

# **TOWN OF GARNER**



## **TOWN COUNCIL MEETING**

April 2, 2018  
7:00 P.M.

Garner Town Hall  
900 7th Avenue  
Garner, NC 27529

**Town of Garner  
Town Council Agenda  
April 2, 2018**

*Dinner will be served for town officials in the Conference Room at 6:15 p.m.*

The Council will meet in regular session at 7:00 p.m. in the Garner Town Hall located at 900 7<sup>th</sup> Avenue.

- A. CALL MEETING TO ORDER/ROLL CALL: Mayor Ronnie Williams

*The Council will call for a brief recess at 9:00 p.m.*

- B. PLEDGE OF ALLEGIANCE: Mayor Ronnie Williams

- C. INVOCATION: Mayor Ronnie Williams

- D. PETITIONS AND COMMENTS

*This portion of the meeting is to receive comments from the public on items not included in this agenda. Citizens should sign up with the Town Clerk to speak prior to the start of the meeting. The Board is interested in hearing your concerns, but may not take action or deliberate on subject matter brought up during the Petitions and Comments segment. Topics requiring further investigation will be referred to the appropriate town officials or staff and may be scheduled for a future agenda.*

- E. ADOPTION OF AGENDA

- F. PRESENTATIONS

1. Eagle Scout Project ..... Page 4  
Presenter: T. Dean Price, Eagle Scout

Mr. Price will present details of a proposed Eagle Scout project across from the Rec Center in the railroad right-of-way.

- G. CONSENT

*All items on the Consent Agenda are considered routine, to be enacted by one motion and without discussion. If a member of the governing body requests discussion of an item, the item will be removed from the Consent Agenda and considered separately.*

1. Health Plan Renewal for 2018/2019 ..... Page 8  
Presenter: BD Sechler, Human Resources Director

Approval of benefits plans, including health, dental, life, AD&D, short term disability and retiree medical for FY 18/19 beginning on July 1, 2018.

Action: Authorize Renewal

2. Ordinance Amending FY2017/2018 Operating Budget ..... Page 9  
Presenter: Pam Wortham, Finance Director

Ordinance to establish the initial capital project fund that can be used for non-bond related projects for the US70 to White Oak Creek Outfall Sewer Project and amendment to the General Fund operating budget to appropriate funding.

Action: Adopt Ordinance (2018) 3902 establishing project and Ordinance (2018) 3903 establishing funding

#### H. PUBLIC HEARINGS

1. Conditional Use Rezoning CUD-Z-17-06 (C-199) and Conditional Use Permit CUP-SP-17-31, Bannister Properties .....Page 13  
Presenter: Jeff Triezenberg, Planning Director

Request for a change in zoning for approximately 2.16 acres from Neighborhood Office (NO) to Service Business conditional use. Accompanying this rezoning request is a conditional use site plan for an office with storage. The site is located at 5413 Fayetteville Road.

Action: Adopt Ordinance (2018) 3904; Approve CUP-SP-17-31

#### I. NEW/OLD BUSINESS

1. Raynor Road Bridge Design Services ..... Page 32  
Presenter: Tony Chalk, Town Engineer

The Town Council was informed of the replacement of the bridge on Raynor Road and the need to have greenway access incorporated into the design of the project. NCDOT has forwarded the document to formalize these design considerations along with a revised estimate of these services.

Action: Authorize Execution of Agreement

#### J. COMMITTEE REPORTS

K. MANAGER REPORTS

1. garner info

L. ATTORNEY REPORTS

M. COUNCIL REPORTS

N. CLOSED SESSION

1. Pursuant to N.C. General Statutes 143-318.11(a)(4) "to discuss economic development."

O. ADJOURNMENT

Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: April 2, 2018		
Subject: Proposed Eagle Scout Project		
Location on Agenda: Discussion		
Department: Administration		
Contact: Rodney Dickerson, Town Manager		
Presenter: T. Dean Price, Eagle Scout		
Brief Summary:  Mr. Price will present details of a proposed Eagle Scout project across from the Rec Center in the railroad right of way.		
Recommended Motion and/or Requested Action: Presentation Only/No Action Required		
Detailed Notes:		
Funding Source:		
Cost:	One Time: <input type="radio"/>	Annual: <input type="radio"/> No Cost: <input checked="" type="radio"/>
Manager's Comments and Recommendations: Proposal will require collaboration with the Downtown Garner Association, NC Railroad, Town Council and staff.		
Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	RD	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

Mr. Dickerson et al,

First I would like to thank you all for your time in advance to review this Community Memorial and Safety Project that I would like to dedicate and donate to our town through my final stage of Scouting - my Eagle Scout Project. I have been with Troop 10 and a scout since I was 5 years old and in kindergarten starting out as a Bobcat - Cub Scout. I love scouting and all that it entails and have waited a long time to make a positive contribution and for my town of Garner.

I spoke to Mr. Dickerson for the 1st time a couple years ago about this very project that has been my long time desire to give to our Town and have them be (as the Boy Scouts of America calls it) "The Beneficiary" of my Eagle Scout Contribution.

Since the time I have last spoken with Mr. Dickerson (maybe a year and a half ago), I have (*just to give you a little about me who will be representing the National Boy Scouts of America in this endeavor*). I've nearly finished my Junior Year at Garner High School and have taken ALL honor classes the whole time while attending, along with early college classes and maintained an A-B Honor Roll, I am in the BETA Club, have achieved 1st chair in my instrument the Upright Bass in 9<sup>th</sup> grade and over the whole school's Proficient Honors Orchestra Division as well as playing with an 88 piece orchestra at my church "Colonial Baptist" for over a year and a half. I work 2 jobs after school and on the weekends, one is with the Lakeside Day Lilly Farm for 2 ½ years and Hudson's Hardware for almost a year now. I have focused on engineering and sciences in my studies. I've taken 1<sup>st</sup> place in science fairs and gone to the Regionals. I also participate in the A.C.E. Program (Architects, Construction and Engineering) which I just finished my 2nd year in and have been offered an Internship with a local Engineering Firm. I recently was chosen to participate in a Wake County Engineering Tournament called "The Blitz" hosted by Red Hat. Up until this year, I have played soccer since I was 3 and with CASL's Recreational division at 4 then the Challenge division up until last year.

I would like to say that this project will be well analyzed and scrutinized from the initial Schematic design through each and every phase of the entire project before the South Eastern Regional Eagle Scout Board and Council, so that no less than safety first, engineering accuracy, Town and National Guidelines as well as The Norfolk Southern Railroad and all of their committees are met and satisfied AND OF COURSE, the "Beneficiary" being the Town of Garner would be nothing less than satisfied with the project.

I would appreciate the opportunity to sit down with any of the staff members from any of the different committees named above or elsewhere that would have any input or aid in helping me to ultimately meet any and all of the town's desires, guidelines and future plans for potential fencing and/or answer any and all questions.

So below, I did attach a couple of the same pictures I dropped off at the town meeting last Monday to Mr. Dickerson as I know he said there was no time to share anything at that meeting so that was just for a little more clarity and understanding as he said he wanted to explain to some people.

My proposed project consists of a 400 ft. Aluminum fence (similar to the one behind the Train Depot) to run the full distance across from the new Garner Recreation Center but next to the tracks as pictured below and marked in Orange. Also on the small 14 - 4 x 6 pictured flyer that I dropped off for Rodney at last Monday's meeting to give a better idea as it has not all been explained to him either. This fence will provide an extra buffer of safety for the town citizens/children from the Railroad Train Tracks and it being the minimum height that the railroad would like, the Southern RR will appreciate the buffer. I have some contacts and will work to get this approved without requiring the Town to do anything but give an initial approval for the project the railroad committee will want to know that The Town of Garner is accepting the iron fence before they go through the motions as well. It also would include a large boulder/Monument for a Brass Plaque as a Tribute to Garner that was chosen due to the various colors and character with variegated striping throughout it. It was found after visiting 4 quarries in the mountains of North Carolina. This would be very similar to the many boulders with plaques used in the landscaping areas around Garner as well as Garner's Lake Benson Park and other towns. My goal was for the aesthetic and unique distinction of this rock to promote more pride and community with another sitting spot, meeting spot or a place just to get out of the sun or rain and relax. I feel it be inviting help to bring more people to the area of our down town Main Street besides allow me to acquire my rank of Eagle Scout while going back to the community.

I hope you will consider the good that this will bring as well as the safety the fence will add to those that will take part in the Community Recreation Center directly across the street. And, the Norfolk Southern and all Rail Road Committees will be dealt with and the progress along the way reported to the town as explained to Mr. Dickerson.

The one thing mentioned to Mr. Dickerson is at this point, a signature that the town would like to be the Beneficiary of my Eagle Scout Project (the 400 feet of black aluminum fencing which will also act as a safety buffer between new Garner Recreation Center and the NSRR, the sitting area with the Monument and Plaque under the 3 Oak trees. The Town doesn't need to worry about the liability aspects of any of this Project, (the work done or the people involved) as the equipment used we will be ran by only licensed and insured people, and ultimately each person involved with the work and/or construction of the Eagle Scout Project is also fully covered with the insurance of the Boy Scouts of America' National Organization in which proof of this insurance can be provided. This is the same as the Eagle Scout projects that the Town has been the recipient of in the past. Garner can rest assured that it is my/our job to make sure the Town of Garner is completely HAPPY with the outcome – stays updated and can make any changes along the way, the request that the town would like to make or implement along the way will be accommodated with a simple "Change Order" which I will take care of and the town official can verify prior to my

submitting (all can be done in a matter of minutes). The signature needed is just a simple protocol to get the ball rolling for the acquisition and allowance to be requested from the Rail Road as you all know, their permission can take a little bit of time. As Rodney is aware, having a son in scouts as well, this is a well organized and over seen process that my troop 10 is well aware of, the master and others have signed off on and will be fully present as well as backed the National Scouts of America's Corporation with Full presentations being done before them before any of this has come to be. After all named above (and others as seen fit) has reviewed, I would like to present at one of the next upcoming Town Board Meeting thinking it will take no more than 10 minutes for me to present it and then the time that it would take to answer questions.

Please feel free to respond with any questions or time that may be desired to get together and discuss further.

Again, thank you for your time  
T. Dean Price



Site of Eagle Scout Project – 400ft. fencing & Tribute to Town Memorial (marked in Orange)



Similar Fencing to be used



2 Benches – one on each side of memorial

There will also be landscaping timbers outlining area with a bed of river stone around memorial with stepping stones and easy to keep perennial flower beds in the rear corners.



Variegated Boulder to be used as Memorial



Similar Plaque with Town Seal

Plaque to read:

.....GARNER.....  
... A GREAT PLACE TO BE...  
"An uplifting quote promoting Community"

with date and Names of...  
Supporters of Project on a separate plaque.



Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: April 2, 2018		
Subject: Approval of Benefits Plans for FY18/19		
Location on Agenda: Consent		
Department: Human Resources		
Contact: BD Sechler, Human Resources Director		
Presenter: BD Sechler, Human Resources Director		
Brief Summary:  Approval of benefits plans, including health, dental, life, AD&D, short term disability and retiree medical for FY 18/19 beginning on July 1, 2018.		
Recommended Motion and/or Requested Action: Approve recommendations based on March 27, 2018 presentation.		
Detailed Notes:		
Funding Source:		
Cost:	One Time: <input type="radio"/>	Annual: <input type="radio"/> No Cost: <input checked="" type="radio"/>
Manager's Comments and Recommendations:		
Attachments Yes: <input checked="" type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	BDS	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: April 2, 2018		
Subject: Establish Project Ordinance		
Location on Agenda: Consent		
Department: Finance		
Contact: Pam Wortham, Finance Director		
Presenter: Pam Wortham, Finance Director		
Brief Summary:  This is to establish the initial budget for the US 70 to White Oak Creek Outfall Sewer Project that was approved by Council on February 20, 2018.		
Recommended Motion and/or Requested Action: Adopt Project Ordinance (2018) 3902 and Adopt Budget Ordinance (2018) 3903		
Detailed Notes: See attached memo		
Funding Source: Committed Fund balance--acreage fees		
Cost:	One Time: <input type="radio"/>	Annual: <input type="radio"/> No Cost: <input checked="" type="radio"/>
Manager's Comments and Recommendations: N/A		
Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	PW	
Finance Director:	PW	
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

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**FINANCE DEPARTMENT MEMORANDUM**

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**TO:** RODNEY DICKERSON, TOWN MANAGER  
**FROM:** PAM WORTHAM, FINANCE DIRECTOR  
**SUBJECT:** PROJECT ORDINANCE  
**DATE:** MARCH 27, 2018

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**GENERAL FUND**

At the February 20 meeting, the Council approved a contract to The Wooten Company for the US 70 to White Oak Creek Outfall Sewer Project, in the amount of \$114,000. The source of funding for the project was not discussed, however, we will be utilizing Committed Fund Balance-Acreage Fees for the project.

We are establishing a capital project fund that can be used for non-bond related projects, including this one. The Project Ordinance included in this package is used to establish the project, and any changes will go back to Council as budget amendments.

Also included in this package is an amendment to the General Fund Operating budget to transfer the appropriate fund balance to the project.

If you have any questions or concerns, please let me know. Thank you.

**ORDINANCE NO. (2018) 3902**

BE IT ORDAINED by the Town Council of the Town of Garner, that pursuant to §159-13.2 of the North Carolina General Statutes, the following Capital Project Ordinance is hereby adopted.

Section 1. The project authorized is the construction of a US Hwy 70/White Oak Creek Outfall Sewer Project to be financed by Restricted Acreage Fees collected specifically for these projects.

Section 2. The officers of this unit are hereby directed to proceed with the capital project within the terms of any financing agreement and the budget contained herein.

Section 3. The following amounts are appropriated for the project.

Professional Services-Sewer Project Design	\$114,000.00
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Section 4. The following revenues are anticipated to be available to complete this project.

Committed F/B-Acreage Fees	\$114,000.00
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Section 5. The Finance Director is hereby directed to maintain within the Capital Project Fund sufficient specific detailed accounting records to satisfy the requirements of the grant and state regulations.

Section 6. Funds may be advanced from the General Fund for the purpose of making payments as due.

Section 7. The Finance Director is directed to include a detailed analysis of past and future costs and revenues on this capital project in every budget submission made to the Council.

Section 8. The Finance Director is directed to report on a quarterly basis on the financial status of each project element in Section 3.

Section 9. Copies of this Capital Project Ordinance shall be furnished to the Town Clerk and the Finance Director for direction in carrying out this project.

Duly adopted this 2<sup>nd</sup> day of April 2018.

\_\_\_\_\_  
Ronnie S. Williams, Mayor

Attest: \_\_\_\_\_  
Stella Gibson, Town Clerk

**ORDINANCE NO. (2018) 3903**

ORDINANCE AMENDING ORDINANCE NO. (2017) 3862  
WHICH ESTABLISHED THE 2017 – 2018 OPERATING BUDGET

BE IT ORDAINED by the Town Council of the Town of Garner, North Carolina:

Section One. That the GENERAL FUND be amended as follows:

**General Fund Budget Changes:**

<b>Department/Category</b>	<b>Project</b>	<b>Account Description</b>	<b>Current Budget Amount</b>	<b>Amended Budget Amount</b>	<b>Net Budget Revision</b>
<b>Expenditures:</b>					
<b>10-5900-00-5520-84</b>		Transfer to White Oak Creek Outfall Sewer Proj	\$-0-	114,000	114,000
<b>Revenues:</b>					
<b>10-3090-00-4969-01</b>		Restricted Fund Bal Appropriation - Acreage Fees	\$-0-	114,000	114,000

Section Two. Copies of this ordinance shall be furnished to the Finance Director and the Town Clerk for their direction in the disbursement of the Town's funds and for public inspection.

Duly adopted this 2<sup>nd</sup> day of April, 2018.

\_\_\_\_\_  
Ronnie S. Williams, Mayor

ATTEST: \_\_\_\_\_  
Stella L. Gibson, Town Clerk

Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: April 2, 2018		
Subject: Conditional Use Rezoning & Conditional Use Permit CUD-Z-17-06 & CUP-SP-17-31 Bannister Properties		
Location on Agenda: Public Hearings		
Department: Planning		
Contact: Jeff Triezenberg, AICP; Planning Director		
Presenter: Jeff Triezenberg, AICP; Planning Director and Het Patel, AICP; Senior Planner		
<p><b>Brief Summary:</b></p> <p>Bannister Properties LLC is requesting a change in zoning for approximately 2.16 acres from Neighborhood Office (NO) to Service Business (SB) conditional use. Accompanying this rezoning request is a conditional use site plan for an indoor storage facility located at 5413 Fayetteville Road. The Planning Commission reviewed this request at their March 12, 2018 meeting, confirming the site plan meets the standards of the Unified Development Ordinance and recommending approval of the rezoning. Vote - 6:0.</p>		
<p><b>Recommended Motion and/or Requested Action:</b></p> <p>Adopt Ordinance (2018) 3904; Approve CUP-SP-17-31</p>		
<p><b>Detailed Notes:</b></p> <ul style="list-style-type: none"> <li>* Open rezoning public hearing.</li> <li>* Close rezoning public hearing.</li> <li>* Defer rezoning motion to after conditional use permit hearing.</li> <li>* Open conditional use permit public hearing.</li> <li>* Close conditional use permit public hearing.</li> <li>* Motion on rezoning, followed by motion on on conditional use permit.</li> </ul>		
Funding Source:		
Cost:	One Time: <input type="radio"/>	Annual: <input type="radio"/> No Cost: <input checked="" type="radio"/>
<p><b>Manager's Comments and Recommendations:</b></p> <p>N/A</p>		
<p>Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/></p>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	JT	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

## Planning Department Staff Report

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**TO:** Mayor and Members of the Town Council

**FROM:** Het Patel, AICP; Transportation and Land Use Planner  
Jeff Triezenberg, AICP, GISP; Planning Director

**SUBJECT:** ***CUD Z-17-06, Conditional Use Rezoning***  
***CUP-SP-17-31, Conditional Use Site Plan – Bannister Properties***

**DATE:** April 2, 2018

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### I. PROJECT AT A GLANCE

<b>Project Number(s):</b>	CUD Z-17-06 Conditional Use Rezoning CUP-SP-17-31 Conditional Use Site Plan
<b>Applicant:</b>	Bannister Properties, LLC
<b>Owner:</b>	Bannister Properties, LLC
<b>General Description -</b>	
<b>Project Area &amp; Location:</b>	2.16 +/- acres located on the east side of Fayetteville Road (US 401) and at the present terminus of Page Drive.
<b>Wake Count PIN(s):</b>	1701-11-0998
<b>Current Zoning:</b>	NO (Neighborhood Office)
<b>Requested Zoning:</b>	SB C199 (Service Business Conditional Use)
<b>Proposed Use(s):</b>	General Office (real estate, existing) and Indoor Storage (proposed).
<b>Key Meeting Dates:</b>	
<b>Planning Commission:</b>	March 12, 2018
<b>Public Hearing &amp; Action:</b>	April 2, 2018

## **II. BACKGROUND / REQUEST SUMMARY**

The rezoning (CUD-Z-17-06) and associated site plan (CUP-SP-17-31) have been submitted to allow an existing office building (currently occupied by a real estate company), and to allow development of a new 5,000 sq. ft. building for indoor storage. The applicant is requesting to rezone the site from Neighborhood Office (NO) to Service Business Conditional Use (SB C199). Use restrictions are proposed to limit the range of SB uses.

## **III. ZONING ANALYSIS**

**Existing:** The existing zoning of the 2.16-acre site is **Neighborhood Office (NO)**. The purpose of this district is to accommodate modest-scale professional and service occupations, along with single-family residential units, to serve as a neighborhood activity center and as a transition between residential and more intense commercial uses.

*The following is a list of permitted uses in the NO District:*

- |   |   |
|---|---|
| 1. Single-family detached                         | 13. Public parks, swimming pools, tennis and golf courses |
| 2. Upper story residential                        | 14. Religious institutions                                |
| 3. Modular home                                   | 15. Minor utility—elevated water tank                     |
| 4. Family care home                               | 16. Golf course or country club private                   |
| 5. Group care home                                | 17. Gym, spa, indoor tennis or pool private               |
| 6. Intermediate care home                         | 18. Medical office  |
| 7. Adult daycare                                  | 19. Other office; general office                          |
| 8. Child day care (in home)                       | 20. Bed and breakfast                                     |
| 9. Day care center                                | 21. Hair and beauty salons                                |
| 10. Funeral home crematorium                      | 22. Banks and financial institutions                      |
| 11. Ambulance, rescue squad, police, fire station | 23. Veterinarian/kennel, indoor                           |
| 12. Cemetery                                      |   |

**Proposed:** The proposed zoning of the 2.16-acre site is Service Business Conditional Use (SB C199). The SB zoning district has been established to accommodate commercial activities that are more intense in nature than those permitted in the Neighborhood Commercial (NC) or Community Retail (CR) districts. The SB general use district also allows for the storage of merchandise or equipment and allows operations to be conducted outside of a building. Use restrictions are proposed as part of this request.

*The following is a list of **permitted uses** in the SB C199 district (uses not highlighted are prohibited)*

- |   |   |
|---|---|
| 1. Security or caretaker's quarters                       | <b>7. Day Care Center</b>                           |
| 2. Community Center                                       | 8. Business School, college or university satellite |
| 3. Library, museum, art center                            | 9. College / university                             |
| 4. Other Community service                                | 10. Trade / vocational schools                      |
| 5. Civil, service fraternal club, lodges and similar uses | 11. Music / dance / art instruction                 |
| 6. Adult Day Care   |   |



12. Ambulance, rescue squad, police, fire station
13. Government, utility with outdoor storage
14. Government office
15. Medical Clinic
16. Cemetery
17. Funeral home / crematorium
18. Parks, swimming pools, tennis courts, golf courses
19. Bus passenger terminals
20. Taxi or limo operations/facility
21. Religious institutions
22. Minor utility, elevated water tank
23. Telecommunication facility
24. Other major utility
25. Bars and nightclubs (prohibited within 500 feet of residential use/zoning)
26. Private golf or country club
27. Private gym, spa, indoor tennis, pool
28. Indoor entertainment facility
29. Electronic gaming center
30. Outdoor entertainment facility, private athletic
31. Sexually oriented business (prohibited within 1,000 feet of residential use/zoning)
32. Movie Theater
33. Drive-in Theaters
34. Water-slides, golf driving ranges, miniature golf, batting cages or similar uses
35. Bank, financial institution
36. Medical office, individual
37. General office use
38. Bed and breakfast
39. Extended stay facility (prohibited within 500 feet of residential use/zoning)
40. Hotel and motels
41. Commercial Parking
42. Restaurant, curb or drive-in service
43. Restaurant, indoor with seating only
44. Restaurant, indoor with drive-through window
45. Restaurant, take out only, drive-through or walk up
46. Convenience store without fuel sales
47. Convenience store with fuel sales
48. Open air market
49. Repair oriented use (indoor only)
50. Personal service use (indoor operations)
51. Barber shops / salons
52. Sales oriented use (indoor operations only)
53. Sales oriented use (outdoor operations)
54. Veterinarian/kennel indoor
55. Veterinarian/kennel outdoor (prohibited within 500 feet of residential use/zoning)
56. Self-service storage
57. Car wash (prohibited within 500 feet of residential use/zoning)
58. Vehicle repair (storage restricted to rear of building, 30-day storage limit)
59. Vehicle sales and rental (storage restricted to rear of building)
60. Vehicle service-limited
61. Vehicle towing, storage (prohibited within 500 feet of residential use/zoning)
62. Flex space
63. Light Industrial use indoor
64. Light Industrial use with outdoor storage of tenant supplies
65. Light Industrial use with outdoor operations
66. Warehouse and freight movement with indoor storage
67. Warehouse and freight movement with outdoor storage
68. Recyclable materials collection center
69. Wholesale sales
70. Manufacturing indoor operations

**Overlay Districts:** This property falls within the **US 70/401 Thoroughfare Overlay District**. This overlay district has additional development standards and use restrictions for properties with frontage along these 2 corridors. The overlay is explained in Article 4.11 of the *Unified Development Ordinance*. There are several uses that are prohibited or restricted within the overlay district.

**Prohibited uses:** None of the prohibited overlay district uses are included in the proposed use list provided above.

**Prohibited uses adjacent to or within 150 feet of existing residential uses:** The following may be expressly included in whole or in part in the proposed use list provided above and are prohibited as noted unless more stringently prohibited by the base zone.

- a. Hotel/motels
- b. Pool halls/bowling alleys only
- c. Bars/night clubs/ABC-permitted private clubs

**Restricted uses with additional standards (site layout, screening):** The following may be expressly included in whole or in part in the proposed use list provided above and are restricted by additional standards unless more stringent standards are already required by the base zone or they are not permitted by the proposed use list provided above.

- a. Uses with outdoor storage, display, or goods for sale
- b. Manufactured home sales lots
- c. Motor vehicle sales lots
- d. Automobile service centers
- e. Automobile repair and body shops
- f. Veterinarians or kennels
- g. Truck terminals
- h. Car washes

**Zoning History:** The Planning Department’s rezoning database contains the following rezoning cases in the vicinity of this property:

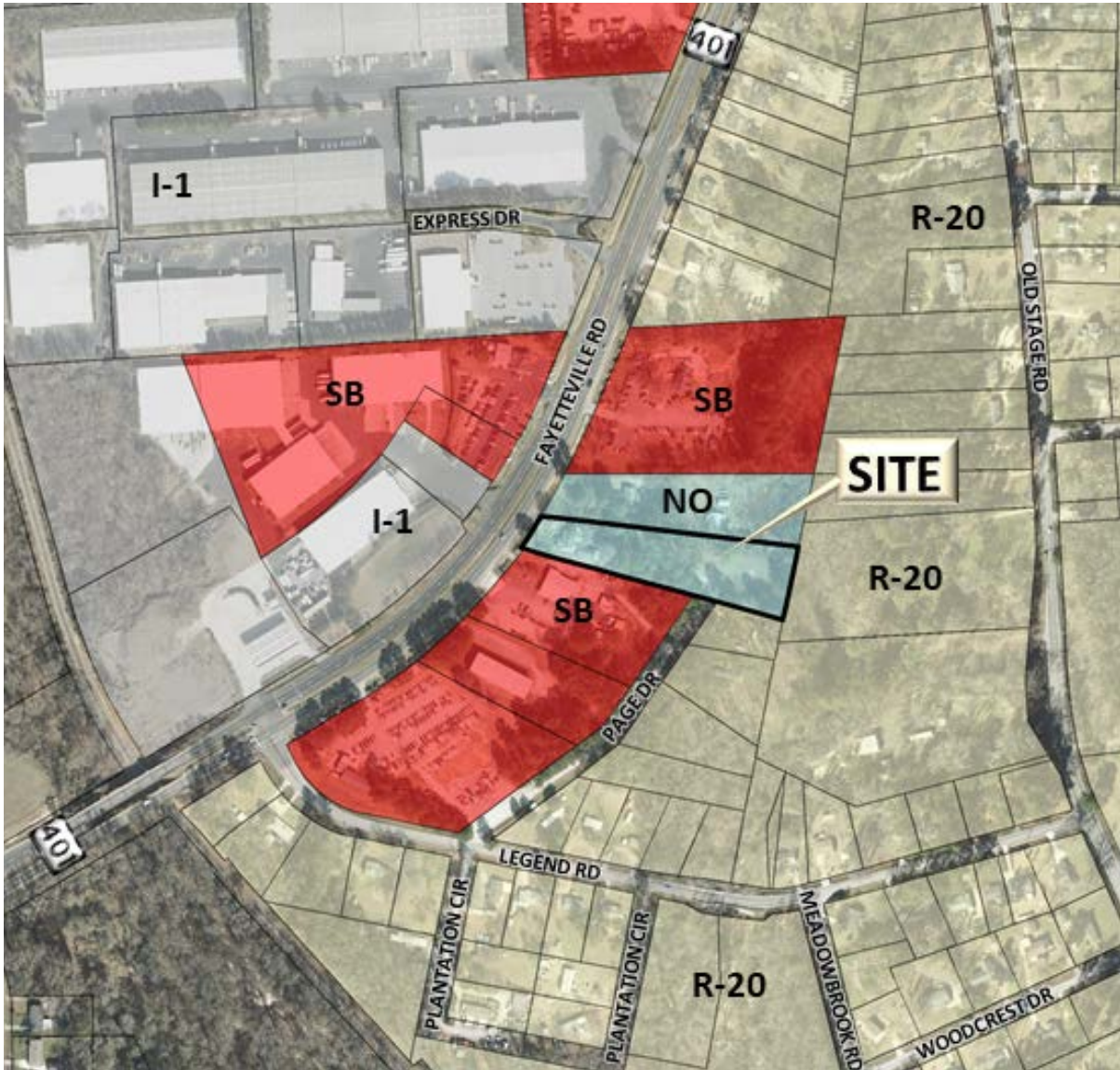
Case	Applicant	Location	Zoning Change
Z-17-01	Town of Garner	ETJ Expansion (west & east side of US 401)	Various from Wake County to Town of Garner

**Adjacent Zoning and Land Use:**

<b>North:</b>	Neighborhood Office (NO)	Single-family residential
<b>South:</b>	Service Business (SB) Single-Family Residential (R-20)	Commercial Office Single-family residential
<b>East:</b>	R-20	Single-family residential

**West:** Light Industrial (I-1)  
Service Business (SB)

Vacant / Flex office and warehouse  
Commercial Office / warehouse



**Overall Neighborhood Character:**

Fayetteville Road (US HWY 401) is a major corridor with a significant amount of daily traffic. While there are scattered single-family homes along this highway, most of the uses are high-intense commercial, retail operations with outdoor storage. The area around the intersection of Legend Road and Fayetteville Road contains a mix of light industrial, neighborhood offices, single-family residential and retail shopping centers.

**Zoning and Traffic:** The addition of this relatively small acreage for non-residential space is expected to have insignificant impacts on traffic along US 401.

The NCDOT average daily traffic count history on US 401 is as follows:

- Year 2007- 33,000

- Year 2009 -35,000
- Year 2011 -30,000
- Year 2013- 31,000
- Year 2015- 31,000

#### IV. STATEMENTS OF ZONING CONSISTENCY WITH THE COMPREHENSIVE PLAN

##### **2006 Comprehensive Growth Plan:**

This area of Garner was brought into the ETJ in 2017. Unfortunately, the 2006 Comprehensive Growth Plan does not properly account for this area, and the current designation for future residential does not make sense given the existing commercial and industrial development pattern in this area. The draft Garner Forward Plan Map attempts to better account for this corridor; this is discussed in the next section below.



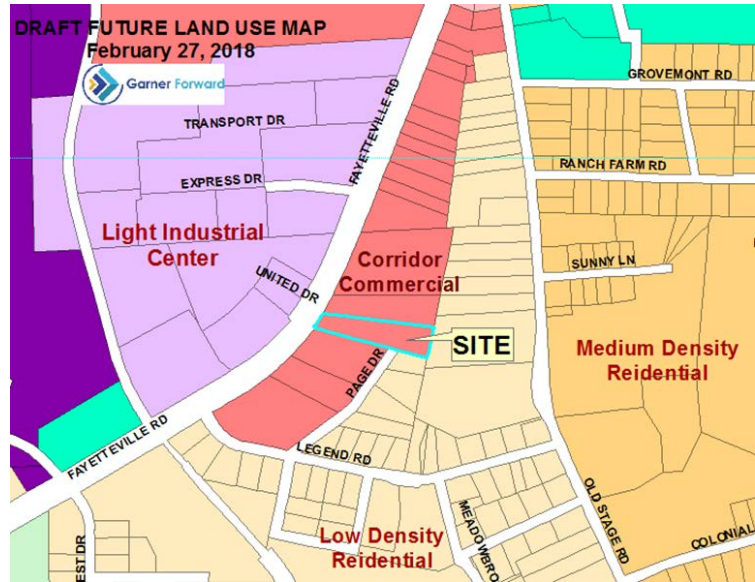
The majority of the site (approx. 100%) falls within the boundary of a **½ Mile Neighborhood**. A ½ Mile Neighborhood (Primary Residential) recommends a residential density of 3 to 9 units per acre and retail /service commercial uses. Suggested zoning districts include: NO, MF1, R09, R12, TND, PRD, PUD.

The land is not in a targeted area for open space or greenway trails.

##### **Draft 2018 Garner Forward Plan (target adoption April / May 2018):**

On the current draft Plan map, the site and the tracts along US 401 in this area are designated as **Corridor Commercial** on the east side and Light Industrial Center on the west side.

The **Corridor Commercial** land use category emphasizes commercial centers that have individual driveways and separated parking lots, unique signage, and differentiated building materials and styles along a major arterial roadway. These centers are less likely to have any foot traffic, and oriented towards the roadway with little accessibility from the rear or sides of the properties.



Permitted uses may include operations with outdoor storage and outdoor sales display areas. For these uses, special emphasis should be placed on landscaping and screening. Uses along these corridors should be attractively landscaped and screened as these corridors are gateways into the community for the traveling public.

In summary, although the request cannot be considered consistent with the existing adopted 2006 Comprehensive Growth Plan, the request for a conditional Service Business (SB) district may be considered reasonable due to the changing conditions in the area as currently reflected in the draft Garner Forward Comprehensive Plan, so long as outdoor storage uses are restricted appropriately.

**V. SITE PLAN PROJECT DATA**

**Acreage:** 2.16 acres

**Building Size:** A single 5,000 square foot storage building is currently proposed. This building is being added to the 1,900 square feet of office space and several small storage sheds already existing on the site.

**Building Materials:** The building will be metal construction with metal siding.

**Landscape and Buffer Requirements:**

The plan as proposed meets the requirements of the Landscape Ordinance.

- **Tree Cover:** Requirements are met with existing vegetation.
- **Street Buffers:** A minimum 7.5-foot street buffer is shown as required along Fayetteville Road (US 401).
- **Perimeter Buffers:** Perimeter buffers vary from 15 feet to 35 feet depending on adjacent uses and zoning.

All buffers are shown as required. Existing vegetation, within the buffers, may meet the screening requirements; if not, the landscape plan reflects a planting plan for each buffer width to determine what is needed to meet the requirements. An area along the northern perimeter buffer has already been identified in need of shrubs and is shown on the plan. Exact quantities will be determined in the field.

**Parking Spaces:**

**Number** - Parking is based on the square footage of office space (1 space per 300 square feet) and the square footage of storage (1 space per 5,000 square feet).

- Required: 8 (1 accessible)
- Existing: >8 (1 accessible)

**Environmental Features:**

This site does not contain a FEMA designated floodplain and slopes generally to the southeast. There also does not appear to be either USGS streams or flood prone soils on the site.



**Fire Protection:**

The Inspections Department has reviewed the plan for fire protection and given their approval.

**Infrastructure: Stormwater Management** – At this time, this project falls below thresholds for any required water quantity or quality stormwater control measures.

**Water/Sewer** – Water service is available in the area. A 12” water main runs along the eastside of US 401. There are no gravity sewer lines near the site. No connections are proposed at this time.



**Transportation/Access** – The rezoning site has approximately 115 feet of frontage along US 401 with an existing access drive. US 401 is classified as a Major Thoroughfare on the 2010 Garner Transportation Plan and is maintained by NCDOT. There are no additional improvements to this section of the corridor beyond super-street modifications as determined by NCDOT; therefore, there are no required improvements at this time. The rezoning site also has frontage on Page Drive which is stubbed to the property. While there are no immediate plans for an extension of Page Drive, the applicant has documents indicating a future right-of-way so that the existing stub may be extended across the property in the future.

## **VI. SITE PLAN CONFORMITY WITH ADOPTED TOWN PLANS AND POLICIES**

### **2010 Garner Transportation Plan:**

US 401 is identified as an “Existing Major Thoroughfare” consisting of 4 lanes of travel (2 in each direction) in 2035. The existing roadway has already been improved to this standard. Additionally, there are no pedestrian or bicycle facility recommendations for US 401 along this stretch. Therefore, this project, as proposed, may be found to be in conformity with the 2010 Garner Transportation Plan.

**Parks & Recreation, Open Space & Greenways Master Plan:**

A review of the Parks and Recreation, Open Space and Greenways Master Plan revealed no plan recommendations in the project area; therefore, this project, as proposed, may be found to be in conformity with the Parks & Recreation, Open Space & Greenways Master Plan.

**Swift Creek Land Management Plan:**

This site is classified as an existing non-compliant area, and is therefore only subject to Town zoning, stormwater and UDO regulations; therefore, this project, as proposed, may be found to be in conformity with the Swift Creek Land Management Plan.

**Unified Development Ordinance Regulations:**

After sufficient review and plan revisions, staff finds that this project, as now proposed, conforms to the regulations of the Unified Development Ordinance.

**VII. PLANNING COMMISSION NOTES AND RECOMMENDATION**

The Planning Commission reviewed this request at their March 12, 2018 meeting. On a unanimous vote of 6:0; the Planning Commission confirmed staff's findings in Section VI of this report that the CUP-SP-17-31, Bannister Properties, was in conformity with adopted town plans and policies, and further accepted the staff statements regarding zoning consistency with the Comprehensive Growth Plan, being detailed in Section IV of this report, as their own, and recommended approval of CUD-Z-17-06.



**IX. COUNCIL MOTION WORKSHEETS**

*NOTE: Two separate motions and vote are required.*

**REZONING ACTION MOTION WORKSHEET**

**Choose one (1) of the following three (3) options:**

- ( ) 1. Find **Consistent** with the Comprehensive Plan and **Approve**:

“I move that the Town Council accept staff’s statements regarding zoning consistency with the Comprehensive Growth Plan, detailed in Section V of this report, as our own; and I therefore move further that the Town Council accept the recommendation of the Planning Commission and adopt Ordinance No. \_\_\_\_\_ approving rezoning request number CUD-Z-17-06.”

- ( ) 2. Find **Inconsistent** with the Comprehensive Plan and **Deny**:

“I move that the Town Council find the rezoning request inconsistent with the Comprehensive Growth Plan for the following reason(s):

(1) \_\_\_\_\_  
\_\_\_\_\_;

(2) \_\_\_\_\_  
\_\_\_\_\_;

(3) \_\_\_\_\_  
\_\_\_\_\_;

and therefore, I move further that the Town Council reject the recommendation of the Planning Commission and deny rezoning request number CUD-Z-17-06.”

- ( ) 3. Find **Inconsistent** with the Comprehensive Plan and **Approve**:

“I move that the Town Council find that although the rezoning request is inconsistent with the Comprehensive Growth Plan for the following reason(s):

(1) \_\_\_\_\_  
\_\_\_\_\_;

(2) \_\_\_\_\_  
\_\_\_\_\_;

(3) \_\_\_\_\_  
\_\_\_\_\_;

it is reasonable and in the public interest because it will likely (*check as many as appropriate*)

( ) allow the development of an appropriate density of housing in the area in which it is located;

( ) allow appropriate types of business at the described location which will provide opportunities for access to goods and/or services useful to the surrounding area;

( ) allow appropriate types of business at the described location which will provide employment opportunities for citizens;

( ) allow the types of businesses at the described location which will enhance the Town's economic development;

( ) allow the types of businesses at the described location which will likely enhance the Town's tax base;

( ) \_\_\_\_\_  
\_\_\_\_\_;

( ) \_\_\_\_\_  
\_\_\_\_\_;

and therefore, I move further that the Town Council adopt Ordinance No. \_\_\_\_\_ approving rezoning request number CUD-Z-17-06, and in so doing, also amend the Town's Comprehensive Growth Plan from designating the subject property as ½ Mile Neighborhood to Corridor Commercial.

(*fill in with appropriate area designation*) \_\_\_\_\_."

## CONDITIONAL USE PERMIT ACTION WORKSHEET

**Approve:** I move that the Council accept the staff statements regarding plan consistency in Section VII of this report as our own and find the application meets the 10 permit criteria in Section 3.14.D. and therefore approve CUP-SP-17-31, Bannister Properties, with the three standard conditions and three site specific conditions listed on the attached permit.

**Optional (conditions – mark, fill in and read all that applies):** ...and including the following reasonable conditions necessary to address the impacts of the proposed development on:

- adjoining property,
  - the existing natural and man-made features of the site,
  - off-site and on-site traffic flow,
  - public utilities,
  - such other public services or goals of the Comprehensive Growth Plan or the Transportation Plan that may be negatively impacted by the proposed development (*enumerate plan services/goals*):
- 
- 

**Condition #1:**

---

**Condition #2:**

---

**Condition #3, (etc.):**

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or

**Deny:** I move that the Council find the application does not meet one or more of the criteria in Section 3.14.D. for granting a special use permit,

***(Check and read all that apply – include stated reason/evidence)***

- 1. The proposed use will endanger the public health or safety because/as evidenced by \_\_\_\_\_;
- 2. The proposed use will substantially injure the value of adjoining or abutting property; because/as evidenced by \_\_\_\_\_;

- \_\_\_ 3. The proposed use does not comply with all applicable provisions of this UDO;  
*because/as evidenced by* \_\_\_\_\_;
- \_\_\_ 4. If completed as proposed, the development will not comply with all requirements of this section;  
*because/as evidenced by* \_\_\_\_\_;
- \_\_\_ 5. The proposed use will not be compatible with the proximate area in which it is to be located;  
*because/as evidenced by* \_\_\_\_\_;
- \_\_\_ 6. The proposed use is inconsistent with the Transportation Plan, other relevant adopted plans and policies, and the stated purpose and intent of this UDO (the fact that the use is permitted under certain circumstances in the zoning district creates a rebuttable presumption that the proposed use is in harmony with the intent of the UDO as relates to the general zoning plan);  
*because/as evidenced by* \_\_\_\_\_;
- \_\_\_ 7. The proposed use is incompatible with adjacent uses in terms of building scale, site design, buffering and screening, operating characteristics (hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts);  
*because/as evidenced by* \_\_\_\_\_;
- \_\_\_ 8. Any significant adverse impacts resulting from the use will not be mitigated or offset, including impacts on the natural environment;  
*because/as evidenced by* \_\_\_\_\_;
- \_\_\_ 9. The public safety, transportation and utility facilities and services will not be available to serve the subject property while maintaining sufficient levels of service for existing development;  
*because/as evidenced by* \_\_\_\_\_;
- \_\_\_ 10. Adequate assurances of continuing maintenance have not been provided;  
*because/as evidenced by* \_\_\_\_\_;

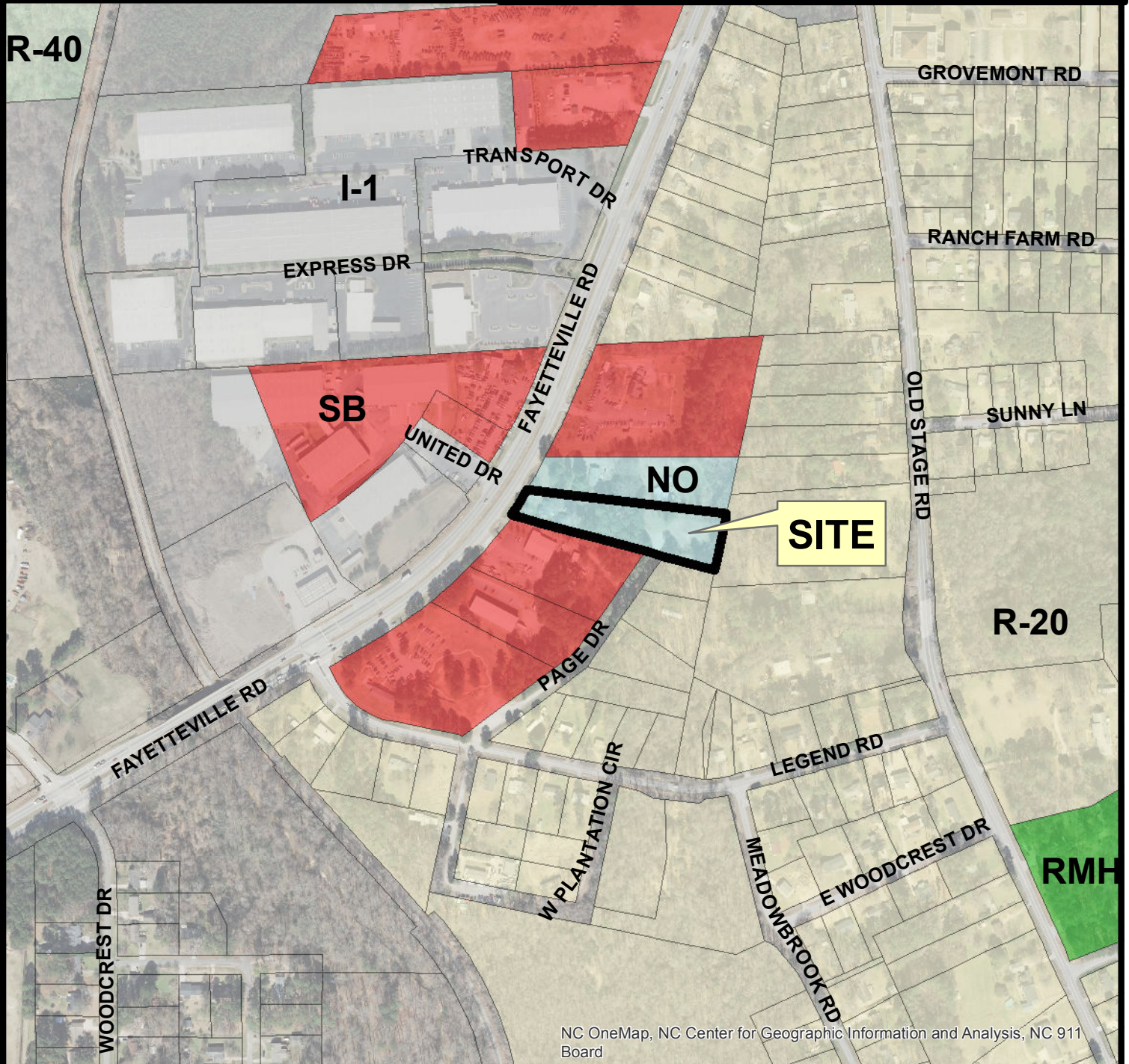
and therefore, deny Conditional Use Permit for Bannister Properties – CUP-SP-17-31.



# Town of Garner Planning Department

## Conditional Use Applications CUP-SP-17-31 & CUD-Z-17-06

0 300 600  
Feet



NC OneMap, NC Center for Geographic Information and Analysis, NC 911 Board

Project: Bannister  
 Applicant: Bannister Properties LLC  
 Owner: Bannister Properties LLC  
 Location: 5413 Fayetteville Rd  
 Pin: 1701110998

Proposed Use: Storage building addition  
 Current Zoning: Neighborhood Office  
 Proposed Zoning: SB C199  
 (Conditional Use)  
 Overlay: US 401 / US 70  
 Acreage: 2.16  
 Site Plan Case: CUP-SP 17-31

Return to:  
Stella Gibson  
Town of Garner  
900 7<sup>th</sup> Avenue  
Garner, NC 27529

## **ORDINANCE NO. (2018) 3904**

### **AN ORDINANCE AMENDING THE TEXT OF THE GARNER UNIFIED DEVELOPMENT ORDINANCE TO CREATE A NEW CONDITIONAL USE ZONING DISTRICT AND TO AMEND THE OFFICIAL ZONING MAP TO APPLY THE NEW ZONING CLASSIFICATION**

WHEREAS, The Town Council has received a petition requesting that a new conditional use zoning district be established and that this new district classification be applied to the applicant's property, and

WHEREAS, the Town Council is authorized by the Town Charter to establish conditional use zoning districts;

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF GARNER ORDAINS:

Section 1. That the Official Zoning Map of the Town of Garner and Extraterritorial Jurisdiction be amended by changing the zoning classification of the property described below from its present zoning to that requested by Bannister Properties, LLC in Rezoning Application No. **CUD-Z-17-06 (SB C199)**.

Section 2. There is hereby created a new conditional use zoning district, to be known as the Service Business Conditional Use District 199 (**SB C199**). Within this district, all of the regulations that apply to property within the **SB C199** Conditional Use zoning district shall be applicable, and that all other uses are prohibited except those that are listed as permissible shall require a conditional use permit.

**The following SB uses shall be permissible within the SB C199 district:**

1. Day Care Center
2. Government office
3. Telecommunication facility
4. Indoor entertainment facility
5. Bank, financial institution
6. Medical office, individual
7. General office use
8. Commercial Parking
9. Restaurant, indoor with seating only
10. Restaurant, indoor with drive-through window
11. Restaurant, takes out only, drive-through or walk up
12. Convenience store without fuel sales

- 13. Convenience store with fuel sales
- 14. Repair oriented use (indoor only)
- 15. Personal service use (indoor operations)
- 16. Barber shops/salons
- 17. Sales oriented use (indoor operations only)
- 18. Sales oriented use (outdoor operations)
- 19. Veterinarian/kennel indoor
- 20. Self-service storage
- 21. Vehicle repair (storage restricted to rear of building, 30-day storage limit)
- 22. Flex space
- 23. Light Industrial use indoor
- 24. Warehouse and freight movement with indoor storage
- 25. Wholesale sales
- 26. Manufacturing indoor operations

Section 3. The official Zoning Map of the Town of Garner is amended by changing the zoning classification of the property identified below and as shown on a map in application file:

Owner(s)	Tract No.	Existing Zoning	New Zoning
Bannister Properties, LLC	1701-11-0998	NO	SB C199

Section 4. The Planning Department shall change the Official Zoning Map displayed for the public to reflect this change immediately following adoption of this ordinance. In addition, a copy of this ordinance shall be filed in the Planning Department.

Section 5. All provisions of any town ordinance in conflict with this ordinance are repealed.

Section 6. That the Town Clerk shall cause a duly certified copy of this ordinance to be recorded in the office of the Wake County Register of Deeds.

Section 7. This ordinance shall become effective upon adoption.

Duly adopted this 2<sup>nd</sup> day of April 2018.

\_\_\_\_\_  
Ronnie S. Williams, Mayor

ATTEST: \_\_\_\_\_  
Stella L. Gibson, Town Clerk

**TOWN OF GARNER  
CUP-SP-17-31 – BANNISTER PROPERTIES  
CONDITIONAL USE PERMIT**

<b>APPLICANT</b>	Bannister Properties, LLC Attn: Kyle White P O Box 769 Garner, NC 27529
<b>LOCATION</b>	5413 Fayetteville Road
<b>USE</b>	Office with Indoor Storage/Warehouse
<b>DATE ISSUED</b>	April 2, 2018

**I. COMPLETENESS OF APPLICATION**

The application is complete.

**II. COMPLIANCE WITH ORDINANCE REQUIREMENTS**

The application complies with all applicable requirements of the Unified Development Ordinance.

**III. GRANTING THE APPLICATION**

The application is granted, subject to the following conditions:

- 1) The applicant shall complete the development strictly in accordance with the plans submitted to and approved by this Town Council, a copy of which is filed in the Town Hall. Any deviations from or changes in these plans must be pointed out specifically to the administrator in writing and specific written approval obtained as provided in the Unified Development Ordinance.
- 2) If any of the conditions affixed hereto or any part thereof shall be held invalid or void, then this permit shall be void and of no effect.
- 3) All applicable permit approvals shall be obtained by the applicant.

**IV. SPECIFIC TO THE PROJECT**

None

c: CE Group, Inc.  
Attn: Joe Faulkner  
301 Glenwood Avenue, Suite 220  
Raleigh, NC 27603



Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: April 2, 2018		
Subject: Agreement with NCDOT for Design Considerations for Greenways at Raynor Road Bridge		
Location on Agenda: Old/New Business		
Department: Engineering		
Contact: Tony Chalk, Town Engineer		
Presenter: Tony Chalk, Town Engineer		
<p><b>Brief Summary:</b></p> <p>The Town Council was informed of the replacement of the bridge on Raynor Road and the need to have greenway access incorporated into the design of the project. NCDOT has forwarded the document to formalize these design considerations along with a revised estimate of \$79,950.</p> <p>Previous memos from the Planning Department regarding this issue are attached along with the proposed agreement.</p>		
<p><b>Recommended Motion and/or Requested Action:</b></p> <p>Authorize Execution of Agreement</p>		
Detailed Notes:		
Funding Source: TBD		
Cost: \$79,950	One Time: <input type="radio"/>	Annual: <input type="radio"/> No Cost: <input checked="" type="radio"/>
Manager's Comments and Recommendations:		
Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	TC	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

## Planning Department Memorandum

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**TO:** Mayor & Town Council

**FROM:** Jeff Triezenberg, Planning Director

**SUBJECT:** *Raynor Road Bridge Replacement over White Oak Creek – Future Greenway*

**DATE:** May 22, 2017

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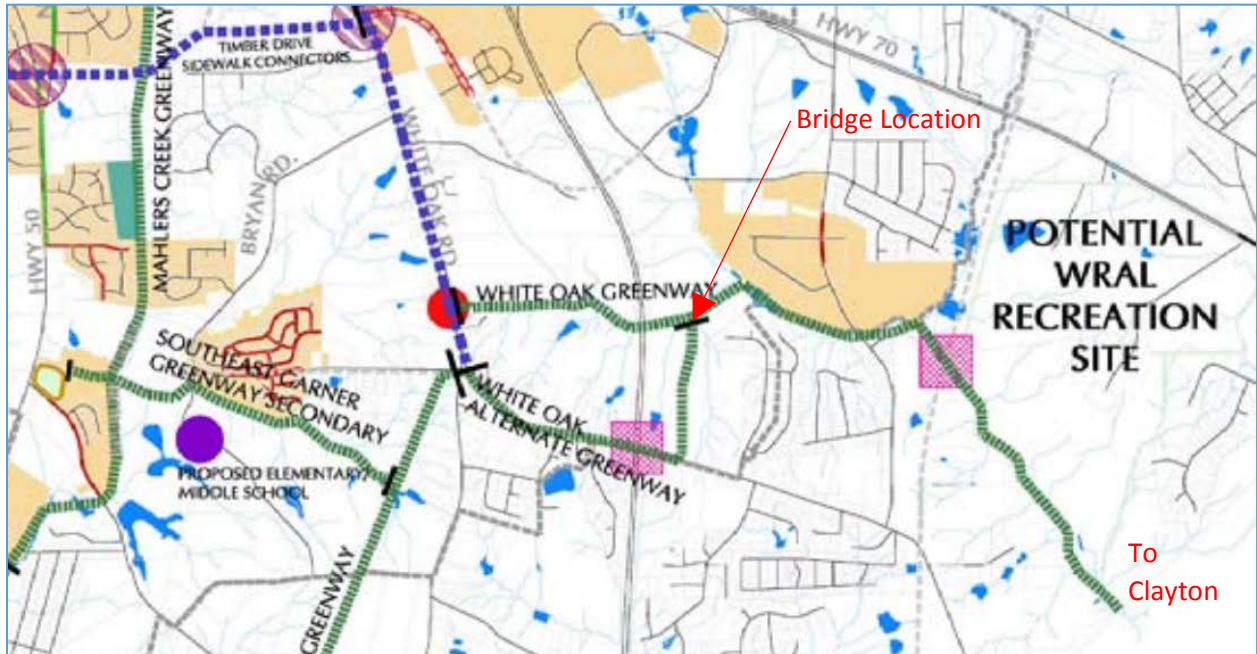
Approximately two (2) years ago, NCDOT contacted the Planning Department concerning pedestrian accommodations associated with an upcoming replacement for the bridge on Raynor Road that crosses White Oak Creek. At that time, staff indicated the following:

- that at least one side should include a sidewalk on the bridge due the presence of sidewalk along Raynor Road in the White Oak East Business Park; and
- the bridge height should accommodate a future greenway that would pass underneath as called for in both the Parks & Recreation, Open Space & Greenways Master Plan and the 2010 Garner Transportation Plan.



This bridge replacement project has been assigned project number B-5326 and is slated for right-of-way to be purchased in FFY 2018 (Oct '17-Sept '18) with construction in FFY 2019. This project was delayed a year to allow for additional time for planning and design.

### ***Parks & Recreation, Open Space & Greenways Master Plan***



The White Oak Creek basin is the only drainage basin that is common to both Garner's and Clayton's future jurisdiction boundaries; therefore, staff feels it is important to preserve option for a greenway in the future to connect both neighbors. Some preliminary discussions have taken place due to the involvement of both municipalities in the Southeast Area Study, but further discussions will be necessary to formalize a proposed route – particularly through Johnston County. Generally, there also tends to be better funding opportunities since Johnston County and Clayton reside in a different NCDOT Division (Division 4) in which it is easier to compete for bicycle and pedestrian dollars. Despite how much of a project is located in Division 5, as long as a portion of the project lies in Division 4, it can compete for Division 4 funds.

To formally accommodate the pedestrian amenities, NCDOT has a cost share program in place for which they would ask the Town of Garner to participate in. The current construction estimate for adding the sidewalk and raising the bridge to accommodate a greenway is \$256,780. Of that difference, NCDOT covers the first \$50,000 and then splits the remainder with the municipality based on current population figures. At this time, NCDOT is looking for a letter from the Town of Garner stating their willingness to participate in the cost sharing program. A sample letter is included at the end of this memo. Garner's share is presently 30%. These figures are summarized below:

Base Construction Cost	\$1,643,220
Construction Cost with Pedestrian Accommodations	\$1,900,000
Difference	\$ 256,780
NCDOT Coverage	\$ 50,000
Balance to be Split	\$ 206,780
NCDOT at 70%	\$ 144,746
<b>Town of Garner at 30%</b>	<b>\$ 62,034*</b>

*\* The final cost to both the Town and NCDOT will be higher once right-of-way and utility costs are factored in.*

The municipal agreement would need to be prepared prior to completion of the environmental document, and the Town would have the choice of paying its share of the cost when the agreement was executed or in three equal annual installments starting when the agreement is executed. Because the environmental document is already in progress, the following timeline applies to the Town’s decision to participate:

- End of June 2017: Letter of Commitment
- End of July 2017: Executed Agreement and first payment

Supporting documents follow:

- Sample Agreement Letter
- NCDOT Cost Sharing Policy
- Bridge Drawing without Greenway
- Bridge Drawing with Greenway

**STAFF RECOMMENDATION:**

Due to the continued development pressures in southeast Garner and along the County line, Town staff feels that this is a good investment for Garner’s recreational future as well as preserving an inter-town connection corridor.

**Sample Agreement Letter:**



DEPARTMENT OF ENGINEERING

February 6, 2007

Olivia J. Farr  
Project Development and Environmental Analysis  
NC Department of Transportation  
1548 Mail Service Center  
Raleigh, NC 27699-1548

Dear Ms. Farr:

This letter is in response to our recent conversations about the City of Rocky Mount's desire to have a sidewalk included as part of project U-4019, the widening of Winstead Avenue from Sunset Avenue to Hunter Hill Road. The City agrees to share the cost of the sidewalk with the NCDOT (60% NCDOT, 40% City of Rocky Mount).

Please call me at (252) 972-1129 if I may be of any further assistance.

Sincerely,

A handwritten signature in black ink that reads "Bob League".

Bob League  
Senior Transportation Planner



## Town of Garner

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900 7th Avenue · Garner, North Carolina 27529  
Phone (919) 772-4688 · Fax (919) 662-8874 · [www.GarnerNC.gov](http://www.GarnerNC.gov)

August 28, 2017

**RE: Pedestrian Improvements – Project # B-5326**

April Annis  
Project Planning Engineer  
Project Development & Environmental Analysis Unit  
North Carolina Department of Transportation  
1548 Mail Service Center  
Raleigh, NC 27699-1548

Ms. Annis:

This Letter of Commitment serves to inform NCDOT of the Town's desire to include sidewalk on Bridge No. 247 along SR 2555 (Raynor Road) over White Oak Creek and to accommodate a public greenway running along White Oak Creek and under said bridge. The Town Council agreed by consensus at their work session of May 30, 2017, to move forward with Letter of Commitment and first payment (NCDOT 70%, Town 30%).

Please let me know if I may be of further assistance.

Regards,

Jeffrey S. "Jeff" Triezenberg, AICP, GISP  
Planning Director

NORTH CAROLINA

**TRANSPORTATION IMPROVEMENT PROJECT –  
FUTURE GREENWAY ACCOMMODATION**

WAKE COUNTY

DATE: 3/14/2018

NORTH CAROLINA DEPARTMENT OF  
TRANSPORTATION

TIP #: B-5326

AND

WBS Elements: 46040.1.1 PE  
46040.2.1 ROW  
46040.3.1 CON

TOWN OF GARNER

THIS MUNICIPAL AGREEMENT is made and entered into on the last date executed below, by and between the North Carolina Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as the “Department” and the Town of Garner, a local government entity, hereinafter referred to as the “Municipality”.

WITNESSETH:

WHEREAS, the Department has plans to make certain constructions and improvements within the Municipality under Project B-5326, in Wake County; and,

WHEREAS, the Department and the Municipality have agreed that the municipal limits, as of the date of the awarding of the contract for the construction of the above-mentioned project, are to be used in determining the duties, responsibilities, rights and legal obligations of the parties hereto for the purposes of this Agreement; and,

WHEREAS, this Agreement is made under the authority granted to the Department by the North Carolina General Assembly, including but not limited to, the following legislation: General Statutes of North Carolina (NCGS), Section 136-66.1, Section 160A-296 and 297, Section 136-26, and Section 20-169, to participate in the planning and construction of a Project approved by the Board of Transportation for the safe and efficient utilization of transportation systems for the public good; and,

WHEREAS, the parties to this Agreement have approved the preliminary design of the Project with cost participation and responsibilities for the Project as hereinafter set out.

NOW, THEREFORE, the parties hereto, each in consideration of the promises and undertakings of the other as herein provided, do hereby covenant and agree, each with the other, as follows:

## **SCOPE OF THE PROJECT**

1. The Project consists of the replacement of Bridge No. 247 on SR 2555 (Raynor Road) over White Oak Creek in Garner. At the request of the Municipality, the Scope will include raising the grade and lengthening the Bridge to accommodate a planned greenway underneath the Bridge as provided with *Guidelines for Inclusion of Greenway Accommodations Underneath a Bridge as part of a NCDOT Project*. In accordance with the Guidelines, the Municipality has provided a letter stating that they agree to pay their cost share for accommodating the greenway.

## **PLANNING AND DESIGN**

2. The Department shall prepare the environmental and/or planning document, and obtain any environmental permits needed to construct the Project, and prepare the Project plans and specifications needed to construct the Project. All work shall be done in accordance with departmental standards, specifications, policies and procedures.

## **RIGHT OF WAY**

3. The Department shall be responsible for acquiring any needed right of way required for the Project. Acquisition of right of way shall be accomplished in accordance with the policies and procedures set forth in the North Carolina Right of Way Manual.

## **UTILITIES**

4. If during the project it becomes necessary to adjust or relocate municipally-owned water and/or sewer lines a separate Utility Agreement will be prepared at the appropriate time.

## **CONSTRUCTION**

5. The Department shall construct, or cause to be constructed, the Project in accordance with the plans and specifications of said Project as filed with, and approved by, the Department. The Department shall administer the construction contract for said Project.

## **BETTERMENT COSTS AND FUNDING**

6. The Municipality shall participate in the greenway accommodation costs as follows:
  - A. The Municipality shall pay a 30% cost share of the difference between the combined estimate of costs in the preliminary design of the Bridge with the greenway and the combined estimate



of the costs in the preliminary design without the greenway, except that the Department will pay the first \$50,000 of the estimated additional costs.

Estimated construction and right of way costs with the greenway: \$2,255,000

Estimated construction and right of way costs without the greenway: \$1,938,500

Additional costs with greenway = \$316,500

\$316,500 less \$50,000 = \$ 266,500

**\$266,500 x 30% = \$79,950**

The estimated cost reimbursement due from the Municipality is \$79,950. Both parties understand these are estimated costs and subject to change.

- B. The Municipality may pay the estimated reimbursement of \$79,950 in two annual payments. For two annual payments, the Municipality shall submit a check for Forty Thousand Dollars (\$40,000) to the Division Engineer upon partial execution of this Agreement by the Municipality. The final annual payment will be adjusted for any changes in the actual costs. Reimbursement from the Municipality for the final payment is due within sixty days of invoicing by the Department. A late payment penalty and interest shall be charged on any unpaid balance due in accordance with NCGS § 147-86.23.
- C. This Agreement must be fully executed by the Department before the greenway accommodation will be incorporated within the project design.
- D. In the event the Municipality fails for any reason to pay the Department in accordance with the provisions for payment herein above provided, NCGS § 136-41.3 authorizes the Department to withhold so much of the Municipality's share of funds allocated to said Municipality by NCGS § 136-41.1 until such time as the Department has received payment in full under the reimbursement terms set forth in this Agreement

## **MAINTENANCE**

- 7. Upon completion of the construction, the Municipality, at no expense to the Department, shall assume all maintenance responsibilities for the greenway and release the Department from all liability relating to such maintenance.

## **ADDITIONAL PROVISIONS**

- 7. It is the policy of the Department not to enter into any agreement with another party that has been debarred by any government agency (Federal or State). The Municipality certifies, by signature of this agreement, that neither it nor its agents or contractors are presently debarred, suspended,

proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal or State Department or Agency.

8. To the extent authorized by state and federal claims statutes, each party shall be responsible for its respective actions under the terms of this agreement and save harmless the other party from any claims arising as a result of such actions.
9. All terms of this Agreement are subject to available departmental funding and fiscal constraints.
10. This Agreement contains the entire agreement between the parties and there are no understandings or agreements, verbal or otherwise, regarding this Agreement except as expressly set forth herein.
11. The parties hereby acknowledge that the individual executing the Agreement on their behalf is authorized to execute this Agreement on their behalf and to bind the respective entities to the terms contained herein and that he has read this Agreement, conferred with his attorney, and fully understands its contents.
12. A copy or facsimile copy of the signature of any party shall be deemed an original with each fully executed copy of the Agreement as binding as an original, and the parties agree that this Agreement can be executed in counterparts, as duplicate originals, with facsimile signatures sufficient to evidence an agreement to be bound by the terms of the Agreement.
13. By Executive Order 24, issued by Governor Perdue, and N.C. G.S. § 133-32, it is unlawful for any vendor or contractor ( i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor).

IT IS UNDERSTOOD AND AGREED upon that the approval of the Project by the Department is subject to the conditions of this Agreement. IN WITNESS WHEREOF, this Agreement has been executed, in duplicate, the day and year heretofore set out, on the part of the Department and the Municipality by authority duly given.

WITNESS:

TOWN OF GARNER

BY: \_\_\_\_\_ BY: \_\_\_\_\_

PRINT: \_\_\_\_\_ PRINT: \_\_\_\_\_

DATE: \_\_\_\_\_ DATE: \_\_\_\_\_

N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

Approved by the Town of Garner as attested to by the signature of \_\_\_\_\_

Clerk of the \_\_\_\_\_ (governing body) on \_\_\_\_\_

This Agreement has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

(SEAL)

BY: \_\_\_\_\_  
(FINANCE OFFICER)

Federal Tax Identification Number

\_\_\_\_\_

Remittance Address:

Town of Garner

\_\_\_\_\_

\_\_\_\_\_

DEPARTMENT OF TRANSPORTATION

BY: \_\_\_\_\_  
(CHIEF ENGINEER)

DATE: \_\_\_\_\_

APPROVED BY BOARD OF TRANSPORTATION ITEM O: \_\_\_\_\_ (Date)