



AGENDA
BREVARD BOARD OF ADJUSTMENT - REGULAR MEETING
Tuesday, April 21, 2026 - 2:00 PM

I. Welcome

II. Introduction of Board Members

III. Certification of Quorum

IV. Approval of Agenda

V. Approval of Minutes

- a. Draft Minutes 03.13.2026

VI. Approval of Orders

- a. Order VAR 26-0002

VII. Board Discussion

- a. Subpoena for Appeals

VIII. Unfinished Business

- a. APP-25.0001 - Veal

IX. New Business

- a. APP-26-0001 - 221 Pinnacle Rd. Other Veal Appeal
- b. VAR-26.0003 - 280 S. Broad St.

X. Remarks

XI. Adjourn

Agenda Posted, Website (April 14, 2026)
V. Gass, Clerk to the Board

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

MINUTES
BREVARD BOARD OF ADJUSTMENT SPECIAL CALLED MEETING
Tuesday, March 13th, 2026 – 2:00 PM

The Brevard Board of Adjustment (BOA) met for a special called meeting on Tuesday March 13th, 2026, at 2:00 PM.

Members Present: Peter Offen, Chair
Reid Wood
Mayson "Gilly" Pearson
Jackson Tate
Alan Mercaldo

Members Absent: Reid Wood

Staff Present: Katherine Poe, Planner
Brian Gulden, Board Attorney
Vith Gass, Board Clerk

Guests: Carole Deddy, Blueberry Hill HOA President, 37 Highbush Ln.
Charles Smith and Mary Whiton, 790 Camptown Rd.
Bill and Jenifer Dillard 106 Top Hat Ln.
Allen Dalzell, 303 Stone Creek Trl.
Martha McMan 203 Ridgetop Cir.
Regis Breyer, 139 Trent Rd.
Jimmy Zachary, 15 Townsend Trl.

I. WELCOME

Chair, Peter Offen, called the meeting to order at 2:02 PM and welcomed those present.

II. INTRODUCTION OF BOARD MEMBERS

Board members and Staff introduced themselves.

III. CERTIFICATION OF QUORUM

Offen had the Clerk certify that a quorum of the Board was present.

IV. APPROVAL OF AGENDA

Motion to approve the agenda made by A. Mercaldo, seconded by J. Tate, carried unanimously.

V. APPROVAL OF MINUTES

J. Tate motioned to approve the February minutes as written, A. Mercado seconded, carried unanimously.

VI. APPROVAL OF ORDERS

None.

VII. UNFINISHED BUSINESS

None.

VIII. NEW BUSINESS

B. Goulden addressed the preliminary matters noting that the board only has four board members present on this day. Under North Carolina law, granting a variance requires four-out-of-five (4/5) supermajority votes. Because we only have four members, this means that the party needs to vote unanimously for approval.

With the two new business items – 775 Camptown Road and 85 Trent Road – applicants have the option to proceed with the four members present or table their request until a full-five members board is available. This option shall be discussed with each applicant when their case is called.

A. Consideration of VAR-26-0001 – 775 Camptown Rd.

Background:

The applicant, Connie Miels-Perry, owns property at 775 Camptown Rd, which is located in the General Residential-8 (GR-8) zoning district and in the City's municipal limits. The parcel identification number is 8597-90-2186-000.

The applicant is requesting a variance from the Unified Development Ordinance's (UDO) Chapter 2.8.D.1(a), which does not allow chain link fences in the front yard of the property in GR zoned districts.

P. Offen, Chair, explained quasi-judicial procedures and standing requirements under the North Carolina law, which include demonstrating special damages and expert testimony that are strictly governed by N.C. Gen. Stat. § 160D-1402 .

B. Gulden clarified that to properly establish standing, applicants must meet the following criteria:

- a. Applicants must demonstrate special damages, specifically a depreciation of their property's fair market value.

- b. Testimony on depreciation must be provided by an appraiser, while traffic impacts must be presented by an expert.

In addition, B. Gulden also cited the Supreme Court cases *Magnum v. Raleigh* and *Cherry v. Wisener* confirms that proximity or aesthetic concerns alone do not establish standing.

Carole Deddy seeks standing based on fence proximity and dead landscaping. A. Mercaldo move to deny standing due to insufficient evidence and lack of expert testimony; seconded by G. Pearson. Motion passed unanimously.

Charles Smith requested a postponement/continuance of the hearing due to lack of familiarity with the procedural requirements such as an independent authorized appraisal that was necessary to formally challenge the valuation of the property.

P. Offen reminded the public that only the party with standing can request to reschedule or postpone the hearing. B. Gulden noted that the Board has the ultimate discretion to determine if a petitioner has “standing” and if it is appropriate to grant them the opportunity to prove that their property value has decreased. He emphasized that simply claiming “my property is devalued” is insufficient. A valid claim usually requires competent, substantial evidence, such as an affidavit from a professional appraiser, to substantiate the claim. A full, comprehensive appraisal is not always necessary. A consulting report or a restricted appraisal report can be used to show a depreciation in fair market value.

Following disclosure, P. Offen reviewed the ethical considerations and potential conflicts of interest. The Chair paused to give the applicant an opportunity to state if they have any objections to the current board members hearing this case based on the disclosure, or if they have questions regarding these considerations. The applicant stated he had no objections.

P. Offen addressed the attendees to identify those claiming standing, resulting in a show of hands indicating five interested parties seeking participation in the case.

The Board weighed the need to allow five parties seeking standing additional time to acquire substantial, credible evidence or expert testimony against the potential prejudice to the Applicant cause by a delay.

With the applicant not objecting to the proposed continuations, G. Pearson motioned to move this matter to May 5th, 3 PM; J. Tate seconded, and the motion passed unanimously with a clarification from B. Gulden that the board will not consider private restrictive covenant such as HOA restrictions when making, focusing exclusively on enforcing City of Brevard regulations as written, and they will not dive into private property rights issues. He affirmed that that variance decisions will be based strictly on submitted evidence, independent of any HOA restrictions.

B. Consideration of VAR-26-0002 – 85 Trent Rd.

P. Offen, explained quasi-judicial procedures and standing requirements under North Carolina law, which include demonstrating special damages and expert testimony that are strictly governed by N.C. Gen. Stat. § 160D-1402.

B. Gulden affirmed that to establish standing, one must prove special damage that is distinct and different from the general public, specifically a diminution in the fair market value of their property attributable to the secondary impacts of the application.

Regis Breyer requested establishing standing as an aggrieved party, asserting this proposal directly impacts the fair market value and the used of his adjacent property. In addition, he requested a postponement of this hearing, citing lack of proper notification and the need for reasonable time to retain an expert for valuation evidence. B. Gulden pointed out that North Carolina law dictates minimal notice, requiring only newspaper publication, properly posting, and mailing to neighboring property owners.

Jimmy Zachary requested the Board's intervention regarding criminal activity on Trent Road. According to him, the operation of four mobile homes for drug trafficking by the Trent family has created a severe safety hazard. He argued that after 30 decades of effort to improve this area, he is demanding the board to take immediate action to shut down these operations and ensure the safety of their neighborhood. B. Gulden moved to strike the testimony citing a lack of competence and substantial evidence, urging the Board to exclude it from consideration.

J. Tate made a motion to deny standing, G. Person seconded, and the motion passed unanimously.

Cognizant of Regis Breyer postponement request, P. Offen evaluated the ethical implications and potential conflict of interest. Following disclosures, the Chair pauses to afford the applicant an opportunity to voice any objections regarding the composition of the board. The applicant stated he had no objections, waived any potential conflicts, and requested to proceed with the hearing immediately, effectively opposing and overcoming J. Zachary's request to postpone.

B. Gulden indicated that final authority rests with the board to decide. Without credible allegations, the only argument presented was a need for more time, which is what the board must consider.

A. Mercaldo moves to deny standing of J. Breyer citing that the applicant has not provided sufficient, credible evidence to justify continuance, and does not see a need for additional time to evaluate neighborhood property values. J. Tate seconded, and the motion passed unanimously.

The following were sworn in: Joseph Trent, Farrah Baynard. No ethical conflicts were found. P Offen opened the hearing.

K. Poe presented her staff report, a portion of which are as follows:

Background:

The applicant, Farrah Baynard, is the agent for property at 85 Trent Rd, which is in the General Residential-4 (GR-4) zoning district and the Manufactured Home Overlay within the City's Extra Territorial Jurisdiction (ETJ). The parcel identification number is 8575-89-5653-000.

The applicant is requesting a variance from the Unified Development Ordinance's (UDO) Chapter 2.7.2 for principal structures setbacks. The request is for fifteen (15) feet variance from the required twenty-five (25) feet setback for the rear yard, resulting in a ten (10) foot setback.

K. Poe outlined the distinction between zoning and nuisance regulations, wanted to clarify that although this property is located outside city corporate limits, it lies within the City's ETJ. Consequently, pursuant to Chapter 2.72, the City enforces its zoning regulations and development standards in this area, necessitating compliance with the same zoning requirements as properties within the city limits. She cited, however, that City nuisance regulations are not enforced in the ETJ.

K. Poe pointed out that since the property is in the ETJ, public sewer is not available, and any development will rely on a private septic tank. The property's depth ranges from roughly 80 feet on the southern portion to roughly 100 feet on the northern portion.

Principal building setbacks in GR-4 are 15 feet from the right-of-way, 6 feet from the side property lines and 25 feet from the rear property line (City UDO Section 2.3). The preexisting state-permitted septic field is located towards the front portion of the lot.

The NC Health Code, which is administered by the Transylvania County Public Health Department dictates the minimum distance required from a building to the well and septic systems. The applicant reports that the relatively narrow depth combined with the preexisting subterranean infrastructure creates a technical layout issue that prevents the placement of a home with the 25-foot rear yard setback.

Discussion:

Following her staff report, K. Poe looked at the Board for questions. A. Mercaldo inquired whether there was any additional matter denied by the city, specifically asking if the denial was based solely on the setback requirement. K. Poe clarified that a formal application was never officially denied. She explained that the agent, knowing the project would not meet the setback requirements, applied for variance in advance in submitting a full permit application.

J. Tate inquired about the proposed two-bedroom home's location relating to the drainage area, specifically requesting documentation detailing the distance, and a follow-up question was raised by G. Pearson asking the applicant to provide evidence confirming the ownership of the property behind the current drain field location. K. Poe noted that the home will be situated approximately 10 feet from the rear property line. She also confirmed that the drain field faces Trent Rd., meaning it is located in the front yard, where they are also replacing the piers.

Concluding that there were no further questions from the Board to the City, P. Offen thanked K. Poe for her report. P. Offen then called upon the property owner, Joseph Trent, to provide testimony.

J. Trent argued that that the variance would render the property economically unusable, as the septic system restrictions prevent development or even agricultural use, resulting in an unmarketable lot. P. Offen asked the applicant how the unnecessary hardship conditions are peculiar to the property.

Farrah Baynard asserted that due to the unique physical limitations of the property .025-acre lot, specifically the intersection of a 25-foot rear setback requirement and the existing septic field – strict adherence to the ordinance leaves no partial place to build. She stated that the property owner, J. Trent, is simply looking to replace a previous home in the same spot, adhering to the area’s mobile home overlay status. Therefore, requiring compliance creates unnecessary hardship, denying reasonable use of the property.

J. Trent expressed deep concern over the fairness of the recent regulation changed. He argues that reducing property value after 40 years of stability through a ‘stroke of pen’ is negligent and essentially makes the property worthless.

B. Gulden pointed out that under North Carolina’s NCGS 160D provision, a nonconforming use can be replaced if it has not been voluntarily discontinued for more than 24 consecutive months. It is important to verify if this mobile home has been gone, or the site has been vacated, for more than that two-year period to see if the grandfathered status can still be applied. F. Baynard stated that while the previous mobile home was removed seven years ago, Mr. Trent obtained county approval for a replacement permit but did not proceed with the installation at that time.

P. Offen raised concerns regarding the valuation based on the recent site assessment. F. Baynard responded that the lot is currently under contract for \$50,000, with the intention of placing a mobile home on it. She explained that if a mobile home is not permitted, the property would lose significant value because there is no other space for development due to the location of the septic drain field. She concluded that if a home cannot be placed there, the value would drop significantly below 50,000, likely only appealing to adjacent property. She added that while Mr. Trent permit for the mobile home approved following the removal of the old one, the county downgraded the existing septic system capacity from three bedroom to two.

G. Pearson inquired regarding the intent of the regulations and the specific nature of the area located 10 feet behind the proposed site, specifically asking if it was empty lot. F. Baynard clarified that the area is an empty lot with existing, old fence situated on the property line. She further noted that the proposal would not alter the current conditions but simply restore the previous footprint. J. Trent mentioned that there is a house located about 200 feet behind this lot.

F. Baynard concluded that this is a straightforward request to replace an existing mobile home with the same footprint. Because the property is within the Mobile Home Overlay district, this request complies with existing zoning guidelines, merely confirming the intended use for that parcel.

Regarding the mobile home, G. Pearson has requested clarification on the legal basis for the issued permit. Specifically, she wanted to know if the permit was granted based on the pre-existing structure/grandfathered status, or if the previous mobile home already been removed from the site when it was filed. J. Trent asserted that the property held pre-existing, permitted structure at the time it was approved. Although a three-bedroom unit was already on the site, inspector Furman Nicholson from the county denied permission to replace it with another three-bedroom unit, restricting it to a two-bedroom unit instead.

During deliberations, J. Tate argued that prohibiting the construction of any dwelling renders the property unbuildable, resulting in substantial reduction in its fair market value. G. Pearson concurred with J. Tate, adding that the proposal constitutes a hardship and aligns with the regulatory intent to prevent high-density development. G. Pearson noted that the impact would be minimal, as adjacent properties are not severely impacted. A. Mercaldo expressed his concurrence with the board members regarding the application. He noted that because the property lies within a manufactured home overlay district, the proposed use is permissible. Furthermore, he stated that the variance is justified by the unique physical conditions of the property, specifically concerning the existing septic system and drain field location. P. Offen also concurred, adding that without the setback reduction, the property has no viable use other than a field with septic tank.

Presented herewith are the findings as reviewed and enumerated by J. Tate:

1. *Unnecessary Hardship*: Strict application of the UDO regarding the 25-foot rear setback would result in unnecessary hardship. The property value would be greatly diminished because the site cannot be reasonably developed or improved for its intended purpose without the variance.
2. *Peculiar Physical Conditions*: The hardship results from conditions peculiar to this property, not common to the neighborhood. These factors include the exceptionally small size of the lot and the configuration of the site, in addition to the existing, fixed placement of the well, septic system, and drain field. These factors create a unique constraint on development.
3. *No Self-Created Hardship*: The hardship did not result from actions taken by the applicants or the current property owner. The request seeks to replace a structure that previously existed, and the proposed replacement is actually at a smaller, more compliant scale than the previous structure.
4. *Consistency with UDO Intent*: The variance is consistent with the spirit, purpose, and intent of the regulations. The site is zoned to allow residential use (GR-4), and this structure will remain in harmony with adjacent properties. Granting the variance will secure public safety and achieve substantial justice.

Based on the evidence presented, J. Tate made the motion that the Board grant the requested variance to allow a 15-foot reduction in the required 25-foot rear setback on the property located at 85 Trent Road, Brevard, North Carolina, in accordance with and only to the extent represented in the application and plans submitted. G. Pearson seconded and passed unanimously.

B. Gulden clarified that under North Carolina law, once a variance is granted by the Board of Adjustment, a formal written order must be drafted, reviewed, and signed to document the decision. He added that if the party requires the order expedited for closing, the board will bypass the standard one-month wait and use an electronic process to finalize the order promptly. Baynard agrees.

IX. REMARKS

Due to an anticipated lack of a quorum, the Board meeting scheduled for April 7th is being rescheduled. The Board has agreed to move the meeting, which includes three scheduled appeals, to April 21st at 2:00 PM

B. Gulden reported that Mr. Dugger, attorney for two applicants, has requested subpoenas for three individuals regarding the upcoming appeal hearing, While the chairperson holds the authority to issue subpoenas based on the applicant’s requests, any decision to deny this request can be immediately appealed to the full board. He added that the Board should note that if subpoenas are issued, the April 21st hearing may be brief, as witnesses cannot be compelled to appear until the board hears this argument. P. Offen requested information on the legal basis for the subpoenas at the upcoming hearing, B. Gulden identified the statutory authority under North Carolina law.

Pursuant to N.C.G.S. § 160D-406(g), quasi-judicial hearings allow for the issuance of subpoenas by the Board Chair to compel witnesses or evidence. Any party may request a subpoena in writing. The Chair determines relevance and reasonableness. Subpoena decisions may be immediately appealed to the full Board. If a subpoena is contested, it may cause delays in the proceedings as it moves through the appeal process, requiring adequate time for service.

X. ADJOURN

P. Offen made a motion to adjourn the meeting, G. Peason seconded. The motion carried unanimously. The meeting was adjourned at 3:26 PM.

Peter Offen, Chair

Edievith Gass, Board Clerk

STATE OF NORTH CAROLINA
TRANSYLVANIA COUNTY

BEFORE THE CITY OF BREVARD
BOARD OF ADJUSTMENT
CASE NO. Variance #26-0002

IN RE: APPLICATION of
Joseph R. Trent; Rose Byrd;
and Lana Vollendorf
for a VARIANCE

ORDER

This matter coming on for hearing before the **City of Brevard Board of Adjustment** (“Board”) on the application of **Joseph R. Trent, Rose Byrd and Lana Vollendorf** (“Applicants”) requesting a variance from Chapter 2.7.2 of the City of Brevard Unified Development Ordinance (“UDO”) to allow for a fifteen-foot (15’) reduction of the rear-yard setback for property located at 85 Trent Road, Brevard, North Carolina (“Property”) within the General Residential 4 (GR-4) Zoning District within the zoning jurisdiction of the City of Brevard.

A quasi-judicial hearing was held on March 13, 2026. The Applicants represented themselves. The following persons were sworn as witnesses and presented testimony in this matter: City of Brevard Planner, Katherine Poe, Joseph Trent and Farrah Baynard.

Testimony in this case is accurately reflected in the minutes of the March 13, 2026, meeting and based upon the testimony presented, the documentary evidence and related material submitted along with the Application, the Board does hereby make the following:

FINDINGS OF FACT

- 1) Notice of the quasi-judicial public hearing, pursuant to the UDO and state law, was duly and timely given. The Property was properly posted, and the hearing was properly advertised.
- 2) The Property is identified as tax parcel number 8575-89-5653-000 in Brevard, North Carolina within the GR-4 Zoning District and a property address of 85 Trent Road, Brevard, North Carolina.

- 3) The Applicant applied for a Fifteen-foot (15') variance from Chapter 2.7.2 of the UDO to allow a reduction in the rear-yard setback from Twenty-five feet (25') to Ten feet (10') on the Property.
- 4) The witnesses offered competent, material and substantial evidence that unnecessary hardship would result from the strict application of the UDO in that there are very limited uses to be made of the Property without a variance.
- 5) The witnesses offered competent, material and substantial evidence that hardship results from conditions that are peculiar to the Property in that such Property is small in size, and has an existing well, septic tank and drain field on the Property that prevent placement of a home in any other location.
- 6) The witnesses offered competent, material and substantial evidence that the hardship did not result from actions taken by he, as the Property owner, in that the Property was created prior to the current, applicable regulations and has, historically, had a mobile home located in the proposed location.
- 7) Competent, material and substantial evidence was presented that the requested variance is consistent with the spirit, purpose and intent of the UDO in that the Applicants will be able to more fully utilize the small area on the Property for the placement of a mobile home which is allowed as part of the current UDO regulations while still allowing separation between adjoining structures.
- 8) Competent, material or substantial evidence was presented to show that the variance, if granted, would not be injurious to public health, safety and welfare and that it would achieve substantial justice.

Pursuant to the foregoing FINDINGS OF FACT and UDO Chapter 16.8.E, the Board makes the following:

CONCLUSIONS OF LAW

- 1) The Board has jurisdiction to hear and decide this Application for a Variance under the UDO.
- 2) That without the proposed variance unnecessary hardship would result from the strict application of the regulations.
- 3) The hardship results from conditions that are peculiar to the Property.
- 4) The hardship did not result from actions taken by the Applicants.
- 5) The requested variance is consistent with the spirit and intent of the regulations such that public safety is secured and substantial justice achieved.

- 6) All applicable standards within the UDO have been satisfied.

DECISION

Based on the foregoing Findings of Fact and Conclusions of Law, the application of **Joseph R. Trent, Rose Byrd and Lana Vollendorf** requesting a variance from Chapter 2.7.2 of the City of Brevard Unified Development Ordinance to allow for a Fifteen-foot (15') reduction in the rear-yard setback from Twenty-five feet (25') to Ten feet (10') for property with an address of 85 Trent Road, Brevard, North Carolina and identified as tax parcel numbers 8575-89-5653-000 for Transylvania County, Brevard, North Carolina is hereby **GRANTED** to the extent shown on the plans submitted by the Applicants and considered by the Board.

ORDERED this _____ day of _____, 2026.

CITY OF BREVARD BOARD OF ADJUSTMENT

By: _____
Peter Offer, Chair

Attest:

Edievith Gass, Clerk to the Board

STAFF REPORT
Board of Adjustment, Friday, April 17, 2026

Title: Subpoena for Appeals
Speaker: Mack McKeller, City Attorney
Prepared by: Aaron Bland, Asst Planning Director
Approved by: Paul Ray, Planning Director

Background
Elliot Dugger, attorney for Mr. Veal and Mr. Robinson, Applicants for appeal APP-25-0001, has submitted a subpoena request pertaining to the ongoing appeal hearing.

Mr. Dugger's request for three subpoenas for witnesses was dated March 12, 2026. In response to this, City Attorney Mack McKeller wrote a letter requesting to deny the subpoenas on March 16, 2026, to which Mr. Dugger sent a response on March 20, 2026. All three of these documents are attached.

Discussion
Subpoenas for quasi-judicial hearings are addressed by NCGS 160D-406(g) which states that any person with standing in the hearing may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair determines if a subpoena shall be issued, upon determination that it is "relevant, reasonable in nature and scope, and not oppressive." The chair shall also rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be immediately appealed to the full board.

- Attachments:**
1. First Dugger Letter (March 12)
 2. McKeller Letter (March 16)
 3. Second Dugger Letter (March 20)



J. Elliott Dugger, Attorney and Counselor at Law

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03-12-26

Mr. Peter Offen, Chairman
City of Brevard, NC – Board of Adjustments (BOA)
95 West Main Street
Brevard, NC 28712

Care of Mr. Mack McKeller, City Attorney
and Mr. Brian Gulden, Attorney for the Brevard Board of Adjustment

**RE: Robinson, Veal Driveway Appeal - Subpoena Request
Pursuant to NCGS 160D-406(g) and NCGS 160D-1402(c)**

Dear Mr. Offen,

We understand that our next scheduled appearance before the Board is set for April 7, 2026.

Upon review of the Summary Report prepared by Paul Ray and Aaron Bland, it is clear there are several unresolved issues, particularly regarding the status of "the road"—whether former or existing—and matters related to public rights-of-way.

It is important to emphasize the significant implication the Board's decision will have for Mr. Roy Robinson and myself, concerning the outcome of our permit appeal and potential restoration of historic access. Your determination carries considerable weight on the current and future value of our property. The consequences of the City's actions, specifically the construction of the trail and the resulting obstruction of access, have rendered our property effectively unmarketable. We trust that, as Chairman of the City of Brevard's BOA, you will consider the broader impact these developments have had on properties owned by Mr. Robinson, myself, Emma Dorsey, Connie Williams, Angela Towler, and the Garrett family property which is located on the north side of Mackey Ridge Roadbed.

Thus, in accordance with NCGS 160D-406(g) & NCGS 160D-1402(c), we respectfully request that you, in your capacity as Chairman, issue a subpoena to Mr. Mac Morrow to appear at the April 7th BOA meeting. Based on available information, Mr. Morrow is uniquely positioned to clarify outstanding questions identified in the Summary Report. He was a member of the City Council and voted to create the Bracken Preserve Steering Committee, served as its Chair, participated in key decisions regarding the proposed easement, and oversaw related initiatives. Mr. Morrow was on the Council when the vote to Institute the Action to condemn the easement across the parties' properties was taken and when the condemnation was acquired. Mr. Morrow was also on the Council when the Bracken Trail Construction was initiated in 2010 and when completed in 2012. Mr. Morrow's involvement in early negotiations and efforts to acquire affected properties to formalize the city's access suggests he can provide comprehensive insight. We ask that Mr. Morrow be directed to produce any relevant documents, maps, drawings, correspondence (including emails & letters), committee minutes, and other materials pertaining to his efforts regarding the purchase attempts, creation of Bracken Preserve, establishment of right-of-way easements, design & construction of the trail & associated infrastructure, as well as any communications with pertinent individuals and city staff. This notice also serves to request preservation of all such records and artifacts as potential evidence.

Robinson; Veal Driveway Subpoena Request

Further, we respectfully request that you subpoena Mr. Josh Freeman, former Planning Director and former Community Development Director for the City, to appear at the same meeting. The Planning Department is responsible for oversight and administration of Bracken Preserve and the Trail. Mr. Freeman's leadership role during the inception and implementation of various phases positions him to address questions raised in the Summary Report and elaborate on departmental actions, trail infrastructure placements, and the intent behind city decisions. We request that Mr. Freeman bring all relevant documentation and correspondence related to property acquisition efforts, preserve establishment, steering committee activities, easement formation, design and construction of the trail, parking facilities, and all communications with city personnel and stakeholders. This notice similarly requests the preservation of all related materials.

Additionally, we respectfully request a subpoena for Mr. Daniel Cobb, former Assistant Planning Director and Planning Director for the City of Brevard, to also attend the meeting. Mr. Cobb was involved throughout various stages of Bracken Preserve's development and trail construction, and his perspective is essential for addressing issues identified in the Summary Report. We ask him to provide all pertinent documents and correspondence related to property acquisition, preserve planning, council deliberations, trail and infrastructure design and building, and any interactions with city staff and other relevant parties. Please ensure preservation of all records and possible evidence.

For your convenience, we believe that the addresses for the individuals mentioned above are provided here:

Mr. Mac Morrow
212 S. Gaston St
Brevard, NC 21712

Mr. Joshua Sage Freeman
50 Overlook Drive
Brevard, NC 28712

Mr. Daniel Patrick Cobb
Town Manager, Granite Falls
305 N. Main Street
Granite Falls, NC 28630

Sincerely,



J. Elliott Dugger, Esq.
NC Bar # 56715

MCKELLER LAW P.C.

Charles W. McKeller
ATTORNEY AT LAW
130 S. Broad St.
Brevard, NC 28712
(828) 966-3159

March 16, 2026

Peter Offen, Chairman
Brevard Board of Adjustment
c/o Brian Gulden, Attorney for Board
95 West Main Street
Brevard, NC 28712

RE: Robinson, Veal Appeal of Administrative Decision (ARP-25-0001)
regarding Permits ENC-25-006 and ENC-25-007

Dear Mr. Offen,

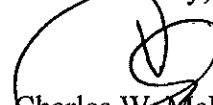
I am writing in response to the letter dated March 12, 2026 from J. Elliott Dugger requesting issuance of three (3) subpoenas for witnesses to appear at the continuation of the above noted appeal of the administrative decision by the Brevard Planning Department to deny the application for a driveway permit by Mr. Veal and Mrs. Robinson due to insufficient information contained in the application to determine whether the driveway shown in the application connects the parcel to a public street or the relationship of the proposed driveway with the correct location of the Bracken Trail.

Please accept this letter as a motion to deny issuance of a subpoena by the board as the grounds stated in Mr. Dugger's letter indicate the evidence to be proffered by the witnesses will not be "relevant, reasonable in nature and scope, and not oppressive" as required by N.C.G.S. Section 160D-406(g).

Clearly, the reasons given by Mr. Dugger are to elicit evidence regarding the establishment of the City Easement to the Bracken Preserve and the Bracken Preserve itself. None of the parties who are requested to be subpoenaed, and none of the evidence forecast to be elicited is related to the matter at issue which is whether the decision to deny the application due to insufficient information in the application was erroneous. Further, any subpoena of these individuals to inquire regarding their recollection of events occurring nearly twenty years ago would be oppressive and unreasonable to scope by definition.

In the event you determine to allow issuance of these subpoenas, please accept this letter as a motion to quash and a request for review by the Board of Adjustment as a whole.

Most sincerely,

A handwritten signature in black ink, appearing to read 'Charles W. McKeller', written over the printed name below.

Charles W. McKeller
mack@ecustalawgroup.com



J. Elliott Dugger, Attorney and Counselor at Law

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elliott@duggerlawfirm.com

March 20, 2026

Mr. Peter Offen, Chairman
City of Brevard, NC – Board of Adjustments (BOA)
95 West Main Street
Brevard, NC 28712

Care of Mr. Mack McKeller, City Attorney
and Mr. Brian Gulden, Attorney for the Brevard Board of Adjustment

**RE: Robinson, Veal Driveway Appeal - Subpoena Request
Pursuant to NCGS 160D-406(g) and NCGS 160D-1402(c)**

Dear Mr. Offen,

In response to Mr. McKeller's objection to our request for subpoenas we assert the following.

1. Mr. McKeller asserts that the driveway permit was denied "due to insufficient information contained in the application," however that has not been established and is the responsibility of the Board and the purpose of the hearing to determine, not the City's Attorney.
2. Further, there are no grounds to support Mr. McKeller's assertion that "evidence to be proffered" will be in any way "not relevant, reasonable in nature and scope, and not oppressive." We believe that his statement could not be further from the truth. As stated in our request, it is our desire to seek the truth, and in fact, his comment seems to be an admission that evidence will be proffered that sheds light on statements made in the Staff Report that may not be true.
3. It was clear from our prior hearing session that the city's information regarding the denial of driveway permits was sufficient (e.g., the city's understanding of where it thinks the right of way and bike trail are located prevents it from giving access from the properties in question to the right of way.) This fact was the subject of almost the entire hearing session. The city determined the location of the right of way and the bike trail. It defies logic that it would not know the location of the same.
4. The establishment of the right-of-way, where it is located, and the intent of its use are exactly on point regarding the appeal to grant driveway permits that would result in access to Mackey Ridge Road, which is located in the right-of-way.
5. Mr. McKeller's statement, "None of the parties who are requested, and none of the evidence forecast to be elicited is related to the matter," is certainly not made in the interest of determining actual facts as they relate to the denial of the permit applications. Mr. McKeller's assertion related to individuals' "recollections" being "oppressive and unreasonable" is baseless. As a reminder, the request includes document, emails, and other related materials which supersedes "recollections."

Robinson; Veal Driveway Subpoena Request

6. As such, testimony from the requested witnesses would be directly on point to this matter. Whether and how accurate the witnesses' memories may be is a matter for the trier of fact (the Board of Adjustment). Mr. McKeller does not get to determine the quality of the witnesses' memories, their credibility, or the weight of their potential testimony unilaterally.
7. The subject matter of the potential testimony is both relevant and within the scope of determining driveway permits that would allow vehicular access to Mackey Ridge Road. There is nothing inherently oppressive about asking questions regarding a public project that occurred twenty years ago. Memories regarding such events are frequently recalled better than what one ate for lunch yesterday.
8. It is imperative that the Board have access to all pertinent information regarding the blocking of access to the applicant's property and the denial of the driveway permits. That the City would object to the testimony of the requested persons, given their positions, responsibilities, and participation in the creation of the Preserve, the imposition of the easement across our properties, and the construction of the trails would obstruct the fundamental due process right to be heard, and the right to present relevant evidence. The City and the City's attorney should welcome the testimony to corroborate and substantiate the Summary Report.

Sincerely,



J. Elliott Dugger, Esq.
NC Bar # 56715

STAFF REPORT
Board of Adjustment, Friday, April 17, 2026

Title: APP-25-0001 - Veal

Speaker: Mack McKeller, City Attorney
Paul Ray, Planning Director
Aaron Bland, Asst Planning Director

Prepared by: Paul Ray, Planning Director, Aaron Bland, Asst Planning Director

Approved by: Paul Ray, Planning Director

Background
This is a continuation of appeal #APP-25-0001 which was first heard by the Board at the January 6, 2026 meeting. The item was on the agenda for the February 3, 2026 meeting but was tabled until the April meeting. The staff report from the February 3rd meeting packet is attached.

- Attachments:**
1. Staff Report from Feb 3 2026 Agenda Packet

STAFF REPORT
Board of Adjustment, Tuesday, February 3, 2026

Title: APP-25-0001: Administrative appeal of the Planning Department Decision Regarding Permits ENC-25-006 and ENC-25-007

Speaker: Paul Ray, Planning Director
Aaron Bland, Assistant Planning Director

Prepared by: Paul Ray, Planning Director, Aaron Bland, Asst Planning Director

Approved by: Paul Ray, Planning Director

Background

Two driveway applications for neighboring parcels located in the vicinity of the end of Pinnacle Road, near but beyond the parking lot and trailhead for the City-owned Bracken Preserve trails, were submitted on August 6, 2025. One for 231 Pinnacle Road (PIN 8576-83-5643-000) was submitted by owner James Veal, and one for 245 Pinnacle Road (PIN 8579-83-4791-000) by owner Roy Robinson. These were assigned to Assistant Planning Director Aaron Bland for review.

The two subject parcels are "landlocked" in that they have no frontage on a public street right-of-way. The Transylvania County tax map shows that the Pinnacle Drive ROW continues beyond the Bracken parking lot to the front of these parcels, however this is a mapping error. The exact extent of NCDOT maintenance and ownership of Pinnacle Drive is unclear. Different surveys show state maintenance ending in different places, but none show it extending as far as the subject parcels, and it is not improved beyond the parking lot. The official NCDOT State Maintained Network Map does not include Pinnacle Road at all, meaning that it is not maintained by NCDOT. This listing shows SR-1350 (the number attached to Pinnacle Road on surveys) as only being the 0.2-mile-long paved Music Camp Road, from Probart Street to Bishops Knoll. The entire unpaved Pinnacle Road is listed as "non-system" on official NCDOT maps.

The City's Bracken Mountain Trail leaves the parking lot and ascends to Bracken Preserve through a 50-foot wide right-of-way that crosses several private properties between the parking lot and the City-owned Bracken Preserve parcel. This ROW was obtained by the City in 2008 and the public hiking/biking trail was opened to the public in July 2012. Properties in the area were once served by a small private road called Mackey Ridge Road, which was located in the vicinity of the current trail, but it is no longer in existence and never had a public right-of-way. This area is outside the City's corporate limits in the extraterritorial jurisdiction and all subject parcels are zoned General Residential - 4 (GR4).

Administrative Decision

Below is a summary of the email correspondence between Mr. Bland and Mr. Veal regarding the review of the applications. The full email chain, including referenced

attachments, is included in this packet.

The applications were submitted on August 6, 2025. On August 8th, Mr. Bland emailed Mr. Veal and Mr. Robinson that he had some confusion reading the submitted site plans and that additional information was needed. Namely, the location of the City's Bracken Mountain Trail and the ROW that the trail lies within, in an effort to determine if the proposed driveways would be within the trail ROW and how close they would come to the trail.

On August 28th, Mr. Veal responded by providing copies of portions of the legal documents from the establishment of the trail ROW, but did not include the requested information regarding the ROW and the trail's location as they relate to the location of the proposed driveways.

On August 29th, Mr. Bland responded, again asking for information about the location of the trail and trail ROW in relation to the proposed driveways. Mr. Bland cited the concern of potential conflicts with the driveway and the trail/trail users. To illustrate his concerns, Mr. Bland included an attachment with his own markup on the original site plans illustrating how much of the proposed driveways were seemingly shown within the City's trail ROW. Additionally, Mr. Bland pointed out that each driveway was shown to be constructed beyond the property lines.

On September 11th, Mr. Veal responded with additional site plans, however, they did not include the requested information of the location of the Bracken Mountain Trail. Mr. Veal indicated that the driveways would connect to Mackey Ridge Road as if it was still in existence. Mr. Veal's email also suggested that there could be "shared access" from the Bracken parking lot to the new driveways, presumably indicating that trail users on bike and foot would share the same travel corridor as vehicles using the driveways. However, nothing was shown on the site plans between the "mouth" of the driveways and the end of the public street of Pinnacle Road to show how this shared access portion would be improved to allow for a vehicle to traverse it. Nor was any evidence of an access easement across the properties required to reach the subject properties from Pinnacle Road.

On September 19th, Mr. Bland responded that given the materials provided, he was unable to fully review the applications and had no option but to deny them. He cited a lack of information about how the proposed driveways would interact with and possibly impact the Bracken Mountain Trail and the safety of users on it, as well as a lack of information about how vehicles would get to the driveways from the end of Pinnacle Road.

On October 6th, Mr. Veal and Mr. Robison both filed an appeal of their denials with the City Clerk (submissions are attached).

Discussion

The Unified Development Ordinance has some standards for driveways, however these are predicated on the notion that the driveway is connecting to a public street within a public

right-of-way, neither of which is the case for these permits. For example, Section 13.8.B states (emphasis added) “No driveway or curb cut shall be less than 12 feet nor greater than 24 feet in width at the point of intersection with the margin of the right-of-way of any street located in the city...”

Many provisions of the ordinance assume frontage on a public street, which these subject parcels do not have, a condition known as “landlocked parcels.” Section 14.6 of the UDO discusses nonconforming lots such as the subject parcels. Subsection D states that “the administrator may permit the establishment of a private right-of-way or access easement in order to facilitate access to pre-existing land-locked parcels.” The City’s trail ROW does not convey private use to access these parcels, but rather public use to access Bracken Preserve. No evidence of other access easements for such private use to access the subject parcels was provided.

The overarching goal and purpose of the City’s UDO and regulations in general, as well as the enabling state legislation that allows for zoning authority, is to promote public health, safety, and general welfare (UDO Section 1.2). Therefore, ensuring the safety of Bracken Preserve trail users, as well as any potential users of the driveways, was a primary concern when reviewing these applications. Mr. Bland’s request for the location of the existing trail within the ROW was in order to ascertain if the vehicular traffic using the driveways would cross over or otherwise conflict with trail users. Without the location of the trails shown on the site plan, this was not able to be evaluated. Section 17.2.C of the UDO states that “The administrator shall have the authority to deny and return any submitted land development permit application and associated development plans upon a determination that such submitted items are insufficient...” Mr. Bland determined that the submitted plans were insufficient because they did not show 1) the location of the trail to determine potential user conflicts, 2) how cars could legally access the driveways from Pinnacle Road where it ends at the Bracken parking lot, and 3) how cars could physically traverse the terrain from the parking lot to the subject parcels.

Further, UDO Section 16.5.C.1 states that applications must contain “all information and materials required by this ordinance for submittal of the applicable type of application, and in sufficient detail, format, and readability for city staff to evaluate the application for compliance with applicable review standards.” It is the Planning Department’s position that these applications did not contain such “sufficient detail” for review of both potential safety conflicts with trail users and legal/physical access from where Pinnacle Road ends in the parking lot.

There is a gap between where Pinnacle Road stops being a public street and the proposed driveways. How large this gap is varies by source, but there is undoubtedly a gap. The applicant seemed to indicate that it was acceptable to connect to the trail ROW, as if it was a public street ROW, due to the language of the legal documents establishing the City's trail ROW. These are written to allow for "all vehicular and pedestrian travel across the property" in order to "serve [Bracken Preserve], providing ingress, egress and regress thereto."

The inclusion of vehicular travel gives the City the *right and ability* to allow such use of the ROW, but not the *obligation* to install a road capable of providing such use. The City cannot establish a City street outside the corporate limits. Thus, to date, the City has chosen to only allow travel through the ROW to Bracken Preserve by foot and bike. The decision to exercise the right to allow vehicles is a policy decision that cannot be made by Planning Staff. Again, no evidence of additional access easements for the purpose of traversing the private properties between the end of Pinnacle Road and the subject parcels was provided. Therefore, Staff assumes there is no such guaranteed access to these parcels from Pinnacle Road.

Board Decision

North Carolina General Statutes 160D-406(j) states "When hearing an appeal, the board may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The board shall have all the powers of the official who made the decision." The decision must be based on competent, material, and substantial evidence in the record.

Attachments:

1. Application - Veal
2. Application - Robinson
3. Email Chain Between Mr. Veal and Mr. Bland
4. Attachment to Mr. Blands Aug 29 email
5. Attachment to Mr Veals Sept 11 email
6. Easement Plat File 11 Slide 922
7. Easement Plat File 11 Slide 923
8. Appeal - Veal, James 231 Pinnacle Rd.
9. Appeal - Robinson, Roy 245 Pinnacle Rd.
10. Vicinity Map



City of Brevard Planning Department
 95 West Main Street
 Brevard, North Carolina 28712
 Phone (828) 885-5630
 Fax (828) 885-5625
 cityofbrevard.com

APPLICATION FOR DEMOLITION, GRADING OR LAND DISTURBANCE

Contact Information (To be completed by Applicant)

Applicant/Agent/Contractor Name: →	Property Owner: JAMES VEAL
Mailing Address: →	Mailing Address: 627 Bayshore Dr
City: State: Zip: →	City: Pensacola FL State: FL Zip: 32507
Phone: →	Phone: 850-450-3295
Email: →	Email: jve@jvealarchitect.com

Property/Project Information

Contractor Hauling Debris: T.B.D.	Property PIN (Tax id #): 8576-83-5643-000
Mailing Address:	Property Location/Address: 231 Pinnacle Rd
City/State	Date applicant desires to being project: 10-31-2025
Phone:	Disposal location:
Email:	Note: As a part of the final inspection you may be required to produce evidence of location of disposal of demolition waste.

Project Type/Description: Residential

- Note: Site/Project plans are required to be submitted as a part of this application. Demolition/Grading and Other Land Disturbance Permit Holder is Responsible to:
- Demolition: \$500 reimbursable bond per structure. Lots with multiple structures requiring Bonds exceeding \$500 shall be based upon a qualified professional's estimate of cleanup clean cost + 25%
 - Grading & Other Land Disturbance: \$500 reimbursable bond per lot up to one acre. Lots larger than one acre requiring Bonds exceeding \$500 shall be based upon a qualified professional's estimate of cleanup clean cost + 25%
 - Contact City Utility Department to insure water/sewer utility services have been disconnected from structure(s).
 - Contact ALL Utility Companies (electric, gas, telephone, cable, etc) to insure services are disconnected from structure.
 - Cleanup debris from demolition.
 - Sow grass seed on property following cleanup of all debris.

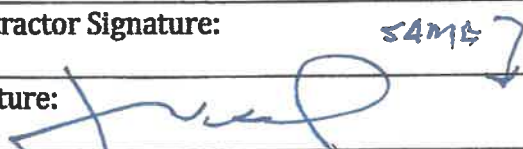

Demolition: Administrator may require a bond in excess of \$500 if such is deemed necessary in the interests of public health or safety. These bonds shall be prepared and administered in accordance with the improvement guarantee procedures set forth in the Procedure for the Installation & Dedication of Public Improvements. The Administrator

may require a demolition, in association with any development activity for which such bond is relevant.

Grading & Other Land Disturbance: Administrator may require a bond in excess of \$500 if such is deemed necessary in the interests of public health or safety. These bonds shall be prepared and administered in accordance with the improvement guarantee procedures set forth in the Procedure for the Installation & Dedication of Public Improvements. The Administrator may require a grading or land disturbance bond in association with any development activity for which such bond is relevant.

I affirm and certify that I understand and will comply with all regulations and requirements of the City of Brevard. I further certify that the above statements and the statements and showings made in any paper or plans submitted herewith are true to the best of my knowledge and belief. Further, I understand that the application, attachments and fees become a part of the Official Records of the City of Brevard Planning Department, are not returnable and are subject to NC Public Records Law. I also recognize that if one or more deficiencies exist in this application, I will be notified of the deficient items, and the department shall take no further action on the application until the required information is submitted. I understand that misrepresentation of information contained within this application may be cause to void any development approvals associated with this application. I grant permission to the Zoning Administrator, and designees thereof, to enter upon the property represented herein for the purposes of administering this application.

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

Applicant/Agent/Contractor Signature:		Date:	
Property Owner Signature:		Date:	8/1/25



186 PINNACLE RD

185 PINNACLE RD UNIT A

185 PINNACLE RD UNIT B

187 PINNACLE RD UNIT B

187 PINNACLE RD UNIT A

159 PINNACLE RD

PINNACLE RD

125 PINNACLE RD

063°30'00"E 48.0'
'RUNNING WITH SAID ROAD'

EXIST ROADBED N88°00'00"E 12

N83°30'47"W 1

MACKE

U 150.83'

N83°00'00"W 4.00'

L5 = 20

NO OTHER WORK

25.56'
315.00'

N83°30'47"E 203.88'

3" CRUSHED ROCK
- ACCESS DRIVE
GRADE as REQUIRED

S39°54'00"W 57.60'

PARCEL 2
LEGAL FROM 1947 DEED
DB 111 FG 61
8576-83-5643

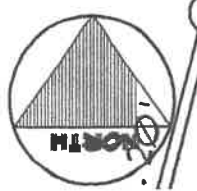
N32°30'00"E
S32°30'00"W

301.00'

S24°43'38"W

PARCEL 2 DRIVEWAY

1/32" = 1' - 0"



TRANSYLVANIA COUNTY
EMERGENCY SERVICES
155 PUBLIC SAFETY WAY
BREVARD, NC 28712
828-884-3108



TRANSYLVANIA
COUNTY
NORTH CAROLINA

May 2, 2024

Parcel 2

Dear Property Owner,

Transylvania County Emergency Services Addressing Division has assigned an address to property that you own. The address is listed below for your convenience. If it is a change of address, please follow through as soon as you can notifying others of the new address.

Each location is mapped using global positioning system (GPS) technology, eliminating confusion for emergency service providers and delivery services. Benefits of the addressing system include:

- *Reduced emergency response times for firemen, law enforcement, and ambulance services.*
- *Integration of cell phones into the 911 GPS system, enabling emergency care providers to locate callers even when they are not at an assigned address (e.g. in the forest).*
- *Improved package delivery services.*
- *Greater ease of compliance when applying for a home loan, building permit, or utilities connection.*

You should put your new address number on your house and on your mailbox at your earliest convenience. This will not only help your mail carrier but will also assist the emergency services in locating you if you need help.

Your Old Address:

PREVIOUSLY UNASSIGNED

PIN#8576-83-5643-000

(If your old address is listed incorrectly, please contact the Transylvania County Communications Office at the number below.)

Your New Address:

231 PINNACLE RD
BREVARD, NC 28712

ASSIGNED 05/02/.2024

Property owners should notify their renters of the new address change.

Thank you for your cooperation. If you have any questions or concerns, we are happy to help you in any way possible. For assistance contact the Transylvania County Emergency Services business office at (828) 884-3108.

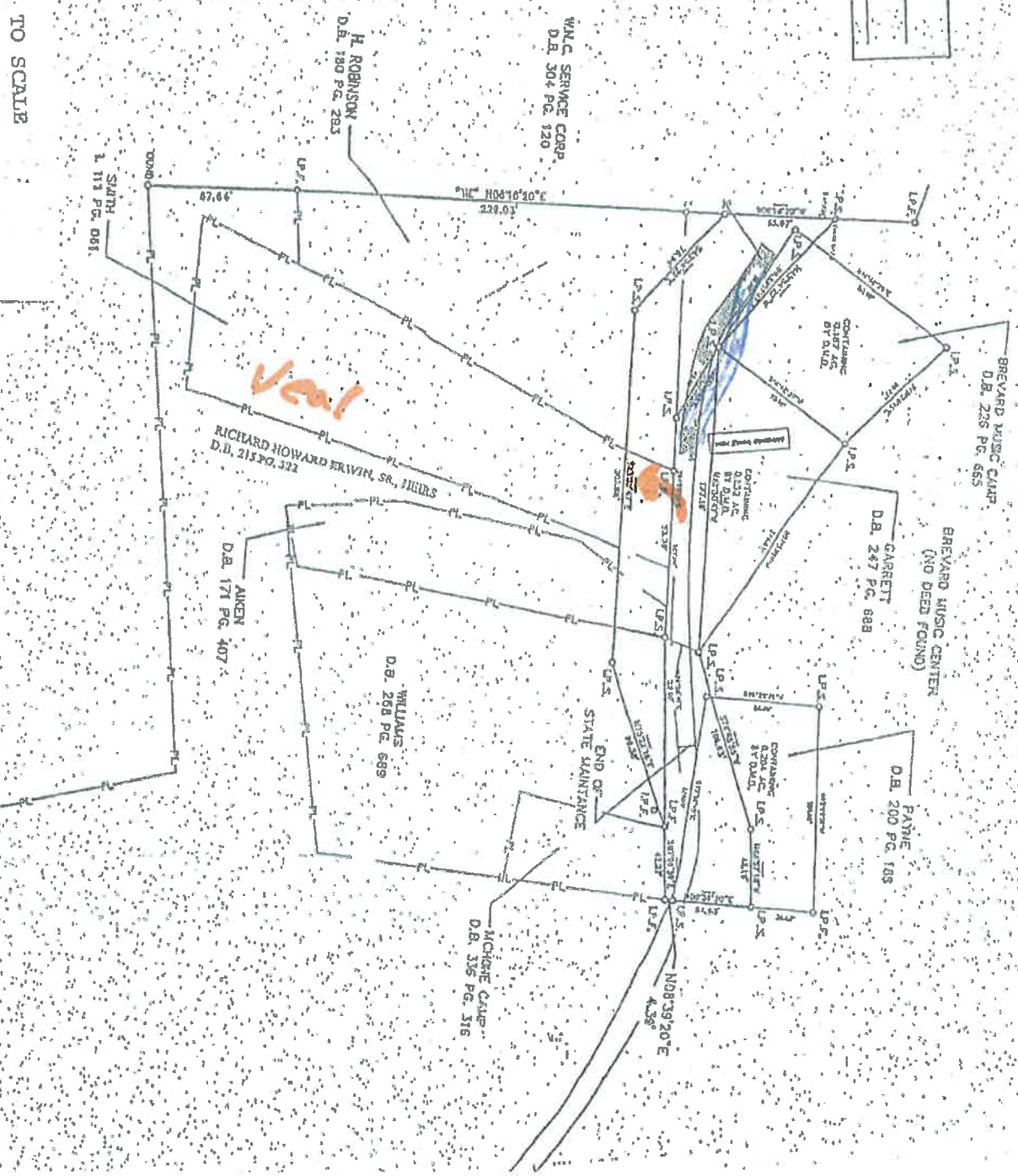
Assigned By: _____

KRS

jv@jvealarchitect.com

CITY OF BREVARD
RIGHT OF WAY ACQUISITION TO BRACKEN CREEK
From a plat recorded in File 11, Slide 922

Exhibit A
Page of



NOTE: THIS DRAWING IS NOT TO SCALE
THIS DRAWING IS NOT A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS. GS 847-30 (n)



APPLICATION FOR DEMOLITION, GRADING OR LAND DISTURBANCE

Contact Information (To be completed by Applicant)

Applicant/Agent/Contractor Name: <i>Roy Ray Robinson</i>	Property Owner: <i>Roy R Robinson</i>
Mailing Address: <i>8232 19th Ave. Vero Bch. FL 32960</i>	Mailing Address: <i>8232 19th Ave</i>
City: <i>Brevard</i> State: <i>NC.</i> Zip: <i>28712</i>	City: <i>vero Bch.</i> State: <i>FL.</i> Zip: <i>32960</i>
Phone: <i>229-264-3575</i>	Phone: <i>229-264-3575</i>
Email: <i>royrobinson0669@gmail.com</i>	Email: <i>royrobinson0669@gmail.com</i>

Property/Project Information

Contractor Hauling Debris: <i>To be determined</i>	Property PIN (Tax id #):
Mailing Address:	Property Location/Address <i>245 Pinnacle Rd.</i>
City/State	Date applicant desires to being project:
Phone:	Disposal location:
Email:	Note: As a part of the final inspection you may be required to produce evidence of location of disposal of demolition waste.

Project Type/Description:

Note: Site/Project plans are required to be submitted as a part of this application. Demolition/Grading and Other Land Disturbance Permit Holder is Responsible to:

- Demolition: \$500 reimbursable bond per structure. Lots with multiple structures requiring Bonds exceeding \$500 shall be based upon a qualified professional's estimate of cleanup clean cost + 25%
- Grading & Other Land Disturbance: \$500 reimbursable bond per lot up to one acre. Lots larger than one acre requiring Bonds exceeding \$500 shall be based upon a qualified professional's estimate of cleanup clean cost + 25%
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- Contact ALL Utility Companies (electric, gas, telephone, cable, etc) to insure services are disconnected from structure.
- Cleanup debris from demolition.
- Sow grass seed on property following cleanup of all debris.

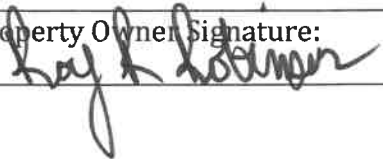
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Applicant/Agent/Contractor Signature:	Date:
Property Owner Signature: 	Date: 10/31/2005



185 PINNACLE RD UNIT A
187 PINNACLE RD UNIT B
187 PINNACLE RD UNIT A

186 PINNACLE RD

159 PINNACLE RD

PINNACLE RD

125 PIN

ROW

EXIST
ROADBED

S63°30'00"E 48.0'
"RUNNING WITH SAID ROAD"

3" CRUSHED ROCK
ACCESS DRIVE
GRADE as REQUIRED

Mackey Ridge Rd

S43°54'22"E
75.94'

N83°21'28"W

150.83'

23' 10"

NO OTHER
WORK

(R.O.W)

PARCEL 1

LEGAL FROM 2003 DEED
DB 140 PG 378
8576-83-4791

S83°

251.56'
315.00'

N32°30'00"E
S32°30'00"W

PARCEL 1 aka TRACT 1

LEGAL FROM 2003 DEED
DB 140 PG 378
8576-83-4791

PARCEL 1 - DRIVEWAY

1/16" = 1' 0"



TRANSYLVANIA COUNTY
EMERGENCY SERVICES
155 PUBLIC SAFETY WAY
BREVARD, NC 28712
828-884-3108



May 2, 2024

Parcel 1 (one)

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You should put your new address number on your house and on your mailbox at your earliest convenience. This will not only help your mail carrier but will also assist the emergency services in locating you if you need help.

Your Old Address:

PREVIOUSLY UNASSIGNED	PIN#8576-83-4791-000
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(If your old address is listed incorrectly, please contact the Transylvania County Communications Office at the number below.)

Your New Address:

245 PINNACLE RD BREVARD, NC 28712	ASSIGNED 05/02/.2024
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Thank you for your cooperation. If you have any questions or concerns, we are happy to help you in any way possible. For assistance contact the Transylvania County Emergency Services business office at (828) 884-3108.

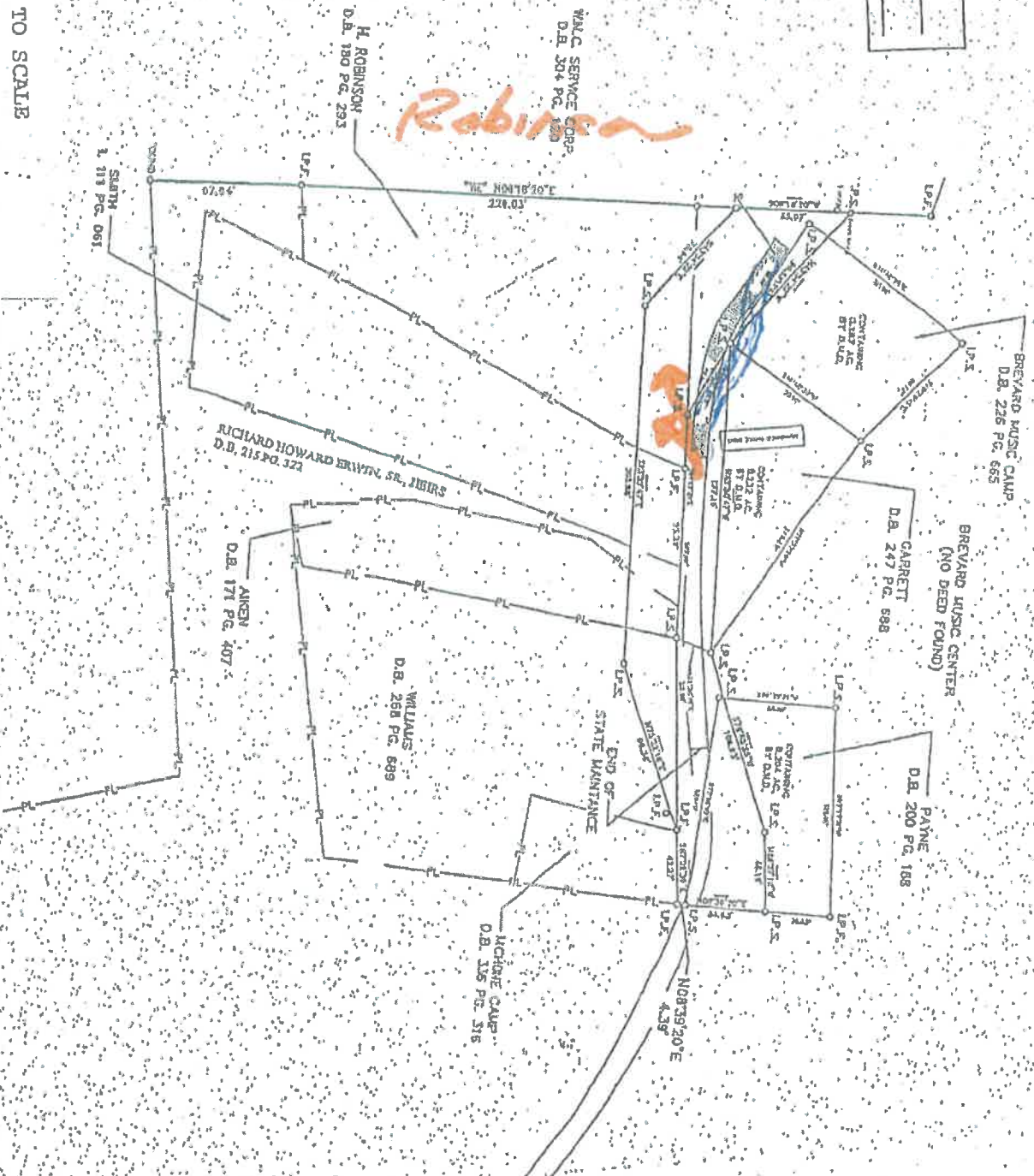
Assigned By: KRS

Exhibit A
 Page 1 of 1

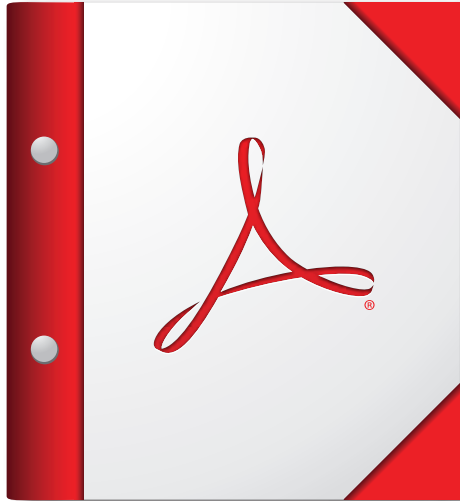
CITY OF BREVARD
 RIGHT OF WAY ACQUISITION TO BRACKEN CREEK
 From a plat recorded in File 11, Slide 922



Robinson



NOTE: THIS DRAWING IS NOT TO SCALE
 THIS DRAWING IS NOT A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS. GS 547-30 (1)



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063°30'00"E
48.0'
"RUNNING WITH SAID ROAD"

EXIST
ROADBED N88°00'00"E 12

N83°30'47"W 1

MACK

150.83'

N83°00'00"W
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L5 = 20

NO OTHER
WORK

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ACCESS DRIVE
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PARCEL 2
LEGAL FROM 1947 DEED
DB 111 PG 61
8576-83-5643

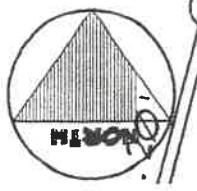
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1/32" = 1' - 0"



ROW

EXIST
ROADBED

S63°30'00"E 48.0'
"RUNNING WITH SAID ROAD"

3" CRUSHED ROCK
ACCESS DRIVE
GRADE as REQUIRED

Mackey Ridge Rd

S43°54' 70.94'

N83°21'28"W

(R.O.W)

NO OTHER
WORK

PARCEL 1
LEGAL FROM 2003 DEED
DB 140 PG 378
8576-83-4791

251.56'
315.00'

383

PARCEL 1 aka TRACT 1

LEGAL FROM 2003 DEED
DB 140 PG 378
8576-83-4791

N32°30'00"E
S32°30'00"W

PARCEL 1 - DRIVEWAY

1/16" = 1' 0"



File 11 Side 922

File 11 Side 922



VICINITY MAP

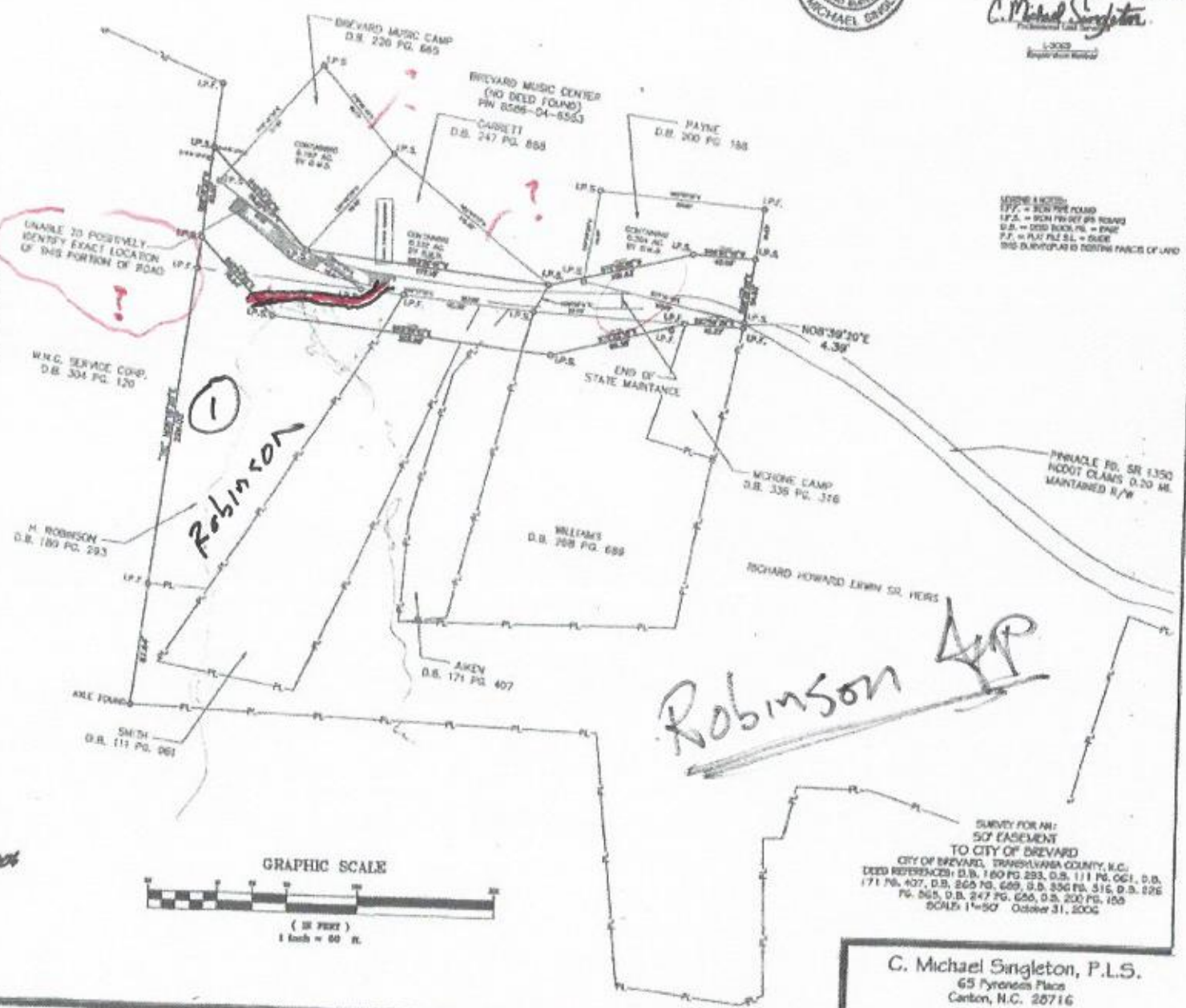


State of North Carolina Transylvania County

I, C. Michael Singleton, certify that the plat was drawn under my supervision and as such survey made under my direction and supervision please acceptances recorded in D.B. 454 PG. 2015; that the presence of the survey, before adjustment, show not exceed one (1) part in 5,000 as indicated by suitable and appropriate that the foundation not surveyed are shown as location lines, and the one plat was prepared in accordance with G.S. 47-20 as amended. Witness my original signature, registration number, and seal on the 31st day of October A.D. 2006.

C. Michael Singleton
Professional Land Surveyor

L-3008
Expiration Month



UNABLE TO POSITIVELY IDENTIFY EXACT LOCATION OF THIS PORTION OF ROAD

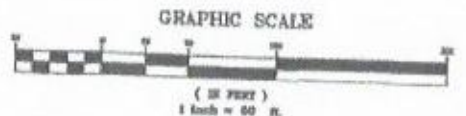
LEGEND & NOTES:
 L.P.S. = 3/4\"/>

2006009060
 TRANSLYVANIA CO., N.C. P.L.S. 01-28
 10-21-2006 10:52:14 AM
 CITY OF BREVARD
 507 EASEMENT
 PF 11
 PG:922-922

REFERENCE MAP:
 1.) PLAT ENTITLED MAP OF BOUNDARY OF PROPERTY OF CITY OF BREVARD, LOCATED ON BRANCHING CREEK AND BRANCHY CREEK, BY MERRILL LUMPAWA, P.L.S., DATED SEPTEMBER 14, 1964. DRAWING NUMBER: 10-21-21-000.

John Freeman, REVIEW CERTIFICATION THE CITY OF BREVARD, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL REQUIREMENTS AND IS ACCURATE FOR RECORDING. PLAT PROVIDED NO SUBSTANCE OR OBSTRUCTION OF LAND.

REVIEW CERTIFICATE *John Freeman* DATE *October 31, 2006*



STATE OF NORTH CAROLINA, COUNTY OF TRANSLYVANIA FILED FOR REGISTRATION ON THE 30th DAY OF OCTOBER 2006 AND RECORDED IN BOOK NUMBER OF DEEDS TRANSLYVANIA COUNTY BY _____

SURVEY FOR AN: 507 EASEMENT TO CITY OF BREVARD CITY OF BREVARD, TRANSLYVANIA COUNTY, N.C. DEED REFERENCES: D.B. 180 PG. 293, D.B. 111 PG. 061, D.B. 171 PG. 407, D.B. 265 PG. 688, D.B. 336 PG. 376, D.B. 326 PG. 065, D.B. 247 PG. 656, D.B. 200 PG. 100 SCALE: 1"=50' October 31, 2006

C. Michael Singleton, P.L.S.
 65 Pylonon Place
 Canton, N.C. 28716

(228) 646-1180
 C. SINGLETON - R.O.W.

File 11 Side 922

File 11 Side 922



VICINITY MAP

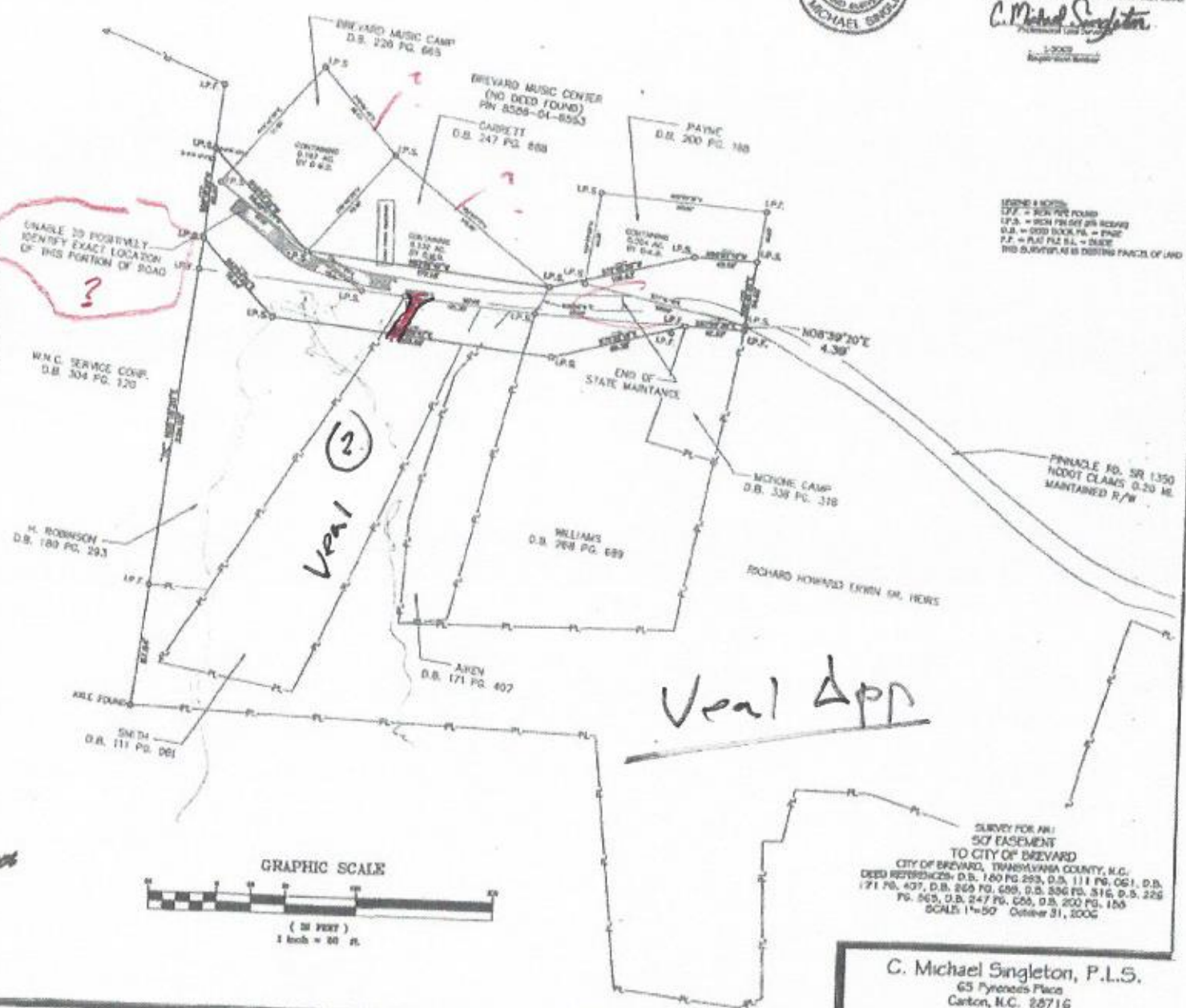


State of North Carolina, Transylvania County

I, C. Michael Singleton, certify that this plat was drawn under my supervision from an actual survey made under my direction and appropriate labels described recorded in (1) N.C. 450 P.C. 2005; that the purpose of the survey, before adjustment, shall not exceed one (1) acre & 0.0001 as calculated by latitude and departures; that the boundaries not surveyed are shown as broken lines and that this plat was prepared in accordance with G.S. 47-50 as amended, passed by original signature, registration or acknowledgment on or before October 31, 2006.

C. Michael Singleton
Professional Land Surveyor

1-2005
Registration Number



LEGEND & NOTES:
 D.F. = DEED FILE FOUND
 L.P.S. = LOCAL PROPERTY SURVEY
 D.B. = DEED BOOK NO. = PAGE
 P.F. = PLAT FILE NO. = DATE
 THIS SURVEY IS IN PARTIAL FULFILLMENT OF A

2006009060

TRANSMITTED TO THE REG. OF LAND SURVEYING
 10-21-2006 10:58:11 AM

CLASS. BY OFFICE

ALL RIGHTS & INTERESTS RESERVED TO SURVEYOR

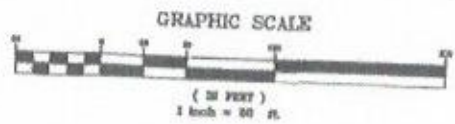
PF 11

PG:1922-922

REFERENCE HERE:
 1.) PLAT ENTITLED "MAP OF SURVEY OF PROPERTY OF CITY OF BREVARD LOCATED ON BRANCHES CREEK AND BRANCH CREEK" BY WILLIAM LEONARD, NO. 1655 DATED DECEMBER 14, 1961 DRAWING NUMBER: 10-21-01-200.

JOHN FREEMAN, REVIEW OFFICER FOR THE CITY OF BREVARD, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS APPLIED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING. PLAT PROVIDES NO SUBDIVISION OR DISSECTION OF LAND.

REVIEW OFFICER: *John Freeman* DATE: *October 31, 2006*



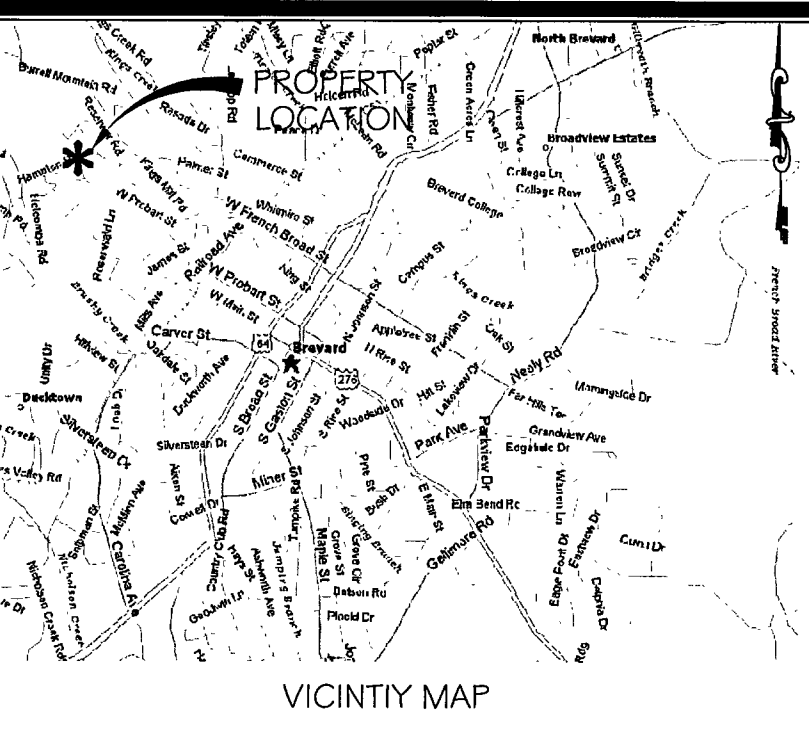
STATE OF NORTH CAROLINA, COUNTY OF TRANSYLVANIA
 FILED FOR REGISTRATION ON THE DAY OF _____ 2006
 AT _____ AND RECORDS TO BE FILED
 IN THE OFFICE OF THE REGISTER OF DEEDS, TRANSYLVANIA COUNTY BY _____

SURVEY FOR AN
 EASEMENT
 TO CITY OF BREVARD
 CITY OF BREVARD, TRANSYLVANIA COUNTY, N.C.
 DEED REFERENCES: D.B. 160 PG. 253, D.B. 111 PG. 061, D.B. 171 PG. 407, D.B. 269 PG. 688, D.B. 336 PG. 516, D.B. 226 PG. 565, D.B. 247 PG. 888, D.B. 200 PG. 188
 SCALE 1"=50' October 31, 2006

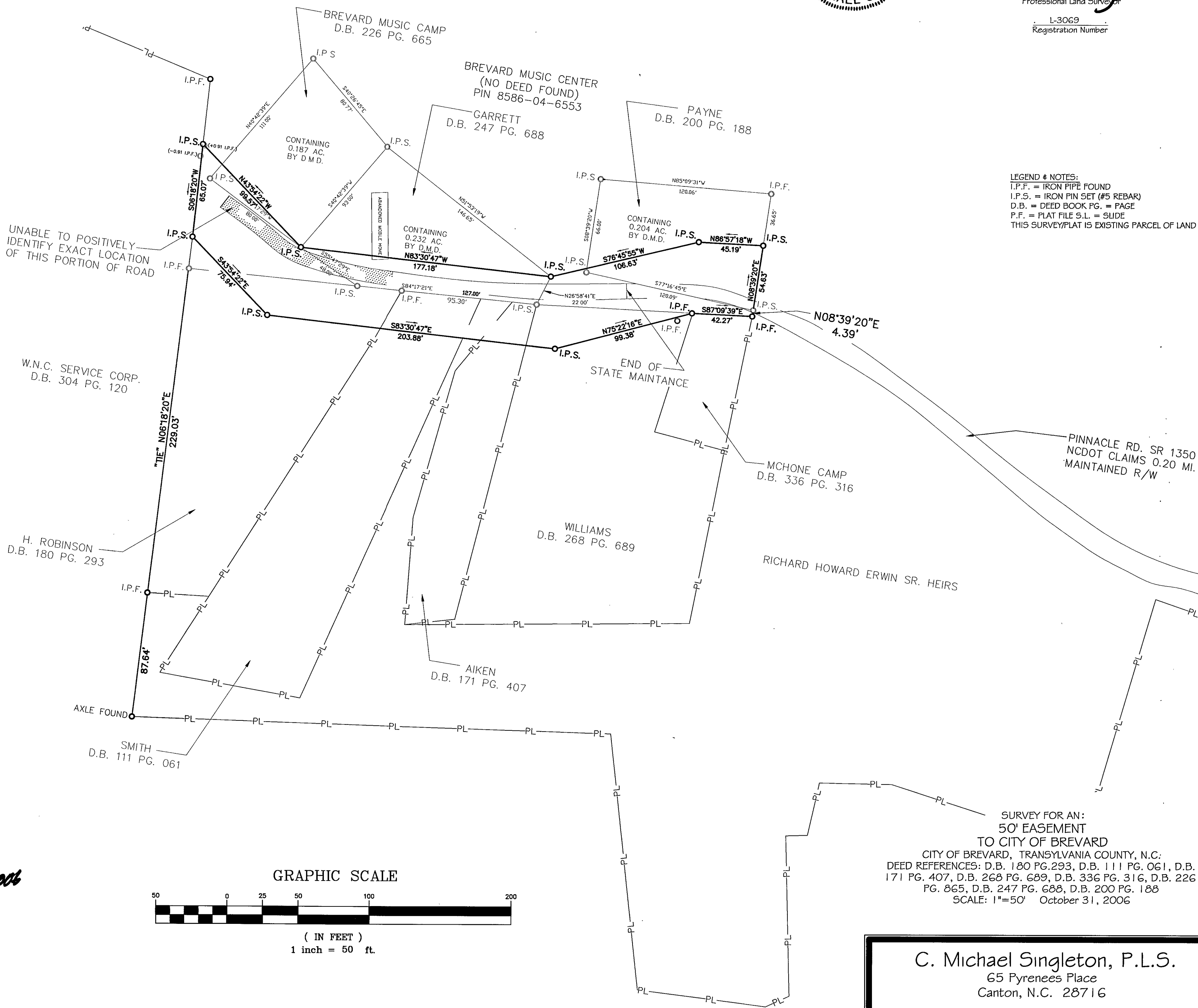
C. Michael Singleton, P.L.S.
 65 Pynodes Place
 Canton, N.C. 28716

(828) 646-1180
 SINGLETON - R.O.N.

File 11 Slide 922



REFERENCE WILLIAM LEONARD SURVEY DRAWING NUMBER RO-G1-81-200 REFERENCED HEREIN



UNABLE TO POSITIVELY IDENTIFY EXACT LOCATION OF THIS PORTION OF ROAD

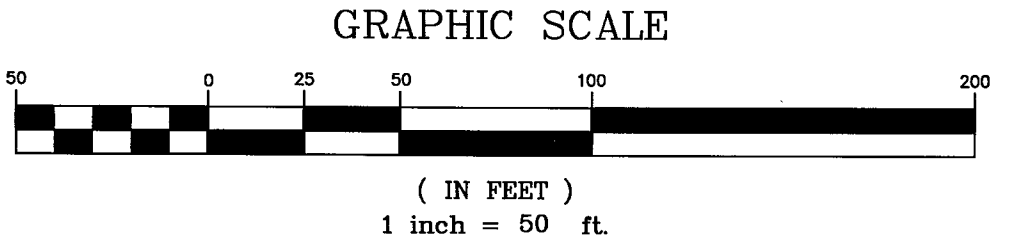
END OF STATE MAINTANCE

2006009060
 TRANSLYVANIA CO, NC FEE \$21.00
 PREPARED & RECORDED
 10-31-2006 03:53:34 PM
 BY: TERESA D MORTON
 DEPUTY REGISTER OF DEEDS
 PF 11
 PG:922-922

REFERENCE NOTE:
 1.) PLAT ENTITLED "MAP OF SURVEY OF PROPERTY OF CITY OF BREVARD LOCATED ON BRACKENS CREEK AND BRUSHY CREEK", BY WILLIAM LEONARD, RLS L693, DATED SEPTEMBER 14, 1981, DRAWING NUMBER RO-G1-81-200.

Joshua Freeman, REVIEW OFFICER FOR THE CITY OF BREVARD, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING. PLAT PROVIDES NO SUBDIVISION OR DEDICATION OF LAND.

REVIEW OFFICER: *Joshua Freeman* DATE: *October 31, 2006*



STATE OF NORTH CAROLINA, COUNTY OF TRANSLYVANIA
 FILED FOR REGISTRATION ON THE _____ DAY OF _____, 2006
 AT _____ AND RECORDED IN SLIDE
 REGISTER OF DEEDS TRANSLYVANIA COUNTY BY
 _____, DEPUTY

SURVEY FOR AN:
 50' EASEMENT
 TO CITY OF BREVARD
 CITY OF BREVARD, TRANSLYVANIA COUNTY, N.C.
 DEED REFERENCES: D.B. 180 PG.293, D.B. 111 PG. 061, D.B. 171 PG. 407, D.B. 268 PG. 689, D.B. 336 PG. 316, D.B. 226 PG. 665, D.B. 247 PG. 688, D.B. 200 PG. 188
 SCALE: 1"=50' October 31, 2006

C. Michael Singleton, P.L.S.
 65 Pyrenees Place
 Canton, N.C. 28716
 (828) 648-1198



I, C. Michael Singleton, certify that this plat was drawn under my supervision from an actual survey made under my direction and supervision (deed description recorded in D.B. 438 PG. 598); that the precision of the survey, before adjustment, does not exceed one (1) part in 8,000 as calculated by latitudes and departures; that the boundaries not surveyed are shown as broken lines; and that this plat was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, registration number, and seal this 31st day of October A.D. 2006.

C. Michael Singleton
 Professional Land Surveyor
 L-3069
 Registration Number

LEGEND & NOTES:
 I.P.F. = IRON PIPE FOUND
 I.P.S. = IRON PIN SET (#5 REBAR)
 D.B. = DEED BOOK PG. = PAGE
 P.F. = PLAT FILE S.L. = SLIDE
 THIS SURVEY/PLAT IS EXISTING PARCEL OF LAND

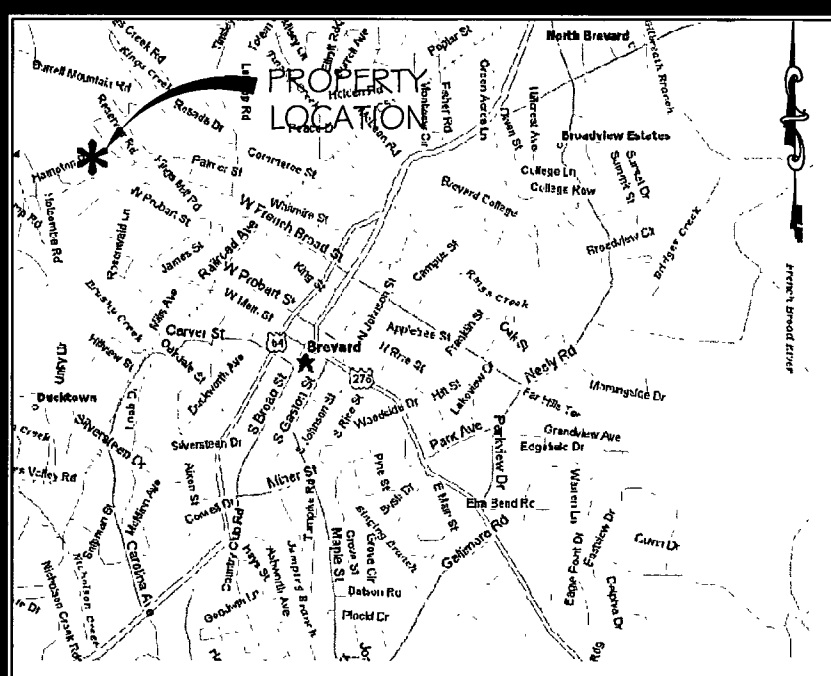
I. C. Michael Singleton, certify that this plat was drawn under my supervision from an actual survey made under my direction and supervision (deed description recorded in D.B. 438 PG. 598); that the precision of the survey, before adjustment, does not exceed one (1) part in 8,000 as calculated by latitudes and departures; that the boundaries not surveyed are shown as broken lines; and that this plat was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, registration number, and seal this 31st day of October A.D. 2006.



C. Michael Singleton
Professional Land Surveyor
L-3069
Registration Number

LEGEND & NOTES:
I.P.F. = IRON PIPE FOUND
I.P.S. = IRON PIN SET (#5 REBAR)
D.B. = DEED BOOK PG. = PAGE
P.F. = PLAT FILE S.L. = SLIDE

File 11 Slide 923



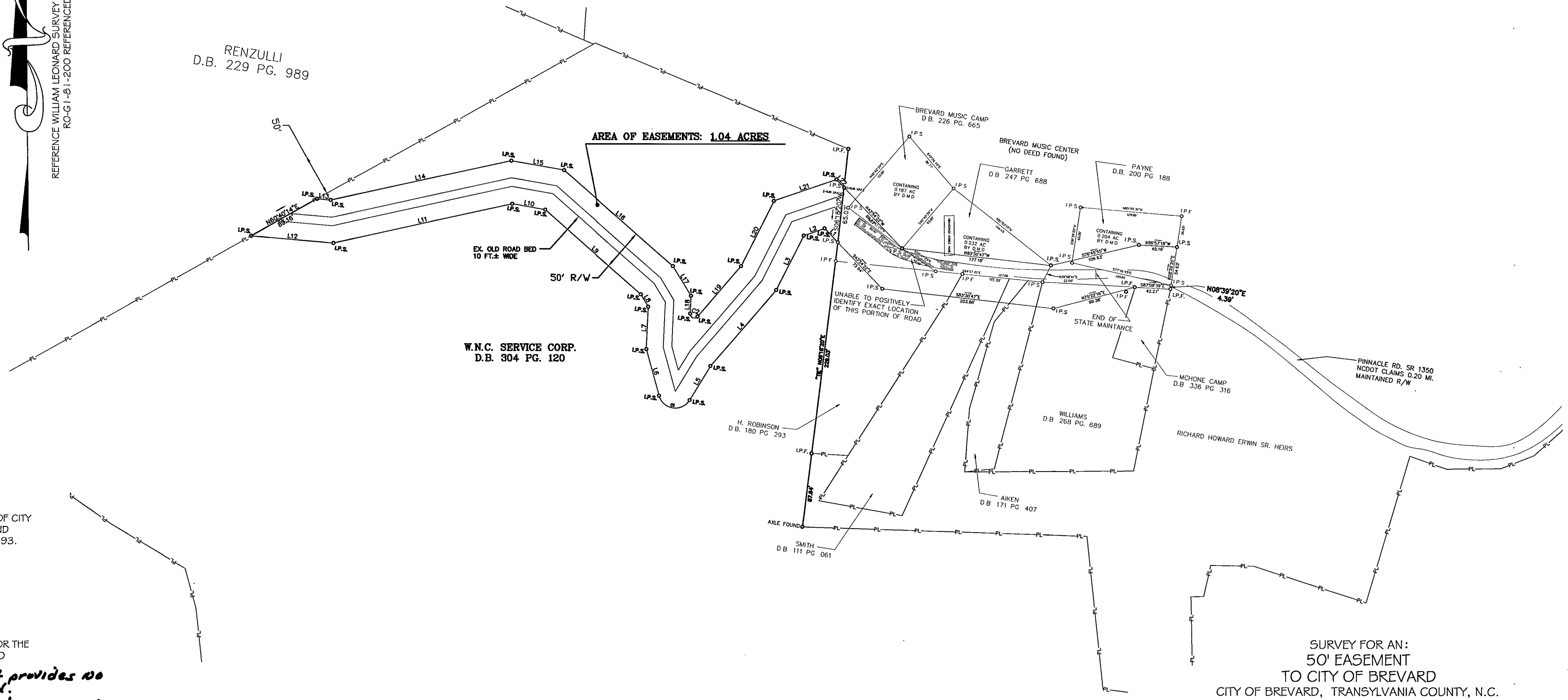
VICINITY MAP

LINE TABLE		
LINE	LENGTH	BEARING
L1	22.61	N43°54'22"W
L2	26.10	S71°07'34"W
L3	71.98	S26°55'13"W
L4	118.84	S40°51'09"W
L5	47.16	S31°24'11"W
L6	57.12	N15°23'23"E
L7	50.18	N02°23'30"E
L8	16.94	N31°02'58"W
L9	151.48	N48°57'08"W
L10	39.73	N80°03'36"W
L11	217.04	S77°32'05"W
L12	97.91	N85°13'07"W
L13	16.51	S85°13'07"E
L14	219.36	N77°32'05"E
L15	63.55	S80°03'36"E
L16	172.08	S48°57'08"E
L17	40.97	S31°33'38"E
L18	21.02	S02°23'30"W
L19	78.62	N40°51'09"E
L20	86.17	N26°55'13"E
L21	78.24	N71°07'34"E
L22	12.81	S43°54'22"E

CURVE TABLE				
CURVE	LENGTH	RADIUS	CHORD DIRECTON	CHORD LENGTH
C1	46.50	20.00	N81°59'36"W	36.71
C2	12.35	5.00	S68°22'40"E	9.44

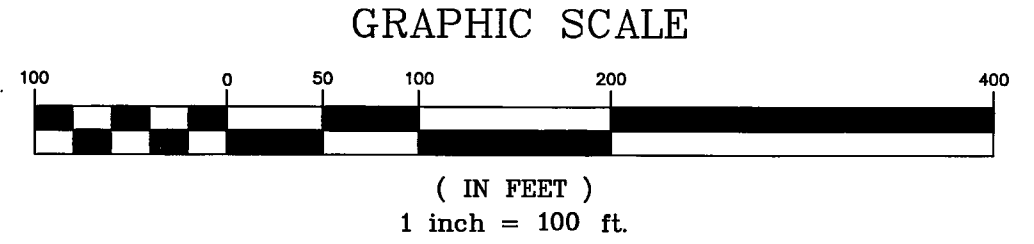
REFERENCE WILLIAM LEONARD SURVEY DRAWING NUMBER RO-G1-81-200 REFERENCED HEREIN

2006009061
 TRANSLYVANIA CO, NC FEE \$21.00
 PRESENTED & RECORDED:
 10-31-2006 03:53:35 PM
 CINDY M OWNBREY
 REGISTER OF DEEDS
 BY: TERESA D MORTON
 DEPUTY REGISTER OF DEEDS
 PF 11
 PG:923-923



REFERENCE NOTE:
 1.) PLAT ENTITLED "MAP OF SURVEY OF PROPERTY OF CITY OF BREVARD LOCATED ON BRACKENS CREEK AND BRUSHY CREEK", BY WILLIAM LEONARD, RLS L693, DATED SEPTEMBER 14, 1981.
 DRAWING NUMBER RO-G1-81-200.

Joshua Freeman, REVIEW OFFICER FOR THE CITY OF BREVARD, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING. *Plat provides no subdivision or dedication of land.*
 REVIEW OFFICER: *Joshua Freeman* DATE: *October 31, 2006*



SURVEY FOR AN:
 50' EASEMENT
 TO CITY OF BREVARD
 CITY OF BREVARD, TRANSLYVANIA COUNTY, N.C.
 DEED REFERENCES: D.B. 180 PG. 293, D.B. 111 PG. 061, D.B. 171 PG. 407, D.B. 268 PG. 689, D.B. 336 PG. 316, D.B. 226 PG. 865, D.B. 247 PG. 688, D.B. 200 PG. 188
 SCALE: 1"=100' October 31, 2006

STATE OF NORTH CAROLINA, COUNTY OF TRANSLYVANIA
 FILED FOR REGISTRATION ON THE _____ DAY OF _____, 2006
 AT _____ AND RECORDED IN SLIDE _____
 REGISTER OF DEEDS TRANSLYVANIA COUNTY BY _____, DEPUTY

C. Michael Singleton, P.L.S.
 65 Pyrenees Place
 Canton, N.C. 28716
 (828) 648-1198

10-06-25

Denise Hodsdon, City Clerk
City of Brevard, NC

RE: Appeal to Denial of Driveway Permit Application (231 Pinnacle Road)

Denise

I submitted for a driveway located @ 231 Pinnacle Road on August 8th, 2025

After responding to request for additional information, etc. I received an email from Aaron Bland, Assistant Planning Director on September 19, 2025... stating "I must deny them (the application) so they do not sit open in our permitting system". I have attached the email.

I am submitting this letter to begin the process of appealing that decision

Respectfully,

James Veal



95 West Main Street
Brevard, NC 28712
Phone: 828-885-5630
aaron.bland@cityofbrevard.com

E-mail correspondence to and from this address may be subject to North Carolina Public Records Law and may be disclosed to third parties by an authorized City or Law Enforcement official.

From: James Veal <jv@jvealarchitect.com>
Sent: Monday, September 29, 2025 10:49 AM
To: Aaron Bland <Aaron.Bland@cityofbrevard.com>
Subject: RE: Driveway Permits

9/30/25

Denise
I would like to
appeal

Aaron
Thanks

I would like to preserve the option of appealing your decision
Could you please forward to me, what are the step-by-step procedure required to pursue an appeal.
Thanks

Thank you

J. Veal, Architect
627 Bayshore Drive
Pensacola, FL 32507
850.450.3295 jvealarchitect.com

From: Aaron Bland <Aaron.Bland@cityofbrevard.com>
Sent: Friday, September 19, 2025 3:55 PM
To: James Veal <jv@jvealarchitect.com>; Roy Robinson <royrobinson0669@gmail.com>
Cc: Paul Ray <paul.ray@cityofbrevard.com>; Wilson Hooper <Wilson.Hooper@cityofbrevard.com>; Mack McKeller <mack.mckeller@cityofbrevard.com>
Subject: RE: Driveway Permits

Mr. Veal and Mr. Robinson,

Given the materials you have provided I am unable to fully review these applications. Without site plans that show not only the easement but the location of the trail within it, how the proposed driveways will interact with and possibly impact the City's Bracken Mountain Trail cannot be determined. The site plans also do not show where or how vehicles would get to the proposed driveways from where Pinnacle Road ends at the Bracken parking lot. You are correct about driveways typically extending into ROWs to connect to a road, however in this case there is no road to connect to.

Since I cannot approve the permits, I must deny them so they do not sit open in our permitting system.

Best,

Aaron N. Bland, AICP, CZO
Assistant Planning Director
City of Brevard
95 West Main Street
Brevard, NC 28712
Phone: 828-885-5630
aaron.bland@cityofbrevard.com

② ↑ 5

CITY OF BREVARD
CASH RECEIPT
DUPLICATE

Receipt No: 724927
Date: 10/6/2025
Time: 1:31:06PM

Received From:
JAMES VEAL

Received: 100.00

For
ZONING ADMIN 100.00
ZONING APPEAL

Credit 100.00

AMEX 1005
RECEIVED BY WINDOW

10-06-25

Denise Hodsdon, City Clerk
City of Brevard, NC

RE: Appeal to Denial of Driveway Permit Application (245 Pinnacle Road)

Denise

I am Roy Robinson; I have owned & paid taxes on Parcel 1 since 2003. This land has been in my family since 1892 and passed down. Jake & Sarah Mackey were my great great grandparents.

I submitted for a driveway located @ 245 Pinnacle Road on August 8th, 2025

After responding to request for additional information, etc. I received an email from Aaron Bland, Assistant Planning Director on September 19, 2025... stating "I must deny them (the application) so they do not sit open in our permitting system". I have attached the email.

I am submitting this letter to begin the process of appealing that decision'

Sincerely, 

95 West Main Street
Brevard, NC 28712
Phone: 828-885-5630
aaron.bland@cityofbrevard.com

E-mail correspondence to and from this address may be subject to North Carolina Public Records Law and may be disclosed to third parties by an authorized City or Law Enforcement official.

From: James Veal <jv@jvealarchitect.com>
Sent: Monday, September 29, 2025 10:49 AM
To: Aaron Bland <Aaron.Bland@cityofbrevard.com>
Subject: RE: Driveway Permits

9/30/25

Denise
I would like to
appeal

Thank you

Aaron
Thanks

I would like to preserve the option of appealing your decision
Could you please forward to me, what are the step-by-step procedure required to pursue an appeal.
Thanks

J.Veal, Architect
627 Bayshore Drive
Pensacola, FL 32507
850.450.3295 jvealarchitect.com

From: Aaron Bland <Aaron.Bland@cityofbrevard.com>
Sent: Friday, September 19, 2025 3:55 PM
To: James Veal <jv@jvealarchitect.com>; Roy Robinson <royrobinson0669@gmail.com>
Cc: Paul Ray <paul.ray@cityofbrevard.com>; Wilson Hooper <Wilson.Hooper@cityofbrevard.com>; Mack McKeller <mack.mckeller@cityofbrevard.com>
Subject: RE: Driveway Permits

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Since I cannot approve the permits, I must deny them so they do not sit open in our permitting system.

Best,

Aaron N. Bland, AICP, CZO
Assistant Planning Director
City of Brevard
95 West Main Street
Brevard, NC 28712
Phone: 828-885-5630
aaron.bland@cityofbrevard.com

② ↑ 5

CITY OF BREVARD
CASH RECEIPT
DUPLICATE

Receipt No: 724928
Date: 10/6/2025
Time: 1:34:07PM

Received From:
JAMES VEAL

Received: 100.00

For
ZONING ADMIN 100.00
ZONING APPEAL

Credit 100.00
AMEX 1005
RECEIVED BY WINDOW

APP-25-0001 Vicinity Map



Map prepared by the City of Brevard Planning Department 11/25/2025

STAFF REPORT
Board of Adjustment, Friday, April 17, 2026

Title: APP-26-0001 - 221 Pinnacle Rd. Other Veal Appeal

Speaker: Mack McKeller, City Attorney
Paul Ray, Planning Director
Aaron Bland, Asst Planning Director

Prepared by: Paul Ray, Planning Director, Aaron Bland, Asst Planning Director

Approved by: Paul Ray, Planning Director

Background
This is a continuation of appeal #APP-26-0001 which first appeared on the agenda for the February 3, 2026 meeting but was tabled until the April meeting. The staff report from the February 3rd meeting packet is attached.

- Attachments:**
1. Staff Report from Feb 3 2026 Agenda Packet

STAFF REPORT
Board of Adjustment, Tuesday, February 3, 2026

Title: Consideration of APP-26-0001 - 221 Pinnacle Rd.

Speaker: Paul Ray, Planning Director
Aaron Bland, Assistant Planning Director

Prepared by: Paul Ray, Planning Director, Aaron Bland, Asst Planning Director

Approved by: Paul Ray, Planning Director

Background

A driveway application for a parcel located in the vicinity of the end of Pinnacle Road, near but beyond the parking lot and trailhead for the City-owned Bracken Preserve trails, for 221 Pinnacle Road (PIN 8576-83-6675-000) was submitted on October 22, 2025 by owner James Veal. This application was assigned to Assistant Planning Director Aaron Bland for review.

Note that this is a separate parcel, application, and appeal than the previously discussed APP-25-0001 for 231 and 245 Pinnacle Road, though it shares the same site constraints and characteristics.

The subject parcel is "landlocked" in that it does not have any frontage on a public street right-of-way. The Transylvania County tax map shows that the Pinnacle Drive ROW continues beyond the Bracken parking lot to the front of the parcel, however this is a mapping error. The exact extent of NCDOT maintenance and ownership of Pinnacle Drive is unclear. Different surveys show state maintenance ending in different places, but none show it extending as far as the tax map indicates, and it is not improved in any way beyond the parking lot. The official NCDOT State Maintained Network Map does not include Pinnacle Road at all, meaning that it is not claimed or maintained by NCDOT; the entire unpaved Pinnacle Road is listed as "non-system" on official NCDOT maps.

The City's Bracken Mountain Trail leaves the parking lot and ascends to Bracken Preserve through a 50-foot wide right-of-way that crosses several private properties between the parking lot and the City-owned Bracken Preserve parcel. This ROW was obtained by the City in 2008 and the public hiking/biking trail was opened to the public in July 2012. Properties in the area were once served by a small private access drive called Mackey Ridge Road, which was located in the vicinity of the current trail, but it is no longer in existence and never had a public right-of-way. The former roadbed has not been used in decades and has become overgrown with natural vegetation and is criss-crossed by the Bracken Mountain Trail and related incidental improvements such as fencing, rock armoring, picnic tables, and signage.

The parcel is located outside the City's corporate limits in the extraterritorial jurisdiction and is zoned General Residential - 4 (GR4).

Administrative Decision

This application, ENC-25-0001, was submitted on October 22, 2025. On October 30, 2025, Mr. Bland emailed a denial to Mr. Veal citing the same lack of information that had caused the previous denials at 231 and 245 Pinnacle Road (dated September 19, 2025, prior to this application). Mr. Bland responded that given the materials provided, he was unable to fully review the applications and had no option but to deny them. He cited a lack of information about how the proposed driveway would interact with and possibly impact the Bracken Mountain Trail and the safety of users on it, as well as a lack of information about how vehicles would get to the driveway from the end of Pinnacle Road given the physical characteristics of the land including obstacles such as signs, fences, and boulders.

Mr. Veal notified the City Clerk of his intention to appeal the decision of Mr. Bland on November 28, 2025, and paid the fee to complete his appeal application on December 18, 2025.

Discussion

The Unified Development Ordinance has some standards for driveways, however these are predicated on the notion that the driveway is connecting to a public street within a public right-of-way, which is not the case with the subject parcel. Many provisions of the UDO assume frontage on a public street, which the subject parcel does not have, a condition known as a "landlocked parcel." Section 14.6 of the UDO discusses nonconforming lots such as the subject parcel. Subsection D states that "the administrator may permit the establishment of a private right-of-way or access easement in order to facilitate access to pre-existing land-locked parcels." The applicant has not provided any evidence of such an access easement, existing or proposed, to the subject parcel.

In meetings preceding the driveway applications, the applicant has suggested that the City's trail ROW should suffice in the same manner as a public street right-of-way. This belief is based on the legal documents establishing the City's trail ROW, which are written to allow for "all vehicular and pedestrian travel across the property" in order to "serve [Bracken Preserve], providing ingress, egress and regress thereto." However, the trail right-of-way does not convey use for access to private parcels, but rather public use to access the city-owned Bracken Preserve parcel from the city-owned parking lot parcel. The inclusion of vehicular travel in these documents gives the City the *right and ability* to allow such use of the ROW, but not the *obligation* to install a road capable of providing such use. In fact, the City cannot establish a City street outside the corporate limits. Thus, to date, the City has chosen to only allow travel through the ROW to Bracken Preserve by foot and bike. Further, the decision to exercise the right to allow vehicles is a policy decision that cannot be made by Planning Staff.

Again, no evidence of any formal or recorded access agreement or easement which provides private access to the subject parcel was provided by the applicant, calling into question how a vehicle would legally access the proposed driveway.

The overarching goal and purpose of the City's UDO and regulations in general, as well as the enabling state legislation that allows for zoning authority, is to promote public health, safety, and general welfare (UDO Section 1.2). Therefore, ensuring the safety of Bracken Preserve trail users, as well as any potential users of the driveways, was a primary concern when reviewing this application. Mr. Bland's request for the location of the existing trail within the ROW was in order to ascertain if the vehicular traffic using the driveway would cross over or otherwise conflict with trail users. Without the location of the trails shown on the site plan, this was not able to be evaluated. Section 17.2.C of the UDO states that "The administrator shall have the authority to deny and return any submitted land development permit application and associated development plans upon a determination that such submitted items are insufficient..." Mr. Bland determined that the submitted plans were insufficient because they did not show 1) the location of the trail to determine potential user conflicts, 2) how cars could legally access the driveways from Pinnacle Road where it ends at the Bracken parking lot, and 3) how cars could physically traverse the terrain from the parking lot to the subject parcels.

Further, UDO Section 16.5.C.1 states that applications must contain "all information and materials required by this ordinance for submittal of the applicable type of application, and in sufficient detail, format, and readability for city staff to evaluate the application for compliance with applicable review standards." It is the Planning Department's position that the application did not contain such "sufficient detail" for review of both potential safety conflicts with trail users and legal/physical access.

Board Decision

North Carolina General Statutes 160D-406(j) states "When hearing an appeal, the board may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The board shall have all the powers of the official who made the decision." The decision must be based on competent, material, and substantial evidence in the record.

Attachments:

1. ENC-25-0001 Application Materials
2. ENC-25-0001 Denial Email
3. Appeal Email to City Clerk
4. Appeal Receipt



Record Report for Driveway or Other Encroachment on City Rights-of-Way #ENC-25-0001

Record Overview

Record Number:	ENC-25-0001
Record Type:	Driveway or Other Encroachment on City Rights-of-Way
Record Status:	Denied
Record Submitted At:	Wednesday October 22, 2025
Record Address:	221 Pinnacle Rd. Brevard, NC 28712
Record Owner:	Aaron Bland
Record Applicant:	jv@jvealarchitect.com

Form Submission

Applicant:

James Veal

jv@jvealarchitect.com, (850) 450-3295

Property Owner (if different):

Property Address:	221 Pinnacle Rd. Brevard, NC 28712
Parcel Identification Number (PIN):	8576-83-6675-000
Zoning District:	General Residential - 4 (GR4)
Overlay District:	None
Business Name:	James Veal
Permit Type:	Driveway
If other, please specify:	-
Width of Driveway (if applicable) (ft):	12
Distance from Nearest Intersection (ft):	-
Distance from Nearest Driveway (ft):	-


Signature:

Signed in GovWell: Wednesday October 22, 2025, 1:16pm

I Acknowledge:

Yes

Signature:



Signed in GovWell: Wednesday October 22, 2025, 1:16pm



APPLICATION FOR DEMOLITION, GRADING OR LAND DISTURBANCE

Contact Information (To be completed by Applicant)

Applicant/Agent/Contractor Name: →	Property Owner: JAMES VEAL
Mailing Address: →	Mailing Address: 627 Bayshore Dr
City: State: Zip: →	City: State: Zip: Pensacola FL 32507
Phone: →	Phone: 850-450-7295
Email: →	Email: jvealvealarchitect.com

Property/Project Information

Contractor Hauling Debris: T.B.D.	Property PIN (Tax id #): 8576-83-6675-000
Mailing Address:	Property Location/Address 221 Pinnacle Rd
City/State	Date applicant desires to being project: 12-31-2025
Phone:	Disposal location:
Email:	Note: As a part of the final inspection you may be required to produce evidence of location of disposal of demolition waste.

Project Type/Description:
Residential

- Note: Site/Project plans are required to be submitted as a part of this application. Demolition/Grading and Other Land Disturbance Permit Holder is Responsible to:
- Demolition: \$500 reimbursable bond per structure. Lots with multiple structures requiring Bonds exceeding \$500 shall be based upon a qualified professional's estimate of cleanup clean cost + 25%
 - Grading & Other Land Disturbance: \$500 reimbursable bond per lot up to one acre. Lots larger than one acre requiring Bonds exceeding \$500 shall be based upon a qualified professional's estimate of cleanup clean cost + 25%
 - Contact City Utility Department to insure water/sewer utility services have been disconnected from structure(s).
 - Contact ALL Utility Companies (electric, gas, telephone, cable, etc) to insure services are disconnected from structure.
 - Cleanup debris from demolition.
 - Sow grass seed on property following cleanup of all debris.

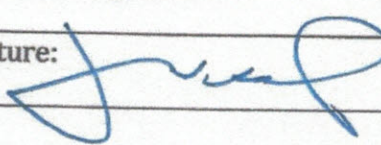
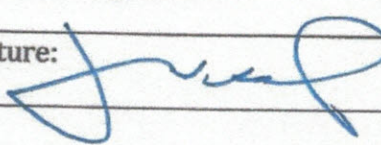
Demolition: Administrator may require a bond in excess of \$500 if such is deemed necessary in the interests of public health or safety. These bonds shall be prepared and administered in accordance with the improvement guarantee procedures set forth in the Procedure for the Installation & Dedication of Public Improvements. The Administrator

may require a demolition, in association with any development activity for which such bond is relevant.

Grading & Other Land Disturbance: Administrator may require a bond in excess of \$500 if such is deemed necessary in the interests of public health or safety. These bonds shall be prepared and administered in accordance with the improvement guarantee procedures set forth in the Procedure for the Installation & Dedication of Public Improvements. The Administrator may require a grading or land disturbance bond in association with any development activity for which such bond is relevant.

I affirm and certify that I understand and will comply with all regulations and requirements of the City of Brevard. I further certify that the above statements and the statements and showings made in any paper or plans submitted herewith are true to the best of my knowledge and belief. Further, I understand that the application, attachments and fees become a part of the Official Records of the City of Brevard Planning Department, are not returnable and are subject to NC Public Records Law. I also recognize that if one or more deficiencies exist in this application, I will be notified of the deficient items, and the department shall take no further action on the application until the required information is submitted. I understand that misrepresentation of information contained within this application may be cause to void any development approvals associated with this application. I grant permission to the Zoning Administrator, and designees thereof, to enter upon the property represented herein for the purposes of administering this application.

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

Applicant/Agent/Contractor Signature:		Date:	
Property Owner Signature:		Date:	10/21/25

Handwritten note: SAME with an arrow pointing from the top signature to the bottom signature.

TRANSYLVANIA COUNTY
EMERGENCY SERVICES
155 PUBLIC SAFETY WAY
BREVARD, NC 28712
828-884-3108



May 2, 2024

Parcel 3

Dear Property Owner,

Transylvania County Emergency Services Addressing Division has assigned an address to property that you own. The address is listed below for your convenience. If it is a change of address, please follow through as soon as you can notifying others of the new address.

Each location is mapped using global positioning system (GPS) technology, eliminating confusion for emergency service providers and delivery services. Benefits of the addressing system include:

- *Reduced emergency response times for firemen, law enforcement, and ambulance services.*
- *Integration of cell phones into the 911 GPS system, enabling emergency care providers to locate callers even when they are not at an assigned address (e.g. in the forest).*
- *Improved package delivery services.*
- *Greater ease of compliance when applying for a home loan, building permit, or utilities connection.*

You should put your new address number on your house and on your mailbox at your earliest convenience. This will not only help your mail carrier but will also assist the emergency services in locating you if you need help.

Your Old Address:

PREVIOUSLY UNASSIGNED

PIN#8576-83-6675-000

(If your old address is listed incorrectly, please contact the Transylvania County Communications Office at the number below.)

Your New Address:

221 PINNACLE RD
BREVARD, NC 28712

ASSIGNED 05/02/.2024

Property owners should notify their renters of the new address change.

Thank you for your cooperation. If you have any questions or concerns, we are happy to help you in any way possible. For assistance contact the Transylvania County Emergency Services business office at (828) 884-3108.

Assigned By: _____

KRS

4

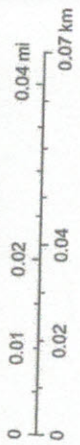
Transylvania County Tax Map



10/21/2025, 1:05:00 PM

Roads
— Roads

1:1,128



33

NC CGIA, Maxar, Microsoft

Transylvania County Emergency Services
The data contained on this map is the property of Transylvania County.

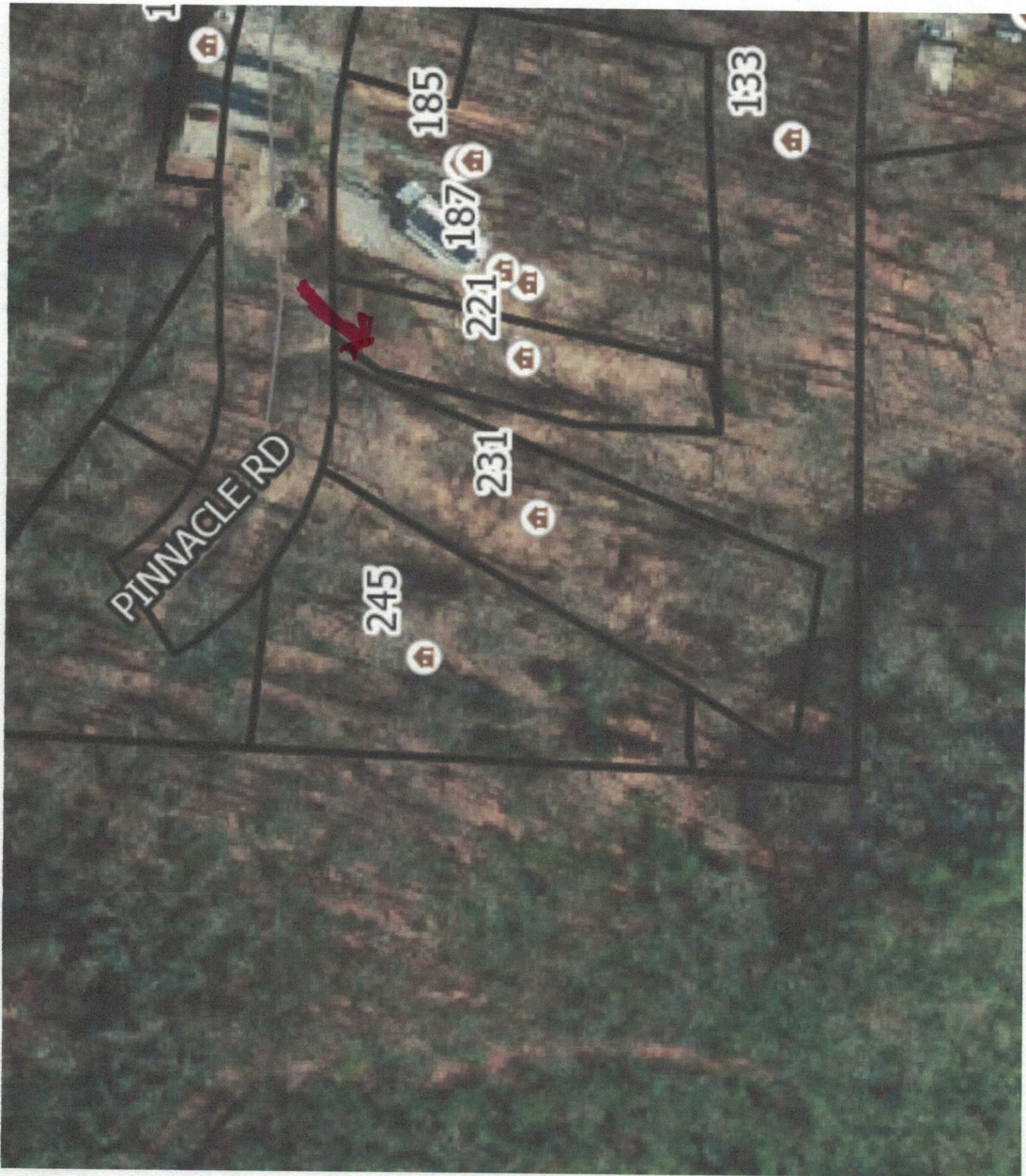
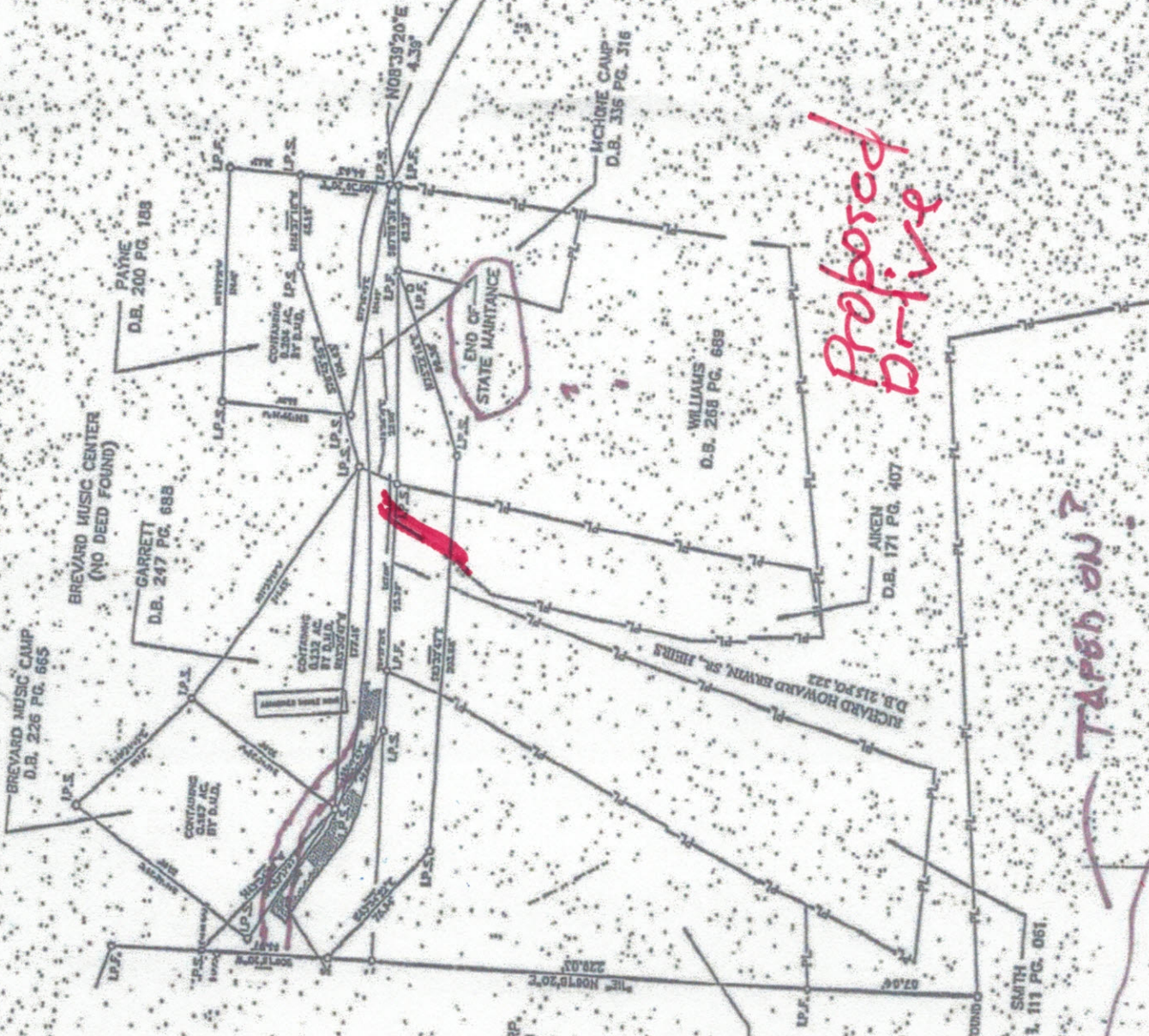


Exhibit A
Page 1 of 3

REFERENCE WILLIAM LEONARD SURVEY DRAWING NUMBER
FD-61-81-300 REFERENCED HEREIN

CITY OF BREWARD
RIGHT OF WAY ACQUISITION TO BRACKEN CREEK
From a plat recorded in File 11, Slide 922

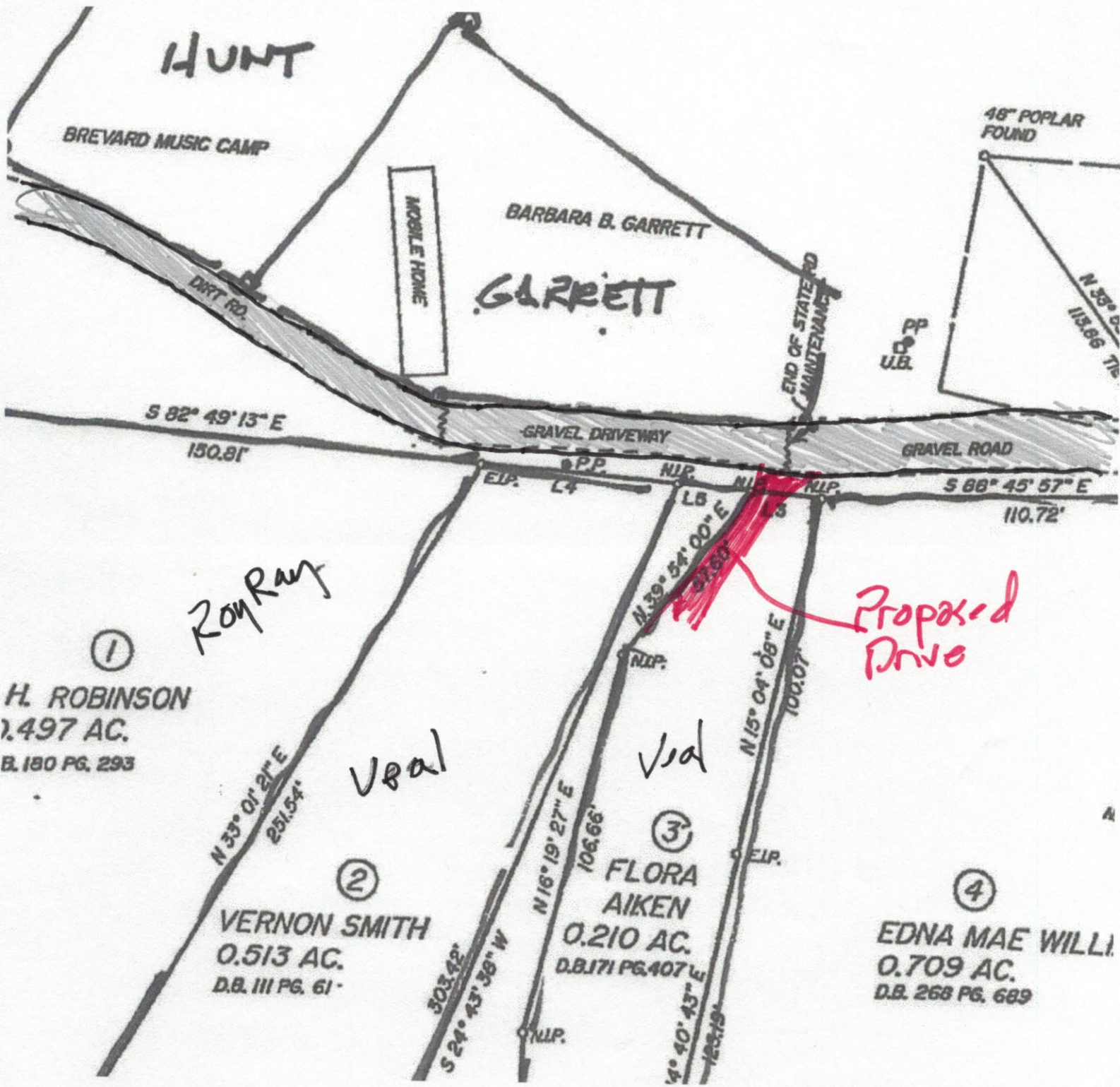
152



Proposed
Dr-ive

TAPED ON?

NOTE: THIS DRAWING IS NOT TO SCALE
THIS DRAWING IS NOT A CERTIFIED SURVEY AND HAS
NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY
FOR COMPLIANCE WITH ANY APPLICABLE LAND
DEVELOPMENT REGULATIONS. GS 547-30 (n)





Invoice #152 for Planning & Zoning Applications #ENC-25-0001

Due date: October 27, 2025
Applicant: jv@jvealarchitect.com
Application Number: #ENC-25-0001
Application Type: Driveway or Other Encroachment on City Rights-of-Way
Address: 221 Pinnacle Rd. Brevard, NC 28712
Requested: October 22, 2025, 1:16pm



Fee	Description	Explanation	Total	General Ledger #
	Driveway or Other Encroachment on City Right-of-Ways	\$50.00 * 1	\$50.00	10-3350-0200

Total: \$50.00

To pay the invoice, click [here](#) or scan the QR code above to visit <https://app.govwell.com/brevard/pay/ENC-25-0001>.



Receipt for Planning & Zoning Applications #ENC-25-0001

Invoice Number: #152
Applicant: jv@jvealarchitect.com
Application Number: #ENC-25-0001
Application Type: Driveway or Other Encroachment on City Rights-of-Way
Address: 221 Pinnacle Rd. Brevard, NC 28712
Requested: October 22, 2025, 1:16pm
Paid: October 22, 2025, 1:17pm

Fee	Description	Explanation	Total	General Ledger #
	Driveway or Other Encroachment on City Right-of-Ways	\$50.00 * 1	\$50.00	10-3350-0200

Processing Fee: \$1.75
Total Paid: \$51.75
Payment Method: Credit Card

Thank you for your payment.

From: [Aaron Bland](#)
To: [James Veal](#)
Cc: [Paul Ray](#); [Mack McKeller](#)
Subject: Permit ENC-25-0001
Date: Thursday, October 30, 2025 4:47:00 PM

Mr. Veal,

As with your previous application, we are unable to fully review this application because the site plans provided do not show the location of the hiking/biking trail as it relates to the proposed driveway. Beyond this, it appears that, if constructed, the driveway would not be accessible from the end of the public Pinnacle Road/Bracken parking area. There are many impediments between the end of Pinnacle Road and the proposed driveway, including the hiking/biking only Bracken Mountain trail, its rock armoring and boulders, fences, a handicapped parking space, and trees, rendering such a driveway impractical, if not impossible, to permit. Even if the terrain allowed a passenger vehicle to reach the driveway, it is not within this department's purview to permit the driveway encroachment across parkland and allow such use to occur within the hiking trail in order to ensure user safety. For these reasons, the application has been denied in our system. You may receive emails from GovWell regarding this status change as well.

Have you considered using the existing driveway on your neighboring lot to access this parcel?

Best,

Aaron N. Bland, AICP, CZO
Assistant Planning Director
City of Brevard
95 West Main Street
Brevard, NC 28712
Phone: 828-885-5630
aaron.bland@cityofbrevard.com

E-mail correspondence to and from this address may be subject to North Carolina Public Records Law and may be disclosed to third parties by an authorized City or Law Enforcement official.

From: [James Veal](#)
To: [Denise Hodsdon](#)
Cc: [Aaron Bland](#); [ELLIOTT DUGGER](#)
Subject: Appeal to email denying driveway permit application
Date: Friday, November 28, 2025 12:45:14 PM
Attachments: [Appeal for Parcel 3 back-up pkg \(25-10-28\).pdf](#)

11-28-25

Denise Hodsdon, City Clerk
City of Brevard, NC

RE: Appeal to Denial of Driveway Permit Application (221 Pinnacle Road)

Denise

I submitted for a driveway located @ 221 Pinnacle Road on October 21, 2025

After responding to request for additional information, etc. I received an email from Aaron Bland, Assistant Planning Director on October 30th, 2025... which is attached. I have also attached a copy of the application.

I am submitting this letter to begin the process of appealing that decision.

Please call me for a credit card or I have also sent a check in the mail.

Respectfully,

James Veal

J.Veal, Architect
627 Bayshore Drive
Pensacola, FL 32507
850.450.3295 jvealarchitect.com

From: Valerie Tilson <valerie.tilson@cityofbrevard.com>
Sent: Thursday, December 18, 2025 4:52 PM
To: Denise Hodsdon <denise.hodsdon@cityofbrevard.com>
Subject: James Veal

CASH COLLECTIONS RECEIPTS BY RECEIPT NUMBER
 Dates: 12/18/2025 to 12/18/2025
 Receipt Numbers: 733158 to 733158
 Deposit Numbers: All

City Of Brevard
 FY 2025-2026
 Multiple Users Selected

Date	Rec No	Customer	Amount Owed (\$)	User ID	Mod
12/18/2025	733158	JAMES VEAL	100.00	WINDOW	MS
		ZONING ZONING ADMIN	10-3350-0200		
		ZONING APPEAL - VT			
Subtotal for 733158 Credit:			\$100.00	AMEX 1005	

FYI – Thank you!



Valerie S. Tilson
 Accts Receivable/Customer Service Rep
 Finance Department

City of Brevard
 95 W. Main Street
 Brevard, NC 28712
 828-885-5607 Direct
 828-885-5600 Main ext 1
 828-883-883-2853 fax
valerie.tilson@cityofbrevard.com
www.cityofbrevard.com

MISSION STATEMENT
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.

Email correspondence to and from this address may be subject to the North Carolina Public Records Law, and may be disclosed to third parties by an authorized City or Law Enforcement official.

STAFF REPORT
Board of Adjustment, Friday, April 17, 2026

Title: VAR-26.0003 - 280 S. Broad St.
Speaker: Katherine Poe
Prepared by: Katherine Poe, Planner/Assistant Zoning Administrator
Approved by: Paul Ray, Planning Director

Background

Matthew J Giangrosso is the attorney representing the property owner (Mr. Phillip Wheeler) for 280 S Broad Street, which is located in the Downtown Mixed-Use (DMX) zoning district and the Downtown Development Overlay District, within the City’s municipal limits. The parcel identification number is 8585-49-2890-000.

The applicant is requesting a variance from the Unified Development Ordinance’s (UDO) Chapter 9.3 for driveway separation distance from road intersections; specifically, that a proposed driveway on Oakdale St will be 63.2’ from the closest intersection (Oakdale St/S Broad St) and the UDO specifies a minimum distance of 120’ based on the 25mph speed limit on Oakdale St. The requested variance will be for 56.8’ reduction of the required intersection separation distance.

Notice of the hearing was advertised and posted on the property in accordance with North Carolina General Statute §160D-406.

Discussion

A developer has bought 3 connecting parcels (280 S Broad St, 263 S Caldwell St, and 253 S Caldwell St) to develop the properties into multiple townhouses. The developer will be closing a big portion of the preexisting nonconforming driveway on Oakdale St, reducing the driveway width (at point of intersection with the Right-of-Way) from 112’ to 24’. This will bring the driveway into compliance with the UDO for width, but not for the minimum distance between driveways and intersections per Chapter 9.3.

TABLE 9.3A: DRIVEWAY SEPARATION DISTANCES		
Posted Speed Limit (mph)	Minimum Distance Between Driveways	Minimum Distance Between Driveways and Intersections*
15	20 feet	40 feet
20	40 feet	80 feet
25 to 35	60 feet	120 feet
40	120 feet	240 feet
45	140 feet	280 feet
50	160 feet	320 feet
55	180 feet	360 feet

Note: Access separation between driveways shall be measured from inside edge of curb cuts. Access separation between a driveways and intersecting streets shall be measured from the nearest inside edge of the driveway curb cut to the intersecting right-of-way lines.

Investigation

The existing driveway at the intersection of Oakdale St and S Broad St is a very large, non-conforming driveway. The apron of the driveway measures 112' from the point of intersection down to its termination on Oakdale St. The current configuration allows cars to enter the property along Oakdale St in multiple locations. The developer has stated in emails that they will keep the existing sidewalk on Oakdale St with the closing of the driveway opening.





Standards for the Granting of Variances

In order to grant the variance all of the conditions below must be met:

1. Unnecessary hardship would result from the strict application of the regulations. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

4. The requested variance is consistent with the spirit, purpose, and intent of the regulations, such that public safety is secured, and substantial justice achieved. Substantial justice is not achieved when granting the variance would be injurious to the neighborhood or to the general welfare.

Economic hardship or the fact that property may be utilized more profitably with a variance shall not constitute an unnecessary hardship. In its motion the Board should include Findings of Fact to support each of the items listed above.

There are additional provisions that must be met in accordance with section 9.3.D.4, which states as follows:

The board of adjustment may modify these requirements only after the following are satisfactorily provided by an applicant:

1.
A transportation assessment performed by an certified professional licensed in the State of North Carolina containing sufficient detail to demonstrate that the modification request does not adversely impact public safety or traffic operation; and
2.
Evidence that the modification request represents the minimum necessary to address existing site constraints or to improve site circulation stemming from urban infill and/or redevelopment.

Attachments:

1. Application Materials
2. Parcel Summary
3. UDO Chapter 9.3-Access Management



Record Report for Variance #VAR-26-0003

Record Overview

Record Number: VAR-26-0003
Record Type: Variance
Record Status: In Progress
Record Submitted At: Thursday February 12, 2026
Record Address: 280 S BROAD ST, Brevard NC 28712
Record Owner: Katherine Poe
Record Applicant User: patti.cmseng@gmail.com
Record Applicant Company: CMS ENGINEERING PLLC

Form Submission

Applicant:

Philip Wheeler
phil@pswheeler.net, (978) 807-4403

Property Owner (if different):

Property Address: 280 S BROAD ST, Brevard NC 28712

Property owner information:

Fallon & Hawkstand LLC &
504 Fallon Grove Way
Raleigh, NC 27608

Parcel Identification Number (PIN): 8585-49-2890

Zoning District: Downtown Mixed Use (DMX)

Overlay District: Downtown Development Overlay District

Attorney Needed: Yes

Description of Variance Request:

UDO 9.3 Separation between driveway and intersection

Reasons for Variance Request:

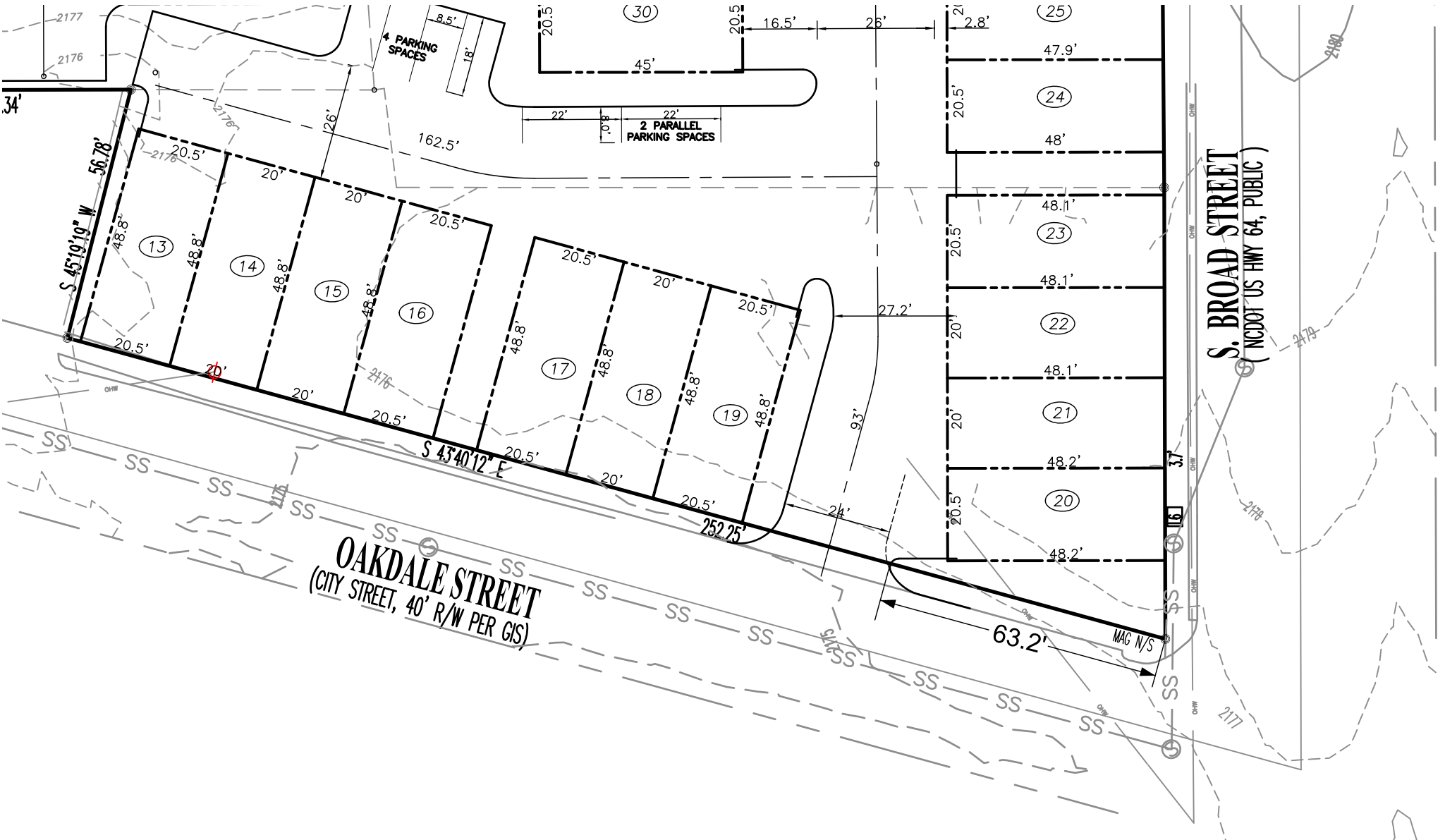
Site currently has open access to the concrete lot along Oakdale for approximately 130' from the western curb and gutter of S. Broad Street where unencumbered perpendicular parking and entrance to the fenced yard now exists. The variance will allow us to reduce this access to a single driveway, significantly reducing potential traffic related incidents. The proposed distance from the western r/w of S. Broad to the eastern curb of the driveway is 63'.

Signature:

Signed in GovWell: Thursday February 12, 2026, 3:30pm

Generated Documents

No documents generated



Townes on Broad – Variance Request

The current properties (8585-49-2890 and 8585-49-3865) to be served by the proposed access drive are situated at the northwest corner of the intersection of Oakdale Street and S. Broad Street. The 280 S. Broad Street property (8585-49-2890) has 112 feet of onsite parking along the north side of Oakdale beginning at the intersection of S. Broad Street. In addition, there is a fenced parking lot on the 280 S. Broad Street property which is accessed via Oakdale Street. The property to the north (8585-49-3865) has a curb cut on S. Broad Street serving a gravel parking area. The intersection is regulated with a stop sign on Oakdale Street.



Site along Oakdale Street, from south.



Site from southern corner, Oakdale Street on left and S. Broad Street on right.

The removal of 112 feet of unrestricted parking spaces at the intersection will greatly improve public safety by increasing visibility for drivers, cyclists, and pedestrians. It is important to note that in North Carolina it is illegal to park within 25 feet of an intersection or stop sign, which is the current parking condition. Our proposal will eliminate all parking along Oakdale Street.

In addition, the proposed single access drive on Oakdale Street will eliminate the multiple curb cuts/driveways currently serving the properties. By combining multiple driveways into a single, well-designed access point, the following benefits are realized:

- **Access Hierarchy** – The proposed drive provides access to the properties on the lesser-classified road (e.g., side street/Oakdale Street) rather than the major arterial.
- **Increased Safety** - Reduces the number of potential collision points between through-traffic, turning vehicles and pedestrians.
- **Improved Traffic Flow** - Decreases "traffic friction" caused by frequent turning vehicles, increasing the capacity of the road.
- **Reduced Congestion** - Lessens the need for through-traffic to stop for vehicles entering or exiting multiple access driveways.
- **Better Sight Distance** - Proper, consolidated driveways are designed for better visibility compared to multiple, often poorly placed, smaller driveways.





VAR File# VAR-26-0003

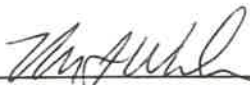
BREVARD BOARD OF ADJUSTMENT - VARIANCE

APPOINTMENT OF AGENT

I Philip J Wheeler, Phelco, Corp., Fallon & Hawkstand LLC, owner of property located at
(street address) 280 S. Broad Street, 0 S. Broad Street, 253 S. Caldwell Street and
identified by the Transylvania County Tax Identification Number (PIN#):

8585-49-2890, 8585-49-3865, 8585-49-2924, located in Transylvania County, North Carolina, do
hereby appoint Allen Stahl & Kilbourne to represent me in
filing an application for Variance before the Brevard Board of Adjustment.

I further authorize Allen Stahl & Kilbourne to act as my agent in
all matters, formal and informal, and to receive all official correspondence as it relates to
the VARIANCE request and hearing.

Property Owner Signature:  Date: 3/4/26
Mailing Address: 504 Fallon Grove Way, Raleigh NC 27608
Phone: 978-807-44034 Email: phil@pswheeler.net

Agent Name: Matthew J. Giangrosso, Robert C. Carpenter, and Derek J. Allen
Mailing Address: 20 Town Mountain Road, Suite 100, Asheville, NC 28801
Phone: 828-254-4778 Email: mgiangrosso@asklawnc.com
bcarpenter@asklawnc.com
dja@asklawnc.com



50 Oakdale St, Brevard, NC 28712, USA (Auto-generated from Google Maps)

Parcel ID: 8585-49-2890-000



District Summary

Zoning Information	DMX Downtown Mixed-Use
Ordinance Number	Ordinance 08-06
General Regulations	Permitted Uses ✓ Nonconformities ✓ Open Space Requirements ✓ Development Plan Standards ✓ Permitted Use by Building Type ✓
Outdoor Standards	Sign Regulations ✓ Outdoor Lighting Standards ✓ Off-street Parking Requirements ✓ Tree Protection and Landscaping Standards ✓

Future Land Use	
Future Land Use Description	Downtown / City Center
Character Description	This character area refers to Brevard's historic downtown where commercial, employment, residential, civic, and supporting uses are located.
Applicable Zoning Districts	DMX, CMX, RMX
Ordinance Number	Resolution No. 2023-16
Date Adopted	Mar 19, 2023 19:00:00 CDT

Parcel Summary

9.3. Access management.

Access management standards that regulate the connection of new driveways to the street system shall be as follows. NCDOT must approve the design and location for the connection of new driveways when located on state-maintained roadways.

A. New driveways, on public streets with curbing, shall be limited in accordance with the following standards:

Posted Speed Limit (mph)	Minimum Distance Between Driveways	Minimum Distance Between Driveways and Intersections*
15	20 feet	40 feet
20	40 feet	80 feet
25 to 35	60 feet	120 feet
40	120 feet	240 feet
45	140 feet	280 feet
50	160 feet	320 feet
55	180 feet	360 feet

Note: Access separation between driveways shall be measured from inside edge of curb cuts. Access separation between a driveways and intersecting streets shall be measured from the nearest inside edge of the driveway curb cut to the intersecting right-of-way lines.

B. Shared Private Drives: Whenever feasible in the interests of access management the administrator shall encourage the establishment of shared private drives and entrances with adjacent properties, and may require that driveways and entrances be situated along property lines. The approving authority may require the establishment of access easements along property lines to be reserved for future use by adjacent properties as part of any development.

1. Capacity – No more than 3 properties or 6 dwelling units shall use the same driveway. At all times, the shared private drive shall be maintained in a good, safe and usable condition, in good repair, and in compliance with all applicable state, county and local ordinances.
2. Easement – The minimum width of the easement for shared private drives shall be 30 feet.
3. Minimum Design and Construction – The minimum design and construction standards which apply to a public street (Section 13.5) shall apply to a shared private drive except that:
 - a. All shared private drives are to be paved to City standards with a minimum width of 20 feet.
 - b. Street names shall not be allowed for shared private drives. The properties with ingress and egress on the shared private drive are required to have an address on the abutting public street.
 - c. Pedestrian and bicycle infrastructure shall not be required, but it is encouraged. This also includes multi-use paths and other similar types of infrastructure.
3. Plats - All shared private drives must be shown as such on all affected plats.
4. Through Streets - Through streets connecting 2 public streets may not be designated as a shared private drive.
5. Connections to Public Streets - All shared private drives connecting with public streets require approved driveway applications from the city (or NCDOT, if applicable).

C. Additional private access, when all frontage requirements are met: The administrator may permit the establishment of additional private rights-of-way or access easements to properties that otherwise conform to public street frontage requirements of this ordinance.

D. Additional provisions:

1. The administrator shall require the closure of any nonconforming driveway or curb cut as a condition of approval of any land development application.

2. Single-family, duplex, and secondary dwellings on existing lots of record and new infill development lots on roads 35 mph and under shall be exempt from the "Minimum distance between driveways" standards for the first driveway, but shall meet minimum separation requirements for additional driveways. Additionally, driveway separation distances on new dead-end streets posted 30 mph and under and with no on-street parking may also be exempted by the administrator. Further modification of these requirements shall be considered by the board of adjustment.
3. Parking lots with a one-way drive aisle that are required to have at least two driveways in accordance with Section 10.8 may be exempt from the "minimum distance between driveways" standards. The exemption may be granted by the administrator for local and private roads and by NCDOT for state roads.
4. The board of adjustment may modify these requirements only after the following are satisfactorily provided by an applicant:
 - a. A transportation assessment performed by an certified professional licensed in the State of North Carolina containing sufficient detail to demonstrate that the modification request does not adversely impact public safety or traffic operation; and
 - b. Evidence that the modification request represents the minimum necessary to address existing site constraints or to improve site circulation stemming from urban infill and/or redevelopment.

(Ord. No. 3-07, §§ 7, 8, 2-5-07; Ord. No. 15-08, § 27, 12-5-08; Ord. No. 2014-25, § 03(Exh. C), 12-15-14; Ord. No. 2018-26, § 1(Att. A), 9-17-18; Ord. No. 2021-45, § 1(Exh. A), 10-18-21; Ord. No. 2022-69; Ord. No. 2023-53, § 1(Exh. A), 11-6-23; Ord. No. 2024-23, § 1(Exh. A), 6-3-24; Ord. No. 2024-46, § 1(Exh. A), 12-2-24)

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