

Buncombe County Planning Board
February 17, 2014

The Buncombe County Planning Board met February 17, 2014 in the meeting room at 30 Valley Street. Members present were Vice Chairman Bernie Kessel, Michelle Pace Wood, Josh Holmes, Joe Sechler, Catherine Martin, and Jim Young. Also present was Josh O'Conner, Zoning Administrator; Jon Creighton, Assistant County Manager/Planning Director; Michael Frue, Staff Attorney; and Gillian Phillips and Debbie Truempy, Planning staff.

Call to Order

Vice Chairman Kessel called the meeting to order at 9:31 am.

Approval of Agenda

Mr. Holmes made a motion to approve the agenda. Ms. Martin seconded the motion and the motion passed unanimously.

Approval of Minutes (January 27, 2014)

Mr. Holmes made a motion to approve the minutes as submitted. Ms. Wood seconded the motion and the motion passed unanimously.

SUB2014-00008: "Mill Creek Subdivision," located at Mill Creek Loop (PINs 9629-22-8397, 9629-22-7443, and 9629-22-7650) is seeking preliminary approval

Applicant is requesting a variance from §70-67 (2)(c) to allow a private subdivision road with no right of way.

The Board was provided with the preliminary plans (Attachment A) and proposed staff conditions (Attachment B) prior to the meeting. They were also provided with the application for the variance (Exhibit A) and variance worksheet (Exhibit B) prior to the meeting. Ms. Truempy introduced the case to the Board, along with the requested variance. Ms. Truempy indicated that it had begun as a condominium project.

Jesse Gardner and Greg Phillips (Mr. Phillips was present as an applicant and not as a member of the Board, and indicated he recused himself. The Board did not vote on the recusal.) were present to represent the case. Mr. Gardner presented the case. Mr. Gardner indicated that the project started as a condominium project and, as the market had changed; the applicant was requesting approval for the detached townhome units. Mr. Gardner indicated that the applicant planned to have all common space, including the roadway, under control of a single homeowner's association, hence the request for the variance. Mr. Young asked some questions regarding the road construction.

Vice Chairman Kessel asked for public comment. There being no public comment, he closed the public hearing. Ms. Wood made a motion to accept the findings of fact for approval as provided in Exhibit B. Mr. Holmes seconded the motion, and the motion passed unanimously. Ms. Wood

made a motion to approve the variance. Mr. Holmes seconded the motion and the motion passed unanimously.

There being no one wishing to make public comment regarding the proposed subdivision preliminary approval, Vice Chairman Kessel asked for a motion. Ms. Wood made a motion to grant the subdivision preliminary approval with the proposed staff conditions (Attachment B). Ms. Martin seconded, and the motion passed unanimously.

Public Hearing (Zoning Text Amendments)

Zoning language regarding the Americans with Disabilities Act and the incorporation of the Comprehensive Land Use Plan in Board of Adjustment decisions (ZPH2014-00007)

The Board was provided with the language (Attachment C) and proposed conformity statement (Attachment D) prior to the meeting. Mr. O'Conner presented the language to the Board. There being no one wishing to make public comment, Mr. Young made a motion to recommend approval and indicated it was consistent with the land use plan as provided in Attachment D. Vice Chairman Kessel seconded the motion and the motion passed unanimously.

Discussion of zoning language regarding the creation of an Airport Industrial District (ZPH2014-00008)

The Board was provided with the language at the meeting (Attachment E). Mr. O'Conner presented the proposed language to the Board. He indicated that there were some proposed changes to the language that the Airport Authority wished to make that he would present to the Board at the next meeting. There was discussion regarding changing the landing strip use in the permitted use table to personal landing strip. Lew Bleiweis, the Executive Director of the Asheville Regional Airport, was present and indicated that airport staff and County staff had been working together regarding the proposed zoning district. Additionally, he indicated that the proposal would help with airport expansion, and attracting aeronautical related businesses to the area. There was further discussion regarding the definition of personal landing strips within the ordinance. Mr. Sechler indicated that the usual term used in the aeronautics industry was "private landing strip" as opposed to personal landing strip. Mr. Bleiweis indicated that private landing strips could still mean for-profit operations in some cases and that the airport was ok with the term personal landing strip. There was discussion regarding whether or not personal landing strips were regulated by the Federal Aviation Administration (FAA). The Board raised concerns regarding someone besides a business related to the airport or the airport itself requesting their property be rezoned to the district. Mr. O'Conner indicated to the Board that staff would make the requested changes from the Airport Authority and bring the language back to the Board to discuss.

Adjournment

There being no public comment, Mr. Sechler made a motion to adjourn the meeting. Ms. Martin seconded the motion and the motion passed unanimously. The meeting was adjourned at 10:24 am.

ATTACHMENT A

DEVELOPMENT DATA

OWNER/DEVELOPER: MAYFAIR PARTNERS, LLC
 200 SWANNANOA RIVER ROAD
 ASHEVILLE, NC 28815
 GREG PHILLIPS
 (828) 775-3001

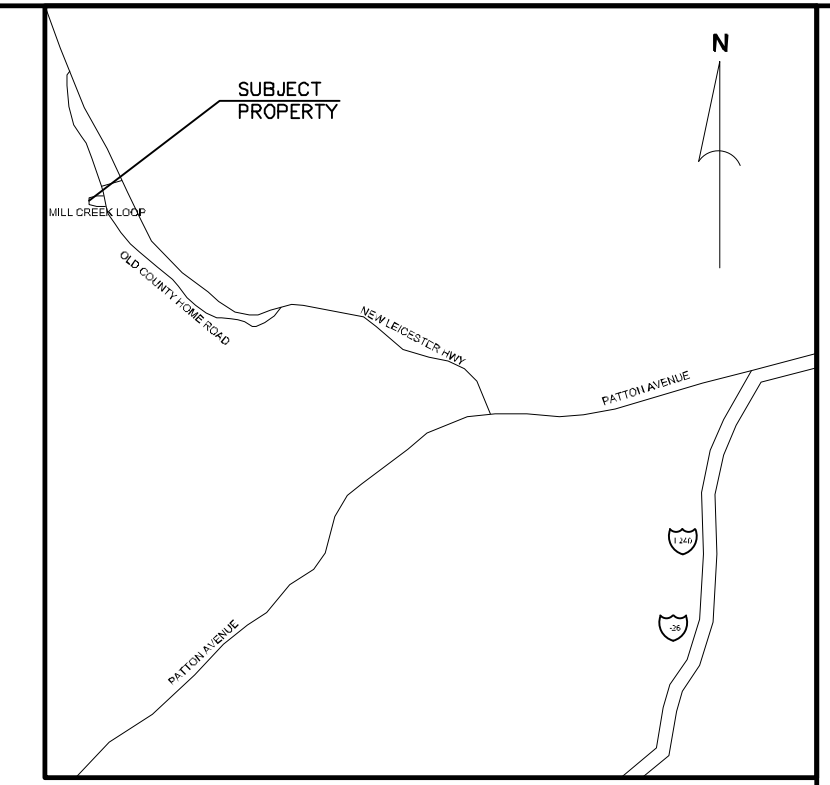
CONTACT:

CIVIL ENGINEER: CIVIL DESIGN CONCEPTS, P.A.
 200 SWANNANOA RIVER ROAD
 ASHEVILLE, NORTH CAROLINA 28805
 JESSE GARDNER, P.E.
 (828) 252-5388

CONTACT:

SURVEYOR: MCMAHAN & ASSOCIATES, P.A.
 PO BOX 1296
 WEAVERVILLE, NC 28787
 (828) 645-3041

CONTACT:



VICINITY MAP
(NOT TO SCALE)

PROJECT SUMMARY

LOCATION: 24 MILL CREEK LOOP 28806

TOWNSHIP: HAZEL

PIN NUMBERS: 9629-22-7650
 9629-22-7443
 9629-22-8397

ZONING: R-2

SETBACKS: FRONT & REAR 20 FEET
 SIDES 10 FEET

TOTAL AREA: 4.48 ACRES

AVERAGE NATURAL SLOPE: 13.78%

BUILDING USE: PROPOSED SINGLE-FAMILY DETACHED TOWN HOMES TO COMPLIMENT EXISTING 4-UNIT CONDOMINIUMS

PROPOSED LOTS: 18 TOWN HOMES
 2 CONDOMINIUM
 20 TOTAL

DENSITY SUMMARY:
 ALLOWED: 12 UNITS/ ACRE
 PROVIDED: 16 CONDOS & 18 TOWN HOMES/
 4.48 ACRES
 = 7.6 UNITS/ACRE

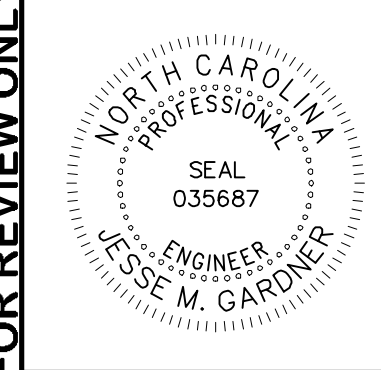
PARKING SUMMARY:
 EXISTING: 30 SPACES
 PROPOSED: 42 SPACES
 TOTAL: 72 SPACES
 SPACES/UNIT: 72 SPACES/ 34 UNITS
 = 2.12 SPACES/UNIT

SUB2014-00008
submitted 1/17/2014

granted approval with conditions
at the 2/17/2014 Planning Board Meeting
granted a variance from Section 70-67 (2) (c) to allow a
private subdivision road with no right of way

- NOTES**
- ALL SITEWORK SHALL BE IN ACCORDANCE WITH ALL LOCAL, STATE, AND NATIONAL REGULATORY STANDARDS AND ALL REQUIREMENTS IN THE PROJECT TECHNICAL SPECIFICATIONS.
 - SINGLE-PHASE CONSTRUCTION.
 - ALL WORK MUST BE PERFORMED BY A NORTH CAROLINA LICENSED CONTRACTOR.
 - CONTRACTOR IS RESPONSIBLE FOR LOCATING AND VERIFYING THE EXACT LOCATION AND ELEVATION FOR ALL UTILITIES PRIOR TO CONSTRUCTION; AND TO NOTIFY ENGINEER OF ANY CONFLICTS OR DISCREPANCIES. THE LOCATION OF SOME UTILITIES SHOWN ON THE PLANS HAVE BEEN APPROXIMATED. ALL BURIED UTILITIES HAVE NOT BEEN SHOWN ON THE PLANS AND IT IS THE CONTRACTOR'S RESPONSIBILITY TO DETERMINE THEIR LOCATION PRIOR TO CONSTRUCTION.
 - CONTRACTOR SHALL PROTECT EXISTING SITE FEATURES (SHOWN TO REMAIN) AND NEWLY COMPLETED WORK DURING CONSTRUCTION. ANY DAMAGE INCURRED DURING OR RESULTING FROM CONSTRUCTION ACTIVITY IS THE RESPONSIBILITY OF THE CONTRACTOR AND IS TO BE REPAIRED IN ACCORDANCE WITH APPLICABLE STANDARDS OF APPROPRIATE AGENCIES AT THE CONTRACTOR'S EXPENSE.
 - THE CONTRACTOR IS TO NOTIFY ALL UTILITY COMPANIES AT LEAST 72 HOURS BEFORE CONSTRUCTION ACTIVITY IS TO BEGIN. THE CONTRACTOR SHALL NOTIFY ULOCO AT 1-800-632-4949 OR 811, 48 HOURS BEFORE CONSTRUCTION BEGINS.
 - ALL ROAD/PARKING LOT IMPROVEMENTS, STRIPING AND SIGNAGE SHALL BE IN ACCORDANCE WITH THE LATEST MANUAL ON UNIFORM TRAFFIC CONTROL DEVICE (MUTCD). CONTRACTOR MAY USE A PAINT SUITABLE FOR ASPHALT APPLICATION IN LIEU OF THERMOPLASTIC WITH PRIOR APPROVAL FROM THE ENGINEER.
 - SUBDIVISION IS NOT A HILLSIDE DEVELOPMENT AS DEFINED BY SECTION 70-68. SUBDIVISION IS NOT A DRASTIC VARIATION HILLSIDE DEVELOPMENT.
 - NO PORTION OF THE ROAD CONSTRUCTION IS WITHIN THE 30 PERCENT NATURAL SLOPE OR AREAS DESIGNATED AS HIGH HAZARD OR MODERATE HAZARD ON THE BUNCOMBE COUNTY SLOPE STABILITY INDEX MAP.
 - ALL LOTS WILL BE SERVED BY COA WATER AND MSD SEWER.
 - NONE OF THE SLOPES, WITHIN THE TOWN HOME FOOTPRINTS, PERPENDICULAR TO MILL CREEK LOOP ARE GREATER THAN 18%.
 - MILL CREEK WILL BE CONVEYED TO THE HOA AS PART OF THE SHARED COMMON SPACE, THEREFORE, NO RIGHT-OF-WAY IS NECESSARY TO BE RECORDED.
 - ALL PROPOSED TOWN HOMES WILL BE PROVIDED ELECTRICAL, TELEPHONE, AND CABLE SERVICE. NO NATURAL GAS WILL BE AVAILABLE.

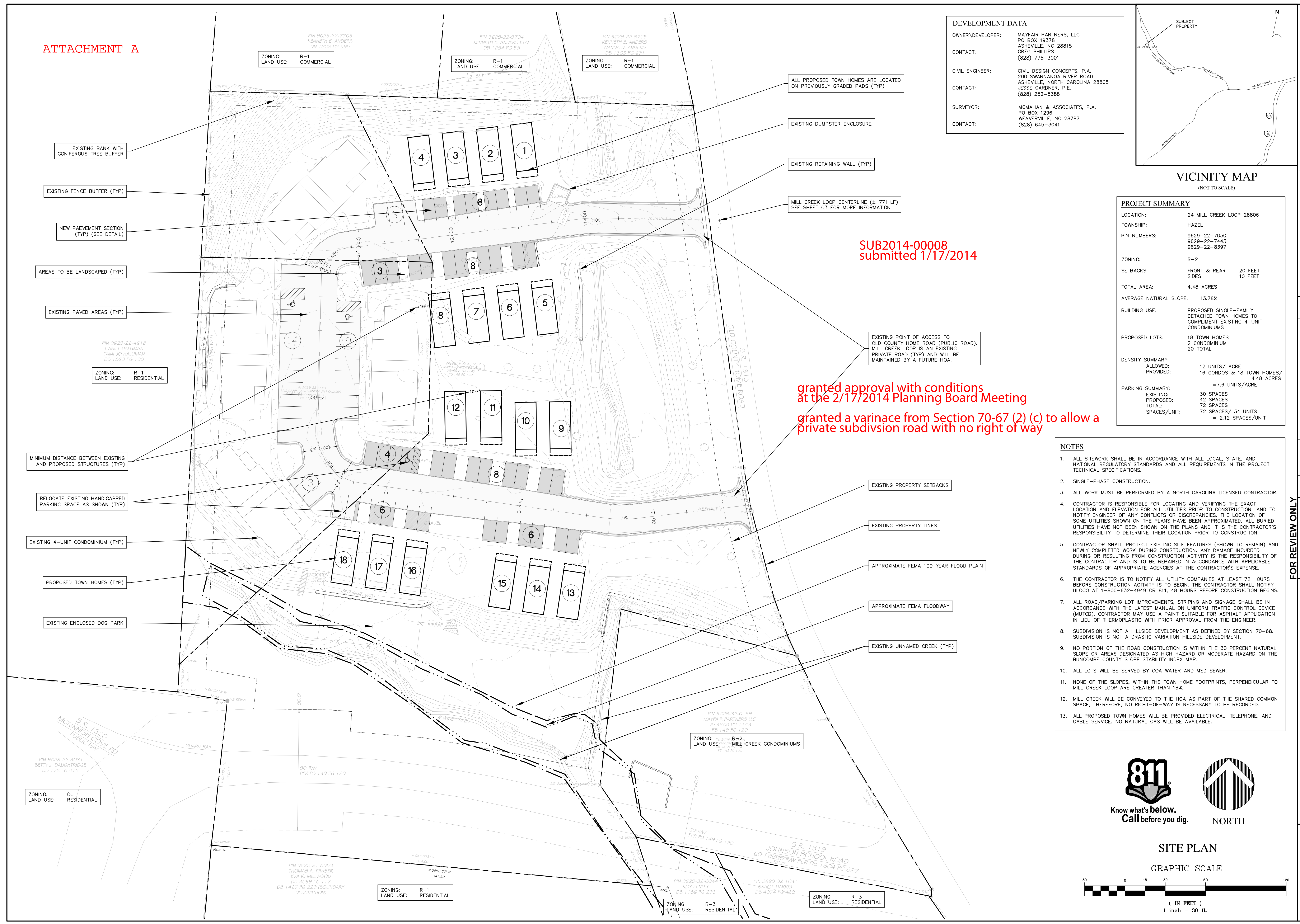
FOR REVIEW ONLY



SITE PLAN FOR:
MILL CREEK TOWN HOMES
BUNCOMBE COUNTY, NORTH CAROLINA

DATE: 12/26/13
 DRAWN BY: Kathleen Martin
 CDC PROJECT NO.: 11394

SHEET
C1



811
Know what's below.
Call before you dig.

NORTH

SITE PLAN

GRAPHIC SCALE

(IN FEET)
1 inch = 30 ft.

200 SWANNANO RIVER ROAD
 ASHEVILLE, NC 28815
 PHONE (828) 252-5388
 FAX (828) 252-5385

52 WALNUT STREET - SUITE 9
 WEAVERVILLE, NC 28786
 PHONE (828) 402-4410
 FAX (828) 402-4415

NCBELS LICENSE #: C-2184
 www.civildesignconcepts.com



NO.	DATE	DESCRIPTION	BY
1.	01/13/14	SUBMITTAL	KPM
2.	01/17/14	PLANNING BOARD SUBMITTAL	KPM

- EXISTING BANK WITH CONIFEROUS TREE BUFFER
- EXISTING FENCE BUFFER (TYP)
- NEW PAVEMENT SECTION (TYP) (SEE DETAIL)
- AREAS TO BE LANDSCAPED (TYP)
- EXISTING PAVED AREAS (TYP)
- MINIMUM DISTANCE BETWEEN EXISTING AND PROPOSED STRUCTURES (TYP)
- RELOCATE EXISTING HANDICAPPED PARKING SPACE AS SHOWN (TYP)
- EXISTING 4-UNIT CONDOMINIUM (TYP)
- PROPOSED TOWN HOMES (TYP)
- EXISTING ENCLOSED DOG PARK

- ALL PROPOSED TOWN HOMES ARE LOCATED ON PREVIOUSLY GRADED PADS (TYP)
- EXISTING DUMPSTER ENCLOSURE
- EXISTING RETAINING WALL (TYP)
- MILL CREEK LOOP CENTERLINE (± 771 LF) SEE SHEET C3 FOR MORE INFORMATION

- EXISTING PROPERTY SETBACKS
- EXISTING PROPERTY LINES
- APPROXIMATE FEMA 100 YEAR FLOOD PLAIN
- APPROXIMATE FEMA FLOODWAY
- EXISTING UNNAMED CREEK (TYP)

PIN 9629-22-4610
 DANIEL HALLIMAN
 TAMM JO HALLIMAN
 DB 1263 PG 190

ZONING: R-1
 LAND USE: RESIDENTIAL

PIN 9629-22-7763
 KENNETH E. ANDERS
 DB 1303 PG 595

ZONING: R-1
 LAND USE: COMMERCIAL

PIN 9629-22-9704
 KENNETH E. ANDERS ETAL
 DB 1254 PG 55

ZONING: R-1
 LAND USE: COMMERCIAL

PIN 9629-22-9765
 KENNETH E. ANDERS
 WANDA D. ANDERS
 DB 1303 PG 628

ZONING: R-1
 LAND USE: COMMERCIAL

PIN 9629-32-0159
 MAYFAIR PARTNERS LLC
 DB 4358 PG 1143
 PG 149 PG 123

ZONING: R-2
 LAND USE: MILL CREEK CONDOMINIUMS

PIN 9629-22-4031
 BETTY J. DAUGHTERIDGE
 DB 776 PG 476

ZONING: OU
 LAND USE: RESIDENTIAL

PIN 9629-21-0253
 THOMAS A. FRASER
 EVA K. MILLWOOD
 DB 4639 PG 117
 DB 1407 PG 328 (BOUNDARY DESCRIPTION)

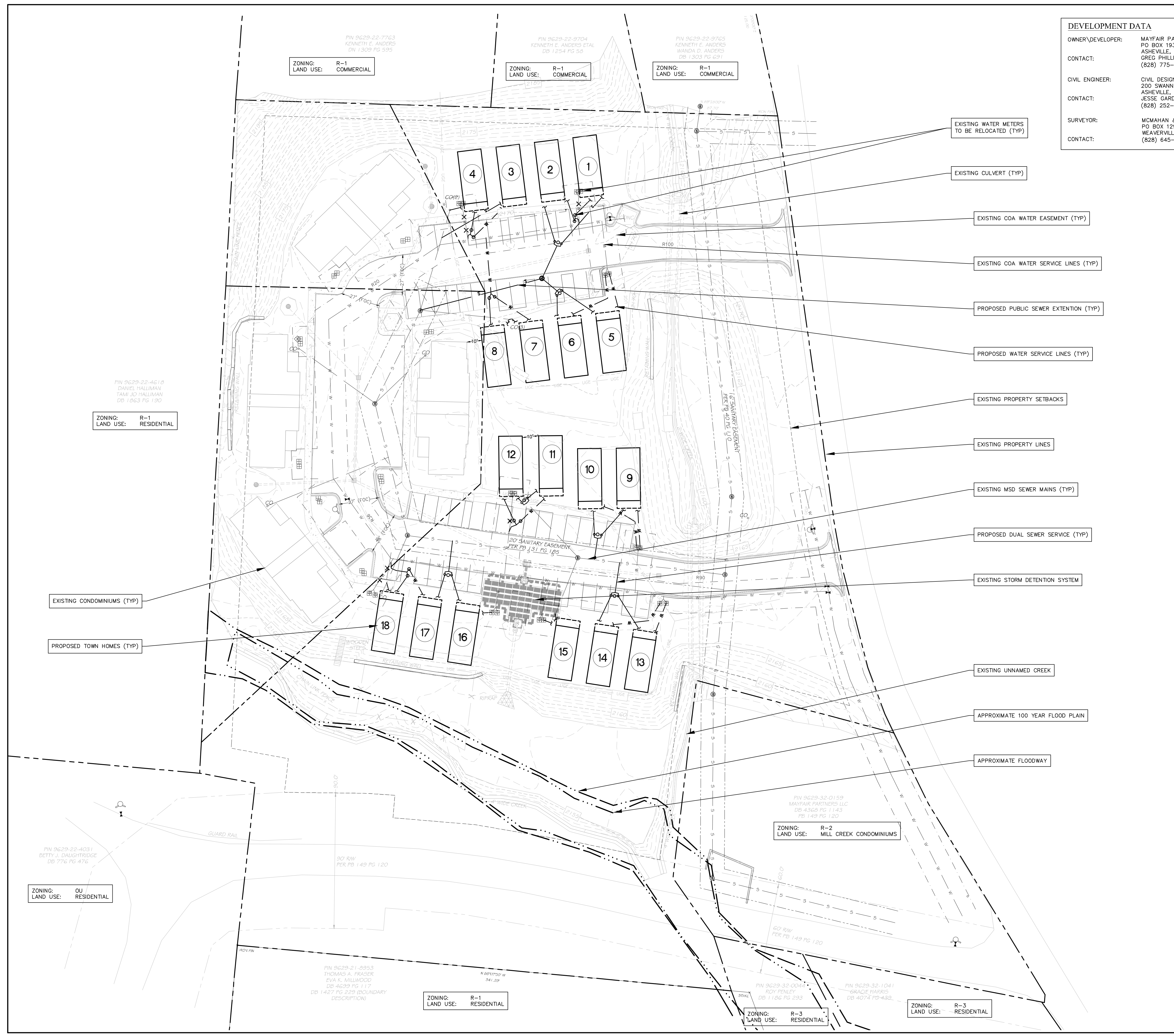
ZONING: R-1
 LAND USE: RESIDENTIAL

PIN 9629-32-0047
 ROY PENLEY
 DB 1166 PG 293

ZONING: R-3
 LAND USE: RESIDENTIAL

PIN 9629-32-1041
 SRAJE HARRIS
 DB 4074 PG 482

ZONING: R-3
 LAND USE: RESIDENTIAL



DEVELOPMENT DATA

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 PO BOX 19378
 ASHEVILLE, NC 28815
 GREG PHILLIPS
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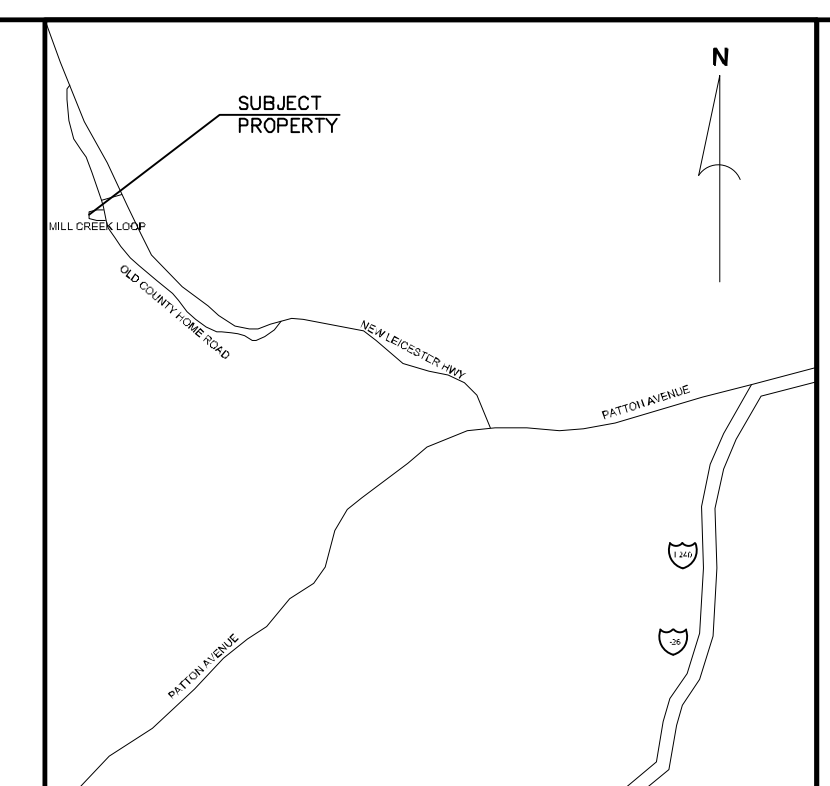
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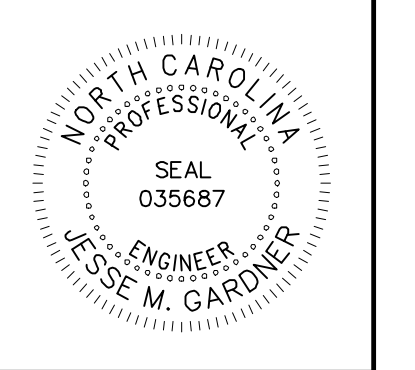
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NO.	DATE	DESCRIPTION	BY
1.	01/13/14	FOR REVIEW ONLY	
2.	01/17/14		



MILL CREEK TOWN HOMES

BUNCOMBE COUNTY, NORTH CAROLINA

UTILITY PLAN FOR:

DATE: 12/26/13
 DRAWN BY: Kathleen Martin
 CDC PROJECT NO.: 11394

SHEET

C2

811 Know what's below. Call before you dig.

NORTH

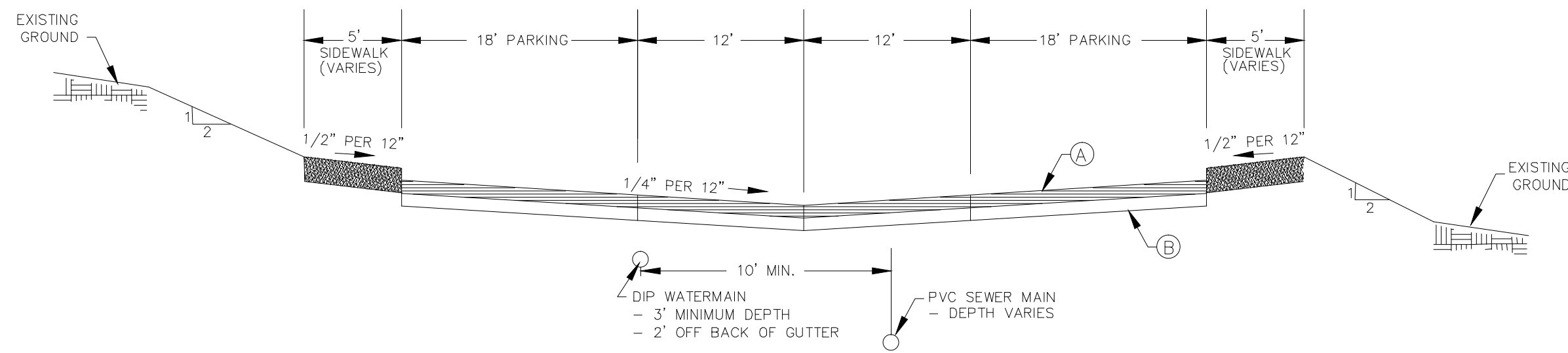
UTILITY PLAN

GRAPHIC SCALE

(IN FEET)
 1 inch = 30 ft.

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PAVEMENT SCHEDULE

- (A) 2" 59.5B
- (B) 8" COMPACTED AGGREGATE BASE COURSE

NOTE:

- MINIMUM 6" COMPACTED SUBGRADE TO BE COMPACTED TO MINIMUM 98% STANDARD PROCTOR.
- ABC STONE TO BE COMPACTED TO MINIMUM 100% STANDARD PROCTOR.

DEVELOPMENT DATA

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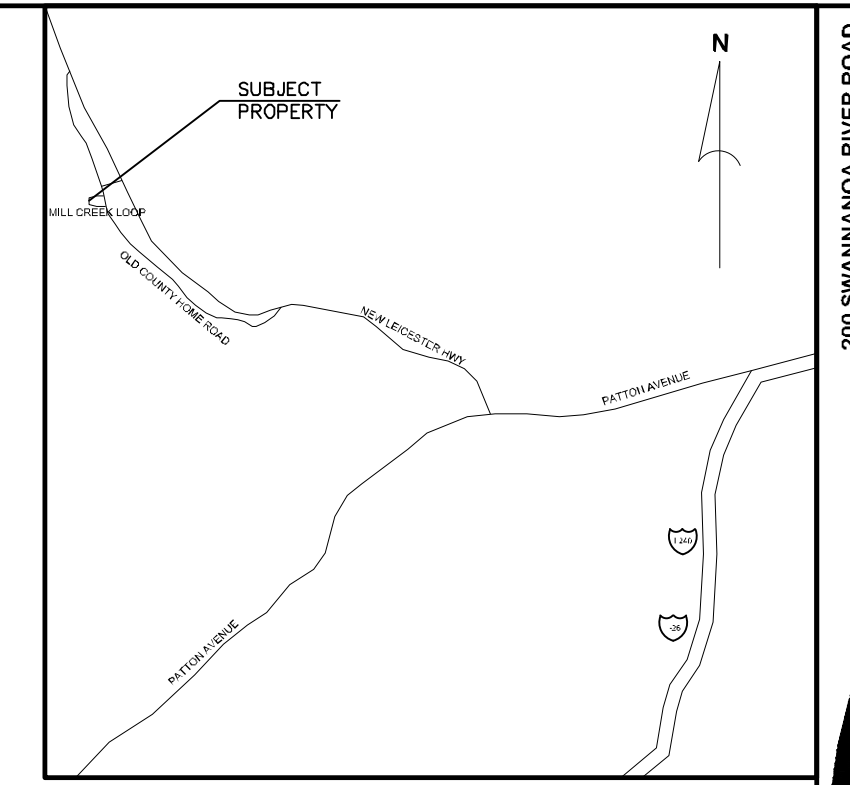
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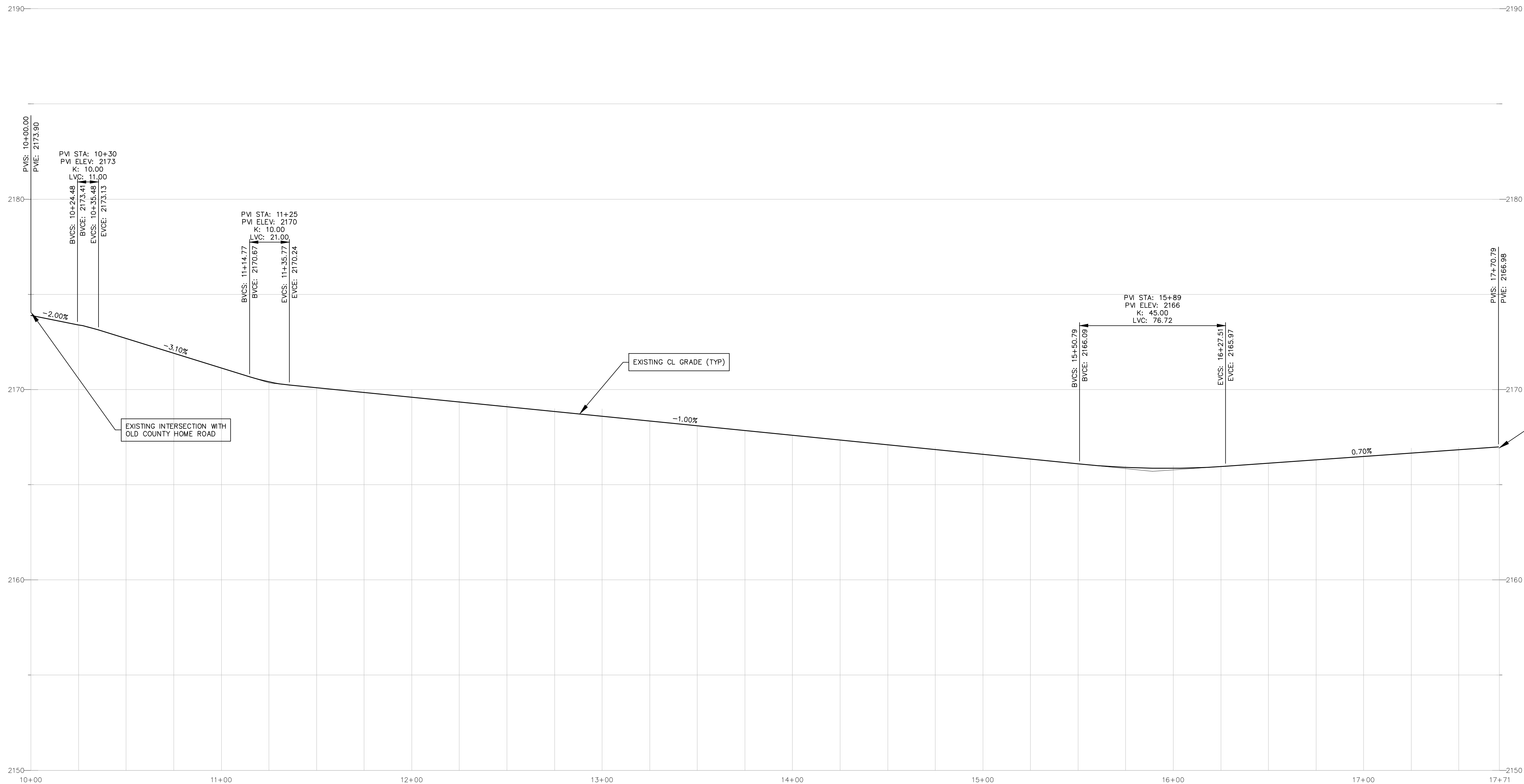
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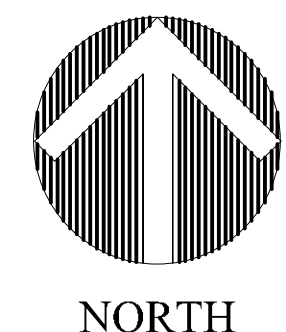


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MILL CREEK LOOP
1"=30' HORIZONTAL
1"=3' VERTICAL



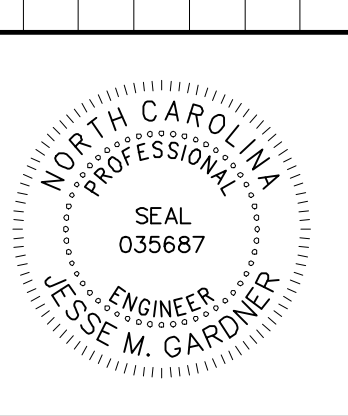
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CDC
CIVIL DESIGN CONCEPTS, PA

NO.	DATE	DESCRIPTION	BY
1.	01/13/14	SUBMITTAL	KPM
2.	01/17/14	PLANNING BOARD SUBMITTAL	KPM



ROAD PROFILE FOR:

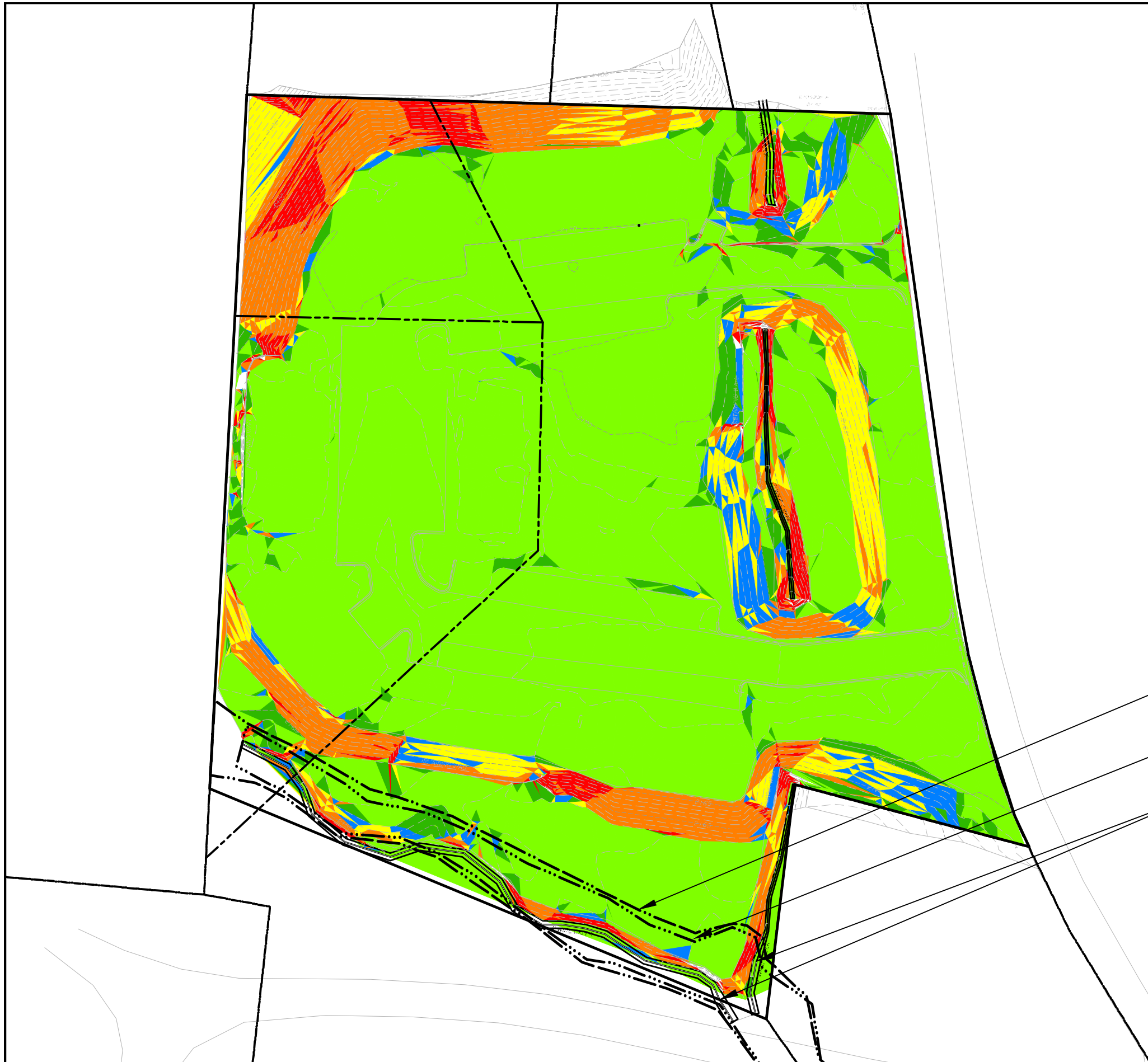
MILL CREEK TOWN HOMES

BUNCOMBE COUNTY, NORTH CAROLINA

DATE: 12/26/13
DRAWN BY: Kathleen Martin
CDC PROJECT NO.: 11394

SHEET

C3



SURFACE SLOPE DATA					
NUMBER	MINIMUM SLOPE	MAXIMUM SLOPE	COLOR	ACRES	%
1	0.0%	15.0%	Light Green	2.9	76
2	15.0%	25.0%	Dark Green	0.2	5
3	25.0%	30.0%	Blue	0.1	3
4	30.0%	35.0%	Yellow	0.2	5
5	35.0%	50.0%	Orange	0.4	9
6	50.0%	100.0%	Red	0.1	2

SITE DATA

AVERAGE NATURAL SLOPE: 13.78%

ACREAGE OF TRACT ABOVE 35% SLOPE: 0.5 ACRES

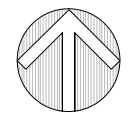
PERCENTAGE OF TRACT ABOVE 35% SLOPE: 11.0%

*NO AREAS OF THE PROPERTY ARE DESIGNATED HAZARD AREAS BY THE BUNCOMBE COUNTY SLOPE STABILITY INDEX MAP.

APPROXIMATE FEMA 100 YEAR FLOOD PLAIN

APPROXIMATE FEMA FLOODWAY

EXISTING UNNAMED CREEKS (TYP)



NORTH



**MILL CREEK LOOP
SLOPE ANALYSIS MAP**
JANUARY 2014



ATTACHMENT B

Buncombe County Planning Board Meeting
Recommended Staff Conditions
SUB2014-00008
2/17/2014
Mill Creek Townhomes

Applicant is requesting a variance from §70-67 (2)(c) to allow a private subdivision road with no right of way.

If approved by the Buncombe County Planning Board, the applicant shall provide the following information on a revised set of plans (if necessary) submitted to the Buncombe County Department of Planning and Development:

1. Provide proof of approval of E-911 addressing or indicate approved addresses and road names on final plat.
2. Proof of acceptance of the water lines into the City of Asheville's water system will be required prior to recordation of a final plat or release of a financial guarantee.
3. Proof of acceptance of the sewer lines into the Metropolitan Sewerage District sewage system will be required prior to recordation of a final plat or release of a financial guarantee.
4. Provide a copy of the approved North Carolina Department of Transportation driveway permit.
5. Indicate on the submitted plans that no base course was placed on muck, pipe clay, organic matter or other unsuitable matter.
6. Provide linear feet of road total on submitted plans.
7. Provide floodplain information including FEMA map panel number on the submitted plan.
8. Indicate right of way of the road on submitted plans or be granted a variance from the Buncombe County Land Development and Subdivision Ordinance.
9. Provide proof of approval of Buncombe County Board of Adjustment for a Planned Unit Development.



Buncombe County Government
Application for a variance from the Land Development and
Subdivision Ordinance of Buncombe County

Planning and Development
www.buncombecounty.org

46 Valley Street
Asheville, NC 28801
Telephone (828) 250-4830
Fax (828) 250-6086

Please complete all sections of the application.

A. CONTACT INFORMATION

Date: 2/14/14

PROPERTY INFORMATION

Subdivision Name: Mill Creek

Phase # and/or Name of Phase (if part of a Master Plan for Phased Development):

Address/Street Location of Property: 24 Mill Creek Loop

PIN Number(s) of Property to be Subdivided:
9629-22-8397, 9629-22-7443, 9629-22-7650

CONTACT INFORMATION

Owner Name: Mayfair Partners, LLC

Address: PO Box 1296 Asheville, NC 28815

Phone: 828-775-3001

Surveyor/Engineer/Landscape Architect Name and Company Name:

Civil Design concepts, PA Jesse Gardner, P.E.

Address: 200 Swannanoa River Rd

Phone: 828-252-5388

Email: jgardner@civildesignconcepts.com

Primary Contact for Submission: Jesse Gardner

Address: See Above

Phone: _____

Email: _____

B. APPLICATION FOR VARIANCE

Application is hereby made to the Buncombe County Planning Board for a VARIANCE from the literal provisions of the Buncombe County Land Development and Subdivision Ordinance, because, under the interpretation given to me by the Subdivision Administrator, I am prohibited from using the parcel of land indicated above in a manner shown by the submitted preliminary subdivision plans (please attach one copy of the submitted preliminary plans to this application). The **preliminary plans** I have submitted include the following:

- a note regarding the type of variance I am seeking
- location of the variance I am seeking shown on the submitted plans (if applicable)

I request a variance from the following provisions of the ordinance:

Section number: 70 - 67 **Section title:** _____

Subsection letters and/or number: 2. C. **Subsection title(s):** _____

C. FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE:

The Planning Board does not have unlimited discretion in deciding whether to grant a variance. In the spaces provided below, indicate the *factors you intend to show* and the *arguments that you intend to make* to convince the Board that it can properly grant the variance as provided for in §70-10. Variances of the Land Development and Subdivision Ordinance of Buncombe County (if necessary please provide the information on a separate sheet of paper).

- (a) Indicate how a strict or literal interpretation and enforcement of the specified standard or requirement would result in practical difficulty, unnecessary hardship or adverse environmental impact:

No practical difficulty exists.

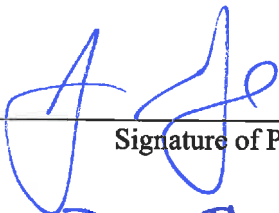
- (b) Indicate how granting the variance will not be detrimental to the public health, safety, or welfare; and We intend to have Mill Creek Loop fully contained within the common area that is to be owned by the future HOA.

- (c) Indicate how granting the variance would support the general objectives contained within the Land Development and Subdivision Ordinance of Buncombe County.

Mill Creek Loop will be a private street that is owned and maintained by the future HOA. The entire road will be located inside common area, and therefore should not need a r/w.

D. CERTIFICATION AND SIGNATURE

I certify that all of the information presented by me on this application is accurate to the best of my knowledge, information and belief.



Signature of Petitioner

2 19 14
Month Day Year

OFFICE USE ONLY:
Date recieved: _____
Case number: _____
Scheduled Planning Board meeting: _____

HEARING ON REQUEST FOR A VARIANCE BEFORE THE BUNCOMBE COUNTY PLANNING BOARD

Owner/Subdivision Applicant: Mayfair Partners LLC
Design Professional: Jesse Gardner
Subdivision Name: Mill Creek Townhomes (SUB2014-00008)
Address: Mill Creek Loop
Hearing Date: February 17, 2014

MOTION TO ADOPT FINDINGS OF FACT

Mr. Chair, based upon the evidence presented to this Board, including the following exhibits: the petitioner's application, the submitted development plan, the findings of fact worksheet _____, and _____;

I move that this Board adopt the following FINDINGS OF FACT:

1. The property located on Mill Creek Loop and having the following PIN's: 9629-22-7650, 9629-22-7443, and 9629-22-8397 is requesting a variance from the Buncombe County Land Development and Subdivision Ordinance.
2. Application is a request for a variance from **§70-67(2)(c)** to allow a private subdivision road with no right of way.
3. That §70-10 of the Buncombe County Land Development and Subdivision Ordinance was used to evaluate this request.

4A. This application does meet the requirements for granting a variance by demonstrating an unnecessary hardship on the owner for the following reasons:

- a. That a strict or literal interpretation and enforcement of the specified standard or requirement would result in practical difficulty, unnecessary hardship or adverse environmental impact.

No practical difficult exists.

- b. That the granting of the variance will not be detrimental to the public health, safety or welfare.

We intend to have Mill Creek Loop fully contained within the common area that is to be owned by the future HOA.

- c. That the granting of the variance would support general objectives contained within this chapter.

Mill Creek Loop will be a private street that is owned and maintained by the future HOA. The entire road will be located inside common area, and therefore should not need a r/w.

4B. This application does not meet the requirements for granting a variance by demonstrating an unnecessary hardship on the owner for the following reasons:

- a. *That a strict or literal interpretation and enforcement of the specified standard or requirement would not result in practical difficulty, unnecessary hardship or adverse environmental impact as the applicant should be required to record a right of way.*
- b. *That the granting of the variance would not support the general objectives contained within this chapter.*

Motion of acceptance of findings of fact by: _____

Seconded by: _____

Vote for: _____

Vote against: _____

MOTION TO APPROVE/DENY THE VARIANCE

Based upon the foregoing FINDINGS OF FACT and for the reasons set forth therein, I move that the requested variance be **approved/denied**.

Motion by: _____

Second by: _____

Vote for: _____

Vote against: _____

Sec. 78-580. Exemptions.

This article shall in no way regulate, prohibit, or otherwise deter any bona fide farm and its related uses, except that any use of such property for non-farm purposes shall be subject to the provisions of this article.

This article shall in no way regulate, prohibit, or otherwise deter any public safety communications tower except that written notice by certified mail of the intent to erect a public safety communications tower shall be sent to all adjoining landowners of the proposed facility and to all owners of property within 500 feet of the proposed facility. No building permit shall be issued for a period of 30 days after sending the notice, unless written statements are received from all parties required to be notified indicating that they have no objection to the facility.

This article shall not deter building modifications or retrofit interventions which are necessary to accommodate the Americans with Disabilities Act (ADA). The Zoning Administrator shall be granted authority to make necessary exemptions regarding ADA specific retrofits which do not comply with this article; except that if the decision involves mitigating factors, a larger community impact, or the need for the retrofit is unclear, the Zoning Administrator may defer decisions to the Board of Adjustment.

Sec. 78-619. General proceedings.

The board of adjustment shall annually elect a chairperson and a vice-chairperson from among its members. The chairperson, or in his absence the vice-chairperson, may administer oaths and request the attendance of witnesses in accordance with G.S. 153A-345. The board of adjustment shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and also keep records of its examinations and other official actions. The Board of Adjustment shall make reference to the Comprehensive Land Use Plan, specifically the section titled "Directing Growth and Development / Topographic Constraints" in their formal decisions.

Consistency with the Comprehensive Land Use Plan

Recommendation of Approval

- The proposed amendments to allow flexibility in approval of retrofits or modifications necessary to accommodate the Americans with Disabilities Act (ADA) and to require the Board of Adjustment to reference the Comprehensive Land Use Plan in their formal decisions **are consistent with the Buncombe County Comprehensive Land Use Plan and updates, as the 2013 update (Section 6) recommended that:**

“Current land use policies [should be modified] to allow for consideration of potential exemptions and variances as they relate to the Americans with Disabilities Act. Under this recommendation, staff would be granted authority to make decisions regarding ADA specific retrofits which do not comply with current land use policies. From a general perspective, this would expedite timelines for approvals and lower the cost of ADA retrofits. While staff would have discretion to make such decisions there should still be an opportunity to defer decisions to the appropriate administrative body if the decision involves a larger community impact or the need for the retrofit is unclear;” and

“The [Comprehensive Land Use Plan concepts and suitability] characteristics should also allow appointed boards to understand how each site conforms with the Comprehensive Land Use Plan Update in an objective manner.”

- The proposed amendments to the text are **reasonable and in the public interest** as they promote active use of the Comprehensive Land Use Plan in project review and flexibility and deference to upfits required by federal law.

ATTACHMENT E

Sec. 78-581. Definitions.

Cargo/freight terminals, operations and activities means transportation establishments furnishing services incidental to air, motor freight, and rail transportation including but not limited to freight forwarding services; freight terminal facilities; packing, crating, inspection and weighing services; postal/package service bulk mailing distribution centers; transportation arrangement services; and trucking facilities, including transfer and storage.

Airport means property that is maintained for the landing, refueling and takeoff of aircraft and for the receiving and discharge of passengers and cargo traveling by air, to include aviation related facilities, structures, and property.

Aviation-related means any activity, use, facility, structure, service, property used for any operational purpose related to, in support of, or complementary to the flight of aircraft to and from the airport, to include convenience concessions serving the public.

Medical clinic means a facility for examining, consulting with, and treating patients with medical, dental, or optical problems on an out-patient basis with no overnight admission.

Personal landing strip means a landing strip or heliport for personal use of the tenant or owner of the site, not available for public use, and with no commercial operations.

Sec. 78-640. Statement of district intent.

(j) *Open Use District (OU)*. The OU Open Use District is established as a district in which all uses are allowed by right, except for certain uses that are regulated as conditional uses so as to ensure that neighborhood impact is mitigated. Additionally, those uses which are specific to the Airport Industry District (AI) are excluded from the OU Open Use District. The neighborhood impact from conditional uses will be mitigated through the use of minimum specific site standards combined with general standards which provide the flexibility to impose a higher level of specific site standards dependent upon the degree of neighborhood impact. No zoning permit shall be required for permitted uses in the OU Open Use District.

(k) *Airport Industry District (AI)*. The AI Airport Industry District is established as a district that includes but is not limited to airport facilities, aviation related uses, and related aerospace uses. The AI Airport Industry District will also support office uses, industrial uses, storage and warehousing, and wholesale trade either directly related to or dependent upon the aviation industry. Such locations should currently have public water and sewer services available or be expected to have these services in the future. The AI Airport Industry District shall exist in areas below 2500' in elevation.

Sec. 78-641. Permitted uses.

(a) *Permitted use table*. Uses are permitted in the various zoning districts pursuant to Table 1.

Table 1 – Permitted Use Table

Uses	P = Permitted C = Allowed as Conditional Use Blank Space = Not Permitted											
	Districts											
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	CR	<u>AI</u>	BDM	OU
Single-family residential dwelling, including modular	P	P	P	P	P	P	P	P	P		P	P
Duplex/Two-family residential dwelling			P	P	P	P	P	P	P			P
Multifamily residential dwelling units (only one building)			P	P	P	P	P	P	P			
Open-Use Multifamily dwelling (less than six units on single lot)												P
Open-Use Multifamily dwelling (six or more units on single lot)												C
Manufactured/mobile homes-Residential	P			P			P					P
Manufactured/mobile home parks				C								P
Planned unit developments			C	C	C	C	C	C	C	<u>C</u>		P
Subdivisions	P	P	P	P	P	P	P	P	P	<u>P</u>	P	P
Accessory buildings	P	P	P	P	P	P	P	P	P	<u>P</u>	P	P
Adult Entertainment Establishments						C	C					C
<u>Airports</u>										<u>P</u>		
Amusement Parks						C	C	C	C			C
Animal hospitals and veterinarian clinics					P	P	P					P
Asphalt Plants							C					C
<u>Aviation-related services and facilities</u>										<u>P</u>		
Banks and other financial institutions					P	P	P	C	C	<u>P</u>		P
Bed and breakfast inns	P		C	P	P	P	P	P	P			P
Campus office use			C		P			P	P	<u>P</u>		P
<u>Cargo/freight terminals, operations and activities</u>						<u>C</u>	<u>P</u>			<u>P</u>		<u>P</u>

Table 1 – Permitted Use Table

Uses	P = Permitted C = Allowed as Conditional Use Blank Space = Not Permitted											
	Districts											
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	CR	<u>AI</u>	BDM	OU
Cemetery	P		P	P		P		P	P			P
Chip Mills												C
Churches	P	P	P	P	P	P	P	P	P		P	P
Clubs or lodges				P	C	P	P	P	P	<u>P</u>		P
Concrete Plants							C					C
Day nursery and private kindergarten	C	C	C	C	P	P	P	P	P			P
Family care home	P	P	P	P				P	P		P	P
Funeral homes						P	C	P	P			P
Government protective services			P	P	P	P	P	P	P	<u>P</u>		P
Greenhouses, commercial (nursery, lawn and garden products)					P	P	P	P	P			P
Hazardous Waste Facilities												C
Home occupations	P	P	P	P	P	P	P	P	P		P	P
Hospitals, nursing homes, assisted living facilities, retirement communities				C		P	P	P	P			P
Hotels and motels						P	C	P	P	<u>P</u>		P
Incinerators												C
Junkyards							C					C
Kennels				C	P	P	P			<u>P</u>		P
<u>Landing Strips</u>				<u>G</u>		<u>G</u>	<u>G</u>	<u>G</u>	<u>G</u>			<u>G</u>
Laundry and dry cleaning services					P	P	C	P	P	<u>P</u>		P
Libraries			P	P	P	P	P	P	P	<u>P</u>		P
Manufacturing and processing operations						P	P			<u>P</u>		P
<u>Medical Clinics</u>				<u>C</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>

Table 1 – Permitted Use Table

Uses	P = Permitted C = Allowed as Conditional Use Blank Space = Not Permitted											
	Districts											
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	CR	<u>AI</u>	BDM	OU
Mining and Extraction Operations							C					C
Motor Sport Facilities												C
Motor vehicles maintenance and repair					C	P	P	P	P	<u>P</u>		P
Motor vehicles sales and rental						P	P			<u>P</u>		P
Motor vehicles service stations (fueling stations)					P	P	P	P	P	<u>P</u>		P
National Guard and Reserve Armories						P	P	P		<u>P</u>		P
Nightclubs, bars and pubs					P	P	P		P	<u>P</u>		P
<u>Personal Landing Strips</u>				<u>C</u>		<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P</u>		<u>C</u>
Physical fitness centers					P	P	C	P	P	<u>P</u>		P
Postal and parcel delivery services					C	P	P	P	P	<u>P</u>		P
Printing and lithography						P	P			<u>P</u>		P
Professional and business offices and services					P	P	P	P		<u>P</u>		P
Private utility stations and substations, pumping stations, water and sewer plants, water storage tanks (less than 2 acres in total footprint)	P	P	P	P	P	P	P	P	P	<u>P</u>	P	P
Private utility stations and substations, pumping stations, water and sewer plants, water storage tanks (2 acres or greater in total footprint)	C	C	C	C	C	C	C	C	C	<u>C</u>	C	C
Public utility stations and substations, pumping stations, water and sewer plants, water storage tanks (less than 2 acres in total footprint)	C	C	C	C	P	P	P	P	P	<u>P</u>	C	P
Public utility stations and substations, pumping	C	C	C	C	C	C	C	C	C	<u>C</u>	C	C

Table 1 – Permitted Use Table

Uses	P = Permitted C = Allowed as Conditional Use Blank Space = Not Permitted											
	Districts											
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	CR	<u>AI</u>	BDM	OU
stations, water and sewer plants, water storage tanks (2 acres or greater in total footprint)												
Radio, TV and telecommunications towers	C			C		C	C	C	C	<u>P</u>		P
Recreation use, nonprofit	C	C	C	C	P	P	P	P	P	<u>P</u>		P
Recreation use, profit			C	C	C	P	C	P	P	<u>P</u>		P
Repair services (electrical and appliances)					P	P	P			<u>P</u>		P
Restaurants, eating establishments and cafés					P	P	P	P	P	<u>P</u>		P
Retail trade, commercial services, sales and rental of merchandise and equipment (inside building with no outside sales storage)					P	P	C	C	P	<u>P</u>		P
Retail trade, commercial services, sales and rental of merchandise and equipment						P	C		P	<u>P</u>		P
Rooming house			C	P	P	P	C	P	P			P
Schools, public and private		C	C	C		P		P	P			P
Schools--Vocational, business and special schools						P	P	P	P	<u>P</u>		P
Shooting Ranges – Outdoor Commercial									C			C
Slaughtering Plants												C
Solid Waste Facilities – Landfills, Transfer Stations, Materials Recovery							C	C		<u>C</u>		C
Storage and warehousing					C	P	P	P	C	<u>P</u>		P
Theaters						P		P	P	<u>P</u>		P
Travel trailers				C					P			P

Table 1 – Permitted Use Table

Uses	P = Permitted C = Allowed as Conditional Use Blank Space = Not Permitted											
	Districts											
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	CR	<u>AI</u>	BDM	OU
Travel trailer parks				C					C			P
Vacation rentals	P	P	P	P	P	P	P	P	P		P	P
Vacation rental complex				C	C	C	C	C	C		C	C
Wholesale sales						P	P		C	<u>P</u>		P