AMENDED AGENDA
BREVARD CITY COUNCIL – REGULAR MEETING
Monday, August 15, 2016 – 7:00 P.M.
City Council Chambers

A. Welcome and Call to Order

B. Invocation

Pastor Mary Hinkle Shore, Lutheran Church of the Good Shepherd

C. Pledge of Allegiance

D. Certification of Quorum

E. Approval of Agenda

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O. Closed Session(s)

1. Personnel and/or Employment: GS § 143-318.11. (a)(3) (5)(6)

P. Adjourn

Approval of Minutes

MINUTES
BREVARD CITY COUNCIL
Regular Meeting
June 20, 2016 – 7:00 PM

The Brevard City Council met in regular session on Monday, June 20, 2016, at 7:00 p.m. in the Council Chambers of City Hall with Mayor Jimmy Harris presiding.

Present - Mayor Jimmy Harris, Mayor Pro Tem Mac Morrow, Council Members Maurice Jones, Ann Hollingsworth, Gary Daniel and Charlie Landreth.

Staff Present – City Manager and Finance Director Jim Fatland, City Attorney Mike Pratt, City Clerk Desiree Perry, Special Project Director Josh Freeman, Accounting Clerk Tom Whitlock, Parks & Property Mgmt. Director Lynn Goldsmith, HR Director Derrick Swing, HR Specialist & Deputy Clerk Jill Murray, Fire Chief Craig Budzinski, Planner Aaron Bland, Code Enforcement Officer Paul Ray, Planning Director Daniel Cobb, Police Chief Phil Harris, Public Works Director David Lutz and Water Plant ORC Dennis Richardson.

Press – Kevin Fuller, Transylvania Times

A. Welcome and Call to Order – Mayor Harris called the meeting to order, welcomed those present and introduced Council members, Manager, Attorney and City Clerk.

B. Invocation – Mayor Harris offered an Invocation.

C. Pledge of Allegiance – Mayor Harris led in the Pledge of Allegiance.

D. Certification of Quorum - The City Clerk certified a quorum present.

E. Approval of Agenda – Ms. Hollingsworth moved, seconded by Mr. Morrow, the Agenda be approved as presented. Motion carried unanimously.

F. Approval of Minutes – Mr. Landreth moved, seconded by Mr. Morrow, the May 23, 2016 Budget Work Session minutes, page 2, Item 19, be amended to read: "Street Banners - The cost of hanging banners will go from $200 to $250, except at the N. Broad Street (Jailhouse Hill) location where the cost will be determined by staff based upon the new requirements to safely install at that location", and for the minutes to be approved as amended. Motion carried unanimously.

Mr. Jones moved, seconded by Mr. Landreth, the May 16, 2016, meeting minutes be approved as presented. Motion carried unanimously.

G. Certificates, Awards and Recognition

G-1. **Proclamation 2016-08** Arts and Culture Celebration 2016 was presented to TCArts Executive Director Tammy Hopkins.

Proclamation No. 2016-08
Arts and Culture Celebration 2016
June 24 – July 4, 2016

Remainder of Proclamation to be inserted here.

G-2. **Recognition of Terrell Scruggs Scholarship Recipients** - The following 2016 Scholarship recipients were recognized: Tyler Arant (not present), Marlene Contreras (not present), Hannah Field, Bryce Foster (not present), Alexandria Galloway (not present), Nicholas McCall (not present), Cameron McCathern, Carver Nichols (not present), Taylor Robarts, Zachary Stroup and Audrianna Van Gores. Also present were

Terrell Scruggs Scholarship Committee Members: Sue Fox, Jimmy Perkins, Derrick Swing and Josh Freeman.

H. Public Hearing

H-1. **Non-Contiguous Annexation and Zoning Designation, Challenge Foundation Properties of Brevard, LLC**. Property is located at 1110 New Hendersonville Highway, PIN 9507-02-3649-000 and 9507-02-3957-000. The proposed zoning district is Institutional Campus (I-C) District. The public hearing was properly advertised in the newspaper on June 6th; letters of Notice were mailed to adjoining property owners and Notice was posted upon the subject property.

Mayor Harris opened the public hearing at 7:24 P.M.

Mr. Bland presented the staff report. Subject property will be the new location of Brevard Academy, a K-8 public charter school. Because the property is currently located outside the City's planning jurisdiction it is subject to Transylvania County zoning ordinances and must be rezoned by the City concurrently with the annexation. The proposed zoning district is Institutional Campus (IC). Prior to the annexation request, the Applicant secured zoning and building permits from Transylvania County and construction is currently underway on site. The Planning Board discussed both the annexation and rezoning at their meeting on May 16th and unanimously voted to recommend approval of both.

Mr. Mike Harrington, Challenge Foundation Properties of Brevard, LLC, representative was present in support of the request and to answer any questions Council or the public may have. Also present was Mr. Warren Alston, Chairman of the Board of Directors.

Public Participation – None

Public Hearing Closed – There being no further questions or comments, Mayor Harris closed the hearing at 7:35 P.M.

H-2. **City of Brevard Fiscal Year 2016-2017 Budget Ordinance and Fee Schedule**. The public hearing was properly advertised on June 6th and 13th, 2016.

Mayor Harris opened the public hearing at 7:35 P.M.

Mr. Fatland reported on May 16th the draft budget was presented to Council and a budget workshop was held on May 23rd. He recommends a revenue neutral tax rate of $.4800 and for the Heart of Brevard tax rate to remain at $.2250, and, lower minimum water/sewer to 500 gallons.

Public Participation

Ms. Shelly Webb, Executive Director of Sharing House, expressed concern with the proposed lowering of the minimum gallons for water and sewer as doing so will result in an increase to a customer's monthly bill. Sharing House serves about twenty percent (20%) of the County population, people who are low wage earners, or disabled, or elderly and who are on a fixed income. Based upon data they have collected, in 2014 they provided $10,000 in water assistance; in 2015 $16,000 which was a 70% increase, and, have had already spent $24,727 in water assistance this year (52% increase). This (water billing) is the only assistance category that has shot up at an alarming rate. Heat and food assistance categories have had little change. Reducing the rate to 500 gallons is going to be very hard on the lower income families.

Mr. Landreth asked Mr. Fatland if a previously mentioned payment assistance program has been flushed out.

Mr. Fatland replied the matter will soon be reviewed by the Council Public Works and Utilities Committee, and, that the Water Department has been working with people to help by means of a payment plan.

Mr. Landreth recommended the matter be referred to the Council Public Works and Utility Committee, and, added what the Sharing House does is limited by the resources they are given and while we have a generous community the need is great and for our policies to tap on that resource is something we need to be very aware of as we establish our rates and programs.

Public Hearing Closed – There being no further questions or comments, Mayor Harris closed the hearing at 7:48 P.M.

H-3. **Short Term Rentals**. The public hearing was properly advertised on June 6th and 13th, 2016.

Mayor Harris opened the public hearing at 7:48 P.M.

Mr. Morrow moved, seconded by Mr. Landreth, Council continue the Short Term Rental Public Hearing until their August 15th meeting, as recommended by the City Attorney. Motion carried unanimously.

I. Public Participation

Mr. Thomas Davis, 159-A&B King Street, Brevard. Expressed concern over limited parking available on King Street. He is a business owner and landlord and the recent increase of businesses that have opened along King Street has created a problem as there are too few parking spaces. Asked if additional handicapped spaces could be provided, and, hopes the City has or will consider angled parking or some other means to provide more parking spaces for the King Street area.

Ms. Patricia Wrinkle, 39 Appletree Street. According to the City's Traffic Schedule Appletree Street is a "no parking" area; however, people who use the French Broad Community Center continue to park their cars along Appletree Street, and in doing so have occasionally blocked driveways. Asked that the Police Department enforce the no-parking on Appletree Street.

Ms. Stephanieanne Smith, Carolina Pediatric Therapy, 159-B King Street. Stated she is a speech therapist and with the new businesses that have opened along King Street it has created a parking problem for her clients, some who are children with disabilities. She offered Council copies of letters from her client's parents expressing their concerns with respect to safety/traffic. (Letters filed with Agenda Packet materials.) There is a handicapped space on King Street in front of their clinic; however, it is available for other neighboring businesses to also use. Asked if the City would consider providing to their clinic three designated parking spaces on King Street - one handicapped space and two regular parking spaces from the hours of 8 AM to 6 PM, and, that the request be a consideration upon a future City Council agenda.

J. Special Presentation

J-1. Brevard Housing Authority (BHA) – Mr. David Nash, Executive Director of Brevard Housing Authority, who was accompanied by BHA Manager Rhodney Norman, and BHA Board Members Judith West and Katie Thompson, presented the report. Mr. Nash described BHA as 360 residents living in five small neighborhood properties, including 161 children and youth; has a strong local staff, led by a community-centered board appointed by City Council including one board member who is a resident. Technical assistance and executive leadership is under a long-standing contract with Asheville Housing Authority. He presented a power-point that described the Demographics including race/ethnicity, age, family size and income; Priorities and Accomplishments through management, community outreach and property improvements; and, described Challenges such as parking lots are in need of significant

improvements for stability and curb appeal, and, the need for a collaborative partner to help non-disabled, non-elderly, non-working residents get back to work (about 30% of households).

K. Consent Agenda and Information - Consent Agenda items are considered routine and are enacted by one motion. Mayor Harris read aloud the items listed, and asked if Council desired to remove an item for discussion, or, to add an item(s) to the Consent Agenda.

Mr. Morrow moved, seconded by Ms. Hollingsworth, the Consent Agenda be amended by adding New Business Items M-1, M-2, M-3, M-4, M-6, and M-8 appointing Mr. Eric Crite to the ABC Board, and that the Consent Agenda be approved as amended. Motion carried unanimously.

K-1. Staff Reports:

a. Finance Department May 2016 Monthly Report
b. Public Works Monthly Report, April 2016

K-2. **Prudential 457 NC Plan for Employees** – Adopted the NC Public Employee Deferred Compensation Plan, a qualified governmental Deferred Compensation Plan under Internal Revenue Service 457(b) for public employees of North Carolina. (Exhibit A)

K-3. Transylvania Wellness Center – Adopted Memorandum of Understanding (MOU) with Transylvania County for Wellness Center Partnership, and, Contract for Wellness Center with Blue Mountain Medicine. The MOU establishes that the City will pay $4,400 annually (10% of its contracted cost with Blue Mountain Medicine – currently $44,000) for basic utility and operating costs of the running the facility. The expense will be charged to the employee medical fund. Total Contract fee with Blue Mountain Medicine is $44,000 annually which is budgeted in the employee medical fund.

K-4. Ordinance No. 2016-12 An Ordinance Declaring A Road Closure For National Night Out

ORDINANCE NO. 2016-12
AN ORDINANCE DECLARING A ROAD
CLOSURE FOR NATIONAL NIGHT OUT

Remainder of Ordinance to be inserted here.

K-5. Interlocal Contract Agreement with Houston-Galveston Area Council – Approved Brevard Fire Department's request to enter into an interlocal agreement with the Houston-Galveston Area Council for purchasing equipment for the City of Brevard. Its enabling legislation allows for HGACBuy to act nationwide on behalf of local governments, special districts and private non-profits providing a government service. Allows use of any of HGACBuy's competitively procured contracts for goods and services.

K-6. Ordinance No. 2016-16 An Ordinance Amending The City of Brevard Traffic Schedule

ORDINANCE NO. 2016-13
AN ORDINANCE AMENDING
THE CITY OF BREVARD TRAFFIC SCHEDULE

Remainder of Ordinance to be inserted here.

K-7. Form Base Code Update - Accepted Planning Staff's 2-page update offered for informational purposes only.

K-8. Kings Creek Phase II 20-Yar Loan Update – The City of Brevard had received approval for a 2% loan for 20-years for the Kings Creek Phase II Project. The City requested that the NCDENR consider a no interest loan for Kings Creek Phase II Project. On June 20, 2016, NCDENR notified the City that they approved a no interest loan for Kings Creek Phase II. This will save the City $301,515 in interest cost over the 20-year loan period.

K-9. City-County Joint Parks and Recreation Strategic Plan – Council approved the scheduling of a joint meeting with the Transylvania County Board of Commissioners for September 26, 2016, at 7:00 PM in the Commissioners Meeting Room to receive a presentation of the draft plan.

K-10. Zilka Virus Information – Accepted Planning Staff's 2-page informational report and recommendation to maintain current levels of activity related to proactive code enforcement of standing and stagnant water.

K-11. Ordinance No. 2016-14 An Ordinance Declaring A Road Closure For The Fourth Of July Festival

ORDINANCE NO. 2016-14
AN ORDINANCE DECLARING A ROAD
CLOSURE FOR THE FOURTH OF JULY FESTIVAL

Remainder of Ordinance to be inserted here.

K-12. Correspondence (No Action. Offered as information only.)

a. ABC Board Proposed FY2016-17 Budget
b. Heart of Brevard July 4th Celebration Information
c. Transylvania Pollinator Day, June 25th
d. Brevard Music Center Celebrates 80th Anniversary

K-13. (M-1). Ordinance No. 2016-15 An Ordinance To Extend The Corporate Limits Of The City of Brevard, North Carolina

ORDINANCE NO. 2016-15
AN ORDINANCE TO EXTEND THE CORPORATE LIMITS
OF THE CITY OF BREVARD, NORTH CAROLINA

Remainder of Ordinance to be inserted here.

K-14. (M-2) Ordinance No. 2016-16 An Ordinance Amending The FY2015-2016 Budget Amendment No. Four

ORDINANCE NO. 2016-16
AN ORDINANCE AMENDING THE FY2015-2016 BUDGET
AMENDMENT NO. FOUR

Remainder of Ordinance to be inserted here.

K-15. (M-3) French Broad Community Center Use Policy and Rental Agreement – Council adopted the French Broad Community Center Use Policy and Rental Agreement as amended. (Exhibit B)

K-16. (M-4) Resolution No. 2016-14 A Resolution Awarding The Construction Work for the City of Brevard Kings Creek Phase II Sewer Upgrade Project

RESOLUTION NO. 2016-14
A RESOLUTION AWARDING THE CONSTRUCTION WORK FOR THE
CITY OF BREVARD KINGS CREEK PHASE II SEWER UPGRADE PROJECT

Remainder of Resolution to be inserted here.

K-17. (M-6) Ordinance No. 2016-11 As Amended – An Ordinance Authorizing Development of Downtown Parking Lot

ORDINANCE NO. 2016-11
As Amended
AN ORDINANCE AUTHORIZING DEVELOPMENT OF DOWNTOWN PARKING LOT

Remainder of Ordinance to be inserted here.

K-18. (M-8) Board and Committee Appointment – Brevard ABC Board of Directors. Council appointed Mr. Eric Crite to the Brevard ABC Board of Directors filling the vacancy from former member Brian P. Phillips. Term will expire July 2019.

L. Unfinished Business - None

M. New Business

M-5. Ordinance No. 2016-17 An Ordinance Amending Ordinance No. 2016-02 Authorizing Construction of the Probart Street Sidewalk.

Mr. Freeman reported Council authorized and directed the construction of a sidewalk along Probart Street on January 19, 2016, (Ordinance No. 2016-02). Since that date, City Staff and the consulting engineer have been working to complete engineering and design, securing necessary utility easements, negotiating the relocation of Duke Energy and Comporium Communications infrastructure, negotiating site-specific issues with property owners along the corridor, and other necessary steps. Staff initially solicited bids for construction via the informal bidding process. However, it quickly became apparent that the project would exceed the statutory limitations for informal bids ($500,000). After a second round of bidding consistent with statutory requirements for formal bids, Cooper Construction was identified as the lowest qualified and responsive bidder.

Council and the Manager discussed a few different funding options that could be considered. Manager suggested Council could defer the payment until July 2018, which would allow for the Committee to accomplish other incremental improvements/projects with the $90,000 that is available.

Following discussion, Mr. Daniel moved, seconded by Ms. Hollingsworth, Council accept the Manager's recommendation of deferring the payment until July 2018, and to amend the drafted Ordinance to reflect the payment schedule beginning in year 2018, and adopt the Ordinance as amended.

Discussion: Mr. Landreth suggested checking into a loan for the Probart Street improvements could be considered.

Vote on Motion: Motion carried unanimously.

ORDINANCE NO. 2016-17
AN ORDINANCE <u>AMENDING ORDINANCE NO. 2016-02</u>
AUTHORIZING CONSTRUCTION OF THE
PROBART STREET SIDEWALK

Remainder of Ordinance to be inserted here.

M-7. Ordinance No. 2016-18 City of Brevard FY 2016-2017 Budget Ordinance

Briefly discussed the drafted Fee Schedule banner fees may need to be amended in the near future. Mr. Pratt affirmed Council could adopt the Budget Ordinance with the understanding a budget amendment may be done in the future with respect to banner fees.

Mr. Morrow moved, seconded by Mr. Landreth, Council adopt the FY 2016-2017 Budget Ordinance and Fee Schedule as presented. Motion carried unanimously.

ORDINANCE NO. 2016-18
CITY OF BREVARD
FY 2016-2017 BUDGET ORDINANCE

Remainder of Ordinance to be inserted here.

N. Remarks by Officials / Future Agenda Considerations

Mayor Harris thanked and congratulated the Manager/Finance Director and Staff who have worked on the budget. City is in a good cash positon and has benefit of low interest rates as the result of the good work of the Manager. City has worked hard on I&I issues, we have great water, and the City's aging water and sewer systems and plants is being addressed. He also commended Staff for the improvements and landscape that have been added on the corner of Probart and Caldwell Street, a very visible property in our downtown.

Mr. Daniel requested, in consideration of Ms. Webb's earlier stated concerns, that the City give thought to what can be done to help those in need with their water bills.

Mr. Landreth stated in follow-up from the two Carolina Pediatric Therapy representatives who spoke earlier, he appreciated their bringing the matter to Council and for their polite presentation. Explained his family are clients and have experienced the difficulties described. There is parking on both sides of the street, utility vehicles, infrastructure is inadequate in this neighborhood, and he expects to see more infrastructure problems with water and sewer. It is not just a parking problem but is now a traffic problem. Parking arrangement is bad, too small and not enough real estate for all that is being done upon it. Area has real challenges from a zoning perspective as no off-street parking has been provided; therefore, it has pushed all to on-street parking. Suggested the City not wait for the unfolding of the Small Area Plan, but rather to address what can be addressed in the short term to try to alleviate the congestion Carolina Pediatric Therapy, the restaurant, gallery, etc., are experiencing.

Mr. Jones asked (a) Staff to look into whether or not SAFE can use their same large truck at their new facility on Broad Street; (b) Asked Chief Harris how the 2-hour time limit is calculated for parking as an individual came to him stating she got a ticket and had 8-minutes that remained on her 2-hour parking space; and, (c) Recently Wilson Drive had issues and therefore the City reduce the speed limit to 20 miles per hour; however, excessive speed is still taking place. Should the City consider making Wilson Drive a one-way street?

O. Closed Session – Mayor Harris asked the City Attorney if it would be appropriate for Council to hold closed sessions to discuss matters of economic development, potential litigation, and, a personnel matter. City Attorney advised pursuant to **GS § 143-318.11. (a)(3) (4) (5) (6)** it would be appropriate to convene provided separate closed sessions on the matters are held. Closed sessions will require a separate motion, second and vote to discuss the matter. Council will enter and exit regular session for each closed session.

O-1. Closed Session #1 - At 9:06 p.m. Mr. Landreth moved, seconded by Ms. Hollingsworth, Council go into closed session to discuss an economic development matter. Motion carried unanimously. (A ten minute break was taken to allow Council Chambers to be cleared.)

Council Returned to Regular Session – At 10:05 p.m. Council resumed the meeting in regular session. No official action was taken in closed session and the Minutes of the closed session are authorized to be sealed.

O-2. Closed Session #2 – At 10:05 p.m. Mr. Landreth moved, seconded by Mr. Jones, Council go into a second closed session to discuss a potential litigation matter. Motion carried unanimously.

Council Returned to Regular Session – At 11:20 p.m. Council resumed the meeting in regular session. No official action was taken in closed session and the Minutes of the closed session are authorized to be sealed.

O-3. Closed Session #3 – At 11:20 p.m. Mr. Daniel moved, seconded by Mr. Landreth, Council go into closed session to discuss a second potential litigation matter. Motion carried unanimously.

Council Returned to Regular Session – At 11:32 p.m. Council resumed the meeting in regular session. No official action was taken in closed session and the Minutes of the closed session are authorized to be sealed.

O-4. Closed Session #4 – At 11:33 p.m. Council dismissed the City Clerk and City Manager to hold a closed session to discuss a personnel matter. City Attorney will provide Minutes of the closed session, and will provide to the Clerk the record of Council's return to regular session and actions taken (if any) and adjournment.

Council Returned to Regular Session – At (_____) p.m. Council resumed the meeting in regular session. Minutes of the closed session are authorized to be sealed.

P. Adjourn – There being no further business, (_____) moved, seconded by (_____), the meeting be adjourned. Motion carried unanimously. Meeting adjourned at (_____) P.M.

_____	_____
Jimmy Harris	Desiree D. Perry
Mayor	City Clerk

Minutes Approved: _____

Certificates / Awards / Recognition

Proclamation No. 2016-09
Constitution Week
September 17 – 23, 2016

Whereas, September 17, 2016 marks the two hundred and twenty-ninth anniversary of the signing of the Constitution of the United States of America by the Constitutional Convention; and

Whereas, it is fitting and proper to officially recognize this magnificent document and the anniversary of its creation; and

Whereas, it is fitting and proper to officially recognize the patriotic celebrations which will commemorate the occasion; and

Whereas, public law 915 guarantees the issuing of a proclamation each year by the President of the United States of America designating September 17 through 23 as Constitution Week;

NOW, THEREFORE, I, Mayor Jimmy Harris, and Brevard City Council of the City of Brevard, North Carolina do hereby proclaim September 17 through 23, 2016, to be

CONSTITUTION WEEK

in the City of Brevard, and ask our citizens to reaffirm the ideals the Framers of the Constitution had in 1787.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the City of Brevard on this 15th day of August of the year of our Lord two thousand sixteen.

_____
Jimmy Harris, Mayor

ATTEST:

_____
Desiree D. Perry, City Clerk

City of Brevard

Certificate of Appreciation

Presented to

Brian P. Philips

In recognition of four years of service to the
City of Brevard as a member of the
ABC Board of Directors
October 2012 – June 2016

Presented this 15th day of August, 2016.

Jimmy Harris
Mayor

ATTEST:

Desiree D. Perry, CMC, NCCMC
City Clerk

City of Brevard

Certificate of Appreciation

Presented to

Carol Dillingham

In recognition of three years of service to the
City of Brevard as a member of the
Brevard Board of Adjustment
March 2013 – July 2016

Presented this 15th day of August, 2016.

Jimmy Harris
Mayor

ATTEST:

Desiree D. Perry, CMC, NCCMC
City Clerk

Public Hearing(s)

STAFF REPORT
City Council, August 15, 2016

Title: **Short-Term Rentals**
City Council will continue their public hearing from June 20, 2016 to consider amendments to allow short-term rentals within the City of Brevard and its planning jurisdiction.

Speaker: Daniel Cobb AICP, Planning Director

From: Daniel Cobb, AICP, Planning Director
Prepared by: Daniel Cobb, AICP, Planning Director
Aaron Bland, AICP, Planner & Assistant Zoning Administrator
Approved by: Jim Fatland, CPFO, City Manager

Background
At their August 17, 2015 meeting City Council requested information regarding the issue of short-term rentals (STRs), much like those offered on websites such as Airbnb.com and VRBO.com. Staff presented basic background information in September 2015 and Council directed Staff to take the issue to Planning Board to explore possible changes to the Unified Development Ordinance (UDO) that would allow for short-term rentals but also mitigate potential negative impacts on residential neighborhoods.

The Planning Board began its discussions at their October 20, 2015 meeting, and held further discussions at their meetings in November, January, February, and March. The Board approved its recommended draft ordinance language at their meeting on March 15, 2016. This version of the amendments was originally presented to City Council on April 18, 2016, changes were discussed and added for consideration in May.

Since Council's meetings in April and May the amendments have been modified slightly to account for specific concerns raised by City Council. The most recent version of the draft amendments was presented during a public hearing that was properly advertised and opened at City Council's last meeting on June 20, 2016. This hearing was continued to provide Staff and the city's attorney time to research outstanding legal questions related to density.

Discussion
The main purpose and intent of the amendments continues to be the protection of the peace and tranquility of residential neighborhoods, as well as the safety of Brevard's residents and visitors.

The attached draft language reflects Council's desire of a simple ordinance that accomplishes the above goal with the least amount of regulation, as well as clarifying the difference between *residential* uses and *lodging* uses.

Policy Analysis
There are several topics to consider when reviewing these proposed changes. One concern that has been discussed in several meetings (however there is no hard data to provide for review) is a fear that converting existing long-term, affordable rentals to more lucrative short-term rentals, removes units from the city's housing stock, thereby exacerbating the housing market's limited supply of affordable housing options.

Additionally, there is an unquantifiable effect of converting a traditional single-family home to a short term rental. If the residents change from week to week, the permanent neighbors are unable to form meaningful relationships with those in their neighborhood.

Conversely, the constant influx of visitors can be considered an additional benefit to the community, and providing additional lodging options in and around the City supports this. Hotel options are fairly limited, and often booked to capacity during the height of tourist season. Proprietors of short-term rentals who have discussed their operations with Staff have indicated that they often act as an ambassador for Brevard by showing their guests around the community and sending them to local restaurants and shops. Some have stated their guests come for a short stay and end up moving to the community.

The City's Comprehensive Plan does not specifically list lodging as a goal, objective, or policy. However, alternative forms of lodging offer more opportunity for varying demographics to find what fits them best to make Brevard a destination.

NCGS 160A-383 requires that the City's review of the proposed zoning amendment include a written statement analyzing the reasonableness and the consistency of the amendment with any adopted plans and policies of the City. This statement is included as Attachment B.

Staff Recommendation
Staff recommends City Council adopt the attached ordinance as presented.

Fiscal Impact
North Carolina state law allows for reasonable fees to be collected to offset the costs of administration of development ordinances. The review fee for a Special Use Permit is $250 and zoning permits for minor improvements related to residential projects is typically $50. However Staff feels a specific fee for STRs should be established and recommends a fee of $200 which is the same fee required for a home occupation.

Attachments
A. Text Amendments – Short-Term Rentals
B. Statement of Consistency

UDO Amendments for Short-Term Rentals

2.2. - Use categories and tables of permitted uses.

Residential: Premises available for long-term human habitation by means of ownership and rental, but excluding short-term leasing or rental of less than a month's duration.

Lodging: Premises available for short-term human habitation, including daily and weekly rental.

2.2.C – Use Matrix

	GR	RMX	NMX	DMX	CMX	IC	GI
Lodging							
Bed and Breakfast Home	PS	PS	PS	PS	PS	PS	–
Bed and Breakfast Inn	SUP	PS	PS	PS	PS	PS	–
Accessory Rental Cottage/Cabin	PS	PS	PS	–	–	–	–
Hotels/Motels/Inns	–	–	–	P	P	P	–
Rooming or Boarding House	–	–	P	P	P	P	–
Recreational Vehicle Park	–	–	–	–	–	–	–
Short-Term Rental (Host-Absent)	SUP	SUP	PS	PS	PS	PS	–
Homestay (Host-Present)	PS	PS	PS	PS	–	PS	–

Chapter 3 – Additional standards

3.34 – Short-Term Rentals and Homestays

A. Intent

It is the intent of this ordinance and standards below to preserve and protect the long-established, traditional single-family neighborhoods within the City while allowing those desiring to operate short-term rentals or homestays to do so without detriment to those neighborhoods. Short-Term Rentals and Homestays are lodging uses, as they are typically rented for less than 30 days.

B. General requirements

1. Occupancy: Overnight occupancy shall not exceed two persons per bedroom plus two additional persons. The number of “bedrooms” used in calculating occupancy limits shall be taken from the property’s application. For example: a two bedroom rental would have an occupancy limit of 6 (2 x 2 bedrooms = 4 + 2 additional = 6 total).
2. Appearance: Dwelling units used as short-term rentals or homestays in GR or RMX zoning districts shall maintain their residential character and outside appearance. No signs shall be permitted. All exterior lighting shall be residential in nature and shall not be directed towards adjacent properties.
3. Parking: Parking requirements shall be provided for the type of dwelling unit, per Chapter 10 of this ordinance.

C. Permits required

1. The owner, or authorized agent thereof, of any property upon which a Homestay or Short-Term Rental proposes to operate shall secure a permit from the City of Brevard Planning & Zoning Department.
2. The application shall designate a “Primary Contact” which is to be a local responsible party who is available by phone 24-hours per day while the property is being rented.

D. Violations: Any act constituting a violation of these standards shall subject the owner to enforcement procedures as set forth in Chapter 18 of this ordinance.

E. Duration of permit:

1. Rentals permitted with standards (PS)
   a. Short-Term Rental and Homestay permits are temporary, and shall not establish a vested right to renewal. Short-Term Rental and Homestay permits shall be valid for a period of one year from the date upon which approval is granted.
   b. Annual renewal applications shall be filed 30 days prior to expiration of the current permit.
   c. Applications for renewal shall include a written report demonstrating compliance with the previously approved permit.
   d. The approving authority may deny a request for permit renewal and require the applicant to terminate the Short-Term Rental or Homestay upon a determination that the Short-Term Rental or Homestay operated in violation of a requirement of this section or other applicable condition or requirement; or, that the Short-Term Rental or Homestay has generated unanticipated effects that are detrimental to the residential character of the neighborhood in which the Short-Term Rental or Homestay is located.
2. Rentals permitted with the issuance of a Special Use Permit (SUP)
   a. Per 16.11.D, the effect of approval of a Special Use Permit by the Board of Adjustment is binding on the property, and all subsequent development and use of the property must be in accordance with the approved plan and conditions. Special Use Permits do not need to be renewed annually.
   b. Per 16.11.F, the Board of Adjustment may revoke an approved Special Use Permit upon finding that a violation of Brevard City Code, the City of Brevard Unified Development Ordinance, or a specific condition or requirement of the Board of Adjustment has occurred.

B. Exemptions: The following activities shall not be considered as a Short-Term Rental or Homestay use and the requirements of this subsection shall not apply to them.

1. Incidental residential vacation rentals, defined to mean no more than two such rentals in any calendar year where the total number of nights rented does not exceed 14.
2. Rentals of property in any permitted hotel, motel, inn, rooming or boarding house, or bed and breakfast establishment.

10.3.A – Minimum parking ratios

A. *Minimum parking ratios:*

Use Type	Required Parking Spaces
Residential (All types)	2 spaces
Residential Accessory Dwelling Unit	1 space
Retail Uses	1 per 500 square feet
Office Uses	1 per 500 square feet
Theaters	1 per 3 seats

Restaurants	1 per 4 seats
Manufacturing/Warehousing/Light Assembly	.25 per 1,000 square feet of non-office space
Bed and Breakfast Inns/Hotels/Motels	1 per bedroom or suite
Civic Uses (Assembly Uses Only)	1 per 4 seats (If benches or pews are used then the standard shall be measured as 1 per 6 feet)

10.5.G – Location of off-street parking

G. Location of off-street parking:

1. Off-street parking shall not be permitted within any public right-of-way.
2. Off-street parking shall not be permitted within any front yard setback area.
3. Except for properties located in the Corridor Mixed Use (CMX) zoning district, off-street parking shall not be permitted between any principal structure and the street upon which such structure fronts. Where a structure fronts upon two or more streets, parking may be permitted between the principal structure and the adjacent street of lesser classification when parking cannot reasonably be placed in another location.
4. The following uses and parking types shall be exempt from Sections 10.5(G.2) and 10.5(G.3) above:
    a. Single-family and duplex residential structures in GR, RMX and NMX districts, including those used for Short-Term Rental uses, except those which are subject to Chapter 2, Section 2.3(E.2).
    b. Handicapped parking spaces as required by the North Carolina Accessibility Code or other federal, state, or local regulations.
    c. Bicycle parking spaces required by this Ordinance.
    d. Existing non-residential and multi-family development undergoing significant or substantial improvement or change of use as defined in Chapter 19 of this Ordinance, provided that all newly created parking spaces associated with such redevelopment shall conform with Sections 10.5(G.2) and 10.5(G.3) unless the approving authority deems that compliance would be impractical due to existing site constraints.

Chapter 19 – Definitions

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

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

Homestay: A private, owner-occupied single-family residence that offers one or more guest rooms for overnight accommodations which are rented for periods of less than 30 days for compensation, so long as the lodging use is subordinate to the main residential use of the building. The key distinction of a Homestay from a Short-Term Rental is that the host is present in a Homestay.

Rooming or boarding house: Short or long-term accommodations that serve a specific group or membership such as a dormitory, fraternity or sorority house, youth or adult hostel, or similar accommodations, or single room occupancy units that provide a number of related services including, but not limited to housekeeping, meals, and laundry services; excludes hotels, motels, inns, bed and breakfasts, homestays, and short-term rentals.

Short-Term Rental: A private residential property that is rented for periods of less than 30 days for compensation in which the owner does not reside in the home being rented. The key distinction of a Short-Term Rental from a Homestay is that the host is absent in a Short-Term Rental.

STATEMENT OF REASONABLENESS & CONSISTENCY
WITH CITY POLICIES AND PLANS
SHORT-TERM RENTAL ZONING ORDINANCE AMENDMENTS

NCGS 160A-383 requires that the City's review of the proposed zoning amendment include a written statement analyzing the reasonableness and the consistency of the amendment with any adopted plans and policies of the City. City Council finds that the proposed zoning amendment is **consistent** with the City of Brevard 2015 Comprehensive Plan as demonstrated by excerpt included below:

<u>2015 Comprehensive Plan – Element 2: Economic Health</u>

> *The objectives and policies in this element aim to further existing efforts to foster entrepreneurship, retain and attract employers, remain an attractive retirement and tourism destination, and support and strengthen existing businesses. To continue to provide the public services necessary to achieve these goals, the City's tax revenues need to keep pace with increasing costs of providing those services.*

The amendments as proposed are intended to promote the public health, safety, and general welfare of the City of Brevard. Further, these ordinances and intend to preserve and protect the long-established, traditional single-family neighborhoods within the City while allowing those desiring to operate short-term rentals or homestays to do so without detriment to those neighborhoods. Short-Term Rentals and Homestays are lodging uses, as they are typically rented for less than 30 days.

STAFF REPORT
City Council, August 15, 2016

Title: **Asheville Highway Rezoning**
City Council will hold a Public Hearing on proposed rezoning of properties from the intersection of Asheville Highway and Morris Road, north, to the intersection of Asheville Highway and proposed Davidson River Village Connector road.

Speaker: Daniel Cobb, AICP, Planning Director

From: Daniel Cobb, AICP, Planning Director
Prepared By: Daniel Cobb, AICP, Planning Director
Approved By: Jim Fatland CPFO, City Manager

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. It should be noted that some of the properties within the geographic scope of this request are currently zoned Neighborhood Mixed-Use (NMX).

Discussion
In considering a change of zoning, the City Council 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 City Council elects to modify the zoning map as proposed then Council 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 I.

While the rezoning is inconsistent with the land use plan (Attachment F), 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 permitted within CMX districts. However, a 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 GR or NMX. CMX is a more commercial, automobile-oriented district (slightly less emphasis on residential). See Attachment G "Comparable Uses" for a comparison of uses allowed in each district. There are some commercial operations within the area proposed for rezoning. The Public Safety Facility forms the southern boundary of the area under consideration, Jennings Building Supply denotes the northern extent.

Many of the properties along the east side of the highway (near the Public Safety Facility) are fairly shallow (from the road to the back of the lot). It is important to note that when considering a rezoning *all* allowable uses within that district must be considered. If a property cannot reasonably accommodate all uses within a given district, the rezoning should be closely examined. In this instance the properties under consideration are zoned GR and NMX. Should

the change to CMX occur, the properties adjacent to GR properties will have a setback of 40' in the rear of the lot, and 10' from the road. With the more narrow lots this may make development of a CMX use challenging.

Other characteristics to bear in mind include the land use patterns and topography of the study area. Development on steep slopes is strongly discouraged and in some cases prohibited by local and state regulations. Much of the area on the west side of Asheville Highway (opposite the Public Safety Facility) 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.

The abovementioned limitations notwithstanding, 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.

It is Staff's opinion, balancing the constraints listed above and City Council's desire for additional development opportunities, that the Neighborhood Mixed-Use zoning district is a better fit for the project area. Specifically, only those properties along the eastern edge of the highway (near the Public Safety Facility). As mentioned above, the properties opposite the Public Safety Facility would require a significant amount of grading and site work, which would alter the entrance to Brevard in a very significant manner. Staff is recommending the rezoning occur as depicted in Attachment E "Staff-Recommended Rezoning Map."

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 collisions 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 less than 1,000.

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

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

<u>2015 Comprehensive Plan</u>

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. This rezoning is *inconsistent* with the 2002 Land Use Plan, however, as noted above, it does enforce the policies from the comprehensive plan. Staff has prepared a draft consistency statement, which is included as Attachment I.

Staff Recommendation

The Planning Board originally discussed this during their May 17, 2016 meeting and tabled it for further consideration. The Board was interested in an alternative that would split-zone some of the area GR and NMX. Upon further consideration at their June 21, 2016 the Board voted unanimously to recommend approval of the rezoning as recommended by Staff.

Staff recommends rezoning the study area as depicted on the attached map entitled "Recommended Zoning," (Attachment E).

City Council's options are as follows:

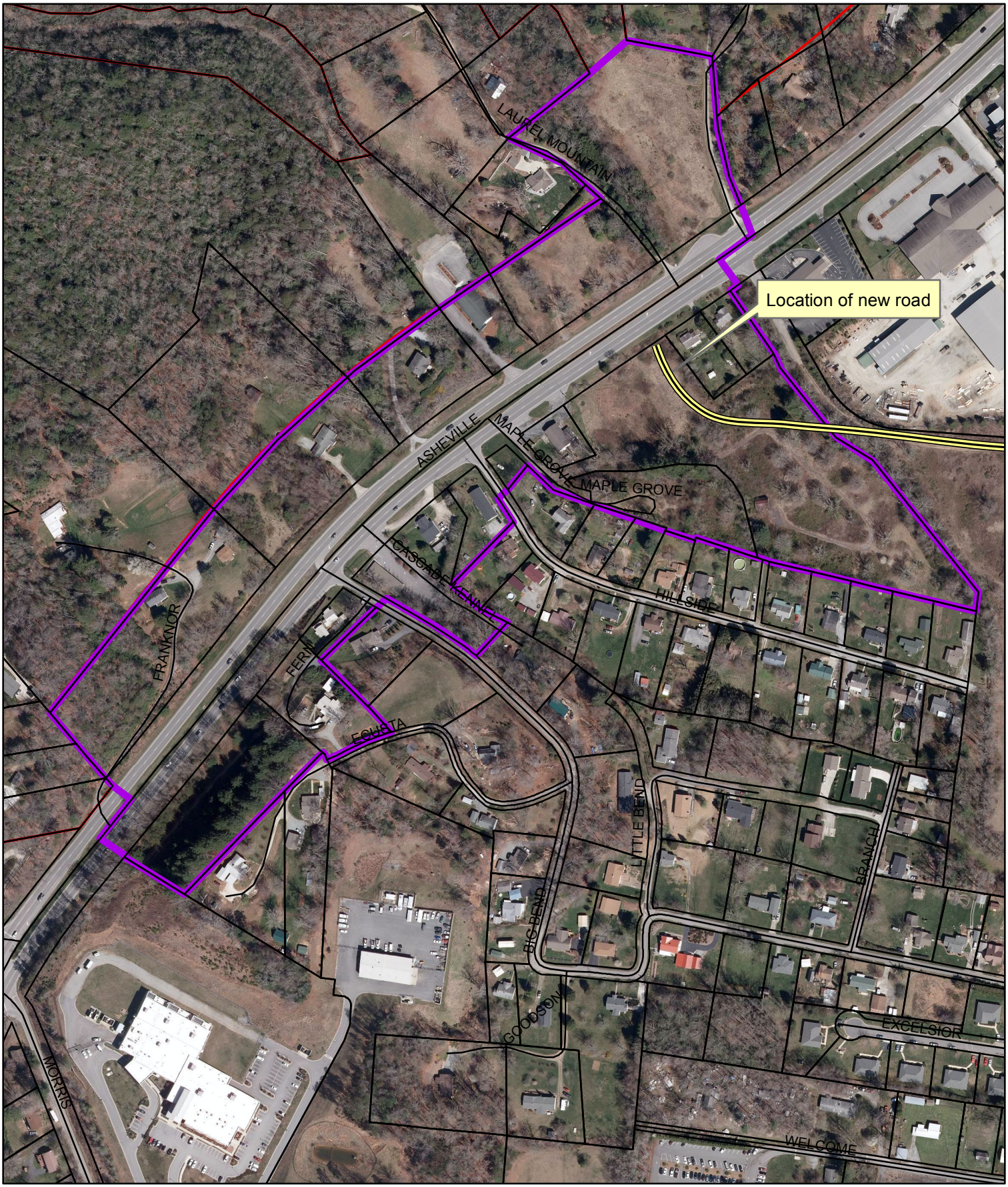
1. Grant the rezoning as requested
2. Grant the rezoning with a reduction in the area requested
3. Grant the rezoning to a more restrictive general zoning district
4. Grant the rezoning with a combination of (2) and (3) above
5. Deny the application.

Fiscal Impact

None at this time.

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

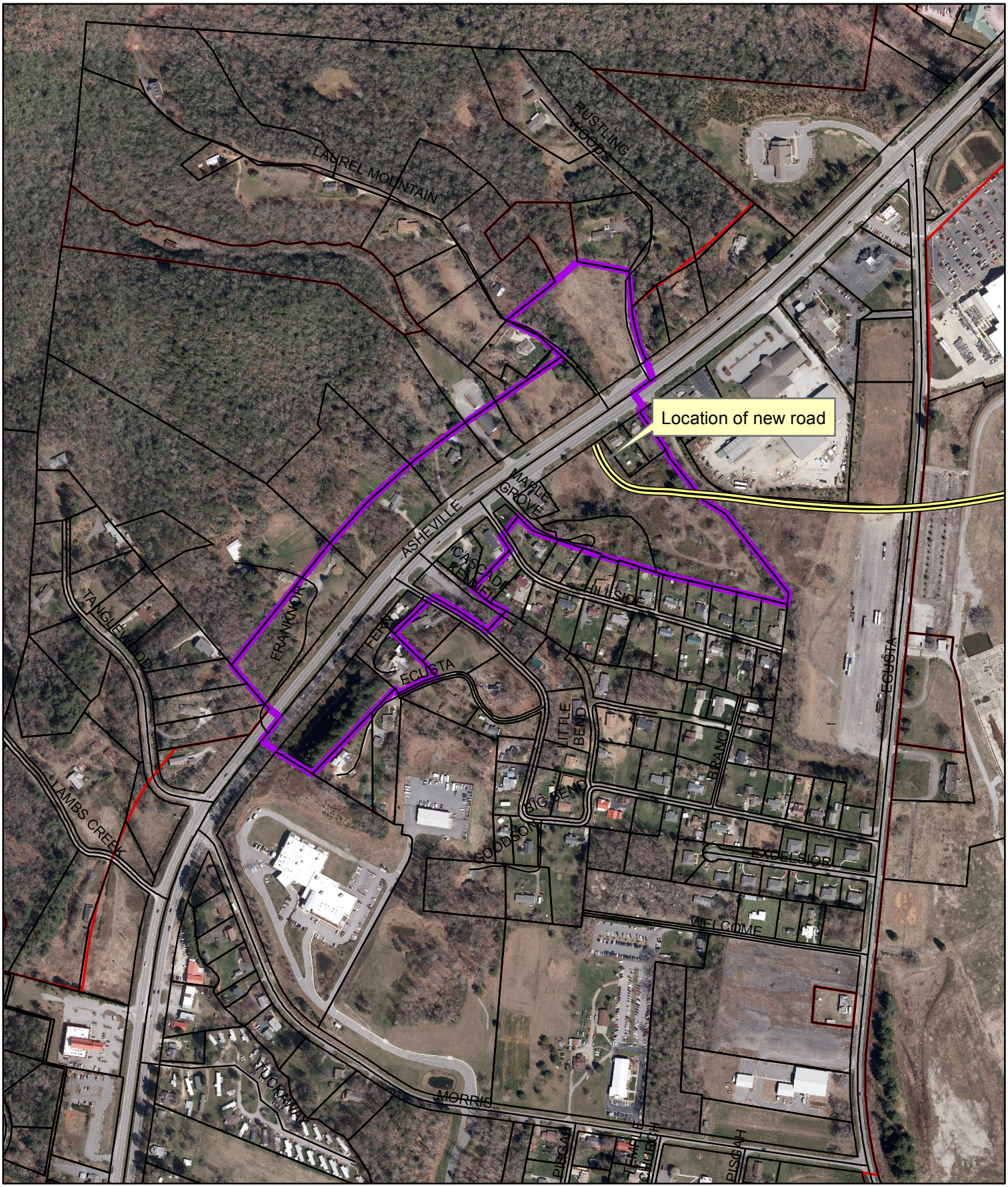
Proposed CMX

City Limits

SITE MAP

N
W E
S

1 inch = 300 feet

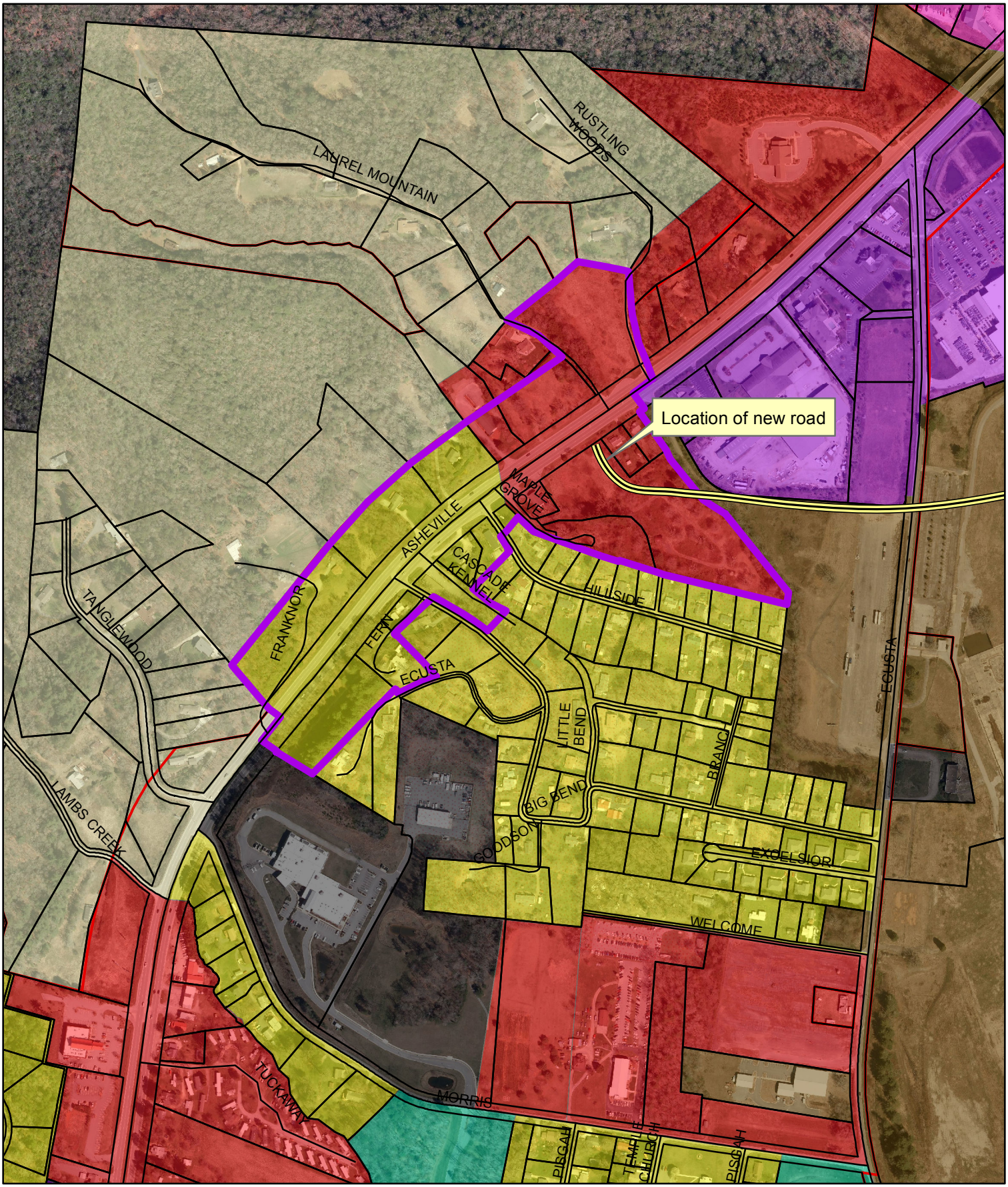


VICINITY MAP

Streets
Parcels
Proposed CMX
City Limits

N
W E
S

1 inch = 500 feet

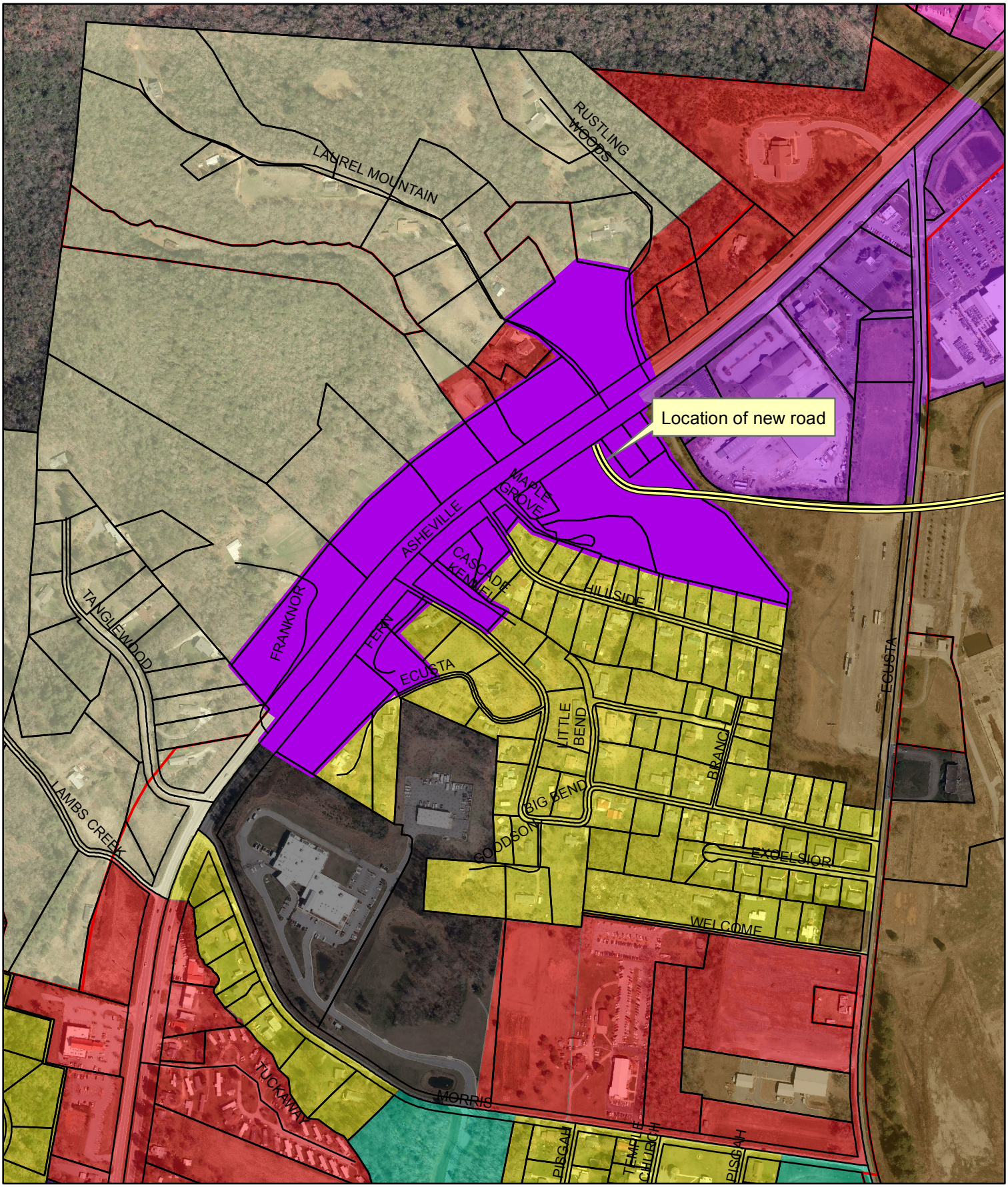


Streets
Proposed CMX
Parcels
City Limits
Corridor Mixed Use
Downtown Mixed Use
General Industrial
General Residential (4)
General Residential (6)
Institutional Campus
Neighborhood Mixed Use
Residential Mixed Use
Special District
Manufacture Home Overlay

CURRENT ZONING

N
W E
S

1 inch = 500 feet

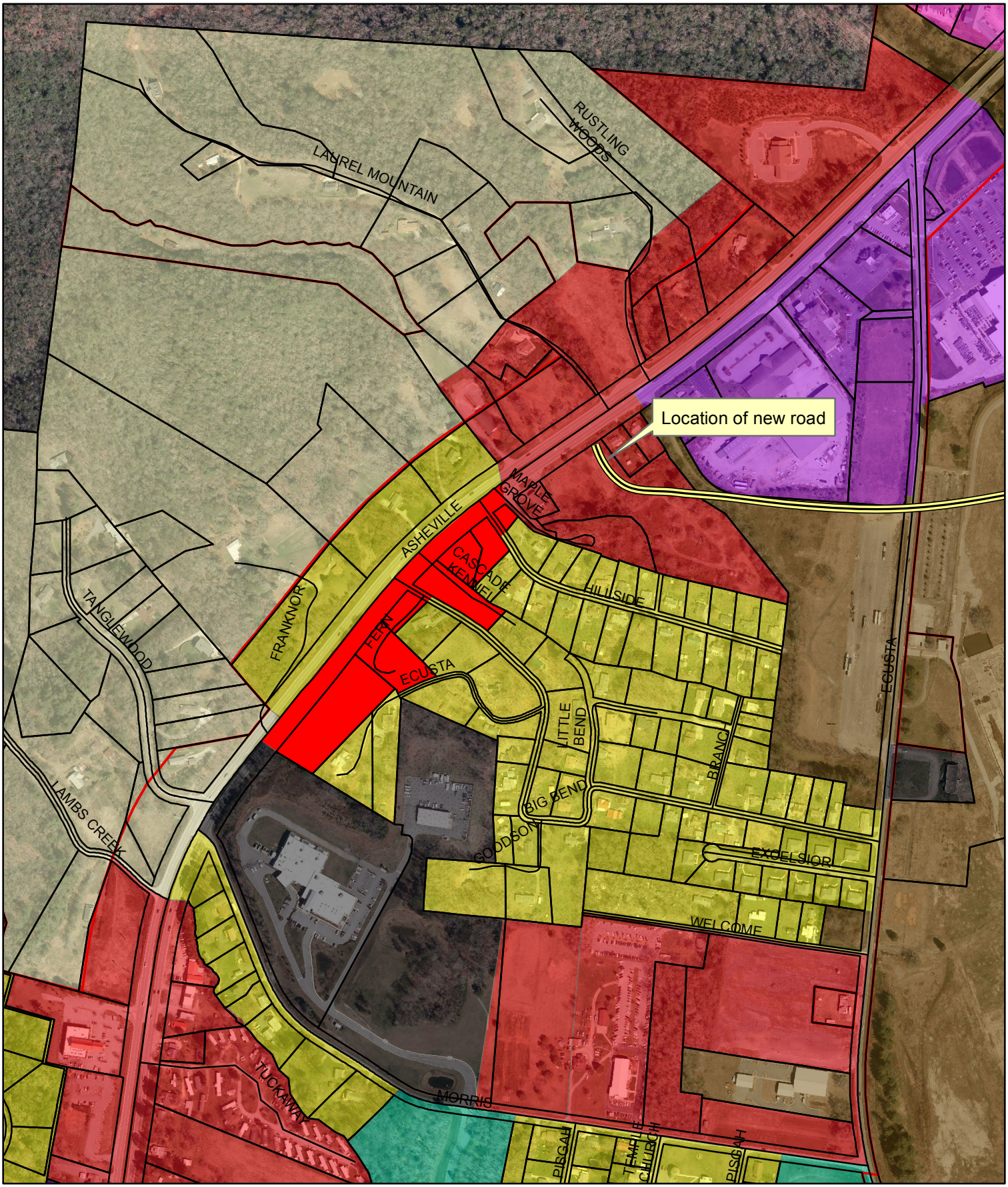


Streets
Parcels
Proposed CMX
City Limits
Corridor Mixed Use
Downtown Mixed Use
General Industrial
General Residential (4)
General Residential (6)
Institutional Campus
Neighborhood Mixed Use
Residential Mixed Use
Special District
Manufacture Home Overlay

PROPOSED ZONING

N
W E
S

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

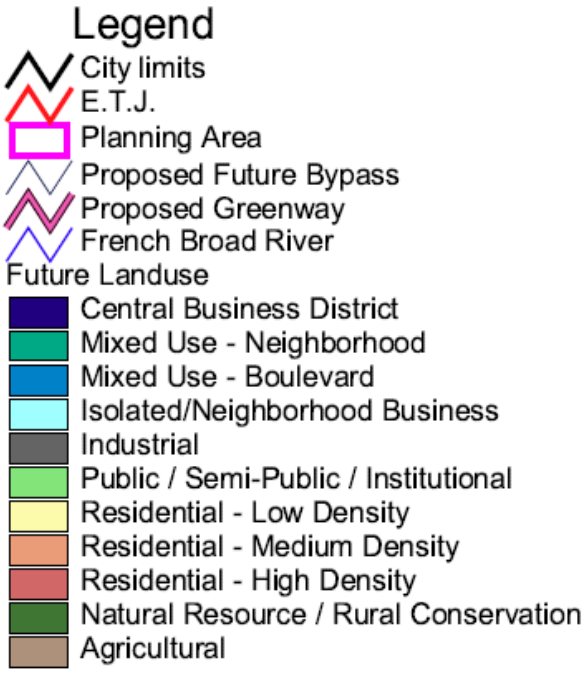
RECOMMENDED REZONING

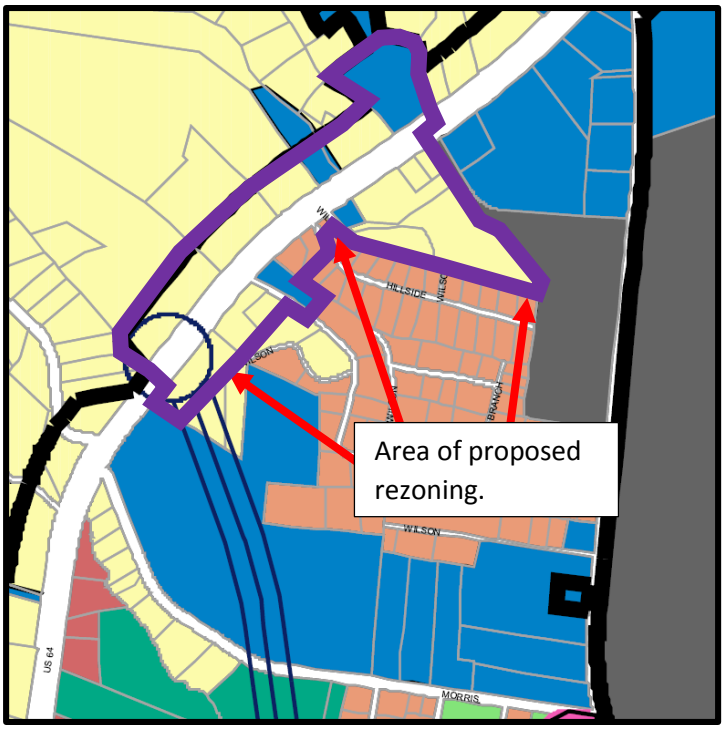
N
W E
S

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 and 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

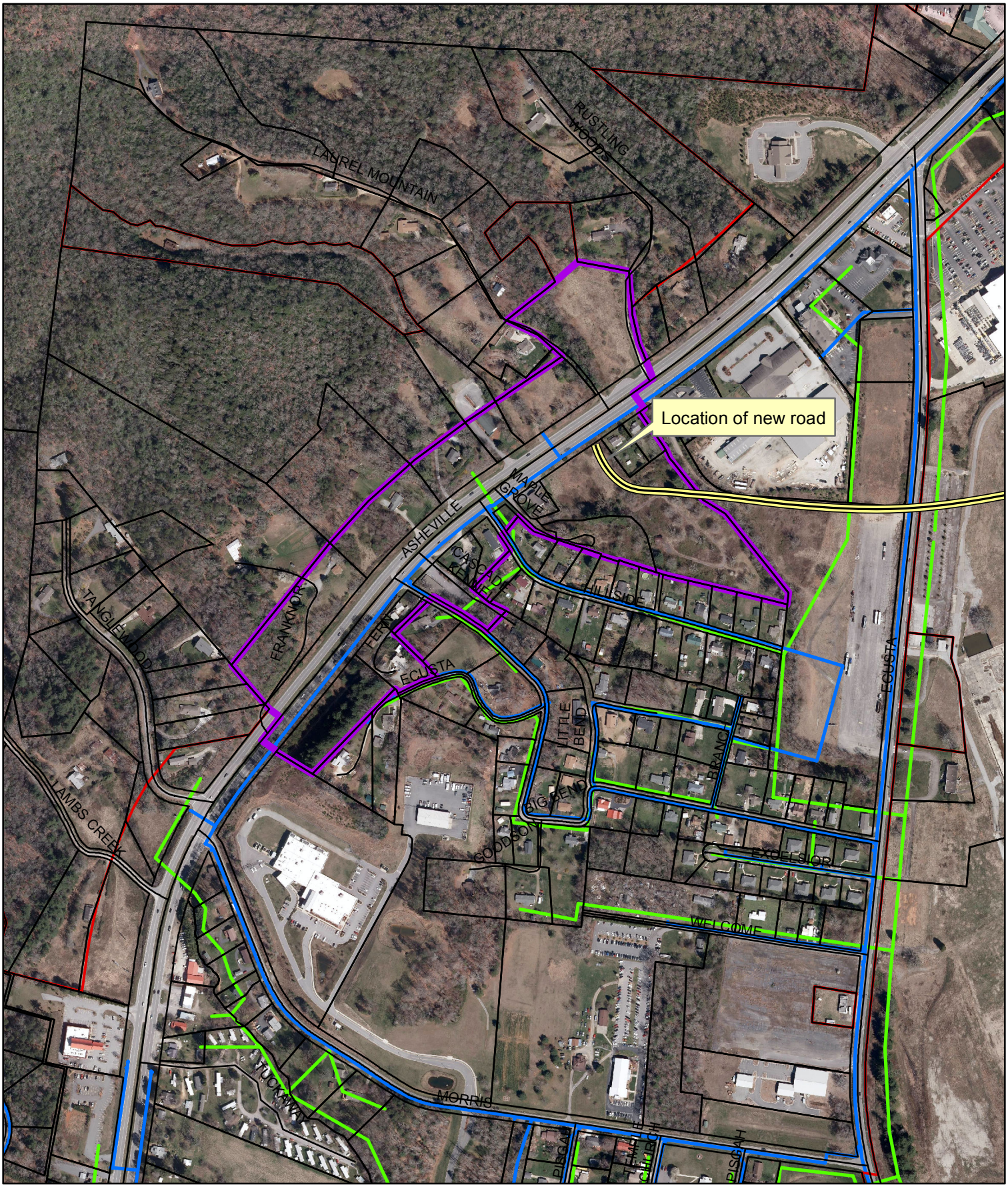
Adult/Child Day Care Home (Less than 6)	PS	PS	PS
Adult/Child Day Care Center (6 or more)	—	PS	PS
Community Service Organization	—	P	P
Drive Thru Service	—	SUP	P
Equipment Rental	—	—	P
Funeral Homes	—	PS	PS
Group Care Facility (6 or more residents)	—	P	P
Government Services	—	P	P
Kennels	—	SUP	PS
Medical 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

N
W E
S

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.

STAFF REPORT
City Council, August 15, 2016

Title: **600 Ecusta Road Rezoning**
City Council will hold a Public Hearing on a proposed conditional rezoning of a City-owned parcel of land approximately 6.4 acres in size, located at 600 Ecusta Road from Neighborhood Mixed-Use (NMX) to General Industrial Conditional District, or GI-CD.

Speaker: Daniel Cobb, AICP, Planning Director

From: Daniel Cobb, AICP, Planning Director
Prepared By: Daniel Cobb, AICP, Planning Director
Approved By: Jim Fatland CPFO, City Manager

Background
The property in question is currently zoned Neighborhood Mixed-Use (NMX). See Attachment A "Site Map," Attachment B "Vicinity Map," and Attachment C "Current Zoning" for reference. This rezoning would designate the property General Industrial Conditional District, or GI-CD. 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 (see Attachment E). 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 City Council elects approved the 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.

It is important to note that when considering a rezoning *all* allowable uses within that district must be considered. If a property cannot reasonably accommodate all uses within a given district, the rezoning should be closely examined. In this instance the property under consideration is zoned NMX. Should the change to GI-CD occur, it does appear there is sufficient land available to support the uses included in the attached ordinance.

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.

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. This rezoning is *inconsistent* with the 2002 Land Use Plan, however, as noted above, it does enforce the policies from the comprehensive plan. Staff has prepared a draft consistency statement, which is included as Attachment G.

Staff Recommendation
The Planning Board originally discussed this during their May 17, 2016 meeting and tabled it for further consideration. The original list of uses was too wide of range for the Board's comfort. The Board was interested in alternatives to allow a narrower scope of uses that would facilitate

the goal of redeveloping the site to its highest and best use. During their meeting on June 21, 2016 the Planning Board recommended approval of the conditional rezoning as proposed, subject to the conditions in the attached ordinance and Option 1 of the attached use matrix (Attachment F).

City Council's options are as follows:

1. Grant the rezoning as requested
2. Grant the rezoning with a reduction in the area requested
3. Grant the rezoning to a more restrictive general zoning district
4. Grant the rezoning with a combination of (2) and (3) above
5. Deny the application.

Fiscal Impact

None at this time.

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. Consistency statement
H. Adopting Ordinance
I. Chapter 19 – Unified Development Ordinance

Streets
Subject_Property
City Limits
Parcels

SITE MAP

N
W E
S

1 inch = 150 feet

Streets

Subject_Property

City Limits

Parcels

VICINITY MAP

N
W E
S

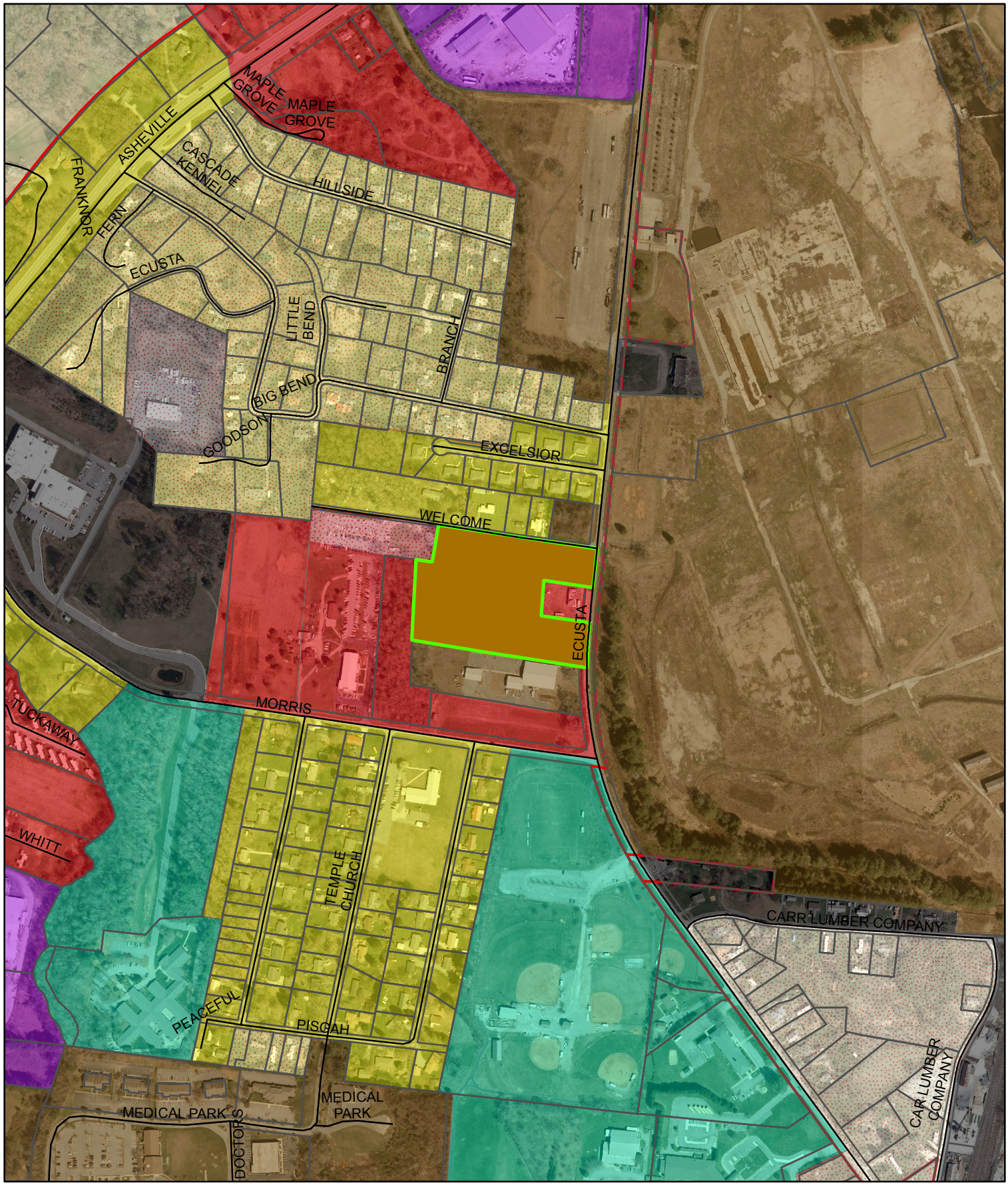
1 inch = 500 feet

- 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

N
W E
S

1 inch = 500 feet



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

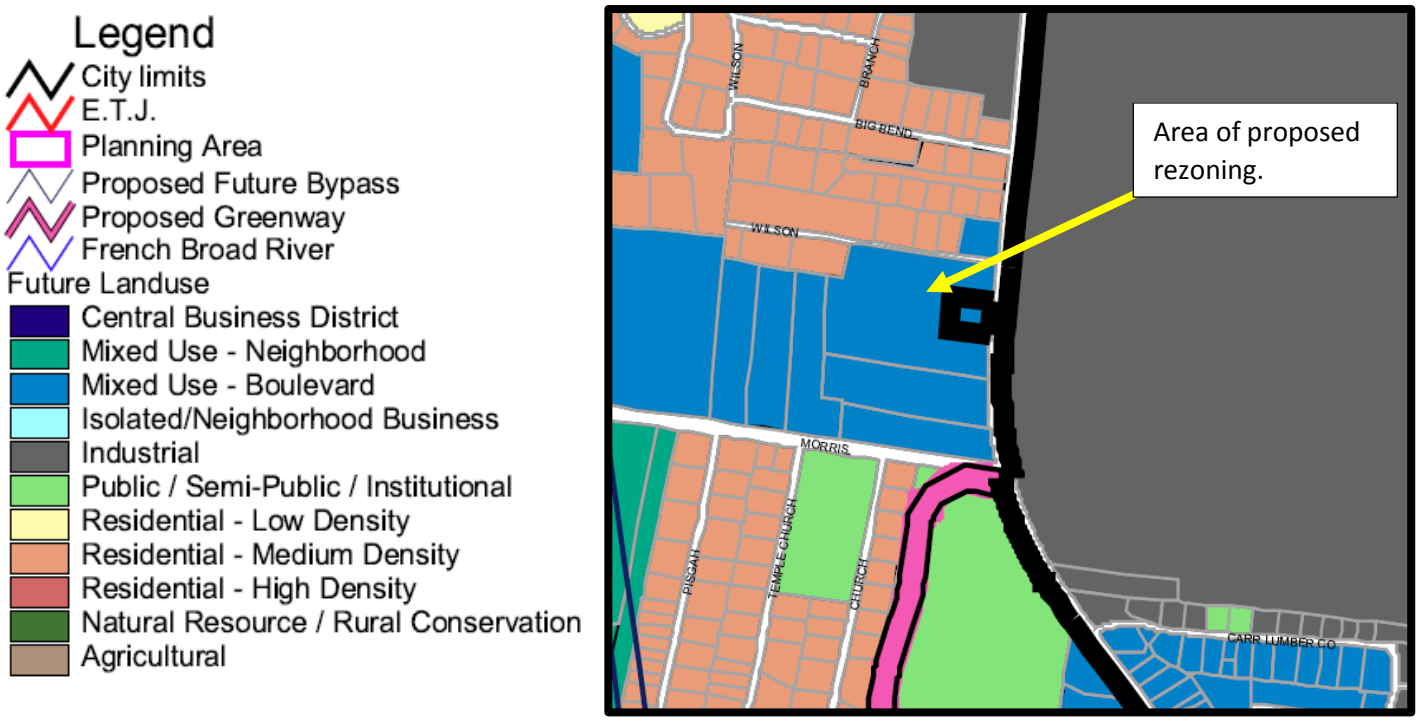
PROPOSED ZONING

N
W E
S

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	NMX	GI CD
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	NMX	GI CD
Animal Services	P	—
Artist Workshop	P	—
ATM	P	—
Banks, Credit Unions, Financial Services	P	—
Business Support Services	P	—
Adult/Child Day Care Home (Less than 6)	PS	—

Adult/Child Day Care Center (6 or more)	PS	—
Community Service Organization	P	—
Drive Thru Service	SUP	—
Equipment Rental	—	—
Funeral Homes	PS	—
Group Care Facility (6 or more residents)	P	—
Government Services	P	—
Kennels	SUP	—
Medical Services—Clinic, Urgent Care Center	SUP	—
Medical Services—Doctor office	P	—
Post Office	P	—
Professional Services	P	—
Personal Services	P	—
Studio—Art, Dance, Martial Arts, Music	P	—
Vehicle Services—Major Repair/Body Work	—	PS
Vehicle Services—Minor Maintenance/Repair[(d)]	SUP	PS
Retail/Restaurants	NMX	GI CD
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	SUP
General Retail	P	—
Restaurant	P	—
Shopping Center - Neighborhood Center	GD	—
Shopping Center - Community Center	—	—
Vehicle/Heavy Equipment Sales - Outdoor	—	PS
Vehicle/Heavy Equipment Sales - Indoor	PS	PS
Entertainment/Recreation	NMX	GI CD
Amusements, Indoor	SUP	—
Amusements, Outdoor	SUP	—
Cultural or Community Facility	P	—
Meeting Facilities	P	—
Recreation Facilities, Indoor	SUP	—
Recreation Facilities, Outdoor	P	—
Theater, Movie	—	—
Theater, Live Performance	SUP	—

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

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

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

STATEMENT OF REASONABLENESS &
CONSISTENCY WITH CITY POLICIES AND PLANS
600 ECUSTA ROAD – RZ16-000001

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.

ORDINANCE NO. 2016-_____

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP
OF THE CITY OF BREVARD TO ESTABLISH
A GENERAL INDUSTRIAL CONDITIONAL REZONING DISTRICT RZ16-000001

WHEREAS, conditional zoning is established to provide for flexibility in the development of property while ensuring that the development is compatible with neighboring uses; and,

WHEREAS, Brevard City Council requests that the Official Zoning Map of the City of Brevard be amended to establish a General Industrial Conditional Zoning District on property owned by the City of Brevard, which is described below, and which is hereafter referred to as the "Subject Property":

Subject Property Description:
Property Identification Number: 8597-31-5264-000
Deed Book / Page Reference: DB 395 Pg 378
Plat Reference: Plat Cabinet 6 Slide 240
Owner: City of Brevard
Property Address: 600 Ecusta Road, Brevard, NC
Location: Off Ecusta Road
Current Zoning: Neighborhood Mixed Use

and,

WHEREAS, the City of Brevard Planning Board considered RZ16-000001 on Date _____ and unanimously recommended LIST RECOMMENDATION _____.

WHEREAS, in accordance with North Carolina General Statute 160A-382(b), Brevard City Council finds the following:

1) That RZ16-000001 is consistent with the following polices and goals of the City of Brevard 2015 Comprehensive Plan:

GOALS With 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.

• 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.

2) That RZ16-000001 is consistent with the following Community Development Strategy of the City of Brevard Vision, which was adopted in February, 2012:

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

3) That RZ16-000001 is inconsistent with the Future Land Use Map of the 2002 City of Brevard Land Use Plan, which prescribes "Mixed Use-Boulevard" future land uses:

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.

4) That the size of the tract and the proposed uses are reasonable and appropriate within the context of the existing and proposed zoning districts and the prevalence of uses in the vicinity of the Subject Parcel.

5) That the proposed rezoning fully conforms to all applicable requirements of Brevard City Code.

WHEREAS, Brevard City Council desires to approve RZ16-000001 subject to certain conditions, which are set forth, below.

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

Section 1. The Official Zoning Map of the City of Brevard is hereby amended to establish General Industrial Conditional Zoning District RZ16-000001 on the Subject Property.

Section 2. Future development upon the Subject Property shall be subject to the following development regulations:

1) The Subject Property shall be developed in accordance with all applicable provisions of Brevard City Code, except as modified herein.

2) Uses of the Subject Property shall be limited to the following list of land uses:
    a. "P" denotes those uses that are permitted "by right."

    b. "SUP" denotes those uses that are permitted upon issuance of a special use permit in accordance with the provisions set forth in Chapter 16 of the City of Brevard Unified Development Ordinance. Additional standards for certain uses requiring a special use permit are set forth in Chapters 3 and 5 of the City of Brevard Unified Development Ordinance.

    c. "PS" denotes those uses that are permitted with additional standards, which are set forth in Chapter 3 of the City of Brevard Unified Development Ordinance.

    d. List of Allowable Land Uses:

BASE DISTRICT	GI CD
Residential	
Dwelling—Single Family (Site-built)[(a)]	—
Dwelling—Duplex	—
Dwelling—Town Home or Condominium Structure	—
Dwelling—Multifamily 3—4 units/bldg, not including Condominium Buildings or multiple structures	—
Dwelling—Multifamily more than 4 units/bldg	—

Dwelling—Secondary	—
Family Care Home (Less than 6 residents)	—
Home Occupation	—
Housing Service for the Elderly	—
Live-Work Units	—
Manufactured Home (single unit)[(b)]	—
Manufactured Home Park	—
Recreational Vehicle	—
Lodging	GI CD
Bed and Breakfast Home	—
Bed and Breakfast Inns	—
Accessory Rental Cottage/Cabins[(c)]	—
Hotels/Motels/Inns	—
Rooming or Boarding House	—
Recreational Vehicle Park	—
Office/Service	GI CD
Animal Services	—
Artist Workshop	—
ATM	—
Banks, Credit Unions, Financial Services	—
Business Support Services	—
Adult/Child Day Care Home (Less than 6)	—
Adult/Child Day Care Center (6 or more)	—
Community Service Organization	—
Drive Thru Service	—
Equipment Rental	—
Funeral Homes	—
Group Care Facility (6 or more residents)	—
Government Services	—
Kennels	—
Medical Services—Clinic, Urgent Care Center	—

Medical Services—Doctor office	—
Post Office	—
Professional Services	—
Personal Services	—
Studio—Art, Dance, Martial Arts, Music	—
Vehicle Services—Major Repair/Body Work	PS
Vehicle Services—Minor Maintenance/Repair[(d)]	PS
Retail/Restaurants	GI CD
Accessory Retail	PS
Alcoholic Beverage Sales Store	—
Auto / Mechanical Parts Sales	P
Bar/Tavern/Night Club	—
Drive-Thru Retail/Restaurants	—
Gas Station	SUP
General Retail	—
Restaurant	—
Shopping Center - Neighborhood Center	—
Shopping Center - Community Center	—
Vehicle/Heavy Equipment Sales - Outdoor	PS
Vehicle/Heavy Equipment Sales - Indoor	PS
Entertainment/Recreation	GI CD
Amusements, Indoor	—
Amusements, Outdoor	—
Cultural or Community Facility	—
Meeting Facilities	—
Recreation Facilities, Indoor	—
Recreation Facilities, Outdoor	—
Theater, Movie	—
Theater, Live Performance	—
Manufacturing/Wholesale/Storage	GI CD
Inert Debris Storage or Disposal Facilities	—

Junkyard	—
Laboratory—Medical, Analytical, Research and Development	P
Laundry, Dry Cleaning Plant	P
Manufacturing, Light	P
Manufacturing, Neighborhood	P
Manufacturing, Heavy	P
Media Production	P
Metal Products Fabrication, Machine or Welding Shop	P
Mini-Warehouses	P
Recycling—Small Collection Facility	—
Research and Development	P
Storage—Outdoor Storage Yard as a Primary Use	P
Storage—Warehouse, Indoor Storage	P
Wholesaling and Distribution	P
Civic/Institutional	GI CD
Campground/Artist Colony/Summer Camp	—
Cemeteries	—
Colleges/Universities	—
Hospital	—
Jail	—
Public Safety Station	—
Religious Institutions	—
Schools—Elementary and Secondary	—
Schools—Vocational/Technical	P
Infrastructure	GI CD
Wireless Telecommunication Facility—Stealth	P
Wireless Telecommunication Facility—Tower	PS
Utilities—Class 1 and 2	P
Utilities—Class 3	—

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

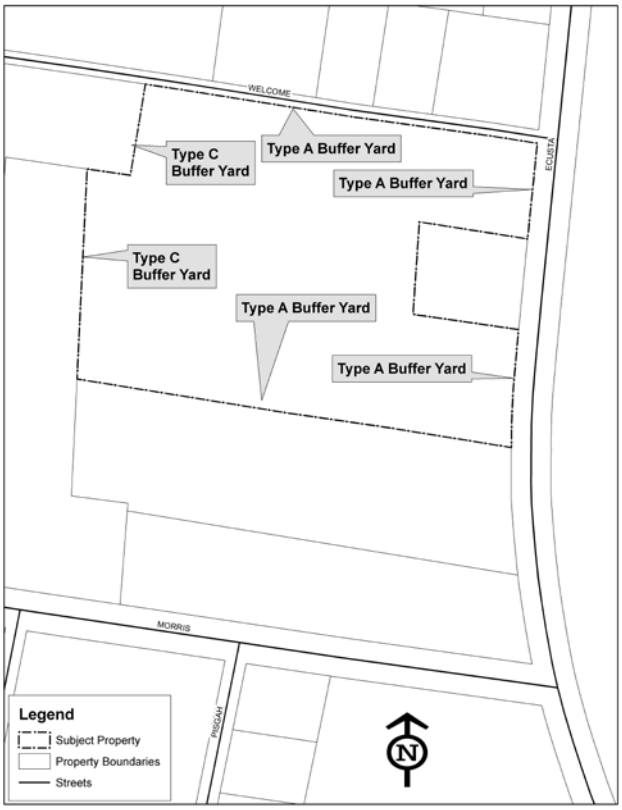
3) Maximum building height: 50 feet.

4) Maximum ground floor area of the principal structure: 100,000 square feet.

5) Building design and architecture standards shall be consistent with industrial design requirements as set forth in Chapter 5 of the Unified Development Ordinance.

6) Environmental protection standards shall be consistent with Chapter 6 of the Unified Development Ordinance.

7) Buffer Yards, which are described in Chapter 8 of the City of Brevard Unified Development Ordinance, shall be provided along each boundary of the Subject Property as illustrated below:



8) Parking standards shall be consistent with Chapter 10 of the Unified Development Ordinance.

9) Exterior lighting shall be restricted to the minimum necessary to provide safe vehicular and pedestrian access to the approved structure.

10) Commercial deliveries shall take place within normal business hours, Monday – Friday.

Section 3. Violations of this Ordinance or other provisions of Brevard City Code may result in the revocation of this conditional rezoning. The Zoning Administrator shall abate violations of this Ordinance or Brevard City Code in accordance with Chapter 18 of the City of Brevard Unified Development Ordinance, and may refer violations to Brevard City Council who may revoke this conditional rezoning upon determination that a violation of this Ordinance or Brevard City Code has occurred.

Section 4. Ordinance shall become effective upon its adoption and approval.

Adopted and Approved this the ____ day of _____, 2016.

_____
Jimmy Harris, Mayor

ATTEST:

_____
Desiree Perry, CMC, NCCMC
City Clerk

APPROVED AS TO FORM:

_____
Michael K. Pratt
City Attorney

CHAPTER 19. - DEFINITIONS

19.1. - Intent.

For the purpose of interpreting this ordinance, certain words, concepts, and ideas are defined herein. Except as defined herein, all other words used in this ordinance shall have their everyday meaning as determined by their dictionary definition.

19.2. - Interpretation.

A. Words used in the present tense include the future tense.
B. Words used in the singular number include the plural, and words used in the plural number include the singular.
C. Any word denoting gender includes the female and the male.
D. The word "person" includes a firm, association, organization, partnership, corporation, trust and company, as well as an individual.
E. The word "lot" includes the word "plot" or "parcel" or "tract."
F. The word "shall" is always mandatory and not merely directory.
G. The word "structure" shall include the word "building."
H. The word "district map," "Brevard Zoning Map," or "official zoning map" shall mean the Official Zoning Map of Brevard, North Carolina.
I. The term "planning director" shall mean the "Planning Director of the City of Brevard, North Carolina" or "designee."
J. The term "administrator" shall mean the Planning Director of the City of Brevard, North Carolina or designee thereof, who is the individual(s) charged with the administration of this ordinance. The administrator may be otherwise referred to as the "zoning administrator," "floodplain administrator," "code enforcement officer," or "subdivision review officer."
K. The term "city council" shall mean the City Council of the City of Brevard, North Carolina.
L. The term "planning and zoning board" shall mean the Planning and Zoning Board of the City of Brevard, North Carolina.
M. The term "planning department" shall mean the Planning Department of the City of Brevard, North Carolina.
N. The terms "ordinance," "Code," "UDO" and "Unified Development Ordinance" shall be synonymous and refer to the "City of Brevard Unified Development Ordinance."

19.3. - Definitions.

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

Abandoned vehicle: See Motor Vehicle.

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

Accessory retail: The on-premises, retail sale of products directly to customers, where the retail use is incidental to a primary use conducted upon the same premises. Examples include but are not limited to the following: a furniture manufacturer who operates a show floor for the display and sales of furniture produced by

the manufacturer; a bicycle manufacturer who operates a floor for the display and sales of bicycles produced by the manufacturer; a brewery or distillery who operates a tasting room for the sampling and sales of beer or spirituous liquors produced within the brewer or distillery.

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

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

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

(a) On the same premises as the business, commodity, service, or entertainment advertised by the sign;

(b) Remote from the business, commodity, service, or entertainment advertised by the sign (see Billboard).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(LBCS F1310)

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

Building: See Structure.

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

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

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

Business support services: Establishments primarily engaged in rendering services to businesses. Examples of services provided include, without limitation, the following: document preparation, telephone answering, telemarketing, mailing (except direct mail advertising), court reporting, and steno typing. These establishments may operate copy centers, which provide photocopying, duplicating, blueprinting, or other copying services besides printing. They may also provide a range of support activities, including mailing services, document copying, facsimiles, word processing, on-site PC rental, and office product sales. *(LBCS 2424)*

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

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

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

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

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

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

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

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

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

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

Concomitant structure: A structure, or a portion of a principal structure, which is subordinate to the principal structure, is situated on the same lot, and is used for purposes that are integral to the use of the principal structure. Examples include gasoline pump canopies associated with service stations, sheds for the storage of

lumber associated with a lumber yard, and other similar structures. Concomitant structures are characterized by their virtual necessity in order to facilitate the permissible use of the principal structure, as opposed to accessory structures, which are clearly incidental.

Condominium structure or *building:*

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

(b) A unit in such a complex, including air lots.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Dwelling—Single-family: A free standing building designed for and/or occupied by one household. These residences may be individually owned as residences or owned by rental or management companies. Single-family dwellings are typically site-built structures that comply with the *North Carolina Residential Code*, current

edition, but also include factory-built, modular home units. (*LBCS F1100 and S1100*)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Flood prone area: See Floodplain.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Group development:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Inherited property:

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

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

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

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

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

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

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

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

Junked motor vehicle: See "Motor Vehicle."

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

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

Laundry, dry cleaning plant: A service establishment engaged primarily in high volume laundry and garment services, including, without limitation, carpet and upholstery cleaners, diaper services, dry-cleaning and garment pressing, commercial laundries and linen supply. These facilities may include customer pick-up but do not include coin-operated laundries or dry cleaning pick-up stores without dry cleaning equipment.

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

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

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

Lot width: The distance between side lot lines.

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

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

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

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

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

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

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

Manufacturing, heavy: A nonresidential use that requires an NPDES permit for an industrial or stormwater discharge or involves the use or storage of any hazardous materials or substances or that is used for the purpose of manufacturing, assembling, finishing, cleaning or developing any product or commodity. Typically the largest

facilities in a community which have complex operations, some of which may be continuous (24 hours a day/seven days per week). (*LBCS S2620*)

Manufacturing, light: A non-residential use that requires a NPDES permit for an industrial or stormwater discharge or involves the use or storage of any hazardous materials or substances or that is used for the purpose of manufacturing, assembling, finishing, cleaning or developing any product or commodity. Facilities are typically designed to look and generate impacts like a typical office building, but rely on special power, water, or waste disposal systems for operation. Noise, odor, dust, and glare of each operation are completely confined within an enclosed building, insofar as practical. (*LBCS S2613*)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Nuisance vehicle: See "Motor Vehicle."

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

Out-parcel: A parcel within a group development, institutional campus, or planned development district (hereafter, "development") that is separate and distinct from the main portion of the development due to separation by a public street or major topographical feature, such that it cannot reasonably be considered to be part of the same development. A parcel or parcels subject to the same conditions imposed and/or benefits granted by the approving authority of the City of Brevard by means of the same development approval as contiguous parcel or parcels, shall not be considered an out-parcel.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Shopping—Neighborhood center: A form of non-residential or mixed use development which typically serves immediate neighborhoods (a three-mile primary trade area radius) with convenience shopping and which is often anchored by a supermarket or drugstore. Neighborhood centers shall have a maximum combined ground floor area of less than 100,000 square feet.

Shopping center—Community center: A shopping center serving a wider market with a wider range of goods than a neighborhood center, and serving a primary trade area radius of three or more miles. Community shopping centers may have a combined ground floor area equal to or exceeding 100,000 square feet. Anchors

include supermarkets, super drug stores, and discount department stores. Some centers may also contain off-price retail stores selling toys, electronics, sporting goods, and home improvements and furnishings. Community centers shall be considered as a planned development.

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

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

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

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

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

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

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

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

the erection of temporary forms; the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement (as distinguished from new construction), the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

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

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

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

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

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

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

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

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

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

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

1.

All divisions of land involving the dedication of a new streets, infrastructure or easements, or a change in existing streets, infrastructure or easements;

2. The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the city as shown in the subdivision regulations;
3. The division of land into parcels greater than ten acres where no new street right-of-way dedication is involved;
4. The public acquisition by purchase of strips of land for the widening and opening of streets and pedestrian ways; and
5. The establishment of condominium buildings or lots, or the creation of condominium spaces within existing buildings or parcels.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Public Participation

Special Presentation(s)

Transylvania County

2015 Tax Collectors Settlement Report

July 7, 2016

TRANSYLVANIA
COUNTY
NORTH CAROLINA

Shasta Moretz
Interim Tax Administrator

STAFF REPORT
City Council, August 15, 2016

Title: **Planning Department Quarterly Update**
This report provides an update on Planning Department activities for the period April 1, 2016 – June 30, 2016. No action is necessary.

From: Daniel Cobb, AICP, Planning Director
Prepared By: Daniel Cobb, AICP, Planning Director
Approved By: Jim Fatland, CPFO, City Manager

Background
This report summarizes the Planning Department's permitting and code enforcement activities for the period April 1 – June 30, 2016. This report does not include long-term planning projects such as the land development code project (form-based codes). Such projects are updated individually as they progress.

A detailed breakdown of permitting activities is shown below.

Change of Use	2
Floodplain Development	1
Signs	39
Special Events	3
Special Use Permit / Variance	0/0
Temporary Use	1
Consistency Determination	0
Commercial Development	5
Residential Development	34
Subdivision/Recombination	2/6

Total Permits Issued (Apr.-Jun.): 93

Total Issued for Fiscal Year (Jul.-Jun.): 420

Total Permit Fees for Fiscal Year (Apr.-Jun): $12,845

Total Permit Fees Collected for Fiscal Year (Jul.-Jun.): $37,007

- Average review times for sign permits was five days
- Average review times for residential zoning permits was same day
- Average review times for commercial zoning permits was two days
- Average review times for change of use permits was seven days

The permit breakdown above equates to $4,801,723 worth of investment for the reporting period. This brings the total investment in the City for FY15-16 to $29,328,240.

In addition to standard residential and commercial additions, there are a number of noteworthy development projects underway at the moment, including:

- Brevard Place Phase II – grading is nearly complete
- Oskar Blues – brewery expansion under construction
- Ecusta Brewing – recently completed brewery on East Main and Pisgah Forest
- Gillespie Cottages – three new homes next to Moore Funeral home
- Magpie, Meat & Three – recently completed at the Brevard Lumberyard
- Squatch Bikes & Brews – recently completed at the Brevard Lumberyard
- Transylvania County Board of Elections – remodel of former jail on Gaston Street
- First Baptist Church – addition of welcome center and sanctuary remodel
- 43 South Broad – new three-story mixed-use building on South Broad
- Brevard College Dorm – construction of a new dorm near Kings Creek
- Brevard College Turf – replacement of soccer field with artificial turf
- Brookside Subdivision – 14-unit subdivision on Neely Road, first three homes are under construction
- Triangle Stop – fill recently completed in preparation of site redevelopment
- Verizon Wireless – new store under review next to Ingles gas station

Code Enforcement

There have been a total of 49 complaints received, 38 have been abated. A dilapidated home on North Lane was demolished in June. This represents the second demolition this year. Staff is working with several property owners on the repair or demolition of several other dilapidated residential structures as well as one commercial.

Additional Information

1) On June 20, 2016 Staff presented an annexation request from Brevard Academy. Included in this information was a calculation regarding additional future satellite annexations and its relation to the city's land area. Due to Brevard's size and state law, the City is only able to satellite annex land equal to 10% of the main corporate limits. Staff calculated that the addition of Brevard Academy would have raised this total to 6.84%. However, while researching the City's annexations, Staff discovered that the state approved an exemption for the Brevard Music Center properties, removing them from this calculation, on May 22, 2001 (Session Law 2001-105). This was done at the request of the City via Resolution 12-01, approved by Council on February 19, 2001. The actual total area of satellite annexations (including Brevard Academy) is 1.9%. This leaves ample room for additional annexations in the future.

2) Staff recently attended the annual North Carolina Association of Zoning Officials (NCAZO) in Asheville, NC. This conference is a great opportunity to discuss current zoning issues and network with other professionals. Later this month Staff will be attending a training on the National Flood Insurance Program (NFIP). As a participating community in the NFIP and Community Rating System (CRS), it is important Staff stay up to speed with current laws and regulations.

Staff Recommendation

Report submitted for informational purpose only, no action necessary.

Fiscal Impact

N/A.

Shasta Moretz, Interim Tax Administrator
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TRANSYLVANIA COUNTY
NORTH CAROLINA

Transylvania County Tax Administration
20 E Morgan St Ste 1
Brevard, NC 28712

Memorandum

To: Jimmy Harris, Mayor
Brevard City Council

From: Shasta Moretz, Interim Tax Administrator

Date: July 7, 2016

Subject: **2015 Tax Collection Settlement Report**

In compliance with NC General Statute 105-373, I am presenting for your approval, my sworn accounting and settlement of all taxes charged to Tax Collector by the Transylvania County Board of Commissioners to collect on July 13, 2015.

Shasta Moretz
Shasta Moretz, Interim Tax Administrator

Sworn to and subscribed before me, this 7th day of July, 2016.

Debra W. Walker
Debra W. Walker, Notary Public

My Commission expires: January 13, 2018

DEBRA W. WALKER NOTARY PUBLIC TRANSYLVANIA COUNTY, NC

2015 Collection Rates
All Districts
Thru June 30, 2016

District	Collection Rate
County	99.87%
City of Brevard	99.92%
Town of Rosman	99.82%
Heart of Brevard	99.77%
Brevard Fire - FR02	99.85%
Rosman Fire - FR03	99.76%
Little River Fire - FR04	99.75%
Connestee Fire - FR05	99.88%
Cedar Mountain Fire - FR06	99.92%
Lake Toxaway Fire - FR07	99.90%
Balsam Grove Fire - FR08	99.86%
North Transylvania Fire - FR09	99.85%

Transylvania County Collection Totals
as of 06/30/2016

Year	Original Levy	Penalities	Discoveries	Releases	Total Levy	Total Collected	Uncollected	% Rate
2015	$ 25,641,264.39	$ 10,585.13	$ 668,992.65	$ 7,901.98	$ 26,312,940.19	$ 26,278,111.86	$ 34,828.33	99.87%
2014	$ 33,018.99	$ 60.44	$ -	$ 1.84	$ 33,077.59	$ 14,940.54	$ 18,137.05	45.17%
2013	$ 23,658.35	$ 101.79	$ -	$ 0.55	$ 23,759.59	$ 5,839.47	$ 17,920.12	24.58%
2012	$ 21,951.45	$ 34.92	$ -	$ 0.72	$ 21,985.65	$ 6,624.31	$ 15,361.34	30.13%
2011	$ 14,588.61	$ 100.23	$ -	$ -	$ 14,688.84	$ 3,884.88	$ 10,803.96	26.45%
2010	$ 14,476.37	$ 110.40	$ -	$ 1.62	$ 14,585.15	$ 1,191.08	$ 13,394.07	8.17%
2009	$ 7,033.21	$ 43.33	$ -	$ 0.17	$ 7,076.37	$ 390.52	$ 6,685.85	5.52%
2008	$ 8,918.86	$ 32.87	$ -	$ 0.52	$ 8,951.21	$ 333.41	$ 8,617.80	3.72%
2007	$ 9,005.67	$ 19.47	$ -	$ -	$ 9,025.14	$ 466.21	$ 8,558.93	5.17%
2006	$ 11,221.35	$ 185.41	$ -	$ 1.63	$ 11,405.13	$ 546.44	$ 10,858.69	4.79%
*2005-Prior	$ 558,938.78	$ 27,346.24	$ -	$ 240.00	$ 586,045.02	$ 1,025.21	$ 585,019.81	0.17%

*These taxes are no longer forcibly collectable.

Monies Collected Other than Taxes			
	Advertising Fee	Interest	*Misc Fees
2015	$ 836.58	$ 54,886.69	$ 2,295.56
2014	$ 283.26	$ 1,399.85	$ 687.52
2013	$ 85.42	$ 1,275.66	$ 330.00
2012	$ 36.27	$ 1,542.14	$ 253.01
2011	$ 51.81	$ 1,436.11	$ 150.00
2010	$ 9.56	$ 507.19	$ 97.94
2009	$ 2.00	$ 227.23	$ 136.72
2008	$ -	$ 583.52	$ 230.74
2007	$ 7.45	$ 388.82	$ -
2006	$ 5.00	$ 257.74	$ 36.24
2005 & Prior	$ 3.70	$ 928.59	$ 7.76
Total	$ 1,321.05	$ 63,433.54	$ 4,225.49

*Misc Fees include Garnishment Fees and NSF Fees.

City of Brevard Collection Totals
as of 06/30/2016

Year	Original Levy	Penalities	Discoveries	Releases	Total Levy	Total Collected	Uncollected	% Rate
2015	$ 4,318,155.25	$ 5,298.75	$ 80,354.08	$ 1,034.46	$ 4,402,773.62	$ 4,399,453.57	$ 3,320.05	99.92%
2014	$ 4,838.09	$ 14.80	$ -	$ 0.34	$ 4,852.55	$ 1,983.12	$ 2,869.43	40.87%
2013	$ 4,786.23	$ 92.08	$ -	$ 0.32	$ 4,877.99	$ 428.91	$ 4,449.08	8.79%
2012	$ 7,288.75	$ 4.05	$ -	$ 0.41	$ 7,292.39	$ 3,192.27	$ 4,100.12	43.78%
2011	$ 1,508.03	$ 38.57	$ -	$ -	$ 1,546.60	$ 20.63	$ 1,525.97	1.33%
2010	$ 2,710.07	$ 17.98	$ -	$ -	$ 2,728.05	$ -	$ 2,728.05	0.00%
2009	$ 1,152.78	$ 4.71	$ -	$ -	$ 1,157.49	$ 10.58	$ 1,146.91	0.91%
2008	$ 1,573.03	$ 5.91	$ -	$ 0.29	$ 1,578.65	$ 94.78	$ 1,483.87	6.00%
2007	$ 2,179.88	$ 6.54	$ -	$ -	$ 2,186.42	$ 18.16	$ 2,168.26	0.83%
2006	$ 1,952.19	$ 9.14	$ -	$ 0.36	$ 1,960.97	$ 66.24	$ 1,894.73	3.38%
*2005-Prior	$ 85,258.53	$ 4,272.30	$ -	$ -	$ 89,530.83	$ 190.82	$ 89,340.01	0.21%

*These taxes are no longer forcibly collectable.

Monies Collected Other than Taxes			
	Advertising Fee	Interest	Misc Fees
2015	$ -	$ 9,576.20	$ -
2014	$ -	$ 101.15	$ -
2013	$ -	$ 45.87	$ -
2012	$ -	$ 444.88	$ -
2011	$ -	$ 1.26	$ -
2010	$ -	$ -	$ -
2009	$ -	$ 2.59	$ -
2008	$ -	$ 69.91	$ -
2007	$ -	$ 13.69	$ -
2006	$ -	$ 36.56	$ -
2005 & Prior	$ -	$ 153.03	$ -
Total	$ -	$ 10,445.14	$ -

Brevard Fire Collection Totals
as of 06/30/2016

Year	Original Levy	Penalities	Discoveries	Releases	Total Levy	Total Collected	Uncollected	% Rate
2015	$ 353,721.19	$ 97.23	$ 11,024.94	$ 233.13	$ 364,610.23	$ 364,045.92	$ 564.31	99.85%
2014	$ 538.22	$ 0.67	$ -	$ -	$ 538.89	$ 250.54	$ 288.35	46.49%
2013	$ 360.83	$ 0.37	$ -	$ 0.03	$ 361.17	$ 175.20	$ 185.97	48.51%
2012	$ 323.76	$ 0.26	$ -	$ 0.03	$ 323.99	$ 164.22	$ 159.77	50.69%
2011	$ 260.85	$ 0.42	$ -	$ -	$ 261.27	$ 139.18	$ 122.09	53.27%
2010	$ 174.33	$ 1.22	$ -	$ 0.12	$ 175.43	$ 8.78	$ 166.65	5.00%
2009	$ 121.85	$ 0.03	$ -	$ 0.02	$ 121.86	$ 4.45	$ 117.41	3.65%
2008	$ 153.03	$ 0.04	$ -	$ -	$ 153.07	$ 3.35	$ 149.72	2.19%
2007	$ 128.15	$ 0.04	$ -	$ -	$ 128.19	$ 21.64	$ 106.55	16.88%
2006	$ 115.04	$ 2.35	$ -	$ -	$ 117.39	$ 18.48	$ 98.91	15.74%
*2005-Prior	$ 5,841.70	$ 321.62	$ -	$ -	$ 6,163.32	$ 11.23	$ 6,152.09	0.18%

*These taxes are no longer forcibly collectable.

Monies Collected Other than Taxes			
	Advertising Fee	Interest	Misc Fees
2015	$ -	$ 766.04	$ -
2014	$ -	$ 34.35	$ -
2013	$ -	$ 39.73	$ -
2012	$ -	$ 54.42	$ -
2011	$ -	$ 61.93	$ -
2010	$ -	$ 4.77	$ -
2009	$ -	$ 2.91	$ -
2008	$ -	$ 16.91	$ -
2007	$ -	$ 16.39	$ -
2006	$ -	$ 4.36	$ -
2005 & Prior	$ -	$ 1.50	$ -
Total	$ -	$ 1,003.31	$ -

Consent and Information

STAFF REPORT
City Council, August 15, 2016

Title: **Planning Department Quarterly Update**
This report provides an update on Planning Department activities for the period April 1, 2016 – June 30, 2016. No action is necessary.

From: Daniel Cobb, AICP, Planning Director
Prepared By: Daniel Cobb, AICP, Planning Director
Approved By: Jim Fatland, CPFO, City Manager

Background
This report summarizes the Planning Department's permitting and code enforcement activities for the period April 1 – June 30, 2016. This report does not include long-term planning projects such as the land development code project (form-based codes). Such projects are updated individually as they progress.

A detailed breakdown of permitting activities is shown below.

Change of Use	2
Floodplain Development	1
Signs	39
Special Events	3
Special Use Permit / Variance	0/0
Temporary Use	1
Consistency Determination	0
Commercial Development	5
Residential Development	34
Subdivision/Recombination	2/6

Total Permits Issued (Apr.-Jun.): 93

Total Issued for Fiscal Year (Jul.-Jun.): 420

Total Permit Fees for Fiscal Year (Apr.-Jun): $12,845

Total Permit Fees Collected for Fiscal Year (Jul.-Jun.): $37,007

- Average review times for sign permits was five days
- Average review times for residential zoning permits was same day
- Average review times for commercial zoning permits was two days
- Average review times for change of use permits was seven days

The permit breakdown above equates to $4,801,723 worth of investment for the reporting period. This brings the total investment in the City for FY15-16 to $29,328,240.

In addition to standard residential and commercial additions, there are a number of noteworthy development projects underway at the moment, including:

- Brevard Place Phase II – grading is nearly complete
- Oskar Blues – brewery expansion under construction
- Ecusta Brewing – recently completed brewery on East Main and Pisgah Forest
- Gillespie Cottages – three new homes next to Moore Funeral home
- Magpie, Meat & Three – recently completed at the Brevard Lumberyard
- Squatch Bikes & Brews – recently completed at the Brevard Lumberyard
- Transylvania County Board of Elections – remodel of former jail on Gaston Street
- First Baptist Church – addition of welcome center and sanctuary remodel
- 43 South Broad – new three-story mixed-use building on South Broad
- Brevard College Dorm – construction of a new dorm near Kings Creek
- Brevard College Turf – replacement of soccer field with artificial turf
- Brookside Subdivision – 14-unit subdivision on Neely Road, first three homes are under construction
- Triangle Stop – fill recently completed in preparation of site redevelopment
- Verizon Wireless – new store under review next to Ingles gas station

Code Enforcement

There have been a total of 49 complaints received, 38 have been abated. A dilapidated home on North Lane was demolished in June. This represents the second demolition this year. Staff is working with several property owners on the repair or demolition of several other dilapidated residential structures as well as one commercial.

Additional Information

1) On June 20, 2016 Staff presented an annexation request from Brevard Academy. Included in this information was a calculation regarding additional future satellite annexations and its relation to the city's land area. Due to Brevard's size and state law, the City is only able to satellite annex land equal to 10% of the main corporate limits. Staff calculated that the addition of Brevard Academy would have raised this total to 6.84%. However, while researching the City's annexations, Staff discovered that the state approved an exemption for the Brevard Music Center properties, removing them from this calculation, on May 22, 2001 (Session Law 2001-105). This was done at the request of the City via Resolution 12-01, approved by Council on February 19, 2001. The actual total area of satellite annexations (including Brevard Academy) is 1.9%. This leaves ample room for additional annexations in the future.

2) Staff recently attended the annual North Carolina Association of Zoning Officials (NCAZO) in Asheville, NC. This conference is a great opportunity to discuss current zoning issues and network with other professionals. Later this month Staff will be attending a training on the National Flood Insurance Program (NFIP). As a participating community in the NFIP and Community Rating System (CRS), it is important Staff stay up to speed with current laws and regulations.

Staff Recommendation

Report submitted for informational purpose only, no action necessary.

Fiscal Impact

N/A.

The City of Brevard North Carolina

Public Works Department
Staff Report
May, 2016

TO: **Mayor Harris and City Council Members**

FROM: **Public Works Department**

APPROVED: **Jim Fatland, City Manager**

Projects, services provided, and community assistance included a variety of work performed by the department during the month of May; and reflects departmental implementation of the City's vision as a "safe, friendly, family oriented city with small town charm, outdoor recreation, arts, and culture that bring investment opportunities, environmental consciousness and economic diversity."

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 / historical assets of music, arts, and outdoor recreation.

1. **We foster economic development by protecting our natural assets of woods and water that uniquely define Brevard.**

    - **Continued Sewer Collections System inflow and infiltration elimination work included the following locations during May:**
        - **System monitoring and inspection during December heavy rains revealed sites for inflow and infiltration repair. The following sites were remediated in May:**

- **Replaced a 20' section of 4" sewer service line on Pine Street to correct an inflow site developed due to deteriorated pipe.**
- **An inflow site was discovered during an inspection of manhole #SB-052 on Pine Street. Tree roots were cut and removed, and the damaged site was sealed with concrete.**
- **Replaced a missing sewer cleanout cap on S. Caldwell Street.**

E. Danbury Lane inflow site.

Missing sewer cleanout cap on S. Caldwell Street

4" Sewer service line replaced on Pine Street.

2. **We foster economic development by ensuring our infrastructure is constantly maintained and replaced to serve existing and future business.**
   - **Street infrastructure improvements during May included:**
     - **Vacuumed out a storm drain box at the intersection of Jordan Street and S. Caldwell Street to improve storm water flow.**
     - **Removed debris from W. Main Street reference a vehicle accident.**
     - **Cleaned a section of Homestead Trace reference a garbage truck spill.**

- **Pedestrian bike and hike pathways were assigned to the Public Works Department for maintenance and upkeep during May. With this assignment extensive work began on repairing neglected areas of concern and other routine upkeep issues were addressed:**
    - **Allison Road - Cut and removed limbs and brush from section of pathway.**
    - **Asheville Highway - Removed a fallen tree from pathway near State Employee's Credit Union. Installed a concrete base and a bollard on a section of bike path along the Asheville Highway and in front of St. Timothy's Methodist Church. Cleaned section of pathway between Pisgah Heights and Hospital Drive; removed brush and sprayed weed killer along curb line.**
    - **Hospital Drive - Replaced broken cap blocks on a wall section along the bike path.**
    - **Cherry Street - Removed fallen trees and stumps from the edge of the pathway.**

Block wall repair along Hospital Drive section of pathway.

Tree stump removal along pathway.

- Ecusta Road - Trimmed 50’ of hedge along a section of bike path; replaced nine (9) sections of split rail fencing on a section near Lowe’s Home Improvement Store.
- McLean Road - Cut and removed brush along the bike path between McLean Road and Fisher Road near Brevard Rescue Squad.
- Poplar Street - Replaced sections totaling 708’ of handrail along the bridge near McDonalds and CVS Pharmacy. Also, replaced 876’ of bridge decking boards and sections of split rail fence.

- Replaced a 72’ section of sidewalk including handicap ramp with safety matting at the intersection of St. Phillips Lane and East Main Street.
- Replaced a section of brick in the utility strip along N. Broad Street in front of Dugan’s Pub. The area was disturbed during a recent utility pole replacement.

Sidewalk replacement at intersection of E. Main Street and St. Phillips Lane.

N. Broad Street brick utility strip replacement.

St. Phillips Lane safety matting.

- **Cut grass along utility strips and street edges.**
- **Used the flail mower to trim a bank on Carver Street.**
- **Painted parking spaces in the downtown area.**
- **Removed a broken tree limb from a tree along S. Broad Street in front of First Citizens Bank.**
- **Cut and removed a fallen tree limb on Laurel Lane.**
- **Removed litter from the edge of the Asheville Highway requested by a State Highway Patrolman.**
- **Inspected an area of standing water at a drain on Pisgah Highway. The drain had been damaged by PSNC Gas during a 2" gas line installation. The gas company was contacted and stated they would repair the drain as soon as possible.**
- **Utility cuts and potholes were patched or leveled on Hilt Street, McLean Road, Morris Road, N. Johnson Street, N. Rice Street, and W. Holden Road.**
- **An additional utility cut was patched on the Gallimore Road bike path where a previous utility excavation was made.**

Gallimore Road utility patch.

Asphalt patch around manhole #LO-140A

- **Patched an area around manhole #LO-140A in the parking lot of Sage Brush Steak House.**

- **Sign maintenance included:**
    - **Straightened 2 *speed limit* signs and a post on Oaklawn Avenue, and W. French Broad Street.**
    - **Straightened 1 *stop* sign at the intersection of Maple Street and Miner Street.**
    - **Replaced 2 fallen *no outlet* signs on Deerlake Road and Oak Park Drive.**
    - **Cleaned *street name* signs at the intersection of Ridgetop Circle and Cottage Lane.**

- **The Sanitation Division collected garbage, commercial recycling, brush and bagged yard waste during May.**
    - **Three (3) commercial businesses requested containers and began participating in the recycle program. Carts or bins were provided for:**
        - **Harris Architects—Unit 2 *(1 Cart)***
        - **Magpie Meat & 3 Restaurant *(3 Carts)***
        - **Wireless Fix *(1 Cart)***
    - **Obtained monthly mulch pile temperatures for three (3) consecutive days.**

<u>May Sanitation Activities</u>

- **13 Special trash pickups**
- **5 Small electronic items collected**
- **1 Large televisions collected**
- **13 Residential recycle carts delivered**
- **3 Residential recycle bins delivered**
- **5 Commercial recycle carts delivered**

- **Collections System infrastructure maintenance consisted of the following noted items during May:**
    - **Video inspection of sewer mains and service lines were performed on a total of 1,070' to determine condition, verify location or depth, or in search of suspected inflow and infiltration sites.**
    - **Cleaned 332' of 10" sewer main between manholes #EB-043 and #EB-044 along Outland Avenue.**
    - **Cleaned 100' of 4" service line on Elm Bend Road.**
    - **System personnel responded to five (5) reported sewer line blockages during the month; two (2) of which were actual blockages and were cleared on N. Laurel Lane and Outland Avenue.**
    - **Removed a post and hauled excess dirt from the shooting range area of the Waste Treatment Plant to the Operations Center yard. This work is in preparation of the Neely Road Lift Station and Equalization Tank Project.**
    - **Sewer lift station maintenance included:**
        - **Monthly inspection of facility buildings and safety equipment.**
        - **Inspected and photographed all lift station emergency contact signage for condition and replacement.**
        - **Documented monthly Collections System spare part inventory.**
        - **Replaced the gate lock at the Allison Creek Lift Station.**
        - **Cut grass and sprayed weed killer at each lift station facility.**
        - **Cleaned the Bedford Place lift station wet well.**
        - **Located water valves on the Neely Road lift station side of the Neely Road bridge.**

Allison Creek Lift Station gate lock.

- **Wharton-Smith Inc. representatives were escorted through the Neely Road lift station reference a pre-construction site visit.**
- **Hydro-excavated a sewer line on New Hendersonville Highway for Dillard Excavating reference a proposed new sewer line installation.**
- **Installed a sewer service cleanout at a W. Main Street business.**

- **Relocated 2 sewer service connections for lots on Camptown Road. This work included a total of 40' of 4" sewer service line installed.**

Camptown Road sewer service line relocation.

Sewer service lines capped and ready for plumber to connect.

- **Visually inspected high priority sewer main right-of-ways at Brushy Creek, Kings Creek, Singing Branch, Railroad Avenue and Hospital Drive. These semi-annual inspections are a requirement for the Collections System permit through NC DENR Division of Water Quality.**
    - **Work included clearing fallen trees or limbs.**
    - **Mowing or bush hogging right-of-ways.**
- **Inspected 781' of utility right-of-way for an 8" sewer main between manholes #LO-200 and #LO-207 near Holcombe Road. A fallen tree was discovered and personnel cut and removed the tree to clear the right-of-way.**

Fallen tree on utility right-of-way.

- **The Water Distribution maintenance and repair of the water system infrastructure included the following items in May:**
  - **There were twenty (20) inspections for reported water leaks during May; twelve (12) of which were actual water leaks and were repaired on Ashworth Avenue, Camptown Road, E. French Broad Street, Hampton Road, Loeb Drive, Montview Circle, N. Country Club Road, Nicholson Creek Road, Oakdale Street, Robinson Avenue, W. Probart Street, and White Oak Lane.**
  - **Removed fire hydrants #325 and #25-27 from service on S. Caldwell Street. This work was performed in preparation of the NC D.O.T. street widening project.**
  - **Repaired fire hydrant #35-03 on Palmer Street. Replaced a torn gasket between the upper and lower barrel of hydrant.**
  - **Inspected fire hydrant #15-09 on Maple Street and found issue with operating nut when the hydrant is cut on. This hydrant is recommended for replacement and will be scheduled as time permits.**
  - **Inspected fire hydrant #15-03 on S. Broad Street and found operating properly.**

S. Caldwell Street fire hydrant removal for NC D.O.T. street widening project.

  - **Replaced a missing steamer gasket on fire hydrant #20-06 on Loeb Drive.**
  - **Replaced a gasket in fire hydrant #40-04. This hydrant is scheduled for total replacement.**

- **Inspected a hydrant valve behind Bi-lo.**
- **Flushed and chlorinated 955' of new 6" water main pipe at Alumni Drive. This pipe line will serve a new dormitory on the Brevard College campus.**
- **Performed a flow test on fire hydrants #01-11 and #01-12 in the S. Broad Street area for American Fire Protection.**
- **Located a 14" water main across a West Lane Street vacant lot.**
- **Water tank and pump station facility maintenance included:**
    - **Inspected all water tank & pump station facilities for emergency contact signage.**
    - **Pressure washed the exterior of the old reservoir tank.**

Pressure washing old water reservoir.

    - **Cleaned pump house at the main reservoir facility.**
    - **Cut grass and trimmed weeds at facilities.**
    - **Repaired a dead bolt lock on door at Straus Park Pump House #2.**
    - **Escorted technicians from Utility Service Company, Inc. to perform annual inspection of water tanks.**
- **Excavated and removed two (2) abandoned 3/4" service lines on Country Club Road. The lines no longer served any structures and were removed form active service.**

- **Meter and meter box maintenance included:**
    - **Replaced and raised a 2" water meter box on the Asheville Highway.**
    - **Raised 2 water meter boxes on Outland Avenue and another on Fortune Lane.**
    - **Inspected a meter box lid on S. Gaston Street that was open. The lid was secured in place level with sidewalk.**
    - **Cut roots growing around a water meter box on White Oak Lane.**
    - **Met contractor at Brevard College reference service line connections to new meters on Alumni Drive.**
    - **Backflow preventers were installed or replaced at residential locations on Idlewood Street and Old Highway 64.**
    - **A meter valve was inspected on Old Highway 64 and found working properly.**
    - **Lowered a water meter setting and replaced an angle check valve at two (2) residences on Hilt Street and Nicholson Creek Road.**
    - **Replaced 1 - 3/4" water meter box lid on Oakdale Street and modified a box lid on S. Gaston Street.**

3. We encourage investment when we appear well-run and well planned.

- **NC DENR representatives inspected the Collections System on May 9, 2016. Record keeping, maintenance documents, capital projects and facilities were inspected with favorable results. The annual inspection ensures the system is operating within the Division of Water Quality rules and guidelines.**
- **NCDENR representatives inspected the yard waste storage area at the Public Works Facility on May 10, 2016. A site visit and documents recording mulch pile temperatures were reviewed by a Division of Waste Management inspector.**
- **Public Works Facility and Operations Center maintenance included the following items during May:**
    - **Cleaned and organized supplies stored on the lower yard area.**
    - **Cleaned service trucks and restocked with utility fittings and supplies.**

- **Restocked straw storage trailer for job site restorations.**
- **A required annual inspection was performed on a crane that is mounted on service truck #44.**
- **Removed a fallen tree and cut grass at facility.**
- **Hauled excess dirt from the Operations Center yard to the county landfill for disposal.**
- **Cut grass and sprayed weed killer at each facility. Trimmed ditch line around lower yard area along Cashiers Valley Road.**
- **Performed monthly inspection of garage doors at the garage.**
- **Performed monthly inspection of fuel terminal pumps and fuel tank spill buckets.**

Strategy: Enhance Quality of Life

Encourage and enhance our family friendly and small town charm by bringing people of all ages together through physical connections within our community and to our natural assets of woods and water and personal connections to each other and to our cultural / historic assets of music, arts, and outdoor recreation.

1. **We encourage and enhance our family friendly and small town charm by bringing people together through physical connections within our community.**

   - **Twenty-six (26) utility locates for water and sewer lines in proposed excavation sites or other requirements were marked with flags or marking paint for other utility companies, building contractors or citizens.**
   - **Dyed a Grove Street service line to verify location if more than one home was connected.**
   - **Met with Distribution Construction on S. Caldwell Street to provide depth of water and sewer lines near Colwell Drive.**

Utility Locates

- **Bob Hollingsworth (1)**
- **Cadence Point (1)**
- **Camptown Road (1)**
- **Comporium (9)**
- **Dillard Excavating (4)**
- **Distribution Construction (5)**
- **Khoi Lee (1)**
- **PSNC Gas (2)**
- **Sumter Utilities (2)**

- **Assisted the Police Department with removing an abandoned bicycle from a Maple Street residence.**

- **Unlocked water meter setting and installed a new 1" water meter for Drift Brewing Company on E. Main Street. The tap was installed during previous water infrastructure and building renovations.**

- **Relocated 2 existing 3/4" water taps for structures on the Brevard College campus. This work included 20' of 3/4" water service line, backflow preventers, meter boxes and meters for each location.**

- **The director attended meetings regarding various Public Works issues, a few of which included:**

    - **6" Sewer Upgrade Project Monthly Meeting.**
    - **Annual Sewer Collections System Inspection by NCDENR Division of Water Quality.**
    - **Brevard College Water Line & Tap Information Meeting.**
    - **Brown Consultants reference City Wide 6" Sewer Line Upgrade Project.**
    - **City Council Meeting.**
    - **Duke Energy reference a street light issue on King Street.**
    - **FY 2016-2017 Budget Workshop Meeting.**
    - **John Wayne Hardison reference W. Jordan Street tree removal.**
    - **King Street Sidewalk Meeting.**
    - **Highway 64 Sewer Extension Pre-Construction Conference.**
    - **Personnel Issues Meeting with City Manager & Personnel Director.**
    - **Weekly Staff Meetings.**

2. **We encourage and embrace our family friendly and small town charm by bringing people together through personal connection with each other.**

    - **Provided twelve (12) large recycle carts, an event garbage dumpster and garbage truck for the annual White Squirrel Festival. Personnel were on call and came in during the festival to empty the dumpster and after the festival each evening to provide street cleaning as needed. Republic Services provided a large recycle dumpster for the event as well.**

Nightly street sweeping after festival.

- **American flags were erected prior to Memorial Day along Broad Street and Main Street.**

- **Community events were promoted with street banners erected or removed for the following events held in the city:**

    - **Black Mountain Home - Blooming Plant Sale**
    - **Boy Scout Tropp 701 - 100 Year Celebration**
    - **Brevard Academy - Brevard Academy Auction (2)**
    - **Brevard Davidson River Presbyterian Church - Chicken for Charity**
    - **Heart of Brevard - White Squirrel Festival**
    - **Transylvania County Handcrafter's Guild - Craft Show and Sale**

- **Personnel assisted Transylvania Garden Club members with hanging patriotic bows on the Blue Star Memorial Highway Marker located at the intersection of N. Broad Street and N. Caldwell Street.**

Transylvania Garden Club decorating the Blue Star Memorial Highway Marker on N. Broad Street.

- **Collections personnel video inspected 350' of 24" storm drain in the Morgan Street area in search of a missing dog. No dog was found.**

3. A safe community is one where residents know the city provides reliable and consistent service.

- **Public notices were issued regarding a holiday schedule change for Memorial Day.**

- **Reminders were issued for residential recycling dates.**

- **Employee activities and opportunities during May included:**

    - **TYMCO Street Sweeper Training Class held by Amick Equipment in Mebane, North Carolina. Attendees were:**

        - **Cliff Justus**
        - **Jentsen Rackley**
        - **Mark Walker**
        - **Wesley Shook**

    - **Safety Committee Meeting.**
    - **Post-Accident Review Meetings.**

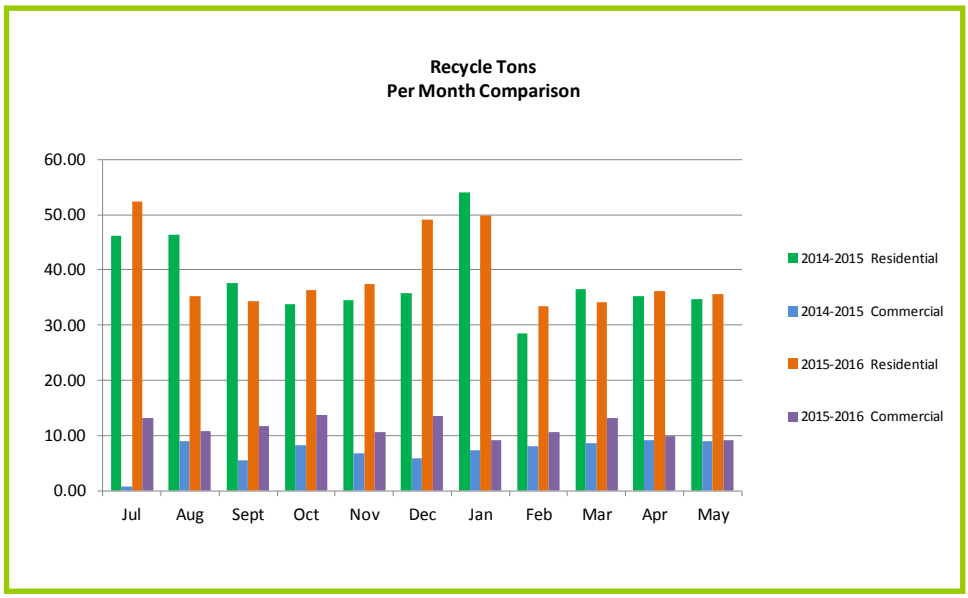
APPENDIX I: May Departmental Statistics

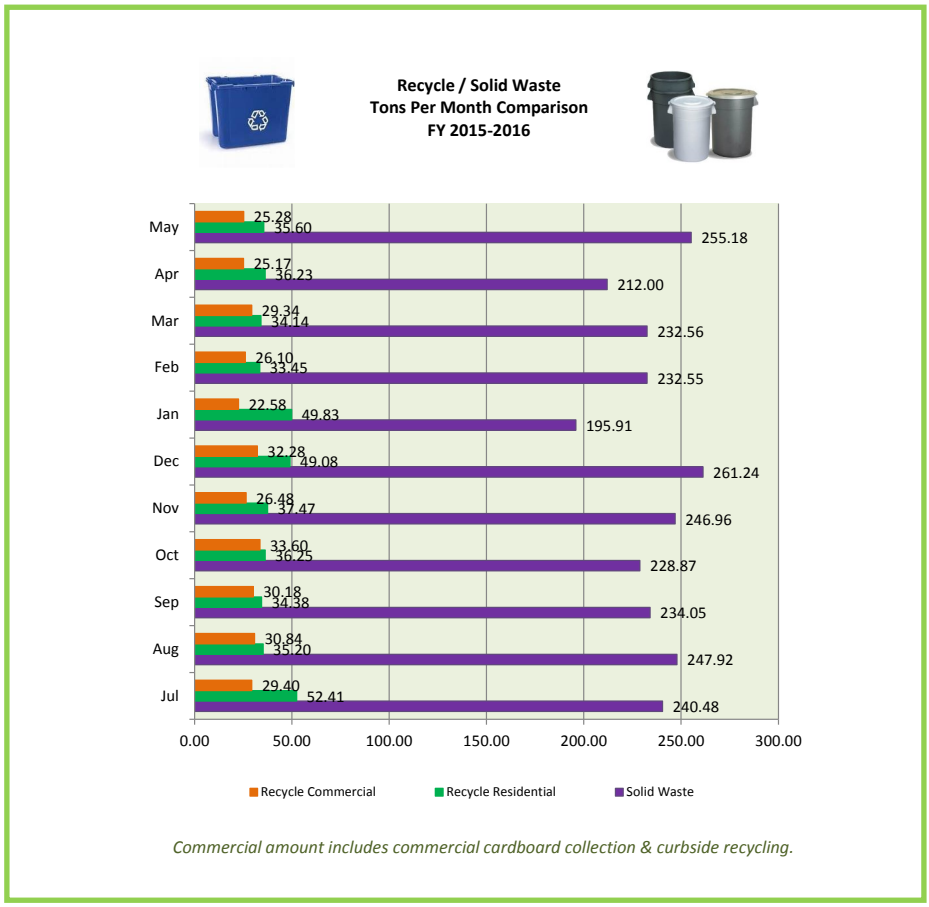
Service statistics are provided as indicators for Public Works performance and budgetary trends.

Item	Previous Month (April)	Current Month (May)	Year To Date (July - May)	Previous FY Year Total 2014-15
Commercial Cardboard	15.35	16.16	185.91	192.21
Electronics	2	5	32.00	69
Recycle Bin Delivery Residential	2	3	28.00	61
Recycle Bin Delivery Commercial	0	0	6.00	29
Recycle Cart Delivery Residential	16	13	153.00	257
Recycle Cart Delivery Commercial	4	5	45.00	157
Commercial Recycling	9.82	9.12	125.34	100.10
Residential Recycling	36.23	35.60	434.04	459.35
Solid Waste Collection	212.00	255.18	2,587.72	2,820.80
Special Collections	13	13	139.00	142
Special Collection - Single Item	7	0	23.00	20
Television - Large ($10)	3	1	44.00	37
Television - Small ($5)	0	0	13.00	6
Barricade / Event Item Delivery	5	4	24.00	21
Street Banners	11	10	75.00	57
Potholes	4	17	99.00	95
Sidewalk Footage (Length)	0.00	72.00	341.00	422.90
Utility Cuts	2	6	74.00	75
Fleet Service - City	118	119	1,446.00	1,498
Fleet Service - County	75	68	760.00	908
I&I Video Inspection (Length)	6,322	1,070	22,753.00	24,107
Sewer Blockages	3	5	50.00	79
Sewer Tap New Commercial	0	0	4.00	4
Sewer Tap New Residential	2	0	9.00	8
Sewer Taps Repaired	1	2	26.00	27
Utility Locates	49	26	263.00	189
Water Leaks	19	20	139.00	175
Water Meter Boxes	26	11	77.00	60
Water Meters New	2	2	15.00	11
Water Meters Other	21	8	129.00	131
Water Tap New Commercial	0	0	12.00	6
Water Tap New Residential	2	0	10.00	10
Water Taps Repaired	0	2	28.00	6

APPENDIX II: May Sanitation Statistics

Sanitation statistics are provided as indicators for solid waste and recycling performance.





Commercial amount includes commercial cardboard collection & curbside recycling.

APPENDIX III: May Sanitation Statistics

Sanitation statistics are provided as indicators for city commercial cardboard collection performance.

- **Revenue includes customer fees collected plus sale of cardboard to American Recycling of Candler, NC.**
- **Expense includes collection of commercial cardboard labor, fuel and vehicle maintenance during the month.**

Revenue	$6,880.21
Expense	$4,485.85
Net Profit or Loss	$2,394.37

APPENDIX IV: May Fuel Use Statistics

Fuel Use Statistics are provided as indicators for vehicle and equipment fleet fuel use by the city and county vehicle fleet.

- **May fuel use increased .2% over the previous month of April in gallons; and increased by 12.3% in expense.**
- **Current Unleaded Fuel Price: $1.683 / last purchase on May 24, 2016**
- **Current Diesel Fuel Price: $1.586 / last purchase on May 24, 2016**

Entity Comparison	Current Month Gallons	Previous Month Gallons	Monthly Gallons Difference	Current Month Expense	Previous Month Expense	Monthly Expense Difference	% of Gallons Difference	% of $ Difference
City Vehicles	5,456.10	5,480.70	-24.60	$8,166.99	$7,342.02	$824.97	**-0.4**	**11.2**
County Vehicles	9,015.50	8,986.30	29.20	$13,657.40	$12,108.77	$1,548.63	**0.3**	**12.8**
Narcotics Task Force	27.60	10.00	17.60	$41.88	$13.22	$28.66	**176.0**	**216.8**
Totals	**14,499.20**	**14,477.00**	**22.20**	**$21,866.27**	**$19,464.01**	**$2,402.26**	**0.2**	**12.3**

The City of Brevard North Carolina

Public Works Department
Staff Report
June, 2016

TO: **Mayor Harris and City Council Members**

FROM: **Public Works Department**

APPROVED: **Jim Fatland, City Manager**

Projects, services provided, and community assistance included a variety of work performed by the department during the month of June; and reflects departmental implementation of the City's vision as a "safe, friendly, family oriented city with small town charm, outdoor recreation, arts, and culture that bring investment opportunities, environmental consciousness and economic diversity."

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 / historical assets of music, arts, and outdoor recreation.

1. **We foster economic development by protecting our natural assets of woods and water that uniquely define Brevard.**
    - **The Neely Road Improvements Project progressed during the month of June with a Notice to Proceed received from the Division of Water Infrastructure on June 20, 2016.**
        - **Low bids received at the March 17th bid opening from Wharton-Smith and Hall Contracting, both from Charlotte, NC, were approved and contract documents were signed.**
        - **Pre-Construction Conferences with both firms were held at the Public Works Department Operations Center on June 9, 2016.**

- **Both contractors are in the process of mobilizing equipment and materials on site.**
- **Monthly construction progress meetings have been scheduled for the 3rd Wednesday of each month beginning in July.**
- **Access to an E-Room website has been provided to the Public Works Director and staff for construction documents.**

Neely Road Project Pre-Construction Conference with CDM Smith & Wharton Smith representatives

- **Continued Sewer Collections System inflow and infiltration elimination work included the following locations during June:**
  - **Corrected an inflow site on Bush Drive that was discovered during a water leak repair. An opening was sealed to prevent storm water inflow into manhole #SB-039.**
  - **Connected an existing 8" sewer line to manhole #BC-084 on N. Country Club Road.**

2. **We foster economic development by ensuring our infrastructure is constantly maintained and replaced to serve existing and future business.**

- **Street infrastructure improvements during the month included:**
  - **Pedestrian bike and hike trails were inspected and maintenance items included:**
    - **Allison Road - Inspected pathway from Lambs Creek Bridge to the Asheville Highway. Patched cracks in asphalt pathway with aquaphalt, cut grass and collected trash along pathway.**
    - **Cherry Street - Cut and removed low hanging tree limbs, fallen trees and overgrown vegetation along section of pathway near Oscar Blues Brewery.**

- **Eastatoe Trail - Spread fertilizer and weed feed on section of grass strip along Ecusta Road.**
- **Gallimore Road - Cut grass and collected trash along pathway.**
- **Poplar Street - Completed replacing 40' section of bridge handrails.**
- **Sports Complex - Removed a hornet's next from beneath a wooden bench along trail and trimmed trees with low hanging limbs over pathway.**

Fallen tree off Cherry Street section of bike path.

- **Removed a fallen tree limb from Tinsley Road.**
- **Ran the street sweeper along curb and gutters.**
- **Seasonal mowing and trimming along street edges and utility strips.**
- **Removed weeds from W. Main Alley and the Times Arcade Alley.**
- **Trimmed low hanging tree limbs along Delphia Drive, Grove Street, Morningside Drive, Park Avenue and Varsity Street.**
- **Removed dead animals from E. French Broad Street and Maple Street.**
- **Cleaned curb and gutter along Stone Drive; removed silt build up and ran the street sweeper.**
- **Repaired a 20' section of wooden fence along a sidewalk section on Highway 276 near Trowbridge Lane.**
- **Removed metal posts from the vacant lot near the intersection of N. Caldwell Street and Probart Street for a contractor working for NC D.O.T.**
- **Cleaned a section of the Times Arcade Alley reference a garbage truck spill.**

- **Replaced a 35' section of unleveled and broken sidewalk on Camptown Road.**
- **Replaced a 6' x 4' concrete drive ramp at a W. Main Street residence that had been excavated during a water leak repair.**
- **Ground a section of concrete sidewalk to eliminate a tripping hazard on S. Broad Street in front of First Citizens Bank.**
- **Trimmed overgrown vegetation along the sidewalk on the Greenville Highway between Park View Drive and East Main Street.**
- **Utility cuts and potholes were patched or leveled on Allison Road, Bush Drive, Carver Street, Cedar Crest Drive, Chestnut Street, Deerlake Road, Duckworth Avenue, Far Hills Terrace, Greenville Highway, Morningside Drive, N. Country Club Road, N. Johnson Street, Summit Avenue, Sunset Drive, Times Arcade Alley, W. French Broad Street and W. Main Street.**
- **Sign maintenance included:**
    - **Straightened *street name* signs at the intersection of Hawthorne Drive and Allison Road.**
    - **Straightened a *speed limit* sign on Hawthorne Drive.**
- **Erected three (3) new *no parking* signs on Oakdale Street between Duckworth Avenue and Hemphill Circle.**
- **Cleaned out a ditch on Curlee Street.**
- **Replaced a 1' section of concrete curb at the intersection of E. Main Street and St. Phillips Lane.**

Camptown Road sidewalk replacement.

Morningside Drive utility cut patching.

Utility cut preparation for asphalt patching on Old Highway 64.

- **Cut a section of Oakdale Street near 4 Rent for a proposed storm drain installation. Installed 100' of 15" double walled storm drain pipe. Connected the pipe to a junction box and sealed with grout.**

- **Resurfaced concrete around a storm drain on Turnpike Road and cleaned out a clogged drain pipe end on Lakeview Avenue.**

- **Inspected a ditch line on Sunset Trace during a recent heavy rain. Storm water was dyed to determine the direction of flow and verify the ditch line was adequate.**

- **Removed gravel washed from an access road during heavy rain from the cul-de-sac on Sunset Trace. Cleaned out a ditch along a section of the road and placed oversized stone and seed matting to correct storm water erosion.**

Oakdale Street storm drain installation.

Sunset Trace erosion repair.

- **The Sanitation Division collected garbage, commercial recycling, brush and bagged yard waste during June.**

  - **Three (3) commercial businesses requested containers and began participating in the recycle program. Carts or bins were provided for:**
    - **Bikram Yoga Brevard**
    - **Cantrell Well Drilling**
    - **Closets Unlimited**

- **Obtained monthly mulch storage pile temperatures; and aerated the pile to reduce temperature.**

June Sanitation Activities

- **27 Special trash pickups**
- **1 Single item special trash pickup**
- **3 Small electronic items collected**
- **9 Large televisions collected**
- **2 Small television collected**
- **24 Residential recycle carts delivered**
- **3 Commercial recycle carts delivered**

- **Collections System infrastructure maintenance consisted of the following noted items during June:**
  - **Video inspection of sewer mains and service lines were performed on a total of 283' to determine condition, verify location or depth, or in search of suspected inflow and infiltration sites.**
  - **System personnel responded to four (4) reported sewer line blockages during the month; two (2) of which were actual blockages and were cleared on Railroad Avenue and W. Main Street.**
  - **Cleaned 676' of 8" sewer mains in the vicinity of:**
    - **N. Country Club Road - between manholes #BC-083 and #BC-084.**
    - **N. Country Club Road - Between manholes #JB-046 and end of line.**
    - **W. Main Street - between manholes #BC-140 and #BC-232.**

- **Sewer lift station maintenance included:**
  - **Monthly inspection of facility buildings and safety equipment.**
  - **Cut weeds and brush from around McCrary trailers stored on property leased beside the Neely Road lift station.**
  - **Escorted a Wharton-Smith contractor through the Neely Road lift station facility.**
- **Removed a fence from the Police Department's shooting range at the Waste Treatment Facility and delivered to the Public Works Facility.**
- **Installed a short piece of 8" PVC pipe on the end of a service line inside manhole #GB-041 on Lingerlong Lane. This pipe extension ensures properly draining sewer into the manhole.**
- **Excavated and located sewer service lines at City Hall in search of a possible blockage on a line serving the Fire Department. Replaced a 3' section of 4" sewer service line and installed 2 new cleanouts.**

Pipe extension inside Manhole #GB-041.

- **Cut and removed sinking asphalt from a Bush Drive manhole. Verified the manhole was intact; compacted stone back around the manhole and patched the utility cut with cold patch.**

- **The Water Distribution maintenance and repair of the water system infrastructure included the following items in June:**
  - **Routine maintenance of water pump stations and water tank facilities included:**
    - **Trimmed weeds at each facility.**
    - **Cleared brush and debris along the Deerlake Water Tank access road.**
    - **New emergency contact signs were erected at each Straus Park pump station and water tank facility.**
  - **Pressure was checked at Edith Way and Fox Cross Drive residences; and at a commercial building on W. Main Street. Water pressure was found adequate at each meter. Faucet screens were cleaned at each location and corrected the customer's problem.**
  - **A pressure check on S. Broad Street revealed the meter had been cut off.**

- A water pressure check was performed at a Resada Drive location. A valve was left partially opened when a new meter was installed. The valve was fully opened to correct the pressure issue.
- There were twenty-one (21) inspections for reported water leaks during June; eleven (11) of which were actual water leaks and were repaired on Asheville Highway (2), Ducks Drive, Hawthorne Drive, Mountain Industrial Park, Pine Mountain Trail, Probart Street, Ridgetop Circle, S. Broad Street, S. Caldwell Street and W. Main Street.
- One of the water leaks was repaired at Franklin Park Pool. A 1' section of 1-1/2" pipe was replaced on the back side of the water meter to correct the leak.
- Inspected steam lines at Brevard College for possible water leaks; no leaks were found.
- Replaced 25' of 3/4" water service line during a leak repair on W. Main Street.

Vac truck used to remove debris from W. Main Street excavation for water leak repair.

Section of pipe removed to repair W. Main Street water leak.

- Meter box maintenance included:
  - Raised five (5) water meter boxes on Alumni Drive at Brevard College, N. Caldwell Street, Short Street and W. Main Street.
  - Replaced missing or faulty lids on boxes on N. Caldwell Street and Hillview Avenue.
  - Cut roots and replaced a damaged meter box on White Oak Lane.
  - Cut and removed roots from a meter box on W. Main Street.
  - Replaced four (4) old round meter boxes with plastic rectangle boxes for new meter installations to accommodate the new Sensus meters.

- **Water Meters were repaired or replaced on Hamilton Drive and West Lane Street.**
- **Replaced a valve box lid on S. Johnson Street.**
- **A faulty backflow preventer was replaced on Hamilton Drive.**
- **Fire hydrant maintenance included the following work:**
    - **N. Broad Street at the Ingles Parking lot - Replaced a torn barrel gasket and hydrant bolts on hydrant #40-20.**
    - **S. Broad Street near E. Morgan Street - inspected hydrant #15-05; this hydrant could not be repaired. Cut asphalt in preparation of this hydrant replacement.**
    - **Flushed a water post hydrant on Cardinal Drive.**
- **Installed a 2" water tap for on Hazel Court for a proposed water main replacement. Comporium assisted with boring 300' of new 2" water line. A blow off was installed on the end of the new line and the line was later flushed and sampled.**
- **Verified a 10" water valve had restraints on main line at New Highway 64 and Cemetery Road.**

3. We encourage investment when we appear well-run and well planned.

- **Public notices were issued regarding residential recycling dates for the month.**
- **Public Works Facility and Operations Center maintenance included the following items during June:**
    - **Hauled 61 scrap tires from the vehicle maintenance garage to the County landfill for disposal.**
    - **Cut grass at both facilities and along Cashiers Valley Road property.**
    - **Updated MSDS books.**
    - **Facility safety inspection was held by Debbie Rogers-Lowery.**
    - **Performed monthly inspection of garage door safety stops.**
    - **Replaced a 4" shell cutter and housing on a tapping machine.**
    - **Utility trucks were cleaned and re-stocked with supplies.**

Strategy: Enhance Quality of Life

Encourage and enhance our family friendly and small town charm by bringing people of all ages together through physical connections within our community and to our natural assets of woods and water and personal connections to each other and to our cultural / historic assets of music, arts, and outdoor recreation.

1. **We encourage and enhance our family friendly and small town charm by bringing people together through physical connections within our community.**

   - **Assistance was provided to Cantrell Construction with a 6" water tap installation for proposed development off N. Country Club Road. Work included:**
     - **Personnel pressure tested and sampled 140' of new 6" and 210' of 2" water lines installed by the contractor.**
     - **Relocating an existing 3/4" water meter and connecting to a new service line.**

N. Country Club Road 6" water tap installation.

   - **Water Distribution personnel installed a 4" water tap for Brevard College that will serve a new dormitory building.**
   - **Installed a new 3/4" residential water tap on Osborne Road. This work included 20' of 3/4" water service line installed.**

- **Assisted Brevard Music Center and Parks & Property personnel with a new park addition to the vacant lot near the intersection of N. Caldwell Street and Probart Street. The assistance included installing four concrete pillars and providing water for new sod and plants installed by Parks & Property. Personnel also provided traffic control at the intersection while students painted piano keys on the crosswalk.**

Assisting BMC students painting Probart Street crosswalk.

Beethoven Park N. Caldwell Street

- **The director attended meetings regarding various Public Works issues, a few of which included:**
    - **6" Sewer Upgrade Project Monthly Meeting.**
    - **Agenda Preview Meeting for City Council Meeting.**
    - **Beverly Walker Meeting reference Palmer Street Sewer Main.**
    - **Brevard College Dormitory Water Line Meeting.**
    - **Brevard Music Center reference proposed park on N. Caldwell Street and street markings at crosswalk on Probart Street.**
    - **Brown Consultants reference City Wide 6" Sewer Line Upgrade Project.**
    - **Brown Consultants reference Sunset Trace storm water drainage.**
    - **City Council Meeting.**
    - **Delphia Drive residence reference tree trimming along street.**
    - **Duke Energy reference construction site cleanup.**
    - **Job Applicant Interviews.**

- **Jordan Street Proposed Parking Lot Meeting.**
- **Kings Creek Phase II Re-Bid Opening Meeting.**
- **Neely Road EQ Tank & Lift Station Pre-Construction Meeting.**
- **Neely Road Force Main Pre-Construction Meeting.**
- **Performance Review Information Meeting.**
- **Pilot Cove Campground reference mandrel removal from utility line.**
- **Weekly Staff Meetings.**

- **Nineteen (19) utility locates for water and sewer lines in proposed excavation sites or other requirements were marked with flags or marking paint for other utility companies, building contractors or citizens.**

Utility Locates

- **Comporium (2)**
- **Dillard Excavating (3)**
- **Duke Energy (1)**
- **Joseph Surrate (1)**
- **PSNC Gas Company (2)**
- **Redwood Street (1)**
- **St. Phillips Church (1)**
- **Sumter Utilities (7)**
- **Wharton-Smith (1)**

2. **We encourage and embrace our family friendly and small town charm by bringing people together through personal connection with each other.**

- **Promoted seasonal events in the community by erecting or removing the following street banners:**
  - **AAUW - Annual Book Sale**
  - **Brevard Academy - Fundraiser Auction**
  - **Brevard Music Center - Music Festival (2)**
  - **Heart of Brevard - 4th of July Festival**
  - **Transylvania County Handcraft Guild - Craft Show and Sale**

- **Streets were swept along event routes for *Looking Glass Tour Race, Rotary Club's 10K & 5K Run,* and on East Main Street prior to the *Old Time Street Dance.***

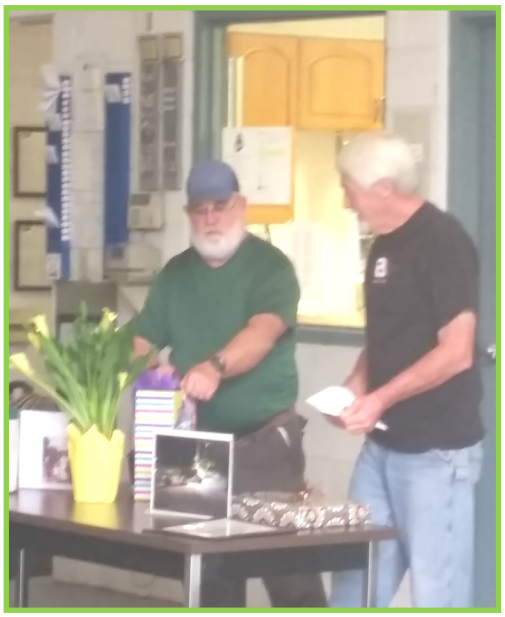
- **Delivered four (4) recycle carts to the Porter Center Amphitheater at Brevard College at the request of the Heart of Brevard in preparation for July 4th activities.**

3. A safe community is one where residents know the city provides reliable and consistent service.

- **Notices were issued regarding sanitation service changes prior to the holiday on July 4, 2016.**

- **Employee activities and opportunities during the month of June included:**

  - **Ryan Maskell obtained his Class B commercial driver's license.**
  - **Employee meeting reference Medical Plan Changes for FY 2016-2017.**
  - **Health Insurance Open Enrollment Meeting.**
  - **Safety Committee Meeting.**
  - **Post-accident Review Meetings.**
  - **Sewer Collections Division Supervisor, Anthony Coward, retired on June 30, 2016. A departmental breakfast held in his honor.**



Retirement gathering on June 29th for Anthony Coward.

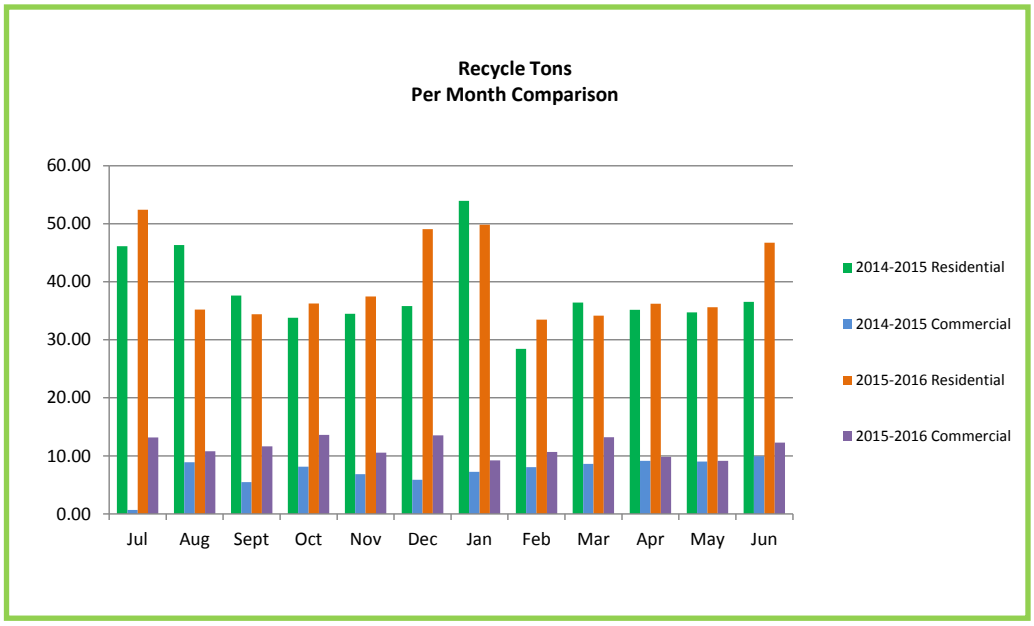
APPENDIX I: June Departmental Statistics

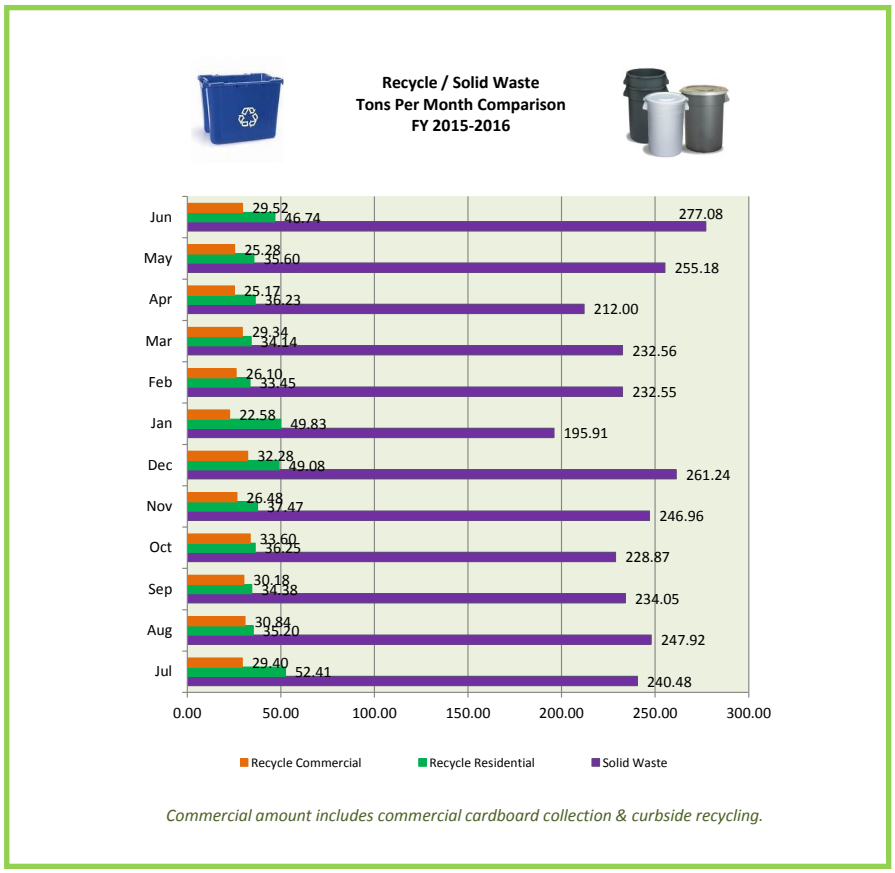
Service statistics are provided as indicators for Public Works performance and budgetary trends.

Item	Previous Month (May)	Current Month (June)	Year To Date (July - June)	Previous FY Year Total 2014-15
Commercial Cardboard	16.16	17.23	203.14	192.21
Electronics	5.00	3.00	35.00	69.00
Recycle Bin Delivery Residential	3.00	3.00	31.00	61.00
Recycle Bin Delivery Commercial	0.00	0.00	6.00	29.00
Recycle Cart Delivery Residential	13.00	24.00	177.00	257.00
Recycle Cart Delivery Commercial	5.00	3.00	48.00	157.00
Commercial Recycling	9.12	12.29	137.63	100.10
Residential Recycling	35.60	46.74	480.78	459.35
Solid Waste Collection	255.18	277.08	2864.80	2820.80
Special Collections	13.00	27.00	166.00	142.00
Special Collection - Single Item	0.00	1.00	24.00	20.00
Television - Large ($10)	1.00	9.00	53.00	37.00
Television - Small ($5)	0.00	2.00	15.00	6.00
Barricade / Event Item Delivery	4.00	4.00	28.00	21.00
Street Banners	10.00	11.00	86.00	57.00
Potholes	17.00	10.00	109.00	95.00
Sidewalk Footage (Length)	72.00	35.00	376.00	422.90
Utility Cuts	6.00	18.00	92.00	75.00
Fleet Service - City	119.00	108.00	1554.00	1498.00
Fleet Service - County	68.00	49.00	809.00	908.00
I&I Video Inspection (Length)	1070.00	283.00	23036.00	24107.00
Sewer Blockages	5.00	4.00	54.00	79.00
Sewer Tap New Commercial	0.00	0.00	4.00	4.00
Sewer Tap New Residential	0.00	0.00	9.00	8.00
Sewer Taps Repaired	2.00	0.00	26.00	27.00
Utility Locates	26.00	19.00	282.00	189.00
Water Leaks	20.00	21.00	160.00	175.00
Water Meter Boxes	11.00	13.00	90.00	60.00
Water Meters New	2.00	0.00	15.00	11.00
Water Meters Other	8.00	10.00	139.00	131.00
Water Tap New Commercial	0.00	1.00	13.00	6.00
Water Tap New Residential	0.00	2.00	12.00	10.00
Water Taps Repaired	2.00	0.00	28.00	6.00

APPENDIX II: June Sanitation Statistics

Sanitation statistics are provided as indicators for solid waste and recycling performance.





Commercial amount includes commercial cardboard collection & curbside recycling.

APPENDIX III: June Sanitation Statistics

Sanitation statistics are provided as indicators for city commercial cardboard collection performance.

- **Revenue includes customer fees collected plus sale of cardboard to American Recycling of Candler, NC.**
- **Expense includes collection of commercial cardboard labor, fuel and vehicle maintenance during the month.**

Revenue	$7,217.64
Expense	$5,241.03
Net Profit or Loss	$1,976.62

APPENDIX IV: June Fuel Use Statistics

Fuel Use Statistics are provided as indicators for vehicle and equipment fleet fuel use by the city and county vehicle fleet.

- **June fuel use increased 5.9% over the previous month of May in gallons; and increased by 14.8% in expense.**
- **Current Unleaded Fuel Price: $1.471 / last purchase on 06-28-2016**
- **Current Diesel Fuel Price: $1.634 / last purchase on 06-10-2016**

Entity Comparison	Current Month Gallons	Previous Month Gallons	Monthly Gallons Difference	Current Month Expense	Previous Month Expense	Monthly Expense Difference	% of Gallons Difference	% of $ Difference
City Vehicles	5,828.70	5,456.10	372.60	$9,517.51	$8,166.99	$1,350.52	**6.8**	**16.5**
County Vehicles	9,491.80	9,015.50	476.30	$15,546.61	$13,657.40	$1,889.21	**5.3**	**13.8**
Narcotics Task Force	29.40	27.60	1.80	$48.49	$41.88	$6.61	**6.5**	**15.8**
Totals	**15,349.90**	**14,499.20**	**850.70**	**$25,112.61**	**$21,866.27**	**$3,246.34**	**5.9**	**14.8**

STAFF REPORT
City Council, August 15, 2016

Title: **Land Development Code (Form-Based Code) Update**
Information provided for City Council's review. No action required.

From: Daniel Cobb, AICP, Planning Director
Prepared by: Daniel Cobb, AICP, Planning Director
Approved by: Jim Fatland, CPFO City Manager

Background
Staff has been working with Demetri Baches of the consulting firm Metrocology since June of 2015 on updating and revising the City's development standards. Brevard has had a zoning ordinance since May of 1946, which has been updated several times over the last seven decades. The current version is known as the Unified Development Ordinance, which was adopted in April 2006. This version of amendments will result in a code that is commonly referred to as a "Form-Based Code." To make a distinction between the current UDO and the new codes, Staff is referring to this ordinance as the City of Brevard Land Development Code.

Discussion
One of the main objectives of this project is to modify the existing regulations to more precisely fit Brevard. Over the last several years there have been challenges implementing the City's development standards due to inherent conflicts with Brevard's built environment and overall development patterns which are slightly different than what the code requires. Many of these challenges are magnified because of Brevard's restricted growth areas due to topography, floodplain, and state law.

Over the next couple of months there are four opportunities for direct public input for this project. A schedule of those events is listed below:

- August 17, 2016 – Rogow Room – Transylvania County Library
    - 10:00AM – 12:00PM
    - 6:00PM – 8:00PM
- September 13, 2016 – Rogow Room – Transylvania County Library
    - 10:00AM – 12:00PM
    - 6:00PM – 8:00PM

In addition to the specific dates and times above, a Facebook page has been created to accept comments, as well as a website www.codebrevard.com. Visitors can also log on to www.cityofbrevard.com/formcodes for the same information. As the project continues, Staff will work with the consultant and members of the stakeholder group to conduct various meetings and presentations targeted to specific groups, including local realtors and builders for example.

Policy Analysis

Form-based codes are an alternative form of zoning that use the physical form of development as the organizing principle for the code, as opposed to the traditional separation of uses, in order to emphasize predicable development. Form-based codes focus on the relationships between buildings and the public areas of a city, such as sidewalks. An individual site is viewed as a piece of the larger unified design of the district it is in, and the city as a whole. This ensures that development fits the desired character by regulating building height, placement, orientation, mass, and scale.

This project is directly related to several **Goals, Objectives,** and **Policies** in the 2015 Comprehensive Plan, specifically:

Element 1: Arts & Culture

Goal

With a diverse range of physical and programmatic cultural resources available to residents and visitors year-round, Brevard will:

- Have arts, culture, and creativity integrated into community life.
- Be a nationally recognized destination for arts, music, and cultural events.

OBJECTIVE 1.4: Increased public art throughout the City.

POLICY 1.4.B*:* Create flexibility within development ordinances to allow for murals and other forms of public art.

Element 2: Economic Health

Goal

With 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 business as well as the establishment of new businesses.

Objective 2.1: Expand tax base. As the City of Brevard's primary source of financial capital, the City will take proactive measures to stabilize and grow the tax base.

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

Policy 2.1.B: Collaborate with partner organizations and developers to financially support the City's goals for infill development and redevelopment.

Policy 2.1.C: Prioritize transportation and utility investments within the corporate limits to support infill development. This includes evaluating the City's current water and sewer systems to identify gaps in service and under-served areas within the City, prioritizing these areas based upon their potential for supporting new development, and marketing these investments as incentive to attached new development.

Element 3: Environmental Health

Goal

Through appropriate conservation and preservation measures that protect the health and sustainability of the environment and our abundant natural resources, Brevard will:

- Successfully preserve our woods and water for future generations.
- Promote our world-class natural resources as an asset.
- Prevent development in environmentally sensitive and critical areas.
- Preserve farmland.

OBJECTIVE 3.1: Preservation of surrounding natural assets of mountains, farmlands, woods, and water for future generations.

POLICY 3.1.A: Continue using land development regulations and incentives to steer future development away from environmentally sensitive areas such as steep slopes and floodplains.

POLICY 3.1.B: Connect landowners and developers with local conservation organizations and encourage the permanent protection of farmlands, steep slopes, floodplains and other sensitive natural areas.

POLICY 3.1 C: Enforce stream buffer requirements for new development in order to protect the quality of water in our streams and rivers.

POLICY 3.1.D: Seek out and develop innovative solutions to protect water quality while reducing the cost of stormwater management to private developers.

POLICY 3.1.E: Revise development regulations to encourage and incentivize the use of Low Impact Design techniques to manage stormwater.

POLICY 3.1 F: Maintain and update as necessary dark skies protections within the City's development regulations.

OBJECTIVE 3.2: Reduction of the City's carbon and ecological footprint.

POLICY 3.2.A: Ensure development regulations continue to allow for homeowners, builders, and developers to incorporate wind and solar technology into development projects.

POLICY 3.2.C: Continue requiring landscaping in new development projects.

Element 4: Livable Communities

Goal

With a strong sense of community that supports livability for all, Brevard will:

- Foster efficient land use, support a mix of housing types, increase efficiency of public utilities and services, and accommodate multiple modes of transportation.
- Enjoy a network of complete neighborhoods that provide for all types of residents.
- Provide the services and amenities that allow residents to live happy, healthy, productive lives.

OBJECTIVE 4.1: Increased efficiency of land uses to help stabilize and grow the City's tax base.

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 4.1.B: Continue to utilize Community Development Block Grants and other resources

POLICY 4.1.G*:* Modify development ordinances and regulations to incorporate design standards and guidelines that respect existing community character while allowing greater residential density and intensity of nonresidential development within mixed use zoning areas.

POLICY 4.1.H: Encourage residential development on upper floors within mixed use zoning areas, particularly the Central Business District.
POLICY 4.1.I: Evaluate the City of Brevard's current design review process to streamline procedures; clarify roles, responsibilities, and authorities of the various review boards; and improve the overall quality of new development.

OBJECTIVE 4.2: Develop a system of "complete neighborhoods" throughout Brevard. (This is a multi-faceted objective that will rely on objectives and policies from other elements as well.)

POLICY 4.2.A: Modify zoning to increase allowable densities and the mixing of uses in appropriate areas.
POLICY 4.2.B: Connect neighborhoods to the greenway system with spur connections.
POLICY 4.2.C: Invest in new sidewalk construction and existing sidewalk repair within neighborhoods.
POLICY 4.2.D: Prohibit gated communities to foster community and maintain connectivity between neighborhoods.
POLICY 4.2.E: Collaborate with partners to increase the amount of available affordable and workforce housing, and to combat homelessness.
POLICY 4.2.F: Combat deteriorating property conditions through proactive code enforcement efforts
POLICY 4.2.G: Update the Minimum Housing Code to help ensure equity and quality of all housing options in Brevard.
POLICY 4.2.H: Promote and encourage renovation of existing housing stock to reduce utility and maintenance costs for owners and occupants, conserve energy, and reduce pollution.
POLICY 4.2.I: Develop recreational amenities at the neighborhood level, such as pocket parks.
POLICY 4.2.J: Collaborate with the Transylvania County Farmer's Market

Element 5: Infrastructure

Goal

With a robust and balanced transportation system, Brevard will:

- Have interconnected neighborhoods with access to services and amenities via multiple modes of transportation.
- Enjoy safe and efficient travel around and through the City.

With modern and capable infrastructure, Brevard will:

- Be poised to support growth of both population and economic activity well into the future.
- Foster economic opportunities and capacity by ensuring availability of broadband internet.

OBJECTIVE 5.1: Increased safety and efficiency of vehicular traffic within and passing through Brevard.

POLICY 5.1.C: Maintain development regulations that require interconnected street systems between and within neighborhoods as part of new development.

OBJECTIVE 5.2: Increased connectivity of neighborhoods and key destinations through investments in cycling and pedestrian infrastructure and programs.

POLICY 5.2.C: Continue to require new sidewalks and parking for bicycles and motorcycles with new development.

OBJECTIVE 5.3: Develop sufficient potable water and wastewater production, treatment, and distribution capacity to accommodate planned growth.

POLICY 5.3.E: Evaluate the feasibility of establishing a stormwater utility enterprise fund to finance stormwater infrastructure investments and improvements.

The overall goal of this project is not to add or remove specific regulations, rather, it will tailor the standards to more appropriately fit Brevard. In some areas of town, like the Heart of Brevard, increased density may make sense, while prohibiting development in environmentally sensitive areas like floodplains and steep slopes may make sense as well. The current standards make this distinction difficult and lacks any incentive to encourage high density development in any particular area of town.

Staff Recommendation

Report submitted for informational purposes only, no action necessary.

Fiscal Impact

None at this time.

CONSENT & INFORMATION AGENDA ITEM

DATE: August 15, 2016

TO: Mayor and City Council Members

SUBJECT: Affordable & Workforce Housing Trust Fund

PREPARED BY: Joshua Freeman, Community Development / Special Projects Director

APPROVED BY: Jim Fatland, City Manager

BACKGROUND: The Housing Trust Fund was established in January, 2012. The Housing Trust Fund is funded by loan repayments from developers of the Cottages at Brevard and Broad River Terrace projects; the City of Brevard received Community Development Block Grants on behalf of both projects, and issued such grant funds in the form of a 0% interest loan. Both developers are now submitting annual loan payments to the City over a 20 year term.

The following activities will be eligible for assistance through the Housing Trust Fund:

1) Loans to developers for the installation of infrastructure to facilitate the development of affordable/workforce housing.
2) Loans to developers to purchase land to facilitate the development of affordable/workforce housing.
3) Loans to developers to assist in the conversion of existing non-residential buildings into affordable/workforce housing.
4) Loans to developers to assist with the rehabilitation of existing substandard multi-family housing units and their conversion to affordable/workforce housing.
5) Loans to income eligible homeowners for housing repairs.
6) Grants to low income homeowners for emergency (health and safety related) housing repairs.
7) Acquisition of land to be used for the creation of affordable/workforce housing, in instances where the City is a project partner.
8) Acquisition of vacant housing for rehabilitation and resale as affordable/workforce housing.

9) Clearance of blighted properties.
10) Water System Improvements in predominately low/moderate income (LMI) areas.
11) Sewer System Improvements in predominately LMI areas.
12) Street Improvements in predominately LMI areas.
13) Pedestrian Improvement in predominately LMI areas.

Per the ordinance establishing the Housing Trust Fund, the City was authorized to begin taking applications in July, 2014.

The adopted Housing Trust Fund Ordinance is attached hereto. Please note various comments and recommended modifications, shown thereupon.

RECOMMENDATION: Staff proposes referring the Housing Trust Fund to City Council's Finance Committee, who will begin developing program policies and procedures, and recommend any necessary amendments to the Housing Trust Fund ordinance.

FISCAL IMPACT: As of June 30, 2016, a total of $80,125 has accrued to the Housing Trust Fund.

EXHIBIT A
Ordinance No. 2012-____

City of Brevard
Housing Trust Fund

I. Introduction

Affordable and workforce housing has been recognized as a substantial need for residents of Brevard and the surrounding area. In an effort to promote increased development and retention of affordable and workforce housing within its corporate jurisdiction, the City of Brevard has established the Housing Trust Fund.

"Affordable Housing" may be defined as housing that costs no more than 30% of the total income for residents making 80% or less of the Area Median Income (AMI) as defined by the United States Department of Housing and Urban Development (HUD).

"Workforce Housing" may be defined as housing that costs no more than 30% of the total income for residents making between 80%-120% of the AMI as defined by HUD.

II. Funding Sources

The City of Brevard Housing Trust Fund will include, but may not be limited to the following funding sources.

1) Community Development Block Grant (CDBG) loan repayments from developers of affordable housing will be used to initially finance the Housing Trust Fund. Only CDBG eligible activities, benefitting a majority of individuals whose income is below 80% of the median for Transylvania County, will be eligible for use with Housing Trust Fund monies accrued in this manner. City Council may also provide additional funding as is deemed appropriate.

2) In market rate housing developments, the City may, at its discretion, require the developer to create a certain percent of affordable housing. Developers may choose to donate to the Housing Trust Fund as a fee in lieu of creating the affordable units**.**

3) Other funding will be created through appropriations from City Council as is deemed appropriate to assist with the development of Workforce Housing in Brevard. This will allow for assistance to be provided for individuals in the 80%-120% range of area median income level, who still may not be able to afford housing near their place of work.

Under current law, this can only occur within a Planned Development District project.

Under current law, this can only occur within a Planned Development District project.

4) In market rate housing developments, the City may, at its discretion, require the developer to create a certain percent of workforce housing. Developers may choose to donate to the Housing Trust Fund as a fee in lieu of creating the workforce units.

III. Eligible Activities

The following activities will be eligible for assistance through the Housing Trust Fund:

1) Loans to developers for the installation of infrastructure to facilitate the development of affordable/workforce housing.
2) Loans to developers to purchase land to facilitate the development of affordable/workforce housing.
3) Loans to developers to assist in the conversion of existing non-residential buildings into affordable/workforce housing.
4) Loans to developers to assist with the rehabilitation of existing substandard multi-family housing units and their conversion to affordable/workforce housing.
5) Loans to income eligible homeowners for housing repairs.
6) Grants to low income homeowners for emergency (health and safety related) housing repairs.
7) Acquisition of land to be used for the creation of affordable/workforce housing, in instances where the City is a project partner.
8) Acquisition of vacant housing for rehabilitation and resale as affordable/workforce housing.
9) Clearance of blighted properties.
10) Water System Improvements in predominately low/moderate income (LMI) areas.
11) Sewer System Improvements in predominately LMI areas.
12) Street Improvements in predominately LMI areas.
13) Pedestrian Improvement in predominately LMI areas.
14) Downpayment assistance

IV. Eligible Applicants

1) For profit developers of affordable/workforce housing.
2) Non-profit developers of affordable/workforce housing.
3) Public Housing agencies.
4) Income eligible homeowners.
5) Local Governments

V. Housing Trust Fund Priorities

1) Development of one bedroom affordable rental housing.
2) Developments incorporating Energy Star rated products, other energy efficiency measures and Universal Design features.
3) Transportation oriented development.
4) Removal of health and safety risks.
5) Maintaining the stock of affordable/workforce housing within Brevard through the rehabilitation of existing homes.
6) Projects that can satisfy more than one need and/or involve several partner entities.
7) Due to the expectation of limited funds being available in any given year, additional priority will be given to projects where Housing Trust Fund money can serve as gap financing that will enable a project to move forward.

VI. Loan Terms

1) Loan Amounts

a) **Developers**- Loan amounts will be at the rate of $5,000 per unit of affordable/workforce housing developed. If the developer incorporates one or more of the Housing Trust Fund priorities an additional $1,000 per unit may be requested. The maximum loan amount is $100,000.

Evaluate increasing to $2,000

b) **Homeowners** whose income is 80% or less of the AMI may qualify for a maximum $20,000 loan for housing rehabilitation activities. Loans will be secured with a Promissory Note and Deed of Trust. Any costs incurred in preparing the Promissory Note and Deed of Trust, verifying satisfactory credit or any other associated fees will be incorporated into the loan amount.

c) **Homeowners** whose income is 50% or less of the AMI may qualify for $5,000 grant for emergency repairs to their dwelling. Emergency repair grants will only be approved in instances where the health and safety of the residents or the general public, or the structural integrity of the dwelling unit, are at risk.

Revise to 0%. See below.

2) Interest Rate and Loan Repayment

a) Interest rates for loans to developers will be at a rate of ~~2%~~, and the loan may be amortized over a period of twenty years.

b) Interest rates for loans to homeowners will be at a rate of ~~2%~~, and the loan may be amortized over a period of twenty years.

Revise to 0%. Any interest earned is considered "program income" and must be returned to the State of North Carolina. Revising to 0% will simplify accounting.

VII. Affordability

Housing is generally considered to be "affordable" if total costs don't exceed 30% of household income.

Homeowners- Total housing costs include principal, interest, taxes and insurances.

Renters-Total housing costs include rent and utilities.

Multi family housing developments that receive Housing Trust Fund assistance will be kept affordable for a minimum of 20 years.

Single family housing that is developed with Housing Trust Fund assistance will be kept affordable for a minimum of 5 years, or for the period required by the City's partner organization, whichever is greater.

Revise / update entire section

VIII. Application Process

Per ordinance, City should begin taking applications.

a) **Developers** will apply directly to the City of Brevard Planning and Zoning Department, with the first round of applications due on February 1, 2015. Applications will also come due on February 1 of subsequent years. Applications may be picked up at 95 West Main Street in Brevard, or may be found at the City's web-site. Planning and Zoning staff will review the completed application and check the readiness of the project in terms of permits, plan review, evidence of preliminary site control, environmental assessments as needed, financing, planned ground breaking date and evidence of maintaining affordability. Staff will then either forward the application to the Selection Committee for review, deny the application for failure to meet minimum requirements or table the application while more information is obtained.

Need to form a selection committee. City Manager recommends initial assignment to the Finance Committee.

Homeowners seeking assistance with housing repairs will apply to the City of Brevard Planning and Zoning Department. Applications will be accepted on an on-going basis beginning on July 1, 2014. Applications may be picked up at 95 West Main Street in Brevard, or may be found on the City's web-site. Staff will review the application, verify eligibility of the applicant and conduct an inspection of the dwelling to verify the needs identified in the application. Staff will then either forward the application to the Selection Committee for review, deny the application for failure to meet minimum requirements or table the application while more information is obtained.

Per ordinance, City should begin taking applications.

IX. Approval Process

The Selection Committee will meet as needed to review applications. Based on initial staff review, compliance with Housing Trust Fund Priorities and availability of funds, the

Selection Committee will either approve or reject applications. In some instances a portion of the requested loan amount may be offered to the prospective borrower. All loan recommendations of the Selection Committee are then submitted to the City Council for final approval.

In certain instances where an emergency housing repair is needed immediately to protect the health and safety of a resident or the general public or ensure the structural integrity of the dwelling unit, the City Manager may approve the grant or loan for repairs after staff has determined eligibility.

X. Loan Closing

Loans may only be closed with City Council approval.

a) **Developers**-Upon loan approval by City Council, developers will schedule an appointment with a closing attorney. The developer will need to submit to City Planning and Zoning staff final evidence of site control, financial commitments, property insurance, evidence of ensuring continued affordability, zoning entitlements and site specific development approval items two business days prior to the loan closing. Loans to developers will be on a reimbursement basis and will not be disbursed at the time of closing.

b) **Homeowners**-Upon loan approval by City Council, Planning and Zoning will prepare loan documents for the homeowner. These documents will include the Promissory Note and Deed of Trust and a contract between the homeowner and building contractor. The homeowner and contractor will then meet with City Staff and execute the documents.

XI. Loan Disbursement

a) **Developers**-Loans will be disbursed on a reimbursement basis. Developers will need to submit receipts for work that has been invoiced and paid. City Staff will provide site inspections to assure that work is done properly. Staff will also conduct periodic employee interviews at the job site to ensure compliance with Davis-Bacon requirements.

b) **Homeowners-**Contractors will submit pay requests to City Staff. Pay requests must include any approvals from Transylvania County Building Inspections that the job requires. City Staff will then conduct an inspection of the work and verify homeowner approval. Upon verification of satisfactory work a check will be issued to the contractor.

XII. Selection Committee

City Manager recommends modifying to assign initial responsibility to the finance committee. Council may elect to assign to a stand alone committee at later date.

The Selection Committee will be comprised of the Planning Director, City Manager, Finance Director, Chairman of the Planning Board, a member of the City Council and an at large representative from the community. The Selection Committee will act as the Governing Board for the Housing Trust Fund. The Selection Committee will meet as needed to review applications and conduct any business.

XIII. Effective Dates

The City of Brevard Housing Trust Fund will begin accepting applications on July 1, 2014.

Per ordinance, City should begin taking applications.

This is because the original source of funds is CDBG, and can only be used for CDBG-approved purposes.

XIV. Amendments

The City of Brevard Housing Trust Fund may be amended at any time through a majority vote of City Council. Council may not amend the Housing Trust Fund in a manner that would reduce funding dedicated to assisting individuals at 80% or below of the AMI.

XV. Equal Employment Opportunity, Minority and Women Owned Businesses, Davis-Bacon, and Fair Housing requirements

The City of Brevard is an Equal Opportunity Employer and does not discriminate in hiring due to race, color, religion, national origin, sex, age or disability. Any company that works on a development receiving assistance through the Housing Trust Fund will be expected to comply with these provisions. Efforts will also be made to solicit participation in any bidding process by Minority and Women Owned businesses.

Prevailing Davis-Bacon wages will be paid for all construction projects assisted with Housing Trust Fund money.

The City of Brevard promotes Fair Housing principals that prohibit discrimination in housing based on race, age, gender, religion, national origin, disability or familial status. Developments assisted with Housing Trust Fund money will be required to abide by these principals.

XVI. Financial Management

a) Separate interest bearing accounts will be kept for both the “affordable housing” and “workforce housing” components of the trust fund.

b) Any interest greater than $100 that is accrued during a given year in the “affordable housing” account will be returned to the NC Community Investment and Assistance Division.

CONSENT & INFORMATION AGENDA ITEM

Probart Street Sidewalk Project Status Report

DATE: August 15, 2016

TO: Mayor and City Council Members

SUBJECT: Probart Street Sidewalk Project Status Report

PREPARED BY: Joshua Freeman

APPROVED BY: Jim Fatland, City Manager

PROJECT PURPOSE: Construct 6' wide sidewalk along Probart Street, from Railroad Avenue to Andante Lane (Brevard Music Center); approximately 3,500 linear feet.

PROJECT MILESTONES:

- **Engineering & Design:** Engineering & Design (E&D) is 100% complete.
  - Preliminary E&D began in fall, 2015.
  - After having considered a number of preliminary designs, the Parks, Trails & Recreation Committee recommended a preliminary design to City Council in January, 2016.
  - City Council approved the recommended preliminary design on January 19, 2016, and adopted a project budget ordinance (Ordinance # 2016-02).
  - Final E&D was completed in March, 2016; plans were released for bidding.

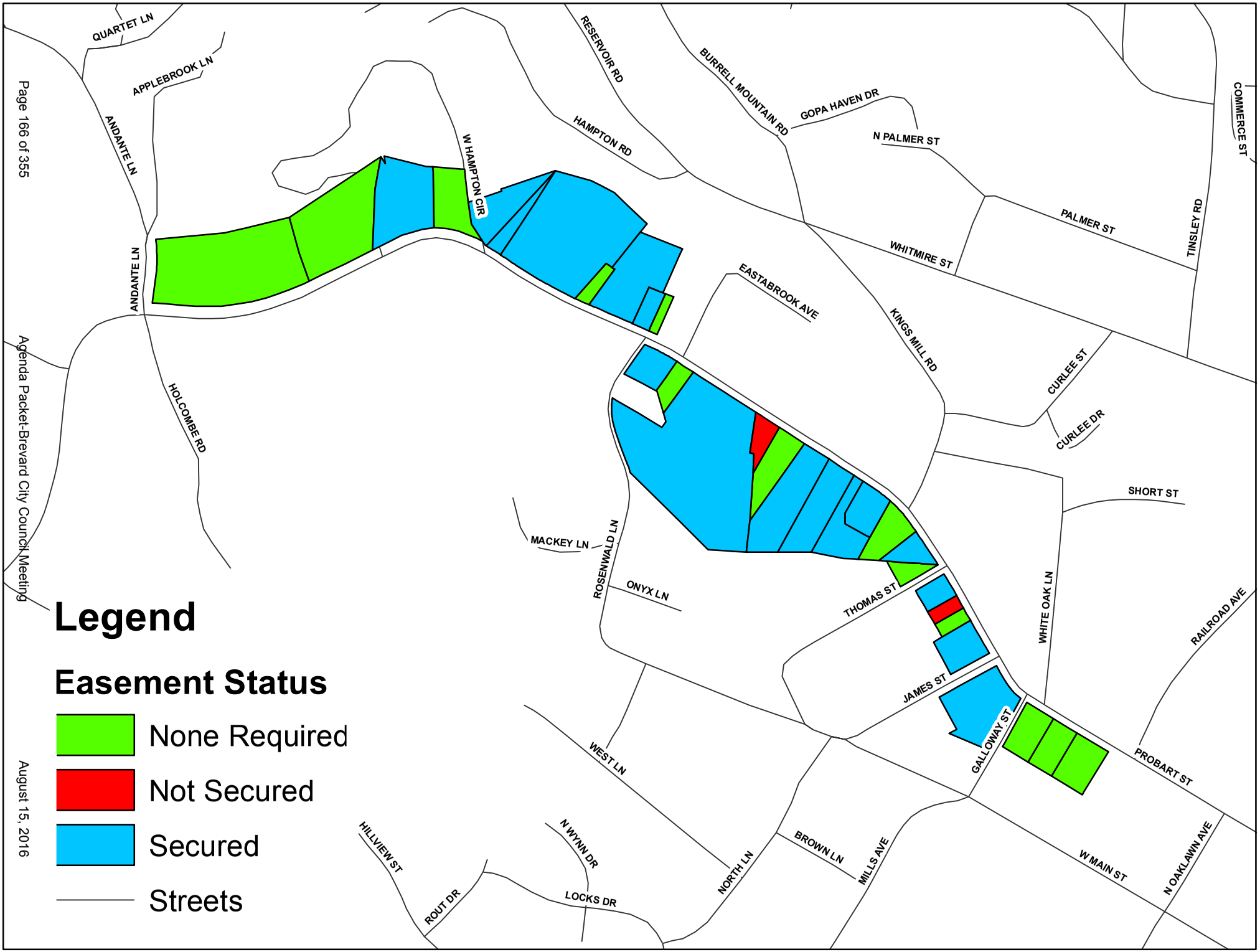
- **Bidding & Contractor Selection:** Cooper Construction has been selected as the lowest qualified & responsive bidder.
  - An informal call for bids was issued on May 03, 2016.
  - Pre-Bid meeting was hosted on May 10, 2016.
  - Bid opening was hosted on May 19, 2016. Only two firms submitted bids; both exceeded the maximum threshold for informal bidding. The City Attorney recommended reissuing bids under formal bidding procedures.
  - A second formal call for bids was issued May 26, 2016.

- A second round of formal bids was opened on June 06, 2016. Cooper construction was identified as the lowest, qualified & responsive bidder.
- Notice of Award was issued to Cooper Construction on June 24, 2016.
- A construction contract for Cooper Construction was completed and delivered to the City during the week of July 18, 2016.
- The City Manager executed a construction contract for Cooper Construction during the week of July 25, 2016.

- **Easement Acquisition:** The City (on behalf of Comporium Communications) and Duke Energy must acquire easements to relocate utility poles from 18 individual property owners, of which 8 are out-of-town residents. Utility Easement Acquisition is 94% complete. A utility easement map is attached.
    - Utility Pole acquisition began on April 25, 2016.
    - To date, 16 of 18 easements have been acquired.

- Construction: Per the above-referenced construction contract, Cooper Construction must complete substantial construction by November 01, 2016.
    - Major tree removal was completed during the week of July 25, 2016. See attached photographs.
    - A preconstruction meeting with Cooper Construction was held on August 08, 2016.

FISCAL IMPACT: The estimated project cost is $722,000.


QUARTET LN
APPLEBROOK LN
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BURRELL MOUNTAIN RD
GOPA HAVEN DR
N PALMER ST
COMMERCE ST
PALMER ST
TINSLEY RD
WHITMIRE ST
EASTABROOK AVE
KINGS MILL RD
CURLEE ST
CURLEE DR
SHORT ST
MACKEY LN
ROSENWALD LN
ONYX LN
THOMAS ST
WHITE OAK LN
RAILROAD AVE
JAMES ST
GALLOWAY ST
PROBART ST
WEST LN
HILLVIEW ST
ROUT DR
N WYNN DR
LOCKS DR
NORTH LN
BROWN LN
MILLS AVE
W MAIN ST
N OAKLAWN AVE
Legend
Easement Status
None Required
Not Secured
Secured
Streets

Probart Street Sidewalk

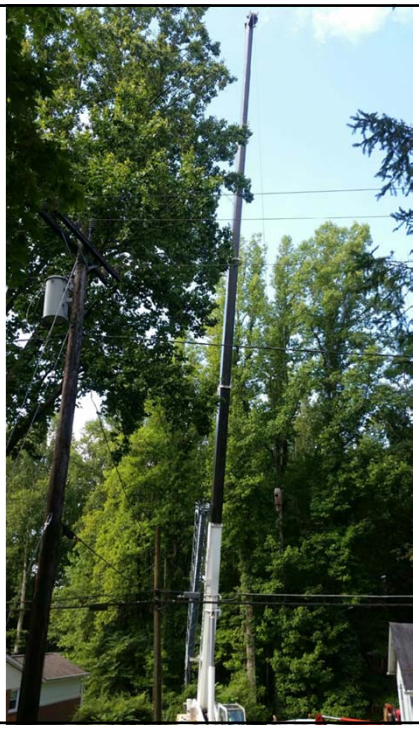
Major Tree Removal

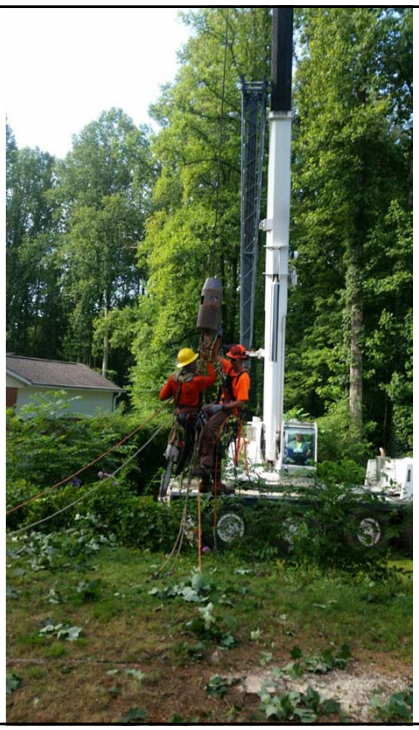
July 25-July 28, 2016

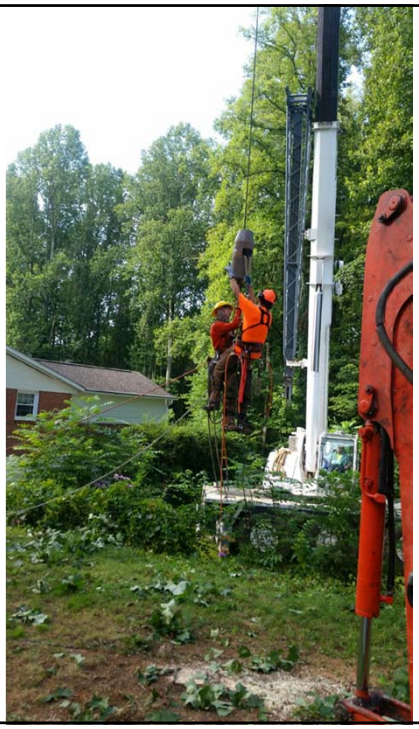
TADANO
CAMPBELL

CAMPBELL
1-800-868-0406

CAMPBELL







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CAMPBELL
Crane Rental
1-800-868-0406
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OVERSIZED LOAD

CONSENT & INFORMATION AGENDA ITEM

City of Brevard / Transylvania County Parks & Recreation Strategic Plan
Project Status Report

DATE: August 15, 2016

TO: Mayor and City Council Members

SUBJECT: City of Brevard / Transylvania County Parks & Recreation Strategic Plan

PREPARED BY: Joshua S. Freeman, Community Development / Special Projects Director

APPROVED BY: Jim Fatland, City Manager

PROJECT PURPOSE: Develop a shared parks & recreation master plan with Transylvania County.

PROJECT MILESTONES:

- **Community Outreach:** Community Outreach is 100% complete.
    - Focus Groups: Transylvania County Parks and Recreation and the City of Brevard staff conducted 11 focus groups in Brevard on December 15, 16, and 17, 2015. A total of 54 participants signed attendance sheets in the focus groups. The focus groups were identified and participants invited by the County and City staff. The following is a listing of the focus groups that were involved in the process:
        - Legislative bodies consisting of members of the
        - Transylvania County Commission, City of Brevard City
        - Council, and the Town of Rosman (a total of four focus groups).
        - Transylvania County Parks and Recreation Commission and the City of Brevard Parks, Trails and Recreation Committee.
        - Town of Rosman.
        - Brevard Chamber of Commerce/Tourism Development Authority, Economic Alliance, and Heart of Brevard.
        - Western Carolina Community Action and Senior Games.

- Friends of Silvermont Inc., (a group of local citizens who oversee the use and maintenance of Silvermont Mansion).
- Transylvania County Schools.
- Transylvania Community Arts Council, Transylvania Youth Association, Special Olympics.
- French Broad River Stewards, Birding Group.

- Community Forum: A community-wide public forum was held at the Transylvania County Administration Building in the evening of December 17, 2015. A total of 36 participants signed an attendance sheet at the meeting. A presentation was made summarizing the findings of the demographic analysis and the existing level of service for parks in the County and the City. The participants were asked to provide responses to 5 of the questions asked of the focus group participants. Participant responses were recorded on flip charts and posted on the walls in the room. After all responses had been received, participants were asked to participate in a prioritization exercise. The results of the exercise are in the following section.

- Survey: The project consultants conducted a community interest and opinion survey in the fall of 2015 to help establish park and recreation priorities for Transylvania County and the City of Brevard. The survey was designed to obtain statistically valid results from the households throughout the County, The survey was administered by mail, web, and phone. A goal was set to obtain a minimum of 400 completed surveys within Transylvania County boundaries. A total of 3,000 surveys were sent out to a random selection of households throughout the County. Of the 3,000 households that were requested to participate in the survey, 427 respondents participated. The results for the sample of 427 households have a 95% level of confidence with a precision rate of at least +/- 4.7%.

- Steering Committee: The project steering committee has met approximately 11 times throughout the process to review draft plan documents and other project materials, most recently on July 19, 2016.

- Parks / Trails / Recreation Committee: Staff has provided project status reports to the Parks / Trails / Recreation Committee throughout the process. The Committee received Draft 03 of the plan document on July 20, 2016; the committee provided feedback on the draft plan via email through August 08, 2016.

- Draft 03 of Plan Document, as well as feedback from individual members of the parks / Trails / Recreation Committee, is available for review on the City's website at http://www.cityofbrevard.com/402/Recreation-Strategic-Plan.

- Brevard City Council & the Transylvania County Board of Commissioners are scheduled to meet in joint session on September 26, 2016, to receive the consultant's recommended plan.

The City of Brevard North Carolina

Wastewater Collections System
System Performance Annual Report
July 1, 2015 – June 30, 2016

I. GENERAL INFORMATION

A. Facility / System Name:

City of Brevard Wastewater Collections System

B. Responsible Entity:

City of Brevard

C. Operator In Responsible Charge (ORC)

Billy Dodson
313 Pharoah Drive
Brevard, North Carolina 28712
Home (828) 884-7784
Cell (828) 553-7456
Fax (828) 884-6892

D. Non-Discharge Permit Number:

Collections System Permit Number WQCS00084

NPDES Permit Number (WWTP):
NC0060534

City of Brevard Public Works Department
232 Cashiers Valley Road
Brevard, NC 28712
828-884-2171, Option 4

E. Description of Collections System:

The City of Brevard ("City") wastewater collection system is located in and around the corporate limits of the City. The majority of the system consists of gravity sewer mains. There are currently seventeen (17) wastewater lift stations with pressure force mains located within the system that are owned and operated by the City. The collections system consists of approximately fifty-five (55) miles of sewer mains ranging in size from 2" to 24" which includes six (6) miles of force mains. These mains are connected by manholes at each intersection point. This system collects wastewater and delivers it to the City's Wastewater Treatment Plant (NPDES NC0060534) located at 95 Wilson Road, Pisgah Forest, North Carolina.

The Wastewater Collections Division consists of six employees including one "operator in responsible charge (ORC)" and five collections system operators; two of whom are continually designated as I&I personnel and their primary functions are to locate, repair and eliminate I&I sources.

II. PERFORMANCE

A. General:

The City of Brevard Wastewater Collections System had a total of thirty-five (35) wastewater spills / overflows during the twelve month period from July 1, 2015 to June 30, 2016 *(See events data charts on Page 5 of this report)*. Heavy rain events, most during flashflood and/or severe storm conditions, and Tropical Storm Joaquin in October, 2015 attributed to twenty-one (21) of the spills ranging from .32" to 4.84" of rainfall. Fourteen (14) events were a result of force main pipe ruptures on Old US Highway 64 and Wilson Road.

- Neely Road Lift Station / twenty-four (24) discharges
- Gallimore Road Lift Station / ten (10) discharges
- Old Highway 64 / one (1) discharge

The total net gallons of the discharge events are estimated at 6,431,934 gallons. The spills did not result in any fish kills or other known environmental impact.

The City of Brevard reported all SSO's to the Mayor, City Council, Citizens of the City by means of local media *(Transylvania Times Newspaper, WLOS Television, WGCR Radio Station, and WSQL Radio Station)* and to NCDENR.

Collections inflow and infiltration crews have continued with identification of inflow and infiltration locations and have aggressively corrected or repaired aging deficiencies in the system. While improvements have been progressing, the city continues to have sanitary sewer overflows during significant rainfall events.

The City of Brevard continues to focus emphasis on protecting our natural resources by annually dedicating $100,000 towards an ongoing Inflow / Infiltration Reduction Program to eliminate rain attributed overflows from broken or improperly attached sewer lines, cleanouts, roof drains, and sump pumps through repair and public education, and additionally through capital improvement projects. In addition capital projects recently approved to receive low interest and no interest loans from the State Revolving Fund include:

- 6" Sewer Line Upgrade Project – This project was included 18 separate sewer lines at 22 locations totaling 8,648' with inflow and infiltration eliminated at various locations.

- Neely Road Pump Station, Force Main, and Equalization Storage Project - Bids received in March were reviewed and CDM Smith compiled required information from prospective low bidders for the Authority to Award submittal to DWI.
    - Wharton-Hall Contracting Company of Charlotte was the low bidder at $6,657,500 for the pump station and equalization storage tank project.
    - Hall Contracting of Charlotte was the low bidder at $4,199,825 for the force main project.
    - Notice of contract awards were issued to each contractor upon approval from DWI and resolution from City Council.
    - Contracts were executed to both contractors and each are in the process of mobilizing equipment and materials.
    - It is anticipated that construction will begin during August, 2016.

- Kings Creek Phase II - The project was re-bid and City Council awarded the project to the low bidder, Dillard Excavating, at their June 20th City Council Meeting. Post-bid documents were submitted to NCDWQ-DWI in Raleigh for approval. Work is scheduled to begin in September, 2016.

- Kings Creek Phase III – NCDWQ-DWI approved the award of this project to the low bidder, Dillard Excavating; and a pre-construction conference was held on July 11, 2016. Construction began on July 19, 2016 on Placid Drive and should be completed in April of 2017.

During FY 2015-2016, Wastewater Collections personnel cleaned approximately 13,449 feet of the sewer system in addition to using closed circuit TV (CCTV) equipment to visually inspect approximately 23,036 feet of sewer lines. In addition to video inspection utility right-of-ways have been cleaned, and maintenance has been performed on main sewer lines. Maintenance activities on the collections system included smoke testing for inflow and infiltration sites, thirty-nine (39) taps were installed or replaced, and all system high priority lines were inspected. Housekeeping activities were routinely performed at all lift station sites including performance apparatus, pumps, tools and safety equipment.

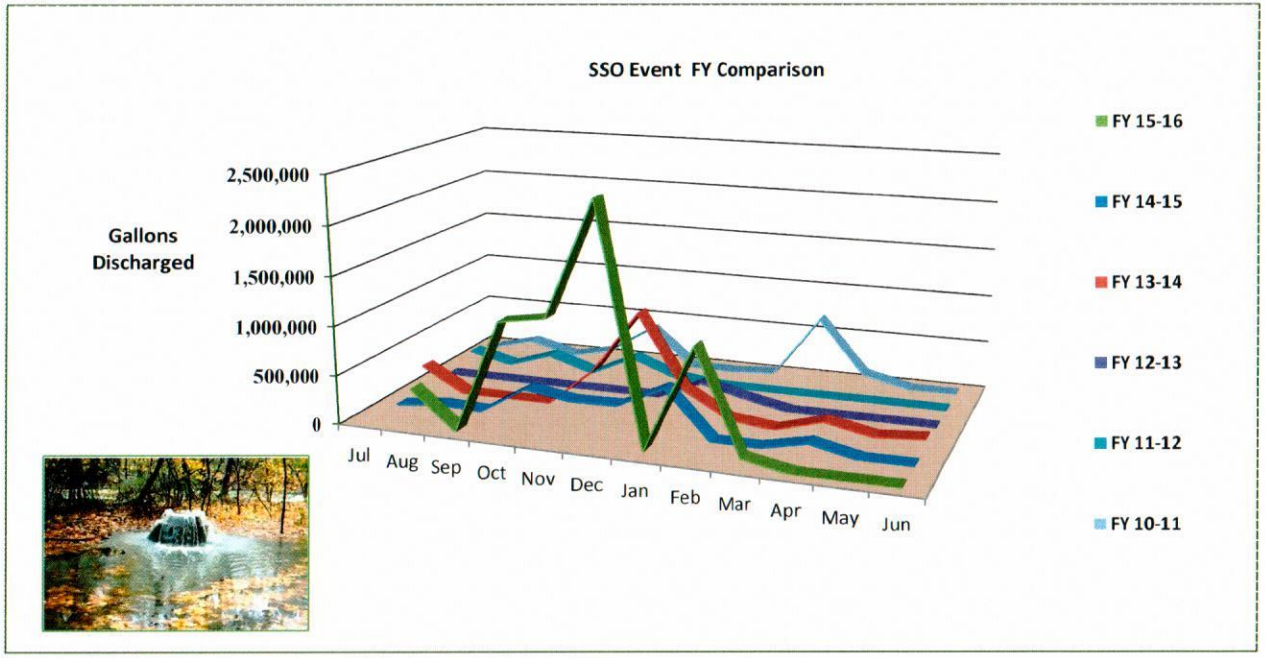
II. PERFORMANCE *(cont'd)*

B. SSO Events

Event	#	Date	Pump Station	Gallons Discharged	Gal Captured (Pump Team)	Duration Hours	Rainfall	Surface Water
1	SSO-288	Tuesday, August 04, 2015	Old Highway 64			8		Lambo Creek
2	SSO-289	Wednesday, August 19, 2015	Neely Road	167,584	40,000	7	2.50	Lambo Creek
3	SSO-290	Wednesday, August 19, 2015	Gallimore Road	94,805		6	2.50	Lambo Creek
4	SSO-291	Friday, August 21, 2015	Neely Road	18,620	10,000	1		Singing Branch
5	SSO-292	Friday, August 21, 2015	Neely Road	110,580	30,000	5		Lambo Creek
6	SSO-293	Monday, September 28, 2015	Neely Road	10,260	15,000	1	0.32	Lambo Creek
7	SSO-294	Saturday, October 03, 2015	Neely Road	704,520	127,500	31	3.83	Lambo Creek
8	SSO-295	Saturday, October 03, 2015	Gallimore Road	326,152		20	3.83	Singing Branch
9	SSO-296	Tuesday, October 27, 2015	Neely Road	126,540	22,500	6	2.65	Lambo Creek
10	SSO-297	Wednesday, October 28, 2015	Neely Road	Unknown	52,500	8		Lambo Creek
11	SSO-298	Monday, November 02, 2015	Neely Road	351,120	140,600	15	2.73	Lambo Creek
12	SSO-299	Monday, November 02, 2015	Gallimore Road	110,284		7	2.73	Lambo Creek
13	SSO-300	Monday, November 09, 2015	Neely Road	318,060	112,600	14	2.07	Lambo Creek
14	SSO-301	Monday, November 09, 2015	Gallimore Road	117,470		7	2.07	Singing Branch
15	SSO-302	Sunday, November 15, 2015	Neely Road	70,300	60,700	3		Lambo Creek
16	SSO-303	Wednesday, November 18, 2015	Gallimore Road	70,482		4	2.54	Singing Branch
17	SSO-304	Wednesday, November 18, 2015	Neely Road	193,800	89,000	9	2.54	Lambo Creek
18	SSO-305	Tuesday, December 01, 2015	Neely Road	371,640	152,000	16	2.64	Lambo Creek
19	SSO-306	Wednesday, December 02, 2015	Gallimore Road	124,933		8	3.75	Singing Branch
20	SSO-307	Thursday, December 24, 2015	Gallimore Road	273,912		16	3.93	Singing Branch
21	SSO-308	Thursday, December 24, 2015	Neely Road	579,500	232,500	25	4.84	Lambo Creek
22	SSO-309	Friday, December 25, 2015	Neely Road	208,240	232,500	10	4.84	Lambo Creek
23	SSO-310	Friday, December 25, 2015	Neely Road	101,840	232,500	4	4.84	Lambo Creek
24	SSO-311	Monday, December 28, 2015	Neely Road	239,400	84,600	11	1.63	Lambo Creek
25	SSO-312	Monday, December 28, 2015	Gallimore Road	99,228		6	1.63	Singing Branch
26	SSO-313	Tuesday, December 29, 2015	Neely Road	404,700	118,100	18		Lambo Creek
27	SSO-314	Friday, January 15, 2016	Neely Road	41,420	10,000	2	1.33	Lambo Creek
28	SSO-315	Wednesday, February 03, 2016	Neely Road	343,140	96,500	15	2.29	Lambo Creek
29	SSO-316	Wednesday, February 03, 2016	Gallimore Road	135,436		8	2.29	Singing Branch
30	SSO-317	Saturday, February 06, 2016	Neely Road	60,420	34,400	3		Lambo Creek
31	SSO-318	Thursday, February 18, 2016	Neely Road	37,620	30,500	2		Lambo Creek
32	SSO-319	Tuesday, February 23, 2016	Neely Road	110,200	31,900	5	0.85	Lambo Creek
33	SSO-320	Wednesday, February 24, 2016	Neely Road	340,860	117,600	15	1.03	Lambo Creek
34	SSO-321	Wednesday, February 24, 2016	Gallimore Road	77,668		5	1.03	Singing Branch
35	SSO-322	Saturday, March 5, 2016	Neely Road	91,200	54,600	4		Lambo Creek

II. PERFORMANCE *(cont'd)*

C. SSO Events Comparison



III. NOTIFICATION

Copies of this report are available to the public at:

City of Brevard Public Works Department
232 Cashiers Valley Road
Brevard, North Carolina 28712
7:30 a.m. – 4:00 p.m., Monday – Friday

IV. CERTIFICATION

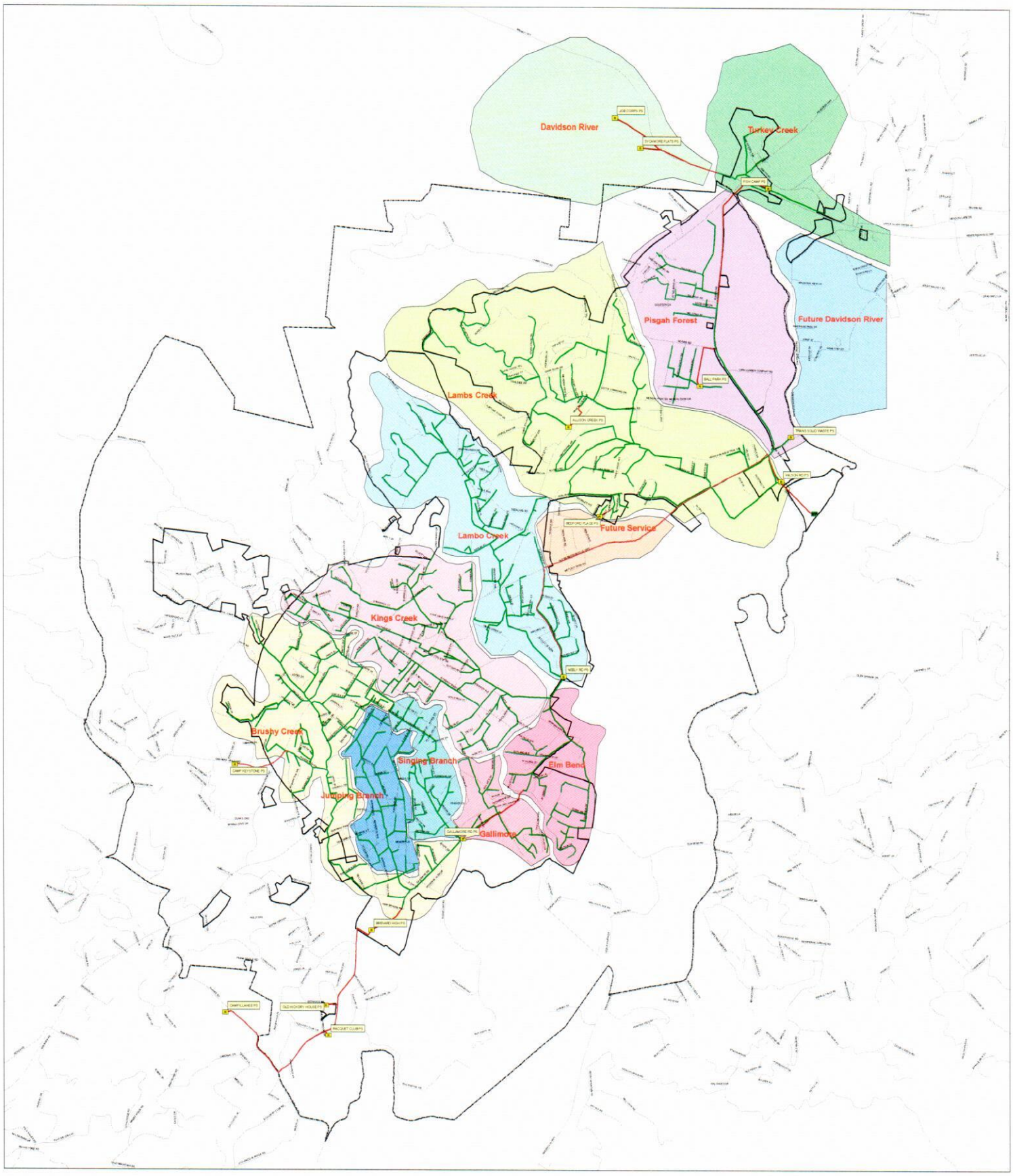
I certify under penalty of law that this report is complete and accurate to the best of my knowledge. I further certify that this report is available to the users or customers of the City of Brevard's wastewater collection system.

Billy Dodson

Billy Dodson, ORC
Wastewater Collections System
Public Works Department
City of Brevard

7-26-16
Date

Attachment: *Map of City of Brevard Sanitary Sewer System*



Legend

- Wastewater Treatment Plant
- Wastewater Pump Stations
- Landbase GISADMIN Streets
- Wastewater Force Mains
- Wastwater Gravity Lines
- City Limits
- ETJ

Sewer Basins

Name

- Brushy Creek
- Davidson River
- Elm Bend
- Future Davidson River
- Future Service
- Gallimore
- Jumping Branch
- Kings Creek
- Lambo Creek
- Lambs Creek
- Pisgah Forest
- Singing Branch
- Turkey Creek

City of Brevard Wastewater Basins

N
W E
S

0 500 1,000 2,000 3,000 4,000 Feet

City of Brevard
Public Services Department

City of Brevard
Planning Department

96 West Main Street
Brevard, NC 28712

October 13, 2009

STATE OF NORTH CAROLINA
TRANSYLVANIA COUNTY

Community Development Contract with Transylvania Community Arts Council

THIS AGREEMENT, entered into this the _____ day of _____, 2016, by and between the CITY OF BREVARD, NORTH CAROLINA, a municipal corporation organized and chartered under the laws of the State of North Carolina, hereinafter called "Brevard" and the TRANSYLVANIA COMMUNITY ARTS COUNCIL, a 501(c) 3 non-profit corporation organized and incorporated under the laws of the State of North Carolina, hereinafter called "TCarts";

W I T N E S S E T H

THAT, WHEREAS, Brevard's Mission (i.e. its role and purpose) is to "promote a high quality of life, support economic prosperity, and cultivate community while honoring its heritage and culture" through the provision of public goods, services, and spaces, and Transylvania Community Arts Council "TCarts" Mission is "to enhance the quality of life in Transylvania County by celebrating the creative spirit of artist, youth, and individuals throughout the county"; and.

WHEREAS, Brevard's Vision (i.e. its goal and bearing) is to be "a safe, friendly, family-oriented community with small-town charm, outdoor recreation, arts and culture that bring investment opportunities, environmental consciousness, and economic diversity," and TCarts' Vision is to create "a vibrant arts destination", and,

WHEREAS, Brevard's provision of public goods, services, and spaces while an essential building block of community development, is only part of the foundation necessary in achieving this Vision; and,

WHEREAS, Brevard may increase the impact of public expenditures by funding non-profit, such as TCarts, to couple those funds with their additional donations, grants, and fundraising, to leverage their organized volunteer workforce, and utilize their expertise to provide specific programs or services; and,

WHEREAS, by virtue of TCarts' Mission/Vision and their services offered to Brevard City Council at their Budget Public Input Session on March 21, 2016, it is mutually beneficial for Brevard to partner with TCarts in the year ahead.

NOW, THEREFORE, it is agreed among the parties of this agreement as follows:

1. TCarts will help Brevard diversify the revenue stream used to fund the provision of public goods, services, and spaces by expanding the sales tax base, and thereby lessen the over-dependence on a stagnant and geographically constrained property tax base; most notably by:

    a. Promoting the 325+ art based events throughout the year, including but not limited to, Arts and Culture Week and sponsoring the 50+ art based events.
    b. Hosting the 10 art based exhibits known as "4th Friday Gallery Walk."
    c. Hosting the "Fine Arts and Crafts Showcase" in collaboration with the organizers of the annual "4th of July" festival.
    d. Expanding the limits and definition of the local arts community, and introducing Brevard as a regional resource and destination for the film industry by promoting and maintaining "Film Brevard NC."
    e. Collaborating with City of Brevard, Heart of Brevard, Farmer's Market, Tourism Development Authority, Heritage Museum, Allison Deaver House (and other similar organizations), and Chamber of Commerce on mutually beneficial events.

2. TCarts will help Brevard diversity its economy by developing and strengthening the arts, culture, and other creative industries currently under discussion in the Economic Development and Cultural Resources categories of Brevard's Draft Comprehensive Plan; and additionally noted in the North Carolina Jobs Plan (North Carolina Economic Development Board, December 2013) through promotion, mentorship, and clustering; but most notably by:

    a. Continuance of the "Arts in Schools" program to introduce students to the arts and help develop the skill sets needed in an economy that expects unique perspectives and tactile initiatives to solve problems.
    b. Foster the cooperative of 28 local artists, known as "Number 7 Arts," in running a business and making a living in art.
    c. Showcase the work of local artists by hosting ten to twelve art exhibits a year, the 90+ events during the weeklong "Arts and Culture Week," the "Fine Arts and Crafts Showcase" and the Tour of Artist Studios."
    e. TCarts will help promote art organizations and art clusters in our region. Such as: Transylvania Art Guild, Connestee Art League, Land of waterfalls Camera Club, Transylvania Handcrafters Guild, Western NC Quilters, Fiber Group and Local woodworkers.
    f. Provides continuing education for local artists, art organizations and art businesses.

3. TCarts will report the results of the aforementioned efforts at Council's Regularly Scheduled meetings in October 2016 and at the March 2017 annual Budget Public Input Session. The table below is included as guidance only:

	DATA	COLLECTION POINTS	REPORT PERIOD
REVENUE DIVERSITY	Attendance at each Gallery Walk	(Red Wolf, Haen, & TCarts galleries)	Oct. & March
	Overnight stays from each Gallery Walk or film events	(Sunset, Holiday Inn, & Hampton Inn)	Oct. & March
	Payroll at each Gallery Walk (e.g. entertainment, contracting)	Total paid out at all host sites during Gallery Walk, or total paid out on contracting or hosting film events	Oct. & March
	Provide Film Update	Scouting Report	Oct. & March

	DATA	COLLECTION POINTS	REPORT PERIOD
ECONOMIC DIVERSITY	Weekly sales	Number 7 arts gallery	Oct. & March
	Number of vendors and vendor transition per week (dropped off or achieved independence)	Number 7 arts gallery	Oct. & March

4. Brevard has budgeted $10,000 for the TCarts efforts described above, and will distribute quarterly.

5. This agreement will terminate at the end of the fiscal year of June 30, 2017.

W I T N E S S E T H

CITY OF BREVARD

_____
Jim Fatland, CPFO
City Manager/Finance Director

ATTEST:

_____
Desiree D. Perry, CMC, NCCMC
City Clerk

TC Arts Council

_____
Molly Jenkins
TC Arts Council Board President

_____
Tammy Hopkins
TC Arts Council Executive Director

This instrument has been pre-audited per the Local Government Budget and Fiscal Control Act.

_____
Jim Fatland, CPFO
Director of Finance

STATE OF NORTH CAROLINA
COUNTY OF TRANSYLVANIA

I, _____, a Notary Public of the Country and State aforesaid, certify that MOLLY JENKINS and TAMMY HOPKINS personally came before me this day and acknowledged that they are respectively Board Chair and Executive Director for Transylvania Community Arts Council, and that by authority duly given and as the act of this corporation, the foregoing instrument was signed by them and sealed with its corporate seal.

Witness my hand and official seal, this _____ day of _____, 2016.

My Commission Expires: _____ _____
Notary Public

STATE OF NORTH CAROLINA
TRANSYLVANIA COUNTY

Community Development Contract with Transylvania Farmers Market

THIS AGREEMENT, entered into this the _____ day of _____, 2016, by and between the CITY OF BREVARD, NORTH CAROLINA, a municipal corporation organized and chartered under the laws of the State of North Carolina, hereinafter called "Brevard" and the TRANSYLVANIA FARMERS MARKET, a 501(c)3 non-profit corporation organized and incorporated under the laws of the State of North Carolina, hereinafter called the "Market";

W I T N E S S E T H

THAT, WHEREAS, Brevard's Mission (i.e. its role and purpose) is to "promote a high quality of life, support economic prosperity, and cultivate community while honoring its heritage and culture" through the provision of public goods, services, and spaces, and the Market is "an organization founded with the goal to encourage and promote local agriculture, horticulture, value-added, and craft industries in Transylvania County, North Carolina; to provide local producers and starting businesses a site to market their goods directly to residents and visitors to the County; to provide consumers a site to obtain quality goods and healthy food options directly from local producers; and to foster an environment of healthy eating and lifestyle in a community gathering place"; and,

WHEREAS, Brevard's Vision (i.e. its goal and bearing) is to be "a safe, friendly, family-oriented community with small-town charm, outdoor recreation, arts and culture that bring investment opportunities, environmental consciousness, and economic diversity," and Brevard acted on this Vision through adopting the "Transylvania County Farmland Protection Plan" as policy, which established a goal of supporting the agricultural sector through the establishment of a permanent and structured farmers market; and,

WHEREAS, Brevard may increase the impact of public expenditures by funding non-profit, such as the Market, to couple those funds with their additional donations, grants, and fundraising, to leverage their organized volunteer workforce, and utilize their expertise to provide specific programs or services; and,

WHEREAS, by virtue of the Market's Mission, Vision, and the services offered to Brevard City Council at their Budget Public Input Session on March 21, 2016, it is mutually beneficial for Brevard to partner with Transylvania Farmers Market.

NOW, THEREFORE, it is agreed among the parties of this agreement as follows:

1. The Market will establish a permanent farmers market and thereby help re-establish Brevard's historic role as Transylvania County's County Seat, where goods are brought to the market, and citizens and visitors gather to engage in business, interact socially, and promote a healthier lifestyle as discussed in the Economic Development, Cultural Resources, and Health categories of Brevard's Draft Comprehensive Plan.

2. The Market will help Brevard diversify the revenue stream supporting public services by expanding the sales tax base through increased and concentrated activities within the central business district, as discussed in the Economic Development category of Brevard's Draft Comprehensive Plan, and specifically noted by:

    a. Hosting Market Days.
    b. Advertising and marketing Market Days to consumers.
    c. Incorporating promotional events into the Market Days for consumers.
    d. Collaborating with Heart of Brevard, TCarts, and Chamber on mutually beneficial events.

3. The Market will help Brevard diversify its economy by developing and strengthening the agriculture value-added production businesses under discussion in the Economic Development category of Brevard's Community Development Plan; and additionally noted in the North Carolina Jobs Plan (North Carolina Economic Development Board, December 2013) through promotion, mentorship, and clustering; but most notably by:

    a. Coordinating specialized business classes through Blue Ridge Community College.
    b. Developing a place for someone to market their home-grown and/or home-made products, and thereby developing the workforce skills to create, make, and build
    c. Advertising and marketing Market Days to vendors.

4. The Market will report the results of the aforementioned efforts at Council's Regularly Scheduled meetings in October 2016 and at the March 2017 annual Budget Public Input Session. The table below is included as guidance only:

REVENUE DIVERSITY	DATA	COLLECTION POINTS	REPORT PERIOD
	Attendance	Market	Oct. & March
	Number of type of promotional events	Market	Oct. & March
	Advertising and marketing mediums and markets	Medium name (e.g. Transylvania Times) and market share (e.g. readership number and demographic	Oct. & March

ECONOMIC DIVERSITY	DATA	COLLECTION POINTS	REPORT PERIOD
	Annual sales	Market	Annually
	Number of vendors and vendor transition per week (dropped off or achieved independence)	Market	Quarterly

5. Brevard has budgeted $17,000 for the Market's efforts described above, and will distribute these funds quarterly.

6. This agreement will terminate at the end of the fiscal year of June 30, 2017.

W I T N E S S E T H

CITY OF BREVARD

_____
Jim Fatland, CPFO
City Manager/Finance Director

Transylvania Farmers Market

_____
Brittany Whitmire, President
Transylvania Farmers Market
Board of Directors

ATTEST:

_____
Desiree D. Perry, CMC, NCCMC
City Clerk

_____
Leslie Logemann, Market Manager
Transylvania Farmers Market

This instrument has been pre-audited per the Local Government Budget and Fiscal Control Act.

_____
Jim Fatland, CPFO
Director of Finance

STATE OF NORTH CAROLINA
COUNTY OF TRANSYLVANIA

I, _____, a Notary Public of the Country and State aforesaid, certify that BRITTANY WHITMIRE and LESLIE LOGEMANN, personally came before me this day and acknowledged that they are respectively Board President and Market Manager for the Transylvania Farmers Market, and that by authority duly given and as the act of this corporation, the foregoing instrument was signed by them and sealed with its corporate seal.

Witness my hand and official seal, this _____ day of _____, 2016.

My Commission Expires: _____

_____
Notary Public

STATE OF NORTH CAROLINA
TRANSYLVANIA COUNTY

Community Development Contract with Heart of Brevard, Inc.

THIS AGREEMENT, entered into this the _____ day of _____ , 2016, by and between the CITY OF BREVARD, NORTH CAROLINA, a municipal corporation organized and chartered under the laws of the State of North Carolina, hereinafter called "City of Brevard" and the HEART OF BREVARD, INC., a 501 (c) (3) tax exempt corporation organized and incorporated under the laws of the State of North Carolina, hereinafter called "HOB";

W I T N E S S E T H

THAT, WHEREAS, the City of Brevard's Mission (i.e. its role and purpose) is to "promote a high quality of life, support economic prosperity, and cultivate community while honoring its heritage and culture" through the provision of public goods, services, and spaces, and the HOB's Mission is "to improve the quality of life in Brevard by strengthening the downtown as a center of the community through concentrated efforts in organization, promotion, design, and economic restructuring"; and,

WHEREAS, the City of Brevard's Vision (i.e. its goal and bearing) is to be "a safe, friendly, family-oriented community with small-town charm, outdoor recreation, arts and culture that bring investment opportunities, environmental consciousness, and economic diversity", and the HOB's Vision is, "Historic Downtown Brevard, cradled by the Pisgah National Forest, is the safe, walkable center of our community. Lined with diverse independent businesses, downtown serves as the crossroads to exceptional outdoor recreation and is a thriving hub for the arts"; and,

WHEREAS, the City of Brevard's provision of public goods, services, and spaces through public expenditures, while an essential building block of community development, is only part of the foundation necessary in achieving the Vision for this community; and,

WHEREAS, the City of Brevard may increase the impact of public expenditures by funding non-profits, such as the Heart of Brevard, to couple those funds with additional donations, grants, and fundraising to leverage their organized volunteer work force, and utilize their expertise to provide specific programs or services; and,

WHEREAS, by virtue of Heart of Brevard's Mission, Vision, and the services offered to the City of Brevard's City Council at its Budget Public Input Session on March 21, 2016, it is mutually beneficial for the City of Brevard to partner with Heart of Brevard in the year ahead.

NOW, THEREFORE, it is agreed among the parties of this agreement as follows:

1. The Heart of Brevard will assist the City of Brevard in achieving the Economic Development, Housing, Cultural Resources, and Land Use categories of the Comprehensive Plan chiefly by serving as the City of Brevard's representative member and liaison to North Carolina's Main Street Program by fulfilling all duties of membership, but notably by:

   a. Maintaining Design, Promotions, Economic Vitality, and Organization committees.
   b. The Executive Director's attendance to the Annual Conference and when possible as many Board members in attendance as well.
   c. Membership participation in any of the Program's applicable events and classes.

2. As a member and participant in the North Carolina Main Street Program, the Heart of Brevard will help the City of Brevard expand its property tax base by filling in empty buildings as part of implementing the Economic Restructuring component of the Main Street Program, but notably by:

   a. Marketing available space through the provision of postings on HOB's and the City of Brevard's websites, and when possible scheduling direct showings.
   b. Target marketing through use of the City of Brevard's Retail Market Analysis and Strategy study (Arnett Muldrow, March 2014).
   c. Small Grants Program provides incentives to new and existing businesses.
   d. Researching how to create a Building Rehabilitation Loan Program to create available space or adapt existing space to meet current fire and building codes.

3. As a member and participant in the North Carolina Main Street Program, the Heart of Brevard will help the City of Brevard diversify its revenue base by expanding the sales tax base as part of implementing the Promotions component of the Main Street Program, but notably by:

   a. Organizing and Hosting at least three Special Events. Past examples being the White Squirrel Festive, July 4th Festival, Halloweenfest, and Twilight Tour, but recognizing Heart of Brevard needs latitude and room for change on the scope, number, and type of events to balance festivals with economic efforts.
   b. Collaborate and participate with TCarts 4th Friday gallery walks.
   c. Collaborating with the Chamber to market downtown through TDA.

4. Heart of Brevard will report the results of the aforementioned efforts at Council's October 2016 and at the March 2017 annual Budget Public Input Session. The table below is included as guidance only:

	DATA	COLLECTION POINTS	REPORT PERIODS
REVENUE DIVERSITY	Vendors at events	Each special events	Oct. & March
	Event attendance	Each special events	Oct. & March
	Profit/loss of event	Each special events	Oct. & March
ECONOMIC DIVERSITY	Store occupancy/vacancy	All store fronts	Oct. & March
	Office occupancy/vacancy	All offices	Oct. & March
	Residential occupancy/vacancy	All residences	Oct. & March
	Space creation or improvements	Value and number of building rehabilitation loans	Oct. & March
	Space improvements	Value and number of facade grants	Oct. & March

5. The Heart of Brevard contributes $11,000 per year toward the Downtown Master Plan, paid quarterly.

6. Brevard has budgeted $30,000 plus an additional $2,500 for fireworks for the Heart of Brevard efforts described above, and will distribute quarterly.

7. This agreement will terminate at the end of the fiscal year on June 30, 2017.

W I T N E S S E T H

CITY OF BREVARD

_____
James R. Fatland
City Manager and Finance Director

HEART OF BREVARD, INC.

_____
Richard Coadwell
President

ATTEST:

_____
Desiree D. Perry, CMC, NCCMC
City Clerk

_____
Heath Seymour
Executive Director

This instrument has been pre-audited per the Local Government Budget and Fiscal Control Act.

_____
James R. Fatland, CPFO
Interim City Manager/Director of Finance

STATE OF NORTH CAROLINA
COUNTY OF TRANSYLVANIA

I, _____, a Notary Public of the County and State aforesaid, certify that **RICHARD COADWELL** and **HEATH SEYMOUR**, personally came before me this day and acknowledged that they are respectively President and Executive Director for THE HEART OF BREVARD, INC., and that by authority duly given and as the act of this corporation, the foregoing instrument was signed by them and sealed with its corporate seal.

Witness my hand and notarial seal, this the _____ day of _____, 2016.

My Commission Expires: _____ _____
Notary Public

CERTIFICATE OF EXCELLENCE

In recognition of the quality of your laboratory in proficiency testing for

WP-255

City of Brevard Water Plant

is issued this certificate of achievement by ERA. This laboratory has been recognized as a Laboratory of Excellence for achieving 100% acceptable data in this study which included 929 participating laboratories. This achievement is a demonstration of the superior quality of the laboratory in evaluation of the standards listed below.

Low-Level Total Residual
Chlorine

Pat Larson

Patrick Larson
Quality Officer

C311235

received
June 2016

CITY of BREVARD

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

Finance Department
(828) 885-5600

FINANCE REPORT

FOR MONTH ENDED

(UNAUDITED)

JUNE 30, 2016

JIM FATLAND, CPFO, NCCLGFO, CITY MANAGER

95 West Main Street | Brevard, North Carolina 28712
www.cityofbrevard.com

CITY OF BREVARD
FY16 APPROVED BUDGET
ALL FUNDS SUMMARY
REVENUE & EXPENDITURE REPORT
FOR MONTH ENDED JUNE 30, 2016

	BEGINNING FUND BALANCE	APPROVED BUDGET REVENUE	ACTUAL REVENUE JUNE 30	APPROVED BUDGET EXPENSES	ACTUAL EXPENSES JUNE 30	ENDING FUND BALANCE
GENERAL FUND	$3,366,739	$10,183,183	$9,329,934	$10,183,183	$9,988,940	$2,707,733
UTILITY FUND	$1,426,117	$5,278,483	$4,979,582	$5,278,483	$5,060,909	$1,344,789
UTILITY PROJECTS FUND	$0	$7,819,034	$2,522,828	$7,819,034	$4,576,037	-$2,053,209
CAPTIAL RESERVE FUND	$1,082,248	$645,000	$54,735	$645,000	$625,000	$511,983
FIRE DEPARTMENT FUND	$37,270	$668,530	$649,110	$668,530	$658,534	$27,846
T.L.SCRUGGS SCHOLARSHIP FUND	$11,546	$19,500	$19,940	$19,500	$17,515	$13,971
BJERG TRUST FUND	$60,143	$100	$60	$100	$0	$60,203
OPEB TRUST FUND	$156,485	$18,750	$18,785	$18,750	$0	$175,270
HEALTH INSURANCE RESERVE FUND	$280,833	$1,523,000	$1,258,906	$1,523,000	$1,282,782	$256,957
HEART OF BREVARD	$0	$130,700	$122,409	$130,700	$122,409	$0
HOUSING TRUST FUND	$53,522	$26,536	$26,603	$26,536	$0	$80,125
BRACKEN MTN PROJECT FUND	$18,268	$18,268	$0	$18,268	$18,268	$0
MULTI USE PATHS PROJECT FUND	$209,735	$1,415,196	$1,208,196	$1,415,196	$669,976	$747,955
NARCOTICS TASK FORCE FUND	$151,664	$45,100	$39,537	$45,100	$36,145	$155,055
ROSENWALD REVITALIZATION FUND	$86,037	$491,674	$330,637	$491,674	$288,767	$127,906
DOWNTOWN MASTER PLAN FUND	$799,784	$811,167	$191,000	$811,167	$808,532	$182,252
TOTAL ALL FUNDS	$7,740,391	$29,094,221	$20,752,260	$29,094,221	$24,153,814	$4,338,837

CITY OF BREVARD			
FY16 APPROVED BUDGET			
GENERAL FUND			
REVENUE & EXPENDITURE REPORT			
FOR MONTH ENDED JUNE 30, 2016			
	APPROVED FY16 BUDGET	THRU JUNE 30	PERCENT TO DATE
BEGINNING FUND BALANCE		$3,366,739	
REVENUE			
Property Taxes	$4,574,700	$4,668,934	102.1%
Privilege Licenses	$0	$1,380	0.0%
Interest Earned on Investments	$5,000	$6,538	130.8%
Rental Income	$25,000	$27,229	108.9%
Miscellaneous	$6,000	$5,374	89.6%
911 Funding	$64,000	$53,806	84.1%
Zoning Administration	$33,000	$34,772	105.4%
Utilities Franchise	$595,000	$594,575	99.9%
Wine & Beer Tax	$34,404	$34,404	100.0%
Powell Bill	$225,824	$225,824	100.0%
Sales Taxes	$1,350,000	$1,350,171	100.0%
ABC Net Revenue	$125,000	$159,732	127.8%
Court Costs & Fees	$2,500	$2,871	114.8%
Parking Violation Penalties	$1,500	$1,695	113.0%
Donations to Police Department	$2,400	$2,400	100.0%
Refuse Collection & Recycling	$907,000	$912,664	100.6%
Sales of Fixed Assets	$12,396	$12,460	100.5%
Recreation	$18,000	$16,698	92.8%
Grants-Police Dept	$9,709	$9,709	100.0%
County Vehicle Mtce	$431,650	$333,698	77.3%
Transfers from Other Funds			
Utility Fund	$575,000	$575,000	100.0%
Bjerg Trust Fund	$100	$0	0.0%
Transfer from Pedestrian Fund	$300,000	$300,000	100.0%
Fund Balance Appropriated			
Captial Budget	$885,000		
TOTAL REVENUE	$10,183,183	$9,329,934	91.6%

CITY OF BREVARD			
GENERAL FUND			
FY16 APPROVED BUDGET			
REVENUE & EXPENDITURE REPORT			
FOR MONTH ENDED JUNE 30, 2016			
	APPROVED FY16 BUDGET	THRU JUNE 30	PERCENT TO DATE
EXPENDITURES			
Governing Board	$413,268	$413,194	100.0%
Administration	$617,656	$613,196	99.3%
Finance	$689,998	$676,816	98.1%
Legal	$68,000	$65,161	95.8%
Planning	$772,880	$751,283	97.2%
Buildings & Grounds	$644,997	$642,302	99.6%
Police	$2,614,280	$2,579,858	98.7%
Public Services Administration	$330,938	$324,914	98.2%
Public Works Garage	$536,461	$457,524	85.3%
Streets-Local	$669,217	$667,338	99.7%
Streets-Powell	$225,824	$215,611	95.5%
Sanitation	$722,024	$720,291	99.8%
Recreation	$98,316	$82,141	83.5%
Non Departmental (Debt)	$1,710,324	$1,710,310	100.0%
Economic Development	$69,000	$69,000	100.0%
Contingency			
TOTAL EXPENDITURES	$10,183,183	$9,988,940	98.1%
ENDING FUND BALANCE		$2,707,733	

CITY OF BREVARD			
UTILITY FUND			
FY16 APPROVED BUDGET			
REVENUE & EXPENDITURES REPORT			
FOR MONTH ENDED JUNE 30, 2016			
	APPROVED FY16 BUDGET	THRU JUNE 30	PERCENT TO DATE
BEGINNING FUND BALANCE		$1,426,117	
REVENUE			
Miscellaneous Utility Fees		$1,805	0.00%
Water Charges	$2,350,000	$2,293,442	97.6%
Sewer Charges	$2,120,000	$2,006,676	94.7%
Meter Charges	$136,000	$135,894	99.9%
Tap & Connection Fees-Water	$10,000	$26,200	262.0%
Tap & Connection Fees-Sewer	$2,500	$14,000	560.0%
Transfer From Capital Reserve	$425,000	$425,000	100.0%
Reconnection Fees	$40,000	$41,915	104.8%
Septage Pretreatment Facility	$20,000	$34,650	173.3%
Fund Balance Appropriated	$174,983		
Loan Proceeds--New Equipment			
TOTAL REVENUE	$5,278,483	$4,979,582	94.3%
EXPENDITURES			
On Line/Credit Card Fees	$20,000	$21,317	106.6%
Reimbursement to General Fund	$575,000	$575,000	100.0%
Debt Service Payments	$433,457	$374,849	86.5%
OPEB Transfer	$6,750	$6,750	100.0%
Transfer to Utility Capital Projects Fund			
Transfer to Health Insurance Reserve Fund	$31,000	$31,000	100.0%
Water Treatment Plant	$1,063,405	$1,029,080	96.8%
Water Distribution	$527,974	$518,564	98.2%
Wastewater Treatment Plant	$1,774,896	$1,685,179	94.9%
Wastewater Collection System	$821,332	$819,171	99.7%
Transfer to Water & Sewer Capital Projects			
Contingency	$24,669		
TOTAL EXPENDITURES	$5,278,483	$5,060,909	95.9%
ENDING FUND BALANCE		$1,344,789	

CITY OF BREVARD			
WATER & SEWER CAPITAL PROJECTS FUND (31)			
FY16 APPROVED BUDGET			
REVENUE & EXPENDITURE REPORT			
FOR MONTH ENDED JUNE 30, 2016			
	APPROVED FY16 BUDGET	THRU JUNE 30	PERCENT TO DATE
BEGINNING FUND BALANCE		$0	
REVENUE			
Transfer from Utility Fund			
Transfer from Capital Reserve Fund			
CG & Loan Burrell Mountain Water Tank	$600,000	$823,540	137.3%
Sewer 6 Inch Upgrade Loan	$1,738,600	$681,529	39.2%
King Creek Sewer PH II Loan	$1,435,784		
King Creek Sewer PH III Loan	$1,484,150		
Radio Read Meter Loan	$1,360,500	$1,017,759	74.8%
Neely Rd. PS/FM/EQ TANK Loan	$1,200,000		
TOTAL REVENUE	$7,819,034	$2,522,828	32.3%
EXPENDITURES			
Water Tank Burrell Mountain	$600,000	$829,177	138.2%
Kings Creek Sewer Project Phase 2	$1,435,784	$74,930	5.2%
Kings Creek Sewer Project Phase 3	$1,484,150	$148,770	10.0%
Sewer Upgrade 6 Inch to 8 Inch	$1,738,600	$1,372,399	78.9%
AMR Purchase & Installation	$1,360,500	$1,197,588	88.0%
Neely Rd. PS/FM/EQ/ TANK Loan	$1,200,000	$586,620	48.9%
WWTP Rehab Project		$191,153	
Brevard Academy		$175,401	
TOTAL EXPENDITURES	$7,819,034	$4,576,037	58.5%
ENDING FUND BALANCE		-$2,053,209	

CITY OF BREVARD			
CAPITAL RESERVE FUND (FUND 35)			
APPROVED FY16 BUDGET			
REVENUE & EXPENDITURE REPORT			
FOR MONTH ENDED JUNE 30, 2016			
	APPROVED FY16 BUDGET	THRU JUNE 30	PERCENT TO DATE
BEGINNING FUND BALANCE		$1,082,248	
REVENUE			
Transfer From Utility Fund			
Interest on Investments		$56	
Impact Fees--Water	$10,000	$26,516	265.2%
Impact Fees--Sewer	$10,000	$25,141	251.4%
Sidewalks In-Lieu			
Fees In Lieu of Infastructure		$3,022	
Contribution from Developer			
Fund Balance Appropriated	$625,000		
TOTAL REVENUE	$645,000	$54,735	8.5%
EXPENDITURES			
Transfer to Rosenwald Fund	$200,000	$200,000	100.0%
Transfer to Water Treatment	$125,000	$125,000	100.0%
Transfer to Sewer Treatment	$300,000	$300,000	100.0%
Increase in Fund Balance	$20,000		
TOTAL EXPENDITURES	$645,000	$625,000	96.9%
ENDING FUND BALANCE		$511,983	

CITY OF BREVARD			
FIRE DISTRICT FUND (FUND 40)			
APPROVED FY16 BUDGET			
REVENUE & EXPENDITURE REPORT			
FOR MONTH ENDED JUNE 30, 2016			
	APPROVED FY16 BUDGET	THRU JUNE 30	PERCENT TO DATE
BEGINNING FUND BALANCE		$37,270	
REVENUE			
Misc. Revenue		$580	
Fire District Taxes--County	$308,700	$308,700	100.0%
Transfer from City General Fund	$339,830	$339,830	100.0%
Sale of Fixed Assets			
Grant Revenue			
Fund Balance Appropriated	$20,000	$0	
TOTAL REVENUE	$668,530	$649,110	97.1%
EXPENDITURES			
Fire Department Operations & Debt	$668,530	$658,534	98.5%
TOTAL EXPENDITURES	$668,530	$658,534	98.5%
ENDING FUND BALANCE		$27,846	

CITY OF BREVARD			
T.L. SCRUGGS SCHOLARSHIP FUND (FUND 50)			
APPROVED FY16 BUDGET			
REVENUE & EXPENDITURE REPORT			
FOR MONTH ENDED JUNE 30, 2016			
	APPROVED FY16 BUDGET	THRU JUNE 30	PERCENT TO DATE
BEGINNING FUND BALANCE		$11,546	
REVENUE			
Fund Balance Appropriated			
Interest Earned on Investments		$2	
Donations	$19,500	$19,938	102.2%
TOTAL REVENUE	$19,500	$19,940	102.3%
EXPENDITURES			
Scholarships Awarded	$13,500	$11,000	81.5%
Fund Raising Expenses	$6,000	$6,515	108.6%
TOTAL EXPENDITURES	$19,500	$17,515	89.8%
ENDING FUND BALANCE		$13,971	

CITY OF BREVARD			
BJERG TRUST FUND (FUND 51)			
APPROVED FY16 BUDGET			
REVENUE & EXPENDITURE REPORT			
FOR MONTH ENDED JUNE 30, 2016			
	APPROVED FY16 BUDGET	THRU JUNE 30	PERCENT TO DATE
BEGINNING FUND BALANCE		$60,143	
REVENUE			
Interest on Investments	$100	$60	60.14%
TOTAL REVENUE	$100	$60	60.14%
EXPENDITURES			
Transfer to General Fund	$100		
TOTAL EXPENDITURES	$100		
ENDING FUND BALANCE		$60,203	

CITY OF BREVARD			
RESERVE FOR OPEB (FUND 52)			
APPROVED FY16 BUDGET			
REVENUE & EXPENDITURE REPORT			
FOR MONTH ENDED JUNE 30, 2016			
	APPROVED FY16 BUDGET	THRU JUNE 30	PERCENT TO DATE
BEGINNING FUND BALANCE		$156,485	
REVENUE			
Transfer from Other Funds	$18,750	$18,750	100.00%
Interest on Investments	$0	$35	0.00%
TOTAL REVENUE	$18,750	$18,785	100.18%
EXPENDITURES			
Increase in fund balance	$18,750		
TOTAL EXPENDITURES	$18,750		
ENDING FUND BALANCE		$175,270	

CITY OF BREVARD			
HEALTH INSURANCE RESERVE (FUND 53)			
APPROVED FY16 BUDGET			
REVENUE & EXPENITURE REPORT			
FOR MONTH ENDED JUNE 30, 2016			
	APPROVED		
		THRU	PERCENT
	BUDGET	JUNE 30	TO DATE
BEGINNING FUND BALANCE		$280,833	
REVENUE			
Fund Balance Appropriated	$265,000		
Dependent Dental & Retiree Premiums	$67,000	$67,978	101.5%
Department Charges for Group Medical	$1,014,500	$1,014,428	100.0%
Transfer from General Fund	$145,500	$145,500	100.0%
Transfer from Utility Fund	$31,000	$31,000	100.0%
TOTAL REVENUE	$1,523,000	$1,258,906	82.7%
EXPENDITURES			
Third Party Administrator	$20,000	$25,125	125.6%
Medical Insurance Broker	$21,000	$36,851	175.5%
Cobra Administrator	$1,600	$0	0.0%
Med Cost UR/PPO	$6,800	$17,339	255.0%
Aggregate Insurance Premiums	$191,400	$173,502	90.6%
Claims Paid	$1,176,500	$906,846	77.1%
Employee Assistance Program	$3,500	$3,880	110.8%
Wellness Programs	$75,000	$87,373	116.5%
Life AD & D	$14,500	$16,871	116.4%
Life Dependents	$700	$740	105.7%
Short Term Disability	$12,000	$14,256	118.8%
TOTAL EXPENDITURES	$1,523,000	$1,282,782	84.2%
ENDING FUND BALANCE		$256,957	

CITY OF BREVARD			
HEART OF BREVARD (FUND 70)			
APPROVED FY16 BUDGET			
REVENUE & EXPENDITURE REPORT			
FOR MONTH ENDED JUNE 30, 2016			
	APPROVED FY16 BUDGET	THRU JUNE 30	PERCENT TO DATE
BEGINNING FUND BALANCE		$0	
REVENUE			
Tax Penalities	$0	$507	
District Tax Collections	$130,700	$121,902	93.3%
Fund Balance Appropriation	$0		
TOTAL REVENUE	$130,700	$122,409	93.7%
EXPENDITURES			
Contracted Services	$130,700	$122,409	93.7%
Transfer To General Fund	$0	$0	
TOTAL EXPENDITURES	$130,700	$122,409	93.7%
ENDING FUND BALANCE		$0	

CITY OF BREVARD			
HOUSING TRUST FUND (FUND 76)			
APPROVED FY16 BUDGET			
REVENUE & EXPENDITURE REPORT			
FOR MONTH ENDED JUNE 30, 2016			
	APPROVED FY16 BUDGET	THRU JUNE 30	PERCENT TO DATE
BEGINNING FUND BALANCE		$53,522	
REVENUE			
Interest on Investments		66.73	
Developer Loan Payment	$26,536	$26,536	100.0%
TOTAL REVENUE	$26,536	$26,603	100.3%
EXPENDITURES			
Increase in Fund Balance	$26,536		
TOTAL EXPENDITURES	$26,536		
ENDING FUND BALANCE		$80,125	

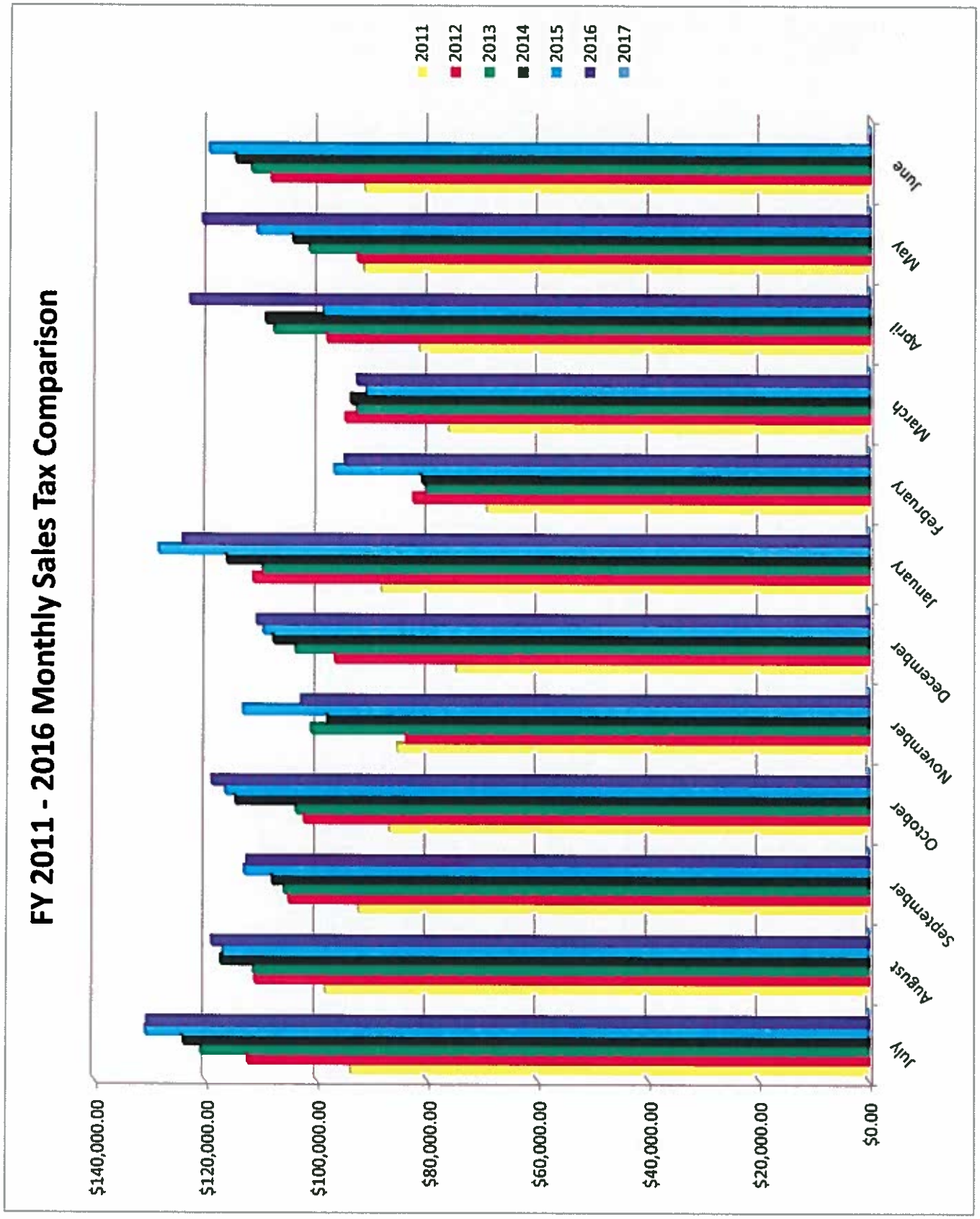
CITY OF BREVARD			
BRACKEN MTN PROJECT (FUND 77)			
APPROVED FY16 BUDGET			
REVENUE & EXPENDITURES REPORT			
FOR MONTH ENDED JUNE 30, 2016			
	APPROVED FY16 BUDGET	THRU JUNE 30	PERCENT TO DATE
BEGINNING FUND BALANCE		$18,268	
REVENUE			
Interest on Investments	$0		
NCDENR	$0		
Transfer from General Fund	$0		
Fund Balance Appropriated	$18,268		
TOTAL REVENUE	$18,268		
EXPENDITURES			
Trail Design & Construction	$18,268	$18,268	100.0%
TOTAL EXPENDITURES	$18,268	$18,268	100.0%
ENDING FUND BALANCE		$0	

CITY OF BREVARD			
MULTI USE PATHS (FUND 78)			
APPROVED FY16 BUDGET			
REVENUE & EXPENDITURES REPORT			
FOR MONTH ENDED JUNE 30, 2016			
	APPROVED FY16 BUDGET	THRU JUNE 30	PERCENT TO DATE
BEGINNING FUND BALANCE		$209,735	
REVENUE			
SRTS Grant Reimbursement			
Transfer from Capital Reserve Donation			
Transfer Fees in Lieu C Reserve			
Transfer from General Fund	$908,196	$908,196	100.0%
Recreation Trails Grant			
Transfer Cap Reserve			
Transfer from DTMP	$300,000	$300,000	100.0%
Fund Balance Appropriated	$207,000		
TOTAL REVENUE	$1,415,196	$1,208,196	85.4%
EXPENDITURES			
Pedestrian / Bike Path			
Pedestrian / Bike Improvements	$908,196	$105,121	11.6%
TOTAL Pedestrain / Bike Path	$908,196	$105,121	11.6%
West Loop Phase I	$0		
Design & Construction	$107,000	$95,205	89.0%
TOTAL WEST LOOP	$107,000	$95,205	89.0%
Railroad Avenue Project Area	$100,000	$169,650	169.7%
TOTAL RAILROAD PROJECT AREA	$100,000	$169,650	169.7%
Transfer to General Fund	$300,000	$300,000	100.0%
TOTAL EXPENDITURES	$1,415,196	$669,976	47.3%
ENDING FUND BALANCE		$747,955	

CITY OF BREVARD			
NARCOTICS TASK FORCE (FUND 81)			
FY16 APPROVED BUDGET			
REVENUE & EXPENDITURE REPORT			
FOR MONTH ENDED JUNE 30, 2016			
	APPROVED FY16 BUDGET	THRU JUNE 30	PERCENT TO DATE
BEGINNING FUND BALANCE		$151,664	
REVENUE			
Interest on investments	$100	$141	141.0%
Received from Transylvania County	$15,000	$15,140	100.9%
Received from Brevard Police Department	$15,000	$15,000	100.0%
Clerk of Court Funds			
Miscellaneous Revenue		$1,866	
Federal Asset Funds-Police	$5,000		
State Controller Payments	$10,000	$7,390	73.9%
Fund Balance Appropriated	$0		
TOTAL REVENUE	$45,100	$39,537	87.7%
EXPENDITURES			
Expenditures	$40,100	$36,145	90.1%
DEA Fed Fund BPD	$5,000		
TOTAL EXPENDITURES	$45,100	$36,145	80.1%
ENDING FUND BALANCE		$155,055	

ROSENWALD REVITALIZATION (FUND 82)			
APPROVED FY16 BUDGET			
REVENUE & EXPENDITURE REPORT			
FOR MONTH ENDED JUNE 30, 2016			
	APPROVED FY16 BUDGET	THRU JUNE 30	PERCENT TO DATE
BEGINNING FUND BALANCE		$86,037	
REVENUE			
Fund Balance Appropiated	$86,037		
PARTF Grant	$205,637	$130,637	
Transfer from Capital Reserve	$200,000	$200,000	100.0%
Transfer from General Fund (Local Match)	$0	$0	
TOTAL REVENUE	$491,674	$330,637	67.2%
EXPENDITURES			
Land Acquisition	$291,674	$288,767	99.0%
Environmental Cleanup & Park Improv.	$200,000		
TOTAL EXPENDITURES	$491,674	$288,767	58.7%
ENDING FUND BALANCE		$127,906	

CITY OF BREVARD			
DOWNTOWN MASTER PLAN (FUND 83)			
APPROVED FY16 BUDGET			
REVENUE & EXPENDITURE REPORT			
FOR MONTH ENDED JUNE 30, 2016			
	APPROVED FY16 BUDGET	THRU JUNE 30	PERCENT TO DATE
BEGINNING FUND BALANCE		$799,784	
REVENUE			
Interest on Investments			
HOB	$11,000	$11,000	100.0%
Appropriated Fund Balance	$620,167		
Transfer from Capital Reserve Fund			
Transfer from General Fund	$180,000	$180,000	100.0%
NCDOT - Caldwell			
TOTAL REVENUE	$811,167	$191,000	23.5%
EXPENDITURES			
DTMP Design	$511,167	$508,532	99.5%
Clemson Park & Downtown Improvements	$0		
Transfer to Pedestrian Fund	$300,000	$300,000	100.0%
Caldwell Street	$0		
TOTAL EXPENDITURES	$811,167	$808,532	99.7%
ENDING FUND BALANCE		$182,252	


FY 2011 - 2016 Monthly Sales Tax Comparison
2011
2012
2013
2014
2015
2016
2017
$140,000.00
$120,000.00
$100,000.00
$80,000.00
$60,000.00
$40,000.00
$20,000.00
$0.00
July
August
September
October
November
December
January
February
March
April
May
June

Save the Date

Date & Time: Wednesday, September 21, 2016, at 8:30 AM

Purpose: Joint meeting of Brevard City Council and Transylvania County Board of Commissioners to tour City and County Recreational Facilities.

Location: City Council Chambers

ORDINANCE NO. 2016-19

FY 2015-2016 BUDGET ORDINANCE
AMENDMENT NO. FIVE

WHEREAS, the City Council of the City of Brevard has previously approved the annual budget (Ordinance No. 2015-13), Budget Ordinance Amendment No. One (Ordinance No. 2015-14), Budget Ordinance Amendment No. Two (Ordinance No. 2016-01), Budget Ordinance Amendment No. Three (Ordinance No. 2016-07), and Budget Ordinance Amendment No. Four (Ordinance No. 2016-16); and

WHEREAS, the FY2015-2016 Budget Ordinance Section 35 authorizes the Budget Officer to effect interdepartmental transfers, in the same fund, provided that no department budget shall be reduced by more than ten percent without prior approval of the City Council. Any such transfer shall be reported to the City Council at its next regular meeting and shall be entered into the minutes.

NOW, THEREFORE BE IT RESOLVED THAT THE FOLLOWING INTERDEPARTMENTAL TRANSFERS BE MADE WITHIN THE GENERAL FUND. THE TOTAL GENERAL FUND EXPENDITURES REMAIN UNCHANGED.

SECTION 01) General Fund Expenditures by department are increased or decreased resulting in no increase to the total budget as shown below:

Administration Department	$10,000
Legal Department	$5,000
Public Services Administration	$10,000
Streets-Local	$10,000
Garage	-$35,000
TOTAL EXPENDITURES	$0

SECTION 03) Water and Sewer Utility Fund Expenditures by department are increased or decreased resulting in no increase to the total budget as show below:

Non Departmental	-$80,000
Wastewater Treatment Plant	$80,000
TOTAL EXPENDITURES	$0

SECTION 31) That Revenue and Expenditures set forth below remain unchanged as a result of inter departmental transfers:

General Fund	$10,183,183
Water & Sewer Fund	5,278,483
Utility Capital Projects Fund	7,819,034
Capital Reserve Fund	645,000
Heart of Brevard MSD Fund	130,700
Bjerg Trust Fund	100
Fire District Fund	668,530
Multi-Use Paths Fund	1,415,196
Narcotics Task Force Fund	45,100
Downtown Master Plan Fund	811,167
Other Post-Employment Benefits Fund	18,750
Bracken Mountain Project Fund	18,268
Health Insurance Fund	1,523,000
Housing Trust Fund	26,536
T. L. Scruggs Scholarship Trust Fund	19,500
Rosenwald Revitalization Fund	491,674
TOTAL BUDGET APPROPRIATION	$29,094,221

Approved on this the 30th day of June, 2016.

APPROVED:

_____
James R. Fatland, CPFO, NCCLGFO
City Manager and Finance Director

ATTEST:

_____
Desiree D. Perry, CMC, NCCMC
City Clerk

NOTE: TO BE REPORTED TO THE BREVARD CITY COUNCIL AT THEIR NEXT REGULAR MEETING SCHEDULED FOR AUGUST 15, 2016.

The City of Brevard North Carolina

AGENDA ITEM

DATE: August 15, 2016

TO: Mayor and City Council Members

FROM: Jim Fatland, CPFO & City Manager

SUBJECT: FY16 Budget Ordinance Amendment No. Six

PREPARED BY: Tom Whitlock, Finance Department

BACKGROUND:

The FY16 Budget Amendment No. Six reflects changes in revenue and expenditures for the following funds: General Fund and the 911 Communications Fund. Comments on the Proposed FY16 Amendment No. Six follows.

General Fund

Revenue and Expenditures Decreased $64,000 from $10,183,183 to $10,119,183. This reflects transfer from General Fund to the new 911 Communications Fund.

The Source of fund is new revenue received from 911 Communications Funding. The revenue and expenditures are transferred to the 911 Communications Fund.

911 Communications Fund

Expenditures and Revenues are increased from $0.00 to $64,000.

The source of funds reflects transfer from the General Fund to the new 911 Communications Fund. This fund provides revenues and expenditures for “qualifying” 911 Communication expenditures.

Our auditors, Gold Killian CPA Group, recommend a separate fund to account for 911 Communications revenue and expenditures. These funds must be spent on 911 phone systems, furniture, software, hardware, training and other approved 911 expenditures.

FISCAL IMPACT: No change to FY16 Total Budget for all funds.

RECOMMENDATION: Approve FY16 Budget Amendment No. Six Ordinance.

ORDINANCE NO. 2016-__
AN ORDINANCE AMENDING THE FY2015-2016 BUDGET
AMENDMENT NO. SIX

WHEREAS, the City Council of the City of Brevard previously approved the Annual Budget (Ordinance No. 2015-13), Budget Ordinance Amendment No. One (Ordinance No. 2015-14); Budget Ordinance Amendment Two (Ordinance No. 2016-01); Budget Ordinance Amendment Three (Ordinance No. 2016-07); Budget Ordinance Amendment Four (Ordinance No. 2016-16); Budget Ordinance Amendment Five (Ordinance No. 2016-19) and

WHEREAS, it is necessary to make amendments to the budgets to reflect the following departmental transfers for Fiscal Year 2015-2016.

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

SECTION 01) General Fund Expenditures are hereby decreased $64,000 from $10,183,183 to $10,119,183 as shown as follows:

911 Communications Expenditures	($ 64,000)
TOTAL EXPENDITURES	($ 64,000)

SECTION 02) General Fund Revenue is hereby decreased $64,000 from $10,183,183 to $10,119,183 as shown as follows:

Misc. Revenue 911 Funding	($ 64,000)
TOTAL REVENUE	($ 64,000)

SECTION 15-A.) 911 Communications Fund Expenditures are hereby increased from $0.00 to $64,000 as shown as follows:

911 Communications Expenditures	$ 64,000
TOTAL EXPENDITURES	$ 64,000

SECTION 15-B.) 911 Communications Fund Revenue is hereby increased from $0.00 to $64,000 as shown as follows:

911 Communications Funding	$ 64,000
TOTAL REVENUE	$ 64,000

SECTION 31) That Revenue and Expenditures Sections 1 through Section 30 of the Ordinance Amendment reflect $64,000 of departmental transfers:

General Fund	$10,119,183
Water & Sewer Fund	$ 5,278,483
Utility Capital Projects Fund	$ 7,819,034
Capital Reserve Fund	$ 645,000
Heart of Brevard MSD Fund	$ 130,700
Bjerg Trust Fund	$ 100
Fire District Fund	$ 668,530
Multi-Use Paths Fund	$ 1,415,196
911 Communications Fund	$ 64,000
Narcotics Task Force Fund	$ 45,100
Downtown Master Plan Fund	$ 811,167
Other Post-Employment Benefits Fund	$ 18,750
Bracken Mountain Project Fund	$ 18,268

Health Insurance Fund	$ 1,523,000
Housing Trust Fund	$ 26,536
T.L. Scruggs Scholarship Trust Fund	$ 19,500
Rosenwald Revitalization Fund	$ 491,674
TOTAL BUDGET APPROPRIATION	**$29,094,221**

Adopted and approved this 15th day of August, 2016.

Jimmy Harris
Mayor

ATTEST:

Desiree D. Perry, CMC, NCCMC
City Clerk

APPROVED AS TO FORM:

Michael K. Pratt
City Attorney

The City of Brevard North Carolina

AGENDA ITEM

DATE: August 15, 2016

TO: Mayor and City Council Members

FROM: Jim Fatland, CPFO & City Manager

SUBJECT: FY17 Budget Ordinance Amendment No. One

PREPARED BY: Tom Whitlock, Finance Department

BACKGROUND:

The FY17 Budget Amendment No. One reflects changes in revenue and expenditures for the following funds: General Fund, Water & Sewer Fund, Multi-Use Paths Fund, and the 911 Communications Fund. Comments on the Proposed FY17 Amendment No. One follows.

General Fund

Revenue and Expenditures Decreased $64,000 from $10,183,183 to $10,119,183.

The Source of funds is 911 Communications Funding. The revenue and expenditures are transferred to the 911 Communications Fund.

Water & Sewer Fund

Revenues and Expenditures are increased $124,000 due to $69,000 emergency sewer repair on North Broad Street and $55,000 capital improvements at the Water Treatment Plant. The source of funds is utility fund balance.

The Water Treatment Plant has only one backwash pumped for cleaning the filters. It is the original pump that has served the plant from the beginning. We had the pump checked out by Chad Carlson from Heyward (a pump and equipment company). The pump is still in good condition and would not recommend replacing it. We still need a back-up plan just in case the pump or motor fails though. McGill and Associates Engineering evaluated the situation and gave some alternatives to solve the problem. Their recommendation is to connect the backwash line to the high service line (the line taking finished water to town) and install some valves so that in case the backwash pump does fail, we still have a way to backwash filters. This alternative was more cost efficient than installing a second backwash pump. The Public Works and Utilities Committee approved this recommendation at its meeting held on August 1, 2016.

N. Broad Street Sewer Line Replacement – Plans and permits were secured in 2013 in anticipation of an existing 12" sewer main failing. An easement was secured from Brevard College and a floodway no-rise certificate had been issued. The line was monitored by Collections System personnel and during video inspection was found further deteriorated in July 2016. The city accepted an estimate from Dillard Excavating for the replacement of 380' of this sewer line and work should be completed by August 31, 2016.

Multi-Use Paths Fund

Revenues and Expenditures are increased $800,000 to reflect budget increase for Probart Street Sidewalk project.

Funds were budgeted in the FY16 Multi-Use Paths Fund for the Probart Street Sidewalk Project. These funds would be appropriated in the FY17 Budget for the Probart Street Sidewalk Project.

911 Communications Fund

Expenditures and Revenues are increased from $0.00 to $64,000.

The source of funds reflects transfer from the General Fund to the new 911 Communications Fund. This fund provides revenues for "qualifying" 911 Communication expenditures.

RECOMMENDATION: Approve FY17 Budget Amendment No. One Ordinance.

ORDINANCE NO. 2016-__
AN ORDINANCE AMENDING THE FY2016-2017 BUDGET
AMENDMENT NO. ONE

WHEREAS, the City Council of the City of Brevard previously approved the Annual Budget (Ordinance No. 2016-18) and

WHEREAS, it is necessary to make amendments to the budgets to reflect additional revenue, appropriation of fund balance, and expenditures for Fiscal Year 2016-2017.

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

SECTION 01) General Fund Revenue is hereby reduced $64,000 from $9,374,097 to $9,310,097 as shown as follows:

911 REVENUE FUNDING	($ 64,000)
TOTAL REVENUE	($ 64,000)

SECTION 02) General Fund Expenditures are hereby reduced $64,000 from $9,374,097 to $9,310,097 as shown as follows:

Police Department	($ 64,000)
TOTAL EXPENDITURES	($ 64,000)

SECTION 03) Water & Sewer Fund Revenue is hereby increased $124,000 from $5,122,699 to $5,246,699 as shown as follows:

Water & Sewer Fund Balance Appropriated	$124,000
TOTAL REVENUE	$124,000

SECTION 04) Water & Sewer Fund Expenditures are hereby increased $124,000 from $5,122,699 to $5,246,699 as shown as follows:

Water Treatment	$ 55,000
Sewer Collections	$ 69,000
TOTAL EXPENDITURES	$124,000

SECTION 23) Multi-Use Paths Fund Revenue is hereby increased $800,000 from $303,000 to $1,103,000 as shown as follows:

Multi-Use Paths Fund Balance Appropriated	$800,000
TOTAL REVENUE	$800,000

SECTION 24) Multi-Use Paths Fund Expenditures are hereby increased $800,000 from $303,000 to $1,103,000 as shown as follows:

Paths, Sidewalks, & Signage	$800,000
TOTAL EXPENDITURES	$800,000

SECTION 25 A.) 911 Communications Fund Revenue is hereby increased from $0.00 to $64,000 as shown as follows:

911 Revenue Funding	$ 64,000
TOTAL REVENUE	$ 64,000

SECTION 25 B.) 911 Communications Fund Expenditures are hereby increased from $0.00 to $64,000 as shown as follows:

911 Communications Expenditures	$ 64,000
TOTAL EXPENDITURES	$ 64,000

SECTION 31) That Revenues and Expenditures Section 1 through Section 30 of the Ordinance Amendment have increased $924,000 from $34,813,802 to $35,737,802 as follows:

	Budget
General Fund	$ 9,310,097
Water & Sewer Utility Fund	$ 5,246,699
Utility Capital Projects Fund	$ 16,785,934
Capital Reserve Fund	$ 58,000
Fire District Fund	$ 879,272
Terrell L. Scruggs Scholarship Fund	$ 15,000
Bjerg Fund	$ 100
Other Post-Employment Benefits Fund	$ 18,750
Health Insurance Fund	$ 1,195,250
Heart of Brevard MSD Fund	$ 125,000
Housing Trust Fund	$ 26,600
Multi-use Paths Fund	$ 1,103,000
911 Communications Fund	$ 64,000
Narcotics Task Force Fund	$ 45,100
Rosenwald Revitalization Fund	$ 134,000
Downtown Master Plan Fund	$ 731,000
TOTAL BUDGET APPROPRIATIONS	**$ 35,737,802**

Adopted and approved this 15th day of August, 2016.

Jimmy Harris
Mayor

ATTEST:

Desiree D. Perry, CMC, NCCMC
City Clerk

APPROVED AS TO FORM:

Michael K. Pratt
City Attorney

STAFF REPORT
City Council, August 15, 2016

Title: **Supreme Court Decision's Impact on Municipal Sign Regulation (*Reed v. Town of Gilbert)***

From: Daniel Cobb, AICP, Planning Director
Prepared by: Aaron Bland, AICP, Planner & Assistant Zoning Administrator
Approved by: Jim Fatland, CPFO, City Manager

Background
The City's current sign ordinance, Chapter 12 of the Unified Development Ordinance (included as Attachment A), has been in place since the adoption of the UDO in 2006. In the ten years since adoption, the City's sign regulations have seen numerous minor changes through the text amendment process.

Section 12.9.J.14 of the sign ordinance requires the Planning Board review the standards for decorative flags, banners and other moving devices on an annual basis. The Board began this review at their January 26, 2016 meeting. Following discussions at the January, February, and March meetings, it became apparent to Staff, with input from the Board, that a more wholesale revision of Chapter 12 was due.

In January of 2015 the United States Supreme Court heard arguments in the case of *Reed et al. v. Town of Gilbert, Arizona et al.* and issued its decision June 18, 2015 (see Attachment B). The court's decision clearly invalidated some distinctions based on the message content of signs, which are common in sign ordinances across the country. Thusly, the decision will require adjustments to many local ordinances and some state statutes, including Brevard's sign regulations. The decision, with its four separate concurring opinions, also leaves several legal questions unanswered, which will likely only be clarified through subsequent litigation.

Staff presented this information to the Planning Board at their June 21st meeting and sought direction from the Board as to how a review of Chapter 12 should move forward. The Planning Board's direction to Staff was to have an attorney review the entirety of the sign ordinance in order to determine aspects inconsistent with the *Reed* ruling. It is the Board's view that such a review to find areas of the code that are deemed to be unconstitutional per the *Reed* ruling should be done before a wholesale rewrite of the code is undertaken.

This staff report is designed to provide Council with basic information about the case, its decisions, and impact on local sign regulations as they relate to the First Amendment of the US Constitution. A blog post from the UNC School of Government is also included as Attachment C for Council's information.

Discussion
The City's current sign ordinance is inconsistent with the *Reed* ruling. A wholesale revision of the sign ordinance concurrent with the development of land development codes (Form-based codes) will provide the City with coordinated ordinances that work towards the same goals of predictable and appropriate development and aesthetics for Brevard, while ensuring the legal validity of the City's sign ordinances and standards.

Policy Analysis
The current sign ordinance's purpose statement currently reads:

> *The purpose of this article is to permit such signs in the City of Brevard and its extraterritorial jurisdiction that will not, by their reason, size, location, construction, or manner of display, endanger the public safety of individuals, confuse, mislead, or obstruct the vision necessary for traffic safety, or otherwise endanger public health and safety; and to permit and regulate signs in such a way as to support and complement land use objectives set forth in the zoning ordinance for the City of Brevard.*

It is clear from this statement that the intent of the City's regulation of signs is first and foremost a safety concern, particularly in terms of vehicular safety related to visibility. A secondary purpose is to ensure that signs are permitted in a manner that is consistent with land use and zoning objectives and regulations.

Additionally, The City's 2015 update to the Comprehensive Plan and the 2002 Land Use Plan both make mention of issues such as aesthetics and design standards as they relate to Brevard's character and sense of place.

<u>2002 Land Use Plan</u>

> ***Goal 3.3****: Goal 3.3: Maintain existing and future thoroughfares that are efficient, attractive and safe.*
> ***Goal 3.9****: A physically appealing location with a distinctive community character and a respect for its heritage.*

<u>2015 Comprehensive Plan Update</u>

> ***Policy 4.1.G****: Modify development ordinances and regulations to incorporate design standards and guidelines that respect existing community character while allowing greater residential density and intensity of nonresidential development within mixed use zoning areas.*

Signs are common in every community and necessary – to a certain extent – for advertisement and navigation purposes. While there are safety implications to consider, such as visibility at intersections, the overall amount, location, size, illumination, and other physical characteristics of signs is largely a decision to be made by policy makers depending on the overall sense of community and aesthetic appeal desired.

Staff Recommendation
This staff report is for Council's information only and no action is required. Signs are a common topic of discussion and questions from the general public. This information is provided as background and will be discussed further as the land development codes (Form-Based codes) are developed.

Fiscal Impact
None.

Attachments

A. Unified Development Ordinance, Chapter 12 – Signs
B. Slip Opinion: *Reed et al. v. Town of Gilbert, Arizona et al.*, No. 13–502
C. UNC School of Government Coates' Cannons blog: "Sign Litigation: A Brief Analysis of Reed v. Town of Gilbert"

CHAPTER 12. - SIGNS

12.1. - Purpose.

The purpose of this article is to permit such signs in the City of Brevard and its extraterritorial jurisdiction that will not, by their reason, size, location, construction, or manner of display, endanger the public safety of individuals, confuse, mislead, or obstruct the vision necessary for traffic safety, or otherwise endanger public health and safety; and to permit and regulate signs in such a way as to support and complement land use objectives set forth in the zoning ordinance for the City of Brevard.

12.2. - General regulations.

The following regulations shall apply to all signs in all districts:

A. Compliance: No sign of any type shall be constructed, erected, painted, posted, placed, replaced, or hung in any district except in compliance with this ordinance.

1. Repainting of signs:

   i. Nonconforming painted signs may be repainted so long as the new coat of paint is for maintenance purposes and the design of the sign is not altered in any fashion.

   ii. If, during repairing, the design of the sign structure is altered in any way, then the entire structure shall comply with the provisions of this ordinance. See also Section 12.2(B).

2. Billboards:

   i. Billboards existing at on or before May 6, 1991 shall be allowed to be reposted so long as the structure of the sign itself remains in good repair.

   ii. The structure of the billboard shall be subject to all other provisions of this ordinance, particularly Section 12.2(D).

   iii. If at any time an advertising message on a billboard becomes obsolete or in disrepair, the advertising copy itself shall be subject to subsections 12.2(B) and 12.2(C), without the structure being subject to the provisions, provided it is in good repair.

3. Vandalism and adverse weather:

   i. Signs destroyed by vandals or adverse weather conditions shall be allowed to be replaced even if such signs do not conform to this ordinance provided they existed before the date of enactment of this ordinance and they are replaced in the exact same location, in the exact same manner and with the exact same advertising copy of the same size as the previously destroyed sign.

   ii. Adverse weather conditions shall not be interpreted to be normal weathering of a sign.

iii. If a sign is allowed to deteriorate over time due to exposure to the weather elements, then it shall not be deemed as replaceable under this section.

B. Maintenance:

1. All signs, together with braces, guys and supports, shall at all times be kept in good repair.

2. If at any time a sign should become unsafe or poorly maintained, the administrator shall notify the owner or lessee of the sign of such condition.

3. Upon failure of the owner or lessee to correct such condition within 30 days, the administrator shall order the removal of such sign.

4. The expense of the removal of the sign shall be billed to the owner or lessee of said sign.

5. See Section 12.5(E) and Chapter 18 of this ordinance for collection procedures.

C. Removal of obsolete signs:

1. Signs identifying establishments no longer in existence, products no longer being sold, and services no longer being rendered shall be removed from the premises within 30 days from the date of termination of such activities except that ground sign supports, braces, and guys which are not easily dismantled and are to be sold as a portion of the business assets shall remain.

2. However, remaining sign supports, braces, and guys shall comply with all other requirements of this ordinance. If remaining sign supports, braced, and guys are not used to support signs identifying establishments in compliance with this chapter for a period of two years or more, such sign supports, braces, and guys shall be removed in accordance with this chapter.

3. Temporary signs and political signs shall be removed within ten days after the termination of the event or election advertised.

4. Upon failure of the owner or lessee of these signs to remove such signs within the prescribed time period, the administrator shall order their removal subject to the terms of this article and Chapter 18 of this ordinance and any additional expense of removal shall be billed to the owner or lessee of said sign(s).

D. Nonconforming signs:

1. Any sign existing on the date of enactment of this ordinance which does not conform to the requirements of said ordinance shall be taken down and removed or brought into compliance by the owner, agent, or person having the beneficial use of the building, land, or structure upon which such sign may be found within a period of ten years.

2. The amortization period for nonconforming signs is ten years. All signs must be in compliance by April 1, 2000.

3. The amortization period for those signs which do not comply with the setback provisions of this ordinance, but that conform in every other respect, shall be extended to expire on January 1, 2003.

4. Signs subject to the provisions of G.S. 136-131.1 are exempt from the requirements for removal or compliance.

5. Removal of nonconforming signs: Any sign existing on the date of enactment of this article shall not be repaired if 50 percent or more of the structure must be restored in order for it to be deemed in good repair; instead, such a sign shall be removed and a new sign which conforms to the regulations set forth by this article may be erected.

6. Relocation of nonconforming signs: Any nonconforming sign existing on the date of enactment of this article may be relocated on the same premises of the establishment having beneficial use of said structure so long as it is the same sign structure and the nonconformance is not increased in any manner beyond the point of noncompliance that existed before the movement of said structure.

7. Replacement of nonconforming sign inserts: The plastic inserts within existing nonconforming sign frames may be replaced for continued use until the amortization period expires.

8. Nonconforming signs within newly annexed areas outside the city's area of extraterritorial jurisdiction (ETJ):

   i. Nonconforming signs within voluntary annexed areas outside the city's ETJ must comply with the provisions of this article (the sign ordinance) within one year from the effective date of annexation.

   ii. Nonconforming signs within involuntary annexed areas outside the city's ETJ must comply with the provisions of this article by April 2000, or three years from the effective date of annexation, whichever is greater.

12.3. - Computation of signage area.

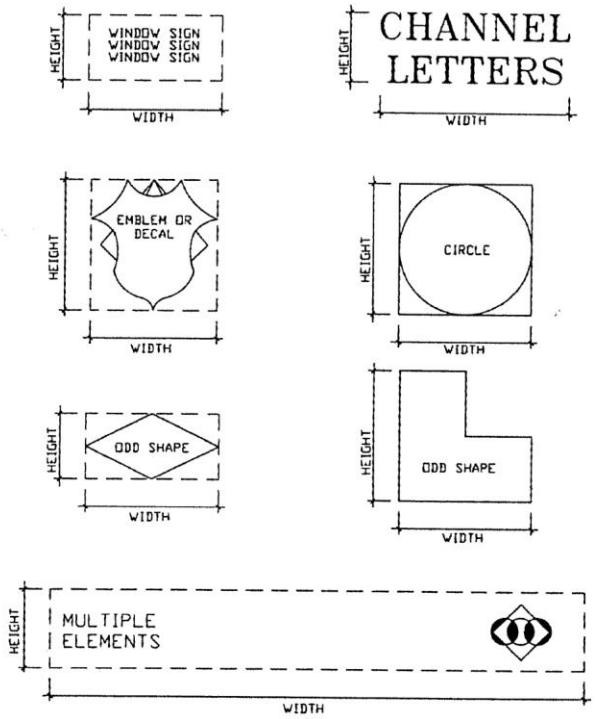
A. The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest rectangle that will encompass the extreme limits of the writing, representation, emblem or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, base, bracing or decorative fence or wall when such fence or wall otherwise meets the regulations of this chapter and is clearly incidental to the display itself.

B. For a single wall on a single-occupant building, all pieces of information or other graphic representations on that wall shall be measured as though part of one sign, encompassed within one rectangle, which may not exceed the permitted total wall area to which the sign is affixed. For a single wall on a multi-occupant building, the area of signs shall be computed

using these principles and each individual sign shall not exceed the permitted total wall area to which the sign(s) is affixed.

C. Where the sign faces of a double-faced sign are parallel or the interior angle formed by the faces is 60 degrees or less, only one display face shall be measured in computing sign area. If the two faces of a double-faced sign are of unequal area, the area of the sign shall be the area of the larger face. In all other cases, the areas of all faces of a multi-faced sign shall be added together to compute the area of the sign. Sign area of multi-faced signs is calculated based on the principle that all sign elements that can be seen at one time or from one vantage point should be considered in measuring that side of the sign.

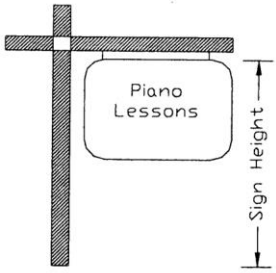
D. Spherical, cylindrical or other three-dimensional signs not having conventional sign faces shall be computed from the smallest three-dimensional geometrical shape or shapes which will best approximate the actual surface area of such faces.



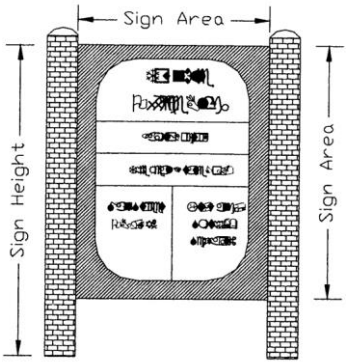
Signage Area

12.4. - Computation of sign height.

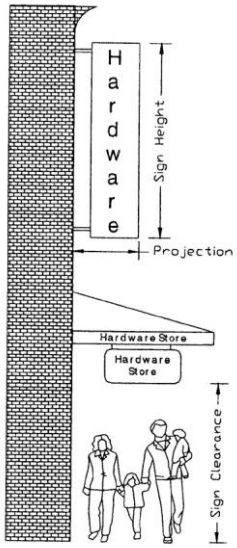
A. Sign height shall be measured from the street grade of the closest point in the street the sign is located along or the grade at the base of the sign, whichever is higher, to the highest point of the sign structure. The maximum height of a ground sign cannot exceed 25 feet unless otherwise addressed in this ordinance.


Piano
Lessons
Sign Height

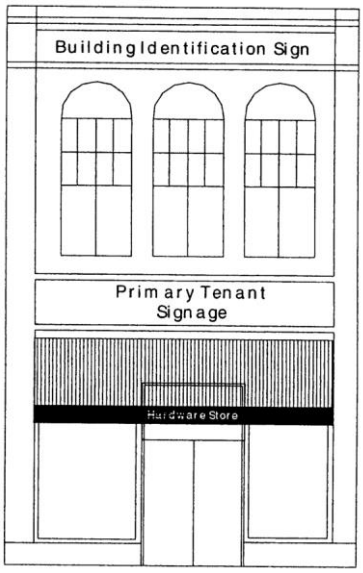
132


Sign Area
Sign Height
Sign Area

133


Hardware
Sign Height
Projection
Hardware Store
Hardware
Store
Sign Clearance

134



12.5. - General provisions.

A. Building code compliance: All signs shall fully comply with the requirements of the State of North Carolina building and electrical codes.

B. Sign setback requirements: No portion of any freestanding sign may be located closer than ten feet to any street right-of-way except in the DMX district where signs shall be no closer than five feet to any street right-of-way. No portion of any freestanding sign shall be located any closer than 12 feet to any side or rear property line. No sign shall be located in such a manner as to constitute a traffic or safety hazard.

C. Illumination of signs: Signage shall comply with all applicable provisions of Chapter 11 of this ordinance. Unless otherwise expressly prohibited, signs may be illuminated provided that lighting fixtures used to illuminate a sign either shall be by directed ground lighting or mounted on the top of the sign, and shall comply with shielding requirements of Chapter 11 of this ordinance. Lighting fixtures shall illuminate only the face of the sign, and shall not project into any portion of the traveled roadway.

D. Permit required: A permit, issued by the administrator, shall be required for all signs unless otherwise provided herein. No permit shall be issued until the administrator inspects plans for such signs and determines that they are in accordance with the requirements contained in this article. The fee schedule for sign permits shall be determined by city council.

E. Enforcement of regulations:

1. Any nonconforming sign constructed after the date of enactment of this chapter or any sign maintained in a nonconforming manner after the passage of the amortization period specified in Section 12.2(D) shall be subject to the enforcement procedures as set forth in Chapter 18 of this ordinance.

2. Removal. If the nonconforming sign has not been brought into compliance with the provisions of this ordinance or removed within 30 days of having been issued a Notice of Decision/Notice of Intent as set forth in Chapter 18, Section 18.3(D), then said sign may be removed by the city and the cost of removal shall be billed to the owner or lessee of the sign. Furthermore, the city may pursue any other remedy available under Chapter 18 of this ordinance or State Law.

3. Failure to pay removal costs. If the owner or lessee of a nonconforming sign that has been removed by the city fails to pay for the costs of removal within 30 days of the billing date for such action, then the city will collect the cost as a lien on the property in the same manner as provided in G.S. 105-355 and 105-356 for delinquent property taxes. The amount of such lien may include the actual cost of removal of said sign, plus any fines which may have been levied and not paid, plus 15 percent representing penalty and interest for cost of collection, plus attorney fees.

12.6. - Prohibited signs.

The following signs are prohibited in all districts except as otherwise permitted by this section.

A. Signs constituting traffic hazards: Any sign located in a manner or place so as to constitute a hazard to traffic as demonstrated by the administrator.

B. Signs in public right-of-way or easement: Any freestanding sign located in a public right-of-way or easement, or extending over into a public right-of-way or easement, except as otherwise allowed by this chapter. The administrator may remove any sign located within a public right-of-way.

C. Signs obstructing passages: Any sign that obstructs or substantially interferes with any window, door, fire escape, stairway, ladder or opening intended to provide light, air, ingress or egress for any building.

D. Off-premises advertising signs: Billboards and other types of off-premises advertising signs, unless otherwise allowed by this chapter.

E. Flashing devices: Any flashing device or sign displaying flashing or intermittent lights or lights of changing degrees of intensity, except a sign indicating time and/or temperature, with changes alternating on not less than a five-second level.

F. Moving devices: Any moving signs or device to attract attention, all or any part of which moves by any means, including motion by the movement of the atmosphere or by electrical or other means, including but not limited to pennants, flags, propellers or discs, whether or not any said device has a written message. Moving devices may, however, be allowed if in compliance with Section 12.8(M) or 12.9(J).

G. Posted signs: Any sign posted to utility poles, trees, fences, rocks or other signs.

H. Copies of official signs: Any sign which is a copy or an imitation of an official sign, or which purports to have official status.

I. Portable signs.

J. Roof signs.

K. Signs not permitted: Any sign not expressly permitted elsewhere in this ordinance.

12.7. - Exempt signs.

The following signs are exempt from the provisions of this ordinance:

A. Governmental agency signs: Signs erected by a governmental agency to regulate, control or direct traffic including signs indicating bus stops, taxi stands, and similar transportation facilities. Such signs may be illuminated, flashing, or moving as required for public safety. Furthermore, signs erected by a governmental agency which convey information regarding a public service or the location of a public facility may also be illuminated as is necessary.

B. Signs required by law: Signs erected pursuant to federal, state, or local laws or ordinances.

C. Warning signs: Signs which warn of hazards to life, limb, and property such as high voltage electrical equipment, explosives and the like.

D. "No trespassing" signs: "No trespassing" signs not to exceed four square feet in surface area.

12.8. - Signs permitted without a permit.

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

A. Temporary real estate signs: Temporary real estate signs advertising a specific piece of property for sale, lease, rent, or development, located on said property, provided such signs shall not exceed eight square feet in surface area per side of sign up to a maximum of 16 square feet of aggregate surface area. Signs shall not be illuminated and shall not exceed one per parcel of land unless such land is located at an intersection of two streets; in such case, two signs shall be allowed, one facing each street.

B. Signs on window glass: Signs on window glass, regardless of size.

C. Private traffic signs: Private, unofficial traffic signs not exceeding two square feet in surface area per side of sign up to a maximum of four square feet of aggregate surface area per sign, which indicate directions, entrances, and exits. Such signs are to be located entirely on the property to which they pertain, and shall not contain any advertising message.

D. Organization signs: Any flag, badge, insignia, or design customarily displayed by any governmental agency or government, or any charitable, civic, fraternal, patriotic, religious, or similar organization.

E. Political party headquarters signs: Signs for political party headquarters shall meet the requirements set forth for the district in which they are located.

F. Service station signs: Gasoline service stations or any businesses selling gasoline are allowed, in addition to other provisions of this ordinance, the following signs:

1. Price and self-service signs attached to gasoline pumps: Gasoline price/self-service signs located at and secured to each pump island and not exceeding nine square feet per side of sign. One gasoline price/self-service sign may be freestanding and located at a place other than the pump island, but must be on the business site and meet all other sign regulations. If such signs are freestanding signs, they shall not exceed 40 inches in height.

2. Brand name and grade signs: Each brand sign, emblem of the gasoline sold, the grade of gasoline and any other related signs shall not exceed nine square feet in total aggregate surface area for each pump island.

3. North Carolina inspections sign: A North Carolina inspections sign at any location on the business premises as long as said sign is not placed in any right-of-way. Said sign shall not exceed 40 inches in height.

G. Numbers and nameplates: House numbers and nameplates are permitted in accordance with Brevard City Code, Chapter 62, Article VII, Property Addressing and Road Naming.

H. Construction signs: One construction sign per construction project not exceeding 32 square feet of sign area in residential districts or 64 square feet in commercial or industrial districts, provided that such signs shall be erected no more than five days prior to the beginning of construction for which a valid building permit has been issued, shall be confined to the site of construction, and shall be removed five days after completion of construction and prior to occupancy.

I. Public notice: Official notices posted by public officers or employees in the performance of their duties.

J. Commemorative plaques: Commemorative plaques of recognized historic agencies or identification emblems of such agencies, provided that no plaque or emblem seal exceeds four square feet in area.

K. Nonprofit organization signs: Any sign erected by city personnel on behalf of a nonprofit organization sponsoring a one-time or annual event.

L. Public-owned ball field fence signs: Nonprofit organizations, i.e., local ball leagues, may sell advertising signage to merchants for attachment to ball field fences providing the following requirements are met:

1. Sign panels must be of uniform size and weather durable material and cannot exceed three feet by five feet in dimension.

2. Signage must be attached to the interior (ball field) of the chain link fencing, have advertising copy on only the interior (ball field) side of fencing and cannot be self-illuminated.

3. The back (exterior) side of the sign must be a dark solid green color and be uniform in color with all the other signs. All signs must be kept clean and in good repair.

4. Signage cannot exceed one per fence panel. Sign must be uniform in height.

5. Signage can be erected two weeks prior to the beginning of the ball season and must be taken down within two weeks from the conclusion of the season.

6. The city/county/state agency (owner) or tenant leasing the property will be responsible for installing and removing the signs.

M. Automobile and motorized vehicle dealer signs:

1. Automobile dealers and motorized vehicle dealers within commercial districts are allowed to attach to vehicles for sale small pennants, flags or balloons on antennas and/or twirl-ads on hoods/roofs.

2. Said devices shall not exceed two per vehicle; devices are less than three square feet in size; and devices are maintained and secured in a proper manner.

3. If a device is not secured or maintained to the satisfaction of the administrator such device shall be deemed a prohibited moving device and be immediately removed.

12.9. - Signs allowed with permits.

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

A. Signs allowed in GR districts: The following types of signs shall be allowed in all of the residential districts subject to the accompanying restrictions and the issuance of a sign permit:

1. Nameplate signs:

i. Home occupations shall be allowed one nameplate sign for purposes of identification.

ii. Signs shall not exceed four square feet of surface area and shall be attached to the residence.

iii. Signs shall not be illuminated.

2. Ground signs at neighborhood entrances: Distinct neighborhoods, residential subdivisions, residential group developments, residential planned development districts, and manufactured home parks are permitted one ground sign at each entrance.

i. Such communities may include those older existing communities that may not have been permitted as unified projects (e.g., "Welcome to the Rosenwald

Community", "Maple Street Community"). However, such signs shall be of a uniform design to be approved by the city. Designs and locations shall be approved by the administrator in consultation with the public works director and the community appearance commission.

ii. Signs shall be no larger than 32 square feet of surface area per side of sign up to a maximum of 64 square feet of aggregate surface area per sign.

iii. Signs shall not exceed five in height and may be indirectly illuminated in accordance with Chapter 11 of this ordinance.

iv. Such signs may be located within the center median of boulevard streets at neighborhood entrances. Such placement shall require an encroachment agreement from the North Carolina Department of Transportation or the City of Brevard, as applicable.

3. Nonresidential uses: Nonresidential uses permitted in residential districts shall be allowed one ground or wall identification sign per street fronted on by the permitted use. Said sign shall be no larger than 32 square feet of surface area per side of sign up to a maximum of 64 square feet of aggregate surface area for said sign. Signs shall not exceed five feet in height and shall not be illuminated.

B. Ground signs (non-residential): The following standards shall apply to individual businesses on individual parcels. Non-residential group developments, non-residential planned development districts, and institutional campuses shall be subject to the same dimensional requirements, but the number of allowable ground signs in such developments is set forth in Section 12.11, below.

1. One ground sign not to exceed the following surface area limitations:

i. DMX, NMX, and RMX districts: 32 square feet in surface area per side of sign, up to a maximum of 64 square feet of aggregate surface area for the entire sign;

ii. CMX districts: 85 square feet in surface area per side of sign up to a maximum of 170 square feet aggregate surface area for the entire sign;

iii. IC district: 24 square feet per side of sign up to a maximum of 48 square feet of aggregate surface area for the entire sign;

iv. GI district: 50 square feet per side of sign up to a maximum of 100 square feet of aggregate surface area for the entire sign;

v. Signs shall not exceed 25 feet in height in any district.

C. [Reader boards:] Reader boards are allowed on ground signs provided that the total area of the sign, including the reader board, does not exceed the area allowed by this subsection.

D. Electronic display signs: Electronic display signs may be permitted as ground or wall signs, subject to the following additional requirements:

1. Only one electronic display sign shall be permitted per parcel.

2. Only one electronic display sign shall be permitted within any group development, planned development, or institutional campus.

3. Electronic display signs shall display only non-moving text and images with changes alternating on not less than a five-second level, and shall display no scrolling, flashing, blinking, or otherwise moving message.

4. Electronic display signs shall adhere to all other applicable wall or ground sign requirements of this chapter, as well as the lighting standards of Chapter 11 of this ordinance.

E. [Canopy signs:] Signs may be attached to a canopy provided that the total area of both the ground signs and all canopy signs does not exceed the amount described in this subsection.

F. [Sandwich board signs:] In lieu of ground signs, business establishments within DMX, NMX, and RMX districts may instead be permitted a single sandwich board sign to be placed on the sidewalk adjacent to the front of the individual business or on the brick paved area providing such a location does not pose a safety hazard. A sandwich board sign is an A-frame or inverted V-shape sign which is portable and usually double-sided. This sign must comply with Section 46-1 of the City Code and must not exceed four feet in height or eight square feet in area per side of sign. Business establishments located in the Times Arcade Alley may also be permitted to collectively place one such sign near the West Main Street alleyway entrance in the brick paved area, providing such a location does not pose a safety hazard and providing further that the sign is removed at the end of each day when the last business in the Times Arcade Alley closes.

G. Wall signs: Each establishment located in CMX, DMX, NMX, RMX, IC, and GI districts shall be allowed wall signs in accordance with the following provisions:

1. Wall sign: One wall sign located on the street frontage side of the building.

2. Projection sign: One suspended or projection identification sign per business establishment, not to exceed eight square feet per side of sign up to a maximum of 16 square feet of aggregate surface area for the entire sign. Suspended or projection identification signs shall be located at the main entrance of the business.

3. Identification sign: Each establishment located in one of the above-mentioned districts shall be allowed one small business identification sign not to exceed 16 square feet in surface area. That sign may be located on the rear or side of the business.

4. Marquee signs allowed in all commercial districts: Theaters located within commercial districts shall be allowed a marquee with one or two copy sign surfaces. Total copy area allowance, for all sign surfaces, shall not exceed five square feet per linear foot of canopy with a maximum total height limit of no more than five feet at

any point. A marquee shall not extend more than ten feet from the building nor be less than nine feet above the ground or sidewalk at the lowest point.

5. Menu reader board: Each drive-through restaurant establishment shall be allowed one menu reader board. Menu reader boards shall not be greater than 32 square feet in area or seven feet in height.

6. [Aggregate of wall signs:] The aggregate of all wall signs, including building identification signs, business identification signs, suspended signs, projection signs, marquee signs, and product information signs, shall not exceed 25 percent of the total surface area of the front wall space of the building (surface area of said wall shall be computed excluding windows and doors).

H. Building identification signs:

1. Each building located in non-residential districts shall be permitted one building identification sign in lieu of allowable ground sign attached to the front of said building, or to the side of the building if the side faces on a street, alley, or other public right-of-way.

2. Such building identification signs shall not exceed 32 square feet of aggregate surface area.

I. Temporary banners or A-frame signs:

1. Temporary banners or A-frame signs may be allowed in CMX, DMX, NMX, RMX, GI, and IC districts, subject to the following requirements:

i. Temporary banners or A-frame signs advertising the initial openings of business establishments, special events, or special sales may be permitted provided the location of such signs is approved by the administrator and meets all other requirements.

ii. Banners shall be attached to any part of the building wall.

iii. Said signs shall not exceed 32 square feet of total aggregate surface area; A-frame signs shall not exceed 16 square feet per side of sign.

iv. Said signs may be installed ten days prior to the initial opening, special event, or special sale and may remain ten days after completion of the promotion.

v. Permits for these on-premises signs shall be obtained on an annual basis.

J. Decorative flags, banners and other moving devices: Decorative flags, banners, pennants, and other moving devices (balloons, windsocks, etc.) may be allowed in all districts except GR, subject to the following requirements

1. A plan for all banners, flags, pennants, and devices indicating locations must be submitted to the administrator. An annual permit is required showing location, size, style, copy, and manner of installation of said banners, flags, pennants, and devices.

2. Manner of installation must be based on established safety standards.

3. No banner, flag, pennant, or moving device shall obstruct any fire escape, window, or door, or be placed in such a manner so as to interfere with any openings required for ventilation, nor offer hindrance to fire department equipment or personnel.

4. All banners, flags, pennants, or moving devices shall be constructed of a fire-retardant material or be treated to be fire retardant.

5. All banner, flag, pennant, or moving devices must be well-maintained; frayed, faded, or worn banners constitute illegal moving devices.

6. No advertising message from any off-premise business may be contained on the face of any banner, flag, pennant, or moving device.

7. No banner, flag, pennant, or moving device may overhang any portion of a vehicular travelway, except as otherwise allowed by this ordinance.

8. No illuminated, electric, or motor-powered devices may be allowed; glare cannot pose a problem to passing motorists.

9. No banner, flag, pennant, or moving device shall be secured to the wall in such a manner that the bottom portion is at least seven feet from the sidewalk or does not interfere in any manner with pedestrian traffic.,

10. Banners or flags cannot exceed a width of four feet and a length of six feet.

11. Banners, flags and other devices cannot exceed one per every 20 linear feet of storefront.

12. If, in the opinion of the administrator, said devices cause a nuisance or safety problem, the owner of said devices must relocate or remove them to the satisfaction of the code [enforcement] officer.

13. Banners, flags or pennants must be properly designed and engineered to withstand the average prevailing winds and to meet the minimum wind load requirement of the North Carolina Building Code.

14. This provision is subject to annual review by the planning board.

K. Political signs:

1. No political sign shall be permitted in the corporate limits or one-mile extraterritorial boundary of the City of Brevard unless a candidate for a political office, or the candidate's designee, first deposits $500.00 to insure the removal of such signs.

2. Ten days after the election, the $500.00 deposit will be refunded to the candidate or candidate's designee if all the candidate's political signs have been removed.

3. If the signs have not been removed, the $500.00 deposit will be forfeited to the city.

4. Candidates who have made a deposit and are nominated in a primary election may keep their political signs up until ten days after the general election.

5. Any political signs of candidates who have not complied with this section shall be removed subject to the terms of this article.

6. All political signs must comply with the following standards:

   i. Ground signs may not exceed 16 square feet per side of sign. Maximum height of sign from grade to top of sign shall be six feet.

   ii. Political signs may not be posted more than 90 days prior to an election or primary.

   iii. Candidates must remove their signs within ten days after the election or primary, in compliance with Section 12.9(K).

   iv. Location. All signs must comply with Section 12.6.

L. Festivals and special events sponsored by government, educational, religious, charitable, civic, fraternal, or political organizations and institutions: Signs, banners, balloons, decorative flags and windsocks (hereafter, "special event signage") may be displayed during festivals and special events by permit during the day(s) of the event, subject to the following requirements:

1. Special event signage shall comply with all provisions of Section 12.9(J) except where modified herein.

2. Special event signage shall be approved by the administrator before being displayed. A plan showing the location, type and amount of all decorative signage and devices, along with the duration of the event, must be submitted to the administrator for review and approval.

3. A $200.00 deposit, per event, must be given to the city insuring removal of all special event signage.

4. If the special event signage has not been removed, the $200.00 deposit will be forfeited to the City of Brevard.

5. Any signs or other devices which have not complied with this section shall be removed subject to the terms of Section 12.2(C).

6. All special event signage must be firmly secured and well maintained.

7. No special event signage shall create a traffic hazard or obstruction to motorists or pedestrians.

8. The size of the overall special event signage shall not exceed 32 square feet of total aggregate surface area. However, if said special event signage is located in the DMX District, the width cannot exceed four feet and the length cannot exceed six feet.

9. With single sponsorship, the proportion of a sponsor's logo or name shall not exceed 25 percent of the overall area for any face of special event signage.

10. No more than three sponsor logos or names may be listed on special event signage. Sponsors logos or names shall not exceed when added together, 30 percent of the overall area for any face of special event signage.

11. Special event signage may not be illuminated, moving, or otherwise constitute a vehicular or pedestrian safety hazard.

12. Special event banners may be placed in or along the right-of-way of public streets in any district subject to the following requirements:

    i. All other provisions of Section 12.9(J) are met; and

    ii. A letter of permission from the proper utility company and/or property owner, holding the city harmless, must be submitted if a banner, flag or pennant is to be attached to or erected from any pole owned by the utility company.

    iii. Banners shall contain no commercial advertisement copy or business logos.

    iv. The size of an overhead banner crossing the road shall not exceed 30 feet in length and four feet in height. All overhead banners crossing the road will be composed of no more than two dimensions.

    v. Overhead street banners and other banners within a right-of-way may not be displayed earlier than ten days prior to the event and must be removed within ten days after the event.

    vi. Fees for the installation of overhead street banners shall be established by city council.

12.10. - Off-premises directional signs.

A. Ground signs in nonresidential districts. For single establishments in all nonresidential districts except the DMX district, small self-illuminated ground signs are allowed to indicate directions to said establishments providing all of the following conditions are met:

1. Establishments with street frontage on US #64, US #276, and NC #280 cannot qualify for this type of signage.

2. Signs cannot exceed eight square feet per side of sign and cannot exceed eight feet in height.

3. No more than one directional sign may be allowed for each establishment.

4. A copy of the property owner's written permission allowing the posting of the sign must be submitted to the planning department along with a diagram showing location.

5. Signs cannot carry advertising messages but simply contain the name of the establishment or the generic type of business with directions or arrows indicating location.

6. Signs can only be posted within 50 feet of a street intersection with no more than two such signs at said intersection.

7. Signs cannot be posted in residential districts.

8. Signs shall meet all applicable setback requirements, shall not be located within any sight triangle, shall not be located in any public right-of-way, and cannot cause traffic visibility problems.

B. Off-premises emergency room directional signs. Hospitals providing emergency care services are allowed small self-illuminated ground signs to indicate directions to said establishments, providing all of the following conditions are met:

1. Signs cannot exceed 24 square feet per side of sign and cannot exceed four feet in height.

2. A copy of the property owner's written permission allowing the posting of the sign must be submitted to the planning department along with a diagram showing location.

3. Signs cannot carry advertising messages but simply contain the name of the establishment with directions or arrows indicating location.

4. Signs can only be posted within 200 feet of a street intersection with no more than two such signs at said intersection; signs cannot cause traffic visibility problems.

5. All other applicable regulations in the [zoning] ordinance must be met, including sign setback requirements and prohibition of signs in rights-of-way.

C. Off-premises parking identification signs. In addition to small traffic directional signs (see Section 12.8(C)), owners of off-premise parking lots may have one additional ground sign located on the parking lot property provided the following conditions are met:

1. The ground sign maximum surface area is six square feet per side of sign, up to a maximum of 12 square feet of aggregate surface area for the entire sign;

2. Maximum sign height (from ground to top of sign) is six feet;

3. A sign permit must be obtained indicating said sign complies with relevant sign setback requirements applicable to the district in which the sign is to be located.

12.11. - Additional standards for planned development districts, group developments, institutional campuses, and other similar projects.

A. Ground signs visible from a public street. One ground sign may be permitted at each development entrance provided that:

1. No part of any ground sign shall be closer than 500 feet to any part of another ground sign within the same development along the same street frontage.

2. No part of any ground sign shall be closer 250 feet to any part of any other ground sign within the same development.

3. A ground sign may be situated at the convergence of two public streets upon which the development fronts but where no entrance is located. However, signs permitted under this provision shall be considered as situated upon both converging streets and shall be separated from all other ground signs within the same development in accordance with 12.11.A.1 and 2., above.

4. Developments that are divided by a public street shall be considered as separate developments for the purposes of this subsection.

5. No other ground signs will be permitted except in accordance with Section 12.11, below.

6. These requirements shall apply regardless of whether such developments are subdivided into individual parcels.

7. All other requirements of this Chapter shall apply to such ground signs. Ground sign size and height requirements shall be the same as the base district within which the development is located.

8. Out-parcels as defined in Chapter 19 of this ordinance shall be allowed one ground sign in accordance with Section 12.9(B).

B. Wall signs visible from a public street. Individual businesses and buildings located within planned development districts, group developments, institutional campuses, and other similar projects may have the following:

1. One wall sign which shall not to exceed 50 square feet or 50 percent of the surface area of the wall upon which the sign is located, whichever is the lesser.

2. For buildings having frontage on more than one public right-of-way, signs may be placed on both walls fronting the public right-of-way.

3. One identification sign not to exceed 16 square feet. That sign may be located on the rear or side of the business.

4. One menu reader board for each drive-through restaurant establishment. Menu reader boards shall not be greater than 32 square feet in area or seven feet in height.

5. One suspended or projection identification sign per business establishment, not to exceed eight square feet per side of sign up to a maximum of 16 square feet of aggregate surface area for the entire sign. Suspended or projected identification signs shall be located at the main entrance of the business.

6. The aggregate area of all wall signs, including building identification signs, business identification signs, identification signs, suspended signs, projection signs, menu reader boards, and product information signs, shall not exceed 50 percent of the total surface area of the front wall space of the business (surface area of said wall shall be computed excluding windows and doors).

C. Internal development signage.

1. There shall be no limit to the number signs posted within an Institutional Campus, group development, planned development district, or other similar developments, when such signs are in no way visible from any public street or right-of-way, or any adjacent property.

2. Ground signs permitted under this provision shall comply with Section 12.11.A.1 and 2., above.

3. Ground signs permitted under this provision shall be no larger than 32 square feet of surface area per side of sign up to a maximum of 64 square feet of aggregate surface area per sign, and shall not exceed five [feet] in height.

D. [Compliance:] Otherwise, signs permitted the development under this section shall comply with all other requirements of this chapter, and other forms of signage within the development shall comply with all requirements of this chapter.

Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

REED ET AL. *v.* TOWN OF GILBERT, ARIZONA, ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 13–502. Argued January 12, 2015—Decided June 18, 2015

Gilbert, Arizona (Town), has a comprehensive code (Sign Code or Code) that prohibits the display of outdoor signs without a permit, but exempts 23 categories of signs, including three relevant here. "Ideological Signs," defined as signs "communicating a message or ideas" that do not fit in any other Sign Code category, may be up to 20 square feet and have no placement or time restrictions. "Political Signs," defined as signs "designed to influence the outcome of an election," may be up to 32 square feet and may only be displayed during an election season. "Temporary Directional Signs," defined as signs directing the public to a church or other "qualifying event," have even greater restrictions: No more than four of the signs, limited to six square feet, may be on a single property at any time, and signs may be displayed no more than 12 hours before the "qualifying event" and 1 hour after.

Petitioners, Good News Community Church (Church) and its pastor, Clyde Reed, whose Sunday church services are held at various temporary locations in and near the Town, posted signs early each Saturday bearing the Church name and the time and location of the next service and did not remove the signs until around midday Sunday. The Church was cited for exceeding the time limits for displaying temporary directional signs and for failing to include an event date on the signs. Unable to reach an accommodation with the Town, petitioners filed suit, claiming that the Code abridged their freedom of speech. The District Court denied their motion for a preliminary injunction, and the Ninth Circuit affirmed, ultimately concluding that the Code's sign categories were content neutral, and that the Code satisfied the intermediate scrutiny accorded to content-neutral regulations of speech.

Held: The Sign Code's provisions are content-based regulations of

speech that do not survive strict scrutiny. Pp. 6–17.

(a) Because content-based laws target speech based on its communicative content, they are presumptively unconstitutional and may be justified only if the government proves that they are narrowly tailored to serve compelling state interests. *E.g., R. A. V.* v. *St. Paul*, 505 U. S. 377, 395. Speech regulation is content based if a law applies to particular speech because of the topic discussed or the idea or message expressed. *E.g., Sorrell* v. *IMS Health, Inc.*, 564 U. S. ___, ___–___. And courts are required to consider whether a regulation of speech "on its face" draws distinctions based on the message a speaker conveys. *Id.,* at ___. Whether laws define regulated speech by particular subject matter or by its function or purpose, they are subject to strict scrutiny. The same is true for laws that, though facially content neutral, cannot be " 'justified without reference to the content of the regulated speech,' " or were adopted by the government "because of disagreement with the message" conveyed. *Ward* v. *Rock Against Racism*, 491 U. S. 781, 791. Pp. 6–7.

(b) The Sign Code is content based on its face. It defines the categories of temporary, political, and ideological signs on the basis of their messages and then subjects each category to different restrictions. The restrictions applied thus depend entirely on the sign's communicative content. Because the Code, on its face, is a content-based regulation of speech, there is no need to consider the government's justifications or purposes for enacting the Code to determine whether it is subject to strict scrutiny. Pp. 7.

(c) None of the Ninth Circuit's theories for its contrary holding is persuasive. Its conclusion that the Town's regulation was not based on a disagreement with the message conveyed skips the crucial first step in the content-neutrality analysis: determining whether the law is content neutral on its face. A law that is content based on its face is subject to strict scrutiny regardless of the government's benign motive, content-neutral justification, or lack of "animus toward the ideas contained" in the regulated speech. *Cincinnati* v. *Discovery Network, Inc.,* 507 U. S. 410, 429. Thus, an innocuous justification cannot transform a facially content-based law into one that is content neutral. A court must evaluate each question—whether a law is content based on its face and whether the purpose and justification for the law are content based—before concluding that a law is content neutral. *Ward* does not require otherwise, for its framework applies only to a content-neutral statute.

The Ninth Circuit's conclusion that the Sign Code does not single out any idea or viewpoint for discrimination conflates two distinct but related limitations that the First Amendment places on government regulation of speech. Government discrimination among viewpoints

is a "more blatant" and "egregious form of content discrimination," *Rosenberger* v. *Rector and Visitors of Univ. of Va.*, 515 U. S. 819, 829, but "[t]he First Amendment's hostility to content-based regulation [also] extends . . . to prohibition of public discussion of an entire topic," *Consolidated Edison Co. of N. Y.* v. *Public Serv. Comm'n of N. Y.*, 447 U. S. 530, 537. The Sign Code, a paradigmatic example of content-based discrimination, singles out specific subject matter for differential treatment, even if it does not target viewpoints within that subject matter.

The Ninth Circuit also erred in concluding that the Sign Code was not content based because it made only speaker-based and event-based distinctions. The Code's categories are not speaker-based—the restrictions for political, ideological, and temporary event signs apply equally no matter who sponsors them. And even if the sign categories were speaker based, that would not automatically render the law content neutral. Rather, "laws favoring some speakers over others demand strict scrutiny when the legislature's speaker preference reflects a content preference." *Turner Broadcasting System, Inc.* v. *FCC*, 512 U. S. 622, 658. This same analysis applies to event-based distinctions. Pp. 8–14.

(d) The Sign Code's content-based restrictions do not survive strict scrutiny because the Town has not demonstrated that the Code's differentiation between temporary directional signs and other types of signs furthers a compelling governmental interest and is narrowly tailored to that end. See *Arizona Free Enterprise Club's Freedom Club PAC* v. *Bennett*, 564 U. S. ___, ___. Assuming that the Town has a compelling interest in preserving its aesthetic appeal and traffic safety, the Code's distinctions are highly underinclusive. The Town cannot claim that placing strict limits on temporary directional signs is necessary to beautify the Town when other types of signs create the same problem. See *Discovery Network*, *supra,* at 425. Nor has it shown that temporary directional signs pose a greater threat to public safety than ideological or political signs. Pp. 14–15.

(e) This decision will not prevent governments from enacting effective sign laws. The Town has ample content-neutral options available to resolve problems with safety and aesthetics, including regulating size, building materials, lighting, moving parts, and portability. And the Town may be able to forbid postings on public property, so long as it does so in an evenhanded, content-neutral manner. See *Members of City Council of Los Angeles* v. *Taxpayers for Vincent*, 466 U. S. 789, 817. An ordinance narrowly tailored to the challenges of protecting the safety of pedestrians, drivers, and passengers—*e.g.,* warning signs marking hazards on private property or signs directing traffic—might also survive strict scrutiny. Pp. 16–17.

707 F. 3d 1057, reversed and remanded.

THOMAS, J., delivered the opinion of the Court, in which ROBERTS, C. J., and SCALIA, KENNEDY, ALITO, and SOTOMAYOR, JJ., joined. ALITO, J., filed a concurring opinion, in which KENNEDY and SOTOMAYOR, JJ., joined. BREYER, J., filed an opinion concurring in the judgment. KAGAN, J., filed an opinion concurring in the judgment, in which GINSBURG and BREYER, JJ., joined

NOTICE: This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D. C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.

SUPREME COURT OF THE UNITED STATES

No. 13–502

CLYDE REED, ET AL., PETITIONERS *v.* TOWN OF GILBERT, ARIZONA, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

[June 18, 2015]

JUSTICE THOMAS delivered the opinion of the Court.

The town of Gilbert, Arizona (or Town), has adopted a comprehensive code governing the manner in which people may display outdoor signs. Gilbert, Ariz., Land Development Code (Sign Code or Code), ch. 1, §4.402 (2005).[1] The Sign Code identifies various categories of signs based on the type of information they convey, then subjects each category to different restrictions. One of the categories is "Temporary Directional Signs Relating to a Qualifying Event," loosely defined as signs directing the public to a meeting of a nonprofit group. §4.402(P). The Code imposes more stringent restrictions on these signs than it does on signs conveying other messages. We hold that these provisions are content-based regulations of speech that cannot survive strict scrutiny.

[1] The Town's Sign Code is available online at http://www.gilbertaz.gov/departments/development-service/planning-development/land-development-code (as visited June 16, 2015, and available in Clerk of Court's case file).

I

A

The Sign Code prohibits the display of outdoor signs anywhere within the Town without a permit, but it then exempts 23 categories of signs from that requirement. These exemptions include everything from bazaar signs to flying banners. Three categories of exempt signs are particularly relevant here.

The first is "Ideological Sign[s]." This category includes any "sign communicating a message or ideas for noncommercial purposes that is not a Construction Sign, Directional Sign, Temporary Directional Sign Relating to a Qualifying Event, Political Sign, Garage Sale Sign, or a sign owned or required by a governmental agency." Sign Code, Glossary of General Terms (Glossary), p. 23 (emphasis deleted). Of the three categories discussed here, the Code treats ideological signs most favorably, allowing them to be up to 20 square feet in area and to be placed in all "zoning districts" without time limits. §4.402(J).

The second category is "Political Sign[s]." This includes any "temporary sign designed to influence the outcome of an election called by a public body." Glossary 23.[2] The Code treats these signs less favorably than ideological signs. The Code allows the placement of political signs up to 16 square feet on residential property and up to 32 square feet on nonresidential property, undeveloped municipal property, and "rights-of-way." §4.402(I).[3] These signs may be displayed up to 60 days before a primary election and up to 15 days following a general election. *Ibid.*

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[2] A "Temporary Sign" is a "sign not permanently attached to the ground, a wall or a building, and not designed or intended for permanent display." Glossary 25.

[3] The Code defines "Right-of-Way" as a "strip of publicly owned land occupied by or planned for a street, utilities, landscaping, sidewalks, trails, and similar facilities." *Id.,* at 18.

The third category is "Temporary Directional Signs Relating to a Qualifying Event." This includes any "Temporary Sign intended to direct pedestrians, motorists, and other passersby to a 'qualifying event.'" Glossary 25 (emphasis deleted). A "qualifying event" is defined as any "assembly, gathering, activity, or meeting sponsored, arranged, or promoted by a religious, charitable, community service, educational, or other similar non-profit organization." *Ibid.* The Code treats temporary directional signs even less favorably than political signs.[4] Temporary directional signs may be no larger than six square feet. §4.402(P). They may be placed on private property or on a public right-of-way, but no more than four signs may be placed on a single property at any time. *Ibid.* And, they may be displayed no more than 12 hours before the "qualifying event" and no more than 1 hour afterward. *Ibid.*

B

Petitioners Good News Community Church (Church) and its pastor, Clyde Reed, wish to advertise the time and location of their Sunday church services. The Church is a small, cash-strapped entity that owns no building, so it holds its services at elementary schools or other locations in or near the Town. In order to inform the public about its services, which are held in a variety of different loca-

[4] The Sign Code has been amended twice during the pendency of this case. When litigation began in 2007, the Code defined the signs at issue as "Religious Assembly Temporary Direction Signs." App. 75. The Code entirely prohibited placement of those signs in the public right-of-way, and it forbade posting them in any location for more than two hours before the religious assembly or more than one hour afterward. *Id.,* at 75–76. In 2008, the Town redefined the category as "Temporary Directional Signs Related to a Qualifying Event," and it expanded the time limit to 12 hours before and 1 hour after the "qualifying event." *Ibid.* In 2011, the Town amended the Code to authorize placement of temporary directional signs in the public right-of-way. *Id.,* at 89.

tions, the Church began placing 15 to 20 temporary signs around the Town, frequently in the public right-of-way abutting the street. The signs typically displayed the Church's name, along with the time and location of the upcoming service. Church members would post the signs early in the day on Saturday and then remove them around midday on Sunday. The display of these signs requires little money and manpower, and thus has proved to be an economical and effective way for the Church to let the community know where its services are being held each week.

This practice caught the attention of the Town's Sign Code compliance manager, who twice cited the Church for violating the Code. The first citation noted that the Church exceeded the time limits for displaying its temporary directional signs. The second citation referred to the same problem, along with the Church's failure to include the date of the event on the signs. Town officials even confiscated one of the Church's signs, which Reed had to retrieve from the municipal offices.

Reed contacted the Sign Code Compliance Department in an attempt to reach an accommodation. His efforts proved unsuccessful. The Town's Code compliance manager informed the Church that there would be "no leniency under the Code" and promised to punish any future violations.

Shortly thereafter, petitioners filed a complaint in the United States District Court for the District of Arizona, arguing that the Sign Code abridged their freedom of speech in violation of the First and Fourteenth Amendments. The District Court denied the petitioners' motion for a preliminary injunction. The Court of Appeals for the Ninth Circuit affirmed, holding that the Sign Code's provision regulating temporary directional signs did not regulate speech on the basis of content. 587 F. 3d 966, 979 (2009). It reasoned that, even though an enforcement

officer would have to read the sign to determine what provisions of the Sign Code applied to it, the "'kind of cursory examination'" that would be necessary for an officer to classify it as a temporary directional sign was "not akin to an officer synthesizing the expressive content of the sign." *Id.*, at 978. It then remanded for the District Court to determine in the first instance whether the Sign Code's distinctions among temporary directional signs, political signs, and ideological signs nevertheless constituted a content-based regulation of speech.

On remand, the District Court granted summary judgment in favor of the Town. The Court of Appeals again affirmed, holding that the Code's sign categories were content neutral. The court concluded that "the distinctions between Temporary Directional Signs, Ideological Signs, and Political Signs . . . are based on objective factors relevant to Gilbert's creation of the specific exemption from the permit requirement and do not otherwise consider the substance of the sign." 707 F. 3d 1057, 1069 (CA9 2013). Relying on this Court's decision in *Hill* v. *Colorado*, 530 U. S. 703 (2000), the Court of Appeals concluded that the Sign Code is content neutral. 707 F. 3d, at 1071–1072. As the court explained, "Gilbert did not adopt its regulation of speech because it disagreed with the message conveyed" and its "interests in regulat[ing] temporary signs are unrelated to the content of the sign." *Ibid.* Accordingly, the court believed that the Code was "content-neutral as that term [has been] defined by the Supreme Court." *Id.,* at 1071. In light of that determination, it applied a lower level of scrutiny to the Sign Code and concluded that the law did not violate the First Amendment. *Id.*, at 1073–1076.

We granted certiorari, 573 U. S. ___ (2014), and now reverse.

II

A

The First Amendment, applicable to the States through the Fourteenth Amendment, prohibits the enactment of laws "abridging the freedom of speech." U. S. Const., Amdt. 1. Under that Clause, a government, including a municipal government vested with state authority, "has no power to restrict expression because of its message, its ideas, its subject matter, or its content." *Police Dept. of Chicago* v. *Mosley*, 408 U. S. 92, 95 (1972). Content-based laws—those that target speech based on its communicative content—are presumptively unconstitutional and may be justified only if the government proves that they are narrowly tailored to serve compelling state interests. *R. A. V.* v. *St. Paul*, 505 U. S. 377, 395 (1992); *Simon & Schuster, Inc.* v. *Members of N. Y. State Crime Victims Bd.*, 502 U. S. 105, 115, 118 (1991).

Government regulation of speech is content based if a law applies to particular speech because of the topic discussed or the idea or message expressed. *E.g., Sorrell* v. *IMS Health, Inc.*, 564 U. S. ___, ___–___ (2011) (slip op., at 8–9); *Carey* v. *Brown*, 447 U. S. 455, 462 (1980); *Mosley*, *supra,* at 95. This commonsense meaning of the phrase "content based" requires a court to consider whether a regulation of speech "on its face" draws distinctions based on the message a speaker conveys. *Sorrell*, *supra,* at ___ (slip op., at 8). Some facial distinctions based on a message are obvious, defining regulated speech by particular subject matter, and others are more subtle, defining regulated speech by its function or purpose. Both are distinctions drawn based on the message a speaker conveys, and, therefore, are subject to strict scrutiny.

Our precedents have also recognized a separate and additional category of laws that, though facially content neutral, will be considered content-based regulations of speech: laws that cannot be "'justified without reference to

the content of the regulated speech,'" or that were adopted by the government "because of disagreement with the message [the speech] conveys," *Ward* v. *Rock Against Racism*, 491 U. S. 781, 791 (1989). Those laws, like those that are content based on their face, must also satisfy strict scrutiny.

B

The Town's Sign Code is content based on its face. It defines "Temporary Directional Signs" on the basis of whether a sign conveys the message of directing the public to church or some other "qualifying event." Glossary 25. It defines "Political Signs" on the basis of whether a sign's message is "designed to influence the outcome of an election." *Id.,* at 24. And it defines "Ideological Signs" on the basis of whether a sign "communicat[es] a message or ideas" that do not fit within the Code's other categories. *Id.,* at 23. It then subjects each of these categories to different restrictions.

The restrictions in the Sign Code that apply to any given sign thus depend entirely on the communicative content of the sign. If a sign informs its reader of the time and place a book club will discuss John Locke's Two Treatises of Government, that sign will be treated differently from a sign expressing the view that one should vote for one of Locke's followers in an upcoming election, and both signs will be treated differently from a sign expressing an ideological view rooted in Locke's theory of government. More to the point, the Church's signs inviting people to attend its worship services are treated differently from signs conveying other types of ideas. On its face, the Sign Code is a content-based regulation of speech. We thus have no need to consider the government's justifications or purposes for enacting the Code to determine whether it is subject to strict scrutiny.

C

In reaching the contrary conclusion, the Court of Appeals offered several theories to explain why the Town's Sign Code should be deemed content neutral. None is persuasive.

1

The Court of Appeals first determined that the Sign Code was content neutral because the Town "did not adopt its regulation of speech [based on] disagree[ment] with the message conveyed," and its justifications for regulating temporary directional signs were "unrelated to the content of the sign." 707 F. 3d, at 1071–1072. In its brief to this Court, the United States similarly contends that a sign regulation is content neutral—even if it expressly draws distinctions based on the sign's communicative content—if those distinctions can be "'justified without reference to the content of the regulated speech.'" Brief for United States as *Amicus Curiae* 20, 24 (quoting *Ward, supra*, at 791; emphasis deleted).

But this analysis skips the crucial first step in the content-neutrality analysis: determining whether the law is content neutral on its face. A law that is content based on its face is subject to strict scrutiny regardless of the government's benign motive, content-neutral justification, or lack of "animus toward the ideas contained" in the regulated speech. *Cincinnati* v. *Discovery Network*, *Inc.,* 507 U. S. 410, 429 (1993). We have thus made clear that "'[i]llicit legislative intent is not the *sine qua non* of a violation of the First Amendment,'" and a party opposing the government "need adduce 'no evidence of an improper censorial motive.'" *Simon & Schuster, supra,* at 117. Although "a content-based purpose may be sufficient in certain circumstances to show that a regulation is content based, it is not necessary." *Turner Broadcasting System, Inc.* v. *FCC*, 512 U. S. 622, 642 (1994). In other words, an

innocuous justification cannot transform a facially content-based law into one that is content neutral.

That is why we have repeatedly considered whether a law is content neutral on its face *before* turning to the law's justification or purpose. See, *e.g., Sorrell*, *supra,* at ___–___ (slip op., at 8–9) (statute was content based "on its face," and there was also evidence of an impermissible legislative motive); *United States* v. *Eichman*, 496 U. S. 310, 315 (1990) ("Although the [statute] contains no explicit content-based limitation on the scope of prohibited conduct, it is nevertheless clear that the Government's asserted *interest* is related to the suppression of free expression" (internal quotation marks omitted)); *Members of City Council of Los Angeles* v. *Taxpayers for Vincent*, 466 U. S. 789, 804 (1984) ("The text of the ordinance is neutral," and "there is not even a hint of bias or censorship in the City's enactment or enforcement of this ordinance"); *Clark* v. *Community for Creative Non-Violence*, 468 U. S. 288, 293 (1984) (requiring that a facially content-neutral ban on camping must be "justified without reference to the content of the regulated speech"); *United States* v. *O'Brien*, 391 U. S. 367, 375, 377 (1968) (noting that the statute "on its face deals with conduct having no connection with speech," but examining whether the "the governmental interest is unrelated to the suppression of free expression"). Because strict scrutiny applies either when a law is content based on its face or when the purpose and justification for the law are content based, a court must evaluate each question before it concludes that the law is content neutral and thus subject to a lower level of scrutiny.

The Court of Appeals and the United States misunderstand our decision in *Ward* as suggesting that a government's purpose is relevant even when a law is content based on its face. That is incorrect. *Ward* had nothing to say about facially content-based restrictions because it involved a facially content-*neutral* ban on the use, in a

city-owned music venue, of sound amplification systems not provided by the city. 491 U. S., at 787, and n. 2. In that context, we looked to governmental motive, including whether the government had regulated speech "because of disagreement" with its message, and whether the regulation was "'justified without reference to the content of the speech.'" *Id.,* at 791. But *Ward*'s framework "applies only if a statute is content neutral." *Hill*, 530 U. S., at 766 (KENNEDY, J., dissenting). Its rules thus operate "to protect speech," not "to restrict it." *Id.,* at 765.

The First Amendment requires no less. Innocent motives do not eliminate the danger of censorship presented by a facially content-based statute, as future government officials may one day wield such statutes to suppress disfavored speech. That is why the First Amendment expressly targets the operation of the laws—*i.e.,* the "abridg[ement] of speech"—rather than merely the motives of those who enacted them. U. S. Const., Amdt. 1. "'The vice of content-based legislation . . . is not that it is always used for invidious, thought-control purposes, but that it lends itself to use for those purposes.'" *Hill, supra,* at 743 (SCALIA, J., dissenting).

For instance, in *NAACP* v. *Button*, 371 U. S. 415 (1963), the Court encountered a State's attempt to use a statute prohibiting "'improper solicitation'" by attorneys to outlaw litigation-related speech of the National Association for the Advancement of Colored People. *Id.,* at 438. Although *Button* predated our more recent formulations of strict scrutiny, the Court rightly rejected the State's claim that its interest in the "regulation of professional conduct" rendered the statute consistent with the First Amendment, observing that "it is no answer . . . to say . . . that the purpose of these regulations was merely to insure high professional standards and not to curtail free expression." *Id.,* at 438–439. Likewise, one could easily imagine a Sign Code compliance manager who disliked the Church's

substantive teachings deploying the Sign Code to make it more difficult for the Church to inform the public of the location of its services. Accordingly, we have repeatedly "rejected the argument that 'discriminatory . . . treatment is suspect under the First Amendment only when the legislature intends to suppress certain ideas.'" *Discovery Network,* 507 U. S., at 429. We do so again today.

2

The Court of Appeals next reasoned that the Sign Code was content neutral because it "does not mention any idea or viewpoint, let alone single one out for differential treatment." 587 F. 3d, at 977. It reasoned that, for the purpose of the Code provisions, "[i]t makes no difference which candidate is supported, who sponsors the event, or what ideological perspective is asserted." 707 F. 3d, at 1069.

The Town seizes on this reasoning, insisting that "content based" is a term of art that "should be applied flexibly" with the goal of protecting "viewpoints and ideas from government censorship or favoritism." Brief for Respondents 22. In the Town's view, a sign regulation that "does not censor or favor particular viewpoints or ideas" cannot be content based. *Ibid.* The Sign Code allegedly passes this test because its treatment of temporary directional signs does not raise any concerns that the government is "endorsing or suppressing 'ideas or viewpoints,'" *id.*, at 27, and the provisions for political signs and ideological signs "are neutral as to particular ideas or viewpoints" within those categories. *Id.*, at 37.

This analysis conflates two distinct but related limitations that the First Amendment places on government regulation of speech. Government discrimination among viewpoints—or the regulation of speech based on "the specific motivating ideology or the opinion or perspective of the speaker"—is a "more blatant" and "egregious form of

content discrimination." *Rosenberger* v. *Rector and Visitors of Univ. of Va.*, 515 U. S. 819, 829 (1995). But it is well established that "[t]he First Amendment's hostility to content-based regulation extends not only to restrictions on particular viewpoints, but also to prohibition of public discussion of an entire topic." *Consolidated Edison Co. of N. Y.* v. *Public Serv. Comm'n of N. Y.*, 447 U. S. 530, 537 (1980).

Thus, a speech regulation targeted at specific subject matter is content based even if it does not discriminate among viewpoints within that subject matter. *Ibid.* For example, a law banning the use of sound trucks for political speech—and only political speech—would be a content-based regulation, even if it imposed no limits on the political viewpoints that could be expressed. See *Discovery Network, supra,* at 428. The Town's Sign Code likewise singles out specific subject matter for differential treatment, even if it does not target viewpoints within that subject matter. Ideological messages are given more favorable treatment than messages concerning a political candidate, which are themselves given more favorable treatment than messages announcing an assembly of like-minded individuals. That is a paradigmatic example of content-based discrimination.

3

Finally, the Court of Appeals characterized the Sign Code's distinctions as turning on "'the content-neutral elements of who is speaking through the sign and whether and when an event is occurring.'" 707 F. 3d, at 1069. That analysis is mistaken on both factual and legal grounds.

To start, the Sign Code's distinctions are not speaker based. The restrictions for political, ideological, and temporary event signs apply equally no matter who sponsors them. If a local business, for example, sought to put up

signs advertising the Church's meetings, those signs would be subject to the same limitations as such signs placed by the Church. And if Reed had decided to display signs in support of a particular candidate, he could have made those signs far larger—and kept them up for far longer—than signs inviting people to attend his church services. If the Code's distinctions were truly speaker based, both types of signs would receive the same treatment.

In any case, the fact that a distinction is speaker based does not, as the Court of Appeals seemed to believe, automatically render the distinction content neutral. Because "[s]peech restrictions based on the identity of the speaker are all too often simply a means to control content," *Citizens United* v. *Federal Election Comm'n*, 558 U. S. 310, 340 (2010), we have insisted that "laws favoring some speakers over others demand strict scrutiny when the legislature's speaker preference reflects a content preference," *Turner,* 512 U. S., at 658. Thus, a law limiting the content of newspapers, but only newspapers, could not evade strict scrutiny simply because it could be characterized as speaker based. Likewise, a content-based law that restricted the political speech of all corporations would not become content neutral just because it singled out corporations as a class of speakers. See *Citizens United, supra*, at 340–341. Characterizing a distinction as speaker based is only the beginning—not the end—of the inquiry.

Nor do the Sign Code's distinctions hinge on "whether and when an event is occurring." The Code does not permit citizens to post signs on any topic whatsoever within a set period leading up to an election, for example. Instead, come election time, it requires Town officials to determine whether a sign is "designed to influence the outcome of an election" (and thus "political") or merely "communicating a message or ideas for noncommercial purposes" (and thus "ideological"). Glossary 24. That obvious content-based

inquiry does not evade strict scrutiny review simply because an event (*i.e.,* an election) is involved.

And, just as with speaker-based laws, the fact that a distinction is event based does not render it content neutral. The Court of Appeals cited no precedent from this Court supporting its novel theory of an exception from the content-neutrality requirement for event-based laws. As we have explained, a speech regulation is content based if the law applies to particular speech because of the topic discussed or the idea or message expressed. *Supra,* at 6. A regulation that targets a sign because it conveys an idea about a specific event is no less content based than a regulation that targets a sign because it conveys some other idea. Here, the Code singles out signs bearing a particular message: the time and location of a specific event. This type of ordinance may seem like a perfectly rational way to regulate signs, but a clear and firm rule governing content neutrality is an essential means of protecting the freedom of speech, even if laws that might seem "entirely reasonable" will sometimes be "struck down because of their content-based nature." *City of Ladue* v. *Gilleo*, 512 U. S. 43, 60 (1994) (O'Connor, J., concurring).

III

Because the Town's Sign Code imposes content-based restrictions on speech, those provisions can stand only if they survive strict scrutiny, "'which requires the Government to prove that the restriction furthers a compelling interest and is narrowly tailored to achieve that interest,'" *Arizona Free Enterprise Club's Freedom Club PAC* v. *Bennett*, 564 U. S. ___, ___ (2011) (slip op., at 8) (quoting *Citizens United*, 558 U. S., at 340). Thus, it is the Town's burden to demonstrate that the Code's differentiation between temporary directional signs and other types of signs, such as political signs and ideological signs, furthers a compelling governmental interest and is narrowly tai-

lored to that end. See *ibid.*

The Town cannot do so. It has offered only two governmental interests in support of the distinctions the Sign Code draws: preserving the Town's aesthetic appeal and traffic safety. Assuming for the sake of argument that those are compelling governmental interests, the Code's distinctions fail as hopelessly underinclusive.

Starting with the preservation of aesthetics, temporary directional signs are "no greater an eyesore," *Discovery Network*, 507 U. S., at 425, than ideological or political ones. Yet the Code allows unlimited proliferation of larger ideological signs while strictly limiting the number, size, and duration of smaller directional ones. The Town cannot claim that placing strict limits on temporary directional signs is necessary to beautify the Town while at the same time allowing unlimited numbers of other types of signs that create the same problem.

The Town similarly has not shown that limiting temporary directional signs is necessary to eliminate threats to traffic safety, but that limiting other types of signs is not. The Town has offered no reason to believe that directional signs pose a greater threat to safety than do ideological or political signs. If anything, a sharply worded ideological sign seems more likely to distract a driver than a sign directing the public to a nearby church meeting.

In light of this underinclusiveness, the Town has not met its burden to prove that its Sign Code is narrowly tailored to further a compelling government interest. Because a "'law cannot be regarded as protecting an interest of the highest order, and thus as justifying a restriction on truthful speech, when it leaves appreciable damage to that supposedly vital interest unprohibited,'" *Republican Party of Minn.* v. *White*, 536 U. S. 765, 780 (2002), the Sign Code fails strict scrutiny.

IV

Our decision today will not prevent governments from enacting effective sign laws. The Town asserts that an "'absolutist'" content-neutrality rule would render "virtually all distinctions in sign laws . . . subject to strict scrutiny," Brief for Respondents 34–35, but that is not the case. Not "all distinctions" are subject to strict scrutiny, only *content-based* ones are. Laws that are *content neutral* are instead subject to lesser scrutiny. See *Clark*, 468 U. S., at 295.

The Town has ample content-neutral options available to resolve problems with safety and aesthetics. For example, its current Code regulates many aspects of signs that have nothing to do with a sign's message: size, building materials, lighting, moving parts, and portability. See, *e.g.,* §4.402(R). And on public property, the Town may go a long way toward entirely forbidding the posting of signs, so long as it does so in an evenhanded, content-neutral manner. See *Taxpayers for Vincent*, 466 U. S., at 817 (upholding content-neutral ban against posting signs on public property). Indeed, some lower courts have long held that similar content-based sign laws receive strict scrutiny, but there is no evidence that towns in those jurisdictions have suffered catastrophic effects. See, *e.g., Solantic, LLC* v. *Neptune Beach*, 410 F. 3d 1250, 1264–1269 (CA11 2005) (sign categories similar to the town of Gilbert's were content based and subject to strict scrutiny); *Matthews* v. *Needham*, 764 F. 2d 58, 59–60 (CA1 1985) (law banning political signs but not commercial signs was content based and subject to strict scrutiny).

We acknowledge that a city might reasonably view the general regulation of signs as necessary because signs "take up space and may obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulation." *City of Ladue*, 512 U. S., at 48. At the same time, the presence of certain

signs may be essential, both for vehicles and pedestrians, to guide traffic or to identify hazards and ensure safety. A sign ordinance narrowly tailored to the challenges of protecting the safety of pedestrians, drivers, and passengers—such as warning signs marking hazards on private property, signs directing traffic, or street numbers associated with private houses—well might survive strict scrutiny. The signs at issue in this case, including political and ideological signs and signs for events, are far removed from those purposes. As discussed above, they are facially content based and are neither justified by traditional safety concerns nor narrowly tailored.

* * *

We reverse the judgment of the Court of Appeals and remand the case for proceedings consistent with this opinion.

It is so ordered.

SUPREME COURT OF THE UNITED STATES

No. 13–502

CLYDE REED, ET AL., PETITIONERS *v.* TOWN OF GILBERT, ARIZONA, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

[June 18, 2015]

JUSTICE ALITO, with whom JUSTICE KENNEDY and JUSTICE SOTOMAYOR join, concurring.

I join the opinion of the Court but add a few words of further explanation.

As the Court holds, what we have termed "content-based" laws must satisfy strict scrutiny. Content-based laws merit this protection because they present, albeit sometimes in a subtler form, the same dangers as laws that regulate speech based on viewpoint. Limiting speech based on its "topic" or "subject" favors those who do not want to disturb the status quo. Such regulations may interfere with democratic self-government and the search for truth. See *Consolidated Edison Co. of N. Y.* v. *Public Serv. Comm'n of N. Y.*, 447 U. S. 530, 537 (1980).

As the Court shows, the regulations at issue in this case are replete with content-based distinctions, and as a result they must satisfy strict scrutiny. This does not mean, however, that municipalities are powerless to enact and enforce reasonable sign regulations. I will not attempt to provide anything like a comprehensive list, but here are some rules that would not be content based:

Rules regulating the size of signs. These rules may distinguish among signs based on any content-neutral criteria, including any relevant criteria listed below.

Rules regulating the locations in which signs may be

placed. These rules may distinguish between free-standing signs and those attached to buildings.

Rules distinguishing between lighted and unlighted signs.

Rules distinguishing between signs with fixed messages and electronic signs with messages that change.

Rules that distinguish between the placement of signs on private and public property.

Rules distinguishing between the placement of signs on commercial and residential property.

Rules distinguishing between on-premises and off-premises signs.

Rules restricting the total number of signs allowed per mile of roadway.

Rules imposing time restrictions on signs advertising a one-time event. Rules of this nature do not discriminate based on topic or subject and are akin to rules restricting the times within which oral speech or music is allowed.*

In addition to regulating signs put up by private actors, government entities may also erect their own signs consistent with the principles that allow governmental speech. See *Pleasant Grove City* v. *Summum*, 555 U. S. 460, 467–469 (2009). They may put up all manner of signs to promote safety, as well as directional signs and signs pointing out historic sites and scenic spots.

Properly understood, today's decision will not prevent cities from regulating signs in a way that fully protects public safety and serves legitimate esthetic objectives.

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* Of course, content-neutral restrictions on speech are not necessarily consistent with the First Amendment. Time, place, and manner restrictions "must be narrowly tailored to serve the government's legitimate, content-neutral interests." *Ward* v. *Rock Against Racism*, 491 U. S. 781, 798 (1989). But they need not meet the high standard imposed on viewpoint- and content-based restrictions.

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[June 18, 2015]

JUSTICE BREYER, concurring in the judgment.

I join JUSTICE KAGAN's separate opinion. Like JUSTICE KAGAN I believe that categories alone cannot satisfactorily resolve the legal problem before us. The First Amendment requires greater judicial sensitivity both to the Amendment's expressive objectives and to the public's legitimate need for regulation than a simple recitation of categories, such as "content discrimination" and "strict scrutiny," would permit. In my view, the category "content discrimination" is better considered in many contexts, including here, as a rule of thumb, rather than as an automatic "strict scrutiny" trigger, leading to almost certain legal condemnation.

To use content discrimination to trigger strict scrutiny sometimes makes perfect sense. There are cases in which the Court has found content discrimination an unconstitutional method for suppressing a viewpoint. *E.g., Rosenberger* v. *Rector and Visitors of Univ. of Va.*, 515 U. S. 819, 828–829 (1995); see also *Boos* v. *Barry*, 485 U. S. 312, 318–319 (1988) (plurality opinion) (applying strict scrutiny where the line between subject matter and viewpoint was not obvious). And there are cases where the Court has found content discrimination to reveal that rules governing a traditional public forum are, in fact, not a neutral way of fairly managing the forum in the interest of all

speakers. *Police Dept. of Chicago* v. *Mosley*, 408 U. S. 92, 96 (1972) ("Once a forum is opened up to assembly or speaking by some groups, government may not prohibit others from assembling or speaking on the basis of what they intend to say"). In these types of cases, strict scrutiny is often appropriate, and content discrimination has thus served a useful purpose.

But content discrimination, while helping courts to identify unconstitutional suppression of expression, cannot and should not *always* trigger strict scrutiny. To say that it is not an automatic "strict scrutiny" trigger is not to argue against that concept's use. I readily concede, for example, that content discrimination, as a conceptual tool, can sometimes reveal weaknesses in the government's rationale for a rule that limits speech. If, for example, a city looks to litter prevention as the rationale for a prohibition against placing newsracks dispensing free advertisements on public property, why does it exempt other newsracks causing similar litter? Cf. *Cincinnati* v. *Discovery Network, Inc.*, 507 U. S. 410 (1993). I also concede that, whenever government disfavors one kind of speech, it places that speech at a disadvantage, potentially interfering with the free marketplace of ideas and with an individual's ability to express thoughts and ideas that can help that individual determine the kind of society in which he wishes to live, help shape that society, and help define his place within it.

Nonetheless, in these latter instances to use the presence of content discrimination automatically to trigger strict scrutiny and thereby call into play a strong presumption against constitutionality goes too far. That is because virtually all government activities involve speech, many of which involve the regulation of speech. Regulatory programs almost always require content discrimination. And to hold that such content discrimination triggers strict scrutiny is to write a recipe for judicial management

of ordinary government regulatory activity.

Consider a few examples of speech regulated by government that inevitably involve content discrimination, but where a strong presumption against constitutionality has no place. Consider governmental regulation of securities, *e.g.,* 15 U. S. C. §78*l* (requirements for content that must be included in a registration statement); of energy conservation labeling-practices, *e.g.,* 42 U. S. C. §6294 (requirements for content that must be included on labels of certain consumer electronics); of prescription drugs, *e.g.,* 21 U. S. C. §353(b)(4)(A) (requiring a prescription drug label to bear the symbol "Rx only"); of doctor-patient confidentiality, *e.g.,* 38 U. S. C. §7332 (requiring confidentiality of certain medical records, but allowing a physician to disclose that the patient has HIV to the patient's spouse or sexual partner); of income tax statements, *e.g.,* 26 U. S. C. §6039F (requiring taxpayers to furnish information about foreign gifts received if the aggregate amount exceeds $10,000); of commercial airplane briefings, *e.g.,* 14 CFR §136.7 (2015) (requiring pilots to ensure that each passenger has been briefed on flight procedures, such as seatbelt fastening); of signs at petting zoos, *e.g.,* N. Y. Gen. Bus. Law Ann. §399–ff(3) (West Cum. Supp. 2015) (requiring petting zoos to post a sign at every exit "'strongly recommend[ing] that persons wash their hands upon exiting the petting zoo area'"); and so on.

Nor can the majority avoid the application of strict scrutiny to all sorts of justifiable governmental regulations by relying on this Court's many subcategories and exceptions to the rule. The Court has said, for example, that we should apply less strict standards to "commercial speech." *Central Hudson Gas & Elec. Corp.* v. *Public Service Comm'n of N. Y.*, 447 U. S. 557, 562–563 (1980). But I have great concern that many justifiable instances of "content-based" regulation are noncommercial. And, worse than that, the Court has applied the heightened

"strict scrutiny" standard even in cases where the less stringent "commercial speech" standard was appropriate. See *Sorrell* v. *IMS Health Inc.*, 564 U. S. ___, ___ (2011) (BREYER, J., dissenting) (slip op., at ___). The Court has also said that "government speech" escapes First Amendment strictures. See *Rust* v. *Sullivan*, 500 U. S. 173, 193–194 (1991). But regulated speech is typically private speech, not government speech. Further, the Court has said that, "[w]hen the basis for the content discrimination consists entirely of the very reason the entire class of speech at issue is proscribable, no significant danger of idea or viewpoint discrimination exists." *R. A. V.* v. *St. Paul*, 505 U. S. 377, 388 (1992). But this exception accounts for only a few of the instances in which content discrimination is readily justifiable.

I recognize that the Court could escape the problem by watering down the force of the presumption against constitutionality that "strict scrutiny" normally carries with it. But, in my view, doing so will weaken the First Amendment's protection in instances where "strict scrutiny" should apply in full force.

The better approach is to generally treat content discrimination as a strong reason weighing against the constitutionality of a rule where a traditional public forum, or where viewpoint discrimination, is threatened, but elsewhere treat it as a rule of thumb, finding it a helpful, but not determinative legal tool, in an appropriate case, to determine the strength of a justification. I would use content discrimination as a supplement to a more basic analysis, which, tracking most of our First Amendment cases, asks whether the regulation at issue works harm to First Amendment interests that is disproportionate in light of the relevant regulatory objectives. Answering this question requires examining the seriousness of the harm to speech, the importance of the countervailing objectives, the extent to which the law will achieve those objectives,

and whether there are other, less restrictive ways of doing so. See, *e.g., United States* v. *Alvarez*, 567 U. S. ___, ___–___ (2012) (BREYER, J., concurring in judgment) (slip op., at 1–3); *Nixon* v. *Shrink Missouri Government PAC*, 528 U. S. 377, 400–403 (2000) (BREYER, J., concurring). Admittedly, this approach does not have the simplicity of a mechanical use of categories. But it does permit the government to regulate speech in numerous instances where the voters have authorized the government to regulate and where courts should hesitate to substitute judicial judgment for that of administrators.

Here, regulation of signage along the roadside, for purposes of safety and beautification is at issue. There is no traditional public forum nor do I find any general effort to censor a particular viewpoint. Consequently, the specific regulation at issue does not warrant "strict scrutiny." Nonetheless, for the reasons that JUSTICE KAGAN sets forth, I believe that the Town of Gilbert's regulatory rules violate the First Amendment. I consequently concur in the Court's judgment only.

SUPREME COURT OF THE UNITED STATES

No. 13–502

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ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

[June 18, 2015]

JUSTICE KAGAN, with whom JUSTICE GINSBURG and JUSTICE BREYER join, concurring in the judgment.

Countless cities and towns across America have adopted ordinances regulating the posting of signs, while exempting certain categories of signs based on their subject matter. For example, some municipalities generally prohibit illuminated signs in residential neighborhoods, but lift that ban for signs that identify the address of a home or the name of its owner or occupant. See, *e.g.*, City of Truth or Consequences, N. M., Code of Ordinances, ch. 16, Art. XIII, §§11–13–2.3, 11–13–2.9(H)(4) (2014). In other municipalities, safety signs such as "Blind Pedestrian Crossing" and "Hidden Driveway" can be posted without a permit, even as other permanent signs require one. See, *e.g.*, Code of Athens-Clarke County, Ga., Pt. III, §7–4–7(1) (1993). Elsewhere, historic site markers—for example, "George Washington Slept Here"—are also exempt from general regulations. See, *e.g.*, Dover, Del., Code of Ordinances, Pt. II, App. B, Art. 5, §4.5(F) (2012). And similarly, the federal Highway Beautification Act limits signs along interstate highways unless, for instance, they direct travelers to "scenic and historical attractions" or advertise free coffee. See 23 U. S. C. §§131(b), (c)(1), (c)(5).

Given the Court's analysis, many sign ordinances of that kind are now in jeopardy. See *ante*, at 14 (acknowledging

that "entirely reasonable" sign laws "will sometimes be struck down" under its approach (internal quotation marks omitted)). Says the majority: When laws "single[] out specific subject matter," they are "facially content based"; and when they are facially content based, they are automatically subject to strict scrutiny. *Ante*, at 12, 16–17. And although the majority holds out hope that some sign laws with subject-matter exemptions "might survive" that stringent review, *ante*, at 17, the likelihood is that most will be struck down. After all, it is the "rare case[] in which a speech restriction withstands strict scrutiny." *Williams-Yulee* v. *Florida Bar*, 575 U. S. ___, ___ (2015) (slip op., at 9). To clear that high bar, the government must show that a content-based distinction "is necessary to serve a compelling state interest and is narrowly drawn to achieve that end." *Arkansas Writers' Project, Inc.* v. *Ragland*, 481 U. S. 221, 231 (1987). So on the majority's view, courts would have to determine that a town has a compelling interest in informing passersby where George Washington slept. And likewise, courts would have to find that a town has no other way to prevent hidden-driveway mishaps than by specially treating hidden-driveway signs. (Well-placed speed bumps? Lower speed limits? Or how about just a ban on hidden driveways?) The consequence—unless courts water down strict scrutiny to something unrecognizable—is that our communities will find themselves in an unenviable bind: They will have to either repeal the exemptions that allow for helpful signs on streets and sidewalks, or else lift their sign restrictions altogether and resign themselves to the resulting clutter.*

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* Even in trying (commendably) to limit today's decision, JUSTICE ALITO's concurrence highlights its far-reaching effects. According to JUSTICE ALITO, the majority does not subject to strict scrutiny regulations of "signs advertising a one-time event." *Ante*, at 2 (ALITO, J., concurring). But of course it does. On the majority's view, a law with an exception for such signs "singles out specific subject matter for

Although the majority insists that applying strict scrutiny to all such ordinances is "essential" to protecting First Amendment freedoms, *ante*, at 14, I find it challenging to understand why that is so. This Court's decisions articulate two important and related reasons for subjecting content-based speech regulations to the most exacting standard of review. The first is "to preserve an uninhibited marketplace of ideas in which truth will ultimately prevail." *McCullen* v. *Coakley*, 573 U. S. ___, ___–___ (2014) (slip op., at 8–9) (internal quotation marks omitted). The second is to ensure that the government has not regulated speech "based on hostility—or favoritism—towards the underlying message expressed." *R. A. V.* v. *St. Paul*, 505 U. S. 377, 386 (1992). Yet the subject-matter exemptions included in many sign ordinances do not implicate those concerns. Allowing residents, say, to install a light bulb over "name and address" signs but no others does not distort the marketplace of ideas. Nor does that different treatment give rise to an inference of impermissible government motive.

We apply strict scrutiny to facially content-based regulations of speech, in keeping with the rationales just described, when there is any "realistic possibility that official suppression of ideas is afoot." *Davenport* v. *Washington Ed. Assn.*, 551 U. S. 177, 189 (2007) (quoting *R. A. V.*, 505 U. S., at 390). That is always the case when the regulation facially differentiates on the basis of viewpoint. See *Rosenberger* v. *Rector and Visitors of Univ. of Va.*, 515 U. S. 819, 829 (1995). It is also the case (except in nonpublic or limited public forums) when a law restricts "discussion of an entire topic" in public debate. *Consolidated*

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differential treatment" and "defin[es] regulated speech by particular subject matter." *Ante*, at 6, 12 (majority opinion). Indeed, the precise reason the majority applies strict scrutiny here is that "the Code singles out signs bearing a particular message: the time and location of a specific event." *Ante*, at 14.

Edison Co. of N. Y. v. *Public Serv. Comm'n of N. Y.*, 447 U. S. 530, 537, 539–540 (1980) (invalidating a limitation on speech about nuclear power). We have stated that "[i]f the marketplace of ideas is to remain free and open, governments must not be allowed to choose 'which issues are worth discussing or debating.'" *Id.*, at 537–538 (quoting *Police Dept. of Chicago* v. *Mosley*, 408 U. S. 92, 96 (1972)). And we have recognized that such subject-matter restrictions, even though viewpoint-neutral on their face, may "suggest[] an attempt to give one side of a debatable public question an advantage in expressing its views to the people." *First Nat. Bank of Boston* v. *Bellotti*, 435 U. S. 765, 785 (1978); accord, *ante*, at 1 (ALITO, J., concurring) (limiting all speech on one topic "favors those who do not want to disturb the status quo"). Subject-matter regulation, in other words, may have the intent or effect of favoring some ideas over others. When that is realistically possible—when the restriction "raises the specter that the Government may effectively drive certain ideas or viewpoints from the marketplace"—we insist that the law pass the most demanding constitutional test. *R. A. V.*, 505 U. S., at 387 (quoting *Simon & Schuster, Inc.* v. *Members of N. Y. State Crime Victims Bd.*, 502 U. S. 105, 116 (1991)).

But when that is not realistically possible, we may do well to relax our guard so that "entirely reasonable" laws imperiled by strict scrutiny can survive. *Ante*, at 14. This point is by no means new. Our concern with content-based regulation arises from the fear that the government will skew the public's debate of ideas—so when "that risk is inconsequential, . . . strict scrutiny is unwarranted." *Davenport*, 551 U. S., at 188; see *R. A. V.*, 505 U. S., at 388 (approving certain content-based distinctions when there is "no significant danger of idea or viewpoint discrimination"). To do its intended work, of course, the category of content-based regulation triggering strict scrutiny must

sweep more broadly than the actual harm; that category exists to create a buffer zone guaranteeing that the government cannot favor or disfavor certain viewpoints. But that buffer zone need not extend forever. We can administer our content-regulation doctrine with a dose of common sense, so as to leave standing laws that in no way implicate its intended function.

And indeed we have done just that: Our cases have been far less rigid than the majority admits in applying strict scrutiny to facially content-based laws—including in cases just like this one. See *Davenport*, 551 U. S., at 188 (noting that "we have identified numerous situations in which [the] risk" attached to content-based laws is "attenuated"). In *Members of City Council of Los Angeles* v. *Taxpayers for Vincent*, 466 U. S. 789 (1984), the Court declined to apply strict scrutiny to a municipal ordinance that exempted address numbers and markers commemorating "historical, cultural, or artistic event[s]" from a generally applicable limit on sidewalk signs. *Id.*, at 792, n. 1 (listing exemptions); see *id.*, at 804–810 (upholding ordinance under intermediate scrutiny). After all, we explained, the law's enactment and enforcement revealed "not even a hint of bias or censorship." *Id.*, at 804; see also *Renton* v. *Playtime Theatres, Inc.*, 475 U. S. 41, 48 (1986) (applying intermediate scrutiny to a zoning law that facially distinguished among movie theaters based on content because it was "designed to prevent crime, protect the city's retail trade, [and] maintain property values . . . , not to suppress the expression of unpopular views"). And another decision involving a similar law provides an alternative model. In *City of Ladue* v. *Gilleo*, 512 U. S. 43 (1994), the Court assumed *arguendo* that a sign ordinance's exceptions for address signs, safety signs, and for-sale signs in residential areas did not trigger strict scrutiny. See *id.*, at 46–47, and n. 6 (listing exemptions); *id.*, at 53 (noting this assumption). We did not need to, and so did not, decide the

level-of-scrutiny question because the law's breadth made it unconstitutional under any standard.

The majority could easily have taken *Ladue*'s tack here. The Town of Gilbert's defense of its sign ordinance—most notably, the law's distinctions between directional signs and others—does not pass strict scrutiny, or intermediate scrutiny, or even the laugh test. See *ante*, at 14–15 (discussing those distinctions). The Town, for example, provides no reason at all for prohibiting more than four directional signs on a property while placing no limits on the number of other types of signs. See Gilbert, Ariz., Land Development Code, ch. I, §§4.402(J), (P)(2) (2014). Similarly, the Town offers no coherent justification for restricting the size of directional signs to 6 square feet while allowing other signs to reach 20 square feet. See §§4.402(J), (P)(1). The best the Town could come up with at oral argument was that directional signs "need to be smaller because they need to guide travelers along a route." Tr. of Oral Arg. 40. Why exactly a smaller sign better helps travelers get to where they are going is left a mystery. The absence of any sensible basis for these and other distinctions dooms the Town's ordinance under even the intermediate scrutiny that the Court typically applies to "time, place, or manner" speech regulations. Accordingly, there is no need to decide in this case whether strict scrutiny applies to every sign ordinance in every town across this country containing a subject-matter exemption.

I suspect this Court and others will regret the majority's insistence today on answering that question in the affirmative. As the years go by, courts will discover that thousands of towns have such ordinances, many of them "entirely reasonable." *Ante*, at 14. And as the challenges to them mount, courts will have to invalidate one after the other. (This Court may soon find itself a veritable Supreme Board of Sign Review.) And courts will strike down those democratically enacted local laws even though no

one—certainly not the majority—has ever explained why the vindication of First Amendment values requires that result. Because I see no reason why such an easy case calls for us to cast a constitutional pall on reasonable regulations quite unlike the law before us, I concur only in the judgment.

Coates' Canons Blog: Sign Litigation: A Brief Analysis of Reed v. Town of Gilbert

By Adam Lovelady

Article: http://canons.sog.unc.edu/sign-litigation-a-brief-analysis-of-reed-v-town-of-gilbert/

This entry was posted on July 21, 2015 and is filed under Constitutional & Statutory Limitations, General Local Government (Miscellaneous), Land Use & Code Enforcement, Zoning

Temporary yard signs are springing up all around town. Town council wants to reduce the clutter, but also wants to respect the free speech rights of the community. Council is considering new rules that will allow *campaign signs* during election season, *event signs* within a day of the event, and *ideological signs* anytime. It seems like a reasonable balance—allowing the signs but limiting them to a relevant time-frame. Can the town's regulations distinguish among signs this way?

A recent U.S. Supreme Court decision says no. Such distinctions are unconstitutional content-based regulation of speech.

To be clear, every sign ordinance distinguishes among signs. Ordinances commonly distinguish between locations (commercial property, residential property, public property, etc.), between types of signs (free-standing, wall signs, electronic signs, etc.), and between messages on the signs (commercial, safety, political, etc.). Reasonable distinctions concerning *location* and *types* of signs remain permissible.

The *Reed* decision, though, clearly invalidated some distinctions based on the message content of signs, and it will require adjustments to many local ordinances and some state statutes. The decision, with its four separate concurring opinions, also left open several legal questions.

This blog considers the decision of *Reed v. Town of Gilbert*, 576 U.S. __ (2015), and its impact on local sign ordinances.

Context of Free Speech Caselaw

In thinking about the *Reed* decision it is helpful to recall a few key points about Constitutional protections of free speech and local government sign regulation. This area of the law is complex—far beyond the scope and space of this blog—but some context is helpful in understanding the impact of the new decision.

Content-Neutral Sign Regulations. Some sign regulations concern the form and nature of the sign, not the content of the message. These regulations—called *reasonable time, place, or manner restrictions*—include regulation of sign size, number, materials, lighting, moving parts, and portability, among other things. These regulations are allowed, provided they are "[1] justified without reference to the content of the regulated speech, [2] that they are narrowly tailored to serve a significant governmental interest, and [3] that they leave open ample alternative channels for communication of the information" (*Ward v. Rock Against Racism*, 491 U.S. 781, 791, 109 S. Ct. 2746, 2753, 105 L. Ed. 2d 661 (1989)). Over the years the courts have allowed a variety of content-neutral sign regulations.

Content-Based Sign Regulations. Some sign regulations, however, restrict the content of the message. The Supreme Court requires that content-based regulation of noncommercial signs must meet strict scrutiny. As phrased in the *Reed* majority opinion, a regulation is content-based if the rule "applies to a particular [sign] because of the topics discussed or the idea or message expressed" (slip op., at 6). The strict scrutiny standard demands that the local government must show that the regulation is (i) designed to serve a *compelling* governmental interest and (ii) *narrowly tailored* to achieve that interest. That is a steep hill to climb, and in practice few, if any, regulations survive strict scrutiny review.

It is worth noting that commercial speech is subject to yet another test—a version of intermediate scrutiny outlined in *Central Hudson Gas & Electric Corp. v. Public Service Commission of New York*, 447 U.S. 557 (1987). That test is described in David Owens' blog on Offensive Signs, and as discussed below, the impact of the *Reed* decision on the *Central Hudson*

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test is unclear.

Case Summary

The Town of Gilbert, Arizona, had a sign code requiring permits for signs, but outlining a variety of exemptions. The *Reed* decision focused on the exemptions for three types of signs: Political Signs, Temporary Directional Signs, and Ideological Signs. Under the local code, Political Signs were signs designed to influence the outcome of an election; they could be up to 32 square feet and displayed during political season. Temporary Directional Signs were defined to include signs that direct the public to a church or other qualifying event; they could be up to six square feet and could be displayed 12 hours before and 1 hour after the qualifying event. Ideological signs were defined to be signs that communicate a noncommercial message that didn't fit into some other category; they could be up to 20 square feet.

A local church—after being cited for violation of the rules for Temporary Directional Signs—challenged the sign code as abridging their freedom of speech. The Town argued (and the lower courts found) that its regulations were content-neutral. The distinctions among types of signs, they said, were based on objective factors not the expressive content of the sign. The distinctions did not favor nor censor a particular viewpoint or philosophy. And, the justification for the regulation was unrelated to the content of the sign.

Justice Thomas, writing for the Court, disagreed. He found that the distinctions were plainly content-based and thus subject to strict scrutiny. The distinctions—between Political Signs, Temporary Directional Signs, and Ideological Signs—"depende[ed] entirely on the communicative content of the sign" (slip op., at 7). "Regulation targeted at specific subject matter is content based even if it does not discriminate among viewpoints with that subject matter" (12). And, "an innocuous justification cannot transform a facially content-based law into one that is content neutral" (9).

In its failed attempt to meet the strict scrutiny standard, the Town offered two governmental interests to support its distinctions: aesthetic appeal and traffic safety. Even if these were considered compelling governmental interests (which the Court assumed without ruling), the Town's distinctions were not narrowly tailored. Justice Kagan noted in her own opinion (concurring in the judgment only) that the Town's distinctions did "not pass strict scrutiny, or intermediate scrutiny, or even the laugh test" (slip op., at 6, Kagan, J., concurring in judgment).

Impact of Local Ordinances

So what does this decision mean for local ordinances? In the end, some distinctions among signs clearly are allowed and will withstand judicial review. Some code provisions, though, must be revised. And then, there are the open questions.

The Court was unanimous in judgment: The particular provisions of the Town of Gilbert's sign code violate Constitutional protections for free speech. The Court was fractured, though, in the opinions, making it harder to discern the full scope of the decision. Justice Thomas offered the majority opinion of the court with five justices joining. Justice Alito offered a concurring opinion to further clarify the impact of Justice Thomas' opinion. He was joined by Justices Kennedy and Sotomayor. Three justices concurred in judgment only, and they offered two separate opinions to outline their legal reasoning and their concerns with the majority's reasoning.

So we have a split court. Three joined the majority only; three joined the majority, but also joined an explanatory concurrence; and three disagreed with the majority's legal reasoning. This three-three-three split, unfortunately, causes even more head-scratching for an already complex topic.

Content-Based Distinctions. In thinking about your sign ordinance, ask this: Does this regulation apply to a particular sign because of the non-commercial content on the sign? If yes, the regulation must meet strict scrutiny under *Reed*. The government must show that the regulation is designed to serve a *compelling* governmental interest and *narrowly tailored* to achieve that interest.

If your ordinance distinguishes among noncommercial sign types—political v. ideological v. religious—those distinctions are unconstitutional and must be changed.

Justice Thomas did offer some content-based regulations that may survive strict scrutiny if they are narrowly tailored to address public safety. These include warning signs for hazards on private property, signs directing traffic, or street

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numbers associated with private houses.

Content-Neutral Distinctions.The several opinions of the court outline some valid distinctions for regulation. In his majority opinion, Justice Thomas noted that local governments still have “ample content-neutral options available to resolve problems with safety and aesthetics” (slip op., at 16). These include regulation of, among other things,

- size
- building materials
- lighting
- moving parts
- portability

Moreover, “on public property the Town may go a long way toward entirely forbidding the posting of signs, so long as it does so in an evenhanded, content-neutral manner” (slip op., at 16). A local ordinance or state statute can prohibit all signs in the public right-of-way. But, if signs are allowed, the regulations must not distinguish based on the content of the message. Regulations that allow some, but not all, noncommercial signs run afoul of the *Reed* decision.

For example, NCGS § 136-32 allows for “political signs” (as narrowly defined) in the public right-of-way of state highways during election season. That statute and similar ordinances will need to be revised to either, prohibit all signs in the right-of-way, or allow compliant signs with any noncommercial message in the right-of-way during election season.

Justice Alito, in his concurring opinion, provided further explanation (although not an exhaustive list) of what distinctions may be valid, content-neutral distinctions. He included:

- Size (including different sizes for different types of signs)
- Location, including distinguishing between freestanding signs and attached signs
- Distinguishing between lighted and unlighted
- Distinguishing between fixed message and electronic signs
- Distinguishing between signs on public property and signs on private property
- Distinguishing between signs on commercial property and signs on residential property
- Restricting the total number of signs allowed per mile of roadway
- Distinguishing between on-premises and off-premises signs*
- And time restrictions on signs advertising a one-time event*

* These last examples—distinguishing between on-premises/off-premises and restricting signs for one-time events—seem to conflict with the majority opinion in *Reed*. Here, we get back to the issue of the fractured court and multiple opinions (discussed below).

Open Questions

Content-ish Regulations

Justice Alito’s concurrence (discussed above) listed many regulatory distinctions that are clearly authorized. He listed two distinctions that do not clearly square with the reasoning of the majority opinion. But, if you consider the three justices concurring with Alito plus the three justices concurring in judgment only, there are six justices that took the question of content neutrality with more practical consideration than Justice Thomas’ hard line. Thus, Alito’s opinion may in fact hold the greatest weight of this case. Only time will tell—time and more litigation.

First, Justice Alito listed signs for one-time events. This seems to be precisely what the majority stuck down in this case. It is unclear how a local regulation could structure such regulation without relying on the content of the message itself. But the inclusion on Justice Alito’s list points to some room for defining signs based on function.

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And second, Justice Alito listed the distinction between on-premises and off-premises signs. The enforcement officer must read the sign in order to determine if a sign is off-premises or on-premises. As such, these would seem to be facially content-based and subject to strict scrutiny. But, prior Supreme Court caselaw has upheld the on-premise/off-premise distinction and that precedent is not overruled by the majority opinion.

Commercial and Noncommercial Speech.In past decisions the Supreme Court has treated commercial speech to slightly less protection than noncommercial speech. Commercial speech regulation needs to meet a version of intermediate scrutiny, not the strict scrutiny applied to regulation of non-commercial speech (*See, generally, Central Hudson Gas & Electric Corp. v. Public Service Commission of New York*, 447 U.S. 557 (1987)).

Arguably, the *Reed* decision opened the door to challenge a sign ordinance that distinguishes between commercial and noncommercial speech. Justice Alito's concurring opinion noted that distinguishing based on the *type of property* —commercial or residential—would be valid. Regulating based on the *content of the sign*—commercial or noncommercial—arguably is undermined by the *Reed* decision.

Notably, though, the majority in *Reed* did not overrule its prior decisions. The *Reed* decision was focused on the Town code's distinctions among types of noncommercial speech. Presumably the long-held standards for regulation of commercial speech still apply.

Conclusion

In the wake of *Reed*, some things are clear. Governments still have an array content-neutral regulations to apply to signs. But, content-based distinctions such as the ones in the Town of Gilbert's code must survive strict scrutiny to stand. Because of mix of opinions from the Court, there are several open questions. We will not know the full scope and meaning of *Reed v. Town of Gilbert* until the federal courts begin to apply this decision to other sign litigation.

Links

- www.supremecourt.gov/opinions/14pdf/13-502_9olb.pdf

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STAFF REPORT
City Council, August 15, 2016

Title: **Bicycle Friendly Communities Update**
This staff report outlines progress in the City's application to the League of American Bicyclists Bicycle Friendly Communities rating program.

From: Daniel Cobb, AICP, Planning Director
Prepared by: Aaron Bland, AICP, Planner & Assistant Zoning Administrator
Approved by: Jim Fatland, CPFO, City Manager

Background
At Council's 2016 annual retreat, the idea of working towards applying for Brevard to be designated as a bicycle friendly city was brought up as an item for further discussion. Staff presented background information about the Bicycle Friendly Communities rating program and its scoring methodology at Council's February meeting, and Council expressed interest in the city working towards certification.

Since that presentation, Staff has researched the application and certification requirements to identify "low-hanging fruit" actions that the City can accomplish relatively easily before applying for certification in order to improve chances of success and/or achieve a higher rating classification.

Discussion
The program's application is a very detailed and thorough examination of a municipality's commitment to creating a place where bicycling is "a real transportation and recreation option for all people." Because no two cities are the same, scoring is not done on a black and white point system but is more evaluative based on five areas of judgment criteria: engineering, education, encouragement, enforcement, and evaluation and planning. Cities are judged with their size, population, climate, topography, and other factors in mind. See Attachment A for an evaluation infographic.

Planning Staff has identified many items that can easily be accomplished in the coming months that will strengthen Brevard's application. These include a wide range of items from the symbolic, such as passing resolutions, to on-the-ground improvements, such as painting markings on streets. Many items are easily done with little to no cost, such as adding bicycling information on the City's website and amending the Traffic Schedule.

Staff has compiled a list of the most easily attainable items (Attachment B) that can be achieved quickly prior to the next application deadline in February 2017. Staff has already begun to complete items on this list and will continue fulfilling as many as possible before applying for certification.

Policy Analysis

Becoming a certified Bicycle Friendly Community is a Policy item (Policy 3.2.E) in the *Environmental Health* element of the City's recent Comprehensive Plan update under "Objective 3.2: Reduction of the City's carbon and ecological footprint."

Additionally, furthering the City's commitment to making sure cycling is a viable transportation option works towards multiple goals and policies within the *Transportation & Infrastructure* and *Livable Communities* elements.

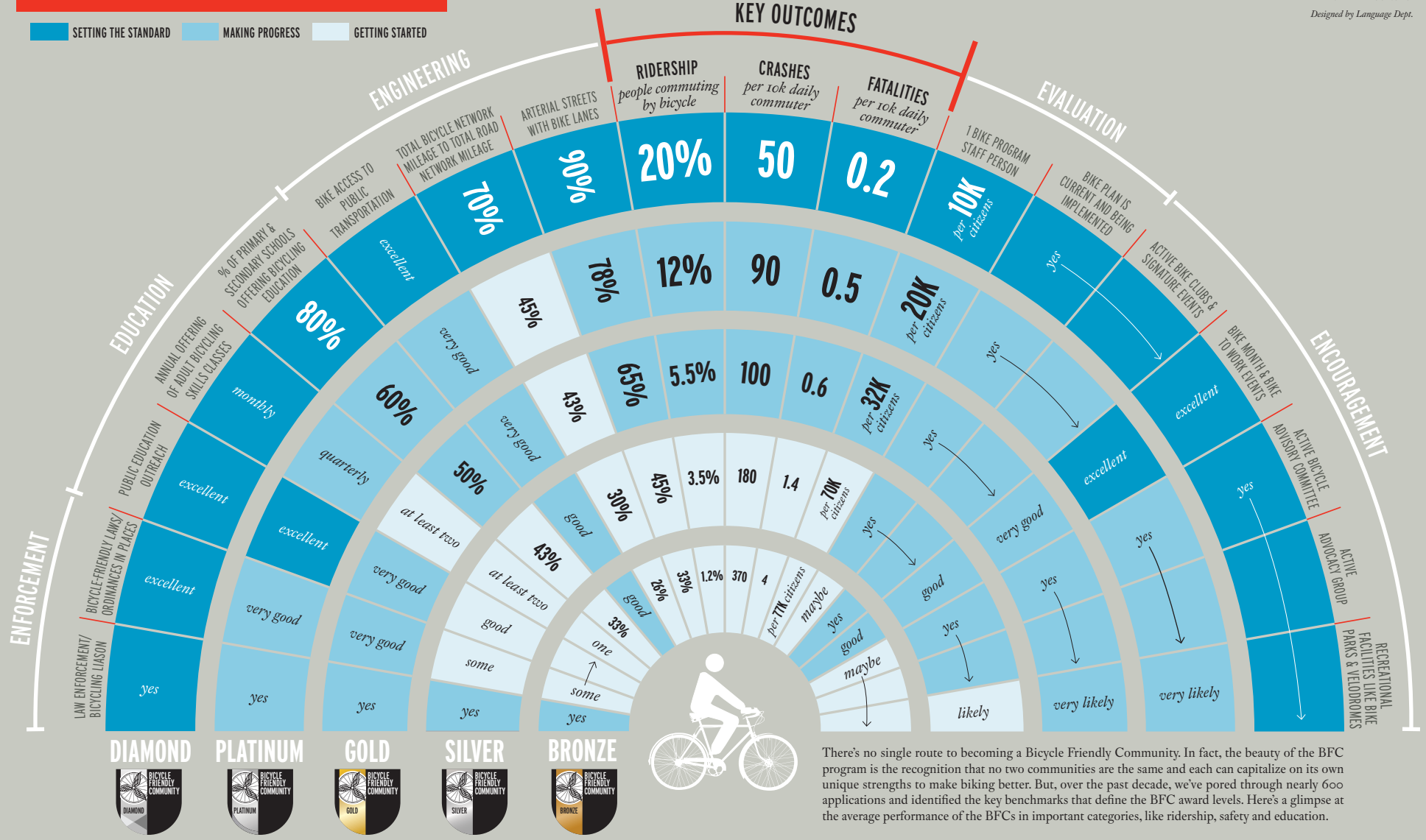
Staff Recommendation

This staff report is for Council's information only and no action is required at this time. Staff will pursue action items in the coming months and will be bringing items for Council's consideration at future meetings.

Attachments

A. The Building Blocks of a Bicycle Friendly Community
B. Staff-Identified List of Easily Attainable Action Items

THE BUILDING BLOCKS OF A BICYCLE FRIENDLY COMMUNITY



There's no single route to becoming a Bicycle Friendly Community. In fact, the beauty of the BFC program is the recognition that no two communities are the same and each can capitalize on its own unique strengths to make biking better. But, over the past decade, we've pored through nearly 600 applications and identified the key benchmarks that define the BFC award levels. Here's a glimpse at the average performance of the BFCs in important categories, like ridership, safety and education.

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Bicycle Friendly Community Application: Easily Attainable Action Items

People

- Designate an official "Bicycle Program Manager" and "Safe Routes to Schools Coordinator"
- Create an officially recognized Bicycle Advisory Committee (with a Police Department member)
- Staff watch APBP webinars (http://www.apbp.org/?page=Webinars)
- Official police point person for Safe Routes to School program

Infrastructure

- Paint greenway road crossings with high visibility markings or signs
- Paint sharrows on streets (especially near schools)
- Regular sweeping, pothole patching, and vegetation upkeep of road shoulders and greenways

Outreach/Promotion

- Give away locks and lights (in addition to helmets) at bike rodeos
- Provide the League's educational materials to residents and/or businesses
- Share-the-road Education outreach
    - PSAs
    - Share the road videos on website
    - Newsletter article
    - Utility bill insert
    - Flyer in city hall
    - Newspaper columns
    - Dedicated bike page on city's website
    - Share the road signs
- Promote national bike month
    - Official proclamation
    - Bike month website
    - Trail maintenance day
- Promotion outside bike month
    - Trail workdays (e.g. Bracken trail maintenance; pick up trash on greenway)
    - Publish guide to community bike events
    - Official celebrations upon completing bike projects (like Cherry Street Greenway)

Code Amendments

- Amend Traffic Schedule to ensure no parking on narrow streets
- Reduce speed limits in residential areas to 20 MPH
- Development ordinance amendments
    - Allow bike parking to count for car parking
    - Bike parking standards conform to Association of Pedestrian & Bicycle Professionals guidelines
- Local ordinance against harassment of cyclists

Analysis

- Online reporting mechanism for cyclists to identify problem areas or hazards to planning/police
- Counts of bicycles on trails/roads and parked at schools
- GIS-based network analysis: identify low-stress routes and barrier intersections/corridors

STAFF REPORT: Consent Agenda

Date: August 15, 2016

Title: Fire Department Evening Staffing Trial

Speaker: Craig F. Budzinski, Fire Chief

From: Craig F. Budzinski, Fire Chief
Prepared by: Craig F. Budzinski
Approved by: Jim Fatland, City Manager

Executive Summary:

Council to consider allowing the fire department to staff an evening shift for 2 months as a trial.

Background:

During the budget workshop it was agreed to fund staffing for an evening shift for 2 months. At the July 13, 2016 Council Public Safety Committee meeting it was approved to run the evening shift October and November 2016. The trial will be to staff 2, a driver and a firefighter 6 nights a week, for the period. Staffing is not required on our department training night which is Monday. The staffing will allow the fire department to reduce apparatus enroute times and have a presence at the station for an additional 7 hours. The information gained from the trial period will be valuable information for FY 2018 budget preparation.

Fiscal Impact:

$10,000 from the fire department special revenue fund balance.

Policy Impact:

None

Staff Recommendation:

Allow the fire department to do the trial evening shift for two months.

Resolution No. 2016-_____

A Resolution Approving Financing Terms
For Extrication Equipment

WHEREAS: The City of Brevard ("City") has previously determined to undertake a project for Fire Department extrication equipment (the "Project") costing $122,000 and the Finance Officer has now presented a proposal for the financing of such Project.

BE IT THEREFORE RESOLVED, as follows:

1. The City hereby determines to finance the Project through United Community Bank, in accordance with the proposal dated August 10, 2016. The amount financed shall not exceed $122,000, the annual interest rate (in the absence of default or change in tax status) shall not exceed 1.74%, and the financing term shall not exceed five (5) years from closing.

2. All financing contracts and all related documents for the closing of the financing (the "Financing Documents") shall be consistent with the foregoing terms. All officers and employees of the City are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution.

3. The Finance Officer is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer's satisfaction. The Finance Officer is authorized to approve changes to any Financing Documents previously signed by City officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Officer shall approve, with the Finance Officer's release of any Financing Document for delivery constituting conclusive evidence of such officer's final approval of the Document's final form.

4. The City shall not take or omit to take any action the taking or omission of which shall cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations. The City hereby designates its obligations to make principal and interest payments under the Financing Documents as "qualified tax-exempt obligations" for the purpose of Internal Revenue Code Section 265(b)(3).

5. The City intends that the adoption of this Resolution will be a declaration of the City's official intent to reimburse expenditures for the project that is to be financed from the proceeds of the United Community Bank financing described above. The City intends that funds that have been advanced, or that may be advanced, from the City's general fund, or any other City fund related to the project, for project costs may be reimbursed from the financing proceeds.

6. All prior actions of City officers in furtherance of the purposes of this Resolution are hereby ratified, approved and confirmed. All other Resolutions (or parts thereof) in conflict with this Resolution are hereby repealed, to the extent of the conflict. This Resolution shall take effect immediately.

Adopted and approved this _____day of _____, 2016.

_____
Jimmy Harris
Mayor

ATTEST:

_____
Desiree D. Perry, CMC, NCCMC
City Clerk

CITY OF BREVARD FIRE DEPARTMENT
CAPITAL EQUIPMENT LOAN
FY17

	AMOUNT TO BE FINANCED	REPAYMENT PERIOD (MONTHS)	INTEREST RATE	Estimated Monthly Payment	TOTAL PAYMENTS	CLOSING COSTS	TOTAL
UNITED COMMUNITY BANK	**$ 122,000**	**60**	**1.74%**	**2124.54**	**$ 127,472.40**	**333.00**	**$ 127,805.40**
BB & T	$ 122,000	60	1.96%	2136.25	$ 128,175.00		$ 128,175.00
ENTEGRA BANK	$ 122,000	60	1.99%	2137.85	$ 128,271.00	-	$ 128,271.00
LGFCU	$ 122,000	60	2.25%	2151.74	$ 129,104.40	38.00	$ 129,142.40
ASHEVILLE SAVING BANK	$ 122,000	60	2.43%	2161.41	$ 129,684.60	-	$ 129,684.60
FIRST CITIZENS BANK	**DECLINED TO BID**						
PNC BANK	**DECLINED TO BID**						
REGIONS BANK	**DECLINED TO BID**						
SUN TRUST	**DECLINED TO BID**						
WELLS FARGO BANK	**DECLINED TO BID**						

The City of Brevard North Carolina

AGENDA ITEM

DATE: August 15th, 2016

TO: Mayor and City Council Members

SUBJECT: Removal of North Broad Street Banner Site

APPROVED BY: Public Works & Utilities Committee

BACKGROUND: The Banner location on North Broad Street is both a difficult and dangerous site to hang banners. After a recent safety incident, the Safety Committee made a recommendation to the Public Works & Utilities Committee to remove the banner site. This will leave two banner sites available for advertisements and so one additional location should be considered.

RECOMMENDATION: To no longer install banners at the North Broad Courthouse location.

FISCAL IMPACT: $250/banner for FY 16/17. With 8 future reservations this amounts to a maximum of $2,000 refunded (it will be less because some of those reservations were made when the banner fee was $200).

The City of Brevard North Carolina

MEMORANDUM

DATE: July 29, 2016

TO: Jim Fatland, City Manager

FROM: David Lutz, Public Works Director DSL

RE: N. Broad Street Banner Location

As you know the city provides locations for street banners advertising various community events. These temporary banners are erected over East Main Street, N. Broad Street and the grassy area between N. Broad and N. Caldwell Streets near the Food Lion Shopping Center.

A recent employee accident brought to our attention the need to reevaluate the location on N. Broad Street. This site is just north of the main intersection downtown of Main and Broad Streets on what is locally and fondly known as "jailhouse hill". The incident was investigated and discussed at a recent Safety Committee Meeting at which it was determined "the incident was found non-preventable on the employee's part". After a lengthy discussion held by the committee regarding banner hanging and removal practices, the committee feels this is a very hazardous project and suggest eliminating this site for such use ***(see attached copy of the June 17, 2016 Safety Committee Meeting Minutes).***

I have been in contact and discussed this issue with Debbie Rogers-Lowery of Compliance Safety Associates, Inc. who feels the committee's recommendation should be addressed. It is my recommendation that after review of the accident, the Safety Committee's suggestion, and the evident potential for further incidents at this location; to eliminate this site from our overhead street banner locations immediately. I understand that community groups have reserved this space and fees have been collected as according to the Fee Schedule. I further recommend that these groups be notified and fees be reimbursed to each.

City of Brevard Public Works Department
232 Cashiers Valley Road
Brevard, NC 28712
828-884-2171, Option 4

I value the importance of providing this service to our community; however the danger and potential for accidents at this location require caution on our part to protect our employees, our public vehicular traffic and pedestrian traffic on N. Broad Street.

Please let me know your thoughts on this most important matter.

DL/lc

Attachment

City of Brevard
Safety Committee Meeting
06/17/16

Members Present: Dennis Richardson, Shawn Miller, Mike Galloway, Willie Nelson, Tom Whitlock, Jill Murray and Debbie Rogers-Lowery.

Accidents/Near Miss Accidents: Four incidents were presented to the Committee:

10/10/15: A FF was injured while responding to a call involving a vehicle in a ditch. The driver had to be cut out of the car and pulled through the roof. The FF was assisting with this effort by pulling the driver out of the vehicle. He injured his ribs as he tried to exit the vehicle after removing the driver. The FF received an RX for his injury. The Committee found the incident to be non-preventable.

01/28/16: A Public Service employee's finger was injured as the employee was trying to open a box without the assistance of scissors or a letter opener. The Committee found the incident to be preventable.

02/05/16: A Public Service employee was driving to Falls landing. As the employee reached a red light and was stopping the truck, the tool box on the back of the truck slid forward striking the back glass of the truck. The bolts of the truck has been sheared off unknown to the employee. The Committee found the incident to be non-preventable.

03/14/16: A Public Service employee was assisting a coworker removing a banner hung across the street at a busy intersection. The coworker who was in a bucket truck was removing the banner and handing it down to the employee. The employee has his hand raised with the banner rope tied around it to keep the banner raised above passing traffic. A truck came through the intersection and caught the rope that was in the employee's hand dragging him down the street. He injured both hands, his elbow and his knee. The employee lost work days and has now returned to full duty. The incident was determined to be non-preventable on the employee's part. Discussion was held regarding this practice of hanging and removing banners. The Committee determined this is a very hazardous project. Debbie will make David Lutz aware of the Committee's concerns.

Old Business: The NCDOL Safety Awards banquet will be held on 06/21/16 @ 6:00pm.

The NCDOL Public Sector Surveys have been completed for calendar year 2015. The surveys are completed annually and are used by OSHA to set the DART Rate target list.

New Business: The annual citywide safety inspection was conducted on 06/06/16 & 06/07/16. The number of violations for the city as a whole was on 36. Great efforts are being made by all departments to keep their workplaces in a safe working manner. A comparison of violations by department was distributed to the members. Jelly beans were earned by all departments!

A handout regarding heat related illnesses and preventive measures was distributed. Employees should be reminded to hydrate the night before and continue to drink cool non-caffeinated drinks on hot days. Also, heavier tasks should be completed in the earlier part of the day to prevent heat related illness.

Two items on the agenda (MSDS to SDS Conversion and OSHA Pictogram handout) were tabled until the next meeting when a representative from each department is available to attend the meeting.

Meeting adjourned at 1:40pm. Next meeting scheduled for 07/22/16 @ 1:00pm.

The City of Brevard North Carolina

AGENDA ITEM

DATE: August 15th, 2016

TO: Mayor and City Council Members

SUBJECT: Water Affordability

APPROVED BY: Public Works & Utilities Committee

BACKGROUND: To address the additional cost for debt in the water and sewer fund, the City has lowered the minimum by 500 gallons over the past 3 years. This impact on a monthly water bill is $7.50 per month for water and sewer. The Department of Social Services and Sharing House are external agencies currently providing funding to low income families to pay for these services. Concerns have been expressed to the City regarding increases and individuals ability to afford services. As part of this report a letter from the Director of the Sharing House is enclosed for review along with data compiled by the United Way.

RECOMMENDATION: $5,000 to the Sharing House to help individuals pay for City utility bills. Further research the situation, evaluate annual increases and impact to external agencies, and submit further options to address this on a community level.

FISCAL IMPACT: $5,000 in FY16-17 Water and Sewer Budget.

Sharing House

TRANSYLVANIA CHRISTIAN MINISTRY, INC.

July 27, 2016

Mayor Jimmy Harris and Brevard City Council Members
Brevard City Council
123 West Main Street
Brevard, NC 28712

Dear Brevard City Council,

I wanted to thank you for listening so intently when I came to the Brevard City Council meeting on June 20th to voice concern about the changes for city water usage. I do understand that running a city budget is difficult, and maintaining our life essential infrastructure for everyone is paramount.

I do ask you as a city government to consider helping Transylvania Christian Ministry in meeting the critical needs of our low-resourced neighbors. Many people we have talked to feel the increase in their water bills has been a surprise, something they did not plan for and are now scrambling to pay. Last week (7/18-7/22) we assisted 8 families with their water bills for a total of $676.58. So far this week (7/25-7/27) and we have already seen 6 families paying out $583.72. Last year we gave just over $9,000 in financial assistance to pay Brevard City Water bills. This year, we are on pace to give $24,000 in financial assistance for water alone.

As the executive director of Sharing House, I did not know that there was a grant opportunity from the City of Brevard until I read on the front page of the Transylvania Times that several deserving agencies were given grants. If I had known that there was a process for asking for grant assistance, I certainly would have applied.

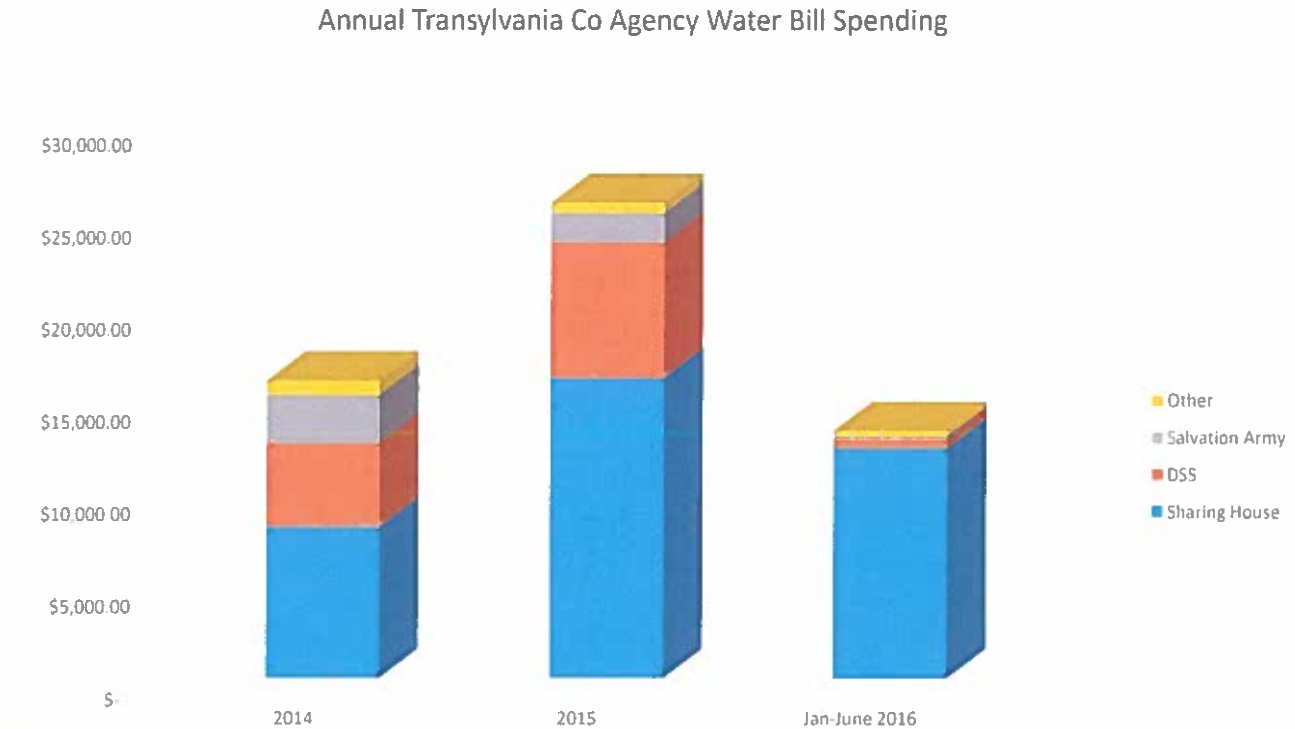
So here is my request: We need help in meeting the needs of our low-income residents with water bills. The Sharing House is the largest agency that gives financial crisis assistance, other than the county's Department of Social Services. We struggle to fund these needs. The community is very generous in supporting our work, but every year we hold our breath hoping that we can meet our budget. We do limit how much assistance we can give to qualified households, which currently is at $200 per year limit. We turn many requests down because a family has exceeded their assistance limit.

I know that together we can be sure that everyone has what they need to survive with the basic necessities for life. That is our mission, and I know it is the goal of the city and county government and other amazing non-profit agencies. It takes all of us-- the family members we serve, the government and private citizens and faith communities-- to look after one another. We need your help in looking after the most vulnerable among us in community. Thank you for your consideration.

Grace and Peace,

Rev. Shelly F. Webb, Executive Director

PO Box 958, Brevard, NC 28712 • 828.884.2866 • www.sharinghouse.org



	2014	2015	Jan-June 2016
Other	$773.68	$559.00	$295.17
Salvation Army	$2,609.66	$1,608.84	$212.00
DSS	$4,545.47	$7,297.92	$440.50
Sharing House	$8,155.71	$16,232.99	$12,443.45

BROWN CONSULTANTS PA

August 9, 2016

Technical Memorandum

To: Jim Fatland, City Manager
City of Brevard

From: Jeffrey T. Brown, PE
President

Cc: David Lutz, Public Works director
City of Brevard

Re: Resolutions for Applications for a
State Asset Inventory and Assessment (AIA) Grant – Water and Sewer Systems

The City of Brevard owns and maintains a water treatment plant and water distribution system, which includes various pumping stations, water tanks and reservoirs, and approximately 86 miles of distribution lines. In the late 1990's and early 2000's the City, along with financial assistance from the NC Rural Center, located and mapped its distribution system to include hydrants, valves, pump stations, tanks and reservoirs using gps technology which allowed a GIS mapping system to be built.

The City also owns and maintains a sewer treatment plant and sewer collection system, which includes various pumping stations, force mains, and approximately 95 miles of collection lines. In the late 1990's and early 2000's the City, along with financial assistance from the NC Rural Center, located and mapped its collection system to include manholes, pump stations, using gps technology which allowed a GIS mapping system to be built.

Currently, the City's water and sewer system maps are GIS –based system, however the metadata is still in preliminary form and incomplete, therefore the general use of the GIS system is not much more than an electronic map, proving to be efficient for planning purposes, and meeting regulatory mapping requirements, but not efficient or useful in day to day operations and maintenance.

The City does not have an Asset Inventory and Assessment for the water or sewer systems, and is seeking funding to assist in completion of the AIA work. Additionally, the City is looking to utilize a water and sewer system management database/inventory system to achieve and part of the AIA work outcomes.

The attached resolutions will allow the City to apply to NCDEQ-DWI for two grants, each in the amount of $150,000.00, to complete the AIA work for both the water and sewer systems.

30 Ben Lippen School Road, Asheville, NC 28806 › 828.350.7683 [office] › 828.350.7684 [fax] › www.brownpa.net

RESOLUTION NO. 2016-_____

A RESOLUTION AUTHORIZING THE SUBMITTAL OF A NC DEPT OF ENVIRONMENTAL QUALITY GRANT APPLICATION FOR AN ASSET INVENTORY AND ASSESSMENT (AIA) GRANT FOR THE WATER SYSTEM

WHEREAS, The Federal Clean Water Act Amendments of 1987 and the North Carolina Water Infrastructure Act of 2005 (NCGS 159G) have authorized the making of loans and grants to aid eligible units of government in financing the cost of Asset Inventory and Assessment Grants, and

WHEREAS, The City of Brevard has need for and intends to perform and Asset Inventory and Assessment; project described as an asset inventory and assessment for the City of Brevard sewer system, using a cloud database, and

WHEREAS, The City of Brevard intends to request state grant assistance for the Project.

NOW THEREFORE BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF BREVARD, NC:

1. That the City of Brevard, the Applicant, will arrange financing for all remaining costs of the project, if approved for a State grant award. That the City of Brevard is desirous to apply for a $150,000 grant.

2. That the Applicant will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

3. That the governing body of the Applicant agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the City of Brevard to make scheduled repayment of the loan, to withhold from the City of Brevard any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

4. That the Applicant will provide for efficient operation and maintenance of the project on completion of construction thereof.

5. That City Manager Jim Fatland, the Authorized Official, and successors so titled, is hereby authorized to execute and file an application on behalf of the Applicant with the State of North Carolina for a grant to aid in the completion of the project described above.

6. That the Authorized Official, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

7. That the Applicant has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted and approved this the _____ day of _____, 2016.

_____
Jimmy Harris
Mayor

ATTEST:

_____
Desiree D. Perry, CMC, NCCMC
City Clerk

CERTIFICATION BY RECORDING OFFICER

The undersigned duly qualified and acting City Clerk of the City of Brevard, NC, does hereby certify: That the above/attached Resolution No. 2016-__ is a true and correct copy of the Resolution authorizing the filing of an application with the State of North Carolina, as regularly adopted at a legally convened meeting of the City of Brevard Council duly held on the _____ day of _____, 2016; and, further that such Resolution has been fully recorded in the journal of proceedings and records in my office.

IN WITNESS WHEREOF, I have hereunto set my hand this the _____ day of _____ _____, 2016.

_____
Desiree D. Perry, CMC, NCCMC
City Clerk

RESOLUTION NO. 2016-_____

A RESOLUTION AUTHORIZING THE SUBMITTAL OF A NC DEPT OF ENVIRONMENTAL QUALITY GRANT APPLICATION FOR AN ASSET INVENTORY AND ASSESSMENT (AIA) GRANT FOR THE SEWER SYSTEM

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7. That the Applicant has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted and approved this the _____ day of _____, 2016.

_____
Jimmy Harris
Mayor

ATTEST:

_____
Desiree D. Perry, CMC, NCCMC
City Clerk

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IN WITNESS WHEREOF, I have hereunto set my hand this the _____ day of _____ _____, 2016.

_____
Desiree D. Perry, CMC, NCCMC
City Clerk

Alcoholic Beverage Control Board
PO Box 1610 (828) 883-8128
Brevard, NC 28712 abcstore@comporium.net

Mark Balding
General Manager

Budget Statement

May 31st, 2016

Dear City and County Residents,

The annual budget for the upcoming fiscal year (July 1, 2016 through June 30, 2017) has been prepared in accordance with North Carolina General Statute 18B-702 "Financial operations of local boards". Budget preparation and implementation are critical to any organization. This process is not only for estimating revenues and expenses, but also for prioritizing the needs of the Brevard ABC Board so we can continue our mission to effectively control the sale of alcoholic beverages while maximizing the financial contribution that we make to the community throughout the year. As you will see, this budget accomplishes those goals.

FY2016-2017 Budget Overview

Revenue and Income

The budget reflects revenue from the sale of spirituous liquor and wine to be $3,330,500. We will end FY2016 with a projected revenue increase of $100,000 or 4.3% at our downtown location. This is a very positive trend. Since the opening of a second retail store on 6/1/13, the downtown store was down in revenue as the second location was simply pulling sales out of downtown for the first two years of operation. Another positive trend is that our second store in Pisgah Forest continues to grow sales. Store 2 will see a revenue increase of approximately $77,000 or 8.5% this fiscal year. Overall we should end the fiscal year on June 30th, up approximately 5.5% in overall revenue. This FY2017 budget has a projected revenue increase of 3%, which we feel is a very conservative and realistic growth increase.

Profit Distributions

The Brevard ABC Board has budgeted $187,379.00 to go to the City of Brevard's general fund and $62,460.00 to the County's general fund. As the Brevard ABC Board continues to take a more active role in our community in the way of alcohol education with the main focus on the prevention of underage drinking, this budget reflects the allowable 5% of profit that the appointing authority

authorizes the Board to spend. This money may or may not be expended as the Board is currently reviewing optional alcohol education programs and activities at the present time. $13,880.00 is budgeted for State required law enforcement services provided by the Brevard City Police and the Transylvania County Sheriffs Department.

Human Resources / Employee Compensation

The Brevard ABC Board operates two retail outlets and employees 11 people (4 full-time and 7 part-time employees). The Board currently is made up of (5) City appointed members. Additional employee compensation in the upcoming budget is based on a "Pay for Performance" only basis and reflects additional funds for this employee performance incentive plan. Traditional Christmas and longevity bonuses for full time employees were eliminated this past year.

This outlines our proposed budget. The Board and Staff of the Brevard ABC Board appreciate the opportunity to serve the City of Brevard and Transylvania County.

Sincerely,

Mark Balding

General Manager

Cameron Austin

ABC Board Chairperson

BREVARD ABC BOARD

Proposed FY2016-2017 Budget

		2017 Budget
Estimated Revenues:		
Retail Sales		3,330,000
Other Income	$	500
Total Revenue	$	3,330,500
Appropriations:		
Taxes Based on Revenue		783,000
Cost of Goods Sold:		1,681,902
Operating Expenses		
Wages		285,000
Board Member Per Diem		11,250.00
Employer Payroll Tax		27,000
Retirement		17,000
Rent/Lease		54,000
Business Insurance		64,000
Repairs & Maintenance Agreements		16,500
Utilities / Phone / Internet		22,500
Store and Office Supplies		15,000
Legal and Audit	$	17,000
Travel / Education	$	1,750
Dues and Subscriptions		2,000
Bank and Credit Card Charges		38,500
Miscellaneous / Contingency		16,500
Total Operating Expense	$	588,000
Total Estimated Expenses	$	3,052,902
Profit	$	277,598
Percent Profit		8.30%
Profit Distributions		
Law Enforcement 5%		13,880
Alcohol Education 5%		13,880
Adjusted Profit	$	249,838
City of Brevard (75%)	$	187,379
Transylvania County (25%)	$	62,460
Total:	$	277,598
Total Expense, Distribution & Reserve	$	3,330,500

Annual Proposed Budget

Brevard ABC Board

Brevard, North Carolina

WHEREAS, the proposed budget for FY2016-2017 was submitted to the Brevard ABC Board on May 25th, 2016 by the General Manager and filed with the City Clerk of Brevard and the N.C. ABC Commission on May 30th, 2016;

WHEREAS, on June 29th, 2016, the Brevard ABC Board held a public hearing on the budget pursuant to G.S. 18B-702 ;

WHEREAS, on June 29th, 2016, the Brevard ABC Board adopted a budget making appropriations in such sums as the Board considers sufficient and proper in accordance with G.S. 18B-702;

Budget Adopted on June 29th, 2016

Brevard ABC Board Chairperson

Brevard ABC G.M. / Budget Officer

received
7-25-2016

OFFICE OF THE SHERIFF

David A. Mahoney, Sheriff

TRANSYLVANIA COUNTY
153 PUBLIC SAFETY WAY
BREVARD, NC 28712

Telephone 828-884-3168
Fax 828-884-6890

July 19, 2016

Dear friends of the Transylvania County Sheriff's Office:

I am very excited to announce the 2016 Transylvania County Sheriff's Office Citizen's Academy!

Have you ever asked yourself, "Why do they do that?" or "How does that work?" Coming this September is a wonderful and unique opportunity to provide the community with an inside look at the intimate details and inner workings of your Sheriff's Office. The 2016 TCSO Citizen's Academy will in fact be that opportunity for you to receive answers to your questions. Furthermore, this academy will be provided at no cost to the participants.

Attached is an agenda that describes the 6-week program, along with an enclosed application. The academy will meet every Monday for six consecutive Mondays beginning September 12. Each presenter displays a unique area of expertise. We would respectfully request that applicants please commit to attending at least 5 of the 6 weeks. Please direct any questions to Lt. Jeremy Queen in the Professional Standards and Training Division. The applications will be returned to Lt. Queen as well.

Space is limited, so please get those applications in as soon as possible. We look forward to hearing from you or a member of your organization very soon!

Sincerely,

David A. Mahoney

Sheriff David A. Mahoney
Transylvania Co. Sheriff's Office

"To Protect and To Serve"

Transylvania County Sheriff's Office
2016 Citizen's Academy

Mondays from 7:00 p.m. – 9:00 p.m.

September 12 - Week 1:

7pm – 8pm	Overview of TCSO Operations	Sheriff David A. Mahoney
8pm – 9pm	Patrol Operations	Captain Kevin Creasman

September 19 - Week 2:

7pm – 8pm	Civil Process & Courthouse Operations	TCSO Staff
8pm – 9pm	School Resource Officers	Lt. Greg Stroup & Staff

September 26 - Week 3:

7pm – 8pm	Detention Operations	Captain Eddie Lance
8pm – 9pm	Detention Facility Tour	Captain Eddie Lance & Staff

October 3 - Week 4:

7pm – 8pm	Criminal Investigations	Lt. Chris Hawkins
8pm – 9pm	What would you do? (Shoot/Don't Shoot)	TCSO Staff

October 10 - Week 5:

7pm – 8pm	K-9 Demonstration	Lt. Kevin Holden & Staff
8pm – 9pm	Transylvania Narcotics Task Force	T.N.T. Agents

October 17 - Week 6:

7pm – 8pm	Final Thoughts	Sheriff David A. Mahoney
8pm – 9pm	Graduation and Reception	TCSO Staff

Transylvania County Sheriff's Office

2016 Citizen's Academy Application

Name: _____

Date of Birth: _____ (For Background Purposes Only)

Driver's License #: _____ State: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Phone: _____ (Where you can be reached)

Email: _____

Occupation: _____

Employer: _____

Please provide three (3) references for background purposes.
Both the email and phone number of theses references are essential.

1. Name: _____

   Phone: _____ Email: _____

2. Name: _____

   Phone: _____ Email: _____

3. Name: _____

   Phone: _____ Email: _____

Please explain in detail why you would like to attend the Transylvania County Sheriff's Office Citizen's Academy – Use additional sheets if necessary:

_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____

The answers provided above are complete and accurate to the best of my knowledge and ability. I understand that there is a limited amount of space available in the academy, and if chosen, I will do my very best to attend each session. I also understand that the Transylvania County Sheriff's Office reserves the right to deny admission to the citizen's academy for any reason, including issues of character related to the limited background investigation.

_____ _____

Signature Date

For TCSO use only

Background Investigation completed by: _____

Recommended for the Citizen's Academy: ☐ Yes ☐ No

Sheriff's Approval: _____

City of Brevard
Employee Appreciation Picnic

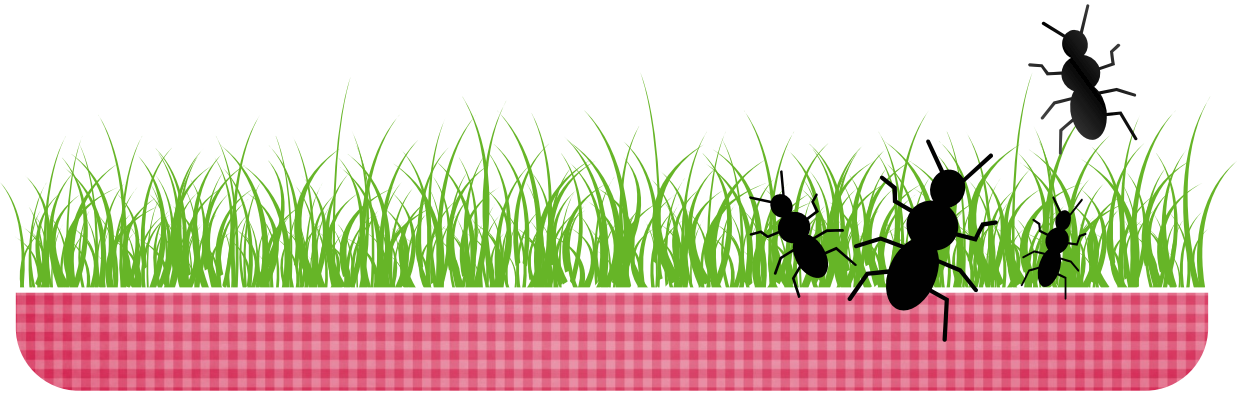
Join us for an appreciation lunch for YOU!
There will be yummy food courtesy of
Pescados Burritos, competitions, games
and prizes !

Date: Wednesday, August 24th

Time: 11:30am-2pm (Drop-In)

Where: Brevard Music Center

349 Andante Lane



Transylvania County Building Department

City: 07/01/2016 thru 07/31/2016

	Permits Issued	Construction Value	Permit Fees	Misc. Sales Fees	Credit Card Fees	Total of All Fees
Residential						
New House	1	300,000	939.00	0.00	0.00	939.00
Additions/Alterations	4	68,500	875.00	0.00	0.00	875.00
Elec/Plumb/Mech	26		225.00	0.00	1,725.00	1,950.00
Mobile Home	1	105,000	250.00	0.00	0.00	250.00
Commercial						
New Commercial	1	3,230,000	12,000.00	0.00	0.00	12,000.00
Additions/Alterations	2	3,442,500	12,250.00	0.00	0.00	12,250.00
Elec/Plumb/Mech	15		900.00	0.00	825.00	1,725.00
Miscellaneous						
Signs	1		100.00	0.00	0.00	100.00
HRF/County			0.00	3.00	0.00	3.00
HRF/State			0.00	27.00	0.00	27.00
Other			528.00	0.00	2,064.00	2,592.00
Totals:	51	7,146,000	28,067.00	30.00	4,614.00	32,711.00
					Less HRF Refundable to State:	(27.00)
					Less Cancelled Permits:	0.00
					Total Fees Collected:	**32,684.00**

Mike Owen - Building Director

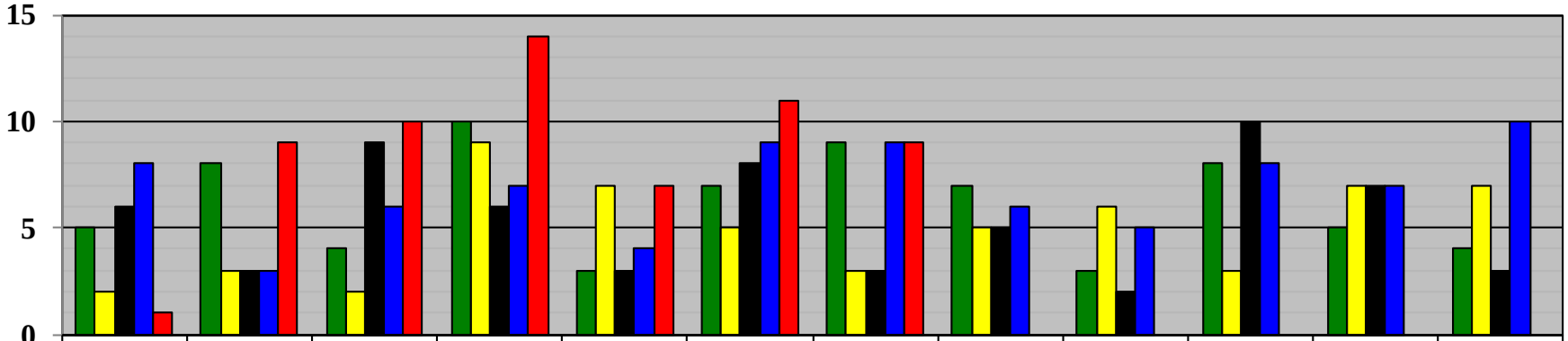
Transylvania County Building Department

County: 07/01/2016 thru 07/31/2016

	Permits Issued	Construction Value	Permit Fees	Misc. Sales Fees	Credit Card Fees	Total of All Fees
Residential						
New House	8	4,120,321	7,224.00	0.00	0.00	7,224.00
Additions/Alterations	18	1,200,280	4,961.00	0.00	0.00	4,961.00
Elec/Plumb/Mech	73		910.00	0.00	4,650.00	5,560.00
Mobile Home	1	30,180	150.00	0.00	0.00	150.00
Commercial						
New Commercial						
Additions/Alterations	2	130,000	910.00	0.00	0.00	910.00
Elec/Plumb/Mech	7		325.00	0.00	300.00	625.00
Miscellaneous						
Signs						
HRF/County			0.00	13.00	0.00	13.00
HRF/State			0.00	117.00	0.00	117.00
Other			1,395.00	0.00	151.00	1,546.00
Totals:	109	5,480,781	15,875.00	130.00	5,101.00	21,106.00
					Less HRF Refundable to State:	(117.00)
					Less Cancelled Permits:	0.00
					Total Fees Collected:	**20,989.00**

Mike Owen - Building Director

Single Family Residential Permits
2012 - 2016



	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2012	5	8	4	10	3	7	9	7	3	8	5	4
2013	2	3	2	9	7	5	3	5	6	3	7	7
2014	6	3	9	6	3	8	3	5	2	10	7	3
2015	8	3	6	7	4	9	9	6	5	8	7	10
2016	1	9	10	14	7	11	9					

Jan $2,000,000
Feb $2,230,549
Mar $3,561,067

Apr $3,904,188
May $2,571,854
June $2,896,238

July $4,420,321
Aug $
Sept $

Oct $
Nov $
Dec $

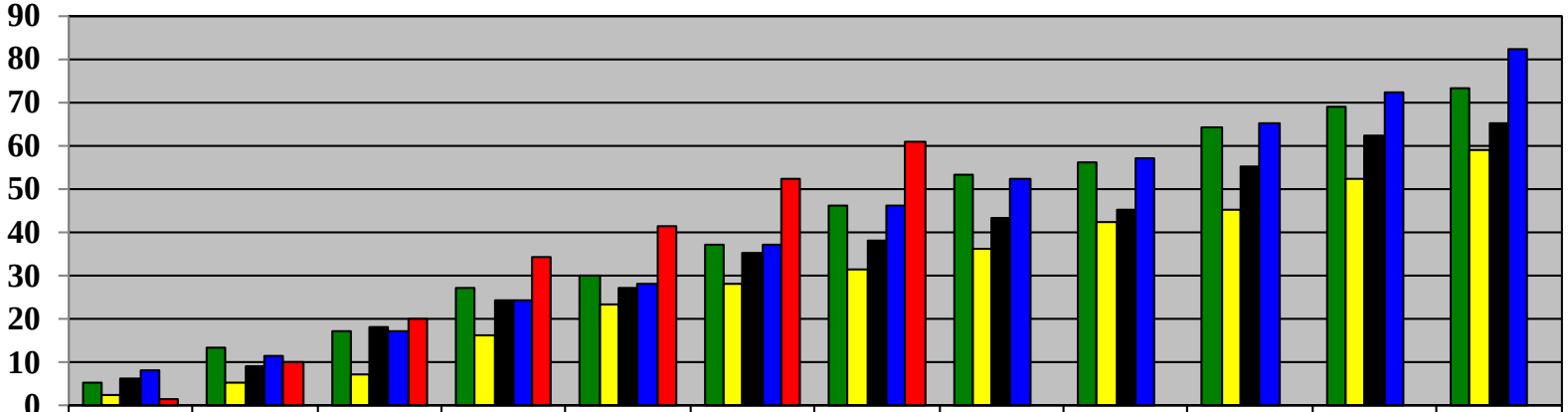
2016 Year-To-Date

$21,584,217

Year End Totals

2012 $23,816,261
2013 $23,794,851
2014 $27,234,617
2015 $31,917,639
2016 $

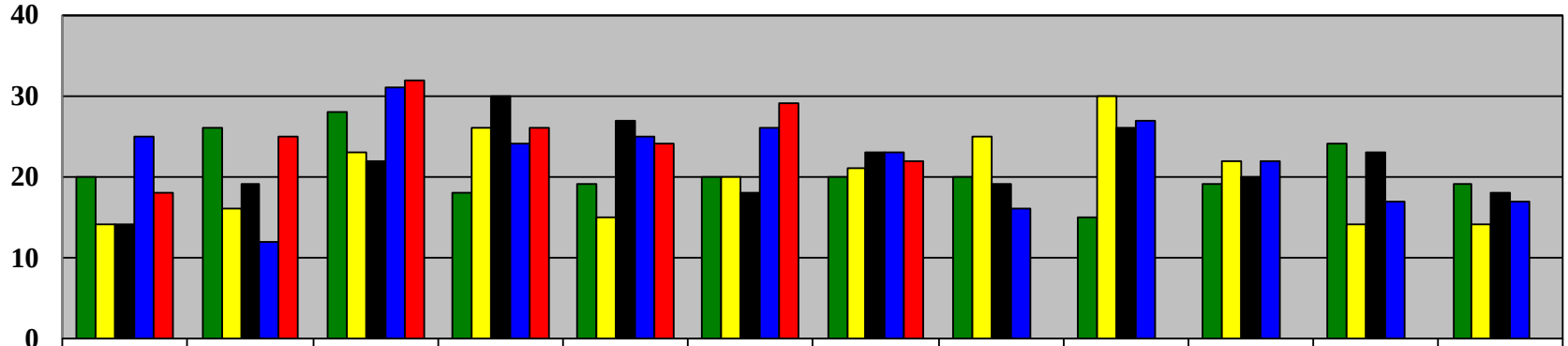
Single Family Residential Permits (Cumulative) 2012 - 2016



	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2012	5	13	17	27	30	37	46	53	56	64	69	73
2013	2	5	7	16	23	28	31	36	42	45	52	59
2014	6	9	18	24	27	35	38	43	45	55	62	65
2015	8	11	17	24	28	37	46	52	57	65	72	82
2016	1	10	20	34	41	52	61					

Note: The above monthly figures are cumulative.

Residential Additions and Alternations
2012 - 2016



	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2012	20	26	28	18	19	20	20	20	15	19	24	19
2013	14	16	23	26	15	20	21	25	30	22	14	14
2014	14	19	22	30	27	18	23	19	26	20	23	18
2015	25	12	31	24	25	26	23	16	27	22	17	17
2016	18	25	32	26	24	29	22					

Jan $ 1,265,797	Apr $1,352,741	Jul $1,268,780	Oct $
Feb $ 596,000	May $1,438,042	Aug $	Nov $
Mar $ 3,296,111	June $ 928,930	Sept $	Dec $

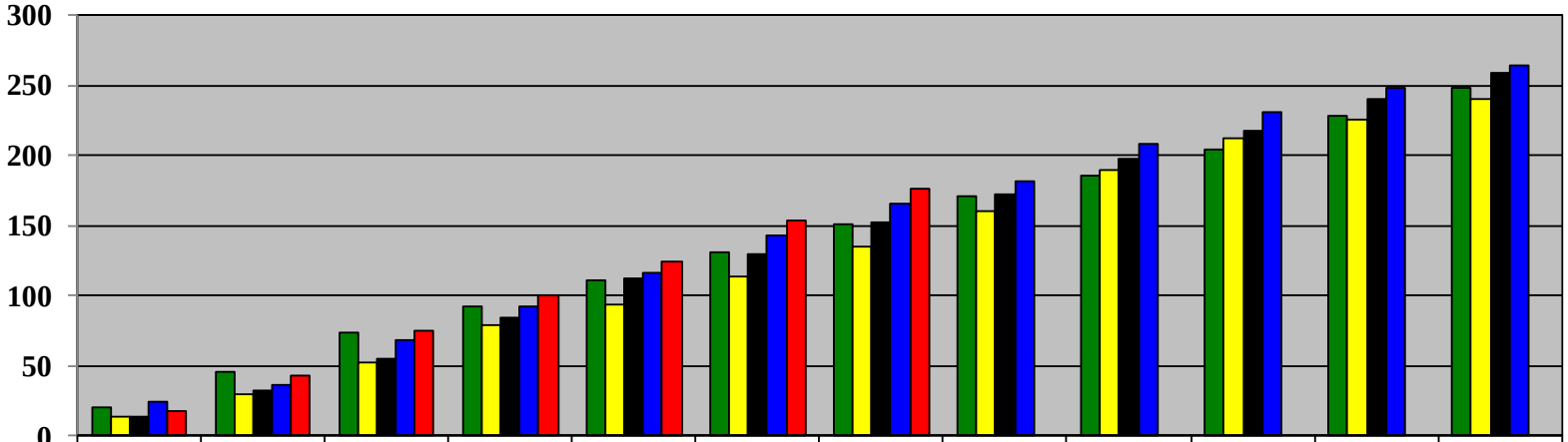
2016 Year-To-Date

$10,146,401

Year End Totals

2012 $ 7,943,265
2013 $ 9,686,548
2014 $ 12,771,723
2015 $ 14,101,402
2016 $

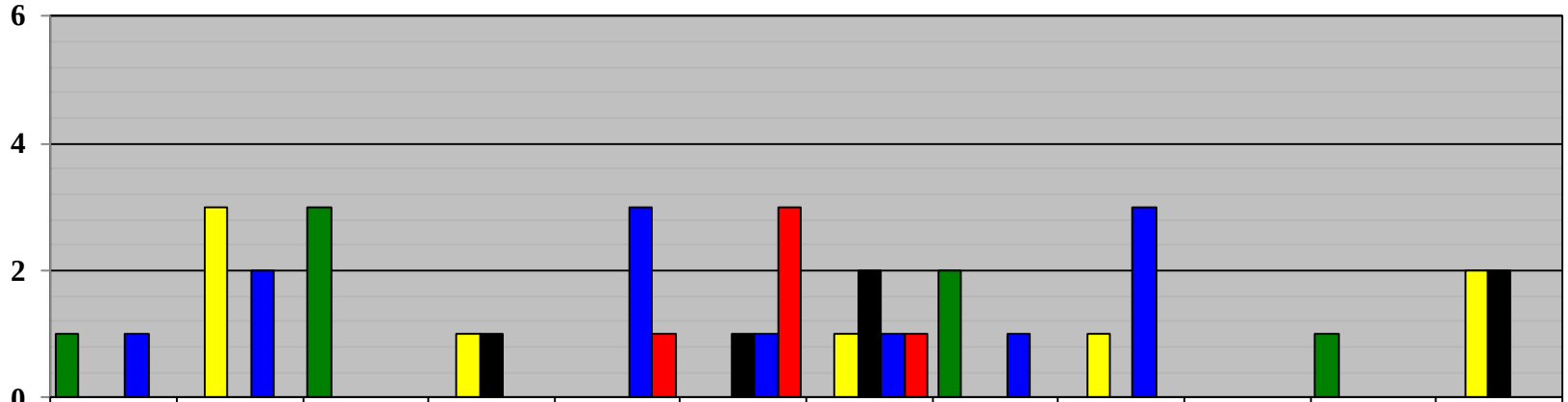
Residential Additions and Alterations (Cumulative) 2012 - 2016



	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2012	20	46	74	92	111	131	151	171	186	205	229	248
2013	14	30	53	79	94	114	135	160	190	212	226	240
2014	14	33	55	85	112	130	153	172	198	218	241	259
2015	25	37	68	92	117	143	166	182	209	231	248	265
2016	18	43	75	101	125	154	176					

Note: The above monthly figures are cumulative.

New Commercial Permits
2012 – 2016



	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2012	1	0	3	0	0	0	0	2	0	0	1	0
2013	0	3	0	1	0	0	1	0	1	0	0	2
2014	0	0	0	1	0	1	2	0	0	0	0	2
2015	1	2	0	0	3	1	1	1	3	0	0	0
2016	0	0	0	0	1	3	1					

Jan $0
Feb $0
Mar $0

Apr $0
May $375,000
June $440,000

Jul $3,230,000
Aug $
Sept $

Oct $
Nov $
Dec $

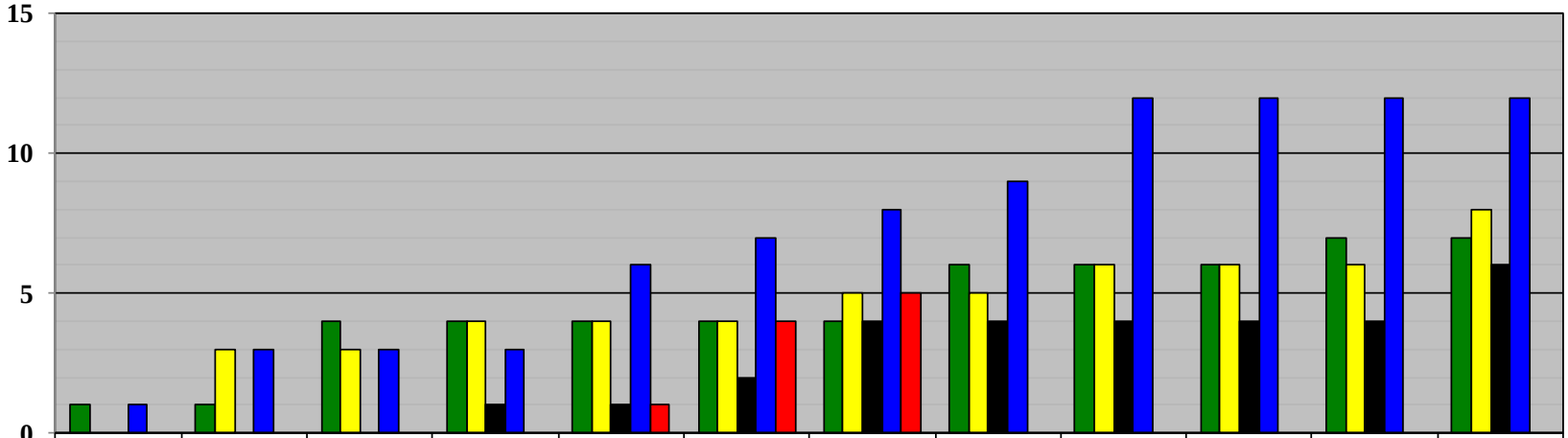
2016 Year-To-Date

$4,045,000

Year End Totals

2012 $ 4,218,446
2013 $ 5,190,251
2014 $ 13,588,500
2015 $ 12,102,119
2016 $

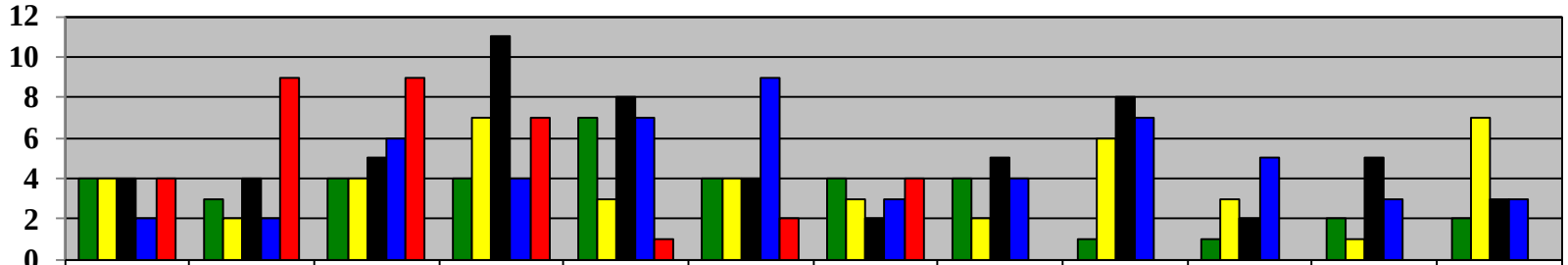
New Commercial Permits (Cumulative)
2012 - 2016



	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2012	1	1	4	4	4	4	4	6	6	6	7	7
2013	0	3	3	4	4	4	5	5	6	6	6	8
2014	0	0	0	1	1	2	4	4	4	4	4	6
2015	1	3	3	3	6	7	8	9	12	12	12	12
2016	0	0	0	0	1	4	5					

Note: The above monthly figures are cumulative.

Commercial Additions and Alterations
2012 - 2016



	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2012	4	3	4	4	7	4	4	4	1	1	2	2
2013	4	2	4	7	3	4	3	2	6	3	1	7
2014	4	4	5	11	8	4	2	5	8	2	5	3
2015	2	2	6	4	7	9	3	4	7	5	3	3
2016	4	9	9	7	1	2	4					

Jan $ 114,000
Feb $3,754,180
Mar $2,268,800

Apr $1,037,600
May $ 55,000
June $ 161,055

Jul $3,572,500
Aug $
Sept $

Oct $
Nov $
Dec $

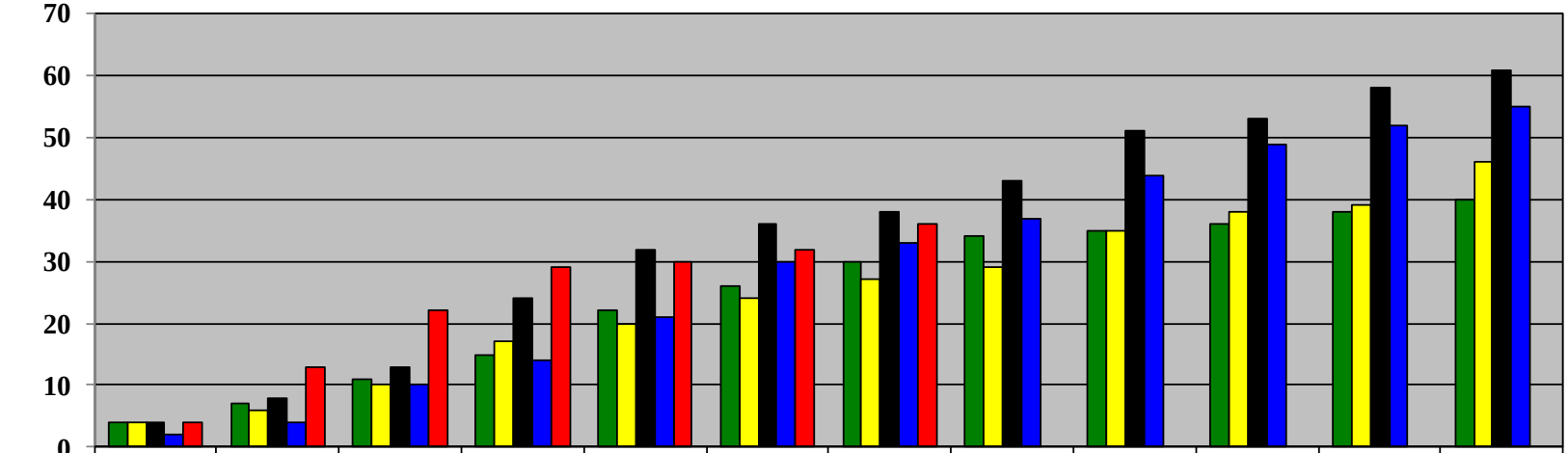
2016 Year-To-Date

$10,963,135

Year End Totals

2012 $ 4,893,149
2013 $ 3,675,124
2014 $ 4,578,024
2015 $ 6,068,189
2016 $

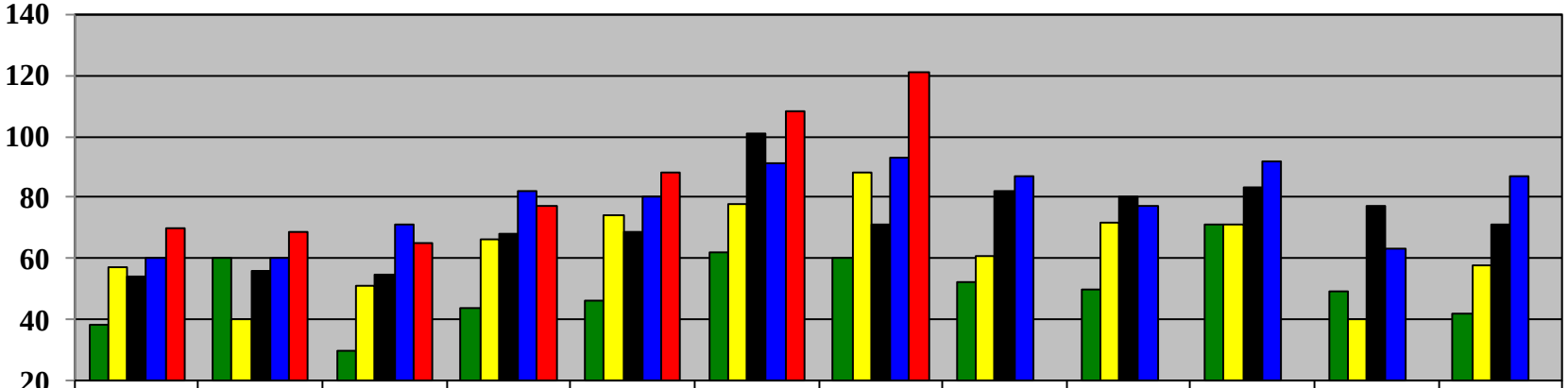
Commercial Additions and Alterations (Cumulative) 2012 - 2016



	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2012	4	7	11	15	22	26	30	34	35	36	38	40
2013	4	6	10	17	20	24	27	29	35	38	39	46
2014	4	8	13	24	32	36	38	43	51	53	58	61
2015	2	4	10	14	21	30	33	37	44	49	52	55
2016	4	13	22	29	30	32	36					

Note: The above monthly figures are cumulative.

Single Trade Permits
2012 - 2016



	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2012	38	60	30	44	46	62	60	52	50	71	49	42
2013	57	40	51	66	74	78	88	61	72	71	40	58
2014	54	56	55	68	69	101	71	82	80	83	77	71
2015	60	60	71	82	80	91	93	87	77	92	63	87
2016	70	69	65	77	88	108	121					

LIBRARY
TRANSYLVANIA COUNTY

212 South Gaston Street
Brevard, NC 28712
Phone (828) 884-3151
Fax (828) 877-4230

www.transylvania.lib.nc.us

August 1, 2016

Jim Fatland
City Manager
95 West Main Street
Brevard, NC 28712

Dear Jim:

All of us with the Transylvania County Library, Transylvania County Parks and Recreation and The Family Place of Transylvania County want to express our appreciation to the City of Brevard for your help in making our first Family Splash Day a huge success. In particular we want to thank Adam Hughey and Michael Owens with the Brevard Fire Department. They were generous with their time and talent, caring and kind with kids and their parents, and thanks to them, everyone had a fantastic time. All in all, over 300 people attended the event and we deeply appreciate the support and assistance from the City of Brevard.

All the best,

Anna L. Yount
Transylvania County Library Director

Cc:
Chief Craig Budzinski, Brevard Fire Department
Jaime Laughter, Transylvania County Manager

Hello,

As part of the recent Transylvania Pollinator Day, R.K. Young put together Bloom Sequence charts for our area, Annuals/Perennials on one side, Trees/ Vines/Shrubs on the other. Please enjoy for your own use and especially SHARE WITH ALL CITIES/COUNTY/CITIZEN groups that plant in Transylvania.

The list has mostly native plants. This supports the PROCLAMATIONS issued by our 3 governmental entities that says, in effect
"If You Love Transylvania, Plant Natives First!"

An no doubt you recall the 1 - 1 rule: for each exotic, ornamental or cultivar, plant an equal number of true natives. This protects our plant and pollinator paths at homes, across downtown and along the hi ways.

Thanks so much for your continued support of native plants and pollinators.

Best wishes,

Susan Sunflower
Transylvania Naturally
tnaturally@comporium.net

Progression of Blooms to Support Pollinators in WNC
-Trees, Shrubs and Vines-

Plants in BOLD are high impact plants.

Common Name	Scientific Name	Form	Sun Needs	Moisture	March	April	May	June	July	Aug.	Sept.	Oct.	Pollinator Served	Comments
Red Chokeberry	*Aronia*	shrub	full/part	wet/dry	X	X	X						bees, birds	
Pussy Willow	*Salix discolor*	shrub	sun/part shade	moist/wet	X	X							bees, butterflies	blooms begin in Feb.
Mount Airy Fothergilla	*Fothergilla Major*	shrub	part shade	moist		X	X						bees, birds	
Winterberry	*Ilex verticillata*	shrub	sun/shade	dry/wet		X	X	X	X				bees	
Blueberry	*Vaccinium*	shrub	sun/shade	moist/dry		X	X						bees, birds	
Spicebush	*Lindera benzoin*	shrub	sun/shade	moist/dry		X							birds, butterflies	
Dog Hobble	*Leucothoe fontanesiana*	shrub	part shade	moist		X							bees, butterflies	
Ninebark	*Physocarpus opulifolius*	shrub	sun/shade	moist/dry			X	X					ALL	
Hearts a Bustin'	*Euonymus americanus*	shrub	shade	moist			X	X					bees, flies, beetles	
Elderberry	*Sambucus Nigra*	shrub	part shade	moist, wet			X	X					ALL	
Smooth Hydrangea	*Hydrangea arborescens*	shrub	shade	moist			X	X					bees, butterflies	
Mountain Laurel	*Kalmia latifolia*	shrub	part shade	moist			X	X	X				birds, butterflies	
Great Laurel	*Rhododendron maximum*	shrub	part shade	moist/wet			X	X					bees, birds	
Flame Azalea	*Rhododendron calendulaceum*	shrub	shade	moist			X	X					bees, hummers	
Beautyberry	*Callicarpa americana*	shrub	full/part	moist			X	X	X				ALL	
Arrowwood	*Viburnum dentatum*	shrub	full/part	wet/dry			X	X	X				ALL	
Buttonbush	*Cephalanthus occidentalis*	shrub	part/shade	moist/wet				X	X	X	X		ALL	
S. Bush Honeysuckle	*Diervilla sessilifolia*	shrub	part shade	moist/dry				X	X	X			ALL	can be aggressive
Botttlebrush Buckeye	*Aesculus parviflora*	shrub	part/shade	moist				X	X				butterflies, hummers	
Oakleaf Hydrangea	*Hydrangea quercifolia*	shrub	shade	moist				X	X				bees	
Summersweet	*Clethra alnifolia*	shrub	sun/shade	moist/wet					X	X			ALL	smells delicious!
Germander	*Teucrium chamaedrys*	subshrub	full	dry/moist				X	X				bees	big bee favorite
Serviceberry	*Amelanchier arborea*	tree	sun/shade	dry	X	X							bees, birds	
Redbud	*Cercis canadensis*	tree	part/shade	moist	X	X	X						bees	native is great for bees
American Holly	*Ilex opaca*	tree	sun/shade	moist/dry	X	X	X	X					ALL	
Tulip Poplar	*Liriodendron tulipifera*	tree	sun/shade	moist		X	X	X					bees	
Sourwood	*Oxydendrum arboreum*	tree	sun/part shade	moist				X	X				bees, birds, butterflies	great disease resistance
Crossvine	*Bignonia capreolata*	vine	full/part	moist/wet	X	X	X						butterflies, hummers	
Woodbine	*Lonicera sempervirens*	vine	full/part	moist	X	X	X	X					ALL	
Virginia Creeper	*Parthenocissus quinquefolia*	vine	sun/shade	moist				X	X				moths, birds	red fall color
Trumpet Vine	*Campsis radicans*	vine	full	moist/dry				X	X	X	X		bees, hummers	
Virgin's Bower	*Clematis virginiana*	vine	sun/shade	moist					X	X	X	X	bees, butterflies, wasps	**NOT "sweet autumn"**
compiled by R. K. Young														

received
8-8-2016

Roy Cooper
Attorney General

State of North Carolina

Department of Justice

North Carolina Justice Academy

Mark J. Strickland
Director

August 02, 2016

Mr. Jim Fatland, City Manager
City of Brevard
95 W. Main Street
Brevard, NC 28712

I am writing to thank you for being a part of the North Carolina Justice Academy's New Chief Executive Development Course, which just recently completed session #2. The course was an overwhelming success. This was much in part due to your contributions. Your knowledge and experience were quite evident to me and the students. This was expressed by several of the students, who also shared that they thoroughly enjoyed the opportunity to sit down city manager for nearly two hours and have their questions and concerns relating to executive policing addressed. Your experience from serving with multiple cities gave the students a well-rounded view of the role of the city manager.

The students gained so much more than in most typical encounters through your use of "real life" insights. This added much credibility to you as a guest speaker and certainly captured the attention of the class. Your background as a former town administrator added immensely to the course and session. All of the students suggested I invite you back for future deliveries. They felt very strongly about this suggestion.

During the course, I strive to be honest and upfront with the students and provide sound information that will be beneficial to them in their executive careers. You added much credibility by the way in which you addressed the class. Several of the students mentioned that they enjoyed your straight forward responses.

I realize that you are quite busy, but I hope you will continue to share your knowledge, expertise and wisdom with other chiefs and aspiring chiefs of police. I owe many thanks to you for providing such an impactful opening to the course. Again, thank you for making the New Chief Executive Development Course a great success.

Donnie R. Parks

Donnie R. Parks…
North Carolina Justice Academy
Edneyville, NC 28727

PO Box 99, Salisbury, North Carolina 28385-0099 · 919-525-4151 · PO Box 600, Edneyville, North Carolina 28727-0600 · 828-685-3600

Unfinished Business

New Business

ORDINANCE NO. 2016-____

AN ORDINANCE AMENDING THE
UNIFIED DEVELOPMENT ORDINANCE
TO CLARIFY SHORT-TERM RENTAL USES AS LODGING USES

WHEREAS, the purpose of zoning regulations is to provide a comprehensive plan for the use of land and buildings in conditions of good health and safety and in conditions of orderly community development, these regulations shall apply to all land and structures within the respective zoning district; and,

WHEREAS, the City of Brevard Planning Board unanimously recommended approval of Ordinance changes on March 15, 2016; and,

WHEREAS, the City of Brevard City Council have reviewed and modified the Planning Board's draft language; and,

WHEREAS, in accordance with North Carolina General Statute 160A-383, Brevard City Council finds the following:

1) That the zoning amendment is consistent with the following Economic Health Element of the City of Brevard 2015 Comprehensive Plan:

> The objectives and policies in this element aim to further existing efforts to foster entrepreneurship, retain and attract employers, remain an attractive retirement and tourism destination, and support and strengthen existing businesses. To continue to provide the public services necessary to achieve these goals, the City's tax revenues need to keep pace with increasing costs of providing those services.

2) That the proposed rezoning fully conforms to all applicable requirements of Brevard City Code.

3) That the proposed amendments clarify the difference between a residential use and lodging use.

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

Section 1. The Unified Development Ordinance is hereby amended as described in Exhibit A.

Section 2. Ordinance shall become effective upon its adoption and approval.

Adopted and approved this the ____ day of _____, 2016.

_____
Jimmy Harris
Mayor

ATTEST:

_____
Desiree D. Perry, CMC, NCCMC
City Clerk

APPROVED AS TO FORM:

_____

Michael K. Pratt
City Attorney

UDO Amendments for Short-Term Rentals

2.2. - Use categories and tables of permitted uses.

Residential: Premises available for long-term human habitation by means of ownership and rental, but excluding short-term leasing or rental of less than a month's duration.

Lodging: Premises available for short-term human habitation, including daily and weekly rental.

2.2.C – Use Matrix

	GR	RMX	NMX	DMX	CMX	IC	GI
Lodging							
Bed and Breakfast Home	PS	PS	PS	PS	PS	PS	–
Bed and Breakfast Inn	SUP	PS	PS	PS	PS	PS	–
Accessory Rental Cottage/Cabin	PS	PS	PS	–	–	–	–
Hotels/Motels/Inns	–	–	–	P	P	P	–
Rooming or Boarding House	–	–	P	P	P	P	–
Recreational Vehicle Park	–	–	–	–	–	–	–
Short-Term Rental (Host-Absent)	SUP	SUP	PS	PS	PS	PS	–
Homestay (Host-Present)	PS	PS	PS	PS	–	PS	–

Chapter 3 – Additional standards

3.34 – Short-Term Rentals and Homestays

A. Intent

It is the intent of this ordinance and standards below to preserve and protect the long-established, traditional single-family neighborhoods within the City while allowing those desiring to operate short-term rentals or homestays to do so without detriment to those neighborhoods. Short-Term Rentals and Homestays are lodging uses, as they are typically rented for less than 30 days.

B. General requirements

1. Occupancy: Overnight occupancy shall not exceed two persons per bedroom plus two additional persons. The number of “bedrooms” used in calculating occupancy limits shall be taken from the property’s application. For example: a two bedroom rental would have an occupancy limit of 6 (2 x 2 bedrooms = 4 + 2 additional = 6 total).
2. Appearance: Dwelling units used as short-term rentals or homestays in GR or RMX zoning districts shall maintain their residential character and outside appearance. No signs shall be permitted. All exterior lighting shall be residential in nature and shall not be directed towards adjacent properties.
3. Parking: Parking requirements shall be provided for the type of dwelling unit, per Chapter 10 of this ordinance.

C. Permits required

1. The owner, or authorized agent thereof, of any property upon which a Homestay or Short-Term Rental proposes to operate shall secure a permit from the City of Brevard Planning & Zoning Department.
2. The application shall designate a “Primary Contact” which is to be a local responsible party who is available by phone 24-hours per day while the property is being rented.

D. Violations: Any act constituting a violation of these standards shall subject the owner to enforcement procedures as set forth in Chapter 18 of this ordinance.

E. Duration of permit:

1. Rentals permitted with standards (PS)
   a. Short-Term Rental and Homestay permits are temporary, and shall not establish a vested right to renewal. Short-Term Rental and Homestay permits shall be valid for a period of one year from the date upon which approval is granted.
   b. Annual renewal applications shall be filed 30 days prior to expiration of the current permit.
   c. Applications for renewal shall include a written report demonstrating compliance with the previously approved permit.
   d. The approving authority may deny a request for permit renewal and require the applicant to terminate the Short-Term Rental or Homestay upon a determination that the Short-Term Rental or Homestay operated in violation of a requirement of this section or other applicable condition or requirement; or, that the Short-Term Rental or Homestay has generated unanticipated effects that are detrimental to the residential character of the neighborhood in which the Short-Term Rental or Homestay is located.
2. Rentals permitted with the issuance of a Special Use Permit (SUP)
   a. Per 16.11.D, the effect of approval of a Special Use Permit by the Board of Adjustment is binding on the property, and all subsequent development and use of the property must be in accordance with the approved plan and conditions. Special Use Permits do not need to be renewed annually.
   b. Per 16.11.F, the Board of Adjustment may revoke an approved Special Use Permit upon finding that a violation of Brevard City Code, the City of Brevard Unified Development Ordinance, or a specific condition or requirement of the Board of Adjustment has occurred.

B. Exemptions: The following activities shall not be considered as a Short-Term Rental or Homestay use and the requirements of this subsection shall not apply to them.

1. Incidental residential vacation rentals, defined to mean no more than two such rentals in any calendar year where the total number of nights rented does not exceed 14.
2. Rentals of property in any permitted hotel, motel, inn, rooming or boarding house, or bed and breakfast establishment.

10.3.A – Minimum parking ratios

A. *Minimum parking ratios:*

Use Type	Required Parking Spaces
Residential (All types)	2 spaces
Residential Accessory Dwelling Unit	1 space
Retail Uses	1 per 500 square feet
Office Uses	1 per 500 square feet
Theaters	1 per 3 seats

Restaurants	1 per 4 seats
Manufacturing/Warehousing/Light Assembly	.25 per 1,000 square feet of non-office space
Bed and Breakfast Inns/Hotels/Motels	1 per bedroom or suite
Civic Uses (Assembly Uses Only)	1 per 4 seats (If benches or pews are used then the standard shall be measured as 1 per 6 feet)

10.5.G – Location of off-street parking

G. Location of off-street parking:

1. Off-street parking shall not be permitted within any public right-of-way.
2. Off-street parking shall not be permitted within any front yard setback area.
3. Except for properties located in the Corridor Mixed Use (CMX) zoning district, off-street parking shall not be permitted between any principal structure and the street upon which such structure fronts. Where a structure fronts upon two or more streets, parking may be permitted between the principal structure and the adjacent street of lesser classification when parking cannot reasonably be placed in another location.
4. The following uses and parking types shall be exempt from Sections 10.5(G.2) and 10.5(G.3) above:
    a. Single-family and duplex residential structures in GR, RMX and NMX districts, including those used for Short-Term Rental uses, except those which are subject to Chapter 2, Section 2.3(E.2).
    b. Handicapped parking spaces as required by the North Carolina Accessibility Code or other federal, state, or local regulations.
    c. Bicycle parking spaces required by this Ordinance.
    d. Existing non-residential and multi-family development undergoing significant or substantial improvement or change of use as defined in Chapter 19 of this Ordinance, provided that all newly created parking spaces associated with such redevelopment shall conform with Sections 10.5(G.2) and 10.5(G.3) unless the approving authority deems that compliance would be impractical due to existing site constraints.

Chapter 19 – Definitions

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

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

Homestay: A private, owner-occupied single-family residence that offers one or more guest rooms for overnight accommodations which are rented for periods of less than 30 days for compensation, so long as the lodging use is subordinate to the main residential use of the building. The key distinction of a Homestay from a Short-Term Rental is that the host is present in a Homestay.

Rooming or boarding house: Short or long-term accommodations that serve a specific group or membership such as a dormitory, fraternity or sorority house, youth or adult hostel, or similar accommodations, or single room occupancy units that provide a number of related services including, but not limited to housekeeping, meals, and laundry services; excludes hotels, motels, inns, bed and breakfasts, homestays, and short-term rentals.

Short-Term Rental: A private residential property that is rented for periods of less than 30 days for compensation in which the owner does not reside in the home being rented. The key distinction of a Short-Term Rental from a Homestay is that the host is absent in a Short-Term Rental.

ORDINANCE NO. 2016-____

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF BREVARD TO REZONE PROPERTIES ALONG THE ASHEVILLE HIGHWAY FROM GR TO NMX

WHEREAS, the purpose of zoning regulations is to provide a comprehensive plan for the use of land and buildings in conditions of good health and safety and in conditions of orderly community development, these regulations shall apply to all land and structures within the respective zoning district; and,

WHEREAS, Brevard City Council requests that the Official Zoning Map of the City of Brevard be amended to rezone properties along the Asheville Highway from the intersection of said highway and Morris Road, north to the new Davidson River Village connector road, specifically the following PIN's;

8597-12-7882-000, 8597-12-8355-000, 8597-22-1603-000, 8597-22-1851-000, 8597-22-3867-000, 8597-23-0197-000, 8597-23-3082-000, 8597-23-3450-000, 8597-23-4170-000, 8597-23-5158-000, 8597-23-5530-000, 8597-23-6263-000, 8597-23-7635-000, 8597-23-9049-000, 8597-24-8025-000, 8597-33-0415-000, 8597-33-0590-000, 8597-33-1166-000

and,

WHEREAS, the City of Brevard Planning Board unanimously recommended approval on June 21, 2016; and,

WHEREAS, in accordance with North Carolina General Statute 160A-384, Brevard City Council finds the following:

1) That the rezoning is consistent with the following polices of the City of Brevard 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.

2) That the rezoning is consistent with the following Community Development Strategy of the City of Brevard Vision, which was adopted in February, 2012:

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

3) That the rezoning is inconsistent with the Future Land Use Map of the 2002 City of Brevard Land Use Plan, which prescribes "Mixed Use-Boulevard" future land uses:

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.

4) That the size of the tracts and the proposed uses are reasonable and appropriate within the context of the existing and proposed zoning districts and the prevalence of uses in the vicinity of the subject parcels.

5) That the proposed rezoning fully conforms to all applicable requirements of Brevard City Code.

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

Section 1. The Official Zoning Map of the City of Brevard is hereby amended to rezone the properties described above and specifically listed below from GR to NMX:

8597-12-7882-000, 8597-12-8355-000, 8597-22-1603-000, 8597-22-1851-000, 8597-22-3867-000, 8597-23-0197-000, 8597-23-3082-000, 8597-23-3450-000, 8597-23-4170-000, 8597-23-5158-000, 8597-23-5530-000, 8597-23-6263-000, 8597-23-7635-000, 8597-23-9049-000, 8597-24-8025-000, 8597-33-0415-000, 8597-33-0590-000, 8597-33-1166-000

Section 2. Future development upon the subject properties shall be subject to current development standards.

Section 3. Ordinance shall become effective upon its adoption and approval.

Adopted and approved this the ____ day of _____, 2016.

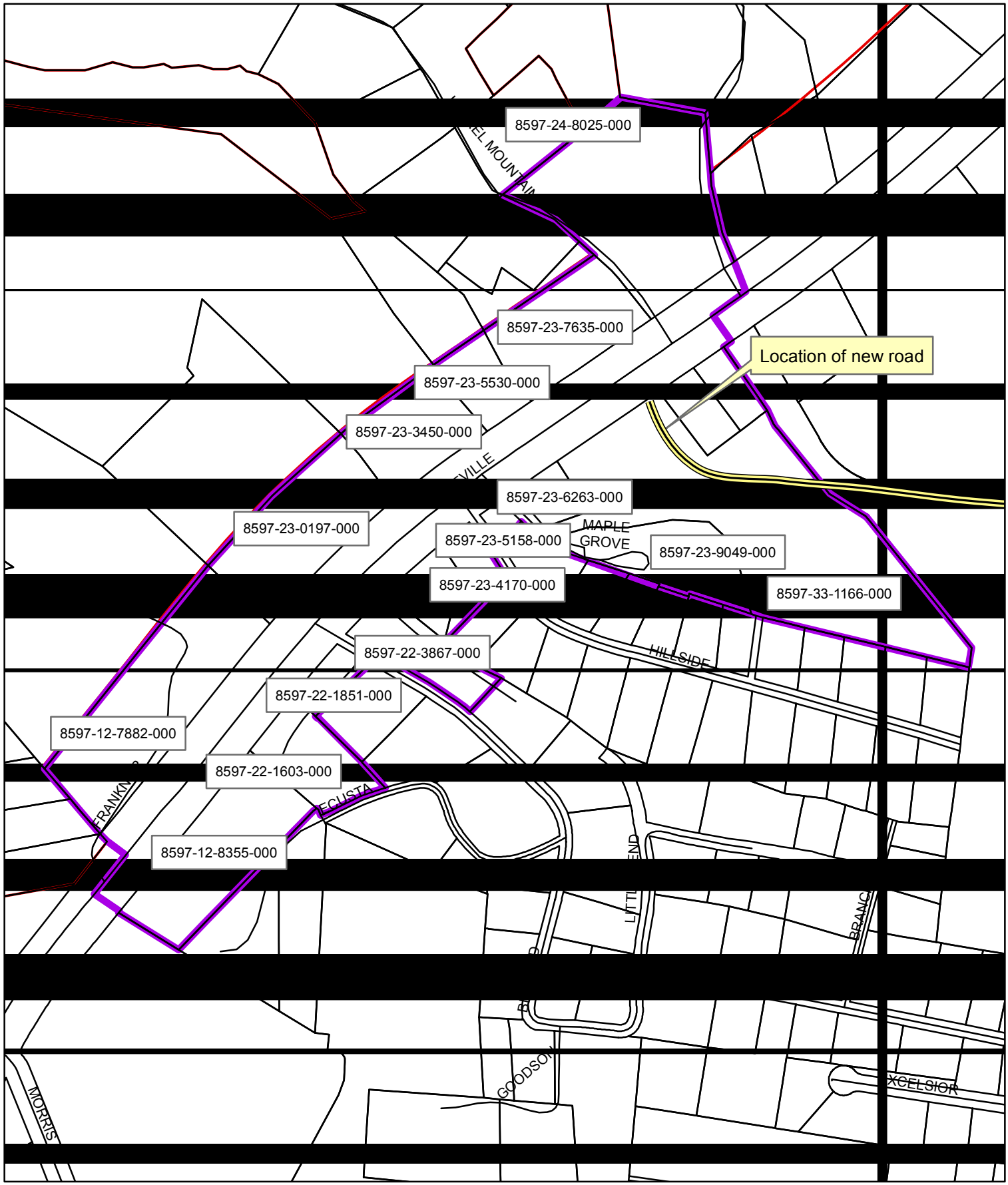
_____
Jimmy Harris
Mayor

ATTEST:

_____
Desiree D. Perry, CMC, NCCMC
City Clerk

APPROVED AS TO FORM:

_____
Michael K. Pratt
City Attorney



Streets

Parcels

Proposed CMX

City Limits

SUBJECT PROPERTIES

N W E S

1 inch = 300 feet

ORDINANCE NO. 2016-____

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF BREVARD TO ESTABLISH A GENERAL INDUSTRIAL CONDITIONAL DISTRICT RZ16-000001

WHEREAS, conditional zoning is established to provide for flexibility in the development of property while ensuring that the development is compatible with neighboring uses; and,

WHEREAS, Brevard City Council requests that the Official Zoning Map of the City of Brevard be amended to establish a General Industrial Conditional Zoning District on property owned by the City of Brevard, which is described below, and which is hereafter referred to as the "Subject Property":

Subject Property Description:
Property Identification Number: 8597-31-5264-000
Deed Book / Page Reference: DB 395 PG 378
Plat Reference: Plat Cabinet 6 Slide 240
Owner: City of Brevard
Property Address: 600 Ecusta Road, Brevard, NC
Location: Off Ecusta Road
Current Zoning: Neighborhood Mixed Use

and,

WHEREAS, the City of Brevard Planning Board considered RZ16-000001 on June 21, 2016 and unanimously recommended approval of this request subject to the conditions below; and,

WHEREAS, in accordance with North Carolina General Statute 160A-382(b), Brevard City Council finds the following:

1) That RZ16-000001 is consistent with the following polices and goals of the City of Brevard 2015 Comprehensive Plan:

GOALS With 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.

- 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.

2) That RZ16-000001 is consistent with the following Community Development Strategy of the City of Brevard Vision, which was adopted in February, 2012:

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

3) That RZ16-000001 is inconsistent with the Future Land Use Map of the 2002 City of Brevard Land Use Plan, which prescribes "Mixed Use-Boulevard" future land uses:

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.

4) That the size of the tract and the proposed uses are reasonable and appropriate within the context of the existing and proposed zoning districts and the prevalence of uses in the vicinity of the Subject Parcel.

5) That the proposed rezoning fully conforms to all applicable requirements of Brevard City Code.

WHEREAS, Brevard City Council desires to approve RZ16-000001 subject to certain conditions, which are set forth, below.

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

Section 1. The Official Zoning Map of the City of Brevard is hereby amended to establish General Industrial Conditional Zoning District RZ16-000001 on the Subject Property. (Exhibit A-Map)

Section 2. Future development upon the Subject Property shall be subject to the following development regulations:

1) The Subject Property shall be developed in accordance with all applicable provisions of Brevard City Code, except as modified herein.

2) Uses of the Subject Property shall be limited to the following list of land uses:

    a. "P" denotes those uses that are permitted "by right."

    b. "SUP" denotes those uses that are permitted upon issuance of a special use permit in accordance with the provisions set forth in Chapter 16 of the City of Brevard Unified Development Ordinance. Additional standards for certain uses requiring a special use permit are set forth in Chapters 3 and 5 of the City of Brevard Unified Development Ordinance.

c. "PS" denotes those uses that are permitted with additional standards, which are set forth in Chapter 3 of the City of Brevard Unified Development Ordinance.

d. List of Allowable Land Uses:

BASE DISTRICT	GI CD
Residential	
Dwelling—Single Family (Site-built)[a]	—
Dwelling—Duplex	—
Dwelling—Town Home or Condominium Structure	—
Dwelling—Multifamily 3—4 units/bldg, not including Condominium Buildings or multiple structures	—
Dwelling—Multifamily more than 4 units/bldg	—
Dwelling—Secondary	—
Family Care Home (Less than 6 residents)	—
Home Occupation	—
Housing Service for the Elderly	—
Live-Work Units	—
Manufactured Home (single unit)[b]	—
Manufactured Home Park	—
Recreational Vehicle	—
Lodging	GI CD
Bed and Breakfast Home	—
Bed and Breakfast Inns	—
Accessory Rental Cottage/Cabins[c]	—
Hotels/Motels/Inns	—
Rooming or Boarding House	—
Recreational Vehicle Park	—
Office/Service	GI CD
Animal Services	—
Artist Workshop	—
ATM	—
Banks, Credit Unions, Financial Services	—
Business Support Services	—
Adult/Child Day Care Home (Less than 6)	—
Adult/Child Day Care Center (6 or more)	—
Community Service Organization	—
Drive Thru Service	—
Equipment Rental	—
Funeral Homes	—

Group Care Facility (6 or more residents)	—
Government Services	—
Kennels	—
Medical Services—Clinic, Urgent Care Center	—
Medical Services—Doctor office	—
Post Office	—
Professional Services	—
Personal Services	—
Studio—Art, Dance, Martial Arts, Music	—
Vehicle Services—Major Repair/Body Work	PS
Vehicle Services—Minor Maintenance/Repair[d]	PS
Retail/Restaurants	GI CD
Accessory Retail	PS
Alcoholic Beverage Sales Store	—
Auto / Mechanical Parts Sales	P
Bar/Tavern/Night Club	—
Drive-Thru Retail/Restaurants	—
Gas Station	SUP
General Retail	—
Restaurant	—
Shopping Center - Neighborhood Center	—
Shopping Center - Community Center	—
Vehicle/Heavy Equipment Sales - Outdoor	PS
Vehicle/Heavy Equipment Sales - Indoor	PS
Entertainment/Recreation	GI CD
Amusements, Indoor	—
Amusements, Outdoor	—
Cultural or Community Facility	—
Meeting Facilities	—
Recreation Facilities, Indoor	—
Recreation Facilities, Outdoor	—
Theater, Movie	—
Theater, Live Performance	—
Manufacturing/Wholesale/Storage	GI CD
Inert Debris Storage or Disposal Facilities	—
Junkyard	—
Laboratory—Medical, Analytical, Research and Development	P
Laundry, Dry Cleaning Plant	P
Manufacturing, Light	P
Manufacturing, Neighborhood	P

Manufacturing, Heavy	P
Media Production	P
Metal Products Fabrication, Machine or Welding Shop	P
Mini-Warehouses	P
Recycling—Small Collection Facility	—
Research and Development	P
Storage—Outdoor Storage Yard as a Primary Use	P
Storage—Warehouse, Indoor Storage	P
Wholesaling and Distribution	P
Civic/Institutional	GI CD
Campground/Artist Colony/Summer Camp	—
Cemeteries	—
Colleges/Universities	—
Hospital	—
Jail	—
Public Safety Station	—
Religious Institutions	—
Schools—Elementary and Secondary	—
Schools—Vocational/Technical	P
Infrastructure	GI CD
Wireless Telecommunication Facility—Stealth	P
Wireless Telecommunication Facility—Tower	PS
Utilities—Class 1 and 2	P
Utilities—Class 3	—
Miscellaneous Uses	GI CD
Adult Establishment	—
Outdoor Firing Range	—
Indoor Firing Range	—
Agriculture	—
Parking	P
Swimming Pool—Residential Accessory Use	—
Swimming Pool—Primary Use	—
Fences	PS
Human Crematories	—
Temporary Uses and Structures	GI CD
Carnivals or Circus	—
Farmers Market	—
Religious Meeting	—
Contractor's Office and Equipment Shed	—

Seasonal Structures	—
Satellite Real Estate Sales Office	—
Special Event	PS
Temporary Vendors	PS
Vending Pushcarts	—
Mobile Food Vendors	PS

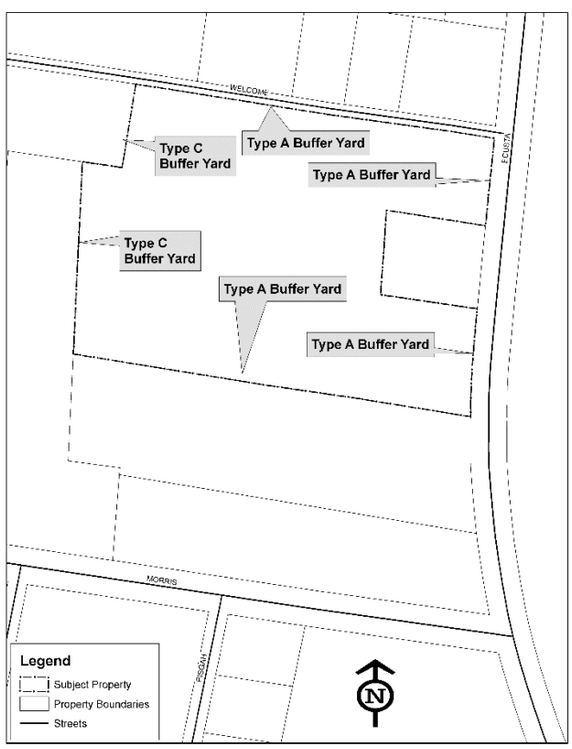
3) Maximum building height: 50 feet.

4) Maximum ground floor area of the principal structure: 100,000 square feet.

5) Building design and architecture standards shall be consistent with industrial design requirements as set forth in Chapter 5 of the Unified Development Ordinance.

6) Environmental protection standards shall be consistent with Chapter 6 of the Unified Development Ordinance.

7) Buffer Yards, which are described in Chapter 8 of the City of Brevard Unified Development Ordinance, shall be provided along each boundary of the Subject Property as illustrated below:



8) Parking standards shall be consistent with Chapter 10 of the Unified Development Ordinance.

9) Exterior lighting shall be restricted to the minimum necessary to provide safe vehicular and pedestrian access to the approved structure.

10) Commercial deliveries shall take place within normal business hours, Monday – Friday.

Section 3. Violations of this Ordinance or other provisions of Brevard City Code may result in the revocation of this conditional rezoning. The Zoning Administrator shall abate

violations of this Ordinance or Brevard City Code in accordance with Chapter 18 of the City of Brevard Unified Development Ordinance, and may refer violations to Brevard City Council who may revoke this conditional rezoning upon determination that a violation of this Ordinance or Brevard City Code has occurred.

Section 4. Ordinance shall become effective upon its adoption and approval.

Adopted and approved this the ____ day of _____, 2016.

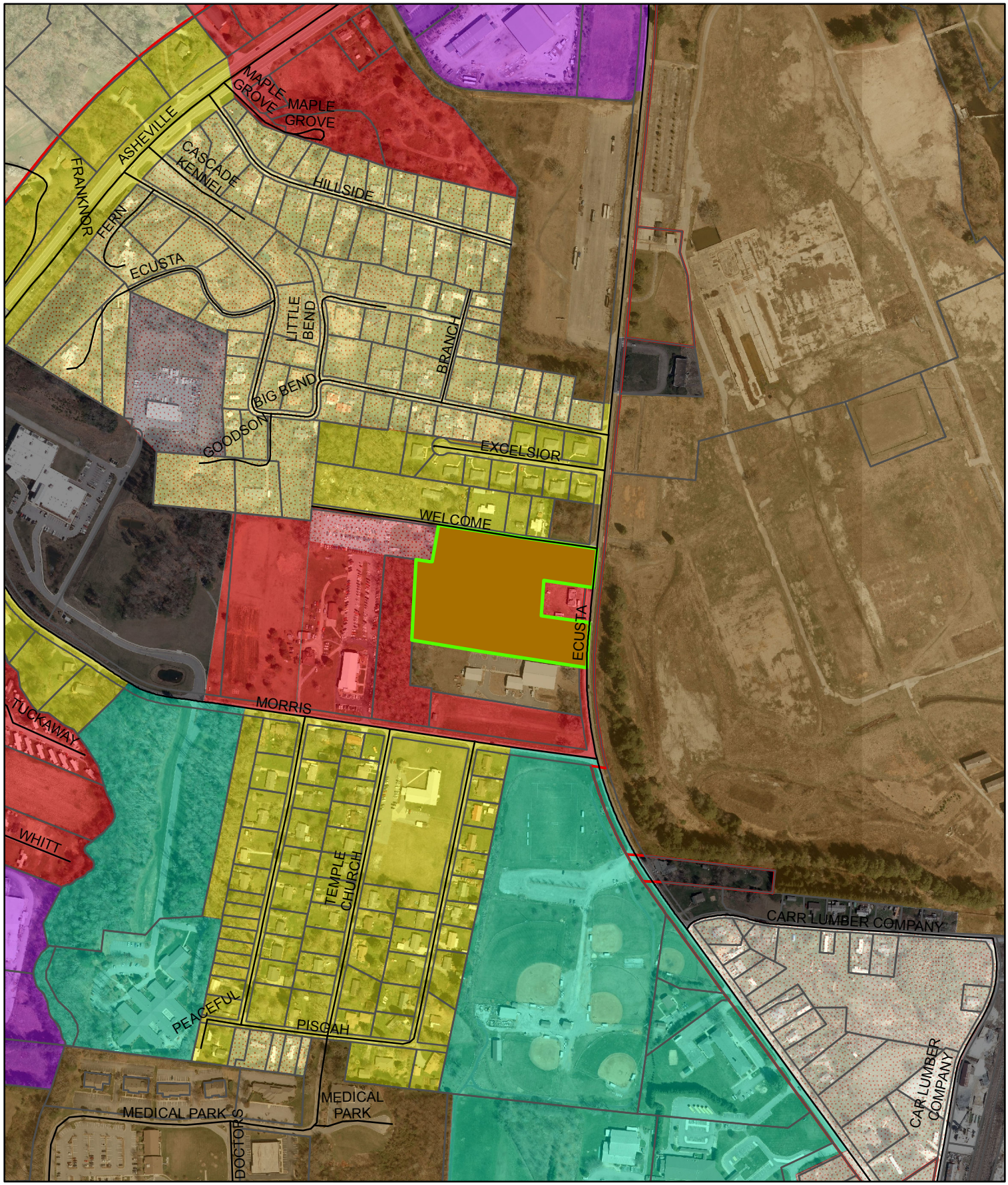
_____
Jimmy Harris
Mayor

ATTEST:

_____
Desiree Perry, CMC, NCCMC
City Clerk

APPROVED AS TO FORM:

_____
Michael K. Pratt
City Attorney



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

PROPOSED ZONING

N
W E
S

1 inch = 500 feet

STAFF REPORT
City Council, August 15, 2016, Meeting

Title: **Board Appointments – Brevard Board of Adjustment**
Council will consider making an appointment to the Board of Adjustment to fill one vacancy.

Date: August 4, 2016

Prepared by: Desiree Perry, City Clerk
Approved by: Jim Fatland, City Manager/Finance Director

Background / Discussion: On July 18, 2016, BOA member Carol Dillingham submitted her letter of resignation from the Board of Adjustment, effective immediately, in order to pursue other volunteer opportunities with the City of Brevard.

At present, Mr. Paul Welch and Mr. Kevin Jones are serving as alternate members. They are both members in good standing and are willing to serve as a regular member if Council desires to appoint one as a regular member, he would fill an unexpired term set to expire November 2016, and would be eligible for reappointment. The other member would remain as an alternate, and there would be one alternate member position vacancy.

There is one application on file for appointment consideration. On August 1, 2016, Dr. Allen W. Delzell submitted an application for appointment consideration. If Council should choose to appoint him as an alternate member, he would fill an unexpired term set to expire November 2018.

BOA Regular Members	**Term Expires**
Tad Fogel	Nov 2016
Vacant	Nov 2016
Mike Young	Nov 2018
Paul Welch, Alt.	Nov 2018
Kevin Jones, Alt	Nov 2018

Judy Mathews, Chair (County Appointment)
Tom Tartt (County Appointment)
Coty Ferguson (County Appointment)

Fiscal Impact: None

Staff Recommendation: Staff requests Council to consider appointing either Mr. Welch or Mr. Jones from alternate to serve as a regular member, and, consider appointment of Dr. Delzell to serve as an alternate member.

received
08-01-2016

CITY OF BREVARD

Board/Committee Appointment Application

The City Council invites all citizens of the City to participate in governmental decisions by serving as a member on an advisory board or committee. Boards and committees include:

- ABC Board of Directors • Board of Adjustment • Brevard Housing Authority Board of Directors
- Community Appearance Commission • City Council Downtown Master Plan Committee
- City Council Parks, Trails and Recreation Committee • City Council Public Works & Utilities Committee
- Planning and Zoning Board • Terrell Scruggs Scholarship Committee
- Western Carolina Community Action Board

Name of Board or Committee Interested In: Brevard Board of Adjustment
** List only one per Appointment Application form.*

Date 7-29-2016

Name Allen W. DeLzell

Home Address 303 STONE CREEK TRAIL

Phone (home) 828-885-8494 (work) (ret.)

Occupation ret. Family Physician E-Mail ladel61@hotmail.com

May you be contacted at work? NA Do you live within the corporate City Limits? yes

Please list other appointed positions you presently hold in Brevard or Transylvania County Government:

none. Formerly, 6-yr. term on BOA.

Educational background, special qualifications (i.e., civic memberships, related work experience, etc.). (Use back of sheet if additional space is needed.)

BA, MD. General medical officer - USN '63-'66
Chief of Staff, Unity Hosp., Fridley, MN 1976

Based on your qualifications and experiences, briefly describe why your services on this board/committee would be beneficial to the City of Brevard:

Previous BOA experience. I Love this community — if I can help, Great!

**Please note: Upon appointment to a board/committee, the information contained in this application becomes a matter of public record per North Carolina General Statutes 132-1 and may be published or released. Your application will be kept on file for a period of two yours and then destroyed. You may reapply after that time period.*

Allen W. DeLzell
Signature of Applicant

Please return this application to: City of Brevard Attn: Desiree D. Perry, City Clerk
95 W Main Street, Brevard, NC 28712
Phone: 828-885-5614 - Fax: 828-883-2853 - Email: dperry@cityofbrevard.com

Remarks / Future Agenda Considerations

Closed Session(s)

North Carolina General Statute 143-318.11 Closed Sessions.

(a) Permitted Purposes. – It is the Policy of the State that closed sessions shall be held only when required to permit a public body to act in the public interest as permitted in this section. A public body may hold a closed session and exclude the public only when a closed session is required.