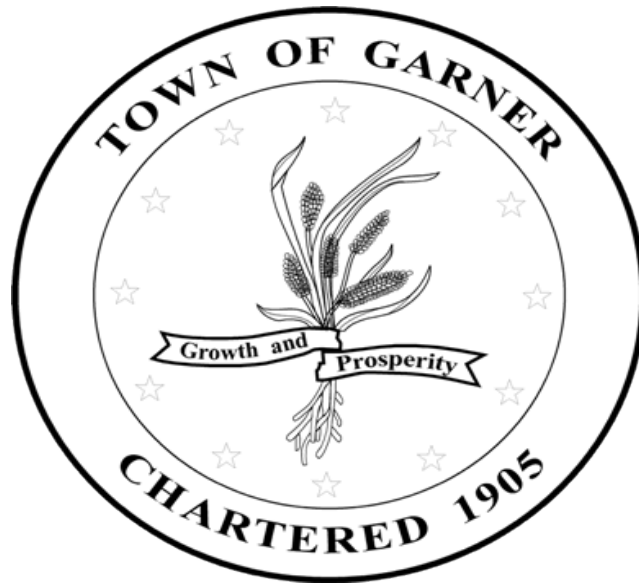


# TOWN OF GARNER



## TOWN COUNCIL MEETING

JULY 6, 2017  
7:00 P.M.

Garner Police Department  
Training Room  
912 7th Avenue, Garner

**Town of Garner  
Town Council Agenda  
July 6, 2017**

*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 Police Department Training Room located at 912 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. Recognition of Public Works Employee of the Year, Brad Williams ..... Page 5  
Presenter: Forrest Jones, Public Works Director

- 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. Council Meeting Minutes ..... Page 6  
Presenter: Stella Gibson, Town Clerk

Adopt minutes from the June 20, 2017 Regular and Closed Session Meetings.

Action: Adopt Minutes

2. Water/Sewer Allocation ..... Page 12  
Presenter: John Hodges, Asst. Town Manager-Development Services

The Public Works Committee met on June 20th, 2017 and were informed of the need to authorize an additional 154 lots (38,500 gallons) of allocation to the Type I category to clear needed 2016 requests. The Public Works Committee approved the additional allocation and also authorized an additional 200 lots (50,000) for 2017 Type I allocation.

Action: Authorize Increased Allocation

3. Extension of Governmental Services Relations Contract for FY2017-18 ..... Page 13  
Presenter: Rodney Dickerson, Town Manager

Authorize execution of Governmental Services Relations Agreement for FY 2017-18. Mr. Sam Bridges has been retained to represent the Town and its interests at the General assembly, CAMPO, and other governmental agencies.

Action: Authorize Execution of Contract Extension

4. Resolution to Surplus Service Weapon and Badge of Officer Scott Kuhn ..... Page 16  
Presenter: Brandon Zuidema, Police Chief

Recognize service weapon and badge of Officer Scott Kuhn as disposable property so that it can be awarded to him in recognition of his retirement from the Town after 10 years of service.

Action: Adopt Resolution (2017) 2325

5. Traffic Control Measures, Preakness Place ..... Page 18  
Presenter: Tony Chalk, Town Engineer

The Engineering Department is recommending approval to erect 4 stop signs as traffic control measures within the Preakness Place subdivision.

Action: Authorize Stop Sign Placement

#### H. PUBLIC HEARINGS

1. SUP-SP-17-02, Martin Marietta ..... Page 21  
Presenter: Jenny Saldi, Senior Planner

Hagersmith Design is requesting conditional use site plan approval for an office/warehouse. The site is located at 2500 Waterfield Drive.

Action: Approve SUP-SP-17-02, Martin Marietta

2. General Use Rezoning Z-17-04, Tryon Road ..... Page 29  
Presenter: David Bamford, Senior Planner

Request to change the zoning from Light Industrial (I-1) to Community Retail (CR). The property is located east of Junction Boulevard and south of Tryon Road. This is a general use request so no development plan is proposed at this time.

Action: Close Public Hearing; Refer to Planning Commission

3. Right-of-Way Closing, Purser Drive ..... Page 38  
Presenter: David Bamford, Senior Planner

Request to close the unimproved right of way of Purser Drive at the very end between 902 Purser Drive and 100 Rupert Road.

Action: Adopt Order to Close Right-of-Way

#### I. NEW/OLD BUSINESS

1. Wake County School and Town of Garner Joint Use Agreement ..... Page 43  
Presenter: Matt Roylance, Asst. Town Manager-Operations

Wake County School and Town of Garner Joint Use Agreement for the sidewalk/walking trail combination, designated parking areas, drive access and water fountains at Bryan Road Elementary School.

Action: Authorize Execution of Agreement

2. Sanitary Sewer Easement Revision for Carillon Assisted Living Facility ..... Page 56  
Presenter: Tony Chalk, Town Engineer

The developer has requested that the Town grant a revised easement that requires an additional 15' of easement from the Town.

Action: Authorize Easement Revision

3. General Use Rezoning, Z-17-03, 412 Loop Road ..... Page 58  
Presenter: David Bamford, Senior Planner

The Public Hearing for this item was held on June 5, 2017. The Planning Commission meeting was held on June 12, 2017. This is a Town sponsored rezoning for 412 Loop Road from R-20 to SB.

Action: Approve General Use Rezoning Z-17-03, Loop Road

J. COMMITTEE REPORTS

K. MANAGER REPORTS

1. garner info
2. Town Hall Updates

L. ATTORNEY REPORTS

M. COUNCIL REPORTS

N. ADJOURNMENT

Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: July 6, 2017		
Subject: Recognize Brad Williams as Public Works Employee of the Year		
Location on Agenda: Presentations		
Department: Public Works		
Contact: Forrest Jones, Public Works Director		
Presenter: Forrest Jones, Public Works Director		
Brief Summary: Recognize Brad Williams as the 2016 Public Works Employee of the Year.		
Recommended Motion and/or Requested Action: None		
Detailed Notes: None		
Funding Source:		
Cost:	One Time: <input type="radio"/>	Annual: <input type="radio"/> No Cost: <input checked="" type="radio"/>
Manager's Comments and Recommendations: Congratulations to Brad Williams on his tremendous performance in becoming the Public Works Employee of the Year.		
Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	FJ	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: July 6, 2017		
Subject: Approval of Council Meeting Minutes		
Location on Agenda: Consent		
Department: Administration		
Contact: Stella Gibson, Town Clerk		
Presenter: Stella Gibson, Town Clerk		
Brief Summary: Adopt Council Meeting Minutes from the June 20, 2017 Regular and Closed Session Meetings.		
Recommended Motion and/or Requested Action: Adopt Minutes		
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"/> No: <input type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	SG	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

**Town of Garner  
Town Council Agenda Minutes  
June 20, 2017**

The Council met in regular session at 7:00 p.m. in the Garner Police Department Training Room located at 912 7<sup>th</sup> Avenue.

**CALL MEETING TO ORDER/ROLL CALL:**

Mayor Ronnie Williams, Mayor Pro Tem Kathy Behringer, Council Member Buck Kennedy, Council Member Ken Marshburn and Council Member Gra Singleton. Council Member Johns was absent.

Staff Present: Rodney Dickerson -Town Manager, John Hodges-Asst. Town Manager-Development Services, Rick Mercier-Communications Manager, Jeff Triezenberg-Planning Director, David Bamford-Senior Planner, Michael Gammon-Budget & Special Projects Manager, Pam Wortham-Finance Director, Tony Chalk-Town Engineer, William E. Anderson-Town Attorney, and Stella Gibson-Town Clerk.

**PLEDGE OF ALLEGIANCE:** Council Member Gra Singleton

**INVOCATION:** Council Member Gra Singleton

**PETITIONS AND COMMENTS**

**ADOPTION OF AGENDA**

Motion: Kennedy  
Second: Marshburn  
Vote: Unanimous

**PRESENTATIONS**

**CONSENT**

**Council Meeting Minutes**

Presenter: Stella Gibson, Town Clerk

Adopt minutes from the May 24, 2017 Special Meeting, May 30, 2017 Work Session, and the June 5, 2017 Regular Meeting.

Action: Adopt Minutes

**Ordinance Amending FY 2016/2017 Operating Budget (Refunding Debt)**

Presenter: Pam Wortham, Finance Director

The debt refunding that occurred in December 2016 requires additional accounting entries and a budget amendment to cover the payoff and other related items.

Action: Adopt Ordinance (2017) 3859

**Ordinance Amending FY 2016/2017 Operating Budget (Equipment Purchases)**

Presenter: Pam Wortham, Finance Director



Town Council verbally approved the use of the remaining funds from the 2016-17 budget that resulted from savings of vehicle purchases to be used for smaller equipment items that otherwise would have been funded from 2017-18 budget.

Action: Adopt Ordinance (2017) 3860

**Ordinance Amending FY 2016/2017 Operating Budget (Salaries)**

Presenter: Pam Wortham, Finance Director

Request to move funds from various departments that have remaining salary and related line items to cover those that do not. This fiscal year included a 27th pay period that was not budgeted, but we were able to manage our salaries in total for the Town to accommodate the additional costs.

Action: Adopt Ordinance (2017) 3861

**Contract Extension for Town Legal Services for FY 2017 – 2018**

Presenter: William E. Anderson, Town Attorney

An extension of the contract for William E. Anderson to provide legal services to the Town is presented to the Council annually. Services to be rendered are based on a retainer of \$7,000 per month for an estimated average of sixty-three hours per month, unless other arrangements are required on a particular case or assignment.

Action: Authorize Execution of Contract Extension

Motion: Kennedy  
Second: Singleton  
Vote: Unanimous

**PUBLIC HEARINGS**

**Annexation Petition ANX-17-02, Preakness Place**

Presenter: David Bamford, Senior Planner

Mayor Williams opened the public hearing and asked David Bamford to provide the staff report. This request for contiguous annexation of 16.12 acres located on New Rand Road.

Hearing no further comments, Mayor Williams closed the public hearing and called for a motion.

Action: Adopt Ordinance (2017) 3863

Motion: Singleton  
Second: Behringer  
Vote: Unanimous

**NEW/OLD BUSINESS**

**Adoption of the FY 2017-18 Operating Budget and Fee Schedule**

Presenter: Michael Gammon, Budget & Special Projects Manager

Adoption of the FY 2017-18 Budget Ordinance. Ordinance reflects the changes made to the original recommended budget that were presented to Council at the June 5, 2017 public budget hearing. Total revenues and expenditures included in the budget are balanced at \$33,201,478. The FY 2017-18 Fee Schedule was also included for adoption.

Action: Adopt Ordinance (2017) 3862

Motion: Marshburn  
Second: Behringer  
Vote: Unanimous

**Bond Project Tracking Report**

Presenter: Michael Gammon, Budget & Special Projects Manager

A brief overview was provided regarding the status of the bond program, specifically changes and updates from the last report.

Action: No Action; Report Only

**Avery Street Sidewalk Improvements - Additional Services**

Presenter: Tony Chalk, Town Engineer

Mr. Chalk explained this request is for an amendment to the existing contract with Municipal Engineering Services Company to include additional surveying and design work required for the Avery Street Sidewalk Improvements project.

Action: Authorize Contract Amendment of \$8,000

Motion: Marshburn  
Second: Behringer  
Vote: Unanimous

**Wake County Transit Master Participation Agreements and Work Plan**

Presenter: John Hodges, Asst. Town Manager-Development Services

Mr. Hodges stated at the March 28, 2017 Work Session, Council reviewed a draft of the Wake Transit Master Participation Agreement and a draft of the Wake Transit Work Plan. The Master Participation Agreement has been finalized and is being presented for execution. The FY 2018 Recommended Wake Transit Work Plan has also been finalized and is being presented for your endorsement.

Action: Authorize Execution of the Wake County Transit Master Participation Agreement

Motion: Marshburn  
Second: Singleton  
Vote: 3:1, Kennedy opposed

Action: Endorse the Recommended Wake Transit Work Plan

Motion: Marshburn  
Second: Behringer  
Vote: Unanimous

**Interlocal Agreement for Administrative Distribution of Wake County Vehicle Registration Tax**

Presenter: John Hodges, Asst. Town Manager-Development Services

In addition to the Master Participation Agreement, the Town also needs to become a party to the Interlocal Agreement for the Administrative Distribution of the Wake County \$7 Vehicle Registration Tax that currently exists between the entities that shared in these funds prior to passage of the Wake Transit Plan. This step is needed for Garner to be able to participate in the Community Funding Area Program that will cost-share local transit operations that may be developed in the future.

Action: Authorize Execution of the First Amendment to the Interlocal Agreement

Motion: Marshburn  
Second: Behringer  
Vote: Unanimous

**COMMITTEE REPORTS**

Council Member Marshburn advised the Human Resources Committee completed interviews for the committee and advisory board vacancies and recommendations would be provided at the Council's next Work Session.

Council Member Kennedy advised the Public Works Committee met to discuss authorizing the Auburn Village subdivision to utilize roll type curb and gutter. This request can be considered a design element as this project is one of four floating districts (Planned Residential District, Planned Unit Development, Traditional Neighborhood District, and Mixed Use District). Committee consensus to authorize this particular design for the Auburn Village subdivision subject to internal review by staff.

The Public Works Committee also discussed Type 1 and Type 2 water/sewer allocations to meet committed demand. In order to true-up the allocations for 2016, an additional 154 units are needed. In addition, the annual allocation of 150 units for Type 1 became effective January 1, 2017. Year to date, 176 units have been approved, requiring an increased allocation now. Committee consensus to increase capacity from 150 units to 200 for a total of 350 units.

**MANAGER REPORTS**

- garner info
- Town Hall Updates – The project is moving along and staff should be able to move-in the week of July 10 or shortly thereafter. The grand opening is tentatively scheduled for mid-day in early August.
- Building & Permit Report
- Finance Report – The Town is well under budget and not expected to exceed it this fiscal year. Revenues collected indicate that there should be sufficient resources available to prevent the Town from using any significant portion of the nearly \$1.128 million of fund balance approved for use.

## **ATTORNEY REPORTS**

## **COUNCIL REPORTS**

### **Kennedy**

- Asked for an update on the road survey work for Thompson Road. Mr. Chalk replied a pre-construction meeting was held and the contractor is in the process of ordering material. Once received, the project should move quickly.
- Asked why construction of the Recreation Center was moving slowly. Mr. Chalk replied the weather has had an impact as well as the installation of electrical and plumbing. It is expected the concrete slab should be poured within the next 30 days. Council expressed their displeasure and frustration at the pace this project is proceeding. Mr. Chalk assured Council the contractor has been made aware of this. Council also discussed the possibility of attending the next construction meeting.
- Asked that staff check with other towns to see how/if a multi-cultural committee would operate.
- Stated his support of a splash pad for Garner and did not think waiting on the next CDBG grant process was a good idea.

### **Singleton**

- Asked that previous Town employees, retirees, Town Managers, elected officials, etc. be invited to the grand opening of the new Town Hall.
- Clarified when the sidewalk projects on Spring Drive, Vandora Road were complete, there would be a continuous sidewalk on both sides of the road from the fire station on Timber Drive to the shopping center at White Oak.

### **Behringer**

- Reported her recovery is going well.
- Attended Garner Ed Foundation meeting.

### **Marshburn**

- Thanked the Information Technology staff for providing iPad training.
- Asked when Garner Forward would be ready for Council review.

## **CLOSED SESSION**

Pursuant to N.C. General Statutes 143-318.11(a)(5) "to discuss possible real estate acquisition and the Town's negotiating position regarding such real estate."

Motion: Singleton  
Second: Kennedy  
Vote: Unanimous

**RETURN TO REGULAR SESSION AND ADJOURNMENT: 8:42 p.m.**

Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: June 20, 2017		
Subject: Type I Water/Sewer Additional Allocations		
Location on Agenda: Consent		
Department: Engineering		
Contact: Tony Chalk, Town Engineer		
Presenter: Tony Chalk, Town Engineer		
Brief Summary:  The Public Works Committee met on June 20th, 2017 and were informed of the need to authorize an additional 154 lots(38,500 gallons) of allocation to the Type I category to clear needed 2016 requests. The Public Works Committee approved the additional allocation and also authorized an additional 200 lots(50,000) for 2017 Type I allocation.		
Recommended Motion and/or Requested Action: Approve recommendations of the Public work Committee for additional 2016 and 2017 Type I water/sewer allocation		
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:  N/A		
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:		

Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: July 6, 2017		
Subject: Lobbyist Contract		
Location on Agenda: Consent		
Department: Legislative		
Contact: Rodney Dickerson, Town Manager		
Presenter: Rodney Dickerson, Town Manager		
Brief Summary:  Authorize execution of Governmental Services Relations Agreement for FY 2017-18. Mr. Sam Bridges has been retained to represent the Town and its interests at the General assembly, CAMPO, and other governmental agencies.		
Recommended Motion and/or Requested Action: Authorize Execution of Agreement		
Detailed Notes:		
Funding Source: Genreal Fund		
Cost: \$33,000	One Time:	Annual: <input checked="" type="radio"/>
		No Cost:
Manager's Comments and Recommendations: Mr. Bridges reported his activities to Town Council at the July Work Session. The report included a legislative update and proposed agenda for the upcoming year.		
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:		

NORTH CAROLINA  
WAKE COUNTY

GOVERNMENTAL SERVICES RELATIONS AGREEMENT-FY 2017-18

The parties to this Agreement, being the Town of Garner, a municipal corporation, hereinafter "Town," and the Samuel L. Bridges, hereinafter "Bridges," agree that the Town hereby retains Bridges to provide governmental relations services on behalf of the Town as set forth herein:

The purpose of this Agreement includes representation of the Town regarding issues important to the Town at the North Carolina General Assembly and at other State and local boards and agencies including the Wake County Public School System, NC DOT and the Wake County Commission, developing working relationships with individuals at the North Carolina General Assembly and at other state and local boards and agencies, monitoring the general activities of these agencies, developing a stronger understanding of the manner in which these entities are making decisions, and relaying such information to our Mayor, Town Council, and Town Manager.

Bridges agrees to be present at the North Carolina General Assembly as needed each week that they are in session and to attend general sessions and committee meetings as appropriate and to work with the governmental relations staff of the NC League of Municipalities and Metropolitan Mayors Coalition and to interact with Congressional Representatives as directed by the Town.

Bridges agrees to be present at the monthly CAMPO Executive Board meeting in Raleigh and to attend portions of Garner Town Council meetings as necessary, to attend other state and local board and agency meetings and to contact individuals that serve in all these agencies by phone and in person, as needed, as directed by Town officials.

Bridges shall register as a lobbyist for the Town of Garner with the North Carolina Secretary of State and pay the required registration fee. (Town will pay the fee required of a principal, upon advice from Bridges regarding the payment procedure.) Bridges agrees to provide a monthly statement of services rendered. Town agrees to pay Bridges a monthly retainer of \$2,500.00 for each of the 12 months of the 2017-18 fiscal year for a total compensation of \$30,000.00 for the fiscal year 2017-2018. Town also agrees to reimburse expenses up to an additional \$3,000.00 for the fiscal year 2017-18. The parties will continue to discuss what expenses, if any, might properly be reimbursable in the governmental relations context.

Bridges and Town agree to abide by all statutes, rules and regulations promulgated by the State of North Carolina for lobbying at the General Assembly and at other state and local boards and agencies. To facilitate that agreement, Bridges will continue to inform the Town Manager of all such rules and regulations applicable to a lobbyist and applicable to a principal, including instructions regarding the lobbyist and principal filings and paying fees to the Secretary of State or other agencies. Bridges shall continue to prepare documents necessary for the lobbyist and principal to remain compliant with the regulations promulgated by the NC Secretary of State.

This the \_\_\_\_ day of July, 2017.

(Town Seal)

TOWN OF GARNER

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

\_\_\_\_\_  
Samuel L. Bridges

ATTEST:

\_\_\_\_\_  
Stella Gibson, Town Clerk

PRE-AUDIT CERTIFICATE

This Agreement has been pre-audited in conformity with the applicable government finance laws of the State of North Carolina. This the \_\_\_\_ day of June, 2017.

\_\_\_\_\_  
Pam Wortham, Finance Director



Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: July 6, 2017		
Subject: Recognition of Disposable Property		
Location on Agenda: Consent		
Department: Police		
Contact: Walter Myer, Police Lieutenant		
Presenter: Brandon Zuidema, Police Chief		
Brief Summary:  Recognize service weapon and badge of Officer Scott Kuhn as disposable property so that it can be awarded to him in recognition of his retirement from the Town after 10 years of service.  **No presentation**		
Recommended Motion and/or Requested Action: Adopt Resolution (2017) 2325		
Detailed Notes:		
Funding Source:		
Cost: N/A	One Time: <input checked="" type="radio"/>	Annual: <input type="radio"/> No Cost: <input type="radio"/>
Manager's Comments and Recommendations: Thanks to Mr. Kuhn for his service and dedication to the Town of Garner over the last 10 years.		
Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	BZ	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

RESOLUTION NO. (2017) 2325  
RESOLUTION AUTHORIZING DISPOSITION OF PERSONAL PROPERTY

WHEREAS, Officer Scott Kuhn will medically retire from the Garner Police Department on July 1, 2017 following ten years of service to the Town of Garner; and

WHEREAS, pursuant to N.C.G.S. 20-187.2, a governing board of a unit of government may award a retiring member of the law-enforcement agency their badge and service side arm at no cost to the retiring employees;

WHEREAS, pursuant to G.S. 160A-266 municipalities are authorized to dispose of personal property;

THEREFORE, BE IT RESOLVED that SigSauer P226 service sidearm, Serial # UU715593 and the badge carried by Officer Scott Kuhn be deemed as disposable property and awarded to him, at no cost, on the occasion of his retirement; and

THEREFORE, BE IT FURTHER RESOLVED that Officer Scott Kuhn will be responsible for obtaining the necessary permits as required by law to possess and carry such a side arm further described as a SigSauer P226, Serial # UU715593.

Duly adopted this 6<sup>th</sup> day of July 2017.

---

Ronnie S. Williams, Mayor

ATTEST:

---

Stella Gibson, Town Clerk

Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: July 6, 2017		
Subject: Stop Sign Approval		
Location on Agenda: Consent		
Department: Engineering		
Contact: Tony Chalk		
Presenter: Tony Chalk		
Brief Summary:  The Engineering Department is recommending approval to erect 4 stop signs as traffic control measures within the Preakness Place subdivision.		
Recommended Motion and/or Requested Action: Approve stop sign placement at intersections within Preakness Place.		
Detailed Notes:  See attached memo and map.		
Funding Source: N/A		
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:	TC	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

TOWN OF GARNER  
ENGINEERING DEPARTMENT  
**MEMORANDUM**

---

TO: Town Council

FROM: Tony Chalk, PE, PLS  
Town Engineer

DATE: June 27, 2017

SUBJECT: Stop Signs within the Preakness Place Subdivision

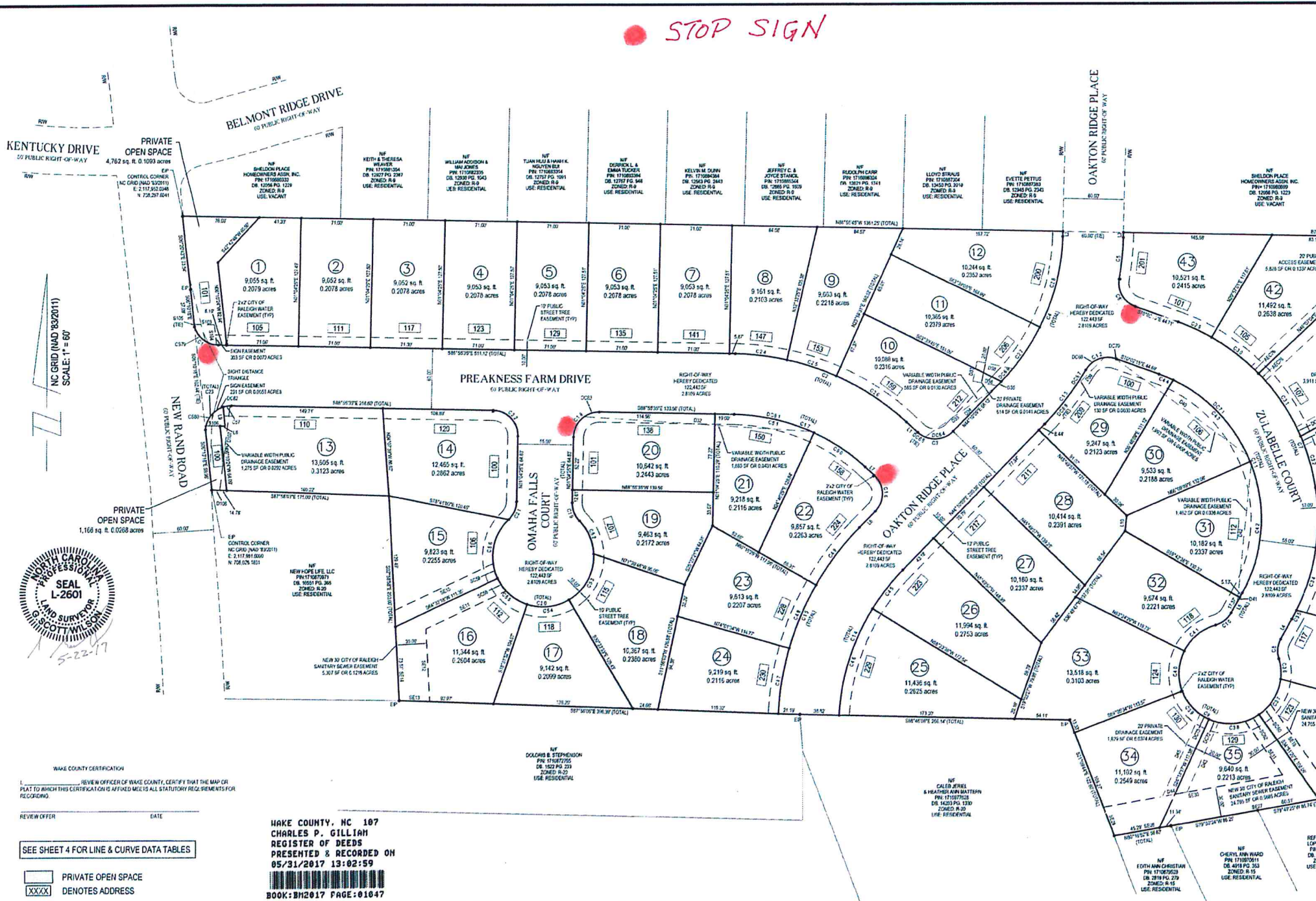
The Engineering Department is recommending the following street intersections for stop sign placement:

<u>Stop Condition</u>	<u>Through Street</u>
Zulabelle Court	Oakton Ridge Place
Preakness Farm Drive	Oakton Ridge Place
Omaha Falls Court	Preakness Farm Drive
Preakness Farm Drive	New Rand Road

The stop conditions will serve as a basic traffic control measure. Please let me know if there are any questions.

Attachment: Preakness Place Subdivision Plat

STOP SIGN



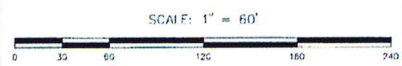
WAKE COUNTY CERTIFICATION  
I, REVIEW OFFICER OF WAKE COUNTY, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS APPLIED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

REVIEW OFFER DATE  
SEE SHEET 4 FOR LINE & CURVE DATA TABLES

PRIVATE OPEN SPACE  
XXXXX DENOTES ADDRESS

WAKE COUNTY, NC 107  
CHARLES P. GILLIAM  
REGISTER OF DEEDS  
PRESENTED & RECORDED ON  
05/31/2017 13:02:59  
BOOK: BH2017 PAGE: 01047

RECORDED IN  
BOOK OF MAPS 2017 PAGE 1047



REV.	DATE	DESCRIPTION	BY
2	5-8-17	ADDRESSED TOWN COMMENTS	ROB
1	4-4-17	ADDRESSED TOWN COMMENTS	ROB
REV.	DATE	DESCRIPTION	BY

**BASS, NIXON & KENNEDY, INC.**  
CONSULTING ENGINEERS  
• 8310 CHAPEL HILL ROAD, SUITE 250  
RALEIGH, NORTH CAROLINA 27607  
TELEPHONE: (919)851-4422 OR (800)354-1879  
FAX: (919)851-8968  
• CERTIFICATION NUMBERS: NCBELS (C-0110); NCBLA (C-0287)

SURVEYED BY  
DRAWN BY  
ROB  
CHECKED BY  
SW  
DATE  
02-20-17

MAJOR SUBDIVISION FINAL, RIGHT-OF-WAY  
DEDICATION & EASEMENT PLAT  
FOR  
**PREAKNESS PLACE**  
Page 20  
ST. MARYS WAKE COUNTY NORTH CAROLINA

SHEET  
2  
OF  
4

Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: July 6, 2017		
Subject: SUP-SP-17-02 – Martin Marietta		
Location on Agenda: Public Hearings		
Department: Planning		
Contact: Jenny Saldi, Senior Planner		
Presenter: Jenny Saldi, Senior Planner		
Brief Summary:  Request Special Use Site Plan approval for a laboratory and warehouse located at 2500 Waterfield Drive in the Greenfield Business Park		
Recommended Motion and/or Requested Action: Approve SUP-SP-17-02		
Detailed Notes: See attached staff report.		
Funding Source:		
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:	JT	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

**Town of Garner  
Special Use Permit  
Staff Report  
Planning Commission  
June 12, 2017**

**PROJECT NUMBER:** SUP-SP-17-02, Martin Marietta

**APPLICANT:** HagerSmith Design, PA

**OWNER:** Greenfield 40 Assoc., LLC

**PLAN PREPARED BY:** HagerSmith Design, PA

**KEY MEETING DATES:**

**Planning Commission:** June 12, 2017

**Town Council Public Hearing:** July 6, 2017 (Thursday)

**GENERAL DESCRIPTION:**

**Proposed Use:** Lab and warehouse

**Location:** 2500 Waterfield Drive in Greenfield Business Park

**PIN#:** 1730-12-5497

**Town Limits:** Out; submittal of a petition for annexation shall be required

**Zoning Classification of the Site:** Mixed Use District – 1 (MXD-1) which is now an obsolete district

**Adjacent Zoning and Land Uses:**

**North:** Waterfield Drive; MXD-1 - Undeveloped

**South:** MXD-1 – Light industrial

**East:** MXD-1 - Undeveloped

**West:** MXD-1 – Warehouse/Distribution

**Neighborhood Character:** Greenfield Business Park contains a mix of businesses from manufacturing/warehouse/distribution to a residential facility for troubled youth.

**PROJECT DATA:**

**Acreage:**

5.77 acres

**Building Size:**

The main building contains a total of 16,340 square feet; 4,179 office, 4,515 lab and 7,646 warehouse.

The smaller building at the rear contains a total of 2,400 square feet; 510 office and 1890 shop

**Building Material and Color:**

The main building will be grey metal siding; however the front and about 90 linear feet down each side will be finished with a tan split face block and a grey split face block. Two blue accent bands around the top will add detail to the block.

The smaller building will be all grey 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 predominately within the riparian buffer.

A fifteen foot street buffer and 15 foot perimeter buffers are shown. Street trees are a combination of existing and proposed. The applicant hopes existing vegetation within the perimeter buffers will be sufficient to meet buffer requirements; however, should they not, a landscape plan is provided to assist in determining what additional vegetation may be required.

A feature running along the east property line is subject to the Neuse River Buffer requirements. The stormwater pond outlet is the only proposed encroachment. Please see General Comments.

**Parking Spaces:**

Parking based on square feet of office space and number of employees in the warehouse  
32 (2 accessible) spaces required  
35 (3 accessible) proposed

**Floodplain:**

This site does not contain a FEMA designated floodplain.

**Stormwater Management:**

Please refer to General Comments.



**Fire Protection:**

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

**Water/ Sewer:**

Connections to public water and sewer proposed.

Construction drawing approval required for the on-site private sewer system.

**Street Access/ Sidewalks:**

Access to the site provided with one driveway off Waterfield Drive.

**General Comments:**

The following description of the activities on site was provided by the applicant: “The primary use at the 2500 Waterfield site in Garner will be a building materials testing laboratory. Materials being tested primarily include, but not limited to, aggregates and occasional asphalt and concrete design and testing. In addition to the laboratory, the main building will include office spaces, a conference/training room and a warehouse area to store aggregate samples. The shop building will house the diamond core drill rigs and drilling staff when not out on job sites. Occasional truck and machinery minor maintenance will be performed inside the shop. No regular outdoor activities are planned other than normal parking and vehicular activity at the service court.”

Neuse River Buffer – A channel through the Neuse River buffer is proposed as an outlet for the stormwater pond. Evidence of approval from the State shall be required prior to issuance of a building permit.

Storm-water management – This project is subject to nitrogen water quality requirements as well as water quantity requirements. There will be stormwater wetland constructed to comply with the nitrogen reduction component of the Neuse rules along with detaining the 1, 10 and 25 year rainfall events. The property owner has made previous offset payments to a private mitigation bank as required.

In response to questions about generating any air pollution, the applicant offered the following: “The proposed laboratory will not emit any air contaminants requiring the issuance of a State permit. All testing work that could create dust in the proposed laboratory will be performed inside the laboratory. All dust generated from these tests will be captured by an internal air purifying system that will capture dust generated from lab activities that is designed to capture dust and other similar airborne

particles and prevent them from having an impact outside of the laboratory building.” Attached to this Staff report is a product brochure of the outside component of this indoor air filtration system. The proposed model is 5 by 7.5 feet and about 12 feet high.

**Consistency with Adopted Town Plans and Policies:**

**2006 Comprehensive Growth Plan:** This site falls within the Employment Center; the project is consistent with the Comprehensive Growth Plan.

**2010 Garner Thoroughfare Plan:** This project, as proposed, is consistent with the Thoroughfare Plan.

**Parks & Greenway Plan:** This project, as proposed, is consistent with the Parks and Greenway Plan.

**Unified Development Ordinance Regulations:** This project, as proposed, is consistent with the regulations of the Unified Development Ordinance.

**STAFF RECOMMENDATION:**

Staff has reviewed the plans and recommends approval of SUP-SP-17-02, Martin Marietta, with the following conditions:

1. Prior to issuance of a building permit, a petition for annexation shall be submitted to the Planning Department.
2. Prior to issuance of a building permit, documentation of approved buffer encroachment shall be submitted to the Planning and Engineering Department.



**Town of Garner  
Planning Department**

**Conditional Use Permit  
SUP-SP-17-02**

0 215 430  
Feet



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

Project: Martin Marietta  
Applicant: HagerSmith Design  
Owner: Greenfield 40 Associates LLC  
Location: 2500 Waterfield Drive  
Pin: 1730125497

Proposed Use: Office/warehouse  
Current Zoning: MXD-1  
Acreage: 5.77  
Overlay: None



## DIMENSIONS

MODEL	WIDTH	DEPTH	HEIGHT	# OF FILTERS	FILTER AREA	WEIGHT
ACT 2-4	40"	61"	121"	4	1,016	1,250
ACT 2-8	40"	87"	127"	8	2,032	1,850
ACT 3-12	40"	87"	146"	12	3,048	2,250
ACT 4-16	40"	87"	164"	16	4,064	2,700
ACT 5-20	40"	87"	178"	20	5,080	2,850
ACT 3-24	80"	87"	146"	24	6,096	3,500
ACT 4-32	80"	87"	164"	32	8,128	3,900
ACT 4-48	120"	87"	164"	48	12,192	5,400
ACT 4-64	160"	87"	164"	64	16,256	6,700
ACT 4-80	200"	87"	164"	80	20,320	8,300

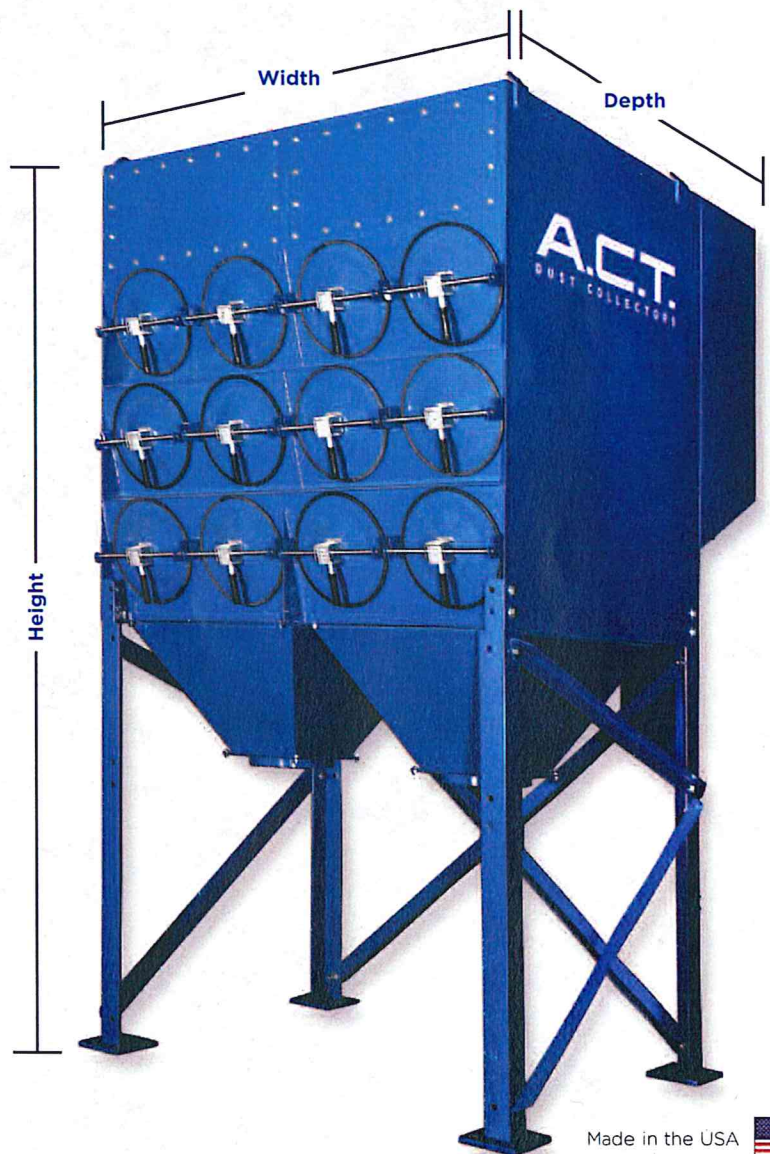
Larger units are available. Please contact your local distributor for more information.

### STANDARD FEATURES:

- Heavy duty construction wears well in all applications
- Filters with 254 square feet of 80/20 blended media each
- Reverse-pulse filter cleaning system
- Pulse control timer board with a built-in digital pressure gage in a weather proof housing
- Air venturis for optimum filter cleaning
- Lifting lugs
- Drum lid
- Five year materials and craftsmanship warranty

### OPTIONAL FEATURES:

- ACT Nano-Elite Nanofiber Filtermedia
- Other filter media options
- Abrasive inlet plenum
- Complete line of motor/blowers
- Silencers
- Rotary air locks
- Explosion vents
- Please contact your distributor for additional options



**TOWN OF GARNER**  
**SUP-SP-17-02 – Martin Marietta**  
**SOCIAL USE PERMIT**

<b>APPLICANT</b>	Hagersmith Design 300 S. Dawson Street Raleigh, NC 27601
<b>LOCATION</b>	2500 Waterfield Drive
<b>USE</b>	Lab and warehouse
<b>DATE ISSUED</b>	July 6, 2017

**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**

1. Prior to issuance of a building permit, a petition for annexation shall be submitted to the Planning Department.
2. Prior to issuance of a building permit, documentation of approved buffer encroachment shall be submitted to the Planning and Engineering Department.

Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: July 6, 2017		
Subject: Z-17-04 (General Use Application), Tyron Road		
Location on Agenda: Public Hearings		
Department: Planning		
Contact: David Bamford, Senior Planner		
Presenter: David Bamford, Senior Planner		
<p><b>Brief Summary:</b></p> <p>The property owner wishes to change the zoning from Light Industrial (I-1) to Community Retail (CR). The property is located east of Junction Boulevard and south of Tryon Road. This is a general use request so no development plan is proposed at this time.</p>		
<p><b>Recommended Motion and/or Requested Action:</b></p> <p>Refer Z-17-04 to the Planning Commission for review at their July 10, 2017 Meeting.</p>		
<p><b>Detailed Notes:</b></p> <p>See attached staff memorandum.</p>		
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 Memorandum

---

**TO:** Town Council

**FROM:** David Bamford, Senior Planner

**SUBJECT:** **General Use Rezoning Case Z-17-04**

**DATE:** July 6, 2017

---

**Rezoning Application:** Z-17-04 General Use Rezoning

**Applicant:** Broomfield LLC

**Owner:** Broomfield LLC

**Property Location:** Tryon Road

**Wake Count PIN(s):** 1702201920

**Area:** 28 acres

**Town Limits:** No

**Present Zoning:** I-1 (Light Industrial)

**Overlay:** None

**Requested Zoning:** CR (Community Retail)

Note: This is a general use request. No conditions are proposed.

**Key Meeting Dates:**

**Town Council Public Hearing:** July 6, 2017

**Planning Commission:** July 10, 2017

**Town Council Action Hearing:** August 7, 2017

## EXISTING ZONING

The existing zoning of the 28-acre site is Light Industrial (I-1). This I-1 (Light Industrial) district is intended to provide for a limited range of low-intensity industrial uses. Operations are restricted to inside a building (outdoor storage prohibited).

### **The following is a list of permitted uses in the I-1 District.**

1. Security caretaker's quarters
2. Trade/Vocational school
3. Ambulance, rescue squad, police, or fire station
4. Prison, jail, detention facility
5. Public park, pool, golf course
6. Bus passenger terminal
7. Taxicab or limousine operations
8. Broadcast tower
9. Minor utility, elevated storage tank
10. Telecommunications facility
11. Other major utility
12. Bar, nightclub, tavern (prohibited within 500 feet of residential zoning)
13. Gym, spa, indoor tennis, pool
14. Horse stables and related facilities
15. Indoor entertainment facility
16. Outdoor athletic or entertainment facility
17. Theater—drive in (prohibited within 500 feet of residential zoning)
18. Water slide, golf driving range
19. Bank, financial institution
20. Medical offices
21. Other offices
22. Extended stay facility (prohibited within 500 feet of residential zoning)
23. Hotel/motel
24. Parking commercial
25. Restaurant, drive in
26. Restaurant, indoor seating
27. Restaurant, indoor seating, drive-through window
28. Restaurant, take out only
29. Convenience store with no fuel sales
30. Convenience store with fuel sales
31. Open air market
32. Personal service use (indoor operations)
33. Hair and beauty salons
34. Indoor repair
35. Indoor sales, retail
36. Veterinarian, kennel indoor
37. Self-service storage
38. Car wash (prohibited within 500 feet of residential zoning)
39. Vehicle services limited



40. Flex space
41. Industrial use indoor
42. Wholesale sales
43. Greenhouse, nursery

## **PROPOSED ZONING**

The proposed zoning of the 28-acre site is Community Retail (CR). The CR zoning district is designed to accommodate commercial activities that serve the entire community for retail uses. Outdoor operations, outdoor storage and outdoor retail sales are not permitted in the CR district. Uses are only permitted within an enclosed building.

### **The following is a list of permitted uses in the CR district.**

1. Townhouse or Condominium
2. Upper-Story Residential
3. Community Center
4. Library, museum, art center
5. Other Community service
6. Lodges and fraternal clubs
7. Adult Day Care
8. Day Care Center
9. Business School, college or university satellite
10. College/university
11. Trade/vocational schools
12. Music, dance art instruction
13. Funeral home crematorium
14. Ambulance, rescue squad, police, fire station
15. Government office
16. Hospice
17. Hospital
18. Emergency Care Facility
19. Medical Clinic
20. Mental Health facility
21. Group Care Facility
22. Handicapped Institution
23. Intermediate care institution
24. Nursing Care Institution
25. Cemetery
26. Parks, swimming pools, tennis courts, golf courses
27. Religious institutions
28. Minor utility, elevated water tank
29. Telecommunication facility
30. Bars and nightclubs
31. Private golf or country club
32. Private gym, spa, indoor tennis, pool
33. Indoor entertainment facility

34. Electronic gaming center
35. Movie Theaters
36. Bank, financial institution
37. Medical office, individual
38. Other office
39. Bed and breakfast
40. Hotel and motels
41. Commercial Parking
42. Restaurant, indoor with seating only
43. Restaurant with drive-through window
44. Restaurant take out only or walk up
45. Convenience store without fuel sales
46. Convenience store with fuel sales
47. Repair oriented use indoor only
48. Personal service use indoor only
49. Hair and beauty salons
50. Sales oriented use (indoor operations only)
51. Veterinarian/kennel indoor
52. Vehicle service-limited

### **SUMMARY OF ZONING REQUEST**

The rezoning site has been zoned I-1 since 1988 when it was brought into Garner’s ETJ. The site has had no development activity. The property has been for sale for some time, and the property owner wishes to change the zoning from light industrial (I-1) to community retail (CR) in hopes that this will attract a buyer. There has been no interest in light industrial development on this site. This is a general use rezoning so no conditions or development plan are proposed.

### **SURROUNDING ZONING & LAND USE**

- |        |   |
|--------|---|
| North: | Commercial Mixed Use (Restaurant), City of Raleigh<br>Planned Development (Renaissance Park), City of Raleigh |
| South: | Service Business (SB), North Station Shopping Center  |
| East:  | Industrial Mixed Use (Outdoor Storage uses), City of Raleigh  |
| West:  | Service Business (SB), West Station Trade Center  |

## NEIGHBORHOOD CHARACTER

This area of Garner’s jurisdiction is mainly heavy commercial, light industrial, and retail. Renaissance Park, a residential development in Raleigh’s jurisdiction, is located north of Tryon Road.

## ZONING HISTORY

The following rezoning cases are in the vicinity of the rezoning site.

Case	Applicant	Location	Zoning Change
Z-88-08	JK Sherron	North / South Station	SB and I-1 to SB C19 and SB C20
CUDZ 98-09	Parker-Raleigh Development	Lenoxplace Apartments	SB C20 to MF2 C83

## INFRASTRUCTURE

### Water & Sewer Service

Water and sewer service is available. An 8” water line is at the northwest corner of the property. Sewer service appears to be accessible at the southwest corner of the site. Connection is subject to the Town’s utility policy.

## TRANSPORTATION

The rezoning site originally has frontage along Tryon Road until it was re-aligned recently. The 11.8-acre rezoning site has approximately 720 feet of frontage along a side service road (old Tryon Road) that connects to Junction Boulevard. Approximately 330 feet is within the public NCDOT right of way. The remaining 390 feet is on private property within the rezoning site. This service road came about when Tryon Road was re-aligned away from this property.

The service road is a 2-lane paved facility. Within the first 330 feet, the public right of way width appears to be around 80 feet in width. Then the service road curves and enters private property. So it appears the front portion of the road is maintained by NC DOT and the remaining is private. This service road is not classified as a **thoroughfare** on the *Garner*

*Transportation Plan*. There is no traffic count data available for this road. The *Garner Transportation Plan* does not suggest any future road widening.

While there are some differences between the existing and the proposed district, the proposed zoning change from I-1 to CR will not significantly change the potential development intensity on the site, as it relates to traffic impacts. Both districts allow retail sales (shopping centers).

## ENVIRONMENT

The site does not contain any FEMA flood plain areas. Topographic data shows that the area drains from east to west. Map data does show there may be several creeks where riparian buffers would apply when the site is developed.

## STAFF COMMENTARY

### Conformity to Adopted Town Plans

According to the *Town of Garner Comprehensive Growth Plan* map, the rezoning site is partially within both a **Regional Center** and an **Employment Center** along US 401 and US 70 W.

A **Regional Center** is designed to target a regional population. In these areas, the land uses are primarily non-residential which incorporates large areas of retail and large office buildings. However the development of higher density residential (apartments) is often incorporated in these centers and provides housing options close to employment with direct access to the freeway. These centers also include park or natural areas for general public use and to mitigate the impacts of intensive development.

The recommended zoning districts for a Regional Center include: O&I, PUD, SB, CR, MXD, and MF-2. The recommended residential density range is 13+ dwelling units per acre.

**Employment Centers** are designed to accommodate employment opportunities such as business and office parks, light manufacturing, production, distribution and warehouse facilities.

The recommended zoning districts for an **Employment Center** include: SB, I-1, I-2, and MXD (Mixed Use).

The rezoning request from I-1 to CR is consistent with the recommendations of the plan for the area designated as a Regional Center and somewhat consistent with the area designated as an Employment Center. The thinking for the new comprehensive Plan update is that this area

would be a Mixed Activity Center (Opportunity Site 1) that would connect living, working, and retail to bus rapid transit. The CR district would be a better fit than the I-1 district.

#### **STAFF RECOMMENDATION**

Planning staff is reviewing this application and will present a recommendation to the Planning Commission on July 10, 2017.

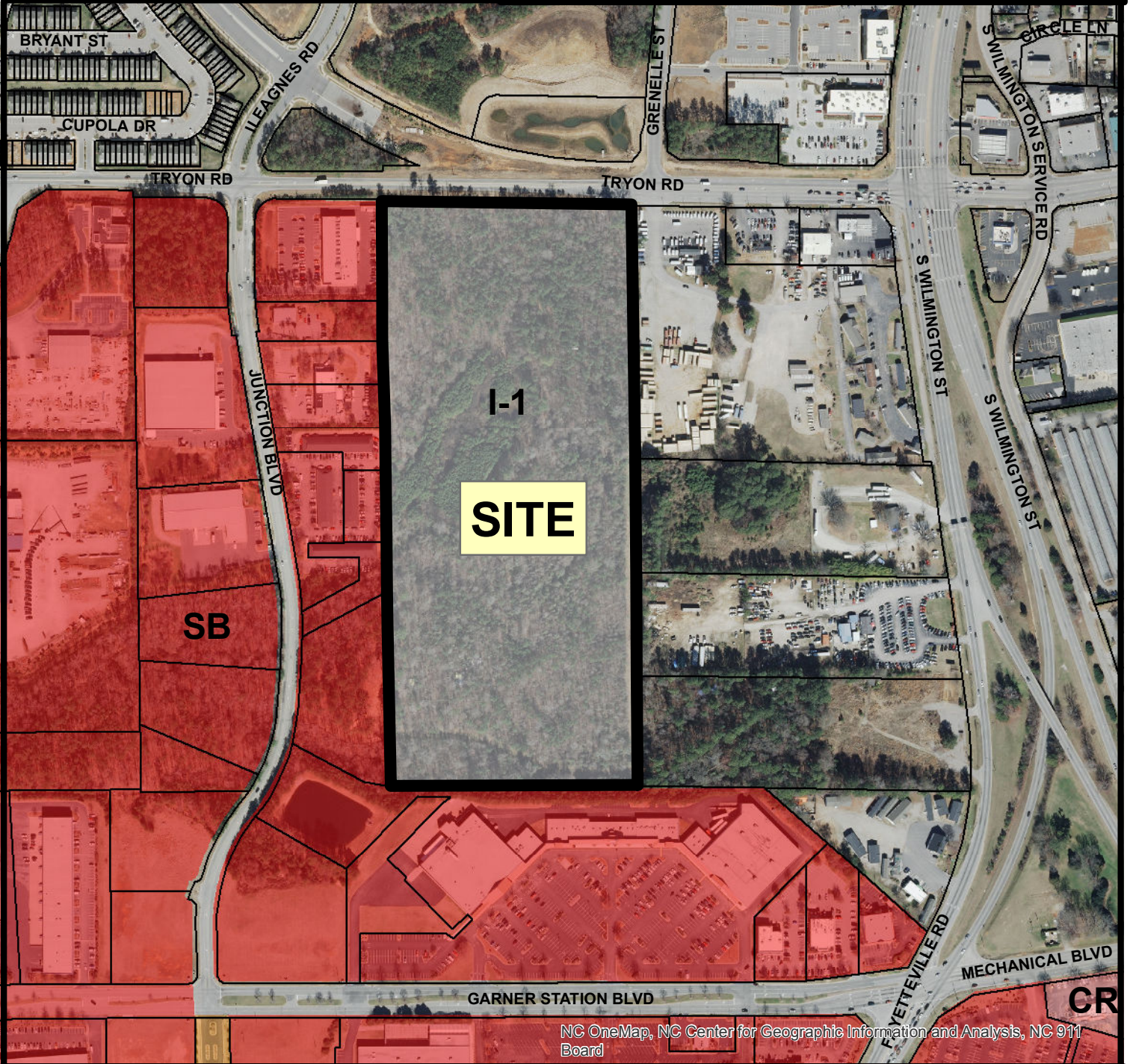




# Town of Garner Planning Department

## General Use Applications Z 17-04

0 300 600  
Feet



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

Applicant: Broomfield LLC  
Owner: Broomfield LLC  
Location: Tryon Road  
Pin: 1702201920

Proposed Use: Nothing at this time  
Current Zoning: I-1 (Light Industrial)  
Proposed Zoning: CR (Community Retail)  
Overlay: None  
Acreage: 28

Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: July 6, 2017		
Subject: Purser Drive Right of Way Closing		
Location on Agenda: Public Hearings		
Department: Planning		
Contact: David Bamford, Senior Planner		
Presenter: David Bamford, Senior Planner		
Brief Summary:  This is a request to close the unimproved right of way of Purser Drive at the very end between 902 Purser Drive and 100 Rupert Road.		
Recommended Motion and/or Requested Action: Adopt order to close the unused portion of this right of way		
Detailed Notes: See attached staff report.		
Funding Source:		
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:	JT	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		



# Town of Garner Road Closing Staff Report

Garner Town Council  
July 6, 2017

---

<b>ROAD CLOSING APPLICATION:</b>	SC-17-01
<b>APPLICANT:</b>	Dynamic Properties LLC
<b>OWNERS:</b>	Dynamic Properties LLC
<b>TOWN LIMITS:</b>	Yes
<b>LOCATION:</b>	At very end of Purser Drive- between 902 Purser Drive and 100 Rupert Road
<b>WAKE COUNTY PINS #:</b>	Between 0791965115 and 0791955808
<b>RIGHT OF WAY LENGTH:</b>	60 Feet – Town of Garner
<b>RIGHT OF WAY WIDTH:</b>	306 Feet – Town of Garner
<b>RIGHT OF WAY AREA:</b>	0.42 Acres (18,369 S.F.) – Town of Garner
<b>ASSOCIATED DEVELOPMENT PLANS:</b>	<p>There are no development plans associated with this request. This is an unimproved right of way for Purser Drive that was never built. No physical road exists in this area. With the ETJ area west of the railroad transferred back to the County, Purser Drive will not be extended west across the railroad.</p> <p>The applicant is the owner of both lots on each side of this unimproved right of way. They wish to recombine both lots by removing this right of way.</p>
<b>RECOMMENDATION:</b>	Adopt ordinance to close the unused right of way



Division of Highways District Engineer Certificate

Department of Transportation, Division of Highways  
Proposed Subdivision Road Construction Standards  
Certification

Approved: *[Signature]*  
District Engineer

Date: February 21, 1986

This official stamp of the District Engineer is interpreted to mean that the plans for public streets shown on the plat have been reviewed and approved for compliance with the minimum construction standards for the provision of highways.

Grid North

PURSER

NORFOLK and SOUTHERN RAILWAY  
60' R/W

Reserved 60' R/W For Future Development and Dedication 60' Public Utility and Drainage Easement.

S.R. 1466

Purser Dr.

S.R. 2538

VICINITY MAP  
N.T.S.

Certificate of Ownership and Dedication

I hereby certify that I am the owner of the property described herein, which property is located within the subdivision jurisdiction of the Town of Garner, that I hereby freely adopt this plan of subdivision and dedicate to public use all areas shown on this plat as streets, alleys, walks, parks, open space, and easements, except those specifically indicated as private, and that I will maintain all such areas until the offer of dedication is accepted by the appropriate public authority. All property shown on this plat dedicated for a public use shall be deemed to be dedicated for any other public use authorized by law when such other use is approved by the Board of Aldermen in the public interest.

7 Feb 86

Earle R. Purser

*[Signature]*

*[Signature]*

*[Signature]*

My Commission Expires: 6-1-87

J.T. THOMPSON

"I, LARRY I. CHASAK, certify that this map was drawn (by me) (under my supervision) from an actual (survey by me) (survey made under my supervision) deed description recorded in Book 1986, Page 930; that the error of closure as calculated by latitudes and departures is 1/10,000 +; that the boundaries not surveyed and broken lines plotted from information found on 1986; that this map was prepared in accordance with G.S. 4730 as amended. Witness my hand and seal of Feb. 21, 1986.

Signed: *[Signature]*

Seal: *[Seal]*

NORTH CAROLINA WAKE COUNTY

Personally appeared before me

*[Signature]*, who being duly sworn, says that the certificate shown is true and correct this 21st day of February, 1986

My Commission Expires: Dec. 6, 1986

*[Signature]*

Notary Public

NORTH CAROLINA - WAKE COUNTY

The foregoing certificate of

Sandra B. Chasak

Notary(y) (ies) (are) certified to be correct. This instrument was presented for registration and recorded in this office.

This 2nd day of June 1986 at o'clock, 9:07 A.M.

By P. Anne Redd  
Deputy Register of Deeds

N. C. GRID COORDS.

A N 715,931.22  
E 2,100,101.85

B N 715,399.12  
E 2,100,267.90

Phase 2  
Map Bk. 1984-896

REVISED: 05-12-86

Lots 4 thru 10 rev. to accommodate  
60' cul de sac radius and reduced  
R.R. R/W.



CURVE #1  
Δ = 9°-17'-27"  
T = 75.95'  
R = 934.69'  
L = 151.56'  
SE = .04

CURVE #2  
Δ = 15°-00'-00"  
T = 150.86'  
R = 1145.92'  
L = 300.00'

Certificate of Approval

I hereby certify that all streets shown on this plat are within the Town of Garner's planning jurisdiction, all streets and other improvements shown on this plat have been installed or completed or that their installation or completion (within twelve months after the date below) has been assured by the posting of a performance bond or other sufficient security, and that the subdivision shown on this plat is in all respects in compliance with the Town of Garner Land Use Ordinance, and therefore this plat has been approved by the Garner Board of Aldermen, subject to its being recorded in the Wake County Registry within 90 days of the date below.

5-30-86 Mary Ann Rand Print  
Town Clerk

*[Signature]*  
Sign

All easements are 20' Drainage and Utility, unless otherwise shown.

CERTIFICATE OF APPROVAL FOR SEWAGE DISPOSAL SYSTEMS

Lots on this plat have received preliminary review for the installation of septic tanks. All lots shall meet the requirements of the North Carolina Board of Health and are subject to final approval by the Wake County Health Dept. A septic tank permit shall be obtained and submitted to the Town of Garner before an individual lot can be issued a building permit.

2-21-1986 *[Signature]*  
Date Wake County Health Officer

SNELLINGS INDUSTRIAL CENTRE  
ST. MARYS TOWNSHIP, WAKE CO., N.C.  
PHASE 3  
EARLE R. PURSER: OWNER  
GARNER NORTH CAROLINA

DRAWN BY: A.L.I.	FILED: 85-07-08 D	DATE: 7/30/85
FIELD BOOK: SNELLINGS	CHECKED BY: L.I.C.	
SCALE: 1"=100'		

L.I. CHASAK  
RAL, N.C.

Return to:  
Stella Gibson  
Town Clerk  
900 7th Avenue  
Garner, NC 27529

**NORTH CAROLINA  
WAKE COUNTY**

**ORDER TO CLOSE A CERTAIN RIGHT OF WAY  
IN THE TOWN OF GARNER, NORTH CAROLINA**

At the July 6, 2017 meeting of the Town Council of the Town of Garner, North Carolina convened at 7:00 p.m., the Council held a public hearing on the following item.

**SC 17-01: Public Right-of-Way Closing (end of Purser Drive)**

The Town Council fixed the 6th day of July, 2017 as the time of hearing on the question of closing said right-of-way hereinafter described.

The Mayor announced that the meeting was open for hearing and that the Council would hear any interested person who desired to be heard on the question of closing said right-of-way.

At the conclusion of the presentation of the facts and evidence in support of the Petition, the following resolution was offered:

That upon the basis of facts and information presented by the Petitioner and their representatives, the Town Council of the Town of Garner, North Carolina do adopt the following findings and make the following order:

1. The public street right-of-way identified for closing is shown as "Reserved 60' right of way for future development" on the subdivision plat entitled "Snellings Industrial Centre" recorded in Map Book 1986 Page 930 in the Wake County Registry.

2. That said public street right-of-way is located at the end of Purser Drive between 902 Purser Drive (PIN 0791965115) and 100 Rupert Road (PIN 0791955808).
3. That said public street right-of-way is unimproved, unpaved, and is not being used for access to any surrounding property.
4. That said public street right-of-way sought to be closed is located within the corporate limits of the Town of Garner.
5. That the attached map depicts the unimproved public street right-of-way sought to be closed and abandoned.
6. No individual living or entity owning property in the vicinity of said unimproved public street right-of-way will be deprived of reasonable ingress and egress to said entity's property or otherwise inconvenienced by the closing of said proposed public street right-of way listed herein; that the closing of the said proposed public right-of-way is not contrary to the public interest.
7. Notice of this Petition was given by publication in *The Garner-Cleveland Record*, newspaper in Wake County, for four successive weeks on May 31, June 7, June 14, and June 21, 2017.

**NOW THEREFORE, IT IS HEREBY RESOLVED AND ORDERED:**

1. That pursuant to the provisions of the N.C. General Statutes 160A-299 and the power and authority contained therein the aforementioned unimproved public street right-of-way is hereby abandoned and closed.
2. That a certified copy of this Order be filed in the Office of the Register of Deeds of Wake County.

Duly adopted this 6<sup>th</sup> day of July, 2017

---

Ronnie S. Williams, Mayor

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

Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: July 6, 2017		
Subject: Bryan Road Agreement		
Location on Agenda: Old/New Business		
Department: Administration		
Contact: Matt Roylance, Asst. Town Manager-Operations		
Presenter: Matt Roylance, Asst. Town Manager-Operations		
Brief Summary:  Wake County School and Town of Garner Joint Use Agreement for the sidewalk/walking trail combination, designated parking areas, drive access and water fountains at Bryan Road Elementary School.		
Recommended Motion and/or Requested Action: Authorize Execution of Agreement		
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: The Town received a grant from Wake County to cover 50% of the cost of the trail project.		
Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	SS	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

**NORTH CAROLINA  
WAKE COUNTY**

**JOINT USE AGREEMENT FOR THE SIDEWALK/WALKING TRAIL COMBINATION,  
DESIGNATED PARKING AREAS, DRIVE ACCESSES AND WATER FOUNTAINS AT  
BRYAN ROAD ELEMENTARY SCHOOL**

This Agreement for the joint use of the sidewalk/walking trail combination, designated parking areas and drive accesses at Bryan Road Elementary School (hereinafter referred to as “Agreement”) to be entered into on this \_\_\_\_\_day of \_\_\_\_\_ 2017, by and between the TOWN OF GARNER, a Municipal Corporation of the State of North Carolina (hereinafter referred to as “Town”) and the WAKE COUNTY BOARD OF EDUCATION, a body corporate (hereinafter referred to as “Board”).

**WITNESSETH**

**THAT WHEREAS**, the parties recognize that joint cooperation and action between the Board and Town shall ensure that the best facilities and services are provided to the citizens of Wake County with the least expenditure of public funds; and

**WHEREAS**, Board and Town are mutually interested in quality education and recreation programs for Wake County students and citizens; and

**WHEREAS**, Board and Town entered into a Interlocal Agreement on August 31, 2016 for development of a school and park facilities site at Bryan Road Elementary School for a period of not less than twenty-five years that included the 5’ sidewalk/10’ walking trail combination, designated parking areas, drive accesses and water fountains; and

**WHEREAS**, Board and Town are authorized to enter into agreements with each other to aid and cooperate in the cultivation of citizenship by providing quality programs and facilities; and

**WHEREAS**, Board owns certain real property at 8317 Bryan Road, which is the campus for Bryan Road Elementary School (hereinafter referred to as “BRES” or “Board Property”); and

**WHEREAS**, Board and Town desire to jointly use the sidewalk/walking trail combination, designated parking areas and drive access for the benefit of the school, Town, and community; and

**WHEREAS**, Board has determined that the areas to be jointly used are not necessary at all times after normal school hours for public school purposes during the term of this Agreement; and

**WHEREAS**, Board and Town desire to share the use of the sidewalk/walking trail combination, designated parking areas and drive accesses after normal school hours, and at such other times when such areas are not scheduled or being used by the Board; and

**WHEREAS**, community use of school property and facilities is encouraged by the Community Schools Act North Carolina General Statutes (N.C.G.S.) 115C-203 *et seq.*; and

**WHEREAS**, the Board and Town are authorized to enter into this Agreement pursuant to the provisions of N.C.G.S. 115C, Article 13; N.C.G.S. 115C-518; N.C.G.S. 115C-524(b); and N.C.G.S. 160A-274:

**NOW, THEREFORE**, pursuant to N.C.G.S. 115C, Article 13, N.C.G.S. 115C-524(b), and N.C.G.S. 160A-274 and in consideration of the above-stated desires of the parties and such other mutual promises and covenants as are hereinafter set forth, Board and Town do hereby agree as follows:

1. **Property Description.** BRES is located at 8317 Bryan Road, Garner, specifically identified as PIN#1629.01 17 6780, Wake County Registry consisting of approximately 20 acres.
2. **Term.**

The Agreement term shall be for a period of twenty-five (25) years from the date of execution of the Agreement. At the end of the term of this Agreement, the Board and Town shall have the exclusive option to extend their use of the identified elements on the property for an additional five (5) year periods so long as the property is utilized by the Board for Board purposes and the facility is operated as a school. Board and Town shall review the Agreement every five (5) years to familiarize each parties understanding and compliance of the terms of this Agreement.
3. **Liability.**

Board and Town agree that Board is authorizing the use of its property pursuant to this Agreement, only to the extent permitted by N.C.G.S. 115C-524(b), and that the Board does not hereby incur any liability to the Town or any member of the public for permitting this use. No liability shall attach to the Board of Education, individually or collectively, for any injury suffered by reason of the Town's use or maintenance of Board property pursuant to this Agreement. To the extent allowed by law and covered by insurance, the Town shall indemnify, protect, and hold harmless the Board, its agents, and employees from and against claims or damages, including attorney's fees, caused by the negligence or intentional wrongdoing of the Town, its agents, or employees when they are on the Board's property.
4. **Town Licensed Areas (TLA)**

The Board hereby gives and grants to the Town a license to use areas at BRES designated as TLA(s) on Exhibit A pursuant to this Agreement

  - A. Designated Sidewalk/Walking Trail Combination (together with adjacent Maintenance Areas)
  - B. Designated Parking Areas
  - C. Designated Drive Access
  - D. Town Installed Water Fountains
5. **Enhancements, Modifications, Renovation, or New Construction**
  - A. The Board may make enhancements, modifications, renovations, or new construction for educational programming needs or modifications required by the Department of Instruction. The Board may make such enhancements, modifications, renovations, or new construction in its sole discretion and without approval from the Town except as required by local land use ordinances; however, the Board shall notify the Town that it is making such improvements to any areas identified for joint use. The Town shall be responsible for any enhancements, modifications, renovations, or new construction for Town needs; however, the Town may make no such improvements without the Board or Board designee's prior *written* approval via Wake County Public School System Facility Modification Form and/or amendment of this

Agreement (if appropriate). After the Board approves the plans and schedule for such improvements proposed by the Town, the Town shall proceed with such improvements at its expense. The Town shall plan and coordinate such improvements with the Board to ensure that such improvements pursuant to this Agreement are completed with minimal impact on the operations of BRES. The Town will be responsible for and shall repair at its sole expense any damage to drive accesses, parking areas or Board property incurred due to its use or construction.

- B. The Town shall install and maintain signage in the designated parking area and at the walking trail access points, approved by Board to content, form and location, informing the public of rules and regulations for use of the walking trail including time of access as defined in paragraph 7.A.3. herein. Lettering must be of an appropriate height to be clearly legible from a vehicle entering Board property.
- C. All fixtures/permanent improvements made to or upon Board Property shall be the property of the Board.

**6. Appropriate Use.**

Use of TLAs shall be consistent with the proper care and preservation of public school or Town property.

**7. Joint Use and Scheduling of TLAs.**

The Board and Town agree that use of TLAs as shown on Exhibit A shall be in accordance with the following conditions and provisions:

**A. Administrative Control.**

- 1. The Superintendent of the Wake County Public School System or designee shall have administrative control of TLAs at all times. The Director of the Parks and Recreation Department of the Town of Garner or designee shall have administrative control of TLAs at times during non-school hours when not scheduled by the Board.
- 2. Normal school hours are defined as daily student and teacher workdays from 7 a.m.-6 p.m. From time to time, specific school activities, events, or games may extend beyond normal school hours and into non-school hours.
- 3. Non-school hours are defined as time periods after normal school hours when students are not scheduled to attend classes or school activities, as well as weekends, holidays, staff vacation days, and during school breaks when no students are scheduled to attend classes, and/or campus is closed by Board due to inclement weather.
- 4. School hours are defined as all time periods other than non-school hours.

**B. Scheduling.**

- 1. Board and Town shall designate at least one person each as a point of contact for communication. Designee(s) shall:
  - a. Participate in the site coordination meetings (at least two times each year) to coordinate use, inspect TLAs, establish maintenance schedules and update the BRES and Town master calendars.
  - b. Communicate on a regular basis to confirm or update the BRES master calendar for any major scheduled event changes.
  - c. Maintain on-going, open communication between one another while acting in good faith to build a positive reciprocal relationship.
  - d. Be responsible for making their respective participants aware of any cancellations or rescheduling of their respective activities.
  - e. Be aware of special circumstances such as emergency weather conditions.
- 2. Town agrees that the Board shall have first priority for scheduling and use of TLAs for Board activities.

3. Board agrees that the Town shall have priority for scheduling use of TLAs for Town use during non-school hours as defined in 7.A.3 above and when areas are not scheduled by the Board for Board activities. Town use shall be defined as the following:
    - a. Programs that the Town initiates, directs, schedules, coordinates and/or funds;
    - b. Maintenance and/or housekeeping tasks performed by the Town or its agents pursuant to this Agreement;
    - c. Use of TLAs by Third Party individuals who are authorized to use TLAs by the Town for their personal recreational benefit but who do not have not reserved or licensed the TLA through the WCPSSS online reservation system.
    - d. Any other programs or activities that the Town initiates and/or perpetuates.
  4. Town use shall be in accordance with the following conditions and provisions:
    - a. Town use of the TLAs will be allowed during those times that such areas are not scheduled for school system activities or maintenance.
    - b. Town use of areas of the BRES campus other than the TLAs shall be documented and coordinated by use of the WCPSS online reservation system. Appropriate fees shall apply for use of areas other than TLAs.
    - c. Board and Town designees shall:
      - (1) Establish times available for use at the campus level.
      - (2) Make accessibility determinations based on ground and turf surface conditions.
    - d. Maintenance shall be in accordance with the charts detailed in Exhibit B.
  5. Board retains the authority to schedule third party use of the TLAs during non-school hours when such areas are not scheduled for use by the Town at least one hundred and twenty (120) days prior to the date of the event.
  6. Third Party use is defined as non-Board and non-Town use.  
Third Party use of the TLAs is authorized upon approval of the WCPSS Community Schools Office via the online reservation system. Appropriate user fees shall apply per WCPSS policy.
  7. Inclement Weather.  
The Board in its sole discretion will make decisions on when to close its school campuses, including BRES, due to inclement weather. If the Town decides to make use of the TLAs during periods when school is closed because of inclement weather, the Town and its invitees do so at their own risk and without the approval of the Board.
- C. Supervision and Security of TLA(s).
1. When using TLAs, the Board and the Town will provide appropriate supervision for their respective activities and adhere to all applicable laws, rules and policies; provide security as appropriate to provide a safe environment for the participants, and reasonably protect property being used.
  2. Damage to Real Property
    - a. In the event of damage above normal wear and tear of the TLAs attributed to Town use or maintenance, the Town shall make restoration to the TLAs to a condition equal to or better than prior to Town's use.
    - b. In the event of damage above normal wear and tear of the TLAs attributed to Board use or maintenance, the Board shall make restoration to the TLAs to a condition equal to or better than prior to Board's use.
  3. During school hours, all maintenance personnel shall make their presence known on site by signing in at the school office upon arrival. If advance notice is given by Town staff of their anticipated presence on campus to appropriate school staff, such Town staff are dressed in Town uniforms or other Town-authorized identifiable apparel that possess and carry Town-issued identification and travel to the school in a recognizable Town vehicle shall not be required to sign in at the school office upon arrival. Contractors employed by Town will be



required to sign in at the school office upon arrival unless accompanied at all times on campus by a readily identifiable Town staff member as described hereinabove.

4. Before any Town employee or volunteer has direct interaction with students or comes on school property under this contract as part of that person's job, and annually beginning after the effective date of this contract, the Town shall conduct a check of each such employee or volunteer on the State Sex Offender and Public Protection Registration Program and the State Sexually Violent Predator Registration Program (together, the "State Registration Programs") as well as the National Sex Offender Registry (the "National Registry"). In such circumstance, the Town shall check the State Registration Programs by using the on-line database of the North Carolina Department of Justice found at <http://sexoffender.ncdoj.gov/disclaimer.aspx>, as such web address may be changed from time to time. The Town shall also check the National Registry by using the on-line database of the United States Department of Justice found at <http://www.nsopw.gov/Core/OffenderSearchCriteria.aspx>, as such web address may be changed from time to time. No Town employee or volunteer who is found listed on either the State Registration Programs or the National Registry as a result of the above-referenced searches shall have any direct interaction with students under this contract as part of that Town Employee's job. In addition, no Town employee or volunteer shall be assigned to perform any activity under this contract as part of that person's job on school property if prohibited from being on school property by N.C. Gen. Stat. § 14-208.18.

D. Fees/Charges.

1. Except as expressly stated in this Agreement or agreed by the parties in writing, the Board shall not assess any fees or charges against the Town for use of the TLAs.
2. Notwithstanding the foregoing, Board may establish and retain fees for the use of the TLAs by third parties for events scheduled by the Board pursuant to Paragraph 7.B.5 of this Agreement.

E. Income from Programs.

Board and Town agree that they shall each be entitled to collect and retain income from their respective programs and events operated on TLAs that are subject to this Agreement. Income derived from a jointly planned event shall be shared by Board and Town with a percentage allocation that shall be mutually agreed upon by Board and Town prior to the event.

F. Concession Operations.

The Board and Town agree that they or their operating agents shall be entitled to collect and retain income from their operation of concessions in conjunction with their respective programs and events operated on TLAs that are subject to this Agreement. Concessions proceeds derived from a jointly planned event shall be shared by the Board and Town with a percentage allocation that shall be mutually agreed upon in writing by the Board and Town prior to the event.

8. **TLA Allocation of Maintenance and Repair Responsibilities:**

A. General Guidelines

1. Board and Town designees shall meet at least twice each year to evaluate maintenance issues, coordinate calendars, and schedule access for routine maintenance.
2. Board and Town shall reasonably inspect and monitor the conditions, identify damage, denote safety issues and/or repair concerns of the TLAs and provide timely notice to the other party and of any adverse findings.
  - a. Town shall be responsible for general cleanup activities and programs for Town sponsored activities and shall ensure the site is left in both appearance and safety level acceptable to the Board.

- b. Board shall be responsible for general cleanup activities and programs for Board sponsored activities and shall ensure the site is left in both appearance and safety level acceptable to the Town.
  3. To the extent necessary, Board shall allow time to be scheduled during the school day for Town to access the facility to provide routine and preventive maintenance and repairs to TLAs as prescribed in this Agreement. Maintenance work shall be coordinated between the Board and Town designees to ensure:
    - a. Minimal disruption of the school day.
    - b. The availability of necessary maintenance resources.
    - c. The safety of the area is being maintained.
- B. Maintenance.

Routine, preventive, and major maintenance shall be performed as prescribed by the Maintenance Charts located at Exhibit B of this Agreement.

**9. Utilities.**

The Town shall be responsible for all utilities (i.e., electricity, water, sewer, etc.) necessary for the Town Licensed Areas. When possible, separate meters for the use and operation of the outdoor amenities of BRES subject to this Agreement, such as designated sidewalk/walking trail, water fountains, drive access and parking area lighting shall be the sole responsibility of the Town.

**10. Insurance/Liability.**

- A. Board shall maintain at all times during the term of this Agreement and during any and every extension thereof public liability insurance per Board policy.
- B. Town shall provide adequate liability insurance coverage for damage by reason of death or injury to person or property caused by the negligence or tort of any agent or employee of the Town when acting within the scope of his authority or the course of his employment in performing activities encompassed by this Agreement.
- C. Town shall maintain at all times during the term of this Agreement and during any and every extension thereof public liability insurance in the minimum amount required by North Carolina State Law, covering personal injury for each accident or occurrence growing out of the Town's use or maintenance of the said TLAs, and at least the minimum required by North Carolina State Law to cover property damage growing out of each accident or occurrence.
- D. Board and Town are each responsible for insuring replacement value of their respective personal property.

**11. Use of Care.**

The Board and Town acknowledge that any construction, maintenance, and use pursuant to this Agreement will take place on a school site at which children, school employees, and members of the public are present. The Board and Town shall take reasonable care under the circumstances to protect and secure the construction and maintenance areas to minimize the possibility of injury to students, staff and the public from construction activity, equipment, and materials used in connection with the construction and maintenance activity on the property subject to this Agreement. The Board and Town agree to keep the TLAs in a clean and safe condition and to ensure that any equipment, materials, or supplies brought onto the BRES campus site by Board or Town are properly and safely stored when not in use. Nothing in this Agreement is intended to or shall be construed to create any rights or remedies in third parties.

**12. Nondiscrimination.**

Neither Board nor Town shall engage in any unlawful discriminate against any employee or applicant for employment because of race, color, creed, sex, age, religion, or national origin. Neither

Board or Town, nor either entity's employees shall unlawfully discriminate against any person or organization on the basis of race, color, creed, sex, age, religion, or national origin by refusing to furnish such person or organization services for privileges offered to or enjoyed by residents of Wake County. Nor shall the Board or Town or either entity's employees publicize the facilities provided hereunder in any manner that would directly or inferentially reflect negatively on any person because of race, color, creed, sex, religion, or national origin.

**13. Nonperformance.**

In the event either party should fail to keep, perform or abide by any material term, condition or covenant of this Agreement for a period of thirty days after written notice of such failure by the non-breaching party, then in addition to any other remedies available at law or equity, the non-breaching party shall have the right to remedy such nonperformance. In such event, the breaching party shall reimburse the non-breaching party for any expenses incurred by the non-breaching party in effecting such remedy. Such reimbursements shall be due and payable within thirty days after receipt by the breaching party of written notice specifying the amount due. If the Board is the non-breaching party, it may suspend Town use of its property until the Town demonstrates to the Board's satisfaction that Town has corrected its breach and is fully performing its obligations under the terms, conditions, and covenants of this Agreement.

**14. Default/Termination.**

- A. In the event either party should fail to keep, perform or abide by the material terms, conditions or covenants of this Agreement for a period of sixty (60) days after written notice of such failure by the non-breaching party, then the non-breaching party may elect to terminate this Agreement upon an additional thirty (30) days written notice. If Town is the breaching party and Board should exercise this right of termination, then and in that event, Town shall relinquish any interest in any of the improvements made to BLAs and TLAs under this Agreement and no reimbursement shall be due. Town shall leave TLAs in a condition acceptable by the Board.
- B. If the Town should exercise this right of termination at any time during the term of this Agreement, then and in that event, Town shall complete any improvements begun on TLAs and leave the areas in a condition that is safe and accessible to the Board. The Town shall relinquish any interest Town may have in any of the improvements that Town made to TLAs under this Agreement and no reimbursement shall be due the Town.

**15. Notices.**

All notices, requests, approvals, or consents required to be given hereunder shall be in writing and hand delivered or sent by certified mail, return receipt requested, postage prepaid, and addressed as follows:

Board:                   The Board of Education  
Wake County Public School System  
c/o Wake County Public School System  
Attention: Superintendent  
5625 Dillard Drive  
Cary, North Carolina 27518

w/copy to:           Wake County Public School System  
Attention: Real Estate Services Senior Director  
1429 Rock Quarry Road, Suite 116  
Raleigh, North Carolina 27610

Town: Town of Garner  
Attention: Parks and Recreation Director  
900 Seventh Avenue  
Garner, North Carolina 27529

or to such other address as either party may specify in writing.

**16. Severability.**

In the event any term or provision of this Agreement shall be adjudged to be partially or completely invalid or unenforceable, then such term or provision shall be severed from this Agreement, and the remainder of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

**17. Preservation and Care of Public School Property.**

Town agrees to regulate the use of TLAs consistent with the Board's understanding of how to best maintain the property and to prevent deterioration of the property. Board and Town shared use of TLAs shall continue so long as its use is consistent with the proper care and preservation of the public school property.

**18. Non-Assignment.**

The Town may not assign this Agreement.

**19. Entire Agreement.**

The Town agrees that this document and its exhibits constitute the entire agreement between the parties and may only be modified by a written mutual agreement signed by the parties. To the extent that there is any conflict between the terms of this Agreement and prior understanding or agreement between the parties, as well as any applicable Interlocal Agreement, the terms of this Agreement, including its exhibits, shall control. This Agreement fully incorporates the following Exhibits:

- A. Aerial Photo with TLAs
- B. Maintenance Charts

**20. Applicable Law**

All matters relating to this Contract shall be governed by the laws of the State of North Carolina, without regard to its choice of law provisions, and venue for any action relating to this Contract shall be Wake County Civil Superior Court or the United States District Court for the Eastern District of North Carolina, Western Division.

**21. Agreement in Counterparts.**

This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same instrument. The effective date of this contract shall be the date of the last execution by the Town of Garner and the Wake County Board of Education ("Effective Date").

**IN WITNESS WHEREOF**, the Wake County Board of Education has caused this Agreement to be signed by its Chair, attested by its Secretary, and sealed with its corporate seal, and the Town of Garner has caused this Agreement to be signed by its Mayor, attested to by the Town Clerk, and sealed with its seal, by order of the respective governing board duly given the day and year first written above.

*(Balance of page is left intentionally blank. Signatures appear on the next page.)*

**WAKE COUNTY BOARD OF EDUCATION**

ATTEST:

By: \_\_\_\_\_(SEAL)  
Monika Johnson-Hostler, Chair

By: \_\_\_\_\_(SEAL)  
James G. Merrill, Superintendent

(Affix Corporate Seal)

NORTH CAROLINA

WAKE COUNTY

The undersigned, a Notary Public of the County and State aforesaid, hereby certified that \_\_\_\_\_ personally appeared before me this day, and being duly sworn by me, acknowledged that he is Secretary of the Wake County Board of Education, and that by authority duly given and as the act of the Board the forgoing instrument was signed by its Chair, sealed with its corporate seal and attested by him as its Secretary.

Witness my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_ 2017.

My Commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

(Notary Seal)

**TOWN OF GARNER**

ATTEST:

By: \_\_\_\_\_(SEAL)  
Town Manager

By: \_\_\_\_\_(SEAL)  
Town Clerk or Secretary

(Affix Town Seal)

NORTH CAROLINA

WAKE COUNTY

The undersigned, a Notary Public of the County and State aforesaid hereby certified that \_\_\_\_\_ personally appeared before me this day, and being duly sworn by me acknowledged that he/she is Town Clerk of the Town of Garner, and that by authority duly given and as the act of the Town, the forgoing instrument was signed by its Mayor, sealed with its corporate seal and attested by him/her as its Town Clerk.

Witness my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_ 2017.

My Commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

(Notary Seal)

**Exhibit A:  
Town Licensed Areas**

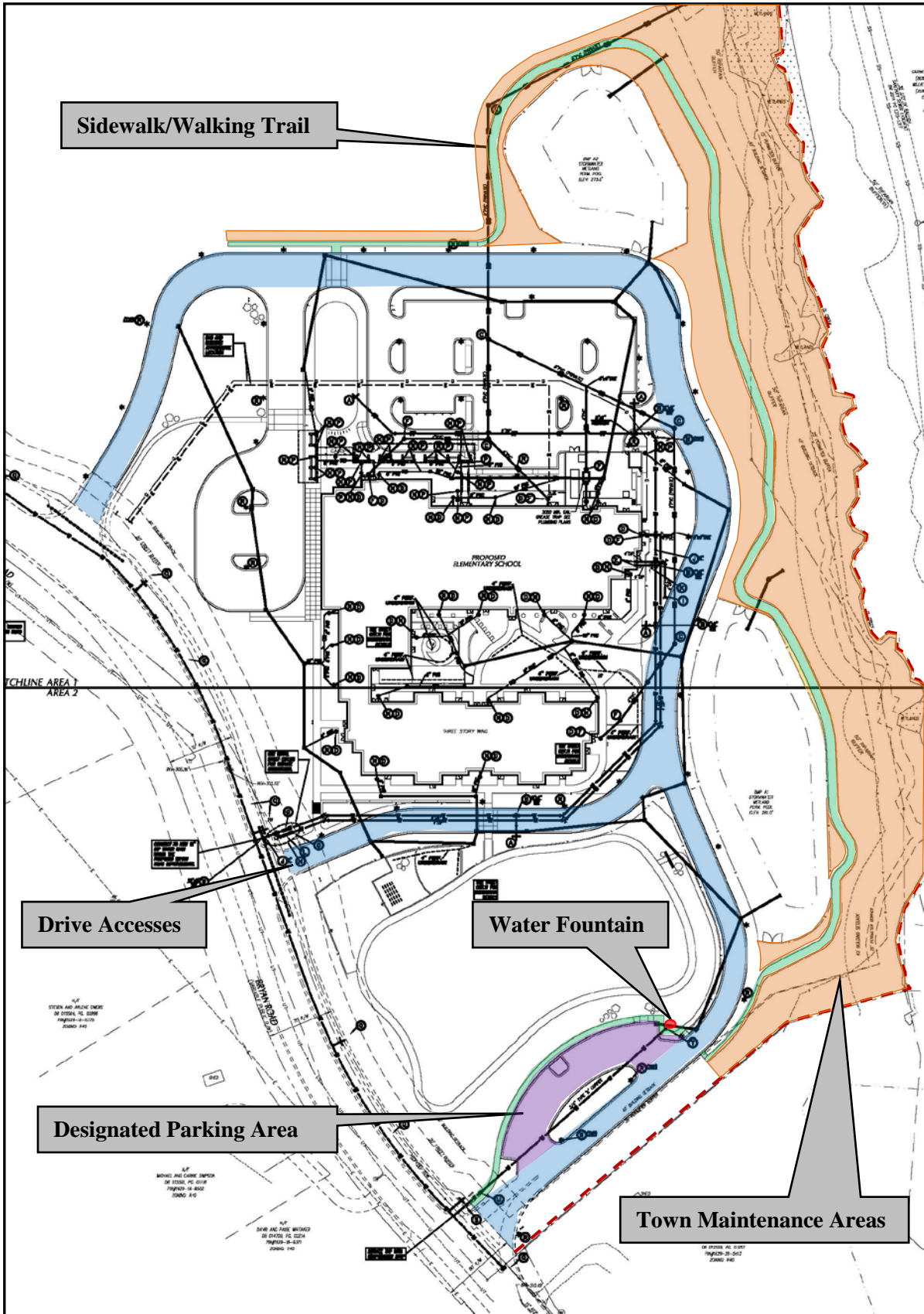


Exhibit B

<b>BRES Designated Sidewalk/Walking Trail and Adjacent Maintenance Areas</b>			
<b>Maintenance Item</b>	<b>Responsible Party for Funding</b>	<b>Responsible Party For Performing Task</b>	<b>Maintenance Classification</b>
Asphalt Repair and Resurface	T	T	ROUTINE/MAJOR
Concrete Repair	T	T	ROUTINE/MAJOR
Bleachers	T	T	ROUTINE / MAJOR
Fence Repair	T	T	ROUTINE / MAJOR
Fertilization	T	T	ROUTINE
Graffiti Removal	B/T	Each party will be responsible for graffiti removal resulting from their events.	ROUTINE
Herbicide – pre-emergent	T	T	ROUTINE
Herbicide - spot	T	T	ROUTINE
Insecticide including fire ant treatment (Top Choice)	T	T	ROUTINE
Landscaping	T	T	ROUTINE / MAJOR
Lines and Markings	T	T	ROUTINE/MAJOR
Storm Water Retention (BMP)	B	B	ROUTINE / MAJOR
Sweep	B/T	Each party will be responsible for collection and removal of trash generated from their events	ROUTINE
Trash Receptacle Repair/Replacement	T	T	ROUTINE / MAJOR
Trash Collection and Removal	T	T	ROUTINE
Vandalism	B/T	Each party will be responsible for intentional damages resulting from their events and use	ROUTINE/MAJOR
Other routine maintenance items not mentioned above	To be negotiated	TBD	ROUTINE
Other major maintenance items not mentioned above	To be negotiated	TBD	MAJOR

**NOTES:**

1. B = Board                                      T = Town                                      TBD = To Be Determined
2. Responsible Party(ies) have the financial responsibility as defined in the Agreement for personnel, equipment, travel, and supplies to provide the service to maintain the standards.
3. Charts provide a general reference for maintenance requirements and are not intended as an inclusive list of responsibilities. Additional maintenance issues shall be discussed and scheduled during the site's scheduling meetings conducted during the school calendar year.
4. This arrangement is for the existing improvements as of the date of execution of this Agreement as identified on Exhibit A attached hereto. Future development shall result in amendment of this Joint Use Agreement.

Exhibit B

<b>Designated Parking Area and Water Fountain</b>			
<b>Maintenance Item</b>	<b>Responsible Party for Funding</b>	<b>Responsible Party For Performing Task</b>	<b>Maintenance Classification</b>
Lights – bulbs, poles, etc.	T	T	ROUTINE / MAJOR
Paint parking spaces and directional arrows	T	T	ROUTINE
Repair asphalt	T	T	ROUTINE
Reseal Asphalt	T	T	ROUTINE
Re-surfacing asphalt	T	T	MAJOR
Signs	T	T	
Sweep	T	T	ROUTINE
Town Installed Trash Can Replacement	T	T	ROUTINE
Town Installed Water Fountain	T	T	ROUTINE / MAJOR
Trash collection and removal	T	Each party will be responsible for collection and removal of trash generated from their events	ROUTINE
Other routine maintenance items not mentioned above	To be negotiated	TBD	ROUTINE
Other major maintenance items not mentioned above	To be negotiated	TBD	MAJOR

**NOTES:**

1. B = Board                      C = Town                      TBD = To Be Determined
2. Responsible Party(ies) have the financial responsibility as defined in the Agreement for personnel, equipment, travel, and supplies to provide the service to maintain the standards.
3. Charts provide a general reference for maintenance requirements and are not intended as an inclusive list of responsibilities.
4. This arrangement is for the existing improvements as of the date of execution of this Agreement as identified on Exhibit A attached hereto. Future development shall result in amendment of this Joint Use Agreement.



Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: June 20, 2017		
Subject: Sanitary sewer easement revision for Carillon Assisted Living Facility		
Location on Agenda: Old/New Business		
Department: Engineering		
Contact: Tony Chalk, Town Engineer		
Presenter: Tony Chalk, Town Engineer		
Brief Summary:  The developer has requested that the Town grant a revised easement that requires an additional 15' of easement from the Town.		
Recommended Motion and/or Requested Action: Grant new City of Raleigh Sanitary Sewer Easement		
Detailed Notes: See attached map		
Funding Source:		
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:	TC	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

**NOTES:**

- 1) NO TITLE REPORT FURNISHED FOR THIS SURVEYING EFFORT.
- 2) AREAS COMPUTED BY COORDINATE METHOD.
- 3) PROPERTY SHOWN HEREON IS SUBJECT TO ALL RIGHTS-OF-WAY, EASEMENTS AND RESTRICTIONS OF RECORD.
- 4) ALL DISTANCES SHOWN ON SURVEY ARE HORIZONTAL GROUND DISTANCES UNLESS OTHERWISE NOTED.
- 5) THIS SURVEY DOES NOT REPRESENT A TITLE SEARCH BY THIS FIRM.
- 6) BOUNDARY INFORMATION IS BASED ON BM. 1988, PG. 418 RECORDED IN THE WAKE COUNTY PUBLIC REGISTRY.
- 7) RIGHTS-OF-WAY INFORMATION IS BASED ON DEEDS AND MAPS OF RECORD.
- 8) BASIS OF BEARING SHOWN HEREON IS BASED ON BM. 1988, PG. 418
- 9) THIS SITE LIES IN ZONE X, WHICH IS ACCORDING TO FLOOD INSURANCE RATE MAP 372017000J PANEL 1710, WITH AN EFFECTIVE DATE OF MAY 2, 2006.
- 10) WETLANDS WERE NOT INVESTIGATED NOR NOTED ON THIS SITE.
- 11) THE EXISTING SANITARY SEWER EASEMENT, AS RECORDED AT BM 1988, PG 418, IS INTENDED TO BE DISPOSED BY THE CITY OF RALEIGH THROUGH A FUTURE INSTRUMENT.
- 12) THE PURPOSE OF THIS SURVEY IS TO DEDICATE AN ADDITIONAL 15' PUBLIC SEWER EASEMENT, ABANDON A 15' PORTION OF THE EXISTING SANITARY SEWER EASEMENT, AND REDEDICATE A 15' PORTION OF THE EXISTING 30' PUBLIC UTILITY EASEMENT AS RECORDED IN BOOK OF MAPS 2016, PAGE 1567 IN THE WAKE COUNTY REGISTER OF DEEDS.

**PROPERTY OWNER CERTIFICATE:**

THIS CERTIFIES AND WARRANTS THAT THE UNDERSIGNED IS (ARE) THE SOLE OWNER(S) OF THE PROPERTY SHOWN ON THE MAP OR PLAT AND ANY ACCOMPANYING SHEETS HAVING ACQUIRED THE PROPERTY IN FEE SIMPLE BY DEED(S) RECORDED IN THE COUNTY REGISTER OF DEEDS OFFICE WHERE THE PROPERTY IS LOCATED AND AS SUCH HAS (HAVE) THE RIGHT TO CONVEY THE PROPERTY IN FEE SIMPLE AND THAT THE DEDICATOR(S) HEREBY AGREE TO WARRANT AND DEFEND THE TITLE AGAINST ANY CLAIMS OF ALL PERSONS WHOMSOEVER EXCEPTED AS SPECIFICALLY LISTED HEREIN AND THAT BY RECORDING THIS PLAT OR MAP I (WE) DO IRREVOCABLY DEDICATE TO THE CITY OF RALEIGH FOR PUBLIC USE ALL STREETS, EASEMENTS, RIGHTS-OF-WAY, PARKS AND GREENWAYS (AS THOSE INTERESTS ARE DEFINED IN THE CITY CODE) AND AS THE SAME ARE SHOWN ON THE PLAT FOR ALL LAWFUL PURPOSES TO WHICH THE CITY MAY DEVOTE OR ALLOW THE SAME TO USE AND UPON ACCEPTANCE THEREOF, IN ACCORDANCE WITH ALL CITY POLICIES, ORDINANCES, REGULATIONS OR CONDITIONS OF THE CITY OF RALEIGH, FOR THE BENEFIT OF THE PUBLIC PROVIDED ANY DEDICATION OF EASEMENTS FOR STORM DRAINAGE NOT SPECIFICALLY LABELED CITY OF RALEIGH OR PUBLIC ARE NOT MADE TO THE CITY OF RALEIGH, BUT ARE IRREVOCABLY MADE TO THE SUBSEQUENT OWNERS OF ANY AND ALL PROPERTIES SHOWN HEREON FOR THEIR USE AND BENEFIT.

BOOK NO: 1988

PAGE NO: 418

SIGNATURE(S) & TITLE / POSITION OF PROPERTY OWNER(S):

**NOTARY PUBLIC CERTIFICATE**

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

I CERTIFY THAT THE FOLLOWING PERSON(S) PERSONALLY APPEARED BEFORE ME THIS DAY, EACH, ACKNOWLEDGING TO ME THAT HE OR SHE VOLUNTARILY SIGNED THE FOREGOING DOCUMENT FOR THE PURPOSE STATED HEREIN AND IN THE CAPACITY INDICATED:

DATE: \_\_\_\_\_, 2016  
PRINTED NAME: \_\_\_\_\_ NOTARY PUBLIC  
MY COMMISSION EXPIRES: \_\_\_\_\_

**SUBDIVISION EXEMPTION/EASEMENT DEDICATION**

PLANNING DIRECTOR (PRINT) \_\_\_\_\_ PLANNING DIRECTOR (SIGNATURE) \_\_\_\_\_ DATE \_\_\_\_\_  
TOWN OF GARNER TOWN OF GARNER TOWN OF GARNER

CURVE TABLE						
CURVE	RADIUS	LENGTH	TANGENT	DELTA	CHORD BEARING	CHORD
C1	137.43'	107.17'	56.47'	44°40'41"	N33°01'01"W	104.47'
C2	25.00'	36.74'	22.59'	84°12'07"	N6°20'39"W	33.52'

**REVIEW OFFICER CERTIFICATE**

WAKE COUNTY, NORTH CAROLINA

I, \_\_\_\_\_ REVIEW OFFICER FOR THE ABOVE COUNTY AND STATE, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

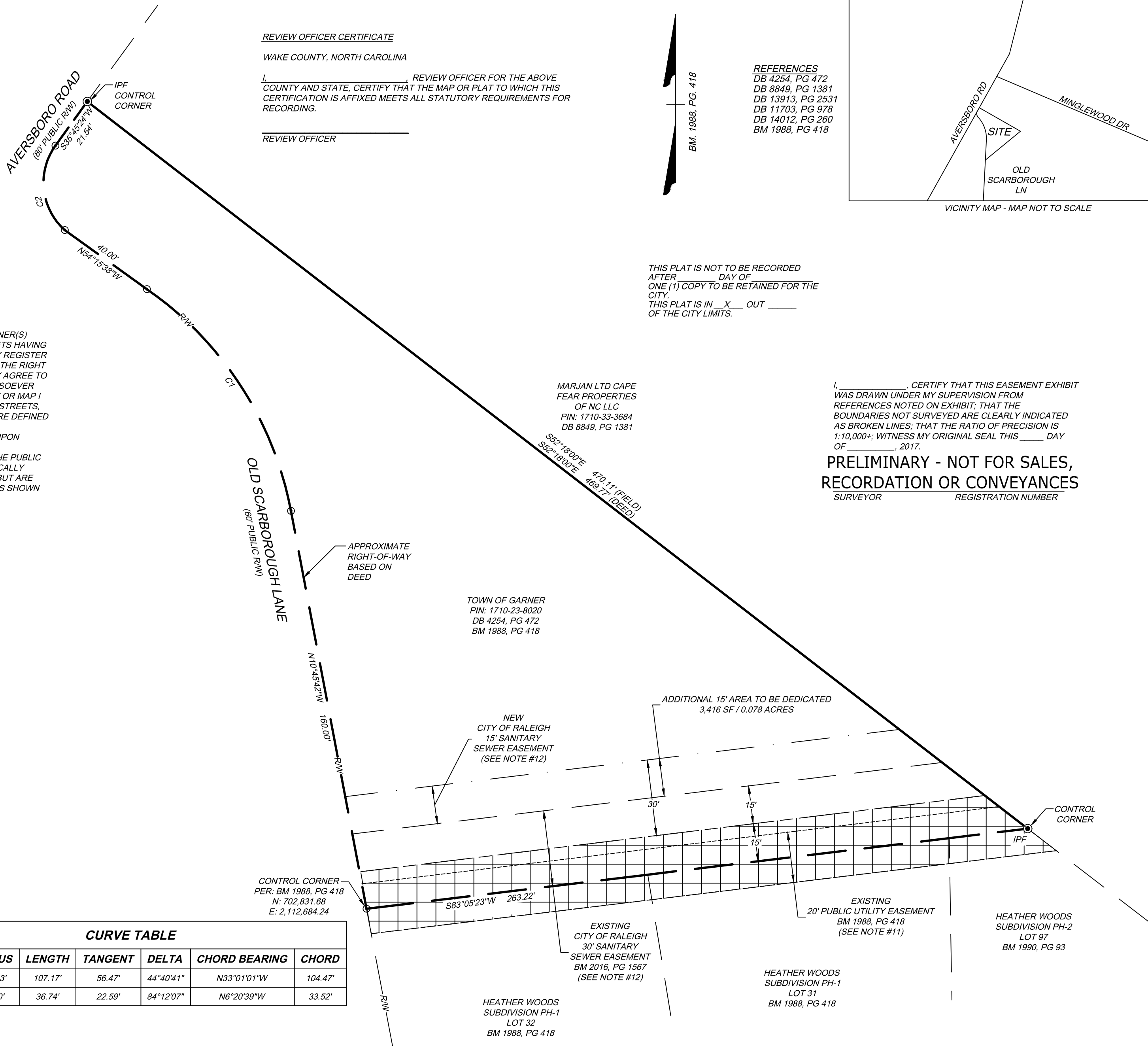
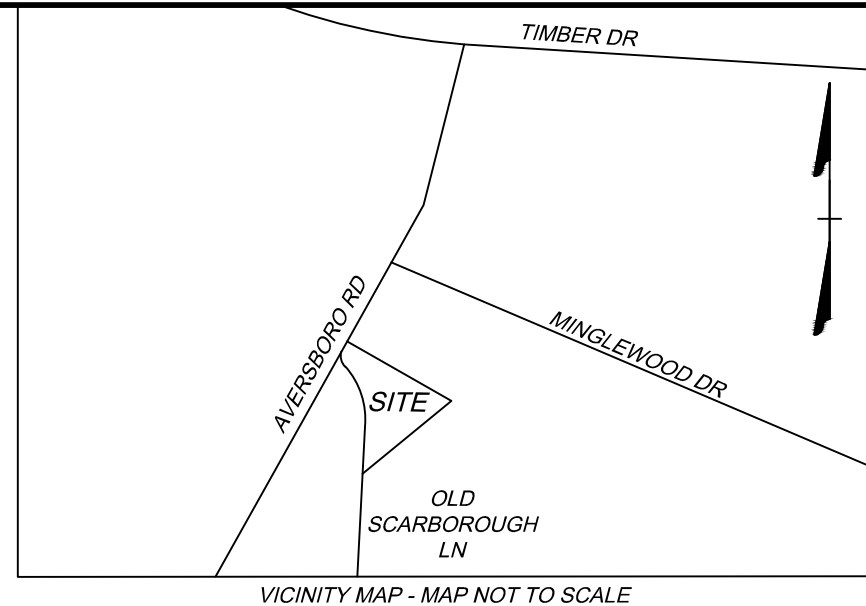
REVIEW OFFICER \_\_\_\_\_

- REFERENCES**  
DB 4254, PG 472  
DB 8849, PG 1381  
DB 13913, PG 2531  
DB 11703, PG 978  
DB 14012, PG 260  
BM 1988, PG 418

THIS PLAT IS NOT TO BE RECORDED AFTER \_\_\_\_\_ DAY OF \_\_\_\_\_ ONE (1) COPY TO BE RETAINED FOR THE CITY. THIS PLAT IS IN \_\_\_\_\_ OUT \_\_\_\_\_ OF THE CITY LIMITS.

I, \_\_\_\_\_ CERTIFY THAT THIS EASEMENT EXHIBIT WAS DRAWN UNDER MY SUPERVISION FROM REFERENCES NOTED ON EXHIBIT; THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS BROKEN LINES; THAT THE RATIO OF PRECISION IS 1:10,000+; WITNESS MY ORIGINAL SEAL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2017.

**PRELIMINARY - NOT FOR SALES, RECORDATION OR CONVEYANCES**  
SURVEYOR \_\_\_\_\_ REGISTRATION NUMBER \_\_\_\_\_



TOWN OF GARNER  
PIN: 1710-23-8020  
DB 4254, PG 472  
BM 1988, PG 418

MARJAN LTD CAPE  
FEAR PROPERTIES  
OF NC LLC  
PIN: 1710-33-3684  
DB 8849, PG 1381

CONTROL CORNER  
PER: BM 1988, PG 418  
N: 702,831.68  
E: 2,112,684.24

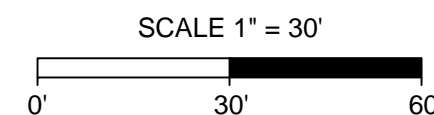
HEATHER WOODS  
SUBDIVISION PH-1  
LOT 32  
BM 1988, PG 418

HEATHER WOODS  
SUBDIVISION PH-1  
LOT 31  
BM 1988, PG 418

HEATHER WOODS  
SUBDIVISION PH-2  
LOT 97  
BM 1990, PG 93

**LEGEND**

- PROPERTY LINE SURVEYED \_\_\_\_\_
- LINE NOT SURVEYED \_\_\_\_\_
- EXISTING FENCE \_\_\_\_\_
- EXISTING IRON PIPE FOUND (IPF) (IPF symbol)
- EXISTING IRON REBAR FOUND (IRF) (IRF symbol)
- EXISTING CONC MONUMENT FOUND (CMF) (CMF symbol)
- EXISTING AXLE FOUND (AXF) (AXF symbol)
- COMPUTED POINT (CP) (CP symbol)
- IRON PIPE SET (IPS) (IPS symbol)
- COMPUTED EASEMENT POINT (XXXX) (XXXX symbol)
- PROPERTY ADDRESS \_\_\_\_\_
- EASEMENT AREA TO BE ABANDONED (hatched area)



**SEWER EASEMENT PLAT FOR TOWN OF GARNER, NORTH CAROLINA**

ST. MARY'S TOWNSHIP	WAKE COUNTY
DATE: JUNE 6, 2017	SCALE: 1" = 30'
SHEET 1 OF 1	J.N.:38173
DRAWN BY: KS	CHECK BY: DKB

RECORDED IN BOOK OF MAPS \_\_\_\_\_, PG \_\_\_\_\_ OF THE WAKE COUNTY REGISTRY

Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: July 6, 2017		
Subject: Z-17-03 (General Use Application), 412 Loop Road		
Location on Agenda: Old/New Business		
Department: Planning		
Contact: David Bamford		
Presenter: David Bamford		
<b>Brief Summary:</b>  The Public Hearing was held on June 5, 2017. The Planning Commission meeting was held on June 12, 2017. This case is now before the Council for a decision. This is a Town sponsored rezoning for 412 Loop Road from R-20 to SB. This property was developed and received a Town site plan permit for a commercial office years ago under the assumption the property was zoned I-2. But the official zoning map contained errors from the 1980s. Staff recently found that the property is not zoned I-2 but R-20. In order to bring this use into compliance and correct this problem, staff is recommending SB. This district will allow the existing use and will also fit in with the surrounding zonings along Loop Road and Mechanical Boulevard.		
<b>Recommended Motion and/or Requested Action:</b> Adopt Ordinance (2017) 3865		
<b>Detailed Notes:</b>  See attached staff memorandum.		
Funding Source:		
Cost:	One Time: <input type="radio"/>	Annual: <input type="radio"/> No Cost: <input checked="" type="radio"/>
<b>Manager's Comments and Recommendations:</b> N/A		
Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	JT	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

Design. Connect. Sustain.



## Planning Department Memorandum

---

**TO:** Town Council

**FROM:** David Bamford, AICP Senior Planner

**SUBJECT:** General Use Rezoning – Z-17-03, Loop Road

**DATE:** July 6, 2017

---

**Rezoning Application:** Z-17-03 General Use Rezoning

**Applicant:** Town of Garner

**Owner:** Lightning LLC – Jerry Phillips

**Property Location:** 412 Loop Road

**Wake Count PIN(s):** 1730-12-5497

**Area:** 0.48 acre

**Town Limits:** Yes

**Present Zoning:** R-20

**Overlay:** None

**Requested Zoning:** Service Business (SB)

Note: This is a general use request. No conditions are proposed.

**Key Meeting Dates:**

**Town Council Public Hearing:** June 5, 2017

**Planning Commission:** June 12, 2017

**Town Council Action Hearing:** July 6, 2017 (Thursday)

**Existing Zoning:**

The existing zoning district is **Residential 20 (R-20)**. This district allows single-family lots of at least 20,000 square feet (.45 acres).

**The following is a list of permitted uses in the R-20 district.**

1. Single-family site built and modular homes
2. Residential Cluster
3. Family Care home
4. Group care home
5. Intermediate care home
6. Community center
7. Child day care up to 3 as home occupation
8. Family child day care up to 8 in home
9. School public or private
10. Public safety facilities (fire, police, rescue, ambulance)
11. Cemetery
12. Public parks, swimming pools, tennis and golf courses
13. Religious institutions
14. Minor utility—elevated water tank
15. Private golf course or country club
16. Bed and breakfast
17. Agriculture or silviculture

**Proposed Zoning:**

The proposed zoning district for the site is **Service Business (SB)**. 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.

**The following is a list of permitted uses in the SB district. Because the rezoning site is within 500 feet of R-20 residential zoning, there will be some prohibited SB uses which can be identified. They are highlighted below.**

**The following is a list of permitted uses in the SB district.**

1. Security or caretaker’s quarters
2. Community Center
3. Library, museum, art center
4. Other Community service
5. Civil, service fraternal club, lodges and similar uses
6. Adult Day Care
7. Day Care Center

8. Business School, college or university satellite
9. College/university
10. Trade/vocational schools
11. Ambulance, rescue squad, police, fire station
12. Government, utility with outdoor storage
13. Government office
14. Medical Clinic
15. Cemetery
16. Parks, swimming pools, tennis courts, golf courses
17. Bus passenger terminals
18. Taxi or limo operations/facility
19. Religious institutions
20. Minor utility, elevated water tank
21. Telecommunication facility
22. Other major utility
23. Bars and nightclubs (prohibited within 500 feet of residential use/zoning)
24. Private golf or country club
25. Private gym, spa, indoor tennis, pool
26. Indoor entertainment facility
27. Electronic gaming center
28. Outdoor entertainment facility, private athletic
29. Sexually oriented business (prohibited within 1,000 feet of residential use/zoning)
30. Theater
31. Drive-in Theaters
32. Water-slides, golf driving ranges, miniature golf, batting cages or similar uses
33. Bank, financial institution
34. Medical office, individual
35. General office use
36. Bed and breakfast
37. Extended stay facility (prohibited within 500 feet of residential use/zoning)
38. Hotel and motels
39. Commercial Parking
40. Restaurant, curbside or drive-in service
41. Restaurant, indoor with seating only
42. Restaurant, indoor with drive-through window
43. Restaurant, take out only, drive-through or walk up
44. Convenience store without fuel sales
45. Convenience store with fuel sales
46. Open air market
47. Repair oriented use (indoor only)
48. Personal service use (indoor operations)
49. Banks and financial institutions
50. Sales oriented use (indoor operations only)

51. Sales oriented use (outdoor operations)
52. Veterinarian/kennel indoor
53. Veterinarian/kennel outdoor (prohibited within 500 feet of residential use/zoning)
54. Self-service storage
55. Car wash (prohibited within 500 feet of residential use/zoning)
56. Vehicle repair (storage restricted to rear of building, 30-day storage limit)
57. Vehicle sales and rental (storage restricted to rear of building)
58. Vehicle service-limited
59. Vehicle towing, storage (prohibited within 500 feet of residential use/zoning)
60. Flex space
61. Light Industrial use indoor
62. Light Industrial use with outdoor storage of tenant supplies
63. Light Industrial use with outdoor operations
64. Warehouse and freight movement with indoor storage
65. Warehouse and freight movement with outdoor storage
66. Recyclable materials collection center
67. Wholesale sales

#### **Zoning Request Summary:**

This is a Town-sponsored rezoning to bring a developed non-conforming property into compliance due to a Town zoning map error that was made in the 1980s, but only recently discovered. This error was caught in 2015 during the staff review of a Board of Adjustment case (A 15-02) for a kennel use on Mechanical Boulevard (variance to reduce outdoor kennel setbacks).

The error involved approximately 21 properties along Mechanical Boulevard and Loop Road. The old mylar maps, using tape to designate zoning boundaries, were sometimes difficult to interpret. It appears from our investigation and searching past rezoning cases between 1985 and 1988, that these affected properties are in fact zoned R-20, but were misinterpreted as I-2, and this error carried over to subsequent zoning maps printed out over the years.

The rezoning property at 412 Loop Road was one of these impacted properties. The Town issued a site plan permit on July 21, 2003 (SI 02-19) for this property to allow a commercial contractor's office based on the assumption that the property was zoned I-2. The current business is AllTech Wiring and Controls, a low voltage electrical contractor. The property was recently discovered to be zoned R-20, not I-2.

Instead of proposing I-2, the Town is recommending SB which fits in better with the surrounding zoning of the area and also allows the existing use. The purpose of this request by the Town is to bring the existing use into compliance because this non-conforming situation was the result of a Town zoning map error. This is a general use request so no conditions are proposed. A conditional use rezoning requires a companion

site plan, and in this case, the property is already developed, and no change of use or expansion is proposed at this time.

Because this zoning map error discrepancy impacted multiple properties, the Town notified all of these property owners in February 2017, as well as the surrounding owners within 300 feet, of the Planning Department’s R-20 interpretation based on the evidence. All other properties now corrected from I-2 to R-20 in this area are in compliance, with the exception of 411 Loop Road which was developed as an outdoor storage yard under I-2 without permits. This property was also found to be R-20. Staff has had several meetings with this owner’s representatives, and they are working on a conditional use site plan and rezoning. We expect this to be turned in for review within the next few months.

Before moving forward with the R-20 interpretation in February, staff did seek and receive guidance from the Town Attorney.

**Adjacent Zoning and Land Uses:**

- North SB, Commercial
- South R-20, Henry Drive (Residential)
- East SB, Commercial
- West R-20, Non-conforming Commercial

**Neighborhood Character:**

This area along Loop Road is located between Mechanical Boulevard and US 70 HWY W. This area contains a mix of single-family residential and heavy commercial. The predominant zoning in this area is both R-20 and SB. The Progress Energy facility is within 500 feet of this property zoned I-2 on Mechanical Boulevard.

**Zoning History:**

The Planning Department’s rezoning database contains the following rezoning cases in this area.

Case	Applicant	Location	Zoning Change
Z-81-17	Town of Garner	Mechanical Blvd Near Dynamic Drive	R-10 to R-15
Z-81-18	Town of Garner	Corner of Mechanical Blvd and Dynamic Drive	R-10 to R-15



Z-83-18	Vic Byrd	Mechanical Blvd Near Dynamic Drive	R-15 to SB (same site as Z-81-17)
Z-84-14	Vic Byrd	East side of Dynamic Drive	R-20 to SB
Z-87-2	Vic Byrd	North end of Dynamic Drive	R-10 to SB
Z-87-4	Town of Garner	West side of Dynamic Drive	R-10 to R-15
CUD Z 07-03	Vic Byrd	Dynamic Drive	R-15 to SB
CUD-Z 13-05	Sherman Yeargan	Loop Road & US 70 (Walgreens)	CR C69 to CR C170

**Infrastructure:**

**Public Water & Sewer:**

The property is in the town limits and has access to public water and sewer. The property is developed as a commercial use and is connected to an 8" water line and an 8" sewer line on Loop Road.

**Transportation:**

The site has approximately 160 feet of road frontage on Loop Road. Loop Road is an 18-foot wide Town-maintained facility within a 60-foot right of way. With the exception of the newer Walgreens development, this road lacks curb and gutter and sidewalks. There is no traffic count information, and Loop Road is not classified on the Town of Garner's Transportation Plan as either a major or minor thoroughfare.

The site is already developed so road improvements will not be required as part of this rezoning. However, if this site is re-developed in the future, road improvements would apply (curb / gutter / sidewalks). We also do not anticipate additional traffic impacts as a result of this rezoning.

**Environment:**

This site is not located within the 100 year flood plain as delineated by the FEMA Flood Insurance Rate Maps.

**Staff Commentary:**

**Conformity to Adopted Town Plans**

According to the *Town of Garner Comprehensive Growth Plan* map, the rezoning site is partially within the boundary of the **Regional Center** which extends from Yeorgan Road west over to Fayetteville Road (US 401) and south down to Old Stage Road.

A **Regional Center** is designed to target a regional population. In these areas, the land uses are primarily non-residential which incorporates large areas of retail and large office buildings. However the development of higher density residential (apartments) is often incorporated in these centers and provides housing options close to employment with direct access to the freeway. These centers also include park or natural areas for general public use and to mitigate the impacts of intensive development. The recommended zoning districts for a Regional Center include: O&I, PUD, SB, CR, MXD, and MF-2. The recommended residential density range is 13+ dwelling units per acre.

The requested zoning change from R-20 to SB is consistent with the recommendations of the *Comprehensive Growth Plan* and with the prevailing zoning and land use pattern in this area along Loop Road and Mechanical Boulevard.

Since this is a general use rezoning, all allowable SB uses must be considered when evaluating this rezoning request.

**Staff Recommendation:**

The public hearing for this application was held on June 5, 2017. There were no public comments at the meeting concerning the rezoning.

The Planning Commission meeting was held on June 19, 2017, and the Commission voted to recommend approval of this request.

Staff has no objections to Rezoning Application Z-17-03. Staff recommends approval as submitted.

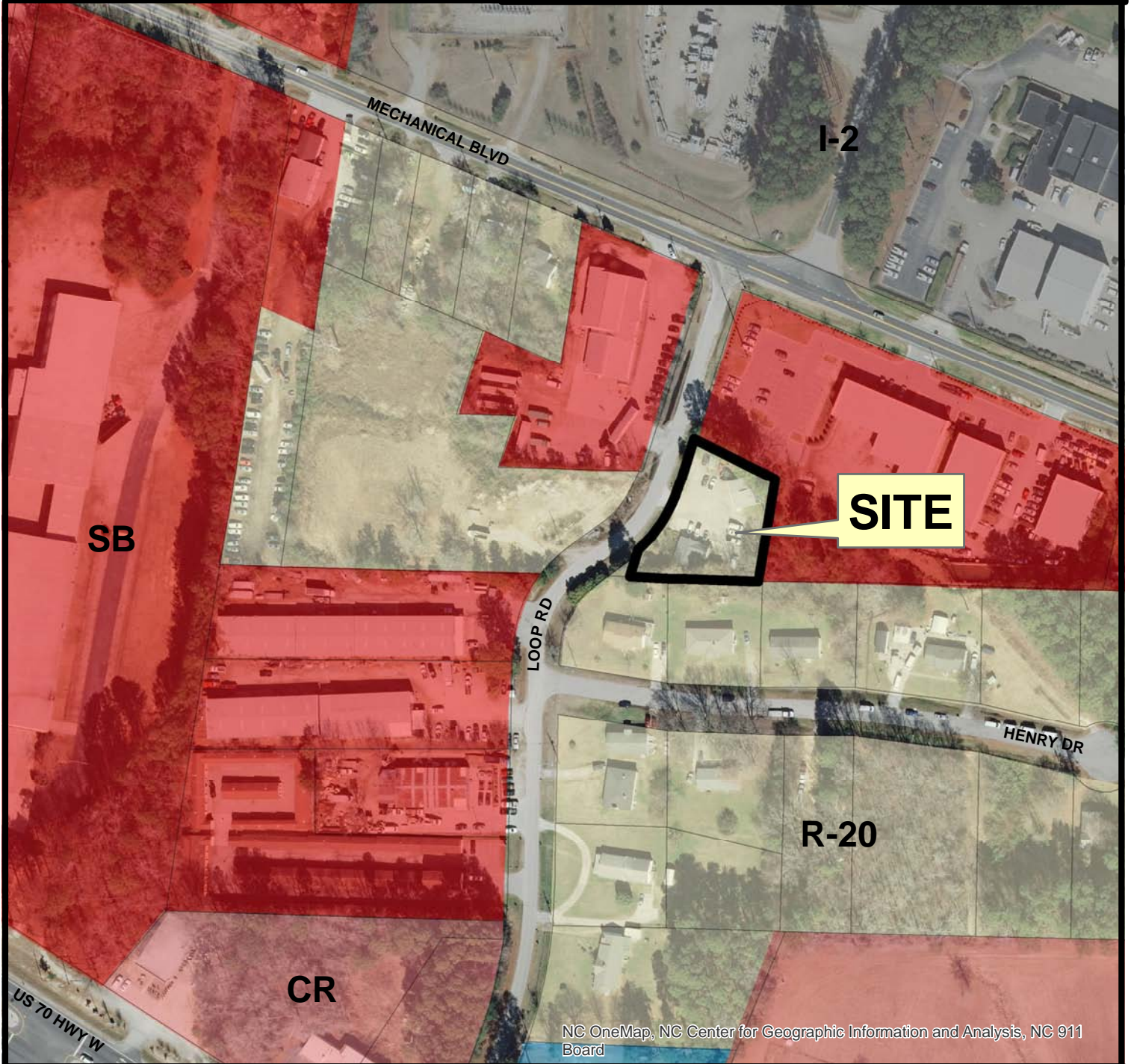
**Note:** The Council will need to include a statement regarding the consistency of the rezoning application with the Town's Comprehensive Growth Plan as part of the recommendation motion.



# Town of Garner Planning Department

## General Use Applications Z 17-03

0 150 300  
Feet



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

Project: None  
 Applicant: Town of Garner  
 Owner: Lightning LLC  
 Location: 412 Loop Road  
 Pin: 1701960903

Proposed Use: None (Existing Business)  
 Current Zoning: R-20  
 Proposed Zoning: SB  
 Overlay: None  
 Acreage: 0.48

Return to:  
Stella Gibson  
Town Clerk  
900 7<sup>th</sup> Avenue  
Garner, NC 25729

ORDINANCE NO. (2017) 3865

**AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE TOWN OF GARNER  
AND ITS EXTRATERRITORIAL JURISDICTION**

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF GARNER

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 current zoning of Residential 20 (R-20) to Service Business (SB) general use district as requested in Rezoning Application No. **Z-17-03** by the Town of Garner.

0.48 acres identified as 412 Loop Road and Wake County PIN # 1730125497

Section 2. That all ordinances or portions thereof in conflict with this ordinance are hereby repealed.

Section 3. That this ordinance shall become effective upon its adoption.

Section 4. That the Planning Department shall change the Official Zoning Map displayed for the public to reflect this change immediately following adoption.

Section 5. 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.

Duly adopted this 6<sup>th</sup> day of July, 2017.

---

Ronnie S. Williams, Mayor

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