

# TOWN OF WAYNESVILLE

## Planning Board

9 South Main Street  
Waynesville, NC 28786  
Phone (828) 456-8647 • Fax (828) 452-1492  
[www.waynesvillenc.gov](http://www.waynesvillenc.gov)

Development Services  
Director  
Elizabeth Teague

**Chairman**

Patrick McDowell

**Planning Board Members**

Anthony Sutton (Vice Chair)

Marty Prevost

Robert Herrmann

H.P. Dykes, Jr.

Pratik Shah

Ginger Hain

Jason Rogers

Susan Teas Smith

### Regular Meeting

**Town Hall, 9 South Main Street, Waynesville, NC 28786**

**Monday, May 20, 2019, 5:30 PM**

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#### A. CALL TO ORDER

1. Welcome/Calendar/Announcements
  - Comprehensive Plan update
2. Adoption of Minutes
  - *Motion:* To approve minutes of April 15, 2019 as presented (or as corrected)

#### B. BUSINESS

1. Public hearing to consider a major subdivision plan to create 19 residential, duplex homes and 3 residential quadraplexes on open land adjacent to Buchanan Drive, PIN 8604-94-0656

#### C. PUBLIC COMMENT/CALL ON THE AUDIENCE

#### D. ADJOURN



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### MINUTES OF THE TOWN OF WAYNESVILLE PLANNING BOARD

#### Regular Meeting

Town Hall – 9 S Main St., Waynesville, NC 28786

April 15, 2019

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THE WAYNESVILLE PLANNING BOARD held its regular meeting on April 15, 2019, at 5:30 p.m. in the board room of the Town Hall, 9 South Main Street, Waynesville, NC.

**A. CALL TO ORDER**

Chairman Patrick McDowell called the meeting to order at 5:30 p.m.

The following members were present:

- Patrick McDowell (Chairman)
- Anthony Sutton
- Marty Prevost
- H.P. Dykes, Jr.
- Pratik Shah
- Jason Rogers
- Ginger Hain
- Susan Teas Smith

The following members were absent:

- Robert Herrmann

The following staff members were present:

- Elizabeth Teague, Development Services Director
- Jesse Fowler, Planner
- Chelle Baker, Administrative Assistant
- Attorney Ron Sneed

The following media representatives were present:

- Becky Johnson

1. Welcome/Calendar/Announcements

Chairman Patrick McDowell welcomed everyone and invited Ms. Elizabeth Teague, Director of Development Services to make any Calendar announcements.

Ms. Teague informed the Board and the audience that the following public meetings were scheduled for the Comprehensive Land Use Plan:

- April 16<sup>th</sup>, 5:30-6:30 p.m. at Fire Station #1 on North Main
- April 25<sup>th</sup>, 4:30-5:30 p.m. at the Folkmoot Center

Board Members Anthony Sutton and Ginger Hain informed that the public meeting on April 11<sup>th</sup> was informative and encouraged everyone to go to one.

2. Adoption of Minutes

***A motion was made by Board Member Anthony Sutton, seconded by Board Member Bucky Dykes, to approve the minutes of the February 25, 2019 board meeting as presented. The motion passed unanimously.***

**B. BUSINESS**

1. Public hearing to consider a major subdivision plan to create 10 residential, single-family homes on open land adjacent to Sylvan Street and the Great Smoky Mountain Expressway, PIN 8605-99-8632.

Chairman McDowell explained this was a public hearing to consider a major subdivision to create ten residential, single-family homes on open land adjacent to Sylvan Street and the Great Smoky Mountain Expressway, Pin 8605-99-8632. Public Hearing opened at 5:36 p.m. He explained the protocols of a Quasi-Judicial Hearing and rules of conduct to the Board Members and to the audience. Chairman McDowell asked anyone who wished to testify to come forward and be sworn in. After swearing in potential witnesses, Chairman McDowell reviewed further protocols with the Board and asked that the public also follow all protocols. He asked anyone who wished to have Standing to come forward. No one came forward.

Chairman McDowell polled the members of the Board to see if there were any procedural matters, ethical considerations or conflicts of interest that should be disclosed prior to beginning the first hearing:

- Have any Members of this Board had any conversations concerning this case other than the agenda packet distributed to the Board in anticipation of this meeting?  
All Board Members answered No.
- Any Board Member subject to an impermissible conflict of interest which would make a Member unable to be an impartial decision maker in the matter under consideration?  
All Board Members answered no.

Chairman McDowell called upon Ms. Teague to present the staff report.

Ms. Teague advised this property was on Sylvan Street on an unaddressed 2.94 acre tract that backed onto Chestnut Park and the application was for a major subdivision. She entered the following into evidence:

1. Land Development Standards by reference including the requirements for Major Subdivisions.
2. Proof of Notifications:
  - A) Newspaper, Mountaineer, posting April 5<sup>th</sup> and April 12<sup>th</sup>
  - B) Written notices sent to property owners within 100 feet on all sides
  - C) Pictures of the posted notice on the property
  - D) Agenda Packet that also went to the Sunshine List

Ms. Teague informed that this property was zoned Chestnut Park Residential Medium Density (CP-RM) and that single family homes were permitted. She advised the following requirements:

Location Map and Zoning (LDS 2.4.1)

- Compliant of 8 units per acre
- Compliant of 10% civic space, however Ms. Teague advised there will be further talk about this with the Board

Lot Standards (LDS 4)

- Compliant that all lots will front a public street, with one structure per lot.
- Compliant in the proposal of all single story homes.
- Compliant in the proposal of no accessory structures proposed.

Building and Development Design Standards (LDS 5)

- Compliant with 5.4 and 5.5. Houses with adjacent front yards along street.
- Encourage the “rhythm of development” in carrying on the character of the neighborhood. Ms. Teague informed this is compliant in that staff finds that this is in character with the types of homes that are already there.

Infrastructure (LDS 6)

- Engineering must comply with Town standards and will be required after the subdivision plat is approved but prior to building permits.
- Ms. Teague stated the length of the subdivision was just under 600 feet at the road frontage of Sylvan Street and no new roads were being required. She advised that these were new lots on an existing town road. The development proposes a greenway connection along the existing right of way that is adjacent to the park and Ms. Teague advised that the developer will talk with the Board about their ideas more in relation to this with civic space.
- Sylvan Street is an existing Town maintained road that is 18 feet wide and it is not on a thoroughfare plan planned for widening. Ms. Teague also noted that there is a footprint of right of way that follows 23-74, the Great Smokey Mountains Expressway, and that staff has sent all the plans to DOT for their comments in case DOT had any concerns. She advised that as of the time of this meeting, DOT had not completed their review.

- Ms. Teague explained that the developer is providing a compliant five foot sidewalk with an eight foot planted strip within a ten to fifteen foot proposed right-of-way from the back of the curb for dedication to the Town.
- The area of development has no cross streets or intersections.
- All utility installations within the right of way must be consistent with the Town's standards for utilities, drainage, sidewalks and trails. Ms. Teague also stated that the applicant's engineering firm has already been in communication with the Town's public works department.
- She explained that a single-family unit generates just under ten trips per day per the ITE Manual, and at ten units at ten trips per day this equals one hundred trips per day, which is well below the threshold for a required Transportation Impact Analysis.
- Utilities are available from the Town of Waynesville (water, sewer and power). She informed the Board that Public Works has confirmed that water and sewer capacity is sufficient. She stated that the Fire Chief has asked that at the time taps are made, the project connect an additional fire hydrant to the ten inch line, which is across the street in addition to the four inch line that exists on the same side of the street.

#### Civic Space (LDS 7)

- Ms. Teague stated that the property abuts an unopened right-of-way that is adjacent to Chestnut Park, which is adjacent to Chestnut Park Road and Culpepper Street. She advised that the question for the Planning Board would be if the developer needs to go before the Zoning Board of Adjustment to request a variance to the road frontage requirement? She informed the Board that the civic space has to be accessible to all lots created and it has to have sixty foot of road frontage and the applicant is recommending that the civic space be adjacent to Chestnut Park and connected by this greenway that would run behind all of the houses. Ms. Teague expanded that she had met with the Town's Park and Recreation Director in regards to the plan and they liked the idea of being adjacent to the park and should the developer choose to dedicate that civic space to the Town then it becomes part of the park.

Ms. Teague asked the Board if this is adequate for the sixty foot of road frontage requirement or if it needs to go to the Zoning Board of Adjustment and staff needed the Planning Boards help.

- She described that civic space can be deeded to the Town of Waynesville, and it would just become part of the park property and the park has a lot of road frontage in this area.
- Ms. Teague told the Board that the developer has been asked to address the civic space accessibility with the Planning Board and she would let them pick it up the discussion from this point.

#### Landscaping (LDS 8)

- The proposal is to preserve the existing stand of trees, only clearing the area needed for homes.
- The proposal will add one canopy tree every forty feet of street frontage within a five foot planted strip.

#### Parking and Driveways (LDS 9)

- Off street parking is provided on prepared surfaces of twelve foot to twenty-five foot from the back of the sidewalk. Driveways shall be constructed to the specifications of the Town and in concurrence with NCDOT where NCDOT right-of-way overlaps with Sylvan Street.
- Driveways are spaced between forty-five feet, with six instances in which the developer is requesting a reduction of the separation distance to not exceed 20%. Ms. Teague advised this is

about ten feet on the one that is the smallest, adding that Sylvan is a low volume residential street. Ms. Teague stated that staff does not have a problem with making those distance reductions.

Lighting (LDS 10)

- She advised that street lighting is not required in this district and they have not proposed any.

Environmental Standards (LDS 12)

- The property is not in the floodplain.
- Ms. Teague informed that this is a low density project with a proposed post development impervious surface of 13.5% to 86.5% of pervious surface left open and greenspace. She described that they are going to be installing curb and gutter drainage along Sylvan which must be engineered to Town specifications and approved by the Town engineer. Drainage from new structures handled within rear and side yards of individual lots and Ms. Teague explained there is ample space there to do that.
- The original lot is below 2,900 feet so the Hillside ordinance does not apply but she noted that the applicant has tried to keep the houses up close to the street to in order to minimize the disturbed area.

Staff Recommendations related to Findings

1. Ms. Teague advised that staff recommends that the plan is consistent with the adopted plans and policies of the Town:
  - The Plan is consistent with the adopted land use plan and zoning designation for the neighborhood, by providing ten single family homes.
  - The plan exceeds the density requirement of eight units per acre which is the Chestnut Park Residential-Medium Density District (CP-RM).
2. Ms. Teague stated that the plan complies with all applicable requirements of this ordinance in terms of the dimensional requirements and the table of permitted uses, however staff would like clarification and feedback on civic space and access on whether this design meets the spirit of the ordinance and the law of the ordinance.
3. There exists adequate infrastructure, transportation and utilities to support the plan as proposed:
  - Water, sewer, and power are available to the site from the town. She advised that the Fire Chief has asked for a condition that the developer connect an additional hydrant to the ten inch line across the street and that the Fire Chief noted this will improve the fire protection for that whole area.
  - The development consists of homes that will be served from an existing residential street that is eighteen foot wide. The developer is providing a five foot sidewalk, planting strip and street trees.
4. Ms. Teague informed the Board that the application will not substantially injure the value of adjoining or abutting property, and will not be detrimental to the use or development of adjacent properties or other neighborhood uses.

- She advised that it is a residential neighborhood adjacent to a park and the Town is just installing some additional new structures.
- Ms. Teague presented the packet that had the application attached stating that Civil Design Concepts is the engineer for Habitat for Humanity and available to the Board to present and answer questions. She asked the Board if they had any questions for staff.

Chairman McDowell asked about changes in the circumstances that are required for a civic development space when it is adjacent to a public park. Ms. Teague read Chapter 7.3.1 of the Land Development Standards and advised that the applicant was asking for a 50% reduction because they are next to a park. Mr. Anthony Sutton asked to be shown where the park is located on the map. Ms. Susan Smith discussed the development of the park and Ms. Teague advised it was currently under control and development of the Town and had received the Medford Grant for playground equipment.

Cody Batchelder  
 Civil Design Concepts  
 160 A Titan Ave  
 Asheville, NC 28801

Mr. Batchelder introduced himself and thanked the Board and Ms. Teague for the staff report. He addressed the architecture of the houses in the development. He passed out photographs for examples of Habitats current development. He stated that they do vary in colors and the difference between that development and this one would be a "shotgun style". The doors will be on the short side of the house instead of the long side.

Mr. Batchelder requested from the Board a 20% reduction in the distance between driveways noting the required distance is fifty feet but a reduction of 20% is allowed if it is a proposal of a low traffic density project on a low traffic density road. Mr. Batchelder stated this project qualifies for both.

Mr. Batchelder addressed the civic space, while showing a map, and stated that there is currently an unopened right-of-way behind the project and an existing bridge that crosses the creek. There is a running greenway up to the bridge to make connection to the park and Mr. Batchelder respectfully asked the Board to consider that the walking distances from the back of the houses to this unopened right-of-way be considered access to the civic space. He added that additionally the developer would prefer to dedicate that civic space to the Town to make it a part of the park.

He advised that it was planned to widen their side of Sylvan Street to Town Standards. He also added that they did have a storm water management area next to the civic space and would be designing storm water management to Town standards.

Mr. Batchelder thanked the Board and asked if there were any questions.

Board Member Susan Smith asked how he felt people would understand the occupancy of their personal backyard space versus what is going to be community civic space.

Mr. Batchelder replied that a backyard would be their personal backyard and the greenway would be considered the civic space. He further explained that once you got to the right-of-way is where the civic space would begin and before that right-of-way would be personal properties.

Ms. Smith asked the distance of the personal backyards from the back of the houses to the back of the property. Mr. Batchelder informed that it was approximately 100 feet to the back of the property.

Discussion between Board members of the backyard spaces, the greenway and civic space which involved the pathway from the backyards of the houses to the civic space and the layout of the plan with the greenway.

Ms. Teague asked Mr. Batchelder to walk through the plan along the frontage of the houses from the curb and the edge of the existing road and how the houses will be placed, including the distance between the curb, planting strip, sidewalk, and front of the homes.

Mr. Batchelder informed the Board that they were proposing to improve Sylvan Street to Town standards. He advised that from the back of the curb to the sidewalk was eight feet, then a planting strip for street trees and then a five foot sidewalk. From the back of the sidewalk to the front of the houses was twenty-five feet. He stated that the houses were forty feet long and then each house varied lot by lot in the backyard in distance to the property line. He described the houses as meeting the Town's design standards, and having two windows in the front with a door and a standard porch and a twelve foot wide driveway.

Board members discussed the driveways and the possibility of widening them for the ability to fit two cars. Board member Jason Rogers stated that the applicant is meeting what the ordinance requires. Chairman McDowell agreed and acknowledged the Board was unable to ask for anything over the requirement, but they could ask for changes in the 2035 Comprehensive Plan Update.

Board Member Jason Rogers noted the upper crossing above the creek into the park area but asked if any of the lower crossings remain. Ms. Teague replied that yes, a lower crossing is located by an old barbeque stove and an unopened right-of-way itself continues up and there is an old culvert there.

Chairman McDowell asked the applicant if he felt their presentation met all of their requirements.

Warren Sugg  
377 Germany Cove Road  
Waynesville, NC 28786

Mr. Warren Sugg introduced himself and said that he worked for Civil Design Concepts and he felt like they had presented a project that had met all of the Town standards. He thanked Ms. Teague for guiding them but that he did feel like they had presented their application and he thanked the Board and asked if there was anything further they wished for them to present.



The Board advised them to make sure they as an applicant had fully presented their own application.

Mr. Sugg asked the Board if they could present from the beginning of their application to the end, even if it were a repeat of information already presented to make sure everything had been covered. The Board advised yes.

Mr. Batchelder advised they are proposing a ten single-story family home on Sylvan Street, each of these houses will qualify for affordable housing, which is needed and desired within the Town. He stated that the impervious area will be about 13 ½ % of the lot. They will be disturbing over an acre and therefore, will be moving into the Town stormwater requirements. He stated that as they move into the stormwater design they will be designing to the Town standards. He added that they will be improving their half of Sylvan Street to Town standards. Mr. Batchelder advised that they will connect water services to the existing main on Sylvan Street with no water extension and that each building will have its own service connecting to the existing main. He stated that they were proposing a sewer extension in the unopened right-of-way at the rear of the property. He advised that they will connect to an existing manhole at the end of the right-of-way where it meets Culpepper Drive and running the sewer underneath where the proposed trail is going to be. He also informed that there will be a small amount of sewer line on their property and they will provide an easement to the Town for sewer maintenance.

Mr. Batchelder requested a reduction in the distance between driveways due to the project being a low density traffic project and the existing road a low density traffic road. Board member Anthony Sutton asked what the width was they were requesting. Mr. Batchelder replied that they were requesting a minimum of forty feet from the required fifty feet.

He stated that the developer is open and would prefer to dedicate the civic space to the Town to be a part of Chestnut Park and would like to request the frontage requirement to be met by the existing Chestnut Park. Board Member Marty Prevost asked if the Town was open to this. Ms. Teague stated that the Parks and Recreation Department is, but it is the Planning Board that is the administrator to make that decision if it meets the ordinance or not.

Mr. Batchelder continued that the density requirements are eight units per acre and they are proposing ten units on over two acres and were below that threshold. He stated that the required civic space is 10% unless the civic space is adjacent to a park, and beings they meet this they are requesting 50% of the civic space count towards the 10% threshold, and he advised they would dedicate 5% of their property to civic space.

He stated that all of the lot sizes are over the minimum ¼ acre and lot widths were over the minimum fifty foot at the front of the building. The pervious area is less than 20%. He stated that the setbacks are compliant with the code. He reviewed the setback measurements: the side setbacks were ten foot, front setbacks were ten foot and the rear setbacks were six foot. He informed the Board that the building height was one story homes, which was less than the maximum of the allowed three stories. He continued that all lots front a public street and only single story homes are proposed and no accessory structures were proposed. He advised that the

houses have adjacent front yards along the streets and the houses were compliant with the existing neighborhood character.

Mr. Batchelder also presented that there were no cross streets or intersections within the development. He stated that public works had confirmed that the sewer and water capacity is sufficient.

Board Member Marty Prevost asked if the homes were two or three bedrooms. Mr. Batchelder replied that the houses were three bedrooms. He also stated that they were proposing street trees along Sylvan Street to be compliant with the code at a minimum of every forty foot of street frontage. He advised that they were not proposing any street lighting which was in compliance with the code. He told the Board the property was not in the floodplain. He also stated that the property was a low density project based on pervious area and the original lot is under 2900 feet and will not be subject to hillside development standards. He asked if there were any additional questions.

Board Member Marty Prevost asked for confirmation if the front setback was ten foot. Board Member Anthony Sutton confirmed and added then there was an additional twenty-five foot. Chairman McDowell stated it was a ten foot front setback, an eight foot planting strip, a five foot sidewalk, and then twenty five feet to the front door.

Chairman McDowell thanked the applicant and asked if there was any other testimony. No one came forward. Chairman McDowell asked if there was any rebuttal or closing statements. Board Member Jason Rogers asked the applicant if they were opposed to the hydrant on the ten inch drain. Mr. Warren Sugg replied that they would fully support with the Town and they would adhere to the Fire Marshall's request.

Chairman McDowell stated that before closing the public hearing he wanted to have an open discussion in regards to the civic space. He stated that there were 2.94 acres of land and 10% would be 12,584 square feet and that applying the 5% reduction for being adjacent to the park, which they qualify for, that would be approximately 6,300 square feet. He added that the proposed civic lot they are wishing to grant is 6,566 square foot and therefore meets the 5%. He advised the Board that they needed to determine if what is being proposed meets the intent and is in the Planning Board's purview or if it needs to go to the Board of Adjustment. Chairman McDowell began the discussion by stating he believed it met the intent further explaining, he felt a walkway is wanted so that people can easily access it and that if each and every lot actually adjoined the public park it would be a redundancy. He felt that it met the design met the spirit of the ordinance and asked for Attorney Ron Sneed's advice if it was something the Planning Board could decide.

Attorney Ron Sneed stated that if the condition of approval were based on the applicant giving the civic space to the Town because it is part of the park and you have the roadways to the park and they are adjacent and the public can access it from a public road, then without going to the Board of Adjustment it can be met.

Board Member Jason Rogers stated the intent is very much that and this is why he had previously asked about the crossings of the creeks so to make sure there was access from one to the other. He agreed the entire intent is met. Chairman McDowell asked the other Board Members if they felt like the intent was met. They agreed.

Chairman McDowell asked if there were any other questions. There were none.

***A motion was made by Board Member Anthony Sutton seconded by Board Member Bucky Dykes, to close the Public Hearing at 6:27 p.m. The motion passed unanimously.***

Chairman McDowell began deliberations with the Board. He stated that the applicant could have done this project at a much higher density and that he felt this was a great project to have in that neighborhood and will uplift the neighborhood. Board Member Anthony Sutton agreed and said that he felt it would enhance that neighborhood.

Chairman McDowell went through the Standards and Findings of Facts with the Board. He asked if the Board felt the plan was consistent with the adopted plans and policies of the Town. The Board unanimously answered yes.

He asked fellow Board members if they felt the plan complies with all applicable requirements of the ordinance. The Board members unanimously answered yes. Board Member Jason Rogers stated that he felt with giving the applicant the 20% on the driveway distance and the civic space considering the 50% reduction, they're providing 50%, he thinks the intent is met that is on the right of way and that it is in compliance with the Town's policies.

Chairman McDowell asked fellow Board members if they felt there was adequate infrastructure. Board members unanimously answered yes. Chairman McDowell pointed out that they were helping Sylvan Road out, bringing it up to Town standards which would be a definite improvement.

Chairman McDowell asked fellow Board members if the application will not substantially injure the value of adjoining or abutting property, and will not be detrimental to the use or development of adjacent properties or other neighborhood uses. Board members advised yes this would not injure the value. Chairman McDowell said that they had already discussed how this will bring value to the neighborhood and he also stated that he felt it will also bring value to the park. He further said not just the homes but that he felt the park will benefit from this community there as well and that maybe people will start using the park again. Board Member Susan Smith said she thought Haywood waterways was also interested in the area as well.

Chairman McDowell asked for any further comments. There were none.

***A motion was made by Board Member Anthony Sutton, seconded by Board Member Ginger Hain, to accept the finding of facts with the condition that the dedicated civic space be given to the Town and the applicant is given the variance for the driveway to 40 foot instead of 50 foot and also that they will install another hydrant to the 10 inch line. The motion passed unanimously.***

Discussion took place between the Board, Attorney, and Ms. Teague in regards to the presentation of applications that come before the Planning Board. It was discussed that most of the burden of an applicant's presentation in meeting the requirements needs to be more on the applicant and an applicant

relying less on the staff to present for them. The Board stated they still would prefer a full staff report with recommendations and staff expertise being considered valuable and important. Discussion continued on where to have staff present so that the applicant bore the majority burden of presenting their own application details. Attorney Ron Sneed advised it is typical that some opening is made by staff but different Boards can approach it differently and can have the staff present whenever they prefer. Mr. Warren Sugg stated that he has presented in Buncombe County, City of Asheville, Town of Weaverville, and Henderson County and the process of the planner giving the overview in the beginning was the same in all of these. Board Members Bucky Dykes and Jason Rogers stated that they believed it was important for the applicant to make their own case and for the staff to help direct the applicant ahead of time in presenting. Chairman McDowell advised at the next meeting they would like to see staff present an overview of points with recommendation and the applicant make the presentation of their own application and evidence.

**C. PUBLIC COMMENT /CALL ON THE AUDIENCE**

No one spoke

**D. ADJOURN**

*With no further business, a motion was made by Anthony Sutton, seconded by Susan Smith to adjourn the meeting at 6:56 p.m. The motion passed unanimously.*

\_\_\_\_\_  
Chelle Baker, Administrative Assistant

\_\_\_\_\_  
Patrick McDowell, Chairman

**Planning Board Staff Report:**

Subject: Substantial Change to Major Subdivision  
 Ordinance Section: LDS Chapter 15 Administration; 15.9.2 Major Subdivisions  
 Applicant: Browning Branch, LLC  
 Meeting Date: May 20, 2019

**Summary Information:**

Application Date: 4/29/19  
 Technical Review: 5/1/19  
 Pre-application Meeting: 3/28/18, 4/5/19  
 Project Location: PIN 8604-94-0656  
 Property Owner: Browning Branch, LLC  
 Acreage of site: 7.038 acres  
 Zoning District: Allen's Creek Neighborhood Residential (AC-NR)  
 Existing Development: Open Land

**List of Evidence:**Application materials from previous hearing (June-July, 2018).

The Planning Board conditionally approved a master plan for this site in July of 2018 for 23 lots of duplexes, creating 46 units. Since then, the applicant has received an NCDOT Driveway permit, added landscaping, adjusted driveway and sidewalk locations, shifted lots 3-10 further away from the development entrance, and changed the lay-out of the proposed greenway. They also submitted engineering to the Town for stormwater management which resulted in changes to the originally proposed bio-retention areas and the loss of one lot.

They are requesting approval of the above changes to the plan, reducing the total number of lots to 22, and are requesting to convert the three largest lots into multi-family quadraplexes. This changes the plan to 19 individual lots of duplexes that provide 38 units, and 3 individual lots of quadraplexes that create 12 units, increasing the total number of units by 4 to a total of 50 units. Approval of this revised plan would replace the previously submitted plan.

The Town Land Development Standards ("LDS") by reference

This application is for a substantial change on a major subdivision which requires additional review by the Planning Board per Chapter 15 of the Town of Waynesville's Land Development Standards:

- A. **15.9.3 (F) Preliminary Plat Substantial Changes:** Substantial changes from the approved Major Subdivision Plan shall require an additional review by the Planning Board. Substantial changes shall include, but not be limited to, the redesign of streets, increasing the number of lots, altering the size and/or design of more than 20% of the lots, and/or reducing the number of lots by more than 20%.

The applicant has met with individual staff and with the Technical Review Committee regarding proposed changes. The TRC represents the Town's Fire, Public Works, Planning and Building Inspections

staff and Town Engineer. TRC feels the revised plan layout and the addition of multi-family is acceptable in terms of public safety and infrastructure. The multi-family buildings will be treated under the commercial building code and have additional requirements for fire protection associated with the building permit.

Proof of public Notification (LDS 15.3)

The Town placed an ad in the Mountaineer to run May 10 and May 17.

The Town sent by first class mail written notices to properties within 100 feet on all sides of the subject property on May 7, 2019.

Town posted the property on May 7, 2019. By request of neighbor Charlie Deaver, the Town also posted notice along Allen’s Creek Road on May 10, 2019.

Location Map and Zoning (LDS 2.4.1)

|   |  |
|---|--|
| This property is zoned Allen’s Creek Neighborhood Residential (AC-NR) in which duplex family homes and multi-family are permitted, with the following dimensional requirements: |  |
| 10 units per acre   | compliant 50/7.038 acres = 7.1 units per acre  |
| 5% Civic Space  | 9.8% of total or 12.5% minus wetlands & buffer |
| Minimum lot size of 1/6 acre (7,260 sf)   | compliant (smallest lot = 7,329.3 sf)          |
| Lot width 50ft’ at front of building  | compliant                                      |
| Pervious surface of 10%   | compliant (lot analysis attached)              |
| Setbacks  | compliant                                      |
| Building Height 3 stories max.  | compliant (1 story duplexes and 2 story quads) |

Lot Standards (LDS 4)

|   |           |
|---|-----------|
| (4.2) Fraction of one-half or more = whole unit                   | compliant |
| (4.3) All lots front a public street, with one structure per lot. | compliant |
| (4.4) Single and double story structures proposed.                | compliant |
| (4.5) No accessory uses or structures proposed                    | compliant |

Building and Development Design Standards (LDS 5)

|   |                      |
|---|----------------------|
| (5.4 and 5.5) Houses with adjacent front yards along street | compliant            |
| (5.6) continue established rhythm of development            | board determination* |

\*This project would create a new neighborhood with its own internal street system and a new pattern of development. Adjacent properties are single family homes along a private road to the north and east, and two manufactured home parks served by individual driveways from Pinewood Drive to the south.

Infrastructure (LDS 6)

- All engineering must comply with Town of Waynesville Specifications Manual and will be required *after* subdivision plan is approved but prior to building permits.
- (6.4.1 – 6.5 and 6.7.3) The project connects to the state Road of Allen’s Creek through a platted right-of-way across another property. Since the summer, the access right-of-way has been adjusted away from Buchanan Drive and a sidewalk connection has been added.
- Proposed streets within the development and the access road that connects it to Allen’s Creek Road are not part of, or connected to, a thoroughfare planned for widening.

- The street plan creates a low volume, low speed loop road with segments less than 500' (measured at centerline):

|                            |               |
|----------------------------|---------------|
| Property line to fork      | = 110'        |
| Fork past unit 27          | = 425'        |
| Unit 27 to units 9/11 int. | = 450'        |
| <u>Fork past unit 8</u>    | <u>= 240'</u> |
| Total loop (est.)          | 1,225'        |

Short street with T Turn-around between 250 and 500'.

|                           |               |
|---------------------------|---------------|
| Unit 37 to unit 45        | = 235'        |
| <u>Length of "T"</u>      | <u>= 160'</u> |
| Total T from intersection | = 395'        |

Fire Access Road/Turn-around/connection "to the extent feasible":

|                               |               |
|-------------------------------|---------------|
| Past unit 8 to fire access    | = 90'         |
| <u>Connection to Buchanan</u> | <u>= 100'</u> |
| Total                         | = 190'        |

Total new right-of-way created: =1,810'

- (6.6) Per original plan, the developer is providing a "Lane" (6.6.2.E) street classification and design. This includes 5' sidewalks on one side of the street, 5' planted strips on both sides of the street, and a 40' right-of-way. A 20' paved roadway surface is proposed at the request of the Technical Review Committee. Contextually, Allen's Creek Road is an estimated 18'-20' roadway within an estimated 20-26' right-of-way and which has no sidewalks (note: powerline to powerline is 50'). The other closest roadways are Buchanan Drive which is platted as a 12' right-of-way and Kimberly Lane and Lariat Loop which serve the adjacent manufactured home parks.

Planning Board should determine if the application of the Lane classification, can still apply with the introduction of multi-family. At the TRC level, staff believes that the proposed roadway provides adequate access and fire protection while serving the potential traffic generated for the uses and density proposed. The ordinance states:

"A. Care should be taken to ensure that context plays a primary role in the selection of the various right-of-way elements. B. right-of-way should be the minimum required to accommodate the street, median, planning (sic) strips, sidewalks, utilities and maintenance consideration." (6.6.1)

"6.6.2 D Residential Street. Streets serve as the primary transportation network of the community. Generally they are two (2) to six (6) blocks in length."

"6.6.2.E Lane. Lanes are intended to provide direct access to the front of a limited number of single-family structures. Lanes are limited in the number of lots served. Generally, they are very short; often less than 400 (400) feet. Items including to, but not limited to, traffic carrying capacity, topography and connectivity, shall be a consideration when permitting a lane in lieu of a street."

- (6.8) All utility installations within the right of way shall be consistent with the Town's standards for utilities, drainage, sidewalks and trails.
- (6.10) residential units generate just under 10 trips /day per ITE Manual, with duplex and multi-family units generating less than 7 trips per day. However, if you estimated 10 trips per day for

each unit, at 50 units, the total is 500 estimated trips per day which is below the threshold for a Transportation Impact Analysis (TIA) (3,000 new vehicles per day).

- (6.11) Utilities are available from the Town of Waynesville (water and sewer). Public Works has confirmed that water and sewer capacity is sufficient. The plan proposes a 6" waterline that will connect to a 10" town main. Sewer will be served by a new 8" line that will connect to an existing 8" town line. The plan provides for the installation of three fire hydrants spread out through the development and the Fire Chief has confirmed that these are adequate for fire protection. The area is served by Duke Power.

#### Civic Space (LDS 7)

- (7.2.1 – 7.3) Plan has designated 25' stream buffers totaling 1.097 acres and 0.415 acres of delineated wetlands, totaling an undisturbed area of 1.512 acres which cannot count toward civic space. Plan indicates a civic space area of 0.105 with 60' of road frontage and adjacent to a proposed greenway that runs along Browning Branch. The greenway provides 0.227 acres of civic space in the form of a 15' wide trail area of 660 linear feet. Another 0.358 of civic space is provided in the middle of the development with over 60' of road frontage and accessible from three sides. Total civic space is 9.9% of total land area, or 12.5% of total land area minus the undisturbed areas of wetlands and stream buffer. 58% of the civic space is outside of the Special Flood Hazard Area.
- (7.2.2) Proposed civic space is accessible to, and within ¼ mile (1,320'), of all lots.
- (7.2.5) Civic space has not yet been programmed with amenities and the applicant should speak to their plans for these areas for compliance with 7.2.5.
- (7.2.8) Civic space will be held in private ownership of the develop who plans on retaining ownership of the entire development. A metes and bounds description of the space to be preserved must be recorded on the development plan. A portion of the larger open space will also be deeded as a bio-retention area as part of the stormwater plan.

#### Landscaping (LDS 8)

- (8.3) Existing trees within stream buffers and designated wetlands shall not be disturbed.
- (8.4) Introduction of multi-family, does not trigger additional buffer requirements. Applicant is proposing additional landscaping along Buchanan Drive right-of-way.
- (8.5) Proposal shows 1 canopy tree every 40 feet of street frontage within a 5' planted strip.

#### Parking and Driveways (LDS 9)

- (9.2) Offstreet parking is required at 1 space per unit for single and two family dwellings and is being provided at 2 spaces per unit; Parking is required at 1.5 spaces per unit for multi-family dwellings and is shown at 2 spaces per unit, or 8 parking spaces per quadruplex.
- (9.4 and 9.8) Offstreet parking is proposed on prepared surfaces of 12'- 25' wide, with combinations of parking in the front and side, with some driveways shared and others not. Where lots are adjacent to the sidewalk and parking is provided in the front of the structure, the



structures are setback more than 25' from the back edge of the sidewalk. Driveways shall be constructed to the specifications of the Town.

- (9.8.) Driveway Access standards are to ensure that access does not impair the function of adjacent roadways or public safety. Driveway access and construction to the proposed streets will be reviewed and permitted by the Town. Wherever feasible the Administrator shall require the establishment of joint driveway use. The Ordinance states that:

As determined by the Administrator, engineering judgement shall override the required dimensions set forth in district standards if warranted by specific traffic conditions. The Administrator may approve a reduction of the minimum separation distances in low traffic areas or for low volume traffic uses. When reducing the driveway separation distances, the cumulative impacts of various land uses shall be considered, however, the reduction of separation distance shall not exceed 40% of the current standards.

TRC does feels that the project creates a low-volume, low-speed, limited street network and traffic conditions which would allow for reducing of driveway separation distances without compromising safety.

- Driveway separation is required to be 50', but a 40% reduction (or 20') to a minimum spacing of 30' could be approved by the Administrator (Planning Board). Areas to consider:
  - The 5 lots of units 15-28 are in the curve and are between 35' to 45' apart.
  - The driveway distance between units 31 and 32 is 28' but has room to be corrected.
  - The lots containing 49 and 50 and 41-44 are on either the end of the "T" and have driveways within 10' of the adjoining lot adjacent to the "T". The planning Board should determine if the "T" qualifies as a street and requires the same 50' separation. In one case the driveway is shared with the adjoining property which the ordinance encourages. In both, a driveway could be eliminated and the minimum parking requirement still be met.
- (9.8.3) Access separation between driveways and streets is required at 75', but can similarly be reduced up to 40% (30') up to a minimum of 45'. Areas to consider:
  - Driveway at unit 31 is only 25' away from the intersection and does not comply, but could be eliminated and minimum parking for the structure could still be achieved.
  - Driveway to units 29 and 30 is 45' from intersecting street.
  - Driveway to units 3 and 4, is the first driveway after the fork and is 40' from where the road starts to split.
  - Driveway to unit 11 is less than 45' from intersection but could be served from the adjacent side street.

Lighting (LDS 10)

- (10.3.5) Street lighting is required at 300' on center in the NR district and 5 streetlights are proposed. Streetlight spacing around the main loop road will need to be adjusted or another streetlight added to meet the minimum 300' requirement.

Environmental Standards (LDS 12)

- (12.3) The northern portion of the property closest to Buchanan Drive is in the floodplain. 12 of the proposed structures are within or partially within the floodplain and will have to comply

with the Special Flood Hazard requirements for new construction and substantial improvements and elevations. All public utilities and facilities shall be located and constructed to minimize flood damage. No disturbance to the streams is being proposed, and the applicant can further discuss their direct contacts with the NC State Department of Environmental Quality and the US Army Corps of Engineers.

- (12.5) This is a high density project with a proposed post-development addition of impervious surface of 37.5% to 62.5% of pervious, open space. Any structure or paved surface or "built upon area" will have to be 30' from the edge of the water of a stream (including the 25' stream buffer area which is measured from the top of the bank) and will have to be verified on-site at the time of the building permit. Engineered drainage and stormwater retention plan has been submitted to the Town and meets the Town's requirements, but must include a maintenance agreement. Dedicated bio-retention areas must be recorded with the plats.
- (12.6) Original lot is below 2,900' and is relatively flat with topo ranging from 2,845 at the lower area near Buchanan Drive to 2,860' in elevation.

**Staff Recommendations/Comments related to Findings Requirements**

1. *The plan is consistent with the adopted plans and policies of the Town:*
  - Plan creates a duplex and multi-family housing within an area designated as medium to high density residential on the 2002 Land Use Plan Map.
  - Plan is consistent with the adopted Town Allen's Creek Neighborhood Residential (AC-NR) zoning designation for the neighborhood, at a density of 7.1 units per acre.
2. *The plan complies with all applicable requirements of this ordinance;*
  - The reduction of one lot, adjustments to the sidewalk and greenway space, and the introduction of multi-family does not change the compliance to the ordinances for density, setbacks, or environmental regulations.
  - Additional information from applicant is needed on civic space programming, and how the developer plans to provide amenities and maintain civic space areas.
  - Because of the density of the development, driveway distances and layouts will require the Administrative reduction and/or the redesign or elimination of 4 of the driveways based on the Planning Board's determination.
  - Spacing of street lighting along the main loop road does not meet the 300' on center minimum and should be adjusted or another streetlight added.
  - Documentation of NCDEQ Grading permit and USACE permit must be provided to prior to any work beginning. Herron Associates has provided engineering on the site grading, drainage and stormwater retention plans top the town for approval.

- At the time of the building permit and construction, building inspections will require a staked, on-ground verification of survey distances where proposed building or driveway footprint is close setbacks, property lines or buffers. Inspections will also require additional engineering if underlying soil conditions and compaction is a concern for stable footings.
3. *There exists adequate infrastructure (transportation and utilities) to support plan as proposed:*
- Water, sewer and power are available to the site.
  - Board must determine if the proposed street system as a lane design is still adequate in consideration of the introduction of multi-family construction.
4. *The application will not substantially injure the value of adjoining or abutting property, and will not be detrimental to the use or development of adjacent properties or other neighborhood uses.*
- The proposal will create a new neighborhood in an area of mixed residential and are of the same zoning designation of AC-NR. The development will not prevent the continued use of neighborhood properties as they are now.
  - Concern has been raised regarding the nature of the development into the future as a rental property and how the owner intends to manage the property and select tenants. A poorly managed and maintained rental subdivision could have negative impacts to adjacent properties, just as a well maintained and well managed one could have positive impacts.
  - There was concern among adjacent property owners that the development would disrupt Buchanan Drive. Browning Branch LLC has adjusted the closest lots to the right-of-way to place landscaping separation between the road and those units and will connect to Buchanan Drive by only a fire access road for emergency vehicles only. This improves emergency access for those living along Buchanan Drive and those in the proposed development.

**Attachments:**

1. Location and Zoning Map
2. NCDOT Driveway Permit
3. Application Materials from 2018 Hearing

# Report For

BROWNING BRANCH LLC  
4365 ARNOLD AVE  
NAPLES, FL 34104

## Account Information

PIN: 8604-94-0656

Legal Ref: 949/1982

Add Ref: 959/1059

CABC/8140

## Site Information

BUCHANAN DR 28786

Heated Area:

Year Built:

Total Acreage: 7.04

Township: Town of Waynesville

## Site Value Information

Land Value: \$43,200

Building Value: \$0

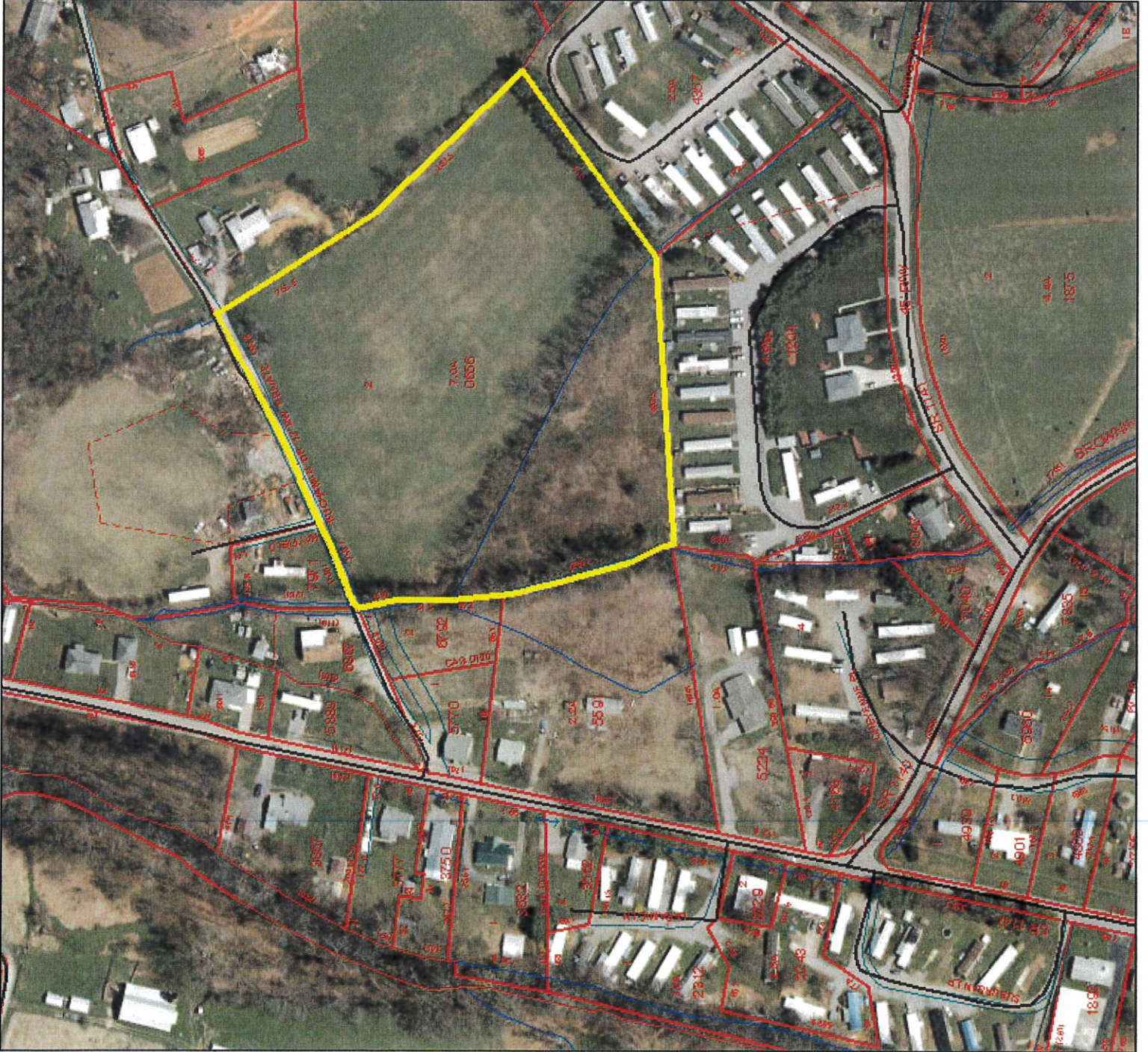
Market Value: \$43,200

Deferred Value: \$0

Assessed Value: \$43,200

Sale Price: \$95,000

Sale Date: 4/17/2018



1 inch = 200 feet

May 13, 2019

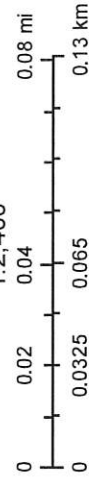
Disclaimer: The maps on this site are not surveys. They are prepared from the inventory of real property found within this jurisdiction and are compiled from recorded deeds, plats and other public records and data. Users of this site are hereby notified that the aforementioned public primary information sources should be consulted for verification of any information contained on these maps. Haywood county and the website provider assume no legal responsibility for the information contained on these maps.

# Haywood County



May 13, 2019

1:2,400





STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION

ROY COOPER  
GOVERNOR

JAMES H. TROGDON, III  
SECRETARY

10/15/2018

Neal k. Ross  
390 Freeman Rd.  
Waynesville, NC 28786

County: Haywood  
Subject: Street and Driveway Access Permit Application - Approval  
Permit No.: 201804404

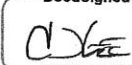
Dear: Mr. Ross;

This office has reviewed your proposed Street Access Permit that you submitted to us. Your proposal has been **approved**, however the followings conditions apply:

1. No storm water shall be discharged onto SR-1147 (Allens Creek. Rd.).
2. The District Engineer must approve any changes.
3. Driveway(s) shall be constructed as indicated on plans.
4. Notify District 2 Office three working days, prior to the start of construction.

If you have any questions feel free to contact me at (828) 497-7333.

Sincerely,

DocuSigned by:  
  
828D2C8704CF469...

Chris Lee, P. E.  
District Engineer

CL/jbs

cc: Art Hartzog, P.E., Haywood Maintenance Engineer  
File

|   |                                    |  |
|---|------------------------------------|--|
| <b>APPLICATION IDENTIFICATION</b>             |                                    | <b>N.C. DEPARTMENT OF TRANSPORTATION<br/>STREET AND DRIVEWAY ACCESS<br/>PERMIT APPLICATION</b> |
| Driveway Permit No. <u>201804404 DW</u>       | Date of Application <u>10-4-18</u> |  |
| County: <u>Haywood</u>                        |                                    |  |
| Development Name: <u>Browning Branch, LLC</u> |                                    |  |

**LOCATION OF PROPERTY:**  
Route/Road: Alleys Creek Road

Exact Distance 0.33  Miles  Feet      N  S  E  W  
From the Intersection of Route No. SR-1149 and Route No. SR-1147 Toward SR-1140

Property Will Be Used For:  Residential /Subdivision     Commercial     Educational Facilities     TND     Emergency Services     Other  
Property:  Is     Is not    within Town of Waynesville City Zoning Area.

**AGREEMENT**

- I, the undersigned property owner, request access and permission to construct driveway(s) or street(s) on public right-of-way at the above location.
- I agree to construct and maintain driveway(s) or street entrance(s) in absolute conformance with the current "Policy on Street and Driveway Access to North Carolina Highways" as adopted by the North Carolina Department of Transportation.
- I agree that no signs or objects will be placed on or over the public right-of-way other than those approved by NCDOT.
- I agree that the driveway(s) or street(s) will be constructed as shown on the attached plans.
- I agree that that driveway(s) or street(s) as used in this agreement include any approach tapers, storage lanes or speed change lanes as deemed necessary.
- I agree that if any future improvements to the roadway become necessary, the portion of driveway(s) or street(s) located on public right-of-way will be considered the property of the North Carolina Department of Transportation, and I will not be entitled to reimbursement or have any claim for present expenditures for driveway or street construction.
- I agree that this permit becomes void if construction of driveway(s) or street(s) is not completed within the time specified by the "Policy on Street and Driveway Access to North Carolina Highways".
- I agree to pay a \$50 construction inspection fee. Make checks payable to NCDOT. This fee will be reimbursed if application is denied.
- I agree to construct and maintain the driveway(s) or street(s) in a safe manner so as not to interfere with or endanger the public travel.
- I agree to provide during construction proper signs, signal lights, flaggers and other warning devices for the protection of traffic in conformance with the current "Manual on Uniform Traffic Control Devices for Streets and Highways" and Amendments or Supplements thereto. Information as to the above rules and regulations may be obtained from the District Engineer.
- I agree to indemnify and save harmless the North Carolina Department of Transportation from all damages and claims for damage that may arise by reason of this construction.
- I agree that the North Carolina Department of Transportation will assume no responsibility for any damages that may be caused to such facilities, within the highway right-of-way limits, in carrying out its construction.
- I agree to provide a Performance and Indemnity Bond in the amount specified by the Division of Highways for any construction proposed on the State Highway system.
- The granting of this permit is subject to the regulatory powers of the NC Department of Transportation as provided by law and as set forth in the N.C. Policy on Driveways and shall not be construed as a contract access point.
- **I AGREE TO NOTIFY THE DISTRICT ENGINEER WHEN THE PROPOSED WORK BEGINS AND WHEN IT IS COMPLETED.**





SIGNATURES OF APPLICANT

|                            |                                  |           |  |
|----------------------------|----------------------------------|-----------|--|
| PROPERTY OWNER (APPLICANT) |                                  | WITNESS   |  |
| COMPANY                    | NEAL K ROSS                      | NAME      | DAN WORMACK                                  |
| SIGNATURE                  | <i>Neal K Ross</i>               | SIGNATURE | <i>Dan Wormack</i>                           |
| ADDRESS                    | 390 FREEMAN RD<br>WAYNESVILLE NC | ADDRESS   | 1079 OXNER CREEK RD.<br>WAYNESVILLE NC 28786 |
|                            | Phone No. 828 734 2154           |           |  |
| AUTHORIZED AGENT           |                                  | WITNESS   |  |
| COMPANY                    |                                  | NAME      |  |
| SIGNATURE                  |                                  | SIGNATURE |  |
| ADDRESS                    |                                  | ADDRESS   |  |
|                            | Phone No.                        |           |  |

APPROVALS

APPLICATION RECEIVED BY DISTRICT ENGINEER

*Chris Lee R.E.* / *3BS*      *10-4-18*

SIGNATURE      DATE

APPLICATION APPROVED BY LOCAL GOVERNMENTAL AUTHORITY (when required)

\_\_\_\_\_  
SIGNATURE      TITLE      DATE

APPLICATION APPROVED BY DISTRICT ENGINEER

DocuSigned by:  
*[Signature]*      10/15/2018

SIGNATURE      DATE

INSPECTION BY NCDOT

\_\_\_\_\_  
SIGNATURE      TITLE      DATE

COMMENTS:

\* No storm water shall be discharged onto SR-1147 (Allens Creek Rd.).



TOWN OF WAYNESVILLE
Development Services Department
PO Box 100
9 South Main Street, Suite 110
Waynesville, NC 28786
Phone (828) 456-8647 • Fax (828) 452-1492
www.waynesvillenc.gov

APPLICATION FOR MAJOR SUBDIVISION PLAN

DESCRIPTION OF PROPERTY

PROPERTY OWNER(S) OF RECORD: Browning Branch, LLC
PARENT PARCEL IDENTIFICATION NUMBER(S): 8604-94-0656
PROPERTY LOCATION: Off Buchanan DR / Allen's Creek Road
ZONING: ACNR
LAND USE AT TIME OF APPLICATION: Openland
APPLICANT (IF DIFFERENT FROM OWNER):
Note: Authorization to apply form must be submitted with the application if applicant is different from owner.
MAILING ADDRESS: 4365 Arnold Ave. Naples, FL. 34104
PHONE NUMBER: 239-777-4160
RELATIONSHIP TO PROPERTY OWNER: Member Manager

DESCRIPTION OF PROJECT

NUMBER OF ORIGINAL LOTS: 1 NUMBER OF PROPOSED LOTS: 22
NUMBER OF UNITS/DENSITY: 50 / 7.1 Units per acre

REGISTERED LAND SURVEYOR/DRAWING NUMBER: Mountain Heritage Land Surveying / 2018-199-006-A

APPLICATION COMPLETENESS (See LDS Sections 15.9.2 - 15.9.3): (YES/NO)

ENVIRONMENTAL SURVEY
FLOODPLAIN (SFHA): YES
STEEP SLOPE: (At above 2,900 elev and 25% slope or greater): NO
WETLANDS SHOWN AND SF: YES
NATURAL FEATURES SHOWN: YES

MASTER PLAN
5% CIVIC SPACE ESTABLISHED (Cannot be wetland or buffer): YES
TOWN STANDARD STREETS (incl. landscaping and sidewalk): YES
DRIVEWAY LOCATIONS AND PARKING: YES
UTILITY PLAN (water, sewer, hydrants, power): YES
PERVIOUS/IMPERVIOUS RATIO AND STORMWATER MGT AREAS YES

OTHER INFORMATION / PROJECT DESCRIPTION (attach sheets as necessary):

SIGNATURE OF APPLICANT:

[Handwritten signature]

DATE: 5/8/2019

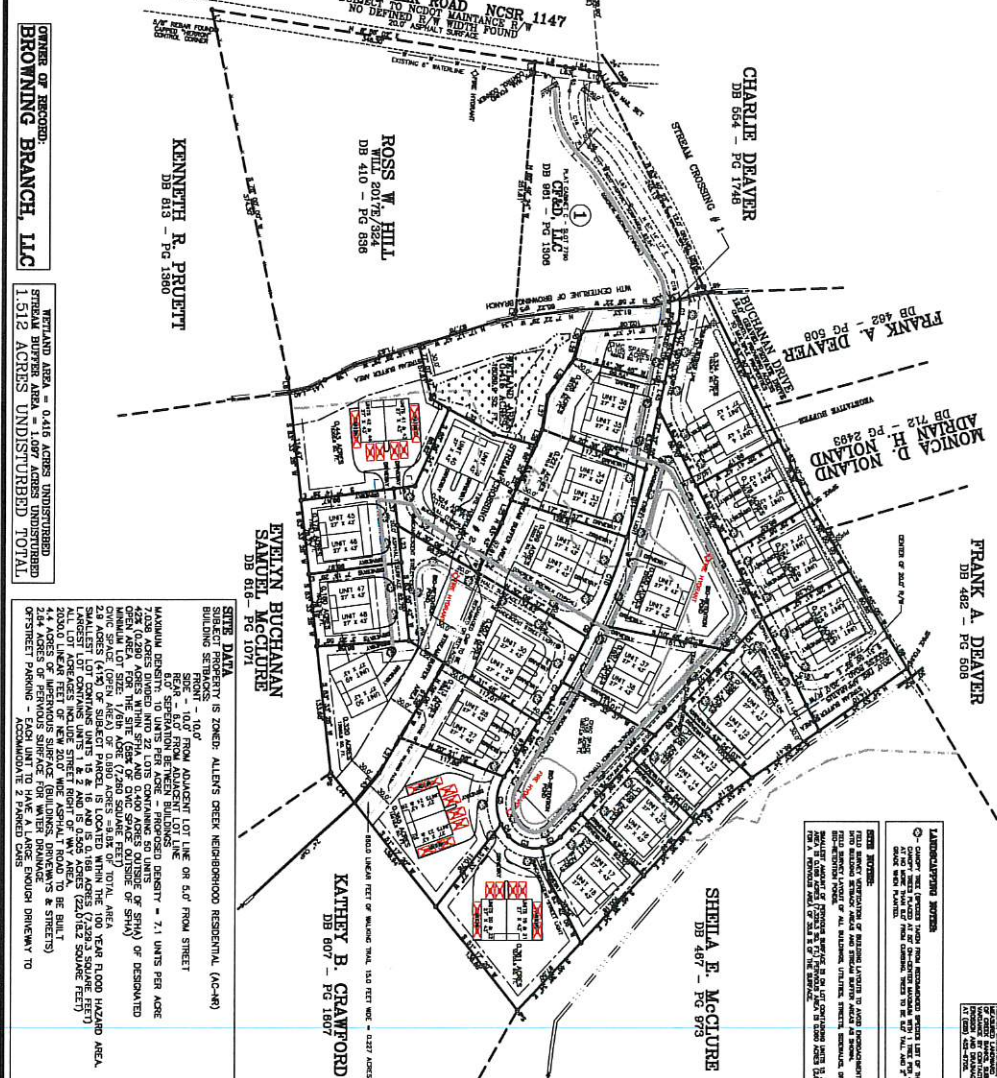
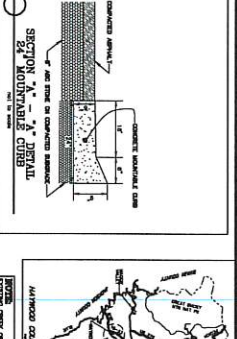
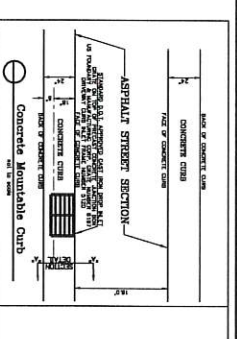
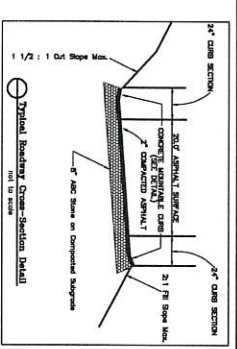
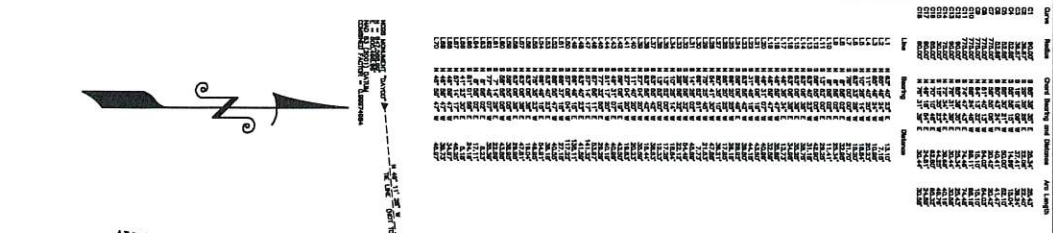
**LEGEND**  
 EIR - Existing Iron Pipe or this  
 ER - Existing Road Right-of-Way  
 CR - Center Line of Road  
 MCH - Manhole  
 P - Pole  
 G - Gas  
 W - Water  
 S - Sewer  
 L - Light  
 T - Telephone  
 C - Cable  
 E - Electric  
 T - Telephone  
 C - Cable  
 E - Electric  
 ...

**NOTES**  
 1. All dimensions and bearings are given in feet and inches.  
 2. The Survey is subject to all applicable ordinances and regulations of any local jurisdiction.  
 3. The Survey is subject to all applicable ordinances and regulations of any local jurisdiction.  
 4. The Survey is subject to all applicable ordinances and regulations of any local jurisdiction.  
 ...

State of North Carolina, County of Haywood  
 I, \_\_\_\_\_, Surveyor  
 do hereby certify that the map or plat to which this  
 certification is annexed meets all statutory requirements for recording.  
 Registered Professional Engineer  
 No. \_\_\_\_\_  
 Haywood County, North Carolina

**TYPE OF SURVEY PERFORMED**  
 ( ) This survey is a boundary survey of a tract of land.  
 ( ) This survey is a subdivision survey of a tract of land.  
 ( ) This survey is a location survey of a tract of land.  
 ( ) This survey is a condemnation survey of a tract of land.  
 ( ) This survey is a zoning map.  
 ( ) This survey is a site plan.

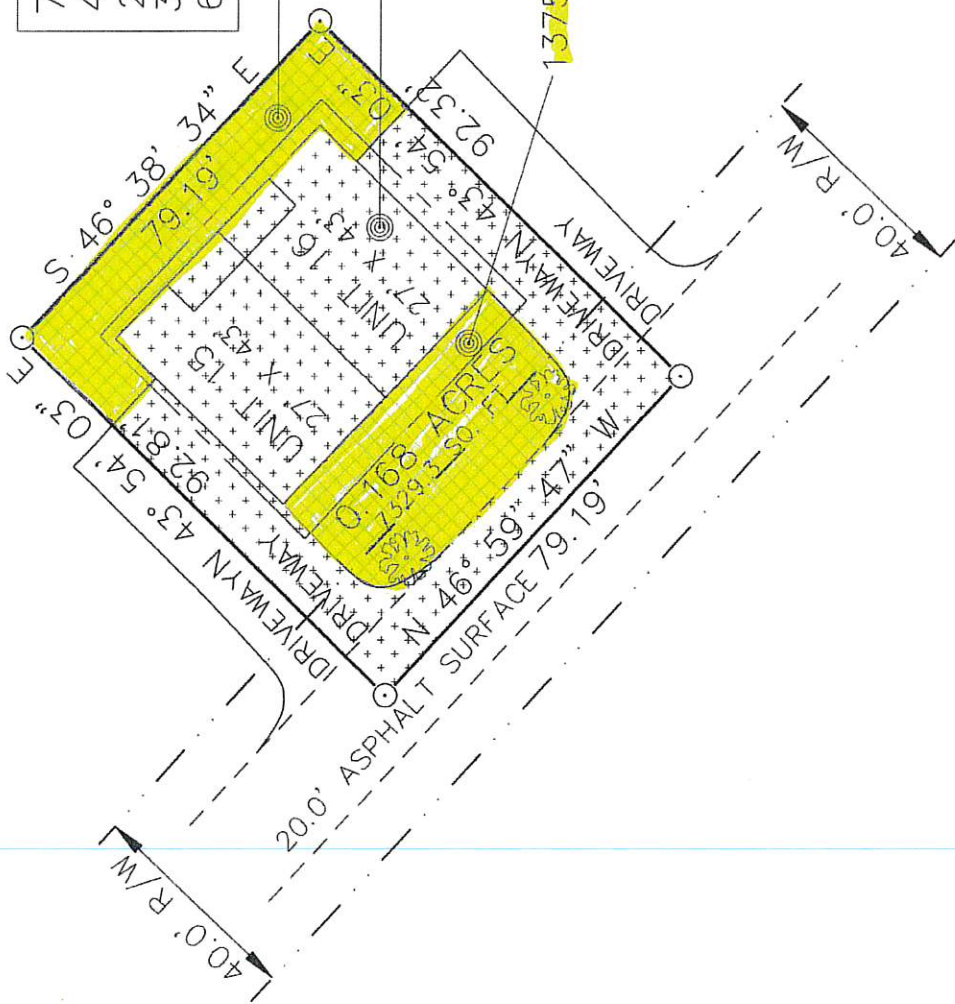
**PROFESSIONAL LIABILITY INSURANCE**  
 License Number: 3-3271  
 NORTH CAROLINA  
 STATE BOARD OF SURVEYING AND MAPPING  
 L-3071  
 SURVEYOR  
 C. M. BROWN



**LANDSCAPING NOTES**  
 1. THE OWNER SHALL BE RESPONSIBLE FOR THE LANDSCAPING OF THE SITE.  
 2. THE LANDSCAPING SHALL BE DONE IN ACCORDANCE WITH THE LOCAL ORDINANCES.  
 3. THE LANDSCAPING SHALL BE DONE WITHIN THE SPECIFIED TIME FRAME.

**SITE DATA**  
 SUBJECT PROPERTY IS ZONED: ALLEYS CREEK NEIGHBORHOOD RESIDENTIAL (AC-NR)  
 BUILDING SETBACK FRONT - 10'-0"  
 SIDE - 10'-0" FROM ADJACENT LOT LINE OR SIDE FROM STREET  
 REAR - 10'-0" FROM STREET  
 ...

7329.3 SQ. FT. TOTAL AREA  
 4698.8 SQ. FT. IMPERVIOUS AREA  
 2630.5 SQ. FT. PERVIOUS AREA  
 35.9% OF THE LOT IS PERVIOUS AREA  
 64.1% OF THE LOT IS IMPERVIOUS AREA



1255.2 SQ. FT. PERVIOUS AREA

4698.8 SQ. FT. IMPERVIOUS AREA

1375.3 SQ. FT. PERVIOUS AREA



**CERTIFICATE OF PLAT APPROVAL**

**DESCRIPTION OF PROPERTY**

PROPERTY OWNER(S) OF RECORD: Browning Branch, LLC.  
PARENT PARCEL IDENTIFICATION NUMBER(S): 8604-94-0656  
PROPERTY LOCATION: Buchanan Dr. / Allens Creek Rd.  
REGISTERED LAND SURVEYOR/DRAWING NUMBER: Mountain Heritage Land Surveying  
ZONING: AC-NR

**TYPE OF PLAT**

- MAJOR SUBDIVISION, FINAL PLAT APPROVAL DATE: \_\_\_\_\_
- MINOR SUBDIVISION, FINAL PLAT APPROVAL DATE: \_\_\_\_\_
- COMBINATION OR RECOMBINATION OF RECORDED LOTS
- PARCELS GREATER THAN 10 ACRES, WITH NO STREET(S) REQUIRED
- PUBLIC ACQUISITION OF LAND FOR STREET(S)
- 2 ACRES OR LESS DIVIDED INTO NOT MORE THAN 3 LOTS
- CONVEYANCE TO LINEAL DESCENDANTS, AS LISTED: \_\_\_\_\_
- OTHER: \_\_\_\_\_

**APPLICANT INFORMATION**

NAME(S): Greg Wishart  
MAILING ADDRESS: P.O. Box 23, Clyde, NC 28721  
PHONE NUMBER: 828-646-1470  
RELATIONSHIP TO PROPERTY OWNER: Project Supervisor

**APPROVED BY:**

\_\_\_\_\_  
PLANNING DIRECTOR

DATE: \_\_\_\_\_

Greg Wishart  
125 Wild Cherry Drive  
Clyde, NC 28721

June 7, 2018

Re: Browning Branch Major Subdivision Application for Planning Board Meeting June 18, 2018

My name is Greg Wishart, I reside at 125 Wild Cherry Drive, Clyde, NC. 28721. I have been a property owner in Haywood County since 1999 and a full-time resident since 2005, when I obtained my building and real estate licenses. My roots here go back even further, though, as my grandfather and his brothers were raised in the area, attending Asheville High School in the 1930s. I consider this area my permanent home. I currently own five acres in Clyde, where my family and I reside. I also have several rental homes and duplexes on the property. Several years of working with tenants has educated me on the need for more quality housing in this area, which is why I am here.

I am a project manager for Browning Branch LLC, a corporation formed by Florida resident Marek Hevier, who works there as a building contractor. He has been a property owner in Haywood County for about five years, which included a home in the Rabbits Ridge development. Marek plans on retiring in Waynesville within 10 years. He formed Browning Branch LLC. to invest in and manage real estate in this area, beginning with a development on Buchanan Drive in the Allen's Creek area. Marek is dedicated to growing a strong, long-lasting business that will add value to the local housing market.

The Browning Branch Subdivision will consist of 26 duplexes on 7.04 acres that will feature 52 handicap-accessible rental units. This is below the maximum allowable 10 units per acre. Each unit will feature 2 bedrooms and 2 baths in 1,064 square feet of heated space. Each building will be separated by at least 20 feet. We anticipate charging an average of \$1,000 a month for rent, with minimum 12-month leases.

We have been working with the Town Water and sewer Department and the site features a 6-inch water line that will service the development. The Town's capacity analysis is that the sanitary sewer is adequate for the number of proposed units.

The roads will be 20 feet wide, within a 40' right-of-way and meet the Town of Waynesville's standards to meet all fire and safety standards. There will be three fire hydrants throughout the site, with all buildings situated within 400 feet of each per Waynesville requirements.

Browning Branch has conducted the wetlands determination in conjunction with Equinox Environmental and the US Army Corp of Engineers. The amount of wetlands is .41 acres, which will not be disturbed by construction. The Jurisdictional determination by the US Army Corp of Engineers was completed March 7, 2018; the action ID # is SAW-2018-00368.

The project includes two creek crossings, one at the entrance to the development and the other spanning a small branch. The entry bridge will be a bottomless arch bridge; the other will be a culvert / reinforced concrete pipe, although it will replace a collapsed culvert that is currently impeding water flow. David Brown of the US Army Corp of Engineers sees no problem with replacing the culvert since it will improve the flow of the branch.

A portion of the property is in the 100 year flood plain, with 12 of the 26 buildings partially or wholly included in the plain. Construction within the floodplain zone will comply with the appropriate state and federal officials, to ensure these areas are developed properly.

The development will add impervious surface to 60% of the total site and leave 40% as impervious with either open space, yards, wetlands, and stream buffer. Stormwater run-off will be captured and treated according to the Town standards by a combination of Bio retention ponds as part of a holistic, engineered storm water plan.

We believe this proposed project will not only add quality housing units to an area that needs them, but will attract young professionals working in critical areas such as public safety and education looking for good schools, shopping, restaurants, and an easy commute to Asheville. The corporation's goal is to help grow the area housing market while seeing a reasonable long-term interest .

We've spent the last six months researching the feasibility of this project, gathering thoughts and suggestions from a variety of sources – including surveyors and engineers, and meeting with the Town of Waynesville staff. We believe this is a win/win project for everyone involved and appreciate your consideration.

MADE ON PROPERTY RECORD

BK 0481 PG 2103

Date 9/14/00  
By [Signature]

Book Page  
481 2103  
FILED  
WAYWOOD COUNTY NC  
09/14/2000 11:45 AM  
AMY R. MURRAY  
Register Of Deeds

Excise Tax -0-

Recording Time, Book and Page

11910

Tax Lot No. .... Parcel Identifier No. ....  
Verified by ..... County on the ..... day of .....  
by .....

Mail after recording to T. Michael Jordan, 154 N. Main Street, Suite 1, Waynesville, NC 28786

This instrument was prepared by T. Michael Jordan, Attorney

Brief description for the Index  TITLE NOT SEARCHED BY PREPARER

### NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED made this 11th day of September, 2000, by and between

GRANTOR

GRANTEE

FAYE MAXINE BUCHANAN ROSS, a/k/a  
FAY MAXINE BUCHANAN ROSS and husband,  
JAMES DEWEY ROSS

NEAL K. ROSS  
390 Freeman Road  
Waynesville, NC 28786

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g. corporation or partnership.

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

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

See Schedule "A" attached and incorporated herein by reference.

2103



The property hereinabove described was acquired by Grantor by instrument recorded in .....

A map showing the above described property is recorded in Plat Book ..... page.....

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

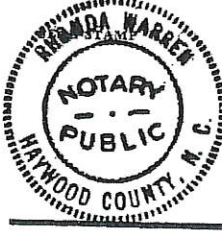
And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated. Title to the property hereinabove described is subject to the following exceptions:

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

By: \_\_\_\_\_  
 \_\_\_\_\_ President  
 ATTEST: \_\_\_\_\_  
 \_\_\_\_\_ Secretary (Corporate Seal)

*Faye Maxine Buchanan Ross* (SEAL)  
 Faye Maxine Buchanan Ross  
*Faye Maxine Buchanan Ross* (SEAL)  
 Faye Maxine Buchanan Ross  
*James Dewey Ross* (SEAL)  
 James Dewey Ross  
 \_\_\_\_\_ (SEAL)

USE BLACK INK ONLY



NORTH CAROLINA, Haywood County.  
 I, a Notary Public of the County and State aforesaid, certify that FAYE MAXINE BUCHANAN ROSS, a/k/a...  
FAYE MAXINE BUCHANAN ROSS and husband, JAMES DEWEY ROSS Grantor,  
 personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my  
 hand and official stamp or seal, this 11th day of September, 2000.  
 My commission expires: 6/22/2002 Rhonda Warren Notary Public

SEAL-STAMP NORTH CAROLINA, \_\_\_\_\_ County.  
 I, a Notary Public of the County and State aforesaid, certify that \_\_\_\_\_  
 personally came before me this day and acknowledged that \_\_\_\_\_ he is \_\_\_\_\_ Secretary of  
 \_\_\_\_\_ a North Carolina corporation, and that by authority duly  
 given and as the act of the corporation, the foregoing instrument was signed in its name by its \_\_\_\_\_  
 President, sealed with its corporate seal and attested by \_\_\_\_\_ as its \_\_\_\_\_ Secretary.  
 Witness my hand and official stamp or seal, this \_\_\_\_\_ day of \_\_\_\_\_  
 My commission expires: \_\_\_\_\_ Notary Public

The foregoing Certificate(s) of Rhonda Warren  
 is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the  
 first page hereof.  
 \_\_\_\_\_ REGISTER OF DEEDS FOR Haywood COUNTY  
 By Jackie F. Panis Deputy ~~Assistant~~ Register of Deeds

SCHEDULE A

BEING No. 3 of the Walter Buchanan Farm, containing 10.08 acres, as shown and described on a plat of survey by Gibson Land Surveying, dated October 29, 1982, and found of record in Plat Cabinet A, Slot 192-A, in the Office of the Register of Deeds of Haywood County, to which recorded plat of survey reference is hereby made for more complete and particular description thereof.

"The owners of Lot No. 3 shall have reserved unto them and are hereby granted the right of a permanent easement to make equal use of the present Buchanan farm road along with the owners of Lots Nos. 1, 2 and 4, provided, however, that they shall bear their fair share of the maintenance and upkeep of said road."

**Saving and excepting**, however, from the land above described that part thereof which shall remain vested in Grantors as their sole and separate property, to-wit:

According to a plat of survey by J. Randy Herron, PLS, dated July 31, 2000, drawing no. 711-27-A, and from said plat of survey being more particularly described as follows:

Beginning on a point located in the centerline of Allens Creek Road, N. C. S. R. 1147, being the southwest corner of Deed Book 410, page 836 and the northwest corner of Ruby L. Bumgarner (Deed Book 310, page 232), said beginning point bearing S. 78 deg. 53 min. 46 sec. W. 21.70 feet from an iron pin set in a fence; thence runs with the centerline of said Allens Creek Road the following courses and distances: N. 09 deg. 56 min. 28 sec. E. 102.54 feet; N. 10 deg. 09 min. 54 sec. E. 105.03 feet; N. 10 deg. 07 min. 02 sec. E. 73.64 feet; N. 10 deg. 08 min. 17 sec. E. 52.99 feet; N. 10 deg. 09 min. 19 sec. E. 14.08 feet to a point located in the centerline of said public road; thence leaving said public road runs with a new divisional line of the land of Grantors (Deed Book 410, page 836) the following courses and distances: S. 84 deg. 39 min. 37 sec. E., passing a set iron pin (control corner) at 11.24 feet, and a set iron pin (control corner) at 262.85 feet, a whole distance of 270.00 feet to a point located in the center of a 4-foot branch; thence runs with the center of and meanders of said branch and continuing with the new divisional line of the land of Grantors, the following courses and distances: S. 09 deg. 18 min. 27 sec. E. 18.84 feet; S. 16 deg. 07 min. 55 sec. E. 87.75 feet; S. 15 deg. 16 min. 42 sec. E. 71.83 feet; S. 25 deg. 54 min. 33 sec. E. 55.42 feet; S. 10 deg. 30 min. 33 sec. E. 18.86 feet; thence leaving said branch runs along or near a fence line the following courses and distances: S. 79 deg. 28 min. 44 sec. W. 19.39 feet; S. 79 deg. 28 min. 44 sec. W. 83.71 feet; S. 79 deg. 21 min. 32 sec. W. 77.13 feet; S. 79 deg. 14 min. 03 sec. W. 39.54 feet; S. 78 deg. 58 min. 12 sec. W. 91.40 feet; S. 78 deg. 53 min. 46 sec. W. 78.27 feet; thence S. 78 deg. 53 min. 46 sec. W. 21.70 feet to the point of Beginning, containing 2.235 acres.

This deed creates a family subdivision and is exempted from the provisions of the Haywood County Predevelopment Ordinance. Septic tank suitability evaluations may not have been performed on these lots.

U.S. ARMY CORPS OF ENGINEERS  
WILMINGTON DISTRICT

Action ID: SAW-2018-00368 County: Haywood U.S.G.S. Quad: Hazelwood

NOTIFICATION OF JURISDICTIONAL DETERMINATION

Property Owner: Neal Ross  
Address: 955 Allens Creek Road  
Waynesville, NC 28785  
Telephone Number: 828-734-2154

Size (acres): 7.04 Nearest Town: Waynesville  
Nearest Waterway: UT Browning Branch and  
Browning Branch Coordinates: 35.45526 N, 83.00066 W  
River Basin/ HUC: Pigeon (06010106)

Location description: The project site is located on a tract of land (PIN 8604-94-0656) along the south side of Buchanan Drive approximately 400 feet east of the intersection of Allens Creek Road and Buchanan Drive in Waynesville, Haywood County, North Carolina.

Indicate Which of the Following Apply:

**A. Preliminary Determination**

- There are waters, including wetlands, on the above described project area, that may be subject to Section 404 of the Clean Water Act (CWA)(33 USC § 1344) and/or Section 10 of the Rivers and Harbors Act (RHA) (33 USC § 403). The waters, including wetlands, have been delineated, and the delineation has been verified by the Corps to be sufficiently accurate and reliable. Therefore this preliminary jurisdiction determination may be used in the permit evaluation process, including determining compensatory mitigation. For purposes of computation of impacts, compensatory mitigation requirements, and other resource protection measures, a permit decision made on the basis of a preliminary JD will treat all waters and wetlands that would be affected in any way by the permitted activity on the site as if they are jurisdictional waters of the U.S. This preliminary determination is not an appealable action under the Regulatory Program Administrative Appeal Process (Reference 33 CFR Part 331). However, you may request an approved JD, which is an appealable action, by contacting the Corps district for further instruction.
- There are wetlands on the above described property, that may be subject to Section 404 of the Clean Water Act (CWA)(33 USC § 1344) and/or Section 10 of the Rivers and Harbors Act (RHA) (33 USC § 403). However, since the waters, including wetlands, have not been properly delineated, this preliminary jurisdiction determination may not be used in the permit evaluation process. Without a verified wetland delineation, this preliminary determination is merely an effective presumption of CWA/RHA jurisdiction over all of the waters, including wetlands, at the project area, which is not sufficiently accurate and reliable to support an enforceable permit decision. We recommend that you have the waters of the U.S. on your property delineated. As the Corps may not be able to accomplish this wetland delineation in a timely manner, you may wish to obtain a consultant to conduct a delineation that can be verified by the Corps.

**B. Approved Determination**

- There are Navigable Waters of the United States within the above described property subject to the permit requirements of Section 10 of the Rivers and Harbors Act (RHA) (33 USC § 403) and Section 404 of the Clean Water Act (CWA)(33 USC § 1344). Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.
- There are waters of the U.S. including wetlands on the above described property subject to the permit requirements of Section 404 of the Clean Water Act (CWA)(33 USC § 1344). Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.
- We recommend you have the waters of the U.S. on your property delineated. As the Corps may not be able to accomplish this wetland delineation in a timely manner, you may wish to obtain a consultant to conduct a delineation that can be verified by the Corps.
- The waters of the U.S. including wetlands on your property have been delineated and the delineation has been verified by the Corps. If you wish to have the delineation surveyed, the Corps can review and verify the survey upon completion. Once verified, this survey will provide an accurate depiction of all areas subject to CWA and/or RHA jurisdiction on your

property which, provided there is no change in the law or our published regulations, may be relied upon for a period not to exceed five years.

The waters of the U.S. including wetlands have been delineated and surveyed and are accurately depicted on the plat signed by the Corps Regulatory Official identified below on \_\_\_\_\_. Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.

- There are no waters of the U.S., to include wetlands, present on the above described project area which are subject to the permit requirements of Section 404 of the Clean Water Act (33 USC 1344). Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.
- The property is located in one of the 20 Coastal Counties subject to regulation under the Coastal Area Management Act (CAMA). You should contact the Division of Coastal Management to determine their requirements.

Placement of dredged or fill material within waters of the US and/or wetlands without a Department of the Army permit may constitute a violation of Section 301 of the Clean Water Act (33 USC § 1311). Placement of dredged or fill material, construction or placement of structures, or work within navigable waters of the United States without a Department of the Army permit may constitute a violation of Sections 9 and/or 10 of the Rivers and Harbors Act (33 USC § 401 and/or 403). If you have any questions regarding this determination and/or the Corps regulatory program, please contact David Brown at 828-271-7980, ext. 4232 or david.w.brown@usace.army.mil.

**C. Basis for Determination:**

See attached approved jurisdictional determination form.

**D. Remarks:**

The waters of the U.S., at this site, were verified on-site by the Corps on March 6, 2018, and are as approximately depicted on the attached Resources Delineation Map Buchanan Drive Site – Stream and Wetland Determination/Delineation submitted by Equinox. UT-2, noted on the figure, is not within the property boundaries and is located on the adjoining property to the east.

**E. Attention USDA Program Participants**

This delineation/determination has been conducted to identify the limits of Corps' Clean Water Act jurisdiction for the particular site identified in this request. The delineation/determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985. If you or your tenant are USDA Program participants, or anticipate participation in USDA programs, you should request a certified wetland determination from the local office of the Natural Resources Conservation Service, prior to starting work.

**F. Appeals Information (This information applies only to approved jurisdictional determinations as indicated in B. above)**

This correspondence constitutes an approved jurisdictional determination for the above described site. If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Enclosed you will find a Notification of Appeal Process (NAP) fact sheet and request for appeal (RFA) form. If you request to appeal this determination you must submit a completed RFA form to the following address:

US Army Corps of Engineers  
South Atlantic Division  
Attn: Jason Steele, Review Officer  
60 Forsyth Street SW, Room 10M15  
Atlanta, Georgia 30303-8801

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by May 6, 2018.

\*\*It is not necessary to submit an RFA form to the Division Office if you do not object to the determination in this correspondence.\*\*

Corps Regulatory Official:   
David Brown

Issue Date of JD: March 7, 2018                      Expiration Date: Five years from *Issue Date*

The Wilmington District is committed to providing the highest level of support to the public. To help us ensure we continue to do so, please complete our Customer Satisfaction Survey, located online at [http://corpsmapu.usace.army.mil/cm\\_apex/f?p=136:4:0](http://corpsmapu.usace.army.mil/cm_apex/f?p=136:4:0).

Copy furnished:  
Equinox Environmental, Owen Carson, 37 Haywood Street, Suite 100, Asheville, NC 28801



**RESOURCES DELINEATION MAP**  
**BUCHANAN DRIVE SITE - STREAM & WETLAND DETERMINATION / DELINEATION**



- ▭ Subject Parcel
- ▭ Parcels
- ▭ Wetland Area
- ~ Delineated Stream
- ~ LIDAR Streams
- ~ Streets
- Upland Datapoint
- Wetland Datapoint

**NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND  
REQUEST FOR APPEAL**

|                                     |  |                                    |                            |
|-------------------------------------|--|------------------------------------|----------------------------|
| Applicant: <b>Neal Ross</b>         |  | File Number: <b>SAW-2018-00368</b> | Date: <b>March 7, 2018</b> |
| Attached is:                        |  | See Section below                  |                            |
| <input type="checkbox"/>            | INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission) | A                                  |                            |
| <input type="checkbox"/>            | PROFFERED PERMIT (Standard Permit or Letter of permission)         | B                                  |                            |
| <input type="checkbox"/>            | PERMIT DENIAL  | C                                  |                            |
| <input checked="" type="checkbox"/> | APPROVED JURISDICTIONAL DETERMINATION                              | D                                  |                            |
| <input type="checkbox"/>            | PRELIMINARY JURISDICTIONAL DETERMINATION                           | E                                  |                            |

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits.aspx> or Corps regulations at 33 CFR Part 331.

**A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.**

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

**B: PROFFERED PERMIT: You may accept or appeal the permit**

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**C: PERMIT DENIAL:** You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**D: APPROVED JURISDICTIONAL DETERMINATION:** You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the district engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

**SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT**

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

**POINT OF CONTACT FOR QUESTIONS OR INFORMATION:**

If you have questions regarding this decision and/or the appeal process you may contact:  
**District Engineer, Wilmington Regulatory Division,**  
Attn: David Brown  
151 Patton Avenue, Room 208  
Asheville, North Carolina 28801-5006  
828-271-7980, ext. 4232

If you only have questions regarding the appeal process you may also contact:  
Mr. Jason Steele, Administrative Appeal Review Officer  
CESAD-PDO  
U.S. Army Corps of Engineers, South Atlantic Division  
60 Forsyth Street, Room 10M15  
Atlanta, Georgia 30303-8801  
Phone: (404) 562-5137

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

|   |       |                   |
|---|-------|-------------------|
| _____<br>Signature of appellant or agent. | Date: | Telephone number: |
|---|-------|-------------------|

For appeals on Initial Proffered Permits send this form to:

District Engineer, Wilmington Regulatory Division, Attn.: David Brown, 69 Darlington Avenue, Wilmington, North Carolina 28403

For Permit denials, Proffered Permits and approved Jurisdictional Determinations send this form to:

Division Engineer, Commander, U.S. Army Engineer Division, South Atlantic, Attn: Mr. Jason Steele, Administrative Appeal Officer, CESAD-PDO, 60 Forsyth Street, Room 10M15, Atlanta, Georgia 30303-8801  
Phone: (404) 562-5137



APPROVED JURISDICTIONAL DETERMINATION FORM  
U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

**SECTION I: BACKGROUND INFORMATION**

**A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD):** March 7, 2018

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER:** CESAW-RG-A, SAW-2018-00368, Buchanan Drive Development

**C. PROJECT LOCATION AND BACKGROUND INFORMATION:**

State: NC County/parish/borough: Haywood City: Waynesville  
Center coordinates of site (lat/long in degree decimal format): Latitude & Longitude in Decimal Degrees: 35.45526 N, 83.00066 W  
Universal Transverse Mercator:

Name of nearest waterbody: **UT Browning Branch and Browning Branch**

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: **Pigeon River**

Name of watershed or Hydrologic Unit Code (HUC): **Pigeon (06010106)**

Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.

Check if other sites (e.g., offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

**D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):**

Office (Desk) Determination. Date: **March 6, 2018**

Field Determination. Date(s): **March 7, 2018**

**SECTION II: SUMMARY OF FINDINGS**

**A. RHA SECTION 10 DETERMINATION OF JURISDICTION.**

There **Are no** "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [Required]

Waters subject to the ebb and flow of the tide.

Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

Explain:

**B. CWA SECTION 404 DETERMINATION OF JURISDICTION.**

There **Are** "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [Required]

**1. Waters of the U.S.**

**a. Indicate presence of waters of U.S. in review area (check all that apply):<sup>1</sup>**

TNWs, including territorial seas

Wetlands adjacent to TNWs

Relatively permanent waters<sup>2</sup> (RPWs) that flow directly or indirectly into TNWs

Non-RPWs that flow directly or indirectly into TNWs

Wetlands directly abutting RPWs that flow directly or indirectly into TNWs

Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs

Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs

Impoundments of jurisdictional waters

Isolated (interstate or intrastate) waters, including isolated wetlands

**b. Identify (estimate) size of waters of the U.S. in the review area:**

Non-wetland waters: **1,081** linear feet: 3-15 width (ft) and/or acres.

Wetlands: **0.015** acres.

**c. Limits (boundaries) of jurisdiction based on: 1987 Delineation Manual**

Elevation of established OHWM (if known)

**2. Non-regulated waters/wetlands (check if applicable):<sup>3</sup>**

Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.

Explain:

<sup>1</sup> Boxes checked below shall be supported by completing the appropriate sections in Section III below.

<sup>2</sup> For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).

<sup>3</sup> Supporting documentation is presented in Section III.F.

**SECTION III: CWA ANALYSIS**

**A. TNWs AND WETLANDS ADJACENT TO TNWs**

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

- 1. TNW  
Identify TNW: \_\_\_\_\_  
Summarize rationale supporting determination: \_\_\_\_\_
- 2. Wetland adjacent to TNW  
Summarize rationale supporting conclusion that wetland is "adjacent": \_\_\_\_\_

**B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):**

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under *Rapanos* have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are "relatively permanent waters" (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody<sup>4</sup> is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

**1. Characteristics of non-TNWs that flow directly or indirectly into TNW**

**(i) General Area Conditions:**

- Watershed size: Pick List
- Drainage area: Pick List
- Average annual rainfall: \_\_\_\_\_ inches
- Average annual snowfall: \_\_\_\_\_ inches

**(ii) Physical Characteristics:**

**(a) Relationship with TNW:**

- Tributary flows directly into TNW.
- Tributary flows through Pick List tributaries before entering TNW.

- Project waters are Pick List river miles from TNW.
- Project waters are Pick List river miles from RPW.
- Project waters are Pick List aerial (straight) miles from TNW.
- Project waters are Pick List aerial (straight) miles from RPW.
- Project waters cross or serve as state boundaries. Explain: \_\_\_\_\_

Identify flow route to TNW<sup>5</sup>: \_\_\_\_\_  
Tributary stream order, if known: \_\_\_\_\_

**(b) General Tributary Characteristics (check all that apply):**

Tributary is:  Natural

<sup>4</sup> Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

<sup>5</sup> Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

- Artificial (man-made). Explain:
- Manipulated (man-altered). Explain:

**Tributary properties with respect to top of bank (estimate):**

Average width:        feet  
 Average depth:       feet  
 Average side slopes: Pick List.

**Primary tributary substrate composition (check all that apply):**

- |  |  |                                   |
|--|--|-----------------------------------|
| <input type="checkbox"/> Silts           | <input type="checkbox"/> Sands                     | <input type="checkbox"/> Concrete |
| <input type="checkbox"/> Cobbles         | <input type="checkbox"/> Gravel                    | <input type="checkbox"/> Muck     |
| <input type="checkbox"/> Bedrock         | <input type="checkbox"/> Vegetation. Type/% cover: |                                   |
| <input type="checkbox"/> Other. Explain: |  |                                   |

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain:

Presence of run/riffle/pool complexes. Explain:

Tributary geometry: Pick List

Tributary gradient (approximate average slope):        %

**(c) Flow:**

Tributary provides for: Pick List

Estimate average number of flow events in review area/year: Pick List

Describe flow regime:

Other information on duration and volume:

Surface flow is: Pick List. Characteristics:

Subsurface flow: Pick List. Explain findings:

- Dye (or other) test performed:

**Tributary has (check all that apply):**

- Bed and banks
- OHWM<sup>6</sup> (check all indicators that apply):
 

|  |   |
|--|---|
| <input type="checkbox"/> clear, natural line impressed on the bank | <input type="checkbox"/> the presence of litter and debris          |
| <input type="checkbox"/> changes in the character of soil          | <input type="checkbox"/> destruction of terrestrial vegetation      |
| <input type="checkbox"/> shelving                                  | <input type="checkbox"/> the presence of wrack line                 |
| <input type="checkbox"/> vegetation matted down, bent, or absent   | <input type="checkbox"/> sediment sorting                           |
| <input type="checkbox"/> leaf litter disturbed or washed away      | <input type="checkbox"/> scour                                      |
| <input type="checkbox"/> sediment deposition                       | <input type="checkbox"/> multiple observed or predicted flow events |
| <input type="checkbox"/> water staining                            | <input type="checkbox"/> abrupt change in plant community           |
| <input type="checkbox"/> other (list):                             |   |
- Discontinuous OHWM.<sup>7</sup> Explain:

**If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):**

- |  |  |
|--|--|
| <input type="checkbox"/> High Tide Line indicated by:              | <input type="checkbox"/> Mean High Water Mark indicated by:            |
| <input type="checkbox"/> oil or scum line along shore objects      | <input type="checkbox"/> survey to available datum;                    |
| <input type="checkbox"/> fine shell or debris deposits (foreshore) | <input type="checkbox"/> physical markings;                            |
| <input type="checkbox"/> physical markings/characteristics         | <input type="checkbox"/> vegetation lines/changes in vegetation types. |
| <input type="checkbox"/> tidal gauges                              |  |
| <input type="checkbox"/> other (list):                             |  |

**(iii) Chemical Characteristics:**

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).

Explain:

Identify specific pollutants, if known:

**(iv) Biological Characteristics. Channel supports (check all that apply):**

- Riparian corridor. Characteristics (type, average width):
- Wetland fringe. Characteristics:
  - Habitat for:
  - Federally Listed species. Explain findings:

<sup>6</sup>A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.

<sup>7</sup>Ibid.

- Fish/spawn areas. Explain findings:
- Other environmentally-sensitive species. Explain findings:
- Aquatic/wildlife diversity. Explain findings:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics:

Properties:  
 Wetland size: \_\_\_\_\_ acres  
 Wetland type. Explain:  
 Wetland quality. Explain:  
 Project wetlands cross or serve as state boundaries. Explain:

(b) General Flow Relationship with Non-TNW:

Flow is: Pick List. Explain:  
  
 Surface flow is: Pick List  
 Characteristics:  
  
 Subsurface flow: Pick List. Explain findings:  
 Dye (or other) test performed:

(c) Wetland Adjacency Determination with Non-TNW:

- Directly abutting
- Not directly abutting
  - Discrete wetland hydrologic connection. Explain:
  - Ecological connection. Explain:
  - Separated by berm/barrier. Explain:

(d) Proximity (Relationship) to TNW

Project wetlands are Pick List river miles from TNW.  
 Project waters are Pick List aerial (straight) miles from TNW.  
 Flow is from: Pick List.  
 Estimate approximate location of wetland as within the Pick List floodplain.

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain:  
 Identify specific pollutants, if known:

(iii) Biological Characteristics. Wetland supports (check all that apply):

- Riparian buffer. Characteristics (type, average width):
- Vegetation type/percent cover. Explain:
- Habitat for:
  - Federally Listed species. Explain findings:
  - Fish/spawn areas. Explain findings:
  - Other environmentally-sensitive species. Explain findings:
  - Aquatic/wildlife diversity. Explain findings:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in the cumulative analysis: Pick List  
 Approximately ( ) acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

Directly abuts? (Y/N)      Size (in acres)      Directly abuts? (Y/N)      Size (in acres)

Summarize overall biological, chemical and physical functions being performed:

C. SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow

of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Draw connections between the features documented and the effects on the TNW, as identified in the *Rapanos* Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:

1. Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D:
2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:
3. Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):

1. TNWs and Adjacent Wetlands. Check all that apply and provide size estimates in review area:
  - TNWs: linear feet width (ft), Or, acres.
  - Wetlands adjacent to TNWs: acres.

2. RPWs that flow directly or indirectly into TNWs.
  - Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial: **UT Browning Branch and Browning Branch exhibits indicators of ordinary high water marks (OHWM) including developed bed and bank, scour, presence of aquatic life, presence of litter and debris, destruction of terrestrial vegetation, sediment sorting and deposition, and leaf litter washed away. UT Browning Branch and Browning Branch are depicted as a solid blue lines on the USGS 7.5 minute quadrangle map Hazelwood and the most current Natural Resource Conservation Service Soil Survey for Haywood County. Solid blue line features on these mapping conventions typically represent perennial streams. Perennial flow has been observed by Corps representatives during visits to the Waynesville, North Carolina vicinity.**
  - Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally:

Provide estimates for jurisdictional waters in the review area (check all that apply):

- Tributary waters: **1,081** linear feet **3-15** width (ft). **Browning Branch and UT Browning Branch (UT-1)**
  - Other non-wetland waters: acres.
- Identify type(s) of waters:

3. Non-RPW<sup>8</sup> that flow directly or indirectly into TNWs.
  - Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional waters within the review area (check all that apply):

- Tributary waters: linear feet width (ft).
  - Other non-wetland waters: acres.
- Identify type(s) of waters:

<sup>8</sup>See Footnote # 3.

4. Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.

- Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
- Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: **Flows directly into associated tributary. Wetlands are contiguous to RPWs that flow directly or indirectly into TNWs. Wetland hydrology is enhanced with abutting RPWs via normal down gradient flows and periods of high water.**
- Wetlands directly abutting an RPW where tributaries typically flow "seasonally." Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW:

Provide acreage estimates for jurisdictional wetlands in the review area: **0.015** acres.

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.

- Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetlands in the review area:        acres.

6. Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.

- Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional wetlands in the review area:        acres.

7. Impoundments of jurisdictional waters.<sup>9</sup>

As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.

- Demonstrate that impoundment was created from "waters of the U.S.," or
- Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
- Demonstrate that water is isolated with a nexus to commerce (see E below).

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):<sup>10</sup>

- which are or could be used by interstate or foreign travelers for recreational or other purposes.
- from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
- which are or could be used for industrial purposes by industries in interstate commerce.
- Interstate isolated waters. Explain:
- Other factors. Explain:

Identify water body and summarize rationale supporting determination:

Provide estimates for jurisdictional waters in the review area (check all that apply):

- Tributary waters:        linear feet        width (ft).
- Other non-wetland waters:        acres.

Identify type(s) of waters:

- Wetlands:        acres.

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):

- If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
- Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
- Prior to the Jan 2001 Supreme Court decision in "SWANCC," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).
- Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain:
- Other: (explain, if not covered above):

<sup>9</sup> To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

<sup>10</sup> Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

- Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
- Lakes/ponds: acres.
- Other non-wetland waters: acres. List type of aquatic resource: .
- Wetlands: acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):

- Non-wetland waters (i.e., rivers, streams): linear feet, width (ft).
- Lakes/ponds: acres.
- Other non-wetland waters: acres. List type of aquatic resource: .
- Wetlands: acres.

**SECTION IV: DATA SOURCES.**

**A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):**

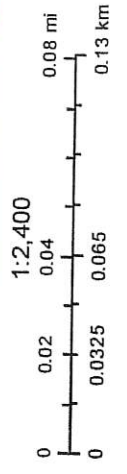
- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: **Equinox Environmental.**
- Data sheets prepared/submitted by or on behalf of the applicant/consultant. **Equinox Environmental.**
  - Office concurs with data sheets/delineation report.
  - Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps:
- Corps navigable waters' study:
- U.S. Geological Survey Hydrologic Atlas:
  - USGS NHD data.
  - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: **Hazelwood.**
- USDA Natural Resources Conservation Service Soil Survey. Citation: **Haywood County, NC**
- National wetlands inventory map(s). Cite name: .
- State/Local wetland inventory map(s): .
- FEMA/FIRM maps: **Map No. 3700860400J, effective date April 3, 2012**
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs:  Aerial (Name & Date): **Google Earth Pro, Nov. 2017, Oct. 2015, Mar. 2013, May 2009, Jun. 2006, Apr. 1998, and Mar. 1995**
  - or  Other (Name & Date): .
- Previous determination(s). File no. and date of response letter: .
- Applicable/supporting case law: .
- Applicable/supporting scientific literature: .
- Other information (please specify): .

**B. ADDITIONAL COMMENTS TO SUPPORT JD:** The stream channels at the property are UT Browning Branch (UT-1) and Browning Branch, both are RPWs. UT Browning Branch flows into Browning Branch, which flows into Richland Creek, and then flows into the Pigeon River, a traditionally navigable water (TNW) and a Section 10 River below Waterville Dam,. The Pigeon River flows into the French Broad River and merges with the Holston River to form the Tennessee River. The Tennessee River drains into the Mississippi River before entering the Gulf of Mexico.

# Haywood County



June 13, 2018





Regulatory Map

Northing: = 646,567, Easting = 807,377

Northing: = 646,567, Easting = 810,846



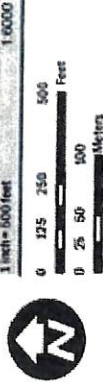
Northing: = 643,098, Easting = 807,377

This is an official copy of a portion of the above referenced flood map. This map incorporates changes or amendments which may have been made subsequent to the date on the title block. For the latest product information about National Flood Insurance Program flood maps check the FEMA Flood Map Store at [www.msc.fema.gov](http://www.msc.fema.gov).

Save PDF



North Carolina State Plane Projection Feet (Zone 3200)  
Datum: NAD 1983 (Horizontal), NAVD 1988 (Vertical)



**FEMA National Flood Insurance Program**

**NATIONAL FLOOD INSURANCE PROGRAM**  
FLOOD INSURANCE RATE MAP  
**NORTH CAROLINA**  
Panel(s):8604,8614

**CONTAINS:**

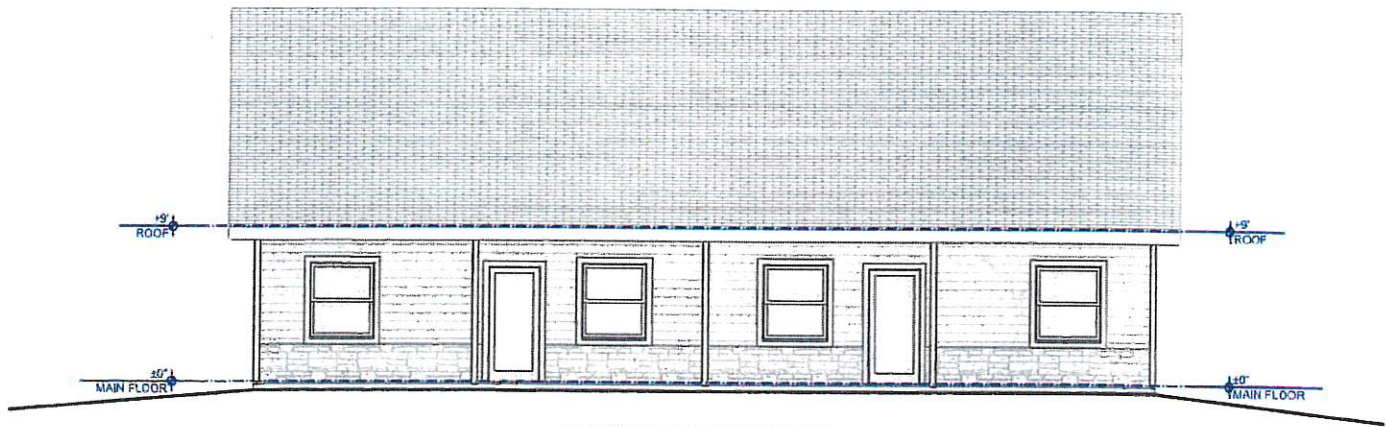
|                     |            |
|---------------------|------------|
| <b>COMMUNITY</b>    | <b>CID</b> |
| TOWN OF WAYNESVILLE | 370124     |

Notice to User: The Map Number(s) shown below should be used when placing map orders; the Community Number(s) shown above should be used on insurance applications for the subject community.

**SELECTED PANELS:**

|                   |                       |
|-------------------|-----------------------|
| <b>MAP NUMBER</b> | <b>EFFECTIVE DATE</b> |
| 37008604001       | 4/3/2012              |
| 37008614001       | 4/3/2012              |

Logos for FEMA and the State of North Carolina are present at the bottom of this section.



**FRONT ELEVATION**

SCALE: 1/8" = 1'-0"



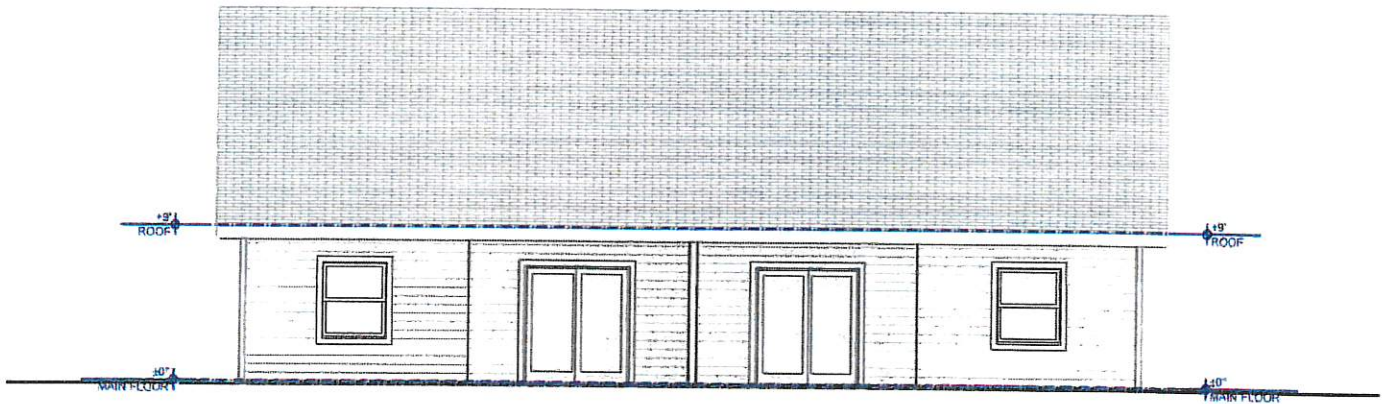
**LEFT ELEVATION**

SCALE: 1/8" = 1'-0"

**GABLE DUPLEX**

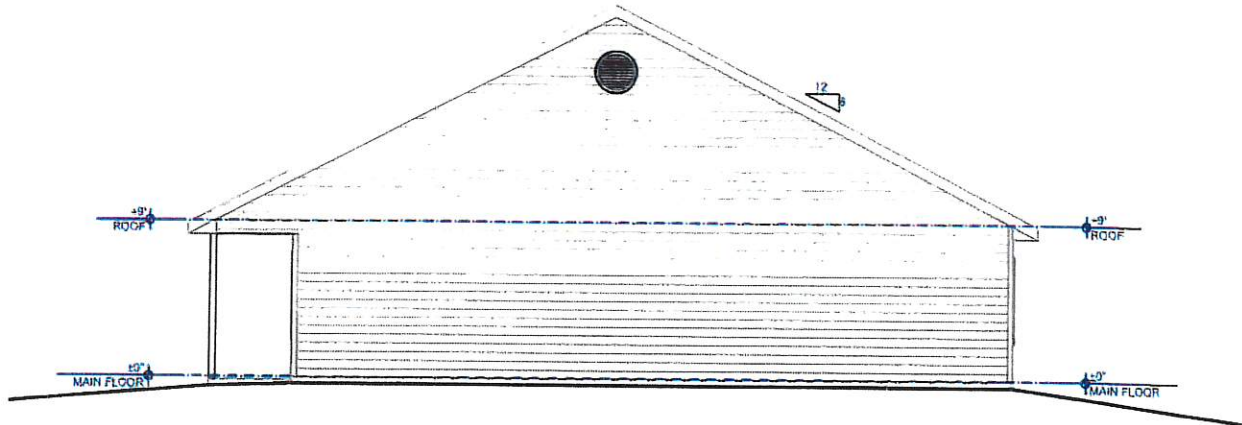
4/21/2018

51



**BACK ELEVATION**

SCALE: 1/8" = 1'-0"

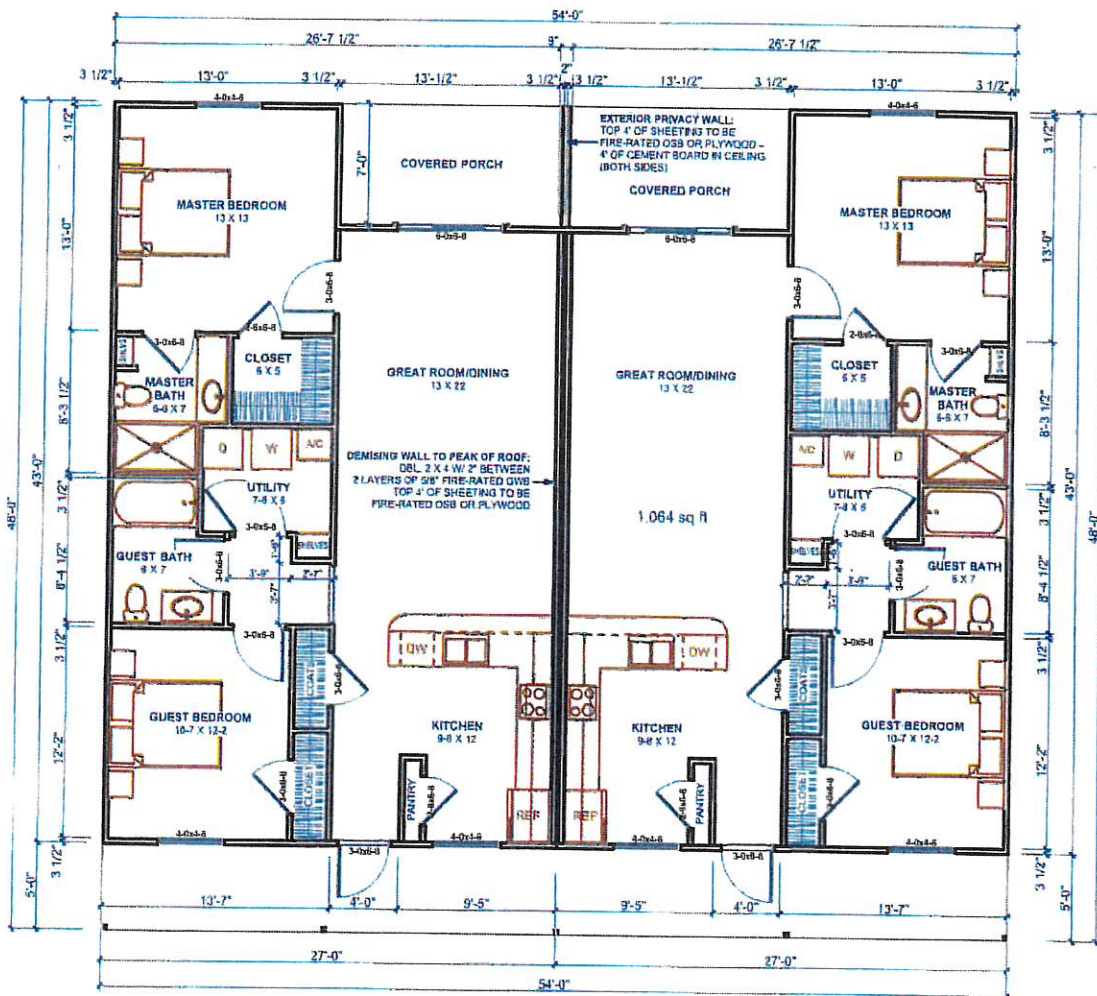


**RIGHT ELEVATION**

SCALE: 1/8" = 1'-0"

**GABLE DUPLEX**

4/21/2018



**GABLE DUPLEX**

4/21/2018

**LEGEND**

|                       |                                 |
|-----------------------|---------------------------------|
| DB - Deed Book        | DB 1000 - Deed Book 1000        |
| PLAT - Plat Number    | PLAT 1000 - Plat Number 1000    |
| PG - Page             | PG 1000 - Page 1000             |
| SEC - Section         | SEC 1000 - Section 1000         |
| TWP - Township        | TWP 1000 - Township 1000        |
| RANGE - Range         | RANGE 1000 - Range 1000         |
| COUNTY - County       | COUNTY 1000 - County 1000       |
| STATE - State         | STATE 1000 - State 1000         |
| ACRES - Acres         | ACRES 1000 - Acres 1000         |
| AREA - Area           | AREA 1000 - Area 1000           |
| PERMITS - Permits     | PERMITS 1000 - Permits 1000     |
| RECORDS - Records     | RECORDS 1000 - Records 1000     |
| INDEX - Index         | INDEX 1000 - Index 1000         |
| MAPS - Maps           | MAPS 1000 - Maps 1000           |
| PLANS - Plans         | PLANS 1000 - Plans 1000         |
| DEEDS - Deeds         | DEEDS 1000 - Deeds 1000         |
| PLATS - Plats         | PLATS 1000 - Plats 1000         |
| PAGES - Pages         | PAGES 1000 - Pages 1000         |
| SECTIONS - Sections   | SECTIONS 1000 - Sections 1000   |
| TOWNSHIPS - Townships | TOWNSHIPS 1000 - Townships 1000 |
| RANGES - Ranges       | RANGES 1000 - Ranges 1000       |
| COUNTIES - Counties   | COUNTIES 1000 - Counties 1000   |
| STATES - States       | STATES 1000 - States 1000       |
| ACRES - Acres         | ACRES 1000 - Acres 1000         |
| AREA - Area           | AREA 1000 - Area 1000           |

**NOTES**

1. All surveying was done by the Surveyor General of North Carolina.
2. The survey was made in accordance with the provisions of the General Statutes of North Carolina.
3. The survey was made in accordance with the provisions of the General Statutes of North Carolina.
4. The survey was made in accordance with the provisions of the General Statutes of North Carolina.
5. The survey was made in accordance with the provisions of the General Statutes of North Carolina.

State of North Carolina, County of Haywood

Surveyed and certified by \_\_\_\_\_

Registered as a Surveyor General in North Carolina

\_\_\_\_\_

**TYPE OF SURVEY PERMITTED**

( ) This survey is a subdivision of land which has been previously surveyed and is being subdivided for the purpose of creating lots for sale.

( ) This survey is a subdivision of land which has been previously surveyed and is being subdivided for the purpose of creating lots for sale.

(X) This survey is a subdivision of land which has been previously surveyed and is being subdivided for the purpose of creating lots for sale.

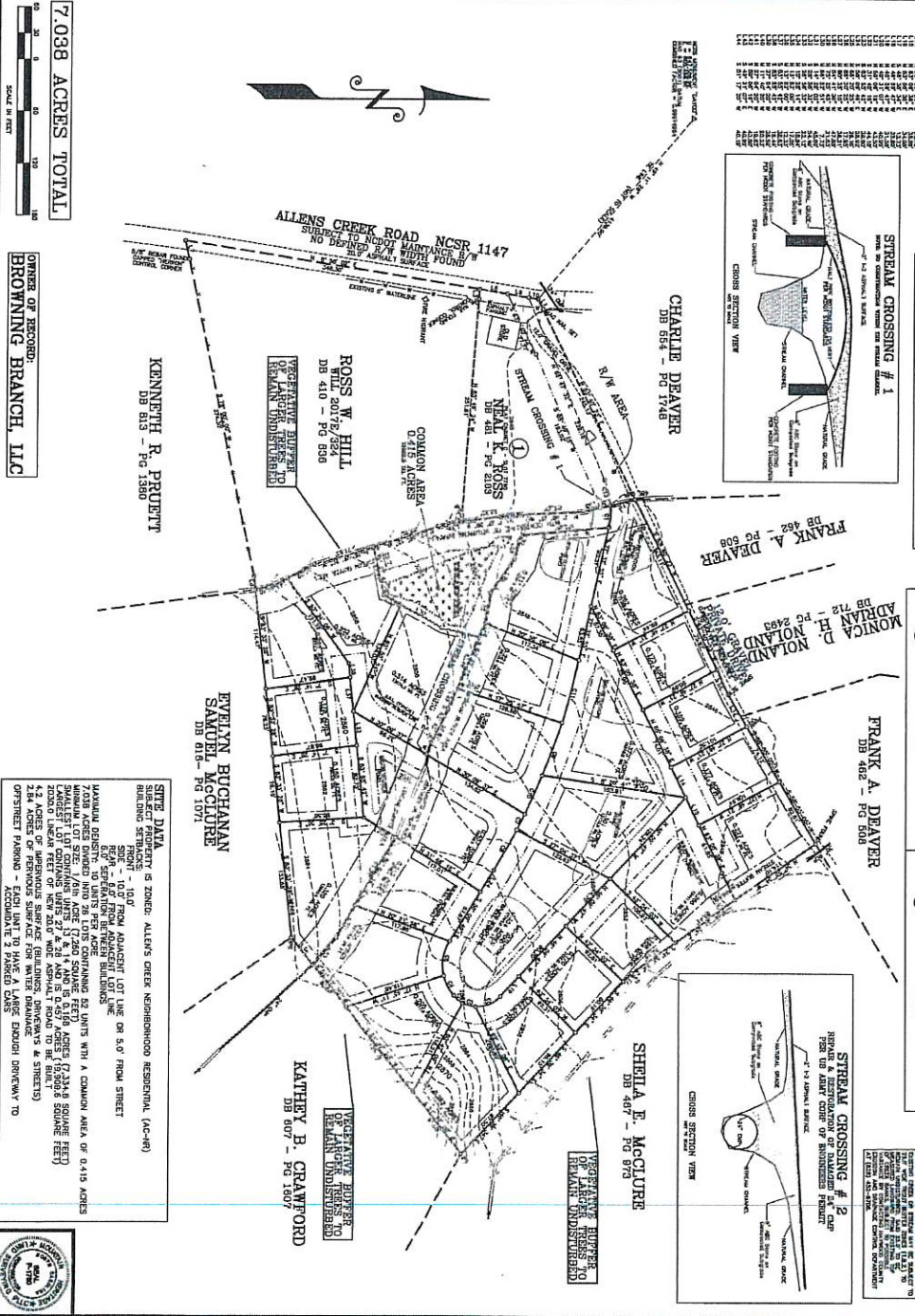
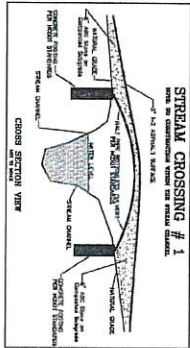
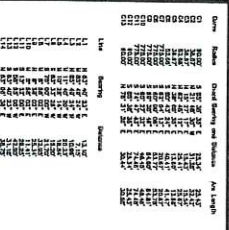
( ) This survey is a subdivision of land which has been previously surveyed and is being subdivided for the purpose of creating lots for sale.

7.038 ACRES TOTAL

SCALE IN FEET

0 25 50 75 100

**ORDER OF RECORDS:**  
BROWNING BRANCH, LLC



|  |  |  |  |
|--|--|--|--|
| <b>Mountain Heritage Land Surveying, PLLC</b><br>1001 N. Main Street<br>Waynesville, NC 28786<br>Tel: 704-793-4444 | DATE: 06/20/2018<br>DRAWN BY: JRH<br>CHECKED BY: JLC | REFERENCES: DB 848 - PG 1802<br>PLAT CABINET C - SLOT 7790 | REVISIONS:   |
| PROJECT NUMBER: 1001-18-001-01   | DATE: 06/20/2018                                     | PROJECT NAME: BROWNING BRANCH, LLC                         | PROJECT LOCATION: WAYNESVILLE TOWNSHIP, HAYWOOD COUNTY, NC |





# HERRON ASSOCIATES

June 15, 2018

Browning Branch, LLC  
via email: [qm868808@gmail.com](mailto:qm868808@gmail.com)

ATTN: **Greg Wishart**  
  
RE: **Browning Branch, LLC  
Preliminary Site Plan  
Waynesville, NC**  
  
SUBJECT: **Preliminary Site Plan  
Herron Associates Project No. 07-11-6B**

Mr. Wishart,

Concerning your questions associated with the Preliminary Site Plan prepared by Mountain Heritage Land Surveying and dated May 02, 2018 I will offer the following:

1 – Storm Drainage, the six Bio-Retention Basins shown have a surface area of 21,690 square feet, based on a depth of 3.0 feet they would have a storage capacity of approximately 54,000 cubic feet. The site has an impervious (roof tops, streets, drives and sidewalks) surface area of 4.2 acres with a runoff coefficient of 0.95 and a pervious (grass, woodlands and wetlands) area of 2.84 acres with a runoff coefficient of 0.40. Based on a preliminary review, all the stormwater would be mitigated on site. The final design documents for stormwater drainage and erosion control will have all the supporting calculations and design data, as required for approval by the State of North Carolina's Department of Environmental Quality, prior to any construction activity. It should be noted that for the stream buffer zones and wetland areas no construction activities will be permitted within these areas.

2 – Construction within the 1% Annual Chance Floodplain (commonly referred to as the 100-year floodplain) area would require that all of the buildings finished floor elevations to be a minimum of 1.0 foot above the corresponding base flood elevation. Final design documents for the grading plan will have all the supporting calculations and design data, as required for approval by the State of North Carolina prior to any construction activity.

At this stage of this project the site plan is a preliminary drawing. Before any construction activity could begin, final design documents would have to be submitted and approved by the State of North Carolina for Grading, Stormwater Drainage, Erosion Control, Sanitary Sewer and Water.

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## Engineering • Surveying • Planning

Herron Associates, P.A. • P.O. Box 1265 • 721 Main Street • Bryson City, NC 28713  
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Herron Associates  
Project No. 18-06-11B

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June 15, 2018

The U.S. Army Corp of Engineers will need to issue a permit for the repair and restoration of the damaged culvert within the site.

If I can be of additional assistance, please do not hesitate to call me at (828) 488-8949. Thank you for your business.

Sincerely,  
Herron Associates



Digitally signed by  
Jeff L. Herron, PE  
Date: 2018.06.15  
12:18:33 -04'00'



Jeffrey L. Herron, PE, CFM  
President

[www.herronassociates.com](http://www.herronassociates.com)

cc: file

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