



AGENDA
BREVARD PLANNING BOARD– REGULAR MEETING
Tuesday, May 17, 2016 – 7:00 PM
Council Chambers

I. Welcome

II. Introduction of Board Members

III. Approval of Minutes

a. March 15, 2016

b. April 12, 2016

IV. New Business

a. Petition requesting a non-contiguous annexation, Challenge Foundation Properties of Brevard, LLC, PIN: 9507-02-3957-000; 1110 New Hendersonville Highway

b. Zoning Map Amendment – Challenge Foundation Properties of Brevard, LLC, PIN: 9507-02-3957-000; 1110 New Hendersonville Highway

c. Zoning Map Amendment – Asheville Highway Corridor between Morris Road and Ecusta Credit Union; Proposal to rezone properties located on highway frontage from General Residential (GR) and Neighborhood Mixed-Use (NMX) to Corridor Mixed-Use (CMX)

d. Zoning Map Amendment – 6.4 Acre site located at 600 Ecusta Road, City of Brevard, PIN 8597-31-5264-000; Proposal to rezone property from Neighborhood Mixed-Use (NMX) to General Industrial Conditional Zoning District (GI CD)

V. Old Business

VI. Other Business

VII. Adjourn



The City of
Brevard
North Carolina

NEW BUSINESS STAFF REPORT

May 17, 2016

Title: Voluntary Noncontiguous Annexation: Brevard Academy; AX16-000001
Speaker: Daniel Cobb AICP, Planning Director
Prepared by: Aaron Bland AICP, Planner & Asst. Zoning Administrator

EXECUTIVE SUMMARY: Planning Board will review and formulate a recommendation to City Council regarding a proposed voluntary noncontiguous annexation.

BACKGROUND: Challenge Foundation Properties of Brevard LLC (property owner) requests voluntary noncontiguous annexation of the subject property described herein to be used for the new location of Brevard Academy, a K-8 public charter school. Mark C. Brooks of Brooks Engineering Associates is the authorized agent for the property owner. They are collectively referred to as "applicant." See property information in the attached annexation report and the attached map of the subject property.

DISCUSSION: The financial and service delivery impacts are determined to be fairly minimal at the present time. The property is expected to file for a tax exempt status therefore negating any possible General Fund revenues for the City by means of property tax revenue. Refer to the attached annexation report for the full financial and service impact analysis of the proposed annexation.

POLICY ANALYSIS: The enabling legislation for noncontiguous annexations, North Carolina General Statute §160A-58.1, puts a limit on the noncontiguous area that can be annexed by a municipality. NCGS §160A-58.1(b)(5) states that the combined area of all satellite annexations "may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city." The City is currently at 6.51% out of the 10% limit, and this proposed annexation would raise the City to 6.84%.

The annexation of this property for the relocation and expansion of a K-8 school is in harmony with Objective 2.3 of the City's Comprehensive Plan (adopted November 2015) which reads: "Retention and expansion of institutions, programs, and services that expand the knowledge, skills, and abilities of our citizens."

STAFF RECOMMENDATION: Staff recommends approval of the proposed rezoning as presented.

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

1. Recommend denial of the annexation as presented.
2. Recommend approval of the annexation as presented.

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

ATTACHMENTS:

- A. Application Materials
- B. Annexation Report
- C. Location Map

received
3-17-2016

STATE OF NORTH CAROLINA
COUNTY OF TRANSYLVANIA
CITY OF BREVARD



PETITION REQUESTING A NON-CONTIGUOUS ANNEXATION
G.S. 160A-58.1 (As Amended)

Date: 1-22-16

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):
9507-02-3649-000, 9507-02-3957-000

Street Address: 1110 NEW HENDERSSVILLE HIGHWAY

(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

a. Name CHALLENGER FOUNDATION PROPERTIES OF BREVARD, LLC
 Address 150 FAYSTEVILLE ST. Box 1011
RALEIGH, NC 27601
 Telephone 704-813-7919 Email MHARRIN687@AOL.COM
 Signature W. U. Harrington PRESIDENT

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

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

d. Name: _____
Address: _____
Telephone _____ Email _____
Signature: _____

AGENT:

Name: BROOKS ENGINEERING ASSOCIATES, P.A.
Address: 17 ARWINGTON ST.
ASHEVILLE, NC 28801
Telephone 828-232-4700 Email MBLANKS@BROOKSEA.COM

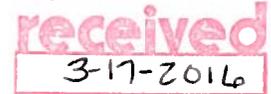
Petition along with a copy of the property Deed, Metes and Bounds description (Attachment A), and Map / Survey (Attachment B) is to be returned to:

City Clerk, City of Brevard
95 West Main St., Brevard, NC 28712
828-885-5614

Exhibit "C"
Vested Rights

The applicant declares the following vested rights related to zoning, erosion and sedimentation and erosion control and all other development regulations based upon the following:

1. Transylvania County Zoning Permit 2016-1-PFZ (see attached). Pursuant to N.C. Gen. Stat. §143-755 and N.C. Gen. Stat. §160A-360.1, applicant is vested with the development rules pertaining to this permit.
2. North Carolina Department of Environment and Natural Resources Erosion & Sedimentation Control Permit # TRANS-2016-003(see attached). Pursuant to N.C. Gen. Stat. §143-755 and N.C. Gen. Stat. §160A-360.1, applicant is vested with the development rules pertaining to this permit.
3. County building permit issued on 2/12/2016 (see attached). Pursuant to N.C. Gen. Stat. §160A-385(b), statutory vested rights exists, entitling the project to be completed in accordance with the County's development rules.
4. In addition to the above, the applicant has common law vested rights having incurred substantial expenditures or substantial contractual obligations after the approval of the County zoning permit and in reliance thereof.



Annexation Legal Description:

Beginning at a #4 rebar and cap located in Boyd Township, Transylvania County, North Carolina, on the southern margin of the 150' right-of-way for New Hendersonville Highway (US-Hwy 64); said rebar being located S 12°53'13" E a ground distance of 54.92' from North Carolina Geodetic Survey Monument "Dill", which monument has the NC Grid NAD 83 (2005) Coordinates of N= 573,662.68' and E= 900,528.98'; thence running with the property line established in Plat File 12, Slide 378 as recorded in the Transylvania County Registry and shown on recombination Plat File 16, Page 667 as recorded in said registry S 56°00'57" E a distance of 27.01' to a #4 rebar and cap; thence N 89°17'24" E a distance of 11.85' to a #4 rebar and cap in the western margin of Glade Creek Road; thence S 13°24'31" E a total distance of 113.13' to a 2" iron pipe, passing a #4 rebar at 82.97'; thence leaving the margin of Glade Creek Road and with the line of Jack Thomas (trustee) as recorded in Deed Book 97, Page 837 in said registry the following six (6) calls: S 83°53'59" W a distance of 92.89' to a calculated point; thence S 34°50'54" W a distance of 69.11' to a calculated point; thence S 24°02'20" E a distance of 27.95' to a calculated point; thence S 02°44'42" E a distance of 60.47' to a calculated point; thence S 05°05'18" W a distance of 98.55' to a calculated point; thence S 03°47'42" E a distance of 143.87' to a calculated point; thence with the line of Larry and Rebecca Wyke (trustee) as recorded in Deed Book 613, Page 148 in said registry the following two (2) calls: S 08°24'12" E a distance of 159.86' to a calculated point; thence S 12°10'42" E a distance of 88.05' to a calculated point; thence with the line of Lionel Gash as recorded in Deed Book 295, Page 517 in said registry and with the line of Zilla Gash as recorded in Deed Book 295, Page 515 in said registry the following two (2) calls: N 83°26'09" W a distance of 43.79' to a #8 rebar; thence S 07°16'57" E a distance of 588.84' to a 2" iron pipe; thence with the line of Neal Anders as recorded in Deed Book 343, Page 201 in said register S 08°30'41" E a distance of 12.43' to a #8 rebar; thence with the line of John and Karen Kiser as recorded in Deed Book 434, Page 146 in said registry the following two (2) calls: N 72°49'24" W a distance of 113.04' to a #4 rebar; thence S 82°35'02" W a distance of 112.01' to a #4 rebar; thence with the Eugene Mathis line as recorded in Deed Book 50, Page 129 in said registry N 04°32'56" W a distance of 322.40' to a #4 rebar; thence with the Blue Ridge Gardens of Memory, LLC as recorded in Deed Book 597, Page 269 in said registry to following six (6) calls: N 23°01'20" W a distance of 18.66' to a #4 rebar; thence N 25°22'39" W a distance of 10.00' to a #4 rebar; thence N 27°48'49" W a distance of 407.23' to a #4 rebar; thence N 06°49'19" W a distance of 128.66' to a #4 rebar and cap; thence N 06°45'07" W a distance of 351.58' to a #4 rebar; thence N 05°54'38" W a distance of 135.24' to a #4 rebar being located in the southern margin of the 150' right-of-way for New Hendersonville Highway (US-Hwy 64); thence N 00°31'27" W a distance of 75.00' to calculated point in the center of said right-of-way; thence with the center of said right-of-way to following two (2) calls: N 89°28'33" E a distance of 152.07' to a calculated point; thence N 87°27'38" E a distance of 343.81' to a calculated point; thence leaving the centerline of said right-of-way S 02°32'28" E a distance of 75.00' which is the point of beginning.

The total area for annexation is 10.98 acres or 478,113 square feet, plus or minus.



**Energy, Mineral
and Land Resources**
ENVIRONMENTAL QUALITY

PAT MCCRORY

Governor

DONALD R. VAN DER VAART

Secretary

TRACY DAVIS

Director

February 25, 2016

LETTER OF APPROVAL

Challenge Foundation Properties of Brevard, LLC
ATTN: Mr. Michael Harrington
817 East Todd Dr.
Tempe, AZ 85283

RE: Project Name: BREVARD ACADEMY ADDITIONS & RENOVATIONS
Acres Approved: 5.5
Project ID: TRANS-2016-003
County: Transylvania
City: Brevard
Address: 64 Hwy.
River Basin: French Broad
Stream Classification: B
Submitted By: Mr. Travis Maxwell, PE
Date Received by LQS: January 14, 2016
Revision Date Received by LQS: February 24, 2016
Plan Type: Institutional

Dear Mr. Harrington:

This office has reviewed the subject erosion and sedimentation control plan. We find the plan to be acceptable and hereby issue this Letter of Approval. The enclosed Certificate of Approval must be posted at the job site. This plan approval shall expire three (3) years following the date of approval, if no land-disturbing activity has been undertaken, as is required by Title 15A NCAC 4B .0129.

Please be aware that your project will be covered by the enclosed NPDES Construction Stormwater General Permit NCG010000. Please become familiar with all the requirements and conditions of this permit in order to achieve compliance.

Letter of Approval
Mr. Michael Harrington
February 25, 2016
Page 2 of 2

Title 15A NCAC 4B .0118(a) requires that a copy of the approved erosion control plan be on file at the job site. Also, this letter gives the notice required by G.S. 113A-61.1(a) of our right of periodic inspection to insure compliance with the approved plan.

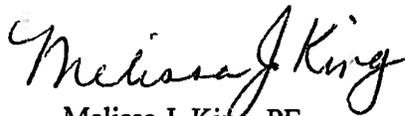
North Carolina's Sedimentation Pollution Control Act is performance-oriented, requiring protection of existing natural resources and adjoining properties. If, following the commencement of this project, the erosion and sedimentation control plan is inadequate to meet the requirements of the Sedimentation Pollution Control Act of 1973 (North Carolina General Statute 113A-51 through 66), this office may require revisions to the plan and implementation of the revisions to insure compliance with the Act.

Acceptance and approval of this plan is conditioned upon your compliance with Federal and State water quality laws, regulations, and rules. In addition, local city or county ordinances or rules may also apply to this land-disturbing activity. This approval does not supersede any other permit or approval.

Please note that this approval is based in part on the accuracy of the information provided in the Financial Responsibility Form, which you provided. You are requested to file an amended form if there is any change in the information included on the form. In addition, it would be helpful if you notify this office of the proposed starting date for this project. Please notify us if you plan to have a preconstruction conference.

Your cooperation is appreciated.

Sincerely,



Melissa J. King, PE
Assistant Regional Engineer
Land Quality Section

Enclosures: Certificate of Approval
NPDES Permit

cc: Mr. Travis Maxwell, PE tmaxwell@brooksea.com



TRANSYLVANIA COUNTY
PISGAH FOREST COMMUNITY ZONING

GENERAL APPLICATION FORM

(Permit Number if Approved 2016-1-PFZ)

Permit Requested: CMX Zoning _____ Vested Right _____ Special Use/PUD _____

Owner Challenge Foundation Owner (if different) Same

Address Properties of Brevard, LLC Address _____
c/o Mike Harrington
817 E. Todd Dr.
Tempe, AZ 85283

E-mail mharrin607@aol.com E-mail _____

Telephone 704-813-7919 Telephone _____

Legal Relationship of applicant to property owner same

Planned Use of Property School K-8th grade

Name & Description of Business Brevard Academy

Property location (street address) 1110 New Hendersonville Highway

PIN 9507-02-3649-006 Parcel Size 10.12 acres District Pisgah Forest

No. of buildings to remain 2 Gross floor area (s.f.) to remain 16,218 s.f.

No. of buildings proposed 2 Gross floor area of proposed buildings 23,643

Land area (s.f.) to be disturbed 237,190 s.f. Site Plan Attached previously submitted

Estimated cost of project \$ \$4M Current Tax Value \$ \$1,610,020

The owner of the property grants the members of the Transylvania County Zoning Board of Adjustment, the Zoning Administrator and staff, the right to enter onto the property for purposes of making a site inspection in connection with this proceeding. This right of entry shall not extend to any of the interior of any structures or enclosures on the property.

Michael O. Harrington
Signature of Owner
MICHAEL O. HARRINGTON

Signature of Applicant (if different)

*For Office Use Only*Received by Joy Fields Date Received 1/13/16Zoning Fee Received: Yes No Total Received \$ 50 Date 1/13/16Site Plan (circle one) Approved / Denied (Decision for denial detailed on reverse or attached)

Approval Comments / Conditions: They have sent plans showing the required plantings to screen project from neighbors. They have sent stormwater plans and have indicated that the project will only expand the impervious surface by 23% since building and much of the parking is existing. Brevard Academy is working with NC DEQ who is issuing an erosion control permit. They are also working with NC DOT, Mr. Carl Ownbey, for driveway permits and turning lanes. This application is approved with the condition that they meet the requirements of NC DEQ + NC DOT.

Decision by: Joy Fields Date: 1/20/2016



Transylvania County Building Permitting and Enforcement
Phone: (828) 884-3209 www.transylvaniacounty.org

Owner: Brevard Academy
Permit Number: CST16-17

Inspections shall be requested by 4:00 pm the business day prior. A \$75 fee shall apply to partial inspections.

Inspection	Approved By	Date
Water Line:	_____	_____
Sewer Line:	_____	_____
Gas Piping:	_____	_____
Electrical Final:	_____	_____
Mechanical Final:	_____	_____
Plumbing Final:	_____	_____
Miscellaneous:	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____



Planning & Project Management / Civil Engineering
 Surveying / Environmental Engineering & Services

17 Arlington Street / Asheville NC 28801
 www.brooksea.com / 828-232-4700

received
 3-17-2016

City of Brevard
 City Manager's Office
 95 West Main Street
 Brevard, NC 28712

Attention: Desiree Perry, City Clerk

Regarding: Brevard Academy
 City Annexation Application
 Response to Comments
 BEA Project No. 422315

Dear Ms. Perry:

Brooks Engineering Associates, P.A. (BEA) appreciates the City's review of the Annexation Application submitted on behalf of the Challenge Foundation for the Brevard Academy site. You provided a response to our submittal via email on January 11, 2016. The following comments/requests from the referenced email are provided below in italics with the response in bold regular font. The supporting information is provided as indicated. All supporting documentation is provided as enclosures.

1. *Challenge Foundation Properties of Brevard, LLC - Petition is signed by Michael O. Harrington. Is he the Managing Member? If so, I believe our City Attorney will need for the Petition to be amended to reflect same.*

Mr. Harrington is the President of the Foundation and has signed the petition with his title. Refer to the enclosed revised petition.

2. *Brevard Academy - Petition is not signed by the property owner.*

There were originally two parcels involved in the project, one owned by the Challenge Foundation the other owned by Brevard Academy. To simplify this and other permitting process, Brevard Academy deeded the rear parcel to the Challenge Foundation and they have been combined in to a single parcel per the recombination plat record on Book 16 Page 667. The revised application reflects on the single parcel to be annexed owned by the Challenge Foundation.

3. *Vested Rights - Property owner(s) question, "Do you declare vested rights?" has not been answered upon the Petition.*

Vested rights are being declared. Per your instructions we have enclosed a statement from the owner's attorney describing the basis for this declaration along with supporting documentation.

4. *Agent - If it is Challenge Foundation Properties and Brevard Academy's desire for you to serve as their Agent, they need to indicate same upon the Petition.*

Brooks Engineering is listed as the Agent on the revised application.

5. *Deed - A copy of the property deed(s) have not been provided.*

A copy of the deed for the original parcel and the recently recombined parcel are enclosed.

6. *Metes and Bounds description - A copy of the metes and bounds description for the two tracts has not been provided.*

A legal description is enclosed.

Annexation Plat Comments:

1. *The size of the submitted mylar exceeds the size accepted for recording by the Transylvania County Register of Deeds Office. Maximum recording size is 18"x24"; your submittal is 24"x36".*

18"x24" mylar is enclosed.

2. *Owner Certification - Mylar has been signed by Challenge Foundation; however, it has not been signed by Brevard Academy. A date and signature line needs to be added for Brevard Academy, and then signed by them.*

No parcels included in the application by Brevard Academy. See above statements.

3. *Petition requires one mylar plat, one plat on disk (electronic pdf acceptable), and five paper copies of the plat. Only one mylar plat has been submitted.*

One disc, one mylar plat, and five paper copies of the plat are enclosed.

4. *Required area proposed for annexation in relation to the primary corporate limits of the City of Brevard is not shown.*

Plat has been amended to provide this information.

5. *If the area to be annexed is separated from the municipal boundary, then the annexation area boundary shall be drawn to include to the center of the road or street right-of-way, center of creek or river, railroad right-of-way or other public service corporation, lands owned by the municipality or some other political subdivision or owned by the State of North Carolina. {GS 160A-31 (f)}.*

Center of Roadway included on Plat.

6. *Plat needs to be amended clearly delineate the proposed annexation boundary will be to the centerline of New Hendersonville Highway; Plat Legend to be amended to include.*

Plat amended as advised.

Brooks Engineering Associates appreciates your review of the revised application and supporting materials. Please let us know if any of these items require additional clarification and perhaps minor items can be addressed via phone, email or fax. We look forward to your response.

Sincerely,

Brooks Engineering Associates, P.A.

A handwritten signature in black ink, appearing to read "Mark Brooks". The signature is fluid and cursive, written in a professional style.

Mark C. Brooks, P.E.

cc: Mark Beebe, Lancer & Beebe
Michael Harrington, Challenge Foundation

Enclosures: Revised Annexation Petition
Exhibit C – Vested Rights declaration and supporting documentation
Revise Plat, 5 copies, and disc
Copies of deeds
Metes and bounds description

received ATTACHMENT A 3-17-2016



2015003989

TRANSYLVANIA CO, NC FEE \$26.00
STATE OF NC REAL ESTATE EXT
\$2280.00

PRESENTED & RECORDED:
08-12-2015 03:50:28 PM

CINDY M OWNBEY
REGISTER OF DEEDS

BY: KARIN SMITH
DEPUTY REGISTER OF DEEDS

BK: DOC 735

PG: 843-845

NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax: \$2,280.00

Parcel Identifier No. _____ Verified by KL County on the 12 day of Aug, 2015
By: _____

Mail/Box to: ROBINSON BRADSHAW & HINSON, P.A., 101 N. Tryon St., Suite 1900, Charlotte, NC 28246

This instrument was prepared by: MARGARET M. HUNT

Brief description for the Index: _____

THIS DEED made this 24th day of July, 2015, by and between

GRANTOR	GRANTEE
STATE LINE PARTNERS, LLC, a North Carolina Limited Liability Company	CHALLENGE FOUNDATION PROPERTIES OF BREVARD, LLC, a North Carolina Limited Liability Company
291 Old Chimney Lane Cedar Mountain, North Carolina 28718	817 East Todd Drive Tempe, Arizona 85283

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, parcel of land or condominium unit situated in Boyd Township, Transylvania County, North Carolina and more particularly described as follows:

SEE EXHIBIT 'A' ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE

The property hereinabove described was acquired by Grantor by instrument recorded in Document Book 370, Page 697.

All or a portion of the property herein conveyed does not include the primary residence of a Grantor.

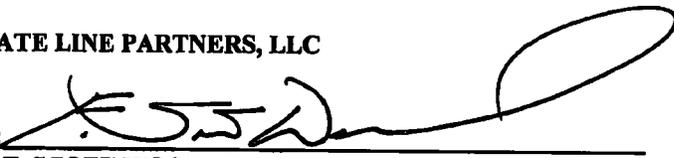
A map showing the above described property is recorded in Plat File 12, Slide 378.

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:

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

STATE LINE PARTNERS, LLC

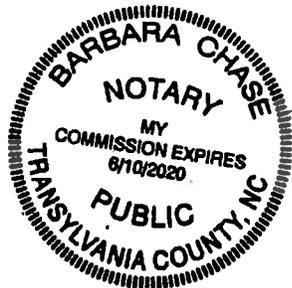
By: 
F. SCOTT WOOD, Member/Manager

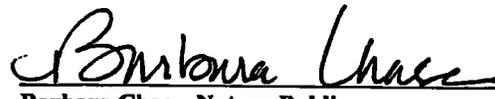
STATE OF NORTH CAROLINA
COUNTY OF TRANSYLVANIA

I, the undersigned Notary Public of the County and State aforesaid, certify that F. SCOTT WOOD personally came before me this day and acknowledged that he is the Member/Manager of STATE LINE PARTNERS, LLC, a North Carolina Limited Liability Company, and that by authority duly given and as the act of such entity, he signed the foregoing instrument in its name on its behalf as its act and deed.

Witness my hand and Notarial stamp or seal this 7th day of August, 2015.

(Affix Seal)




Barbara Chase, Notary Public
My Commission Expires: 06-10, 2020

**NORTH CAROLINA GENERAL WARRANTY DEED FROM STATE LINE PARTNERS, LLC
TO CHALLENGE FOUNDATION PROPERTIES OF BREVARD, LLC.**

EXHIBIT 'A'

Being all of Tract A containing 4.108 acres as shown on a plat of a survey by Clarence A. Jenkins, PLS, dated April 13, 2006, revised April 26, 2006, revised September 26, 2007, and recorded in Plat File 12, Slide 378, Records of Plats for Transylvania County, reference to which is hereby made for a more complete description thereof.

Subject to all matters shown on the plat hereinabove referred to and to the rights-of-way of all roads that my presently traverse the property, to all road rights-of-way that may presently appear of record, to the rights-of-way of all utility lines that may presently traverse the property and to all the rights-of-way for public utilities that may presently appear of record.

Subject to all restrictions appearing of record and all amendments thereto.



2016000824

TRANSYLVANIA CO, NC FEE \$26.00

NO TAXABLE CONSIDERATION

PRESENTED & RECORDED
02-23-2016 01:43:32 PM

CINDY M OWNBEY
REGISTER OF DEEDS
BY BETH C LANDRETH
ASSISTANT

BK: DOC 755

PG: 736-738

NORTH CAROLINA NON-WARRANTY DEED

Excise Tax \$ 0.00

Parcel Identifier No. 9507-02-3649

Mail after recording to Van Winkle, Buck, Wall, Starnes & Davis, P.A. Attorney's Initials: LPT
Post Office Box 7376, Asheville, NC 28802-7376

This instrument was prepared by: Van Winkle, Buck, Wall, Starnes & Davis, P.A. (representing grantee only)

Brief description for the Index: Tract B Plat Book 12/Slide 378

THIS DEED made this 11 day of FEBRUARY, 2016, by and between:

GRANTOR	GRANTEE
<p>Brevard Academy, a North Carolina non-profit corporation</p>	<p>Challenge Foundation Properties of Brevard, LLC, a North Carolina limited liability company</p>
<p>15 Millridge Drive Brevard, NC 28712</p>	<p>817 East Todd Dr. Tempe, AZ 85283</p>

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

SEE EXHIBIT A ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE.

**NO TITLE EXAMINATION WAS PERFORMED BY THE PREPARER OF THIS DEED.
THIS PROPERTY DOES NOT INCLUDE THE GRANTOR'S PRINCIPAL RESIDENCE.**

The Property was acquired by Grantor by instrument recorded in Deed Book DOC 735, Page 846.

A map showing the Property is recorded in Plat Book 12, Page 378.

TO HAVE AND TO HOLD the Property and all privileges and appurtenances thereto belonging to Grantee in fee simple.

The Grantor makes no warranty, express or implied, as to title to the Property.

IN WITNESS WHEREOF, Grantor has caused this instrument to be signed in its corporate name by its duly authorized officer by authority of its Board of Directors, the day and year first above written.

BREVARD ACADEMY

By: [Signature] (SEAL)
W. Warren Alston, Chairman of the Board of Directors

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document: **W. Warren Alston**

Date: February 11 2016

[Signature]
Notary Public
Benjamin D Upton II
(Printed Name of Notary)
My Commission Expires: 11-17 2018

PLACE NOTARY SEAL INSIDE THIS BOX ONLY!

**BENJAMIN D. UPTON II
NOTARY PUBLIC
Transylvania County, NC**

EXHIBIT A

Being all of Tract B containing 6.049 acres as shown on a plat of a survey by Clarence A. Jenkins, PLS, dated April 13, 2006, revised April 26, 2006, revised September 26, 2007, and recorded in Plat File 12, Slide 378, Records of Plats for Transylvania County, reference to which is hereby made for a more complete description thereof.

Subject to all matters shown on the plat hereinabove referred to and to the rights-of-way of all roads that may presently traverse the property, to all road rights-of-way that may presently appear of record, to the rights-of-way of all utility lines that may presently traverse the property and to all the rights-of-way for public utilities that may presently appear of record.

Subject to all restrictions appearing of record and all amendments thereto.

received
3-17-2014



Letter of Transmittal

To: Desiree Perry, City Clerk City of Brevard 95 West Main Street Brevard, NC 28712 828-885-5602 <i>(need telephone no. if Fedex, no P.O. Box)</i>	From: Mark Brooks	Date: March 16, 2016
	cc: <i>(need telephone no. if Fedex, no P.O. Box)</i> File	
	Project Name Brevard Academy	
Project No: 421515		

Mail
 Deliver
 Overnight*
 Other _____
*must use street address & include phone number

Document Description:	Date:	Copies:
Annexation Plat & 5 copies		
Cover Letter addressing comments		
Revised Annexation Petition with Vested Rights docs		
Deed copy		
Legal Description		
Comments: Ms. Perry - Enclosed are the revised the Annexation forms and plat as requested for the Brevard Academy. Please let us know if anything else is needed. Thanks.		

**- NONCONTIGUOUS ANNEXATION REPORT -
Challenge Foundation Properties of Brevard, LLC
1110 New Hendersonville Highway, Pisgah Forest, NC**

Date: May 17, 2016

Property Description:

PIN: 9507-02-3957-000
 Owner: CHALLENGE FOUNDATION PROPERTIES OF BREVARD LLC
 817 EAST TODD RD
 TEMPE, AZ 85283
 Deed book/page: 735/843 & 755/736
 Plat file/page: 16/667

Background:

Challenge Foundation Properties of Brevard, LLC (property owner) requests voluntary non-contiguous annexation of the subject property described herein. Brooks Engineering Associates/Mark C. Brooks is the authorized agent for the property owner. The property owner and agent are collectively referred to as “applicant.”

Governing Statutes:

Voluntary, noncontiguous annexations are governed by North Carolina General Statute §160A-58.1. The subject property qualifies for annexation under NCGS §160A-58.1(b).

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 property within the law enforcement jurisdiction of the Brevard Police Department. At the present time it not expected that this will result in a measurable impact.

The sole area of concern is the issue of traffic safety at the Hendersonville Highway/Glade Creek Road intersection as current site plans show all traffic entering and exiting on Hendersonville Highway. Research by the Police Department found that this intersection does not have a history of accident or speeding problems. However, the increase in traffic from the school is a concern, but it is assumed that typical school zone signs and speed limit reductions per NCDOT guidelines will be sufficient safety tools.

Fire Services:

The proposed annexation is currently within the Little River Fire District. If brought into the City’s corporate limits, the Brevard Fire Department will provide emergency services to the

site. Planning Staff is still gathering information regarding how the Brevard Fire Department will coordinate with outside fire districts to best respond to calls at this location.

Solid Waste Collection & Recycling:

The proposed annexation may or may not result in an additional solid waste collection point. Presently, Public Works has not received a request from Brevard Academy for commercial collection services, and it is possible that the school will choose to hire a private collection company.

If the City's services are requested, then service to the subject property would result in additional time needed for the Tuesday/Friday collection route. As the City already serves commercial customers on Hendersonville Highway this impact is deemed to be minimal.

Street & Sidewalk Maintenance:

None. Hendersonville Highway and Glade Creek Road are maintained by NCDOT.

Street Lighting:

N/A

Water Production & Distribution:

Capacity exists for the production and distribution of water at the proposed buildout. There will be a new water line installed to be maintained by the City approximately 2,400 feet in length.

Wastewater Collections and Treatment:

Capacity exists for the collection and treatment of wastewater at the proposed buildout. The pump station located near the Pisgah Fish Camp Restaurant will have approximately 100 gpm of capacity remaining after the addition of Brevard Academy to the system. The property will be served by a sewer line extending from the City's sewer system at Davidson River Road; this line will be a private line owned and maintained by the applicant.

Parks & Property Management:

N/A

Planning Services:

The property is currently located outside of the City's Extra-Territorial Jurisdiction, and therefore is out of the City of Brevard's planning jurisdiction. The proposed annexation would bring the parcel within the scope of the City's zoning, subdivision, floodplain regulations as set forth in the Unified Development Ordinance. The annexation would also bring the property under the City's vegetation and health/sanitation regulations set forth in City Code of Ordinances.

Minor increases to the workload of Planning Staff may result from code complaints and/or future applications for additions, renovations, or additional structures on the property. Given that the proposed annexation is a single property, these impacts are expected to be minimal.

The subject property is within the scope of the City's 2002 Land Use Plan and therefore long-range planning of this site is established. The proposed annexation and zoning of the property will not impact the long-range planning function of the Planning Department.

Financial Summary:

REVENUE SOURCE	ANNUAL FISCAL IMPACT/REVENUE
Estimated Future Tax Revenues	\$ 0.00 ⁽¹⁾
Water Collections	\$ 13,573.80 ⁽²⁾
Sewer Collections	\$ 10,873.80 ⁽²⁾
Garbage Collections & Disposal	To be determined
Recycling Collections	To be determined
Powell Bill Revenues	\$ 0.00
Total Estimated Annual General Fund Revenues	\$ 0.00 ⁽³⁾
Total Estimated Annual Utility Fund Revenues	\$ 24,447.60 ⁽⁴⁾

(1) Property expected to apply for property tax exemption.

(2) Based on current utility rates, calculated at 20 days per month.

(3) General Fund estimates do not include miscellaneous revenue streams that could be impacted by the proposed annexation.

(4) Utility Fund estimates do not include one-time impact fees.

SERVICE AREA	ANNUAL FISCAL IMPACT/EXPENDITURE
Administration/Finance/HR	None
Law Enforcement	None
Fire Protection	To be determined
Solid Waste & Recycling	To be determined
Street & Sidewalk Maintenance	None
Street Lighting	None
Water Distribution	New water line: 2,400' x \$ 1.11/foot = \$2,664 ⁽¹⁾
Wastewater Collection	None
Water Plant	None
Wastewater Plant	None
Parks & Property Management	None
Planning & Zoning	None
Total	\$ 2,664.00

(1) Average annual cost of \$1.11 per foot applied.

Vested Rights:

The applicant of the proposed annexation has declared to following vested rights:

- Transylvania County Zoning Permit 2016-1-PFZ. Pursuant to NCGS §143-755 and §160A-360.1, the applicant is vested with the development rules pertaining to this permit.
- North Carolina Department of Environment and Natural Resources Erosion & Sedimentation Control Permit #TRANS-2016-003. Pursuant to NCGS §143-755 and §160A-360.1, the applicant is vested with the development rules pertaining to this permit
- County building permit #BCRA-16-9. Pursuant to NCGS §160A-385(b) statutory vested rights exist, entitling the project to be completed in accordance with the County's development rules and regulations.

- Common law vested rights having incurred substantial expenditures and/or contractual obligations after obtaining approval of zoning and building permits from Transylvania County.

Copies of the permits referenced above are included with the Annexation Petition in Attachment A.

The property is currently not zoned by the City, so there will be no impact related to current zoning entitlements.

Other Concerns:

The enabling legislation for noncontiguous annexations, North Carolina General Statute §160A-58.1, puts a limit on the noncontiguous area that can be annexed by a municipality. NCGS §160A-58.1(b)(5) states that the combined area of all satellite annexations “may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.”

The City is currently at 6.51% out of the 10% limit, and this proposed annexation would raise the City to 6.84%.

Planning Board Recommendation:

To be determined.

Staff Recommendation:

Staff recommends approval of the proposed annexation as submitted.

Proposed Annexation & Rezoning
Brevard Planning Board
May 17, 2016

HENDERSONVILLE HWY

GLADE CREEK RD

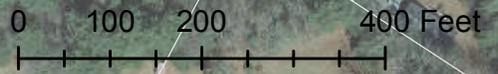
CORNELIUS DR

JESSIE MACKEY RD

DRAGONFLY DR

OLD FARM RD

— Streets
□ Property Lines





The City of *Brevard* North Carolina

NEW BUSINESS STAFF REPORT

May 17, 2016

Title: Brevard Academy Rezoning - RZ16-000003
Speaker: Daniel Cobb AICP, Planning Director
Prepared by: Aaron Bland AICP, Planner & Asst. Zoning Administrator

EXECUTIVE SUMMARY: Planning Board will consider and formulate a recommendation to City Council regarding the rezoning of a property located at Hendersonville Highway and Glade Creek Road.

BACKGROUND: In March of 2016, the City Clerk received application materials for a voluntary noncontiguous annexation of a parcel of land located at the intersection of Hendersonville Highway and Glade Creek Road. This property is slated to be the new location of Brevard Academy. See Attachment A and Attachment B for location reference. Because this property is currently located outside the City's planning jurisdiction, it is subject to Transylvania County zoning ordinances (See Attachment C) and must be rezoned concurrently with the annexation; it is proposed to be zoned Institutional Campus (See Attachment D).

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 inconsistent with the Future Land Use Map of the 2002 City of Brevard Land Use Plan, which classifies this property as mixed-use boulevard (See Attachment E), which is defined as:

A thoroughfare is defined as "a major road or highway; a passage or way through." In contrast, a boulevard is "a broad avenue in a city, often landscaped or lined with trees." This Plan recommends that the City embark on a new way of looking at street design and the transport of people, goods and services along its existing major roads, specifically Asheville Highway to the north and Broad St./Rosman Highway to the south. A mixed use-boulevard designation is envisioned with: more transportation choices; better access management; more efficient use of land; landscaping; improved appearance; and design standards which encourage buildings to be close to the street, with parking to the side or rear. Development should be encouraged toward "nodes," typically at main intersections

(see map) while leaving some green/undeveloped areas. Standard strip commercial centers should be discouraged.

A future land use designation of Public/Semi-Public would be much more consistent with the intended use of the property. However, there are elements of the Mixed Use – Boulevard category that are consistent, specifically developing “nodes” of activity at key intersections along major highways.

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 subject parcel was formally an automotive dealership, as well as a rental car service. The surrounding properties are a mix of uses. Residential properties abut to the east, along Glade Creek Road, along with a few undeveloped parcels. To the west is the Blue Ridge Gardens of Memory cemetery. To the north, across Hendersonville Highway, is an automotive repair shop.

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? Yes. The subject property is rather large at 10+ acres and surrounding land uses are a mix of commercial, residential, and semi-public community facilities.

What is the balance of benefits and detriments to both the Applicant/property owner and the public at large? The subject property is currently partially zoned by Transylvania County as Corridor Mixed Use and is therefore open to many commercial uses. Additionally, the site has historically been used commercially. Annexation would bring the site under the City’s development regulations and subsequent development or expansion would be subject to screening and buffering requirements intended to mitigate impacts of non-residential uses on neighboring residential properties.

POLICY ANALYSIS: Refer to Staff comments within the “Discussion” and “Staff Recommendation” sections of this staff report and Attachment G for assistance. While the rezoning as proposed is inconsistent with the land use plan, it does address an objective of the City’s comprehensive plan in the “Economic Development” element:

OBJECTIVE 2.3: Retention and expansion of institutions, programs, and services that expand the knowledge, skills, and abilities of our citizens.

STAFF RECOMMENDATION: Staff recommends approval of the rezoning as presented. The rezoning as proposed is inconsistent with the City’s adopted land use plan. However, as stated above, such a rezoning is in keeping with specific objectives set forth in the latest comprehensive plan (adopted November 2015).

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 as presented.
2. Recommend the requested rezoning to a more restrictive zoning district.
3. Request additional information from Staff. The Board may take up to 45 days to formulate a recommendation to City Council.

FISCAL IMPACT: The rezoning of this property, in conjunction with the concurrent proposed annexation, will result in an additional customer of the City's utility system.

ATTACHMENTS:

- A. Site Map
- B. Vicinity Map
- C. Current Zoning Map
- D. Proposed Zoning map
- E. Future Land Use Plan Excerpt
- F. Allowable Uses Comparison Table
- G. Consistency Statement

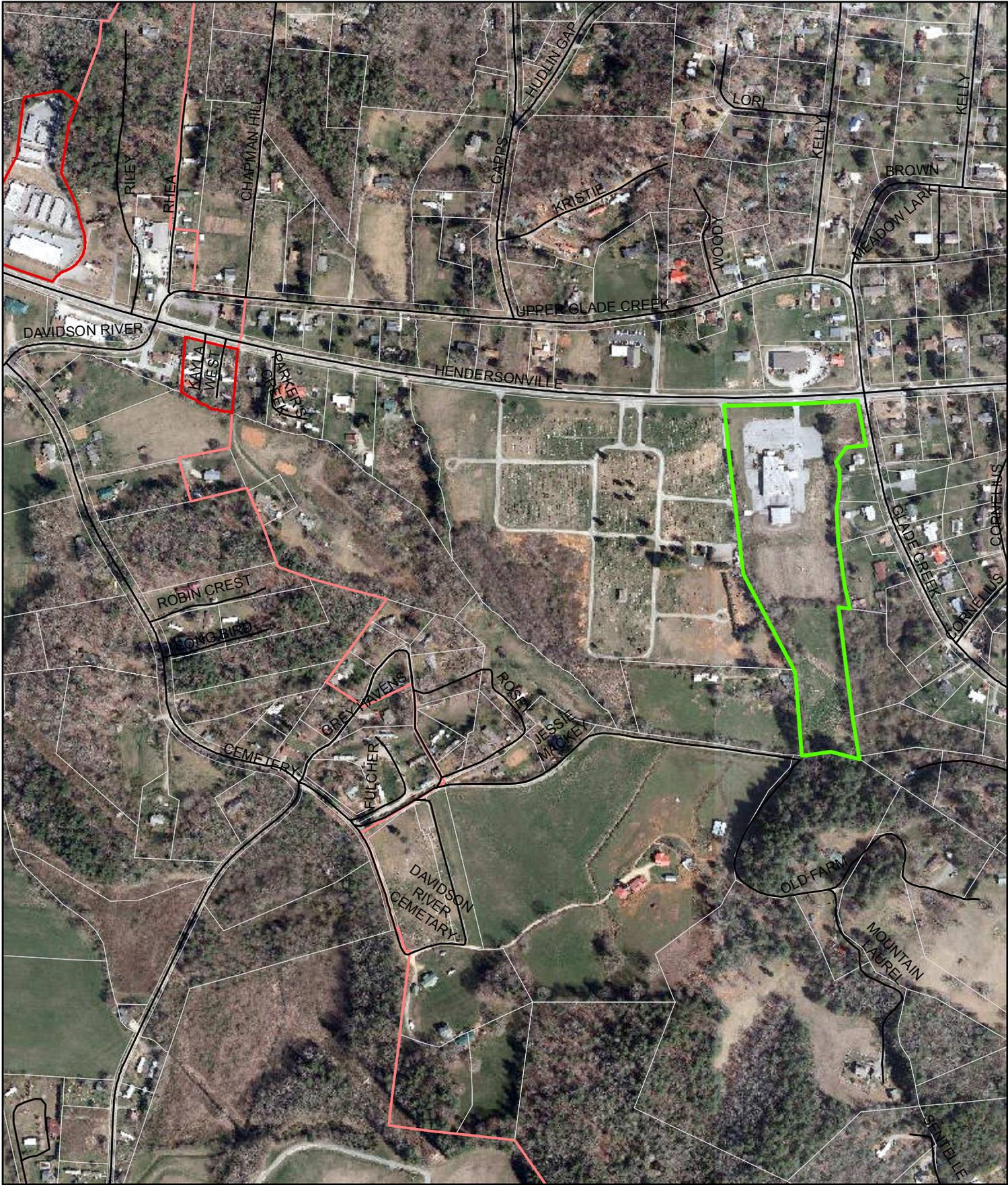


-  Subject Parcel
-  Streets
-  City Limits
-  ETJ
-  Parcels

SITE MAP



1 inch = 200 feet

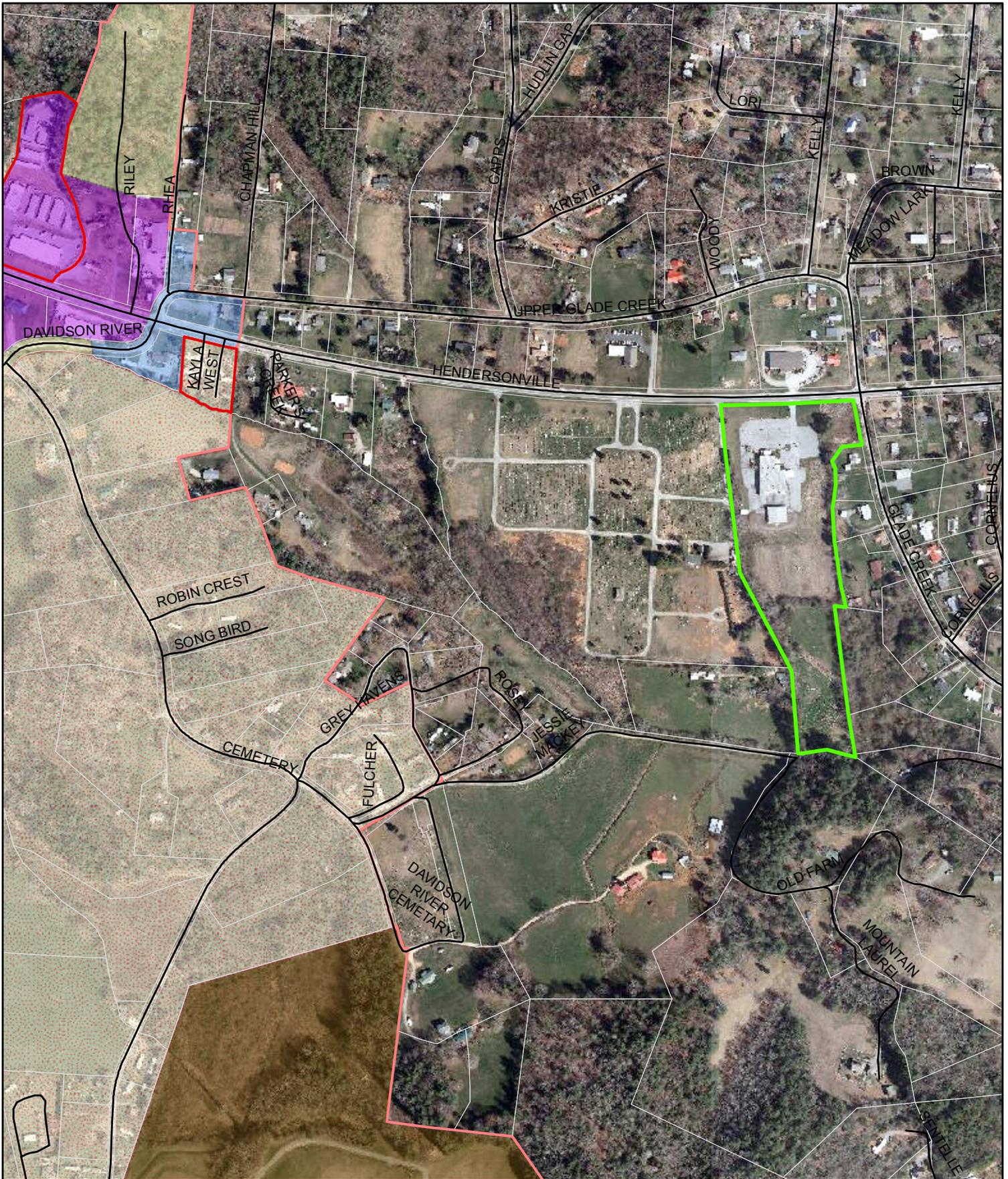


- Subject Parcel
- Streets
- City Limits
- ETJ
- Parcels

VICINITY MAP



1 inch = 500 feet

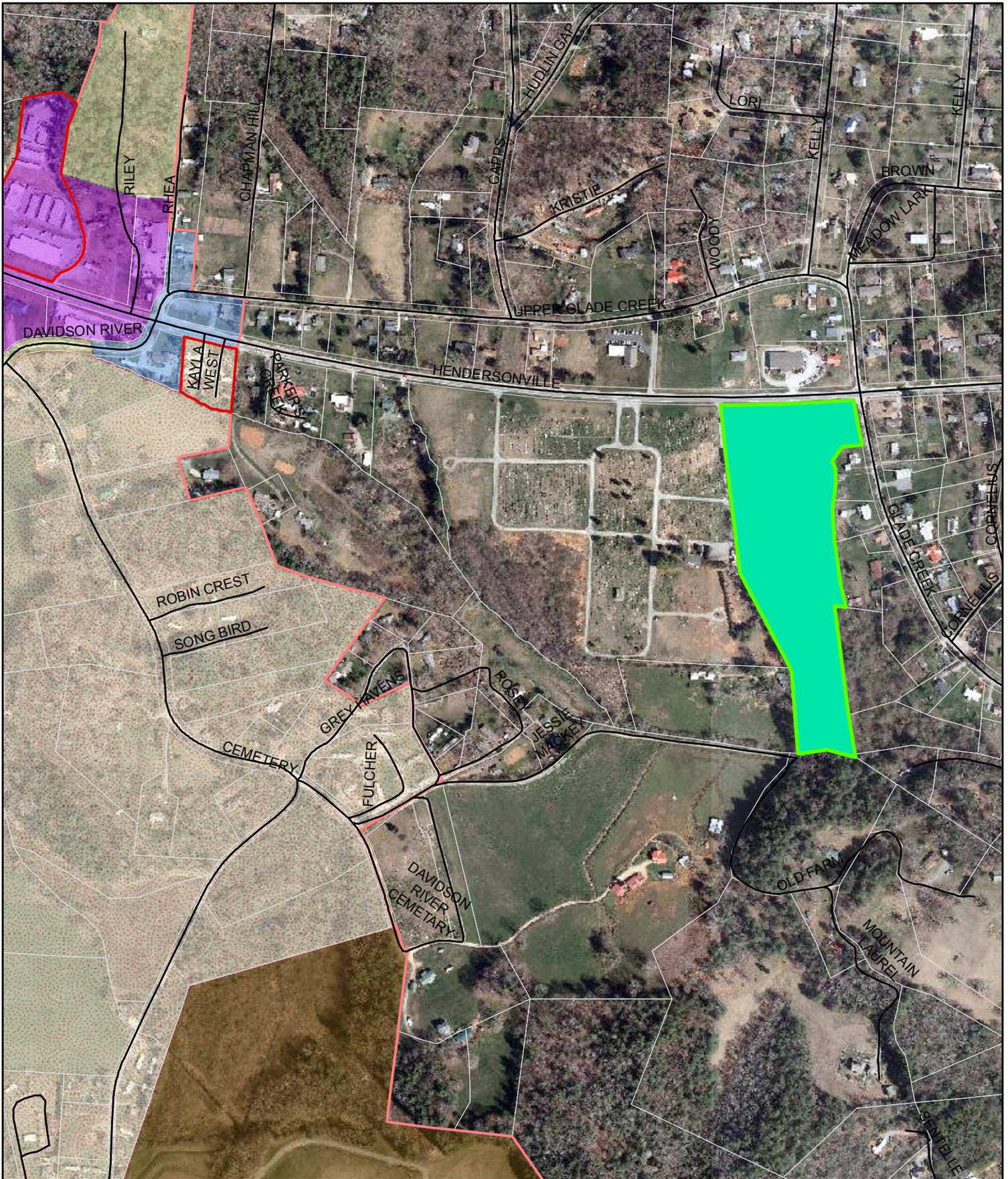


- | | | | |
|---|--------------------------|---|-------------------------|
|  | Subject Parcel |  | General Industrial |
|  | Streets |  | General Residential (4) |
|  | City Limits |  | General Residential (6) |
|  | ETJ |  | Institutional Campus |
|  | Parcels |  | Neighborhood Mixed Use |
|  | Manufacture Home Overlay |  | Residential Mixed Use |
|  | Corridor Mixed Use |  | Special District |
|  | Downtown Mixed Use | | |

CURRENT ZONING



1 inch = 500 feet



- Subject Parcel (Institutional Campus)
- General Industrial
- General Residential (4)
- General Residential (6)
- City Limits
- ETJ
- Parcels
- Neighborhood Mixed Use
- Residential Mixed Use
- Special District
- Manufacture Home Overlay
- Corridor Mixed Use
- Downtown Mixed Use

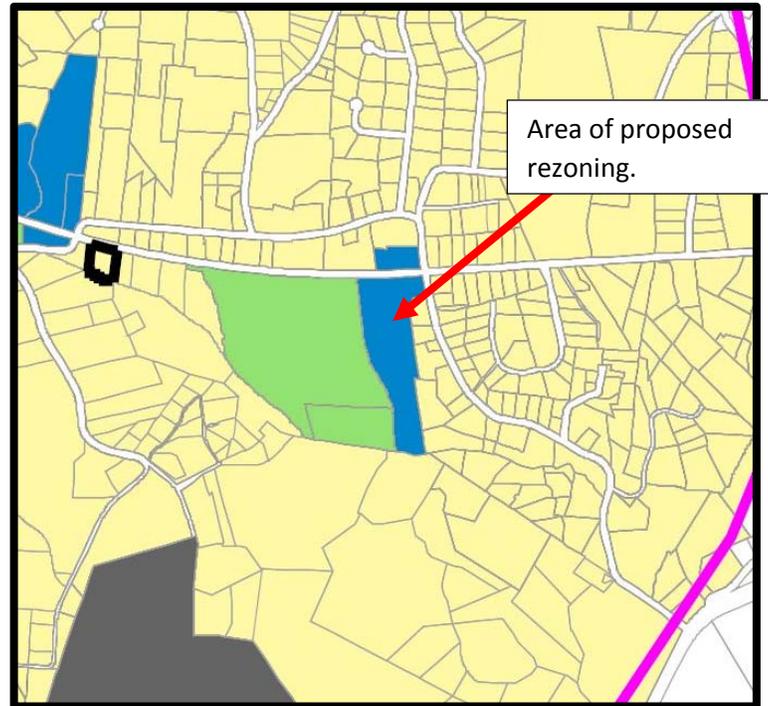
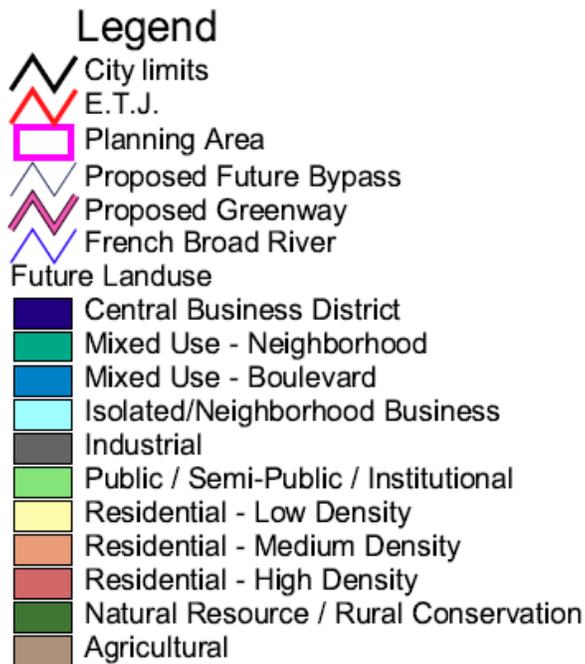
PROPOSED ZONING



1 inch = 500 feet

City of Brevard Land Use Plan (Excerpt)

Adopted August 19, 2002



MIXED USE – BOULEVARD

A thoroughfare is defined as *“a major road or highway; a passage or way through.”* In contrast, a boulevard is *“a broad avenue in a city, often landscaped or lined with trees.”* This Plan recommends that the City embark on a new way of looking at street design and the transport of people, goods and services along its existing major roads, specifically Asheville Highway to the north and Broad St./Rosman Highway to the south. A mixed-use boulevard designation is envisioned with: more transportation choices; better access management; more efficient use of land; landscaping; improved appearance; and design standards which encourage buildings to be close to the street, with parking to the side or rear. Development should be encouraged toward “nodes,” typically at main intersections while leaving some green/undeveloped areas. Standard strip commercial centers should be discouraged.

2.2. - Use categories and tables of permitted uses.

BASE DISTRICT	GR	RMX	NMX	DMX	CMX	IC	GI
Residential							
Dwelling—Single Family (Site-built) ^(a)	P	P	—	—	—	P	—
Dwelling—Duplex	P	P	P	—	—	P	—
Dwelling—Town Home or Condominium Structure	GD	P	P	P	P	P	
Dwelling—Multifamily 3—4 units/bldg, not including Condominium Buildings or multiple structures	SUP	P	P	P	P	P	—
Dwelling—Multifamily more than 4 units/bldg	—	P	P	P	P	P	—
Dwelling—Secondary	PS	PS	PS	PS	PS	PS	—
Family Care Home (Less than 6 residents)	P	P	P	P	P	P	—
Home Occupation	PS	PS	P	P	P	P	—
Housing Service for the Elderly	SUP	P	P	P	P	P	—
Live-Work Units	Please see Subsection (e) below						—
Manufactured Home (single unit) ^(b)	MHD	MHD	MHD	MHD	MHD	MHD	
Manufactured Home Park	SUP	SUP	—	—	—	—	—
Recreational Vehicle	—	—	—	—	—	—	—
Lodging							
Bed and Breakfast Home	PS	PS	PS	PS	PS	PS	—
Bed and Breakfast Inns	SUP	PS	PS	PS	PS	PS	—
Accessory Rental Cottage/Cabins ^(c)	PS	PS	PS	—	—	—	—
Hotels/Motels/Inns	—	—	—	P	P	P	—
Rooming or Boarding House	—	—	P	P	P	P	—
Recreational Vehicle Park	—	—	—	—	—	—	—
Office/Service							
Animal Services	—	—	P	P	P	P	P
Artist Workshop	—	P	P	P	P	P	P
ATM	—	—	P	P	P	P	—
Banks, Credit Unions, Financial Services	—	—	P	P	P	P	P
Business Support Services	—	SUP	P	P	P	P	P
Adult/Child Day Care Home (Less than 6)	PS	PS	PS	PS	PS	PS	—
Adult/Child Day Care Center (6 or more)	—	PS	PS	PS	PS	PS	PS
Community Service Organization	—	SUP	P	P	P	P	P

Drive Thru Service	—	—	SUP	SUP	P	—	—
Equipment Rental	—	—	—	—	P	—	P
Funeral Homes	—	—	PS	PS	PS	PS	—
Group Care Facility (6 or more residents)	—	P	P	P	P	P	—
Government Services	—	P	P	P	P	P	P
Kennels	—	—	SUP	—	PS	—	PS
Medical Services—Clinic, Urgent Care Center	—	SUP	SUP	P	P	P	—
Medical Services—Doctor office	—	P	P	P	P	P	—
Post Office	—	—	P	P	P	P	—
Professional Services	SUP	P	P	P	P	P	P
Personal Services	—	P	P	P	P	P	—
Studio—Art, Dance, Martial Arts, Music	—	P	P	P	P	P	—
Vehicle Services—Major Repair/Body Work	—	—	—	—	PS	—	PS
Vehicle Services—Minor Maintenance/Repair ^(d)	—	—	SUP	SUP	PS	PS	PS
Retail/Restaurants							
Accessory Retail	—	—	—	—	—	—	PS
Alcoholic Beverage Sales Store	—	—	SUP	P	P	—	—
Auto / Mechanical Parts Sales	—	—	—	P	P	—	P
Bar/Tavern/Night Club	—	—	SUP	P	P	—	—
Drive-Thru Retail/Restaurants	—	—	SUP	SUP	PS	—	—
Gas Station	—	—	SUP	SUP	PS	—	PS
General Retail	—	—	P	P	P	P	—
Restaurant	—	—	P	P	P	P	P
Shopping Center - Neighborhood Center	—	—	GD	GD	GD	—	—
Shopping Center - Community Center	—	—	—	—	GD	—	—
Vehicle/Heavy Equipment Sales - Outdoor	—	—	—	—	PS	—	PS
Vehicle/Heavy Equipment Sales - Indoor	—	—	PS	PS	PS	—	PS
Entertainment/Recreation							
Amusements, Indoor	—	—	SUP	P	P	SUP	P
Amusements, Outdoor	—	—	SUP	SUP	P	—	P
Cultural or Community Facility	SUP	P	P	P	P	P	—
Meeting Facilities	—	SUP	P	P	P	P	—
Recreation Facilities, Indoor	SUP	SUP	SUP	P	P	P	P

Recreation Facilities, Outdoor	SUP	P	P	P	P	P	P
Theater, Movie	—	—	—	P	P	—	—
Theater, Live Performance	—	SUP	SUP	P	P	P	—
Manufacturing/Wholesale/Storage							
Inert Debris Storage or Disposal Facilities	—	—	—	—	—	—	PS
Junkyard	—	—	—	—	—	—	SUP
Laboratory—Medical, Analytical, Research and Development	—	—	—	—	SUP	SUP	P
Laundry, Dry Cleaning Plant	—	—	—	—	SUP	P	P
Manufacturing, Light	—	—	—	—	SUP	—	P
Manufacturing, Neighborhood	—	—	P	P	P	P	P
Manufacturing, Heavy	—	—	—	—	—	—	SUP
Media Production	—	—	P	P	P	P	P
Metal Products Fabrication, Machine or Welding Shop	—	—	SUP	SUP	P	—	P
Mini-Warehouses	—	—	—	—	SUP	—	P
Recycling—Small Collection Facility	—	—	—	—	SUP	SUP	P
Research and Development	—	—	—	P	P	P	P
Storage—Outdoor Storage Yard as a Primary Use	—	—	—	—	SUP	—	P
Storage—Warehouse, Indoor Storage	—	—	—	—	SUP	—	P
Wholesaling and Distribution	—	—	—	—	P	—	P
Civic/Institutional							
Campground/Artist Colony/Summer Camp	SUP	SUP	SUP	—	—	SUP	—
Cemeteries	PS	PS	PS	PS	PS	PS	—
Colleges/Universities	—	—	SUP	P	P	P	—
Hospital	—	—	—	P	P	P	—
Jail	—	—	SUP	SUP	P	P	P
Public Safety Station	SUP	SUP	P	P	P	P	P
Religious Institutions	SUP	P	P	P	P	P	—
Schools—Elementary and Secondary	SUP	P	P	P	P	P	—
Schools—Vocational/Technical	SUP	P	P	P	P	P	P
Infrastructure							
Wireless Telecommunication Facility—Stealth	P	P	P	P	P	P	P
Wireless Telecommunication Facility—Tower	—	—	—	—	SUP	—	PS
Utilities—Class 1 and 2	P	P	P	P	P	P	P

Utilities—Class 3	—	—	—	—	—	—	P
Miscellaneous Uses							
Adult Establishment	—	—	—	—	—	—	SUP
Outdoor Firing Range	—	—	—	—	—	—	SUP
Indoor Firing Range	—	—	—	SUP	SUP	SUP	SUP
Agriculture	P	—	—	—	P	P	P
Parking	PS	P	P	P	P	P	P
Swimming Pool—Residential Accessory Use	PS	PS	PS	PS	PS	PS	—
Swimming Pool—Primary Use	—	SUP	SUP	PS	PS	PS	—
Fences	PS	PS	PS	PS	PS	PS	PS
Human Crematories	—	—	PS	PS	PS	P	P
Temporary Uses and Structures							
Carnivals or Circus	—	—	—	—	PS	PS	PS
Farmers Market	—	—	PS	PS	PS	PS	—
Religious Meeting	PS	PS	PS	PS	PS	PS	PS
Contractor's Office and Equipment Shed	PS	PS	PS	PS	PS	PS	PS
Seasonal Structures	PS	PS	PS	PS	PS	PS	PS
Satellite Real Estate Sales Office	PS	PS	PS	PS	PS	PS	PS
Special Event	PS	PS	PS	PS	PS	PS	PS
Temporary Vendors	—	—	PS	PS	PS	—	—
Vending Pushcarts	—	—	—	PS	—	—	—
Mobile Food Vendors	—	—	PS	PS	PS	PS	PS

- (a) Within NMX, DMX, and CMX districts, single family structures are permitted only as town homes or multi-family structures; on the second or higher floor of any structure where the ground floor is used for non-residential purposes; or as part of a group development, or conditional district, in which event they shall not be subject to the foregoing limitation.
- (b) Manufactured homes are permitted with standards in the Manufactured Home Overlay District.
- (c) Accessory rental cottage/cabins are permitted with standards in association with approved bed and breakfasts.
- (d) Vehicle services are permitted within institutional campuses only for the purposes of maintaining vehicles associated with the operation of the campus and for instructional classes. For example, a college may operate a maintenance shop for the campus fleet, as well as, for instructional classes. Other vehicle service operations shall not be permitted within institutional campuses.
- (e) Non-residential uses within a live-work unit must be listed within Chapter 2, Section 2.2 (C. Use Matrix) as a permissible use within the district in which the live-work unit is proposed. and such non-residential use must be approved by means of the appropriate permitting process. Non-residential enterprises and residential units within any live-work unit that is located within a General Residential District shall have a common tenant. In districts where residential building types are not permitted. live-work units may be permitted within pre-existing non-conforming residential structures.

(Ord. No. 13-07, § 1, 9-17-07; Ord. No. 3-08, § 1, 3-17-08; Ord. No. 14-08, § 1, 11-17-08; Ord. No. 15-08, § 3, 12-5-08; Ord. No. 07-10, § 1(Exh. A, D), 4-5-10; Ord. No. 03-2011, § 1, 3-21-11; Ord. No. 19-2011, § 1(Exh. A), 8-1-11; Ord. No. 24-11, § 3(Exh. A), 9-19-11; Ord. No. 2012-25, § 1(Exh. A), 11-5-12; Ord. No. 2013-13, § 01.b)(Exh. A), 10-21-13; Ord. No. 2014-24, § 01(Exh. A), 11-17-14)

STATEMENT OF CONSISTENCY WITH CITY POLICIES AND PLANS

NCGS 160A-383 requires that the City's review of the proposed zoning map amendment include a written statement as to the consistency of the amendment with adopted plans and policies of the City. The Board forwards this recommendation with a finding that the proposed zoning map amendment is **consistent** with the following elements of the City's adopted plans and policies:

2015 Comprehensive Plan:

OBJECTIVE 2.3: Retention and expansion of institutions, programs, and services that expand the knowledge, skills, and abilities of our citizens.

2002 City of Brevard Land Use Plan:

Minor aspects of the "Mixed Use – Boulevard" land use category, such as encouraging developing "nodes" of activity at key intersections along major highways.

NCGS 160A-383 requires that the City's review of the proposed zoning map amendment include a written statement as to the consistency of the amendment with adopted plans and policies of the City. The Board forwards this recommendation with a finding that the proposed zoning map amendment is **inconsistent** with the following elements of the City's adopted plans and policies:

- a) The *2002 City of Brevard Land Use Plan, Future Land Use Map* recommends use of this property for Mixed Use – Boulevard rather than Public/Semi-Public.

The Plan text contains the following language describing the boulevard mixed-use land use category:

Mixed-Use Boulevard – A thoroughfare is defined as "a major road or highway; a passage or way through." In contrast, a boulevard is "a broad avenue in a city, often landscaped or lined with trees." This Plan recommends that the City embark on a new way of looking at street design and the transport of people, goods and services along its existing major roads, specifically Asheville Highway to the north and Broad St./Rosman Highway to the south. A mixed use-boulevard designation is envisioned with: more transportation choices; better access management; more efficient use of land; landscaping; improved appearance; and design standards which encourage buildings to be close to the street, with parking to the side or rear. Development should be encouraged toward "nodes," typically at main intersections (see map) while leaving some green/undeveloped areas. Standard strip commercial centers should be discouraged.



The City of
Brevard
North Carolina

NEW BUSINESS STAFF REPORT

May 17, 2016

Title: Asheville Highway Rezoning – RZ16-000002
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 rezoning of properties located on both sides of the Asheville Highway from its intersection with Morris Road, north, to the Ecusta Credit Union.

BACKGROUND: During the October 19, 2015 meeting of Brevard City Council, a motion was made, and carried unanimously to rezone the properties along the Asheville Highway beginning on the southern end at Morris Road, extending north to the planned new road near the Ecusta Credit Union, from General Residential (GR) to Corridor Mixed-Use (CMX). See Attachment A “Site Map,” Attachment B “Vicinity Map,” and Attachment C “Current Zoning” for reference.

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 inconsistent with the Future Land Use Map of the 2002 City of Brevard Land Use Plan. Which classifies this property as mixed-use boulevard, which is defined as:

A thoroughfare is defined as “a major road or highway; a passage or way through.” In contrast, a boulevard is “a broad avenue in a city, often landscaped or lined with trees.” This Plan recommends that the City embark on a new way of looking at street design and the transport of people, goods and services along its existing major roads, specifically Asheville Highway to the north and Broad St./Rosman Highway to the south. A mixed use-boulevard designation is envisioned with: more transportation choices; better access management; more efficient use of land; landscaping; improved appearance; and design standards which encourage buildings to be close to the street, with parking to the side or rear. Development should be encouraged toward “nodes,” typically at main intersections (see map) while leaving some green/undeveloped areas. Standard strip commercial centers should be discouraged.

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. While the rezoning is inconsistent with the land use plan, it is in keeping with the City's vision of fostering economic development as illustrated by the statement below which is part of The City of Brevard Vision:

Strategy: Foster Economic Development : Foster economic diversity while enhancing the quality of life in an environmentally friendly way by creating an environment that promotes and encourages businesses, and business owners, attracted to and utilizing our natural assets of woods and water and our cultural/historic assets of music, arts, and outdoor recreation.

What is the relationship between the range of proposed uses and existing uses within the vicinity of the Subject Parcel? Of the nine properties proposed for rezoning on the east side of the highway (the same side as the Law Enforcement Center), four appear to be single-family dwellings. Three are either currently operating as office/commercial, or are commercial buildings but not occupied. The remaining two properties are vacant. On the west side of the highway there are six properties proposed for rezoning. Three appear to be single-family, one property is a veterinary hospital, and the remaining two properties are vacant.

If each property is rezoned as shown in Attachment D "Proposed Zoning" the single-family home sites will become nonconforming uses. Creating these nonconformities does have bearing on the potential future use of the property, as new single-family homes are not currently permitted within CMX districts. However, an existing nonconforming residential use may be enlarged or altered as long as the enlargement or alteration is in compliance with all yard requirements and other regulations of such structures as required in the specific district. Nonconforming structures and uses may not be reestablished if they are discontinued for 180 days or substantially damaged (fire, collapse, etc.).

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 zoning district differ from those uses allowed in general residential or neighborhood mixed-use, as it is a more commercial, automobile-oriented district. See Attachment G "Comparable Uses" for a list of comparable uses allowed in each district. There are some commercial operations within the area proposed for rezoning. Additionally, on the southern end of the project area sits the County's Law Enforcement Center, to the north is the Ecusta Credit Union, which is next to Jennings Building Supply.

While most of the properties proposed for rezoning are narrow, they do appear to be of sufficient size to accommodate land uses and forms of development that are permitted within the CMX zoning district. Development on steep slopes is strongly discouraged and in some cases prohibited. Much of the area on the west side of Asheville Highway is elevated high above the road elevation, in some cases this elevation difference is upwards of 60 feet. This would

make development on this side of the highway difficult without a substantial amount of grading.

There are several areas within the City where such a zoning arrangement exists, CMX-zoned properties along the highway frontage, followed immediately to the rear with GR-zoned properties. Development regulations stipulate in these instances that large vegetative buffers be planted as part of new development to mitigate any potential conflicts between uses. Additionally, there are setback requirements in both districts that ensure sufficient separation between most uses. Those uses that may require additional separation are generally permitted with by way of a Special Use Permit from the Board of Adjustment. For example, a light manufacturing facility – *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* – is subject to the underlying setback requirements of a CMX district but also further review by the Board of Adjustment who has authority to set site-specific conditions to mitigate any potential conflicts between neighboring properties.

What is the balance of benefits and detriments to both the Applicant / property owner and the public at large? Potential benefits of this rezoning as proposed by City Council include additional commercial development along the highway. The majority of land within the City's commercially zoned areas is either built upon, home to abandoned or vacated buildings, or very challenging to develop because of existing site conditions. Further, if properties that are currently vacant or undeveloped within the project area are developed as commercial or dense residential, there could be increased property tax revenue.

Additional commercial development along this stretch of highway will have to be carefully designed so as not to increase the potential for vehicular collisions as site distance is somewhat limited and the more driveways that are added, the more opportunities for collision are created. At the northern end of the project site a new road is under construction. This road has the potential to introduce additional vehicular traffic to the Asheville Highway corridor. The properties along this portion of highway, in their current configuration do not lend themselves very well to residential development. In 2014 the North Carolina Department of Transportation calculated the Annual Average Daily Traffic count near the intersection of the Asheville Highway and Ecusta Road at 24,000 vehicles (this is slightly north of the area under review). Near the intersection of Chestnut Street and the Asheville Highway (south of the area under review) the count was 26,000 vehicles. Compared to more traditional residentially zoned areas of town, this is very high. Elm Bend Road, behind Brevard Elementary, for example, sees 3,200 vehicles on average, while Music Camp Road sees only 860.

Some of the properties within the project area have direct access to city utilities (water/wastewater). However, most properties would require line extensions for new development to accommodate wastewater needs. Typically this is done at the time of development, the cost of which is the responsibility of the developer. See Attachment H "Utilities" for reference.

POLICY ANALYSIS: If the Planning Board elects to recommend in favor of the proposed rezoning, then the Board must, in its motion, acknowledge the discrepancies in the land use plan and this rezoning, and provide a basis for its recommendation. Refer to Staff comments within the “Discussion” and “Staff Recommendation” sections of this staff report as well as Attachment F “Land Use Plan Excerpt” for assistance.

The rezoning as proposed addresses several specific policies in the City’s comprehensive plan. Specifically within the “Economic Development” and “Livable Communities” elements:

- POLICY 2.1.A: Modify zoning regulations to encourage and allow greater density and intensities of land use within its jurisdiction.
- POLICY 4.1.A: Evaluate and amend development ordinances to facilitate infill development on vacant and under-developed parcels, as well as revitalization of developed parcels.
- POLICY 4.2.A: Modify zoning to increase allowable densities and the mixing of uses in appropriate areas.

NCGS 160A-383 requires that the City's review of the proposed zoning map amendment include a written statement as to the consistency of the amendment with adopted plans and policies of the City. The Board then forwards this recommendation with a finding that the proposed zoning map amendment is consistent or inconsistent with the City's adopted plans and policies. Staff has prepared a draft consistency statement, which is included as Attachment I.

STAFF RECOMMENDATION: As stated above, this rezoning is in keeping with specific policies in the latest edition of the City’s comprehensive plan (adopted November 2015). As well as the City of Brevard Vision. However, with the current topography and surrounding land uses on the west side of Asheville highway, Staff recommends this side of the highway remain unchanged, and the east side of the highway be rezoned to NMX. This configuration is depicted in Attachment E “Recommended Zoning.” An NMX district allows most of the same commercial uses that are permitted within a CMX district, with the exception of traditional manufacturing or warehousing uses. Such uses would be uniquely challenging along this stretch of the highway because of the limited land available for development, as well as the high volume of traffic on the highway. In addition to allowing similar uses, an NMX district has a slightly smaller front yard setback requirement than CMX. This would allow someone to take advantage of the more easily developed land closer to the highway.

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 parcels, 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 as requested.
2. Recommend approval of the proposed rezoning with modifications.
3. Recommend the requested rezoning to a more restrictive zoning district.
4. Request additional information from Staff. The Board may take up to 45 days to formulate a recommendation to City Council.

FISCAL IMPACT: None at this time. Future development upon the subject parcels will require Staff time for review of NMX uses which is generally more complicated than uses allowed in GR.

ATTACHMENTS:

- A. Site map
- B. Vicinity map
- C. Current zoning map
- D. Council-proposed rezoning map
- E. Staff-recommended rezoning map
- F. Future Land Use Plan excerpt
- G. Allowable uses comparison table
- H. Utilities
- I. Consistency statement

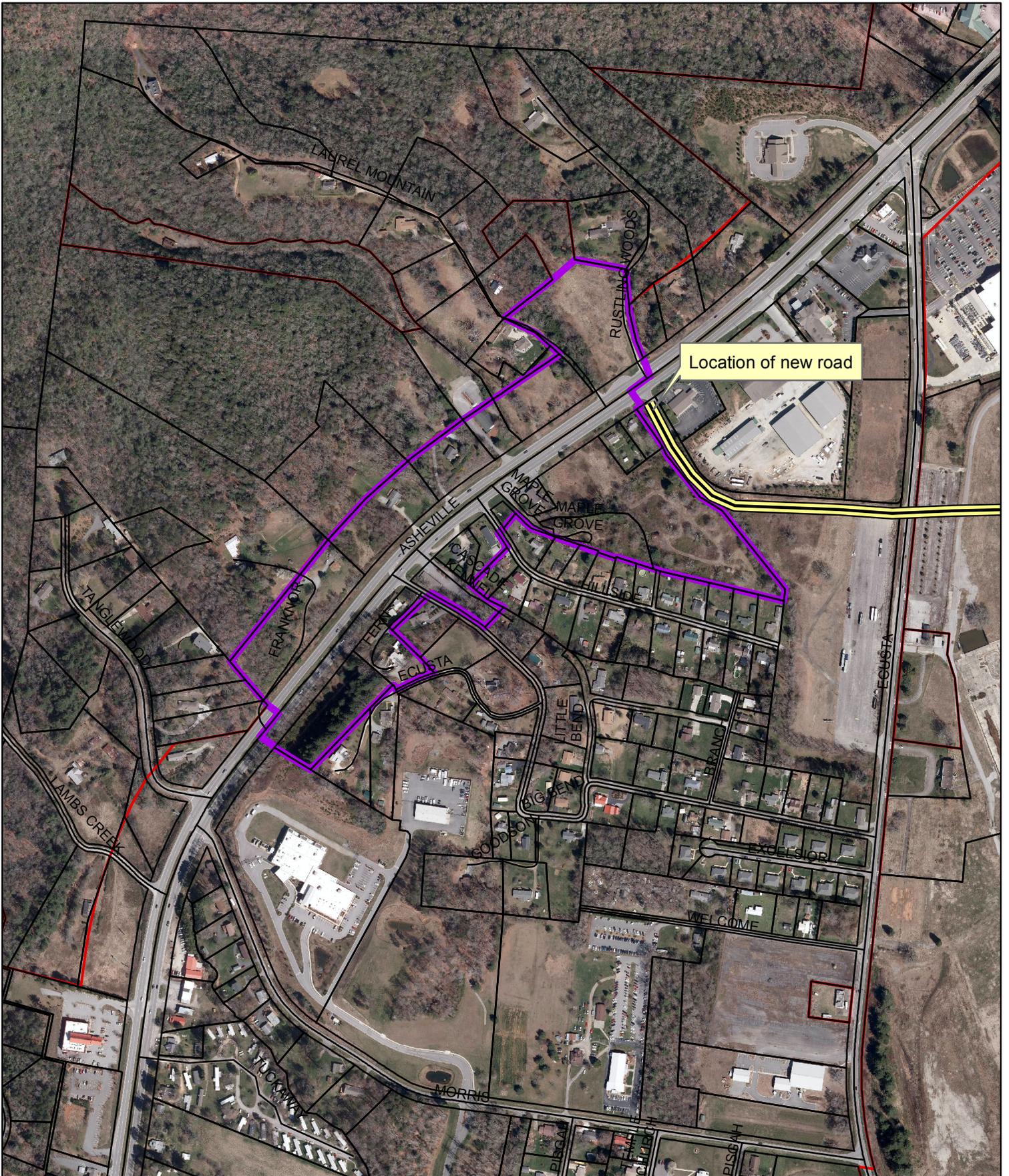


- Streets
- ▭ Parcels
- ▭ Proposed CMX
- ▭ City Limits

SITE MAP



1 inch = 300 feet

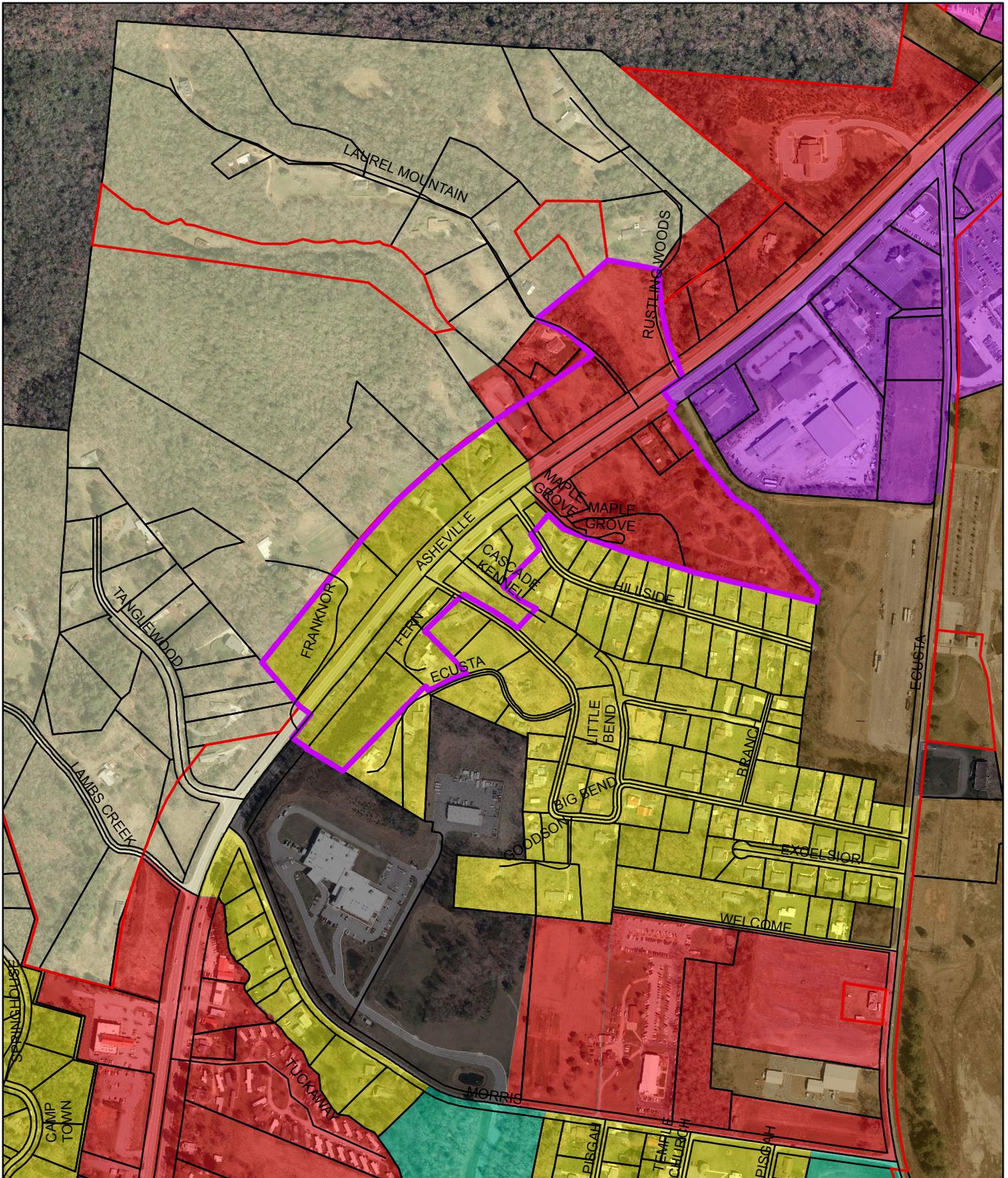


VICINITY MAP

- Streets
- ▭ Parcels
- ▭ Proposed CMX
- ▭ City Limits



1 inch = 500 feet

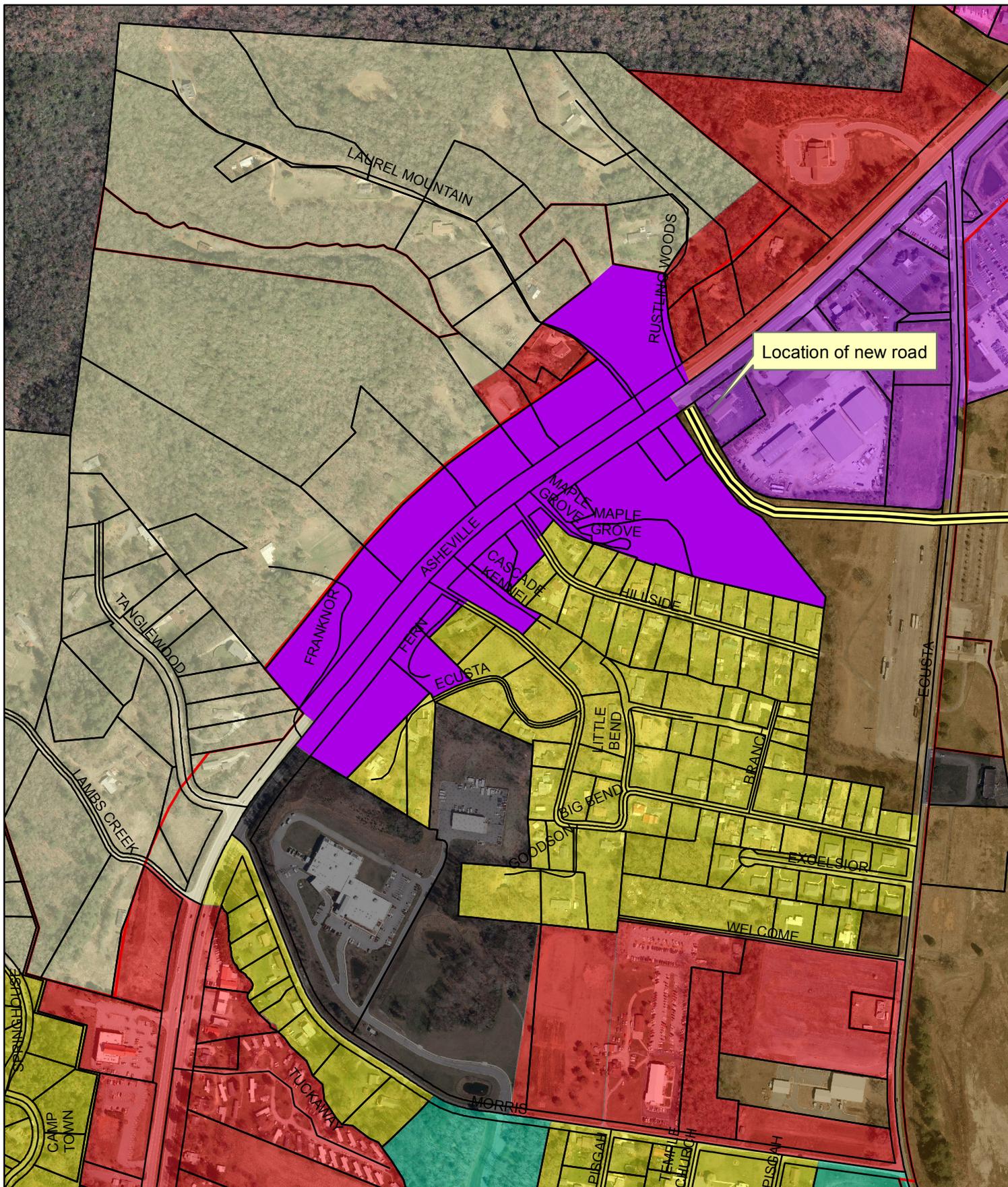


- Streets
- Proposed CMX
- City Limits
- Parcels
- Corridor Mixed Use
- Downtown Mixed Use
- General Industrial
- General Residential (4)
- General Residential (6)
- Institutional Campus
- Neighborhood Mixed Use
- Residential Mixed Use
- Special District
- Manufacture Home Overlay

CURRENT ZONING



1 inch = 500 feet

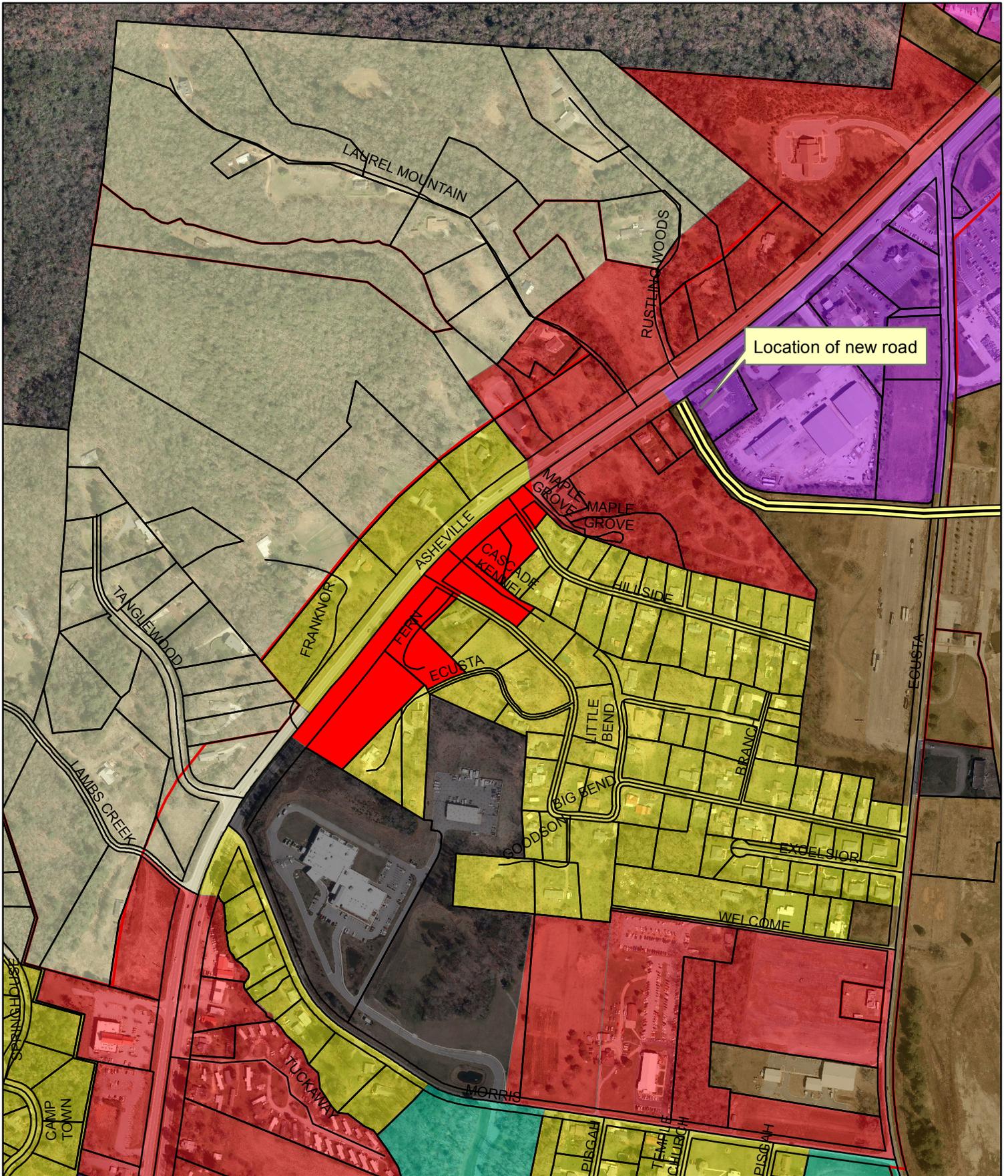


- Streets
- ▭ Parcels
- ▭ Proposed CMX
- ▭ City Limits
- ▭ Corridor Mixed Use
- ▭ Downtown Mixed Use
- ▭ General Industrial
- ▭ General Residential (4)
- ▭ General Residential (6)
- ▭ Institutional Campus
- ▭ Neighborhood Mixed Use
- ▭ Residential Mixed Use
- ▭ Special District
- ▭ Manufacture Home Overlay

PROPOSED ZONING



1 inch = 500 feet



- Streets
- ▭ Parcels
- ▭ Recommended NMX
- ▭ City Limits
- ▭ Corridor Mixed Use
- ▭ Downtown Mixed Use
- ▭ General Industrial
- ▭ General Residential (4)
- ▭ General Residential (6)
- ▭ Institutional Campus
- ▭ Neighborhood Mixed Use
- ▭ Residential Mixed Use
- ▭ Special District
- ▭ Manufacture Home Overlay

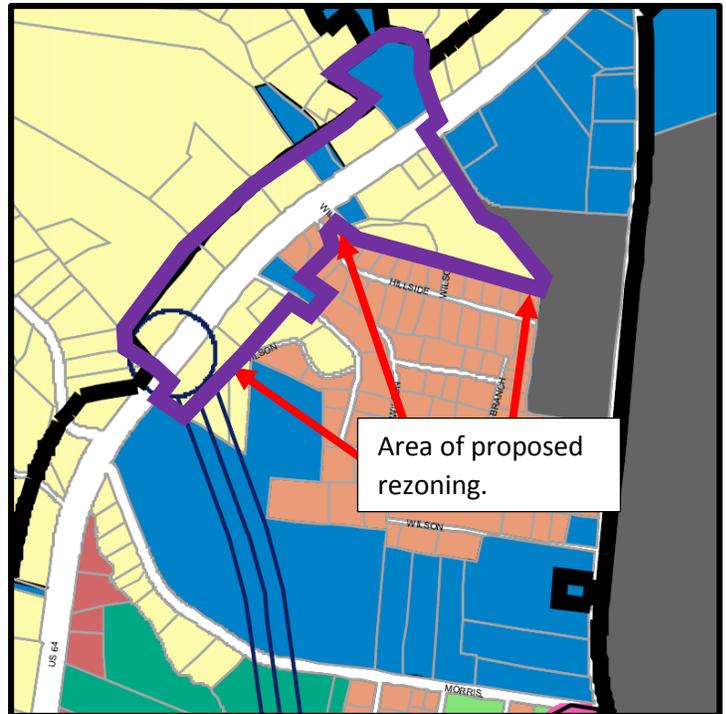
RECOMMENDED ZONING



1 inch = 500 feet

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.

RESIDENTIAL – MEDIUM DENSITY

These areas contain mostly one-family and two-family dwellings at an average density of three to six dwelling units per acre and are mostly zoned R-2. These areas should be served by public water and sewer systems. Lot sizes typically range from 8,000 to 10,000 square feet. Most of these lands are residentially developed. Future development within these areas should strive for the same character, convenience and connectivity as the existing development.

MIXED USE – BOULEVARD

A thoroughfare is defined as “*a major road or highway; a passage or way through.*” In contrast, a boulevard is “*a broad avenue in a city, often landscaped or lined with trees.*” This Plan recommends that the City embark on a new way of looking at street design and the transport of people, goods and services along its existing major roads, specifically Asheville Highway to the north and Broad St./Rosman Highway to the south. A mixed-use boulevard designation is envisioned with: more transportation choices; better access management; more efficient use of land; landscaping; improved appearance; and design

Comparison of Allowable Uses

Use matrix. The following matrix sets forth the manner by which certain uses may be permitted within the various districts set forth above.

1. "P" denotes those uses that are permitted "by right."
2. "—"denotes those uses that are not permitted within the given district.
3. "SUP" denotes those uses that are permitted upon issuance of a special use permit in accordance with the provisions set forth in Chapter 16. Additional standards for certain uses requiring a special use permit are set forth in 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	NMX	CMX
Residential			
Dwelling—Single Family (Site-built) ^(a)	P	—	—
Dwelling—Duplex	P	P	—
Dwelling—Town Home or Condominium Structure	GD	P	P
Dwelling—Multifamily 3—4 units/bldg, not including Condominium Buildings or multiple structures	SUP	P	P
Dwelling—Multifamily more than 4 units/bldg	—	P	P
Dwelling—Secondary	PS	PS	PS
Family Care Home (Less than 6 residents)	P	P	P

Home Occupation	PS	P	P
Housing Service for the Elderly	SUP	P	P
Live-Work Units	—	—	—
Manufactured Home (single unit) ^(b)	MHD	MHD	MHD
Manufactured Home Park	SUP	—	—
Recreational Vehicle	—	—	—
Lodging			
Bed and Breakfast Home	PS	PS	PS
Bed and Breakfast Inns	SUP	PS	PS
Accessory Rental Cottage/Cabins ^(c)	PS	PS	—
Hotels/Motels/Inns	—	—	P
Rooming or Boarding House	—	P	P
Recreational Vehicle Park	—	—	—
Office/Service			
Animal Services	—	P	P
Artist Workshop	—	P	P
ATM	—	P	P
Banks, Credit Unions, Financial Services	—	P	P
Business Support Services	—	P	P

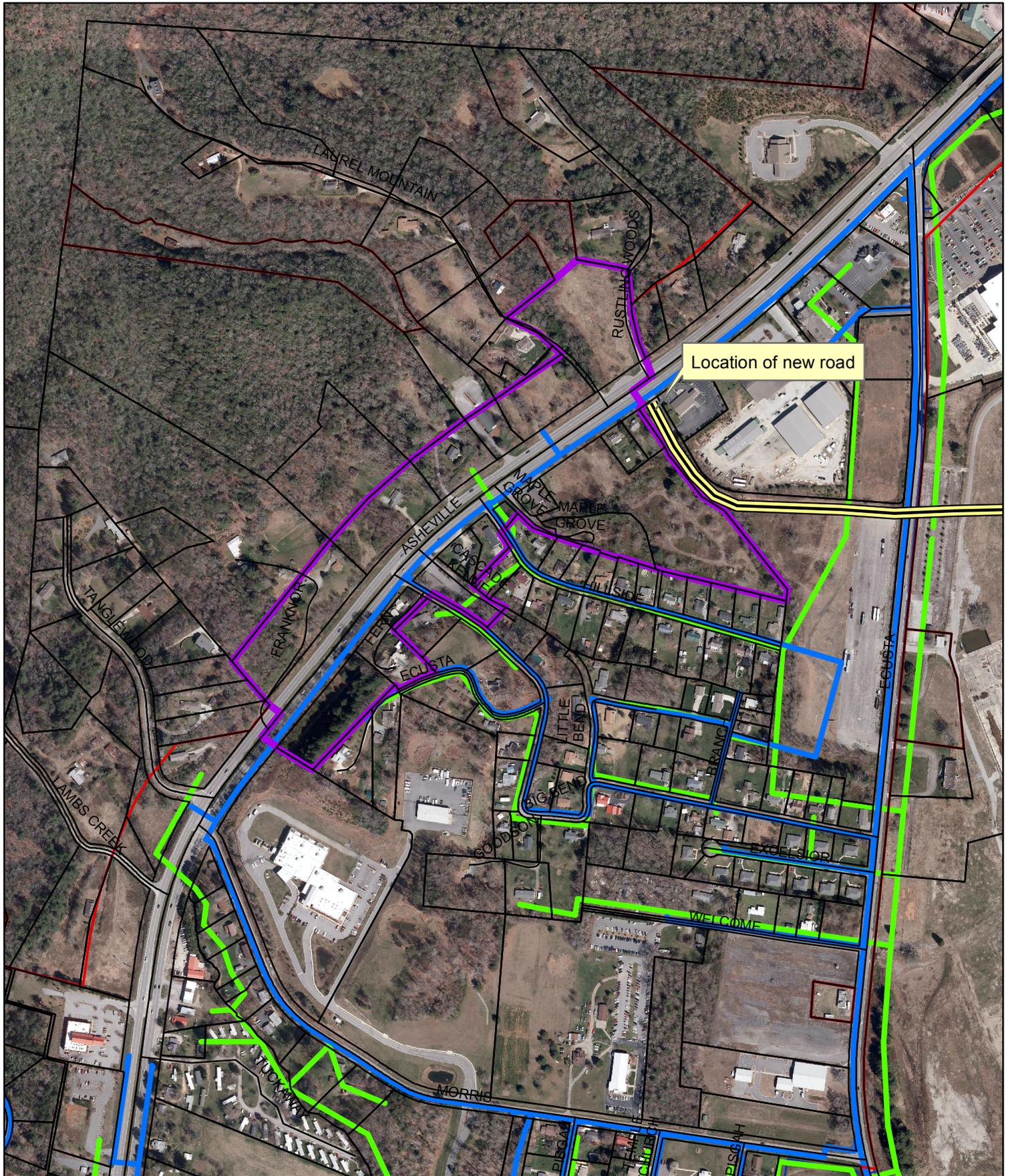
Adult/Child Day Care Home (Less than 6)	PS	PS	PS
Adult/Child Day Care Center (6 or more)	—	PS	PS
Community Service Organization	—	P	P
Drive Thru Service	—	SUP	P
Equipment Rental	—	—	P
Funeral Homes	—	PS	PS
Group Care Facility (6 or more residents)	—	P	P
Government Services	—	P	P
Kennels	—	SUP	PS
Medical Services—Clinic, Urgent Care Center	—	SUP	P
Medical Services—Doctor office	—	P	P
Post Office	—	P	P
Professional Services	SUP	P	P
Personal Services	—	P	P
Studio—Art, Dance, Martial Arts, Music	—	P	P
Vehicle Services—Major Repair/Body Work	—	—	PS
Vehicle Services—Minor Maintenance/Repair ^(d)	—	SUP	PS
Retail/Restaurants			
Accessory Retail	—	—	—

Alcoholic Beverage Sales Store	—	SUP	P
Auto / Mechanical Parts Sales	—	—	P
Bar/Tavern/Night Club	—	SUP	P
Drive-Thru Retail/Restaurants	—	SUP	PS
Gas Station	—	SUP	PS
General Retail	—	P	P
Restaurant	—	P	P
Shopping Center - Neighborhood Center	—	GD	GD
Shopping Center - Community Center	—	—	GD
Vehicle/Heavy Equipment Sales - Outdoor	—	—	PS
Vehicle/Heavy Equipment Sales - Indoor	—	PS	PS
Entertainment/Recreation			
Amusements, Indoor	—	SUP	P
Amusements, Outdoor	—	SUP	P
Cultural or Community Facility	SUP	P	P
Meeting Facilities	—	P	P
Recreation Facilities, Indoor	SUP	SUP	P
Recreation Facilities, Outdoor	SUP	P	P
Theater, Movie	—	—	P

Theater, Live Performance	—	SUP	P
Manufacturing/Wholesale/Storage			
Inert Debris Storage or Disposal Facilities	—	—	—
Junkyard	—	—	—
Laboratory—Medical, Analytical, Research and Development	—	—	SUP
Laundry, Dry Cleaning Plant	—	—	SUP
Manufacturing, Light	—	—	SUP
Manufacturing, Neighborhood	—	P	P
Manufacturing, Heavy	—	—	—
Media Production	—	P	P
Metal Products Fabrication, Machine or Welding Shop	—	SUP	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			

Campground/Artist Colony/Summer Camp	SUP	SUP	—
Cemeteries	PS	PS	PS
Colleges/Universities	—	SUP	P
Hospital	—	—	P
Jail	—	SUP	P
Public Safety Station	SUP	P	P
Religious Institutions	SUP	P	P
Schools—Elementary and Secondary	SUP	P	P
Schools—Vocational/Technical	SUP	P	P
Infrastructure			
Wireless Telecommunication Facility—Stealth	P	P	P
Wireless Telecommunication Facility—Tower	—	—	SUP
Utilities—Class 1 and 2	P	P	P
Utilities—Class 3	—	—	—
Miscellaneous Uses			
Adult Establishment	—	—	—
Outdoor Firing Range	—	—	—
Indoor Firing Range	—	—	SUP
Agriculture	P	—	P

Parking	PS	P	P
Swimming Pool—Residential Accessory Use	PS	PS	PS
Swimming Pool—Primary Use	—	SUP	PS
Fences	PS	PS	PS
Human Crematories	—	PS	PS
Temporary Uses and Structures			
Carnivals or Circus	—	—	PS
Farmers Market	—	PS	PS
Religious Meeting	PS	PS	PS
Contractor's Office and Equipment Shed	PS	PS	PS
Seasonal Structures	PS	PS	PS
Satellite Real Estate Sales Office	PS	PS	PS
Special Event	PS	PS	PS
Temporary Vendors	—	PS	PS
Vending Pushcarts	—	—	—
Mobile Food Vendors	—	PS	PS



- Water
- Wastewater
- Streets
- Parcels
- Proposed CMX
- City Limits

UTILITIES



1 inch = 500 feet

STATEMENT OF CONSISTENCY WITH CITY POLICIES AND PLANS

NCGS 160A-383 requires that the City's review of the proposed zoning map amendment include a written statement as to the consistency of the amendment with adopted plans and policies of the City. The Board forwards this recommendation with a finding that the proposed zoning map amendment is **consistent** with the following elements of the City's adopted plans and policies:

2015 Comprehensive Plan:

POLICY 2.1.A: Modify zoning regulations to encourage and allow greater density and intensities of land use within its jurisdiction.

POLICY 4.1.A: Evaluate and amend development ordinances to facilitate infill development on vacant and under-developed parcels, as well as revitalization of developed parcels.

POLICY 4.2.A: Modify zoning to increase allowable densities and the mixing of uses in appropriate areas.

2012 City of Brevard Vision Statement:

Foster economic diversity while enhancing the quality of life in an environmentally friendly way by creating an environment that promotes and encourages businesses, and business owners, attracted to and utilizing our natural assets of woods and water and our cultural/historic assets of music, arts, and outdoor recreation.

NCGS 160A-383 requires that the City's review of the proposed zoning map amendment include a written statement as to the consistency of the amendment with adopted plans and policies of the City. The Board forwards this recommendation with a finding that the proposed zoning map amendment is **inconsistent** with the following elements of the City's adopted plans and policies:

- a) The *2002 City of Brevard Land Use Plan, Future Land Use Map* recommends use of these properties for boulevard mixed-use properties.

The Plan text contains the following language describing the boulevard mixed-use land use category:

Mixed-Use Boulevard – A thoroughfare is defined as “a major road or highway; a passage or way through.” In contrast, a boulevard is “a broad avenue in a city, often landscaped or lined with trees.” This Plan recommends that the City embark on a new way of looking at street design and the transport of people, goods and services along its existing major roads, specifically Asheville Highway to the north and Broad St./Rosman Highway to the south. A mixed use-boulevard designation is envisioned with: more transportation choices; better access management; more

efficient use of land; landscaping; improved appearance; and design standards which encourage buildings to be close to the street, with parking to the side or rear. Development should be encouraged toward “nodes,” typically at main intersections (see map) while leaving some green/undeveloped areas. Standard strip commercial centers should be discouraged.



The City of
Brevard
North Carolina

NEW BUSINESS STAFF REPORT

May 17, 2016

Title: Zoning Map Amendment – 600 Ecusta Road - RZ16-000001
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 conditional rezoning of a City-owned parcel of land approximately 6.4 acres in size, located at 600 Ecusta Road (behind the old service station), which is the old driver training facility. The property is currently zoned Neighborhood Mixed-Use (NMX). See Attachment A “Site Map,” Attachment B “Vicinity Map,” and Attachment C “Current Zoning” for reference.

BACKGROUND: City Council has been working over the last several years to identify sites for product development to encourage economic development within the City. “Product” in this case refers to land, with the appropriate zoning and utilities, to facilitate more traditional manufacture-based economic growth.

DISCUSSION: A conditional zoning district is established to provide for flexibility in the development of property while ensuring that the development is compatible with neighboring uses. Conditional zoning affords a degree of certainty in land use decisions not possible when rezoning to a base district. Additional standards and regulations may be attached to a proposed development to ensure compatibility with the surrounding uses and with applicable adopted plans in accordance with the requirements of this section.

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 inconsistent with the Future Land Use Map of the 2002 City of Brevard Land Use Plan. Which classifies this property as Mixed-Use – Boulevard, which is defined as:

A thoroughfare is defined as “a major road or highway; a passage or way through.” In contrast, a boulevard is “a broad avenue in a city, often landscaped or lined with trees.”

This Plan recommends that the City embark on a new way of looking at street design and the transport of people, goods and services along its existing major roads, specifically Asheville Highway to the north and Broad St./Rosman Highway to the south. A mixed use-boulevard designation is envisioned with: more transportation choices; better access management; more efficient use of land; landscaping; improved appearance; and design standards which encourage buildings to be close to the street, with parking to the side or rear. Development should be encouraged toward “nodes,” typically at main intersections (see map) while leaving some green/undeveloped areas. Standard strip commercial centers should be discouraged.

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. Staff has prepared a draft statement, which is included as Attachment G.

What is the relationship between the range of proposed uses and existing uses within the vicinity of the Subject Parcel? The subject property as well as the properties immediately adjacent to the west and south are all zoned NMX. This district allows for a variety of residential, lodging, office, and commercial uses. Heavy manufacturing and industrial uses are prohibited in this district. Immediately to the north properties are zoned GR, or general residential. This district is strictly residential in nature and allows very few uses outside of traditional residential or civic uses. Some minor commercial/professional offices are allowed subject to very specific conditions. If the subject property is rezoned to a conditional general industrial district, the City may still prohibit those uses that would be in conflict with residential uses. For example, as proposed, the conditional district would prohibit most residential uses but would allow additional commercial uses currently allowed in NMX or corridor mixed-use districts. However, such uses as inert debris storage or disposal facilities, junkyards, or small recycling collection facilities which are currently allowed in general industrial (GI) districts, would still be prohibited.

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? The proposed conditional rezoning is of appropriate size and is reasonable given the surrounding zoning districts. As presented the allowable uses in the new district are more intense than would otherwise be allowed in the base NMX district, but are still subject to all the development requirements related to environmental protection, landscaping buffers, and industrial setbacks.

What is the balance of benefits and detriments to both the Applicant / property owner and the public at large? Potential benefits related to the creation of this conditional industrial district include increased tax revenues, job creation, and use of currently underutilized and dilapidated land, as well as the removal of blight. Potential detriments include the introduction of more intense uses in close proximity to residences as well as the loss land that could otherwise be used for multifamily or other high-density residential uses. While the residential uses may be prohibited, other community support services would still be allowed. Examples include doctor or medical offices, cultural meeting facilities, and art studios.

POLICY ANALYSIS: While the rezoning as proposed is inconsistent with the land use plan, it does address several specific policies in the City’s comprehensive plan. Specifically within the “Economic Development” and “Livable Communities” elements:

- POLICY 2.1.A: Modify zoning regulations to encourage and allow greater density and intensities of land use within its jurisdiction.
- POLICY 4.1.A: Evaluate and amend development ordinances to facilitate infill development on vacant and under-developed parcels, as well as revitalization of developed parcels.
- POLICY 4.2.A: Modify zoning to increase allowable densities and the mixing of uses in appropriate areas.

And the GOAL of creating an environment that encourages private and public investment built through strategic partnerships and cultivation, Brevard will:

- Be an economically viable community.
- Expand and strengthen its tax base.
- Support reinvestment in existing businesses as well as the establishment of new businesses.

This conditional rezoning is also consistent with the City’s Vision of fostering economic development as illustrated by the statement below which is part of the 2012 City of Brevard Vision Statement:

Strategy: Foster Economic Development: Foster economic diversity while enhancing the quality of life in an environmentally friendly way by creating an environment that promotes and encourages businesses, and business owners, attracted to and utilizing our natural assets of woods and water and our cultural/historic assets of music, arts, and outdoor recreation.

STAFF RECOMMENDATION: Staff recommends approval of the conditional rezoning as outlined above and depicted upon Attachment D, establishing a General Industrial Conditional Zoning District RZ16-000001. 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 parcels, 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 as presented.

2. Recommend approval of the proposed rezoning with modifications.
3. Recommend the requested rezoning to a more restrictive zoning district
4. Request additional information from Staff. The Board may take up to 45 days to formulate a recommendation to City Council.

In accordance with N.C.G.S. § 160A-382(b), the Planning Board shall submit a statement analyzing the reasonableness of any proposal for a rezoning to a conditional zoning or planned development district. A draft of this statement is included as Attachment G.

FISCAL IMPACT: None at this time. Future development upon the subject parcel will require Staff time for plan review which, depending on the type of development, may be more complicated than uses allowed currently allowed in the base NMX district.

ATTACHMENTS:

- A. Site map
- B. Vicinity map
- C. Current zoning map
- D. Proposed conditional district map
- E. Future Land Use Plan Excerpt
- F. Allowable uses comparison table
- G. Statement of Reasonableness
- H. Adopting Ordinance



-  Streets
-  Subject_Property
-  City Limits
-  Parcels

SITE MAP



1 inch = 150 feet



- Streets
- Subject_Property
- City Limits
- Parcels

VICINITY MAP



1 inch = 500 feet



- Streets
- ▭ Subject Property
- ▭ City Limits
- ▭ Parcels
- ▭ Corridor Mixed Use
- ▭ Downtown Mixed Use
- ▭ General Industrial
- ▭ General Residential (4)
- ▭ General Residential (6)
- ▭ Institutional Campus
- ▭ Neighborhood Mixed Use
- ▭ Residential Mixed Use
- ▭ Special District
- ▭ Manufacture Home Overlay

CURRENT ZONING



1 inch = 500 feet



- | | |
|--------------------------|-------------------------|
| Streets | General Industrial |
| Conditional District | General Residential (4) |
| Parcels | General Residential (6) |
| City Limits | Institutional Campus |
| Manufacture Home Overlay | Neighborhood Mixed Use |
| Corridor Mixed Use | Residential Mixed Use |
| Downtown Mixed Use | Special District |

PROPOSED ZONING



1 inch = 500 feet

City of Brevard Land Use Plan (Excerpt)

Adopted August 19, 2002



MIXED USE – BOULEVARD

A thoroughfare is defined as *“a major road or highway; a passage or way through.”* In contrast, a boulevard is *“a broad avenue in a city, often landscaped or lined with trees.”* This Plan recommends that the City embark on a new way of looking at street design and the transport of people, goods and services along its existing major roads, specifically Asheville Highway to the north and Broad St./Rosman Highway to the south. A mixed-use boulevard designation is envisioned with: more transportation choices; better access management; more efficient use of land; landscaping; improved appearance; and design standards which encourage buildings to be close to the street, with parking to the side or rear. Development should be encouraged toward “nodes,” typically at main intersections while leaving some green/undeveloped areas. Standard strip commercial centers should be discouraged.

Comparison of Allowable Uses

The following matrix sets forth the manner by which certain uses may be permitted within the various districts set forth above.

1. "P" denotes those uses that are permitted "by right."
2. "—"denotes those uses that are not permitted within the given district.
3. "SUP" denotes those uses that are permitted upon issuance of a special use permit in accordance with the provisions set forth in Chapter 16. Additional standards for certain uses requiring a special use permit are set forth in 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	NMX	GI CD
Residential		
Dwelling—Single Family (Site-built) ^(a)	—	—
Dwelling—Duplex	P	—
Dwelling—Town Home or Condominium Structure	P	
Dwelling—Multifamily 3—4 units/bldg, not including Condominium Buildings or multiple structures	P	—
Dwelling—Multifamily more than 4 units/bldg	P	—
Dwelling—Secondary	PS	—
Family Care Home (Less than 6 residents)	P	—
Home Occupation	P	—

Housing Service for the Elderly	P	—
Live-Work Units	P	—
Manufactured Home (single unit) ^(b)	MHD	
Manufactured Home Park	—	—
Recreational Vehicle	—	—
Lodging		
Bed and Breakfast Home	PS	—
Bed and Breakfast Inns	PS	—
Accessory Rental Cottage/Cabins ^(c)	PS	—
Hotels/Motels/Inns	—	—
Rooming or Boarding House	P	—
Recreational Vehicle Park	—	—
Office/Service		
Animal Services	P	P
Artist Workshop	P	P
ATM	P	—
Banks, Credit Unions, Financial Services	P	P
Business Support Services	P	P
Adult/Child Day Care Home (Less than 6)	PS	—

Adult/Child Day Care Center (6 or more)	PS	PS
Community Service Organization	P	P
Drive Thru Service	SUP	—
Equipment Rental	—	P
Funeral Homes	PS	—
Group Care Facility (6 or more residents)	P	—
Government Services	P	P
Kennels	SUP	PS
Medical Services—Clinic, Urgent Care Center	SUP	P
Medical Services—Doctor office	P	P
Post Office	P	P
Professional Services	P	P
Personal Services	P	P
Studio—Art, Dance, Martial Arts, Music	P	P
Vehicle Services—Major Repair/Body Work	—	PS
Vehicle Services—Minor Maintenance/Repair ^(d)	SUP	PS
Retail/Restaurants		
Accessory Retail	—	PS
Alcoholic Beverage Sales Store	SUP	—

Auto / Mechanical Parts Sales	—	P
Bar/Tavern/Night Club	SUP	—
Drive-Thru Retail/Restaurants	SUP	—
Gas Station	SUP	PS SUP
General Retail	P	—
Restaurant	P	— P
Shopping Center - Neighborhood Center	GD	—
Shopping Center - Community Center	—	—
Vehicle/Heavy Equipment Sales - Outdoor	—	P PS
Vehicle/Heavy Equipment Sales - Indoor	PS	P PS
Entertainment/Recreation		
Amusements, Indoor	SUP	— P
Amusements, Outdoor	SUP	— P
Cultural or Community Facility	P	P —
Meeting Facilities	P	P —
Recreation Facilities, Indoor	SUP	P
Recreation Facilities, Outdoor	P	P
Theater, Movie	—	—
Theater, Live Performance	SUP	—

Manufacturing/Wholesale/Storage		
Inert Debris Storage or Disposal Facilities	—	<u>—</u> PS
Junkyard	—	<u>—</u> SUP
Laboratory—Medical, Analytical, Research and Development	—	P
Laundry, Dry Cleaning Plant	—	P
Manufacturing, Light	—	P
Manufacturing, Neighborhood	P	P
Manufacturing, Heavy	—	SUP
Media Production	P	P
Metal Products Fabrication, Machine or Welding Shop	SUP	P
Mini-Warehouses	—	P
Recycling—Small Collection Facility	—	<u>—</u> P
Research and Development	—	P
Storage—Outdoor Storage Yard as a Primary Use	—	<u>—</u> P
Storage—Warehouse, Indoor Storage	—	P
Wholesaling and Distribution	—	P
Civic/Institutional		
Campground/Artist Colony/Summer Camp	SUP	—

Cemeteries	PS	—
Colleges/Universities	SUP	<u>P</u> —
Hospital	—	—
Jail	SUP	P
Public Safety Station	P	P
Religious Institutions	P	<u>P</u> —
Schools—Elementary and Secondary	P	<u>P</u> —
Schools—Vocational/Technical	P	P
Infrastructure		
Wireless Telecommunication Facility—Stealth	P	P
Wireless Telecommunication Facility—Tower	—	PS
Utilities—Class 1 and 2	P	P
Utilities—Class 3	—	<u>—</u> ^P
Miscellaneous Uses		
Adult Establishment	—	<u>—</u> ^{SUP}
Outdoor Firing Range	—	<u>—</u> ^{SUP}
Indoor Firing Range	—	<u>—</u> ^{SUP}
Agriculture	—	P
Parking	P	P

Swimming Pool—Residential Accessory Use	PS	—
Swimming Pool—Primary Use	SUP	—
Fences	PS	PS
Human Crematories	PS	PS
Temporary Uses and Structures		
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	PS
Vending Pushcarts	—	PS
Mobile Food Vendors	PS	PS

STATEMENT OF REASONABLENESS & CONSISTENCY WITH CITY POLICIES AND PLANS

NCGS 160A-383 requires that the City's review of the proposed zoning map amendment include a written statement analyzing the reasonableness and the consistency of the conditional rezoning with adopted plans and policies of the City. The Board forwards this recommendation with a finding that the proposed zoning map amendment is **consistent** with the following elements of the City's adopted plans and policies:

2015 Comprehensive Plan:

POLICY 2.1.A: Modify zoning regulations to encourage and allow greater density and intensities of land use within its jurisdiction.

POLICY 4.1.A: Evaluate and amend development ordinances to facilitate infill development on vacant and under-developed parcels, as well as revitalization of developed parcels.

POLICY 4.2.A: Modify zoning to increase allowable densities and the mixing of uses in appropriate areas.

2012 City of Brevard Vision Statement:

Foster economic diversity while enhancing the quality of life in an environmentally friendly way by creating an environment that promotes and encourages businesses, and business owners, attracted to and utilizing our natural assets of woods and water and our cultural/historic assets of music, arts, and outdoor recreation.

NCGS 160A-383 requires that the City's review of the proposed zoning map amendment include a written statement analyzing the reasonableness and the consistency of the conditional rezoning with adopted plans and policies of the City. The Board forwards this recommendation with a finding that the proposed zoning map amendment is **inconsistent** with the following elements of the City's adopted plans and policies:

- a) The *2002 City of Brevard Land Use Plan, Future Land Use Map* recommends use of these properties for boulevard mixed-use properties.

The Plan text contains the following language describing the boulevard mixed-use land use category:

Mixed-Use Boulevard – A thoroughfare is defined as “a major road or highway; a passage or way through.” In contrast, a boulevard is “a broad avenue in a city, often landscaped or lined with trees.” This Plan recommends that the City embark on a new way of looking at street design and the transport of people, goods and services along its existing major roads, specifically Asheville

Highway to the north and Broad St./Rosman Highway to the south. A mixed use-boulevard designation is envisioned with: more transportation choices; better access management; more efficient use of land; landscaping; improved appearance; and design standards which encourage buildings to be close to the street, with parking to the side or rear. Development should be encouraged toward “nodes,” typically at main intersections (see map) while leaving some green/undeveloped areas. Standard strip commercial centers should be discouraged.