VILLAGE OF WHISPERING PINES
10 PINE RIDGE DRIVE
WHISPERING PINES, NORTH CAROLINA 28327
TELEPHONE: (910) 949-3141
FAX: (910) 949-3907

November 4, 2008

Mr. Gray Hauser, P.E.
State Sedimentation Specialist
Division of Land Resources
Land Quality Section
1612 Mail Service Center
Raleigh, NC 27699-1612

Subject: Village of Whispering Pines' Request for a Delegated Local Erosion and Sediment Control Program

Dear Mr. Hauser:

I am writing to gain approval for a delegated Local Erosion and Sediment Control Program for the Village of Whispering Pines. Our community has eight lakes and a recent survey of residents listed the controlling of erosion and sedimentation as a high priority. We are also expecting an increase in housing development in the future due to the expiration of a building moratorium and increased personnel expansion at nearby Fort Bragg.

Although we appreciate NCDENR'S work in this area, the approval to increase our role through the program would enable us to better respond to our expected growth while protecting our natural resources. If we receive delegation, we would administer our local program both within the Village and our extraterritorial jurisdiction. The anticipated date of implementation would be March 2, 2009.

Thank you for your consideration of this endeavor to protect and enhance our community.

Best regards,

Steve DeBolt
Village Manager

RECEIVED
NOV 05 2008
LAND QUALITY SECTION

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE VILLAGE OF WHISPERING PINES, NC PERTAINING TO SOIL EROSION AND SEDIMENTATION CONTROL

WHEREAS, the Village Council of Whispering Pines, after due deliberations and consideration, has determined that it is necessary and in the public interest to amend the Zoning Ordinance.

WHEREAS, in accordance with the General Statutes of North Carolina, Chapter 160A, Notice of Public Hearing was properly published in "The Pilot" and at the required places within the Village of Whispering Pines and the one (1) mile extraterritorial area, and

WHEREAS, said Public Hearing was duly held on the 3rd day of November 2008 at the hour of 6:00 P.M., at which time all interested citizens, residents and property owners affected by said zoning change were given an opportunity to be heard by the Village Council; and

NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED by the Village Council of the Village of Whispering Pines in special session on the 3rd day of November 2008 as follows:

Section 1. Amend Chapter K, by adding an Article VII "Soil Erosion and Sedimentation Control" with the following wording:

1 Title
2 Purpose
3 Definitions
4 Scope and exclusions
5 Mandatory standards for land-disturbing activity
6 Major Soil Erosion and Sedimentation Control Plans (Tracts 10,000 SF and over)
7 Minor Soil Erosion and Sedimentation Control Plans (Tracts less than 10,000 SF)
8 Basic control objectives
9 Design and control standards
10 Stormwater outlet protection
11 Borrow and waste areas
12 Access and haul roads
13 Operations in lakes or natural watercourses
14 Responsibility for maintenance
15 Additional measures

16 Existing uncovered areas
17 Plan appeals
18 Inspections and investigations
19 Injunctive relief
20 Permits and stop work orders
21 Restoration after non-compliance
22 Penalty
23. Severability

ARTICLE VII - Soil Erosion and Sedimentation Control Ordinance

SECTION 1 TITLE.

This ordinance may be cited as the Village of Whispering Pines Soil Erosion and Sedimentation Control Ordinance.

SECTION 2 PURPOSE.

This ordinance is adopted for the purposes of:

(A) Regulating certain land-disturbing activity to control accelerated erosion and sedimentation in order to prevent the pollution of water and other damage to lakes, watercourses, and other public and private property by sedimentation; and

(B) Establishing procedures through which these purposes can be fulfilled.

SECTION 3 DEFINITIONS.

As used in this ordinance, unless the context clearly indicates otherwise, the following definitions apply:

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

Act – The North Carolina Sedimentation Pollution Control Act of 1973 and all rules and orders adopted pursuant to it.

Adequate Erosion Control Measure, Structure, or Device – One which controls the soil material within the land area under responsible control of the person conducting the land-disturbing activity.

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

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

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

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

Channel – A natural or man-made depression, drainage way or low area with a path or course where a stream of water is collected and runs, is conveyed or is directed through, during rainfall events.

Commission – The North Carolina Sedimentation Control Commission.

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

Department – The North Carolina Department of Environment and Natural Resources.

Director – The Director of the Division of Land Resources of the Department of Environment and Natural Resources.

Discharge Point – That point at which stormwater runoff leaves a tract of land.

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

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

Express Review Permitting Process – A plan review process on a Major Plan that is shorter than thirty (30) days and which has higher fees.

Grading Permit – The approval document allowing land-disturbing activity to be initiated.

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

High Quality Waters – Those classified as such in 15A NCAC 2B.0101 (e) (5) – General Procedures, which is incorporated herein by reference to include further amendments pursuant to G.S. 150B-14(c).

High Quality Waters (HQW) Zones – For the Coastal Counties, areas within 575 feet of High Quality Waters; and for the remainder of the State, areas within one mile and draining to HQW's.

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

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

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

Major Soil Erosion and Sedimentation Control Plan - A Plan required when 10,000 square feet or more will be disturbed

Minor Soil Erosion and Sedimentation Control Plan – A Soil Erosion and Sedimentation Control Compliance Form indicating minimum control measures to be installed at the site when less than 10,000 square feet will be disturbed, unless otherwise approved.

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

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

Permit – The certificate allowing land-disturbing activities to be initiated.

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

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

Person Responsible for the Violation – As used in this ordinance, and G.S. 113A-64, means:

(1) The developer or other person who has or holds himself out as having financial or

operational control over the land-disturbing activity; or

(2) The landowner or person in possession or control of the land that has directly or indirectly allowed the land-disturbing activity, or benefited from it or failed to comply with a duty imposed by any provision of this ordinance, the Act, or any order adopted pursuant to this ordinance or the Act.

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

Plan – An erosion and sedimentation control plan.

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

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

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

Soil Erosion and Sedimentation Control Compliance Form – A form showing placement of minimum control measures that will be installed at a site where less than 10,000 square feet will be disturbed.

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

Storm Drainage Plan – The plan for storm drainage facilities.

Stormwater Runoff – The surface flow of water resulting from precipitation in any form and occurring immediately after rainfall or melting.

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

Ten-Year Storm – The stormwater runoff resulting from precipitation of an intensity expected to be equaled or exceeded, on the average, once in ten (10) years, and of a duration which will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.

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

Twenty-five Year Storm – The stormwater runoff resulting from precipitation of intensity expected to be equaled or exceeded, on the average, once in twenty-five (25) years, and of a duration which will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.

Uncovered – The removal of ground cover from, on, or above the soil surface.

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

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

Village – The Village of Whispering Pines, a municipal corporation in the State of North Carolina.

Waste – Surplus material resulting from on-site land-disturbing activities and being disposed of at other locations.

Working Days – Days exclusive of Saturday, Sunday and Legal Holidays during which weather conditions or soil conditions permit land-disturbing activity to be undertaken.

SECTION 4 SCOPE AND EXCLUSIONS.

(A) Geographical Scope of Regulated Land-Disturbing Activity. This ordinance shall apply to all land-disturbing activities undertaken by any person within the corporate limits of the Village or its extraterritorial zoning jurisdiction area, with the following exclusions:

(B) Exclusions from Regulated Land-Disturbing Activity. Notwithstanding the general applicability of this ordinance to all land-disturbing activity, this ordinance shall not apply to the following types of land-disturbing activity:

(1) An activity, conducted in accordance with best management practices adopted by the Department of Agriculture, including breeding and grazing of livestock, undertaken on agricultural land for the production of plants and animals useful to man, including but not limited to:

- **(a)** Forage and sod crops, grain and feed crops, tobacco, cotton and peanuts.
- **(b)** Dairy animals and diary products.
- **(c)** Poultry and poultry products.

(d) Livestock, including beef cattle, sheep, swine, horses, ponies, mules and goats.
(e) Bees and apiary products.
(f) Fur producing animals.

(2) An activity undertaken on forestland for production and harvesting of timber and timber products and conducted in accordance with best management practices set out in Forest Practice Guidelines Related to Water Quality, as adopted by the Department. If the land-disturbing activity undertaken on forestland for the production and harvesting of timber and timber products is not conducted in accordance with Forest Practice Guidelines Related to Water Quality, the provisions of this ordinance shall apply to such activity and related land disturbing activity on the tract.

(3) An activity for which a permit is required under the Mining Act of 1971, Article 7 of Ordinance 74 of the General Statues.

(4) An activity over which the State has exclusive regulatory jurisdiction as provided in G.S. 113A-56(a).

(5) An activity which is essential to protect human life during an emergency.

(C) Plan Approval Requirement for Land-Disturbing Activity. No person shall undertake any land disturbing activity subject to this ordinance without first obtaining Plan approval thereof from the Village.

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

(E) **More Restrictive Rules Shall Apply.** Whenever conflicts exist between federal, state, or local laws, ordinances, or rules, the more restrictive provision shall apply.

SECTION 5 MANDATORY STANDARDS FOR LAND-DISTURBING ACTIVITY.

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

(A) **Buffer Zone.** No land-disturbing activity during periods of construction or improvement to land shall be permitted in the proximity to a lake or natural watercourse unless a buffer zone is provided along the margin of the watercourse of sufficient width to confine visible siltation within twenty-five percent (25%) of the buffer zone nearest the land-disturbing activity

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

(2) Buffer Measurement. Unless otherwise provided, the width of a buffer zone is measured horizontally from the edge of the water to the nearest edge of the disturbed area, with the twenty-five percent (25%) of the strip nearer the land-disturbing activity containing natural or artificial means of confining visible siltation.

(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, generally not to exceed a 3:1 slope. In any event, slopes left exposed must, within twenty-one (21) calendar days of completion of any phase of grading, be planted or otherwise provided with ground cover, devices, or structures sufficient to restrain erosion. The angle for graded slopes and fills must be demonstrated to be stable. Stable is the condition where the soil remains in its original configuration, with or without mechanical constraints.

(C) Fill Material. Unless a permit from the North Carolina Department of Environmental Natural Resourses Department's Division of Waste Management to operate a landfill is on file for the official site, acceptable fill material shall be free of organic or other degradable materials, masonry, concrete and brick in sizes exceeding twelve (12) inches, and any materials which would cause the site to be regulated as a landfill by the State of North Carolina.

(D) Ground Cover. Whenever land-disturbing activity is undertaken, the person conducting the land-disturbing activity shall install erosion and sedimentation control devices and practices that are sufficient to retain the sediment generated by the land-disturbing activity within the boundaries of the tract during construction upon and development of said tract, and shall plant or otherwise provide a permanent ground cover sufficient to restrain erosion after completion of construction or development. Provisions for ground cover sufficient to retain erosion must be accomplished within 15 working days or 60 calendar days following completion of construction or development, whichever period is shorter.

(E) Prior Plan Approval. No person shall initiate any land-disturbing activity on a tract if ten thousand square feet (10,000 SF) or more is to be uncovered unless, thirty (30) days or more prior to initiating the activity, a Major Plan for such activity is filed with and approved by the Village and a grading permit is issued. In determining the area, lands under one or diverse ownership being developed as a unit will be aggregated. An erosion and sedimentation control plan may be filed less than 30 days prior to initiation of a land-disturbing activity if the Plan is submitted under an approved express permit program, and the land-disturbing activity may be initiated and conducted in accordance with the plan once the plan has been approved. The Village shall forward to the Director of the Division of Water Quality a copy of each Plan for a land-disturbing activity that involves

the utilization of ditches for the purpose of de-watering or lowering the water table of the tract.

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

When the disturbed surface area on a tract of land is less than ten thousand square feet (10,000 SF), the Village requires that the minimum control measures, as outlined in Section 7 (A) be installed at the site, unless otherwise approved. These measures, called a Minor Plan, shall be shown on a Soil Erosion and Sedimentation Control Compliance Form and must be approved before a grading permit can be issued.

SECTION 6 MAJOR EROSION AND SEDIMENTATION CONTROL PLANS- Tracts comprising ten thousand square feet or more to be disturbed

(A) Plan Submission. A Major Plan shall be prepared for all land-disturbing activities subject to this ordinance whenever the proposed activity to be undertaken comprises ten thousand square feet (10,000 SF) or more. Uncovered areas shall be limited at any time to a maximum total area of twenty (20) acres within the boundaries of the tract. Three (3) copies of the Plan shall be filed with the Village at least thirty (30) days prior to commencement of the proposed activity.

(B) Financially 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. 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.

(C) Plan Review Processing Fee. A non-refundable plan review processing fee, based on the number of acres or any part thereof, of land to be disturbed, including off-site borrow and waste areas, and set in accordance with the Village's fee schedule, is required to be paid at the same time as a soil erosion and sedimentation control plan is initially submitted for review and approval. Each plan shall be deemed incomplete until the plan review processing fee is paid. The fee schedule shall consider the administrative and personnel costs incurred for reviewing the plans and for related compliance activities.

(D) Environmental Policy Act Document. Any plan submitted for a land disturbing activity for which an environmental document is required by the North Carolina Environmental Policy Act (G.S. 113A-1, et seq.) shall be deemed incomplete until a complete environmental document is available for review. The Village shall promptly notify the person submitting the plan that thirty (30) day time limit for review of the Plan pursuant to this ordinance shall not begin until a complete environmental document is available for review.

(E) Content. The Plan required by this section shall contain, but is not limited to, architectural and engineering drawings, maps, assumptions, calculations and narrative statements, as needed to adequately describe the proposed development of the tract and the measures planned to comply with the requirements of this ordinance. Plan content may vary to meet the needs of specific site requirements. The Plan shall be prepared and bear the seal of a North Carolina registered engineer, landscape architect or registered professional surveyor. Detailed guidelines for Plan preparation may be obtained from the Village on request.

(F) Timeline for Decisions on Plans.

(1) The Village will review each complete Plan submitted to it and within thirty (30) days of receipt thereof 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 thirty (30) days of receipt shall be deemed approval.

(2) If it is determined by the Village that a Plan needs to be revised, the Village will review each revised Plan submitted to them and within fifteen (15) days of receipt thereof will notify the person submitting the Plan in writing 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 fifteen (15) days of receipt shall be deemed approval.

(G) Approval. The Village shall only approve a Plan upon determining that it complies with all applicable State and local regulations for erosion and sedimentation control. Approval assumes the applicant's compliance with the Federal and State water quality laws, regulations and rules. The Village shall condition approval of Plans upon the applicant's compliance with the Federal and State water quality laws, regulations and rules.

(H) Disapproval for Content. The Village may disapprove a Plan or draft Plan based on its content. A disapproval based upon a Plan's content must specifically state in writing the reasons for disapproval.

(I) Other Disapprovals. The Village may disapprove a Plan or draft Plans 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 Village may disapprove a Plan upon a finding that an applicant, or a parent, subsidiary or other affiliate of the applicant:

(1) Is conducting or has conducted land-disturbing activity without an approved plan, or has received notice of violation of a plan previously approved by the Commission or a local government pursuant to the Act and has not complied with the notice within the time specified in the notice;

(2) Has failed to pay a civil penalty assessed pursuant to the Act or a local ordinance adopted pursuant to the Act by the time the payment is due;

(3) Has been convicted of a misdemeanor pursuant to G.S. 113A-64(b) or any criminal provision of a local ordinance adopted pursuant to the Act or;

(4) Has failed to substantially comply with State rules or local ordinances and regulations adopted pursuant to the Act.

For purposes of this subparagraph (I), an applicant's record may be considered for only the two (2) years prior to the application date.

In the event that a Plan is disapproved pursuant to this subparagraph (I), the Village shall notify the Director of the Commission of such disapproval within ten (10) days. The Village shall advise the applicant and the Director in writing as to the specific reasons that the Plan was disapproved.

(J) Notice of Activity Initiation. No person may initiate a land-disturbing activity before notifying the Village of the date that land-disturbing activity will begin.

(K) Pre-Construction Conference and Issuance of Grading Permit. Upon receipt of notification from the Village, the applicant who has been granted approval shall schedule a pre-construction conference with the Village prior to commencement of work. The Village shall issue a grading permit if it is assured that the proposed land-disturbing activity will be carried out in accordance with the approved Plan.

(L) Display of Grading Permit. A grading permit issued under this ordinance shall be prominently displayed at the primary entrance to the site of the land-disturbing activity before construction begins and remain until all construction is complete, all permanent sedimentation and erosion control measures are installed, and the site has been stabilized. A copy of the approved Plan and approval letter shall be kept on file at the job site.

(M) Required Revisions. After approving a Plan, if the Village, either upon review of such plan or on inspection of the job site, determines that a significant risk of accelerated erosion or off-site sedimentation exists, the Village shall require a revised Plan. Pending the preparation of the revised Plan, work shall cease or shall continue under conditions outlined by the Village. If following commencement of a land disturbing activity pursuant to an approved Plan, the Village determines that the Plan is

inadequate to meet the requirements of this ordinance, the Village may require any revision of the Plan that is necessary to comply with this ordinance. No fee shall be charged for review of a revised Plan unless the revised Plan contains an increase in the number of acres to be disturbed.

(N) Amendments to a Plan. Applications for amendments of a Plan in written and/or graphic form may be made at any time under the same conditions as the original application. Until such time as said amendment is approved by the Village, the land-disturbing activity shall not proceed except in accordance with the Plan as originally approved. No fee shall be charged for an amendment to a Plan unless the amended Plan contains an increase in the number of acres to be disturbed.

(O) Failure to File a Plan. Any person engaged in land-disturbing activity who fails to file a Plan in accordance with this ordinance, or who conducts a land-disturbing activity except in accordance with provisions of an approved Plan shall be deemed in violation of this ordinance.

(P) Expiration and Renewal of Grading Permit. A grading permit shall be valid for a period of one (1) calendar year after issuance, unless it is revoked by the Village or the grading project is completed and a letter of completion is issued by the Village within the one (1) year period. The grading permit may be renewed for an additional one (1) year period, if adequately justified, by making written request to the Village. No permit fee will be charge for re-issuance of a grading permit, unless the permit has been revoked.

(Q) 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.

SECTION 7 MINOR EROSION AND SEDIMENTATION CONTROL PLANS-Tracts comprising less than ten thousand square feet (10,000 SF) to be disturbed.

A Soil Erosion and Sedimentation Control Compliance Form, indicating the minimum control measures to be installed at the site where less than ten thousand square feet will be disturbed, must be completed by the applicant and approved by the Village before a grading permit will be issued, unless otherwise approved. The approved compliance form and grading permit issued under this ordinance shall be prominently

displayed at the primary entrance to the site of the land-disturbing activity before construction begins and remain until all construction is complete.

(A) Minimum Erosion Control Measures Required, Unless Otherwise Approved. The approved and minimum required erosion control measures to be placed on an individual residential or commercial construction site where less than ten thousand square feet in surface area to be disturbed are:

(1) Silt fencing on all lower elevation perimeters
(2) A construction entrance
(3) Provision of ground cover sufficient to restrain erosion
(4) Provision of temporary ground cover or covering of soil stockpiles sufficient to restrain erosion.

(2) The site must comply with the Village Soil Erosion and Sedimentation Control Ordinance by installing and maintaining all required control measures. The only land-disturbing activity to take place before the erosion control measures are completed is the cutting of trees necessary to install the erosion control measures.

(3) If it is determined that a significant risk of accelerated erosion or off-site sedimentation may occur as a result of the land-disturbing activity, the Village requires the preparation and approval of a Major Plan and grading permit be secured for land-disturbing activity.

(B) Compliance Procedure. Before any land-disturbing activity occurs, the applicant for the grading permit shall schedule a meeting at the site with the Erosion Control Inspector to discuss placement of erosion control measures. After this meeting, the applicant may clear enough land for placement of soil erosion control measures. If the inspector upon re-inspection finds that the control measures are appropriately placed, the Village shall issue a grading permit. If, at the time, the Erosion Control Inspector observes any erosion control problems on the site including failure to install erosion control measures, a written Notice of Violation will be issued in accordance with Section 18 (C).

(C) Final Inspections. When all construction on the project is complete, the Erosion Control Inspector will evaluate the site and all permanent erosion control features and off site impacts to other properties. If found to be in compliance, the Director of Planning and Zoning will be advised, giving approval for the Certificate of Occupancy, if applicable.

SECTION 8 BASIC CONTROL OBJECTIVES.

An Erosion and Sedimentation Control Plan may be disapproved if the Plan fails to address the following control objectives:

(A) Identify Critical Areas. On-site areas which are subject to severe erosion and off-site areas which are especially vulnerable to damage from erosion and/or sedimentation, are to be identified and receive special attention.

(B) Limit Time of Exposure. All land-disturbing activity is to be planned and conducted to limit exposure to the shortest feasible time.

(C) Limit Exposed Areas. All land-disturbing activity is to be planned and conducted to minimize the size of the area to be exposed at any one time.

(D) Control Surface Water. Surface water runoff originating upgrade of exposed areas should be controlled to reduce erosion and sediment loss during the period of exposure.

(E) Control Sedimentation. All land-disturbing activity is to be planned and conducted so as to prevent off-site sedimentation damage.

(F) Manage Stormwater Runoff. When the increase in the velocity of stormwater runoff resulting from a land-disturbing activity is sufficient to cause accelerated erosion of the receiving watercourse, plans are to include measures to control the velocity at the point of discharge so as to minimize accelerated erosion of the site and increased sedimentation of the stream.

SECTION 9 DESIGN AND PERFORMANCE STANDARDS

(A) Erosion and sedimentation control measures, structures, and devices shall be so planned, designed, and constructed as to provide protection from the calculated maximum peak rate of runoff from the twenty-five year storm.

(1) Limit on Uncovered Area. Uncovered areas shall be limited at any time to a maximum total area of twenty (20) acres within the boundaries of the tract.

(2) Maximum Peak Rate of Runoff Protection. Erosion and sedimentation control measures, structures, and devices shall be planned, designed and constructed to provide protection from the calculated maximum peak rate of runoff from the twenty-five (25) year storm.

(3) Settling Efficiency. Sediment basins zones shall be designed and constructed such that the basin will have a settling efficiency of at least seventy percent (70%) for the 40 micron (0.04 mm) size soil particle transported into the basin by the calculated maximum peak rate of runoff from the two (2) year storm.

(4) Grade. Newly constructed open channels shall be designed and constructed with side slopes no steeper than 3 horizontal to 1 vertical if a vegetative cover is used for

stabilization unless soil conditions permit a steeper slope or where the slopes are stabilized by using mechanical devices, structural devices or other acceptable ditch liners. In any event, the angle for side slopes shall be sufficient to restrain accelerated erosion.

(5) Ground Cover. Ground cover sufficient to restrain erosion must be provided for any portion of a land-disturbing activity within fifteen (15) working days or sixty (60) calendar days following completion of construction or development, whichever period is shorter.

SECTION 10 STORMWATER OUTLET PROTECTION

(A) Intent. Stream banks and channels downstream from any land disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity of runoff from the land-disturbing activity.

(B) Performance Standard. Persons shall conduct land-disturbing activity so that the post construction velocity of the ten (10) year storm runoff in the receiving watercourse to the discharge point does not exceed the greater of:

(1) The velocity established by the table below of this Article; or

(2) The velocity of the 10-year storm runoff in the receiving watercourse prior to development.

If conditions (1) or (2) of this section cannot be met, then the receiving watercourse to and including the discharge point shall be designed and constructed to withstand the expected velocity anywhere the velocity exceeds the "prior to development" velocity by ten percent (10%).

Maximum Permissible Velocity Table

The following is a table for maximum permissible velocity for storm water discharges in feet per second (FPS) and meters per second (MPS):

Material	F.P.S.	M.P.S.
Fine sand (non-colloidal)	2.5	.8
Sandy loam (non-colloidal)	2.5	.8
Silt loam (non-colloidal)	3.0	.9
Ordinary firm loam	3.5	1.1
Fine gravel	5.0	1.5

Stiff clay (very colloidal)	5.0	1.5
Graded, loam to cobbles (non-colloidal)	5.0	1.5
Graded, silt to cobbles (colloidal)	5.5	1.7
Alluvial silts (non-colloidal)	3.5	1.1
Alluvial silts (colloidal)	5.0	1.5
Coarse gravel (non-colloidal)	6.0	1.8
Cobbles and shingles	5.5	1.7
Shales and hard pans	6.0	1.8

Source - Adapted from recommendations by Special Committee on Irrigation Research, American Society of Civil Engineers, 1926, for channels with straight alignment. For sinuous channels, multiply allowable velocity by 0.95 for slightly sinuous, by 0.9 for moderately sinuous channels, and by 0.8 for highly sinuous channels.

(C) Acceptable Management Measures. Measures applied alone or in combination to satisfy the intent of this section are acceptable if there are no objectionable secondary consequences. The Village recognizes that the management of stormwater runoff to minimize or control downstream channel and bank erosion is a developing technology. Innovative techniques and ideas will be considered and may be used when shown to have the potential to produce successful results. Some alternatives, while not exhaustive, are to:

(1) Avoid increases in surface runoff volume and velocity by including measures to promote infiltration to compensate for increased runoff from areas rendered impervious;

(2) Avoid increases in stormwater discharge velocities by using vegetated or roughened swales and waterways in place of closed drains and high velocity paved sections;

(3) Provide energy dissipaters at outlets of storm drainage facilities to reduce flow velocities to the point of discharge. These may range from simple rip-rapped sections to complex structures;

(4) Protect watercourses subject to accelerated erosion by improving cross sections and/or providing erosion-resistant lining; and

(5) Upgrade or replace the receiving device, structure, or watercourse such that it will receive and conduct the flow to a point where it is no longer subject to degradation from the increased rate of flow or increased velocity.

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

SECTION 11 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'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.

SECTION 12 ACCESS AND HAUL ROADS

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

SECTION 13 OPERATIONS IN LAKES OR NATURAL WATERCOURSES

Land-disturbing activity in connection with construction in, on, over, or under a lake or natural watercourse shall minimize the extent and duration of disruption of the stream channel. Where relocation of a stream forms an essential part of the proposed activity, the relocation shall minimize changes in the stream flow characteristics.

SECTION 14 RESPONSIBILITY FOR MAINTENANCE

(A) During the development of a site, the person conducting the land-disturbing activity shall install and maintain all temporary and permanent erosion and sedimentation control measures as required by the approved Plan or any provisions of this ordinance, the Act, or any order adopted pursuant to this ordinance or the Act. After site development, the land owner or person in possession or control of the land shall install and/or maintain all necessary permanent erosion and sediment control measures, except those measures installed within a road or street right-of-way or easement accepted for maintenance by a governmental agency, and remove such temporary devices as may have been installed.

(B) If maintenance of such devices is neglected and either on site or off site erosion and/or sedimentation occurs, the Village may require another erosion control plan to be submitted, approved, and implemented by the land owner or person in possession or control of the land.

SECTION 15 ADDITIONAL MEASURES

Whenever the Village determines that significant erosion and sedimentation is occurring as a result of land-disturbing activity, despite application and maintenance of protective practices, and regardless of the size of the disturbed area and whether or not a Plan was required, the person conducting the land-disturbing activity will be required to and shall take additional protective action.

SECTION 16 EXISTING UNCOVERED AREAS

(A) All uncovered areas existing on the effective date of this ordinance which resulted from land-disturbing activity are subject to continued accelerated erosion and are causing off-site damage from sedimentation, shall be provided with a ground cover or other protective measures, structures or devices sufficient to restrain accelerated erosion and control off-site sedimentation.

(B) The Village shall serve upon the landowner or other person in possession or control of the land a written notice to comply with the ordinance. The notice to comply shall be sent by registered or certified mail, return receipt requested, or other means as provided in GS 1A-1. Rule 4. The notice will set forth the measures needed to comply and will state the time within which such measures must be completed. In determining the measures required and the time allowed for compliance, the authority serving notice shall take into consideration the economic feasibility, technology and quantity of work required, and shall set reasonable and attainable time limits of compliance.

(C) The Village reserves the right to require preparation and approval of a Major Plan in any instance where extensive control measures are required.

SECTION 17 PLAN APPEALS

(A) Except as provided in Section 17 (B) of this ordinance, the appeal of a disapproval or approval with modifications of a Plan shall be governed by the following provisions:

(1) The disapproval or approval with modifications of any proposed Plan shall entitle the person submitting the Plan to a public hearing by the Village council if such person submits written demand for a hearing within fifteen (15) days after receipt of written notice of the disapproval or approval with modifications.

(2) A hearing held pursuant to this section, shall be conducted by the Village council within 30 days after the date of the appeal or request for a hearing.

(3) The Village council shall render its final decision on any Plan upon which a hearing is requested within twenty (20) days following the hearing.

(4) If the Village council upholds the disapproval or approval with modifications of a proposed Plan following the hearing, the person submitting the Plan shall then be entitled to appeal the decision of the Village council to the North Carolina

Sedimentation Control Commission as provided in G.S. 113A-61(c) and Title 15A NCAC 4B .0118(d).

(B) In the event that a Plan is disapproved pursuant to Section 6 (I) of this ordinance, the applicant may appeal the Village disapproval of the plan directly to the Commission.

SECTION 18 INSPECTIONS AND INVESTIGATIONS

(A) Inspections. Agents, officials or other qualified persons authorized by the Village will periodically inspect the sites of land-disturbing activity to determine compliance with the Act, this ordinance, or rules or orders adopted or issued pursuant to this ordinance, and to determine whether the activity is being conducted in accordance with an approved Plan and 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 on the grading permit for each Plan.

(B) Willful Resistance, Delay or Obstruction. No person shall willfully resist, delay, or obstruct entry or access to any authorized representative, employee, or agent of the Village who requests entry for purposes of inspection, and who presents appropriate credentials or while that person is in the process of carrying out his official duties.

(C) Notice of Violation.

(1) If the Village determines that a person engaged in land-disturbing activity has failed to comply with the Act, this ordinance, or rules or orders adopted or issued pursuant to this ordinance, 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.

(2) The notice shall specify a date, by which the person must comply with the Act, or this ordinance, or rules, or orders adopted pursuant to this ordinance, and inform the person of the actions that need to be taken to comply with the Act, this ordinance, or rules, or orders adopted pursuant to this ordinance. Any person who fails to comply within the time specified is subject to additional civil and criminal penalties for a continuing violation as provided in G.S. 113A-64 and this ordinance.

(D) Investigation. The Village shall have the power to conduct such investigation as it may reasonably deem necessary to carry out its duties as prescribed in this ordinance, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting the sites of any land-disturbing activity.

(E) Statements and Reports. The Village shall also have the power to require written statements, or the filing of reports under oath, with respect to pertinent questions relating to land-disturbing activity.

SECTION 19 INJUNCTIVE RELIEF

(A) Violation of Local Program. Whenever the Village has reasonable cause to believe that any person is violating or threatening to violate this ordinance or any rule or order adopted or issued by the Village, or any term, condition, or provision of an approved Plan, it may, either before or after the institution of any other action or proceeding authorized by this ordinance, institute a civil action in the name of the Village, for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the Superior Court of Moore County.

(B) Abatement of Violation. Upon determination by a court that an alleged violation is occurring or is threatened, the court shall enter any orders or judgments as are necessary to abate the violation, to ensure that restoration is performed, or to prevent the threatened violation. The institution of an action for injunctive relief under this section shall not relieve any party to such proceedings from any civil or criminal penalty prescribed for violations of this ordinance.

SECTION 20 PERMITS AND STOP WORK ORDERS

(A) Permits. No permit shall be issued for any site requiring land-disturbing activity under this ordinance unless a Plan has been approved by the Village for the site of the activity or a tract of land including the site of the activity, pursuant to G.S. 160A-417(b).

(B) Stop Work Order.

(1) The Erosion Control Inspector shall advise the Director of Planning and Zoning to issue a stop work order if he finds that a land-disturbing activity is being conducted in violation of any rule adopted or order issued pursuant to this ordinance, that the violation is knowing and willful, and that either:

- **(a)** Off-site sedimentation has eliminated or severely degraded a use in a lake or natural watercourse or that such degradation is imminent.
- **(b)** Off-site sedimentation has caused severe damage to adjacent land or that such damage is imminent.
- **(c)** The land-disturbing activity is being conducted without an approved Plan.

(C) The stop work order shall be in writing and shall state what work is to be stopped and what measures are required to abate the violation. The order shall include a statement of findings made by the Erosion Control Inspector pursuant to this section, and shall list the conditions under which the work that has been stopped, by the order, may be resumed. The delivery of equipment and materials which does not contribute to the violation may continue while the stop work order is in effect.

(D) The stop work order shall be served by an official duly authorized by law to serve process as provided by G.S. 1A-1, Rule 4, and shall be served on the person, at the site of the land-disturbing activity, who is in operational control of the land-disturbing activity. A copy of the stop work order shall be posted, by the authorized official, in a conspicuous place at the site of the land-disturbing activity, and a copy shall also be delivered to any person that the Village has reason to believe may be responsible for the violation. A copy of the stop work order shall also be sent forthwith to the owner of the property where the work is taking place and the developer, if different from the owner.

(E) The stop work order provided for in G.S. 113A-65.1 shall serve as the notice of violation for purposes of a civil penalty pursuant to G.S. 113A-64(a)(1).

(F) The directives of the stop work order become effective upon service of the order. Any person who violates any directives set in the order shall be accessed a civil penalty as provided for in Section 22 of this ordinance.

(G) The Erosion Control Inspector shall advise the Director of Planning and Zoning if all the violations for which the stop work order are issued are corrected, no other violations have occurred, and all measures necessary to abate the violations have been taken. The Director of Planning and Zoning shall, after notification from the erosion control inspector, rescind a stop work order that is issued.

(H) A violator may request a hearing, by written demand, within five (5) days after receipt of the stop work order. A hearing shall be conducted, as provided for in Section 17 (A) (4) of this ordinance, by the Village Board of Adjustment within fifteen (15) days after the date of the written demand for a hearing. Appeals from the final decision of the Village shall be to the Superior Court of Moore County.

SECTION 21 RESTORATION AFTER NON-COMPLIANCE

(A) The Village may require a person who engaged in a land-disturbing activity and failed to retain sediment generated by the activity, as required by G.S. 113A-57(3), to restore the waters and land affected by the failure so as to minimize the detrimental effects of the resulting pollution by sedimentation. This authority is in addition to any other civil or criminal penalty or injunctive relief authorized under this ordinance.

(B) In the event that sediment, soil, mud, stone, or other debris from a site is deposited on a public roadway, whether from erosion, sedimentation, tracking, other means, the person conducting the land-disturbing activity shall immediately take appropriate action to remove the debris and clean the roadway.

(1) If the debris is not immediately removed and the roadway cleaned, the Village will issue a Notice of Violation specifying the date by which the debris must be removed and the roadway cleaned.

(2) If the person fails to comply within the time specified, the Village will take action to remove the debris and clean roadway and invoice the Financially Responsible person for the entire cost at established rates.

SECTION 22 PENALTY

(A) Civil Penalties. Any person who violates any of the provisions of this ordinance, or rules or orders adopted or issued pursuant to this ordinance, or who initiates or continues a land disturbing activity for which a plan is required, except in accordance with the terms, conditions, and provisions of an approved plan, is subject to a civil penalty.

(1) Civil Penalties for a Violation. The maximum civil penalty amount that the Village may assess per violation is $5,000. A civil penalty may be assessed from the date of the violation. Each day of continuing violation shall constitute a separate violation.

(2) Civil Penalty Assessment Factors. The Village shall determine the amount of the civil penalty based upon the following factors:

(a) The degree and extent of harm caused by the violation,

(b) and the cost of rectifying the damage,

(c) the amount of money the violator saved by noncompliance,

(d) whether the violation was committed willfully,

(e) the prior record of the violator in complying or failing to comply with this ordinance.

(3) Notice of Civil Penalty Assessment. The Village shall provide notice of the civil penalty amount and basis for assessment to the person assessed. The notice of the assessment shall be served by any means authorized under G.S. 1A-1, Rule 4, and shall direct the violator to either pay the assessment or contest the assessment within 30 days after receipt of the notice of assessment by filing a petition for contested case in the Office of Administrative Hearings in accordance with Article 3 of Chapter 150 B of the General Statutes.

(4) Appeal of Decision of Administrative Law Judge. The decision of the Administrative Law Judge may be appealed in writing within 10 business days after receipt of written notice of the decision. Such appeals are to be heard by the Village Council of Whispering Pines.

(5) Appeal of Final Decision. Appeal from the final decision of the Village shall be to the Superior Court of Moore County by proceedings in the nature of certiorari. The petition for the writ of certiorari must be filed with the Moore County Clerk of Court

within 30 days after a written copy of the decision has been mailed to the person assessed.

(6) Collection. If payment is not received or equitable settlement reached within 30 days after demand for payment is made, the matter shall be referred to the Village attorney for institution of a civil action in the name of the Village in the appropriate division of the General Courts of Justice in Moore County for recovery of the penalty. A civil action must be filed within three years of the date the final decision was served on the violator.

(B) Criminal Penalties. Any person who knowingly or willfully violates any provision of this ordinance, or rule or order adopted or issued pursuant to this ordinance, or who knowingly or willfully initiates or continues a land-disturbing activity for which a plan is required, except in accordance with the terms, conditions, and provisions of an approved Plan, shall be guilty of a Class 2 misdemeanor punishable by imprisonment not to exceed 90 days, or by a fine not to exceed 5,000 or by both, in the discretion of the court as provided in G.S. 113A-64.

SECTION 23 SEVERABILITY

If any section or sections of this ordinance is/are held to be invalid or unenforceable, all other sections shall nevertheless continue in full force and effect.

Section 2. The effective date of this ordinance is March 2, 2009.

Section 3. This ordinance shall be and remain in full force and effect from and after the effective date.

Section 4. Adopted the 3rd day of November 2008.

Bob Zschoche, Mayor

ATTEST:

Geneva A. Wilson, Village Clerk

Grant Proposal for Whispering Pines Soil Erosion and Sedimentation Control Program

NARRATIVE PROPOSAL

Whispering Pines North Carolina requests 40% funding in the amount of $ 25,688 to begin a local Soil Erosion and Sedimentation Control program. Our goal is to keep our eight lakes and other water bodies free of siltation from construction projects through the implementation and enforcement of soil erosion and sedimentation control measures. With our own program, we will have higher standards that require smaller projects of less than 10,000 square feet (10,000 SF) of land-disturbing activity to have Minor Soil Erosion and Sediment Control Plans, unless otherwise approved. Land-disturbing activity over this amount will require Major Plans with greater detail, unless otherwise approved. With local education and greater frequency of inspections, we will be able to take quick action to prevent violations.

The estimated total annual funds needed to operate our local program is $ 64,169. We plan to cover other costs through permit fees and annual budget cycle funding from taxes.

Cognizant of the planned expansion of neighboring Fort Bragg and potential sales of farmland to developers, the Village became very aware of the need to preserve its physical beauty and quality of life. In April of 2008, Whispering Pines declared a moratorium for one year for sub-divisions and commercial development on order to create a Land Development Ordinance. We are also reviewing, for adoption, an updated land use development plan.

A major need is to protect our lakes and other water bodies. The Land Use Plan Committee identified a number of strategies to do this – including a Soil Erosion and Sedimentation Control Ordinance. This was also recognized by Village residents as the number one need in a recent survey conducted by the Village Lakes and Watershed Board, which is in process of developing management plans for our lakes.

In the previous twelve months, 41 building permits were issued. We estimate that an average of 70 plans per year will be reviewed. Of these, approximately 50 plans will require an Erosion and Sediment Control permit. This will require an estimated 10 hours of per week for review and approval of plans and 30 man-hours per week for site inspections and related documentation.

Use of Existing Resources

We plan to use our existing staff to implement this proposed Ordinance. This includes our Director of Planning and Zoning who oversees development in the Village in coordination with our consultant engineer. He maintains a data base of all construction projects, issues permits and stop-work orders. We estimate that the Director of Planning and Zoning will devote twenty percent (20%) of his time to this program or 8 hrs per week.

Our Code Enforcement Officer reports to the Director of Planning and Zoning. He will be involved to help identify land-clearing projects and potential violations that he sees and bring these to the attention of the soil erosion inspector.

An employee within our maintenance department will assume the duties of Erosion Control Inspector . This person has previous experience in his home construction business and experience working in a public utilities department. He has an associate degree in engineering and at the present time, primarily assesses and repairs stormwater ditches and swales. As erosion and control inspector , he will coordinate public education, review Minor Soil Erosion and Sedimentation Control Plans, make site visits to ensure proper placement of containment devices and report violations to our Director of Planning and Zoning. He will work closely with our engineer. The soil erosion inspector will devote 80% of his time to this Ordinance or 32 hours per week. This includes time for community education and documentation.

Our consultant engineer currently reviews subdivision plans and oversees and designs stormwater improvement projects. He will review subdivision soil erosion and sedimentation control plans. Depending on the complexity of other projects, he will review plans and make site visits. He will help educate our Erosion Control inspector and assist with a public education event. We estimate that he will spend approximately 100 hours a year to ensure that plans are adequate and effectively carried out.

The Village office manager will spend approximately 10% of her time or two hours per week to assist with the development of forms and public education.

Since this is a new program, staff resources have been allocated based on the need for staff education, public education and an estimated number of plans we will review. Staff time will be adjusted according to need. We will have a little over three months after Commission approval until the effective date to prepare for this program (training, development of database, forms, processes and procedures, public information and education). We believe this will give us sufficient time for our staff and our consultant engineer to adequately implement this program in March of 2009.

Measureable Outcomes and Method of Evaluation of Outcomes

The single major outcome we wish to achieve is that sedimentation will be contained on sites where land-disturbing activities occur and will not enter into wetlands, lakes or other water bodies.

We anticipate that initial compliance will be at least 90%. The Erosion Control Inspector will complete 40 hrs of training, through a combination of classes and shadowing related personnel in Southern Pines and/or the regional DENR office in Fayetteville. We anticipate that the success of this training will result in effective compliance combined with at least one public information session and distribution of written material related to our new Ordinance. We will evaluate our

success by tracking the number of permits issued in relation to problematic issues and re-inspections, needs for plan revisions and violations that occur during the year.

Plans will be reviewed in a timely manner and in accordance with our Ordinance. Time for review of plans will be noted in our database and on paper copies with date of receipt for approval and date of review and approval or disapproval.

Sites will be monitored to prevent any off-site erosion and compliance with the Ordinance. Sites will be inspected on the average of every two weeks and within twenty four hours after a major rainfall. Site inspections will be recorded in our database.

Reports of perceived non-compliance and actual non-compliance will be handled within twenty four hours and will be noted in our data base. Violation Notices and Stop Work Orders will be issued as needed in a timely manner.

We will provide an annual report to the Commission.

SCOPE OF WORK

A. We are applying for this grant to enable us to offset some of costs of establishing our local soil erosion control program. Specifically, this grant will allow us to offset costs for personnel, training, equipment and supplies.

B. In order to protect our lakes and other waterbodies, we want stronger regulations that will require sedimentation and soil erosion plans where less than 10,000 square feet will be disturbed. We also want to be able to oversee projects on a regular and more timely basis than can be provided by DENR.

C. Grant funds will be used to support the positions of the Director of Planning and Zoning (20%), the Soil Erosion Inspector (80%) and the office manager (10%) as related to this ordinance and for the purchase of supplies and equipment, related to the implementation of the ordinance.

D. The target date for effective date of our ordinance is March 2, 2009, one month before our moratorium ends and our Land Development Ordinance must be adopted. This will enable us to incorporate standards and procedures for sedimentation and erosion control. Some tasks associated with this program, including initial training, will be completed prior to the issuance of a contract; however, we understand that these costs will not be reimbursed. We will ask for personnel costs, equipment and supplies from the date of contract approval to April 15, 2010, the end of the contract period.

E. Fees will enable us to offset most of the costs for outside plan reviews of larger projects. Grant funding will enable us to cover costs to review smaller projects, conduct site inspections, investigate complaints, carry out enforcement actions and participate in training

programs. We will also be able to purchase software for tracking documentation and equipment that will allow for slope measurement and evaluation of site development. The Village will submit a final report detailing how grant monies were spent.

F. Milestones to be met are as follows: After Commission approval and before effective date of our local Ordinance (March 2, 2009) The PZ director will have attended two classes offered by NCSU Department of Soil Science related to soil erosion and sedimentation control. The proposed Soil Erosion inspector will have attended one class and shadowed the Erosion and Control Inspector from Southern Pines and/or Fayetteville regional DENR office for a total of forty hours. Forms, processes and procedures for land disturbing activities will be developed in addition to the data base for monthly, quarterly and yearly reporting. Educational information about our local Soil Erosion and Sedimentation Control Program for the public will created. A workshop for builders, developers and homeowners will be held in the Village to demonstrate expected practices to control soil erosion and sedimentation. After the effective date of the implementation of this ordinance: Forms, processes and procedures will be modified as necessary. Equipment and supplies will be purchased. Public education will continue through use of local cable TV channel and our website. We will also consider setting up a program similar to Muddy Water Citizen Watch as part of the Lakes and Watershed Board advisory committee. If viable, training will be conducted by the Soil Erosion inspector. The Erosion Control Inspector will continue his education, as needed.

G. There are no regulatory or permit requirements that may affect the operation of the local program.

H. The contract time period will be July 1, 2009 or when the State Budget has passed, to April 15, 2010.

I. Invoices for purchases will be submitted immediately after purchases are made. Invoices for training will be submitted immediately after training if no scholarship money is available. Reimbursement for salaries will be submitted on a quarterly basis.

J. Whispering Pines understands that there are limitations on funds used to purchase equipment and if the local erosion and sedimentation control program is terminated, the funds used to purchase equipment will be returned to the state.

Budget

1st Year Budget for Whispering Pines Soil Erosion and Sediment Control Program

Item	Budget Amount	60% Village	40% Grant
Administration and Review, Brian Borchardt	10,762.00	6,457.00	4,305.00
Review and Inspection, Bob Kissinger and Mark Rasdall	28,707.00	17,224.00	11,482.00
Review by Engineer, John Tucker	15,000.00	9,000.00	6,000.00
Support, Linda Christopher	1,600.00	960.00	640.00
Laptop Computer	1,800.00	1,080.00	720.00
Digital Camera	300.00	180.00	120.00
Tools, Equipment, and Software	3,500.00	2,100.00	1400.00
Training	1,000.00	600.00	400.00
Supplies	1,500.00	900.00	600.00
Totals	**$64,169.00**	**$38,501.00**	**$25,668.00**

Note: Approximate $8500. is anticipated in revenue from permit fees.

Map of local program area of authority (See Attachment A)

There will be no official body which oversees this program other than Village management. The local program will be under Planning and Zoning, which is overseen by our Village manager.

SCORING QUESTIONS

A. Most of Whispering Pines is designated as HQW. We are in the Little River Watershed III Intake #2 and in the Little River Vass Watershed III. Whispering Pines has 9 lakes, small ponds, streams and wetlands, part of the Cape Fear River basin.

B. We are seeking approval of our local ordinance from the Sedimentation Commission on November 20, 2008.

C. The projected date for implementation of this ordinance is March 2, 2009.

D. The local erosion and sedimentation control program will be incorporated into our Land Development Ordinance, now in process of review and which will be effective on or before April 2. This ordinance will also contain stronger stormwater control requirements. Sedimentation and Erosion control permits will be issued from the same office as zoning permits. This will ensure that permits are coordinated with the type of land disturbance (less than 10,000 SF or 10,000 SF and greater). This Ordinance will also help us protect the watershed areas from sedimentation.

E. Organizational chart

Village Council
Boards and Commissions
Village Manager
Director of Planning and Zoning
Code Enforcement Officer
Erosion Control Inspector

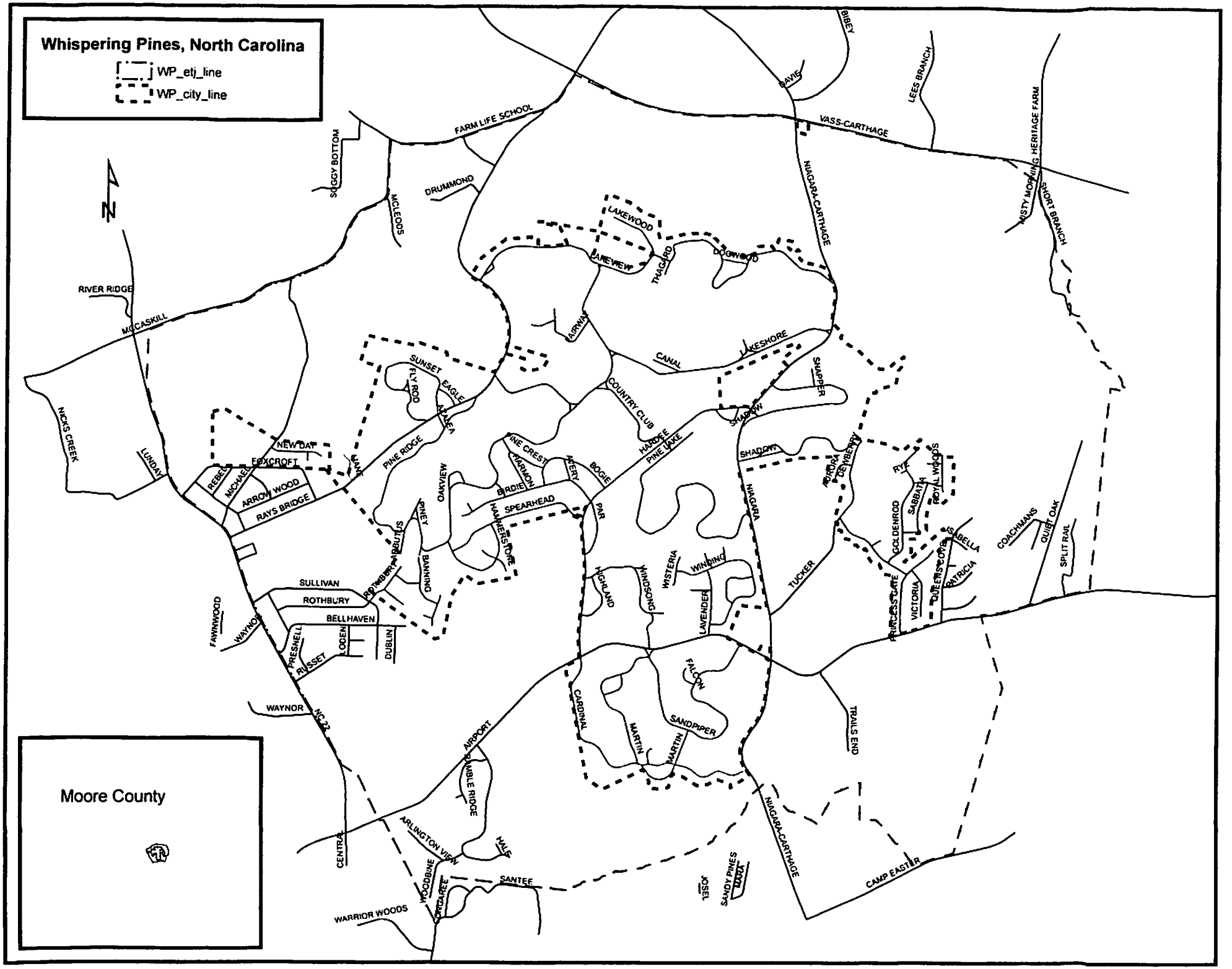
F. No new position is proposed. Existing staff will be utilized to implement the program. The job description for the Director of Planning and Zoning has been revised to incorporate minimum qualifications and responsibilities for oversight of the Ordinance. An existing staff member within our Maintenance Department who executes repair and maintenance of swales and culverts will assume the role of Erosion Control Inspector. His revised job description includes responsibility for education, plan review, field inspections, enforcement and documentation. The Code Enforcement Officer is an existing position. The Village engineer is a consultant engineer. He will continue to review and approve or disapprove with conditions all preliminary and final subdivision plans submitted to the Director of Planning and Zoning. This will includes soil erosion and sedimentation control plans as described under this Ordinance. He will also review other complex and problematic plans as described in the Ordinance. He will periodically visit sites with the Soil Erosion inspector to ensure compliance and identify actual or potential violations and any need for revisions to plans. In addition, he will be a participant in a soil erosion and sedimentation control workshop the Village will schedule for builders and developers. Our office manager will assist with public information and education.

G. Minimum qualification criteria and job descriptions for each program position (See Attachment B for job description and minimum qualification criteria for Director of Planning and Zoning and the Erosion Control Inspector.)

H. The Director of Planning and Zoning will spend approximately 20 % of his time to carry out responsibilities for this ordinance. Eighty percent (80%) of his time will be spent on his other duties as Director of Planning and Zoning. The Soil Erosion Inspector will spend 80% of his time with responsibilities related to this ordinance and 20% of his time on public works and maintenance issues. It is estimated that the engineer will spend approximately 100 hours per year. Our office manager will devote 10% of her time to this program. The rest of her time is divided among a variety of duties serving the public. Village committees and staff.

I. A budget line item will be included in our annual budget to maintain this program. We will review annually the fee schedule and actual costs incurred and make adjustments to yearly budgets as needed.

J. Three year projections are based on the forthcoming expansion of Fort Bragg and on past data for plan reviews and construction of new homes. For the remaining fiscal year 2008-2009, we anticipate a total of 50 for land disturbing projects which will require a plan. For 2009-2010 fiscal year, we estimate 60 land-disturbing projects which will require a plan. For 2010-2111 fiscal year, we estimate 70 land disturbing projects will require a plan. Projections are based on land which has already been rezoned and on anticipated rezoning requests.


Whispering Pines, North Carolina
WP_etj_line
WP_city_line
Moore County
N
FARM LIFE SCHOOL
VASS-CARTHAGE
BIBEY
DAVIS
LEES BRANCH
MISTY MORNING HERITAGE FARM
SHORT BRANCH
NIAGARA-CARTHAGE
SOGGY BOTTOM
MCLEODS
DRUMMOND
LAKEWOOD
LAKEVIEW
THAGARD
DOGWOOD
RIVER RIDGE
MCCASKILL
NICKS CREEK
LUNDAY
FAIRWAY
CANAL
LAKESHORE
SNAPPER
SUNSET
EAGLE
FLY ROD
AZALEA
COUNTRY CLUB
SHADOW
NEW DAY
FOXCROFT
REBEL
MICHAEL
ARROW WOOD
RAYS BRIDGE
PINE RIDGE
PINE CREST
HARMON
BIRDIE
SPEARHEAD
HAMMERSTONE
OAKVIEW
BERRY
BOGIE
PAR
HARDEE
PINE LAKE
AURORA
DEWBERRY
RYE
ROYAL WOODS
SABBATH
GOLDENROD
ISABELLA
PATRICIA
COACHMANS
QUIET OAK
SPLIT RAIL
PINEY
BANNING
PARRUTUS
ROTHBERG
SULLIVAN
ROTHBURY
BELLHAVEN
FAWNWOOD
WAYNOR
PRESNELL
RUSSET
LODEN
DUBLIN
HIGHLAND
WINDSONG
WISTERIA
WINDING
LAVENDER
TUCKER
VICTORIA
QUEEN'S COVE
PRINCESS GATE
FALCON
SANDPIPER
CARDINAL
MARTIN
TRAILS END
WAYNOR
NC 22
AIRPORT
CAMBLE RIDGE
ARLINGTON VIEW
HALE
CENTRAL
WOODBINE
CARGREE
SANTEE
WARRIOR WOODS
JOSEL
SANDY PINES
CAMP EASTER