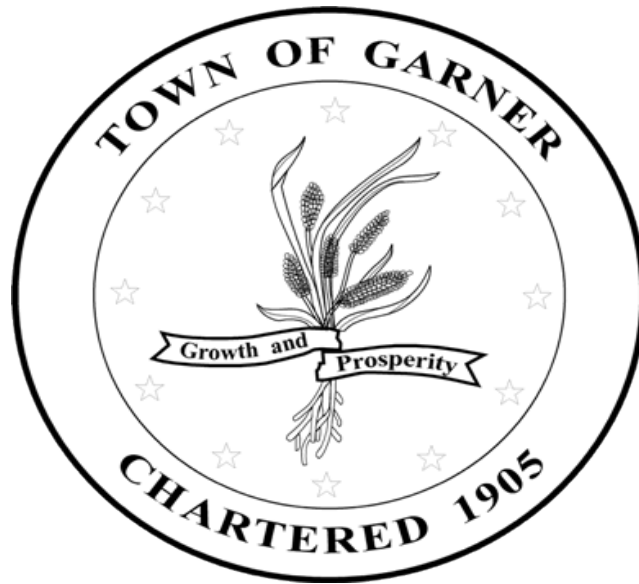


# **TOWN OF GARNER**



## **TOWN COUNCIL MEETING**

September 4, 2018  
7:00 P.M.

Garner Town Hall  
900 7th Avenue  
Garner, NC 27529

**Town of Garner  
Town Council Agenda  
September 4, 2018**

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

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

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

- B. PLEDGE OF ALLEGIANCE: Mayor ProTem Marshburn

- C. INVOCATION: Mayor ProTem Marshburn

- 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 act or deliberate on the 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. Constitution Week Proclamation ..... Page 4  
Presenter: Council Member Buck Kennedy

- 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 July 31 regular and closed session meetings and the August 6 regular meeting.

Action: Adopt Minutes

H. PUBLIC HEARINGS

1. Conditional Use Rezoning CUD-Z-18-03 and Conditional Use Permit CUP-SP-18-07, Bannister Professional Center ..... Page 15  
Presenter: David Bamford, Planning Services Manager & Stacy Harper, Principal Planner

Request for change in zoning for approximately 5.97 acres from Single-Family Residential (R-20) to Neighborhood Commercial (NC C-202). A companion conditional use site plan for retail sales and service with office uses accompanies this conditional use zoning request.

Action: Adopt Ordinance (2018) 3925; Approve CUP-SP-18-07

2. Conditional Use Rezoning CUD-Z-18-05 and Conditional Use Permit CUP-SB-18-03, Harpers Landing ..... Page 35  
Presenter: David Bamford, Planning Services Manager & Alison Jones, Planner II

Request for a change in zoning for approximately 37.50 acres from Single-Family Residential (R-20) to Single-Family Residential Conditional Use (R-9 C-204). A companion conditional use subdivision plan for an 87 lot single family residential development accompanies this conditional use rezoning request.

Action: Adopt Ordinance (2018) 3926; Approve CUP-SB-18-03

3. Conditional Use Rezoning CUD-Z-18-06 and Conditional Use Permit CUP-SP-18-12, S.T. Wooten ..... Page 55  
Presenter: David Bamford, Planning Services Manager & Alison Jones, Planner II

Request for conditional use rezoning from Single-Family Residential (R-20) and Service Business (SB) to Heavy Industrial Conditional Use (I-2 C-205). A companion conditional use site plan for manufacturing and production uses accompanies this conditional use rezoning request.

Action: Adopt Ordinance (2018) 3927; Approve CUP-SP-18-12

4. Conditional Use Rezoning CUD-Z-18-07 and Conditional Use Permit CUP-SP-18-13, Oak City Academy ..... Page 77  
Presenter: Presenter: David Bamford, Planning Services Manager & Stacy Harper, Principal Planner

Request for conditional use rezoning from Service Business (SB) to Office and Institutional Conditional Use (OI C-206). A companion conditional use site plan for a private school accompanies this conditional use rezoning request.

Action: Adopt Ordinance (2018) 3928; Approve CUP-SP-18-03

NEW/OLD BUSINESS

1. UDO Text Amendment 18-01..... Page 96  
Presenter: Jeff Triezenberg, Planning Director

The Downtown Garner Association is requesting a UDO Text amendment to the existing Center Business District (CBD) to be aligned with the Garner Forward Comprehensive Plan. This would allow the following uses in the CBD district: “Outdoor Athletic or Entertainment Facility, Private” and “Indoor Manufacturing and Production.”

Action: Adopt Ordinance (2018) 3929

2. General Use Rezoning Z-18-03, 3008 US 70 Hwy E ..... Page 102  
Presenter: David Bamford, Planning Services Manager

The Planning Department is the sponsor/applicant for this general use rezoning case to correct an oversight during last year's ETJ expansion. The request is to rezone from Wake County Highway District (HD) to Town of Garner Service Business (SB) which fits the heavy commercial character of the area and is compatible with the SB zoning to the west which was zoned last year with the ETJ expansion. No conditions are proposed as part of this request and no development plan is proposed at this time. The public hearing was held on July 17, and the Planning Commission meeting was held on August 13, 2018.

Action: Adopt Ordinance (2018) 3930

J. COMMITTEE REPORTS

1. Public Works Committee Meeting Update

K. MANAGER REPORTS

1. garner info

L. ATTORNEY REPORTS

M. COUNCIL REPORTS

N. CLOSED SESSION

Pursuant to N.C. General Statutes Section 143.318.11(a)(5)) “to discuss possible real estate acquisition and the Town’s negotiating position regarding such real estate.”

O. ADJOURNMENT

Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: September 4, 2018		
Subject: Proclamation Recognizing Constitution Week		
Location on Agenda: Presentations		
Department: Town Council		
Contact: Stella Gibson, Town Clerk		
Presenter: Buck Kennedy, Council Member		
Brief Summary:  Council Member Kennedy will present a Proclamation recognizing the week of September 17-23, 2018 as Constitution Week.		
Recommended Motion and/or Requested Action: Presentation Only; No Action		
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:	SG	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

# Proclamation

**WHEREAS**, our Founding Fathers, in order to secure the blessings of liberty for themselves and their posterity, did ordain and establish a Constitution for the United States of America; and

**WHEREAS**, it is of the utmost importance that all citizens fully understand the provisions and principles contained in the Constitution in order to support, preserve and defend it against encroachment; and,

**WHEREAS**, September 17, 2018 marks the two hundred thirty-first anniversary of the signing of the Constitution of the United States of America by the Constitutional Convention; and

**WHEREAS**: Public Law 915 guarantees the issuing of a proclamation each year by the President of the United States of America designating September 17 through 23 as Constitution Week; and

**WHEREAS**, this celebration of the Constitution was started by the Daughters of the American Revolution. In 1955, DAR petitioned Congress to set aside the week of September 17-23 annually to be dedicated for the observance of Constitution Week. The resolution was later adopted by the U.S. Congress and signed into public law on August 2, 1956, by President Dwight D. Eisenhower.

**NOW, THEREFORE, I, RONNIE S. WILLIAMS**, Mayor of the Town of Garner, do hereby proclaim September 17-23, 2018 as

## CONSTITUTION WEEK

in Garner and urge all citizens to reaffirm the ideals the Framers of the Constitution had in 1787 and reflect on the privilege of being an American with all the rights and responsibilities which that privilege involves, remembering that lost rights may never be regained.



*In Witness Whereof, I have hereunto set my hand and caused the Great Seal of the Town of Garner, North Carolina, to be affixed the 8<sup>th</sup> day of August 28, 2018.*

*Ronnie S. Williams*

Ronnie S. Williams, Mayor

Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: September 4, 2018		
Subject: Council Meeting Minutes		
Location on Agenda: Consent		
Department: Administration		
Contact: Stella Gibson, Town Clerk		
Presenter: Stella Gibson, Town Clerk		
Brief Summary: Adopt minutes from the July 31 regular and closed session meetings and the August 6 regular meeting.		
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: N/A		
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  
Council Work Session Minutes  
July 31, 2018**

The Council met in a Work Session at 6:00 p.m. in the Council Chambers located at 900 7<sup>th</sup> Avenue.

**CALL MEETING TO ORDER/ROLL CALL:** Mayor Ronnie Williams

Present: Mayor Ronnie Williams, Mayor Pro Tem Ken Marshburn, Council Member Kathy Behringer, Council Member Buck Kennedy, Council Member Gra Singleton and Council Member Jackie Johns.

Staff Present: Rodney Dickerson-Town Manager, John Hodges-Asst. Town Manager- Development Services, Matt Roylance-Asst. Town Manager-Operations, Pam Wortham-Finance Director, Joe Stallings Economic Development Director, Thad Anderson-Interim Town Attorney, Rick Mercier-Communications Manager, Brandon Zuidema-Police Chief, Mari Howe-Downtown Development Manager and Rebecca Schlichter-Deputy Town Clerk.

**ADOPTION OF AGENDA**

Motion: Kennedy  
Second: Johns  
Vote: 5:0

**REPORTS/DISCUSSION**

**Update on Reuse of 120 East Main Street**

Presenter: Joe Stallings, Economic Development Director & Mari Howe, Downtown Development Manager

Mr. Stallings and Ms. Howe updated Council on plans for co-working spaces in the reuse of the 120 East Main Street Building. Town currently has a tenant in the tech field which will leave two full office spaces available. The target opening date is August 15<sup>th</sup>.

**Update of Fire Station 5 Discussions**

Presenter: Rodney Dickerson, Town Manager

Mr. Dickerson provided an update from the Fire Commission meeting he and Mr. Hodges attended on July 19<sup>th</sup>. The Town and the Garner Volunteer Rescue Department discussed the need for another fire station in the 401 and Ten Ten corridor. The siting of that station could have implications on the Wake County Fire Service District. The Fire Commission will vote whether to close Fairview Fire station 2 and consolidate Fairview with Station 1 which will then be voted on by the County Commissioners.



## **Conflict of Interest Policy**

Presenter: Thad Anderson, Interim Town Attorney

Mr. Anderson reviewed the Conflict of Interest Policy and how they particularly relate to contracting, purchasing, and self-dealing. The Town of Garner will be required to have one prior to entering into a local funding agreement with NCDOT.

Action: Council Consensus to put on August 6<sup>th</sup> consent agenda

## **MANAGER REPORTS**

- Bond Upgrade – Moody's upgraded the Town of Garner to a AAA
- Connect Conference - August 2<sup>nd</sup> at the Grand Marquis Ballroom
- Recreation Center update – Current project completion date is October 31, 2018
- Community Appearance Group – August 7<sup>th</sup> at 9:00 a.m. is the first meeting
- NCDOT Public meeting on 401 improvements – August 16<sup>th</sup>
- Town Engineer recruitment process will get started soon and will use the assessment center format

Chief Zuidema reported National Night Out is next Tuesday from 6:00-8:00 p.m.

## **COUNCIL REPORTS**

Marshburn

- Reported recent experience with Garner Info was very positive.
- Reported concern regarding the playground equipment at White Deer Park.
- Attended the annual volunteer advisory committee dinner and would like to encourage better attendance.
- Received call concerning the development of a thru street on Curtis Drive.

Behringer

- Reported flooding on West Garner Road just past Vandora Springs where the drainage pipe is not large enough. Railroad has not responded to this issue. Mr. Dickerson said we will send official letter to railroad on this issue.
- Stated a resident expressed concern regarding the natural landscaping areas at Garner High School the possibility of students planting illegal plants.
- Received call concerning the development of a through street on Curtiss Drive.

Johns

- Reported grass on back side of Town Hall is not coming in. Mr. Roylance reported that Public Works is working on improving this coverage.

Singleton

- Reported he sent a link to Rick to share concerning the appearance problems Raleigh is having. He thought Council and staff would see that are having some of the same problems the Town of Garner is having.

Kennedy

- Requested if staff hears of tours inside the new Garner Magnet High School he would like to attend. Mr. Marshburn voiced that he would like to attend as well.
- Reported a group interested in preserving Garner History was meeting tonight at 7:00 p.m.

**ADJOURNMENT:** 9:00 p.m.

Motion: Singleton  
Second: Behringer  
Vote: 5:0

DRAFT

**Town of Garner  
Town Council Meeting Minutes  
August 6, 2018**

**CALL MEETING TO ORDER/ROLL CALL:** Mayor Ronnie Williams

Present: Mayor Ronnie Williams, Mayor ProTem Ken Marshburn, Council Member Kathy Behringer, Council Member Jackie Johns, Council Member Buck Kennedy, and Council Member Gra Singleton

Staff Present: Rodney Dickerson-Town Manager, John Hodges-Asst. Town Manager, Matt Roylance-Asst. Town Manager-Operations, Jeff Triezenberg-Planning Director, David Bamford-Planning Services Manager, Joseph Stallings-Economic Development Director, Tony Chalk-Town Engineer, Stacy Harper-Principal Planner, Pam Wortham-Finance Director, Rick Mercier-Communications Manager, Thad Anderson-Interim Attorney, Stella Gibson-Town Clerk

**PLEDGE OF ALLEGIANCE:** Mayor Ronnie Williams

**INVOCATION:** Council Member Jackie Johns

**ADOPTION OF AGENDA**

Motion: Marshburn  
Second: Behringer  
Vote: 5:0

**PRESENTATIONS**

**CONSENT**

**Council Meeting Minutes**

Presenter: Stella Gibson, Town Clerk

Adopt minutes from the May 23 special meeting, June 19, June 26 and July 2 regular meetings and closed session minutes from June 19, 2018.

Action: Adopt Minutes

**Resolution Declaring Unpaid Nuisance Abatements as Liens**

Presenter: Pam Wortham, Finance Director

Resolution declaring certain delinquent nuisance abatements as a lien on property. This resolution authorizes Wake County to add these abatement costs to Wake County property tax bills.

Action: Adopt Resolution (2018) 2356

**Conflict of Interest Policy**

Presenter: William E. Anderson, Town Attorney

Conflict of interest policies are often used in the corporate world. They particularly relate to contracting, purchasing, and self-dealing. The Town of Garner will be required to have one to enter into a local funding agreement with NCDOT.

Action: Adopt Policy

**Resolution to Acquire Interest in Real Property - New Rand Road**

Presenter: William E. Anderson, Town Attorney

Proposed roadway improvements on New Rand Road will require some additional right-of-way, drainage easements and temporary construction easements.

Action: Adopt Resolution (2018) 2357

**Town of Garner v Christopher McGinnis**

Presenter: William E. Anderson, Town Attorney

Suit has been filed to enforce the UDO with reference to retail sales and inventory storage at 4408 Jessup Drive, Garner, NC.

Action: Ratify Filing of Lawsuit

**Property Purchase, 1316 Buffalo Road**

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

The owners of the property at 1316 Buffalo Road have agreed to sell a one-acre portion of their lot to be used for a possible greenway connection. The purchase price is \$50,000.

Action: Authorize Purchase of Property

Motion: Kennedy  
Second: Johns  
Vote: 5:0

**PUBLIC HEARINGS**

**Conditional Use Permit CUP-SB-16-08, Jameson**

Presenter: Jeff Triezenberg, Planning Director

Mr. Anderson explained the procedures to be followed during the hearings.

The Town Clerk administered the Affirmation of Oath to the following: Michael Crowley, Matthew Moyer, Jennifer McLaughlin, Terry Boylan, Stacy Harper, Jeff Triezenberg, Stacy Harper, and David Bamford.

Mr. Anderson then asked the Council to disclose any exparte communications regarding these projects.

Hearing none, Mayor Williams opened the public hearing and asked Mr. Triezenberg to provide the staff report.

Mr. Triezenberg stated this request is for conditional use subdivision approval of a 39-lot residential subdivision located at 1001 Maxwell Drive. This request meets all ten SUP criteria established by Council.

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

Action: Approve CUP-SB-16-08 with four site specific conditions: (1) Prior to the issuance of any Certificate of Occupancy, the developer shall be responsible for any road improvements as required by NCDOT and agreed to by the Town of Garner, (2) Prior to first final plat recordation, documentation establishing a Homeowner's Association and Restrictive Covenants shall be submitted to the Town of Garner Planning Department, (3) Prior to construction drawing approval, a petition for voluntary satellite annexation shall be submitted to the Town of Garner Planning Department, (4) Prior to issuance of each building permit, a fee-in-lieu of parkland dedication shall be paid to the Town of Garner.

Motion: Marshburn  
Second: Kennedy  
Vote: 5:0

**Special Use Permit SUP-18-03, Kaze**

Presenter: Stacy Harper, Principal Planner

Mayor Williams opened the public hearing and asked Ms. Harper to provide the staff report.

Ms. Harper stated this request is for special use site plan approval for a restaurant located at 1251 Timber Drive East. This request meets all ten SUP criteria established by Council.

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

Action: Approve SUP-18-03 with 2 site specific conditions: (1) Western street buffer-add street trees prior to Council, (2) Southern perimeter buffer-upgrade to requirements for 7.5' perimeter buffer.

Motion: Kennedy  
Second: Singleton  
Vote: 5:0

**Annexation Petition ANX-18-04, Bryan Road**

Presenter: David Bamford, Planning Services Manager

Mayor Williams opened the public hearing and asked Mr. Bamford to provide the staff report.

Mr. Bamford stated this request is for satellite annexation of .925 acres located at 7400 Bryan Road. This request was made in order to obtain connection to public water .

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

Motion: Kennedy  
Second: Singleton  
Vote: 5:0

Action: Adopt Ordinance (2018) 3924

#### **Annexation Petition ANX-18-05, Withers Road**

Presenter: David Bamford, Planning Services Manager

Mayor Williams opened the public hearing and asked Mr. Bamford to provide the staff report.

Mr. Bamford stated this request is for contiguous annexation of 1.607 acres located at 907 Withers Road. This request was made in order to obtain connection to public water.

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

Motion: Singleton  
Second: Johns  
Vote: 5:0

Action: Adopt Ordinance (2018) 3923

#### **NEW/OLD BUSINESS**

##### **NC DEQ Grant Application**

Presenter: Tony Chalk, Town Engineer

Mr. Chalk stated this request is to authorize the Town to apply for a CDBG grant to help mitigate the public health risk created by contaminated wells in the Auburn community. Mr. Dickerson added some of the properties also had high levels of iron in the water. Council asked staff to investigate whether the use of these CDBG funds will impact the amount the Town normally receives.

This process will require assistance from several agencies and the Town will be a pass-through for the grant funds as well as manage the project. At least nine properties are affected.

The question of whether or not to annex the property was discussed. Mr. Chalk will research and provide options. If Council chooses not to annex the properties, residents would be subject to double water rates.

If the grant is received, it is anticipated to cover the cost of running the transmission lines, however residents would be responsible for the cost of running the line to their homes. There may be options of assisting with this cost. Mr. Chalk will obtain a cost estimate for the project. If the grant is approved, it is anticipated the project will be complete in approximately 3 years.

Action: Authorize Staff to Apply for Grant

## **COMMITTEE REPORTS**

### **MANAGER REPORTS**

- garner info
- Building & Permitting Report
- Transportation project update document
- Mr. Hodges provided an update on the indirect connectivity of Curtiss Drive. He also stated staff investigated the drainage problem under Garner Road near the railroad tracks west of Vandora Springs Road. Mr. Chalk responded that staff reached out to the railroad and NCDOT to report the problem. High water warning signs were placed in the area.

### **ATTORNEY REPORTS**

### **COUNCIL REPORTS**

Singleton

- Commended the Chamber of Commerce and those participating in the Connect Conference for a successful event.

Kennedy

- Suggested holding an informal gathering with the newly formed Historical Society to discuss the best way to move forward and preserve Garner's history. Mr. Dickerson will follow-up.
- Received a request to ask NCDOT to check into the conduit under the exit of Winterlocken

Behringer

- Reported the median at Benson Road and Garner Road needs to be mowed and cleaned up.
- Reported she was pleased by the recent reports received from Moodys.

Marshburn

- Referring to the article printed in the N&O relating to the low employment rate in municipal government; it stated the Town may need additional benefits in order to be competitive.

**ADJOURNMENT:** 8:24 p.m.

Motion: Kennedy  
Second: Marshburn  
Vote: 5:0

Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: September 4, 2018		
Subject: CUD-Z-18-03 & CUP-SP-18-07, Bannister Professional Center Conditional Use Rezoning & Site Plan		
Location on Agenda: Public Hearings		
Department: Planning		
Contact: David Bamford, Planning Services Manager		
Presenter: David Bamford, Planning Services Manager & Stacy Harper, Principal Planner		
<p><b>Brief Summary:</b></p> <p>The rezoning (CUD-Z-18-03) and associated site plan (CUP-SP-18-07) have been submitted to develop the site into an office/retail professional center. The applicant is requesting to rezone the site from Residential 20 (R-20) to Neighborhood Commercial (NC C202). Use restrictions are proposed to limit the range of NC uses as well as limitations on types and size of retail uses allowed. The site is located along Timber Drive East.</p>		
<p><b>Recommended Motion and/or Requested Action:</b></p> <p>Adopt Ordinance (2018) 3925; Approve CUP-SP-18-07</p>		
<p><b>Detailed Notes:</b></p> <p>See attached staff report.</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 Staff Report

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**TO:** Mayor and Town Council Members

**FROM:** Stacy Harper, AICP; Principal Planner  
Het Patel, AICP; Senior Planner

**SUBJECT:** *CUD-Z-18-03, Conditional Use Rezoning*  
*CUP-SP-18-07, Conditional Use Site Plan – Bannister Professional Center*

**DATE:** September 4, 2018

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### I. PROJECT AT A GLANCE

**Project Number(s):** CUD-Z-18-03 Conditional Use Rezoning  
CUP-SP-18-07 Conditional Use Site Plan

**Applicant:** Rolly Bannister Jr Revocable Trust

**Owner:** Rolly Bannister Jr Revocable Trust

**General Description -**

**Project Area & Location:** 5.97 +/- acres located on the south side of Timber Drive East.

**Wake Count PIN(s):** 1720-15-5339 & 1720-15-9462

**Current Zoning:** R-20 (Residential 20)

**Requested Zoning:** NC C202 (Neighborhood Commercial Conditional Use)

**Proposed Use(s):** Shell Space for Commercial, Office, Retail Uses

**Overlay:** Timber Drive East

**Key Meeting Dates:**

**Planning Commission:** August 13, 2018

**Public Hearing & Action:** September 4, 2018

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

The rezoning (CUD-Z-18-03) and associated site plan (CUP-SP-18-07) have been submitted to develop the site into shell space for future commercial, office, retail uses. The site and tracts along south side of Timber Drive East in the vicinity are currently vacant wooded lands. The applicant is requesting to rezone the site from Residential 20 (R-20) to Neighborhood Commercial (NC C202). Use restrictions are proposed to limit the range of NC uses as well as limitations on types and size of retail uses allowed.

## **III. ZONING ANALYSIS**

**Existing:** The existing zoning of the 5.97-acre site is **Residential 20 (R-20)**. Residential districts are designed to create and maintain residential neighborhoods composed primarily of single-family dwellings and, as special uses, such institutional, public, and other compatible uses that are designed, constructed and maintained so as not to detract from the quality of each district. R-20 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 | 10. Public safety facilities (fire, police, rescue, ambulance) |
| 2. Residential Cluster                        | 11. Cemetery   |
| 3. Family Care home                           | 12. Public parks, swimming pools, tennis and golf courses      |
| 4. Group care home                            | 13. Religious institutions                                     |
| 5. Intermediate care home                     | 14. Minor utility—elevated water tank                          |
| 6. Community center                           | 15. Private golf course or country club                        |
| 7. Child day care up to 3 as home occupation  | 16. Bed and breakfast  |
| 8. Family child day care up to 8 in home      | 17. Agriculture or silviculture                                |
| 9. School public or private                   |  |

**Proposed:** The proposed zoning of the 5.97-acre site is **Neighborhood Commercial Conditional Use (NC C202)**. The NC zoning district has been established to accommodate low intensity commercial enterprises that provide goods or services primarily to residents of the surrounding neighborhood so that such residents can have convenient access to such goods and services without the necessity for making cross-town trips. The permitted uses are of such a nature and on such a scale that incompatibility with or disruption to nearby residences is minimized, and uses that by their very nature depend for a majority of their business upon traffic from the whole community rather than the immediate neighborhood are not permitted.

***The following is a list of all NC uses as to be modified for the NC C202 district (highlighted uses to be prohibited, grayed uses restricted by overlay):***

- |   |   |
|---|---|
| 1. Townhouse  | 20. Gym, spa, indoor tennis court or pool, private  |
| 2. Condominium  | 21. Medical office, individual  |
| 3. Upper-story residential  | 22. Other office  |
| 4. Community center   | 23. Bed and breakfast   |
| 5. Library, museum, art gallery, art center                             | 24. Restaurant, indoor with seating only  |
| 6. Other community service  | 25. Restaurant, take out only, drive-through or walk up (drive-thru not visible from Timber Drive East) |
| 7. Civil, service fraternal clubs, lodges and similar uses              | 26. Convenience store without fuel sales  |
| 8. Adult day care   | 27. Personal service-oriented use (excludes commercial greenhouses or any use with outdoor operations)  |
| 9. Day care center  | 28. Hair salons, barbershops, beauty shops  |
| 10. Business school, college or university satellite in single building | 29. Banks or financial institutions   |
| 11. Trade/vocational  | 30. Repair oriented use (no outdoor operations)   |
| 12. Music, dance, art instruction                                       | 31. Sales oriented use (no outdoor operations)  |
| 13. Ambulance, rescue squad, police, fire station                       | 32. Veterinarian/kennel, indoor   |
| 14. Government office   |   |
| 15. Cemetery  |   |
| 16. Parks, swimming pools, tennis courts, golf courses                  |   |
| 17. Religious institutions  |   |
| 18. Minor utility, elevated water tank                                  |   |
| 19. Golf course or country club, private                                |   |

Additionally, the applicant has identified the following conditions for retail uses within the **NC C202** conditional use district:

- No more than **50%** of total approved **building square footage** can be used for the following allowed **retail uses**:
  - a. Convenience store without fuel sales
  - b. Personal service-oriented use
  - c. Hair salons, barbershops, beauty shops
  - d. Banks or financial institutions
  - e. Repair oriented use (no outdoor operations)
  - f. Sales oriented use (no outdoor operations)
  - g. Veterinarian/kennel, indoor

**Overlay Districts:** This property falls within the **Timber Drive East Overlay District**. This overlay district has additional development standards and use restrictions for properties with frontage

along the corridor. The overlay is explained in Article 4.10 of the *Unified Development Ordinance*. There are several uses that are prohibited or restricted within the overlay district. No **Neighborhood Commercial C202** uses are prohibited within the overlay. There are some uses that have restrictions and additional standards that apply because of the overlay district. These uses are identified below.

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

- Restaurants with drive-in window operations are permissible only when such drive-in window service area(s) are not visible from Timber Drive street view unless otherwise approved by the permit issuing authority.

**Zoning History:** The Planning Department’s rezoning database contains the following rezoning cases in the vicinity of this property. More recent cases are listed below.

Case	Applicant	Location	Zoning Change
CUD-Z-93-07	Equity and Investors	1473 Benson Road	R-20 to OI C47
CUD-Z-95-03	Town of Garner	1566 Benson Road	R-20 to CB C60
CUD-Z-99-11	Kenneth A. Lucas	305 Timber Drive	R-20 to CB C95
CUD-Z-01-09	Sherman A. Yeargan	Timber Drive East/White Oak	R-20 to CB C112
CUD-Z-01-11	Jonathan Adams	Benson Road	R-20 to OI C113
CUD-Z-08-01	Bobby & Brenda Fowler Carl T. Williams	Benson Road/New Rand Road	CR, R-20 and NC to CR and OI C152
CUD-Z-10-02	Jim Walker	125 Timber Drive	SB C4 to SB C160
CUD-Z-12-03	Evergreen Construction	125 Timber Drive East	OI C152 to MF-2 C164
CUD-Z-16-04	Zimmer Development	Evolve Drive	CR and OI C152 to MF-2 C184
CUD-Z-16-07	The Lundy Group	520 Timber Drive East	R-20 to NO C187

**Adjacent Zoning and Land Use:**

<b>North:</b>	Single-Family Residential 20 (R-20)	Vacant/Wooded land
<b>South:</b>	Single-Family Residential 20 (R-20)	Single-family residential
<b>East:</b>	Commercial Retail (CR)	Vacant/Wooded land
	Single-Family Residential 20 (R-20)	Single-family residential
<b>West:</b>	Neighborhood Office (NO)	Vacant



**Overall Neighborhood Character:**

Timber Drive East is a major east – west thoroughfare. This area along Timber Drive East contains large tracts of undeveloped vacant/wooded lands. The predominant zoning in this area is Single-Family Residential (R-20) and Commercial Retail (CR). Development along this thoroughfare is increasing, especially with the extension of water and sewer to this area.

**IV. TRAFFIC IMPACTS**

The site has approximately 875 feet of road frontage on Timber Drive East. Timber Drive East is an 80-foot wide NCDOT-maintained facility within a 110-foot right of way. This road has curb and gutter and sidewalks. There are no NCDOT average daily traffic count history on Timber Drive East in this area, average daily traffic county history on Timber Drive at NC 50 (Benson Road) was approximately 19,000 vehicles per day in 2015.

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

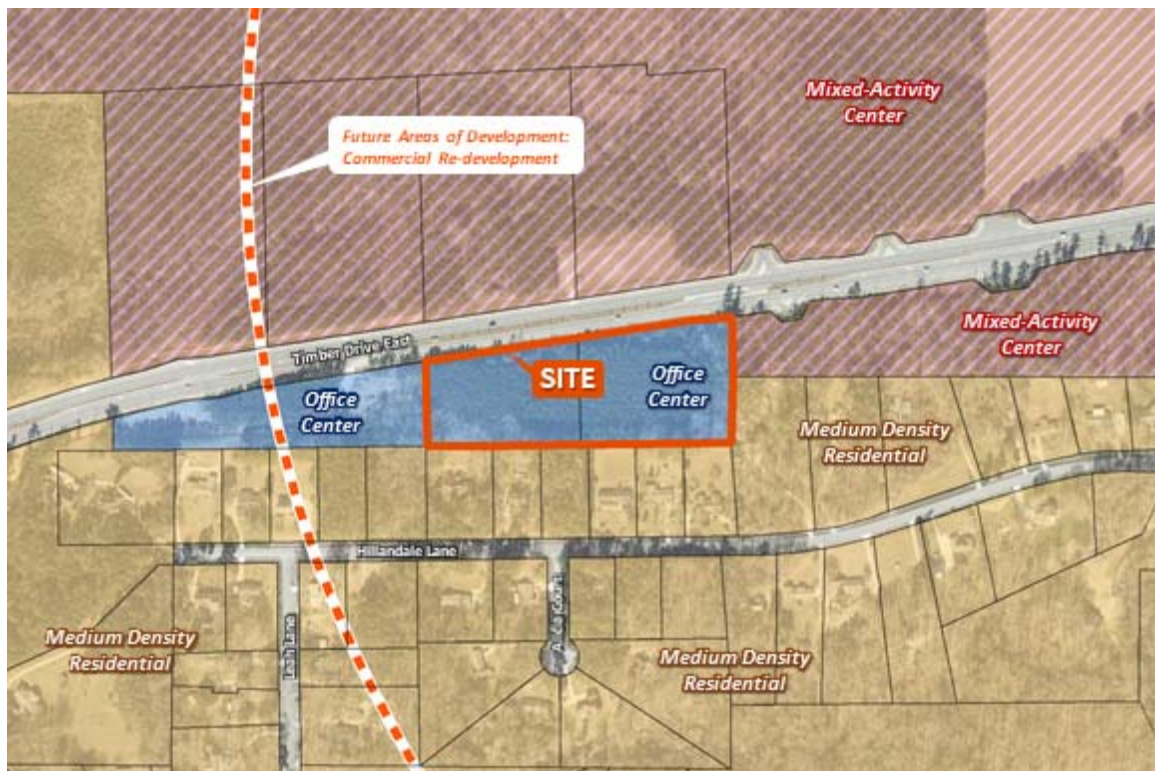
### **2018 Garner Forward Plan:**

On the current Future Land Use map, the site along Timber Drive East is designated as **Office Center** and the surrounding tracts in this area are designated as either Mixed-Activity Center or Medium-Density Residential.

The **Office Center** land use category may have multiple, non-government tenants occupying a single building, adjacent spaces, or separate buildings accessed by 1-2 driveways from an arterial roadway. Examples may include professional or medical offices. Workers tend to arrive in single shifts, and some retail activities may occur on the premises, although that is not the primary use. Buffering from adjacent uses is light, usually locating near transitional uses like moderate- to higher-density residential and mixed-use developments.

The Future Land Use map, also identified areas of potential future development/re-development opportunities. As such, the site falls within a **Future Area of Commercial Redevelopment** designation.

Since the proposed uses of office/retail and other allowable uses within NC C202 fit within the “office center” land use, the request for a Neighborhood Commercial Conditional Use (NC C202) zoning district may be found consistent with the *2018 Garner Forward Plan* and with the prevailing zoning and emerging land use pattern in this area along Timber Drive East.



## VI. SITE PLAN PROJECT DATA

- Acreeage:** Total project +/- 5.97 acres
- Building Size:** There are four buildings being proposed on this site with a building height no greater than 35'. Each building is +/- 10,500 square feet. Total square footage for all the buildings is approximately 42,000 square feet.
- Building Materials:** Each building will have a brick exterior to match the existing office park on the adjacent lot.
- Landscape and Buffer Requirements:** The plan as proposed meets the requirements of the Landscape Ordinance.
- **Tree Cover:** Requirements are met with a combination of existing vegetation and replacement plantings but as planned will exceed the requirement of 12 percent with a total of 13.4 percent tree coverage.
  - **Street Buffers:** Buffers along Timber Drive East have met requirements by adding new plant material.
  - **Perimeter Buffers:** Perimeter buffers vary from 15' to 35' depending on adjacent uses and zoning. The 15' buffer is adjacent to the existing community retail and neighborhood office zoning districts. The 35' buffers are adjacent to R-20 zoning district.
- Parking Spaces:** Parking is based on the medical office and retail requirement of one parking space per every 200 square feet.
- Required: 210 (7 accessible)
  - Proposed: 215 (8 accessible)
- Lighting:** The lighting plan conforms to the requirements of the UDO and the policy standards established by staff for LED lighting:
- No uplight
  - Minimal glare rating (2 or less)
  - Minimum color temperature of 4000K

**Environmental Features:** This site does not contain a FEMA designated floodplain and slopes generally to the southwest.



**Fire Protection:** The Inspections Department has reviewed the plan for fire protection and given their approval.

**Infrastructure:** **Stormwater Management** – This site is located along Timber Drive East and is not located within the watershed protection area. The site is subject to stormwater quality regulations for nitrogen as well as stormwater quantity regulations for detention of the 1, 10 and 25-year storms. A wet retention area is proposed as a stormwater control measure that will handle stormwater quality and quantity requirements at this site. The stormwater control measure will treat reduce the nitrogen below the allowable threshold (10 pounds per acre per year) for commercial development. It will also meet all the detention requirements. This development will also be required to make a nitrogen offset payment to reduce their nitrogen loading rate down to the 3.6 pounds per acre per year threshold.

**Water/Sewer** – The project will connect to existing public water and sewer lines. Sewer extends to the site currently; however, the 16-inch water line will have to be extended to the property.





**Transportation/Access** – The site has approximately 875 feet of road frontage on Timber Drive East. Timber Drive East is an 80-foot wide NCDOT-maintained facility within a 110-foot right of way. This road has curb and gutter and sidewalks. The site has one controlled access (right-in and right-out) along Timber Drive East and features cross-access via internal drives both to the west and east of the site.

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

### **2018 Garner Forward Transportation Plan:**

Timber Drive East is identified as a 4-lane divided facility on the Garner Forward Transportation Plan. Timber Drive East in its existing configuration is improved to standards identified in the 2018 Garner Forward Transportation Plan. This project, as proposed, may be found to be in conformity with the 2018 Garner Transportation Plan.

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

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

### **Unified Development Ordinance Regulations:**

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

### **VIII. PLANNING COMMISSION NOTES AND RECOMMENDATION**

The Planning Commission reviewed this request at their August 13, 2018 meeting. With a unanimous vote, the Planning Commission confirmed staff's findings in Section VII that CUP-SP-18-07, Bannister Professional Center, is in conformity with adopted town plans and policies, and further accepted staff's statements regarding zoning consistency with the Garner Forward Comprehensive Plan, being detailed in Section V of this report, as their own, and recommended approval of CUD-Z-18-03.

**IX. COUNCIL MOTION WORKSHEETS**

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

**REZONING ACTION MOTION WORKSHEET**

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

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

“I move that the Town Council accept staff’s statements regarding zoning consistency with the Comprehensive Growth Plan, detailed in Section V of this report, as our own; and I therefore move further that the Town Council accept the recommendation of the Planning Commission and adopt Ordinance No. \_\_\_\_\_ approving rezoning request number CUD-Z-18-03.”

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

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

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

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

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

and therefore, I move further that the Town Council reject the recommendation of the Planning Commission and deny rezoning request number CUD-Z-18-03.”

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

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

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

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

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

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

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

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

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

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

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

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

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

and therefore, I move further that the Town Council adopt Ordinance No. \_\_\_\_\_ approving rezoning request number CUD-Z-18-03, and in so doing, also amend the Town's Comprehensive Growth Plan from designating the subject property as Office Center to

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

## CONDITIONAL USE PERMIT ACTION WORKSHEET

**Approve:** I move that the Council accept the staff statements regarding plan consistency in Section VII of this report as our own and find the application meets the 10 permit criteria in Section 3.14.D. and therefore approve CUP-SP-18-07, Bannister Professional Center, with the three standard conditions and no site-specific conditions listed on the attached permit.

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

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

**Condition #1:**

---

**Condition #2:**

---

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

---

or

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

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

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

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

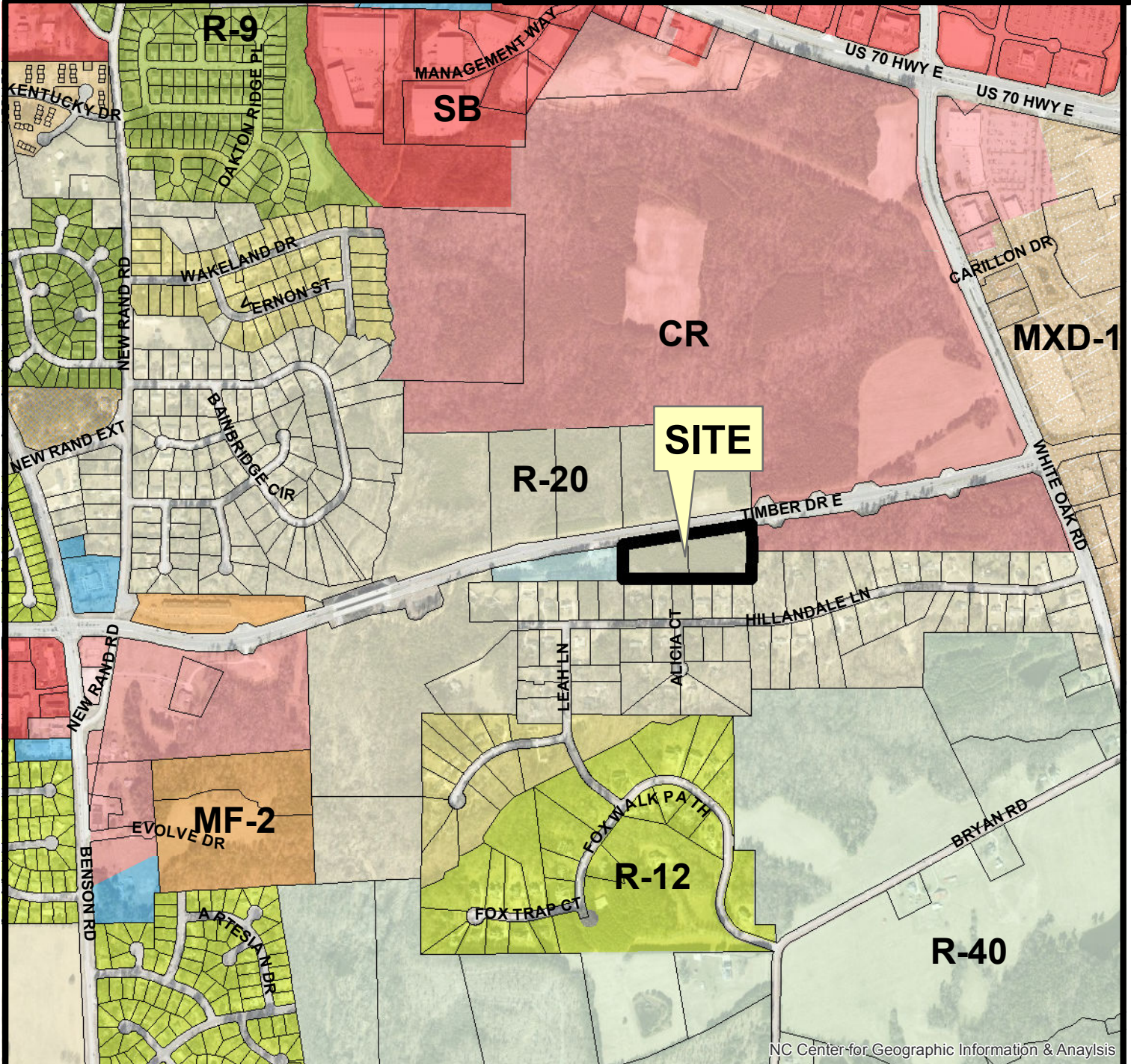
and therefore, deny Conditional Use Permit for Bannister Professional Center – CUP-SP-18-07.



# Town of Garner Planning Department

## Conditional Use Rezoning & Permit CUD-Z- 18-03 & CUP-SP-18-07

0 500 1,000  
Feet



NC Center for Geographic Information & Analysis

Project: Bannister Professional Center  
 Applicant: Rolly Bannister Jr. Revocable Trust  
 Owner: Rolly Bannister Jr. Revocable Trust  
 Location: Timber Drive East  
 Pin: 1720155339 and 1720159462

Proposed Use: Office / retail  
 Current Zoning: R-20 Residential  
 Proposed Zoning: Neighborhood Commercial  
 Conditional Use  
 Acreage: 5.97  
 Overlay: Timber Drive East

Return to:  
Stella Gibson  
Town of Garner  
900 7<sup>th</sup> Avenue  
Garner, NC 27520

**ORDINANCE NO. (2018) 3925**

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

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

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

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

Section 1. That the Official Zoning Map of the Town of Garner and Extraterritorial Jurisdiction be amended by changing the zoning classification of the property described below from its present zoning to that requested by **Rolly Bannister Jr. Revocable Trust** in Rezoning Application No. **CUD-Z-18-03 (NC C202)**.

Section 2. There is hereby created a new conditional use zoning district, to be known as the **Neighborhood Commercial Conditional Use (NC C202)**; within this district, all of the regulations that apply to property within the **Neighborhood Commercial Conditional Use (NC C202)** zoning district shall be applicable and that all other uses are prohibited except those that are listed as permissible shall require a conditional use permit:

*The following is a list of permitted uses in the NC C202 district:*

- |  |  |
|--|--|
| 1. Upper-story residential                                 | 8. Business school, college or university satellite in single building |
| 2. Community center  | 9. Trade/vocational  |
| 3. Library, museum, art gallery, art center                | 10. Music, dance, art instruction                                      |
| 4. Other community service                                 | 11. Ambulance, rescue squad, police, fire station                      |
| 5. Civil, service fraternal clubs, lodges and similar uses | 12. Government office  |
| 6. Adult day care  |  |
| 7. Day care center   |  |



- |   |   |
|---|---|
| <ul style="list-style-type: none"> <li>13. Parks, swimming pools, tennis courts, golf courses</li> <li>14. Religious institutions</li> <li>15. Minor utility, elevated water tank</li> <li>16. Gym, spa, indoor tennis court or pool, private</li> <li>17. Medical office, individual</li> <li>18. Other office</li> <li>19. Restaurant, indoor with seating only</li> <li>20. Restaurant, take out only, drive-through or walk up</li> </ul> | <ul style="list-style-type: none"> <li>21. Convenience store without fuel sales</li> <li>22. Personal service-oriented use (excludes commercial greenhouses or any use with outdoor operations)</li> <li>23. Hair salons, barbershops, beauty shops</li> <li>24. Banks or financial institutions</li> <li>25. Repair oriented use (no outdoor operations)</li> <li>26. Sales oriented use (no outdoor operations)</li> <li>27. Veterinarian/kennel, indoor</li> </ul> |
|---|---|

Additionally, the applicant has identified the following conditions for retail uses within the **NC C202** conditional use district:

No more than **50%** of total approved **building square footage** can be used for the following allowed **retail uses**:

- a. Convenience store without fuel sales
- b. Personal service-oriented use
- c. Hair salons, barbershops, beauty shops
- d. Banks or financial institutions
- e. Repair oriented use (no outdoor operations)
- f. Sales oriented use (no outdoor operations)
- g. Veterinarian/kennel, indoor

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

Owner(s)	Tract No.	Existing Zoning	New Zoning
Rolly Bannister Jr. Revocable Trust	1720-15-5339 & 1720-15-9462	Single-Family Residential (R-20)	Neighborhood Commercial Conditional Use (NC C202)

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

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

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

Section 7. This ordinance shall become effective upon adoption.

Duly adopted this 4th day September 2018.

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Ronnie S. Williams, Mayor

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

**TOWN OF GARNER  
CUP-SP-18-07 – BANNISTER PROFESSIONAL CENTER  
CONDITIONAL USE PERMIT**

<b>APPLICANT</b>	Rolly Bannister Jr. Revocable Trust 725 Maxwell Drive Raleigh, NC 27603
<b>LOCATION</b>	0 Timber Drive East
<b>SPECIFIC USE CLASSIFICATION</b>	Shell Spaces for Commercial, Office, Retail Uses
<b>DATE ISSUED</b>	September 4, 2018

**I. COMPLETENESS OF APPLICATION**

The application is complete.

**II. COMPLIANCE WITH ORDINANCE REQUIREMENTS**

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

**III. GRANTING THE APPLICATION**

The application is granted, subject to the following conditions:

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

**IV. SPECIFIC TO THE PROJECT**

None

c: CE Group  
Attn: Joe Faulkner  
301 Glenwood Avenue  
Suite 220  
Raleigh, NC 27607

Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: September 4, 2018		
Subject: CUD-Z-18-05 & CUP-SB-18-03, Harper's Landing Conditional Use Rezoning & Site Plan		
Location on Agenda: Public Hearings		
Department: Planning		
Contact: David Bamford, Planning Services Manager		
Presenter: David Bamford, Planning Services Manager and Alison Jones, Planner II		
<p><b>Brief Summary:</b></p> <p>The rezoning (CUD-Z-18-05) and associated subdivision plan (CUP-SB-18-03) have been submitted to develop the site into a single-family subdivision (Harper's Landing) of 87 lots. The applicant is requesting to rezone the site from Residential 20 (R-20) to Residential 9 with conditions (R-9 C204). Use restrictions and subdivision characteristic features are proposed as conditions.</p>		
<p><b>Recommended Motion and/or Requested Action:</b></p> <p>Adopt Ordinance (2018) 3926: Approve CUP-SB-18-03</p>		
<p><b>Detailed Notes:</b></p> <p>See attached staff report.</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:		

**TO:** Mayor and Town Council Members

**FROM:** Het Patel, AICP; Senior Planner  
Alison Jones, Planner II

**SUBJECT:** *CUD-Z-18-05, Conditional Use Rezoning*  
*CUP-SB-18-03, Conditional Use Subdivision – Harpers Landing*

**DATE:** August 13, 2018

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### I. PROJECT AT A GLANCE

**Project Number(s):** CUD-Z-18-05 Conditional Use Rezoning  
CUP-SB-18-03 Conditional Use Subdivision

**Applicant:** KB Homes, Attn: Gray B Methven

**Owner:** Bank of America NA Trustee FBO

**General Description -**

**Project Area & Location:** 38.24 +/- acres located on the north side of Clifford Road.

**Wake Count PIN(s):** 1629-24-2358

**Current Zoning:** R-20 (Residential 20)

**Requested Zoning:** R-9 C204 (Residential 9 Conditional Use)

**Proposed Use(s):** Single-Family (87 lots)

**Overlay:** Swift Creek Conservation

**Key Meeting Dates:**

**Planning Commission:** August 13, 2018

**Public Hearing & Action:** September 4, 2018

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

The rezoning (CUD-Z-18-05) and associated subdivision plan (CUP-SB-18-03) have been submitted to develop the site into a single-family subdivision of 87 lots. The site and tracts along the north side of Clifford Road in the vicinity are currently being developed into single-family subdivisions while other tracts are vacant, wooded, or agricultural lands. The applicant is requesting to rezone the site from Residential 20 (R-20) to Residential 9 with conditions (R-9 C204). Use restrictions and subdivision characteristic features are proposed as conditions.

## **III. ZONING ANALYSIS**

**Existing:** The existing zoning of the 37.50-acre site is **Residential 20 (R-20)**. Residential districts are designed to create and maintain residential neighborhoods composed primarily of single-family dwellings and, as special uses, such institutional, public, and other compatible uses that are designed, constructed and maintained so as not to detract from the quality of each district. R-20 district allows single-family lots of at least 20,000 square feet (.45 acres). Gross density is approximately 2.17 units per acre.

***The following is a list of permitted uses in the R-20 District:***

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

**Proposed:** The proposed zoning of the 37.50-acre site is **Residential 9 Conditional Use (R-9 C204)**. The R-9 zoning district is primarily a residential district allowing single-family lots of at least 9,000 square feet (0.21 acres). Gross density is approximately 4.84 units per acre.

***The following is a list of permitted uses in the R-9 C204 district. All R-9 uses would be permissible.***

- |  |  |
|--|--|
| 1. Single-family detached                | 6. Group care home                             |
| 2. Residential cluster                   | 7. Intermediate care home                      |
| 3. Single-family residential subdivision | 8. Community center                            |
| 4. Modular home                          | 9. Child day care (up to 3 as home occupation) |
| 5. Family care home                      |  |

- |  |  |
|--|--|
| <ul style="list-style-type: none"> <li>10. Family child day care (up to 8 in-home)</li> <li>11. School, public or private</li> <li>12. Ambulance service, police or fire station</li> <li>13. Cemetery</li> <li>14. Public park, swimming pool, tennis court, golf course</li> </ul> | <ul style="list-style-type: none"> <li>15. Religious institution</li> <li>16. Minor utility, elevated water storage tank</li> <li>17. Golf course or country club, private</li> <li>18. Bed and breakfast</li> </ul> |
|--|--|

Additionally, the applicant has proposed the following conditions that would apply to the entire development:

- a. Each house must have a minimum of 1,550 square feet of heated floor space;
- b. Each house must have at a minimum 100 square foot patio;
- c. Each house must have a turned down slab or stem wall foundation with a minimum of 12 inches of brick/stone veneer on front and sides. If builder elects to use brick/stone veneer on front foundation wall only, then builder shall provide landscaping along the sides approved by the Town of Garner. All foundation sides without brick/stone shall be parged (textured) and painted to match the home.
- d. Each house must be constructed of hardiplank, masonry (brick or stone) or vinyl siding (minimum gauge .045).
- e. Each house must have at a minimum 10" overhang eave or rakes on all sides.
- f. Each house must have carriage hardware or windows in the garage doors.
- g. Each house must have a 2-car garage.

**Overlays:** The site is located within the **Swift Creek Conservation Overlay District**. The overlay district provides regulations to protect water quality in this watershed by requiring limits on the amount of impervious surface areas permissible for new residential and non-residential development. New single-family detached residential development within this overlay shall be limited to a maximum of 30% total impervious surface area;

**Zoning History:** The Planning Department’s rezoning database contains the following rezoning cases in the vicinity of this property. More recent cases are listed below.

Case	Applicant	Location	Zoning Change
CUD-Z-91-05	Wade and Dora Bryan	Bryan Road at Clifford Road	R-40 to SB C36 and NB
CUD-Z-06-10	RLA Development LLC	New Bethel Church Road	R-40 to R-15 C144
CUD-Z-13-06	Tribek Properties, Inc	Clifford Road and Hebron Church Road	Wake County R-30-W to R-9 C171 and Swift Creek Overlay

CUD-Z-15-06	Oak Park Developers	Clifford Road and New Bethel Church Road	Wake County R-30-W to R-9 C180 and Swift Creek Overlay
CUD-Z-16-08	Hopper Communities	Clifford Road	R-40 to R9 C188
CUD-Z-17-02	Hopper Communities	Bryan Road	R-40 to R9 C195
CUD-Z-17-03	Hopper Communities	Clifford Road	R-40 to R9 C196
PD-Z-17-01	DR Horton, Inc.	Ackerman Road and Hebron Church Road	R 12 C 135, R-40 and RMH to PD C5

**Adjacent Zoning and Land Use:**

<b>North:</b>	Single-Family Residential 9 (R-9 C188) Single-Family Residential 40 (R-40) Service Business (SB)  Neighborhood Commercial (NC)	Single-family residential Single-family residential LP Gas Tank storage, Vacant/wooded land  Vacant/wooded land
<b>South:</b>	Single-Family Residential 20 (R-20)	Single-family residential
<b>East:</b>	Single-Family Residential 20 (R-20)	Vacant/wooded land
<b>West:</b>	Single-Family Residential 20 (R-20)	Single-family residential/vacant





**Overall Neighborhood Character:**

This area along Clifford Road and New Bethel Church Road contains large tracts of undeveloped vacant/wooded lands. In addition, there are several recent residential developments approved in this vicinity: Oak Park (212 lots); Clifford Grove (115 lots); Bryan Rd (41 lots); and Tingen (18 lots). The predominant zoning in this area is Single-Family Residential (R-9, R-20 and R-40).

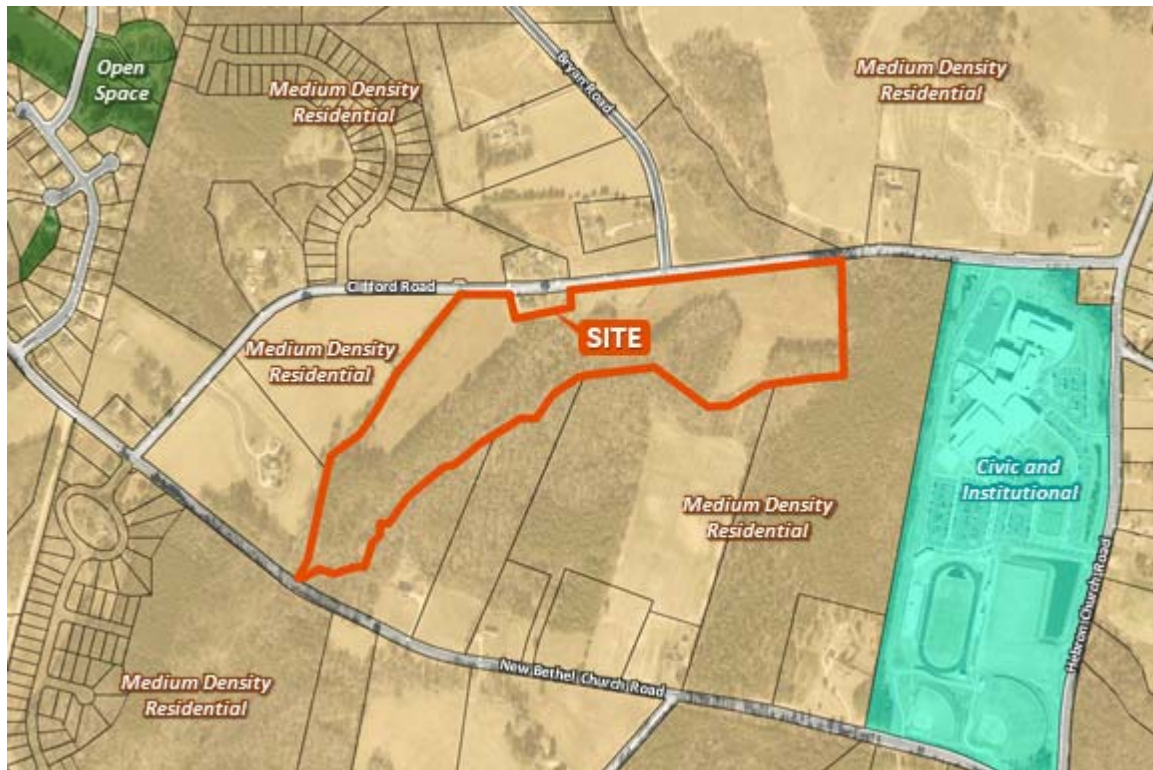
**IV. TRAFFIC IMPACTS**

The site has approximately 1,995 feet of road frontage on Clifford Road. Clifford Road is a 22-foot wide NCDOT-maintained facility within a 60-foot right of way. This road lacks curb and gutter and sidewalks. The NCDOT average daily traffic count history on Clifford Road in this area, is as follows:

- Year 2009 – 2,200
- Year 2011 – 2,500
- Year 2013 – 1,000
- Year 2015 – 1,100

**V. STATEMENTS OF ZONING CONSISTENCY WITH THE COMPREHENSIVE PLAN**

**2018 Garner Forward Plan:**



On the current Future Land Use map, the site along Clifford Road is designated as **Medium-Density Residential** and the surrounding tracts in this area are designated as either Medium-Density Residential or Civic and Institutional.

The **Medium-Density Residential** land use category includes single-family, duplex, triplex, quadplex, and townhome-style residences with no less than two and a half (2.5) nor more than five (5) units per acre. Medium-Density Residential structures may also include auxiliary units detached from the primary house. The MDR district encourages context sensitive residential uses that preserve and enhance the culture of adjacent residential communities.

In summary, the request for a Residential 9 Conditional Use (R-9 C204) zoning district may be found consistent with the *2018 Garner Forward Plan* and with the prevailing zoning and land use pattern in this area along Clifford Road and New Bethel Church Road.

## **VI. SUBDIVISION PROJECT DATA**

<b>Acreage:</b>	Total project acres 38.24
<b>Number of Lots:</b>	87
<b>Dimensional Requirements:</b>	<p>9,000 square feet; reduction allowed to 7,200 square feet (-20%) when adjacent to a conservation or riparian buffer per Section 6.1.B.</p> <p>The setbacks for the individual residences must meet the standards for R-9 development. Setbacks are shown in conformance on the plan. Setbacks are as follows – Front, 25 feet; Rear, 20 Feet; Corner Side, 20 feet; and Side, 6 feet with a minimum of 15 feet total.</p>
<b>Landscape and Buffer Requirements:</b>	<p>The plan as proposed meets the requirements of the Landscape Ordinance.</p> <ul style="list-style-type: none"><li>• <b>Tree Cover:</b> Requirement of 12% is met with proposed plant material.</li><li>• <b>Street Buffers:</b> No street buffer is required; however, an enhanced streetscape has been voluntarily provided along Clifford Road.</li></ul>
<b>Lighting:</b>	Lighting has been provided for the mail kiosk area and throughout the subdivision. The lighting plan conforms to the requirements of the UDO.

**Environmental Features:**

This site does not contain a FEMA designated floodplain.



**Parks and Open Space:**

**Open Space –**

- Required: 10% (3.84 acres)
- Proposed: 33.85% (13.01 acres)

Open space to be owned and maintained by the homeowner's association for the subdivision.

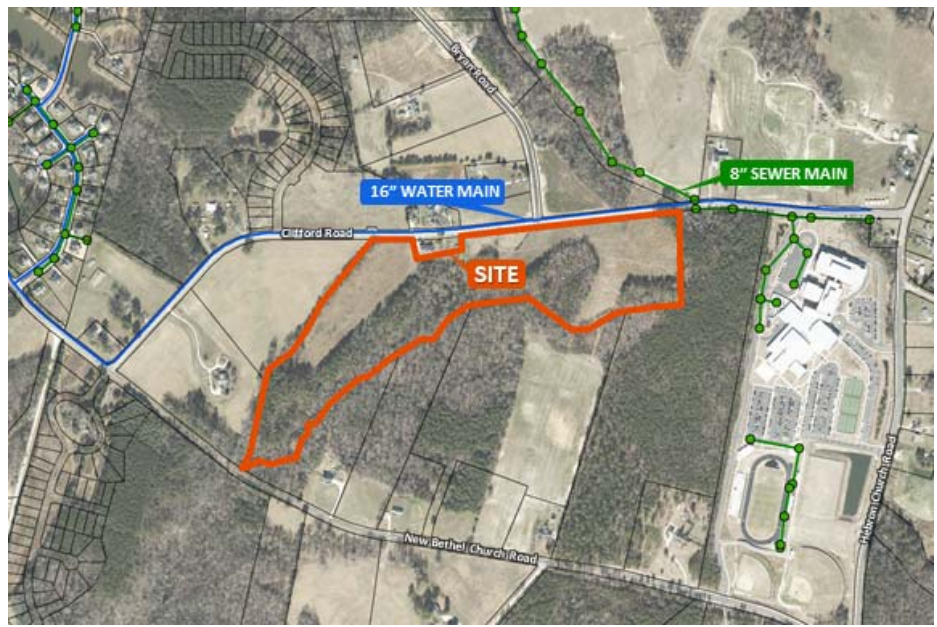
**Fire Protection:**

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

**Infrastructure:**

**Stormwater Management** – This site is subject to stormwater quality regulations for nitrogen as well as stormwater quantity regulations for detention of the 1, 10, 25 and 100 year storms. A dry detention pond is proposed as a stormwater control measure that will handle stormwater quantity requirements at this site. Since this development is under the required 6 pounds per acre per year threshold for nitrogen, they have elected to purchase a nitrogen offset buydown to reach the 3.6 pounds per acre threshold rather than implement a water quality stormwater control measure to treat nitrogen

**Water/Sewer** – Site will be served by City of Raleigh water and sewer infrastructure.



**Transportation/Access** – The site has approximately 1,995 feet of road frontage on Clifford Road. Clifford Road is a 22-foot wide NCDOT-maintained facility within a 60-foot right of way. There are two proposed access points: one directly across from Bryan Road and Clifford Road intersection; and another approximately 960 feet west of the Bryan Road and Clifford Road intersection. The plans would improve Clifford Road with widened asphalt, curb and gutter and sidewalks along the frontage of the property.

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

### **2018 Garner Forward Transportation Plan:**

The 2018 Garner Forward Plan does not identify any updated recommendations for Clifford Road; therefore, the 2010 Garner Transportation Plan is referenced, which recommends Clifford Road as a 3-lane minor thoroughfare with curb, gutter and sidewalks. With the proposed improvements along the frontage of Clifford Road, this project, as proposed, may be found to be in conformity with the 2010 Garner Transportation Plan and the 2018 Garner Forward Transportation Plan.

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

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

### **Unified Development Ordinance Regulations:**

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

### **VIII. PLANNING COMMISSION NOTES AND RECOMMENDATION**

The Planning Commission reviewed this request at their August 13, 2018 meeting. With a unanimous vote, the Planning Commission confirmed staff's findings in Section VII that CUP-SB-18-03, Harpers Landing, is in conformity with adopted town plans and policies, and further accepted staff's statements regarding zoning consistency with the Garner Forward Comprehensive Plan, being detailed in Section V of this report, as their own, and recommend approval of CUD-Z-18-03 with the following site-specific conditions of approval are met:

1. Prior to Construction Document approval, all off-site easements shall be acquired by the developer and shall be recorded by map and by deed of easement. The easements shall be dedicated to the City of Raleigh and entitled "City of Raleigh Sanitary Sewer Easement".
2. Prior to Construction Document approval, a sewer capacity study shall be submitted to the City of Raleigh.
3. Prior to final plat approval, construction documents must be approved by the City of Raleigh.
4. Prior to the issuance of any Certificate of Occupancy, any required sewer pump station upgrades shall be completed and accepted by the City of Raleigh.
5. Prior to the issuance of any Certificate of Occupancy, any offsite sewer lines within the Oak Park Subdivision necessary for tying to the system must be accepted by the City of Raleigh.

**IX. COUNCIL MOTION WORKSHEETS**

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

**REZONING ACTION MOTION WORKSHEET**

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

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

“I move that the Town Council accept staff’s statements regarding zoning consistency with the Comprehensive Growth Plan, detailed in Section V of this report, as our own; and I therefore move further that the Town Council accept the recommendation of the Planning Commission and adopt Ordinance No. \_\_\_\_\_ approving rezoning request number CUD-Z-18-05.”

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

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

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

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

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

and therefore, I move further that the Town Council reject the recommendation of the Planning Commission and deny rezoning request number CUD-Z-18-05.”

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

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

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

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

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

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

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

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

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

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

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

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

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

and therefore, I move further that the Town Council adopt Ordinance No. \_\_\_\_\_ approving rezoning request number CUD-Z-18-05, and in so doing, also amend the Town's Comprehensive Growth Plan from designating the subject property as Medium-Density Residential to

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

## CONDITIONAL USE PERMIT ACTION WORKSHEET

**Approve:** I move that the Council accept the staff statements regarding plan consistency in Section VII of this report as our own and find the application meets the 10 permit criteria in Section 3.14.D. and therefore approve CUP-SB-18-03, Harpers Landing, with the three standard conditions and five site-specific conditions listed on the attached permit.

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

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

**Condition #1:**

\_\_\_\_\_

**Condition #2:**

\_\_\_\_\_

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

\_\_\_\_\_

or

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

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

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



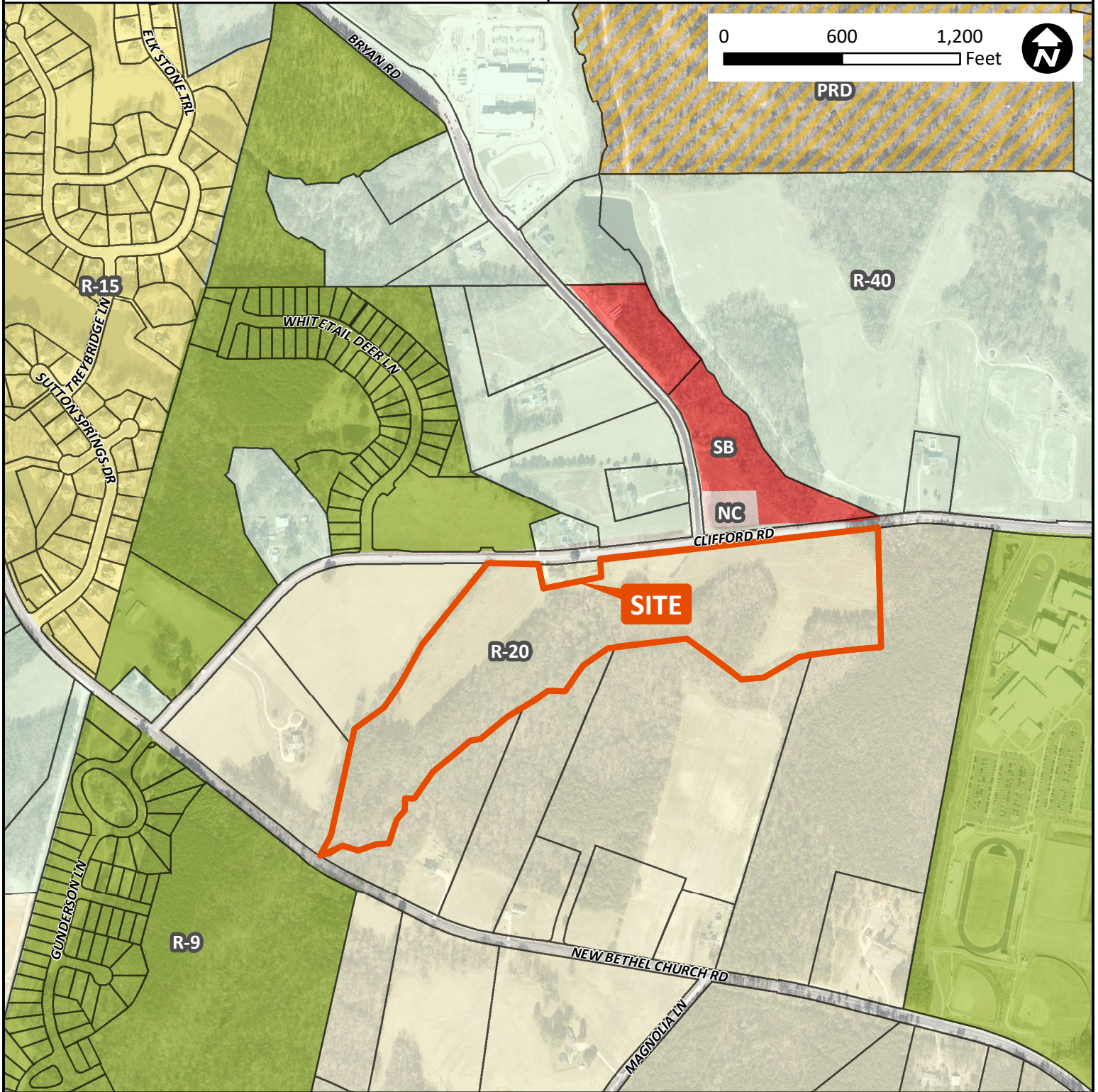
- \_\_\_ 3. The proposed use does not comply with all applicable provisions of this UDO;  
*because/as evidenced by* \_\_\_\_\_;
- \_\_\_ 4. If completed as proposed, the development will not comply with all requirements of this section;  
*because/as evidenced by* \_\_\_\_\_;
- \_\_\_ 5. The proposed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

and therefore, deny Conditional Use Permit for Harpers Landing – CUP-SB-18-03.



# Town of Garner Planning Department

# Conditional Use Applications CUP-SB-18-03 & CUD-Z-18-05



**Project:** *Harpers Landing*  
**Applicant:** *KB Homes*  
**Owner:** *Bank of America*  
**Location:** *2000 Clifford Road*  
**Pin #:** *1629-24-2358*

**Proposed Use:** *Single-Family (87 lots)*  
**Current Zoning:** *Residential 20 (R-20)*  
**Proposed Zoning:** *Residential 9 Conditional Use (R-9 C204)*  
**Acreage:** *37.50 +/-*  
**Overlay:** *Swift Creek*

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

## ORDINANCE NO. (2018) 3926

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

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

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

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

Section 1. That the Official Zoning Map of the Town of Garner and Extraterritorial Jurisdiction be amended by changing the zoning classification of the property described below from its present zoning to that requested by **KB Homes** in Rezoning Application No. **CUD-Z-18-05 (R-9 C204)**.

Section 2. There is hereby created a new conditional use zoning district, to be known as the **Single-family Residential Conditional Use (R-9 C204)**; within this district, all of the regulations that apply to property within the **Single-family Residential Conditional Use (R-9 C204)** zoning district shall be applicable and that all other uses are prohibited except those that are listed as permissible shall require a conditional use permit:

*The following is a list of permitted uses in the **Single-family Residential Conditional Use (R-9 C204)** district. All R-9 uses would be permissible.*

1. Single-family detached
2. Residential cluster
3. Single-family residential subdivision
4. Modular home
5. Family care home
6. Group care home
7. Intermediate care home
8. Community center

- 9. Child day care (up to 3 as home occupation)
- 10. Family child day care (up to 8 in-home)
- 11. School, public or private
- 12. Ambulance service, police or fire station
- 13. Cemetery
- 14. Public park, swimming pool, tennis court, golf course
- 15. Religious institution
- 16. Minor utility, elevated water storage tank
- 17. Golf course or country club, private
- 18. Bed and breakfast

Additionally, the applicant has proposed the following conditions that would apply to the entire development:

- a. Each house must have a minimum of 1,550 square feet of heated floor space;
- b. Each house must have at a minimum 100 square foot patio;
- c. Each house must have a turned down slab or stem wall foundation with a minimum of 12 inches of brick/stone veneer on front and sides. If builder elects to use brick/stone veneer on front foundation wall only, then builder shall provide landscaping along the sides approved by the Town of Garner. All foundation sides without brick/stone shall be parged (textured) and painted to match the home.
- d. Each house must be constructed of hardiplank, masonry (brick or stone) or vinyl siding (minimum gauge .045).
- e. Each house must have at a minimum 10" overhang eave or rakes on all sides.
- f. Each house must have carriage hardware or windows in the garage doors.
- g. Each house must have a 2-car garage.

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

<b>Owner(s)</b>	<b>Tract No.</b>	<b>Existing Zoning</b>	<b>New Zoning</b>
<b>KB Homes</b>	<b>1629-24-2358</b>	<b>Single-Family Residential (R-20)</b>	<b>Single-family Residential Conditional Use (R-9 C204)</b>

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

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

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

Section 7. This ordinance shall become effective upon adoption.

Duly adopted this 4th day September 2018.

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

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

**TOWN OF GARNER  
CUP-SB-18-03 – HARPERS LANDING  
CONDITIONAL USE PERMIT**

<b>APPLICANT</b>	KB Homes Attn: Gray Methven 4506 S. Miami Blvd. Ste 100 Durham, NC 27703
<b>LOCATION</b>	2000 Clifford Road
<b>SPECIFIC USE CLASSIFICATION</b>	Residential Household Living: Single-family, Detached
<b>DATE ISSUED</b>	September 4, 2018

**I. COMPLETENESS OF APPLICATION**

The application is complete.

**II. COMPLIANCE WITH ORDINANCE REQUIREMENTS**

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

**III. GRANTING THE APPLICATION**

The application is granted, subject to the following conditions:

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

**IV. SPECIFIC TO THE PROJECT**

1. Prior to Construction Document approval, all off-site easements shall be acquired by the developer and shall be recorded by map and by deed of easement. The easements shall be dedicated to the City of Raleigh and entitled "City of Raleigh Sanitary Sewer Easement".
2. Prior to Construction Document approval, a sewer capacity study shall be submitted to the City of Raleigh.
3. Prior to Construction Document approval, a sewer capacity study shall be submitted to

the City of Raleigh.

4. Prior to Construction Document approval, a sewer capacity study shall be submitted to the City of Raleigh.
5. Prior to Construction Document approval, a sewer capacity study shall be submitted to the City of Raleigh.

C:

Timmons Group  
Attn: Jim Chandler  
5410 Trinity Road, Ste 102  
Raleigh, NC 27607

Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: September 4, 2018		
Subject: CUD-Z-18-06 & CUP-SP-18-12, S.T. Wooten Conditional Use Rezoning & Site Plan		
Location on Agenda: Public Hearings		
Department: Planning		
Contact: David Bamford, Planning Services Manager		
Presenter: David Bamford, Planning Services Manager, and Alison Jones, Planner II		
<p><b>Brief Summary:</b></p> <p>The rezoning (CUD-Z-18-06) and associated site plan (CUP-SP-18-12) have been submitted to develop the site into a concrete/asphalt plant. The 20.37-acre rezoning site is located on the southside of E Garner Road directly across from the Martin Marietta rock quarry. The applicant is requesting to rezone a 20.372-acre portion from Industrial 2 (I-2), Residential 20 (R-20) and Service Business (SB) to Industrial 2 with conditions (I-2 C205). Use restrictions are proposed to limit the range of I-2 uses.</p>		
<p><b>Recommended Motion and/or Requested Action:</b></p> <p>Adopt Ordinance (2018) 3927; Approve CUP-SP-18-12</p>		
<p><b>Detailed Notes:</b></p> <p>See attached staff report.</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:		



**TO:** Mayor and Town Council Members

**FROM:** Het Patel, AICP; Senior Planner  
Alison Jones, Planner II

**SUBJECT:** *CUD-Z-18-06, Conditional Use Rezoning*  
*CUP-SP-18-12, Conditional Use Site Plan – S.T. Wooten*

**DATE:** September 4, 2018

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### I. PROJECT AT A GLANCE

**Project Number(s):** CUD-Z-18-06 Conditional Use Rezoning  
CUP-SP-18-12 Conditional Use Site Plan

**Applicant:** S. T. Wooten Corporation

**Owner:** Martin Marietta Materials, Inc.

**General Description -**

**Project Area & Location:** 20.37 +/- acres located on the south side of E Garner Road.

**Wake Count PIN(s):** 1721408632, 1721407293, 1721503460, and a 3.09-acre portion of 1721526431

**Current Zoning:** R-20 (Residential 20), SB (Service Business), and Industrial 2 (I-2)

**Requested Zoning:** I-2 C205 (Industrial 2 Conditional Use)

**Proposed Use(s):** Manufacturing & Production – Indoor or Outdoor

**Overlay(s):** I-40 and Garner Road

**Key Meeting Dates:**

**Planning Commission:** August 13, 2018

**Public Hearing & Action:** September 4, 2018

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

The rezoning (CUD-Z-18-06) and associated site plan (CUP-SP-18-12) have been submitted to develop the site into a concrete/asphalt plant. The 20.37-acre rezoning site is located on the southside of E Garner Road directly across from the Martin Marietta rock quarry. Martin Marietta Materials Inc owns most of the tracts in this area between the railroad and E Garner Road. NCDOT owns a small tract near the right of way of I-40. This pocket of tracts in this area are zoned R-20, SB, and I-2. No residential uses are in this vicinity. The applicant is requesting to rezone their 20.372-acre portion from Industrial 2 (I-2), Residential 20 (R-20) and Service Business (SB) to Industrial 2 with conditions (I-2 C205). Use restrictions are proposed to limit the range of I-2 uses.

## **III. ZONING ANALYSIS**

**Existing:** The existing zoning of the 20.37-acre site is zoned with three different zoning districts as follows:

- **Residential 20 (R-20):** 15.18 +/- acres
- **Industrial 2 (I-2):** 4.12 +/- acres
- **Service Business (SB):** 1.07 +/- acres

**Residential 20 (R-20):** Residential districts are designed to create and maintain residential neighborhoods composed primarily of single-family dwellings and, as special uses, such institutional, public, and other compatible uses that are designed, constructed and maintained so as not to detract from the quality of each district. R-20 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 | 10. Public safety facilities (fire, police, rescue, ambulance) |
| 2. Residential Cluster                        | 11. Cemetery   |
| 3. Family Care home                           | 12. Public parks, swimming pools, tennis and golf courses      |
| 4. Group care home                            | 13. Religious institutions                                     |
| 5. Intermediate care home                     | 14. Minor utility—elevated water tank                          |
| 6. Community center                           | 15. Private golf course or country club                        |
| 7. Child day care up to 3 as home occupation  | 16. Bed and breakfast  |
| 8. Family child day care up to 8 in home      | 17. Agriculture or silviculture                                |
| 9. School public or private                   |  |

**Industrial 2 (I-2):** Industrial districts are established primarily to accommodate enterprises engaged in the manufacturing, processing, creating, repairing, renovating, painting, cleaning, or assembling of goods, merchandise or equipment. The I-2 district is intended to

provide for industrial uses that are may be noxious or offensive due to odors, smoke, dust, noise, fumes or vibration. Operations may be inside or outside of a building.

***The following is a list of permitted uses in the I-2 District:***

1. Security or caretaker's quarters
2. Trade/vocational
3. Ambulance service, rescue squad, police or fire station
4. Government utility, with outdoor storage
5. Prison, jail, detention facility
6. Public park, swimming pool, tennis court, golf course
7. Bus passenger terminal
8. Taxicab or limousine operations or facility
9. Broadcast tower
10. Minor utility - elevated water storage tank
11. Solar farms
12. Telecommunications facility
13. Other major utility
14. Bar, nightclub, tavern
15. Gym, spa, indoor tennis court or private pool
16. Horses stables and related facilities
17. Indoor entertainment facility
18. Electronic gaming centers
19. Theater - drive-in
20. Medical office - individual
21. Other office
22. Extended stay facility
23. Commercial parking
24. Restaurant, drive-in or outdoor curb service
25. Restaurant, indoor seating only
26. Restaurant with seating and drive-through window
27. Restaurant, takeout-out only
28. Convenience store without fuel sales
29. Convenience store with fuel sales
30. Open air market
31. Personal service-oriented uses (excludes commercial greenhouses or any uses with outdoor operations)
32. Hair salons, barbershops, beauty shops
33. Banks or financial institution
34. Repair oriented use (no outdoor operations)
35. Sales oriented use with outdoor operations
36. Veterinarian/kennel - indoor
37. Veterinarian/kennel - outdoor operations
38. Self-storage service
39. Car wash
40. Vehicle general repair
41. Vehicle sales, rental
42. Vehicle service, limited
43. Vehicle towing, storage
44. Aviation service
45. Flex space
46. Industrial use - indoor
47. Industrial use with outdoor operations
48. Manufacturing and production indoor or outdoor
49. Resource extraction
50. Warehouse and freight movement storage including outdoor
51. Warehouse and freight movement truck terminal
52. Recycling collection (outside)
53. Recyclable materials collection center
54. Junk and or salvage yard
55. Sanitary landfill
56. Other waste related service

- 57. Wholesale sales
- 58. Greenhouse nursery

**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:***

- |  |   |
|--|---|
| 1. Security or caretaker's quarters  | 30. Outdoor entertainment facility, private athletic                                    |
| 2. Community Center  | 31. Sexually oriented business (prohibited within 1,000 feet of residential use/zoning) |
| 3. Library, museum, art center   | 32. Movie Theater   |
| 4. Other Community service   | 33. Drive-in Theaters   |
| 5. Civil, service fraternal club, lodges and similar uses                      | 34. Water-slides, golf driving ranges, miniature golf, batting cages or similar uses    |
| 6. Adult Day Care  | 35. Bank, financial institution   |
| 7. Day Care Center   | 36. Medical office, individual  |
| 8. Business School, college or university satellite                            | 37. General office use  |
| 9. College / university  | 38. Bed and breakfast   |
| 10. Trade / vocational schools   | 39. Extended stay facility (prohibited within 500 feet of residential use/zoning)       |
| 11. Music / dance / art instruction  | 40. Hotel and motels  |
| 12. Ambulance, rescue squad, police, fire station                              | 41. Commercial Parking  |
| 13. Government, utility with outdoor storage                                   | 42. Restaurant, curb or drive-in service  |
| 14. Government office  | 43. Restaurant, indoor with seating only  |
| 15. Medical Clinic   | 44. Restaurant, indoor with drive-through window  |
| 16. Cemetery   | 45. Restaurant, take out only, drive-through or walk up                                 |
| 17. Funeral home / crematorium   | 46. Convenience store without fuel sales  |
| 18. Parks, swimming pools, tennis courts, golf courses                         | 47. Convenience store with fuel sales   |
| 19. Bus passenger terminals  | 48. Open air market   |
| 20. Taxi or limo operations/facility   | 49. Repair oriented use (indoor only)   |
| 21. Religious institutions   | 50. Personal service use (indoor operations)  |
| 22. Minor utility, elevated water tank   | 51. Barber shops / salons   |
| 23. Telecommunication facility   | 52. Sales oriented use (indoor operations only)   |
| 24. Other major utility  |   |
| 25. Bars and nightclubs (prohibited within 500 feet of residential use/zoning) |   |
| 26. Private golf or country club   |   |
| 27. Private gym, spa, indoor tennis, pool                                      |   |
| 28. Indoor entertainment facility  |   |
| 29. Electronic gaming center   |   |

- |   |  |
|---|--|
| <ul style="list-style-type: none"> <li>53. Sales oriented use (outdoor operations)</li> <li>54. Veterinarian/kennel indoor</li> <li>55. Veterinarian/kennel outdoor (prohibited within 500 feet of residential use/zoning)</li> <li>56. Self-service storage</li> <li>57. Car wash (prohibited within 500 feet of residential use/zoning)</li> <li>58. Vehicle repair (storage restricted to rear of building, 30-day storage limit)</li> <li>59. Vehicle sales and rental (storage restricted to rear of building)</li> <li>60. Vehicle service-limited</li> </ul> | <ul style="list-style-type: none"> <li>61. Vehicle towing, storage (prohibited within 500 feet of residential use/zoning)</li> <li>62. Flex space</li> <li>63. Light Industrial use indoor</li> <li>64. Light Industrial use with outdoor storage of tenant supplies</li> <li>65. Light Industrial use with outdoor operations</li> <li>66. Warehouse and freight movement with indoor storage</li> <li>67. Warehouse and freight movement with outdoor storage</li> <li>68. Recyclable materials collection center</li> <li>69. Wholesale sales</li> <li>70. Manufacturing indoor operations</li> </ul> |
|---|--|

**Proposed:** The proposed zoning of the 20.37-acre site is **Industrial 2 Conditional Use (I-2 C205)**. Industrial districts are established primarily to accommodate enterprises engaged in the manufacturing, processing, creating, repairing, renovating, painting, cleaning, or assembling of goods, merchandise or equipment. The I-2 district is intended to provide for industrial uses that are may be noxious or offensive due to odors, smoke, dust, noise, fumes or vibration. Operations may be inside or outside of a building.

***The following is a list of all I-2 uses as to be modified for the I-2 C205 district (highlighted uses to be prohibited):***

- |   |  |
|---|--|
| <ul style="list-style-type: none"> <li>1. Security or caretaker's quarters</li> <li>2. Trade/vocational</li> <li>3. Ambulance service, rescue squad, police or fire station</li> <li>4. Government utility, with outdoor storage</li> <li>5. Prison, jail, detention facility</li> <li>6. Public park, swimming pool, tennis court, golf course</li> <li>7. Bus passenger terminal</li> <li>8. Taxicab or limousine operations or facility</li> <li>9. Broadcast tower</li> <li>10. Minor utility - elevated water storage tank</li> <li>11. Solar farms</li> <li>12. Telecommunications facility</li> <li>13. Other major utility</li> </ul> | <ul style="list-style-type: none"> <li>14. Bar, nightclub, tavern</li> <li>15. Gym, spa, indoor tennis court or private pool</li> <li>16. Horses stables and related facilities</li> <li>17. Indoor entertainment facility</li> <li>18. Electronic gaming centers</li> <li>19. Theater - drive-in</li> <li>20. Medical office - individual</li> <li>21. Other office</li> <li>22. Extended stay facility</li> <li>23. Commercial parking</li> <li>24. Restaurant, drive-in or outdoor curb service</li> <li>25. Restaurant, indoor seating only</li> <li>26. Restaurant with seating and drive-through window</li> <li>27. Restaurant, takeout-out only</li> </ul> |
|---|--|

- |  |  |
|--|--|
| 28. Convenience store without fuel sales   | 43. Vehicle towing, storage  |
| 29. Convenience store with fuel sales  | 44. Aviation service   |
| 30. Open air market  | 45. Flex space   |
| 31. Personal service-oriented uses (excludes commercial greenhouses or any uses with outdoor operations) | 46. Industrial use - indoor  |
| 32. Hair salons, barbershops, beauty shops   | 47. Industrial use with outdoor operations   |
| 33. Banks or financial institution   | 48. Manufacturing and production indoor or outdoor (including concrete and asphalt plants) |
| 34. Repair oriented use (no outdoor operations)  | 49. Resource extraction  |
| 35. Sales oriented use with outdoor operations   | 50. Warehouse and freight movement storage including outdoor                               |
| 36. Veterinarian/kennel - indoor   | 51. Warehouse and freight movement truck terminal  |
| 37. Veterinarian/kennel - outdoor operations   | 52. Recycling collection (outside)   |
| 38. Self-storage service   | 53. Recyclable materials collection center   |
| 39. Car wash   | 54. Junk and or salvage yard   |
| 40. Vehicle general repair   | 55. Sanitary landfill  |
| 41. Vehicle sales, rental  | 56. Other waste related service  |
| 42. Vehicle service, limited   | 57. Wholesale sales<br>Greenhouse nursery (commercial)                                     |

**Overlay Districts:** This rezoning site falls within the **Garner Road Overlay District**. This overlay district establishes additional standards for new commercial development on Garner Road. This site also is within the **I-40 Overlay District**. This overlay district has additional development standards and use restrictions for properties with frontage along this corridor. The overlay is explained in Article 4.12 of the *Unified Development Ordinance*. There are several uses that are prohibited or restricted within the overlay district.

**Garner Road Overlay District**

**Prohibited Uses** - The following are prohibited uses within the overlay regardless of base zoning:

1. Drive-in movie theaters
2. Adult cabarets and establishments
3. Outside storage of goods not related to sale or use on premises
4. Junkyards, automobile graveyards
5. Commercial greenhouse operations

**Prohibited Under Certain Circumstances** - The following are prohibited uses within 150 feet of a residential use or zone:

1. Pool halls, bowling alleys
2. Bars, night clubs

**Restricted Uses** - The following are restricted uses (setbacks, buffers, landscaping, screening):

1. Auto sales & service
2. Auto repair
3. Car washes

#### **I-40 Overlay District**

**Prohibited Uses** - The following uses are prohibited within the overlay district regardless of base zoning:

- a. Truck terminals, mobile home parks and subdivision;
- b. Mobile home sales lots;
- c. Scrap materials, salvage yards, junkyards, automobile graveyards;
- d. Sanitary (reclamation) landfill;
- e. Body shops;
- f. Storage of radioactive or otherwise hazardous wastes;
- g. Outside kennels;
- h. Drive-in theaters;
- i. Golf driving ranges;
- j. Water slides;
- k. Self-serve car washes; and
- l. Solar farms.

**Restricted Uses** - Additionally, there are some uses permitted with restrictions as follows:

- a. Truck service centers (truck stops); car and truck dealerships; uses with storage for retail such as lumber yards, heavy equipment dealers, and similar uses are permitted only if site plans are approved which assure that these uses will have no visible outdoor storage or operations adjacent to the special highway;
- b. Such site plans shall indicate that all outdoor storage and operation will be located in the yard space farthest away from the special highway and on the far side of the principal buildings; and,
- c. Outdoor display (as differentiation from outdoor storage) shall consist of only a sampling of wares sufficient to convey what is sold and is permitted in SB and I-2 zones on a limited basis in accordance with the approved site plan.

**Zoning History:** The Planning Department’s rezoning database contains the following rezoning cases in the vicinity of this site. Cases since 1990 are listed below.

Case	Applicant	Location	Zoning Change
CUD-Z-92-04	R Whitney Christian	E Garner Road	R-40 to R-5 C43
CUD-Z-91-04	Sherman Yeargan	I-40/US Hwy 70	R-20 & I-1 to SB C62
CUD-Z-97-09	S.T. Wooten	E Garner Road	SB to I-2 C73
CUD-Z-03-01	Jones & Cnossen Engineering	NE Jones Sausage Road and E Garner Road	R-20 to R-9 C118
CUD-Z-05-05	CLH Design, PA	Jones Sausage Road and WKBQ Radio Station Road	RCD-3 C107 to R-20 C134
CUD-Z-13-03	White Oak NE Associates	US Hwy 70 and Jones Sausage Rd.	SB, SB C62, I-1 and CR to SB C168
CUD-Z-14-02	Bass, Nixon & Kennedy	E Garner and Jones Sausage roads	I-1 to I-2 C173

**Adjacent Zoning and Land Use:**

- |               |                       |                                    |
|---------------|-----------------------|------------------------------------|
| <b>North:</b> | Industrial 2 (I-2)    | Martin Marietta Garner Quarry      |
| <b>South:</b> | Industrial 2 (I-2)    | Golden State Foods/Greenfield Pkwy |
| <b>East:</b>  | Industrial 2 (I-2)    | Lane Construction Corporation      |
| <b>West:</b>  | Residential 20 (R-20) | NCDOT property / vacant            |
|               | Industrial 1 (I-2)    | Vacant                             |
|               | Service Business (SB) | Telecommunications                 |





**Overall Neighborhood Character:**

This area along E Garner Road contains large tracts of industrial use lands. The predominant zoning in this area is Industrial 2 (I-2). Other zonings include Service Business (SB) or Single-Family Residential (R-20 & R-40). The Martin Marietta Garner Quarry and Lane Construction Corporation industrial uses are located across the site along E Garner Road. The site backs onto North Carolina Railroad property and N Greenfield Parkway industrial uses across the railroad property.

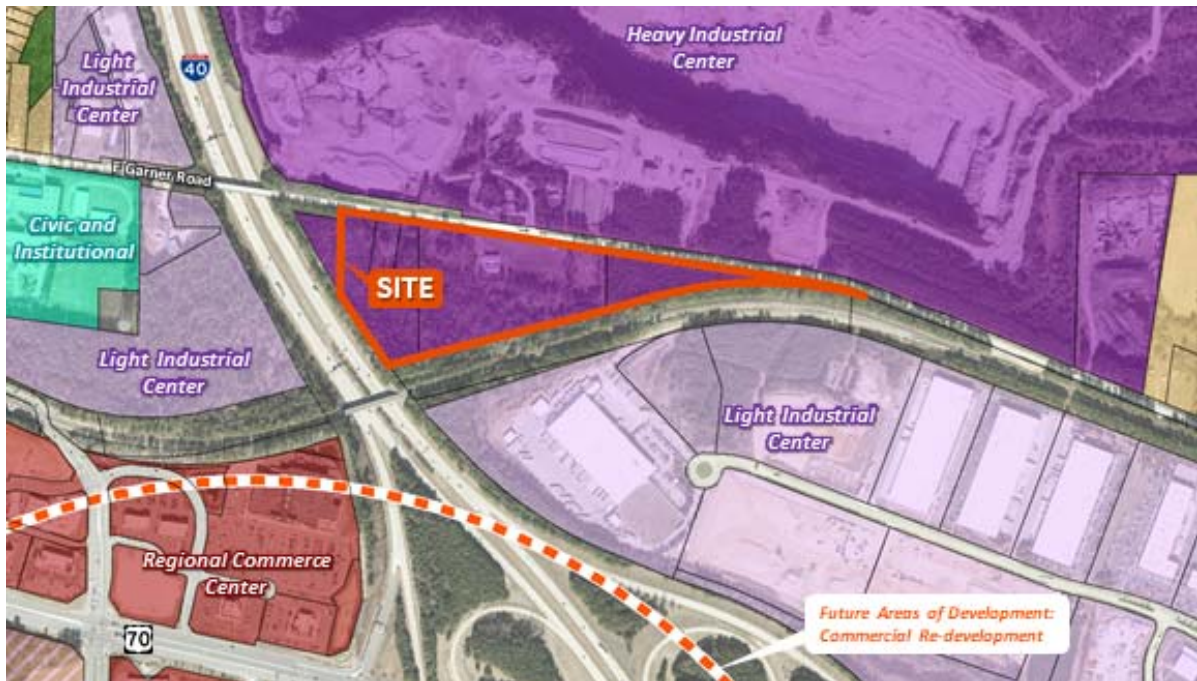
**IV. TRAFFIC IMPACTS**

The site has approximately 2,675 feet of road frontage on E Garner Road. E Garner Road is a 22-foot NCDOT-maintained facility within a 94-foot to 60-foot right of way. This road lacks curb and gutter and sidewalks. The NCDOT average daily traffic count history on E Garner Road in the vicinity of the site is as follows:

- Year 2007 – 5,800
- Year 2009 – 4,300
- Year 2011 – 4,300
- Year 2013 – 4,300
- Year 2015 – 5,500

**V. STATEMENTS OF ZONING CONSISTENCY WITH THE COMPREHENSIVE PLAN**

**2018 Garner Forward Plan:**



On the current Future Land Use map, the site along E Garner Road is designated as **Heavy Industrial Center** and the surrounding tracts in this area are designated as either Heavy Industrial Center or Light Industrial Center.

The **Heavy Industrial Center** land use category supports large-scale, on-site manufacturing and production uses, including assembly and processing; regional warehousing and distribution; bulk outdoor storage; and utilities. These areas are located near major transportation hubs (controlled-access freeways, Class I railroads, and/or airports with airfreight handling capabilities). Noise attenuation, wider/higher buffering requirements, and larger sites are more commonplace than in the LIC category.

Since the proposed use of manufacturing and other uses proposed to be permitted fit within the “heavy industrial center” land use, the request to rezone to Industrial 2 Conditional Use (I-2 C205) zoning district may be found consistent with the *2018 Garner Forward Plan* and with the prevailing zoning and land use pattern along E. Garner Road.

## **VI. SITE PLAN PROJECT DATA**

- Acreage:** Total project acres 20.37
- Building Size:** There are 2 modular trailers that will serve as office space.
- Building Materials:** Modular trailer that is nearest Garner Road will have brick façade on all sides visible from Garner Road to satisfy Garner Road Overlay District requirement.
- Landscape and Buffer Requirements:** The plan as proposed meets the requirements of the Landscape Ordinance.
- **Tree Cover:** Requirements are met with a combination of existing vegetation and proposed plantings.
  - **Street Buffers:** Buffers along Garner Road requirements have been met by primarily adding new plant material, but some existing plant material is being preserved. There is a 50’ undisturbed buffer that is required through the I-40 Overlay District.
  - **Perimeter Buffers:** Perimeter buffers vary from 25’ to 45’ depending on adjacent uses and zoning. The 25’ buffer is adjacent to the North Carolina Railroad. While the 45’ buffer are adjacent to R-20 zoning district.

**Parking Spaces:**

Parking is based on 1 parking space per every 300 square feet.

- Required: 6 (1 accessible)
- Proposed: 8 (2 accessible)

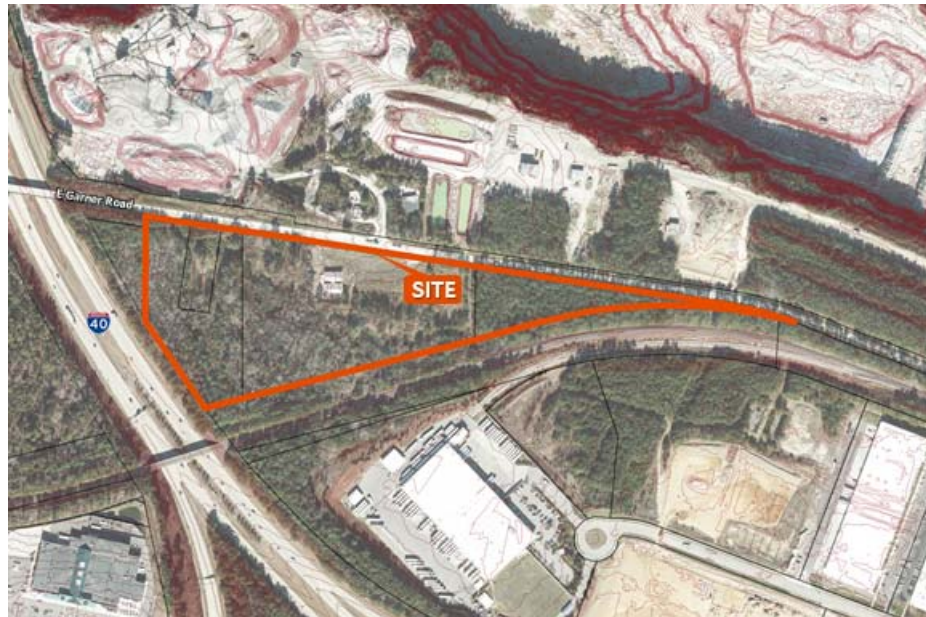
**Lighting:**

The lighting plan conforms to the requirements of the UDO and the policy standards established by staff for LED lighting:

- No uplight
- Minimal glare rating (2 or less)
- Minimum color temperature of 4000K

**Environmental Features:**

This site does not contain a FEMA designated floodplain and slopes generally to the southwest.



**Fire Protection:**

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

**Infrastructure:**

**Stormwater Management** – This project is a site located along Garner Road and is not located within the watershed protection area. This site is subject to stormwater quality regulations for nitrogen as well as stormwater quantity regulations for detention of the 1, 10 and 25 year storms. Two wet retention ponds are proposed as a stormwater control measures that will handle stormwater quality and quantity requirements at this site. The stormwater control measure will treat reduce the nitrogen below the allowable threshold (10 pounds per acre per year) for commercial development. It will also meet all the detention requirements. This development will also be required to

make a nitrogen offset payment to reduce their nitrogen loading rate down to the 3.6 pounds per acre per year threshold.

**Water/Sewer** – This project will be served by City of Raleigh Public Utilities water infrastructure and an on-site septic system.



**Transportation/Access** – The site has approximately 2,675 feet of road frontage on E Garner Road. E Garner Road is a 22-foot NCDOT-maintained facility within a variable width right-of-way of at least 60 feet. This project will widen the existing pavement and install curb, gutter and sidewalk along the entire frontage. The site has three (3) proposed access points along E Garner Road as follows:

- Access #1: Entrance only (approximately 440 feet east of I-40)
- Access #2: Entrance and exit (approximately 1,080 feet east of Access #1)
- Access #3: Exit only (approximately 440 feet east of Access #2)

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

### **2018 Garner Forward Transportation Plan:**

E Garner Road is identified as a 2-lane divided facility on the Garner Forward Transportation Plan. With the improvements identified along the frontage of E Garner Road—including additional pavement width, curb, gutter and sidewalk—this project may be found to be in conformity with the 2018 Garner Transportation Plan.

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

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

**Unified Development Ordinance Regulations:**

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

**VIII. PLANNING COMMISSION NOTES AND RECOMMENDATION**

The Planning Commission reviewed this request at their August 13, 2018 meeting. With a unanimous vote, the Planning Commission confirmed staff's finding in Section VII that CUP-SP-18-12, S.T. Wooten, is in conformity with adopted town plans and policies, and further accepted the staff statements regarding zoning consistency with the Garner Forward Comprehensive Plan, being detailed in Section V of this report, as their own, and recommended approval of CUD-Z-18-06.

**IX. COUNCIL MOTION WORKSHEETS**

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

**REZONING ACTION MOTION WORKSHEET**

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

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

“I move that the Town Council accept staff’s statements regarding zoning consistency with the Comprehensive Growth Plan, detailed in Section V of this report, as our own; and I therefore move further that the Town Council accept the recommendation of the Planning Commission and adopt Ordinance No. \_\_\_\_\_ approving rezoning request number CUD-Z-18-06.”

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

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

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

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

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

and therefore, I move further that the Town Council reject the recommendation of the Planning Commission and deny rezoning request number CUD-Z-18-06.”

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

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

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

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

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

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

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

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

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

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

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

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

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

and therefore, I move further that the Town Council adopt Ordinance No. \_\_\_\_\_ approving rezoning request number CUD-Z-18-06, and in so doing, also amend the Town's Comprehensive Growth Plan from designating the subject property as Heavy Industrial Center to

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

## CONDITIONAL USE PERMIT ACTION WORKSHEET

**Approve:** I move that the Council accept the staff statements regarding plan consistency in Section VII of this report as our own and find the application meets the 10 permit criteria in Section 3.14.D. and therefore approve CUP-SP-18-12, S.T. Wooten, with the three standard conditions and no site-specific conditions listed on the attached permit.

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

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

**Condition #1:**

---

**Condition #2:**

---

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

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or

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

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

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



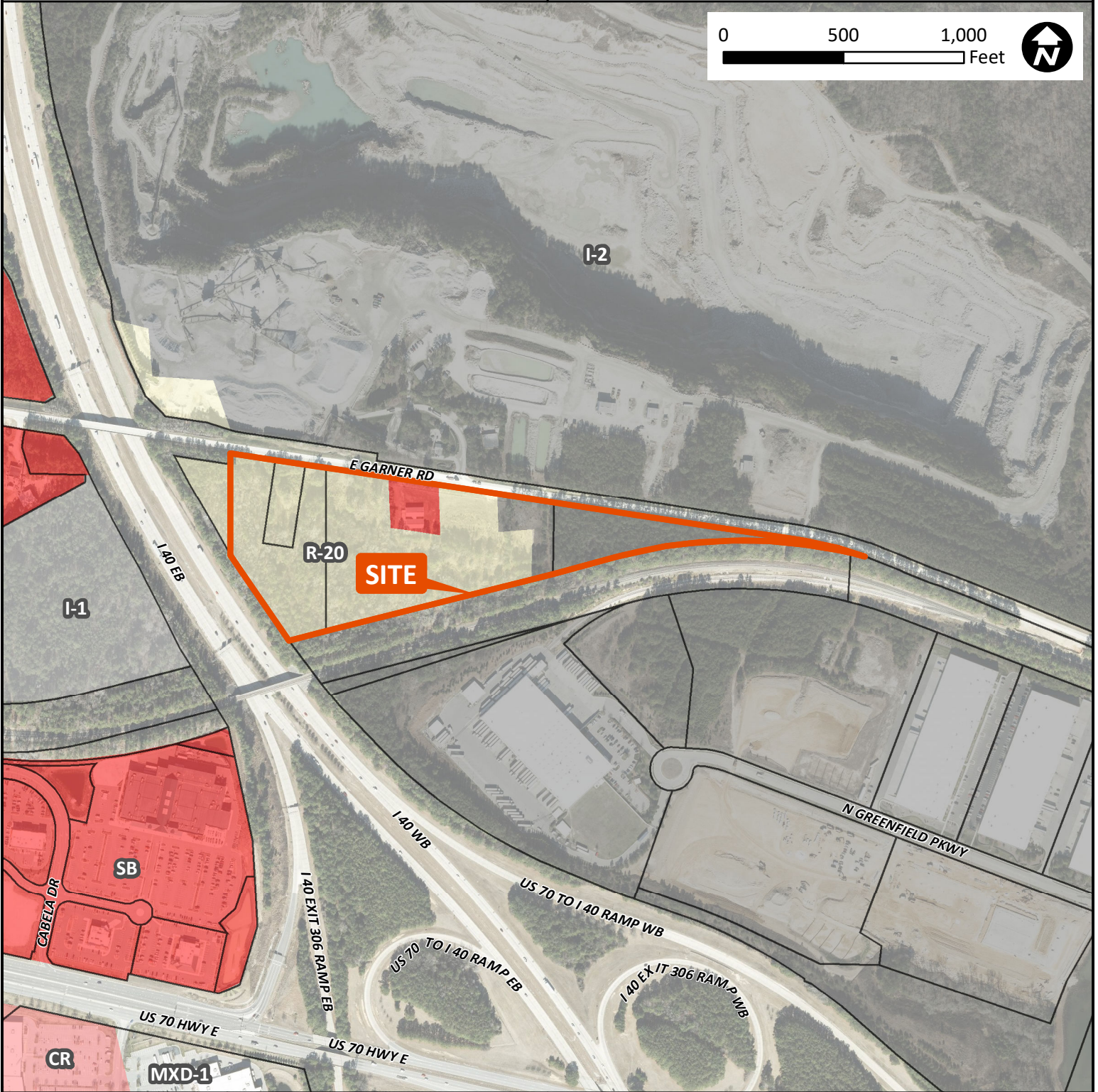
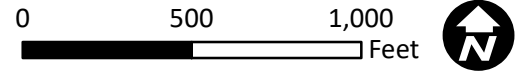
- \_\_\_ 3. The proposed use does not comply with all applicable provisions of this UDO;  
*because/as evidenced by* \_\_\_\_\_;
- \_\_\_ 4. If completed as proposed, the development will not comply with all requirements of this section;  
*because/as evidenced by* \_\_\_\_\_;
- \_\_\_ 5. The proposed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

and therefore, deny Conditional Use Permit for S.T. Wooten – CUP-SP-18-12.



# Town of Garner Planning Department

# Conditional Use Applications CUP-SP-18-12 & CUD-Z-18-06



**Project:** S. T. Wooten  
**Applicant:** S. T. Wooten Corp.  
**Owner:** Martin Marietta Materials, Inc.  
**Location:** 950 E Garner Road  
**Pin #:** 1721-40-8632, 1721-40-7293  
 & 1721-50-3460

**Proposed Use:** Concrete/Asphalt Plant  
**Current Zoning:** R-20 & Service Business (SB)  
**Proposed Zoning:** Industrial 2 Conditional Use  
 (I-2 C205)  
**Acreage:** 20.37 +/-  
**Overlay:** I-40

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

**ORDINANCE NO. (2018) 3927**

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

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

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

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

Section 1. That the Official Zoning Map of the Town of Garner and Extraterritorial Jurisdiction be amended by changing the zoning classification of the property described below from its present zoning to that requested by **S.T. Wooten Corporation** in Rezoning Application No. **CUD-Z-18-06 (I-2 C205)**.

Section 2. There is hereby created a new conditional use zoning district, to be known as the **Industrial 2 Conditional Use (I-2 C205)**; within this district, all of the regulations that apply to property within the **Industrial 2 Conditional Use (I-2 C205)** zoning district shall be applicable and that all other uses are prohibited except those that are listed as permissible shall require a conditional use permit:

*The following is a list of permitted uses in the **Industrial 2 Conditional Use (I-2 C205)** district:*

1. Broadcast tower
2. Minor utility - elevated water storage tank
3. Telecommunications facility
4. Other major utility
5. Office
6. Sales oriented use with outdoor operations
7. Vehicle general repair
8. Industrial use - indoor
9. Industrial use with outdoor operations
10. Manufacturing and production indoor or outdoor (including concrete and asphalt

plants)

11. Resource extraction
12. Warehouse and freight movement storage including outdoor
13. Warehouse and freight movement truck terminal
14. Recycling collection (outside)
15. Recyclable materials collection center

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

<b>Owner(s)</b>	<b>Tract No.</b>	<b>Existing Zoning</b>	<b>New Zoning</b>
<b>Martin Marietta Materials, Inc.</b>	<b>1721-40-8632, 1721-40-7293, 1721-15-3460, 1721-52-6431 (portion of)</b>	<b>Single-Family Residential (R- 20), Service Business (SB), and Industrial 2 (I-2)</b>	<b>Industrial 2 Conditional Use (I-2 C205)</b>

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

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

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

Section 7. This ordinance shall become effective upon adoption.

Duly adopted this 4th day September 2018.

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Ronnie S. Williams, Mayor

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

**TOWN OF GARNER  
CUP-SP-18-12 – S.T. WOOTEN  
CONDITIONAL USE PERMIT**

<b>APPLICANT</b>	S.T. Wooten Company Attn: Brian Gurganus 3801 Black Creek Road Wilson, NC 27894
<b>LOCATION</b>	950 E. Garner Road
<b>USE CLASSIFICATION</b>	Manufacturing & Production: Indoor or Outdoor
<b>DATE ISSUED</b>	September 4, 2018

**I. COMPLETENESS OF APPLICATION**

The application is complete.

**II. COMPLIANCE WITH ORDINANCE REQUIREMENTS**

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

**III. GRANTING THE APPLICATION**

The application is granted, subject to the following conditions:

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

**IV. SPECIFIC TO THE PROJECT**

None

c: WithersRavenel, Inc.  
Attn: Dale Werenko  
115 MacKenan Drive  
Cary, NC 27511

Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: September 4, 2018		
Subject: CUD-Z-18-07 & CUP-SP-18-13, Oak City Academy Conditional Use Rezoning & Site Plan		
Location on Agenda: Public Hearings		
Department: Planning		
Contact: David Bamford, Planning Services Manager		
Presenter: David Bamford, Planning Services Manager & Stacy Harper, Principal Planner		
<b>Brief Summary:</b>  The rezoning (CUD-Z-18-07) and associated site plan (CUP-SP-18-13) have been submitted to convert the existing building into a private school. This site is located off Old Mechanical Court behind Capital Pentecostal Holiness Church.		
<b>Recommended Motion and/or Requested Action:</b> Adopt Ordinance (2018) 3928; Approve CUP-SP-18-13		
<b>Detailed Notes:</b> See attached staff report.		
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:		

**TO:** Mayor and Town Council Members

**FROM:** Stacy Harper, AICP; Principal Planner  
Het Patel, AICP; Senior Planner

**SUBJECT:** *CUD-Z-18-07, Conditional Use Rezoning*  
*CUP-SP-18-13, Conditional Use Site Plan – Oak City Academy*

**DATE:** September 4, 2018

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### I. PROJECT AT A GLANCE

**Project Number(s):** CUD-Z-18-07 Conditional Use Rezoning  
CUP-SP-18-13 Conditional Use Site Plan

**Applicant:** Oak City Academy

**Owner:** The Capital Pentecostal Holiness Church

**General Description -**

**Project Area & Location:** 1.71 +/- acres located on the south side of Old Mechanical Court

**Wake Count PIN(s):** 1701-68-8002

**Current Zoning:** Service Business Conditional Use (SB C121)

**Requested Zoning:** Office and Institutional Conditional Use (OI C206)

**Proposed Use(s):** School, Public or Private

**Overlay:** n/a

**Key Meeting Dates:**

**Planning Commission:** August 13, 2018

**Public Hearing & Action:** September 4, 2018

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

The rezoning (CUD-Z-18-07) and associated site plan (CUP-SP-18-13) have been submitted to develop the site into a private school – classified specific use: School, Public or Private. The site and tracts along south side of Old Mechanical Court in the vicinity are currently service business, commercial, or institutional uses. The applicant is requesting to rezone the site from Service Business (SB C121) to Office and Institutional (OI C206). Use restrictions are proposed to limit the range of OI uses.

## **III. ZONING ANALYSIS**

**Existing:** The existing zoning of the 1.71-acre site is **Service Business Conditional Use (SB C121)**. 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: (highlighted uses are prohibited by C121):***

- |   |   |
|---|---|
| 1. Security or caretaker's quarters                       | 20. Taxi or limo operations/facility  |
| 2. Community Center                                       | 21. Religious institutions  |
| 3. Library, museum, art center                            | 22. Minor utility, elevated water tank  |
| 4. Other Community service                                | 23. Telecommunication facility  |
| 5. Civil, service fraternal club, lodges and similar uses | 24. Other major utility   |
| 6. Adult Day Care   | 25. Bars and nightclubs (prohibited within 500 feet of residential use/zoning)          |
| 7. Day Care Center  | 26. Private golf or country club  |
| 8. Business School, college or university satellite       | 27. Private gym, spa, indoor tennis, pool   |
| 9. College / university                                   | 28. Indoor entertainment facility   |
| 10. Trade / vocational schools                            | 29. Electronic gaming center  |
| 11. Music / dance / art instruction                       | 30. Outdoor entertainment facility, private athletic                                    |
| 12. Ambulance, rescue squad, police, fire station         | 31. Sexually oriented business (prohibited within 1,000 feet of residential use/zoning) |
| 13. Government, utility with outdoor storage              | 32. Movie Theater   |
| 14. Government office                                     | 33. Drive-in Theaters   |
| 15. Medical Clinic  | 34. Water-slides, golf driving ranges, miniature golf, batting cages or similar uses    |
| 16. Cemetery  |   |
| 17. Funeral home / crematorium                            |   |
| 18. Parks, swimming pools, tennis courts, golf courses    |   |
| 19. Bus passenger terminals                               |   |



- |  |  |
|--|--|
| 35. Bank, financial institution  | 56. Self-service storage   |
| 36. Medical office, individual   | 57. Car wash (prohibited within 500 feet of residential use/zoning)                |
| 37. General office use   | 58. Vehicle repair (storage restricted to rear of building, 30-day storage limit)  |
| 38. Bed and breakfast  | 59. Vehicle sales and rental (storage restricted to rear of building)              |
| 39. Extended stay facility (prohibited within 500 feet of residential use/zoning)      | 60. Vehicle service-limited  |
| 40. Hotel and motels   | 61. Vehicle towing, storage (prohibited within 500 feet of residential use/zoning) |
| 41. Commercial Parking   | 62. Flex space   |
| 42. Restaurant, curb or drive-in service   | 63. Light Industrial use indoor  |
| 43. Restaurant, indoor with seating only   | 64. Light Industrial use with outdoor storage of tenant supplies                   |
| 44. Restaurant, indoor with drive-through window                                       | 65. Light Industrial use with outdoor operations                                   |
| 45. Restaurant, take out only, drive-through or walk up                                | 66. Warehouse and freight movement with indoor storage                             |
| 46. Convenience store without fuel sales   | 67. Warehouse and freight movement with outdoor storage                            |
| 47. Convenience store with fuel sales  | 68. Recyclable materials collection center   |
| 48. Open air market  | 69. Wholesale sales  |
| 49. Repair oriented use (indoor only)  | 70. Manufacturing indoor operations  |
| 50. Personal service use (indoor operations)   |  |
| 51. Barber shops / salons  |  |
| 52. Sales oriented use (indoor operations only)  |  |
| 53. Sales oriented use (outdoor operations)  |  |
| 54. Veterinarian/kennel indoor   |  |
| 55. Veterinarian/kennel outdoor (prohibited within 500 feet of residential use/zoning) |  |

***Additionally, the SB C121 district prohibited the following uses not identified in the existing Service Business (SB) permitted uses list:***

- |   |   |
|---|---|
| 1. Apartments and condominiums              | 5. Storage of goods not related to sales on site (inside and outside) |
| 2. Recreation, amusement, and entertainment | 6. Truck terminal activities  |
| 3. Auto body shops only                     | 7. Services and enterprises related to animals (except                |
| 4. Storage of junked cars                   |   |

- |  |   |   |
|--|---|---|
| <ul style="list-style-type: none"> <li>8. Towers and related structures</li> </ul> | <ul style="list-style-type: none"> <li>veterinary clinics with no outside storage)</li> </ul> | <ul style="list-style-type: none"> <li>9. Greenhouse operations (no on-premise sales or premise sales)</li> </ul> |
|--|---|---|

**Proposed:** The proposed zoning of the 1.71-acre site is **Office and Institutional Conditional Use (OI C206)**. The purpose of this district is to accommodate more intense professional and service occupations than permitted in the Neighborhood Office (NO) district and to ensure that the environmental effects (including noise, odor, glare, heat, vibration and air pollution) resulting from conduct of such operations shall not interfere with the quality of any surrounding district. This district serves as a transition between residential districts and more intense districts, including commercial districts.

***The following is a list of all OI uses as to be modified for the OI C206 district (highlighted uses to be prohibited):***

- |  |  |
|--|--|
| <ul style="list-style-type: none"> <li>1. Townhouse</li> <li>2. Condominium</li> <li>3. Community center</li> <li>4. Library, museum, art gallery, art center</li> <li>5. Other community service</li> <li>6. Civil, service fraternal clubs, lodges and similar uses</li> <li>7. Adult day care</li> <li>8. Day care center</li> <li>9. Business school, college or university satellite in single building</li> <li>10. College/university</li> <li>11. School, public or private</li> <li>12. Trade/vocational school</li> <li>13. Music, dance, art instruction</li> <li>14. Funeral home, crematorium</li> <li>15. Ambulance, police, fire station</li> <li>16. Government office</li> <li>17. Continuing care, retirement facility</li> <li>18. Hospice</li> <li>19. Hospital</li> <li>20. Ambulatory health, emergency</li> </ul> | <ul style="list-style-type: none"> <li>care</li> <li>21. Medical clinic</li> <li>22. Mental health facility</li> <li>23. Group care facility</li> <li>24. Handicapped institution</li> <li>25. Intermediate care institution</li> <li>26. Nursing care institution</li> <li>27. Cemetery</li> <li>28. Public park, swimming pool, open space</li> <li>29. Religious institution</li> <li>30. Minor utility, elevated water tank</li> <li>31. Golf course, country club</li> <li>32. Indoor gym, spa, pool, tennis courts</li> <li>33. Medical office, individual</li> <li>34. Other general office</li> <li>35. Bed and breakfast</li> <li>36. Hair salons, barber shops</li> <li>37. Banks or financial institutions</li> <li>38. Repair oriented use (no outdoor operations)</li> <li>39. Veterinarian/kennel, indoor</li> <li>40. Commercial parking</li> </ul> |
|--|--|

**Zoning History:** The Planning Department’s rezoning database contains the following rezoning cases in the vicinity of this property. More recent cases are listed below.

Case	Applicant	Location	Zoning Change
CUD-Z-94-04	Town of Garner	US Hwy 70/US Hwy 401	CB to SB C51
CUD-Z-99-05	Kimley-Horn & Associates	US Hwy 70	CB to SB C90
CUD-Z-03-04	C.R. Fish	Old Mechanical Court	SB C81 to SB C121
CUD-Z-07-03	Tony M. Tate Landscape Architecture	Dynamic Drive	R-15 to SB C149
CUD-Z-08-04	Nelson Loureiro and Robert Atkins	US Hwy 70	CR to SB C155
CUD-Z-13-05	Tribek Properties	US Hwy 70 and Loop Road	CR and SB C69 to CR C170
CUD-Z-17-05	Stephens Land Development	Loop Road	R-20 to SB C198

**Adjacent Zoning and Land Use:**

<b>North:</b>	Industrial 1 (I-1)	Vacant/Wooded land
<b>South:</b>	Commercial Retail (CR) Office and Institutional (O&I)	Hotel (Hampton Inn) Church (Capital Church)
<b>East:</b>	Service Business (SB)	Vacant/Wooded land
<b>West:</b>	Service Business (SB)	Protection services (road safety)



**Overall Neighborhood Character:**

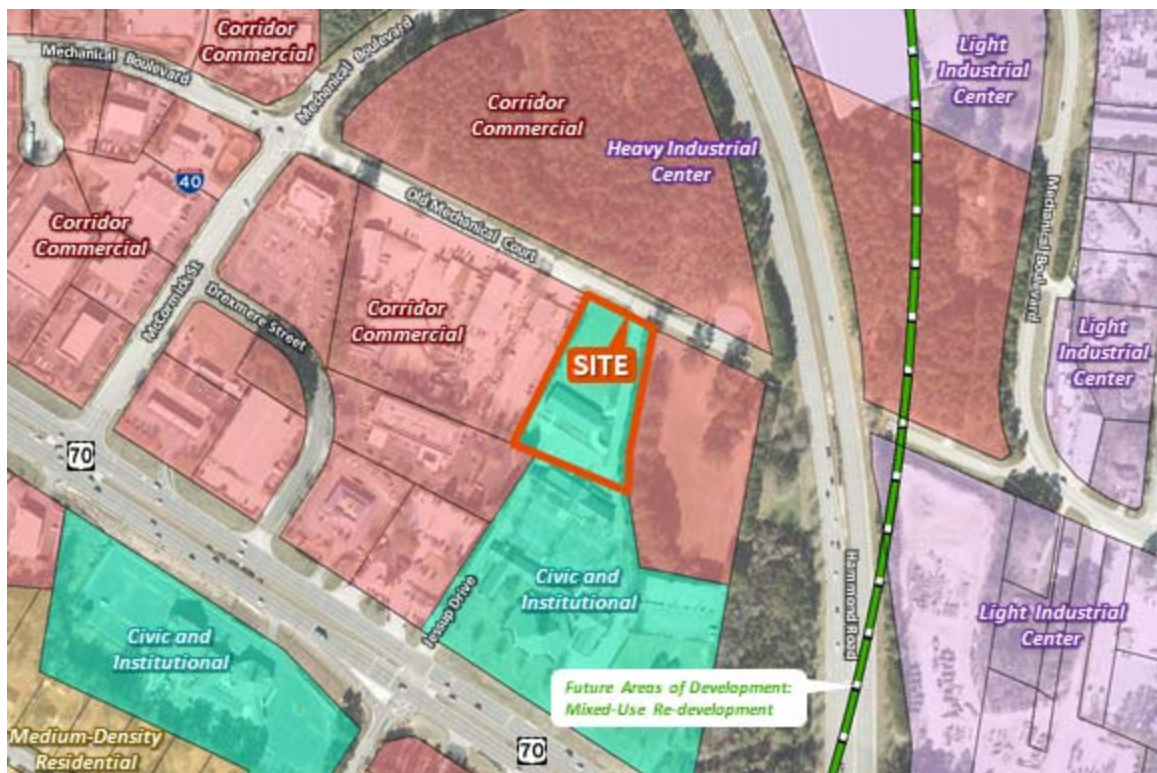
Old Mechanical Court is a local road providing connection to Mechanical Boulevard and McCormick St. This area along Old Mechanical Court contains a mix of commercial and service uses. The predominant zoning in this area is Service Business (SB) and Commercial Retail (CR).

**IV. TRAFFIC IMPACTS**

The site has approximately 160 feet of road frontage on Old Mechanical Court. Old Mechanical Court is a 22-foot wide NCDOT-maintained facility within a 60-foot right of way. This road lacks curb and gutter and sidewalks. There are no NCDOT average daily traffic count history on Old Mechanical Court in this area. Average daily traffic county history on Mechanical Boulevard east of the property was approximately 2,700 vehicles per day in 2015.

**V. STATEMENTS OF ZONING CONSISTENCY WITH THE COMPREHENSIVE PLAN**

**2018 Garner Forward Plan:**



On the current Future Land Use map, the site along Old Mechanical Court is designated as **Civic and Institutional** and the surrounding tracts in this area are designated as either Civic and Institutional or Corridor Commercial.

The **Civic and Institutional** land use category includes government offices and schools, first responder structures, civic clubs, post offices, and faith-based organizations and uses.

The Future Land Use map, also identified areas of potential future development/re-development opportunities. As such, the site falls within a **Future Area of Mixed-Use Redevelopment** designation.

Since the proposed uses of schools and other allowable uses within OI C206 fit within the “civic and institutional” land use, the request for an Office and Institutional Conditional Use (OI C206) zoning district may be found consistent with the *2018 Garner Forward Plan*, and also with the zoning and land use pattern found along US 70 to which the site is internally connected.

## **VI. SITE PLAN PROJECT DATA**

<b>Acreage:</b>	Approximately 1.71 acres
<b>Building Size:</b>	The school plans to use an existing 5,341 square foot building on the property.
<b>Building Materials:</b>	The existing building is constructed with brick veneer.
<b>Landscape and Buffer Requirements:</b>	<p>The plan as proposed meets the requirements of the Landscape Ordinance. The plan was previously approved for Capital Church; however, one parking island with a tree and three shrubs was never installed. That parking island and required landscaping is required. The plan reflects replacement landscaping where previously-planted material has died.</p> <ul style="list-style-type: none"><li>• <b>Tree Cover:</b> Requirements are met with existing vegetation across the entire Capital Church campus.</li><li>• <b>Street Buffers:</b> There are existing trees and shrubs along Old Mechanical Court that meet the UDO requirements.</li><li>• <b>Perimeter Buffers:</b> There are existing, mature buffers on both the west and east sides of the property. No perimeter buffer was required between this classroom building and the other church buildings.</li></ul>
<b>Parking Spaces:</b>	<p>Parking is based on three parking spaces per elementary school classroom plus two spaces for office. For the daycare component the requirement is one space per employee and one space for every eight children.</p> <ul style="list-style-type: none"><li>• <u>Required:</u> 12</li><li>• <u>Proposed:</u> 34 (within the leased area)</li></ul>
<b>Lighting:</b>	There are no changes proposed to the previous approved lighting plan.

**Environmental Features:** This site does not contain a FEMA designated floodplain and is generally flat.



**Fire Protection:** The Inspections Department has reviewed the plan for fire protection and given their approval.

**Infrastructure:** **Stormwater Management** – Oak City Academy is utilizing an existing building within the Capital Church complex that was built in 2008. The 2008 site plan for a classroom addition and parking was subject to both stormwater water quality and water quantity rules. A grassed swale and dry detention pond was built in 2008 to treat both nitrogen, TSS Removal and water quantity with this development. An excess nitrogen offset payment as made as part of that site plan as well. There are no additional stormwater requirements as part of modification to the 2008 site plan since they have all been satisfied in 2008 and the minimum amount of additional impervious surface being added as a result of this project is covered in the 2008 nitrogen offset overpayment.

**Water/Sewer** – The building is already connected to public water and sewer.



**Transportation/Access** – The site has approximately 160 feet of road frontage on Old Mechanical Court. Old Mechanical Court is a 22-foot wide NCDOT-maintained facility within a 60-foot right of way. Although the site has cross-access to the church parcel, the school proposes to have traffic enter on Old Mechanical Court and loop through the drop off area and exit back onto Old Mechanical Court.

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

### **2018 Garner Forward Transportation Plan:**

There are no planned improvements for Old Mechanical Court on either the 2018 Garner Forward Transportation Plan or the 2010 Garner Transportation Plan. This project, as proposed, may be found to be in conformity with the 2018 Garner Transportation Plan.

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

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

### **Unified Development Ordinance Regulations:**

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

### **VIII. PLANNING COMMISSION NOTES AND RECOMMENDATION**

The Planning Commission reviewed this request at their August 13, 2018 meeting. With a unanimous vote, the Planning Commission confirmed staff's findings in Section VII that CUP-SP-18-13, Oak City Academy, is in conformity with adopted town plans and policies, and further accepted the staff statements regarding zoning consistency with the Garner Forward Comprehensive Plan, being detailed in Section V of this report, as their own, and recommended approval of CUD-Z-18-07.



**IX. COUNCIL MOTION WORKSHEETS**

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

**REZONING ACTION MOTION WORKSHEET**

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

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

“I move that the Town Council accept staff’s statements regarding zoning consistency with the Comprehensive Growth Plan, detailed in Section V of this report, as our own; and I therefore move further that the Town Council accept the recommendation of the Planning Commission and adopt Ordinance No. \_\_\_\_\_ approving rezoning request number CUD-Z-18-07.”

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

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

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

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

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

and therefore, I move further that the Town Council reject the recommendation of the Planning Commission and deny rezoning request number CUD-Z-18-07.”

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

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

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

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

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

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

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

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

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

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

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

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

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

and therefore, I move further that the Town Council adopt Ordinance No. \_\_\_\_\_ approving rezoning request number CUD-Z-18-07, and in so doing, also amend the Town's Comprehensive Growth Plan from designating the subject property as Civic and Institutional to

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

## CONDITIONAL USE PERMIT ACTION WORKSHEET

**Approve:** I move that the Council accept the staff statements regarding plan consistency in Section VII of this report as our own and find the application meets the 10 permit criteria in Section 3.14.D. and therefore approve CUP-SP-18-13, Oak City Academy, with the three standard conditions and no site-specific conditions listed on the attached permit.

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

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

**Condition #1:**

---

**Condition #2:**

---

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

---

or

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

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

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

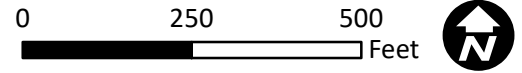
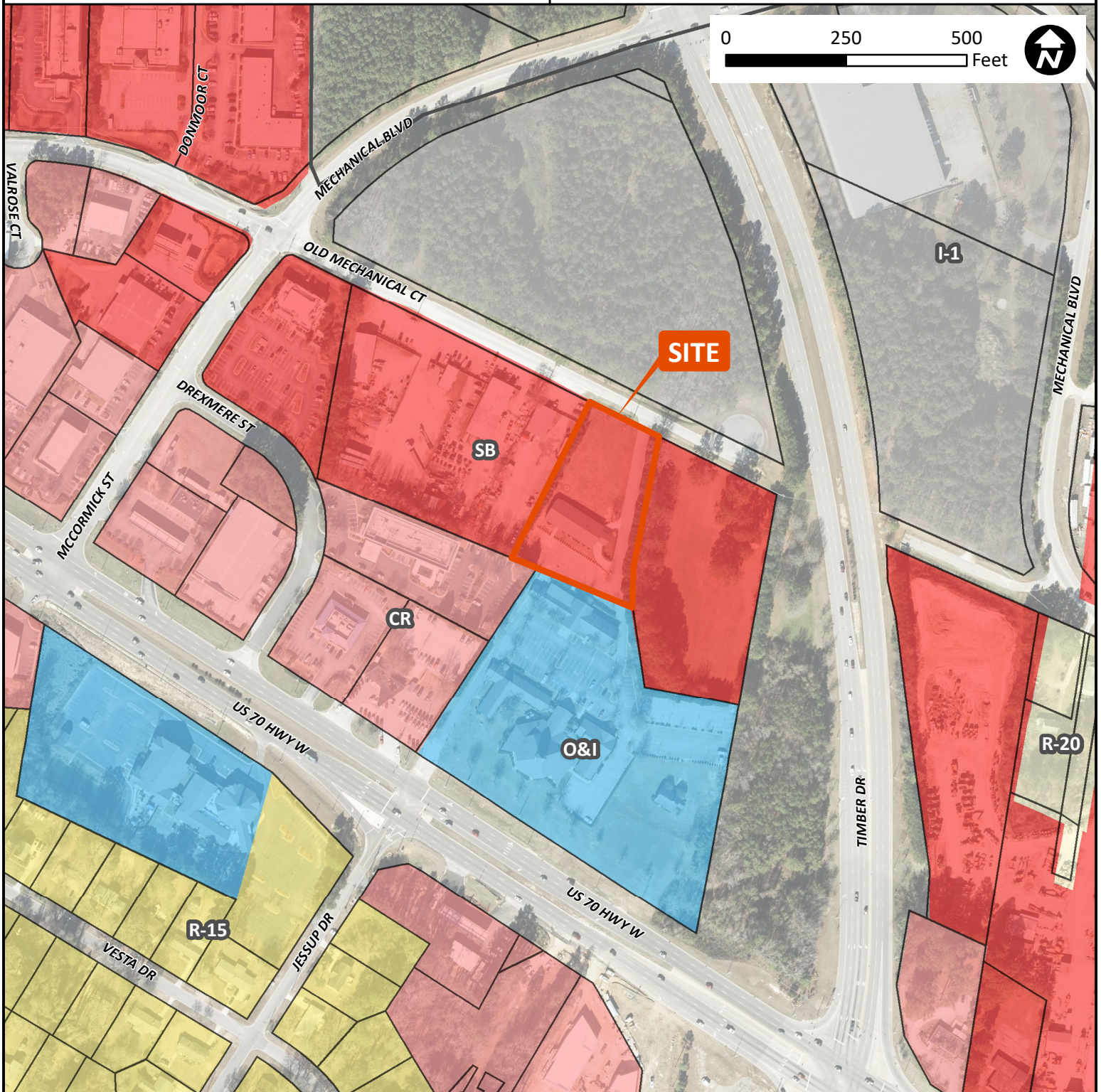
- \_\_\_ 3. The proposed use does not comply with all applicable provisions of this UDO;  
*because/as evidenced by* \_\_\_\_\_;
- \_\_\_ 4. If completed as proposed, the development will not comply with all requirements of this section;  
*because/as evidenced by* \_\_\_\_\_;
- \_\_\_ 5. The proposed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

and therefore, deny Conditional Use Permit for Oak City Academy – CUP-SP-18-13.



**Town of Garner  
Planning Department**

**Conditional Use Applications  
CUP-SP-18-13 & CUD-Z-18-07**



**Project:** Oak City Academy  
**Applicant:** Oak City Academy  
**Owner:** The Capital Pentecostal Church  
**Location:** 1310 US 70 Hwy.  
**Pin #:** 1701-68-8002

**Proposed Use:** Education  
**Current Zoning:** Service Busines (SB)  
**Proposed Zoning:** Office & Institutional  
 Conditional Use (OI C206)  
**Acreeage:** 1.71 +/-  
**Overlay:** n/a

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

**ORDINANCE NO. (2018) 3928**

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

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

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

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

Section 1. That the Official Zoning Map of the Town of Garner and Extraterritorial Jurisdiction be amended by changing the zoning classification of the property described below from its present zoning to that requested by **Oak City Academy** in Rezoning Application No. **CUD-Z-18-07 (O&I C206)**.

Section 2. There is hereby created a new conditional use zoning district, to be known as the **Office and Institutional Conditional Use (O&I C206)**; within this district, all of the regulations that apply to property within the **Office and Institutional Conditional Use (O&I C206)** zoning district shall be applicable and that all other uses are prohibited except those that are listed as permissible shall require a conditional use permit:

*The following is a list of permitted uses in the O&I C206 district:*

- |  |  |
|--|--|
| 1. Townhouse   | 7. Day care center   |
| 2. Community center  | 8. Business school, college or university satellite in single building |
| 3. Library, museum, art gallery, art center                | 9. College/university  |
| 4. Other community service                                 | 10. School, public or private  |
| 5. Civil, service fraternal clubs, lodges and similar uses | 11. Trade/vocational school  |
| 6. Adult day care  | 12. Music, dance, art instruction                                      |
|  | 13. Funeral home, crematorium  |

- 14. Ambulance, police, fire station
- 15. Government office
- 16. Continuing care, retirement facility
- 17. Hospice
- 18. Hospital
- 19. Ambulatory health, emergency care
- 20. Medical clinic
- 21. Mental health facility
- 22. Group care facility
- 23. Handicapped institution
- 24. Intermediate care institution
- 25. Nursing care institution
- 26. Public park, swimming pool, open space
- 27. Religious institution
- 28. Minor utility, elevated water tank
- 29. Golf course, country club
- 30. Indoor gym, spa, pool, tennis courts
- 31. Medical office, individual
- 32. Other general office
- 33. Bed and breakfast
- 34. Hair salons, barber shops
- 35. Banks or financial institutions
- 36. Repair oriented use (no outdoor operations)
- 37. Veterinarian/kennel, indoor
- 38. Commercial parking

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

<b>Owner(s)</b>	<b>Tract No.</b>	<b>Existing Zoning</b>	<b>New Zoning</b>
<b>The Capital Pentecostal Holiness Church</b>	<b>1701-68-8002</b>	<b>Service Business Conditional Use (SB C121)</b>	<b>Office and Institutional (OI C206)</b>

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

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

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

Section 7. This ordinance shall become effective upon adoption.

Duly adopted this 4th day September 2018.

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

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

**TOWN OF GARNER  
CUP-SP-18-13 – OAK CITY ACADEMY  
CONDITIONAL USE PERMIT**

<b>APPLICANT</b>	Oak City Academy Attn: Danny Breed 5029 Glen Creek Trail Garner, NC 27529
<b>LOCATION</b>	1310 US 70 Hwy West
<b>SPECIFIC USE CLASSIFICATION</b>	School, Public or Private
<b>DATE ISSUED</b>	September 4, 2018

**I. COMPLETENESS OF APPLICATION**

The application is complete.

**II. COMPLIANCE WITH ORDINANCE REQUIREMENTS**

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

**III. GRANTING THE APPLICATION**

The application is granted, subject to the following conditions:

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

**IV. SPECIFIC TO THE PROJECT**

None

c: The Capital Pentecostal Holiness Church  
Attn: Robert Robertson  
1308 US 70 Hwy West  
Garner, NC 27529



Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: September 4, 2018		
Subject: UDO Text Amendment 18-01		
Location on Agenda: Old/New Business		
Department: Planning		
Contact: Jeff Triezenberg, Planning Director		
Presenter: Jeff Triezenberg, Planning Director		
<p><b>Brief Summary:</b></p> <p>The Downtown Garner Association is requesting a UDO Text amendment to the existing Center Business District (CBD) to be aligned with the Garner Forward Comprehensive Plan. This would allow the following uses in the CBD district: "Outdoor Athletic or Entertainment Facility, Private" and "Indoor Manufacturing and Production."</p>		
<p><b>Recommended Motion and/or Requested Action:</b></p> <p>Adopt Ordinance (2018) 3929</p>		
<p><b>Detailed Notes:</b></p> <p>See attached staff report.</p>		
<p><b>Funding Source:</b></p>		
Cost:	One Time: <input type="radio"/>	Annual: <input type="radio"/> No Cost: <input checked="" type="radio"/>
<p><b>Manager's Comments and Recommendations:</b></p> <p>N/A</p>		
<p>Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/></p>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	JT	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

## Planning Department Staff Report

**TO:** Planning Commission

**FROM:** Jeff Triezenberg, AICP, GISP; Planning Director

**SUBJECT:** ***UDO-18-01, Central Business District Amendments***

**DATE:** September 4, 2018

### I. BACKGROUND

The Planning Department is actively engaged with the Downtown Garner Association, the association’s manager and various association subcommittees. Over the past year or so, the Department has been examining the Unified Development Ordinance closely in how it applies to the Central Business District. More often than not, anticipated barriers to desired redevelopment have been found not to be present; however, there are a couple of roadblocks that have been identified and are introduced now for consideration at the request of the Downtown Development Manager’s office.



The first proposed change would add “Outdoor Athletic or Entertainment Facility, Private” to the list of permitted uses in the CBD, but only upon the issuance of a Special Use Permit (SUP) from the Garner Town Council. If the CBD is to grow as a “crossroads of cultural arts” as stated

in **Garner Forward**, the ability to promote outdoor entertainment in smaller, quaint outdoor spaces is desirable. Given the wide variety of uses both within and adjacent to the CBD, the Town Council will have the ability to determine the appropriateness of the specific context of any proposed site as part of the SUP proceedings and to impose any site-specific conditions that may be appropriate.

The second change would add “Indoor Only” manufacturing and production to the list of permitted uses in the CBD with the standard that the use may not be located along the primary business sections of the Main Street corridor. As entrepreneurs begin and grow in the downtown area, it is likely that some professionals will need nearby outlets for small production spaces. The **Garner Forward** plan envisions select areas off the main corridor that may be suitable for such activities, so long as they are limited to indoor operations without any adverse effects on properties outside the CBD.

Staff considers these items as positive in nature and in support of **Garner Forward** promoting downtown as a “*growing crossroads of cultural arts, recreation and creative entrepreneurship in the community*”. Preliminary draft language changes are shown in the following section of this report.

## II. PROPOSED TEXT CHANGES

USE		RESIDENTIAL DISTRICTS						NONRESIDENTIAL DISTRICTS										
P = Permitted by right		P* = Permitted subject to standards						S = Special use permit required										
Use Category	Specific Use	R-40	R-20	R-15	R-12	R-9	R M H	MF-1	MF-2	NO	NC	C B D	O I	CR	SB	I-1	I-2	Notes
<b>COMMERCIAL, OFFICE, RETAIL</b>																		
Entertainment (see 5.2F.1)	Outdoor Athletic or Entertainment Facility, Private											S			S	S		
<b>INDUSTRIAL AND MANUFACTURING</b>																		
Manufacturing and Production (see 5.2G.3)	Indoor or Outdoor																P*	5.3D.3
	Indoor Only											P*			P*	P*	P*	5.3D.3

### 5.3. Specific use standards

#### D. Industrial and manufacturing uses.

3. **Manufacturing and production.** Manufacturing and production facilities are permitted in accordance with the use table in Section 5.32 and the following standards:

- a. No vibration shall be produced which is transmitted through the ground (and is discernable without the aid of instruments) at or at any point beyond the lot line.

- b. All noise shall be muffled so as to not be objectionable due to intermittence, beat frequency or shrillness.
- c. Visible emissions of air pollutants of any kind at ground level, past the lot line of the lot on which the source of emissions is located, are prohibited.
- d. No person shall cause or permit any materials to be handled, transported or stored in such a manner which allows or may allow particulate matter to become airborne.
- e. No direct glare from high temperature processes such as combustion or welding, which is visible at the lot line, shall be permitted.
- f. There shall be no emission or transmission of heat or heated air so as to be discernable from the lot line.
- g. Any condition or operation which results in the creation of odors of such intensity or character as to unreasonably interfere with the comfort of the public shall be removed, stopped or modified so as to remove the odor.
- h. Manufacturing and production uses shall not be a permissible use within existing commercial buildings in downtown Garner located along Main Street between Montague Street and Griffin Street, and zoned CBD.

### **III. RECOMMENDATION**

As noted previously, staff considers these items as positive in nature and in support of **Garner Forward** promoting downtown as a “*growing crossroads of cultural arts, recreation and creative entrepreneurship in the community*”. The Town Council conducted a public hearing on July 7 to formally review these proposed amendments. The only comments from the public at the hearing were in support of the amendment. Council closed the hearing and referred the matter to the Planning Commission for review and recommendation during their regular meeting of August 13, 2018. Upon review, the Planning Commission unanimously approved a motion to recommend approval of UDO-18-01 to the Town Council. Staff also recommends approval and supports a motion from the Town Council to approve UDO-18-01 and adopt the attached ordinance.

**ORDINANCE NO. (2018) 3929**

**AN ORDINANCE TO AMEND ORDINANCE NO. (2003) 3250 ENTITLED  
 “THE GARNER UNIFIED DEVELOPMENT ORDINANCE FOR THE TOWN OF  
 GARNER AND ITS EXTRATERRITORIAL JURISDICTION” BY AMENDING THE  
 UNIFIED DEVELOPMENT ORDINANCE TO REVISE PERMISSIBLE USES AND USE  
 STANDARDS IN THE CENTRAL BUSINESS DISTRICT (CBD)**

**Section One.** Amend Article 5.1 entitled “Use Tables” by revising the table to allow “Outdoor Athletic or Entertainment Facility, Private” and “Indoor Manufacturing and Production” in the CBD zoning as follows:

USE		RESIDENTIAL DISTRICTS							NONRESIDENTIAL DISTRICTS									
P = Permitted by right		P* = Permitted subject to standards							S = Special use permit required									
Use Category	Specific Use	R-40	R-20	R-15	R-12	R-9	R M H	MF-1	MF-2	NO	NC	C B D	OI	CR	SB	I-1	I-2	Notes
<b>COMMERCIAL, OFFICE, RETAIL</b>																		
Entertainment (see 5.2F.1)	Outdoor Athletic or Entertainment Facility, Private											S			S	S		
<b>INDUSTRIAL AND MANUFACTURING</b>																		
Manufacturing and Production (see 5.2G.3)	Indoor or Outdoor																P*	5.3D.3
	Indoor Only										P*				P*	P*	P*	5.3D.3

**Section Two.** Amend Article 5.3 entitled “Specific Use Standards” to read as follows:

**5.3. Specific use standards**

**D. Industrial and manufacturing uses.**

**3. Manufacturing and production.** Manufacturing and production facilities are permitted in accordance with the use table in Section 5.32 and the following standards:

- a. No vibration shall be produced which is transmitted through the ground (and is discernable without the aid of instruments) at or at any point beyond the lot line.
- b. All noise shall be muffled so as to not be objectionable due to intermittence, beat frequency or shrillness.
- c. Visible emissions of air pollutants of any kind at ground level, past the lot line of the lot on which the source of emissions is located, are prohibited.
- d. No person shall cause or permit any materials to be handled, transported or stored in such a manner which allows or may allow particulate matter to become airborne.
- e. No direct glare from high temperature processes such as

combustion or welding, which is visible at the lot line, shall be permitted.

- f. There shall be no emission or transmission of heat or heated air so as to be discernable from the lot line.
- g. Any condition or operation which results in the creation of odors of such intensity or character as to unreasonably interfere with the comfort of the public shall be removed, stopped or modified so as to remove the odor.
- h. Manufacturing and production uses shall not be a permissible use within existing commercial buildings in downtown Garner located along Main Street between Montague Street and Griffin Street, and zoned CBD.

**Section Four.** All ordinances or portions thereof in conflict with this ordinance are hereby repealed.

Duly adopted this 4<sup>th</sup> day of September, 2018.

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Ronnie S. Williams, Mayor

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

APPROVED AS TO FORM: \_\_\_\_\_  
William E. Anderson, Town Attorney

Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: September 4, 2018		
Subject: General Use Rezoning Z-18-03, 3008 US Highway 70 E		
Location on Agenda: Old/New Business		
Department: Planning		
Contact: David Bamford, Planning Services Manager		
Presenter: David Bamford, Planning Services Manager		
<b>Brief Summary:</b>  The Planning Department is the sponsor / applicant for this general use rezoning case to correct an oversight during last year's ETJ expansion. The request is to rezone from Wake County Highway District (HD) to Town of Garner Service Business (SB) which fits the heavy commercial character of the area and is compatible with the SB zoning to the west which was zoned last year with the ETJ expansion. No conditions are proposed as part of this request. No development plan is proposed at this time. The public hearing was held on July 17, and the Planning Commission meeting was held on August 13.		
<b>Recommended Motion and/or Requested Action:</b> Adopt Ordinance (2018) 3930		
<b>Detailed Notes:</b> See attached staff report.		
<b>Funding Source:</b>		
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:		



## Planning Department Staff Report

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**TO:** Mayor and Town Council Members

**FROM:** Het Patel, AICP; Senior Planner – Transportation and Land Use

**SUBJECT:** *General Use Rezoning – Z-18-03, 3008 US Highway 70 E*

**DATE:** September 4, 2018

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### I. PROJECT AT A GLANCE

<b>Rezoning Application:</b>	Z-18-03 General Use Rezoning
<b>Applicant:</b>	Town of Garner
<b>Owner:</b>	Harvey & Mildred Gordon Heirs
<b>Property Location:</b>	3008 US Highway 70 E
<b>Wake Count PIN(s):</b>	1740400167
<b>Area:</b>	1.09 +/- acres
<b>Town Limits:</b>	No
<b>Present Zoning:</b>	Wake Highway District
<b>Overlay:</b>	US 70/401 Thoroughfare Overlay District
<b>Requested Zoning:</b>	Service Business (SB) Note: This is a general use request. No conditions are proposed.
<b>Key Meeting Dates:</b>	
<b>Town Council Public Hearing:</b>	July 17, 2018
<b>Planning Commission:</b>	August 13, 2018
<b>Town Council Action Hearing:</b>	September 4, 2018



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

Last year, the Town expanded the ETJ area involving several thousand properties. This required a 2-step process: an ETJ extension and a rezoning. The 2<sup>nd</sup> step involved rezoning the new properties from Wake County to a comparable Town of Garner zoning district.

The property at 3008 US 70 HWY E was brought into the Town's ETJ last year as part of "Step 1" but was never rezoned to a Town of Garner district. During the ETJ rezoning process, this property was mistakenly missed as it was at the edge of the jurisdiction boundary near the Johnston County line. Staff discovered this error a few months back when the property went up for sale, and there were inquiries about zoning and potential uses for the site.

The Planning Department is the sponsor / applicant for this general use rezoning case to correct this oversight. The request is to rezone from Wake County Highway District (HD) to Town of Garner Service Business (SB) which fits the heavy commercial character of the area and is compatible with the SB zoning to the west which was zoned last year with the ETJ expansion. No conditions are proposed as part of this request. No development plan is proposed at this time.

## **III. ZONING ANALYSIS**

**Existing:** The existing zoning of the 1.09-acre site is **Wake Highway District**. The Highway District is basically a low-density residential district comparable to the R-40 District – but one that allows a wide range of nonresidential uses with a Special Use Permit. It allows low-density residential development as either single-family attached or detached dwellings on separate lots. Most divisions of parcels into separate building lots must be approved by the Planning Board as part of either a lot-by-lot subdivision – where each lot contains at least 30,000 square feet of land area – or a cluster subdivision – where lots may be reduced to as small as 12,000 square feet in area if at least 10% of the subdivision site is set aside as permanent open space, but the number of lots may not exceed the site acreage times 1.45 lots per acre.

A wide range of nonresidential uses is permitted in this District, but only if the Board of Adjustment first reviews and approves a site plan and Special Use Permit. Most such nonresidential development is allowed only at "activity center" locations designated or defined in the County's Land Use Plan, and only for those uses and at those levels of development intensity appropriate for the particular type of activity center.

***The following is a list of permitted non-residential uses in the Wake County HD district:***

- |                                       |   |
|---------------------------------------|---|
| 1. Churches,                          | 7. Recreational facilities,                           |
| 2. Schools, colleges,                 | 8. Offices, clinics, medical and dental laboratories, |
| 3. Libraries, museums, art galleries, | 9. Hotels and motels,                                 |
| 4. Day care centers,                  | 10. Retail stores and establishments,                 |
| 5. Group homes,                       | 11. Automobile sales,                                 |
| 6. Government buildings,              |   |

- |                               |   |
|-------------------------------|---|
| 12. Shopping centers,         | 19. Cleaning and dyeing establishments, |
| 13. Wholesale establishments, | 20. Industrial uses,                    |
| 14. Warehousing,              | 21. Cemeteries,                         |
| 15. Airfields,                | 22. Mining,                             |
| 16. Bakeries,                 | 23. Landfills.                          |
| 17. Bottling plants,          |   |
| 18. Printers,                 |   |

**Proposed:** The proposed zoning of the 1.09-acre 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:***

- |   |  |
|---|--|
| 1. Security or caretaker's quarters                       | 22. Minor utility, elevated water tank   |
| 2. Community Center                                       | 23. Telecommunication facility   |
| 3. Library, museum, art center                            | 24. Other major utility  |
| 4. Other Community service                                | 25. Bars and nightclubs<br>(prohibited within 500 feet of residential use/zoning)          |
| 5. Civil, service fraternal club, lodges and similar uses | 26. Private golf or country club   |
| 6. Adult Day Care   | 27. Private gym, spa, indoor tennis, pool  |
| 7. Day Care Center  | 28. Indoor entertainment facility  |
| 8. Business School, college or university satellite       | 29. Electronic gaming center   |
| 9. College / university                                   | 30. Outdoor entertainment facility, private athletic                                       |
| 10. Trade / vocational schools                            | 31. Sexually oriented business<br>(prohibited within 1,000 feet of residential use/zoning) |
| 11. Music / dance / art instruction                       | 32. Movie Theater  |
| 12. Ambulance, rescue squad, police, fire station         | 33. Drive-in Theaters  |
| 13. Government, utility with outdoor storage              | 34. Water-slides, golf driving ranges, miniature golf, batting cages or similar uses       |
| 14. Government office                                     | 35. Bank, financial institution  |
| 15. Medical Clinic  | 36. Medical office, individual   |
| 16. Cemetery  | 37. General office use   |
| 17. Funeral home / crematorium                            | 38. Bed and breakfast  |
| 18. Parks, swimming pools, tennis courts, golf courses    |  |
| 19. Bus passenger terminals                               |  |
| 20. Taxi or limo operations/facility                      |  |
| 21. Religious institutions                                |  |

- |  |  |
|--|--|
| <ul style="list-style-type: none"> <li>39. Extended stay facility (prohibited within 500 feet of residential use/zoning)</li> <li>40. Hotel and motels</li> <li>41. Commercial Parking</li> <li>42. Restaurant, curb or drive-in service</li> <li>43. Restaurant, indoor with seating only</li> <li>44. Restaurant, indoor with drive-through window</li> <li>45. Restaurant, take out only, drive-through or walk up</li> <li>46. Convenience store without fuel sales</li> <li>47. Convenience store with fuel sales</li> <li>48. Open air market</li> <li>49. Repair oriented use (indoor only)</li> <li>50. Personal service use (indoor operations)</li> <li>51. Barber shops / salons</li> <li>52. Sales oriented use (indoor operations only)</li> <li>53. Sales oriented use (outdoor operations)</li> <li>54. Veterinarian/kennel indoor</li> <li>55. Veterinarian/kennel outdoor (prohibited within 500 feet of residential use/zoning)</li> <li>56. Self-service storage</li> </ul> | <ul style="list-style-type: none"> <li>57. Car wash (prohibited within 500 feet of residential use/zoning)</li> <li>58. Vehicle repair (storage restricted to rear of building, 30-day storage limit)</li> <li>59. Vehicle sales and rental (storage restricted to rear of building)</li> <li>60. Vehicle service-limited</li> <li>61. Vehicle towing, storage (prohibited within 500 feet of residential use/zoning)</li> <li>62. Flex space</li> <li>63. Light Industrial use indoor</li> <li>64. Light Industrial use with outdoor storage of tenant supplies</li> <li>65. Light Industrial use with outdoor operations</li> <li>66. Warehouse and freight movement with indoor storage</li> <li>67. Warehouse and freight movement with outdoor storage</li> <li>68. Recyclable materials collection center</li> <li>69. Wholesale sales</li> <li>70. Manufacturing indoor operations</li> </ul> |
|--|--|

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

**Prohibited uses:** The following uses are prohibited within the overlay district.

- a. Drive-in movie theaters;
- b. Adult cabarets and establishments;

- c. Outside storage of goods not related to sale or use on premises;
- d. Scrap materials, salvage yards, junkyards, automobile graveyards;
- e. Mining or quarrying operations; including on-site sales of products; coal or aggregate sale and or storage; concrete mixing plant;
- f. Reclamation landfill;
- g. Commercial greenhouse operations;
- h. Recyclable material collection centers; and
- i. Solar farms.

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

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

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

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

**Zoning History:** The Planning Department’s rezoning database contains the following rezoning cases in this area.

Case	Applicant	Location	Zoning Change
CUD-Z-14-01	William Sparkman	2217 US Highway 70 E	I-1 C172
CUD-Z-16-05	Freedom Roads LLC	2300 US Highway 70 E	Wake County Highway District (HD) to SB C185
CUD-Z-16-10	William Sparkman	4812 Green Garden Road	Wake County Highway District (HD) to I-2 C190
Z 17-01	Town of Garner	ETJ Expansion	Wake County Highway District to SB (adjoining lots to the west)

**Adjacent Zoning and Land Uses:**

<b>North:</b>	Single-Family Residential (R-40)	Single-Family Residential/Vacant
<b>South:</b>	Wake County Highway District (HD)	Agriculture (NC State property)
<b>East:</b>	Single-Family Residential (R-40)	Single-Family Residential/Vacant
<b>West:</b>	Service Business (SB)	Auto Parts Self-Service



**Overall Neighborhood Character:** This area along US Highway 70 is located between Guy Road and Randalwood Drive near the Johnston County line. This area contains a mix of single-family residential, heavy commercial, service and industrial uses. NC State University also owns large tracts in this area to the east, and these are used for agricultural research purposes. The predominant zoning in this area is Service Business (SB) along the south side of US Highway 70 corridor and Single-Family Residential 40 (R-40) along the north side of US Highway 70 corridor.

**Infrastructure:** **Water/Sewer** – The property is on the edge of the Town’s ETJ. There is a 16” Water main running along the north side of US HWY 70 E on the opposite side of the road as the rezoning site. The site does not have access to sewer. No connections are proposed at this time. If the site were developed, a private septic system would be needed.



**Transportation** – The site has approximately 475 feet of road frontage on US Highway 70. US Highway 70 is a NCDOT-maintained facility within a 200-foot right of way. The NCDOT traffic counts for this area of US Highway 70 indicate the average daily traffic is approximately 29,000 vehicles per day. We also do not anticipate additional traffic impacts as a result of this rezoning. Road improvements would be evaluated at the time of a development plan.

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

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

**2018 Garner Forward Comprehensive Plan (adopted June 19, 2018):** According to the Town of Garner *2018 Garner Forward Comprehensive Plan* and the Future Land map, the rezoning site is entirely within the boundary of the **Corridor Commercial** category which extends from Guy Road east along the south side of US Highway 70.

A **Corridor Commercial** category is located along highways and major arterials, it emphasizes commercial centers that have individual driveways and separated parking lots, unique signage, and differentiated building materials and styles along a major arterial roadway. These centers are less likely to have any foot traffic, and oriented towards the roadway with little accessibility from the rear or sides of the properties. Permitted uses may include operations with outdoor storage and outdoor sales display areas. For these uses, special emphasis should be placed on landscaping and screening. Uses along these corridors should be attractively landscaped and screened as these corridors are gateways into the community for the traveling public.

Since this is a general use rezoning, all allowable Service Business uses, except as further restricted and/or prohibited by the US 70/401 Thoroughfare Overlay District, must be considered when evaluating this rezoning request.



Since the list of permitted uses for Service Business zoning overlaid by the US 70/401 Thoroughfare Overlay District fit within the description of “corridor commercial” land use, the requested zoning change from Wake County Highway District (HD) to Service Business (SB) may be found consistent with the recommendations of the *Garner Forward Comprehensive Plan* and with the prevailing zoning and land use pattern in this area along US Highway 70.

#### **V. RECOMMENDATIONS:**

Based on the preceding statements regarding consistency with Town plans, which is being forwarded to the Town Council as their own, the Planning Commission voted unanimously to recommend approval of this request to Town Council. Staff has no objections to rezoning application Z-18-03 and recommends approval as submitted.

Please refer to the Motion Worksheet on the following pages for assistance.

**VI. COUNCIL MOTION WORKSHEET:**

**REZONING ACTION MOTION WORKSHEET**

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

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

“I move that the Town Council accept staff’s statements regarding zoning consistency with the Comprehensive Growth Plan, detailed in Section IV of this report, as our own; and I therefore move further that the Town Council accept the recommendation of the Planning Commission and adopt Ordinance No. \_\_\_\_\_ approving rezoning request number Z-18-03.”

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

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

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

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

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

and therefore, I move further that the Town Council reject the recommendation of the Planning Commission and deny rezoning request number Z-18-03.”

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

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

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



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

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

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

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

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

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

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

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

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

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

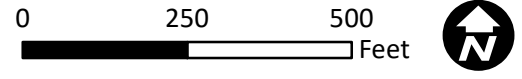
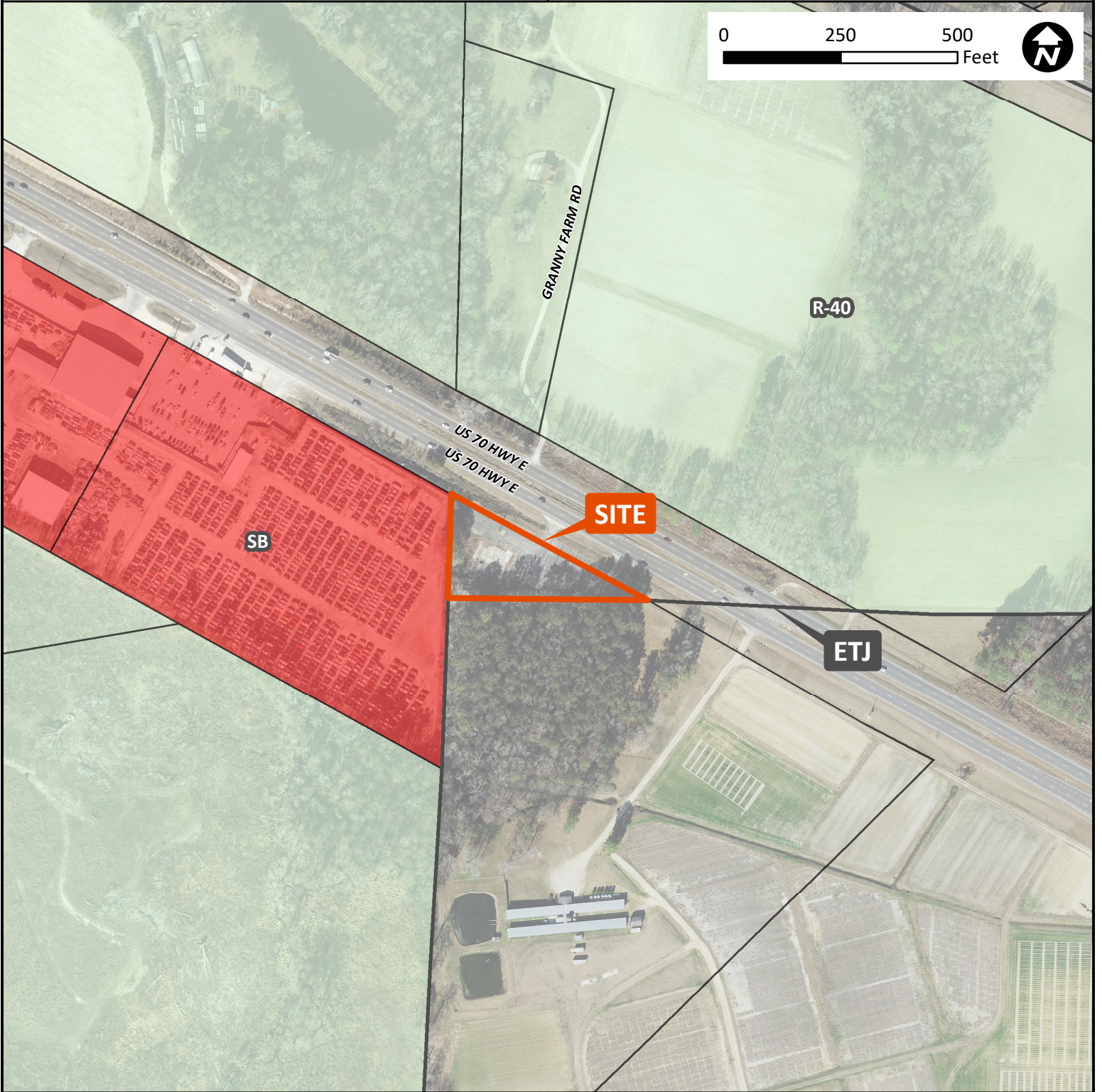
and therefore, I move further that the Town Council adopt Ordinance No. \_\_\_\_\_ approving rezoning request number Z-18-03, and in so doing, also amend the Town's Comprehensive Growth Plan from designating the subject property as Corridor Commercial to

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



# Town of Garner Planning Department

# General Use Applications Z-18-03



**Applicant:** *Town of Garner*  
**Owner:** *Harvey & Mildred Gordon Heirs*  
**Location:** *3008 US 70 Highway E*  
**Pin #:** *1721-26-5080*

**Current Zoning:** *Wake Highway District (HD)*  
**Proposed Zoning:** *Service Business (SB)*  
**Acreage:** *1.09 +/-*  
**Overlay:** *US-70/US-401 Thoroughfare*

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

**ORDINANCE NO. (2018) 3930**

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

NOW, THEREFORE, 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 Wake County Highway District (HD) to Service Business (SB) general use district as requested in Rezoning Application No. Z-18-03 by Town of Garner.

1.09 +/- acres further identified as 3008 US 70 HWY E and Wake County PIN # 1740400167  
(Real Estate ID 0087124)

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 4<sup>th</sup> day of September 2018.

---

Ronnie S. Williams, Mayor

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