AGENDA
BREVARD PLANNING BOARD - REGULAR MEETING
Tuesday, May 23, 2023 - 5:30 PM
City Council Chambers

I. Welcome

II. Introduction of Board Members

III. Certification of Quorum

IV. Approval of Agenda

V. Approval of Minutes

a. April 25, 2023

VI. Unfinished Business

a. Consideration of Application for rezoning, REZ-21-004 by Tore's Properties, LLC for property currently zoned General Residential (GR) located on Highway 64 and Osborne Road, PIN# 8596-26-6331-000.

VII. New Business

a. Consideration of Text Amendment TXT-23-005, Consideration of Text Amendment to UDO Chapter 16.9 Administrative Modifications.

b. TXT-23-004 – Discussion of Text Amendment UDO Chapter 10 Parking Standards.

VIII. Public Comments

IX. Remarks

X. Adjourn

_____
Agenda Posted, Website (MONTH DD, YYYY)
J. Pinson, Clerk to the Board

To review Agenda materials, go to the City's website www.cityofbrevard.com. Select "Your

Government" tab followed by "Agenda Packet" tab. Agenda packet materials are posted on Friday afternoon prior to the meeting.

MINUTES
BREVARD PLANNING BOARD REGULAR MEETING
APRIL 25, 2023
CITY COUNCIL CHAMBERS

Brevard Planning Board met for a regular meeting, Tuesday, April 25, 2023, at 5:30 PM, in Council Chambers at City Hall.

Members Present:	Greg Hunter, Chair Reid Wood, Vice Chair Peter Chaveas Molly Jenkins Alan Mercaldo John Schommer
Absent:	James Carli
Staff Present:	Paul Ray, Planning Director Aaron Bland, Assistant Planning Director Emily Brewer, Senior Planner Janice H. Pinson, Board Clerk

I. Welcome

At 5:30 PM, Greg Hunter, Chair called the meeting to order.

II. Introduction of Planning Board Members

The Board introduced themselves.

III. Certification of Quorum

Chair Greg Hunter confirmed with the Board Clerk that a quorum of the Board was present.

IV. Approval of Agenda

Motion to approve agenda by M. Jenkins second P. Chaveas, unanimously carried.

V. Approval of Minutes

Motion to approve March 28, 2023, minutes with revision by P. Chaveas, second M. Jenkins, unanimously carried.

VI. New Business

a. Consideration of application for rezoning REZ-23-001 by Jeremy and Maria Watson of 1699 Old Hendersonville Highway for property zoned Corridor Mixed Use (CMX) to be rezoned to General Residential (GR4) property further identified by PIN# 8596-58-8230-000.

Emily Brewer, Senior Planner, presented her staff report a portion of which follows:

Background

On February 22, 2023, an application was submitted by Jeremy and maria Watson ("Applicants") requesting a map amendment (rezoning) of their property. The property is located at 1699 Old Hendersonville Highway near Ecusta Road, identified by PIN 8596-58-8230-000. The parcel is currently zoned Corridor Mixed-Use (CMX). The request is to rezone to General Residential-4 (GR-4) to restore the historic structure and return it to use as a single-family home. The property abuts CMX, GR-4, and General Industrial (GI) zoning districts. See Attachment 1 for the application materials and Attachment 2 for a map of the current zoning.

Discussion

The property currently has a historic single-family home built in the 1840s. According to the applicants, it has gone through many owners and over time fell into disrepair and was ultimately abandoned. The applicants intend to work with the Joint Historic Preservation Commission to maintain the home's historical character and upgrade to interior to modern living standards.

Though the property was previously used as a single-family home, the property cannot return to use as a single-family residence in the current zoning district because it was abandoned for more than 180 days. The CMX zoning district is described by the Unified Development Ordinance as follows:

> *The Corridor Mixed-Use District is coded to facilitate convenient access, minimize traffic congestion, and reduce the visual impact of auto-oriented uses along the city's major thoroughfares. In addition, this district is established to assure the continuation of the natural beauty and green appearance of the major thoroughfares leading into the city, for enhancement of the appearance of newly developed and redeveloped properties, and for the promotion of public safety by limiting the number and location of access points.*

The requested zoning district, GR-4, is intended for primarily-residential neighborhoods. Below is a comparison of density and dimensional requirements of the existing and proposed districts:

Requirement	CMX	GR-4

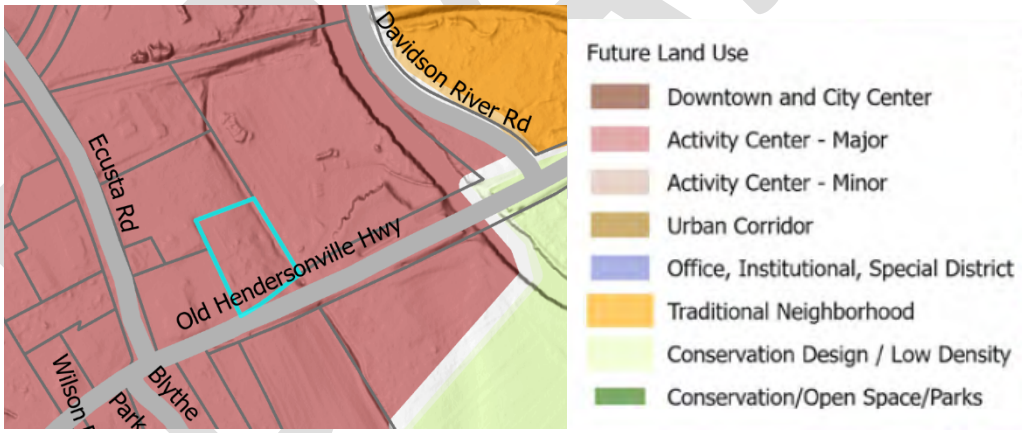
Maximum dwelling unit density	40/acre	4/acre
Maximum ground floor area for principal structures	50,000 SF	10,000 SF
Minimum setbacks for principal structures (front/side/rear)	10/0/10*	15/6/25
Minimum setbacks for accessory structures < 120 square feet (side/rear)	0/0	3/3
Minimum setbacks for accessory structures ≥ 120 square feet (side/rear)	0/0	6/10
Maximum height by right	50 feet	35 feet
Minimum lot width	0 feet	30 feet

**Side and rear setbacks are increased if adjacent to residential district.*

It should also be noted that rezoning this property alters the permitted uses for future development (see Attachment 3 for a comparison of uses in CMX and GR). For example, the majority of commercial, institutional, and manufacturing uses would no longer be permitted on the property.

Policy Analysis

The *Building Brevard 2030* Comprehensive Land Use Plan designates the property as a Major Activity Center. Activity Centers represent unique destinations across the City. They are meant to be the focus of targeted urban design initiatives with a focus on infill, adaptive reuse, and creative solutions to address opportunities and challenges in each unique place.



According to the Future Land Character Area Table, GR-4 is not an applicable zoning district for a Major Activity Center:

Future Land Use Character Areas	**Applicable Zoning Districts**
City Center / Downtown	Downtown Mixed-Use, Corridor Mixed Use, and Residential Mixed-Use
Activity Center – Major	***Corridor Mixed-Use, Neighborhood Mixed-Use, Special Districts***
Activity Center – Minor	Neighborhood Mixed-Use, Residential Mixed-Use

Urban Corridor	Corridor Mixed-Use, Neighborhood Mixed-Use, and
Office, Institutional, Special District	Institutional Campus and General Industrial
Traditional Neighborhood	General Residential-8, Residential Mixed-Use
Conservation Design / Low Density	General Residential-4
Conservation / Open Space	-

Though GR-4 is inconsistent with the future land use map, the Comprehensive Land Use Plan does include goals and recommendations related to historic preservation and creation of housing. The following goals and recommendations are related to this rezoning request and should be considered by the Board:

Goals

- ***GOAL 1****: Expand housing opportunities for all residents while preserving the character of Brevard and its neighborhoods.*
- ***GOAL 6****: Integrate arts, culture, diversity, and history into everyday life and build on Brevard's identity as a dynamic community to live, work, and play.*

Recommendations

- ***Land Use and Housing-2:*** *Evaluate rezoning requests based on the Future Land Use Map and character area descriptions.*
- ***Land Use and Housing-6****: Encourage rezonings to allow for a mix of uses in Activity Centers.*
- ***Land Use and Housing-9****: Evaluate and amend development ordinances to facilitate infill development on vacant and underdeveloped parcels, as well as revitalization of developed parcels.*
- ***Land Use and Housing-18****: Collaborate with neighborhoods to explore opportunities for zoning overlays, historic preservation, adaptive reuse, infill projects, special events, and other neighborhood-specific activities.*
- ***Parks, Natural Resources, and Cultural Resources-17****: Continue participating in North Carolina Historic Preservation Office's Certified Local Government Program via the Transylvania County Joint Historic Preservation Commission.*

She explained that the Applicants have not pursued the historical designation process because they are waiting on the outcome of the rezoning.

Aaron Bland explained that the NC Historical Foundation has an agreement with this property; that there are covenants against the property that if the project to rehabilitate the property is not completed the Foundation can buy the property back for a low price.

Paul Ray further explained that the City can rezone at will without the consent of the property owner.

Emily Brewer explained that the board can recommend a conditional zoning district, and that the board has 30 days to make their recommendation to Council.

After discussion, J. Schommer made a motion to move forward with recommendation of a conditional zoning district with reference to the Consistency Statement, which is attached hereto and labeled, Exhibit "A", second by M. Jenkins, all board members voted in favor except, P. Chaveas voted nay.

b. Consideration of application for rezoning REZ-23-002 by Tore Borhaug and Paralift Holdings, LLC of Deerlake Road for property zoned Independent Living at Tore's Home Planned Development District to be rezoned to Corridor Mixed Use and General Residential (GR8) property further identified by PIN #s 8586-86-4675-000; 8586-86-1995-000 and 8586-87-0180-000.

Aaron Bland, Assistant Planning Director, presented his staff report and stated that all three properties are in line with the future land use map and consistent with the current land use plan. He explained that the basic reason for the request is because a lot of changes have been made to the ordinance that would allow Mr. Borhaug to complete his development by right instead of having to continue to appear before Planning Board when changes are made to his plans.

A portion of the staff report follows:

Background
October 17, 2019 an application was submitted by Tore Borhaug, of Lift Holdings, LLC, along with a preliminary master plan for a mixed-use development located along Deerlake Road. The three parcels that make up the subject area were all zoned General Residential – 8 (GR8) and the Applicant was seeking a conditional zoning district, then called a "planned development district" to establish a site-specific ordinance tailored to the planned mixed-use development of the site.

After several meetings of discussion, the Planning Board unanimously recommended approval at a special-called meeting on June 25, 2020.

After the final Planning Board meeting the Applicant amended the preliminary master plan in order to alleviate neighbor concerns; this plan was presented to Council on August 17, 2020. Council held an on-site meeting on September 3, 2020 and voted on the matter at their regular meeting on September 21, 2020, adopting Ordinance No. 2020-18 approving the PDD.

Mr. Borhaug now wishes to rezone the properties subject to the PDD to traditional "base zoning" districts. Two back to GR8 as they were before the PDD rezoning, and one to Corridor Mixed Use (CMX).

Discussion
A conditional zoning district is a rezoning in which the developer and the City negotiate site-specific development standards for the site/project. These standards are codified in a stand-alone ordinance which applies to the subject property in perpetuity. This process is meant to be flexible and is intended to accommodate complex projects.

Applications for conditional rezonings may seek exceptions to standard development requirements regarding density, building types, architectural standards, open space, landscaping, parking, and signs, but may not seek exceptions for stormwater management, steep slope protections, and floodplain regulations.

Base districts are the standard zoning districts applied throughout the City's jurisdiction. Rezoning to base districts would undo the site-specific standards of the PDD, including any deviations from the typical UDO requirements. Moving forward any development of the site would have to follow any and all applicable UDO requirements.

Tore Borhaug explained that he has been hard at work for the past 3 years. That the intent of what he wants to do has not changed, but with all the ordinance changes he now feels he can develop his properties by right without the necessity to come before the board every time he wants to make a revision to his plan. He explained the changes that Covid made to his development plans, that having small facilities was huge during Covid. Development by right would allow him to more easily phase his project and would allow him more flexibility.

M. Jenkins moved to approve the request as presented with reference to the Consistency Statement which is attached hereto and labeled, Exhibit "B", second by P. Chaveas, unanimously carried.

c. Continuation of TXT-22-006 Steep Slopes

Emily Brewer presented the Board's recommended changes. There was discussion about why the number 2250 was chosen and it was explained that the Planning Board chose that number previously and that part of the reason was for view shed protection.

J. Schommer made a motion to approve with revisions, second by P. Chaveas, G. Hunter voted nay, all other board members voted in favor.

Emily Brewer explained that because Council will be discussing the budget in their May meetings that the public hearing might not happen on this matter until June.

d. CLUP Priorities Discussion

Emily Brewer presented the board with a summary of City Council's retreat from March indicating their priorities for the upcoming budget cycle. She also presented them with the annual Planning by the Numbers reporting, and the Comprehensive Land Use Plan Implementation Tracker for their review and future comments and recommendations. Staff will prepare a memo to Council noting the Board's recommendations.

She gave the Board an update on the progress and upcoming meetings with the UNC School of Government Development Finance Initiative.

VII. Public Comment –

Monica Driscoll stated that she enjoys the Planning Board meetings and gets a lot out of their discussions.

VIII. Remarks –

G. Hunter presented different ideas to the board about getting together socially. He noted that the City Attorney had said no to them meeting socially, but maybe a special meeting or some other idea might work.

Monica Driscoll spoke up that it did not sound right, stating that she has heard Council and Mack McKeller say emphatically no to matter.

Paul Ray said maybe a board's appreciation dinner would be an idea but that the idea of a social gathering has already been approached and the idea disapproved. He further stated that the City Manager would need to weigh in on any meetings, and that it might be a good idea for Greg Hunter to call the City Attorney and have a discussion with him on the matter.

X. Adjournment

There being no further business, M. Jenkins moved to adjourn, seconded by P. Chaveas, carried unanimously, and the meeting adjourned 7:00 PM.

_____
Greg Hunter, Chair

_____
Janice H. Pinson, Board Clerk

DRAFT

STAFF REPORT
Planning Board, Tuesday, May 23, 2023

Title:	Consideration of Application for rezoning, REZ-21-004 by Tore's Properties, LLC for property currently zoned General Residential (GR) located on Highway 64 and Osborne Road, PIN# 8596-26-6331-000.
Speaker:	Aaron Bland, Asst Planning Director
Prepared by:	Aaron Bland, Asst Planning Director
Approved by:	Paul Ray, Planning Director

Background
On August 20, 2021, an application was submitted by Tore Borhaug of Tore's Properties LLC ("Applicant") requesting a map amendment (rezoning) for a property at the corner of Old Hendersonville Highway and Osborne Road, PIN 8596-26-6331-000. This parcel is currently zoned General Residential 8 (GR8), and the Applicant is requesting to rezone the parcel to Residential Mixed Use (RMX). The parcel is approximately 4 acres in size and currently undeveloped; the parcel was annexed in 2018.

The Planning Board discussed this request at their October 2021 meeting. During the discussion, the Board came to the recommendation of greatly expanding the area to be rezoned to RMX; a map of this area is attached. The Planning Board made their recommendation to expand the RMX area based on the fact that RMX is a transitional zoning district meant to buffer GR districts from more commercial districts such as CMX and DMX. There was also discussion that the Azalea Avenue neighborhood is ripe for development if the City is successful in extending sewer service and that it could be good for housing supply to provide greater possible density in that area. The Board's recommendation was unanimous. A map of the Planning Board's proposal is included as an attachment to this staff report.

Due to the substantial increase in scope proposed by the Planning Board, Staff held a Neighborhood Compatibility Meeting to which all impacted property owners were invited. Approximately 20 citizens showed up to the meeting on November 9, 2021 to ask questions about the Board's recommendation and the process moving forward. The concerns raised by the attendees focused on the long-term impacts on infrastructure, such as roads and the water/sewer systems, of such a large area being built out to a density of 15 units per acre as opposed to 8 units per acre.

City Council held a public hearing on the matter at their November 15, 2021 meeting, during which several members of the public voiced their concerns about such a large-scale rezoning. Council ultimately decided to table the matter until after the new Comprehensive Land Use Plan and its Future Land Use Map were completed and adopted. Following the adoption of the *Building Brevard 2030* plan in March, the rezoning was reintroduced to City Council at their May 1, 2023 meeting. Council remanded the issue back to Planning Board

for reconsideration in light of the newly adopted Comprehensive Land Use Plan and its Future Land Use Map.

Discussion
As submitted, the proposed rezoning would only rezone the Applicant's 4-acre parcel. The current GR8 zoning is shared by adjoining parcels on the same side of Old Hendersonville Highway. Across the street there are parcels zoned GR4 and a conditional use district made up of two parcels. Approximately 850 feet southwest of the subject parcel is a small area of Residential Mixed-Use zoning, spread across 3 parcels. When a local government rezones a relatively small area of land, special care must be taken to protect the rights of the landowner, the neighbors, and the community at large.

The prospect of rezoning this one parcel of relatively small size to a different district than those surrounding it brings up questions of what is known as "spot zoning." Spot zoning is the act of treating one parcel differently from the surrounding properties through the application of zoning. The concern is that the zoning change may unfairly benefit that particular landowner more than the public at large. The key question in a court's view of an alleged illegal spot zoning will always be whether the zoning power is being exercised in the *public* interest or for the benefit of one or just a few individual landowners. This issue is what prompted the Planning Board in 2021 to consider expanding the area to be rezoned RMX to include a much larger area than the applicant's request.

Policy Analysis
Recommendation LUH-2 of the Comprehensive Land Use Plan states "Evaluate rezoning requests based on the Future Land Use Map and character area descriptions." The Future Land Use Map identifies the area proposed by the Planning Board as mostly within the Traditional Neighborhood character area, with some of the area around the Osborne Road/Old 64 intersection as within the Activity Center - Minor character area, and a few parcels as the Urban Corridor character area. The RMX zoning district is an applicable zoning district for all three of these character areas as outlined in the Future Land Use Character Area Table. Therefore, this proposal **is** consistent with the new Future Land Use Map and LUH-2.

Other aspects of the plan that speak to upzoning an area ready for increased investment could include:

Goal 1: Expand housing opportunities for all residents while preserving the character of Brevard and its neighborhoods.
Goal 2: Encourage a development pattern that respects Brevard's sense of place and prioritizes livable communities.
Recommendation LUH-4: Identify areas across the City that are best positioned to accommodate future growth.
Recommendation **LUH-6:** Encourage rezonings to allow for a mix of uses in Activity Centers.

Action

The Board's role in a rezoning is to review the proposal and make one of the following recommendations to City Council:

1. Grant the zoning map amendment as requested;
2. Grant the zoning map amendment with a reduction of the area requested;
3. Grant the zoning map amendment to a more restrictive general zoning district or districts; or
4. Deny the application.

In accordance with state law, the Planning Board must submit to Council a consistency statement analyzing the reasonableness of this zoning map amendment. Staff has included a recommended statement for the Board's proposal in this packet.

Attachments:

1. Application Materials
2. Current Zoning
3. Applicant Proposed Zoning
4. Planning Board Proposal Map
5. Land Use Matrix
6. Consistency Statement

REZ-21-004 ATTACHMENT A

The City of Brevard
North Carolina

REQUEST FOR ZONING MAP AMENDMENT (REZONING)

Applicant Information:
Name: TORE'S PROPERTIES LLC
Address: P.O. Box 362, BREVARD, NC 28712
Phone: 828-553-2533

Property Owner Information (if different than applicant):
Name: _____
Address: _____
Phone: _____

Location of Property: HWY 64 & OSBORNE RD

Property Identification Number (PIN): 8596-26-6331

Present Zoning District: GR 8

Request District to be Changed to: RMX (attach additional explanation if necessary)

Existing Use of Adjacent Properties:
North FARM LAND
West SINGLE FAMILY
South SINGLE FAMILY/ PASTURE
East OLD HENDERSONVILLE HWY, FLOOD AREA/COMMERCIAL

Tom Smith
Signature of Applicant

8-20-22
Date

* *

Planning Department must receive the following prior to placement on BPB agenda:

_____ Completed Application Form
_____ Survey of Property
_____ Application Fee – Date Paid _____, Receipt # _____

Heard by Planning Board on: _____
Planning Board's Recommendation: ____Approval ____Denial
Heard by City Council on: _____
City Council Action: ____Approval – Ord. Number _____ Effective Date _____
____Denial

BPB : October 26, 2021

ATTACHMENT A

20' 10' 0 20' 40' 60'

GRAPHIC SCALE
SCALE 1" = 20'

N

LOT NO. 2
CAROLYN OSBORNE HOWIE D.B. 169, PAGE 531
P.F. 10, SLIDE 166-167

S 25°27'33" W 440.94' (TOTAL)

EX. MH
TOP ELEV.: 2124.8'
INV. ELEV.: 2121.0'

N 72°38'00" W
34.84'

N 67°00'21" W
34.62'

N 62°12'27" W
47.63'

30' ROW MEASURED FROM CENTERLINE OF ROAD

EX. POWER POLE

DI
TOP ELEV.: 2115.85'
INV. ELEV.: 2113.3'

DI
TOP ELEV.: 2115.7'
INV. ELEV.: 2112.5'

N 59°34'11" W
63.53'

EX. 8" WATERLINE

EX. 30" CURB & GUTTER

EX. MH
TOP ELEV.: 2,110.3'
INV. ELEV.: 2,104.2'

N 57°25'29" W
113.43'

DI
TOP ELEV.: 2108.5'
INV. ELEV.: 2105.8'

DI
TOP ELEV.: 2108.23'
INV. ELEV.: 2105.6'

OSBORNE ROAD
SR 1556
(±25.5' ASPHALT)

N 56°51'39" W
154.47'

EX. MH
TOP ELEV.: 2105.1'
INV. ELEV.: 2101.3'

18" CMP

INVERT: 2101.8'

S 72°08'21" E
331.02'

30' ROW MEASURED FROM CENTERLINE OF ROAD

18" CONCRETE CULVERT
INVERT: 2103.6'

INVERT: 2103.2'

EX. 10" WATERLINE

INVERT: 2101.5'

24" CMP

INVERT:

EX. 4" FORCE MAIN

N 43°37'49" E
326.76'

OLD HENDERSONVILLE HIGHWAY
SR 1504
(±20' ASPHALT)

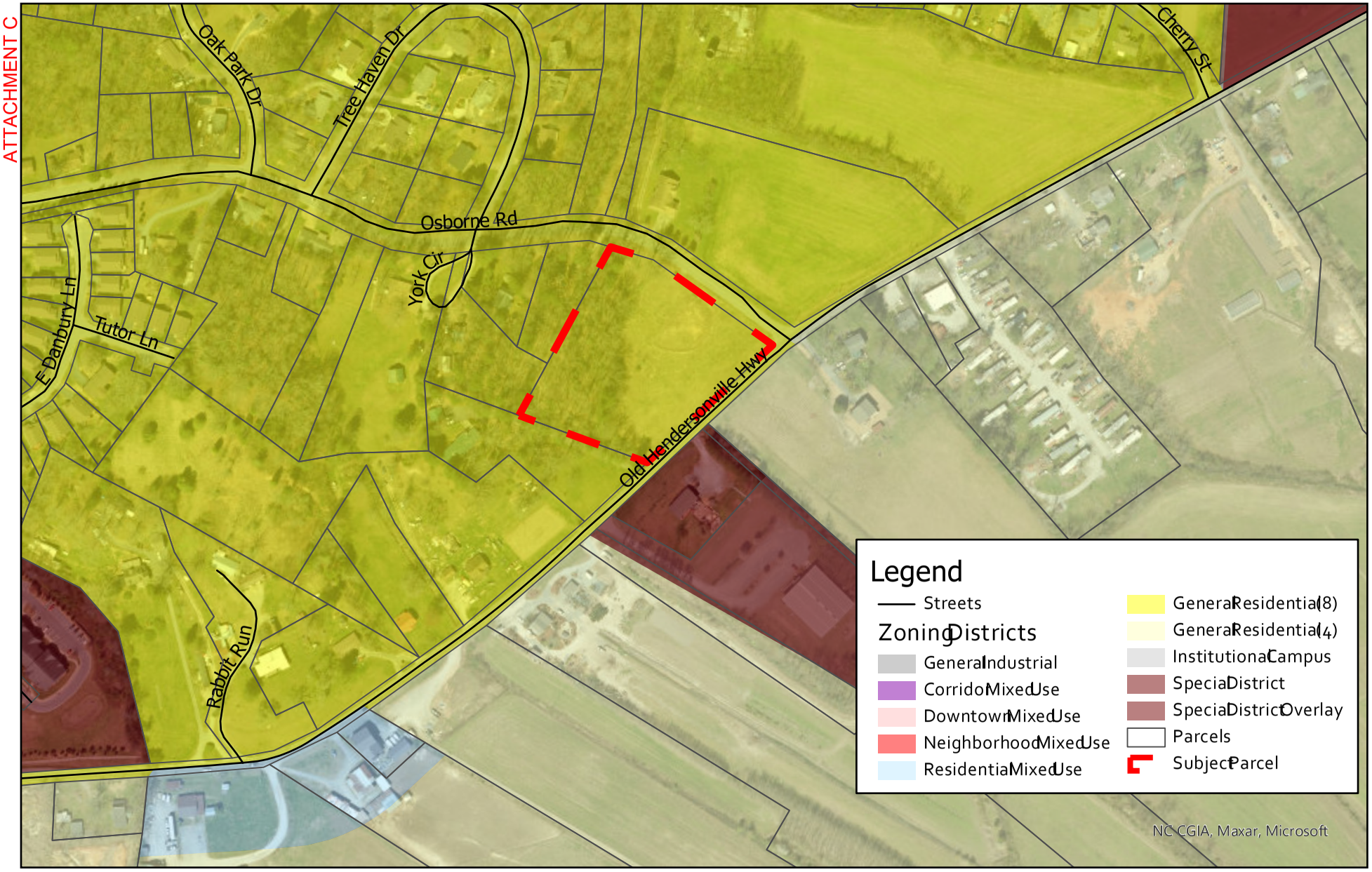
N 45°43'34" E
91.24'

PRIVATE ASPHALT DRIVEWAY

2150 2140 2130 2120 2110 2100

ATTACHMENT C

Rezoning Request REZ-21-004: Tore's Properties LLC



N
W
E
S

0 75 150 300 450 600 Feet

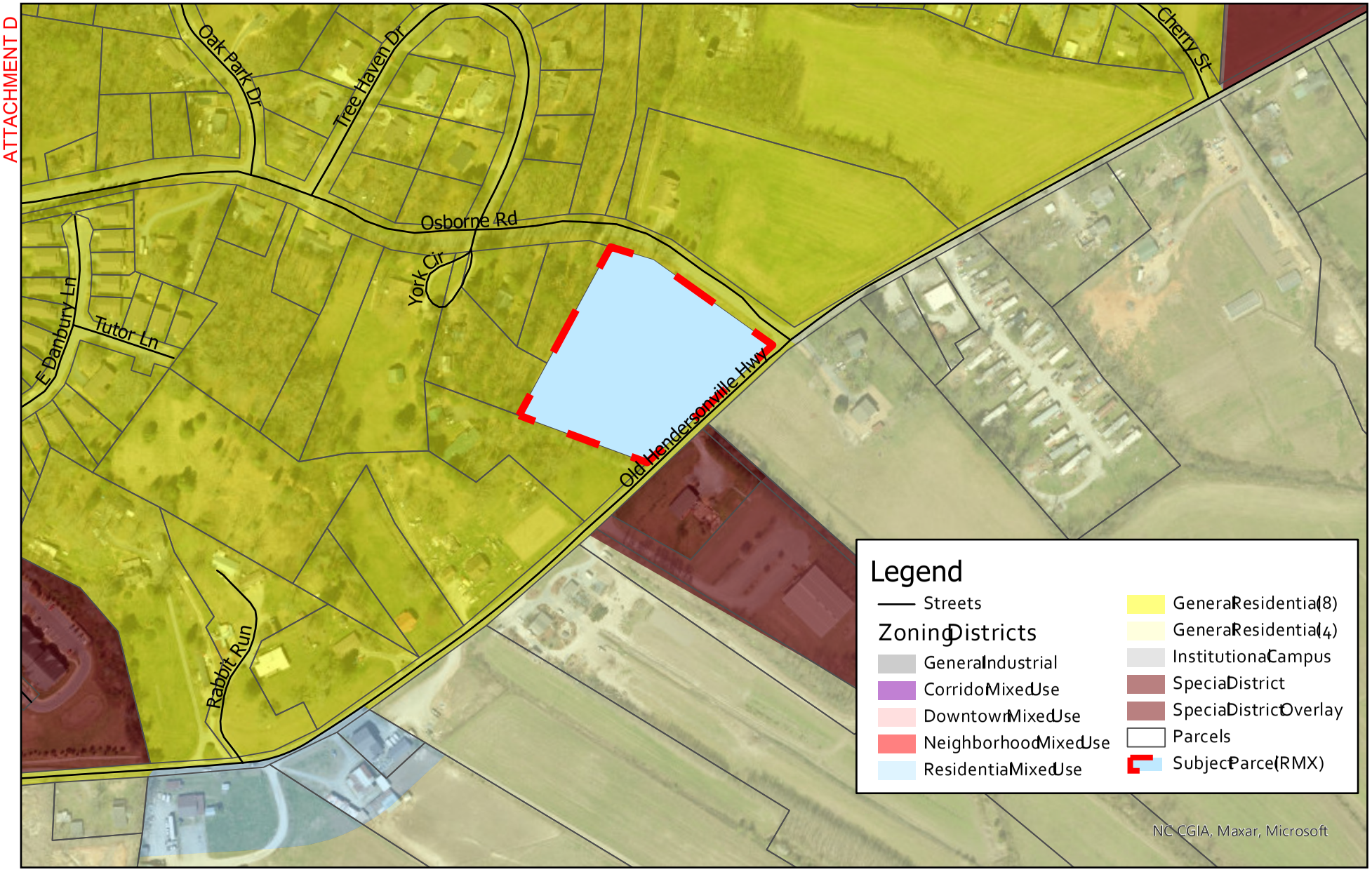
1 inch = 300 feet

This map was prepared by the City of Brevard Planning Department, October 2021.

Disclaimer: The information contained on this page is NOT to be construed or used as a survey or legal description. Map information is believed to be accurate, but accuracy is not guaranteed.

ATTACHMENT D

Rezoning Request REZ-21-004: Tore's Properties LLC



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0 75 150 300 450 600 Feet

1 inch = 300 feet

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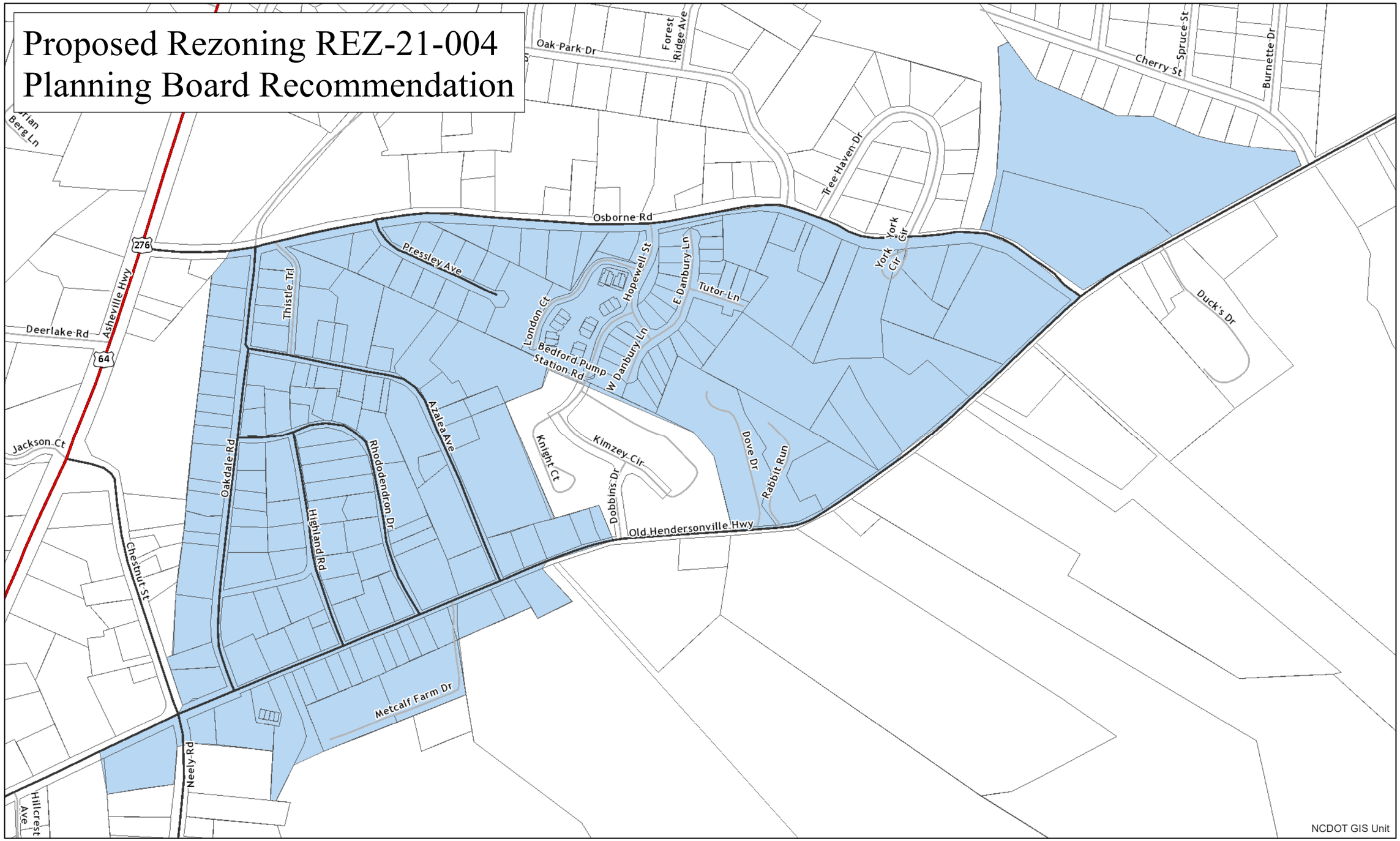
Proposed Rezoning REZ-21-004
Planning Board Recommendation



The City of Brevard North Carolina

Land Use Matrix (as of December 5, 2022)

Brevard's City Council adopted Ordinance 2022-76 amending multiple chapters of the Unified Development Ordinance related to land use regulations. These changes include restructuring and amending the matrix of permitted uses in various zoning districts. An excerpt of the revised UDO Section 2.2, including the Use Matrix, can be found below. For the full matrix, relevant definitions, and use-specific standards, please refer to Ordinance 2022-76, which can be accessed at cityofbrevard.com/ordinances.

Unified Development Ordinance Section 2.2.C | Use Matrix

The following matrix sets forth the matter by which certain uses may be permitted within the various districts.

1. "P" denotes those uses that are permitted "by right."

2. "—" denotes those uses that are not permitted within the given district.

3. "SUP" denotes those uses that are permitted upon issuance of a special use permit.

4. "PS" denotes those uses that are permitted with additional standards, which are set forth in Chapter 3.

5. "MHD" denotes those uses that are permitted within a Manufactured Housing Overlay District.

CATEGORY	LAND USE	ZONING DISTRICTS						
Residential		**GR**	**RMX**	**NMX**	**DMX**	**CMX**	**IC**	**GI**
Household Living	Dwelling—Single-Family	P	P	—	—	—	P	—
	Dwelling—Duplex	P	P	P	—	—	P	—
	Dwelling—Multifamily 3—4 units/bldg.	P	P	P	P	P	P	—
	Dwelling—Multifamily more than 4 units/bldg.	—	P	P	P	P	P	—
	Dwelling—Townhome	P	P	P	P	P	P	—
	Manufactured Home (single unit)	MHD	MHD	MHD	MHD	MHD	MHD	—
	Manufactured Home Park	MHD	MHD	MHD	MHD	MHD	MHD	—
	Live-Work Units	P	P	P	P	—	P	—
Group Living	Family Care Home (Less than 6 residents)	P	P	P	P	P	P	—
	Housing Services for the Elderly	SUP	P	P	P	P	P	—
	Rooming or Boarding House	P	P	P	P	P	P	—
Social Services	Group Care Facility (6 or more residents)	P	P	P	P	P	P	—
	Shelter	—	—	P	P	P	P	—
Lodging		**GR**	**RMX**	**NMX**	**DMX**	**CMX**	**IC**	**GI**
Overnight Accommodations	All overnight accommodations, except as listed below	—	—	—	P	P	P	—
	Bed and Breakfast	PS	PS	PS	PS	PS	PS	—
	Short-Term Rental	PS	PS	PS	PS	—	—	—
Camping	Campground/Recreational Vehicle Park	SUP	SUP	SUP	—	—	SUP	—
	Rental Cottage/Cabins	PS	PS	PS	—	—	—	—
	Seasonal Camp	PS	—	—	—	—	PS	—

The City of Brevard North Carolina

Land Use Matrix (as of December 5, 2022)

CATEGORY	LAND USE	ZONING DISTRICTS						
Commercial		**GR**	**RMX**	**NMX**	**DMX**	**CMX**	**IC**	**GI**
Eating & Drinking	All restaurants and other eating and drinking establishments except as listed below	—	—	P	P	P	P	—
	Bar/Night Club	—	—	PS	P	P	—	—
Personal Services	All personal services, except as listed below	—	P	P	P	P	P	—
	Day Care Center	PS	PS	PS	PS	PS	PS	PS
Professional Services	All professional services, except as listed below	SUP	P	P	P	P	P	P
	Adult Establishment	—	—	—	—	—	—	SUP
	Banks, Credit Unions, Financial Services, and ATMs	—	—	P	P	P	P	P
	Funeral Homes and Services	—	—	P	P	P	P	—
	Human Crematories and Crematoriums	—	—	PS	PS	PS	PS	PS
	Indoor Animal Services	—	—	P	P	P	P	P
	Kennels and Outdoor Animal Services	—	—	SUP	—	PS	—	PS
	Landscaping and Contractor Services	SUP	SUP	SUP	—	—	—	P
	Vehicle Services - Major Repair/Body Work	—	—	—	—	PS	—	PS
	Vehicle Services - Minor Maintenance/Repair	—	—	SUP	SUP	PS	PS	PS
Retail	All retail and sales establishments except as listed below	—	—	P	P	P	P	—
	Alcoholic Beverage Sales Store	—	—	SUP	P	P	—	—
	Auto/Mechanical Parts Sales	—	—	—	P	P	—	P
	Gas Station	—	—	SUP	SUP	PS	—	PS
	Gunsmiths and Weapon Sales	—	—	SUP	PS	PS	—	PS
Shopping Centers	All shopping centers	—	—	PS	PS	PS	—	—
Civic/Institutional		**GR**	**RMX**	**NMX**	**DMX**	**CMX**	**IC**	**GI**
Educational	All educational uses except as listed below	SUP	P	P	P	P	P	—
	Colleges/Universities	—	—	SUP	P	P	P	—
	Schools—Vocational/Technical	—	SUP	P	P	P	P	P
Government	All government uses, except as listed below	—	P	P	P	P	P	P
	Correctional Facilities	—	—	SUP	SUP	P	P	P
	Public Safety Station	SUP	SUP	P	P	P	P	P
Medical	All medical offices and facilities except as listed below	—	P	P	P	P	P	—
	Hospital	—	—	—	—	P	P	—
Places of Worship	All religious institutions or places of worship	SUP	P	P	P	P	P	—
	Cemeteries	PS	PS	PS	PS	PS	PS	—

The City of Brevard North Carolina

Land Use Matrix (as of December 5, 2022)

CATEGORY	LAND USE	ZONING DISTRICTS						
Entertainment/Recreation		**GR**	**RMX**	**NMX**	**DMX**	**CMX**	**IC**	**GI**
Indoor Recreation	All indoor recreation, except as listed below	SUP	P	P	P	P	P	P
	Cultural or Community Facility	SUP	P	P	P	P	P	—
	Indoor Amusements	—	—	SUP	P	P	SUP	P
	Indoor Firing Range	—	—	—	—	SUP	SUP	SUP
	Live Performance Theater	—	SUP	SUP	P	P	P	—
	Movie Theater	—	—	—	P	P	—	—
	Special Event Venue	SUP	SUP	PS	PS	PS	PS	—
	Studios, Galleries & Workshops - High Impact	—		SUP	SUP	P	P	P
	Studios, Galleries & Workshops - Low Impact	—	P	P	P	P	P	—
Outdoor Recreation	All outdoor recreation, except as listed below	SUP	P	P	P	P	P	P
	Non-Residential Swimming Pool or Pond	—	SUP	SUP	PS	PS	PS	—
	Outdoor Amusements	—	—	SUP	SUP	P	—	P
	Outdoor Firing Range	—	—	—	—	—	—	SUP
	Parks, Open Space, and Greenways	P	P	P	P	P	P	P
Agriculture		**GR**	**RMX**	**NMX**	**DMX**	**CMX**	**IC**	**GI**
Agriculture	All agricultural uses	PS	—	—	—	PS	PS	PS
Manufacturing/Wholesale/Storage		**GR**	**RMX**	**NMX**	**DMX**	**CMX**	**IC**	**GI**
Light Industrial & Manufacturing	All light industrial and manufacturing activities, except as listed below	—	—	—	—	SUP	—	P
	Brewery, Distillery, Winery, Cidery - High Impact	—	—	—	—	P	—	P
	Brewery, Distillery, Winery, Cidery - Low Impact	—	—	SUP	PS	PS	—	PS
	Laboratory	—	—	—	—	P	P	P
	Laundry, Dry Cleaning Plant	—	—	—	—	SUP	P	P
	Manufacturing Research and Development	—	—	—	—	P	P	P
	Media Production	—	—	P	P	P	P	P
Heavy Manufacturing	All heavy manufacturing activities, except as listed below	—	—	—	—	—	—	SUP
	Metal Products Fabrication, Machine or Welding Shop	—	—	SUP	SUP	P	—	P
Storage and Disposal	All storage/disposal uses, except as listed below	—	—	—	—	SUP	—	P
	Chemical Storage Facility	—	—	—	—	—	—	P
	Solid Waste Storage or Disposal Facilities	—	—	—	—	—	—	PS
	Junkyard / Salvage Yard	—	—	—	—	—	—	SUP
Wholesaling & Distribution	All wholesaling/distribution activities, except as listed below	—	—	—	—	P	—	P
	Equipment Rental	—	—	—	—	P	—	P
	Indoor Vehicle/Heavy Equipment Sales	—	—	PS	PS	PS	—	PS
	Outdoor Vehicle/Heavy Equipment Sales	—	—	—	—	PS	—	PS

The City of Brevard North Carolina

Land Use Matrix (as of December 5, 2022)

CATEGORY	LAND USE	ZONING DISTRICTS						
Infrastructure		**GR**	**RMX**	**NMX**	**DMX**	**CMX**	**IC**	**GI**
Utilities	Utilities—Class 1	P	P	P	P	P	P	P
	Utilities—Class 2	P	P	P	P	P	P	P
	Utilities—Class 3	—	—	—	—	—	—	P
Telecommunications	All wireless telecommunication facilities, except as listed below	PS	PS	PS	PS	PS	PS	PS
	Wireless Telecommunication Facility—Tower	—	—	—	—	SUP	—	PS
Transportation	Parking Lot	PS	PS	PS	PS	PS	PS	PS
	Passenger Vehicle Terminals	—	—	P	P	P	—	P
Accessory		**GR**	**RMX**	**NMX**	**DMX**	**CMX**	**IC**	**GI**
Residential Accessory	All residential accessory uses, except as listed below	PS	PS	PS	PS	PS	PS	PS
	Day Care Home	PS	PS	PS	PS	PS	PS	—
	Dwelling—Accessory Unit (ADU)	PS	PS	PS	PS	PS	PS	—
	Home Occupation	PS	PS	P	P	P	P	—
	Keeping Bees	PS	PS	PS	PS	PS	PS	PS
	Keeping Domestic Fowl (Chickens)	PS	PS	PS	PS	PS	PS	PS
	Swimming Pool or Pond	PS	PS	PS	PS	PS	PS	—
Non-Residential Accessory	All non-residential accessory uses, except as listed below	—	PS	PS	PS	PS	PS	PS
	Accessory Retail	—	—	PS	PS	PS	PS	PS
	Drive-Thrus	—	—	SUP	—	PS	—	—
	Recycling - Small Collection	—	—	—	—	SUP	SUP	P
	Rooftop Amenity Space	—	—	SUP	PS	PS	PS	PS
	Taproom / Tasting Room	—	—	SUP	P	P	—	P
Temporary		**GR**	**RMX**	**NMX**	**DMX**	**CMX**	**IC**	**GI**
Events and Structures	All temporary events and structures, except as listed below	PS	PS	PS	PS	PS	PS	PS
	Carnivals or Circus	—	—	—	—	PS	PS	PS
	Farmers Market	—	—	PS	PS	PS	PS	—
Vendors	All temporary vendors, except as listed below	—	—	PS	PS	PS	—	—
	Mobile Food Vendors	—	—	PS	PS	PS	PS	PS
	Vending Pushcarts	—	—	—	PS	—	—	—

STATEMENT OF CONSISTENCY AND REASONABLENESS WITH ADOPTED PLANS AND POLICIES OF THE CITY OF BREVARD
REZ-21-004

NCGS 160D-604 requires that the Planning Board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan prior to consideration by the Governing Board. The Planning Board shall provide a written recommendation to the Governing Board that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the Comprehensive Plan shall not preclude consideration or approval of the proposed amendment by the Governing Board.

The Brevard Planning Board forwards this recommendation to City Council with a finding that the proposed zoning map amendment is **consistent** with the following elements of the City's adopted plans and policies:

Building Brevard 2030 Comprehensive Land Use Plan

Goals

1. Expand housing opportunities for all residents while preserving the character of Brevard and its neighborhoods.
2. Encourage a development pattern that respects Brevard's sense of place and prioritizes livable communities.

Recommendations

LUH-2: Evaluate rezoning requests based on the Future Land Use Map and character area descriptions.
LUH-4: Identify areas across the City that are best positioned to accommodate future growth.
LUH-6: Encourage rezonings to allow for a mix of uses in Activity Centers.

Future Land Use Map

The Future Land Use Map identifies the area proposed by the Planning Board as mostly within the *Traditional Neighborhood* character area, with some of the area around the Osborne Road/Old 64 intersection as within the *Activity Center – Minor* character area, and a few parcels as the *Urban Corridor* character area. The RMX zoning district is an applicable zoning district for all three of these character areas as outlined in the Future Land Use Character Area Table.

NCGS 160D-605 requires the Governing Board to approve a statement analyzing the reasonableness of a proposed rezoning. The statement of reasonableness and the statement of consistency may be approved as a single statement.

The Brevard Planning Board forwards this recommendation to City Council with a finding that the proposed zoning map amendment is **reasonable** due to the following factors:

1. The rezoning is consistent with the Future Land Use map which designates these parcels as primarily *Traditional Neighborhood*, as well as some areas as *Activity Center – Minor* and *Urban Corridor*.
2. The rezoning will allow higher density residential at one of the key arterial streets of Old Hendersonville Highway.
3. The relationship between the newly allowed uses and the previously allowed uses is very similar, as both are residential districts.

STAFF REPORT
Planning Board, Tuesday, May 23, 2023

Title:	Consideration of Text Amendment TXT-23-005, Consideration of Text Amendment to UDO Chapter 16.9 Administrative Modifications.
Speaker:	Aaron Bland, Asst Planning Director
Prepared by:	Aaron Bland, Asst Planning Director
Approved by:	Paul Ray, Planning Director

Background
The City's Unified Development Ordinance (UDO) has processes in place for modifications to approved zoning decisions. These modifications have limits imposed upon them by state law which were modified with the passage of Chapter 160D of the General Statutes. Since that time, Staff has received guidance from the UNC School of Government and Staff has initiated this text amendment to bring the UDO into better compliance with state law and best planning practices.

Discussion
Modifications are currently divided into three categories. Most modifications are considered either minor, which are approved by Staff, or major which follow the same process applicable to the original approval. There is also an intermediate category only for conditional zoning districts, which are approved by the Planning Board.

Staff is proposing eliminating the intermediate modification category for conditional zoning districts, and simply having minor and major modifications for all development approval types. These two categories would cover conditional zoning districts, special use permits, zoning permits, and all other development approvals that have already gone through the full approval process. These changes are found in Section 16.9 of the UDO, which is the section specific to administrative modifications. The development review procedure table found in Section 16.6 would also be amended to include modifications, showing that minor modifications are approved by Staff and all other modifications follow the original approval process.

Administrative modifications are not an alternative to the variance process, so care must be taken to establish clear and objective standards for what constitutes a minor modification and what latitude the administrator has in granting a modification.

Policy Analysis
Making the UDO and zoning tools and regulations clear and easily understandable is a goal of the *Building Brevard 2030* comprehensive land use plan's Land Use & Housing chapter:

> **LUH- 19: Enhance communication of land use planning efforts, policy development, approvals and processes.** Create online public information portal to

provide updates on proposed and in-progress development projects. Strive to make planning documents and UDO more approachable and user friendly to empower citizens to understand and advocate for their neighborhoods.

Further, conditional zoning is identified as a key zoning tool the City has at its disposal in the CLUP's Housing Toolkit. Ensuring that the conditional zoning process has clear and objective standards for creating and modifying existing conditional zoning districts will help this tool be utilized effectively and equitably.

Action
The Board's role is to make a recommendation to City Council. The Board has the following options in this role:

1. Recommend adoption of the amendment as written;
2. Recommend adoption of the amendment as revised by the Board; or
3. Recommend rejection of the amendment.
4. Table the amendment for further consideration.

In accordance with North Carolina General Statutes, the Planning Board must also submit a statement analyzing the consistency and reasonableness of this proposal with regards to existing policies or plans of the City of Brevard. A Statement of Consistency and Reasonableness is included for the Board's review.

Attachments:
1. Draft Amendments
2. Consistency Statement

16.6. Development approval review procedure in general

C. Designation of approving authority:

Category	Development Activities	Review / Recommendation	Approving Authority	Appeal Authority
Annexation & Dedication	Annexations	Planning Board	City Council	Superior Court
	Plats of Dedication	Technical Review Committee	Staff	Board of Adjustment
	Street / Right-of-Way/Easement Abandonment	Technical Review Committee	City Council	Superior Court
Land Use & Development	All Land Use and Development Activity for which No Higher Review is Required	-	Staff	Board of Adjustment
	Group Developments	Technical Review Committee	Staff	Board of Adjustment
	Temporary Uses	-	Staff	Board of Adjustment
	Special Use Permits	-	Board of Adjustment	Superior Court
	Development Agreements	-	City Council	Superior Court
	Vested Rights Determination	-	City Council	Superior Court
Regulations	Adoption, Amendment, or Repeal of Development Regulations	Planning Board	City Council	Superior Court
	Official Zoning Determinations and Other Interpretations of this Ordinance	-	Staff	Board of Adjustment
Subdivision	Major Subdivisions	Technical Review Committee and Planning Board	City Council	Superior Court
	Minor Subdivisions for which New Public Infrastructure is Proposed	Technical Review Committee	Staff	Board of Adjustment
	Minor Subdivisions Creating No New Public Infrastructure	-	Staff	Board of Adjustment
	Recombination Plats	-	Staff	Board of Adjustment
Zoning	Rezonings / Zoning Map Amendments	Planning Board	City Council	Superior Court

	Conditional Zoning Districts	Technical Review Committee and Planning Board	City Council	Superior Court
	Final Master Plan Approval for Conditional Zoning Districts	-	Planning Board	Superior Court
	Variances	-	Board of Adjustment	Superior Court
Modifications	Minor Modifications		Staff	Board of Adjustment
	All Other Modifications	Original approval process		

Section 16.7. Legislative decisions.

E.6. *Modifications*. Modifications to approved conditional zoning districts, including the enacting ordinance, an approved preliminary master plan, or the final master plan shall be in accordance with Section 16.9.

16.9. Administrative modifications.

A. *Major modifications.* Except as allowed under minor ~~and intermediate~~ modifications below, all changes to approved conditional zoning districts, special use permits, or other development approvals are major modifications and shall follow the same process applicable for the original approval.

~~A.~~B. *Changes to individual parcels within a Conditional Zoning District or a special use permit.* For a conditional zoning district or special use permit applicable to multiple parcels, the owners of individual parcels may apply for minor modifications so long as the change would not result in other properties failing to meet the terms of the conditions. Any approved changes shall only be applicable to those properties whose owners petitioned for the change.

~~B.~~C. *Determination.* The planning director shall determine whether a proposed action is consistent with an approved conditional zoning district, special use permit, or other development approval. If such proposed action is not consistent, the planning director shall determine whether any modifications contained therein are minor~~, intermediate~~ or major. The planning director, in his or her discretion, may refer this determination to the planning board. The planning director shall notify the applicant in writing of such determination.

~~C.~~D. *Authority.* The authority given to the administrator ~~or BPB~~ to grant such minor modifications shall be construed to be permissive and not mandatory and the administrator ~~or BPB~~ may decline to make such modification.

~~D.~~A. ~~Major modifications. Except as allowed under minor and intermediate modifications below, all changes to approved conditional zoning districts, special use permits, or other development approvals are major modifications and shall follow the same process applicable for the original approval.~~

~~E. The minor and intermediate modifications authorized below are intended to provide relief based upon a unique physical attribute of the property itself or some other factor unique to the property which was not known at the time of approval and which has subsequently rendered the property difficult or impossible to use due to the condition(s) imposed. The permit holder shall bear the burden of proof to secure the modification(s).~~

~~F.~~E. *Minor modifications.* The administrator is authorized to review and approve administratively a minor modification to an approved conditional zoning district, special use permit, or other development approval, subject to the following limitations. Per Section 16.6.A, the administrator shall have the discretion to refer the approval of any minor modification request to a body of greater authority, such as the Planning Board or City Council, for consideration and approval or denial.

1. *General limitations.* The minor modification:
   (a) Does not involve a change in uses permitted or the density of overall development permitted;
   (b) Does not increase the impacts generated by the development on traffic, stormwater runoff, or similar impacts beyond what was projected for the original development approval; and
   (c) Meets all other ordinance requirements.
2. *Site design.* Site design minor modifications are limited adjustments to the terms or design of an approved development plan or plat, including a site plan attached as a condition to a conditional zoning or special use permit. In addition to the general limitations for minor modifications, a site design minor modification must:
   (a) Comply with underlying zoning standards and other applicable conditions of the approval;
   (b) Be limited to a minor change such as, without limitation, a minor adjustment to road configuration or internal circulation, a minor adjustment to building size or location, a minor adjustment to lot sizes, or a minor adjustment to utility alignment.
3. *Dimensional standards.* Dimensional standard minor modifications are adjustments to the dimensional standards of the zoning ordinance. Dimensional standards may ~~only~~ be modified upon a finding by the ~~planning director~~administrator, based on evidence from the permit holder, that the modification is needed to address a site characteristic or technical design consideration not known at the time of initial approval.
   (a) The planning director's determination shall be based on the existence of one or more of the following conditions:
      (1) There are site or structural conditions that preclude strict adherence to the permit or ordinance requirements, such as, but not limited to: the lot does not meet the dimensional standards established for the zoning district in which it is located; the lot has topographic limitations that require placement of the structure into the required setback area; or the structure is physically in line with an existing, legally established wall or walls of a principal structure already within the minimum setback area.
      (2) The part of the proposed structure that encroaches into the minimum setback area is necessitated by a life-safety ordinance, flood hazard

reduction, steep slope protection, surface water protection, Americans with Disabilities Act standard, or other public safety ordinance requirements.

(3) The proposed modification would facilitate the preservation of significant existing vegetation or the protection of a surface water protection area~~.~~, or protect existing or proposed rights-of-way and other infrastructure.

~~(3)~~(4) A good faith error was made in the location of a building foundation not exceeding one foot due to either field construction or survey error.

(b) In addition to the general limitations for minor modifications, dimensional standard minor modifications are limited to:

(1) A reduction of up to ~~10~~ 30 percent in the number of parking spaces.

(2) An adjustment to setback requirements up to 12 inches or ~~10~~ 20 percent, whichever is greater, of the approved setback.

(3) An adjustment to landscape standards up to ~~10~~ 30 percent of the required landscaping buffer width, minimum height, or horizontal opening; or changing the species of approved landscaping plants, so long as all species comply with the listing of prohibited invasive exotic plant species in Chapter 8.

(4) A reduction in impervious coverage or an increase in open space up to ~~20~~ 30 percent.

(5) A reduction in required open space by up to ~~10~~ 25 percent of the total required area.

(6) Change in width, depth, height, or square feet of one or more buildings by no more than ~~10~~ 20 percent.

4. *Limits on the number of minor modifications.* The administrator may determine that multiple minor modifications constitute a major modification if the number of minor modifications exceeds two within any one-year period.

~~G. Intermediate modifications. Intermediate modifications to a conditional zoning district have a more substantial impact than minor modifications, but do not change the intent of the district. The BPB is authorized to review and approve administratively, without a public hearing, an intermediate modification to an approved conditional zoning district, subject to the following limitations.~~

~~1. General limitations. The intermediate modification:~~

~~(a) Does not involve a change in uses permitted or the density of overall development permitted;~~

~~(b) Does not increase the impacts generated by the development on traffic, stormwater runoff, or similar impacts beyond what was projected for the original development approval; and~~

~~(c) Meets all other ordinance requirements.~~

~~2. Dimensional standards. Dimensional standard intermediate modifications are adjustments to the dimensional standards of the zoning ordinance. Dimensional standards may only be modified upon a finding by the BPB, based on evidence from the~~

~~permit holder, that the modification is needed to address a site characteristic or technical design consideration not known at the time of initial approval.~~

~~In addition to the general limitations for intermediate modifications, dimensional standard intermediate modifications are limited to:~~

~~(a) A reduction of up to 30 percent in the number of parking spaces.~~

~~(b) An adjustment to setback requirements up 24 inches or 25 percent, whichever is greater, of the approved setback.~~

~~(c) An adjustment to landscape standards up to 30 percent of the required landscaping buffer width, minimum height, or horizontal opening.~~

~~(d) A reduction in impervious coverage or an increase in open space up to 30 percent.~~

~~(e) A reduction in required open space by up to 25 percent of the total required area.~~

~~(f) Change in width, depth, height, or square feet of one or more by no more than 20 percent.~~

~~H.~~F. *Appeals and variances.* A decision on a minor ~~or intermediate~~ modification, or a determination of a major modification, may be appealed to the Board of Adjustment as an administrative determination pursuant to Section 16.8.~~E~~D. An application for a minor modification does not preclude an applicant from seeking a variance from the ~~board~~ Board of ~~adjustment~~Adjustment.

(Ord. No. 2021-16 , § 1(Exh. A), 4-19-21)

COMMENT OF CONSISTENCY WITH COMPREHENSIVE PLAN AND ANY OTHER OFFICIALLY ADOPTED APPLICABLE PLANS

NCGS 160D-604 requires that the Planning Board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan prior to consideration by the Governing Board. The Planning Board shall provide a written recommendation to the Governing Board that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the Comprehensive Plan shall not preclude consideration or approval of the proposed amendment by the Governing Board.

The Brevard Planning Board forwards this recommendation to City Council with a finding that the proposed zoning text amendment is **consistent** with the following elements of the City's adopted plans and policies:

Building Brevard 2030 Comprehensive Land Use Plan

> ***Action LUH-19:*** *Enhance communication of land use planning efforts, policy development, approvals and processes.*

STAFF REPORT
Planning Board, Tuesday, May 23, 2023

Title:	TXT-23-004 – Discussion of Text Amendment UDO Chapter 10 Parking Standards.
Speaker:	Emily Brewer, AICP, Senior Planner
Prepared by:	Emily Brewer, Senior Planner
Approved by:	Paul Ray, Planning Director

Background & Discussion
Parking regulations in development ordinances are meant to ensure the provision of off-street parking is proportionate to the land use by establishing minimum and/or maximum amounts of parking. These regulations can also be used to incentivize and encourage development that prioritizes multimodal transit options and other adopted goals from the City's comprehensive plan.

Staff will lead a discussion with the Board to understand the opportunities and constraints related to the parking requirements for developments in Brevard.

Policy Analysis
The *Building Brevard 2030* Comprehensive Land Use Plan explicitly calls out parking requirement amendments as a critical action to better link land use with transportation:

- ***ATCH - 9:*** *Right-size parking requirements and develop incentives for multimodal access and alternative approaches to meeting parking demand.*

Parking is a complex issue that affects virtually every aspect of a city's function, including land use, transportation, economic development, community health and wellness, and public safety. As such, this action step supports many of the Plan's overarching goals and objectives:

- ***GOAL 2:*** *Encourage a* ***development pattern*** *that respects Brevard's sense of place and prioritizes* ***livable communities****.*
- ***GOAL 4:*** *Create a built environment that prioritizes a* ***safe, active, multi-modal transportation system*** *and community health and wellness.*
- ***GOAL 7:*** *Support economic vitality and* ***grow the tax base****, cultivate local businesses, and attract sustainable industry.*
- ***GOAL 8:*** *Plan* ***for efficient, equitable, and resilient infrastructure*** *and services that maintain and improve quality of life throughout the city.*

Action
No action requested at this time, as this is intended to be an informal work session.

Attachments: