





REGULAR MEETING OF THE ZONING AND PLANNING BOARD

February 20, 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 January 16, 2018 Regular Meeting
5. Old Business
 - a.) Review RVR Amendment
6. New Business
7. Planning Projects Update
8. Adjourn



Minutes of the Regular Meeting of the
Zoning and Planning Board

Tuesday, January 16, 2018

Lake Lure Municipal Center

ROLL CALL

Present: Thomas M McKay, Chair
Bruce Barrett
Charlie Ellis
Jonathan Hinkle
Norman McGlohon
John Moore, Council Liaison
William Morgan, Jr., Town Attorney

Absent: n/a

Also Present: Shannon Baldwin, Community Development Director
Brad Burton, Code Enforcement Coordinator
Michelle Jolley, Recording Secretary

The meeting started at 9:32 a.m. Chairman McKay led the pledge of allegiance and Mr. Barrett gave the invocation.

APPROVAL OF THE AGENDA

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

APPROVAL OF THE MINUTES

Mr. Hinkle made a motion to approve the minutes of the December 19, 2017 regular meeting as presented. Mr. Ellis seconded and all voted in favor.

OLD BUSINESS

Mr. Baldwin relayed that the For Sale Sign amendment and Tree Protection provisions of the Regulations were passed by Town Council at the last Town Council Meeting. Mr. Burton will get those updated in the regulations and provide the revisions (specific pages) to the Board.

NEW BUSINESS

(a) Review RVR Amendment

Mr. Burton provided the Board with a memo from Mr. Morgan regarding vacation rental operating permit (VROP). Mr. Baldwin stated the amendment drafted by Burton returns the process to an administrative review process for the vacation rental operating permits as it was originally adopted, however standards would be added for staff to apply to residential vacation rentals. He reviewed the costs of operating the quasi-judicial program versus revenues generated from application fees in keeping with a report he distributed to the Board. He stated the bottom line is the town operates the program in the red. All total the town spent approximately \$12,000 (in time) on the current program and generated about \$6,000 in revenue. Mr. Burton reviewed the current VROP process. He stated that the upcoming World Equestrian Games in 2018 would probably bring an uptick in VROP requests. He pointed out that a vacation rental has never been denied, to his knowledge, but conditions have been applied when needed. In his cover memo for the draft amendment, Mr. Burton recommended that the Board finalize the amendment in ordinance form and send to Town Council for consideration and adoption. Mr. Baldwin pointed out that another meeting for this discussion has been set aside in February, if needed, to finalize this ordinance before it is forwarded to Town Council in March for public hearing and consideration.

Commissioner Moore asked about rentals of less than two weeks a year not being required to have a permit. Mr. Ellis noted that provision is in the current ordinance. Mr. Burton stated he spoke with realtors who relayed to him that some folks coming to participate are planning to visit from two weeks to a month or longer. He noted that one amendment proposed is to require one parking space for every two bedrooms, on the property. Submittal of a property record card along with the application was another requested change to the regulations. Mr. Burton explained that the applicant has the option to appeal to the Board of Adjustment. He noted in his year working for the Town, he has only had one complaint come in about a VROP. He stated he notified the agent of the property and the issue was handled. The process for complaints would stay the same if changed to an administrative review process. Chairman McKay asked if revocation of a permit would be possible. Mr. Burton stated that he can revoke a permit, if needed. He noted that civil penalties could also be applied. Mr. Ellis pointed out that revocation of permits is included in the regulations. Mr. Burton noted that revocation of a permit can also be appealed. Mr. Baldwin stated that other provisions in the Town Code would be applied to correct undesirable behavior of those using staying vacation rentals - noise ordinance, prohibition of parking in public streets, etc. Discussion ensued.

Mr. Ellis suggested a change in §92.042(A)(2), stating that an updated VROP would not be required when there is an owner change; just a name update. He pointed out that 184 permits are vested and Mr. Baldwin stated that these 184 permits could be pulled and placed into a separate file with the current regulations. Mr. Morgan felt that updated information for new ownership is

reasonable but did not feel the Town would want to require a new owner of a vacation rental to obtain a new VROP. The Board held discussion and agreed.

After much discussion, the Board and staff agreed that it should be clear that cessation in use of vacation rentals for five consecutive years would render VROP null and void.

Mr. Ellis asked that the new provisions be added to the Vacation Rental brochure as well as a note that property owners must comply with the NC Vacation Rental Act. Mr. Burton stated he could do that.

Mr. Morgan stated he did not feel that the Town's vacation rental ordinance was in violation with the recently amended statute with the State, which was included in his memo distributed to the Board. Mr. Baldwin noted that staff would come back at the February meeting with a new draft based on today's input from the Board.

(b) Review Permitted Uses in Commercial Districts

Mr. Baldwin noted the study is not yet complete but provided the Board with an inventory of permitted uses and conditional uses in commercial districts from numerous towns.

PLANNING PROJECTS UPDATE

Mr. Baldwin presented an update to the Board and discussion held regarding items in his report. Before discussing the projects, he noted that a meeting would be held today regarding a new application for the Lodge on Lake Lure. He pointed out that staff is going to recommend the Lodge interview elected officials on the frontend as soon as possible to vet any issues they may have. He mentioned that the old application has not yet been finalized and has been under appeal. He explained that legal counsel has advised that a new application can be accepted even though the old application has not been finalized. Mr. Morgan stated their will probably be a decision made on the appeal within six months.

Mr. Baldwin brought to the Board's attention that due to the resignation of Andi Calvert, Michelle Jolley would be acting as the interim Clerk to Town Council, in addition to her regular duties. Mr. Baldwin stated further that such loss of personnel support may result in shuffling of staff to accommodate the clerical needs of this Board and other Boards associated with Community Development. Commissioner Moore asked if any consideration to hiring a "Temp" to take minutes for the Planning Board had been made. Mr. Baldwin responded that he had discussed staffing needs of the Department with the Town Manager and having a part-time person to help in this manner was one option discussed. He stated the Town Manager has indicated he is open to different proposals.

Mr. Baldwin also mentioned to the Board that he had asked the Town attorney to research the Alcoholic Beverage legislation passed by referendum for the Town by the state. Based on the review, it looks as if there would be requirements for a microbrewery, brewpub, winery to serve food to comply with the state permit. Mr. Ellis stated that he didn't recall the Planning Board discussing a food service requirement as the Board crafted the microbrewery legislation. Town

attorney William Morgan stated that the alcoholic beverage laws are enacted by referendum. An amendment to the zoning regulations wouldn't have affected state law. The Board may not have had reason to discuss it.

The bottom line, Baldwin emphasized, is that until the law regarding Lake Lure is changed (probably by referendum) any new microbreweries would be required to have a percentage of their sales generated from food.

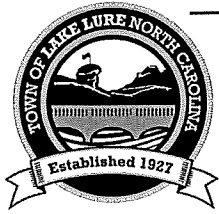
Mr. Baldwin also brought to the Board's attention that the Code Enforcement Coordinator had, pursuant to direction from the Town Attorney, served the 5th and final Civil Citation on Duck Cove Properties (Ms. Lucy Hodge) for the ongoing nuisance present on that property at 177 Tryon Bay, and staff was ready for next steps but there seemed to be a little confusion internally. Commissioner Moore stated that he was under the impression that Councils' imposed next steps were very clear. The matter was to continue to move forward toward resolution. He reiterated again that he felt Council was clear in this instruction to the Town Attorney and Staff. Staff and Mr. Morgan would report any follow-up actions taken at the next meeting of the Town Council.

Upon a motion by Mr. Barrett and seconded by Mr. Ellis, the meeting was adjourned at 11:35 a.m. The next regular meeting is scheduled for Tuesday, February 20, 2018 at 9:30 a.m. at the Lake Lure Municipal Center.

ATTEST

Thomas M McKay, Chair

Michelle Jolley, Recording Secretary



TOWN OF LAKE LURE
Community Development Department

MEMORANDUM

TO: Zoning and Planning Board

FROM: Shannon Baldwin, Community Development Director

CC: William Morgan, Town Attorney
Brad L. Burton, Code Enforcement Coordinator

DATE: February 15, 2018

RE: 2013 RVR Ordinance Review

Staff compared the 2013 draft ordinance with draft ordinance currently being vetted by the Zoning and Planning Board. In short, both drafts move the process from quasi-judicial to an administrative review, clearly. In this respect, they are the similar. However, per the 2013 draft ordinance, a VROP (processed as permitted use by the zoning administrator) can be transformed into a conditional use permit review if appealed by a third party. Also, the 2013 draft ordinance requires mailed notice to adjoining property owners. These are the major difference between these two draft ordinances. Although creative, both elements (an appeal that transforms a permitted use into a conditional use and required notice) in the 2013 draft ordinance have been reviewed by William Morgan, Town Attorney, per our request. Regarding this unique appeal, Mr. Morgan states:

.....appeals of administrative land-use decisions - Statewide - follow specific uniform standards set forth in GS 160A-388(b1). Obviously, an appeal hearing is quasi-judicial in nature (just as a CUP) and the BOA reviews the matter anew and "shall have all the powers of the official who made the decision." Thus, the Board determines if the permit should issue by stepping into the shoes of the official so to speak. If I understand the 2013 proposal correctly, an appeal converts the required permit from a zoning permit to a conditional use permit. But since a single official cannot be placed in charge of a conditional use permit, under the proposal the Board possesses more and/or different powers than the official who made the decision. Also, given the extensive guidance set forth in the General Statutes, a very strong argument exists that the State has preempted the field as the process local Boards must follow when considering an appeal of decisions made by zoning officials. 160A-288(b1) begins: "The board of adjustment shall hear and decide appeals from decisions of administrative officials charged with enforcement of the zoning or unified development ordinance and may hear appeals arising out of any other ordinance that regulates land use or development. pursuant to all of the following: It then sets out the rules governing standing, notice, time periods, the record, stays, etc., along with the language cited above: "The board shall have all the powers of the official who made the

decision. It has been held that the board of adjustment must abide by the rules provided by the local ordinance, "enacted in accord with and by permission of the State zoning law. Jackson v. Guilford County Bd. of Adjustment, 2 N.C. App. 408 (1988). As 160A-388 says nothing of converting and elevating a zoning permit (by whatever name called) to a conditional or special use permit, I do not believe an ordinance to that effect would be enacted in accord with and by permission of State law.

I note that the proposed ordinance does not mention how appeals are effectuated, which is okay. Clearly this is a type of decision that may be appealed to the ZBOA. We could add language to that effect for convenience and clarity. Something like: "Decisions made pursuant to this section may be appealed to the Lake Lure Zoning Board of Adjustment pursuant to GS 160A-388(b1)."

Regarding required notice relative to issuing a VROP, William Morgan states:

There is no state mandate for prior notice of pending administrative decisions made by a local government staff. Since these decisions involve application of existing, objective standards rather than making policy choices, the need for and use of public input is very limited. Thus there is no public hearing required when an administrative staff member makes a decision on a building permit, a certificate of zoning compliance, a notice of violation, a preliminary or final plat, or similar ministerial decision by the staff. The proposed changes to the Lake Lure ordinance will make the permitting of vacation rentals a ministerial decision. A few local ordinances may require notice to neighbors for these types of decisions, but that are very rare. For the most part these routine decisions are handled through direct communication between the applicant and the staff only.

When a staff member makes a final, binding determination under a zoning ordinance, the right of the person receiving the decision to make an appeal to the board of adjustment is triggered. State law requires the local government to provide written notice of the determination to the party who sought the determination, and to the owner of the property involved, if different from the applicant. Those persons then have 30 days from receipt of the written notice to file an appeal to the board of adjustment. Other persons who are directly affected by that determination have 30 days from the time they receive actual or constructive notice of the decision to file an appeal. There is no state requirement to send the notice to neighbors. State law gives the property owner the option of posting the site with a sign notifying neighbors that a determination has been made, which triggers the start of the neighbors' time to make an appeal, but such posting is not required.

Several NC Court of Appeals decisions have found that lack of notice to neighbors of pending or decided administrative/ministerial decisions fails to state a claim of constitutional deprivation of due process. The rationale is that no one has a property right in having the status of adjacent property remain unchanged.

Despite the above, there is no prohibition on a notice requirement, and they are found in local ordinances albeit very rarely. A notice requirement could lead to problems. A few that come to mind are:

(1) If required, then it must be done. Any errors would no doubt lead to appeals that the Town failed to follow its own procedures. A line of case law holds that when procedures are included, they must be followed even if not constitutionally required or required by statute.

(2) Determining who to notify could be problematic such as the case with heir property, separated couples, lien holders (if required), etc.

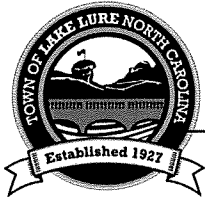
(3) There would be some cost associated with notice both in staff time and mailing cost.

(4) Since the decision will be administrative/ministerial in nature, providing notice will probably lead to false hope of being able to de-rail an application. With this type of decision, either an application meets each of the requirements on the list or it does not and that is all that the decision can be legally based on. There can be no discretion exercised or judgment calls based on what might be compelling arguments against issuing a permit for a particular location.

(5) If notice is given that an application is pending, will notice be required once the permit is issued? If not, then the ordinance should clearly point that out because notice of an application normally goes hand in hand with receiving notice once a decision is made.

Just as a thought, rather than the dealing with mailed notice, perhaps a posting requirement similar to the type that is authorized but not required under the General Statutes as mentioned above. It might read something along the lines of: "NOTICE - AN APPLICATION FOR A SHORT-TERM VACATION RENTAL PERMIT IS PENDING FOR THIS PROPERTY. INTERESTED PERSON MAY SUBMIT WRITTEN COMMENTS UNTIL _____, 20____." Some ordinances make the post-decision posting AFTER the decision a requirement so that aggrieved persons with standing will be legally presumed to be on notice and can appeal the decision to the Board of Adjustment, which is a more serious remedy than simply making objections known to the zoning administrator who in reality will not be able to consider most of what is received, unless it deals specifically with requirements the application fails to meet.

Please know William Morgan will be present and participating in our February 20, 2018 meeting wherein the latest draft ordinance will be fully discussed in addition to the items mentioned in this memo.



TOWN OF LAKE LURE
Community Development Department

MEMORANDUM

TO: Zoning and Planning Board

FROM: Brad L. Burton, Code Enforcement Coordinator

DATE: February 20, 2018

RE: Proposed Amendment to § 92.042(A) Residential Vacation Rentals

Lake Lure Zoning and Planning Board, greetings!

Contained herein:

- A Legal Opinion as to Residential Vacation Rentals from Wm. Morgan, Jr. (Attachment 1)
- Community Development Department report analyzing VROP processing costs (Attachment 2)
- A statement from The Board of Adjustment recommending removing the VROP process from quasi-judicial review (Attachment 3)
- A draft of the Ordinance, representing changes as requested/recommended from the previous meeting (Attachment 4)

The change most consistently requested was dropping reference to "Certificate of Zoning Compliance" and re-integrating the term "Vacation Rental Operating Permit."

There is one new section the Board has not seen: As there was discussion and apparent interest as to enforcement, and also in response to a conversation I have had recently with a local realtor, I have added a new section; § 92.042(8) "Non-Compliance with Permit Standards/Residential Vacation Rental Regulations," which reads as follows:

§ 92.042(8)

- (a) Failure to comply with the standards and regulations as found in this section shall be enforced by the remedies and penalties as provided in Chapter 10 of the Code of Ordinances for the Town of Lake Lure and Chapters 5 and 13 of the Town of Lake Lure Zoning Regulations, as applicable.

Re-emphasizing enforcement proximate to the regulations serves to affirm to the applicant that there are sanctions and penalties readily available for non-compliant activities or willful disregard of the rules. Note also that this new section references by citation Chapter 5, Section 92.068, the Appeal process; should an affected party disagree with any decision or process served by the Zoning Administrator.

Suggested motion: I move staff finalize this amendment in an ordinance form and forward to Town Council for consideration and adoption. I further move that the Board finds this amendment consistent with the 2007-2027 Comprehensive Plan in that it complies with adopted Policy LU-1-2.3; and the time-proven controls already in place over Residential Vacation Rentals, as amended, will remain in place while allowing for more efficient use of town resources.

MEMORANDUM

To: Ron Nalley
From: William Morgan
Re: Vacation/Short-term Rentals
Date: April 14, 2017

This memorandum will summarize my ongoing research into the status of local governments' ability to regulate vacation or short-term rentals within the town limits. For purposes of this memo, I will refer to the rentals at issue as "vacation rentals" and will assume that entire houses are being rented (as opposed to the practice of renting a room or something less than a "dwelling unit" which is also a common practice, sometimes referred to as "home stays.").

NCGS 160A-424 ("Periodic Inspections for Hazardous or Unlawful Conditions") is a 1969 statute that was recently revised by the General Assembly. Subsection (c) of 160A-424 was recently amended by SB326 (2016) and now reads, in pertinent part, as follows:

(c) In no event may a city do any of the following: (i) adopt or enforce any ordinance that would require any owner or manager of rental property to obtain any permit or permission from the city to lease or rent residential real ~~property~~, property or to register rental property with the city, except for those properties-individual rental units that have either more than three-four verified violations in a rolling 12-month period or two or more verified violations in a rolling 30-day period, or upon the property being identified within the top 10%-ten percent (10%) of properties with crime or disorder problems as set forth in a local ordinance . . .;

The above is taken from the Senate Bill 326 in order to show how the section read before and after the revisions (the underlined language is new and deleted language is shown with strike-throughs). A number of North Carolina municipalities have interpreted the above section to prohibit requiring owners of vacation rental houses to obtain permits and/or to register their properties with the municipality. For example, the Town of Brevard was studying vacation rentals in 2016 and upon reviewing 160A-424(c) and the amendments thereto, decided to alter the direction the review was taking (requiring permits, annual renewal of permits, etc.). In a memo to City Council, the City Planning Director stated:

North Carolina General Statute (NCGS) 160A-424(c) (revised July 28, 2016) prohibits local governments from requiring permits for rental property. Below is an excerpt of this law:

"In no event may a city do any of the following: (i) adopt or enforce any ordinance that would require any owner or manager of rental property to obtain any permit or permission from the city to lease or rent residential real property or to register rental property with the city, except for those individual rental units that have either more than four verified violations in a rolling 12-month period or two or more verified violations in a rolling 30-day period..."

This change appears to have significant impact on the City's options related to regulating and permitting short-term rentals. Taking this change into account Staff has revised the proposed language to reflect these changes.

It should be noted that the City of Brevard does maintain requirements for vacation rentals regarding occupancy (2 per bedroom plus 2 additional), appearance (must maintain residential character and prohibits signs) and parking (per existing parking requirements). The Brevard Memo and resulting revisions to the zoning ordinance are affixed to this Memorandums as Attachment 1.

The Town of Kure Beach was considering changes to its land use ordinance to regulate short-term rentals and also read 160A-424 as prohibiting most regulation.

The Town of Cornelius actually obtained local legislation in order to be specifically exempt from the operation of 160A-424, to the extent the statute may apply to short-term rentals. (Attachment 2). The fact that Cornelius obtained local authority expressly exempting its regulation from the effects of 160A-424 on its ability to regulate short-term rentals could be argued as evidence that the General Assembly intended 160A-424(c) to apply to such rentals.

The Cities of Raleigh and Garner, both of whom administered registration programs for rental properties (including vacation rentals) repealed those programs, presumably due to the specific language added to the statute by Senate Bill 326 prohibiting registrations of rental properties except under specific circumstances. In fact, the only significant revisions to the NCGS 160A-424(c) occurring in 2016 and relevant to this memorandum involved the prohibition of registration programs. Subsection (c) already contained the language prohibiting permitting requirements. It should be noted that nothing in the original language of NCGS 160A-424 or the recent revisions expressly applies the statute to short-term/vacation rentals.

Other municipalities have apparently interpreted the statute to only apply to traditional longer-term leases within the typical landlord-tenant scenario. For example, the City of Asheville still requires owners of vacation rental properties to obtain a permit; however, vacation rentals of entire houses or residences are not allowed in residential zoning districts. Vacation rentals are considered commercial uses. "Homestays" on the other hand are allowed in residential areas and also require a permit.

Recently, in a UNC School of Government Coates' Cannons blogpost on the changes to NCGS 160A-424, faculty member Tyler Mulligan states the following:

No guidance on business registration of short term vacation rentals

Some jurisdictions have imposed business registration requirements on owners of short term vacation rentals. These jurisdictions argue that short term vacation rentals should not be classified as residential rental properties; rather, they assert that a short term vacation rental is used for hospitality, not as a residence, during the vacation rental season. Under that reasoning, the IPR statutes' prohibition on residential rental property registration would not apply to short term vacation

rentals. The recent revisions to the IPR statutes do not clarify how a short term vacation rental should be characterized.

I agree with the above statement as to the current status of the law: it simply is unclear how, if at all, 160A-424 applies to vacation rentals. If the General Assembly intended to apply the statute to vacation rentals, it could have easily included language to that effect in the statute. On the other hand, subsection (c) does begin by providing: “In *no event* may city do any of the following . . .” Nonetheless, the statute overall, is clearly concerned with long-term tenancies. Subsection (c), read in a vacuum, would appear to apply to rentals of any type and any length. But when one reviews all of 160A-424, it is clear that traditional long-term rentals are what’s at issue. In fact, the statute was originally enacted in 1969 well before the phenomena of VRBO, Airbnb, etc. came along.

Moreover, the General Assembly has recognized short-term vacation rentals as a different animal from traditional landlord-tenant situations by the passage of the “Vacation Rental Act” of 1999. As set forth in Chapter 42A:

§ 42A-2. Purpose and scope of act. The General Assembly finds that the growth of the tourism industry in North Carolina has led to a greatly expanded market of privately owned residences that are rented to tourists for vacation, leisure, and recreational purposes. Rental transactions conducted by the owners of these residences or licensed real estate brokers acting on their behalf *present unique situations not normally found in the rental of primary residences for long terms*, and therefore make it necessary for the General Assembly to enact laws regulating the competing interests of landlords, real estate brokers, and tenants. (1999-420, s. 1.) (emphasis added).

The fact that the General Assembly has expressly recognized that vacation rentals “present unique situations not normally found in the rental of primary residences for long terms” suggests that the language used in 160A-424(c) (*residential real property*) is distinguishable. Similarly, since short-term vacation rentals present unique situations not normally found in the rental of a primary residence for long terms, it could be argued that it is reasonable to treat them differently within the zoning and land use context.

With no case law on point and no clear indication from the General Assembly as to whether it intended the statute to prohibit permitting and registration of vacation rentals, in my opinion, local governments may still impose reasonable permit and/or registration requirements. On the other hand, the alternative with the least amount of risks is to eliminate the permit requirements, obtain local legislation similar to the Town of Cornelius or perhaps consider a less onerous permit requirement such that it be a ministerial, administrative decision as opposed to a quasi-judicial decision, i.e., require a zoning permit as opposed to a conditional use permit.



Vacation Rental Operating Permit (VROP) Application Costs Community Development Department

January 16, 2018

What were costs and revenues in 2017 of operating the VROP program?

In 2017 the Town received and processed 24 VROP applications. Those 24 applications generated \$6,120 in revenue. Those 24 applications cost the town \$6,600 in staff time/resources and approximately \$6,000 in BOA time/resources.

What is the bottom line?

We're losing approximately \$240 per VROP Application as it stands. Applications received and processed in 2017 using the quasi-judicial review process cost the Town \$12,600 (staff & BOA time/resources) but only generated \$6,120. The program costs exceeded revenues by \$6,480. Using business standards, we're operating the program in the red.

Can we get the same/similar outcome by changing to an administrative review process at much less cost?

Yes. Our Code Enforcement Coordinator will be able to process these applications with approximately the same amount of time as he expends to process an application for a Certificate of Zoning Compliance for a single family residence, if not a little quicker. However, he will have to inspect each residential vacation rental site. This will add a little cost. If we charge anywhere from \$180 to \$200 for a Certificate of Zoning Compliance for an RVR, our costs should be covered as best we can estimate.

How much does it cost the Town of Lake Lure for processing just one VROP application?

In round numbers, it costs the Town of Lake Lure (staff) **\$275** for each VROP application processed, approximately:

- \$225 - staff time (CDD and DRC staff)
- \$50 - notice (ads and mailed letters)

How much does it cost (in-kind dollar value of time) the BOA for processing just one VROP application?

In round numbers, the in-kind value of total volunteer hours dedicated to each application comes to approximately **\$180** (does not include time for site visits, etc.)

- \$45 (1.75 hours x \$26.20) Reviewing packets
- \$45 (1.75 hours x \$26.20) Discussions with Staff before meeting to gather information
- \$90 (3.5 hours x \$26.20) Time deliberating at Meeting

Combined we are looking at a total value of **\$455** (\$275 + \$180) in costs (real and in-kind) for each VROP application. For these calculations we used \$26.20 as the hourly rate multiplier.

Below is the cost calculator used to determine costs for volunteers and staff. It is not all inclusive.

VROP Application Cost Calculator (Staff & Volunteers)									
\$ 26.20		cost of staff per hour							
\$ 183.40		cost of staff hours (hrs x staff hourly rate)							
\$ 6.55		0.25 hrs - discussing VROP standards and application process with potential applicants							
\$ 6.55		0.25 hrs - reviewing applications for completeness/sufficiency							
\$ 6.55		0.25 hrs - follow up conversations with applicant							
\$ 6.55		0.25 hrs - preparing digital packet for DRC review							
\$ 6.55		0.25 hrs - preparing signs to post on property							
\$ 32.75		1.25 hrs - posting signs on property & site visit							
\$ 13.10		0.5 hrs - preparing legal ad (word processing and sending to newspaper)							
\$ 19.65		0.75 hrs - preparing letters to send to owners of properties within 100 feet of property							
\$ 19.65		0.75 hrs - sending letters to send to property owners							
\$ 13.10		0.5 hrs - prepare and send correspondence and packets for BOA							
\$ 6.55		0.25 hrs - answering calls from neighbors							
\$ 6.55		0.25 hrs - answering call from BOA members							
\$ 13.10		0.5 hrs - setting up for BOA meetings							
\$ 13.10		0.5 hrs - attending BOA meetings							
\$ 13.10		0.5 hrs - preparing written decisions of BOA							
\$ 50.00		cost for running newspaper ad requirements							
\$ 2.30	0.46	5 cost of sendig letters							
\$ 1.00		cost of creating/purchasing placards							
\$ 183.40		cost of volunteer hours (hrs x volunteer hourly rate)				7 members			
\$ 45.85	1.75	0.25 hrs - reviewing packets							
\$ 45.85	1.75	0.25 hrs - calling staff							
\$ 91.70	3.5	0.5 hrs - attending/deliberating meeting							



Board of Adjustment
Town of Lake Lure, NC

Mark Hoek, Chairman

Recommendation Concerning The Review of Vacation Rental Operating Permits

To The Town of Lake Lure Zoning and Planning Board and Lake Lure Town Council:

On January 23, 2018, as per the adopted meeting agenda during a regularly-scheduled meeting, the Lake Lure Board of Adjustment held discussion with the Town's Zoning Administrator concerning a proposal to change the zoning regulations. The proposed change concerns the current permit review process for Residential Vacation Rentals as found in § 92.042(A) of the Town of Lake Lure Zoning Regulations.

Based upon this discourse, materials provided by the Zoning Administrator as to the current costs to the Town for processing Vacation Rental Operating Permits (as attached), and other pertinent and germane facts stated during this discussion, the Lake Lure Board of Adjustment makes the following recommendation:

It is recommended that the Vacation Rental Operating Permit review process, as currently required to establish the use of land and structures in Lake Lure as a Residential Vacation Rental, be removed from Board of Adjustment quasi-judicial review and become the responsibility of the Town of Lake Lure Zoning Administrator as an administrative function, subject to specific standards to be incorporated into the Town of Lake Lure Zoning Regulations.

This recommendation comes by way of a motion, affirmed by second, and passed unanimously by the Board.

Done this 23rd day of January, 2018.

Mark Hoek, Chairman

ORDINANCE NUMBER 18-XX-XX

**AN ORDINANCE AMENDING THE ZONING
REGULATIONS OF THE TOWN OF LAKE
LURE; AMENDING §92.042 REGULATING THE
USE OF RESIDENCES AS VACATION RENTALS**

WHEREAS, N.C.G.S. 160A-381 authorizes municipalities to adopt zoning ordinances regulating, among other things, "the location and use of buildings, structures, and land;" and,

WHEREAS, N.C.G.S. 160A-174 authorizes municipalities to define, prohibit, regulate, or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the city; and,

WHEREAS, by means of Ordinance Number 09-10-01, the Lake Lure Town Council created § 92.042 of the Town's Zoning Regulations which put in place regulatory requirements for residential vacation rentals, as defined therein; and,

WHEREAS, said Ordinance Number 09-10-01 stated that one of its purposes was "to provide an opportunity for the Town to study the effects of the regulatory provisions of this Ordinance with regard to the potential problems associated with residential vacation rentals;" and,

WHEREAS, after two years' of experience administering that Ordinance, the Town amended Ordinance Number 09-10-01, with Ordinance Number 12-02-28 which indicated that a number of the restrictions contained in Ordinance Number 09-10-01 were not necessary to address the concerns articulated in that original Ordinance; and,

WHEREAS, the Town now has almost six years additional experience administering the permitting requirements of Ordinance 12-02-18 quasi-judicially through the Town Board of Adjustment with no residential vacation rental permit denials and; as such, the Town feels such superlative results indicate that the standards as currently established could be successfully executed administratively; and,

WHEREAS, Town Council finds that this Ordinance Amending the Residential Vacation Rental Ordinance, by eliminating quasi-judicial review of residential vacation rental applications, furthers the public interest by doing away with impediments to the free use of private property; and,

WHEREAS, Town Council further finds that this Ordinance Amending the Residential Vacation Rental Ordinance is, for the reasons stated in Ordinance Number 09-10-01, consistent with the 2007-2027 Town of Lake Lure Comprehensive Plan; and,

WHEREAS, the Zoning and Planning Board and the Board of Adjustment have recommended certain modifications to the Zoning Regulations of the Town of Lake Lure as noted in the title of this Ordinance; and

WHEREAS, the Lake Lure Town Council, after due notice, conducted a public hearing on the XXth day of MONTH, 2018, upon the question of amending the Zoning Regulations in this respect.

Commented [BB1]: BOA recommendation by motion, with second, unanimous

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LAKE LURE, NORTH CAROLINA, MEETING IN REGULAR SESSION AND Ordinance No. 18-XX-XX

WITH A MAJORITY OF THE COUNCIL MEMBERS VOTING IN THE AFFIRMATIVE:

SECTION ONE. *Authority; Title.* This Ordinance is enacted pursuant to the grants of authority contained in Sections 160A-174 and 160A-381 of the North Carolina General Statutes. It shall be known and may be referred to as the Ordinance Amending the Residential Vacation Rental Ordinance.

SECTION TWO. Section 92.042 (A) of the Zoning Regulations of the Town of Lake Lure, entitled "Residential Vacation Rentals", is hereby amended as follows:

§92.042 Special Requirements for Certain Uses.

- (A) Residential Vacation Rentals. Residential vacation rentals are hereby recognized as a use within the planning jurisdiction of the Town of Lake Lure. Except as provided herein, on and after January 1, 2010 it shall be a violation of these Zoning Regulations to operate a residential vacation rental without a Vacation Rental Operating Permit ~~Certificate of Zoning Compliance~~ from the Town. (Adopted 10-13-09, Effective 01-01-10; Amended 02-28-12, 10-14-14) (Amended XX-XX-18)

Commented [BB2]: Date change from military format, per Town Manager

Commented [BB3]: Remove "Certificate of Zoning Compliance" and keep the previous vacation rental operating permit. Per Zoning and Planning Board.

- (1) Exceptions. The following activities and / or uses shall not be deemed residential vacation rentals and the requirements of this section shall not apply to them. (Adopted 10-13-09, Effective 01-01-10; Amended 02-28-12)

- (a) Incidental residential vacation rentals, defined to mean no more than two such rentals in any calendar year where the total annual rental period for both rentals does not exceed fourteen days.

Commented [BB4]: Remove "Certificate of Zoning Compliance" and keep the previous vacation rental operating permit. Per Zoning and Planning Board.

Commented [BB5]: Change per CDD

- (b) Rentals of property in any hotel, lodge, motel, bed & breakfast establishment, or boarding & rooming house, with a valid ~~Certificate of Zoning Compliance~~ Vacation Rental Operating Permit. ~~For purposes of this Ordinance Regulation, the term does not include multi-family dwellings nor does it apply to duplexes other than those situated within the R-1, R-1A, R-1B, R-1C, R-1D, R-2 and M-1 zoning districts.~~

Commented [BB6]: Town attorney recommended addressing multi-family dwellings here—this is a verbatim cut and paste from the Residential Vacation Rental definition in the zoning regulations.

Commented [BB7]: Remove "Certificate of Zoning Compliance" and keep the previous vacation rental operating permit. Per Zoning and Planning Board.

- (2) Vacation Rental Operating Permits. ~~Certificate of Zoning Compliance.~~ Every residential vacation rental not excepted as above shall require a Vacation Rental Operating Permit ~~Certificate of Zoning Compliance~~ issued pursuant to the regulations contained herein. The vacation rental operating permit may also function as a certificate of zoning compliance for a residential vacation rental. ~~Any Vacation Rental Operating Permit issued prior to February 28, 2012 is recognized as having a vested status to operate under the Ordinance as amended on February 28, 2012. Additionally, anyone that can establish via Tourism and Development Authority tax records or other suitable proof that they were engaged in vacation rental activity at their home prior to January 1, 2010 (the effective~~

Commented [BB8]: Remove "Certificate of Zoning Compliance" and keep the previous vacation rental operating permit. Per Zoning and Planning Board.

Commented [BB9]: Leave "as is" per Zoning and Planning Board"

Commented [BB10]: Date change from military format, per Town Manager

Commented [BB11]: Date change from military format, per Town Manager

date of the Ordinance) would also have vested status. Any future revisions and amendments to this Ordinance shall not apply to those vested residences. This status is transferable; although, a new Vacation Rental Operating Permit ~~an updated certificate of zoning compliance~~ must be obtained in the name of the new owner. This status is forfeited if there is no vacation rental activity at the home for a period of five years. (Adopted 10-13-09, Effective 01-01-10; Amended 02-28-12)

Commented [BB12]: Remove per Z & PB

(a) *Application.* In order to obtain a ~~Certificate of Zoning Compliance to establish a Residential Vacation Rental use~~ a Vacation Rental Operating Permit the owner or the operator shall submit an application for each such residential vacation rental which complies with the requirements of ~~§92.042(D), below,~~ the Town's zoning regulations and the additional requirements as found in § 92.042(A)(3). ~~below,~~ and shall pay all applicable fees in accordance with the Town's adopted fee schedule.

Commented [BB13]: Back to original language per Z & PB.

Commented [BB14]: This is an error. 'Should have been § 92.045(D). Doesn't matter now, though.

Commented [BB15]: Add "below"

Commented [BB16]: The current VROP fee is \$255.00. The only higher Land Development fee we have is for a Variance. I would assume this is so high to cover advertising costs in the Rutherford Daily Courier. Should we also offer an amendment to the Fee Schedule?

(b) *Procedure.* From and after the effective date of this Ordinance, applications for a Residential Vacation Rental use ~~shall be deemed in the nature of a conditional use permit and shall be processed in accordance with §92.046 of these Zoning Regulations except that no sketch plan conference shall be necessary~~ shall submit a ~~Certificate of Zoning Compliance~~ an application for a Vacation Rental Operating Permit, to be processed as a Certificate of Zoning Compliance application with all additional supporting documentation as per § 92.042(A)(3) (Amended XX-XX-18)

Commented [BB17]: Reference VROP application, not CZC, per P & ZB.

Commented [BB18]: Change including reference to processing as CZC, per P&ZB

(3) *Contents of Application:* The application for a ~~Certificate of Zoning Compliance Vacation Rental Operating Permit~~ shall contain the following information. (Adopted 10-13-09, Effective 01-01-10 (Amended 02-28-12)

Commented [BB19]: Reference VROP, not CZC, per P&ZB.

- (a) The address of the property.
- (b) Name and contact information for the owner of the property.
- (c) Name and contact information for the operator if other than the owner.
- (d) A site plan, ~~drawn to scale~~ indicating the location and dimensions for off-street parking area(s) for the property. ~~One (1) parking space for every two rental bedrooms shall be required. Parking areas shall not encroach into any road right-of-ways or neighboring private properties.~~
- (e) The number of bedrooms on the property intended to be used for occupancy.
- (f) ~~A copy of the Rutherford County Tax Assessor's "Property Information Card" for the subject property~~

- (g) If the property is served by the Town's sewer system, a certificate from a qualified licensed professional that the connection to the Town's system is operational and free of detectable leaks.
 - (h) If the residential vacation rental includes the use of a boat on Lake Lure, proof of a valid Town commercial boat license.
 - (i) Proof that the property is registered with the Rutherford County Tourism Development Authority. ~~or, for a new business, that an application has been submitted, and that all year have been paid.~~
 - (j) A copy of the standard rental agreement used for the residential vacation rental which contains information required by this section.
 - (k) An acknowledgment that the applicant is aware of the occupancy restrictions on the use of the property as a residential vacation rental and the applicant's agreement to abide thereby.
 - (l) A statement by the operator, under oath, that the information in the application is correct. (Amended 2-28-12) (Amended XX-XX-18)
- (4) Inspections: In conjunction with an application for a Certificate of Zoning Compliance Vacation Rental Operating Permit, the Town shall conduct an initial inspection to confirm compliance with the requirements of this Section. (Adopted 10-13-09, Effective 01-01-10)
- (5) Operational Requirements: The following operational requirements shall apply to all residential vacation rentals. (Adopted 10-13-09, Effective 01-01-10)
- (a) Occupancy Limits. On those occasions when the property is being utilized for vacation rental activity, the overnight occupancy shall not exceed two persons per bedroom plus four additional persons. For any permits issued subsequent to February 28, 2012, occupancy shall be the lesser of the total determined by the foregoing formula or twelve persons. Bedrooms used in calculating occupancy limits shall be taken from the application as affirmed by the owner/manager compared with bedroom information as listed on the Rutherford County Tax Assessor's Property Information Card. (Amended 2-28-12) (Amended XX-XX-18)
 - (b) Signs. In the R-1, R-1A, R-1B, R-1C, R-1D and M-1 zoning districts, residential vacation rental properties shall not have any signs visible from the exterior of the premises which advertise the use of the property as a residential vacation rental, other than as required by this Section. In the remaining zoning districts,

Commented [BB20]: Reference VROP, not CZC, per P&ZB.

Commented [BB21]: Date change from military format, per Town Manager

residential vacation rental properties may have signage as authorized by Article 10 of these regulations.

- (c) **Display of Contact Information.** Residential vacation rental operators shall prominently display on the exterior of the residential vacation rental property the name and 24-hour per day, 365 days-per-year telephone number for the residential vacation rental operator who will take and resolve complaints regarding operation of the residential vacation rental property and its occupants

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and guests. The Town will prescribe the form of this display which shall also include a telephone number to report violations of this section to the Zoning Administrator.

- (d) **Parking.** Occupants or guests of any residential vacation rental property shall not park vehicles on the property other than within parking area(s) designated on the application for the residential vacation rental. Vehicles parked in undesignated areas, or in the street so as to violate the Town's Street Ordinances, shall be subject to towing at the vehicle owner's expense. **(Amended 2-28-12)**
- (e) **Trash Disposal.** Household trash must be bagged and disposed of in trash receptacles. Trash receptacles shall be the size and number authorized by existing refuse contracts and shall be animal resistant. **(Amended 2-28-12)**
- (6) **Contract Addendum:** Every residential vacation rental contract shall contain an addendum, in a form prepared by the Town, setting forth the requirements of this Section and other applicable provisions of law. The operator shall obtain a signed acknowledgment from the renter(s) that they have received such addendum prior to delivering possession of the residential vacation rental property. This requirement shall be deemed satisfied if the provisions of the addendum are included as part of the rental contract. **(Adopted 10-13-09, Effective 01-01-10; Amended 2-28-12)**
- (7) **Duties of the Operator to Respond to Complaints:** To assure prompt response to complaints and issues concerning a residential vacation rental, the operator shall comply with the following: **(Adopted 10-13-09, Effective 01-01-10)**
- (a) Maintain a call center that is staffed by a live person and fully responsive at any time that the property is used as a Residential Vacation Rental. **(Amended 2-28-12)**
- (b) Continuously maintain on file with the Town the operator's current address, telephone number, and facsimile number and/or email address.

(8) Non-Compliance with Vacation Rental Operating Permit/Residential Vacation Rental Regulations:

- (a) **Failure to comply with the standards and regulations as found in this section shall be enforced by the remedies and penalties as provided in Chapter 10 of the Code of Ordinances for the Town of Lake Lure and Chapters 5 and 13 of the Town of Lake Lure Zoning Regulations, as applicable.**

(ADDITIONS TO TEXT ARE UNDERLINED; DELETIONS ARE STRUCK THROUGH.)

Commented [BB22]: Add Section to indicate remedies and penalties for non-compliance—pursuant to Z&PB discussion as to enforcement and a contemporary query by a local realtor as to intentional advertisement of a residence for rent that would exceed the Town's standard for max occupancy

SECTION THREE. In administering this Ordinance, the Town shall have all the remedies and enforcement powers contained in Article 13 of the Zoning Regulations, as supplemented herein, and as provided by the General Statutes.

SECTION FOUR. 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 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 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 zoning violations.

SECTION SEVEN. This Ordinance shall be in full force and effect from and after the date of enactment.

Adopted this _____ day of _____, 2018

Keven Cooley, Mayor

ATTEST:

, Town Clerk

Approved as to content & form:

William C. Morgan, Jr.
Town Attorney

Community Development Department
Monthly Report
for
January 2018

Board/Committee Activity

Zoning and Planning Board, Regular Meeting, January 16, 2018

- Discussed VROP Amendment with staff and Town Attorney
- Reviewed Permitted Uses in Commercial Districts Work

Board of Adjustment, Regular Meeting, January 23, 2018

- No cases.
- Election of Officers: Mark Hoek elected Board Chair, Melvin Owensby elected as Vice-Chair.
- Discussed Residential Vacation Rental permitting process [agenda item]. Board made written recommendation to Zoning and Planning Board And Town Council move applications for Vacation Rental Operating Permits [VROPs] to administrative review by the Town's Zoning Administrator.

Staff Activity

Zoning Administration/Code Enforcement

Certificate of Zoning Compliance Issued	7
Certificates of Zoning Compliance Denied	0
Certificates of Occupancy Issued	4, 1 Temp
Vacation Rental Operating Permits Issued	0
Sign Permits Issued	0 (perm); 24 (temp)
Complaints Logged.....	0
Complaints Investigated	0
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.....	295

Subdivision Administration

Preliminary Plat:	0
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Final Plat.....0
 Minor Subdivisions:0
 Exempt Plat Reviews:.....0
 Lots Approved0

Review Officer (per GS 47-30):
 Plats Reviewed:1
 Plats Approved:1

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.
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.
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.

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.
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 were to report to Town Council next steps at February Meeting 2/5/18.
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.

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.
12. Morse Park Site Plan – Ed Dittmer asked that CDD collect and send him all known recreation input relative to projects. TM asked that I identify a landscape architect who has worked in a marine environment. Met with Jim Walters, Ed Dittmer, TM, ECO, Equinox, Bill Massey and Vital Clarity 6/1/17 to discuss scope of work. Equinox and Vital clarity to send scope of work back for review. Town Council approved contracts 7/11. Pre-prioritization meeting held with MP Work Group and consultants on 7/19. Have been working with Vital Clarity on materials/preparation for 8/23 meeting as of 8/8. Prioritization Session was held 8/23. Vital Clarity sent deliverable and CDD forwarded on 8/28/17 to PRB. CDD sent survey, Vital Clarity deliverable and news release bullets to Valerie Hoffman with request to create a news release for TM to approve on 8/31. Conference call with Equinox, Jim Walters and TM on 9/5. Reviewed process and progress with PRB 9/9/17. Held meeting on 10/10 with PRB and Equinox. PRB finished plan at that meeting. PRB discussed plan and Jim Walter's upcoming 11/14 presentation of plan on 11/2/17. Town Council unanimously adopted the Morse Park Site Plan.
(Complete)
13. 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.
14. 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.

15. 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; (9) Vehicle Signs of a Political Nature (10) Subdivision Regulations Amendment that clarifies Planning Board Authority to amend Previously Approved Plats and (11) General Changes per Running List kept by CEC.
16. 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.
17. 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 2/5/18.
18. 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.
19. 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.

--Town Hall Closed (New Year's), 1/1
--Met with Dr. Cooper and Norman McGlohon, 1/4
--Attended Destination by Design meeting, 1/8
--Attended Town Council Meeting, 1/9
--Attended Department Head Meeting, 1/9
--Town Hall Closed (MLK Holiday), 1/15
--Attended Planning Board Meeting, 1/16
--Met with staff briefly to go over agenda for Lodge on Lake Lure Meeting same day, 1/16
--Attended Lodge on Lake Lure Meeting, 1/16

--Town Hall Closed (Inclement Weather), 1/17
--Attended Board of Adjustment Meeting, 1/23

C. Shannon Baldwin, AICP
Community Development Director

Date