



**VILLAGE COUNCIL
AGENDA FOR WORK SESSION OF APRIL 23, 2019
ASSEMBLY HALL
395 MAGNOLIA RD.
PINEHURST, NORTH CAROLINA**

1. Call to Order.
2. Discuss East Moore Water District with Moore Co. Utilities Representatives.
3. Discuss Proposed Blake Village Development on Highway 5 in Accordance with the Tri-Cities Interlocal Agreement.
4. Discuss Perceived Parking Challenges in the Downtown Area.
5. Discuss Sentate and House Bills Being Considered by the General Assembly During the 2019-2020 Session.
6. Work Session Business.
7. Adjournment.

Vision: The Village of Pinehurst is a charming, vibrant community which reflects our rich history and traditions.

Mission: Promote, enhance, and sustain the quality of life for residents, businesses, and visitors.

Values: Service, Initiative, Teamwork, and Improvement.



**DISCUSS EAST MOORE WATER DISTRICT WITH MOORE CO.
UTILITIES REPRESENTATIVES.
ADDITIONAL AGENDA DETAILS:**

FROM:

Natalie Hawkins

DATE OF MEMO:

4/16/2019

MEMO DETAILS:

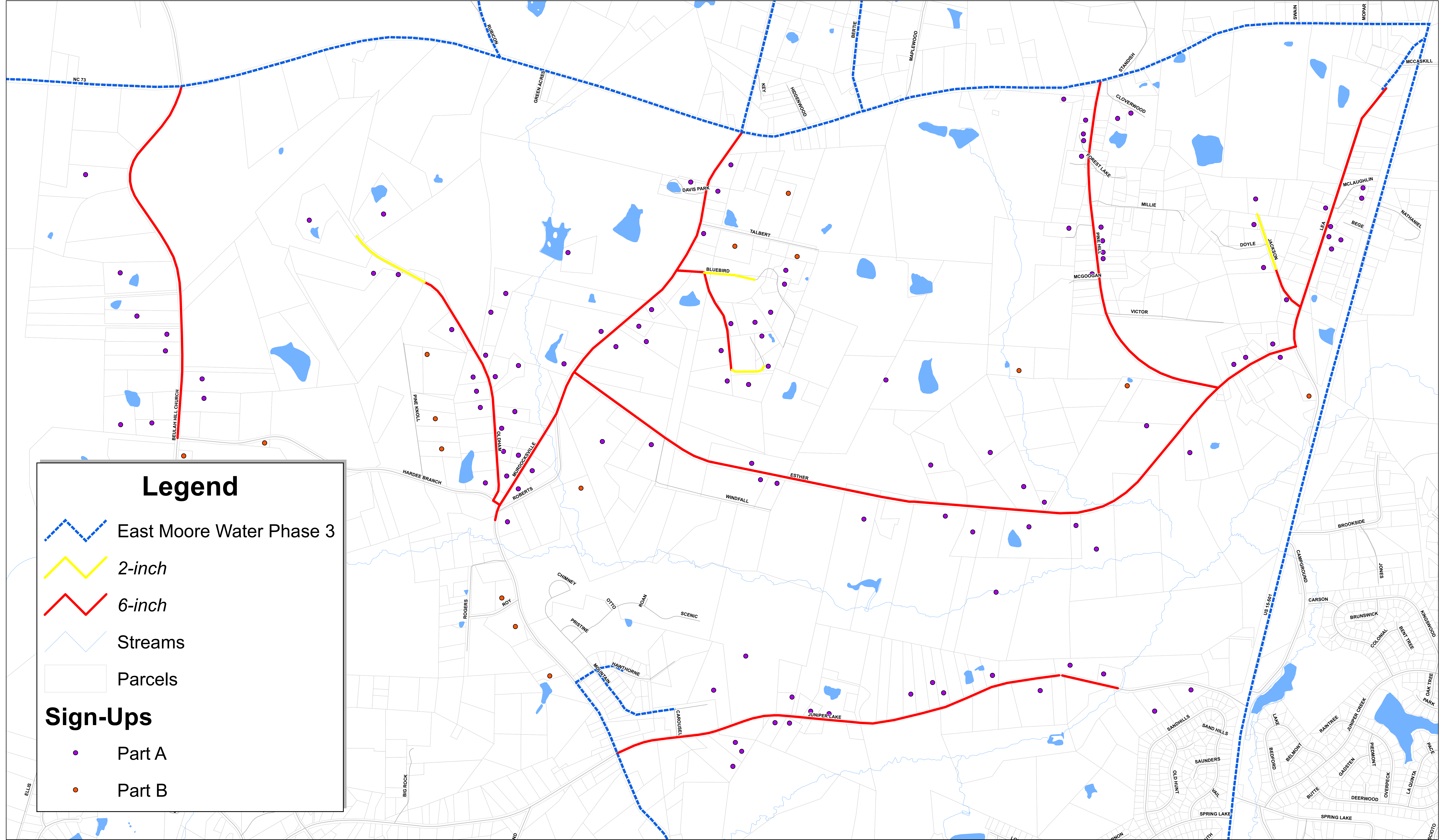
This agenda item is to provide the Council with information about the planned Phase 4 of the East Moore Water District which will result in the installation of water lines to a significant portion of land directly north of our existing corporate limits and to the west of Highway 15-501. Randy Gould with Moore County Public Utilities will present information about the project and discuss the timing of the project with you.

Attached to this agenda item is a map of the proposed Phase 4 of the East Moore Water District.

ATTACHMENTS:

Description

☐ Phase 4 EMWD Project Layout Map



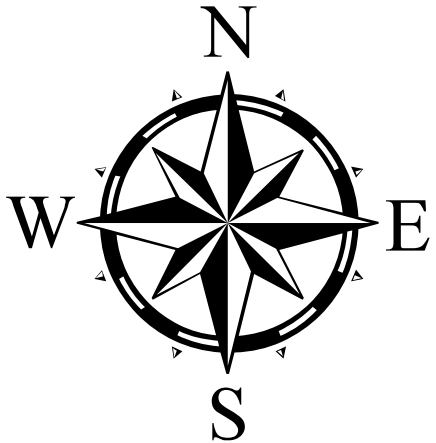
Legend

- East Moore Water Phase 3
- 2-inch
- 6-inch
- Streams
- Parcels

Sign-Ups

- Part A
- Part B

Map 2: Project Layout
East Moore Phase IV
Moore County





**DISCUSS PROPOSED BLAKE VILLAGE DEVELOPMENT ON HIGHWAY 5
IN ACCORDANCE WITH THE TRI-CITIES INTERLOCAL AGREEMENT.
ADDITIONAL AGENDA DETAILS:**

FROM:

Natalie Hawkins

CC:

Jeff Sanborn and Alex Cameron

DATE OF MEMO:

4/17/2019

MEMO DETAILS:

This agenda item is for the Council to review and discuss the proposed Blake Village development on Highway 5 at Olivia Lane that is in Aberdeen's planning jurisdiction. This development falls within 1/4 mile of our planning boundary and therefore is subject to the terms of the attached Inter-local Agreement. Section 2 of the attached Resolution 19-01 indicates administrative staff of each jurisdiction shall coordinate to exchange information and review zoning requests within 1/4 mile of adjacent municipal borders.

The attached application was provided by Town of Aberdeen administrative staff last week with the caveat that this is the first submittal and that the Town of Aberdeen had not yet fully reviewed the plan. Therefore, the Town of Aberdeen could require the applicant to make changes to the plan that is attached for your review with this agenda item.

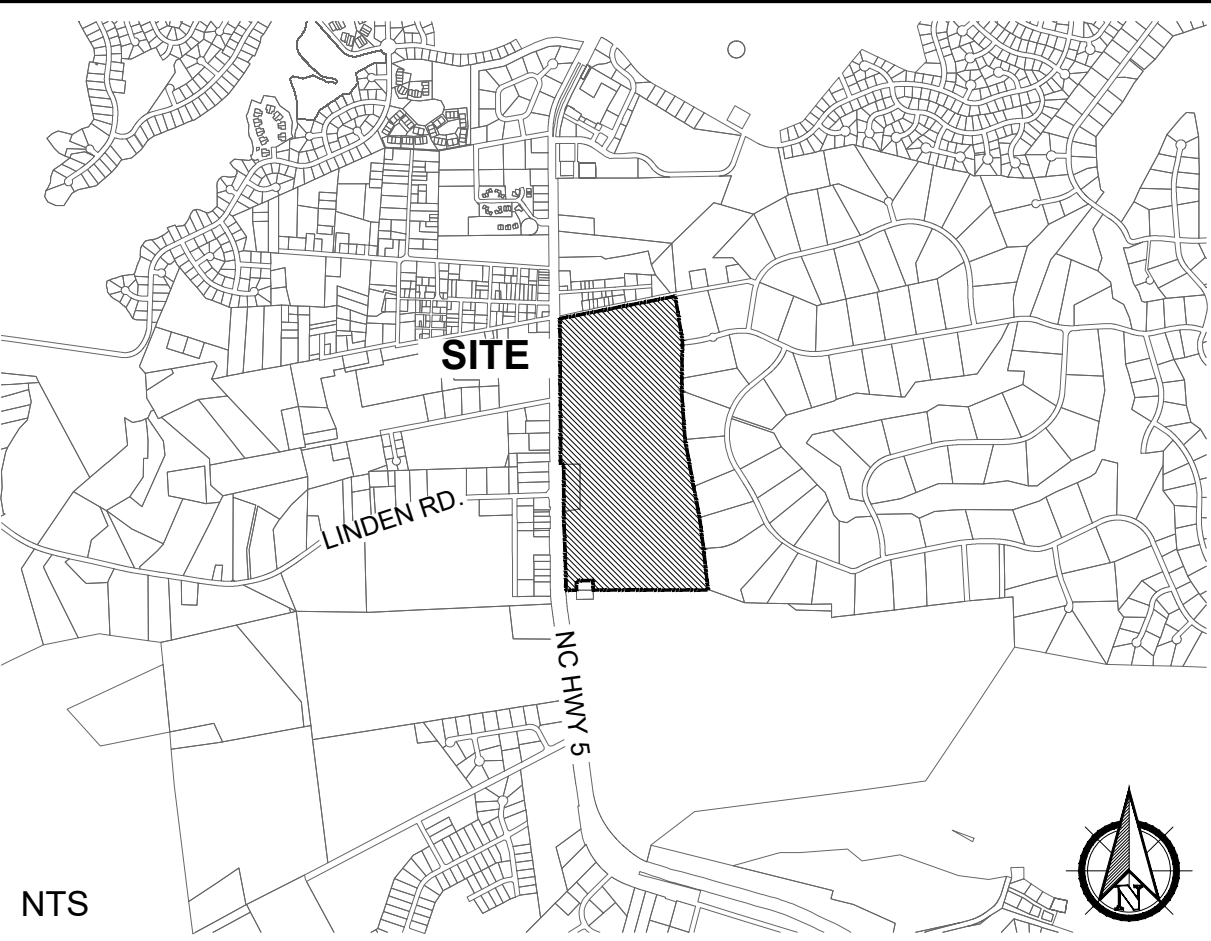
In summary, the applicant is requesting the Town of Aberdeen rezone the property from HC (Highway Commercial) and R20-16 to PUD-R. The attached project narrative and plans describe the project more fully. Town of Aberdeen staff have indicated that the Aberdeen Planning Board is scheduled to discuss this application at its April 18, 2019 meeting.

Village staff have conducted only a cursory review of this development at this point and will provide the Town of Aberdeen staff a consolidated list of Village Council and staff feedback after the Village Council's review and discussion of the proposed development.

ATTACHMENTS:

Description

- ☐ Blake Village Concept Plan
- ☐ Blake Village Project Narrative
- ☐ Resolution 19-01 - Interlocal Agreement - Tri Cities Partnership

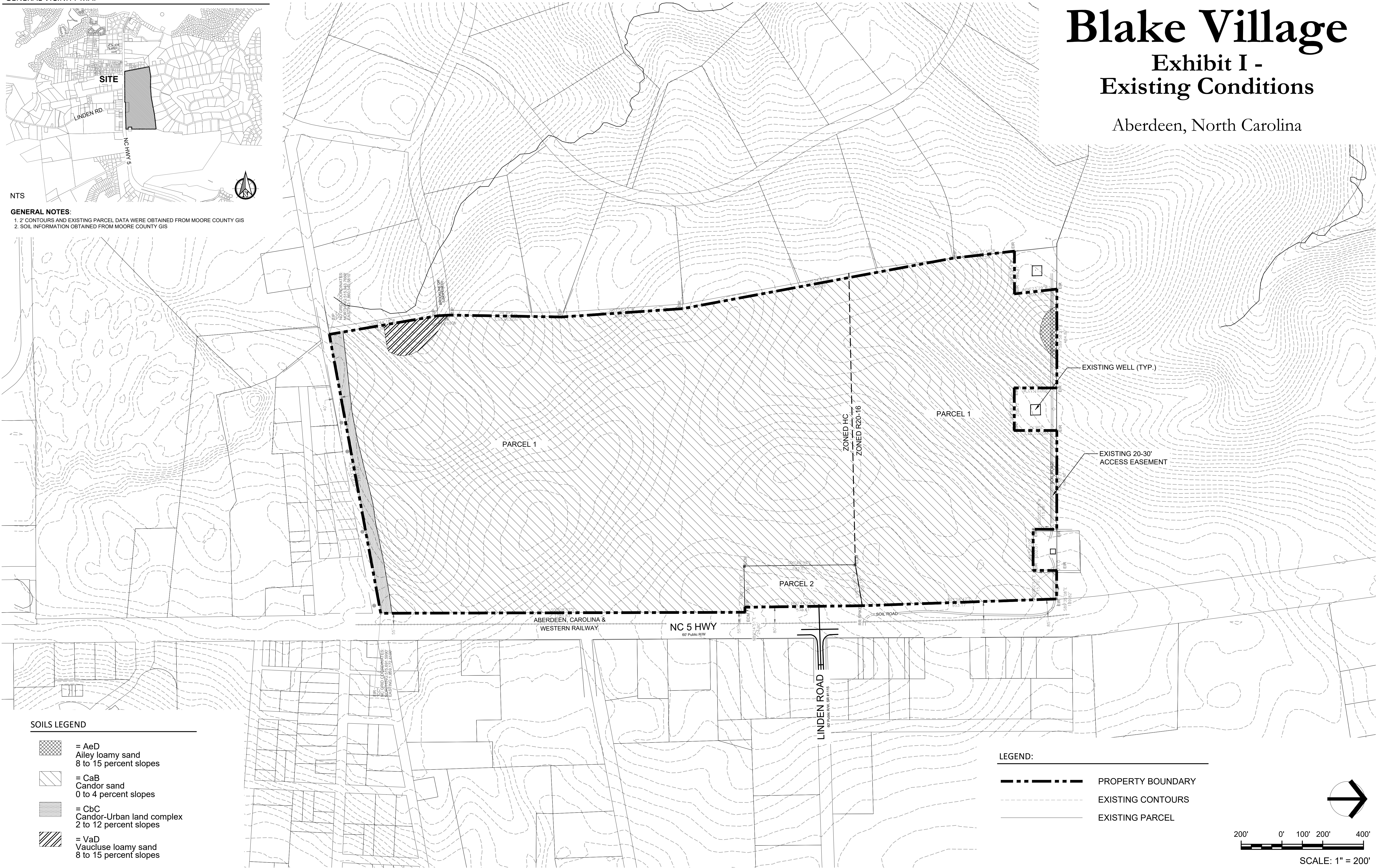


GENERAL NOTES:
1. 2' CONTOURS AND EXISTING PARCEL DATA WERE OBTAINED FROM MOORE COUNTY GIS
2. SOIL INFORMATION OBTAINED FROM MOORE COUNTY GIS

Blake Village

Exhibit I - Existing Conditions

Aberdeen, North Carolina

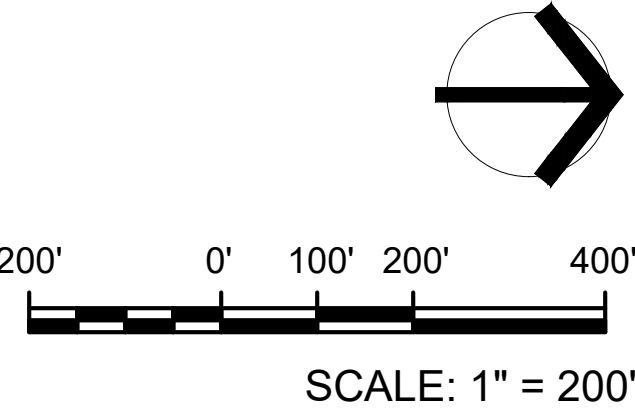


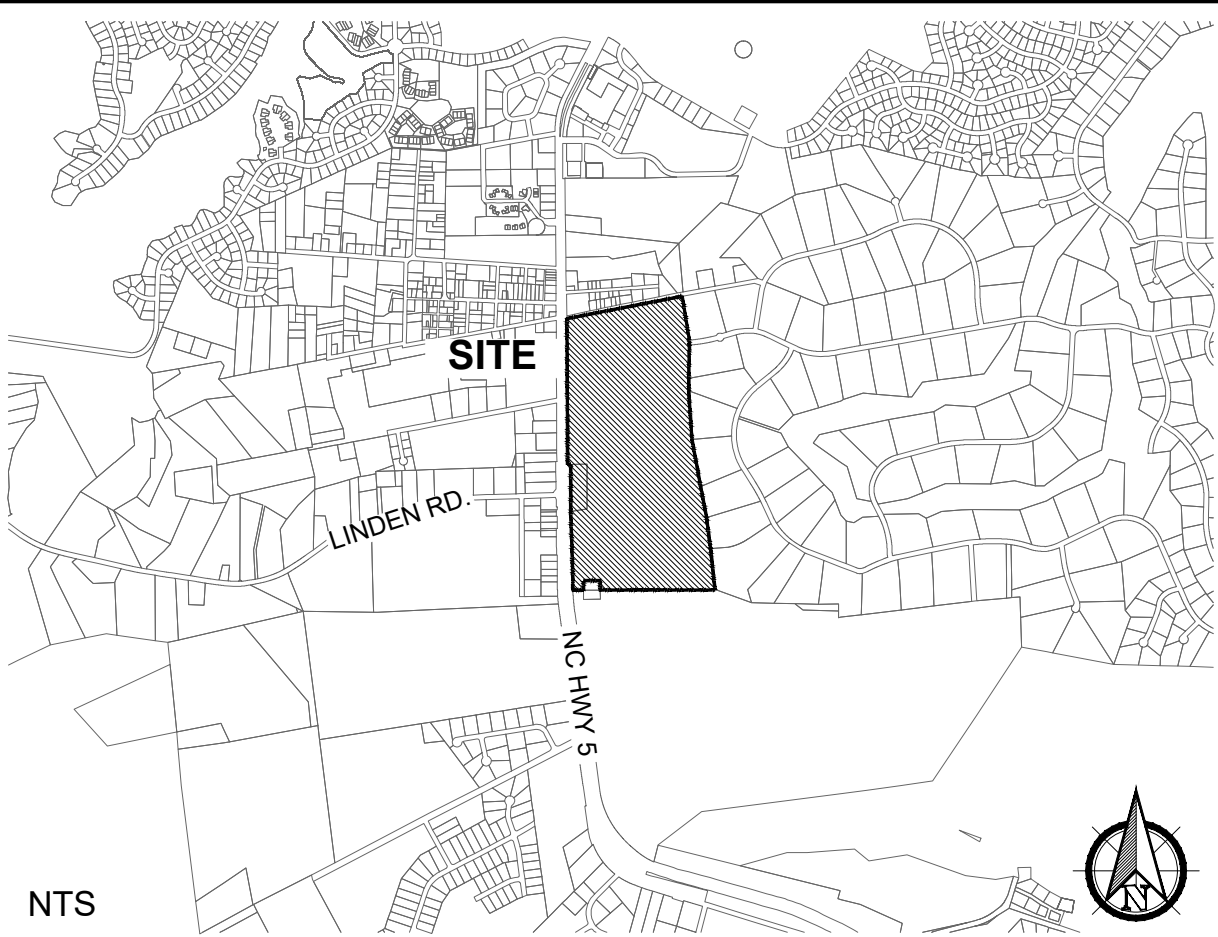
SOILS LEGEND

	= AeD Ailey loamy sand 8 to 15 percent slopes
	= CaB Candor sand 0 to 4 percent slopes
	= CbC Candor-Urban land complex 2 to 12 percent slopes
	= VaD Vaucluse loamy sand 8 to 15 percent slopes

LEGEND:

	PROPERTY BOUNDARY
	EXISTING CONTOURS
	EXISTING PARCEL



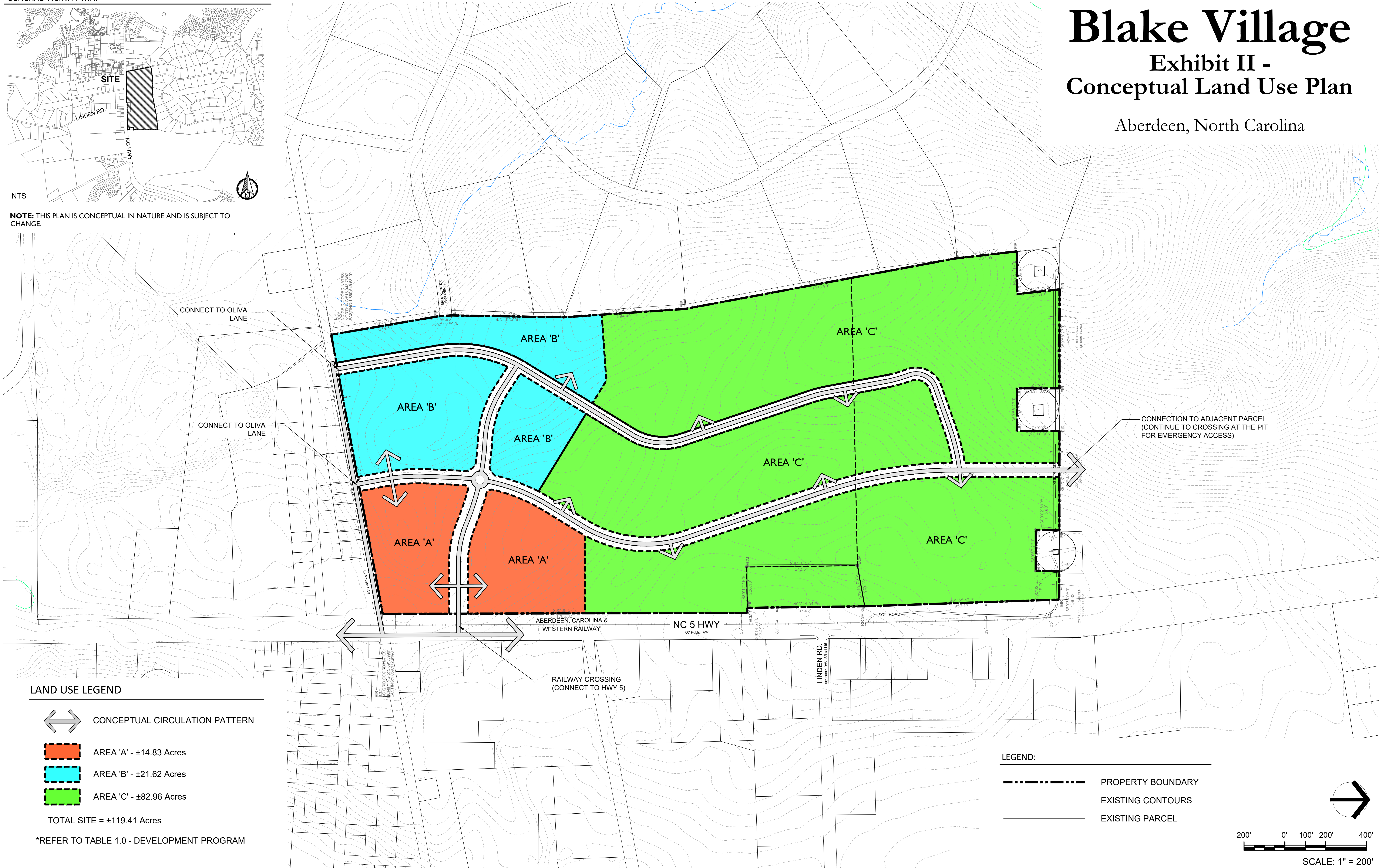


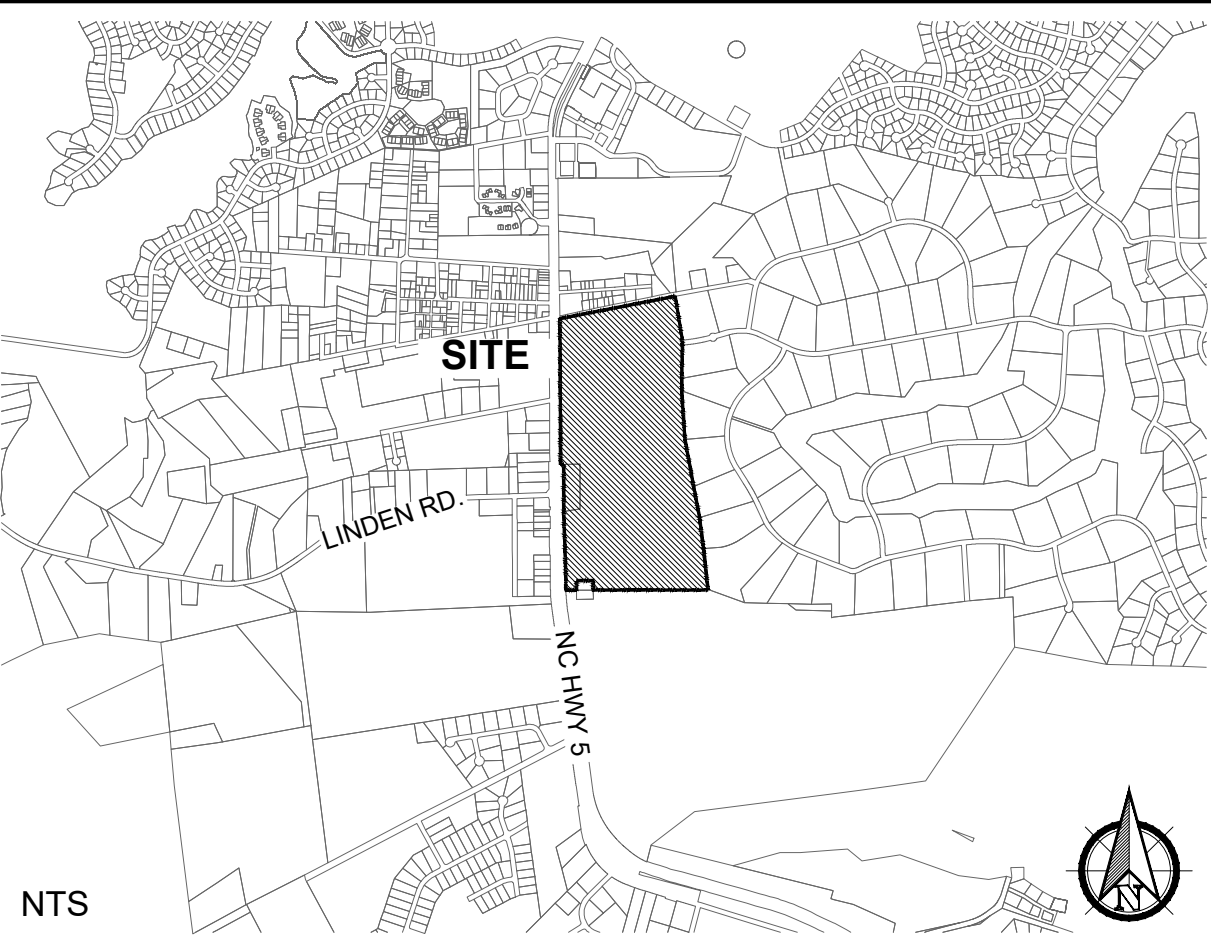
NOTE: THIS PLAN IS CONCEPTUAL IN NATURE AND IS SUBJECT TO CHANGE.

Blake Village

Exhibit II - Conceptual Land Use Plan

Aberdeen, North Carolina



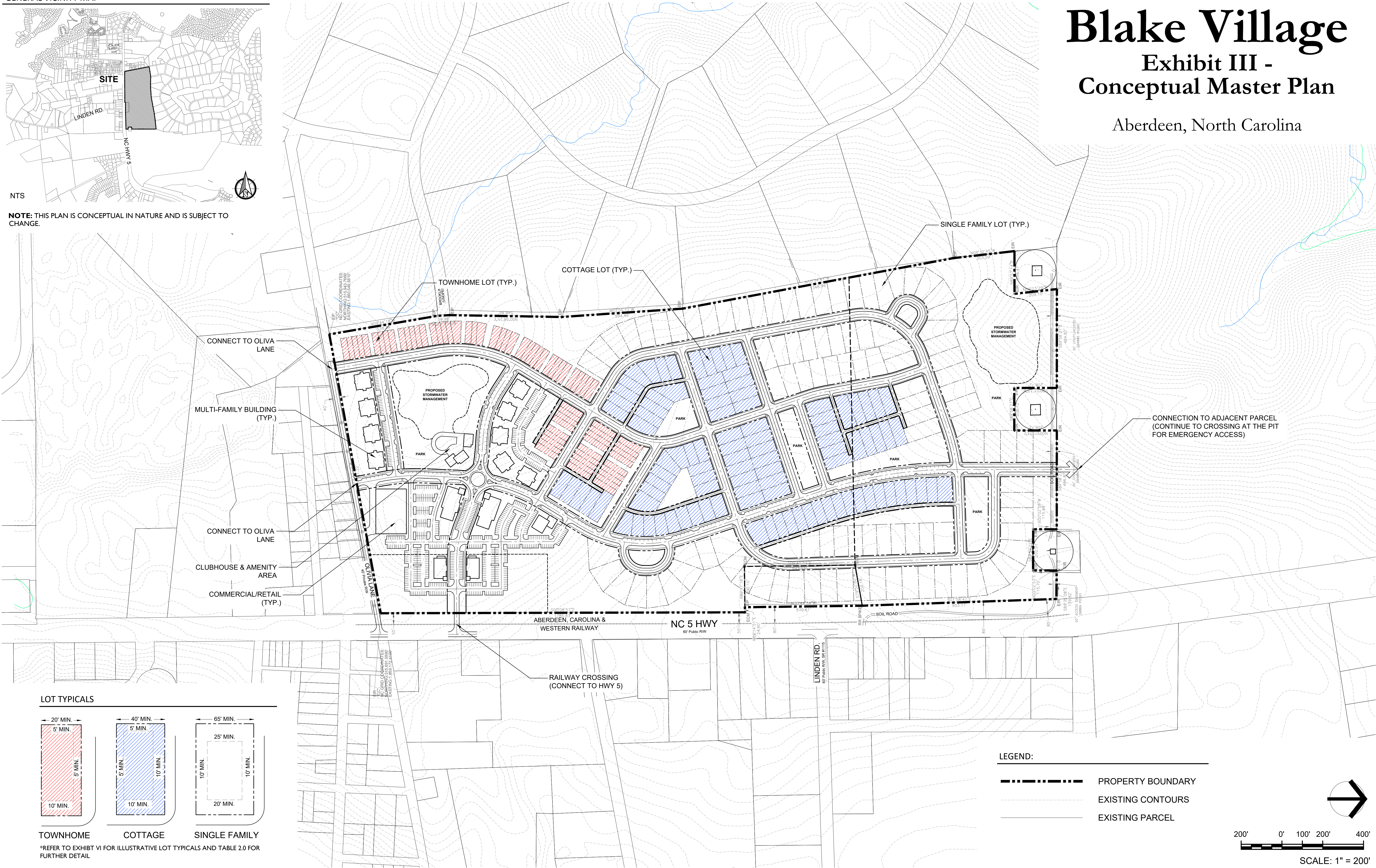


NOTE: THIS PLAN IS CONCEPTUAL IN NATURE AND IS SUBJECT TO CHANGE.

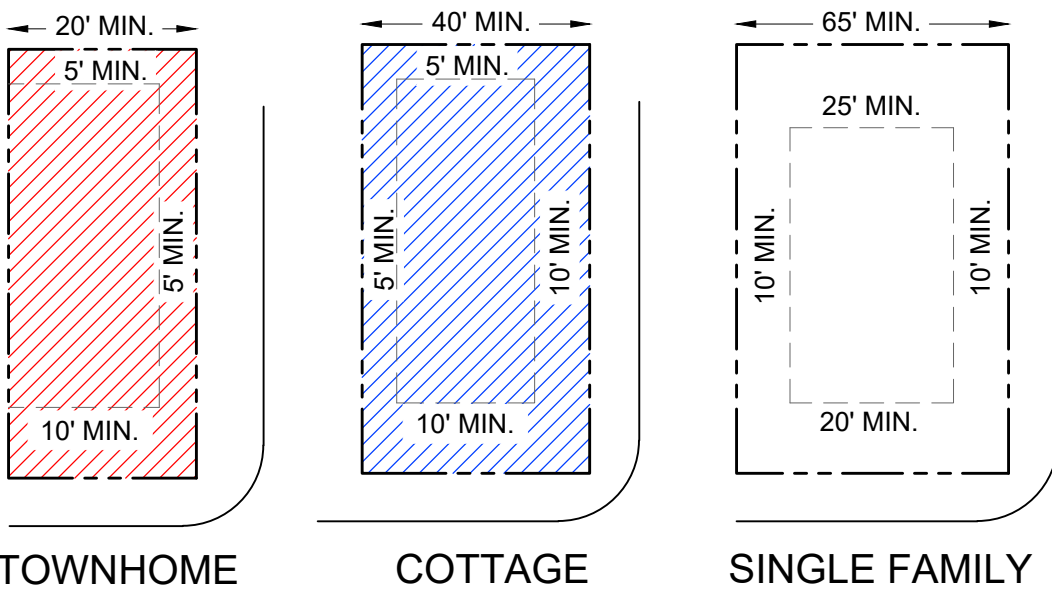
Blake Village

Exhibit III - Conceptual Master Plan

Aberdeen, North Carolina



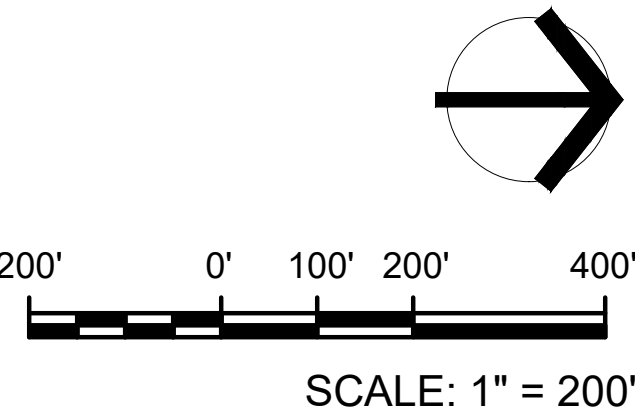
LOT TYPICALS

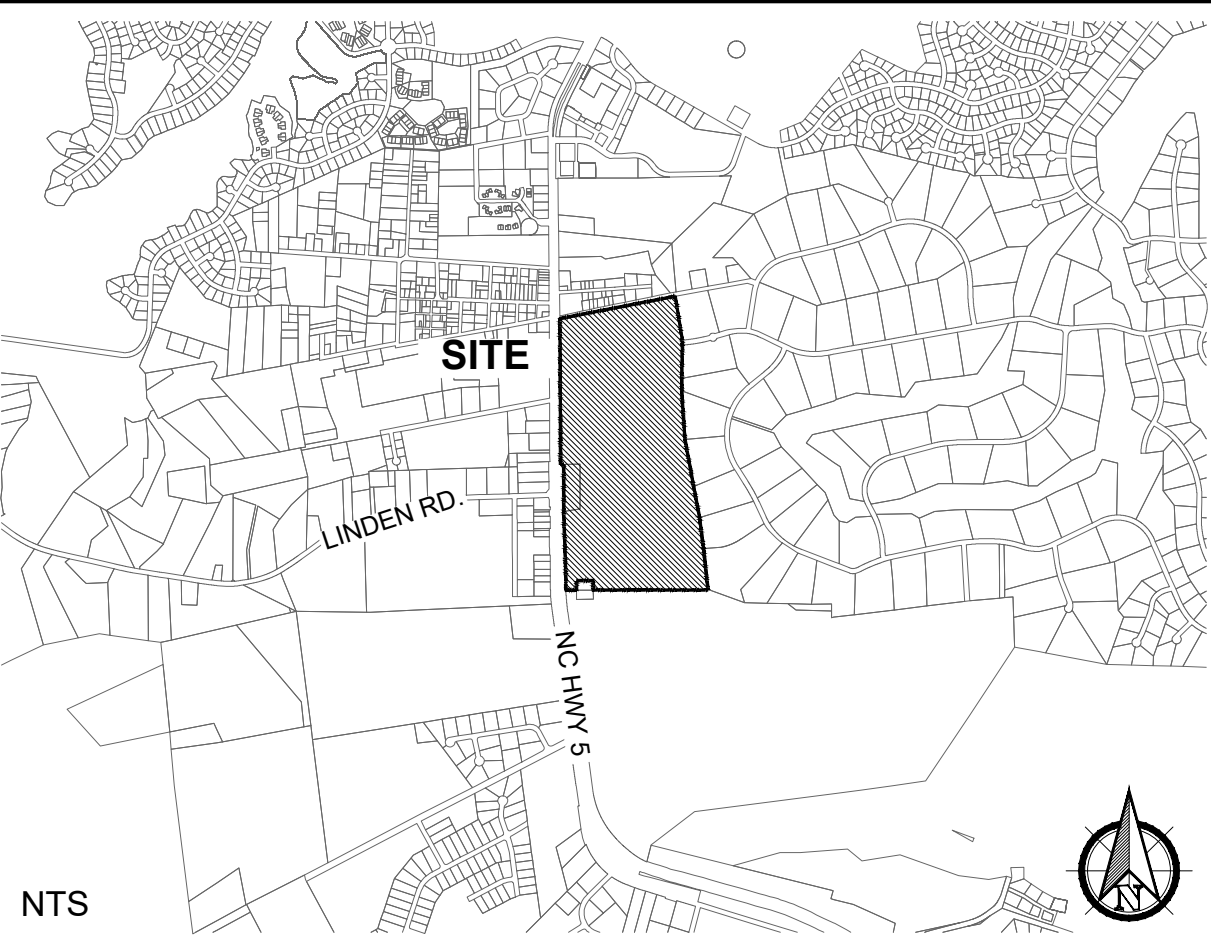


*REFER TO EXHIBIT VI FOR ILLUSTRATIVE LOT TYPICALS AND TABLE 2.0 FOR FURTHER DETAIL

LEGEND:

- PROPERTY BOUNDARY
- EXISTING CONTOURS
- EXISTING PARCEL



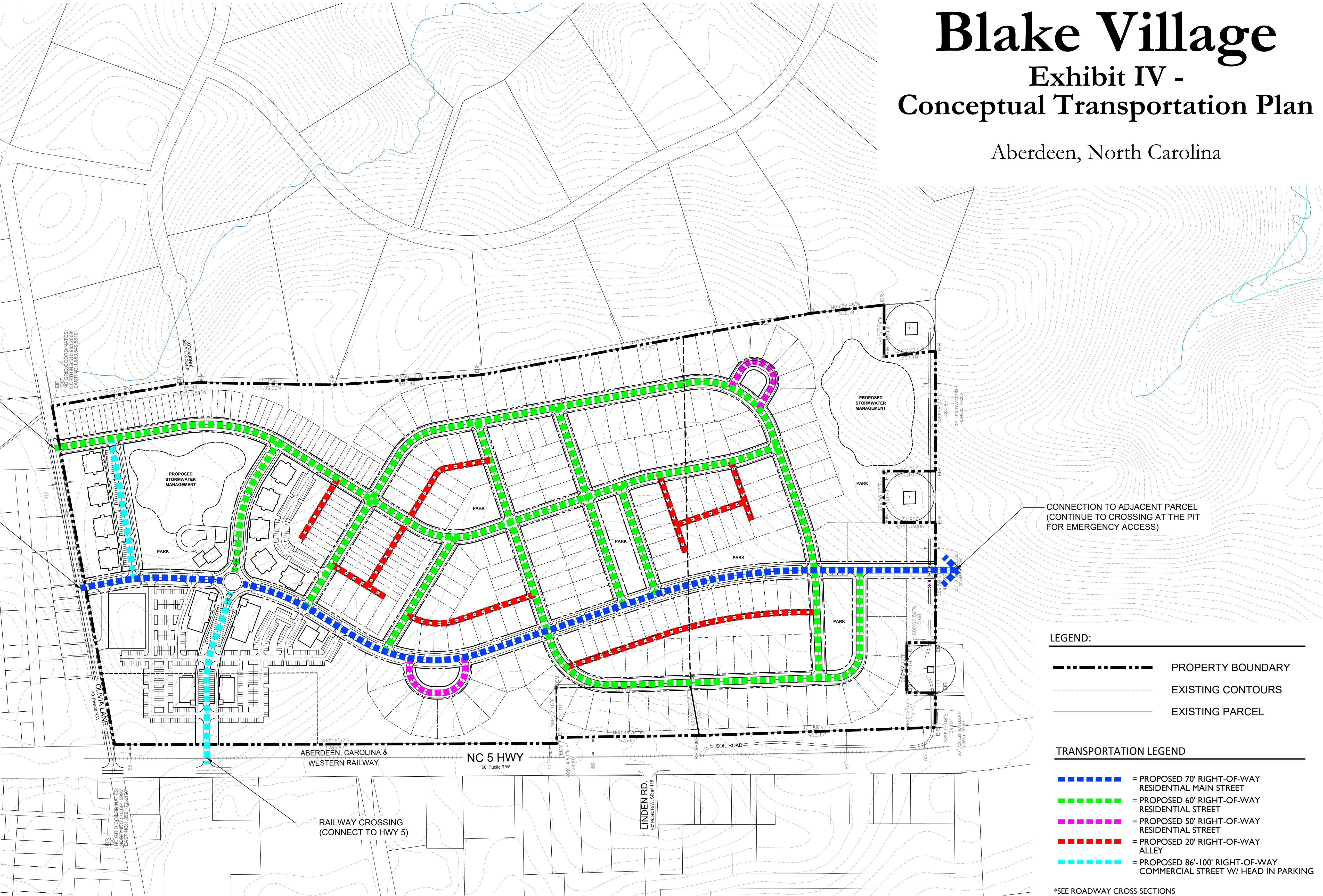


NOTE: THIS PLAN IS CONCEPTUAL IN NATURE AND IS SUBJECT TO CHANGE.

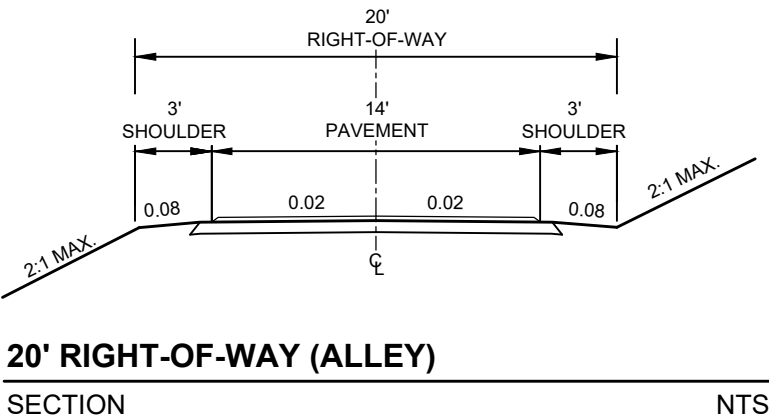
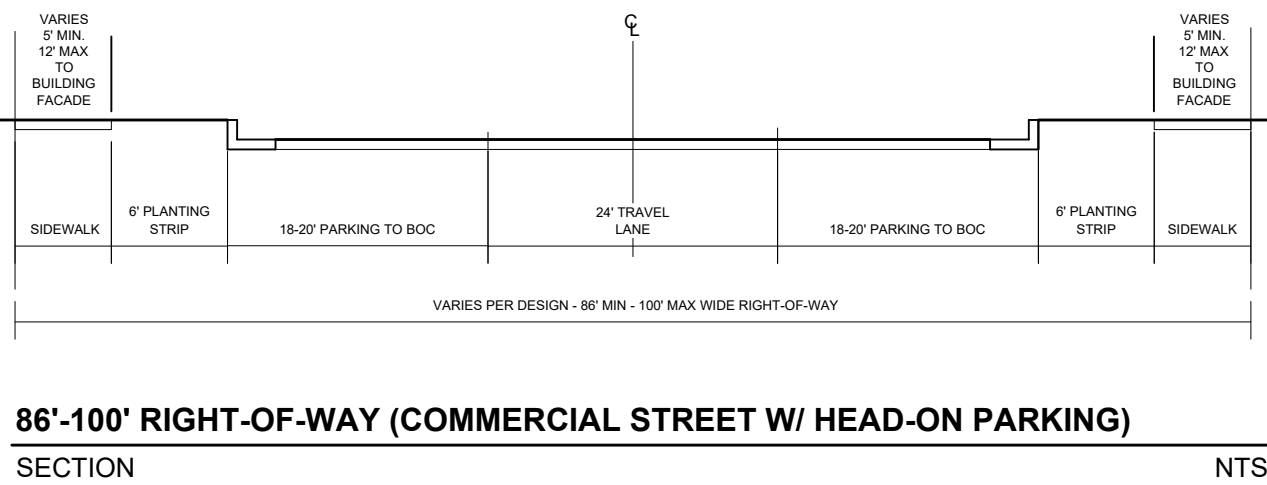
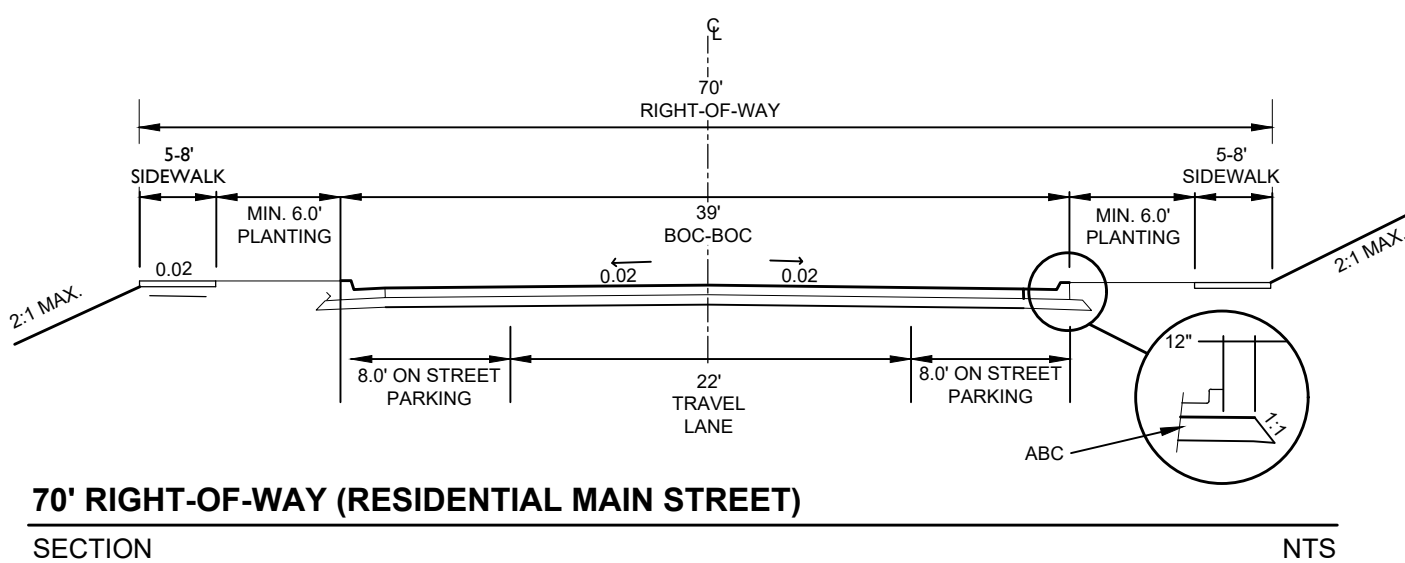
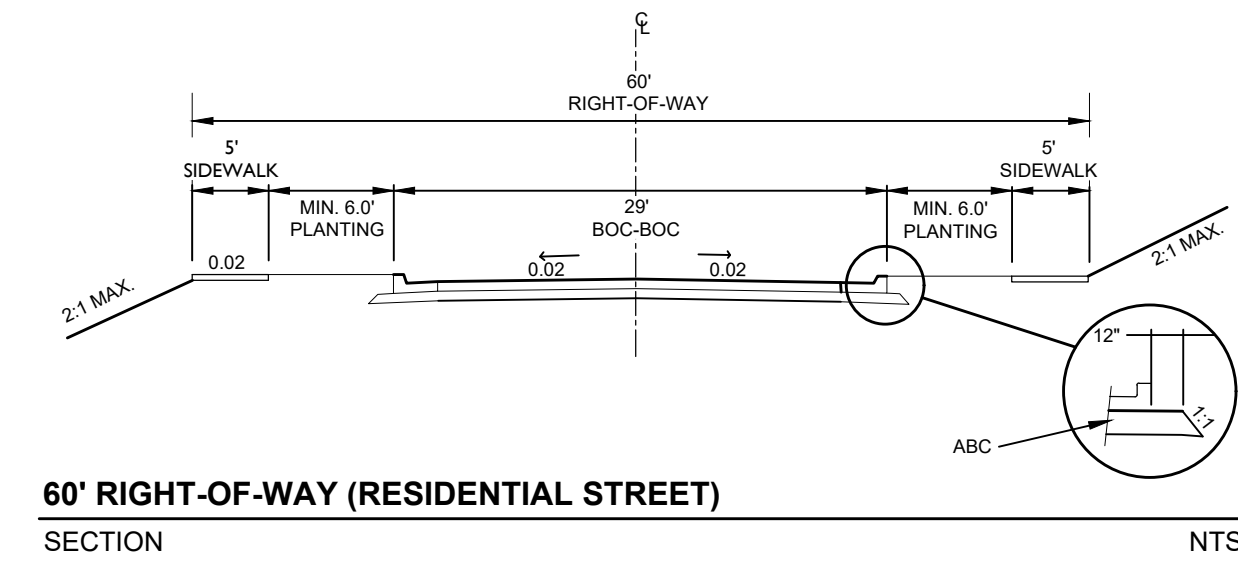
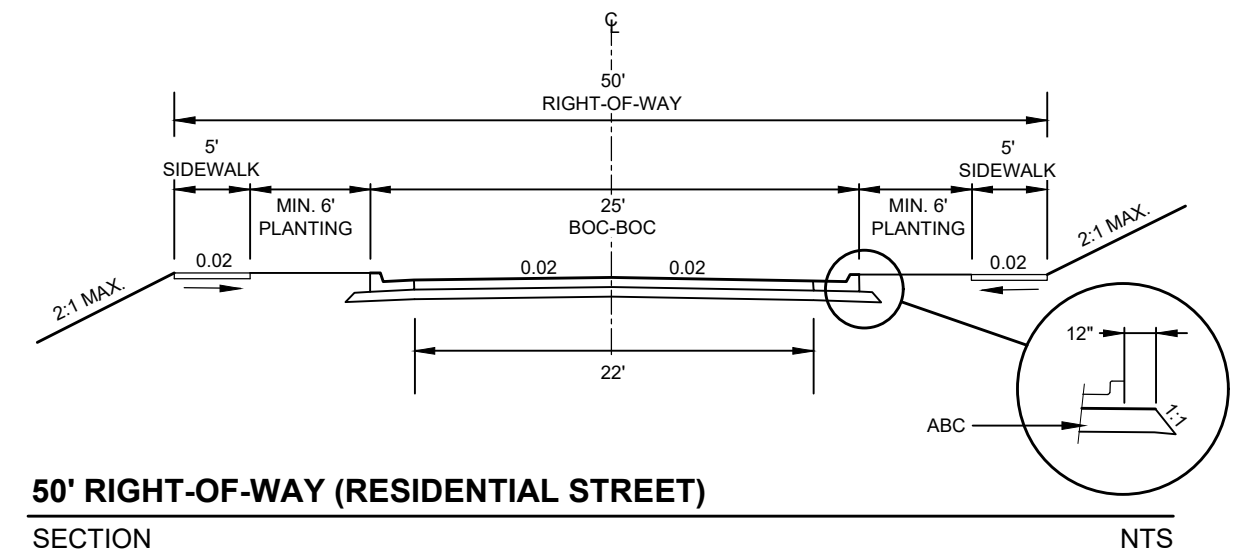
Blake Village

Exhibit IV - Conceptual Transportation Plan

Aberdeen, North Carolina



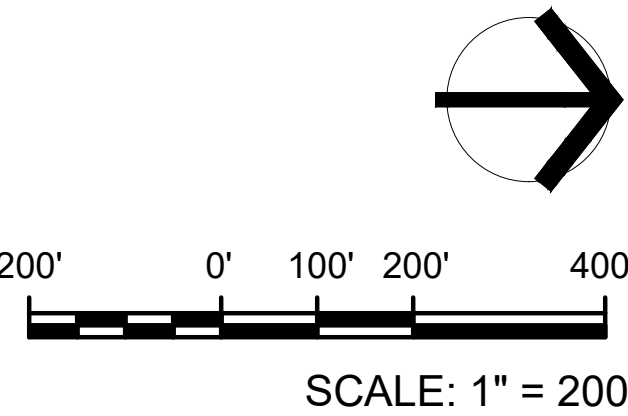
ROADWAY CROSS SECTIONS:



- LEGEND:
- PROPERTY BOUNDARY
 - EXISTING CONTOURS
 - EXISTING PARCEL

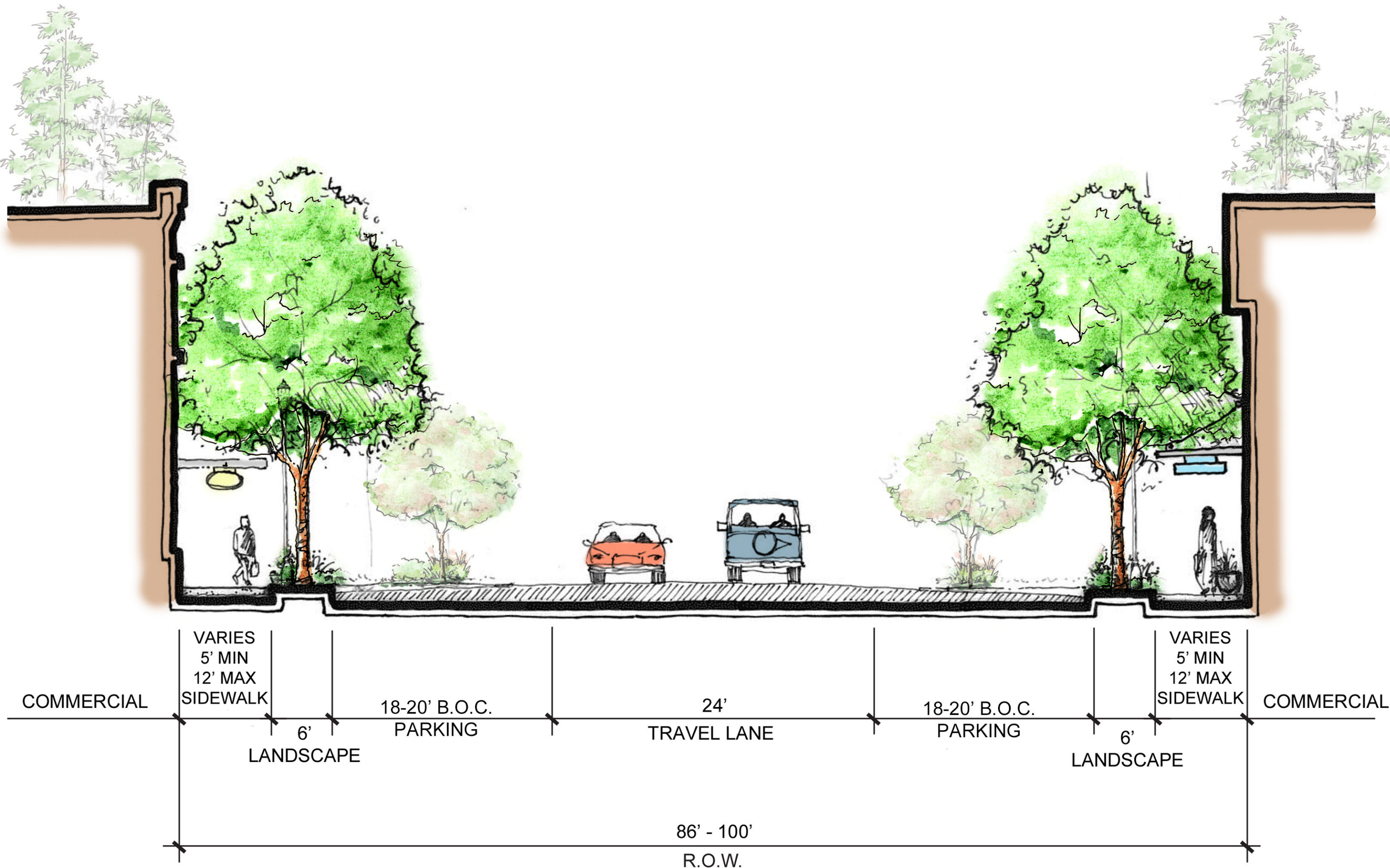
- TRANSPORTATION LEGEND
- PROPOSED 70' RIGHT-OF-WAY RESIDENTIAL MAIN STREET
 - PROPOSED 60' RIGHT-OF-WAY RESIDENTIAL STREET
 - PROPOSED 50' RIGHT-OF-WAY RESIDENTIAL STREET
 - PROPOSED 20' RIGHT-OF-WAY ALLEY
 - PROPOSED 86'-100' RIGHT-OF-WAY COMMERCIAL STREET W/ HEAD IN PARKING

*SEE ROADWAY CROSS-SECTIONS



BLAKE VILLAGE

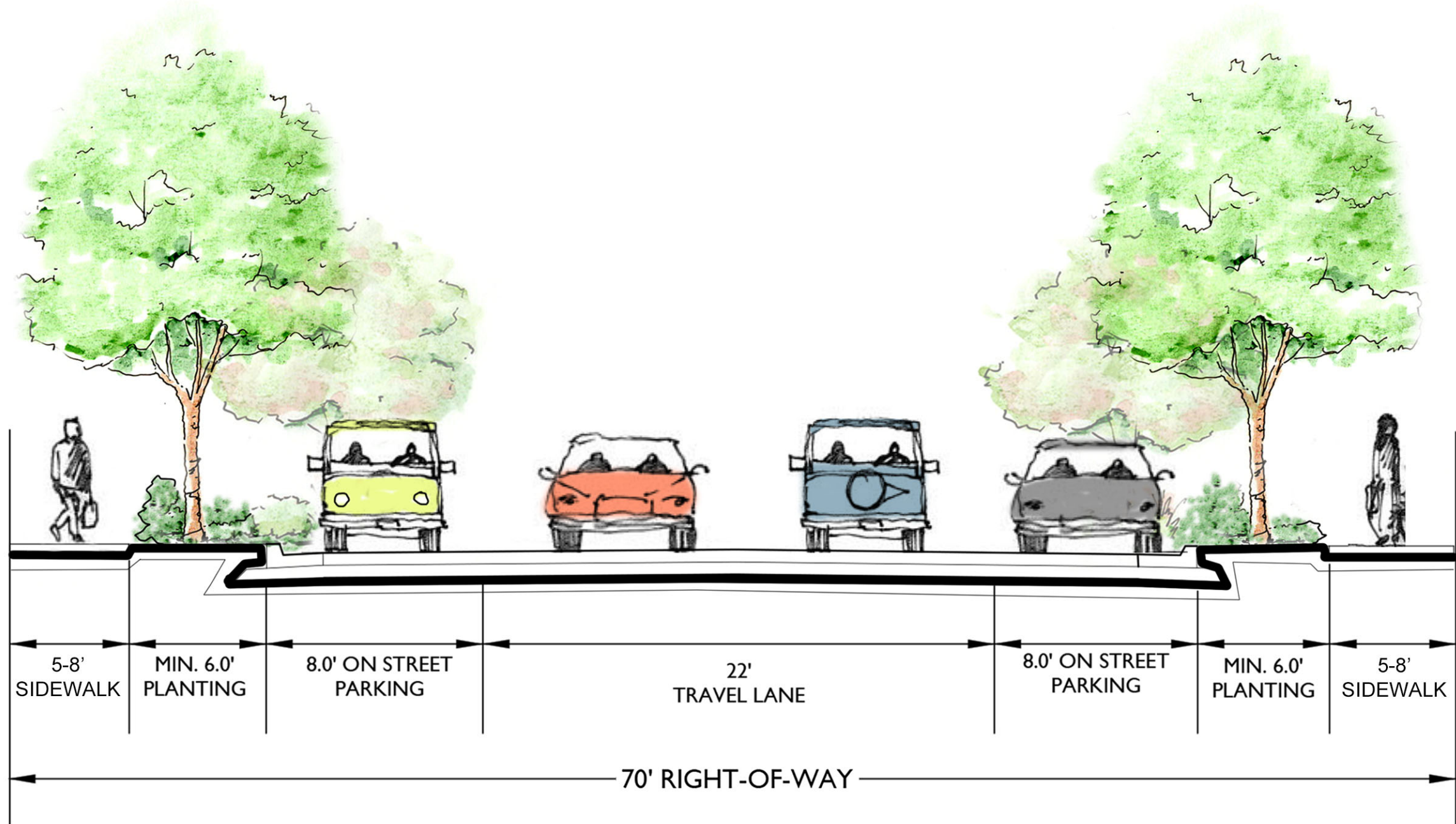
EXHIBIT V - ROADWAY CROSS SECTIONS



86-100' Right-of-Way (Commercial Street w/ Head in Parking)

Illustrative Section

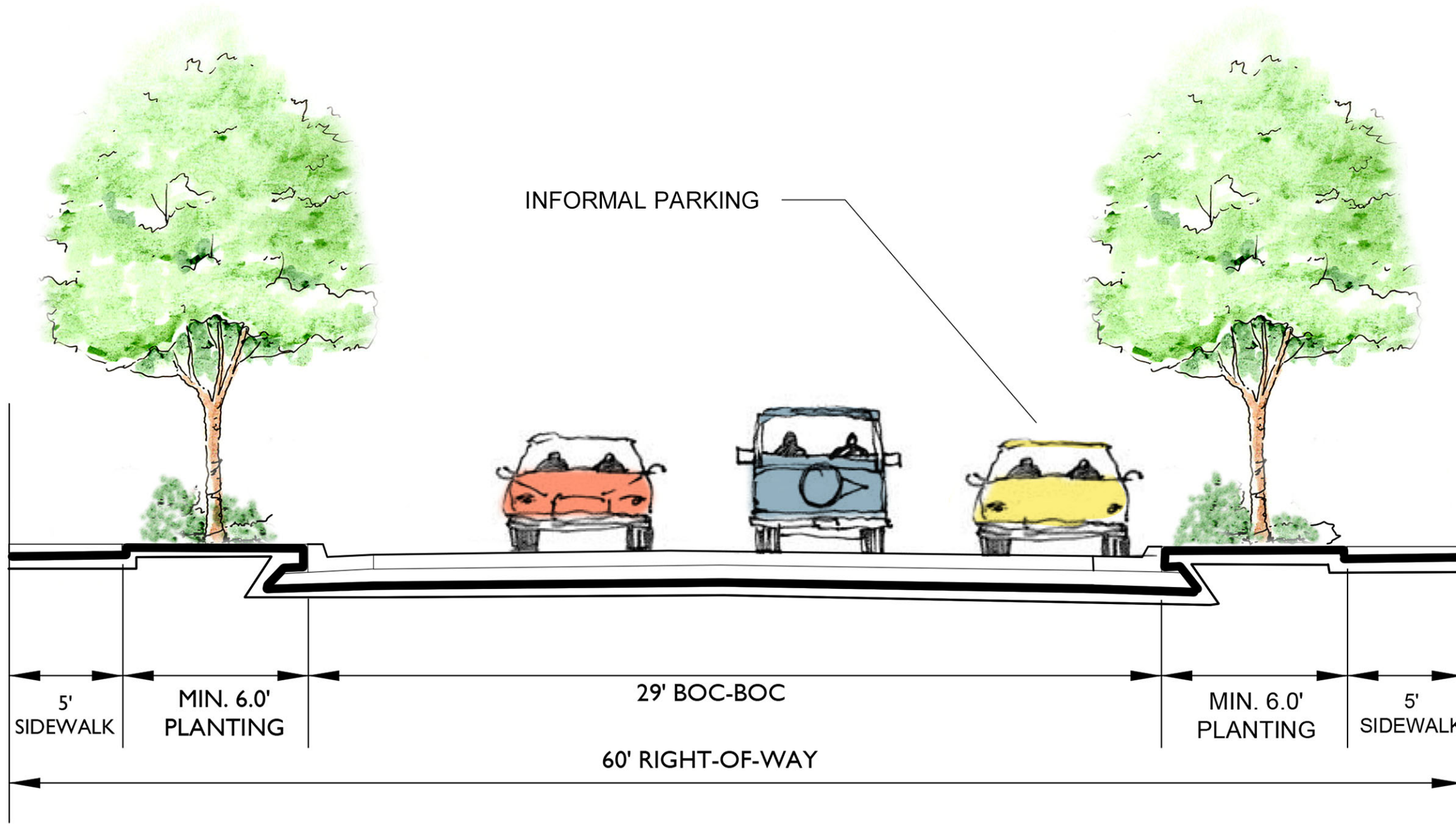
NTS



70' Right-of-Way (Residential Main Street)

Illustrative Section

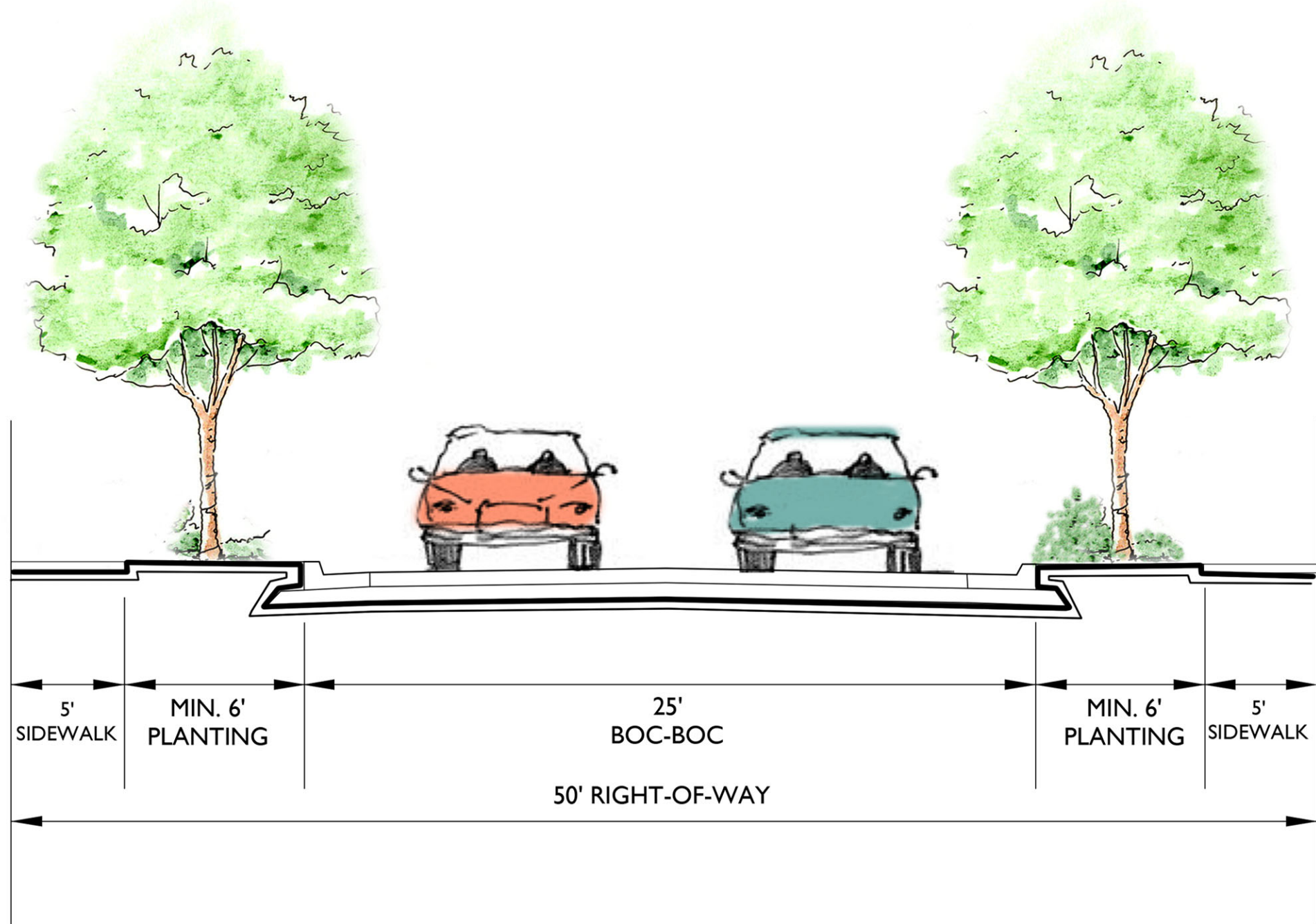
NTS



60' Right-of-Way (Residential Street)

Illustrative Section

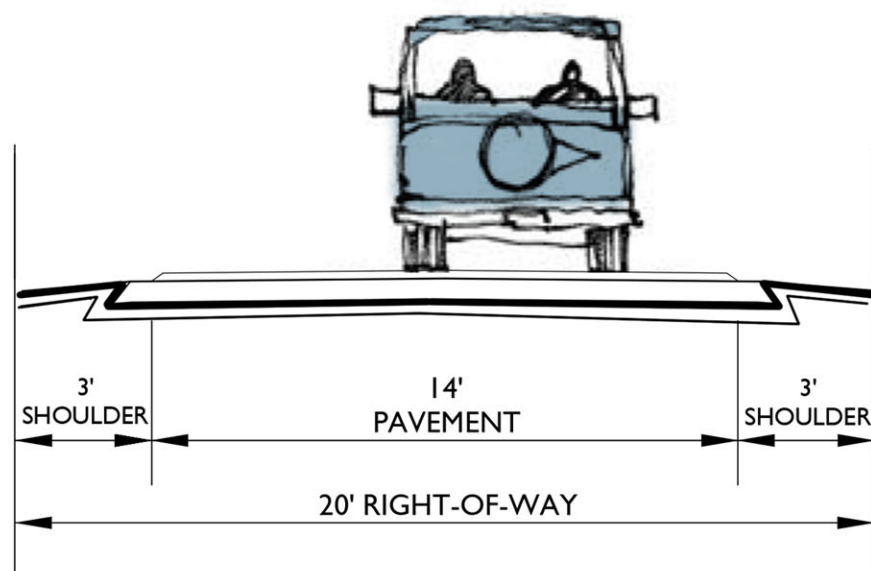
NTS



50' Right-of-Way (Residential Street)

Illustrative Section

NTS



20' Right-of-Way (Alley)

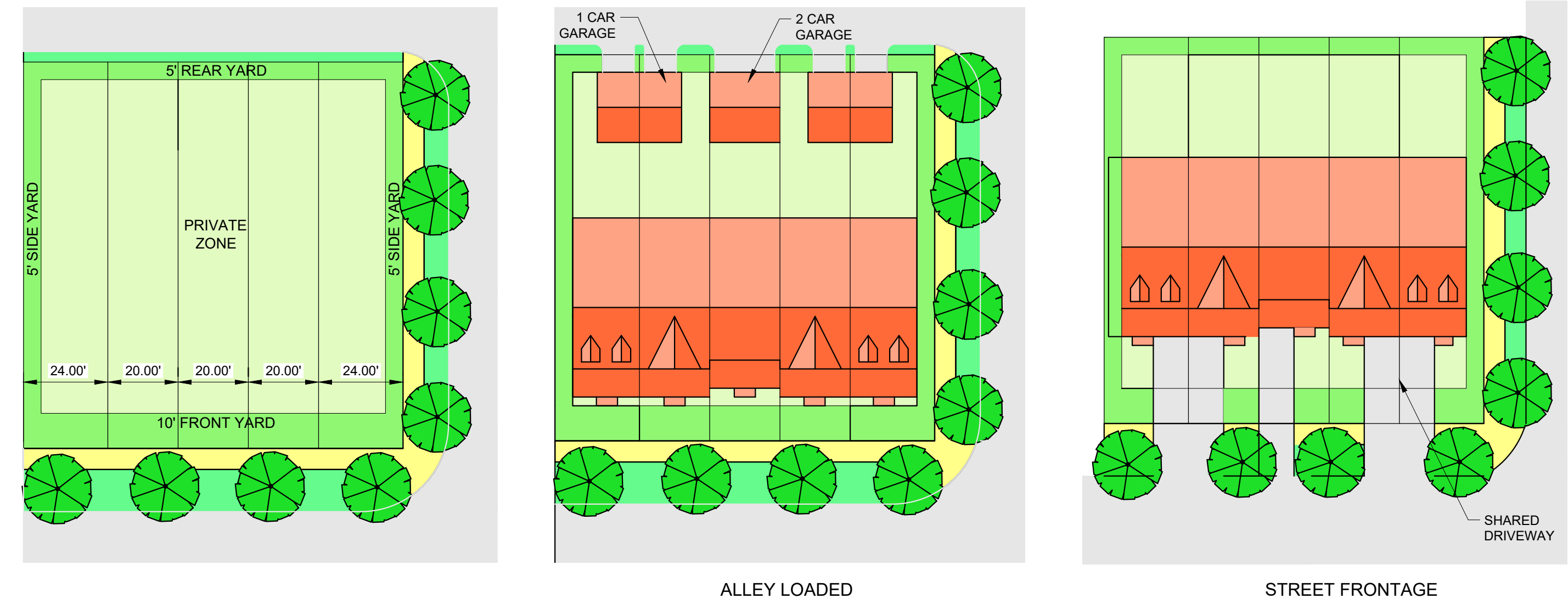
Illustrative Section

NTS

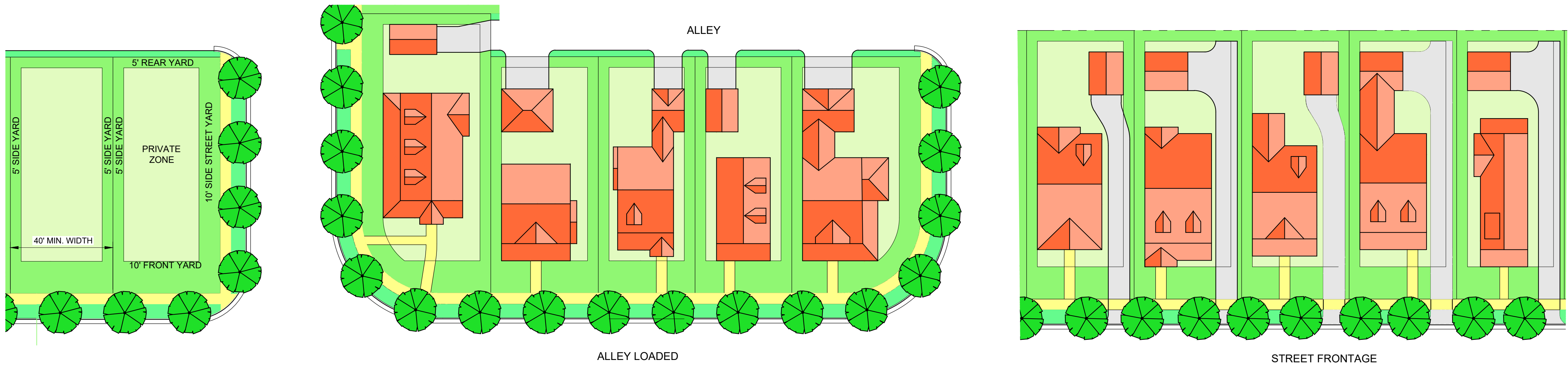
Blake Village

Exhibit VI - Lot Typicals

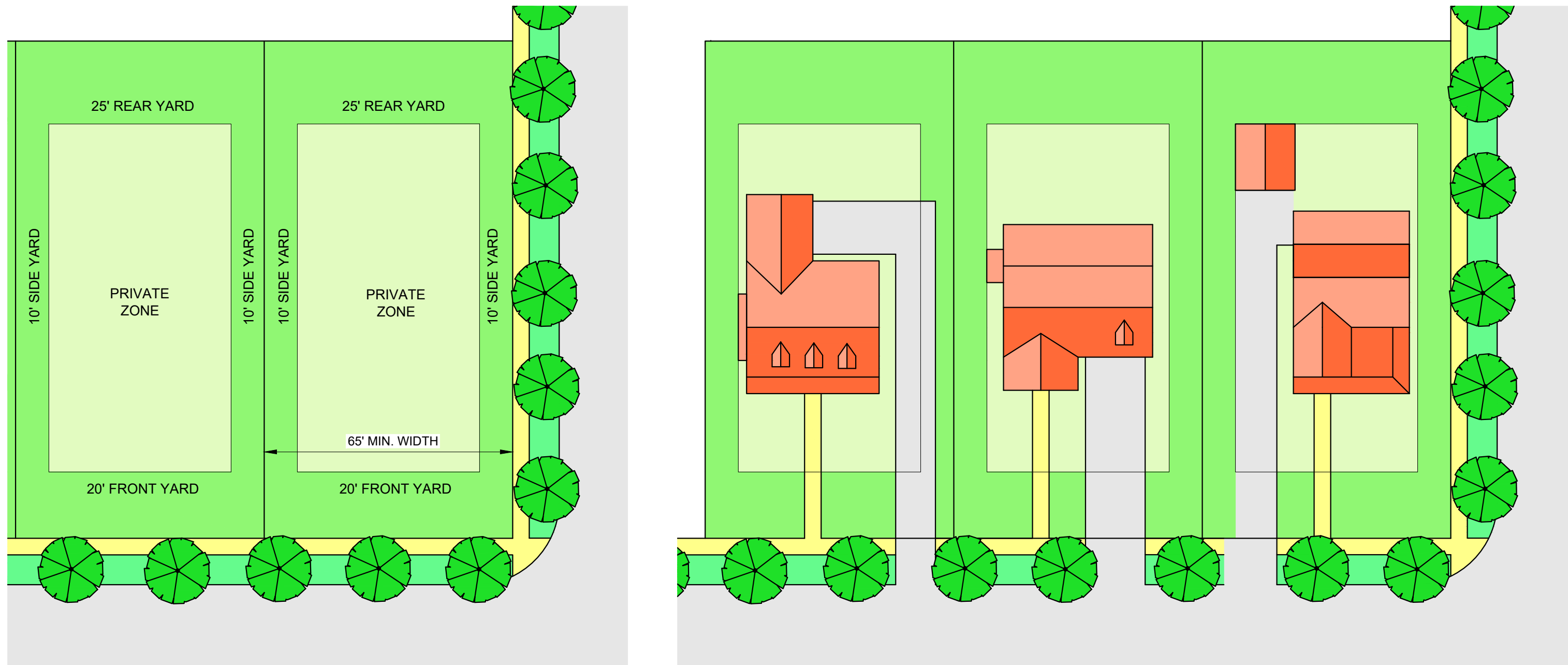
Aberdeen, North Carolina



TOWNHOME LOT - LOT TYPICALS
 SCALE: 1" = 30' PLAN



COTTAGE LOT - LOT TYPICAL
 SCALE: 1" = 30' PLAN



SINGLE FAMILY RESIDENTIAL - LOT TYPICALS
 SCALE: 1" = 30' PLAN

**BLAKE PROPERTY
PUD-R PROJECT NARRATIVE**

MAR 19 2019

The development of the property described as the Blake Property in the submitted exhibits, is planned to be a new mixed-use neighborhood within the Town of Aberdeen. The approximately 122.46-acre property located off Highway 5 at the intersection of Highway 5 and Linden Road is located within an existing HC (Highway Commercial) and a small portion of R20-16 zoning districts that would permit up to +/- 800,000 sf of retail and office uses and 83 residential single-family lots on the property. This PUD-R application, as is permitted, proposes 60,000 sf of retail and office uses with 296 residential units which includes single family homes, cottages, townhomes, and multi-family. Centrally located and integrated areas of open space and community amenities will be provided for the residents.

The overall character of the development will provide a pleasing aesthetic and blend with the surrounding area. A connection to Highway 5 will be provided near the intersection of Highway 5 and Olivia Lane. All necessary traffic improvements at this intersection will be made during development of the property. A small neighborhood shopping and office area will be provided at this intersection to provide the residents with convenient shopping, entertainment and personal services options. The community will be configured in a development pattern similar to traditional neighborhoods in Moore County. Many lots and townhomes will utilize alleys for access to garages to maintain an appealing streetscape, while other areas will front streets creating a vibrant neighborhood character. Street trees, sidewalks and on street parking will be utilized to provide a traditional neighborhood feel and encourage walking throughout the community.

Design elements for the project are described below.

- **Pedestrian Connectivity**
 - o Pedestrian connectivity will be provided throughout the community. Sidewalks will be installed throughout the community and connect all retail, entertainment, open spaces and recreation areas.
- **Parking Areas**
 - o Off-street visitor and customer parking areas will be provided throughout the community along public streets and behind retail buildings. Parallel, perpendicular or angled parking spaces will be located in the retail and office areas, at green spaces and within the right-of-way. In retail areas, on-street parking is important to not only provide businesses with parking, but also to create an active and vibrant streetscape. In residential areas, since many of the homes will not have driveways in front of the homes, this parking configuration is important to prevent visitors from parking solely in the fronts of the units and blocking roadways for resident access as well as emergency access.
- **Streets and Access**
 - o Access to the site will be provided from two (2) different locations. The main entrance to the community will be provided near the intersection of Highway 5 and Olivia Lane, while access will be provided at Olivia Lane. Olivia Lane will be improved.



- Alleyways will be utilized for many of the lots and townhomes within the development. These alleyways will be private and maintained by the homeowners. Using alleyways provides the ability for garages to be located at the back of the lot and allows for homes to face the street without garage doors. The alleys will be located within a 20' right-of-way and be paved at 14' wide.
- Roadway cross sections will follow Town of Aberdeen guidelines for the PUD-R district. Roadways will be 22' wide with 2' concrete roll curb and gutter on both sides of streets. This roadway cross section will collect storm water and direct it to stormwater detention areas on the site.
- On street angled, parallel and perpendicular parking areas will be provided along the streets to add customer and visitor parking and provide amenity area parking for the residents and visitors.
- A right-of-way will be extended to the adjoining property boundary to the south to allow for a future connection to the property.
- **Landscaping**
 - Landscaping will be provided and maintained as required by the Town of Aberdeen UDO. Trees will be saved wherever possible in larger lot residential areas. In commercial areas, townhome, and higher density areas, opportunities to save trees will be limited, however, efforts to protect large specimen type trees, if any exist, will be made.
 - The site will not be clear cut and no burning will occur on site. Significant grading will be required on the site due to the slopes on the property.
 - Planting buffers and screening will be provided on adjacent property boundaries where required by the UDO.
 - Street trees will be planted as required by the Town of Aberdeen UDO.
- **Open Space**
 - Required open space for the PUD-R district is 15%. Development of the property is proposed to have smaller lots which allow for greater amounts of open space. The plan calls for approximately 22.68 acres (18.4%) of open space. During the development of the property, the developer will maintain a minimum of 15% open space. These open space areas will provide the community with recreation opportunities and add to the character and charm of the neighborhood. Open space and recreation areas will be connected through the community sidewalk and trail system. The stormwater detention areas will be planted and maintained to provide an open feel for the community.
- **Lot Size**
 - Lot sizes vary throughout the development and will range from 2,200 sf for townhomes to over 22,000 sf for single-family detached homes. The lot sizes throughout the community are adequate to support homes and townhomes. By providing alleyways in many locations with garages in the rear of the homes, the width of lots can be reduced due to the elimination of front yard driveways.
 - The minimum lot width in the neighborhood is 20' for townhomes, 40' for cottages and 65' for single-family homes. These lot widths are adequate to provide appropriate setbacks (see the typical lot exhibit included with the application).

- **Buffers/Setbacks**

- No minimum setbacks will be required in the commercial and office areas. It is intended that buildings connect to community sidewalks and parking areas at the right-of-way edge of the street. This is a traditional retail development pattern seen in many downtown areas across the region and in downtown Aberdeen.
- Setbacks for the community would include a 5' side yard setback, 5' side yard setback along street rights-of-way, and a 10' front yard building setbacks for townhomes. Cottage setbacks would be 5' side yard setback, 10' side yard setback along street rights-of-way, and a 10' front yard. Single-family residence setbacks would be 10' side yard setback, 10' side yard setback along street rights-of-way, and a 20' front yard. All units on alleyways throughout the community will have a 5' rear yard setback. Cottages and single-family homes without alleyways will have a minimum 25' rear yard setback. These setbacks are intended to provide an adequate amount of space to place the homes and garages on the lots. Many of the homes will not utilize the full building envelope.
- The 10' front yard setback is intended to pull the homes forward and allow front porches to be located near the sidewalks. This configuration allows for conversation between neighbors as they are walking the neighborhood and helps build community.
- These areas are adequate to provide for mechanical equipment and other items necessary for the homes.
- Setbacks of this type can be seen in the traditional downtown and older neighborhoods in Aberdeen and in many traditional downtown areas across the region.
- For garages to be located at the backs of the lots and along alleyways, the rear setback for garages and accessory structures is designated as 5'.

- **Stormwater**

- A small portion of the property is located within the WS-II-BW watershed district (+/- 10.7 acres). Based on existing topography and the site plan in this area, the final site condition will be designed/piped to direct stormwater in the direction of the basin areas indicated on the plan. These stormwater basins are not located in and flow away from the High-Quality Watershed (HQW). Stormwater from the project will not discharge into the HQW. During the North Carolina Department of Environmental Quality stormwater and erosion control permitting process, detailed grading and stormwater plans will be submitted indicating the direction of stormwater flow away from the HQW. Permitting will be based on the final developed condition within the development and modify the HQW flow line in this area, protecting the watershed.
- Stormwater management best practices will be applied on the site as necessary and required to control stormwater runoff throughout the project. Roadway cross sections and stormwater devices will be provided to control site runoff.

- **Utility Service**

- Adequate water and sewer service can be provided by the Town of Aberdeen to service this development. Utilities are currently within proximity to the site. All utilities on the site will be located underground.

- **Architectural Character**

- Homes will be designed to reflect a traditional aesthetic character of Moore County homes and retail development. Design of the project is intended to blend into the surrounding area and appear as though it is an older traditional neighborhood of

Aberdeen. Retail and office buildings will reflect the traditional downtown architecture of Aberdeen and surrounding areas. Front porches will be provided on many of the homes and residences to allow residents to interact with their neighbors as they walk through the community and create a pleasing streetscape.

- **Amenities**

- A pool and clubhouse area will be provided for the residents. This pool area is located in the center of the community and will be easily accessible by all residents within the neighborhood. Sidewalks and trails will provide easy pedestrian and bicycle access to the facility.
- An open space area will be provided in the center of the community and promote events, open play activities and passive recreational options for the residents. This park area will also serve as a central gathering place for residents and create an attractive green space in the middle of the community.
- Passive parks and open spaces are provided throughout the development. All residential units within the community are within a 5-minute walk of an open space or recreation area, creating a walkable, pedestrian friendly environment.

- **Signage**

- A subdivision sign and a shopping center sign will be placed at the main entrance on Highway 5. Internal signs to identify parking areas, amenity areas and parks may be provided as necessary. Any signs will follow the Town of Aberdeen ordinance guidelines for size, materials and height.

The descriptions and conditions described above will apply to the entire project as indicated in the Planned Unit Development – Residential plan document.

March 19, 2019

MAR 19 2019

BLAKE PROPERTY

PLANNED UNIT DEVELOPMENT – RESIDENTIAL (PUD-R) JUSTIFICATION

Below are listed the six (6) criteria to be considered in the evaluation of an application for a PUD-R conditional zoning district as described in Article XI Section 152-163.15.(H)(3) of the Town of Aberdeen Unified Development Ordinance (UDO). Following the individual criteria is an explanation, indicated in red, describing how the project demonstrates compliance with each of these criteria.

(a) That the proposed development creates a needed residential environment;

There is a need to provide alternative housing options in the Town of Aberdeen. This development proposes mixed-use development including, retail uses, single-family homes, cottages, townhomes, and multi-family to provide a diversity of housing types. Creating a community with various housing products can help meet the needs of many Aberdeen residents. The retail and office components included within the community will provide opportunities for residents to live, work and play within the community and provide a walkable destination to shopping and dining. Open space will be provided throughout the community to provide recreational opportunities and pedestrian destinations. The development is designed to provide a community of high character to the future residents and the Town of Aberdeen. This pattern of development is needed in the Town of Aberdeen and will create a unique neighborhood.

(b) That existing or proposed utility and other public services are adequate for the anticipated population densities;

Access to the Town of Aberdeen's public water system is available. Sewer lines will be extended to connect to the Town of Aberdeen's sewer system. Adequate capacity to serve this project exists within the current utility system.

(c) That the proposed population densities, land uses, and other special characteristics of the development can exist in harmony with adjacent areas;

The property is zoned HC (Highway Commercial) which permits commercial and office development and R20-16 (Residential) which permits single-family residences. Based on the size of the property, the zoning classification would permit an estimated 800,000 sf of office and retail uses and up to 83 residential units. The proposed PUD-R proposes 60,000 sf of retail and office development, 296 residential single-family detached, townhomes, and multi-family units on the property. The Blake property is surrounded by residential and commercial development areas along the Highway 5 corridor. The west side of the property is bounded by the CSX Railroad and a crossing will be provided to highway 5 near the Olivia Lane intersection. An additional access point will be provided to the property from Olivia Lane.



Olivia Lane will be improved. The proposed use can exist in harmony with the surrounding landuses and presents an opportunity for a positive mixed-use project in this area of Aberdeen.

(d) That the adjacent areas can be developed in compatibility with the proposed PUD-R;

The Blake Property PUD-R will not prohibit the adjacent areas from being developed in a compatible way. A roadway connection location will be provided to the large area of undeveloped property directly south of the project area.

(e) That the proposed PUD-R will not adversely affect traffic patterns and flow in adjacent areas; and

A Traffic Impact Analysis (TIA) will be provided for the project and describes the necessary improvements required for the development. These improvements will be made during the development of the project. The mixed-use nature of the project allows for some internal capture of traffic by providing residents with shopping and working opportunities internal to the development. Walking and biking opportunities within the development will also help in reducing traffic entering Highway 5.

(f) That the PUD-R is in general conformity with the Town's Comprehensive Land Use Plan.

The proposed PUD-R is in general conformity with the Town's CLRP and meets the goals and objectives set forth by the Town of Abedeen.

RESOLUTION #19-01:

**A RESOLUTION ESTABLISHING AN INTERLOCAL COOPERATION
AGREEMENT BETWEEN THE TOWN OF ABERDEEN, THE TOWN OF SOUTHERN
PINES, AND THE VILLAGE OF PINEHURST IN
MOORE COUNTY, NORTH CAROLINA.**

Whereas, the governing bodies of the Town of Aberdeen, the Town of Southern Pines, and the Village of Pinehurst desire to foster good relations; and

Whereas, all three governing bodies and their staffs wish to engage in a process of mutual dialog to obtain a better understanding of the needs and goals of each community; and

Whereas, all three governing bodies seek appropriately planned development for their respective areas; and

Whereas, all three governing bodies acknowledge the growth potential of properties near their borders and consequently the need to coordinate land use, development, service delivery, and annexation issues that arise in the general vicinity.

Now, therefore, be it resolved that in order to foster and maintain a system of sound land use planning and regulation, which can be relied upon by the public and private owners of land as a basis for investment decisions, the protection of the environment and climate conducive to the healthy economic and social growth and development of our jurisdictions, by mutual consent it is agreed by these governing bodies that:

1) The administrative staffs of each jurisdiction shall pursue cooperative efforts to coordinate plans and development regulations for land in the adjacent borders of Town of Aberdeen, Town of Southern Pines, and Village of Pinehurst. The objectives of this cooperation are to:

- a) Seek compatible uses of land and natural resources;
- b) Achieve a smooth transition between areas of development with each jurisdiction;
- c) Provide an appropriate entryway into each jurisdiction from the other;
- d) Encourage orderly development and the efficient delivery of municipal services which will maintain and enhance property values in each jurisdiction;

2) The administrative staff of the jurisdictions shall coordinate with each other on a timely basis in order to mutually exchange information, review zoning requests, special use permits, subdivisions, and site plans for land within ¼ mile of the adjacent borders of the Town of Aberdeen, Town of Southern Pines, and Village of Pinehurst defined on the attached map.

3) That all governing bodies identify the following roadway corridors as significant links between the three communities which offer opportunities for cooperation in land use planning and coordination of development regulations that will seek compatible uses of land and natural resources along each corridor, achieve a smooth transition between areas of development within each jurisdiction, provide appropriate entryways into each jurisdiction from the other and encourage orderly development and the efficient delivery of municipal services which will maintain and enhance property values in each jurisdictions. These mutually identified corridors are NC 5, US 15-501, US 1, and NC 2, and Airport road.

4) That all governing bodies direct the administrative staffs of each jurisdictions to pursue joint efforts to coordinate plans for improvements to the public rights-of-ways in the corridors identified in Section 3 above. Efforts shall include streetscape improvement plans, landscaping projects, coordinated signage and other development regulations unique to the corridor and roadway construction.

5) That the resolution shall become effective immediately following its adoption by all governing bodies.

6) That this agreement may be terminated at any time by mutual consent of all municipalities.

Adopted by the Town of Aberdeen:

Date: 1/28/2019

Robert A. Farrell
Mayor Robert Farrell– Town of Aberdeen

Adopted by the Town of Southern Pines:

Date: 1/28/2019

David McNeill
Mayor David McNeill– Town Southern Pines

Adopted by the Village of Pinehurst:

Date: 1/8/19

Nancy Roy Fiorillo
Mayor Nancy Fiorillo Village of Pinehurst

THIS RESOLUTION passed and adopted this 8th day of January, 2019.

(Municipal Seal)



Attest:

Beth Dunn
Beth Dunn, Village Clerk

VILLAGE OF PINEHURST
VILLAGE COUNCIL

By: Nancy Roy Fiorillo
Nancy Roy Fiorillo, Mayor

Approved as to Form:

Michael J. Newman
Michael J. Newman, Village Attorney



**DISCUSS SENTATE AND HOUSE BILLS BEING CONSIDERED BY THE
GENERAL ASSEMBLY DURING THE 2019-2020 SESSION.
ADDITIONAL AGENDA DETAILS:**

FROM:

Jeff Sanborn

DATE OF MEMO:

4/16/2019

MEMO DETAILS:

This item is for Council to discuss the following bills being considered by the General Assembly during the 2019-2020 session. If it is the desire of the Council, draft Resolution 19-12 is attached for Council to consider opposing the proposed bills listed below. Also, the Moore County Board of County Commissioners has drafted the attached County resolution opposing bills before the General Assembly as well.

- **SB 367 Clarify Property Owners' Rights-** Prohibits cities and counties from regulating removal of trees on private property, including areas in a city's extra-territorial jurisdiction, unless given express authority by the General Assembly. States that no other general police powers may be cited by a city or county as their authority for regulating tree removal on private property. Further, even when the General Assembly allows a city or county to regulate tree removal on private property, stipulates that the ordinance must include a provision granting private property owners the right to remove trees that interfere with a construction or renovation project, so long as they replace that tree with a sapling of the same or similar type. Requires all ordinances of this type that were previously authorized by local act to be updated to include the prior provision regarding replanting of trees removed during construction or renovation.

- **SB 355 Land-Use Regulatory Changes-** Makes significant changes to the process of resolving and litigating land use disputes.

Importantly, one of these changes includes an ability for a property owner to bypass the local board of adjustment and file an original action in superior or federal court, for certain types of legal claims. Another change confers standing on various potential plaintiffs, including non-property owners that have executed a private contract giving them an option to purchase the property subject to the disputed development approval. Yet another provision changes the rules of evidence that currently apply to these types of cases. The proposal also eliminates the defense of estoppel for these legal proceedings, which means that a property owner may continue the development process while challenging a local government's development approval decision, and those actions do not discount the property owner's arguments in the legal proceeding.

Changes the attorney's fees statute to require an award of attorney's fees if the local government was found to have "violated a statute or case law setting forth unambiguous limits on its authority," rather than leaving that decision in the discretion of the court. Proposes exhaustive lists to define the terms "development," "development approval," and "land development regulation," which then apply to various land use statutes. Explicitly creates new vested rights for developers, which entitles them to lock in certain development rules and regulations contained in the applicable development approval.

In another change, removes a current provision allowing non-property owners to request a rezoning of parcels, unless all affected landowners give written consent to the request. Also adds language to the current "permit choice" statute to further define the circumstances under which a developer may choose

between proceeding under a local government's old or new zoning or subdivision ordinances, when the development proposal or approval is sought in the midst of an ordinance update.

- **HB 492 Simplify Builder Inventory Exculsion-** Extends an existing property tax exclusion, which allows builders who own real property held for sale to exclude from property tax calculations the increase in value of the property attributable to subdivision of the land or residential construction on the land. The extension would go from three to five years. Also eliminates an annual filing requirement builders must currently make to take advantage of this exclusion.
- **HB 675 2019 Building Code Regulatory Reform-** The ordinance may not set a minimum square footage of any structures subject to regulation under the North Carolina Residential Code for One-and Two-Family Dwellings. If a city chooses to review residential building plans, all reviews must be performed within two business days of submission of the plans, for plans sealed by an engineer or architect, or within five business days, for all other residential building plans.
- **HB 0495- An Act to Prohibit Municipalities from Regulating Off-Site Septic Easements-** Notwithstanding any other provision of law, a municipality shall not prohibit or regulate by ordinance or enforce an existing ordinance regulating the use of off-site wastewater systems or other systems approved by the Department under rules adopted by the Commission when the proposed system meets the specific conditions of the approval.
- **HB 645 & SB 534 - Revisions to Outdoor Advertising Laws-** Makes numerous changes to the state's billboard laws. Lists the factors for calculating just compensation to be paid if a sign is condemned, including potential future income the sign could earn. Sets new standards for relocating existing signs and preempts any local ordinances to the contrary. Broadens state standards for cutting vegetation.
- **SB 406 - Limit Conditional Zoning-**Limits the discretion of local government officials when making conditional or special use zoning decisions, only allowing conditions that would otherwise be able to be imposed upon other similarly-situated parcels in the same zoning classification.
- **SB 571-Local Governments/Unsafe Buildings-** Rolls back several reasons for which a municipal code enforcement official may consider a building or structure unsafe, including that the building "is likely to cause or contribute to blight, disease, vagrancy, or danger to children," or "has a tendency to attract persons intent on criminal activities or other activities which would constitute a public nuisance," such as gang activities. Puts in place a 60-day time period under which a building owner must take corrective action, and allows municipal officials to grant another 60-day extension to complete work to bring the building into compliance.

ATTACHMENTS:

Description

- ❑ SB 367 Clarify Property Owners' Rights
- ❑ SB 355 Land-Use Regulatory Changes
- ❑ HB 492 Simplify Builder Inventory Exculsion
- ❑ HB 675 2019 Building Code Regulatory Reform
- ❑ HB 495 Prohibit Municipal Off-Site Septic Easements
- ❑ HB 645 Revisions to Outdoor Advertising Laws
- ❑ SB 406 Limit Conditional Zoning
- ❑ SB 571 Local Governments Unsafe Buildings
- ❑ Moore County Draft Resolution

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

S

2

SENATE BILL 367
State and Local Government Committee Substitute Adopted 4/9/19

Short Title: Clarify Property Owners' Rights.

(Public)

Sponsors:

Referred to:

March 27, 2019

A BILL TO BE ENTITLED
AN ACT PROVIDING THAT COUNTIES AND CITIES SHALL NOT ADOPT
ORDINANCES REGULATING THE REMOVAL OF TREES FROM PRIVATE
PROPERTY WITHOUT THE EXPRESS AUTHORIZATION OF THE GENERAL
ASSEMBLY.

The General Assembly of North Carolina enacts:

SECTION 1. Article 6 of Chapter 153A of the General Statutes is amended by adding a new section to read as follows:

"§ 153A-145.8. Limitations on regulating trees.

No county may adopt ordinances regulating the removal of trees from private property within the county's jurisdiction without the express authorization of the General Assembly. Neither the general police powers authorized in this Article nor any other powers authorized in this Chapter or in any other general or local law, except a general or local law expressly authorizing a county to adopt ordinances regulating the removal of trees from private property, shall be used by a county's governing body as the basis for adopting ordinances regulating the removal of trees from private property."

SECTION 2. Article 8 of Chapter 160A of the General Statutes is amended by adding a new section to read as follows:

"§ 160A-201.2. Limitations on regulating trees.

No city may adopt ordinances regulating the removal of trees from private property within the city's corporate limits or extraterritorial jurisdiction without the express authorization of the General Assembly. Neither the general police powers authorized in this Article nor any other powers authorized in this Chapter or in any other general or local law, except a general or local law expressly authorizing a city to adopt ordinances regulating the removal of trees from private property, shall be used by a city's governing body as the basis for adopting ordinances regulating the removal of trees from private property."

SECTION 3. Any local acts authorizing ordinances regulating the removal of trees from private property and any ordinances that were adopted under that authority before the date this act becomes law shall remain in effect after this act becomes law.

SECTION 4. Any ordinances regulating the removal of trees from private property that were adopted before the date this act becomes law without the express authorization of the General Assembly are hereby repealed.

SECTION 5. This act is effective when it becomes law.



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

S

1

SENATE BILL 355

Short Title: Land-Use Regulatory Changes. (Public)

Sponsors: Senators Bishop, Newton, and Searcy (Primary Sponsors).

Referred to: Rules and Operations of the Senate

March 27, 2019

A BILL TO BE ENTITLED
AN ACT TO CLARIFY AND MAKE CHANGES TO THE LAND-USE REGULATORY
LAWS OF THE STATE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-755 reads as rewritten:

"§ 143-755. Permit choice.

(a) If a development permit applicant submits a permit application for any type of development and a rule or ordinance ~~changes~~ is amended, including an amendment to any applicable land development regulation, between the time the development permit application was submitted and a development permit decision is made, the development permit applicant may choose which adopted version of the rule or ordinance will apply to the ~~permit~~ permit and use of the building, structure, or land indicated on the permit application. If the development permit applicant chooses the version of the rule or ordinance applicable at the time of the permit application, the development permit applicant shall not be required to await the outcome of the amendment to the rule, map, or ordinance prior to acting on the development permit. If an applicable rule or ordinance is amended after the development permit is wrongfully denied or after an illegal condition is imposed, as determined in a proceeding challenging the permit denial or the condition imposed, the development permit applicant may choose which adopted version of the rule or ordinance will apply to the permit and use of the building, structure, or land indicated on the permit application. Provided, however, any provision of the development permit applicant's chosen version of the rule or ordinance that is determined to be illegal for any reason shall not be enforced upon the applicant without the written consent of the applicant.

(b) This section applies to all development permits issued by the State and by local governments.

(c) Repealed by Session Laws 2015 246, s. 5(a), effective September 23, 2015.

(d) Any person aggrieved by the failure of a State agency or local government to comply with this section or G.S. 160A-360.1 or G.S. 153A-320.1 may apply to the appropriate division of the General Court of Justice for an order compelling compliance by the offending agency or local government, and the court shall have jurisdiction to issue that order. Actions brought pursuant to any of these sections shall be set down for immediate hearing and subsequent proceedings in those actions shall be accorded priority by the trial and appellate courts.

(e) For purposes of this section, the following definitions shall apply:

(1) Development. – Without altering the scope of any regulatory authority granted by statute or local act, any of the following:



- a. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
 - b. Excavation, grading, filling, clearing, or alteration of land.
 - c. The subdivision of land as defined in G.S. 153A-335 or G.S. 160A-376.
 - d. The initiation of substantial change in the use of land or the intensity of the use of land.
- (2) Development permit. – An administrative or quasi-judicial approval that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal, including any of the following:
- a. Zoning permits.
 - b. Site plan approvals.
 - c. Special use permits.
 - d. Variances.
 - e. Certificates of appropriateness.
 - f. Plat approvals.
 - g. Development agreements.
 - h. Building permits.
 - i. Subdivision of land.
 - j. State agency permits for development.
 - k. Driveway permits.
 - l. Erosion and sedimentation control permits.
 - m. Sign permit.
- (3) Land development regulation. – Any State statute, rule, or regulation, or local ordinance affecting the development or use of real property, including any of the following:
- a. Unified development ordinance.
 - b. Zoning regulation, including zoning maps.
 - c. Subdivision regulation.
 - d. Erosion and sedimentation control regulation.
 - e. Floodplain or flood damage prevention regulation.
 - f. Mountain ridge protection regulation.
 - g. Stormwater control regulation.
 - h. Wireless telecommunication facility regulation.
 - i. Historic preservation or landmark regulation.
 - j. Housing code."

SECTION 2.(a) G.S. 160A-360.1 reads as rewritten:

"§ 160A-360.1. Permit choice.

(a) If a rule or ~~ordinance changes ordinance~~ is amended, including an amendment to any applicable land development regulation, between the time a development permit application is submitted and a development permit decision is ~~made~~, made or if a rule or ordinance is amended after a development permit decision has been challenged and found to be wrongfully denied or illegal, then G.S. 143-755 shall apply.

(b) For purposes of this section, the definitions in G.S. 143-755 shall apply."

SECTION 2.(b) G.S. 153A-320.1 reads as rewritten:

"§ 153A-320.1. Permit choice.

(a) If a rule or ~~ordinance changes ordinance~~ is amended, including an amendment to any applicable land development regulation, between the time a development permit application is submitted and a development permit decision is ~~made~~, made or if a rule or ordinance is amended

after a development permit decision has been challenged and found to be wrongfully denied or illegal, then G.S. 143-755 shall apply.

(b) For purposes of this section, the definitions in G.S. 143-755 shall apply."

SECTION 3.(a) G.S. 160A-385(c) is recodified as G.S. 160A-385(b)(5).

SECTION 3.(b) G.S. 160A-385, as amended by this section, reads as rewritten:

"§ 160A-385. ~~Changes.~~Changes to land development regulations.

(a) Citizen Comments. –

(1) ~~Zoning~~ Subject to the limitations in this Chapter, zoning ordinances may from time to time be amended, supplemented, changed, modified or repealed. If any resident or property owner in the city submits a written statement regarding a proposed amendment, modification, or repeal to a zoning ordinance, including a zoning map or text, that has been properly initiated as provided in G.S. 160A-384, to the clerk to the board at least two business days prior to the proposed vote on such change, the clerk to the board shall deliver such written statement to the city council. If the proposed change is the subject of a quasi-judicial proceeding under G.S. 160A-388, or any other statute, the clerk shall provide only the names and addresses of the individuals providing written comment, and the provision of such names and addresses to all members of the board shall not disqualify any member of the board from voting.

(2), (3) Repealed by Session Laws 2015-160, s. 1, effective August 1, 2015, and applicable to zoning ordinance changes initiated on or after that date.

(b) Amendments in ~~zoning ordinances~~ land development regulations, shall not be applicable or enforceable without the written consent of the owner with regard to ~~buildings and uses for which either (i) building permits have been issued pursuant to G.S. 160A-417 prior to the enactment of the ordinance making the change or changes so long as the permits remain valid and unexpired pursuant to G.S. 160A-418 and unrevoked pursuant to G.S. 160A-422 or (ii) any~~ of the following:

(1) Buildings or uses of buildings or land for which a development permit application has been submitted and subsequently issued in accordance with G.S. 143-755.

(2) Subdivisions of land for which a development permit authorizing the subdivision has been submitted and subsequently issued in accordance with G.S. 143-755.

(3) ~~a~~ A vested right ~~has been established pursuant to G.S. 160A-385.1 and such vested right remains valid and unexpired pursuant to G.S. 160A-385.1.~~

(4) A vested right established by the terms of a development agreement authorized by Part 3D of this Article.

(5) ~~Amendments in zoning ordinances, subdivision ordinances, and unified development ordinances shall not be applicable or enforceable without the written consent of the owner with regard to a~~ A multi-phased development as defined in G.S. 160A-385.1(b)(7), provided for in this subdivision, in accordance with G.S. 143-755. A multi-phased development shall be vested for the entire development with the zoning ordinances, subdivision ordinances, and unified development ordinances land development regulations then in place at the time a site plan approval is granted for the initial phase of the multi-phased development. A right which has been vested as provided for in this subsection-subdivision shall remain vested for a period of seven years from the time a site plan approval is granted for the initial phase of the multi-phased development.

(c) Recodified.

(d) Upon issuance of a development permit, the statutory vesting granted by this section shall be effective upon filing of the application in accordance with G.S. 143-755, for so long as the permit remains valid pursuant to law. Unless otherwise specified by statute, local development permits expire one year after issuance unless work authorized by such permit has substantially commenced. For the purposes of this section, a permit is issued either in the ordinary course of business of the applicable governmental agency or by the applicable governmental agency as a court directive.

(e) The establishment of a vested right under any subdivision of subsection (b) of this section does not preclude vesting under one or more other subdivisions of subsection (b) of this section or vesting by application of common law principles. A vested right, once established as provided for in this section, precludes any action by a city that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in the development permit application, except where a change in State or federal law mandating local government enforcement occurs after the development application that has a fundamental and retroactive effect on such development or use.

(f) As used in this section, the following terms mean:

(1) Development permit. – Shall mean as defined in G.S. 143-755(e)(2).

(2) Land development regulation. – Shall mean as defined in G.S. 143-755(e)(3).

(3) Multi-phased development. – A development containing 25 acres or more that is both of the following:

a. Submitted for development permit approval to occur in more than one phase.

b. Subject to a master development plan with committed elements showing the type and intensity of use of each phase."

SECTION 3.(c) G.S. 160A-385.1 reads as rewritten:

"§ 160A-385.1. Vested rights.

...

(b) Definitions. –

...

~~(7) "Multi-phased development" means a development containing 100 acres or more that (i) is submitted for site plan approval for construction to occur in more than one phase and (ii) is subject to a master development plan with committed elements, including a requirement to offer land for public use as a condition of its master development plan approval.~~

...."

SECTION 3.(d) G.S. 153A-344(b1) is recodified as G.S. 153A-344(b)(5).

SECTION 3.(e) G.S. 153A-344 reads as rewritten:

"§ 153A-344. Planning board; zoning plan; certification to board of commissioners.

...

(b) ~~Amendments in zoning ordinances~~ land development regulations, shall not be applicable or enforceable without the written consent of the owner with regard to buildings and uses for which either (i) building permits have been issued pursuant to G.S. 153A-357 prior to the enactment of the ordinance making the change or changes so long as the permits remain valid and unexpired pursuant to G.S. 153A-358 and unrevoked pursuant to G.S. 153A-362 or (ii) any of the following:

(1) Buildings or uses of buildings or land for which a development permit application has been submitted and subsequently issued in accordance with G.S. 143-755.

(2) Subdivisions of land for which a development permit authorizing the subdivision has been issued in accordance with G.S. 143-755.

(3) ~~a A vested right has been established pursuant to G.S. 153A-344.1 and such vested right remains valid and unexpired pursuant to G.S. 153A-385.1.~~

(4) A vested right established by the terms of a development agreement authorized by Part 3D of this Article.

(5) ~~Amendments in zoning ordinances, subdivision ordinances, and unified development ordinances shall not be applicable or enforceable without the written consent of the owner with regard to a A multi-phased development as defined in G.S. 153AA-344.1(b)(7).~~ provided for in this subdivision, in accordance with G.S. 143-755. A multi-phased development shall be vested for the entire development with the zoning ordinances, subdivision ordinances, and unified development ordinances and development regulations then in place at the time a site plan approval is granted for the initial phase of the multi-phased development. A right which has been vested as provided for in this subsection-subdivision shall remain vested for a period of seven years from the time a site plan approval is granted for the initial phase of the multi-phased development.

(b1) Recodified.

(c) Upon issuance of a development permit, the statutory vesting granted by this section shall be effective upon filing of the application in accordance with G.S. 143-755 for so long as the permit remains valid pursuant to law. Unless otherwise specified by statute, local development permits expire one year after issuance unless work authorized by such permit has substantially commenced. For the purposes of this section, a permit is issued either in the ordinary course of business of the applicable governmental agency or by the applicable governmental agency as a court directive.

(d) The establishment of a vested right under any subdivision of subsection (b) of this section does not preclude vesting under one or more other subdivisions of subsection (b) of this section or vesting by application of common law principles. A vested right, once established as provided for in this section, precludes any action by a county that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in the development permit application, except where a change in State or federal law mandating local government enforcement occurs after the development application that has a fundamental and retroactive effect on such development or use.

(e) As used in this section, the following terms mean:

(1) Development permit. – Shall mean as defined in G.S. 143-755(e)(2).

(2) Land development regulation. – Shall mean as defined in G.S. 143-755(e)(3).

(3) Multi-phased development. – A development containing 25 acres or more that is both of the following:

a. Submitted for development permit approval to occur in more than one phase.

b. Subject to a master development plan with committed elements showing the type and intensity of use of each phase."

SECTION 3.(f) G.S. 153A-344.1 reads as rewritten:

"§ 153A-344.1. Vesting rights.

...

(b) Definitions.

...

(7) ~~"Multi-phased development" means a development containing 100 acres or more that (i) is submitted for site plan approval for construction to occur in more than one phase and (ii) is subject to a master development plan with committed elements, including a requirement to offer land for public use as a condition of its master development plan approval.~~

...."

SECTION 4. G.S. 160A-384 reads as rewritten:

"§ 160A-384. Method of procedure.

(a) ~~The Subject to the limitations of this Chapter, the city council shall provide for the manner in which zoning regulations and restrictions and the boundaries of zoning districts shall be determined, established and enforced, and from time to time amended, supplemented or changed, in accordance with the provisions of this Article. The procedures adopted pursuant to this section shall provide that whenever there is a zoning map amendment, the owner of that parcel of land as shown on the county tax listing, and the owners of all parcels of land abutting that parcel of land as shown on the county tax listing, shall be mailed a notice of a public hearing on the proposed amendment by first class mail at the last addresses listed for such owners on the county tax abstracts. This notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the public hearing. Except for a city-initiated zoning map amendment, when an application is filed to request a zoning map amendment and that application is not made by the owner of the parcel of land to which the amendment would apply, the applicant shall certify to the city council that the owner of the parcel of land as shown on the county tax listing has received actual notice of the proposed amendment and a copy of the notice of public hearing. The person or persons required to provide notice shall certify to the city council that proper notice has been provided in fact, and such certificate shall be deemed conclusive in the absence of fraud. No zoning map amendment shall be initiated nor shall it be enforceable without the written consent of all property owners whose property is the subject of the zoning map amendment, unless the zoning map amendment is initiated by the city.~~

(b) The first class mail notice required under subsection (a) of this section shall not be required if the zoning map amendment directly affects more than 50 properties, owned by a total of at least 50 different property owners, and the city elects to use the expanded published notice provided for in this subsection. In this instance, a city may elect to either make the mailed notice provided for in subsection (a) of this section or may as an alternative elect to publish notice of the hearing as required by G.S. 160A-364, but provided that each advertisement shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified according to the provisions of subsection (a) of this section.

~~(b1) Actual notice of the proposed amendment and a copy of the notice of public hearing required under subsection (a) of this section shall be by any manner permitted under G.S. 1A-1, Rule 4(j). If notice cannot with due diligence be achieved by personal delivery, registered or certified mail, or by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2), notice may be given by publication consistent with G.S. 1A-1, Rule 4(j1). This subsection applies only to an application to request a zoning map amendment where the application is not made by the owner of the parcel of land to which the amendment would apply. This subsection does not apply to a city-initiated zoning map amendment.~~

(c) When a zoning map amendment is proposed, the city shall prominently post a notice of the public hearing on the site proposed for rezoning or on an adjacent public street or highway right-of-way. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the city shall post sufficient notices to provide reasonable notice to interested persons."

SECTION 5. G.S. 153A-343 reads as rewritten:

"§ 153A-343. Method of procedure.

(a) The board of commissioners shall, in accordance with the provisions of this Article, provide for the manner in which zoning regulations and restrictions and the boundaries of zoning districts shall be determined, established, and enforced, and from time to time amended,

1 supplemented, or changed. The procedures adopted pursuant to this section shall provide that
2 whenever there is a zoning map amendment, the owner of that parcel of land as shown on the
3 county tax listing, and the owners of all parcels of land abutting that parcel of land as shown on
4 the county tax listing, shall be mailed a notice of a public hearing on the proposed amendment
5 by first class mail at the last addresses listed for such owners on the county tax abstracts. This
6 notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the
7 public hearing. ~~Except for a county-initiated zoning map amendment, when an application is filed~~
8 ~~to request a zoning map amendment and that application is not made by the owner of the parcel~~
9 ~~of land to which the amendment would apply, the applicant shall certify to the board of~~
10 ~~commissioners that the owner of the parcel of land as shown on the county tax listing has received~~
11 ~~actual notice of the proposed amendment and a copy of the notice of public hearing. The person~~
12 ~~or persons required to provide notice shall certify to the board of commissioners that proper~~
13 ~~notice has been provided in fact, and such certificate shall be deemed conclusive in the absence~~
14 ~~of fraud. No zoning map amendment shall be initiated nor shall it be enforceable without the~~
15 written consent of all property owners whose property is the subject of the zoning map
16 amendment, unless the zoning map amendment is initiated by the county.

17 (b) The first class mail notice required under subsection (a) of this section shall not be
18 required if the zoning map amendment directly affects more than 50 properties, owned by a total
19 of at least 50 different property owners, and the county elects to use the expanded published
20 notice provided for in this subsection. In this instance, a county may elect to either make the
21 mailed notice provided for in subsection (a) of this section or may as an alternative elect to
22 publish notice of the hearings required by G.S. 153A-323, but provided that each of the
23 advertisements shall not be less than one-half of a newspaper page in size. The advertisement
24 shall only be effective for property owners who reside in the area of general circulation of the
25 newspaper which publishes the notice. Property owners who reside outside of the newspaper
26 circulation area, according to the address listed on the most recent property tax listing for the
27 affected property, shall be notified according to the provisions of subsection (a) of this section.

28 ~~(b1) Actual notice of the proposed amendment and a copy of the notice of public hearing~~
29 ~~required under subsection (a) of this section shall be by any manner permitted under G.S. 1A-1,~~
30 ~~Rule 4(j). If notice cannot with due diligence be achieved by personal delivery, registered or~~
31 ~~certified mail, or by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2),~~
32 ~~notice may be given by publication consistent with G.S. 1A-1, Rule 4(j1). This subsection applies~~
33 ~~only to an application to request a zoning map amendment where the application is not made by~~
34 ~~the owner of the parcel of land to which the amendment would apply. This subsection does not~~
35 ~~apply to a county-initiated zoning map amendment.~~

36 (c) Repealed by Session Laws 2005-418, s. 4, effective January 1, 2006.

37 (d) When a zoning map amendment is proposed, the county shall prominently post a
38 notice of the public hearing on the site proposed for rezoning or on an adjacent public street or
39 highway right-of-way. When multiple parcels are included within a proposed zoning map
40 amendment, a posting on each individual parcel is not required, but the county shall post
41 sufficient notices to provide reasonable notice to interested persons."

42 **SECTION 6.** G.S. 160A-388 reads as rewritten:

43 **"§ 160A-388. Board of adjustment.**

44 ...

45 (b1) Appeals. – The board of adjustment shall hear and decide appeals from decisions of
46 administrative officials charged with enforcement of the zoning or unified development
47 ordinance and may hear appeals arising out of any other ordinance that regulates land use or
48 development, pursuant to all of the following:

49 (1) Any person who has standing under G.S. 160A-393(d) or the city may appeal
50 a decision to the board of adjustment. An appeal is taken by filing a notice of

1 appeal with the city clerk. The notice of appeal shall state the grounds for the
2 appeal.

- 3 (2) The official who made the decision shall give written notice to the owner of
4 the property that is the subject of the decision and to the party who sought the
5 decision, if different from the owner. The written notice shall be delivered by
6 personal delivery, electronic mail, or by first-class mail. In order for a decision
7 to be effective, written notice of the decision shall include language that the
8 determination is final and that the party for whom the notice is given may
9 appeal the decision as provided by law.

10 ...

- 11 (6) An appeal of a notice of violation or other enforcement order stays
12 enforcement of the action appealed ~~from~~ from, including any accumulation of
13 finances, during the pendency of the appeal to the board of adjustment and any
14 subsequent appeal in accordance with G.S. 160A-393 or during the pendency
15 of any civil proceeding authorized by law, including G.S. 160A-393.1, or
16 appeals therefrom, unless the official who made the decision certifies to the
17 board of adjustment after notice of appeal has been filed that because of the
18 facts stated in an affidavit, a stay would cause imminent peril to life or
19 property or because the violation is transitory in nature, a stay would seriously
20 interfere with enforcement of the ordinance. In that case, enforcement
21 proceedings shall not be stayed except by a restraining order, which may be
22 granted by a court. If enforcement proceedings are not stayed, the appellant
23 may file with the official a request for an expedited hearing of the appeal, and
24 the board of adjustment shall meet to hear the appeal within 15 days after such
25 a request is filed. Notwithstanding the foregoing, appeals of decisions granting
26 a permit or otherwise affirming that a proposed use of property is consistent
27 with the ordinance shall not stay the further review of an application for
28 permits or permissions to use such property; in these situations the appellant
29 may request and the board may grant a stay of a final decision of permit
30 applications or building permits affected by the issue being appealed.

31"

32 **SECTION 7.** Part 3 of Article 19 of Chapter 160A of the General Statutes is amended
33 by adding a new section to read:

34 **"§ 160A-393.1 Civil action for declaratory relief, injunctive relief, other remedies; joinder**
35 **of complaint and petition for writ of certiorari in certain cases.**

36 (a) Review of Vested Rights Claim. – A person claiming a statutory or common law
37 vested right may submit information to substantiate that claim to the zoning administrator or
38 other officer designated by a land development regulation, who shall make an initial
39 determination as to the existence of the vested right. The zoning administrator's or officer's
40 determination may be appealed under G.S. 160A-388(b1). On appeal, the question of law
41 regarding the existence of a vested right shall be reviewed de novo. In lieu of an appeal under
42 G.S. 160A-388(b1), a person claiming a vested right may bring an original civil action as
43 provided by subsection (b) of this section.

44 (b) Civil Action. – Except as otherwise provided in this section for claims involving
45 questions of interpretation, in lieu of any remedies available under G.S. 160A-388(b1), a person
46 with standing, as defined in subsection (c) of this section, may bring an original civil action
47 seeking declaratory relief, injunctive relief, damages, or any other remedies provided by law or
48 equity, in superior court or federal court to challenge the enforceability, validity, or effect of a
49 local land development regulation for any of the following claims:

- 50 (1) The ordinance, either on its face or as applied, is unconstitutional.

(2) The ordinance, either on its face or as applied, is ultra vires, preempted, or otherwise in excess of statutory authority.

(3) The ordinance, either on its face or as applied, constitutes a taking of property.

If the decision being challenged is from an administrative official charged with enforcement of a local land development regulation, the party with standing must first bring any claim that the ordinance was erroneously interpreted to the applicable board of adjustment pursuant to G.S. 160A-388(b1). An adverse ruling from the board of adjustment may then be challenged in an action brought pursuant to this subsection with the court hearing the matter de novo together with any of the claims listed in this subsection.

(c) Standing. – Any of the following criteria shall provide standing to bring an action under this section:

(1) The person has an ownership, leasehold, or easement interest in, or possesses an option or contract to, purchase the property that is the subject matter of a final and binding decision made by an administrative official charged with applying or enforcing a land development regulation.

(2) The person was a development permit applicant before the decision-making board whose decision is being challenged.

(3) The person was a development permit applicant who is aggrieved by a final and binding decision of an administrative official charged with applying or enforcing a land development regulation.

(d) Time for Commencement of Action. – Any action brought pursuant to this section shall be commenced within one year after the date on which written notice of the final decision is delivered to the aggrieved party by personal delivery, electronic mail, or by first-class mail.

(e) Joinder. – An original civil action authorized by this section may, for convenience and economy, be joined with a petition for writ of certiorari and decided in the same proceedings. For the claims raised in the original civil action, the parties shall be governed by the Rules of Civil Procedure. The record of proceedings in the appeal pursuant to G.S. 160A-393 may not be supplemented by discovery from the civil action unless supplementation is otherwise allowed under G.S. 160A-393(j). The standard of review in the original civil action for the cause or causes of action pled as authorized by subsection (b) of this section shall be de novo. The standard of review of the petition for writ of certiorari shall be as established in G.S. 160A-393(k).

(f) For the purposes of this section, the definitions in G.S. 143-755 shall apply."

SECTION 8. G.S. 160A-364.1 reads as rewritten:

"§ 160A-364.1. Statute of limitations.

...

(c) Nothing in this section or in G.S. 1-54(10) or G.S. 1-54.1 shall bar a party in an action involving the enforcement of a zoning or unified development ordinance or in an action authorized by G.S. 160A-393.1 from raising as a claim or defense to such enforcement action in such proceedings the enforceability or the invalidity of the ordinance. Nothing in this section or in G.S. 1-54(10) or G.S. 1-54.1 shall bar a party who files a timely appeal from an order, requirement, decision, or determination made by an administrative official contending that such party is in violation of a zoning or unified development ordinance from raising in the appeal the invalidity of such ordinance as a defense to such order, requirement, decision, or determination. A party in an enforcement action or appeal may not assert the invalidity of the ordinance on the basis of an alleged defect in the adoption process unless the defense is formally raised within three years of the adoption of the challenged ordinance.

...."

SECTION 9. G.S. 160A-393 reads as rewritten:

"§ 160A-393. Appeals in the nature of certiorari.

...

(j) Hearing on the Record. – The court shall hear and decide all issues raised by the petition by reviewing the record submitted in accordance with subsection ~~(h)~~ (i) of this section. Except that the court ~~may, in its discretion, shall~~ allow the record to be supplemented with affidavits, testimony of witnesses, or documentary or other evidence if, and to the extent that, the ~~record is not adequate to allow an appropriate determination~~ petition raises any of the following issues: issues, in which case the rules of discovery set forth in the North Carolina Rules of Civil Procedure shall apply to the supplementation of the record of said issues:

(1) Whether a petitioner or intervenor has standing.

(2) Whether, as a result of impermissible conflict as described in G.S. 160A-388(e)(2), or locally adopted conflict rules, the decision-making body was not sufficiently impartial to comply with due process principles.

(3) Whether the decision-making body erred for the reasons set forth in sub-subdivisions a. and b. of subdivision (1) of subsection (k) of this section.

(k) Scope of Review. –

(1) When reviewing the decision of a decision-making board under the provisions of this section, the court shall ensure that the rights of petitioners have not been prejudiced because the decision-making body's findings, inferences, conclusions, or decisions were:

a. In violation of constitutional provisions, including those protecting procedural due process rights.

b. In excess of the statutory authority conferred upon the ~~city~~ city, including preemption, or the authority conferred upon the decision-making board by ordinance.

c. Inconsistent with applicable procedures specified by statute or ordinance.

d. Affected by other error of law.

e. Unsupported by substantial competent evidence in view of the entire record.

f. Arbitrary or capricious.

(2) When the issue before the court is one set forth in sub-subdivisions a. through d. of subdivision (1) of this subsection, including whether the decision-making board erred in interpreting an ordinance, the court shall review that issue de novo. The court shall consider the interpretation of the decision-making board, but is not bound by that interpretation, and may freely substitute its judgment as appropriate.

(3) The term "competent evidence," as used in this subsection, shall not preclude reliance by the decision-making board on evidence that would not be admissible under the rules of evidence as applied in the trial division of the General Court of Justice if (i) except for the items noted in sub-subdivisions a., b., and c. of this subdivision that are conclusively incompetent, the evidence was admitted without objection or (ii) the evidence appears to be sufficiently trustworthy and was admitted under such circumstances that it was reasonable for the decision-making board to rely upon it. The term "competent evidence," as used in this subsection, ~~shall~~ shall, regardless of the lack of a timely objection, not be deemed to include the opinion testimony of lay witnesses as to any of the following:

a. The use of property in a particular way would affect the value of other property.

b. The increase in vehicular traffic resulting from a proposed development would pose a danger to the public safety.

- c. Matters about which only expert testimony would generally be admissible under the rules of evidence.

(l) Decision of the Court. – Following its review of the decision-making board in accordance with subsection (k) of this section, the court may affirm the decision, reverse the decision and remand the case with appropriate instructions, or remand the case for further proceedings. If the court does not affirm the decision below in its entirety, then the court shall be guided by the following in determining what relief should be granted to the petitioners:

- (1) If the court concludes that the error committed by the decision-making board is procedural only, the court may remand the case for further proceedings to correct the procedural error.
- (2) If the court concludes that the decision-making board has erred by failing to make findings of fact such that the court cannot properly perform its function, then the court may remand the case with appropriate instructions so long as the record contains substantial competent evidence that could support the decision below with appropriate findings of fact. However, findings of fact are not necessary when the record sufficiently reveals the basis for the decision below or when the material facts are undisputed and the case presents only an issue of law.
- (3) If the court concludes that the decision by the decision-making board is not supported by substantial competent evidence in the record or is based upon an error of law, then the court may remand the case with an order that directs the decision-making board to take whatever action should have been taken had the error not been committed or to take such other action as is necessary to correct the error. Specifically:
 - a. If the court concludes that a permit was wrongfully denied because the denial was not based on substantial competent evidence or was otherwise based on an error of law, the court ~~may~~ shall remand with instructions that the permit be issued, subject to ~~reasonable and appropriate conditions~~ any conditions expressly consented to by the permit applicant as part of the application or during the board of adjustment appeal or writ of certiorari appeal.
 - b. If the court concludes that a permit was wrongfully issued because the issuance was not based on substantial competent evidence or was otherwise based on an error of law, the court may remand with instructions that the permit be revoked.
 - c. If the court concludes that a zoning board decision upholding a zoning enforcement action was not supported by substantial competent evidence or was otherwise based on an error of law, the court shall reverse the decision.

...."

SECTION 10. Part 3 of Article 19 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"§ 160A-393.2. No estoppel effect when challenging development conditions.

A city or county may not assert before a board of adjustment or in any civil action the defense of estoppel as a result of actions by the landowner or permit applicant to proceed with development authorized by a rezoning or a development permit as defined in G.S. 143-755 if the landowner or permit applicant is challenging conditions that were illegally imposed."

SECTION 11. G.S. 6-21.7 reads as rewritten:

"§ 6-21.7. Attorneys' fees; cities or counties acting outside the scope of their authority.

In any action in which a city or county is a party, upon a finding by the court that the city or county acted outside the scope of its legal authority, violated a statute or case law setting forth

1 unambiguous limits on its authority, the court ~~may shall~~ award reasonable attorneys' fees and
2 costs to the party who successfully challenged the city's or county's action, provided that if the
3 court also finds that the city's or county's action was an abuse of its discretion, the court shall
4 award attorneys' fees and costs. In any action in which a city or county is a party, upon
5 finding by the court that the city or county took action inconsistent with, or in violation of,
6 G.S. 160A-360.1, 153A-320.1, or 143-755, the court shall award reasonable attorneys' fees and
7 costs to the party who successfully challenged the local government's failure to comply with any
8 of those provisions. In all other matters, the court may award reasonable attorneys' fees and costs
9 to the prevailing private litigant. For purposes of this section, "unambiguous" means that the
10 limits of authority are not reasonably susceptible to multiple constructions."

11 **SECTION 12.** G.S. 160A-381 reads as rewritten:

12 **"§ 160A-381. Grant of power.**

13 ...

14 (c) The regulations may also provide that the board of adjustment, the planning board, or
15 the city council may issue special use permits or conditional use permits in the classes of cases
16 or situations and in accordance with the principles, conditions, safeguards, and procedures
17 specified therein and may impose reasonable and appropriate conditions and safeguards upon
18 these permits. Conditions and safeguards imposed under this subsection shall not include
19 requirements for which the city does not have authority under statute to regulate nor requirements
20 for which the courts have held to be unenforceable if imposed directly by the ~~city~~ city, including,
21 without limitation, taxes, impact fees, building design elements within the scope of subsection
22 (h) of this section not voluntarily offered by the petitioner, street improvements in excess of those
23 allowed in G.S. 160A-372, driveway-related improvements in excess of those allowed in
24 G.S. 136-18(29) and G.S. 160A-307, or other unauthorized limitations on the development or
25 use of land. When deciding special use permits or conditional use permits, the city council or
26 planning board shall follow quasi-judicial procedures. Notice of hearings on special or
27 conditional use permit applications shall be as provided in G.S. 160A-388(a2). No vote greater
28 than a majority vote shall be required for the city council or planning board to issue such permits.
29 For the purposes of this section, vacant positions on the board and members who are disqualified
30 from voting on a quasi-judicial matter shall not be considered "members of the board" for
31 calculation of the requisite majority. Every such decision of the city council or planning board
32 shall be subject to review of the superior court in the nature of certiorari in accordance with
33 G.S. 160A-388.

34 Where appropriate, such conditions may include requirements that street and utility
35 rights-of-way be dedicated to the public and that provision be made of recreational space and
36 facilities. Notwithstanding anything to the contrary, a development permit authorized pursuant
37 to this subsection shall not be denied on the basis that existing public facilities are inadequate to
38 serve the property described in the permit application regardless of the type of use or
39 development of said property.

40"

41 **SECTION 13.** G.S. 153A-340 reads as rewritten:

42 **"§ 153A-340. Grant of power.**

43 ...

44 (c1) The regulations may also provide that the board of adjustment, the planning board, or
45 the board of commissioners may issue special use permits or conditional use permits in the
46 classes of cases or situations and in accordance with the principles, conditions, safeguards, and
47 procedures specified therein and may impose reasonable and appropriate conditions and
48 safeguards upon these permits. Conditions and safeguards imposed under this subsection shall
49 not include requirements for which the county does not have authority under statute to regulate
50 nor requirements for which the courts have held to be unenforceable if imposed directly by the
51 ~~county~~ county, including, without limitation, taxes, impact fees, building design elements within

the scope of subsection (l) of this section not voluntarily offered by the petitioner, street improvements in excess of those allowed in G.S. 160A-372, driveway-related improvements in excess of those allowed in G.S. 136-18(29), or other unauthorized limitations on the development or use of land. Where appropriate, the conditions may include requirements that street and utility rights-of-way be dedicated to the public and that recreational space be provided. Notwithstanding anything to the contrary, a development permit authorized pursuant to this subsection shall not be denied on the basis that existing public facilities are inadequate to serve the property described in the permit application regardless of the type of use or development of said property. When deciding special use permits or conditional use permits, the board of county commissioners or planning board shall follow quasi-judicial procedures. Notice of hearings on special or conditional use permit applications shall be as provided in G.S. 160A-388(a2). No vote greater than a majority vote shall be required for the board of county commissioners or planning board to issue such permits. For the purposes of this section, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered "members of the board" for calculation of the requisite majority. Every such decision of the board of county commissioners or planning board shall be subject to review of the superior court in the nature of certiorari consistent with G.S. 160A-388.

...."

SECTION 14. G.S. 160A-382 reads as rewritten:

"§ 160A-382. Districts.

...

(b) Property may be placed in a special use district, conditional use district, or conditional district only in response to a petition by the owners of all the property to be included. Specific conditions applicable to these districts may be proposed by the petitioner or the city or its agencies, but only those conditions mutually approved by the city and the petitioner may be incorporated into the zoning regulations or permit ~~requirements~~. requirements; provided, however, notwithstanding any provision of law or regulation to the contrary, in the exercise of the authority granted by this section, including the establishment of special or conditional use districts or conditional zoning, a city may not require, enforce, or incorporate into the zoning regulations or permit requirements any condition or requirement not authorized by otherwise applicable law, including, without limitation, taxes, impact fees, building design elements within the scope of G.S. 160A-381(h) that are not voluntarily offered by the petitioner, street improvements in excess of those allowed in G.S. 160A-372, driveway-related improvements in excess of those allowed in G.S. 136-18(29) and G.S. 160A-307, or other unauthorized limitations on the development or use of land. Conditions and site-specific standards imposed in a conditional district shall be limited to those that address the conformance of the development and use of the site to city ordinances and an officially adopted comprehensive or other plan and those that address the impacts reasonably expected to be generated by the development or use of the site.

A statement analyzing the reasonableness of the proposed rezoning shall be prepared for each petition for a rezoning to a special or conditional use district, or a conditional district, or other small-scale rezoning.

...."

SECTION 15. G.S. 153A-342 reads as rewritten:

"§ 153A-342. Districts; zoning less than entire jurisdiction.

...

(b) Property may be placed in a special use district, conditional use district, or conditional district only in response to a petition by the owners of all the property to be included. Specific conditions applicable to the districts may be proposed by the petitioner or the county or its agencies, but only those conditions mutually approved by the county and the petitioner may be incorporated into the zoning regulations or permit ~~requirements~~. requirements; provided,

however, notwithstanding any provision of law or regulation to the contrary, in the exercise of the authority granted by this section, including the establishment of special or conditional use districts or conditional zoning, a county may not require, enforce, or incorporate into the zoning regulations or permit requirements any condition or requirement not authorized by otherwise applicable law, including, without limitation, taxes, impact fees, building design elements within the scope of G.S. 153A-340(l) that are not voluntarily offered by the petitioner, street improvements in excess of those allowed in G.S. 160A-372, driveway-related improvements in excess of those allowed in G.S. 136-18(29), or other unauthorized limitations on the development or use of land. Conditions and site-specific standards imposed in a conditional district shall be limited to those that address the conformance of the development and use of the site to county ordinances and an officially adopted comprehensive or other plan and those that address the impacts reasonably expected to be generated by the development or use of the site.

A statement analyzing the reasonableness of the proposed rezoning shall be prepared for each petition for a rezoning to a special or conditional use district, or a conditional district, or other small-scale rezoning.

...."

SECTION 16. G.S. 160A-307 reads as rewritten:

"§ 160A-307. Curb cut regulations.

(a) A city may by ordinance regulate the size, location, direction of traffic flow, and manner of construction of driveway connections into any street or alley. The ordinance may require the construction or reimbursement of the cost of construction and public dedication of medians, acceleration and deceleration lanes, and traffic storage lanes for driveway connections into any street or alley ~~if~~ if all of the following apply:

(1) The need for such improvements is reasonably attributable to the traffic using the ~~driveway; and~~ driveway.

(2) The improvements serve the traffic of the driveway.

(b) No street or alley under the control of the Department of Transportation may be improved without the consent of the Department of Transportation. ~~However, if there is a conflict between the written driveway regulations of the Department of Transportation and the related driveway improvements required by the city, the more stringent requirement shall apply. A city shall not require the applicant to acquire right-of-way from property not owned by the applicant. However, an applicant may voluntarily agree to acquire such right-of-way."~~

SECTION 17.(a) G.S. 153A-346 reads as rewritten:

"§ 153A-346. Conflict with other laws.

...

(b) When adopting regulations under this Part, a county may not use a definition of building, dwelling, dwelling unit, bedroom, or sleeping unit that is more expansive than inconsistent with any definition of the same in another statute or in a rule adopted by a State ~~agency~~ agency, including the State Building Code Council."

SECTION 17.(b) G.S. 160A-390 reads as rewritten:

"§ 160A-390. Conflict with other laws.

...

(b) When adopting regulations under this Part, a city may not use a definition of building, dwelling, dwelling unit, bedroom, or sleeping unit that is more expansive than inconsistent with any definition of the same in another statute or in a rule adopted by a State ~~agency~~ agency, including the State Building Code Council."

SECTION 18. Sections 1, 2, 3, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 17 of this act clarify and restate the intent of existing law and apply to ordinances adopted before, on, and after the effective date. The remainder of this act is effective when it becomes law and applies to zoning map amendment applications submitted and appeals filed on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H

1

HOUSE BILL 492

Short Title: Simplify Builder Inventory Exclusion. (Public)

Sponsors: Representatives Brody, Howard, and B. Turner (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Commerce, if favorable, Finance, if favorable, Rules, Calendar, and Operations of
the House

March 28, 2019

A BILL TO BE ENTITLED
AN ACT TO SIMPLIFY THE PROPERTY TAX EXCLUSION FOR INCREASES IN VALUE
OF PROPERTY HELD BY A BUILDER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-277.02(a) reads as rewritten:

"(a) Residential Real Property. – Residential real property held for sale by a builder is designated a special class of property under authority of Article V, Sec. 2(2) of the North Carolina Constitution. For purposes of this subsection, "residential real property" is real property that is intended to be sold and used as an individual's residence immediately or after construction of a residence, and the term excludes property that is either occupied by a tenant or used for commercial purposes such as residences shown to prospective buyers as models. Any increase in value of this classified property attributable to subdivision of, improvements other than buildings, or the construction of either a new single-family residence or a duplex on the property by the builder is excluded from taxation under this Subchapter as long as the builder continues to hold the property for sale. In no event shall this exclusion extend for more than ~~three~~ five years from the time the improved property was first subject to being listed for taxation by the builder."

SECTION 2. G.S. 105-282.1(a) reads as rewritten:

"(a) Application. – Every owner of property claiming exemption or exclusion from property taxes under the provisions of this Subchapter has the burden of establishing that the property is entitled to it. If the property for which the exemption or exclusion is claimed is appraised by the Department of Revenue, the application shall be filed with the Department. Otherwise, the application shall be filed with the assessor of the county in which the property is situated. An application must contain a complete and accurate statement of the facts that entitle the property to the exemption or exclusion and must indicate the municipality, if any, in which the property is located. Each application filed with the Department of Revenue or an assessor shall be submitted on a form approved by the Department. Application forms shall be made available by the assessor and the Department, as appropriate.

Except as provided below, an owner claiming an exemption or exclusion from property taxes must file an application for the exemption or exclusion annually during the listing period:

...

- (2) Single application required. – An owner of one or more of the following properties eligible for a property tax benefit must file an application for the benefit to receive it. Once the application has been approved, the owner does not need to file an application in subsequent years unless new or additional



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property is acquired or improvements are added or removed, necessitating a change in the valuation of the property, or there is a change in the use of the property or the qualifications or eligibility of the taxpayer necessitating a review of the benefit. [The properties are as follows:]

...

c. Special classes of property classified for taxation at a reduced valuation under G.S. 105-277(h), 105-277.02, 105-277.1, 105-277.1C, 105-277.10, 105-277.13, 105-277.14, 105-277.15, 105-277.17, or 105-278.

...."

SECTION 3. This act is effective for taxes imposed for taxable years beginning on or after July 1, 2019.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H

1

HOUSE BILL 675

Short Title: 2019 Building Code Regulatory Reform. (Public)

Sponsors: Representatives Brody, Riddell, Hardister, and Richardson (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: State and Local Government, if favorable, Regulatory Reform, if favorable, Rules, Calendar, and Operations of the House

April 11, 2019

A BILL TO BE ENTITLED
AN ACT TO MAKE VARIOUS CHANGES AND CLARIFICATIONS TO THE STATUTES
GOVERNING THE CREATION AND ENFORCEMENT OF BUILDING CODES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 160A-413.5(a) reads as rewritten:

"(a) Notwithstanding the requirements of this Article, a city shall accept, without further responsibility to inspect, a design or other proposal for a component or element in the construction of buildings from a licensed architect or licensed engineer provided all of the following apply:

- (1) The design or other proposal is completed under valid seal of the licensed architect or licensed engineer.
- (2) Field inspection of the installation or completion of the component or element of the building is performed by a licensed architect or licensed engineer or a person under the direct supervisory control of the licensed architect or licensed engineer.
- (3) The licensed architect or licensed engineer provides the city with a signed written document stating-certifying that the component or element of the building so inspected under subdivision (2) of this subsection is in compliance with the North Carolina State Building Code or the North Carolina Residential Code for One- and Two-Family Dwellings. The inspection certification required under this subdivision shall be made on a form created by the North Carolina Building Code Council which shall include the permit number, date of inspection, type of inspection, contractor's name, the job location and street address, and the name, address, and telephone number of the person responsible for the inspection. The inspection certification form shall be provided by electronic or physical delivery and its receipt shall be promptly acknowledged by the city through reciprocal means. The city shall not require information in addition to that specified in this subsection."

SECTION 1.(b) G.S. 160A-413.5(d)(1) reads as rewritten:

- "(1) Component. – Any assembly, subassembly, or combination of elements designed to be combined with other components to form part of a building or structure. Examples of a component include (i) an excavated footing trench containing no ~~concrete~~-concrete, (ii) a foundation, and (iii) underslab materials and equipment."



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1 **SECTION 2.** G.S. 143-151.13(b) reads as rewritten:

2 "(b) The Board shall issue one or more standard certificates to each Code-enforcement
3 official demonstrating the qualifications set forth in subsection (b1) of this section. Standard
4 certificates are available for each of the following types of qualified Code-enforcement officials:

- 5 (1) Building inspector.
6 (2) Electrical inspector.
7 (3) Mechanical inspector.
8 (4) Plumbing inspector.
9 (5) Fire inspector.
10 (6) Residential changeout inspector."

11 **SECTION 3.(a)** G.S. 160A-372 is amended by adding two new subsections to read:

12 "(f1) The ordinance may not require a developer or builder to bury power lines that (i)
13 existed at the time of first submission of a plat or development plan to the city, whether or not
14 the power lines are subsequently relocated during construction of the subdivision or development
15 plan and (ii) are located outside the boundaries of the parcel of land that contains the subdivision
16 or the property covered by the development plan.

17 (f2) The ordinance may not set a minimum square footage of any structures subject to
18 regulation under the North Carolina Residential Code for One- and Two-Family Dwellings."

19 **SECTION 3.(b)** G.S. 160A-381(a) reads as rewritten:

20 "(a) For the purpose of promoting health, safety, morals, or the general welfare of the
21 community, any city may adopt zoning and development regulation ordinances. These
22 ordinances may be adopted as part of a unified development ordinance or as a separate ordinance.
23 A zoning ordinance may regulate and restrict the height, number of stories and size of buildings
24 and other ~~structures~~, structures except as limited by G.S. 160A-372(f2), the percentage of lots
25 that may be occupied, the size of yards, courts and other open spaces, the density of population,
26 the location and use of buildings, structures and land. The ordinance shall provide density credits
27 or severable development rights for dedicated rights-of-way pursuant to G.S. 136-66.10 or
28 G.S. 136-66.11."

29 **SECTION 3.(c)** G.S. 153A-331 is amended by adding two new subdivisions to read:

30 "(f1) The ordinance may not require a developer or builder to bury power lines that (i)
31 existed at the time of first submission of a plat or development plan to the county, whether or not
32 the power lines are subsequently relocated during construction of the subdivision or development
33 plan and (ii) are located outside the parcel of land that contains the subdivision or the property
34 covered by the development plan.

35 (f2) The ordinance may not set a minimum square footage of any structures subject to
36 regulation under the North Carolina Residential Code for One- and Two-Family Dwellings."

37 **SECTION 3.(d)** G.S. 153A-340(a) reads as rewritten:

38 "(a) For the purpose of promoting health, safety, morals, or the general welfare, a county
39 may adopt zoning and development regulation ordinances. These ordinances may be adopted as
40 part of a unified development ordinance or as a separate ordinance. A zoning ordinance may
41 regulate and restrict the height, number of stories and size of buildings and other ~~structures~~,
42 structures except as limited by G.S. 153A-331(f2), the percentage of lots that may be occupied,
43 the size of yards, courts and other open spaces, the density of population, and the location and
44 use of buildings, structures, and land for trade, industry, residence, or other purposes. The
45 ordinance may provide density credits or severable development rights for dedicated
46 rights-of-way pursuant to G.S. 136-66.10 or G.S. 136-66.11."

47 **SECTION 3.(e)** This section is effective when it becomes law and applies to existing
48 municipal or county ordinances. Any municipal or county ordinance inconsistent with this
49 section is void and unenforceable.

50 **SECTION 4.** G.S. 143-138 is amended by adding a new subsection to read:

"(b20) Exclusion for Temporary Motion Picture, Television, and Theater Stage Sets and Scenery. – No permit shall be required under the Building Code or any local variant approved under subsection (e) for any construction, installation, repair, replacement, or alteration of temporary motion picture, television, and theater stage sets and scenery."

SECTION 5. G.S. 143-138 reads as rewritten:

"§ 143-138. North Carolina State Building Code.

(a) Preparation and Adoption. – The Building Code Council may prepare and adopt, in accordance with the provisions of this Article, a North Carolina State Building Code. Before the adoption of the Code, or any part of the Code, the Council shall hold at least one public hearing. A notice of the public hearing shall be published in the North Carolina Register at least 15 days before the date of the hearing. Notwithstanding G.S. 150B-2(8a)h., the North Carolina State Building Code as adopted by the Building Code Council is a rule within the meaning of G.S. 150B-2(8a) and shall be adopted in accordance with the procedural requirements of Article 2A of Chapter 150B of the General Statutes.

(a1) Additional Adoption Requirements. –

(1) The Council shall request the Office of State Budget and Management to prepare a fiscal note for a proposed Code change that has a substantial economic impact, as defined in G.S. 150B-21.4(b1), or that increases the cost of residential housing by eighty dollars (\$80.00) or more per housing unit. The change can become effective only in accordance with G.S. 143-138(d). Neither the Department of Insurance nor the Council shall be required to expend any monies to pay for the preparation of any fiscal note under this section by any person outside of the Department or Council unless the Department or Council contracts with a third-party vendor to prepare the fiscal note.

(2) The Council shall conduct a cost-benefit analysis for all proposed changes to the North Carolina Energy Conservation Code. The analysis shall be based on a five-year period for calculating return on investment of the proposed change as well as impacts of the proposed change on the energy efficiency of the entire structure.

...."

SECTION 6. The North Carolina Building Code Council shall study options for the use by builders of demolition debris such as dirt, sand, gravel, rock, concrete, or similar nonhazardous material for additional uses at the site of construction, including fill under porches, driveways, and other options that will decrease the volume of demolition debris sent to solid waste disposal facilities. The Council shall report its findings and recommendations, including any proposed legislative changes, to the 2020 Regular Session of the 2019 General Assembly when it convenes.

SECTION 7.(a) G.S. 160A-423 reads as rewritten:

"§ 160A-423. Certificates of compliance.

At the conclusion of all work done under a permit, the appropriate inspector shall make a final inspection, and if he finds that the completed work complies with all applicable State and local laws and with the terms of the permit, he shall issue a certificate of compliance. No new building or part thereof may be occupied, and no addition or enlargement of an existing building may be occupied, and no existing building that has been altered or moved may be occupied, until the inspection department has issued a certificate of compliance. Except as provided in G.S. 160A-420, a city may not adopt or enforce a local ordinance or resolution or any other policy that requires compliance with any conditions or requirements other than those required by the North Carolina Building Code for a temporary certificate of compliance. A temporary certificate of compliance may be issued permitting occupancy for a stated period of specified portions of

the building that the inspector finds may safely be occupied prior to final completion of the entire building. Violation of this section shall constitute a Class 1 misdemeanor."

SECTION 7.(b) G.S. 153A-363 reads as rewritten:

"§ 153A-363. Certificates of compliance.

At the conclusion of all work done under a permit, the appropriate inspector shall make a final inspection. If he finds that the completed work complies with all applicable State and local laws and local ordinances and regulations and with the terms of the permit, he shall issue a certificate of compliance. No new building or part thereof may be occupied, no addition or enlargement of an existing building may be occupied, and no existing building that has been altered or removed may be occupied until the inspection department has issued a certificate of compliance. Except as provided in G.S. 153A-364, a county may not adopt or enforce a local ordinance or resolution or any other policy that requires compliance with any conditions or requirements other than those required by the North Carolina Building Code for a temporary certificate of compliance. A temporary certificate of compliance may be issued permitting occupancy for a stated period of specified portions of the building that the inspector finds may safely be occupied before completion of the entire building. Violation of this section constitutes a Class 1 misdemeanor."

SECTION 8. G.S. 87-13 reads as rewritten:

"§ 87-13. Unauthorized practice of contracting; impersonating contractor; false certificate; giving false evidence to Board; penalties.

Any person, firm, or corporation not being duly authorized who shall contract for or bid upon the construction of any of the projects or works enumerated in G.S. 87-1, without having first complied with the provisions hereof, or who shall attempt to practice general contracting in the State, except as provided for in this Article, and any person, firm, or corporation presenting or attempting to file as his own the licensed certificate of another or who shall give false or forged evidence of any kind to the Board or to any member thereof in maintaining a certificate of license or who falsely shall impersonate another or who shall use an expired or revoked certificate of license, or who falsely claims or suggests in connection with any business activities regulated by the Board that a person, firm, or corporation is licensed under this Chapter, and any architect or engineer who recommends to any project owner the award of a contract to anyone not properly licensed under this Article, shall be deemed guilty of a Class 2 misdemeanor. And the Board may, in its discretion, use its funds to defray the expense, legal or otherwise, in the prosecution of any violations of this Article. No architect or engineer shall be guilty of a violation of this section if his recommendation to award a contract is made in reliance upon current written information received by him from the appropriate Contractor Licensing Board of this State which information erroneously indicates that the contractor being recommended for contract award is properly licensed."

SECTION 9.(a) G.S. 160A-417(a1) reads as rewritten:

"(a1) A permit shall be in writing and shall contain a provision that the work done shall comply with the State Building Code and all other applicable State and local laws. Nothing in this section shall require a city to review and approve residential building plans submitted to the city pursuant to Section R-110 of Volume VII of the North Carolina State Building Code; provided that the city may review and approve such residential building plans as it deems necessary. If a city chooses to review residential building plans, all reviews must be performed within two business days of submission of the plans, for plans sealed by an engineer or architect, or within five business days, for all other residential building plans. No permits shall be issued unless the plans and specifications are identified by the name and address of the author thereof, and if the General Statutes of North Carolina require that plans for certain types of work be prepared only by a licensed architect or licensed engineer, no permit shall be issued unless the plans and specifications bear the North Carolina seal of a licensed architect or of a licensed engineer. When any provision of the General Statutes of North Carolina or of any ordinance

requires that work be done by a licensed specialty contractor of any kind, no permit for the work shall be issued unless the work is to be performed by such a duly licensed contractor."

SECTION 9.(b) G.S. 153A-357(a1) reads as rewritten:

"(a1) A permit shall be in writing and shall contain a provision that the work done shall comply with the State Building Code and all other applicable State and local laws and local ordinances and regulations. Nothing in this section shall require a county to review and approve residential building plans submitted to the county pursuant to Section R-110 of Volume VII of the North Carolina State Building Code; provided that the county may review and approve such residential building plans as it deems necessary. If a county chooses to review residential building plans, all reviews must be performed within two business days of submission of the plans, for plans sealed by an engineer or architect, or within five business days, for all other residential building plans. No permit may be issued unless the plans and specifications are identified by the name and address of the author thereof; and if the General Statutes of North Carolina require that plans for certain types of work be prepared only by a licensed architect or licensed engineer, no permit may be issued unless the plans and specifications bear the North Carolina seal of a licensed architect or of a licensed engineer. If a provision of the General Statutes of North Carolina or of any ordinance requires that work be done by a licensed specialty contractor of any kind, no permit for the work may be issued unless the work is to be performed by such a duly licensed contractor."

SECTION 10. G.S. 83A-13 reads as rewritten:

"§ 83A-13. Exemptions.

...

(c) Nothing in this Chapter shall be construed to require an architectural license for the preparation, sale, or furnishing of plans, specifications and related data, or for the supervision of construction pursuant thereto, where the building, buildings, or project involved is in ~~one~~ any of the following categories:

- (1) A family residence, up to eight units attached with grade level exit, which is not a part of or physically connected with any other buildings or residential ~~units;units.~~
- (2) A building upon any farm for the use of any farmer, unless the building is of such nature and intended for such use as to substantially involve the health or safety of the ~~public;public.~~
- (3) An institutional or commercial building if it does not have a total value exceeding ~~ninety thousand dollars (\$90,000);two hundred thousand dollars (\$200,000).~~
- (4) An institutional or commercial building if the total building area does not exceed ~~2,500~~ 5,000 square feet in gross floor ~~area;area.~~
- (5) Alteration, remodeling, or renovation of an existing building that is exempt under this section, or alteration, remodeling, or renovation of an existing building or building site that does not alter or affect the structural system of the building; change the building's access or exit pattern; or change the live or dead load on the building's structural system. This subdivision shall not limit or change any other exemptions to this Chapter or to the practice of engineering under Chapter 89C of the General ~~Statutes;Statutes.~~
- (6) The preparation and use of details and shop drawings, assembly or erection drawings, or graphic descriptions utilized to detail or illustrate a portion of the work required to construct the project in accordance with the plans and specifications prepared or to be prepared under the requirements or exemptions of this Chapter.

(c1) ~~Notwithstanding subdivisions (c)(3) and (4) of this section, a~~ A commercial building project with a total value of less than ~~ninety thousand dollars (\$90,000)~~ two hundred thousand

1 dollars (\$200,000) and a total project area of less than 2,500-5,000 square feet shall be exempt
2 from the requirement for a professional architectural seal.

3"

4 **SECTION 11.** Section 6(c) of S.L. 2018-29 reads as rewritten:

5 "SECTION 6.(c) This section becomes effective July 1, 2018. G.S. 153A-352(g) and
6 G.S. 160A-412(g), as enacted by this section, expire on October 1, 2019-2021."

7 **SECTION 12.** G.S. 143-355.4(a) reads as rewritten:

8 "(a) Local government water systems and large community water systems shall require
9 separate meters for new in-ground irrigation systems on lots platted and recorded in the office of
10 the register of deeds in the county or counties in which the real property is located after July 1,
11 2009, that are connected to their systems. If a testable backflow device is required as part of the
12 separate meter required by this subsection, the property owner shall select and install a testable
13 backflow prevention device that meets the requirements of the North Carolina Plumbing Code
14 for the appropriate level of risk or other identified risk associated with the irrigation system. This
15 section shall not apply to lots with privately owned septic tanks systems or other types of
16 privately owned innovative on-site wastewater systems if a lockable cutoff valve approved by
17 the water system and a testable backflow prevention device ~~approved by the water system~~
18 selected and installed by the property owner and meeting the requirements of the North Carolina
19 Plumbing Code for the appropriate level of risk associated with the irrigation system or other
20 identified risk are installed on the water supply line for the irrigation system. The lockable cutoff
21 value shall be installed on the water supply line for the irrigation system within 24 inches of the
22 water meter and the testable backflow device shall be installed on the water supply line for the
23 irrigation system."

24 **SECTION 13.** Except as otherwise provided, this act becomes effective October 1,
25 2019.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019**

H

2

**HOUSE BILL 495
Committee Substitute Favorable 4/10/19**

Short Title: Prohibit Municipal Regs/Offsite Easements. (Public)

Sponsors:

Referred to:

March 28, 2019

A BILL TO BE ENTITLED
AN ACT TO PROHIBIT MUNICIPALITIES FROM REGULATING OFF-SITE SEPTIC
EASEMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-335 is amended by adding a new subsection to read:

"(c2) Notwithstanding any other provision of law, a municipality shall not prohibit or regulate by ordinance or enforce an existing ordinance regulating the use of off-site wastewater systems or other systems approved by the Department under rules adopted by the Commission when the proposed system meets the specific conditions of the approval."

SECTION 2. This act is effective when it becomes law.



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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H

1

HOUSE BILL 645*

Short Title: Revisions to Outdoor Advertising Laws. (Public)

Sponsors: Representatives Saine, Dixon, Jones, and Wray (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Transportation, if favorable, State and Local Government, if favorable, Rules,
Calendar, and Operations of the House

April 10, 2019

A BILL TO BE ENTITLED
AN ACT TO REVISE THE OUTDOOR ADVERTISING LAWS.
The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-127 reads as rewritten:
"§ 136-127. Declaration of policy.

The General Assembly hereby finds and declares that outdoor advertising is a legitimate commercial use of private property adjacent to roads and ~~highways but~~ highways. The General Assembly also finds and declares that outdoor advertising is an important and distinct medium of communication for effectively displaying commercial and noncommercial messages and is an established segment of the national economy that serves to promote and protect investments in commerce and industry. The General Assembly further finds that the erection and maintenance of outdoor advertising signs and devices in areas in the vicinity of the right-of-way of the interstate and primary highway systems within the State should be controlled and regulated, as provided in this Article, in order to promote the safety, health, welfare and convenience and enjoyment of travel on and protection of the public investment in highways within the State, to prevent unreasonable distraction of operators of motor vehicles and to prevent interference with the effectiveness of traffic regulations and to promote safety on the highways, to attract tourists and promote the prosperity, economic well-being and general welfare of the State, and to preserve and enhance the natural scenic beauty of the highways and areas in the vicinity of the State highways and to promote the reasonable, orderly and effective display of such signs, displays and devices, and to secure the right of validly permitted outdoor advertising to be clearly viewed by the traveling public. The General Assembly declares it to be in the public interest that outdoor advertising signs be erected, maintained, and clearly visible along the highways in this State in order to provide important public service announcements and information regarding places offering lodging, food, motor vehicle fuels and lubricants, motor service and repairs, and other services or products available to the general public. The General Assembly also recognizes that the needs of the outdoor advertisers must be balanced against the beautification of the State. It is the intention of the General Assembly to provide and declare herein a public policy and statutory basis for the regulation and control of outdoor advertising."

SECTION 2. G.S. 136-128 reads as rewritten:
"§ 136-128. Definitions.

As used in this Article:

(1) Area zoned commercial or industrial. – An area which is zoned for business, industry, commerce, or trade pursuant to a State law or local zoning ordinance



or regulation, regardless of how labeled, where uses associated with business, industry, commerce, or trade are permitted. This term does not include "zoning designed primarily for the purpose of permitting outdoor advertising signs," as that term is defined in G.S. 136-133.5(e).

(1a) Customary use. – Compliance with the specific outdoor advertising standards for size, lighting, and spacing in areas zoned commercial or industrial under authority of State law or in unzoned commercial or industrial areas, as the standards and areas are described and defined in the agreement dated January 7, 1972, as amended, and entered into between the State and the United States Department of Transportation under G.S. 136-138 to implement the provisions of the federal Highway Beautification Act of 1965.

~~(1b)~~ "Erect" means to Erect or erection. – To construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish. This term does not include the repair or reconstruction of outdoor advertising, as authorized under G.S. 136-131.2, or the relocation of an outdoor advertising sign as authorized under applicable State law.

~~(1a)(1c)~~ "Illegal sign" means one-Illegal sign. – A sign which was erected and/or maintained in violation of State law.

~~(1b)(1d)~~ "Information center" means an-Information center. – An area or site established and maintained at safety rest areas for the purpose of informing the public of places of interest within the State and providing such other information as the Department of Transportation may consider desirable.

(2) ~~"Interstate system" means that Interstate system.~~ – The portion of the National System of Interstate and Defense Highways located within the State, as officially designated, or as may hereafter be so designated, by the Department of Transportation, or other appropriate authorities and are also so designated by interstate numbers. As to highways under construction so designated as interstate highways pursuant to the above procedures, the highway shall be a part of the interstate system for the purposes of this Article on the date the location of the highway has been approved finally by the appropriate federal authorities.

(2a) Main-traveled way or traveled way. – Part of a highway on which through traffic is carried, exclusive of paved shoulders. In the case of a divided highway, the traveled way of each of the separated roadways for traffic in opposite directions is a traveled way. It does not include frontage roads, turning roadways, or parking areas.

~~(2a)(2b)~~ "Nonconforming sign" shall mean a-Nonconforming sign. – A sign which was lawfully erected but which does not comply with the provisions of State law customary use or State rules adopted and regulations passed by the Department of Transportation at a later date ~~or which in accordance with this Article, or which, due to changed conditions, later fails to comply with State law~~ customary use or State rules adopted or regulations ~~due to changed conditions~~ passed by the Department of Transportation in accordance with this Article. ~~Illegally erected or maintained~~ Illegal signs are not nonconforming signs.

(2c) On-premise/on-property sign. – A sign which advertises the sale or lease of property upon which it is located or which advertises an activity conducted or product for sale on the property upon which it is located. An on-premise sign may not be converted to a permitted outdoor advertising sign unless it meets all rules in effect at the time of the conversion request. An on-premise sign

must be located on property contiguous to the property on which the activity is located. Tracts not considered to be contiguous include:

- a. Tracts of land separated by a federal, State, city, or public access maintained road.
 - b. Tracts of land not under common ownership.
 - c. Tracts of land held in different estates or interests.
- (3) ~~"Outdoor advertising" means any Outdoor advertising.~~ – Any outdoor sign, display, light, device, figure, painting, drawing, message, plaque, poster, billboard, or any other thing which is designed, intended or used to advertise or inform, any part of the advertising or information contents of which is visible from any place on the main-traveled way of the interstate or primary system, whether the same be permanent or portable installation.
- (4) Primary system. – The federal-aid primary system in existence on June 1, 1991, and any highway which is not on that system but which is on the National Highway System. As to highways under construction so designated as primary highways pursuant to the above procedures, the highway shall be a part of the primary system for purposes of this Article on the date the location of the highway has been approved finally by the appropriate federal or State authorities.
- (5) ~~"Safety rest area" means an Safety rest area.~~ – An area or site established and maintained within or adjacent to the highway right-of-way by or under public supervision or control, for the convenience of the traveling public.
- (5a) Sign location or site. – The location or site of an outdoor advertising sign measured to the closest 1/100th of a mile, in conformance with the Department of Transportation methods of measurement for all State roads.
- (6) ~~"State law" means a State law.~~ – A State constitutional provision or statute, or an ordinance, rule or regulation enacted or adopted by a State agency or political subdivision of a State pursuant to a State Constitution or statute. agency.
- (7) ~~"Unzoned area" shall mean an Unzoned commercial or industrial area.~~ – An area where there is no zoning in effect. effect that is within 660 feet of the nearest edge of the right-of-way of the interstate or primary system, in which there is at least one commercial or industrial activity that meets the criteria set forth in G.S. 136-130.1.
- (8) ~~"Urban area" shall mean an Urban area.~~ – An area within the boundaries or limits of any incorporated municipality having a population of five thousand or more as determined by the latest available federal census.
- (9) ~~"Visible" means capable Visible.~~ – Capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity."

SECTION 3. Article 11 of Chapter 136 of the General Statutes is amended by adding a new section to read:

"§ 136-130.1. Unzoned commercial or industrial area criteria for outdoor advertising signs.

(a) Criteria. – To qualify an area unzoned commercial or industrial for purposes of this Article, one or more commercial or industrial activities shall meet all of the following criteria prior to submitting an outdoor advertising permit application to the Department of Transportation:

- (1) The activity shall maintain all necessary business licenses as may be required by applicable State law.
- (2) The property used for the activity shall be listed for ad valorem taxes with the county and municipal taxing authorities as required by law.

- 1 (3) The activity shall have all basic utilities, including electricity, telephone,
2 water, and sewer or septic service.
- 3 (4) The activity shall have direct or indirect vehicular access and be a generator
4 of vehicular traffic.
- 5 (5) The activity shall have a building designed with a permanent foundation, built
6 or modified for its current commercial or industrial use, and the building must
7 be located within 660 feet from the nearest edge of the right-of-way of the
8 controlled route. Where a mobile home unit or recreational vehicle is used as
9 a business or office, the following conditions and requirements also apply:
- 10 a. The unit or vehicle shall meet the State Building Code criteria for
11 commercial or business use.
- 12 b. All wheels, axles, and springs on the unit or vehicle shall be removed.
- 13 c. The unit or vehicle shall be permanently secured on piers, pad, or
14 foundation.
- 15 d. The unit or vehicle shall be tied down in accordance with State or local
16 requirements.
- 17 e. A self-propelled vehicle shall not qualify for use as a business or office
18 under this subdivision.
- 19 (6) The activity must be in active operation a minimum of six months prior to the
20 date of submission of an application for an outdoor advertising permit.
- 21 (7) The activity shall be open to the public during hours that are normal and
22 customary for that type of activity in the same or similar communities but for
23 not less than 20 hours per week.
- 24 (8) One or more employees shall be available to serve customers during the hours
25 the activity is open to the public.
- 26 (9) The activity shall be visible and recognizable as commercial or industrial from
27 the main-traveled way. An activity is visible when that portion on which the
28 permanent building designed, built, or modified for its current commercial use
29 can be clearly seen 12 months a year by a person of normal visual acuity while
30 traveling at the posted speed on the main-traveled way adjacent to the activity.
31 An activity is recognizable as commercial or industrial when its visibility from
32 the main-traveled way is sufficient for the activity to be identified as
33 commercial or industrial.
- 34 (b) Guidelines. – When making a determination as to whether an activity meets the
35 criteria set forth in subsection (a) of this section, both of the following guidelines shall apply:
- 36 (1) Each side of the highway shall be considered separately.
- 37 (2) All measurements shall begin from the outer edges of regularly used
38 buildings, parking lots, storage, or processing areas of the commercial or
39 industrial activity, not from the property line of the activity, and shall be along
40 the nearest edge of the main-traveled way.
- 41 (c) Nonqualifying Activities. – The following are not considered activities qualifying an
42 area as unzoned commercial or industrial under this Article:
- 43 (1) Outdoor advertising structures.
- 44 (2) On-premise or on-property outdoor advertising signs, if the on-premise or
45 on-property sign is the only part of the commercial or industrial activity that
46 is visible from the main-traveled way.
- 47 (3) Agricultural, forestry, ranching, grazing, farming, and related activities,
48 including temporary wayside fresh produce stands.
- 49 (4) Transient or temporary activities.
- 50 (5) Activities not visible and recognizable as commercial or industrial from the
51 traffic lanes of the main-traveled way.

- (6) Activities more than 660 feet from the nearest edge of the right-of-way.
- (7) Activities conducted in a building principally used as a residence.
- (8) Railroad tracks and minor sidings.
- (9) Any outdoor advertising activity or any other business or commercial activity carried on in connection with an outdoor advertising activity.
- (10) Illegal junkyards, as defined in G.S. 136-146, and nonconforming junkyards, as described in G.S. 136-147."

SECTION 4.(a) G.S. 136-131 reads as rewritten:

"§ 136-131. Removal of existing ~~nonconforming~~ outdoor advertising.

(a) The Department of Transportation is authorized to acquire by purchase, gift, or condemnation all outdoor advertising and all property rights pertaining thereto ~~which are prohibited under the provisions of G.S. 136-129, 136-129.1 or 136-129.2, provided such to~~ outdoor advertising ~~is in~~ lawful existence on the effective date of this Article as determined by G.S. 136-140, or provided that it is lawfully erected after the effective date of this Article as determined by G.S. 136-140. This section shall apply to all acquisitions, purchases, condemnations, or takings by the Department of Transportation that cause the removal of any lawfully erected outdoor advertising, regardless of the location and proximity of the outdoor advertising to the interstate or primary system.

(b) In any acquisition, ~~purchase or condemnation,~~ purchase, condemnation, or taking, just compensation to the owner of the outdoor advertising, where the owner of the outdoor advertising does not own the fee, shall be limited to the fair market value at the time of the taking of the outdoor advertising owner's interest in the real property on which the outdoor advertising is located and such value shall include the value of the outdoor advertising.

(c) In any acquisition, ~~purchase or condemnation,~~ purchase, condemnation, or taking, just compensation to the owner of the fee or other interest in the real property upon which the outdoor advertising is located where said owner does not own the outdoor advertising located thereon shall be limited to the difference in the fair market value of the entire tract immediately before and immediately after the taking by the Department of Transportation of the right to maintain such outdoor advertising thereon and in arriving at the fair market value after the taking, any special or general benefits accruing to the property by reason of the acquisition shall be taken into consideration.

(d) In any acquisition, ~~purchase or condemnation,~~ purchase, condemnation, or taking, just compensation to the owner of the fee in the real property upon which the outdoor advertising is located, where said owner also owns the outdoor advertising located thereon, shall be limited to the fair market value of the outdoor advertising plus the difference in the fair market value of the entire tract immediately before and immediately after the taking by the Department of Transportation of the right to maintain such outdoor advertising thereon and in arriving at the fair market value after the taking, any special or general benefits accruing to the property by reason of the acquisition shall be taken into consideration.

(e) The following factors shall be used in determining just compensation under this section:

- (1) The sales price of similar outdoor advertising.
- (2) The physical condition of the outdoor advertising sign, including its useful life.
- (3) The income generated by the rental of advertising space on the outdoor advertising sign.
- (4) The effects of zoning or other land-use restrictions.
- (5) The value of possessing an outdoor advertising permit issued by an appropriate governing body.
- (6) The ability or inability to relocate and reconstruct the outdoor advertising to a site reasonably comparable to or better than the condemned location within

the same zoning jurisdiction or, if unzoned, within the same city or county territorial jurisdiction, taking into account the similarity of advantages arising from lease terms, visibility, traffic flow, and other criteria that affect the value of outdoor advertising. The factor in this subdivision shall not be considered if the applicable governmental jurisdiction allows for numerical increases in outdoor advertising signs.

(7) The advantages arising from leasehold or other property interests, including length or term of property interest, renewal rights, options to purchase, or rights of first refusal.

(8) Reasonable expectations of lease renewal for a period in excess of that stated in the lease for original and renewal terms.

(9) Any other factor that may affect the value of the property rights affected by the condemnation.

(f) Prior to any acquisition or taking by the Department of Transportation under this section, the Department of Transportation shall undertake the project necessitating the acquisition or taking in accordance with G.S. 133-11 to minimize adverse impacts to the displaced outdoor advertiser and to reduce the costs of acquiring the outdoor advertising and all related property rights, including allowing the outdoor advertising to remain until actual construction or other physical site work is commenced on the project and within 100 feet of the outdoor advertising sign.

(g) This section shall not in any way affect relocation assistance funding, as provided by federal or State law, which funding is in addition to, and not in lieu of, just compensation in accordance with this section."

SECTION 4.(b) G.S. 136-131.1 reads as rewritten:

"§ 136-131.1. Just compensation required for the removal of billboards ~~on federal aid primary highways~~ by local authorities.

No municipality, county, local or regional zoning authority, or other political subdivision, shall, without the payment of just compensation in accordance with the provisions that are applicable to the Department of Transportation as provided in paragraphs 2, 3, and 4 of G.S. 136-131, G.S. 136-131, remove or cause to be removed any outdoor advertising ~~adjacent to a highway on the National System of Interstate and Defense Highways or a highway on the Federal aid Primary Highway System~~ for which there is in effect a valid permit issued by the Department of Transportation pursuant to the provisions of Article 11 of Chapter 136 of the General Statutes and regulations promulgated pursuant ~~thereto~~ to this Article."

SECTION 5. Article 11 of Chapter 136 of the General Statutes is amended by adding a new section to read:

"§ 136-131.3. Relocation of lawfully existing outdoor advertising sign.

(a) Relocation as a Result of the Use of Eminent Domain. – In order to minimize the amount of just compensation due whenever property on which an outdoor advertising sign is located, is acquired by State or local government agencies or others possessing eminent domain authority, any legally erected outdoor advertising that is caused to be moved shall be relocated and reconstructed subject to all of the following requirements.

(1) The new site for relocation shall be any area within 660 feet of the nearest edge of the right-of-way of a highway on the National System of Interstate and Defense Highways or the federal aid primary highway system within the same zoning jurisdiction or within the same city or county limits if the outdoor advertising sign was located in an unzoned area.

(2) Except as provided in subsection (c) of this section, the outdoor advertising sign at the relocated site shall conform with customary use in areas zoned commercial or industrial under authority of State law or if the relocated site is unzoned, in unzoned commercial or industrial areas. The new site for

1 relocation shall not be within an historic district lawfully established by a city
2 or county pursuant to Part 3C of Article 19 of Chapter 160A of the General
3 Statutes, unless consented to by a resolution adopted by the applicable local
4 governing board.

5 (3) The construction work related to the relocation of the outdoor advertising sign
6 shall commence within one year after the later of the date of removal or the
7 effective date of this Article.

8 (4) Subject to subsection (c) of this section, any outdoor advertising that is caused
9 to be moved, as provided in this section, may be reconstructed as provided in
10 G.S. 136-131.2 so long as the square footage of its advertising surface area is
11 not increased. In addition to other sign characteristic changes or alterations
12 resulting from the relocation, the height of the sign may be increased not to
13 exceed 50 feet measured from the adjoining road grade or base of the sign,
14 whichever allows for the greatest visibility.

15 (5) The express allowances of relocation and reconstruction in this section shall
16 apply to any legally erected outdoor advertising sign anywhere within this
17 State that is caused to be moved as a result of action taken by those possessing
18 the power of eminent domain, including such signs that are not subject to the
19 jurisdiction of the Department of Transportation.

20 (6) The express allowances of relocation and reconstruction in this section shall
21 apply whenever a lawfully erected outdoor advertising sign is affected by the
22 construction of a sound wall. In lieu of relocation, a lawfully erected outdoor
23 advertising sign that is affected by the construction of a sound wall may raise
24 the height of the sign not to exceed 50 feet above the top of the wall.

25 (b) General Relocation. – Any outdoor advertising sign that does not otherwise qualify
26 for relocation as provided in subsection (a) of this section and for which there is in effect a valid
27 permit issued by the Department of Transportation pursuant to this Article shall be authorized to
28 be relocated and reconstructed subject to all of the requirements listed in subdivisions (1) through
29 (6) of subsection (a) of this section, except that the sign shall not be relocated a distance greater
30 than 250 feet from the original lot boundaries on which the sign was previously erected.

31 (c) Customary Use Exception. – Any outdoor advertising sign that is legally existing but
32 would not be conforming to customary use if relocated on the same sign location or site may still
33 be relocated on the same sign location or site, subject to the following requirements:

34 (1) The structural members of the sign at the relocated site are of like material.

35 (2) The size of the sign face or faces are not increased.

36 (3) The height of the sign at the relocated site does not exceed 50 feet measured
37 from the adjoining road grade or base of the sign, whichever allows for the
38 greatest visibility, except that a sign may be 50 feet above the top of a sound
39 wall or noise barrier constructed between the sign and the main-traveled way.

40 (4) The relocation on the same sign location or site is not denied by the Federal
41 Highway Administrator or such other federal official delegated the
42 responsibility for enforcing the federal State agreement referenced in the
43 definition of customary use in G.S. 136-128.

44 (d) Vegetation Removal. – A new site for relocation shall not be denied by the
45 Department of Transportation due to the presence of vegetation obstructing the visibility of the
46 outdoor advertising sign from the viewing zone. The owner or operator of the off-premises
47 outdoor advertising sign shall be permitted to improve the visibility of the sign by removing any
48 vegetation on private property upon receiving written consent of the landowner and on the
49 right-of-way of the interstate and primary systems of the State pursuant to a selective vegetation
50 removal permit issued under this Article. A city or county shall not enforce any ordinance or

regulation in conflict with the rights set forth in this subsection or to otherwise cause the withholding of consent by the landowner.

(e) Preemptive Effect. – No municipality, county, local or regional zoning authority, or other political subdivision shall regulate or prohibit any relocation of outdoor advertising authorized by this section."

SECTION 6. G.S. 136-133.1 reads as rewritten:

"§ 136-133.1. Outdoor advertising vegetation cutting or removal.

(a) The owner of an outdoor advertising sign permitted under G.S. 136-129(a)(4) [G.S. 136-129(4)] or G.S. 136-129(a)(5) [G.S. 136-129(5)] who obtains a selective vegetation removal permit, and the owner's designees, may cut, thin, prune, or remove vegetation in accordance with this section, G.S. 136-93(b), 136-133.2, and 136-133.4. The maximum cut or removal zone for each sign face for the direction of travel for which the sign face is oriented shall be an area not to exceed a continuous 500 feet horizontal distance parallel to a State right-of-way and measured from a point on the main-traveled way of the highway nearest the sign face.~~for vegetation for each sign face shall be determined as follows:~~

- ~~(1) The point located on the edge of the right-of-way that is the closest point to the centerline of the sign face shall be point A.~~
- ~~(2) The point located 200 feet down the right-of-way line in the direction of the sign viewing zone shall be point B.~~
- ~~(3) The point on the edge of the pavement of the travel way, including acceleration and deceleration ramps, that is the closest to the centerline of the sign shall be point C.~~
- ~~(4) The point 50 feet down the edge of the pavement in the direction of the sign viewing zone from point C shall be point D.~~
- ~~(5) The point 380 feet down the edge of the pavement in the direction of the sign viewing zone from point C shall be point E; provided, however, the following shall apply within the corporal limits and territorial jurisdiction of any city, as defined in Chapter 160A of the General Statutes:~~
 - ~~a. On interstates or other routes with fully controlled access, the point 340 feet down the edge of the pavement in the direction of the sign viewing zone from point C shall be point E.~~
 - ~~b. On highways other than interstates and other routes with fully controlled access, the point 250 feet down the edge of the pavement in the direction of the sign viewing zone from point C shall be point E.~~
- ~~(6) Lines drawn from point A to point D and from point B to point E shall define the limits of the vegetation cut or removal area.~~

(a1) Notwithstanding any law to the contrary, in order to promote the outdoor advertiser's right to be clearly viewed as set forth in G.S. 136-127, the Department of Transportation, at the request of a selective vegetation removal permittee, ~~may~~ shall approve plans for the cutting, thinning, pruning, or removal of vegetation outside of the cut or removal zone defined in subsection (a) of this section along acceleration or deceleration ramps so long as the view to the outdoor advertising sign will be improved and the total aggregate area of cutting or removal does not exceed the maximum allowed in subsection (a) of this section.

(a2) In order to promote the outdoor advertiser's right to be clearly viewed as set forth in G.S. 136-127, the Department of Transportation, at the request of an owner of an outdoor advertising sign permitted under G.S. 136-129(4) or G.S. 136-129(5), shall approve plans for the cutting, thinning, pruning, or removal of vegetation along or within medians of the interstate or federal aid primary highway system so long as the view to the cross read face of the outdoor advertising sign will be improved and the sign owner replants the disturbed median area with low growth hardy shrubs at the sign owner's expense.

(b) Vegetation permitted to be cut, thinned, pruned, or removed shall be defined as any tree, shrub, or underbrush within the zone created by points A, B, D, and E. Any existing tree that was in existence at the time that an outdoor advertising structure was erected shall only be eligible for removal in accordance with subsections (c), (d), and (e) of this section. Native To the extent possible, native dogwoods and native redbuds shall be preserved. A selective vegetation removal permittee may relocate and replace, if necessary, any native dogwoods or native redbuds existing within the cut or removal zone established in subsection (a) of this section to a location within 2,500 feet on either side of the outdoor advertising structure, as measured along the edge of the pavement of the main-traveled way of the nearest controlled route. If a native dogwood or native redbud cannot be preserved during relocation, a selective vegetation removal permittee shall replace the native dogwood or native redbud with the same species of any quantity that total the same caliper inches. For the purposes of this section, an existing tree is defined as a tree that had a diameter of four inches or greater as measured six inches from the ground at the time that the outdoor advertising structure was erected. An outdoor advertising sign is considered erected when the sign is completely constructed with a sign face.

...."

SECTION 7. G.S. 136-133.2 reads as rewritten:

"§ 136-133.2. Issuance or denial of a selective vegetation removal permit.

(a) Except as provided in subsection (b) of this section and G.S. 136-133.1(g), permits to remove vegetation may be granted for outdoor advertising locations that have been permitted for at least ~~two years~~ one year prior to the date of application. The Department shall approve or deny an application submitted pursuant to this section, including the fee required by G.S. 136-18.7 and all required documentation, within 30 days of the receipt of an application for a selective vegetation removal permit. If written notice of approval or denial is not given to the applicant within the 30-day period, then the application shall be deemed approved. If the application is denied, the Department shall advise the applicant, in writing, by registered or certified mail, return receipt requested, addressed to the party to be noticed, and delivering to the addressee, the reasons for the denial.

(b) Notwithstanding the one-year period required in subsection (a) of this section, permits to remove vegetation may be granted for outdoor advertising locations, if the outdoor advertising has been relocated, as allowed by law, and the outdoor advertising otherwise complies with the requirements of this section and rules adopted by the Department in accordance with this section."

SECTION 8. G.S. 136-133.5(d) reads as rewritten:

"(d) ~~The~~ Except for relocations authorized under G.S. 136-131.2, the Department shall not issue permits for new outdoor advertising signs at a sign location where existing trees, if they were to reach the average mature size for that species, would make the proposed sign faces, when erected, not completely visible from the viewing zone. "Existing trees" are those trees that at the time of the permit application are four inches or greater in diameter as measured six inches from the ground. "Viewing zone" means the area which is 500 feet as measured along the edge of the main travel way of the controlled route on each side of the proposed sign structure which will have a sign face."

SECTION 9. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and, to this end, the provisions of this act are severable.

SECTION 10. This act is effective when it becomes law. Section 4 of this act applies to determinations of just compensation on or after the effective date. Section 5 applies to outdoor advertising signs removed on or after January 1, 2014. Section 8 applies to outdoor advertising signs relocated on or after the effective date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

S

1

SENATE BILL 406

Short Title: Limit Conditional Zoning. (Public)

Sponsors: Senators McInnis and Gunn (Primary Sponsors).

Referred to: Rules and Operations of the Senate

April 1, 2019

A BILL TO BE ENTITLED
AN ACT TO LIMIT THE USE OF CONDITIONAL ZONING BY COUNTIES AND
MUNICIPALITIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-382 reads as rewritten:

"§ 160A-382. Districts.

(a) For any or all these purposes, the city may divide its territorial jurisdiction into districts of any number, shape, and area that may be deemed best suited to carry out the purposes of this Part; and within those districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures, or land. Such districts may include, but shall not be limited to, general use districts, in which a variety of uses are permissible in accordance with general standards; overlay districts, in which additional requirements are imposed on certain properties within one or more underlying general or special use districts; and special use districts or conditional use districts, in which uses are permitted only upon the issuance of a special use permit or a conditional use permit and conditional zoning districts, in which site plans and individualized development conditions are imposed.

(b) Property may be placed in a special use district, conditional use district, or conditional district only in response to a petition by the owners of all the property to be included. Specific conditions applicable to these districts may be proposed by the petitioner or the city or its agencies, but only those conditions mutually approved by the city and the petitioner may be incorporated into the zoning regulations or permit requirements. Conditions and site-specific standards imposed in a conditional district shall be limited to those that address the conformance of the development and use of the site to city ordinances and an officially adopted comprehensive or other plan and those that address the impacts reasonably expected to be generated by the development or use of the site.

A statement analyzing the reasonableness of the proposed rezoning shall be prepared for each petition for a rezoning to a special or conditional use district, or a conditional district, or other small-scale rezoning.

(b1) A city may not impose upon a petitioner, through ordinance, regulation, or permit requirements, any conditions for a use that is permitted by the zoning classification of the subject parcel unless the city would otherwise be able to impose those conditions by authority granted in the General Statutes.

(c) Except as authorized by the foregoing, all regulations shall be uniform for each class or kind of building throughout each district, but the regulations in one district may differ from those in other districts."

SECTION 2. G.S. 160A-388 reads as rewritten:



1 **"§ 160A-388. Board of adjustment.**

2 ...
3 (c) Special and Conditional Use Permits. – The ordinance may provide that the board of
4 adjustment may hear and decide special and conditional use permits in accordance with standards
5 and procedures specified in the ordinance. Reasonable and appropriate conditions may be
6 imposed upon these permits. A condition is reasonable and appropriate if the city would
7 otherwise be able to impose it in a similar fashion upon other similarly situated parcels that are
8 in the same zoning classification through a grant of authority in the General Statutes.

9"

10 **SECTION 3.** G.S. 153A-342 reads as rewritten:

11 **"§ 153A-342. Districts; zoning less than entire jurisdiction.**

12 (a) A county may divide its territorial jurisdiction into districts of any number, shape, and
13 area that it may consider best suited to carry out the purposes of this Part. Within these districts
14 a county may regulate and restrict the erection, construction, reconstruction, alteration, repair, or
15 use of buildings, structures, or land. Such districts may include, but shall not be limited to, general
16 use districts, in which a variety of uses are permissible in accordance with general standards;
17 overlay districts, in which additional requirements are imposed on certain properties within one
18 or more underlying general or special use districts; special use districts or conditional use
19 districts, in which uses are permitted only upon the issuance of a special use permit or a
20 conditional use permit and conditional zoning districts, in which site plans and individualized
21 development conditions are imposed.

22 (b) Property may be placed in a special use district, conditional use district, or conditional
23 district only in response to a petition by the owners of all the property to be included. Specific
24 conditions applicable to the districts may be proposed by the petitioner or the county or its
25 agencies, but only those conditions mutually approved by the county and the petitioner may be
26 incorporated into the zoning regulations or permit requirements. Conditions and site-specific
27 standards imposed in a conditional district shall be limited to those that address the conformance
28 of the development and use of the site to county ordinances and an officially adopted
29 comprehensive or other plan and those that address the impacts reasonably expected to be
30 generated by the development or use of the site.

31 A statement analyzing the reasonableness of the proposed rezoning shall be prepared for each
32 petition for a rezoning to a special or conditional use district, or a conditional district, or other
33 small-scale rezoning.

34 (b1) A county may not impose upon a petitioner, through ordinance, regulation, or permit
35 requirements, any conditions for a use that is permitted by the zoning classification of the subject
36 parcel unless the county would otherwise be able to impose those conditions by authority granted
37 in the General Statutes.

38 (c) Except as authorized by the foregoing, all regulations shall be uniform for each class
39 or kind of building throughout each district, but the regulations in one district may differ from
40 those in other districts.

41 (d) A county may determine that the public interest does not require that the entire
42 territorial jurisdiction of the county be zoned and may designate one or more portions of that
43 jurisdiction as a zoning area or areas. A zoning area must originally contain at least 640 acres
44 and at least 10 separate tracts of land in separate ownership and may thereafter be expanded by
45 the addition of any amount of territory. A zoning area may be regulated in the same manner as if
46 the entire county were zoned, and the remainder of the county need not be regulated."

47 **SECTION 4.** G.S. 153A-340 reads as rewritten:

48 "Part 3. Zoning.

49 **"§ 153A-340. Grant of power.**

50 ...

(c1) The regulations may also provide that the board of adjustment, the planning board, or the board of commissioners may issue special use permits or conditional use permits in the classes of cases or situations and in accordance with the principles, conditions, safeguards, and procedures specified therein and may impose reasonable and appropriate conditions and safeguards upon these permits. A condition is reasonable and appropriate if the county would otherwise be able to impose it in a similar fashion upon other similarly situated parcels that are in the same zoning classification through a grant of authority in the General Statutes. Conditions and safeguards imposed under this subsection shall not include requirements for which the county does not have authority under statute to regulate nor requirements for which the courts have held to be unenforceable if imposed directly by the county. Where appropriate, the conditions may include requirements that street and utility rights-of-way be dedicated to the public and that recreational space be provided. When deciding special use permits or conditional use permits, the board of county commissioners or planning board shall follow quasi-judicial procedures. Notice of hearings on special or conditional use permit applications shall be as provided in G.S. 160A-388(a2). No vote greater than a majority vote shall be required for the board of county commissioners or planning board to issue such permits. For the purposes of this section, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered "members of the board" for calculation of the requisite majority. Every such decision of the board of county commissioners or planning board shall be subject to review of the superior court in the nature of certiorari consistent with G.S. 160A-388.

...."

SECTION 5. This act is effective when it becomes law and applies to permits submitted on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

S

1

SENATE BILL 571

Short Title: Local Governments/Unsafe Buildings. (Public)

Sponsors: Senator Perry (Primary Sponsor).

Referred to: Rules and Operations of the Senate

April 4, 2019

A BILL TO BE ENTITLED
AN ACT CLARIFYING THE TIME PERIOD IN WHICH CORRECTIVE ACTION SHALL
BE TAKEN TO REMEDY DEFECTS AND UNSAFE CONDITIONS IN BUILDINGS
AND STRUCTURES AND CLARIFYING THE PROCESS OF GIVING NOTICE TO
PROPERTY OWNERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-425 reads as rewritten:

"§ 160A-425. Defects in buildings to be corrected.

When a local inspector finds any defects in a building, or finds that the building has not been constructed in accordance with the applicable State and local laws, or that a building because of its condition is dangerous or contains fire hazardous conditions, it shall be his duty to notify the owner or occupant of the building of its defects, hazardous conditions, or failure to comply with law. The owner or occupant shall ~~each immediately each, within 60 days after notice is given under this section,~~ remedy the defects, hazardous conditions, or violations of law in the property he owns. If, at the conclusion of the 60-day time period, material progress, in the opinion of the local inspector, has been made by the owner to remedy the defects, hazardous conditions, or violations, the local inspector may grant the owner an extension of an additional 60 days in which to complete the work to bring the building into compliance. For purposes of this Part, the term "owner" means the person listed as owner of the property on the property record card recorded in the local tax assessor's office.

SECTION 2. G.S. 160A-428 reads as rewritten:

"§ 160A-428. Action in event of failure to take corrective action.

(a) If the owner of a building or structure that has been condemned as unsafe pursuant to G.S. 160A-426 shall fail to take ~~prompt corrective action,~~ action within 60 days after posting notice on the building as provided in G.S. 160A-426, the local inspector shall give him written notice, by certified or registered mail to his last known address or by personal service:

- (1) That the building or structure is in a condition that appears to meet one or more of the following conditions:
 - a. Constitutes a fire or safety hazard.
 - b. Is dangerous to life, health, or other property.
 - c. ~~Is likely to cause or contribute to blight, disease, vagrancy, or danger to children.~~
 - d. ~~Has a tendency to attract persons intent on criminal activities or other activities which would constitute a public nuisance.~~
- (2) That a hearing will be held before the inspector at a designated place and time, not ~~later~~ sooner than 10 days after the date of the notice, at which time the



owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and

(3) That following the hearing, the inspector may issue such order to repair, close, vacate, or demolish the building or structure as appears appropriate.

(b) If the name or whereabouts of the owner cannot after due diligence be discovered, the notice shall be considered properly and adequately served if a copy thereof is posted on the outside of the building or structure in question at least 10 days prior to the hearing and a notice of the hearing is published in a newspaper having general circulation in the city at least once not later than one week prior to the hearing. The provision of notice, as authorized in this subsection, may run concurrently with written notice provided under subsection (a) of this section."

SECTION 3. This act becomes effective July 1, 2019.

RESOLUTION OPPOSING THE USURPING OF LOCAL GOVERNMENT AUTHORITY BY
THE NORTH CAROLINA GENERAL ASSEMBLY

WHEREAS, there are various proposed bills currently pending before the North Carolina General Assembly which limit, restrict, and/or usurp powers that local governments have historically possessed that enabled counties and municipalities to appropriately govern their jurisdictions; and

WHEREAS, these pending bills are enabling legislators to micromanage the governance of all of NC's 100 counties and 552 municipalities; and

WHEREAS, local government leaders know and understand the needs of their communities best; they are more accessible to their residents, they conduct public hearings; and they prioritize their communities first. All of these factors enable counties and towns to make the best decisions for their distinctive communities in which they serve; and

WHEREAS, Attachment 1 contains a list of pending bills before the General Assembly, that have been compiled by the North Carolina Association of County Commissioners and the North Carolina League of Municipalities, that are opposed by every local government in Moore County, NC, as listed below:

County of Moore
Town of Aberdeen
Town of Cameron
Town of Carthage
Town of Pinebluff
Town of Robbins
Town of Southern Pines
Town of Taylortown
Town of Vass
Village of Foxfire
Village of Pinehurst
Village of Whispering Pines

NOW, THEREFORE, BE IT RESOLVED, every local government in Moore County, NC opposes the bills listed in Attachment 1; and

BE IT FURTHER RESOLVED, every local government in Moore County, NC opposes the General Assembly's assault on local governments' authority impacting every local government in the State; and

BE IT FURTHER RESOLVED, the Clerk, for the respective jurisdiction, submit their jurisdictions signed Resolution to the local House and Senate elected officials, the North Carolina Association of County Commissioners, and the North Carolina League of Municipalities.

This ____ day of _____, 2019.

COUNTY OF MOORE

Francis R. Quis, Jr., Chair
Moore County Board of Commissioners

ATTEST:

Misty R. Leland, County Attorney

RESOLUTION #19-12:

**A RESOLUTION OPPOSING THE USURPING OF LOCAL GOVERNMENT AUTHORITY
BY THE NORTH CAROLINA GENERAL ASSEMBLY**

WHEREAS, there are various proposed bills currently pending before the North Carolina General Assembly which limit, restrict, and/or usurp powers that local governments have historically possessed that enabled counties and municipalities to appropriately govern their jurisdictions; and

WHEREAS, these pending bills are enabling legislators to micromanage the governance of all of North Carolina's 100 counties and 552 municipalities; and

WHEREAS, local government leaders know and understand the needs of their communities best; they are more accessible to their residents, they conduct public hearings; and they prioritize their communities first. All of these factors enable counties and towns to make the best decisions for their distinctive communities in which they serve; and

WHEREAS, Attachment 1 contains a list of pending bills before the General Assembly, that have been compiled by the North Carolina Association of County Commissioners and the North Carolina League of Municipalities, that are opposed by the Village of Pinehurst Council.

NOW, THEREFORE, BE IT RESOLVED by the Village Council of the Village of Pinehurst, North Carolina in a work session assembled this 23rd day of April, 2019, as follows:

SECTION 1. The Village of Pinehurst Council opposes the bills listed in Attachment 1; and

SECTION 2. The Village of Pinehurst Council opposes the General Assembly's assault on local governments' authority impacting every local government in the State.

THIS RESOLUTION passed and adopted this 23rd day of April, 2019.

(Municipal Seal)

VILLAGE OF PINEHURST
VILLAGE COUNCIL

By: _____
Nancy Roy Fiorillo, Mayor

Attest:

Approved as to Form:

Beth Dunn, Village Clerk

Michael J. Newman, Village Attorney

ATTACHMENT 1

S 0367 - Clarify Property Owners' Rights

Sponsor: Thomas McInnis

House Committee: Senate Committee: SLG

Last Action: 4/9/2019 - Senate - Re-ref Com On Judiciary

Analysis:

Prohibits cities and counties from regulating removal of trees on private property, including areas in a city's extra-territorial jurisdiction, unless given express authority by the General Assembly. States that no other general police powers may be cited by a city or county as their authority for regulating tree removal on private property. Further, even when the General Assembly allows a city or county to regulate tree removal on private property, stipulates that the ordinance must include a provision granting private property owners the right to remove trees that interfere with a construction or renovation project, so long as they replace that tree with a sapling of the same or similar type. Requires all ordinances of this type that were previously authorized by local act to be updated to include the prior provision regarding replanting of trees removed during construction or renovation. (First Edition)

H 0492 - Simplify Builder Inventory Exclusion

Sponsor: Mark Brody

House Committee:

Senate Committee:

Last Action: 3/28/2019 - House - Ref to the Com on Commerce, if favorable, Finance, if favorable, Rules, Calendar, and Operations of the House

Analysis:

Extends an existing property tax exclusion, which allows builders who own real property held for sale to exclude from property tax calculations the increase in value of the property attributable to subdivision of the land or residential construction on the land. The extension would go from three to five years. Also eliminates an annual filing requirement builders must currently make to take advantage of this exclusion. (First Edition).

H 0645 & S 534 - Revisions to Outdoor Advertising Laws

Sponsor: Jason Saine

House Committee: Trans

Senate Committee:

Last Action: 4/10/2019 - House - Ref to the Com on Transportation, if favorable, State and Local Government, if favorable, Rules, Calendar, and Operations of the House

Analysis:

Makes numerous changes to the state's billboard laws. Lists the factors for calculating just compensation to be paid if a sign is condemned, including potential future income the sign could earn.

Sets new standards for relocating existing signs and preempts any local ordinances to the contrary. Broadens state standards for cutting vegetation. (First Edition)

H 0675 - 2019 Building Code Regulatory Reform

Sponsor: Mark Brody

House Committee:

Senate Committee:

Last Action: 4/11/2019 - House - Ref to the Com on State and Local Government, if favorable, Regulatory Reform, if favorable, Rules, Calendar, and Operations of the House

Analysis:

Makes numerous changes to building inspection laws. Most importantly, mandates a two-day turnaround time to review residential building plans submitted under the seal of an engineer or architect, or five days for residential plans submitted by other persons. Among other additional provisions, directs creation of a standardized form to certify third-party inspections of various building components or elements; prohibits cities from requiring developers to bury power lines under specifically-listed circumstances; prohibits cities from requiring a minimum square footage for residential structures; exempts temporary structures related to motion picture, television, and theater stage sets from building permitting processes; and extends until October 1, 2021 a requirement for cities to report instances where building inspectors find more than 15 building code violations in one inspection. (First Edition)

H 0722 & S 355 - Land-Use Regulatory Changes

Sponsor: Destin Hall

House Committee: RR

Senate Committee:

Last Action: 4/15/2019 - House - Ref to the Com on Regulatory Reform, if favorable, State and Local Government, if favorable, Rules, Calendar, and Operations of the House

Analysis:

Makes significant changes to the process of resolving and litigating land use disputes. Importantly, one of these changes includes an ability for a property owner to bypass the local board of adjustment and file an original action in superior or federal court, for certain types of legal claims. Another change confers standing on various potential plaintiffs, including non-property owners that have executed a private contract giving them an option to purchase the property subject to the disputed development approval. Yet another provision changes the rules of evidence that currently apply to these types of cases. The proposal also eliminates the defense of estoppel for these legal proceedings, which means that a property owner may continue the development process while challenging a local government's development approval decision, and those actions do not discount the property owner's arguments in the legal proceeding. Changes the attorney's fees statute to require an award of attorney's fees if the local government was found to have "violated a statute or case law setting forth unambiguous limits on its authority," rather than leaving that decision in the discretion of the court. Proposes exhaustive lists to define the terms "development," "development approval," and "land development regulation," which then apply to various land use statutes. Explicitly creates new vested rights for developers, which entitles them to lock in certain development rules and regulations contained in the applicable development approval. In another

change, removes a current provision allowing non-property owners to request a rezoning of parcels, unless all affected landowners give written consent to the request. Also adds language to the current “permit choice” statute to further define the circumstances under which a developer may choose between proceeding under a local government’s old or new zoning or subdivision ordinances, when the development proposal or approval is sought in the midst of an ordinance update. (First Edition)

S 0406 - Limit Conditional Zoning

Sponsor: Thomas McInnis

House Committee:

Senate Committee: RulesOS

Last Action: 4/1/2019 - Senate - Ref To Com On Rules and Operations of the Senate

State Summary Page

State Full Text Page

Analysis:

Limits the discretion of local government officials when making conditional or special use zoning decisions, only allowing conditions that would otherwise be able to be imposed upon other similarly-situated parcels in the same zoning classification. (First Edition)

S 0571 - Local Governments/Unsafe Buildings

Sponsor: Jim Perry

House Committee:

Senate Committee: SLG

Last Action: 4/11/2019 - Senate - Re-ref to State and Local Government. If fav, re-ref to Rules and Operations of the Senate

Analysis:

Rolls back several reasons for which a municipal code enforcement official may consider a building or structure unsafe, including that the building “is likely to cause or contribute to blight, disease, vagrancy, or danger to children,” or “has a tendency to attract persons intent on criminal activities or other activities which would constitute a public nuisance,” such as gang activities. Puts in place a 60-day time period under which a building owner must take corrective action, and allows municipal officials to grant another 60-day extension to complete work to bring the building into compliance. (First Edition)

H 0495 – Prohibit Municipalities from Regulating Off-Site Septic Easements

Sponsor: Pat McElraft

House Committee:

Senate Committee:

Last Action: Ref To Com On Rules and Operations of the Senate on 4/17/2019

Analysis: Amends GS 130A-335 to prohibit any municipalities from prohibiting, regulating by ordinance, or enforcing an existing ordinance that regulates the use of off-site wastewater systems or other systems approved by the Department of Health and Human Service under rules adopted by the

Commission for Public Health so long as the proposed system meets the specific conditions of the approval. Retroactively applies to municipal ordinances enacted on or after October 15, 2018. Voids and deems unenforceable any inconsistent municipal ordinance.

DRAFT