



AGENDA
BREVARD CITY COUNCIL - REGULAR MEETING
Monday, November 18, 2024 - 5:30 PM
City Council Chambers

A. Welcome and Call to Order

B. Invocation

Norman Bossert, Brevard Jewish Community

C. Pledge of Allegiance

D. Certification of Quorum

E. Approval of Agenda

F. Approval of Minutes

1. November 4, 2024 Regular Meeting

G. Public Comments

H. Certificates / Awards / Recognition

I. Special Presentation(s)

1. Update from Helene Regional Recovery Convening

J. Public Hearing(s)

K. Consent and Information

1. Tax Settlement Report - October 2024
2. Ordinance Declaring Road Closure for Special Event - Light Up the Night and Holiday Parade
3. Pump Station Easements
4. Council Public Works & Utilities Committee Meeting - September 3, 2024

L. Unfinished Business

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

M. New Business

1. Approval of Settlement Agreement and Purchase of Robert Bauslaugh Property at 287 W. Main Street

N. Remarks / Future Agenda Considerations

O. Closed Session(s)

1. Potential Litigation: GS § 143-318.11.(a)(3)

P. Adjourn

Agenda Posted, Website, Sunshine List (November 14, 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
November 4, 2024 – 5:30 PM**

The Brevard City Council met in regular session on Monday, November 4, 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, and Lauren Wise

Absent – Council Member Pamela Holder

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, Planning Director Paul Ray, Assistant Planning Director Aaron Bland, Senior Planner Emily Brewer, Human Resources Director Kelley Craig, Communications Coordinator Becky McCann, Police Chief Tom Jordan, Fire Chief Bobby Cooper, Public Works Director Wesley Shook, Water Treatment Plant ORC Dennis Richardson, Wastewater Treatment Plant Assistant ORC Aaron Winans, Community Center Director Tyree Griffin, and Police Captain Aaron Thompson

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 – Shelly Webb of Sharing House 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. Mr. Morrow moved, seconded by Mr. Baker to excuse Council Member Holder. The motion carried unanimously.

E. Approval of Agenda – Mr. Daniel requested to move Item M-1 Designation of ABC Board Chair to the Consent Agenda as Item K-12. Attorney McKeller requested to add a Closed Session for a Pending Litigation matter as Item O-1. Mr. Daniel moved, seconded by Mr. Wise to approve the agenda as amended. The motion carried unanimously.

F. Approval of Minutes

F-1. October 21, 2024 Regular Meeting – Mr. Wise moved, seconded by Mr. Morrow to approve the minutes of the October 21, 2024 Regular Meeting as presented. The motion carried unanimously.

G. Public Comments – None.

H. Certificates/Awards/Recognition

H-1. Proclamation No. 2024-23 Veteran’s Day – Mayor Copelof read the proclamation aloud.

**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.

Attest: Denise Hodsdon, CMC, City Clerk

s/Maureen Copelof, Mayor

I. Special Presentations – None.

J. Public Hearing(s)

J-1. Proposed City of Brevard Unified Development Ordinance Text Amendment re Pisgah Forest Gateway District – Aaron Bland explained that this is a staff-initiated rezoning and text amendment to create a new zoning district for the Pisgah Gateway Entrance area and that his presentation would cover both public hearings regarding the proposed new district. A copy of his presentation is attached. He noted that the current zoning of that area is inappropriate for its context as it is mostly zoned the same as Downtown, which has caused some issues from a permitting standpoint over the years. The proposed rezoning and text amendment would create a new district, the Pisgah Gateway Mixed Use (PGX) district, that captures the unique character of this area with more context-specific standards. Additionally, this is one of the unique character areas that will have its own architectural standards in the coming months. The Planning Board discussed the PGX district at their June 25th and September 24th meetings and they recommended omitting the single-family houses that front on Deavor Road, but Staff is continuing to recommend that the entire architectural standards character area be included to avoid split-zoning some of the parcels that front on both the highway and Deavor Road.

At 5:54 p.m. Mr. Morrow moved, seconded by Mr. Daniel to open the public hearing. The motion carried unanimously.

Public Participation:

Donna Duty of 212 Deavor Road said my father passed earlier this year and lived at 212 Deavor Road. By us they were allowed to build a big wall and raise their property up for commercial next door to his house. When the flood come, it just stops at the wall; it took our natural flow of water through that house and the pasture into the drains. There is no drainage so when the flood happened a few weeks ago, I know it was a lot of rain, it just built up at the wall and kept rising to 44 inches. So, I have an issue that, because his land...they are working on the road behind us (64) and they've already built the bank that took the ditchline so we don't have a ditch. I've asked them to please put some kind of ditch to drain it to the creek which sets behind Pisgah Forest. My question is if that's a flood zone, which it is now, they consider it a flood zone, and they build up, I'm going to have a wall behind the house just like the wall that sits next to us and then we're going to be like a fishbowl with water, because there's no drainage. So, my problem is what does that do to my property value? It is a big concern and I do

have pictures showing the wall and showing what it does. That is a big concern with me, to zone it in because the property goes down hill and I know they won't build on the bottom; they'll raise it up like they did to the property next to us. There is no drainage; they said they were going to put drainage in, but no drainage whatsoever. It just stops at the wall.

At 5:58 p.m. Mr. Morrow moved, seconded by Mr. Baker to close the public hearing. The motion carried unanimously.

During Council comments/questions, Mr. Wise asked for more information regarding the Planning Board's recommendation to omit the residences on Deavor Road and Staff's concern regarding split-zoning. Mr. Bland explained that under the new PGX those residences would be considered a pre-existing non-conformity for as long as they are lived in and they would be allowed to make improvements and add on to an existing house. He thought the Planning Board's main concern was with the few mobile homes that are there that would not be allowed to upgrade to a new stick-built house.

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

J-2. Proposed City of Brevard Zoning Map Amendment re Pisgah Forest Gateway District

At 6:07 p.m. Mr. Wise moved, seconded by Mr. Morrow to open the public hearing. The motion carried unanimously.

Public Participation – None.

At 6:07 p.m. Mr. Morrow moved, seconded by Mr. Wise 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. Morrow moved, seconded by Mr. Baker to approve the consent agenda. The motion carried unanimously.

K-1. Resolution Fixing a Date of Public Hearing for Annexation – Mills Ave Properties, LLC / Forest Hill Drive

RESOLUTION NO. 2024-48

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.

Attest: Denise Hodsdon, CMC, City Clerk

s/Maureen Copelof, Mayor

K-2. Resolution Authorizing Staff to Renew Adopt a Green Space Contracts

**RESOLUTION NO. 2024-49
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 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.

Approved and adopted this 4th day of November, 2024.

Attest: Denise Hodsdon, CMC, City Clerk

s/Maureen Copelof, Mayor

K-3. Resolution Accepting \$352,000 Grant for Wastewater Treatment Plant Engineering

**RESOLUTION NO. 2024-50
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:

SECTION 1. That the City of Brevard does hereby accept the 2023 Appropriations Act Directed Projects Grant offer of \$352,000.

SECTION 2. That the City of Brevard does hereby give assurance to the North Carolina Department of Environmental Quality that any Conditions or Assurances contained in the Award Offer will be adhered to.

SECTION 3. 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.

Attest: Denise Hodsdon, CMC, City Clerk

s/Maureen Copelof, Mayor

K-4. Capital Project Amendment – WWTP - \$352,000 Grant Funding SRP-W-134-0175

**ORDINANCE NO. 2024-40
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 4: 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 5: 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 6: 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 7: 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 8: 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 9: 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 10: 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.

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

s/Maureen Copelof, Mayor

K-5. Public Safety Committee Minutes – July 22, 2024

K-6. Ecusta Trail Advisory Board Minutes – August 22, 2024

K-7. Council Rosenwald Community Advisory Board Minutes – August 27, 2024

K-8. Ecusta Trail Advisory Board Minutes – September 5, 2024

K-9. Finance, Human Resources & Citizen Appointment Committee Minutes – September 17, 2024

K-10. Ecusta Trail Advisory Board Minutes – September 25, 2024

K-11. Correspondence (*No Action. Offered as information only.*)

K-11.a. ABC Board Minutes – August 22, 2024

K-12 (M-1.) Designation of ABC Board Chair

**RESOLUTION NO. 2024-53
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.

Attest: Denise Hodsdon, CMC, City Clerk s/Maureen Copelof, Mayor

L. Unfinished Business

L-1. Proposed Amendments to City of Brevard Code of Ordinances Chapters 1, 46, and 62 – Sidewalk Usage Policy – Emily Brewer recalled that this is a staff-initiated text amendment to ensure that all items placed in City or State rights-of-way have insurance and meet minimum separation requirements. Council held a public hearing at its last meeting. Mr. Daniel moved, seconded by Mr. Baker to approve the proposed amendment to the City of Brevard Code of Ordinances, Chapters 1, 46, and 62 – Sidewalk Usage Policy as presented. The motion carried unanimously.

**ORDINANCE NO. 2024-41
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 November 2024.

Attest: Denise Hodsdon, CMC, City Clerk

s/Maureen Copelof, Mayor

Approved as to Form: Mack McKeller, City Attorney

L-2. Approval of Pisgah Labs Agreement and Acceptance of US EDA Grant –
Mr. Hooper recalled that in 2023 Council amended the Code of Ordinances to allow properties outside the city limits to connect to the city’s wastewater system without annexing according to certain conditions as part of a joint economic development agreement between the City and the property owner. Pisgah Labs, a pharmaceutical manufacturing company with a facility in Transylvania County, plans to expand its operations at the facility, which will include a \$55M investment and is expected to result in the creation of at least 55 full-time jobs. The expansion project has already been awarded state and county incentives. Connection to municipal utilities would help with expansion. To fund the utility connection project the City applied for and was awarded a \$2.4M grant from the US Economic Development Administration. Mr. Hooper reviewed the following terms of a draft Economic Development and Utility Extension Agreement with Pisgah Labs:

City Commitments

- Permit property to connect to municipal utilities without immediate annexation if the terms of the agreement are met
- Construct water and wastewater extension to property using US EDA grant funds and local match from Transylvania County
- Assume ownership and maintenance/repair responsibility of the infrastructure at conclusion of project

Company Commitments

- Meet all investment and job creation requirements as outlined in the company’s incentive agreement with Transylvania County
- Remove subject property from floodplain using FEMA-approved procedures, and obtain a “Letter of Map Revision Based on Fill” prior to connection
- Wastewater discharge must comply with Brevard Code of Ordinances 70-91 through 70-95 and provisions of 40 CFR subchapter N Part 401.
- Voluntarily annex into the Brevard corporate limits by no later than 12/31/2039

Other considerations

- If company fails to meet the terms of the agreement, they must make us (and our partners) financially whole, up to \$5M

- The company must agree to these terms by March 1, 2025 or else they're subject to renegotiation

Mr. Hooper said if Council agrees to move forward with the negotiation under these conditions, he would ask that that decision be memorialized by approving two resolutions; one approving the terms of the agreement, and one accepting the \$2.4M US EDA grant. Mr. Baker moved, seconded by Mr. Daniel to approve the terms of the agreement and to authorize the City Manager to execute the agreement on the City's behalf. Following discussion, the motion carried unanimously.

**RESOLUTION NO. 2024-51
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; and

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"); and

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; and

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 Transylvania County; and

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

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 4th day of November, 2024.

Attest: Denise Hodsdon, CMC, City Clerk

s/Maureen Copelof, Mayor

Mr. Wise moved, seconded by Mr. Baker to approve the resolution accepting the \$2.4M US EDA grant. The motion carried unanimously.

**RESOLUTION NO. 2024-52
RESOLUTION ACCEPTING \$2.4M GRANT FROM THE UNITED STATE'S
ECONOMIC DEVELOPMENT ADMINISTRATION 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 4th day of November, 2024.

Attest: Denise Hodsdon, CMC, City Clerk

s/Maureen Copelof, Mayor

M. New Business – None.

N. Remarks/Future Agenda Considerations.

Mr. Wise noted that November 11th is Veterans Day and that is an opportunity to thank veterans for their service. He also reminded everyone to vote tomorrow if they have not done so already. Finally, he thanked City Manager Hooper for his work in coordinating the emergency response efforts during Helene.

Mr. Daniel also encouraged everyone to vote. He said I would also like to mention that this Friday the Mayor and City Manager will be meeting with the League of Municipalities and I would like to speak as a Council Member to the City Manager. The meeting is to discuss our present and future needs as a result of the storm and I would say that our most immediate need, as well as our greatest future need is housing. The storm has exacerbated our existing shortage beyond crisis point, and as it was discussed at the last emergency housing group meeting, I think there needs to be a comprehensive assessment of homes damaged by the storm and to know the cost to enable us to properly address funding. I think this effort would be most proficient with a full-time staff person to organize that data and to coordinate with the aid groups that have been mentioned that are already doing an excellent job. I think if we can get this in a true organized fashion it would be beneficial for everyone, and if there is help available from any of these organizations that you will be meeting with, it would be welcome. Our long-term needs...the ongoing effort to increase our affordable housing, and more directly, how we get low-income housing out of the floodplain, that's a great need. We also have the need that many of the other towns in our area do, of our downtown businesses and how are we going to address their needs; what other ideas are out there? I hope that we get a report back.

Mr. Baker said since the storm there are some immediate impacts that have been occupying a lot of our attention over the last few weeks and I also have been thinking what our response long-term should be. We've talked many times about the lack of buildable land and our position between a large amount of public land that cannot be developed and a large floodplain which limits the space we have for the city to grow and develop into the future. I feel like land use, which is always a hot topic for us, it becomes even more important for us to manage that strategically with an eye far into the future so that we don't put people in harms way, but we also allow for the types of development that are going to help with affordability, and help with jobs in the county and the city. I am hoping that as we get out of the emergency mindset that we can shift towards a more strategic mindset going forward. He also reminded everybody that tomorrow is Election Day. He congratulated the Brevard High School Men's Cross Country Team for winning back-to-back state championships and noted that they have won three of the last four. He added that the Brevard College Women's Soccer team is toward the end of an undefeated season and the Men's Soccer team and the Football team are also having success; and Brevard High Football team is on the doorstep of a conference championship.

Mr. Hooper reported that we are welcoming Selena Coffey to our staff starting

next Tuesday. She is a former Assistant County Manager in Henderson County and Town Manager of Weaverville, NC and I am excited to have such an experienced person joining our staff. He also reported that the County will be holding its Emergency Operations Center debrief on November 19th. Mr. Hooper and staff will be attending and will report back after that meeting.

Mayor Copelof said recovery efforts are continuing, and we have a very good collaborative group that is working hard on the temporary housing situation. We have four campers arriving this Friday, we have gotten the Habitat for Humanity site at Woodlawn Terrace ready to go, and we already have families assigned to the trailers. A big thank you to Duke Power for getting the power up there. We are slowly making progress, but there still is quite a lot of need out there. There is an initiative by the Platt organization raising money to purchase additional trailers. A big thank you to both our business community that has stepped up to help and to our non-profit community that has been doing everything they can to make this happen. She mentioned that the regional meeting for cities and counties impacted by the hurricane will be an opportunity to look at things strategically from a regional level in terms of, not just what is needed today for recovery, but also for that long-term strategic work and how we move forward in a coordinated fashion as a region to rebuild communities that have been decimated. She reminded everyone of Veterans Day and noted that City and County buildings have got the green lights going in support of our veterans. She also mentioned that the Community Support Group, dealing with the emotional impact of the hurricane, meets on Mondays from 9 to 11am for the next five weeks at Blue Ridge Community College.

O. Closed Session

O-1. Pending Litigation: NCGS §143-318.11.(a)(3) – At 6:48 p.m. Mr. Baker moved, seconded by Mr. Morrow 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 and City Clerk Denise Hodsdon.

Council Returned to Regular Session – at 6:53 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 6:53 p.m. Mr. Baker moved, seconded by Mr. Morrow, to adjourn the meeting. The motion carried unanimously.

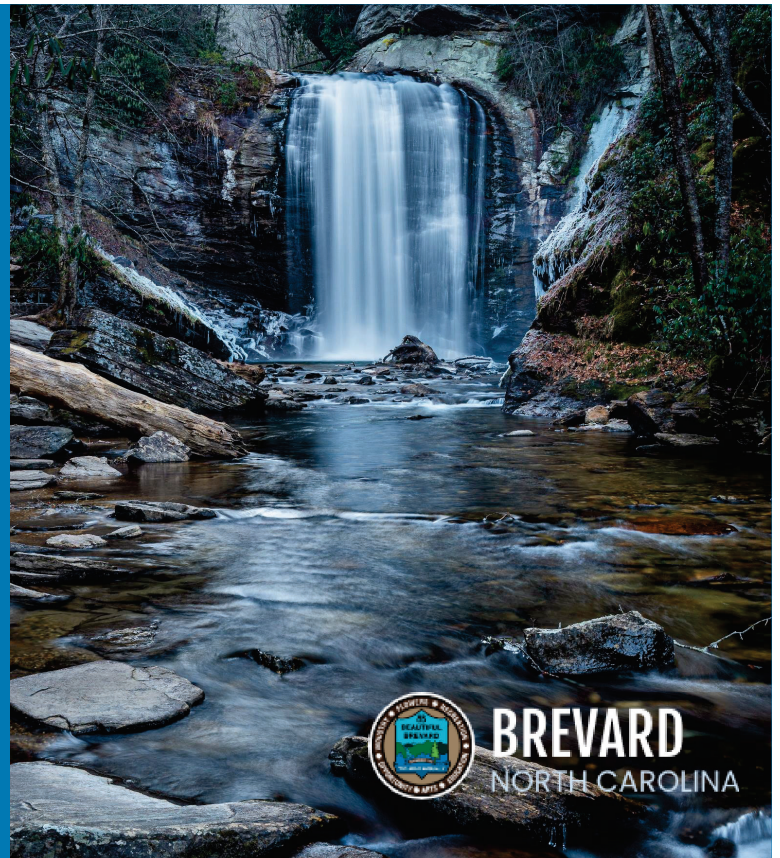
Maureen Copelof
Mayor

Denise Hodsdon, CMC
City Clerk

Minutes Approved: November 18, 2024

Pisgah Gateway Zoning District

City Council Public Hearing
November 4, 2024



Background

Why Rezone the Pisgah Gateway Area?

- R-5799 – NCDOT intersection project underway
 - Betterments and entrance sign
- Current zoning inappropriate
 - Majority of the area Downtown Mixed Use (DMX)
 - Issues with DMX standards in a “rustic” setting
- Unique character
 - This is an important and visible area that deserves more context-specific standards
- Architectural standards coming
 - Future buildings will be more context-appropriate in appearance



FIND Outdoors

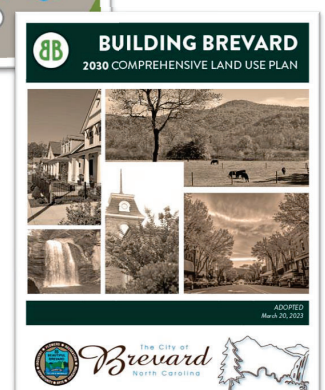


PLANNING DEPARTMENT | 2

Background

Previous Planning Work

- Pisgah Forest Small Area Plan
 - Done in Fall 2015 – Spring 2016
 - Not adopted by City Council
 - “Goal 4: Establish a bold gateway for Pisgah National Forest.”
 - “The Pisgah Forest Area requires a different form and character than downtown Brevard.”
 - “Encouraging a ‘mountain’ architectural style in this area can go a long way toward developing a sense of place in the Pisgah Forest area.”
- Building Brevard 2030 Comprehensive Land Use Plan
 - “LUH-10: Establish zoning overlay districts for the Asheville Highway Corridor and Pisgah Forest Area.”

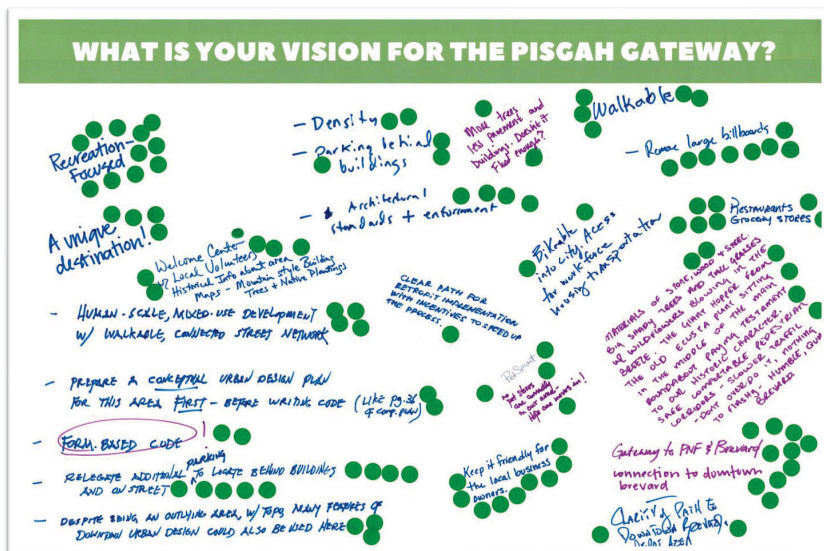


PLANNING DEPARTMENT | 3

Background

Public Engagement

- Public Input Events
 - Drop-ins at City Hall
- Meet the Mayor
 - Planning Staff joined at Hampton Inn
- Major themes include:
 - Walkability/bikability
 - Unique character
 - Recreation uses
 - Connect to PNF but also town



Proposed Zoning District

- Pisgah Gateway Mixed Use (PGX)
- Geographic area based on the character area identified in the architectural visual guidelines document endorsed by Council in June (Res. 2024-27)
- Planning Board recommended omitting houses fronting on Deavor Road
- Staff recommends original area to avoid split-zoning



Propos





Proposed Zoning Regulations

- Starting point was Neighborhood Mixed Use (NMX) district
- Between NMX and DMX
- Allowed land uses designed to be compatible with forest entrance area
- Architectural standards will be added in the coming months
- Added to Tier 2 of parking standards
 - Minimum and maximum
- Ground signs limited to 32 square feet

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
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		

Proposed Zoning Regulations

- Land Use Matrix
 - Used NMX as a starting point
 - Added/removed uses that seemed appropriate for the context as a gateway and the setting adjacent to the forest
- Single-family dwellings not allowed
- All lodging uses allowed
- Many commercial, retail, recreational, and eating/drinking uses allowed
- Very limited manufacturing

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	—

Proposed Zoning Regulations

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	None	None	None	B	D
	RMX	B	None	None	None	None	None	None	D
	NMX	B	A	None	None	None	None	None	D
	PGX	B	A	A	None	None	None	None	D
	DMX	B	A	A	A	None	None	None	D
	IC	C	C	C	C	C	None	None	None
	CMX	D	D	D	D	D	None	None	None
	GI	E	E	E	E	E	None	None	None

Proposed Zoning Regulations

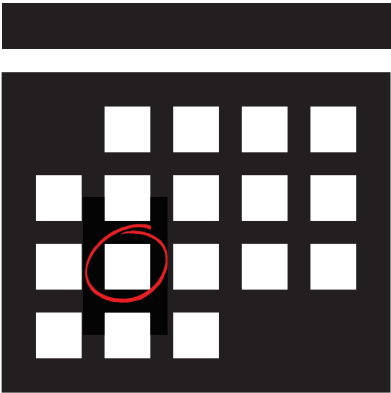
TABLE 5.6A: PERMITTED BUILDING TYPE BY DISTRICT								
Building Type	Zoning District							
	GR	RMX	NMX	PGX	DMX	CMX	IC	GI
Civic	X	X	X	X	X	X	X	
Institutional	X	X		X			X	
House	X	X	X					
Townhome	X	X	X	X	X	X	X	
Apartment		X	X	X	X	X	X	
Mixed-Use			X	X	X	X	X	
Commercial				X		X		

Planning Board Recommendation

- Add Places of Worship as a by-right permitted land use
- Change the front yard setback to edge of right-of-way

Timeline

- **June 25th** – Planning Board review
- **September 24th** – Planning Board review and vote to recommend with minor modifications
- **Tonight** – City Council: public hearings
 - Text Amendment – create the standards
 - Zoning Map Amendment – create the district
- **November 18** – City Council: vote



STAFF REPORT

City Council, Monday, November 18, 2024

Title: Update from Helene Regional Recovery Convening

Speaker: Maureen Copelof, Mayor
Wilson Hooper, City Manager

Prepared by: Wilson Hooper, City Manager

Approved by: Wilson Hooper, City Manager

Background

On Friday, November 8, 2024 Mayor Copelof and City Manager Hooper attended a convening hosted by the North Carolina League of Municipalities and the North Carolina Association of County Commissioners. Mayors, county commission chairs, and city/county managers from all the affected jurisdictions were invited. Speakers included FEMA head Deanne Criswell, Governor Roy Cooper, Senator Tom Tillis, and members of the North Carolina General Assembly. The primary purpose of the meeting was for those leaders to share the latest on the recovery efforts directly with leaders from the impacted communities, and to hear directly from local leaders as to what their recovery needs are.

Mayor Copelof and Mr. Hooper will share additional information received at the convening, and talk about follow-up steps they've taken or plan to take. Mayor Copelof will also share the status of local recovery efforts with regard to housing.

Action

No action requested. For information and discussion only.

Attachments:



CITY of BREVARD

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

TAX SETTLEMENT REPORT FOR MONTH ENDED OCTOBER 31, 2024

Tina Tanner

Certified Tax Collector

UPDATED: 11.13.2024

YEAR	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	
2024		\$ 4,145,519.25	\$ 355,192.81	\$ 150,837.61			
2023-2011	\$ 3,514.80	\$ 4,462.58	\$ 2,327.19	\$ 4,626.24			
2010 - Prior	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
TOTAL:	\$ 3,514.80	\$ 4,149,981.83	\$ 357,520.00	\$ 155,463.85	\$ -	\$ -	
	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	TOTAL
2024							\$ 4,651,549.67
2023-2011							\$ 14,930.81
2010 - Prior	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TOTAL:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 4,666,480.48

YEAR	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER		
2024		\$ 64,583.54	\$ 12,538.17	\$ 45.99				
2023-2011	\$ 28.47	\$ 137.22						
2010 - Prior	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		
TOTAL:	\$ 28.47	\$ 64,720.76	\$ 12,538.17	\$ 45.99	\$ -	\$ -		
	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	TOTAL	
2024							\$	77,167.70
2023-2011							\$	165.69
2010 - Prior	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$	-
TOTAL:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$	77,333.39

STAFF REPORT

City Council, Monday, November 18, 2024

Title: Ordinance Declaring Road Closure for Special Event - Light Up the Night and Holiday Parade

Speaker: Aaron Bland, Asst. Planning Director

Prepared by: Aaron Bland, Asst Planning Director

Approved by: Wilson Hooper, City Manager

Background

The North Carolina Department of Transportation (NCDOT) requires local approval for special events that involve the closing or repurposing of state-owned highways and roads.

Discussion

The NCDOT guidelines state the local municipality must pass an ordinance for each street closure of City-sponsored events. The State will neither approve nor deny such requests for closures. They will, however, recommend alternative routes should they have a project scheduled for the same day as a special event.

The attached ordinance is for two concurring events on December 7, 2024: Heart of Brevard's Light Up the Night and the Chamber of Commerce Holiday Parade.

Policy Analysis

The City has been sponsoring and permitting special events for several years. The passing of an ordinance only applies to City-sponsored special events on state roads. Permits sponsored by individuals or non-profits are permitted differently and do not require an ordinance. Council has passed ordinances for City-sponsored festivals since 2015.

Action

Council's options are to adopt or reject the street closure ordinance.

Attachments:

1. Road Closures Ordinance Light Up the Night & Holiday Parade

ORDINANCE NO. 2024-XX

**AN ORDINANCE DECLARING MULTIPLE
ROAD CLOSURES FOR SPECIAL EVENTS**

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:

Light Up the Night

Date: Saturday, December 7, 2024

Time: 6:00 AM – 8:00 PM

Route Description: Main Street (US 276) from Caldwell Street to Gaston Street; Broad Street (US 64) from Probart Street to Morgan Street

SECTION 2. 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:

Holiday Parade

Date: Saturday, December 7, 2024

Time: 1:30 PM – 5:00 PM

Route Description: North Country Club Road (SR 1116) from Brevard High School to South Broad Street; Broad Street (US 64) from North Country Club Road to the Brevard College main entrance.

SECTION 3. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted and approved this the 18th day of November 2024.

Maureen Copelof
Mayor

ATTEST:

Denise Hodsdon, CMC
City Clerk

APPROVED AS TO FORM:

Mack McKeller
City Attorney

STAFF REPORT

City Council, Monday, November 18, 2024

Title: Pump Station Easements

Speaker: Wilson Hooper, City Manager

Prepared by: Wilson Hooper, City Manager

Approved by: Wilson Hooper, City Manager

Background/Discussion

The City is preparing to solicit bids for its ARPA-funded "Pump Station Rehabilitation and Replacement" project. This project will see the upgrade or replacement of sewer pump stations near Gallimore Rd., Pisgah Fish Camp, and Wilson Rd.

The Gallimore Rd. and Pisgah Fish Camp projects both require property acquisition in the form of permanent and/or temporary easements.

The Pisgah Fish Camp project will require the city purchase a permanent easement about the size of approximately two parking spaces in the parking lot of the Fish Camp restaurant (Brevard already "owns" an easement the size of one parking space), and a temporary construction easement of about 150' by 40' (about the size of about six parking spaces)

The Gallimore Rd. project will require acquisition of an approximately 210' by 50' temporary construction easement on parcel 8585-67-8032 owned by Tore's Properties LLC and acquisition of a permanent utility easement of approximately 380' x 40' area on parcel 8585-76-0653 owned by Transylvania County

Fiscal Impact

Property acquisition costs are covered by the grant. Staff is bartering with Transylvania County, building a water/sewer connection for future use on their "Airport Property" in exchange for the easement.

Action

Staff is requesting Council approve the attached resolution authorizing the City Manager to negotiate and execute easement agreements with property owners of parcels 8597-55-3136, 8585-67-8032, and 8585-76-0653.

Attachments:

1. Resolution Authorizing City Manager to Negotiate & Execute Pump Station Easement Agreements

RESOLUTION NO. 2024-XX

**AUTHORIZING CITY MANAGER TO NEGOTIATE AND EXECUTE AGREEMENTS
FOR PERMANENT AND/OR TEMPORARY EASEMENTS FOR PUMP STATIONS**

WHEREAS, The City is preparing to solicit bids for its ARPA-funded "Pump Station Rehabilitation and Replacement" project to upgrade or replace sewer pump stations near Gallimore Rd., Pisgah Fish Camp, and Wilson Rd.; and

WHEREAS, the Gallimore Rd. and Pisgah Fish Camp projects both require property acquisition in the form of permanent and/or temporary easements; and

WHEREAS, The Pisgah Fish Camp project will require the city to purchase a permanent easement and a temporary construction easement in the parking lot of the Fish Camp restaurant; and

WHEREAS, The Gallimore Rd. project will require acquisition of a temporary construction easement on parcel 8585-67-8032 owned by Tore's Properties LLC, and acquisition of a permanent utility easement on parcel 8585-76-0653 owned by Transylvania County.

**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 easement agreements with the above listed property owners.

Approved and adopted this 18th day of November, 2024.

Maureen Copelof
Mayor

ATTEST:

Denise Hodsdon, CMC
City Clerk

MINUTES

City Council Public Works & Utilities Committee

Tuesday September 3, 2024 – 10:00 AM
City Council Chambers

Members Present: Mac Morrow, Chair, Council Member
Lauren Wise, Vice-Chair, Council Member
Owen Carson, Citizen Member
Mayor Maureen Copelof, Ex-Officio

Staff Present: Wilson Hooper, City Manager
Dean Luebbe, Assistant City Manager/Finance Director
David Todd, Assistant City Manager
Wesley Shook, Acting Public Works Director
Dennis Richardson, Water Treatment Plant Supervisor
Emory Owen, Wastewater Treatment Plant Supervisor
Aaron Winans, WWTP Staff
Denise Hodsdon, City Clerk

Guests: KCI Representatives David DePratter, Matt Broderick, Tom Vollmar,
Kerry Wiant, and Kyle Seaman
Harvey Sankey

The Public Works & Utilities Committee met with KCI representatives for a Brevard Wastewater Treatment Plant Preliminary Engineering Report Project Kickoff meeting.

A. Welcome and Call to Order

Committee Chair Mac Morrow called the meeting to order at 10:00 a.m. and welcomed the team from KCI. Committee members, City Staff, and KCI representatives all introduced themselves.

B. Certification of Quorum

City Clerk Denise Hodsdon certified that a quorum was present.

C. Approval of Agenda

Motion by Mr. Carson, seconded by Mr. Wise to approve the agenda as presented. The motion carried unanimously. KCI provided a Workshop Meeting Agenda (copy attached as Exhibit A). Mr. Carson moved, seconded by Mr. Wise to approve the Workshop Meeting Agenda. The motion carried unanimously.

D. Approval of Minutes – August 7, 2024 Meeting

Motion by Mr. Wise, seconded by Mr. Carson to approve the minutes of the August 7, 2024 meeting as presented. The motion carried unanimously.

E. KCI – Wastewater Treatment Plant Preliminary Engineering Report Project Kickoff

David DePratter of KCI facilitated the meeting with input from the KCI Team Members and feedback from City Staff. A copy of KCI's presentation is filed with the minutes. A copy of the Workshop Meeting Minutes prepared by KCI is attached as Exhibit B.

F. Public Comment

Harvey Sankey commented that hopefully the WWTP project could be fully funded with grant funds.

G. Set Date for Next Meeting

The next regular meeting of the Public Works & Utilities Committee was scheduled for Wednesday, October 2, 2024 at 3:30 p.m.

H. Adjourn

There being no further business, the meeting was adjourned at 12:46 p.m.

Minutes Approved: November 6, 2024

X 

Mac Morrow
Chair, Council Member

X 

Denise Hodsdon
City Clerk



WORKSHOP MEETING AGENDA

PER Kickoff Workshop

Project: Brevard WWTP Preliminary Engineering Report
 Client: City of Brevard, NC
 KCI Project: 412403571

Meeting Date: September 3, 2024
 Meeting Time: 10:00am

OVERALL MEETING SCHEDULE

10:00-11:30	Overall Project Goals (Project Criteria, Basin Study, Schedule)
11:30-12:00	Alternative Plant Locations/Regionalization
12:00-12:30	LUNCH
12:20-12:45	Project Criteria Recap
12:45-1:15	Input on Current Technical and Operational Challenges
1:15-1:45	Feedback on Initial Design Concepts
1:45-2:00	Information RFI

Discussion Items:

1. Goals and Objectives for the PER
 - Recap/Updates
 - Project Criteria
 - ◆ Time horizon
 - ◆ Right size
 - ◆ Right site
 - ◆ Right technology
 - ◆ Accommodate present and future conditions
 - ◆ Address site restrictions and obtain permits
 - ◆ Quantify and secure funds to complete the project
 - ◆ Facilitate quality construction
 - ◆ Finish on time
 - Basin Study/Buildout Capacity
 - Additional Funding Discussion
 - Schedule
2. Alternate Plant Locations
 - Potential locations owned or already identified by the City
3. Regionalization
 - Potential stakeholders
 - Meetings
4. Project Criteria Recap

Employee Owned Since 1988

RISE TO THE CHALLENGE

WWW.KCI.COM

5. Input from Operations and Maintenance Staff

- Flow issues
- Equipment issues
- Compliance issues with NCDEQ

6. Feedback on Initial Design Concepts

- Activated Sludge
- SBR
- AquaNereda
- Membranes

7. Available Information RFI

- GIS shapefiles (critical path):
 - Basins (existing and future service areas)
 - Zoning
 - Force main and Gravity lines
 - Manholes
 - Pump Stations
 - Any additional information
- Pump Station and WWTP Information (Record Drawings, Design Reports, Flow Data etc.)
- Flow Monitoring Data (if available) in Collection system
- Known I&I Sources
- Sewer AIA Scope and data collected to date (if available)
- Planning/Zoning Master Plans

8. Other Items



WORKSHOP MEETING MINUTES

PER Kickoff Workshop

Project: Brevard WWTP Preliminary Engineering Report
 Client: City of Brevard, NC
 KCI Project: 412403571

Meeting Date: September 3, 2024

Meeting Time: 10:00am

Discussion Items:

1. Goals and Objectives for the PER

- Project Criteria Priority Ranking for PER by City Staff
 1. Right size
 2. Funding
 3. Right technology
 4. Right site(s)
 5. Planning Time horizon
 6. Environmental Stewardship
 7. Quality Construction
 8. Schedule
 9. Regionalization
- Basin Study/Buildout Capacity
 - ◆ City would like to bring City and County planners as well as developers in for a meeting to discuss future developments.
 - ◆ Potential for growth along proposed Ecusta Trail
 - ◆ Brevard College has prepared a Masterplan
 - ◆ The City anticipates the County's Masterplan will focus on the corridor between Brevard and Rosman, but the larger growth corridor is anticipated between the City and Mills River and Hendersonville.
 - ◆ The County Masterplan is in progress but likely won't be complete in the next six weeks, so basin study and flow projections may need to be adjusted at a later date.
- Additional Funding Discussion
 - ◆ City would like to explore funding options especially those that are grant funded.
- Schedule
 - ◆ PER is scheduled to be completed in May of 2025 with periodic meetings between now and then. Next scheduled meeting will be to discuss the basin study and flow projections.
 - ◆ KCI to have basin study and flow projections done in 6 weeks and will schedule a follow-up meeting to discuss.

2. Alternate Plant Locations

- Potential locations owned or already identified by the City.
 - ◆ No existing properties for potential plant site identified other than Ecusta Mill site.
 - ◆ Ecusta Mill – has its own NDPES permit (NC0000078) and is currently treating landfill leachate, stormwater runoff and dewatering wastewater. The current permit indicates that the facility classification is a Grade I Biological WPCS with no flow limits and is owned and operated by the Davidson River Village, LLC.

3. Regionalization

- Potential stakeholders
 - ◆ Transylvania Economic Alliance
 - ◆ Transylvania County
 - 1. McGill working on Utility Master Plan with the County
 - ◆ Town of Rosman
- City does not want to give up control of treatment plant under any circumstances.
- Concerns over providing sewer service to customers outside of City limits.

4. Input from Operations and Maintenance Staff

- City would like a new lab building
- Neely Pump station supplies 70% of the flow to the plant and is directly pumped to the EQ Basin
- Would like Tertiary Filtration
- Odor Control System. Odor issues have become an issue since flows from Oskar Blues has been added to the system
- Flow issues
 - ◆ Wet Weather Program has been implemented and a study is ongoing.
 - ◆ EQ Basin cannot be fully drained due to hydraulic issues with pumps. Only have 1.5 days of storage.
- Equipment issues
 - ◆ Draw down pump need VFDs to slow down flow introduced to plant.
 - ◆ Grit removal system is undersized and is not effective and needs to be updated.
 - ◆ Operators want to get away from static screening and have screening prior to the EQ basin.
 - ◆ Operators would like additional sludge holding, additionally they have no back up press or holding tank.
 - ◆ Plant has to run presses 5 days a week. Issues with new PAC coagulant causing feedrate issues to BFP. Previously could run at 230 gpm but down to 60-70 gpm.
 - ◆ Costs of landfilling dewatered biosolids has become an operational issue. Potential to look at combining efforts with Oskar Blues. Currently paying \$55/ton.
 - ◆ Getting replacement parts are an issue and would like this to be addressed in the specifications for any proposed equipment.

5. Initial Design Concepts Considered

- Aux. Wet Weather Treatment (Aqua-Storm).
- Activated Sludge – 2.5-5 MGD
- Sequencing Batch Reactor (SBR) – 2.5-5 MGD
- Aerobic granular sludge (AquaNereda) – 5-10 MGD

6. Available Information RFI

- GIS shapefiles (critical path):
 - Basins (existing and future service areas)
 - Zoning
 - Force main and Gravity lines
 - Manholes
 - Pump Stations
 - Any additional information
- Pump Station and WWTP Information (Record Drawings, Design Reports, Flow Data etc.)
- Flow Monitoring Data (if available) in Collection system
- Known I&I Sources
- Sewer AIA Scope and data collected to date (If available)
- Planning/Zoning Master Plans

Meeting Minutes

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September 3, 2024 - PER Kickoff Meeting Workshop

7. Additional Items

- Confirm if existing plant is in floodway
- Schedule treatment plant visits for proposed technologies in Fall of 2024
- Attachments:
 - Workshop PowerPoint Presentation

STAFF REPORT

City Council, Monday, November 18, 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.

Council held a public hearing regarding this item at the November 4th meeting.

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. In accordance with state statutes, the Planning Board also submits the attached statement of consistency.

Action

A decision concerning a petition to amend the text of this ordinance shall be as follows:

- i. Adoption of the amendment as written;
- ii. Adoption of the amendment as revised by the BPB or by City Council;
- iii. Rejection of the amendment;
- iv. Send the application back to the BPB for further study and consideration; or
- v. Call for additional public hearings on petitions brought before them.

Attachments:

1. UDO Draft Amendments

2. Use Table Draft Amendments
3. Consistency and Reasonableness Statement
4. Ord 2024-XX PGX Text Amendment



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.

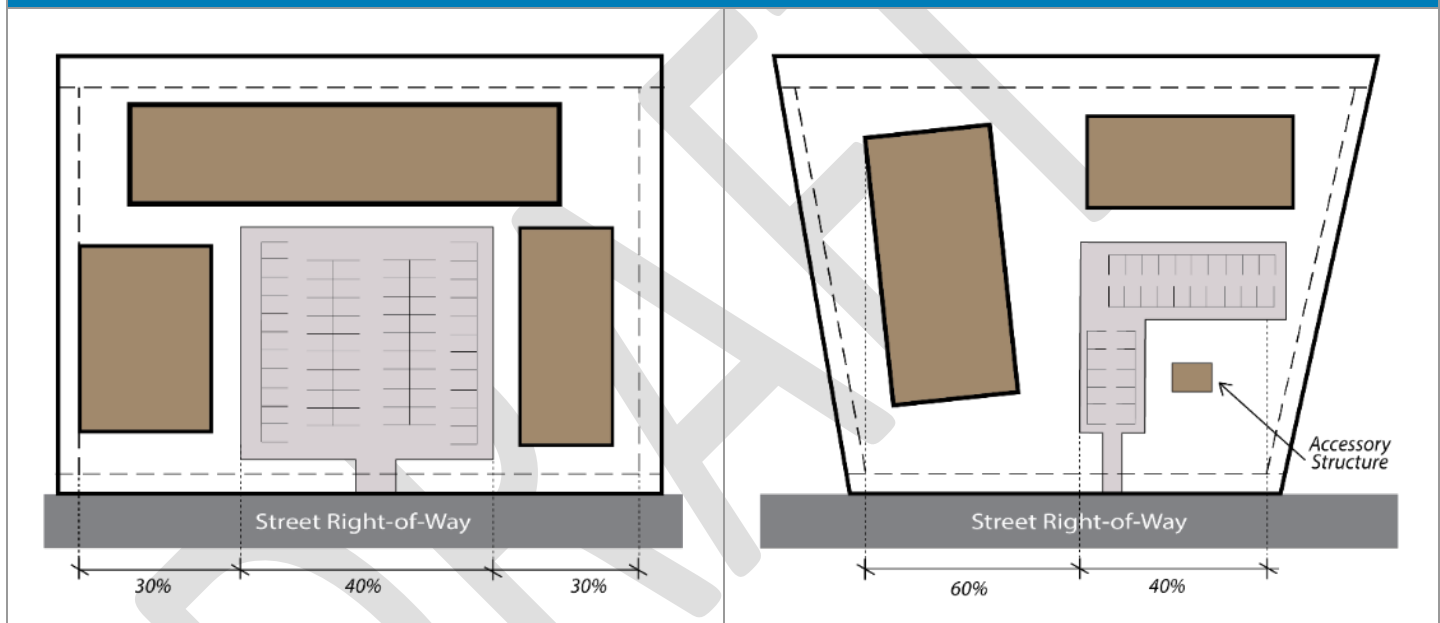
G. Building separation:

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
<i>Note: Projects or developments that do not meet the above standards may apply for conditional zoning in accordance with Section 2.1.C.</i>	

(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

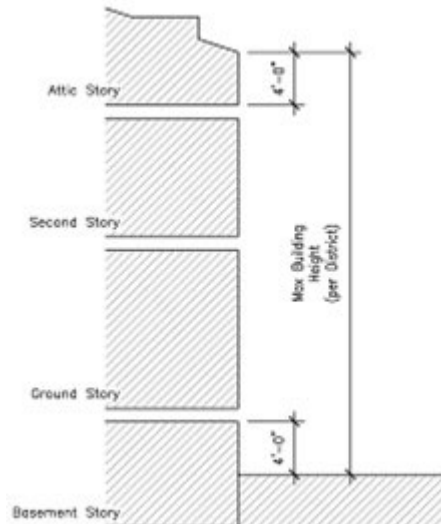
Note: Projects or development that do not meet the above standards may apply for conditional zoning in accordance with Section 2.1.C.

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
<u>PGX</u>	<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:**

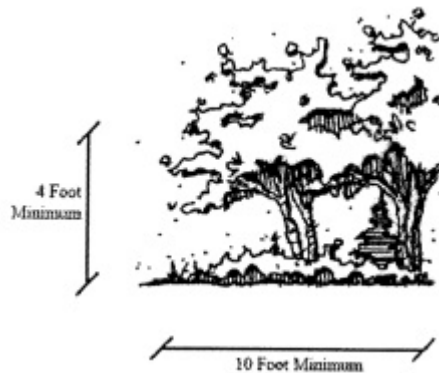
1. These regulations shall apply to the following:
 - i. All newly developed properties
 - ii. When expansions or changes in use result in the expansion of gross floor area of an existing building and/or parking and loading area of over 25 percent, and any property containing an existing structure undergoes 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.



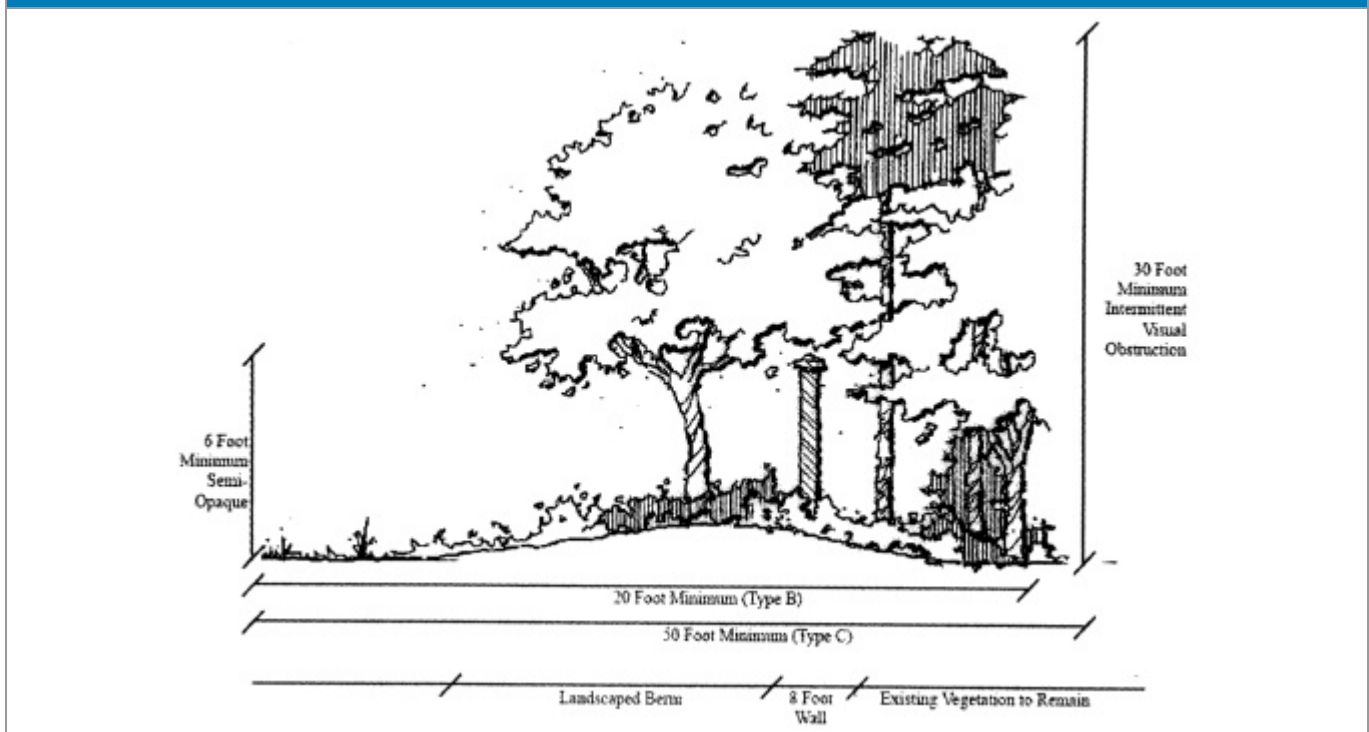
FIGURE 8.4-A: TYPE A BUFFER YARD



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.



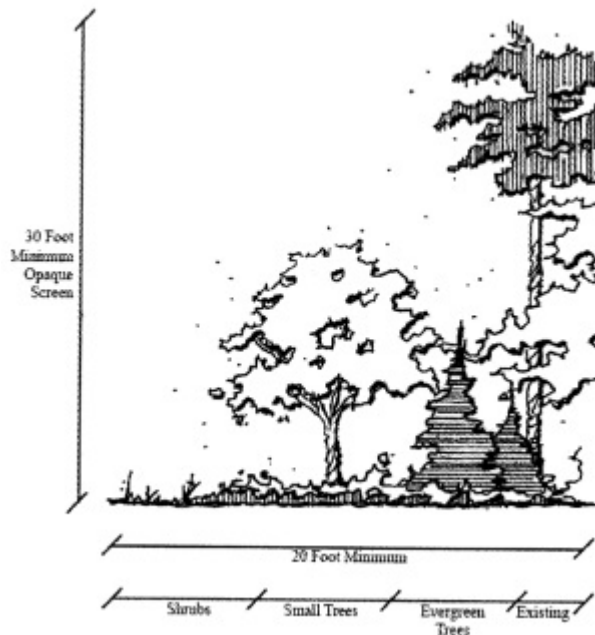
FIGURE 8.4-B: TYPE B AND TYPE C BUFFER YARDS



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

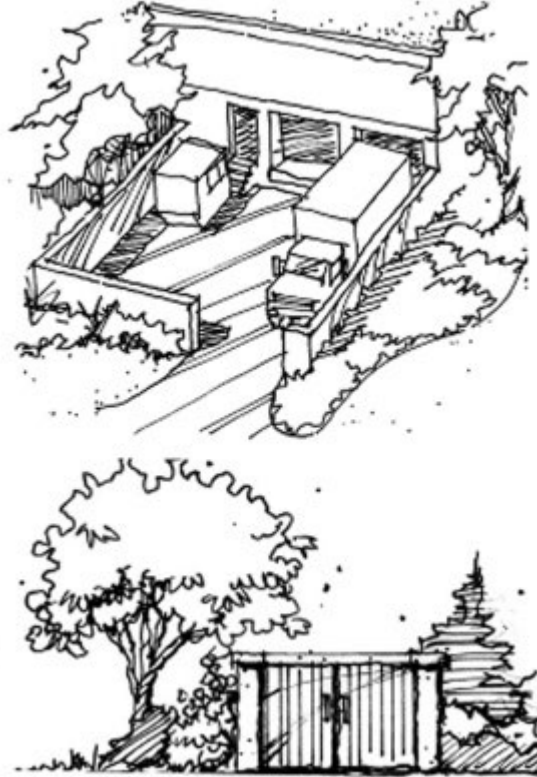


4. The approving authority may require alternative buffers or landscaping, including locations other than those typically required, when a modification to the requirements of this section is warranted in order to meet the intent of the specified standards.
5. Buffer yards are intended to be constructed 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
Civic / Institutional							
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
Entertainment / Recreation							
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.

ORDINANCE NO. 2024-____

**AN ORDINANCE AMENDING MULTIPLE CHAPTERS OF THE CITY OF
BREVARD UNIFIED DEVELOPMENT ORDINANCE TO CREATE THE PISGAH
GATEWAY MIXED USE ZONING DISTRICT AND ASSOCIATED REGULATIONS**

WHEREAS, the area in the vicinity of the US 64 / US 276 / NC 280 intersection and the entrance to Pisgah National Forest is a unique urban location within the City of Brevard, providing an entrance into the Pisgah National Forest as well as the City of Brevard itself; and,

WHEREAS, the City of Brevard Planning Board has recommended that the Brevard City Code, Unified Development Ordinance be amended to create the Pisgah Gateway Mixed Use (PGX) zoning district in order to codify context-sensitive regulations for this important area; and,

WHEREAS, the City Council of the City of Brevard finds that the proposed amendment is consistent with the following elements of the City of Brevard Comprehensive Land Use Plan *Building Brevard 2030*:

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

WHEREAS, a public hearing was conducted on Monday, November 4, 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 Unified Development Ordinance be amended as outlined below.

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

SECTION 1. Brevard City Code, Unified Development Ordinance is hereby amended as depicted in Exhibit A, which is attached hereto and incorporated herein by reference.

SECTION 2. As to any conflict between this Ordinance and any parts of existing ordinances, the provisions of this Ordinance shall control.

SECTION 3. 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 4. 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 18th day of November 2024.

Maureen Copelof
Mayor

ATTEST:

Denise Hodsdon, CMC
City Clerk

APPROVED AS TO FORM:

Mack McKeller
City Attorney

STAFF REPORT

City Council, Monday, November 18, 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. Council held a public hearing regarding this item at the November 4th meeting.

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. In accordance with state statutes, the Planning Board also submits the attached statement of consistency and reasonableness.

Action

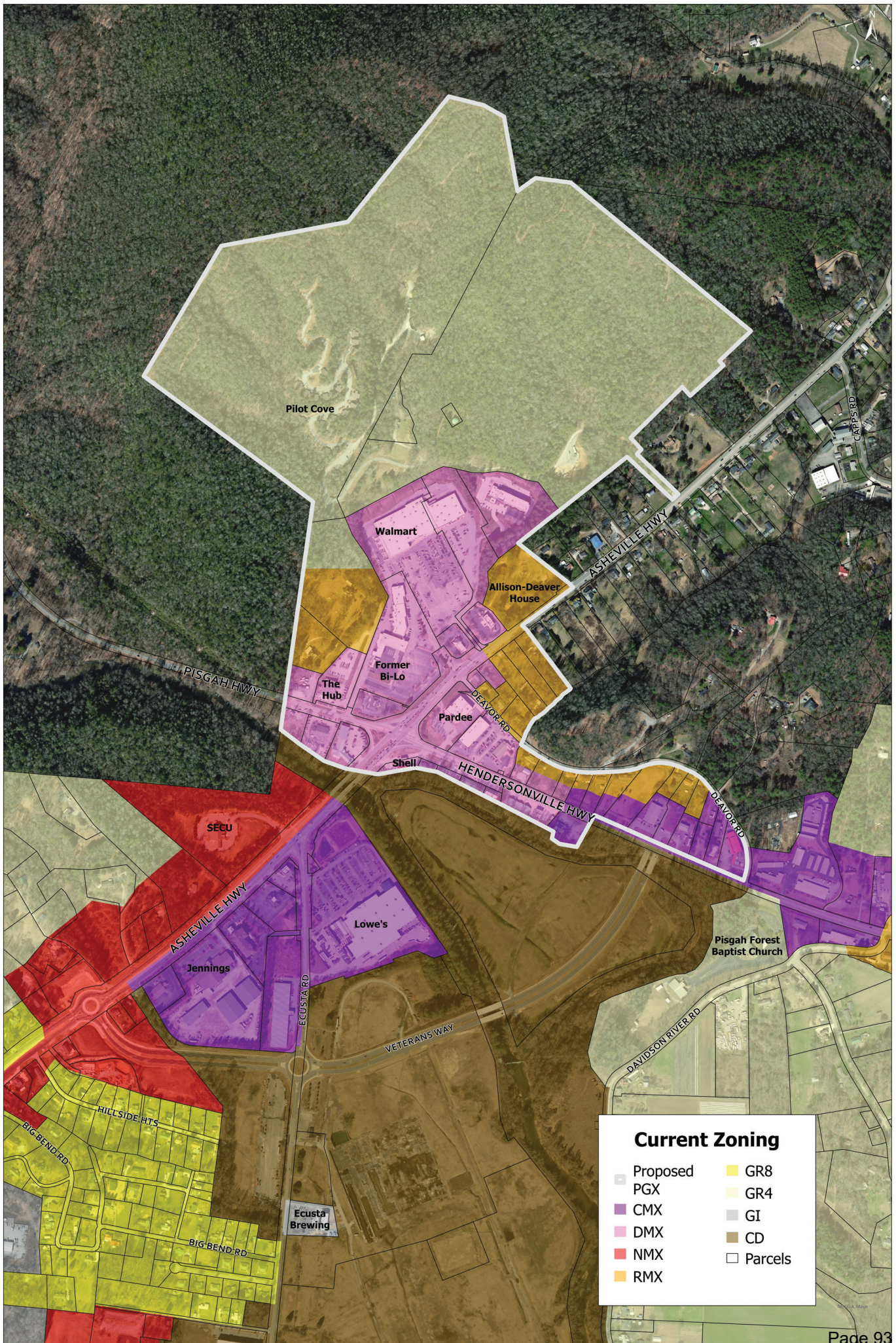
A decision concerning a petition for a zoning map amendment shall be as follows:

- i. Grant the zoning map amendment as requested;
- ii. Grant the zoning map amendment with a reduction in the area requested;
- iii. Grant the zoning map amendment to a more restrictive general zoning district;
- iv. Grant the zoning map amendment with a combination of (ii) and (iii) above;
- v. Deny the application;

- vi. Send the application back to the BPB for further study and consideration; or
- vii. Call for additional legislative hearings on petitions brought before them.

Attachments:

- 1. Proposed District Area Map
- 2. Consistency and Reasonableness Statement
- 3. Future Land Use Map
- 4. Ord 2024-XXX PGX Map Amendment



**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:

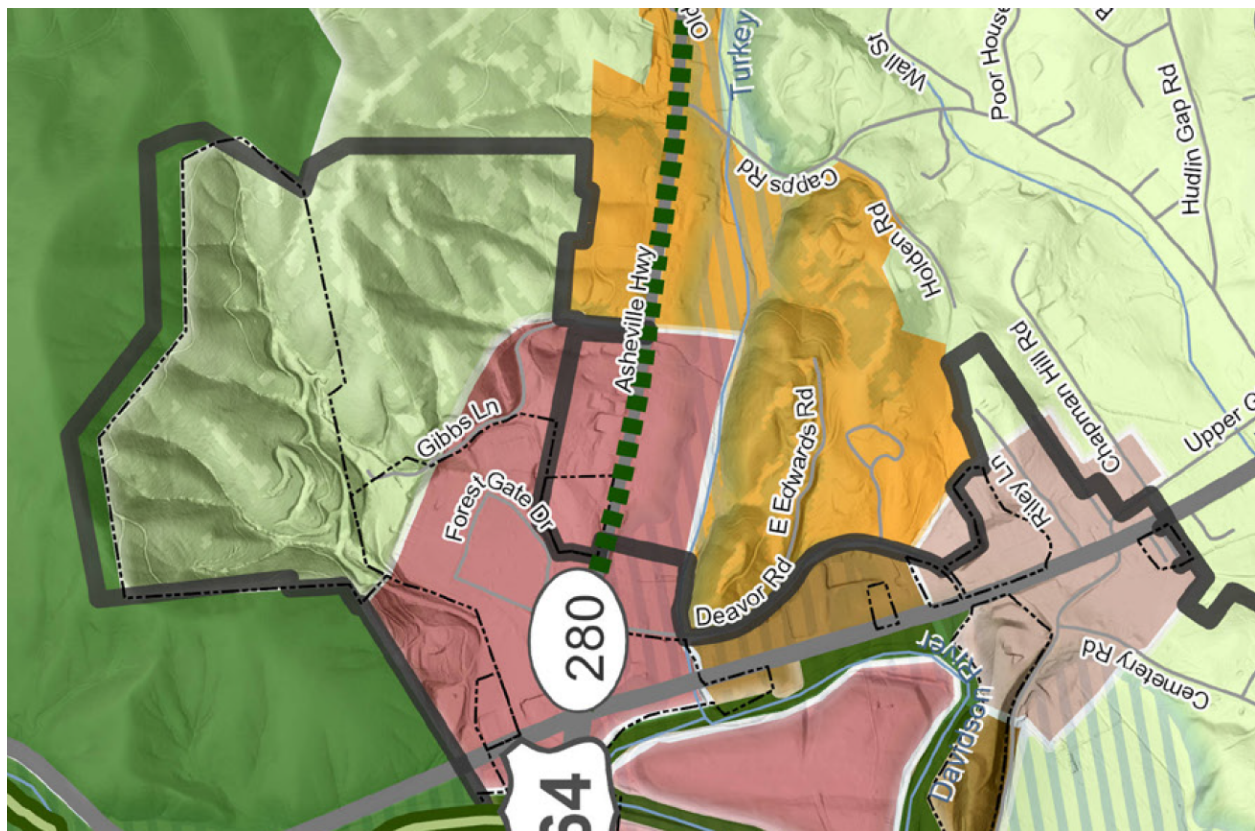
Comprehensive Land Use Plan

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

ORDINANCE NO. 2024-____

**AN ORDINANCE AMENDING THE CITY OF BREVARD
OFFICIAL ZONING MAP TO CREATE THE PISGAH
GATEWAY MIXED USE ZONING DISTRICT**

WHEREAS, the area in the vicinity of the US 64 / US 276 / NC 280 intersection and the entrance to Pisgah National Forest is a unique urban location within the City of Brevard, providing an entrance into the Pisgah National Forest as well as the City of Brevard itself; and,

WHEREAS, the City of Brevard Planning Board has recommended that the Brevard City Code, Unified Development Ordinance be amended to create the Pisgah Gateway Mixed Use (PGX) zoning district in order to codify context-sensitive regulations for this important area; and,

WHEREAS, the City Council of the City of Brevard finds that the proposed amendment is consistent with the following elements of the City of Brevard Comprehensive Land Use Plan *Building Brevard 2030*:

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

***Future Land Use Map** identifies parcels in this area as a mix of Major Activity Center, Urban Corridor, and Conservation Design.*

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

- The 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 NCODT 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 Plan is consistent with the above elements of the Comprehensive Land Use Plan and the Future Land Use Map.

WHEREAS, a public hearing was conducted on Monday, November 4, 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 Official Zoning Map be amended as outlined below.

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

SECTION 1. The zoning classification of the parcels identified by the Parcel Identification Numbers (PINs) below is hereby rezoned to Pisgah Gateway Mixed Use (PGX) as depicted in Exhibit A to this Ordinance, which is attached hereto and incorporated herein by reference:

8597-45-0298-000, 8597-45-1544-001, 8597-45-2252-000,
8597-45-2811-000, 8597-45-3585-000, 8597-45-4145-000,
8597-45-6400-000, 8597-45-7490-000, 8597-45-7785-000,
8597-45-8002-000, 8597-45-9061-000, 8597-46-3093-000,
8597-46-7468-000, 8597-47-3949-000, 8597-47-7210-000,

8597-54-1925-000, 8597-54-2869-000, 8597-54-3864-000,
8597-54-4908-000, 8597-54-5783-000, 8597-54-5936-000,
8597-54-6984-000, 8597-54-8650-000, 8597-54-8898-000,
8597-54-8900-000, 8597-54-9896-000, 8597-55-1410-000,
8597-55-1810-000, 8597-55-2546-000, 8597-55-2991-000,
8597-55-3136-000, 8597-55-3428-000, 8597-55-3549-000,
8597-55-4424-000, 8597-55-5313-000, 8597-55-5503-000,
8597-55-5681-000, 8597-55-6667-000, 8597-56-1525-000,
8597-56-4170-000, 8597-56-4615-000, 8597-57-0292-000,
8597-57-7985-000, 8597-64-1942-000, 8597-64-2864-000,
8597-64-3698-000, 8597-64-4657-000, 8597-64-4992-000,
8597-64-5558-000, 8597-64-5877-000, 8597-64-5877-000,
8597-64-6683-000, 8597-64-6737-000, 8597-64-7555-000,
8597-64-7714-000, and 8597-64-8466-000.

SECTION 2. The Planning Director is hereby authorized and directed to modify the City’s Official Zoning Map, Comprehensive Land Use Plan, and Future Land Use Map consistent with this Ordinance.

SECTION 3. As to any conflict between this Ordinance and any parts of existing ordinances, the provisions of this Ordinance shall control.

SECTION 4. If any section, subsection, paragraph, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

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

Adopted and approved this the 18th day of November 2024.

Maureen Copelof
Mayor

ATTEST:

Denise Hodsdon, CMC
City Clerk

APPROVED AS TO FORM:

Mack McKeller
City Attorney

STAFF REPORT

City Council, Monday, November 18, 2024

Title: Approval of Settlement Agreement and Purchase of Robert Bauslaugh Property at 287 W. Main Street

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

Prepared by: Wilson Hooper, City Manager

Approved by: Wilson Hooper, City Manager

Background

In 2021 the City of Brevard used eminent domain to acquire a thin strip of property near 287 W Main St. for use as a future Estatoe/Ecusta Trail extension. The City deposited \$53,000 in an escrow account as compensation for the taking. The \$53,000 figure was based on an appraisal of the value of the property conducted at the time. The property owners disagreed with the appraised value and initiated a legal action against the city contesting the taking. After a series of legal proceedings, it was determined that the taking was conducted appropriately but there were indeed issues with the appraisal. A judge sent the parties to mediation, instructing them to try and reach a compromise solution rather than take the case to trial. The agreement that the parties reached is discussed below.

As a reminder to Council, your position was crafted in several closed session discussions held over the last few months. However, the settlement and the associated budget appropriation must be approved publicly before they can be executed.

Discussion

The most recent draft of the settlement agreement is attached. Its highlights are:

- The City shall pay an additional \$147,000 to purchase the property and receive the other considerations in the settlement. This makes the final purchase price \$200,000.
- Landowner agrees to convey in fee simple the property displayed in Attachment #1 below, which includes the original trail right-of-way and an additional area at the south end of the property.
- The City agrees to permit a future curb cut near 287 W Main St. for future development of the property and to allow motorized vehicles to cross the bike path at that location.
- The City agrees to build a fence along the entirety of the bike path separating it from the adjacent 287 W. Main St. property
- The Landowner agrees to release the City from all claims relating to, or arising out of the civil action and the taking of the easement.

- The Landowner grants the City a one-time right of first refusal to purchase the vacant remnant parcel adjacent to which the bike path will run if the landowner receives and accepts a bona fide offer to purchase that property.

Though \$200,000 is more than the City intended to pay for the property, this settlement would give the City unquestioned ownership of this significant section of trail right-of-way. The additional considerations and the benefit of avoiding costly litigation make the settlement worthwhile in staff's opinion. The Parks, Trails and Recreation Committee and the full Council have both named the unfinished Main St. to Mary C Jenkins portion of the trail as the top priority in the larger Estatoe Trail project.

Fiscal Impact

Attachment #2 below proffers staff's recommended options for funding. The document also shares the remaining balance of each source should the cost of the settlement be taken from that source.

The City Manager wishes to remind Council that the budgetary impact of Hurricane Helene has yet to be quantified but is expected to be notable. The storm's impact on sales tax collections, one of the City's most significant sources of revenue, may mean that the City needs to tap into unobligated fund balance prior to the end of the fiscal year in order to meet budget.

Action

Council is asked to approve the resolution accepting the settlement as presented. Council is also asked to identify their preferred funding source and approve the budget amendments corresponding with that option.

Attachments:

1. Bauslaugh Settlement Docs (Final)
2. Options for funding-Prepared for 11.18.2024 Agenda
3. Budget Amendment \$147000 Bauslaugh property
4. CPO Amendment \$147000 Estatoe Trail - Bauslaugh

Settlement Agreement

This Settlement Agreement dated November ____, 2024, is by and between the City of Brevard ("City") and Robert A. Bauslaugh ("Landowner") relating to 287 West Main Street, Brevard, NC ("Property").

WHEREAS, City filed condemnation action 21 CVS 381 ("Civil Action") in the Transylvania Superior Court ("Court") on August 31, 2021, against Robert A. Bauslaugh and Anne P. Chapin relating to the Property;

WHEREAS, pursuant to G.S. 40A, *et. seq.*, the City, through the Civil Action, acquired an easement in the Property for the construction of a public bicycle path ("Bike Path");

WHEREAS, City deposited Fifty-three Thousand (\$53,000) Dollars with the Court as estimate of just compensation;

WHEREAS, defendant Anne P. Chapin passed away on January 26, 2024;

WHEREAS, Anne P. Chapin and Robert A. Bauslaugh own the Property as a married couple, tenants by the entirety, so Chapin's interest in the Property passed to Bauslaugh by operation of law when she passed;

WHEREAS, the City and Landowner have come to a settlement agreement;

NOW, THEREFORE, in acknowledgement of this settlement, and the consideration set forth below, the receipt and sufficiency which is hereby acknowledged, the City and Landowner agree as follows:

1. The City previously deposited Fifty-three Thousand (\$53,000) with the Court in the Civil Action. The City agrees to pay Landowner an additional sum of \$147,000 ("Settlement Check"), within thirty (30) days of the execution of this Agreement, and shall deliver the Settlement Check payable to the NC Eminent Domain Law Firm, ATTN: Kevin Mahoney, 555 South Mangum Street, Suite, 800, Durham, NC 27701, as counsel for, and for the benefit of, the defendant, Robert A. Bauslaugh.
2. Landowner agrees to convey in fee simple absolute via general warranty deed:
(1) the Bike Path easement areas shown on Exhibit A attached hereto and

incorporated herein by reference; and (2) the westernmost severed area of the Property also shown on Exhibit A, approximately 7,000 square feet.

3. The City agrees in the future to permit the opening of a curb cut from West Main Street into the Property pursuant to City rules and regulations and to allow motorized vehicles to cross the Bike Path for future development of the Property.
4. The City will build a fence along the entirety of the Bike Path at the time of construction of the Bike Path, and the style of said fence will be like what the City has previously constructed to shield other properties from the Bike Path and will be subject to agreement with the Landowner.
5. The City will use 'best efforts' to preserve as many trees as possible adjacent to the Bike Path.
6. The Landowner hereby grants a one-time right of first refusal to the City to purchase the vacant remnant parcel shown as the subdivided lots on Exhibit A ("Remnant Parcel"), further described as the land west of the existing buildings. The operation of this right shall be governed as follows: (1) if the Landowner receives and accepts a *bona fide* offer to purchase the Remnant Parcel, the Landowner shall tender such offer to the City in writing or by email to the City of Brevard Director of Planning within five (5) days of acceptance of the offer; (2) the City shall have fourteen (14) days from the date of tender to notify Landowner in writing or by email of its non-binding intent to exercise its right to purchase the Remnant Parcel under the same terms and conditions as set forth in the accepted offer, and shall notify the Landowner in writing or by email within forty-five (45) days of its binding intent to purchase the Remainder Parcel; (3) if the City chooses not to exercise its right to match the accepted offer it shall notify the Landowner in writing or by email within (14) days of the tender of the accepted offer to the City and the City's right of first refusal shall forever terminate; and (4) if the City fails to notify the Landowner in writing or by email of its preliminary election to purchase within fourteen (14) days of tender of the accepted offer, then the City's right of first refusal shall forever terminate.
7. In exchange for the consideration set forth herein, the Landowner agrees to release the City from all claims relating to, or arising out of, the Civil Action and the taking of the Bike Path easement.
8. The City represents that the City signatory to this Agreement is expressly authorized to bind the City to all terms of this Settlement Agreement and no

further action is required by the City of Brevard, and that this Agreement was approved by the Brevard City Council on the ____ date of November, 2024.

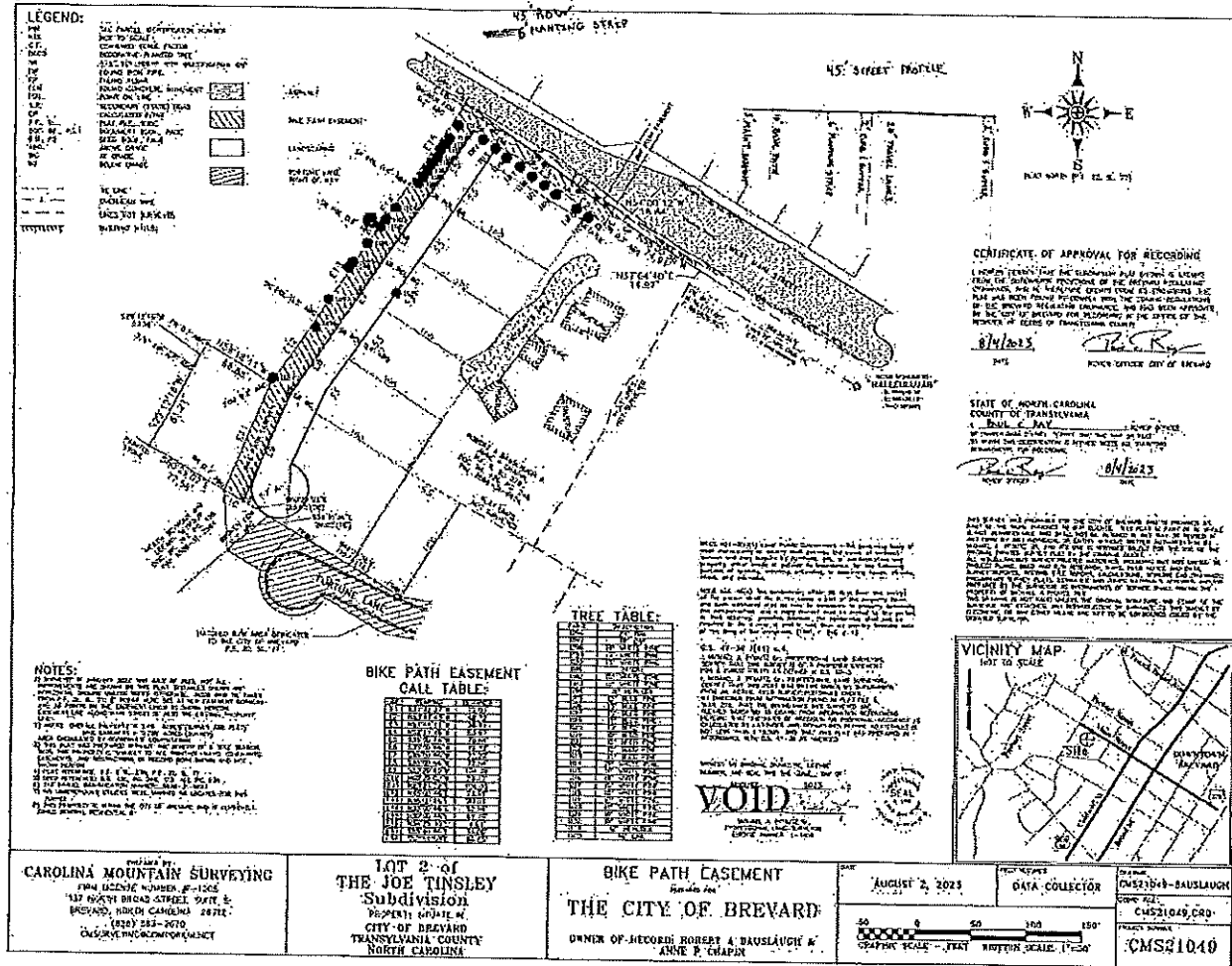
Landowner,

City of Brevard,

Robert A. Bauslaugh

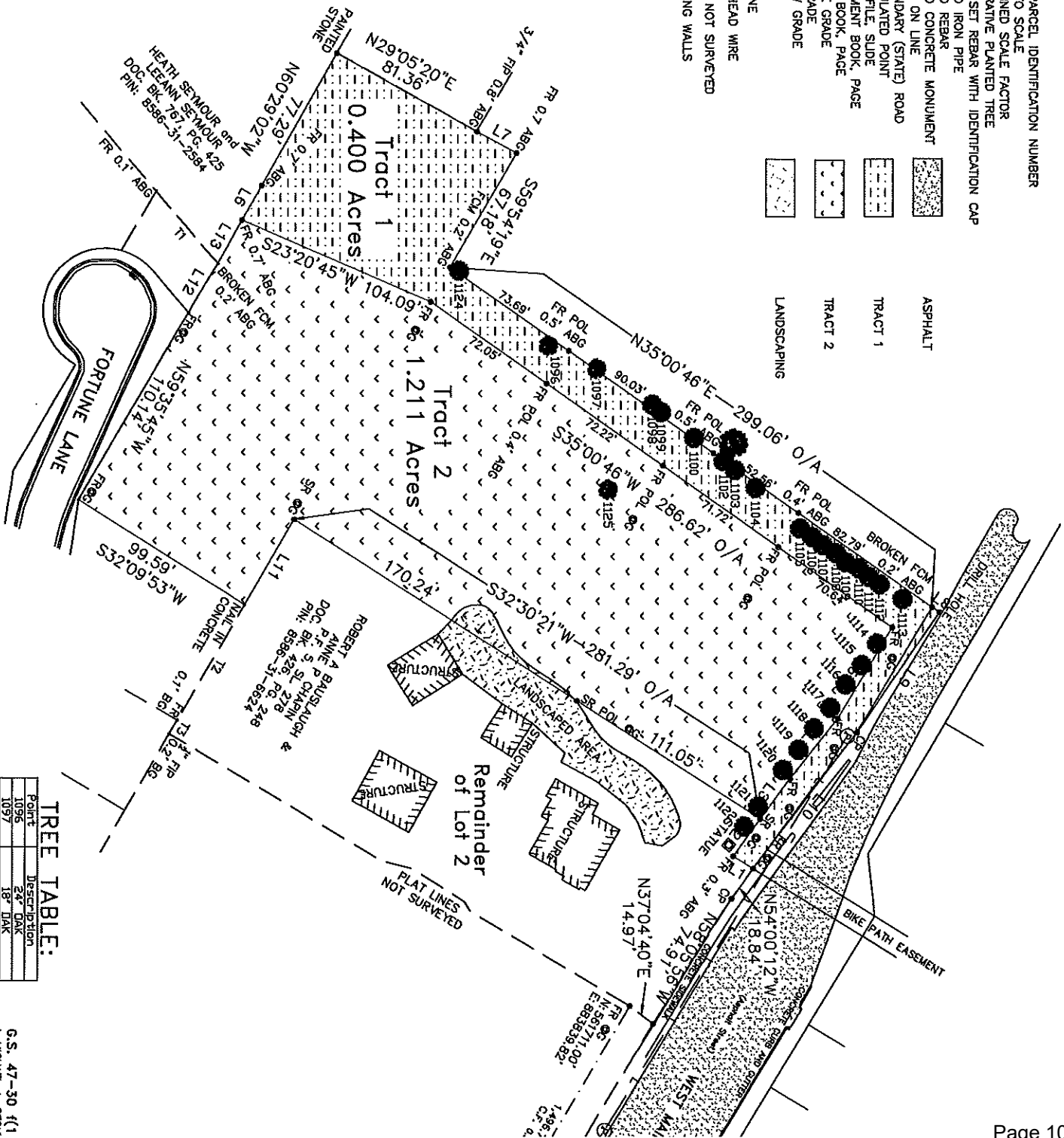
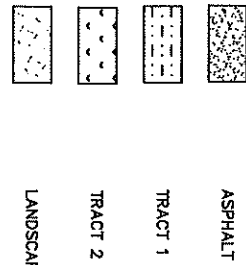
By: _____
Its: _____

Exhibit A



LEGEND:

- PIN TAX PARCEL IDENTIFICATION NUMBER
- NTS NOT TO SCALE
- C.F. COMBINED SCALE FACTOR
- DECO DECORATIVE PLANTED TREE
- SR 5/8" SET REBAR WITH IDENTIFICATION CAP
- FIP FOUND IRON PIPE
- FR FOUND REBAR
- FCM FOUND CONCRETE MONUMENT
- POL POINT ON LINE
- S.R. SECONDARY (STATE) ROAD
- CP CALCULATED POINT
- PLAT FILE SLIDE
- DOC. BK., PAGE DOCUMENT BOOK, PAGE
- D.B., PAGE DEED BOOK, PAGE
- ABG ABOVE GRADE
- BG BELOW GRADE



TREE TABLE:

Point	Description
1096	24" DAK
1097	18" DAK
1098	18" WHITE PINE
1099	15" WHITE PINE

G.S. 47-30 (1)
I, MICHAEL A. PROU
CERTIFY THAT THIS
MAP WAS MADE BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND THAT I AM A LICENSED SURVEYOR IN THE STATE OF ALABAMA.

OPTION 1

General Fund	
Total Fund Balance as of 6/31/2023 (Audited)	\$5,266,448
Less:	
Nonspendable - Inventory	-\$69,436
Nonspendable - Leases	-\$24,205
Stabilization by State statute	-\$1,526,914
Minimum 25% Fund Balance Policy	-\$2,216,944
If used for trail	-\$147,000
Remaining as of June 31, 2023 (Audited)	\$1,281,949

OPTION 2

Estatoe Trail (FY 2025 Budget)	
Estatoe Trail (FY 2025 Budget)	\$435,674
Less:	
If used for trail	-\$147,000
Estimated remaining as of November 14, 2024	\$288,674

ORDINANCE NO. 2024-XX
AN ORDINANCE AMENDING THE FY2024-2025 BUDGET.
BUDGET AMENDMENT NUMBER 25-02

SUBJECT: Budget Amendment for settlement agreement of Bauslaugh property at 287 West Main Street, Brevard, NC

AGENDA INFORMATION

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

BRIEF SUMMARY: To complete the Estatoe Trail between Main Street and the Mary C. Jenkins Community Center, the City needs to obtain portions of the Bauslaugh property, (as detailed in the Settlement Agreement) located at 287 West Main Street in Brevard. The total purchase price for the easement is \$200,000 and the City deposited \$53,000 with the Transylvania County Clerk of Superior Court in August of 2021 for this purpose.

MOTION FOR CONSIDERATION: To approve Budget Amendment 25-02, as submitted, increasing the budget in expenditure account:

10-4900-7400 (Capital Outlay)	\$147,000
TOTAL	\$147,000

And increasing the budget in revenue account:

10-3990-0000 (Fund Balance Appropriated)	\$147,000
TOTAL	\$147,000

ATTACHMENTS: None.

MANAGER’S RECOMMENDATION: Adopt as presented.

Approved and adopted this 18th day of November, 2024.

Maureen Copelof
Mayor

ATTEST:

Denise Hodsdon, CMC
City Clerk

APPROVED AS TO FORM:

Mack McKeller
City Attorney

ORDINANCE NO. 2024-XX

CAPITAL PROJECT ORDINANCE TO AMEND ORDINANCE
NO. 2024-10 ESTATOE TRAIL 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 2024-10 will be increased by \$147,000.

Section 2: The Project involves the City obtaining portions the Bauslaugh property, (as detailed in the Settlement Agreement) located at 287 West Main Street for the purpose of completing the section of the Estatoe Trail between Main Street and the Mary C. Jenkins Community Center.

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

Account Number	Account Name	Budget Amount
78-6300-4400	Estatoe Trail Project	\$147,000
TOTAL PROJECT APPROPRIATION		\$147,000

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

Account Number	Account Name	Budget Amount
78-3990-0000	Fund Balance	\$147,000
TOTAL PROJECT REVENUE		\$147,000

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 18th day of November, 2024.

Maureen Copelof
Mayor

ATTEST:

Denise Hodsdon
City Clerk

APPROVED AS TO FORM:

Mack McKeller
City Attorney