



AGENDA
BREVARD PLANNING BOARD – REGULAR MEETING
Tuesday, October 20, 2015 – 7:00 PM
Council Chambers

- I. Welcome and Introduction of Planning Board Members**
- II. Approval of Minutes**
 - a. September 15, 2015
- III. New Business**
 - a. Annexation – Lastinger Properties, LLC, Pilot Cove Campground, Application #AX15-000002 – 113 Mama’s Place, Pisgah Forest, PIN # 8597-47-3949-000.
 - b. Rezoning – Martin Bawden, Application #RZ15-000003 for Lot No. 1-A, 545 Rosman Highway, PIN #8585-16-8412-000.
 - c. Text Amendment to Chapter 2, 12, & 19 of Unified Development Ordinance to include:
 - i. Murals
 - ii. Decorative/vintage signs
 - iii. Asheville Highway Corridor Overlay Amendment
 - d. AirBnB’s
 - i. Background presentation
 - ii. Discussion
- IV. Old Business**
- V. Other Business**
- VI. Adjourn**

**MINUTES
BREVARD PLANNING BOARD
SEPTEMBER 15, 2015**

Brevard Planning Board met for a regular meeting on Tuesday, September 15, 2015, at 7:00 PM in Council Chambers of City Hall.

Members Present: Kimsey Jackson
Demi Loftis, Vice Chair
Katie Thompson
Jimmy Perkins
Frank Porter
Chris Strassner
Keenan Smith

Staff Present: Daniel Cobb, Interim Planning Director
Aaron Bland, Long Range Planner
Janice H. Pinson, Board Secretary

I. Welcome and Introduction of Planning Board Members -

At 7:00 PM Chair, Kimsey Jackson, called the meeting to order and the Board members introduced themselves. There was a moment of silent meditation.

II. Approval of Minutes –

Approval of Minutes of the August 18, 2015 meeting, D. Loftis moved for approval as written, seconded by J. Perkins, unanimously approved.

III. New Business –

A. Text Amendment to Chapter 8.2 of Unified Development Ordinance – General Provisions.

Daniel Cobb presented his staff report which is attached hereto, labeled "Exhibit A" and incorporated herein by reference.

K. Thompson brought up a concern that the language in the proposed revision (Line 79) should include language to include the safety and welfare of the public. There was discussion on the matter. K. Thompson made a motion with amendment to include additional language including safety and welfare of the public, seconded by C. Strassner, unanimously approved.

B. Text Amendment to Chapter 10.5.G of Unified Development Ordinance – Location of off-street parking.

Daniel Cobb presented his staff report which is attached hereto, labeled "Exhibit B" and incorporated herein by reference.

There was discussion as to who initiated the changes and it was explained that these are Staff recommended changes due to the nature of the Corridor Mixed Use Zoning District uses.

J. Perkins asked if these changes were in conjunction with moving toward Form Based Codes and would the zoning maps reflect these changes once the Form Based Code were in place.

D. Cobb stated that the zoning map will change and that the Land Use Plan would also match the Form Based Codes when the project is complete.

D. Loftis moved, seconded by J. Perkins to approve as written, unanimously approved.

C. Text Amendment to Chapters 2.1.D and 12.9.B.1 of Unified Development Ordinance – Asheville Highway Corridor Overlay District.

Aaron Bland presented his staff report which is attached hereto, labeled "Exhibit C" and incorporated herein by reference. He further explained that the amendment is recommended to create the same overlay district on the Rosman Highway that was recommended for the Asheville Highway.

F. Porter made a motion to approve, seconded by D. Loftis, unanimously approved.

D. Text Amendment to City Code Chapter 34 – Flood Damage Prevention.

Daniel Cobb presented his staff report which is attached hereto, labeled "Exhibit D" and incorporated herein by reference.

He further explained that the recommended changes are based on FEMA updates and changes to their forms.

D. Loftis moved, seconded by K. Thompson, unanimously approved as presented.

E. Text Amendment to City Code Chapter 62.1 – Placing objects on streets and sidewalks.

Daniel Cobb presented his staff report which is attached hereto, labeled "Exhibit E" and incorporated herein by reference.

There were questions and discussion about making sure the modifications meet ADA standards.

The following changes were recommended:

1. Remove language in c) 2) to delete the language "and may be removed at the discretion of the city manager."

2. Replace the work boardwalk with alleyway.

It was recommended that d) be made into two (2) sentences to make the ADA requirement of 36 inches better understood.

Motion to approve as amended by F. Porter, seconded by J. Perkins, unanimously approved.

IV. Old Business – None.

V. Other Business –

K. Jackson voiced his concerns over the closing of Jordan Street for the new construction on the corner of Jordan and South Broad, stating his opposition to the decision.

F. Porter asked if the Board wanted to continue the discussion on changing the meeting time. D. Cobb explained that the reason for the initial discussion was that Council was meeting twice a month at the time but are now only meeting once. There was no further discussion.

VI. Adjourn-

There being no further business, F. Porter made a motion to adjourn, seconded by C. Strassner, the Board unanimously voted to adjourn at 7:56 PM.

Kimsey Jackson, Chair

Janice H. Pinson, Board Secretary



The City of
Brevard
North Carolina

NEW BUSINESS STAFF REPORT

October 20, 2015

Title: Petition for Voluntary Contiguous Annexation
Speaker: Daniel Cobb AICP, Planning Director
Prepared by: Daniel Cobb AICP, Planning Director

EXECUTIVE SUMMARY: Planning Board Council will consider and formulate a recommendation to City Council regarding a Petition for voluntary contiguous annexation by Lastinger Properties, LLC.

BACKGROUND: On August 26, 2015, Lastinger Properties, LLC, submitted a petition for voluntary contiguous annexation of their property located off US Highway #276, 113 Mama's Place, Pisgah Forest, NC 28768, consisting of 64.54 acres. Transylvania County Property Identification Number: 8597-47-3949-000.

DISCUSSION: Lane Lastinger of Lastinger LLC was previously granted a Special Use Permit (SUP# 15-119) by the Board of Adjustment for campground on the above referenced property. In order to receive City services Mr. Lastinger's property, which is currently located in the ETJ, must be annexed into the corporate limits.

POLICY ANALYSIS: None.

STAFF RECOMMENDATION: Staff recommends approval of the petition for contiguous annexation.

FISCAL IMPACT: Please refer to the attached annexation report for a financial and service impact analysis of the proposed annexation.

**ANNEXATION REPORT
Lastinger Properties, LLC
US Highway 276 / Pisgah Highway**

Date: October 20, 2015

Property Description:

Owner: Lastinger Properties, LLC
1804 Cross Creek Farm Rd.
Fletcher, NC 28732

Plat Book: 16

Page: 443

PIN: 8597-47-3949-000

BACKGROUND:

Lastinger Properties, LLC requests voluntary contiguous annexation of the subject properties described herein.

GOVERNING STATUTES:

Voluntary annexations are governed by North Carolina General Statute 160A-31. The subject property qualifies for annexation under NCGS 160A-31.

SERVICE DELIVERY IMPACT ANALYSIS:

Administration / Finance / Human Resources:

Future development upon the subject properties will be connected to City water and waste water. This will result in additional meter reading and billing duties for the Finance Department. Impact is deemed to be negligible.

Law Enforcement Services:

The proposed annexation will bring the subject properties within the law enforcement jurisdiction of the Brevard Police Department. At the present time, this will result in no measurable impact. Future impacts will be dependent upon the form of future development upon the subject properties.

Fire Services:

The proposed annexation will have no immediate impact upon the Fire Department as the subject parcel is already within the Fire Department's service area. Future impacts will be dependent upon the form of future development upon the subject properties.

Solid Waste Collection & Recycling:

The applicant plans on contracting with a private company for solid waste removal.

Street & Sidewalk Maintenance:

NA.

Street Lighting:

NA.

Water Production & Distribution:

Production and distribution totals depend upon final build-out, however capacity exists for the production and distribution of water at maximum buildout.

Waste Water Collections and Treatment:

Collection and treatment totals depend upon final build-out, however capacity exists for the collection and treatment of wastewater at maximum buildout.

Buildings & Grounds / Parks & Recreation Services:

NA.

Planning Services:

Future impacts will be dependent upon the form of future development upon the subject properties.

Financial Summary:

REVENUE SOURCE ANNUAL FISCAL IMPACT / REVENUE

Estimated Future Tax Revenues	\$5,499.29 ¹
Water Collections	\$163.80 ²
Sewer Collections	\$163.80 ²
Garbage Collections & Disposal	\$0.00 ⁵
Recycling Collections	\$120.00
Powell Bill Revenues	\$0.00

Total Estimated Annual General Fund Revenues:

\$5,499.29³

Total Estimated Annual Utility Fund Revenues:

\$447.60⁴

(1) Based upon a tax rate of \$0.4725 and an assessed value of 1,163,870.00.

(2) Based on \$13.65/month minimum water charge, \$13.65/month sewer charge

- (3) General Fund estimates do not include miscellaneous revenue streams that could be impacted by the proposed annexation, such as Utility Franchise Taxes and etc.
- (4) Utility Fund estimates do not include one-time impact fees.
- (5) Assuming private collection, City fee = \$204.00

SERVICE AREA	ANNUAL FISCAL IMPACT / EXPENDITURE
Administration / Finance / Human Resources	\$0
Law Enforcement	\$0
Fire Protection	\$0
Solid Waste & Recycling	\$0
Street & Sidewalk Maintenance	\$0
Street Lighting	\$0
Water Distribution	\$0
Wastewater Collection	\$0
Water Plant	\$0
Wastewater Plant	\$0
Buildings & Grounds / Parks &	\$0
Recreation	\$0
Planning / Zoning / Code Enforcement	\$0
Total \$0	

received
9-1-2015

STATE OF NORTH CAROLINA
COUNTY OF TRANSYLVANIA
CITY OF BREVARD



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

Date: 8/26/2015

To the City Council of the City of Brevard:

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

Transylvania County Property Identification Number(s): 8597-47-3949-000

Street Address: 113 Mama's Place, Pisgah Forest, NC 28772 ⁶⁸

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

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

Property Owner(s) Do you declare vested rights? Yes ___ No X

a. Name LASTINGER PROPERTIES LLC
 Address 190A Cross Creek Farm Rd
Fletcher, NC 28732
 Telephone 727-641-5263 Email lanelastinger@hotmail.com
 Signature [Signature] Registered Agent/manager

Exhibit: A

Legal Description
For
Annexation of the
Pilot Cove Campground
Ordinance #: _____

The following parcel of land is located off of Pisgah Highway (U.S. HWY 276) in the Brevard Township, Transylvania County, North Carolina. Being all of that property conveyed to Lastinger Properties, LLC by a deed from The Bryson Development and Management Limited Partnership on the 16th day of June 2015 as recorded in Document Book 730 Page 412 of the Transylvania County Register of Deeds and being more particularly described as follows:

BEGINNING AT A 5/8" REBAR, said rebar being a common corner of Document Book 730 Page 412, Document Book 721 Page 395, Document Book 721 Page 398 and United States of America Tract V-1 as shown in Plat File: 2 Slide: 262 of the Transylvania County Registry and located N 16°53'46" W a horizontal ground distance of 912.15 feet from a 5/8" rebar set with a "Kee" cap and having North Carolina State Plane Coordinates(2011) of Northing: 575682.339 feet and Easting: 894465.203 feet;

Thence with the common line of Document Book 730 Page 412 and United States of America Tract V-1 the following (9) courses and distances:

- (1) N 08°01'54" E a distance of 131.17 feet to an existing 2" iron pipe with cap;
- (2) N 52°53'34" W a distance of 341.44 feet to an existing 5/8" rebar with "Raxter" cap;
- (3) N 52°53'34" W a distance of 987.60 feet to an existing 2" iron bar;
- (4) N 30°47'50" E a distance of 938.07 feet to an existing 2" iron pipe with cap in a rock pile;
- (5) N 79°13'50" E a distance of 810.59 feet to an existing 2" iron pipe with cap in a rock pile;
- (6) N 38°50'06" E a distance of 1011.06 feet to an existing 4" steel rail;
- (7) S 76°03'55" E a distance of 225.00 feet to an existing 2" iron pipe with cap in a rock pile;
- (8) S 60°41'56" E a distance of 147.37 feet to an existing 2" iron pipe with cap;
- (9) S 09°23'51" E a distance of 477.17 feet to an existing 4" steel rail; said steel rail being a common corner of Document Book 730 Page 412, United States of America Tract V-1 and Deed Book 221 Page 462 of the Transylvania County Registry and located S 58°33'15" W a distance of 148.29 feet from an existing 5/8" rebar;

Thence leaving the aforementioned common line and with the common line of Document Book 730 Page 412 and Deed Book 221 Page 462 of the Transylvania County Registry the following (4) courses and distances:

- (1) S 27°40'58" W a distance of 642.12 feet to an existing 1" iron rod;
- (2) S 27°42'51" W a distance of 518.37 feet to an existing 5/8" iron pipe;
- (3) N 87°51'02" W a distance of 120.52 feet to an existing 1" axle;
- (4) S 27°09'27" W a distance of 159.89 feet to an existing 5/8" rebar in a branch; said rebar being a common corner of Document Book 730 Page 412, Deed Book 221 Page 462 and Deed Book 431 Page 479 of the Transylvania county Registry;

Thence leaving the aforementioned common line and with the common line of Document Book 730 Page 412 and Deed Book 431 Page 479 of the Transylvania County Registry S 27°10'09" W a distance of 439.08 feet to an existing concrete monument with a "Raxter" cap; said concrete monument being a common corner of Document Book 730 Page 412, Deed Book 221 Page 462 and Deed Book 363 Page 53 of the Transylvania County Registry; and located N 83°09'22" W a distance of 305.69 feet from an existing 1/2" rebar;

Thence leaving the aforementioned common line and with the common line of Document Book 730 Page 412 and Deed Book 363 Page 53 of the Transylvania County Registry the following (2) courses and distances:

- (1) S 27°10'42" W a distance of 420.04 feet to an existing 1 1/4" iron pipe;
- (2) S 23°14'13" E a distance of 130.46 feet to an existing 5/8" rebar; said rebar being a common corner of Document Book 730 Page 412, Deed Book 363 Page 53, Document Book 560 Page 344 and Document Book 721 Page 395 of the Transylvania County Registry; and located N 23°11'23"W a distance of 123.61 feet from an existing 5/8" rebar set with a "Raxter" cap;

Thence leaving the aforementioned common line and with the common line of Document Book 730 Page 412 and Document Book 721 Page 395 of the Transylvania County Registry S 82°14'09" W a distance of 222.19 feet TO THE TRUE POINT OF BEGINNING.

Being all of a tract of land containing 64.54 Acres, being the same more or less, according to a Plat of survey recorded in Plat File 16 Page 443 of the Transylvania County Register of Deeds by Kee Mapping and Surveying, PA (License # C-3039) on and between the dates of 01/26/15-02/06/15 and under the supervision of Nolan R Carmack, NC PLS (License # L-5076) and should be referenced for a more complete description.



2015003014

TRANSLYVANIA CO. NC FEE \$26 00
STATE OF NC REAL ESTATE EXT
\$1400.00

PRESENTED & RECORDED
06-26-2015 08:57:30 AM

CINDY M OWMBEY
REGISTER OF DEEDS
BY D REE M POWELL
DEPUTY REGISTER OF DE. OS

BK: DOC 730
PG: 412-415

NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax: \$ 1400.00

Parcel Identifier No. _____ Verified by Transylvania County on the 21st day of JUNE 2015
By: GC

Mail/Box to: Ramsey & Pratt, P.A., 35 N. Gaston Street, Brevard, NC 28712

This instrument was prepared by: Michael K. Pratt

Brief description for the Index: _____

THIS DEED made this 16th day of June, 2015, by and between

GRANTOR

GRANTEE

**WILLIAM P. BRYSON, JR., and wife,
LUCY W. BRYSON; NANCY B. HUGHES and husband,
HOWARD T. HUGHES; BRYSON DEVELOPMENT
AND MANAGEMENT LIMITED PARTNERSHIP a/k/a
The Bryson Development and Management Limited
Partnership**

LASTINGER PROPERTIES, LLC

PO Box 461
Pisgah Forest, NC 28768

180A Cross Creek Farm Road
Fletcher, NC 28732

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the City of n/a, Brevard Township, Transylvania County, North Carolina and more particularly described as follows:

BEING ALL OF THE SAME LAND DESCRIBED ON THE PAGE WHICH IS ATTACHED HERETO, DESIGNATED AS EXHIBIT "A" AND INCORPORATED HEREIN BY REFERENCE.

All or a portion of the property herein conveyed X does _____ does not include the primary residence of the William P. Bryson, Jr., and wife, Lucy W. Bryson.

A map showing the above described property is recorded in Plat File _____, Slide _____.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, other than the following exceptions:

Title to the property hereinabove described is conveyed subject to the following exceptions:

Exceptions and reservations contained in this deed and/or in instruments referenced herein.
Easements and rights of way for public and private roads and utilities, of public record.
Lien of ad valorem taxes for the current year and subsequent years, not yet due and payable.

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first written.

William P. Bryson, Jr. (SEAL)
WILLIAM P. BRYSON, JR.

Lucy W. Bryson (SEAL)
LUCY W. BRYSON

Nancy B. Hughes (SEAL)
NANCY B. HUGHES

Howard T. Hughes (SEAL)
HOWARD T. HUGHES

**BRYSON DEVELOPMENT AND MANAGEMENT
LIMITED PARTNERSHIP**

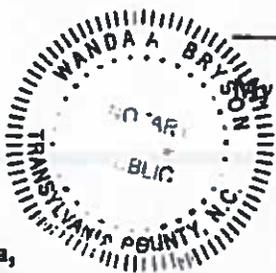
By: *Nancy B. Hughes*
Nancy B. Hughes, General Partner

State of North Carolina,
County of Transylvania.

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: William P. Bryson, Jr., and wife, Lucy W. Bryson

Date: 6-24-15

Wanda A Bryson
Signature of Notary Public
Wanda A. Bryson
Printed or typed name of Notary
My commission expires: 9-28-18

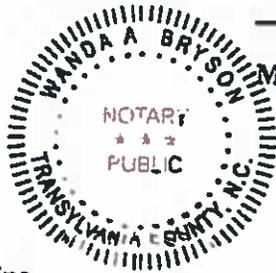


State of North Carolina,
County of Transylvania.

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Nancy B. Hughes and husband, Howard T. Hughes

Date: 6-24-15

Wanda A Bryson
Signature of Notary Public
Wanda A Bryson
Printed or typed name of Notary
My commission expires: 9-28-18



State of North Carolina,
County of Transylvania.

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Nancy B. Hughes, General Partner

Date: 6-24-15

Wanda A Bryson
Signature of Notary Public
Wanda A. Bryson
Printed or typed name of Notary
My commission expires: 9-28-18



EXHIBIT "A" TO A DEED FROM BRYSON, ET AL, TO LASTINGER

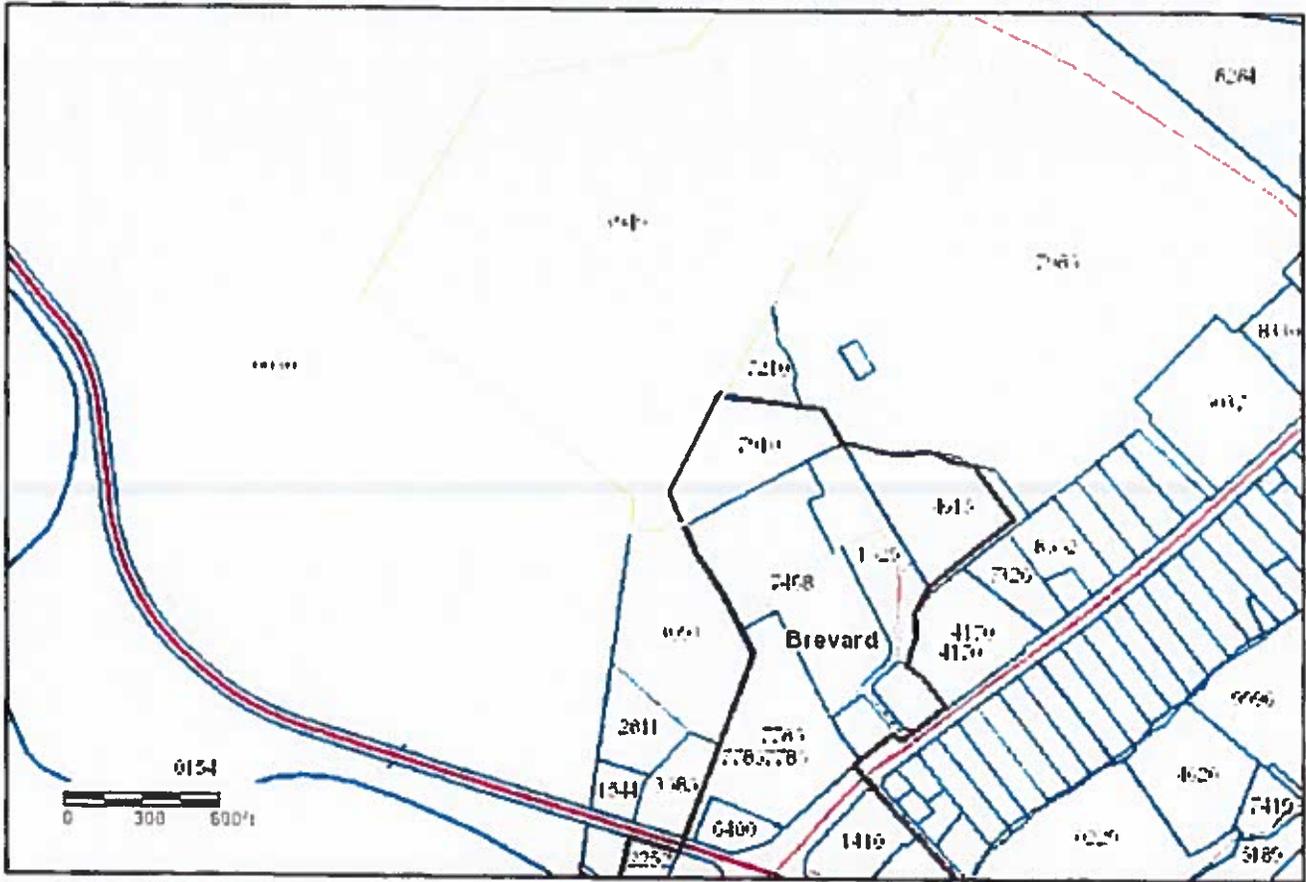
Being all of that certain tract of land containing 64.54 acres, more or less, as shown on a plat thereof recorded in Plat File 16, Slide 443, Records of Plats for Transylvania County.

Together with a right of way to US Highway 276 over and along the existing driveway which extends from the land hereinabove described to said highway, said right of way and the rights of obligations of each of the property owners served by said right of way being more specifically defined in an agreement recorded in the office of the Register of Deeds for Transylvania County in Document Book 721, page 367.

The property hereinabove described was acquired by the Grantor by instruments recorded in the office of the Register of Deeds for Transylvania County in Deed Book 404, page 175, Document Book 210, page 125, and Document Book 210, page 133.

William P. Bryson, Jr., and Nancy B. Hughes, as the last partners of Bryson Family of Transylvania County Limited Partnership, join in the execution of this deed for the additional purpose of conveying that fractional interest in former Tract A containing 7.11 acres, more or less, as shown on a plat thereof recorded in Plat File 6, Slide 434, Records of Plats for Transylvania County, which was mistakenly conveyed to the said partnership by a deed recorded in the office of the Register of Deeds for Transylvania County in Document Book 137, page 780, as corrected and rerecorded in Document Book 140, page 132.

The Bryson Family of Transylvania County Limited Partnership has been dissolved by a Cancellation of Certificate of Domestic Partnership filed with the North Carolina Secretary of State on December 31, 2008.



Transylvania County, NC

Disclaimer: The information contained on this page is taken from aerial mapping, tax mapping, and public records and is NOT to be construed or used as a survey or 'legal description'. Only a licensed professional land surveyor can legally determine precise locations, elevations, length and direction of a line, and areas.

Parcels

PIN: 8597-47-3848-000

Owner Name: Lastinger Properties LLC

Owner Address: 180A Cross Creek Farm Rd

City: Fletcher

State: NC

Zip: 28732

COUNTY_ID: T401 00295 A 02

FIREDIST: FR02

Acres: 64.898

Waterfront: N

Land Area: 64.54

Land Units: AC

TWSP: 02

Land Value: 1701280

Assessed Value: 1761500

Building Value: 60240

ACCOUNT_NO: 70429980

Legal Address: off Hwy 278

Attributes at point: N: 577892, E: 894330

Fire Districts Fire District: FR02	Voting Tabulation Districts (VTD) Name: Pisgah Forest	Precincts Description: PF_PISGAH FOREST
Brevard Zoning District: General Residential (4)		



The City of
Brevard
North Carolina

NEW BUSINESS STAFF REPORT

October 20, 2015

Title: Request for Rezoning – Martin Bawden RZ15-000003
Speaker: Daniel Cobb AICP, Planning Director
Prepared by: Daniel Cobb AICP, Planning Director

EXECUTIVE SUMMARY: Planning Board will consider and formulate a recommendation to City Council regarding a rezoning request for property located on the Rosman Highway.

BACKGROUND: Staff received the application for rezoning on October 8, 2015 from Mr. Martin Bawden (hereafter, “applicant”) to rezone a portion of his property from General Residential (GR) to Corridor Mixed-Use (CMX). Please see the attached map entitled “Applicant Rezoning Request” for reference. For consistency within the vicinity of the subject parcel and surround zoning districts Staff has recommended rezoning a larger area than originally proposed by the applicant, this map version can be seen on the attachment “Site Map – Staff Recommendation.”

See the attached current zoning map for existing conditions. If approved the rezoning would expand the area zoned CMX by approximately 1 acre. The proposed rezoning is inconsistent with the City of Brevard’s adopted Land Use Plan, which recommends the area to be developed for low-density residential purposes. See the attached Land Use Plan excerpt for more information.

DISCUSSION: In considering a change of zoning, the Board should consider the following factors and Staff comments:

Is the request consistent with adopted land use plans? The proposed rezoning is not consistent with the adopted Land Use Plan. If the Planning Board elects to recommend in favor of the proposed rezoning, then the Board must, in its motion, acknowledge this discrepancy and provide a basis for its recommendation.

What is the relationship between the range of proposed uses and existing uses within the vicinity of the Subject Parcel? The range of existing land uses in the vicinity of the proposed rezoning appears to be consistent with the range of allowable uses permitted in the proposed CMX zoning district.

Is the size of the tract “reasonable” within the context of the proposed zoning district, the configuration of adjacent zoning districts, and surrounding land uses? Allowable uses within the CMX district zoning appear to be consistent with adjacent land uses; for example a stone yard and landscaping supply company is located approximately 100 feet from the subject parcel on the same side of the road, an auto service center and an outdoor storage area for a grading company are directly across the road. The size of the proposed CMX zoning district is sufficient to accommodate land uses and forms of development that are permitted within CMX zoning, and the proposed rezoning is an expansion of existing CMX zoning district located on the same side of the road.

What is the balance of benefits and detriments to both the Applicant / property owner and the public at large?
The proposed rezoning will introduce uses of land that are consistent with existing land uses within its vicinity; the land within the proposed rezoning appears suitable for land uses and forms of development that are permitted within CMX zoning; future development upon the subject parcel will result in patterns that are generally consistent with, or an enhancement to, other properties in the vicinity. While the area proposed for rezoning directly abuts a GR district, which could present conflicts with neighboring residential uses, the topography, existing buffering, setback, and lighting requirements already addressed within the City's land development regulations should mitigate any negative impacts created by the rezoning.

POLICY ANALYSIS: The proposed rezoning is not consistent with the adopted Land Use Plan. If the Planning Board elects to recommend in favor of the proposed rezoning, then the Board must, in its motion, acknowledge this discrepancy and provide a basis for its recommendation. Refer to Staff comments within the "Discussion" and "Staff Recommendation" sections of this staff report for assistance.

STAFF RECOMMENDATION: While the proposed rezoning is inconsistent with the Future Land Use Plan, it is Staff's position that it will result in a more rational and consistent pattern of land uses upon the subject parcel and its immediate vicinity. Further, it will enhance development potential in a manner that is compatible with surrounding land uses. It is Staff's position that the proposed rezoning is of sufficient size and configuration given the proposed district, and is appropriate in its geographic location, and therefore does not constitute spot zoning. Finally, it is Staff's position that any potentially negative impacts of future development upon the subject parcel, which would derive from the proposed rezoning, are sufficiently addressed in the City's current development regulations and review procedures.

The Planning Board's responsibility is to formulate a recommendation to Brevard City Council. The Board's options are as follows:

1. Recommend approval of the proposed rezoning.
2. Recommend approval of the proposed rezoning with recommended modifications.
3. Recommend denial of the proposed rezoning.
4. Request additional information from Staff. The Board may take up to 45 days to formulate a recommendation to City Council, meaning that the Board must forward a recommendation on or before Thursday, November 26, 2015.

FISCAL IMPACT: None at this time. Future development upon the subject parcel will require Staff time for review of CMX uses which is generally more complicated than uses allowed in GR districts. Impacts are deemed to be negligible.

ATTACHMENTS:

- A. Application materials
- B. Vicinity map
- C. Applicant rezoning request
- D. Staff-recommended rezoning map
- E. Current zoning map
- F. Proposed future zoning map
- G. Future Land Use Plan Excerpt
- H. Allowable uses comparison table

Prepared by: The Neumann Law Firm, PLLC
David C. Neumann, Attorney
File#15-711

**Metes and Bounds Description of Lot No. 1-A of the Subdivision of Lot No. 1 of the
Helen Meece Subdivision for Martin Bawden**

EXHIBIT "A"

BEGINNING at an 5/8 inch rod set buried two inches said, beginning point being located South of the control corner, NCGS Monument "George" N: 556, 738.13', E: 882, 107.13', NAD 83 (2001), 51 deg. 57 min. 04 sec. West 269.13 feet, the beginning point having NC GRID coordinates of N: 556, 572.256', E: 881, 895.194', NAD 83 (2001) and from said beginning point running South 55 deg. 36 min. 53 sec. West 202.00 feet to an 5/8 iron rod set; thence South 30 deg. 36 min. 57 sec. East 182.91 feet to a 5/8 inch iron rod found; thence along a convex curve having a radius of 40.00 feet, a length of 68.41 feet with a cord bearing of North 64 deg. 41 min. 55 sec. East and a cord distance of 60.37 feet to a 5/8 inch rod found; thence North 15 deg. 43 min. 02 sec. East 140.12 feet to a 5/8 inch iron rod found; thence along a convex curve having a radius of 130.85 feet, a length of 116.19 feet with a cord bearing of North 09 deg. 43 min. 25 sec. West and a cord distance of 112.42 feet to the point of BEGINNING. Being a 0.684 acre lot, plus or minus (29,802 square feet, plus or minus) and designated LOT NO. 1-A, as surveyed by E. Roger Raxter, PLS, as shown on a survey dated October 07, 2015 and being Drawing Number 15063A.

CITY OF BREVARD

STATEMENT OF FEES

CUSTOMER INFORMATION

Customer name: Martin Bawden Telephone: 623-203-0465
 Contractor name: _____ Telephone: _____
 Development Permit Number: _____
 Location (911 Property Address): 545 Rosman Highway - Rezoning
 Billing address: _____
 Tax ID or Fed. #: _____

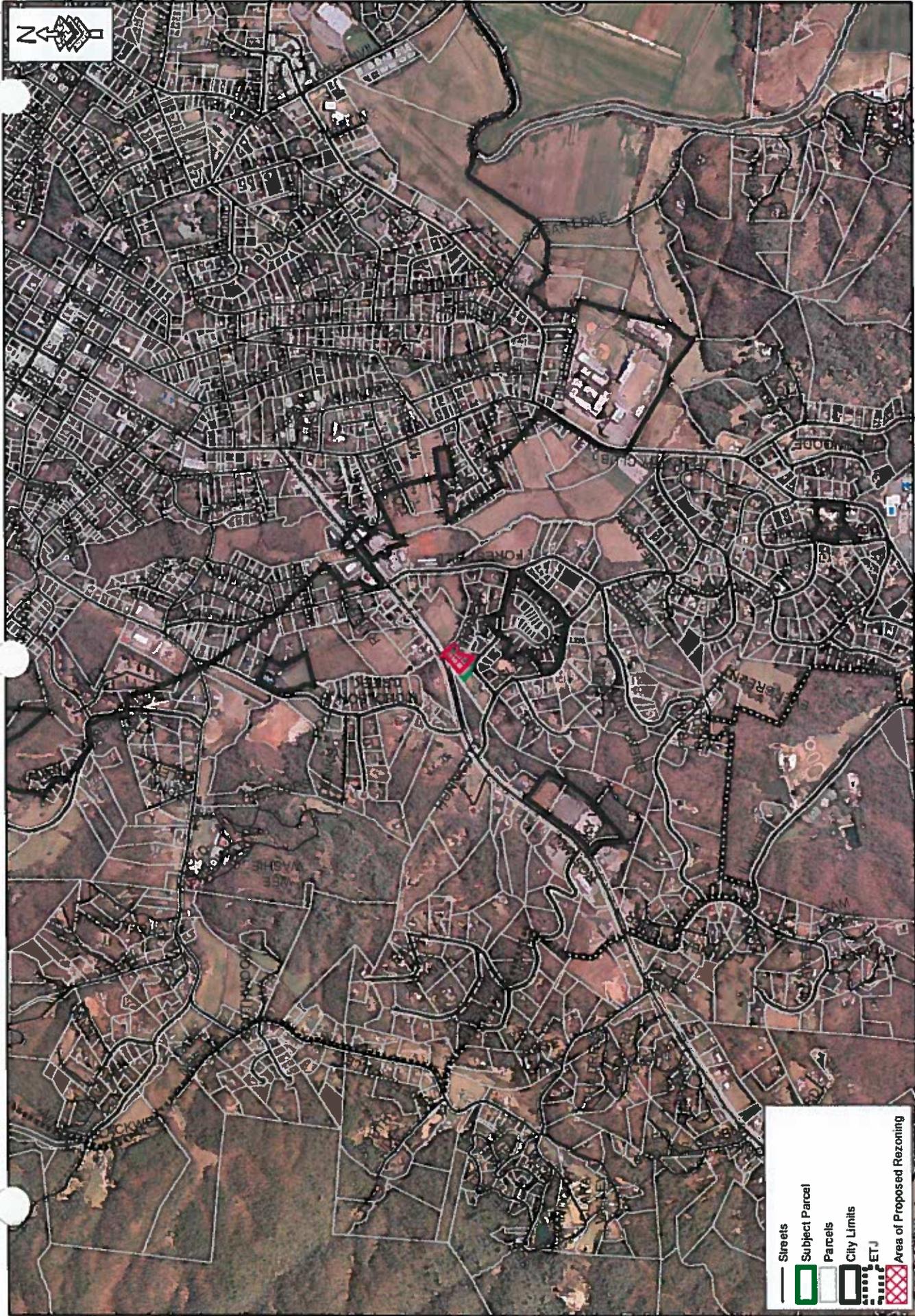
FEES

Category	Fee	Account Code	By
Business License		10-1260-0300	
Utility Account Deposit		30-2360-0200	
Water Tap Fee		30-3730-0100	
Sewer Tap Fee		30-3730-0200	
Water Impact Fee ¹		35-3730-0100	
Sewer Impact Fee ¹		35-3730-0200	
Zoning Permit	<u>500.⁰⁰</u>	10-3350-0200	<u>5/10</u>
Stormwater Fee-In-Lieu		35-1010-0480	
Parking Fee-In-Lieu		10-3350-0600	
Sidewalk Fee-In-Lieu		35-1010-0460	
Sign Permit Fee		10-3350-0200	
Miscellaneous Bonds		10-2010-1000	
Other (Describe)			
Total Fee ²	<u>500.⁰⁰</u>	Receipt Number: <u>328797</u>	Date: <u>10/8/15</u>

*Note to Planning Staff: Knox Box fees should be collected separately and forwarded to the vendor.

Please bring this form with you to the Water Dept to pay fees and we will be happy to give you a receipt for necessary permits.

Day meter to be set (if applicable): _____



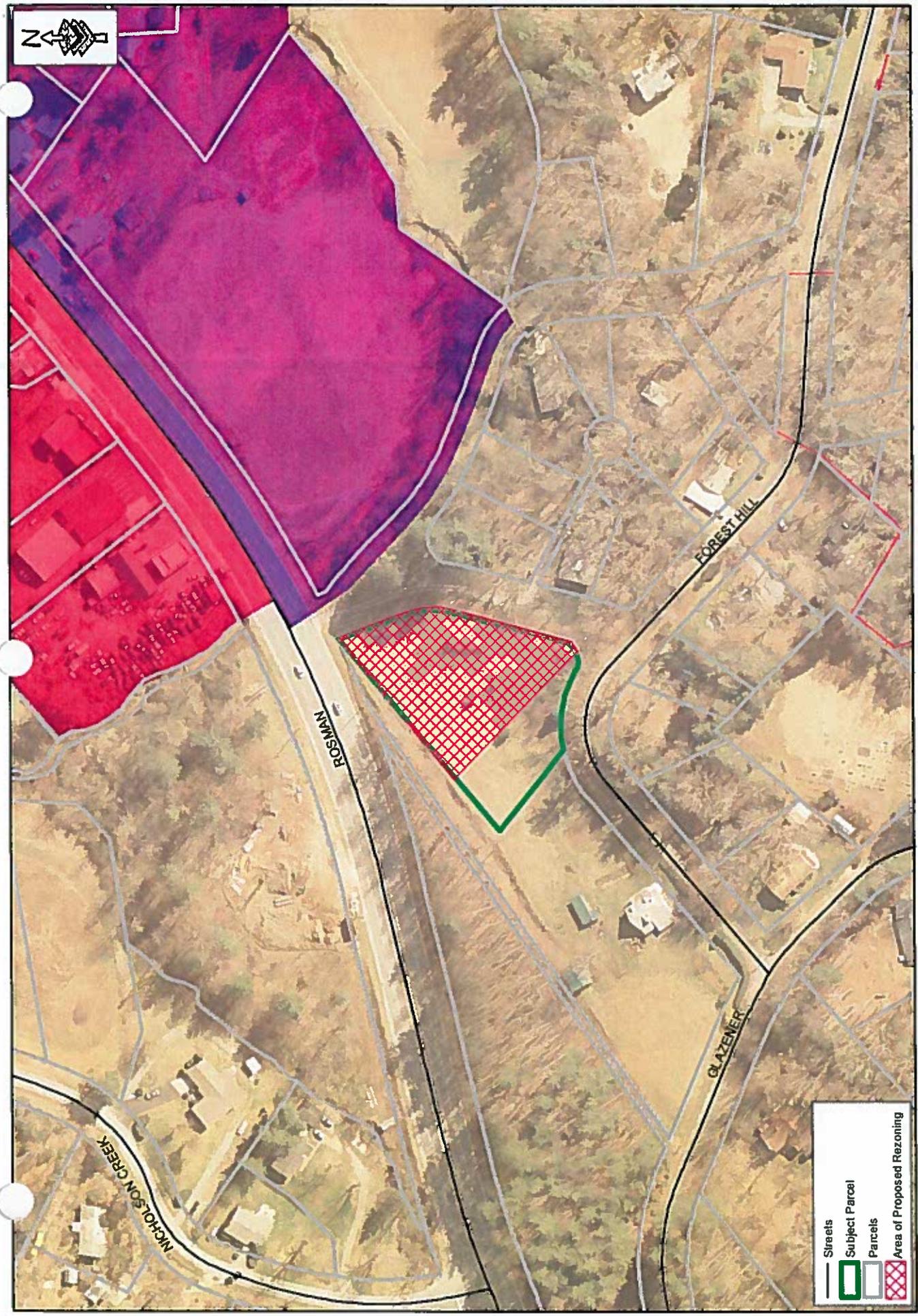
- Streets
- Subject Parcel
- ▭ Parcels
- ▭ City Limits
- ▭ ETJ
- ▭ Area of Proposed Rezoning

Vicinity Map

1 inch = .250 miles

0 0.125 0.25 0.5 0.75 1 1.25 Miles

ATTACHMENT B



Applicant Rezoning Request

ATTACHMENT C

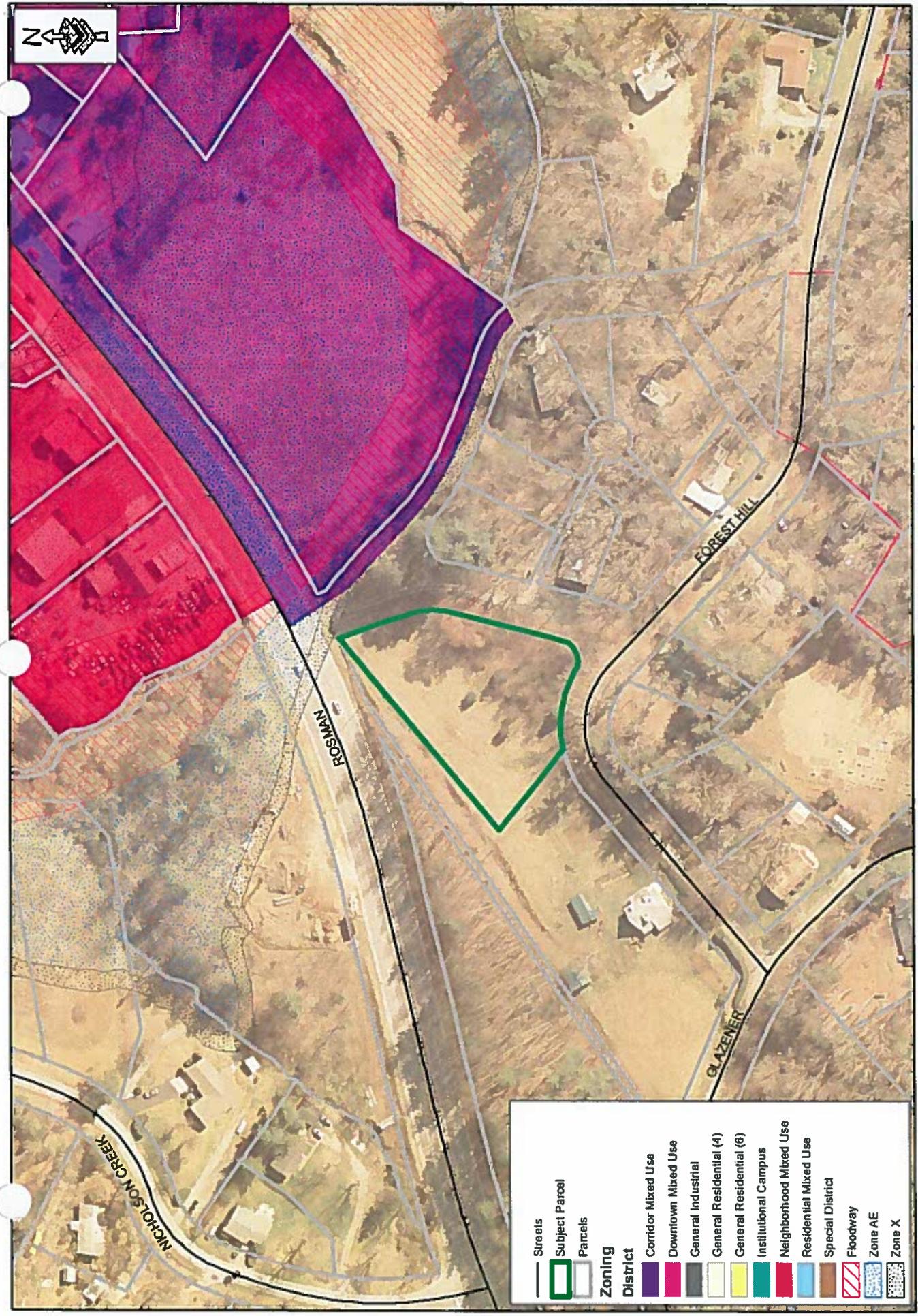


1 inch = 150 feet

Site Map - Staff Recommendation



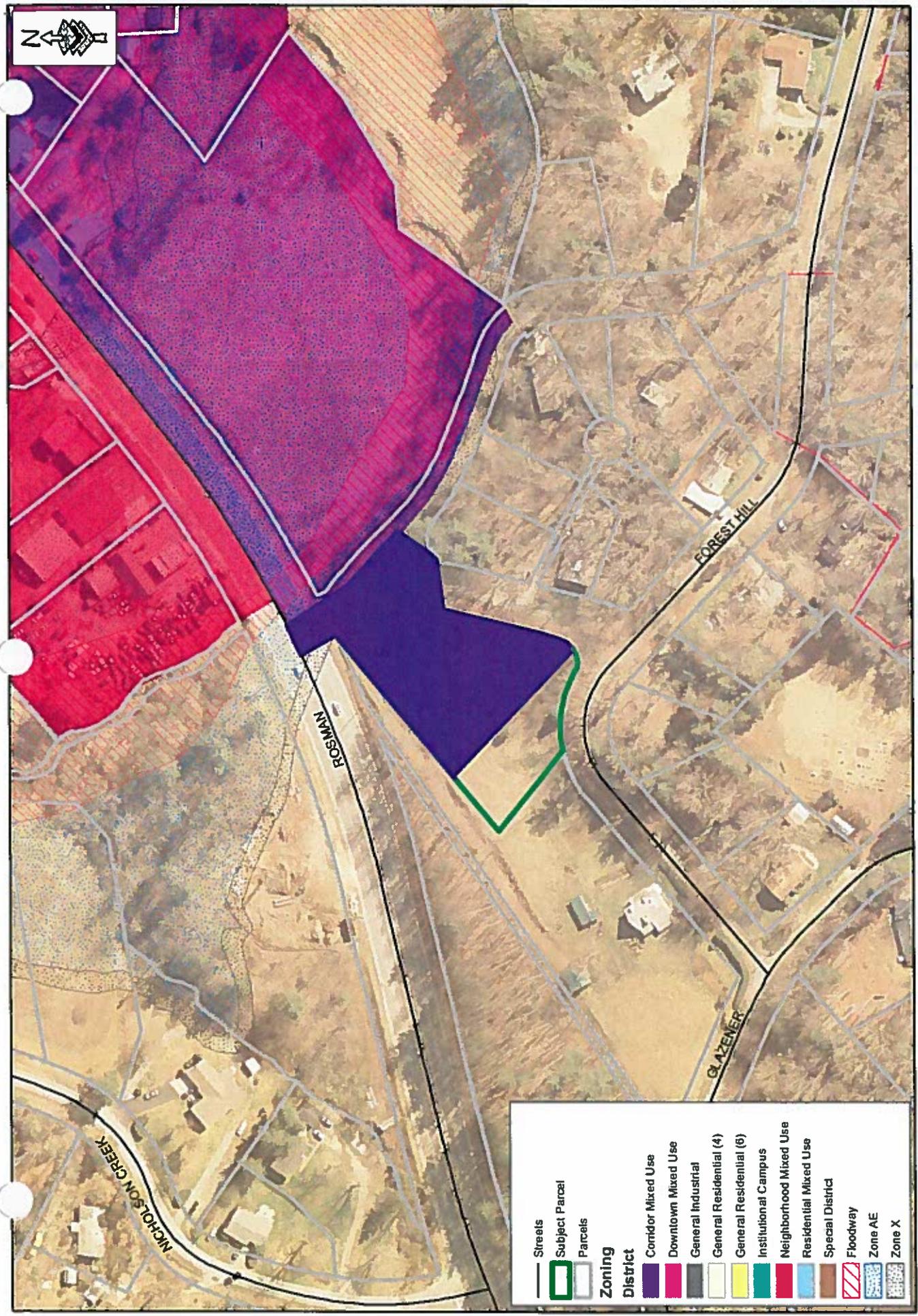
ATTACHMENT D



—	Streets
▭ (Green)	Subject Parcel
▭ (White)	Parcels
Zoning District	
▭ (Purple)	Corridor Mixed Use
▭ (Pink)	Downtown Mixed Use
▭ (Grey)	General Industrial
▭ (Light Yellow)	General Residential (4)
▭ (Yellow)	General Residential (6)
▭ (Teal)	Institutional Campus
▭ (Red)	Neighborhood Mixed Use
▭ (Light Blue)	Residential Mixed Use
▭ (Brown)	Special District
▭ (Red/White Diagonal)	Floodway
▭ (Blue/White Dotted)	Zone AE
▭ (Black/White Dotted)	Zone X

Current Zoning Map



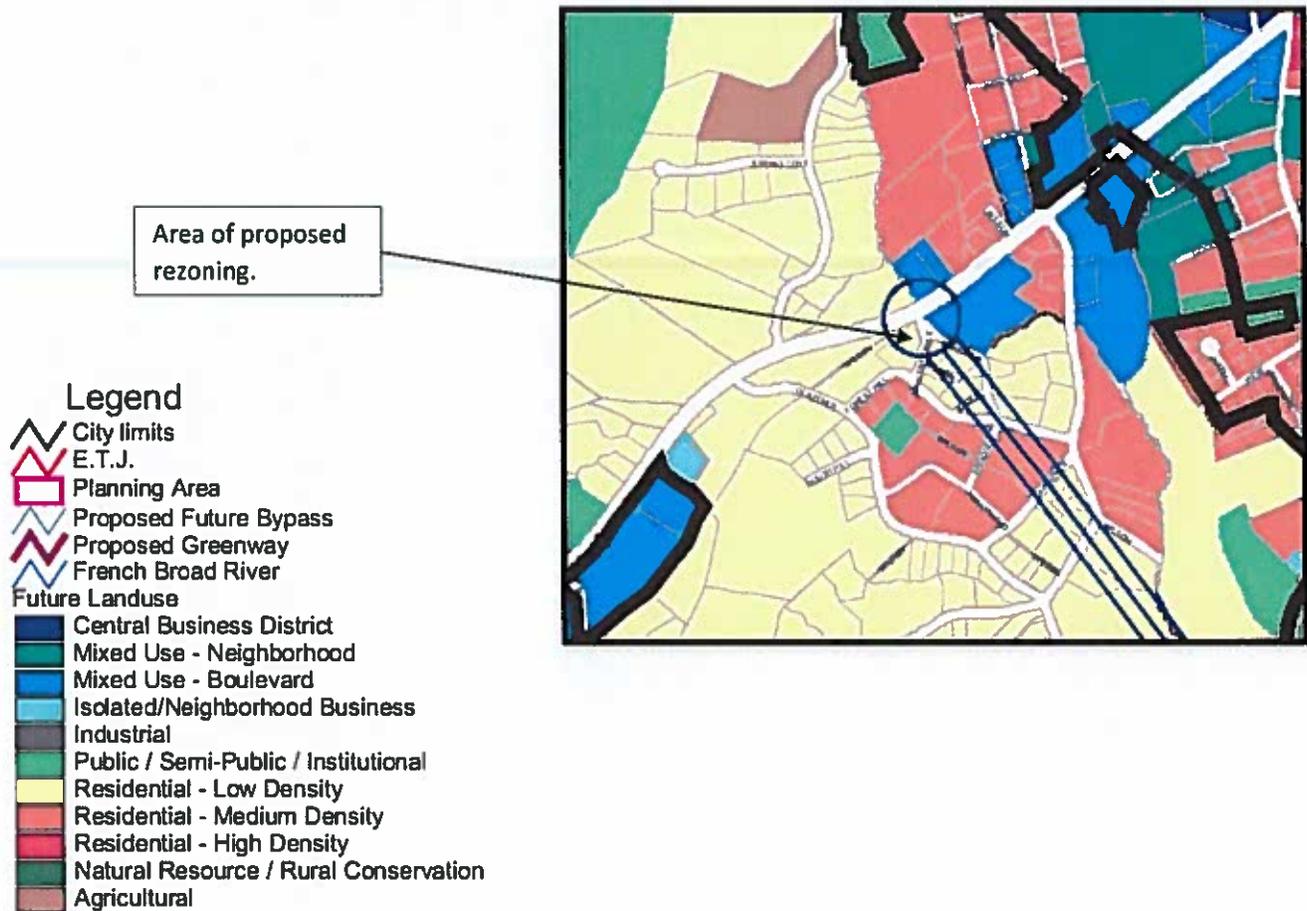


Proposed Zoning Map



City of Brevard Land Use Plan (Excerpt)

Adopted August 19, 2002



RESIDENTIAL – LOW DENSITY

These areas contain mostly one-family dwellings at an average density of not more than three dwelling units per acre and are mostly zoned R-1. Much of this land may not be served by public water and sewer and lot sizes should be adequate for an individual water supply and on-site sewage disposal. Typical lot sizes are 10,000 square feet or more. Agriculture occurs here and should continue to be allowed. Within this category opportunities for traditional, compact, rural commercial/community centers should be allowed to serve the daily needs of the surrounding community. Some of these areas, with their low-density development are prime candidates for conservation easements or the purchase/transfer of development rights to maintain their rural character.

Comparison of Allowable Uses

The following table, which is an excerpt of the use matrix shown in Chapter 2 of the Brevard Unified Development Ordinance, provides a comparison of uses permitted in the General Residential (GR) and Corridor Mixed-Use (CMX) districts.

1. "P" denotes those uses that are permitted "by right".
2. "—" denotes those uses that are not permitted within the given district.
3. "SUP" denotes those uses that are permitted upon issuance of a Special Use Permit in accordance with the provisions set forth in Chapter 16. Additional standards for certain uses requiring a Special Use Permit are set forth in Chapters 3 and 5 of this Ordinance.
4. "PS" denotes those uses that are permitted with additional standards, which are set forth in Chapter 3.
5. "GD" denotes those uses may be permitted as a Group Development in accordance with the provisions set forth in Chapter 16.
6. "MHD" denotes those uses that are permitted within a Manufactured Housing Overlay District.

BASE DISTRICT	GR	CMX
Residential	GR	CMX
Dwelling-Single Family (Site-built) (a)	P	—
Dwelling-Duplex	P	—
Dwelling-Town Home or Condominium Structure	GD	P
Dwelling-Multifamily 3-4 units/bldg, not including Condominium Buildings or multiple structures	SUP	P
Dwelling-Multifamily more than 4 units/bldg	—	P
Dwelling-Secondary	PS	P
Family Care Home (Less than 6 residents)	P	P
Home Occupation	PS	P
Housing Service for the Elderly	SUP	P
Live-Work Units	P	P
Manufactured Home (single unit) (b)	MHD	MHD
Manufactured Home Park	SUP	—

Recreational Vehicle	—	—
Lodging	GR	CMX
Bed and Breakfast Home	PS	PS
Bed and Breakfast Inns	SUP	PS
Accessory Rental cottage / cabins (c)	PS	—
Hotels/Motels/Inns	—	P
Rooming or Boarding House	—	P
Recreational Vehicle Park	—	—
Office/Service	GR	CMX
Animal Services	—	P
Artist Workshop	—	P
ATM	—	P
Banks, Credit Unions, Financial Services	—	P
Business Support Services	—	P
Adult / Child Day Care Home (Less than 6)	PS	PS
Adult / Child Day Care Center (6 or more)	—	PS
Community Service Organization	—	P
Drive Thru Service	—	P
Equipment Rental	—	P
Funeral Homes	—	P
Group Care Facility (6 or more residents)	—	P
Government Services	—	P
Medical Services - Clinic, Urgent Care Center	—	P
Medical Services – Doctor office	—	P
Kennels	—	PS
Post Office	—	P
Professional Services	SUP	P
Personal Services	—	P
Studio – Art, dance, martial arts, music	—	P
Vehicle Services – Major Repair/Body Work	—	PS
Vehicle Services – Minor Maintenance/Repair (d)	—	PS
Retail/Restaurants	GR	CMX
Alcoholic Beverage Sales Store	—	P
Auto / Mechanical Parts Sales	—	P
Bar/Tavern/Night Club	—	P
Drive-Thru Retail/Restaurants	—	PS

Gas Station	—	PS
General Retail	—	P
Restaurant	—	P
Shopping Center – Neighborhood Center	—	GD
Shopping Center – Community Center	—	GD
Vehicle/Heavy Equipment Sales - Outdoor	—	PS
Vehicle/Heavy Equipment Sales – Indoor	—	PS
Entertainment/Recreation	GR	CMX
Amusements, Indoor	—	P
Amusements, Outdoor	—	P
Cultural or Community Facility	SUP	P
Meeting Facilities	—	P
Recreation Facilities, Indoor	SUP	P
Recreation Facilities, Outdoor	SUP	P
Theater, Movie	—	P
Theater, Live Performance	—	P
Manufacturing/Wholesale/Storage	GR	CMX
Inert Debris Storage or Disposal Facilities	—	—
Junkyard	—	—
Laboratory - Medical, analytical, research & development	—	SUP
Laundry, dry cleaning plant	—	SUP
Manufacturing, Light	—	SUP
Manufacturing, Neighborhood	—	P
Manufacturing, Heavy	—	—
Media production	—	P
Metal products fabrication, machine or welding shop	—	P
Mini-Warehouses	—	SUP
Recycling - Small collection facility	—	SUP
Research and development	—	P
Storage - Outdoor storage yard as a primary use	—	SUP
Storage - Warehouse, indoor storage	—	SUP
Wholesaling and distribution	—	P
Civic/Institutional	GR	CMX
Campground/Artist Colony/Summer Camp	SUP	—
Cemeteries	PS	PS
Colleges/Universities	—	P

Hospital	—	P
Jail	—	P
Public Safety Station	SUP	P
Religious Institutions	SUP	P
Schools – Elementary & Secondary	SUP	P
Schools – Vocational/Technical	SUP	P
Infrastructure	GR	CMX
Wireless Telecommunication Facility-Stealth	P	P
Wireless Telecommunication Facility-Tower	—	SUP
Utilities-Class 1 & 2	P	P
Utilities-Class 3	—	—
Miscellaneous Uses	GR	CMX
Adult Establishment	—	—
Outdoor Firing Range	—	—
Indoor Firing Range	—	SUP
Agriculture	P	P
Parking	PS	P
Swimming Pool – Residential Accessory Use	PS	PS
Swimming Pool – Primary Use	—	PS
Fences	PS	PS
Temporary Uses	GR	CMX
Carnivals or Circus	—	PS
Farmers Market	—	PS
Religious Meeting	PS	PS
Contractor's Office and Equipment Shed	PS	PS
Seasonal Structures	PS	PS
Satellite real estate sales office	PS	PS
Special event	PS	PS
Temporary Vendors	—	PS
Vending Pushcarts	—	—



The City of *Brevard* North Carolina

NEW BUSINESS STAFF REPORT

October 20, 2015

TITLE: Sign Amendments: Corridor Overlay District, Murals, & Vintage Signs
SPEAKER: Aaron N. Bland AICP, Planner & Asst. Zoning Administrator
PREPARED BY: Aaron N. Bland AICP, Planner & Asst. Zoning Administrator

EXECUTIVE SUMMARY: Planning Board will hear proposed amendments to the City of Brevard Unified Development Ordinance and Official Zoning Map regarding signage including 1) a modification and expansion of the Asheville Highway Sign Overlay District, and 2) creating definitions and allowances for murals and vintage signs.

BACKGROUND:

Corridor Overlay District

The Asheville Highway Sign Overlay District provides standard signage requirements for the commercial corridor along Asheville Highway. The overlay allows for signs along the specified portion of Asheville Highway, regardless of zoning, to be up to 85 square feet in surface area per side, which is the largest sign allowable by the Unified Development Ordinance. This original overlay was recommended for approval by the Planning Board at their March 17, 2015 meeting and subsequently adopted and enacted by City Council on April 20, 2015.

At the September 15, 2015 Planning Board meeting, the Board unanimously recommended an expansion of the Asheville Highway Sign Overlay District that would expand the same overlay district provisions to the commercial corridor along Rosman Highway to the south of downtown. Attachment A shows the maps that the Board was given in their packets for the September 15th meeting, depicting the existing overlay on Asheville Highway and the proposed overlay on Rosman Highway.

While preparing the necessary documents for this expansion to be approved by City Council, Staff discovered some irregularities with the existing overlay along Asheville Highway as was adopted by Council in April. To be properly amended, the new adjusted map of the overlay area must be approved by the Planning Board. Staff withdrew the Rosman Highway portion of the overlay from City Council's agenda and included it with this report to package both sections into one unified amendment process. Attachment B shows an example of the difference between the original irregular overlay, which was subsequently adopted by Council, and the proposed uniform amended overlay.

Murals and Vintage Signs

Currently there is no clear distinction between what the administrator may consider art and what may be considered a sign. The standard practice has been to consider an image or painting art (thus, not subject to wall sign requirements) if it is purely decoration or embellishment of a structure or façade and not related to the use of the building. In other words, if a grocery store chose to paint a large landscape on one of their blank walls which included only natural elements (mountains, waterfalls, etc.), it would be considered a mural. However, if that same grocery store painted the same image on their wall but included images of produce trucks, farms, or similar it would meet the definition of a sign, which is included below:

“Any words, lettering, numerals, parts of letters or numerals, figures, phrases, sentences, emblems, devices, designs, graphic depiction of a product and/or process, trade names or trademarks by which anything is known, including any surface fabric or other material or structure designed to carry such devices, such as are used to designate or attract attention to an individual, a firm, an association, a corporation, a profession, a business, or a commodity or product, which are exposed to public view, and used to attract attention. This definition shall not include the flag, badge, or insignia of any governmental unit.”

The proposed definition of *murals* is included on page 2 and 13 of attachment D. The intent is to allow business to include murals on their buildings without the issuance of a sign permit. However, if a business would like to include their logo in a mural, they may do so as long as the logo is less than 8% of the murals total surface area.

The intent is similar with *vintage* signs, allowing establishments to decorate their building without directly advertising their business. Businesses and property owners have requested in the past to hang old service station and Coca-Cola signs on their buildings simply to break up and dress up large expanses of blank walls. According to the definition above, currently any sign is considered a *sign* for permitting purposes.

DISCUSSION:

Corridor Overlay District

Justification for creating the overlay district was based on the Board’s discussion that signage along the automobile-oriented “commercial strip” could be consistent in size throughout changing zoning districts without harming the aesthetics of the city as a whole, so long as residential areas are not included in the overlay.

As previously discussed, the proposed Rosman Highway expansion is drawn to include the primary highway corridor, starting with the transition from Downtown Mixed Use, as was the case with the existing overlay, and stopping at the transition to General Residential zoning. The modifications to the original Asheville Highway overlay revolve around mapping inconsistencies discovered after it was originally created. Staff initiated these changes to present a consistent final overlay.

The official name of the modified and expanded overlay will need to be changed from “Asheville Highway Sign Overlay District” to reflect its new geographic scope. The Board’s recommendation to Council should include an updated name for the district, such as the “Highway 64 Sign Overlay District.” The sections of the UDO that will be amended to reflect this name change are shown in Attachment C.

Murals and Vintage Signs

The intent for allowing murals and vintage signs is to allow businesses and property owners greater flexibility in how they can decorate and beautify their buildings, facades, and signage. The amended UDO language is reflected in Attachment D. Creating these additional standards provides clear distinction between what is art or decoration and what is a sign, as defined by ordinance.

POLICY ANALYSIS: The changes to the overlay district represent minor corrections to a previously approved ordinance and map amendment. Justification for modifying the existing overlay district was based on the Board’s discussion that signage along the automobile-oriented “commercial strip” could be consistent in size without harming the aesthetics of the city as a whole. Staff believes that extending this same consideration to the equally automobile-oriented corridor to the south is a rational action to provide business owners along that stretch of highway the same opportunities now granted to those within the existing overlay.

STAFF RECOMMENDATION: Staff recommends approval of the amendments as presented. The official name of the newly corrected and expanded overlay will need to be changed from “Asheville Highway Sign Overlay

District" to reflect its new geographic scope. The Board's recommendation to Council should include an updated name for the district.

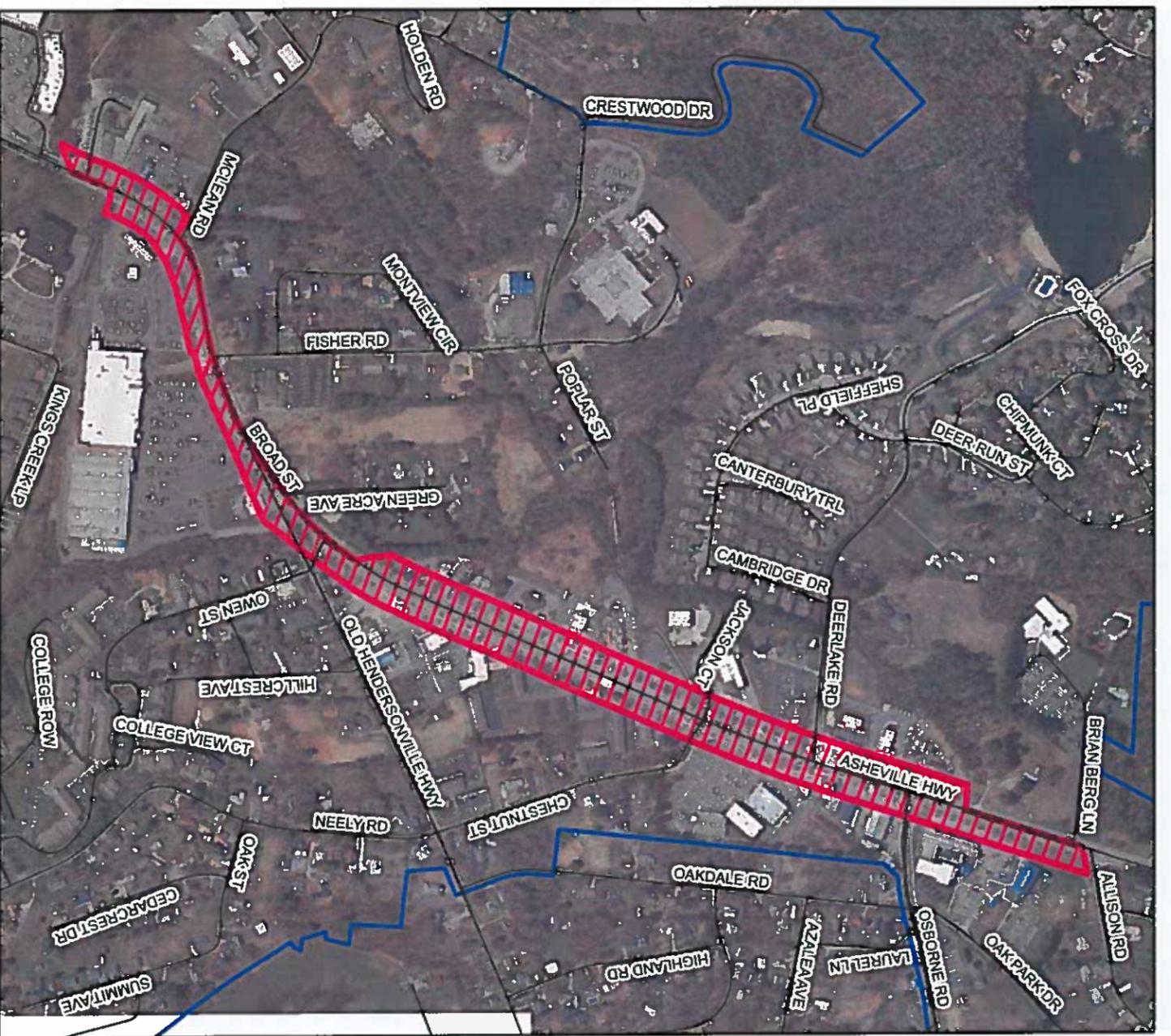
The Planning Board's responsibility is to formulate a recommendation to Brevard City Council. The Board's options are as follows:

1. Recommend approval of the proposed zoning map and text amendments as presented.
2. Recommend approval of the proposed zoning map and text amendments, with recommended modifications.
3. Recommend denial of the proposed zoning map and text amendments as presented.
4. Request additional information from Staff. The Board may take up to 45 days to formulate a recommendation to City Council, meaning that the Board must forward a recommendation on or before Thursday, November 26, 2015.

FISCAL IMPACT: None.

ATTACHMENTS:

- A. Existing and proposed sign overlay district maps from September 15, 2015 Planning Board meeting.
- B. Example illustrating difference between existing and proposed Asheville Highway section of overlay.
- C. Proposed amendments to Unified Development Ordinance, Chapters 2 & 12
- D. Proposed amendments to Unified Development Ordinance, Chapters 12 & 19
- E. Proposed amended Official Zoning Map



Current Overlay District



Proposed Overlay District Expansion



Proposed



Original



This example depicts one area of mapping irregularities in the adopted overlay that are corrected in this proposed amended overlay.

2.1. - General intent and establishment of districts.

A. Base districts.

1. In accordance with North Carolina General Statute 160A-382 that sets forth the establishment of zoning regulation by district, the City of Brevard and its extra-territorial jurisdiction (hereafter, the "regulatory jurisdiction"), as indicated on the official zoning map is hereby divided into various districts that set forth uniform regulations for the development of land within each district.
2. The purpose of these district regulations is to provide a comprehensive plan for the use of land and buildings in conditions of good health and safety and in conditions of orderly community development. These regulations shall apply to all land and structures within the respective zoning district.

B. Establishment of base districts, and purpose statements. This ordinance establishes the following base districts for use as zoning categories

1. **General Residential (GR4 and GR6).** The General Residential District is intended for the city's existing predominately-residential neighborhoods as well as provide for new primarily-residential development in accordance with this pattern. These districts are differentiated only by the density of the overall development relative to the planning goals of the city as set forth in the Land-Use Plan.
2. **Residential Mixed-Use (RMX).** The Residential Mixed-Use District is intended to provide for areas of higher density residential development in close proximity (within ½—¼ mile) to existing and planned commercial centers such as the Downtown Mixed Use District. The intent is to create higher density residential areas that compliment commercial districts with physical proximity and pedestrian connectivity. Different housing types and lot styles are encouraged.
3. **Neighborhood Mixed-Use (NMX).** The Neighborhood Mixed-Use District is coded to provide pedestrian-scaled, higher density residential homes and opportunities for limited scale commercial activities along existing mixed-use corridors, in areas of transition, and at the functional center of new neighborhoods. Development in this district should encourage pedestrian activity through construction of mixed-use buildings and connections to adjacent neighborhoods. Buildings in this district are typically small and detached.
4. **Downtown Mixed-Use (DMX).** The Downtown Mixed-Use District is coded for the traditional downtown area. Individual buildings are encouraged to be multi-story with uses mixed vertically, street level commercial and upper level office and residential. Higher densities of residential development are encouraged. It is the purpose of these regulations to encourage vitality by excluding certain activities which have a negative effect on the public realm through auto-dominated or non-pedestrian oriented design or uses.
5. **Corridor Mixed-Use (CMX).** The Corridor Mixed-Use District is coded to facilitate convenient access, minimize traffic congestion, and reduce the visual impact of auto-oriented uses along the city's major thoroughfares. In addition, this district is established to assure the continuation of the natural beauty and green appearance of the major thoroughfares leading into the city, for enhancement of the appearance of newly developed and redeveloped properties, and for the promotion of public safety by limiting the number and location of access points.
6. **Institutional Campus (IC).** The Institutional Campus District is coded to allow for the continued and future use, expansion, and new development of academic and religious campuses, as well as government and health-care facilities. Unlike regular buildings which are oriented towards public streets, campus buildings are introverted towards spaces within the campus such as quadrangles.
7. **General Industrial (GI).** This district is primarily for general industrial land uses and a broader variety of operations, including manufacturing, processing, and assembling of parts and products and distribution of products at wholesale or retail. The standards established for general industrial areas are designed to promote sound permanent industrial development.

- C. Establishment of conditional zoning districts. In addition to the base districts established above, and as authorized under G.S. 160A-382 and G.S. 153A-342 the following conditional districts are established which correspond to the above-referenced districts but which require the submission of a master plan as a prerequisite to any development. These districts are intended to allow for the establishment of specific land uses not otherwise permitted in the underlying base district, subject to applicable conditions of the approving authority, while insuring compliance with all other applicable provisions of this ordinance. These districts are not intended to relieve hardships that should be resolved by means of a variance, or to provide the design and dimensional flexibility of development overlay districts listed in Section 2.1(D), below. The procedure for the establishment of these districts is found in Chapter 16 of this ordinance.
1. General Residential Conditional Zoning District 10 (GR 10 CD).
 2. Residential Mixed-Use Conditional Zoning District (RMX CD).
 3. Neighborhood Mixed Use Conditional Zoning District (NMX CD).
 4. Corridor Mixed Use Conditional Zoning District (CMX CD).
 5. Central Business District Conditional Zoning District (CBD CD).
 6. General Industrial Conditional Zoning District (GI CD).
- D. Overlay districts. In accordance with North Carolina General Statute 160A-382, the following overlay districts are established. These overlay districts impose additional requirements on properties within one or more underlying base or conditional districts.
1. Manufactured Home Overlay District (MHD). The purpose of the MHD is to allow for the continued placement of manufactured homes "by right" in areas where manufactured housing is a historical housing form. Manufactured homes shall be subject to the design requirements of Chapter 5 as well as other provisions of this ordinance. Manufactured home parks shall require a special use permit in all parts of the city in which they are permitted.
 2. ~~Asheville Highway Sign Overlay District.~~ Asheville Highway Sign Overlay District. The purpose of the ~~AHSOD~~ AHSOD is to provide standard signage requirements for the commercial corridor along ~~Asheville Highway~~ the Asheville and Rosman Highway commercial corridors.
- E. Planned Development (PD). A Planned Development (PD) is a base zoning district classification which may only be assigned by means of conditional zoning pursuant to the procedures and criteria set forth in Section 16.8. This zoning classification is intended to provide an effective means for the city to manage the impacts of large-scale developments or developments in sensitive contexts and to provide developers with the flexibility for creative design approaches. The following developments may only be authorized for development in a Planned Development (PD) zoning district:
- ◆ Any development where the total ground floor area of all principal structures equals or exceeds 100,000 square feet;
 - ◆ Any group development containing 25 or more structures or units;
 - ◆ Any subdivision of land proposing 50 or more lots or condominium units;
 - ◆ Any development for which the developed area is proposed to include ten or more acres of land (inclusive of required recreation and open spaces).

Finally, inasmuch as planned developments allow for flexibility in building location and proximity, thus allowing appropriate densities while protecting sensitive areas, they are encouraged in steep slope and flood plain areas where site conditions limit the development area.

1. General intent/purpose of planned developments. The planned development zoning district classification allows projects of innovative design and layout that would not otherwise be permitted under this ordinance because of the strict application of zoning district or general

development standards. Planned development zoning encourages innovative land planning and design concepts by:

- ◆ Reducing or eliminating the inflexibility that sometimes results from strict application of zoning and development standards that were designed primarily for individual lots;
- ◆ Allowing greater freedom in selecting the means to provide access, light, open space, and design amenities;
- ◆ Allowing greater freedom in providing a mix of land uses in the same development, including a mix of housing types, housing prices, lot sizes, densities, and non-residential uses in a planned development;
- ◆ Promoting quality urban design and environmentally sensitive development by allowing development to take advantage of special site characteristics, locations, and land uses; and
- ◆ Encouraging quality urban design and environmentally sensitive development by allowing increases in base densities when such increases can be justified by superior design or the provision of additional amenities such as public and/or private open space.

In return for greater flexibility in site design requirements, planned developments are expected to deliver exceptional quality community designs that preserve critical environmental resources, provide above-average open space amenities, incorporate creative design in the layout of buildings, open space and circulation; assure compatibility with surrounding land uses and neighborhood character; and provide greater efficiency in the layout and provision of roads, utilities, and other infrastructure. Planned development districts shall not be used as a means of circumventing the city's adopted land development regulations for routine developments.

2. Designation procedure. A Planned Development (PD) District shall only be created by means of conditional zoning pursuant to the procedure set forth in Section 16.8, which shall include submission, review, and approval of a planned development master plan or preliminary master plan as defined in Section 16.7. Simultaneous submission of a site and/or subdivision plan is optional.
3. General use and development standards for PD Districts.
 - (a) Uses allowed. A planned development may contain only those uses specified in the ordinance creating the PD district. Such uses may include any of the uses indicated in the use matrix contained in Section 2.C, provided such uses are consistent with the Land Use Plan.
 - (b) Mixed uses encouraged.
 - (1) Mixed use developments are strongly encouraged in PD zoning districts, including the mixing of principal residential uses with principal non-residential uses. Mixed use development may occur by having two or more principal uses located in the same building (e.g., retail on ground floor, office space above) or by having two or more principal uses located in different buildings sited on the same lot or parcel (e.g., freestanding child day care center located on the same parcel as an office building). Unless otherwise provided in the ordinance creating a planned development district, mixed use developments shall comply with the Traditional Neighborhood Development specific standards contained in Section 2.E.8, below.
 - (2) Planned developments containing both residential and non-residential uses shall be designed, located, and oriented on the site so that non-residential uses are directly accessible to residents of the development. For the purposes of this section, "directly accessible" shall mean pedestrian and vehicular access by way of improved sidewalks or paths and streets that do not involve leaving the planned development or using a major thoroughfare. "Directly accessible" does not necessarily mean that non-

residential uses need to be located in a particular location, but that the siting of such uses considers the accessibility of the residential component of the development to the non-residential use.

- (c) Applicable standards.
- (1) Development in a PD district shall comply with the standards contained in the following chapters of the Unified Development Ordinance: Chapter 4, General Lot and Structure Provisions; Chapter 6, Environmental Protection; Chapter 9, Circulation and Connectivity; Chapter 11, Lighting; Chapter 13, Infrastructure Improvement Requirements. Provided, however, the General Lot and Structure Provisions in Section 4.4.D, whereby all subdivisions of land are required to front on a public street, may be modified by means of the ordinance creating a planned development district.
 - (2) The ordinance creating a PD district shall establish the following standards for development which may vary from applicable standards contained in the Unified Development Ordinance. If the ordinance creating a PD district fails to provide any of the standards required by this paragraph, any development in the district shall comply with the applicable standards contained in Brevard City Code.
 - a. Density and dimensional requirements (Section 2.3).
 - b. Additional use standards (Chapter 3).
 - c. Building types and architectural standards (Chapter 5).
 - d. Open space (Chapter 7), which shall be adequate to meet the needs of the proposed development.
 - e. Tree protection and landscaping (Chapter 8).
 - f. Parking standards (Chapter 10).
 - g. Signs (Chapter 12).
 - (3) Development and land use in a PD district shall comply with the requirements of Chapters 14 through 19 of the UDO.
 - (4) The ordinance creating the PD district shall specify whether phasing is proposed as well as the process, if applicable, for the review and approval of such phases, including any future subdivision of the property. Any references to final master plan in this section may apply to the entire planned development or an individual phase of such development.
4. Transportation and circulation system. The planned development's master plan shall demonstrate a safe and adequate on-site transportation system that addresses vehicular, bicycle, transit and pedestrian circulation. The on-site transportation system shall be integrated with the off-site transportation circulation system of the city. If a preliminary master plan has been utilized in establishing a planned development district, final approval of the transportation and circulation system may be deferred to review of a final master plan for the entire development or any individual phase thereof. In such event, the planning board may condition final master plan approval on the developer's agreement to fund transportation and circulation improvements identified in a traffic impact analysis or other submittal or reasonably related thereto. Failure by the developer to agree to such conditions shall constitute a major modification pursuant to Section 16.8.E.4(b).
5. Off-street parking and loading. The planned development's master plan shall comply with the off-street parking and loading requirements of Chapter 10, below, except that variations from these standards may be permitted if a comprehensive parking and loading plan for the development is submitted as part of the master plan that is suitable for the development and consistent with the intent and purpose of the off-street parking and loading standards of this ordinance. If a preliminary master plan has been utilized in establishing a planned development district, final

approval of the off-street parking and loading requirements may be deferred to review of a final master plan for the entire development or any individual phase thereof.

6. **Landscaping.** Landscaping shall comply with the standards of Chapter 8, below, except that variations from these standards may be permitted where it is demonstrated that the proposed landscaping sufficiently buffers uses from each other, ensures compatibility with land uses on surrounding properties, creates attractive streetscapes and parking areas, and is consistent with the urban design objectives and/or character of the area. Notwithstanding the foregoing, no variations from Section 6.7 shall be permitted.
7. **Open space.** Each planned development shall provide open space adequate to meet the needs of its residents, employees, and/or invitees. Such open space shall, at a minimum, comply with the requirements of Chapter 7, below.
8. **Traditional neighborhood development.** Unless the ordinance creating a PD district specifies otherwise, PD districts which contain residential uses shall incorporate the following traditional neighborhood development design principles:
 - (a) All neighborhoods shall have identifiable centers and edges.
 - (b) Edge lots shall be readily accessible to retail and/or recreation by non-vehicular means (a distance not greater than $\frac{1}{4}$ — $\frac{1}{2}$ mile).
 - (c) Uses and housing types shall be mixed and in close proximity to one another.
 - (d) Street networks shall be interconnected and blocks small.
 - (e) Sidewalks and other pedestrian infrastructure shall be interconnected and comprehensive.
 - (f) Civic uses shall be given prominent sites throughout the neighborhood.
 - (g) The entire land area of the development shall be divided into blocks, streets, lots and open space areas.
 - (h) Similar land categories shall generally front across streets. Dissimilar categories should abut at rear lot lines. Corner lots which front on streets of dissimilar use should be set back the same as the adjacent use with the lesser setback.
 - (i) The long axis of streets exceeding 500 feet in length shall have appropriate termination with either a public monument, specifically designed building facade, or a gateway to the ensuing space.
 - (j) Open space shall be centrally located so that it is within walking distance from all locations within the planned development. No portion of the planned development shall be further than 760 feet (1/8 mile) from a public open space as defined in Chapter 7.
 - (k) Dimensional standards shall be established in accordance with neighborhood design but shall be generally consistent with those found in the RMX, NMX and DMX Districts.
9. **Land use allocations.** The applicant shall specify the land use allocation in a planned development incorporating residential uses. Unless a different land use allocation is approved in the ordinance creating the PD district, land use allocation for such development shall be required to comply with the following table.

Land Use	Minimum	Maximum
Single-Family	15%	75%
Multi-Family	10%	40%

Lodging/Office/Retail	2%	40%
Civic	2%	None

(Note: The figures in the table above are to be calculated as the net development area, excluding street rights-of-way.)

10. Land use areas. If a preliminary master plan has been utilized in establishing a planned development district, said plan may divide the district into land use areas and specify use and other development standards which shall apply to such land use area. The preliminary master plan may also depict transition zones between any such land use areas which shall permit deferring the determination of the precise boundaries between land use areas until final master plan review.

(Ord. No. 15-08, §§ 1, 2, 12-5-08; Ord. No. 20-09, § 4(Exh. B(2)), 9-21-09)

12.9. - Signs allowed with permits.

The following types of signs shall be allowed within the City of Brevard upon the issuance of a sign permit for each proposed sign and subject to the regulations set forth below:

- A. Signs allowed in GR districts: The following types of signs shall be allowed in all of the residential districts subject to the accompanying restrictions and the issuance of a sign permit:
 1. Nameplate signs:
 - i. Home occupations shall be allowed one nameplate sign for purposes of identification.
 - ii. Signs shall not exceed four square feet of surface area and shall be attached to the residence.
 - iii. Signs shall not be illuminated.
 2. Ground signs at neighborhood entrances: Distinct neighborhoods, residential subdivisions, residential group developments, residential planned development districts, and manufactured home parks are permitted one ground sign at each entrance.
 - i. Such communities may include those older existing communities that may not have been permitted as unified projects (e.g., "Welcome to the Rosenwald Community", "Maple Street Community"). However, such signs shall be of a uniform design to be approved by the city. Designs and locations shall be approved by the administrator in consultation with the public works director and the community appearance commission.
 - ii. Signs shall be no larger than 32 square feet of surface area per side of sign up to a maximum of 64 square feet of aggregate surface area per sign.
 - iii. Signs shall not exceed five in height and may be indirectly illuminated in accordance with Chapter 11 of this ordinance.
 - iv. Such signs may be located within the center median of boulevard streets at neighborhood entrances. Such placement shall require an encroachment agreement from the North Carolina Department of Transportation or the City of Brevard, as applicable.
 3. Nonresidential uses: Nonresidential uses permitted in residential districts shall be allowed one ground or wall identification sign per street fronted on by the permitted use. Said sign shall be no larger than 32 square feet of surface area per side of sign up to a maximum of 64 square feet of aggregate surface area for said sign. Signs shall not exceed five feet in height and shall not be illuminated.
- B. Ground signs (non-residential): The following standards shall apply to individual businesses on individual parcels. Non-residential group developments, non-residential planned development districts, and institutional campuses shall be subject to the same dimensional requirements, but the number of allowable ground signs in such developments is set forth in Section 12.11, below.
 1. One ground sign not to exceed the following surface area limitations:
 - i. DMX, NMX, and RMX districts: 32 square feet in surface area per side of sign, up to a maximum of 64 square feet of aggregate surface area for the entire sign;
 - ii. CMX districts: 85 square feet in surface area per side of sign up to a maximum of 170 square feet aggregate surface area for the entire sign;
 - iii. IC district: 24 square feet per side of sign up to a maximum of 48 square feet of aggregate surface area for the entire sign;
 - iv. GI district: 50 square feet per side of sign up to a maximum of 100 square feet of aggregate surface area for the entire sign;

- v. **Asheville Highway Sign Overlay District** _____ **Overlay District:** 85 square feet in surface area per side of sign up to a maximum of 170 square feet aggregate surface area for the entire sign.
 - vi. Signs shall not exceed 25 feet in height in any district.
- C. [Reader boards:] Reader boards are allowed on ground signs provided that the total area of the sign, including the reader board, does not exceed the area allowed by this subsection.
- D. Electronic display signs: Electronic display signs may be permitted as ground or wall signs, subject to the following additional requirements:
- 1. Only one electronic display sign shall be permitted per parcel.
 - 2. Only one electronic display sign shall be permitted within any group development, planned development, or institutional campus.
 - 3. Electronic display signs shall display only non-moving text and images with changes alternating on not less than a five-second level, and shall display no scrolling, flashing, blinking, or otherwise moving message.
 - 4. Electronic display signs shall adhere to all other applicable wall or ground sign requirements of this chapter, as well as the lighting standards of Chapter 11 of this ordinance.
- E. [Canopy signs:] Signs may be attached to a canopy provided that the total area of both the ground signs and all canopy signs does not exceed the amount described in this subsection.
- F. [Sandwich board signs:] In lieu of ground signs, business establishments within DMX, NMX, and RMX districts may instead be permitted a single sandwich board sign to be placed on the sidewalk adjacent to the front of the individual business or on the brick paved area providing such a location does not pose a safety hazard. A sandwich board sign is an A-frame or inverted V-shape sign which is portable and usually double-sided. This sign must comply with Section 46-1 of the City Code and must not exceed four feet in height or eight square feet in area per side of sign. Business establishments located in the Times Arcade Alley may also be permitted to collectively place one such sign near the West Main Street alleyway entrance in the brick paved area, providing such a location does not pose a safety hazard and providing further that the sign is removed at the end of each day when the last business in the Times Arcade Alley closes.
- G. Wall signs: Each establishment located in CMX, DMX, NMX, RMX, IC, and GI districts shall be allowed wall signs in accordance with the following provisions:
- 1. Wall sign: One wall sign located on the street frontage side of the building.
 - 2. Projection sign: One suspended or projection identification sign per business establishment, not to exceed eight square feet per side of sign up to a maximum of 16 square feet of aggregate surface area for the entire sign. Suspended or projection identification signs shall be located at the main entrance of the business.
 - 3. Identification sign: Each establishment located in one of the above-mentioned districts shall be allowed one small business identification sign not to exceed 16 square feet in surface area. That sign may be located on the rear or side of the business.
 - 4. Marquee signs allowed in all commercial districts: Theaters located within commercial districts shall be allowed a marquee with one or two copy sign surfaces. Total copy area allowance, for all sign surfaces, shall not exceed five square feet per linear foot of canopy with a maximum total height limit of no more than five feet at any point. A marquee shall not extend more than ten feet from the building nor be less than nine feet above the ground or sidewalk at the lowest point.
 - 5. Menu reader board: Each drive-through restaurant establishment shall be allowed one menu reader board. Menu reader boards shall not be greater than 32 square feet in area or seven feet in height.

6. [Aggregate of wall signs:] The aggregate of all wall signs, including building identification signs, business identification signs, suspended signs, projection signs, marquee signs, and product information signs, shall not exceed 25 percent of the total surface area of the front wall space of the building (surface area of said wall shall be computed excluding windows and doors).
- H. Building identification signs:
1. Each building located in non-residential districts shall be permitted one building identification sign in lieu of allowable ground sign attached to the front of said building, or to the side of the building if the side faces on a street, alley, or other public right-of-way.
 2. Such building identification signs shall not exceed 32 square feet of aggregate surface area.
- I. Temporary banners or A-frame signs:
1. Temporary banners or A-frame signs may be allowed in CMX, DMX, NMX, RMX, GI, and IC districts, subject to the following requirements:
 - i. Temporary banners or A-frame signs advertising the initial openings of business establishments, special events, or special sales may be permitted provided the location of such signs is approved by the administrator and meets all other requirements.
 - ii. Banners shall be attached to any part of the building wall.
 - iii. Said signs shall not exceed 32 square feet of total aggregate surface area; A-frame signs shall not exceed 16 square feet per side of sign.
 - iv. Said signs may be installed ten days prior to the initial opening, special event, or special sale and may remain ten days after completion of the promotion.
 - v. Permits for these on-premises signs shall be obtained on an annual basis.
- J. Decorative flags, banners and other moving devices: Decorative flags, banners, pennants, and other moving devices (balloons, windsocks, etc.) may be allowed in all districts except GR, subject to the following requirements
1. A plan for all banners, flags, pennants, and devices indicating locations must be submitted to the administrator. An annual permit is required showing location, size, style, copy, and manner of installation of said banners, flags, pennants, and devices.
 2. Manner of installation must be based on established safety standards.
 3. No banner, flag, pennant, or moving device shall obstruct any fire escape, window, or door, or be placed in such a manner so as to interfere with any openings required for ventilation, nor offer hindrance to fire department equipment or personnel.
 4. All banners, flags, pennants, or moving devices shall be constructed of a fire-retardant material or be treated to be fire retardant.
 5. All banner, flag, pennant, or moving devices must be well-maintained; frayed, faded, or worn banners constitute illegal moving devices.
 6. No advertising message from any off-premise business may be contained on the face of any banner, flag, pennant, or moving device.
 7. No banner, flag, pennant, or moving device may overhang any portion of a vehicular travelway, except as otherwise allowed by this ordinance.
 8. No illuminated, electric, or motor-powered devices may be allowed; glare cannot pose a problem to passing motorists.
 9. No banner, flag, pennant, or moving device shall be secured to the wall in such a manner that the bottom portion is at least seven feet from the sidewalk or does not interfere in any manner with pedestrian traffic.,

10. Banners or flags cannot exceed a width of four feet and a length of six feet.
 11. Banners, flags and other devices cannot exceed one per every 20 linear feet of storefront.
 12. If, in the opinion of the administrator, said devices cause a nuisance or safety problem, the owner of said devices must relocate or remove them to the satisfaction of the code [enforcement] officer.
 13. Banners, flags or pennants must be properly designed and engineered to withstand the average prevailing winds and to meet the minimum wind load requirement of the North Carolina Building Code.
 14. This provision is subject to annual review by the planning board.
- K. Political signs:
1. No political sign shall be permitted in the corporate limits or one-mile extraterritorial boundary of the City of Brevard unless a candidate for a political office, or the candidate's designee, first deposits \$500.00 to insure the removal of such signs.
 2. Ten days after the election, the \$500.00 deposit will be refunded to the candidate or candidate's designee if all the candidate's political signs have been removed.
 3. If the signs have not been removed, the \$500.00 deposit will be forfeited to the city.
 4. Candidates who have made a deposit and are nominated in a primary election may keep their political signs up until ten days after the general election.
 5. Any political signs of candidates who have not complied with this section shall be removed subject to the terms of this article.
 6. All political signs must comply with the following standards:
 - i. Ground signs may not exceed 16 square feet per side of sign. Maximum height of sign from grade to top of sign shall be six feet.
 - ii. Political signs may not be posted more than 90 days prior to an election or primary.
 - iii. Candidates must remove their signs within ten days after the election or primary, in compliance with Section 12.9(K).
 - iv. Location. All signs must comply with Section 12.6.
- L. Festivals and special events sponsored by government, educational, religious, charitable, civic, fraternal, or political organizations and institutions: Signs, banners, balloons, decorative flags and windsocks (hereafter, "special event signage") may be displayed during festivals and special events by permit during the day(s) of the event, subject to the following requirements:
1. Special event signage shall comply with all provisions of Section 12.9(J) except where modified herein.
 2. Special event signage shall be approved by the administrator before being displayed. A plan showing the location, type and amount of all decorative signage and devices, along with the duration of the event, must be submitted to the administrator for review and approval.
 3. A \$200.00 deposit, per event, must be given to the city insuring removal of all special event signage.
 4. If the special event signage has not been removed, the \$200.00 deposit will be forfeited to the City of Brevard.
 5. Any signs or other devices which have not complied with this section shall be removed subject to the terms of Section 12.2(C).
 6. All special event signage must be firmly secured and well maintained.

7. No special event signage shall create a traffic hazard or obstruction to motorists or pedestrians.
8. The size of the overall special event signage shall not exceed 32 square feet of total aggregate surface area. However, if said special event signage is located in the DMX District, the width cannot exceed four feet and the length cannot exceed six feet.
9. With single sponsorship, the proportion of a sponsor's logo or name shall not exceed 25 percent of the overall area for any face of special event signage.
10. No more than three sponsor logos or names may be listed on special event signage. Sponsors logos or names shall not exceed when added together, 30 percent of the overall area for any face of special event signage.
11. Special event signage may not be illuminated, moving, or otherwise constitute a vehicular or pedestrian safety hazard.
12. Special event banners may be placed in or along the right-of-way of public streets in any district subject to the following requirements:
 - i. All other provisions of Section 12.9(J) are met; and
 - ii. A letter of permission from the proper utility company and/or property owner, holding the city harmless, must be submitted if a banner, flag or pennant is to be attached to or erected from any pole owned by the utility company.
 - iii. Banners shall contain no commercial advertisement copy or business logos.
 - iv. The size of an overhead banner crossing the road shall not exceed 30 feet in length and four feet in height. All overhead banners crossing the road will be composed of no more than two dimensions.
 - v. Overhead street banners and other banners within a right-of-way may not be displayed earlier than ten days prior to the event and must be removed within ten days after the event.
 - vi. Fees for the installation of overhead street banners shall be established by city council.

(Ord. No. 15-08, §§ 29—31, 12-5-08)

12.8. - Signs permitted without a permit.

The following types of signs shall be permitted in any use district without the issuance of a sign permit provided they meet the stated requirements:

- A. *Temporary real estate signs:* Temporary real estate signs advertising a specific piece of property for sale, lease, rent, or development, located on said property, provided such signs shall not exceed eight square feet in surface area per side of sign up to a maximum of 16 square feet of aggregate surface area. Signs shall not be illuminated and shall not exceed one per parcel of land unless such land is located at an intersection of two streets; in such case, two signs shall be allowed, one facing each street.
- B. *Signs on window glass:* Signs on window glass, regardless of size.
- C. *Private traffic signs:* Private, unofficial traffic signs not exceeding two square feet in surface area per side of sign up to a maximum of four square feet of aggregate surface area per sign, which indicate directions, entrances, and exits. Such signs are to be located entirely on the property to which they pertain, and shall not contain any advertising message.
- D. *Organization signs:* Any flag, badge, insignia, or design customarily displayed by any governmental agency or government, or any charitable, civic, fraternal, patriotic, religious, or similar organization.
- E. *Political party headquarters signs:* Signs for political party headquarters shall meet the requirements set forth for the district in which they are located.
- F. *Service station signs:* Gasoline service stations or any businesses selling gasoline are allowed, in addition to other provisions of this ordinance, the following signs:
 - 1. *Price and self-service signs attached to gasoline pumps:* Gasoline price/self-service signs located at and secured to each pump island and not exceeding nine square feet per side of sign. One gasoline price/self-service sign may be freestanding and located at a place other than the pump island, but must be on the business site and meet all other sign regulations. If such signs are freestanding signs, they shall not exceed 40 inches in height.
 - 2. *Brand name and grade signs:* Each brand sign, emblem of the gasoline sold, the grade of gasoline and any other related signs shall not exceed nine square feet in total aggregate surface area for each pump island.
 - 3. *North Carolina inspections sign:* A North Carolina inspections sign at any location on the business premises as long as said sign is not placed in any right-of-way. Said sign shall not exceed 40 inches in height.
- G. *Numbers and nameplates:* House numbers and nameplates are permitted in accordance with Brevard City Code, Chapter 62, Article VII, Property Addressing and Road Naming.
- H. *Construction signs:* One construction sign per construction project not exceeding 32 square feet of sign area in residential districts or 64 square feet in commercial or industrial districts, provided that such signs shall be erected no more than five days prior to the beginning of construction for which a valid building permit has been issued, shall be confined to the site of construction, and shall be removed five days after completion of construction and prior to occupancy.
- I. *Public notice:* Official notices posted by public officers or employees in the performance of their duties.
- J. *Commemorative plaques:* Commemorative plaques of recognized historic agencies or identification emblems of such agencies, provided that no plaque or emblem seal exceeds four square feet in area.
- K. *Nonprofit organization signs:* Any sign erected by city personnel on behalf of a nonprofit organization sponsoring a one-time or annual event.
- L. *Public-owned ball field fence signs:* Nonprofit organizations, i.e., local ball leagues, may sell advertising signage to merchants for attachment to ball field fences providing the following requirements are met:

1. Sign panels must be of uniform size and weather durable material and cannot exceed three feet by five feet in dimension.
2. Signage must be attached to the interior (ball field) of the chain link fencing, have advertising copy on only the interior (ball field) side of fencing and cannot be self-illuminated.
3. The back (exterior) side of the sign must be a dark solid green color and be uniform in color with all the other signs. All signs must be kept clean and in good repair.
4. Signage cannot exceed one per fence panel. Sign must be uniform in height.
5. Signage can be erected two weeks prior to the beginning of the ball season and must be taken down within two weeks from the conclusion of the season.
6. The city/county/state agency (owner) or tenant leasing the property will be responsible for installing and removing the signs.

M. *Automobile and motorized vehicle dealer signs:*

1. Automobile dealers and motorized vehicle dealers within commercial districts are allowed to attach to vehicles for sale small pennants, flags or balloons on antennas and/or twirl-ads on hoods/roofs.
2. Said devices shall not exceed two per vehicle; devices are less than three square feet in size; and devices are maintained and secured in a proper manner.
3. If a device is not secured or maintained to the satisfaction of the administrator such device shall be deemed a prohibited moving device and be immediately removed.

N. Murals

1. A mural, as defined herein, is any image painted, applied, or affixed directly on to a privately owned, non-residential building wall, retaining and screening wall, or other large existing outdoor surface in non-residential zoning districts for artistic and/or aesthetic purposes. A distinguishing characteristic of a mural is that the architectural elements of the given surface are often harmoniously incorporated into the depicted image.
2. Murals may be permanent, or temporary and shall be maintained in good condition by the property owner.
3. The Administrator will issue a Letter of Zoning Compliance to Owners seeking to create murals on their property.
4. Murals do not require a sign permit if they adhere to the following:
 - i. If media other than, or in addition to, paint are used in a mural such media shall not extend more than 12" above the surface on which the mural is applied, or affixed and may not extend into a right-of-way.
 - ii. The Mural does not extend beyond the existing dimensions of the building wall, retaining/screening wall, or other outdoor surface on which it is applied.
 - iii. The Mural may incorporate advertising logo, symbols, pictures, devices and copy within the image, however such elements combined shall not exceed 8% of the mural's total surface area.
 - iv. The following shall be used for purposes of measuring surface area:
 - a. The area of a the mural shall be computed by means of the smallest rectangle that will encompass the extreme limits of the writing, representation, emblem, or paint or other media, together with any material or color forming an integral part of the background of the display or used to differentiate the mural from the backdrop or structure against which it is placed.
 - b. Architectural elements on building walls such as windows, doors, and awnings that are harmoniously incorporated into the mural's design shall be counted in the overall square footage of the mural.

5. Murals that do not adhere to section 12.8.N.4 above, and its subsections, shall be considered wall sign in accordance with section 12.9 of this ordinance and shall adhere to all provisions therein and require the issuance of a sign permit.
- O. Vintage Signs
1. Vintage sign, as defined herein, is any logo, photo, text, or image that is the copyrighted advertising for a business, whether active, or closed, that is no longer used by the business for marketing purposes. Vintage signs may be incorporated into murals, or placed on building walls, or on roofs of privately owned, non-residential buildings, and retaining/screening walls in a non-residential zoning districts.
 2. Vintage signs are not allowed in residential zoning districts.
 3. Vintage signs shall require only a Letter of Compliance before placement if they adhere to the following:
 - i. If used by a property Owner with no affiliation to the active, or closed business, Vintage signs may be placed or incorporated:
 - a. On a building wall as long as no more than 40% of the wall face is covered,
 - b. On a pitched or flat roof as long as no more than 20% of the area of the surface plane on which the vintage sign is placed is covered,
 - c. Within Murals as long as all provisions for Murals (see section 12.8.N) are met in addition to those for Vintage signs provided herein.
 4. Vintage signs shall require a sign permit if used by an operational business in place of its current advertising signage. In such instances the vintage sign shall be considered wall signage in accordance with section 12.9 of this ordinance and shall adhere to all provisions therein and require the issuance of a sign permit.

19.3. - Definitions.

[The following words, terms and phrases, when used in this UDO, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

Abandoned vehicle: See Motor Vehicle.

Abut: To reach; to touch. To touch at one end or side of something; to be contiguous; join at a border or boundary; terminate on; end at; border on; reach or touch with an end.

Accessory retail: The on-premises, retail sale of products directly to customers, where the retail use is incidental to a primary use conducted upon the same premises. Examples include but are not limited to the following: a furniture manufacturer who operates a show floor for the display and sales of furniture produced by the manufacturer; a bicycle manufacturer who operates a floor for the display and sales of bicycles produced by the manufacturer; a brewery or distillery who operates a tasting room for the sampling and sales of beer or spirituous liquors produced within the brewer or distillery.

Accessory structure or use: A structure or a portion of a principal structure or use, which is subordinate to a principal structure or use, on the same lot, and is used for purposes customarily incidental to the principal structure. Garages, carports, and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms and may or may not be located on the same parcel as the farm dwelling or shop building. Also see the definition of concomitant structure.

Addition (to an existing building): An extension or increase in the floor area or height of a building or structure.

Advertising sign: A sign which directs attention to a business, commodity, service or entertainment conducted, sold, manufactured, or offered. Such signs are further classified according to location, as follows:

- (a) On the same premises as the business, commodity, service, or entertainment advertised by the sign;
- (b) Remote from the business, commodity, service, or entertainment advertised by the sign (see Billboard).

Adult establishment: Any establishment having a substantial portion of materials or entertainment characterized by an emphasis on sexual activities, anatomical genital areas, or the female breast as defined in N.C. General Statute, § 14.210.10 (or any successor thereto).

Agriculture: These establishments grow crops, raise animals, harvest timber, and harvest fish and other animals from a farm, ranch, or their natural habitats. They may be described as farms, ranches, dairies, greenhouses, nurseries, orchards, or hatcheries. A farm, as an establishment, may be one or more tracts of land, which may be owned, leased, or rented by the farm operator. Farms may hire employees for a variety of tasks in the production process. Subcategories in this dimension differentiate establishments involved in production versus those that support agricultural production. For agricultural research establishments administering programs for regulating and conserving land, mineral, wildlife, and forest use, apply the relevant institutional or research and development categories. (LBCS F9000 and S8000)

Air lot: A condominium unit or lot containing both horizontal and vertical dimensions. The air lot generally extends to the inner faces of the walls, floors and ceiling of the condominium unit.

Alcoholic beverage sales store: The retail sales of beer, wine, and/or other alcoholic beverages for off-premise consumption as a primary use. (LBCS F2155)

Amusements, indoor: Establishments that provide commercial recreation activities completely within an enclosed structure such as pool halls, arcades, movie theaters, skating rinks, roller rinks, and bowling alleys. (LBCS F5320, F5380, F5390 and S3200)

Amusements, outdoor: Establishments that provide commercial recreation activities primarily outdoors such as miniature golf establishments, go-cart facilities, theme parks, carnivals, fairgrounds and midways, paintball parks, and water rides. (LBCS F5310 and S4440)

Animal services: Establishments that include services by licensed practitioners of veterinary medicine, dentistry, or surgery for animals, boarding services for pets, and grooming. This term does not include outdoor "kennels." (LBCS F2418 and F2720)

Appeal: A request for a review of any action of the administrator or any interpretation by the administrator of any provision of this ordinance.

Area of special flood hazard: See "Special Flood Hazard Area (SFHA)"

Artist workshop: A building room, area, or small establishment where artists such as painters, sculptors, craft-persons, musicians, writers, and others gather to create works of aesthetic value. Artist Workshops may accommodate multiple artists. Artist workshops are differentiated from galleries in that public access for viewing and retail activity is limited and incidental to the primary function of the use as a workshop.

Assembly/meeting facilities: Meeting/conference facilities that include room(s) or space(s) used for assembly purposes by 50 or more persons, including fraternal halls (VFW lodges, etc) and banquet facilities. (LBCS S3800)

Assessed and appraised value: The value of a structure prior to being damaged or, in the absence of damage, prior to any proposed modification or improvement. Assessed value is determined by the most recent tax evaluation of the structure by the Transylvania County Tax Assessor, prior to damage or improvement. Appraised or market value is determined by an appraisal submitted by a qualified appraiser. The administrator shall utilize the assessed value of any structure in the administration of this ordinance unless a more accurate appraisal is provided by the property owner. The administrator shall have the authority to request that the property owner provide additional independent appraisals if the administrator feels that a submitted appraisal may be in error or otherwise questionable.

Automated teller machines (ATM): Computerized, self-service machines used by banking customers for financial institutions without face-to-face contact with financial institution personnel. These machines may be located at or within banks, or in other locations.

Auto/mechanical parts sales: Establishments selling new, used, or rebuilt automotive or mechanical parts and accessories. Examples include parts and supply stores, automotive stereo stores, speed shops, truck cap stores, tires and tube shops, and similar shops for other types of motorized or mechanical equipment. (LBCS F2115)

Awning: A roof-like shelter of canvas or other material extending over a doorway from the top of the window, over a deck, etc., in order to provide protection from the weather.

Awning signs: A sign constructed of a fabric-like nonrigid material which is part of a fabric or plastic awning. Awning signs constructed of a flammable substance are prohibited in the fire district.

Banks, credit unions, financial services institutions: Establishments that engage in financial transactions that create, liquidate, or change ownership of financial services. Banks, credit unions, and savings institutions may perform central banking functions, accept deposits, and lend funds from these deposits. In addition to banks and credit unions, financial services institutions may include: credit agencies, trust companies, holding companies, lending and thrift institutions, securities/commodity contract brokers and dealers, security and commodity exchanges, vehicle finance (equity) leasing agencies, and investment companies. (LBCS F2200 and F2210)

Banner: Any sign made of flexible fabric-like material except an awning sign.

Bar/tavern/nightclub: A business where alcoholic beverages are sold for on-site consumption, which are not part of a larger restaurant. This term includes bars, taverns, pubs, and similar establishments where any food service is subordinate to the sale of alcoholic beverages. It may also include beer brewing as part of a microbrewery and other beverage tasting facilities. Entertainment including live music, and/or dancing, comedy, etc. may also be included.

Basement: Any area of a building having its floor subgrade (below ground level) on all sides.

Base flood: The flood having a one percent chance of being equaled or exceeded in any given year.

Base flood elevation (BFE): A determination of the water surface elevations of the base flood as published in the flood insurance study. When the BFE has not been provided in a special flood hazard area, it may be obtained from engineering studies available from a federal or state or other source using FEMA approved engineering methodologies. This elevation, when combined with the freeboard, establishes the "Regulatory Flood Protection Elevation."

Bay window: A window assembly whose maximum horizontal projection is not more than two feet from the plane of an exterior wall and is elevated above the floor level of the home.

Bed and breakfast establishments: Establishments primarily engaged in providing short-term lodging in facilities known as bed and breakfast inns. These establishments provide short-term lodging in private homes or small buildings converted for this purpose. Bed and breakfast establishments are characterized by a highly personalized service and meet the following requirements:

1. They do not serve food or drink to the general public for pay;
2. They serve only the breakfast meal, and that meal is served only to overnight guests of the business;
3. They include the price of breakfast in the room rate; and
4. They serve as the permanent residence of the owner or the manager of the business.

Bed and breakfast establishments are separated into two distinct categories: "Bed and breakfast home," and "Bed and breakfast inn."

1. "Bed and breakfast home" means a private home offering bed and breakfast accommodations to eight or less persons per night for a typical period of less than one week, that does not serve food or drink to the general public for pay, and which is the permanent residence of the owner or manager of the business
2. "Bed and breakfast inn" means a business offering bed and breakfast accommodations to not more than 24 persons for a typical period of less than one week and that does not serve food or drink to the general public for pay.

(LBCS F1310)

Billboard: An advertising sign used as an outdoor display for the purpose of directing attention to a business, commodity, service, or entertainment conducted, sold, manufactured, or offered at a location other than the location of said sign.

Building: See Structure.

Buildable area: That portion of any lot which may be used or building [built] upon in accordance with the regulations governing the zoning district within which the lot is located when the front, side, and rear yard requirements for the district have been subtracted from the total area. The required front, side and rear yards shall be measured inward toward the center of said lot from all points along the respective property lines or street right-of-way as appropriate. Buildable area shall be computed by measuring the allotted distances, perpendicular from each property line.

Building: A structure having a roof supported by columns or walls for the shelter, support or enclosure of persons, animals or chattels, and including tents, lunch wagons, dining cars, trailers, freestanding billboards and signs, fences, and similar structures whether stationary or movable. The term "building" shall be construed as if followed by the words "or parts thereof." Each portion of a building separated by division walls from [the] ground up without openings shall be considered a separate building.

Building line: That line determined by meeting respective front, side, [and] rear yard requirements. The required side and rear yards for individual lots shall be measured inward toward the center of the lot from all points along the respective property lines. The required front yard shall be measured inward toward the center of the lot from all points on the street right-of-way line.

Business support services: Establishments primarily engaged in rendering services to businesses. Examples of services provided include, without limitation, the following: document preparation, telephone

answering, telemarketing, mailing (except direct mail advertising), court reporting, and steno typing. These establishments may operate copy centers, which provide photocopying, duplicating, blueprinting, or other copying services besides printing. They may also provide a range of support activities, including mailing services, document copying, facsimiles, word processing, on-site PC rental, and office product sales. (LBCS 2424)

Campground/artist colony: Establishments accommodating campers and/or artists and their equipment, including tents, tent trailers, travel trailers, and recreational vehicles. Facilities and services include cabins, washrooms, food services, recreational facilities and equipment, and organized recreational activities.

Canopy: Any shelter or shelter-like structure, freestanding or attached to a building, and projecting over public or private property.

Cemetery: A parcel of land used for interment of the dead in the ground or in mausoleums. (LBCS S4700)

Chemical storage facility: A building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

Child day care home: Supervision or care provided on a regular basis, as an accessory use within a principal residential dwelling unit, by a resident of the dwelling for less than six children who are not related by blood or marriage to, and who are not the legal wards or foster children of, the supervising adult.

Child day care center: An individual, agency, or organization providing supervision or care on a regular basis for children who are not related by blood or marriage to, and who are not the legal wards or foster children of, the supervising adults. Child day care centers are designed and approved to accommodate six or more children at a time and are not an accessory to residential use.

City Code: The Code of Ordinances of the City of Brevard, adopted by the Brevard City Council, and any subsequent amendments.

Colleges/universities: Establishments which furnish academic or technical courses and grant degrees, certificates, or diplomas at the associate, baccalaureate, or graduate levels. Examples include junior colleges, colleges, universities and professional schools. (LBCS F6130)

Community service organization: A public or quasi-public establishment providing social and/or rehabilitation services, serving persons with social or personal problems requiring special assistance. This term includes counseling centers, welfare offices, job counseling and training centers, vocational rehabilitation agencies, and community improvement and neighborhood redevelopment but does not include any services providing on-site residential or accommodation services. (LBCS F6560)

Compensatory storage: Replacement of storage volume that is hydrologically equivalent to lost storage when encroachment occurs in the floodplain or a flood prone area.

Concomitant structure: A structure, or a portion of a principal structure, which is subordinate to the principal structure, is situated on the same lot, and is used for purposes that are integral to the use of the principal structure. Examples include gasoline pump canopies associated with service stations, sheds for the storage of lumber associated with a lumber yard, and other similar structures. Concomitant structures are characterized by their virtual necessity in order to facilitate the permissible use of the principal structure, as opposed to accessory structures, which are clearly incidental.

Condominium structure or building:

- (a) A building or complex in which units of property, such as apartments, are owned by individuals and common parts of the property, such as the grounds and building structure, are owned jointly by the unit owners.
- (b) A unit in such a complex, including air lots.

Condominium lot: The form of ownership of real property, and any interests therein in which individual owners own or lease separate units but together, or through an owners' association, own the common areas appurtenant to the units.

Conservation parcel: A parcel of land that is shown on a recordable subdivision plat that is generally not intended for building and that is intended for a conservation purpose, including but not limited to the protection of sensitive natural areas, water quality, scenic views, working forest or farm lands, wildlife habitat, recreation and open spaces, and which property is subject to limitations upon development by conservation easement, deed, contract or other binding agreement with the United States of America or any agency or subdivision thereof, the State of North Carolina or any agency or subdivision thereof, or with a not-for-profit entity that is authorized to hold conservation easements within the United States of America and the State of North Carolina.

Copy (as used in conjunction with signs): The wording on a sign surface either in permanent or removable letter form.

Cremation: The technical process, using intense heat and flame that reduces human remains to bone fragments. Cremation includes the processing and may include the pulverization of the bone fragments.

Critical facility: A structure used to house a function that is especially vulnerable or essential to the community. Uses include but are not limited to child and adult daycare facilities, nursing homes, schools, hospitals, fire, police and medic facilities and other uses as determined by the administrator.

Cultural or community facility: Facilities designed to promote cultural advancement and serve the community. Examples include the following: live theater; dance or music establishments; art galleries, studios and museums; non-profit civic or fraternal organizations; museums; exhibition or similar facilities; libraries; and community centers, such as the YMCA and YWCA. (LBCS S3800, S4400, F5110, F5210, and FS6830)

Dedication: The reservation for public use of an area of land, usually a strip of land, a street right-of-way or utilities easement, within which there is to be or may be located streets, sidewalks, utility systems and drainage structures, or a lot intended to be used for a public purpose such as a park, playground, or other public facility.

Default: Default shall be defined as it is specifically defined in an infrastructure improvement agreement executed pursuant to Chapter 16, Section 16.17.A of this ordinance. If there is no such definition, then the term "default" shall mean failure on the part of the developer to complete improvements in the time allotted, or improvements made that do not meet the city's standards, or improvements made that do not comply with approved development plans, or the ownership of property upon which the improvements are to be made changes without the new owner assuming the obligation to install the required improvements and providing acceptable security to the city.

Density: The number of dwelling units per acre or [of] land developed or used for residential purposes. Unless otherwise clearly stated, density requirements in this ordinance are expressed in dwelling units per net acre; that is, per acre of land devoted to residential use exclusive of land utilized for streets, alleys, parks, playgrounds, schoolgrounds, or other public uses.

Development: Any man-made use of, or change to, improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Disposal: As defined in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

Drive-thru retail/restaurants: A facility where food and other products may be purchased by motorists without leaving their vehicles. Examples include fast-food restaurants, drive-through coffee, dairy products, photo stores, pharmacies, etc.

Drive-thru service: A facility where services may be obtained by motorists without leaving their vehicles. This term includes drive-through bank teller windows, dry cleaners, etc., but do not include automated teller machines (ATMs), gas stations or other vehicle services, which are separately defined.

Directional sign: A sign which carries no advertising message or information, but simply the name or the logo of an establishment and information directing persons to the location of said establishment.

Dwelling: A building or portion of building arranged to provide living quarters for one or more families.

Dwelling—Duplex: A building containing two residential dwelling units that is typically divided horizontally, each unit having a separate entrance from the outside or through a common vestibule. Buildings are typically under one ownership. (LBCS F 1100 and S1121)

Dwelling—Multifamily (less than four units/building): A building containing more than one but less than four residential dwelling units. Each unit has a separate entrance from the outside or through a common vestibule. Multi-family dwellings may include duplexes and triplexes (buildings under one ownership with two or three dwelling units in the same structure), as well as town houses (a type of structure that has at least three or more separate dwelling units divided vertically, each unit having separate entrances to a front and rear yard). (LBCS S1121 and S1140)

Dwelling—Multifamily (more than four units/building): A building containing more than four residential dwelling units. Each unit has a separate entrance from the outside or through a common vestibule. These structure may include fourplexes (buildings under one ownership with four dwelling units in the same structure), apartments (five or more units under one ownership in a single building), and townhouses (a type of structure that has at least three or more separate dwelling units divided vertically, each unit having separate entrances to a front and rear yard). (LBCS S1121 and S1140)

Dwelling—Secondary: A dwelling unit designed for occupancy by one or two persons, not exceeding 800 square feet of gross floor space and located on a lot with an existing single-family dwelling. No more than one such dwelling shall be situated on any lot.

Dwelling—Single-family: A free standing building designed for and/or occupied by one household. These residences may be individually owned as residences or owned by rental or management companies. Single-family dwellings are typically site-built structures that comply with the North Carolina Residential Code, current edition, but also include factory-built, modular home units. (LBCS F1100 and S1100)

Dwelling unit: A single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

Elevated building: A non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Encroachment: Means the advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain (including floodway) or surface water protection area (including floodway), which may impede or alter the storage capacity or flow capacity of a floodplain.

Environmental containment parcel: A parcel land that is shown on a recordable subdivision plat that is not intended for a building as a result of environmental constraints, and which is subject to limitations upon development by deed, contract or other binding agreement with the United States of America or any agency or subdivision thereof, or the State of North Carolina or any agency or subdivision thereof.

Equipment rental: Establishments renting or leasing equipment such as the following: a) office machinery and equipment, such as computers, office furniture, copiers, or fax machines; b) heavy equipment (without operators) used for construction, mining, or forestry, such as bulldozers, earthmoving equipment, etc.; c) other non-consumer machinery and equipment, such as manufacturing equipment and metalworking; d) telecommunications, motion picture, or theatrical equipment; e) institutional (i.e. public building) furniture; and f) agricultural equipment without operators. (LBCS F2334)

Family: One or more persons occupying a single dwelling unit, provided that, unless all members are related by blood or marriage, no such family shall contain over six persons, but further provided that domestic servants employed on the premises may be housed in the principal building, not to exceed two domestic servants.

Family care home: A home with support and supervisory personnel providing room and board, personal care and rehabilitation services in a family environment for not more than six resident handicapped persons. (NCGS 168-21)

Farmers markets: Venues wherein multiple vendors sell or offer for sale, seasonal products directly to consumers on a non-wholesale basis. Farmers markets shall be accessible to the general public and managed by public or non-profit entities. Farmers markets are a form of temporary use.

Fence: A barrier intended to prevent escape or intrusion or to mark a boundary.

Fence, closed: A fence in which the openings through which clear vision is possible from one side to the other on a horizontal plane comprise 30 percent or less of the total side area of the fence.

Fence, open: A fence in which the openings through which clear vision is possible from one side to the other on a horizontal plane comprise 70 percent or more of the total side area of the fence.

Freestanding sign: A sign that is not attached to any building structure. Such signs shall include, but not be limited to, signs mounted on poles and A-frame signs.

Flood or flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters and/or the unusual and rapid accumulation of runoff of surface waters from any source.

Flood boundary and floodway map (FBFM): An official map issued by the Federal Emergency Management Agency, on which the special flood hazard areas and the floodways of the City of Brevard and Transylvania County are delineated. This official map is a supplement to, and shall be used in conjunction with, the Flood Insurance Rate Map (FIRM).

Flood hazard boundary map (FHBM): An official map issued by the Federal Emergency Management Agency where the boundaries of the special flood hazard areas have been defined as Zone A.

Flood insurance: The insurance coverage provided under the National Flood Insurance Program (NFIP).

Flood insurance rate map (FIRM): An official map of the City of Brevard and/or Transylvania County, issued by the Federal Emergency Management Agency, on which both the special flood hazard areas and the risk premium zones applicable to the community are delineated.

Flood insurance study (FIS): An examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in the City of Brevard and/or Transylvania County, issued by the Federal Emergency Management Agency. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

Flood prone area: See Floodplain.

Floodplain: Any land area susceptible to being inundated by water from any source.

Floodplain administrator: The individual(s) appointed to administer and enforce the floodplain management regulations in accordance with Chapter 34 of Brevard City Code.

Floodplain development permit: Any type of permit that is required in conformance with the provisions of this ordinance prior to the commencement of any development activity within a floodplain. For the purposes of this ordinance, "flood plain development permit" shall be synonymous with "land development permit."

Floodplain management: The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain. Such program may include, without limitation, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

Floodplain management regulations: This ordinance and other building codes, health regulations, and other applications of police power which control development in flood-prone areas. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

Floodproofing: Any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Regulatory floodways are delineated upon the most recently published Flood Boundary and Floodway Map (FBFM) and/or Flood Insurance Rate Map (FIRM).

Flood zone: A geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

Freeboard: The height added to the base flood elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization on the watershed. Base flood elevation plus the freeboard establishes the "Regulatory Flood Protection Elevation". Two feet of freeboard shall be required for all residential development within the special flood hazard area, and one foot of freeboard shall be required for all non-residential development within the special flood hazard area, except that in special flood hazard areas where no BFE has been established, three feet of freeboard above the highest adjacent grade shall be required for all development.

Functionally dependent facility: A facility which cannot be used for its intended purpose unless it is located in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales or service facilities.

Funeral homes and services: Establishments for preparing the dead for burial or interment and for conducting funerals (i.e. providing facilities for wakes, arranging transportation for the dead, and selling caskets and related merchandise). (LBCS F6700-6702)

Garage, private: An accessory building or portion of a principal building used for the storage of private motor vehicles and in which no business, occupation, or service for profit is in any way connected. The term "garage" shall include the term "carport."

Gas station: An establishment that primarily retails automotive fuels. These establishments may also provide services such as automotive repair, automotive oils, and/or replacement parts and accessories. Gas stations include structures that are specialized for selling gasoline with storage tanks, often underground or hidden. Bays for car washes may also be included. (LBCS F2116 and S2270)

General retail: A use category allowing premises to be available for the commercial sale of merchandise and prepared foods. Such use category does not include manufacturing. (LBCS F2100)

Ground water: As opposed to surface water, this term refers to water that does not run off, and is not taken up by plants, but soaks beneath the surface of the earth and forms a natural reservoir in soils and geologic formations.

Group care facilities: A facility that provides resident services to more than six individuals, at least one of whom is unrelated to the others. These individuals are handicapped, aged, or disabled, [or] are undergoing rehabilitation, and are being provided services in the group care facility to meet their needs. This category includes uses licensed or supervised by any federal, state, or county health/welfare agency, such as group dwellings (all ages), halfway houses, nursing homes, resident schools, resident facilities, and foster or boarding homes. (LBCS F6520)

Group development:

- [1.] Groupings of two or more principal structures or principal uses built on a single lot, tract or parcel of land (or grouping thereof) not subdivided into the customary streets and lots and designed for occupancy by separate families, businesses or other enterprises normally permitted within the underlying district (Examples may include, but are not limited to, summer camps, school campuses and hospitals, shopping centers, industrial parks, and apartment complexes, or any other combination of primary structures).

[2.] Individual structures designed to accommodate a variety of distinct uses may be considered as a group development at the discretion of the administrator.

Government services: This term includes federal, state, and local government agencies that administer, oversee, and manage public programs and have executive, legislative, and judicial authority. (LBCS F6200)

Hazardous waste facility: As defined in NCGS 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

Highest adjacent grade (HAG): The highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

Historic structure: Any structure that meets one or more of the following criteria:

1. Is listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
2. Has been certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Is individually listed on a local inventory of historic landmarks in communities with a "Certified Local Government (CLG) Program;" or
4. Has been certified as contributing to the historical significance of a historic district designated by a community with a "Certified Local Government (CLG) Program."

Certified Local Government (CLG) Programs are approved by the U.S. Department of the Interior in cooperation with the North Carolina Department of Cultural Resources pursuant to the National Historic Preservation Act.

Home occupation: An occupation or profession conducted within a dwelling unit by a residing family member that is incidental to the primary use of the dwelling as a residence. Home occupations are small and quiet non-retail businesses which generally cannot be discerned from the frontage, are seldom visited by clients, require little parking, little or no signage, have only one or two employees and provide services such as professional services, music instruction, and hair styling. Home occupations include child day care homes as defined herein.

Hospital: A health care facility the purpose of which is to provide for care, treatment and testing for physical, emotional, and/or mental injury, illness, or disability, and overnight boarding of patients, either on a for-profit or not-for-profit basis. This term does not include group homes. (LBCS F6530 and S4110)

Hotels/motels/inns: Establishments providing lodging and short-term accommodations for travelers. They may offer a wide range of services including overnight sleeping space, food services, convention hosting services, and/or laundry services. Entertainment and recreation activities may also be included. Extended-stay hotels are included in this category. (LBCS F1300 and F1330)

Housing services for the elderly: Establishments which offer a wide range of housing services for those, such as the elderly, who cannot care for themselves. This term includes uses such as retirement housing, congregate living services, assisted living services, continuing care retirement centers, and skilled nursing services. (LBCS F1200)

Human crematory or human crematorium: The building or buildings or portion of a building on a single site that houses the cremation equipment, the holding and processing facilities, the business office, and other parts of the crematory business. A crematory must comply with all applicable public health and environmental laws and rules and must contain the equipment and meet all of the standards established by the standards set by the North Carolina Board of Funeral Service and the North Carolina Cremation Authority.

Impervious area: Any man-made surface which restricts the percolation of rain water into the soil including, but not limited to, areas covered by roofs, roof extensions, patios, porches, driveways, sidewalks, parking areas and athletic courts.

Inherited property:

1. An inherited property is defined for this ordinance specifically, as a zoned parcel to be subdivided per the terms of a document described in (2), following the death of the owner or person who executed the document, and which is to be divided by the terms of such document into two or more separate tracts, to the end that each heir or devisee is to receive a separate tract.
2. Documents requiring the division of inherited properties include wills, trusts, deeds subject to life estates, deeds with rights of survivorship, or other documents requiring that the property be divided upon the death of the owner or person who executed the document. Such documents shall have been executed on or before July 16, 2013.

Identification sign: A sign which carries no advertising message and is used to identify only the following:

1. The name of an institutional use or organization occupying the premises on which the sign is located;
2. The name, title and/or occupation or profession of the occupant of the premises on which the sign is located;
3. The name and the type of nonretail business occupying the premises on which the sign is located; or
4. The name of the building on which the sign is located, including names and types of firms occupying the building.

Illuminated sign: A sign that is illuminated by electric or other devices mainly for clear visibility at night.

Illumination of signs: The lighting of a sign or exposing of a sign to artificial light either from within or without. In no instance shall the illumination of a sign interfere with adjacent traffic or disturb residential neighborhoods.

Incidental sign: A sign which carries no advertising message, and is clearly incidental to other major advertising signs on-site, and which is used to do one or more of the following:

1. Direct traffic flow, either vehicular or pedestrian;
2. Indicates clearly the location of ingress or egress points;
3. Direct certain activities to certain areas (i.e., parking, waiting, etc.);
4. Provide other incidental information.

Junk: The term "junk" shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste or junked, dismantled automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

Junked motor vehicle: See "Motor Vehicle."

Kennels: A use or structure intended and used for the breeding or accommodation of small domestic animals for sale, training, or overnight boarding for persons other than the owner of the lot. This term does not include veterinary clinics or other "animal services" in which the overnight boarding of animals is necessary for, or accessory to, the testing and medical treatment of the physical disorders of animals. (LBCS F2700)

Laboratory—Medical, analytical, research, and development: A facility for testing, analysis, and/or research. Examples include medical labs, soils and materials testing labs, and forensic labs.

Laundry, dry cleaning plant: A service establishment engaged primarily in high volume laundry and garment services, including, without limitation, carpet and upholstery cleaners, diaper services, dry-

cleaning and garment pressing, commercial laundries and linen supply. These facilities may include customer pick-up but do not include coin-operated laundries or dry cleaning pick-up stores without dry cleaning equipment.

Letter of map change (LOMC): A determination document issued by FEMA that officially revises the FIRM based on updated information, which may include improved data or topography changes created by fill placement. The term LOMC includes Letters of Map Amendment (LOMA), Letters of Map Revision (LOMR), and Letters of Map Revision based on Fill (LOMR-F).

Live-work unit: An attached residential building type with a non-residential enterprise on the ground floor and a residential unit above or behind.

Loading space, off-street: Space conveniently located for pickups and deliveries, scaled to the delivery vehicles expected to be used, and accessible to such vehicles even when required off-street parking spaces are filled.

Lot width: The distance between side lot lines.

Lowest adjacent grade (LAG): The elevation of the ground, sidewalk or patio slab immediately next to the building or deck support after completion of the building.

Major subdivision: The division of an established parcel of land into more than 25 parcels of land. This term includes the establishment of condominium lots.

Manufactured home: A dwelling unit fabricated in an off-site manufacturing facility for installation or assembly on the building site which also meets the following requirements:

1. It is at least eight feet in width and 32 feet in length;
2. It bears a seal certifying that it was built to the standards adopted pursuant to the "National Manufactured Housing Construction and Safety Standards Act of 1974," 42 U.S.C. Sec. 5401, et seq.;
3. It is placed upon a permanent foundation which meets the installation and foundation requirements adopted by the N.C. Commissioner of Insurance;
4. It is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site; and
5. It does not have any wheels or axles permanently attached to its body or frame.

Dwelling units built to, or utilizing any of, the following as primary construction standards are NOT considered manufactured homes suitable for use as permanent dwelling units: National Electrical Code Article 551; National Fire Protection Association No. 1192; and American National Standards Institute No. 119.5. Such construction standards are applicable to recreational vehicles.

Manufactured home park: The location of two or more manufactured homes or manufactured home spaces on a single parcel of land, or a grouping of two or more manufactured homes on at least two contiguous parcels when such parcels are under common ownership and/or management as a park for the rental of manufactured homes or manufactured home spaces.

Manufactured home subdivision: A parcel (or contiguous parcels) of land divided into two or more parcels and intended for the placement of manufactured homes for rent or sale.

Manufacturing, heavy: A nonresidential use that requires an NPDES permit for an industrial or stormwater discharge or involves the use or storage of any hazardous materials or substances or that is used for the purpose of manufacturing, assembling, finishing, cleaning or developing any product or commodity. Typically the largest facilities in a community which have complex operations, some of which may be continuous (24 hours a day/seven days per week). (LBCS S2620)

Manufacturing, light: A non-residential use that requires a NPDES permit for an industrial or stormwater discharge or involves the use or storage of any hazardous materials or substances or that is used for the purpose of manufacturing, assembling, finishing, cleaning or developing any product or

commodity. Facilities are typically designed to look and generate impacts like a typical office building, but rely on special power, water, or waste disposal systems for operation. Noise, odor, dust, and glare of each operation are completely confined within an enclosed building, insofar as practical. (LBCS S2613)

Manufacturing, neighborhood: The assembly, fabrication, production or processing of goods and materials using processes that ordinarily do not create noise, smoke, fumes, odors, glare, or health or safety hazards outside of a building which is visually undifferentiated from an office building. This term includes medical and testing laboratories but does not include more intensive uses that require frequent deliveries by trucks with more than one axle. (LBCS S2610)

Market value: The value of a building, not including the land value or the value of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal, by replacement cost depreciated for age of building and cost of construction (Actual Cash Value), or by adjusted tax assessed values.

Marquee signs: A sign affixed to a hood, canopy, or projecting roof structure over the entrance to a building, store, or place of public assembly.

Media production: Facilities for motion picture, television, video, sound, computer, and other communications media production. These facilities include the following types:

1. Back lots/outdoor facilities;
2. Indoor support facilities; and
3. Soundstages-warehouse-type facilities providing space for the construction and use of indoor sets, including supporting workshops and craft shops.

Medical clinic: Facilities that provide ambulatory or outpatient health care such as physician offices, dentist offices, emergency medical clinics, outpatient family planning services, and blood and organ banks. (LBCS F6510, F6512, and F6514)

Metal products fabrication, machine or welding shop: An establishment engaged in the production and/or assembly of metal parts, including the production of metal cabinets and enclosures, cans and shipping containers, doors and gates, duct work forgings and stampings, hardware and tools, plumbing fixtures and products, tanks, towers, and similar products. Examples of these include, without limitation, the following: blacksmith and welding shops; plating, stripping, and coating shops; sheet metal shops; machine shops; and boiler shops.

Mini-warehouses: A building containing separate enclosed storage spaces the sizes of which may vary, which are leased or rented on an individual basis.

Minor subdivision: The division of an established parcel of land into 25 or fewer parcels of land. This term shall also include the establishment of condominiums, townhomes, and any other subdivision proposing common area, condominium space, or zero-lot line development that, when completed, would result in less than 100,000square feet of combined ground floor surface area, that would not require the issuance of any special use permit.

Modular home: A factory-built dwelling unit, other than a manufactured home, that is labeled as a North Carolina Modular Home and built and set up in accordance with the North Carolina Residential Code, current edition. Such structures include varieties commonly delivered onsite in modules, as well as "on-frame" structures delivered completely pre-assembled.

Moped: North Carolina law (G.S. 105-3.22) defines a moped as a vehicle with two or three wheels with a motor of no more than 50 cubic centimeters of piston displacement and no external shifting device, not to exceed 30 mph.

Motor vehicles: All machines designed or intended to travel over land or water by self-propulsion or while attached to any self-propelled vehicle.

Motor vehicle, abandoned: A motor vehicle that meets one or more of the following criteria:

1. It has been left upon a street or highway in violation of a law or ordinance prohibiting parking;

2. It has been left on property owned or operated by the city for longer than 24 hours;
3. It has been left on private property without the consent of the owner, occupant, or lessee thereof for longer than two hours; or
4. It has been left on any public street or highway for longer than seven days.

Motor vehicle, junked: An abandoned motor vehicle which also meets one or more of the following criteria:

1. It is partially dismantled or wrecked;
2. It cannot be self-propelled or moved in the manner in which it was originally intended to move;
3. It is more than five years old and worth less than \$100.00; or
4. It does not display a current license plate.

Mural: Any image painted, applied, or affixed directly on to a privately owned, non-residential building wall, retaining and screening wall, or other large existing outdoor surface in non-residential zoning districts for artistic and/or aesthetic purposes. A distinguishing characteristic of a mural is that the architectural elements of the given surface are often harmoniously incorporated into the depicted image.

Nuisance vehicle: A vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance, and/or unlawful. Without limitation, this term includes a vehicle found to meet one or more of the following criteria:

1. It is a breeding ground or harbor for mosquitoes, other insects, rats or other pests;
2. It is a point of heavy growth of weeds or other noxious vegetation over eight inches in height;
3. It is a point of collection of pools or ponds of water;
4. It is a point of concentration of quantities of gasoline, oil or other flammable or explosive materials as evidenced by odor;
5. It is one which has areas of confinement which cannot be operated from the inside, such as trunks, hoods, etc.;
6. It is so situated or located that there is a danger of it falling or turning over;
7. It is one which is a point of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind;
8. It is one which has sharp parts thereof which are jagged or contain sharp edges of metal or glass;
9. It is a vehicle no longer commonly being used for personal or commercial transportation or conveyance of goods, but is stationary, either temporarily or permanently, and being utilized as an advertising platform, storage facility, dwelling, animal shelter or other use not of its original primary design; or
10. Any other vehicle specifically declared a health and safety hazard and a public nuisance by the city council.

Recreational vehicle: A vehicular-type unit meeting the following criteria:

1. It is primarily designed not for use as a permanent dwelling but as temporary living quarters for recreational, camping, or travel use;
2. It either has its own motive power or is mounted on or drawn by another vehicle;
3. It is built upon a single chassis; and
4. It is 400 square feet or less when measured at the largest horizontal projection.

The basic types of recreational vehicles are travel trailers, camping trailers, truck campers, and motor homes.

1. A park trailer (park model) is a unit that is (a) built upon a single chassis mounted on wheels and, (b) has a gross trailer area not exceeding 400 square feet in the set-up mode.
2. A park model recreational vehicle is a small mobile home, typically built in accordance with the construction requirements of the HUD Manufactured Housing Code which, because of their limited size (400 square feet or less of living space), are neither labeled nor regulated under the jurisdiction of the HUD program but are typically built, labeled, and sold as a recreational vehicle.

In no case shall any type of recreational vehicle as defined above be classified as any other type of structure except as follows:

1. Park model recreational vehicles that are built and labeled in accordance with the HUD National Manufactured Housing Construction and Safety Standards Act of 1974 shall be considered a manufactured home.
2. Park model recreational vehicles that are built in accordance with the North Carolina Regulations for Modular Construction and labeled as a North Carolina Modular Home shall be considered a modular home.

Nameplate sign: A sign identifying only the name and occupation or profession of the occupant of the premises on which the sign is located. When nameplates are used to identify more than one occupant, each nameplate shall be attached to one freestanding master identification sign.

Natural grade: The highest elevation where the base of a sign and the ground meet.

New construction: Structures for which the "start of construction" commenced on or after the effective date of this ordinance.

Nonconformities: A lot, structure, use of land, or condition, which existed lawfully and was created in good faith prior to the adoption, revision, or amendment to this ordinance, and which conformed to applicable regulations in affect prior to the adoption, revision, or amendment to this ordinance in terms of size, area, dimension, location, intensity of use, or other condition, but which now fails to conform to the requirements of this ordinance by reason of such adoption, revision, or amendment. Nonconformities include, but are not limited to, the following:

1. Non-conforming lots: lots of improper size, shape, or structural density; or lots lacking frontage upon a public street.
2. Non-conforming structures: structures located within a right-of-way, or that exceed height or setback limitations, or that are located within setback areas, floodways, or streamside protection areas.
3. Non-conforming uses of land: industrial activity within residentially zoned areas, hazardous chemical storage in flood-prone areas, open storage in a improperly zoned area.
4. Non-conforming conditions: insufficient parking, landscaping, or buffering for an otherwise conforming use or structure; cleared vegetation in a streamside protection area; inadequate stormwater control measures.

Non-encroachment area: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot as designated in the flood insurance study report.

Non-substantial or significant improvement: Any improvement that does not meet the definition of substantial or significant improvement, as defined in this section.

Nuisance vehicle: See "Motor Vehicle."

Opaque: The characteristic of not being able to be seen through or not allowing light to show through.

Out-parcel: A parcel within a group development, institutional campus, or planned development district (hereafter, "development") that is separate and distinct from the main portion of the development due to separation by a public street or major topographical feature, such that it cannot reasonably be considered

to be part of the same development. A parcel or parcels subject to the same conditions imposed and/or benefits granted by the approving authority of the City of Brevard by means of the same development approval as contiguous parcel or parcels, shall not be considered an out-parcel.

Off-premises sign: A sign that advertises goods, products, services, or facilities, or directs persons to a different location from where the sign is installed.

Open storage: The placement or storage of materials or products (such as construction materials or raw materials or products of a manufacturing process) on a lot, outside of a structure which is enclosed by walls and a roof.

Outdoor advertising device: A device consisting of twirlings, balloons, flags, flashing lights and other similar materials used to attract attention.

Parcel: An area designated as a separate and distinct parcel of land on a legally recorded subdivision plat or in a legally recorded deed as filed in the official records of Transylvania County, as maintained in the Transylvania County courthouse. The terms "lot," "lot record," "lot of record," "plot," "parcel," "property," or "tract," whenever used in this ordinance, are interchangeable.

Park: A public facility for recreation, which may have commercial activities for recreational uses only.

Parking lot: Any public or private open area used for the express purpose of parking automobiles and other vehicles, with the exemption of areas on the premises of single-family dwellings used for parking purposes incidental to the principal use. Otherwise, parking lots may be the principal use on a given lot or an accessory use to the principal use on a given lot.

Personal services: An establishment primarily engaged in providing services that are generally related to the care of a person. Such personal services include, but are not limited to, the following: hair salons and barbershops, massage and bodywork therapists, spas, and tanning salons. Personal services shall not include any use which may be defined as an adult establishment.

Political sign: A sign attracting attention to political candidates or issues.

Portable sign: A sign which rests on the ground or other surface, and is not directly attached to such surface, and which is designed and/or constructed to be mobile or movable.

Poster: Any sign made of a rigid or semirigid, nondurable material, such as paper or cardboard, other than advertising copy applied to a permanent sign structure.

Post-FIRM: Construction or other development for which the "start of construction" occurred on or after the effective date of the initial Flood Insurance Rate Map for the area.

Post office: Establishments conducting operations of the National Postal Service. (LBCS F4170).

Pre-existing lot: Any parcel of land, the boundaries of which were on record within the Transylvania County Register of Deeds prior to the date of the enactment of this ordinance.

Pre-existing (or "existing") manufactured home park or manufactured home subdivision: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the original effective date of this ordinance.

Pre-FIRM: Construction or other development for which the "start of construction" occurred before the effective date of the initial Flood Insurance Rate Map for the area.

Principally above ground: This term signifies that at least 51 percent of the actual cash value of a structure is above ground.

Principal building or structure: A building in which is conducted the principal use of the parcel on which it is situated.

Product information sign: An on-premises, advertising sign which denotes a particular commodity, service, or entertainment offered by said establishment. Identification signs and reader boards shall not be construed as product information signs.

Professional services: Services provided that make available the knowledge and skills of their employees to sell expertise and perform professional, scientific, and technical services to others. Such services include, without limitation, the following: legal services; accounting, tax, bookkeeping, and payroll services; architectural, engineering, and related services; graphic, industrial, and interior design services; consulting services; research and development services; advertising, media, and photography services; real estate services; investment banking, securities, brokerages and insurance-related services; and medical services such as physician's and dentist's offices. (LBCS F2230, F2240, F2300, F2410-2417, and F6511)

Projection sign: A sign projecting out from and attached to the exterior wall of any building, and forming an angle of 30 degrees or more to said wall.

Property line: The legally established boundary of a lot, which boundary shall be considered coincident with any abutting public street right-of-way line unless the metes and bounds description contained in.

Public safety [contrary to] and/or nuisance: Anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any street, sidewalk, or other public travel way, navigable lake, or river, bay, stream, canal, or basin.

Public safety facility: A facility operated by a public agency the purpose of which is public safety. This term includes, without limitation, fire stations, other fire prevention and fire fighting facilities, police and sheriff substations and headquarters, including incarceration facilities.

Reader boards: A permanent sign, affixed either to the wall of a structure or to an existing freestanding identification sign, which is comprised of a surface to which letters may be attached on a temporary basis thereby forming messages advertising special sales or services offered. Reader boards may not serve in substitution for identification signs.

Recreation facilities, indoor: Uses or structures for active recreation including, without limitation, gymnasiums, natatoriums, athletic equipment, indoor running tracks, climbing facilities, court facilities and their customary accessory uses. This definition is inclusive of both non-profit and for-profit operations.

Recreation facilities, outdoor: Parks and other open space used for active or passive recreation such as ball fields, playgrounds, greenway trails, tennis courts, riding stables, campgrounds, and golf courses, and their customary accessory uses including, but not limited to, maintenance sheds, clubhouses, pools, restrooms, and picnic shelters. This definition is inclusive of both non-profit and for-profit operations.

Recreation, public: All recreational facilities including parks and ballfields which are open to the public at large without membership fees and are funded by nonprofit organizations or government entities.

Recycling—Small collection facility: A center where the public may donate, redeem or sell recyclable materials, which occupies an area of 350 square feet or less. Such facility may include the following: a mobile unit; bulk reverse vending machines or a grouping of reverse vending machines occupying more than 50 square feet; and kiosk-type units that may include permanent structures.

Regulatory jurisdiction: The geographic area encompassed by the City of Brevard, North Carolina, and its extra-territorial jurisdiction.

Real estate sign: Any sign pertaining to the sale, lease, or rental of land or buildings.

Religious institution: Any facility such as a church, temple, monastery, synagogue, or mosque used by a non-profit organization for worship and, if applicable customary related uses such as education (pre-schools, religious education, etc.), recreation (gymnasiums, activity rooms, ball fields, etc.), housing (rectory, parsonage, elderly or disabled housing, etc.) and accessory uses such as cemeteries, mausoleums, soup kitchens, and bookstores. (LBCS F6600 and S3500)

Remedy a violation: To bring a structure or other development into compliance with applicable regulations. For the purposes of floodplain regulations, to remedy a violation may mean to reduce the impacts of noncompliance if compliance is not possible due to pre-existing conditions. Ways that impacts may be reduced include protecting the structure or other affected development from flood damage, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

Research and development (R&D): A facility for scientific research and the design, development, and testing of electrical, electronic, magnetic, optical, and computer and telecommunications components in advance of product manufacturing. Such facility may include the assembly of related products from parts produced off-site, where the manufacturing activity is secondary to the research and development activities. Includes pharmaceutical, chemical, and biotechnology research and development.

Restaurant: A retail business selling ready-to-eat food and/or beverages for on or off-premise consumption. Customers may be served from an ordering counter (i.e. cafeteria or limited service restaurant), at their tables (full-service restaurant), and at exclusively pedestrian-oriented facilities that serve from a walk-up ordering counter (snack and/or nonalcoholic bars). (LBCS F2510, F2520, and F2530)

Right-of-way: A dedicated strip of land reserved for a specific use, such as for a street, pedestrian, or utility easement.

Riverine: Relating to, formed by, or resembling a river. This term includes tributaries of a river, such as streams, brooks, branches, etc.

Roof sign: A sign erected, constructed, or maintained upon the roof of the building.

Rooming or boarding house: Short or long-term accommodations that serve a specific group or membership such as a dormitory, fraternity or sorority house, youth or adult hostel, or similar tourist accommodations, or single room occupancy units that provide a number of related services including, but not limited to housekeeping, meals, and laundry services. (LBCS F1320, S1320, and S1340)

Salvage yard: Any non-residential property used for the storage, collection, and/or recycling of any type of equipment, including but not limited to vehicles, appliances and related machinery.

School, elementary and secondary: A public or private institution for education or learning which does not include lodging. This term includes any school licensed by the state and that meets the state requirements for elementary and secondary education and also includes any accessory athletic, recreational or other facilities. (LBCS F6100)

School, vocational/technical: A public or private institution for education or learning of a vocational or technical nature which does not include lodging. This term includes any accessory athletic, recreational or other facilities. These schools offer vocational and technical training in a variety of technical subjects and trades. Training may lead to job-specific certification. (LBCS F6100 and F6140)

Sedimentation pollution: Any movement of earth (sand, silt, stone, debris, etc.) from one point to another where the potential exists for moving earth to enter surface water, to move in an uncontrolled or uncontained manner within a property or from one property to another, or otherwise be discharged or deposited in a manner that is unnatural. Sedimentation pollution is considered a nuisance and a hazard to life, property, and the environment. Sedimentation pollution is generated by land disturbance activity such as agriculture, unsurfaced driveways and parking lots, grading, excavation, improperly stabilized cut or fill slopes and road shoulders, and other activities. Natural levels of earth discharged from undisturbed land in a naturally vegetated state shall not be considered sedimentation pollution. Sedimentation pollution is moved by means of mechanical action, as well as by gravity, wind, water, and other forces of nature.

Setback: The distance from the street right-of-way to the closest edge of a structure or sign.

Shelter: A temporary residence operated by a nonprofit organization meeting the needs of citizens temporarily in crisis such as: family violence, natural disaster, fire, economic distress, neighborhood violence, homelessness, and unwed pregnant teens.

Shopping—Neighborhood center: A form of non-residential or mixed use development which typically serves immediate neighborhoods (a three-mile primary trade area radius) with convenience shopping and

which is often anchored by a supermarket or drugstore. Neighborhood centers shall have a maximum combined ground floor area of less than 100,000 square feet.

Shopping center—Community center: A shopping center serving a wider market with a wider range of goods than a neighborhood center, and serving a primary trade area radius of three or more miles. Community shopping centers may have a combined ground floor area equal to or exceeding 100,000 square feet. Anchors include supermarkets, super drug stores, and discount department stores. Some centers may also contain off-price retail stores selling toys, electronics, sporting goods, and home improvements and furnishings. Community centers shall be considered as a planned development.

Sign: Any words, lettering, numerals, parts of letters or numerals, figures, phrases, sentences, emblems, devices, designs, graphic depiction of a product and/or process, trade names or trademarks by which anything is known, including any surface fabric or other material or structure designed to carry such devices, such as are used to designate or attract attention to an individual, a firm, an association, a corporation, a profession, a business, or a commodity or product, which are exposed to public view, and used to attract attention. This definition shall not include the flag, badge, or insignia of any governmental unit.

Significant damage: Damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 25 percent of the market value of the structure before the damage occurred. In the absence of any information pertaining to market value, the administrator shall utilize the assessed value of the structure. See definition of significant improvement.

Significant improvement: Any combination of repairs, reconstruction, rehabilitation, addition, or other modification or improvement of a structure, taking place during any one-year period, for which the cost equals or exceeds 25 percent of the market value of the structure as of the date the improvement was permitted (or, in the absence of any permit, as of the date of start of construction of the improvement). In the absence of any information pertaining to market value, the administrator shall utilize the assessed value of the structure. This term includes structures which have incurred significant damage regardless of the actual repair work performed. The term does not, however, include either of the following:

1. Any correction of existing violations of state, city, or county health, sanitary, or safety code specifications which have been identified by the administrator or other authorized official of the State of North Carolina or Transylvania County, and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of a historic structure provided that: such alteration is necessary to maintain retain or restore historically significant characteristic; the alteration will not preclude the structure's continued designation as a historic structure; and the alteration does not result in the expansion of a non-conforming condition.

Solid waste disposal facility: Any facility meeting the definition of NCGS 130A-290(a)(35), as well as any facility involved in the storage or disposal of non-liquid, non-soluble materials ranging from municipal garbage to industrial wastes that contain complex and sometimes hazardous substances. Solid waste also includes sewage sludge, agricultural refuse, demolition wastes, mining wastes, and liquids and gases stored in containers.

Solid waste disposal site: As defined in NCGS 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

Special flood hazard area (SFHA): The land in the floodplain subject to a one percent or greater chance of being flooded in any given year, as determined in Section 6.8(B) of this ordinance.

Start of construction: The date of issuance of a building permit, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement occurred within 180 days of the permit date. The actual start of construction means either (1) the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or (2) the placement of a manufactured home on a foundation. Permanent construction does not include any of the following: land

preparation, such as clearing, grading, and filling; the installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms; the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement (as distinguished from new construction), the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

Stealth: Equipment that is unobtrusive in its appearance such as the co-location of antennas on existing tower facilities, and the placement of equipment on flagpoles, buildings, silos, water tanks, pole signs, lighting standards, steeples, billboards and electric transmission towers.

Storage—Storage yard: The open storage of various materials outside of a structure as a principal use.

Storage—Warehouse, indoor storage: Facilities for the storage of furniture, household goods, or other commercial goods of any nature. This term includes cold storage but does not include the following: warehouse, storage, or mini-storage facilities offered for rent or lease to the general public; warehouse facilities primarily used for wholesaling and distribution; or terminal facilities for handling freight.

Stormwater (or stormwater): Runoff generated by rain, melting snow, and other precipitation events. Stormwater is that portion of precipitation that flows across a surface to down-slope properties, the storm drain system, or receiving waters. Stormwater often carries pollutants and can cause damage to property and stream channels and can impair natural aquatic systems.

Stormwater control and treatment measure: A physical device designed to accomplish one or more of the following: trap, settle out, or filter pollutants from stormwater runoff; alter or reduce stormwater runoff velocity, amount, timing, or other characteristics; approximate the pre-development hydrology on a developed site. Structural best management practices (BMPs) include physical practices such as constructed wetlands, vegetative practices, filter strips, grassed swales, and other methods installed or created on real property. "Stormwater control and treatment measure" is synonymous with "stormwater bmp," "structural practice," "stormwater control facility," "stormwater control practice," "stormwater treatment practice," "stormwater management practice," "stormwater control measures," "structural stormwater treatment systems," "low impact design," and similar terms used in this ordinance.

Street: Any alley, avenue, circle, highway, lane, road, street, or other way, whether public or private.

Street, public: Any street situated within a dedicated public right-of-way and which has been accepted by the appropriate governmental agency for continuing maintenance and upkeep.

Structure: Any walled and roofed building or other physical object, whether temporary or permanent, that is deigned for human habitation or to uphold, house, contain, or bear other objects or materials. Examples of structures include but are not limited to permanently affixed signs, swimming pools, houses, telecommunication towers, manufactured homes, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

Studio—Art, dance, martial arts, music, etc.: Small facilities which provide individual and/or group instruction and training in the arts, including the martial arts. This term also includes the processing of photographs produced only by users of the studio facilities, yoga and similar instruction, and aerobics and gymnastics studios with no other fitness facilities or equipment. Also see "Artist Workshop."

Subdivision: All divisions of a tract or parcel of land or building into two or more lots, building sites, or other divisions for the purposes of sale or building development (whether immediate or future) and shall include the following:

1. All divisions of land involving the dedication of a new streets, infrastructure or easements, or a change in existing streets, infrastructure or easements;
2. The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the city as shown in the subdivision regulations;

3. The division of land into parcels greater than ten acres where no new street right-of-way dedication is involved;
4. The public acquisition by purchase of strips of land for the widening and opening of streets and pedestrian ways; and
5. The establishment of condominium buildings or lots, or the creation of condominium spaces within existing buildings or parcels.

Substantial damage: Any damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to the before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of substantial improvement. Single-family residential structures not located in the special flood hazard area and not otherwise subject to the flood hazard prevention requirements of this ordinance shall only be considered substantially damaged if the cost of restoring the structure to its before damaged condition would equal or exceed 75 percent of the market value of the structure before the damage occurred. In the absence of any information pertaining to market value, the administrator shall utilize the assessed value of the structure.

Substantial improvement: Any combination of repairs, reconstruction, rehabilitation, addition, or other modification or improvement of a structure taking place during any one-year period for which the cost equals or exceeds 50 percent of the market value of the structure as of the date the improvement was permitted (or, in the absence of any permit, before the date of start of construction of the improvement). In the absence of any information pertaining to market value, the administrator shall utilize the assessed value of the structure. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either of the following:

1. Any correction of existing violations of state, city, or county health, sanitary, or safety code specifications which have been identified by the administrator or other authorized official of the State of North Carolina or Transylvania County, and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of a historic structure provided it meets the following criteria: such alteration is necessary to maintain, retain or restore historically significant characteristics; the alteration will not preclude the structure's continued designation as a historic structure; and the alteration does not result in the expansion of a non-conforming condition.

Single-family residential structures shall only be considered substantially improved if the cost of such improvement(s) equals or exceeds 75 percent of the market value of the structure as of the date the improvement was permitted or, in the absence of a permit, as of the date construction commenced. In the absence of any information pertaining to market value, the administrator shall utilize the assessed value of the structure.

Surface area: The entire area of a sign as measured by the square, rectangle, semicircle, or parallelogram thereof, and comprising the entire sign inclusive of any border or trim and all of the elements of the matter displayed, but excluding the base or apron, supports and other structural members. In the case of three-dimensional letters or painted letters directly on the wall surface, the surface area shall be defined as the area encompassing the individual letters themselves including any trim or border and excluding the background that supports the three-dimensional letters.

Surface water: Any body of water, perennial or intermittent stream (including any "blue line stream" as indicated on a United States Geological Survey Topographical Map), river, brook, wetland as identified by means of the Cowardin wetland classification system or other appropriate classification system as employed by agencies of the United States or the State of North Carolina), swamp, pond, lake, branch, creek, reservoir, waterway, or other body or accumulation of water, whether surface or temporarily underground by means of a man-made conveyance, public or private, permanent or intermittent, or natural or artificial, that is contained in, flows through, or borders upon any portion of the City of Brevard and its Extra-Territorial Jurisdiction.

Suspended sign: A sign which is suspended from the underside of a horizontal plane surface, such as a canopy or marquee, and is supported by such surface.

Temporary structure: A structure intended to serve a specific event and to be removed upon the completion of that event. This term includes, but is not limited to, bleachers, perimeter fencing, vendor tents/canopies, judging stands, trailers, portable toilets, sound/video equipment, stages, platforms, and other impermanent devices, which do not involve grading or landform alteration for installation, and which are not permanently affixed to the ground.

Temporary sign: A banner or A-frame sign used for advertising purposes as set forth in Section 1105.6 of this ordinance.

Temporary use: An activity or use of land which, having met certain requirements and conditions, may be permitted for a period of limited duration, and which may utilize "temporary structures" for the duration of the event.

Theater, live performance: A building or space in which plays and other dramatic performances are given. This term includes concert halls and other structures with fixed seats arranged on a sloped or stepped floor; may seat 300 to 3,000 people. (LBCS S3110)

Theater, movie: A specialized theater for showing movies or motion pictures on a projection screen. This category also includes cineplexes and megaplexes, complex structures with multiple movie theaters, each theater capable of an independent performance. (LBCS S3120)

Total suspended solids: A measure of the amount of small, particulate solid pollutants that are suspended in wastewater or stormwater. Suspended solids in water reduce light penetration in the water column, can clog the gills of fish and invertebrates, and are often associated with toxic contaminants because organics and metals tend to bind to such particles.

Tower: Any tower or structure, including those erected for the purpose of transmitting or receiving signals (i.e., telephonic, radio, television or microwave), and including the including the construction of new free-standing facilities or facilities that extend more than 20 feet above the normal height of the building or structure on which they are placed. The following shall not be included in this definition:

1. Amateur radio facilities with antennas mounted on supporting structures less than 100 feet in height;
2. Residential antennas for receiving television or AM/FM radio broadcasts;
3. Residential satellite dishes; and
4. Commercial or industrial satellite dishes that are less than 20 feet in height.

Traffic sign: A sign indicating federal, state, or city regulations for automobile, truck, bicycle, and pedestrian traffic.

Trailer: Any vehicle or structure capable of moving or being moved over streets and highways on its own wheels or on flatbeds or other carriers, which is designed to be utilized to:

1. Provide temporary or permanent quarters for the conduct of a business, profession, trade or occupation;
2. Serve as a carrier of people, new or used goods, products, or equipment;
3. Be used as a selling, advertising, or display device.

Utilities: Publicly- or privately-owned facilities or systems for the provision of public services, including, without limitation, the following: the distribution of gas, electricity, steam, or water; the collection and disposal of sewage or refuse; and the transmission of communications. Radio transmission facilities for use by ham radio operators or two-way radio facilities for business or governmental communications shall be deemed accessory uses and not utilities, provided no transmitter or antenna tower exceeds 180 feet in height. Utilities are divided into the following classes:

Class 1. Transmission lines (above and below ground) including electrical, natural, gas, and water distribution lines, pumping stations, lift stations, and telephone switching facilities (up to 200 square feet in area).

Class 2. Elevated water storage tanks, package treatment plants, telephone switching facilities (over 200 square feet in area), substations, or other similar facilities in connection with telephone, electric, steam, and water facilities.

Class 3. Generation, production, or treatment facilities such as power plants, water and sewage plants, and landfills.

Variance: A grant of relief from the requirements of this ordinance.

Vehicle/heavy equipment sales—Indoor: Establishments which may have indoor showrooms for selling vehicles or heavy equipment. This term includes, without limitation, dealers for compact automobiles and light trucks, buses, trucks, bicycles, motorcycles, mopeds, ATV's and boat and marine craft.

Vehicle/heavy equipment sales—Outdoor: Establishments which may have indoor showrooms or open lots for selling vehicles or heavy equipment. This term includes, without limitation, dealers for compact automobiles and light trucks, buses, trucks, mobile homes, bicycles, motorcycles, mopeds, ATV's and boat and marine craft.

Vehicle services—Major repair/body work: The repair, servicing, alteration, restoration, towing painting, cleaning, or finishing of automobiles, trucks, recreational vehicles, boats and other vehicles as a primary use, including the incidental wholesale and retail sale of vehicle parts as an accessory use. Major repair and body work encompasses towing, collision repair, other body work vehicle painting services, and tire recapping.

Vehicle services—Minor maintenance and repair: The repair, servicing, alteration, restoration, towing painting, cleaning, or finishing of automobiles, trucks, recreational vehicles, boats and other vehicles as a primary use, including the incidental wholesale and retail sale of vehicle parts as an accessory use. Minor maintenance and repair facilities provide limited repair and maintenance services. Examples include, but are not limited to, car washes (attended and self-service), car stereo and alarm system installers, detailing services, muffler and radiator shops, quick-lube services, and tire and battery sales and installation (not including recapping).

Vending pushcart: Any self-contained, wheeled vehicle used for displaying, keeping or storing any article by a vendor or peddler (other than a motor vehicle, bicycle or trailer) which may be moved without the assistance of a motor and does not require registration by the state department of motor vehicles. Vending pushcarts are a form of temporary use.

Vintage Sign: Any logo, photo, text, or image that is the copyrighted advertising for a business, whether active, or closed, that is no longer used by the business for marketing purposes. Vintage signs are considered a sub-type of wall signs as defined by this chapter.

Violation: The failure of a structure, use, or other development to be fully compliant with this ordinance, other applicable provisions of the Brevard City Code, other applicable laws and regulations, or any conditions attached to any permit or approval issued by the City of Brevard or Transylvania County. A structure, use, or other development without a valid and current land development permit, zoning permit, floodplain development permit, elevation certificate or other certification, zoning permit, subdivision approval, or any other form of approval as required by this ordinance, the Brevard City Code, and other applicable state and federal regulations.

Visible: Capable of being seen without visual aid by a person of normal visual acuity.

Wall sign: A sign affixed to the surface of, and whose plane is parallel to, the exterior wall of a building, or which forms an angle of less than 30 degrees with said wall and does not project out from the wall more than 24 inches from said wall. No wall sign shall extend above the roofline of the building upon which it is located. In cases of flat roofs, no sign shall extend above the parapets. Mansard roofs with an angle of 60 degrees or more from horizontal shall be considered as wall space for the placement of signs.

Water surface elevation (WSE): The height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Watercourse: A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Wetland: Areas that are inundated or saturated by an accumulation of surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

Window sign: Any sign oriented toward and visible from the exterior of a building which is placed directly on a glass window.

Wireless telecommunication facility: Equipment constructed in accordance with Section 332(c)(7) of the Telecommunications Act at a single location by a private business user, governmental user, or commercial wireless service provider to transmit, receive, or relay electromagnetic signals (including microwave). Such facility includes one or more of the following: antennas or antenna arrays, wireless telecommunication towers, support structures, transmitters, receivers, base stations, combiners, amplifiers, repeaters, filters, or other electronic equipment; together with all associated cabling, wiring, equipment enclosures, and other improvements.

Wholesaling and distribution: Establishments engaged in selling merchandise to retailers; to contractors, industrial, commercial, institutional, farm or professional business users; to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies. Examples of these establishments include, without limitation, the following:

1. Agents, merchandise or commodity brokers, and commission merchants;
2. Assemblers, buyers and associations engaged in the cooperative marketing of farm products;
3. Merchant wholesalers; and
4. Stores primarily selling electrical plumbing, heating, and air conditioning supplies and equipment.

Yard: A space on the same lot with a principal building, open, unoccupied, and unobstructed by buildings or structures from ground to sky except where encroachments and accessory buildings and structures are expressly permitted.

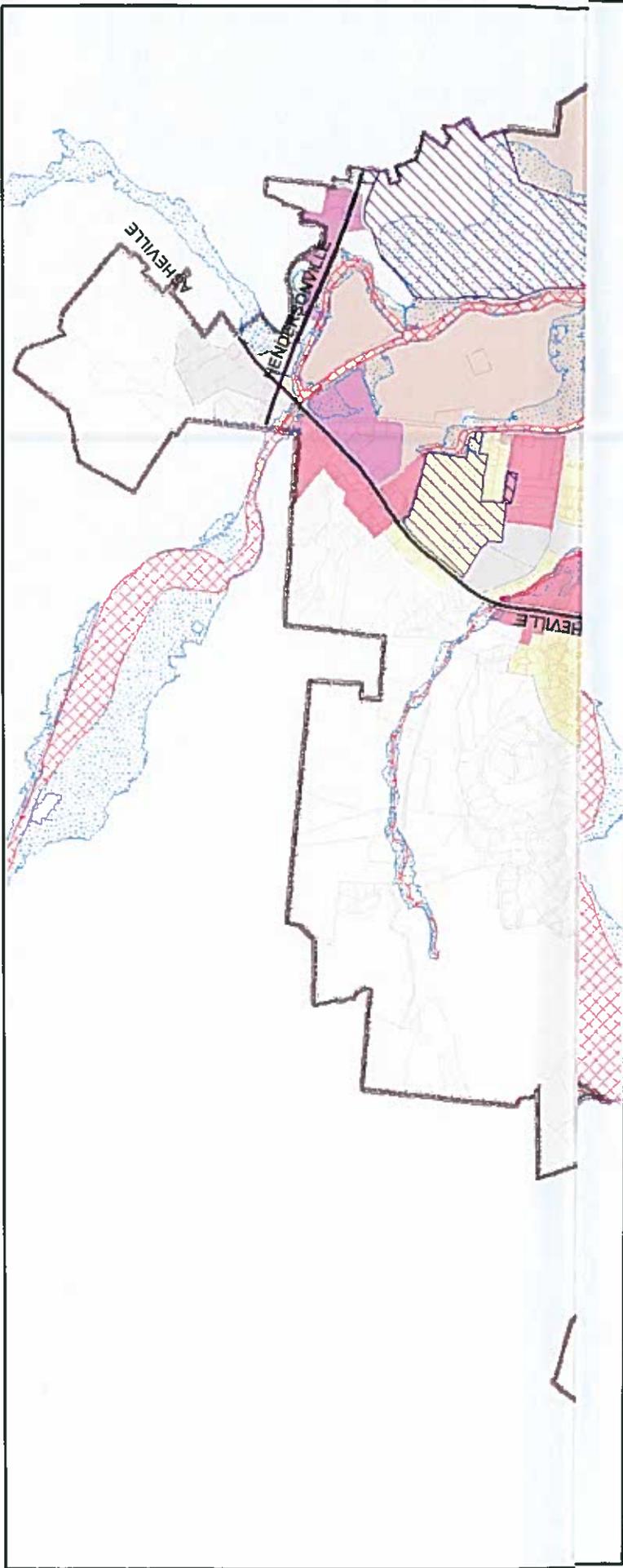
Yard, front: A yard situated between the front building line and the front lot line extending the full width of the lot.

Yard, rear: A yard situated between the rear building line and the rear lot line extending the full width of the lot.

Yard, side: A yard situated between a side building line and side lot line and extending from the required front yard to the required rear yard. In determining the situation of accessory structures, the side yard shall be assumed to extend through the rear yard to the rear lot line.

Zoning district: The term applied to various geographical areas of the City of Brevard for the purpose of interpreting the provisions of the ordinance. The districts are designated with the use of symbols on the official zoning map. Regulations controlling land use in the various districts within the City of Brevard are set forth in article VII of this ordinance. The terms "district" and "zoning district" are synonymous and are used interchangeably throughout this ordinance.

(Ord. No. 3-07, § 10, 2-5-07; Ord. No. 3-08, § 1, 3-17-08; Ord. No. 14-08, § 3, 11-17-08; Ord. No. 15-08, § 51, 12-5-08; Ord. No. 20-09, § 4(Exh. B(14), (15)), 9-21-09; Ord. No. 03-10, § 3(Exh. C), 2-15-10; Ord. No. 07-10, § 3(Exh. C), 4-5-10; Ord. No. 19-2011, § 1(Exh. A), 8-1-11; Ord. No. 24-2011, § 3(Exh. A), 9-19-11; Ord. No. 2012-21, §§ 1-d(Exh. A), 2-c(Exh. B), 7-16-12; Ord. No. 2012-25, § 1(Exh. A), 11-5-12; Ord. No. 2014-24, § 05(Exh. E), 11-17-14)



Official Zoning Map of the City of Brevard North Carolina



May 30, 2013
City of Brevard Planning Department
95 West Main Street
Brevard NC 28712

List of Map Amendments

- April 03, 2006, Ordinance 08-06, Effective Date
- May 07, 2007, Ordinance 05-07, French Broad Place
- May 21, 2007, Ordinance 07-07, Gravely
- September 17, 2007, Ordinance 12-07, Cowart / Conley
- October 05, 2007, Ordinance 14-07, Brevard Community Church
- December 03, 2007, Ordinance 20-07, Morris Road
- March 17, 2008, Ordinance 04-08, Bridges
- February 02, 2009, Ordinance 03-09, Davidson River Village
- June 15, 2009, Ordinance 11-09, Brevard Music Center
- June 15, 2009, Ordinance 12-09, Transylvania Regional Hospital
- June 15, 2009, Ordinance 13-09, Broad River Terrace
- July 06, 2009, Ordinance 18-09, Duvall
- May 17, 2010, Ordinance 09-10, ETJ Extension
- January 24, 2011, Ordinance 08-2011, Habitat for Humanity
- March 07, 2011, Ordinance 09-2011, Gardens at English Village
- April 18, 2011, Ordinance 10-2011, Cottages at Brevard
- June 20, 2011, Ordinance 13-2011, The Family Place at Transylvania County
- February 20, 2012, Ordinance 2012-05, SAFE, Inc.
- March 18, 2013, Ordinance 2013-02, Jennings Industrial Park
- May 20, 2013, Ordinance 2013-05, Brenton

*Note: The Special Flood Hazard Area is shown for informational purposes only. Please refer to the Flood Insurance Study (FIS) and the Flood Insurance Rate Maps (FIRM's) for Transylvania County, NC and Incorporated Areas, dated October 2, 2009 for site-specific flood hazard information.

City of Brevard Regulatory Jurisdiction

- Parcels
- Major Roads
- Special Flood Hazard Area
- Floodway & Zone AE
- Zone AE
- PROPOSED HIGHWAY SIGN OVERLAY DISTRICT

- Zoning Districts Effective April 18, 2011
- District
- General Industrial
- Corridor Mixed Use
- Downtown Mixed Use
- Neighborhood Mixed Use
- Residential Mixed Use
- Institutional Campus
- General Residential (6)
- General Residential (4)
- Special District
- Manufactured Home Overlay District Effective April 15, 2010



The City of
Brevard
North Carolina

NEW BUSINESS STAFF REPORT

October 20, 2015

TITLE: Short-Term Rentals
SPEAKER: Daniel P. Cobb AICP, Planning Director
PREPARED BY: Daniel P. Cobb AICP, Planning Director
Aaron N. Bland AICP, Planner & Asst. Zoning Administrator

EXECUTIVE SUMMARY: Planning Board will begin consideration of specific amendments to the City's Unified Development Ordinance (UDO) concerning the use of short-term rentals within the City's regulatory jurisdiction.

BACKGROUND: Short-term rentals units, such as those that appear on the websites AirBnB.com and VRBO.com, are a form of lodging wherein a property owner (called a "host") rents out a room, bed, or entire house for a stay of less than one month for a fee; the host may or may not live in the unit. This type of online-based rental has become a hot-button zoning issue in the last few years, and many cities in North Carolina, and around the country, are debating how to best address and regulate them.

A quick search of four of the most popular online rental sites returns approximately 100 listings within Brevard's regulatory jurisdiction (this number may include duplicate listings that appear on more than one site).

Proponents argue that short-term rentals contribute to the local economy, especially in high tourism areas, by encouraging more visitors and allowing homeowners to generate extra income. Critics say that short-term rentals erode the character of residential areas, bring problems like noise and traffic, unfairly compete with hotels and traditional B&Bs that pay taxes and are regulated by a variety of agencies, and take units out of available housing stock thereby exacerbating affordable housing problems.

Cities have responded to this issue in a number of ways, which span from ignoring such rentals and enacting no specific regulations to address them, to complete prohibition. Most communities choose to impose some regulations aimed at mitigating undesirable side effects, particularly in residential areas. Included with this staff report is a newspaper article from the Denver Post, which details the pros and cons of short-term rentals, as well as discusses how resort towns are dealing with their increasing numbers.

Examples of standards enacted by other cities:

- Designating areas where short-term rentals are allowed or not allowed
- Off-street parking requirements
- Noise and nuisance provisions
- Spacing between rentals
- Proof of insurance, compliance with fire safety measures, etc.
- Minimum length of stay

In the past year, the Planning Department has experienced a noticeable increase in inquiries as to the legality of these rentals from concerned neighbors and homeowner associations.

At their September 21, 2015 meeting, City Council provided Staff with direction to take this issue to the Planning Board to explore possible changes specific to short-term rentals.

DISCUSSION: No changes are proposed and the Board is not required to take any official action at this time. Staff is bringing this issue to Planning Board at the direction from City Council to explore options to amend the UDO to create language specific to the use of short-term rentals. It is Staff's intention to first introduce the Board to the complexities of this issue before detailed discussions about regulatory options and the eventual drafting of new ordinance language.

POLICY ANALYSIS: Currently, there is no specific land use listed in the UDO for these types of short-term rentals. The closest existing use in the UDO is the lodging use of "Rooming or Boarding House," which is permitted by right in the Neighborhood Mixed-Use, Downtown Mixed-Use, Corridor Mixed-Use, and Institutional Campus zoning districts, and is prohibited in the General Residential, Residential Mixed-Use, and General Industrial zoning districts. The Rooming or Boarding House use is defined as:

"Short or long-term accommodations that serve a specific group or membership such as a dormitory, fraternity or sorority house, youth or adult hostel, or similar tourist accommodations, or single room occupancy units that provide a number of related services including, but not limited to housekeeping, meals, and laundry services."

If relying on the current language, Staff will work with existing establishments to permit each location where appropriate. For "hosts" located outside of the allowable districts mentioned above Staff work on a schedule for compliance on an individual basis. Those operating in allowable districts will be required to submit an application for zoning approval and demonstrate compliance with existing regulations (e.g. number of off-street parking spaces).

STAFF RECOMMENDATION: Staff believes that existing regulations are unclear and fail to address the unique issues of short-term rentals, and that new language should be adopted to fill this gap. It is Staff's opinion that short-term rentals should be allowed in appropriate zoning districts, with additional standards to address the potential for negative impacts on neighborhoods such as increased traffic and parking.

The Planning Board's role is to formulate a recommendation to City Council regarding new or modified ordinance language. Staff will provide a detailed presentation of existing ordinance language and examples of how other communities are addressing these types of uses. No action, other than direction to Staff, is needed at this time.

FISCAL IMPACT: N/A

Mountain towns learn to love — and regulate — short-term rentals

By Jason Blevins

The Denver Post

POSTED: 02/22/2015 12:01:00 AM MST 25 COMMENTS | UPDATED: 6 MONTHS AGO



Mark Newman would be happy to pay some higher fees — but not commercial property taxes — for "Rockhedge," the 1921 cabin that he and his wife, Durango Steele, renovated seven years ago. (*Helen H. Richardson, The Denver Post*)

Kate Barney fielded a call from a local property manager a few years ago: Would she rent her family's home in downtown Crested Butte to vacationers for the summer?

The offer was huge — almost eight months of mortgage payments.

"These people are paying top dollar," said Barney, who manages properties with her general contractor husband, allowing them to move their family to different houses.

Now, their home is typically booked for the entire summer by mid-March, as are many of the more than 250 vacation rental homes available in the Crested Butte area listed on websites such as VRBO.com, HomeAway.com, Airbnb.com and flipkey.com.

High-country listings

According to HomeAway, and its subsidiary VRBO.com, the number of vacation-rental listings in the high country has been growing from 9 percent a year to more than 20 percent.

Town	Current listings	Growth 2009-14
Steamboat Springs	1,865	175%
Vail	892	144%
Breckenridge	2,349	114%
Crested Butte	303	84%
Salida	109	63%
Aspen	418	53%

Crested Butte is one of the 10 fastest-growing markets in the nation for short-term rentals, according to HomeAway, the online Goliath in the vacation rental market.

But nearly every other high-country town in the West is contending for that title, as a surge of property owners convert their homes into vacation destinations for the growing number of tourists seeking something more than a hotel room.

That deluge of property conversions is challenging municipal leaders as they wrestle with the impacts of vacation rentals, which account for a rapidly growing share of lodging bookings. The taxes paid by vacation

rentals has grown from trickle to torrent, and municipalities are mulling increased regulations that would, ideally, keep that revenue high but dampen the side effects that come when owners wring more value from homes on the hot short-term market.

The widespread repercussions of vacation rentals are rippling through urban and resort communities. On the upside, there are more options for visitors who are looking for experiences beyond a hotel. More options equal more visitors, which equals more spending and tax revenue.

But there's more than cash in the wake of a vacation-home renter.

"It seems to have increased in magnitude just in the last year or so. And now things are coming to a head, and communities are looking more comprehensively at what the issues are. And they are seeing there are a lot of issues," said Melanie Rees, a resort community housing consultant who is piloting a study of the impacts of vacation rentals for the 25-community Colorado Association of Ski Towns.

"A real crisis"

Longtime residential neighborhoods are seeing homes turned into mini-hotels, with parking, noise and trash problems that follow a steady stream of visitors. And locals are

finding themselves shut out of the long-term rental housing market as owners pursue more lucrative short-term tenants.

The supply of rental housing for workers is already critically low in many resort communities and municipal leaders wonder how the vacation-rentals boom is further pinching supply, Rees said.

Maybe it's the growing economy creating more jobs. Maybe it's more short-term rentals. Maybe it's both.

Regardless, she said, "a real crisis for workforce housing" has emerged in the past year.

Six years ago, as vacation rentals in mountain towns grew from a few to dozens, municipalities began scouring the Internet for vacation rental listings and collecting local lodging and sales taxes from owners. Texas-based HomeAway in 2011 sent cease-and-desist letters to a few Colorado towns, calling the pursuit illegal data mining.



Vivienne Palmer and Lonny Frye stand outside their home on Pine Street in central Boulder. The home features a second-floor apartment that they offer as a vacation rental. (Cliff Grassmick, Daily Camera)

Towns that began chasing lodging and sales taxes in 2009 and 2010 say they're doing well, with resort destinations such as Breckenridge now gathering nearly \$100,000 a year from short-term rentals.

And in Crested Butte, where a vigilant program keeps landlords in compliance with local tax laws, short-term rentals now account for 60 percent of the town's lodging tax revenue, Mayor Aaron Huckstep said.

Even with the taxes, vacation-rental use is skyrocketing in Colorado, largely because of changing consumer demands and a limited supply of new lodging. Large-scale hotel or condo development in the mountains has been slow to recover from the economic

downturn in the high country, yet visitation is reaching record levels, especially in the summer.

"There is rising demand and no more supply," said Ralf Garrison, who studies lodging trends for his DestiMetrics group, which surveys mountain resort property managers across the West to measure lodging occupancies and rates.

Garrison said there also is "a huge shift" in what vacationers want from their lodging. Surveys of ski-town visitors show that more than half want to feel like a local, not a visitor in a hotel, he said.

"They said, 'I want to immerse myself in the community and get the real experience, not a synthetic, packaged experience,' " Garrison said. "Communities that were skeptical about vacation rentals are finding an economic reason to accommodate them."

Not a passing trend

Recognizing that vacation rentals are not a passing trend, nearly every high-country town council is grappling with regulations to help mitigate their impacts. These mountain communities share the problem with urban cities seeking to rein in the suddenly everywhere vacation-rental market with regulations and even outright bans — including New York; San Francisco; Austin, Texas; Portland, Ore.; Nashville, Tenn.; and Boulder.

Many Colorado mountain communities require permits for vacation rentals, including Grand Lake, Estes Park, Durango, Winter Park, Breckenridge, Granby, Aspen, Manitou Springs and Steamboat Springs.

But some of those towns think permits alone are not enough.

A study released last fall by Estes Park revealed that 54 percent of the town's rental housing was available short-term, with only four long-term rental units available in the Estes Valley and 398 vacation rentals. The town's short-term rental regulations limit parking and occupancy and do not allow rentals of deed-restricted housing.

Estes Park has 161 licensed vacation rentals, up from 101 in 2012. The town estimates that 79 percent of the roughly 400 vacation rentals available online are not paying sales and lodging tax, a loss of more than \$70,000 a year in revenue for the town.

A proposed tightening of vacation-rental restrictions includes more limits on occupancy numbers, increased permit fees and requiring vacation rentals to pay commercial utility rates.

Durango Steele and her husband, Mark Newman, would be happy to pay some higher fees — but not commercial property taxes — for the 1921 cabin they renovated seven years ago, changing it from a long-term rental to a high-end vacation property, with a gourmet kitchen and all the trimmings of a top hotel. "Rockhedge" — where they hope to retire — is Estes Park's top-ranked rental on VRBO.com. In the garage is an old sign from the 1930s, back when the cabin's owners rented bunks to travelers.

"Back then, all the old inns around here were people's homes, which they opened to visitors," Newman said. "We aren't that different."

Manager and rules

Proposed small-town regulations run the gamut. Jackson, Wyo., bans short-term rentals in its residential neighborhoods. Durango last fall passed regulations that capped the number of permitted vacation-rental homes at 3 percent of the total homes in two downtown neighborhoods — resulting in 63.

Breckenridge requires large short-term rental homes to use a property manager with rules about trash and guest parking.

Local real estate brokers have told Breckenridge leaders they are seeing more new buyers and existing owners entering the short-term market, town manager Tim Gagen said. That has narrowed the supply of homes available for local renters.

"Within a very short time, we have been surprised by how tight the market became on the rental side," Gagen said, noting that the town recently financed a pair of affordable-housing projects that should be breaking ground soon.

Gagen called vacation rentals "probably a good thing for resorts. We like hot beds, but it's a balance."

Breckenridge, like most resort communities, does not allow locals who live in taxpayer-supported, deed-restricted housing to open their homes to short-term rental. But in Aspen, where home prices are among the highest in the country, the city may allow workers in deed-restricted housing to rent short term, opening up more affordable-lodging options for visitors.

And that could help Aspen workers stay afloat.

"It could relieve some of the burden of living in an expensive town," said Mayor Steve Skadron, who serves as president of the Colorado Association of Ski Towns.

That's the story behind the story, Crested Butte's Barney said.

Most for-rent listings, she said, are by locals trying to find a way to make money off their biggest investment so they can stay in a town where vacant residential lots sell for \$600,000 and most new homes top \$1 million.

Ski town locals renting out bedrooms is nothing new. But traditionally, they rented rooms to other locals. Now, they can rent to vacationers and earn two to three times more.

"We are paying local taxes, we are keeping people employed, and the people who rent our home are spending money in town," Barney said. "We are just trying to hang on to what we have and make a little money so we can stay here."

Banding together

The vacation-rental websites, increasingly in municipal crosshairs, recently banded together to help towns forge regulations that are not too complicated or onerous.

Philip Minardi, the spokesman for the Short Term Rental Advocacy Center, which is supported by Airbnb, HomeAway, Trip Advisor and FlipKey, said regulations first must identify a short-term rental as a property that rents for fewer than 30 consecutive days. The rules should be easy for homeowners to find and follow without a burdensome permitting process that would lead to noncompliance, he said. Another guideline suggests that payment of local taxes should be the responsibility of the owner, not the website that connects owners with renters.

Making the rules too thorny could "have a wide-ranging detrimental effect to communities that rely on tourism," Minardi said.

A final guideline, according to the advocacy center, is that any regulations should not change that property's tax assessment from residential to commercial.

"The type of tenant in a property should not change the zoning," Minardi said.

Chaffee County, which is home to vacation-rental-rich Salida, assesses some short-term homes as commercial, which increases the property tax rate from about 7 percent to 29

percent. If the home is available for short-term rental 365 days a year — with no days blocked off for owner use — the home is taxed as a commercial property, said Chaffee County Assessor Brenda Mosby, who inherited the policy from the previous assessor.

"If an insurance business moved into that house, we would charge them as a commercial business," she said. "We just want to be as fair as possible."

Jason Blevins: 303-954-1374, jblevins@denverpost.com or twitter.com/jasonblevins
