



**TOWN OF LAKE LURE
ZONING & PLANNING BOARD
REGULAR MEETING PACKET**

APRIL 17, 2018

9:30 A.M.

LAKE LURE MUNICIPAL CENTER



REGULAR MEETING OF THE ZONING AND PLANNING BOARD

April 17, 2018

9:30 a.m.

Lake Lure Municipal Center

AGENDA

1. Invocation
2. Roll Call
3. Approval of the Agenda
4. Approval of Minutes from the February 20, 2018 Regular Meeting
5. Old Business
 - a. Permitted Uses in Commercial Districts (May/June Review)
6. New Business
 - a. Soil Erosion and Sedimentation Control Ordinance (attached)
 - b. Discussion of Planning Projects List (draft to be submitted at meeting)
7. Monthly Report – March 2018
8. Adjourn



Minutes of the Regular Meeting of the
Zoning and Planning Board

Tuesday, February 20, 2018

Lake Lure Municipal Center

ROLL CALL

Present: Thomas M McKay, Chair
Bruce Barrett
Charlie Ellis
Norman McGlohon
William Morgan, Jr., Town Attorney

Absent: Jonathan Hinkle

Also Present: Shannon Baldwin, Community Development Director
Brad Burton, Code Enforcement Coordinator
Chief Sean Humphries

The meeting started at 9:30 a.m. Chairman McKay led the pledge of allegiance and gave the invocation.

APPROVAL OF THE AGENDA

Mr. Ellis made a motion to approve the agenda as presented. Mr. McGlohon seconded and all voted in favor.

APPROVAL OF THE MINUTES

Mr. McGlohon made a motion to approve the minutes of the January 16, 2018 regular meeting as presented. Mr. Ellis seconded and all voted in favor.

OLD BUSINESS

(A) Review RVR Amendment

Mr. Baldwin provided a short recap of what has been to date and spoke to the primary difference between the 2013 amendment and one currently under review. Although both seek to return the RVR program to an administrative process, the 2013 version.....

- (1) Required notice to adjoining owners; and
- (2) Had a mechanism to transform a use by right VROP application into a condition use type application subject to a quasi-judicial proceeding before the Board of Adjustment based on a complaint.

Mr. Morgan briefed the Board on his analysis of these issues in addition to his opinion related to legislation passed regarding rentals:

- (1) He took the position that posting a sign on the property after the “use by right” VROP permit has been issued started the 30 day “shot clock.” After 30 days, the VROP could no longer be appealed. The Board could add this kind of notice requirement as standard. He stated the owner has a right to do this anyway per the General Statutes.
- (2) He took the position that nowhere else in NC can a “use by right” be transformed into a conditional use subject to a quasi-judicial proceeding. He doubted this would hold up in court.
- (3) He took the position that the legislation passed by the General Assembly does not pertain to the town’s RVR program. He pointed out his interpretation is consistent with the School of Government’s.

Mr. Burton began going through the packet materials he provided the Board. He paused and introduced Chief Humphries who spoke briefly. Chief Humphries stated that the department does not have problems with vacation rentals greater than any other type of residential use. He did say they have to have folks move cars out of the streets and may be dispatched because folks are a little too loud, especially during July 4th. He stated these issues are usually resolved in an easy like manner. Mr. Burton continued and outlined a few tweaks he had made to the ordinance based on previous discussions.

The Board held a lengthy discussion regarding

- (1) Notice (by a sign on the property and/or website) The Board felt that if the matter was indeed “by right” a post-decision sign was unnecessary. There was; however, particular interest in incorporating NCGS 160A-388(b)(4) language on the Certificate of Zoning Compliance and Certificate of Occupancy.
- (2) Establishing an RVR as a use by right and following standard appeal process, and
- (3) Rental legislation passed by the General Assembly

In the end, consensus of the Board was to adopt the ordinance Mr. Burton placed in the Board's packet with a small adjustments.

NEW BUSINESS

None

PLANNING PROJECTS UPDATE

Mr. Baldwin presented an update to the Board and discussion held regarding items in his report.

Upon a motion by Mr. Barrett and seconded by Mr. Ellis, the meeting was adjourned at 10:50 a.m. The next regular meeting is scheduled for Tuesday, March 20, 2018 at 9:30 a.m. at the Lake Lure Municipal Center.

ATTEST

Thomas M McKay, Chair

Shannon Baldwin, Recording Secretary



TOWN OF LAKE LURE
Lake Operations Department

MEMORANDUM

To: Lake Lure Planning Board

From: Clint Calhoun, Environmental Management Officer

Subject: Revisions to Chapter 96, Soil Erosion and Sediment Control Ordinance

Date: April 13, 2018

At a previous Town Council meeting, at the request of the Environmental Management Officer, Council voted as part of the consent agenda to allow the Planning Board to collaborate with the Environmental Management Officer to make amendments to the Soil Erosion and Sediment Control Regulations. The ordinance enacting the regulations has not been revised since 2007 and there have been numerous changes to the NC Sedimentation Pollution Control Act and the State's model ordinance that have come about over the last few years. In order to keep our delegated program functioning per our Memorandum of Agreement with the Sedimentation Control Commission, the Town must amend the ordinance and adopt these changes.

So that you have an understanding of what is being amended or added, here is a bulleted list. All proposed changes comply with the Sediment Pollution Control Act:

- Changes to the square footage required to get a land disturbance permit. The amendments increase the maximum allowable area requirements for a land disturbance permit from 100 square feet to 2,000. It still requires a land disturbance permit for 100 square feet or more of disturbance near a lake or natural watercourse, but decreases the proximity from 50 feet to 35 feet.
- Changes regarding transference of permits to a new financially responsible party in the event of foreclosure or bankruptcy.
- Requirement for self-inspection and provision of inspection and maintenance records.
- Changes regarding appeal of plan disapprovals or decisions of the Erosion Control Officer to the Board of Adjustment rather than directly to Town Council.

These changes do not change any rules that apply to installation of erosion control measures and managing sediment on-site. With or without a permit, sediment and erosion control measures must be installed. Just because a land disturbance permit may not be required for a small project, the financially responsible owner is still obligated to prevent off-site sediment and establish ground cover within the required time frames.

Once these amendments are final, and the Planning Board has recommended the proposed ordinance to Town Council for approval, we will forward a copy of the draft ordinance to the

State Attorney General's Office for review. Town Council may approve the proposed ordinance contingent upon approval by the Attorney General's Office. Or, as an alternative, Town Council may wait on the review of the Attorney General's Office. Staff recommends the former rather than the latter. If there are any questions about the process or the proposed changes please let me know.

Suggested Motion (per Community Development Department)

I move the Planning Board does find the ordinance discussed consistent with the Town of Lake Lure 2007-2027 Comprehensive Plan in that it is being updated to comply with NC State Law, seeks to maintain "Water Quality, Sedimentation and Erosion Control" described in Section 10 of said Plan, and allows for more flexible use of property without having to secure a permit.

I further move said ordinance, written to revise Chapter 96, Soil Erosion and Sediment Control Regulations of the Town of Lake Lure Code of Ordinances, be presented to the Lake Lure Town Council for review, consideration and public hearing on May 8, 2018.

Ordinance No. _____
_____, 2018

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ORDINANCE NUMBER _____

**AN ORDINANCE RELATING TO THE ADMINISTRATION AND ENFORCEMENT
OF CHAPTER 96, SOIL EROSION & SEDIMENTATION CONTROL REGULATIONS,
OF THE TOWN OF LAKE LURE CODE OF ORDINANCES**

WHEREAS, the Town of Lake Lure Zoning and Planning Board has recommended modifications to Title IX, Chapter 96, concerning the administration and enforcement of the Soil Erosion & Sedimentation Control Regulations of the Town of Lake Lure; and

WHEREAS, the Lake Lure Town Council, after due notice, conducted a public hearing on the ____ day of _____, 2018, upon the question of amending the Soil Erosion & Sedimentation Control 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 TOWN COUNCIL VOTING IN THE AFFIRMATIVE.

SECTION ONE. Section 96.03 of the Soil Erosion & Sedimentation Control Regulations of the Town of Lake Lure, entitled, is hereby amended as follows:

§ 96.03 DEFINITIONS.

“Director” The Director of the Division of Energy, Mineral, and Land Resources of the Department of Environment and Natural Resources.

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

SECTION TWO. Section 96.04 of the Soil Erosion & Sedimentation Control Regulations of the Town of Lake Lure, entitled, is hereby amended as follows:

§ 96.04 SCOPE AND EXCLUSIONS.

(B) Exclusions from Regulated Land-Disturbing Activity.

(4) For the duration of an emergency, An activity activities essential to protect human life during an emergency, including activities specified in an executive order issued under G.S. 166A-19.30(a)(5).

(6) Activities undertaken to restore the wetland functions of converted wetlands to provide compensatory mitigation to offset impacts permitted under Section 404 of the Clean Water Act.

(7) Activities undertaken pursuant to Natural Resources Conservation Service standards to restore the wetland functions of converted wetlands as defined in Title 7 Code of Federal Regulations § 12.2 (January 1, 2014 Edition).

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

SECTION THREE. Section 96.05 of the Soil Erosion & Sedimentation Control Regulations of the Town of Lake Lure, concerning general requirements for land-disturbance permits, is hereby amended as follows:

§ 96.05 GENERAL REQUIREMENTS.

(A) Permit Required.

- (1) A land disturbance permit approved by the Erosion Control Officer shall be required for all non-exempt land disturbing activities, except that no permit shall be required for land disturbing activity:
 - (a) Where land disturbing activities are essential to protect human life and only for the duration of an emergency;
 - (b) Where land disturbing activities are within ~~50~~ 35 feet of a lake or natural watercourse and do not exceed 100 square feet in surface area; or
 - (c) Where land disturbing activities are not within ~~50~~ 35 feet of a lake or watercourse and do not exceed ~~500~~ 2,000 square feet in surface area.

(B) Plans Required.

- (1) ***Minor Plan Submission.*** A minor erosion and sedimentation control plan shall be prepared for all land disturbing activities subject to this chapter whenever more than ~~400~~ 2000 square feet (100 square feet if land disturbing activity is within 35 feet of a lake or natural watercourse) but less than one acre of land is to be uncovered. The plan shall be filed with and accepted for review by the Erosion Control Officer, ten or more working days prior to initiating the activity. Two (2) copies of the Plan shall be filed and upon approval, one copy, signed by the Erosion Control Officer, shall be returned to the applicant.

- (2) ***Major Plan Submission.*** A major erosion and sedimentation control plan shall be prepared for all land-disturbing activities subject to this chapter whenever one acre or more is to be uncovered. Three (3) copies of the Plan shall be filed with the Town, a copy shall be simultaneously submitted to the Director of the Division of Water Quality Resources at least 30 days prior to the commencement of the proposed activity.
- (3) ***Financial Responsibility and Ownership.*** Plans may be disapproved unless accompanied by an authorized statement of financial responsibility and ownership. This statement shall be signed by the person financially responsible for the land-disturbing activity or his attorney in fact. The statement shall include the mailing and street addresses of the principal place of business of (1) the person financially responsible, (2) the owner of the land, and (3) any registered agents. If the person financially responsible is not a resident of North Carolina, a North Carolina agent must be designated in the statement for the purpose of receiving notice of compliance or non-compliance with the Plan, the Act, this ordinance, or rules or orders adopted or issued pursuant to this ordinance. Except as provided in subsections (a) and (b) of this section, if the applicant is not the owner of the land to be disturbed, the draft erosion and sedimentation control plan must include the owner's written consent for the applicant to submit a draft erosion and sedimentation control plan and to conduct the anticipated land-disturbing activity.
- (a) If the applicant is the owner of the land to be disturbed and the anticipated land-disturbing activity involves the construction of utility lines for the provision of water, sewer, gas, telecommunications, or electrical service, the draft erosion and sedimentation control plan may be submitted without the written consent of the owner of the land, so long as the owner of the land has been provided prior notice of the project.
- (b) The Town may transfer an erosion and sedimentation control plan approved pursuant to this section without the consent of the plan holder to a successor-owner of the property on which the permitted activity is occurring or will occur as provided in this subsection.
- (i) The Town may transfer a plan if all of the following conditions are met:
- (a) The successor-owner of the property submits to the local government a written request for the transfer of the plan and an

authorized statement of financial responsibility and ownership.

(b) The Town finds all the following:

(i) The plan holder is one of the following:

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

(ii) The successor-owner holds title to the property on which the permitted activity is occurring or will occur.

(iii) The successor-owner is the sole claimant of the right to engage in the permitted activity.

(iv) There will be no substantial change in the permitted activity.

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

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

(e) Notwithstanding changes to law made after the original issuance of the plan, the Town may not impose new or different terms and conditions on the plan without the prior express consent of the successor-owner. Nothing in this subsection shall prevent the Town from requiring a revised plan pursuant to G.S. 113A-54.1(b).

- (7) ***Timeline for Decisions on Plans.*** The Erosion Control Officer will review the plan and within 10 working days of receipt thereof for Minor Plans or 30 days for Major Plans, will notify the person submitting the Plan that it has

been approved, approved with modifications, approved with performance reservations, or disapproved. Failure to approve, approve with modifications, or disapprove a complete Plan within the allocated time of receipt shall be deemed approval. The Erosion Control Officer will review each revised Plan and within 5 days of receipt thereof for Minor Plans or 15 days for Major Plans, will notify the person submitting the Plan that it has been approved, approved with modifications, approved with performance reservations, or disapproved. Failure to approve, approve with modifications, or disapprove a revised Plan within the allocated time of receipt shall be deemed approval.

- (10) ***Other Disapprovals.*** The Erosion Control Officer may disapprove a Plan or draft Plan if implementation of the Plan would result in a violation of the rules adopted by the Environmental Management Commission to protect riparian buffers along surface waters. The Erosion Control Officer may disapprove a plan or disapprove a transfer of a plan under § 96.05 (B)(3) upon a finding that an applicant, or a parent, subsidiary, or other affiliate of the applicant:
- (a) Is conducting or has conducted land disturbing activity without an approved Plan, or has received notice of violation of a Plan previously approved by the Town or the Commission pursuant to the Act and has not complied with the notice within the time specified in the notice;
 - (b) Has failed to pay a civil penalty assessed pursuant to the Act or a local ordinance adopted pursuant to the Act by the time the payment is due;
 - (c) Has failed to substantially comply with State rules or local ordinances and regulations adopted pursuant to the Act.
 - (d) Has been convicted of a misdemeanor pursuant to G.S. 113A-64(b) or any criminal provision of a local ordinance adopted pursuant to the Act.

~~For purposes of this subsection, an applicant's record may be considered for only the two years prior to the application date.~~

In the event that a plan or a transfer of a plan is disapproved pursuant to this subsection, the Town shall notify the Director of the Division of Energy, Mineral, and Land Resources of such disapproval within ten days. The Town shall advise the applicant or the proposed transferee and the Director in writing as to the specific reasons that the plan was disapproved. Notwithstanding the provisions of § 96.17, the applicant may appeal the Town's disapproval of the plan to the Commission. For purposes of this

subsection, an applicant's record or the proposed transferee's record may be considered for only the two years prior to the application date.

- (17) **Self-Inspections.** The landowner, the financially responsible party, or the landowner's or the financially responsible party's agent shall perform an inspection of the area covered by the plan after each phase of the plan has been completed and after establishment of temporary ground cover in accordance with G.S. 113A-57(2). The person who performs the inspection shall maintain and make available a record of the inspection at the site of the land-disturbing activity. The record shall set out any significant deviation from the approved erosion control plan, identify any measures that may be required to correct the deviation, and document the completion of those measures. The record shall be maintained until permanent ground cover has been established as required by the approved erosion and sedimentation control plan. The inspections required by this subsection shall be in addition to inspections required by G.S. 113A-61.1

Where inspections are required by § 96.05 (B)(17) of this chapter and G.S. 113A-54.1(e), the following apply:

- (a) The person who performs the inspection shall make a record of the site inspection by documenting the following items:
- (i) All of the erosion and sedimentation control measures, practices and devices, as called for in a construction sequence consistent with the approved erosion and sedimentation control plan, including but not limited to sedimentation control basins, sedimentation traps, sedimentation ponds, rock dams, temporary diversions, temporary slope drains, rock check dams, sediment fence or barriers, all forms of inlet protection, storm drainage facilities, energy dissipaters, and stabilization methods of open channels, have initially been installed and do not significantly deviate (as defined in sub-item (a)(v) of this rule) from the locations, dimensions and relative elevations shown on the approved erosion and sedimentation plan. Such documentation shall be accomplished by initialing and dating each measure or practice shown on a copy of the approved erosion and sedimentation control plan or by completing, dating, and signing an inspection report that lists each measure, practice or device shown on the approved erosion and sedimentation control plan. This documentation is required only upon the initial installation of

the erosion and sedimentation control measures, practices and devices as set forth by the approved erosion and sedimentation control plan or if the measures, practices and devices are modified after initial installation;

(ii) the completion of any phase of grading for all graded slopes and fills shown on the approved erosion and sedimentation control plan, specifically noting the location and condition of the graded slopes and fills. Such documentation shall be accomplished by initialing and dating a copy of the approved erosion and sedimentation control plan or by completing, dating, and signing an inspection report;

(iii) the location of temporary or permanent ground cover, and that the installation of the ground cover does not significantly deviate (as defined in sub-item (a)(v) of this rule) from the approved erosion and sedimentation control plan. Such documentation shall be accomplished by initialing and dating a copy of the approved erosion and sedimentation control plan or by completing, dating and signing an inspection report;

(iv) that maintenance and repair requirements for all temporary and permanent erosion and sedimentation control measures, practices and devices have been performed. Such documentation shall be accomplished by completing, dating and signing an inspection report (the general storm water permit monitoring form may be used to verify the maintenance and repair requirements); and

(v) any significant deviations from the approved erosion and sedimentation control plan, corrective actions required to correct the deviation and completion of the corrective actions. Such documentation shall be accomplished by initialing and dating a copy of the approved erosion and sedimentation control plan or by completing, dating and signing an inspection report. A significant deviation means an omission, alteration or relocation of an erosion or sedimentation control measure that prevents the measure from performing as intended.

(b) The documentation, whether on a copy of the approved erosion and sedimentation control plan or an inspection report, shall include the name, address, affiliation, telephone number, and signature of the person conducting the inspection and the date of the inspection. Any

relevant licenses and certifications may also be included. Any documentation of inspections that occur on a copy of the approved erosion and sedimentation control plan shall occur on a single copy of the plan and that plan shall be made available on the site. Any inspection reports shall also be made available on the site.

(c) The inspection shall be performed during or after each of the following phases of a plan:

(i) installation of perimeter erosion and sediment control measures;

(ii) clearing and grubbing of existing ground cover;

(iii) completion of any phase of grading of slopes or fills that requires provision of temporary or permanent ground cover pursuant to G.S. 113-57(2);

(iv) Completion of storm drainage facilities;

(v) Completion of construction or development; and

(vi) Quarterly until the establishment of permanent ground cover sufficient to restrain erosion or until the financially responsible party has conveyed ownership or control of the tract of land for which the erosion and sedimentation control plan has been approved and the Town has been notified. If the financially responsible party has conveyed ownership or control of the tract of land for which the erosion and sedimentation control plan has been approved, the new owner or person in control shall conduct and document inspections quarterly until the establishment of permanent ground cover sufficient to restrain erosion.

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

SECTION FOUR. Section 96.07 of the Soil Erosion & Sedimentation Control Regulations of the Town of Lake Lure, concerning standards for land-disturbing activities, is hereby amended as follows:

§ 96.07 STANDARDS FOR LAND-DISTURBING ACTIVITY

The following standards shall be met when undertaking any land-disturbing activity.

(A) **Buffer Zone.**

- (2) **Trout Buffer.** Waters that have been classified as trout waters by the Environmental Management Commission shall have an undisturbed buffer zone 25 feet wide or of sufficient width to confine visible siltation within the 25% of the buffer zone nearest the land-disturbing activity, whichever is greater. Provided however, that the Commission may approve plans which include land-disturbing activity along trout waters when the duration of said disturbance would be temporary and the extent of said disturbance would be minimal.

(a) Projects On, Over or Under Water. This subdivision shall not apply to a land-disturbing activity in connection with the construction of facilities to be located on, over, or under a lake or natural watercourse.

~~(a)~~(b) Trout Buffer Measurement. The 25 foot minimum width for an undisturbed buffer zone adjacent to designated trout waters shall be measured horizontally from the top of the bank.

~~(b)~~(c) Limit on Land Disturbance. Where a temporary and minimal disturbance is permitted as an exception to the trout buffer, land disturbing activities in the buffer zone adjacent to designated trout waters shall be limited to a maximum of 10% of the total length of the buffer zone within the tract to be disturbed such that there is no more than 100 linear feet of disturbance in each 1000 linear feet of the buffer zone. Larger areas may be disturbed with the written approval of the Director.

IMAGE TO BE RETAINED.

~~(e)~~(d) Limit on Temperature Fluctuations. No land disturbing activity shall be undertaken within a buffer zone adjacent to designated trout waters that will cause adverse temperature fluctuations, as set forth in 15 NCAC 2B.0211 "Fresh Surface Water Classification and Standards."

- (B) **Graded Slopes and Fills.** The angle for graded slopes and fills shall be no greater than the angle which can be retained by vegetative cover or other adequate erosion control devices or structures. In any event, slopes left exposed will be planted or otherwise provided with ground cover, devices, or structures sufficient to restrain erosion upon completion of any phase of grading, within ~~10 working days or~~ 21 calendar days, ~~whichever period is shorter.~~ The angle for graded slopes must be

demonstrated as stable. Stable is the condition where the soil remains in its original configuration, with or without mechanical constraints.

- (F) The land-disturbing activity shall be conducted in accordance with the approved erosion and sedimentation control plan.

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

SECTION FIVE. Section 96.10 of the Soil Erosion & Sedimentation Control Regulations of the Town of Lake Lure, concerning borrow and waste areas, is hereby amended as follows:

§96.10 BORROW AND WASTE AREAS

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

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

SECTION SIX. Section 96.12 of the Soil Erosion & Sedimentation Control Regulations of the Town of Lake Lure, concerning operations in lakes and natural watercourses, is hereby amended as follows:

§96.12 OPERATIONS IN LAKES OR NATURAL WATERCOURSES.

Land disturbing activity in connection with construction in, on, over, or under a lake or natural watercourse shall be planned and conducted in such a manner as to minimize the extent and duration of disturbance of the stream channel. The relocation of a stream, where relocation is an essential part of the proposed activity, shall be planned and executed so as to minimize changes in the stream flow characteristics. A permit from the U.S. Army Corps of Engineers and NC Division of Water Quality Resources may be required prior to undertaking any such activity.

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

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SECTION SEVEN. Paragraph (D) of Section 96.15 of the Soil Erosion & Sedimentation Control Regulations of the Town of Lake Lure, concerning existing uncovered areas, is hereby created to read as follows:

- (D) This rule shall not require ground cover on cleared land forming the future basin of a planned reservoir.

SECTION EIGHT. Section 96.17 of the Soil Erosion & Sedimentation Control Regulations of the Town of Lake Lure, concerning appeals, is hereby amended as follows:

§96.17 APPEALS

- (A) Except as provided in paragraph (B), the appeal of a disapproval or approval with modifications of a plan shall be governed by the following provisions:

- (A)(1) The disapproval or modification of any proposed plan by the Erosion Control Officer may be appealed to the ~~Town Council~~ Board of Adjustment if the person submitting the plan submits written request for such appeal within 15 days after receipt of written notice of disapproval or modifications.
- (B)(2) The appeal held pursuant to this section shall be conducted by the ~~Town Council~~ Board of Adjustment within 30 days after the date of the appeal or request for a hearing upon which the Town Council shall render its final decision.
- (3) The Board of Adjustment shall make recommendations to the Town Council within _____ days after the date of the hearing on any plan.
- (4) The Town Council will render its final decision on any plan within _____ days of receipt of the recommendations from the Board of Adjustment.
- (C)(5) If the Town Council upholds the disapproval or modification of a proposed plan following the hearing, the person submitting the plan shall then be entitled to appeal the Town's decision to the Commission as provided in G.S. 113A-61(c) and 15 NCAC 4B .0118(d).
- (B) In the event that a plan is disapproved pursuant to §96.05(B)(10) of this chapter, the applicant may appeal the Town's disapproval of the plan directly to the Commission.

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SECTION NINE. Paragraph (A) of Section 96.18 of the Soil Erosion & Sedimentation Control Regulations of the Town of Lake Lure, concerning inspection of land-disturbing activities is hereby amended as follows:

- (A) **Inspection.** The Erosion Control Officer or other qualified persons authorized by the Town ~~a designee~~ will periodically inspect land disturbing activities to ensure compliance with the Act and this chapter, or rules or orders adopted or issued pursuant to this chapter, and to determine whether the measures required in the plan are effective in controlling erosion and sediment resulting from land disturbing activity. Notice of the right to inspect shall be included in the certificate of approval of each erosion control plan.

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

SECTION TEN. Paragraph (C) of Section 96.18 of the Soil Erosion & Sedimentation Control Regulations of the Town of Lake Lure, concerning notices of violation, is hereby amended as follows:

- (C) **Notice of Violation.** If it is determined that a person engaged in land disturbing activity has failed to comply with the Act or this chapter, or rules, or orders adopted or issued pursuant to this chapter, a notice of violation shall be served upon that person. The notice may be served by any means authorized under GS 1A-1, Rule 4. The notice shall specify a date by which the person must comply with the Act or this chapter, or rules, or orders adopted pursuant to this chapter, and inform the person of the actions that need to be taken to comply with the Act or this chapter, or rules or orders adopted pursuant to ~~this chapter~~ thereto. However, no time period for compliance need be given for failure to submit an erosion control plan for approval or for obstructing, hampering or interfering with an authorized representative while in the process of carrying out his official duties. Any person who fails to comply within the time specified is subject to the civil and criminal penalties provided in this chapter.

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

SECTION ELEVEN. Any person violating the provisions of this ordinance shall be subject to the penalties set forth in Section 96.999 of the Soil Erosion & Sedimentation Control Regulations.

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

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

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

Adopted this ____ day of _____, 2018.

Kevin Cooley, Mayor

ATTEST:

Michelle Jolley
Interim Town Clerk

Approved as to form:

William Morgan
Town Attorney

Community Development Department
Monthly Report
for
March 2018

Board/Committee Activity

Zoning and Planning Board, Regular Meeting, March 20, 2018

- Meeting Cancelled

Board of Adjustment, Regular Meeting, March 27, 2018

- ZV-2018001—Request of Largo LLC for 11' Lakefront setback Variance for new commercial construction—Granted

Staff Activity

Zoning Administration/Code Enforcement

Certificate of Zoning Compliance Issued	9
Certificates of Zoning Compliance Denied	0
Certificates of Occupancy Issued.....	3
Vacation Rental Operating Permits Issued	2
Sign Permits Issued.....	9 (temp) 0 (perm)
Complaints Logged.....	1
Complaints Investigated.....(still currently under investigation)	1
Notices of Violation Issued.....	0
Civil Penalties Issued.....	0
Stop Work Orders Issued.....	0
Improperly Posted Address Notifications Issued.....	0
Abandoned/Dilapidated Structures Cases Open	0 (0 closed by demo)
BOA Hearings Processed.....	1
Demolition Permits Issued.....	0
VROPs Active to Date.....	302

Subdivision Administration

Preliminary Plat:	0
Final Plat	0
Minor Subdivisions:.....	0
Exempt Plat Reviews:	0
Lots Approved	0

Review Officer (per GS 47-30):	
Plats Reviewed:	3

Plats Approved:3

Grants Administration

Total Grants in Progress (see below): \$5,000

Grants submitted recently and waiting for review: \$5,000 - **APPROVED**

- EV Charging Station - \$5,000 (reimbursement after unit installed)

Community Development Director Activity Overall (Baldwin)

Current ongoing projects associated with the department staff:

1. Continuing Care Developments for Senior Citizens –Tommy Hartzog reported that ground should break within a couple of weeks on this project 11/3/16. Hartzog continues to describe the effort as moving forward 4/3/17. Met with Tore Borhaug to discuss his type of operation 10/3/17. Introduced Tore to Tommy Hartzog via email shortly thereafter. TM recently stated he had been discussing the water system for a project being planned contiguous to the town limits with Hartzog and Town Council.
2. Business Needs Initiatives (BNI) – Planning Board is currently looking at ways to direct customers to the Arcade building to help businesses. Discussed at the 11/15 Planning Board Meeting. Result: Improve Islands in support of local businesses and community events. Town Council directed staff to begin this project. Planning Board reviewed and approved wayfinding project to Town Council. Town Council approved project. Removing unhealthy trees was accomplished. Next phase will be to develop a master plan and work secure partners to invest in the redevelopment of islands. Scheduled for next fiscal year 6/8/17. Completed Tree Trimming and East Island Power Pole Removal projects 5/17 and 10/17 respectively. Islands Redevelopment Master plan on hold until Town Center Master Plan is amended with work through Destination By Design 12/5/17.
3. TOLL-CRV Commercial Corridor Connector – Pre-application submitted to ARC for consideration. Met with Equinox, Tm, and other stakeholders in October 2016. Progress is being made 11/5/16. Grant submitted 12/6/16. Received additional questions from ARC. TM and I collaborated on a response. Still waiting to hear results 4/3/17. Received news from ARC that we did not secure grant funds 5/25/17. We need to follow up and secure feedback from ARC 6/8/17. TM and CDD conferenced with Olivia Collier 6/9/17. She stated, “You guys know your economy is tourism-based and this will help you achieve a stronger economy. We know this is an important corridor project for your 2 towns. Your project is a great way to enhance your economy._If we had the money we would have funded your project. We liked it overall, it just didn’t rank above the others who applied.” She also stated, “Having a shovel ready (build) application would have been more competitive. Your application was design + build. It needs to be “build” to score higher._Having site specific plans for properties along the way would have made your application stronger. Identify needs, develop construction plans for project, demonstrate how project meets needs. We like the application but you are competing

against projects that create jobs. (For hypothetical example: develop construction plans for sewer, ask for ARC money to install sewer line. Sewer line attracts hotel which creates jobs while tourism is enhanced). We needed to know we are funding more than a sidewalk. Your application did not identify a funding source for Phase II. Identify a funding partner for Phase II will increase your score, too.”

4. Gateway - LLFB West End Plan. *This project concerns itself with ultimate disposition of the El Sureno property and is intimately connected with LLFB West End Improvements as well as linkages for the CRV Pedestrian Facility.* Improvements are well underway as of 11/6/16. Recently reviewed plans with Kathy Tanner and Susie Ellis in meeting with TDA Director on 7/31/17. Considerable progress has been made by the LLFB implementing their plan 11/3/17. Recently had conversations with Kathy Tanner regarding the need for permits relative to steps and handrail. Let her know we are moving to extend walkway under new bridge 3/29/18.
5. Wayfinding System – Scheduled to go before Planning Board on 11/15 and Town Council on 12/13/16 for approval. Approved by Town Council 12/13/16. Met with Teague Engineering and Hoffman on 1/13/17. Staff continues to communicate with Teague Eng. 2/1/17. TM briefed CDD on new circumstances 5/3/17. No new news as of 6/8/17. Don Cason, TDA Director, dropped by to discuss case 7/28. Project at standstill until TDA works out issues with Teague 11/3/17. Staff met with TDA on 3/1/18 to help jump start new TDA effort. Staff sent all documents to TDA so that they can pick this up again 3/29/18.
6. Vision Book - Meeting with Ron Nalley and Meg Nealon to discuss on 10/7/16. Project on hold. Project placed on CP Project Calendar.
7. EV Charging Station – Welcome Center - Requested \$20,000 from Duke Energy but only received \$5,000. Asking for input from Town Council on 1/10/17. Council would like TDA to cover \$2,500 cost overage estimated. Sent request to Don Cason for \$2,500 on 1/13/17. Cason emails news that TDA agreed to fund request. Nalley sent agreement back to Duke for the \$5,000. Staff reported to Council at 1/31/17 meeting monies have been approved and implementation is next step 2/1/17. CDD released RFP for Charging Station on 2/24/17. Received three bids thus far. CDD asked vendors to bid dumb units and set a deadline for 5/5/17. CDD had TM sign contract 6/8/17 for non-networked unit. Unit should be ready by 8/7/17. Met with PWD on site to pick place for unit 8/4. Because of the Morse Park Plan now underway, we are in a holding pattern until the MPP is finalized. Notified Bob Cameron and TM. They agree. Communicated with stakeholders on 10/3/17 regarding MPP development progress. Met with Commissioner Cameron and PWD regarding plans and supplies list 10/19. PWD is ordering supplies 10/19. PWD ordered #5 rebar and plan calls for #6. PWD wants plan designer to ok #5 rebar and asked if I could email designer 11/3/19. EVCS picked-up and PW installed. Waiting for Bob Cameron to communicate with PW to coordinate hook-up 12/5/17. Unit connected 1/2/18. Sam to contact Duke Energy and solicit reimbursement per agreement 1/2/18. Sam sent invoices to Duke as a request for reimbursement. CDD is working with Marshall Williams, P.E., NCDOT regarding highway signs as well as Parks and

Recreation Board. CDD reviewed Valerie H.'s article about the EVCS and offered recommendations 2/5/18. Received word back from NCDOT 3/28/18 that we did not qualify for their sign program. We are working on strategy to have signs placed on highway in strategic location. Worked with Valerie and Brightfiled regarding operational spec.'s and outward communication to EV drivers 3/29/18.

8. Lake Lure Classical Academy – Facilitating review and approval of LLCA request by January 31, 2017. DRC Meeting held 1/3/17. Planning Board meeting scheduled for 1/17/17. Planning Board recommended approval. Town Council approved 1/31/17. CDD to create a project tracker regarding unfinished items. Met with town staff (PWD, CEC, PC) twice to discuss items and town position. Sent notes to TM. Meeting set for 8/2 10 am in Town Hall with LLCA. Held meeting and sent notes to TM, PWD and PC on 8/2 with a request to edit for accuracy. No edits suggested as of 8/8. Received draft As Built from Eric Kunath on 8/30. Sent to CEC, PWD, FC and TM for comments. As of 9/1/17 only CEC has responded. Many emails have been exchanged and Russ Pitts has visited office twice. As Builts will be separated from plat depicting easements. Plat will be recorded. LLCA will have engineer certify As Builts. TM is communicating with TA regarding agreement and easements 11/3/17. Agreement and easement documents taken to LLCA for signatures to meet deadline imposed by LLCA. Communicated with Charlie Ellis, Treasurer, for LLEF (new owners). He will work on getting the easements and agreement signed and recorded 12/5/17. No change as of 1/2/18. Brad is working with Charlie Ellis regarding next steps. Charlie sent email to Brad 3/28/18 regarding authorization to proceed.
9. Hodge Property – Town Council approved next steps. Brad Burton to communicate with RC Building Inspection. CDD to RFP geo-tech work. Received proposal from Will Gentry per TC approval 4/3/17. TM, CEC and William Morgan conferenced on 4/27/17. Council authorized staff to begin proceedings under Chapter 83.02(j) regarding nuisance properties. Staff is working closely with town attorney 6/8/17. Civil Citation sent 7/19. 15+ days to “appear before manager” comes and goes with no owner or Representative of Duck Cove properties meeting or “appearing before” Town Manager 8/7/17. Second Civil Citation has been issued. CEC is ready to issue a 3rd Citation as of 9/1/17. CEC is ready to issue 4th Citation as of 11/3/17. 4th citation sent and 5th (and final citation) is set to go out this week 12/5/17. 5th citation sent. CEC is now communicating with William Morgan regarding next steps 1/2/18. William Morgan and Staff briefed ZBP on the issue. William Morgan and Staff reported to Town Council next steps at February Meeting 2/5/18. Gave William Morgan feedback on complaint filed in the lawsuit against property owners 3/14/18. No change 3/29/18. Sent Kathy Ruth an email on 4/9/18 requesting information on the condemnation carried out by County Building Inspections.
10. ABC Store Walkway – Authorized survey, plat, and plan development to use in an encroachment agreement with NCDOT and to bid construction. Survey authorized 3/1/17. Still working with Jason Spencer on design detail 4/3/17. Met with TM on 4/26/17. TM wants replacement of retaining wall added to bid option. CDD, PWD and TM met with NCDOT onsite 5/30/17. CDD, PWD and TM met with Tomlin onsite to gather ideas 6/8/17. Created bid documents and released. Received three bids. Took

bids to Council. Council rejected all bids and asked that the project be bid with different three scenarios. NCDOT sent back encroachment agreement 7/31/17. New RFP released and CDD set 11/14 as deadline for bids. CDD requested ABC Store Walkway Bid Award be placed on 11/14 TC agenda for decision 11/3/17. Tomblin awarded bid. David Arrowood is working toward securing contract from Tomblin. Met with David Arrowood today (12/5/17) and he gave assurance he would follow up with Tomblin regarding contract 12/5/17. I emailed Brain Tomblin 1/2/18 bulleted list of items needed by the Town so that work may begin in 2018 1/2/18. I sent a second reminder regarding requirements on 1/9/18. Met with David Arrowood and Tomblin Concrete on 3/5/18. Walkway will be complete within 10 days weather permitting. All sidewalk concrete has been poured 3/14/18. Spoke with David Arrowood on 3/29/18 about the need to get groundcover down per Clint. David is working to have it sewed or mulched ASAP. Signs have been ordered, the site has been registered with various mapping companies, the area around the unit is scheduled to be paved and the spaces are scheduled to be painted per PWD 4/13/18.

11. Westside Connector (OSBR) – CDD will be working with TM to reboot project. Drafted a resolution, vetted with staff and other officials, and finalized for TC to consider at its April 11 meeting. TC approved and Old Sand Branch Road Sign ordered by PW. Sign has been installed 6/8/17. No additional steps taken to my knowledge as of 1/2/18. Alerted on 3/29/18 to the fact by Kat Canant that dispatch has not changed Carsons Way to Old Sand Branch Road. Kat is going to follow-up 3/29/18.
12. Welcome Center Restrooms - Need to start working on RFQ for architects and RFP for contractors as a follow up to design 12/5/17. Met on 12/14/17 with steering committee. Solicited a proposal from architect recommended by Equinox. Followed up with Destination By Design who eagerly responded. Have a meeting scheduled with DBD and steering committee for 1/8/18 to discuss project. Steering Committee recommended architect Jesse Plaster (JP) to Town Council. Ron Nalley to take scope of work and agreement to Town Council 1/9/18 for review and approval. Town Council approved 1/9. CDD sent signed agreement to JP. Staff to follow up with appraisal (Bud Tanner) and a request of Vic Knight for plans for existing building layout 1/9/18. JP sent concept floor plan to CDD, who solicited comments from Steering Committee RE the same. CDD sent comments to JP 2/5/18. Sent final input to Jesse on 3/1/18. Still waiting to hear from Jesse Plaster regarding final floor plan. Sent reminder email on 3/6/18. Jesse Plaster met with Steering Committee to finalize floor plan 3/14/18. Jesse sent floor plans and I sent them to local contractors for consideration on 3/28/18 that the RFP was coming. CDD sent Jesse 3 more names of contractors and the Mayor sent 2. After an email was sent 4/12/18 to Jesse requesting an update, he left a message letting us know he is working on it.
13. Peak Season Parking Plan – Met with Tommy Hartzog to start gathering ideas on 6/22. Ron Morgan to send debrief notes from community events 6/28. Asked Ron Morgan for notes 12/4/17. Had meeting scheduled with Ron Morgan for 12/8 and cancelled due to inclement weather. Sent request to Ron Morgan on 1/2/18 for a new meeting. RM sent

notes back as well as photo (very blurry) of the map. CDD sent notes to Mayor Cooley on 1/25/18 for review and feedback 2/5/18. No change as of 3/29/18.

14. Zoning Regulations Studies Underway (either authorized or requested) - (1) Retaining Wall and Structures definitions review (Complete); (2) Civil Penalties Assessment (Complete); (3) Permitted uses in commercial districts; (4) Size of "For Sale" signs allowed on commercial property (Complete); (5) Provisions related to tree protection/removal on individual lots (Complete); (6) General provisions per 2015 memo by Commissioner Webber; (7) Down lighting requirement for commercial properties; (8) Residential Vacation Rental process (Complete); (9) Vehicle Signs of a Political Nature (10) Subdivision Regulations Amendment that clarifies Planning Board Authority to amend Previously Approved Plats, (11) General Changes per Running List kept by CEC and
15. VROP Amendment – Draft ordinance has been written by CEC and reviewed by Town Attorney, TM and CDD. Changes have been made per ZPB review and feedback on 1/16/18. BOA gave recommendation regarding changing process from quasi-judicial back to administrative. ZPB to give final review of ordinance on 2/20/18 before forwarding to Town Council for Public Hearing on 3/13/18. Commissioner Webber forwarded an earlier version he drafted. CDD forwarded this to the Town Attorney for review and opinion regarding the provision that transforms/converts a permitted use to a conditional use if appealed 2/5/18. Planning Board recommended ordinance to Town Council for review and possible approval at 3/13/18 Public Hearing. Town Council voted to adopt the amendment and fee schedule 3/14/18. Brad changed application and fee schedule week of 3/19/18. (Complete)
16. Permitted Uses in Commercial Districts – CDD has been compiling a long list of permitted uses in commercial districts of municipal cohorts in the effort to study the TOLL's permitted uses. A partial list was shared with the Planning Board on 1/16/18. CDD will continue to work on the list until complete and ready for review for the 5/15/18 meeting.
17. Down Lighting Requirements for Commercial Properties – CDD forwarded standards to Commissioner Cameron for review on 9/6/18. CDD emailed CC a reminder 2/5/18. Received word from Commissioner Cameron he is working on the review. Received email from Ron Nalley week of 3/5/18 regarding the same. Commissioner Cameron sent feedback regarding regulations. TM sent link to dark skies regulations. CEC sent email with link to dark skies regulations 3/12/18.
18. Beer, Wine & Mixed Beverages Sales Legislation and Brewery/Winery Zoning Regulations Comparisons – Sent a request to Town Attorney William Morgan requesting a review of the legislation passed for Lake Lure and Zoning Regulations (Ordinance No. 14-10-14) passed by Town Council relative to breweries, wineries, etc. on 11/29/17. Sent a reminder on 12/21/17. Sent another reminder on 1/3/18. William Morgan responded in an email and reported findings to ZPB at the regular January meeting 2/5/18. (Complete)

19. Strip Center – Town Council requested CDD assume lead staff position on this project. Met with Ron Nalley on 2/20. Had lunch with Ric Thurlby on 3/1. Have been making multiple site visits to understand property, especially water related issues. Met with David Arrowood and Rutherfordton Public Work to video the culvert on 3/6/18. There are concerns related to water on the site. Shared those concerns with Mayor Cooley and Ron Nalley on 3/6/18. Met with Mayor Cooley and Charlie Ellis on 3/13/18. Created and sent memo to Town Council based on the meeting held on 3/13/18. Met with architect, estimator, steering committee on-site and in Town Hall to T-up next steps. Town Council to consider 4/10/18. Town Council approved resolution and associated contracts to reset/reboot the project 4/13/18.

Had lunch with Ric Thurlby to discuss Strip Center project, 3/1

Met with Charlie Ellis and Mayor Cooley to discuss Strip Center project, 3/13

Attended Town Council meeting, 3/13

Attended Department Head meeting, 3/14

Met with Welcome Center Renovation-Restrooms Steering Committee, 3/14

Attended CIP meeting with Town Council, 3/22

Met with LOA, ECO and TM to discuss Department transition, 3/27

Held Strip Center Steering Committee Meeting with Architects and Construction Estimator, 3/28

C. Shannon Baldwin, AICP
Community Development Director

Date