

REQUEST FOR BOARD ACTION
HENDERSON COUNTY
Zoning Board of Adjustment

MEETING DATES: 5/7/19 TRC 5/29/19 ZBA

SUBJECT: SUP-19-04 Multifamily Development V-19-04

PRESENTER: Toby Linville, Code Enforcement Director

ATTACHMENTS:

1. Staff Report
2. Photographs
3. Site Plan

SUMMARY OF REQUEST:

The applicant is requesting a variance to be exempt from the 25% pervious paving requirement for vehicular use areas and the 100' perimeter setback requirement from a residential district. 42-63 SR1.5 Subsection 4 of the Henderson County Land Development Code states:

(4) Multifamily dwellings of five (5) or more units:

- e. Shall be required pervious pavement for a minimum of 25 percent of all paved surfaces (roads, parking areas, drives, sidewalks, etc).
- h. Shall have a perimeter setback of one hundred (100) feet in residential zoning districts including the *Local Commercial (LC) zoning district*. The structures are placed not less than 50 feet from any property line;

Suggested Motion:

I move that the Technical Review Committee recommend review to the Zoning Board of Adjustment.

I move that the Board of Adjustment approve/deny variance application V-19-04 because it meets/does not meet the requirements of the Land Development Code to grant a variance.

a. There are practical difficulties or unnecessary hardships in carrying out the strict letter of this Chapter, as demonstrated by:

1. The fact that, if the *applicant* complies with the literal terms of this Chapter, he/she cannot secure a reasonable return from, or make a reasonable *use* of, the property.
2. The hardship of which the *applicant* complains results from unique circumstances related to the *applicant's* land.
3. The hardship is not the result of the *applicant's* own action.

b. The *Variance* is in harmony with the general purpose and intent of this Chapter and will preserve its spirit.

c. The *Variance* will secure the *public safety* and welfare and will do substantial justice.

d. The *Variance* shall not be based on the existence of a *nonconforming use* of neighboring land or structures in the same district, or permitted *nonconforming uses* in other districts, and shall in no way constitute a reason for the requested *Variance*.

e. The *Variance* shall not allow for an increase in density for the purposes of subdividing the land that would otherwise not be permitted by the applicable zoning district or *subdivision* regulations.



Henderson County, North Carolina Code Enforcement Services

1 Committee Request

- 1.1. **Applicant:** WNC Resort Properties-Multifamily Development
- 1.2. **Request:** 25% Permeable Pavement Requirement and 100' Perimeter Setback Requirement Variance
- 1.3. **PIN:** 9529-52-4218
- 1.4. **Size:** 173.84 acres +/-
- 1.5. **Location:** The subject area is located off Brickyard Road (SR 1323) at the intersection with Norris Road (SR 1321) and Holly Springs Road (SR1322) on the existing Etowah Valley Country Club and Golf Course property.
- 1.6. **Variance Requirements:**

G. Quasi-Judicial Proceeding. The concurring vote of four-fifths (4/5) of the ZBA shall be necessary to grant a *Variance*. Any approval or denial of the request must be in writing and permanently filed with the office of the ZBA and with the Administrator as public record.

(1) Standards of Review. The ZBA shall not grant a *Variance* the effect of which would be to: (1) allow the establishment of a *use* not otherwise permitted in a general *use district*, (2) extend physically a *nonconforming use* of land or (3) change the district boundaries shown on the Official Zoning Map. No *Variance* shall be granted or considered where the fact that the property could be used more profitably is the reason for the request for the *Variance*. The following written findings must be made in order for the ZBA to grant a *Variance*:

- a. There are practical difficulties or unnecessary hardships in carrying out the strict letter of this Chapter, as demonstrated by:
 1. The fact that, if the *applicant* complies with the literal terms of this Chapter, he/she cannot secure a reasonable return from, or make a reasonable *use* of, the property.
 2. The hardship of which the *applicant* complains results from unique circumstances related to the *applicant's* land.
 3. The hardship is not the result of the *applicant's* own action.
 - b. The *Variance* is in harmony with the general purpose and intent of this Chapter and will preserve its spirit.
 - c. The *Variance* will secure the *public safety* and welfare and will do substantial justice.
 - d. The *Variance* shall not be based on the existence of a *nonconforming use* of neighboring land or *structures* in the same district, or permitted *nonconforming uses* in other districts, and shall in no way constitute a reason for the requested *Variance*.
 - e. The *Variance* shall not allow for an increase in density for the purposes of subdividing the land that would otherwise not be permitted by the applicable zoning district or *subdivision* regulations.
- (2) Conditions. The ZBA may, in granting a *Variance*, prescribe: (1) additional conditions; (2) additional safeguards; (3) a time limit within which the action for which a *Variance* is sought shall be begun; (4) a time limit within which the action for a *Variance* is sought shall be completed; and (5) a time duration within which construction, operation or installation shall commence on the project for which the *Variance* was obtained.

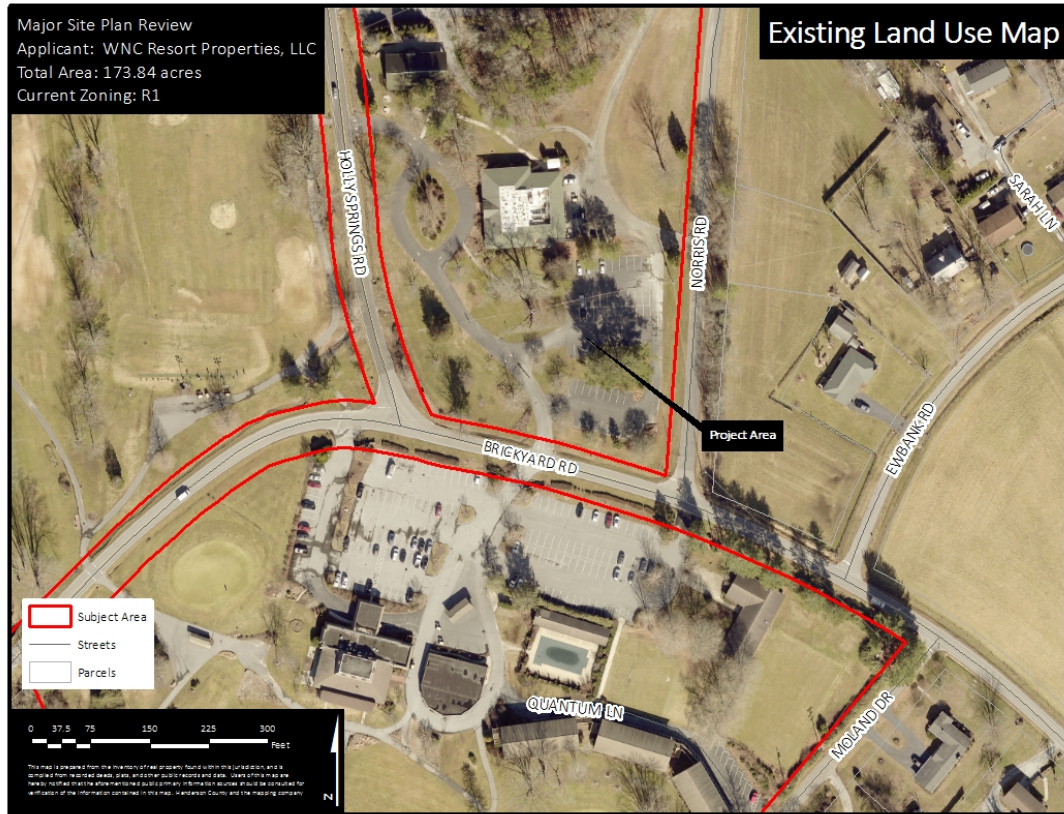
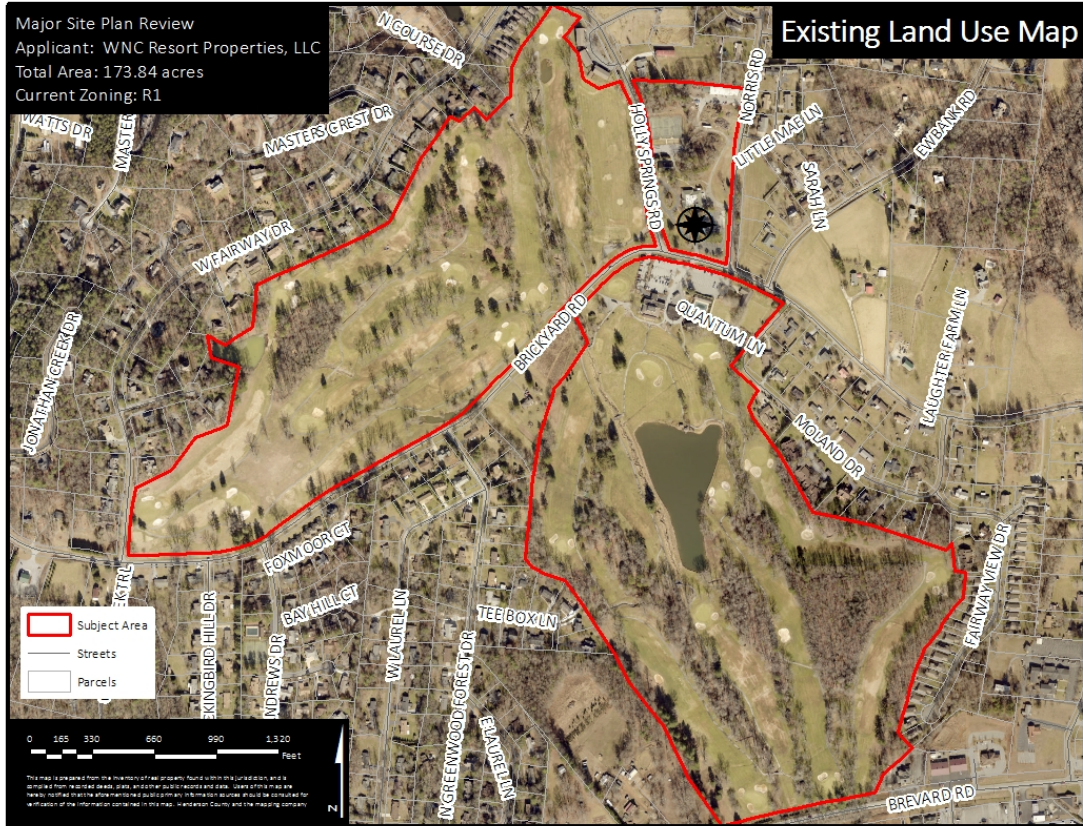
1.7. **Supplemental Requirements:**

SR 1.5. Dwelling, Multifamily

- (1) Site Plan. Major *Site Plan* required in accordance with §42-331 (Major Site Plan Review).
- (2) Subdivision. Multifamily dwellings may be allowed as part of a subdivision provided that a special use permit for the multifamily development is approved in conjunction with the required subdivision approval. If part of an approved subdivision, the individual dwelling units must be deeded and recorded.
- (3) Permitted Units Per Building. In the *Residential 2 Rural* (R2R) and *Residential Two* (R2) *zoning districts*, no more than three (3) dwelling units shall be contained within a single *building or structure*.
- (4) Multifamily dwellings of five (5) or more units:
 - a. May be developed in *phases*.
 - b. Shall have a minimum spacing between *buildings* of 20 feet, with an additional one (1) foot of separation for each one (1) foot of *building* height in excess of 30 feet.
 - c. Shall have a maximum *building* length of 150 feet.
 - d. May increase the building height to 50 feet where a B1 *Buffer* is provided as detailed in §42-168 (Buffer Determination).
 - e. Shall be required pervious pavement for a minimum of 25 percent of all paved surfaces (*roads, parking areas, drives, sidewalks, etc.*).
 - f. Shall adhere to the *road* standards required for a *major subdivision* in accordance with Article III, Subdivision Regulations, and shall be organized:
 1. To provide increased internal mobility;
 2. To provide safe and convenient access;
 3. In intersecting/grid patterns where possible; and
 4. Without cul-de-sacs (except where topographical considerations/restrictions are submitted by the *applicant*).
 - g. Shall have subsurface utilities.
 - h. Shall have a *perimeter setback* of one hundred (100) feet in residential zoning districts including the *Local Commercial* (LC) *zoning district*.
- (3) Where a multifamily development is located along any *road* with current public transit access and such public transit authority approves the addition of a stop, such development shall provide a minimum of one (1) public transit access shelter for the *use* of occupants/patrons.
- (4) Solid Waste Collection. Solid waste collection systems must be installed and/or operated to meet all local and state statutes, ordinances and regulations and shall thereafter be certified by the Department of Public Health. Each development shall provide a suitable method of solid waste disposal (in accordance with Chapter 165 of the Henderson County Code, *Solid Waste*) and collection consisting of either private collection from individual *uses* or the *use* of dumpsters. Where dumpsters are used concrete pads shall be designed to drain to a bio-retention area to filter *stormwater* before the water reaches a larger drainage system, and Screen Class One (1), Two (2), or Three (3) shall be provided consistent with the requirements of §42-182 (Screen Classification).
- (5) Open Space. *Open space* shall be provided in perpetuity (perpetual *easements* or deed restrictions are required) equivalent to 25 percent of all lands within the development. This designated *open space* area shall not:
 - a. Include more than 50 percent in primary conservation areas; and
 - b. Be composed entirely of secondary conservation areas.

- (6) Common Area Requirements. A *common area* shall be provided that is equivalent to 10 percent of the total area. *Common area* shall be accessible for the *use* and enjoyment of the multifamily occupants/patrons, located as to be free of traffic hazards and maintained in good condition by the *applicant*.
- (7) Other Requirements. Due to the comprehensive nature of a multifamily project, there are several sections that must be consulted. Please refer to the following sections for more information on each facet of a multifamily project.
 - a. See Article III for road design and construction standards, pedestrian facility standards, water and sewer requirements, and fire protection.
 - b. See Article IV for traffic impact study and emergency services impact report requirements.
 - c. See Article V for landscaping and buffering requirements.
 - d. See Article VI for off-street parking and loading requirements.
 - e. See §42-63 (Supplemental Requirements) for each land use.
 - f. See Article VII for sign requirements.
 - g. See Article XI for permitting procedures.
- (8) Neighborhood Compatibility Meeting. A neighborhood compatibility meeting is required when one hundred (100) or more units are proposed. See §42.372 Neighborhood Compatibility Meeting.

Map A: Existing Land Use



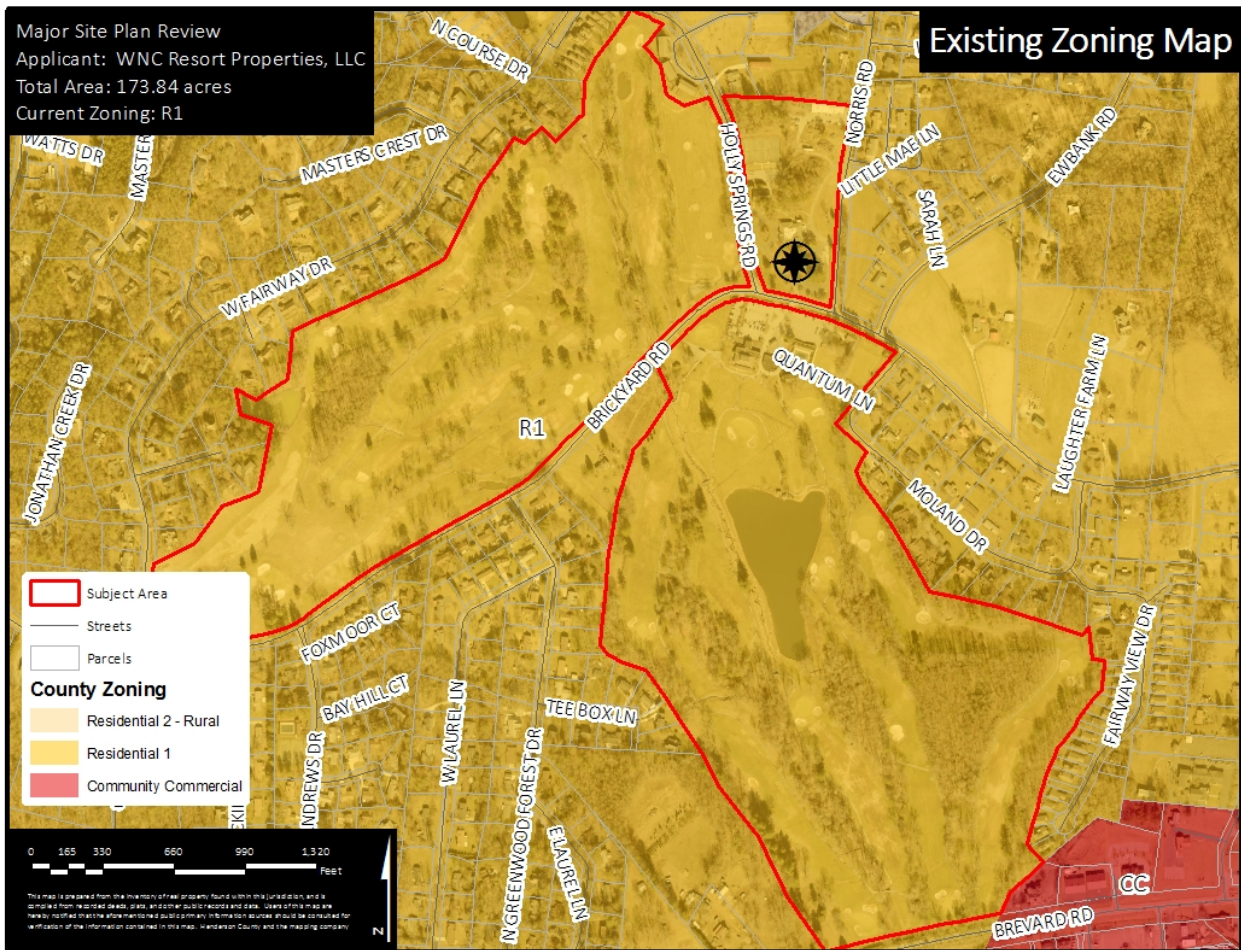
2. Conditions

2.1 Current Use: This parcel is currently the site of Etowah Valley Country Club and Golf Course. The proposed project area is an existing parking lot that serves a restaurant to the north.

2.2 Adjacent Area Uses: The surrounding properties to the south, west, and north are all part of the Etowah Valley Country Club and Golf Course. The properties to the east are residential.

2.3 Zoning: The subject property and surrounding properties are zoned Residential One (R1).

Map B: Existing Zoning



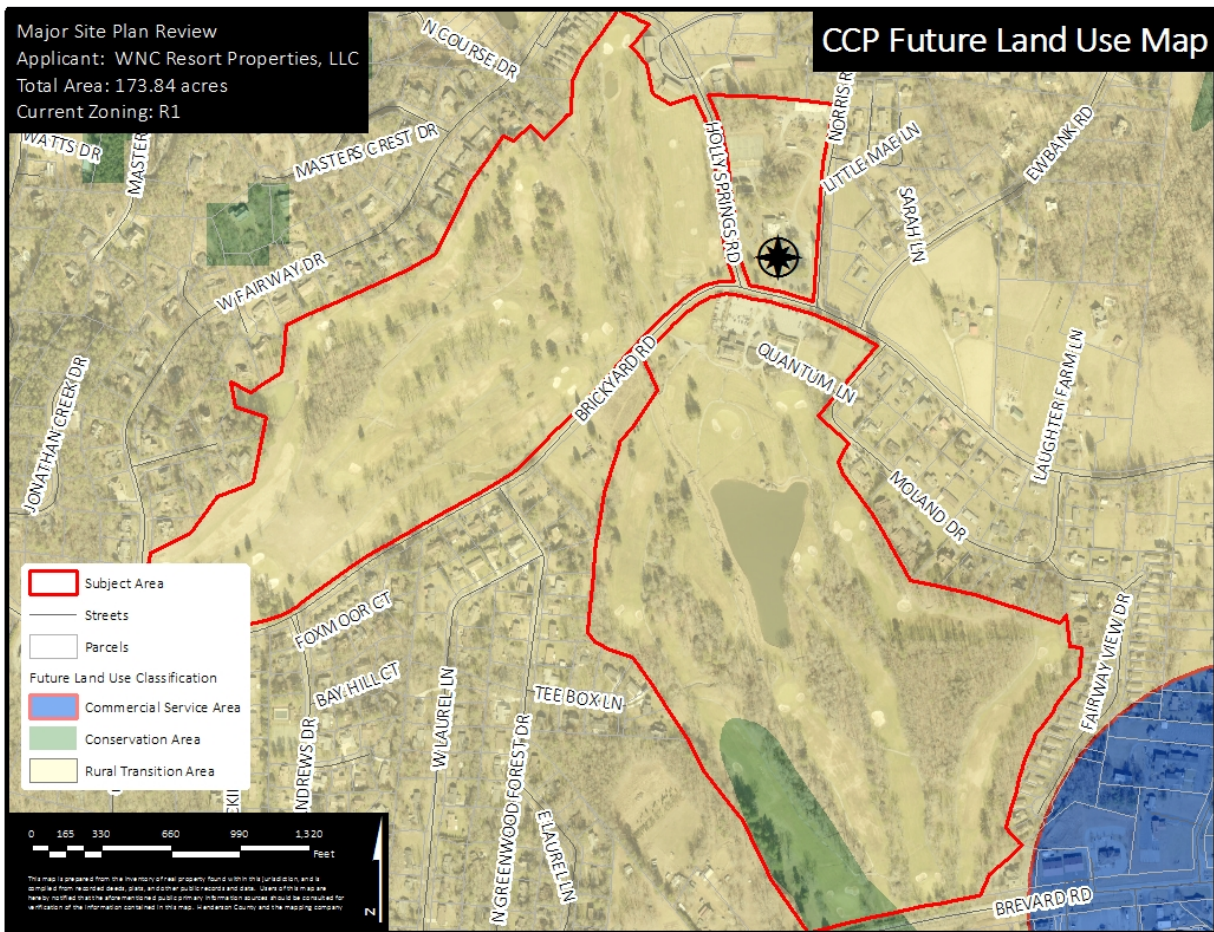
3. **Floodplain /Watershed Protection:** A portion of the property is located in a Special Flood Hazard Area, and the Upper French Broad River WS-IV district, but the location for the proposed project area is not within the Water Supply Watershed district or Special Flood Hazard Area.

4. **Water and Sewer:** This property is served by public water and septic system.

Public Water: City of Hendersonville

Public Sewer: Etowah Sewer

Map C: CCP Future Land Use Map



5. Staff Comments

The 2020 CCP: The CCP Future Land Use Map places the Subject Area in Rural Transition Area. The text and map of the 2020 CCP suggest that the Subject Area would be more suitable for the following:

The Rural Transition Area is currently rural in character, with existing pockets of limited higher density residential and commercial development. Slopes vary across the RTA, although the area can be considered to be generally developable. The primary factor preventing urban development in the RTA is the absence of sewer and water service. The RTA will continue to experience extensive development over the operational timeframe of this Comprehensive Plan.

6. Staff Recommendations

TRC recommends forwarding the site plan, special use permit and variance applications to the Zoning Board of Adjustment for review.

7. Photographs









April 10, 2019

Ms. Autumn Radcliff
Planning Director
Henderson County
100 North King Street
Hendersonville, North Carolina 28792

RE: Site Development Plan for
WNC Resort Properties, LLC
Brickyard Road
Etowah, North Carolina

Dear Ms. Radcliff:

Please find attached a submittal package for the subject project. We met on March 29, 2019 initially to discuss this project, along with several other staff members and the developer, Mr. Dewey Andrew. Included with this submittal are all applications and supporting documentation for Major Site Plan Review, Special Use Permit, and Variance Application. The project includes the construction of a nine-unit townhome development located on property owned by the adjacent golf course. The property is located at the intersections of Brickyard Road, Norris Road, and Holly Springs Road, south of the existing restaurant located on the property. Included for review are the following items:

- Completed Major Site Plan Application
- Completed Major Site Plan Standards checklist
- Completed Special Use Permit Application
- Completed Variance Application, with executed Agent Form
- A complete set of 11x17 sized plan sheets (plans have been provided digitally, in .pdf format, via email)

Several things to note, and additional information for your use:

- We assume that once the submittal has been accepted, appropriate fees will be assessed and communicated to our office so that checks in those amounts can be provided to your office.
- I have been in communication with the Hendersonville Water Department to coordinate their requirements for water availability. Ms. Marlee Paige has indicated to me that additional site assessments will be required by Hendersonville Water Department personnel to determine existing site conditions. Water Availability has been submitted but will not be finalized until this site assessment has been completed by staff. When we have more information, we will provide that to you.

- I have contacted Mr. Carl Ownbey, NCDOT, to determine if driveway permitting will be required, but I have not heard from him at this time. We will be sure to communicate information when it is known.
- I provided Mr. Kevin Waldrup, Henderson County Fire Marshal's office, with preliminary plans for him to provide feedback. I have addressed his concerns, which are reflected on the current plan set.
- I have contacted Mr. Ken Deaver, Etowah Sewer Company, to determine possible Allocation requirements. I have provided him with information on the project. He intends to review the submittal and provide me with information that will be required for submittal to the NCDEQ.
- We are requesting variances for two portions of the ordinance. The first variance request is to waive the required 25% pervious paving, located at SR 1.5. Dwelling, Multifamily (4) e. The second request is to reduce the 100' perimeter setback requirement, located at SR 1.5. Dwelling, Multifamily (4) h. We are requesting a reduction, in this location only, to the setback requirements required within the R1 district.

We appreciate your review of the attached and trust the information provided is satisfactory. Should you have any questions, please feel free to call.

Sincerely,
DAVIS CIVILSOLUTIONS, P.A.

A handwritten signature in black ink, appearing to read 'N. M. Bowman', with a long horizontal flourish extending to the right.

NICHOLAS M. BOWMAN

**HENDERSON COUNTY
MAJOR SITE PLAN REVIEW APPLICATION**

CONTACT INFORMATION

Property Owner:

Name: WNC Resort Properties, LLC - Dewey Andrew & Darrell Redmond Phone: 828.216.3511 & 828.691.3120

Complete Address: 175 Pinkerton Corner, Fairview, NC 28730 & 77 Dye Leaf Road, Fairview, NC 28730

Applicant:

Name: Same Phone: _____

Complete Address: _____

Agent:

Name: SAME AS BELOW Phone: _____

Complete Address: _____

Agent Form (Circle One): Yes No

Plan Preparer:

Name: Nicholas Bowman - Davis CivilSolutions, PA Phone: 828.299.9449

Complete Address: 135-A Charlotte Highway, Asheville, NC 28803

GENERAL INFORMATION

Date of Application: APRIL 10, 2019

Site Plan Attached (Circle One): Yes No

PARCEL INFORMATION

PIN: 9529-52-4218

Tract Size (Acres): 173.84

Zoning District: R1

Fire District: 04 - Etowah - Horse Shoe Fire

Supplemental Requirement# 1.5

Watershed: *See Note below

Permitted by Right No

Floodplain: No

Special Use Permit Yes

Location / Property to be developed: At the intersection of Norris Road, Brickyard Road, and Holly Springs Road. The site is south of the existing restaurant located on the property.

County Use Only

Fee: \$ _____ Paid: _____ Method: _____ Received by: _____

*Note: A portion of the site is located within the Upper French Broad River WS-IV P. The proposed development is located outside of this watershed.

MAJOR SITE PLAN STANDARDS

Major Site Plan Standards	
Title Block and Plan Details	
✓	Owner name, address and daytime phone and/or Applicant name, address, and daytime phone (if other than owner)
✓	Firm or Individual preparing plan with name, address and telephone number (Should be prepared by a professional)
✓	Adjoining property owners names
✓	Vicinity map and phase map (if applicable)
✓	Date of plan and any revisions
✓	Scale written and graphic
✓	North arrow
✓	Zoning district(s) of subject area and adjacent properties
✓	Total number of proposed lots, units, rooms, structures and etc. for the proposed use of the property
✓	Total acreage of proposed subject area
✓	Proposed project density (units/acres), if applicable
✓	Square footage of proposed and existing buildings and structures
N/A	Location and square footage of any outdoor storage
✓	Arrangement of all existing and proposed structures clearly labeled with front, side and rear of the property clearly indicated
✓	Setbacks for all structures clearly indicated
N/A	City limits, fire tax district boundaries, zoning district, watershed districts and other jurisdiction lines, if any, on the tract
✓	Boundaries of the tract with bearings and distances
✓	Location, dimension and use(s) of all existing and proposed structures; distances between structures measured at the closest point; distance from structures to closest property lines
*	Location, acreage and percentage or total property for all common area and/or open space
✓	Contour intervals of no greater than five (5) feet and labeling at least two (2) contours per map
N/A	Proposed lot lines and footage, if applicable
N/A	Length of road frontage
N/A	Location and dimension of any proposed buffers
N/A	Separation of proposed uses from nearest residential zoning districts (may be required based on proposed use)
Parking	
✓	Location and dimension of all parking areas (with paving/base to be met)
✓	Location and dimension of driveways, loading areas, off-street loading facilities, bikeways and pedestrian walkways
✓	Within parking areas clearly number each parking space and indicate required size (including handicap and van accessible spaces)

* MAJORITY OF PROPERTY IS GOLF COURSE AREA, CLUBHOUSE, AND RESTAURANT, ALL OPEN TO PUBLIC.

Major Site Plan Standards	
Landscaping	
✓	Location and dimension of any required street planting yards, interior planting yards, and parking lot planting yards
N/A	Width and type of planting yards, walls, and berms
✓	Location of proposed plantings with a description of the species to be used
N/A	Approximate height, species and method of tree protection (where existing vegetation is to be preserved)
N/A	Location and dimension of dumpster/compactors and screening to be provided
N/A	Location and angle of exterior lighting when lighting mitigation is required
Streets, Sidewalks and Bike Lanes	
✓	Location of existing roads (with type (public/private and width), right-of-way, easements, bridges, water features, culverts, utilities, structures)
✓	Location of proposed roads (with road classification, right-of-way, approximate finished grades, approximate curve radii, bridges and easements)
N/A	Bridge design plans (if applicable)
	Length of proposed roads (total)
✓	Cross section of typical street for each proposed road classification used (private row corridor/collector/service/driveway) and/or cul-de-sac/alternative turnaround with an indication of design standards (right-of-way width, paving/base to be met, road width, shoulder width, cut and fill slope, ditch slope and vertical clearance).
*	Proposed road names approved by the Henderson County Property Addressing Office ¹
✓	Existing/proposed sidewalks showing width and materials description (if applicable)
✓	Sidewalks adjacent to the site and potential connection points
✓	Proposed drainage improvements (designed according to NCDOT standards) including culvert locations, length, diameter (minimum 18 inches), type, and drainage easements
N/A	Existing/proposed bike lanes showing width and a materials description
N/A	Bike lanes adjacent to the site and potential connection points
✓	Driveways adjacent to the site and the distance between the site's drive and the existing drive. Also, show drives on the opposite side of the street from the site
✓	Label all adjoining streets

¹ The applicant should contact the Henderson County Property Addressing Office for road name approval. The Code Enforcement Services Department may verify this with the Property Addressing Office.

* ADDRESSING WILL BE COORDINATED WITH HENDERSON COUNTY. IT IS CURRENTLY NOT KNOWN WHETHER A NEW STREET NAME WILL BE REQUIRED.

Major Site Plan Standards

Water, Sewer and Solid Waste

- | | |
|---|---|
| ✓ | Existing and proposed utility layout showing connection to existing system, proposed line sizes and direction of flow for sanitary sewer lines. Also, depict proposed public outfalls and service to adjacent properties |
| ✓ | Existing and proposed utility layout showing connection to existing system and proposed sizes for water distribution lines location of fire hydrants and fire department connection. Also, depict extensions to serve adjacent properties |

Stream Buffer and Related Information

- | | |
|-----|---|
| N/A | Location of all streams, drainageways and wetlands |
| N/A | Indicate proposed location of stream crossing(s) showing the proposed grading and overall stream impact (includes culvert and outlet protection length) |

Floodway/Floodplain Information

- | | |
|-----|--|
| N/A | Identify any FEMA regulated floodway and floodplain on the property and note the 100-year Base Flood Elevation, as applicable |
| N/A | If the site is located within a Special Flood Hazard Area (SFHA): (1) note the finished floor/floodproofing elevations of all structures, (2) note the percentage of structures in the floodway fringe, (3) note that no encroachment/development into FEMA-regulated floodway allowed, and (4) note any proposed fill |

Stormwater Control Information

- | | |
|---|---|
| ✓ | Indicate the type(s) of non-structural and/or structural stormwater control(s) that is/are proposed |
| ✓ | Location of the proposed stormwater controls and the location of the inlets and outlets to the controls |
| ✓ | Layout of stormwater control, grading, and significant components |

HENDERSON COUNTY
SPECIAL USE PERMIT APPLICATION FORM

GENERAL INFORMATION

Date of Application: APRIL 10, 2019
 Previously Submitted (Circle One): Yes No
 Date of Pre-Application Conference: March 29, 2019
 Site Plan Attached (Circle One): Yes No
 Traffic Impact Study Required (Circle One): Yes No

SPECIAL USE PERMIT INFORMATION

Type of use to be permitted: Multi-family development SR #: 1.5
 Existing Structures or Uses on property: Existing restaurant, adjacent to existing golf course
 Road System (Circle): Public Private
 Water System (Circle): Individual Community (Municipal or County)
 Sewer System (Circle): Individual Community (Municipal or County)

SITE PLAN REQUIREMENTS

If a minor or major site plan is not specifically required, the applicant shall submit a site plan with the following items:

- Dimensions of property.
- Location of existing and proposed structures (including accessory structures), and general use thereof.
- Setbacks of existing and proposed structures from property lines and edge of right-of-way for roads (from centerline of roads for uses located in the R-40, WR, or SW districts).
- Separation of existing and proposed structures from one another.
- Parking and off/on loading areas
- Location of signs (including sign dimensions, height, type of material, lighting).
- Location and dimensions of existing and proposed roads / driveways and their entrance/exits.
- Location of dumpsters.
- Location and general description of any fences, landscaping or other buffering (proposed or existing).

Site plan not to exceed 11 X 17 size. Anything submitted larger than 11 X 17, the applicant must provide 12 copies with the application form.

PARCEL INFORMATION

PIN: 9529-52-4218 Deed Book/Page: 1601/251 Tract Size (Acres): 173.84
 Zoning District: R1 Fire District: 04-Eotowah - Horse Shoe Watershed: *See Note Floodplain: No
 Location of property to be developed: At the intersection of Norris Road, Brickyard Road, and Holly Springs Road. The site is south of the existing restaurant located on the property.

*Note: A portion of the site is located within the Upper French Broad River WS-IV P. The proposed development is located outside of this watershed.

CONTACT INFORMATION

Property Owner: WNC Resort Properties, LLC -
 Name: Dewey Andrew & Darrell Redmond Phone: 828.216.3511 & 828.691.3120
 Address: 175 Pinkerton Corner & 77 Dye Leaf Road City, State, and Zip: Fairview, NC 28730
 Applicant:
 Name: Same Phone: _____

Address: _____ City, State, and Zip: _____

Agent:

Name: SAME AS BELOW Phone: _____

Address: _____ City, State, and Zip: _____

Agent Form (Circle One): Yes No

Plan Preparer:

Name: Nicholas Bowman - Davis CivilSolutions, PA Phone: 828.299.9449

Address: 135-A Charlotte Highway City, State, and Zip: Asheville, NC 28803

STANDARDS FOR REVIEW

The Land Development Code imposes the following GENERAL REQUIREMENTS on the use requested by the applicant. Under each requirement, the applicant should explain, where applicable, how the proposed use satisfies these requirements:

A. General Requirement #1: The use will not materially endanger the public health, safety or welfare:

The use will not endanger public health, safety, or welfare of residents within the proposed development of in the surrounding residential areas.

B. General Requirement #2. The use will not substantially injure the value of property or improvements in the area.

The proposed development is located on property owned and in control of the owners of the existing golf course
Property values will not be injured.

C. General Requirement #3. The use will be in harmony with the surrounding area.

The surrounding areas are residential in nature, including an existing multi-family development located approx. 900' from the site, on Holly Springs Road. The development is also located on property owned by the existing golf course.

The Land Development Code also imposes the following SPECIFIC REQUIREMENTS on the use requested by the applicant. The applicant should be prepared to demonstrate that satisfactory provisions have been made for the following, where applicable.

The proposed use shall be located and developed in such a manner as to:

a. Comply with all applicable local, state and federal statutes, ordinance and regulations.

All applicable ordinances and regulations will be adhered to, with the exception of the 25% pervious paving rule and the perimeter setback. A variance request will be sought to adjust these requirements.

b. Be in accordance with the Comprehensive Plan, Long Range Transportation Plans and Comprehensive Transportation Plans of the county and/or Long Range Transportation Plans and comprehensive Transportation Plans of nay municipality of the County.

The development is situated within property owned and maintained by the owner of the existing golf course. Existing transportation routes will not be impacted.

- c. Minimize the effects of noise, glare, dust, solar access and odor on those persons residing or working in the neighborhood of the proposed use.

The residential use will not affect the exiting neighborhood.

- d. Minimize the environmental impacts on the neighborhood including the following groundwater, surface water, wetlands, endangered/threatened species, archeological sites, historic preservation sites and unique natural areas.

See attached

Show that satisfactory provision/arrangement has been made (where applicable or required) concerning:

- a. Ingress and egress to property and proposed structures thereon (with particular reference to automotive/pedestrian safety/convenience and traffic flow/control).

Ingress and egress will be accomplished through the use of the existing driveway connection onto Brickyard Road.

Preliminary communications with the Henderson County Fire Marshal's office indicate that no concerns exist for emergency service vehicle access to the site.

- b. Off-street parking and loading areas.

Off-street parking will be provided at each unit, by means of a proposed garage and proposed driveway connection.

- c. Utilities (with particular reference to locations, availability and compatibility).

A proposed sewer extension will provide public sewer service for the proposed units. Public water service will be provided via an existing system located adjacent to the site, on the subject parcel.

- d. Buffering and landscaping (with particular reference to type, location and dimensions).

Buffering will not be required. Parking lot landscaping has been provided.

- e. Structures (with particular reference to location, size and use).

Structures do not exceed sizes dictated by the ordinance.

I certify that the information shown above is true and accurate and is in conformance with the Land Development regulations of Henderson County.

Dawcy Andrew W.
Print Applicant (Owner or Agent)

[Signature]
Signature Applicant (Owner or Agent)

4/9/19
Date

County Use Only

Fee: \$ _____ Paid: _____ Method: _____ Received by: _____

Authority to grant the requested permit is contained in the Land Development Code, Sections: _____

Community Planning Area: _____

- d. Minimize the environmental impacts on the neighborhood including the following, groundwater, surface water, wetlands, endangered/threatened species, archeological sites, historic preservation sites, and unique natural areas.

The nearest surface water is located approximately 893' to the west of the project, known as Gash Creek, a Class C surface water, index number 6-47.

There are no wetlands on the subject property.

Per the USFWS Critical Habitat Mapper, there are no threatened or endangered species located on or adjacent to the property.

Per the NOAA Habitat Conservation Mapper, there are no EFH (essential fish habitat) areas located on the property, nor are there HAPC (habitat areas of particular concern) located on the property.

Per the North Carolina State Historic Preservation Office HPOWEB GIS service there are no historically sensitive elements located on the property.

Application No. _____

**HENDERSON COUNTY
VARIANCE APPLICATION FORM**

GENERAL INFORMATION

Date of Application: APRIL 10, 2019
Previously Submitted (Circle One): Yes No
Date of Pre-Application Conference: MARCH 29, 2019
Site Plan Attached (Circle One) Yes No

PARCEL INFORMATION

Property Address 470 Brickyard Road, Etowah, NC 28729
PIN: 9529-52-4218 Deed Book/Page: 1601/251 Acreage: 173.84
Zoning District: R1 Fire District: 04-Etowah Horse Shoe Watershed: *See Note Floodplain: No
Driving Directions: From Hendersonville, west on Brevard Road, right onto Brickyard Road. Site is located between Norris Road and Holy Springs Road, off of Brickyard Road, on the site of the existing restaurant.

REASON FOR VARIANCE Reduction in required 25% pervious paving rule and perimeter setback requirement

FRONT SETBACK (feet/foot) 15'
SIDE SETBACK (feet/foot) 10'
REAR SETBACK (feet/foot) 10'

Supplemental requirement 1.5 (4) h. indicates that projects shall have a perimeter setback of one hundred (100) feet..

PROPERTY OWNER CONTACT INFORMATION:

Name: WNC Resort Properties, LLC Phone: Dewey Andrew - 828.216.3511 & Darrell Redmond - 828.691.3120
Address: 175 Pinkerton Corner City, State, and Zip: Fairview, NC 28730

Applicant: 77 Dye Leaf Road

Name: Same Phone: _____
Address: _____ City, State, and Zip: _____

Agent:

Name: SAME AS BLDW Phone: _____
Address: _____ City, State, and Zip: _____

Agent Form (Circle One): Yes No

Plan Preparer:

Name: Nicholas Bowman - Davis CivilSolutions, PA Phone: 828.299.9449
Address: 135-A Charlotte Highway City, State, and Zip: Asheville, NC 28803

SITE PLAN REQUIREMENTS

Site plan of property showing existing structures, natural features (i.e. streams, ponds, etc.) proposed building or addition and indicating distance from such to the edge of right-of-way (centerline for variance request in the R-40, WR, or SW districts) and to the side and rear lot lines, as applicable. **It is required that the site be staked or flagged. The Zoning Administrator will take photos of the site and the staked or flagged area. Show placement of well & septic system and drain field if applicable and distances from structures.**

NOTE: Site plan not to exceed 11 X 17 size. Anything submitted larger than 11 X 17, the applicant must provide 12 copies with the application form.

STANDARDS FOR REVIEW

The Zoning Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance. Under the state enabling act, the Board is required to reach the following conclusions as a prerequisite to the issuance of a variance. State facts and argument in support of each of the following:

*Note: A portion of the site is located within the Upper French Broad River WS-IV P. The proposed development is located outside of this watershed.

SECTIONS A & D MUST BE ANSWERED BY APPLICANT OR AGENT

A. There are practical difficulties or unnecessary hardships in carrying out the strict letter of this Chapter, as demonstrated by:

1. The fact that, if the applicant complies with the literal terms of this Chapter, he/she cannot secure a reasonable return from, or make a reasonable use of, the property. (It is not sufficient that failure to grant the variance simply make the property less valuable.)

See attached.

2. The hardship of which the applicant complains results from unique circumstances related to the applicant's land. (Note: Hardships suffered by the applicant common with his neighbors do not justify a variance. Unique personal or family hardships are irrelevant since a variance, if granted, runs with the land.)

The hardships are resulting from the existing site conditions and an attempt to adhere to the intent of the ordinance as opposed to the strict letter of the ordinance.

3. The hardship is not the result of the applicants own action.

The hardships are not a result of the applicant.

B. The variance is in harmony with the general purpose and intent of the Land Development Code and will preserve its spirit. (State facts and arguments to show that the variance requested represents the least possible deviation from the letter of the ordinance that will allow a reasonable use of the land and that the use of the property, if the variance is granted, will not substantially detract from the character of the neighborhood.)

See attached.

C. The variance will secure the public safety and welfare and will do substantial justice. (State facts and arguments to show that, on balance, if the variance is denied, the benefit to the public will be substantially outweighed by the harm suffered by the applicant.)

Should the combination of variances be denied, the proposed units would be required to sit further into the property, blocking the view of the existing restaurant, create difficult access and site maneuverability for the existing restaurant, would require additional impervious area, and could potentially affect the economics of the golf course itself and/or the economics of the immediate surrounding area.

A. There are practical difficulties or unnecessary hardships in carrying out the strict letter of this Chapter, as demonstrated by:

1. The fact that, if the applicant complies with the literal terms of this Chapter, he/she cannot secure a reasonable return from, or make a reasonable use of, the property. (it is not sufficient that failure to grant the variance simply make the property less valuable.)

25% pervious paving rule:

The current ordinance requires that a minimum of 25% of all new paved surfaces shall be pervious pavement. The proposed development is in a location of existing parking facilities for the golf course. As a result of the development, there will be a net decrease in the total impervious area on the site for roads, parking, and drives.

There is a total reduction of 53.5% of the pre-development impervious area. We believe that the intent of this portion of the ordinance is to limit total impervious area. Because of the total net decrease in impervious area, we are meeting the intent of the ordinance.

100 foot perimeter setback requirement:

Supplemental requirement 1.5 indicates that multi-family development located within a residential district shall provide a 100 foot setback on the perimeter of the tract. The variance request is to reduce this setback to the required setback within the zoning district in which the property falls, the R1 district, 15' front, 10' sides, and 10' rear. The subject parcel is located between Brickyard Road, Norris Road, and Holly Springs Road. The variance request is specific to this location only, and does not include remaining perimeter areas on the parcel.

B. The variance is in harmony with the general purpose and the intent of the Land Development Code and will preserve its spirit. (State the facts and arguments to show that the variance requested represents the least possible deviation from the letter of the ordinance that will allow a reasonable use of the land and that the use of the property, if the variance is granted, will not substantially detract from the character of the neighborhood.)

25% pervious paving rule:

As indicated above, we believe that the intent of this portion of the ordinance is to limit total impervious area. The proposed development will result in a net decrease in impervious area, aligning with the intent of the ordinance.

100 foot perimeter setback requirement:

We believe that the intent of this portion of the ordinance is to limit development of large multi-family structures directly adjacent to property lines, in order to soften views and eliminate stark changes directly adjacent to residential neighborhoods. The nature of this development is a single family attached unit product, not a large multi-story single building. These units will look more like single family homes and will tie into surrounding areas more easily. Available space is also a concern, the proposed location is between Holly Springs Road and Norris Road, with little room for adjustment without adverse effects on the existing restaurant facility on the site.

SECTIONS A & D MUST BE ANSWERED BY APPLICANT OR AGENT

D. The variance shall not be based on the existence of a nonconforming use of neighboring land or structures in the same district, or permitted nonconforming uses in other districts, and shall in no way constitute a reason for the requested variance.

It appears that surrounding properties are conforming uses, and the majority of which are single family residential structures/developments.

I certify that the information shown above is true and accurate and is in conformance with the Land Development regulations of Henderson County.

Dewey Andrew
Print Applicant (Owner or Agent)

[Signature]
Signature Applicant (Owner or Agent)

4/9/19
Date

County Use Only

Fee: \$ _____ Paid: _____ Method: _____ Received by: _____ Permit#: _____

**HENDERSON COUNTY
CODE ENFORCEMENT SERVICES APPOINTMENT OF AGENT FORM (OPTIONAL)**

I Dewey Andrew owner of property located on 470 Brickyard Road, Etowah, NC 28729,
(Name) (Street Address)
recorded in 1601/251 and having a parcel identification number of 9529-52-4218,
(Deed Book/Page) (PIN)

located in Henderson County, North Carolina, do hereby appoint Davis CivilSolutions, PA,
(Agent's Name)
828.299.9449, to represent me in an **application to the Code Enforcement Services**
(Agent's phone number)

Department and authorize him/her to act as my agent in all matters, formal and informal except as stated herein, and authorize him/her to receive all official correspondence.

I however understand that as the listed property owner, I must sign all affidavits and statements required by any applicable ordinance.

[Signature]
(Property Owner)

4/9/19
(Date)

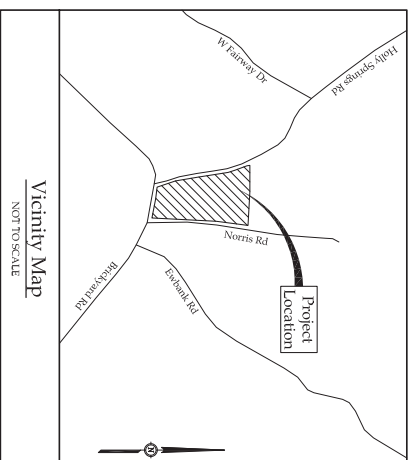
Site Development Plan For

WNC Resort Properties, LLC

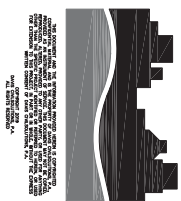
HENDERSON COUNTY, NORTH CAROLINA

Index of Drawings

- G1. Cover Sheet
- C1. Existing Conditions
- C2. Layout
- C3. Grading, Stormwater, and Erosion Control
- C4. Utilities
- C5. Utility Profiles
- D1. Details
- D2. Details
- D3. Details
- D4. Details
- D5. Details
- D6. Details
- D7. Details
- D8. Details
- D9. Details
- D10. Details



Davis CivilSolutions, PA
 Site/Infrastructure Engineering/Planning
 135-A Charlotte Highway • Asheville, North Carolina 28803
 828.259.8971 • www.daviscivilsolutions.com



Owner/Developer: WNC Resort Properties, LLC

Contact: Dewey Andrew 828.216.5311
 173 Pinkerton Corner
 Fairview, NC 28730

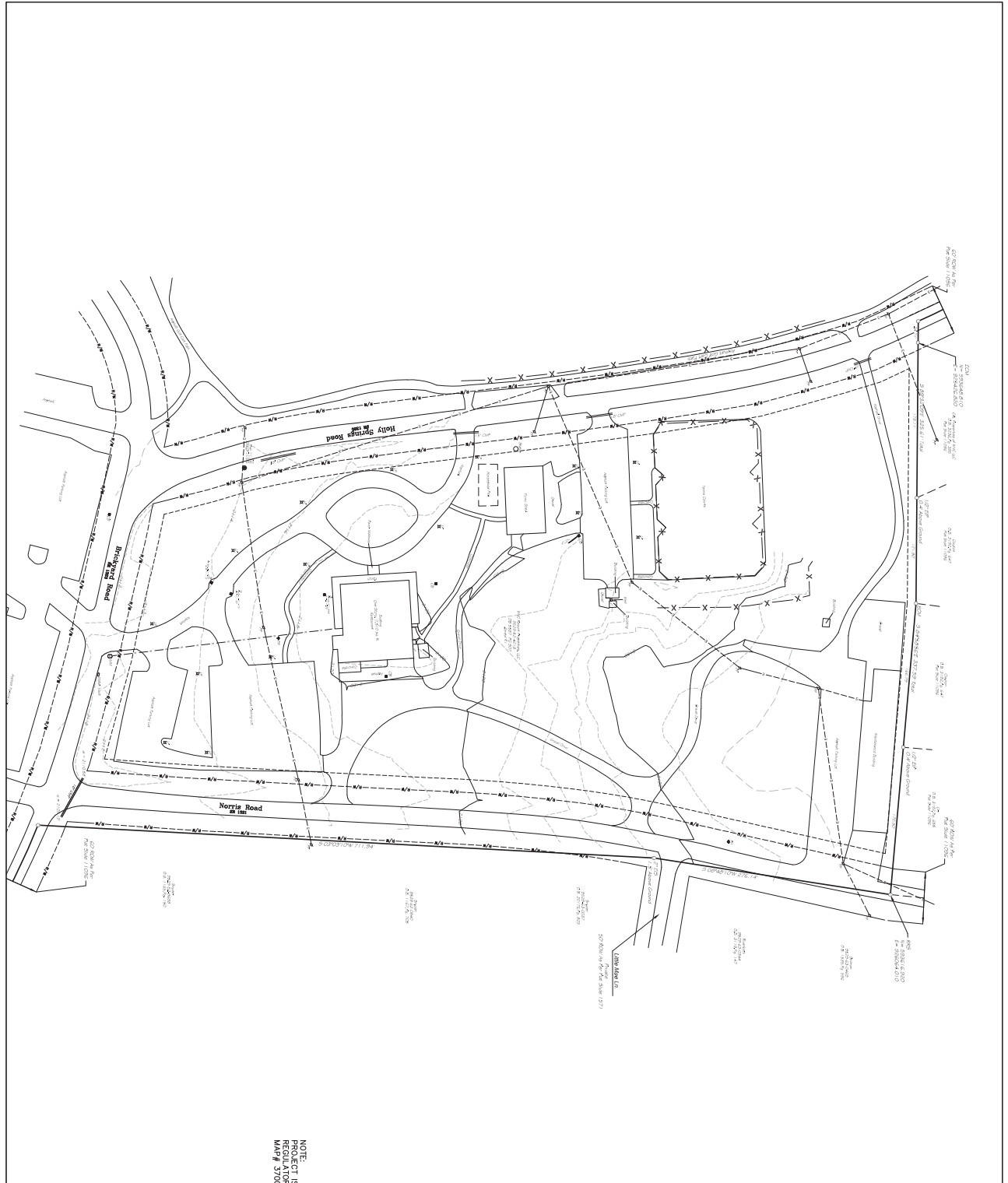
Contact: Darrell Reardon 828.691.1510
 77 Dye Lea Road
 Fairview, NC 28730

PIN: 9529-52-4218

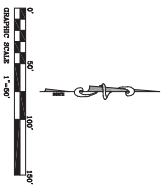
Project Address: 470 Brickyard Road
 Etowah, NC 28729

April 10, 2019

Revision	Date	Description



NOTE:
PROJECT IS NOT LOCATED WITHIN
REGULATORY FLOODPLAIN PER FEMA
MAP# 370952900L, PANEL 9529.



DEVELOPMENT DATA BLOCK

CONTRACTOR: WNC RESORT PROPERTIES, LLC

OWNER: WNC RESORT PROPERTIES, LLC

PROJECT: WNC RESORT PROPERTIES, LLC

DATE: 04/10/2019

SCALE: 1"=50'

PROJECT NO.: 19101

DATE: 04/10/2019

SCALE: 1"=50'

REVISION:

Veriflo Map

Existing Conditions
Sheet C1

Job No: 19101
Date: April 10, 2019
Scale: 1"=50'
Revision:

Site Development Plan For
WNC Resort Properties, LLC
HENDERSON COUNTY, NORTH CAROLINA

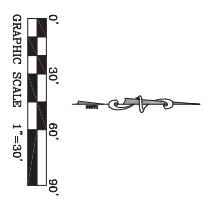
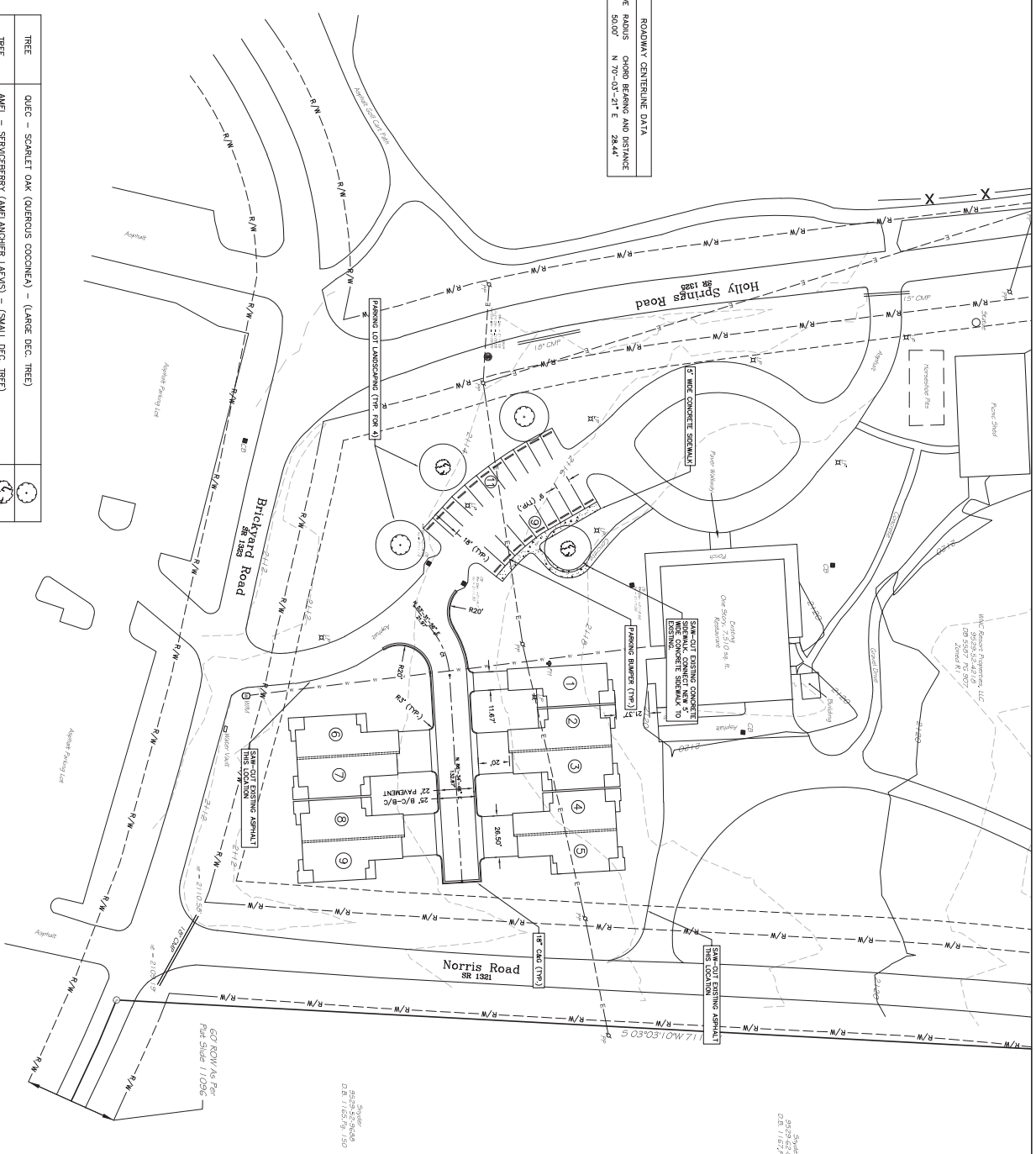


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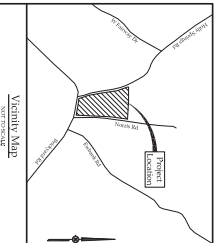
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828.299.9549 FAX www.davis-civil.com

ROADWAY CENTERLINE DATA		
CRIME RADIUS	CHORD BEARING AND DISTANCE	
C1	S0.00°	N 70°-03'-21" E 28.44'

TREE	QUEC - SCARLET OAK (QUERCUS COCCINEA) - (LARGE DEC. TREE)	
TREE	AMEL - SERVICEBERRY (AMELANCHIER LAEVIS) - (SMALL DEC. TREE)	



DEVELOPMENT DATA BLOCK	
OWNER	WNC RESORT PROPERTIES, LLC
DESIGNER	DAVIS CIVIL SOLUTIONS, PA
DATE	APRIL 10, 2019
PROJECT	WNC RESORT PROPERTIES, LLC
ADDRESS	17700 E. HAYWOOD AVENUE, SUITE 200, HENDERSON, NC 27534
PROJECT NO.	19010
DATE	APRIL 10, 2019
SCALE	1" = 30'
PROJECT NO.	19010
DATE	APRIL 10, 2019
SCALE	1" = 30'
PROJECT NO.	19010
DATE	APRIL 10, 2019
SCALE	1" = 30'



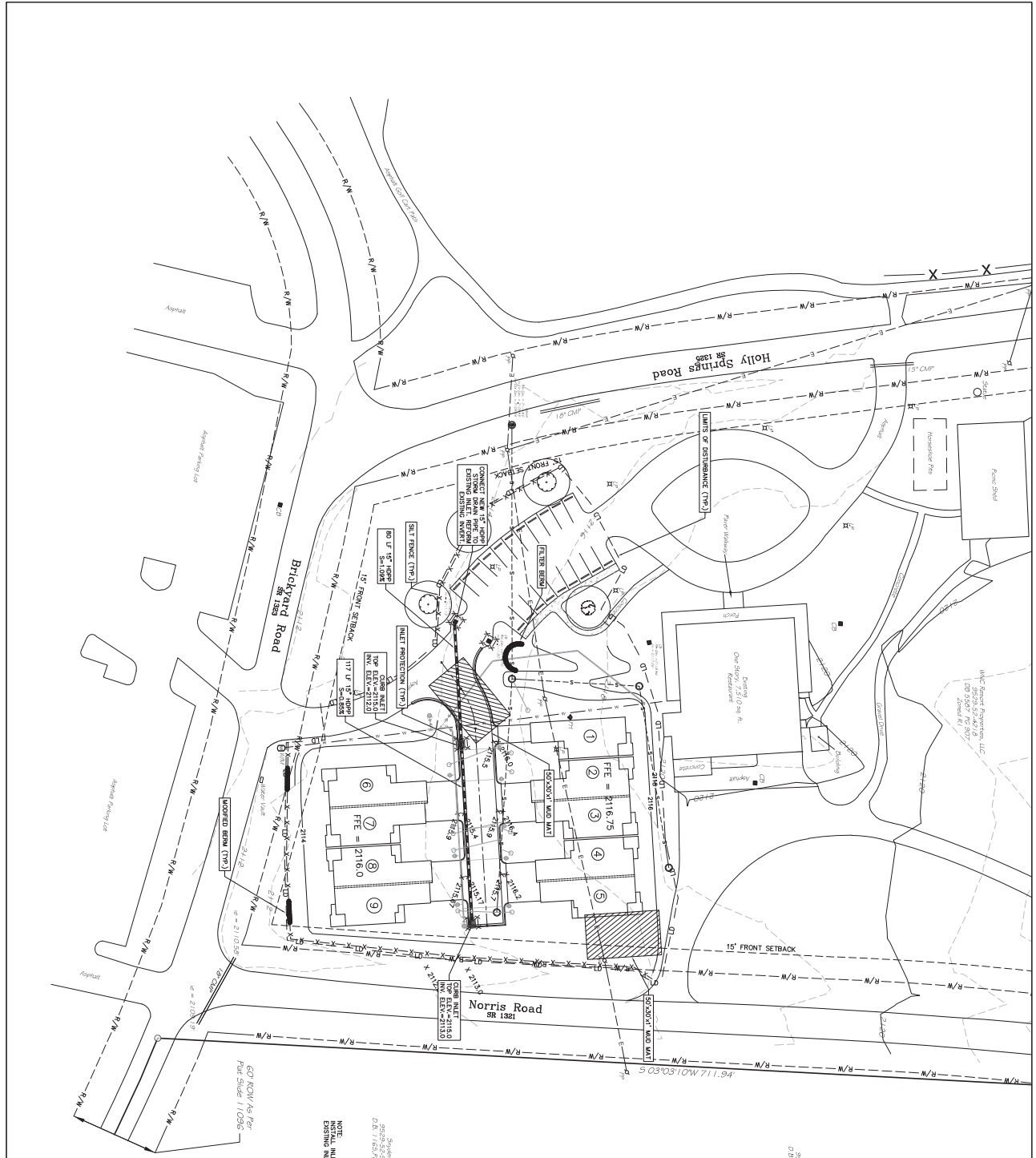
Job No: 19010
 Date: April 10, 2019
 Scale: 1" = 30'
 Revision:

Site Development Plan For WNC Resort Properties, LLC

HENDERSON COUNTY, NORTH CAROLINA



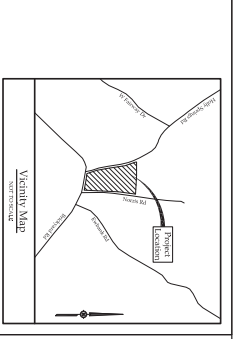
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 828.239.9449 P/F www.davis-civilsolutions.com



592-293-5262
 D.B. / E.S. / B. / S.O.
 NOTE: ALL INLET PROTECTION AROUND ALL EXISTING INLETS NEAR PROPOSED WORK.

592-293-5262
 D.B. / E.S. / B. / S.O.

<p> THE NUMBER AND LOCATION OF ALL UTILITIES SHOWN ON THIS PLAN ARE BASED ON RECORD DRAWINGS AND FIELD SURVEY. THE ENGINEER HAS CONDUCTED A VISUAL INSPECTION OF THE UTILITIES SHOWN ON THIS PLAN AND HAS FOUND THEM TO BE IN ACCORDANCE WITH THE RECORD DRAWINGS AND FIELD SURVEY. THE ENGINEER HAS NOT CONDUCTED A TEST OF ANY UTILITIES SHOWN ON THIS PLAN. THE ENGINEER HAS NOT CONDUCTED A TEST OF ANY UTILITIES SHOWN ON THIS PLAN. </p>	<p> THE NUMBER AND LOCATION OF ALL UTILITIES SHOWN ON THIS PLAN ARE BASED ON RECORD DRAWINGS AND FIELD SURVEY. THE ENGINEER HAS CONDUCTED A VISUAL INSPECTION OF THE UTILITIES SHOWN ON THIS PLAN AND HAS FOUND THEM TO BE IN ACCORDANCE WITH THE RECORD DRAWINGS AND FIELD SURVEY. THE ENGINEER HAS NOT CONDUCTED A TEST OF ANY UTILITIES SHOWN ON THIS PLAN. THE ENGINEER HAS NOT CONDUCTED A TEST OF ANY UTILITIES SHOWN ON THIS PLAN. </p>
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Job No: 19101
 Date: April 10, 2019
 Scale: 1"=30'
 Revision:

Site Development Plan For

WNC Resort Properties, LLC

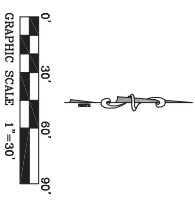
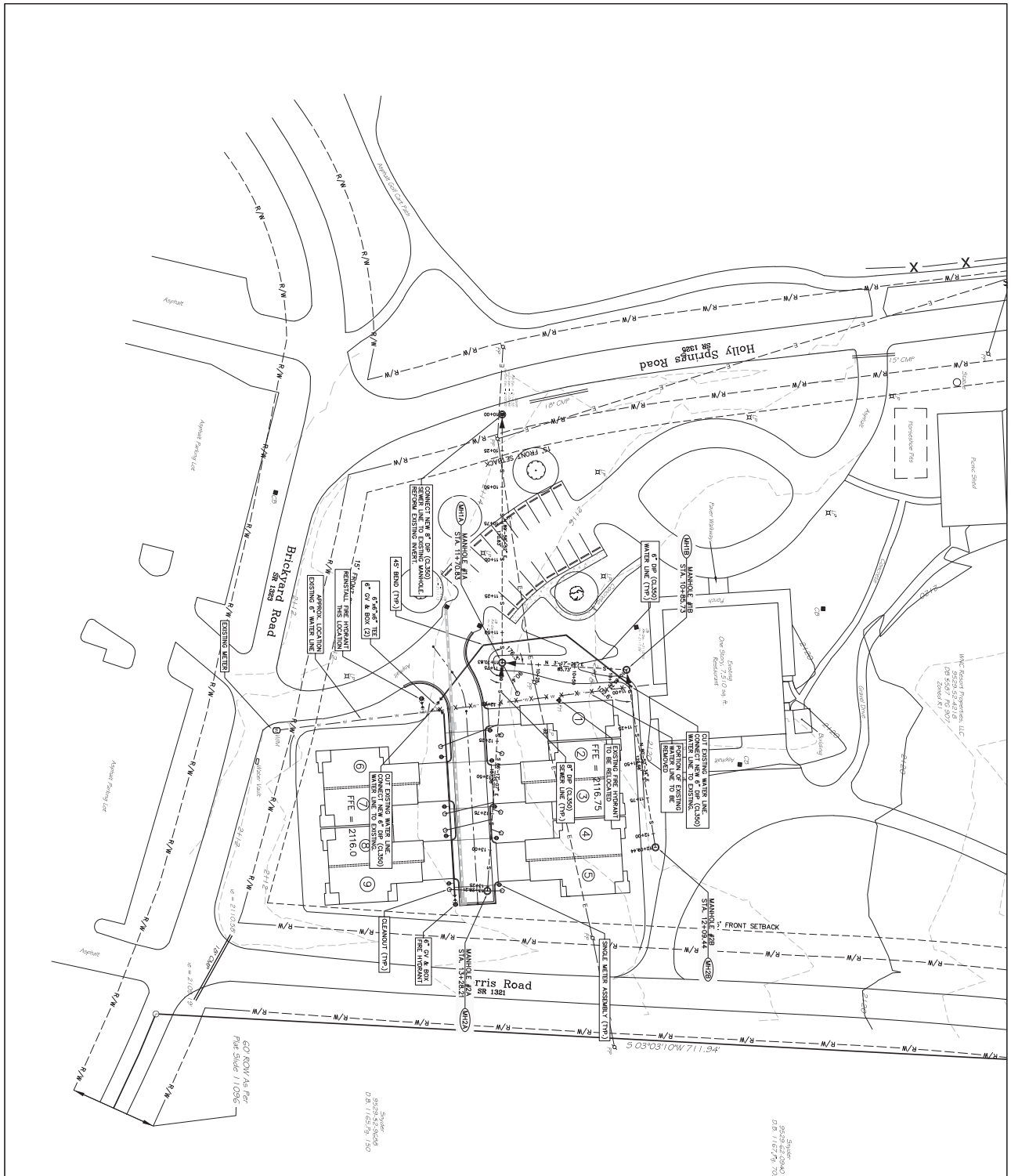
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Grading, Stormwater,
 and Erosion Control
 Sheet



Survey
 5923-2-2004
 Date: 1/15/09, 1:30

Survey
 5923-2-2004
 Date: 1/15/09, 7:25

DEVELOPMENT DATA BLOCK

OWNER: WNC RESORT PROPERTIES, LLC

DESIGNER: DAVIS CIVIL SOLUTIONS, PA

DATE: 04/10/2019

PROJECT: SITE DEVELOPMENT PLAN FOR WNC RESORT PROPERTIES, LLC

SCALE: 1"=30'

PROJECT NO: 19101

DATE: 04/10/2019

REVISION: 1

VERIFIED MAP

VERIFIED MAP

DATE: 04/10/2019

BY: [Signature]

Utilities

Sheet **C4**

Site Development Plan For
WNC Resort Properties, LLC
 HENDERSON COUNTY, NORTH CAROLINA



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