



AGENDA
BREVARD CITY COUNCIL - REGULAR MEETING
Monday, June 19, 2023 - 5:30 PM
City Council Chambers

A. Welcome and Call to Order

B. Invocation

Pastor Dema Barishnikov, Destiny Church

C. Pledge of Allegiance

D. Certification of Quorum

E. Approval of Agenda

F. Approval of Minutes

1. Monday, June 5, 2023 Regular Meeting

G. Public Comments

H. Certificates / Awards / Recognition

I. Special Presentation(s)

J. Public Hearing(s)

1. Ordinance - Voluntary Contiguous Annexation - Nielsen, 31 York Circle - Continued from April 17, 2023 Meeting
2. Proposed Amendments to City of Brevard Unified Development Ordinance Chapter 16 - Administrative Modifications.
3. Request to Rezone Parcel at Old Hendersonville Highway and Osborne Road from GR8 to RMX - Tore Borhaug

K. Consent and Information

1. Tax Settlement Report - May, 2023
2. Property Tax Releases - June, 2023
3. Cleanup Budget Amendments FY2022-2023

4. Wilson Road Property Disposition

L. Unfinished Business

1. Rezoning Request for 1699 Old Hendersonville Highway from CMX to GR4 - Jeremy and Maria Watson
2. Norton Creek Streambank Restoration Project Contract Award

M. New Business

1. Application for Public Art - Cup & Saucer Mural
2. Council Meeting Schedule for July

N. Remarks / Future Agenda Considerations

O. Closed Session(s)

P. Adjourn

Agenda Posted, Website, Sunshine List (June 15, 2023)
D. Hodsdon, City Clerk

To review Agenda materials, go to the City's website www.cityofbrevard.com. Select "Your Government" tab followed by "Agenda Packets" tab. Agenda packet materials are posted on Thursday afternoon prior to Council's Monday meeting.

**MINUTES
BREVARD CITY COUNCIL
Regular Meeting
June 5, 2023 – 5:30 PM**

The Brevard City Council met in regular session on Monday, June 5, 2023, at 5:30 p.m. in the Council Chambers of City Hall with Mayor Copelof presiding.

Present – Mayor Maureen Copelof, Mayor Pro Tem Gary Daniel, and Council Members Mac Morrow, Maurice Jones, Geraldine Dinkins, and Aaron Baker

Staff Present – City Attorney Mack McKeller, City Manager Wilson Hooper, City Clerk Denise Hodsdon, Assistant City Manager/Finance Director Dean Luebbe, Planning Director Paul Ray, Assistant Planning Director Aaron Bland, Senior Planner Emily Brewer, Human Resources Director Kelley Craig, Communications Coordinator Becky McCann, Police Chief Tom Jordan, Fire Chief Bobby Cooper, Community Center Director Tyree Griffin, Acting Public Works Director Wesley Shook, ORC Water Treatment Plant Dennis Richardson, and ORC Wastewater Treatment Plant Emory Owen

Press – Jon Rich, Transylvania Times and Dan DeWitt, Brevard NewsBeat

A. Welcome and Call to Order – Mayor Copelof called the meeting to order and welcomed those present.

B. Invocation – Pastor Veranita Alvord of Brevard First United Methodist Church offered an invocation.

C. Pledge of Allegiance - Mayor Copelof led the pledge of allegiance.

D. Certification of Quorum – City Clerk Denise Hodsdon certified a quorum present.

E. Approval of Agenda – Attorney McKeller requested that Council consider voting on Public Hearing Item J-1 Proposed Amendment to Flood Plain Ordinance and to add that under New Business as Item M-4. Ms. Dinkins moved, seconded by Mr. Daniel to approve the agenda as amended. The motion carried unanimously.

F. Approval of Minutes

F-1. Monday, May 15, 2023 Regular Meeting – Mr. Morrow moved, seconded by Mr. Baker, to approve the minutes of the May 15, 2023 Regular Meeting as presented. The motion carried unanimously.

G. Public Comments

Mike Thompson, President of the Deerlake Village Community Association said the Association understands and agrees with the City's commitment to develop affordable and reasonable housing in the City of Brevard. We also agree with Mr. Borhaug's request to rezone the two 5-acre parcels from CZD to GR-8. However, the Association is not in favor of Mr. Borhaug's request to change the 7-acre parcel from CZD to CMX. The Association strongly prefers that the parcel be rezoned to RMX. Our reasoning is simple: RMX gives Mr. Borhaug everything he has requested plus affordable and reasonable housing. It also provides oversight for the City for Mr. Borhaug's current plan and more importantly, any future changes that he makes to his plan.

Rodney Locks said the question I ask City Council is what is Brevard's identity today? Are we headed in the right direction, and if not, can we turn it around? Are you aware something unthinkable was happening? People cannot afford to live in Brevard. Housing costs, rental costs, water costs, food costs, utilities costs, and taxes are all up.

People are leaving Brevard, some people are homeless, and our children cannot afford to come back here to live. Are you aware we are losing our friendly rural character as we become more and more cosmopolitan? Are you aware that gone are the days when you knew everybody's name, wave and talk to people you didn't know, you leave your purse in the shopping cart and walk away, even leave keys in the car and the doors of your homes unlocked? When Focus 2020 was accepted by Council in 2000, Mayor Byrd said this is our community; the future is now; the opportunity is before us; let's work together to ensure Brevard remains a desirable place to live, to work, and to play. Later Mayor Harris said it is important to get together a comprehensive plan that will direct the future of Brevard and that preserves a healthy and vibrant community to ourselves and the generations to come. There was a statement that says "the key to the future of Brevard is that all Brevard citizens are the concern of elected officials who are creative, proactive and responsive. Brevard's professional and ethical government fosters trust and respect for residents, promoting citizen involvement and cooperation between residents, businesses and community organizations in all levels of government." Are you aware the community in 2000 envisioned that by 2020 Brevard would be a safe and healthy community? What is the identity of Brevard in 2023? Are we headed in the right direction, and if not, can we turn it around?

Frankie Gordon said my concern is about the increase of the water bill. My problem is the increase last year and now you have the increase of this year. Quite a few people here are on fixed income; they are on Social Security or retirement, and they are not going to have an increase. I go out of town a lot and sometimes I am gone as much as a month and that's how I found out how high the increase was. When I got back, I wanted to know why my water bill was almost \$60. I was told that my basic rate, no matter what, is going to be \$54 a month, whether I am here or not. So, for the increase on that, and then you're going to do another increase on the water bill when people here are on fixed income. Something else I have a problem with, with the high increase of the water and sewer and all that we pay, why is it that Brevard charges just if I put a piece of furniture on the street? I have to pay \$30 to \$50 to have it picked up. This is the only place, and I have lived quite a few places, that you have to pay extra to have that done, but you are already paying in the water and sewer here. I wish you would go back and reconsider on some of this stuff. Brevard is high to live; the cost of living here is very, very high and I have lived other places. I think you need to consider about some of the things that you increase on because you have a lot of retirees here.

Victor Foster said I am here to talk about our Advisory Board committee. We did have a vote and made a selection. Behind our selection, what we are trying to do is knit our community together working with the new relationship between us and the City, and mending brokenness that has happened over the years. It is a delicate walk with us as we do this in trying to bring all the community together and that is our goal. We had a discussion not too long ago, we had another vote and it was unanimous that we bring it before you and I just want you to know why we are doing what we are doing, is that we are building bridges from the past and trying to make things different from where they were before and so we come together to do that. So if you don't mind and if you will, take into consideration our last vote.

Jayne Mallwitz said there has been concern regarding the bussing of homeless people from other areas into Brevard. On or about May 13th, it is reported that homeless people were bussed into Brevard to the Food Lion. Many would like to know and confirm if this is happening and if so, where are the people coming from and who is involved in the decision making process? I feel deeply and care about all people, but several people have brought up their concerns regarding the expenses. Who is going to support these people being brought into the city and who is responsible for all the additional expenses?

Randy Lytle said I am the President of the Mary C. Jenkins Community Center and also Co-Chair of the Rosenwald Advisory Board and I want to reiterate what Victor Foster has said. We did have a meeting and vetted the nominees for the Advisory Board and feel that the people that we talked about, looked at, and reviewed are the best people that should be able to take over and be a part of that very, very important board

for the Rosenwald Community and for the City. We are standing behind who we chose and feel that they should be nominated.

H. Certificates/Awards/Recognition

H-1. Proclamation 2023-12 Juneteenth – Mayor Copelof read the proclamation aloud.

PROCLAMATION NO. 2023-12 JUNETEENTH

WHEREAS, President Abraham Lincoln signed the Emancipation Proclamation on January 1, 1863, declaring the slaves in Confederate territory free, paving the way for the passing of the 13th Amendment which formally abolished slavery in the United States of America; and

WHEREAS, word about the signing of the Emancipation Proclamation was delayed some two and one half years, to June 19, 1865, in reaching authorities and African-Americans in the South and Southwestern United States; and

WHEREAS, Emancipation Day observations are held on different days in different states in the South and Southwest, and in other parts of the nation; and

WHEREAS, June 19th has a special meaning to African-Americans, and is called "JUNETEENTH" combining the words June and Nineteenth, and has been celebrated by the African-American community for over 150 years; and

WHEREAS, the annual Juneteenth celebration in the City of Brevard this year will be a weekend-long celebration taking place on June 17th at the Mary C. Jenkins Community & Cultural Center and on June 18th at Silversteen Park.

NOW, THEREFORE, I, Maureen Copelof, Mayor of the City of Brevard, North Carolina, do hereby declare June 19th, 2023, as JUNETEENTH in the City of Brevard, North Carolina, and urge all citizens to become more aware of the significance of this celebration in African-American History and in the heritage of our nation and City.

Proclaimed this the 5th day of June, 2023.

I. Special Presentations – None.

J. Public Hearing(s)

J-1. Proposed Amendment to Flood Plain Ordinance – Paul Ray explained that Staff is proposing an amendment to Chapter 34 of the City's Code of Ordinance, "Flood Damage Prevention" amending the procedures for hearing an appeal. This amendment will align with NC. GS. 160D-405, by clarifying such appeals shall be heard by the Board of Adjustment. The purpose of the Flood Damage Prevention ordinance is to promote public safety and to minimize property losses and it mandates environmentally sensitive development in the 100-year floodplain. The Planning Director, or his designee, is the Floodplain Manager for the City, responsible for enforcing these provisions and maintaining the City's participation in the National Flood Insurance Program. The City of Brevard is classified as a level 8 community where citizens who need flood insurance are eligible to purchase it for a 10% discount on their premium. As with most regulations, there are provisions for appealing an administrative decision, but the City's ordinance in this chapter contains a mistake by adding conflicting language. Section 34-24(b) references appealing an Order to the local elected governing body, which is City Council, but also states the City's Board of Adjustment shall hear such appeals. State law requires Boards to follow quasi-judicial procedures in determining appeals of administrative decisions, and the City's Board of Adjustment is responsible for making these types of decisions. Staff recommends amending the Code of Ordinance to clarify that appeals are heard by the Board of Adjustment. As the City Attorney said earlier, it is not customary for Council to vote on public hearings when they are presented, but Staff is asking for an exception in this case to clarify a confusing sentence.

Mayor Copelof opened the public hearing at 5:57PM.

Public Hearing Public Participation – None.

Public Hearing Closed – Mayor Copelof closed the hearing at 5:57 PM.

K. Consent and Information - Consent Agenda items are considered routine and are enacted by one motion. Mayor Copelof read aloud the items listed and asked for a motion to approve the consent agenda. Mr. Jones moved, seconded by Mr. Daniel to approve the consent agenda. The motion carried unanimously.

K-1. Ordinance-Declaring Road Closure for National Night Out

**ORDINANCE NO. 2023-19
AN ORDINANCE DECLARING A ROAD CLOSURE
FOR THE 2023 NATIONAL NIGHT OUT EVENT**

WHEREAS, Brevard City Council acknowledges a tradition of providing for festivals and special events downtown for the pleasure and enjoyment of citizens and visitors alike; and,

WHEREAS, Brevard City Council acknowledges that festivals and special events provide an opportunity for family-oriented activities that celebrate our small-town charm; and,

WHEREAS, Brevard City Council acknowledges these events require NCDOT system roads to be closed for setup, activities, and cleanup; and,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BREVARD, NORTH CAROLINA THAT:

SECTION 1. Pursuant to authority granted by G.S. 20-169, the City of Brevard hereby declares the following temporary road closure during the day and time set forth below on the following described portion of a State Highway System route:

National Night Out

Date: Tuesday, August 1, 2023

Time: 4:00 PM – 9:30 PM

Route Description: Main Street (U.S. 276) from Broad Street (U.S. 64) to Johnson Street.

SECTION 2. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted and approved this the 5TH day of June 2023.

**K-2. Sewer Pump Station Rehabilitation and Replacement Project
Engineering Services Agreement**

**RESOLUTION NO. 2023-26
AUTHORIZING CITY MANAGER TO EXECUTE CONTRACT
WITH CDM SMITH, INC.**

WHEREAS, in September, 2022 the City of Brevard received \$2,873,000 in American Rescue Plan (ARP) funding from the North Carolina Department of Environmental Quality Division of Water Infrastructure for sewer pump station rehabilitation and replacement;

WHEREAS, the City of Brevard hired CDM Smith, Inc. to prepare a preliminary engineering report and environmental information document, which was submitted in November, 2022;

WHEREAS, final engineering plans and permit applications must be submitted to North Carolina Department of Environmental Quality Division of Water Infrastructure by November, 2023;

WHEREAS, upon approval of the engineering plans and permit applications, the City of Brevard will select a construction contractor through a competitive bidding process;

WHEREAS, the City of Brevard desires to award the remaining survey, geotechnical, design, permitting, and bidding services work to CDM Smith, Inc.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF BREVARD, NORTH CAROLINA THAT:

The City Manager (or his designee) is hereby authorized to execute a contract with CDM Smith, Inc. in the amount of \$575,000 for final design and permitting services for the City of Brevard Sewer Pump Station Rehabilitation and Replacement Project.

Approved and adopted this 5th day of June 5, 2023.

K-3. Resolutions Accepting American Rescue Plan Funds for Asset Inventory & Assessment Study

RESOLUTION NO. 2023-27 BY GOVERNING BODY OF THE CITY OF BREVARD ACCEPTING AMERICAN RESCUE PLAN FUNDS

WHEREAS, the American Rescue Plan (ARP) funded from the State Fiscal Recovery Fund was established in S.L. 2021-180 to assist eligible units of government with meeting their water/wastewater infrastructure needs, and

WHEREAS, the North Carolina Department of Environmental Quality has offered American Rescue Plan (ARP) funding in the amount of \$200,000 to perform an Asset Inventory and Assessment study detailed in the submitted application, and

WHEREAS, the City of Brevard intends to perform said project in accordance with the agreed scope of work,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BREVARD, NORTH CAROLINA:

- 1) That the City of Brevard does hereby accept the American Rescue Plan (ARP) offer of \$200,000.
- 2) That the City of Brevard does hereby give assurance to the North Carolina Department of Environmental Quality that any Conditions or Assurances contained in the Award Offer will be adhered to.
- 3) That Dean Luebbe, Assistant City Manager and Finance Director, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project; to make the assurances as contained above; and to execute such other documents as may be required by the Division of Water Infrastructure.

Adopted and approved this the 5th day of June, 2023.

RESOLUTION NO. 2023-28 BY GOVERNING BODY OF THE CITY OF BREVARD ACCEPTING AMERICAN RESCUE PLAN FUNDS

WHEREAS, the American Rescue Plan (ARP) funded from the State Fiscal Recovery Fund was established in S.L. 2021-180 to assist eligible units of government with meeting their water/wastewater infrastructure needs, and

WHEREAS, the North Carolina Department of Environmental Quality has offered American Rescue Plan (ARP) funding in the amount of \$187,500 to perform an Asset Inventory and Assessment study detailed in the submitted application, and

WHEREAS, the City of Brevard intends to perform said project in accordance with the agreed scope of work,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BREVARD, NORTH CAROLINA:

- 4) That the City of Brevard does hereby accept the American Rescue Plan (ARP) offer of \$187,500.
- 5) That the City of Brevard does hereby give assurance to the North Carolina Department of Environmental Quality that any Conditions or Assurances contained in the Award Offer will be adhered to.
- 6) That Dean Luebbe, Assistant City Manager and Finance Director, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project; to make the assurances as

contained above; and to execute such other documents as may be required by the Division of Water Infrastructure.

Adopted and approved this the 5th day of June, 2023.

K-4. Resolution in Support of Partners for Green Growth Program Grant – Green Growth Audit of City Codes

RESOLUTION NO. 2023-29
A RESOLUTION OF SUPPORT FOR A PARTNERS FOR GREEN GROWTH PROGRAM GRANT APPLICATION THROUGH THE NORTH CAROLINA WILDLIFE RESOURCES COMMISSION

WHEREAS, the City of Brevard recognizes the benefits of development in the community while also conserving trees, wildlife habitat, biological diversity and other natural resources for future generations; and

WHEREAS, the City adopted the *Building Brevard 2030* Comprehensive Land Use Plan to guide all planning and development decisions over the next decade; and

WHEREAS, one of the major goals of this Plan is to “*Celebrate Brevard’s natural resources through conservation of environmentally sensitive areas, improving access to recreation, and restoration of native ecosystems;*” and

WHEREAS, the City would benefit from a comprehensive review of the City Code of Ordinances and Unified Development Ordinance to identify opportunities to reduce regulatory barriers to conservation and update regulations to reflect best practices in conservation design; and

WHEREAS, the North Carolina Wildlife Resources Commission’s (NCWRC) Partners for Green Growth Program provides support to local government planning projects that consider wildlife and natural resource conservation in land use and development planning, incentives, and ordinances through a cooperative agreement; and

WHEREAS, selected projects are eligible for reimbursement of cost-share funds and technical assistance from NCWRC wildlife biologists; and

WHEREAS, the City will provide non-financial support to the project to ensure efforts made on the project meet Brevard’s goals to balance natural resource conservation with other land use and development goals;

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Brevard, North Carolina supports the Partners for Green Growth Program grant application.

Adopted and approved this the 5th day of June, 2023.

K-5. Rosenwald Community Advisory Board Minutes – February 16, 2023

K-6. Rosenwald Community Advisory Board Minutes – March 16, 2023

K-7. Council Finance, Human Resources & Citizen Appointment Committee Minutes – March 27, 2023

K-8. Council Public Safety Committee Minutes – April 24, 2023

L. Unfinished Business

L-1. Adoption of Personnel Policy Revisions – Mr. Hooper noted that these revisions were presented at a previous meeting. The changes are employee-focused and help keep us an attractive place to work. Motion by Mr. Baker, seconded by Ms. Dinkins to approve the Personnel Policy revisions. The motion carried unanimously.

RESOLUTION NO. 2023-30
A RESOLUTION AMENDING THE CITY OF BREVARD PERSONNEL POLICY

WHEREAS, the City of Brevard is a governmental entity employing many persons for the purpose of carrying out the operations of local government, AND

WHEREAS, the rules, regulations, mandates, court interpretations and laws governing personnel administration have changed since the last amendment to the Personnel Policy on December 7, 2020; and

WHEREAS, to keep the Personnel Policy current with the revised rules, regulations, laws, etc., and to incorporate voluntary provisions for the employees of Brevard, those responsible for the maintenance of the policy recommend that the Personnel Policy dated December 7, 2020 be repealed and replaced with the updated Personnel Policy effective July 1, 2023.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BREVARD, NORTH CAROLINA THAT:

Section 1. The Personnel Policy dated December 7, 2020 is repealed and the updated Personnel Policy will become effective July 1, 2023 as the official policy governing the appointment, classification, salary, benefits, and conditions of employment of the employees of the City of Brevard.

Section 2. This resolution shall become effective upon its adoption and approval on this the 5th day of June, 2023.

L-2. Adoption of FY 2023-2024 Budget and Ordinance – Mr. Morrow moved, seconded by Mr. Baker to recuse Mayor Copelof and Mr. Daniel from any discussion or vote on the Governing Board topic. The vote carried 4-0. Mr. Hooper explained that the reason for this action is to comply with state statutes that prohibit elected officials from voting on elements of the budget where they might have a financial stake. In this case the financial stake is our contributions to non-profits that the Mayor and Mayor Pro-tem’s wife serves on the Board of Directors. In order to avoid a conflict of interest they are being recused from this portion of the budget discussion. Mr. Baker moved, seconded by Mr. Jones to approve the Governing Board Budget, Ordinance Section 2, Line 1. The motion carried 4-0.

Mr. Daniel moved, seconded by Ms. Dinkins to approve the balance of the FY 2023-2024 Budget Ordinance.

During discussion, Mr. Jones said we have gone through this several times and I may have briefly made comments that have been echoed here today. I understand the reason why, but going forward we really must take into consideration the citizens who live here. We can find other options to reach our goals. Ms. Dinkins said this is the most realistic and transparent budget that I have seen in my time on this board. Yes, we are going to hike utilities and yes, that hurts everybody, including myself but that is the cost of running a town. I feel this is a good budget for this next fiscal year.

Vote on the motion was 4 in favor and 1 abstention (Jones). The motion carried.

City of Brevard FY2023-2024 Budget Ordinance		
Ordinance No. 2023-20		
BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BREVARD, NORTH CAROLINA:		
Section 1. It is estimated that the following revenues will be available to the General Fund for the Fiscal Year beginning July 1, 2023 and ending June 30, 2024:		
REVENUES	BUDGET	
AD VALOREM TAXES	\$	6,303,900
OTHER TAXES		2,553,527
UNRESTRICTED REVENUES		874,000
RESTRICTED REVENUES		268,980
SALES AND SERVICES		278,500
MISCELLANEOUS		1,021,600
FUND BALANCE APPROPRIATED		-
TOTAL	\$	11,300,507

Section 2. The following amounts are hereby appropriated in the General Fund for the operation of the City Government and its activities for the Fiscal Year beginning July 1, 2023 and ending June 30, 2024 in accordance with the Chart of Accounts heretofore established for the City of Brevard:		
EXPENDITURES	BUDGET	
GOVERNING BODY	\$	214,100

ADMINISTRATIVE		974,400
FINANCE		878,800
PLANNING		970,200
COMMUNITY CENTER		135,300
BUILDING AND GROUNDS		514,500
POLICE		3,659,192
PUBLIC WORKS - ADMINISTRATION		594,100
PUBLIC WORKS - GARAGE		438,800
PUBLIC WORKS - STREETS - LOCAL		766,100
PUBLIC WORKS - STREETS - POWELL BILL		235,000
RECREATION		265,500
NON DEPARTMENTAL		1,654,515
TOTAL	\$	11,300,507

Section 3. It is estimated that the following revenues will be available to the Sanitation Fund for the Fiscal Year beginning July 1, 2023 and ending June 30, 2024:

REVENUES		BUDGET
TRANSFER FROM THE GENERAL FUND	\$	156,600
REFUSE AND RECYCLING COLLECTIONS		1,175,000
PROCEEDS FROM DEBT		-
TOTAL	\$	1,331,600

Section 4. The following amounts are hereby appropriated in the Sanitation Fund for the Fiscal Year beginning July 1, 2023 and ending June 30, 2024:

EXPENDITURES		BUDGET
SANITATION	\$	1,112,900
NONDEPARTMENTAL		218,700
TOTAL	\$	1,331,600

Section 5. It is estimated that the following revenues will be available to the Water and Sewer Utility Fund for the Fiscal Year beginning July 1, 2023 and ending June 30, 2024:

REVENUES		BUDGET
WATER BILLINGS	\$	3,280,000
SEWER BILLINGS		3,060,000
METER FEES		185,000
OTHER REVENUES		392,000
FUND BALANCE APPROPRIATED		28,500
TOTAL	\$	6,945,500

Section 6. The following amounts are hereby appropriated in the Water and Sewer Utility Fund for the operation of said utilities for the Fiscal Year beginning July 1, 2023 and ending June 30, 2024:

EXPENDITURES		BUDGET
WATER TREATMENT	\$	1,030,100
WATER DISTRIBUTION		706,700
WASTEWATER TREATMENT		2,194,100
WASTEWATER COLLECTION		816,800
NON DEPARTMENTAL		2,197,800
TOTAL	\$	6,945,500

Section 7. The following revenues will be continued for the Capital Reserve Fund for the Fiscal Year beginning July 1, 2023 and ending June 30, 2024:

REVENUES		BUDGET
FUND BALANCE APPROPRIATED	\$	-
SYSTEM DEVELOPMENT FEES		110,000
TOTAL	\$	110,000

Section 8. The following expenditures will be continued for the Capital Reserve Fund for the Fiscal Year beginning July 1, 2023 and ending June 30, 2024:

EXPENDITURES	BUDGET
INCREASE IN FUND BALANCE	110,000
TOTAL	\$ 110,000

Section 9. It is estimated that the following revenues will be available to the Fire District Fund for the Fiscal Year beginning July 1, 2023 and ending June 30, 2024:

REVENUES	BUDGET
TRANSFER FROM GENERAL FUND	\$ 726,715
FIRE DISTRICT TAX	594,585
FUND BALANCE APPROPRIATED	120,000
LOAN PROCEEDS	1,475,000
TOTAL	\$ 2,916,300

Section 10. The following amounts are hereby appropriated in the Fire District Fund for the Fiscal Year beginning July 1, 2023 and ending June 30, 2024:

EXPENDITURES	BUDGET
OPERATING, CAPITAL, AND DEBT	2,916,300
TOTAL	\$ 2,916,300

Section 11. It is estimated that the following revenues will be available to the Bjerg Fund for the Fiscal Year beginning July 1, 2023 and ending June 30, 2024:

REVENUES	BUDGET
INTEREST ON INVESTMENTS	1,500
TOTAL	\$ 1,500

Section 12. The following amounts are hereby appropriated in the Bjerg Fund for the Fiscal Year beginning July 1, 2023 and ending June 30, 2024:

EXPENDITURES	BUDGET
INCREASE IN FUND BALANCE	1,500
TOTAL	\$ 1,500

Section 13. The following revenue amounts will be available in the Health Insurance Fund for Fiscal Year beginning July 1, 2023 and ending June 30, 2024:

REVENUES	BUDGET
FUND BALANCE APPROPRIATED	\$ 121,000
TRANSFER FROM OTHER FUNDS	1,470,000
DENTAL DEPENDENT PREMIUMS	36,000
EMPLOYEE PREMIUMS	90,000
RETIREE PREMIUMS	55,000
TOTAL	\$ 1,772,000

Section 14. The following amounts are hereby appropriated in the Health Insurance Fund for the Fiscal Year beginning July 1, 2023 and ending June 30, 2024:

EXPENDITURES	BUDGET
HEALTH INSURANCE COSTS	1,772,000
TOTAL	\$ 1,772,000

Section 15. It is estimated that the following revenues will be available to the Heart of Brevard Municipal Service District Tax Fund for the Fiscal Year beginning July 1, 2023 and ending June 30, 2024:

REVENUES	BUDGET
SERVICE DISTRICT TAX - CURRENT AND PRIOR YEARS	\$ 150,000
TRANSFER FROM GENERAL FUND	11,000

TOTAL	\$	161,000
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Section 16. The following amounts are hereby appropriated in the Heart of Brevard Municipal Service District Tax Fund for the Fiscal Year beginning July 1, 2023 and ending June 30, 2024:

EXPENDITURES	BUDGET
CONTRACT SERVICES	\$ 150,000
TRANSFER TO DOWNTOWN MASTER PLAN	11,000
TOTAL	\$ 161,000

Section 17. It is estimated that the following revenues will be available to the Housing Trust Fund for the Fiscal Year beginning July 1, 2023 and ending June 30, 2024:

REVENUES	BUDGET
TRANSFER FROM GENERAL FUND	\$ 264,000
DEVELOPER LOAN PAYMENT	2,200
TOTAL	\$ 266,200

Section 18. The following amounts are hereby appropriated in the Housing Trust Fund for the Fiscal Year beginning July 1, 2023 and ending June 30, 2024:

EXPENDITURES	BUDGET
OPERATING	\$ 100,000
INCREASE IN FUND BALANCE	166,200
TOTAL	\$ 266,200

Section 19. It is estimated that the following revenues will be available to the Parking Fund for the Fiscal Year beginning July 1, 2023 and ending June 30, 2024:

REVENUES	BUDGET
PARKING FEE REVENUE	90,000
TOTAL	\$ 90,000

Section 20. The following amounts are hereby appropriated in the Parking Fund for the Fiscal Year beginning July 1, 2023 and ending June 30, 2024:

EXPENDITURES	BUDGET
OPERATING	90,000
TOTAL	\$ 90,000

Section 21. The Revenues and Expenditures set forth in Section 1 through Section 20 of this Ordinance are hereby summarized as follows:

BUDGET APPROPRIATIONS	BUDGET
GENERAL FUND	\$ 11,300,507
SANITATION FUND	1,331,600
WATER & SEWER FUND	6,945,500
FIRE DISTRICT FUND	2,916,300
CAPITAL RESERVE FUND	110,000
BJERG FUND	1,500
HEALTH INSURANCE RESERVE FUND	1,772,000
HEART OF BREVARD FUND	161,000
HOUSING TRUST FUND	266,200
PARKING LOT FUND	90,000
TOTAL	\$ 24,894,607

Section 22. There is here hereby levied a tax at the rate of forty five cents (\$0.4800) per one hundred dollars (\$100) valuation of property as listed for taxes as of January 1, 2023 for the purpose of raising the revenue listed as Taxes in the General Fund in Section 1 of this Ordinance. This rate is based on an estimated total valuation of property for the purposes of taxation of \$1,339,000,000 and an estimated collection rate of 98.1%.

Section 23. There is hereby further levied a tax at the rate of \$0.2130 cents per one hundred dollars (\$100) valuation of property as listed for taxes as of January 1, 2023 within the boundaries of the Heart of Brevard Municipal Service District for the purpose of raising the revenue listed as Taxes in the Heart of Brevard Municipal Service District Tax Fund in Section 19 of this Ordinance. This rate is based on an estimated total valuation of property for the purposes of taxation of \$71,450,000 and an estimated collection rate of 98.1%.

Section 24. There is hereby further attached (Exhibit A) to said Ordinance a schedule of taxes, fees, and charges for the General and Utility Funds.

Section 25. The Budget Officer shall be authorized to reallocate departmental appropriations among the various line item expenditures of that department, as said officer believes necessary. The Budget Officer shall be authorized to effect interdepartmental transfers, in the same fund, provided that no departmental budget shall be reduced by more than ten percent without the prior approval of the City Council. Any such transfers shall be reported to the City Council at its next regular meeting and shall be entered in the minutes.

Section 26. Copies of the Budget Ordinance shall be furnished to the Budget Officer and Finance Officer of the City to be kept on file by them for their direction in the collection and disbursement of funds. Said officials are hereby authorized to receive and expend funds as herein set forth in accordance with the Brevard City Code and the General Statutes of the State of North Carolina.

Adopted and approved this the 5th day of June, 2023.

L-3. Rezoning Request for 1699 Old Hendersonville Highway from CMX to GR4 – Jeremy and Maria Watson – Emily Brewer recalled that Council held a public hearing on May 15th and added that there are some things she wanted to call to Council's attention today. This was an application that was submitted by Jeremy and Maria Watson requesting a rezoning of their property located at 1699 Old Hendersonville Highway near Ecusta Road. The parcel is currently zoned Corridor Mixed-Use (CMX) and the request is to rezone to General Residential-4 (GR-4) in order to restore the historic structure and return it to use as a single-family home.

Planning Board discussed this application at their April 25th meeting and recommended that this property be placed into a Conditional Zoning District (CZD) instead of the requested rezoning GR-4. However, Staff, in consultation with the City Attorney, are recommending against a CZD for the following reasons:

- The applicant would only ask for a few items to be varied as part of their CZD and the City does not have any additional conditions to impose at this time. This runs the risk of being challenged as a use variance, which is prohibited under North Carolina General Statutes. Uses are allowed to be varied as part of a CZD because of the unique circumstances and the “give-and-take” between the property owner and the City. We believe that this application does not reflect the stated intention of balancing a number of competing priorities as part of a CZD.
- The UDO requires either a preliminary or a final master plan be submitted as part of the CZD. If the applicant does not submit a final master plan, they are required to bring one before Planning Board within a year. No permits can be issued until the final master plan is ultimately approved. The process of submitting a final master plan adds an additional step for the property owners to ensure compliance with all of the conditions set forth in the CZD. If a property owner has to vary the master plan (preliminary or final) for any reason, they have to submit another application to the Planning Department and perhaps go before Council again for approval, depending on if it is a minor or major modification. These steps are important for larger, more complex projects, but they add additional time and expense to smaller projects, such as this one, which may prove prohibitive.

- Cities have the broad authority to amend the zoning regulations and zoning map at its discretion. This means cities are allowed to initiate rezonings in their jurisdiction. There is no amount of time that must pass for a city to rezone a parcel. However, a CZD is essentially a development agreement between a property owner and the City. Therefore, the property owner must consent to rezoning their property. The only exception is if the applicant has not made any progress on the project within 2 years from its date of approval. In other words, if any progress is made (a final master plan has been approved, a permit has been issued, and/or construction has begun), the City is unable to initiate a rezoning, even if the project is unable to move forward for some reason down the line.

As part of the legislative hearing process, City Council has the authority to rezone a property to a more restrictive zoning district but GR-4 is considered the most restrictive of all of our base zoning districts. Therefore, if Council chooses to examine a Conditional Zoning District for the site, a new public hearing must be set.

Staff requests that Council take one of the following actions:

1. Grant the zoning map amendment as requested (property becomes GR-4);
2. Deny the application (property remains CMX);
3. Call for a new public hearing on the CZD (Planning Board's recommendation);
4. Send the application back to Planning Board for further consideration; or
5. Table the rezoning for further discussion and consideration

Mr. Daniel moved, seconded by Mr. Morrow to grant the zoning map amendment as requested to General Residential-4.

Council Discussion: Mr. Daniel said this is in an area that we envision becoming more commercialized as the trail comes through and the roundabout is finished. I don't feel that we are acting adversely to our land use because it does allow for historic building preservation as being an exception. If this house could be saved, I would be very much in favor of that. The reason I feel it probably should be the GR-4 is that it leaves it where the City can still change the zoning if need be. I feel it gives us more options and allows the owner to proceed with trying to save this house.

Mr. Baker said there are competing priorities here. In general I think our Land Use Plan needs to be our guiding light when we are talking about discussions like this. If there is any way to preserve some of the historic structures that we have, we should do that. I am not sure there is a compromise here and it seems like the best course of action is to grant the request and change it to GR-4. However, I am going to take this opportunity to talk about the City's overall strategy of rezoning and being more proactive and not simply reactive to applications that we receive. He asked Staff when the last time was that a rezoning was implemented by the City first and not an application. Staff noted that there have been several in the last few years. Mr. Baker said I think in general we should be comfortable with doing that more than we have been, particularly with a brand new Comprehensive Land Use Plan that sets out a clear vision for the future. We are going to have to get a little more proactive and not only rely on applications to change the zoning map. This has clearly been identified as an area where more activity may or should occur in the future and a large single family home in this area may be awkward in the not too distant future. I am sensitive to this person's stated goal of fixing this up for a single-family home, and once he establishes that use, it could then be grandfathered in if there was a zoning change in this area that was implemented down the road.

Ms. Dinkins noted that the applicant mentioned that in addition to a family home, he is looking to have short-term rental use included. She said the property has about five bedrooms, it is large and awkwardly wedged between the recycling plant and some other commercial stuff and doesn't really have a neighborhood to speak of. That on one side and on the other side, we have the historic preservation. Can we do that; is

there a prescription to how historic this has to be? Ms. Brewer said there are state regulations related to historic preservation that they would have to follow down the line and go through the Joint Historic Preservation Commission. Ultimately City Council approval of a historic landmark status is part of that process but they have not moved forward with that process because the rezoning is critical for them to do that. Ms. Dinkins asked if the rezoning is given as requested, can they choose not to go for a historic preservation status? Ms. Brewer explained that there are some limitations per the covenants listed on the deed for that property, but the applicant did not include that as information for inclusion in this. Ms. Dinkins asked Attorney McKeller if we grant this to GR-4 and there may in the future be a proposal to this body to not allow short-term rental in GR-4, did we promise this applicant something and then do a switch and bait? Attorney McKeller said no, zoning changes are general and are not dependent upon the applicant. Because the map amendment is a general change, not a specific one, nothing has been promised to any homeowner. We simply have said this piece of property should be zoned GR-4 and if the regulations for GR-4 change at some point in the future, then they will change along with that property. If there are changes to the GR-4 district prior to any change in use in the property, then they would be allowed to continue to use it. Ms. Dinkins said I have great hesitations. I feel like the one reason we have is to preserve a historic structure but I don't feel like we have a firm promise that it will be brought back to something that is historic and is preserved to give it that incongruent zoning that is not going with what we said we were going to be following and then the short-term rental request thrown in on top of that. If there was a firm path to this becoming a beautiful restored building I could be swayed, but I am not sure that there is a strong enough process in place for that to happen and that this could just become a really well-placed short-term rental very close to the new path.

Mr. Morrow said the former Executive Director of Preservation North Carolina called me often about this house and has been worried about it for over a decade. I support the compelling story by the owners to do the best they can to restore it.

Attorney McKeller said he just looked at the deed and that particular property is in fact governed by a historic preservation agreement that is actually on the deed. He noted that there were some agreements made to follow the Secretary of the Interior standards for the treatment of historic properties. There does seem to be some historical requirement on that piece of property.

Mr. Baker made the suggestion to table this so that we can review that document in more detail before we vote. As the maker of the original motion, Mr. Daniel consented to that. Mr. Baker moved, seconded by Ms. Dinkins to table this until the next meeting on June 19th so that we can review the document. The motion carried unanimously.

L-4. Request to Rezone Deerlake Parcels from Conditional Zoning District to CMX – Tore Borhaug – Aaron Bland recalled that Council held a public hearing on May 15th regarding this request to rezone the properties which are currently subject to the Conditional Zoning District along Deerlake Road to be rezoned back to base districts. The request was for the two parcels closest to Deerlake to be rezoned back to General Residential-8 (GR-8) and for the third eastern parcel to be rezoned Corridor Mixed Use (CMX). During the discussion there was some talk about choosing a different mixed use for the eastern parcel and Residential Mixed Use (RMX) would be the least commercial district. Neighborhood Mixed Use (NMX) was also brought up as a compromise district. There was a lot of discussion about the density allowances of those and wanting to make sure that some decent amount of residential use could be done here. He said density is a component of that, but pointed out that all the commercial uses allowed in NMX and CMX open it up to all sorts of things besides residential. If ensuring residential development in some form or fashion on that property is a priority, then Staff would recommend the RMX option. Mr. Daniel moved, seconded by Ms. Dinkins to adopt the RMX option.

Council Discussion: Mr. Daniel said if ensuring housing is our goal, then an open zoning of CMX is not a good option for that. In my mind, we would like to ensure that

we get as much housing as possible. That does not throw CMX out. At the moment, I understand there is not a plan in place to move forward on this property. If two or three years down the road Mr. Borhaug wants to come back with a CMX plan, I would be willing to consider that at that time. At this moment, RMX makes the most sense to me.

Mr. Baker said I have talked in previous meetings about the need for Brevard to be more accepting of density if we are going to solve the affordable housing issue. We have heard at many presentations like this in the past for rezonings or conditional zoning districts for affordable housing projects from neighbors or citizens who were overly concerned in my opinion about density of housing. I wish there was another option to preserve this piece of property for housing, but ensure that it could be very dense housing. Unfortunately we don't have that option. If we want to open it up for denser development, we are also opening it up to a number of other uses, which could be commercial or otherwise. I support the motion, but I hope we can continue to have discussions about whether we are okay with density of housing, and density of housing which might be something that you maybe didn't envision when you bought your home. A lot of the emails that we got this week and over the past few weeks opened with genuine concern for the affordability of housing and I think we are all on the same page there. If we are concerned about the affordability of Brevard and the changing nature of Brevard, then we are going to have to get used to the idea of additional density where we may not have thought it would be.

Ms. Dinkins added that I do believe we need density in our town to make it a thriving community and not a resort town. I also believe that every neighborhood has to take their part in it. My hope is that we don't just do highly dense, really big developments in one particular neighborhood just because it hasn't been developed fully yet, but that we spread it out and that every part of town that can take some density, does take some density.

Mr. Jones said I had brought up NMX because I thought it was something in the middle. If we approve RMX and Mr. Borhaug decides he wants to develop something specifically for his workers or something that is going to benefit him that does not fit in RMX, can he get a special use permit? Mr. Bland explained that uses are either allowed, disallowed, or allowed with a special use permit in different districts. If it is allowed via a special use permit by the UDO in that district, then he would have to go through the process to request a use that is allowed with a special use permit.

There being no further discussion, vote on the motion was unanimously in favor. The motion carried.

ORDINANCE NO. 2023-21
AN ORDINANCE AMENDING THE OFFICIAL ZONING
MAP OF THE CITY OF BREVARD TO REZONE
THREE PARCELS LOCATED ON DEERLAKE ROAD

WHEREAS, Tore Borhaug of Paralift Holdings LLC requests that the Official Zoning Map of the City of Brevard be amended by rezoning three parcels of land, from the Independent Living at Tore's Home Planned Development District to the General Residential – 8 and Residential Mixed Use districts; these parcels are identified by PINs 8586-87-0180-000, 8586-86-1995-000, and 8586-86-4675-000, and are hereafter referred to as the "Subject Properties" and

WHEREAS, the City of Brevard Planning Board considered this proposed map amendment on April 25, 2023 and unanimously recommended approval; and

WHEREAS, in accordance with North Carolina General Statute 160D-604, the Brevard City Council finds that this proposed zoning map amendment is consistent with the following elements of the City's adopted plans and policies:

Comprehensive Land Use Plan & Future Land Use Map

Recommendation Land Use & Housing – 2: Evaluate rezoning requests based on the Future Land Use Map and character area descriptions.

The Future Land Use Map identifies the two parcels proposed to revert to GR8 as within the *Traditional Neighborhood* character area, and the parcel proposed to be CMX within the *Urban*

Corridor character area. Both of the proposed new zoning districts are applicable zoning districts for the character areas as outlined in the Future Land Use Character Area Table. Therefore, the Board finds that this proposed zoning map amendment is consistent with the Future Land Use Map and LUH-2.

WHEREAS, in accordance with North Carolina General Statute 160D-605, the Brevard City Council finds that this proposed zoning map amendment is reasonable due to the following factors:

- The relationship between the current permissible development and land uses in the existing conditional zoning district is very similar to the development and land uses permissible under the proposed zoning districts.
- The size of the parcels and proximity to existing areas of the proposed zoning districts does not constitute spot zoning.
- The Plan is consistent with the above elements of the Comprehensive Land Use Plan and the Future Land Use Map.

WHEREAS, a public hearing was conducted May 15, 2023 in consideration of this request; and

WHEREAS, the City of Brevard, after hearing all persons wishing to comment on this request, desires to approve said request.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BREVARD, NORTH CAROLINA THAT:

Section 1. The zoning classification of the subject parcels is hereby rezoned as depicted below and in Exhibit A to this Ordinance, which is attached hereto and incorporated herein by reference:

PIN 8586-87-0180-000 – General Residential 8
PIN 8586-86-1995-000 – General Residential 8
PIN 8586-86-4675-000 – Residential Mixed Use

Section 2. The Planning Director is hereby authorized and directed to modify the City’s Official Zoning Map consistent with this Ordinance.

Section 3. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the ordinance.

Section 4. All ordinances or portions thereof in conflict herewith, including but not limited to Ordinance 2020-18 which established the Independent Living at Tore’s Home Planned Development District, are hereby repealed to the extent of such conflict.

Section 5. This ordinance shall be in full force and effect from and after the date of adoption.

Adopted this the 5th day of June 2023.

L-5. Proposed Amendments to City of Brevard Unified Development Ordinance Chapters 4, 6, 13, 17, and 19 - Steep Slopes – Emily Brewer noted that the steep slope ordinance has been discussed many times in the past few years and this year. Staff has worked closely with Planning Board to develop this fully revised steep slope regulations. They recommended approval at their April meeting and Council held a public hearing on May 15th. Motion by Mr. Morrow, seconded by Mr. Daniel to adopt the amendments as presented. The motion carried unanimously.

ORDINANCE NO. 2023-22

**AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT
ORDINANCE CHAPTER 4 – GENERAL LOT & STRUCTURE PROVISIONS, CHAPTER 6 –
ENVIRONMENTAL PROTECTION, CHAPTER 13 – INFRASTRUCTURE IMPROVEMENT
REQUIREMENTS, CHAPTER 17 – DEVELOPMENT PLAN REQUIREMENTS, AND CHAPTER 19 –
DEFINITIONS**

WHEREAS, the City of Brevard Planning Board has recommended that Brevard City Code, Unified Development Ordinance, Chapter 4 – General Lot & Structure Provisions, Chapter 6 – Environmental Protection, Chapter 13 – Infrastructure Improvement Requirements, Chapter 17 – Development Plan Requirements, and Chapter 19 – Definitions be amended; and,

WHEREAS, the City Council of the City of Brevard finds that the proposed amendment is consistent with the following elements of the City of Brevard’s Comprehensive Land Use Plan:

Building Brevard 2030 Goals

- **GOAL 2:** Encourage a development pattern that respects Brevard's sense of place and prioritizes livable communities.
- **GOAL 5:** Celebrate Brevard's natural resources through conservation of environmentally sensitive areas, improving access to recreation, and restoration of native ecosystems.

Building Brevard 2030 Recommendations

- **Parks, Natural Resources & Cultural Resources - 10:** Preserve steep slopes and natural areas adjacent to Pisgah Forest.
- **Land Use & Housing - 4:** Identify areas across the City that are best positioned to accommodate future growth.
- **Land Use & 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 & Housing - 24:** Refine zoning districts and slope regulations in constrained areas

and,

WHEREAS, a public hearing was conducted on Monday, May 15, 2023, by the Brevard City Council, and, after hearing all persons wishing to comment, and upon review and consideration of the proposed amendments, it is the desire of the City Council of the City of Brevard that Brevard City Code, Unified Development Ordinance be amended as outlined below.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BREVARD, NORTH CAROLINA THAT:

SECTION 01. Brevard City Code, Unified Development Ordinance Chapters 4, 6, 13, 17, and 19 hereby amended as depicted in Exhibit A, which is attached hereto and incorporated herein by reference.

SECTION 02. As to any conflict between this Ordinance and any parts of existing ordinances, the provisions of this Ordinance shall control.

SECTION 03. If any section, subsection, paragraph, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

SECTION 04. This Ordinance shall be in full force and in effect from and after the date of its adoption and approval.

Adopted and approved upon first reading this the 5th day of June 2023.

M. New Business.

M-1. Powell Bill Budget Amendment and Main Street Streetscape Project Ordinance – Stamped Crosswalks – Mr. Hooper explained that this is an agreement with NCDOT to commit approximately \$170,000 for stamped crosswalks at the intersections of Main/Gaston, Main/Broad and Main/England. The money will come from two sources, the first of which is \$50,000 from the existing streetscape project budget that was freed up when the Tourism Development Authority gave us a grant for \$50,000 more than we originally asked, and \$150,000 will come from the current fiscal year's Powell Bill allocation, for a total of \$200,000. We are asking for the commitment of \$200,000 in order to have enough should the cost come in over the estimated \$173,000. If it comes in on budget we will fold some of this money back into the streetscape project or some other similar project. Motion by Mr. Morrow, seconded by Mr. Baker to approve the resolution authorizing the City Manager to enter into the agreement with NCDOT. The motion carried unanimously.

**RESOLUTION NO. 2023-31
AUTHORIZING CITY MANAGER TO EXECUTE AGREEMENTS WITH NCDOT
REGARDING DOWNTOWN STAMPED CROSSWALKS**

WHEREAS, on June 5, 2023 the Brevard City Council heard a presentation from staff, summarized in the affixed staff report, on the need to designate funds for sidewalk and landscape betterments on NCDOT's Downtown Brevard streetscape improvement, specifically stamped crosswalks;

WHEREAS, stamped crosswalks increase visibility of pedestrian crossings by adding brick-red coloring and stamped treatments to the walking surface, and improve the aesthetics of downtown intersections.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF BREVARD, NORTH CAROLINA THAT:

The City Manager (or his designee) is hereby authorized to execute necessary agreements with the North Carolina Department of Transportation for the purposes described in the above referenced staff report.

Approved and adopted this 5th day of June, 2023.

ORDINANCE NO. 2023-23
CAPITAL PROJECT ORDINANCE TO AMEND ORDINANCE
NO. 2023-11, MAIN STREET STREETScape PROJECT

BE IT ORDAINED by the City Council of the City of Brevard, North Carolina that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby amended:

Section 1: The budgeted expenditures and revenues listed under the ordinance (2023-11, Main Street Streetscapes) will be increased by \$200,000 to provide for three stamped crosswalks on Main Street (Gaston, Broad, and England).

Section 2: The enhancement to the Project will increase visibility of pedestrian crossings by adding brick-red coloring and stamped treatments to the walking surface and improve the aesthetics of these downtown intersections.

Section 3: The following amounts are appropriated for the project:

Account Number	Account Name	Budget Amount
83-6600-4570	Main Street Streetscape Project	\$1,798,200
	Increase	\$200,000
TOTAL PROJECT APPROPRIATION		\$1,998,200

Section 4: The following revenues are anticipated to be available for project expenses:

Account Number	Account Name	Budget Amount
83-3020-0100	Transfer from ARPA	\$357,100
83-3990-0000	Fund Balance Approp	\$522,900
83-3010-0000	Transfer from Cap Res Fund	\$91,200
83-3020-0300	Transfer from Parking Fund	\$140,000
83-3020-0000	Transfer from General Fund	\$562,000
83-3950-0500	Contribution from TDA	\$125,000
	Increase from TDA	\$50,000
	Transfer from Powell Bill	\$150,000
TOTAL PROJECT REVENUE		\$1,998,200

Section 5: The Finance Director is hereby directed to maintain within the capital project fund sufficient specific detailed accounting records to satisfy the disclosure requirements of all the contractual agreements, if applicable.

Section 6: Funds may be advanced from the General Fund or from any Enterprise Fund as necessary for the purpose of making payments as due. Reimbursement requests shall be made in an orderly and timely manner.

Section 7: The Finance Director is directed to report, on a quarterly basis, on the financial status of each project element in Section 3 and Section 4.

Section 8: The Finance Director is further instructed to include a detailed analysis of past and future revenues and expenses during each annual budget submission made to the Governing Board.

Section 9: Copies of this capital project shall be furnished to the City Clerk, Finance Director and City Manager for direction in carrying out this project.

ADOPTED by the City Council of the City of Brevard, North Carolina, on this 5th day of June, 2023.

ORDINANCE NO. 2023-24
AN ORDINANCE AMENDING THE FY2022-2023
BUDGET AMENDMENT NUMBER 23

SUBJECT: Budget Amendment to transfer \$150,000 of Powell Bill funds to the Main Street Streetscape Capital Project to fund stamped crosswalks at three intersections.

AGENDA INFORMATION

Agenda Location: New Business/
Department: Finance
Contact: Dean Luebbe, Assistant City Manager and Finance Director

BRIEF SUMMARY: NCDOT has provided the City an estimate of \$170,000 to complete three stamped crosswalks on Main Street (England, Broad, and Gaston). This budget entry does not affect the \$200,000 currently being proposed in the FY24 budget for street repaving.

MOTION FOR CONSIDERATION: To approve Budget Amendment Twenty-three as submitted, increasing the budget in expenditure account:

10-5700-4700 (Transfer to Streetscapes Project) \$150,000

And decreasing the budget in the expenditure account:

10-5700-4500 (Contracted Services) (\$150,000)

ATTACHMENTS: None

MANAGER'S RECOMMENDATION: Adopt as presented

Approved and adopted this 5th day of June, 2023.

~~ At 6:50 PM Mayor Copelof called for a ten minute break ~~

M-2. Commitment to Landscaping and Sidewalk Costs for R-5799
Roundabouts at Pisgah Forest Entrance and Deavor Road – Mr. Hooper explained that the betterments involved in this project are enhanced landscaping and wider than average sidewalks on the roundabouts on Asheville Highway. It is projected that the total additional cost for the landscaping is \$113,727 and \$40,410 for the wider sidewalks. NCDOT needs a commitment from the City that we will pay the additional costs when the project is done. Mr. Hooper said the funding source he has identified is the one-cent on the tax rate for the Estatoe Trail in the FY23/24 budget and the City will need to continue budgeting annual transfers into the Roundabouts Capital Project to pay for the enhancements when completed. By taking action tonight, Council is committing to budgeting and reserving money for at least the next two fiscal years for this specific purpose. Motion by Mr. Morrow, seconded by Mr. Daniel to approve the resolution authorizing the City Manager to enter into agreements with NCDOT for the landscaping and sidewalk betterments. The motion carried unanimously.

RESOLUTION NO. 2023-32
AUTHORIZING CITY MANAGER TO EXECUTE AGREEMENTS WITH NCDOT
REGARDING SIDEWALK AND LANDSCAPING BETTERMENTS ON PROJECT R-5799

WHEREAS, on June 5, 2023 the Brevard City Council heard a presentation from staff, summarized in the affixed staff report, on the need to designate funds for sidewalk and landscape betterments on NCDOT's Project R-5799;

WHEREAS, attractive landscaping on Brevard's transportation gateways and wide bicycle/pedestrian paths align with City Council's priorities.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF BREVARD, NORTH CAROLINA THAT:

The City Manager (or his designee) is hereby authorized to execute necessary agreements with the North Carolina Department of Transportation for the purposes described in the above referenced staff report.

Approved and adopted this 5th day of June, 2023.

M-3. Committee Appointments – Mr. Hooper explained that with the reforms in the committee structure, the Finance, Human Resources and Citizen Appointment Committee was charged with reviewing applicants, soliciting feedback from the committees, and making membership recommendations to Council. In March Council made appointments to the Housing, Public Safety, and Public Works policy committees, the Planning Board, the Brevard Housing Authority, and the Transylvania Economic Alliance. After an additional period of recruitment, applications were received for the remaining committees: Finance, Human Resources and Citizen Appointment, Downtown Master Plan, Parks Trails and Recreation, and Rosenwald Community Advisory Board. The Finance, Human Resources and Citizen Appointment Committee met on May 22nd to review the applications and made the following recommendations for appointment:

1. Finance, Human Resources and Citizen Appointment Committee – Susan Miller
2. Parks, Trails & Recreation Committee – Nancy DePippo, Howie Granat, Wyn Birkenthal, Reba Osborne and JD Powers;
3. Downtown Master Plan Committee – Lee McMinn and Parker Platt; and
4. Rosenwald Advisory Board – Ursula Wynn and Royce

Mr. Morrow moved to approve the recommendations. The motion died for lack of a second. Motion by Ms. Dinkins, seconded by Mr. Daniel to split these into individual votes per committee. The motion carried unanimously.

Mr. Morrow moved, seconded by Mr. Baker to appoint Susan Miller to the Finance, Human Resources and Citizen Appointment Committee. The motion carried unanimously.

Ms. Dinkins moved, seconded by Mr. Daniel to appoint Nancy DePippo, Howie Granat, Wyn Birkenthal, Reba Osborne and JD Powers to the Parks, Trails & Recreation Committee. The motion carried unanimously.

Mr. Jones moved, seconded by Mr. Morrow to appoint Lee McMinn and Parker Platt to the Downtown Master Plan Committee. The motion carried unanimously.

Mr. Baker moved, seconded by Mr. Daniel to appoint Ella Jones and Rebecca Wynn to the Rosenwald Community Advisory Board. During discussion Mr. Baker noted that he is the Chair of the Finance, Human Resources and Citizen Appointment Committee and explained that when the committee made the recommendation at its May meeting, the advisory board had not yet weighed in due to meeting schedules, but the goal was to get people appointed before the current terms ended. He said it is important that the Advisory Board weigh in and it is important to hear their recommendation. Mr. Jones said for individuals within the Rosenwald Community to step up and say that they want to assist, help and be a part of something is special. He thanked both of the other individuals for stepping up and he hopes that they will want to continue to do that maybe in a different role, but he thinks that the individuals nominated by the Advisory Board are better suited for this particular entity at this particular time. Vote on the motion was unanimously in favor. The motion carried.

**RESOLUTION NO. 2023-33
RESOLUTION APPOINTING MEMBERS TO POLICY COMMITTEES AND ADVISORY
COMMITTEES/GROUPS**

WHEREAS, in Fall 2022 the City of Brevard City Council held a work retreat to reform its committee structure; and

WHEREAS, committees were designated into one of three categories: policy committees, statutory committees, and advisory committees; and

WHEREAS, the Council initiated a new system for making appointments that would apply to every body to which the Council makes appointments; and

WHEREAS, the Finance and Human Resources Committee was renamed the Finance, Human Resources and Citizen Appointment Committee and charged with reviewing applicants for the various committees/advisory groups and making appointment recommendations to the full Council; and

WHEREAS, under the direction of the Finance, Human Resources and Citizen Appointment Committee, city staff conducted an open recruitment for citizens interested in serving on the various committees/advisory groups; and

WHEREAS, the applications received during the initial recruitment period were reviewed by the Finance, Human Resources and Citizen Appointment Committee at their February 27, 2023 meeting; and

WHEREAS, at that meeting the Committee recommended appointments to the Housing Committee, Public Safety Committee, Planning Board, Transylvania Economic Alliance, and Brevard Housing Authority to full City Council; and

WHEREAS, the Finance, Human Resources and Citizen Appointment Committee agreed to extend the recruitment period for Public Works and Utilities Committee; Finance, Human Resources and Citizen Appointment Committee; Downtown Master Plan Committee; Parks, Trails & Recreation Committee; and Rosenwald Community Advisory Board to recruit more candidates; and

WHEREAS, on March 20, 2023 the City Council appointed members to the Housing Committee, Public Safety Committee, Public Works & Utilities Committee, Planning Board, Transylvania Economic Alliance, and Brevard Housing Authority; and

WHEREAS, after an additional period of recruitment, the Finance, Human Resources and Citizen Appointment Committee considered applications at their May 22, 2023 meeting and recommended appointments to the Finance, Human Resources and Citizen Appointment Committee; Parks, Trails and Recreation Committee; Downtown Master Plan Committee; and Rosenwald Community Advisory Board to full City Council.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BREVARD, NORTH CAROLINA THAT:

- 1) The Brevard City Council does hereby appoint Susan Miller to the Finance, Human Resources and Citizen Appointment Committee effective June 1, 2023 and expiring on May 31, 2025; and
- 2) The Brevard City Council does hereby appoint Nancy DePippo, Howie Granat, Wyn Birkenthal, Reba Osborne, and John David Powers to the Parks, Trails and Recreation Committee effective June 1, 2023 and expiring on May 31, 2025; and
- 3) The Brevard City Council does hereby appoint Lee McMinn and Parker Platt to fill vacant seats on the Downtown Master Plan Committee, effective June 1, 2023 and expiring on May 31, 2025; and
- 4) The Brevard City Council does hereby appoint Ella Jones and Rebecca Wynn to the Rosenwald Community Advisory Board, effective June 1, 2023 and expiring on May 31, 2025.

Adopted and approved this 5th day of June, 2023.

M-4. Proposed Amendment to Flood Plain Ordinance – Mr. Daniel moved, seconded by Ms. Dinkins to approve the amendment to the Flood Plain Ordinance. Following brief discussion, the motion carried unanimously.

ORDINANCE NO. 2023-18

AN ORDINANCE AMENDING FLOOD DAMAGE PREVENTION SECTION 34-24 THE CITY OF BREVARD CODE OF ORDINANCE

WHEREAS, a public hearing was conducted on June 5, 2023, by Brevard City Council, and after hearing all persons wishing to comment, and upon review and consideration of the proposed amendments, it is the desire of the City Council of the City of Brevard that Section 34-24(b) of the City Code of Ordinance be amended as outlined below.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BREVARD, NORTH CAROLINA THAT:

SECTION 01. The City of Brevard Code of Ordinance is hereby amended as depicted in Exhibit A, which is attached hereto and incorporated herein by reference.

SECTION 02. The City Clerk of the City of Brevard is hereby authorized and directed to revise and amend the official records and the Code of Ordinance to reflect the change as set forth in the aforementioned Exhibit A.

SECTION 03. The City Manager of the City of Brevard is hereby authorized and directed to cause the enforcement of the provisions of this ordinance through the Police Department.

SECTION 04. If any section, subsection, paragraph, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

SECTION 05. This Ordinance shall be in full force and in effect from and after the date of its adoption and approval.

Adopted and approved on the 5th day of June 2023.

N. Remarks/Future Agenda Considerations.

Mr. Jones said in regards to our June 19th resolution, I am proud to see that after a couple of years we are actually taking action on June 19th. I believe it's been 3 ½ years and I remember I had made a comment at a City Council meeting about it to bring awareness, not realizing where we would be in 3 years with this. I want to thank those individuals sitting up here next to me for officially making it a holiday within our City starting next year. Hopefully everybody will take the time to really come to understand what Juneteenth means and what it may mean to some of your fellow citizens sitting in this room. At the last meeting I guess I was a little emotional, and since then a lot of people have thanked me, wished me well and wishing that I would be able to stay. I want to say thank you to everyone and I can't forget to thank my wife. It has been an honor to work with a group of individuals who wanted to see a brighter better Brevard, especially when we added the committees and working with a lot of individuals who weren't Councilmembers but were concerned citizens who came on these boards. It makes you realize that we are living in a unique wonderful place. You've got to think of all the non-profits that we have in Transylvania County and we have volunteers on almost all of them who are giving a lot of themselves to make it work and make this a better place. I am happy that I live here and grew up here and I just hope that those who come after me continue to make it a better place. Mr. Jones also asked Staff to provide an update on the Moms Mabley signage.

Mr. Morrow said I want to commend the Mayor on your guest column in the paper today and Tyree Griffin as the Transylvanian of the Week. We are making a lot of good press. I would like to congratulate the Staff; this is a hallmark time to get the budget passed and for all you do.

Mr. Daniel said I would encourage folks to come out to the Juneteenth ceremony at the Mary C. Jenkins Community Center on Saturday, June 17th, not only to participate in the ceremony, but to see the Mary C. Jenkins Community Center if you haven't. It is pretty remarkable and it's actually a pretty respectable museum of the African American Community in this area. It is something worth seeing and it would be worthwhile for everyone to come out and visit that.

Mr. Baker said I want to follow up on my earlier comments on housing and the Deerlake Road property wishing that we had an alternative which was higher density but ensuring that it remains housing. The other option is really for the City or a non-profit that is focused on housing to control land by owning it. We've talked a lot about all the options we have ahead of us in housing. I know we are headed in that direction and the budget certainly is a step in the right direction. I wanted to be sure we all understood that that is the other option we have; for us to be an active participant or partner with non-profits or a land trust who can actually own the land that we can partner with and ensure that maybe we do rezone something CMX, but we know that they are going to be using it for housing and that it is going to be densely built and affordable into the future. I want to echo something I said earlier about the Planning Board and now that we have the Comprehensive Land Use Plan I really do feel like it is important for us to put that plan into action, and make sure it is an active plan and that we are implementing the recommendations in there. I know Staff is looking at that now and I look forward to seeing those things come before us soon. It struck me today when we were talking about a couple of rezonings that were particularly difficult for us to get through, that we have some pretty substantial buildings in our town that have been vacant for a very long time. They are large properties where a lot could be done and

there are entities that own those which have decided to not do anything with them. In some cases they are former grocery stores or places that once provided a service for areas of our county which now is gone and they're just a vacant building. I have inquired with City Staff whether we have any options with that and unfortunately it doesn't seem like there are a lot of good options for us. There is always public pressure and public comment. I don't know how effective that will be but I wanted to make sure we mention that.

Attorney McKeller informed Council that there is currently pending in the North Carolina General Assembly Senate Bill 675 which is a proposal to eliminate the extraterritorial jurisdiction zoning by any municipality in a county where the population is less than 50,000 people. It would also require the lowest density lot size to be five. Our current lowest density is GR-4 and we have to raise it to five. It appears that this bill is another attempt by the legislature to pull power back from municipalities and to try to take it away. I don't know if it is placing it with anyone in particular, but it is of special concern to me as the Brevard City Attorney because of the large number of lots that are in the ETJ that receive water services from the City. If they become unzoned, that means those water services could in theory be used for anything, whatever use the people wanted to put to it. Sewer does not go outside of city limits, but water does. This particular bill has actually gotten on a fast track somehow in Raleigh. It has already been through two committees and has been referred back to the Finance Committee after some changes, which is an indicator that it is coming to a head. I would like to ask your permission to draft a resolution opposing this and send to the General Assembly strongly encouraging them not to take away this very important zoning tool of our areas around us where the City is definitely impacted by what happens within the one-mile limits around the city. I think this is an ill-advised move by the General Assembly and I'm not sure what is driving it. I would like your authority by thumbs up to draft a resolution. Council gave the thumbs up and Attorney McKeller will draft the resolution.

Mayor Copelof said I want to compliment Staff on a wonderful budget. It will allow us to accomplish an incredible amount next year and do it in a balanced way that helps support across the demographics for our entire community. I also want to thank the Staff and our partner Heart of Brevard for the wonderful White Squirrel Weekend, which doesn't happen without hundreds of hours of volunteer work. We controlled everything except the weather but even with the rain, people still remarked on what a wonderful weekend it was. Staff worked a lot of extra hours; we had our Public Works Department, Fire Department and Police Department all out there supporting this effort, as was our partner Heart of Brevard. Thank you for making our town so special. We recently had several visitors to our town and it was a big honor to have the North Carolina Secretary of State Elaine come here. She remarked on how beautiful and great the downtown is. She met a number of our young entrepreneurial business leaders and she was impressed. That says so much about who we are and what we are about and we are definitely on the radar in Raleigh with our town. I am going to respond to a comment that was made during public comment by the woman who wanted to know how we are going to pay for all the services for the busloads of homeless people that we were bringing into Brevard. I want to state absolutely clearly that this is a rumor that has started on social media that has absolutely no basis in fact whatsoever. The City is not bussing in homeless people, the City is not bussing in immigrants. I don't know where that information started but it is spreading. I would encourage people that if you want to know what the City is doing, that the forums to find out are to come to City Council meetings or come to the monthly Meet the Mayor meetings. Get the facts straight, ask questions to our face, but there is no effort to bring in homeless. We have people in our community who are homeless and we are working very hard to deal with that and treat them with the respect that they deserve as any member of our community deserves. We are partnering with our non-profit partners such as The Haven, Bread of Life, Sharing House and a lot of our faith institutions to deal with the problem and trying to provide services to those members of our community who are homeless. So when someone stands up and makes a comment as to how we are going to pay for something that has no basis in reality whatsoever, I wanted to set the record straight tonight that that rumor has no basis in fact. If anyone has questions on that or

thinks they have information they want to share, the next Meet the Mayor meeting is June 22nd from 5:00 to 7:00 p.m. here at City Hall.

N. Closed Session – None.

O. Adjourn – There being no further business, at 7:38 p.m. Mr. Morrow moved, seconded by Ms. Dinkins, to adjourn the meeting. The motion carried unanimously.

Maureen Copelof
Mayor

Denise Hodsdon, CMC
City Clerk

Minutes Approved: June 19, 2023

STAFF REPORT

City Council, Monday, June 19, 2023

Title: Ordinance - Voluntary Contiguous Annexation - Nielsen, 31 York Circle - Continued from April 17, 2023 Meeting

Speaker: Aaron Bland, Asst Planning Director

Prepared by: Aaron Bland, Asst Planning Director

Approved by:

Background

On January 24, 2023, David and Catherine Nielsen (“Applicant”) submitted a request for voluntary continuous annexation for their property at 31 York Circle. The subject property is located off of Osborne Road and is identified by PIN 8596-26-2338-000. See Attachment 1 for the petition materials, Attachment 2 for the preliminary annexation plat submitted, and Attachment 3 for a site map.

This request was presented to Council as part of its February 20, 2023 meeting package, and again on March 20, 2023 where Council set April 17, 2023 as the date for the statutorily required Public Hearing. In April the hearing was recessed to the June 19th meeting at the request of the property owner.

Discussion

The subject property is located within the City’s Extra-Territorial Jurisdiction (ETJ) adjacent to the corporate limits and is zoned General Residential – 8 (GR8). The Applicant wishes to annex the entirety of the property. The financial and service delivery impacts are estimated to be minimal; see Attachment 4 for full financial impact details.

There are currently two structures on the property, one historic cabin built in 1905, approximately 600 square feet in size, and a larger barn/woodworking shop space. The Applicant has indicated their intention to build a new primary single-family house and convert the cabin to an accessory dwelling unit (ADU). Per Brevard’s Unified Development Ordinance, properties in General Residential are limited to one principal structure (i.e., the single-family home) and up to two accessory structures, one of which may be an accessory dwelling unit, thus the Applicant’s stated plans for the property are allowed by the UDO.

The existing cabin structure is already connected to City water, upon annexation it is assumed it will also be connected to City sewer. Additionally, the new principal house will require new connections as well. The cost of determining the appropriate connection method and physical connections will be borne by the property owner.

Policy Analysis

Voluntary, contiguous annexations are governed by North Carolina General Statute §160A-31 which authorizes cities to annex any area contiguous to its borders on receipt of a petition signed by all the owners of real property within the area proposed for annexation.

The subject property qualifies for annexation under this statute.

Recommendation

Staff recommends approval of the proposed annexation. The Planning Board discussed this request at their March 28, 2023 meeting and unanimously recommended approval.

Action

In April the hearing was recessed to the June 19th meeting at the request of the property owner. The owner is now requesting a second recess until August 21st to allow additional time to evaluate if a septic system can be done on the site.

Fiscal Impact

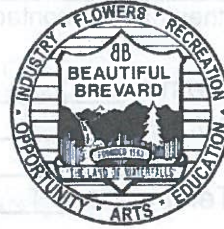
See Attachment 4.

Attachments:

1. Petition Materials
2. Preliminary Plat
3. Site Map
4. Financial Impact Assessment



STATE OF NORTH CAROLINA
COUNTY OF TRANSYLVANIA
CITY OF BREVARD



PETITION REQUESTING A CONTIGUOUS
ANNEXATION
(G.S. 160A-31)

Date: 1-24-2023

To the City Council of the City of Brevard:

1. We the undersigned owners of real property respectfully request that the area described in paragraph 2 below be annexed to the City of Brevard.
2. The area to be annexed is contiguous to the City of Brevard and the boundaries of such territory are as follows:

Transylvania County Property Identification Number(s): 8596-26-2338-000

Street Address: 31 York Circle Brevard, NC 28712

**(ATTACH A METES AND BOUNDS PROPERTY
DESCRIPTION AS "ATTACHMENT A")**

3. A map is attached showing the area proposed for annexation in relation to the primary corporate limits of the City of Brevard. (ATTACH MAP AS "ATTACHMENT B", including the Tax Map PIN)
4. We acknowledge that any zoning vested rights acquired pursuant to G.S. 160A-385.1 or G.S. 153A-344.1 must be declared and identified on this petition. We further acknowledge that failure to declare such rights on this petition shall result in a termination of vested rights previously acquired for the property. (If zoning vested rights are claimed, indicate below and attach proof.)

Property Owner(s): Do you declare vested rights? Yes ☐ No ☒
(Vested rights are rights belonging completely and unconditionally to a person which cannot be impaired or taken away by another party.)

Property Owners Contact Information (If there are more than three property owners, provide their names, contact information and signatures upon a separate and attached sheet.)

a. Name Catherine Nielsen
 Address 31 York Circle Brevard, NC 28712
 Telephone 828 289 6831 Email catalexandernielsen@gmail.com
 Signature Catherine Nielsen

b. Name David Nielsen
 Address 31 York Circle Brevard, NC 28712
 Telephone 828 755 5701 Email nielsen/c223@gmail.com
 Signature David Nielsen

c. Name _____
 Address _____
 Telephone _____ Email _____
 Signature _____

Property Ownership by Corporation or LLC: (If there are more than three principals or managing members then provide their names, contact information and signatures upon a separate and attached sheet.)

a. Name _____
 Address _____
 Telephone _____ Email _____

By: _____
 Type or Print Name and Title (President / Managing Member)

Signature _____

b. Name _____
Address _____

Telephone _____ Email _____

By: _____
Type or Print Name and Title (President / Managing Member)

Signature _____

c. Name _____
Address _____

Telephone _____ Email _____

By: _____
Type or Print Name and Title (President / Managing Member)

Signature _____

AGENT:

Name: _____

Address: _____

Telephone: _____ Email _____

Petition along with a copy of the property Deed, Metes and Bounds description (Attachment A), Map / Survey (Attachment B) and cash/credit or check in the amount of \$500 made payable to the City of Brevard is to be returned to:

Denise Hodsdon, City Clerk
City of Brevard
95 West Main St., Brevard, NC 28712

2021007887TRANSYLVANIA COUNTY NC FEE \$26.00
STATE OF NC REAL ESTATE EXT**\$400.00**

PRESENTED & RECORDED

10/18/2021 02:18:42 PM

CINDY M OWNBEY

REGISTER OF DEEDS

BY: KARIN SMITH

DEPUTY REGISTER OF DEEDS

BK: DOC 1006**PG: 499 - 506****NORTH CAROLINA GENERAL WARRANTY DEED**

Excise Tax: \$400.00

Return after recording to: Edmonds & Matthews, PLLC

Brief description for the Index: Lot 2-A, Osborne Road

This Deed was prepared by: Donald E. Jordan, Attorney at Law

This property does not include the primary residence of Grantor

This DEED is made this 5th day of October, 2021, by and between:

GRANTOR: **JAMES H. WOLFE, individually and as Executor of the Estate of Carolyn Osborne Howie, Transylvania 21-E-16**
joined by his wife, Ellen Wolfe;
ELIZABETH H. ALEXANDER (the same as Barbara H. Alexander),
joined by her husband, Donald Max Alexander;
MARTHA JEANNE HOWIE, unmarried;
REBECCA H. BEARD, unmarried (the same as Rebecca Howie Beard);
PARKS HUNTER HOWIE, JR. (the same as Parks H. Howie, Jr.),
joined by his wife, Robin Howie; and
TRACY FRANCES HOWIE, unmarried (middle name Francis in Will)

Grantor's Address: 17 Tiverton Lane, Asheville, NC 28803

GRANTEE: **CATHERINE ALEXANDER NIELSEN and**
DAVID C. NIELSEN,
Wife and Husband

Grantee's Address: 31 York Circle, Brevard, NC 28712

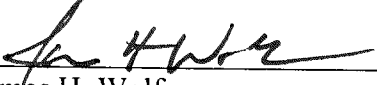
The designation Grantor and Grantee in this Deed shall include the parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

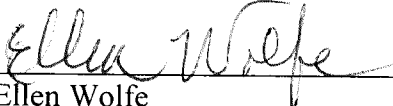
The Grantor, for a valuable consideration paid by the Grantee (the receipt of which is acknowledged) grants, bargains, sells and conveys to the Grantee in fee simple, all of the lot or parcel of land located in Brevard Township, North Carolina, and as is described in the attached Exhibit A. This is a portion of the same property described in the Deed recorded in Document Book 169, Page 531, Transylvania County Registry. This conveyance is made subject to real property taxes for the current year.

THIS CONVEYANCE IS MADE FOR THE GRANTEE TO HAVE AND TO HOLD the Property and all privileges and appurtenances belonging to the Property in fee simple.

The Grantor covenants with the Grantee that Grantor is seized of the Property in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons, subject only to the stated exceptions.

Grantor is signing this Deed as of the date specified above.


James H. Wolfe
Individually and as Executor


Ellen Wolfe

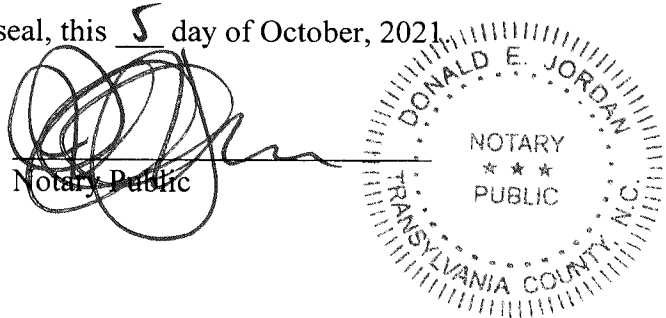
(See attached signature pages for additional Grantors)

STATE OF NORTH CAROLINA
COUNTY OF Transylvania

I, Donald E. Jordan, a Notary Public of the specified County and State, certify that James H. Wolfe personally appeared before me this day and acknowledged the voluntary execution of this Deed.

Witness my signature and official stamp or seal, this 5 day of October, 2021.

My commission expires: Aug 30, 2024

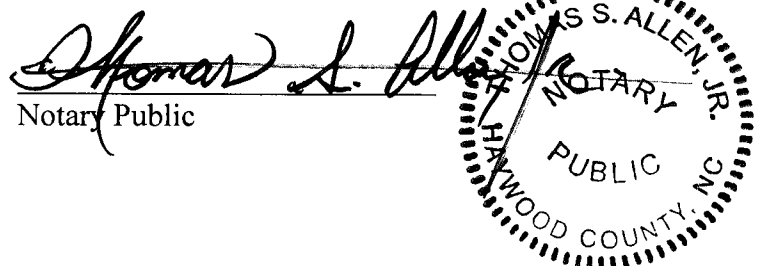


STATE OF NORTH CAROLINA
COUNTY OF Buncombe

Thomas S. Allen, Jr. a Notary Public of the specified County and State, certify that Ellen Wolfe personally appeared before me this day and acknowledged the voluntary execution of this Deed.

Witness my signature and official stamp or seal, this 5th day of October, 2021.

My commission expires: 05/21/25



SIGNATURE PAGE TO DEED - HOWIE ESTATE DEVISEES

Signed as of October 5, 2021:

Tracy F Howie
Tracy Frances Howie

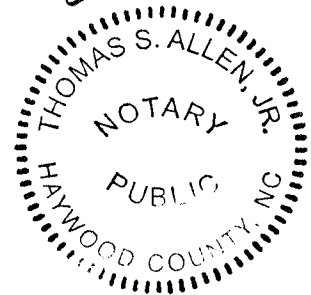
North
STATE OF SOUTH CAROLINA
COUNTY OF Galveston

I, Thomas S. Allen Jr., a Notary Public of the specified County and State, certify that Tracy Frances Howie personally appeared before me this day and acknowledged the voluntary execution of this Deed.

Witness my signature and official stamp or seal, this 6th day of October, 2021.

My commission expires: 05/21/2025

Thomas S. Allen, Jr.
Notary Public



SIGNATURE PAGE TO DEED - HOWIE ESTATE DEVISEES

Signed as of October 5, 2021:

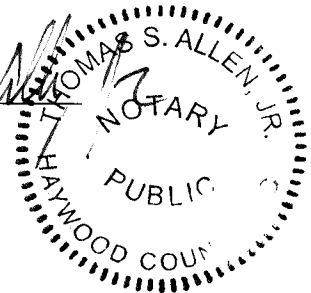
Rebecca H. Beard
Rebecca H. Beard

STATE OF NORTH CAROLINA
COUNTY OF Mecklenburg

I, Thomas S. Allen Jr. a Notary Public of the specified County and State, certify that Rebecca H. Beard personally appeared before me this day and acknowledged the voluntary execution of this Deed.

Witness my signature and official stamp or seal, this 6th day of October, 2021.

My commission expires: 05/21/2025 - Thomas S. Allen Jr.
Notary Public



SIGNATURE PAGE TO DEED - HOWIE ESTATE DEVISEES

Signed as of October 5, 2021:

Parks Hunter Howie, Jr.
Parks Hunter Howie, Jr.

Robin Howie
Robin Howie

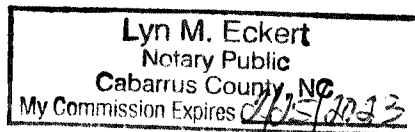
STATE OF NORTH CAROLINA
COUNTY OF Cabarrus

I, Lyn M Eckert, a Notary Public of the specified County and State, certify that Parks Hunter Howie, Jr. and Robin Howie personally appeared before me this day and acknowledged the voluntary execution of this Deed.

Witness my signature and official stamp or seal, this 5th day of October, 2021.

My commission expires: 2/25/2023

Lyn M Eckert
Notary Public



SIGNATURE PAGE TO DEED - HOWIE ESTATE DEVISEES

Signed as of October 5, 2021:

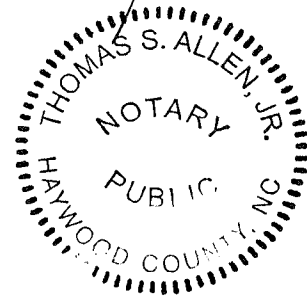
Martha Jeanne Howie
Martha Jeanne Howie

STATE OF NORTH CAROLINA
COUNTY OF Cabarrus

Thomas S. Allen Jr. a Notary Public of the specified County and State, certify that Martha Jeanne Howie personally appeared before me this day and acknowledged the voluntary execution of this Deed.

Witness my signature and official stamp or seal, this 6th day of October, 2021.

My commission expires: 05/21/2025 Thomas S. Allen Jr.
Notary Public



SIGNATURE PAGE TO DEED - HOWIE ESTATE DEVISEES

Signed as of October 5, 2021:

Elizabeth H. Alexander
Elizabeth H. Alexander

Donald Max Alexander
Donald Max Alexander

STATE OF NORTH CAROLINA
COUNTY OF Buncombe

I, Thomas S. Allen, Jr. a Notary Public of the specified County and State, certify that Elizabeth H. Alexander and Donald Max Alexander personally appeared before me this day and acknowledged the voluntary execution of this Deed.

Witness my signature and official stamp or seal, this 6th day of October, 2021.

My commission expires: 05/21/2025 Thomas S. Allen, Jr.
Notary Public

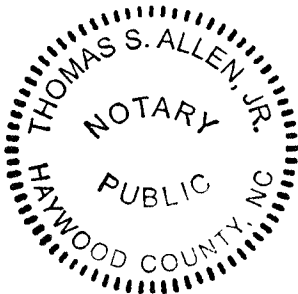
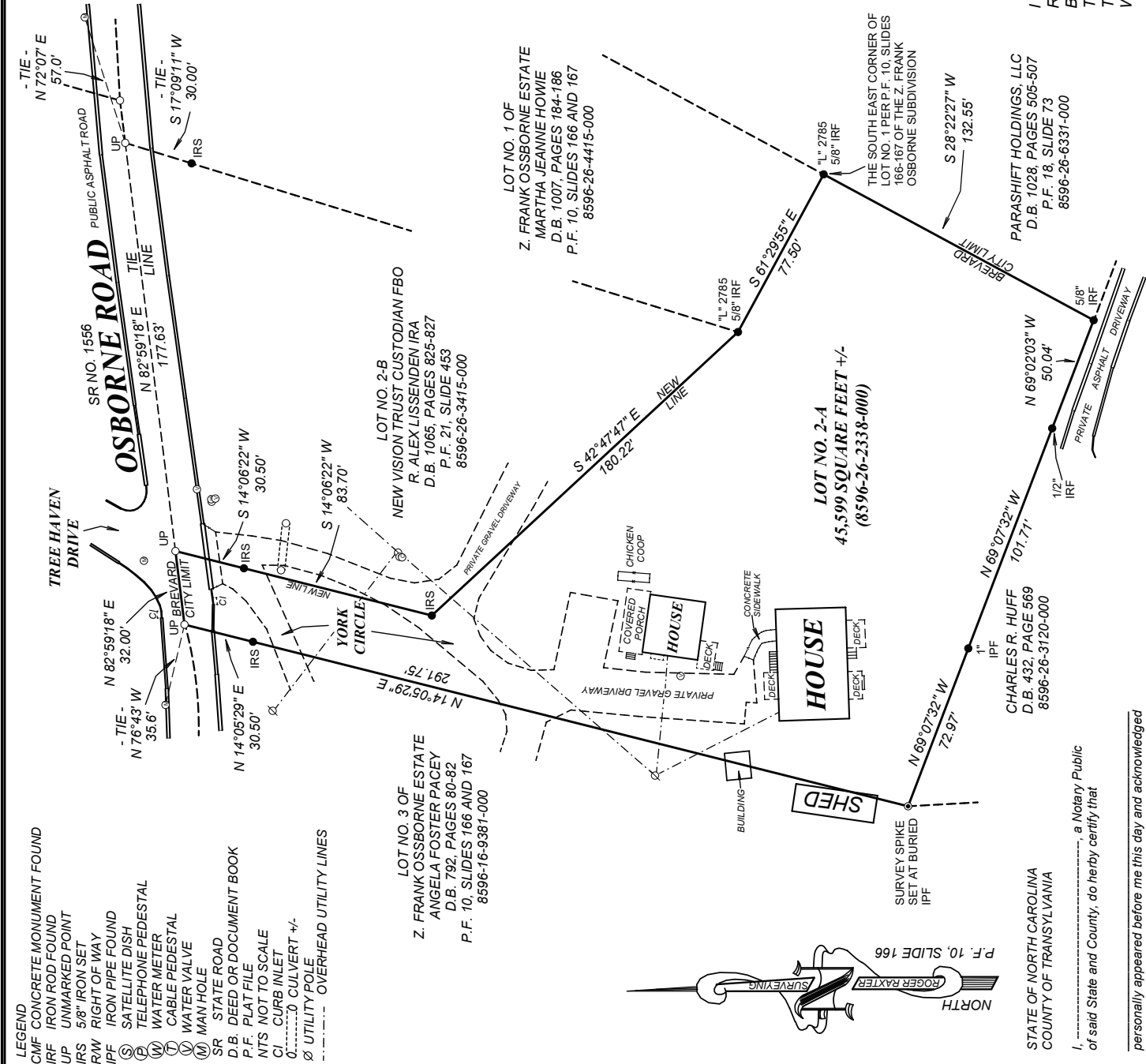


EXHIBIT A - LEGAL DESCRIPTION

All of Lot 2-A, containing 45,599 square feet, as shown on the plat of a survey dated August 18, 2021, prepared by E. Roger Raxter, PLS, for Carolyn Osborne Howie and Parks Hunter Howie, recorded in Plat File 21, Slide 453, Records of Plats for Transylvania County, in the office of the Register of Deeds, Transylvania County, North Carolina.

This conveyance is made together with a right to use the shared driveway shown on the referenced Plat located partially on the adjoining Lot 2-B, and this conveyance is also subject to the rights of owners adjoining on both sides of Lot 2-A for the joint use of the driveways shown on the Plat.



ANNEXATION PLAT-ORDINANCE NO. _____
OF PROPERTY OWNED BY :

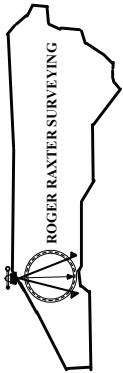
**CATHERINE ALEXANDER NIELSEN
and husband, DAVID C. NIELSEN**

PROPERTY LOCATED IN :
CITY OF BREVARD
BREVARD TOWNSHIP
TRANSYLVANIA COUNTY
NORTH CAROLINA

BEING ALL OF LOT NO. 2-A OF THE HOWIE SURVEY
AS DESCRIBED AND RECORDED IN P.F. 21, SLIDE
453 AND D.B. 1006, PAGES 499-506, OF THE
TRANSYLVANIA COUNTY REGISTRY.

DEED REFERENCE : D.B. 1006, PAGES 499-506.
PLAT REFERENCE : P.F. 21, SLIDE 453.
DATE : JANUARY 13, 2023.

- NOTES
- 1) This property is located in Zone X, areas determined to be outside the 500-year floodplain per F.I.R.M. of this area dated October 02, 2009.
 - 2) This property is subject to matters found by a title examination and also subject to all restrictions, setback lines, roadways, zoning ordinances and right of ways appearing on this property and/or of record.
 - 3) Area computed by coordinate method, including all right of ways.
 - 4) This is of another category, such as the recombination of existing parcels, a court ordered survey or other exception to the definition of subdivision. (GS 47-30)(11) d.
 - 5) This map is not transferable, and may not be used by any person or entity without written authorization from E. Roger Raxter, PLS. This plat is provided for the use of the parties named hereon.
 - 6) The corners found and set are one inch to twelve inches above the ground, unless otherwise noted.
 - 7) This survey does not certify legal title to the land itself or to the boundaries shown. Users of this plat should obtain an accurate legal opinion as to the ownership within the boundaries of this plat.
 - 8) The Tax Pin is : 8596-26-2338-000.
 - 9) York Circle is an existing private gravel roadbed with an existing deeded right of way per D.B. 169, Page 531.
 - 10) This property is zoned GR 8.
 - 11) The owners address is : 31 York Circle, Brevard, NC, 28712.
 - 12) This plat was prepared from the recorded plat referred to above. No actual field survey was done in 2023.



CITY OF BREVARD-ANNEXATION

I HEREBY CERTIFY THAT THIS PLAT FOR ANNEXATION HAS FOLLOWED ALL REQUIREMENTS AND PROCEDURES AND A PUBLIC HEARING WAS HELD BY THE CITY OF BREVARD TO ANNEX THE PROPERTY HEREIN DESCRIBED. THE CITY OF BREVARD ADOPTED ORDINANCE NUMBER _____ TO ANNEX THE PROPERTY DESCRIBED HEREIN ON _____ WITH THE EFFECTIVE DATE OF ANNEXATION ON _____.

Owner Certificate- Annexation : I (we) hereby certify that I am (we are) the owner(s) of the property shown and described hereon and that I (we) hereby adopt this plat of annexation with my (our) free consent.

Date _____ Owner _____
Date _____ Owner _____

PRELIMINARY PLAT ONLY, NOT TO BE USED FOR SALES, CONVEYANCES OR RECORDING.



GRAPHIC SCALE : 1 INCH = 40 FEET

STATE OF NORTH CAROLINA
COUNTY OF TRANSYLVANIA

I, _____, a Notary Public
of said State and County, do hereby certify that

personally appeared before me this day and acknowledged
the due execution of the foregoing instrument.

WITNESS my hand and Notarial Seal, this the _____
day of _____, 2012.

Notary Public

My Commission Expires _____

Review Officer Certification.

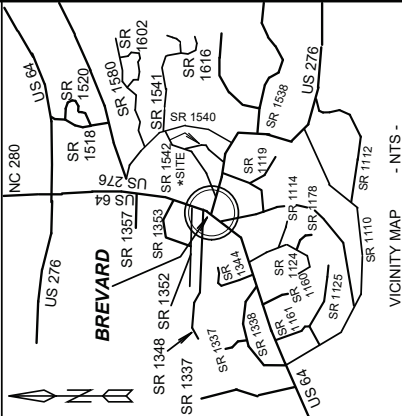
State of North Carolina, County of Transylvania
I, _____, Review Officer of Transylvania County,
certify that the map or plat to which this certification is affixed meets all
the statutory requirements for recording.

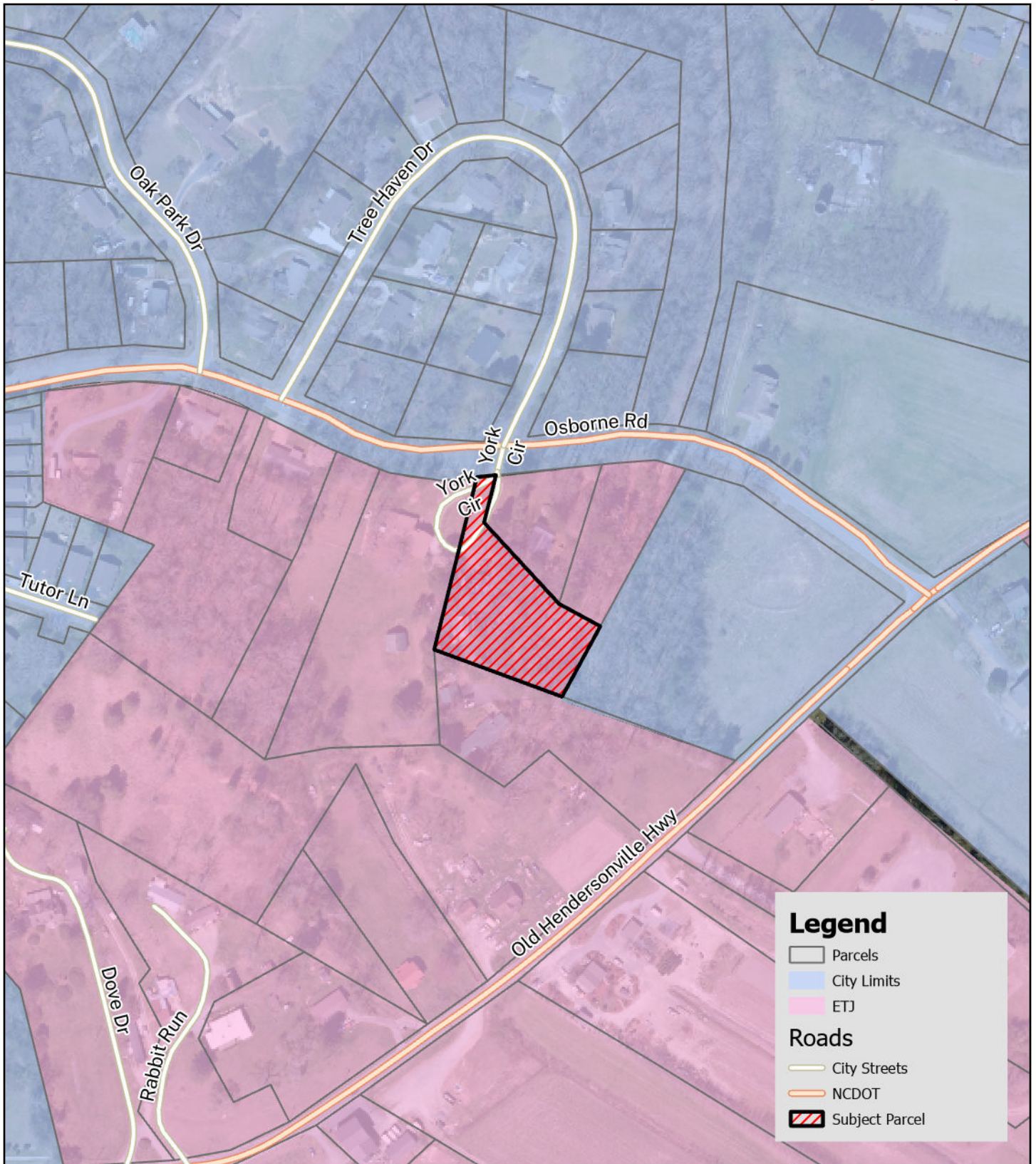
Date _____ Review Officer _____

I, E. ROGER RAXTER, PROFESSIONAL LAND SURVEYOR,
CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPER-
VISION FROM RECORDED DOCUMENTS AND/OR OTHER
INFORMATION AND DOES NOT REPRESENT AN ACTUAL
FIELD SURVEY. THAT THIS PLAT WAS PREPARED
IN ACCORDANCE WITH GS 47-30 AS AMENDED.

E. ROGER RAXTER
NC PLS L-2938
January 13, 2023
DATE

Plat Prepared By :
E. ROGER RAXTER, N.C. PLS L-2938
1101 SILVERSTEEN ROAD
LAKE TOXAWAY, N.C. 28747
PHONE : (828) 966-4399 OR
CELL : (828) 226-0251
E-MAIL : erraxter@hotmail.com
DATE
JANUARY 13, 2023
DRAWING NUMBER
21064B





ANN-23-001 Site Map

Esri, NASA, NGA, USGS, NC CGIA, Maxar, Microsoft, Esri, HERE, Garmin, SafeGraph, FAO, METI/NASA, USGS, EPA, NPS

2023

Coordinate System: NAD 1983 StatePlane North Carolina FIPS 3200 Feet



0 125 250 Feet

ANNEXATION #ANN-23-001

FINANCIAL SUMMARY

1 SINGLE FAMILY HOME + ADU

REVENUE	GENERAL FUND	WATER AND SEWER FUND	FIRE DEPT SPECIAL REVENUE FUND	TOTAL ALL FUNDS
ESTIMATED PROPERTY TAXES	2,698.55		273.42	2,971.97
TRASH AND RECYCLING FEES	-	480.00	-	480.00
WATER & SEWER UTILITY CHARGES		3,544.80		3,544.80
POWELL BILL	-			-
TOTAL REVENUE	2,698.55	4,024.80	273.42	6,996.77
EXPENDITURES				
ADMINISTRATION/FINANCE/HR	583.20			583.20
POLICE DEPT	1,069.20			1,069.20
FIRE DEPT			273.42	273.42
TRASH AND RECYCLING	-	480.00		480.00
STREET DEPT	529.16			529.16
PARKS & PROPERTY MANAGEMENT	250.00		-	250.00
PLANNING & ZONING	291.60			291.60
WATER DISTRIBUTION		386.38		386.38
WATER TREATMENT PLANT		549.44		549.44
SEWER COLLECTIONS		531.72		531.72
WASTERWATER TREATMENT PLANT		978.36		978.36
WATER & SEWER FUND DEBT		1,098.89		1,098.89
TOTAL EXPENDITURES	2,723.16	4,024.80	273.42	7,021.38
NET GAIN OR (LOSS)	(24.61)	-	-	(24.61)

ASSUMPTIONS: BUILDING OF ADDITIONAL SINGLE FAMILY HOME AND CONVERSION OF EXISTING HOUSE TO ADU; 5,000 GALLONS/MONTH/HOME; PER CAPITA CHARGE FOR PUBLIC SERVICES

TAX VALUE OF EXISTING HOME	\$182,740
TOTAL TAX VALUE ADDED WITH NEW HOME	\$582,740

STAFF REPORT

City Council, Monday, June 19, 2023

Title: Proposed Amendments to City of Brevard Unified Development Ordinance Chapter 16 - 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 previously 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.

Recommendation

The Planning Board discussed this amendment at their May 23, 2023 meeting and unanimously recommended approval. In accordance with North Carolina General Statutes, the Planning Board also submits the attached statement of consistency of this proposal in regards to existing policies or plans of the City of Brevard.

Action

For information and public hearing only; no action is requested at this time. Staff requests that Council take one of the following actions at the next regular meeting:

1. Adopt the amendments as written;
2. Revise and adopt the amendments as revised;
3. Reject the amendments; or
4. Table the amendments for further public hearings and/or consideration.

Attachments:

1. Draft Amendments
2. Consistency Statement
3. Adopting Ordinance

1 **16.6. Development approval review procedure in general**

2 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	Rezoning / 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 to 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.~~ 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.~~ 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.

ORDINANCE NO. 2023-____

**AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT
ORDINANCE: CHAPTER 16 – ADMINISTRATION,
SPECIFICALLY AMENDING ADMINISTRATIVE MODIFICATIONS**

WHEREAS, the City of Brevard Planning Board has recommended that Brevard City Code, Unified Development Ordinance, Chapter 16 – Administration be amended; and,

WHEREAS, the City Council of the City of Brevard finds that the proposed amendment is consistent with the following 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.*

and,

WHEREAS, a public hearing was conducted on Monday, June 19, 2023, by the Brevard City Council, and, after hearing all persons wishing to comment, and upon review and consideration of the proposed amendments, it is the desire of the City Council of the City of Brevard Unified Development Ordinance be amended as outlined below.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BREVARD, NORTH CAROLINA THAT:

SECTION 01. Brevard City Code, Unified Development Ordinance Chapter 16 is hereby amended as depicted in Exhibit A, which is attached hereto and incorporated herein by reference.

SECTION 02. As to any conflict between this Ordinance and any parts of existing ordinances, the provisions of this Ordinance shall control.

SECTION 03. If any section, subsection, paragraph, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

SECTION 04. This Ordinance shall be in full force and in effect from and after the date of its adoption and approval.

Adopted and approved upon first reading this the 19th day of June 2023.

Maureen Copelof
Mayor

ATTEST:

Denise Hodsdon
City Clerk

APPROVED AS TO FORM:

Mack McKeller
City Attorney

EXHIBIT A

1 **16.6. Development approval review procedure in general**

2 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	Rezoning / Zoning Map Amendments	Planning Board	City Council	Superior Court

EXHIBIT A

	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
<u>Modifications</u>	<u>Minor Modifications</u>		<u>Staff</u>	<u>Board of Adjustment</u>
	<u>All Other Modifications</u>	<u>Original approval process</u>		

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.~~

EXHIBIT A

~~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

EXHIBIT A

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~~

EXHIBIT A

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 to 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.~~ 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.~~ 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)

STAFF REPORT

City Council, Monday, June 19, 2023

Title: Request to Rezone Parcel at Old Hendersonville Highway and Osborne Road from GR8 to RMX - Tore Borhaug

Speaker: Aaron Bland, Asst Planning Director

Prepared by: Aaron Bland, Asst Planning Director

Approved by: Paul Ray, Planning Director

Background

City Council first considered this rezoning in 2021, ultimately deciding 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 and 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 within the *Activity Center - Minor* 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.

Recommendation

In their re-review of this rezoning, Planning Board has significantly reduced the recommended area to be rezoned to RMX. The basis for the new smaller area, but still larger than the Applicant's request, is the Future Land Use Map of the Comprehensive Land Use Plan. It shows the area surrounding the intersection of Old 64 and Osborne Road as an *Activity Center - Minor* character area. The Planning Board ultimately decided to use this area as the basis for their recommendation (see attached map), recommending all the parcels in the *Activity Center - Minor* character area to the west of Old 64 be rezoned to RMX. The Board intentionally did not include the *Activity Center - Minor* character area parcels to the east of Old 64 because they are within by the 100-year floodplain. In accordance with state law, the Planning Board also submits to Council the attached consistency statement analyzing the reasonableness of this zoning map amendment.

Action

At their May 1st meeting, Council indicated their desire that this request be handled "expediently." Therefore, Staff is proposing Council vote at the same meeting as the public hearing. Council's options are as follows:

1. Grant the zoning map amendment as requested by the Applicant;
2. Grant the zoning map amendment as recommended by the Planning Board;
3. Grant the zoning map amendment with a reduction of the area requested;
4. Grant the zoning map amendment to a more restrictive general zoning district;
- or
5. Deny the application.

Attachments:

1. Application Materials
2. Current Zoning
3. Applicant Proposed Zoning
4. Planning Board New Recommendation
5. Land Use Matrix
6. Consistency Statement
7. Adopting Ordinance (Planning Board Recommendation)



The City of Brevard North Carolina

REQUEST FOR ZONING MAP AMENDMENT (REZONING)

Applicant Information:

Name: TRE'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: GRB

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 HEWATSONVILLE HWY, FLOOD
8-20-22 AREA/COMMERCIAL

Signature of Applicant

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

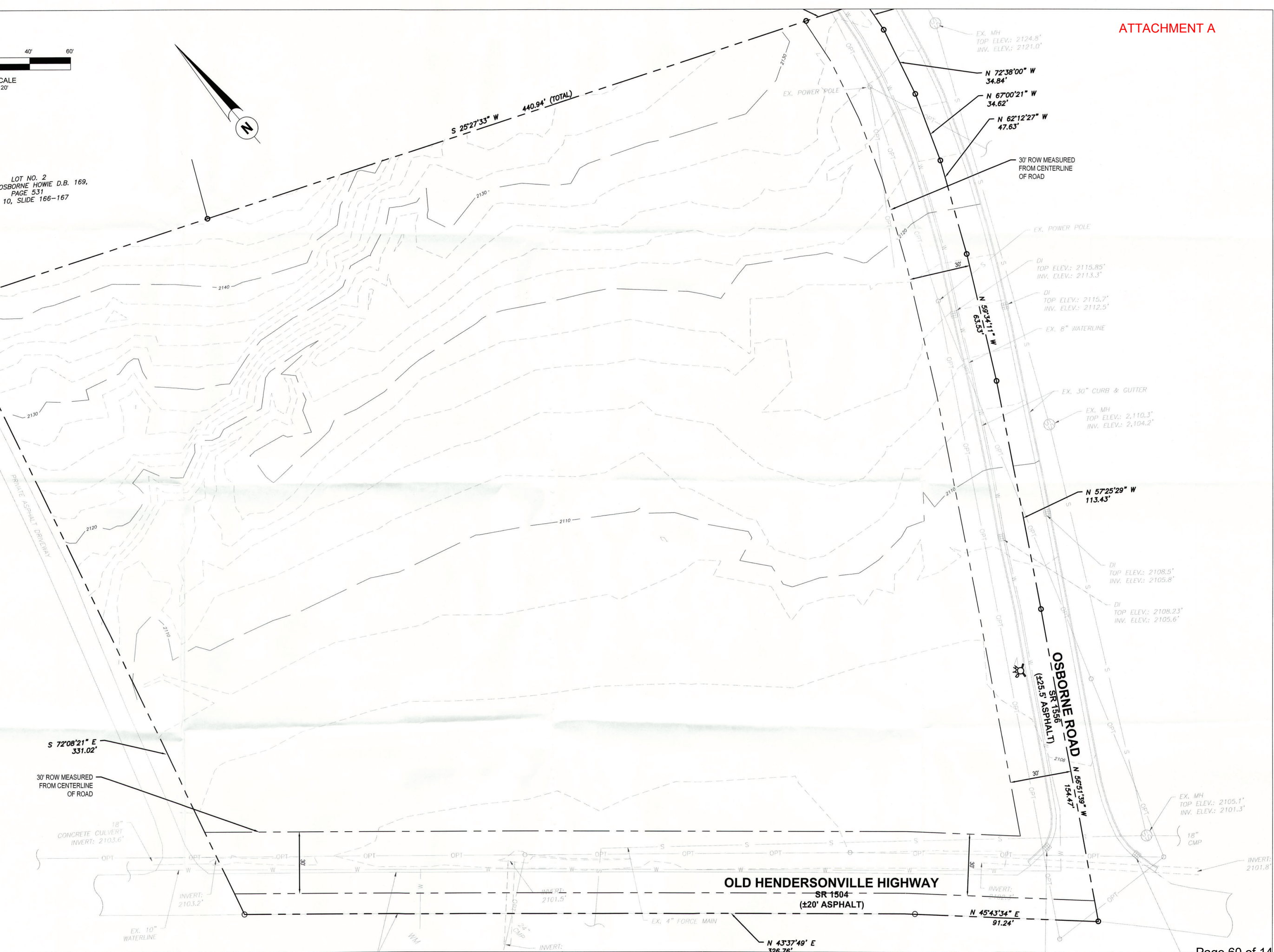
Heard by City Council on: _____

City Council Action: ____ Approval - Ord. Number ____ Effective Date ____
____ Denial

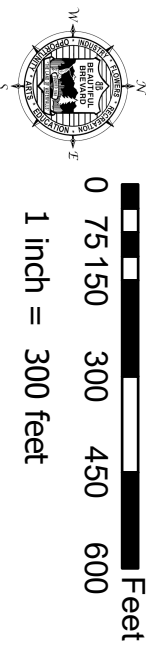
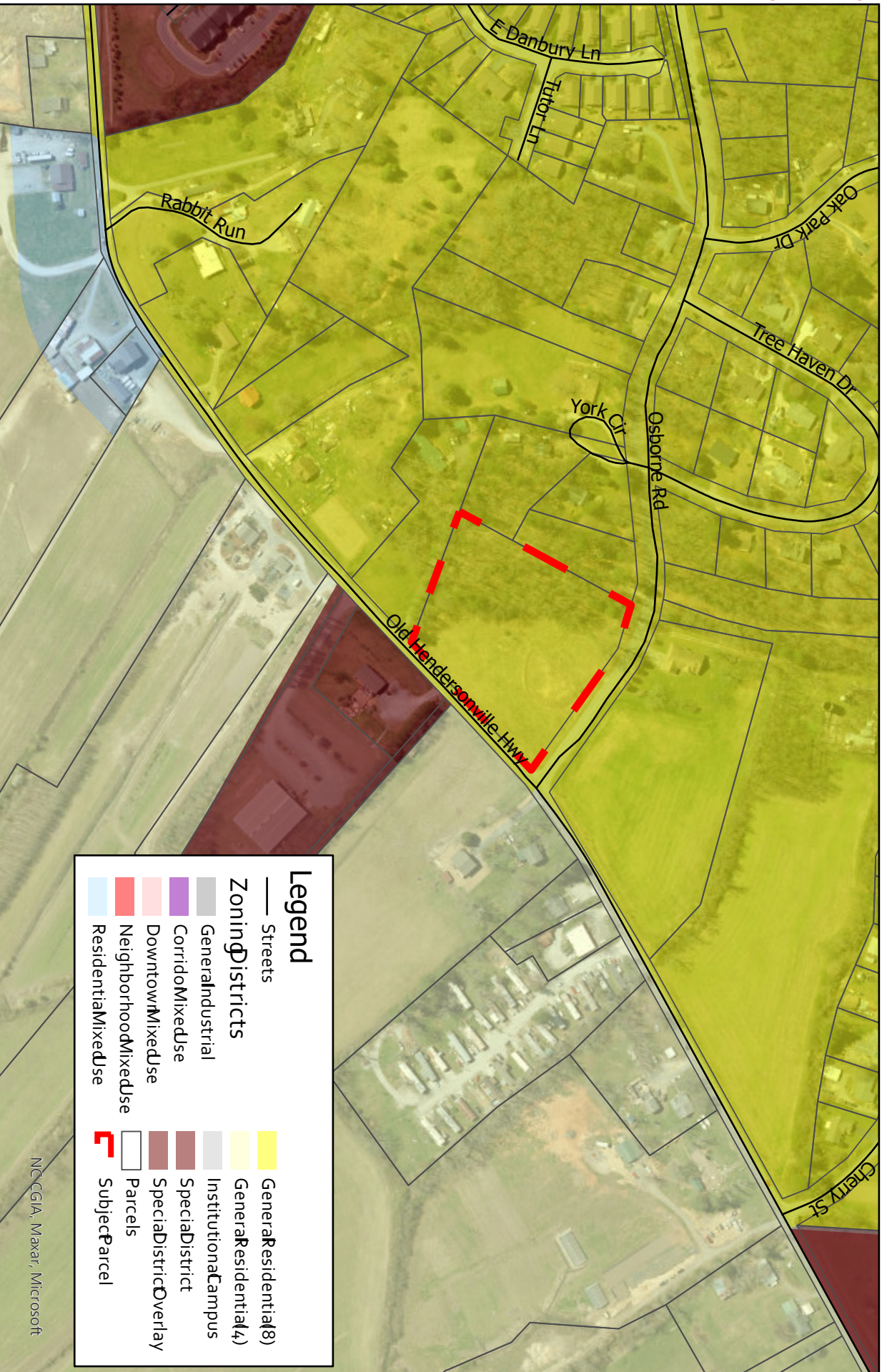
BPB : October 26, 2021



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



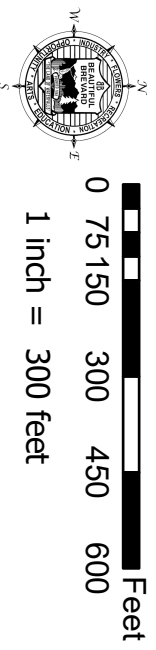
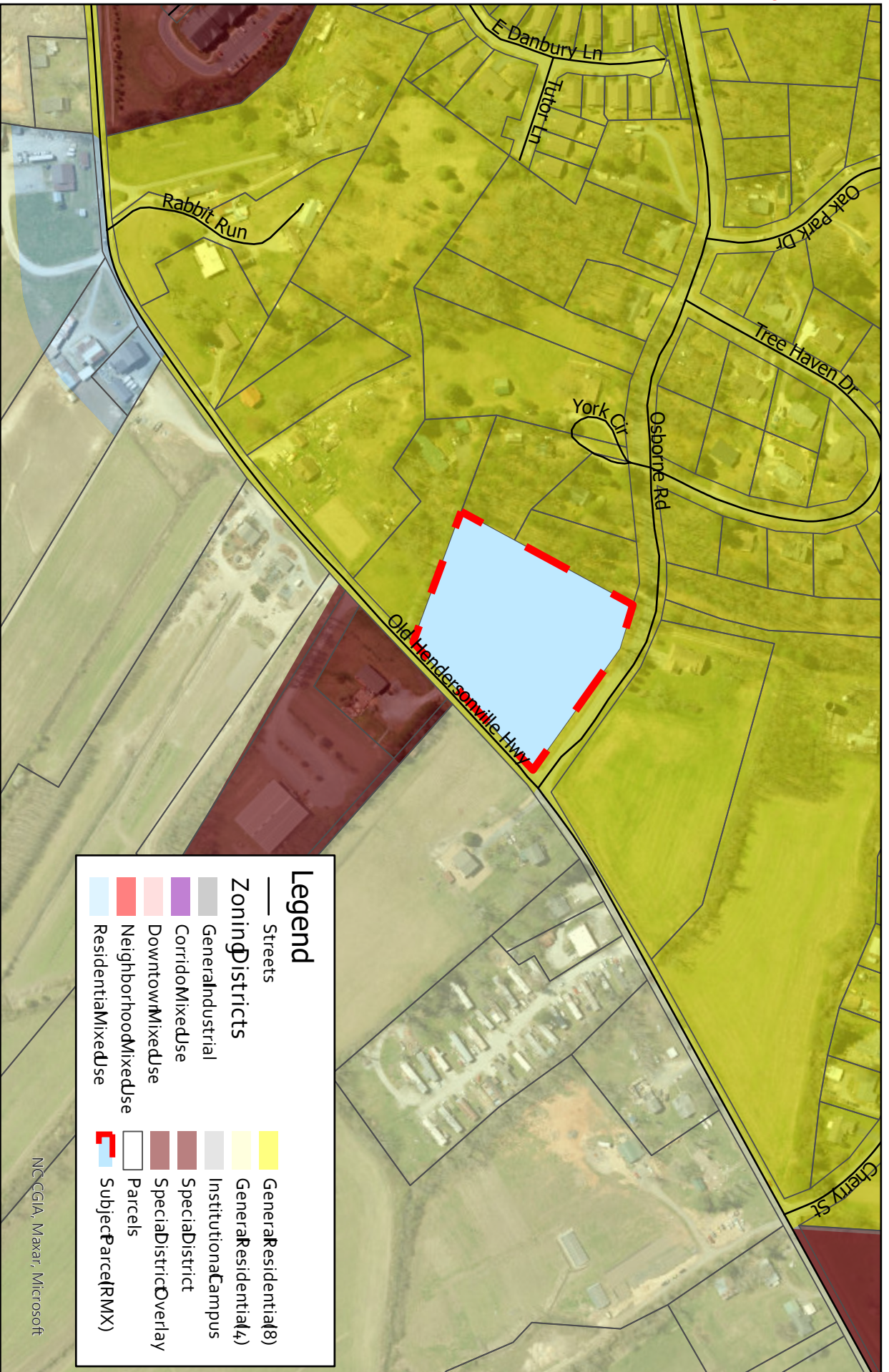
Rezoning Request REZ-21-004: Tore's Properties LLC



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.

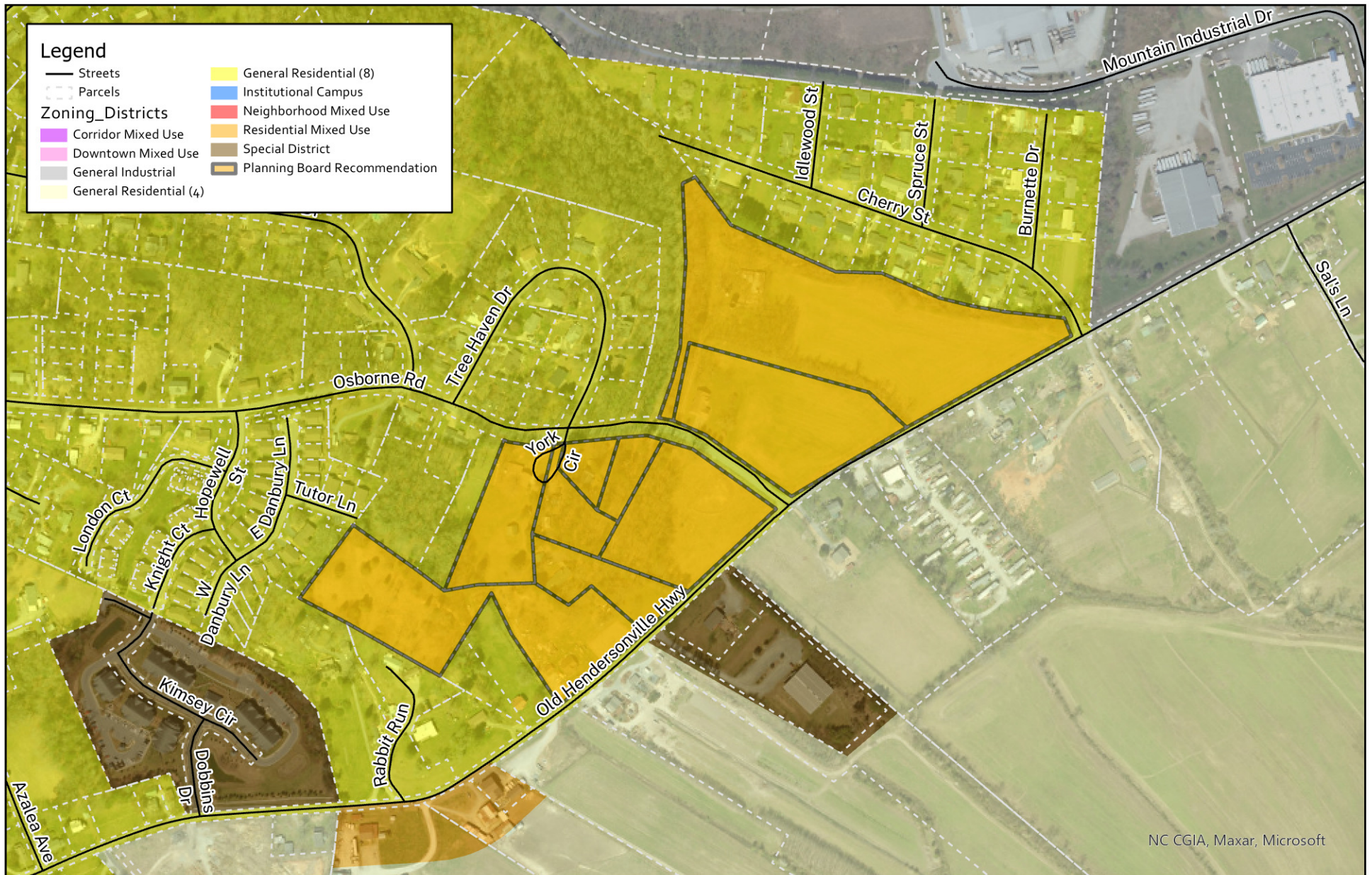
Rezoning Request REZ-21-004: Tore's Properties LLC



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

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Rezoning Request REZ-21-004



NC CGIA, Maxar, Microsoft



0 112.5 225 450 675 900 Feet

This map was prepared by the City of Brevard Planning Department, June 2023.

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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	—



Land Use Matrix (as of December 5, 2022)

CATEGORY	LAND USE	ZONING DISTRICTS						
<i>Commercial</i>		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	—	—
<i>Civic/Institutional</i>		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	—



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 Manu- facturing	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



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
Telecommuni- cations	All wireless telecommunication facilities, except as listed below	PS	PS	PS	PS	PS	PS	PS
	Wireless Telecommunication Facility—Tower	—	—	—	—	SUP	—	PS
Transporta- tion	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 within the *Traditional Neighborhood* and *Activity Center – Minor* character areas. The RMX zoning district is an applicable zoning district for both 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 *Traditional Neighborhood* and *Activity Center – Minor*.
2. The rezoning will allow higher density residential at one of the key intersections along Old Hendersonville Highway.
3. The relationship between the newly allowed uses and the previously allowed uses is very similar, as both are residential districts.

ORDINANCE NO. 2023-____

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE
CITY OF BREVARD TO REZONE LAND LOCATED IN THE VICINITY
OF OSBORNE ROAD AND OLD HENDERSONVILLE HIGHWAY

WHEREAS, Brevard City Council desires that the Official Zoning Map of the City of Brevard be amended by rezoning land from General Residential – 8 to Residential Mixed Use; such property is identified by the Property Identification Numbers as listed below:

8596-26-6331-000; 8596-26-8682-000; 8596-26-9872-000; 8596-26-3120-000; 8596-16-7004-000; 8596-26-4415-000; 8596-26-2338-000; 8596-16-9381-000; 8596-26-3415-000; and,

WHEREAS, a public hearing was conducted June 19, 2023, in consideration of this rezoning request; and,

WHEREAS, the City of Brevard Planning Board considered this proposed map amendment, identified as REZ-21-004, on May 23, 2023, and unanimously recommended approval; and,

WHEREAS, in accordance with North Carolina General Statutes, the Brevard City Council finds the following:

- 1) 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 within the *Traditional Neighborhood* and *Activity Center – Minor* character areas. The RMX zoning district is an applicable zoning district for both of these character areas as outlined in the Future Land Use Character Area Table

- 2) The proposed zoning map amendment is reasonable due to the following factors:
 - The rezoning is consistent with the Future Land Use map which designates these parcels as *Traditional Neighborhood* and *Activity Center – Minor*.
 - The rezoning will allow higher density residential at one of the key intersections along Old Hendersonville Highway.
 - The relationship between the newly allowed uses and the previously allowed uses is very similar, as both are residential districts.

and,

WHEREAS, the Brevard City Council, after hearing all persons wishing to comment on this request desires to approve said request.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BREVARD, NORTH CAROLINA THAT:

Section 1. The Official Zoning Map of the City of Brevard is hereby amended as depicted herein on Exhibit A which is attached hereto and incorporated by reference.

Section 2. This Ordinance shall become effective upon its adoption and approval.

Adopted and approved this the 19th day of June 2023.

Maureen Copelof,
Mayor

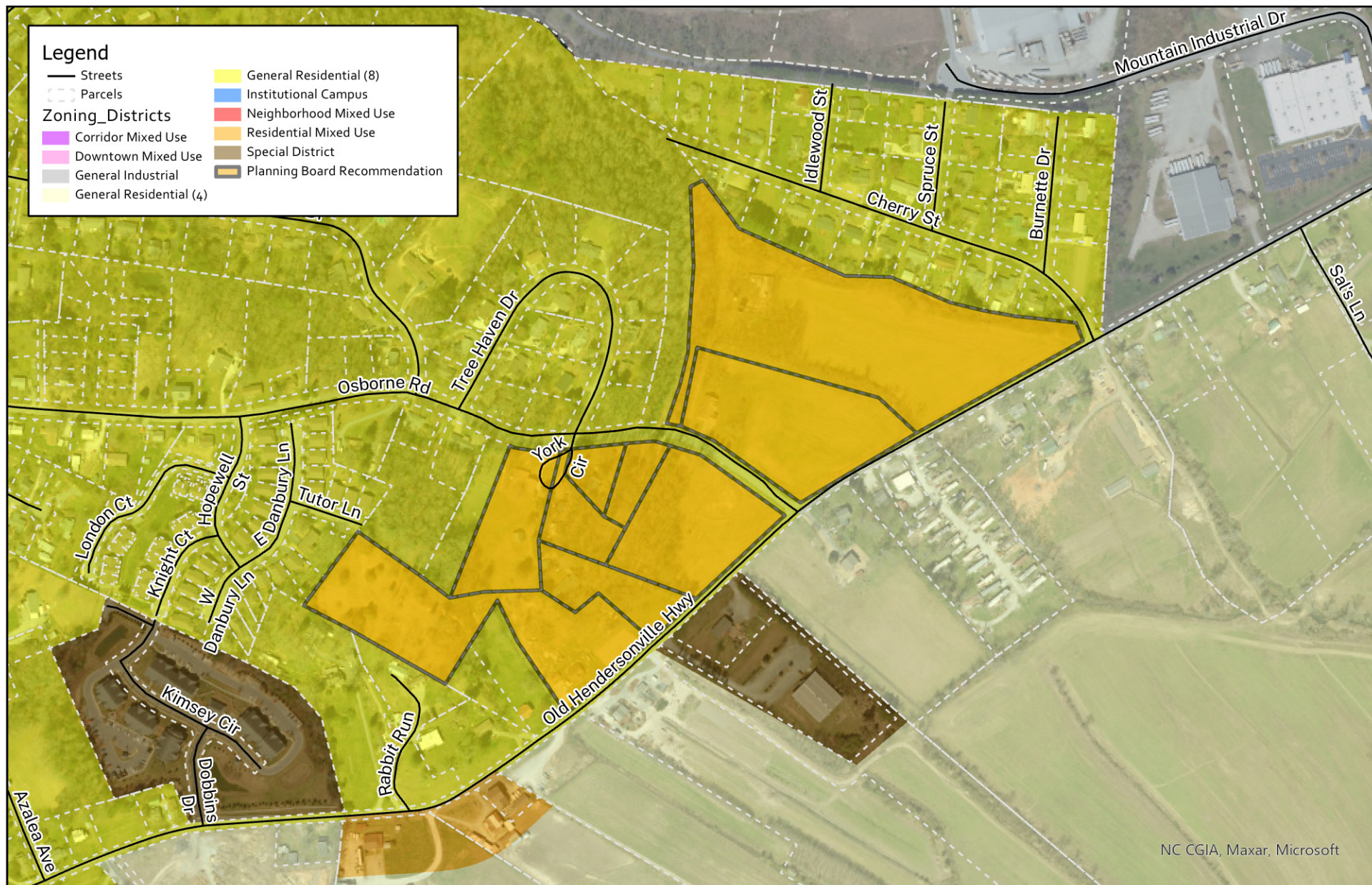
ATTEST:

Denise Hodsdon, CMC
City Clerk

APPROVED AS TO FORM:

Mack McKeller
City Attorney

Rezoning Request REZ-21-004



0 112.5 225 450 675 900 Feet

This map was prepared by the City of Brevard Planning Department, June 2023.

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CITY of BREVARD

The mission of the City of Brevard is to promote a high quality of life, support economic prosperity and cultivate community while honoring its heritage and culture

TAX SETTLEMENT REPORT FOR MONTH ENDED MAY 31, 2023

Tina Tanner, Tax Collector

CITY OF BREVARD TAX SETTLEMENT REPORT
MONTH ENDING MAY 31, 2023

UPDATED: 06.07.2023

YEAR	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	TOTAL
2022	\$ 39,439.51	\$ 3,782,522.45	\$ 447,238.21	\$ 139,011.26	\$ 145,361.00	\$ 490,097.56	
2021-2011	\$ 12,223.32	\$ 13,357.82	\$ 5,517.48	\$ 3,889.22	\$ 2,791.16	\$ 3,950.65	
2010 - Prior	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
TOTAL:	\$ 51,662.83	\$ 3,795,880.27	\$ 452,755.69	\$ 142,900.48	\$ 148,152.16	\$ 494,048.21	
	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	TOTAL
2022	\$ 331,033.06	\$ 75,567.09	\$ 32,964.81	\$ 20,376.34	\$ 16,109.63	\$ -	\$ 5,519,720.92
2021-2011	\$ 6,364.39	\$ 4,352.72	\$ 1,277.83	\$ 1,391.11	\$ 6,400.43	\$ -	\$ 61,516.13
2010 - Prior	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TOTAL:	\$ 337,397.45	\$ 79,919.81	\$ 34,242.64	\$ 21,767.45	\$ 22,510.06	\$ -	\$ 5,581,237.05

HEART OF BREVARD TAX SETTLEMENT REPORT
MONTH ENDING, MAY 31, 2023

UPDATED: 06.07.2023

YEAR	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER
2022	\$ 582.83	\$ 69,020.13	\$ 17,026.88	\$ 5,036.34	\$ 5,594.11	\$ 21,956.08
2021-2011	\$ 106.50	\$ 316.06	\$ 1,447.91			
2010 - Prior	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TOTAL:	\$ 689.33	\$ 69,336.19	\$ 18,474.79	\$ 5,036.34	\$ 5,594.11	\$ 21,956.08
	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE
2022	\$ 13,200.10	\$ 952.53	\$ 398.12	\$ 2,395.25	\$ 1,332.29	\$ 137,494.66
2021-2011	\$ 1,187.92	\$ 91.38	\$ -	\$ -	\$ 2,592.27	\$ 5,742.04
2010 - Prior	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TOTAL:	\$ 14,388.02	\$ 1,043.91	\$ 398.12	\$ 2,395.25	\$ 3,924.56	\$ 143,236.70

STAFF REPORT

City Council, Monday, June 19, 2023

Title: Property Tax Releases - June, 2023

Speaker:

Prepared by: Tina Tanner, Tax Collector/Water/Finance

Approved by: Dean Luebbe, Assistant City Manager/Finance Director

The City of Brevard has been notified by the Transylvania County Tax Administration of the following releases from the tax scroll of the City of Brevard.

The governing body of the City of Brevard is required by General Statute to approve these releases and instruct the Tax Collector to remove these property values from the city tax records.

General Statute 105-381

(b) Action of Governing Body.--Upon receiving a taxpayer's written statement of defense and request for release or refund, the governing body of the taxing unit shall within 90 days after receipt of such request determine whether the taxpayer has a valid defense to the tax imposed or any part thereof and shall either release or refund that portion of the amount that is determined to be in excess of the correct tax liability or notify the taxpayer in writing that no release or refund will be made.

A finance officer, manager, or attorney to whom this authority is delegated shall monthly report to the governing body the actions taken by him on requests for release or refund.

All actions taken by the governing body or finance officer, manager, or attorney on requests for release or refund shall be recorded in the minutes of the governing body. If a release is granted or refund made, the tax collector shall be credited with the amount released or refunded in his annual settlement.

Release Amount for June 2023: \$821.64

-

Recommendation: Approve resolution to release values from the tax scroll.

Attachments:

1. 06 Resolution Tax Releases June 2023

RESOLUTION 2023-XX

A RESOLUTION APPROVING PROPERTY TAX RELEASES

WHEREAS, The City of Brevard has previously determined to collect property taxes for the City of Brevard and the Heart of Brevard and it is necessary to release the below shown amount from the city tax records.

BE IT NOW, THEREFORE, RESOLVED THAT:

The Tax Collector is hereby authorized to remove June 2023 property values from the tax scroll in the amount of:

2022: \$ 489.09

2021: \$ 155.88

2020: \$ 176.67

Adopted this the 19th day of June, 2023.

Maureen Copelof
Mayor

ATTEST:

Denise Hodsdon, CMC
City Clerk

STAFF REPORT

City Council, Monday, June 19, 2023

Title: Cleanup Budget Amendments FY2022-2023

Speaker: Dean Luebbe, Assistant City Manager/Finance Director

Prepared by: Dean Luebbe, Assistant City Manager/Finance Director

Approved by: Wilson Hooper, City Manager

Background

The Finance Director has projected that three departments within the government will be over budget at June 30, 2023. Higher than expected expenses are the main reasons for this situation.

Staff Report

An end of fiscal year budget amendment to account for certain departments which are being projected to be over budget at fiscal year end is not uncommon for North Carolina governments. This amendment does not affect fund balance appropriated

Proposed Action

By motion, adopt by Ordinance, to amend the Public Buildings and Streets Departments in the General Fund and the Wastewater Treatment Plant in the Water Fund.

Attachments:

1. Ordinance Amending FY 2022-2023 Budget
2. FY23 budget amendments cleanup

ORDINANCE NO. 2023-XX
AN ORDINANCE AMENDING THE FY2022-2023
BUDGET AMENDMENT NUMBER 24

SUBJECT: Budget Amendment to transfer budgeted between departments at June 30th, 2023

AGENDA INFORMATION

Agenda Location: New Business/
Department: Finance
Contact: Dean Luebbe, Assistant City Manager and Finance Director

BRIEF SUMMARY: The City of Brevard FY23 budget was adopted on June 22, 2022. At that time, management presented its best estimates for funds to be expended and revenues to be received throughout the fiscal year. As commonly occurs, some actual results differ from these estimates. This budget amendment presented can be viewed in three pieces.

1. The Public Buildings (5000) budget needs to be increased by \$66,500. The Interim Public Works Director has relied heavily on this department throughout the fiscal year, and there have been significant cost overruns related to the maintenance and repair and contract services line items. The bulk of these overruns are related to the City Hall building, specifically the HVAC system.
2. All North Carolina municipalities are required by statute to annually file Powell Bill financial reports. This report enables the State to track the Powell Bill balances held by municipalities. The City elected to budget \$200,000 of **non-Powell Bill** funds for paving purposes in FY23. The Finance Director budgeted these funds in the Powell Bill department (5700). For reporting purposes, it would have been wiser to budget the extra \$200,000 under the Streets department (5600). The Powell Bill (5700) budget is being reduced by \$200,000 and the Streets (5600) will be increased by this amount. This entry has no impact on the actual dollars expended on paving.
3. The Wastewater Treatment Plant division (8220) requires an increase of \$100,000 as the cost of chemicals and tipping fees have greatly increased. Staff at the Wastewater Treatment Plant has spent considerable time recently in exploring different chemical combinations, which would ultimately reduce these costs.

Fund balance has not been affected in these budget amendments, as there have been cost savings in other departments within the General and Water Funds.

MOTION FOR CONSIDERATION: To approve Budget Amendment Twenty-four as submitted, increasing the budget in expenditure accounts

10-5000-0210 (Salaries - Overtime)	\$16,500
10-5000-1300 (Utilities)	\$10,000
10-5000-1500 (Maintenance and Repair - Buildings)	\$10,000
10-5000-4500 (Contracted Services)	\$30,000
10-5600-4500 (Contracted Services)	\$200,000
30-8220-3400 (Supplies and Materials)	\$50,000
30-8220-5000 (County Disposal Charges)	\$50,000

And decreasing the budget in the expenditure accounts

10-5100-0200 (Police salaries)	(\$33,500)
10-5600-0200 (Streets salaries)	(\$33,000)
10-5700-4500 (Contracted Services)	(\$200,000)

30-6600-9440 (Gallimore Sewer debt princ)	(\$86,450)
30-6600-9460 (King Street Waterline debt princ)	(\$13,550)

ATTACHMENTS: None

MANAGER’S RECOMMENDATION: Adopt as presented

Approved and adopted this 19th day of June, 2023.

Maureen Copelof
Mayor

ATTEST:

Denise Hodsdon, CMC
City Clerk

APPROVED AS TO FORM:

Mack McKeller
City Attorney

Budget Amendment Number XX
Fiscal Year 2022-2023

	ACCOUNT NUMBER	ACCOUNT DESCRIPTION	DEBIT	CREDIT
	10-5000-0210	Salaries - Overtime	16,500.00	
	10-5000-1300	Utilities	10,000.00	
	10-5000-1500	Maint and Repair - Buildings	10,000.00	
	10-5000-4500	Contracted Services	30,000.00	
	10-5100-0200	Police salaries		33,500.00
	10-5600-0200	Streets salaries		33,000.00
	10-5600-4500	Contracted Services	200,000.00	
	10-5700-4500	Contracted Services		200,000.00
	30-8220-3400	Supplies and Materials	50,000.00	
	30-8220-5000	County Disposal Charges	50,000.00	
	30-6600-9440	Gallimore Sewer debt princ due		86,450.00
	30-6600-9460	King St waterline debt princ due		13,550.00
		TOTAL DEBITS/CREDITS	366,500.00	366,500.00

EXPLANATION:

FY23 year end budget amendment

JE# _____ **SYSTEM #** _____ **Date Posted** _____ **BY:** _____

Fiscal Year _____ **Month** _____ **Finance Director Signature** _____ **Date** _____

STAFF REPORT

City Council, Monday, June 19, 2023

Title: Wilson Road Property Disposition

Speaker: Wilson Hooper, City Manager

Prepared by: Wilson Hooper, City Manager

Approved by: Wilson Hooper, City Manager

Background

NCDOT project R-5763 is the straightening and enhancement of Wilson Rd. from Old US Hwy 64 to US 276. On the northern end, the project culminates with a roundabout at the Wilson Rd./Ecusta Rd. intersection. The project includes a new bridge over the Davidson River near Brevard's wastewater treatment plant, the approach for which will dissect the treatment plant property.

The City was first made aware of NCDOT's property needs last fall, but the City Manager delayed bringing this item to Council until some details regarding utility access in and around the site could be worked through.

Discussion

NCDOT requests two distinct actions:

1. To accommodate the new right-of-way, the City grant deed of the property identified in green in the attached diagram to NCDOT for \$25,000 in a fee simple transaction.
2. To accommodate necessary drainage and other permanent utilities, as well as temporary construction access, as identified in blue, yellow, and pink on the attached diagram, and further consideration of \$25,000, the City grant NCDOT easements.

Action

Council is asked to approve the attached resolution authorizing the City Manager or his designee to execute the aforementioned Wilson Rd. property actions.

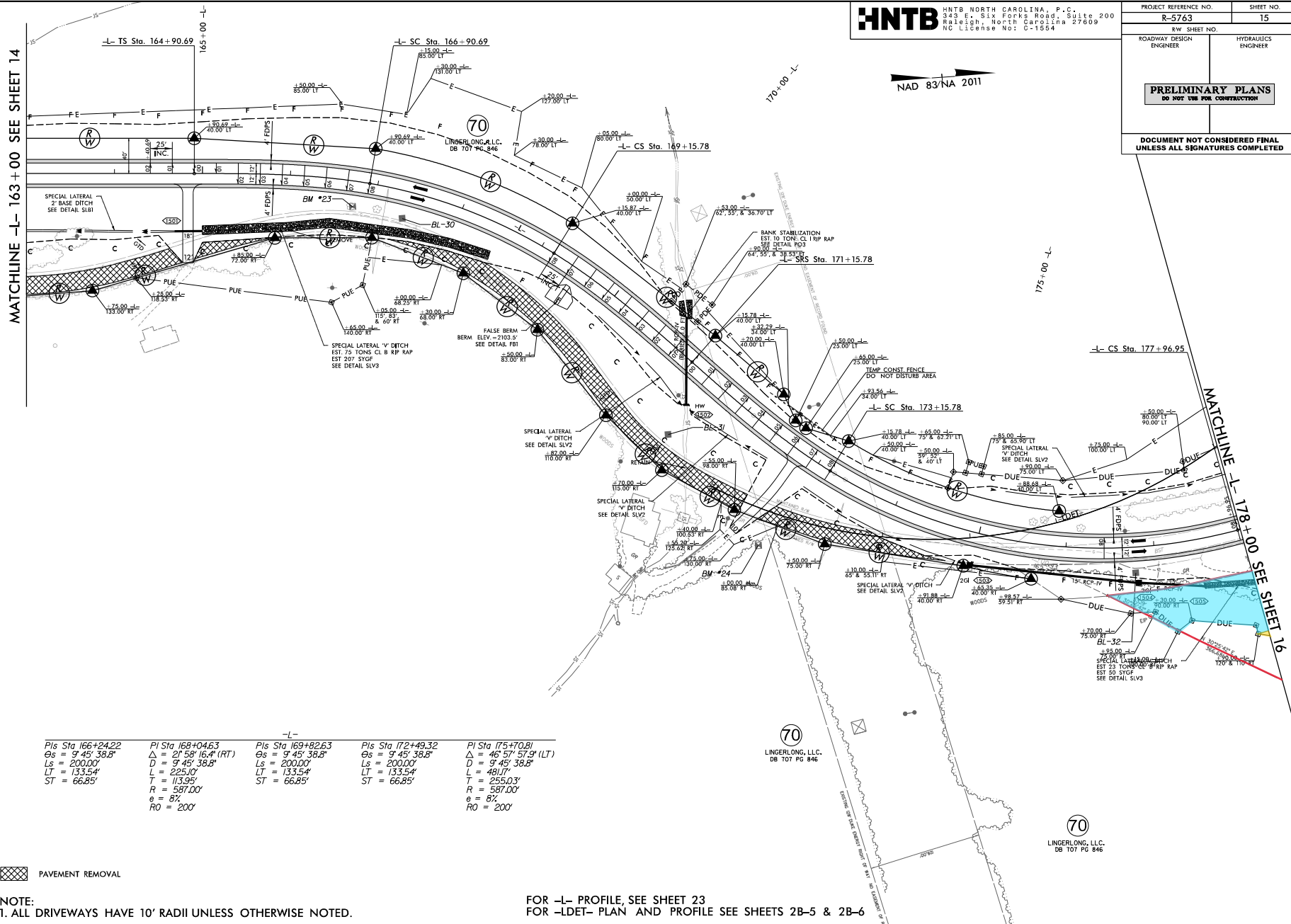
Attachments:

1. Wilson Rd. easement/right-of-way diagram
2. Resolution Authorizing City Manager to Execute Agreements Regarding R-5763

8/17/99

REVISIONS
5-11-2023; ADDED DRIVEWAY FOR PARCEL TO NO CHANGES TO PROPOSED EASEMENTS OR RIGHT-OF-WAY NEEDED.

24-MAY-2023, JWB
C:\pwworking\HNTB\Projects\163\163_PSH_15.dgn



PAVEMENT REMOVAL

NOTE:
1. ALL DRIVEWAYS HAVE 10' RADII UNLESS OTHERWISE NOTED.

FOR -L- PROFILE, SEE SHEET 23
FOR -LDET- PLAN AND PROFILE SEE SHEETS 2B-5 & 2B-6

HNTB HNTB NORTH CAROLINA, P.C.
343 E. SIX FORKS ROAD, SUITE 200
RALEIGH, NORTH CAROLINA 27609
NC LICENSE NO: C-1554

PROJECT REFERENCE NO. R-5763		SHEET NO. 15
RW SHEET NO.		HYDRAULICS ENGINEER
ROADWAY DESIGN ENGINEER		

PRELIMINARY PLANS
 DO NOT USE FOR CONSTRUCTION

DOCUMENT NOT CONSIDERED FINAL
 UNLESS ALL SIGNATURES COMPLETED

24-MAY-2023 10:58
\\Roadway\Proj\R5763-RDY_PSH-16.dgn



HNTB NORTH CAROLINA, P.C.
343 E. Six Forks Road, Suite 200
Raleigh, North Carolina 27609
NC License No: C-1554

PROJECT REFERENCE NO.	SHEET NO.
2-5512	26

R-5763

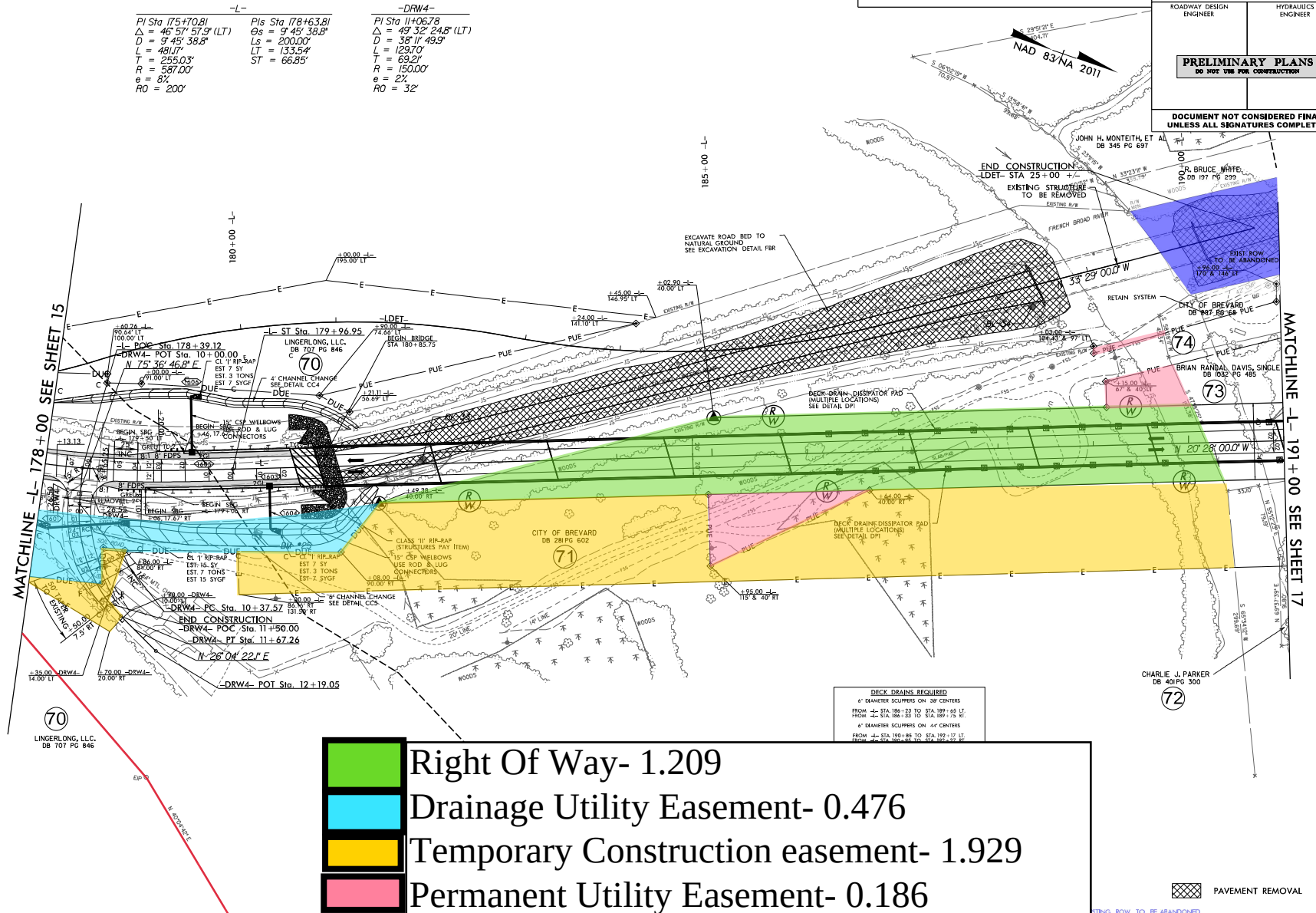
HEET NO.

16

R/W SHEET NO.	
ROADWAY DESIGN ENGINEER	HYDRAULICS ENGINEER

PRELIMINARY PLANS
DO NOT USE FOR CONSTRUCTION

**DOCUMENT NOT CONSIDERED FINAL
UNLESS ALL SIGNATURES COMPLETED**



NOTE:
1. ALL DRIVEWAYS HAVE 10' RADII UNLESS OTHERWISE NOTED.

FOR -L- PROFILE, SEE SHEET 24
FOR -DRW4- PROFILE, SEE SHEET 28
FOR -L_ DET- PLAN AND PROFILE, SEE SHEETS 2B-5 & 2B-6

RESOLUTION NO. 2023-XX

**AUTHORIZING CITY MANAGER TO EXECUTE AGREEMENTS WITH NCDOT REGARDING
PROPERTY MATTERS RELATED TO R-5763**

WHEREAS, R-5763 is a North Carolina Department of Transportation (NCDOT) project designed to straighten and enhance Wilson Rd. between Old US Hwy 64 to US 276 in Transylvania County, North Carolina near the City of Brevard;

WHEREAS, the project will include a new bridge over the Davidson River, the approaches for which traverse property currently owned by the City of Brevard;

WHEREAS, NCDOT has requested, for the consideration of \$25,000, that the City grant to the State deed to the portion of property needed for right-of-way;

WHEREAS, NCDOT has requested, for the consideration of \$25,000, that the City grant easements to the State for property needed for utilities, runoff, and construction access;

WHEREAS, the Brevard City Council received a staff report on this request with maps and other relevant information at its June 19, 2023 City Council meeting.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF BREVARD,
NORTH CAROLINA THAT:**

The City Manager (or his designee) is hereby authorized to execute necessary agreements with the North Carolina Department of Transportation for the purposes described in the above referenced staff report.

Approved and adopted this ____ day of _____, 2023.

Maureen Copelof
Mayor

ATTEST:

Denise Hodsdon, CMC
City Clerk

STAFF REPORT

City Council, Monday, June 19, 2023

Title: Rezoning Request for 1699 Old Hendersonville Highway from CMX to GR4 - Jeremy and Maria Watson

Speaker: Emily Brewer, AICP, Senior Planner

Prepared by: Emily Brewer, Senior Planner

Approved by: Paul Ray, Planning Director, Wilson Hooper, City Manager

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) in order 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.

City Council held a public hearing on the application on May 15, 2023. In accordance with North Carolina General Statutes, a statement analyzing the consistency and reasonableness of this proposal with regards to existing policies or plans of the City of Brevard is included for the Board's review as Attachment 4.

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 the interior to modern living standards.

Though the property was previously used as a single-family home, the property cannot return to this use 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 (see Attachment 2). 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, Residential Mixed-Use
Activity Center – Major	Corridor Mixed-Use, Neighborhood Mixed-Use
Activity Center – Minor	Neighborhood Mixed-Use, Residential Mixed-Use
Urban Corridor	Corridor Mixed-Use, Neighborhood Mixed-Use
Office, Institutional, Special District	Institutional Campus, 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 City Council:

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.*

Planning Board Recommendation - Conditional Zoning District

Planning Board discussed this application at their April 25th regular meeting. After a lengthy discussion, the Board recommended that the property be placed in a Conditional Zoning District (CZD) instead of the requested zoning district, GR-4. They cited NCDOT's upcoming round-about and realignment of Wilson Road/Ecusta Road project and the inconsistency with the future land use map adopted by City Council in March.

A CZD is a special district that is considered separately from the base zoning districts. According to UDO Section 2.1, they are *"intended to provide an effective means for the city to:*

- *manage the impacts of large-scale developments; to manage developments in sensitive contexts;*
- *to provide developers with the flexibility for creative design approaches;*
- *to allow for the establishment of specific land uses not otherwise permitted in the underlying base district;*
- *to allow for changes in the density and dimensional requirements of Section 2.3.”*

These districts are considered somewhat of a negotiation, where the property owner is granted some allowances that differ from a traditional zoning district and the City can impose additional conditions that address the needs/concerns of the nearby residents or the City’s priorities for the areas.

Though their request for GR-4 zoning has not changed, the applicants are open to a CZD with CMX as the base district, provided that *Dwelling – Single-family* and *Short-term Rental* are allowed as permitted by-right and *House* is a permitted building type.

Staff Recommendation Regarding Conditional Zoning District

Staff, in consultation with the City Attorney, is recommending **against** a CZD for the following reasons.

- The applicant would only ask that a few items be varied – namely the allowable uses – and the City does not have any additional conditions to impose at this time. This runs the risk of being challenged as a use variance, which is prohibited under North Carolina General Statutes. Uses are allowed to be varied as part of a CZD because of the unique circumstances and the “give-and-take” between the property owner and the City. So, while it is legally permissible to vary uses in a CZD, this application does not reflect the stated intention of balancing a number of competing priorities described above.
- The UDO requires either a preliminary or a final master plan be submitted as part of the CZD. If the applicant does not submit a final master plan, they are required to bring one before Planning Board within a year. No permit can be issued for construction, remodel, or rehabilitation until the final master plan is approved. The process of submitting a final master plan adds an additional step for the property owners to ensure compliance with all of the conditions set forth in the CZD. If a property owner has to vary the master plan (preliminary or final) for any reason, they have to submit another application to the Planning Department. If it is deemed a major modification, which includes a change in the proposed use, the application must go before City Council for approval. These steps are important for larger, more complex projects, but they add additional time and expense to smaller projects, such as this one, which may prove prohibitive.

- Cities have the broad authority to amend the zoning regulations and zoning map at its discretion (so long as the proper procedures are followed). This means cities are allowed to initiate rezonings in their jurisdiction. There is no amount of time that must pass for a city to be allowed to rezone a parcel. However, CZDs are essentially development agreements between a property owner and the City. Therefore, the property owner must consent to rezoning their property. The only exception is if the applicant has not made any progress on the project within 2 years from its date of approval, then the City can initiate a rezoning to a base district (UDO Section 16.7). In other words, if any progress is made (a final master plan has been approved, a permit has been issued, and/or construction has begun), the City is unable to initiate a rezoning, even if the project is unable to move forward for some reason down the line.

As part of the legislative hearing process, City Council has the authority to rezone a property to a *more restrictive* general zoning district than requested without holding an additional public hearing on the matter. General Residential-4 is considered the most restrictive base zoning district. Therefore, if Council chooses to examine a Conditional Zoning District for the site, a new public hearing must be set (Action 3 below).

Follow Up from June 5th Meeting

On June 5, 2023, City Council discussed this matter in advance of a vote. Some councilmembers asked about assurances that the historic house be restored as part of the rezoning. Rezonings are not intended as a means of restricting land uses and/or dictating projects, but rather applying a different set of development regulations based on the context of the area and the priorities of City Council. As such, City Council is unable to require any assurances. There are, however, restrictive covenants on the deed that the structure be rehabilitated and preserved. In 2007, the then property owner Kimberly Whitmire entered into a Historic Preservation Agreement with the Historic Preservation Foundation of North Carolina. The covenants are included as Attachment 6.

Action

Staff requests that Council take one of the following actions:

1. Grant the zoning map amendment as requested (property becomes GR-4);
2. Deny the application (property remains CMX);
3. Call for a new public hearing for a Conditional Zoning District (Planning Board's recommendation);
4. Send the application back to the Planning Board for further consideration;
5. Table the rezoning for further discussion and consideration.

With the aforementioned challenges regarding the adoption of a Conditional Zoning District, Staff recommends Council either grant the zoning map amendment as requested

(Action 1) or deny the application (Action 2).

Attachments:

1. Application Materials
2. Current Zoning and Future Land Use Map
3. Comparison of Allowable Uses
4. Consistency Statement
5. Draft Ordinance (GR-4)
6. 1699 Old Hendersonville Highway Deed



The City of Brevard North Carolina

REQUEST FOR ZONING MAP AMENDMENT (REZONING)

Applicant Information:

Name: Jeremy and Maria Watson

Address: 5236 Mulholland dr Summerville SC

Phone: 801-833-3372

Property Owner Information (if different than applicant):

Name: Same as above

Address: _____

Phone: _____

Location of Property:

1699 Old Hendersonville Hwy

Pisgah Forest, NC 28768

Property Identification Number (PIN): 8596588230000

Present Zoning District: Corridor mixed use

Request District to be Changed to: Residential 4 (attach additional explanation if necessary)

Existing Use of Adjacent Properties:

North Commercial

West Commercial

South Residential + Vacant

East Recycling Center

[Signature]
Signature of Applicant

2/22/23
Date

* * * * *

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

____ Completed Application Form
____ Survey of Property
____ Application Fee (\$500.00) – 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

To Whom It May Concern,

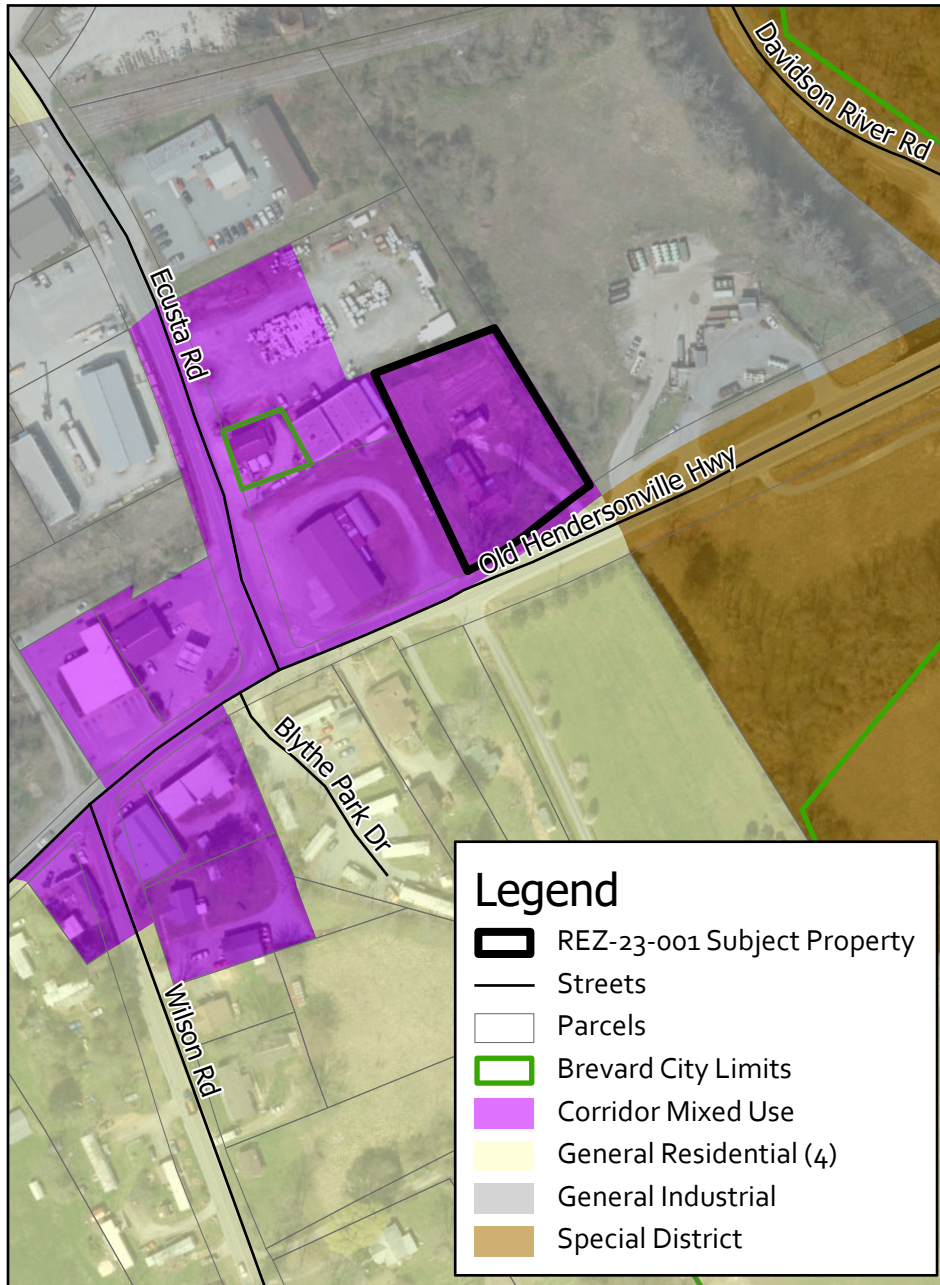
The Elizur and Ann Patton House was built in the 1840s and was a beloved family home for about a century to two different Patton families. It was the hub of a thriving farm which helped build and support the community we now reside in. The property has gone through several owners and adjustments through the decades and fell into disuse and disrepair until it was finally abandoned. There have been several attempts to rehab and restore this property but to no avail. My husband and I recently bought this home and we hope to make it a family home once more which is why we are petitioning to rezone the building back to residential.

Our plan is to work closely with the historical society respecting the home's unique architectural details. Our goals are to restore the original windows, doors, fix the exterior siding, roof, and improving its overall curb appeal. We will also be bringing the interior up to modern living standards while also maintaining the home's historical character. We are still at the beginning of this project but we hope that you will see the value of us committing to this property and bring back a piece of Brevard's history to function and prominence.

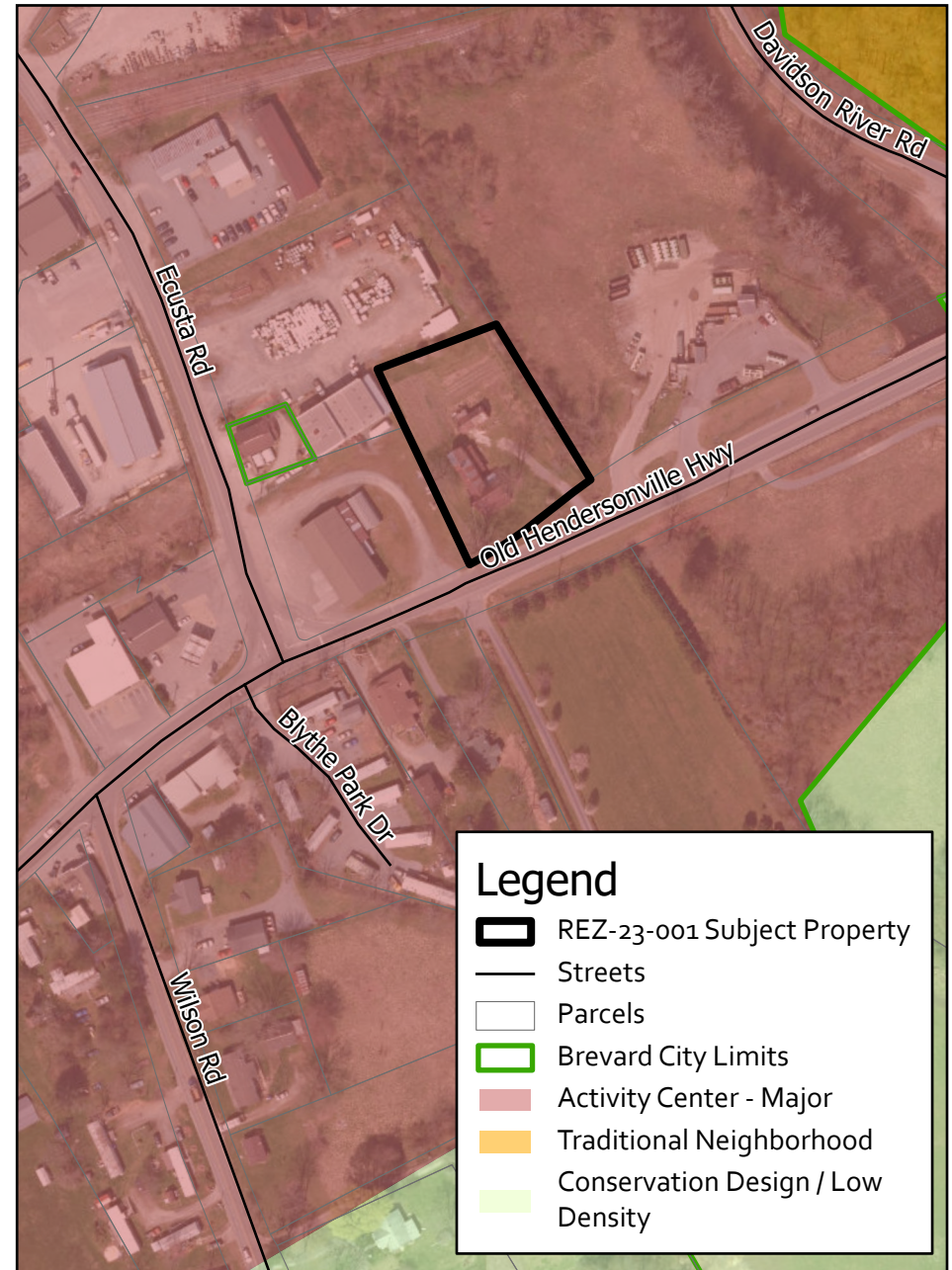
Thank you,

Maria and Jeremy Watson

REZ-23-001 Current Zoning



REZ-23-001 Future Land Use



0 55 110 220 330 440 Feet
1 inch = 217 feet

This map was prepared by the City of Brevard Planning Department, May 2023.

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.

COMPARISON OF ALLOWABLE LAND USES
GENERAL RESIDENTIAL AND CORRIDOR MIXED-USE

CATEGORY	SECTION (a)	USE	ZONING DISTRICTS	
Residential			GR	CMX
Household Living	3.5.1	Dwelling—Single-Family	P	—
		Dwelling—Duplex	P	—
		Dwelling—Multifamily 3—4 units/bldg.	P	P
		Dwelling—Multifamily more than 4 units/bldg.	—	P
		Dwelling—Townhome	P	P
		Manufactured Home (single unit)	MHD	MHD
		Manufactured Home Park	MHD	MHD
		Live-Work Units	PS	—
		Mixed-Use Residential	—	PS
Group Living	3.5.2	Family Care Home	P	P
		Housing Services for the Elderly	SUP	P
		Rooming or Boarding House	P	P
Social Services	3.5.3	Group Care Facility	P	P
		Shelter	SUP	P
Lodging			GR	CMX
Overnight Accommodations	3.6.1	All overnight accommodations, except as listed below	—	P
		Bed and Breakfast	PS	PS
		Short-Term Rental	PS	—
Camping	3.6.2	Campground/Recreational Vehicle Park	SUP	—
		Rental Cottage/Cabins	PS	—
		Seasonal Camp	PS	—
Commercial			GR	CMX
Eating and Drinking Establishments	3.7.1	All restaurants and other eating and drinking establishments except as listed below	—	P
		Bar/Night Club	—	P
Personal Services	3.7.2	All personal services, except as listed below	—	P

		Day Care Center	PS	PS
Professional Services	3.7.3	All professional services, except as listed below	SUP	P
		Adult Establishment	—	—
		Banks, Credit Unions, Financial Services, and ATMs	—	P
		Funeral Homes and Services	—	P
		Human Crematories and Crematoriums	—	PS
		Indoor Animal Services	—	P
		Kennels and Outdoor Animal Services	—	PS
		Landscaping and Contractor Services	SUP	—
		Vehicle Services—Major Repair/Body Work	—	PS
		Vehicle Services—Minor Maintenance/Repair	—	PS
Retail	3.7.4	All retail and sales establishments except as listed below	—	P
		Alcoholic Beverage Sales Store	—	P
		Auto/Mechanical Parts Sales	—	P
		Gas Station	—	PS
		Gunsmiths and Weapon Sales	—	PS
Shopping Centers	3.7.5	All shopping centers	—	PS
Civic/Institutional			GR	CMX
Educational	3.8.1	All educational uses except as listed below	SUP	P
		Colleges/Universities	—	P
		Schools—Vocational/Technical	—	P
Government	3.8.2	All government uses, except as listed below	—	P
		Correctional Facilities	—	P
		Public Safety Station	SUP	P
Medical	3.8.3	All medical offices and facilities except as listed below	—	P
		Hospital	—	P
Places of Worship	3.8.4	All religious institutions or places of worship	SUP	P
		Cemeteries	PS	PS

Entertainment/Recreation			GR	CMX
Indoor Recreation	3.9.1	All indoor recreation facilities, except as listed below	SUP	P
		Cultural or Community Facility	SUP	P
		Indoor Amusements	—	P
		Indoor Firing Range	—	SUP
		Live Performance Theater	—	P
		Movie Theater	—	P
		Special Event Venue	SUP	PS
		Studios, Galleries and Workshops - High Impact	—	P
		Studios, Galleries and Workshops - Low Impact	—	P
Outdoor Recreation	3.9.2	All outdoor recreation facilities, except as listed below	SUP	P
		Non-Residential Swimming Pool or Pond	—	PS
		Outdoor Amusements	—	P
		Outdoor Firing Range	—	—
		Parks, Open Space, and Greenways	P	P
Agriculture			GR	CMX
Agriculture	3.10.1	All agricultural uses	PS	PS
Manufacturing/Wholesale/Storage			GR	CMX
Light Industrial and Manufacturing	3.11.1	All light industrial and manufacturing activities, except as listed below	—	SUP
		Brewery, Distillery, Winery, Cidery - High Impact	—	P
		Brewery, Distillery, Winery, Cidery - Low Impact	—	PS
		Laboratory	—	P
		Laundry, Dry Cleaning Plant	—	SUP
		Manufacturing Research and Development	—	P
		Media Production	—	P
Heavy Manufacturing	3.11.2	All heavy manufacturing activities, except as listed below	—	—

		Metal Products Fabrication, Machine or Welding Shop	—	P
Storage and Disposal	3.11.3	All storage and disposal uses, except as listed below	—	SUP
		Chemical Storage Facility	—	—
		Solid Waste Storage or Disposal Facilities	—	—
		Junkyard / Salvage Yard	—	—
Wholesaling and Distribution	3.11.4	All wholesaling and distribution activities, except as listed below	—	P
		Equipment Rental	—	P
		Indoor Vehicle/Heavy Equipment Sales	—	PS
		Outdoor Vehicle/Heavy Equipment Sales	—	PS
Infrastructure			GR	CMX
Utilities	3.12.1	Utilities—Class 1	P	P
		Utilities—Class 2	P	P
		Utilities—Class 3	—	—
Telecommunications	3.12.2	All wireless telecommunication facilities, except as listed below	PS	PS
		Wireless Telecommunication Facility—Tower	—	SUP
Transportation	3.12.3	Parking Lot	PS	PS
		Passenger Vehicle Terminals	—	P
Accessory			GR	CMX
Residential Accessory	3.13.1	All residential accessory uses, except as listed below	PS	PS
		Day Care Home	PS	PS
		Dwelling—Accessory Unit (ADU)	PS	PS
		Home Occupation	PS	P
		Keeping Bees	PS	PS
		Keeping Domestic Fowl (Chickens)	PS	PS
		Swimming Pool or Pond	PS	PS
Non-Residential Accessory	3.13.2	All non-residential accessory uses, except as listed below	—	PS
		Accessory Retail	—	PS

		Drive-Thrus	—	PS
		Mobile Food Vendor Site	—	PS
		Recycling - Small Collection	—	SUP
		Rooftop Amenity Space	—	PS
		Taproom / Tasting Room	—	P
Temporary			GR	CMX
Events and Structures	3.14.1	All temporary events and structures, except as listed below	PS	PS
		Carnivals or Circus	—	PS
		Farmers Market	—	PS
Vendors	3.14.2	All temporary vendors, except as listed below	—	PS
		Vending Pushcarts	—	—

(a) This column refers to the section of this ordinance that contains the use definition and additional standards.

**STATEMENT OF CONSISTENCY AND REASONABLENESS WITH
ADOPTED PLANS AND POLICIES OF THE CITY OF BREVARD
REZ-23-001**

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 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.*

Building Brevard 2030 Recommendations

- **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.*

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

Building Brevard 2030 Future Land Use Map

The Future Land Use Map recommends *Activity Center – Major* as the future character area:

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.

The appropriate character area for the proposed zoning district is *Conservation Design / Low-Density*.

Building Brevard 2030 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.

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

- As defined in the City of Brevard Unified Development Ordinance, the General Residential-4 zoning district is a logical and appropriate zoning district for a single-family home.
- The Plan is consistent with the goals and recommendations outlined in the City's Comprehensive Land Use Plan.

ORDINANCE NO. 2023-____

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE
CITY OF BREVARD TO REZONE A PARCEL LOCATED
ON OLD HENDERSONVILLE HIGHWAY NEAR ECUSTA ROAD

WHEREAS, Jeremy and Maria Watson request that the Official Zoning Map of the City of Brevard be amended by rezoning a parcel of land, from the Corridor Mixed-Use district to the General Residential - 4 district; such the parcel is identified by PIN 8596-58-8230-000, and is hereafter referred to as the “Subject Property” and,

WHEREAS, a public hearing was conducted May 15, 2023, in consideration of this rezoning request; and,

WHEREAS, the City of Brevard Planning Board considered this proposed map amendment, identified as REZ-23-001, on April 25, 2023; and,

WHEREAS, in accordance with North Carolina General Statute 160D-605, Brevard City Council finds the following:

- 1) The proposed zoning map amendment is **consistent** with the following elements of the City's adopted plans and policies:

Building Brevard 2030 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.*

Building Brevard 2030 Recommendations

- **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.*

- 2) The proposed zoning map amendment is **inconsistent** with the following elements of the City's adopted plans and policies:

Building Brevard 2030 Future Land Use Map

- The Future Land Use Map recommends *Activity Center – Major* as the future character area. The appropriate character area for the proposed zoning district is *Conservation Design / Low-Density*.

Building Brevard 2030 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.*

- 3) The proposed zoning map amendment is in the public interest and reasonable due to the following factors:

- As defined in the City of Brevard Unified Development Ordinance, the General Residential-4 zoning district is a logical and appropriate zoning district for a single-family home.
- The Plan is consistent with the goals and recommendations outlined in the City's Comprehensive Land Use Plan.

and,

WHEREAS, the City of Brevard, after hearing all persons wishing to comment on this request, desires to approve said request.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BREVARD, NORTH CAROLINA THAT:

Section 1. The Official Zoning Map of the City of Brevard is hereby amended as depicted herein on Exhibit A which is attached hereto and incorporated by reference.

Section 2. The Planning Director is hereby authorized and directed to modify the City's Official Zoning Map and the Future Land Use Map consistent with this Ordinance.

Section 3. This Ordinance shall become effective upon its adoption and approval.

Adopted and approved this the 5th day of June 2023.

Maureen Copelof,
Mayor

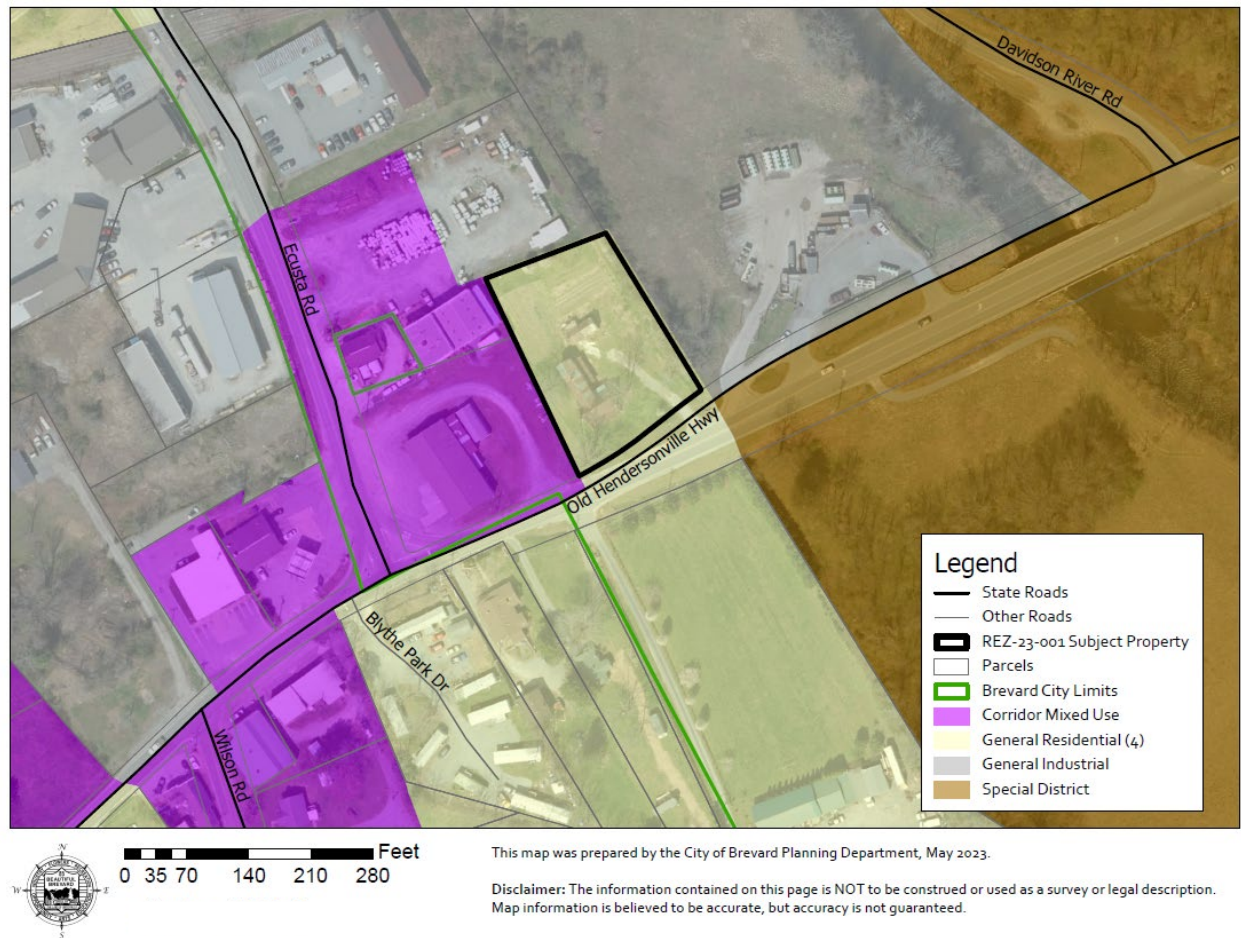
ATTEST:

Denise Hodsdon, CMC
City Clerk

APPROVED AS TO FORM:

Mack McKeller
City Attorney

EXHIBIT A



2007005059

TRANSLYVANIA CO, NC FEE \$56.00
 PRESENTED & RECORDED:
 06-27-2007 04:09:50 PM
 CINDY M OWNBEY
 REGISTER OF DEEDS
 BY: BETH C SALES
 ASSISTANT
 BK:DOC 415
 PG:128-142

STATE OF NORTH CAROLINA
 COUNTY OF TRANSLYVANIA

Return to: Brian P. Philips

HISTORIC PRESERVATION AGREEMENT

June

THIS AGREEMENT, made this the 27th day of ~~May~~, 2007, by and between **KIMBERLY WHITMIRE** of Washington, D.C. (hereinafter referred to as the "Grantor"), and **THE HISTORIC PRESERVATION FOUNDATION OF NORTH CAROLINA, INC.**, a non-profit corporation organized and existing under the laws of the State of North Carolina with its principal office being in Raleigh, North Carolina (hereinafter referred to as the "Foundation");

WITNESSETH:

WHEREAS, the Grantor owns certain real property (hereinafter referred to as the "Subject Property"), a description of which is attached hereto as Exhibit A and incorporated herein by reference; and

WHEREAS, the Subject Property currently has certain permanent improvements consisting of an 1846 two-story frame Greek Revival house with an 1860 rear ell addition hereinafter referred to as the Elizur Patton House; and

WHEREAS, the Elizur Patton House located at 1699 Old Hendersonville Highway, Pisgah Forest, Transylvania County, North Carolina, is a property of recognized historical and architectural significance; and

WHEREAS, the Foundation and Grantor both desire that the Subject Property shall retain its historically and architecturally significant features, while being sympathetically adapted and altered, where necessary, to provide for contemporary uses; and

WHEREAS, the Foundation and Grantor both desire that the Subject Property shall not be subdivided in order to preserve its integrity of site; and

WHEREAS, the Foundation is a charitable organization which accepts preservation easements on buildings having historical or architectural importance, said easement subjecting such buildings to restrictions that will insure that they are preserved and maintained for the benefit of future generations; and

WHEREAS, the North Carolina General Assembly has enacted the Historic Preservation and Conservation Agreements Act validating restrictions, easements, covenants, conditions, or otherwise, appropriate to the preservation of a structure or site significant for its architecture, archaeology or historical associations.

NOW, THEREFORE, for and in consideration of the Grantor's interest in historic preservation and their support for the Foundation and its purposes, and for and in consideration of the sum of **ONE DOLLAR (\$1.00)**, the Grantor, for herself, her successors and assigns, hereby covenant and agree to abide by the following restrictions (hereinafter referred to as "covenants"), said covenants to be restrictions of record to attach to the land described in Exhibit A:

1. These covenants shall be administered solely by the Historic Preservation Foundation of North Carolina, Inc., its successors in interest or assigns; and in all subsequent conveyances of Subject Property, the Foundation, its successors in interest or assigns shall be the sole party entitled to administer these covenants. In the event that the Foundation, or its successors in interest by corporate merger cease to exist, then in such event the Foundation shall assign all of its rights and interests in these easements, covenants, and conditions subject to such duties and obligations which it assumes hereby to a non-profit corporation of responsibility which exists for substantially the same reasons as the Foundation itself (as described hereinabove); if no such corporation be available for such assignment then, under such circumstances such assignment shall be made to the State of North Carolina which shall be the sole party entitled to administer those covenants.

Rehabilitation and Maintenance

2. The Grantor covenants and agrees to rehabilitate the Elizur Patton House according to the terms, conditions, and deadlines of a Rehabilitation Agreement entered into by the parties and signed by authorized officials of the Foundation and, after rehabilitation, to continuously maintain, repair, and administer the Subject Property herein described in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties (1992) so as to preserve the historical integrity of features, materials, appearances, workmanship and environment of the Subject Property. Maintenance shall be continuously provided. Said standards are attached hereto and incorporated in these covenants by reference.

Prior Approval Required For Modifications

3. Unless prior written approval by the *President or Chairman of the Board of Directors* of the Foundation is obtained, no alteration, physical or structural change, or changes in the color, material or surfacing to the exterior of the Elizur Patton House shall be made.

4. Unless the plans and exterior designs for such structure or addition have been approved in advance in writing by the President or Chairman of the Board of Directors of the Foundation, no addition or additional structure shall be constructed or permitted to be built upon the Subject Property. The Foundation in reviewing the plans and designs for any addition or additional structure shall consider the following criteria: exterior building materials; height; fenestration; roof shapes, forms, and materials; surface textures; expression of architectural detailing; scale; relationship of any additions to the main structure; general form and proportion of structures; orientation to street; setback; spacing of buildings, defined as the distance between adjacent buildings; lot coverage; use of local or regional architectural traditions; and effect on archeological resources. Contemporary designs for additions or additional structures shall not be discouraged when such alterations and additions do not destroy significant historical, architectural, or cultural material, and such design is compatible with the size, color, material and character of the property and its environment.

5. The Grantor and the Foundation hereby agree that the interior architectural features listed below and keyed to the floor plans attached hereto as Exhibit C are elements which contribute to the architectural significance of the Elizur Patton House:

GENERAL:

- Wide plank flooring throughout the first and second floors, with the exception of rooms 107, 108, 110, 112, 114, and 208
- Existing ceiling heights throughout the house. The typical ceiling height on the first floor is 9 feet, 10 inches. On the second floor, the typical ceiling height is 8 feet, 10 inches.
- Because the house sat vacant for several years, some architectural features, such as the original interiors doors, mantels, newels and handrails, are missing. In all cases, reconstructed or replicated items, once installed (under the terms of the Rehabilitation Agreement), shall be protected as contributing to the house's significance.
- Paneled wainscot, where referenced, throughout the house is approximately three feet high.
- Window and door trim consists of simple, square cut casing with the windowsills aligning with the top rail of wainscot.

FIRST FLOOR:

- **ROOM 102 (Hallway):** horizontal flush-sheathed plank walls; wide baseboard; and curved plaster ceiling above the stairway.
- **STAIRCASE:** open-string, straight-run stairway extending rear-to-front from first floor to second floor, and from second floor to attic, including paired square balusters (both original and reconstructed); reconstructed simple wooden rounded top handrail replicating the original; closet beneath the staircase; three existing tapered newel posts, including the two graduated newel posts at second floor landing (Room 201), leading to the attic; reconstructed first-floor newel replicating the original.
- **ROOM 103:** ceiling exhibiting seven exposed joists and wide horizontal boards; paneled wainscot with approximately one-foot-tall baseboards; flat window and door trim for three windows; stone hearth; reconstructed mantel of simple post-and-lintel design.
- **ROOM 104:** paneled wainscot; original pegged nine-over-six window with plain flat trim. The wall separating Rooms 104 and 105 is not original and may be removed.
- **ROOM 105:** paneled wainscot with plain door and window surrounds.
- **ROOM 106:** ceiling exhibiting six exposed joists and wide horizontal boards; paneled wainscot; plain window and door surrounds; footprint of original hearth; reconstructed mantel of simple post-and-lintel design.
- **ROOM 109:** wide baseboard; plain window and door surrounds; stone hearth; reconstructed mantel of post-and-lintel design; small enclosed stairway to second floor.
- **ROOM 110:** mantel and reconstructed large soapstone lintel, approximately 20" wide, over mantel.
- **ROOM 111:** wide baseboard in small hallway and curved room.

SECOND FLOOR:

- **ROOM 201 (Hallway):** one-inch square balusters, rounded hand rail, open-string staircase to the attic; tapered newel post at top of staircase; two tapered newel posts at graduated landing leading to the attic; horizontal flush-plank walls between Hallway and Room 203; vertical flush-plank wall between hallway and Room 202.
- **ROOM 202:** five original nine-over-six windows; paneled wainscot with chair rail and wide baseboard; original hearth footprint; reconstructed mantel.

- **ROOM 203:** paneled wainscot with chair rail and wide baseboard; existing stone hearth; reconstructed mantel.
- **ROOM 204:** plaster walls; wooden peg rail embedded in the plaster wall.
- **ROOM 205:** plaster walls and plain baseboard.
- **ROOM 206:** small closet doors that flank the stone chimney and plain wood trim; plain baseboard.
- **ROOM 207 (Rear Hallway):** serpentine plastered walls; a small closet door with beaded edge trim in the concave portion of the hallway adjacent to the enclosed small staircase leading downstairs; wide baseboard running the length of the hallway; plain flat window trim; protruding ledge surrounding window on the northeast side of house.
- **ROOM 208:** due to extensive fire damage, no original elements are extant.

SHED:

- Interior beadboard walls and wooden flooring.

Unless prior written approval by the President or Chairman of the Board of Directors of the Foundation is obtained, no removal, relocation, or alteration of the above mentioned architectural features shall be made.

6. Neither the Elizur Patton House nor any part thereof may be removed or demolished without the prior written approval of the President or Chairman of the Board of Directors of the Foundation.

7. No portion of the Subject Property may be subdivided.

8. Express written approval of the Foundation is required for removal of living trees greater than 12 inches in diameter at a point 4 feet above the ground from the Subject Property unless immediate removal is necessary for the protection of any persons coming onto the Subject Property or of the general public; for the prevention or treatment of disease; or for the protection and safety of the Elizur Patton House or other permanent improvements on the Subject Property. Any tree of the aforementioned size which must be removed shall be replaced within a reasonable time by a new tree of a substantially similar species. If so requested, the Foundation may approve the use of an alternate species.

Covenant to Obey Public Laws

9. The Grantor shall abide by all federal, state, and local laws and ordinances regulating the rehabilitation, maintenance and use of the Subject Property.

Right of First Refusal

10. In case of any contemplated sale of the Subject Property or any portion thereof by the Grantor or any successor in title thereto, first refusal as to any bona fide offer of purchase must be given to the Foundation, its successors or assigns. If the Foundation so decides to purchase, it shall notify the then owner of its willingness to buy upon the same terms within thirty (30) days of receipt of written notice of such bona fide offer. Failure of the Foundation to notify the then owner of its intention to exercise this right of first refusal within such thirty (30) day period shall free the owner to sell pursuant to the bona fide offer. The Foundation may, in its discretion, waive its right of first refusal in writing, upon written receipt of such bona fide offer. Provided, however, that if there are any outstanding deeds of trust or other encumbrances against the property, any right to repurchase shall be subject to said deeds of trust or encumbrances, and they shall either be satisfied or assumed as part of the purchase price.

Inspection

11. Representatives of the Foundation shall have the right to enter the Subject Property at reasonable times, after giving reasonable notice, for the purpose of inspecting the buildings and grounds to determine if there is compliance by the Grantor with the terms of these covenants.

Public Access

12. Researchers, scholars, and groups especially interested in historic preservation shall have access to view the interior of the rehabilitated property by special appointment at various times and intervals during each year. The general public shall have access to the Subject Property to view the exterior and interior features herein protected at the Grantor's discretion at various times and intervals during each year at times both desirable to the public and convenient with the Grantor. Nothing shall be erected or allowed to grow on the Subject Property which would impair the visibility of the property and the buildings from the street level or other public rights of way.

Hazardous Materials

13. The properties the Foundation seeks to protect may contain certain hazards as a result of outdated building practices or use of certain materials that may contain lead paint, asbestos, or some other hazards that may need to be removed or encapsulated before the buildings are habitable. Addressing these problems is one of the challenges of owning and restoring a historic property. The Foundation does not have the resources to correct these problems and cannot take responsibility for the condition of the properties being sold. The Foundation is not liable in any way for any hazards, defects, or other problems with the properties under covenants.

Extinguishment

14. The Grantor and the Foundation recognize that an unexpected change in the conditions surrounding the Subject property may make impossible or impractical the continued use of the Subject Property for conservation purposes and necessitate the extinguishment of this Historic Preservation Agreement. Such an extinguishment must comply with the following requirements:

- (a) The extinguishment must be the result of a final judicial proceeding.
- (b) The Foundation shall be entitled to share in the net proceeds resulting from the extinguishment in an amount in accordance with the then applicable regulations of the Internal Revenue Service of the U. S. Department of the Treasury.
- (c) The Foundation agrees to apply all of the portion of the net proceeds it receives to the preservation and conservation of other property or buildings having historical or architectural significance to the people of the State of North Carolina.
- (d) Net proceeds shall include, without limitation, insurance proceeds, condemnation proceeds or awards, proceeds from a sale in lieu of condemnation, and proceeds from the sale or exchange by Grantor of any portion of the Subject Property after the extinguishment.

Remedies

15. In the event of a violation of covenants contained in Paragraphs 2, 3, 4, 5, and 6 hereof, the Foundation then shall have an option to purchase the Subject Property, provided that it shall give the Grantor written notice of the nature of the violation and the Grantor shall not have corrected same within the ninety (90) days next following the giving of said notice. The purchase of the Subject Property, pursuant to the exercise of the option retained hereby, shall be at a price equal to the then market value of the Subject Property, subject to restrictive covenants, as determined by agreement of the then owner and the Foundation, or, in the absence of such agreement, by a committee of three appraisers, one to be

selected by the Foundation, one to be selected by the then owner, and the other to be designated by the two appraisers selected by the Foundation and the owner respectively. Provided, however, that if there are outstanding deeds of trust or other encumbrances against the property, any right to purchase shall be subject to said deeds of trust or encumbrances, and they shall either be satisfied or assumed as part of the purchase price.

16. In the event of a violation of these covenants and restrictions, all legal and equitable remedies, including injunctive relief, specific performance, and damages, shall be available to the Foundation. No failure on the part of the Foundation to enforce any covenant or restriction herein nor the waiver of any right hereunder by the Foundation shall discharge or invalidate such covenant or restriction or any other covenant, condition or restriction hereof, or affect the right of the Foundation to enforce the same in event of a subsequent breach or default.

Transfer Fee

17. Except as otherwise provided herein, there shall be assessed by the Foundation and collected from the purchasers of the Subject Property, or any portion thereof subject to these covenants and restrictions, a transfer fee equal to twenty-five one-hundredths of one percent (0.25%) of the sales price of such property, or any portion thereof, which transfer fee shall be paid to the Foundation and used by the Foundation for the purpose of preserving the historical, architectural, archeological or cultural aspects of real property. Such fee shall not apply to inter-spousal transfers, transfers by gift, transfers between parents and children, transfers between grandparents and grandchildren, transfers between siblings, transfers between a corporation and any shareholders in the same corporation who owns 10 percent (10%) or more of the stock in such corporation and transfers between a limited liability corporation and any member who owns more than ten percent (10%) of such limited liability corporation, transfers by Will, bequest, intestate succession or transfers to the Foundation (each of the foregoing hereinafter referred to as an "Exempt Transfer"); *provided, however*, that such fee shall not apply to the first non-exempt transfer of the Subject Property, but shall apply to each non-exempt transfer thereafter. In the event of non-payment of such a transfer fee, the amount due shall bear interest at the rate of 12% (twelve percent) per annum from the date of such transfer, shall, together with accrued interest, constitute a lien on the real property, or any portion thereof, subject to these covenants and restrictions and shall be subject to foreclosure by the Foundation. In the event that the Foundation is required to foreclose on its lien for the collection of the transfer fee, and/or interest thereon, provided for herein, the Foundation shall be entitled to recover all litigation costs and attorney's fees incurred at such foreclosure, which litigation costs and attorney's fees shall be included as part of the lien and recoverable out of proceeds of the foreclosure sale. The Foundation may require the purchaser and/or seller to provide reasonable written proof of the applicable sales price, such as executed closing statements, contracts of sale, copies of deeds, affidavits or such other evidence, and purchaser shall be obligated to provide such information within forty-eight (48) hours after receipt of written request for such information from the Foundation.

Insurance

18. Grantor shall insure the Subject Property against damage by fire or other catastrophe. If the original structure is damaged by fire or other catastrophe to an extent not exceeding fifty percent (50%) of the insurable value of those portions of the building, then insurance proceeds shall be used to rebuild those portions of the Subject Property in accordance with the standards in Exhibit B. The Grantor shall keep the Subject Property insured under a comprehensive general liability policy that names the Foundation as an additional insured and that protects the Grantor and the Foundation against claims for personal injury, death and property damage.

Mortgage Subordination

19. All mortgages and rights in the property of all mortgagees are subject and subordinate at all times to the rights of the Foundation to enforce the purposes of these covenants and restrictions. Grantor will provide a copy of these covenants and restrictions to all mortgagees of the Subject Property and has caused all mortgagees as of the date of this deed to subordinate the priority of their liens to these covenants and restrictions. The subordination provisions as described above relates only to the purposes of these covenants and restrictions, namely the preservation of the historic architecture and landscape of the Subject Property.

Duration of Covenants

20. The Grantor does hereby covenant to carry out the duties specified herein, and these restrictions shall be covenants and restrictions running with the land, which the Grantor, her heirs, successors, and assigns, covenant and agree, in the event the Subject Property is sold or otherwise disposed of, will be inserted in the deed or other instrument conveying or disposing of the Subject Property.

21. Unless otherwise provided, the covenants and restrictions set forth above shall run in perpetuity.

IN WITNESS WHEREOF, the Grantor has hereunto set their hand and seal, and the Historic Preservation Foundation of North Carolina, Inc., has caused this instrument to be signed in its corporate name by its duly authorized officer and its seal to be hereunto affixed by the authority of its Board of Directors, the day and year first above written.

KIMBERLY WHITMIRE

Kimberly D Whitmire (Seal)



THE HISTORIC PRESERVATION FOUNDATION
OF NORTH CAROLINA, INC.

BY J. Myrick Howard
J. Myrick Howard, President

Corporate Seal

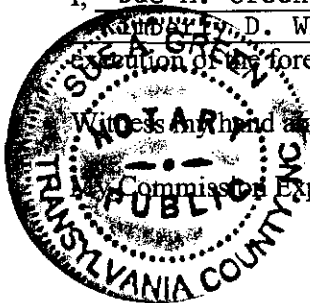
STATE OF NORTH CAROLINA
COUNTY OF Transylvania

I, Sue A. Green, a Notary Public of the County and State aforesaid, certify that
Kimberly D. Whitmire personally came before me this day and acknowledged the due
execution of the foregoing instrument.

Witness my hand and official stamp or seal, this 27th day of June, 2007.

My Commission Expires: 9/3/07

Sue A. Green
Notary Public



STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, DAWN C. WILLIAMS, a Notary Public of the County and State aforesaid, certify that J.
Myrick Howard personally came before me this day and acknowledged that he is President of THE
HISTORIC PRESERVATION FOUNDATION OF NORTH CAROLINA, INC., a North Carolina
corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument
was signed in its name by its President, sealed with its corporate seal.

Witness my hand and official stamp or seal, this 1ST day of MAY, 2007.

My Commission Expires: Feb. 8, 2011

Dawn C. Williams
Notary Public

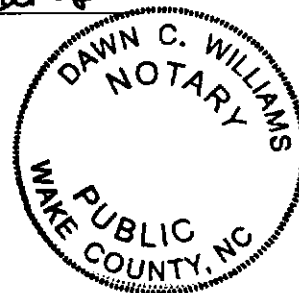


EXHIBIT A

Legal Property Description

BEGINNING on a stake in center of Highway 64 and in center of ditch, Townsend's line and runs thence North 34 deg. West 230 feet with a ditch, Townsend's line, to a stake; thence still with Townsend's line, South 69 deg. West 142 feet to McCoy's line; thence South 33 1/4 deg. 265 feet to a stake in center of Highway 64; thence North 57 1/4 deg. East 51 feet to a stake in said highway; thence North 50 1/2 deg. East 99 feet to the Beginning stake.

EXHIBIT B

**SECRETARY OF THE INTERIOR'S
STANDARDS FOR THE TREATMENT OF HISTORIC PROPERTIES
(1992)**

TREATMENTS

There are Standards for four distinct, but interrelated, approaches to the treatment of historic properties -- Preservation, Rehabilitation, Restoration, and Reconstruction. **Preservation** focuses on the maintenance and repair of existing historic materials and retention of a property's form as it has evolved over time. (Protection and Stabilization have now been consolidated under this treatment.)

Rehabilitation acknowledges the need to alter or add to a historic property to meet continuing or changing uses while retaining the property's historic character. **Restoration** is undertaken to depict a property at a particular period of time in its history, while removing evidence of other periods.

Reconstruction re-creates vanished or non-surviving portions of a property for interpretive purposes.

In summary, the simplification and sharpened focus of these revised sets of treatment standards is intended to assist users in making sound historic preservation decisions. Choosing appropriate treatment for a historic property, whether preservation, rehabilitation, restoration, or reconstruction, is critical. This choice always depends on a variety of factors, including the property's historical significance, physical condition, proposed use, and intended interpretation.

PRESERVATION is defined as the act or process of applying measures necessary to sustain the existing form, integrity, and materials of a historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. New exterior additions are not within the scope of this treatment; however, the limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a preservation project.

STANDARDS FOR PRESERVATION

1. A property shall be used as it was historically, or be given a new use that maximizes the retention of distinctive materials, features, spaces, and spatial relationships. Where a treatment and use have not been identified, a property shall be protected and, if necessary, stabilized until additional work may be undertaken.
2. The historic character of the property shall be retained and preserved. The replacement of intact or repairable historical materials or alteration of features, spaces, and spatial relationships that characterize a property shall be avoided.
3. Each property shall be recognized as a physical record of its time, place, and use. Work needed to stabilize, consolidate, and conserve existing historic materials and features shall be physically and visually compatible, identifiable upon close inspection, and properly documented for future research.
4. Changes to a property that have acquired historic significance in their own right shall be retained and preserved.
5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.

6. The existing condition of historic features shall be evaluated to determine the appropriate level of intervention needed. Where the severity of deterioration requires repair or limited replacement of a distinctive feature, the new material shall match the old in composition, design, color, and texture.
7. Chemical or physical treatments, if appropriate, shall be undertaken using the gentlest means possible. Treatments that cause damage to historic materials shall not be used.
8. Archeological resources shall be protected and preserved in place. If such resources must be disturbed, mitigation measures shall be undertaken.

PRESERVATION AS A TREATMENT

When the property's distinctive materials, features, and spaces are essentially intact and thus convey the historic significance without extensive repair or replacement; when depiction at a particular period of time is not appropriate; and when a continuing or new use does not require additions or extensive alterations, Preservation may be considered as a treatment. Prior to undertaking work, a documentation plan should be developed.

REHABILITATION is defined as the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values.

STANDARDS FOR REHABILITATION

1. A property shall be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.
2. The historic character of a property shall be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property shall be avoided.
3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, shall not be undertaken.
4. Changes to a property that have acquired historic significance in their own right shall be retained and preserved.
5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and, where possible, materials. Replacement of missing features shall be substantiated by documentary and physical evidence.
7. Chemical or physical treatments, if appropriate, shall be undertaken using the gentlest means possible. Treatments that cause damage to historic materials shall not be used.
8. Archeological resources shall be protected and preserved in place. If such resources must be disturbed, mitigation measures shall be undertaken.

9. New additions, exterior alterations, or related new construction shall not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and shall be compatible with the historical materials, features, size, scale, and proportion, and massing to protect the integrity of the property and its environment.

10. New additions and adjacent or related new construction shall be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

REHABILITATION AS A TREATMENT

When repair and replacement of deteriorated features are necessary; when alterations or additions to the property are planned for a new or continued use; and when its depiction at a particular period of time is not appropriate, Rehabilitation may be considered as a treatment. Prior to undertaking work, a documentation plan for Rehabilitation should be developed.

RESTORATION is defined as the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a restoration project.

STANDARDS FOR RESTORATION

1. A property shall be used as it was historically or be given a new use which reflects the property's restoration period.
2. Materials and features from the restoration period shall be retained and preserved. The removal of materials or alteration of features, spaces, and spatial relationships that characterize the period shall not be undertaken.
3. Each property shall be recognized as a physical record of its time, place, and use. Work needed to stabilize, consolidate, and conserve materials and features from the restoration period shall be physically and visually compatible, identifiable upon close inspection, and properly documented for future research.
4. Materials, features, spaces, and finishes that characterize other historical periods shall be documented prior to their alteration or removal.
5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize the restoration period shall be preserved.
6. Deteriorated features from the restoration period shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and where possible, materials.
7. Replacement of missing features from the restoration period shall be substantiated by documentary and physical evidence. A false sense of history shall not be created by adding conjectural features, features from other properties, or by combining features that never existed together historically.
8. Chemical or physical treatments, if appropriate, shall be undertaken using the gentlest means possible. Treatments that cause damage to historic materials shall not be used.

9. Archeological resources affected by a project shall be protected and preserved in place. If such resources must be disturbed, mitigation measures shall be undertaken.

10. Designs that were never executed historically shall not be constructed.

RESTORATION AS A TREATMENT

When the property's design, architectural, or historical significance during a particular period of time outweighs the potential loss of extant materials, features, spaces, and finishes that characterize other historical periods; when there is substantial physical and documentary evidence for the work; and when contemporary alterations and additions are not planned, Restoration may be considered as a treatment. Prior to undertaking work, a particular period of time, i.e., the restoration period, should be selected and justified, and a documentation plan for Restoration developed.

RECONSTRUCTION is defined as the act or process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location.

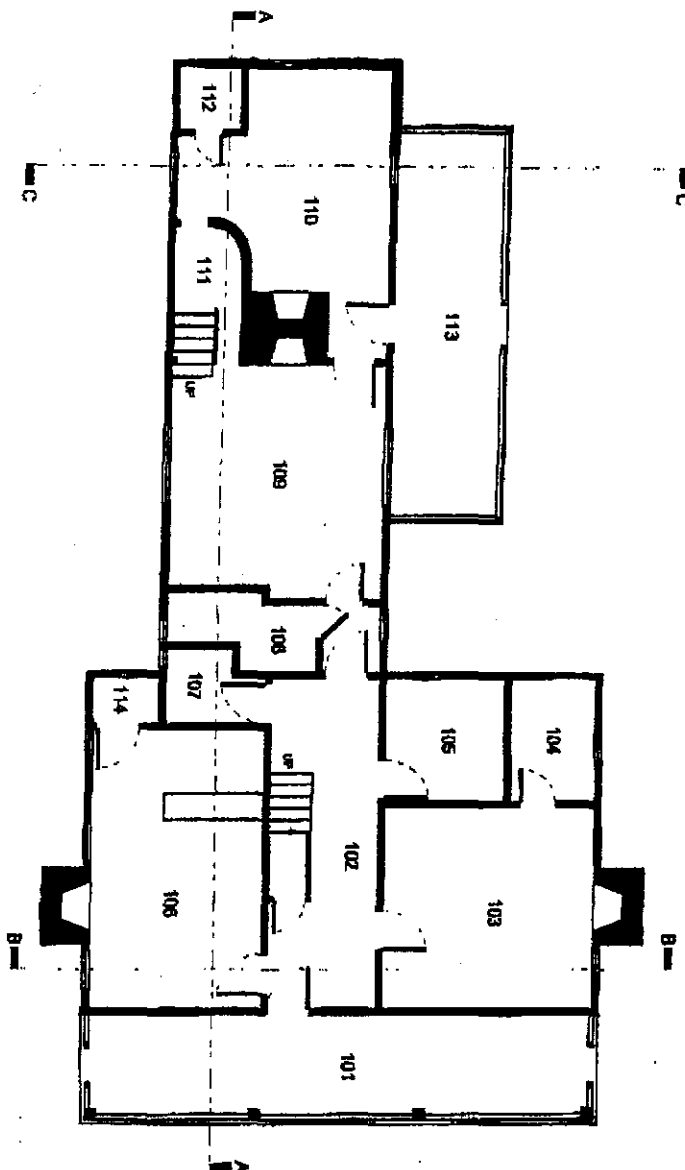
STANDARDS FOR RECONSTRUCTION

1. Reconstruction shall be used to depict vanished or non-surviving portions of a property when documentary and physical evidence is available to permit accurate reconstruction with minimal conjecture, and such reconstruction is essential to the public understanding of the property.
2. Reconstruction of a landscape, building, structure, or object in its historic location shall be preceded by a thorough archeological investigation to identify and evaluate those features and artifacts which are essential to an accurate reconstruction. If such resources must be disturbed, mitigation measures shall be undertaken.
3. Reconstruction shall include measures to preserve any remaining historic materials, features, and spatial relationships.
4. Reconstruction shall be based on the accurate duplication of historic features and elements substantiated by documentary or physical evidence rather than on conjectural designs or the availability of different features from other historic properties. A reconstructed property shall re-create the appearance of a non-surviving historic property in materials, design, color, and texture.
5. A reconstruction shall be clearly identified as a contemporary re-creation.
6. Designs that were never executed historically shall not be constructed.

RECONSTRUCTION AS A TREATMENT

When a contemporary depiction is required to understand and interpret a property's historic value (including the re-creation of missing components in a historic district or site); when no other property with the same associative value has survived; and when sufficient historical documentation exists to ensure an accurate reproduction, Reconstruction may be considered as a treatment. Prior to undertaking work, a documentation plan for Reconstruction should be developed.

EXHIBIT C

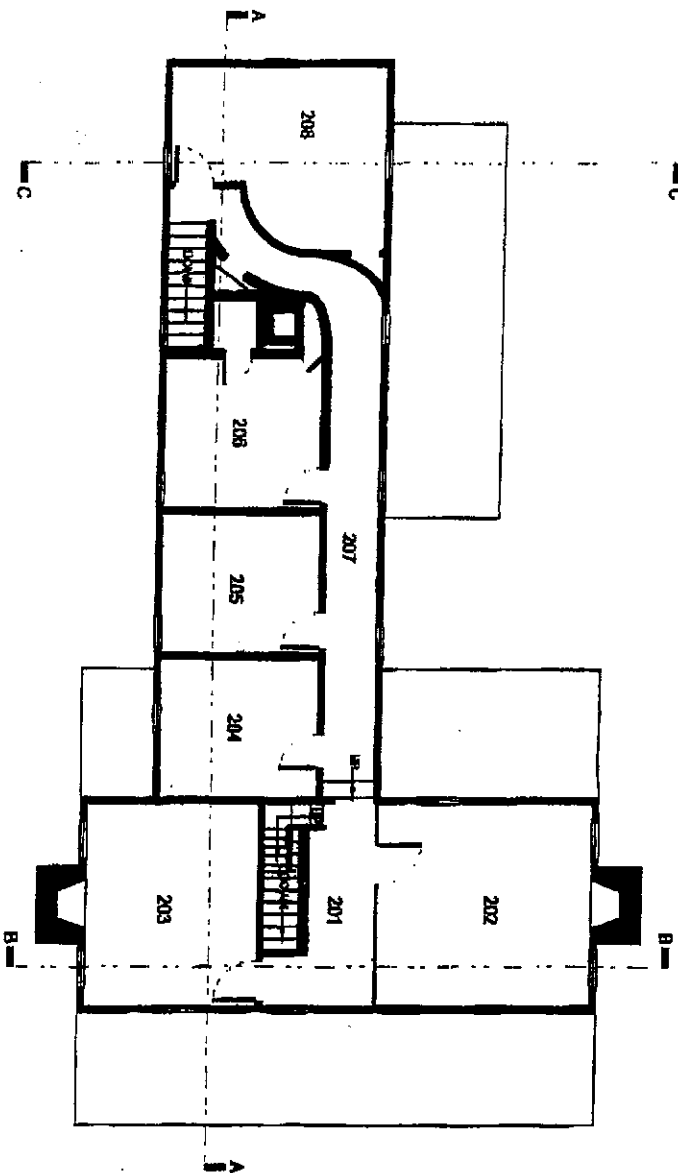


APPROXIMATE ROOM SQUARE FOOTAGE	
ROOM 101	8'-2" X 36'-5"
ROOM 102	26'-2" X 7'-10"
ROOM 103	16'-2" X 14'-8"
ROOM 104	9'-6" X 5'-10"
ROOM 105	9'-6" X 8'-4"
ROOM 106	21'-2" X 12'-2"
ROOM 107	5'-8" X 7'-0"
ROOM 108	5'-8" X 10'-8"
ROOM 109	17'-8" X 15'-4"
ROOM 110	16'-8" X 10'-8"
ROOM 111	10'-2" X 4'-10"
ROOM 112	4'-8" X 4'-4"
ROOM 113	28'-4" X 8'-0"
ROOM 114	3'-8" X 4'-8"



ELZUR AND ANN PATTON HOUSE
PESGAH FOREST, NORTH CAROLINA

THIS MAP IS NOT A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS.



APPROXIMATE ROOM SQUARE FOOTAGE	
ROOM 201	16'-2" X 7'-11"
ROOM 202	15'-2" X 14'-10"
ROOM 203	15'-2" X 12'-2"
ROOM 204	10'-8" X 11'-2"
ROOM 205	10'-4" X 11'-2"
ROOM 206	11'-2" X 11'-2"
ROOM 207	36'-10" X 5'-8"
ROOM 208	13'-10" X 15'-4"



ELZUR AND ANN PATTON HOUSE
PISGAH FOREST, NORTH CAROLINA

THIS MAP IS NOT A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY
A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY
APPLICABLE LAND DEVELOPMENT REGULATIONS.

STAFF REPORT

City Council, Monday, June 19, 2023

Title: Norton Creek Streambank Restoration Project Contract Award

Speaker: Dean Luebbe, Assistant City Manager/Finance Director

Prepared by: Dean Luebbe, Assistant City Manager/Finance Director

Approved by:

Background

Project ordinance 2020-36 was passed on December 7, 2020, and amended on May 16, 2022 with project ordinance amendment 2022-28. In May of 2021, the City received notification of funding of \$95,000 from the North Carolina Department of Environmental Quality (NCDEQ) for the purpose of restoring the streambank at Norton Creek.

Discussion

A bid opening was scheduled for June 2, 2023, but only two bids were received, so following North Carolina bidding requirements, the City re-bid the project, with a bid opening date of Friday, June 16, 2023. The Rosenwald Revitalization Fund is estimated to have \$175,000 available for this project. NCDEQ has also indicated that the City can request additional funding, if costs are higher than expected. In most cases, funding from NCDEQ requires an equal match from the City.

This project was delayed because of complicated no-rise issues, and staffing vacancies at NCDEQ. The project consists of 500 linear feet of streambank restoration and approximately 600 linear feet of a pedestrian path. Depending on the amount of the accepted bid, the City may explore having the Public Works Department assist with portions of the path.

Following the June 16th bid opening, Alvin Fuller of Summit Engineering will review the bids and issue a recommendation of award. Mr. Fuller's recommendation, together with a draft resolution awarding the contract and authorizing the City Manager to execute the contract will be forwarded to Council separately on Monday, June 19th.

This project is time sensitive, as the trout moratorium begins in November 2023 and to allow for delays due to weather conditions, it is important to start the project as soon as possible.

Action

Approve a resolution awarding the Norton Creek Streambank Restoration work to the firm recommended by Summit Engineering and authorizing the City Manager to execute the contract.

Attachments:

1. NCDEQ Letter of Grant Award - Norton Creek Streambank Restoration

ROY COOPER

Governor

DIONNE DELLI-GATTI

Secretary

S. DANIEL SMITH

Director



NORTH CAROLINA
Environmental Quality

May 27, 2021

Jim Fatland, City Manager
City of Brevard
95 West Main Street
Brevard, NC 28712

Dear Manager Fatland,

The Division of Water Resources (DWR) of the North Carolina Department of Environmental Quality (NCDEQ) is pleased to announce that **\$95,000** in financial assistance for a project located in your jurisdiction has been approved by the State of North Carolina.

We congratulate the City of Brevard on its sponsorship of the **Silversteen Park/Norton Creek Streambank Restoration Project**. This grant will provide financial assistance to restore approximately 540 linear feet of degraded stream, 1 acre of riparian buffer and construction of 750 linear feet of paved trail along Norton Creek at Silversteen Park. Your ongoing efforts to improve the condition of water resources in your jurisdiction are to be commended.

We also appreciate the City's attention to the items listed in the attached email correspondence dated 5/26/21.

DWR will be contacting your staff soon concerning the administrative requirements, including the signing of a grant contract with the State, for the use of state funds for this project. This award letter is not a guarantee of funding due to the COVID-19 pandemic or other unanticipated events that could reduce current appropriated state funding, any contracts shall be subject to availability of funding.

We look forward to working with you on this project. If you have questions, please contact Amin Davis at 919-707-9132 or via email at: amin.davis@ncdenr.gov.

Sincerely,

A handwritten signature in blue ink that reads "S. Daniel Smith".

Danny Smith

Director, Division of Water Resources

ECc: Alvin Fuller Jr., Summit Engineering Group, Inc.
Amin Davis, Division of Water Resources
Kaylie Yankura, Division of Water Resources

Attachment: Email correspondence dated 5/26/21



North Carolina Department of Environmental Quality | Division of Water Resources
512 North Salisbury Street | 1617 Mail Service Center | Raleigh, North Carolina 27699-1617
919.707.9000

STAFF REPORT

City Council, Monday, June 19, 2023

Title: Application for Public Art - Cup & Saucer Mural

Speaker: Paul C. Ray, Planning Director

Prepared by: Paul Ray, Planning Director

Approved by: Wilson Hooper, City Manager

Background

Elisabeth Nelson, of Cup and Saucer located at 36 E. Main Street, submitted an application for public art. Her application includes a description and image of the proposed artwork to be painted as a mural on the side of the building, between Cup & Saucer and Wine Down. It also includes a narrative describing the theme of the design. The artist who will be painting the mural is Billy Smith, of Brevard.

Discussion

The theme of the mural is described as, *"Subtle, mountain landscapes which include some bicycle and fly fishing, leading into a magnification of downtown into a block party, representing different groups of people enjoying the community of each other. Live music, grilling food, kids enjoying outdoor activities such as jump roping, and basketball."* The proposed artwork is intended to convey the message of community, *"We are deeply a small mountain community nestled in the Blue Ridge Mountains, where people from all over the nation visit to enjoy nature, yet we are also a small knit community where you kind of know everyone."*

Included by the applicant is a color wheel, which does not cover the entire scope of the colors to be used in the mural. The applicant provided a written description of the colors, to include shades of blue, green and teal while moving toward brown, red and neutral colors of the buildings with different skin tones. The mural will depict multiple colors of clothing, musical instruments and, *"colors that you see reflected in real life."* The dimensions of the wall mural are approximately 60 feet by 12 feet, which is 720 square feet.

Policy Analysis

The Downtown Master Plan Committee considered the application at their May 8th meeting and recommended in favor of approving the described mural on the side of the Cup & Saucer building.

Fiscal Impact

The owner is required to sign a Public Arts Maintenance Agreement to ensure the artwork will be maintained at no expense to the City.

Action

Council to consider approving the attached Resolution granting permission for the

described wall mural.

Attachments:

1. Cup and Saucer Application for Public Art
2. Cup and Saucer Mural Artist Rendering
3. City of Brevard Public Art Policy
4. Draft Resolution



APPLICATION FOR PUBLIC ART

APPLICANT: Elisabeth Nelson

Contact Information:

Mailing Address: 36 East Main St City: Brevard State: NC ZIP: 28712
Email: elisabeth@cupandsaucemc.com Phone: 828.884.2877

Property Owner Information (Not applicable for artwork proposed on City Property):

Property Owner Name: HLC Investments of NC LLC
Mailing Address: 43 S. Broad St. Ste 201 City: Brevard State: NC ZIP: 28712
Email: cmason@domokur.com Phone: _____

Location of Property: 36 East Main St, Brevard, NC, 28712

Property Identification Number (PIN): 8586-50-3706-000

Type of Artwork:

- ☒ Mural ☐ Memorial ☐ Other: _____
☐ Sculpture ☐ Functional Art (i.e. bike rack) _____

Proposed location(s) for the art (side wall, rear yard, alcove, etc): exterior side wall of Cup & Saucer business

Following must be Included with All Applications:

- ☐ **Description and images or other illustrative graphics** of the artwork to be installed. Dimensions (height, width, etc.) must be included in these descriptions.
- ☐ **Narrative** describing the theme and design.
- ☐ **Photograph** of the proposed location (if specific location in mind).
- ☐ **Signed Maintenance Agreement** provided by the City.
- ☐ **Cost estimate:** 12,000
- ☐ **Project Installation Timeline:** _____
start summer 2023 (after exterior building gets fixed, date TBD)

Following must be Included with Mural Applications:

- ☐ **Dimensions** of any logos, symbols or text within the mural.

SIGNATURES

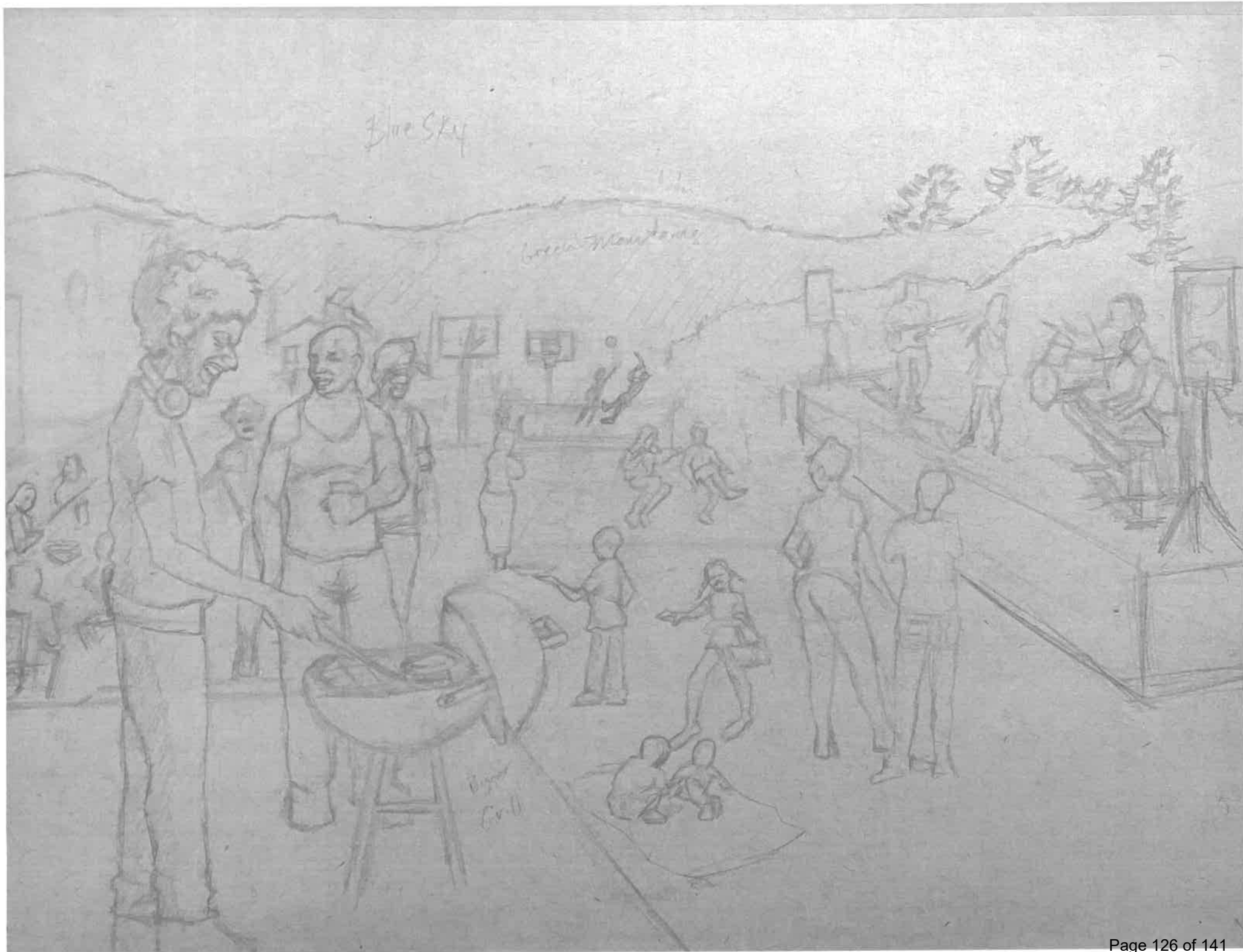
If the Applicant is other than the property owner, proof of the owner's consent is required, unless the property owner is the City of Brevard. Owner's signature proves consent. The applicant will be the liaison with the City and will be the party to receive official notice. Notice communicated to the applicant will be deemed communicated to the owner. By signing this application, the applicant is consenting to the designation for these purposes.

Property Owner: [Signature] Date: 5/3/23

Applicant: Elisabeth Nelson Date: 6.3.23

Theme: subtle mountain landscapes which include some bicycling & fly fishing, leading into a magnification of downtown into a block party, representing different groups of people enjoying the community of each other. Live music, grilling food, kids enjoying outdoor activities such as jumprope & basketball. We are deeply a small mountain community nestled in the Blue Ridge mountains, where people from all over the nation visit to enjoy nature, yet we are also a small knit community where you kind of know everybody.

Colors: "Colors of the public artwork are not restricted but should complement the surrounding area." We have a color wheel, but does not cover the scope of all colors that may be used. The majority of the landscape scene will include colors & shades of blues, greens, teals (cool colors, if you will), while moving more towards browns, red, neutral colors for the buildings, and different skin tone colors, multiple colors for clothing of humans, grays and bronzes for musical instruments, yellows, oranges, and many other colors that you see reflected in real life.



9:11

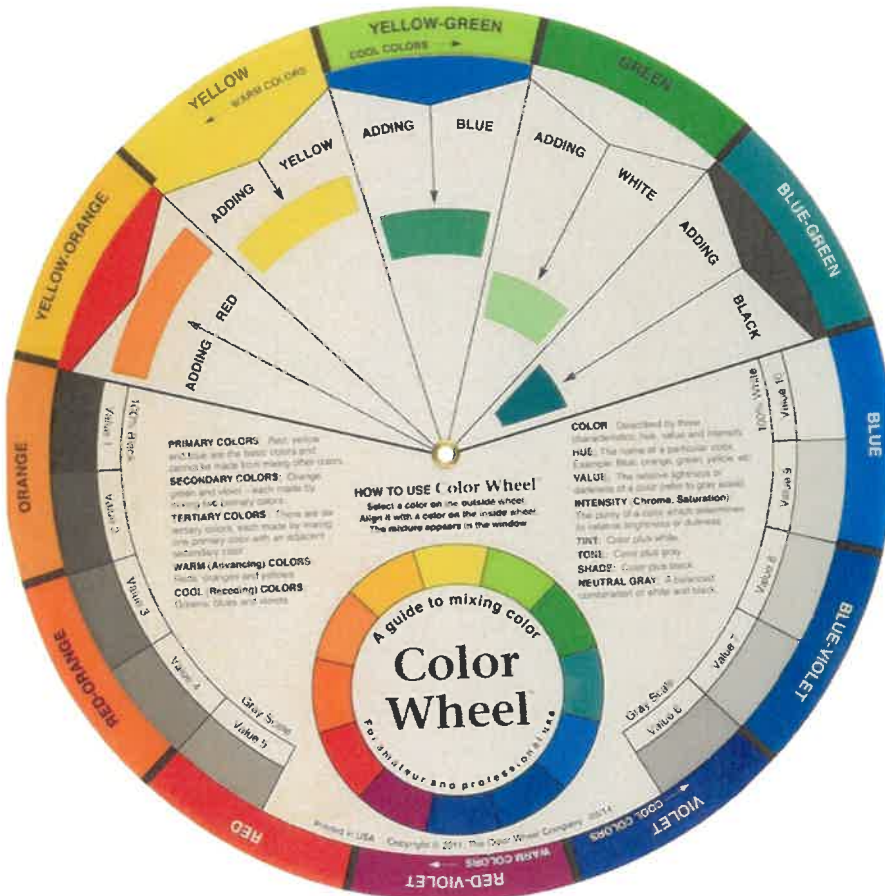


AA

amazon.com



Back





east alley - previous mural



BACKGROUND



COMMUNITY



The City of
Brevard
North Carolina



Public Art Policy and Application Process

Version: February 2021
Adopted by City Council

Disclaimer

The City reserves the right to deny applications based upon City of Brevard's policies and the qualifications stated herein. The materials available are for informational purposes only and not for providing legal advice. You should contact your attorney to obtain advice with respect to any issue or problem.

95 West Main Street • Brevard, NC 28712 • (828) 885-5600

SECTION I. PURPOSE OF PUBLIC ART POLICY AND APPLICATION PROCESS

In order to beautify public areas, enhance the quality of life for Brevard citizens, attract tourism, promote arts and culture, and encourage businesses to locate within the city, thus expanding Brevard's economic base, it is the policy of the City of Brevard to promote public art, where appropriate, through the implementation of a clarified process and design guidelines.

SECTION II. WHAT IS PUBLIC ART?

Simply put, public art is art in public spaces. The term “public art” may conjure images of historic bronze statues of a soldier on horseback in a park. Today, public art can take a wide range of forms, sizes, and scales—and can be temporary or permanent. It often interprets the history of the place, its people, and may address a social or environmental issue. What distinguishes public art is the unique association of how it is made, where it is, and what it means. Public art can express community values, enhance our environment, transform a landscape, heighten our awareness, or question our assumptions. Placed in publicly-visible sites, this art is there for everyone, a form of collective community expression. Publicly-visible sites include both publicly- or privately-owned, non-residential spaces that are visible from public streets and pedestrian walkways.

Public art may include murals, sculpture, memorials, integrated architectural or landscape architectural work, community art, public fixtures, furniture, or other functional elements that are designed and/or built by an artist. Public art may be attached to a building or be a free-standing installation. In addition, it cannot be interpreted to be signage by the Planning Director or their designee. Public art that contains any business names, brand names, product names, letters of the alphabet, logos, symbols, trademarks, trade names, or other messages are considered signs and must meet the requirements of the City of Brevard's Unified Development Ordinance (UDO).

The Brevard UDO regulates signs in such a way to ensure public safety and to support and complement land use objectives decided on by City Council. Applicants looking to execute a mural are exempt from acquiring a sign permit if the combination of any logos, symbols, and text within the mural do not exceed eight percent of the surface area. While murals do not require a permit, there is a review process where the Planning Department Staff will review mural designs to ensure compliance with sign regulations prior to the Downtown Master Plan Committee's review and recommendation. See the City of Brevard's UDO Sec. 12.7.G.



SECTION III. GOALS OF PUBLIC ART

Public art is an investment in cultural capital that goes far beyond tourism, improved aesthetics, better business traffic, increase in building occupancy, or eradication of blight. Public artworks contribute to a town's unique identity, its cultural cohesiveness, and sense of place.

The City of Brevard has appointed the Downtown Master Plan Committee (DMPC) with the responsibility of reviewing and recommending approval of public art requests on privately- and publicly-owned, non-residential property in the Heart of Brevard Downtown District using the criteria and processes set forth below. *

Applications for public art on privately- and publicly-owned, non-residential properties in the Heart of Brevard Downtown District must be reviewed through the City of Brevard Public Art Policy and Application Process and approved by City Council.

When adding public art to the landscape, Brevard's DMPC will consider the following goals as guides to the review process and recommendation of public artwork to City Council:

- Public art should create an image of Brevard, North Carolina as a vibrant hub for the arts.
- In keeping with Brevard's history of creativity and exploration, public art should be considered a vehicle to educate citizens about local culture and history, and a means to expand the boundaries of artistic endeavor.
- Public art projects should reflect and express the core community values including geography, age, cultural and other diversities, community heritage, and history.
- Public art should be integrated into all aspects of the community.
- Public art should include thoughtful and inclusive community participation.
- Public art should showcase local, regional, national, and international artists.
- Public art should strive for the integration of Brevard's many design professionals and artists into the planning, design, and development of the community to ensure the highest standard of design.
- Public art should be considered a vehicle in the creation of distinct places, spaces, and objects, and in furthering Brevard's unique sense of place.
- Public art should be considered as a cultural and economic asset.
- Public art should be for all people. Without people to engage with it, experience it, and interact with it, art would not be public.

*Requests for public art installations outside of the Downtown Development Overlay District shall be sent to the Brevard Planning Department, reviewed for completeness, and brought before the City Council for approval.



SECTION IV. GUIDELINES

City of Brevard Planning Staff will assess applications based on adherence to the City of Brevard UDO, at which point the application will go before the Downtown Master Plan Committee to be reviewed based on the guidelines listed below.

Eligibility

- The applicant must be the owner/tenant of a building/property located within the boundaries of the Public Art and Mural program, which is identified as the Downtown Development Overlay District.
- If the applicant is the tenant, the artist, or the sponsoring nonprofit or organization, they must have the owner's written permission with the application.

Criteria

- Improvements shall conform to the City of Brevard's Unified Development Ordinance (UDO), and other applicable plans and policies of the City of Brevard.
- *Theme and Design.* Public art projects must reflect:
 - The character, culture, and/or history of Downtown and the City of Brevard.
 - Appropriate themes and other relationships to the surrounding environment.
 - Readability and appropriateness of scale.
 - Harsh and sharp edges should be avoided.
- *Site Guidelines.* Selection of a specific site for public art shall consider the following factors:
 - Visibility and accessibility of the site by the general public, including universal design and accessibility for people with disabilities.
 - Ability of the artwork location and size to engage and encourage pedestrian interaction.
 - Public safety.
 - Interior and exterior vehicular and pedestrian patterns and sight lines.
 - Relationship of the proposed site to existing or future architectural, landscaping, and natural features.
 - Context should not have a negative impact to the backdrop of significant historical institutions (refer to the Historic Buildings section below).
 - Future development plans for the area.
 - Environmental impact such as noise or light associated with the artwork or obstruction of views of adjacent property owners.
 - Impact on City operational functions such as maintenance or snow removal.

Mural-Specific Guidelines

The context of the building and the surrounding area is a critical component to the evaluation of an appropriate location for a mural. Each building is unique, and it is recommended the applicant reach out to the Brevard DMPC to discuss potential locations prior to planning the mural project. Mural projects may not detract from the architectural integrity and historic character of the primary facades of the building.



Below are general guidelines, as recommended by the Brevard Downtown Master Plan Committee, to help direct location selection for murals:

- Blank firewalls are the preferred location for murals and should be utilized whenever possible.
- Alley and non-street facing walls may be afforded more leeway in regard to location guidelines than street-facing walls, depending on street visibility.
- Murals should not compete with or overwhelm existing architectural features such as windows with trim, moldings, entryways, or similar detailing. Do not engulf key architectural features within murals.

Historic Buildings

Any public art projects proposed for properties designated as Local Historic Landmarks shall receive approval and Certificate of Appropriateness from Transylvania County Joint Historic Preservation Commission (JHPC). The Secretary of the Interior's Standards for Rehabilitation as interpreted by the Preservation Briefs are the recommended guidelines for public art projects impacting historic buildings and historic districts:

- <https://www.nps.gov/tps/how-to-preserve/briefs.htm>
- <https://www.nps.gov/tps/standards/rehabilitation.htm>

In addition to the above guidelines, historic buildings may have more restrictions regarding location and how the mural is attached to the structure. The historic context of the structure shall be maintained. Drilling into or otherwise altering the historic façades must be avoided. Painting murals or installing public art directly to the building's exterior is the preferred method of media and installation. However, considerations to materials and condition of historic building facades (such as brick or stucco) will further influence whether a mural and/or public art is appropriate for the proposed location. Consider locating murals and public art on non-historic buildings, non-contributing buildings in the National Register Historic District, or on less prominent locations of the building to minimize impact to historic integrity of building materials and character.

SECTION V. CONDITIONS

- The property owner must agree to complete the work within one calendar year from the date of approval and that all work is completed according to state and local building codes and ordinances, and approved, when necessary, by the proper authorities.
- The building owner must sign a contractual agreement with the City of Brevard agreeing to accept the responsibilities of maintenance during the lifetime of the artwork and authorizing the City to perform such maintenance if these responsibilities are not fulfilled by the property owner. Maintenance shall include, but is not limited to, re-painting/touch-up painting to keep the art looking current and not faded, as determined by the DMPC and abating graffiti, or



other forms of vandalism, within 48 hours from the time the property owner has been notified. Owner maintenance may also include painting over the mural effectively ending its lifetime if no public funds were used in its creation and if there is no prior, conflicting agreement between the City and the property owner unless both parties are in agreement.

- In the case of publicly funded art or art on City property, a contract shall be used to clearly establish the project's parameters and outline responsibilities while establishing the expectations of both parties involved, including but not limited to the lifetime of the public art and its maintenance.
- Once a project is complete, an anti-graffiti coating should be applied to protect its surface if determined by the DMPC to be feasible.
- Existing public art projects prior to February 15, 2021 are grandfathered for a period of three years from the adoption of this policy. After three years grandfathered projects, which the owner desires to retain, will be evaluated for compliance with this policy and subject to the rules and requirements stated within.
- The building owner agrees to allow images and video of the completed installation to be placed on the City of Brevard's web pages, social media, publications/videos, and local media.

SECTION VI. APPLICATION PROCESS

1. Applicant shall complete the application, including plans/sketches, cost estimate and project timeline, along with any public funding source if applicable. The property owner must also submit a signed maintenance agreement provided by the City. Applications shall be submitted to the City of Brevard Planning Department at 95 W. Main Street or **planning@cityofbrevard.com**. Planning Department will submit and present the application to the Downtown Master Plan Committee for review and approval recommendation.
2. A public notice may be issued to obtain community feedback as determined by the DMPC. This may be important for determining buy-in and support for the applicant's public art project. The public notice may take the form of, but is not limited to, a posted notice at the artwork location, a public meeting (notice for which should be provided at least 7 days beforehand), and/or mailed notification letters to property owners adjacent to the proposed public artwork.
3. A recommendation from Downtown Master Plan Committee will be presented to Brevard City Council for approval.
4. A notification letter will be sent to applicants concerning the approval or denial of the application within 90 days of receipt of a completed application.
5. Planning Staff and DMPC representatives will perform a preliminary inspection of the location to verify installation is in accordance with the approval and program guidelines. An approval



letter referencing a City Council Resolution must be received BEFORE the public art is installed, at which time Planning Staff and DMPC representatives will inspect completed work to verify installation is in accordance with the approval and program guidelines.

SECTION VII. MEDIA AND OTHER COMPONENTS

Colors of the public artwork are not restricted but should complement the surrounding area. Throughout the duration of the installation, the artwork shall be well maintained through: repainting, graffiti removal, application of sealants, component replacement, and other means not specifically noted.

If the proposed public art project is anything other than paint applied directly to the wall surface, the Downtown Master Plan Committee shall be provided details on all materials, hardware, and installation processes for approval. If using brackets or other structural or electrical components, contact the Brevard Planning Department with questions pertaining to building permits.

Supplemental components, such as lighting, shall meet all standards as found in the City of Brevard UDO. Installations that contain changing images, electrical components, or mechanical components do not qualify for the Public Art Policy program.

SECTION VIII. MAINTENANCE

The applicant is responsible for ensuring that a public art project is maintained in good condition and is repaired in the case of vandalism or accidental destruction. The party providing maintenance to the public artwork is encouraged to establish measures that will discourage vandalism or facilitate an easier, less costly repair of the artwork in the future.

In particular, there are many maintenance best practices to prolong a mural's lifespan, reduce deterioration, and increase the likelihood of a successful installation. Such best practices may include, but are not limited to: proper engineering of armatures or panels that may be installed; preliminary wall prep or pre-cleaning, priming, curing; the use of proper paints, enamels or materials that best match the surface; top coats, sacrificial layers, graffiti coats that do not compromise the painting by yellowing or trapping moisture; consideration of drip edges, gutters or sprinkler overspray as water may degrade the mural over time; environmental considerations such as exposure to direct sun, bird nesting cavities, the potential industrial trash cans to damage the surface; and considering the height and line of sight in relation to how repairable the design is.

In the case of excessive deterioration due to the elements and/or the natural aging process, the artwork should be considered for removal.



SECTION IX. ARTIST SELECTION AND ARTWORK ACQUISITION

Public art projects that are **publicly-funded** or **publicly-owned** are required to follow an open selection process. In order to promote professional, high quality public art and murals while ensuring a greater level of communication for ease of process, a competitive selection process may be utilized but is not required for **privately-funded** projects.

The DMPC may elect to use, but are not limited to, any of the following potential methods or a combination of methods depending on funding sources:

- **Open Competition:** An open competition is a “Call to Artists” for a specific project in which artists are asked to submit evidence of their past work. Any artist may submit credentials and/or proposal subject to any limitations established by the Downtown Master Plan Committee. Calls for entries for open competitions will be sufficiently detailed to permit the artist(s) to determine whether their work is appropriate to the project under consideration.
- **Limited Competition:** A limited number of artists shall be invited by the DMPC to submit credentials and/or proposals for a specific project. Artists shall be invited based on their past work and exhibited abilities to meet situations posed by particular project requirements or based on other project goals.
- **Invitational Competition:** In an invitational competition, a very small number of artists (usually between three and five) are invited to submit credentials and/or proposals for a specific project. Invited artists shall be selected directly by staff or identified by the DMPC in an initial slide review process. Artists shall be included based on their ability to meet situations presented by the given project.
- **Direct Selection:** At times, the DMPC may elect to make a direct selection in which they contract a specific artist for a particular project. An ongoing list of eligible artists shall be gathered by the committee for use in direct selection projects.
- **Direct Purchase:** The DMPC may elect to select an existing piece of artwork to install and recommend purchase to City Council.
- **Donations:** The DMPC may recommend acceptance of the artwork along with a proposed site to City Council.

ACQUISITION

If existing artwork is purchased by the City or donated to the City, the artist shall be responsible for transportation of the work to the site and installation of the work. Artist will provide the City with specifications for routine maintenance of artwork.

If artwork is to be commissioned, a contract between the City and the selected artist shall be executed outlining the purchase process, responsibilities of the artist, responsibilities of the City, timeline and deadline for installation of the work. The artist shall be responsible for all expenses associated with design, labor, materials, contracted services, operations and travel required to complete the work, as well as transportation of the work to the site. Installation of the work shall be done by the City Public Works Department under the advisement of the artist. The artist shall provide specifications for routine maintenance of artwork.



RESOLUTION NO. 2023-XX

**A RESOLUTION APPROVING A MURAL ON
THE WEST EXTERIOR WALL OF 36 E. MAIN STREET**

WHEREAS, City Council has been presented with a proposal for the placement of a wall mural painted by local artist, Billy Smith, and

WHEREAS, the mural shall illustrate a Blue Ridge Mountain scene and depict a small town community scene with live music, food, games and family focused activities, and

WHEREAS, City Council believes the proposed mural is consistent with the stated goals outlined in the Public Art Policy, and

WHEREAS, City Council recognizes the value of publicly displayed art and the importance of promoting public and private economic development efforts, and

WHEREAS, City Council also recognizes the value of local artists in the community and the need to be innovative and creative in developing ways of attracting visitors to the central business district, and

WHEREAS, Local art, such as high-quality wall murals, create a sense of place for the residents of Brevard.

NOW THEREFORE BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF BREVARD:

Section 1. City Council, in concurrence with a recommendation from the Downtown Master Plan Committee, hereby approves an application for a wall mural on the west side of the building at 36 E. Main Street, in accordance with Brevard City Code of Ordinances Chapter 42 and Brevard Unified Development Ordinance Chapter 12.

Section 2. The Resolution shall become effective upon its adoption.

Adopted and approved this the 19th day of June, 2023.

Maureen Copelof
Mayor

ATTEST:

Denise Hodsdon, CMC
City Clerk

STAFF REPORT

City Council, Monday, June 19, 2023

Title: Council Meeting Schedule for July

Speaker: Wilson Hooper

Prepared by: Denise Hodsdon

Approved by:

Background

When Council set the Brevard City Council 2023 Meeting Schedule at the beginning of the year, the schedule included a meeting on Monday, July 17, 2023, *if needed*. Staff has determined that currently there are no items of an urgent nature that would require City Council action in July.

Recommendation

Staff recommends canceling the July 17, 2023 meeting and amending the Brevard City Council 2023 Meeting Schedule to reflect the cancellation.

Attachments:

1. 2023 Council Meeting Schedule as Amended 6/19/2023

Brevard City Council 2023 Meeting Schedule

Day / Date	Time	Type	Location
Tuesday, January 3, 2023	5:30 PM	Regular Meeting	Council Chambers
Tuesday, January 17, 2023	5:30 PM	Regular Meeting	Council Chambers
Monday, February 6, 2023	5:30 PM	Regular Meeting	Council Chambers
Monday, February 20, 2023	5:30 PM	Regular Meeting	Council Chambers
Wednesday, March 1, 2023	5:15 PM	Strategic Planning Session #1	Mary C. Jenkins Community Center
Thursday, March 2, 2023	5:15 PM	Strategic Planning Session #2	Mary C. Jenkins Community Center
Monday, March 6, 2023	5:30 PM	Special Meeting	Council Chambers
Monday, March 20, 2023	5:30 PM	Regular Meeting	Council Chambers
Monday, April 3, 2023	5:30 PM	Budget Workshop	Council Chambers
Tuesday, April 4, 2023	5:30 PM	Budget Workshop	Council Chambers
Monday, April 17, 2023	5:30 PM	Regular Meeting	Council Chambers
Monday, May 1, 2023	5:30 PM	Regular Meeting	Council Chambers
Monday, May 15, 2023	5:30 PM	Regular Meeting	Council Chambers
Monday, June 5, 2023	5:30 PM	Regular Meeting	Council Chambers
Monday, June 19, 2023	5:30 PM	Regular Meeting	Council Chambers
Monday, July 17, 2023 ———— (If Needed)	5:30 PM	Regular Meeting	Council Chambers
Monday, August 7, 2023	5:30 PM	Regular Meeting	Council Chambers
Monday, August 21, 2023	5:30 PM	Regular Meeting	Council Chambers
Tuesday, September 5, 2023	5:30 PM	Regular Meeting	Council Chambers
Monday, September 18, 2023	5:30 PM	Regular Meeting	Council Chambers
Monday, October 2, 2023	5:30 PM	Regular Meeting	Council Chambers
Monday, October 16, 2023	5:30 PM	Regular Meeting	Council Chambers
Monday, November 6, 2023	5:30 PM	Regular Meeting	Council Chambers
Monday, November 20, 2023	5:30 PM	Regular Meeting	Council Chambers
Monday, December 4, 2023	5:30 PM	Regular Meeting	Council Chambers
Monday, December 18, 2023 (If Needed)	5:30 PM	Regular Meeting	Council Chambers

Amended/Readopted: March 20, 2023
Amended/Readopted: February 6, 2023
Amended/Readopted: January 17, 2023
Adopted: December 5, 2022
Distribution: December 13, 2022
D Hodsdon, City Clerk