B. Surveys: Surveys of all participating parcels showing current BUA and current maximum BUA allowances, along with easements and/or development restrictions. The surveys must be performed by a licensed surveyor.

C. Existing Plats & Deeds: Copies of the existing, registered plats and deeds for all participating parcels.

D. Metes & Bounds Description (Donating Parcel): A metes and bounds description of the undisturbed natural area intended for recordation. The description must specify any limits on use and shall be recorded on the plat, in homeowner covenants (if applicable), and on the donating parcel's individual deed and shall be irrevocable unless amended per the ordinance.

E. Final Plats (Draft): Revised plats for all participating parcels. The plats must be in accordance with the requirements of Section 13.8, Final Plat Requirements, of this Code. Additionally, the plats must include:

1. Purpose Statement:



CHAPTER 11: WATERSHED PROTECTION

The purpose of this plat is to allocate xxxxx square feet of allowable built-upon area from PID xxxxxxxx (donor parcel) to PID xxxxxxxx (receiving parcel). Each parcel is located within the same watershed.

2. Site Data

	<u>Donor Parcel</u>	<u>Recipient Parcel</u>
<u>PID:</u>		
<u>Total Site Area</u>		
<u>Current Allowed Built-Upon Area for Parcel</u>		
<u>Built-Upon Area Allocated</u>	<u>-</u>	<u>+</u>
<u>New Allowed Built-Upon Area</u>		
<u>Existing Surveyed Built-Upon Area</u>		
<u>Remaining Allowed Built-Upon Area</u>		

3. Metes/Bounds Description: Metes/bounds description(s) of designated undisturbed natural area(s).

4. Designation in Perpetuity: A note that the natural area will remain undisturbed in perpetuity.

5. BUA Averaging Certification on Plat: See Chapter 13.

F. Existing Development: If a participating parcel(s) is part of an existing development, then the following documentation shall be provided:

1. Approved Stormwater Mitigation Plan: A storm water mitigation plan approved by Mecklenburg County Storm Water Services, Water Quality Program, for the receiving parcel based on the pathway pursued:

a. Buffer/Vegetative Conveyances: Must meet all applicable ordinance requirements for parcels located in water supply watersheds.

b. Engineered Stormwater Controls: Must confirm the following:

- The effected BMP(s) has been designed to handle the additional BUA.
- All participating lots are in the same drainage basin.
- Verified as-built information of the existing, approved BMP.
- Sealed engineer calculations to prove existing and future compliance with the water quality requirements based on the proposed BUA to be transferred.

2. Homeowner's Covenant Agreements: A draft of revised covenant documents reflecting the additional BUA and other pertinent information for all affected parcels.



CHAPTER 13: DEVELOPMENT PLAN SPECIFICATIONS

6b. Certificate of Approval for Recording. I certify that this plat is not within a designated Public Water Supply Watershed.

Date

Watershed Administrator, Town of Cornelius

OR

6c. Certificate of Approval for Recording. I certify that this plat is within a designated Public Water Supply Watershed, and that the owner and developer have submitted plans and obtained permits for construction prior to the effective date of the Ordinance, and are exempt from its provisions.

Date

Watershed Administrator, Town of Cornelius

7. **Review Officer Certification.** State of North Carolina, County of Mecklenburg
I, _____, Review Officer of Mecklenburg County, certify that the map or plat to which this certification is affixed meets all the statutory requirements for recording.

Date

Review Officer

8. **North Carolina Department of Transportation Certification.**
Division of Highways

Proposed Subdivision Road
Construction Standards Certification

APPROVED: _____

District Engineer

DATE: _____

L. This certification is to appear on all Built-Up Area (BUA) averaging plats:

Built-Upon-Area Transfer Plat

This plat represents a transfer of built-upon-area through preservation of a dedicated, undisturbed natural area for properties within the jurisdiction of the Town of Cornelius. The resulting action may or may not create tracts of land that are compliant with the Cornelius Land Development Code (LDC). This parcel is subject to the LDC built-upon area averaging standards: Any change to the development proposal affecting the approved built-upon-area allowance requires amendment to the existing Built-Upon Area Averaging Certificate and approval by the Cornelius Watershed Review Board. The Planning Director reserves the right to make periodic site inspections to ensure compliance with these conditions.

Date

Planning Director, Town of Cornelius



TOWN OF CORNELIUS LAND DEVELOPMENT CODE

REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: November 5, 2018

To: Mayor and Board of Commissioners

From: Becky Partin, Senior Planner



Action Requested:

Consider an amendment to the Code of Ordinances to modify Title 9, Chapter 94 Utility Right-of-Way Use. The proposed amendment is necessary for the Town to comply with House Bill 310 adopted by the General Assembly of North Carolina in 2017. The bill facilitates the deployment of wireless communications infrastructure in the public right-of-way, with expeditious processes and reasonable and nondiscriminatory rates, fees, and terms.

Manager's Recommendation:

Approve an Ordinance to amend Title 9, Chapter 94 of the Code of Ordinances.

ATTACHMENTS:

Name:	Description:	Type:
 ORD_Chapter_94_Small_Wireless_Facilities.pdf	ORD Code of Ordinances - Title IX Ch 94, Utility Right-of-Way Use	Ordinance
 Chapter_94.amendments.draft30811.8.20.18.pdf	Chapter 94 with marked changes	Backup Material

**AN ORDINANCE TO AMEND
THE TOWN OF CORNELIUS CODE OF ORDINANCES**

WHEREAS, it has become necessary for the Town to update specific Titles within the Town's Code of Ordinances; and

WHEREAS, this change represents a revised Code provision.

NOW THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Town of Cornelius that the Code of Ordinances, Title 9, Sections 94.50, 94.51, 94.52, 94.53, 94.54, 94.55, 94.56, 94.59, 94.61, and 94.62 concerning Utility-Right-of-Way Use for small cell wireless facilities is hereby amended and adopted as follows:

UTILITY RIGHT-OF-WAY USE

§ 94.50 PURPOSE.

The purpose of the following right-of-way regulations is to provide for the proper management of the public rights-of-way in order to preserve the health, safety, and welfare of the citizens of the Town of Cornelius. Specifically, these regulations are intended to provide for the reasonable regulation of the owners of public and private utility facilities located in the public rights-of-way, and the time, place and manner in which such utility facilities are located and worked upon. The town is exercising these powers pursuant to the authority of G.S. §160A-296 and §160A-400.50 et. Seq, related to Wireless Telecommunications Facilities.

(Ord. 2008-00391, passed 7-7-08)

§ 94.51 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COLLOCATE. The placement, installation, maintenance, modification, operation, or replacement of wireless facilities on, under, within, or on the surface of the earth adjacent to existing structures, including utility poles, city utility poles, water towers, buildings, and other structures capable of structurally supporting the attachment of facilities in compliance with applicable codes. The term "collocate" does not include the installation of new utility poles, city utility poles or wireless support structures. "Collocation" has a corresponding meaning.

EMERGENCY. A condition that (1) constitutes a clear and immediate danger to the health, welfare, or safety of the public, or (2) has caused or is likely to cause facilities in the right-of-way to be unusable and result in loss of the services provided.

EXISTING STRUCTURE. A previously erected support structure or utility pole that is capable of supporting the installation of utility facilities.

FCC. The Federal Communications Commission of the United States.

MODIFICATION. Means a change to an existing facility that involves any of the following: collocation, expansion, alteration, enlargement, reduction, or augmentation, including but not limited to, changes in size, shape, color, visual design or exterior material. Modification does not include repair, replacement or maintenance if those actions do not involve a change to the existing facility involving any of the following: collocation, expansion, alteration, enlargement, intensification, reduction, or augmentation.

MONOPOLE. A structure composed of a pole or tower used to support antennas or related equipment. A monopole also includes a monopine, monopalms, and similar monopoles camouflaged to resemble faux trees or other faux objects attached on a monopole.

POLE. A single shaft of wood, steel, concrete, or other material capable of supporting the equipment mounted thereon in a safe and adequate manner and as required by provisions of the Code.

PUBLIC RIGHTS-OF-WAY. Town maintained public streets and street right of way or NDCOT streets and rights-of-way maintained by the town by agreement, sidewalks, on street parking, alleys, bridges, and all other ways of public passage within its corporate limits.

SMALL WIRELESS FACILITY. A wireless facility that meets both of the following qualifications: (1) each antenna is located inside an enclosure of no more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six cubic feet; and (2) all other wireless equipment associated with the facility is cumulatively no more than 28 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, ground-based enclosures, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and other services.

UTILITY. A company that owns and provides services to customers through utility facilities located in the right-of-way. This definition shall include the town for purposes of the town's ownership of facilities including, but not limited to, stormwater utility and electric facilities.

UTILITY FACILITY. A pole, tower, water main or line, sanitary sewer pipe or line, stormwater pipe or structure, gas pipe or gas line, telecommunications antenna, line, wireless facility, equipment or support structure (however configured), power line, conduit, or any like structure.

WIRELESS FACILITY. Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including: (1) equipment associated with wireless communications; and (2) radio transceivers, antennas, wires, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes small wireless facilities. The term shall not include the following: (A) the structure or improvements on, under, within, or adjacent to which the equipment is collocated (B) Wireline backhaul facilities; (C) Coaxial or fiber-optic cable that is between wireless structures or utility poles or city utility poles that is otherwise not immediately adjacent to or directly associated with a particular antenna.

WIRELESS SUPPORT STRUCTURE. A new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities. Such term shall not include a utility pole.

(Ord. 2008-00391, passed 7-7-08)

§ 94.52 UTILITY RIGHT-OF-WAY ENCROACHMENT AGREEMENT REQUIRED.

(A) It shall be unlawful to own any utility facility, wireless facility or small wireless facility located in, on, under, or above any public right-of-way without a valid and un-expired utility right-of-way encroachment agreement issued by the town. For purposes of this section, each street or other public right-of-way must meet the agreement requirements. A utility right-of-way encroachment agreement shall, among other things:

- (1) Grant to the holder of the agreement the right to have utility facilities in the public right-of-way for a particular installation, maintenance, repair, or removal of a utility facility;
- (2) Require that any utility facility, wireless facility or small wireless facility comply with land use, public safety, and zoning considerations, including aesthetics, undergrounding, landscaping, structural design, and State and local building code requirements, consistent with the provisions of federal law provided in [G.S. 160A-400.50](#).
- (3) Provide a general description of the proposed work and the purposes and intent of the facility. The scope and detail of such description shall be appropriate to the nature and character of the work to be performed, with special emphasis on those matter likely to be affected or impacted by the work performed.
- (4) Provide a site plan, with sufficient detail to show the proposed location of items the applicant seeks to install in the right-of-way including any manholes or poles, the size type, and depth of any conduit or enclosure.
- (5) For small wireless facilities, the Right-of-Way Encroachment Agreement shall include:
 - a. An attestation that the small wireless facilities will be collocated on a utility pole or wireless support structure and that the small wireless facilities will be activated for use by a wireless services provider to provide service no later than one year from the agreement effective date, unless the Town and the wireless provider agree to extend this period or delay is caused by a lack of commercial power at the site, and, in instances where an applicant seeks to construct a

- new pole, a statement regarding the infeasibility of collocation on existing structures.
 - b. An application fee as defined in the Town's Fee Schedule;
 - c. Each new utility pole and each modified or replacement utility pole installed in the right of way shall not exceed 50 feet in height above the mean grade elevation of the road.
 - d. Each new small wireless facility in the right of way shall not extend more than 10 feet above the utility pole, city utility pole or wireless support structure on which it is located.
- (6) Specify the term of the agreement (which term shall typically be for the one-year period, or portion of a one-year period, that expires on June 30);
- (7) Provide for the removal of abandoned utility facilities;
- (8) Acknowledge the town's right to require the removal or relocation of utility facilities when necessitated by a public need;
- (9) Provide for the defense and indemnification of the town, its officers, and employees for claims and suits arising out of the use of the public right-of-way;
- (10) Require proof of suitable levels of insurance coverage;
- (11) State the rights, if any, to assign or transfer rights or obligations without the prior consent of the town;
- (12) Acknowledge the town's full retention of its police power;
- (13) Provide for the registration of all contractors who work in the public right-of-way on behalf of the owner; and
- (14) Provide for the preparation, maintenance and maps of utility facilities located within the town, and provide these maps and supporting information to the town.
- (Ord. 2008-00391, passed 7-7-08)

§ 94.53 POWERS RESERVED.

A utility right-of-way encroachment agreement does not constitute a grant of all governmental approval necessary for the use and enjoyment of utility facilities located in the public rights-of-way. A utility right-of-way encroachment agreement is not a franchise. With respect to the holder of a utility right-of-way encroachment agreement, the town fully retains its franchising and police power authority and the holder of a utility right-of-way encroachment agreement is not relieved of its obligation to obtain all necessary franchises and permits and to comply with all other legal requirements.

(Ord. 2008-00391, passed 7-7-08)

§ 94.54 UTILITY FACILITY INSTALLATION, MAINTENANCE, REPAIR, AND REMOVAL.

(A) (1) The Town Manager, or designee, is authorized to adopt, amend, and repeal standards and provisions governing the installation, maintenance, repair, and removal of utility facilities in, on, under, and over the public rights-of-way. The standards and provisions shall, among other things, specify those types of activities that:

- (a) Require a utility right-of-way encroachment agreement;
- (b) Do not require a utility right-of-way encroachment agreement but must be done in accordance with the standards set forth in the standards and provisions; and
- (c) Are exempt.

(2) The standards and provisions shall also address emergency situations and activities.

(B) It shall be unlawful to install, maintain, repair, or remove any utility facility in the public right-of-way in violation of the standards and provisions adopted pursuant to division (A) of this section.

(C) It shall be unlawful to install, maintain, repair, or remove any utility facility in the public right-of-way without a utility right-of-way encroachment agreement if the standards and provisions adopted pursuant to division (A) of this section require a utility right-of-way encroachment agreement for such activities.

(D) Any owner of utility facilities located in the public right-of-way shall maintain a map of such facilities and shall provide a copy of the map to the town.

(Ord. 2008-00391, passed 7-7-08) Penalty, see § 10.99

§ 94.55. UTILITY PAVEMENT/SIDEWALK CUTS.

(A) The Town Manager, or designee, is authorized to adopt, amend, and repeal standards and provisions governing the making, excavation, filling, repair, and closing of a utility pavement/sidewalk cut. The standards and provisions may provide that certain activities may be undertaken only in accordance with a utility right-of-way encroachment agreement pursuant to such standards and provisions. The standards and provisions shall also address emergency situations and activities.

(B) It shall be unlawful to make, excavate, fill, repair, or close a utility pavement cut in violation of the standards and provisions adopted pursuant to division (A) of this section.

(C) It shall be unlawful to make, excavate, fill, repair, or close a utility pavement cut without a utility right-of-way encroachment agreement if the standards and provisions adopted pursuant to division (A) of this section require an Agreement for such activities.

(Ord. 2008-00391, passed 7-7-08) Penalty, see § 10.99

§ 94.56 LANE CLOSURE/TRAFFIC CONTROL.

(A) The Town Manager, or designee, is authorized to adopt, amend, and repeal standards and provisions governing the closing of any portion of the public right-of-way to vehicular, pedestrian or other traffic, including standards and requirements for warning and controlling traffic including, but not limited to, development and enforcement of a Work Area Traffic Control Handbook (WATCH). The standards and provisions may provide that certain closings or traffic warning and control activities may be undertaken only in accordance with a utility right-of-way encroachment agreement pursuant to such standards and provisions. The standards and provisions shall also address emergency situations and activities.

(B) It shall be unlawful for any person to close any portion of the public right-of-way to vehicular, pedestrian, or other traffic in violation of the standards and provisions adopted pursuant to division (A) of this section.

(C) It shall be unlawful for any person to close any portion of the public right-of-way to vehicular, pedestrian, or other traffic without a utility right-of-way encroachment agreement if the standards and provisions adopted pursuant to division (A) of this section require a utility right-of-way encroachment agreement for such closing.

(Ord. 2008-00391, passed 7-7-08) Penalty, see § 10.99

§ 94.58 PERFORMANCE GUARANTEES.

A cash deposit letter of credit or surety/performance bond may be required in an amount prescribed by the town to guarantee the completion of work in accordance with all rules and regulations.

(Ord. 2008-00391, passed 7-7-08)

§ 94.61 ADMINISTRATIVE ENFORCEMENT.

(A) *Stop work orders.* A stop work order shall be in writing, state the work to be stopped, state the reasons therefore, and state the conditions under which the work may be resumed. A stop work order may be issued for, but is not limited to:

(1) Working in the right-of-way without a valid and unexpired utility right-of-way encroachment agreement;

(2) Use of a contractor that has not been registered with the town other than in an emergency;

(3) Violation of any adopted standards and provisions as authorized by these regulations;

(4) Violation of § 94.57(a) through (d).

(B) *Agreement denials.*

(1) The town may refuse to issue utility right-of-way encroachment agreements required by these regulations to a utility that is in violation of the terms and conditions of a utility right-of-way encroachment agreement.

(2) The town may refuse to issue utility right-of-way encroachment agreements required by these regulations to a utility that has not paid civil penalties within 45 days after the date the penalties were assessed if the company has not appealed the assessment, or within 45 days of a final decision on appeal.

(3) The town may refuse to issue utility right-of-way encroachment agreements required by these regulations to a utility that has not paid costs assessed pursuant to division (C) below within 45 days of the assessment.

(C) *Cost of remediation.* In the event that a utility fails to properly repair and restore the public right-of-

way as required by these regulations, the town may provide for the repair and restoration and charge the cost to the utility.

(Ord. 2008-00391, passed 7-7-08)

§ 94.62 APPEALS.

(A) Any person whose utility right-of-way encroachment agreement application has been denied or who has been assessed a civil penalty may appeal such decision in writing within ten days after notice of such denial or civil penalty assessment. A utility that has been charged repair and restoration costs pursuant to § 94.61(c) may appeal such decision in writing within ten days after the town invoices such charge. Appeals shall be heard by the Town Manager or the Town Manager's designee. The appellant shall have the right to present evidence at the hearing and a written ruling on the appeal will be issued.

(B) A ruling on appeal is subject to review in the Superior Court of Mecklenburg County by proceedings in the nature of certiorari. Any petition for writ of certiorari for review shall be filed with the Clerk of Superior Court within 30 days after notice of the decision has been sent to the appellant.

(Ord. 2008-00391, passed 7-7-08)

Adopted this 5th day of November, 2018.

Woody T. Washam, Jr., Mayor

ATTEST:

APPROVED AS TO FORM:

Lori A. Harrell, Town Clerk

Town Attorney

CHAPTER 94: STREETS AND SIDEWALKS

Section

General Provisions

94.01 Deposit of trash, dirt, or liquids on streets and sidewalks; duties of owners and proprietors

94.02 Removal of dirt and debris on streets and sidewalks as a result of construction

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94.16 Acceptance of street by resolution required prior to maintenance

94.17 Requirements for adoption of street acceptance resolution

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94.31 Duty to display street address numbers

94.32 Assignment of numbers

94.33 Specifications for displayed street numbers

94.34 Display of incorrect street number; defacing number prohibited

94.35 Owner or occupant's duty to number upon notice

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Utility Right-of-Way Use

94.50 Purpose

94.51 Definitions

94.52 Utility right-of-way ~~master permit~~ encroachment agreement required

94.53 Powers reserved

94.54 Utility facility installation, maintenance, repair, and removal

94.55 Utility pavement/sidewalk cuts

94.56 Land closure/traffic control

94.57 Additional prohibitions

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94.59 Amended standards and provisions

94.60 Administration and enforcement

94.61 Administrative enforcement

94.62 Appeals

GENERAL PROVISIONS

§ 94.01 DEPOSIT OF TRASH, DIRT, OR LIQUIDS ON STREETS AND SIDEWALKS; DUTIES OF OWNERS AND PROPERTIES.

(A) (1) It shall be unlawful for the owner or occupant of any lot or building to throw, or cause to be thrown or discharged, from any premises, water or liquid of any kind, sufficient to put any part of the streets, sidewalks, or alleys in bad order or condition.

(2) It shall be unlawful for any person to sweep or throw trash, dirt, glass or other sharp cutting substance or other waste matter upon any sidewalk or into any public street or other public place in the city, or, having caused its presence, to allow any such to remain in or upon any public street, sidewalk or other public place.

(B) All owners of property abutting upon cement, brick, or otherwise permanently improved sidewalks, in the city, where possible, shall grade such property, construct a retaining wall, or set or place a plank in front thereof in such a manner as to prevent the washing of dirt, grass, trash or other material upon said sidewalks.

(C) Every person, firm or corporation engaged in business in the city shall keep the sidewalks in front of their stores or places of business swept clean at all times during their normal hours of business operation. (Ord. passed 10-21-74) Penalty, see § 10.99

§ 94.02 REMOVAL OF DIRT AND DEBRIS ON STREETS AND SIDEWALKS AS A RESULT OF CONSTRUCTION.

In the event that dirt, mud, construction materials or other debris shall be deposited upon any street or sidewalk as a result of a construction project in progress, the contractor in charge of the project shall be required to remove the debris.

(Ord. passed 10-21-74) Penalty, see § 10.99

STREET MAINTENANCE ACCEPTANCE

§ 94.15 PLAT APPROVAL SHALL NOT CONSTITUTE STREET ACCEPTANCE.

The approval of a preliminary plat by the Planning Board or the approval of a final plat by the Board of Commissioners shall not constitute the acceptance by the town of any street, public utility line, or any required improvement or other public facility or ground shown upon such plat.

(Ord. 91-00042, passed 2-4-91)

§ 94.16 ACCEPTANCE OF STREET BY RESOLUTION REQUIRED PRIOR TO MAINTENANCE.

The town shall not maintain, lay out, open, improve, grade, pave or light any street or authorize the laying of water mains, sewers connection, or other facilities or utilities in any street unless such street has been accepted as a public street by a resolution adopted by the Board of Commissioners in a regular or duly called special session.

(Ord. 91-00042, passed 2-4-91)

§ 94.17 REQUIREMENTS FOR ADOPTION OF STREET ACCEPTANCE RESOLUTION.

The Board of Commissioners may, at its sole discretion, adopt a resolution to accept a street for maintenance, but shall not adopt any resolution accepting a new street unless:

(A) The Board has received a written request from the subdivider or from the majority of the property owners along a street that such street be accepted as a public street for maintenance by the town.

(B) The Board receives a report from the Zoning Administrator that:

(1) Either final approval of the streets was granted by the County Engineer at least one year prior to the time of such request for maintenance is made, or that such street or streets existed as a public street prior to the effective date of this subchapter and as such have functioned as a street or streets for at least one year; provided, however, that this one year testing period may be waived by the Board of Commissioners in cases where the development density standard set forth in division (2) below has been met and the Board finds that the street or streets requested for maintenance would suffer damage from further delay of application of the

final surface course required under the street construction and testing standards of the town;

(2) At least 90% of the lots fronting on the street or streets requested for maintenance have a non-residential development or habitable dwelling unit located thereon;

(3) That any defects which have appeared in new streets during the one year waiting period or in the case of existing streets, any defects identified by the Public Works Supervisor of the town at time such request for maintenance is made have been repaired;

(4) There are no parcels or lots remaining in any adjoining or future phases for construction or development that may utilize the proposed section of street with constructed related traffic; and

(5) Any maintenance bond for any street within a development must be maintained for a minimum of two years and until 100% of the lots in the development have a non-residential development or habitable dwelling unit located thereon.

(6) A video of all underground storm drainage lines has been provided to the town for review and evaluation of condition of infrastructure. The video(s) must be taken less than 90 days prior to the request for street acceptance.

(C) The Board of Commissioners determine that such street corresponds in its location and aligns with a street shown on a preliminary subdivision plat formally approved by the Planning Board or that the street was established as a public street prior to the adoption of this subchapter and therefore not subject to this subchapter.

(Ord. 91-00042, passed 2-4-91; Am. Ord. 2013-00523, passed 3-4-13; Am. Ord. 2015- 00588, passed 5-18-15; Am. Ord. 2017-00654, passed 5-25-17)

STREET ADDRESS

§ 94.30 APPLICATION; JURISDICTION.

This subchapter shall apply to the incorporated areas the town.

(Ord. passed 11-21-83)

§ 94.31 DUTY TO DISPLAY STREET ADDRESS NUMBERS.

It shall be the duty of the owner of each residential, institutional, or commercial building to display the proper street address number on the front thereof, and in the rear in the case of an off-street parking area, in a position easily observed, which number shall be assigned by the County Engineer in cooperation with the town.

(Ord. passed 11-21-83; Am. Ord. 2004-00298, passed 4-5-04) Penalty, see § 10.99

§ 94.32 ASSIGNMENT OF NUMBERS.

(A) Mecklenburg County's Director of Land Use and Environmental Services and/or his agent shall be responsible for assigning proper street address numbers.

(B) Property owners shall apply by telephone, mail or in person to the LUESA Mapping and Addressing Department for the assignment of the proper address.

(Ord. passed 11-21-83; Am. Ord. 2004-00298, passed 4-5-04)

§ 94.33 SPECIFICATIONS FOR DISPLAYED STREET NUMBERS.

(A) One- and two-family dwellings shall display street address numbers on the structure that are at least four inches (102 mm) in height, with a minimum stroke width (line thickness) of one-half inch (12.7 mm), and shall be clearly legible from the nearest travelway.

(B) Except where the Fire Marshal has determined that they are not adequately legible from the road, structures displaying address numbers that are three inches high or higher, and which were erected prior to the passage of this section, may remain in place until they are removed for renovation or any other reason, at which time they must be brought into conformance with § 94.33(A) and (C).

(C) (1) Except where provided in § 94.33(B) above, commercial, multifamily, and institutional buildings shall display street address numbers at least four inches in height, or one inch in height for every ten feet of distance between the displayed number and the centerline of the adjacent roadway, whichever is greater.

(2) Maximum number size shall not exceed 1.5 times the required size, and shall not exceed a total size of 30 square inches.

(D) Should the commercial, multifamily or institutional structure be too far from the public or private travelway for required numbers to be seen, the property owner shall also erect, where the main driveway to the building intersects the public travelway, an additional set of numerals that can be easily read from vehicles traveling at the prevailing speed on the roadway.

(E) (1) On lots adjoining more than one street, placement of address numbers on structures shall make clear to which street or road the number refers.

(2) Where this cannot be attained by choice of placement location, both the street name and number shall be displayed (e.g. 21445 Catawba Avenue).

(Ord. passed 11-21-83; Am. Ord. 2004-00298, passed 4-5-04) Penalty, see § 10.99

§ 94.34 DISPLAY OF INCORRECT STREET NUMBER; DEFACING NUMBER PROHIBITED.

(A) It shall be unlawful for the owner or occupant of any building to which a street number has been assigned as hereinbefore set forth, to attach or paint, on such building any fixture tending or purporting to indicate the street number on such building, unless the number so indicated be the number assigned to such building as herein provided.

(B) It shall be unlawful for any person or corporation to remove, obliterate or deface a street address number which is displayed in accordance with § 94.33. It shall also be unlawful to allow or cause an incorrect street address to remain on a building.

(Ord. passed 11-21-83) Penalty, see § 10.99

§ 94.35 OWNER OR OCCUPANT'S DUTY TO NUMBER UPON NOTICE.

Within 30 days of the receipt of a notice from the Director of Land Use and Environmental Services and/or his agent assigning an address to a particular building, the owner or occupant of the building shall display, or cause to be displayed, the assigned address.

(Ord. 2004-00298, passed 4-5-04) Penalty, see § 10.99

§ 94.36 AMORTIZATION OF NONCONFORMING STREET ADDRESS NUMBERS.

(A) Street address numbers for all properties shall be in conformity with this subchapter within two years of its adoption.

(B) Otherwise, property owners may incur penalties.

(Ord. 2004-00298, passed 4-5-04) Penalty, see § 10.99

UTILITY RIGHT-OF-WAY USE

§ 94.50 PURPOSE.

The purpose of the following right-of-way regulations is to provide for the proper management of the public rights-of-way in order to preserve the health, safety, and welfare of the citizens of the Town of Cornelius. Specifically, these regulations are intended to provide for the reasonable regulation of the owners of public and private utility facilities located in the public rights-of-way, and the time, place and manner in which such utility facilities are located and worked upon. The town is exercising these powers pursuant to the authority of G.S. §160A-296 [and §160A-400.50 et. Seq. related to Wireless Telecommunications Facilities](#).

(Ord. 2008-00391, passed 7-7-08)

§ 94.51 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COLLOCATE. The placement, installation, maintenance, modification, operation, or replacement of wireless facilities on, under, within, or on the surface of the earth adjacent to existing structures, including utility poles, city utility poles, water towers, buildings, and other structures capable of structurally supporting the attachment of facilities in compliance with applicable codes. The term “collocate” does not include the installation of new utility poles, city utility poles or wireless support structures. “Collocation” has a corresponding meaning.

EMERGENCY. A condition that (1) constitutes a clear and immediate danger to the health, welfare, or

safety of the public, or (2) has caused or is likely to cause facilities in the right-of-way to be unusable and result in loss of the services provided.

EXISTING STRUCTURE. A previously erected support structure or utility pole that is capable of supporting the installation of utility facilities.

FCC. The Federal Communications Commission of the United States.

MODIFICATION. Means a change to an existing facility that involves any of the following: collocation, expansion, alteration, enlargement, reduction, or augmentation, including but not limited to, changes in size, shape, color, visual design or exterior material. Modification does not include repair, replacement or maintenance if those actions do not involve a change to the existing facility involving any of the following: collocation, expansion, alteration, enlargement, intensification, reduction, or augmentation.

MONOPOLE. A structure composed of a pole or tower used to support antennas or related equipment. A monopole also includes a monopine, monopalm, and similar monopoles camouflaged to resemble faux trees or other faux objects attached on a monopole.

POLE. A single shaft of wood, steel, concrete, or other material capable of supporting the equipment mounted thereon in a safe and adequate manner and as required by provisions ~~so~~ of the Code.

PUBLIC RIGHTS-OF-WAY. Town ~~maintained~~ public streets and street right of way or NDCOT streets and rights of ways maintained by the town by agreement, sidewalks, on street parking, alleys, bridges, and all other ways of public passage within its corporate limits.

SMALL WIRELESS FACILITY. A wireless facility that meets both of the following qualifications: (1) each antenna is located inside an enclosure of no more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six cubic feet; and (2) all other wireless equipment associated with the facility is cumulatively no more than 28 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, ground-based enclosures, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and other services.

UTILITY. A company that owns and provides services to customers through utility facilities located in the right-of-way. This definition shall include the town for purposes of the town's ownership of facilities including, but not limited to, stormwater utility and electric facilities.

UTILITY FACILITY. A pole, tower, water main or line, sanitary sewer pipe or line, stormwater pipe or structure, gas pipe or gas line, telecommunications antenna, line, wireless facility, ~~or~~ equipment or support structure (however configured), power line, conduit, or any like structure.

WIRELESS FACILITY. Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including: (1) equipment associated with wireless communications; and (2) radio transceivers, antennas, wires, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes small wireless facilities. The term shall not include the following: (A) the structure or improvements on, under, within, or adjacent to which the equipment is collocated (B) Wireline backhaul facilities; (C) Coaxial or fiber-optic cable that is between wireless structures or utility poles or city utility poles that is otherwise not immediately adjacent to or directly associated with a particular antenna.

WIRELESS SUPPORT STRUCTURE. A ~~freestanding~~ new or existing structure, such as a monopole, ~~lattice tower, either or guyed tower or self-supporting; billboard; or, other existing or proposed structure that is~~ designed to support or capable of supporting wireless facilities. Such term shall not include a utility pole.

(Ord. 2008-00391, passed 7-7-08)

§ 94.52 UTILITY RIGHT-OF-WAY ~~MASTER PERMIT~~ MASTER PERMIT ENCROACHMENT AGREEMENT REQUIRED.

(A) It shall be unlawful to own any utility facility, wireless facility or small wireless facility located in, on, under, or above any public right-of-way without a valid and un-expired utility right-of-way ~~master encroachment agreement permit~~ issued by the town. For purposes of this section, each street or other public right-of-way must meet the ~~permitting agreement~~ requirements. A utility right-of-way ~~master permit encroachment agreement~~ shall, among other things:

- (1) ~~(1)~~ Grant to the holder of the ~~permit agreement~~ the ~~general~~ right to have utility facilities in the public right-of-way ~~provided, however, that the master permit does not constitute a permit for any a~~

particular installation, maintenance, repair, or removal of a utility facility;

- (2) Require that any utility facility, wireless facility or small wireless facility comply with land use, public safety, and zoning considerations, including aesthetics, undergrounding, landscaping, and structural design, ~~setbacks, and fall zones~~, State and local building code requirements, consistent with the provisions of federal law provided in G.S. 160A-400.50.
- (3) Provide a general description of the proposed work and the purposes and intent of the facility. The scope and detail of such description shall be appropriate to the nature and character of the work to be performed, with special emphasis on those matter likely to be affected or impacted by the work performed.
- (4) Provide a site plan, with sufficient detail to show the proposed location of items the applicant seeks to install in the right-of-way including any manholes or poles, the size type, and depth of any conduit or enclosure.
- (5) For small wireless facilities, the ~~Master Permit~~Right-of-Way Encroachment Agreement shall include:
 - a. An attestation that the small wireless facilities will be collocated on ~~the~~a utility pole or wireless support structure and that the small wireless facilities will be activated for use by a wireless services provider to provide service no later than one year from the ~~permit~~agreement effective ~~issuance~~ date, unless the Town and the wireless provider agree to extend this period or ~~dealy~~delay is caused by a lack of commercial power at the site, and, in instances where an applicant seeks to construct a new pole, a statement regarding the infeasibility of collocation on existing structures.
 - b. An application fee as defined in the Town's Fee Schedule;
 - c. Each new utility pole and each modified or replacement utility pole installed in the right of way shall not exceed 50 feet ~~about ground level~~ in height above the mean grade elevation of the road.
 - a-d. Each new small wireless facility in the right of way shall not extend more than 10 feet above the utility pole, city utility pole or wireless support structure on which it is located.

(26) Specify the term of the ~~permit-agreement~~ (which term shall typically be for the one-year period, or portion of a one-year period, that expires on June 30);

(73) Provide for the removal of abandoned utility facilities;

(84) Acknowledge the town's right to require the removal or relocation of utility facilities when necessitated by a public need;

(95) Provide for the defense and indemnification of the town, its officers, and employees for claims and suits arising out of the use of the public right-of-way;

(106) Require proof of suitable levels of insurance coverage;

(117) State the rights, if any, to assign or transfer rights or obligations without the prior consent of the town;

(128) Acknowledge the town's full retention of its police power;

(139) Provide for the registration of all contractors who work in the public right-of-way on behalf of the owner; and

(140) Provide for the preparation, maintenance and maps of utility facilities located within the town, and provide these maps and supporting information to the town.

(Ord. 2008-00391, passed 7-7-08)

§ 94.53 POWERS RESERVED.

A utility right-of-way ~~master permit~~encroachment agreement does not constitute a grant of all governmental approval necessary for the use and enjoyment of utility facilities located in the public rights-of-way. A utility right-of-way ~~master permit~~encroachment agreement is not a franchise. With respect to the holder of a utility right-of-way ~~master permit~~encroachment agreement, the town fully retains its franchising and police power authority and the holder of a utility right-of-way ~~master permit~~encroachment agreement is not relieved of its obligation to obtain all necessary franchises and permits and to comply with all other legal requirements.

(Ord. 2008-00391, passed 7-7-08)

§ 94.54 UTILITY FACILITY INSTALLATION, MAINTENANCE, REPAIR, AND REMOVAL.

(A) (1) The Town Manager, or designee, is authorized to adopt, amend, and repeal standards and provisions governing the installation, maintenance, repair, and removal of utility facilities in, on, under, and over the public rights-of-way. The standards and provisions shall, among other things, specify those types of activities that:

(a) Require a utility ~~work permit~~ right-of-way encroachment agreement;

(b) Do not require a utility ~~work permit~~ right-of-way encroachment agreement but must be done in accordance with the standards set forth in the standards and provisions; and

(c) Are exempt.

(2) The standards and provisions shall also address emergency situations and activities.

(B) It shall be unlawful to install, maintain, repair, or remove any utility facility in the public right-of-way in violation of the standards and provisions adopted pursuant to division (A) of this section.

(C) It shall be unlawful to install, maintain, repair, or remove any utility facility in the public right-of-way without a utility ~~work permit~~ right-of-way encroachment agreement if the standards and provisions adopted pursuant to division (A) of this section require a utility ~~work permit~~ right-of-way encroachment agreement for such activities.

(D) Any owner of utility facilities located in the public right-of-way shall maintain a map of such facilities and shall provide a copy of the map to the town.

(Ord. 2008-00391, passed 7-7-08) Penalty, see § 10.99

§ 94.55. UTILITY PAVEMENT/SIDEWALK CUTS.

(A) The Town Manager, or designee, is authorized to adopt, amend, and repeal standards and provisions governing the making, excavation, filling, repair, and closing of a utility pavement/sidewalk cut. The standards and provisions may provide that certain activities may be undertaken only in accordance with a utility ~~work permit~~ right-of-way encroachment agreement issued pursuant to such standards and provisions. The standards and provisions shall also address emergency situations and activities.

(B) It shall be unlawful to make, excavate, fill, repair, or close a utility pavement cut in violation of the standards and provisions adopted pursuant to division (A) of this section.

(C) It shall be unlawful to make, excavate, fill, repair, or close a utility pavement cut without a utility ~~work permit~~ right-of-way encroachment agreement if the standards and provisions adopted pursuant to division (A) of this section require an Agreement ~~permit~~ for such activities.

(Ord. 2008-00391, passed 7-7-08) Penalty, see § 10.99

§ 94.56 LANE CLOSURE/TRAFFIC CONTROL.

(A) The Town Manager, or designee, is authorized to adopt, amend, and repeal standards and provisions governing the closing of any portion of the public right-of-way to vehicular, pedestrian or other traffic, including standards and requirements for warning and controlling traffic including, but not limited to, development and enforcement of a Work Area Traffic Control Handbook (WATCH). The standards and provisions may provide that certain closings or traffic warning and control activities may be undertaken only in accordance with a utility ~~work permit~~ right-of-way encroachment agreement issued pursuant to such standards and provisions. The standards and provisions shall also address emergency situations and activities.

(B) It shall be unlawful for any person to close any portion of the public right-of-way to vehicular, pedestrian, or other traffic in violation of the standards and provisions adopted pursuant to division (A) of this section.

(C) It shall be unlawful for any person to close any portion of the public right-of-way to vehicular, pedestrian, or other traffic without a utility ~~work permit~~ right-of-way encroachment agreement if the standards and provisions adopted pursuant to division (A) of this section require a utility ~~permit~~ right-of-way encroachment agreement for such closing.

(Ord. 2008-00391, passed 7-7-08) Penalty, see § 10.99

§ 94.57 ADDITIONAL PROHIBITIONS.

(A) Except in an emergency, it shall be unlawful to authorize a contractor to perform work regulated by these regulations without first registering (for applicable licenses, and the like) such contractor with the town.

(B) If a contractor is performing work on a utility facility in the public right-of-way, it shall be unlawful for the contractor to fail or refuse to properly identify the utility on whose behalf the contractor is performing the work when requested to do so by authorized personnel of the town.

(C) If a subcontractor is performing work on a utility facility in the public right-of-way, it shall be unlawful for the subcontractor to fail or refuse to properly identify the contractor on whose behalf the subcontractor is performing the work when requested to do so by the authorized personnel of the town.

(D) All contractors and subcontractors shall identify on their vehicle and/or equipment in plain sight, the utility for which work is being performed.

(Ord. 2008-00391, passed 7-7-08) Penalty, see § 10.99

§ 94.58 PERFORMANCE GUARANTEES.

A cash deposit letter of credit or surety/performance bond may be required in an amount prescribed by the town to guarantee the completion of work in accordance with all rules and regulations.

(Ord. 2008-00391, passed 7-7-08)

§ 94.59 AMENDED STANDARDS AND PROVISIONS.

A copy of any administratively adopted amended standards and provisions shall be provided to currently in effect ~~master permit~~utility right-of-way encroachment agreement holders at least 15 days before their effective date.

(Ord. 2008-00391, passed 7-7-08)

§ 94.60 ADMINISTRATION AND ENFORCEMENT.

(A) These regulations shall be administered and enforced by the Town Manager, or his or her designee.

(B) A violation of this subchapter shall not constitute a misdemeanor or infraction punishable under G.S. § 14-4. Any person who violates this subchapter may be subject to all civil and equitable remedies stated in G.S. § 160A-175. Notwithstanding the foregoing, the violation of a stop work order issued pursuant to § 94.61 shall constitute a misdemeanor punishable under G.S. § 14-4.

(C) Violations of these regulations may be enforced by the following civil penalties:

- (1) First violation: \$100.
- (2) Second repeat violation: \$250.
- (3) Third and more repeat violations: \$500.

(D) Civil penalties authorized by this section may be assessed against the utility on whose behalf work is being performed and against the contractor or subcontractor who is performing such work.

(E) Civil penalties not paid within 30 days will be assessed a late fee of 1% of the unpaid balance per month.

(Ord. 2008-00391, passed 7-7-08)

§ 94.61 ADMINISTRATIVE ENFORCEMENT.

(A) *Stop work orders.* A stop work order shall be in writing, state the work to be stopped, state the reasons therefore, and state the conditions under which the work may be resumed. A stop work order may be issued for, but is not limited to:

- (1) Working in the right-of-way without a valid and unexpired utility right-of-way ~~master-permit~~encroachment agreement;
- (2) Use of a contractor that has not been registered with the town other than in an emergency;
- (3) Violation of any adopted standards and provisions as authorized by these regulations;
- (4) Violation of § 94.57(a) through (d).

(B) *Permit Agreement denials.*

(1) The town may refuse to issue utility ~~work permits~~right-of-way encroachment agreements required by these regulations to a utility that ~~does not possess a valid and unexpired utility right-of-way master permit or to a utility that~~ is in violation of the terms and conditions of a utility right-of-way ~~master-permit~~encroachment agreement.

(2) The town may refuse to issue utility ~~work permits~~right-of-way encroachment agreements required by these regulations to a utility that has not paid civil penalties within 45 days after the date the penalties were assessed if the company has not appealed the assessment, or within 45 days of a final decision on

appeal.

(3) The town may refuse to issue utility ~~work permits~~ right-of-way encroachment agreements required by these regulations to a utility that has not paid costs assessed pursuant to division (C) below within 45 days of the assessment.

(C) *Cost of remediation.* In the event that a utility fails to properly repair and restore the public right-of-way as required by these regulations, the town may provide for the repair and restoration and charge the cost to the utility.

(Ord. 2008-00391, passed 7-7-08)

§ 94.62 APPEALS.

(A) Any person whose utility ~~work permit~~ right-of-way encroachment agreement application has been denied or who has been assessed a civil penalty may appeal such decision in writing within ten days after notice of such denial or civil penalty assessment. A utility that has been charged repair and restoration costs pursuant to § 94.61(c) may appeal such decision in writing within ten days after the town invoices such charge. Appeals shall be heard by the Town Manager or the Town Manager's designee. The appellant shall have the right to present evidence at the hearing and a written ruling on the appeal will be issued.

(B) A ruling on appeal is subject to review in the Superior Court of Mecklenburg County by proceedings in the nature of certiorari. Any petition for writ of certiorari for review shall be filed with the Clerk of Superior Court within 30 days after notice of the decision has been sent to the appellant.

(Ord. 2008-00391, passed 7-7-08)

REQUEST FOR BOARD ACTION

 **Print**

Date of Meeting: November 5, 2018

To: Mayor and Board of Commissioners
From: Aaron Tucker, Asst. Planning Director

Action Requested:

Consider an amendment to the Code of Ordinances to modify Title 15, Chapter 154 Flood Damage Prevention. The proposed amendment is necessary for the Town to comply with changes to the State's model Flood Damage Prevention Ordinance.

- FEMA updated their floodplain maps and the revisions go into effect November 16, 2018. Cornelius' ordinance has to be updated to include the new map date in order to maintain participation in the National Flood Insurance Program (NFIP)
- The State changed their Model Floodplain Ordinance Template in 2017, which included some mandatory and some suggested changes.
- County staff (at the recommendation of the Storm Water Advisory Committee, SWAC) formed a stakeholders group to review the updated ordinance proposed by staff. Staff updated the Floodplain Ordinance (using the City of Charlotte ordinance as an example).
- June 29, 2018 - The Stakeholders unanimously endorsed the proposed changes to the ordinance
- July 16, 2018 - County Attorney reviewed the DRAFT and has recommended adoption
- July 19, 2018 - SWAC unanimously endorsed the updated ordinance
- July 20, 2018 – State floodplain agency (North Carolina Department of Public Safety, NCDPS) reviewed the changes to floodplain ordinance and deemed it compliant with NFIP requirements.



There are a few additional changes being recommend to Cornelius' ordinance that have been previously included in other Town's ordinances such as: including a General Permit option, regulating to the Preliminary Map elevation, adding a Temporary Encroachment option, adding a Community BFE exemption.

These are all standard practices that Staff is currently utilizing, but always best to codify them when the opportunity arises.

Manager's Recommendation:

Approve an Ordinance to amend Title 15, Chapter 154 of the Code of Ordinances.

ATTACHMENTS:

Name:	Description:	Type:
 Cornelius_Ordinance_Amendment_Action-For_Signature_11-5-18.pdf	Ordinance	Cover Memo
 2018_Cornelius_Floodplain_Ordinance_For_Signature_11-5-18.pdf	Exhibit A	Cover Memo

AN ORDINANCE AMENDING CHAPTER 154 “FLOOD DAMAGE PREVENTION” OF THE TOWN OF CORNELIUS CODE OF ORDINANCES

WHEREAS, the legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3, 5, and 8 of Article 19 of Chapter 160A; and Article 8 of Chapter 160A of The North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety and general welfare; and

WHEREAS, The Town Board of Commissioners on November 5, 2018 adopted an ordinance known as the “Flood Damage Prevention Ordinance” in Title 15, Chapter 154 of the Town of Code of Ordinances, which superseded its August 3, 2015 Ordinance to regulate floodplain development classified by the Federal Emergency Management Agency’s Flood Insurance Rate Maps (FIRM) within its jurisdiction, including its extra-territorial jurisdiction;

NOW THEREFORE, BE IT ORDAINED by the Board of Commissions of the Town of Cornelius, North Carolina that Chapter 154 of the Code of Ordinances be and hereby is amended as follows:

- Section 1. The Ordinance entitled “Flood Damage Prevention” attached hereto as Exhibit A is hereby adopted by the Town with the Town limits and its extraterritorial jurisdiction and is to replace the current Chapter 154 “Flood Damage Prevention.”
- Section 2. The Ordinance shall be effective upon adoption.

Adopted this 5th day of November, 2018.

(Seal)

ATTESTED:

Lori A. Harrell, Town Clerk

Woody T. Washam Jr., Mayor

APPROVED AS TO FORM:

Town Attorney

EXHIBIT A

CHAPTER 154: FLOOD DAMAGE PREVENTION

ARTICLE I. STATUTORY AUTHORIZATION, FINDINGS OF FACT, STATEMENT OF PURPOSE AND DEFINITIONS

- 154.01: Short Title
- 154.02: Statutory Authorization
- 154.03: Findings of Fact
- 154.04: Statement of Purpose
- 154.05: Objectives
- 154.06: Definitions

ARTICLE II. GENERAL PROVISIONS

- 154.07: Lands to which this ordinance applies
- 154.08: Basis for establishing the special flood hazard areas
- 154.09: Floodplain Development Permit required
- 154.10: Compliance
- 154.11: Abrogation and greater restrictions
- 154.12: Interpretation
- 154.13: Warning and disclaimer of liability
- 154.14: Penalties for violation

ARTICLE III. ADMINISTRATION AND ENFORCEMENT

- 154.15: Designation of Floodplain Administrator
- 154.16: Floodplain Development Permits and certification requirements
- 154.17: Duties and responsibilities of Floodplain Administrator
- 154.18: Corrective Procedures

ARTICLE IV. APPEALS AND VARIANCES

- 154.19: Authority of Board of Adjustment
- 154.20: Initiation and filing of appeal
- 154.21: Standards and hearing procedure
- 154.22: Initiation and filing of variance petition
- 154.23: Factors for consideration and determination of completeness
- 154.24: Conditions for variances
- 154.25: Standards for granting variance
- 154.26: Miscellaneous Conditions
- 154.27: Notification and Recordkeeping
- 154.28: Appeal from Board of Adjustment



ARTICLE V. PROVISIONS FOR FLOOD HAZARD REDUCTION

154.29: General standards

154.30: Specific Standards

ARTICLE VI. LEGAL STATUS PROVISIONS

154.31: Legal status provisions

154.32: Severability

154.33: Effective Date

ATTACHMENTS

Attachment A

Attachment B



ARTICLE I. STATUTORY AUTHORIZATION, FINDINGS OF FACT, STATEMENT OF PURPOSE & DEFINITIONS

154.01: SHORT TITLE

The regulations set out in this ordinance (sometimes herein referred to as "this regulation" or "this ordinance") shall be known and may be cited as the "Floodplain Regulations of Cornelius, North Carolina."

154.02: STATUTORY AUTHORIZATION

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3, 5, and 8 of Article 19 of Chapter 160A; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare.

154.03: FINDINGS OF FACT

- A. The flood hazard areas of Cornelius and Cornelius's Land Use jurisdiction are subject to periodic inundation which results in loss of life, increased health and safety hazards, destruction of property, and disruption of commerce and governmental services. Inundation from flood waters results in public expenditures for flood protection, flood disaster relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- B. These flood losses are created by the cumulative effect of obstructions in Floodplains, causing increases in flood heights and velocities and by the occupancy in flood hazard areas by uses vulnerable to floods or hazards to other lands which are inadequately elevated, floodproofed or otherwise unprotected from flood damages.

154.04: STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities;
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Control the alteration of natural Floodplains, stream channels and natural protective barriers which are involved in the accommodation of flood waters;
- D. Control filling, grading, dredging and other Development which may increase erosion or flood damage; and
- E. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.



154.05: OBJECTIVES

- A. The regulations of the Special Flood Hazard Areas herein set forth are intended to protect areas of designated Floodplains subject to and necessary for regulating flood waters and to permit and encourage the retention of open-land uses which will be so located and designed as to constitute a harmonious and appropriate part of the physical development of the Town as provided in the comprehensive plans as such are adopted and amended from time to time.
- B. The specific intent in establishing Special Flood Hazard Areas composed of floodways and flood fringe areas includes the following:
 - 1. To control uses such as fill dumping, storage of materials, structures, buildings and any other works which, acting alone or in combination with other existing or future uses, would cause damaging flood heights and velocities by obstructing flows and reducing floodplain storage
 - 2. To protect human life and health
 - 3. To minimize the expenditure of public money for costly flood-control projects
 - 4. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public
 - 5. To permit certain uses which can be appropriately located in flood hazard areas and to assure such permitted uses will not impede the flow of flood waters or otherwise cause danger to life and property at or above or below their locations along the floodways
 - 6. To minimize prolonged business interruptions
 - 7. To protect existing drainage courses that carry abnormal flows of storm water in periods of heavy precipitations
 - 8. To minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone and sewer lines and streets and bridges located in Floodplains
 - 9. To meet the needs of the streams to carry flood waters and protect the creek channels and Floodplains from Encroachment so that flood heights and flood damage will not be increased
 - 10. To inform existing and potential property owners that property is in a Special Flood Hazard Area as well as the associated flood risks and development restrictions
 - 11. To minimize future flood losses by depicting Community Flood Fringe Areas on the Flood Insurance Rate Maps
 - 12. To help maintain a stable tax base by providing for the sound use and development of flood prone areas
- C. This ordinance is intended to permit only that Development within the Floodplain which is appropriate in light of the probability of flood damage and presents a reasonable social and economic use of land in relation to the hazards involved. The regulations hereinafter set forth shall apply to all property located within the Special Flood Hazard Area as shown on the Flood Insurance Rate Maps (FIRM) including FEMA and/or locally approved revisions to data shown on the FIRMs. It is the



intent that these regulations combine with and coordinate with the zoning ordinance regulations for the zoning district in which such property is located. Any use not permitted by the zoning regulations shall not be permitted in the Special Flood Hazard Area, and any use permitted by the zoning regulations shall be permitted in these districts only upon meeting conditions and requirements as prescribed in this ordinance.

154.06: DEFINITIONS

Unless specifically defined in this section, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application. The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

- *Accessory Structure* means a structure which is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.
- *Addition (to an existing building)* means an extension or increase in the floor area or height of a building or structure.
- *Alteration of a watercourse* means a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification associated with development which may increase the FEMA or Community Base Flood Elevations.
- *Appeal* means a request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance.
- *Basement* means any area of the building having its floor subgrade (below ground level) on all sides.
- *Building* means any structure built for support, shelter or enclosure for any occupancy or storage.
- *Chemical Storage Facility* means a building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.
- *Community Base Flood* means the flood determined using future land use conditions having a one percent chance of being equaled or exceeded in any given year.
- *Community Base Flood Elevation* means the elevation shown on the Flood Insurance Rate Map Flood Hazard Data Table, having a one percent chance of being equaled or exceeded, determined using future land use conditions.
- *Community Conditional Letter of Map Revisions (CoCLOMR)* means a letter from the Floodplain Administrator that provides conditional approval of a study that proposes to change the location of the Community Encroachment Lines, and/or the location of the Community Flood Fringe Line, and/or Community Base Flood Elevations.
- *Community Encroachment Area* means the channel of a stream or other watercourse and the adjacent land areas that must be reserved in order to discharge the FEMA Base Flood without cumulatively



increasing the water surface elevation more than 0.1 foot. (see attachments).

- *Community Encroachment Lines* are lateral limits of the Community Encroachment Area, within which, in the direction of the stream or other body of water, no structure or fill may be added, unless specifically permitted by this ordinance. See attachments.
- *Community Flood Fringe Area*: The land area located between the Community Encroachment Line and the Community Flood Fringe Line as defined herein. See attachments.
- *Community Flood Fringe Line* is the line that depicts the outer limits of the Community Flood Fringe Area (outer limits of the Community Special Flood Hazard Area).
- *Community Letter of Map Revision (CoLOMR)* means a letter from the Floodplain Administrator that provides final approval of a study, based on as-built conditions, that changes the location of the Community Encroachment Lines and/or the Community Flood Fringe Lines.
- *Community Special Flood Hazard Area* is the land subject to a one - percent or greater chance of flooding in any given year from a Community Base Flood. It includes the FEMA Floodway, Community Encroachment Area, FEMA Flood Fringe Area, and the Community Flood Fringe Area. See attachments.
- *Conditional Letter of Map Revision (CLOMR)* means a formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.
- *Critical Facility* means a building used to house a function that is vulnerable or essential to the community. Uses include but are not limited to: child and adult daycare facilities, nursing homes, schools, hospitals, fire, police and medic facilities and other uses as deemed by the Floodplain Administrator.
- *Development* means any manmade change to improved and unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations or storage of equipment or materials.
- *Disposal* means, as defined in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.
- *Elevated Building* means a non-basement building built to have the Reference Level elevated above the ground level by, solid foundation perimeter walls, pilings, columns (posts and piers), or shear walls.
- *Encroachment* means the advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain. Building renovations contained within the existing building footprint area are not considered an Encroachment.
- *Existing Manufactured Home Park or Manufactured Home Subdivision* means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale for which the construction of facilities for servicing the lot on which the manufactured home is to be affixed



(including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads and the construction of streets) was completed before the original adoption date of the Cornelius Floodplain Ordinance.

- *Existing Building and Existing Structure* means any building and/or structure for which the “start of construction” commenced before the effective date of the initial Flood Insurance Rate Map.
- *FEMA* is the Federal Emergency Management Agency.
- *FEMA Base Flood* means the flood determined using land use conditions at the time of the study having a one percent chance of being equaled or exceeded in any given year.
- *FEMA Base Flood Elevation (BFE)* means a determination of the water surface elevations of the base flood as published in the Flood Insurance Study. It is the elevation that indicates the water surface elevation resulting from a FEMA Base Flood that has a one percent chance of equaling or exceeding that level in any given year based on existing land use.
- *FEMA Flood Fringe Area* is the land area located between the FEMA Floodway Lines and the line depicting the maximum elevation subject to inundation by the FEMA Base Flood as defined herein (see attachments).
- *FEMA Flood Fringe Line* is the line on a map that depicts the outer limits of the *FEMA Flood Fringe Area*.
- *FEMA Floodway* means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the FEMA Base Flood, without cumulatively increasing the water surface elevation more than 0.5 foot. On the Catawba River, and the portions of Six Mile Creek and Rocky River which run along the county boundary line, the FEMA Floodway means the channel of a stream or other watercourse and the adjacent land areas that must be reserved in order to discharge the FEMA Base Flood, without cumulatively increasing the water surface elevation more than 1.0 feet.
- *FEMA Floodway Lines* are the lateral limits of the FEMA Floodway. See attachments.
- *FEMA Special Flood Hazard Area* is the land subject to a one percent or greater chance of flooding in any given year from a FEMA Base Flood. It includes the FEMA Floodway, Community Encroachment Area, and the FEMA Flood Fringe Area. See attachments.
- *Flood or Flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:
 1. The overflow of inland or tidal waters; and/or
 2. The unusual and rapid accumulation of run-off of surface waters from any source.
- *Flood Insurance* means the insurance coverage provided under the National Flood Insurance Program.
- *Flood Insurance Rate Map (FIRM)* means an official map of a community, in both digital and printed format, on which the Federal Emergency Management Agency has delineated the Special Flood Hazard Area and the risk premium zones applicable to the community.
- *Flood Insurance Study* is an examination, evaluation, and determination of Special Flood Hazard Areas, corresponding water surface elevations, flood insurance risk zones, and other flood data in a community.



The study includes a Flood Insurance Study report, and/or Flood Insurance Rate Map (FIRMs).

- *Floodplain* means the land subject to inundation by the Community Base Flood and is encompassed by the Community Special Flood Hazard Area.
- *Floodplain Administrator* (or Administrator) means the person, agent, or his or her designees, appointed to administer, implement and enforce the provisions of this ordinance.
- *Floodplain Development Permit* means a Permit issued for development in the Floodplain per the requirements of Section 154.16 of this ordinance.
- *Floodplain Management* means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.
- *Floodplain Management Regulations* means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power. This term describes Federal, State or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.
- *Floodproofing* means any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitation facilities, or structures with their contents.
- *Flood Protection Elevation* means the elevation to which all structures located within the Community Special Flood Hazard Area must be elevated (or floodproofed if non-residential). Within areas where Base Flood Elevations (BFEs) have been determined, this elevation shall be the Community Base Flood Elevation plus one (1) foot of freeboard (except along the Catawba River where it is the FEMA Base Flood Elevation plus two (2) feet of freeboard).
- *Flood-resistant Material* means any building product [material, component or system] capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbers are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.
- *Floodwall* means a wall built along a shore or bank to protect an area from flooding.
- *Floodway* means the either the FEMA Floodway or the Community Encroachment Area, including the area above a bridge or culvert when applicable.
- *Floodway Engineering Analysis* means an engineering analysis of the impact that a proposed encroachment into a floodway is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and models.



- *Flood Zone* means a geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.
- *Floor* see *Reference Level*.
- *Freeboard* means the height added to the Community Base Flood Elevation (BFE), or FEMA Base Flood Elevation on the Catawba River, to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge openings, and the hydrological effect of urbanization of the watershed. The Community Base Flood Elevation (BFE), or FEMA Base Flood Elevation on the Catawba River, plus the freeboard establishes the “Flood Protection Elevation”.
- *Functionally Dependent Facility* means a facility that cannot be used for its intended purpose, unless it is located or carried out in close proximity to water, limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair or seafood processing facilities. The term does not include long-term storage, manufacture, sales or service facilities.
- *Habitable Building* means a structure designed primarily for, or used for human habitation. This includes, but is not limited to, houses, condominiums, townhomes, restaurants, retail establishments, manufacturing buildings, commercial buildings, office buildings, manufactured homes, and similar uses. It does not include Accessory Structures. See definition above.
- *Hazardous Waste Management Facility* means a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste as defined in NCGS Article 9 of Chapter 130A.
- *Highest Adjacent Grade* means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the structure.
- *Historic Structure* means any structure that is:
 1. listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
 2. certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 3. individually listed on a local inventory of historic landmarks in communities with a Certified Local Government (CLG) Program”; or
 4. certified as contributing to the historical significance of a historic district designated by a community with a “Certified Local Government (CLG) Program

Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

- *Letter of Map Revision (LOMR)* means an official revision to the currently effective FEMA FIRM based on as-built conditions. It is issued by FEMA and may change FEMA Base Flood Elevations, the location



of the FEMA Floodway Lines and/or the location of the FEMA Flood Fringe line.

- *Letter of Map Amendment (LOMA)* means a letter from FEMA that officially removes a property or building from the FEMA Special Flood Hazard Area (SFHA) that was inadvertently shown in the SFHA on the FIRM.
- *Letter of Map Revision based on Fill (LOMR-F)* means a determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.
- *Light Duty Truck* means any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is:
 1. Designed primarily for purposes of transportation of property or is a derivation of such a vehicle;
 2. Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
 3. Available with special features enabling off-street or off-highway operation and use.
- *Lowest Adjacent Grade (LAG)* means the elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.
- *Lowest Floor* means the Reference Level of the lowest enclosed area (including the basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's Reference Level provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.
- *Manufactured Home* means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used with or without permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle."
- *Manufactured Home Park or Subdivision* means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.
- *Market Value* means the value of a building, excluding land value, that is determined by an appraiser certified in North Carolina. The tax value of the building may be used for screening purposes.
- *New Construction* means construction of a replacement structure commenced after total demolition, or renovation/rehabilitation of an existing structure that results in the partial or complete removal of 2 external walls and has a total cost equal to or exceeding 50 percent of the market value of the structure before the "start of construction" of the improvement. For flood insurance purposes, New Construction also means structures for which the start of construction commenced on or after the initial effective date of the floodplain management regulations adopted by the community
- *New Manufactured Home Park or Subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs) is completed on or after the date of original floodplain ordinance adoption.



- *Nonconforming Building or Use* means any legally existing building or use which fails to comply with the provisions of this ordinance.
- *Non-solid Fence* means a fence with at least 75% open area.
- *No-Rise Certification* means a certification statement signed by a duly-qualified engineer licensed to practice in the state of North Carolina certifying that a proposed Project will not impact the FEMA Base Flood Elevations or the Community Base Flood Elevations at modeled cross sections in the vicinity of the proposed Project.
- *North American Vertical Datum* as corrected in 1988 (*NAVD or NAVD 1988*) is a vertical control used as a reference for establishing varying elevations within the floodplain. If a datum other than NAVD 88 is used, then use the datum listed as the reference datum on the applicable FIRM panel for use on Elevation Certificate completion. See Flood Insurance Administration (FIA)-20 part 1, 8.
- *Post-FIRM* means construction or other development for which the “start of construction” occurred on or after the effective date of the initial Flood Insurance Rate Map.
- *Pre-FIRM* means construction or other development for which the “start of construction” occurred before the effective date of the initial Flood Insurance Rate Map.
- *Preliminary Flood Insurance Rate Map (PFIRM)* means a map(s) released by the Federal Emergency Management Agency for public comment prior to the effective date. The map may be in both digital and printed format and shows the Community and FEMA Special Flood Hazard Areas, Community Encroachment Areas and FEMA Floodways, FEMA and Community Base Flood Elevations, flood insurance risk premium zones and other data. The data and maps are subject to change prior to the effective date.
- *Preliminary Flood Insurance Study (PFIS)* means a narrative report released by the Federal Emergency Management Agency for public comment prior to the effective date. Information contained in the PFIS includes a description of past flooding and studies, the study area, engineering methods, Community and FEMA Base Flood Elevations, other community and FEMA flood data. The Flood Insurance Rate Maps are also included as part of the Flood Insurance Study. The data and maps are subject to change prior to the effective date.
- *Principally Above Ground* means that at least 51% of the actual cash value of the structure is above ground.
- *Public Safety and/or Nuisance* means anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.
- *Recreational Vehicle* means a vehicle which is: (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projection; (3) designed to be self-propelled or permanently towable by a car or light duty truck; (4) designed primarily not for use as a permanent dwelling, but as temporarily living quarters for recreational, camping, travel or seasonable use; and (5) is fully licensed and ready for highway use.
- *Reference Level* is the portion of a structure or other Development that must be compared to the flood protection elevation to determine regulatory compliance of such building. Within Special Flood Hazard Areas designated as zones A1-A30, AE, A, A99, AO, or AH, the reference level is the top of the Reference Level.



- *Remedy a Violation* means to bring the structure or other Development into compliance with this ordinance or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impact may be reduced include protecting the structure or other affected Development from flood damages, implementing the enforcement provisions of this ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other Development.
- *Repetitive Loss* means flood-related damages sustained by a structure during any 10-year period for which the total cost of repairs equals or exceeds fifty percent (50%) of the Market Value of the structure before the damage occurred. Repetitive Loss damages include flood-related damages sustained prior to November 16, 2018 for which the cost of repairs equaled or exceeded twenty-five percent (25%) of the Market Value of the structure before the damage occurred if within the relevant 10-year period.
- *Riverine* means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.
- *Salvage Yard* means any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.
- *Solid Waste Disposal Site* means, as defined in NCGS 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.
- *Special Flood Hazard Area* means the FEMA Special Flood Hazard Area. See definition above.
- *Start of Construction* means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as pouring a slab or footing, installation of piles, construction of columns, or any work beyond the state of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not parts of the main structure. For Substantial Improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.
- *Structure* means for floodplain management purposes, a walled and roofed building, a manufactured home, a gas or liquid storage tank, that are principally above ground.
- *Substantial Damage* means damage of any origin sustained by a structure over a 10-year period whereby the cost of restoring the structure to the condition before damage occurred would equal or exceed fifty percent (50%) of the market value of the structure before the damages occurred. Substantial Damage includes flood-related damages sustained by a structure prior to November 16, 2018 for which the cost of repairs at the time of the flood event equaled or exceeded twenty-five percent (25%) of the Market Value of the structure before the damage occurred if within the relevant 10-year period. See definition of "Substantial Improvement."
- *Substantial Improvement* means any repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, or combination thereof, where the total cost over a 10-year period equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. Substantial Improvement includes flood-related damages sustained by a



structure prior to November 16, 2018 for which the cost of repairs at the time of the flood event equaled or exceeded twenty-five percent (25%) of the Market Value of the structure before the damage occurred if within the relevant 10-year period. The term does not, however, include either:

1. Any correction of existing violations of State or Community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or,
2. any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure; and
3. any replacement subject to the requirements of Section 154.29 (A)(5)(c) of this ordinance.

For the purposes of this definition, "*Substantial Improvement*" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

- *Substantially Improved Existing Manufactured Home Park or Subdivision* means where the repair, reconstruction, rehabilitation, or improvement of the streets, utilities, and pads over a 10-year period equals or exceeds fifty percent (50%) of the value of the streets, utilities, and pads before the repair, reconstruction, or improvement commenced.
- *Technically Measurable* means an activity and/or condition that can be modeled within the stated or commonly known accuracy of a Floodway Engineering Analysis or other engineering computations, and may have an impact on Base Flood Elevations. The Floodplain Administrator may require a No-Rise Certification by a licensed engineer to determine if a proposed activity and/or condition meets the Technically Measurable definition.
- *Temperature Controlled* means having the temperature regulated by a heating and/or cooling system, built-in or appliance.
- *Variance* is a grant of relief to a person from the requirements of this ordinance.
- *Violation* means the failure of a structure or other Development to be fully compliant with this ordinance. A structure or other Development without the elevation certificate, other certifications or other evidence of compliance required in Articles III and V is presumed to be in violation, until such time as the documentation is provided.
- *Watercourse* means a lake, river, creek, stream, channel or other topographic feature within a Special Flood Hazard Area on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.
- *Water Surface Elevation (WSE)* means the height, in relation to NAVD 1988, mean sea level, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

ARTICLE II: GENERAL PROVISIONS

154.07 LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all lands in the land use jurisdiction, including the Extra-Territorial Jurisdiction (ETJ) of the Town of Cornelius within the area shown on the Flood Insurance Rate Maps (FIRM) or any



FEMA and/or locally approved revisions to data shown on the FIRMs, as being located within the Community Special Flood Hazard Areas or land adjacent to the Community Special Flood Hazard Areas if it is affected by the work that is taking place.

154.08 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS

The Flood Insurance Rate Maps (FIRM), FEMA and/or locally approved revisions to data shown on the FIRMs, Flood Insurance Study and other supporting data, for Mecklenburg County including the Town of Cornelius, dated November 16, 2018, are adopted by reference and declared to be a part of this ordinance.

In areas where a Preliminary FIRM and Preliminary FIS exist, Community Base Flood Elevations shown on the Preliminary FIRM and Preliminary FIS shall be used for local regulatory purposes, if they are higher than those shown on the effective FIRM and FIS.

The initial Flood Insurance Rate Maps are as follows for the jurisdictional areas at the initial date: Mecklenburg County Unincorporated Area, dated June 1, 1981.

154.09 FLOODPLAIN DEVELOPMENT PERMIT REQUIRED

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any Development activities. The *Floodplain Regulations Technical Guidance Document* may be used for illustrative purposes to assist in determining the applicable type of Floodplain Development Permit required.

154.10: COMPLIANCE

No structure or land shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

154.11: ABROGATION AND GREATER RESTRICTIONS

It is not intended by this ordinance to repeal, abrogate, annul or in any way impair or interfere with any existing provisions of laws or ordinances or any rules, regulations or permits previously adopted or issued, or which shall be adopted or issued, in conformity with law, relating to the use of buildings or premises; nor is it intended by this ordinance to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that, where this ordinance imposes a greater restriction upon the use of buildings or premises or requires larger yards, courts or other open spaces than are imposed or required by such existing provisions of laws or ordinances, or by such rules, regulations or permits or by such easements, covenants or agreements, the provisions of this ordinance shall control.

154.12: INTERPRETATION

In the interpretation and applications of this ordinance, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed to meet the purposes and objectives of this regulation as stated in Sections 154.04 and 154.05; and
- C. Deemed neither to limit nor repeal any other powers granted under state statutes.



154.13: WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This ordinance does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the Town of Cornelius, Mecklenburg County, or on any agent, officer or employee thereof for any flood damages that result from reliance on this ordinance or by any administrative decision lawfully made hereunder.

154.14: PENALTIES FOR VIOLATION

Violation of the provisions of this ordinance or failure to comply with any of its requirements including violation of conditions and safeguards established in connection with grants of Floodplain Development Permits, Variances or special exceptions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than five hundred dollars (\$500.00) or imprisoned for not more than thirty (30) days. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Cornelius or the Floodplain Administrator from taking such other lawful action as is necessary to prevent or remedy any violation, including but not limited to seeking injunctive relief, orders of abatement, or other similar equitable relief.

ARTICLE III: ADMINISTRATION AND ENFORCEMENT

154.15: DESIGNATION OF FLOODPLAIN ADMINISTRATOR

The Town designates the Planning Director or his or her designee, as the Floodplain Administrator, and the County Floodplain Administrator or his or her designated agent as the persons with the authority to administer, implement and enforce the provisions of this ordinance through a properly executed, legally binding interlocal agreement.

154.16: FLOODPLAIN DEVELOPMENT PERMITS AND CERTIFICATION REQUIREMENTS

- A. A Floodplain Development Permit is required for any Development within the Community Special Flood Hazard Area (CSFHA) and is subject to the conditions below. The Floodplain Administrator is authorized to create, and amend from time to time as necessary, a Technical Guidance Document to help explain the application of the provisions of this ordinance, specifically the Floodplain Development Permit provisions, through the use of charts and related written materials. The Technical Guidance Document shall not be a part of this ordinance and shall be solely for illustrative and educational purposes. If there is any discrepancy between the Floodplain Regulations Technical Guidance Document and this ordinance, the provisions of this ordinance shall control.
- B. Application for a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:
 - 1. A Final As-Built Elevation Certificate (*FEMA Form 086-0-33*) (for either residential or non-residential buildings) or Floodproofing Certificate (*FEMA Form 086-0-34*) with supporting data, an operational plan, and an inspection and maintenance plan is required after construction is completed and prior to the issuance of a Certificate of Occupancy or a Temporary Certificate of Occupancy. It



shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation or flood proofed elevation of the reference level and all attendant utilities. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When flood proofing is utilized, said certification, operational plan, and inspection and maintenance plan shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate, operational plan, and inspection and maintenance plan data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to the issuance of a Certificate of Occupancy or Temporary Certificate of Occupancy. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make said corrections required shall be cause to withhold the issuance of a Certificate of Occupancy or Temporary Certificate of Occupancy.

2. If a manufactured home is placed within the Floodplain and the elevation of the chassis is 36 inches or higher above adjacent grade, an engineered foundation certification is required.
3. Certification Exemptions. The following structures, if located within the Floodplain, are exempt from the elevation/flood proofing certification requirements specified in items (1) and (2) above:
 - a. Recreational Vehicles meeting requirements of Section 154.30 (A)(8);
 - b. Temporary Structures meeting requirements of Section 154.30 (A)(9); and
 - c. Accessory Structures less than 150 square feet meeting requirements of Section 154.30 (A)(10).
4. If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

C. Permit Application Requirements

1. A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
 - a. The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
 - b. The location of the Community Flood Fringe Line, Community Encroachment Line, FEMA Flood Fringe Line and FEMA Floodway Line as shown on the FIRM or other flood map, or a statement that the entire lot is within the Special Flood Hazard Area;
 - c. Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map;
 - d. FEMA Base Flood Elevation (BFE) and Community Base Flood Elevation (CBFE);
 - e. The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and



- f. The certification of the plot plan by a registered land surveyor or professional engineer.
2. Proposed elevation and method thereof, of all development within a Community Special Flood Hazard Area including but not limited to:
 - a. Elevation in relation to NAVD 1988 of the proposed reference level (including basement) of all structures;
 - b. Elevation in relation to NAVD 1988 to which any non-residential structure in Zone AE, will be flood-proofed;
 - c. Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or flood proofed.
 3. If flood proofing, a Floodproofing Certificate (FEMA Form 086-0-34) with supporting data and an inspection and operational plan that includes, but is not limited to, installation, exercise, and maintenance of flood proofing measures.
 4. A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:
 - a. The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and
 - b. Openings to facilitate automatic equalization of hydrostatic flood forces on walls when solid foundation perimeter walls are used in Community Special Flood Hazard Area.
 5. Usage details of any enclosed areas below the Reference Level.
 6. Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.
 7. Certification that all other Local, State and Federal permits required prior to floodplain development permit issuance have been received.
 8. Documentation for proper placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of Section 154.30 (A) (8), (9) are met.
 9. A description of proposed watercourse alteration of a watercourse, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed alteration of a watercourse.
 10. If placing fill within the Special Flood Hazard Area, a demonstration of compliance with Section 9 and 10 of the Federal Endangered Species Act (ESA) is required. The demonstration of compliance must be provided to the Floodplain Administrator.

D. Permit Requirements. The Floodplain Development Permit shall include, but not be limited to:

1. A description of the development to be permitted under the floodplain development permit.



2. The Special Flood Hazard Area determination for the proposed development.
3. The Flood Protection Elevation required for the reference level and all attendant utilities.
4. The Flood Protection Elevation required for the protection of all public utilities.
5. All certification submittal requirements with timelines.
 - a. A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse unless the requirements of Section 154.30(A) are met.
 - b. The flood openings requirements per Section 154.30 (A) (4).
 - c. A statement that all construction materials below the FPE shall be constructed entirely of flood-resistant materials.

154.17: DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

The Floodplain Administrator is authorized to and shall perform, but not be limited to, the following duties:

- A. Reviewing, approving, and issuing all Floodplain Development Permits in a timely manner to assure that the permit requirements of this ordinance have been satisfied.
- B. Reviewing, approving and issuing all documents applicable to Letters of Map Change.
- C. Advising the permittee that additional federal or state permits may be required; and if specific federal or state permits are known, requiring that copies of such permits be provided and maintained on file with the Floodplain Development Permit.
- D. Notifying adjacent communities and the North Carolina Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration of a watercourse and submitting evidence of such notification to the Federal Emergency Management Agency.
- E. Assuring that within available resources, maintenance is provided within the altered or relocated portion of any altered Watercourse so that the flood-carrying capacity is maintained.
- F. Not issuing a Floodplain Development Permit for Encroachments within the Community Encroachment Area and/or the FEMA Floodway unless the certification and flood hazard reduction provisions of Article V are met.
- G. Reviewing and recording the actual elevation (in relation to NAVD 1988) of the Reference Level (including basement) and all attendant utilities of all new or substantially improved structures, in accordance with Section 154.16.
- H. Reviewing and recording the actual elevation (in relation to NAVD 1988) to which the new or substantially improved non-residential structures have been floodproofed, in accordance with Section 154.16.
- I. Obtaining certifications from a registered professional engineer or architect in accordance with Section 154.30 (A)(2) when floodproofing is utilized for a particular non-residential structure.



- J. Making the interpretation of the exact location of boundaries within the FEMA Special Flood Hazard Area or the Community Special Flood Hazard Area when, for example, there appears to be conflict between a mapped boundary and actual field conditions. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this ordinance. Procedures for changing flood hazard area boundaries and lines depicted on the Flood Insurance Rate Maps are identified in the National Flood Insurance Program regulations (44 CFR Parts 59-78).
- K. Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.
- L. Making on-site inspections of projects.
- M. Serving notices of violation, issuing stop work orders, revoking permits and taking corrective actions.
- N. Maintaining a copy of the Letter of Map Amendment issued from FEMA in the Floodplain Development Permit file when a property owner has received a Letter of Map Amendment (LOMA). (A LOMA is typically applied for and approved when the exact location of boundaries of the FEMA Special Flood Hazard Area conflicts with the current, natural topography information at the site.)
- O. Determining the required information to be submitted with an application for approval of a Floodplain Development Permit.
- P. Reviewing information provided by a property owner or his designated agent for the purpose of making a determination of the total cost of repairs as it relates to a Substantial Improvement, including a determination of whether a series of repairs, reconstructions or improvements constitute one single alteration such that the total cost of the repairs, reconstructions or improvements will be the cumulative cost from the first alteration.
- Q. Reviewing information provided by a property owner or his designated agent for the purpose of making a determination of whether the proposed construction activities constitute New Construction for purposes of this ordinance.
- R. Reviewing and acknowledging FEMA Conditional Letters of Map Revision and FEMA Letters of Map Revision.
- S. Reviewing and approving Community Conditional Letters of Map Revision and Community Letters of Map Revision.
- T. Making on-site inspections of work in progress. As the work pursuant to a Floodplain Development Permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit.
- U. Issuing stop-work orders. Whenever a building or part thereof is being constructed, reconstructed, altered or repaired in violation of this ordinance, the Floodplain Administrator may order the work to be immediately stopped. The stop order shall be in writing and directed to the person doing the work. The stop order shall state the specific work to be stopped, the specific reasons for the stoppage and the conditions under which the work may be resumed. Violation of a stop work order constitutes a misdemeanor.



- V. Revoking Floodplain Development Permits. The Floodplain Administrator may revoke and require the return of the Floodplain Development Permit by notifying the permit holder in writing stating the reason for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans or specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentation made in securing the permit. Any permit mistakenly issued in violation of an applicable state or local law may also be revoked. Revoked permits may be resubmitted for approval using the requirements of the ordinance in effect at the time of the original submittal unless they were revoked because of the intentional submission of incorrect information by the permittee or his agent, or under other circumstances where allowing resubmittal using the requirement of the ordinance in effect at the time of the original submittal would not be equitable or consistent with public policy. However, base flood elevations that govern the elevation to which the structure is built must comply with the regulations and flood elevations in effect at the time of application for the building permit.
- W. Making periodic inspections. The Floodplain Administrator and each member of his inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
- X. Providing owners of structures in the Floodplain with information concerning their flood risk, and (for structures with the Reference Level below the Flood Protection Elevation) inform potential buyers of Substantial Improvement restrictions through the recordation of a notice in the property chain of title or other similar notice.
- Y. Obtain actual elevation (in relation to NAVD 1988) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of Section 154.16
- Z. Obtain actual elevation (in relation to NAVD 1988) of all public utilities in accordance with the provisions of Section 154.16.
- AA. Maintain a current map repository to include, but not limited to, historical and effective FIS Report, historical and effective FIRM and other official flood maps and studies adopted in accordance with the provisions of Section 154.08 of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.

154.18: CORRECTIVE PROCEDURES

- A. Violations to be corrected. When the Floodplain Administrator finds violations of applicable state and local laws and notifies the property owner or building occupant of the violation, the owner or occupant shall immediately remedy each violation of law cited in the notice.
- B. Actions in event of failure to take corrective action. If the owner or occupant of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give written notice, by certified or registered mail to the last known address or by personal service that:
 - 1. The building or property is in violation of the Floodplain Regulations;
 - 2. A hearing will be held before the Floodplain Administrator at a designated place and time, not later than twenty (20) calendar days after the date of the notice; at which time the owner or occupant shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and



3. Following the hearing, the Floodplain Administrator may issue such order to alter, vacate or demolish the building, or to remove fill or other unauthorized Encroachment, as appears appropriate.
- A. *Order to take corrective action.* If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or Development is in violation of the Floodplain Regulations, he shall issue an order in writing to the owner or occupant, requiring the owner or occupant to remedy the violation within such period, not less than sixty (60) calendar days, as the Floodplain Administrator may prescribe; provided that, where the Floodplain Administrator finds that there is imminent danger to life or other property, he may order that corrective action be taken in such lesser period as may be feasible.
- B. *Appeal.* Any owner or occupant who has received an order to take corrective action may appeal the order to the Cornelius Zoning Board of Adjustment (hereinafter referred to as the “Board of Adjustment” or “Board”) as provided in Article IV, Section 154.20. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The Board of Adjustment shall hear an appeal within a reasonable time and may affirm, modify and affirm or revoke the order.
- C. *Failure to comply with order.* If the owner or occupant of a building or property fails to comply with an order to take corrective action from which no appeal has been taken or fails to comply with an order of the Board of Adjustment following an appeal, he/she shall be guilty of a misdemeanor and shall be punished in the discretion of the court. In addition, the owner or occupant shall be subject to civil enforcement as described in Article II, Section 154.14.

ARTICLE IV: APPEALS AND VARIANCES

154.19: AUTHORITY OF BOARD OF ADJUSTMENT

- A. The Board of Adjustment of Cornelius shall hear and decide appeals from any order, decision, determination or interpretation made by the Floodplain Administrator pursuant to or regarding these regulations.
- B. The Board of Adjustment shall hear and decide petitions for Variances from the requirements of this ordinance.

154.20: INITIATION AND FILING OF APPEAL

- A. An appeal of an order, decision, determination or interpretation made by the Floodplain Administrator may be initiated by any person aggrieved by any officer, department, board or bureau of the Town.
- B. A notice of appeal in the form prescribed by the Board of Adjustment must be filed with the Board’s Clerk, with a copy to the Floodplain Administrator, within twenty (20) days of the order, decision, determination or interpretation and must be accompanied by a nonrefundable filing fee as established by the Town council. Failure to timely file such notice and fee will constitute a waiver of any rights to appeal under this section and the Board of Adjustment shall have no jurisdiction to hear the appeal.

154.21: STANDARDS AND HEARING PROCEDURE

- A. The Board of Adjustment will conduct the hearing on an appeal of an order, decision, determination or interpretation of these regulations in accordance with its normal hearing procedures as set out in the Town of Cornelius Zoning Code.



- B. At the conclusion of the hearing, the Board of Adjustment may reverse or modify the order, decision, determination or interpretation under appeal upon finding an error in the application of these regulations on the part of the Floodplain Administrator who rendered the decision, determination or interpretation. In modifying the decision, determination or interpretation, the Board will have all the powers of the officer from whom the appeal is taken.

154.22: INITIATION AND FILING OF VARIANCE PETITION

- A. A petition for Variance may be initiated only by the owner of the affected property, or an agent authorized in writing to act on the owner's behalf.
- B. A petition for a Variance from these regulations in the form prescribed by the Board of Adjustment must be filed with the Board's Clerk, with a copy to the Floodplain Administrator, and be accompanied by a nonrefundable filing fee as established by the Town council.

154.23: FACTORS FOR CONSIDERATION AND DETERMINATION OF COMPLETENESS

- A. In passing upon Variances, the Board of Adjustment shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and the:
1. Danger that materials allowed to be placed in the floodway as a result of the Variance may be swept onto other lands to the injury of others during a Community Base Flood ;
 2. Danger to life and property due to flooding or erosion damage from a Community Base Flood;
 3. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage during the Community Base Flood;
 4. Importance of the services provided by the proposed facility to the community;
 5. Necessity to the facility of a waterfront location, where applicable;
 6. Availability of alternative locations, not subject to flooding or erosion damage during a Community Base Flood, for the proposed use;
 7. Compatibility of the proposed use with existing and anticipated Development;
 8. Relationship of the proposed use to the Mecklenburg County Floodplain Management Guidance Document, Mecklenburg County Flood Hazard Mitigation Plans, the Mecklenburg County Greenway Plan, and any other adopted land use plans for that area;;
 9. Safety of access to the property in times of a Community Base Flood for ordinary and emergency vehicles;
 10. Expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters during a Community Base Flood expected at the site ; and
 11. Costs of providing governmental services during and after flood events, including maintenance and repair of public utilities and facilities, such as sewer, gas, electrical and water systems and streets and bridges.
- B. A written report addressing each of the above factors shall be submitted with the application for a Variance.



- C. Upon consideration of the factors listed above and the purposes of this ordinance, the Board of Adjustment may attach such conditions to the granting of Variances as it deems necessary to further the purposes of this ordinance.
- D. Variances may be issued for the repair or rehabilitation of Historic Structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a Historic Structure and the Variance is the minimum necessary to preserve the historic character and design of the structure.
- E. Functionally dependent facilities if determined to meet the definition as stated in Article 1, Section 6 of this ordinance, provided provisions of Article 6 have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- F. Any other type of development provided it meets the requirements of this Section.

154.24: CONDITIONS FOR VARIANCES.

- A. Variances shall not be issued when the Variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.
- B. Variances shall not be issued within any designated Floodway if the Variance would result in any increase in flood levels during the Community and/or FEMA Base Flood discharge unless the requirements of 154.30 (A) (5) are met.
- C. Variances shall only be issued upon a determination that the Variance is the minimum necessary, considering the flood hazard, to afford relief.
- D. Variances shall only be issued prior to approval of a Floodplain Development Permit.

154.25: STANDARDS FOR GRANTING VARIANCE

- A. Variances shall only be issued upon:
 - 1. A showing of good and sufficient cause;
 - 2. A determination that failure to grant the Variance would result in exceptional hardship; and
 - 3. A determination that the granting of a Variance will not result in increased flood heights (unless the requirements of Section 154.30 (A)(5) are met), additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with other existing local laws or ordinances
- B. The fact that the property could be utilized more profitably or conveniently with the Variance than without the Variance shall not be considered as grounds for granting the Variance.

154.26: MISCELLANEOUS CONDITIONS

- A. In addition to consideration of the items in 154.23 (A), if Dryland Access cannot be obtained, a Variance to the requirement for Dryland Access may be granted by the Board of Adjustment upon consideration of the following conditions:



1. A determination that all possible alternatives have been investigated in an attempt to provide the safest access from a proposed Habitable Building to a dry public street; and
 2. The existence of a site plan prepared by a Licensed Land Surveyor or Professional Engineers indicating that the proposed access to Habitable Buildings on the property poses the least risk from flooding.
- B. In addition to consideration of the items in 154.23(A), a Variance may be issued by the Board of Adjustment for solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following criteria are met:
1. The use serves a critical need in the community;
 2. No feasible location exists for the use outside the Special Flood Hazard Areas;
 3. The Reference Level of any structure is elevated above the Flood Protection Elevation or is designed and sealed by a Professional Engineer or a Registered Architect to be watertight with walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy;
 4. There will be no storage of materials or tanks which could flood within the Special Flood Hazard Area unless they are contained in a structure as defined in 3 above;
 5. The use complies with all other applicable laws and regulations; and
 6. The Town of Cornelius has notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the Variance.

154.27: NOTIFICATION AND RECORDKEEPING

- A. Any applicant to whom a Variance from the FEMA Base Flood Elevation is granted shall be given written notice specifying the difference between the FEMA Base Flood Elevation and the elevation to which the structure is to be built and a written statement that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced Reference Level elevation. Such notification shall be maintained with a record of all Variance actions.
- B. The Floodplain Administrator shall maintain the records of all appeal actions and report any variances regarding FEMA minimum standards to the Federal Emergency Management Agency and the State of North Carolina upon request.

154.28: APPEAL FROM BOARD OF ADJUSTMENT

- A. Any person aggrieved by the final decision of the Board of Adjustment to grant or deny a Floodplain Development Permit shall have 30 days to file an appeal to Mecklenburg County Superior Court, as provided in N.C.G.S. 143-215.57 (c).
- B. Any party aggrieved by the decision of the Board of Adjustment related to any other order, decision, determination or interpretation of these regulations, including the granting or denial of a Variance, shall have 30 days from the receipt of the Board's decision to file a petition for review in the nature of *certiorari* in Mecklenburg County Superior Court.



ARTICLE V: PROVISIONS FOR FLOOD HAZARD REDUCTION

154.29: GENERAL STANDARDS

A. In all Special Flood Hazard Areas, the following provisions are required:

1. All New Construction and Substantial Improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;
2. Manufactured Homes shall be anchored to prevent flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, the use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;
3. All New Construction and Substantial Improvements shall be constructed with materials and utility equipment resistant to flood damage;
4. All New Construction or Substantial Improvements shall be constructed by methods and practices that minimize flood damage;
5. All new electrical, heating, ventilation, plumbing, air-conditioning equipment and other service facilities shall be designed, constructed or installed to the Regulatory Flood Protection Elevation. These include but are not limited to HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric meter panels/boxes, utility/cable boxes, appliances (i.e., washers, dryers, refrigerator, etc.), hot water heaters, electric wiring, and outlets/switches;
 - a. Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.
 - b. Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure
 - c. The cost for replacements that are for maintenance, are not part of a substantial improvement, and that are installed at the original location are not included as substantial improvement costs if the replacements are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding to the Flood Protection Elevation;
6. All new and replacement water supply systems shall be designed to minimize or eliminate the infiltration of floodwaters into the system;
7. New and replacement sanitary sewage systems shall be designed to minimize or eliminate the infiltration of floodwaters into the system and discharges from the systems into floodwaters;
8. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
9. Any alteration, repair, reconstruction or improvements to a structure which is in compliance with the



provisions of this ordinance, shall meet the requirements of "New Construction" as contained in this ordinance;

10. Construction of new solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted except by variance, in Special Flood Hazard Area. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated above the Flood Protection Elevation or designed to be watertight with walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy;
11. Subdivisions. All Development proposals submitted for review and approval in accordance with the Town of Cornelius Subdivision Ordinance shall also comply with the following provisions:
 - a. Locate and construct public utilities and facilities, such as sewer, gas, electrical and water systems, to minimize flood damage;
 - b. Construct all new streets located in a Community Special Flood Hazard Area in accordance with the applicable provisions of the Subdivision Ordinance;
 - c. Design and construct adequate drainage to reduce exposure to flood hazards;
 - d. Take such other appropriate measures needed to minimize flood damage; and
 - e. Receive all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
12. For the purpose of determining Substantial Improvement, the Floodplain Administrator shall make a determination of the total cost of repairs as it relates to a Substantial Improvement, including a determination of whether a series of repairs, reconstructions or improvements constitute one single alteration such that the total cost of the repairs, reconstructions or improvements will be the cumulative cost from the first alteration.
13. When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.
14. When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest base flood elevation shall apply.

154.30: SPECIFIC STANDARDS

- A. Review and implementation of SWIM buffer regulations shall be concurrent and coordinated with the provisions of this chapter, so that both are satisfied. In all Community and FEMA Special Flood Hazard Areas where Community and FEMA Base Flood Elevation data have been provided, as set forth in Section 154.08, the following provisions are required:
 1. *Residential construction.*



- a. New Construction or Substantial Improvement of any residential structure shall have the Reference Level, elevated to the Flood Protection Elevation.
 - i. Community Base Flood Elevation Exemption - Substantial Improvement to existing buildings having the Lowest Floor located at least one foot above the FEMA Base Flood Elevation, but less than the Flood Protection Elevation, are exempt from the requirement to elevate the Lowest Floor to or above the Flood Protection Elevation. However, the property owner must record an Affidavit of Floodplain Construction Below Community Base Flood Elevation ("Affidavit") with the Mecklenburg County Register of Deeds Office prior to the issuance of a building permit. The Affidavit (provided in the Floodplain Regulations Technical Guidance Document) will acknowledge that the property owner elected to proceed with the renovations/rehabilitations, and was made aware of the Community Base Flood Elevations and that in the future there will be:
 - (1) potential for flood losses,
 - (2) potential for mandatory purchase of flood insurance,
 - (3) potential for FEMA substantial improvement rules to apply, and
 - (4) no local funds available for flood mitigation assistance (buyouts, elevations, etc.).
 - b. Non-substantial improvements notice renovations/, rehabilitations repair, reconstruction, or improvement costing between 10% and 50% of the Market Value of the existing building and said building having the Reference Level below the Flood Protection Elevation, will require the property owner to record a Notice of Floodplain Improvements (provided in the Technical Guidance Document) with the Mecklenburg County Register of Deeds Office prior to the issuance of a Building Permit.
2. *Nonresidential construction.* New Construction or Substantial Improvement of any commercial, industrial or nonresidential structure shall meet the requirements for residential construction in Section 154.30 (A), 1 above, or the structure may be floodproofed in lieu of elevation, provided that all areas of the structure below the required elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Section 154.16.
3. *New Buildings Removed From the FEMA Special Flood Hazard area by Fill.* When new buildings have been constructed on land that has been removed from the FEMA Special Flood Hazard Area by the placement of fill, they must have the Reference Level (including basement) elevated above the Flood Protection Elevation.
4. *Elevated buildings.* New Construction or Substantial Improvement of elevated buildings, that include fully enclosed areas formed by foundation and other exterior walls below the Community Base Flood Elevation shall meet the requirements of Section 154.30(A) and shall be designed to preclude finished living space and shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. The walls shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.
 - a. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:



- i. Provide a minimum of two (2) openings, having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;
 - ii. The bottom of all openings shall be no higher than one (1) foot above adjacent grade at the opening;
 - iii. Openings may be equipped with screens, louvers, valves or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions;
 - iv. Openings must be on different sides of the enclosed area if possible; and
 - v. If the building has more than one enclosed area, each must have openings.
 - b. Foundation enclosures:
 - i. Vinyl or sheet metal skirting is not considered an enclosure for regulatory and flood insurance rating purposes. Therefore such skirting does not require hydrostatic openings as outlined above.
 - ii. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires hydrostatic openings as outlined above to comply with this ordinance.
 - c. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or enter to the living area (stairway or elevator).
 - d. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms, except to enclose storage areas.
 - e. The enclosed area shall be constructed entirely of flood resistant materials at least to the Regulatory Flood Protection Elevation.
 - f. The enclosed area shall not be temperature controlled.
5. *FEMA Floodway and Community Encroachment Area.* The FEMA Floodway and the Community Encroachment Area are very hazardous areas due to the velocity of floodwaters which carry debris and potential projectiles and have erosion potential. The following provisions shall apply within each of these designated areas:
- a. *Community Encroachment Area.* No Encroachments, requiring a Floodplain Development Permit (Section 154.16), including fill, New Construction, Substantial Improvements and other Development shall be permitted within the Community Encroachment Area unless a Floodway Engineering Analysis has been provided by a registered professional engineer performed in accordance with standard engineering practice showing that such Encroachment would not result in increased flood heights of greater than 0.10' during the occurrence of a Community Base Flood. Such certification and associated technical data by a registered engineer must be approved by the Floodplain Administrator before issuing a permit. Any change which would cause a rise of more than 0.10' in the Community Base Flood Elevation will require notification of impacted property owners, and a Community Conditional Letter Of Map Revision (CoCLOMR) from the Floodplain Administrator. If approved and constructed, as-built plans must be submitted and approved by the Floodplain Administrator and a Community Letter of



Map Revision (CoLOMR) issued. A Certificate of Occupancy will not be issued without the above stated Community Letter of Map Revision.

- b. Projects impacting existing Habitable Buildings that increase the Community Base Flood Elevation more than 0.00' will not be allowed without a Variance.
- c. *FEMA Floodway*. No Encroachments requiring an Floodplain Development Permit (Section 154.16), including fill, New Construction, Substantial Improvements and other Development shall be permitted within the FEMA Floodway unless a Floodway Engineering Analysis has been provided by a registered professional engineer performed in accordance with standard engineering practice showing that such Encroachment would not result in any (0.00') increase in the FEMA Base Flood Elevations during the occurrence of a FEMA Base Flood and no increase in the Community Base Flood Elevations during the occurrence of the Community Base Flood. Such analysis performed by a registered professional engineer must be approved by the Floodplain Administrator before issuing a permit. Any change which would cause a rise in the FEMA Base Flood Elevation or an increase in the FEMA Floodway width during the occurrence of the FEMA Base Flood will require notification of impacted property owners, and a Conditional Letter Of Map Revision from FEMA. If approved and constructed, as-built plans must be submitted by the property owner and approved by FEMA and a Letter Of Map Revision issued. A Certificate of Occupancy will not be issued without the above stated Letter of Map Revision.
- d. Any change which would cause a rise in the Community Base Flood Elevation or an increase in the width of the Community Encroachment Area during the occurrence of the Community Base Flood will require notification of impacted property owners, and a Community Conditional Letter Of Map Revision (CoCLOMR).
- e. Projects which cause a rise of greater than 0.00' in the FEMA Base Flood Elevation and impact an existing Habitable Building, will not be allowed.
- f. No manufactured homes shall be permitted, except in an existing manufactured home park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring and the elevation standards of Section 154.30 (A)(7) are met.
- g. Temporary Encroachments. Certain Temporary Encroachments into the Community Encroachment Area and/or the FEMA Floodway may be exempt from meeting the requirements of Sections 154.30(A)(5). Examples of Temporary Encroachments include but are not limited to: sediment control devices including basins, check dams, diversions, etc, temporary stream crossings, haul roads/construction entrances, storage of equipment, soil stockpiling. The following conditions that must be met to qualify for the exemption;
 - i. The proposed Encroachment shall not be in place more than three months and is renewable for up to one year with written approval from the Floodplain Administrator. Temporary sediment control devices may be kept in place longer than one year if required by the appropriate regulatory agency, and,
 - ii. Supporting documentation, including a Floodway Engineering Analysis (if required by the Floodplain Administrator) must be submitted by a registered professional engineer indicating that the proposed project will not impact any existing habitable building or overtop any roadway surfaces.



- iii. The Temporary Encroachment will require an Individual Floodplain Development Permit unless it is included in another IFDP.

6. Additions/Improvements

- a. Additions and/or improvements to pre-FIRM structures whereas the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - i. Not a Substantial Improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
 - ii. A Substantial Improvement, both the existing structure and the addition and/or improvements must comply with the standards of Section 154.30(A)(1) and (2).
- b. Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall require only the addition to comply with the standards of Section 154.30(A)(1) and (2).
- c. Additions and/or improvements to post-FIRM structures whereas the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - i. Not a Substantial Improvement, the addition and/or improvements only must comply with the standards for New Construction.
 - ii. A Substantial Improvement, both the existing structure and the addition and/or improvements must comply with the standards of Section 154.30 (A)(1) and (2).

7. Manufactured Homes:

- a. *New and replaced Manufactured homes* shall be elevated such that the Reference Level of the manufactured home is elevated to the Flood Protection Elevation.
- b. *Manufactured homes* shall be anchored to prevent flotation, collapse, or lateral movement. For the purposes of this requirement, manufactured homes must be anchored to resist flotation, collapse, or lateral movement, either by certified engineered foundation system, or in accordance with the Regulations for Mobile Homes and Modular Housing adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by raising the chassis at least 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or other foundation elements of at least equivalent strength. When the elevation of the chassis is above 36 inches in height an engineering certification is required.
- c. An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivision located within the Special Flood Hazard Area. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.
- d. All enclosures or skirting below the Reference Level shall meet the requirements of Section 154.30 (A)(4).



8. *Recreational Vehicles* shall either:
- a. Be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or
 - b. Meet all the requirements for New Construction.
9. *Temporary Structures*. Prior to issuance of a Floodplain Development Permit for a temporary structure the following requirements must be met:
- a. All applicants must submit to the Floodplain Administrator a plan for removal of such structure(s) in the event of a hurricane or flash flood notification. The plan must include the following information:
 - i. A specified time period for which the temporary use will be permitted. The time specified may not exceed three months, and is renewable up to one year;
 - ii. The name, address, and phone number of the individual responsible for the removal of the structure;
 - iii. The time frame prior to the event at which a structure will be removed;
 - iv. A copy of the contract or other suitable instrument with a trucking company to ensure the availability of removal equipment when needed; and
 - v. Designation, accompanied by documentation, of a location outside the floodplain to which the temporary structure will be removed.
 - b. The above information shall be submitted in writing to the Floodplain Administrator for review and written approval.
10. *Accessory Structure*. When accessory structures (sheds, detached garages, etc.), are to be placed in the Floodplain the following criteria shall be met:
- a. Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
 - b. Accessory structures shall be designed to have a low flood damage potential;
 - c. Accessory structures shall be firmly anchored in accordance with Section 154.29 (A)(1); and
 - d. Service facilities such as electrical equipment shall be elevated in accordance with Section 154.29 (A)(5).
 - e. Accessory structures shall have hydrostatic openings per Section 154.30 (A)(4).
 - f. Accessory structures under 150 square feet do not require an elevation or floodproofing certificate.
 - g. Accessory structures shall not be temperature-controlled.



11. Tanks. When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:
- a. Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the Community and/or FEMA Base Flood, including the effects of buoyancy assuming the tank is empty;
 - b. Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be elevated to or above the Flood Protection Elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the Community and/or FEMA Base Flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;
 - c. Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Section 154.30 (A)(2) of this ordinance shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the Community and/or FEMA Base Flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions;
 - d. Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:
 - i. At or above the Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the Community and/or FEMA Base Flood; and
 - ii. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the Community and/or FEMA Base Flood.
12. Fill. Proposed placement of fill within the Special Flood Hazard Area requires demonstration of compliance with Section 9 and 10 of the Federal Endangered Species Act (ESA). The demonstration of compliance must be provided to the Floodplain Administrator.

ARTICLE VI. LEGAL STATUS PROVISIONS

154.31: LEGAL STATUS PROVISIONS

- A. *Effect on rights and liabilities under the existing Floodway Regulations.* This ordinance in part comes forward by re-enactment of some of the provisions of the original Cornelius Flood Damage Prevention Ordinance as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the original Davidson Flood Damage Prevention Ordinance, as amended, which are not reenacted herein, are repealed. The date of the original Flood Damage Prevention Ordinance in Mecklenburg County is December 4, 1972.



- B. *Effect upon outstanding Floodplain Development Permits.* Nothing herein contained shall require any change in the plans, construction, size or designated use of any Development or any part thereof for which a Floodplain Development Permit has been granted by the Floodplain Administrator before the time of passage of this Floodplain Regulation ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of two (2) years subsequent to passage of this ordinance or any revision thereto, such permit shall become void and construction or use shall be in conformity with the provisions of this ordinance. Any application(s) for a Floodplain Development Permit received prior to the effective date of these Floodplain Regulations shall be reviewed under the regulations in effect at the time of the initial application. Any incomplete application(s) for a Floodplain Development Permit will be valid only for ninety (90) days after the Floodplain Administrator has requested additional information from the applicant or his agent. If ninety (90) days after the owner or his agent has received the request for additional information the applicant has failed to submit reasonably complete information that demonstrates a good faith effort to provide all the additional information requested, as determined by the Floodplain Administrator, the application will become void. Any subsequent submittals will be considered as new applications and reviewed under the regulations in effect on the date the subsequent submittal is received by the Floodplain Administrator.
- C. *Expiration of Floodplain Development Permits issued after Floodplain Regulation adoption.* Floodplain Development Permits issued pursuant to this ordinance expire two years after the date of issuance unless (i) the work has commenced within two (2) years after the date of issuance, or (ii) the issuance of the permit is legally challenged in which case the permit is valid for two (2) years after the challenge has been resolved. Any incomplete application(s) for a Floodplain Development Permit will be valid only for ninety (90) days after the Floodplain Administrator has requested additional information from the applicant or his agent. If ninety (90) days after the owner or his agent has received the request for additional information the applicant has failed to submit reasonably complete information that demonstrates a good faith effort to provide all the additional information requested, as determined by the Floodplain Administrator, the application will become void. Any subsequent submittals will be considered as new applications and reviewed under the regulations in effect on the date the subsequent submittal is received by the Floodplain Administrator.

154.32: SEVERABILITY.

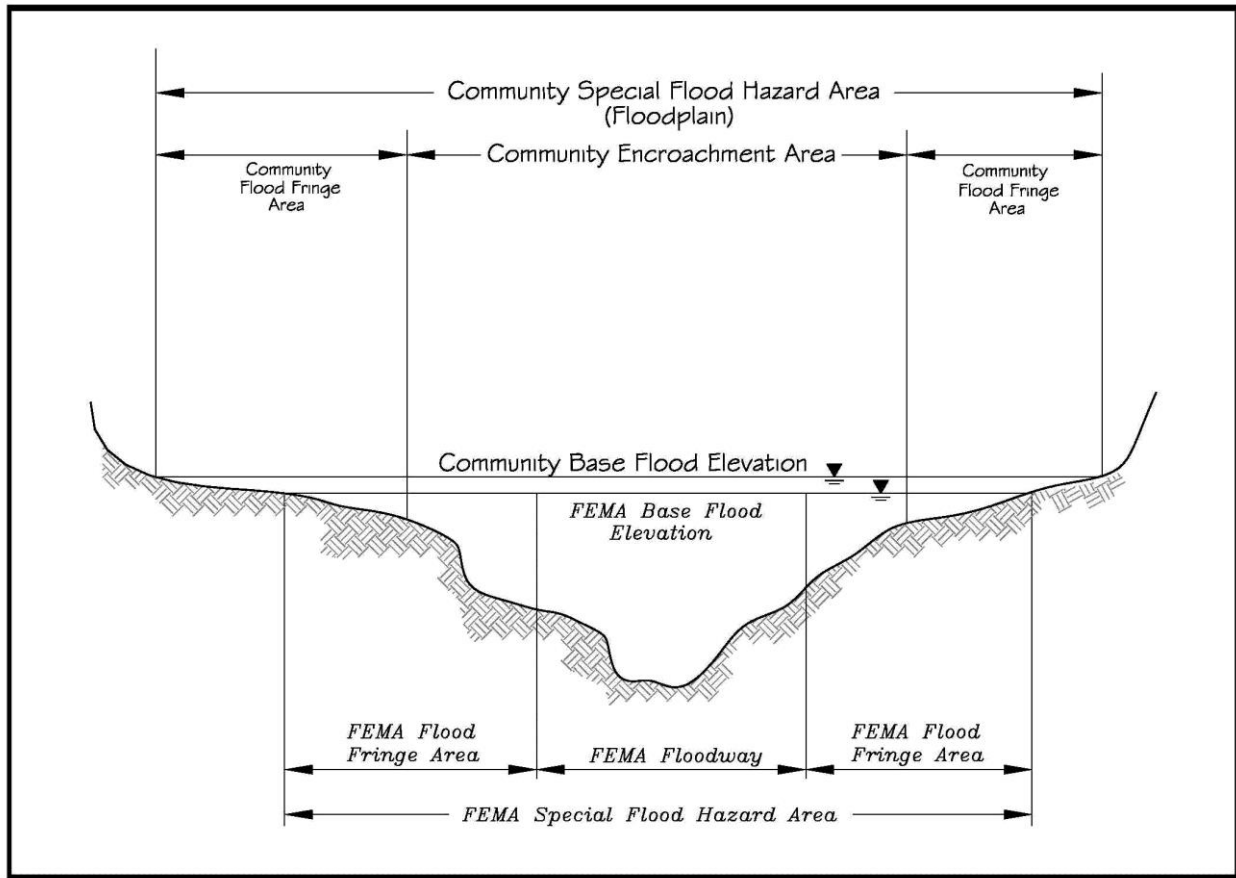
If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

154.33: EFFECTIVE DATE.

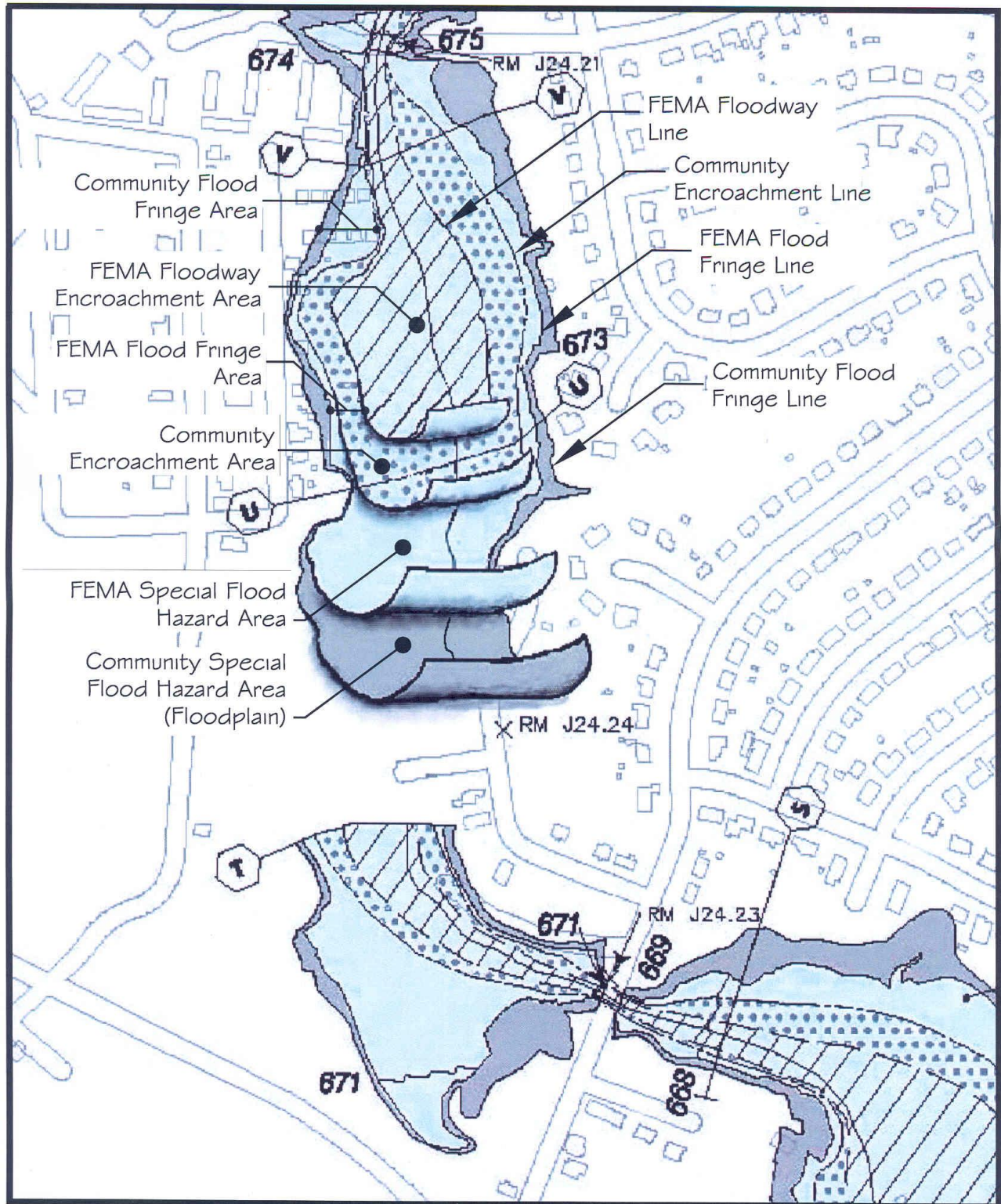
This ordinance shall become effective upon adoption.



Attachment A



ATTACHMENT B



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REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: November 5, 2018

To: Mayor and Board of Commissioners
From: Julie Niswonger, Finance Director
Kelly Heitman, Business Office Supervisor- ElectriCities

Action Requested:

Town staff and ElectriCities have cooperatively worked at collecting finaled electric accounts to accurately reflect the amount customers owe the Town. Commensurate with last year, Staff recommends that annually the Board approve write offs of amounts that have proved uncollectible for more than 3 years. While this will not stop our collection efforts (these amounts will remain with our collection agency and we will continue to seek collection through the use of NC Debt Setoff program for accounts over \$50), our financial statements will no longer report the amounts as likely collectible. Since FY 2013, when the Debt Setoff program was initiated the Town has collected \$51,354.86 in uncollectible electric debt.

Staff is requesting the Board approve write offs for FY2015 totaling \$25,116.98. In total, the Town has collected 99.6% of revenue billed in FY15. The Town Board last approved write offs in November 2017.

Manager's Recommendation:

Approve the FY2015 write off uncollectible accounts.

ATTACHMENTS:

Name:	Description:	Type:
No Attachments Available		

REQUEST FOR BOARD ACTION

 **Print**

Date of Meeting: November 5, 2018

To: Mayor and Board of Commissioners

From: Tyler Beardsley, Assistant Town Manager/Public Works Director

Action Requested:

The Town has budgeted \$800,000 in Powell Bill funds in FY19 for resurfacing town maintained roads throughout Town. The Town conducted a bid opening and the low bid was for \$795,457.25. To take advantage of the bid pricing, the Town issued an addendum to the low bidder to include additional road work. With the addendum, the contract amount is \$820,457.25. The additional \$20,457.25 will be covered by Powell Bill maintenance funds. This contract will resurface approximately 4.25 miles. The paving contractor is Red Clay Industries.

Manager's Recommendation:

Approve a contract including the addendum with Red Clay Industries and authorize the Town Manager and Town Attorney to finalize and execute it.

ATTACHMENTS:

Name:	Description:	Type:
 Bid_Tab_FY19.pdf	Bid Tab Sheet	Backup Material
 Paving_List_for_RFBA_FY19.pdf	Paving List	Backup Material
 Red_Clay_projects.pdf	Map of Resurfacing	Backup Material
 FY19_Paving_Contract-RFBA_Red_Clay.pdf	Contract with Red Clay	Cover Memo

Town of Cornelius

FY 19 Street Resurfacing Project Bid Tabulation Sheet

Opened July 12, 2018 at 10:00 am in Room 120 of Cornelius Town Hall

Contractor	Mobilization	Base Course	Patching	Milling	Binder Course	Surface Mix	Valve Boxes	Manholes	Markings	Total Price		
Blythe Brothers	\$93,750.00		\$55.60	\$6,578.35	\$175,392.00	\$101.00	\$751,140.00		\$625.00	\$750.00	\$2,150.00	\$1,088,891.95
Red Clay Industries	\$27,500.00		\$75.00	\$6,160.00	\$230,021.25	\$150.00	\$491,491.00		\$250.00	\$375.00	\$18,000.00	\$795,457.25

Read aloud by: _____

Tyler Beardsley Assistant Manager

Witnessed: _____

Julie Niswonger Finance Director

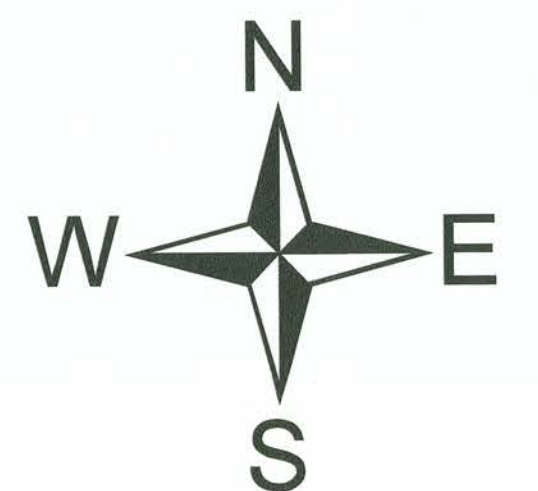
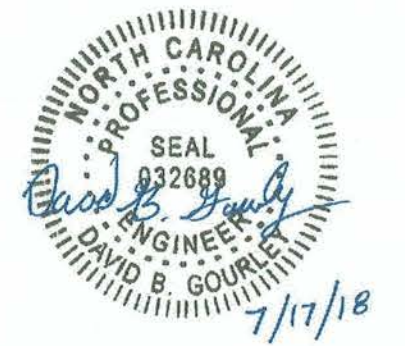
STREET	FEET	MILES
PENINNSULA SHORES DR	1900	0.36
SUNSET COVE LN	425	0.08
BETHELWOOD LN	3500	0.66
WALTER HENDERSON RD	2356	0.45
VISTAVIEW DR	416	0.08
BARCICA LN	1130	0.21
DUNSMUIR CT	241	0.05
TREYNORTH DR	1050	0.20
JOHN GAMBLE RD	1750	0.33
SEIRRA VISTA DR	1000	0.19
WILLOW POND RD	2875	0.54
PINYON DR	125	0.02
PINE RIDGE DR	1050	0.20
FLORAL LN	2485	0.47
SMITH CIIR	1200	0.23
LAKEHOUSE POINT	1050	0.20
TOTAL	22553	4.27

Town of Cornelius, North Carolina



POWELL BILL MAP
2018 - 2019

July 1, 2018



0 0.25 0.5 1 1.5 Miles

Legend

Street Designation

- State System Street
- Private Street
- Paved Municipal Street
- - - ETJ Limits
- Town Limits
- Lake Norman

Prepared by



1001 Morehead Square Drive, Suite 610, Charlotte, NC 28203

July 17th, 2018



**Town of Cornelius
Standard Form of Agreement
Between the Town and the Contractor**

AGREEMENT made as of the ____ day of November of 2018

BETWEEN the Owner:

Town of Cornelius
PO Box 399
21445 Catawba Ave
Cornelius, NC 28031
Phone: 704-892-6031

and the Contractor:

Red Clay Industries
PO Box 241689
Charlotte, NC 28224
Phone: 704-523-1018

The Project is:

1. FY 2019 Resurfacing Program

The Owner and Contractor agree as follows.

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement the Bidding Documents, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement; these form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 8.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except to the extent specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement for the Work shall be the date upon which the Contractor is given a written notice to proceed by the Owner.

§ 3.2 The Contract Time shall be measured from the date of commencement.

§ 3.3 The Contractor shall achieve Substantial Completion of the entire Work not later than June 30, 2019 subject to adjustments of this Contract Time as provided in the Contract Documents.

Contractor agrees to pay \$1,000.00 Liquidated Damages for each consecutive calendar day after the substantial completion date.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be \$820,457.25, based on the quantities determined by Contractor and the Unit Prices specified in Contractor's Bid as listed below. Owner shall not pay more than the Contract Sump for the Work unless there is authorization in writing from the Town Manager.

ARTICLE 5 PAYMENT

§ 5.1 PROGRESS PAYMENTS

§ 5.1.1 Based upon Applications for Payment submitted to the Owner by the Contractor, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.

§ 5.1.3 Upon receipt of the Contractor's application for payment by the Owner payment shall be made by the Owner not later than thirty (30) days after the Architect and Owner receives the Application for Payment.

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire

Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. This schedule, unless objected to by the Owner, shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. Application for Payment shall be accompanied by a North Carolina Sales or Use Tax Statement. The statement shall show the Invoice or Receipt Total, North Carolina Sales Tax paid, County Tax paid and which county the tax was paid to.

§ 5.1.6 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of five percent (5%).
- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of five percent (5%);
- .3 Subtract the aggregate of previous payments made by the Owner; and

§ 5.2 FINAL PAYMENT

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when:

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Section 12.2.2 of the Contract General Conditions and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 A final Certificate for Payment has been issued by the Owner after full inspection of and written acceptance of the work by Owner.
- .3 Submitted to Owner closeout documents as described in the Contract General Conditions.
- .4 The Contractor shall provide the Owner with a lien waiver that certifies that all sub-contractors and suppliers have been paid in full not later than 5 business days after payment has been made by the Owner.
- .5 Application for Final Payment shall be accompanied by a North Carolina Sales or Use Tax Statement. The statement shall show the Invoice or Receipt Total, North Carolina Sales Tax paid, County Tax paid and which county the tax was paid to.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the final Certificate for Payment. Any dispute as to the amount owed of failure to issue a Certificate of Payment shall be resolved by the dispute procedures in the Contract General Conditions. Interest as provided by statute shall not accrue until 30 days after the final decision in the dispute resolution procedure.

ARTICLE 6 TERMINATION OR SUSPENSION

§ 6.1 The Contract may be terminated by the Owner or the Contractor as provided in the Contract General Conditions.

§ 6.2 The Work may be suspended by the Owner as provided in the Contract General Conditions.

ARTICLE 7 MISCELLANEOUS PROVISIONS

§ 7.1 Where reference is made in this Agreement to a provision of the Contract General Conditions or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 7.2 Payments due after issuance of a Certificate of Payment and unpaid after 30 days shall bear interest at the state statutory interest rate. Where there is a dispute on payment due interest shall be provided as specified in section § 5.2.2 above.

§ 7.3 The Owner's representative is:

Andrew Grant
Town Manager
Town of Cornelius
PO Box 399
Cornelius, NC 28031
Phone: 704-892-6031

§ 7.4 The Contractor's representative is:

Steve Lawing
Project Manager
Red Clay Industries
PO Box 241689
Charlotte, NC 28224-1689
Phone: 704-523-1018

§ 7.5 Neither the Owner's nor the Contractor's representative shall be changed without ten days written notice to the other party.

§ 7.6 Other provisions:

Contractor shall maintain general liability, auto, and workers comp insurance coverages at coverage limits specified by Owner and shall list the Owner as an additional insured and loss payee on applicable insurance.

Contractor shall abide by all of the provisions set forth in the Contract General Conditions, Standard Provisions, Special Provisions, and shall have a copy of all these items as well as the NCDOT 2006 Standard Specifications on the project at all times.

ARTICLE 8 ENUMERATION OF CONTRACT DOCUMENTS

§ 8.1 The Contract Documents, except for Modifications issued after execution of this Agreement are enumerated as follows:

§ 8.1.2 The Contract General Conditions, Standard Provisions, & Special Provisions

§ 8.1.3 The Bid Package and Contractor's Bid submitted

§ 8.1.4 The specifications contained in the Bid Specifications.
NO BID SPECIFICATIONS FOR THIS PROJECT

§ 8.1.5 The Drawings are as follows, and are as shown below:
NO DRAWINGS FOR THIS PROJECT

§ 8.1.6 The Addenda, if any, are as follows:

Number	Date	Pages
1	9-19-2018	1

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 8

§ 8.1.7 Other documents, if any, forming part of the Contract Documents are as follows:

Exhibits:

Exhibit A: Sealed and Signed Bid and Unit Prices

Exhibit B: Contract General Conditions

Exhibit C: Bid Bond

Exhibit D: E-Verify Affidavit

This Agreement is entered into as of the day and year first written above and is executed in at least two original copies, of which one is to be delivered to the Contractor, one to the Owner.

Town of Cornelius:

OWNER *(Signature)*

Andrew Grant, Town Manager

CONTRACTOR *(Signature)*

James Smith, President

REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: November 5, 2018

To: Mayor and Board of Commissioners

From: Lori Harrell, Town Clerk

Action Requested:

Approve the minutes from the Oct. 1st Closed Session meeting.

Manager's Recommendation:

Approve minutes

ATTACHMENTS:

Name:	Description:	Type:
 10-01-18_Closed_Session_draft.docx	Closed Session Minutes	Backup Material

REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: November 5, 2018

To: Mayor and Board of Commissioners

From: Lori Harrell, Town Clerk

Action Requested:

Review the minutes from the Oct. 1st and 15th regular meetings.

Manager's Recommendation:

Approve minutes

ATTACHMENTS:

Name:	Description:	Type:
 10-01-18_Regular_Meeting_draft.docx	10/1/18 Regular Minutes	Backup Material
 10-15-18_Regular_Meeting_DRAFT.docx	10/15 Regular Minutes	Backup Material



BOARD OF COMMISSIONERS

October 1, 2018
MINUTES

PRE-MEETING – 5:45PM

- ❖ Managed Lanes Operations Update from the NC Turnpike Authority
Warren Cooksey with the NC Turnpike Authority gave a presentation on the toll collection program that will be used when the I-77 Managed Lanes open. He outlined how to register for a transponder, transponder options/fees and the billing process.

- ❖ Closed Session
Mayor Washam called for a motion to go into Closed Session to discuss real estate acquisition matters and a contractual matter under attorney-client privilege.

*Commissioner Miltich made a motion to go into Closed Session at 6:20PM.
Commissioner Bilodeau seconded the motion and it passed unanimously, 5-0.*

Upon return from Closed Session, Mayor Washam dismissed everyone at 6:51PM to go downstairs for the Regular Meeting.

REGULAR MEETING – 7:00PM

1. CALL TO ORDER
Mayor Washam called the meeting to order at 7:03PM.
2. DETERMINATION OF QUORUM
All commissioners were present for the meeting.
3. APPROVAL OF AGENDA
Commissioner Gilroy made a motion to approve the agenda as presented. Commissioner Miltich seconded the motion and it passed unanimously, 5-0.
4. MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE
Michael Archer led the pledge after a moment of silence was observed.
5. NEW BUSINESS
 - A. Cain Center for the Arts – Legislatively Directed Grant Announcement
Rep. Bradford and Sen. Tarte explained how they were able to secure the \$125K state grant funds awarded to the Town for the Art Center project. CAC Chairman Greg Wessling thanked the Town, Rep. Bradford and Sen. Tarte for their continued support of the project.
6. MAYOR/COMMISSIONERS/MANAGER REPORTS
Commissioner Bilodeau reported on the following:
 - Attended the CMS Municipal breakfast in Charlotte on Sept. 19th
 - Attended the ‘Tawba Walk on Sept. 22nd

10/01/18 Regular Meeting

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- Attended the Smithville Community Coalition meeting on Sept. 24th
- Attended the Newsmaker Breakfast featuring the topic of municipal charter schools on Sept. 26th
- Attended the annual Guns and Hoses Charity Softball game on Sept. 29th where Officer Patrick Malderelli received the 2018 Service Award
- Attended the Connecting Cornelius morning event this morning
- PARC events – the 18th annual All American Dog Show will be held on Oct. 6th at Robbins Park and the 6th annual Laktoberfest will be held on Oct. 20th at Bailey Road Park

Commissioner Ross reported on the following:

- Chamber events – BusinessWorks topic Cyber Security will be held on Oct. 9th; the 2018 Business Expo will be held on Oct. 11th at the Huntersville Recreation Center; and the annual Public Safety Power Luncheon will be held on Oct. 18th at Northstone Country Club
- Attended the Guns and Hoses game

Commissioner Miltich reported on the following:

- Attended the CMS Municipal breakfast in Charlotte on Sept. 19th
- Attended the CRTPO meeting on Sept. 19th
- Attended the LDCAB meeting on Sept. 24th
- Attended the Smithville Community Coalition meeting on Sept. 24th
- Attended the Newsmaker Breakfast featuring the topic of municipal charter schools on Sept. 26th
- Held the Cornelius Conversation event at Town Hall on Sept. 27th

Commissioner Naas reported on the following:

- Attended the CMS Municipal breakfast
- Working on getting the Cornelius Educational Options Commission established with Mayor Washam

Town Manager Grant reported on the following:

- The Smithville-Washam Greenway and Stream Restoration public meeting will be held at Town Hall on Oct. 2nd (6PM-8PM)
- NCDOT public meeting on the Catawba Avenue/US21 intersection project will be held on Oct. 10th (4PM-7PM)
- Cornelius-Lemley Fire and Rescue took delivery of their new truck, Engine 6, today
- Cornelius Police Department will host a medicine drop on Oct. 27th
- Lake Norman Marine Commission continues to work with the state on the Hydrilla issues in Lake Norman

Deputy Town Manager Herron reported on the following:

- 2018 Transportation Bond presentations have been made to the ARB, LDCAB and Catawba North neighborhood

Mayor Washam reported on the following:

- Attended the ribbon cutting for Ice Salon Hair by Cindy
- Attended the Guns N Hoses game
- EDC – 8 projects in Cornelius
- Cornelius Educational Options Commission appointments are: Tricia Sisson, Joanie Baker, Jack Higgins, Dave Mancuso, Richard Pappas, Ivonne Reed, Cynthia Bush

7. CITIZEN CONCERNS/COMMENTS

Richard Vinroot representing the owners of the Bexley at Lake Norman apartment complex located at the end of Holiday Lane, expressed his concerns with the most recent design proposal by NCDOT for the improvements of the Catawba/Hwy. 21 and how it will negatively impact the businesses in the area.

Paulette Morin representing Quick Trip (QT) expressed her concerns with the continuous design changes being proposed for the Catawba/Hwy. 21 intersection that has held up the construction of the QT approved for the northeast corner of Catawba Avenue and Holiday Lane. She stated that both the Town and NCDOT have failed to keep QT in the loop through all of the design changes and that the construction of the QT is in jeopardy.

William Brunk – 17601 Spinnakers Reach Drive, expressed his concerns with raising the speed limit along Jetton Road.

Gar VanDoren – 19100 Meta Road, expressed his concerns with the crosswalk safety at Meta and Jetton and asked that the Board to consider installing a red flashing light at the intersection to draw more awareness to pedestrians crossing in the crosswalk.

Dan & Liam Bredeson – 19043 Meta Road, expressed their concerns with the dangers of crossing at Meta and Jetton. They asked the Board improve the crosswalk and to leave the speed limit at 35MPH.

Joe Zetner – 19035 Meta Road, expressed his opposition to increasing the speed limit along Jetton Road.

Peggy VanDoren – 19100 Meta Road, expressed her concerns with the pedestrian safety at Meta and asked the Board to leave the speed limit at 35MPH.

Bill Hart – 17935 Peninsula Club Drive, expressed his concerns with raising the speed limit along Jetton Road.

8. PRESENTATIONS

A. 2018 Transportation Bond Referendum

Town Manager Grant gave a presentation on the 2018 Transportation Bond Referendum that will be on the November ballot.

9. OLD BUSINESS

A. Jetton Road Safety Study

Asst. Town Manager Tyler Beardsley gave a recap on improvements that are underway at the intersection of Jetton Road and Old Jetton Road (right turn only from Old Jetton). He then updated the Board on staff's crosswalk findings after reviewing the NCDOT guidelines and recommended pedestrian activated devices at existing crosswalks and improving the intersection at Meta so that it meets the NCDOT guidelines.

Commissioner Bilodeau emphasized the importance of studying the facts and addressing the crosswalk safety issues before adjusting the speed limit.

Commissioner Gilroy stated that he agreed with the crosswalk improvements but would not support increasing the speed limit.

Commissioner Bilodeau made a motion to approve authorizing staff to address the crosswalk enhancements as presented (i.e. Jetton Park, Meta, and Peninsula Club Drive) and then increase the speed limit from 35MPH to 40MPH west of the new Peninsula monument signs through to Peninsula Shores Drive. Commissioner Naas seconded the motion.

Manager Grant asked the Board if the existing flashers could be used for the enhancements to Meta or if the Board wanted RRFBs (Rectangular Rapid Flash Beacon) installed. Commissioner Bilodeau stated that RRFBs should be installed based on the feedback received by the residents. Commissioner Miltich asked if Commissioner Bilodeau would support putting a pre-crosswalk light in place of the constant flashing light that exists. Commissioner Bilodeau stated that he was okay with that but would leave it up to staff to determine the best practices for making the crosswalk enhancements. Commissioner Miltich stated that he could support the first half of the motion but would like the speed limit addressed as a separate motion.

Commissioner Naas stated that he did not agree with Commissioner Gilroy and Commissioner Miltich as the study data shows the road to be designed for a speed limit range between 40-45MPH. He supports following the NCDOT guidelines of crosswalk safety and setting the speed limit to what the road is designed for.

Mayor Washam called to question on Commissioner Bilodeau's motion that was seconded by Commissioner Naas. The motion failed 3-2 with Commissioners Gilroy, Ross and Miltich opposed.

Commissioner Miltich made a motion to follow the NCDOT guidelines to improve and enhance the pedestrian crosswalks at Jetton Park, Meta Road and Peninsula Club Drive. Commissioner Gilroy seconded the motion and the motion passed 3-2 with Commissioners Bilodeau and Naas opposed.

Commissioner Naas asked that the record reflect that 60% of the speeding tickets are issued to non-Peninsula residents and that the three Commissioners opposed to adjusting the speed limit are not Peninsula residents.

10. PUBLIC HEARING AND CONSIDERATION OF APPROVAL

A. TA 04-18 Oversize Vehicles in Commercial Areas

Mayor Washam called for a motion to open the public hearing on TA 04-18 Oversized Vehicles.

Commissioner Ross made a motion to open the public hearing. Commissioner Miltich seconded the motion and it passed unanimously, 5-0.

Senior Planner Becky Partin gave the staff presentation (*Exhibit Book 31*) on the proposed amendment to Chapter 3 of the Land Development Code regulating where oversized vehicles are permitted to park within Town.

Commissioner Naas questioned if there were other areas of Town that were experiencing the same issues. Deputy Town Manager Herron stated that there have been some issues in Kenton Place and Antiquity but that Sefton Park Drive is the area complained about the most. Commissioner Naas questioned why the Town would choose to regulate commercial vehicles parking in commercial areas.

Mayor Washam invited the public to speak. There being no public comments, he called for a motion to close the public hearing.

Commissioner Gilroy made a motion to close the public hearing. Commissioner Miltich seconded the motion and it passed unanimously, 5-0.

Commissioner Gilroy made a motion to approve Ordinance #2018-00688 to amend the Land Development Code, Chapter 3, Section 3.1.2. Commissioner Miltich seconded the motion and it passed 4-1 with Commissioner Naas opposed.

Ordinance #2018-00688 is hereby made part of the minutes by reference.

11. CONSIDERATION OF APPROVAL

A. Code of Ordinances Amendment – Title 7, Chapter 71 Oversized Vehicle

Senior Planner Becky Partin gave the staff presentation (*Exhibit Book 31*) on the proposed changes to the Code of Ordinances allowing oversized vehicles to park on public streets.

Commissioner Gilroy made a motion to approve Ordinance #2018-00689 to amend the Code of Ordinances, Title 7, Chapter 71.09(A). Commissioner Bilodeau seconded the motion and it passed unanimously, 5-0.

Ordinance #2018-00689 is hereby made part of the minutes by reference.

B. Capital Project Ordinance – Street Bonds

Finance Director Julie Niswonger explained that the Capital Project Ordinance allocates \$6,210,038 in Street Bonds to fund the planning, design, engineering, land acquisition and construction of various street bond projects.

Commissioner Gilroy made a motion to approve Ordinance #2018-00690 establishing a Capital Project Ordinance for the \$6,210,038 in street bonds. Commissioner Miltich seconded the motion and it passed unanimously, 5-0.

Ordinance #2018-00690 is hereby made part of the minutes by reference.

C. Surplus Property – Public Works Building

Asst. Town Manager Tyler Beardsley explained that the new Public Works building located on Starcreek is fully functional, therefore, the old building located at 18520 is ready to become Town surplus. He outlined the various steps required by law to surplus the property.

Commissioner Gilroy made a motion to approve Resolution #2018-00906 declaring 18520 Starcreek as Town surplus property. Commissioner Ross seconded the motion and it passed unanimously, 5-0.

Resolution #2018-00906 is hereby made part of the minutes by reference.

D. Surplus Property – Hyde Park Storage Units

Asst. Town Manager Tyler Beardsley explained that the Town-owned units located at Hyde Park Storage were occupied by the police department; however, the new Public Works facility has allotted space for police department storage, therefore, the Hyde Park units are no longer needed. He stated that the process will follow the same steps required by law to surplus the old Public Works property.

Commissioner Gilroy made a motion to approve Resolution #2018-00907 declaring Units B7, B8 and B9 in Building B of Hyde Park Storage Suites as Town surplus property. Commissioner Ross seconded the motion and it passed unanimously, 5-0.

Resolution #2018-00907 is hereby made part of the minutes by reference.

12. **CONSENT AGENDA**

A. Approve Minutes – Regular Meeting (Sept. 17th) (Approved 5-0)

Commissioner Miltich made a motion to approve the Consent Agenda as presented. Commissioner Bilodeau seconded the motion and it passed unanimously, 5-0.

13. **COMMISSIONER CONCERNS**

A. Quick Trip Public Comments

Commissioner Gilroy expressed his concerns with the comments made earlier by Paulette Morin, the QT representative, suggesting that the Town and NCDOT have not kept them in the loop on all of the design changes. He asked that staff address the issues. Deputy Town Manager Herron stated QT representatives had been kept in the loop throughout the design discussions but that he would follow up with them to see where they felt the disconnect was.

14. CLOSED SESSION

A. Closed Session cont'd. from Pre-meeting

Commissioner Miltich made a motion to reconvene the Closed Session at 9:15PM that was held during the Pre-meeting. Commissioner Gilroy seconded the motion and it passed unanimously, 5-0.

15. ADJOURNMENT

There being no further business to discuss, Commissioner Miltich made a motion to adjourn at 9:57PM. Commissioner Ross seconded the motion and it passed unanimously, 5-0.

Approved the 5th day of November, 2018.

Woody Washam, Jr., Mayor

ATTEST:

Lori A. Harrell, Town Clerk



BOARD OF COMMISSIONERS

October 15, 2018
MINUTES

REGULAR MEETING – 7:00PM

1. CALL TO ORDER

Mayor Washam called the meeting to order at 7:01PM.

2. DETERMINATION OF QUORUM

All commissioners were present for the meeting.

3. APPROVAL OF AGENDA

*Commissioner Miltich made a motion to approve the agenda as presented.
Commissioner Ross seconded the motion and it passed unanimously, 5-0.*

4. MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE

Boy Scout Troop 72 led the pledge after a moment of silence was observed.

5. MAYORAL PROCLAMATIONS

A. End Polio Throughout the World

Mayor Washam executed a Proclamation supporting Rotary Clubs around the world in their efforts to eliminate Polio and presented a copy to Rotary member Commissioner Bilodeau.

6. MAYOR/COMMISSIONERS/MANAGER REPORTS

Commissioner Bilodeau reported on the following:

- Attended two ASC meetings on Oct. 3rd and 4th
- Attended the NCDOT local officials meeting for the Catawba/Hwy. 21 intersection project on Oct. 10th
- Attended the Chamber Business Expo on Oct. 11th
- Antiquity Greenway construction started on Oct. 8th and should be complete in the spring of 2019
- Plans for the Plum Creek Greenway connecting Bailey Road to the South Prong Davidson Greenway are 85% complete
- McDowell Creek Greenway secured the final easements needed
- Smithville-JV Washam Greenway received positive feedback on the design plans

Commissioner Ross reported on the following:

- Attended the CCOG meeting on Oct. 3rd to conduct interviews for the next executive director
- Chamber events – the 16th annual Public Safety luncheon will be held on Oct. 18th at Northstone Country Club; Business Afterhours will be held at Artisan Signs (5:30PM) on Oct. 16th; Focus Friday will be held on Oct. 19th; the candidates forum for will be held at CPCC on Oct. 23rd (7PM-9PM)

Commissioner Miltich reported on the following:

- Attended the TAB meeting on Oct. 2nd
- Attended the Smithville/JV Washam Greenway public meeting
- Attended the CRTPO Staffing Study meeting on Oct. 3rd
- Attended the Planning Coordination Committee meeting on Oct. 5th
- Attended the regional transit meetings
- Attended the All American Dog Show on Oct. 6th
- Attended the candle light vigil for Jace Thompson on Oct. 8th
- Attended the NCDOT local officials meeting for the Catawba/Hwy. 21 intersection project on Oct. 10th
- Attended the Chamber Business Expo on Oct. 11th

Town Manager Grant reported on the following:

- Recognized Sgt. Chris Prescott for earning his Bachelor's Degree in Criminal Justice from Liberty University and for being accepted into the Master of Executive Leadership program
- NCDOT will hold a public input meeting on the Hwy. 73 widening project at Lake Norman Baptist Church on Oct. 16th (4:00PM-6:30PM)
- Connecting Cornelius evening event will be held at D9 Brewery on Oct. 18th (6:30PM-8:30PM)
- Laktoberfest will be held on Oct. 20th at Bailey Road Park (4:00PM-9:00PM)
- Cornelius PD Medicine Drop will be held on Oct. 27th (10:00AM-2:00PM)
- Thanked staff for their cleanup efforts after Hurricane Michael throughout town
- ASCT signal project equipment is ready to be installed and is projected to go live by the end of November under best case scenarios.

Mayor Washam reported on the following:

- Thanked staff for their cleanup efforts after Hurricane Michael
- Early voting begins on Oct. 17th at Town Hall
- Participated as a judge at the All American Dog Show
- EDC – 25 prospects in the region and 8 prospects in Cornelius

7. CITIZEN CONCERNS/COMMENTS

Colin Furcht – 19709 Schooner Drive, promoted his upcoming 2nd annual Lake Norman Christmas Light Boat Parade on December 15th at 5:30PM.

8. PRESENTATIONS

A. PARC Commission's Resolution of Support

PARC Commission Chairman Dr. Scott Higgins and PARC Commissioners presented a Resolution of their support for the Town's \$24M Transportation Bond Referendum.

9. PUBLIC HEARING AND CONSIDERATION OF APPROVAL

A. TA 09-17 Small Cell Wireless

Mayor Washam called for a motion to open the public hearing on TA 09-17 Small Cell Wireless. The public notice is attached hereto.

Commissioner Ross made a motion to open the public hearing on TA 09-17. Commissioner Miltich seconded the motion and it passed unanimously, 5-0.

Deputy Town Manager Wayne Herron explained that staff is finalizing the text amendment language and requests the public hearing be continued until the Board's November 5th meeting.

Commissioner Miltich made a motion to continue the public hearing until November 5th. Commissioner Bilodeau seconded the motion and it passed unanimously, 5-0.

10. CONSIDERATION OF APPROVAL

A. Planning Board Chairman Appointment

Deputy Town Manager Herron explained that Keith Eicher is interested in serving another term as the Planning Board Chairman.

Commissioner Ross made a motion approve the appointment of Keith Eicher as the Planning Board Chairman for another year. Commissioner Miltich seconded the motion and it passed unanimously, 5-0.

B. Cornelius Educational Options Study Commission Bylaws

Commissioner Naas explained the Commission's bylaws for consideration.

Commissioner Miltich made a motion approve the bylaws for the Cornelius Educational Options Study Commission as presented. Commissioner Naas seconded the motion and it passed unanimously, 5-0.

11. CONSENT AGENDA

A. Tax Refunds = \$122.75

(Approved 5-0)

Commissioner Miltich made a motion to approve the Consent Agenda as presented. Commissioner Ross seconded the motion and it passed unanimously, 5-0.

12. COMMISSIONER CONCERNS

A. Commissioner Miltich – CMS Relationship, Catawba/Hwy. 21 Intersection Improvements and Hydrilla

Commissioner Miltich expressed his ongoing concerns with the Town's relationship with CMS, the proposed intersection improvements for the Catawba/Hwy. 21 intersection and the Hydrilla issues on Lake Norman.

B. Commissioner Gilroy – Hwy 21/Catawba Intersection Improvements

Commissioner Gilroy stated that he believes the Town should go on record stating it supports the quad design but if it cannot be done then it supports the dual roundabout design. Town Manager Grant expressed concerns with a draft resolution prepared by an attorney representing a developer of a site at the intersection of Hwy. 21/Catawba. He added that NCDOT has been very clear about the quad design and stressed the possibility of losing the bonus allocation funds with any further design delays.

Deputy Town Manager Herron explained that he has verified with NCDOT again that the Title VI environmental justice concerns do apply, therefore, they will not revisit the quad design. Commissioner Naas questioned if the business leaders have met with the Smithville community. Deputy Town Manager Herron stated that Attorney Irvin has reached out to the neighborhood representatives but to his understanding the community's opinions on the quad project have not changed.

13. ADJOURNMENT

There being no further business to discuss, Commissioner Miltich made a motion to adjourn at 8:04PM. Commissioner Naas seconded the motion and it passed unanimously, 5-0.

Approved this 5th day of November, 2018.

ATTEST:

Woody Washam, Jr., Mayor

Lori A. Harrell, Town Clerk