

**MINUTES OF THE REGULAR MEETING OF THE LAKE LURE TOWN COUNCIL
HELD TUESDAY, JUNE 10, 2008, 7:00 P.M. AT THE LAKE LURE MUNICIPAL CENTER**

PRESENT: Mayor Jim Proctor
Commissioner Wayne Hyatt
Commissioner Russ Pitts
Commissioner Jeanine Noble
Commissioner Linda Turner

Steve Wheeler, Town Manager
J. Christopher Callahan, Town Attorney

ABSENT: N/A

CALL TO ORDER

Mayor Proctor called the meeting to order at 7:00 p.m.

INVOCATION

Attorney Callahan gave the invocation.

APPROVE THE AGENDA

After discussion, Commissioner Pitts made a motion to approve the agenda as amended adding an item for closed session to discuss legal matters and attorney/client privilege in accordance with G. S. 143-318.11(a) (3). Commissioner Noble seconded the motion and the vote of approval was unanimous.

Public Hearing - Proposed Ordinance 08-06-10 Amending the Town of Lake Lure Zoning Regulations, Title IX, Chapter 92, to Refine and Simplify the Requirements and Administrative Issues Pertaining to Tree Protection
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Community Development Director Shannon Baldwin and Zoning/Planning Board Member Paula Jordan gave a brief overview and answered questions pertaining to proposed Ordinance No. 08-06-10.

Mayor Proctor opened the public hearing regarding proposed Ordinance No. 08-06-10 and invited citizens to speak during the public hearing. No one requested to speak during this hearing.

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After discussion, Commissioner Turner made a motion to close the public hearing. Commissioner Hyatt seconded the motion and the vote of approval was unanimous.

Adopt Ordinance 08-06-10 Amending the Town of Lake Lure Zoning Regulations, Title IX, Chapter 92, to Refine and Simplify the Requirements and Administrative Issues Pertaining to Tree Protection
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Public notices were duly given and published in the Forest City Daily Courier newspaper.

After discussion, Commissioner Noble made a motion to adopt Ordinance No. 08-06-10 as amended. Commissioner Pitts seconded the motion and the vote of approval was unanimous.

ORDINANCE NUMBER 08-06-10

AN AMENDMENT TO CHAPTER 92 (ZONING REGULATIONS) OF THE TOWN OF LAKE LURE CODE OF ORDINANCES; REFINING AND SIMPLIFYING REQUIREMENTS AND ADMINISTRATIVE ISSUES PERTAINING TO TREE PROTECTION REGULATIONS; BRINGING THESE ZONING REGULATIONS MORE CLOSELY INTO HARMONY WITH THE COMPREHENSIVE PLAN; ADJUSTING RELATED DEFINITIONS

WHEREAS, the Town Council has adopted zoning regulations regarding the protection of trees and native vegetation within the town jurisdiction; and

WHEREAS, town staff members have, in the interest of effectiveness and efficiency, requested modifications to the aforesaid regulations as noted herein; and

WHEREAS, the Lake Lure Town Council, after due notice, conducted a public hearing on the 10th day of June, 2008, upon the question of amending the Zoning Regulations in this respect,

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LAKE LURE, NORTH CAROLINA, MEETING IN REGULAR SESSION AND WITH A MAJORITY OF THE TOWN COUNCIL VOTING IN THE AFFIRMATIVE:

SECTION ONE. Section 92.005 of the Zoning Regulations of the Town of Lake Lure, entitled "Definitions," is hereby amended by replacing Figure 1 with the attached revised Figure 1, and by adding the following new definitions:

Land Clearing Authorization: Authorization granted by the tree protection officer allowing a property owner to perform specified land clearing, grading, and/or other related activities which have neither been exempted from regulation nor previously approved under appropriate town regulations.

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Land Disturbance: Any use of the land by any person in residential, industrial, educational, institutional, or commercial development, highway and road construction and maintenance or other construction or maintenance activity, including chemical applications or other techniques, that results in a change in the natural cover or topography and that may cause or contribute to sedimentation.

Qualified Licensed Professional: A licensed professional in a discipline relevant to the task at hand, whose knowledge and capability to successfully carry out that task have been amply demonstrated through his or her certified practical experience in that discipline and in successful completion of previous tasks similar to the one at hand.

Sensitive Natural Area: Any area, which is sensitive or vulnerable to physical or biological alteration, as identified now or hereafter by the North Carolina Natural Heritage Program and which contains one or more of the following: (1) habitat, including nesting sites, occupied by rare or endangered species; (2) rare or exemplary natural ecological communities; (3) significant landforms, hydroforms, or geological features; or (4) other areas so designated by the North Carolina Natural Heritage Program, which are sensitive or vulnerable to physical or biological alteration.

Steep Slope Plan: Information prepared as part of a site plan by a qualified licensed professional to a scale sufficient to clearly indicate the necessary details, including, without limitation, the following: topographical information on the steepness of the property and the slope providing access to the property; the means by which the property can best be developed for the proposed purposes, for proper management of the property during development, and for stabilizing the property once construction is complete; and any other information the Zoning Administrator may determine to be necessary in order to determine the specifics of the plan.

Tree Topping: Topping a tree is the damaging practice of cutting back its main leader stem and / or limbs larger than three inches in diameter within the crown, to such a degree as to remove the normal canopy and disfigure the tree.

Trout Buffer: An undisturbed ~~stream-buffer strip of land of specified width as measured in the horizontal plane and~~ as defined and illustrated in the Town of Lake Lure Land Disturbance Regulations, that is required for the protection of waters that have been classified as trout waters by the Environmental Management Commission. Any removal of vegetation, including the removal of living branches, is prohibited within such areas.

SECTION TWO. Section 92.005 of the Zoning Regulations of the Town of Lake Lure, entitled "Definitions", is hereby amended by modifying the following existing definitions as noted:

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Clearcutting. The removal of ~~over 70% of the existing trees on a property~~ any significant trees in excess of the numbers allowed by the provisions of this document, and/or in locations other than those allowed by the provisions of this chapter.

Development: Development is the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, or landfill, ~~land clearing or land disturbance~~; or any use or extension of the use of land.

Development Review Committee (DRC): A group consisting of town staff and professional consultants, such as an engineer or landscape architect, selected by the Community Development Director on an as needed basis to review and make recommendations regarding developments such as commercial developments, commercial planned unit developments, residential planned unit developments, subdivisions, land clearing, land disturbance, and/or development of any kind on steep slopes.

General Development Plan: A plan showing general land use, all individual uses and associated structures, building sites, land clearing, land disturbance, impacts of uses and structures, vehicular and pedestrian circulation, open space, green area, common areas, stormwater management devices and practices, natural features, community facilities and utilities, and phasing for the tract of land to be developed as a planned unit development.

Parks: ~~The term "park" shall include those~~ An areas developed either for passive or active recreational activities. ~~The development may include, but shall not be limited to including,~~ without limitation, walkways, benches, preserved natural areas, open fields, multi-use courts, swimming and wading pools, amphitheaters, etc. The term "park" shall not include zoos, travel trailer parks, amusement parks, or vehicle, equestrian or dog racing facilities.

Perimeter Clearable Area: An area representing the maximum extent of disturbance resulting from construction including the following: (1) A zone that extends a maximum of ten fifteen feet from the boundary of any structures (buildings, deck, ~~improvements, septic field~~, etc.), defined by an outer perimeter clearable area line. (2) A utility easement zone no more than 8 feet in width and no longer than the required length of the easement, defined by an outer clearable area line. ~~This area Clearable areas encompasses the full extent of expected disturbances resulting from construction and~~ may extend into setback areas. See Figure 1.

Steep Slope: A slope exceeding a 1 foot increase in elevation per 2 feet in horizontal distance 40 percent, on average.

Stream Buffer. The strip of land, in its natural state or restored to a suitably vegetated state, of specified width, lying adjacent to any stream, river, creek, brook, run, branch, wetland, or waterway, or any reservoir, lake, or pond, natural or impounded. (See also the discussion of Buffer Zones in Section §96.07A of the Soil Erosion and Sedimentation Control regulations.)

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Tree protection plan: Information provided as part of a site plan regarding protection provided to trees during land clearing, land disturbance, and/or development, as well as the extent and condition of both the pre-development and post-development forest coverage of the property in question.

[ADDITIONS TO TEXT ARE UNDERLINED; DELETIONS ARE ~~STRUCK THROUGH~~.]

SECTION THREE. Section 92.005 of the Zoning Regulations of the Town of Lake Lure, entitled "Definitions", is hereby amended by deleting the following definitions:

Unique Natural Area. An area that contains features sensitive to development and is listed in the publication titled "Natural Areas of Lake Lure, a Preliminary Inventory of the Natural Areas of Lake Lure, North Carolina."

SECTION FOUR. Paragraph (A) of Section 92.033 of the Zoning Regulations of the Town of Lake Lure, regarding the intent of the M-1 Reserved Mountainous District, is hereby amended as follows:

§ 92.033 M-1 RESERVED MOUNTAINOUS DISTRICT.

- (A) **Intent.** The M-1 Reserved Mountainous District is established as a district in which the principal use of land is for natural, undeveloped purposes. The land within this district is topographically restrictive for any type of land clearing, land disturbance and/or development. It is the intention to discourage any use which would be detrimental to the natural, open nature of the areas included within this district.

[ADDITIONS TO TEXT ARE UNDERLINED; DELETIONS ARE ~~STRUCK THROUGH~~.]

SECTION FIVE. Paragraph (A) of Section 92.034 of the Zoning Regulations of the Town of Lake Lure, regarding the intent of the S-1 Scenic Natural Attraction District, is hereby amended as follows:

§ 92.034 S-1 SCENIC NATURAL ATTRACTION DISTRICT.

- (A) **Intent.** The S-1 Scenic Natural Attraction District is established as a district within which unique natural scenic areas are developed for commercial recreational purposes. The district is intended to encourage development of facilities and services oriented towards scenic and outdoor recreational activities, while remaining compatible with adjacent residential areas. Any land clearing, land disturbance and/or development or use which would be detrimental to the natural and ecological beauty of the district is prohibited.

[ADDITIONS TO TEXT ARE UNDERLINED; DELETIONS ARE ~~STRUCK THROUGH~~.]

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SECTION SIX. Paragraph (C) of Section 92.039 of the Zoning Regulations of the Town of Lake Lure, regarding development criteria for the GU Government Use District, is hereby amended as follows:

§ 92.039 GU GOVERNMENT USE DISTRICT.

- (C) **Development Criteria.** As determined by Town Council in compliance with all town regulations.

[ADDITIONS TO TEXT ARE UNDERLINED; DELETIONS ARE ~~STRUCK THROUGH~~.]

SECTION SEVEN. The introductory paragraph of Section 92.047 of the Zoning Regulations of the Town of Lake Lure, regarding applications for conditional use permits, is hereby amended as follows:

§ 92.047 APPLICATION.

All applications for a conditional use permit shall precede any application for a certificate of zoning compliance and shall be submitted on the proper form obtainable from the Zoning Administrator. The application shall include a development plan/site plan, building elevations, floor plans, landscape plan, lighting plan, sign drawings, construction schedule, and a description of the use.

It should be noted that due to severe topographic conditions, sensitive natural areas, or soils that do not easily support soil drainage systems, some land may be unsuited to some land clearing or land disturbance projects that may be proposed.

SECTION EIGHT. Paragraph (A) of Section 92.047 of the Zoning Regulations of the Town of Lake Lure, regarding the development plan / site plan requirement for a conditional use permit application, is hereby amended as follows:

- (A) **Development Plan/Site Plan.** This plan shall be drawn to a scale sufficient to clearly indicate the following: ~~of at least one (1) inch to forty (40) feet, indicating the following:~~

- (1) The site conditions and characteristics, before and after the proposed land clearing, land disturbance and/or construction, including contours, water courses, flood hazard areas, and any unique sensitive natural areas or unique man made features.
- (2) All boundary lines of the proposed development, proposed lot lines and plot designs.
- (3) The location and use of all existing and proposed structures.

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- (4) The location and size of all areas to be conveyed, dedicated or reserved as common open space, parks, recreational areas, school sites and similar public or semi-public uses.
- (5) The existing and proposed street system, including location and number of off-street parking spaces, service areas, loading areas, and major points of access to public right-of-way. Notations of proposed ownership of the street system (public or private).
- (6) The approximate location of proposed water and sewer/septic systems, as well as septic test results from Rutherford County.
- (7) The areas to be graded showing corresponding sedimentation and erosion control devices, retaining walls, and provisions for storm water drainage during construction and after construction. See also Section §92.119.
- (8) The location and/or notation of existing and proposed easements and rights-of-way.
- (9) The proposed treatment of the perimeter of the development, including materials and/or techniques such as screens, fences, buffers, berms, and walls.
- (10) Information on adjacent land areas, including land use, zoning classifications, public facilities, any unique natural features, and historic features.
- (11) The zoning district or districts in which the project is located.
- (12) A legal description of the total site proposed for development, including a statement of present and proposed ownership.
- (13) Quantitative data for the following: proposed total number and type of residential dwelling units, parcel size, and total amount of open space.
- (14) A statement of the applicant's intentions with regard to the future selling and/or leasing, and/or renting of all or portions of the development.
- (15) A written description for maintenance of common areas, recreation areas, open spaces, streets and utilities.

SECTION NINE. Paragraph (J) of Section 92.047 of the Zoning Regulations of the Town of Lake Lure, regarding additional written documentation for a conditional use permit application, is hereby amended as follows:

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(J) Where applicable, the following written documentation shall be submitted:

- (1) A legal description of the total site proposed for development, including a statement of present and proposed ownership.
- (2) The zoning district or districts in which the project is located.
- (3) A land clearing, land disturbance and/or development schedule indicating approximate beginning and completion dates ~~of development~~, including any proposed milestones or stages of completion.
- (4) A statement of the applicant's intentions with regard to the future selling and/or leasing of all or portions of the development.
- (5) Quantitative data for the following: proposed total number and type of residential dwelling units, parcel size, and total amount of open space.
- (6) Plan for maintenance of common areas, recreation areas, open spaces, streets and utilities.

[ADDITIONS TO TEXT ARE UNDERLINED; DELETIONS ARE ~~STRUCK THROUGH~~.]

SECTION TEN. The introductory paragraph of Section 92.048 of the Zoning Regulations of the Town of Lake Lure, entitled "Conditional Use Standards and Requirements for PUDs", is hereby amended as follows:

§ 92.048 CONDITIONAL USE STANDARDS AND REQUIREMENTS FOR PUDs

The purpose of this section is to encourage and provide for flexibility and innovation in the design and location of structures and land development, to provide for the most efficient and environmentally sensitive use of land resources, and to provide an opportunity to develop land areas in a manner different from the standard arrangement of one principal building on one lot. It is further intended that a planned unit development will be in harmony with the character and natural beauty of the area in which it is located.

SECTION ELEVEN. Subparagraph (B)(1) of Section 92.048 of the Zoning Regulations of the Town of Lake Lure, regarding performance guarantees for planned unit developments, is hereby amended as follows:

(B) Planned Unit Developments Post-approval Requirements.

- (1) ***Guarantee of Performance.*** In order to insure the applicable improvements are completed properly within a period of time specified by the Town Council, the developer shall enter into a guarantee for completion with the Town

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Council. A performance guarantee shall be negotiated between the developer and the Town Council after the issuance of the conditional use permit by the Board of Adjustment. The guarantee of performance shall require that the developer complete the improvements including roads, parking areas and rights-of-way; water and sewer facilities; drainage, erosion and sedimentation control facilities; lighting and landscaping, and any other improvements, including protection/ replacement of natural vegetation, specified by Town Council. The guarantee shall be provided by either one or a combination of the following guarantees not exceeding 1.25 times the entire cost as provided herein.

[ADDITIONS TO TEXT ARE UNDERLINED; DELETIONS ARE ~~STRUCK THROUGH~~.]

SECTION TWELVE. Paragraph (A) of Section 92.054 of the Zoning Regulations of the Town of Lake Lure, regarding the intent of regulations pertaining to the design standards for commercial buildings, is hereby amended as follows:

§ 92.054 DESIGN STANDARDS FOR COMMERCIAL BUILDINGS

- (A) **Intent.** It is the intent of these regulations to encourage development that helps maintain the visual qualities of Town of Lake Lure that make it the unique, resort-retirement, mountain town of retreat and recreation that it is today. It is also the intent of these regulations to encourage the development of pedestrian-friendly, human scale buildings that achieve variety and creative design to protect property values and interests of residents and visitors. The Town of Lake Lure endeavors to set a high standard for commercial construction, which uses basic architectural design principles and encourages harmony with the eclectic mix of the original Mediterranean Revival style commercial buildings, and the cottage type dwellings consisting mostly of natural materials such as wood and stone. The town wants to ensure that commercial buildings are in harmony with existing natural environment, neighborhood and community character. These regulations include basic design elements that are appropriate for such buildings in the Town of Lake Lure.

[ADDITIONS TO TEXT ARE UNDERLINED; DELETIONS ARE ~~STRUCK THROUGH~~.]

SECTION THIRTEEN. Section 92.119 of the Zoning Regulations of the Town of Lake Lure, entitled "Land Clearing and Grading Associated with Development", is hereby amended as follows:

- (A) **General.** Except as provided herein, no land clearing and/or grading associated with development, as defined in this chapter, shall begin unless and until an approved land disturbance permit (Chapter 96, the Soil Erosion and Sedimentation Control regulations) has been obtained, and a site plan meeting the requirements of this section have has been filed with approved by the Zoning Administrator, tree protection officer or his designee and a zoning compliance permit has been issued the property has been

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staked according to the structure boundaries and clearable areas shown on the site plan. Cutting of significant trees during development in ~~numbers that exceed those permitted by the forest coverage table areas other than those designated as appropriate in Figure 1 and this section~~ is prohibited unless provided for as part of an approved site plan. Tree-topping is prohibited under any conditions.

It should be noted that due to severe topographic conditions, sensitive natural areas, or soils that do not easily support soil drainage systems, some land may be unsuited to some land clearing or land disturbance projects that may be proposed.

- (B) **Site Plan.** The site plan shall take the form of a topographic survey of the subject property, to a scale sufficient to clearly indicate required details, ~~at the scale of one inch per twenty feet on lots less than or equal to one-fourth acre in size, one inch per thirty feet on lots greater than one-fourth but less than two acres in size, and one inch per one hundred feet for lots or other developments larger than two acres in size.~~ The site plan which shall include at least the following:

- (1) Adjoining roads, sensitive natural areas, and any water courses or bodies of water either contained within the bounds of the subject property or adjoining it.
- (2) Property and setback lines.
- (3) ~~Estimated forest coverage of the property, both before any land clearing and after permitted land clearing and replanting, provided as described in Appendix B and/or via survey by a certified arborist or forester, at the expense of the owner or the owner's agent.~~
- (-4 3) The location on the site and footprints of all proposed structures and other improvements, such as dwellings (including any associated extrusions such as balconies, porches, decks, exterior stairways, patios, car ports, and the like), outbuildings, utilities, water lines, sewer lines or septic system, and other structures such as paths and walkways (including any associated boardwalks, ramps, stairs, and the like), driveways, parking areas, garden areas, and the like.
- (5 4) ~~A 10-foot perimeter~~ Clearable areas ~~boundary around all structures and parking areas for five cars or more (see paragraph 7 below), with the exception of driveways, parking areas, septic drain fields, paths, and walkways, and any structures associated with them: as defined in this document. Utility easements shall follow the route estimated to cause the least possible disruption to vegetation, to viewsheds, and/or to the natural contour of the land.~~

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- (6 5) Location of additional areas proposed for clearing or thinning for the purpose of grading, patios, views, etc.
- (7 6) With regard to commercial parking lots for five or more cars, the site plan shall clearly show the location and extent of areas that are to be cleared and areas that are to be protected as green spaces within or adjacent to the parking area (see § 92.059.)
- (8) ~~The location on the site plan of all forest areas, all individual significant trees (with size and species if known,) and all areas of native shrubbery exceeding 100 square feet. Forest areas shall be designated on the site plan either for protection, for thinning, or for removal.~~
 - (a) ~~For a forest area designated as protected, all significant trees within it shall be considered protected trees.~~
 - (b) ~~For a forest area marked for thinning, the tree protection officer shall note on the site plan the details of the thinning to be performed.~~
- (9) ~~Location of all significant trees and extent of all areas of native shrubbery exceeding 100 square feet that are proposed for removal.~~
- (10) ~~Location, size, and species of any trees and/or shrubs to be planted at the direction of the tree protection officer.~~
- (11 7) Location and nature of tree protection measures to be installed for all protected forest areas and other any individual significant trees, ~~protected forest areas, and/or native shrubs on the property that are to be protected.~~
- (12 8) Where the subject property includes steep slopes, a steep slope plan shall be included as part of the site plan.
- (13 9) Any additional documentation that the ~~zoning administrator~~ tree protection officer may determine to be necessary in order to determine the specifics of the plan.
- (14 10) Seals or signatures are required from any professionals who are involved in preparation or review of the site plan, such as (a) ~~the tree protection officer~~, the surveyor; (b) ~~the certified arborist or forester who provides the forest coverage estimates for the tree protection plan~~; and (c) the architect or builder who adds to the site plan the location of the house and/or other structures to be constructed or improved. On steep slopes, the seal or signature of the inspecting ~~geotechnical engineer-qualified~~ licensed professional is also required.

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The Tree Protection Officer shall review the tree protection aspects of the site plan on an as-needed basis, and shall sign any notations he may add to the plan.

- (C) **Standards.** Except as otherwise noted, ~~Land clearing permitted under these zoning regulations shall be governed by the pre-development forest coverage on the site as per the Forest Coverage Table in Appendix B and the locations of trees and/or shrubbery with respect to the structures planned for the lot (see Figure 1).~~
- (1) **Structure Boundary.** The removal of trees and native shrubs is required within the footprint of the proposed structures, provided that such structures meet all applicable town regulations. ~~Each significant tree in these areas shall be indicated on the plan as to be removed.~~
- (2) **Perimeter Clearable Areas.** The removal of trees and native shrubbery is permissible within the perimeter clearable area lines provided that ~~the visual tree canopy and natural appearance of ridgelines are protected,~~ that soil safety and retention are not put at risk, ~~and that forest coverage requirements are met, if necessary, through replacement plantings to make up the deficit.~~ Each significant tree in these areas shall be indicated on the plan either as protected or to be removed.
- (3) **Remainder of Lot.** ~~The removal of significant trees or native shrubs is not permissible. All areas outside of the perimeter clearable areas shall be marked on the site plan as protected forest areas. No significant trees or native shrubs may be removed from these areas except in accordance with this paragraph. All significant trees and native shrubs in these areas shall be marked on the site plan as protected, except for specified significant trees or areas of shrubbery whose thinning or removal may be authorized on the site plan by the tree protection officer or the Zoning Administrator. Such special authorizations may be granted for purposes such as those listed below, provided that the visual tree canopy and natural appearance of ridgelines are protected; and that soil safety and retention are not put at risk, and that forest coverage requirements are met, if necessary, through replacement plantings to make up the deficit. The purposes for which tree thinning or removals may be authorized include the following:~~
- (a) Underbrushing without grubbing, for landscaping purposes.
- (b) Tree thinning, except within trout buffers, for the development of views or to provide sunlight for gardening.

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- (c) Removal of flammable species within 30 feet of a building for purposes of fire prevention. (see *The Lake Lure Tree Management Handbook*.)
- (d) Underbrushing with grubbing, for construction of erosion control measures in specified areas (as directed by the erosion control officer), to clear for gardening (See Section §92.120), or to prevent regeneration of undesirable species (As directed or approved by the tree protection officer).

Note that these permissions do not include the removal of significant trees for the construction of easily relocatable features such as stairs and paths without exception being granted by the tree protection officer or his designee.

- (4) For lakefront lots, any trees that must be removed as a result of marine construction or due to erosive collapse shall be indicated on the plan and be replanted according to the requirements of this section.
- (D) ***Tree Protection Measures.*** Protective boundaries shall be shown on the site plan lying along the boundaries of all protected forest areas and surrounding any individual protected trees, including all ~~and their~~ root protection zones. Protective boundaries shall also be shown ~~lying along the boundaries of all forest areas marked for thinning or protection—especially~~ where areas marked for tree thinning or removal abut protected forest areas where trees are to be protected, unless physical characteristics of the area render additional protections unnecessary. Such measures shall be installed prior to any land clearing, land disturbance, or development or construction activity and shall be maintained until construction all such activity is complete. All workers in the area shall be clearly informed that trees and forest areas so marked are to be protected from cutting, girdling, any damage by construction equipment, and any disruptions of their root protection zones including trenching, dumping of excavated soil, spilling of toxic materials, vehicle parking or drive-over, the storage of equipment or materials, and addition of any impervious material.

[ADDITIONS TO TEXT ARE UNDERLINED; DELETIONS ARE ~~STRUCK THROUGH~~.]

SECTION FOURTEEN. Section 92.120 of the Zoning Regulations of the Town of Lake Lure, entitled “Land Clearing and Grading Not Associated with Development”, is hereby amended as follows:

- (A) **General.** It shall be unlawful to conduct land-clearing and grading not associated with an application for development authorization except in accordance with this section. Tree-topping is prohibited under any conditions.

It should be noted that due to severe topographic conditions, sensitive natural areas, or soils that do not easily support soil drainage systems, some land may be unsuited

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to some land clearing or land disturbance projects that may be proposed.

(B) Land Clearing Authorization must be obtained in writing from the tree protection officer for any land clearing or grading activity not authorized by an approved site plan (Section 92.119) or exempted (Section 92.120(ÐE)) under these regulations. Any such land clearing that is begun without authorization subjects the property owner to penalties outlined in Section 92.999 of these regulations. Requirements for Land Clearing Authorization include:

- (1) A site plan showing relevant features of the property proposed for land clearing and/or grading, including but not limited to property lines, waterways adjoining or passing through the property, steep slopes, sensitive natural areas, and the extent of proposed land clearing and/or grading activities.
- (2) A sequential list detailing the permit acquisitions, authorizations, land clearing, grading, and/or any other activities the proposal may require, in the correct order of execution. In the case of clearing prior to development, the list shall also include a date for submission of formal (Section 92.119) development plans for the property.
- (3) A date by which all listed activities must be completed.
- (4) Any other items the Tree Protection Officer may require deems necessary to ensure compliance with these regulations.

(B C) **Permitted Allowed Activities.** The activities listed herein shall be ~~permitted~~ allowed provided that the person(s) undertaking them ~~registers them with~~ obtain(s) land clearing authorization from the Zoning Administrator-Tree Protection Officer. ~~by filing a site plan showing the extent of land-clearing and grading activities.~~

- (1) Forestry activity:
 - (a) Forestry Activity on ~~forest~~ land that is taxed on the basis of its present-use value as forest land under Article 12 of Chapter 105 of the General Statutes.
 - (b) Forestry activity that is conducted in accordance with a forest management plan that is prepared or approved by a forester registered in accordance with Chapter 89B of the General Statutes.
 - (c) Property owners wishing to harvest trees from property that is neither taxed on the basis of its present-use value as forest land nor managed in accordance with a valid forest management plan must obtain a valid forestry management plan as well as land clearing authorization before harvesting begins.

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- (2) Other land-clearing and grading ~~provided that no land-clearing or removal of vegetation occur within 50 feet of any public street or road or within 30 feet of any adjoining property boundary~~ subject to the following:

- (a) No land-clearing, grading or removal of vegetation shall occur within 50 feet of the right-of-way of any public street or traveled way, with the exception of a temporary construction road to provide access for the purpose of the work. Such a temporary road shall follow the route estimated to cause the least possible disruption to vegetation or to the natural contour of the land. If there is no right-of-way associated with a public street or traveled way, no such work shall occur within 50 feet of the nearest edge of the street or traveled way.
- (b) No land-clearing, grading or removal of vegetation shall occur within 30 feet of any adjoining property boundary.
- (c) No land-clearing, grading or removal of vegetation shall occur within a trout buffer 30 feet in width as measured horizontally from the edge of Lake Lure or other trout waters except in accordance with trout buffer requirements as stipulated in Section §96.07 (A) of the Soil Erosion and Sedimentation Control Regulations.

~~(D)~~C) **Delay of Development Authorization.** When any ~~permitted~~ allowed activity, as described in §92.120(B), above, results in the removal of all or substantially all of the trees protected by Town of Lake Lure regulations on 50 percent or more of a site, the Town may deny a certificate of zoning compliance or refuse to approve a site plan or subdivision plat for such land for a period of three years after the last date that clearing activities occurred on the site. If the violation was willful, this period may be increased to five years from the last date that clearing activities occurred on the site.

~~(D)~~ E) **Exceptions.** Insofar as they are not undertaken with the intent of circumventing these zoning regulations, the following activities do not require land-clearing authorization or a permit and, so long as they comply with any other applicable regulations, may be carried out at any time. ~~without the need to obtain a permit~~

- (1) Cutting of diseased or hazardous trees;
- (2) Cutting of trees not classified as significant;
- ~~(3) Tree removal on an area that totals less than 500 square feet (including root protection zone(s)) on one's own property.~~
- (3) Tree removal for the purpose of creating a hiking or bicycling trail of eight

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feet maximum width, and/or spaces no larger than reasonably required for single picnic tables, benches, or other facilities randomly placed along the trail, provided that the route of the trail and/or location of trail-side amenities be situated so as to protect significant trees wherever possible.

- (4) Tree removal for installation or maintenance of utilities, provision of safe visibility at intersections, or any other public health or safety purpose.

[ADDITIONS TO TEXT ARE UNDERLINED; DELETIONS ARE ~~STRUCK THROUGH~~.]

SECTION FIFTEEN. Paragraph (B) of Section 92.121 of the Zoning Regulations of the Town of Lake Lure, regarding stop-work orders for land clearing and grading activities, is hereby amended as follows:

- (B) **Stop Work Order.** The tree protection officer is authorized to issue a stop-work order at any time that any of the following is determined to have occurred:
- (1) Tree removal for development prior to obtaining a ~~certificate of zoning compliance~~ land clearing authorization and site plan approval.
 - (2) A significant deviation from approved plans, certificates, or permits.
 - (3) Systematic or habitual removal of or damage to protected trees and/or shrubs, and/or their root protection zones.
 - (4) General carelessness with regard to tree protection and/or erosion control.

[ADDITIONS TO TEXT ARE UNDERLINED; DELETIONS ARE ~~STRUCK THROUGH~~.]

SECTION SIXTEEN. Paragraph (B) of Section 92.999 of the Zoning Regulations of the Town of Lake Lure, regarding notices of violation for zoning regulations, is hereby amended as follows:

- (B) **Notice of Violation.** If the owner or occupant of the land, building, structure, sign, or use in violation fails to take prompt corrective action, the Administrator or his designee shall give the owner or occupant written notice of violation (by certified or registered mail to his last known address, by personal service, or by posting notice conspicuously on the property) of the following:
- (1) That the activity, land, building, structure, sign, or use is in violation of the Zoning Regulations;
 - (2) The nature of the violation, and citation of the Section(s) of this Chapter violated;

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- (3) The measures necessary to remedy the violation; and
- (4) Mechanisms available to appeal the decision of the Administrator.
- (5) Any commencement of land clearing or removal of vegetative growth in violation of § 92.119 of these Zoning Regulations without first receiving a ~~certificate of zoning compliance~~ a land disturbance permit and providing an approved site plan, or in violation of § 92.120 of these regulations without first receiving a land disturbance authorization, as required by this chapter shall subject the property owner or the owner's agent to a civil fine not to exceed \$500.00 per day for each occurrence of such a violation. The fine shall be payable immediately upon notification and shall be assessed from the date of violation. Each day of a continuing violation shall constitute a separate violation. If, following the appropriate inspections, the illegal development is found to meet all requirements of this chapter, certificates of zoning compliance shall be issued upon payment of the fine and submittal of the appropriate documents including fees. If the development does not meet said requirements, the development shall either be returned as far as possible to its original state, or be brought into compliance prior to receipt of site plan approvals.

[ADDITIONS TO TEXT ARE UNDERLINED; DELETIONS ARE ~~STRUCK THROUGH~~.]

SECTION SEVENTEEN. Any person violating the provisions of these requirements shall be subject to the penalties set forth in Section 92.999 of the Zoning Regulations.

SECTION EIGHTEEN. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION NINETEEN. If any section, subsection, paragraph, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

SECTION TWENTY. The enactment of this ordinance shall in no way affect the running of any amortization provisions or enforcement actions, or otherwise cure any existing zoning violations.

SECTION TWENTY-ONE. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this 10th day of June, 2008.

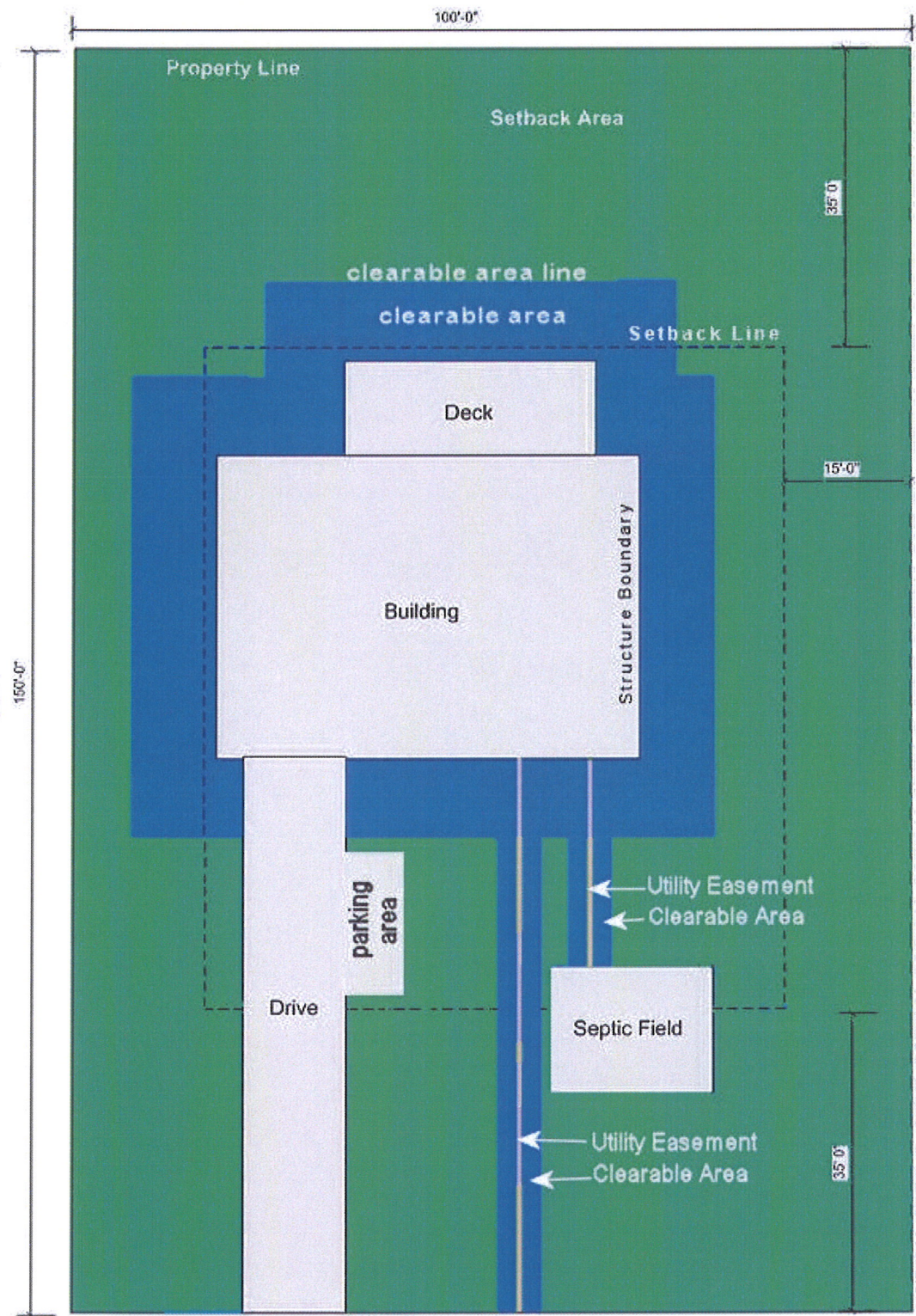


Figure 1
Simplified lot layout for illustration and guidance only. (Not to scale)

Public Hearing - Proposed Ordinance No. 08-06-10A Amending the Town of Lake Subdivision Regulations, Title IX, Chapter 91, to Refine and Simplify the Requirements and Administrative Issues Pertaining to Tree Protection

Zoning/Planning Board Member Paula Jordan gave a brief overview and answered questions pertaining to proposed Ordinance No. 08-06-10A.

Mayor Proctor opened the public hearing regarding proposed Ordinance No. 08-06-10A and invited citizens to speak during the public hearing and no one requested to speak.

After discussion, Commissioner Pitts made a motion to close the public hearing. Commissioner Turner seconded the motion and the vote of approval was unanimous.

Adopt Ordinance No. 08-06-10A Amending the Town of Lake Subdivision Regulations, Title IX, Chapter 91, to Refine and Simplify the Requirements and Administrative Issues Pertaining to Tree Protection

Public notices were duly given and published in the Forest City Daily Courier newspaper.

After discussion, Commissioner Pitts made a motion to adopt Ordinance No. 08-06-10A as amended. Commissioner Noble seconded the motion and the vote of approval was unanimous.

ORDINANCE NUMBER 08-06-10A

AN AMENDMENT TO CHAPTER 91 (SUBDIVISION REGULATIONS) OF THE TOWN OF LAKE LURE CODE OF ORDINANCES; REFINING AND SIMPLIFYING REQUIREMENTS AND ADMINISTRATIVE ISSUES PERTAINING TO TREE PROTECTION REGULATIONS; ADJUSTING RELATED DEFINITIONS.

WHEREAS, the Town Council has adopted Subdivision Regulations regarding the protection of trees and native vegetation within the town jurisdiction; and

WHEREAS, Town staff members have, in the interest of effectiveness and efficiency, requested modifications to the aforesaid regulations as noted herein; and

WHEREAS, the Lake Lure Town Council, after due notice, conducted a public hearing on the 10th day of June, 2008, upon the question of amending the Subdivision Regulations in this respect,

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LAKE LURE, NORTH CAROLINA, MEETING IN REGULAR SESSION AND WITH A MAJORITY OF THE TOWN COUNCIL VOTING IN THE AFFIRMATIVE:

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SECTION ONE. The Table of Contents of the Subdivision Regulations of the Town of Lake Lure is hereby amended by amending the title of Attachment C as follows:

ATTACHMENT C

Significant Tree Density Forest Coverage Table for Subdivision Development.

[ADDITIONS TO TEXT ARE UNDERLINED; DELETIONS ARE ~~STRUCK THROUGH~~.]

SECTION TWO, Section 91.06 of the Subdivision Regulations of the Town of Lake Lure, entitled “Definitions”, is hereby amended by adding the following definitions:

Buffer Strip. An area of land, whether landscaped or in its natural state, consisting of evergreen trees and shrubs used to physically separate or screen one use, structure, or property from another so as to visually shield or block noise, light, or other nuisances. Any width that may be specified for such a buffer strip shall be measured in the horizontal plane.

Canopy Coverage: The area of the subject property that is covered by the foliage of trees.

Forest Coverage. The forest coverage of a piece of property refers to the extent of forestation on the property. This coverage may be quantified by any of the following means: (1) by analysis of the canopy coverage as seen in aerial photography; (2) by calculation of the significant tree density on the property; or (3) by other means deemed suitable by the Tree Protection Officer. See Attachment C.

Land Disturbance. Any use of the land by any person in residential, industrial, educational, institutional, or commercial development, highway and road construction and maintenance or other construction or maintenance activity, including chemical applications or other techniques, that results in a change in the natural cover or topography and that may cause or contribute to sedimentation.

Qualified Licensed Professional. A licensed professional in a discipline relevant to the task at hand, whose knowledge and capability to successfully carry out that task have been amply demonstrated through his or her certified practical experience in that discipline and in successful completion of previous tasks similar to the one at hand.

SECTION THREE. Section 91.06 of the Subdivision Regulations of the Town of Lake Lure, entitled “Definitions”, is hereby amended by modifying the following definitions as indicated:

Development.” Development is the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, landfill, ~~land clearing or land disturbance~~; or any use or extension of the use of land.

Improvements Guarantee. An improvements guarantee is an agreement between the

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subdivider and the town, secured by a letter of credit or other security placed with the town, that improvements described in an approved subdivision plat will be carried out according to that plat, that tree and/or environmental protection measures shown on the plat will be properly installed and maintained, that trees and/or forest areas designated as protected on the plat will be undamaged at the conclusion of land clearing, land disturbance and/or development, that areas indicated on the plat as requiring grading will be graded as specified, and that areas indicated on the plat to be left ungraded will be untouched and undamaged at the conclusion of land clearing, land disturbance and/or development.

Lot. A portion of a subdivision or any other parcel of land intended as a unit for transfer of ownership, for land clearing, for land disturbance, or for development, or for both all three. The word "lot" includes the words "plot" or "parcel."

Official Maps or Plans. Any maps or plans officially adopted by the Town Council as a guide for land clearing, for land disturbance and/or for the development of the town.

Steep Slope. A slope exceeding a ~~1 foot increase in elevation per 2 feet in horizontal distance~~ 40 percent, on average.

Stream Buffer. The strip of land in its natural state or restored to a suitably vegetated state, of specified width, lying adjacent to any stream, river, creek, brook, run, branch,

wetland, or waterway, or any reservoir, lake, or pond, natural or impounded. (See also the discussion of Buffer Zones in Section §96.07A of the Soil Erosion and Sedimentation Control regulations.)

Final Significant Tree Density. Final significant tree density means significant tree density following land clearing, land disturbance, and/or development. In terms of subdivision development this means the significant tree density following completion of roads, utilities and common areas.

Tree Protection Plan. A tree protection plan is information provided as part of a sketch plan, preliminary plat, and/or final plat regarding protections provided to trees during land clearing, land disturbance, and/or development as well as the extent and condition of both the initial and final tree cover of the affected parcel. ~~being developed~~

[ADDITIONS TO TEXT ARE UNDERLINED; DELETIONS ARE ~~STRUCK THROUGH~~.]

SECTION FOUR. Section 91.06 of the Subdivision Regulations of the Town of Lake Lure, entitled "Definitions", is hereby amended by deleting the following definitions: *Buffer Zone; Unique Natural Area.*

SECTION FIVE. Section 91.03 of the Subdivision Regulations of the Town of Lake Lure, entitled

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“Purpose”, is hereby amended as follows:

§ 91.03 PURPOSE.

The purpose of these regulations is to establish procedures and standards for the land clearing, land disturbance, development, and subdivision of real estate within the jurisdiction of the town in an effort to, among other things, ensure proper legal description, identification, monumentation and recordation of real estate boundaries; further the orderly layout and appropriate use of the land; prevent the excessive removal of trees and native shrubs; minimize land disturbance; provide safe, convenient and economic circulation of vehicular traffic; provide suitable building sites which are readily accessible to emergency vehicles; assure the proper installation of streets and utilities; promote the eventual elimination of unsafe or unsanitary conditions arising from undue concentration of population; and help conserve and protect the physical and economic resources of the town.

[ADDITIONS TO TEXT ARE UNDERLINED; DELETIONS ARE ~~STRUCK THROUGH~~.]

SECTION SIX. Paragraph (B) of Section 91.17 of the Subdivision Regulations of the Town of Lake Lure, concerning contents required for a preliminary plat, is hereby amended as follows:

- (B) *Contents Required.* The preliminary plat shall be clearly and legibly drawn at a scale of of sufficient to clearly indicate the necessary details. The preliminary plat shall be executed by a registered land surveyor and shall contain the following information:
- (1) Vicinity map.
 - (2) Boundaries of the tract.
 - (3) Existing and proposed uses.
 - (4) Name, address and telephone number of owner.
 - (5) Streets and lots of adjacent properties.
 - (6) Zoning classification and adjacent zoning.
 - (7) Proposed water and sewer line location.
 - (8) Boundaries with bearing, distances and closures.
 - (9) Drainage channels.
 - (10) Any public or private easements.

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- (11) Setback lines, all shall comply with minimum requirements of Chapter 92.
- (12) Title, date, name and location of subdivision.
- (13) Name of subdivider, registered surveyor and seal.
- (14) Plans for water and sewer accompanied by written recommendations from the town engineer after thorough review.
- (15) Location of any areas of environmental concern: wooded areas, steep slopes, or water courses such as wetlands, marsh, trout streams, lakes, tributaries, etc.
- (16) Copy of any covenants or deed restrictions that will affect land clearing, land disturbance and/or development standards;
- (17) Tree protection plan. (See § 91.59.5.)
- (18) Erosion control plans accompanied by written recommendations from the town erosion control officer after thorough review.

SECTION SEVEN. Subparagraph (1) of Paragraph (E) of Section 91.17 of the Subdivision Regulations of the Town of Lake Lure, concerning the Zoning and Planning Board review procedure for preliminary plats, is hereby amended as follows:

- (1) Before taking action on the preliminary plat, the Zoning and Planning Board may refer copies of the plat and any accompanying material to those public and any private agencies concerned with new land clearing, land disturbance and/or development, provided that the Zoning and Planning Board may extend the 35 day review period if within said time period it has not received information it deems necessary for a thorough review of the plat.

[ADDITIONS TO TEXT ARE UNDERLINED; DELETIONS ARE ~~STRUCK THROUGH~~.]

SECTION EIGHT. Paragraph (A) of Section 91.18 of the Subdivision Regulations of the Town of Lake Lure, concerning beginning development pursuant to an approved preliminary plat, is hereby amended as follows:

- (A) Upon approval of the preliminary plat by the Zoning and Planning Board, the subdivider may proceed with preparation of the final plat, the land clearing, the land disturbance and/or the installation of or arrangements for roads, utilities, and other improvements as specified in the approved portion of the preliminary plat that will be submitted for final approval.

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SECTION NINE. Subparagraph (1)(d) of Paragraph (B) of Section 91.18 of the Subdivision Regulations of the Town of Lake Lure, concerning the matters to be included in an improvements guarantee prior to final plat approval, is hereby amended as follows:

- (d) That tree and/or environmental protection measures shown on the plat shall be properly installed and maintained throughout land clearing, land disturbance and/or development;

SECTION TEN. Subparagraph (3)(f) of Paragraph (C) of Section 91.18 of the Subdivision Regulations of the Town of Lake Lure, concerning the required contents of a letter of credit used to secure an improvements guarantee associated with final plat approval, is hereby amended as follows:

- (f) List of conditions to be met with regard to tree and/or native shrub health and safety at the conclusion of land clearing, land disturbance, and/or development, including replanting any replaced trees and/or shrubs nor found in good health for the period specified in §91.18(B)(1)(j).

[ADDITIONS TO TEXT ARE UNDERLINED; DELETIONS ARE ~~STRUCK THROUGH~~.]

SECTION ELEVEN. The introductory paragraph of Section 91.43 of the Subdivision Regulations of the Town of Lake Lure, entitled "Preservation of Water Areas", is hereby amended as follows:

It is the intent of these regulations both to safeguard existing and potential land clearing, land disturbance and/or development in appropriate locations and to preserve and promote a desirable ecological balance. Insofar as is reasonably practicable, subdivisions shall, therefore, be located, designed and improved to accomplish the following: (a) preserve important natural water areas and related vegetation and wildlife habitats; (b) avoid creation of upstream impoundments or downstream runoff harmful to such complexes or to existing or potential development in appropriate locations; and (c) maintain desirable groundwater levels.

[ADDITIONS TO TEXT ARE UNDERLINED; DELETIONS ARE ~~STRUCK THROUGH~~.]

SECTION TWELVE. Subparagraph (3)(g) of Paragraph (B) of Section 91.44 of the Subdivision Regulations of the Town of Lake Lure, concerning lot design and dimensional requirements for conservation design subdivisions, is hereby amended as follows:

- (g) Yards abutting the boundaries of the entire cluster development site shall be no less than the minimum requirements of the underlying zoning classification. When the conservation subdivision is adjacent to developed property, a permanent wooded buffer strip of 50 feet in width shall be maintained around the perimeter of the

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development. The wooded buffer strip shall be connected to the open space within the development.

[ADDITIONS TO TEXT ARE UNDERLINED; DELETIONS ARE ~~STRUCK THROUGH~~.]

SECTION THIRTEEN. Subparagraph (2)(a) of Paragraph (D) of Section 91.44 of the Subdivision Regulations of the Town of Lake Lure, concerning areas to be considered as secondary conservation areas in a conservation design subdivision, is hereby amended as follows:

- (a) Any environmentally sensitive areas where land clearing, land disturbance and/or development might threaten water quality or ecosystems (e.g., ~~watershed~~ stream buffers zones, groundwater recharge areas).

[ADDITIONS TO TEXT ARE UNDERLINED; DELETIONS ARE ~~STRUCK THROUGH~~.]

SECTION FOURTEEN. Paragraph (E) of Section 91.44 of the Subdivision Regulations of the Town of Lake Lure, concerning areas to be considered as secondary conservation areas in a conservation design subdivision, is hereby amended as follows:

- (E) ***Open space dedication or reservation.*** Open space shall be dedicated or reserved in accordance with the standards contained herein.
 - (1) Subdivision occupants shall be ensured direct access to and use of the subdivision's open space, by conveying that portion of open space to a homeowners' association, property owners' association, or similar legal entity or to a public agency or nonprofit organization that is organized for, capable of, and willing to accept responsibility for managing the open space for its intended purpose and that will ensure subdivision occupants direct access to and use of the open space. Any other open space provided may be conveyed to such organizations or to any agency, organization, person, or other legal entity that is organized for, capable of, and willing to accept responsibility for managing the open space for its intended purpose, provided such conveyance is restricted to ensure continued open space use and maintenance.
 - (2) Each dedicated or reserved open space parcel shall be shown on all subdivision plans and on a record plat recorded with the county register of deeds, with a notation of its area and its intended open space use, as identified herein. The owner of an open space parcel may rededicate or re-reserve the parcel for another open space use allowed under this section by recording a record plat showing the parcel and its new intended open space use.
 - (3) The land clearing, land disturbance and/or development area for any lot in a conservation design subdivision shall be delineated on subdivision plats.

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Those areas described in §91.44(D)(1), above, shall not be included in the area of any lot intended for development and shall be set aside for the common use and enjoyment of occupants of the subdivision, and arrangements for maintenance by a homeowners' association, management group or other acceptable arrangement shall be made. These areas shall be designated for permanent protection on the subdivision plat and recorded deeds, with appropriate recorded deed restrictions for the use and protection of these areas stipulated, and all management responsibilities set forth in homeowners' association bylaws or other appropriate and binding documents for the development.

[ADDITIONS TO TEXT ARE UNDERLINED; DELETIONS ARE ~~STRUCK THROUGH~~.]

SECTION FIFTEEN. Paragraph (H) of Section 91.44 of the Subdivision Regulations of the Town of Lake Lure, concerning the evaluation criteria for the layout of a conservation design subdivision, is hereby amended as follows:

- (H) ***Evaluation criteria.*** For any given site, resources may vary widely by importance. Likewise, for each type of resource, there should be examples of greater or lesser significance. In evaluating the layout of a site, the following evaluation criteria will be considered in determining the site's features and allowing for site design flexibility.
- (1) The open space shall be reasonably contiguous and shall abut existing open space on adjacent sites.
 - (2) Wetlands, flood hazard areas and natural watercourses with associated stream buffers shall not be cleared, filled or graded except as authorized by state, federal and other applicable regulations and as may be approved by the Planning Director. Water features shall constitute no more than 50 percent of the open space area.
 - (3) Dwellings shall be located in unwooded parts of the site to prevent unnecessary clearing practices. Exceptions may be made when a site investigation reveals all or part of wooded areas are not worth saving due to tree decay/disease or unsightly overgrowth.
 - (4) The impacts on larger woodlands over two acres shall be minimized as much as practical.
 - (5) Where farmland preservation is the goal of a site design, dwellings shall be located away from active farming areas, as is practical.

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- (6) Where preserving scenic views is the goal of a site design, such scenic views ~~should~~ shall remain unblocked and uninterrupted. In wooded areas, where enclosure (i.e., a tree canopy) is a feature to be maintained, a no-cut and no-build buffer strip shall be considered along the public roadway.
- (7) Where historic or archeological preservation is the goal of a site design, new streets, driveways, fences and/or utilities shall not interfere with the historic site. Building designs of the new homes shall reflect the qualities and designs of the historic buildings, as much as is practical.
- (8) Where power line rights-of-way are proposed to be included as part of the open space, the right-of-way shall not exceed 50 percent of the required permanent open space.

[ADDITIONS TO TEXT ARE UNDERLINED; DELETIONS ARE ~~STRUCK THROUGH~~.]

SECTION SIXTEEN. Subparagraph (5) of Paragraph (I) of Section 91.44 of the Subdivision Regulations of the Town of Lake Lure, concerning restrictive covenants required for an estate lot subdivision, is hereby amended as follows:

- (5) *Plats and restrictive covenants.* The plat of an estate lot subdivision shall bear a notation concerning the maximum disturbed area, the maximum impervious surface and the protection of primary conservation areas, and restrictive covenants so limiting the use, land clearing, land disturbance and/or development of any such lot shall be recorded in the Office of the Register of Deeds of Rutherford County. The restrictive covenants shall be reviewed and approved by Town of Lake Lure prior to recordation.

[ADDITIONS TO TEXT ARE UNDERLINED; DELETIONS ARE ~~STRUCK THROUGH~~.]

SECTION SEVENTEEN. Paragraph (A) of Section 91.55 of the Subdivision Regulations of the Town of Lake Lure, concerning the suitability of land for subdivision, is hereby amended as follows:

- (A) Where land to be subdivided is found by the Zoning and Planning Board to be subject to the conditions of flooding, or improper drainage, or of severe erosion or slides, particularly on steep slopes or to have other characteristics which pose an ascertainable danger to health, safety or property, the subdivider shall take measures necessary to correct said conditions and to eliminate said dangers.

It should, however, be noted that due to severe topographic conditions, inadequate road access, distance from services, unique sensitive natural areas, soils that do not easily support soil drainage systems, or the proximity to

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existing and incompatible land uses, all land may not be suited to be subdivided for the purpose of dense development.

[ADDITIONS TO TEXT ARE UNDERLINED; DELETIONS ARE ~~STRUCK THROUGH~~.]

SECTION EIGHTEEN. Subparagraph (4) of Paragraph (B) of Section 91.55 of the Subdivision Regulations of the Town of Lake Lure, concerning viewshed considerations for the subdivision of land in steep slope environments, is hereby amended as follows:

- (4) Any land clearing, land disturbance and/or development planned for steep slopes shall follow the aesthetic as well as the technical recommendations of the ~~geotechnical engineer and/or~~ the erosion control and/or tree protection officer(s) and/or other qualified licensed professional to minimize the impact of construction on the viewshed.

[ADDITIONS TO TEXT ARE UNDERLINED; DELETIONS ARE ~~STRUCK THROUGH~~.]

SECTION NINETEEN. Subparagraph (7) of Paragraph (A) of Section 91.58 of the Subdivision Regulations of the Town of Lake Lure, concerning stormwater drainage requirements in subdivisions, is hereby amended as follows:

- (7) Protect all roads, driveways, utilities and other types of land clearing, land disturbance, and/or development from damages caused by improper drainage control.

[ADDITIONS TO TEXT ARE UNDERLINED; DELETIONS ARE ~~STRUCK THROUGH~~.]

SECTION TWENTY. Section 91.59.5 of the Subdivision Regulations of the Town of Lake Lure, entitled "Tree Protection", is hereby amended as follows:

§ 91.59.5 TREE PROTECTION

- (A) *Clearcutting is Prohibited.* Any cutting of trees in excess of the percentages permitted by the ~~significant tree density~~ Forest Coverage Table (see Attachment C) is prohibited unless such excess cutting is shown in the approved tree protection plan (§91.59.5 (C)) and compensated for by replacing such trees, as described in §91.59.5 (B). Land clearing for subdivision development is prohibited except as permitted under the provisions of these regulations and Chapter 96, the Soil Erosion and Sedimentation Control Regulations.
- (B) *General.* Land clearing permitted under these subdivision regulations shall be limited to the minimum necessary for the construction of roads, utilities, and structures or open green areas intended for common use of residents, and shall not include clearing for individual lots,

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whether for home sites, structures, driveways, individual wells or septic systems, landscaping, or development of views. One exception shall be that in cases where it is determined by the Subdivision

Administrator that two or three homesites can reasonably be served by a single driveway, such driveway may be platted, approved, and constructed subject to all the usual provisions of town regulations. Structures or open green areas intended for common use of residents shall, to the extent that is possible, utilize pre-existing open spaces for this purpose. Clearing in common areas intended to be maintained in a forested state shall be limited to the development of trails, bicycle paths, small picnic areas, and other common amenities.

Any significant tree cut in excess of the number allowed by the ~~Significant Tree Density~~ Forest Coverage Table (See Attachment C), or without an approved tree protection plan, or in violation of an approved tree protection plan, or that is damaged during land clearing, land disturbance and/or development to the extent that the tree is likely to die, shall be replaced by healthy trees at the expense of the owner of the property or his agent, as follows: Such trees shall be replaced by species recommended in the *Lake Lure Tree Protection Handbook*, at the 'minimum dbh for replanting' sizes appropriate to the species as shown in Attachment D, and in sufficient numbers to equal the total inches in dbh of the trees damaged or unlawfully removed. Any areas exceeding 100 sq. ft. in size from which native shrubbery and their stumps and roots have been removed without approval as part of a tree protection plan, or that are damaged to an extent likely to cause the death of those shrubs, shall be replanted with healthy shrubbery at the expense of the subdivider. Such replacement trees and/or shrubs shall be planted in the approximate location of the originals that were damaged or unlawfully removed, or in areas specified by the tree protection officer, and shall be inspected at intervals by the tree protection officer. Any replanted trees or shrubs not continuing in good health for a minimum of two years shall be replanted at the expense of the owner or his agent.

- (C) *Tree Protection Plan.* Overall land clearing shall be governed by the ~~significant tree density~~ forest coverage existing on the site prior to land clearing, land disturbance and/or development. (See ATTACHMENT C). To this end, a tree protection plan shall be prepared as part of any subdivision plat, and shall include at least the information listed below regarding the trees and/or shrubs to be removed for the purposes approved above, and the protection of all other trees on the property. Estimated ~~significant tree densities~~ forest coverage both before and after tree removal shall be provided by a survey provided by a ~~certified arborist or forester~~ qualified licensed professional for individual forested areas as well as for the subdivision as a whole. Plans shall include:

- (1) Location and extent of all forested areas.
 - (a) Forest areas intended for later sale as building lots shall be designated on the plat and shall not be developed in any way, except for driveways that serve

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two or three homesites as provided above, until certificates of zoning compliance have been issued.

- (b) Forest areas intended to be maintained as common forest areas shall be marked as protected on the plat except for those areas marked to be cleared for trails, paths, and the like.
 - (c) All forest areas not marked for construction of roads, common utilities, or common areas, or future sale as building sites except as noted above, shall be marked as protected on the plat.
- (2) Location and extent of all areas proposed for tree removal and/or land clearing.
 - (3) Location and nature of tree protection measures to be installed.
 - (4) Location, size, and species of any trees and/or shrubs to be planted at the direction of the tree protection officer.
 - (5) Estimated significant tree density of each individual forested area as well as of the subdivision as a whole, both before and after permitted land clearing and replanting.
 - (6) Location of any steep slopes, or other areas that may not be suited for land clearing, land disturbance, and/or dense development, and any specifications for their particular management, as discussed in §91.55.
 - (7) Any additional documentation that the tree protection officer may require.
- (D) ~~Buffer Zones. There shall be trout buffer zones as detailed in Chapter 96, the Soil Erosion and Sedimentation Control regulations. (Adopted 10-10-06)~~

Trout Buffer. An undisturbed stream buffer, as defined and illustrated in the Town of Lake Lure Land Disturbance Regulations, that is required for the protection of waters that have been classified as trout waters by the Environmental Management Commission. Any removal of vegetation, including the removal of living branches, is prohibited within such areas.

- (E) *Protective Boundaries.* Protective boundaries shall be shown on the plat surrounding individual protected trees and their root protection zones and lying along the boundaries of all protected forest areas, especially where areas marked

for tree removal abut areas where trees are to be protected, unless physical characteristics of the area render additional protections unnecessary. Such barriers shall be installed prior to any land clearing, land disturbance and/or development activity and maintained until development such activity is complete. All workers in the area shall be clearly informed that

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trees and forest areas so marked are to be protected from cutting, girdling, any damage by construction equipment, and any disruptions of their root protection zones including trenching, dumping of excavated soil, spilling of toxic materials, vehicle parking or drive-over, the storage of equipment or materials, and addition of any impervious material.

- (F) *Inspections and Remedies.* The tree protection officer shall inspect all subdivision projects prior to any permit approvals and at intervals throughout land clearing, land disturbance and/or development. In the course of these visits said officer ~~shall~~ may provide assistance with estimates of ~~tree densities~~ forest coverage and the steepness of slopes, assist in evaluating the suitability of steep slopes for land clearing and development, and approve the entire tree protection plan, including protective boundaries and any required replanting.
- (G) *Forestry Lands.* Where the land to be subdivided was previously taxed on the basis of present-use value as forestry land under Article 12 of Chapter 105 of the General Statutes, or has been logged under a forestry plan prepared or approved by a registered forester, the town may deny a certificate of zoning compliance or refuse to approve a site or subdivision plan for a period of three years after harvest if the land has been cleared in violation of these regulations, five years if the land clearing was a willful violation. Reference General Statute 160A-458.5 of the General Assembly of North Carolina.

[ADDITIONS TO TEXT ARE UNDERLINED; DELETIONS ARE ~~STRUCK THROUGH~~.]

SECTION TWENTY-ONE. Subparagraph (1) of Paragraph (C) of Section 91.99 of the Subdivision Regulations of the Town of Lake Lure, concerning civil fines for violations of such regulations, is hereby amended as follows:

- (1) Failure to receive plat approvals as required by this chapter prior to commencement of any form of land clearing, land disturbance and/or development shall subject the subdivider to a civil fine not to exceed \$500.00 per day of violation, for each occurrence of such a violation. The fine shall be payable immediately upon notification and shall be assessed from the date of violation. Each day of a continuing violation shall constitute a separate violation. If, following the appropriate inspections, the illegal land clearing, land disturbance and/or development is found to meet all requirements of this chapter, plat approvals shall be issued upon payment of the fine and submittal of the appropriate documents including fees. If the land clearing, land disturbance and/or development does not meet said requirements, the development shall either be returned as far as possible to its original state, or be brought into compliance prior to receipt of plat approvals.

Failure to comply with the provisions of an approved plat and the representations submitted as part of the application for the plat shall be cause for the Subdivision

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Administrator to place a stop order on the land clearing, land disturbance and/or development for which the plat was approved until such time as the land clearing, land disturbance and/or development is altered to comply or until a revised plat is approved. If the land clearing, land disturbance and/or development is not brought into conformance, or a revised plat meeting the standards of this chapter is not submitted within 30 days of the original notice of violation, the subdivider shall be subject to a fine not to exceed \$500.00 for each day of delay beyond the 30 day period.

[ADDITIONS TO TEXT ARE UNDERLINED; DELETIONS ARE ~~STRUCK THROUGH~~.]

SECTION TWENTY-TWO. Attachment C to the Subdivision Regulations of the Town of Lake Lure, regarding regulations relating to tree protection, is hereby amended by replacing it with the following updated version, in the interest of effectiveness and efficiency:

Attachment C

**The Forest Coverage Table
Significant Tree Density and Canopy Coverage**

Forest coverage can be estimated in one of the following methods, depending on the size and topography of the property, the number of trees on the property, and the availability of suitable aerial photographs. The table below shall be used to determine the minimum forest coverage that must be retained during land clearing, land disturbance, and/or development or achieved through replanting with trees and shrubs recommended in *The Lake Lure Tree Management Handbook*. Copies of all materials used to arrive at tree density or canopy coverage estimates must be presented with the site plan.

The Ground Survey – significant tree density: With this method, a qualified licensed professional shall visit the area on foot (at the owner's expense), count or (if necessary) estimate the number of significant trees before clearing, and report the significant tree density. Significant trees, and/or significant forest areas, shall be marked on the plat for protection or removal as described in § 91.59.5. Estimates of significant tree densities that will remain after land clearing, land disturbance and/or development shall be based on the number of significant trees to be removed. Where this density falls below that required on the Forest Coverage Table, the tree protection officer shall direct the replanting of trees to make up the deficit.

The Aerial Survey – canopy coverage: A property with steep topography or significant forest coverage might best be managed by a canopy coverage estimate involving analysis of existing aerial photographs. This analysis shall be carried out by a qualified licensed professional, at the owner's expense, by the method described under **Aerial Survey – Canopy Coverage Method** at the end of this Attachment.

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The combined Ground and Aerial Survey: When an area to be evaluated by aerial survey also includes pockets of forest that are to be left for green space or common areas, or small undisturbed forest areas (less than 1 acre and less than 50% canopy coverage) that will be disconnected from larger undisturbed forest areas, these isolated areas shall be evaluated by a ground survey, with the Significant Tree Density figure to be shown on the plat for each such isolated area. This method will improve accuracy in calculating overall forest coverage, particularly where common areas and green space are so designated. The Significant Tree Density method shall also be used when planning tree thinning on a portion of the property or for other special purposes needing particular accuracy.

Other methods: Property owners wishing to compute the pre-land clearing/land disturbance/development forest coverage estimate by their own methods shall provide their calculations to the Tree Protection Officer with sufficient clarity and accuracy that the tree protection officer can duplicate and validate their results.

The Forest Coverage Table: This table computes the minimum Significant Tree Density or Canopy Coverage that shall remain on a property after land clearing, land disturbance, and/or development, based on the Significant Tree Density or Canopy Coverage on the property prior to land clearing, land disturbance, and /or development. Where these values fall below those required on the Forest Coverage Table, the tree protection officer shall direct the replanting of trees to make up the deficit.

Forest Coverage Table

Pre-Land Clearing/Land Disturbance/Development Significant Tree Density (significant trees per acre)	Pre-Land Clearing/Land Disturbance/Development Canopy Coverage (percentage of total property area)	Post-Land Clearing/Land Disturbance/Development Significant Tree Density or Canopy Coverage
0 to 10	0% to 10%	1.0 x initial value
11 to 20	11% to 20%	.90 x initial value
21 to 50	21% to 50%	.80 x initial value
50 or more	50% or more	.70 x initial value

Examples

Tree Density Example: For a 200 acre subdivision development with an average initial significant tree density of 25 significant trees per acre, the final significant tree density (after accounting for roads, facilities, homes and driveways) shall average 20 significant trees per acre (.80 x 25).

Canopy Coverage Example: For a 200 acre subdivision development with an initial canopy coverage of 25%, the minimum final canopy coverage (after accounting for roads, facilities, homes

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and driveways) shall be 20% of the 200 acre development (.80 x .25).

Aerial Survey – Canopy Coverage Method

STEP 1: Using a clear, 2005 or later aerial photo of the property, draw a grid overlaying the property. The grid lines shall be spaced at ½ inch intervals. Count the total number of squares in the grid, then study the squares and estimate each square's coverage level – the percentage (100%, 75%, 50%, 25%, or 0%) of each square that is covered by forest canopy.

For squares with 100% canopy coverage a value of 1 shall be assigned.

For squares with 75% canopy coverage a value of .75 shall be assigned.

For squares with 50% canopy coverage a value of .5 shall be assigned.

For squares with 25% canopy coverage a value of .25 shall be assigned.

For squares with 0% canopy coverage a value of 0 shall be assigned.

STEP 2: Count the number of squares with 100% coverage and multiply by 1. To calculate the percentage of the total property area that the 100% coverage squares represent, divide the number of 100% squares by the total number of squares in the grid. Use the following formula to do the division and convert the results into a percentage:

x = total # of squares covering the whole property.

a = total # of squares with a 100% canopy coverage level

$$\frac{(a \times 1)}{x} \times 100 = (?)\%$$

Then count the number of squares with 75% coverage and multiply by .75. Use the same formula to do the division and convert the results into percentages:

x = total # of squares covering the whole property.

b = total # of squares with a 75 % canopy coverage level

$$\frac{(b \times .75)}{x} \times 100 = (?)\%$$

Follow the same steps for the other levels of canopy coverage using the following values.

For the 50% canopy coverage:

x = total # of squares covering the whole property.

c = total # of squares with a 50% canopy coverage level

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$$\frac{(c \times .5)}{x} \times 100 = (?)\%$$

For the 25% canopy coverage:

x = total # of squares covering the whole property.

d = total # of squares with a 25% canopy coverage level

$$\frac{(d \times .25)}{x} \times 100 = (?)\%$$

For the 0% canopy coverage:

x = total # of squares covering the whole property.

e = total # of squares with a 0% canopy coverage level

$$\frac{(e \times 0)}{x} \times 100 = (?)\%$$

When the area percentage for each coverage level is known, add the percentages together for the total estimated canopy coverage as a percentage of the total property acreage.

Example Problem: A grid is laid over a 2 acre tract. The property has been previously disturbed and shows mixed patches of forest and cleared areas. The total number of squares covering the parcel is 140. 100 squares are completely vegetated; 10 squares are 75% vegetated; 15 squares are 50% vegetated; 10 squares are 25% vegetated; and 5 squares no longer contain any vegetation. Using the above equation, calculate the estimated canopy coverage for the site.

$$x = 140$$

$$a = 100$$

$$b = 10$$

$$c = 15$$

$$d = 10$$

$$e = 5$$

$$\frac{(a \times 1)}{x} \times 100 = (?)\% \quad \frac{(b \times .75)}{x} \times 100 = (?)\% \quad \frac{(c \times .5)}{x} \times 100 = (?)\%$$

$$\frac{(100 \times 1)}{140} \times 100 = (?)\% \quad \frac{(10 \times .75)}{140} \times 100 = (?)\% \quad \frac{(15 \times .5)}{140} \times 100 = (?)\%$$

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$\frac{100}{140} \times 100 = (?)\%$	$\frac{7.5}{140} \times 100 = (?)\%$	$\frac{7.5}{140} \times 100 = (?)\%$
$.71 \times 100 = 71\%$	$.053 \times 100 = 5.3\%$	$.053 \times 100 = 5.3\%$
<hr/>		
$\frac{(d \times .25)}{x} \times 100 = (?)\%$	$\frac{(e \times 0)}{x} \times 100 = (?)\%$	71.0%
		5.3%
		5.3%
$\frac{(10 \times .25)}{140} \times 100 = (?)\%$	$\frac{(5 \times 0)}{140} \times 100 = (?)\%$	1.8%
		+ 0.0%
		83.4% Total Canopy
$\frac{2.5}{140} \times 100 = (?)\%$	$\frac{0}{140} \times 100 = (?)\%$	
$.0179 \times 100 = 1.8\%$	$0 \times 100 = 0\%$	
<hr/>		

The estimated canopy coverage is **83.4%**.

SECTION TWENTY-THREE. Any person violating the provisions of these requirements shall be subject to the penalties set forth in Section 91.99 of the Subdivision Regulations.

SECTION TWENTY-FOUR. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION TWENTY-FIVE. If any section, subsection, paragraph, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

SECTION TWENTY-SIX. The enactment of this ordinance shall in no way affect the running of any amortization provisions or enforcement actions, or otherwise cure any existing Subdivision violations.

SECTION TWENTY-SEVEN. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this 10th day of June, 2008.

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Council members thanked Paula Jordan and the Zoning and Planning Board for all of their work on the amendments pertaining to tree protection.

<p>PRESENTATION OF THE TOWN BUDGET AND BUDGET MESSAGE FOR FISCAL YEAR 2008-2009</p>
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Town Manager Steve Wheeler gave a brief overview of the proposed budget. Mr. Wheeler read excerpts from the following budget message dated May 31, 2008.

MEMORANDUM

To: **MAYOR AND TOWN COUNCIL MEMBERS**

From: **Steve Wheeler, Town Manager**

Subject: **Budget Message and Proposed Budget for Fiscal Year 2008-2009**

Date: **May 31, 2008**

In accordance with Sections 159-11, 159-12, et. al. of the General Statutes of North Carolina, it is my duty to submit for your consideration the proposed balanced Budget for Fiscal Year 2008-2009. This budget was created in accordance with the schedule submitted to council at our first budget meeting in April. This budget is a result of several meetings with the department heads in an effort to minimize capital requests while maintaining the high level of service expected by our property owners and residents. This budget is a result of a great deal of time and hard work of the town finance director, Sam Karr, who with the assistance and input from the department heads through the months of March and April, prepared the initial draft of the document for the Town Council's consideration. We did not receive estimated revenues from Rutherford County until after our initial budget meeting in April. Unfortunately, after the goals were identified by Council in the first meeting, we were \$422,000 short of balancing. This resulted in additional meetings with department heads in an effort to balance the budget. This also resulted in some very difficult staffing and capital item decisions. The cuts identified from the meetings with the department heads were submitted to Town Council at our budget meeting on May 20, and Town Council prioritized these cuts accordingly. **In summary, the budget is balanced at a recommended tax rate of \$0.21 per \$100 of property value, maintaining the rate in effect last year.**

This memorandum details all line items for the General Fund, Water/Sewer Fund and Electric Fund. The proposed major areas of revenue for the fiscal year commencing July 1, 2008 and ending June 30, 2009 are as follows:

REVENUES

I. GENERAL FUND

Ad Valorem and Vehicle Taxes	\$2,119,950
State Shared Revenues	\$944,025
Miscellaneous Revenues	\$83,460
Land Use Fees	\$34,165
Golf Course	\$182,500
Lake	\$286,700
Beach	\$48,000
Marina	\$35,130
Admin. charge from Water/Sewer Fund	\$25,000
Admin. charge from Electric Fund	\$25,000
Appropriated Fund Balance	\$0
TOTAL GENERAL	\$3,783,930

II. WATER/SEWER FUND

Water and Sewer	\$676,710
TOTAL WATER/SEWER	\$676,710

III. ELECTRIC FUND

Electric Receipts	\$242,290
TOTAL ELECTRIC	\$242,290

<u>GRAND TOTAL - ALL FUNDS</u>	<u>\$4,702,930</u>
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EXPENDITURES

The proposed major areas of expenditure for the fiscal year commencing July 1, 2008 and ending June 30, 2009 are as follows:

EXPENDITURES

I. GENERAL FUND

Governing Board	\$46,501
Administration	\$623,112
Police	\$715,990
Fire Department	\$640,948
E.M.S.	\$500
Public Works	\$492,323
Sanitation	\$165,800
Golf Course	\$305,326
Lake	\$233,904
Beach	\$2,500
Community Center	\$35,583
Community Development	\$352,819
Marina	\$5,820
Insurance/Bonds	\$122,500
Debt Service	\$0
Contingency Reserve	\$40,304
TOTAL GENERAL	\$3,783,930

II. WATER/SEWER FUND

Sewer	\$356,578
Water	\$320,132
Transfer to Equity	\$0
TOTAL WATER/SEWER	\$676,710

III. ELECTRIC FUND

Operations	\$242,290
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TOTAL ELECTRIC	\$242,290
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<u>GRAND TOTAL - ALL FUNDS</u>	<u>\$4,702,930</u>
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FUND BALANCE

Our finance director has provided the following information regarding the fund balance or retained earnings for each of the town's three operating funds:

	<u>June 30, 2007¹</u>	<u>June 30, 2008²</u>
General Fund ³	\$1,336,564	\$1,238,747
Water/Sewer Fund ⁴	\$873,153	\$210,324
Electric Fund ⁴	\$308,780	\$248,510

- Notes:**
- 1 - from Audit Report for FY2006-07
 - 2 - estimates provided by finance director and based upon data available to him on May 30, 2008
 - 3 - General Fund amounts are fund balances
 - 4 - Water/Sewer Fund and Electric Fund represent retained earnings.

As always, there were many hard decisions associated with the formulation of this budget. The costs submitted by the staff to address the various needs, wants and desires of the town were in excess of the current array of means to pay for them. The result was a lengthy process of establishing priorities among the many competing good and worthy services and projects in need of funding.

This estimated budget for FY2008-09 is based upon the following:

1. There is an assumption that there will be no annexations or major growth in population served during the subject fiscal year.
2. We are proposing to maintain the tax rate at \$0.21 this year. Total estimated valuation on real, personal and utility property for the 2008 tax year is \$992,805,000 and motor vehicle valuation is estimated at \$14,084,410, according to Rutherford County's Tax

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Administrator. This should generate about \$2,119,950 in tax revenue, assuming a 99% collection rate.

3. For the eighth year, the Town Council has approved a 6 year Capital Improvements Program (CIP). The first year of the CIP constitutes the Capital Budget and the expenditures listed for the coming year have been incorporated in this FY 2008-09 annual budget. This CIP is expected to be adopted in June. The approved list of general fund projects for FY08-09 totals \$156,313, a decrease of \$608,301 (80%). An additional \$70,000 in capital expenditures is related to street construction and maintenance activities funded directly by "Powell Bill" receipts.
4. A proposed rate increase for the water system to meet up with growing expenses to operate the water system. This rate increase would be the first since 1999. The proposed rates are as follows:

Base rate-Residential is proposed to increase from \$28.00 to \$42.00

Base rate-Commercial is proposed to increase from \$36.00 to \$50.00

The per 1000 rate for 0-5000 gallons is proposed to increase from \$3.00 to \$3.50

The per 1000 rate for Over 5,000-20,000 is proposed to increase from \$3.50 to \$4.00

The per 1000 rate for Over 20,000 is proposed to increase from \$4.00 to \$4.50

The CIP includes a preliminary debit service cost for expansion of town hall, the remodeling and expansion of the community center to accommodate the youth center and offices for the Rutherford County Tourist Development Agency (TDA), and a complete replacement of the termite plagued marina office building, all of which will be financed through a commercial loan and leases to the TDA and Lake Lure Tours (these numbers may be subject to revision after architectural studies are completed). The timing is appropriate for this as the construction loan for the town hall was paid in full last year. Replacement patrol vehicles and new vehicle mounted video cameras for the police department, a replacement vehicle for the fire coordinator's office, a replacement storage building for the golf course (to take the place of a dilapidated one demolished last year), elimination of overhead power lines in front of the beach and other beautification projects in the town center area, other park and recreation improvements (including the trail system on the golf course property), annual computer upgrades, renewal of the golf cart lease program at the golf course, and the debit service for a replacement fire boat and addition to Fire Station #2 are also included in the general fund CIP. We will also be seeking additional grant funding where available to offset the costs of capital improvements, thereby reducing the burden on the local taxpayers.

A total of \$55,000 for utilities projects will be funded under the Water/Sewer Fund. The electric fund capital expenditure of \$160,000 is for lake dredging operations, half

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of which will be transferred in from revenues derived from the lake account (boat permit fees, concession fees and the like).

4. This budget includes a fair, but modest, 2.3% cost-of-living adjustment (COLA). It also includes a 401K contribution of 5% for all employees.
5. Three new full-time firefighters are included in this budget to ensure that all Fire Departments meet the requirements of the Insurance Services Office (ISO), and the Town does not experience any negative repercussions to our Fire Rating do to a potential shortage of firefighters.
6. This budget also includes the reduction of full-time staff by two (one in the Finance Department and one in Community Development Department).
7. Revenue in the Electric Fund last year was negatively impacted by the drought conditions in the area over the past 12 months, as well as plant improvements preventing our ability to produce electricity. However, electric revenues are anticipated to stabilize during the 08-09 Fiscal Year. We are proposing a \$80,000 contribution to silt removal from this fund as well.
8. This budget plan also proposes a decrease of \$79,700 (49%) in the Contractual Services line item for the Community Development Department from last year. This is a result of more planning projects anticipated to be completed in-house, as well as progress being made on various plans the Community Development Department has been involved in, including the Steep Slope Ordinance and Floodplain Ordinance. This budget does include funding to complete a Uniform Development Ordinance.

In summary, the proposed town budget now before you is balanced as required by state law. In comparison to last year, overall revenues and expenditures are projected to decrease by \$469,445 (9%) from last year. The proposed General Fund budget is reduced by \$149,362 (4%) from the prior fiscal year. Revenues/expenditures are decreased in the Water/Sewer Fund by \$321,340 (32%), and the Electric Fund is experiencing a slight increase of \$1,257 (less than 1%).

While this budget does not address every need, want, preference, desire, project, program, or requested capital item, it will provide for the continuation of the basic municipal services currently provided and at the level expected by our residents, while maintaining our tax rate in a difficult fiscal climate.

The preparation of a document as detailed as this budget requires the input and cooperation of many persons. In particular, I am most grateful to our finance director, Sam Karr. Also due recognition are the other town department heads and staff for their conscientious work in assisting in the

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preparation of this budget, particularly as we worked diligently to identify budget cuts in each respective department as we attempted to balance our budget.

Lastly, I appreciate the important contributions to the budgetary process made by you, the Town Council of Lake Lure. In the end, it is you, the elected officials representing all the citizens of the Lake Lure, who must approve and adopt the town's annual budget, and thereby set the course for our proposed package of operational and capital improvement programs during the ensuing fiscal year. This being my first year completing the Town of Lake Lure budget, I have appreciated the guidance and input of the Town Council. I also appreciate your flexibility in attempting a different method of completing the CIP and budget process. Your formal adoption of the town budget for Fiscal Year 2008-2009 will ensure the provision of essential services to your constituents at a level they deserve and expect.

PUBLIC HEARING - TOWN BUDGET FOR FISCAL YEAR 2008-2009

Mayor Proctor opened the public hearing regarding proposed Ordinance No. 08-06-10B and invited citizens to speak during the public hearing. Dick McCallum pointed out an error regarding a figure in the budget message handout.

After discussion, Commissioner Noble made a motion to close the public hearing. Commissioner Hyatt seconded the motion and the vote of approval was unanimous.

ADOPT ORDINANCE NO. 08-06-10B TOWN BUDGET FOR FISCAL YEAR 2008-2009

Public notices were duly given and published in the Forest City Daily Courier newspaper.

After discussion, Commissioner Hyatt made a motion to adopt Ordinance No. 08-06-10B as presented. Commissioner Turner seconded the motion and the vote of approval was unanimous.

ORDINANCE NUMBER 08-06-10B

AN ORDINANCE ADOPTING THE FISCAL YEAR 2008-2009 BUDGET FOR THE TOWN OF LAKE LURE, NORTH CAROLINA

SECTION 1. In accordance with G.S. 159-13 (a), the Town Council of the Town of Lake Lure adopts this ordinance entitled Town of Lake Lure 2008-2009 Budget.

SECTION 2. This ordinance includes revenues and expenditures in the General Fund, Water/Sewer Fund and Electric Fund. Revenues and expenditures in the those funds are as follows:

REVENUES

I. GENERAL FUND

Ad Valorem and Vehicle Taxes	\$2,119,950
State Shared Revenues	\$944,025
Miscellaneous Revenues	\$83,460
Land Use Fees	\$34,165
Golf Course	\$182,500
Lake	\$286,700
Beach	\$48,000
Marina	\$35,130
Admin. charge from Water/Sewer Fund	\$25,000
Admin. charge from Electric Fund	\$25,000
Appropriated Fund Balance	\$0

TOTAL GENERAL **\$3,783,930**

II. WATER/SEWER FUND

Water and Sewer	\$676,710
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TOTAL WATER/SEWER **\$676,710**

III. ELECTRIC FUND

Electric Receipts	\$242,290
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TOTAL ELECTRIC **\$242,290**

GRAND TOTAL - ALL FUNDS **\$4,702,930**

EXPENDITURES

I. GENERAL FUND

Governing Board	\$46,501
Administration	\$623,112
Police	\$715,990
Fire Department	\$640,948
E.M.S.	\$500
Public Works	\$492,323
Sanitation	\$165,800
Golf Course	\$305,326
Lake	\$233,904
Beach	\$2,500
Community Center	\$35,583
Community Development	\$352,819
Marina	\$5,820
Insurance/Bonds	\$122,500
Debt Service	\$0

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Contingency Reserve	\$40,304
TOTAL GENERAL	\$3,783,930
II. WATER/SEWER FUND	
Sewer	\$356,578
Water	\$320,132
Transfer to Equity	\$0
TOTAL WATER/SEWER	\$676,710
III. ELECTRIC FUND	
Operations	\$242,290
TOTAL ELECTRIC	\$242,290
<u>GRAND TOTAL - ALL FUNDS</u>	<u>\$4,702,930</u>

SECTION 3. To achieve this budget program, the Town Council of the Town of Lake Lure, in accordance with G.S. 159-13 (c), the tax rate shall remain \$0.21 per \$100.00 of property valuation.

SECTION 4. Pursuant to the authority set forth in Article 20, Chapter 160A of the North Carolina General Statutes, the Town of Lake Lure and Rutherford County have entered into a contractual agreement to provide for centralized and systemized billing and collection of property taxes in Rutherford County. Under this agreement the County will perform for itself and the Town all of the tax collection functions prescribed in Subchapter 50 of Chapter 105 of the North Carolina General Statutes (often referred to as the Machinery Act). This joint tax collection system shall commence with the tax levy for the fiscal year beginning July 1, 2008. In accordance with section V. of this agreement, the Town of Lake Lure hereby adopts the same tax discount schedule as the County for the Town's tax levy for the fiscal year commencing July 1, 2008.

Adopted the 10th day of June, 2008.

PUBLIC FORUM

Mayor Proctor invited the audience to speak on any non-agenda item and/or consent agenda topics and the following requested to speak.

1. Ken Jordan asked council members to consider drafting regulations requiring property owners to maintain and cleanup storm debris from their property on a timely manner. He suggested that the town cleanup and bill individuals who do not.
2. Chuck Watkins asked council members to improve the sound system. Mr. Watkins also asked for a clarification with regards to how many firefighter positions are being budgeted for the upcoming fiscal year.

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Mayor Proctor announced that the town needs volunteer firefighters in Lake Lure. He said anyone interested should contact town hall.

STAFF REPORTS

Mr. Wheeler reported on the council action items log. He made copies of this report available at the meeting for anyone interested.

COUNCIL LIAISON REPORTS & COMMENTS

Commissioner Hyatt reported on the activities of the Board of Adjustment.

Commissioner Noble reported on the activities of the Lake Advisory Committee and the Golf Course Committee. Commissioner Noble commended Golf Course Manager Matt Griffin and staff members for the improvements at the golf course and the increase in memberships.

After discussion, Commissioner Noble made a motion to approve a recommendation from the Lake Advisory Board for the town to install a channel through the peninsula that separates the town beach area from the mouth of Pool Creek and direct the public works department to assist with the installing of this channel. Commissioner Pitts seconded the motion and the vote of approval was unanimous.

A motion was made by Commissioner Noble to approve a recommendation from the Lake Advisory Board to re-name the town marina as the Washburn Marina in honor of the Washburn family for their several years of service provided to the Town of Lake Lure. Commissioner Turner seconded the motion and the vote of approval was unanimous.

Commissioner Pitts reported on the activities of the Zoning and Planning Board and the North American Lake Management Society. Commissioner Pitts said the Zoning and Planning Board voted unanimously at their regular meeting held on May 20, 2008 to ask town council to extend the deadline for the proposed regulations concerning steep slopes to be presented in August, 2008. Council members concurred with this recommendation.

Commissioner Pitts reported that there are two upcoming meetings relating to single family dwellings used as vacation rentals being held on June 19, 2008 at town hall from 6:30 p.m. until 9:00 p.m. and another meeting being held on June 26, 2008 at Fairfield Fire Station #1 from 4:00 p.m. until 6:30 p.m. The purpose of this meeting is to share with residents and property/business owners what the SFD/VR Stakeholder Committee has done to date, the history of issues, and the existing conditions with the town. Also, to obtain information that will help the committee develop and make a policy recommendation to the town council. Commissioner Pitts addressed rumors concerning Council actions with regards to single family dwellings and vacation rentals. He stated that town council has taken only two positions at this time which includes: (1) not eliminating vacation rentals and (2) not to allow vacation rentals to continue going unregulated.

Commissioner Turner reported on the activities of the Parks and Recreation Board. Commissioner Turner mentioned the problem of vandalism at the town's boardwalk. It was

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suggested that an article be placed in the town newsletter making citizens aware of the problem and ask them to report any vandalism to the police department. Commissioner Pitts suggested that the town look into some type of funding for security cameras.

CONSENT AGENDA

Mayor Proctor presented the consent agenda and asked if any item should be removed before calling for action.

Commissioner Pitts moved, seconded by Commissioner Turner, to approve the consent agenda items as presented. Therefore, the consent agenda, incorporating the following items were unanimously approved:

- a. minutes of the May 13, 2008 (regular meeting and closed session), May 20, 2008 (special meeting), and June 3, 2008 (special meeting);
- b. budget amendments as presented by the finance director to (1) transfer \$13,000 from the insurance/bonds account #10-920000.450 to the police department budget to purchase of mobile data terminals, (2) transfer \$11,500 from the contingency account #10-45100.593 to the public works department budget to cover the cost of a reel shed dock, (3) transfer \$24,000 from debt service account #10-910000.700 to the public works department budget to cover the expenses relating to the wind storm damage, and (4) transfer \$100,000 from the water/sewer fund equity (water/sewer fund balance) to the operational budget for water/sewer; transfer \$27,300 to the water department account #53-713000.509 and the balance of \$72,700 to the sewer department to cover water/sewer fund overruns; (attached are copies of memorandums from the finance director dated June 4 & 5, 2008);
- c. a fabric structure permit for Jerry H. Harvey on behalf of the Pediatric Brain Tumor Foundation "Ride for Kids" annual motorcycle event being held on Sunday, August 24, 2008 and waive the rental permit fees for use of town facilities during this event;
- d. a request from Amanda Dorsett to suspend the town's alcohol ordinance in order to serve beer and wine during a wedding reception being held inside the Community Hall of the Lake Lure Municipal Center on April 25, 2009, from 3:00 p.m. until 9:00 p.m.; and
- e. a letter of understanding and authorized the mayor to sign a contract on behalf of the town with Painter, Russell & Associates, PLLC for audit services during fiscal year beginning July 1, 2007 and ending through June 30, 2008 as submitted by the finance director.

End of Consent Agenda.

Mayor Proctor urged everyone to support the Pediatric Brain Tumor Foundation "Ride for Kids" annual motorcycle event being held on Sunday, August 24, 2008.

The Mayor recessed the meeting at 8:10 p.m. for a break and reconvened the meeting at 8:15 p.m.

UNFINISHED BUSINESS:

a. Other Unfinished Business

There was no other unfinished business for discussion.

NEW BUSINESS:

a. Consider a Proposal from Ken Jordan and Gail Williams Regarding a Market Being Held on Saturdays During the Summer in Lake Lure

Ken Jordan answered questions pertaining to a proposal from Gail Williams and himself asking for approval of a market to be held on Saturdays during the Summer in Lake Lure.

After discussion, Commissioner Pitts made a motion to: (1) approve the request from Ken Jordan and Gail Williams contingent upon the location and parking being coordinated with the town manager, the police chief and the Lake Lure Tours Beach Manager Bo Williams for a market to be held on Saturdays between June 1, 2008 and September 1, 2008 (Labor Day) from 8:00 a.m. until 1:00 p.m. This market is for selected local farmers to sell their produce and for local artist to display/sell their goods; (2) suspend the peddling ordinance during these events; (3) waive the rental fee for use of town property for the market, and (4) deny approval of the request to waive the trash disposal fee. Commissioner Turner seconded the motion and the vote of approval was unanimous.

NEW BUSINESS:

b. Appointments - Parks/Recreation Board

Commissioner Turner read into the record a memo from Ed Dittmer, Chairman of the Parks/Recreation Board, dated June 5, 2008 regarding the resignation of James Dunn from the Parks/Recreation Board. (Copy of the memo from Ed Dittmer dated June 5, 2008 is attached.)

After discussion, a motion was made by Commissioner Turner to: (1) appoint Todd Dunnuck to fill James Dunn's position on the parks and recreation board as a regular member with a term expiring on December 31, 2009, and (2) appoint Lawrence Czajkoski to fill Todd Dunnuck's position on the parks and recreation board as an alternate member with a term expiring on December 31, 2010. Commissioner Noble seconded the motion and the vote of approval was unanimous.

CLOSED SESSION

The Mayor recessed the meeting at 8:25 p.m. for a break and reconvened the meeting at 8:35 p.m.

A motion was made by Commissioner Pitts to enter into the closed session in accordance with G.S. 143-318.11(a) (3) to discuss legal matters and attorney/client privilege. Commissioner Noble seconded the motion and the vote of approval was unanimous.

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While in closed session, Council members voted to seal the minutes of the closed session meeting in order to avoid frustrating the purpose of the closed session.

With no further items of discussion in closed session, Commissioner Turner made a motion to come out of the closed session meeting and re-enter the regular session of the town council meeting at 9:09 p.m. Commissioner Hyatt seconded the motion and the vote of approval was unanimous.

ADJOURN THE MEETING

With no further items of discussion, Commissioner Noble made a motion to adjourn the meeting at 9:10 p.m. Commissioner Turner seconded the motion and the vote of approval was unanimous.

ATTEST:



Mary A. Flack, MMC
Town Clerk

Mayor Jim Proctor