



AGENDA
BREVARD CITY COUNCIL - REGULAR MEETING
Monday, November 4, 2024 - 5:30 PM
City Council Chambers

A. Welcome and Call to Order

B. Invocation

Rev. Shelly Webb, Sharing House

C. Pledge of Allegiance

D. Certification of Quorum

E. Approval of Agenda

F. Approval of Minutes

1. October 21, 2024 Regular Meeting

G. Public Comments

H. Certificates / Awards / Recognition

1. Proclamation No. 2024-23 Veteran's Day

I. Special Presentation(s)

J. Public Hearing(s)

1. Proposed City of Brevard Unified Development Ordinance Text Amendment re Pisgah Forest Gateway District
2. Proposed City of Brevard Zoning Map Amendment re Pisgah Forest Gateway District

K. Consent and Information

1. Resolution Fixing a Date of Public Hearing for Annexation - Mills Ave Properties, LLC / Forest Hill Drive
2. Resolution Authorizing Staff to Renew Adopt-a-Greenspace Contracts

3. Resolution Accepting \$352,000 Grant for Wastewater Treatment Plant Engineering
4. Capital Project Amendment - WWTP - \$352,000 Grant Funding SRP-W-134-0175
5. Public Safety Committee Minutes - July 22, 2024
6. Ecusta Trail Advisory Board Minutes - August 22, 2024
7. Council Rosenwald Community Advisory Board Minutes - August 27, 2024
8. Ecusta Trail Advisory Board Minutes - September 5, 2024
9. Finance, Human Resources & Citizen Appointment Committee Minutes - September 17, 2024
10. Ecusta Trail Advisory Board Minutes - September 25, 2024
11. Correspondence *(No Action. Offered as information only.)*
 - a. ABC Board Minutes - August 22, 2024

L. Unfinished Business

1. Proposed Amendments to City of Brevard Code of Ordinances Chapters 1, 46, and 62 - Sidewalk Usage Policy
2. Approval of Pisgah Labs Agreement and Acceptance of US EDA Grant

M. New Business

1. Designation of ABC Board Chair

N. Remarks / Future Agenda Considerations

O. Closed Session(s)

P. Adjourn

Agenda Posted, Website, Sunshine List (October 31, 2024)
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
October 21, 2024 – 5:30 PM**

The Brevard City Council met in regular session on Monday, October 21, 2024, 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, Aaron Baker, Pamela Holder, and Lauren Wise

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

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

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

B. Invocation – Pastor Kenneth Albright of Lutheran Church of the Good Shepherd offered an invocation.

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

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

E. Approval of Agenda – Mr. Hooper noted that the Closed Session Item 0-2 Potential Litigation should be removed from the agenda, and that there are two Closed Session Pending Litigation matters. Mr. Morrow moved, seconded by Ms. Holder to approve the agenda as presented. The motion carried unanimously.

F. Approval of Minutes

F-1. October 8, 2024 Regular Meeting – Ms. Holder moved, seconded by Mr. Wise to approve the minutes of the October 8, 2024 Regular Meeting as presented. The motion carried unanimously.

G. Public Comments

Paula Hartman-Stein of 249 Pine Mountain Trail said I am speaking as the Community Coordinator for Age-Friendly Brevard and its programming. She said I want everyone to know about a project we began a few weeks ago. I have arranged for a total of nine community support groups that are open to adults of all ages and we have had two so far. They are on Monday mornings from 9 to 11 and they are done in conjunction with the nursing program of Blue Ridge Community College, so I always have a group of nurses present. Our first meeting was a week ago and we had a larger than average group of 31 people ranging in age from 19 to 86. Today we had a total of 13 people. The reason I wanted to say this is that the psychological and emotional impact of hurricanes can be profound, even for people who haven't had their own property destroyed. Social support and community cohesion play important roles in buffering this emotional toll of disasters like hurricanes, and communities that come together, share resources, and provide emotional support report lower levels of distress compared to those with weaker social networks. The support groups do not treat mental health disorders; they are not providing individual psychotherapy or

spiritual-based counselling. There are resources for that, and I am personally compiling a list. The next meeting will be on October 28th at the Mary C. Jenkins Center. I have extended them through mid-December and those will be held at the Blue Ridge Community College campus in Brevard.

Nadia Paz of 45 Duck's Drive spoke through interpreter Yesica Miranda. She said I live in Duck's Trailer Park, and I would like to mention that this hurricane affected us a lot. The parking lot looks very empty because not everybody is able to come back to their houses. I heard there was a situation regarding the building permits, maybe because some people didn't ask for the right permissions, or people didn't get the permissions. One thing that I did see is I saw a lot of people volunteering from their heart wanting to help the small community of Duck's Trailer Park. In a situation like this where everybody was in shock, we accepted all this help because we need it. The last thing we thought about was asking for permits. We wanted to get our houses built again. We didn't think of all the protocol. We accepted the help because, in that parking lot we have people who have small children and babies there and we just needed the help. Now I see that the volunteers are no longer there, and I want to know was it because we didn't have this permit? People were not just remodeling their houses because they wanted to; people were doing this because it was an emergency situation, and we want to know what is stopping us from remodeling our houses for an emergency.

Yesica Miranda, Executive Director of El Centro Comunitario Brevard said today I am talking on behalf of the families that live in Duck's Trailer Park. When I found out about these families and their situations, the first thing I thought was how can I help them. I went out to their trailers and started looking at the conditions where they were staying. People were sleeping in mattresses full of mold; there was water; some of the houses the water went up to the windows, but they were still staying there because that is their place. A lot of these people bought their trailers years ago. They have been working on their trailers; they are putting new stuff in the trailers; and I know they want to fix the trailers to make them livable for themselves and their children. I know that we have this problem with the flooding zone and I know that there are new requirements, but I also know that these people are willing to go by those requirements. We just need time. If you guys give them time to rebuild their houses as they are right now, they will lift up those trailers. They are not going to say no we don't want to do it anymore. Trust me, I know these families and these families have worked for many years. They cannot go to a bank and ask for a loan like everybody because of different situations, but I can tell you that these families will comply with you guys. They will lift the trailers once they have the money to do it. At El Centro we have been raising a lot of money to help them rebuild. We have materials and we have contractors willing to spend the time there. We've had electricians; we've had plumbers; we've had everything. The only thing we didn't have was thinking about getting those permits to continue rebuilding the trailers. Right now we have about 15 Hispanic families that I'm working with and we're sending them to different places to stay. Some people are staying at the Brevard Music Center, some are staying at vacation rentals. I have been paying \$3500 a month for families to stay for one month in a vacation rental when I can use that money to purchase materials and make these things faster and for a longer term. Today I am talking on behalf of them, but I am also talking on behalf of El Centro. We want a place for these families. They want to have a safe place for their children, but this was an emergency and they're not doing this just to have a nicer place, they're doing it because it needs to happen, but we will help them get the trailers lifted if you guys give us some time to do that.

Blanca Rojas of 66 Duck's Drive said I am also a resident of the Duckworth Mobile Home Park. I am a single mom, and I have a 16-year old that lives with me. That is our concern – what is the next step for us to do the work that we need in our home, because we work, we have children and we also have bills to pay, lot rent to pay and the concern is are we going to be able to fix our homes or do we need to wait for you guys to make a decision on what's the next step to follow. More than anything is that we all lost something. Some lost more than others, but we all lost something. For example, I lost my car and had to purchase a new one because I need to move around to do my job.

Of course, one of the things is that I have lived there for 14 years, and I have never seen something like this ever happen. We have been flooded before, but this one is a massive one. Like they said, it was an emergency to get people in there and help the families, but we're concerned; what is going to happen to all of us, especially those of us that were affected the most. When are we going to hear what's next - to go ahead and move forward or start looking for another place. It's just a waiting period; how long before we actually hear something concrete and forward so we can start moving around and see what's best for all of us, because it's not just one family, it's quite a few.

Natalia Vega of 65 Duck's Drive spoke through interpreter Yesica Miranda. She said I am here to speak for me and on behalf of my children. We've been living in the house for a long time, and I am asking you to please help us. I have two children; a baby and a little boy that has autism and I need help. I need you to put your hands on your heart to give us permission so that my husband can rebuild everything again, because we lost everything. My son, it hit him really hard because he didn't understand what happened with his toys, he didn't understand what happened with his bed, he didn't understand what happened with this stuff. I need help because right now I'm staying at a vacation rental, and I need to be out of there by next week. I need you guys to give permission so that my husband can move quickly and continue remodeling because there are no houses. I have searched for houses and I have not found any houses.

Ana Gaspas spoke through interpreter Yesica Miranda. She said our Hispanic community has been very affected and my heart is full from all the volunteers that were willing to help us and are willing to help us. And, now everything is on hold. We don't know what is going to happen; we don't know what we're going to do. And so, things with the permits, things with the protocol that we didn't follow, things are getting complicated even more. Please think about our community and know that we need more help.

Emiliano Paz of 45 Duck's Drive said I am a resident of Duck's Drive as well. I have lived there for close to 20 years now. I understand that in order to do things in this world you have to follow protocol, whether that's at a job or everyday life, but when this hurricane hit it affected everyone. When the waters and the wind rushed in it didn't look for a permit, it didn't care what language you spoke, what financial status you were in; it hit us all. We see the destruction in Chimney Rock, Bat Cave, Lake Lure, Asheville, Hendersonville. It was a tragedy. Nobody expected this; maybe the last time something like this hit us was a hundred years ago in 1916. What really I think touched a lot of people's hearts in this community was the fact that volunteers from all over the country, all over the areas around us, came to help us and they did it out of a feeling of comradery and they did it without asking anything in return. They brought materials, they came to help, they did anything that these families needed. Again, I understand there are protocols to follow, but we couldn't wait three to four weeks, we needed to rebuild soon. There are families out there that have babies, winter is coming and it's getting cold, and with everything that we lost, the last thing on our minds was what is the protocol. Because what would be the protocol? This was a natural disaster. We didn't expect this and to me these families are getting help. If we can't get things working or the permits can't come in and people can't get help, we are at risk of losing houses and right now we know that all over the country there is a housing shortage. Where would these people go? These people contribute to the community, they work with us, they work around us, the children go to our schools, it's a big part of the community and it would be a very terrible extension of the tragedy if these people were forced to move away from where they settled and put roots down, and where they and their children call home. I would like you guys to keep it in mind. I understand that we're still coming off the effects of the storm, but if you could find it in your hearts to...I don't know what could be done, but understand that these people came to help us out of the kindness of their hearts and we are very deeply moved and we are touched by what they did and we welcomed them in without a second thought of what the right protocol was.

Ehrow Draegen of 272 Delphia Drive said I don't think I can say anything more clear than what the gentleman just said, but I speak on behalf of being a board member

of El Centro. I have been in a place of survivor's guilt since Thursday afternoon, seeing that the disparity between some of us of what we experienced through this time. Never more was that so apparent as helping at the distribution center at El Centro and also seeing the amazing capacity and huge hearts of our community wanting to come in and assist each other and help out. Our amazing director Yesica Miranda has been able to get funds and resources to a lot of these families but now we are kind of in a holding zone where all of us that have these big hearts, that want to help the people that are further affected, are at a standstill, and that we see that that's kind of a displacement in the separation of our Latino community. I ask that instead of, I know we have the protocols, we have the FEMA and flood zones, but instead of a scarcity mentality, if we could just look at that trust and support that there are folks that we have the resources, we have the helpers, there are no other places to build or rebuild and that we actually trust each other, that we know that we're here and we will conform. But, as Ms. Yesica said we need the time, we need the ability, and we need the permission.

Jim Hannen spoke through interpreter Yesica Miranda. He said I am the park owner and I'm not going to say anything different and certainly not anything better than what has already been said by my tenants. These are resilient people. I was notified by Mr. McKeller...last week I spoke to him and he went over some things that the City is looking at. The timeframe I understand is somewhat negotiable; the City does have some discretion as to how long. I would ask of the City to let me know as soon as possible. I would let Yesica know to then spread around the park those hoops we need to jump through; we're ready. To everyone who has helped out in this situation, who has come out there to pound a nail, to bring food and provisions, and to the people that are listening, I thank you from the bottom of my heart.

H. Certificates/Awards/Recognition – None.

I. Special Presentations

I-1. Update re Tropical Storm Helene Response and Recovery – Mr. Hooper and Department Heads gave a presentation on Brevard's preparation for and response to Tropical Storm Helene. The report included each department's staffing, equipment and operational preparations prior to the storm; the number and types of calls received by Brevard Fire and Police Departments, and challenges faced and subsequent steps taken by the Public Works, Water Treatment, Wastewater Treatment, and Communications Departments. Immediate aftermath included a damage assessment of City equipment and facilities; and an overview of initial recovery services, such as substantial damage determinations performed by the Planning Department, supply distribution, and sanitation collections, provided to residents in the wake of Helene. A copy of the PowerPoint presentation is attached. Mr. Hooper also expressed thanks to our County colleagues for all that they did. He noted that emergency management is a County function, and they were the lead agency for the Helene response.

Mayor Copelof added that as we finished the initial emergency response, we started shifting to recovery and the focus is on people - how did this impact our community and how do we help displaced families. She reported that there are 74 residential homes in Transylvania County that have substantial damage and 58 of those are in the city. Arrangements were made to temporarily move some families to Brevard Music Center and El Centro and local faith groups paid to move some families into hotels. The City, the County and non-profit partners Housing Assistance Corporation, Habitat for Humanity and Sharing House worked together to create one central list of how many people need housing and start matching them up to available housing. Amy Fisher of Fisher Realty volunteered her time to create a database where people who need housing, as well as people who have available housing can register. Our faith organizations and non-profits have set up special donations to provide financial assistance to help families with rent. She said we are working with FEMA, but we don't have any FEMA trailers immediately coming, so we started looking for short-term rentals and are now in the process of looking for RV's. She encouraged anyone with any type of housing available to register on the database at www.housing-assistance.com.

~~ At 7:03 PM Mayor Copelof called for a ten-minute break ~~

J. Public Hearing(s)

J-1. Proposed Amendments to City of Brevard Code of Ordinances Chapter 1, 46, and 62 – Sidewalk Usage Policy – Emily Brewer explained that this is a staff-initiated text amendment to ensure that all the objects that are placed on our sidewalk in City or State rights-of-way have insurance and meet minimum separation requirements. North Carolina General Statutes §160A-296 states that cities have general authority and regulatory authority over all public sidewalks within its corporate limits. It is the stated duty of a municipality to keep the public sidewalks “open for travel and free from unnecessary obstructions.” The North Carolina League of Municipalities (NCLM), the City’s insurance provider, advised Staff that, in order to be adequately covered, all items placed in the public rights-of-way need to be permitted with insurance naming the City as an additional insured and have an executed hold harmless agreement. Additionally, the City needs to proactively monitor the sidewalk encroachments and take enforcement actions to remedy violations when necessary.

The proposed changes are aimed to reduce the burden on business owners by making this a one-time permit. Staff conducted a comprehensive review of legal constraints and ordinances from other municipalities to ensure compliance with federal and state laws and planning best practices. These changes have been discussed numerous times by the Downtown Master Plan Committee beginning in January 2024, and a public hearing was conducted on June 17, 2024. At that meeting City Council sent the text amendment back to the Downtown Master Plan Committee for further review. Staff brought the amendment to the committee again on August 29, 2024 and the committee unanimously recommended in favor of the amendments with the following changes:

- Reducing the required amount of liability insurance to \$1,000,000.
- Renaming the title of Chapter 46 - Peddlers and Solicitors to Chapter 46 - Peddlers, Solicitors, and Businesses.
- Adding an exemption for the City, NCDOT, or other government agency to place public infrastructure and amenities with a reduced minimum separation, provided that NC Building Code and ADA minimum requirements are met.

At 7:16 p.m. Mr. Morrow moved, seconded by Ms. Holder to open the public hearing. The motion carried unanimously.

Public Participation – None.

At 7:16 p.m. Mr. Morrow moved, seconded by Ms. Holder to close the public hearing. The motion carried unanimously.

This item will be placed on the agenda for Council action at its November 18, 2024 meeting.

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. Wise moved, seconded by Mr. Morrow to approve the consent agenda. The motion carried unanimously.

K-1. Tax Settlement Report – September 2024

K-2. Ordinance Declaring Road Closure for Veterans Day

ORDINANCE NO. 2024-36 AN ORDINANCE DECLARING A ROAD CLOSURE FOR VETERAN'S DAY CEREMONY

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:

Veteran’s Day Ceremony
Date: Monday, November 11, 2024
Time: 10:00 AM – 1:00 PM
Route Description: Main Street (U.S. 276) from Broad Street to Gaston 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 21st day of October 2024.

Attest: Denise Hodsdon, CMC, City Clerk
Approved as to Form: Mack McKeller, City Attorney

s/ Maureen Copelof, Mayor

K-3. Closing of Railroad Avenue Bridge Replacement Capital Project

ORDINANCE NO. 2024-37
CAPITAL PROJECT ORDINANCE TO CLOSE ORDINANCE NO. 2022-21 and 2023-43,
RAILROAD AVENUE BRIDGE REPLACEMENT 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 closed:

Section 1: In August of 2013, the City of Brevard received funding through the NC Dept of Transportation for the replacement of the Railroad Avenue Bridge. The funding agreement (B-5550) provided 80% or \$832,000 and the City was required to provide a match of 20% (\$208,000). Expenses were first recorded in early 2016, and mainly involved engineering and property acquisition, through the middle of 2019. Progress on the project was halted by the COVID pandemic in early 2020. At this stage, the City had spent nearly \$600,000 of the budgeted funds. In late 2021, the City became aware that the most recent estimates for the bridge replacement were \$1,750,000, requiring an additional \$700,000 in City funds. Fortunately, the City, mainly through the efforts of Interim City Manager Steve Harrell and Mayor Maureen Copelof were able to work with NCDOT to produce an agreement where NCDOT took over the entire bridge replacement and the City was only responsible for an additional \$70,000 of engineering costs. Local Representatives Jake Johnson and Chuck Edwards, and Wanda Austin from NCDOT played an important role in this agreement.

Section 2: The project will be closed with actual revenues of \$677,147 and actual expenditures of \$665,451. Actual and budgeted revenues and expenditures will be reversed on the City financial software, and no further expenditures will be required on the project.

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

Account Number	Account Name	Budget Amount
78-6500-4500	Railroad Ave Bridge Repl	\$1,810,200
TOTAL PROJECT APPROPRIATION		\$1,810,200

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

Account Number	Account Name	Budget Amount
78-3345-0000	NCDOT STP B-5550	\$832,000
78-3750-0000	Transfer from GF – 20%	\$208,000
78-3755-0110	Transfer from GF	\$700,000

\$70,200

\$1,810,200

Approved as to Form: Mack McKeller, City Attorney

ADOPTED by the City Council of the City of Brevard, North Carolina, on this 21st day of October, 2024.

Attest: Denise Hodsdon, CMC, City Clerk
Approved as to Form: Mack McKeller, City Attorney

s/ Maureen Copelof, Mayor

K-5. Authorization for City Manager to Sign Deed Granting Highway Right of Way to NCDOT

RESOLUTION NO. 2024-46
AUTHORIZING CITY MANAGER TO EXECUTE DEED GRANTING
HIGHWAY RIGHT OF WAY TO NCDOT REGARDING PROJECT R-5800

WHEREAS, R-5800 is a North Carolina Department of Transportation (NCDOT) project to construct a roundabout at Fortune Cove Road and US Hwy 276/64 in the City of Brevard, Transylvania County, North Carolina; and

WHEREAS, NCDOT has requested, for the consideration of \$25,000, that the City grant a deed for a right of way easement, a permanent utility easement, and a temporary construction easement on city-owned rights of way; and

WHEREAS, the parcel measures just under a quarter of an acre and is unused by the City of Brevard; and

WHEREAS, the Brevard City Council received a staff report on this request with maps and other relevant information at its October 21, 2024 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 the deed for highway right of way with the North Carolina Department of Transportation for the purposes described in the above referenced staff report.

Approved and adopted this 21st day of October, 2024.

Attest: Denise Hodsdon, CMC, City Clerk

s/ Maureen Copelof, Mayor

K-6. Resolution Directing Clerk to Investigate Sufficiency of Petition for Annexation – Mills Ave Properties, LLC / Forest Hill Drive

RESOLUTION NO. 2024-47
A RESOLUTION DIRECTING THE CITY CLERK TO INVESTIGATE THE
SUFFICIENCY OF A PETITION FOR AN ANNEXATION PURSUANT TO
NCGS 160A-31, AS AMENDED

WHEREAS, a petition was received on September 17, 2024, requesting the annexation of a contiguous area described in said Petition as the Mills Ave Properties, LLC property located on Forest Hill Drive, Brevard, NC 28712, consisting of 4.64 acres, more or less, be annexed into the City of Brevard. (Tax Property Identification Numbers: 8585-36-0021; 8585-35-0899-000; 8585-35-1747-000; and 8585-35-1676-000).

Metes and Bounds Property Description:

Beginning at a broken concrete monument having North Carolina NAD 83/86 grid coordinates of North: 555675.23 East: 882903.55; said monument standing S 36°49'51" E a distance of 1,328.41 from NCGS MONUMENT GEORGE which has North Carolina NAD 83/86 grid coordinates of North: 556738.54 East: 882107.07 and 6.2' away from an existing utility pole in the right of way for Forest Hill Road; thence N 72°35'30" W a distance of 9.48' to a calculated point on the old 45' right of way; thence N 22°22'36" W a distance of 58.85' to a calculated point on the old 45' right of way; thence N 22°22'36" W a distance of 30.91' to a calculated point on the old 45' right of way; thence with a curve turning to the right with an arc length of 27.95', with a radius of 289.00', with a chord bearing of N 19°36'24" W, with a chord length of 27.93', to a calculated point on the old 45' right of way; thence with a compound curve turning to the right with an arc length of 58.85', with a radius of 289.00', with a chord bearing of N 11°00'10" W, with a chord length of 58.75', to a calculated point on the old 45' right of way; thence with a compound curve turning to the right with an arc length of 58.87', with a radius of 289.00', with a chord bearing of N 00°39'58" E, with a chord length of 58.76', to a calculated point on the old 45' right of way; thence leaving the old right of way N 42°42'28" E a distance of 18.15' to a point in the center of a ditch; thence down and with the center of a ditch N 70°17'08" E a distance of 32.99' to a point in the center of the ditch; thence N 65°22'33" E a distance of 44.58' to a point in the center of a ditch; thence N 39°05'26" E a distance of 19.33' to a point in the center of a ditch; thence N

13°02'07" W a distance of 42.04' to a point in the center of a ditch; thence N 15°38'54" E a distance of 60.58' to a point in the center of a ditch; thence N 27°30'15" E a distance of 27.48' to a point in the center of a ditch; thence N 46°24'44" E a distance of 34.48' to a point in the center of a ditch; thence N 52°18'45" E a distance of 44.06' to a point in the center of a ditch; thence N 63°35'23" E a distance of 24.90' to a point in the center of a ditch; thence N 68°35'48" E a distance of 34.51' to a point in the center of a ditch; thence N 82°42'23" E a distance of 18.77' to a point in the center of a ditch; thence N 59°06'04" E a distance of 10.91' to a point where the ditch meets the center of Brushy Creek; thence down and with the center of Brushy Creek S 31°45'09" E a distance of 62.74' to a point in the center of Brushy Creek; thence S 36°59'42" E a distance of 95.95' to a point in the center of Brushy Creek; thence S 36°59'42" E a distance of 76.42' to a point in the center of Brushy Creek; thence S 11°00'05" E a distance of 45.80' to a point in the center of Brushy Creek; thence S 19°22'35" E a distance of 32.79' to a point in the center of Brushy Creek; thence S 38°07'26" E a distance of 24.16' to a point in the center of Brushy Creek; thence S 58°35'26" E a distance of 37.39' to a point in the center of Brushy Creek; thence S 38°46'28" E a distance of 17.91' to a point in the center of Brushy Creek; thence S 38°46'28" E a distance of 15.80' to a point in the center of Brushy Creek; thence S 28°10'33" E a distance of 121.25' to a point in the center of Brushy Creek; thence S 22°12'32" E a distance of 22.95' to a point in the center of Brushy Creek; thence S 09°32'28" E a distance of 3.35' to a point in the center of Brushy Creek; thence S 09°32'28" E a distance of 16.33' to a point in the center of Brushy Creek; thence S 18°24'11" W a distance of 35.66' to a point in the center of Brushy Creek; thence S 33°58'27" W a distance of 65.28' to a point in the center of Brushy Creek; thence S 44°26'22" W a distance of 31.27' to a point in the center of Brushy Creek; thence S 14°19'46" W a distance of 29.38' to a point in the center of Brushy Creek; thence leaving the center of Brushy Creek N 77°32'22" W a distance of 21.02' to a point in the center of a ditch; thence N 70°38'59" W a distance of 156.06' to a point in the center of a ditch; thence N 77°40'10" W a distance of 71.18' to a 5/8" rebar; thence N 72°39'09" W a distance of 29.26' to a 5/8" rebar; thence N 46°48'46" W a distance of 41.05' to a 5/8" rebar; thence S 89°46'32" W a distance of 60.26' to 5/8" rebar; thence N 72°47'04" W a distance of 28.12' to a 5/8" rebar; thence N 72°50'41" W a distance of 30.42' to a broken concrete monument; which is the place and point of beginning and containing Tracts 2A, 2B, 2C and 2D as shown on Plat File 22, Slide 158, and having an area of 4.640 acres.

WHEREAS, said Petition has been received by the City Council of the City of Brevard, North Carolina; and

WHEREAS, NCGS 160A-31, as amended, provides that the sufficiency of the Petition shall be investigated by the City Clerk before further annexation proceedings may take place; and

WHEREAS, the City Council of the City of Brevard deems it advisable to proceed in response to this request for annexation.

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

Section 1. The City Clerk is hereby directed to investigate the sufficiency of the above-described Petition and to certify as soon as possible to the City Council the result of her investigation.

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

Adopted and approved this the 21st day of October, 2024.

Attest: Denise Hodsdon, CMC, City Clerk

s/Maureen Copelof, Mayor

L. Unfinished Business

L-1. Ordinance – Voluntary Contiguous Annexation – Jason Shepherd / 35 Verdery Avenue – Aaron Bland recalled that most of the property at 35 Verdery Avenue is already within city limits and this is a request to annex the remainder. The Planning Board considered the request at its September 24, 2024 meeting and unanimously recommended approval. Council held the public hearing at its October 8, 2024 meeting. Mr. Baker moved, seconded by Mr. Daniel to approve the ordinance for voluntary contiguous annexation. The motion carried unanimously.

**ORDINANCE NO. 2024-39
AN ORDINANCE TO EXTEND THE CORPORATE LIMITS
OF THE CITY OF BREVARD, NORTH CAROLINA**

WHEREAS, the Brevard City Council has been petitioned under G.S. 160A-31, as amended, to annex the contiguous area described herein, and,

WHEREAS, the City Council has by Resolution No. 2024-30 directed the City Clerk to investigate the sufficiency of said petition; and,

WHEREAS, the Brevard Planning Board reviewed the Petition at their meeting held on September 24, 2024 and recommended approval of the voluntary contiguous annexation; and,

WHEREAS, the City Clerk has certified the sufficiency of said petition (relying on the opinion of the City Attorney) and the City Council adopted Resolution No. 2024-36 fixing a date of public hearing. By authority granted by G.S. 160A-31, a public hearing on the question of this annexation was held at the City Council Chambers at 5:30 P.M. on the 8th day of October, 2024, after due notice by publication on the 23rd day of September, 2024; and

WHEREAS, the City Council does hereby find as a fact that the petition meets the requirements of G.S. 160A-31, as amended.

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

Section 1. By virtue of the authority granted by G.S. 160A-31, as amended, all of that property lying in Transylvania County, owned by Jason Shepherd, as shown and being a portion of that property described in the deed recorded in Document Book 765, Pages 452-455, in the Transylvania County Register of Deeds and that certain plat provided by the Petitioners to be duly recorded upon annexation is hereby annexed and made a part of the City of Brevard as of the 21st day of October, 2024.

Said property is more fully described as follows:

Location: 35 Verdery Avenue, Brevard, NC 28712. A portion of Transylvania County Tax Property Identification Number 8585-28-6101-000

Property Description:

That certain piece of land being located in the state of North Carolina, county of Transylvania, township of Brevard. Beginning at an unmarked point on the existing line of the City of Brevard Limits and on the northern right of way line of Verdery Ave., also being located on the southern line of that property of Jason M. Shepherd described in Deed Book 765 Page 452, said property being that 0.34 Acre tract shown on Plat File 16 Slide 749. Thence running with the existing City of Brevard Limits, a curve with an arc length of 113.84', with a radius of 983.05', with a chord bearing of N 42°18'23" W, with a chord length of 113.78', to an unmarked point in the northern line of the before mentioned tract, said point being on the existing line of City of Brevard Limits. Thence leaving the existing City of Brevard limits and running with the Earnest Duncan line a course S 76°10'43" W a distance of 18.15' to a 1/2" Rebar found, the southwest corner of the Earnest Duncan property described in Deed Book 320 Page 140. Thence with the Bobby Tucker line a course S 14°14'36" E a distance of 20.01' to a 1/2" Rebar found at a 3" spindle guard stake, the southeast corner of the Bobby Tucker Tract described in Deed Book 332 Page 469. Thence with the line of the other property owned by Jason M. Shepherd, described in Deed Book 765 Page 436, for two calls, S 13°27'48" E a distance of 4.95' to a 5/8" Rebar and Cap set, thence S 13°37'43" E a distance of 75.06' to a 5/8" Rebar and Cap set. Thence leaving the Shepherd tract described in Deed Book 765 Page 436 and traveling along the northern right of way line of Verdery Ave. N 76°09'56" E a distance of 72.55' to an unmarked point on the existing line of the City of Brevard Limits, which is the point of beginning. Containing 0.101 acres, more or less. Being a portion of the property conveyed to Jason M. Shepherd in Deed Book 765 Pages 452-455.

Also shown as "This Portion of Property to be Annexed +/- 0.101 acres" on a plat prepared by David L. Burrell titled "Plat of a Boundary/Annexation Survey for Jason M. Shepherd" being drawing number 24-27-REVISED and dated June 20, 2024-Revised July 23, 2024. Reference is hereby made to said plat for a more complete and accurate description. The intent of the landowner, Jason M. Shepherd, is to annex any portion of the property described in Deed Book 765 Pages 452-455 that is not in the existing City of Brevard Limits, into the City of Brevard limits.

Section 2. Upon and after the 21st day of October, 2024 the above-described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Brevard and shall be entitled to the same privileges and benefits as other parts of the City of Brevard. Said territory shall be subject to the municipal taxes according to G.S. 160A-31.

Also being all of that property described in a plat prepared by David L. Burrell, PLS for Jason M. Shepherd, dated June 20, 2024, revised July 23, 2024 and recorded in Plat File 24, Slide 348, of the Transylvania County Registry.

Section 3. Pursuant to 160A-29 it shall be the duty of the Mayor of the City of Brevard to cause an accurate map of the annexed territory as described in Section 1 hereof, together with a duly certified copy of this Ordinance, to be recorded in the office of the Register of Deeds of Transylvania County, North Carolina, and in the office of the Secretary of State at Raleigh, North Carolina. Such a map shall also be delivered to the Transylvania County Board of Elections as required by G.S. 163.288.1.

Section 4. Notice of adoption of this Ordinance shall be published once, following the effective date of annexation, in a newspaper having general circulation in the City of Brevard.

Adopted and approved this the 21st day of October, 2024.

Attest: Denise Hodsdon, CMC, City Clerk
Approved as to Form: Mack McKeller, City Attorney

s/ Maureen Copelof, Mayor

M. New Business

M-1. Discussion of NFIP impacts on Housing Recovery Efforts – Mr. Hooper explained that there is a conflict between two important public health and safety approaches and Staff is looking for direction from Council. The first point of view is do we accommodate people's requests to make emergency repairs to their homes, perhaps heading off additional public health issues like living in damaged homes or performing unpermitted repairs; or do we stick to our previously approved policy of requiring homes that have been substantially damaged to elevate out of the floodplain. This is an important health and safety matter because the next time it floods we won't have to pull those folks out with boats again. And there is also the argument to make for requiring elevation that it maintains our eligibility for the National Flood Insurance Program (NFIP), without which nobody in our jurisdiction can buy government flood insurance and everybody would be left to their own devices if and when the next flood comes, and their homes are damaged.

Mr. Hooper called Council's attention to four documents that he hoped would inform the conversation:

1. Letter from Transylvania County making the case for leniency from our floodplain requirements. If we adopt that point of view, we would give people a grace period from our substantial improvement requirements so that they can perform minimal emergency repairs to make their homes habitable.
2. NC Department of Public Safety's document entitled Effects of Non-Participation in the National Flood Insurance Program, which explains the benefit of the program and the opportunities we would lose if we forgo our eligibility.
3. NFIP Temporary Permitting Possibilities, which outlines the pros and cons of each approach.
4. Draft agreement that Staff has developed based on input from multiple sources that we think is a compromise solution which will allow folks to make emergency repairs without putting our eligibility in NFIP at undue risk. The highlights of this approach are as follows:
 - a. We would issue permits for minimal repairs that are just designed to bring the home back up to habitable standards and give property owners a one-year grace period from our elevation requirements.
 - b. The requester must give us an estimate, either from an engineer or a licensed general contractor, on the cost of elevating the home and bringing it into NFIP compliance, so that we can make sure that the cost of their repair efforts doesn't exceed 50% of the value of the home, and thus would be considered a substantial improvement under normal circumstances.
 - c. Includes the opportunity for two additional one-year periods if good faith efforts toward compliance are made.
 - d. If non-compliance, enforcement measures up to and including revocation of certificate of occupancy

Mr. Hooper pointed out that this program is not endorsed by FEMA and we do not know how they will react to it, but it is based on a similar program in Craven County that is currently underway and has been since Hurricane Irene, and FEMA has not messed with their NFIP eligibility there, so we don't think they will mess with ours here. He noted that we are not rewriting the UDO, staff is just asking Council for direction on how to administer it.

City Attorney McKeller added that as a general rule, since 1974 building in floodplains and special flood hazard areas has been discouraged. Therefore, trying to come up with ways to make sure houses don't get flooded out has been an important governmental task. We have rules that were put in place that require that anybody who builds in a special flood hazard area to raise their dwelling above base flood elevation. In 2009 the City adopted regulations requiring that dwellings must be raised two feet above base flood elevation. In addition to complying with NFIP, which is required for many federal loans, required for us to be able to get FEMA grants that might come for fixing up houses, in order to qualify for all of that, we have to follow these and put these ordinance rules into effect. The problem with that is that we have a shortage of housing and one of the solutions we have looked at is to allow a temporary permitting process to allow people an extended period of time to come into compliance with the floodplain ordinance. The two competing factors are: 1) raising homes out of the floodplain is a long-term goal of the City of Brevard and it complies us with the NFIP; and 2) we have an immediate need and there is a possible solution to at least allow them to repair their homes enough so they can live there while they are trying to come into compliance.

Aaron Bland added information regarding the mechanics about some of terminology that is being used. He explained that a property is deemed "substantially damaged" when the damage sustained by the structure because of the flood is estimated to be greater than 50% of the value of the structure. He also explained how those numbers are determined. There are approximately 50 of those structures and the owners of those structures have been notified of that determination. They do have the option to provide better data that could change that percentage to below the 50% threshold and remove them from that substantially damaged list.

Ms. Holder moved, seconded by Mr. Morrow to direct the staff to pursue the temporary authorization permit as contained in the Craven County model.

During discussion it was noted that the requirement to submit an estimate with the initial application makes it difficult for folks to move forward immediately. Following further discussion, Mr. Hooper summarized the revisions as discussed:

- Adopt the Craven County model, but strike the second bullet requiring that initial application for grace period must include an estimate from a licensed general contractor, etc. and replace that with a clause that requires such an estimate must be included as part of the good faith effort after one year, along with some other demonstration of good faith effort; and
- Staff will not evaluate the applications for minimal repairs, but will let the County decide what a minimal repair is, with the following exceptions:
 - We will not permit an application that describes a repair that exceeds 50% of value; and
 - Staff is empowered to refuse a permit for something that we think is excessive

Ms. Holder amended the original motion, seconded by Mr. Morrow to include the revisions described by the City Manager. The motion as amended carried unanimously.

N. Remarks/Future Agenda Considerations.

Mr. Baker commented about the storm and said the word that keeps coming up was resilient. I was seeing a lot of resiliency in the stories that the staff shared. It was amazing to see the people that stepped up and it shows the character of the people that we have here and the character of our whole community. There have been amazing

responses from volunteers, non-profit organizations, and just neighbors checking on each other. It is going to take a long time for us to recover as a region and it is going to take a lot of hard work from a lot of people. Thank you to the staff for all you did. We were talking about a housing crisis before this natural disaster and the main issue we discussed tonight shines a further light on the problems we are having with housing and the fact that people can't find adequate housing, especially those that are most vulnerable. Some short-term rental owners have stepped up to help with the immediate need and I want to thank them for that. This is an issue that we have to work together on, and I hope that as we come out of the immediate emergency housing needs from the hurricane that we can work together to help solve that housing crisis that we already had before this happened.

Mr. Daniel said I appreciated hearing the stories that our responders gave tonight which gave us an insight into their experiences. I particularly was pretty lucky, and I had to leave the house to know that there had been a storm of that magnitude because I couldn't tell it from where I was.

Mr. Morrow said it certainly was an unprecedented storm, but also an unprecedented response. Thank you for your stories. I think we are on the road to recovery. Thanks, and a shoutout to the management team, the Mayor, the Manager, and the City Attorney for the out-of-box option you gave us.

Ms. Holder said I want to say thank you to all who came and shared your stories and your heart. It reminded me of a message that I preached on Sunday called "Riding through the storm" and I talked about how hurricanes spawn tornadoes at times, and so we have a storm within the storm. Certainly, you helped us when we had the storm within the storm. We had no idea that you all were out there doing what you were doing. And it also talked about resiliency and as citizens we could ride through the storm because of what you all did. Thank you.

Mr. Wise said our city staff is unbelievable. That kind of attitude and levity in these situations really can make all the difference and I appreciate everyone who spoke to us tonight. He asked everyone to remember that we are in our biggest business season and our business owners are suffering. We have started some new programs through Transylvania Tomorrow to help them, but anything we can do to help them personally – to shop locally or tell your friends that Brevard is open for business – they need help. We are a city of 8000 people, and we all are going to be impacted directly by a lack of tourism dollars, which is our prime source of revenue in this amazing place we live. I drove through Pisgah Forest when it reopened, and it was great to back in the forest. He reminded everyone that early voting has started and encouraged folks to go vote.

Mr. Hooper reported that the milling and paving of Johnson and Jordan Streets will begin this week. He asked for forgiveness from Council and residents as some of our voluntary projects have been postponed as we have focused more on response and recovery, but we can see the light at the end of the tunnel and will be shifting staff's focus back to performing some of those voluntary things soon.

Mayor Copelof said you guys are incredible, you are heroes and did such a wonderful job. The primary responsibility of a city is to ensure that Brevard is a safe healthy place for people to live, and that is a responsibility that you stood up to. I am so grateful for everything that our City staff has done; I am so grateful for the way our community has stood up; with our non-profits, our faith groups, with individuals, with all the fundraisers, free meals, clothing and all the different items where people have stepped up. I am so proud of how we as a community have cared about one another and we will have to continue to do that because recovery is going to take a while. We are working on temporary housing, and I am so glad that we came up with a solution to allow people to go ahead and fix their homes. Thank you to the people who came, opened their hearts and told us what they are feeling and what they are facing. Thank you Council for listening and reacting to those voices. The other voice that I have been hearing is that of our small businesses. Many of those business owners have told me

how frightened they are that their business isn't going to survive. They need customers so we have got to rally as a community and help our small businesses. There is Transylvania Tomorrow and we have Halloweenfest and a benefit concert coming up on Saturday, which is an opportunity to come together as a community.

O. Closed Session

O-1. Pending Litigation: NCGS §143-318.11.(a)(3) – At 8:45 p.m. Mr. Morrow moved, seconded by Ms. Holder to go into closed session to discuss pending litigation matter City of Brevard vs. Bauslaugh - Case No. 21-CVS-381 and to clear Council Chambers. The motion carried unanimously. Authorized to remain for the closed session with Council and the Attorney were City Manager Wilson Hooper, City Clerk Denise Hodsdon, Assistant Planning Director Aaron Bland, and Assistant City Manager David Todd.

Council Returned to Regular Session – at 9:07 p.m. Council resumed the meeting in regular session. No official action was taken in closed session and the minutes of the closed session are authorized to be sealed.

O-2. Pending Litigation: NCGS §143-318.11.(a)(3) – At 9:07 p.m. Mr. Morrow moved, seconded by Mr. Baker to go into closed session to discuss pending litigation matter City of Brevard et al. vs. HCA et al. The motion carried unanimously. Authorized to remain for the closed session with Council and the Attorney were City Manager Wilson Hooper and City Clerk Denise Hodsdon.

Council Returned to Regular Session – at 9:20 p.m. Council resumed the meeting in regular session. No official action was taken in closed session and the minutes of the closed session are authorized to be sealed.

P. Adjourn – There being no further business, at 9:20 p.m. Mr. Morrow moved, seconded by Mr. Baker, to adjourn the meeting. The motion carried unanimously.

Maureen Copelof
Mayor

Denise Hodsdon, CMC
City Clerk

Minutes Approved: November 4, 2024

Helene Response and Recovery Update

Brevard City Council
October 21, 2024



Introduction/Table of Contents

- Preparations
- During the storm
- During the flooding
- Immediate aftermath
- Initial recovery period
- Pivoting to medium term recovery (current)
- Pivoting to long term recovery

Preparations

- City Communications Coordinator (CC) begins posting weather alerts to all social media platforms and City website 9/25/24
- Transylvania County declares State of Emergency 9/25/24
- CC issues emergency alert through CivicReady system notifying residents of TC's State of Emergency declaration 9/25/24
- Brevard Public Works (BPW) clears storm drains, checks generators, prepares equipment and makes arrangements to have 24/7 staff coverage.
- Brevard Fire Department (BFD) doubles on-site staffing and places another crew on-call
- TC Emergency Management begins evacuations in areas expected to flood 9/26/24

Preparations

- Brevard Police Dept. (BPD) fills cars with gas and arranges to have extra staff on patrol. Plain clothes officer shifted to patrol.
- Brevard Utilities sets WWTP for overnight function and evacuates plant 9/26/24
- Normal trash collection cancelled for the remainder of the week.
- All other non-essential city functions closed at noon on 9/26/24
- Communications Coordinator begins sending Council relevant City information and updates as Helene makes landfall in Florida 9/26/24

During the storm

(late 9/26-midday 9/27)

- BPW begins pumping and hauling overflowing sewer manholes 9/26/24
- Brevard Fire Dept. responds to first weather-related call at 2:38 AM on 9/27/24
 - BFD respond to an estimated 100 calls on 9/27*
- Non-essential city services called off for 9/27/24.
- BPD and BPW battle flooding in City Hall basement



Immediate aftermath

(afternoon 9/27-midday 9/28)

- BPD and BPW close in-town roads as waters rise
- BPW clears mudslide at Cathey's Creek to help maintain access to plant
- BFD, Transylvania Rescue Squad, and out-of-county teams begin water rescues along Old HVL Hwy.
- WWTP likely overtops during this period
- Mayor begins going door-to-door downtown with paper updates



Immediate aftermath

(afternoon 9/28-midday 9/29)

- WTP loses generator power
- BPW receives first shipment of emergency gas/diesel from NC Emergency Mgmt. for area public safety vehicles.
- EOC sources spare generator; WTP regains power at around 0200
- BFD responds to another 100 (est.) calls
- Mayor begins reading communications updates on WSQL (which are then repeated at the top of every hour) –staff begin circulating and posting hard copies for public
- CC posts updates to social media platforms using temporary internet connection



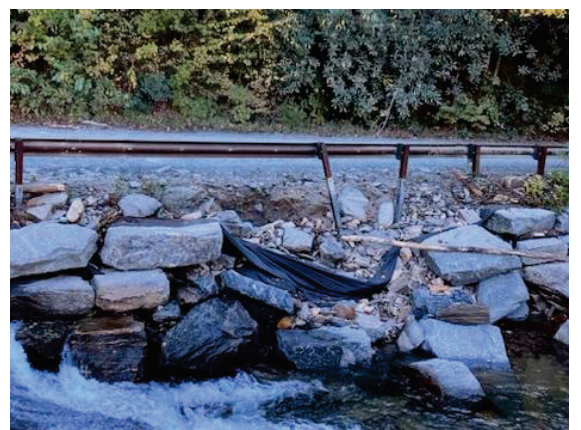
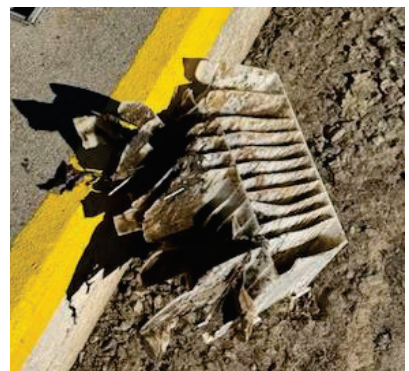
Immediate aftermath

(afternoon 9/29-midday 9/30)

- Duke power restored to WTP
- BPW begins tree clearing in earnest.
- WWTP accessed for first time since storm; initial assessment indicates floodwaters overtopped clarifiers but raw sewage got partially treated entire storm

Damage assessment

- BPD cruiser crushed by falling tree (estimated loss \$65,000)
- BFD folding frame tank fell off truck (est. loss \$2,800); damage to bay door (\$8,300)
- Streambank washout near WTP (\$20,000); sand and debris in creek and intake channel (\$10,000)
- Damage to RBC “cups”, actuators, valves, and other misc. components at WWTP (loss value TBD)
- Misc. repairs to City Hall (de minimis)





Initial Recovery

(9/30-10/04)

- Cell service restored to much of the city
- Mayor Copelof appears on 94.9 (WGCR) to share update
- CivicAlert notifications and website/social media posting resume
- WTP operating at full capacity
- Curfew lifted 10/1 @ 5:00 PM
- City Hall opens at a limited capacity before fully reopening

Initial Recovery

(9/30-10/04)

- Comms shift to once-daily emergency response updates 10/2
- Planning staff begin substantial damage determination assessments of flooded buildings
- County stages public dumpster outside of the library for spoiled food disposal; PW crews collect and haul refuse from site while beginning spot collections and make-up collections around town
- BFD receives bottled water and MREs for distribution



Recovery

(10/05-Present)

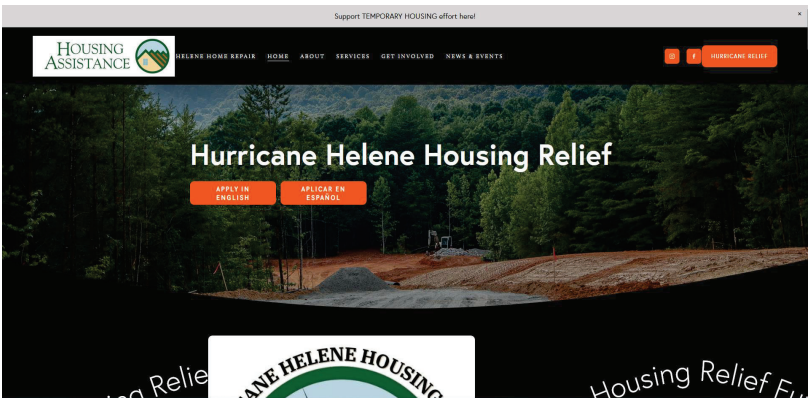
- FEMA reps arrive in-county and begin performing initial assessments
- BFD resumes normal staffing levels and operations
- Normal trash and recycling routes resume; PW continues with supplemental collection in flood damaged areas
- FEMA reps meet mayor and city manager and share info as to various services 10/8
- City issues final set of emergency response updates 10/10
- FEMA in-person Disaster Response Center (DRC) opens 10/17



Recovery

(Efforts underway)

- Nonprofits pivoting to help people with critical needs
- Create temporary dwelling units for displaced people. Housing Assistance Corp. coordinating this effort
- Support small businesses impacted by less visitors; Chamber of Commerce and HoB standing up “Transylvania Tomorrow” fund
 - HalloweenFest now a fundraiser for the fund
- City considering policy changes to support recovery efforts



Helene Response and Recovery Update

Brevard City Council
October 21, 2024





**Proclamation 2024-23
Commemorating Veterans Day
November 11, 2024**

WHEREAS, the freedoms we enjoy as Americans have been purchased and maintained at a high price throughout our history; and

WHEREAS, since the establishment of the original 13 states, Americans have been willing to fight and die to preserve their individual rights as guaranteed in the United States Constitution and the Bill of Rights; and

WHEREAS, we owe a great debt to those who have served in defense of this nation, as throughout the generations, their sacrifices have preserved our unique form of government dedicated to human rights and respect for the individual; and

WHEREAS, for many, that sacrifice had ended in permanent injury or death, yet their spirit remains in the continued preservation of our freedoms and the promise of liberty established as an example for all the oppressed persons of the world; and

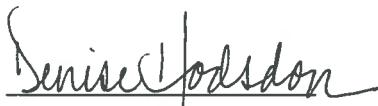
WHEREAS, in honor of these dedicated men and women, we pledge our continued defense of our nation so that their sacrifice will stand before the entire world as a tribute to the spirit and determination of people dedicated to the principles of freedom and democracy.

NOW, THEREFORE, I, Maureen Copelof, Mayor of the City of Brevard, North Carolina, call upon our citizens to salute all Brevard and Transylvania County veterans who have served with honor and distinction, and to observe this day with appropriate ceremonies in honor of our veterans, both living and deceased, who have served this Country so willingly to preserve the principles of justice, freedom and democracy; to fly the flag; and to show our veterans we appreciate their great sacrifice.

Proclaimed this 4th day of November, 2024.


Maureen Copelof
Mayor

Attest:


Denise Hodsdon, CMC
City Clerk



STAFF REPORT

City Council, Monday, November 4, 2024

Title: Proposed City of Brevard Unified Development Ordinance
Text Amendment re Pisgah Forest Gateway District

Speaker: Aaron Bland, Asst Planning Director

Prepared by: Aaron Bland, Asst Planning Director

Approved by: Wilson Hooper, City Manager

Background

Since the adoption of the City of Brevard's Unified Development Ordinance (UDO) in 2006, much of the City's jurisdiction around the major US 64 / US 276 / NC 280 intersection at the entrance to Pisgah National Forest has been zoned Downtown Mixed Use (DMX), with parcels fronting on US 64 to the east (Hendersonville Highway) zoned Corridor Mixed Use (CMX), several residential properties zoned Residential Mixed Use (RMX), and the large wooded parcels behind the Walmart shopping center zoned General Residential 4 (GR4).

The DMX zoning for the commercial properties at this intersection has created issues and complications for developers and property owners. Several of the key requirements for the downtown-focused district are questionable in this area, such as the requirement for new buildings to be multistory. This part of town is very different from downtown, and utilizing the same zoning district for both does not make the best sense from a land use perspective.

Staff has discussed rezoning this area for some time, but a formal recommendation to change the zoning was not formally adopted until the *Building Brevard 2030 Comprehensive Land Use Plan*, which states:

LUH- 10: Establish zoning overlay districts for the Asheville Highway Corridor and Pisgah Forest Area. The purpose of the overlay districts is to establish stricter standards and to improve multimodal safety and convenience when accessing places for goods, services, housing, and employment through a predictable pattern of development and architectural design. The corridor should accommodate a variety of residential and nonresidential uses in addition to highway-oriented commercial. The areas are important gateways to the City and the Pisgah National Forest, and aesthetic considerations should be included into overlay district standards. Form-based elements may include building form, site access requirements, parking location or design, block structure, frontage, and public space requirements.

Given that this area is the gateway into one of the area's biggest draws, Pisgah National Forest, Staff believes that it warrants a unique zoning district. This is a staff-initiated rezoning and text amendment to create such a new district, the Pisgah Gateway Mixed Use (PGX) district.

Discussion

The new PGX district requirements used the Neighborhood Mixed Use (NMX) district as a starting point with many standards written as a blend between NMX and DMX. The nature of the Pisgah gateway area means that it must be accommodating of vehicular traffic, but the long term vision for the area is one that supports multimodal safety so that visitors can explore the area on foot, or move through it efficiently by car if traveling into or out of the national forest. The NCDOT R-5799 intersection improvement project that is currently underway will help further this goal, but the City must be proactive in also establishing land use controls that facilitate a built environment that is walkable and comfortable for people on foot and bikes, as well as those in cars.

What will really set the PGX district apart and help ensure development that is appropriate to the setting adjacent to the national forest, is the forthcoming architectural standards currently being drafted by the City's consultant team from Plusurbia. These standards were presented to and endorsed by Council in June in the Architectural Visual Guidelines document, which will be the basis of the architectural standards that will be codified in the UDO in the coming months.

Attached are the proposed amendments to the UDO to establish the zoning requirements of the new PGX district; note that the table of allowed uses is a separate attachment.

Policy Analysis

The creation of a new zoning district in this area is supported by LUH-10 of the *Building Brevard 2030 Comprehensive Land Use Plan*. LUH-10 recommends an overlay district but Staff believes that a new base district is a more appropriate method.

Recommendation

Planning Board discussed the PGX district at their June 25th and September 24th meetings, ultimately recommending approval with two minor suggested amendments to the ordinance text (these will be discussed during Staff's presentation). In accordance with state statutes, the Planning Board also submits the attached statement of consistency.

Action

This presentation is for public hearing purposes only; no action is requested at this time.

Attachments:

1. UDO Draft Amendments
2. Use Table Draft Amendments
3. Consistency and Reasonableness Statement



CHAPTER 2. DISTRICTS AND GENERAL PROVISIONS

2.1. General intent and establishment of districts.

2.1.1. Base districts.

- A. In accordance with G.S. 160D-703 that sets forth the establishment of zoning regulation by district, the City of Brevard and its extraterritorial jurisdiction (hereafter, the "regulatory jurisdiction"), as indicated on the official zoning map is hereby divided into various districts that set forth uniform regulations for the development of land within each district.
- B. The purpose of these district regulations is to provide a comprehensive plan for the use of land and buildings in conditions of good health and safety and in conditions of orderly community development. These regulations shall apply to all land and structures within the respective zoning district.

(Ord. No. 15-08, §§ 1, 2, 12-5-08; Ord. No. 20-09, § 4(Exh. B(2)), 9-21-09; Ord. No. 2015-32, § 01, 11-16-15; Ord. No. 2020-23, § 1(Exh. A), 10-19-20; Ord. No. 2021-16, § 1(Exh. A), 4-19-21)

2.1.2. Establishment of base districts and purpose statements.

- A. This ordinance establishes the following base districts for use as zoning categories
 - 1. **General Residential (GR4 and GR8).** The General Residential District is intended for the city's existing predominately-residential neighborhoods as well as provide for new primarily-residential development in accordance with this pattern. These districts are differentiated only by the density of the overall development relative to the planning goals of the city as set forth in the Comprehensive Land Use Plan.
 - 2. **Residential Mixed-Use (RMX).** The Residential Mixed-Use District is intended to provide for areas of higher density residential development in close proximity (within ½—¼ mile) to existing and planned commercial centers such as the Downtown Mixed-Use District. The intent is to create higher density residential areas that compliment commercial districts with physical proximity and pedestrian connectivity. Different housing types and lot styles are encouraged.
 - 3. **Neighborhood Mixed-Use (NMX).** The Neighborhood Mixed-Use District is coded to provide pedestrian-scaled, higher density residential homes and opportunities for limited scale commercial activities along existing mixed-use corridors, in areas of transition, and at the functional center of new neighborhoods. Development in this district should encourage pedestrian activity through construction of mixed-use buildings and connections to adjacent neighborhoods. Buildings in this district are typically small and detached.
 - 3-4. **Pisgah Gateway Mixed-Use (PGX).** The Pisgah Gateway Mixed-Use District is intended to provide pedestrian-scaled development supporting a mix of land uses that are compatible with the district's location at the main entrance of Pisgah National Forest. Land uses should be primarily non-residential, though some higher-density residential uses may be appropriate. Development in this district should harmonize the urban form with the surrounding natural environment through construction of mixed-use buildings, multi-modal connectivity, context-sensitive architectural design, and natural materials and colors.



- 4.5. Downtown Mixed-Use (DMX).** The Downtown Mixed-Use District is coded for the traditional downtown area. Individual buildings are encouraged to be multi-story with uses mixed vertically, street level commercial and upper level office and residential. Higher densities of residential development are encouraged. It is the purpose of these regulations to encourage vitality by excluding certain activities which have a negative effect on the public realm through auto-dominated or non-pedestrian oriented design or uses.
- 5.6. Corridor Mixed-Use (CMX).** 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.
- 6.7. Institutional Campus (IC).** The Institutional Campus District is coded to allow for the continued and future use, expansion, and new development of academic and religious campuses, as well as government and health-care facilities. Unlike regular buildings which are oriented towards public streets, campus buildings are introverted towards spaces within the campus such as quadrangles.
- 7.8. General Industrial (GI).** This district is primarily for general industrial land uses and a broader variety of operations, including manufacturing, processing, and assembling of parts and products and distribution of products at wholesale or retail. The standards established for general industrial areas are designed to promote sound permanent industrial development.

(Ord. No. 15-08, §§ 1, 2, 12-5-08; Ord. No. 20-09, § 4(Exh. B(2)), 9-21-09; Ord. No. 2015-32, § 01, 11-16-15; Ord. No. 2020-23, § 1(Exh. A), 10-19-20; Ord. No. 2021-16, § 1(Exh. A), 4-19-21)

2.1.3. Establishment of conditional zoning districts.

- A.** In addition to the base districts established above, and as authorized under G.S. 160D-703 the following conditional districts are established which correspond to the above-referenced districts but which require the submission of a master plan as a prerequisite to any development.
1. Institutional Campus Conditional Zoning District (IC CD).
 2. General Industrial Conditional Zoning District (GI CD).
 3. Downtown Mixed-Use Conditional Zoning District (DMX CD).
 4. Corridor Mixed-Use Conditional Zoning District (CMX CD).
 - 4.5. Pisgah Gateway Mixed-Use Conditional Zoning District (PGX CD).
 - 5.6. Neighborhood Mixed-Use Conditional Zoning District (NMX CD).
 - 6.7. Residential Mixed-Use Conditional Zoning District (RMX CD).
 - 7.8. General Residential Conditional Zoning District (GR CD).
- B.** These districts 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, dimensional, and setback requirements of **CHAPTER 2**. The districts are subject to applicable conditions of the approving authority. If the ordinance



creating a conditional zoning district fails to provide specific standards, any development in the district shall comply with the applicable standards for the corresponding base district contained in this Ordinance and the Brevard City Code. These districts are not intended to relieve hardships that should be resolved by means of a variance. The procedure for the establishment of these districts is found in Section 16.7 of this Ordinance.

- C. The conditional zoning district classification allows projects of innovative design and layout that would not otherwise be permitted under this ordinance because of the strict application of zoning district or general development standards. Conditional zoning encourages innovative land planning and design concepts by:
1. Reducing or eliminating the inflexibility that sometimes results from strict application of zoning and development standards that were designed primarily for individual lots;
 2. Allowing greater freedom in selecting the means to provide access, light, open space, and design amenities;
 3. Allowing greater freedom in providing a mix of land uses in the same development, including a mix of housing types, housing prices, lot sizes, densities, and non-residential uses in a conditional zoning district;
 4. Promoting quality urban design and environmentally sensitive development by allowing development to take advantage of special site characteristics, locations, and land uses; and
 5. Encouraging quality urban design and environmentally sensitive development by allowing increases in base densities when such increases can be justified by superior design or the provision of additional amenities such as public and/or private open space.
- D. In return for greater flexibility in site design requirements, conditional zoning districts are expected to deliver exceptional quality community designs that preserve critical environmental resources, provide above-average open space amenities, incorporate creative design in the layout of buildings, open space and circulation; assure compatibility with surrounding land uses and neighborhood character; and provide greater efficiency in the layout and provision of roads, utilities, and other infrastructure.
- E. General use and development standards for Conditional Zoning Districts.
1. Uses allowed. A development may contain only those uses specified in the ordinance creating the conditional zoning district. Such uses may include any of the uses indicated in the use matrix contained in Section 2.2.C, provided such uses are consistent with the Comprehensive Land Use Plan.
 2. Mixed-uses encouraged.
 - a. Mixed-use developments are strongly encouraged in conditional zoning districts, including the mixing of principal residential uses with principal non-residential uses. Mixed-use development may occur by having two or more principal uses located in the same building (e.g., retail on ground floor, office space above) or by having two or more principal uses located in different buildings sited on the same lot or parcel (e.g., freestanding child day care center located on the same parcel as an office building).
 - b. Developments containing both residential and non-residential uses shall be designed, located, and oriented on the site so that non-residential uses are directly accessible to residents of the development. For the purposes of this section, "directly accessible" shall mean pedestrian and vehicular access by way of improved sidewalks or paths and streets that do not involve leaving the planned development or using a major thoroughfare. "Directly accessible" does not necessarily mean that non-residential uses need to be located in a particular location, but that the siting of such uses considers the accessibility of the residential component of the development to the non-residential use.



3. Unless the ordinance creating a conditional zoning district specifies otherwise, conditional zoning districts which contain residential uses shall incorporate the following design principles:
 - a. All neighborhoods shall have identifiable centers and edges.
 - b. Edge lots shall be readily accessible to retail and/or recreation by non-vehicular means (a distance not greater than $\frac{1}{4}$ — $\frac{1}{2}$ mile).
 - c. Uses shall be mixed and in close proximity to one another.
 - d. Street networks shall be interconnected and blocks small.
 - e. Sidewalks and other pedestrian infrastructure shall be interconnected and comprehensive.
 - f. The entire land area of the development shall be divided into blocks, streets, lots and open space areas.
 - g. Similar land categories shall generally front across streets. Dissimilar categories should abut at rear lot lines. Corner lots which front on streets of dissimilar use should be set back the same as the adjacent use with the lesser setback.
 - h. Open space shall be centrally located so that it is within walking distance ($\frac{1}{4}$ — $\frac{1}{2}$ mile) from all locations within the conditional zoning district. All required open space shall be in accordance with the provisions of [CHAPTER 7](#).
 - i. Dimensional standards shall be established in accordance with neighborhood design but shall be generally consistent with those found in the RMX, NMX and DMX Districts.
 - F. The ordinance creating the conditional zoning district shall specify whether phasing is proposed as well as the process, if applicable, for the review and approval of such phases, including any future subdivision of the property. Any references to the final master plan in this section or Section [16.7.E](#) may apply to the entire planned development or an individual phase of such development.
- (Ord. No. 15-08, §§ 1, 2, 12-5-08; Ord. No. 20-09, § 4(Exh. B(2)), 9-21-09; Ord. No. 2015-32, § 01, 11-16-15; Ord. No. 2020-23, § 1(Exh. A), 10-19-20; Ord. No. 2021-16, § 1(Exh. A), 4-19-21; Ord. No. [2024-23](#), § 1(Exh. A), 6-3-24)

2.2. Use categories and tables of permitted uses.

- A. All uses permitted in this Code have been divided into 10 general categories as detailed below and are generally defined as follows:
 1. *Residential*: Premises available for long-term human habitation by means of ownership and rental, but excluding short-term leasing or rental of less than a month's duration.
 2. *Lodging*: Premises available for short-term human habitation for a fee, including daily and weekly rental.
 3. *Commercial*: Premises available for the transaction of general business, the provision of services, the commercial sale of merchandise, and/or food and drink consumption, but excluding manufacturing.
 4. *Civic/institutional*: Premises available for organizations dedicated to religion, education, government, social service, health care, and other similar functions.
 5. *Entertainment/recreation*: Premises for the gathering of people for purposes such as arts and culture, amusement, and recreation.
 6. *Agriculture*: Premises primarily used to grow crops, produce, flowers, etc., raise animals, harvest timber, or other similar functions.



7. *Manufacturing/wholesale/storage*: Premises available for the creation, assemblage, storage, and repair of items including their wholesale or retail sale.
8. *Infrastructure*: Uses and structures dedicated to transportation, communication, information, and utilities.
9. *Accessory*: Uses of land or of a building or structure or portion thereof, which is incidental and subordinate to a principal use on the same lot.
10. *Temporary*: Uses of land which, having met certain requirements and conditions, that may be permitted for a period of limited duration, and which may utilize "temporary structures" for the duration of the event.

B. Interpretation of use matrices.

1. The use matrix is not intended to be a comprehensive list of all possible uses, but rather a list of more common uses likely to be proposed within the city.
2. In the event that a particular use is not listed in the use matrix, and such use is not listed as a prohibited use and is not otherwise prohibited by law, the administrator shall determine whether a materially similar use exists in this chapter.
 - a. Should the administrator determine that a materially similar use does exist, the regulations governing that use shall apply to the particular use not listed and the administrator's decision shall be recorded in writing pursuant to G.S. 160D-403.
 - b. Should the administrator determine that a materially similar use does not exist, this chapter may be amended to establish a specific listing for the use in question in accordance with the provisions set forth for text amendments in [CHAPTER 16](#).
3. When determining whether a proposed use is materially similar to a listed use, the administrator may consider the following criteria:
 - a. The actual or projected characteristics of the proposed use;
 - b. The relative amount of site area or floor area and equipment devoted to the proposed use;
 - c. Relative amounts of sales;
 - d. The customer type;
 - e. The relative number of employees;
 - f. Hours of operation;
 - g. Amount and frequency of deliveries;
 - h. Building and site arrangement;
 - i. Types of vehicles used and their parking demands;
 - j. The number of vehicle trips generated;
 - k. Signs;
 - l. How the proposed use is advertised;
 - m. The likely impact on surrounding properties; and
 - n. Whether the activity is likely to be found independent of the other activities on the site.
4. Prohibited uses within the applicable zoning district or uses for which the administrator determines there is not a materially similar use in the matrix may be permitted through the application of a conditional zoning district in accordance with the provisions set forth in [CHAPTER 16](#).



- C. *Use matrix.* The following matrix sets forth the manner by which certain uses may be permitted within the various districts set forth above.
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 in accordance with the provisions set forth in [CHAPTER 16](#). Additional standards for certain uses requiring a special use permit are set forth in [CHAPTER 3](#) and [CHAPTER 5](#) of this ordinance.
 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.

SEE ADDITIONAL ATTACHMENT FOR USE MATRIX

(Ord. No. 13-07, § 1, 9-17-07; Ord. No. 3-08, § 1, 3-17-08; Ord. No. 14-08, § 1, 11-17-08; Ord. No. 15-08, § 3, 12-5-08; Ord. No. 07-10, § 1(Exh. A, D), 4-5-10; Ord. No. 03-2011, § 1, 3-21-11; Ord. No. 19-2011, § 1(Exh. A), 8-1-11; Ord. No. 24-11, § 3(Exh. A), 9-19-11; Ord. No. 2012-25, § 1(Exh. A), 11-5-12; Ord. No. 2013-13, § 01.b)(Exh. A), 10-21-13; Ord. No. 2014-24, § 01(Exh. A), 11-17-14; Ord. No. 2017-08, § 1(Exh. A), 3-20-17; Ord. No. 2018-17, § 1(Att. B), 8-20-18; Ord. No. 2019-01, § 1(Exh. A), 2-18-19; Ord. No. 2020-17, § 1(Exh. A), 9-21-20; Ord. No. 2020-23, § 1(Exh. A), 10-19-20; Ord. No. 2020-24, § 1(Exh. A), 10-19-20; Ord. No. 2020-32, § 1(Exh. A), 12-7-20; Ord. No. 2021-16, § 1(Exh. A), 4-19-21; Ord. No. 2021-28, § 1(Exh. A), 6-21-21; Ord. No. 2022-40, § 1(Exh. A), 6-20-22; Ord. No. 2022-76, § 1(Exh. A), 12-5-22; Ord. No. [2023-17](#), § 1(Exh. A), 5-1-23; Ord. No. [2023-37](#), § 1(Exh. A), 8-21-23; Ord. No. [2023-53](#), § 1(Exh. A), 11-6-23; Ord. No. [2023-60](#), § 1(Exh. A), 12-18-23; Ord. No. [2024-23](#), § 1(Exh. A), 6-3-24)

2.3. Principal structures.

- A. No development shall contain more than one principal building per lot, unless:
1. As part of an approved group development;
 2. As part of a conditional zoning district;
 3. As part of an approved special use permit; or
 4. As part of a pre-existing nonconforming use.
- B. A multi-unit structure, such as duplexes, townhomes, and mixed-use buildings, within a single lot will be treated as a single primary structure for the purposes of compliance with the dimensional standards of this ordinance.
- C. For separate lots within a zero-lot line development, such as those for some types of townhomes and mixed-use buildings, the individual units will be considered a primary structure for each lot.
- D. The maximum ground floor area for principal structures varies by zoning district and shall be measured in accordance with the following table.

TABLE 2.3-A: GROUND FLOOR AREA	
District	Maximum Ground Floor Area of Each Principal Structure
GR4	10,000 sq. ft.
GR8	8,000 sq. ft.



TABLE 2.3-A: GROUND FLOOR AREA

District	Maximum Ground Floor Area of Each Principal Structure
RMX - Single-family home and duplex	8,000 sq. ft.
RMX - Multi-family and nonresidential	25,000 sq. ft.
NMX	30,000 sq. ft.
PGX	40,000 sq. ft.
DMX	25,000 sq. ft.
CMX	75,000 sq. ft.
IC	100,000 sq. ft.
GI	100,000 sq. ft.

Note: Projects of developments that do not meet the above standards apply for conditional zoning in accordance with Section 2.1.C.

(Ord. No. [2024-23](#), § 1(Exh. A), 6-3-24)

2.4. Group development.

2.4.1. General group development requirements.

A. Applicability:

1. Group development review is applicable to any land development subject to a site plan that includes 2 or more principal buildings on a single parcel (or grouping thereof) for the purpose of development (whether immediate or in the future).
2. Other individual structures designed to accommodate a variety of distinct uses may be considered as a group development at the discretion of the administrator.

B. Group development matrix: The following matrix sets forth the manner by which certain types of group developments may be permitted within the various districts.

1. "P" denotes those group development types that are permitted "by right."
2. "—" denotes those group development types that are not permitted within the given district.
3. "PS" denotes those group development types that are permitted with additional standards, which are set forth herein.
4. "MHD" denotes those group development types that are permitted within a Manufactured Housing Overlay District.


TABLE 2.4.1-A: GROUP DEVELOPMENT TYPOLOGY MATRIX

CATEGORY	GROUP DEVELOPMENT	ZONING DISTRICTS							
		GR	RMX	NMX	PGX	DMX	CMX	IC	GI
Residential	All residential group developments, except as listed below	PS	PS	PS	PS	PS	PS	PS	—
	Cluster Home Development	PS	PS	PS	PS	—	—	—	—
	Neighborhood Development	PS	PS	—	—	—	—	—	—
	Manufactured Home Park	MHD	MHD	MHD	MHD	MHD	MHD	MHD	MHD
Non-Residential	All non-residential or mixed-use group developments, except as listed below	—	PS	PS	PS	PS	PS	PS	PS
	Shopping Centers	—	—	PS	PS	PS	PS	—	—

C. Submittal requirements:

- Each application for a group development shall be accompanied by development plans as required by [CHAPTER 17](#) that show compliance with all applicable regulations, including but not limited to landscaping, parking, stormwater management, and infrastructure improvements

D. Use limitations:

- Unless otherwise provided by this section for a specific type, group developments must comply with the use matrix. No other uses may be permitted.
- The following uses are not permitted in group developments, unless explicitly allowed by this section:
 - Dwelling - Single-family
 - Dwelling - Duplex
 - Manufactured Home

E. Connectivity and circulation:

- The group development shall accommodate safe, efficient, and convenient vehicular, pedestrian, and bicycle circulation throughout the development, as outlined in [CHAPTER 9](#).
- All principal structures within a group development shall be connected by a sidewalk.

F. Street access:

- Any building established as a part of a group development project, which cannot properly be served by emergency or service vehicles from an existing abutting street, shall be made accessible to such vehicles by a publicly-accessible road.
 - Typically, a building cannot be properly served if it is not within 500 feet of a fire hydrant, 150 feet from a publicly accessible road, or otherwise deemed unacceptable by the Technical Review Committee. Exceptions and/or alternatives to these minimum requirements may be considered by the Technical Review Committee.



2. All interior roads shall be paved to City standards with a minimum width of 20 feet and adequately maintained for emergency or service vehicle access.

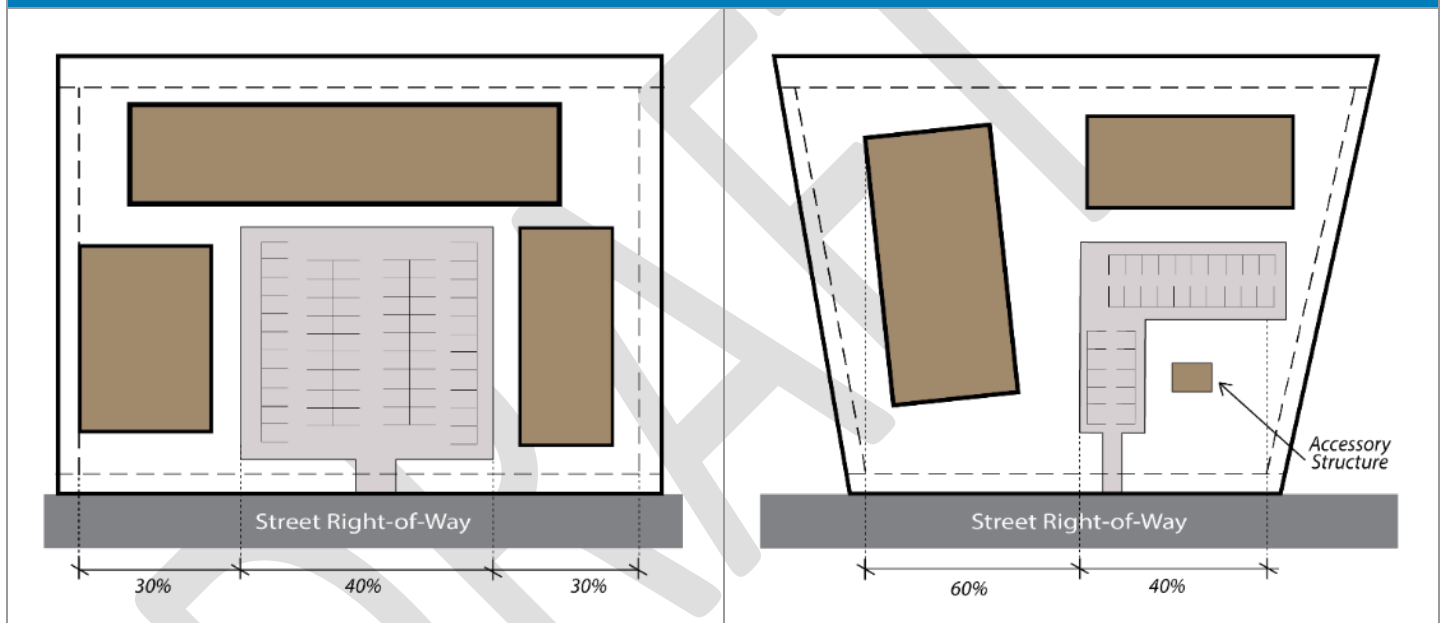
G. Building separation:

1. All buildings established as part of a group development project shall be separated in accordance with North Carolina Building Code separation requirements.

H. Parking:

1. The location of off-street parking may be permitted between a principal structure and the street within a group development. In such instances, no more than 40% of the street frontage, minus any required setback distances, shall be occupied by parking areas. Additional buffers and landscaping may be required to obscure parking adjacent to the street.

FIGURE 2.4.1-A: ILLUSTRATIVE DIAGRAMS OF PARKING LOCATIONS IN A GROUP DEVELOPMENT



I. Setbacks:

1. Unless otherwise provided by this section, each group development project shall comply with the setback requirements established for the zoning districts in Section 2.7.

J. Ownership:

1. When a group development is designed with individual lots with shared stewardship of the common areas, the following additional standards shall be met:
 - a. Covenants of shared stewardship shall be recorded in the Transylvania County Register of Deeds and such contractual rights and obligations shall be established prior to final zoning inspection approval.
2. When a group development is designed as a multi-dwelling, multi-tenant or mixed-use development under single ownership, subject to the use limitations herein, the following additional standards shall be met:
 - a. If at any point in the future the owner intends to transfer individual lots into separate ownership, a plat meeting all requirements of this ordinance shall be submitted to Planning staff for review and



approval. Covenants of shared stewardship shall be recorded in the Transylvania County Register of Deeds and such contractual rights and obligations shall be established prior to final plat approval.

(Ord. No. [2024-23](#), § 1(Exh. A), 6-3-24)

2.6. Density and dimensional requirements.

2.6.1. Density.

A. **Maximum density of dwelling units.** The maximum allowable dwelling unit density varies based on the zoning district.

TABLE 2.6.1-A: MAXIMUM DWELLING UNIT (DU) DENSITY	
District	Maximum Density
GR4	4 du/acre
GR8	8 du/acre
RMX	15 du/acre
NMX	25 du/acre
PGX	30 du/acre
DMX	None
CMX	40 du/acre
IC	15 du/acre
GI	DU not permitted
Note: Projects or developments that do not meet the above standards may apply for conditional zoning in accordance with Section 2.1.C .	

(Ord. No. [2024-23](#), § 1(Exh. A), 6-3-24)

2.6.2. Building height.

A. **Maximum building height.** The maximum building height for a structure varies based on zoning district.

1. See the requirements for tall structures as set forth in Section [5.15](#).

**TABLE 2.6.2-A: MAXIMUM BUILDING HEIGHT BY RIGHT**

District	Maximum Height by Right
GR4	35 feet
GR8	35 feet
RMX	35 feet
NMX	35 feet
PGX	<u>35 feet</u>
DMX	50 feet
CMX	50 feet
IC	50 feet
GI	50 feet

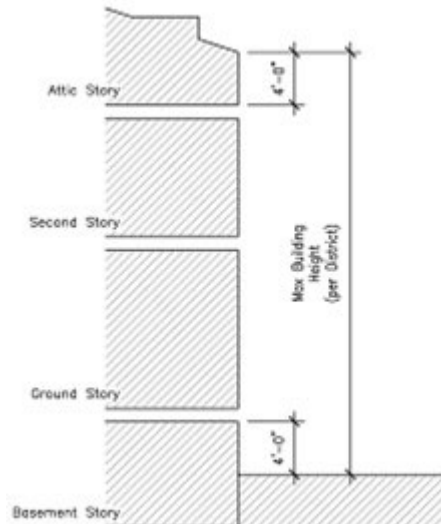
Note: Projects or development that do not meet the above standards may apply for conditional zoning in accordance with Section 2.1.C.

B. Computation of building height.

- "Building height" is measured as the vertical distance above a reference elevation measured to the parapet or roof line of a flat roof, the eave of a pitched roof, or the deck line of a mansard roof. The height of a terraced or stepped building is the maximum height of any segment of the building.
- The reference elevation shall be selected using the greater of either of the following:
 - The elevation of the highest adjoining sidewalk or ground surface within a five-foot horizontal distance of an exterior wall of the building when such sidewalk or ground surface is not more than ten feet above the lowest grade; or,
 - An elevation ten feet higher than the lowest grade when the sidewalk or ground surface described in subsection B.1, above is more than 10 feet above the lowest grade.



FIGURE 2.6.2-A: BUILDING HEIGHT MEASUREMENT



3. *Items not included in calculation:* The height limitations of this section shall not apply to church spires, belfries, cupolas, and domes not intended for human occupancy, monuments, water towers, observation towers, transmission towers, chimneys, smokestacks, conveyors, flagpoles, masts and antennas; provided evidence from appropriate authorities is submitted to the effect that such building or structure will not interfere with any airport zones or flight patterns.

C. Maximum story height.

1. A building story shall not exceed 14 feet in height from finished floor to finished floor.
2. Basements that emerge less than 4 feet from grade or attics not exceeding 4 feet at the knee-wall shall not constitute a story.

(Ord. No. [2024-23](#), § 1(Exh. A), 6-3-24)

2.6.3. Project area by right.

- A. **Minimum project area.** There is no minimum project size required, regardless of zoning district.
- B. **Maximum project area.** The maximum project size by right varies based on the zoning district.

**TABLE 2.6.3-A: MAXIMUM PROJECT AREA BY RIGHT**

District	Maximum Project Area by Right
GR4	20 acres
GR8	10 acres
RMX	10 acres
NMX	10 acres
PGX	<u>10 acres</u>
DMX	10 acres
CMX	10 acres
IC	None
GI	None

Note: Projects or development that do not meet the above standards may apply for conditional zoning in accordance with Section 2.1.C.

(Ord. No. 2024-23, § 1(Exh. A), 6-3-24)

Editor's Note

Ordinance 2024-23, adopted June 3, 2024, effectively repealed the previous Section 2.3 - *Density and dimensional requirements* - and replaced it with Section 2.6 - *Density and dimensional requirements* - and Section 2.7 - *Yards and setbacks*.

The ordinances that amended the previous Section 2.3 are: Ord. No. 3-07, § 1, 2-5-07; Ord. No. 8-07, § 1(A), 5-21-07; Ord. No. 15-08, §§ 4—9, 12-5-08; Ord. No. 20-09, § 4(Exh. B(3)), 9-21-09; Ord. No. 2014-25, § 01(Exh. A), 12-15-14; Ord. No. 2015-23, § 01, 9-21-15; Ord. No. 2017-19, § 1, 9-18-17; Ord. No. 2018-04, § 1(Att. A), 2-19-18; Ord. No. 2018-22, § 1(Att. B), 9-17-18; Ord. No. 2020-04, § 1(Exh. A), 2-17-20; Ord. No. 2020-24, § 1(Exh. A), 10-19-20; Ord. No. 2020-25, § 1(Exh. A), 10-19-20; Ord. No. 2021-16, § 1(Exh. A), 4-19-21; Ord. No. 2021-28, § 1(Exh. A), 6-21-21; Ord. No. 2022-40, § 1(Exh. A), 6-20-22; Ord. No. 2022-69, § 1(Exh. A), 11-7-22; Ord. No. 2023-07, § 1(Exh. A), 2-6-23; Ord. No. 2023-61, § 1(Exh. A), 12-18-23.

2.7. Yards and setbacks.

2.7.2. Setbacks for principal structures.

- A. The minimum setback distance for principal structures varies by zoning district and shall be measured in accordance with this section.

TABLE 2.7.2-B: SETBACKS FOR PRINCIPAL STRUCTURES

District	Front Yard Setback	Rear Yard Setback	Side Yard Setback
GR (4, 8)	15 feet	25 feet	6 feet
RMX	10 feet	25 feet	6 feet


TABLE 2.7.2-B: SETBACKS FOR PRINCIPAL STRUCTURES

District	Front Yard Setback	Rear Yard Setback	Side Yard Setback
NMX	Edge of right-of-way	10 feet	0 feet / 10 feet from residential district
PGX	15 feet	10 feet	6 feet
DMX	Edge of right-of-way	0 feet	0 feet
CMX	10 feet	10 feet / 25 feet from residential district	0 feet / 10 feet from residential district
IC	40 feet	40 feet	40 feet
GI	15 feet	10 feet / 25 feet from residential district	10 feet / 25 feet from residential district
CZD	To be determined by approving authority		

(Ord. No. [2023-61](#), § 1(Exh. A), 12-18-23; Ord. No. [2024-23](#), § 1(Exh. A), 6-3-24)

2.7.3. Setbacks for accessory structures.

A. Setbacks for accessory structures vary based on the size of the structure and the zoning district.

TABLE 2.7.3-A: SETBACKS FOR ACCESSORY STRUCTURES

District	Side Yard Setback		Rear Yard Setback	
	< 120 sq. ft.	≥ 120 sq. ft.	< 120 sq. ft.	≥ 120 sq. ft.
GR (4, 8)	3 feet	6 feet	3 feet	10 feet
RMX	0 feet	3 feet	0 feet	3 feet
NMX	0 feet	3 feet	0 feet	3 feet
PGX	0 feet	3 feet	0 feet	3 feet
DMX	0 feet	0 feet	0 feet	0 feet
CMX	0 feet	0 feet	0 feet	0 feet
IC	40 feet along all external boundaries			
GI	10 feet/25 feet from residential district	10 feet/25 feet from residential district	10 feet/25 feet from residential district	10 feet/25 feet from residential district
CZD	To be determined by approving authority			

B. Accessory structures to residential uses located within 6 feet of the principal structure are considered to be attached for the purpose of setbacks, and shall comply with the setback requirements of the principal structure.

(Ord. No. [2023-61](#), § 1(Exh. A), 12-18-23; Ord. No. [2024-23](#), § 1(Exh. A), 6-3-24)



CHAPTER 3. USE DEFINITIONS AND STANDARDS

3.13. Accessory uses.

3.13.2. Non-residential accessory use category.

D. *Mobile food vendor site.*

1. Definition: A permanent location for licensed mobile food vendors or food trucks to offer food and beverages for sale consumption.
2. Additional Standards:
 - a. Mobile food vendors shall only vend at permanent locations permitted under this section.
 - b. The owner, or authorized agent thereof, of any property upon which a mobile food vendor(s) proposes to operate, shall secure a permit for the establishment of a mobile food vendor site.
 - c. Mobile food vendors using the designated site shall secure all necessary permits required by the Transylvania County Health Department.
 - i. Mobile food vendors must follow all applicable rules and requirements of the Transylvania County Health Department and any other relevant agencies of Transylvania County or the State of North Carolina.
 - ii. In the issuance of permits for mobile food vendor sites and mobile food vendors, the administrator shall have broad discretion to assign such conditions as may be necessary to protect the health, safety, and welfare of the public
 - d. Number of mobile food vendor sites:
 - i. In NMX and DMX zoning districts, only 1 mobile food vendor site shall be permitted per parcel.
 - ii. In [PGX](#), CMX, IC, and GI zoning districts, each parcel is permitted up to 3 mobile food vendor sites, so long as all other separation and site requirements as set forth in this section are met.
 - iii. Additional mobile food vendor sites may be permitted with the issuance of a special use permit in accordance with [CHAPTER 16](#).
 - e. Separation requirements:
 - i. Mobile food vendors shall be situated at least 10 feet from all property lines and any road right-of-way, shall not encroach onto any street, sidewalk, or travel way, and shall not obstruct any loading zone or handicapped parking space.
 - (A) This requirement shall not apply to special events approved by the city for placement upon public streets.
 - ii. Mobile food vendors shall be situated at least 20 feet from one another.
 - iii. Mobile food vendors shall be situated at least 25 feet from any permanent structures.
 - (A) The administrator may, upon recommendation of the fire marshal, approve the placement of mobile food vendors within 25 feet or less of a permanent structure. Such approval shall be based upon building type, building materials, existing fire breaks, and



other pertinent information. Such reductions shall be reviewed on a case-by-case basis, at the discretion of the administrator.

- (B) There shall be no reduction in separation between mobile food vendors and permanent structures within the downtown fire district.
- iv. Mobile food vendors shall be situated at least 200 feet from any residential structure that is located within GR zoning district.
- v. Mobile food vendors must be set back a minimum of ten feet in all directions from fire hydrants.
- f. Power.
 - i. Outside of the Heart of Brevard district, generators may be used to power the vending unit. Within the Heart of Brevard only dedicated power supplies shall be used.
 - ii. For dedicated power supplies the applicant must present documentation that power load supplied to the vehicle is sufficient to meet the vehicles needs while in operation.
- g. Hours of operation for mobile food vendors shall be limited to 7:00 a.m. to 10:00 p.m., except during an approved special event, when other operating hours may be established as part of the event.
- h. Mobile food vendor operators or their designee must be present at all times during operation, except in the event of an emergency.
- i. Each food truck shall supply at least one waste receptacle which must be removed at the end of each day. All waste receptacles must be emptied at the end of each day and as necessary during the day. City trash receptacles shall not be used for the food truck operator's waste.
- j. Mobile food vendor signage shall be limited to the following:
 - i. Mobile food vendors shall be allowed signage only as described in Chapter 12 of this Ordinance.
 - ii. Nothing in this Ordinance shall be construed to mean that mobile food vendor vehicles cannot be painted or decorated, or display menus affixed to the side(s) of the vendor vehicle.



CHAPTER 4. LOT AND SUBDIVISION REQUIREMENTS

4.2.3. Street frontage required.

- A. All newly created parcels, lots, tracts, or other subdivisions of land, shall directly abut and have direct frontage upon a public street, except:
1. Interior lots within a group development where the overall site abuts a public street and is designed in such a manner that access is furnished to all interior lots or building sites (see Section 4.2.5).
 2. Air lots (see Section 4.2.6).
 3. Environmental containment and conservation lots (see Section 4.2.7).
- B. Street frontage for conventional lots shall meet the minimum requirements set forth below at the right-of-way line:

TABLE 4.2.3-A: STREET FRONTAGE REQUIREMENTS FOR CONVENTIONAL LOTS	
District	Minimum Street Frontage
GR (4, 8)	30 feet
RMX	30 feet
NMX	20 feet
PGX	20 feet
DMX	0 feet
CMX	0 feet
IC	60 feet
GI	60 feet
<i>Note: The dimensional requirements for irregular lots, including minimum street frontage, can be found in Section 4.2.4.</i>	

- C. The following shall not be considered a public street for the purposes of satisfying street frontage requirements:
1. Access, utility, service, or other easements under the ownership, control, or maintenance of the City of Brevard, the State of North Carolina, or the United States of America;
 2. Public rights-of-way under the ownership and control of the City of Brevard, the State of North Carolina, or the United States of America, which are not open and operable as a travel lane for motorized vehicles
- D. Private streets, in lieu of public streets, may satisfy street frontage requirements if the following provisions are met:
1. The lots are not located within the corporate limits of the City of Brevard;
 2. The private street is either:
 - a. 150 linear feet or less in length may satisfy frontage requirements for up to three single-family lots;



- b. Maintained in perpetuity by a property owner's association or development agreement.
- 3. The private street consists of a drivable surface of at least 20 feet in width and remains adequately maintained to afford a reasonable means of ingress and egress of emergency vehicles.
- E. The private street is designed and built in accordance with public street standards set forth in [CHAPTER 13](#) of this ordinance.
- F. *Reserve strips*: There shall be no reserve strips or any other means of limiting the accessibility of parcels platted in any subdivision.

(Ord. No. [2024-23](#), § 1(Exh. A), 6-3-24)



CHAPTER 5. BUILDING TYPES AND ARCHITECTURAL STANDARDS

5.6. Permitted building type by district.

The following table indicates the permitted building type requirements by district. An "X" indicates that the specific building type and its requirements are applicable.

TABLE 5.6A: PERMITTED BUILDING TYPE BY DISTRICT								
Building Type	Zoning District							
	GR	RMX	NMX	<u>PGX</u>	DMX	CMX	IC	GI
Civic	X	X	X	<u>X</u>	X	X	X	
Institutional	X	X		<u>X</u>			X	
House	X	X	X					
Townhome	X	X	X	<u>X</u>	X	X	X	
Apartment		X	X	<u>X</u>	X	X	X	
Mixed-Use			X	<u>X</u>	X	X	X	
Commercial				<u>X</u>		X		
Note: Because of the unique characteristics of group developments, they may be exempted from the permitted building type by district above, and instead may include all building types for all zoning districts, as determined by the administrator.								

(Ord. No. 2020-24 , § 1(Exh. A), 10-19-20; Ord. No. 2020-25 , § 1(Exh. A), 10-19-20; Ord. No. 2022-40, § 1(Exh. A), 6-20-22)



CHAPTER 8. TREE PROTECTION AND LANDSCAPING

8.4. Buffers and screening.

A. **Applicability:**

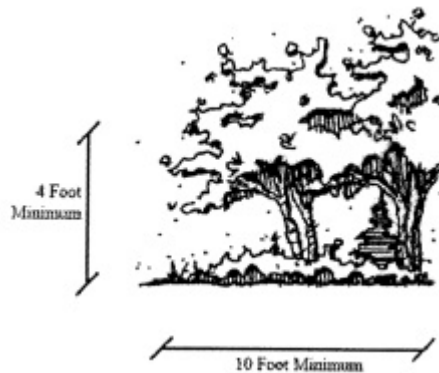
1. These regulations shall apply to the following:
 - i. All newly developed properties
 - ii. When expansions or changes in use result in the expansion of gross floor area of an existing building and/or parking and loading area of over 25 percent, and any property containing an existing structure undergoes significant or substantial improvement as defined in [CHAPTER 19](#) of this ordinance, then the parcel shall comply with the landscaping requirements of this section to the maximum extent practical.
 - iii. When the zoning district classification changes for an existing use or parcel at the request of the property owner or representative thereof, then the parcel shall comply with the landscaping requirements of this section to the maximum extent practical.
2. The administrator may modify landscaping requirements up to ten percent in situations where pre-existing conditions make it impossible to comply with subsections ii and iii above.
3. Applicants are encouraged to design buffer and other landscape areas in such a way as to satisfy stormwater management requirements as set forth in [CHAPTER 6](#) of this ordinance.

B. **Buffer yard types:**

1. *Type A buffer yard:*
 - a. Minimum width: 10 feet.
 - b. Minimum height and opacity: Ground to 6 feet—Semi-Opaque Screen.
 - c. Maximum horizontal openings: 20 feet.
 - d. Performance standard: A buffer which is ten feet in width and contains screening materials which at maturity provide intermittent visual obstruction from the ground to a height of four feet as well as intermittent visual obstruction from a height of four feet up to a height of 30 feet. Vegetative screening materials within intermittent visual obstruction areas shall contain horizontal openings no greater than 20 feet in width upon the plants' maturity.



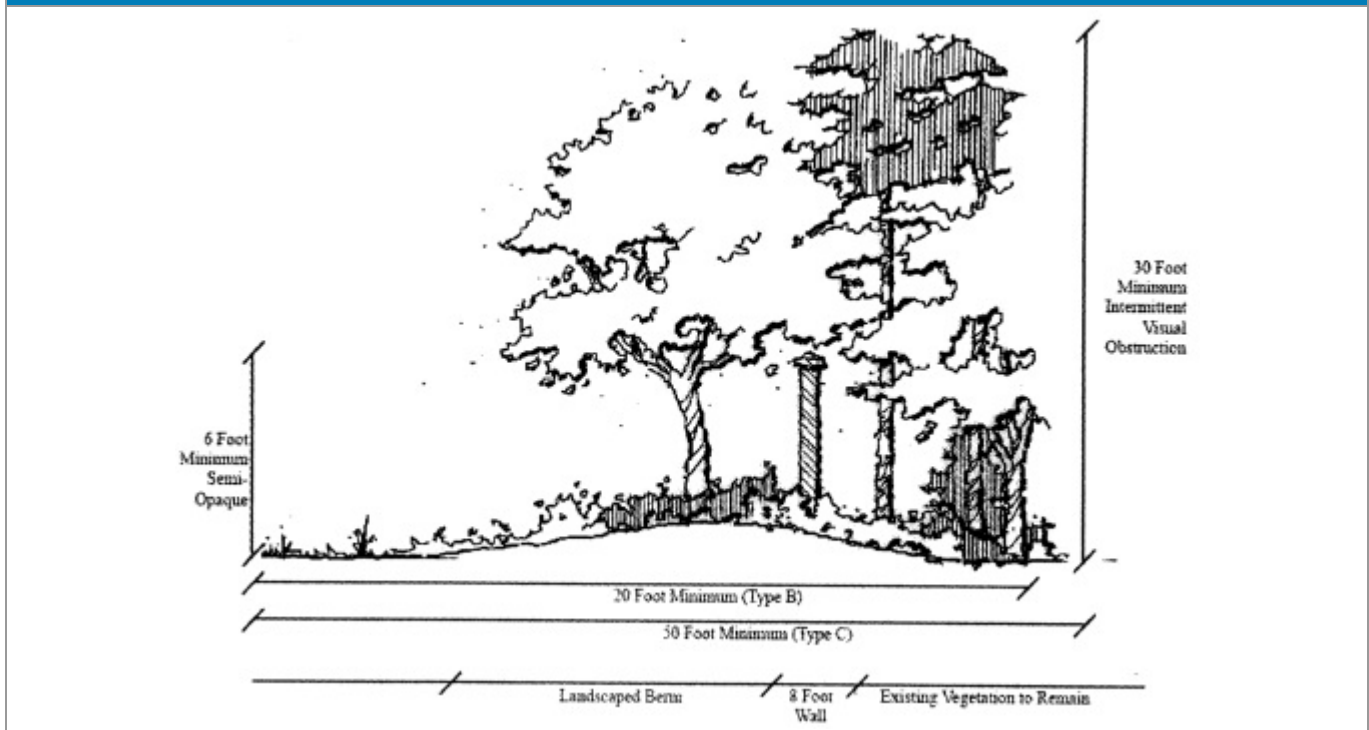
FIGURE 8.4-A: TYPE A BUFFER YARD



2. *Type B buffer yard:*
 - a. Minimum width: 20 feet.
 - b. Minimum height and opacity: Ground to 6 feet—Semi-Opaque Screen; 6—30 feet—Intermittent Visual Obstruction.
 - c. Maximum horizontal openings: 15 feet—Semi-Opaque Screen Areas; 20 feet—Intermittent Visual Obstruction Areas.
 - d. Performance standard: A buffer which is 20 feet in width and contains screening materials which at maturity provide semi-opacity from the ground to a height of six feet, and intermittent visual obstruction from a height of six feet up to a height of 30 feet. Vegetative screening materials within intermittent visual obstruction areas shall contain horizontal openings no greater than 20 feet in width; and vegetative screening materials within semi-opaque areas shall contain horizontal openings no greater than 15 feet in width upon the plants' maturity.
3. *Type C buffer yard:*
 - a. Minimum width: 50 feet.
 - b. Minimum height and opacity: Ground to 6 feet—Semi-Opaque Screen; 6—30 feet—Intermittent Visual Obstruction.
 - c. Maximum horizontal openings: 15 feet—Semi-Opaque Screen Areas; 20 feet—Intermittent Visual Obstruction Areas.
 - d. Performance standard: A buffer which is 50 feet in width and contains screening materials which at maturity provides semi-opacity from the ground to a height of six feet, and intermittent visual obstruction from a height of six height up to a height of 30 feet. Vegetative screening materials within intermittent visual obstruction areas shall contain horizontal openings no greater than 20 feet in width; Vegetative screening materials within semi-opaque areas shall contain no horizontal openings greater than 15 feet in width upon the plants' maturity.



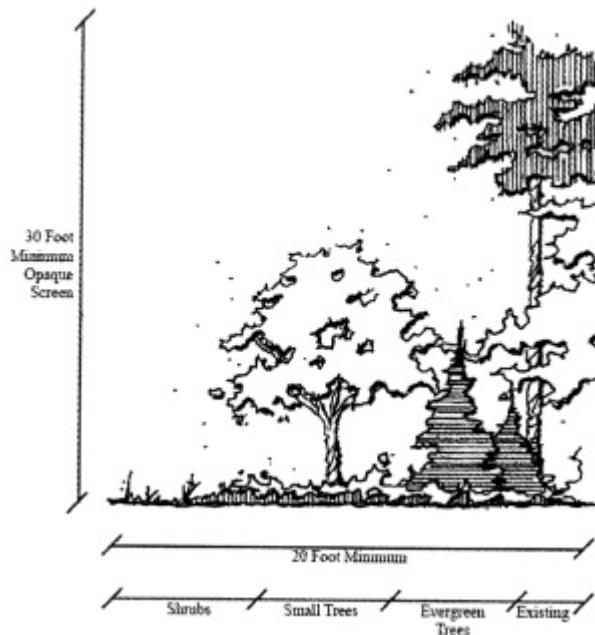
FIGURE 8.4-B: TYPE B AND TYPE C BUFFER YARDS



4. *Type D buffer yard:*
 - a. Minimum width: 30 feet.
 - b. Minimum height and opacity: Ground to 30 feet—Opaque.
 - c. Maximum horizontal openings: None permitted.
 - d. Performance standard: A buffer which is 30 feet in width and contains screening materials which at maturity provides opacity from the ground to a height of 30 feet. Vegetative screening materials within opaque areas shall contain no horizontal openings upon the plants' maturity.



FIGURE 8.4-C: TYPE D BUFFER YARD



5. *Type E buffer yard.*

- a. Minimum width: 25 feet.
- b. Minimum height and opacity: Ground to 30 feet—Opaque.
- c. Maximum horizontal openings: None permitted.
- d. Performance standard: A buffer which is 25 feet in width and contains screening materials which at maturity provides opacity from the ground to a height of 30 feet. Vegetative screen materials within opaque areas shall contain no horizontal openings upon the plants' maturity.

C. Fences, walls, and berms:

1. Fences, walls, or earthen berms may be substituted for all or a portion of the shrub requirement in all buffer types. In addition, existing vegetation within the buffer shall be maintained and may receive partial or total credit towards screening requirements. All berms, if provided, shall not exceed a slope with maximum rise of one foot to a run of two feet (a ratio of 1:2) and a maximum height of four feet. All berms, regardless of size, shall be stabilized with a ground cover or other suitable vegetation or permanent slope retention device. Berms taller than four feet shall be approved by the administrator on a case by case basis.

D. Required buffer yards:

1. A buffer yard is intended to give spatial separation and to decrease visual contact between incompatible uses. Buffer yards shall be required in accordance with the tables below when any use is being established on a property that abuts an existing developed lot or less intense zoning district. More stringent buffer yard requirements may apply to certain specified uses as set forth in [CHAPTER 3](#) of this ordinance.



2. Buffer yards shall be required along the perimeter of proposed projects within certain zoning districts (and associated conditional districts) when such project lies *adjacent* to a zoning district (or conditional district) of lesser intensity:

TABLE 8.4-A: REQUIRED BUFFER YARDS BY ZONING DISTRICT

		Adjacent District							
		GR	RMX	NMX	PGX	DMX	IC	CMX	GI
District in Which Development is Located	GR	None	None	None	<u>None</u>	None	None	B	D
	RMX	B	None	None	<u>None</u>	None	None	None	D
	NMX	B	A	None	<u>None</u>	None	None	None	D
	<u>PGX</u>	<u>B</u>	<u>A</u>	<u>A</u>	<u>None</u>	<u>None</u>	<u>None</u>	<u>None</u>	<u>D</u>
	DMX	B	A	A	<u>A</u>	None	None	None	D
	IC	C	C	C	<u>C</u>	C	None	None	None
	CMX	D	D	D	<u>D</u>	D	None	None	None
	GI	E	E	E	<u>E</u>	E	None	None	None

3. In addition to the buffer yards required between districts as set forth above, buffer yards shall be required for certain types of development *within* certain zoning districts and associated conditional districts, as follows. This requirement applies regardless of the adjacent district. However, where conflicts occur between 8.4.D.2, above, and this section, the more restrictive requirement shall apply.

TABLE 8.4-B: REQUIRED BUFFER YARDS BY TYPE OF PROPOSED DEVELOPMENT

		New Multifamily (more than 4 units/bldg.)	Non-Residential Group Development
District in Which Development is Located	GR	B	B
	RMX	B	B
	NMX	B	B
	<u>PGX</u>	<u>B</u>	<u>B</u>
	DMX	B	B
	CMX	B	D
	IC	B	C
	GI	NA	E

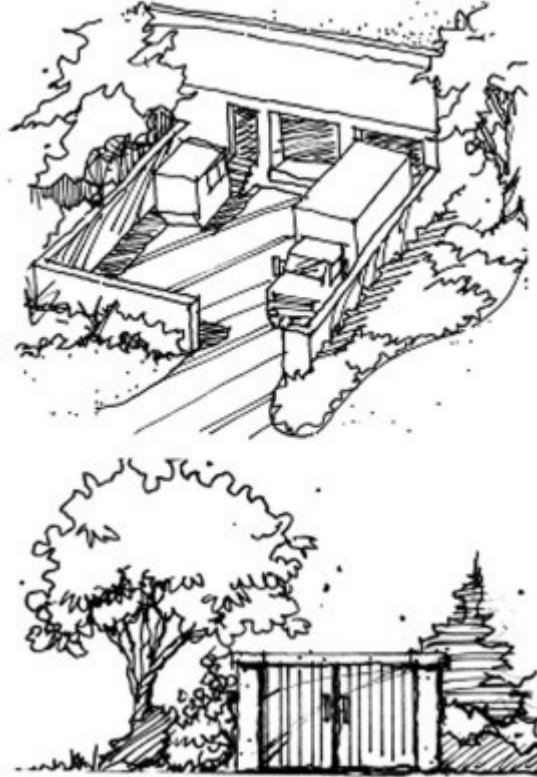


4. The approving authority may require alternative buffers or landscaping, including locations other than those typically required, when a modification to the requirements of this section is warranted in order to meet the intent of the specified standards.
5. Buffer yards are intended to be constructed along the perimeter of the property or project; however, when there are irregular topographic conditions (such as the perimeter of the property is at a lower grade than the use being screened) the approving authority may require the relocation of the required buffer yard in order to better serve its purpose.
6. Natural vegetation, vegetation required for tree protection, riparian buffer areas, and other forms of existing vegetation may be utilized to satisfy these requirements when such natural and existing vegetation clearly satisfies the purpose of this section.
7. Off-site vegetation:
 - a. Existing plant material on adjacent property may be credited toward buffer requirements, provided that such material is in a permanently protected area such as a conservation easement or similarly preserved area.
 - b. Plant material, existing or proposed, on an adjacent property may be credited toward buffer requirements through use of a landscape easement.
8. Buffer requirements may be reduced or waived by the approving authority in the following circumstances:
 - a. Such requirements would pose a safety hazard.
 - b. The plantings or planting area would conflict with utilities, easements, or overhead power lines, or encroach upon city trees, as recommended by the city horticulturalist.
 - c. Special use permits based solely upon building height or building ground floor square footage size, where such requirement would serve no useful purpose.
 - d. When projects to which these requirements apply exhibit unifying architectural and landscape design characteristics that integrate the project into surrounding development, and when the landscape design of such a project clearly meets and exceeds the goal of these requirements such that these requirements become unnecessary.
9. Fences, walls and berms in buffers
 - a. Where walls and berms are built within any required project boundary buffer, they shall meet the following requirements.
 - i. Walls and berms within a buffer may be used to permit a reduction in the buffer up to 25 percent of the required width.
 - ii. Walls and berms shall not be permitted within surface water protection areas, floodplains, and floodways.
 - iii. Walls and berms shall conform to other applicable requirements of this ordinance.
 - iv. All walls, when located within a buffer, shall be planted on the face towards the adjacent property with at least one upright shrub for every six feet of wall length.
 - v. Berms shall have side slopes of not less than three feet horizontal for each one foot vertical and a minimum crown width of two feet.
 - vi. Prior to issuance of the first certificate of compliance, berms shall be planted to ensure coverage by live plant material within three to five years.
 - vii. The applicant shall be required to demonstrate provision for access and maintenance of landscaping and the wall, berm, or fence structure at the time of landscape plan approval.



- viii. Chain link and concertina wire fences shall be buffered by a Type A buffer yard on all sides.

FIGURE 8.4-D: ILLUSTRATIONS OF APPROPRIATE SCREENING OF DUMPSTERS AND LOADING AREAS



(Ord. No. 15-08, §§ 22, 23, 25, 12-5-08; Ord. No. 2018-22, § 1(Att. B), 9-17-18; Ord. No. 2020-24 , § 1(Exh. A), 10-19-20; Ord. No. 2021-16 , § 1(Exh. A), 4-19-21; Ord. No. 2021-31 , § 1(Exh. A), 6-21-21; Ord. No. [2024-23](#), § 1(Exh. A), 6-3-24)



CHAPTER 10. PARKING STANDARDS

10.3. Off-street vehicle parking requirements.

A. General off-street parking requirements:

1. Off-street parking requirements are structured in a three-tier system as follows:
 - a. **Tier 1:** A minimum number of off-street parking spaces are required. There are no off-street parking maximums. Generally, zoning districts in this tier are less walkable and do not have available public parking or space for on-street parking.
 - b. **Tier 2:** A minimum number of off-street parking spaces are required. There are also off-street parking space maximums. Generally, zoning districts in this tier contain a mix of lower-density residential and commercial uses. Some off-street parking is necessary to preserve public rights-of-way, but many of these areas are more amenable to alternative modes of transportation.
 - c. **Tier 3:** There is no required number of spaces for off-street parking, but there are off-street parking space maximums. Generally, zoning districts in this tier consist of dense, heavily commercial development.
2. The tiered parking requirements applies based on the zoning district. In the case of Planned Development Districts or Conditional Zoning Districts, the tier applicable to the base zoning district shall apply, unless otherwise specified in the adopting ordinance.

TABLE 10.3-A: TIERED PARKING REQUIREMENTS

Parking Requirement Tier	Zoning Districts
Tier 1	General Residential (GR) and General Industrial (GI)
Tier 2	Residential Mixed-Use (RMX), Neighborhood Mixed-Use (NMX), Pisgah Gateway Mixed-Use (PGX) and Institutional Campus (IC)
Tier 3	Downtown Mixed-Use (DMX) and Corridor Mixed-Use (CMX)

B. Off-street parking minimum and maximum vehicle parking ratios:

TABLE 10.3-B: OFF-STREET MINIMUM AND MAXIMUM VEHICLE PARKING RATIOS

Category	Land Use	Tier 1		Tier 2		Tier 3	
		Minimum	Maximum	Minimum	Maximum	Minimum	Maximum
Residential							
Household Living	All household living uses, except as listed below	1.5 / d.u.		1 / d.u.	2 / d.u.		2 / d.u.
	Dwelling - Single-family	2 / d.u.		1 / d.u.	2 / d.u.		2 / d.u.


TABLE 10.3-B: OFF-STREET MINIMUM AND MAXIMUM VEHICLE PARKING RATIOS

Category	Land Use	Tier 1		Tier 2		Tier 3	
		Minimum	Maximum	Minimum	Maximum	Minimum	Maximum
	Manufactured Home	2 / d.u.		1 / d.u.	2 / d.u.		2 / d.u.
Group Living	All group living uses, except as listed below	1 / d.u. or rooming unit		1 / d.u. or rooming unit	3 / d.u. or rooming unit		3 / d.u. or rooming unit
	Rooming or Boarding House	0.5 / rooming unit		0.5 / rooming unit	1.5 / rooming unit + 1 additional space		1.5 / rooming unit + 1 additional space
Social Services	Group Care Facility	1 / d.u., rooming unit, or bed		1 / d.u., rooming unit, or bed	3 / d.u., rooming unit, or bed		3 / d.u., rooming unit, or bed
	Shelter	2 spaces		2 spaces	6 spaces		6 spaces
Lodging							
Overnight Accommodations	All overnight accommodations, except as listed below	1 / room or suite		0.5 / room or suite	1.5 / room or suite		1.5 / room or suite
	Short-term Rental	2 / rental unit		1 / rental unit	2 / rental unit		2 / rental unit
Camping	Campground / Recreational Vehicle Park	0.25 / campsite or RV parking site		0.2 / campsite or RV parking site	1 / campsite or RV parking site		1 / campsite or RV parking site
	Rental Cottage / Cabins	1 / room or suite		0.5 / room or suite	1.5 / room or suite		1.5 / room or suite
	Seasonal Camp	Varies, See Section 10.3.D		Varies, See Section 10.3.D	Varies, See Section 10.3.D		Varies, See Section 10.3.D
Commercial							
Eating and Drinking Establishments	All restaurants and other eating and drinking establishments	1 / 750 SF		1 / 750 SF	1 / 200 SF		1 / 200 SF
Personal Services	All personal services	1 / 500 SF		1 / 600 SF	1 / 300 SF		1 / 300 SF
Professional Services	All professional services, except as listed below	1 / 500 SF		1 / 600 SF	1 / 300 SF		1 / 300 SF


TABLE 10.3-B: OFF-STREET MINIMUM AND MAXIMUM VEHICLE PARKING RATIOS

Category	Land Use	Tier 1		Tier 2		Tier 3	
		Minimum	Maximum	Minimum	Maximum	Minimum	Maximum
	Funeral Homes and Services	1 / 4 seats in main assembly area + 1 / 500 SF of office space		1 / 4 seats in main assembly area + 1 / 600 SF of office space	1 / 2 seats in main assembly area + 1 / 300 SF of office space		1 / 2 seats in main assembly area + 1 / 300 SF of office space
Retail	All retail and sales establishments, except as listed below	1 / 500 SF		1 / 600 SF	1 / 300 SF		1 / 300 SF
	Gas Station	1 / 500 SF of retail		1 / 500 SF of retail	1 / 400 SF of retail		1 / 400 SF of retail
<i>Civic / Institutional</i>							
Educational	All educational uses, except as listed below	2 / classroom		2 / classroom	None		None
	Colleges / Universities	Varies, See Section 10.3.D		Varies, See Section 10.3.D	Varies, See Section 10.3.D		Varies, See Section 10.3.D
	Schools - Vocational / Technical	Varies, See Section 10.3.D		Varies, See Section 10.3.D	Varies, See Section 10.3.D		Varies, See Section 10.3.D
Governmental	All government uses	1 / 750 SF		1 / 1,000 SF	1 / 200 SF		1 / 200 SF
Medical	All medical offices and facilities, except as listed below	1 / 500 SF		1 / 600 SF	1 / 300 SF		1 / 300 SF
	Hospital	2.5 / patient room		2 / patient room	5 / patient room		5 / patient room
Places of Worship	All religious institutions or places of worship	1 / 6 seats in main assembly area + 1 / 500 SF of office space		1 / 6 seats in main assembly area + 1 / 600 SF of office space	1 / 2 seats in main assembly area + 1 / 300 SF of office space		1 / 2 seats in main assembly area + 1 / 300 SF of office space
<i>Entertainment / Recreation</i>							
Indoor Recreation	All indoor recreation facilities, except as listed below	1 / 500 SF		1 / 750 SF	1 / 250 SF		1 / 250 SF


TABLE 10.3-B: OFF-STREET MINIMUM AND MAXIMUM VEHICLE PARKING RATIOS

Category	Land Use	Tier 1		Tier 2		Tier 3	
		Minimum	Maximum	Minimum	Maximum	Minimum	Maximum
	Cultural or Community Facility	1 / 6 seats in main assembly area + 1 / 500 SF of office space		1 / 6 seats in main assembly area + 1 / 600 SF of office space	1 / 2 seats in main assembly area + 1 / 300 SF of office space		1 / 2 seats in main assembly area + 1 / 300 SF of office space
	Live Performance Theater	1 / 8 seats		1 / 10 seats	1 / 2 seats		1 / 2 seats
	Movie Theater	1 / 8 seats		1 / 10 seats	1 / 2 seats		1 / 2 seats
	Special Event Venue	Varies, See Section 10.3.D		Varies, See Section 10.3.D	Varies, See Section 10.3.D		Varies, See Section 10.3.D
Outdoor Recreation	All outdoor recreation facilities	Varies, See Section 10.3.D		Varies, See Section 10.3.D	Varies, See Section 10.3.D		Varies, See Section 10.3.D
Agriculture							
Agriculture	All agricultural uses	1 / 500 SF of retail or administrative space		1 / 750 SF or retail or administrative space	1 / 300 SF of retail or administrative space		1 / 300 SF of retail or administrative space
Manufacturing / Wholesale / Storage							
Light Industrial and Manufacturing	All light industrial and manufacturing activities	1 / 750 SF of office, retail or administrative space + 1 / 4,000 SF of industrial space		1 / 750 SF of office, retail or administrative space + 1 / 4,000 SF of industrial space	1 / 300 SF of office, retail or administrative space + 1 / 2,000 SF of industrial space		1 / 300 SF of office, retail or administrative space + 1 / 2,000 SF of industrial space
Heavy Manufacturing	All heavy manufacturing activities	1 / 750 SF of office, retail or administrative space + 1 / 4,000 SF of industrial space		1 / 750 SF of office, retail or administrative space + 1 / 4,000 SF of industrial space	1 / 300 SF of office, retail or administrative space + 1 / 2,000 SF of industrial space		1 / 300 SF of office, retail or administrative space + 1 / 2,000 SF of industrial space


TABLE 10.3-B: OFF-STREET MINIMUM AND MAXIMUM VEHICLE PARKING RATIOS

Category	Land Use	Tier 1		Tier 2		Tier 3	
		Minimum	Maximum	Minimum	Maximum	Minimum	Maximum
Storage and Disposal	All storage and disposal activities	1 / 750 SF of office, retail or administrative space + 1 / 4,000 SF of industrial space		1 / 750 SF of office, retail or administrative space + 1 / 4,000 SF of industrial space	1 / 300 SF of office, retail or administrative space + 1 / 2,000 SF of industrial space		1 / 300 SF of office, retail or administrative space + 1 / 2,000 SF of industrial space
Wholesaling and Distribution	All wholesaling and distribution activities	1 / 750 SF of office, retail or administrative space + 1 / 4,000 SF of industrial space		1 / 750 SF of office, retail or administrative space + 1 / 4,000 SF of industrial space	1 / 300 SF of office, retail or administrative space + 1 / 2,000 SF of industrial space		1 / 300 SF of office, retail or administrative space + 1 / 2,000 SF of industrial space
Extractive Industries	All extractive industries	Varies, See Section 10.3.D		Varies, See Section 10.3.D	Varies, See Section 10.3.D		Varies, See Section 10.3.D
Infrastructure							
Utilities	All utilities	N/A		N/A	N/A		N/A
Telecommunications	All wireless telecommunication facilities	N/A		N/A	N/A		N/A
Transportation	All transportation uses	N/A		N/A	N/A		N/A
Note: All square footage in gross square feet. d.u. = dwelling unit.							



CHAPTER 12. SIGNS

12.8. Temporary signs.

- A. Common standards:** All temporary signs shall comply with the following common standards:.
1. Temporary signs shall not be illuminated or be displayed by any electrified device.
 2. Temporary signs shall not be placed within any public right-of-way, including within medians, unless expressly permitted by this ordinance or the North Carolina General Statutes.
 3. Temporary signs attached to buildings shall not be placed in a manner that obstructs any window, door, fire department sprinkler connection, ingress, egress, or street number sign.
 4. Temporary signs shall not be affixed to any permanent sign or its supporting structure.
 5. Temporary signs shall not be placed in a manner that obstructs clear sight distance (e.g. within the required sight triangle) for motorists, bicyclists, or pedestrians at street intersections or driveways.
 6. Temporary signs, other than Type 4 freestanding temporary signs as allowed herein, shall not be placed upon any sidewalk or other pedestrian walkway.
 7. Temporary signs shall not be placed on the roof of a building, or affixed to a tree, rock, bridge, utility pole, or permanent sign.
 8. Any required period of separation between such the number or duration of temporary sign displays shall carry over the changing of calendar years, and shall be observed prior to initiating the first allowed display during the new calendar year.
- B. Freestanding (ground) temporary signs.**
1. *General provisions.* The following standards apply to all freestanding temporary signs:
 - a. Signs shall not be affixed to any supporting structures that are permanently installed or anchored into the ground through the use of concrete foundations or similar anchoring techniques.
 - b. Signs, other than Type 4 freestanding temporary signs as allowed in Section 12.8.B.5, shall not be placed in the right-of-way.
 - c. No more than one freestanding temporary sign may be displayed on a parcel or group of adjacent parcels under common ownership or tenancy at any given time, regardless of type, unless otherwise expressly permitted.
 2. *Type 1 freestanding temporary signs.* Signs in this category consist of small, temporary yard signs that are typically associated with, but are not limited to, the advertisement of real estate, political campaigns, and meetings.
 - a. *Where permitted.* Type 1 freestanding temporary signs may be displayed in any zoning district and may be associated with any use, including parcels containing vacant or undeveloped land.
 - b. *Size.* The maximum sign display area is limited to four square feet.
 - c. *Height.* The maximum height of the sign, including any supporting posts or stakes, is limited to four feet above the lowest adjacent grade.
 - d. *Number:*
 - i. One Type 1 freestanding temporary sign may be displayed per parcel, per street frontage.



- ii. Beginning 90 days prior to the beginning of early voting for any scheduled primary or election, as established by the North Carolina Board of Elections, and ending ten days following the primary or election, this limit on the number of Type 1 freestanding temporary signs that may be displayed is suspended for parcels zoned GR or RMX. All other regulations associated with such signage shall remain in effect during such period of suspension.
 - e. *Material.* Type 1 freestanding temporary sign faces shall be made of a rigid material.
 - f. *Mounting standard.* Signs may only be mounted and supported by posts or stakes.
 - g. *Number of sides.* The display area may be either single or dual sided.
 - h. *Duration of display.* The duration of the display of a Type 1 sign is limited to 100 days, with a minimum separation period of 10 days between displays.
3. *Type 2 freestanding temporary signs.* Signs in this category are commonly referred to as "banners" that are typically associated with, but not limited to, the announcement of new business openings, community events, and similar unique events.
 - a. *Where permitted.* Type 2 signs are permitted only on parcels in the RMX, NMX, [PGX](#), DMX, CMX, GI, and IC zoning districts.
 - b. *Size.* The maximum sign display area is limited to 18 square feet in RMX, NMX, [PGX](#), and DMX districts, and 32 square feet in CMX, GI, and IC districts.
 - c. *Height.* The maximum height of the sign, including any supporting posts or stakes, is limited to four feet above the lowest adjacent grade.
 - d. *Number:* One Type 2 freestanding temporary sign may be displayed on a parcel or group of adjacent parcels under common ownership or tenancy.
 - e. *Material.* Sign faces shall be made of a flexible material.
 - f. *Mounting standard.* Signs may only be mounted and supported by posts or stakes.
 - g. *Number of sides.* The display area may be either single or dual sided.
 - h. *Duration of display.* Type 2 freestanding temporary signs are permitted to be displayed during the initial openings of businesses, community events, or special sales, for a maximum of 14 days at a time. A maximum of six separate displays are permitted during each calendar year with a minimum of ten days of separation between displays by the same use/business/tenant.
4. *Type 3 freestanding temporary signs.* Signs in this category are larger temporary signs typically associated with, but not limited to, the advertisement of large tracts of land for sale, construction and development activity, or the advertisement of commercial or industrial buildings for sale or lease.
 - a. *Where permitted.* Type 3 signs are permitted only on parcels or groups of adjacent parcels under common ownership that meet one of the following:
 - i. A residential use on a parcel or group of adjacent parcels under common ownership that is a minimum of three acres in size zoned GR;
 - ii. Vacant or undeveloped land where the parcel or group of adjacent parcels under common ownership that is a minimum of one acre in size in any zoning district;
 - iii. A non-residential use in any non-residential zoning district upon a parcel that has a minimum of 200 feet of frontage on a public street, as measured at the right-of-way; or
 - iv. A non-residential use in any non-residential zoning district upon a parcel that has construction or development activity per an active development permit.



- b. *Simultaneous display prohibited.* A Type 3 sign shall not be displayed upon a parcel that contains a permanent freestanding sign or sign structure.
 - c. *Size.* The maximum area is limited to 16 square feet in GR and RMX districts, and 24 square feet in all other districts.
 - d. *Height.* The maximum height of the sign, including any supporting posts or stakes, is limited to five feet above the lowest adjacent grade in GR and RMX districts, and eight feet above the lowest adjacent grade in all other districts.
 - e. *Setbacks.*
 - i. Front: No portion of any freestanding ground sign described in this section may be located closer than ten feet (10') to any street right-of-way, except in the DMX district where signs shall be no closer than five feet (5') to any street right-of-way.
 - ii. Side and Rear: No portion of any freestanding sign described in this section shall be located any closer than ten feet (10') to any side or rear property line.
 - f. *Number:* One Type 3 freestanding temporary Sign may be displayed on a parcel or group of adjacent parcels under common ownership or tenancy.
 - g. *Material.* Sign faces shall be made of a rigid material.
 - h. *Mounting standard.* Signs shall be mounted to and supported by a minimum of two (2) separate posts or stakes.
 - i. *Number of sides.* The display area may be either single or dual sided.
 - j. *Duration of display.*
 - i. Type 3 signs may be displayed up to 90 days on any parcel or group of adjacent parcels under common ownership which contain only vacant or undeveloped land for which no development permits have been issued.
 - ii. Type 3 signs may be displayed up to 90 days on any parcel or group of adjacent parcels under common ownership zoned NMX, [PGX](#), CMX, DMX, or GI that have unoccupied commercial buildings.
 - iii. In all other cases, the duration of display shall be limited to two months.
 - iv. Where the display of a Type 3 sign is subject to a limit on the duration of display, there shall be a minimum period of separation of 60 days between the removal of the previously permitted sign and the display of a new sign. Such period of separation shall apply in all cases where a sign subject to a limit on the duration of its display is removed, regardless of whether the maximum allowed duration for its display has been reached at the time of its removal.
5. *Type 4 freestanding temporary signs.* The category of signs defined as Type 4 freestanding temporary signs shall include only those signs which are constructed in a manner that is commonly referred to as an "A-frame" or "sandwich board" sign, consisting of two sides connected at the top by hinges or similar mechanisms.
- a. *Where permitted.* Type 4 freestanding temporary signs are allowed in the RMX, NMX, [PGX](#), DMX, CMX, and IC zoning districts.
 - b. *Size.* The maximum sign display area is limited to eight square feet per side.
 - c. *Height.* The maximum height of the sign is limited to four feet above the grade of the surface upon which it is displayed when placed in its display position.



- d. *Number:* One Type 4 freestanding temporary sign may be displayed per tenant space, provided that no more than two Type 4 signs may be displayed per parcel along the same building street frontage.
- e. *Material.* Sign faces shall be composed of rigid material.
- f. *Location.* Type 4 freestanding temporary signs may be placed upon a public sidewalk or other pedestrian walkway, provided that a minimum of five feet of unobstructed clearance is maintained along the directional path of the walkway. In no case shall a Type 4 sign be placed in a manner that obstructs vehicular access, movement, or visibility. Such signs shall not be locked, chained, or otherwise tethered to posts, utility poles, trees, permanent signs, or any other permanent object.
- g. *Duration of display.* Type 4 signs may only be displayed during the period beginning 30 minutes prior to the daily opening and ending 30 minutes following the daily closing of the business displaying the sign.

C. Wall mounted temporary signs: Temporary signs mounted to building walls may be displayed subject to the following provisions:

1. Wall mounted temporary signs are permitted on buildings housing a commercial use in any zoning district.
2. One temporary wall sign may be displayed per building occupied by a single tenant. Buildings designed for occupancy by multiple tenants may display one temporary wall sign per tenant, but the sum of all signage displayed at one time is limited to the maximum for the building's zoning district as set forth below.
3. Temporary wall signs shall be mounted flush against the building wall and secured at each corner.
4. Maximum display area for temporary wall signs:

TABLE 12.8A: MAXIMUM SIZE OF WALL MOUNTED TEMPORARY SIGNS BY ZONING DISTRICT

Zoning District	Maximum Size (ft. ²)
GR	16 ft. ²
RMX	16 ft. ²
NMX	24 ft. ²
PGX	24 ft.²
DMX	24 ft. ²
CMX	32 ft. ²
GI	38 ft. ²
IC	32 ft. ²

5. Temporary wall signs may be displayed for a maximum of 30 consecutive calendar days.
6. Temporary wall signs may be displayed a maximum of four times per calendar year. A minimum of 30 days of separation shall pass before a new temporary wall sign permit can be issued.

D. Temporary use signage:

1. Upon issuance of a temporary use permit from the City of Brevard, properties being used for the permitted temporary use may display one temporary ground sign on each street frontage of the location of the temporary use for the period of operation as specified in the temporary use permit.



2. The operator of the temporary use may choose any temporary ground sign type found in Section 12.8 and must adhere to all requirements set forth for the sign type, except that the duration of display which may match period of operation as specified in the approved permit.
- E. *Special event signage:* Upon issuance of a special event permit from the City of Brevard, properties being used for the permitted special event may display signs, banners, balloons, decorative flags, and windsocks (hereafter, "special event signage") may be displayed subject to the following requirements:
1. Special event signage may be displayed for the duration of the event and up to one week prior to the start of the event.
 2. Special event signage shall be approved by the administrator before being displayed. A plan showing the location, type and amount of all decorative signage and devices, along with the duration of the event, must be submitted to the administrator for review and approval.
 3. A deposit must be given to the city ensuring removal of all special event signage, as specified in the City of Brevard Fee Schedule. If the special event signage has not been removed within ten days of the event's end, as specified in the event's permit, the deposit will be forfeited to the city.
 4. Special event signage may not be illuminated, moving, or otherwise cause a hazard or create a visual or physical obstruction to motorists or pedestrians.
 5. Permitted Special Events may also be allowed to display dispersed Type 1 Temporary Signs in multiple locations throughout the City's jurisdiction. A map of such signs shall be provided to the Administrator and all signs must be removed within 10 days following the event's end.
- F. *Community banners:*
1. The city may hang temporary banners in the right-of-way at specific locations in order to communicate community events held or hosted by charitable, religious, civic, fraternal, governmental, or other non-profit organizations, subject to the street banner policy as set by the City of Brevard Public Works Department.
 2. Fees for the installation of community banners shall be set in the city's fee schedule.

(Ord. No. 2015-32, §§ 02, 03, 11-16-15; Ord. No. 2020-34 , § 1(Exh. A), 12-7-20; Ord. No. 2022-09, § 1(Exh. A), 3-21-22)

12.9. Permanent signs.

- A. *Applicability:* The following regulations govern the installation and display of permanent signage within the jurisdiction of this ordinance. All permanently installed signage shall comply with these regulations unless otherwise explicitly exempted by the provisions of this section.
- B. *Signs mounted to walls:*
1. *Wall signs.*
 - a. *Where permitted.* Wall signs shall be permitted to be displayed in association with any non-residential use in any zoning district.
 - b. *Location.* Wall signs may be displayed on any building wall that includes a customer or public entrance, faces a public street, or faces a parking area.
 - c. *Number.*
 - i. In residential districts, maximum of 1 wall sign per street frontage.
 - ii. In all other districts, maximum of 3 wall signs per street frontage.



- d. *Maximum area:*
 - i. Subject to the other provisions of this section, the maximum size for all wall signs combined shall be determined as follows:
 - (A) There may not be more than 1.0 square feet of sign surface area per linear foot of a building's main façade, or the portion of the building rented by the tenant, up to 200 linear feet
 - (B) There may not be up to 0.5 square feet of additional sign surface area per linear foot in excess of 200 feet.
 - (C) The "main façade" shall be the side of the building which faces the public street, or faces the street of highest classification.
 - ii. In DMX and PGX districts no single wall sign shall be larger than 64 square feet.
 - e. *Changeable copy:* Wall signs may only include changeable copy features when displayed on buildings containing "Entertainment/Recreation" and "Civic/Institutional" uses, per the Table of Permitted Uses (Section 2.2.C).
 - f. *Illumination:* Wall signs may be illuminated either internally or externally. Illumination levels shall be in compliance with all other applicable provisions as established in Section 11.2, Outdoor Lighting Standards.
 - g. *Mounting:* Wall signs may not project more than 12 inches from the building wall to which they are mounted and shall not be mounted in a manner where any part of the sign extends past the top of the building wall.
2. *Projection signs.*
 - a. *Where permitted.* Projection signs shall be permitted to be displayed by any non-residential use in any non-residential zoning district.
 - b. *Location.* Projection signs shall be located at the main entrance of the business or on the corner of the building occupied by the business.
 - c. *Number.* One per business establishment.
 - d. *Maximum area.* The maximum permitted area for projection signs shall not exceed eight square feet per side.
 - e. *Changeable copy:* No changeable copy feature, either manual or electronic, is permitted to be included on a projection sign.
 - f. *Illumination:* Projection signs may be illuminated externally. The light source shall be mounted directly to the sign. Illumination levels shall be in compliance with all other applicable provisions as established in Section 11.2, Outdoor Lighting Standards.
 - g. *Mounting:* Projection signs shall be designed so that each face of the sign is parallel to the other face. When mounted at a location other than the corner of a building, the faces of the projecting sign shall be aligned so that they are perpendicular to the building wall.
 - h. *Minimum clearance required:* Projecting signs shall be installed in such a manner as to provide a minimum of eight feet of clearance above grade.
 - i. *Maximum projection:* Projecting signs shall not project greater than five feet from the building wall to which they are attached. Projecting signs shall be installed so that the edge of the sign closest to the building wall is no greater than 12 inches from such wall.
 3. *Awning signs.*



- a. *Where permitted.* Awning signs shall be permitted to be displayed on awnings associated with any non-residential use in any zoning district.
- b. *Location.* Awning signs may only be displayed on awnings which are installed to cover an entrance that is used by customers.
- c. *Number.* One per awning valance on awnings installed to cover a customer entrance.
- d. *Maximum area.* The maximum permitted area for awning signs shall not exceed 80 percent of the width of the valance of the awning.
- e. *Illumination:* Awning signs shall not be illuminated.

C. Freestanding ground signs:

1. Setbacks.

- a. *Front.* No portion of any freestanding ground sign described in this section may be located closer than ten feet to any street right-of-way, except in the DMX district where signs shall be no closer than five feet to any street right-of-way.
- b. *Side and rear.* No portion of any freestanding sign described in this section shall be located any closer than ten feet to any side or rear property line.

2. Non-residential uses in residential districts.

- a. Nonresidential uses permitted in residential districts shall be allowed one ground or wall sign, subject to the following:
 - i. *Number.* One ground or wall sign may be displayed per business.
 - ii. *Maximum area.* Shall be no larger than twenty-four square feet.
 - iii. *Changeable copy:* No changeable copy feature, either manual or electronic, is permitted.
 - iv. *Height:* Such ground signs shall not exceed five feet in height.
 - v. *Illumination.* Neither such wall or ground signs shall not be illuminated.
- b. *Nameplate signs.* Home occupations shall be allowed one nameplate sign that shall not exceed four square feet of surface area, shall be attached to the residence, and shall not be illuminated.

3. Non-residential uses in non-residential districts.

- a. The following standards shall apply to individual businesses on individual parcels. Non-residential group developments, non-residential conditional zoning districts, and institutional campuses shall be subject to the same dimensional requirements, but the number of allowable ground signs in such developments is set forth in Section 12.9.G.
 - i. *Where permitted.* Any zoning district provided the business lies outside the Downtown Development Overlay District. Businesses located in this overlay district may display A-frame signs as described in Section 12.9.C.5.
 - ii. *Number.* One ground sign may be displayed per establishment.
 - iii. *Maximum area.* Shall be no larger than the maximum size as defined in the table below, unless specifically defined elsewhere in this ordinance.



TABLE 12.9A: MAXIMUM SIGN SIZE FOR NON-RESIDENTIAL USES IN NON-RESIDENTIAL DISTRICTS

District	Max Size in Square Feet (ft. ²)
RMX	32 ft. ²
NMX	32 ft. ²
PGX	32 ft.²
DMX	32 ft. ²
CMX	85 ft. ²
IC	24 ft. ²
GI	50 ft. ²
Highway 64 Corridor Sign Overlay District	85 ft. ² in surface area

- iv. *Changeable copy.* Changeable copy features are allowed.
- v. *Height.* No portion of any ground sign shall exceed 20 feet in height.
- vi. *Illumination.* Illumination levels shall be in compliance with all other applicable provisions as established in Section [11.2](#), Outdoor Lighting Standards.

4. *Canopy signs.*

- a. *Where permitted.* Canopy signs shall be permitted to be displayed in association with any non-residential use in any non-residential zoning district.
- b. *Location.* Canopy signs may be displayed on any freestanding or attached canopy covering a vehicular use area, such as an automobile fueling area or passenger drop-off area.
- c. *Number.* One sign may be displayed per side of the canopy.
- d. *Maximum area.* Signs may occupy up to 20 percent of the area of the valance of the canopy, up to a maximum of 24 square feet in non-residential zoning districts.
- e. *Changeable copy.* No changeable copy feature, either manual or electronic, is permitted to be included on a canopy sign.
- f. *Illumination.* Canopy signs may be illuminated internally. Illumination levels shall be in compliance with all other applicable provisions as established in Section [11.2](#), Outdoor Lighting Standards.

5. *A-frame/sandwich board signs.* A sandwich board sign is an A-frame or inverted V-shape sign which is portable and usually double-sided.

- a. *Where permitted.* Non-residential business establishments within the DMX, NMX, [PGX](#), and RMX zoning districts may elect for an A-frame sandwich board sign in lieu of a traditional ground sign.
- b. *Location.* Such a-frame signs shall be placed on the sidewalk adjacent to the front of the individual business or on the brick paved area providing such a location does not pose a safety hazard. Such signs must comply with Section 46-1 of the City Code. Such A-frame signs must be removed each day at the end of business hours.
- c. *Number.* One ground or wall sign may be displayed per business.
- d. *Maximum area.* Such A-frame signs shall not exceed eight square feet in area per side.
- e. *Height.* Such A-frame signs shall not exceed four feet in height.



- f. *Changeable copy.* Manual changeable copy features are allowed.
 - g. *Illumination.* Such A-frame signs shall not be illuminated.
 - h. *Alleys.* Business establishments located in any official city-owned alley may also be permitted to collectively place one Type 4 freestanding temporary sign near the primary alleyway entrance, provided the location of the sign does not pose a safety hazard, and that the sign is removed at the end of each day when the last business in the alley closes.
6. *Electronic display signs.* Electronic display signs may be permitted as ground signs, subject to the following additional requirements:
- a. Only one electronic display sign shall be permitted per parcel.
 - b. Only one electronic display sign shall be permitted within any group development, conditional zoning district, or institutional campus.
 - c. Electronic display signs shall display only non-moving text and images with changes alternating on not less than a five second level, and shall display no scrolling, flashing, blinking, or otherwise moving message.
 - d. Electronic display signs shall adhere to all other applicable wall or ground sign requirements of this chapter, as well as the lighting standards of [CHAPTER 11](#) of this ordinance.
 - e. Only the following uses shall be permitted to install electronic display signs:
 - i. Colleges/universities;
 - ii. Schools—Elementary and Secondary;
 - iii. Schools—Vocational/Technical;
 - iv. Government services.
 - f. Master planned campuses of different uses than described in this section may have one electronic display sign that is internal to the campus and not visible from any public street.



CHAPTER 13. INFRASTRUCTURE IMPROVEMENT REQUIREMENTS

13.5. Street design.

- N. Pedestrian and bicycle infrastructure:** Sidewalks, multi-use paths, or other pedestrian/bicycle infrastructure shall be constructed in accordance with the following requirements:
1. In determining the type of pedestrian/bicycle infrastructure that shall be required the Administrator shall refer to any adopted plan or policy of the city for guidance. Such plans or policies include but are not limited to: *City of Brevard Comprehensive Transportation Plan, City of Brevard Comprehensive Pedestrian Plan, City of Brevard Street Schedule, City of Brevard Comprehensive Land Use Plan, City of Brevard Recreation Plan*, other master plans and small area plans, and other plans and policies.
 2. Sidewalks, multi-use paths, and other pedestrian and bicycle improvements shall be installed by the developer and dedicated to the city prior to the approval of any final subdivision plat, or issuance of final zoning approval or certificate of occupancy for any development plan. Pedestrian and/or bicycle infrastructure shall be constructed within the street right-of-way. The approving authority shall require the dedication of additional street right-of-way or a pedestrian easement when sufficient right-of-way does not exist to comply with this requirement. The approving authority may accept the dedication of additional right-of-way or a pedestrian easement in order to accommodate alternative routes and designs that do not follow streets.
 3. Streets shall be bordered by pedestrian/bicycle infrastructure on both sides. Exceptions to this requirement and modifications to the design of pedestrian/bicycle infrastructure may be granted by the TRC for developments in steep slope areas and where warranted by environmental or topographic conditions, or where this requirement would serve no useful purpose.
 4. Without exception, pedestrian/bicycle infrastructure shall be required along all new public and private streets within new subdivisions or developments, and within new phases of existing subdivisions and any other form of development.
 5. Without exception, pedestrian/bicycle infrastructure shall be required along existing streets within or abutting new subdivisions and any other form of development (except subdivisions in GR districts establishing less than eight dwelling units); or along existing streets within or abutting any form of existing development undergoing substantial improvement (except single-family and duplex residential structures in GR districts).
 6. Pedestrian/bicycle infrastructure shall be required along the same side of the street upon which the development fronts, except that when a development project is located on both sides of the same street the approving authority may require that infrastructure be installed on both sides of the street.
 7. When site characteristics and/or traffic patterns are such that the construction of pedestrian/bicycle infrastructure in accordance with this section would be a hardship and would not result in useful pedestrian walkways, the administrator, upon recommendation from the TRC may allow the applicant to pay the designated cost of constructing such infrastructure into the city sidewalk fund in lieu of requiring construction of the infrastructure. In determining whether to accept a fee in lieu of construction of infrastructure, the administrator shall refer to any adopted plan or policy of the City for guidance. Such



plans or policies include but are not limited to: *City of Brevard Comprehensive Transportation Plan, City of Brevard Comprehensive Pedestrian Plan, City of Brevard Street Schedule, City of Brevard Comprehensive Land Use Plan, City of Brevard Recreation Plan*, other master plans and small area plans, and other plans and policies.

8. The administrator may accept a performance guarantee for the construction of sidewalks on behalf of the city in situations where no other public infrastructure is proposed in accordance with [CHAPTER 16](#) of this ordinance.
9. Multi-use paths and other infrastructure:
 - a. Multi-use paths, and other pedestrian and bicycle infrastructure shall be provided instead of or in addition to sidewalks wherever called for on an adopted plan or policy of the city. Such plans or policies include but are not limited to: *City of Brevard Comprehensive Transportation Plan, City of Brevard Comprehensive Pedestrian Plan, City of Brevard Street Schedule, City of Brevard Comprehensive Land Use Plan, City of Brevard Recreation Plan*, other master plans and small area plans, and other plans and policies.
 - b. When a multi-use path is required in an area not adjacent to a public or private street, then such facility shall be credited towards the satisfaction of the open space requirements as set forth in [CHAPTER 7](#) of this ordinance.
 - c. All required multi-use paths shall be dedicated to the City of Brevard by means of right-of-way or pedestrian easement.
 - d. On-street bicycle lanes shall be required when called for upon an adopted plan or policy of the city.
10. Pedestrian and bicycle improvements shall be as follows:

TABLE 13.5A: PEDESTRIAN AND BICYCLE IMPROVEMENT WIDTHS

Zoning District	Facility Width	
	City Streets	NCDOT Streets*
GR	5 feet	5 feet
RMX, NMX, PGX , CMX, DMX, GI, IC	5 feet	8 feet
Public Streets	City Streets Required; Dedication to City Required	NCDOT Streets Required
Street Rights-of-Way	Required; Dedication to City Required	Required; Dedication to NCDOT Required
Multi-Use Path (where required)	10 feet	10 feet
On-Street Bike Lane (where required)	5 feet	5 feet
*Sidewalks are not required along alleys and commercial service streets except when required as a condition of a Conditional Zoning District, Group Development, or special use permit.		

11. All pedestrian/bicycle infrastructure shall comply with the minimum requirements for handicapped accessibility in compliance with the North Carolina Accessibility Code or other federal, state, or local regulations. During the construction of pedestrian/bicycle infrastructure, whether new or replacement, handicapped ramps shall be placed in the sidewalk where it intersects with streets and other pedestrian and vehicular travel ways.



12. All sidewalks shall be made of 4,000 PSI concrete with a minimum depth of four inches, except that street and driveway crossings shall be a minimum of six inches in depth. Bike lanes and multi-use paths shall be made of asphalt, designed according to the North Carolina Bicycle Planning and Design Guidelines published by the NCDOT and shall include all appropriate signage and pavement markings. Alternative materials and designs may be approved by the TRC in consultation with the public works director.



TABLE 2.2A: LAND USE MATRIX										
CATEGORY	SECTION (a)	USE	ZONING DISTRICTS							
			GR	RMX	NMX	PGX	DMX	CMX	IC	GI
Residential										
Household Living	3.5.1	Dwelling—Single-Family	P	P	—	—	—	—	P	—
		Dwelling—Duplex	P	P	P	P	—	—	P	—
		Dwelling—Multifamily 3—4 units/bldg.	P	P	P	P	P	P	P	—
		Dwelling—Multifamily more than 4 units/bldg.	—	P	P	P	P	P	P	—
		Dwelling—Townhome	P	P	P	P	P	P	P	—
		Manufactured Home	MHD	MHD	MHD	MHD	MHD	MHD	MHD	—
		Live-Work Units	PS	PS	PS	PS	PS	—	PS	—
		Mixed-Use Residential Unit	—	—	PS	PS	PS	PS	PS	—
Group Living	3.5.2	Family Care Home	P	P	P	P	P	P	P	—
		Housing Services for the Elderly	SUP	P	P	P	P	P	P	—
		Rooming or Boarding House	P	P	P	—	P	P	P	—
Social Services	3.5.3	Group Care Facility	P	P	P	—	P	P	P	—
		Shelter	SUP	P	P	—	P	P	P	—
Lodging										
Overnight Accommodations	3.6.1	All overnight accommodations, except as listed below	—	—	—	P	P	P	P	—
		Bed and Breakfast	PS	PS	PS	PS	PS	PS	PS	—
		Short-Term Rental (STR)	—	PS	PS	PS	PS	PS	PS	—
Camping	3.6.2	Campground/Recreational Vehicle Park	SUP	SUP	SUP	SUP	—	—	SUP	—
		Rental Cottage/Cabins	PS	PS	PS	PS	—	—	—	—

TABLE 2.2A: LAND USE MATRIX										
CATEGORY	SECTION (a)	USE	ZONING DISTRICTS							
			GR	RMX	NMX	PGX	DMX	CMX	IC	GI
		Seasonal Camp	PS	—	—	PS	—	—	PS	—
Commercial										
Eating and Drinking Establishments	3.7.1	All restaurants and other eating and drinking establishments except as listed below	—	—	P	P	P	P	P	—
		Bar/Night Club	—	—	PS	PS	P	P	—	—
Personal Services	3.7.2	All personal services, except as listed below	—	P	P	P	P	P	P	—
		Day Care Center	PS	PS	PS	PS	PS	PS	PS	PS
Professional Services	3.7.3	All professional services, except as listed below	SUP	P	P	P	P	P	P	P
		Adult Establishment	—	—	—	—	—	—	—	SUP
		Banks, Credit Unions, Financial Services, and ATMs	—	—	P	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	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

TABLE 2.2A: LAND USE MATRIX										
CATEGORY	SECTION (a)	USE	ZONING DISTRICTS							
			GR	RMX	NMX	PGX	DMX	CMX	IC	GI
Retail	3.7.4	All retail and sales establishments except as listed below	—	—	P	P	P	P	P	—
		Alcoholic Beverage Sales Store	—	—	SUP	P	P	P	—	—
		Auto/Mechanical Parts Sales	—	—	—	P	P	P	—	P
		Gas Station	—	—	SUP	PS	SUP	PS	—	PS
		Gunsmiths and Weapon Sales	—	—	SUP	SUP	PS	PS	—	PS
Civic/Institutional										
Educational	3.8.1	All educational uses except as listed below	SUP	P	P	P	P	P	P	—
		Colleges/Universities	—	—	SUP	SUP	P	P	P	—
		Schools— Vocational/Technical	—	SUP	P	P	P	P	P	P
Government	3.8.2	All government uses, except as listed below	—	P	P	P	P	P	P	P
		Correctional Facilities	—	—	SUP	—	SUP	P	P	P
		Public Safety Station	SUP	SUP	P	P	P	P	P	P
Medical	3.8.3	All medical offices and facilities except as listed below	—	P	P	P	P	P	P	—
		Hospital	—	—	—	—	—	P	P	—
Places of Worship	3.8.4	All religious institutions or places of worship	SUP	P	P	—	P	P	P	—
		Cemeteries	PS	PS	PS	—	PS	PS	PS	—
Entertainment/Recreation										

TABLE 2.2A: LAND USE MATRIX										
CATEGORY	SECTION (a)	USE	ZONING DISTRICTS							
			GR	RMX	NMX	PGX	DMX	CMX	IC	GI
Indoor Recreation	3.9.1	All indoor recreation facilities, except as listed below	SUP	P	P	P	P	P	P	P
		Cultural or Community Facility	SUP	P	P	P	P	P	P	—
		Indoor Amusements	—	—	SUP	P	P	P	SUP	P
		Indoor Firing Range	—	—	—	SUP	—	SUP	SUP	SUP
		Live Performance Theater	—	SUP	SUP	P	P	P	P	—
		Movie Theater	—	—	—	P	P	P	—	—
		Special Event Venue	SUP	SUP	PS	PS	PS	PS	PS	—
		Studios, Galleries and Workshops - High Impact	—	—	SUP	SUP	SUP	P	P	P
		Studios, Galleries and Workshops - Low Impact	—	P	P	P	P	P	P	—
Outdoor Recreation	3.9.2	All outdoor recreation facilities, except as listed below	SUP	P	P	P	P	P	P	P
		Non-Residential Swimming Pool or Pond	—	SUP	SUP	SUP	PS	PS	PS	—
		Outdoor Amusements	—	—	SUP	P	SUP	P	—	P
		Outdoor Firing Range	—	—	—	—	—	—	—	SUP
		Parks, Open Space, and Greenways	P	P	P	P	P	P	P	P
Agriculture										
Agriculture	3.10.1	All agricultural uses	PS	—	—	—	—	PS	PS	PS
Manufacturing/Wholesale/Storage										
Light Industrial and Manufacturing	3.11.1	All light industrial and manufacturing activities, except as listed below	—	—	—	P	—	SUP	—	P

TABLE 2.2A: LAND USE MATRIX										
CATEGORY	SECTION (a)	USE	ZONING DISTRICTS							
			GR	RMX	NMX	PGX	DMX	CMX	IC	GI
		Brewery, Distillery, Winery, Cidery - High Impact	—	—	—	SUP	—	P	—	P
		Brewery, Distillery, Winery, Cidery - Low Impact	—	—	SUP	PS	PS	PS	—	PS
		Laboratory	—	—	—	—	—	P	P	P
		Laundry, Dry Cleaning Plant	—	—	—	—	—	SUP	P	P
		Manufacturing Research and Development	—	—	—	P	—	P	P	P
		Media Production	—	—	P	P	P	P	P	P
Heavy Manufacturing	3.11.2	All heavy manufacturing activities, except as listed below	—	—	—	—	—	—	—	SUP
		Metal Products Fabrication, Machine or Welding Shop	—	—	SUP	SUP	SUP	P	—	P
Storage and Disposal	3.11.3	All storage and disposal uses, except as listed below	—	—	—	—	—	SUP	—	P
		Chemical Storage Facility	—	—	—	—	—	—	—	P
		Solid Waste Disposal Facilities	—	—	—	—	—	—	—	PS
		Junkyard / Salvage Yard	—	—	—	—	—	—	—	SUP
Wholesaling and Distribution	3.11.4	All wholesaling and distribution activities, except as listed below	—	—	—	—	—	P	—	P
		Equipment Rental	—	—	—	—	—	P	—	P

TABLE 2.2A: LAND USE MATRIX										
CATEGORY	SECTION (a)	USE	ZONING DISTRICTS							
			GR	RMX	NMX	PGX	DMX	CMX	IC	GI
Extractive Industries		Indoor Vehicle/Heavy Equipment Sales	—	—	PS	—	PS	PS	—	PS
		Outdoor Vehicle/Heavy Equipment Sales	—	—	—	—	—	PS	—	PS
	3.11.5	All extractive industries, except as listed below	—	—	—	—	—	—	—	P
		Extractive industries involving blasting	—	—	—	—	—	—	—	SUP
Infrastructure										
Utilities	3.12.1	Utilities—Class 1	P	P	P	P	P	P	P	P
		Utilities—Class 2	P	P	P	P	P	P	P	P
		Utilities—Class 3	—	—	—	—	—	—	—	P
Telecommunications	3.12.2	All wireless telecommunication facilities, except as listed below	PS	PS	PS	PS	PS	PS	PS	PS
		Wireless Telecommunication Facility—Tower	—	—	—	—	—	SUP	—	PS
Transportation	3.12.3	Parking Lot	SUP	PS	PS	PS	PS	PS	PS	PS
		Passenger Vehicle Terminals	—	—	P	P	P	P	—	P
Accessory										
Residential Accessory	3.13.1	All residential accessory uses, except as listed below	PS	PS	PS	PS	PS	PS	PS	PS
		Day Care Home	PS	PS	PS	PS	PS	PS	PS	—
		Dwelling—Accessory Unit (ADU)	PS	PS	PS	PS	PS	PS	PS	—
		Home Occupation	PS	PS	P	P	P	P	P	—

REZ-24-001 DRAFT USE MATRIX

TABLE 2.2A: LAND USE MATRIX										
CATEGORY	SECTION (a)	USE	ZONING DISTRICTS							
			GR	RMX	NMX	PGX	DMX	CMX	IC	GI
		Keeping Bees	PS	PS	PS	PS	PS	PS	PS	PS
		Keeping Domestic Fowl (Chickens)	PS	PS	PS	PS	PS	PS	PS	PS
		Swimming Pool or Pond	PS	PS	PS	PS	PS	PS	PS	—
Non-Residential Accessory	3.13.2	All non-residential accessory uses, except as listed below	—	PS	PS	PS	PS	PS	PS	PS
		Accessory Retail	—	—	PS	PS	PS	PS	PS	PS
		Drive-Thrus	—	—	SUP	SUP	—	PS	—	—
		Mobile Food Vendor Site	—	SUP	PS	PS	PS	PS	PS	PS
		Recycling - Small Collection	—	—	—	—	—	SUP	SUP	P
		Rooftop Amenity Space	—	—	SUP	PS	PS	PS	PS	PS
		Taproom / Tasting Room	—	—	SUP	P	P	P	—	P
Temporary										
Events and Structures	3.14.1	All temporary events and structures, except as listed below	PS	PS	PS	PS	PS	PS	PS	PS
		Carnivals or Circus	—	—	—	—	—	PS	PS	PS
		Farmers Market	—	—	PS	PS	PS	PS	PS	—
Vendors	3.14.2	All temporary vendors, except as listed below	—	—	PS	PS	PS	PS	—	—
		Vending Pushcarts	—	—	—	—	PS	—	—	—
(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-24-001 AND TXT-24-008**

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:

Comprehensive Land Use Plan

Recommendation Land Use & Housing – 10: Establish zoning overlay districts for the Asheville Highway Corridor and Pisgah Forest Area.

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 in the public interest and **reasonable** due to the following factors:

- The location of the proposed zoning district is centered around the entrance to the Pisgah National Forest.
- The size of the proposed rezoning diminishes any spot zoning concerns.
- There is a strong relationship between the currently allowed uses and the allowed uses of the proposed new district.
- The new district benefits landowners by replacing an inappropriate downtown-focused district with a more context-sensitive district.
- Conditions at the US64/US276/NC280 intersection will be changing due to the NCDOT R-5799 intersection improvement project.
- It is in the public interest to create a more context-sensitive zoning district for this area as it is one of the primary gateways to our community, heavily trafficked by residents and visitors alike.
- The rezoning is consistent with the above element of the Comprehensive Land Use Plan.

STAFF REPORT

City Council, Monday, November 4, 2024

Title: Proposed City of Brevard Zoning Map Amendment re Pisgah Forest Gateway District

Speaker: Aaron Bland, Asst Planning Director

Prepared by: Aaron Bland, Asst Planning Director

Approved by: Wilson Hooper, City Manager

Background

See previous staff report.

Discussion

This public hearing would amend the official zoning map to create and establish the Pisgah Gateway Mixed Use (PGX) district, wherein which the previously discussed zoning regulations would apply.

Policy Analysis

The creation of a new zoning district in this area is supported by LUH-10 of the *Building Brevard 2030 Comprehensive Land Use Plan*. LUH-10 recommends an overlay district but Staff believes that a new base district is a more appropriate method.

The Future Land Use Map shows the area a mix of Major Activity Center, Urban Corridor, and Conservation Design. The PGX district has been designed to be such a blend of an environment that is accommodating to cars but also comfortable to pedestrians, and the future architectural standards will help achieve the goals of conservation design. The NMX district, which was the starting point for drafting the PGX regulations, is an applicable zoning district for both Major Activity Center and Urban Corridor.

Recommendation

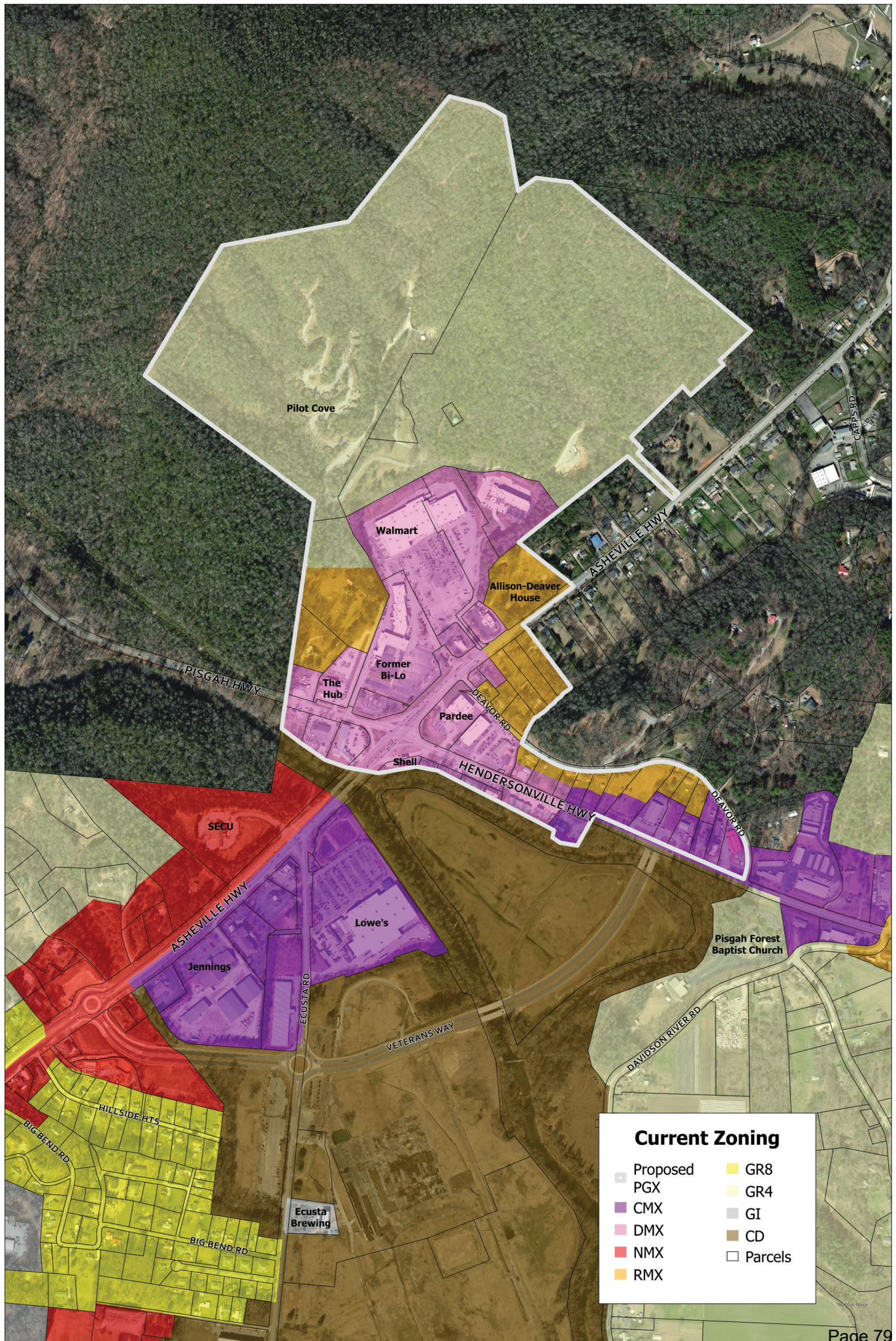
Planning Board discussed the PGX district at their June 25th and September 24th meetings, ultimately recommending approval with a slight recommended reduction in the area to be rezoned the new PGX district (this recommendation will be discussed in Staff's presentation). In accordance with state statutes, the Planning Board also submits the attached statement of consistency and reasonableness.

Action

This presentation is for public hearing purposes only; no action is requested at this time.

Attachments:

1. Proposed District Area Map
2. Consistency and Reasonableness Statement
3. Future Land Use Map



**STATEMENT OF CONSISTENCY AND REASONABLENESS WITH
ADOPTED PLANS AND POLICIES OF THE CITY OF BREVARD
REZ-24-001 AND TXT-24-008**

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:

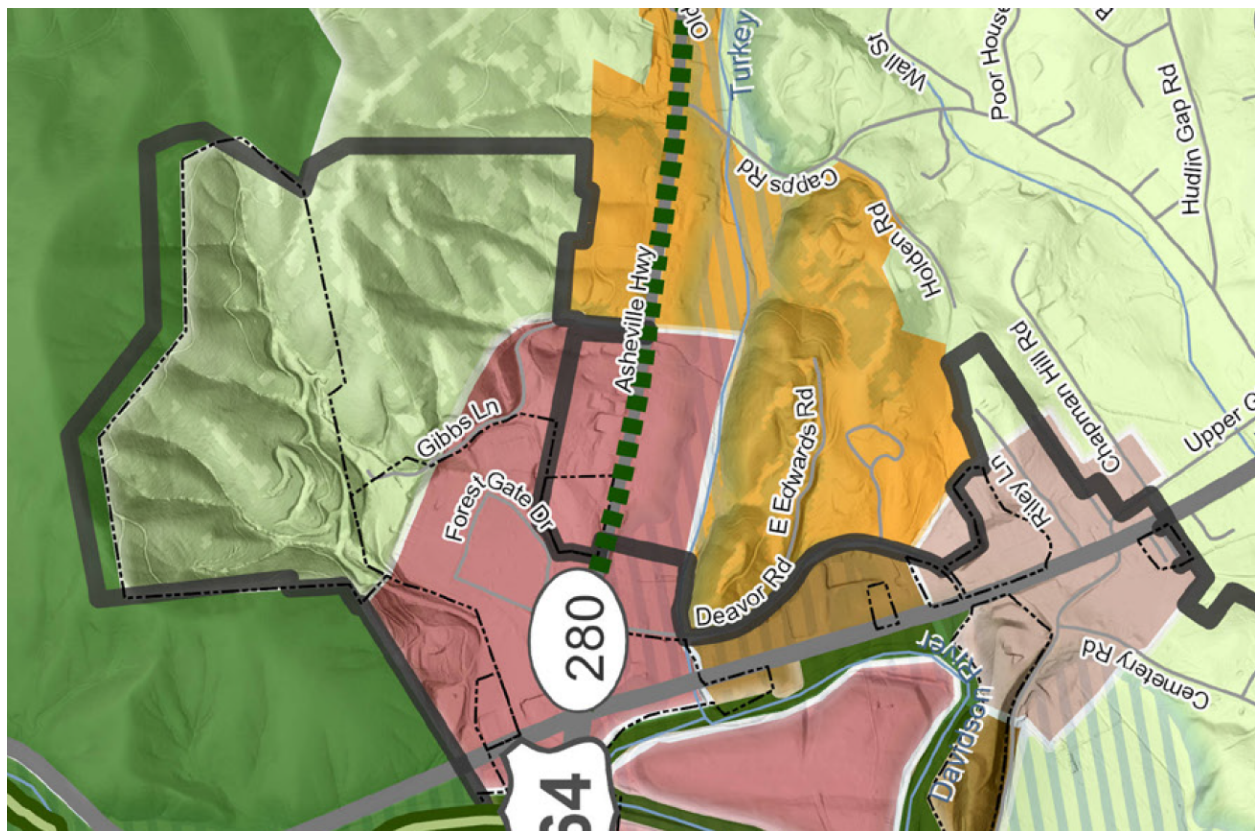
Comprehensive Land Use Plan

Recommendation Land Use & Housing – 10: Establish zoning overlay districts for the Asheville Highway Corridor and Pisgah Forest Area.

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 in the public interest and **reasonable** due to the following factors:

- The location of the proposed zoning district is centered around the entrance to the Pisgah National Forest.
- The size of the proposed rezoning diminishes any spot zoning concerns.
- There is a strong relationship between the currently allowed uses and the allowed uses of the proposed new district.
- The new district benefits landowners by replacing an inappropriate downtown-focused district with a more context-sensitive district.
- Conditions at the US64/US276/NC280 intersection will be changing due to the NCDOT R-5799 intersection improvement project.
- It is in the public interest to create a more context-sensitive zoning district for this area as it is one of the primary gateways to our community, heavily trafficked by residents and visitors alike.
- The rezoning is consistent with the above element of the Comprehensive Land Use Plan.



Future Land Use Character Area	Applicable Zoning Districts
City Center / Downtown	DMX, CMX, RMX
Activity Center - Major	CMX, NMX
Activity Center - Minor	NMX, RMX
Urban Corridor	CMX, NMX, RMX
OISD	IC, GI
Traditional Neighborhood	GR8, RMX
Conservation Design / Low Density	GR4
Conservation / Open Space	-

Future Land Use

- Downtown and City Center
- Activity Center - Major
- Activity Center - Minor
- Urban Corridor
- Office, Institutional, Special District
- Traditional Neighborhood
- Conservation Design / Low Density
- Conservation/Open Space/Parks

STAFF REPORT

City Council, Monday, November 4, 2024

Title: Resolution Fixing a Date of Public Hearing for Annexation - Mills Ave Properties, LLC / Forest Hill Drive

Speaker: Denise Hodsdon, City Clerk

Prepared by: Denise Hodsdon

Approved by: Wilson Hooper, City Manager

Background

A Petition Requesting Voluntary Contiguous Annexation was submitted on September 17, 2024 by Mills Ave Properties, LLC. The petition requests that property located on Forest Hill Drive, Brevard be annexed into the City of Brevard. (Tax Property Identification Numbers: 8585-36-0021; 8585-35-0899-000; 8585-35-1747-000; and 8585-35-1676-000).

Discussion

On October 21, 2024 City Council approved a Resolution Directing the Clerk to Investigate the Sufficiency of the Petition. The Clerk, Staff and Attorney have investigated and feel this annexation can move forward with setting a date for public hearing.

Recommendation

Staff recommends Council adopt the drafted Resolution Setting a Date for Public Hearing on Monday, December 2, 2024.

Attachments:

1. Certificate of Sufficiency
2. Annexation Petition - Mills Ave Properties LLC - Forest Hill Road
3. Annexation Plat
4. Resolution Fixing Date for Public Hearing



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

Office of City Clerk
(828) 885-5614

Certificate of Sufficiency

I, Denise Hodsdon, City Clerk, do hereby certify that I have investigated the attached petition submitted by **Mills Ave Properties, LLC**, for the property located on Forest Hill Drive, Brevard, (**Property Identification Numbers 8585-36-0021; 8585-35-0899-000; 8585-35-1747-000; and 8585-35-1676-000**), consisting of 4.64 acres, more or less, and have found as a fact that said petition is signed by all owners of real property lying in the area described therein, in accordance with NCGS 160-A-31.

In witness whereof, I have hereunto set my hand and affixed the seal of the City of Brevard this 31st day of October, 2024.



Denise Hodsdon, CMC
City Clerk

STATE OF NORTH CAROLINA
COUNTY OF TRANSYLVANIA
CITY OF BREVARD



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

Date: 9/13/2024

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): 8585-36-0021-000,
8585-35-0899-000, 8585-35-1747-000 - 8585-35-1676-000

Street Address: LOTS: TR-2A, TR-2B, TR-2C, + TR-2D

(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.)

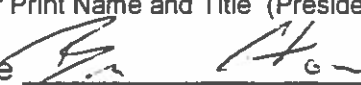
Property Owners Contact Information (If there are more than three property owners, provide their names, contact information and signatures upon a separate and attached sheet.)

a. Name _____
Address _____
Telephone _____ Email _____
Signature _____

b. Name _____
Address _____
Telephone _____ Email _____
Signature _____

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 MILLS AVE PROPERTIES LLC
Address 86 W. MORGAN ST.
BREVARD, NC 28712
Telephone 828 553 3565 Email Benjamin.steinstone@gmail.com
By: BEN STONE
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:

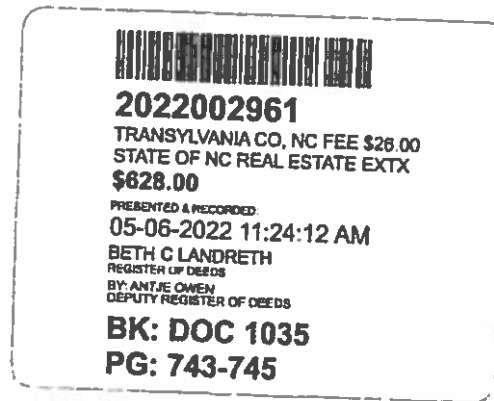
Name: _____

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



NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax: \$628.00

Return after recording to: Donald E. Jordan

Brief description for the Index: Tracts 2A, 2B, 2C & 2D, Brevard Township

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

This property does not include the primary residence of Grantor

SP 5-622

This DEED is made this 4th day of May, 2022, by and between:

GRANTOR: **THOMAS WEAVER and
LINDA M. WEAVER,
Husband and Wife**
Grantor's Address: 83 Buena Vista Drive, Brevard, NC 28712

GRANTEE: **MILLS AVE PROPERTIES, LLC,
a North Carolina limited liability company**
Grantee's Address: 86 West Morgan Street, 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, Transylvania County, North Carolina, and as is described in the attached Exhibit A. This is a portion of the same property acquired by Grantor by Deeds recorded in Document Book 255, Page 215 and Document Book 255, Page 218, Transylvania County Registry. This conveyance is made subject to easements and rights of way of record, to any covenants of record, and 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.


Thomas Weaver

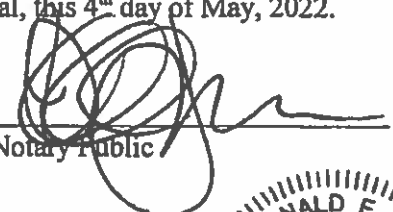

Linda M. Weaver

STATE OF NORTH CAROLINA
COUNTY OF TRANSYLVANIA

I, Donald E. Jordan, a Notary Public of the specified County and State, certify that Thomas Weaver and Linda M. Weaver personally appeared before me this day and acknowledged the voluntary execution of this Deed.

Witness my signature and official stamp or seal, this 4th day of May, 2022.

My commission expires: August 30, 2024


Notary Public

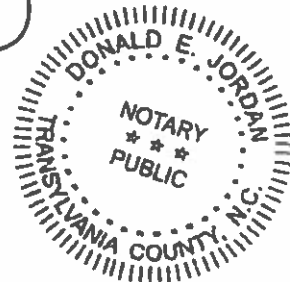


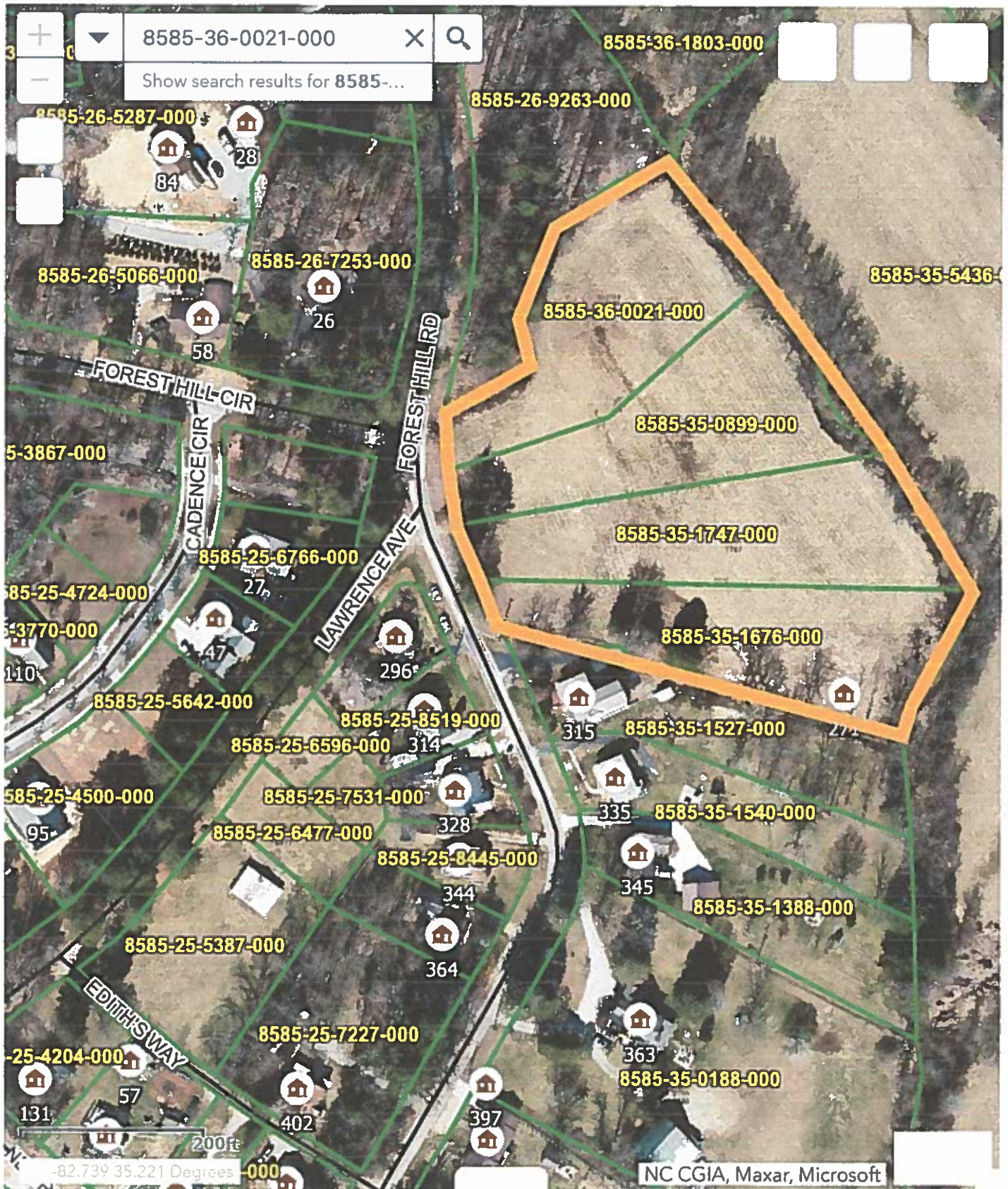
EXHIBIT A - LEGAL DESCRIPTION

All of Tracts 2A, 2B, 2C and 2D as shown on the plat of survey, dated April 27, 2022, prepared by Carolina Mountain Surveying, for Thomas and Linda M. Weaver, recorded in Plat File 22, Slide 158, Records of Plats for Transylvania County, in the office of the Register of Deeds, Transylvania County, North Carolina.

Together with and subject to all rights of way, easements and restrictions of record.



Tax Administration Portal



Plat file 22, Slide 158

LEGEND

P.B. PG
P.T. SL
PIN
NCGS
NAD
FCM
SR
FR
NTS
C/L
R/W
CP
H/W
O/A
DOC. BK. PG.
SR/POL
S.R.
①

PLAT BOOK, PAGE
PLAT FILE, SLIDE
TAX PARCEL IDENTIFICATION NUMBER
NORTH CAROLINA GRID SYSTEM
NORTH AMERICAN DATUM
FOUNDED CONCRETE MONUMENT
SET REBAR
FOUND REBAR
NOT TO SCALE
CENTRILINE
RIGHT OF WAY
CALCULATED POINT
HIS WIFE
OVERALL
DOCUMENT BOOK, PAGE
SET REBAR/POINT ON LINE
SECONDARY ROAD
UTILITY POLE



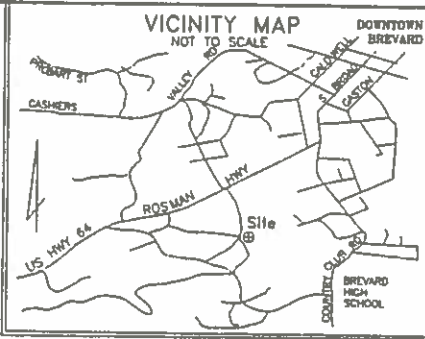
ASPHALT
FLOODWAY
FLOOD ZONE A
FLOOD ZONE AC
FLOOD ZONE BC

NCGS MONUMENT
"GEORGE"
(NAD 83/86)
N: 558738.54'
E: 882107.07'

NCGS MONUMENT
"MILLER"
(NAD 83/86)
N: 558333.12'
E: 880841.18'

CERTIFICATE OF APPROVAL FOR RECORDING
I HEREBY CERTIFY THAT THE SUBDIVISION PLAT SHOWN HEREON HAS BEEN FOUND TO COMPLY WITH THE REGULATING ORDINANCE FOR BREVARD, NORTH CAROLINA, AND THAT THIS PLAT HAS BEEN APPROVED BY THE CITY OF BREVARD FOR RECORDING IN THE OFFICE OF THE REGISTER OF DEEDS OF TRANSYLVANIA COUNTY. I FURTHER CERTIFY THAT THE CITY COUNCIL ONLY ACCEPTS THE DEDICATION OF THE PUBLIC OPEN SPACE AS SHOWN, IF SUCH PARKS ARE LOCATED WITHIN THE CORPORATE LIMITS OF BREVARD, BUT ASSUMES NO RESPONSIBILITY TO OPEN OR MAINTAIN THE DEDICATED OPEN SPACE UNLESS IN THE OPINION OF THE CITY COUNCIL IT IS THE PUBLIC INTEREST TO DO SO.

5/2/22
DATE
Emily Brewer
REVIEW OFFICER, CITY OF BREVARD



CERTIFICATE OF OWNERSHIP AND DEDICATION

I HEREBY CERTIFY THAT I AM THE OWNER OF THE PROPERTY SHOWN AND DESCRIBED WHICH IS LOCATED IN THE SUBDIVISION JURISDICTION OF THE CITY OF BREVARD AND THAT I HEREBY ADOPT THIS PLAN OF SUBDIVISION WITH MY FREE CONSENT, ESTABLISH MINIMUM BUILDING SETBACK LINES, PRESERVE AND PROTECT ALL SIGNIFICANT TREES OVER 15 INCHES DIAMETER IN THE TREE AND ROOT PROTECTION AREA, AND PLANT SUPPLEMENTARY TREES AS REQUIRED. FURTHERMORE, I HEREBY DEDICATE ALL PUBLIC OR PRIVATE USES AS NOTED. FURTHERMORE, I HEREBY DEDICATE ALL SANITARY SEWER, STORM SEWER, AND WATER LINES THAT ARE LOCATED IN PUBLIC UTILITY EASEMENTS OR RIGHTS-OF-WAY TO THE CITY OF BREVARD. FURTHERMORE, I HEREBY SET ASIDE IN PERPETUITY FOR PERMANENT PRESERVATION, ALL REGULATORY FLOODWAYS, STREAM CORRIDOR PROTECTION AREAS, AND OTHER PROTECTED NATURAL AREAS AS SHOWN, DESCRIBED, OR OTHERWISE NOTED HEREON.

5-2-22
DATE
Emily Brewer
OWNER

STATE OF NORTH CAROLINA
COUNTY OF TRANSYLVANIA
Emily Brewer
REVIEW OFFICER
OF TRANSYLVANIA COUNTY, CITY OF BREVARD, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING

5/2/22
DATE
Emily Brewer
REVIEW OFFICER

NOTES:

- 1) PARCELS SHOWN HEREON ARE IDENTIFIED BY THEIR TAX PARCEL IDENTIFICATION NUMBERS. PROPERTY ORIGINALLY SURVEYED AND COMBINED INTO 1 TRACT IN FEBRUARY AND MARCH OF 2008 BY HATLER LAND SURVEYING. PROPERTY IS BEING SUBDIVIDED BY SURVEY ON MARCH 22, 2022. TRACT 1 IS BEING RESTORED TO ITS ORIGINAL CONFIGURATION AND WAS NOT RESURVEYED. PORTIONS OF TRACTS 2A, 2B, 2C AND 2D WERE SURVEYED IN 2022 BY CAROLINA MOUNTAIN SURVEYING. NOT ALL IMPROVEMENTS ARE SHOWN HEREON. DISTANCES SHOWN ARE HORIZONTAL DISTANCES UNLESS NOTED OTHERWISE. THE CREEK LOCATION WAS NOT RESURVEYED FROM THE ORIGINAL SURVEY/PLAT. THE PROPERTY LINE BY DEED IS THE CENTRILINE OF BRUSHY CREEK (TUCKER'S or NICHOLSON) CREEK.
- 2) AREA OF TRACT 1 = 1.571 ACRES
TRACT 2A = 1.192 ACRES
TRACT 2B = 1.134 ACRES
TRACT 2C = 1.148 ACRES
TRACT 2D = 1.168 ACRES
TOTAL PLATTED AREA = 5.213 ACRES
AREA CALCULATED BY COORDINATE COMPUTATION
- 3) THIS PLAN WAS PREPARED WITHOUT THE BENEFIT OF A TITLE SEARCH. THIS PROPERTY IS SUBJECT TO ALL RIGHTS-OF-WAY, EASEMENTS, ENCUMBRANCES AND RESTRICTIONS OF RECORD BUILT SHOWN AND NOT SHOWN HEREON.
- 4) MOOT CLAIMS A 60' WIDE R/W AS CALCULATED FROM THE C/L OF FOREST HILL DRIVE. ALSO KNOWN AS LAWRENCE AVENUE. NO DEED WAS FOUND TO VERIFY THE WIDTH OF THE R/W CLAIMED.
- 5) PLAT BOOK 1, PAGE 5 - SECTIONS 1 & 2 (WHICH INCLUDE THIS PROPERTY) ESTABLISHED A 45' R/W ALONG LAWRENCE AVENUE ALSO KNOWN AS FOREST HILL DRIVE. DOCUMENT BOOK 255, PAGE 215 STATES THAT THE PROPERTY BEGINS ALONG THE EASTERN MARSH OF LAWRENCE AVENUE. PROPERTY CORNERS HAVE BEEN CALCULATED 22.5 FEET OFF OF THE C/L OF LAWRENCE AVENUE/FOREST HILL DRIVE TO CORRESPOND WITH THE PLATTED 45' R/W FOUND IN PLAT BOOK 1, PAGE 5. REBAR HAVE BEEN OFFSET 30 FEET FROM THE C/L OF FOREST HILL DRIVE TO REFLECT THE 60' WIDE R/W AS CLAIMED BY MOOT. THE PROPERTY LINES ARE THE CALCULATED LINES 22.5' OFF OF THE CENTRILINE OF FOREST HILL DRIVE.
- 6) DEED REFERENCE: TRACT 1 - DOCUMENT BOOK 255, PAGE 215
TRACT 2 - DOCUMENT BOOK 255, PAGE 216
- 7) SET REBAR HAVE PLASTIC ID CAP
- 8) PLAT REFERENCE: P.B. 1, P.L. 5, P.F. 11, SL. 725
- 9) PIN REFERENCE: 6885-28-9188
- 10) THIS PROPERTY IS LOCATED WITHIN THE ONE MILE EXTRA TERRITORIAL JURISDICTION OF THE CITY OF BREVARD AND IS CURRENTLY ZONED GENERAL RESIDENTIAL A.
- 11) POINTS ALONG THE C/L OF BRUSHY CREEK AND THE C/L OF THE DITCH ARE CALCULATED AND WERE NOT SET
- 12) FLOODWAY, FLOOD ZONES, AND PORTIONS OF THE ROADWAY WERE DOWNLOADED FROM N.C. FLOODMAPS.COM FROM FLOOD INSURANCE RATE MAP STORED/ISSUED EFFECTIVE DATE OCTOBER 2, 2009.

UDOT 7.7.E. AREAS DELINEATED UPON THIS PLAT OR PLAN AS A PROTECTION AREA OR A SPECIAL FLOOD HAZARD AREA IS SUBJECT TO LIMITATIONS UPON DEVELOPMENT AS SET FORTH IN CHAPTER 8 OF THE CITY OF BREVARD UNIFIED DEVELOPMENT ORDINANCE AND ANY DEVELOPMENT, DISTURBANCE OR ENCROACHMENT IS PROHIBITED EXCEPT IN ACCORDANCE THEREWITH

G.S. 47-30 (1)(1) a.
I, MICHAEL A. PROFFIT, Sr., PROFESSIONAL LAND SURVEYOR, CERTIFY THAT THIS SURVEY CREATES A SUBDIVISION OF LAND WITHIN THE AREA OF A COUNTY OR JURISDICTION THAT HAS AN ORDINANCE THAT REGULATES PARCELS OF LAND.
I, MICHAEL A. PROFFIT, Sr., PROFESSIONAL LAND SURVEYOR, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL FIELD SURVEY PERFORMED UNDER MY DIRECTION FROM INFORMATION FOUND IN PLAT FILE 11, SLIDE 725. THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION REFERENCED HEREON. THAT THE RATIO OF PRECISION OR POSITIONAL ACCURACY AS CALCULATED BY LATITUDES AND DEPARTURES BEFORE ADJUSTMENT IS NOT LESS THAN 1/1000, AND THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED.

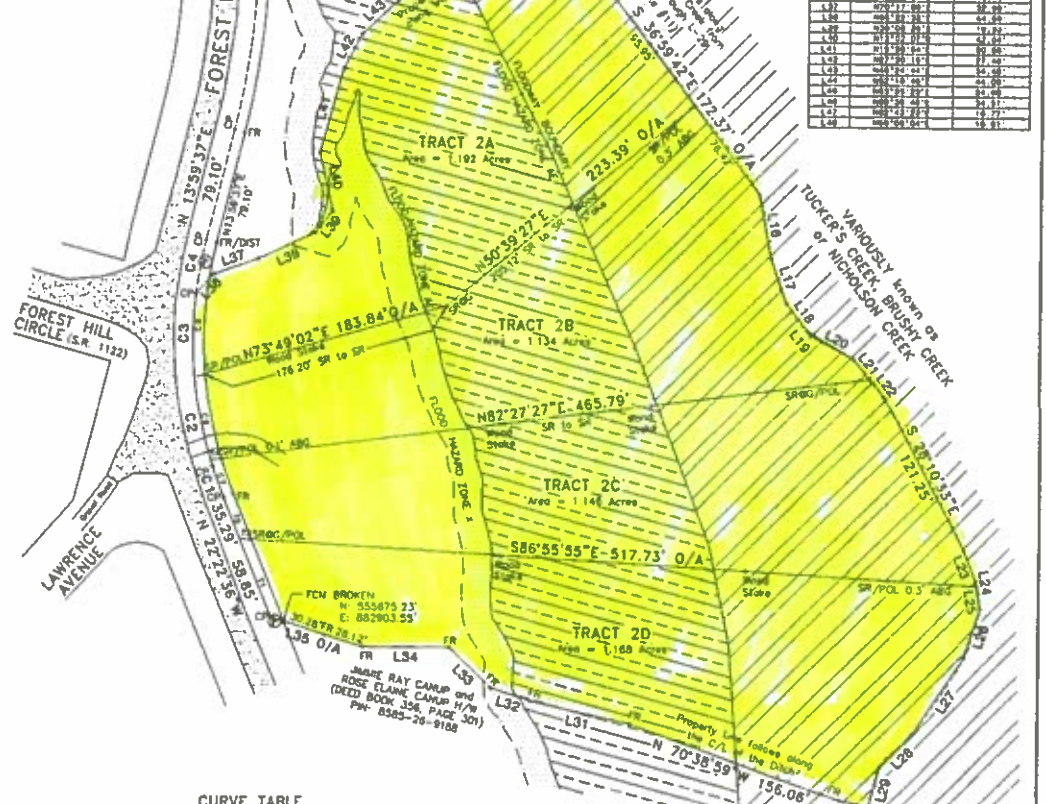
WITNESS MY ORIGINAL SIGNATURE, LICENSE NUMBER, AND SEAL THIS THE 27th DAY OF APRIL, 2022, A.D.

MICHAEL A. PROFFIT, Sr.
PROFESSIONAL LAND SURVEYOR
LICENSE NUMBER L-4458



2022002871
TRANSYLVANIA CO. NC L152100
05-03-2022 09:25:35 AM
RE THE LAND AND THE
BREVARD COUNTY, NC
BREVARD COUNTY, NC
BREVARD COUNTY, NC

BK: PF 22
PG: 158-158



CURVE TABLE

Curve	Radius	Tangent	Length	Delta	Degree	Chord	Chord Bear.
C1	289.50	15.75	54.85	11.50	18.26	52.50	81.75 S 81.75 W
C2	289.50	15.75	54.85	11.50	18.26	52.50	81.75 S 81.75 W
C3	289.50	15.75	54.85	11.50	18.26	52.50	81.75 S 81.75 W
C4	289.50	15.75	54.85	11.50	18.26	52.50	81.75 S 81.75 W
C5	289.50	15.75	54.85	11.50	18.26	52.50	81.75 S 81.75 W
C6	289.50	15.75	54.85	11.50	18.26	52.50	81.75 S 81.75 W
C7	289.50	15.75	54.85	11.50	18.26	52.50	81.75 S 81.75 W
C8	289.50	15.75	54.85	11.50	18.26	52.50	81.75 S 81.75 W
C9	289.50	15.75	54.85	11.50	18.26	52.50	81.75 S 81.75 W
C10	289.50	15.75	54.85	11.50	18.26	52.50	81.75 S 81.75 W
C11	289.50	15.75	54.85	11.50	18.26	52.50	81.75 S 81.75 W

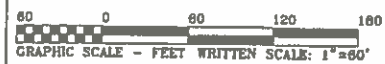
FIELD RECORDS

Curve	Radius	Tangent	Length	Delta	Degree	Chord	Chord Bear.
C1	289.50	15.75	54.85	11.50	18.26	52.50	81.75 S 81.75 W
C2	289.50	15.75	54.85	11.50	18.26	52.50	81.75 S 81.75 W
C3	289.50	15.75	54.85	11.50	18.26	52.50	81.75 S 81.75 W
C4	289.50	15.75	54.85	11.50	18.26	52.50	81.75 S 81.75 W
C5	289.50	15.75	54.85	11.50	18.26	52.50	81.75 S 81.75 W
C6	289.50	15.75	54.85	11.50	18.26	52.50	81.75 S 81.75 W
C7	289.50	15.75	54.85	11.50	18.26	52.50	81.75 S 81.75 W
C8	289.50	15.75	54.85	11.50	18.26	52.50	81.75 S 81.75 W
C9	289.50	15.75	54.85	11.50	18.26	52.50	81.75 S 81.75 W
C10	289.50	15.75	54.85	11.50	18.26	52.50	81.75 S 81.75 W
C11	289.50	15.75	54.85	11.50	18.26	52.50	81.75 S 81.75 W

PREPARED BY
CAROLINA MOUNTAIN SURVEYING
FIRM LICENSE NUMBER #F-1205
137 NORTH BROAD STREET, SUITE 2
BREVARD, NORTH CAROLINA 28712
(828) 883-2670
CMSURVEYING@COMPTON.NET

SUBDIVISION SURVEY OF TRACTS 1 AND TRACTS 2A, 2B, 2C AND 2D
PREPARED FOR
THOMAS and LINDA M. WEAVER
SITUATE IN
BREVARD TOWNSHIP
TRANSYLVANIA COUNTY, NORTH CAROLINA
OWNER OF RECORD: THOMAS and LINDA M. WEAVER

DATE
APRIL 27, 2022
FIELD RECORDS
DATA COLLECTOR
DRAWING NUMBER
CMS22024-SUB
COORDINATE FILE
CMS22024-CRD
PROJECT NUMBER
CMS22024
REP: PHOENIX



CITY ANNEXATION LEGAL DESCRIPTION
FOR TRACTS 2A-2D ON FOREST HILL ROAD
PLAT FILE 22, SLIDE 158

Beginning at a broken concrete monument having North Carolina NAD 83/86 grid coordinates of North: 555675.23 East: 882903.55; said monument standing S 36°49'51" E a distance of 1,328.41 from NCGS MONUMNET GEORGE which has North Carolina NAD 83/86 grid coordinates of North: 556738.54 East: 882107.07 and 6.2' away from an existing utility pole in the right of way for Forest Hill Road;

thence N 72°35'30" W a distance of 9.48' to a calculated point on the old 45' right of way;

thence N 22°22'36" W a distance of 58.85' to a calculated point on the old 45' right of way;

thence N 22°22'36" W a distance of 30.91' to a calculated point on the old 45' right of way;

thence with a curve turning to the right with an arc length of 27.95', with a radius of 289.00', with a chord bearing of N 19°36'24" W, with a chord length of 27.93', to a calculated point on the old 45' right of way;

thence with a compound curve turning to the right with an arc length of 58.85', with a radius of 289.00', with a chord bearing of N 11°00'10" W, with a chord length of 58.75', to a calculated point on the old 45' right of way;

thence with a compound curve turning to the right with an arc length of 58.87', with a radius of 289.00', with a chord bearing of N 00°39'58" E, with a chord length of 58.76', to a calculated point on the old 45' right of way;

thence leaving the old right of way N 42°42'28" E a distance of 18.15' to a point in the center of a ditch;

thence down and with the center of a ditch N 70°17'08" E a distance of 32.99' to a point in the center of the ditch;

thence N 65°22'33" E a distance of 44.58' to a point in the center of a ditch;

thence N 39°05'26" E a distance of 19.33' to a point in the center of a ditch;

thence N 13°02'07" W a distance of 42.04' to a point in the center of a ditch;

thence N 15°38'54" E a distance of 60.58' to a point in the center of a ditch;

thence N 27°30'15" E a distance of 27.48' to a point in the center of a ditch;

thence N 46°24'44" E a distance of 34.48' to a point in the center of a ditch;

thence N 52°18'45" E a distance of 44.06' to a point in the center of a ditch;

thence N 63°35'23" E a distance of 24.90' to a point in the center of a ditch;

thence N 68°35'48" E a distance of 34.51' to a point in the center of a ditch;

thence N 82°42'23" E a distance of 18.77' to a point in the center of a ditch;

thence N 59°06'04" E a distance of 10.91' to a point where the ditch meets the center of Brushy Creek;

thence down and with the center of Brushy Creek S 31°45'09" E a distance of 62.74' to a point in the center of Brushy Creek;

thence S 36°59'42" E a distance of 95.95' to a point in the center of Brushy Creek;

thence S 36°59'42" E a distance of 76.42' to a point in the center of Brushy Creek;

thence S 11°00'05" E a distance of 45.80' to a point in the center of Brushy Creek;

thence S 19°22'35" E a distance of 32.79' to a point in the center of Brushy Creek;

thence S 38°07'26" E a distance of 24.16' to a point in the center of Brushy Creek;

thence S 58°35'26" E a distance of 37.39' to a point in the center of Brushy Creek;

thence S 38°46'28" E a distance of 17.91' to a point in the center of Brushy Creek;

thence S 38°46'28" E a distance of 15.80' to a point in the center of Brushy Creek;

thence S 28°10'33" E a distance of 121.25' to a point in the center of Brushy Creek;

thence S 22°12'32" E a distance of 22.95' to a point in the center of Brushy Creek;

thence S 09°32'28" E a distance of 3.35' to a point in the center of Brushy Creek;

thence S 09°32'28" E a distance of 16.33' to a point in the center of Brushy Creek;

thence S 18°24'11" W a distance of 35.66' to a point in the center of Brushy Creek;

thence S 33°58'27" W a distance of 65.28' to a point in the center of Brushy Creek;

thence S 44°26'22" W a distance of 31.27' to a point in the center of Brushy Creek;

thence S 14°19'46" W a distance of 29.38' to a point in the center of Brushy Creek;

thence leaving the center of Brushy Creek N 77°32'22" W a distance of 21.02' to a point in the center of a ditch;

thence N 70°38'59" W a distance of 156.06' to a point in the center of a ditch;

thence N 77°40'10" W a distance of 71.18' to a 5/8" rebar;

thence N 72°39'09" W a distance of 29.26' to a 5/8" rebar;

thence N 46°48'46" W a distance of 41.05' to a 5/8" rebar;

thence S 89°46'32" W a distance of 60.26' to 5/8" rebar;

thence N 72°47'04" W a distance of 28.12' to a 5/8" rebar;

thence N 72°50'41" W a distance of 30.42' to a broken concrete monument;

which is the place and point of beginning and containing Tracts 2A, 2B, 2C and 2D as shown on Plat File 22, Slide 158, and having an area of 4.640 acres

CITY OF BREVARD
CASH RECEIPT

Receipt No: 686981
Date: 10/17/2024
Time: 11:15:44AM

Received From:
MILLS AVE PROP

Received: 500.00

For
ZONING ADMIN 500.00
CITY ANNEX FOREST HILL-S

Check 500.00
1090
RECEIVED BY WINDOW

LEGEND

P.F., SL.
PIN
NCGS
NAD
FCM
FR
NTS
C/L
R/W
CP
H/W
O/A
DOC. BK., PG.
SR/POL
S.R.

PLAT FILE, SLIDE
TAX PARCEL IDENTIFICATION NUMBER
NORTH CAROLINA GRID SYSTEM
NORTH AMERICAN DATUM
FOUND CONCRETE MONUMENT
FOUND REBAR
NOT TO SCALE
CENTERLINE
RIGHT OF WAY
CALCULATED POINT
HIS WIFE
OVERALL
DOCUMENT BOOK, PAGE
SET REBAR/POINT ON LINE
SECONDARY ROAD

Ⓟ UTILITY POLE

ASPHALT

FLOODWAY

FLOOD ZONE AX

FLOOD ZONE AE

ANNEX AREA

CURRENT CITY LIMITS—
TRANSYLVANIA COUNTY
SCHOOL BOARD PROPERTY

ADJOINING LINES NOT SURVEYED

RIGHT OF WAY

EXISTING LOT LINES 2A-2D

ANNEX PARCEL
CALL TABLE

LINE	BEARING	DISTANCE
A1	N42°42'28"E	18.15'
A2	N70°17'08"E	32.99'
A3	N65°22'33"E	44.58'
A4	N39°05'26"E	19.33'
A5	N13°02'07"W	42.04'
A6	N15°38'54"E	60.58'
A7	N27°30'15"	27.48'
A8	N46°24'44"	34.48'
A9	N52°18'45"	44.06'
A10	N63°35'23"	24.90'
A11	N68°35'48"	34.51'
A12	N82°42'23"	18.77'
A13	N59°06'04"	10.91'
A14	S31°45'09"	62.74'
A15	S11°00'05"	45.80'
A16	S19°22'35"	32.79'
A17	S38°07'26"	24.16'
A18	S58°35'26"	37.39'
A19	S38°46'28"	17.91'
A20	S22°12'32"	22.95'
A21	S09°32'28"	3.35'
A22	S09°32'28"	16.33'
A23	S18°24'11"W	35.66'
A24	S33°58'27"W	65.28'
A25	S44°26'22"W	31.27'
A26	S14°19'46"W	29.38'
A27	N77°32'22"W	21.02'
A28	N77°40'10"W	71.18'
A29	N72°39'09"W	29.26'
A30	N46°48'46"W	41.05'
A31	S89°46'32"W	60.26'
A32	N72°47'04"W	28.12'
A33	N72°50'41"W	30.42'
A34	S72°35'30"E	9.48'
A35	S72°35'30"E	9.48'

ANNEX PARCEL CURVE TABLE

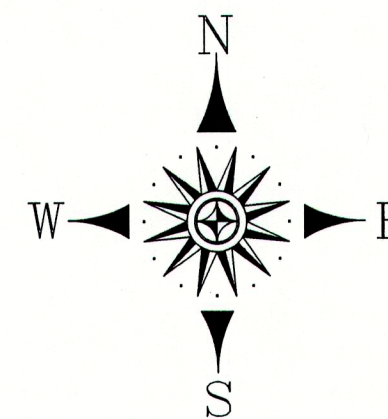
CURVE	CHORD BEARING	CHORD LENGTH	RADIUS	ARC LENGTH	DELTA ANGLE
AC1	N19°36'24"W	27.93'	289.00'	27.95'	5°32'25"
AC2	N11°00'10"W	58.75'	289.00'	58.85'	11°40'02"
AC3	N00°39'58"E	58.76'	289.00'	58.87'	11°40'14"

OWNER CERTIFICATION—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

10/17/24
DATE

By: Ben Stone
Mills Ave. Properties, LLC
OWNER(S)



NCGS NORTH (NAD 83/86)
(P.F. 22, SL. 158)

STATE OF NORTH CAROLINA
COUNTY OF TRANSYLVANIA

I, _____, REVIEW OFFICER
OF TRANSYLVANIA COUNTY, CITY OF BREVARD, CERTIFY THAT
THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED
MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

REVIEW OFFICER

DATE

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 _____

CITY CLERK

STATE OF NORTH CAROLINA
COUNTY OF TRANSYLVANIA

I, Denise Hodsdon, A NOTARY PUBLIC
OF SAID STATE AND COUNTY, DO HEREBY CERTIFY THAT

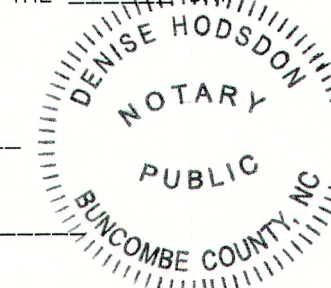
Ben Stone, Owner, Mills Ave. Properties, LLC PERSONALLY APPEARED
BEFORE ME THIS DAY AND ACKNOWLEDGED THE DUE
EXECUTION OF THE FOREGOING INSTRUMENT.

WITNESS MY HAND AND NOTARIAL SEAL, THIS THE 17th DAY
OF October, 2024.

Denise Hodsdon

NOTARY PUBLIC

MY COMMISSION EXPIRES: 10/6/2029



NOTES:

- PARCELS SHOWN HEREON ARE IDENTIFIED BY THEIR TAX PARCEL
IDENTIFICATION NUMBERS. PROPERTY ORIGINALLY SURVEYED IN JUNE OF
2022. THIS PLAT IS DEFINING THE PROPERTY THAT IS BEING ANNEXED
INTO CITY LIMITS. LOTS 2A, 2B, 2C, AND 2D ARE BEING ANNEXED INTO
THE CITY LIMITS. TRACT 1 IS NOT BEING ANNEXED INTO THE CITY LIMITS.
NOT ALL IMPROVEMENTS ARE SHOWN HEREON. DISTANCES SHOWN ARE
HORIZONTAL GROUND UNLESS NOTED OTHERWISE. THE CREEK LOCATION
WAS NOT RE-SURVEYED FROM THE ORIGINAL SURVEY/PLAT. THE
PROPERTY LINE BY DEED IS THE CENTERLINE OF BRUSHY (TUCKER'S or
NICHOLSON) CREEK.
- AREA OF
TRACT 2A = 1.192 ACRES
TRACT 2B = 1.134 ACRES
TRACT 2C = 1.146 ACRES
TRACT 2D = 1.168 ACRES
TOTAL PLATTED AREA = 4.640 ACRES
AREA CALCULATED BY COORDINATE COMPUTATION
- THIS PLAN WAS PREPARED WITHOUT THE BENEFIT OF A TITLE SEARCH.
THUS THIS PROPERTY IS SUBJECT TO ALL RIGHT-OF-WAYS; COVENANTS;
EASEMENTS AND RESTRICTIONS OF RECORD BOTH SHOWN AND NOT
SHOWN HEREON
- SEE P.F. 22, SL. 158 FOR DETAILED INFORMATION ON RIGHT OF WAYS,
NCGS TIE, AND CALLS AND DESCRIPTIONS FOR THE INTERNAL LINES.
- DEED REFERENCE: DOC. BK. 1035, PG. 743
- PLAT REFERENCE: P.F. 22, SL. 158
- TAX PINs: 2A 8585-36-0021
2B 8585-35-0899
2C 8585-35-1747
2D 8585-35-1676
- THIS PROPERTY IS CURRENTLY ZONED GENERAL RESIDENTIAL 4.
- POINTS ALONG THE C/L OF BRUSHY CREEK AND THE C/L OF THE
DITCH ARE CALCULATED AND WERE NOT SET.
- FLOODWAY, FLOOD ZONES, AND PORTIONS OF THE ROADWAY WERE
DOWNLOADED FROM FRIS.NC.GOV FROM FLOOD INSURANCE RATE MAP
37008585000; EFFECTIVE DATE OCTOBER 2, 2009.

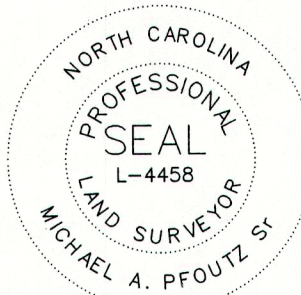
G.S. 47-30 f(11) d.

I, MICHAEL A. PFOUTZ Sr., PROFESSIONAL LAND SURVEYOR,
CERTIFY THAT THIS SURVEY IS OF ANOTHER CATEGORY,
SUCH AS THE RECOMBINATION OF EXISTING PARCELS,
A COURT-ORDERED SURVEY, OR OTHER EXCEPTION TO
THE DEFINITION OF SUBDIVISION

I, MICHAEL A. PFOUTZ, Sr., PROFESSIONAL LAND SURVEYOR,
CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION
FROM AN ACTUAL FIELD SURVEY PERFORMED UNDER
MY DIRECTION FROM INFORMATION IN P.F. 22, SL. 158;
THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED
AS DRAWN FROM INFORMATION REFERENCED HEREON; THAT THE
RATIO OF PRECISION OR POSITIONAL ACCURACY AS CALCULATED
BY LATITUDES AND DEPARTURES BEFORE ADJUSTMENT IS NOT
LESS THAN 1 : 10,000 ; AND THAT THIS PLAT WAS PREPARED
IN ACCORDANCE WITH G.S. 47-30 AS AMENDED.

WITNESS MY ORIGINAL SIGNATURE, LICENSE
NUMBER, AND SEAL THIS THE 27th DAY OF
SEPTEMBER, 2024, A.D.

Michael A. Pfoutz Sr.
MICHAEL A. PFOUTZ Sr.,
PROFESSIONAL LAND SURVEYOR
LICENSE NUMBER L-4458



NCGS MONUMENT
"GEORGE"
(NAD 83/86)
N: 556738.54'
E: 882107.07'

FOREST HILL
CIRCLE (S.R. 1122)

FOREST HILL DRIVE
(S.R. 1123)

LAWRENCE
AVENUE

FOREST HILL DRIVE SR-1123

TRACT 1
THOMAS K. WEAVER &
LINDA M. WEAVER
(DOC. BK. 255, PG. 215)

THREE LEES LLC
(DOC. BK. 953, PAGE 252)
PIN: 8585-36-1803

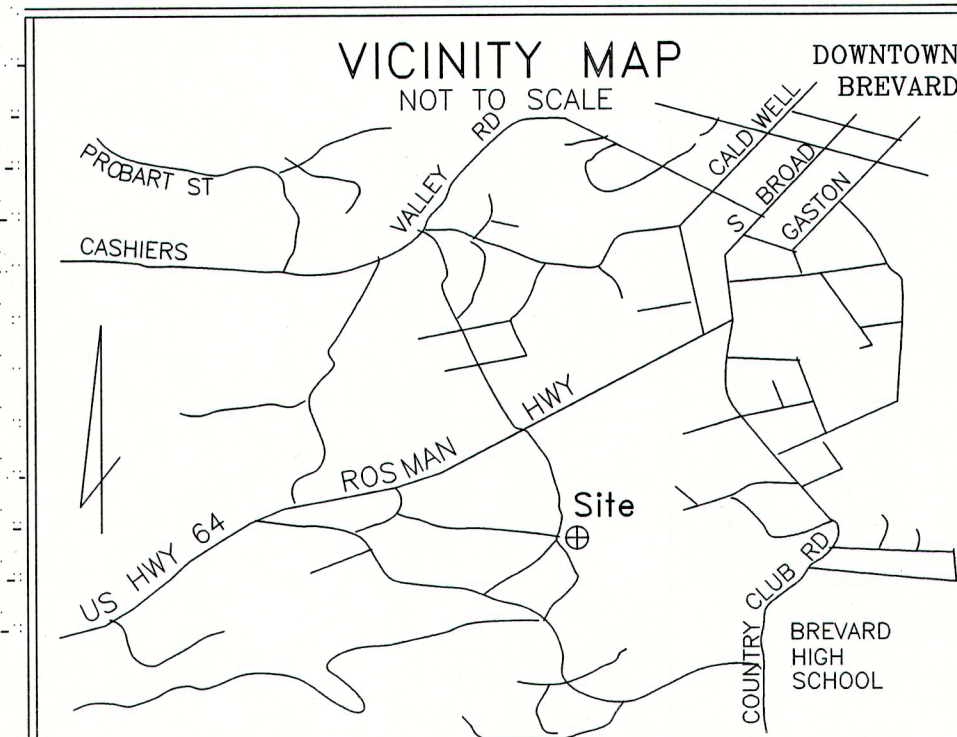
TRACT 2B
Area = 1.134 Acres

TRACT 2C
Area = 1.146 Acres

TRACT 2D
Area = 1.168 Acres

ROSE ELAINE CANUP HLTE
(DEED BOOK 635, PAGE 186)
PIN: 8585-35-1527

FCM-BROKEN
N: 556675.23'
E: 882903.65'



PREPARED BY
CAROLINA MOUNTAIN SURVEYING
FIRM LICENSE NUMBER #F-1205
137 NORTH BROAD STREET, SUITE 2
BREVARD, NORTH CAROLINA 28712
(828) 883-2670
CMSURVEYING@COMPORIUM.NET

ORDINANCE No. _____
PROPERTY SITUATE IN
CITY OF BREVARD, BREVARD TOWNSHIP
TRANSYLVANIA COUNTY, NORTH CAROLINA
OWNERS OF RECORD: MILLS AVE PROPERTIES LLC

ANNEXATION PLAT
PREPARED FOR
MILLS AVE PROPERTIES LLC

DATE SEPTEMBER 27, 2024	FIELD RECORDS DATA COLLECTOR	DRAWING CMS24053-ANNEX
COORD. FILE CMS18084.CRD		PROJECT NUMBER CMS24053

60 0 60 120 180
GRAPHIC SCALE - FEET WRITTEN SCALE: 1"=60'

RESOLUTION NO. 2024-XX

**A RESOLUTION FIXING A DATE OF PUBLIC HEARING
ON THE QUESTION OF ANNEXATION PURSUANT TO
NCGS 160A-31, AS AMENDED**

WHEREAS, a petition was received on September 17, 2024, requesting the annexation of a contiguous area described in said Petition as the Mills Ave Properties, LLC property located on Forest Hill Drive, Brevard, NC 28712, consisting of 4.64 acres, more or less, be annexed into the City of Brevard. (Tax Property Identification Numbers: 8585-36-0021; 8585-35-0899-000; 8585-35-1747-000; and 8585-35-1676-000).

WHEREAS, the Brevard City Council has by Resolution No. 2024-47 directed the City Clerk to investigate the sufficiency thereof; and

WHEREAS, certification by the City Clerk as to the sufficiency of said petition has been made.

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

Section 1. That a public hearing on the question of annexation of the contiguous area described below as requested by Mills Ave Properties, LLC, will be held at Brevard City Hall at 5:30 P.M. on the 4th day of December, 2024.

Section 2. The area proposed for annexation is described as follows:

Beginning at a broken concrete monument having North Carolina NAD 83/86 grid coordinates of North: 555675.23 East: 882903.55; said monument standing S 36°49'51" E a distance of 1,328.41 from NCGS MONUMENT GEORGE which has North Carolina NAD 83/86 grid coordinates of North: 556738.54 East: 882107.07 and 6.2' away from an existing utility pole in the right of way for Forest Hill Road; thence N 72°35'30" W a distance of 9.48' to a calculated point on the old 45' right of way; thence N 22°22'36" W a distance of 58.85' to a calculated point on the old 45' right of way; thence N 22°22'36" W a distance of 30.91' to a calculated point on the old 45' right of way; thence with a curve turning to the right with an arc length of 27.95', with a radius of 289.00', with a chord bearing of N 19°36'24" W, with a chord length of 27.93', to a calculated point on the old 45' right of way; thence with a compound curve turning to the right with an arc length of 58.85', with a radius of 289.00', with a chord bearing of N 11°00'10" W, with a chord length of 58.75', to a calculated point on the old 45' right of way; thence with a compound curve turning to the right with an arc length of 58.87', with a radius of 289.00', with a chord bearing of N 00°39'58" E, with a chord length of 58.76', to a calculated point on the old 45' right of way; thence leaving the old right of way N 42°42'28" E a distance of 18.15' to a point in the center of a ditch; thence down and with the center of a ditch N 70°17'08" E a distance of 32.99' to a point in the center of the ditch; thence N 65°22'33" E a distance of 44.58' to a point in the center of a ditch; thence N 39°05'26" E a distance of 19.33' to a point in the center of a ditch; thence N 13°02'07" W a distance of 42.04' to a point in the center of a ditch; thence N 15°38'54" E a distance of 60.58' to a point in the center of a ditch; thence N 27°30'15" E a distance of 27.48' to a point in the center of a ditch; thence N 46°24'44" E a distance of 34.48' to a point in the center of a ditch; thence N 52°18'45" E a distance of 44.06' to a point in the center of a ditch; thence N 63°35'23" E a distance of 24.90' to a point in the center of a ditch; thence N 68°35'48" E a distance of 34.51' to a point in the center of a ditch; thence N 82°42'23" E a distance of 18.77' to a point in the center of a ditch; thence N 59°06'04" E a distance of 10.91' to a point where the ditch meets the center of Brushy Creek; thence down and with the center of Brushy Creek S 31°45'09" E a distance of 62.74' to a point in the center of Brushy Creek; thence S 36°59'42" E a distance of 95.95' to a point in the center of Brushy Creek; thence S 36°59'42" E a distance of 76.42' to a point in the center of Brushy Creek; thence S 11°00'05" E a distance of 45.80' to a point in the center of Brushy Creek; thence S 19°22'35" E a distance of 32.79' to a point in the center of Brushy Creek; thence S 38°07'26" E a distance of 24.16' to a point in the center of Brushy Creek; thence S 58°35'26" E a distance of 37.39' to a point in the center of Brushy Creek; thence S 38°46'28" E a distance of 17.91' to a point in the center of Brushy Creek; thence S 38°46'28" E a distance of 15.80' to a point in the center of Brushy Creek; thence S 28°10'33" E a distance of 121.25' to a point in the center of Brushy Creek; thence S 22°12'32" E a distance of 22.95' to a point in the center of Brushy Creek; thence S

09°32'28" E a distance of 3.35' to a point in the center of Brushy Creek; thence S 09°32'28" E a distance of 16.33' to a point in the center of Brushy Creek; thence S 18°24'11" W a distance of 35.66' to a point in the center of Brushy Creek; thence S 33°58'27" W a distance of 65.28' to a point in the center of Brushy Creek; thence S 44°26'22" W a distance of 31.27' to a point in the center of Brushy Creek; thence S 14°19'46" W a distance of 29.38' to a point in the center of Brushy Creek; thence leaving the center of Brushy Creek N 77°32'22" W a distance of 21.02' to a point in the center of a ditch; thence N 70°38'59" W a distance of 156.06' to a point in the center of a ditch; thence N 77°40'10" W a distance of 71.18' to a 5/8" rebar; thence N 72°39'09" W a distance of 29.26' to a 5/8" rebar; thence N 46°48'46" W a distance of 41.05' to a 5/8" rebar; thence S 89°46'32" W a distance of 60.26' to 5/8" rebar; thence N 72°47'04" W a distance of 28.12' to a 5/8" rebar; thence N 72°50'41" W a distance of 30.42' to a broken concrete monument; which is the place and point of beginning and containing Tracts 2A, 2B, 2C and 2D as shown on Plat File 22, Slide 158, and having an area of 4.640 acres.

Section 3. Notice of said public hearing shall be published in the Transylvania Times, a newspaper having general circulation in the City of Brevard, at least ten (10) days prior to the date of said public hearing.

Section 4. This Resolution shall become effective upon its adoption and approval.

Adopted and approved this the 4th day of November, 2024.

Maureen Copelof
Mayor

ATTEST:

Denise Hodsdon, CMC
City Clerk

STAFF REPORT

City Council, Monday, November 4, 2024

Title: Resolution Authorizing Staff to Renew Adopt-a-Greenspace Contracts

Speaker: Paul Ray

Prepared by: Katherine Buzby, Planner/Assistant Zoning Administrator

Approved by: Paul Ray, Planning Director

Background

The Adopt-a-Greenspace Program was implemented by Resolution 2022-38 that allows the Planning Dept. to have "adoptees" maintain green spaces via contract in the City of Brevard. The contract is for one calendar year and many applicants have fulfilled their contracts and would like to renew them for another year. The City is very grateful for these adoptions as it helps keep our green spaces clean and maintained in an environmentally friendly manner.

Discussion

The adoption process that was approved is for the adoptee to apply to the Parks & Trails Committee, who reviews the application and then makes a decision based on the application. Many green spaces are currently adopted (16) and the adoptees would like to continue the work and renew for another year, without having to go through the whole adoption process a second time. The Planning Dept. would like the authorization to renew contracts based on the following conditions: the adoptee agrees to maintain the green space for another year; the Planning Dept. has not received any other applications for the same green space; and the performance of the adoption has met the requirements of the adoption in previous year(s).

Policy Analysis

Goal 5 of the 2030 Comprehensive Land Use Plan is to "Celebrate Brevard's natural resources through conservation of environmentally sensitive areas, improving access to recreation, and restoration of native ecosystems."

The adoptions meet the City's goal of conserving green spaces through environmentally friendly processes and regulations.

Fiscal Impact

Normal impact to Public Works budget for maintenance materials and the possibility of saving "man-hours" for maintenance of the green spaces.

Action

Staff is requesting the ability to renew contracts internally without a second review of the Parks & Trails Committee approval based on the above-mentioned stipulations.

Attachments:

1. Draft Resolution for Adopt a Green Space Administrative Duties

RESOLUTION NO. 2024-__

**A RESOLUTION IMPLEMENTING
ADMINISTRATIVE DUTIES UNDER THE ADOPT
A GREEN SPACE PROGRAM**

WHEREAS, the City of Brevard has long valued exceptional quality of life and a beautiful natural setting; and

WHEREAS, the City's 2030 Comprehensive Land Use Plan identifies a policy goal to Celebrate Brevard's natural resources through conservation of environmentally sensitive areas, improving access to recreation, and restoration of native ecosystems. (Goal 5-PNRC); and

WHEREAS, Brevard is blessed with an active citizenry that is willing to volunteer time and energy into the community; and

WHEREAS, the City wishes to maintain its green spaces utilizing the most environmentally-friendly methods possible; and

WHEREAS, the City implemented the Adopt a Green Space Program via Resolution No 2022-38.

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

SECTION 1. The City Planning Department and Community Center Director are hereby authorized to implement renewals of adoptions for the Adopt a Green Space Program: where the adoptee agrees to adopt another year; and no other applications have been received for the same site; and the adoptee has maintained the green space satisfactory according to the contract; therefore, the administrator of the program may renew the adoption without going through the entire new adoption process again.

SECTION 2. This Resolution shall become effective upon its adoption and approval.

Adopted and approved upon first reading this the _____ day of _____ 2024.

Maureen Copelof
Mayor

ATTEST:

Denise Hodsdon, CMC
City Clerk

APPROVED AS TO FORM:

Mack McKeller
City Attorney

STAFF REPORT

City Council, Monday, November 4, 2024

Title: Resolution Accepting \$352,000 Grant for Wastewater Treatment Plant Engineering

Speaker: Dean M. Luebbe

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

Approved by: Wilson Hooper, City Manager

Background

The City received \$13M earmark for utility infrastructure in a recent State budget. In September of 2024, the City received notification that it had been approved to use \$352,000 of this amount for the preliminary engineering to be performed by KCI Technologies on the Wastewater Treatment Plant upgrade or replacement. The State requires the City to adopt a resolution accepting the funding offer.

Action

Staff requests Council adopt resolution as presented, granting the City Manager the authority to accept \$352,000 of State funding (SRP-W-134-0175) related to preliminary engineering on the Wastewater Treatment Plant upgrade or replacement.

Attachments:

1. Resolution Accepting Funding - \$352,00 - WWTP Engineering0
2. 13M SRP-W-134-0175 Funding Offer
3. Funding Offer and Acceptance

RESOLUTION NO. 2024-XX
BY THE CITY COUNCIL OF THE CITY OF BREVARD
ACCEPTING FUNDING OF \$352,000 FOR ENGINEERING
SERVICES RELATED TO THE WASTEWATER TREATMENT
PLANT UPGRADE OR REPLACEMENT.

WHEREAS, the City of Brevard has received a Directed Projects grant from the 2023 Appropriations Act, Session Law 2023-134, administered through the Drinking Water Reserve and Wastewater Reserve to assist eligible units of government with meeting their water/wastewater infrastructure needs, and

WHEREAS, the North Carolina Department of Environmental Quality has offered 2023 Appropriations Act funding in the amount of \$352,000 to perform work 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:

That the City of Brevard does hereby accept the 2023 Appropriations Act Directed Projects Grant offer of \$352,000.

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.

That Wilson Hooper, City Manager, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with this 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 4th day of November, 2024.

Maureen Copelof
Mayor

ATTEST:

Denise Hodsdon, CMC
City Clerk

ROY COOPER

Governor

ELIZABETH S. BISER

Secretary

SHADI ESKAF

Director



NORTH CAROLINA
Environmental Quality

September 2, 2024

Wilson Hooper, City Manager
City of Brevard
95 West Main Street
Brevard, NC 28712

SUBJECT: Funding Offer
Project No. SRP-W-134-0175
WWTP Upgrade or Replacement
Preliminary Engineering Report

Dear Mr. Hooper:

The City of Brevard has been approved for funding assistance according to the subject funding offer. This offer is made subject to the Assurances and Conditions attached to this document.

Upon your acceptance, please submit the following items to the Division, via email at DEQ.DWI.FundingOffer@deq.nc.gov:

1. One (1) copy of the original Offer and Acceptance Document executed by the Authorized Representative for the project, along with the Conditions and Assurances. **Retain the other copy for your files.**
2. A resolution adopted by the governing body accepting the funding offer and making the applicable Conditions and Assurances contained therein. (Sample copy attached)
3. Federal Identification Number and Unique Entity ID Number of the Recipient (UEID required for federally funded projects)
4. Sales-Tax Certification (attached)

The Site Certification and a Capital Project Ordinance (or budget ordinance covering the project) are due before disbursements begin.

Disbursement requests are to be submitted via Laserfiche at the following link: <https://edocs.deq.nc.gov/Forms/DW-Document-Upload-Form>. A reference copy of the Disbursement Request Form (also found on the DWI website) has been enclosed for your convenience.



North Carolina Department of Environmental Quality | Division of Water Infrastructure
512 N. Salisbury Street | 1633 Mail Service Center | Raleigh, North Carolina 27699-1633
919.707.9160

On behalf of the Department of Environmental Quality, I am pleased to make this funding offer. Should you have any questions concerning this offer of funding, or any of the stipulations outlined in this offer package, please contact David Smith at david.smith@deq.nc.gov or (919) 707-3885.

Sincerely,

DocuSigned by:


Shadi Eskaf, Director
Division of Water Infrastructure, NCDEQ

Enclosures: Offer and Acceptance Document
Assurances & Conditions
Federal ID and UEID Number Request Memo
Resolution to Accept Funding Offer (suggested format)
Sales-Tax Certification Form
Disbursement Request Form
Guidance Document (North Carolina Wastewater Funding Programs Overview)
Site Certification
Capital Project Ordinance (Sample)

cc: Wilson Hooper, City Manager, City of Brevard
(Wilson.hooper@cityofbrevard.com)
David DePratter, PE, KCI Associates of North Carolina, PA
(david.depratter@kci.com)
Mark Hubbard (Via DocuSign)
David Smith (Via DocuSign)
DWI Administrative Unit (Via DocuSign)
Carrie Shortt (Via DocuSign)
Teresa Tripp (Via DocuSign)
DEQ.DWI.FundingOffer@deq.nc.gov
FILE: SRP-134 Project File (COM_LOX)
Agreement ID#: 2000077993



North Carolina Department of Environmental Quality | Division of Water Infrastructure
512 N. Salisbury Street | 1633 Mail Service Center | Raleigh, North Carolina 27699-1633
919.707.9160

**STATE OF NORTH CAROLINA
DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF WATER INFRASTRUCTURE**

Funding Offer and Acceptance

Legal Name and Address of Award Recipient

City of Brevard
95 West Main Street
Brevard, NC 28712

Project Number(s): SRP-W-134-0175

Assistance Listing Number: N/A

Unique Entity ID Number: JDX5KBDPSQH8

Funding Program

Drinking Water	☐	Additional Amount for	Previous Total	Total Offered
Stormwater	☐	Funding Increases		
Wastewater	☒			
State Revolving Fund-Repayable Loan	☐			
State Revolving Fund-Principal Forgiveness	☐			
State Reserve Loan	☐			
State Reserve Grant	☐			
State Reserve Earmark (S.L. 2023-134)*	☒			\$352,000
American Rescue Plan Act - Choose an item.	☐			

Project Description:

WWTP Upgrade or Replacement Preliminary
Engineering Report

Total Financial Assistance Offer:

\$352,000

Total Project Cost:

\$352,000

Estimated Closing Fee:**

\$ 0

For Loans

Interest Rate:

-- Per Annum

Maximum Loan Term:

-- Years

* Federal conditions and requirements will also apply to S.L. 2023-134 projects co-funded with federal funds.

** Estimated closing fee calculated based on grant and loan amount.

Pursuant to North Carolina General Statute 159G:

- The applicant is eligible under Federal and State law,
- The project is eligible under Federal and State law, and
- The project has been approved by the Department of Environmental Quality as having sufficient priority to receive financial assistance.

The Department of Environmental Quality, acting on behalf of the State of North Carolina, hereby offers the financial assistance described in this document.

For The State of North Carolina:

**Shadi Eskaf, Director, Division of Water Infrastructure
North Carolina Department of Environmental Quality**

DocuSigned by:



8300A872677B4C5
Signature

10/22/2024

Date

On Behalf of:

City of Brevard

Name of Representative in Resolution:

Title (Type or Print):

I, the undersigned, being duly authorized to take such action, as evidenced by the attached CERTIFIED COPY OF AUTHORIZATION BY THE APPLICANT'S GOVERNING BODY, do hereby accept this Financial Award Offer and will comply with the attached Assurances and the Standard Conditions.

Signature

Date

STANDARD CONDITIONS & ASSURANCES FOR STATE RESERVE PROJECTS

Project Subrecipient: City of Brevard

Project Number(s): SRP-W-134-0175

1. The Subrecipient intends to construct the project or cause it to be constructed to final completion in accordance with the Application or Request for Funding approved for financial assistance by the Division.
2. If the project is co-funded with federal funding sources (e.g., State Revolving Funds, CDBG-Infrastructure, American Rescue Plan Act), the conditions and assurances of the federal funding program will also apply.
3. The Subrecipient acknowledges that in the event a milestone contained in the most recent Letter of Intent to Fund is missed, the Department of Environmental Quality may rescind this Funding Offer.
4. The Subrecipient is responsible for paying for the costs ineligible for DWI funding.
5. All projects must comply with North Carolina General Statute 143-64.31, Article 3D Procurement of Architectural, Engineering, and Surveying Services. Any services provided that were not selected in compliance with state requirements will be ineligible for disbursement.
6. The construction of the project, including the letting of contracts in connection therewith, conforms to the applicable requirements of State and local laws and ordinances.
7. As of the acceptance of this Funding Award Offer, steps identified in the SRP Guidance will be complete. These Assurances, likewise, incorporate the most recent version of the SRP Guidance, and the Subrecipient hereby certifies by accepting this Funding Award Offer that it will adhere to the subsequent steps in the SRP Guidance document. The remaining steps generally govern project design, bidding, contracting, inspection, disbursements, closeout and repayment.
8. The Subrecipient will provide and maintain adequate engineering supervision and inspection.
9. The Subrecipient agrees to establish and maintain a financial management system that adequately accounts for revenues and expenditures. Adequate accounting and fiscal records will be maintained during the construction of the project and these records will be retained and made available for a period of at least three years following completion of the project.
10. All SRP funds must be expended solely for carrying out the approved project, and an audit shall be performed in accordance with G.S. 159-34. Partial disbursements on this loan or grant will be made promptly upon request, subject to adequate documentation of incurred eligible costs, and subject to the Subrecipient's compliance with the Standard Conditions of this Award. The Subrecipient agrees to make prompt payment to its contractor, and to retain only such amount as allowed by North Carolina General Statute.
11. The Subrecipient will expend all of the requisitioned funds for the purpose of paying the costs of the project within three (3) banking days following the receipt of the funds from the State. Please note that the State is not a party to the construction contract(s) and the Subrecipient is expected to uphold its contract obligations regarding timely payment.
12. The Subrecipient, if a local government unit or public authority, must comply with the requirements of NC GS 159-34 in having its accounts audited each fiscal year and to submit a copy of the audit report to the Secretary of the Local Government Commission by the established deadlines. Failure to comply with these requirements may result in delays in disbursement of the funds to the Subrecipient and/or the rescission of this Funding Offer.
13. The Subrecipient acknowledges that any loan funds contained in this Funding Offer requires approval from the North Carolina Local Government Commission before they can be disbursed.
14. Local government units designated as distressed must complete associated requirements of statute §159G-45(b).

STAFF REPORT

City Council, Monday, November 4, 2024

Title: Capital Project Amendment - WWTP - \$352,000 Grant Funding SRP-W-134-0175

Speaker: Dean M. Luebbe

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

Approved by: Wilson Hooper, City Manager

Background

On August 19, 2024, City Council adopted Project Ordinance 2024-30, establishing the Wastewater Treatment Plant Upgrade or Replacement Project. The Project was funded at that time by a \$357,800 transfer from the Water and Sewer operating fund, as the City had not received confirmation from the State that grant funding would be allowed for preliminary engineering. In September of 2024, the City was notified that the State had approved \$352,000 of grant funding from DWI Project No: SRP-W-134-0175. The attached project amendment will reverse the Water and Sewer transfer of \$357,800, and thus return these funds to the Water and Sewer operating fund, and record grant funding of \$352,000 for the preliminary engineering work to be completed.

Action

Adopt Capital Project Amendment as presented.

Attachments:

1. CPO Amendment \$352,000 WWTP Grant funding
2. Ord 2024-30 Capital Project Ordinance to Establish Wastewater Treatment Plant Upgrade or Replacement Project

ORDINANCE NO. 2024-XX

CAPITAL PROJECT ORDINANCE TO AMEND ORDINANCE
NO. 2024-30 WASTEWATER TREATMENT PLANT UPGRADE OR REPLACEMENT
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 2024-30 will be decreased from \$357,800 to \$352,000.

Section 2: The Project involves the upgrade or replacement of the Wastewater Treatment Plant, and is currently in the preliminary engineering phase. The City received notification in September of 2024, that grant funding would be allowed for the preliminary engineering phase

Section 3: The Project is expected to last several years, and while total projected costs are unknown at this time, they could exceed \$50M, dependent upon the scope of the improvements needed.

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

Account Number	Account Name	Budget Amount
31-8220-0925	Professional Services	\$357,800
31-8220-0925	Professional Services	(\$5,800)
TOTAL PROJECT APPROPRIATION		\$352,000

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

Account Number	Account Name	Budget Amount
31-3760-1908	Trans f/ Water – WWTP	\$357,800
31-3760-1908	Trans f/Water - WWTP	(\$357,800)
31-3970-0800	NCDEQ SRP-W-134-0175	\$352,000
TOTAL PROJECT REVENUE		\$352,000

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 4th day of November, 2024.

Maureen Copelof
Mayor

ATTEST:

Denise Hodsdon
City Clerk

APPROVED AS TO FORM:

Mack McKeller
City Attorney

ORDINANCE NO. 2024-30

CAPITAL PROJECT ORDINANCE TO ESTABLISH WASTEWATER TREATMENT PLANT UPGRADE OR REPLACEMENT 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 adopted:

Section 1: The Wastewater Treatment Plant is approaching 80% capacity which signals the City to begin exploring ways to increase capacity. A new Wastewater Treatment Plant would likely exceed \$50,000,000 in cost, but the City is also exploring whether an upgrade to the current Plant would better serve the future needs of the community. This will almost certainly be the first of many project amendments associated with this important project.

Section 2: The City has contracted with KCI Associates of North Carolina, P.A. in the amount of \$352,000 to perform preliminary engineering as highlighted in Section 5. (Statement of Work), of the agreement. Funding will be provided from a transfer from the Water and Sewer Fund of \$357,800, which City Council approved as a component of the FY24-25 budget on June 3, 2024.

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

Account Number	Account Name	Budget Amount
31-8220-0925	Professional Services	\$357,800
TOTAL PROJECT APPROPRIATION		\$357,800

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

Account Number	Account Name	Budget Amount
32-3760-1908	Trans from Gen Fund - WWTP	\$357,800
TOTAL PROJECT REVENUE		\$357,800

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.

Ordinance No. 2024-30
August 19, 2024
Page 2 of 2

ADOPTED by the City Council of the City of Brevard, North Carolina, on this
19th day of August, 2024.



Maureen Copelof
Maureen Copelof
Mayor

ATTEST:

Denise Hodsdon
Denise Hodsdon, CMC
City Clerk

APPROVED AS TO FORM:

Mack McKeller
Mack McKeller
City Attorney

MINUTES
City Council Public Safety Committee

Monday, July 22, 2024 – 3:30 PM
City Hall Council Chambers

Members Present: Aaron Baker, Chair, Council Member
Mac Morrow, Vice-Chair, Council Member
Kevin Gallo, Citizen Member
Mayor Mauren Copelof, Ex-Officio Member

Staff Present Wilson Hooper, City Manager
Tom Jordan, Police Chief
Bobby Cooper, Fire Chief
Becky McCann, Communications Coordinator
Denise Hodsdon, City Clerk

Guests: Linda Gallo, Pat Webb, Marcia and Don O'Dell, Janice Castevens, Susan Azar, Victor Zona, Phil Stewart, and Peggy Bogarduce

A. Welcome & Call to Order

Committee Chair Aaron Baker welcomed everyone and called the meeting to order at 3:30 PM.

B. Certification of Quorum

City Clerk Denise Hodsdon certified that a quorum was present.

C. Approval of Agenda

Motion by Mr. Morrow, seconded by Mr. Gallo to approve the agenda as presented. The motion carried unanimously.

D. Approval of Minutes of June 24, 2024 Meeting

Motion by Mr. Gallo, seconded by Mr. Morrow to approve the minutes of the June 24, 2024 meeting as presented. The motion passed unanimously.

E. Animal Control Policy – Dangerous Dogs

Chief Jordan reviewed the updated draft ordinance amendment and noted that the entire ordinance has been rewritten. He explained that this amendment provides

some further definitions and includes some of the potentially dangerous behaviors of attacking other animals, which is not included in state law. The amendment also goes into detail about what happens when an animal is declared dangerous and expands due process and appellate considerations.

During discussion, Mr. Hooper noted that the Appellate Board membership includes a “practicing” veterinarian, and he thought that might limit our pool of candidates. He suggested taking out the word “practicing” and permit retired veterinarians and others who may not be currently practicing to be candidates for that board; and that the veterinarian member does not have to be a resident of the city, but could be a resident of the county. It was noted that the citizen members should be residents of the city. Mr. Gallo moved, seconded by Mr. Morrow to forward the draft amendment with those changes to full Council with a recommendation for approval. The motion carried unanimously.

F. Update on Transportation Working Group

Mr. Hooper updated the committee on matters that the Transportation Working Group has been working on:

- Probart Street traffic calming – Public Works has measured and identified locations for the speed cushions according to the dimensions that were recommended to us by our professional traffic engineer, which is between 500 and 600 feet apart and more than 20 feet away from driveways and 50 feet away from intersections. There are irregular measurements on Probart Street that might affect the placement of the speed cushions, which come in fixed dimensions. In order for them to work appropriately there needs to be two valleys that are 51 inches apart and the standard off-the-shelf fit is not going to work in every location. Mr. Hooper has asked the vendor if they have a custom option and is waiting to hear back from them. Some of the spots identified will work with the standard kit and he will go ahead and order those and try to figure out a new solution for the locations with irregular dimensions.
- Request from a resident to study traffic calming on Kilpatrick Street – this street is essentially an alley that serves a handful of houses, but apparently folks speed through there and it is not wide enough to accommodate two cars. Chief Jordan is going to place the speed sign out to verify that the speeds are as high as they claim, but even if they aren’t, the street is narrow enough that it might warrant a one-way designation. Its intersection with Tinsley has some strange sightlines so there may be a compelling safety reason to make it one-way going west to east. These conditions will require further evaluation.
- Request from French Broad Place people to reconsider the reconfiguration of

West Appletree Street. The Working Group will look at doing something with the lines to try to accommodate the folks along that alleyway so that the patrons of Dugan's Pub aren't parking there and blocking access to the parking garage.

- The working group has talked about some experimental treatments for bike lanes on shared streets that might be good options for the segments of our trail that are on streets. The group will continue to explore those options more in future meetings.

G. Traffic Schedule Amendments – No Parking Zones and 3-Way Stop Intersections

Mr. Hooper explained that the proposed amendment adds the west side of Railroad Avenue, from Kings Creek where the trail crosses to Probart Street, to the no parking areas as a measure to protect the trail and its users. It also adds a 3-way stop at the intersection of Probart Street and Railroad Avenue.

Mr. Hooper added that we still think that adding on-street parking on east side of Railroad Avenue from French Broad Street to Whitmire Street is a good concept, but we haven't done all the measurements, so that is not on the traffic schedule yet. There was discussion about whether to make the east side of Railroad Avenue from Probart Street to King Street a no parking area also. Mr. Hooper recommended sending that to the Traffic Working Group for further study.

Mr. Morrow moved, seconded by Mr. Gallo to refer prohibiting on-street parking on the west side of Railroad Ave. from Probart St. to the trail crossing; adding lined on-street parking on the east side of Railroad Ave. from French Broad St. to Whitmire St., pending satisfactory dimensions; to refer prohibition of on-street parking on the east side of Railroad Ave. from Probart St. to King St. back to the staff committee for further study; and adding the 3-way stop at the intersection of Probart St. and Railroad Ave., to full Council with a recommendation for approval. The motion carried unanimously.

H. Quarterly Pedestrian Report

Mr. Hooper distributed copies of car, pedestrian, bicycle, and motorcycle crash data for the second quarter of 2024 and noted that this report is a hybrid of two different data sources. The car crash information comes from the Fire Department and the remainder comes from the Police Department and asked whether this is the information the committee wished to see. Mr. Baker said he would like to see additional information on where these crashes are happening so we can look for patterns. Chief Jordan noted that the state does an annual report that identifies hot spots and the 2023 report will be available in August. Mr. Baker said I think in reality we probably have a lot more incidents than in the report, but you're less

likely to have an incident report unless somebody gets really injured. The car numbers are higher because of insurance claims. He thought maybe it is more of a communication problem and that maybe for data gathering purposes and to make the city safer, we need to start encouraging people to report incidents even if it is a close call. He thought it would be helpful in determining where to spend traffic calming dollars.

I. Public/Committee Comment

Morris Jenkins of 148 Probart St. encouraged the city to go ahead and install the speed cushions that fit, rather than waiting for the others, because that area where the big curve is between Railroad and James Street is probably the most dangerous.

Susan Azar of 12 Hilt St. Ext. thanked the committee for their hard work on the dangerous dog ordinance.

Linda Gallo of 671 Probart St. asked if there would be a speed cushion between Railroad and Oaklawn. Mr. Hooper said he believes there will be two.

Mayor Copelof mentioned that several constituents came to see her regarding a concern about mailboxes on Elm Bend Rd. All the mailboxes are on one side of the street and people have to cross the street to get their mail. Elm Bend is used as a major thoroughfare and has a lot of traffic that goes fast and there are no crosswalks. The request was to look at what could possibly be done, and she wanted to bring it up to make the committee aware. She will talk with the Post Office to see what their policy is and ask if they could move the boxes to the other side of the road. If they say no, she will bring it back to this committee to look at other options.

J. Set Date for Next Meeting

The next meeting of the Public Safety Committee was scheduled for Monday, August 26, 2024 at 3:30 pm at City Hall.

K. Adjourn

There being no further business, the meeting was adjourned at 4:24 PM.

Minutes Approved: October 28, 2024

X 

Aaron Baker
Chair, Council Member

X 

Denise Hodsdon
City Clerk

**MINUTES
ECUSTA TRAIL ADVISORY BOARD 2.0**

**Thursday, August 22, 2024 – 3:30 pm
City Hall Council Chambers**

Members Present: Aaron Baker, Chair, Council Member
Mac Morrow, Vice Chair, Council Member
Larry Chapman, Transylvania County Commissioner
Rebekah Robinson, Conserving Carolina
John Ditillo, Friends of Ecusta Trail
Doug Miller, Heart of Brevard

Absent: Dee Dee Perkins, Tourism Development Authority
Sheila Carland, Transylvania Economic Alliance
Meredith Carli, At-Large Appointment
Madeline Hanley, At-Large Appointment
Chris Burns, Henderson County RTAC

Staff Present: Maureen Copelof, Mayor, Ex-Officio
Wilson Hooper, City Manager
Paul Ray, Planning Director
Aaron Bland, Assistant Planning Director

Guests: Teresa Buckwalter, Josh Schober, Lonnie Watkins, Mark Tooley, Christine Stout, Tad Fogel, Jon Rich.

A. Welcome and Call to Order

Committee Chair Aaron Baker welcomed everyone and called the meeting to order at 3:30 PM.

B. Certification of Quorum

Quorum was certified by City Planner Katherine Buzby.

C. Approval of Agenda

Motion by Mr. Morrow, seconded by Mr. Chapman to approve the agenda. The motion carried unanimously.

D. Approval of Minutes of May 29, 2024 Meeting

Motion by Mr. Chapman, seconded by Mr. Morrow to approve the minutes of the May 29, 2024 meeting as presented. The motion carried unanimously.

E. Presentation on Ecusta Trail

Mr. Hooper presented a brief history of the trail, including financial review/funding sources, current project schedules, the new board responsibilities, and possible future meeting dates. (Presentation Attached).

F. Presentation by Traffic Planning & Design

TPD presented updates as 30% design has been completed. Discussion on Cost Estimate items including widening the railbed, bridges to be replaced/repared, drainage for stormwater, road crossings, and private property items/encroachments. Amenities for the trail have been placed into 3 categories. Future decisions will need to be made on mile marker numbers, amenity prisonizations, signage, and crossing Asheville Hwy safely.(Presentation Attached)

G. Action Items

Adjoining property owner list to be sent to City by TPD prior to Public Engagement Event on September 10, 2024. TPD to publish Public Engagement Event information that includes Public Officials Meeting in the morning and a Community Meeting in the afternoon.

H. Ecusta Trail Announcements

A presentation will be made by the Mayor at the Great Trail State Conference about the Ecusta Trail on September 11-13th, 2024 in Winston-Salem.

The NC Bike/Walk Alliance requested a presentation on the Ecusta Trail due the grants Henderson County has received and they will be presenting next week in Chapel Hill.

Mr. Hooper will be presenting the Ecusta Trail to the NC's Managers at the Tar Heel Bus Tour in Cullowhee in October.

I. Public Comment

No public comments received at this time.

J. Set Date for Next Meeting

A Special Meeting of the Ecusta Trail Advisory Board 2.0 was scheduled for Thursday, September 5, 2024 at 3:30 PM.

The Regular Meeting of the Ecusta Trail Advisory Board 2.0 was scheduled for September 25, 2024 at 3:30 PM.

K. Adjourn

There being no further business, the meeting was adjourned at 5:17 PM

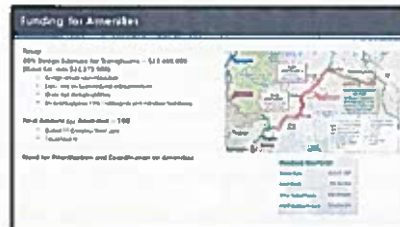
Minutes Approved- 9/5/24

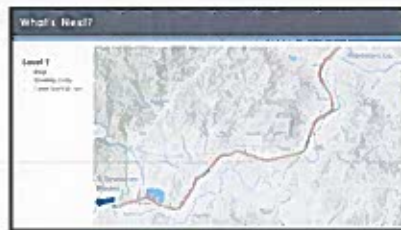
X Aaron Baker
Aaron Baker, Chair

X Katherine Buzby
Katherine Buzby, City Planner

Attachments: Kickoff Presentation by Mr. Hooper
TPD Presentation





[illegible]

MINUTES

Rosenwald Community Advisory Board

Tuesday, August 27, 2024 - 6:00 PM
Mary C. Jenkins Community & Cultural Center

Members Present: Pamela Holder, Co-Chair, Council Member (left at 6:15 pm)
Gary Daniel, Council Member
Victor Foster, Citizen Member
Susan Threlkel, Citizen Member
Edith Darity, Citizen Member
Ella Jones, Citizen Member
Mayor Maureen Copelof, Ex-Officio

Members Absent: Randy Lytle, Co-Chair
Rebecca Wynn, Citizen Member

Staff Present: Wilson Hooper, City Manager
Tyree Griffin, Community Center Director
Denise Hodsdon, City Clerk

A. Welcome & Call to Order

Co-Chair Pamela Holder welcomed everyone and called the meeting to order at 6:01 p.m.

B. Invocation

Mr. Foster offered an invocation.

C. Certification of Quorum

Quorum was certified by City Clerk Denise Hodsdon. Ms. Holder noted that she had another meeting that she had to attend and asked Mr. Daniel to chair the meeting after she leaves.

D. Approval of Agenda

Motion by Mr. Foster, seconded by Ms. Threlkel to approve the agenda as presented. The motion carried unanimously.

E. Approval of Minutes from May 16, 2024.

Motion by Mr. Foster, seconded by Ms. Jones to approve the minutes of the May 16, 2024 meeting as presented. The motion carried unanimously.

F. Juneteenth Celebration Debrief

Mr. Griffin reviewed the results of the Juneteenth Celebration survey. He noted that there was a lot of good feedback in terms of how people felt about it. He said the biggest takeaway was the community atmosphere and we tip our hats to the City of Brevard and the Mary C. Jenkins Board who worked together to put on a very successful event, and there was a lot of collaboration in the community. He said he will use the suggestions for improving the festival as an opportunity to enhance it for next year. He noted that the layout will continue to be the same, we will continue to have and perhaps expand music groups, and he hopes to bring in more vendors and more volunteers. Mr. Foster added that one thing we learned is that we need to better outline what we want the volunteers to do and how soon we need them prior to the start of the event. Mr. Griffin mentioned that closing off Mills Avenue was a big help, especially with events happening at both MCJCCC and Silversteen Park.

G. Accomplishing Advisory Board's Mission/Vision

Mr. Hooper explained that he would like to have a discussion about how the City can help to accomplish the vision and mission statements adopted by this committee last year:

- Vision Statement: Unifying the voices of the Rosenwald Community with local leaders
- Mission Statement: To provide a conduit through which the voices and concerns of the Rosenwald Community are transmitted to local officials, and to be a sounding board for public officials on matters that impact Rosenwald

He noted that we have had dedicated public meetings here on the Master Plan and on architectural standards, we had a Council meeting here last week, the Mayor does Meet the Mayor meetings here, and a couple of the projects we did around the neighborhood stemmed from feedback we received in these meetings, including the additional creek rehab, the sidewalk, and the storm drains that we have fixed in this area. All that came out of this body, but I'm thinking about more than just individual acts of constituent response. I'm thinking about an engagement forum of some sort that really helps accomplish what is stated in the vision and mission statements; something that is repeatable and we could do regularly that covers themes of interest to the folks who live here, and something that is formatted in a way that builds trust. I know that some of our engagement sessions have not been so successful at that, so I would like to hear feedback from you all on what we can do to live up to the vision and mission identified here.

During discussion, the following key elements were identified:

- Need to build trust and make people feel like they have a voice that is heard and they can trust what we say. Maybe we can't give them everything they want, but let them know that we are here to hear them and want to try to do something about it.
- Gentrification and the need to protect properties and preserve the community's history

- City-led public input sessions have not been successful because people were venting and expressing frustrations
 - Conduit works both ways and Staff feels that when they hold public meetings they are getting blamed for things that aren't their fault, i.e. the City has a legal responsibility to approve by-right uses of a property
 - Challenge of City being powerless to solve some of the problems because of legal limitations; expectations and reality are different sometimes

Suggested ways the City could help accomplish the committee's vision and mission include:

- Consider quarterly collaborative community engagement sessions to give/receive information and work together toward solutions
- Preview matters that will have an impact on the Rosenwald Community with the Advisory Board prior to bringing to public input sessions in order to plan meetings more constructively and get a sense of the needs of the people that are going to be there
- Review what other communities have done regarding gentrification and consider an analysis and creation of a map of at-risk properties that need to be protected
- Encourage community members to attend City Council meetings

There was consensus to continue discussion and consider any new ideas at an upcoming meeting.

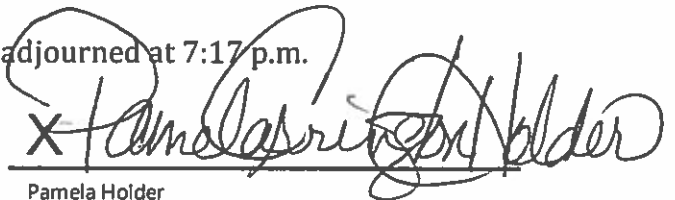
H. Set Date for Next Meeting

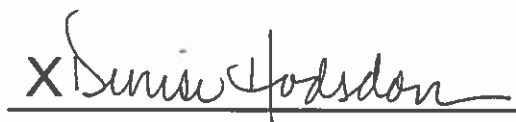
The next meeting was scheduled for Thursday, September 19, 2024 at 6:00 p.m. at the Mary C. Jenkins Community & Cultural Center.

I. Adjourn

There being no further business, the meeting was adjourned at 7:17 p.m.

Minutes Approved: October 17, 2024


 Pamela Holder
 Co-Chair


 Denise Hodsdon
 City Clerk

**MINUTES
ECUSTA TRAIL ADVISORY BOARD 2.0**

**Thursday, September 5, 2024 – 3:30 pm
City Hall Council Chambers**

Members Present: Aaron Baker, Chair, Council Member
Mac Morrow, Vice Chair, Council Member
Larry Chapman, Transylvania County Commissioner
Rebekah Robinson, Conserving Carolina
John Ditillo, Friends of Ecusta Trail
Doug Miller, Heart of Brevard
Dee Dee Perkins, Tourism Development Authority
Sheila Carland, Transylvania Economic Alliance
Meredith Carli, At-Large Appointment
Madeline Hanley, At-Large Appointment

Absent: Chris Burns, Henderson County RTAC

Staff Present: Maureen Copelof, Mayor, Ex-Officio
Wilson Hooper, City Manager
Paul Ray, Planning Director
Aaron Bland, Assistant Planning Director
David Todd, City Engineer

Guests: Teresa Buckwalter, Lonnie Watkins, Mark Tooley, Christine Stout, Vicki Eastland, various citizens.

A. Welcome and Call to Order

Committee Vice Chair Mac Morrow welcomed everyone and called the meeting to order at 3:27 PM.

B. Certification of Quorum

Quorum was certified by City Planner Katherine Buzby.

C. Approval of Agenda

Motion by Mr. Hooper to amend the agenda to add discussion of Trail Terminus at Mountain Industrial Drive before Public Comments at 5:20pm. Motion to approve amended agenda by Mr. Chapman, seconded by Mr. Ditillo. The motion carried unanimously.

D. Encroachment Update

Traffic Planning & Design (TPD) showed a presentation that discusses encroachments by private adjacent property owners and how to categorize them into three categories: high, medium, and low impact encroachments (See attached presentation).

Mr. Chapman questioned on what legal liability the City or Conserving Carolina will have at Trail crossings (private driveways, etc.) if the public gets hurt. Mr. Ray assured Mr. Chapman that all encroachments/crossings will have an Encroachment Agreement drafted by the City that will contain Hold Harmless language. The Agreement will also have language about any future encroachments into the Trail Right-of-Way (ROW).

TPD stated that they were given goals (by NCDOT) for the Trail that included reducing the environmental impact of the Trail and the impact to adjacent property owners. Mr. Ray also discussed that the rider experience is also an important goal of the Trail.

A discussion was conducted about making sure that the Board considers that the screening measures should have unity along the trail (not mixed-matched fences, etc.). Even though TPD will meet with all the adjacent property owners and discuss their individual preferences, the Board should make the decisions based on priority rank and safety.

A discussion was also conducted about who will be maintaining the new screening measures, as it may require labor-intensive upkeep such as routine weed eating. The Board recommended to save this discussion for a later date, when they know more about how the Trail will be maintained.

E. Possible Screening Measures

TPD, NCDOT, and the City have developed different types of screening measures that can be applied based on the level of impact encroachment (i.e. fences, vegetation, boulders, bollards, etc.). The screening options are being covered by the RAISE grant funds. (See attached presentation)

F. Amenities Poll

A poll was conducted of the Board members to rank the priorities of amenities. The results are attached.

A comment was received about restroom amenities, that there is more involved than location as the Board needs to think about access to septic systems and water connections.

A discussion was made about wayfinding signs as an amenity, and it was stated that Wayfinding signs are covered by the grant as long as they are in the ROW. Mayor Copelof mentioned that the mile markers will need to be cohesive with the Henderson County side, which the numbering system has already may be based on old railroad markers. They are also discussing standards for

signs along the Trail. Location of all signs, kiosks, and mile markers are a decision for a later date.

The Board members also discussed the possibility of having trail amenities sponsored by commercial businesses (such as a kiosk), so that Trail grant money can be preserved for other amenities.

G. Terminus of Trail and Connector to (former) Estatoe Trail

NCDOT needed a decision about how the Board plans to connect the two Trails into one: either by having them do a temporary connection now off the new cul-de-sac (which can be altered later for smoother transition), or by creating an alternative plan that would not be paid by NCDOT.

A motion to have NCDOT do the temporary connector was introduced by Mr. Baker, seconded by Ms. Perkins. The motion carried unanimously.

H. Action Items

TPD will assign categories to all the Trail encroachments (high, medium, or low) so that the Board can assess what screening may be appropriate at each location.

I. Public Comments

A citizen asked about if additional parking will be offered on Mountain Industrial Drive. The Board told him that parking lots and trailheads are still being looked into and will take the comment under advice.

Mr. Hooper announced the Ecusta Trail Working Group met today and their meetings will probably shadow this Board, so he will be able to update the Board of their progress.

J. Set Date for Next Meeting

The next regular meeting of the Ecusta Trail Advisory Board 2.0 was scheduled for Wednesday, September 25, 2024 at 3:30 PM.

K. Adjourn

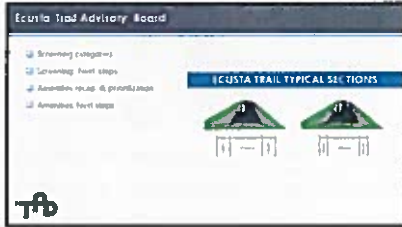
There being no further business, the meeting was adjourned at 4:57 PM.

Minutes Approved- 9/25/24

X Aaron Baker
Aaron Baker, Chair
X Katherine Buzby
Katherine Buzby, City Planner

**Attachments: TPD Presentation
Amenities Poll**

9/15/24





Treatment Types

- Landscape Buffers/Screening



What's Next?

- Develop plans for screening
- Level of impact high, medium and low or higher amount
- Some situations will require meeting with property owner



Amenities: What do we mean?

Level 2

- Parking (Requires ROW)
- Minor building
- Public Restrooms (Can be funded if in ROW)



Treatment Types

- Recycle with landscaping



AMENITIES RE-CAP



Amenities: What do we mean?

Level 3

What included in grant funding

- Shelter
- Restroom
- Water
- Public Art
- Integrative artwork



What's Next?



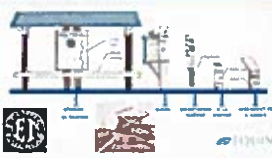
Amenities: What do we mean?

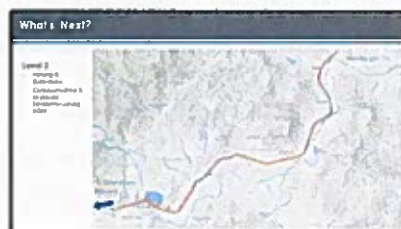
Level 4

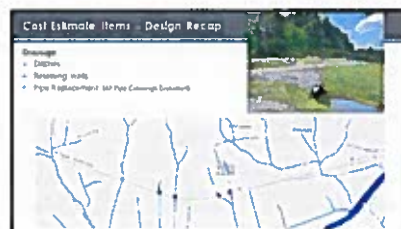
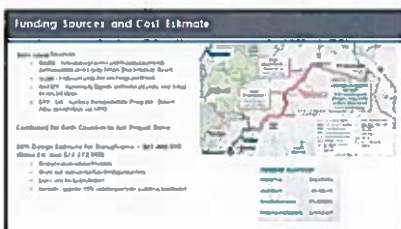
- Shelter
- Restroom
- Real related information signs
- Chairs (Benches)
- Other necessary equipment including
- Shade racks
- Blue for 4 option
- Other related to the
- And not including



Early Concepts









MINUTES

COUNCIL FINANCE, HUMAN RESOURCES and CITIZEN APPOINTMENT COMMITTEE

Tuesday, September 17, 2024 – 3:30 PM
City Hall Council Chambers

Members Present: Lauren Wise, Chair, Council Member
Gary Daniel, Vice-Chair, Council Member (Arrived at 11:05 AM)
Susan Miller, Citizen Member

Staff Present: Wilson Hooper, City Manager
Dean Luebbe, Assistant City Manager/Finance Director
Kelley Craig, Human Resources Director
Becky McCann, Communications Coordinator
Denise Hodsdon, City Clerk

Guests: Harvey Sankey

A. Welcome & Call to Order

Committee Chair Lauren Wise welcomed everyone and called the meeting to order at 3:30 p.m.

B. Certification of Quorum

Quorum was certified by City Clerk Denise Hodsdon.

C. Approval of Agenda

Motion by Mr. Daniel, seconded by Ms. Miller to approve the agenda as presented. The motion carried unanimously.

D. Approval of Minutes of August 26, 2024 Meeting

Motion by Ms. Miller seconded by Mr. Daniel to approve the minutes of the August 26, 2024 meeting as presented. The motion carried unanimously.

E. Review of Applications for Planning Board

The Committee reviewed four applications for the Planning Board's newly added city-appointed seat. Mr. Daniel moved, seconded by Ms. Miller to refer Karen Darity to full Council for appointment to the Planning Board. The motion carried unanimously.

F. Public Comment – None.

G. Set Date for Next Meeting

The next meeting of the Finance & Human Resources Committee will be on Tuesday, October 28, 2024, at 11:00 a.m.

H. Adjourn

There being no further business, the meeting was adjourned at 3:41 PM.

X



Lauren Wise
Chair, Council Member

Minutes Approved: October 28, 2024

X



Denise Hodsdon
City Clerk

**MINUTES
ECUSTA TRAIL ADVISORY BOARD 2.0**

**Wednesday, September 25, 2024 – 3:30 pm
City Hall Council Chambers**

Members Present: Aaron Baker, Chair, Council Member
Mac Morrow, Vice Chair, Council Member
Larry Chapman, Transylvania County Commissioner
Dee Dee Perkins, Transylvania Development Authority
John Ditillo, Friends of Ecusta Trail
Sheila Carland, Transylvania Economic Alliance
Doug Miller, Heart of Brevard
Meredith Carli, At-Large Appointment (Zoom)
Madeline Hanley, At-Large Appointment (Zoom)

Absent: Chris Burns, Henderson County RTAC
Rebekah Robinson, Conserving Carolina

Staff Present: Maureen Copelof, Mayor, Ex-Officio
Wilson Hooper, City Manager
Paul Ray, Planning Director
Aaron Bland, Assistant Planning Director
David Todd, City Engineer

Guests: Teresa Buckwalter, Christine Stout

A. Welcome and Call to Order

Committee Chair Aaron Baker welcomed everyone and called the meeting to order at 3:31 PM.

B. Certification of Quorum

Quorum was certified by City Planner Katherine Buzby.

C. Approval of Agenda

Motion to approve amended agenda by Ms. Perkins, seconded by Mr. Morrow. The motion carried unanimously.

D. Approval of Minutes

Motion to approve August 22, 2024 and September 5, 2024 meeting minutes by Mr. Morrow, seconded by Mr. Chapman.

E. Mileage Marker Discussion

Mr. Hunter Marks from Watermarks Landscape Architecture (part of the design team) discussed the mile marker design and spacing. The old Rail Road (RR) markers were found not to be consistent in terms of distances between them based on old maps they discovered. The old RR has many sections where it went straight but the new trail will curve, and areas where the trail has been moved to avoid obstacles like intersections, wetlands, streams, and existing encroachments. Many of the RR mile markers were not found along the Right-of-Way (ROW) and the ones they did locate were not in good shape or visually appealing. These changes make the old mile markers inconsistent with the actual mileage of the new trail. Henderson County has suggested to have their mile markers start at zero in downtown at their depot and will count up in ½ miles as the trail user would head up the trail towards Transylvania County. A safety issue arises if the numbering of the mile markers is not clear for emergency response. The design of the mile markers was presented (see attached) which has the posts made of composite materials (as opposed to wood for maintenance reasons) and contains a tread graphic plaque that resembles an arrow. Concern was brought up about the arrow graphic and should be used carefully as it can be confused for a trail direction arrow. The tread graphic with arrow will also accompany other verbiage, such as a sponsor or other entity decided upon by the Friends of Ecusta Trail. The mile markers will be black and white with the exemption of the plaques, which will be molding into the posts.

A motion was made by Mr. Morrow, seconded by Ms. Perkins to have the mile marker numbering system start with zero in Hendersonville at the depot and continue upward to the terminus in 1-mile increments in Transylvania County, as well as approving the design presented. The motion carried unanimously.

The RTAC meeting in Henderson County is in three weeks and Friends of Ecusta Trail will advise them of the motion that passed regarding Transylvania County mile markers.

F. Possible Parking Options

Traffic Planning & Design (TPD) updated the group on the Public Engagement Event at the local library on September 10th, 2024 gave them a good amount of feedback and allowed them to confer with some adjoining property owners.

TPD is now focused on access along Transylvania County section of the trail and where people will park to access the trail. They are looking at properties that may be adjacent to the trail but not in the ROW so they can figure out what property owners to contact and what design criteria will be required including screening, amenities, and signage. They have created a table that

shows what the most important functions of parking will be, first being if the property is in the ROW or adjacent to the trail for funding purposes. Next is if the proposed location is in a Floodplain or Floodway due to restrictions. Following those, they are looking at nonresidential properties that may be not utilized or underutilized. The size was listed as under 20 parking spaces or 20+ parking spaces.

They have identified six possible locations that might work but need further site investigation:

1. The Conserving Carolina Rail Spur off of Ecusta Rd-There are an abundance of items in this ROW section currently and will be pretty disruptive and not ideal based on the operations of the industrial businesses in the area. It is also not immediately adjacent to the trail and with the trucks that currently are there, it could create an unsafe parking situation plus the property lines show that the current business in operation would have to be relocated. Plus, access to the parcel would require cars to turn across the current Estatoe trail to enter the property which creates safety issues.
2. Pisgah Labs- Adjacent parcel (3 acres) that is owned by Pisgah Labs but not a part of their current operations. The initial plan that was done by ALTA some years ago had already looked at this parcel at a very high level.
3. Adjacent vacant land adjacent to a farm on Old Hendersonville Hwy- 2 acres that is not currently a part of the farm use, adjacent to the ROW. Possibility for a very small parking area, maybe 15 parking spaces. The parcel is very close in proximity of the Triangle Stop on Old Hendersonville Hwy and Hwy 64 East near Penrose.
4. Little River Volunteer Fire Dept- This parcel is really close to the river access but previously stored Dupont chemicals. A cleanup of the chemicals has taken place but would need further site investigation. Some tanks still exist on the property.
5. Citizens Telephone Hendersonville Hwy-Nonresidential 4-acre track with some topography challenges right adjacent to the trail that is listed as exempt on the tax records and owned by the utility company.
6. STG Solar and Jones- Possible location of a combination trailhead (both counties) close to the county line and has river access.

TPD in the next step of design will look at what opportunities are available for restrooms and then look at recommended separation distances between restrooms. A recommendation to TPD was that parking areas should have restrooms. The businesses near the Swamp Rabbit Trail went with the whole "trail partner" idea that let people use their facilities in exchange for advertising on the website maps. This is one more element that can be considered but will not be available in the rural areas along the trail.

Any property actually purchased from a private holder will need to be done under the Rails to Trails LLC.

A suggestion for parking was to put a bridge over the drainage swale behind Oskar Blues to the County Park & Recreation area so that people could park and use those facilities. TPD will add this suggestion to the list of property owners to contact as an option.

G. Public Comments

Mr. Fogel suggested that angular parking could be added to the drive that goes around Pisgah Elementary. Discussion about how difficult this parking area would be due to drop off and pick up school traffic.

Another suggestion was the County property behind the Pisgah Forest Collection Center. This property is in the Floodplain/Floodway.

All suggestions are being added to the list by TPD.

H. Set Date for Next Meeting

The next regular meeting of the Ecusta Trail Advisory Board 2.0 is scheduled for Wednesday, October 30, 2024 at 3:30 PM.

K. Adjourn

There being no further business, the meeting was adjourned at 4:47 PM.

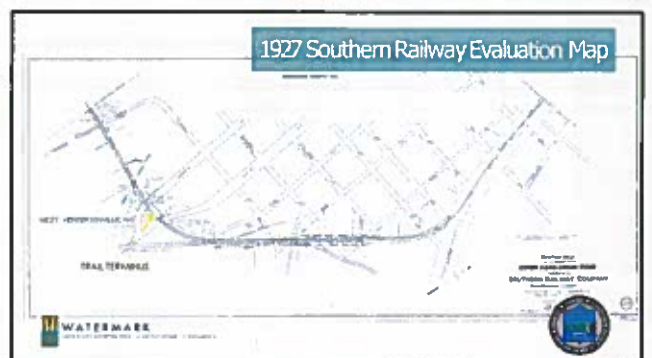
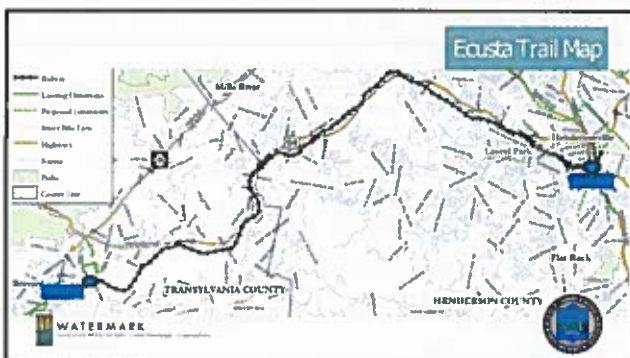
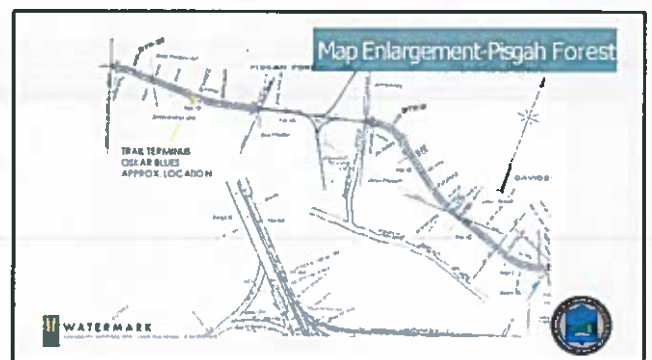
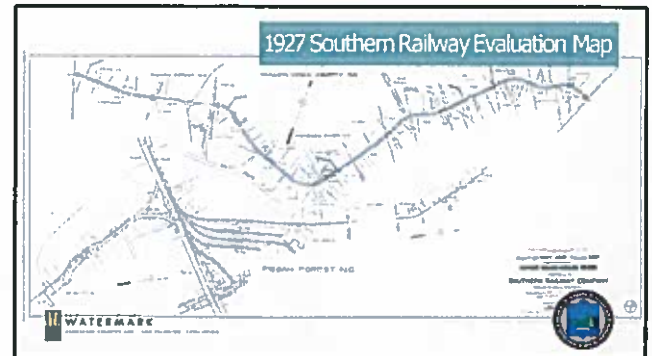
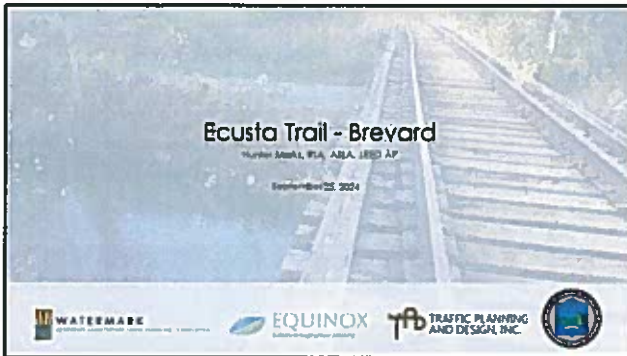
Minutes Approved- 10/30/24

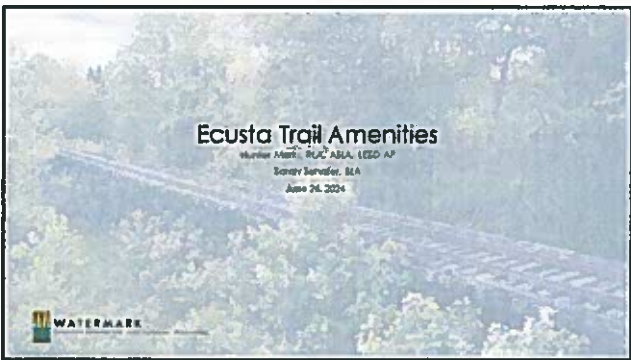
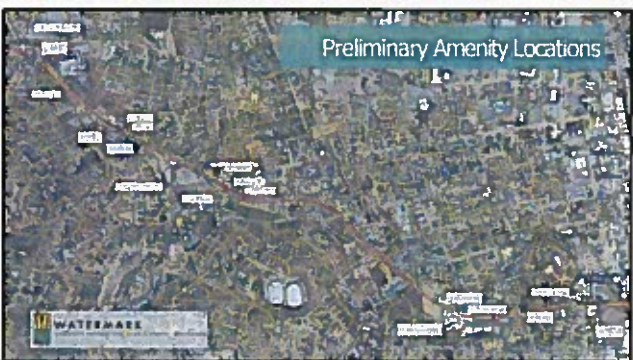
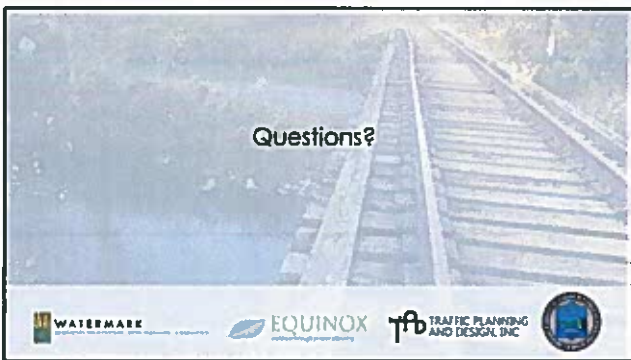
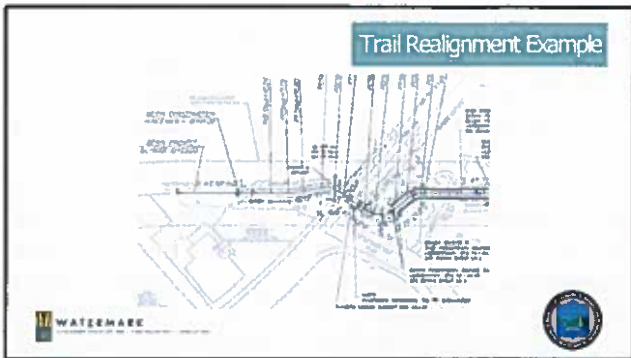
X Aaron Baker
Aaron Baker, Chair

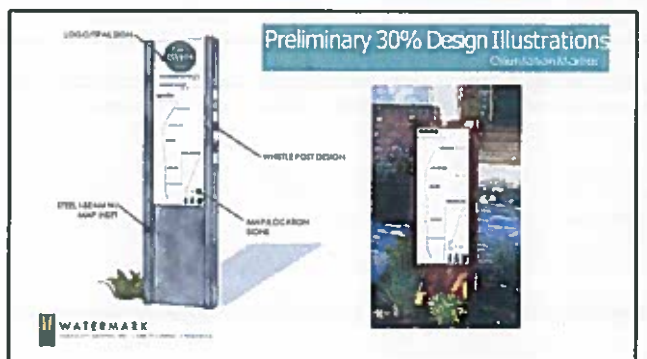
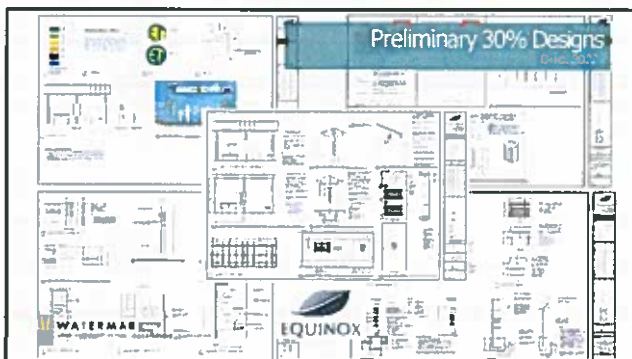
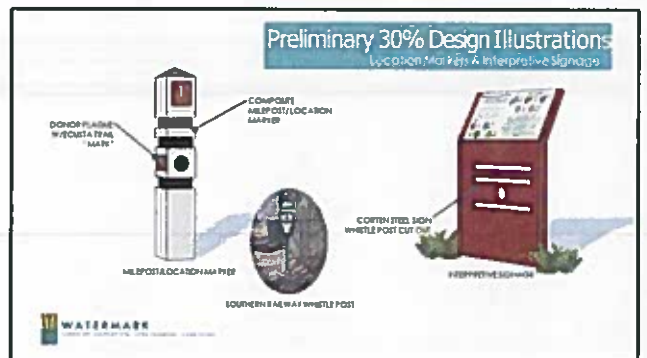
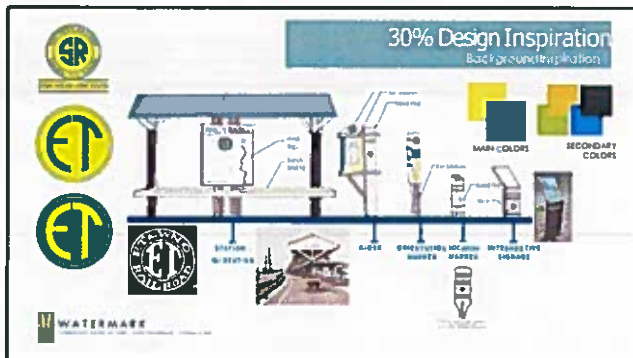
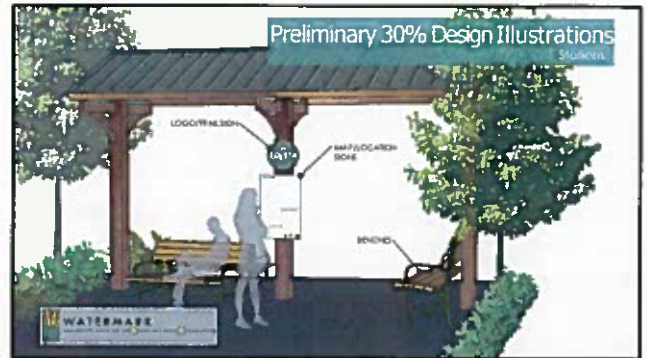
X Katherine Buzby
Katherine Buzby, City Planner

Attachments: TPD Presentation

9/25/24



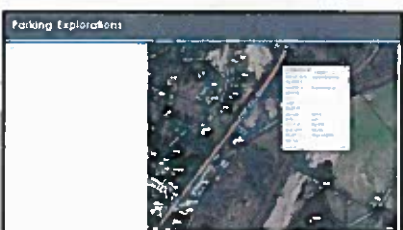
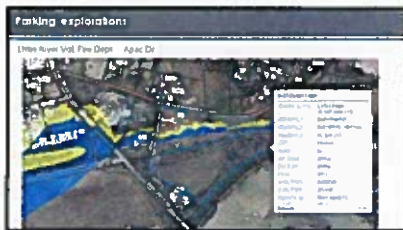






variable	description	analysis			p-value	R-sq
		significance	effect size	power		
age	age in years	0.000	0.000	0.999	0.000	0.000
sex	male = 1, female = 2	0.000	0.000	0.999	0.000	0.000
education	years of education	0.000	0.000	0.999	0.000	0.000
income	annual income in \$1000s	0.000	0.000	0.999	0.000	0.000
tenure	years on the job	0.000	0.000	0.999	0.000	0.000
performance	performance rating	0.000	0.000	0.999	0.000	0.000
promotion	promotion status	0.000	0.000	0.999	0.000	0.000
turnover	turnover status	0.000	0.000	0.999	0.000	0.000
training	training status	0.000	0.000	0.999	0.000	0.000
tenure squared	tenure squared	0.000	0.000	0.999	0.000	0.000
tenure cubed	tenure cubed	0.000	0.000	0.999	0.000	0.000
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tenure to the fifth	tenure to the fifth	0.000	0.000	0.999	0.000	0.000
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tenure to the seventh	tenure to the seventh	0.000	0.000	0.999	0.000	0.000
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tenure to the tenth	tenure to the tenth	0.000	0.000	0.999	0.000	0.000
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tenure to the thirteenth	tenure to the thirteenth	0.000	0.000	0.999	0.000	0.000
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tenure to the twentieth	tenure to the twentieth	0.000	0.000	0.999	0.000	0.000
tenure to the twenty-first	tenure to the twenty-first	0.000	0.000	0.999	0.000	0.000
tenure to the twenty-second	tenure to the twenty-second	0.000	0.000	0.999	0.000	0.000
tenure to the twenty-third	tenure to the twenty-third	0.000	0.000	0.999	0.000	0.000
tenure to the twenty-fourth	tenure to the twenty-fourth	0.000	0.000	0.999	0.000	0.000
tenure to the twenty-fifth	tenure to the twenty-fifth	0.000	0.000	0.999	0.000	0.000
tenure to the twenty-sixth	tenure to the twenty-sixth	0.000	0.000	0.999	0.000	0.000
tenure to the twenty-seventh	tenure to the twenty-seventh	0.000	0.000	0.999	0.000	0.000
tenure to the twenty-eighth	tenure to the twenty-eighth	0.000	0.000	0.999	0.000	0.000
tenure to the twenty-ninth	tenure to the twenty-ninth	0.000	0.000	0.999	0.000	0.000
tenure to the thirtieth	tenure to the thirtieth	0.000	0.000	0.999	0.000	0.000
tenure to the thirty-first	tenure to the thirty-first	0.000	0.000	0.999	0.000	0.000
tenure to the thirty-second	tenure to the thirty-second	0.000	0.000	0.999	0.000	0.000
tenure to the thirty-third	tenure to the thirty-third	0.000	0.000	0.999	0.000	0.000
tenure to the thirty-fourth	tenure to the thirty-fourth	0.000	0.000	0.999	0.000	0.000
tenure to the thirty-fifth	tenure to the thirty-fifth	0.000	0.000	0.999	0.000	0.000
tenure to the thirty-sixth	tenure to the thirty-sixth	0.000	0.000	0.999	0.000	0.000
tenure to the thirty-seventh	tenure to the thirty-seventh	0.000	0.000	0.999	0.000	0.000
tenure to the thirty-eighth	tenure to the thirty-eighth	0.000	0.000	0.999	0.000	0.000
tenure to the thirty-ninth	tenure to the thirty-ninth	0.000	0.000	0.999	0.000	0.000
tenure to the fortieth	tenure to the fortieth	0.000	0.000	0.999	0.000	0.000







**MINUTES
BREVARD ABC BOARD
August 22, 2024**

Approved

Conner: _____

Pearsall: _____

Brewer: _____

Mooney: _____

The Brevard ABC Board met in regular session on Thursday, August 22, 2024 at 8:30 a.m. in the Administration Conference Room at City Hall.

Members Present: Kevin Jones, Chair
Frank Pearsall
Ron Brewer
Carl Mooney
Lisa Conner

Staff Present: Jackie Jarvis, Interim General Manager
Paxton McAbee, Asst. General Manager

A. Welcome & Call to Order

B. Quorum

Board Chair Kevin Jones called the meeting to order at 8:30 a.m. and a quorum was noted.

C. Approval of Agenda

Motion by Mr. Pearsall, seconded by Ms. Connor to approve the agenda as presented. The motion carried unanimously.

D. Approval of Minutes

1. Minutes from Regular Session – July 25, 2024

Mr. Mooney moved, seconded by Ms. Connor to approve the minutes of the Regular Session meeting on July 25, 2024, as amended. The motion carried unanimously.

E. New Business

1. Manager's Report / Sales Update

Ms. Jarvis reported that she had asked Sharon to separate out the utilities and that has been done. She asked if the Board had any questions regarding the financial reports. Mr. Mooney questioned the rehabilitation contribution to the County. Ms. Jarvis explained that that is the 5-cent bottle tax (over 50 milliliters) and 1-cent bottle

tax (50 milliliters or less) that is paid to the County. Mr. Mooney noted that there is a discrepancy in the way it is listed on the balance sheet, where it is listed as NC Rehab 5-cent and 1-cent tax, but in the profit and loss sheet, it is listed as just 5-cent bottle tax. He asked that it be changed in QuickBooks to keep the nomenclature consistent.

2. Discuss LBD Computer

Ms. Jarvis informed the Board she would like to purchase a separate LBD computer for restaurant orders. The cost to purchase from Carolina Data and have them install it is \$7,400. She explained it is a portable computer on a cart and could be used as an extra register up front during busy times. Mr. Pearsall moved, seconded by Ms. Conner to approve the purchase. The motion carried unanimously.

3. New LBD Policy

Ms. Jarvis explained that she was having an issue with one of the restaurants coming in to pick up their liquor order just before the store closes at 9:00 pm. She contacted Raleigh and they recommended that she put a policy in place that sets the time by which liquor orders must be picked up. The policy she recommended set a pickup time of no later than 8:30 pm, and a copy has been sent to the ABC Commission. Ms. Connor moved, seconded by Mr. Brewer to approve the policy. The motion carried unanimously.

4. Discuss September Board Meeting

Due to scheduling conflicts, the Board set their September meeting for Monday, September 30, 2024 at 11:00 a.m.

F. Unfinished Business

1. Report on Sales for Store 2

As the Board had requested, Ms. Jarvis prepared a breakdown of sales and expenses for Store #2 over the 4-month period of April through July 2024 (copy attached). During that 4-month period the profit, after expenses for rent, utilities and salaries, was approximately \$651,200. She noted that the lease for Store #2 will be due for renewal in February and the new lease will be with Ingles. It is unknown at this time what the new rent amount will be.

2. Review and Approve Financial Reports from July 2024

The financial reports for July 2024 were reviewed and circulated for signatures.

G. Adjourn

There being no further business the meeting adjourned at 8:56 AM.



Jackie Jarvis, Interim General Manager



Kevin Jones, Chair Lisa Conner

Minutes Approved: October 24, 2024



Denise Hodsdon, City Clerk



April, May, June, July 2024

INCOME and EXPENSES

RENT, UTILITES, TRUCK EXPENSES, SALARYS

RENT	22,690.52
WATER	325.77
PHONE-INTERNET	1,252.21
POWER	2,064.60
GAS	470.80 \ 1863.55
TRUCK EXPENSES	800.00
SALARYS	43,816.85
TOTAL =	71,420.15

RETAILS FOR 4 MOUTHES

April 168,404.30 May 181,489.97 June 181,361.86 July 191,370.22 total = 722,626.35

After all deductions total 651,206.20

STAFF REPORT

City Council, Monday, November 4, 2024

Title: Proposed Amendments to City of Brevard Code of Ordinances Chapters 1, 46, and 62 - Sidewalk Usage Policy

Speaker: Emily Brewer, AICP, Senior Planner

Prepared by: Emily Brewer, Senior Planner

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

Background

North Carolina General Statutes §160A-296 states that cities have general authority and regulatory authority over all public sidewalks within its corporate limits. It is the stated duty of a municipality to keep the public sidewalks “open for travel and free from unnecessary obstructions.”

In 2020, the City permitted the usage of the sidewalk by businesses in response to the COVID-19 pandemic. The success of this program prompted the City to sign a Sidewalk Dining Agreement with NCDOT that allows the City to permit sidewalk dining areas on NCDOT rights-of-way. One of the provisions of this agreement is that the City must adopt a sidewalk dining ordinance that aligns with the terms of the agreement as NC General Statutes. Staff, in consultation with the Downtown Master Plan Committee, prepared comprehensive amendments to the City’s sidewalk usage policies and added the required provisions to the Code. The amendment was adopted by City Council on January 19, 2021. Shortly thereafter, the City adopted the Downtown Master Plan with two of the primary objectives being to “enhance mobility, accessibility, and safety in Downtown” and “create an attractive and engaging pedestrian experience.”

The City recently completed the Main Street improvements from the Downtown Master Plan, added new public amenities, and established a social district in Downtown. The steps made to improve the pedestrian experience prompted Staff to revisit the sidewalk usage ordinance.

The North Carolina League of Municipalities (NCLM), the City’s insurance provider, advised Staff that, in order to be adequately covered, all items placed in the public rights-of-way need to be permitted with insurance naming the City as an additional insured and an executed hold harmless agreement. Additionally, the City needs to proactively monitor the sidewalk encroachments and take enforcement actions to remedy violations when necessary.

This is a staff-initiated text amendment to ensure that all items (e.g., merchandise, planters, furnishings) placed in City or State rights-of-way have insurance and meet the minimum separation requirements. The proposed changes also aim to reduce the burden on business owners by making it a one-time permit. Staff conducted a comprehensive review of legal constraints and ordinances from other municipalities to ensure compliance

with federal and state laws and planning best practices. Summaries of these reviews are included as attachments.

City Council held a public hearing on this amendment on October 21, 2024.

Discussion

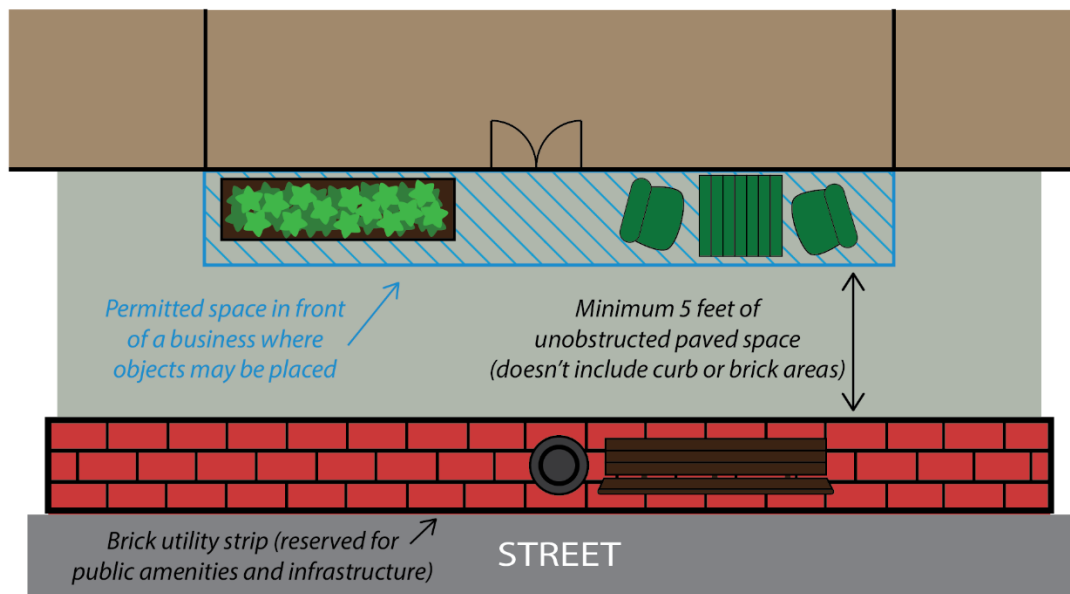
Below is a summary of the proposed changes and Staff's rationale.

Permitted Space for Obstructions on the Sidewalk:

The current regulations have different requirements for merchandise (*Section 46-1*) and permanent or semi-permanent objects that stay outside at all times (*Section 46-6*). The proposed amendments consolidate the regulations for placing obstructions on the sidewalk to *Section 62-1 – Placing objects on streets and sidewalks* and requires a business to secure a permit for a space in front of the establishment where objects may be placed. The new section requires the business owner to provide proof of insurance, a site plan that meets the setback requirements, and an executed encroachment / hold harmless agreement. This approach still allows merchants to place merchandise, furnishing or decorations while ensuring that the City is not liable, in accordance with NCLM's advice.

The setbacks and separation requirements align with those in North Carolina General Statutes §136-27.4 for sidewalk dining, which states that a minimum of five feet of unobstructed paved space of sidewalk remains clear for the passage of pedestrians. These are unchanged from the current regulations except that no objects may no longer be placed in the bricked utility strip. (Note that permitted A-frame signs and objects installed by the City or NCDOT may still be placed in the bricked utility strip).

In preparing these amendments, Staff prepared an updated Encroachment / Hold Harmless Agreement for the City and the business owner will sign to place objects in a permitted space. The new agreement removes the additional burden on the business owner to secure an annual permit but instead requires them to advise the City of any changes to the insurance policy. The agreement template, which is included as Attachment 3, has been reviewed by NCLM and the City Attorney.



Sidewalk Dining: Sidewalk dining is governed by an agreement signed between the City of Brevard and NCDOT, which includes minimum requirements for permitting dining on the sidewalk. The minor changes include expanding the allowable furnishing materials and consolidating the setback requirements in the revised Section 62-1.

A-Frame Signs: A-frame signs are regulated in the Unified Development Ordinance Chapter 12. No changes are proposed to these regulations at this time.

Downtown Master Plan Committee Prior Reviews

These changes were first discussed by the Downtown Master Plan Committee in January 2024, and the Committee reviewed a full draft of the amendments on April 10th and May 8th. At those meetings, the Committee made the following minor changes and recommended in favor of the amendment:

- Adding a definition for “sidewalk dining” to further distinguish it from general sidewalk usage / placement of objects on the sidewalk.
- Expanding the allowable furnishing materials for sidewalk dining.
- Clarifying that the objects cannot be anchored or permanently affixed to the sidewalk, building, or other infrastructure.
- Clarifying that furnishings may be permitted to stay on the sidewalk after business hours, so long as the objects are secured and clearance is maintained.

A public hearing was conducted on June 17, 2024. At that meeting, City Council send the text amendment back to the Downtown Master Plan Committee for further review. Staff brought the amendment to the Committee again on August 29, 2024. The Committee unanimously recommended in favor of the amendments with the following changes:

- Reducing the required amount of liability insurance to \$1,000,000.

- Renaming the title of *Chapter 46 - Peddlers and Solicitors* to *Chapter 46 - Peddlers, Solicitors, and Businesses*.
- Adding an exemption for the City, NCDOT, or other government agency to place public infrastructure and amenities with a reduced minimum separation, provided that NC Building Code and ADA minimum requirements are met.

Action

Staff requests that City Council take one of the following actions:

- Adoption of the amendment as written;
- Adoption of the amendment as revised by city council;
- Rejection of the amendment;
- Send the amendment back to a committee for further study and consideration; or
- Call for additional public hearings the matter.

Attachments:

1. Summary of Proposed Amendments by Type of Sidewalk Obstruction
2. Proposed Text Amendment - Strikethrough Version
3. Sidewalk Usage Constraints
4. Summary of Other Cities
5. Sidewalk Dining Agreement with NCDOT
6. Hold Harmless Agreement Template
7. Draft Enacting Ordinance

Summary Table of Proposed Amendments by Type of Sidewalk Obstruction

Type of Sidewalk Obstruction	Current Regulations	Proposed Changes to Current Regulations
Merchandise	• No permit or insurance required • Can be placed adjacent to wall or in the brick area • Must be removed at the end of the day	• Permit, insurance, and hold harmless agreement required for <u>a space where obstructions can be placed</u> • Can be placed within the <u>permitted space</u> adjacent to the building • Cannot be in the brick area • Furnishings may remain outside after hours, but merchandise and stands must be removed
Permanent / Semi-permanent Objects	• Permit, insurance, and hold harmless required <u>for specific items</u> • Can be placed adjacent to wall or in the brick area • Furnishings must be placed 6 ft from travel lanes	
Sidewalk Dining	• Permit, insurance, and hold harmless required • Furnishings must be placed 6 ft from travel lanes • Barricades / signage required if serving alcohol (unless participating in the Social District) • Furnishings must be metal	• Furnishings must be metal or <i>other similarly durable material</i> • Furnishings may remain outside after hours
A-Frame Signs	• Permit required • Dimensional standards for the sign • Can be placed abutting the wall or in the brick area • Must be removed at the end of the day	• No changes proposed.
<i>*All objects must have 5ft of unobstructed sidewalk for pedestrians and cannot obstruct fire lanes, driveways, alleyways, building entrances, utility access, fire hydrants, ADA ramps, etc.</i>		



PART II: CODE OF ORDINANCES

CHAPTER 1. GENERAL PROVISIONS

1-2. Definitions and rules of construction.

Obstruction: An object that is placed on public streets, sidewalks, and alleyways. Such objects include but are not limited to displays, fixtures, inventory racks, display cases, planters, and seating. See also obstruction – permanent or semi-permanent.

Obstruction – (permanent or semipermanent): An obstruction or object that is kept out on public streets, sidewalks, and alleyways after business hours. Such objects include but are not limited to displays, fixtures, inventory racks, display cases, planters, vending machines, and seating. Also referred to as a semipermanent or permanent object.

Sidewalk dining: Serving food and beverages from a restaurant abutting a public right-of-way to customers seated in the public right-of-way.

CHAPTER 46. PEDDLERS, ~~AND~~ SOLICITORS, AND BUSINESSES

ARTICLE I. IN GENERAL

46-1. Selling on streets and sidewalks.

~~A. *Permission for sidewalk merchandise.* Merchants lawfully conducting and operating a business from permanent physical business facilities which front on and abut a city sidewalk may display and sell goods, wares and merchandise from the sidewalk without need of application and approval from the city council; provided, however, that such merchandise, along with all racks, display cases and other accessories thereto, shall be removed from all public sidewalks at the end of every business day during which the same may have been displayed.~~

~~B. *Setback.*~~

- ~~1. On sidewalks at least 12 feet in width, excluding the curb, the maximum distance that the goods, wares or merchandise may be placed from the wall or front of the place of business shall be 36 inches.~~
- ~~2. On sidewalks at least seven feet in width, excluding the curb, the maximum distance shall be 24 inches.~~
- ~~3. On sidewalks less than seven feet in width, excluding the curb, no goods, wares or merchandise shall be placed on the sidewalks or streets.~~
- ~~4. On sidewalks that include a brick section adjacent to the curb, goods, wares and merchandise may be placed in the brick area as long as at least five feet of unobstructed concrete paved space, measured from any permanent or semi-permanent object, remains on the sidewalk or pedestrian way for the passage of pedestrians.~~
- ~~5. *Additional restrictions.* Notwithstanding the other provisions of this section, authority for merchants to sell from city sidewalks does not extend to city streets, and is limited to those sidewalk areas immediately abutting their own property. Further, the setback requirements of subsection 46-1.B shall apply to all obstructions of every description.~~



~~C. — *Special events.* The city manager may waive the setback requirements for special events recognized by the city, such as the Brevard/Transylvania Festival of the Arts, but in no event shall any merchant be permitted to fully obstruct a city sidewalk.~~

~~D.A. — *Selling from streets and vehicles.* It shall be unlawful for any vendor, or for any person whatsoever, to sell, barter, exchange or attempt to sell, barter, or exchange any goods, wares or merchandise from any city street, city sidewalk or pedestrian way, or from any vehicle except:~~

- ~~1. As may be authorized with respect to vending carts in CHAPTER 3 of the City of Brevard UNIFIED DEVELOPMENT ORDINANCE; or~~
- ~~2. As the prohibition may be waived by the approving authority for special events recognized by the city provided that the applicant satisfies all permit requirements of Section 66-13 and complies with Article I of CHAPTER 66 and other applicable provisions of this Code.~~

~~E.B. — *Merchandise or other obstructions may be placed on the sidewalk or pedestrian way pursuant to Section 62-1; provided no transactions occur outside of the business' legal premises.*~~

46-6. Placement of permanent and semipermanent obstructions. Reserved.

~~Except as authorized herein, it shall be unlawful to place permanent and semipermanent displays, fixtures, inventory racks, display cases, planters, vending machines and other obstructions of a permanent or semipermanent nature on city-maintained sidewalks, streets, or alleyways without first obtaining a permit from the city manager in accordance with the requirements of this article. As used in this section, the term city manager includes his or her authorized designee.~~

~~A. — *Application.* Any business owner desiring to install a permanent or semipermanent obstruction shall prepare and file an application with the city manager which shall contain the following information:~~

- ~~1. The name, addresses, and telephone number of the business desiring to install the obstruction.~~
- ~~2. The name, address, and telephone number of the business owner.~~
- ~~3. A drawing or site plan showing the section of sidewalk or pedestrian way to be used for the object, and the section to be kept clear for pedestrian and fire lane use, and depicting the proposed dimensions and placement on the sidewalk or pedestrian way.~~
- ~~4. A description and images, drawings or other illustrative graphics of the semipermanent or permanent obstruction(s) to be installed.~~
- ~~5. Proof of an insurance policy, issued by an insurance company licensed to do business in the state, protecting the permittee, the city, and NCDOT, if applicable, from all claims for damages to the property and bodily injury, including death, which may arise from placement of the object under or in connection with the permit. Such insurance shall name the city and, if applicable, NCDOT as additional insured and shall provide that the policy shall not terminate or be canceled prior to the expiration date without advance written notice to the city. Such insurance shall afford minimum limits of \$2,000,000.00 aggregate annually.~~
- ~~6. The business operator shall provide an agreement to indemnify and hold harmless the city and, if applicable, NCDOT from any claim resulting from placement of the permanent or semipermanent obstruction.~~
- ~~7. Additional information may be requested by the city manager or his designee in order to determine compliance with this section.~~



8. At the time the application is filed, the applicant shall pay the city a fee as set forth in the schedule of taxes, fees and charges.

~~B. Standards for placement of permanent and semipermanent obstructions. No permit for the placement of permanent and semipermanent obstructions may be issued unless the application is complete and the following standards are met:~~

- ~~1. The business seeking to place or install a semipermanent or permanent obstruction must abut and front on the sidewalk or pedestrian way.~~
- ~~2. The placement of the obstruction(s) as shown in the drawing submitted with the site plan must be done in such a manner that at least five feet of unobstructed space, excluding the curb, measured from any permanent or semi-permanent object, remains on the sidewalk or pedestrian way for the passage of pedestrians. In accordance with North Carolina Fire Code, no fire exits or lanes may be blocked and must remain clear at all times.~~
- ~~3. The objects shall not obstruct any driveway, alleyway, building entrance or exit, emergency entrance or exit, fire hydrant or standpipe, utility access, ventilation areas, or ramps necessary to meet accessibility requirements under the Americans with Disabilities Act.~~
- ~~4. The obstructions shall be allowed to remain in place until such time as the business establishment vacates the premises or until such time as replacement is warranted due to a deterioration of physical condition or appearance, whichever might first occur. At such time the business will reapply.~~

~~C. Administrative review procedure.~~

- ~~1. The administrator shall review and comment on the application and supporting materials.~~
- ~~2. If deemed necessary by the administrator, the application and supporting materials may be circulated to the Downtown Master Plan Committee and any other relevant city, county, and state agencies, committees, and officials for comment(s) as to the proposed obstruction's conformance to all applicable standards and requirements and whether approval is recommended.~~
- ~~3. The administrator shall approve, approve with conditions, or deny the application.~~
- ~~4. Permit denial. A permit may be denied if it is found that the application does not demonstrate compliance with this section and/or that the granting of the permit would not be in the public interest or would jeopardize public safety. Any applicant denied a permit to place a semipermanent or permanent object shall receive a written statement outlining the grounds on which the denial is based. The applicant may appeal the denial of the permit to the board of adjustment (BOA) within 15 days after the certified receipt of the written denial, and the BOA may take such action as it shall find necessary.~~

~~D. Permit revocation. In the event the city manager, or his or her designee, determines good grounds exist for the revocation of a permit issued under this section, he or she shall provide the business owner written notice stating the violation; provided, that if, in the opinion of the administrator, police department, or fire department, the unlawful condition is such that is of imminent danger or peril to the public, the public services department may, without notice, proceed to abate the same, and the cost thereof shall be charged against the property. The city manager, or his or her designee, shall give written notice to the business owner regarding a permit issued pursuant to this section if he or she finds that the business owner has:~~

- ~~1. Deliberately misrepresented or provide false information in the permit application.~~
- ~~2. Placed or moved the object in such a manner as to create a public nuisance or to constitute a hazard to the public health, safety, or welfare.~~
- ~~3. Placed or moved the object in violation of any city, county or state law, ordinance, or regulation.~~



~~Such notice shall direct that all violations existing thereupon be resolved within 15 days from the certified receipt of the such written notice. If the violation is not resolved within 15 days of receipt of the written warning, the city manager shall revoke the permit. The business operator may appeal any such order by filing a written notice of appeal with the city clerk within 15 days of receipt thereof. The board of adjustment (BOA) shall conduct a hearing on the appeal and render its decision thereon. Such notice of appeal shall stay the revocation of the permit by the city until a final determination by the BOA.~~

~~E. *Permit exemptions.* The following types of semipermanent and permanent obstructions shall not require a permit.~~

~~1. Holiday decorations placed in the space directly adjacent to the building as permitted in Section 46-1.B. Such decorations shall only be placed in the space directly adjacent to the building and not the brick section adjacent to the curb. Lighting shall comply with the City of Brevard Unified Development CHAPTER 11.~~

~~2. Objects owned, installed, and placed by the city, county, or NCDOT.~~

ARTICLE II. SIDEWALK DINING AREAS

46-34. Standards for sidewalk dining areas.

No permit for the operation of a sidewalk dining area may be issued unless the application is complete and the following standards are met:

- A. The sidewalk dining area must be associated with an operating restaurant such that it is under the same management and shares the same food preparation facilities, restroom facilities, and other customer convenience facilities as the restaurant. The sidewalk dining must be operated under the same name as the restaurant and may not be open or operated at any time when the restaurant is not open for business.
- B. The operation of the sidewalk dining area must be clearly incidental to the associated restaurant business. The seating capacity of the sidewalk dining area may not be more than 50 percent of the interior seating capacity of the associated restaurant.
- C. The restaurant seeking to operate the sidewalk dining area must abut, front on, and open onto the sidewalk or pedestrian way. Tables, chairs, and other furnishings may be placed on the sidewalk which fronts the business and on the sidewalk on the side of the business if located on a street corner. Furnishings and barricades may extend up to eight feet onto adjacent property frontage in either or both directions with the written permission (provided at the time of application) of the occupant of the adjacent property.
- D. Tables, chairs and other furnishings shall be placed a minimum of six feet from any travel lane.
- ~~E. The placement of tables, chairs and other furnishings as shown in the drawing submitted with the site plan must be done in such a manner that complies with Section 62-1. ~~at least five feet of unobstructed space, excluding the curb, measured from any permanent or semi-permanent object, remains on the sidewalk or pedestrian way for the passage of pedestrians. In accordance with North Carolina Fire Code, no fire exits or lanes may be blocked and must remain clear at all times. The pedestrian passage way may not be used for the display of merchandise or for signs.~~~~
- ~~F.E. Tables, chairs, and other furnishings shall not obstruct any driveway, alleyway, building entrance or exit, emergency entrance or exit, fire hydrant or standpipe, utility access, ventilation areas, or ramps necessary to meet accessibility requirements under the Americans with Disabilities Act.~~



- G.F.** The tables, chairs and other furnishings used in the sidewalk dining area shall not be anchored and shall be made of a type of street furniture that is ~~easily~~ movable. Furnishings must be constructed of metal (aluminum, steel, wrought iron, etc.) or other non-combustible material of similar durability. Commercial umbrellas must be made with outdoor fabric and a metal or commercial grade plastic stand. Advertising messages may not be displayed from tables, chairs, umbrellas, or other furnishings.
- H.G.** Tables, chairs, and other furnishings that remain on the sidewalk at times when the business is not in operation shall be secured in a manner that allows clear access from the street, and umbrellas shall be taken inside.
- I.H.** Merchants with sidewalks dining are responsible for cleanliness and are subject to all applicable health department regulations.
- J.I.** Umbrellas over tables are permissible but must provide a clearance of a minimum of 78 inches from the lowest point of their canopy.
- K.J.** The maximum posted speed permitted on the roadway adjacent to the right-of-way to be used for sidewalk dining activities shall not be greater than 45 miles per hour.
- L.K.** The restaurant operator shall cease part or all sidewalk dining activities in order to allow construction, maintenance, or repair of any street, sidewalk, utility, or public building, by NCDOT, the city, its agents or employees, or by any other governmental entity or public entity.

CHAPTER 62. STREETS, SIDEWALKS AND OTHER PUBLIC WAYS

ARTICLE I. IN GENERAL

62-1. Placing objects on streets and sidewalks.

- A.** No ~~brick, stone or wood or other substance obstructing~~ obstruction of any kind shall ~~the free passage of persons or vehicles shall~~ be placed or allowed to lie in any of the alleys, streets, sidewalks or other public ways of the city obstructing the free passage of persons or vehicles except as permitted by the provisions of ~~Subsection 62-1.C~~ this subsection, ~~nor, except as permitted in this chapter or by the provisions of Section 46-1, shall any person place or allow to lie on or in any of the streets, sidewalks, alleys or other public ways of the city any boxes, crates, casks or barrels of any description, or any other obstruction of any kind;~~ provided, any person erecting a building may, with the permission of the city manager or his/her designee, place building materials for immediate use on the streets or sidewalks in such a way as to not unduly interfere with vehicular or pedestrian traffic.
- B. *Setbacks and separation requirements.*** Obstructions of any kind of public sidewalks or other pedestrian way closed to vehicular traffic shall adhere to the following setback requirements:
1. The placement of the obstructions shall be done in such a manner that at least five feet of unobstructed paved space of sidewalk, excluding the curb, bricked utility area, or any planting strip, measured from any permanent or semi-permanent object for the passage of pedestrians.
 - a. On sidewalks at least twelve feet in width, excluding the curb, the maximum distance that the obstruction may be placed from the wall or front of the place of business shall be 36 inches.
 - b. On sidewalks at least seven feet in width, excluding the curb, the maximum distance that the obstruction may be placed from the wall or front of the place of business shall be 24 inches.



- c. On sidewalks less than seven feet in width, excluding the curb, no obstructions shall be placed on the sidewalks or streets.
 - d. Tables, chairs and other furnishings shall be placed a minimum of six feet from any travel lane.
 - 2. In accordance with North Carolina Fire Code, no fire exits or lanes may be blocked and must remain clear at all times.
 - 3. The placement of the obstructions shall not impede any driveway, alleyway, building entrance or exit, visibility sight distance triangle, emergency entrance or exit, fire hydrant or standpipe, utility access, ventilation areas, or ramps necessary to meet accessibility requirements under the Americans with Disabilities Act.
 - 4. The obstructions shall not impede any public infrastructure or amenities, such as bicycle racks, benches, utility poles, trashcans or other similar objects.
 - 5. Alleyways closed to vehicular traffic shall not be subject to the sidewalk setback requirements as defined in Subsection 46-1.B, so long as a minimum at least 36 inches-four feet of unobstructed travel way must remain open and clear.
 - 1-6. Public infrastructure and amenities placed by the City of Brevard, NCDOT, or other governmental agency are exempt from setback and separation requirements of this subsection, provided the applicable NC Building Code and Americans with Disabilities Act requirements are met.
- C. Permission for obstructions.** Businesses operating from a permanent physical facility desiring to place obstructions on the sidewalk adjacent to the premises may do so after obtaining a permit in accordance with the requirements of this section.
 - 1. Permitted space. The permit shall be for the space on the sidewalk where the objects will be placed, provided that:
 - a. The business seeking to place obstructions must abut and front on the public sidewalk or pedestrian way, and the permitted space immediately abuts their business.
 - b. The permitted space complies with the setback and separation requirements of subsection 62-1.B.
 - 2. Allowable objects. Within the permitted space, the permit holder may place merchandise, displays, planters, seating, furnishings, or other obstruction, provided that it does not extend beyond the permitted space, does not endanger public safety, and complies with the standards of this section.
 - a. The obstructions shall not be anchored or otherwise permanently affixed to the sidewalk or building, unless explicit authority is granted but the City and NCDOT, if applicable.
 - b. The administrator and/or the police department reserve the right to inspect the obstructions and remove hazardous materials.
 - c. Merchandise, along with all racks, display cases and other accessories thereto, shall be removed from all public sidewalks at the end of every business day during which the same may have been displayed.
 - d. Tables, chairs, and other furnishings may remain on the sidewalk at times when the business is not in operation so long as they are secured in a manner that allows clear access from the street.
 - e. Any lighted obstructions, including but not limited to holiday decorations, shall comply with CHAPTER 11 of the City of Brevard Unified Development Ordinance.



1. Placed or moved obstructions in violation of any city, county or state law, ordinance, or other regulation.
 2. Placed or moved obstructions in such a manner as to create a public nuisance or to constitute a hazard to the public health, safety, or welfare.
 3. Violation of the approved permit, insurance requirements, or hold harmless agreement.
- b. In the event the administrator determines an obstruction is placed in violation, he or she shall provide the business owner written notice stating the violation. Such notice shall direct that all violations existing thereupon be resolved within 15 days from the certified receipt of the such written notice.
1. The business operator may appeal any such order by filing a written notice of appeal with the city clerk within 30 days of receipt thereof. The board of adjustment (BOA) shall conduct a hearing on the appeal and render its decision thereon. Such notice of appeal shall stay the revocation of the permit and/or abatement by the city until a final determination by the BOA.
 2. However, if, in the opinion of the administrator, police department, or fire department, the unlawful condition is such that is of imminent danger or peril to the public, the city may, without notice, proceed to abate, and the cost thereof shall be charged against the property.
- c. Violations not resolved within 15 days from the certified receipt of the written notice shall be subject to the following:
1. City abatement and/or object removal with the cost thereof charged against the property;
 2. Permit revocation; and /or
 3. Civil penalties in accordance with North Carolina General Statutes or any executed encroachment agreements.

7. *Permit exemptions.* The following types of obstructions shall not require a permit.

- a. Objects owned, installed, and placed by the city, county, NCDOT, or any other state or federal agency.
- b. Temporary objects placed as part of a permitted special event, provided the setback and separation requirements of this section are met.

B.D. Any existing door which opens outward over a public sidewalk may remain in place so long as the building owner executes an agreement acknowledging that the door could present a safety hazard to pedestrians and holding the city harmless for any and all costs to the city, including attorney's fees, court costs and all damages suffered by any pedestrian claiming injury from such door, provided that (1) no such door shall occupy more than 24 inches of space over the public sidewalk and (2) the city manager reviews, approves and accepts the specific provisions contained in the hold harmless agreement. Should no such agreement be made within 30 days' notice to the building owner, then all doors on such building which open over the public sidewalk shall be removed by the building owner.

~~**C.** An elevated pedestrian boardwalk may be placed within the northeastern portion of south alley, subject to the following provisions:~~



- ~~1. Such boardwalk shall be handicapped accessible and compliant with all applicable provisions of the Americans with Disabilities Act, the North Carolina Accessibility Code, and the North Carolina Building Code.~~
- ~~2. Such boardwalk may be permitted at the discretion of the city manager, and may be removed at the discretion of the city manager.~~
- ~~3. Such boardwalk is a public way, and shall remain open to the general public at all times.~~
- ~~4. Such boardwalk may extend along the northeastern portion of south alley, and may extend in a southwestern direction for a distance not to exceed the length of the building located at 36 East Main Street.~~
- ~~5. Such boardwalk shall be constructed at the expense of one or more adjacent property owners and shall be warranted by the same for a period not less than three years; such warranty shall be provided in a manner that is approved by the city manager.~~

~~D.E. Alleyways closed to vehicular traffic shall not be subject to the sidewalk setback requirements as defined in Subsection 46-1.B, as a minimum at least 36 inches of unobstructed travel way must remain open and clear.~~

62-2. NewsracksReserved.

Notwithstanding the provisions of Section 62-1, racks for the display of newspapers, magazines and other printed material may be placed on sidewalks or other exterior areas if specific locations do not interfere with parking and loading areas or pedestrian traffic, or otherwise create safety problems, subject to the provisions of Section 46-1.

SIDEWALK USAGE CONSTRAINTS SUMMARY

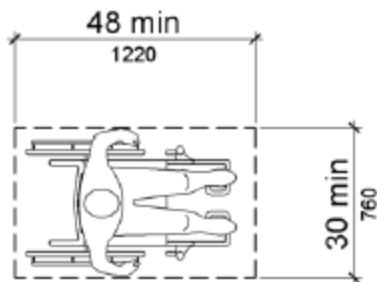
NORTH CAROLINA GENERAL STATUTES

- N.C.G.S. §160A-296 imposes upon cities the duty to keep public streets and sidewalks **open for travel** and **free from unnecessary obstructions**.
 - It also grants cities the power to regulate the use of public streets, sidewalks, alleys, and bridges.
- N.C.G.S. §136-27.4 allows NCDOT to enter into agreements with cities to allow **sidewalk dining** in their rights-of-way, subject to the following minimum requirements:
 - Furnishings must be a minimum of **6 feet from any travel lane**
 - Must have at least **5 feet of unobstructed paved space of the sidewalk** clear for the passage of pedestrians and provides adequate passing space that complies with the Americans with Disabilities Act

AMERICANS WITH DISABILITIES ACT REQUIREMENTS

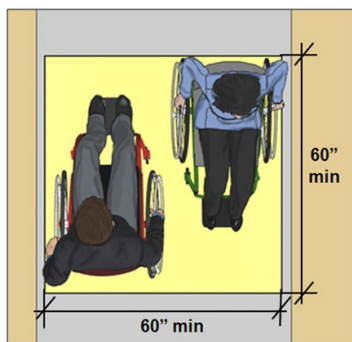
Clear Space

- Section 305.3: Clear floor or ground space shall be 30 inches minimum by 48 inches minimum.

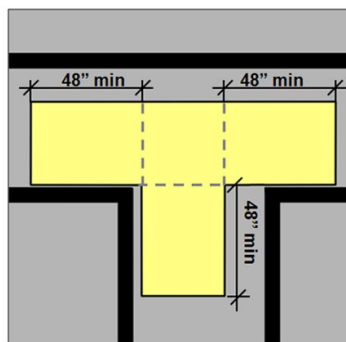


Clearance / Accessible Routes

- Section 403.5.1: The clear width of walking surfaces shall be a **minimum of 36 inches**
- Section 403.5.3: Passing space is required **every 200 feet** and must be provided as a **60-inch by 60-inch minimum space** or as T-shaped space where each stem is at least 48 inches long



60" Min. by 60" Min. Passing Space



T-Shaped Passing Space

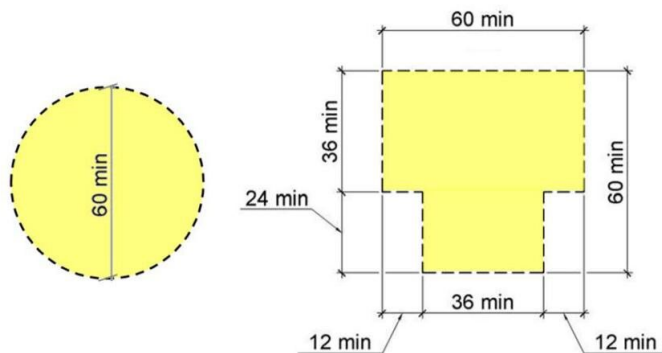
- Section 404.2.4: Depending on the type of door (push or pull; approach direction; etc.), minimum maneuvering clearances range from 42 inches to 60 inches

Surfaces

- Section 302.1: Floor and ground surfaces shall be stable, firm, and slip resistant
- Section 303.2: Vertical changes in level are only permitted if less than ¼ inch high.

Turning Spaces

- Section 304.3.1: A circular space for turning shall be a minimum of 60 inches in diameter
- Section 304.3.2: A T-shaped turning space within a minimum of 60-inch square with arms and base a minimum of 36 inches wide. Each arm of the T shall be clear of obstructions 12 inches minimum in each direction and the base shall be clear of obstructions 24 inches minimum.



NORTH CAROLINA BUILDING CODE

- Section 1104.1: The clear width of the exterior accessible path of travel shall be **48 inches minimum**.
- Where there are differences between the 2010 ADA Standards and the NC Building Code, whichever requirements is more restrictive takes precedence.
- The reason the NC has a 48" exterior path of travel requirement is to allow sufficient space for:
 - A person to walk with a guide animal
 - A person to walk next to another person while supporting or assisting him or her
 - To allow sufficient space for non-standards size mobility devices

NORTH CAROLINA LEAGUE OF MUNICIPALITIES GUIDANCE

NC League of Municipalities (NCLM), the City's insurance provider, advised Staff that in order to be adequately covered:

- **All items** placed in the public rights-of-way must have an encroachment / hold harmless agreement
- **All items** placed in the public rights-of-way must have insurance naming the City as an additional insured
- City must **proactively monitor** items and **take enforcement actions**, when necessary

“URBAN STREET DESIGN GUIDE”, NATIONAL ASSOCIATION OF CITY TRANSPORTATION OFFICIALS (2013)

- Prevailing design guidelines recommend a **minimum sidewalk cross-section of 5 feet**, exclusive of other amenities and **large enough for two people walking side by side**.
- The through-zone ensures that pedestrians have a safe and adequate place to walk and should be **5–7 feet wide in residential settings** and **8–12 feet wide in downtown or commercial areas**.
- Where a sidewalk is directly adjacent to moving traffic, the desired minimum is 8 feet, providing a **minimum 2-foot buffer** for street furniture and utilities.
- Narrow neighborhood sidewalks should be redesigned to provide a wider pedestrian through-zone and street furniture zone whenever practical.



“8 MAJOR ROADBLOCKS TO INCLUSIVE STREETS”, AMERICAN PLANNING ASSOCIATION (2022)

- Wide sidewalks are a basic part of universal design.
- The Federal Highway Administration suggests a minimum sidewalk width of **8 feet for high pedestrian traffic areas** and notes the **bare minimum of 4 feet can still force people into the roadways** if a barrier is introduced
- In practical terms, a sidewalk must be at least 6 feet wide to allow two wheelchair users to safely pass each other

[NCDOT ROADWAY DESIGN MANUAL \(MAY 2024\)](#)

- Sidewalks provide a path for pedestrians parallel to the roadway, providing safer access to destinations and public transportation.
- Heavy pedestrian traffic may warrant wider widths:

Table 4-8 Desirable and Minimum Sidewalk and Berm Widths

	Commercial and School Routes		Residential Areas	
	Desirable	Minimum	Desirable	Minimum
Sidewalk Width	10'	5'	5'	4'
Berm Width	17'	6'	10'	5'

Municipality	Sidewalk Dining?	Merchandise?	Other Encroachments? (planters, chairs, etc.)	Liability Insurance	Sidewalk Dining Clearance / Dimensional Requirements	Merchandise Clearance / Dimensional Requirements	Notes
Brevard (current)	Yes, annual permit of \$100	No permit required	Yes, one-time permit \$100	\$2,000,000 - sidewalk dining and other obstructions None - Merchandise	- Minimum 5 feet unobstructed pedestrian space - Minimum 6 feet from any travel lane	- Minimum 5 feet unobstructed pedestrian space - Can be placed adjacent to building or in brick area - On sidewalks 12+ ft wide, only 36 inches from building - On sidewalks 7+ ft wide, only 24 inches from building - Not permitted on sidewalks less than 7 ft wide	- Holiday decorations are exempt
Brevard (Staff proposal)	Yes, one-time permit of \$100	Yes, one-time permit for a space \$100	Yes, one-time permit for a space \$100	\$2,000,000	- Minimum 5 feet unobstructed pedestrian space - Minimum 6 feet from any travel lane - Can be placed adjacent to building - On sidewalks 12+ ft wide, only 36 in from building - On sidewalks 7+ ft wide, only 24 in from building - Not permitted on sidewalks less than 7 ft wide	- Minimum 5 feet unobstructed pedestrian space - Can be placed adjacent to building - On sidewalks 12+ ft wide, only 36 in from building - On sidewalks 7+ ft wide, only 24 in from building - Not permitted on sidewalks less than 7 ft wide	
Asheville	Yes, annual permit of \$7 / square foot	Yes, annual permit	Unclear / Not Permitted	\$1,000,000	- Minimum 6 feet unobstructed pedestrian space - May be located adjacent to the building or curb - If abuts the curb, additional 18 inch buffer is required - When seating abuts the pedestrian way, additional 18 inch buffer is required to allow for movement of chairs without obstructing the pedestrian way.	- Minimum 6 feet unobstructed pedestrian space - Can only be placed next to the building	- Sidewalk dining is required to have "Outdoor Dining Area" signage - Sidewalk dining and merchandise are only permitted in commercial districts
Hendersonville	Yes, annual permit of \$0.50 / square foot	Yes, unclear if permit is required	Yes, unclear if permit is required	\$500,000 - sidewalk dining	- Minimum 5 feet unobstructed pedestrian space	- Minimum 5 feet unobstructed pedestrian space - May only extend 36 inches into the sidewalk	- All sidewalk dining must have barricades - Guide includes a note that "if two people walking side by side have to go single file, or a wheel chair cannot pass through without maneuvering, your sidewalk is not accessible and adjustments need to be made to be in compliance"
Sylva	Yes, part of development permit	No	Unclear / Not Permitted	N/A	- Minimum 5 feet unobstructed pedestrian space	N/A	- Sidewalk dining is treated as a use standard - Outdoor merchandise is permitted but must be at least 5 feet from the public sidewalk
Waynesville	Yes, annual permit	Yes, annual permit	Yes, annual permit	Required but amount not specified	- Minimum 7 feet pedestrian space - Must be at least 1 foot from the curb - Only on sidewalks 10 feet or greater or part of a special events permit	- Minimum 7 feet pedestrian space - Must be at least 1 foot from the curb - Only on sidewalks 10 feet or greater or part of a special events permit	- All sidewalk dining must have barricades
Lenoir	Yes, annual permit	No	Unclear / Not Permitted	\$1,000,000	- Minimum 5 feet unobstructed pedestrian space	N/A	- All sidewalk dining must have barricade - All objects (including tables and chairs, excluding planters) must be moved inside when closed
Charlotte	Yes, annual permit of \$950	No	Unclear / Not Permitted	\$1,000,000	- Minimum 6 feet unobstructed paved space in CBD - Minimum 5 feet unobstructed paved space in all other zoning districts - Not within 10 feet of any driveway or alley - Not within 15 feet of a fire hydrant or standpipe - Not within 10 feet of crosswalk or intersection	N/A	- All sidewalk dining must have barricades

Municipality	Sidewalk Dining?	Merchandise?	Other Encroachments? (planters, chairs, etc.)	Liability Insurance	Sidewalk Dining Clearance / Dimensional Requirements	Merchandise Clearance / Dimensional Requirements	Notes
Durham	Yes, annual permit of \$260	No	Unclear / Not Permitted	\$1,000,000	- Minimum 6 feet unobstructed pedestrian space - Minimum 4 feet unobstructed space from the entrance of any establishment - May be located adjacent to the building or curb - If adjacent to curb, minimum 2 feet of clearance between seating area and the curb (3 feet clearance adjacent to on-street parking)	N/A	- "Seating cannot block access to public amenities, such as bicycle racks, street furniture, trash receptacles, dumpster and wayfinding or directional signs" - Only permitted in the Downtown Design and Compact Design zoning districts
Wake Forest	Yes, annual permit of \$150	Yes, annual permit of \$25	Yes	\$1,000,000 - general encroachment \$3,000,000 - sidewalk dining	Unclear - refers to ADA, NC Building Code, Manual of Uniform Traffic Control Devices, and the City of Raleigh Public Utilities Department	Unclear - refers to ADA, NC Building Code, Manual of Uniform Traffic Control Devices, and the City of Raleigh Public Utilities Department	
Raleigh	Yes, annual permit of \$352 ("Outdoor Seating")	Yes, annual permit	Yes, one time permit	\$1,000,000 - bodily injuries / death \$500,000 - property damage	- Minimum 5 feet unobstructed <u>straight</u> pedestrian corridor - Can be measured around obstructions (fire hydrants, poles, etc.) if they are less than 1 foot in diameter - Minimum 2 feet of clearance next to the curb for seating - Minimum 7 feet unobstructed <u>straight</u> pedestrian corridor in Fayetteville Street District (with wider sidewalks and enhanced streetscape elements)	- Minimum 5 feet unobstructed <u>straight</u> pedestrian corridor - Can be measured around obstructions (fire hydrants, poles, etc.) if they are less than 1 foot in diameter - Minimum 2 feet of clearance next to the curb for seating - Minimum 7 feet unobstructed <u>straight</u> pedestrian corridor in Fayetteville Street District (with wider sidewalks and enhanced streetscape elements)	Outdoor seating of any kind (whether it be attached to a restaurant or not) must comply with the same standards (see "Outdoor Seating Guide")
Black Mountain	No	No	No	N/A	N/A	N/A	Outdoor dining is allowed to encroach up to 5 feet into the required front setback, but it must be separated from the right-of-way by landscaping or vertical barrier.
North Wilkesboro	No	No	No	N/A	N/A	N/A	"It shall be unlawful for any person to place anything on any public street, sidewalk or public place, or in any gutter, which will impede travel or traffic or annoy pedestrians . This prohibition shall be applicable generally and is not limited to the use of sidewalks by merchants for the display of merchandise or storage of materials, nor to the erection in streets and upon sidewalks of booths or stands...."

**NORTH CAROLINA
TRANSYLVANIA COUNTY**

SIDEWALK DINING AGREEMENT

DATE: 8/11/2020

**NORTH CAROLINA DEPARTMENT OF
TRANSPORTATION**

AND

CITY OF BREVARD

THIS AGREEMENT is made and entered into on the last date executed below, by and between the North Carolina Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as the "Department", and the City of Brevard hereinafter referred to as the "Municipality."

WITNESSETH:

WHEREAS, the North Carolina General Assembly (NCGA) has enacted legislation to allow sidewalk dining (or the serving of food and beverage) on property within or adjacent to State right of way; and,

WHEREAS, this AGREEMENT is made under the authority granted to the Department by the NCGA including, but not limited to, the following applicable legislation: North Carolina General Statutes (NCGS), Section 136-18(9) and Section 136-27.4; and,

WHEREAS, this AGREEMENT is made in accordance with the most recent *Stewardship and Oversight Agreement on Project Assumption and Program Oversight*, executed between the Federal Highway Administration (NC Division) and the Department; and,

WHEREAS, this AGREEMENT outlines the Municipality's administrative rights and responsibility to enact a Sidewalk Dining Ordinance and issue Permits for such;

NOW, THEREFORE, the parties hereto, each in consideration of the promises and undertakings of the other as herein provided, do hereby covenant and agree, each with the other, as follows:

I. SIDEWALK DINING ORDINANCE AND PERMITS - CONDITIONS OF APPROVAL-

The Municipality is given approval to administer a sidewalk dining ordinance and issue approval of permits allowing such in State right-of-way in or near the vicinity of the Municipality under the condition that the Municipality meets the following criteria:

- A. The Municipality shall enact an ordinance that meets the requirements of, but not necessarily limited to the requirements of the General Statutes of North Carolina (NCGS), Section 136-27.4.
- B. The Municipality shall provide the Department a copy of the ordinance once enacted and shall provide the Department any updates to the ordinance.
- C. The permit issued by the Municipality shall require the restaurant operator to provide evidence of adequate liability insurance in an amount satisfactory to the local government, but in no event in an amount less than the amount specified by the local government under G.S. 160A-485 as the limit of the local government's waiver of immunity or the amount of Tort Claim liability specified in G.S. 143-299.2, whichever is greater. The insurance shall protect and name the Department and the local government as additional insureds on any policies covering the business and the sidewalk activities.
- D. The permit issued by the Municipality shall require the restaurant operator to provide an agreement or evidence to indemnify and hold harmless the Department or the local government from any claim resulting from the operation of sidewalk dining activities.
- E. The permit shall require the restaurant operator to provide a copy of all permits and licenses issued by the State, county or city, including health and ABC permits, if any, necessary for the operation of the restaurant or business, or a copy of the application for the permit if no permit has been issued to the Municipality. This requirement includes any permits or certificates issued by the county or city for exterior alterations or improvements to the restaurant.
- F. The Municipality shall also meet any other requirements deemed necessary by the Department, either for a particular local government or a particular component of the State highway system to safely allow sidewalk dining.
- G. The Municipality may impose additional requirements on a case-by case basis and nothing in this AGREEMENT requires the Municipality to issue or maintain any permit for sidewalk dining activities if, in the opinion of the Municipality, such activities cannot be conducted in a safe manner in the State right-of-way.
- H. The Department shall cancel this AGREEMENT and revoke the permission of the Municipality to issue permits if at any time the Department considers that the safety of the traveling motorist, pedestrians, or any other third party may be compromised.

- I. The Department reserves the right to cancel this AGREEMENT on a case-by-case basis if the Department deems the activities permitted by the Municipality cannot be conducted in a safe manner.
- J. No permits may be issued for sidewalk dining on any interstate route.
- K. The Municipality shall obtain permission from the Department to permit the right-of-way of any federal-aid route on or off the National Highway System to be used for sidewalk dining. A request for permission should be coordinated with the Department's Division Engineer.
- L. The Municipality shall keep and maintain a list or database of all current permits and issued parties that may be requested by the Department at any time. A copy of all paperwork and submitted documents shall be kept on hand and provided to the Department if requested. If the permit is incomplete or does not meet the standards of this AGREEMENT, the Department reserves the right to cancel this AGREEMENT.

II. SIDEWALK DINING ORDINANCE AND PERMITS - MINIMUM CONDITIONS OF ORDINANCE

The ordinance enacted by the Municipality shall be consistent with, but not necessarily limited to, the following minimum criteria:

- A. Tables, chairs, and other furnishings shall be placed a minimum of six feet from any travel lane.
- B. Tables, chairs, and other furnishings shall be placed in such a manner that **at least five feet of unobstructed paved space of the sidewalk, measured from any permanent or semi-permanent object,** remains clear for the passage of pedestrians and provides adequate passing space that complies with the Americans with Disabilities Act.
- C. Tables, chairs, and other furnishings shall not obstruct any driveway, alleyway, building entrance or exit, emergency entrance or exit, fire hydrant or standpipe, utility access, ventilations areas, or ramps necessary to meet accessibility requirements under the Americans with Disabilities Act.
- D. The maximum posted speed permitted on the roadway adjacent to the right-of-way to be used for sidewalk dining activities shall not be greater than 45 miles per hour.
- E. The standards set forth by this AGREEMENT are minimums according to General Statute. Every potential site for Sidewalk Dining shall be reviewed by the Municipality for safety. Meeting these minimum guidelines alone does not imply that minimum standards for safety have been met. NCDOT reserves the right to limit or restrict application of this AGREEMENT along specific corridors or locations if safety becomes an issue.

- F. The restaurant operator shall cease part or all sidewalk dining activities in order to allow construction, maintenance, or repair of any street, sidewalk, utility, or public building, by the Department, the local government, its agents or employees, or by any other governmental entity or public utility.

III. SIDEWALK DINING ORDINANCE AND PERMITS - TIME FRAME

This AGREEMENT shall remain in place until canceled in writing by either party with thirty (30) days written notice to the other party.

IV. ADDITIONAL PROVISIONS

- A. This AGREEMENT shall not preempt or override local ordinances which have been enacted within the authority of the NCGS that are currently in place.
- B. The Department shall not be held liable for any damages resulting from implementation of any ordinances or issuance of any permits under the terms of this AGREEMENT.
- C. This AGREEMENT contains the entire agreement between the parties and there are no understandings or agreements, verbal or otherwise, regarding this AGREEMENT except as expressly set forth herein.
- D. The parties hereby acknowledge that the individual executing this AGREEMENT on their behalf is authorized to execute this AGREEMENT on their behalf and to bind the respective entities to the terms contained herein and that he has read this AGREEMENT, conferred with his attorney, and fully understands its contents.
- E. A copy or facsimile copy of the signature of any party shall be deemed an original with each fully executed copy of the AGREEMENT as binding as an original, and the parties agree that this AGREEMENT can be executed in counterparts, as duplicate originals, with facsimile signatures sufficient to evidence an agreement to be bound by the terms of the AGREEMENT.
- F. By Executive Order 24, issued by Governor Perdue, and N.C. G.S. § 133-32, it is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e., Administration, Commerce, Environmental Quality, Health and Human Services, Information Technology, Military and Veterans Affairs, Natural and Cultural Resources, Public Safety, Revenue, Transportation, and the Office of the Governor).

IN WITNESS WHEREOF, this AGREEMENT has been executed, in duplicate, the day and year heretofore set out, on the part of the Department and the Municipality by authority duly given.

L.S. ATTEST:

BY: Denise Hodsdon

TITLE: Executive Assistant

DATE: August 19, 2020

CITY OF BREVARD

BY: [Signature]

TITLE: City Manager

DATE: August 19, 2020

NCGS 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.



This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

[Signature]
(FINANCE OFFICER)

Federal Tax Identification Number

56-6001186

Remittance Address:

95 W. Main Street

Brevard, NC 28712

DEPARTMENT OF TRANSPORTATION

BY: [Signature]
(CHIEF ENGINEER)

DATE: 9/15/2020

APPROVED BY BOARD OF TRANSPORTATION ITEM O: 9-3-2020 (Date) [Signature] DS

**CITY OF BREVARD
ENCROACHMENT & HOLD HARMLESS
AGREEMENT**

This ENCROACHMENT & HOLD HARMLESS AGREEMENT is given this ____ day of _____, 202__, by _____, ("Grantor") to the City of Brevard, a North Carolina incorporated City (the "City").

THAT WHEREAS, the Grantor desires access to encroach on the public right-of-way designated as (address) _____, adjacent to the parcel identified as (PIN) _____, with the placement of _____

("Encroachments"); and that the Grantor will construct, install, and maintain the Encroachments in accordance with the site plan attached hereto as Exhibit A and incorporated herein by reference, and any other such standards or requirements as the City has required as of the date hereof; and

WHEREAS, the City, in the exercise of authority conferred upon it by ordinance, is willing to allow Encroachments within the limits of the right-of-way as indicated, under the terms and conditions herein set forth; and

WHEREAS, the Grantor has paid to the City the applicable fee to defray the administrative costs of the City in processing this request.

NOW, THEREFORE, in consideration of these promises, the required development fees in hand paid, the receipt and sufficiency of which are hereby acknowledged, and other consideration, the Grantor and the City hereby agree that the Grantor is hereby granted a license to encroach upon the right-of-way by constructing, installing, and thereafter maintaining the Encroachments for its sole interest and convenience in accordance with the following stipulations:

1. The Grantor is responsible for any and all expenditures of labor or materials required for the planning, installation, erection, repair, maintenance and removal ordered by the City of the Encroachments.
2. The Grantor is to be fully responsible for any and all property damage or injury or death of any person which results from any and all negligence, omission, defect in design, maintenance, or workmanship created by the Grantor, its agents or contractors relating to the Encroachments, or any cause of action arising out of the installation, erection, repair, maintenance, location or removal of said Encroachments.
3. The Grantor agrees to and does hereby hold the City, its officers, agents, and employees

harmless from any and all liability arising out of such negligence, omission, defect, or other cause of action; that it will defend the City, its officers, agents, and employees, and pay all attorney fees in any and all actions brought as a result of such; and that it will indemnify the City, its officers, agents, and employees against any and all loss sustained by reasons of such negligence, omission, defect, or other cause of action arising out of the installation, erection, repair, maintenance, location or removal of said encroachments.

4. The Grantor agrees to abide by all applicable laws, statutes, ordinances and code provisions.
5. This agreement shall not divest the City of any rights or interest in said right-of-way, and for any reason the City may terminate this encroachment agreement by giving the Grantor 15 days advance written notice of termination. Prior to the termination date, the Grantor shall remove or relocate, at its own expense, all or part of the encroachments as specified by the City.
6. The City further retains the right and privilege to remove or alter the encroachments whenever an emergency or other situation requires prompt action, and the City may recover the cost associated with removing or altering the encroachments from the Grantor.
7. The Grantor, during the life of this agreement, agrees to procure an insurance, issued by an insurance company licensed to do business in the State of North Carolina, in the minimum amounts of \$1,000,000.00 covering full liability for any and all personal injury, property damage or wrongful death caused by the construction, maintenance, location, repair, removal or visual obstruction of said Encroachments. The Grantor shall furnish the City on the Effective Date of this Encroachment Agreement certification from the insurance carrier or carriers with whom the insurance herein mentioned is carried, stating that such compensation is covered by such carrier or carriers and showing such insurance to be in full force and effect. The Grantor, the City, and if applicable North Carolina Department of Transportation, shall be named as insured parties. In the event of any change in the insurance policy, the Grantor shall give the City thirty (30) days' notice of such change. The City may, at any time, request proof of adequate insurance from the Grantor. Should Grantor fail to pay premiums upon said insurance or to perform any of the agreements, terms or conditions herein contained, the City, at its option, by written notice may declare this agreement cancelled and terminated and all rights acquired hereunder by Grantor shall thereupon terminate.
8. The Grantor shall obtain all necessary permits from the City prior to the placement or installation of the encroachments.
9. The rights conveyed to the Grantor under this Agreement shall be personal to the Grantor and non-transferrable to any other party unless the City provides its prior written consent thereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this _____ day of _____, 202__.

ATTEST:

Sign Name: _____
Print Name: _____
Title: _____

CITY OF BREVARD:

Sign Name: _____
Print Name: _____
Title: City Manager or Designee

STATE OF NORTH CAROLINA,
COUNTY OF TRANSYLVANIA.

I, _____, a Notary Public for said County and State, do hereby certify that _____ personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal, this the ____ day of _____, 202__.

(SEAL)

Notary Public

My Commission expires: _____.

EXHIBIT A
SITE PLAN AND LOCATION OF ENCROACHMENTS

ORDINANCE NO. 2024-____

**AN ORDINANCE AMENDING CITY OF BREVARD CODE OF ORDINANCES
CHAPTER 1 – GENERAL PROVISIONS, CHAPTER 46 – PEDDLERS AND SOLICITORS;
AND CHAPTER 62 – STREETS, SIDEWALKS AND OTHER PUBLIC WAYS**

WHEREAS, North Carolina General Statutes Section 160A-296 states that municipalities have regulatory authority over all public sidewalks within its corporate limits and are responsible for keeping these public sidewalks open for travel and free from unnecessary obstructions; and,

WHEREAS, the City of Brevard Downtown Master Plan Committee reviewed the proposal and unanimously recommended in favor on August 29, 2024; and,

WHEREAS, the City of Brevard Downtown Master Plan Committee unanimously recommended in favor of amending City of Brevard Code of Ordinances Chapter 1 – General Provisions, Chapter 46 – Peddlers and Solicitors; and Chapter 62 – Streets, Sidewalks and Other Public Ways on August 29, 2024; and,

WHEREAS, the City Council of the City of Brevard finds that the proposed amendment is consistent with the goals and objectives of the City of Brevard Comprehensive Land Use Plan *Building Brevard 2030* and the City of Brevard Downtown Master Plan;

WHEREAS, a public hearing was conducted on Monday, October 21, 2024, 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 Code of Ordinances be amended as outlined below.

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

SECTION 01. City of Brevard Code of Ordinances 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 this the 4th day of October 2024.

Maureen Copelof
Mayor

ATTEST:

Denise Hodsdon, CMC
City Clerk

APPROVED AS TO FORM:

Mack McKeller
City Attorney

STAFF REPORT

City Council, Monday, November 4, 2024

Title: Approval of Pisgah Labs Agreement and Acceptance of US EDA Grant

Speaker: Wilson Hooper, City Manager
Mack McKeller, City Attorney

Prepared by: Wilson Hooper, City Manager

Approved by: Wilson Hooper, City Manager

Background

In 2022 Pisgah Labs, a pharmaceutical company located just outside the city limits in unincorporated Transylvania County, was awarded economic development incentives by both the State of North Carolina and Transylvania County in exchange for a \$55 million investment expected to bring 55 well-paying jobs to the area. Though not critical, connection to municipal utilities would help with the expansion.

The Brevard Code of Ordinances has long permitted, with Council approval, connection to water service for properties outside the city limits. However, the code typically required a property be located within the city limits to connect to municipal wastewater services. With Pisgah Labs in mind, in October 2023 City Council amended the code to allow these connections as part of a joint economic development agreement between the city and another party. At the time, the Council discussed the terms they wished to see in the agreement under which they would grant a connection.

To fund the project, in late 2023 the City of Brevard applied for a grant from the US Economic Development Administration. The City was the official applicant but the effort was made in concert with Land of Sky Regional Council, TC TEA, and Transylvania County. The original application was unsuccessful, but a second successful application was submitted in summer 2024 after the program was re-endowed by Congress.

Tonight, staff will update the Council on the draft agreement with Pisgah Labs and seek permission to finalize the agreement under the terms discussed. Staff will also ask Council to approve acceptance of a \$2.4M grant from the US Economic Development Administration (EDA) intended to cover most of the cost of extending the utilities.

Discussion

The terms that Council directed were its attempt to balance competing interests: first, to support the Pisgah Labs expansion with its corresponding benefits to the area economy; second, to preserve as much of the benefits that the city derives from the typical annexation requirement. Each specific term is discussed below:

- City commitment - Permit property to connect to municipal utilities without immediate annexation if terms of the agreement are met

- City commitment - Use US EDA grant and local match from Transylvania County to construct water and wastewater utilities to subject property.
- City commitment - Assume ownership as well as maintenance, upkeep and replacement responsibility of the utility infrastructure
- Company commitment - Meet all investment and job creation requirements as outlined in the company's incentives agreement with Transylvania County
- Company commitment - Remove subject property from floodplain using FEMA-approved procedures, and obtain a "Letter of Map Revision Based on Fill" prior to connection
- Company commitment - Wastewater discharge must comply with Brevard Code of Ordinances 70-91 through 70-95 and provisions of 40 CFR subchapter N Part 401.
- Company commitment - Voluntarily annex into the Brevard corporate limits by no later than 12/31/39.

Per the Council's earlier instruction that the City should not be financially responsible for any of the costs of the utility extension, staff intends to pursue a separate agreement with Transylvania County to increase their match commitment if the cost of the project exceeds the \$2.93M projection.

The City has already fulfilled one of its commitments by applying for, and winning, a \$2.4M grant from the US EDA to fund the project. The deadline for accepting the grant is November 13, 2024. If Council agrees to accept the grant, staff will work to finalize the agreement with Pisgah Labs before accepting it. But if that cannot be accomplished on time, staff will accept the grant but not spend significant amounts of it until the agreement with the company is finalized. Staff will present Pisgah Labs with a "shot clock" of March 1, 2025. If they do not agree to the terms of this agreement by that date, the City will return the EDA grant funds and scuttle the project.

Action

Council is asked to approve the attached resolution approving the terms of the agreement and authorizing the City Manager to execute the agreement on the city's behalf. Council is also asked to approve the attached resolution accepting the \$2.4M "Project Vital" US EDA grant.

Attachments:

1. Draft Pisgah Labs ED and Utility Extension Agreement
2. RESOLUTION NO 2024-XX_Agreement with PL
3. RESOLUTION NO 2024-XX_US EDA Project Vital Grant

PISGAH LABORATORIES INC
and
CITY OF BREVARD, NORTH CAROLINA

ECONOMIC DEVELOPMENT and UTILITY EXTENSION AGREEMENT

Dated as of _____

ECONOMIC DEVELOPMENT AND UTILITY EXTENSION AGREEMENT

THIS AGREEMENT is dated as of [DATE] (as supplemented or amended, the “Agreement”), and is between **PISGAH LABORATORIES INC** a North Carolina limited liability company (the “Company”), and **CITY OF BREVARD, NORTH CAROLINA**, a public body politic and a political subdivision of the State of North Carolina (the “City”).

RECITALS:

The purpose of this Agreement is to describe certain actions to be provided by the City to the Company in connection with the Company’s expansion of its facilities in the area.

WHEREAS, the Company currently operates certain facilities, as described on Exhibit A (the “Facility”), in Transylvania County;

WHEREAS, the Company plans to expand its operations at the Facility, which will include at least fifty five million (\$55,000,000) of investments in real and business personal property in the County (the “Project”);

WHEREAS, the Project is expected to result in the creation of at least fifty-five (55) full time equivalent employees at the Facility, with average wages exceeding the County’s average wage of \$39,028 for full-time employment, plus other benefits;

WHEREAS, the Project will result in a new source of ad valorem property taxes, sales tax, and other revenues which will ultimately benefit the citizens of the Transylvania County;

WHEREAS, the City is the owner/operator of a water and wastewater utility system, access to which is advantageous to the Project;

WHEREAS, the City typically requires properties wishing to receive municipal utility services to voluntarily annex;

WHEREAS, to support the Project the City has agreed to waive its typical requirements and allow access to its utilities without immediate annexation if the Company agrees to certain terms; and

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained in this Agreement, the parties hereby agree as follows:

ARTICLE I.
DEFINITIONS; RULES OF CONSTRUCTION

1.01 Definitions. For all purposes of this Agreement, unless the context requires otherwise, the following terms shall have the following meanings:

“40 CFR Subchapter N” means United States Code of Federal Regulations, subchapter N.

“Abandonment of Operations” means that for a period in excess of two (2) weeks the Company’s level of Full Time Equivalent Employees goes below twenty percent (20%) of the required Jobs Minimum for any Grant Year.

“Applicable Tax Bill” has the meaning assigned in Section 4.02.

“Business Day” means any day that is not a Saturday or a Sunday, or a day on which banks in the State are required by law to be closed.

“Certification of Jobs Minimum” means the document the Company shall provide to the County prior to March 31 each year in which the Company certifies that the Company has fulfilled its Jobs Minimum requirement for the preceding calendar year, or states a lesser number of Full Time Equivalent Employees employed by the Company during the previous calendar year. The Certification of Jobs Minimum shall include: documentation of the number of the Company’s Full Time Equivalent Employees shown on filings with the N.C. Employment Security Commission as to unemployment compensation taxes.

“City” means City of Brevard, North Carolina.

“County” means Transylvania County, North Carolina.

“Date of Connection” means the date on which utility service becomes available to the Facility [need a Cert. of Occupancy or anything like that? -WBH]

“Date of Execution” means the date on which this Agreement is first executed and delivered by the parties.

“Facility” means the facilities on the Site, as more particularly described in Exhibit B.

“Full Time Equivalent Employees” means the number arrived at by dividing the total annual payroll hours paid by 2080, which shall be computed on a calendar year basis ending on December 31 of each year.

“Incentive” means the various incentive payments referred to in Section 4.01.

“Incentive Request” has the meaning assigned in Section 4.02.

“Grant Year” means any calendar year preceding the Company’s submittal of an Incentive Request to the County. There are a maximum of nine (9) Grant Years pursuant to this Agreement.

“Jobs Minimum” has the meaning assigned in subsection (a) of Article II.

“Performance Commitments” means the Company’s commitments described in Article II.

“Site” means the real property in the County upon which the Facility is located, as more specifically described in Exhibit A.

“State” means the State of North Carolina.

“Utility Connection” means [MORE]

“Voluntary Annexation” means the process of legally incorporating the described parcel into the municipal boundaries, receiving its services, and becoming subject to all the rules and regulations thereof. The process is outlined in N.C.G.S. 160A 50-58

1.02 Rules of Construction. Unless the context otherwise indicates:

(a) Words importing the singular shall include the plural and vice versa, and words importing the masculine gender shall include the feminine and neuter genders as well;

(b) All references to Articles, Sections or Exhibits are references to Articles, Sections and Exhibits of this Agreement;

(c) The headings and Table of Contents herein are solely for convenience of reference and shall not constitute a part of this Agreement nor shall they affect its meanings, construction or effect; and

(d) Notwithstanding the presumption of law whereby an ambiguity or conflict in provisions shall be construed against the drafter, the parties hereby agree that although one party may have generated this Agreement, the parties have been afforded the opportunity to consult with counsel of its own choosing and each has participated in the drafting of this Agreement. Therefore, such presumption shall not be applied if any provision or term of this Agreement requires judicial interpretation.

ARTICLE II.
COMPANY'S COMMITMENTS

In return for the eligibility for Utility Connection set forth herein, which is a benefit to the Company that will support the goals of the Project, the Company commits to certain terms and conditions.

(a) The Company must meet all Performance Commitments related to job creation and incrementally increased taxes as outlined in the Company's October 2023 "Incentive Agreement" with Transylvania County.

(b) Prior to Date of Connection, the Company shall remove floodplain from its development site using FEMA-approved procedures, and obtain a "Letter of Map Revision Based on Fill"

(c) The composition of the Company's wastewater discharge from the Facility must comply with the City of Brevard's Code of Ordinances, Chapters 70-91 through 70-95 as well as provisions of 40 CFR subchapter N Part 401 Scope and Purpose which states the following:

"Regulations promulgated or proposed under [parts 402 through 699 of this subchapter](#) prescribe effluent limitations guidelines for existing sources, standards of performance for new sources and pretreatment standards for new and existing sources pursuant to sections 301, 304 (b) and (c), 306 (b) and (c), 307 (b) and (c) and 316(b) of the Federal Water Pollution Control Act, as amended (the "Act"), [33 U.S.C. 1251, 1311, 1314](#) (b) and (c), 1316 (b) and (c), 1317 (b) and (c) and 1326(b); 86 Stat. 816; Pub. L. 92-500. Point sources of discharges of pollutants are required to comply with these regulations, where applicable, and permits issued by States or the Environmental Protection Agency (EPA) under the National Pollutant Discharge Elimination System (NPDES) established pursuant to section 402 of the Act must be conditioned upon compliance with applicable requirements of sections 301 and 306 (as well as certain other requirements). This part 401 sets forth the legal authority and general definitions which will apply to all regulations issued concerning specific classes and categories of point sources under [parts 402 through 699 of this subchapter](#) which follow. In certain instances the regulations applicable to a particular point source category or subcategory will contain more specialized definitions. Except as provided in [§ 401.17](#), in the case of any conflict between regulations issued under this part 401 and regulations issued under [parts 402 through 499 of this subchapter](#), the latter more specific regulations shall apply.

(d) The Company must Voluntarily Annex the Facility into the City of Brevard's corporate limits by 12/31/2039, a date corresponding with the expiration of the

considerations as outlined in the Company's October 2023 "Incentive Agreement" with Transylvania County

ARTICLE III.

CITY'S COMMITMENTS.

(a) To support the Project, the City will permit utility connections pursuant to Chapter 2-292 of its Code of Ordinances. This agreement shall serve as the Economic Development agreement referenced in the code.

(b) With funding from a U.S. Economic Development Administration grant and local sources, the City, in partnership and with financial support from Transylvania County, who shall fully cover the cost of installation of the said utility extension as outlined in a separate agreement, agrees to design and construct an extension of water and wastewater utilities from their current termination point near the intersection of Old Hendersonville Hwy and Ecusta Rd. to a point on the Company's property.

(c) Upon completion the City will assume sole ownership of the infrastructure as well as upkeep, maintenance, and replacement responsibility.

ARTICLE IV.

INDEMNIFICATION

The Company hereby agrees to indemnify, protect and save the City and its officers, directors and employees harmless from all liability, obligations, losses, claims, damages, actions, suits, proceedings, costs and expenses, including reasonable attorneys' fees, arising out of, connected with, or resulting directly or indirectly from the Site or the Facility or the transactions contemplated by or relating to this Agreement, including without limitation, the possession, condition, construction or use thereof, insofar as such matters relate to events subject to the control of the Company and not the City. The indemnification arising under this Article shall survive the Agreement's termination.

ARTICLE V.

TERMINATION OF AGREEMENT

The City shall have the option of terminating this Agreement upon an Abandonment of Operations by the Company, the Company's failure to meet the Jobs Minimum for more than three (3) years, or the Company's violation, as determined by the City, of any statute, regulation, ordinance, or order applicable to the Company, the Project, or either of them, which termination option shall be executed by giving written notice to the Company.

If any of these events occur any cost expended by the City in pursuance of its commitments shall be refunded to the City pursuant to the terms of this Article. The parties agree that the sum of Five Million Dollars shall be considered adequate liquidated damages in light of the difficulty in currently estimating the cost of installation and maintenance of the said utility extensions.

ARTICLE VI.

ASSIGNMENTS/SUCCESSORS ETC.

No party shall sell or assign any interest in or delegate any obligation under this Agreement without the prior express written consent of all the parties. Provided, however, that this Agreement may be assigned by the Company to a wholly owned subsidiary of the Company, without the consent of the City, provided that the Company will guarantee the performance by the subsidiary of the obligations due under this Agreement. Failure to perform obligations under this Agreement will require any benefit received by the Company and/or Subsidiary by the referenced dates shall be subject to recovery provisions outlined in Section 9.11

The terms, conditions, and covenants of this Agreement shall be binding upon and shall inure to the benefit of each of the parties, their personal representatives, successors or assigns, and shall run with the land.

A memorandum of agreement to the effect shall be executed contemporaneously with this agreement and recorded in the Transylvania County Register of Deeds upon execution of this agreement.

ARTICLE VII.

LIMITED OBLIGATION OF CITY

NO PROVISION OF THIS AGREEMENT SHALL BE CONSTRUED OR INTERPRETED AS CREATING A PLEDGE OF THE FAITH AND CREDIT OF THE CITY WITHIN THE MEANING OF ANY CONSTITUTIONAL DEBT LIMITATION. NO PROVISION OF THIS AGREEMENT SHALL BE CONSTRUED OR INTERPRETED AS DELEGATING GOVERNMENTAL POWERS NOR AS A DONATION OR A LENDING OF THE CREDIT OF THE CITY WITHIN THE MEANING OF THE STATE CONSTITUTION. THIS AGREEMENT SHALL NOT DIRECTLY OR INDIRECTLY OR CONTINGENTLY OBLIGATE THE CITY TO MAKE ANY PAYMENTS BEYOND THOSE APPROPRIATED IN THE CITY'S SOLE DISCRETION FOR ANY FISCAL YEAR IN WHICH THIS AGREEMENT SHALL BE IN EFFECT. NO PROVISION OF THIS AGREEMENT SHALL BE CONSTRUED TO PLEDGE OR TO CREATE A LIEN ON ANY CLASS OR SOURCE OF THE CITY'S MONEYS, NOR SHALL ANY PROVISION OF THE AGREEMENT RESTRICT TO ANY EXTENT PROHIBITED BY LAW, ANY ACTION OR RIGHT OF ACTION ON THE PART OF ANY FUTURE CITY GOVERNING BODY. TO THE EXTENT OF ANY CONFLICT BETWEEN THIS

ARTICLE AND ANY OTHER PROVISION OF THIS AGREEMENT, THIS ARTICLE SHALL TAKE PRIORITY.

ARTICLE VIII.
MISCELLANEOUS

8.01 Governing Law. The parties intend that this Agreement shall be governed by the law of the State of North Carolina.

8.02 Notices.

(a) Any communication required or permitted by this Agreement must be in writing except as expressly provided otherwise in this Agreement.

(b) Any communication shall be sufficiently given and deemed given when delivered by hand or five days after being mailed by first-class mail, postage prepaid, and addressed as follows:

(1) If to the Company, to: Dani Bailey, Site Manager
3222 Old Hendersonville Hwy
Pisgah Forest, NC 28768

(2) If to the County, to: Wilson Hooper, City Manager
95 W Main St.
Brevard, NC 28712

(c) Any addressee may designate additional or different addresses for communications by notice given under this Section.

8.03 Non-Business Days. If the date for making any payment or the last day for performance of any act or the exercising of any right is not a Business Day, such payment shall be made or act performed or right exercised on or before the next preceding Business Day.

8.04 Severability. If any provision of this Agreement shall be determined to be unenforceable, that shall not affect any other provision of this Agreement.

8.05 Entire Agreement; Amendments. This Agreement constitutes the entire contract between the parties, and this Agreement shall not be changed except in writing signed by all the parties.

8.06 Binding Effect. Subject to the specific provisions of this Agreement, this Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties and their respective successors and assigns.

8.07 Time. Time is of the essence in this Agreement and each and all of its provisions.

8.08 Liability of Officers and Agents. No officer, agent or employee of the City or the Company shall be subject to any personal liability or accountability by reason of the execution of this Agreement or any other documents related to the transactions contemplated hereby. Such officers, agents, or employees shall be deemed to execute such documents in their official capacities only, and not in their individual capacities. This Section shall not relieve any such officer, agent or employee from the performance of any official duty provided by law.

8.09 Counterparts. This Agreement may be executed in several counterparts, including separate counterparts. Each shall be an original, but all of them together constitute the same instrument.

8.10 Governmental Immunity. All of the City's duties and obligations required in this Agreement are traditional governmental functions. As such, nothing in this Agreement is intended to affect or abrogate the City's governmental immunity or any other affirmative defenses which are otherwise available to it.

8.11 Clawback Provision. The Company understands and hereby acknowledges this Agreement is subject to North Carolina General Statute §143B-435.1 which requires all or part of an economic development incentive to be returned or forfeited if the Company does not fulfill its responsibilities under the incentive law, this Agreement, or both.

8.12 E-Verify. The parties agree this contract complies with the requirements of North Carolina General Statute §64-25 et. seq. In this E-Verify Compliance Section, the words

contractors, subcontractors, and comply shall have the meanings intended by applicable provisions of North Carolina General Statute Chapters §153A and 160A.

8.13 Discrimination. In consideration of the signing of this Agreement, the parties hereto for themselves, their agents, officials, employees and servants agree not to discriminate in any manner on the basis of race, color, creed, national origin, sex, age, handicap, or sexual orientation with reference to the subject matter of this Agreement, no matter how remote. The parties further agree in all respects to conform to the provisions and intent of any applicable Ordinances of Transylvania County and the City of Brevard. This provision is hereby incorporated into this Agreement for the benefit of Transylvania County and its residents, and may be enforced by action for specific performance, injunctive relief, or other remedy as by law provided.

8.14 Statutory Requirements. The Company covenants that it has not been identified on a list created by the North Carolina State Treasurer's office as a person engaging in investment activities in Iran pursuant to North Carolina General Statute §147-86.60. The Company further covenants that it has not been identified on a list created by the North Carolina State Treasurer's office as a restricted entity pursuant to North Carolina General Statute §147-86.82.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in their corporate names by their duly authorized officers, all as of the date first above written.

[SEAL]

PISGAH LABORATORIES INC
a North Carolina corporation

By _____

ATTEST:

Secretary

[SEAL]

**CITY OF BREVARD,
NORTH CAROLINA**

ATTEST:

By _____

City Clerk

This instrument has been preaudited
in the manner required by The Local
Government Budget and Fiscal Control Act

Name:
Finance Officer, City of Brevard,
North Carolina

RESOLUTION NO. _____

**RESOLUTION APPROVING TERMS OF ECONOMIC DEVELOPMENT AND UTILITY
EXTENSION AGREEMENT WITH PISGAH LABS**

WHEREAS, the Pisgah Labs currently operates a pharmaceutical manufacturing facility in Transylvania County;

WHEREAS, the Pisgah Labs plans to expand its operations at the facility, which will include at least fifty five million (\$55,000,000) of investments in real and business personal property in the County (the "Project");

WHEREAS, the Project is expected to result in the creation of at least fifty-five (55) full time equivalent employees at the Facility, with average wages exceeding the County's average wage of \$39,028 for full-time employment, plus other benefits;

WHEREAS, the Project will result in a new source of ad valorem property taxes, sales tax, and other revenues which will ultimately benefit the citizens of the Transylvania County;

WHEREAS, the City is the owner/operator of a water and wastewater utility system, access to which is advantageous to the Project;

WHEREAS, the City typically requires properties wishing to receive municipal utility services to voluntarily annex.

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

SECTION 1. To support the Project, the City agrees to waive its typical requirement and allow access to its utilities without immediate annexation if the Company agrees to certain terms as outlined in the attached agreement.

SECTION 2. Pisgah Labs must agree to the terms as offered by March 1, 2025. If Company fails to sign the agreement by that date, the City may offer new terms.

SECTION 3. Brevard City Council designates the City Manager to sign and execute the attached agreement.

Approved and adopted this the ____th day of November, 2024.

Maureen Copelof
Mayor

ATTEST:

Denise Hodsdon
City Clerk

RESOLUTION NO. _____

**RESOLUTION ACCEPTING \$2.4M GRANT FROM THE UNITED STATE’S ECONOMIC
DEVELOPMENT ADMINISTRATION GRANT TO FUND UTILITY EXTENSION TO
SUPPORT PISGAH LABS EXPANSION**

WHEREAS, the City of Brevard supports economic development projects that generate investment and bring well-paying jobs to the area; and,

WHEREAS, Pisgah Labs is a pharmaceutical company in Transylvania County that has been awarded incentives from the State of North Carolina and Transylvania County in exchange for \$55M in real investment and the commitment to create 55 well-paying jobs; and,

WHEREAS, connection to reliable municipal utilities would support the project; and,

WHEREAS, the expansion also supports the goals of the US Economic Development Administration, who awarded it a \$2.4M grant to extend municipal utilities to the property.

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

SECTION 1. Brevard City Council accepts the US Economic Development Administration’s \$2.4M grant and all burdens and responsibilities thereof.

SECTION 2. Using the grant dollars and matching funds from Transylvania County, the City intends to construct utility extensions to the property and permit the property’s connection per the terms of a separate agreement with Pisgah Labs.

SECTION 3. Brevard City Council designates the City Manager to execute the grant acceptance and administer the grant program.

Approved and adopted this the ____th day of November, 2024.

Maureen Copelof
Mayor

ATTEST:

Denise Hodsdon
City Clerk

STAFF REPORT

City Council, Monday, November 4, 2024

Title: Designation of ABC Board Chair

Speaker: Denise Hodsdon, City Clerk

Prepared by: Denise Hodsdon

Approved by: Wilson Hooper, City Manager

Background

Pursuant to NC G.S. § 18B-700(a) Local ABC Board members are appointed by the City Council as the appointing authority. The statute also states “the appointing authority shall designate one member of the local board as chairman”. In addition, pursuant to Section 6.3 of the City of Brevard Charter, the Mayor and City Council shall annually appoint one member of the ABC Board to serve as chairman. The Brevard ABC Board Chair has historically served a one-year term from July 1 to June 30 to coincide with the fiscal year.

Discussion

On June 17, 2024 Council extended the terms of two ABC Board members, one of which was the Chair, through September 2024 to allow time to advertise the positions. On September 3, 2024 Council appointed two new members to the ABC Board with terms effective October 2024.

At its meeting on October 24, 2024, the Brevard ABC Board nominated and recommended that Lisa Conner be designated as Board Chair to serve until June 30, 2025.

Action

Council is asked to consider the attached resolution designating the ABC Board Chair.

Attachments:

1. Resolution Designating Brevard ABC Board Chair

RESOLUTION NO. 2024-XX

RESOLUTION DESIGNATING ABC BOARD CHAIR

WHEREAS, pursuant to NC G.S. § 18B-700(a) Local ABC Board members are appointed by the City Council as the appointing authority; and

WHEREAS, NC G.S. § 18B-700(a) also states “the appointing authority shall designate one member of the local board as chairman”; and

WHEREAS, pursuant to Section 6.3 of the City of Brevard Charter, the Mayor and City Council shall annually appoint one member of the ABC Board to serve as chairman; and

WHEREAS, the Brevard ABC Board Chair has historically served a one-year term from July 1 to June 30 to coincide with the fiscal year; and

WHEREAS, at its meeting on October 24, 2024 the Brevard ABC Board nominated Lisa Conner to serve as ABC Board Chair until June 30, 2025.

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

- 1) The Brevard City Council does hereby designate Brevard ABC Board Member Lisa Conner to serve as Chair effective immediately until June 30, 2025.

Adopted and approved this 4th day of November, 2024.

Maureen Copelof
Mayor

ATTEST:

Denise Hodsdon, CMC
City Clerk