

ORDINANCE NO. 2019-03

**AN ORDINANCE AMENDING THE
BREVARD MUSIC CENTER
PLANNED DEVELOPMENT DISTRICT
(Amending Ordinance 11-09 and Ordinance 2017-23)**

WHEREAS, a public hearing was conducted on February 18, 2019, to amend the Brevard Music Center Planned Development District; and

WHEREAS, the amendment was considered by the Brevard Planning Board at their December 18, 2018 meeting and recommend City Council approve the amendments as presented; and

WHEREAS, the amendment was considered directed to the Parks, Trails & Recreation Committee for consideration; and

WHEREAS, the Parks, Trails & Recreation Committee met on February 20, 2019 and voted unanimously to recommend the full City Council grant a one-year extension for the sidewalk along Andante Lane connected it with the sidewalk on Probart Street and the remainder of the path and sidewalk system be complete by December 31, 2021; and

WHEREAS, the Parks, Trails & Recreation Committee met on March 13, 2019 in special session to reconsider this request, and voted unanimously to grant the time extension to coincide with the City's own pedestrian masterplan timeframe (Resolution 2018-21) passed August 20, 2018; and

WHEREAS, the Brevard Music Center has agreed to discuss amendments to their masterplan with the Planning Board to be sure all pathways constructed and materials utilized are agreed upon in an amendment to recommend the full City Council; and

WHEREAS, the City Council of the City of Brevard finds that the proposed amendment is consistent with the City of Brevard Comprehensive Plan, specifically the following sections:

ELEMENT 1: ARTS & CULTURE

GOALS

With a diverse range of physical and programmatic cultural resources available to residents and visitors year-round, Brevard will:

- *Have arts, culture, and creativity integrated into community life.*
- *Be a nationally recognized destination for arts, music, and cultural events.*

OBJECTIVE 1.3: Increased participation and patronage of existing arts and culture activity enters and events.

POLICY 1.3.B: Develop a walking and cycling connection between downtown and Brevard Music Center.

POLICY 2.1.C: Prioritize transportation and utility investments within corporate limits to support infill development. This includes evaluating the City's current water and sewer systems to identify gaps in service and under-served areas within the City, prioritizing these areas based upon their potential for supporting new development, and marketing these investments as incentives to attract new development.

and

WHEREAS, the City of Brevard, after hearing all persons wishing to comment on the amendment, desires to approve said amendment.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BREVARD, NORTH CAROLINA THAT:

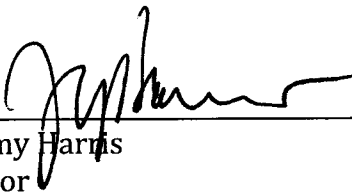
SECTION 1. The Brevard Music Center, by June 30, 2021, shall construct pathways and sidewalks as depicted on their Masterplan dated September 7, 2017 and approved via Ordinance 2017-23.

SECTION 2. In accordance with N.C.G.S 160A-364, as amended and Brevard City Code, the Brevard Music Center Planned Development District List of Conditions is hereby amended as described herein.

SECTION 3. If any provision of this Ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the remaining provisions of this Ordinance.

SECTION 4. This Ordinance shall become effective upon its adoption and approval.

Adopted and approved upon first reading this the 18th day of March, 2019.




Jimmy Harris
Mayor

ATTEST:



Jill Murray, CMC
City Clerk

APPROVED AS TO FORM:



Michael K. Pratt
City Attorney

EXHIBIT B
Ordinance Number 2017-23
(Amended Ordinance No. 2009-11)

BREVARD MUSIC CENTER PLANNED DEVELOPMENT DISTRICT:
LIST OF CONDITIONS

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8 1. **Definitions.** Within this List of Conditions, the following terms shall have the
9 meanings articulated:

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11 a. "District" refers to the Brevard Music Center Planned Development District,
12 as depicted on the Preliminary Master Plan (Ordinance No. 2017-23) as
13 shown on Exhibit A, which is created by the ordinance to which this List is
14 attached.
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16 b. "Final Master Plan" refers to the documents submitted by Brevard Music
17 Center as part of the Planned Development District, which are attached
18 hereto as Exhibit D and incorporated by reference.
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20 c. "UDO" refers to the City of Brevard Unified Development Ordinance in effect
21 as of October 16, 2017.
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23 2. **Future Development.**

- 24
25 a. **Compliance With Final Master Plan.** Future development within the
26 Brevard Music Center Planned Development District shall comply with the
27 Final Master Plan, a copy of which is attached hereto and incorporated herein
28 by reference, and with this List of Conditions. Only those uses enumerated as
29 uses in the District, including but not limited to height, bulk, mass, intensity
30 of use, etc. shall be authorized by the City Planning Director as the approving
31 authority. Modifications to the Final Master Plan shall be considered in
32 accordance with Chapter 16, Section 16.8 of the UDO.
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34 b. **Review of Development Proposals Within Future Development Zones.** The
35 Planning Board shall review applications for development within areas
36 designated as "Future Development Zones" on the final master plan. Such
37 development shall be considered as an intermediate modification to the final
38 master plan and reviewed in accordance with the procedures set forth in
39 Chapter 16, Section 16.8 of the UDO. In approving development within
40 future development zones, the Planning Board may attach fair and
41 reasonable conditions directly related to the standards in the ordinance
42 creating the District or the UDO, or to protect the public health, safety and
43 welfare; provided, however, Brevard Music Center shall not be required to
44 waive a vested right as a condition of final master plan approval. Except as
45 provided in this List of Conditions or as shown on the Preliminary Master
46 Plan, the UDO applicable standards of the UDO shall control. The Planning
47 Board may consider proposed development within a future development
48 zone to be a major modification and therefore deny such development on the
49 basis that it would be visually or functionally incompatible to the
50 surrounding area, injurious to the public health, safety, and welfare, or
51 detrimental to the value of adjoining property and associated uses.
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53 c. **Appeals and Hearings Regarding Major Modifications.** Brevard Music
54 Center may appeal any decision of the Planning Director or Planning Board
55 to deny approval of a final master plan in accordance with Section 16.8.E.6 of
56 the UDO. Brevard Music Center is also entitled to a hearing before City
57 Council upon a finding by the Planning Board that a final master plan
58 constitutes a "major modification". Hearings on these matters shall be heard
59 by City Council in accordance with Section 16.8.E of the UDO and shall be
60 considered under quasi-judicial procedures. The burden of proof of
61 producing evidence to support compliance with the development

62 specifications of the District and of the UDO shall rest with Brevard Music
63 Center.

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65 3. **Land Use.**

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67 a. **Allowable Land Uses.** Land uses may be permitted according to the
68 following table:

Allowable Land Uses
Dwelling-Single Family (Site-built)
Dwelling-Duplex
Dwelling-Multifamily 3-4 units/bldg, not including Condominium Buildings or multiple structures
Dwelling-Secondary
Bed and Breakfast Home
Bed and Breakfast Inns
Accessory Rental cottage / cabins
Artist Workshop
Adult / Child Day Care Home (Less than 6)
Adult / Child Day Care Center (6 or more)
Community Service Organization
Medical Services - Clinic, Urgent Care Center
Professional Services
Personal Services
Studio - Art, dance, martial arts, music
General retail consistent with the mission of Brevard Music Center and approved special events
Restaurant
Cultural or Community Facility
Meeting Facilities
Recreation Facilities, Indoor
Recreation Facilities, Outdoor
Theater, Live Performance
Media production
Metal products fabrication, machine or welding shop
Recycling - Small collection facility
Campground/Artist Colony/Summer Camp
Colleges/Universities
Religious Institutions
Schools - Elementary & Secondary
Schools - Vocational/Technical
Wireless Telecommunication Facility-Stealth
Agriculture
Parking
Swimming Pool
Fences
Religious Meeting
Contractor's Office and Equipment Shed
Seasonal Structures
Special events

- 70 b. **Dimensional Requirements.** Structures within the Project Area shall be
71 designed and constructed in a manner that is generally consistent with
72 structures as shown on the Final Master Plan with respect to location, area,
73 height, bulk, and mass. The Zoning Administrator shall refer to the normal
74 requirements for institutional campuses in situations where dimensional
75 requirements cannot be derived from the Final Master Plan. Setbacks and
76 buffers shall comply with Chapters 6 and 8 of the UDO.
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78 4. **Public Infrastructure.**

- 79 a. All future water and sewer line extensions within the District shall comply
80 with applicable standards of the North Carolina Department of Environment
81 and Natural Resources, Brevard City Code and the standard operating
82 practices and procedures of the Public Works Director. Brevard Music Center
83 shall grant such public water, sewer or stormwater easements as may be
84 required by the Public Works Director associated with future water or sewer
85 line extensions within the District.
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87 b. Brevard Music Center shall construct pedestrian sidewalk and pathway
88 system within the District, ~~from the intersection of Probart Street and~~
89 ~~Andante Lane within 10 years of the June 15, 2009, adoption of Ordinance~~
90 ~~No. 2009-11; completion date June 15, 2019, by June 30, 2021.~~
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92 c. All public streets built within the Music Center property shall be built to City
93 of Brevard street standards. The Planning Board, in consultation with the
94 City Engineer, is authorized to consider alternative designs for private streets
95 within the District when such streets are not intended for dedication to the
96 City of Brevard. Such alternative designs may address environmental
97 considerations such as low impact design, sustainable stormwater
98 management, and may be designed to complement the current character of
99 the District. However, such alternative designs shall meet the spirit and
100 intent of the City's normal street design requirements and shall not
101 compromise vehicle or pedestrian safety, public service delivery, and
102 emergency services access.
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104 d. All future subdivision of land within the District shall comply with the public
105 road frontage requirements of the UDO, including "Estate Lots".
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108 5. **Environmental Protection, Architectural & Lighting Requirements**

- 109 a. The Administrator shall be the approving authority with regard to the
110 architectural design of structures proposed upon the Final Master Plan. The
111 Administrator may refer any structure to the Planning Board for review.
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113 b. Landscape lighting shall be low-level landscape lighting, bollards, and other
114 non-intrusive types that will minimize the impact of the project upon the
115 community view shed.
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117 c. Brevard Music Center shall comply with the normal requirements for
118 stormwater management, floodplain protection and development, and
119 stream buffer protection as set forth in Chapter 6 of the UDO.
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121 d. The City acknowledges that the current stormwater management and
122 control system, which includes Lake Milner and Sonata Lake, currently
123 provides stormwater control in excess of current City requirements, and
124 that such system has the capacity to provide compliant stormwater
125 management for future development as proposed upon the Final Master
126 Plan without further improvement.
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129 6. **Public Safety.**

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- a. Brevard Music Center shall install 50-key Knox Boxes at the Administration Building and Pfhof Auditorium and place therein, keys for all locked structures within the campus. The Administrator shall verify that this requirement has been satisfied prior to the issuance of final zoning approval and certificate of occupancy for the first structure permitted after the effective date of this Ordinance.
- b. Brevard Music Center shall continue to work with the North Carolina Forest Service to maintain North Carolina Firewise standards.

- 7. **Maintenance of Infrastructure, Open Space & Recreation Space, Stormwater Systems.** Except for infrastructure dedicated to the City of Brevard, Brevard Music Center shall be responsible for maintaining all infrastructure, recreation space, open space, and stormwater systems in compliance with all applicable requirements of City Code and this Ordinance, and in a manner that is consistent with the Final Master Plan.
- 8. **Access by Representatives of the City.** Brevard Music Center shall provide the City with satisfactory assurance that representatives of the City shall have access to the District property so that the City may monitor and, if necessary, enforce compliance all applicable requirements of City Code, Ordinance, and the Final Master Plan.