**STAFF REPORT**
**Board of Adjustment, Tuesday, February 3, 2026**

| | |
|---|---|
| **Title:** | Consideration of APP-26-0001 - 221 Pinnacle Rd. |
| **Speaker:** | Paul Ray, Planning Director<br>Aaron Bland, Assistant Planning Director |
| **Prepared by:** | Paul Ray, Planning Director, Aaron Bland, Asst Planning Director |
| **Approved by:** | Paul Ray, Planning Director |

**Background**
A driveway application for a parcel located in the vicinity of the end of Pinnacle Road, near but beyond the parking lot and trailhead for the City-owned Bracken Preserve trails, for 221 Pinnacle Road (PIN 8576-83-6675-000) was submitted on October 22, 2025 by owner James Veal. This application was assigned to Assistant Planning Director Aaron Bland for review.

*Note that this is a separate parcel, application, and appeal than the previously discussed APP-25-0001 for 231 and 245 Pinnacle Road, though it shares the same site constraints and characteristics.*

The subject parcel is "landlocked" in that it does not have any frontage on a public street right-of-way. The Transylvania County tax map shows that the Pinnacle Drive ROW continues beyond the Bracken parking lot to the front of the parcel, however this is a mapping error. The exact extent of NCDOT maintenance and ownership of Pinnacle Drive is unclear. Different surveys show state maintenance ending in different places, but none show it extending as far as the tax map indicates, and it is not improved in any way beyond the parking lot. The official NCDOT State Maintained Network Map does not include Pinnacle Road at all, meaning that it is not claimed or maintained by NCDOT; the entire unpaved Pinnacle Road is listed as “non-system” on official NCDOT maps.

The City's Bracken Mountain Trail leaves the parking lot and ascends to Bracken Preserve through a 50-foot wide right-of-way that crosses several private properties between the parking lot and the City-owned Bracken Preserve parcel. This ROW was obtained by the City in 2008 and the public hiking/biking trail was opened to the public in July 2012. Properties in the area were once served by a small private access drive called Mackey Ridge Road, which was located in the vicinity of the current trail, but it is no longer in existence and never had a public right-of-way. The former roadbed has not been used in decades and has become overgrown with natural vegetation and is criss-crossed by the Bracken Mountain Trail and related incidental improvements such as fencing, rock armoring, picnic tables, and signage.

The parcel is located outside the City's corporate limits in the extraterritorial jurisdiction and is zoned General Residential - 4 (GR4).

**Administrative Decision**
This application, ENC-25-0001, was submitted on October 22, 2025. On October 30, 2025, Mr. Bland emailed a denial to Mr. Veal citing the same lack of information that had caused the previous denials at 231 and 245 Pinnacle Road (dated September 19, 2025, prior to this application). Mr. Bland responded that given the materials provided, he was unable to fully review the applications and had no option but to deny them. He cited a lack of information about how the proposed driveway would interact with and possibly impact the Bracken Mountain Trail and the safety of users on it, as well as a lack of information about how vehicles would get to the driveway from the end of Pinnacle Road given the physical characteristics of the land including obstacles such as signs, fences, and boulders.

Mr. Veal notified the City Clerk of his intention to appeal the decision of Mr. Bland on November 28, 2025, and paid the fee to complete his appeal application on December 18, 2025.

**Discussion**
The Unified Development Ordinance has some standards for driveways, however these are predicated on the notion that the driveway is connecting to a public street within a public right-of-way, which is not the case with the subject parcel. Many provisions of the UDO assume frontage on a public street, which the subject parcel does not have, a condition known as a "landlocked parcel." Section 14.6 of the UDO discusses nonconforming lots such as the subject parcel. Subsection D states that "the administrator may permit the establishment of a private right-of-way or access easement in order to facilitate access to pre-existing land-locked parcels." The applicant has not provided any evidence of such an access easement, existing or proposed, to the subject parcel.

In meetings preceding the driveway applications, the applicant has suggested that the City's trail ROW should suffice in the same manner as a public street right-of-way. This belief is based on the legal documents establishing the City's trail ROW, which are written to allow for "all vehicular and pedestrian travel across the property" in order to "serve [Bracken Preserve], providing ingress, egress and regress thereto." However, the trail right-of-way does not convey use for access to private parcels, but rather public use to access the city-owned Bracken Preserve parcel from the city-owned parking lot parcel. The inclusion of vehicular travel in these documents gives the City the *right and ability* to allow such use of the ROW, but not the *obligation* to install a road capable of providing such use. In fact, the City cannot establish a City street outside the corporate limits. Thus, to date, the City has chosen to only allow travel through the ROW to Bracken Preserve by foot and bike. Further, the decision to exercise the right to allow vehicles is a policy decision that cannot be made by Planning Staff.

Again, no evidence of any formal or recorded access agreement or easement which provides private access to the subject parcel was provided by the applicant, calling into question how a vehicle would legally access the proposed driveway.

The overarching goal and purpose of the City's UDO and regulations in general, as well as the enabling state legislation that allows for zoning authority, is to promote public health, safety, and general welfare (UDO Section 1.2). Therefore, ensuring the safety of Bracken Preserve trail users, as well as any potential users of the driveways, was a primary concern when reviewing this application. Mr. Bland's request for the location of the existing trail within the ROW was in order to ascertain if the vehicular traffic using the driveway would cross over or otherwise conflict with trail users. Without the location of the trails shown on the site plan, this was not able to be evaluated. Section 17.2.C of the UDO states that "The administrator shall have the authority to deny and return any submitted land development permit application and associated development plans upon a determination that such submitted items are insufficient…" Mr. Bland determined that the submitted plans were insufficient because they did not show 1) the location of the trail to determine potential user conflicts, 2) how cars could legally access the driveways from Pinnacle Road where it ends at the Bracken parking lot, and 3) how cars could physically traverse the terrain from the parking lot to the subject parcels.

Further, UDO Section 16.5.C.1 states that applications must contain "all information and materials required by this ordinance for submittal of the applicable type of application, and in sufficient detail, format, and readability for city staff to evaluate the application for compliance with applicable review standards." It is the Planning Department's position that the application did not contain such "sufficient detail" for review of both potential safety conflicts with trail users and legal/physical access.

**Board Decision**
North Carolina General Statutes 160D-406(j) states "When hearing an appeal, the board may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The board shall have all the powers of the official who made the decision." The decision must be based on competent, material, and substantial evidence in the record.

**Attachments:**
1. ENC-25-0001 Application Materials
2. ENC-25-0001 Denial Email
3. Appeal Email to City Clerk
4. Appeal Receipt

# Record Report for Driveway or Other Encroachment on City Rights-of-Way #ENC-25-0001

## Record Overview

| | |
|---|---|
| **Record Number:** | ENC-25-0001 |
| **Record Type:** | Driveway or Other Encroachment on City Rights-of-Way |
| **Record Status:** | Denied |
| **Record Submitted At:** | Wednesday October 22, 2025 |
| **Record Address:** | 221 Pinnacle Rd. Brevard, NC 28712 |
| **Record Owner:** | Aaron Bland |
| **Record Applicant:** | jv@jvealarchitect.com |

## Form Submission

**Applicant:**

James Veal

jv@jvealarchitect.com, (850) 450-3295

**Property Owner (if different):**

| | |
|---|---|
| **Property Address:** | 221 Pinnacle Rd. Brevard, NC 28712 |
| **Parcel Identification Number (PIN):** | 8576-83-6675-000 |
| **Zoning District:** | General Residential - 4 (GR4) |
| **Overlay District:** | None |
| **Business Name:** | James Veal |
| **Permit Type:** | Driveway |
| **If other, please specify:** | - |
| **Width of Driveway (if applicable) (ft):** | 12 |
| **Distance from Nearest Intersection (ft):** | - |
| **Distance from Nearest Driveway (ft):** | - |

**Signature:**

Signed in GovWell: Wednesday October 22, 2025, 1:16pm

**I Acknowledge:** Yes

**Signature:**

Signed in GovWell: Wednesday October 22, 2025, 1:16pm

The City of Brevard North Carolina

City of Brevard Planning Department
95 West Main Street
Brevard, North Carolina 28712
Phone (828) 885-5630
Fax (828) 885-5625
cityofbrevard.com

# APPLICATION FOR DEMOLITION, GRADING OR LAND DISTURBANCE

**Contact Information (To be completed by Applicant)**

| | |
|---|---|
| Applicant/Agent/Contractor Name: → | Property Owner: JAMES VEAL |
| Mailing Address: → | Mailing Address: 627 Bayshore Dr |
| City: State: Zip: → | City: Pensacola State: FL Zip: 32507 |
| Phone: → | Phone: 850-450-3295 |
| Email: → | Email: jv@jvealarchitect.com |

**Property/Project Information**

| | |
|---|---|
| Contractor Hauling Debris: T.B.D. | Property PIN (Tax id #): 8576-83-6675-000 |
| Mailing Address: | Property Location/Address: 221 Pinnacle Rd |
| City/State | Date applicant desires to being project: 12-31-2025 |
| Phone:<br>Email: | Disposal location:<br>Note: As a part of the final inspection you may be required to produce evidence of location of disposal of demolition waste. |
| Project Type/Description: Residential | |

Note: Site/Project plans are required to be submitted as a part of this application.
Demolition/Grading and Other Land Disturbance Permit Holder is Responsible to:

- Demolition: $500 reimbursable bond per structure. Lots with multiple structures requiring Bonds exceeding $500 shall be based upon a qualified professional's estimate of cleanup clean cost + 25%
- Grading & Other Land Disturbance: $500 reimbursable bond per lot up to one acre. Lots larger than one acre requiring Bonds exceeding $500 shall be based upon a qualified professional's estimate of cleanup clean cost + 25%
- Contact City Utility Department to insure water/sewer utility services have been disconnected from structure(s).
- Contact ALL Utility Companies (electric, gas, telephone, cable, etc) to insure services are disconnected from structure.
- Cleanup debris from demolition.
- Sow grass seed on property following cleanup of all debris.

Demolition: Administrator may require a bond in excess of $500 if such is deemed necessary in the interests of public health or safety. These bonds shall be prepared and administered in accordance with the improvement guarantee procedures set forth in the Procedure for the Installation & Dedication of Public Improvements. The Administrator

may require a demolition, in association with any development activity for which such bond is relevant.

Grading & Other Land Disturbance: Administrator may require a bond in excess of $500 if such is deemed necessary in the interests of public health or safety. These bonds shall be prepared and administered in accordance with the improvement guarantee procedures set forth in the Procedure for the Installation & Dedication of Public Improvements. The Administrator may require a grading or land disturbance bond in association with any development activity for which such bond is relevant.

I affirm and certify that I understand and will comply with all regulations and requirements of the City of Brevard. I further certify that the above statements and the statements and showings made in any paper or plans submitted herewith are true to the best of my knowledge and belief. Further, I understand that the application, attachments and fees become a part of the Official Records of the City of Brevard Planning Department, are not returnable and are subject to NC Public Records Law. I also recognize that if one or more deficiencies exist in this application, I will be notified of the deficient items, and the department shall take no further action on the application until the required information is submitted. I understand that misrepresentation of information contained within this application may be cause to void any development approvals associated with this application. I grant permission to the Zoning Administrator, and designees thereof, to enter upon the property represented herein for the purposes of administering this application.

If the Applicant is other than the property owner, proof of owner's consent is required. Owner's signature proves consent. The applicant will be the liaison with the City and will be the party to receive official notice. Notice communicated to the applicant will be deemed communicated to the owner. By signing this application, the applicant is consenting to the designation for these purposes.

| | |
|---|---|
| Applicant/Agent/Contractor Signature: SAME | Date: |
| Property Owner Signature: | Date: 10/21/25 |

TRANSYLVANIA COUNTY
EMERGENCY SERVICES
155 PUBLIC SAFETY WAY
BREVARD, NC 28712
828-884-3108

TRANSYLVANIA COUNTY
NORTH CAROLINA

May 2, 2024

Parcel 3

Dear Property Owner,

Transylvania County Emergency Services Addressing Division has assigned an address to property that you own. The address is listed below for your convenience. If it is a change of address, please follow through as soon as you can notifying others of the new address.

Each location is mapped using global positioning system (GPS) technology, eliminating confusion for emergency service providers and delivery services. Benefits of the addressing system include:

- ***Reduced emergency response times for firemen, law enforcement, and ambulance services.***
- ***Integration of cell phones into the 911 GPS system, enabling emergency care providers to locate callers even when they are not at an assigned address (e.g. in the forest).***
- ***Improved package delivery services.***
- ***Greater ease of compliance when applying for a home loan, building permit, or utilities connection.***

You should put your new address number on your house and on your mailbox at your earliest convenience. This will not only help your mail carrier but will also assist the emergency services in locating you if you need help.

Your Old Address: PREVIOUSLY UNASSIGNED PIN#8576-83-6675-000

*(If your old address is listed incorrectly, please contact the Transylvania County Communications Office at the number below.)*

Your New Address: 221 PINNACLE RD
BREVARD, NC 28712
ASSIGNED 05/02/.2024

Property owners should notify their renters of the new address change.

Thank you for your cooperation. If you have any questions or concerns, we are happy to help you in any way possible. For assistance contact the Transylvania County Emergency Services business office at (828) 884-3108.

Assigned By: KRS

4

# Transylvania County Tax Map




10/21/2025, 1:05:00 PM

Roads

Roads

1:1,128

0 0.01 0.02 0.04 mi

0 0.02 0.04 0.07 km

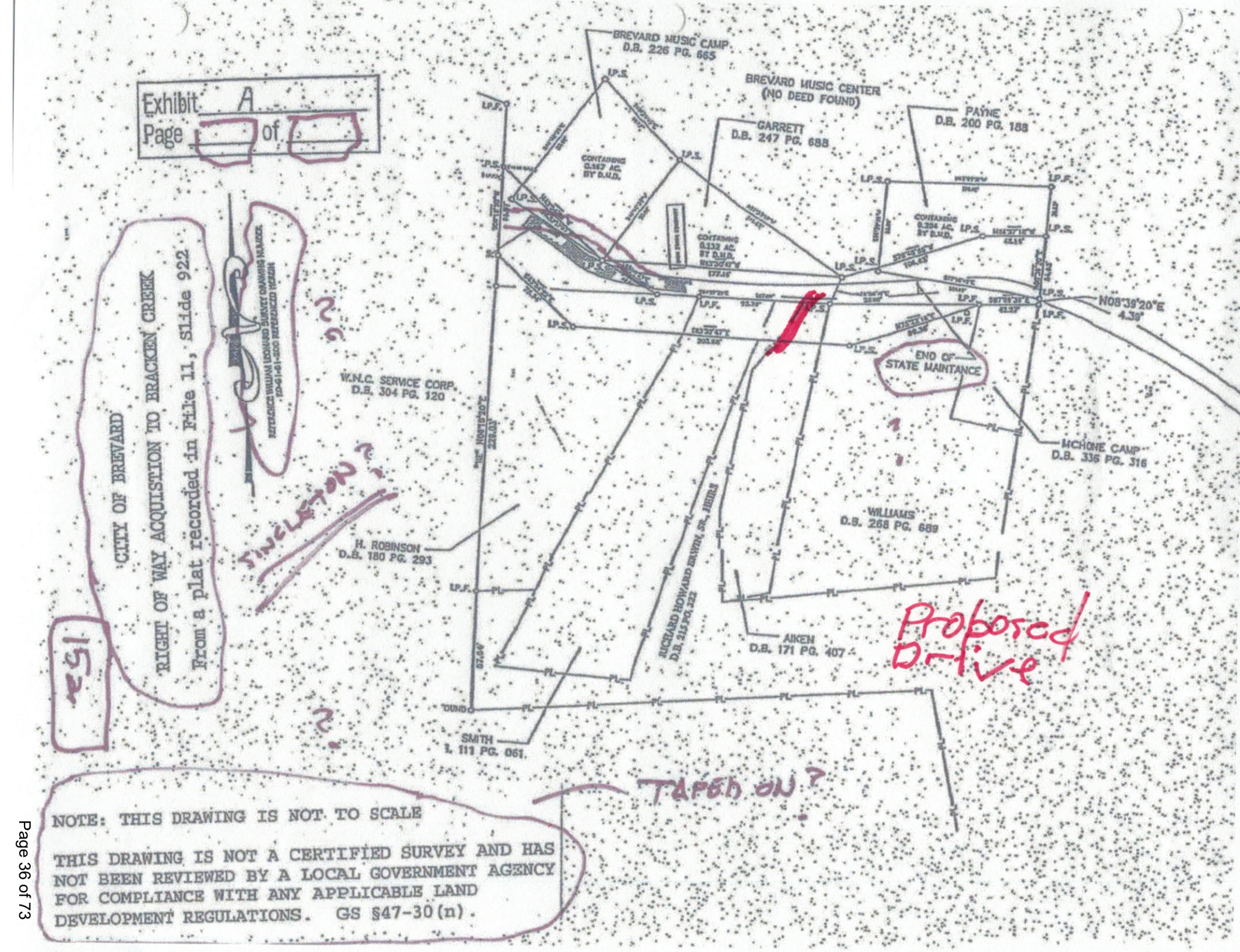
NC CGIA, Maxar, Microsoft

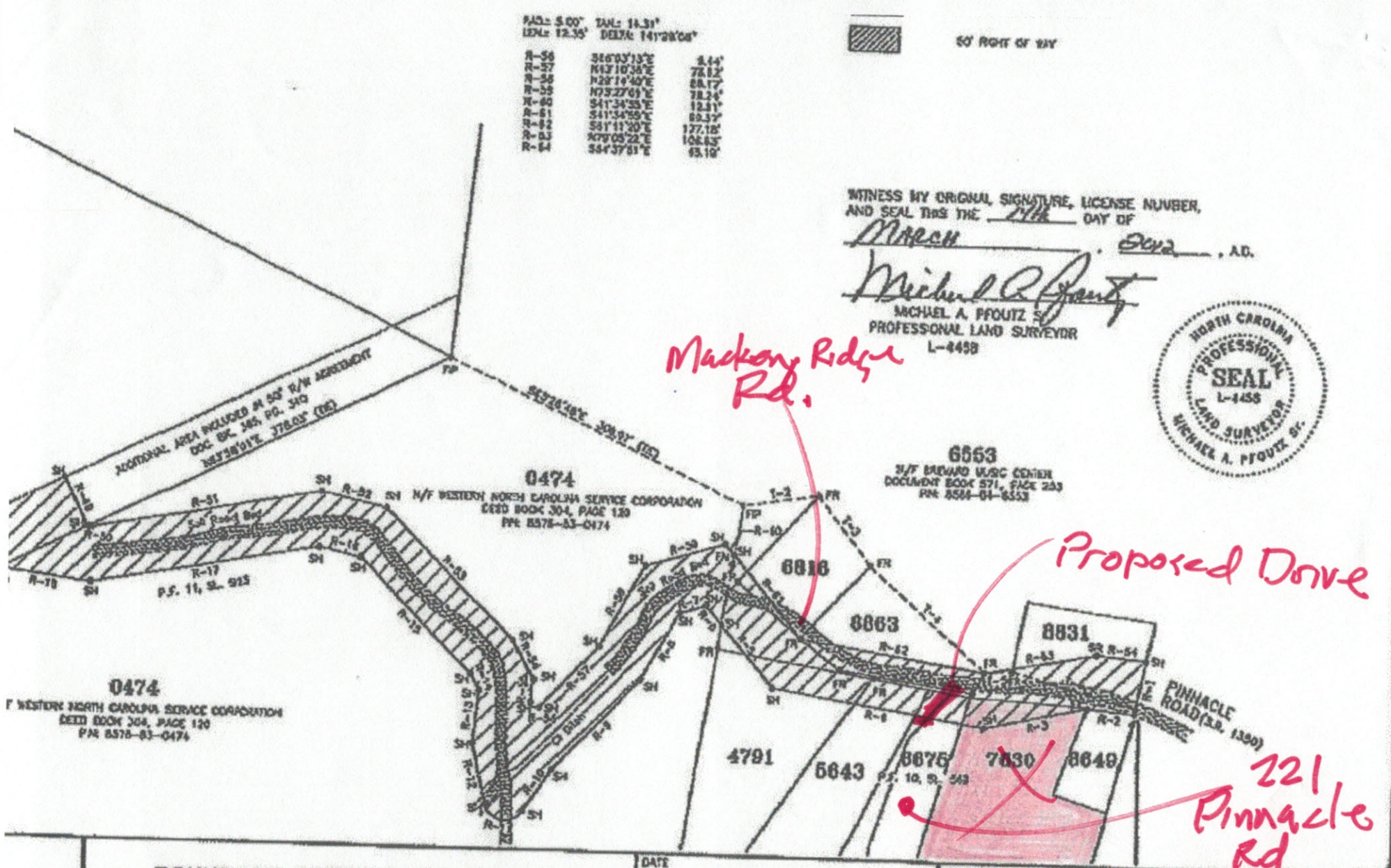
3

Transylvania County Emergency Services

The data contained on this map is the property of Transylvania County.

PINNACLE RD
245
231
221
187
185
133


Exhibit A
Page 1 of 1
CITY OF BREVARD
RIGHT OF WAY ACQUISTION TO BRACKEN CREEK
From a plat recorded in File 11, Slide 922
BREVARD MUSIC CAMP
D.B. 226 PG. 665
BREVARD MUSIC CENTER
(NO DEED FOUND)
GARRETT
D.B. 247 PG. 688
PAYNE
D.B. 200 PG. 188
CONTAINING 0.367 AC. BY D.N.D.
CONTAINING 0.332 AC. BY D.N.D.
CONTAINING 0.206 AC. BY D.N.D.
N08°39'20"E 4.39'
END OF STATE MAINTANCE
W.N.C. SERVICE CORP.
D.B. 304 PG. 120
H. ROBINSON
D.B. 180 PG. 293
SMITH
D.B. 111 PG. 061
RICHARD HOWARD ERWIN, SR., HEIRS
D.B. 315 PG. 322
AIKEN
D.B. 171 PG. 407
WILLIAMS
D.B. 268 PG. 689
MCHONE CAMP
D.B. 336 PG. 316
Proposed Drive
TAPER ON?
NOTE: THIS DRAWING IS NOT TO SCALE
THIS DRAWING IS NOT A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS. GS §47-30(n).

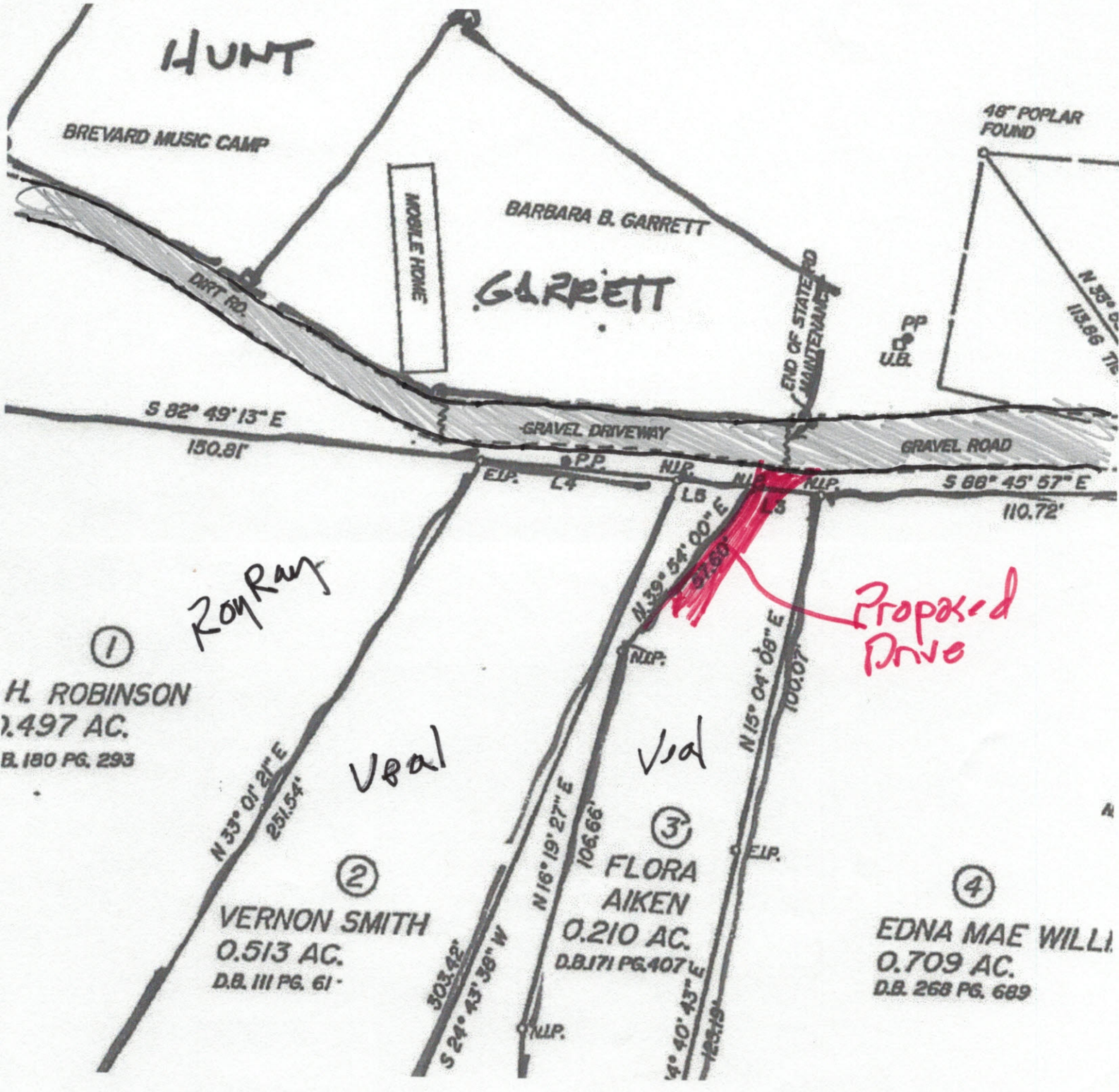



# BOUNDARY SURVEY AND PLAT of BRACKEN MOUNTAIN WATERSHED AND 50' RIGHT OF WAY

PREPARED FOR

## CITY OF BREVARD

| | |
|---|---|
| DATE: MARCH 14, 2012 | FIELD RECORDS: DATA COLLECTOR |
| ENLARGEMENT NOT TO SCALE | DRAWING: CMS11014-2 |
| | COORD. FILE: CMS11014.CRD |
| | PROJECT NUMBER: CMS11014 |


HUNT
BREVARD MUSIC CAMP
MOBILE HOME
BARBARA B. GARRETT
GARRETT
DIRT RD.
END OF STATE RD MAINTENANCE
46" POPLAR FOUND
N 39° 54' 00" E
113.66'
P.P.
U.B.
S 82° 49' 13" E
150.81'
GRAVEL DRIVEWAY
GRAVEL ROAD
P.P.
E.I.P.
L4
N.I.P.
L5
S 88° 45' 57" E
110.72'
Roy Ray
Proposed Drive
N 39° 54' 00" E
97.68'
N.I.P.
N 15° 04' 08" E
100.07'
1
H. ROBINSON
0.497 AC.
D.B. 180 PG. 293
Vacant
Vacant
N 33° 01' 21" E
251.54'
2
VERNON SMITH
0.513 AC.
D.B. 111 PG. 61
N 16° 19' 27" E
106.66'
3
FLORA AIKEN
0.210 AC.
D.B. 171 PG. 407
E.I.P.
4
EDNA MAE WILLI
0.709 AC.
D.B. 268 PG. 689
303.42'
S 24° 43' 38" W
N.I.P.
S 4° 40' 43" E
125.19'

City of Brevard
828-885-5630

95 West Main Street
Brevard, NC 28712

# Invoice #152 for Planning & Zoning Applications #ENC-25-0001

Due date: October 27, 2025
Applicant: jv@jvealarchitect.com
Application Number: #ENC-25-0001
Application Type: Driveway or Other Encroachment on City Rights-of-Way
Address: 221 Pinnacle Rd. Brevard, NC 28712
Requested: October 22, 2025, 1:16pm

| Fee | Description | Explanation | Total | General Ledger # |
|---|---|---|---|---|
| Driveway or Other Encroachment on City Right-of-Ways | | $50.00 * 1 | $50.00 | 10-3350-0200 |

Total: $50.00

To pay the invoice, click here or scan the QR code above to visit https://app.govwell.com/brevard/pay/ENC-25-0001.

City of Brevard
828-885-5630

95 West Main Street
Brevard, NC 28712

# Receipt for Planning & Zoning Applications #ENC-25-0001

Invoice Number: #152
Applicant: jv@jvealarchitect.com
Application Number: #ENC-25-0001
Application Type: Driveway or Other Encroachment on City Rights-of-Way
Address: 221 Pinnacle Rd. Brevard, NC 28712
Requested: October 22, 2025, 1:16pm
Paid: October 22, 2025, 1:17pm

| Fee | Description | Explanation | Total | General Ledger # |
|---|---|---|---|---|
| Driveway or Other Encroachment on City Right-of-Ways | | $50.00 * 1 | $50.00 | 10-3350-0200 |

Processing Fee: $1.75
Total Paid: $51.75
Payment Method: Credit Card

Thank you for your payment.

**From:** Aaron Bland
**To:** James Veal
**Cc:** Paul Ray; Mack McKeller
**Subject:** Permit ENC-25-0001
**Date:** Thursday, October 30, 2025 4:47:00 PM

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Mr. Veal,

As with your previous application, we are unable to fully review this application because the site plans provided do not show the location of the hiking/biking trail as it relates to the proposed driveway. Beyond this, it appears that, if constructed, the driveway would not be accessible from the end of the public Pinnacle Road/Bracken parking area. There are many impediments between the end of Pinnacle Road and the proposed driveway, including the hiking/biking only Bracken Mountain trail, its rock armoring and boulders, fences, a handicapped parking space, and trees, rendering such a driveway impractical, if not impossible, to permit. Even if the terrain allowed a passenger vehicle to reach the driveway, it is not within this department's purview to permit the driveway encroachment across parkland and allow such use to occur within the hiking trail in order to ensure user safety. For these reasons, the application has been denied in our system. You may receive emails from GovWell regarding this status change as well.

Have you considered using the existing driveway on your neighboring lot to access this parcel?

Best,

Aaron N. Bland, AICP, CZO
Assistant Planning Director
City of Brevard
95 West Main Street
Brevard, NC 28712
Phone: 828-885-5630
aaron.bland@cityofbrevard.com

*E-mail correspondence to and from this address may be subject to North Carolina Public Records Law and may be disclosed to third parties by an authorized City or Law Enforcement official.*

**From:** James Veal
**To:** Denise Hodsdon
**Cc:** Aaron Bland; ELLIOTT DUGGER
**Subject:** Appeal to email denying driveway permit application
**Date:** Friday, November 28, 2025 12:45:14 PM
**Attachments:** Appeal for Parcel 3 back-up pkg (25-10-28).pdf

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11-28-25

Denise Hodsdon, City Clerk
City of Brevard, NC

RE: Appeal to Denial of Driveway Permit Application (221 Pinnacle Road)

Denise
I submitted for a driveway located @ 221 Pinnacle Road on October 21, 2025

After responding to request for additional information, etc. I received an email from Aaron Bland, Assistant Planning Director on October 30th, 2025... which is attached. I have also attached a copy of the application.

I am submitting this letter to begin the process of appealing that decision.

Please call me for a credit card or I have also sent a check in the mail.

Respectfully,

James Veal

J.Veal, Architect
627 Bayshore Drive
Pensacola, FL 32507
850.450.3295 jvealarchitect.com

**From:** Valerie Tilson <valerie.tilson@cityofbrevard.com>
**Sent:** Thursday, December 18, 2025 4:52 PM
**To:** Denise Hodsdon <denise.hodsdon@cityofbrevard.com>
**Subject:** James Veal

**CASH COLLECTIONS RECEIPTS BY RECEIPT NUMBER**
Dates: 12/18/2025 to 12/18/2025
Receipt Numbers: 733158 to 733158
Deposit Numbers: All

City Of Brevard
FY 2025-2026
Multiple Users Selected

| Date | Rec No | Customer | Amount Owed ($) | User ID | Mod |
|---|---|---|---|---|---|
| 12/18/2025 | 733158 | JAMES VEAL | 100.00 | WINDOW | MS |
| | | ZONING ZONING ADMIN<br>ZONING APPEAL - VT | 10-3350-0200 | | |
| | | **Subtotal for 733158 Credit:** | **$100.00** | **AMEX 1005** | |

FYI – Thank you!


**Valerie S. Tilson**
Accts Receivable/Customer Service Rep
Finance Department

**City of Brevard**
95 W. Main Street
Brevard, NC 28712
828-885-5607 Direct
828-885-5600 Main ext 1
828-883-883-2853 fax
valerie.tilson@cityofbrevard.com
www.cityofbrevard.com


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