



CITY OF BELMONT

PLANNING & ZONING

Application number: MDP2022.05 – Henry Chapel Subdivision

Applicant: Chase Millette (Engineer, Bolton and Menk)

Property owner: ASF TAP NC II

Representatives:

TURNSTONE GROUP LLC Jacquie Rencurrell- 404.477.6805; jrencurrell@turnstonegroup.com
MOORE & VAN ALLEN Bridget Grant- 704.331.2379; bridgetgrant@mvalaw.com

Location: Henry Chapel Rd across the street from Henry Chapel AME Zion Church

Parcel ID#s and Zoning:

General Residential (G-R)- PID 217840 & 207383
Suburban Residential (SR) -PID 217839
South Point Peninsula Overlay District (SPPO)- all three parcels

Request: A major development plan MDP application has been filed for a detached single-family residential subdivision containing up to 622 lots on 275 acres, with a density of 2.26 dwelling units per acre.

Major Development Plan (MDP):

A major development plan was the type of development review required for projects subdividing more than eight residential lots within the 2017 LDC. It combines a subdivision review with a site plan review into one consolidated review process.

Per NCGS 160D-803, final decisions on preliminary plats can be made by a governing board on the recommendation of a governing body. The LDC has designated Planning Board as the recommending body, and City Council as the final decision maker. While this process involves the public to increase awareness and transparency, it is still considered an administrative decision as long as no relief is being requested from the ordinance requirements.

According to NC GS 160D-102, administrative decisions are defined as “Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in this Chapter or local government development regulations.”

Background:

In May 2017, staff received a sketch plan application for 628 lots on the subject parcels. The applicant continued to refine plans based on staff comments, and in January 2020 the sketch plan itself was approved. Ongoing dialogue and analysis between the applicant and the City related to identified mitigation was continued, but the applicant was authorized to file schematic plans for review.

In March 2020, a State of Emergency was declared for North Carolina due to the COVID-19 pandemic. To relieve downward economic pressures on land development, the North Carolina General Assembly extended the term of most development approvals three times: on May 4, 2020, on September 4, 2020, and on March 11, 2021. A chart outlining these extensions is included below as reference.

If the development approval's original expiration date was...	...then it expires/expired on ...	Reference	Henry Chapel Sketch Plan Expiration Date
Before March 10, 2020	The original expiration date	S.L. 2020-3 , Section 4.40	Original: July 2020
Between March 10, 2020, and April 1, 2020	Five months after the original expiration date	S.L. 2020-3 , Section 4.40; S.L. 2020-97 , Section 3.21. See prior blog for further explanation	+5 months = January 2021
Between April 1, 2020, and September 14, 2022	January 12, 2023	S.L. 2021-3 , Section 2.21, and lifting of state of emergency	January 12, 2023
After September 14, 2022 (but issued before September 15, 2022)	January 12, 2023, or original expiration date, whichever is later	S.L. 2021-3 , Section 2.21, and lifting of state of emergency	
After September 14, 2022 (but not issued until September 15, 2022, or later)	The original expiration date	S.L. 2021-3 , Section 2.21, and lifting of state of emergency	

Prior to this action by the General Assembly, sketch plans were viewed in the Land Development Code as an informal review and subject to expiration dates based on permit choice regulations as defined in GS 143-755. An active sketch plan application would have been discontinued if the applicant failed to respond to comments or provide information for a period of six months or more.

Since S.L. 2020-3 and later extensions specifically included approval by a city of a sketch plan, even though a sketch plan had not previously been granted vested rights in 160D-108 the applicant's deadline to act on the approved sketch plan was extended until to January 12, 2023.

A Major Development Plan (MDP) application was formally filed prior to this deadline in July 2022 for the City's review, which allowed the project to continue moving forward. The MDP site plan was based on the January 2020 sketch plan, which was originally filed in May 2017.

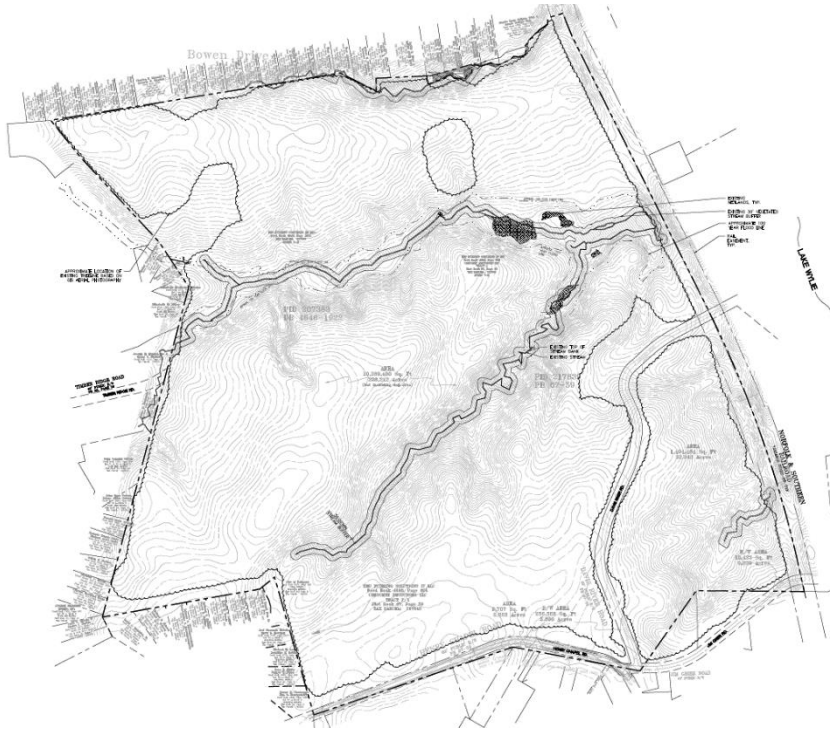
Per G.S. 143-755 (a), *"If a development permit applicant submits a permit application for any type of development and a rule or ordinance is amended, including an amendment to any applicable land development regulation, between the time the development permit application was submitted and a development permit decision is made, the development permit applicant may choose which adopted version of the rule or ordinance will apply to the permit and use of the building, structure, or land indicated on the permit application."*

The applicant has requested to continue review of the plans utilizing the land development code in place at the time of initial sketch plan filing in May 2017.

A copy of the 2017 ordinances is available here:

<https://storage.googleapis.com/proudcity/belmontnc/uploads/2024/02/Combined-May-2017-LDC-1.pdf>

Site Conditions:



The development site is comprised of 275 acres located fully within City of Belmont's municipal limits. Elevations on the site vary by approximately 120', with steeper slopes concentrated near the on-site streams, southeastern corner, and northeastern boundary. The majority of the site is currently wooded, however historic aerial photography reveals cleared areas along the streams and Henry Chapel Rd frontage. Portions of the site also contain perennial streams, floodplain, and

pockets of wetlands. Some of the soils near the stream are Chewacla Loam, which is poor for development as it retains water.

Floodplain



Soils



1938



1951



1968



1979



1997



2010



2015



2022



There is an old AT&T copper trunk cable right-of-way traversing the southern portion of the site that appears to be abandoned.

Adjacent to the project site, there are several detached single-family neighborhoods and homes, including but not limited to South Hill Estates and Graystone Estates to the west, homes off of Davis River Rd and Jim Grier Rd to the east, Bowen Drive residences to the north, and residences along Henry Chapel Rd to the south.

Watershed:

Approximately half of the site is in the city's critical watershed area, and the other half is within the protected area. The city engineer verified that the proposal meets the requirements of the City's Watershed Ordinance, but a high-density development permit application and engineered stormwater controls will be required during construction document generation.

PROTECTED WATERSHED	
TOTAL ACREAGE:	±114.274 AC
PHASE 1A:	±6.965 AC
PHASE 1B:	±28.991 AC
PHASE 2:	±50.971 AC
PHASE 3:	±27.349 AC
TOTAL LOTS:	312
PHASE 1A:	14
PHASE 1B:	104
PHASE 2:	130
PHASE 3:	64
TOTAL D.U.A.:	±2.730
PHASE 1A:	±2.010
PHASE 1B:	±3.587
PHASE 2:	±2.550
PHASE 3:	±2.340
TOTAL B.U.A.:	±54.659 AC
PHASE 1A:	± 4.432 AC
PHASE 1B:	±15.036 AC
PHASE 2:	±24.351 AC
PHASE 3:	±10.840 AC
	47.8%



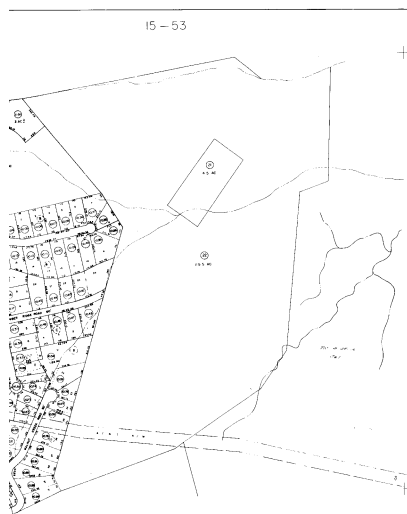
CRITICAL WATERSHED	
TOTAL ACREAGE:	±160.916 AC
PHASE 1A:	±71.399 AC
PHASE 1B:	±11.828 AC
PHASE 2:	±35.103 AC
PHASE 3:	±42.585 AC
TOTAL LOTS:	310
PHASE 1A:	127
PHASE 1B:	15
PHASE 2:	73
PHASE 3:	109
TOTAL D.U.A.:	±1.926
PHASE 1A:	±1.779
PHASE 1B:	±1.268
PHASE 2:	±2.080
PHASE 3:	±2.560
TOTAL B.U.A.:	±59.371 AC
PHASE 1A:	±25.104 AC
PHASE 1B:	±3.955 AC
PHASE 2:	±14.106 AC
PHASE 3:	±16.206 AC
	36.9%

EIS Determination:

Following public comment at the April 3, 2023 City Council meeting related to environmental concerns, City Council asked that the Planning Board make a determination of whether or not an Environmental Impact Statement (EIS) should be deemed necessary for the Henry Chapel development site. Chapter 16.8 of the Land Development Code notes that an EIS, pursuant to Chapter 113A of the North Carolina General Statutes, may be required on a discretionary site-specific basis if a development exceeds two acres in area, and if the Planning Board deems it necessary because of the nature of the land or peculiarities in the proposed design.

At the April 27, 2023 meeting, the Planning Board discussed this request in conjunction with City Attorney Parks Wilson. Planning Board noted that while the environmental concerns are important, they did not have the statutory authority to make a decision on this based on NCGS 113A-8. They unanimously determined that an EIS couldn't be deemed necessary because our LDC is not in compliance with state law.

Site History:

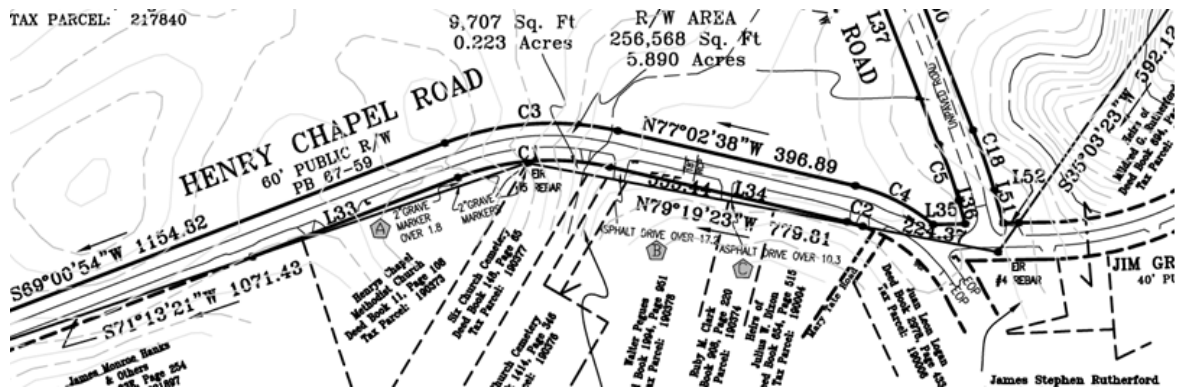


The 1963 tax maps for the site show a 4.5 acre parcel situated at the fork in the northernmost perennial stream on the property. This area is referenced by deed as the "Hill Gold Mines", accessed via "an old road leading into the old Leeper place." In the 1951 book "Early History of Belmont and Gaston County", RL Stowe Sr wrote "the Leeper mine was worked more than 100 years ago, and was considered a rich mine." Banner News published an article on August 1, 2019 entitled "Gold fever still grips our area," which notes that the Leeper Gold Mine was operated as early as the American Revolution and produced gold in great amounts until it closed on an undetermined date. It was owned by Matthew Leeper who sold the land to C.T. Stowe, and it was later inherited by Minnie Stowe Puett (widow of W.B. Puett). According to the

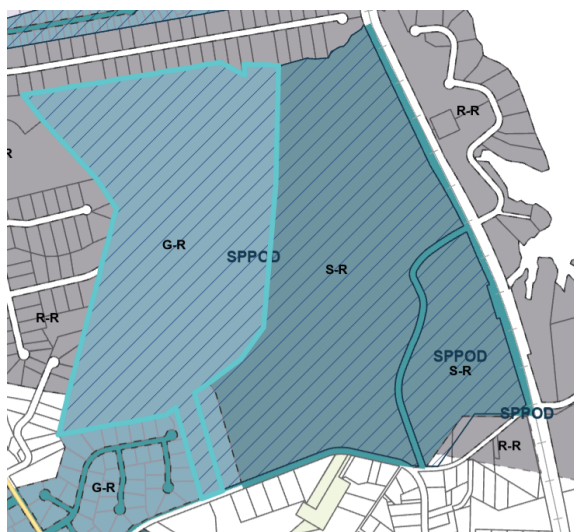
US Department of Commerce's 1927 Mineral Resources book, the Leeper hydraulic mine was the largest producer of gold in North Carolina in 1927. While staff cannot confirm for certain

that the Hill Gold Mines referenced on the development site's tax map is the same as the Leeper mine, it is not beyond possibility. Staff's research has been shared with the Gaston County Museum of Art & History, Gaston County Historic Preservation Commission, and the State Historic Preservation Office in case additional research is desired. This information will also be shared with NCDEQ and other applicable environmental agencies for coordination during the construction plan review process prior to any clearing or grading activities on-site.

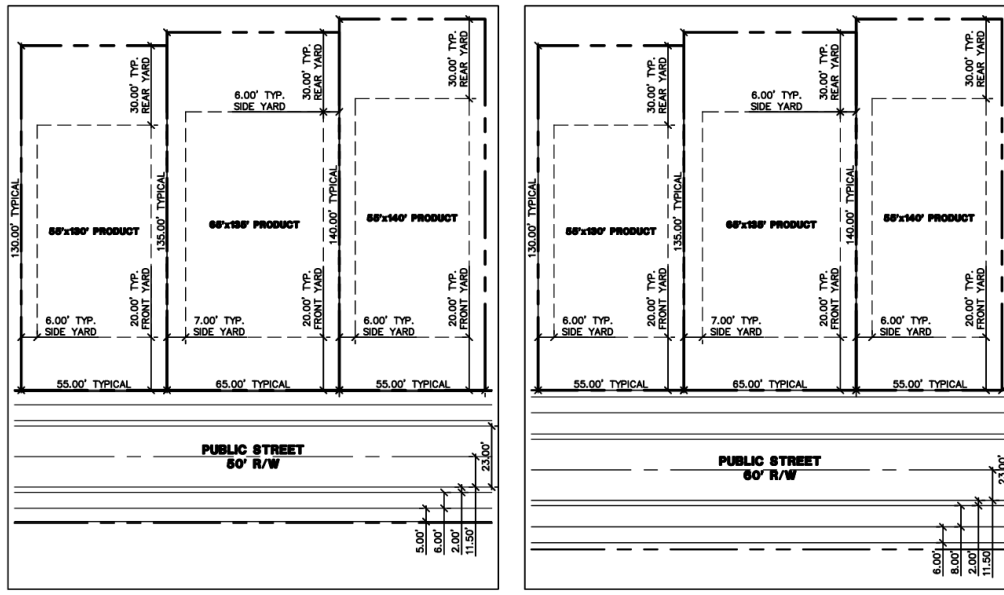
This site is also directly across the street from Henry Chapel AME Zion Church. According to a survey of African American Resources in Gaston County completed in November 2020, "Henry's Chapel A. M. E. Zion Church, established in 1874 at Mary Henry Spring and located south of Belmont, is a representative example of the evolution of Gaston's rural African American churches. For the first four years, Henry's Chapel Church members met under a modest brush arbor. In 1881, the congregation purchased the one and one-fourth acres of land that housed the brush arbor, but members were unable to afford the cost of a church building until the early 1890s. The simple frame building served the congregation until 1953. Eager for a structure that would more adequately reflect the progress of church members and the congregation as a whole, members financed the construction of a new brick building. The burial ground at Henry's Chapel, with simple stone gravemarkers dating to as early as the late 1800s, remains the only tangible reminder of Henry's Chapel's humble beginnings." While surveying the development site, it was discovered that there were several grave markers on the property located to the south of the paved roadway. The developer has agreed to dedicate this portion of the site to Henry Chapel AME Zion Church and/or the cemetery to ensure that the grave markers remain undisturbed.



Zoning/ Building Forms:



General Residential (GR) zoning is applied to 121 acres of the site, Suburban Residential zoning is applied to 154 acres, and the entire area is within the South Point Peninsula Overlay District (SPP-O). The maximum density is 3 DUA, and the proposed density is 2.2 DUA. The development proposes 622 parcels designed for the detached house (street lot) building form. No townhomes are proposed. 503 lots are planned for 55' wide, and 119 lots are planned at 65' wide to allow for 20% variation in lot widths. See lot size variations on next page. Front setbacks are 20' ; front loaded garage setbacks are 30'; side setbacks are 6' or 20% lot width; and rear setbacks are 30'.



In addition to lot size, staff analyzed the block lengths within the proposed development. Blocks are defined in LDC Chapter 2 as: “A unit of land bounded by streets or by a combination of streets and public land, waterways, or any other barrier to the continuity of development.” The applicant provided a block length chart within the schematic plan set outlining each block and its associated length, based on breaks in lot due to streets, open space, greenways, etc. which confirmed that no block exceeded the 660’ block length maximum. This revision resulted in a reduction in lot count from 628 to 622 lots.

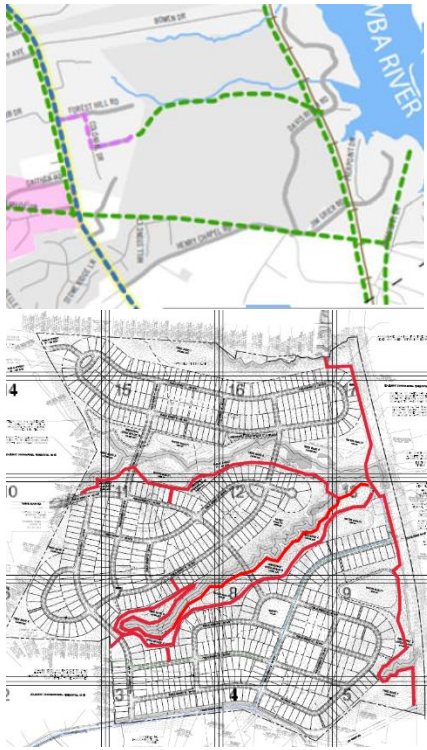
Tree Protection, Landscaping, Open Space, and Buffers:

Per LDC Chapter 16.5, the applicant provided a tree survey for the subject site. The report noted that 55 acres of healthy mature deciduous canopy (37%) will be saved within the proposed tree save areas. 31 percent of heritage trees at the site will also be preserved within the tree save area. This exceeds the 25% save requirements for healthy mature deciduous canopy as well as heritage trees defined within the 2017 LDC. In total, 71+ acres of tree save has been provided on the site, which is clustered into seven distinct tree save areas.

TREE SAVE TABLE	
O.S. LABEL	ACREAGE
①	±13.293 AC
②	±7.750 AC
③	±8.731 AC
④	±19.728 AC
⑤	±8.159 AC
⑥	±4.921 AC
⑦	±9.082 AC
TOTAL	±71.664 AC

Per the open space matrix in LDC Chapter 7, (622 homes*3.5 bedrooms)*520= 1,132,040 SF or 26 acres of open space is required. The proposed subdivision includes 36+ acres of open space. This area includes the tree save area and stream bed areas to allow for preservation where practical.

OPEN SPACE DEDICATION MATRIX						
		Gross Dwelling Units per Acre				Proximity to Parks
		0-2	2-6	6-10	+10	
Estimated Number of Bedrooms	X	500	520	550	580	Base
		375	390	413	435	Within ½ Mile
		250	260	275	290	Adjacent
All figures are in square feet						



Greenways have also been provided within open space areas, providing a north/south alignment alongside the railroad buffer and utility easement, and two east/west segments along the streams. This is consistent with the vision outlined within the City’s 2013 Bicycle Plan. Instead of utilizing the abandoned AT&T easement, the development proposes the southern east/west trail running along the stream and stubbing out to a City-owned lot in Graystone Estates (currently housing a pump station; pump station to be abandoned once development’s pump station is activated). The greenways have been designed to meet the standards outlined in LDC (10’ wide asphalt surface within a 20’ easement) to allow for future City dedication as public trail if desired, and dedication of the corridors to the city will be available upon request or at the end of the bond period. The applicant has also noted that the maintenance of the trail segment within the utility easement will be by the owner unless the City accepts maintenance of this improvement.

In addition to the open space and tree save areas, buffers have been included as follows:

- 30’ Stream Buffers
- 20’ Type A Buffer along railroad corridor (Norfolk Southern)
- 10’ Type A Buffer (to extent feasible) along Henry Chapel Rd between rear yards and ROW; with supplemental plantings to be provided in this area as needed

The placement of tree save areas will also provide a buffer between the proposed development and homes nearby, especially those outside of Belmont municipal limits.

Project Phasing:

The proposed development is broken into phases as follows:

- **Phase 1A:** 141 lots
- **Phase 1B:** 119 lots
- **Phase 2:** 203 lots
- **Phase 3:** 173 lots

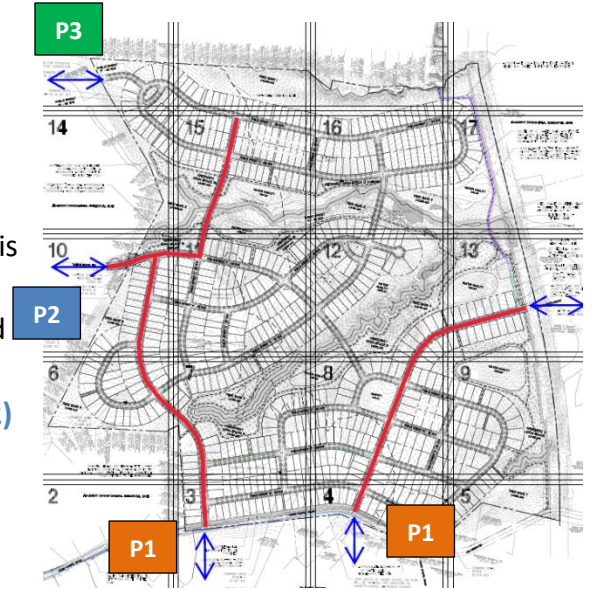
This phasing plan has been used to-date to determine access needs and recommended transportation improvements, and provide a high-level understanding of how development may advance through build-out.



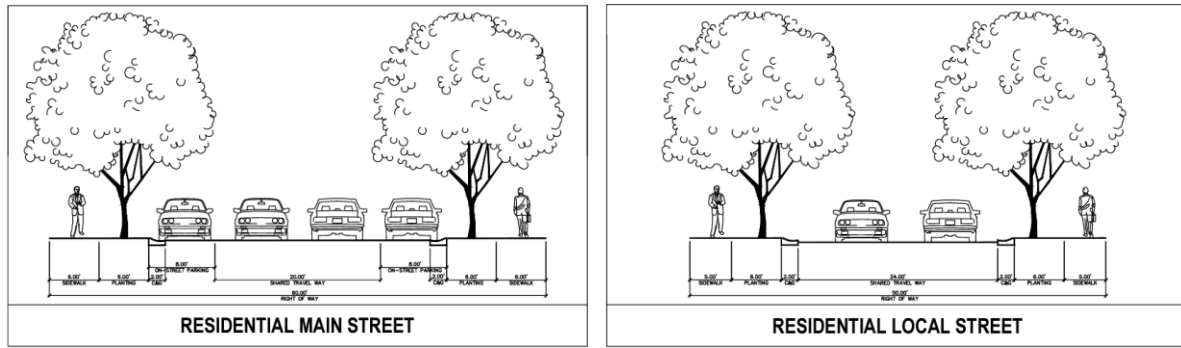
Streets:

Site access for the proposed development is provided in the following locations:

- Two new access points off of Henry Chapel Rd **(Phase 1)**
- Re-configured access road and connection to Davis River Rd **(Phase 1)**
 - Access to existing homes to be maintained throughout construction
- Extension of ROW from Timber Ridge Rd **(Phase 2)**
 - options for limiting access in/out; to be determined at construction documents
- Future Stub-Out to Bowen Holcomb property **(Phase 3)**



While most new streets are designed at 50' wide, there are several key corridors that have been designed at 60' wide. The 60' wide streets are intended to act as transportation "spines," allowing enhanced vehicular flow and better access for emergency services and other service vehicles.



Utilities:

To service this development, a 12" water main and force main are planned extending south from Rivermist to a new regional pump station located along Davis River Rd. At the time of the Davis River pump station completion/activation, the Graystone Estates pump station is anticipated for abandonment. A water main extension along Henry Chapel from South Point Rd is planned, along with a line extending along Public Street A as noted on the schematic plans.

Transportation:

A traffic impact analysis (TIA) was initially completed in February 2018 by Kimley Horn, the city's transportation engineering consultant. Based on the level of traffic mitigation identified in the report, the applicant engaged their own consultant (DRG Group) to review the study. In July 2020, the applicant provided a peer review of the 2018 TIA completed by DRG group to the City for review. This analysis was forwarded to Kimley Horn for further analysis. In December 2020, the City's transportation engineer provided a summary of their findings to City staff, which revealed some inconsistencies in the analysis performed. This information was shared with the applicant. After continued review and analysis, feedback was also provided by the City on the applicant's proposed proportionality (% impact) at identified intersections.

Per LDC 16.14.B, the Planning Director can require a new TIA if more than 24 months have passed since completion of the previous study. In August 2021, the City advised the applicant that a new TIA would be required due to the passage of time between its approval and the continuing discussions on recommended mitigation measures. In February 2022, a scoping meeting was held with the applicant and representatives from the City, NCDOT, Gaston Cleveland Lincoln MPO to begin a new traffic impact analysis for the proposed development. While the number of lots remained the same, phasing was introduced into the study with this update, resulting in phased mitigation recommendations. This TIA was completed and sealed in August 2022. The mitigation improvements exhibit is provided on the next page as reference.

Following completion of the study, a community meeting was held in October 2022. The applicant shared information about the project, including the completed TIA. When asked if there was a commitment to installing all off-site improvements, the applicant shared that they planned to provide all improvements for their project that are required by the State of North Carolina.

The mitigation commitments of the applicant were subsequently added to the schematic plans, and are noted as follows.

MITIGATION IMPROVEMENTS

THE APPLICANT WILL PROVIDE THE FOLLOWING TRANSPORTATION IMPROVEMENTS REQUIRED BY NCDOT, IN ACCORDANCE WITH NORTH CAROLINA LAW

PHASE 1A

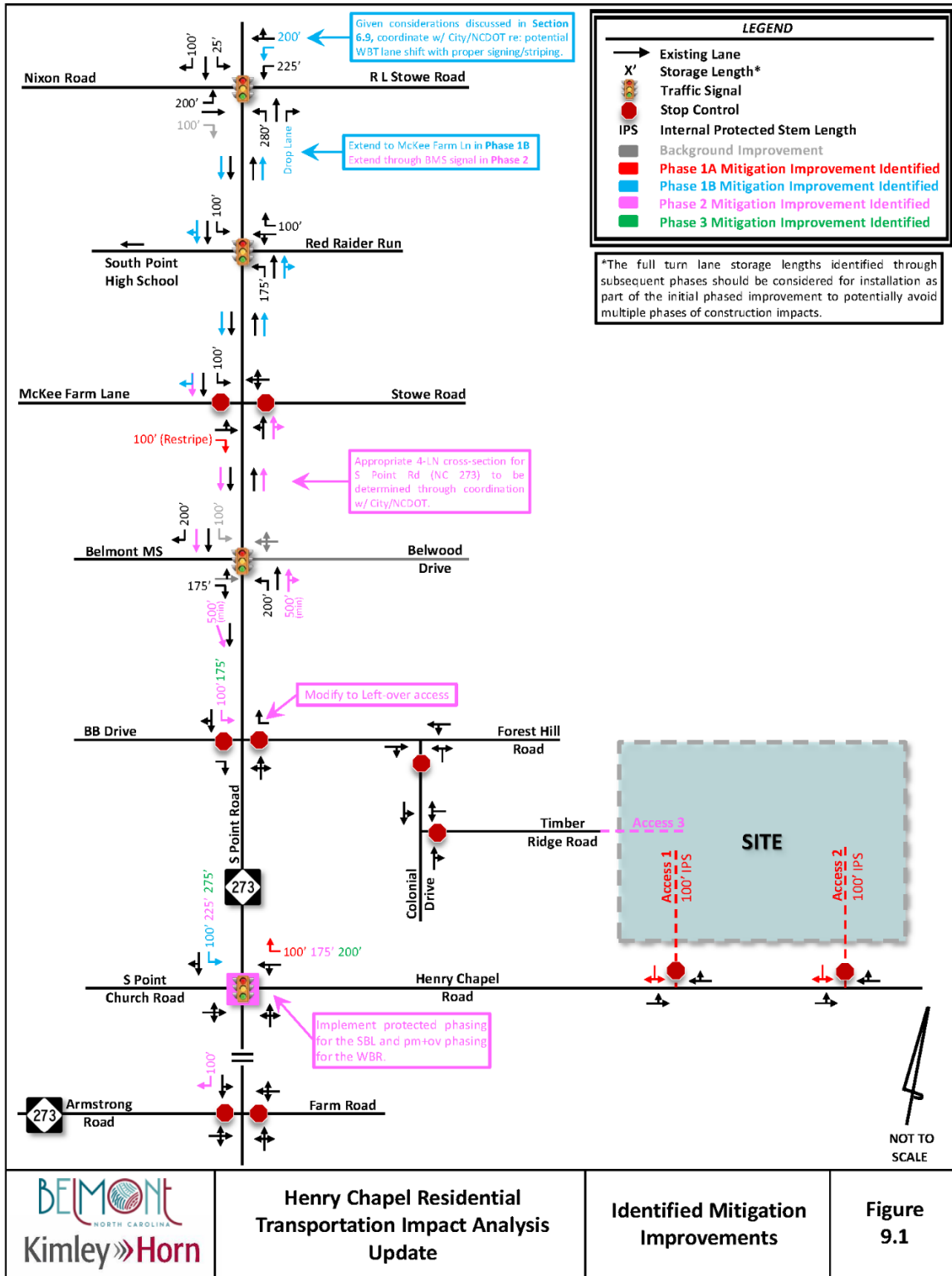
1. HENRY CHAPEL ROAD AND ACCESS 1
 - 1.1. SINGLE SOUTHBOUND EGRESS LANE AND SINGLE INGRESS LANE ALONG ACCESS 1
 - 1.2. PROVIDE A 100-FOOT INTERNAL PROTECTED STEM (IPS) ALONG ACCESS 1
2. HENRY CHAPEL ROAD AND ACCESS 2
 - 2.1. SINGLE SOUTHBOUND EGRESS LANE AND SINGLE INGRESS LANE ALONG ACCESS 2
 - 2.2. PROVIDE A 100-FOOT IPS ALONG ACCESS 2

No commitment to construct or provide payment-in-lieu of off-site improvements has been made for the other recommendations within the most recent TIA.

The 2017 LDC Chapter 16.14 reads "Upon completion of the TIA, certain on or offsite transportation mitigation measures may be required as recommended by the TIA. If so, the transportation consultant assigned by the City shall prepare a Transportation Mitigation Agreement (TMA).

Staff asked Kimley Horn to prepare a draft TMA reflecting all identified traffic mitigation within the Traffic Impact Analysis. This was provided to the applicant for signature.

An amended and signed Transportation Mitigation Agreement has been provided that mirrors the previously communicated commitment for improvements at access roads only. The other off-site improvements as outlined are not proposed.



The 2017 code notes that “All required measures must be implemented prior to final Certificate of Occupancy (CO), or the applicant(s) shall provide a cost estimate to the City for review and provide a payment in lieu for said measures prior to CO.”

The TMA must be signed by the applicant, City and the NCDOT District or Division Engineer if the mitigation involves a state roadway. Per communications with NCDOT, while they do not have authority to require off-site improvements per case law, they would support them if the City is able to require them.

Since the applicant has not made a commitment to install the mitigation identified for their project OR to provide a cost estimate at a later date within the amended TMA, compliance with this section of the 2017 LDC cannot be determined by Staff.

A determination of the mitigation improvements able to be required by the city will need to be determined by City Council in consultation with the City attorney.

Important Note:

Planning staff’s review of this project is based solely on the Land Development Code and applicable state statutes.

After discussion with the applicant and City attorney, there has been recent case law impacting the authority of local governments for off-site transportation improvements that will need to be reviewed with the City Attorney. This case law may have direct implications on the City’s authority to require any additional mitigation improvements, whether by construction or payment in-lieu.

Summary:

Major Development Plans are administrative decisions involving the determination of facts and the application of objective standards set forth in [NCGS 160D] or local government development regulations. These are viewed as “by-right” projects, therefore, consistency findings are not required.

It is staff’s position that this project complies with the Land Development Code in all areas other than Chapter 16.14, which will require additional legal review prior to final determination by City Council to determine transportation improvements able to be required.

- Attachment A: Application and Letter of Intent
- Attachment B: Schematic Plans and Phasing Exhibits
- Attachment C: Tree Survey Exhibit and Report
- Attachment D: 2022 Traffic Impact Analysis
- Attachment E: Kimley Horn Memo- Background Growth
- Attachment F: Traffic Mitigation Agreement