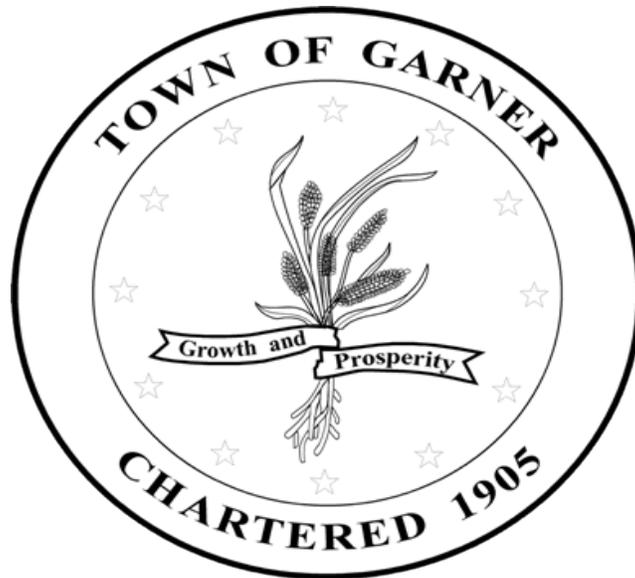


TOWN OF GARNER



TOWN COUNCIL MEETING

SEPTEMBER 6, 2016
7:00 P.M.

Garner Police Department
Training Room
912 7th Avenue, Garner

**Town of Garner
Town Council Agenda
September 6, 2016**

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

The Council will meet in regular session at 7:00 p.m. in the Garner Police Department Training Room located at 912 7th 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: Council Member Gra Singleton

C. INVOCATION: Council Member Gra Singleton

D. PETITIONS AND COMMENTS

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

E. ADOPTION OF AGENDA

F. PRESENTATIONS

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. Sewer Easement Request Page 4

Presenter: Tony Chalk, Town Engineer

The Timmons Group is requesting approval of a 20' sewer easement across Town owned property at the corner of Old Scarborough Lane and Aversboro Road to serve the Carillon Assisted living project.

Action: Authorize Easement

2. Waterline Easement Request Page 7

Presenter: Tony Chalk, Town Engineer

The developer of the proposed Timber Drive office park project is requesting an easement across Town owned property to extend the water line east to the project.

Action: Authorize Easement

3. Cooperative Agreement to Accept Wake County's Contract Terms and AgreementPage 14
Regarding Disaster Debris Removal and Clearance Services
Presenter: Paul Cox, Public Works Director

Wake County went out to bid for disaster debris removal and monitoring services in the event of a major storm or debris producing event. The prepositioned contracts put them in a position to expedite the mobilization of contractors and give them a clearer expectation of costs. Wake County has extended the opportunity to all municipalities to piggyback on their contract terms and bid results. FEMA approves of prepositioned contracts because it can prevent inflated pricing in the midst of a disaster. These agreements will be in place for 5 years.

Action: Authorize Execution of Agreement

4. CASL Agreement Page 15
Presenter: Sonya Shaw, PRCR Director

Over the past several months, Town staff met with Capital Area Soccer League representatives to develop terms for a new 5-year agreement for CASL's use of soccer fields in Garner. The new agreement allows for additional field space to accommodate CASL's program growth, no additional costs to hang program banners at fields and an increased fee structure.

Action: Authorize Execution of Agreement

5. Offer to Purchase Property at 152 Montague Street Page 22
Presenter: William E. Anderson, Town Attorney

The property at 152 Montague Street has been offered for sale. The owner has accepted an offer to purchase in the amount of \$89,000.

Action: Authorize purchase of property for the amount of \$89,000

H. PUBLIC HEARINGS

1. Rezoning Application CUD-Z-16-06 and Conditional Use Permit CUP-SB-16-03, Page 24
Johnson Street Subdivision
Presenter: David Bamford, Senior Planner and Matthew Klem, Senior Planner

Request to rezone a 5 acre tract located on Johnson Street from CR to R-9 C186 and request for conditional use permit approval of a 16 lot single family subdivision.

Action: Adopt Ordinance (2016) 3825; Approve Permit CUP-SB-16-03

- 2. Conditional Use Permit CUP-SP-16-23, Pitt Electric Page 38
Presenter: Matt Klem, Senior Planner

Request for conditional use permit site plan approval of an office and warehouse use located at Lot 23, White Oak Business Park.

Action: Approve CUP-SP-16-23

I. NEW/OLD BUSINESS

- 1. Rezoning Application Z-16-01, Buffalo Road Page 44
Presenter: David Bamford, Senior Planner

Request by Christian and Jennifer Olmstead to rezone a .568 acre tract of land located 610 Buffalo Road from R-40 to R-20.

Action: Adopt Ordinance (2016) 3826

J. COMMITTEE REPORTS

K. MANAGER REPORTS

- 1. garner info

L. ATTORNEY REPORTS

M. COUNCIL REPORTS

N. CLOSED SESSION

Pursuant to N.C.G.S. 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 6, 2016		
Subject: Easement Approval		
Location on Agenda: Consent		
Department: Engineering		
Contact: Tony Chalk, Town Engineer		
Presenter: Tony Chalk, Town Engineer		
<p>Brief Summary:</p> <p>The Timmons Group is requesting approval of a 20' sewer easement across Town owned property at the corner of Old Scarborough Lane and Aversboro Road to serve the Carillon Assisted Living project.</p>		
<p>Recommended Motion and/or Requested Action:</p> <p>Approve easement for Carrilon Assisted Living facility.</p>		
<p>Detailed Notes:</p> <p>See attached map and memo.</p>		
<p>Funding Source:</p> <p>N/A</p>		
Cost:	One Time: <input type="radio"/>	Annual: <input type="radio"/> No Cost: <input checked="" type="radio"/>
<p>Manager's Comments and Recommendations:</p> <p>None</p>		
<p>Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/></p>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	TC	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

**Town of Garner
Engineering Department
Memorandum**

To: John Hodges
Assistant Town Manager
Development Services

From: Tony Chalk PE PLS
Town Engineer

Date: August 29, 2016

Re: Easement request across Town Property to serve Carrilon Assisted Living project

The Timmons Group has submitted a plat to obtain additional sewer easement across Town owned property at the corner of Old Scarborough Lane and Aversboro Road to serve the Carillon Assisted living project.

I am including a copy of the proposed easement plat for information purposes and will include this in the agenda package for the Council for their approval.

NOTES:

- 1) NO TITLE REPORT FURNISHED FOR THIS SURVEYING EFFORT.
- 2) AREAS COMPUTED BY COORDINATE METHOD.
- 3) PROPERTY SHOWN HEREON IS SUBJECT TO ALL RIGHTS-OF-WAY, EASEMENTS AND RESTRICTIONS OF RECORD.
- 4) ALL DISTANCES SHOWN ON SURVEY ARE HORIZONTAL GROUND DISTANCES UNLESS OTHERWISE NOTED.
- 5) THIS SURVEY DOES NOT REPRESENT A TITLE SEARCH BY THIS FIRM. BOUNDARY INFORMATION IS BASED ON B.M. 1988, PG. 418 RECORDED IN THE WAKE COUNTY PUBLIC REGISTRY.
- 6) RIGHTS-OF-WAY INFORMATION IS BASED ON DEEDS AND MAPS OF RECORD.
- 7) BASIS OF BEARING SHOWN HEREON IS BASED ON B.M. 1988, PG. 418 THIS SITE LIES IN ZONE X, WHICH IS ACCORDING TO PLCOI INSURANCE RATE MAPS (ZONING) PAGES 1711 WITH AN EFFECTIVE DATE OF MAY 2, 2006.
- 8) THIS SURVEYING FIRM HAS STRICTLY ADHERED TO THE STATE PUBLIC PURPOSE OF THIS SURVEY TO DEDICATE AN ADDITIONAL 20' PUBLIC SEWER EASEMENT AND REDEDICATE THE 10' PORTION OF THE EXISTING 20' PUBLIC UTILITY EASEMENT AS RECORDED IN BOOK OF MAPS 1988, PAGE 418 IN THE WAKE COUNTY REGISTER OF DEEDS.

PROPERTY OWNER CERTIFICATE:

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

BOOK NO.: 1988
 PAGE NO.: 418
 SIGNATURE(S) & TITLE / POSITION OF PROPERTY OWNER(S):

NOTARY PUBLIC CERTIFICATE
 STATE OF _____
 COUNTY OF _____

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

DATE: _____, 2016
 PRINTED NAME: _____ NOTARY PUBLIC
 MY COMMISSION EXPIRES: _____

SUBDIVISION EXEMPTION/EASEMENT DEDICATION

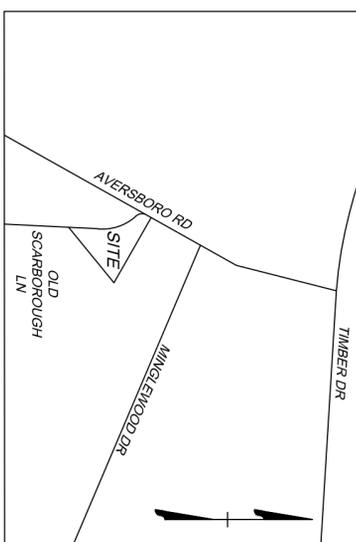
PLANNING DIRECTOR (PRINT) _____ PLANNING DIRECTOR (SIGNATURE) _____ DATE _____
 TOWN OF GARNER TOWN OF GARNER

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

REVIEW OFFICER CERTIFICATE
 WAKE COUNTY, NORTH CAROLINA
 REVIEW OFFICER FOR THE ABOVE COUNTY AND STATE CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.
 REVIEW OFFICER _____

REFERENCES
 DB 4251, PG 1722
 DB 8849, PG 1384
 DB 13913, PG 2531
 DB 11703, PG 978
 DB 14012, PG 260
 BM 1988, PG 418

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



SURVEYOR CERTIFICATION

I, RICHARD W. PENCI, PLS CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM REFERENCES AS NOTED ON SAID MAP- THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DASHED LINES, AND DRAWN FROM INFORMATION AS INDICATED UNDER REFERENCES, THAT THE RATIO OF PRECISION AS CALCULATED IS GREATER THAN 1:10,000- THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED.

AND THAT THIS SURVEY IS OF ANOTHER CATEGORY, SUCH AS THE RECOMBINATION OF EXISTING PARCELS, A COURT ORDERED SURVEY OR OTHER EXCEPTIONS TO THE DEFINITION OF SUBDIVISION.

WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL THIS 9TH DAY OF AUGUST, A.D., 2016

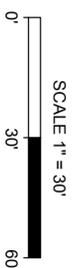
REGISTRATION NUMBER _____ SURVEYOR _____



PRELIMINARY - NOT FOR SALES, RECORDATION OR CONVEYANCES

SEWER EASEMENT PLAT FOR TOWN OF GARNER GARNER, NORTH CAROLINA

ST. MARY'S TOWNSHIP WAKE COUNTY
 DATE: AUGUST 9, 2016 SCALE: 1" = 30'
 SHEET 1 OF 1 J.N.:38173
 DRAWN BY: JT CHECK BY: RWP



- LEGEND
- PROPERTY LINE SURVEYED
 - LINE NOT SURVEYED
 - EXISTING FENCE
 - EXISTING IRON PIPE FOUND
 - EXISTING IRON REBAR FOUND
 - EXISTING CONC MOUNTMENT FOUND
 - EXISTING AXLE FOUND
 - COMPUTED POINT
 - IRON PIPE SET
 - COMPUTED EASEMENT POINT
 - PROPERTY ADDRESS

RECORDED IN BOOK OF MAPS _____, PG _____ OF THE WAKE COUNTY REGISTRY

Town of Garner
Town Council Meeting
Agenda Form

Meeting Date: September 6, 2016		
Subject: Waterline easement for Timber Drive office project		
Location on Agenda: Consent		
Department: Engineering		
Contact: Tony Chalk		
Presenter: Tony Chalk		
Brief Summary: The developer of the proposed Timber Drive office park project requires an easement across Town owned property to extend the water line east to the project.		
Recommended Motion and/or Requested Action: Grant easement to the City of Raleigh		
Detailed Notes: A Deed of Easement prepared by the applicant is enclosed along with a plat showing the required easement.		
Funding Source:		
Cost:	One Time: <input type="radio"/>	Annual: <input type="radio"/> No Cost: <input checked="" type="radio"/>
Manager's Comments and Recommendations: None		
Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:		
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

Instrument Prepared By:
Brief Description for Index:
Parcel Identifier:
Project Name:
Mail After Recording To:

Raleigh-City Attorney's Office

City Real Estate Office
Post Office Box 590
Raleigh, North Carolina 27602

STATE OF NORTH CAROLINA
COUNTY OF WAKE

DEED OF EASEMENT
WITH GENERAL WARRANTY FOR
WATERLINE EASEMENT

THIS DEED OF EASEMENT is made and executed this ____ day of _____, 20 ____, by The Town of Garner, a municipal corporation of the state of North Carolina, hereinafter referred to as the 'Grantors', to the City of Raleigh, hereinafter referred to as the 'City', with a mailing address of 222 W. Hargett Street, Raleigh, NC, 27601.

WHEREAS, the Grantors are the Owners of the land(s) hereinafter described, and have agreed to convey to the City, according to the terms set forth below, the easement(s) hereinafter described;

The designation "Grantors" as used herein shall include the singular and plural, as required, and the masculine and neuter gender, as appropriate.

NOW, THEREFORE, for valuable consideration paid to the Grantors, receipt of which is hereby acknowledged, the Grantors have bargained and sold, and do hereby grant, sell and convey unto the City, its successors and assigns, those rights-of-way, privileges, and Easements enumerated and described hereinbelow, and as more particularly identified and described in Exhibit 1, attached, as follows:

1 WATERLINE EASEMENT

An easement to construct, install, improve, remove, replace inspect, repair, maintain and use a system of pipelines or mains for public water supply and distribution purposes, together with all appurtenant facilities and equipment necessary or convenient thereto.

Further Specific Terms and Conditions applicable to the Water Line easement are as follows:

- a) The City is authorized to remove and keep removed from the easement all trees, vegetation, and other obstructions as necessary to maintain, repair or protect the water line or lines and appurtenances. The Grantors will, however, be allowed to (1) construct, maintain, and use the easement area for paved or unpaved drives and parking areas; and (2) plant and maintain shallow-rooted ground cover material within the easement area; provided all risk of damage to any such improvements caused by maintenance or repair of the water line and appurtenant facilities shall be with the Grantors. If the City is required to penetrate the Streets or disturb landscaping in the course of maintaining, repairing, replacing, or reconstructing the Waterlines, the City's obligation to repair and restore the Streets and landscaping shall be limited to standard, established City practices. Specifically, the patching of asphalt or concrete paving, and mulching and/or seeding disturbed landscape areas. The City shall not be required to replace other, more specialized paving materials, or to replace sod, shrubs, trees, and other landscape materials or improvements. The City shall be responsible for repairing or restoring only areas and improvements which are disturbed, and shall not be responsible for pavement or landscape areas not disturbed and outside the immediate work area.
- b) Nothing herein shall be construed to grant to the City any right of access through or over any property of the Grantors other than that lying within the easement herein described and conveyed.

- c) The Grantors shall retain fee simple ownership of the property through and over which these easement passes; provided however, no use may be made of the property which interferes with the full, reasonable use of the easement by the City for water line purposes.

THE EASEMENT INTERESTS HEREIN DESCRIBED AND CONVEYED ARE LOCATED on the parcel that does not includes the Grantor's primary residence.

TO HAVE AND TO HOLD the above-described permanent easements, running with the land, for the respective purposes enumerated above, unto the City of Raleigh, its successors and assigns, in perpetuity.

The Grantors hereby, for themselves, their heirs, successors, and assigns, hereby warrant and covenant that they are the owners of the property described in Exhibit 1; that they have the right to grant these easements; that the same are free from encumbrances except as may be hereinafter stated; and that they will warrant and defend the title to the same against lawful claims of all persons whomsoever.

(The balance of the page is intended to be blank.)

IN WITNESS WHEREOF, the Grantor has hereunto set its hand and seal the day and year first above written.

GRANTOR: Town of Garner

By: _____
Ronnie S. Williams, Mayor

ATTEST:

By: _____
Stella Gibson, Town Clerk

NORTH CAROLINA

TOWN/MANAGER
ACKNOWLEDGEMENT

COUNTY OF WAKE

This is to certify that on the ____ day of _____, 2016, before me personally came Stella Gibson, with whom I am personally acquainted, who, being by me duly sworn, says that (s)he is the Town Clerk of the Town of Garner and Ronnie S. Williams is the Town Mayor of the **Town of Garner**, the municipal corporation described herein and which voluntarily executed the foregoing; that she knows the corporate seal of said municipal corporation; that the seal affixed to the foregoing instrument is said corporate seal, and the name of the municipal corporation was subscribed thereto by the said Town Clerk and that the said corporate seal was affixed, all by order of the governing body of said municipal corporation, and that the said instrument is the act and deed of said municipal corporation.

WITNESS my hand and official seal this the ____ day of _____, 20__.

(SEAL)

Notary Public
Printed Name: _____

My Commission Expires: _____

APPROVAL BY CITY OF RALEIGH

PROPERTY DESCRIPTION APPROVED:

(Assistant) Public Utilities Director

APPROVED AS TO FORM:

(Associate) City Attorney

EXHIBIT 1

Those easement areas specifically enumerated herein located in, upon, and across the property of the Grantor, and being more specifically identified and described on a plat prepared by CE Group, Inc. entitled, "Easement Dedication Plat Property of Town of Garner", and recorded in Book of Maps 2016, Page(s) _____, Wake County Registry.

(The balance of this page is intended to be blank.)

Town of Garner
Town Council Meeting
Agenda Form

Meeting Date: September 6, 2016		
Subject: Cooperative Purchasing Agreements with Wake County for disaster debris and monitory services		
Location on Agenda: Consent		
Department: Public Works		
Contact: Paul Cox, Director Public Works		
Presenter: Paul Cox, Director Public Works		
<p>Brief Summary:</p> <p>Through Cooperative Purchasing Agreements with Wake County, the Town can contract for disaster debris removal and monitoring services. These contracts would be utilized when seeking reimbursement from FEMA and the state for large scale debris cleanup as a result of a declared disaster and beyond the scope of town resources.</p>		
<p>Recommended Motion and/or Requested Action:</p> <p>Authorization for the Town Manager to execute the agreements with Wake County and contractors.</p>		
<p>Detailed Notes:</p> <p>These contracts are similar to those we entered into and have extended since 2013. The county re-bid their disaster debris contracts. Successful bidders were: Debris Removal-(Primary) Phillips & Jordan and (Secondary) Crowder-Gulf; Monitory-(Primary) HDR and (Secondary) Tetra Tech. These agreements will be in place for 5 years.</p>		
Funding Source:		
Cost:	One Time: <input type="radio"/>	Annual: <input type="radio"/> No Cost: <input checked="" type="radio"/>
<p>Manager's Comments and Recommendations:</p> <p>Agreement puts Garner in a better position in the event of a major storm.</p>		
Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	PC	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

Town of Garner
Town Council Meeting
Agenda Form

Meeting Date: September 6, 2016		
Subject: CASL contract		
Location on Agenda: Consent		
Department: Parks, Recreation & Cultural Resources		
Contact: Sonya Shaw, PRCR Director		
Presenter: Sonya Shaw, PRCR Director		
Brief Summary: Over the past several months, Town staff met with CASL representatives to develop terms for a new 5-year agreement for CASL's use of soccer fields in Garner. The new agreement allows for additional field space to accommodate CASL's program growth, no additional costs to hang program banners at fields and an increased fee structure.		
Recommended Motion and/or Requested Action: Council approval to allow Town Manager to enter into agreement with CASL for use of soccer fields in Garner.		
Detailed Notes:		
Funding Source:		
Cost:	One Time: <input type="radio"/>	Annual: <input type="radio"/> No Cost: <input checked="" type="radio"/>
Manager's Comments and Recommendations: The Town and CASL mutually agree to the terms and look forward to an ongoing partnership to provide soccer to Garner residents.		
Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	SS	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		



To: Rodney Dickerson, Town Manager
From: Sonya Shaw, Parks, Recreation & Cultural Resources Director
Date: 8/31/2016
Re: New Agreement for Capital Area Soccer League (CASL) use of Garner Soccer Fields

Over the past several months, Town staff met with CASL representatives to develop terms for a new 5-year agreement for CASL's use of soccer fields in Garner. The prior 10-year agreement expired at the end of 2015. The new agreement allows for additional field space to accommodate CASL's program growth, no additional costs to hang program banners at fields and an increased fee structure. The Town remains responsible for maintenance of soccer fields and payment of utilities.

For use of Centennial Park, South Garner Park and other multipurpose use space, during the fall season (February 1-May 31) and spring season (August 1-November 30), at times listed in the attached agreement, CASL agrees to pay the Town the following fee schedule for the next 5 years:

Year 1: \$35,000
Year 2: \$35,000
Year 3: \$36,000
Year 4: \$38,000
Year 5: \$40,000

Town staff is seeking Council approval to allow Town Manager, Rodney Dickerson, to enter into agreement with CASL for use of soccer fields in Garner.

Agreement Between
The Town of Garner and
Capital Area Soccer League

North Carolina

Wake County

This Agreement is made and entered into this ____ day of _____, 2016 by and between the Town of Garner, a municipal corporation of the State of North Carolina, hereinafter called the Town, and the Capital Area Soccer League, Inc., a non-profit corporation organized and existing under the laws of the State of North Carolina, hereinafter called CASL.

Witness:

Whereas, CASL proposes to use certain Town of Garner facilities, Centennial Park, South Garner Park and other multipurpose field space, for the Capital Area Soccer Program administered by CASL, subject to the following conditions, and in consideration of the mutual promises contained herein, thereof, the parties agree as follows:

1. Purpose. The purpose of this Agreement is to make the soccer fields at Centennial Park, South Garner Park and other multipurpose field space (hereinafter simply "the soccer fields") available to CASL for the Capital Area Youth Soccer Program for youth ages 4-18 years. Only Garner-based soccer teams will be scheduled for all practices at the soccer fields, and at least one Garner-based team will be involved in all games scheduled at the soccer fields, excluding regional tournaments and previously approved exceptions through CASL.
2. Scope. This agreement applies to Centennial Park and South Garner Park soccer fields and multipurpose fields at other parks. It is not intended to, and does not, affect use of the picnic shelters and fields other than soccer fields at those parks, with the exception of designated multipurpose fields. Such shelters and non-soccer fields may be rented, at standard rental rates, when and if available.
3. Scheduling.
 - a. The Town recognizes that CASL allows Garner Area Soccer Association (GASA) to assist with scheduling fields for practices and games in Garner. CASL reserves the right to designate GASA or any other organization to make local decisions regarding field scheduling, configuration and use.
 - b. Seasonal scheduling meetings shall take place at least one month prior to the start of practices on the fields. The fields will be available for play during the following periods.

- i. February 1 – May 31
 - ii. August 1 – November 30
 - c. CASL shall have priority scheduling use of the soccer fields during contracted time. The Town will decide unilaterally to control field use outside of time contracted to CASL.
 - i. Additional multipurpose field use may be scheduled as mutually agreed upon prior to the start of each season. Location of multipurpose fields determined based on seasonal availability.
 - ii. CASL shall not sublease or grant non-CASL use of the soccer fields.
 - d. The following hours will be set for CASL access at Centennial Park and South Garner Park.
 - i. Monday – Friday 5:00pm – 9:00pm
 - ii. Saturday 8:00am – 6:00pm
 - iii. Sunday 12:30pm – 6:00pm
 - e. Additional hours of soccer field and light use may be rented at the prevailing rental rate based on availability.
4. Goals, Configuration, Lights, Maintenance
- a. CASL will provide and maintain goals and nets. Goals will be available for use by the Town.
 - b. The Town and CASL will agree to field configuration prior to each season that meets the programming needs of CASL. The layout will take into consideration turf wear and focus on realignment of the fields necessary to conduct the soccer program.
 - c. The Town will set the fields based on the agreed configuration and maintain the field markings throughout the season. The Town will provide materials needed for field lining.
 - d. The Town will coordinate with CASL on proposed reconfigurations of the fields based on wear patterns or other turf maintenance needs.
 - e. Lights may be used by CASL and the Town. Lights must be turned off by 11:00pm or earlier when the fields are not in use. Lights may not be used during precipitation. The Town is responsible for paying utility bills and maintaining the lighting system.
 - f. The Town will be responsible for repairing any damage to the goals/nets (during Town use), and fields, and performing all maintenance, including supplying all materials to maintain the fields and goals. The Town will maintain all park infrastructure. All maintenance and repair needs will occur as soon as practical. CASL shall immediately report any and all maintenance and safety concerns to the Town.
 - g. CASL may hang a maximum of two banners, meeting Town codes, at each field location utilized to indicate the soccer club name and player registration information at no additional cost.

5. Field Closing Due to Weather and Wet Conditions
 - a. Soccer fields will not be used during inclement weather or when field conditions dictate non-use. The Town and CASL will coordinate to determine playable conditions and post signage accordingly. CASL will communicate decisions on field availability to soccer membership. If conditions change during CASL use, play should be discontinued.
6. Payment
 - a. CASL agrees to the following fee and payment schedule.
 - i. Year 1 \$35,000
 - ii. Year 2 \$35,000
 - iii. Year 3 \$36,000
 - iv. Year 4 \$38,000
 - v. Year 5 \$40,000
 - b. The Town will invoice CASL in two equal installments due on February 1 and August 1 of each year throughout the duration of this Agreement.
7. Term
 - a. The term of this Agreement shall be for a period of five (5) years commencing from the date of the execution of this Agreement written above, unless terminated sooner pursuant to the termination provisions herein below.
8. Extension
 - a. At least one hundred eighty (180) days prior to the expiration of this Agreement, the Town shall give CASL or CASL shall give the Town written notice of an intention to extend this Agreement for a period beyond its expiration date, with term, payment and conditions to be negotiated and mutually agreed upon by the Town and CASL.
9. Termination and Cancelation
 - a. This Agreement may be terminated by either party with written notification one hundred eighty (180) days in advance of the desired termination date.
 - b. This Agreement may be terminated by either party if the other party violates material terms and conditions of this Agreement provided such other party has first been provided sixty (60) days written notice of the claim of such breach and has failed to cure such breach within a reasonable time after such notice.
10. Indemnification
 - a. To the maximum extent allowed by law, CASL shall indemnify and save harmless the Town and its officers, officials, agents, and employees from and against all claims, judgements, costs, expenses, including reasonable attorney's fees, which are caused directly by the performance of this

Agreement, or the negligent acts or omissions of CASL or its officers, officials, agents or employees.

11. Insurance

- a. CASL shall maintain general liability insurance applicable to performance of this grant agreement and shall name the Town as an additional insured on the policy with respect to claims arising out of this grant agreement. A certificate of insurance and a copy of the additional insured endorsement, shall be submitted to the Town prior to or with the execution of this Agreement, and are conditions precedent to this Agreement. Insurance shall be in minimum limits of \$1,000,000 (combined single limit for bodily injury and property damage liability) and shall be maintained in force through the term of the Agreement. CASL shall maintain Workers Compensation insurance with limits as follows: Coverage A – Statutory, Coverage B - \$100,000.00.

12. Non-Discriminating Assurances

- a. It is specifically agreed as part of the consideration of the signing of this Agreement that the parties hereto, their agents, officials, employees or servants will not discriminate in any manner on the basis of age, handicap, sex, race, color, creed, sexual orientation or national origin with reference to the subject of this Agreement, no matter how remote.

13. Assignment

- a. Neither party shall assign the right or responsibility herein to another party with express written covenant.

IN WITNESS WHEREOF the Town of Garner has caused this Agreement to be signed in its name by its Town Manager and attested by its Clerk, and the Capital Area Soccer League, Inc., has caused this Agreement to be signed in its name by its officers.

TOWN OF GARNER

[Town Seal]

Rodney Dickerson, Town Manager

Attest:

Rodney Dickerson
(Printed Name)

Town Clerk

CAPITAL AREA SOCCER LEAGUE,
INC.

Gary, Buete, CEO

[Corporate Seal]

Gary Buete
(Printed Name)

Attest:

Secretary

* * * * *

Town of Garner
Town Council Meeting
Agenda Form

Meeting Date: September 6, 2016		
Subject: Real Estate Purchase		
Location on Agenda: Consent		
Department: Administration		
Contact: William E. Anderson/John Hodges		
Presenter: William E. Anderson/John Hodges		
Brief Summary: The property at 152 Montague Street has been offered for sale. The owner has accepted an offer to purchase in the amount of \$89,000.		
Recommended Motion and/or Requested Action: Authorize purchase of house and lot and action by Town Manager and Attorney to close in September.		
Detailed Notes: The property may be used to facilitate the construction of the Recreation Center.		
Funding Source: Redevelopment Bond Funds		
Cost: \$89,000	One Time: <input checked="" type="radio"/>	Annual: <input type="radio"/> No Cost: <input checked="" type="radio"/>
Manager's Comments and Recommendations: None		
Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	WEA/JMH	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

Town of Garner
Town Council Meeting
Agenda Form

Meeting Date: September 6, 2016		
Subject: Rezoning Application CUD-Z-16-06 and Conditional Use Permit CUP-SB-16-03		
Location on Agenda: Public Hearings		
Department: Planning		
Contact: Brad Bass, Planning Director		
Presenter: David Bamford and Matthew Klem		
Brief Summary: Request to rezone a 5 acre tract located on Johnson Street from CR to R-9 C186 and request for conditional use permit approval of a 16 lot single family subdivision.		
Recommended Motion and/or Requested Action: Approve Ordinance (2016) 3825; Approve CUP-SP-16-03		
Detailed Notes: See attached staff report and associated documents.		
Funding Source:		
Cost:	One Time: <input type="radio"/>	Annual: <input type="radio"/> No Cost: <input checked="" type="radio"/>
Manager's Comments and Recommendations: None		
Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	MBB	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

**TOWN OF GARNER
STAFF REZONING & CONDITIONAL USE PERMIT REPORT**

**Town Council Public Hearing
September 6, 2016**

APPLICATIONS: CUD-Z-16-06 (rezoning)
CUP-SB-16-03 (subdivision plan)

APPLICANT: John Teel

OWNER: Twinship Development Co

LOCATION OF PROPERTY: Johnson Street at Avery Park

WAKE COUNTY PIN #: 1711574596

AREA: 5 acres

TOWN LIMITS: Yes

PRESENT ZONING: Community Retail (CR)

REQUESTED ZONING: Residential 9 Conditional Use (R-9 C186)

OVERLAY DISTRICTS: None

KEY MEETING DATES:

Planning Commission: **August 8, 2016**

Public Hearing & Town Council Action: **September 6, 2016**

GENERAL DESCRIPTION:

Existing Zoning

The 5-acre rezoning site is currently zoned **Community Retail (CR)**. The CR zoning district is designed to accommodate commercial activities that serve the entire community for retail uses. Outdoor operations, outdoor storage and outdoor retail sales are not permitted in the CR district. Uses are only permitted within an enclosed building.

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

1. Townhouse or Condominium
2. Upper-Story Residential
3. Community Center
4. Library, museum, art center
5. Other Community service
6. Lodges and fraternal clubs
7. Adult Day Care
8. Day Care Center
9. Business School, college or university satellite
10. College/university
11. Trade/vocational schools
12. Music, dance art instruction
13. Funeral home crematorium
14. Ambulance, rescue squad, police, fire station
15. Government office
16. Hospice
17. Hospital
18. Emergency Care Facility
19. Medical Clinic
20. Mental Health facility
21. Group Care Facility
22. Handicapped Institution
23. Intermediate care institution
24. Cemetery
25. Public parks, swimming pools, tennis courts, golf courses
26. Religious institutions
27. Minor utility, elevated water tank
28. Telecommunication facility
29. Bars and nightclubs
30. Private golf or country club
31. Private gym, spa, indoor tennis, pool
32. Indoor entertainment facility
33. Electronic gaming center
34. Movie Theaters
35. Bank, financial institution
36. Medical office, individual
37. Other office
38. Bed and breakfast
39. Hotel and motels
40. Commercial Parking
41. Restaurant, indoor with seating only
42. Restaurant with drive-through window
43. Restaurant take out only or walk up
44. Convenience store without fuel sales

45. Convenience store with fuel sales
46. Repair oriented use indoor only
47. Personal service use indoor only
48. Hair and beauty salons
49. Sales oriented use (indoor operations only)
50. Veterinarian/kennel indoor
51. Vehicle service-limited

Proposed Zoning

The proposed zoning district is **Residential 9 Conditional Use District 186 (R-9 C186)**. The R-9 district is primarily a residential district allowing single-family lots of at least 9,000 square feet (0.21 acres).

The following is a list of permitted uses in the R-9 C186 district. Prohibited uses are highlighted.

1. Single-family site built and modular homes
2. Residential cluster
3. Family Care Home
4. Group Care Home
5. Intermediate Care Home
6. Community Center
7. In-home Child Day care (up to 3 children)
8. Family Day care (up to 8 in home)
9. School
10. Public safety: fire, police, rescue squad, ambulance
11. Cemetery
12. Public Parks, swimming pool, tennis courts, golf course
13. Churches, religious institutions
14. Minor utility, elevated water storage tank
15. Private golf course or country club
16. Bed and Breakfast

SUMMARY OF ZONING REQUEST

The rezoning site is 5 acres and is located directly north of Avery Park Subdivision. The site has been zoned Community Retail (CR) since the mid-1990s. This area was designated as a Neighborhood Activity Center on the 1989 Comprehensive Plan. At that time, Yeargan Road was planned to be extended from W Garner Road over to Johnson Street with commercial uses planned north of Avery Park subdivision. This activity center was removed on the 2006 Comprehensive Plan as commercial no longer seemed practical or appropriate for this area.

The applicant is requesting to rezone the site from CR to R-9 Conditional Use (R-9 C186) and plans to develop this site into a 16-lot single-family subdivision. See applications CUD-Z-16-06 and CUP-SB-16-03).

SURROUNDING ZONING & LAND USE

North:	MR-1	Apartments (Raleigh Housing Authority)
South:	R-9	Avery Park Subdivision
East:	R-40	Vacant / undeveloped
West:	R-40	Residential

NEIGHBORHOOD CHARACTER

This area of the community is predominantly residential single-family. Residential subdivisions include Avery Park and School Acres. No commercial uses are in this area. W Garner Road, a major thoroughfare, is located approximately 3,500 feet away to the south.

ZONING HISTORY

The following is a list of rezoning cases in this area of Garner. According to our records, the site was rezoned in the mid-90s.

Case	Applicant	Location	Zoning Change
CUD-Z-97-10	Roy Tripp	Near Weston Ridge	MR-1 to MF-1 C74
CUD-Z-00-07	Greens Grill	W Garner Road	CB to SB C103
Z-01-02	Weston Ridge Assoc.	Weston Ridge area	R-20 to MR-1
CUD-Z-02-03	Robert Creech	Avery Park	R-40 to R-9 C35
CUD-Z-01-03	Robert Creech	Avery Park	R-40 to R-9 C35
CUD-Z-16-01	Hopper Communities	W Garner Road	R-20 to R-9 C181

INFRASTRUCTURE

Water & Sewer Service

The site has access to public water and sewer from Johnson Street that stubs out to the rezoning site. Connection will be subject to the Town's 2015 Water Sewer Allocation Policy. For more information, see application CUP-SB-16-03.

TRANSPORTATION

The 5-acre rezoning site has approximately 73 feet of road frontage along Johnson Street. Johnson Street stubs out into the property. This road is a 2-lane facility with a 70' right-of-way. It is maintained by the Town of Garner. Johnson Street is not classified as a thoroughfare on the *Garner Transportation Plan*. Traffic Counts are not available for this road. .

The proposed zoning change from CR to R-9 C186 would lower the development intensity on the property from commercial retail to single-family residential. Under the current CR zoning, the 5-acre site could accommodate commercial square footage between 10,000 to 45,000 square feet generating 430 to 1,932 trips per day respectively.

The proposed 16-lot residential subdivision will generate approximately 153 trips per day.

ENVIRONMENT

The rezoning site is not within the 100 and 500-year FEMA flood plains.

Topographic data shows that the area drains to the southeast.

STAFF COMMENTARY

Conformity to Adopted Town Plans

The rezoning site falls within the boundaries of the 2004 *North Garner Plan* and the 2006 *Comprehensive Growth Plan*.

According to the *Town of Garner North Garner Plan*, the rezoning site is located within the boundary of the **Medium Density** area on the *North Garner Plan*. Recommended density is 4 to 6 units per acre. The *North Garner Plan's* recommendations for this area are based around a proposed transit station being in the vicinity of W Garner Road and Benson Road. There is uncertainty as to when this station will be constructed and operational.

According to the 2006 *Town of Garner Comprehensive Growth Plan*, the rezoning site is located within a **Community Primary Residential** area around the Community Core at US 70 W and Vandora Springs Road. The Community Core Area is designed to accommodate community-scale retail services. The recommended zoning districts for this area include: MF-2, MF-1, R-9, R-12, R-15, TND, and PUD. Recommended density is 2.5 to 6 units per acre.

The requested zoning change from Community Retail (CR) to Conditional Use Residential 9 (R-9 C186) is consistent with the recommendations of the *North Garner Plan* and the *Comprehensive Growth Plan* for this area of the community. The proposed R-9 district allows a gross residential density of around 4.84 units per acre. The proposed 16-lot subdivision will be at a net density of 3 units per acre.

**Conditional Use Permit
CUP-SB-16-03**

PROJECT DATA:

Acreage:	5.00 acres
Number of Lots:	16
Minimum Lot Size:	9,000 square feet
Parks and Open Space:	<p>The open space requirement has been reduced by the approval of Variance A-16-04 by the Board of Adjustment. The development will have 6% open space which is provided at the end of the stubbed out street. Case A-16-04 was approved with the condition that the developer provide a walking path to provide adequate access open space on site. This open space will be owned and maintained by the homeowner's association for the subdivision.</p> <p>The Parks, Recreation and Cultural Resources Department is recommending a fee-in-lieu of parkland dedication, which is currently \$1,147.00 per dwelling unit.</p>
Landscape and Buffer Requirements:	<p>The plan as proposed meets the requirements of the Landscape Ordinance.</p> <p>Buffers are not required along the south, east and west property lines where single family development is adjacent to single family development.</p> <p>A 25 foot perimeter buffer is required along the north property boundary. Existing vegetation will be utilized to meet the buffer requirements. Where necessary, supplemental planting will be used to meet the intent of the ordinance as proposed by a typical planting section.</p> <p>The tree cover requirement is met.</p> <p>Please refer to General Comments.</p>

Floodplain: This site does not contain a FEMA designated floodplain.

Stormwater Management: Please refer to General Comments.

Fire Protection: The Fire Inspector has reviewed the subdivision plan and has approved it for meeting fire protection requirements.

Water/ Sewer: Existing public water and sewer mains will be extended from the south through the site to provide service for the individual parcels and sewer for the land to the west.

Construction drawing approval from the City of Raleigh shall be required prior to final plat recordation.

Street Access/ Sidewalks: The primary subdivision entrance is proposed off Johnson Street.

Sidewalks have been provided as required within the subdivision.

General Comments:

Landscaping – The majority of the project is adjacent to single family development. The northern border of the project site will have a 25 foot perimeter buffer. Street trees and a shrub screening of the storm water device are also provided.

Storm-water management – This project is subject to nitrogen and water quantity requirements. The developer is proposing to install a dry detention basin to comply with peak flow requirements. The device will be configured to detain the 1, 10 and 25 year events. The nitrogen export from the developed site is below the 10 pounds/acre/year required, but payment to a private mitigation bank will be required to comply with nitrogen removal requirements in the Neuse Rules.

Mail kiosks – New residential subdivisions are no longer provided door to door mail delivery. The post office is requiring subdivisions to provide centralized kiosks for mail delivery and pick up. Locations and design of proposed kiosks must be approved by the Town of Garner Post Master.

Consistency with Adopted Town Plans and Policies:

2006 Comprehensive Growth Plan: The project is consistent with the Comprehensive Growth Plan.

2010 Garner Transportation Plan: The project is consistent with the Transportation Plan.

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

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

STAFF RECOMMENDATION:

The Planning Commission recommended approval at their meeting on August 8.

The Council will need to vote on the rezoning application prior to voting on the conditional use permit application.

Rezoning Action

Staff finds that Rezoning Application CUDZ-16-06 is consistent with the recommendations of the **Comprehensive Growth Plan** for this area of the community. Therefore, staff recommends approval of Rezoning Application CUDZ-16-06 as submitted.

Note: **The Council will need to use the attached Rezoning Motion Form as a guide when making a motion on the attached Ordinance regarding this rezoning application.**

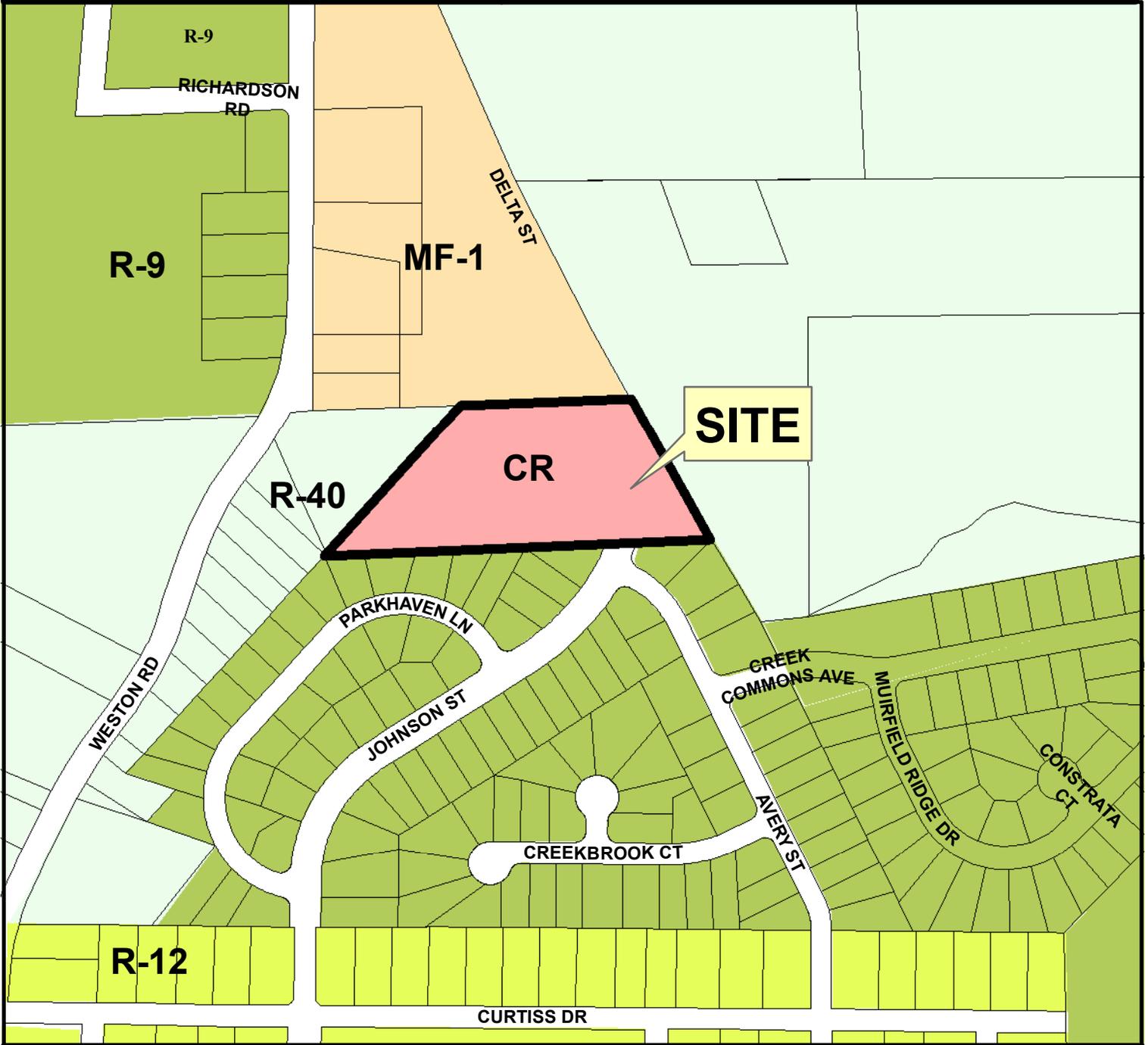
Conditional Use Permit Action

The Planning Commission and staff have reviewed the plan and recommend approval of CUP-SB-16-03, Johnson Street Subdivision, with the three (3) conditions specific to the site as listed on the attached permit.

**Town of Garner
Planning Department**

**Conditional Use Applications
CUD-Z-16-06 & CUP-SB-16-03**

0 255 510 Feet



Project: Johnson Street Subdivision
Owner: Twinship Development Co
Applicant: John Teel
PIN: 1711574596

Case: CUD-Z-16-06
Current Zoning: Community Retail (CR)
Proposed Zoning: Residential 9
Conditional Use (R-9 C186)
Project Acreage: 5

Case: CUP-SB-16-03
Existing: Vacant
Proposed: Subdivision (16 Lots)

ORDINANCE NO. (2016) _____

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 John Teel in Rezoning Application No. **CUD-Z-16-06 (R-9 C186)**.

Section 2. There is hereby created a new conditional use zoning district, to be known as the Residential 9 Conditional Use District 186 (R-9 **C186**) within this district, all of the regulations that apply to property within the Residential 9 Conditional Use District 186 (**R-9 C186**) 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 for the proposed R-9 C186 district all other uses allowed in the general use R-9 district not listed shall be prohibited:

1. Single-family site built and modular homes.

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
John Teel (Twinship Development Co. - owner)	1711574596	Community Retail (CR)	Residential-9 Conditional Use (R-9 C186)

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 ____ day of September 2016.

MAYOR

ATTEST: _____
TOWN CLERK

I, Stella Gibson, Town Clerk of the Town of Garner hereby certify that this is a true copy of Ordinance No. (2016) ____ adopted by the Town Council of the Town of Garner in regular meeting assembled on and as recorded in Minute Book No. _____ () in the office of the Town Clerk, Garner Town Hall, North Carolina.

In WITNESS WHEREOF, I have hereunto affixed my hand and the seal of the Town of Garner, this _____ day of September 2016.

TOWN CLERK

REZONING ACTION MOTION WORKSHEET

Application #: CUD-Z-16-06 from Community Retail to R-9 C186

Applicant: John Teel

MOTION TO APPROVE REZONING REQUEST:

I move that the Council find the following regarding rezoning application CUD-Z-16-06

- reasonably complies with the Town's Comprehensive Growth Plan (OR)
- does not comply with the Comprehensive Growth Plan;

(AND) that the zoning application CUD-Z-16-06 is reasonable and in the public interest because it will likely (use as many of the following as are 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) I therefore move that the Council

accept the recommendation of the Planning Commission and adopt Ordinance No. _____ approving rezoning request number CUD-Z-16-06.

(OR)

adopt Ordinance No. _____ approving rezoning request number Z _____

MOTION TO DENY REZONING REQUEST:

I move that the Council

deny rezoning request number CUD-Z-16-06; OR

deny rezoning request number Z-_____;

(AND) reasons for denying the Application include that it is not reasonable and is not in the public interest, because (use as many of the following as are appropriate):

it does not comply with the comprehensive long range plan,

would allow the development of an excessive density of housing for the area in which it is located;

it would likely lead to an unacceptable additional level of traffic in the area in which it is located;

it would allow types of business at the described location which will not be appropriate for the area in which it is located,

**TOWN OF GARNER
CUP-SB-16-03
CONDITIONAL USE PERMIT**

APPLICANT	John Teel 319 Chapanoke Road Raleigh, NC 27603
LOCATION	Johnson Street
USE	Residential Subdivision
DATE ISSUED	September 6, 2016

I. COMPLETENESS OF APPLICATION

The application is complete.

II. COMPLIANCE WITH ORDINANCE REQUIREMENTS

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

III. GRANTING THE APPLICATION

The application is granted, subject to the following conditions:

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

IV. SPECIFIC TO THE PROJECT

- 1) Written approval of design and location of the mail kiosks by the Town of Garner Post Master shall be received by the Planning Department prior to construction drawing approval.
- 2) Documentation establishing a Homeowner's Association and Restrictive Covenants shall be submitted to the Town of Garner Planning Department prior to first final plat recordation.
- 3) A fee-in-lieu of parkland dedication shall be paid to the Town of Garner prior to issuance of each building permit.

Cc:

Town of Garner
Town Council Meeting
Agenda Form

Meeting Date: September 6, 2016		
Subject: Pitt Electric CUP-SP-16-23		
Location on Agenda: Public Hearings		
Department: Planning		
Contact: Brad Bass, Planning Director		
Presenter: Matt Klem, Planner II		
Brief Summary: Request for conditional use permit site plan approval of an office and warehouse use located at Lot 23, White Oak Business Park.		
Recommended Motion and/or Requested Action: Grant approval of Application CUP-SP-16-23 with no conditions specific to the project.		
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: None		
Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	MBB	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

Town of Garner
Conditional Use Permit Staff Report
Town Council
September 6, 2016

PROJECT NUMBER: CUP-SP-16-23, White Oak Business Park, Lot 23

APPLICANT: Tony M. Tate

OWNER: BBL Ventures LLC

PLAN PREPARED BY: Tony M. Tate Landscape Architecture, PA

KEY MEETING DATES:

Planning Commission: August 8, 2016

Town Council Public Hearing: September 6, 2016

GENERAL DESCRIPTION:

Proposed Use: Office and warehouse

Location: East tract of White Oak Business Park at the southwest corner of Bricksteel Drive and Tinsteel Court

PIN#: 1730-40-4636

Town Limits: Inside

Zoning Classification of the Site: Mixed Use -1 Conditional Use District 25 (MXD-1C-25)

Adjacent Zoning and Land Uses:

North: Bricksteel Drive; MXD-1; undeveloped

South: MXD-1, office and warehouse

East: Tinsteel Court; MXD-1, office and warehouse

West: MXD-1, office and warehouse

Neighborhood Character: This site lies within the White Oak Business Park which consists primarily of office/warehouse flex buildings.

PROJECT DATA:

Acreage:

1.89 acres

Building Size:

One story building is 7,200 square feet in size; approximately 3,080 for office space and the remaining 4,120 square feet for warehouse use.

Building Material and Color:

The tan metal building will be faced with a red-orange brick on three sides, which are visible from the street right-of-way, and finished with a tan metal panel parapet.

Landscape and Buffer Requirements:

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

Tree cover requirements are met with existing vegetation within the Neuse River Buffer along the west side of the property.

Buffers are shown as required; 7 ½ foot perimeter buffer along the south and west side of the property and a 15 foot street buffer along Bricksteel and Tinsteel.

Additional plant material has been proposed to provide screening of the service yard as required.

Parking Spaces:

The plan as proposed meets the parking requirements of the Unified Development Ordinance. A total of 26 parking spaces are required; of these, 1 must be handicap accessible.

26 parking spaces have been provided; of these, 1 is handicap accessible.

Floodplain:

This site does not contain a FEMA designated flood plain.

Stormwater Management:

Please refer to General Comments.

Fire Protection:

The plan, as proposed, meets fire code requirements.

Water/ Sewer:

The plan proposes connecting to an existing water main along Tinsteel and an existing sewer main along Bricksteel Drive.

Street Access/ Sidewalks:

Two entrances are proposed for this project, one off Bricksteel and a second off Tinsteel.

General Comments:

This site plan received a Conditional Use Permit in 2007 and 2009. The permits were valid for two years and expired when no work commenced. A similar project is being developed for Pitt Electric.

Storm-water management – The project is subject to nitrogen and water quantity requirements. The developer is proposing to install a dry detention basin to comply with peak flow requirements. This device will be configured to detain the 1, 10 and 25 year events. The nitrogen export from the developed site is above the 10 pounds/acre/year required, but with credit for the dry detention and payment to a private mitigation bank the project will comply with nitrogen requirements in the Neuse Rules.

Consistency with Adopted Town Plans and Policies:

Comprehensive Growth Plan: This site falls within an area designated as an Employment Center and is consistent with the Comprehensive Growth Plan.

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

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

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

RECOMMENDATION:

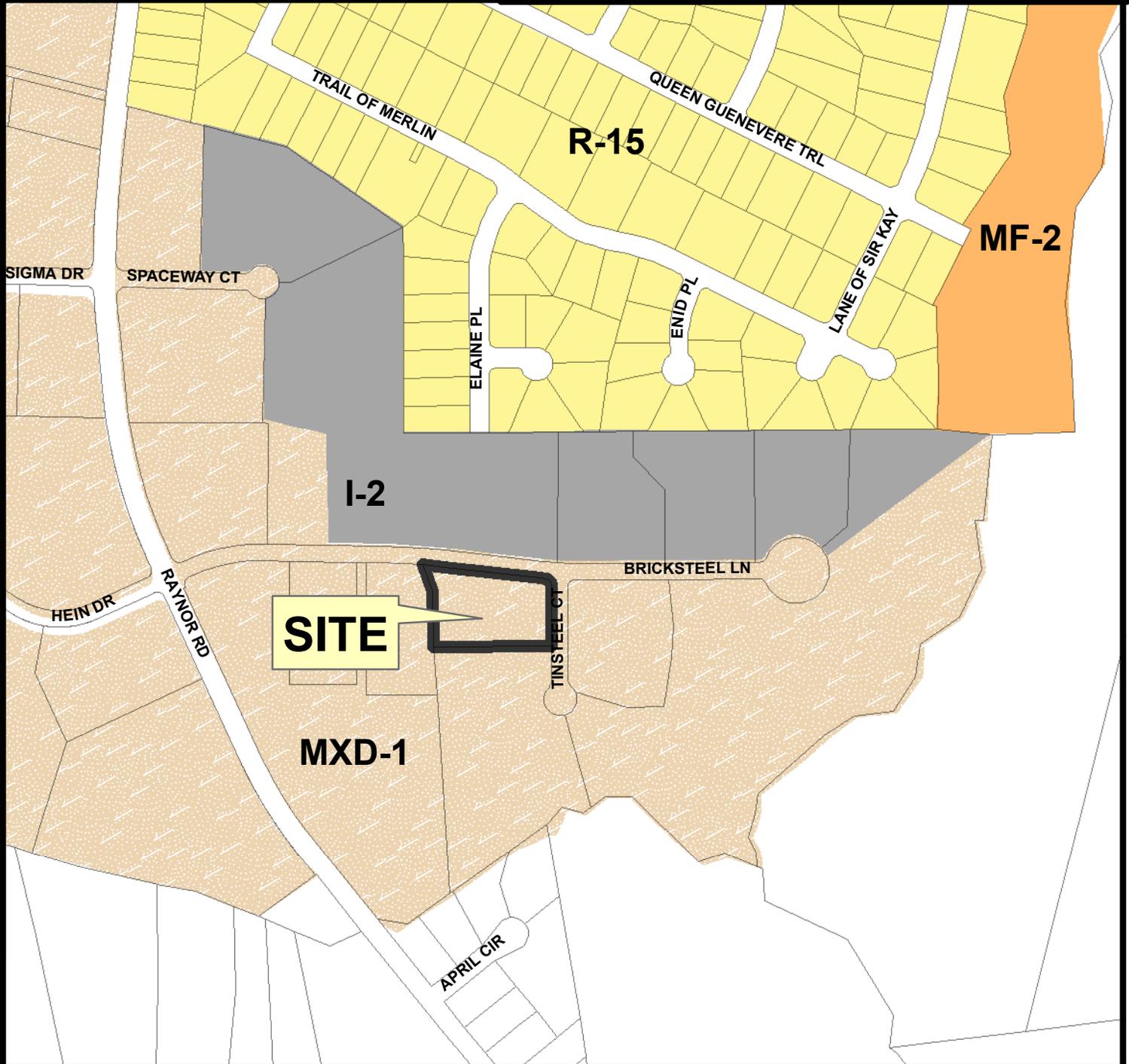
The Planning Commission and staff have reviewed the plans and recommends approval of CUP-SP-16-23, White Oak Business Park, Lot 23 with no conditions specific to the project.



Town of Garner Planning Department

Conditional Use Permit CUP-SP-16-23

0 300 600
Feet



Project: Pitt Electric
 Applicant: Tony Tate Landscape Architecture
 Owner: Pitt Electric
 Location: 400 Bricksteel Lane
 Pin: 1730404636

Proposed Use: Contractor
 Current Zoning: MXD-1 C25
 Overlay: None
 Acreage: 1.89

**TOWN OF GARNER
CUP-SP-16-23
CONDITIONAL USE PERMIT**

APPLICANT	Tony Tate Landscape Architecture 5011 Soutpark Dr. Suite 200 Durham, NC
LOCATION	400 Bricksteel Lane
USE	Office and warehouse
DATE ISSUED	September 6, 2016

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 including Section 3.14 E. Special use review criteria.

III. GRANTING THE APPLICATION

The application is granted, subject to the following conditions:

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

IV. SPECIFIC TO THE PROJECT

No conditions specific to the site.

Cc: Pitt Electric
c/o Travis Stephenson
1028 Brompton Lane
Greenville, NC

Town of Garner
Town Council Meeting
Agenda Form

Meeting Date: September 6, 2016		
Subject: General Use Rezoning Z-16-01		
Location on Agenda: Old/New Business		
Department: Planning		
Contact: Brad Bass, Planning Director		
Presenter: David Bamford, Senior Planner		
Brief Summary: Request by Christian and Jennifer Olmstead to rezone a .568 acre tract of land located 610 Buffalo Road from R-40 to R-20.		
Recommended Motion and/or Requested Action: Adopt Ordinance No. (2016) 3826		
Detailed Notes: See attached Staff Report.		
Funding Source:		
Cost:	One Time: <input type="radio"/>	Annual: <input type="radio"/> No Cost: <input checked="" type="radio"/>
Manager's Comments and Recommendations: None		
Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	MBB	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

**TOWN OF GARNER
STAFF REZONING REPORT**
Town Council
September 6, 2016

REZONING APPLICATION:

Z-16-01

APPLICANT:

Christian & Jennifer Olmstead

OWNER:

Christian & Jennifer Olmstead

LOCATION OF PROPERTY:

610 Buffaloe Road

WAKE COUNTY PIN #:

1619478101

AREA:

0.568 acres (24,723 square feet)

TOWN LIMITS:

Yes

PRESENT ZONING:

Residential 40 (R-40)

REQUESTED ZONING:

Residential 20 (R-20)

OVERLAY DISTRICTS:

Lake Benson

KEY MEETING DATES:

Public Hearing

April 4, 2016

Planning Commission:

August 8, 2016

Town Council Action:

September 6, 2016

CONTRAST BETWEEN EXISTING AND PROPOSED ZONING

Existing Zoning Classification

The zoning of the 0.568-acre site is **Residential 40 (R-40)**. This district allows single-family lots of at least 40,000 square feet (0.91 acres) in size.

The following is a list of permitted uses in the proposed R-40 district.

1. Single-family site built and modular homes
2. Residential Cluster
3. Manufactured Home
4. Civil, lodges, fraternal clubs
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. Public safety facilities (fire, police, rescue, ambulance)
13. Cemetery
14. Public parks, swimming pools, tennis and golf courses
15. Religious institutions
16. Minor utility—elevated water tank
17. Solar Farm
18. Telecommunication Facility
19. Other major utility
20. Private golf course or country club
21. Horse stables and related facilities
22. Bed and breakfast
23. Agriculture or silvi-culture

Proposed Zoning Classification

The proposed zoning of the 0.568-acre site is **Residential 20 (R-20)**. This district allows single-family lots of at least 20,000 square feet (0.46 acres) in size. Under this zoning, staff estimates that the site could be developed into approximately 1 dwelling unit.

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

1. Single-family site built and modular homes
2. Residential Cluster
3. Family Care home
4. Group care home
5. Intermediate care home
6. Community center
7. Child day care up to 3 as home occupation
8. Family child day care up to 8 in home
9. School public or private
10. Public safety facilities (fire, police, rescue, ambulance)
11. Cemetery
12. Public parks, swimming pools, tennis and golf courses

- 13. Religious institutions
- 14. Minor utility—elevated water tank
- 15. Private golf course or country club
- 16. Bed and breakfast
- 17. Agriculture or silvi-culture

LAKE BENSON OVERLAY

The rezoning site is located in the Lake Benson Overlay District. This conservation district restricts residential density to no more than 2.5 units per acre.

SUMMARY OF ZONING REQUEST

The 0.568-acre rezoning site is a portion of a larger 4.72-acre tract zoned R-40. The property owner has plans to subdivide out a lot less than 40,000 square feet. The requested zoning district is R-20 only for the half-acre portion (24,723 square feet) and not for the entire 4.72-acres.

SURROUNDING ZONING & LAND USE

North:	R-40	Single-family
South:	R-20	Single-family
East:		Lake Benson
West:	R-20	Single-family

NEIGHBORHOOD CHARACTER

The land use along Buffalo Road is predominately single-family. In the immediate vicinity, average lot size is approximately 1.5-acres, with a lot size range from .59 low to 4.72 acres high. There are no commercial uses in this area. The City of Raleigh water treatment plant is located approximately 1,900 feet to the east on Benson Road.

ZONING HISTORY

The following is a list of rezoning cases in this area of Garner.

Case	Applicant	Location	Zoning Change
Z-95-03	Margaret Williford	Summer's Walk	R-40 to R-12 (Approved in 1995)
CUD-Z-00-02	Bobby Thompson	Buffaloe Road	R-40 to R-20 & R-12 (Denied in 2000)
CUD-Z-00-03	Margaret Williford	Autumn Oaks	R-40 to R-12 C99 (approved in 2000)

INFRASTRUCTURE

Water & Sewer Service

A 12" public water line is available along Buffalo Road. Public sewer is not available to the rezoning site, and it is located approximately 375 feet to the north near Briarhaven Court.

TRANSPORTATION

The rezoning site has approximately 135 feet of road frontage along Buffalo Road (SR 2711). Buffalo Road is a 2-lane facility with a 60' right-of-way. It is maintained by NC DOT. Buffalo Road is classified as a **minor thoroughfare** on the *Garner Transportation Plan*. Traffic counts are estimated at 2,600 trips per day along this road (NCDOT 2013 AADT).

The proposed zoning change from R-40 to R-20 would not significantly increase traffic or the development intensity on the property. One new single-family lot is proposed.

ENVIRONMENT

The rezoning site does not contain any FEMA flood plains or riparian buffers.

Topographic data shows that the property slopes from north to south towards the lake.

COMPREHENSIVE GROWTH PLAN

According to the *Town of Garner Comprehensive Growth Plan*, the rezoning site is designated as a **Secondary Residential Area** for the Neighborhood Center at New Bethel Church Road and Benson Road. The Neighborhood Center is designed to serve the daily needs of the surrounding residential population. These centers are pedestrian scaled with a limited mixed use area at the center. At the core, generally located at the intersection of minor arterials, is an area of mixed-use development with neighborhood scaled convenience retail/service, schools, professional offices, churches, civic functions, formal open spaces and higher density residential.

The **Secondary Residential Area** for this Neighborhood Center is designed to accommodate low density residential. The recommended zoning districts include: R-12, R-15, R-20, R-40, and RMH (Manufactured Home Parks). The recommended residential density range is 1 to 3 dwelling units per acre.

The requested zoning change from R-40 to R-20 is consistent with the recommendations of the *Comprehensive Growth Plan* for this area of the community.

RECOMMENDATION

The public hearing was held on April 4, 2016. There were concerns from the adjoining neighbors that the majority of lots in this vicinity are an acre or larger, and that introducing smaller lots would not be compatible or in harmony with the surrounding subdivisions. At the time of the public hearing, the applicant was proposing to rezone the entire 4.72-acres to R-20. In response to the concerns voiced at the public hearing, the applicant modified and reduced the zoning

boundary from 4.72-acres down to 0.568 acres (24,723 square feet). The zoning boundary is shown as proposed Lot #3 on the attached draft plat map. This proposed new lot has received "preliminary" approval from Wake County for a septic system. Water connection would be to the public line along Buffalo Road.

The Planning Commission held a meeting on June 13th. There was opposition, and the Commission tabled the item and took no action in order to give the applicant and the neighbors time to discuss the request. The applicant requested a continuance until the August meeting.

The Planning Commission held a meeting on August 8th. The applicant reported that there were 2 meetings with the neighbors and explained his plans for the proposed single-family lot. There was opposition in addition to support from the neighbors. The Commission recommended approval of the request as modified by the applicant.

With the modified application, both the Planning Commission and staff recommend approval of Rezoning Application Z-16-01 as submitted by the applicant.

Note: The Council will need to use the attached **Rezoning Motion Form** as a guide when making a motion on the attached Ordinance regarding this rezoning application.



**Town of Garner
Planning Department**

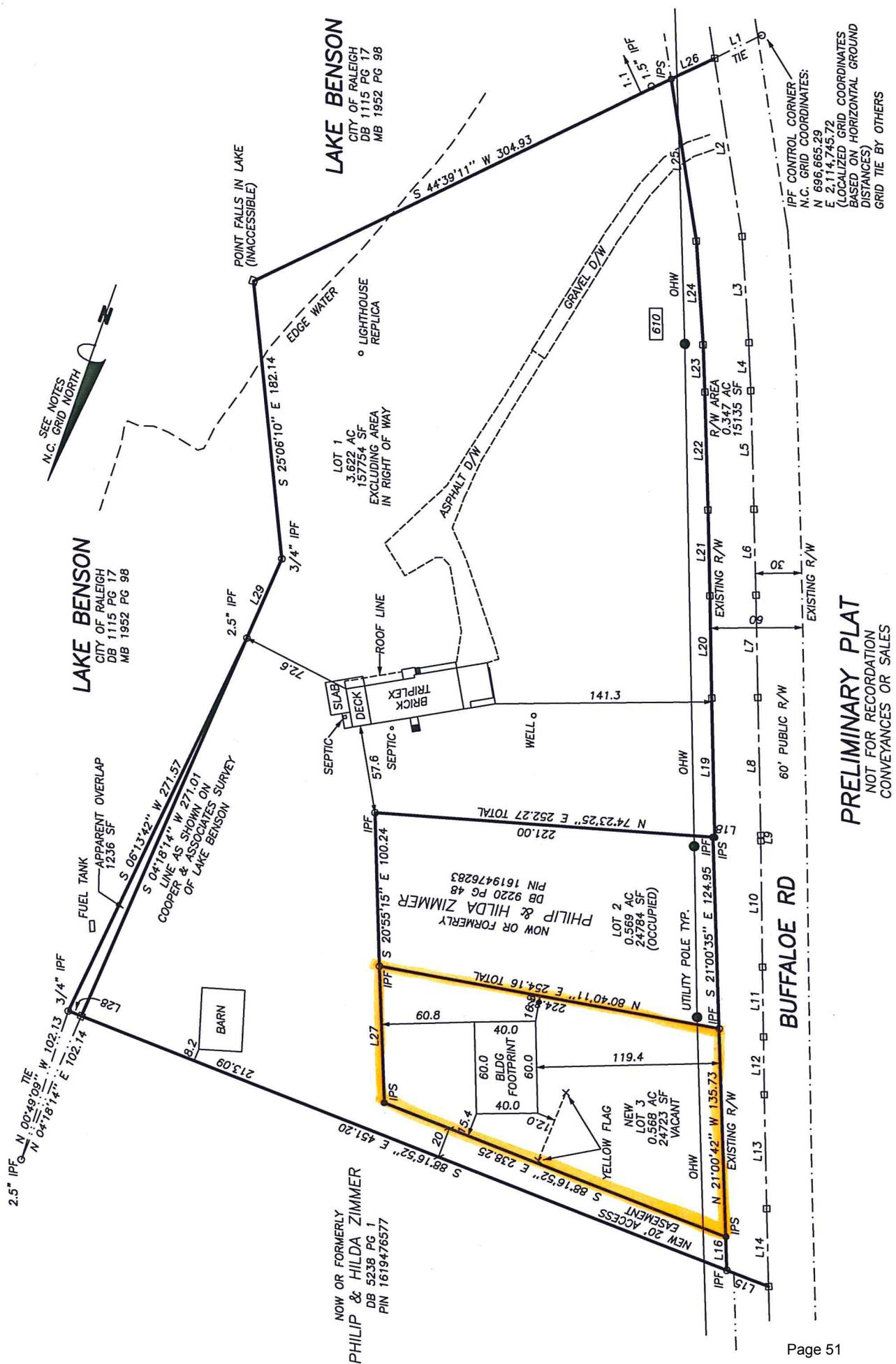
General Use Rezoning

Z-16-01



OWNER: Christian & Jennifer Olmstead
 LOCATION: 610 Buffalo Road
 PARCEL PIN: 1619478101

CURRENT USE: Residential
 CURRENT ZONING: R-40
 PROPOSED ZONING: R-20
 ACREAGE: 0.568



LAKE BENSON
 CITY OF RALEIGH
 DB 1115 PG 17
 MB 1952 PG 98

LAKE BENSON
 CITY OF RALEIGH
 DB 1115 PG 17
 MB 1952 PG 98

2.5" IPF N 00°49'09" W 102.13 TIE
 N 04°18'14" E 102.14
 213.09
 3/4" IPF
 L28
 FUEL TANK
 APPARENT OVERLAP
 1236 SF
 S 08°13'42" W 271.57
 S 04°18'14" W 271.01
 LINE AS SHOWN ON
 COOPER & ASSOCIATES SURVEY
 OF LAKE BENSON

NOW OR FORMERLY
PHILIP & HILDA ZIMMER
 DB 5238 PG 1
 PIN 1619476577

NOW OR FORMERLY
PHILIP & HILDA ZIMMER
 DB 9220 PG 48
 PIN 1619476283

NOW OR FORMERLY
PHILIP & HILDA ZIMMER
 DB 9220 PG 48
 PIN 1619476283

IPF CONTROL CORNER:
 N.C. GRID COORDINATES:
 N 696,665.29
 E 2,114,745.72
 (LOCALIZED GRID COORDINATES
 BASED ON HORIZONTAL GROUND
 DISTANCES)
 GRID TIE BY OTHERS

PRELIMINARY PLAT
 NOT FOR RECORDATION
 CONVEYANCES OR SALES

ORDINANCE No. (2016) _____

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

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

Section 1. That the Official Zoning Map of the Town of Garner and Extraterritorial Jurisdiction be amended by changing the zoning classification of the property described below from its current zoning of Residential-40 (R-40) to Residential-20 (R-20) general use district as requested in **Rezoning Application No. Z-16-01** submitted by Christian and Jennifer Olmstead.

0.568 acres identified as a portion of Wake County PIN # 1619 47 8101

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

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

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

Section 5. That the Town Clerk shall cause a duly certified copy of this ordinance to be recorded in the office of the Wake County Register of Deeds.

Duly adopted this 6^h day of September, 2016.

MAYOR

ATTEST: _____
TOWN CLERK

I, Stella Gibson, Town Clerk of the Town of Garner hereby certify that this is a true copy of Ordinance No. (2016) _____ adopted by the Town Council of the Town of Garner in a regular meeting assembled on _____, and as recorded in the office of the Town Clerk, Garner Town Hall, North Carolina.

In WITNESS WHEREOF, I have hereunto affixed my hand and the seal of the Town of Garner, this _____ day of _____, 2016.

TOWN CLERK

REZONING ACTION MOTION WORKSHEET

Application #: **Z 16-01** from Residential-40 (R-40) to Residential-20 (R-20)

Applicant: **Christian and Jennifer Olmstead**

MOTION TO APPROVE REZONING REQUEST:

I move that the Council find the following regarding rezoning application Z-16-01

complies with the Town's Comprehensive Growth Plan (OR)

does not strictly comply with the Comprehensive Growth Plan; however, the application only slightly changes the range of permitted uses from those uses currently allowed under the existing zoning.

(AND) that the zoning application Z-16-01 is reasonable and in the public interest because it will likely (use as many of the following as are 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) I therefore move that the Council

accept the recommendation of the Planning Commission and adopt Ordinance No. _____ approving rezoning request number Z-16-01.

(OR)

adopt Ordinance No. _____ approving rezoning request number Z ____.

MOTION TO DENY REZONING REQUEST:

I move that the Council

deny rezoning request number CUD-Z- ; OR

deny rezoning request number Z-16-01;

(AND) reasons for denying the Application include that it is not reasonable and is not in the public interest, because (use as many of the following as are appropriate):

it does not comply with the comprehensive long range plan,

would allow the development of an excessive density of housing for the area in which it is located;

it would likely lead to an unacceptable additional level of traffic in the area in which it is located;

it would allow types of business at the described location which will not be appropriate for the area in which it is located,

August 3, 2016

David Bamford, Senior Planner
Town of Garner
Garner, NC 27529

Mr. and Mrs. Christian Olmstead
606 Buffalo Rd.
Garner, NC 27529

Good Afternoon:

Today I received the attached material related to a proposed rezoning of a small portion of property belonging to Mr. and Mrs. Olmstead.

Provided the rezoning of this tract will not later be used as precedent in rezoning the remainder of the Olmstead property, I have no objection to the proposed rezoning.

I suggested this compromise in an earlier letter to you and I attempt to honor my word once given, again with the understanding that any rezoning of the subject property will not later be used as a precedent for additional zoning.

My contact information is below. Please feel free to contact me with questions and/or comments.

Thomas B. Banks
607 Buffalo Rd.
Garner, NC 27529

(919) 796-1740
wordassociates@aol.com

David Bamford

From: Karen Padgett <kypadgett@nc.rr.com>
Sent: Thursday, August 04, 2016 8:48 PM
To: dfox1912@gmail.com; virahogan@gmail.com; charles.brignac@att.net; cliffsauls@dukeenergy.com; nsindie@hotmail.com; jswain13@nc.rr.com; Ronnie Williams; Kathy Behringer; Ken Marshburn; Jackie Johns; grantracysingleton@earthlink.net; Buck Kennedy
Cc: David Bamford
Subject: Rezoning request from our neighbor on Buffalo Road

Dear Garner Planning Commission members and Town Board members:

In regard to the Rezoning Case #Z 16-0 request made by our neighbors Christian and Jennifer Olmstead, we would like you to know that we have no objection to the rezoning from R-40 to R-20 for this particular parcel. (This is the parcel marked as "SITE" on the map sent to neighbors by Mr. Bamford.) We initially had some concerns about the rezoning request made by these property owners, but after having done some research and speaking with Mr. Olmstead, we are not opposed to the current request for rezoning this parcel. It is our understanding that under the R-20 zoning, this parcel of .568 acre would be allowed to have one single-family home built on it; we feel this is a reasonable request.

Thank you all for your service to Garner.

Sincerely, Karen and Neal Padgett