

Town Hall

August 22, 2023

WinMock Barn



**The Town of Bermuda Run is a Community with a Strong
Sense of Place and an Exceptional Quality of Life**

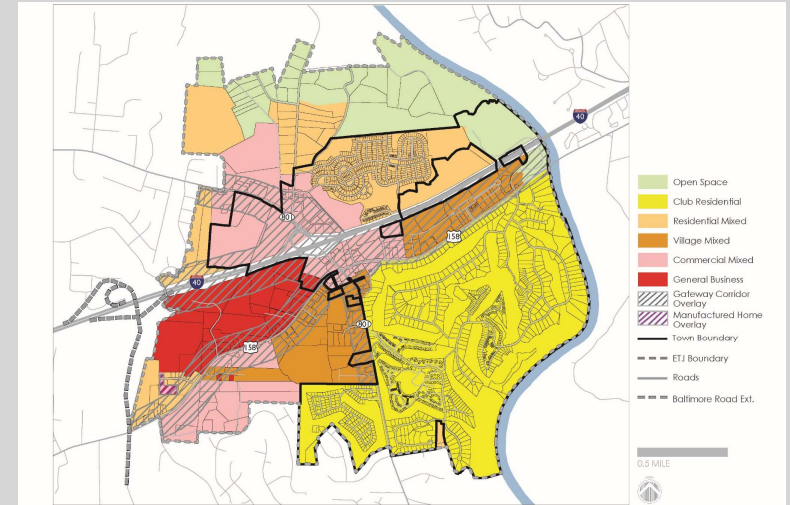
- **ZONING**
- **ANNEXATION**
- **10/70 PROVISION**
- **COMPREHENSIVE PLAN/
FUTURE LAND USE**



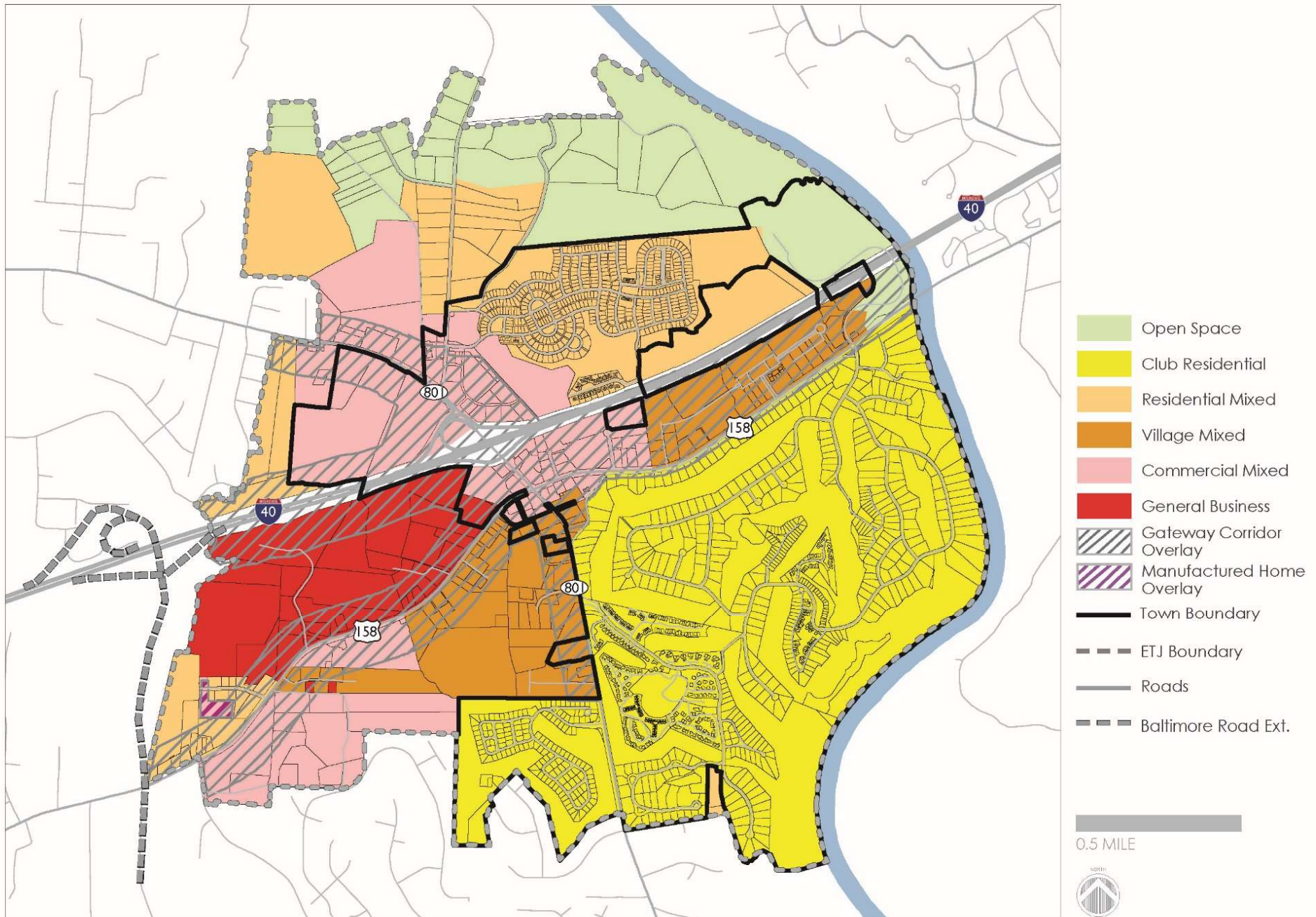
- Special Called Meeting
 - Cover four topics
- Information sharing
 - Presentation
 - Questions
- All questions will be addressed - Pre-submissions/tonight
 - Answered tonight, or
 - Recap themes and provide FAQs
- Wrap Up and Next Steps

ZONING

- **What is zoning?**
 - Development Governance
- **Why do we have zoning?**
 - Predictability of Land Use
- **What if no zoning?**
 - Unintended Consequences
- **Every parcel of land has zoning designation**
 - Town of Bermuda Run (ToBR)
 - Extra Territorial Jurisdiction (ETJ)
 - County

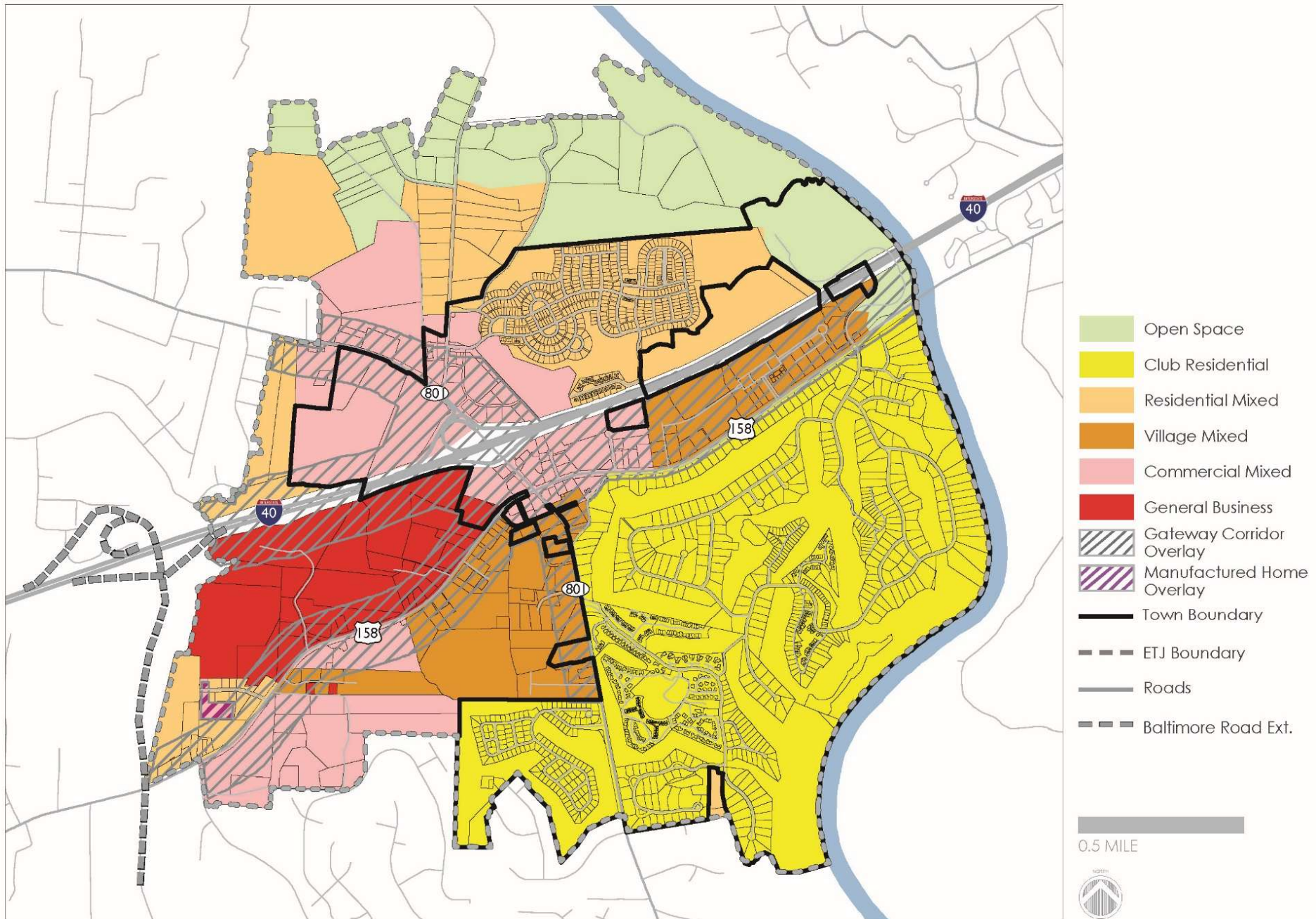


Zoning Map - 2023

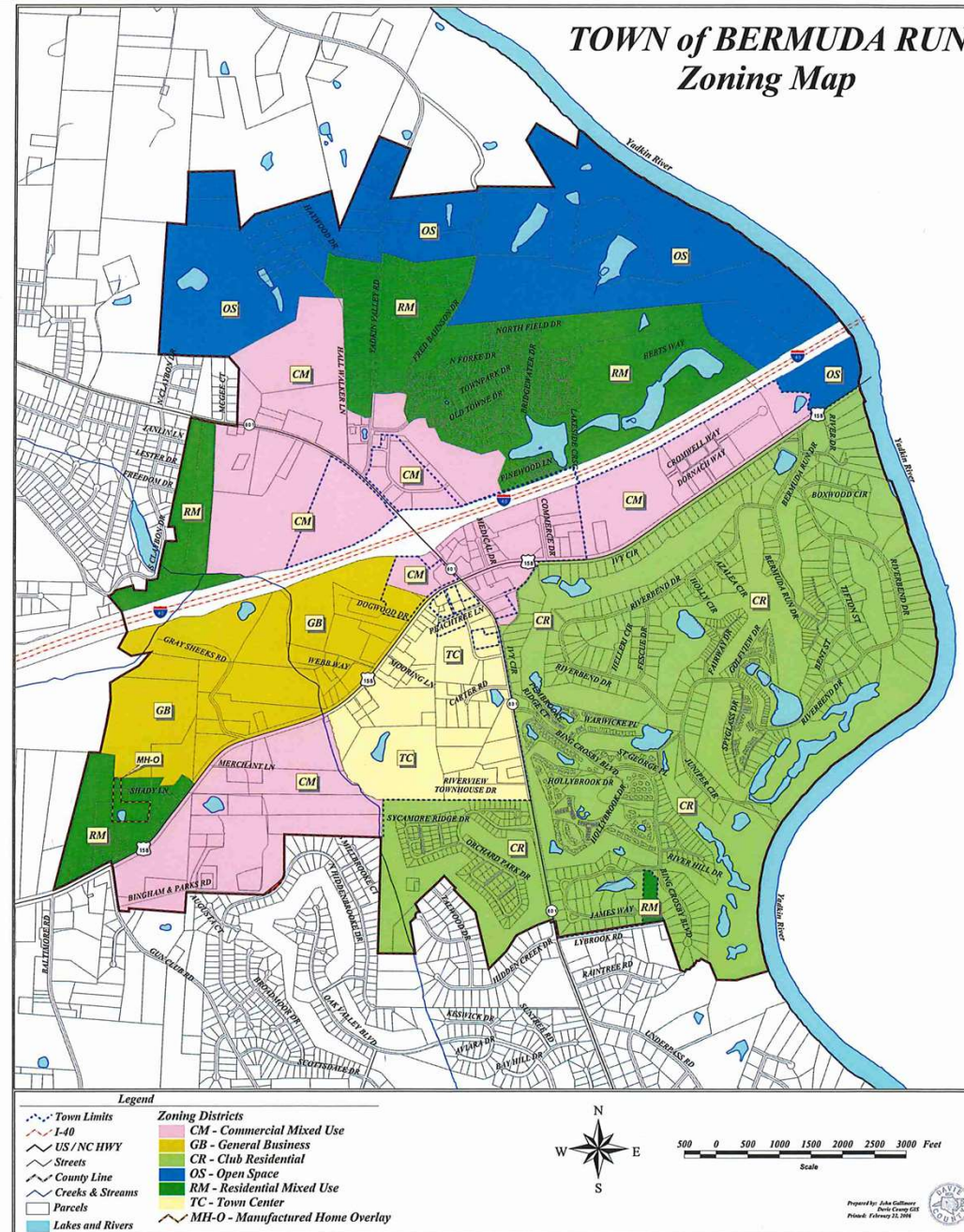


- **Buffer between town and county (or other municipalities)**
 - Allows municipalities to govern how land is developed in this buffer, specifically:
 - zoning and building regulations
- **Excluded from Municipal Taxes, services, and elected representation**
 - Planning Board Representation

Zoning Map - 2023

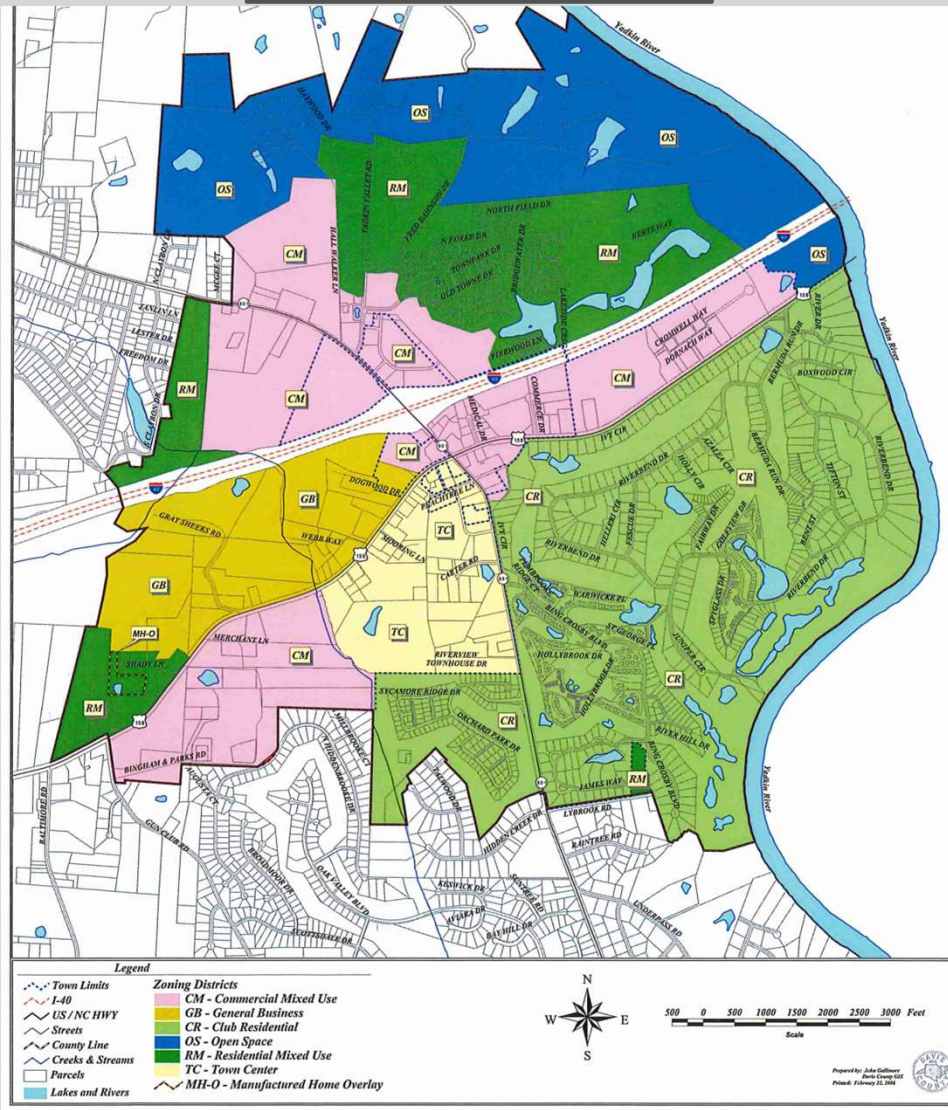


Zoning Map - 2006

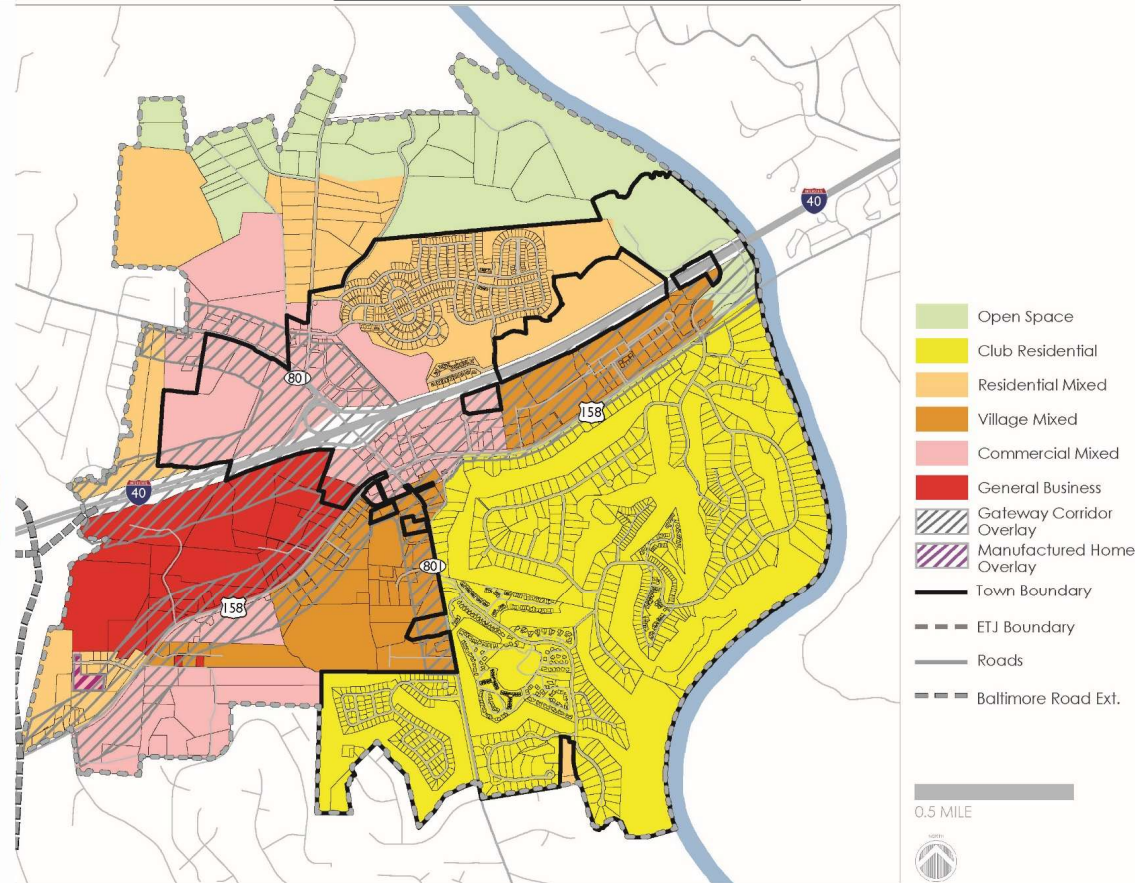


Zoning Map - 2006 vs 2023

2006 Zoning Map



2023 Zoning Map



After 17 years (2006 to 2023), little change in zoning within town and ETJ

Uses and Conditions by Zone

Key Points

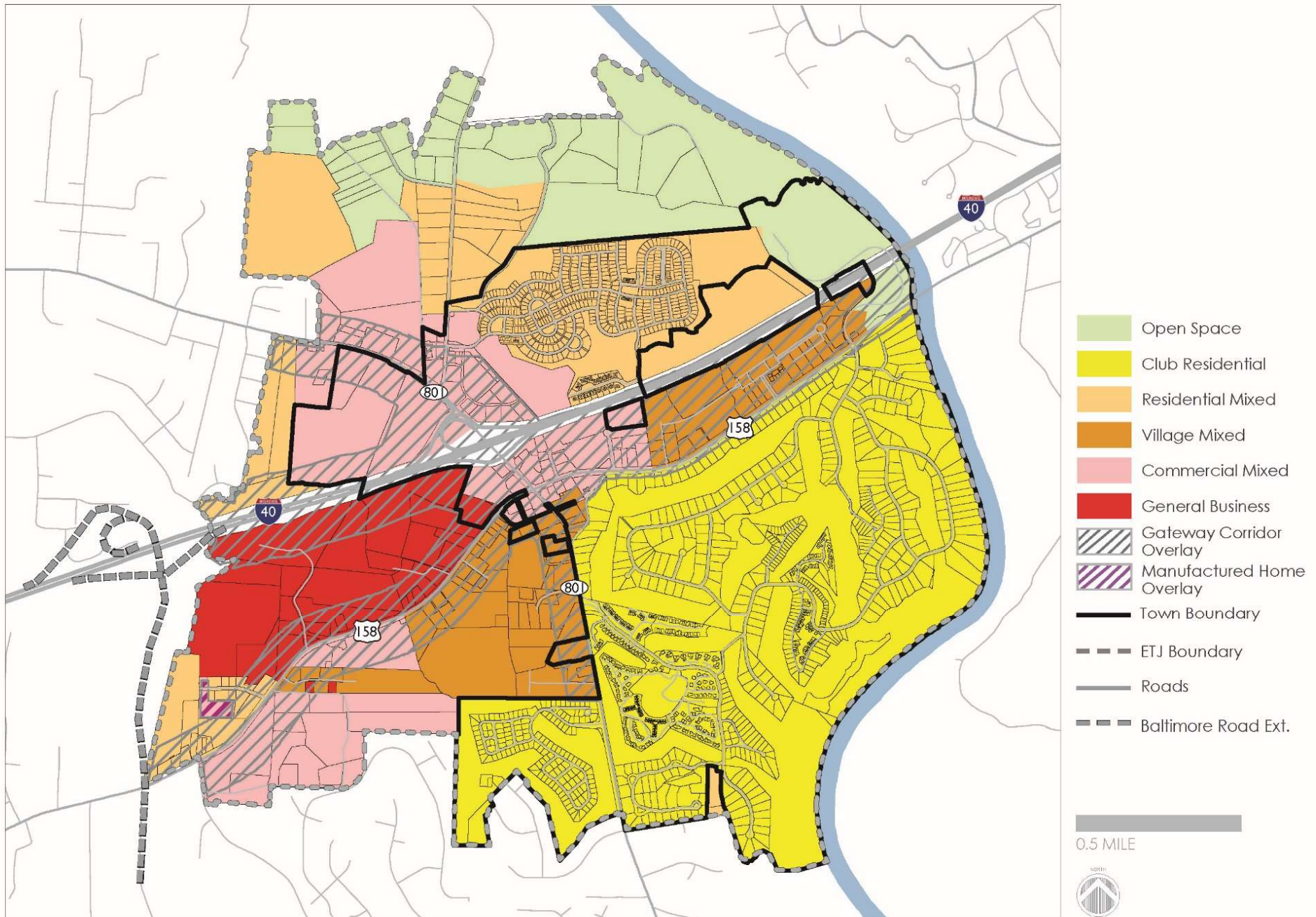
- Every Zoning category has a set of allowed “uses” (see table)
- Many uses apply across multiple zoning categories
 - CM and VM share 88 uses
 - EG - Both Restaurant, Retail, Multi-Family Residential
 - CM - Residential - Up to 8 Units/Acre
 - VM - Residential - Up to 15 Units/Acre
- Available on Town Website

CHAPTER 3

ZONING DISTRICTS

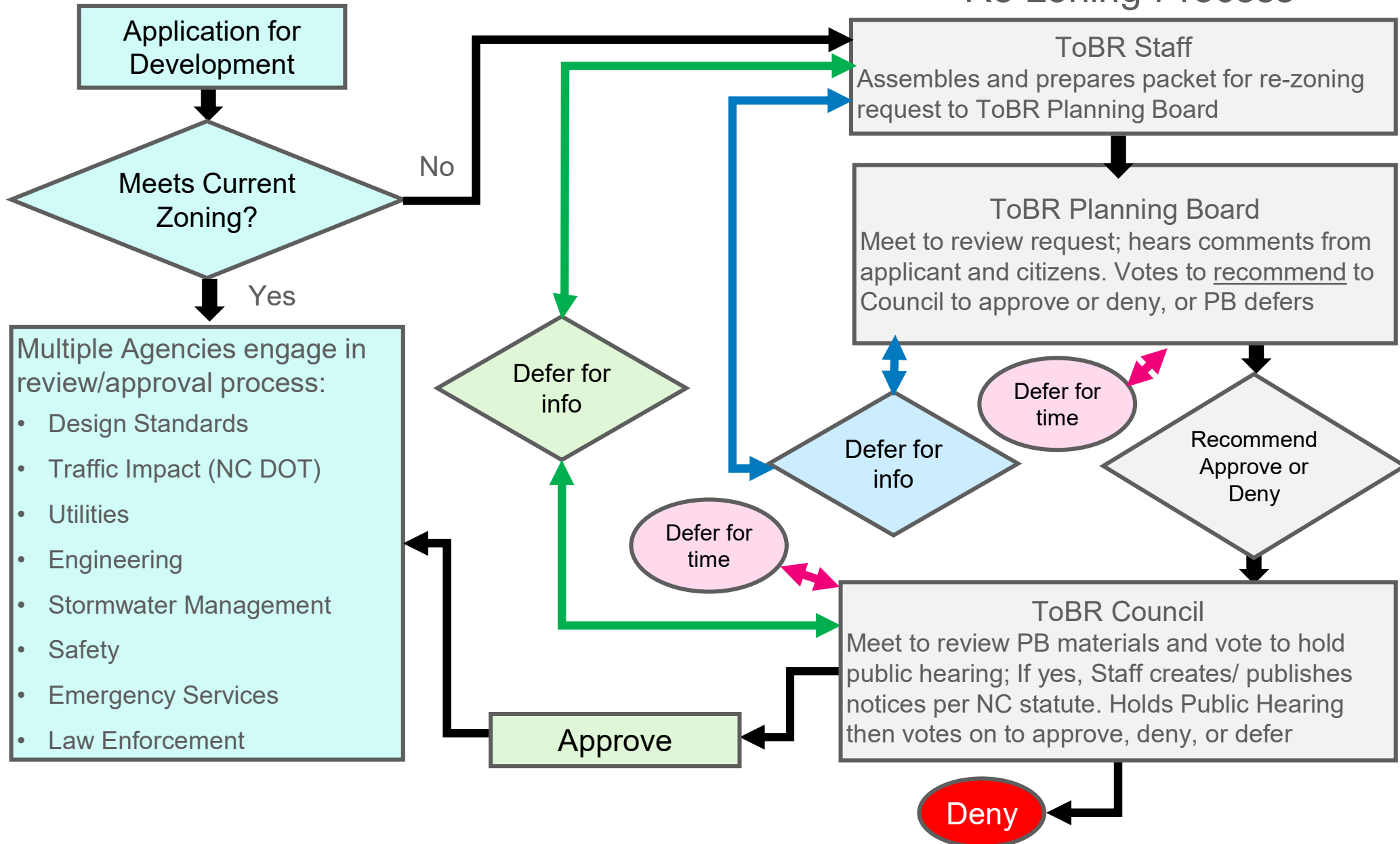
P = Permit from Zoning Administrator	DISTRICTS								Additional Conditions
S = S.U.P. from Board of Adjustment									
P/C = Permit from Zoning Administrator; use must meet additional conditions									
S/C = S.U.P. from Board of Adjustment; use must meet additional conditions									
"-" = Not permitted									
"U" = Uses determined by underlying district	RESIDENTIAL			OVERLAY		MIXED-USE		BUS.	
USES	OS	CR	RM	MH-O	GC-O	VM	CM	GB	
PROFESSIONAL OFFICE & MEDICAL USES									
Clinics	-	-	-	U	U	P	P	P	
Health services, miscellaneous	-	-	-	U	U	P	P	P	
Hospital	-	-	-	U	U	P/C	P/C	P/C	9.32
Medical and surgical offices	-	-	S	U	U	P	P	P	
Recreation services, outdoors	P/C	S/C	S/C	U	-	P/C	P/C	P/C	9.47
Recreational vehicle park	-	-	-	-	-	-	-	-	
RESIDENTIAL USES									
Accessory dwelling unit, attached	P/C	P/C	P/C	U	U	P/C	P/C	-	9.3
Accessory dwelling unit, detached	P/C	P/C	P/C	U	U	P/C	P/C	-	9.3
Boarding or rooming house	-	-	-	U	U	P/C	P/C	-	9.11
Dormitory	S/C	-	-	U	U	P/C	P/C	P/C	9.22
Manufactured home, Class A	-	-	-	P/C	-	-	-	-	9.35
Manufactured home, Class B	-	-	-	-	-	-	-	-	
Manufactured home, temporary	-	-	-	-	-	-	-	-	
Manufactured home park	-	-	-	-	-	-	-	-	
Manufactured home subdivision	-	-	-	P	-	-	-	-	
Residential, duplex	P/C	-	P/C	U	U	P/C	P/C	-	
Residential, multi-family	-	S/C	S/C	U	U	P/C	P/C	P/C	9.49

Zoning Map - 2023

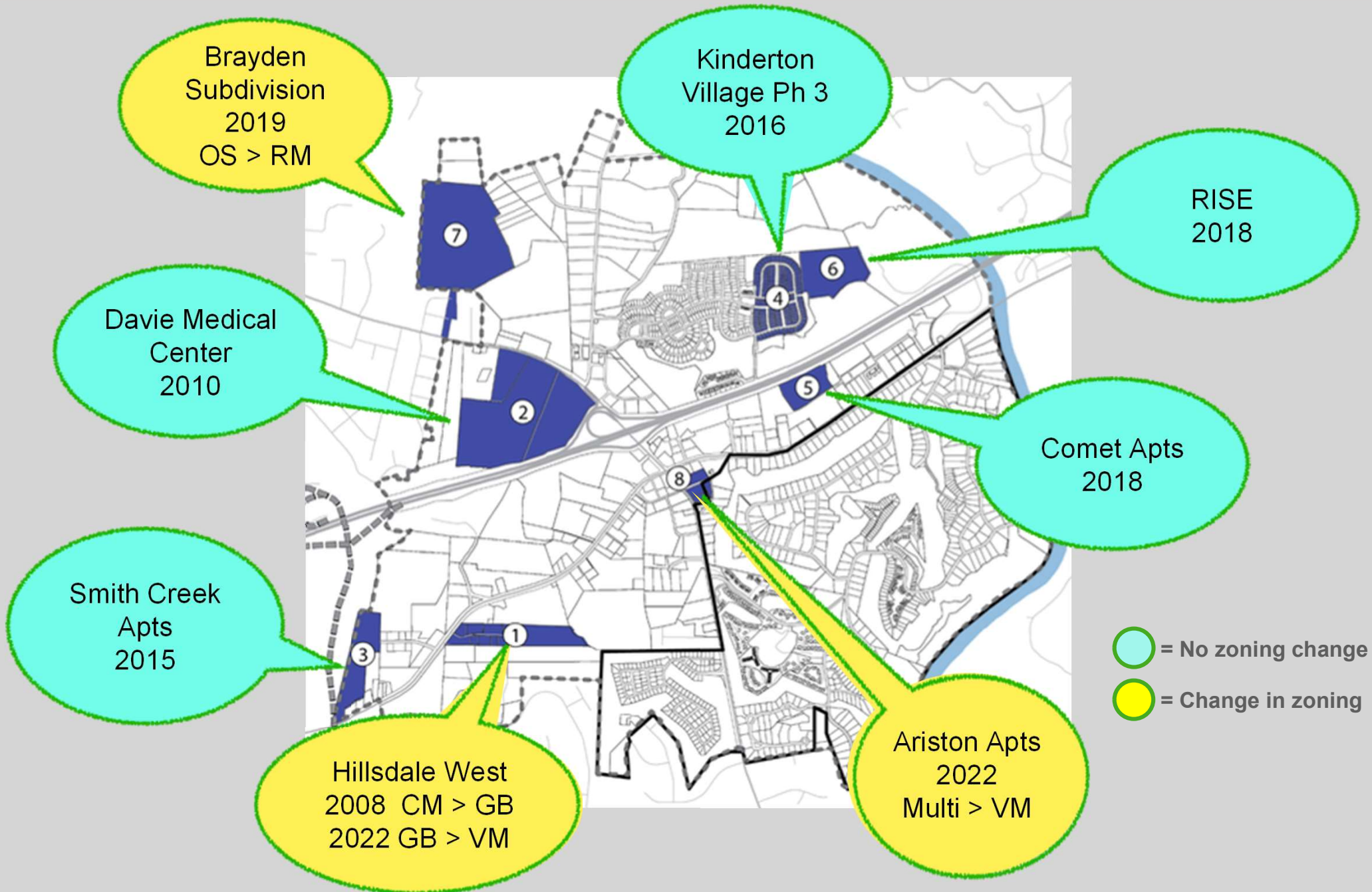


Property Owner/Developer

Re-zoning Process



Development Projects 2008-2022



Questions?

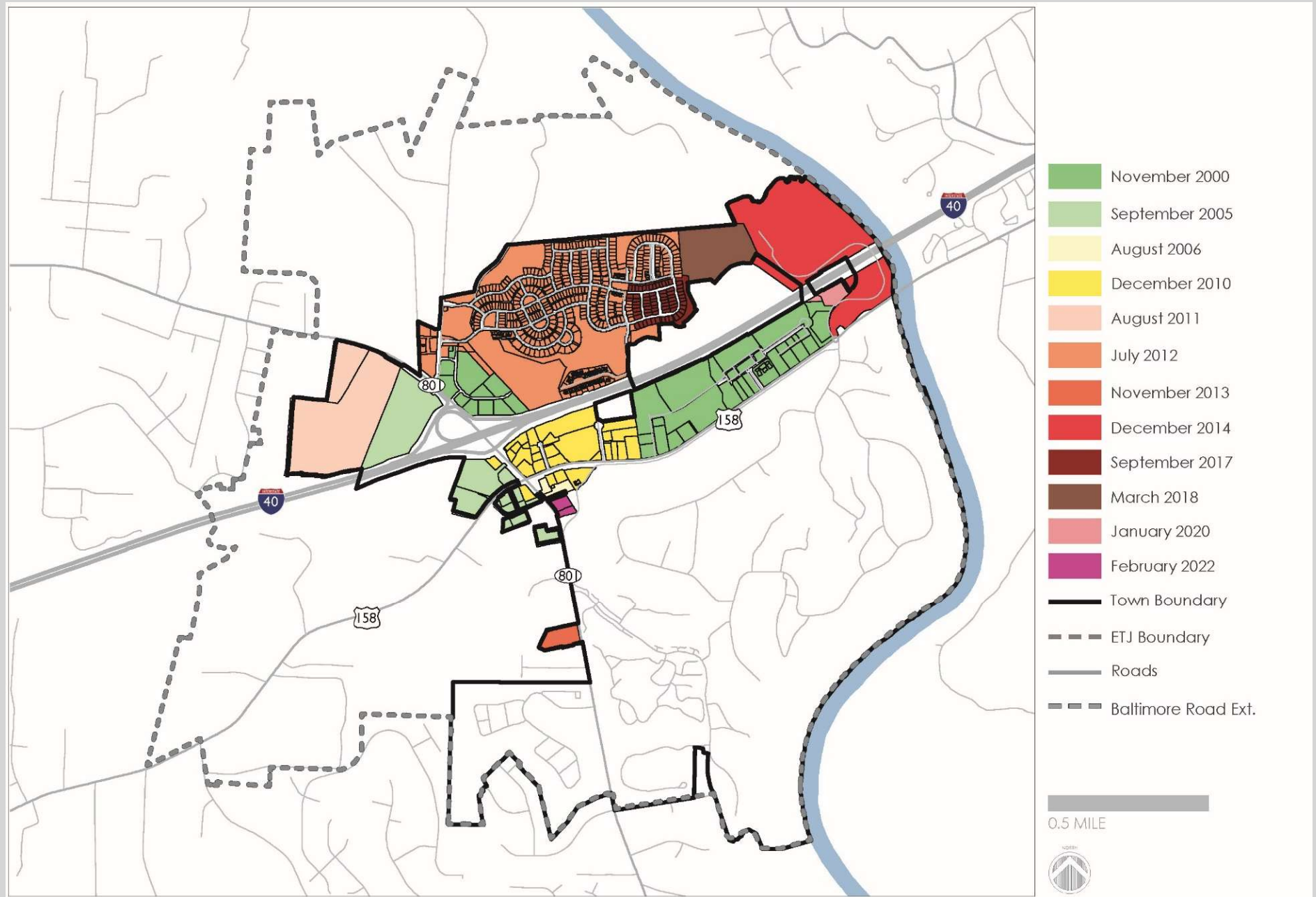
ANNEXATION

- **Town adds land to its jurisdiction**
 - Extends services
 - Laws and Town Ordinances
 - Voting Privileges
- **Voluntary: Contiguous or Non-Contiguous**
- **Involuntary: Mostly eliminated**
- **Impact of 2012 Statute Changes**
 - From Majority to ALL for voluntary
 - Legislative Action for Involuntary
- **Typically requested by developers**

- **Access to town support/oversight**
- **Municipal Government Representation**
 - Voting, Participation in town leadership (Council, Mayor)
- **Town Services (where applicable)**
 - Trash and recycle services
 - Leaf pickup
 - Brush pickup
 - Community Officer
 - Road maintenance (town roads)
- **Subject to town Property Taxes**
 - \$0.15/\$100 Valuation (tax capped per Town Charter)

- Added town revenues - property taxes, other revenue streams
- Commercial and multi-family developments are typically revenue positive due to reduced town services required (trash, leaf/brush)
- Single family housing communities require most/all services resulting in greatest expense to town
- Road, pedestrian, and stormwater infrastructure maintenance costs will increase over time
- Long-term costs are greatest unknown of annexation

Annexation History - since 2000



Questions?

10/70 PROVISION

From the NC Department of Environmental Quality...

With the 10/70 provision, a local government can use 10% of the non-critical area of each watershed within its jurisdiction for new development and expansions to existing development up to a 70% built-upon area limit ...

The 10/70 provision is available within WS-II, WS-III, and those WS-IV water supplies where the local government allows only development using the low-density option.

The 10/70 provision is considered a "high-density" option and therefore requires a 100-foot buffer along all perennial streams when being utilized.

- Watersheds
- Water Supply Watersheds (WSW)
- Non-critical areas
- Built-upon
- High-density option

River Basin

A river basin is an area drained by a river and all of its tributaries. A river basin is made up of many different watersheds.



Watershed

A watershed is an area of land that drains all the streams and rainfall to a common outlet such as the outflow of a reservoir, mouth of a bay, or any point along a stream channel.

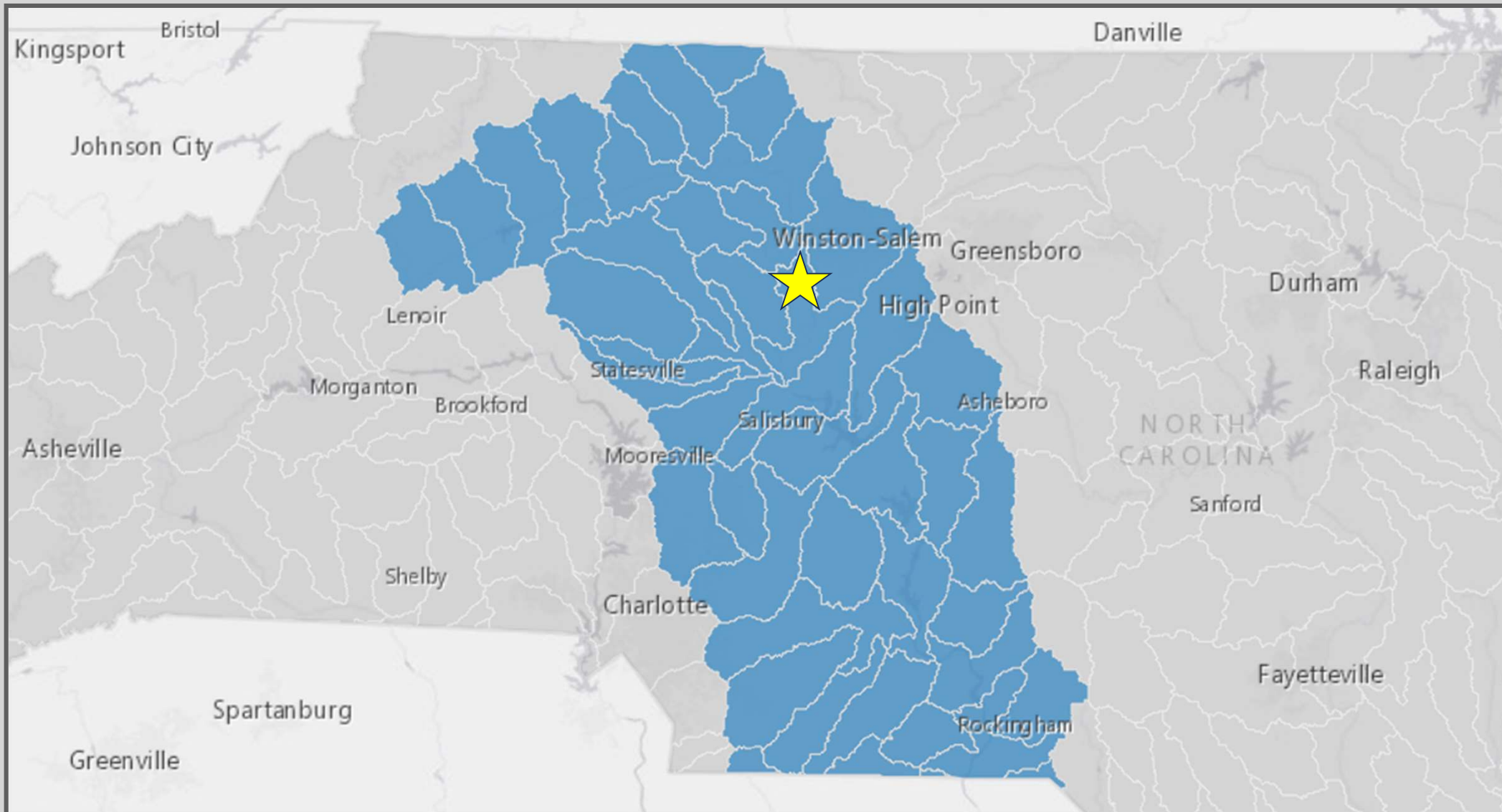


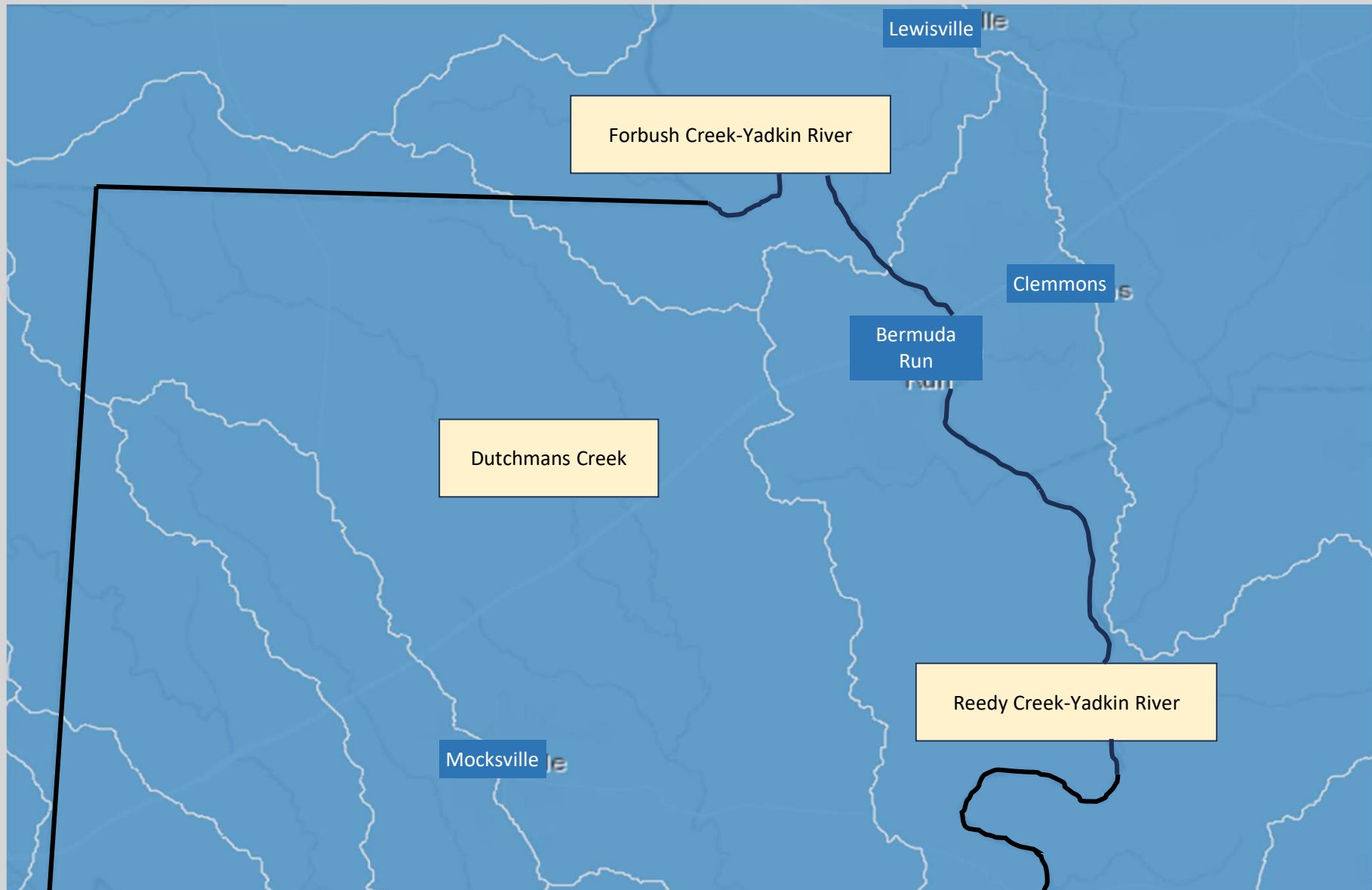
Water Supply Watershed (WSW)

A water supply watershed is an area from which water drains to a point and the water is then used as a source for a public water supply.

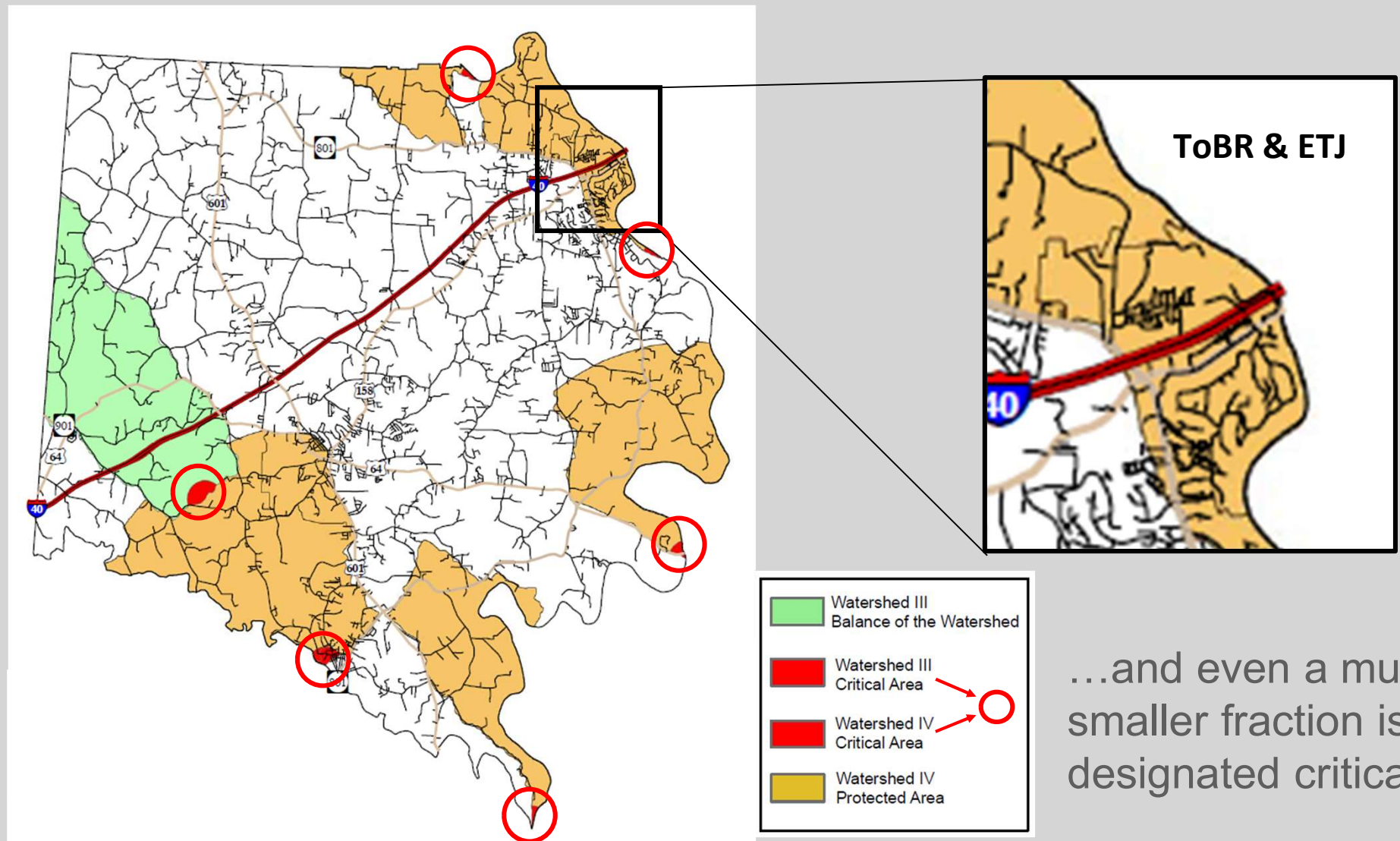
NC River Basins (17)





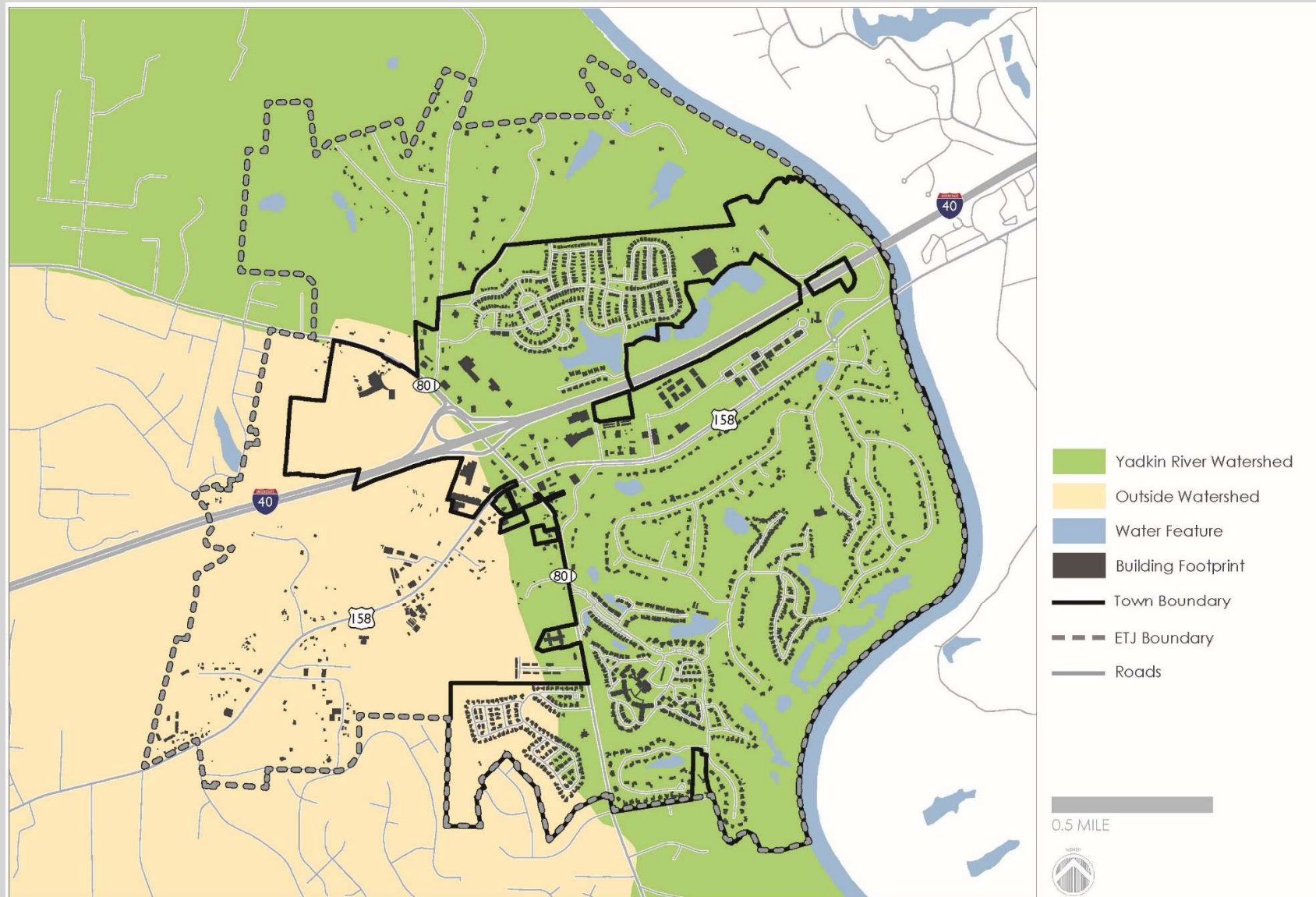


While 100% of Davie County is in a Watershed, only a fraction is designated by the NC DEQ as protected Water Supply Watershed...



...and even a much smaller fraction is designated critical.

Green represents the areas in ToBR and ETJ where Water Supply Watershed protections apply are therefore subject to 10/70 Provisions



The water supply watershed protection program is designed to protect the surface water supply sources of the State.

The program designates the water supply (WS) watersheds as:

- WS-I (most stringent stormwater requirements),
- WS-II,
- WS-III, and
- WS-IV (least stringent requirements). ←ToBR & ETJ

Water Supply Classification	Low-density Threshold	Low-density Design Requirements	High-density Design Requirements
WS-IV (Protected Area)	24% built-upon area or two single-family residential development per acre (Default)	Stormwater runoff from development transported by vegetated conveyances to the maximum extent practicable.	Control runoff from the first inch of rainfall. New development density not to exceed 70% built-upon area. (With 10/70)

Built-upon area is a measure of the hard surfaces or impervious cover for a site. For each piece of land, divide the amount (area) of impervious surface (e.g., structures, roads, parking lots) located on site by the total land area under consideration. Multiply the resulting fraction by 100 to get the percent built-upon area.

Example: 10 acres of land with 2 acres of built-upon surface is calculated as 20% built-upon/impervious

The high-density development option allows for more built-upon area on a site through the use of stormwater management techniques to mitigate the effects of the increased impervious surface and the resulting increased rainfall runoff. For WS-IV, low-density development may allow up to 2 dwelling units per acre (24% built-upon area). With the high-density option, development can potentially reach a 70% maximum built-upon area, depending upon the watershed classification.

Example: a 10 acre parcel may have no more than 2.4 acres (24%) built-upon for low-density and a maximum of 7.0 acres (70%) for high-density—if the 10/70 allocation is granted.

Important: the term “high-density” used for 10/70 does not relate to the number of housing units (e.g., 15 units per acre); instead, it is a measure of impervious surface—regardless what type of development is proposed and the underlying zoning category and uses that exist.

Quote from the NC DEQ on their FAQ webpage:

Will this program stop development?

No! The only classification which prohibits new development (WS-I) contains no privately-owned land. For other classifications, using density bonuses, density averaging or other flexibility measures built into the rules gives communities and developers ample possibilities for growth.

So, the use of words like, “variance”, “exception”, “rezoning” are inaccurate as the 10/70 was designed to both protect our water supply watershed and permit development growth (when approved by local governments).

- In 1994, NC DEQ defined Water Supply Watershed areas/acreage and classifications across the state
- Davie County approved 10/70 provisions in/around this area prior to formation of ToBR
- Early 2000's (after ToBR & ETJ created), County allocated 300 acres for town to use to grant 10/70 provision
- So, areas in/around ToBR/ETJ in the WSW have a mix of 10/70 allocations granted by the County and granted by town

- Since 2006, the town has received and approved several requests for 10/70 allocation
- Some examples include: Goodwill, Walgreens, Sheets, Calvary West, Ariston Place.
- In a recent review of the town's 10/70 tracking (against the 300 acres allocated), some issues were raised
- While the town has allocated only a small percentage of the 300 acres for 10/70, concerns were raised with both process and accuracy
- The town engaged NC DEQ who will perform an audit at both the County and Town level

- The County and NC DEQ are working to schedule the date of their audit
- The town is awaiting notification from NC DEQ on the timing the town's audit
- So, at this time the town does not yet know:
 - the timing of the town NC DEQ audit,
 - any findings/recommendations from that audit, or
 - any remediation that may be needed.
- Therefore, the Council has agreed to take no action on any 10/70 requests until further notice

Questions?

COMPREHENSIVE PLAN / FUTURE LAND USE

- 2012-2017-2023: Each version builds on the previous
- As priorities and strategies change, so too does the Comprehensive Plan
- Economic & strategic drivers—Country, State, Region, and County—impact how we plan
- Guides strategic (future) direction; is not an operational guide
 - For example, zoning ordinances are current/operational
- Community survey and input driven (from ToBR, ETJ, and beyond)
- While future driven, current environment impacts community sentiment (2022 survey coincided with four proposed high-visibility development projects)
- Published and available via town's website

OBJECTIVES & STRATEGIES

OBJECTIVE 1 - Maintain and build upon the established character of the community.

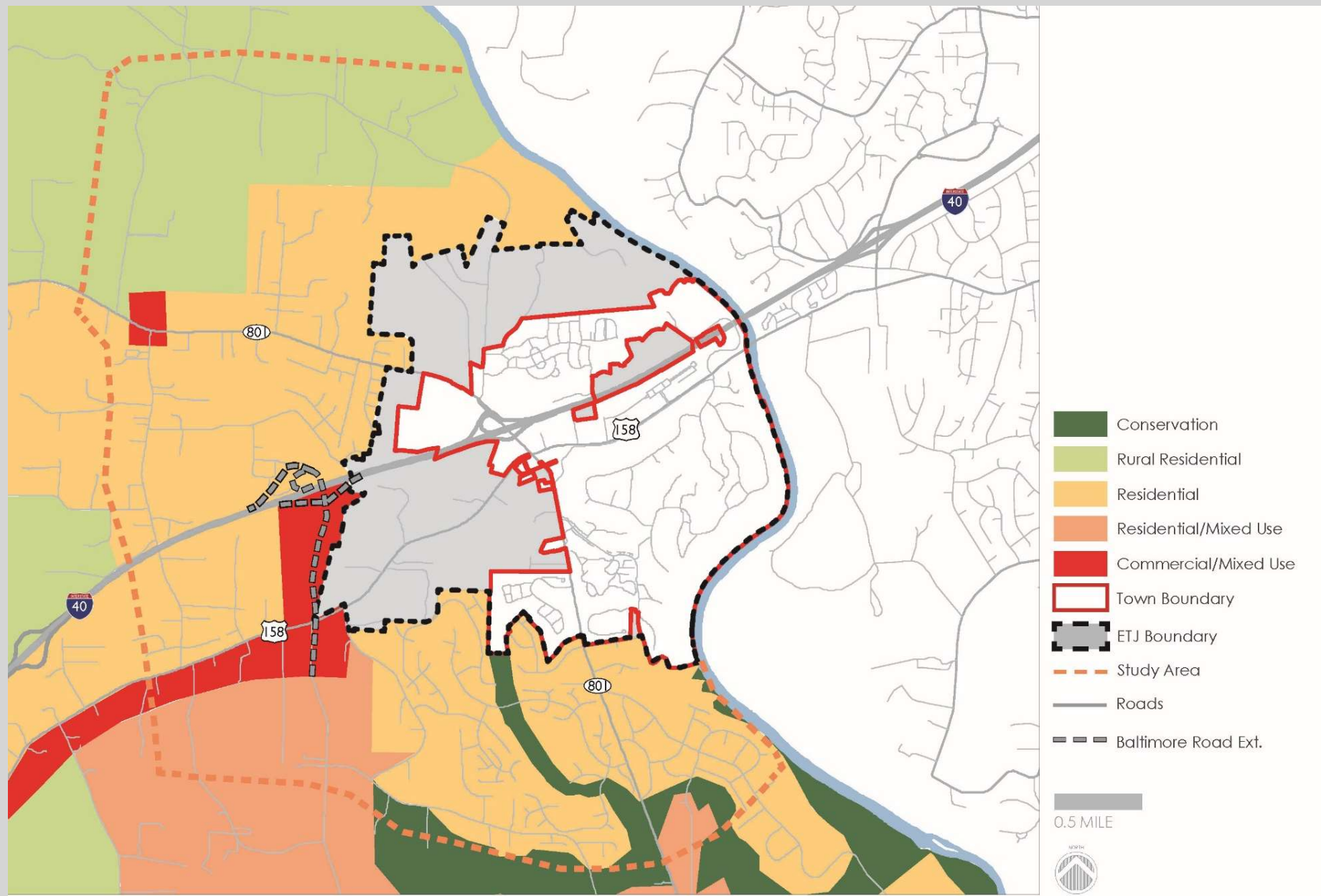
Strategy 1.1 Utilize the Future Land Use Map to guide growth and development that is compatible with the existing characteristics of the community, surrounding land uses, and available infrastructure and services.

Strategy 1.2 Evaluate the Town's land use regulations and zoning map for consistency with the Comprehensive Plan and update as necessary.

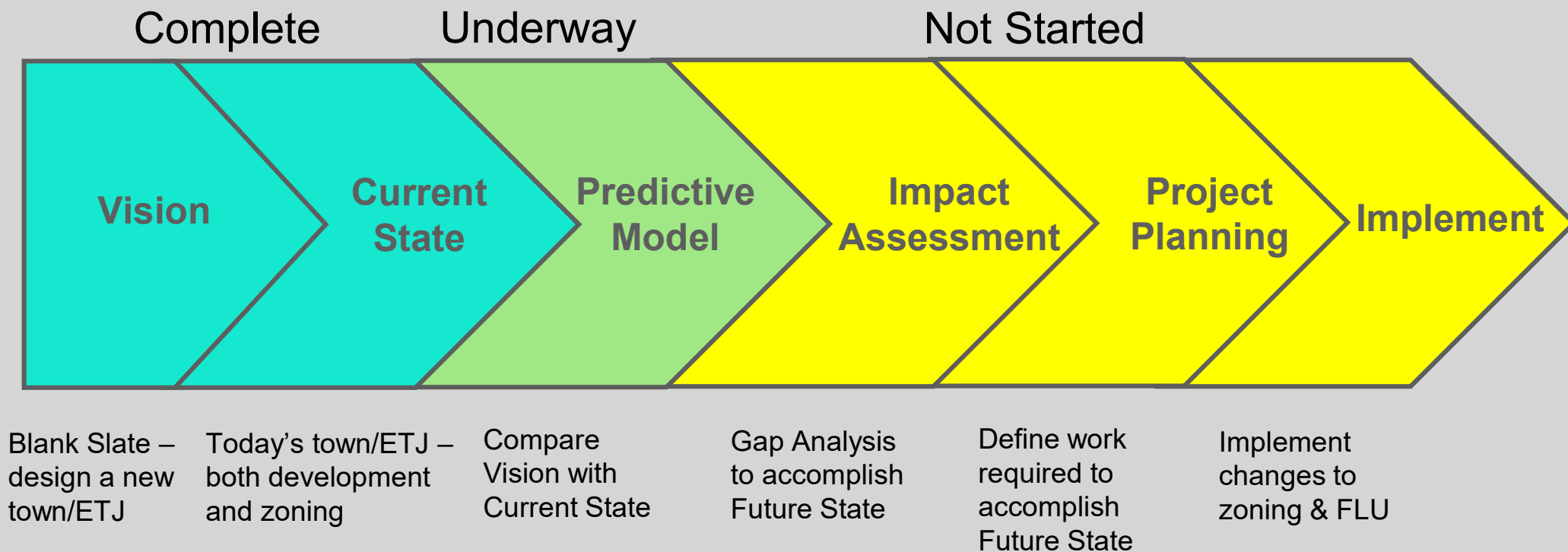
Strategy 1.3 Evaluate the effectiveness of the Master Plan Overlay District and determine if it is still needed to achieve the vision for the areas covered by the overlay district.

- Changes to land use has significant long-term impacts in town evolution and growth (those two words are not synonymous)
- Land use changes will likely cascade to zoning changes
- Because potential developers review our Comprehensive Plan, Future Land Use, and Zoning, this has a real impact on who chooses to invest/build here
- Prior evaluations of Future Land Use were incremental—this effort is much more “blank canvass” approach to focus on highest/best use of land
- Given this work has town, ETJ, and County implications, we must be thoughtful and collaborative...
 - Consulting and Legal input & approval
 - Council input & approval
 - Collaboration with County
 - Community education

Davie County Future Land Use (2019)



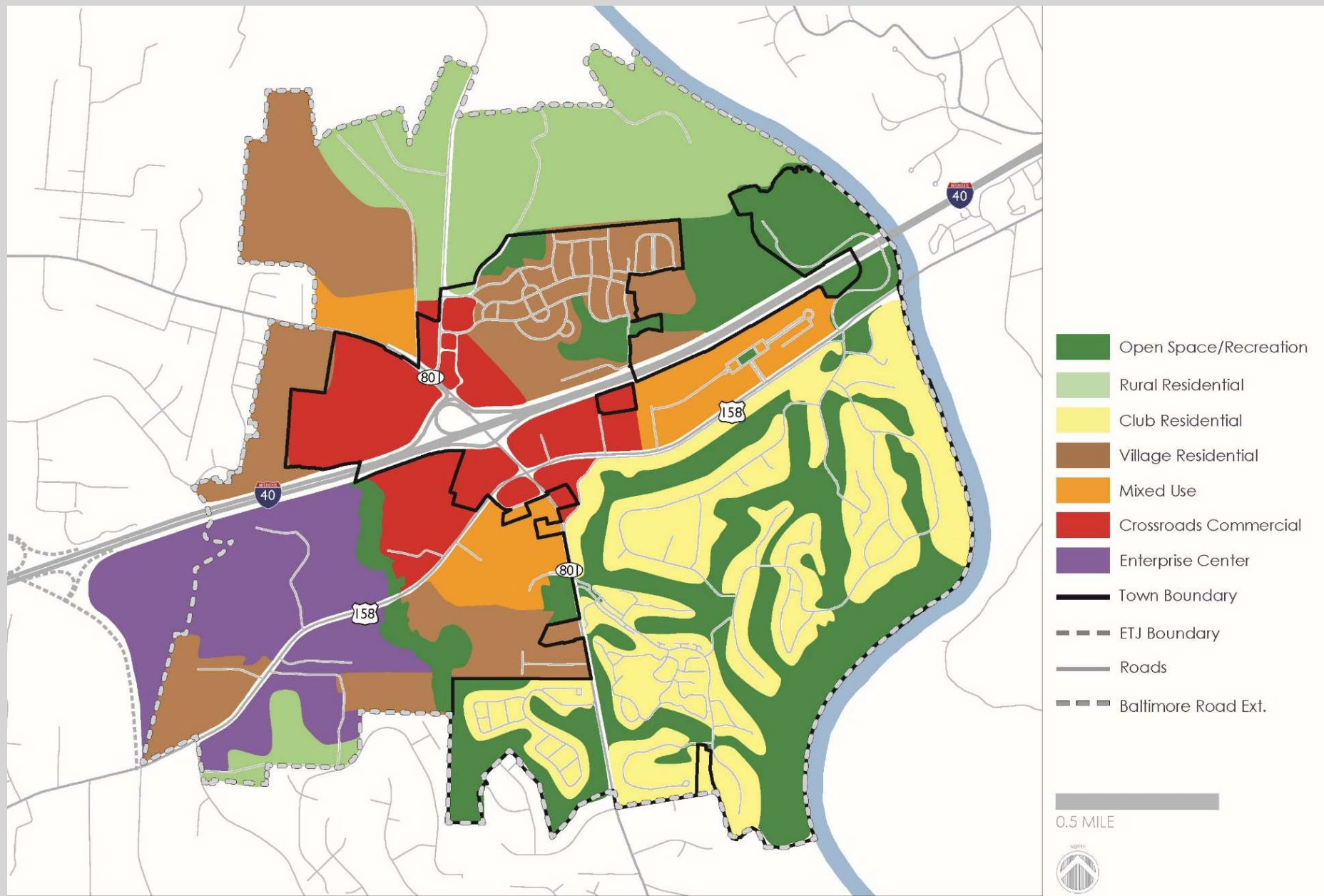
After the April publication of the Comprehensive Plan, a team comprised of: Mayor, Manager, representatives from both Town Council and Planning Board, and consulting firm (Benchmark), began work on Future Land Use.

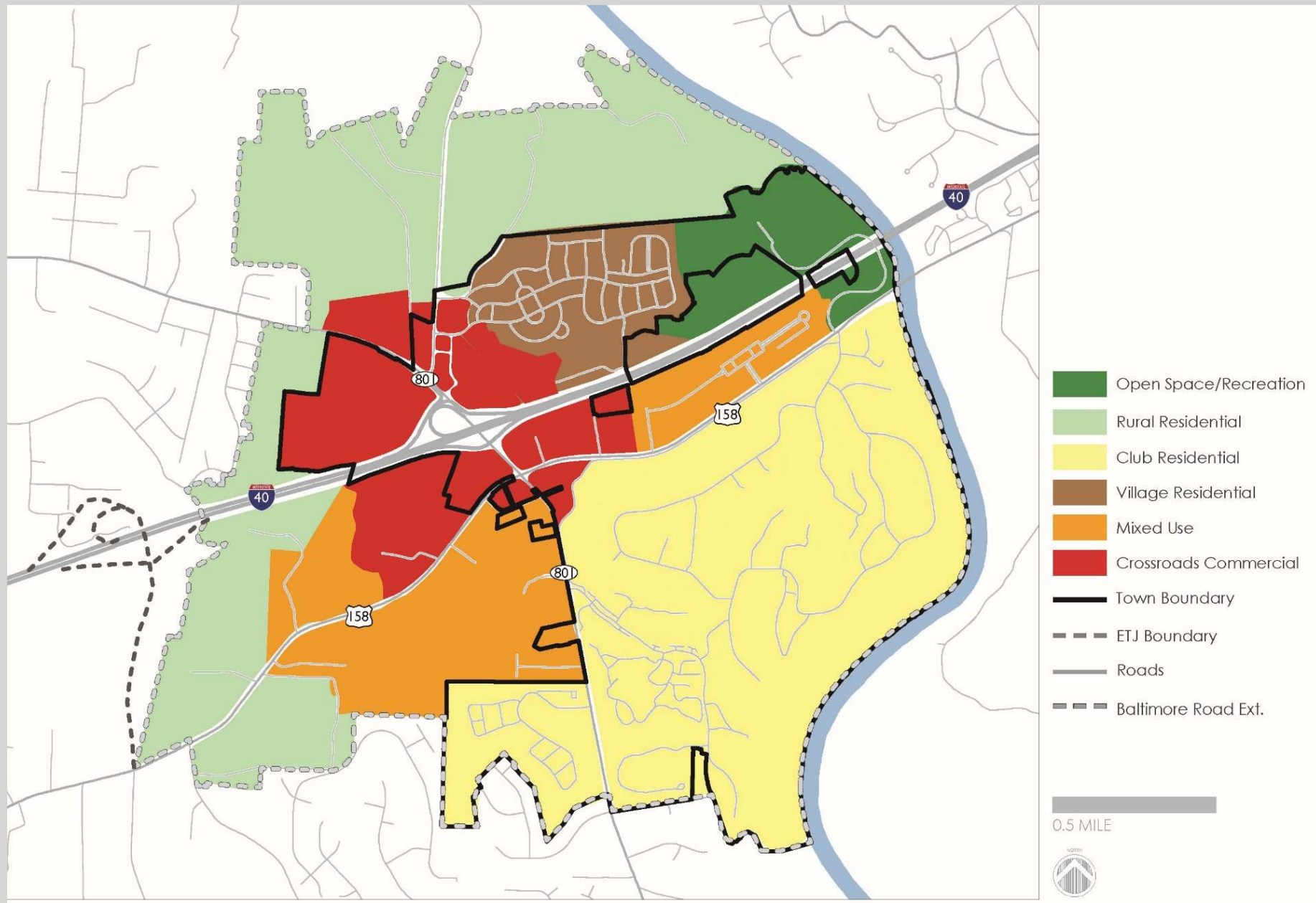


“Houston, we’ve had a problem.”

Apollo 13 – April 13, 1970

- As part of the work to update the 2023 Comprehensive Plan, the Planning Board chose to replace “Rural Residential” with “Residential Growth.”
- The intent of this change was to leverage Residential Growth to reflect “subdivision” style growth in areas defined as either Rural Residential or Village Residential.
- When reviewing this proposed change, the Council directed the Planning Board to retain the original names to promote continuity in terms (with prior Comprehensive Plans).
- So, while the name on the FLU map was changed back to Rural Residential, the map details were not updated to reflect this reversal; the map now reflects much more Rural Residential than intended.
- Additionally, it was later discovered that the definitions of Rural Residential and Village Residential had been revised, yet those changes were also not reversed.





2017 vs 2023 Future Land Use

2017

- Open Space/Recreation
- Rural Residential
- Club Residential
- Village Residential
- Mixed Use
- Crossroads Commercial
- Enterprise Center
- Town Boundary

2023: Areas in outer perimeter of ETJ now labeled as Rural Residential

2023

- Open Space/Recreation
- Rural Residential
- Club Residential
- Village Residential
- Mixed Use
- Crossroads Commercial
- Town Boundary
- ETJ Boundary
- Roads
- Baltimore Road Ext.

0.5 MILE



2017: Areas in outer perimeter of ETJ defined as Village Residential & Enterprise Center

- Yet another impact of the Rural Residential FLU map error was the discovery that in our Zoning Ordinance language (Section 10.1), only specific land use categories could leverage the 10/70 Provision:

(4) *Use limitations.*

Sites eligible for consideration include only those sites identified on the Future Land Use Map as Village Residential, Mixed Use Center, Crossroads Commercial and Enterprise Center. Under no circumstances shall any use

- So, the combination of the FLU map error and the limitation of which categories of land use could leverage 10/70, large areas of land—formerly approved for 10/70 allocation—were suddenly and unintentionally excluded from qualifying for a 10/70 allocation
- The change to the FLU map designation was not intended to block/limit the use of the 10/70 Provision

- The most urgent correction needed was to address the problem of the 10/70 issue on areas that were now impacted by the error.
- Additionally, the Council determined that no 10/70 limitation should be placed on any land use that falls into the WS-IV watershed.
- So, at the May 23rd Council Agenda meeting, the Council voted to hold a public hearing at the June 13th Council Meeting to consider revising the ordinance to remove the limitation language.
- With the notifications via newspaper, social media, and town e-mail, the public hearing was held on June 13th and the Council voted unanimously to approve the revision:

Text Amendment

Proposed text amendment for removing Future Land Use designations as basis for site consideration criteria in § 10-C (4) of the Zoning Ordinance. The new text will be *bold, underlined and italicized*. Deleted text will have a strikethrough.

(4) **Use limitations.** ~~Sites eligible for consideration include only those sites identified on the Future Land Use Map as Village Residential, Mixed Use Center, Crossroads Commercial and Enterprise Center. Under no circumstances~~

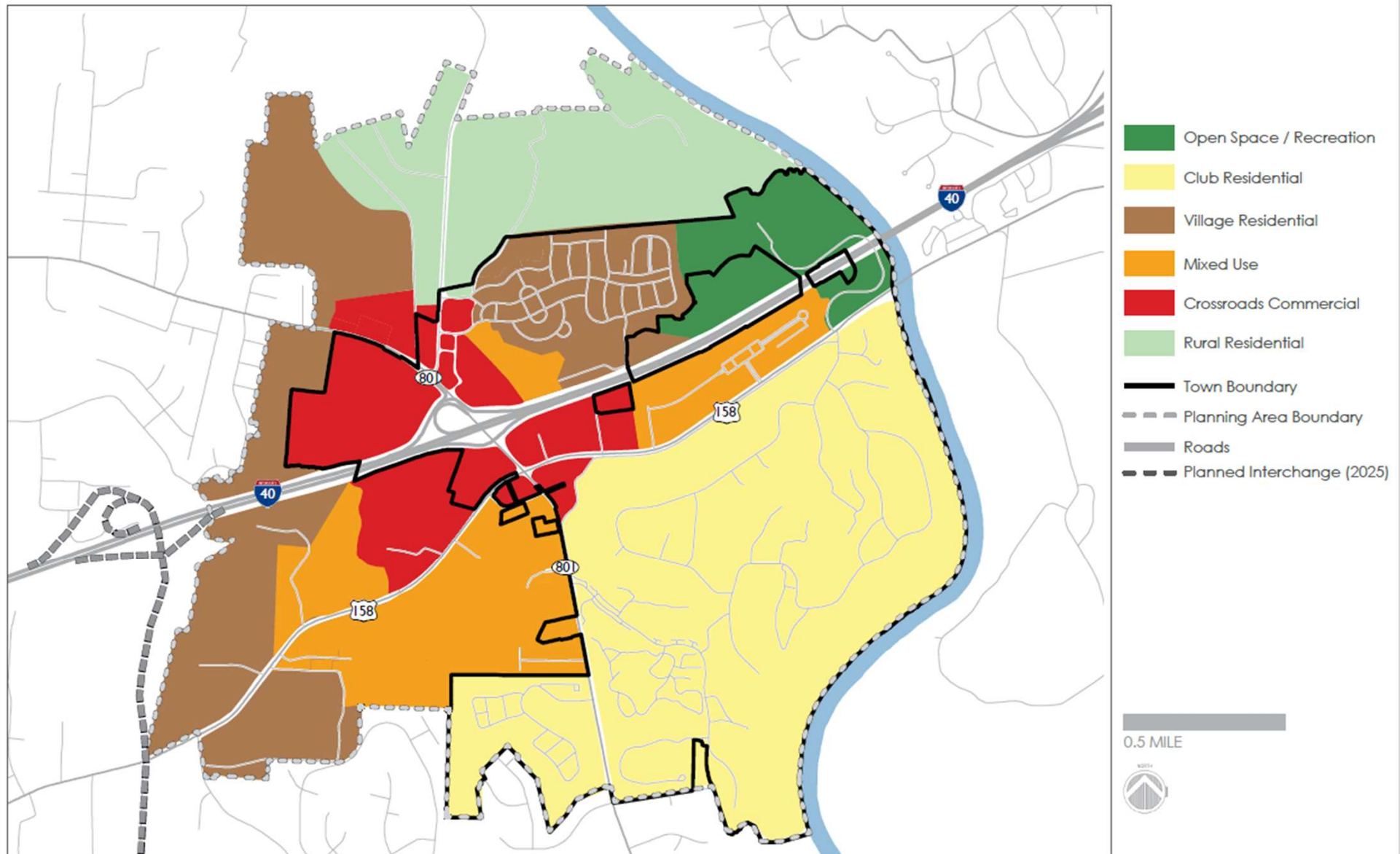
Although the 2023 Comprehensive Plan is only a few months old, a recommendation will be coming to the Council to hold a public hearing to approve corrections to the Comprehensive Plan:

1. Correct the FLU map to reflect the areas originally shown in 2017 as Village Residential plus the new areas near I-40 and US 158 as Village Residential as well (draft revised FLU map on the next page)
2. Revise the description of both Rural Residential and Village Residential to reflect similar language as defined in 2017

While clearly the discovery of these errors is both embarrassing and frustrating, it is our hope that by being honest and transparent with this issue, most people will recognize that mistakes happen. We can and will use this as an opportunity to learn and improve.

2023 Proposed Revised FLU

MAP 4.1 FUTURE LAND USE



Questions?

NEXT STEPS

Town Hall

August 22, 2023

WinMock Barn

