

TOWN OF GARNER



TOWN COUNCIL MEETING

OCTOBER 3, 2016
7:00 P.M.

Garner Police Department
Training Room
912 7th Avenue, Garner

**Town of Garner
Town Council Agenda
October 3, 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: Mayor Pro Tem Behringer

C. INVOCATION: Mayor Pro Tem Behringer

D. PETITIONS AND COMMENTS

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

E. ADOPTION OF AGENDA

F. PRESENTATIONS

1. Council will present a Proclamation recognizing the month of October 2016 as Breast Cancer Awareness Month Page 4

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. Minutes from August 16, August 30, and September 20, 2016 Page 6

Action: Adopt Minutes

2. Ordinance Establishing Town Hall and Police Department Capital Projects..... Page 21
Presenter: Pam Wortham, Finance Director

The Garner Volunteer Fire-Rescue Department has requested funding for mandatory training required to pursue accreditation. The total amount of \$12,620 will be shared equally with Wake County. The Town's cost shared amount of \$6,506 will be funded through fund balance.

Action: Adopt Ordinance (2016) 3827

- 3. Strategic Plan Authorization Page 26
Presenter: Rodney Dickerson, Town Manager

The draft version of the Strategic Plan was presented at the August 30, 2016 Work Session. Feedback from Council Members has been incorporated into this final version.

Action: Adopt Strategic Plan

- 4. Resolutions Authorizing Town Clerk to Investigate the Sufficiency of Annexations, ANX-16-03 (Meadowbrook Country Club Tract), ANX-16-04 (Bryan Nature Park) and ANX-16-05 (711 Maxwell Drive) Page 35

Action: Adopt Resolution (2016) 2302

H. PUBLIC HEARINGS

- 1. Conditional Use Rezoning CUD-Z-16-04 and Conditional Use Permit CUP-SP-16-10, Evolve at Timber Creek, 1623 Benson Road Page 43
Presenter: David Bamford and Jenny Saldi, Senior Planners

Request to rezone 21.95 acres along Benson Road from Community Retail Conditional Use (CR C152) and Office & Institutional Conditional Use (O&I C152) to Multi-Family 2 Conditional Use (MF-2 C184). A companion conditional use approval for a 304-unit apartment development is accompanying this request.

Action: Adopt Ordinance (2016) 3828; Approve CUP-SP-16-10

I. NEW/OLD BUSINESS

- 1. Ordinance Amending FY 2016/17 Operating Budget Page 74
Presenter: Pam Wortham, Finance Director

This amendment captures the cost components associated with the Town Hall Construction Project. Previously, the Town Hall and Police Department projects were combined. This Amendment separates the two for easier tracking.

Action: Adopt Ordinance (2016) 3829

- 2. Lobbyist Services Page 78
Presenter: Rodney Dickerson, Town Manager

The Lobbyist would research, guide, represent, and advocate for the Town on municipal and legislative matters on the local, state, and federal levels.

Action: Authorize Execution of Contract with Samuel L. Bridges, II in the amount not to exceed \$28,000

J. COMMITTEE REPORTS

K. MANAGER REPORTS

1. garner info
2. Recreation Center Ground Breaking Date

L. ATTORNEY REPORTS

M. COUNCIL REPORTS

N. ADJOURNMENT

Town of Garner
Town Council Meeting
Agenda Form

Meeting Date: October 3, 2016		
Subject: Proclamation Recognizing October as Breast Cancer Awareness Month		
Location on Agenda: Presentations		
Department: Administration		
Contact: Stella Gibson, Town Clerk		
Presenter: Ronnie Williams, Mayor		
Brief Summary: Proclamation recognizing the month of October 2016 as Breast Cancer Awareness Month.		
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:		
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, breast cancer touches the lives of Americans from every background and in every community across our Nation. Though great strides have been made in combatting this devastating illness, thousands of women and men will be diagnosed with breast cancer this year, and tens of thousands of women are expected to lose their lives to the disease. During National Breast Cancer Awareness Month, we honor those we have lost, lend our strength to those who carry on the fight, and pledge to educate ourselves and our loved ones about this tragic disease; and

Whereas, the exact causes of breast cancer are unknown, understanding its risk factors is essential to prevention. Older women and those who have a personal or family history of breast cancer are among those at greater risk of developing the illness. Early detection is also key in the fight against breast cancer. Getting recommended screening mammograms can help to detect breast cancer early. Women and men are encouraged to speak with their health care provider about breast cancer, and to visit www.cancer.gov to learn more about symptoms, diagnosis, and treatment; and

Whereas, this month, we stand with the mothers, daughters, sisters, aunts, and friends who have been affected by breast cancer, and we recognize the ongoing efforts of dedicated advocates, researchers, and health care providers who strive each day to defeat this terrible disease. In memory of the loved ones we have lost and inspired by the resilience of those living with the disease, let us strengthen our resolve to lead our Nation toward a future free from cancer in all its forms.

NOW, THEREFORE, I, Mayor Ronnie S. Williams, do hereby proclaim October 2016 as **National Breast Cancer Awareness Month**. I encourage citizens, government agencies, private businesses, nonprofit organizations, and all other interested groups to join in activities that will increase awareness of what we can do to prevent breast cancer.

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 3rd day of October, 2016.

Mayor Ronnie S. Williams

**Town of Garner
Town Council Meeting Minutes
August 16, 2016**

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

CALL MEETING TO ORDER/ROLL CALL: Mayor Ronnie Williams

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

Staff Present: Rodney Dickerson-Town Manager, John Hodges-Asst. Town Manager-Development Services, Michael Gammon-Budget & Special Projects Manager, Joseph Stallings-Economic Development Director, Mari Howe-Downtown Development Manager, Pam Wortham-Finance Director, Tony Chalk-Town Engineer, Reginald Buie-Neighborhood Improvement Manager, Thad Anderson-Attorney, William E. Anderson-Town Attorney, Stella Gibson-Town Clerk.

PLEDGE OF ALLEGIANCE: Council Member Ken Marshburn

INVOCATION: Council Member Ken Marshburn

PETITIONS AND COMMENTS

ADOPTION OF AGENDA

Motion: Johns
Second: Behringer
Vote: Unanimous

Mr. Anderson requested to add 2 additional closed sessions to the agenda per N.C. General Statute 143-318.11(a)(3) "to consult with the Town Attorney regarding litigation" and N.C. General Statute 143-318.11(a)(5) "to discuss possible real estate acquisition and the Town's negotiating position regarding such real estate."

Motion: Marshburn
Second: Behringer
Vote: Unanimous

RECOGNITIONS

James R. Stevens Service to Garner Award
Presenter: Jimmy Stevens

Mayor Ronnie S. Williams was recognized as the recipient of the 2016 James R. Stevens Service to Garner Award.

PRESENTATIONS

Investment Performance Report
Presenter: Craig Robinson, PFM Asset Management

Mr. Robinson presented an update of the Town's investment performance for the second quarter (March 1 – June 30, 2016).

CONSENT

Minutes from May 31 & June 28 Work Sessions and from June 21, July 5, July 19, and August 1 Council Meetings.

Action: Adopt Minutes

Resolution to Accept Governor's Highway Safety Program (GHSP) Grant for 4th Year Funding of DWI Enforcement Officer

Presenter: Sgt. Chris Adams

This GHSP grant covers 4th and final year funding of our DWI Enforcement Officer position which is covered through a 50% federal share and 50% local match. GHSP funding will be \$38,975.00 and the Town's contribution will be \$38,974.00 from the General Fund. The local match was funded in the FY16-17 budget.

Action: Adopt Resolution (2016) 2299

Motion: Kennedy
Second: Singleton
Vote: Unanimous

PUBLIC HEARINGS

NEW/OLD BUSINESS

Neighborhood Improvement Grant

Presenter: Reginald Buie, Neighborhood Improvement Manager

Forest Landing Neighborhood Watch is seeking matching grant funds in the amount of \$323.53 for the replacement of broken letters on the subdivision entrance sign at Winding Brook Drive.

Action: Authorize Neighborhood Improvement Grant for \$323.53

Motion: Kennedy
Second: Marshburn
Vote: Unanimous

Human Resources Committee Nomination to PRCR Board

Presenter: Ken Marshburn, Council Member

The recent resignation of Aketa Emptage from the Parks, Recreation and Cultural Resources Advisory Board, created a vacancy on the Board. The Human Resources Committee recommended appointing Althea Boone to fill the remainder of Ms. Emptage's term ending June 30, 2017.

Action: Appoint Board Member

Motion: Marshburn
Second: Johns
Vote: Unanimous

Bond Project Tracking Report

Presenter: Michael Gammon, Budget & Special Projects Manager and Tony Chalk, Town Engineer

Mr. Gammon and Mr. Chalk provided an overview of the status of the bond program, specifically changes and updates from the last report.

Mr. Chalk also advised Council that a mock wall is being constructed to show the materials proposed for the new Town Hall. Council Member Kennedy asked Mr. Chalk if he was satisfied with the contractor's curing techniques and Mr. Chalk responded that the contractor is testing the concrete to ensure adequate cure.

Mr. Dickerson stated a groundbreaking for the Recreation Center will be scheduled in the near future and a ribbon cutting with the sidewalk project.

Action: No action required; report only.

Economic Development Annual Report

Presenter: Joseph Stallings, Economic Development Director and Mari Howe, Downtown Development Manager

Mr. Stallings provided an overview of the activity of the Economic Development Department for FY 2015-2016. Highlights included the China stock market crash, declining oil prices, Greece defaults, Puerto Rico defaults on government loans, U.S. unemployment fell to 5% and the Federal government raised the interest rate.

The Economic Development Department submitted proposals for projects that could bring over \$5.31B in potential investment and 11,243 potential jobs to Garner. The Department responded to 74 requests for information from clients. Staff submitted the Garner Technology Center site for 10 projects and conducted 2 site visits in 2015-2016. During this time, Garner approved its first brewery, STOCK America announced their decision to open their corporate headquarters in Garner, Overland Contracting opened their new headquarters in Garner, Bella Rose Nursing Home announced a new investment of \$8.75M, Mattress Firm & Crown Equipment fully occupied Duke Realty's new 130,000 sq. ft. flex-industrial space in Greenfield North, Improved Nature announced a new investment of \$3M, Gabe's up-fitted the 80,000 sq. ft. of underutilized retail space at North South Station, and investment and expansion at White Oak continues. In addition, the Economic Development Department launched its inaugural Business Retention & Expansion program in September 2016 with assistance from the Chamber of Commerce, utility representatives, and business service providers.

Ms. Howe provided an overview of the private and public investment, business development, and volunteer hours invested in downtown redevelopment hours. The private sector demonstrated their growing interest in downtown Garner through strategic investments of \$1.22M and public sector investment was \$1.1M. Citizens invested 556 volunteer hours towards downtown redevelopment efforts; a value of \$12,156.

Action: No action required; report only.

COMMITTEE REPORTS

MANAGER REPORTS

- garner info
- Building & Permit Report
- Finance Report
- Wake County Housing Authority Fee Waiver Request for the Delta Place project
- Status of Town Hall Underground Power
- Council Photos for Security Badges

ATTORNEY REPORTS

COUNCIL REPORTS

Council Member Marshburn

- Expressed his appreciation and enjoyment from attending the Seussical Jr. performance at the Garner Performing Arts Center.

Mayor Pro Tem Behringer

- Reported tall grass at 300 W. Garner Road.
- Reported receiving a call from a resident expressing concern regarding junk cars, decrepit buildings and unoccupied homes near Rand Mill Park and asked if Council could improve the looks of the area.

Council Member Johns

- Asked if the hedges at the intersection of Garner Road and Creech Road could be trimmed to improve the line of sight.

Council Member Singleton

- Asked Council consensus to write a letter encouraging the Drury Inn to come to Garner.

Council Member Kennedy

- Asked about raising the Town's profile in the Carolina Magazine.

CLOSED SESSIONS

Pursuant to N.C. General Statute Section 143-318.11(a)(4) to discuss "economic development", N.C. General Statute 143-318.11(a)(3) "to consult with the Town Attorney regarding litigation" and 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."

ADJOURNMENT – 10:43 p.m.

Respectfully Submitted,
Stella Gibson

Town of Garner
Council Work Session Minutes
August 30, 2016

The Council met in a Work Session at 6:00 p.m. on Tuesday, August 30, 2016 in the Garner Police Department Training Room located at 912 7th Avenue.

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

Staff Present: Rodney Dickerson-Town Manager, John Hodges-Asst. Town Manager-Development Services, Brad Bass-Planning Director, Jeff Triezenberg-Assistant Planning Director, Pam Wortham-Finance Director, Sonya Shaw-PRCR Director, Tony Chalk-Town Engineer, Brandon Zuidema-Police Chief, Rick Mercier-Communications Manager, William E. Anderson-Town Attorney, and Rebecca Schlichter –Deputy Town Clerk.

CALL MEETING TO ORDER

Mayor Williams called the meeting to order at 6:05 p.m.

ADOPTION OF AGENDA

Town Manager, Rodney Dickerson requested to add review of CASL agreement changes to the agenda.

Motion: Kennedy
Second: Johns
Vote: Unanimous

REPORTS/DISCUSSION

CASL Agreement

Presenter: Sonya Shaw, Parks & Recreation Director

Ms. Shaw reviewed the negotiation process and changes to the CASL agreement. 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), 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

Action: Place on September 6 Consent Agenda

Bond Projects

Presenter: John Hodges, Assistant Town Manager-Development Services

In preparation of the third sale of bonds from the 2013 program, Mr. Hodges presented the following updates on current Street & Sidewalk Bond Project.

Current Project Updates

Sidewalks - \$2,700,000

Projects have been identified by Council that will exhaust the funding for sidewalks. The final three projects still need to be designed. These are:

- Vandora Springs from Timber to Tiffany Circle
- North Garner Middle School – Avery Street to Curtiss Drive
- Spring Drive from Vandora Springs to Buckhorn Road

Council Member Singleton asked staff to look into Spring Drive and see if new sidewalks would complete the loop.

Council consensus to begin design of these 3 projects and bid at a later time.

Underground Power - \$400,000

Design estimates have been received for AT&T's portion of the project around the Recreation Center. We are awaiting pricing from Duke Energy. It is expected that the total project in that area will not require the full funding allocated. Excess funding may be used for underground power along the Town Hall project site.

Neighborhood Improvements - \$750,000

Approximately \$82,000 has been expended for approved Neighborhood Improvement projects including lighting for Woodland North, Van Story Hills, Malibu Valley and a planned project in Cloverdale. In addition, Council approved \$15,000 to be used for Rand Mill Road Park improvements in partnership with Rebuilding Together. Staff has proposed funding the addition of drainage pipe along the Benson Road sidewalk project and sidewalks connecting Purdue Street with the planned Kelly Crossing subdivision. Staff will update Council when cost estimates for these two projects are available.

Staff received a bid to repair the Benson Road Drainage problem and the low bid was \$41,902. Mayor Pro Tem Behringer and Council Member Marshburn expressed that we need to move forward with the Benson Road Drainage project. Council consensus was to bring a contract to next meeting.

Montague Street Improvements - \$1,900,000

This project originally included improvements to Montague Street and its improved intersection with Hwy 70. As the scope of the Purvis Street project was reduced to improvements along the Recreation Center property (eliminating the connection to Hwy 70), this project title now includes all roadwork being done in conjunction with the Recreation Center project. The bid for roadwork came in at \$1,045,914 leaving an unallocated balance of \$854,086. Staff recommends reserving a portion of this balance until the project is significantly complete.

Land Acquisition (Montague, Purvis, New Rand) - \$1,116,000

Land acquisition for the Montague/Purvis/Hwy 70 project has been completed at a cost of \$292,376. This leaves an unallocated balance of \$823,624. Staff recommends reserving this balance until better cost estimates are available for the New Rand Road project.

Improvements to Purvis, New Rand Road - \$1,900,000

This project originally included significant improvements to Purvis Street, including a connection to Hwy 70. The reduced scope of Purvis Street improvements are now being included in the Montague Street Improvements as noted above. To that end, this project will be labeled as only New Rand Road Improvements. Staff recommends keeping the full amount assigned to the project until design and an updated estimate can be completed. Design and construction of this project must be coordinated with proposed improvements to Hwy 70. Also, NC DOT has recently mentioned this intersection and congestion during peak hours on Hwy 70. Staff will meet with NC DOT to discuss this issue in the next few weeks.

Hwy 70 Widening - \$3,200,000

The original scope of this project included widening from White Oak Road to Hwy 50. Several important developments should be considered before moving forward with the original plan.

NC DOT proposes widening of Hwy 70 from the 401 split through Garner and beyond in the 2018-2027 State Transportation Improvement Plan (STIP) that is currently being developed. The proposed projects are currently being scored and the results should be available in January, 2017.

Another related project that should be considered is the Hwy 50 Bridge Replacement. Council has expressed support for enhancing the replacement bridge, which is funded in the 2016-2025 STIP and currently scheduled to be constructed in FY 2020. Staff recommends deferring action on the widening project until the results of the STIP scoring are known. Staff observes that a portion of this funding may be considered for the Town's contribution toward enhancements to the Hwy 50 Bridge.

Hwy 70 Lighting and Landscaping - \$900,000

The original scope of this project included lighting and landscape enhancements along the same section of Hwy 70 mentioned above. Depending on the decision regarding widening, these funds could be repurposed. Staff recommends deferring action on the widening project until the results of the STIP scoring are known.

Benson/Garner Road Intersection Improvements - \$500,000

The original scope of this project included elimination of the free-flow right on east-bound Garner Road, replacement of signal poles with decorative arms, signalized crosswalk and other features to enhance the gateway.

Sidewalks have been completed along Benson Road and a signalized crossing across Garner Road has been installed (with funding from the John Rex Endowment). The needs and objectives for this gateway intersection could be revisited, including potential safety improvements at the Avery Street intersection and aesthetic improvements along Garner Road from Vandora Springs to New Rand Road. Staff recommends revisiting the scope of this project in mid-2017.

Main Street Streetscape - \$325,000

The original scope of this project included a number of enhancements recommended in the 2010 Downtown Streetscape Plan. Some of these enhancements are still needed or desired, and some may be replaced by more functional improvements needed to handle the increased traffic and support business investment. Additionally, streetscape enhancements along Main Street from Purvis to Montague were dropped from the Recreation Center plans due to budget constraints. Staff recommends using these funds for sidewalk enhancements, lighting and furnishings along the Recreation Center frontage to continue the Central Business District improvements made previously. Improvements are also needed at the intersection of Main Street and Rand Mill Road that will improve access and aesthetics.

New Street and Sidewalk Projects

Ackerman – Hebron Church – White Oak Roads Intersection

Council identified this intersection as an emerging need and approved funding from the 2015-2016 budget to begin analysis and design of alternatives. Meanwhile, Wake County Public Schools (WCPSS) began making improvements to this intersection, including a realignment and traffic signal, as a part of the roadway improvements to support the South Garner High School. Those improvements have recently been completed and school traffic will begin August 29, giving an indication of how the improved intersection will perform. Staff plans to meet with NC DOT after the improvements are complete and school begins to discuss additional improvements to the intersection.

CAMPO is currently completing a "Hot Spot Analysis" of this intersection as a part of their Southeast Area Study (SEAS). Staff expects to receive information from CAMPO in the October timeframe.

Staff suggests that the entire White Oak Corridor, from Timber Drive East to this intersection, be considered for analysis and future improvements. Staff further suggests that this project may be a candidate to submit for CAMPO Locally Administered Project Program (LAPP) funding. The application period for FY2018 projects is now open and closes in October. Staff recommends holding a joint meeting with CAMPO and NC DOT staff to discuss both the intersection and corridor improvements to gain consensus on the best approach to take for design and construction.

Jones Sausage Road Corridor

Over the past several years, there has been discussion regarding improvements to the Jones Sausage Road corridor, including intersection improvements with I-40, widening and realignment of the road between Garner Road and Hwy 70. Recently, several projects being considered for the Garner Technology Center site (former ConAgra site) have caused staff to realize that some of these improvements may have to be made to accommodate redevelopment of the site. Also, proposed development of the White Oak Southwest Quadrant provides another timeframe to consider for timing of improvements to this corridor.

CAMPO is currently completing a "Hot Spot Analysis" of this corridor as a part of their Southeast Area Study (SEAS). Staff expects to receive information from CAMPO in the October timeframe. Also, the Comprehensive and Transportation Plans currently underway may further analyze the corridor to provide additional insight to the potential impacts of making improvements and a timeline to avoid loss of economic investment. Staff recommends an in-depth discussion regarding this project in early 2017. This would allow time to receive information from CAMPO and preliminary information from the Comprehensive and Transportation Plans and know the outcome of the Hwy 70 widening project in the STIP before making a decision regarding project funding.

Mr. Hodges explained a LAPP funding cycle closes in October and staff would like to submit an application. Mr. Bass and Mr. Triezenberg discussed the design and construction of two segments of sidewalk connecting the existing sidewalk segments along the south side of Timber Drive. These two segments comprise approximately 0.75 miles of new 6' wide sidewalk adjacent to the back of curb, including ADA ramps, striped thermoplastic crosswalks and ADA compliant tie-ins to driveway aprons. This project will provide a continuous length of sidewalk greater than 2 miles long along the south side of Timber Drive/Timber Drive East from Woodland Road to White Oak Road.

Council consensus to move forward with the LAPP application.

Bond Sale Timing

The next bond sale is proposed for January, 2017 in the amount of \$4,047,500. Of this, \$2,728,500 is allocated to Street and Sidewalk projects. Staff is currently evaluating how much of this amount is needed to reimburse the Town for projects that are underway or that will be completed before Bond Sale 4. Once Council decides which projects to move forward with, staff will finalize a proposed sale amount.

Staff discussed the proposed bond sale with Davenport and Associates and approximately 45-60 days are needed to complete the necessary steps leading to a sale. They offered to request a placeholder date from the Local Government Commission (LGC) to ensure a sale can be done within the timeframe desired.

Strategic Plan Final Review

Presenter: Rodney Dickerson, Town Manager

Mr. Dickerson presented an overview of the Strategic Plan document.

Vision statement: “The Town of Garner nurtures a hometown environment for residents and businesses while encouraging new economic, recreational and cultural opportunities through wise planning and investment”.

Four goal statements:

- Fiscal Responsibility – Ensure fiscal stability and efficient use of resources
- Efficient and Timely Service Deliver – Provide efficient and effective services that match community needs and expectations
- Orderly Growth – Grow and maintain a robust, diversified economy
- Quality of Life – Foster a safe and welcoming community with access to a wide range of opportunities and amenities

Council Member Marshburn requested under Quality of Life, Objective 4, Initiative 3 that “and adding more regular programming” be added to Maintain Garner Performing Arts Center as a regional arts and cultural hub.

Action: Place on future Consent Agenda

Council Policies & Procedures

Presenter: Kathy Behringer, Mayor Pro Tem

Mayor Pro Tem Kathy Behringer advised the Council that the Council's Meeting Rules and Procedures document is required to be reviewed after each election to address any possible changes. Specifically, when receiving new information from developers for a public hearing. Council consensus was that if the majority of council is not comfortable with new information they can request delay and put item on later meeting agenda.

Action: No Action

COMMITTEE REPORTS

Manager Reports

- Invitation for 9/11 observance
- Garner Forward Workshop is scheduled for September 8
- Asked if Council wanted to send Christmas cards this year
- The Chamber’s Summit Awards Celebration is scheduled for Thursday, September 29
- Delta place has asked if we would give them a letter of support for 10 more units
- The Town of Garner was awarded a \$25,000 grant for revitalization
- The Town executed an agreement with Wake County and Wake County Schools for the joint use project at Bryan Road Elementary school for a trail and parking lot for a multi-purpose field
- The Police Chief is prepared to discuss the pet ordinance at the September Work Session

COUNCIL REPORTS

Council Member Marshburn

- Reported that a Transit campaign kickoff meeting is scheduled for September 8
- Reported that he will miss the 2nd meeting in September
- Thanked the Town Manager for the periodic updates that he sends
- Reported that the opening of the school year seems to have gone reasonable well
- Reported the League conference is coming up in October

Mayor Pro Tem Behringer

- Requested an update at future meeting agenda on lobbyist status.
- Complimented the Public Works Department on the work done on Garner Road

Council Member Johns

- Reported that he noticed the historical signs have been moved and he finds them more noticeable
- Reported that Carroll Drive is still having a problem with water on the east side

Council Member Singleton

- Reported that the Garner High School 9th grade students have 42 minutes for lunch and some students are still in line for food and have to take lunch to classroom
- Requested better lighting clearance for Welcome to Garner sign on 401.
- Thanked the staff for work on CASL agreement

Council Member Kennedy

- Requested status on the pole mounted camera that was in the budget. Chief Zuidema advised the camera has been ordered
- Requested status on the tablets for Council
- Stated that he liked the conversation on transportation tonight, keeping up with our projects is a challenge.
- Stated that he had received a strong critique comparing our parks facilities to Cary, Holly Springs and the Town of Knightdale
- Advised the Law and Finance Committee meeting is scheduled for Friday at 9:30 a.m.

ADJOURNMENT: 9:45 p.m.

Motion: Singleton
Second: Marshburn
Vote: Unanimous

Respectfully Submitted,
Rebecca Schlichter

**Town of Garner
Town Council Meeting Minutes
September 20, 2016**

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

CALL MEETING TO ORDER/ROLL CALL

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

Staff Present: Rodney Dickerson-Town Manager, John Hodges-Assistant Town Manager-Development Services, Joseph Stallings-Economic Development Director, Pam Wortham-Finance Director, Tia Lawrence-Purchasing Manager, JoAnne Crabtree-Finance Manager, Michael Gammon-Budget & Special Projects Manager, Rick Mercier-Communications Manager, Jonathan Ham-Assistant Town Engineer, William E. Anderson-Town Attorney, Stella Gibson-Town Clerk

PLEDGE OF ALLEGIANCE: Mayor Ronnie Williams

INVOCATION: Mayor Ronnie Williams

PETITIONS AND COMMENTS

Attorney William E. Anderson addressed the audience and explained that during the Petitions and Comments portion of the agenda, any item that may come before Council at a future date in a quasi-judicial context should not be discussed.

Mark Savoldi and Jennifer Holz invited Council to attend the Community Leader Luncheon hosted by The Church of Jesus Christ of Latter Day Saints on December 2nd and shared information regarding their website justserve.org. This website allows organizations in need of volunteers to post opportunities and volunteers to search for places to volunteer in their area.

ADOPTION OF AGENDA

Motion: Johns
Second: Singleton
Vote: Unanimous

PRESENTATIONS

Proclamation Recognizing Pergo

Presenter: Joseph Stallings, Economic Development Director

Council presented Mary Hennesey, Human Resources Director of Pergo, with a Proclamation recognizing the 20th anniversary of Pergo in Garner, NC. Ms. Hennesey expressed her appreciation of the services the Town provides to Pergo and their employees.

Introduction of New Finance Department Employees

Presenter: Pam Wortham, Finance Director

Ms. Wortham introduced the Finance Department’s newest employees, JoAnne Crabtree-Accounting Manager and Tia Lawrence-Purchasing Manager. Patti Swartz-Payroll Specialist, was unable to attend.

CONSENT

Agency Funding/Programming Partners Agreements Approved in FY 2016–17 Budget

Presenter: Michael Gammon, Budget & Special Projects Manager

Following budget adoption, agreements were prepared and forwarded to each of the agencies receiving appropriations this year. Once approved, the Town will make payment to the organizations in accordance with the schedule set out in each agreement. Agreements have been executed and returned by: The Miss Garner Scholarship Pageant, Garner Baseball, Inc. (GBI), Civitan Club of Garner, The Family Violence Prevention Center, Inc. dba InterAct, and Garner Police Athletic/Activities League (PAAL).

Action: Authorize Execution of Agreements

NC 50 Drainage Project

Presenter: Jonathan Ham, Assistant Town Engineer

The Engineering department is requesting approval to contract with Stewart Group Enterprises, LLC to perform drainage work within the Town right-of-way along NC 50.

Action: Authorize Execution of Contract

Resolution Declaring Unpaid Nuisance Abatements as Tax Liens

Presenter: Pam Wortham, Finance Director

This resolution authorizes unpaid nuisance abatement fees to be filed with Wake County Revenue as liens to real property and added to the property owner's tax bill. The properties listed have unpaid abatements that are more than 30-days old.

Action: Adopt Resolution (2016) 2300

Offer to Purchase Property at 211 Purvis Street

Presenter: John Hodges, Assistant Town Manager-Development Services

The property at 211 Purvis Street has been offered for sale. The owner has accepted an offer to purchase in the amount of \$45,000.

Action: Authorize purchase of property for the amount of \$45,000

Motion: Kennedy
Second: Behringer
Vote: Unanimous

PUBLIC HEARINGS

NEW/OLD BUSINESS

Resolution Adopting Council Meeting Schedule for 2017

Presenter: Rodney Dickerson, Town Manager

This Resolution presents the Town Council's 2017 regular meeting and work session schedule for adoption consideration. Council consensus to move the July 3 meeting to July 6.

Action: Adopt Resolution No. (2016) 2301

Motion: Kennedy
Second: Singleton
Vote: Unanimous

Delta Place Fee Exemption

Presenter: Rodney Dickerson, Town Manager

Mr. Dickerson explained the Housing Authority of Wake County is planning to build two buildings containing 10 units of affordable housing in Delta Place located at 817 Delta Street, Garner, North Carolina. The housing will serve those in the community that are in need of affordable options while trying to contribute to the workforce and raise families. The Town also understands and supports that the additional housing units will have a focus on veterans as a primary tenant. The Housing Authority of Wake County is asking the Town to waive the development fees.

Action: Grant Fee Waiver Request of \$17,121

Motion: Behringer
Second: Johns
Vote: Unanimous

COMMITTEE REPORTS

Council Member Singleton reported the Public Works Committee met this morning to discuss the Sewer Allocation Policy and the development standards relating to curb and gutter. Committee consensus to move forward with an additional 150 units of sewer allocation but did not have interest in changing the Town's standards to allow for roll-type curb and gutter.

MANAGER REPORTS

- garner info
- Finance Report
- Building & Permit Report
- Early Voting scheduled from October 20 through November 5 at the Avery Street Annex.
- Council Retreat
- The Garner Volunteer Fire Department has requested \$6,000 for mandatory training required to pursue

accreditation. These funds were set aside for future training related to accreditation.

- An environmental group will be painting the sewer risers at White Deer Park with footprints and labels of native animal species. This will improve the aesthetics of the park as well as providing an educational opportunity.
- The Council will be attending a tour of the City of Raleigh utilities on October 7 at 11:30 a.m.
- The Advisory Board Appreciation dinner is scheduled for October 7 at 6:30 p.m. at the Civitan Club.
- The First Baptist Church and the Chamber of Commerce are hosting a Police Community Relations meeting on October 4 at 7:00 a.m. Attendance at this panel discussion is by invitation only. Future meetings will be held for the public.
- Mr. Dickerson, Mr. Hodges, and Mr. Gammon will be attending the ICMA Annual Conference from September 24 through September 28.
- Mr. Dickerson, Mayor Williams, and Mr. Hodges met with the Homebuilder's Association of Wake County and received positive feedback regarding the Town's development fees and review process. Mr. Hodges advised Brad Bass, Planning Director and Tony Chalk, Town Engineer were singled out and complimented for the work they do.

ATTORNEY REPORTS

COUNCIL REPORTS

Council Member Kennedy

- Reported meeting with Davenport and Associates and staff regarding managing the bond program, repayment of bonds and to improve reporting methods.
- Provided an update on the status of the proposed project on Aversboro Road; staff has reviewed the plans submitted and the developer is currently responding to questions. No hearing is scheduled at this time.

Council Member Singleton

- Reviewed the article in the September 11 issue of The News & Observer titled "Urban Areas Should be Built Up". The article stated approximately 51,400 commuters drive from Wake County to Durham County and an additional 30,000 workers drive from Johnston County to Wake. Mecklenburg County has over 100,000 commuters drive in daily to great Charlotte from Union, Cabarrus and Gaston Counties. Wake County has 482,000 workers with 22% commuting in.

Council Member Johns

- Reported work is progressing on the Garner Recreation Center.

Mayor Pro Tem Behringer

- Reported attending the Triangle Housing Summit where the need for workforce housing was discussed as well as what part cities and towns could play in making workforce housing available.

CLOSED SESSION

Pursuant to N.C.G.S. 143-318.11(a)(4) "to discuss economic development" and 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."

Motion: Kennedy
Second: Johns
Vote: Unanimous

RETURN TO REGULAR SESSION AND ADJOURNMENT: 8:50 p.m.

Respectfully Submitted,
Stella Gibson

Town of Garner
Town Council Meeting
Agenda Form

Meeting Date: October 3, 2016		
Subject: Budget Amendment for GVFR		
Location on Agenda: Consent		
Department: Finance		
Contact: Pam Wortham		
Presenter: Pam Wortham		
Brief Summary: GVFR has requested that Town of Garner provide the funding for accreditation expenses for FY 2017. Our portion of the cost is \$6,506 and will come from Fund Balance.		
Recommended Motion and/or Requested Action: Adopt Ordinance (2016) 3827		
Detailed Notes:		
Funding Source: Fund balance		
Cost: \$6,506	One Time: <input checked="" type="radio"/>	Annual: <input type="radio"/> No Cost: <input 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:	PW	
Finance Director:	PW	
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

FINANCE DEPARTMENT MEMORANDUM

TO: RODNEY DICKERSON, TOWN MANAGER
FROM: PAM WORTHAM, FINANCE DIRECTOR
SUBJECT: BUDGET AMENDMENT – GVFR
DATE: SEPTEMBER 26, 2016

GENERAL FUND

- Transfer \$6,506 from Fund Balance to cover the Town of Garner's share of accreditation expenses for the Fire Department. Garner Volunteer Fire Rescue, Inc. estimates that the total amount required for this is \$12,620. Wake County will provide their cost share portion, and the total amount needed from the Town of Garner is \$6,506.

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

**Wake County Fire Tax District
 FY 2017 Budget Requests
 Expansion Requests (Do not include Small Capital requests)**

Garner Volunteer Fire Rescue, Inc.

Instructions: Please answer ALL questions below. Feel free to submit *additional* justification in support of this request along with your budget submission. This can be in a separate file, but please make note of it on this form if you choose to do that.

CPSE Accreditation	
Question	Department Response
What is the problem the department aims to solve with this expansion request?	<p>CPSE's Accreditation Program, administered by the Commission on Fire Accreditation International (CFAI) allows fire and emergency service agencies to compare their performance to industry best practices in order to:</p> <ul style="list-style-type: none"> •Determine community risk and safety needs and develop community-specific Standards of Cover. •Evaluate the performance of the department. •Establish a method for achieving continuous organizational improvement.
How does this request relate to your department's mission and service delivery?	<p>Accreditation is a comprehensive self-assessment and evaluation model that enables organizations to examine past, current, and future service levels and internal performance and compare them to industry best practices. This process leads to improved service delivery.</p>
Who will this expansion serve and how will it improve services?	<p>A task force of highly qualified and dedicated chief fire officers, trainers, city/county administrators, and academic professionals worked together to create the self-assessment model -- the basis for CFAI accreditation. The goals that guide the model assure that the process is:</p> <ul style="list-style-type: none"> •Applicable across the broad spectrum of the fire service industry •Challenging •Contemporary, not revolutionary •Able to evolve over time •Achievable •Useful for a comprehensive organizational evaluation •A practical management tool for fire and EMS agencies
How does your department currently address this problem/provide service?	<p>We are not currently accredited</p>

<p>What is the solution proposed and what are the estimated costs associated with the request? (Note, if you are adding personnel, use cost calculator below)</p>	<p>The nonrefundable fee is \$570 USD for agencies of every type and size. Fees for Registered Agencies that move to Applicant Agency status within one year are applied to the Applicant Agency status fee. Population Size-50,000 - 99,999 = \$6,950 Training and travel related including course registrations= \$5,100 Total first year expense estimate= \$12,620</p>
<p>How is this expansion related to the projected demand for future services?</p>	<p>The accreditation process results in the development of planning documents, including short-term action and long-term strategic plans. Important tools in the budgeting process and a basis for justifying departmental programs and services. Accreditation has the potential to dramatically improve a department, its services, and its vision for the future.</p>
<p>How can outcomes be measured if implemented?</p>	<p>The Accreditation model includes a comprehensive research and information collection guide with checklists, exhibits, benchmarks, references, and activities broken down by category. Several appendices address additional topics including defining the elements of response time, creating standards of response coverage, and developing master or strategic plans.</p>

ORDINANCE NO. (2016) 3827

ORDINANCE AMENDING ORDINANCE NO. (2016) 3817
WHICH ESTABLISHED THE 2016 – 2017 OPERATING BUDGET

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

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

General Fund Budget Changes:

Department/ Category	Description	Current	Amended	Net Change
10531000-524353	Fire-Contract Services- GVFR Inc	\$2,784,871	\$2,792,452	+\$6,506
10309000-472081	Other Sources- Appropriated Fund Balance Public Safety	\$0	\$6,506	+\$6,506

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

Duly adopted this 3rd day of October, 2016.

Ronnie S. Williams, Mayor

ATTEST: _____
Stella Gibson, Town Clerk

Town of Garner
Town Council Meeting
Agenda Form

Meeting Date: October 3, 2016		
Subject: Strategic Plan Adoption		
Location on Agenda: Consent		
Department: Town Manager's Office		
Contact: Rodney Dickerson, Town Manager		
Presenter: Rodney Dickerson, Town Manager		
<p>Brief Summary:</p> <p>The draft version of the Strategic Plan was presented at the August 30, 2016 Work Session. Feedback from Council members has been incorporated into the final version, which is attached.</p>		
<p>Recommended Motion and/or Requested Action:</p> <p>Adopt Strategic Plan</p>		
<p>Detailed Notes:</p>		
<p>Funding Source:</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>The Strategic Plan will be the guiding document for what we do as a Town. Staff will generate tasks and funding strategies to achieve these goals.</p>		
<p>Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/></p>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	JMH	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		



Town of Garner Strategic Plan

*Adopted by the Town Council
September 2016*



Town of Garner Strategic Plan

Introduction to the Town's New Strategic Plan

THE TOWN OF GARNER Strategic Plan is designed to be a multiyear representation of the Town's mission. It aims to serve as a roadmap for staff and Council over the next three to five years.

This new plan—an outgrowth of Council and staff input from earlier this year as well as several pre-existing documents—further defines the Town's strategic priorities. The structure better links Council and staff plans and employs a format that should be more useable for elected officials, staff, partners and citizens.

The plan includes these components:

- **Goal statements** that are the foundation of the Town's mission statement;
- Long-range **objectives** that further define the goals;
- Multiyear (three- to five-year) **initiatives** that will be executed to achieve the objectives; and
- Annual **tasks** captured in a separate working document and a reporting structure that will be updated regularly to track progress.

The Town's Vision Statement

THE TOWN OF GARNER nurtures a hometown environment for residents and businesses while encouraging new economic, recreational and cultural opportunities through wise planning and investment.

Town of Garner Strategic Plan

The Town's Strategic Plan is organized around four goal statements, which make up its mission:



Fiscal Responsibility (FR)
Ensure fiscal stability and efficient use of resources



Efficient and Timely Service Delivery (SD)
Provide efficient and effective services that match community needs and expectations



Orderly Growth (OG)
Grow and maintain a robust, diversified economy



Quality of Life (QL)
Foster a safe and welcoming community with access to a wide range of opportunities and amenities

Fiscal Responsibility (FR)



GOAL STATEMENT: *Ensure fiscal stability and efficient use of resources*

OBJECTIVE 1: Maintain an appropriate/stable tax rate

Initiative 1: Manage 2013 Bond Program

Initiative 2: Maintain public understanding and trust

Initiative 3: Retain flexibility to respond to new opportunities and challenges

OBJECTIVE 2: Invest in maintenance of infrastructure and facilities

Initiative 1: Continue proactive pavement maintenance

Initiative 2: Implement planned facilities maintenance

Initiative 3: Maintain Town-owned stormwater infrastructure

OBJECTIVE 3: Enhance Town's existing Capital Improvement Program (CIP) process

Initiative 1: Develop process to identify and manage future long-term capital initiatives

Initiative 2: Position CIP to serve as bridge between strategic plan and annual budget process

Initiative 3: Continue Vehicle and Equipment Replacement Team (VERT) program with focus on sustainable replacement schedule

OBJECTIVE 4: Develop funding strategy for future needs

Initiative 1: Devise strategy for funding capital priority projects and emerging needs

Initiative 2: Continue building financial capacity through Revenue Savings Plan and other tools

Initiative 3: Leverage funding opportunities with partners

Efficient and Timely Service Delivery (SD)



GOAL STATEMENT: *Provide efficient and effective services that match community needs and expectations*

OBJECTIVE 1: Build and maintain strong relationships with regional and community partners

Initiative 1: Enhance program partnerships with recreation and cultural resources partners, economic development partners and other partner agencies

Initiative 2: Reinforce planning partnerships with regional partners

Initiative 3: Strengthen delivery partnerships with Garner Volunteer Fire-Rescue, Inc., and other services partners

OBJECTIVE 2: Provide quality services at a reasonable cost to residents and businesses

Initiative 1: Ensure fee structure is balanced between cost recovery and value to end user

Initiative 2: Privatize or use contract services when appropriate

Initiative 3: Continue efficient use of resources

OBJECTIVE 3: Foster attractive workplace culture to recruit and retain outstanding personnel

Initiative 1: Bolster recruitment of diverse, highly qualified pools of applicants

Initiative 2: Focus on retention of high-performing personnel

Initiative 3: Provide staffing tools, support and training to aid in retention, staff development and outstanding customer service

OBJECTIVE 4: Nurture a culture of excellent customer service

Initiative 1: Maintain adequate staffing levels

Initiative 2: Enhance access to government and relevant information

Initiative 3: Inspire a shared vision among staff

Orderly Growth (OG)



GOAL STATEMENT: *Grow and maintain a robust, diversified economy*

OBJECTIVE 1: Plan for orderly and stable development with a balance of residential and commercial growth

Initiative 1: Proactively update long-range land-use and transportation plans to prepare for growth

Initiative 2: Build and maintain strategic utility infrastructure to support and enable growth

Initiative 3: Plan for appropriate use of open space and environmental resources

OBJECTIVE 2: Support top-quality infrastructure, utilities and transportation

Initiative 1: Actively participate in City of Raleigh Water System partnership and planning

Initiative 2: Implement strategies to maximize local opportunities and impact from the Wake County Transit Plan

Initiative 3: Leverage NCDOT to plan and implement key transportation projects for the Town

OBJECTIVE 3: Implement comprehensive economic development plan

Initiative 1: Follow a balanced approach to economic development activities and resources

Initiative 2: Bolster the Town's competitiveness for regional economic activity

Initiative 3: Develop and market product inventory to compete for regional economic development projects

Quality of Life (QL)



GOAL STATEMENT: *Foster a safe and welcoming community with access to a wide range of opportunities and amenities*

OBJECTIVE 1: Provide a safe and inviting community

Initiative 1: Continue and expand public safety initiatives beyond traditional law enforcement, including service programs, safety initiatives and citizens academies

Initiative 2: Promote and expand beautification programs in key corridors

Initiative 3: Work collaboratively with property owners to maintain or revitalize properties

OBJECTIVE 2: Support and encourage an active and engaged citizenry

Initiative 1: Offer opportunities for citizens to be better educated about and participate in local government

Initiative 2: Promote opportunities to participate on boards and commissions.

Initiative 3: Continue and enhance marketing and promotions to engage Town citizens

OBJECTIVE 3: Embrace diversity and be responsive to the changing demographics of the community

Initiative 1: Engage immigrant communities and entrepreneurs

Initiative 2: Support and enhance services for aging population

Initiative 3: Encourage broad-based participation in educational, civic and leadership opportunities

OBJECTIVE 4: Provide a broad mix of arts, leisure and recreation opportunities

Initiative 1: Explore options for open space and facilities in growth areas

Initiative 2: Update the Parks, Recreation and Cultural Resources (PRCR) Master Plan to meet the needs of an active, growing and diverse community

Initiative 3: Maintain Garner Performing Arts Center as a regional arts and cultural hub and expand programming

Stay Connected!



/townofgarner
garnernc.gov

Mailing address:
900 7th Ave.
Garner, NC 27529

919.772.4688



Town of Garner
Town Council Meeting
Agenda Form

Meeting Date: October 3, 2016		
Subject: Annexation Petition ANX-16-03, ANX-16-04, and ANX-16-05		
Location on Agenda: Consent		
Department: Planning		
Contact: Brad Bass, Planning Director		
Presenter: Brad Bass		
Brief Summary: Satellite annexation for 115.47 acre tract located at 8025 Country Club Drive (Meadowbrook Country Club tract), satellite annexation for a 2.8 acre tract located at 711 Maxwell Drive, and contiguous annexation for a 20.1 acre tract located at the end of Forest Landing Drive (Bryan Nature Park tract).		
Recommended Motion and/or Requested Action: Adopt Resolution (2016) 2302		
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: 		
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 Annexation Staff Report

Garner Town Council
October 3, 2016

ANNEXATION APPLICATION: ANX 16-03

OWNER: Town of Garner

CONTIGUOUS / SATELLITE: Satellite

LOCATION OF PROPERTY: 8025 Country Club Drive

WAKE COUNTY PIN #: 1629850981

REAL ESTATE ID #: 0046557

AREA: 115.47 acres

ZONING: Wake County R-30
(Town of Garner Rezoning Pending)

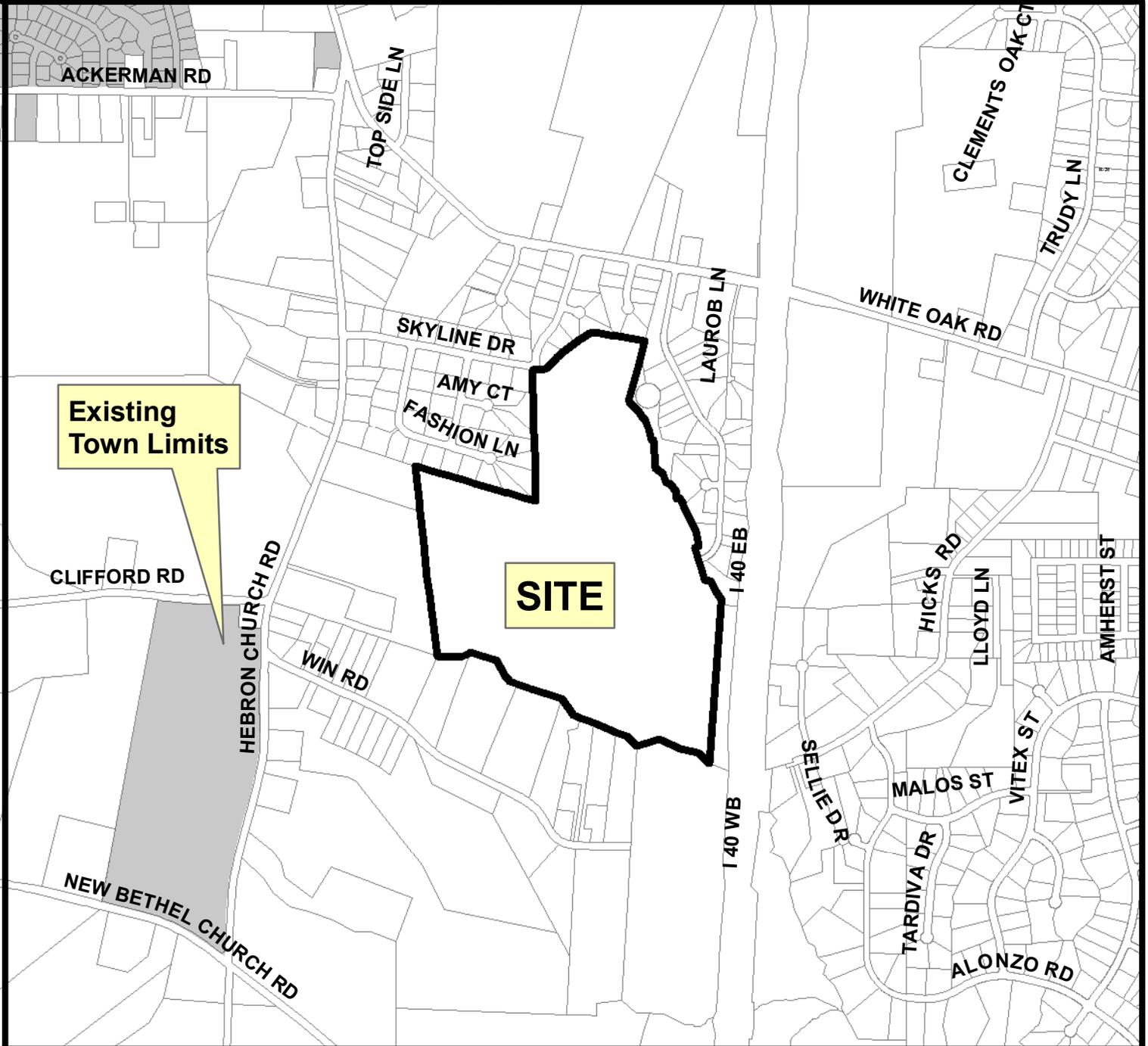
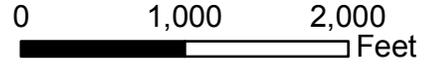
ASSOCIATED DEVELOPMENT PLAN: None (Future Park)

EXISTING USE: Abandoned golf course

RECOMMENDATION: Authorize Resolution to Investigate (see attached)

**Town of Garner
Planning Department**

**Annexation
ANX 16-03**



Property Location: Country Club Drive
Property Owner: Town of Garner
PIN: 1629850981
Acreage: 115

GARNER POLICE ZONE: 8427



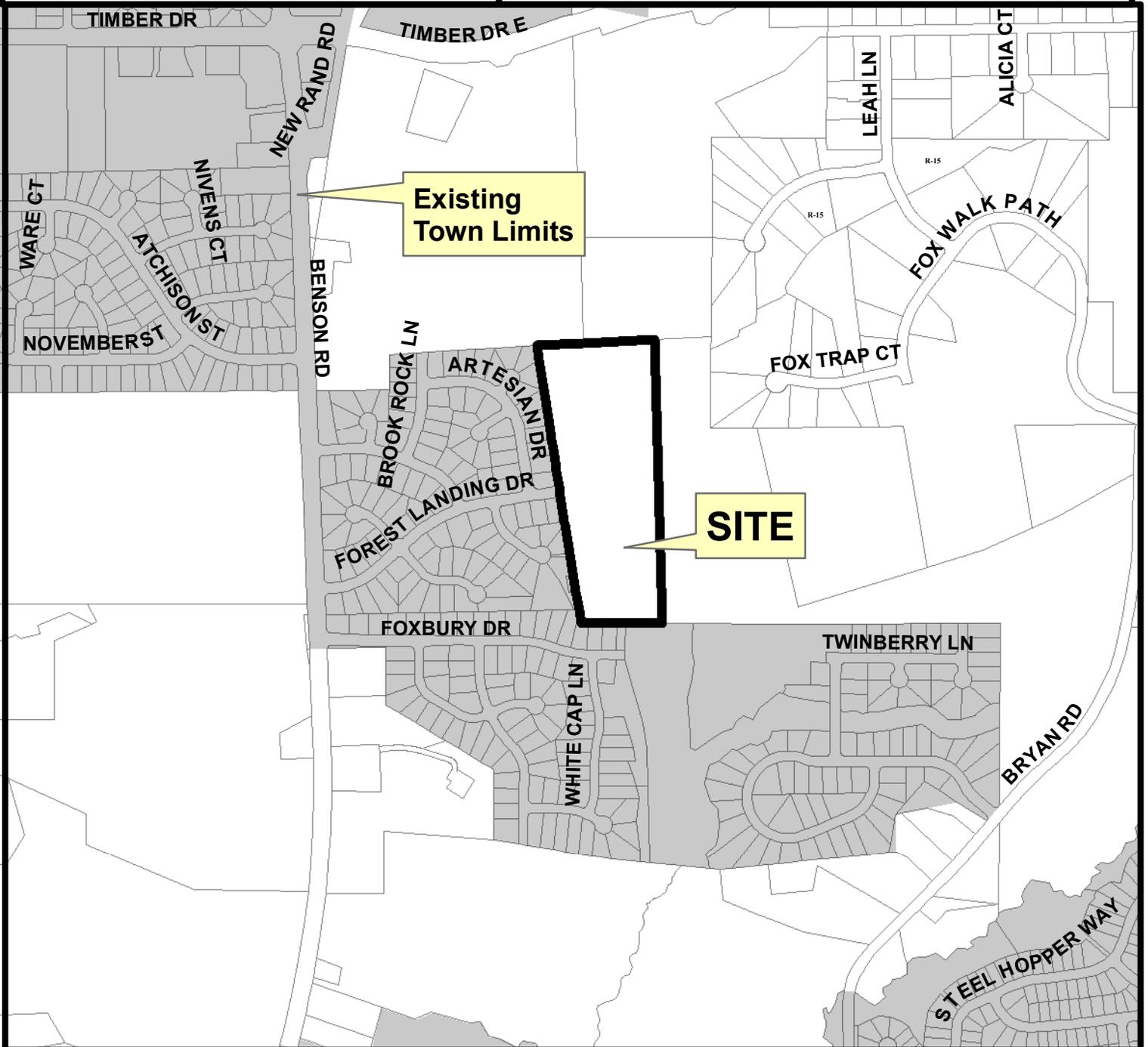
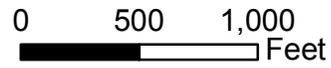
Town of Garner Annexation Staff Report

Garner Town Council
October 3, 2016

ANNEXATION APPLICATION:	ANX 16-04
OWNER:	Town of Garner
CONTIGUOUS / SATELLITE:	Contiguous
LOCATION OF PROPERTY:	Forest Landing Drive (end)
WAKE COUNTY PIN #:	1710924101
REAL ESTATE ID #:	0009408
AREA:	20.1 acres
ZONING:	R-40
ASSOCIATED DEVELOPMENT PLAN:	None
EXISTING USE:	Passive Open Space
RECOMMENDATION:	Authorize Resolution to Investigate (see attached)

**Town of Garner
Planning Department**

**Annexation
ANX 16-04**



Property Location: Forest Landing Drive
Property Owner: Town of Garner
PIN: 1710924101
Acreage: 20.18

GARNER POLICE ZONE: 8361



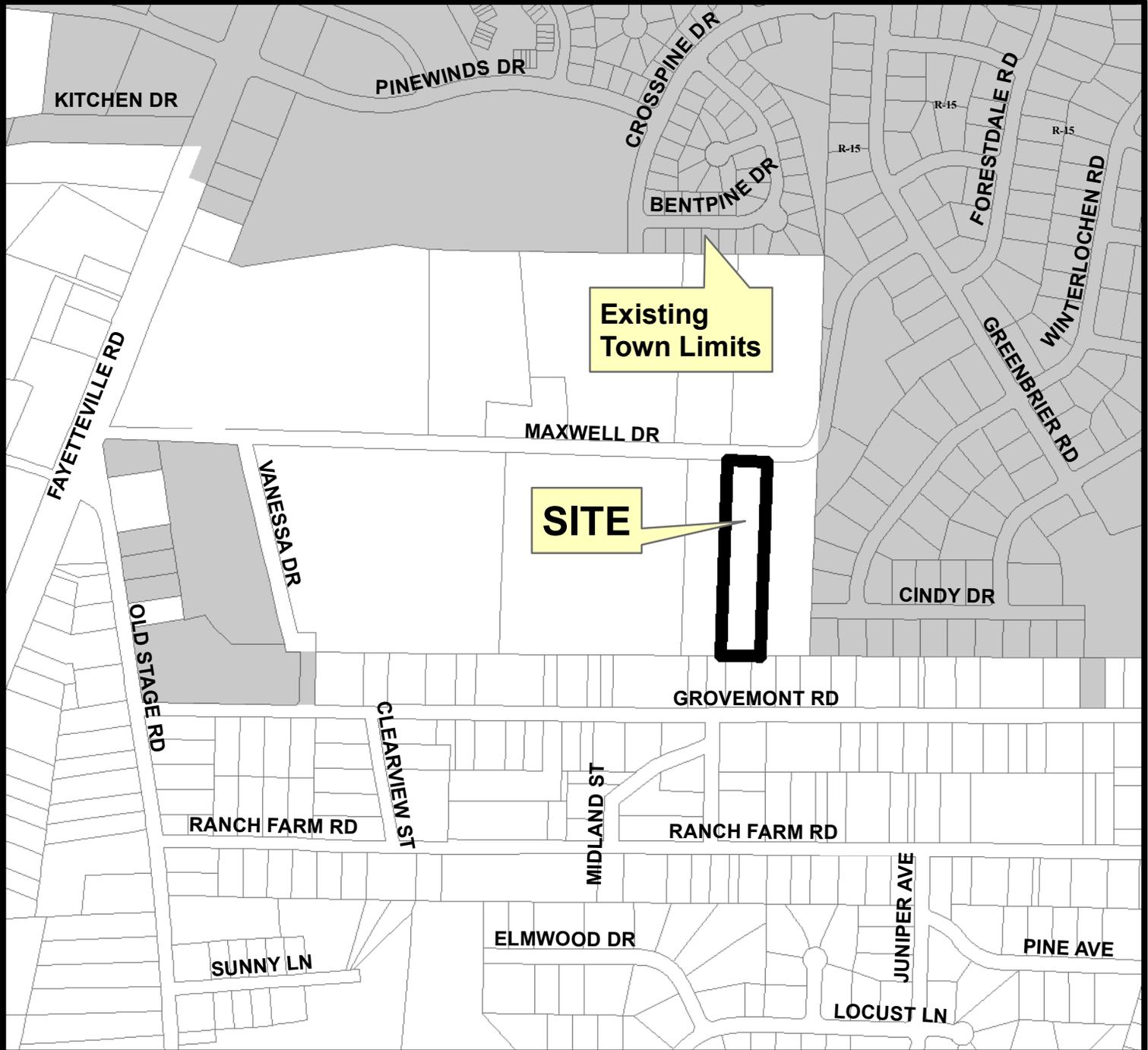
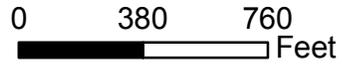
Town of Garner Annexation Staff Report

Garner Town Council
October 3, 2016

ANNEXATION APPLICATION:	ANX 16-05
OWNER:	Robert & Susan Jones
CONTIGUOUS / SATELLITE:	Satellite
LOCATION OF PROPERTY:	711 Maxwell Drive
WAKE COUNTY PIN #:	1701443013
REAL ESTATE ID #:	0432285
AREA:	2.8 acres
ZONING:	R-40
ASSOCIATED DEVELOPMENT PLAN:	Building permit for single-family home that will connect to Town water & sewer
EXISTING USE:	Vacant
RECOMMENDATION:	Authorize Resolution to Investigate (see attached)

**Town of Garner
Planning Department**

**Annexation
ANX 16-05**



Property Location: 711 Maxwell Drive
Property Owner: Robert & Susan Jones
PIN: 1701443013
Acreage: 2.8

GARNER POLICE ZONE: 8308

RESOLUTION NO. (2016) 2302

RESOLUTION DIRECTING THE CLERK TO INVESTIGATE
PETITIONS RECEIVED UNDER G.S. 160A-31 AND 160A-58

- (ANX 16-03) Country Club Drive- satellite
- (ANX 16-04) Forest Landing Drive - contiguous
- (ANX 16-05) 711 Maxwell Drive - satellite

WHEREAS, three petitions requesting annexation of areas described in said petitions were received by the Town Council; and

WHEREAS, G.S. 160A-31 and 160A-58.2 provide that the sufficiency of these petitions be investigated by the Town Clerk before further annexation proceedings may take place; and

WHEREAS, the Garner Town Council, deems it advisable to proceed in response to these requests for annexation;

NOW, THEREFORE, BE IT RESOLVED by the Garner Town Council, North Carolina:

That the Town Clerk is hereby directed to investigate the sufficiency of the above described petitions and to certify as soon as possible to the Town Council the result of the investigation.

Duly adopted this 3rd day of October, 2016.

MAYOR

ATTEST: _____
TOWN CLERK

Town of Garner
Town Council Meeting
Agenda Form

Meeting Date: October 3, 2016		
Subject: Rezoning Application CUD-Z-16-04 and Conditional Use Permit CUP-SP-16-10, Evolve at Timber Creek		
Location on Agenda: Public Hearings		
Department: Planning		
Contact: Brad Bass, Planning Director		
Presenter: David Bamford and Jenny Saldi, Senior Planners		
Brief Summary: Request to rezone a 21.95 acre tract located at 1623 Benson Road from Community Retail Conditional use (CR C152) & Office and Institutional Conditional Use (O&I C152) to Multi-Family 2 Conditional Use (MF-2 C184) and request for conditional use permit approval of a 304 unit apartment complex.		
Recommended Motion and/or Requested Action: Adopt Ordinance (2016) 3828; Approve CUP-SP-16-10		
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:		
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 Rezoning & Conditional Use Permit
Staff Report

Town Council Public Hearing
October 3, 2016

REZONING & CONDITIONAL USE PERMIT :	CUD-Z-16-04 CUP-SP-16-10
APPLICANT:	Zimmer Development Company
OWNER:	Carl T. Williams
LOCATION OF PROPERTY:	1623 Benson Road
WAKE COUNTY PIN #	1710834578
AREA:	21.95 acre
TOWN LIMITS:	Yes
PRESENT ZONING:	Community Retail Conditional Use (CR C152) & Office and Institutional Conditional Use (O&I C152)
OVERLAY:	Timber Drive East
REQUESTED ZONING:	Multi-Family 2 Conditional Use (MF-2 C184)

KEY MEETING DATES:

Planning Commission:	September 12, 2016
Town Council Public Hearing & Action:	October 3, 2016

EXISTING ZONING

A 14-acre portion of the property is zoned **Community Retail Conditional Use (CR C152)**. 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 C152 district. Prohibited uses are highlighted.

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

Another 6.2-acre portion is zoned **Office and Institutional Conditional Use (O&I C152)**. The O&I district has been established to accommodate more intense professional and service occupations than permitted in the Neighborhood Office (NO) district. This district is also intended to serve as a transition between residential districts and more intense districts, including commercial districts. The applicant has proposed use restrictions.

The following is a list of permitted uses in the O&I C152 district. Prohibited uses are highlighted below.

- 1 Townhouse
- 2 Condominium
- 3 Community Center
- 4 Library, Museum, Art Gallery
- 5 Other Community Service
- 6 Civil service, fraternal clubs
- 7 Adult Day Care
- 8 Day Care Center
- 9 Funeral Home, Crematorium
- 10 Business School, satellite school
- 11 College or University
- 12 Public, private school
- 13 Trade, vocational school
- 14 Music, art, dance instruction
- 15 Ambulance, Police, Fire station
- 16 Government Office
- 17 Continuing care, retirement facility
- 18 Hospice
- 19 Hospital
- 20 Ambulatory Health, Emergency Care
- 21 Medical clinic
- 22 Mental Health Facility
- 23 Group care facility
- 24 Handicapped Institution
- 25 Intermediate care institution
- 26 Cemetery
- 27 Public parks, pool, open space
- 28 Churches, religious institutions
- 29 Minor utility, elevated water tank
- 30 Golf courses, country club
- 31 Indoor gym, spa, pool, tennis courts
- 32 Banks, financial institutions
- 33 Medical offices
- 34 General office use

35	Bed and breakfast
36	Hair salons, barber shops
37	Commercial parking
38	Indoor repair use
39	Nursing Care Institution
40	Veterinarian Indoor

The following are site-specific conditions for the existing Community Retail (CR) and Office & Institutional (O&I)(C152) district:

1. Dedication: Following Conditional Use Zoning of real property to Community Retail (CR)(C-152) and Office & Institutional (O&I)(C-152) with conditions as it appears in the Zoning application CUD-Z-08-01, the Owners will dedicate to NCDOT, without cost to NCDOT and/or the Town of Garner, all temporary construction easements and road right-of-way areas and all easements on the subject property that are needed to construct Timber Drive Extension, as delineated by Timber Drive East Extension Road Construction Plans (Project #U-4703) up to 4.5 acres, at such time as such construction plans shall have been finalized and NCDOT request the dedication, but in no event shall such acreage exceed 4.5 acres; if the contract for the construction of said Timber Drive East is not let by NCDOT by September 15, 2009, the right-of-way and easements shall revert to the Owners, their heirs and assigns; the September 15, 2009 deadline may be extended six (6) months if NCDOT provides good evidence of the likelihood of letting the contract prior to April 15, 2010, with the current Owners not to be assessed any fees or costs directly, or indirectly, as a result of the rezoning of the property or the construction of Timber Drive East Extension, including but not limited to cost assessments for any landscaping, fencing, sidewalks, curb and gutter, water and sewer acreage fees or impact fees, unless the present Owners participate in commercial development such as by joint venture with or lease to the future developer, and any such fees will be payable only in connection with future development.

2. Coordination of development: The issuance of development permits and building permits on the Fowler property shall be coordinated such that the Fowler property can be developed concurrently with the Timber Drive East Extension as follows: site plan, conditional or special use permits, land disturbing permits, soil and erosion permits may be applied for and issued prior to the letting of the contract for the construction of the Timber Drive East Extension; the issuance of all other permits including building permits shall be contingent upon the letting of the NCDOT contract for the construction of Timber Drive East Extension or the developer's written agreement to construct the Timber Drive East Extension concurrent with the development of the Fowler property; and occupancy permits for any such building(s) following development of the Fowler property shall be contingent upon the Timber Drive East Extension being completed by NCDOT or by the developers of said property. Notwithstanding the foregoing, that this paragraph does not apply to the construction of a building or building by the present owners for farm use or for use as a residence by current Owners or their family, prior to development of the mixed use project or similar substantial development. (This paragraph does not apply to the Williams property; the issuance of development permits and building permits on the Williams property shall not be conditioned upon any matters relating to the Timber Drive East Extension).

3. Development Standards:
 - a) The development plan of the property shall utilize the design guidelines designated for a Community Core Area as outlined in the Town of Garner Comprehensive Growth Plan and the Timber Drive East Overlay District.

- b) The development plan of the property shall include “Unity of Development Guidelines” that specify a primary and secondary brick material that will be used throughout the property. Secondary brick material will generally be used as an accent brick unless mutually approved otherwise by the developer and the Town of Garner.
- c) To promote harmony with existing development and provide a gateway to White Oak Crossing, the use of painted concrete block and metal buildings are prohibited and all buildings shall consist of from at least 50% to 75% brick in percentages and designs mutually agreeable to the developer and Town, with the higher percentages of brick on those buildings whose elevations front on NC 50, New Rand Road and Timber Drive East Extension as prescribed in the Timber Drive East Overlay District.
- d) This paragraph 3. does not apply to continued farm or single-family residential use or of the property owned by the Owners or their heirs.

PROPOSED ZONING

The proposed zoning for the entire 21.95 project site is **Multi-Family 2 Conditional Use (MF-2 C184)**. The MF-2 district is a high density multi-family residential district that allows apartments, condos, townhomes, duplexes, and triplexes. The MF-2 district allows a gross density of approximately 13.85 dwelling units per acre.

The following is a list of proposed uses in the MF-2 C184 district. The applicant has excluded or prohibited several MF-2 uses for the site, and they are highlighted below.

1. Residential cluster
2. Duplexes
3. Townhome
4. Condominium
5. Triplexes & apartments
6. Family Care Home
7. Group Care Home
8. Intermediate Care Home
9. Community Center
10. In-home Child Day care up to 3 children
11. Schools public or private
12. Public safety: fire, police, rescue squad, ambulance
13. Continuing care retirement facility
14. Cemetery
15. Public Parks, swimming pool, tennis courts, golf course
16. Churches, religious institutions
17. Minor utility, elevated water storage tank
18. Private parks
19. Private country clubs, golf courses
20. Bed and Breakfast

The following are site-specific conditions for the proposed MF-2 C184 district:

1. Applicant is to provide public sewer to the subject parcel and the parcel(s) fronting on Benson Road (NC 50) using route(s) approved by the Town of Garner Engineering and

- City of Raleigh Utilities during the construction approval process.
2. The emergency access gate is to be designed in a manner acceptable to the Town of Garner that will blend in with the surrounding landscape as much as possible.
 3. All public streets as designed on the site plan are to be constructed to Town of Garner standards.
 4. Uses shall not include: Group Living, schools or continuing care / retirement community.

This property is located within the **Timber Drive East Overlay District**. This overlay was adopted in December 2007 in advance of the Timber Drive East extension road project. The overlay applies to a defined boundary between NC 50 and White Oak Road. The overlay district has additional development standards and use restrictions for properties along this proposed corridor. These standards affect new commercial development. There are several uses that are prohibited or restricted within the overlay district. There are also additional landscaping and buffering requirements and design-guidelines. No MF-2 uses are prohibited by the overlay.

Summary of Zoning Change

In 2008, 66-acres at the north east corner of Timber Drive East and Benson Road were rezoned to O&I C152 and CR C152 in order to be primed and ready for development. The O&I portion of the larger site was designed to act as a transitional buffer area with Forest Landing subdivision along the southern boundary of the property. The site has remained undeveloped. The applicants wish to develop 21.95-acres out of this larger area into an apartment community.

Two applications have been filed. CUD-Z-16-04 has been filed to rezone the property to MF-2 Conditional Use (MF-2 C184). Conditions have been proposed. CUP-SP-16-10 is a conditional use site plan showing the proposed development of a 312 unit apartment community.

The property falls within the boundary of the Timber Drive East Overlay District.

Adjacent Zoning and Land Uses

North:	CR, Vacant / undeveloped
South:	R-12, Forest Landing Subdivision R-40, Town of Garner open space
East:	R-20, Vacant/undeveloped land
West:	R-12, Van Story Hills Subdivision SB C4, Timber Crossing Shopping Center O&I, Day Care

Neighborhood Character

This site is located near the intersection of NC 50 and Timber Drive; both of these roads are classified as thoroughfares on the **Garner Transportation Plan**. The area around this intersection consists of single-family residential, retail commercial, service, and office uses.

Zoning History

Planning Department records show these rezoning cases in this area.

Case	Applicant	Location	Zoning Change
Z 78-3	Munn & Fowler	New Rand Road	R-20 to CB (denied)
Z 78-6	Munn & Fowler	New Rand Road	R-20 to CB
Z 86-24	Centermark Inc	Timber Crossing	R-20 to SB C4
Z 87-17	Hardees	Timber / NC 50	R-20 to CB
Z 95-07	Eddie Caudle	Timber / NC 50	R-20 to O&I
CUD Z 93-07	The Eastern Group	North portion of State Employees Credit Union site	R-20 to O&I C47
CUD Z 00-04	Southstar Property	State Employees Credit Union site	O&I to CB (Withdrawn)
CUD Z 01-11	Jonathan Adams	NC 50—next to Credit Union Site	R-20 to O&I C113
CUD Z 08-01	Fowler	Rezoning Site	R-20, NC, and CR to O&I C152 and CR C152
CUD Z 12-03	Fowler	Timber Springs	O&I C152 to MF-2 C164

* Note: CB was Community Business under the previous version of the *Land Use Ordinance*. All CB districts were re-named to CR (Community Retail) in the *Unified Development Ordinance*, effective October 1, 2003.

INFRASTRUCTURE

Water & Sewer

The site has access to both public water and sewer service. Extensions to the apartment project site are required. Connections are subject to the Town's Sewer Allocation Policy.

TRANSPORTATION

While the project site has no direct frontage on these roads, this area is at the south east corner of Timber Drive East and NC 50

Timber Drive & Timber Drive East (SR 2812) are currently 4-lane divided median facilities with a right-of-way of 110 feet. Both are maintained by NCDOT. They are classified as a **Major Thoroughfare** on the *Town of Garner's Transportation Plan*. Average Daily Traffic (ADT) counts for Timber Drive are estimated to be around 16,000 trips per day according to the 2013 NCDOT Traffic Count Survey.

The project will have direct road access to Benson Road (NC 50). NC 50 is a **Major Thoroughfare** on the *Town of Garner Transportation Plan* and is maintained by NCDOT. NC 50 in the vicinity of the rezoning site, is currently 2 lanes with a right-of-way width of 100 feet. Average daily traffic counts (ADTs) are estimated at 17,000 trips per day according to the 2013 NCDOT Traffic Count Survey. Development of the apartment project will require road improvements along the NC 50 site frontage.

ENVIRONMENT

The rezoning site is not within the 100 or 500-year flood plain areas as delineated by the FEMA Flood Insurance Rate Maps. There are several drainage ways on the rezoning site that connect to Mahler's Creek. These features may require a 50-foot riparian buffer. These areas are shown on the site plan (CUP SP 16-10).

STAFF COMMENTARY

Conformity to Adopted Town Plans

Approximately 1 acre of the site is located within the **Community Core** area of the *Town of Garner Comprehensive Growth Plan*. Approximately 20 acres of the project site is located within **Community Mixed Use** area.

The **Community Core Area** is located at the intersection of Timber Drive and NC 50. The Community Core Area is designed to accommodate community-scale retail services needed less frequently than on a daily basis. It is generally characterized as being suitable to act as a hub for a large service area of the community and is typically developed at the intersection of major thoroughfares. The Plan recommends a 50/50 split of non-residential and residential uses for the Community Core Area. At the present time, the core area contains a balance of 47% commercial and 53% residential.

The recommended zoning districts for a **Community Core** area include: NC, O&I, NO, MXD, CR, MF 1, MF2, PUD, and SB-CUD (outdoor storage restricted). Approximately 1 acre of this rezoning site would be associated with this core. The recommended density is 10+ units per acre.

The recommended zoning districts for a **Community Mixed Use** area include: NC, O&I, NO, MXD, MF 1, MF2, PUD, TND. Approximately 20 acres of the project site would be associated with this mixed use area. The recommended density is 6 to 10 units per acre.

This **Community Mixed Use** area contains a total area of 323 acres. The Plan recommends that 20 acres within this area be non-residential. At the present time, 46.66 acres are zoned non-residential (CR - 26.83 acres, O&I – 19.83 acres). This is over the recommended amount. Approximately 276.97 acres are zoned for residential use (Multi-family – 17.37, Single-family – 259.53 acres).

This **Community Mixed Use** area contains a total of 784 residential dwelling units; this area is currently developed at a density of 2.42 units per acre.

The requested zoning change from CR C152 and O&I C152 to MF-2 C184 is consistent with the **Comprehensive Growth Plan**. Furthermore, it will improve the recommended balance by shifting the non-residential zoning acreage down from 46.66 to 24.71, only 4 acres more than the 20 acres recommended for non-residential. The proposed site plan CUP-SP-16-10 (312 apartments) associated with this rezoning would raise the overall density of the **Community Mixed Use** area from 2.42 units an acre to 3.38, well below the 6 to 10 units an acre recommended.

Conditional Use Permit

PROJECT DATA:

Acreage: 21.95 acres

Building Size:

12 – three story buildings
1 – two-story building

124 one-bedroom units
152 two-bedroom units
28 three-bedroom units

Total of 304 apartments

4 – seven-car garages

1 clubhouse

Please refer to General Comments

Building Material and Color:

A combination of the following materials is proposed for the buildings: light beige brick, red-brown stone, light beige vertical hardi-plank siding and brown horizontal hardi-plank siding. Pitched roof is finished with brown toned architectural shingles.

Several block retaining walls, varying in height from 5 feet to 27 feet, are proposed on site. These will be tan in color and be constructed with a 42 – 45 inch black chain link fence on top.

Landscape and Buffer Requirements:

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

Tree cover requirements are met with existing vegetation.

Buffers are shown as required.

-35 foot perimeter buffer adjacent to existing residential development to the north, south and west. The buffer will remain undisturbed except where crossing for the sanitary sewer easement and the emergency access.

-25 foot perimeter buffer adjacent to undeveloped residential zoning district to the east

A typical landscape plan for each buffer has been provided to be used if supplemental vegetation is needed to meet screening requirements.

Two tributaries of Mahler's Creek are on this property and are both protected by the required Neuse River buffers. There is an allowable encroachment into one of these buffers. Grading into the first 20 feet of the buffer is permitted but must be revegetated, with a minimum of grass.

Parking Spaces:

Parking based on number of bedrooms (1.5 per one-bedroom, 2 per two-bedroom and 2.5 per three+-bedroom units) and total number of units (1 per every four units)

Required: 636

Provided: 541 (513 spaces and 28 garages)

Parking reduction requested; **please refer to General Comments**

Floodplain:

This site does not contain a FEMA designated floodplain.

Stormwater Management:

Please refer to General Comments.

Fire Protection:

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

Parks and Open Space:

The Parks, Recreation and Cultural Resources Department is recommending a fee-in-lieu of parkland dedication for this project. The current rate is \$895.00 per dwelling unit.

Open space required 2.195 acres (10%)

Open space provided 2.199 acres; within the

Neuse River Buffers)

Amenities provided on site include a clubhouse with pool and a playground. A 30 foot public greenway easement has been provided allowing connection to the future Mahler's Creek greenway.

Water/ Sewer:

The public sewer main will be extended from the south to the property where it will then become a private sewer system. The properties along Benson Road will be served by extending the sewer main in Winding Brook Drive north along Benson Road.

A public water main will be extended from the west to the site where it will then become a private water system.

City of Raleigh has given preliminary approval; construction drawing approval is required prior to issuance of a building permit.

Street Access/ Sidewalks:

A new public street is proposed off Benson Road to access this site. The roads become private once on site.

A second point of access, for emergency vehicles only, is proposed off Brook Rock Lane. This will be a gated point of access.

A traffic study was submitted for the project (summary provided). Proposed road improvements include a left turn lane on southbound NC 50. NCDOT will require a right turn lane be provided on northbound NC 50. No improvements are required at the intersection of NC 50 and Timber Drive. Staff requested the intersection of the new site street and NC 50 be evaluated for signalization. The study noted the intersection did not meet warrants at build-out (2019). NCDOT concurred with that conclusion. A copy of the review by NCDOT is included.

General Comments:

Building size – The site plan originally proposed all three-story buildings. The plan has since been modified to reduce the size of the building closest to the Forest Landing Subdivision, Building 1800, to a two story building.

Parking: The Developer originally requested a reduction in the amount of required parking by 24.4%, which Staff could not support. Two recently approved apartment projects requested, and were granted, a parking reduction; Adeline @ White Oak with a 4.4% reduction and McCuller's Walk Apartments with a 9.0% reduction. The Developer modified the request to a 15% reduction. Reviewing required parking requirements for other Wake County jurisdictions, Staff can support the requested 15% reduction. The Planning Commission, after being presented with this information, also supported this request. Town Council has the authority to grant deviations from the parking standards listed in the UDO if they believe a "sufficient number of parking spaces, to accommodate the number of vehicles likely to be attracted to the development", have been provided.

Storm-water management – This project is subject to nitrogen and water quantity requirements. The developer is constructing dry detention ponds to handle detention of the 1, 10 and 25 year storm events. There will be a payment required to a private mitigation bank to comply with the nitrogen removal requirements in the Neuse Rules.

Neighborhood meetings – The Developer held two neighborhood meetings; the first to present the project and a second to present changes to the site plan, as a result of adding additional parking to reduce the requested parking reduction from 24% to 15%.

Site Lighting – A condition from the Planning Commission was to submit a revised lighting plan for Staff review and approval prior to presentation to Town Council. A revised lighting plan was submitted; however, it needed some minor adjustments. The condition for site lighting has been revised to require completion prior to issuance of a building permit.

Consistency with Adopted Town Plans and Policies:

2006 Comprehensive Growth Plan: This site falls within the Mixed Use designation for the Community Core at Timber Drive and Benson Road; the project is consistent with the Comprehensive Growth Plan.

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

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

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

RECOMMENDATION:

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

Rezoning Action

Based upon the consistency of this request with the recommendations of the Town's Comprehensive Growth Plan for this area of the community, the Planning Commission and staff recommend approval of the rezoning request as submitted. The requested zoning change from CR C152 and O&I C152 to MF-2 C184 is consistent with the ***Comprehensive Growth Plan***.

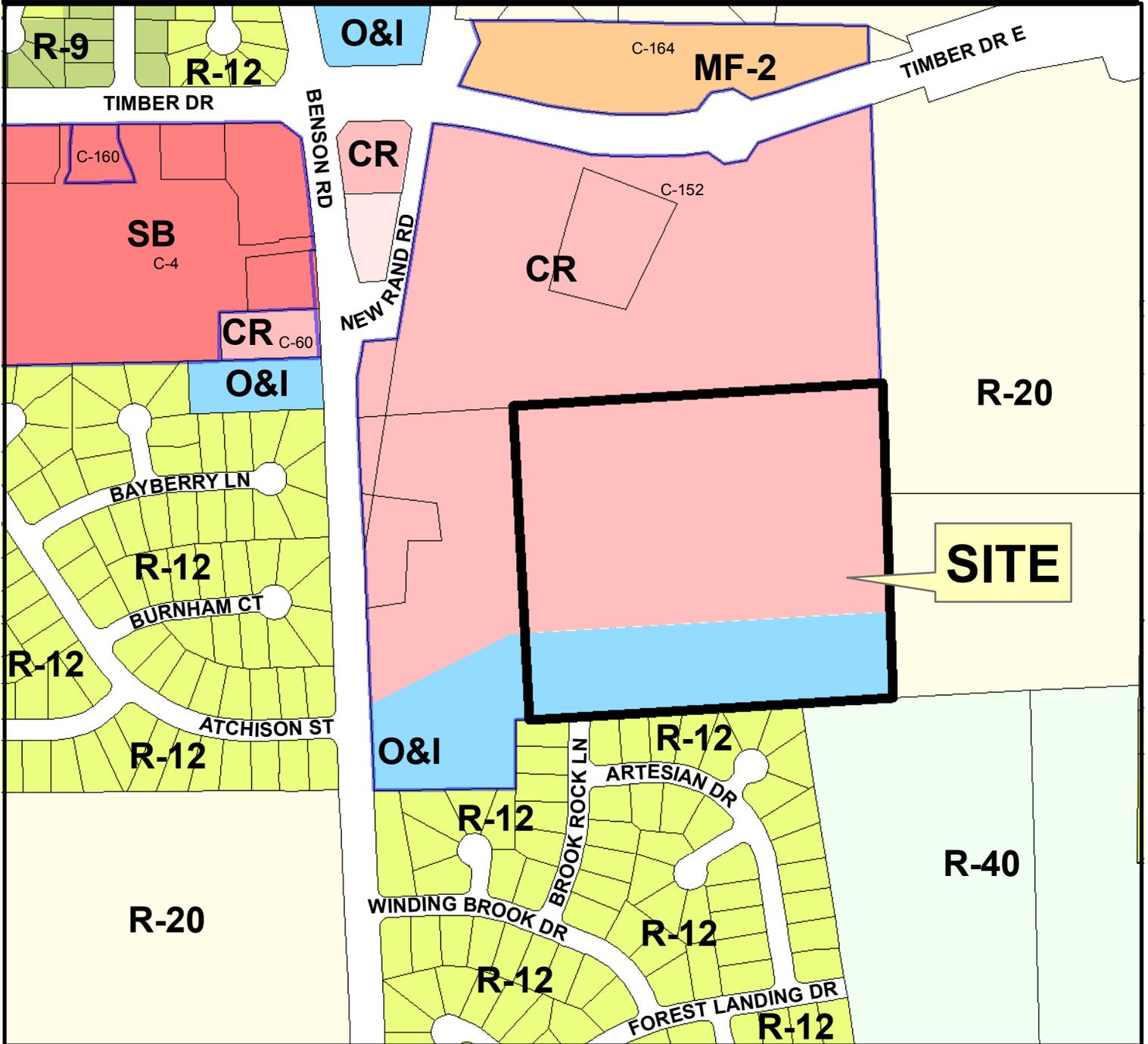
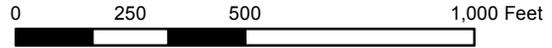
Note: The Council will need to use the attached **Rezoning Motion Form** as a guide when making a motion on the attached Ordinance regarding this rezoning application.

Conditional Use Permit Action

The Planning Commission reviewed this application at their meeting on September 12, 2016 and voted unanimously to recommend approval of **CUP-SP-16-10, Evolve Timber Creek Apartments**, with the three site specific conditions listed on the attached permit.

**Town of Garner
Planning Department**

**Conditional Use Applications
CUD-Z-16-04 & CUP-SP-16-10**



Project: Evolve Timber Creek
 Location: 1623 Benson Road
 Owner: Carl T. Williams
 Applicant: Zimmer Development Company
 PIN: 1710834578

Case: CUD-Z-16-04
 Current Zoning: Community Retail (CR)
 & Office and Institutional (O&I) Conditional Use C152
 Proposed Zoning: Multi-Family 2 Conditional Use
 (MF-2 C184)
 Project Acreage: 21.95
 Overlay: Timber Drive East

Case: CUP-SP 16-10
 Proposed: Apartments (312 Units)

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

ORDINANCE NO. (2016) 3828

**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 Zimmer Development Company in Rezoning Application No. **CUD-Z-16-04 (MF-2 C184)**.

Section 2. There is hereby created a new conditional use zoning district, to be known as the **Multi-Family 2 Conditional Use (MF-2 C184)** within this district, all of the regulations that apply to property within the **Multi-Family 2 Conditional Use (MF-2 C184)** 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 Multi-Family 2 Conditional Use (MF-2 C184) district.

1. Residential cluster
2. Duplexes
3. Townhome
4. Condominium
5. Triplexes & apartments
6. Family Care Home
7. Intermediate Care Home
8. Community Center
9. In-home Child Day care up to 3 children
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 parks

- 16. Private country clubs, golf courses
- 17. Bed and Breakfast

The following are site-specific conditions for the proposed MF-2 C184 district:

- 1. Applicant is to provide public sewer to the subject parcel and the parcel(s) fronting on Benson Road (NC 50) using route(s) approved by the Town of Garner Engineering and City of Raleigh Utilities during the construction approval process.
- 2. The emergency access gate is to be designed in a manner acceptable to the Town of Garner that will blend in with the surrounding landscape as much as possible.
- 3. All public streets as designed on the site plan are to be constructed to Town of Garner standards.
- 4. Uses shall not include: Group Living, schools or continuing care / retirement community.

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
Carl T. Williams	1710834578 (portion of 21.95 acres)	Community Retail Conditional Use (CR C152) & Office and Institutional Conditional Use (O&I C152)	Multi-Family 2 Conditional Use (MF-2 C184)

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 3rd day of October, 2016.

MAYOR

ATTEST: _____
TOWN CLERK

REZONING ACTION MOTION WORKSHEET

Application #: CUD-Z-16-04 from CR C-152 & O&I C-152 to MF-1 C-184

Applicant: Zimmer Development Company

MOTION TO APPROVE REZONING REQUEST:

I move that the Council find the following regarding rezoning application CUD-Z-16-04

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-16-04 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-16-04.

(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-16-04; 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-SP-16-10
CONDITIONAL USE PERMIT
APPROVE THE PERMIT

APPLICANT	Zimmer Development Company Attn: Mr. Lowell Zimmer P. O. Box 2628 Wilmington, NC 28402
LOCATION	East side of Benson Road, south of Timber Drive Extension, north of Forest Landing subdivision
USE	Apartment Complex
DATE ISSUED	October 3, 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

1. Prior to issuance of a building permit, submittal of a petition for annexation shall be required.
2. Prior to issuance of a building permit, a lighting plan, revised to address staff's review comments, shall be submitted for Staff review and approval.
3. The application is approved with a 15% reduction in required parking.

Cc: Hagen Engineering
Attn: Mr. Barrett Hagen
3859 Battleground Avenue, Suite 300
Greensboro, NC 27410

Brad Bass

From: Brennan, Sean P <spbrennan@ncdot.gov>
Sent: Tuesday, April 26, 2016 4:14 PM
To: Brad Bass
Cc: Elmore, Thomas R
Subject: Benson Road Development
Attachments: Final Benson Road Development .pdf

Brad,

Attached are the review comments from congestion management. We concur with the Timmons Group's recommendation to provide a southbound left-turn lane into the site providing a minimum of 125 feet of storage. In addition to their recommendations, we are requiring a northbound right-turn lane into the site with a minimum of 100 feet of storage. Also, we will require that their internal driveway stem be protected (i.e. no crossing or parking maneuvers) for minimum of 200 feet. We will not require the developer to monitor the intersection of the site driveway and Benson Road for a signal, because the TIA showed that even in 2019 at full build out, it will not trigger the requirements to warrant a signal. We will not require any improvements at the intersection of Timber Drive and Benson Road.

Regards,
Sean Brennan
Assistant District Engineer
Division 5/District 1
Department of Transportation

919-733-3213 office
919-715-5778 fax
spbrennan@ncdot.gov

4009 District Drive (Physical Address)
Raleigh, NC 27607

1575 Mail Service Center (Mailing Address)
Raleigh, NC 27699-1575



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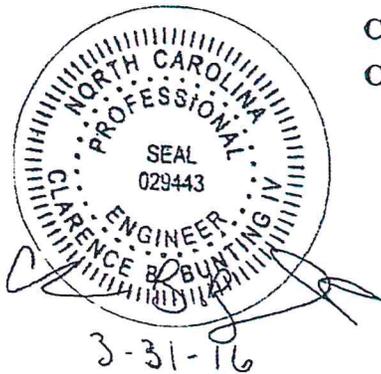
PAT McCRORY
Governor
NICHOLAS J. TENNYSON
Secretary

March 31, 2016

Benson Road Development
Traffic Impact Analysis Review Report
Congestion Management Section

TIA Project: SC-2016-021
Division: 5
County: Wake

Clarence B. Bunting, IV, P.E. Project Engineer
Charles V. Sorrell



Nothing Compares™

Benson Road Development		
SC-2016-021	Wake	March 31, 2016

Per your request, the Congestion Management Section (CMS) of the Transportation Mobility and Safety Division has completed a review of the subject site. The comments and recommendations contained in this review are based on data for background conditions presented in the sealed Traffic Impact Analysis (TIA) and are subject to the approval of the local District Engineer's Office and appropriate local authorities.

Date Initially Received by CMS	3/10/16	Date of Site Plan	8/14/16
Date of Complete Information	3/10/16		
Date of Preliminary Review	3/11/16	Date of Sealed TIA	3/1/16

Proposed Development

According to the TIA, the proposed Benson Road Development is to be located on Benson Road in Wake County. The TIA states the development is to be constructed by 2019 and is to consist of the following:

Land Use	Land Use Code	Size
Apartments	220	312 units

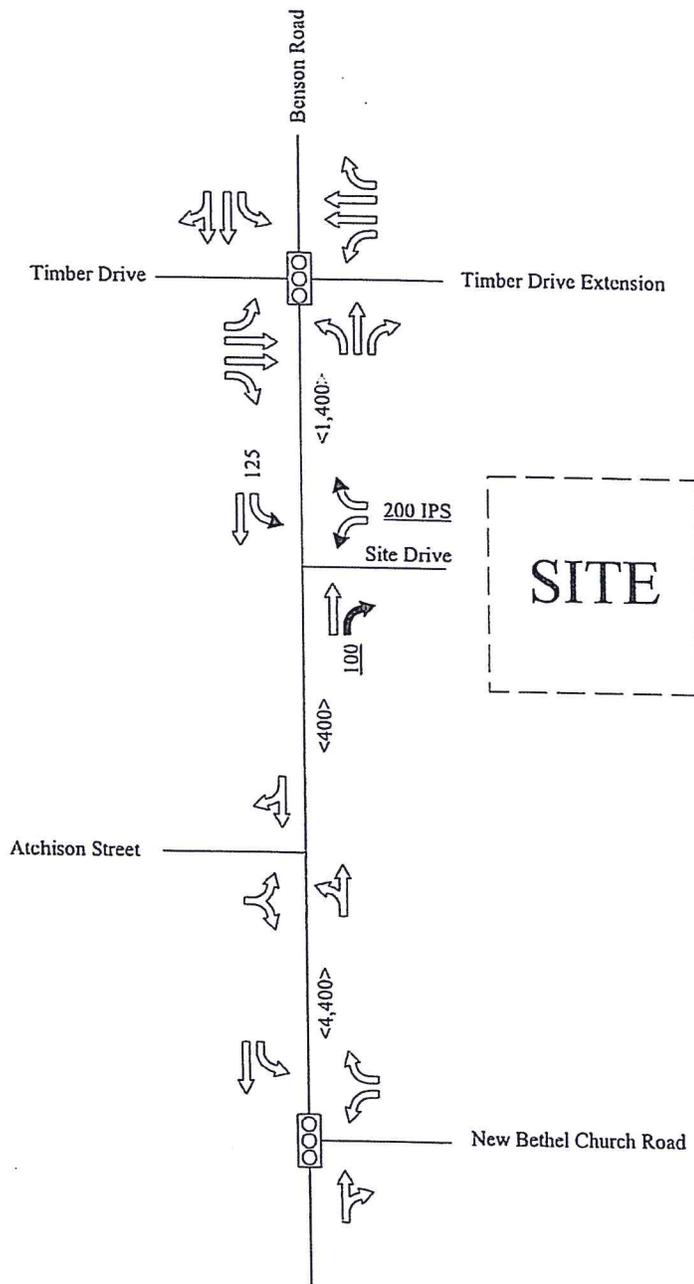
Trip Generation - Unadjusted Volumes During a Typical Weekday			
	IN	OUT	TOTAL
AM Peak Hour	31	125	156
PM Peak Hour	123	68	191
Daily Trips			2,014

Requested Access Points		
Driveway	Public Roadway	Access Type
Site Drive1	NC 50 (Benson Road)	All-Movement

General Reference

For reference to various documents applicable to this review please reference the following link: <http://www.ncdot.org/doh/preconstruct/traffic/tepl/Topics/C-37/C-37.html>

Once the driveway permit has been approved and issued, a copy of the final driveway permit requirements should be forwarded to this office. If we can provide further assistance, please contact the Congestion Management Section at (919) 773-2800.



**Benson Road Development
SC-2016-021**

- Existing Laneage
- Recommended Laneage
- Laneage Built By Others
- NCDOT Recommendation
- Existing Signal
- Signal Proposed By Others
- Developer Proposed Signal
- XXX Storage
- XXX NCDOT Recommended Storage
- <XXX> Distance Between Intersections
- IPS Internal Protected Stem
- All Distances in Feet
- Drawing Not to Scale



Benson Road Development

Traffic Impact Analysis

Garner, North Carolina

March 1, 2016



Prepared for:

31116

Zimmer Development

TIMMONS GROUP
YOUR VISION ACHIEVED THROUGH OURS.



Contact: Jeff Hochanadel, PE

5500 Trinity Road, Suite 100 • Raleigh, NC 27617
(919) 876-1800 • Fax: (919) 876-6414 • www.timmons.com

3/01/16

EXECUTIVE SUMMARY

1 Introduction

The proposed 312 multi-family unit development will be located off NC-50 (Benson Road) south of Timber Drive, in Garner, NC, as shown on **Figure ES-1**. Access to the proposed site will be provided via (1) full access site driveway connection to NC-50 (Benson Road). Preliminary site layout for the proposed development is located in **Figure ES-2**.

The study limits include the following three (3) intersections:

- NC-50 (Benson Road) / Timber Drive (signalized);
- NC-50 (Benson Road) / Atchison Street (unsignalized); and
- NC-50 (Benson Road) / New Bethel Church Road (signalized).

2 Existing Information

The project study area is primarily serviced by three corridors: NC-50 (Benson Road), Timber Drive, and New Bethel Church Road. The full movement Site Driveway will connect to NC-50 (Benson Road) west of the proposed site.

Timmons Group calculated peak hour volumes for the study intersections using the AM (7:00 – 9:00) and PM (4:00 – 6:00) peak period turning movement counts undertaken in February 2016.

3 Existing and Background Conditions and Analysis

As shown in **Table ES-2**, the signalized intersection of NC-50 (Benson Road) / Timber Drive is currently operating at a LOS D during the AM and PM peak hours. Per Synchro, the westbound left-turn queue (347-feet) currently extends beyond the available storage lane (300-feet) during the PM peak hour. Existing turn lane storage is adequate to handle all other 95th percentile queue lengths during both analyzed peak hours.

The eastbound shared movement at the intersection of NC-50 (Benson Road) / Atchison Street is currently operating at a LOS E during both peaks. However, 95th percentile queue lengths equate to one vehicle during both peaks.

The signalized intersection of NC-50 (Benson Road) / New Bethel Church Road is currently operating at a LOS C during the AM peak hour and LOS B during the PM peak hour. Existing turn lane storage is adequate to handle all 95th percentile queue lengths during both analyzed peak hours.

Currently there are two (2) approved developments in the project study area that will be fully build-out by 2019. Projected traffic from each was included as part of 2019 Background traffic analyses. Listed below are the approved developments, site trip distribution assumptions, and required offsite roadway improvements:

- H8 High School
 - Northeast quadrant of the New Bethel Church Road / Hebron Church Road intersection
 - 2016 Construction
 - 2,350 Student Capacity, 37 Buses, and 217 Staff
 - TIA provided by Ramey Kemp & Associates (RKA)
 - Trip Distribution Assumptions:
 - Distribution at NC-50 (Benson Road) / New Bethel Church Road found in RKA TIA

3/01/16

- Distribution at NC-50 (Benson Road) and Timber Drive / Atchison Street intersections followed existing area traffic patterns
 - PM peak hour trips were not included with the analyses as the PM peak hour of the high school is 2:00 p.m. – 4:00 p.m.
 - Offsite road improvements at NC-50 (Benson Road) / New Bethel Church Road to be completed by 2016:
 - 650-foot northbound through lane
 - 250-foot northbound right-turn lane
 - 1,200-foot northbound receiving lane (north of New Bethel Church Road)
 - 225-foot southbound dual left-turn lanes
 - 1,200-foot eastbound receiving lane (east of New Bethel Church Road)
- Bellarose Nursing Home
 - Located on NC-50 (Benson Road), north of New Bethel Church Road
 - 64,250 square feet (100 Bed) facility
 - LUC 620 (Nursing Home)
 - Trip Distribution followed existing area traffic patterns

As shown in **Table ES-2**, the signalized intersection of NC-50 (Benson Road) / Timber Drive is projected to operate at a LOS D during the 2019 Background AM and PM peak hours. Per Synchro, the westbound left-turn queues (382-feet and 458-feet) are projected to extend beyond the available storage lane (300-feet) during the AM and PM peak hours, respectively. Existing turn lane storage is adequate to handle all other projected 95th percentile queue lengths during both analyzed peak hours.

The eastbound shared movement at the intersection of NC-50 (Benson Road) / Atchison Street is projected to operate at a LOS F during both peaks. 95th percentile queue lengths equate to two vehicles during the AM peak hour and one vehicle during the PM peak hour.

The signalized intersection of NC-50 (Benson Road) / New Bethel Church Road is projected to operate at a LOS C during the analyzed 2019 Background AM and PM peak hours. Per Synchro, the northbound right-turning queue (456-feet) is projected to extend beyond the proposed storage lane (250-feet) during the 2019 Background AM peak hour. Existing / proposed turn lane storage is adequate to handle all other 95th percentile queue lengths during both analyzed peak hours.

It should be noted that the intersection was analyzed with right-turns on red prohibited for all directions. With right-turns on red allowed for the northbound movement, 95th percentile queue lengths are not projected to exceed 68-feet.

4 Site Trip Generation and Distribution

The site-generated trips shown in **Table ES-1** are based on trip generation information provided in the 9th edition of the Institute of Transportation Engineer’s (ITE’s) *Trip Generation Manual* and the anticipated development of 312 multi-family residential units. The trip generation was calculated using the proposed number of residential units as the independent variable. The provided regression equation was used to help generate trips (per NCDOT standards).

Table ES-1: Trip Generation Summary

ITE Land Use Code	Independent Variable	Daily			AM Peak Hour			PM Peak Hour		
		In	Out	Total	In	Out	Total	In	Out	Total
220 – Apartments	312 Units	1,007	1,007	2,014	31	125	156	123	68	191

SOURCE: Institute of Transportation Engineers’ *Trip Generation Manual* 9th Edition (2012)

The directional traffic patterns, or trip distribution, of the site-generated traffic was determined using the existing AM and PM peak hour traffic characteristics. It was assumed, for purposes of this study, that all site traffic would enter and exit the study area in the same manner as the existing traffic. Area trip distribution is based on traffic counts performed by Timmons Group. Total trips into and out of the study area using NC-50 (Benson Road), Timber Drive, Atchison Street, and New Bethel Church Road form the basis for the percentage distribution. Distribution percentages into and out of the study area were calculated using existing traffic volumes entering and exiting the study area. The percentages were routed, via shortest path, to and from the proposed development. The distribution percentages were then applied to the generated trips to predict routes and project traffic volumes for the 2019 build-out scenario. 2019 Build traffic volumes were determined by applying the total site trip distribution volumes to the Background traffic volumes.

5 2019 Build Condition and Analysis

As shown in **Table ES-2**, the signalized intersection of NC-50 (Benson Road) / Timber Drive is projected to operate at a LOS D during the 2019 Build AM and PM peak hours. Per Synchro, similar to the Background analyses, the westbound left-turn queues (399-feet and 491-feet) are projected to extend beyond the available storage lane (300-feet) during the AM and PM peak hours, respectively. Northbound left-turn 95th percentile queue lengths are projected to extend beyond the available turn lane storage (225-feet) during the AM peak hour (244-feet)*. Existing turn lane storage is adequate to handle all other projected 95th percentile queue lengths during both analyzed peak hours. Because this intersection is projected to operate at acceptable levels of service during both peak hours, no improvement recommendations are necessary to help mitigate intersection congestion due to the construction of the proposed development.

*Although Synchro projects that northbound queues are projected to extend beyond available storage, ample two-way left-turn storage is available to accommodate additional northbound queued vehicles during the AM peak hour.

The eastbound shared movement at the intersection of NC-50 (Benson Road) / Atchison Street is projected to operate at a LOS F during both peaks. 95th percentile queue lengths equate to two vehicles during the AM peak hour and one vehicle during the PM peak hour.

Despite failing eastbound levels of service, volume / capacity ratios do not exceed 0.40 during either peak hour (0.38 for the AM peak hour and 0.20 for the PM peak hour). Because of this, and because of minimal projected eastbound queuing, no improvement recommendations are necessary to help mitigate intersection congestion due to the construction of the proposed development.

The signalized intersection of NC-50 (Benson Road) / New Bethel Church Road is projected to operate at a LOS C during the analyzed 2019 Build AM and PM peak hours. Per Synchro, the northbound and westbound right-turning queues (456-feet and 163-feet, respectively) are projected to extend beyond their respective proposed storage lanes (250-feet and 150-feet) during the 2019 Build AM peak hour. Existing / proposed turn lane storage is adequate to handle all other 95th percentile queue lengths during both analyzed peak hours.

Similar to Background analyses, with the "right-turn on red" feature turned on for each intersection approach, 95th percentile queue lengths are not projected to exceed 68-feet for the northbound direction and 78-feet for the westbound direction. Because adequate horizontal and vertical sight distance is

available at the intersection, it is unlikely that right-turns on red will be prohibited in the future. Because of this, and because this intersection is projected to operate at acceptable levels of service during both peak hours, no improvement recommendations are necessary to help mitigate intersection congestion due to the construction of the proposed development.

The shared westbound movement of the proposed NC-50 (Benson Road) / Site Driveway is projected to operate at an unacceptable level of service during both 2019 Build peak hours. 95th percentile queue lengths are projected to extend 292-feet during the AM peak hour and 144-feet during the PM peak hour. Because of this, it is recommended that the westbound approach be widened to include exclusive left and right-turn lanes.

In addition, to help mitigate capacity at this intersection, the construction of a southbound left-turn lane is recommended. Per the NCDOT Policy on Street and Driveway Access to North Carolina Highways Manual:

“Generally left and right turn lanes and tapers shall be considered when:

- In accordance with G.S. 136-18(29), the average daily traffic meets or exceeds 4,000 vehicles per day on any secondary route (the average daily traffic should include both the existing traffic plus traffic generated by the proposed development)”

With the AADT along NC-50 (Benson Road) exceeding 4,000 VPD, a left-turn lane is recommended. Per the nomograph (provided in the NCDOT Driveway Manual), and projected 2019 PM peak hour volumes, a 125-foot southbound left-turn lane (with appropriate taper) is recommended.

Per the Town of Garner, a traffic signal warrant analysis was performed at the proposed Site Driveway intersection with NC-50 (Benson Road). Following construction of the proposed development a traffic signal is not warranted.

As shown in **Table ES-2**, with the construction of the 125-foot left-turn lane and widening of the westbound approach to include exclusive left and right-turn lanes, the westbound intersection approaches are expected to experience unacceptable levels of service. However, queue lengths are not projected to exceed 134 feet during either peak hour.

6 Conclusions and Recommendations

Capacity analyses were performed for 2016 Existing, 2019 Background (existing + ambient growth + approved development trips), and 2019 Build (background + site trips) traffic volumes

Based on the operational analyses the following is offered:

- The signalized intersection of NC-50 (Benson Road) / Timber Drive is projected to operate at an acceptable level of service during each analyzed condition. No improvements are recommended at this intersection due to the construction of the proposed development.
- Despite failing eastbound levels of service at the intersection of NC-50 (Benson Road) / Atchison Street, volume / capacity ratios are not projected to exceed 0.40 during either peak hour (0.38 for the AM peak hour and 0.20 for the PM peak hour). Because of this, and because of minimal projected eastbound queuing, no improvement recommendations are necessary to help mitigate intersection congestion due to the construction of the proposed development.

3/01/16

- The signalized intersection of NC-50 (Benson Road) / New Bethel Church Road is projected to operate at an acceptable level of service during each analyzed condition and 95th percentile queue lengths are not projected to exceed proposed storage lengths (with right-turns on red allowed). No improvements are recommended at this intersection due to the construction of the proposed development.

In closing, the following improvements are recommended in conjunction with the construction of the proposed development (see **Figure ES-3**):

- Construction of exclusive westbound left and right-turn lanes for the proposed Site Driveway.
- Construction of a 125-foot southbound left-turn bay (with appropriate taper) at the intersection of NC-50 (Benson Road) / Site Driveway.

Table ES-2 – Level of Service and Delay (sec/veh) Results – Study Area Intersections

Intersection	2016 Existing Traffic Volumes		2019 Background Traffic Volumes		2019 Build Traffic Volumes		2019 Build Traffic Volumes With Improvements	
	AM	PM	AM	PM	AM	PM	AM	PM
NC-50 (Benson Road) / Timber Drive	D (36.5)	D (42.2)	D (49.5)	D (49.4)	D (53.2)	D (54.4)		
NC-50 (Benson Road) / Atchison Street	E (39.5) [^]	E (49.0) [^]	F (100.6) [^]	F (68.9) [^]	F (109.4) [^]	F (68.9) [^]		
NC-50 (Benson Road) / New Bethel Church Rd	C (21.3)	B (17.9)	C (26.6)	C (22.8)	C (26.8)	C (24.3)		
NC-50 (Benson Road) / Site Driveway	--	--	--	--	F (446.8) [^]	F (234.7) [^]	F (295.5) [^]	F (340.9) [^]

N/A => Intersection not analyzed / Intersection does not exist
[^] => Critical intersection movement for unsignalized intersections

7 Additional Analyses

A meeting was conducted between the NCDOT, Town of Garner, and project development team on February 22nd, 2016. At this meeting, additional analyses were requested for the proposed Site Driveway. For purposes of analysis, it was assumed that the two adjacent outparcels (located immediately west of the proposed site) and commercial parcel (located immediately north of the proposed site) were constructed. The proposed site driveway was then analyzed to determine effects of peak hour traffic at the Site Driveway / NC-50 (Benson Road) intersection, as well as to determine whether or not a signal will be warranted following the construction of the proposed outparcels.

As shown in **Table ES-3**, following the construction of the proposed development and commercial outparcels, the westbound shared movement is projected to operate at an unacceptable level of service during both peak hours. Because of this, it is recommended that the westbound approach be widened to include exclusive left and right-turn lanes.

In addition, to help mitigate capacity at this intersection, the construction of a southbound left-turn lane is recommended. With the AADT along NC-50 (Benson Road) exceeding 4,000 VPD, a left-turn lane is recommended. Per the nomograph (provided in the NCDOT Driveway Manual), and projected 2019 PM peak hour volumes, a 500-foot southbound left-turn lane (with appropriate taper) is recommended.

Per the subject meeting, a traffic signal warrant analysis was performed at the proposed Site Driveway intersection with NC-50 (Benson Road) using the assumptions described in Section 7. Following construction of the proposed development and outparcels (office and commercial) a traffic signal is warranted.

As shown in **Table ES-3**, with the construction of the 500-foot southbound left-turn lane, widening of the westbound approach to include exclusive left and right-turn lanes, and intersection signalization, the intersection is projected to operate at a LOS E during the AM peak hour and LOS D during the PM peak hour. Northbound traffic volumes along NC-50 are projected to be heavy during the 2019 AM peak hour. With volumes projected to exceed 1,400 vehicles along NC-50, only additional widening along the length of the facility will allow the intersection to operate at acceptable levels of service during the 2019 peak hours.

Table ES-3 – Level of Service and Delay (sec/veh) Results – Site Driveway

Intersection	2019 Build Traffic Volumes With Outparcels		2019 Build Traffic Volumes With Outparcels & Improvements	
	AM	PM	AM	PM
NC-50 (Benson Road) / Site Driveway	F (709.9) [^]	F (*) [^]	E (67.3)	D (40.7)

* => Delay in calculable

[^] => Critical intersection movement for unsignalized intersections

It should be noted that the improvements listed in Section 7 of the TIA are based on assumed square-footages of potential development types. It should be the responsibility of the future outparcel developments to assume the cost and responsibility for construction of these improvements. Improvement requirements / responsibilities for the proposed Benson Road residential development are listed in Section 6 of the TIA.

Town of Garner
Town Council Meeting
Agenda Form

Meeting Date: October 3, 2016		
Subject: Ordinance Establishing Town Hall and Police Department Capital Projects		
Location on Agenda: Old/New Business		
Department: Finance		
Contact: Pam Wortham, Finance Director		
Presenter: Pam Wortham, Finance Director		
Brief Summary: This amendment captures all of the cost components of the Town Hall project. Previously, the Town Hall and Police Department projects were combined, and this separates the Town Hall costs into a project code for easier tracking.		
Recommended Motion and/or Requested Action: Adopt Ordinance (2016) 3829		
Detailed Notes: No operating funds are requested.		
Funding Source: Bond proceeds		
Cost:	One Time: <input type="radio"/>	Annual: <input type="radio"/> No Cost: <input checked="" type="radio"/>
Manager's Comments and Recommendations: 		
Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	PW	
Finance Director:	PW	
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

FINANCE DEPARTMENT MEMORANDUM

TO: RODNEY DICKERSON, TOWN MANAGER
FROM: PAM WORTHAM, FINANCE DIRECTOR
SUBJECT: BUDGET AMENDMENT – TOWN HALL CAPITAL PROJECT
DATE: SEPTEMBER 27, 2016

CAPITAL PROJECT FUND

- The projects for the Police Station and Town Hall are recorded in the same fund. We have separated the charges for Town Hall using project code 00001. The budget for construction includes the bid price for the building and site, as well as Alternate 2-Generator and Alternate 3-Finishes, a total of \$6,318,600.
- The premium received on bond issuance is being budgeted through this amendment.
- This amendment includes funds (\$420,850) to equip Town Hall. There may be additional amendments required once we have cost estimates and determine what type of equipment will be purchased.
- We have budgeted for a reimbursement from Wake County to pay for the library parking lot as specified in the contract. The amount budgeted to be received (\$129,308) is the same as the proposal from the construction company.
- We originally estimated that the cost of construction management would be \$30,000. That cost is \$6,000 higher for the Town Hall project. This amount is reflected in the Professional Services line item.
- Roadway improvements are incorporated into this project; however, the funds (\$320,000) for the improvements are being transferred from the Timber Drive bond project. This is accounted for using project code 00002.
- No funds are being requested from Fund Balance at this time.

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

ORDINANCE NO. (2016) 3829

CAPITAL PROJECT ORDINANCE FOR TOWN HALL

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

Section One. The project for the construction of Town Hall is authorized as follows:

General Fund Budget Changes:

Department/ Category	Description	Current	Amended	Net Change
Expenditures				
Town Hall				
45411000-537600	Construction	\$11,282,000	\$4,038,764	-\$7,243,236
45411000-537600-00001	Construction-Town Hall	\$0	\$6,318,600	+\$6,318,600
45411000-525800-00001	Contingency-Town Hall	\$0	\$250,000	+\$250,000
45411000-537226-00001	Parking lot construction	\$0	\$129,308	+\$129,308
45411000-537600-00002	Road Improvements-Town Hall	\$0	\$320,000	+\$320,000
45411000-537400-00001	Equipment-Town Hall	\$0	\$420,850	+\$420,850
45411000-521000	Professional Services	\$1,000,000	\$875,000	-\$125,000
45411000-521000-00001	Professional Services-Town Hall	\$0	\$730,000	+\$730,000
45411000-524300-00002	Contract Services-Road Improvements	\$0	\$112,000	+\$112,000
45411000-526500	Bond Issuance Cost	\$0	\$246,482	+\$246,482
45411000-525800	Contingency	\$21,000	\$0	-\$21,000

Timber Drive

54481000-554500	Transfer to Town Hall Cap Project (Fund 45)	\$0	\$320,000	+\$320,000
54481000-524300	Contract Services	\$2,468,607	\$2,148,607	-\$320,000

Revenues

45411000-411230	Reimbursement from Library	\$0	\$129,308	+\$129,308
45411000-471054	Transfer from Timber Dr (Fund 54)	\$0	\$320,000	+\$320,000
45411000-454010	Interest Earned	\$0	\$35,000	+\$35,000
45411000-476025	Premium on Bonds Issued	\$0	\$653,696	+\$653,696

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

Duly adopted this 3rd day of October, 2016.

Ronnie S. Williams, Mayor

ATTEST: _____
Stella Gibson, Town Clerk

Town of Garner
Town Council Meeting
Agenda Form

Meeting Date: October 3, 2016		
Subject: Lobbyist		
Location on Agenda: Old/New Business		
Department: Administration		
Contact: Rodney Dickerson		
Presenter: Rodney Dickerson		
Brief Summary: The Lobbyist would research, guide, represent, and advocate for the Town on municipal and legislative matters on the local, state, and federal levels.		
Recommended Motion and/or Requested Action: Appoint entity to serve as Town Lobbyist and assign duties. Authorize Contract.		
Detailed Notes: Some duties may include: -Attend General Assembly sessions and committee meetings, School Board and Board of County Commission meetings, and CAMPO and Town Council meetings -Work with NCLM staff and consult with NCDOT about status of projects -Build relationship with Go Triangle -Engage City of Raleigh Utilities as needed pertaining to merger issues		
Funding Source: general fund		
Cost: @28,000/yr	One Time: <input type="radio"/>	Annual: <input checked="" type="radio"/> No Cost: <input checked="" type="radio"/>
Manager's Comments and Recommendations: Information on lobbyist from state statute is included. I recommend that Town Council familiarizes itself with these requirements.		
Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	RD	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

NORTH CAROLINA
WAKE COUNTY

GOVERNMENTAL SERVICES RELATIONS AGREEMENT-FY 2016-17

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

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

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

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

Bridges shall register as a governmental relations agent for the Town of Garner with the North Carolina Secretary of State and pay the required registration fee. (Town will pay the fee required of a principal, upon advice from Bridges regarding the payment procedure.) Bridges agrees to provide a monthly statement of services rendered. Town agrees to pay Bridges a monthly retainer of \$2,250.00 for the remaining months of the Fiscal Year 2016-2017. The parties will continue to discuss what expenses, if any, might properly be reimbursable in the governmental representation context.

Bridges and Town agree to abide by all statutes, rules and regulations promulgated by the State of North Carolina for lobbying at the General Assembly and at other state and local boards and agencies. To facilitate that agreement, Bridges will prepare and present to the Town Manager a brief summary of all such rules and regulations applicable to a lobbyist and applicable to a principal, including instructions regarding the principal making filings and paying fees to the Secretary of State or other agencies, as a condition precedent to the consummation of this agreement, anticipated to occur on or soon after October 3, 2016.

Duly adopted this the 3rd day of October, 2016.

(Town Seal)

TOWN OF GARNER

Ronnie S. Williams, Mayor

Samuel L. Bridges II

ATTEST:

Stella Gibson, Town Clerk

PRE-AUDIT CERTIFICATE

This Agreement has been pre-audited in conformity with the applicable government finance laws of the State of North Carolina. This the ____ day of October, 2016.

Pam Wortham, Finance Director

Chapter 120C.

Lobbying.

Article 1.

General Provisions.

§§ 120C-1 through 120C-99: Reserved for future codification purposes.

§ 120C-100. Definitions.

- (a) As used in this Article, the following terms mean:
- (1) Commission. – The State Ethics Commission under Chapter 138A of the General Statutes.
 - (2) Designated individual. – A legislator, legislative employee, or public servant.
 - (3) Executive action. – The preparation, research, drafting, development, consideration, modification, amendment, adoption, approval, tabling, postponement, defeat, or rejection of a policy, guideline, request for proposal, procedure, regulation, or rule by a public servant purporting to act in an official capacity. This term does not include any of the following:
 - a. Present, prior, or possible proceedings of a contested case hearing under Chapter 150B of the General Statutes, of a judicial nature, or of a quasi-judicial nature.
 - b. A public servant's communication with a person, or another person on that person's behalf, with respect to any of the following:
 1. Applying for a permit, license, determination of eligibility, or certification.
 2. Making an inquiry about or asserting a benefit, claim, right, obligation, duty, entitlement, payment, or penalty.
 3. Making an inquiry about or responding to a request for proposal made under Chapter 143 of the General Statutes.
 4. Ratemaking.
 - c. Internal administrative functions, including those functions exempted from the definition of "rule" in G.S. 150B-2(8a).
 - d. Ministerial functions.
 - e. A public servant's communication with a person or another person on that person's behalf with respect to public comments made at an open meeting, or submitted as written comment, on a proposed executive action in response to a request for public comment, provided the identity of the person on whose behalf the comments are made is disclosed as part of the public participation, and no reportable expenditure is made.
 - (4) In session. – One of the following:
 - a. The General Assembly is in extra session from the date the General Assembly convenes until the General Assembly:
 1. Adjourns sine die.
 2. Recesses or adjourns for more than 10 days.

- b. The General Assembly is in regular session from the date set by law or resolution that the General Assembly convenes until the General Assembly:
 - 1. Adjourns sine die.
 - 2. Recesses or adjourns for more than 10 days.
- (5) Legislative action. – The preparation, research, drafting, introduction, consideration, modification, amendment, approval, passage, enactment, tabling, postponement, defeat, or rejection of a bill, resolution, amendment, motion, report, nomination, appointment, or other matter, whether or not the matter is identified by an official title, general title, or other specific reference, by a legislator or legislative employee acting or purporting to act in an official capacity. It also includes the consideration of any bill by the Governor for the Governor's approval or veto under Article II, Section 22(1) of the Constitution or for the Governor to allow the bill to become law under Article II, Section 22(7) of the Constitution.
- (6) Legislative employee. – Employees and officers of the General Assembly, consultants and counsel to committees of either house of the General Assembly or of legislative commissions, who are paid by State funds, and students at an accredited law school while in an externship program at the General Assembly approved by the Legislative Services Commission, but not including legislators, members of the Council of State, nonsupervisory employees of the Administrative Division's Facility Maintenance and Food Services staff, or pages.
- (7) Legislator. – As defined in G.S. 138A-3 and G.S. 120C-104.
- (8) Liaison personnel. – Any State employee, counsel employed under G.S. 147-17, or officer whose principal duties, in practice or as set forth in that individual's job description, include lobbying legislators or legislative employees.
- (9) Lobby or Lobbying. – Any of the following:
 - a. Influencing or attempting to influence legislative or executive action, or both, through direct communication or activities with a designated individual or that designated individual's immediate family.
 - b. Developing goodwill through communications or activities, including the building of relationships, with a designated individual or that designated individual's immediate family with the intention of influencing current or future legislative or executive action, or both.

The terms "lobby" or "lobbying" do not include communications or activities as part of a business, civic, religious, fraternal, personal, or commercial relationship which is not connected to legislative or executive action, or both.
- (10) Lobbyist. – An individual who engages in lobbying for payment and meets any of the following criteria:
 - a. Repealed by Session Laws 2007-348, s. 8(a), effective October 10, 2007.
 - b. Represents another person or governmental unit, but is not directly employed by that person or governmental unit.
 - c. Contracts for payment for lobbying.

- d. Is employed by a person and a significant part of that employee's duties include lobbying. In no case shall an employee be considered a lobbyist if in no 30-day period less than five percent (5%) of that employee's actual duties include engaging in lobbying as defined in subdivision (9)a. of this section or if in no 30-day period less than five percent (5%) of that employee's actual duties include engaging in lobbying as defined in subdivision (9)b. of this section.

The term "lobbyist" shall not include individuals who are specifically exempted from this Chapter by G.S. 120C-700 or registered as liaison personnel under Article 5 of this Chapter.

- (11) Lobbyist principal and principal. – The person or governmental unit on whose behalf the lobbyist lobbies and who makes payment for the lobbying. In the case where a lobbyist is paid by a law firm, consulting firm, or other entity retained by a person or governmental unit for lobbying, the principal is the person or governmental unit whose interests the lobbyist represents in lobbying. In the case of a lobbyist employed or retained by an association or other organization, the lobbyist principal is the association or other organization, not the individual members of the association or other organization.

The term "lobbyist principal" shall not include those designating registered liaison personnel under Article 5 of this Chapter.

- (11a) through (11j) Reserved for future codification purposes.
- (11k) Payment. – Any money, thing of value, or economic benefit conveyed to the lobbyist for lobbying, other than reimbursement of actual travel, administrative expenses, or subsistence.
- (12) Reportable expenditure. – Any of the following that directly or indirectly is made to, at the request of, for the benefit of, or on the behalf of a designated individual or that individual's immediate family member:
 - a. Any advance, contribution, conveyance, deposit, distribution, payment, gift, retainer, fee, salary, honorarium, reimbursement, loan, pledge, or thing of value greater than ten dollars (\$10.00) per designated individual per single calendar day.
 - b. A contract, agreement, promise, or other obligation whether or not legally enforceable.
- (13) Solicitation of others. – A solicitation of members of the public to communicate directly with or contact one or more designated individuals to influence or attempt to influence legislative or executive action to further the solicitor's position on that legislative or executive action, when that request is made by any of the following methods:
 - a. A broadcast, cable, or satellite transmission.
 - b. An e-mail communication or a Web site posting.
 - c. A communication delivered by print media as defined in G.S. 163-278.38Z.
 - d. A letter or other written communication delivered by mail or by comparable delivery service.
 - e. Telephone.

f. A communication at a conference, meeting, or similar event.

The term "solicitation of others" does not include communications made by a person or by the person's agent to that person's stockholders, employees, board members, officers, members, subscribers, or other recipients who have affirmatively assented to receive the person's regular publications or notices.

(b) Except as otherwise defined in this section, the definitions in Article 1 of Chapter 138A of the General Statutes apply in this Chapter. (1933, c. 11, s. 1; 1975, c. 820, s. 1; 1991, c. 740, s. 1.1; 2001-424, s. 6.10(b); 2005-456, s. 1.; 2006-201, s. 18; 2007-347, s. 6(b); 2007-348, ss. 7, 8(a), (b); 2008-213, ss. 4-8, 90; 2009-129, s. 3; 2010-169, s. 17(a)-(e).)

§ 120C-101. Rules and forms.

(a) The Commission shall adopt any rules or definitions necessary to interpret the provisions of this Chapter and adopt any rules necessary to administer the provisions of this Chapter, except for Articles 2, 4 and 8 of this Chapter. The Secretary of State shall adopt any rules, orders, and forms as are necessary to administer the provisions of Articles 2, 4 and 8 of this Chapter. The Secretary of State may appoint a council to advise the Secretary in adopting rules under this section.

(b) With respect to the forms adopted under subsection (a) of this section, the Secretary of State shall adopt rules to protect from disclosure all confidential information under Chapter 132 of the General Statutes related to economic development initiatives or to industrial or business recruitment activities. The information shall remain confidential until the State, a unit of local government, or the business has announced a commitment by the business to expand or locate a specific project in this State or a final decision not to do so, and the business has communicated that commitment or decision to the State or local government agency involved with the project.

(c) In adopting rules under this Chapter, the Commission is exempt from the requirements of Article 2A of Chapter 150B of the General Statutes, except that the Commission shall comply with G.S. 150B-21.2(d). At least 30 business days prior to adopting a rule, the Commission shall:

- (1) Publish the proposed rules in the North Carolina Register.
- (2) Submit the rule and a notice of public hearing to the Codifier of Rules, and the Codifier of Rules shall publish the proposed rule and the notice of public hearing on the Internet to be posted within five business days.
- (3) Notify those on the mailing list maintained in accordance with G.S. 150B-21.2(d) and any other interested parties of its intent to adopt a rule and of the public hearing.
- (4) Accept written comments on the proposed rule for at least 15 business days prior to adoption of the rule.
- (5) Hold at least one public hearing on the proposed rule no less than five days after the rule and notice have been published.

A rule adopted under this subsection becomes effective the first day of the month following the month the final rule is submitted to the Codifier of Rules for entry into the North Carolina Administrative Code, and applies prospectively. A rule adopted by the Commission that does not comply with the procedural requirements of this subsection shall be null, void, and without effect. For purposes of this subsection, a rule is any Commission regulation, standard, or statement of general applicability that interprets an enactment by the General Assembly or

Congress, or a regulation adopted by a federal agency, or that describes the procedure or practice requirements of the Commission.

(d) For purposes of G.S. 150B-21.3(b2), a written objection filed by the Commission to a rule adopted by the Secretary of State pursuant to this Chapter shall be deemed written objections from 10 or more persons under that statute. Notwithstanding G.S. 150B-21.3(b2), a rule adopted by the Secretary of State pursuant to this Chapter objected to by the Commission under this subsection shall not become effective until an act of the General Assembly approving the rule has become law. If the General Assembly does not approve a rule under this subsection by the day of adjournment of the next regular session of the General Assembly that begins at least 25 days after the date the Rules Review Commission approves the rule, the permanent rule shall not become effective and any temporary rule associated with the permanent rule expires. If the General Assembly fails to approve a rule by the day of adjournment, the Secretary of State may initiate rulemaking for a new permanent rule, including by the adoption of a temporary rule. (1991, c. 740, s. 1.1; 2005-456, s. 1; 2006-201, s. 18; 2007-348, s. 9; 2008-213, s. 9; 2010-169, s. 16.)

§ 120C-102. Request for advice.

(a) At the request of any person, State agency, or governmental unit affected by this Chapter, the Commission shall render advice on specific questions involving the meaning and application of this Chapter and that person's, State agency's, or any governmental unit's compliance therewith. Requests for advice and advice rendered in response to those requests shall relate to real or reasonably anticipated fact settings or circumstances.

(a1) A request for a formal opinion under subsection (a) of this section shall be in writing, electronic or otherwise. The Commission shall issue formal advisory opinions having prospective application only. An individual, State agency, or governmental unit who relies upon the advice provided to that individual, State agency, or governmental unit on a specific matter addressed by a requested formal advisory opinion shall be immune from all of the following:

- (1) Investigation by the Commission.
- (2) Any adverse action by the employing entity.
- (3) Investigation by the Secretary of State.

(b) Staff to the Commission may issue advice, but not formal advisory opinions, under procedures adopted by the Commission.

(c) The Commission shall publish its formal advisory opinions within 30 days of issuance, edited as necessary to protect the identities of the individuals requesting opinions.

(d) Except as provided under subsections (c) and (d1) of this section, a request for advice, any advice provided by Commission staff, any formal advisory opinions, any supporting documents submitted or caused to be submitted to the Commission or Commission staff, and any documents prepared or collected by the Commission or the Commission staff in connection with a request for advice are confidential. The identity of the individual, State agency, or governmental unit making the request for advice, the existence of the request, and any information related to the request may not be revealed without the consent of the requestor. An individual, State agency, or governmental unit who requests advice or receives advice, including a formal advisory opinion, may authorize the release to any other person, the State, or any governmental unit of the request, the advice, or any supporting documents.

For purposes of this section, "document" is as defined in G.S. 120-129. Requests for advice, any advice, and any documents related to requests for advice are not "public records" as defined in G.S. 132-1.

(d1) Staff to the Commission may share all information and documents related to requests under subsection (a) and (a1) of this section with staff of the Office of the Secretary of State. The information and documents in the possession of the staff of the Office of the Secretary of State shall remain confidential and not public records. The Commission shall forward an unedited copy of each formal advisory opinion under this section to the Secretary of State at the time the formal advisory opinion is issued to the requestor, and the Secretary of State shall treat that unedited advisory opinion as confidential and not a public record.

(e) Requests for advisory opinions may be withdrawn by the requestor at any time prior to the issuance of a formal advisory opinion. (2006-201, s. 18; 2007-348, s. 10; 2008-213, s. 2(c); 2009-570, s. 14.)

§ 120C-103. Lobbying education program.

(a) The Commission shall develop and implement a lobbying education and awareness program designed to instill in all designated individuals, lobbyists, and lobbyists' principals a keen and continuing awareness of their obligations and sensitivity to situations that might result in real or potential violation of this Chapter or other related laws. The Commission shall make basic lobbying education and awareness presentations to all designated individuals upon their election, appointment, or hiring and shall offer periodic refresher presentations as the Commission deems appropriate. Every designated individual shall participate in a lobbying presentation approved by the Commission within six months of the designated individual's election, appointment, or hiring and shall attend refresher lobbying education presentations at least every two years thereafter in a manner the Commission deems appropriate. The Commission shall also make lobbying education and awareness programs available to lobbyists and lobbyists' principals. Upon request, the Commission shall assist each agency in developing in-house education programs and procedures necessary or desirable to meet the agency's particular needs for lobbying education.

(a1) A designated individual appointed to a board determined and designated as nonadvisory under G.S. 138A-10(a)(3) by the Commission shall attend lobbying education and awareness programs within six months of notification of the designation by the Commission and at least every two years thereafter in a manner as the Commission deems appropriate.

(b) The Commission shall publish a newsletter containing summaries of the advisory opinions, policies, procedures, and interpretive bulletins as issued from time to time, but no less than once per year. The newsletter shall be distributed to all designated individuals, lobbyists, and lobbyists' principals. Publication under this subsection may be done electronically.

(c) The Commission shall assemble and maintain a collection of relevant State laws, rules, and regulations that set forth lobbying standards applicable to designated individuals. The collection of laws, rules, and regulations shall be made available electronically as resource material to designated individuals, lobbyists, and lobbyists' principals upon request. (2006-201, s. 18; 2008-213, s. 11; 2009-549, s. 2.)

§ 120C-104. Chapter applies to candidates for certain offices.

For purposes of this Chapter, the term "legislator" as defined in G.S. 120C-100(7) and the term "public servant" as defined in G.S. 138A-3(30)a. shall include an individual having filed a

notice of candidacy for such office under G.S. 163-106 or Article 11 of Chapter 163 of the General Statutes or nominated under G.S. 163-114 or G.S. 163-98. (2006-201, s. 18; 2008-213, s. 12.)

§§ 120C-105 through 120C-199. Reserved for future codification purposes.

Article 2.

Registration.

§ 120C-200. Lobbyist registration procedure.

(a) A lobbyist shall file a separate registration statement for each principal the lobbyist represents with the Secretary of State before engaging in any lobbying. It shall be unlawful for an individual to lobby without registering within one business day of engaging in any lobbying as defined in G.S. 120C-100(9) unless exempted by this Chapter.

(b) The form of the registration shall be prescribed by the Secretary of State, be filed electronically, and shall include the registrant's full name, firm, complete address, and telephone number; the registrant's place of business; the full name, complete address, and telephone number of each principal the lobbyist represents; and a general description of the matters on which the registrant expects to act as a lobbyist.

(c) Each lobbyist shall electronically file an amended registration form with the Secretary of State no later than 10 business days after any change in the information supplied in the lobbyist's last registration under subsection (b) of this section. Each supplementary registration shall include a complete statement of the information that has changed.

(d) Unless a resignation is filed under G.S. 120C-210, each registration statement of a lobbyist required under this Chapter shall be effective from the date of filing until January 1 of the following year. The lobbyist shall file a new registration statement after that date, and the applicable fee shall be due and payable.

(e) Each lobbyist shall identify himself or herself as a lobbyist prior to engaging in lobbying communications or activities with a designated individual. The lobbyist shall also disclose the identity of the lobbyist principal connected to that lobbying communication or activity.

(f) In addition to the information required for registration under subsection (b) of this section, former employees of a State agency who register as a lobbyist within six months after voluntary separation or separation for cause from employment with a State agency shall also indicate which State agency with which the former employee was employed. (1933, c. 11, s. 2; 1973, c. 1451; 1975, c. 820, s. 1; 1983, c. 713, s. 51; 1991, c. 740, s. 1.1; 2004-203, s. 50(a); 2006-201, s. 18; 2008-213, ss. 13, 90; 2009-549, s. 3; 2010-169, s. 4(c); 2013-360, s. 27.1(c).)

§ 120C-201. Lobbyist's registration fee.

(a) A fee of two hundred fifty dollars (\$250.00) is due and payable to the Secretary of State at the time of each lobbyist registration. Fees so collected shall be deposited in the General Fund of the State. The fees required under this section shall be paid electronically.

(b) Repealed by Session Laws 2013-360, s. 27.1(a), effective August 1, 2013. (1975, c. 852, s. 1; 1983, c. 713, s. 50; 1991, c. 740, s. 1.1; 2002-126, s. 29A.33; 2005-456, s. 1; 2006-201, s. 18; 2013-360, s. 27.1(a), (d).)

§ 120C-202. Reserved for future codification purposes.

§ 120C-203. Reserved for future codification purposes.

§ 120C-204. Reserved for future codification purposes.

§ 120C-205. Reserved for future codification purposes.

§ 120C-206. Lobbyist principal's authorization.

(a) A written authorization signed by the lobbyist principal authorizing the lobbyist to represent the principal shall be filed with the Secretary of State within 20 business days after the lobbyist's registration. If the written authorization is filed more than 20 business days after the lobbyist's registration and before January 1 of the following year, the lobbyist registration is effective from the date of filing of the lobbyist registration and all reports due under Article 4 of this Chapter shall be filed.

(b) The form of the written authorization shall be prescribed by the Secretary of State, be filed electronically, and shall include the lobbyist principal's full name, complete address, and telephone number, name and title of any official authorized to sign for the lobbyist principal, and the name of each lobbyist registered to represent that principal.

(c) An amended authorization shall be electronically filed with the Secretary of State no later than 10 business days after any change in the information on the principal's authorization. Each supplementary authorization shall include a complete statement of the information that has changed. (1933, c. 11, s. 4; 1961, c. 1151; 1975, c. 820, s. 1; 1991, c. 740, s. 1.1; 2005-456, s. 1; 2006-201, s. 18; 2007-347, s. 4; 2008-213, s. 90; 2009-549, s. 4; 2013-360, s. 27.1(e).)

§ 120C-207. Lobbyist principal's fees.

(a) A fee of two hundred fifty dollars (\$250.00) is due and payable to the Secretary of State at the time the principal's first authorization statement is filed each calendar year for a lobbyist. Fees so collected shall be deposited in the General Fund of the State. The fees required under this section shall be paid electronically.

(b) Repealed by Session Laws 2013-360, s. 27.1(b), effective August 1, 2013. (1933, c. 11, s. 4; 1961, c. 1151; 1975, c. 820, s. 1; 1991, c. 740, s. 1.1; 2005-456, s. 1; 2006-201, s. 18; 2008-213, s. 90; 2013-360, s. 27.1(b), (f).)

§ 120C-208. Reserved for future codification purposes.

§ 120C-209. Reserved for future codification purposes.

§ 120C-210. Resignation and termination.

(a) A registration of a lobbyist under G.S. 120C-200 and the written authorization of that lobbyist principal under G.S. 120C-206 are terminated upon the filing of either a lobbyist resignation or a principal termination with the Secretary of State, whichever occurs first.

(b) Lobbyist resignations and lobbyist principal terminations are effective upon filing. (2009-549, s. 5.)

§ 120C-211. Reserved for future codification purposes.

§ 120C-212. Reserved for future codification purposes.

§ 120C-213. Reserved for future codification purposes.

§ 120C-214. Reserved for future codification purposes.

§ 120C-215. Other persons required to register.

(a) A person not otherwise required to register under this Chapter shall register and report when the total expense incurred for solicitation of others exceeds three thousand dollars (\$3,000) during any 90-day period. Expenses incurred shall mean the costs of producing and transmitting the communication and, if the communication is made at a conference, meeting, or similar event, the costs of planning, hosting, sponsoring, and attending the conference, meeting, or similar event.

(b) A person required to register and report under this section shall be referred to as a "solicitor" for purposes of this Chapter.

(c) No fee shall be charged for registering as a solicitor.

(d) For purposes of this section, "incur" means the point at which a binding obligation arises. (2006-201, s. 18; 2007-348, s. 11.)

§ 120C-216. Reserved for future codification purposes.

§ 120C-217. Reserved for future codification purposes.

§ 120C-218. Reserved for future codification purposes.

§ 120C-219. Reserved for future codification purposes.

§ 120C-220. Publication and availability of registrations.

(a) The Secretary of State shall make available as soon as practicable the registrations of the lobbyists and liaison personnel in an electronic, searchable format.

(b) The Secretary of State shall make available as soon as practicable the authorizations of the lobbyists' principals in an electronic, searchable format.

(c) The Secretary of State shall make available as soon as practicable the registrations of other persons required by this Chapter to file a registration in an electronic, searchable format.

(d) Within 20 days after the convening of each session of the General Assembly, the Secretary of State shall furnish each designated individual and the State Legislative Library a list of all persons who have registered as lobbyists and whom they represent. A supplemental list of lobbyists shall be furnished periodically every 20 days while the General Assembly is in session and every 60 days thereafter. For each special session of the General Assembly, a supplemental list of lobbyists shall be furnished to the State Legislative Library.

(e) All lists required by this section may be furnished electronically. (2006-201, s. 18; 2008-213, s. 15.)

§§ 120C-221 through 120C-299. Reserved for future codification purposes.

Article 3.

Prohibitions and Restrictions.

§ 120C-300. Contingency fees prohibited.

(a) No individual shall act as a lobbyist and receive payment for lobbying that is dependent upon the result or outcome of any legislative or executive action.

(b) This section shall not apply to an individual doing business with the State who is engaged in sales with respect to that business with the State whose regular remuneration agreement includes commissions based on those sales. For purposes of this subsection, the term "regular remuneration" means any money, thing of value, or economic benefit conferred on or received by the individual in return for services rendered or to be rendered by that individual or another.

(c) Any payment to a lobbyist in violation of this section is subject to forfeiture and shall be paid into the Civil Penalty and Forfeiture Fund. (1933, c. 11, s. 3; 1975, c. 820, s. 1; 1991, c. 740, s. 1.1; 2005-456, s. 1; 2006-201, s. 18; 2008-213, s. 16; 2010-169, s. 17(f).)

§ 120C-301. Election influence prohibited.

(a) No person shall attempt to influence the action of any designated individual by the promise of financial support of the designated individual's candidacy, or by threat of financial support in opposition to the designated individual's candidacy in any future election.

(b) No lobbyist, lobbyist principal, or other person required to register under this Chapter shall attempt to influence the action of any designated individual by the promise of financial support of the designated individual's candidacy, or by threat of financial support in opposition to the designated individual's candidacy in any future election. (1933, c. 11, s. 3; 1975, c. 820, s. 1; 1991, c. 740, s. 1.1; 2005-456, s. 1; 2006-201, s. 18; 2008-213, s. 90.)

§ 120C-302: Recodified as G.S. 163-278.13C, by Session Laws 2007-347, s. 5(a), effective August 9, 2007.

§ 120C-303. Gifts by lobbyists and lobbyist principals prohibited.

(a) Except as provided in subsection (b) of this section, no lobbyist or lobbyist principal may do any of the following:

- (1) Knowingly give a gift to a designated individual.
- (2) Knowingly give a gift with the intent that a designated individual be an ultimate recipient.

(b) Subsection (a) of this section shall not apply to gifts as described in G.S. 138A-32(e).

(c) The offering or giving of a gift in compliance with this Chapter without corrupt intent shall not constitute a violation of the statutes related to bribery under G.S. 14-217, 14-218, or 120-86, but shall be subject to civil fines under G.S. 120C-602(b).

(d) Gifts made to a nonpartisan state, regional, national, or international legislative organization of which the General Assembly is a member or a legislator or legislative employee is a member or participant of by virtue of that legislator's or legislative employee's public position, or to an affiliated organization of that nonpartisan state, regional, national, or international organization, shall not constitute a violation of subdivision (a)(2) of this section or of G.S. 138A-32(c).

(e) Gifts made to a nonpartisan state, regional, national, or international organization of which a public servant's agency is a member or a public servant is a member or participant of by virtue of that public servant's public position, or to an affiliated organization of that nonpartisan state, regional, national, or international organization, shall not constitute a violation of subdivision (a)(2) of this section or of G.S. 138A-32(c). (2006-201, s. 18; 2007-348, s. 12(a), (b); 2008-213, ss. 17-19, 90; 2010-169, s. 15(a).)

§ 120C-304. Restrictions.

(a) No legislator or former legislator may register as a lobbyist under this Chapter:

(1) While in office.

(2) Before the later of the close of session as set forth in G.S. 120C-100(a)(4)b.1 in which the legislator served or six months after leaving office.

(b) No public servant or former public servant as defined in G.S. 138A-3(30)a. may register as a lobbyist under this Chapter while in office or within six months after leaving office.

(c) No public servant or former public servant as defined in G.S. 138A-3(30)c. may register as a lobbyist under this Chapter within six months after separation from employment as a public servant. No other employee of any State agency may register as a lobbyist under this Chapter to lobby the State agency that previously employed the former employee within six months after voluntary separation or separation for cause from that State agency.

(d) No individual registered as a lobbyist under this Chapter shall serve as a treasurer as defined in G.S. 163-278.6(19) or an assistant campaign treasurer for a political committee for the election of a member of the General Assembly or a Constitutional officer of the State.

(e) A lobbyist shall not be eligible for appointment by a State official to, or service on, any body created under the laws of this State that has regulatory authority over the activities of a person or governmental unit that the lobbyist currently represents or has represented within 120 days after the expiration of the lobbyist's registration representing that person or governmental unit. Nothing herein shall be construed to prohibit appointment by any unit of local government.

(f) Any appointment or registration made in violation of this section shall be void. (2005-456, s. 1; 2006-201, s. 18; 2007-348, s. 13(a); 2008-213, ss. 20, 21; 2010-169, s. 4(a), (b).)

§ 120C-305. Prohibition on the use of cash or credit of the lobbyist.

No lobbyist or another acting on the lobbyist's behalf shall lobby by permitting a designated individual, or that designated individual's immediate family member, to use the cash or credit of the lobbyist unless the lobbyist is in attendance at the time of the reportable expenditure. G.S. 120C-303 applies to this section. (2006-201, s. 18; 2008-213, s. 22; 2010-169, s. 17(g).)

§§ 120C-306 through 120C-399. Reserved for future codification purposes.

Article 4.

Reporting.

§ 120C-400. Reporting of reportable expenditures.

(a) For purposes of this Chapter, all reportable expenditures made for lobbying shall be reported, including the following:

(1) Reportable expenditures benefiting or made on behalf of a designated individual in the regular course of that designated individual's employment.

- (1a) Reportable expenditures benefiting or made on behalf of a designated individual's immediate family member in the regular course of that immediate family member's employment.
- (2) Contractual arrangements or direct business relationships between a lobbyist or lobbyist principal and a designated individual, or that designated individual's immediate family member, in effect during the reporting period or the previous 12 months.
- (3) Reportable expenditures reimbursed to a lobbyist in the ordinary course of business by the lobbyist principal or other employer.

(b) This section shall not apply to any reportable expenditure of cash, a cash equivalent, or a fixed asset made directly to a State agency that maintains an accounting of the reportable expenditure that is a public record. (2005-456, s. 1; 2006-201, s. 18; 2007-348, s. 14; 2008-213, ss. 23, 90; 2010-169, s. 17(h).)

§ 120C-401. Reporting generally.

(a) Reports shall be filed whether or not reportable expenditures are made and shall be due 15 business days after the end of the reporting period.

(b) For reportable expenditures, each report shall set forth all of the following:

- (1) The fair market value or face value if shown.
- (2) The date of the reportable expenditure.
- (3) A description of the reportable expenditure.
- (4) The name and address of the payee or beneficiary.
- (5) The name of any designated individual or that designated individual's immediate family member connected with the reportable expenditure.

(b1) For purposes of subdivision (b)(5) of this section, when more than 15 designated individuals benefit from or request a reportable expenditure, no names of individuals need be reported provided that the report identifies the approximate number of designated individuals benefiting or requesting and the basis for their selection, including the name of the legislative body, committee, caucus, or other group whose membership list is a matter of public record in accordance with G.S. 132-1 or including a description of the group that clearly distinguishes its purpose or composition from the general membership of the General Assembly. The approximate number of immediate family members of designated individuals who benefited from the reportable expenditure shall be listed separately.

(b2) For purposes of subdivision (b)(5) of this section, when the reportable expenditure is a gift given with the intent that a designated individual be the ultimate recipient and the lobbyist or lobbyist principal does not know the name or names of the designated individuals, the lobbyist or lobbyist principal shall report a description of the designated individuals and those designated individuals' immediate family members connected with the reportable expenditure that clearly distinguishes its purpose or composition, and an approximate number, if known.

(c) Reportable expenditures shall be reported using the following categories:

- (1) Transportation and lodging.
- (2) Entertainment.
- (3) Food and beverages.
- (4) Meetings and events.
- (5) Gifts.
- (6) Other reportable expenditures.

(d) Each report required by this Article shall be in the form prescribed by the Secretary of State and filed electronically.

(e) When any report as required by this Article is not filed, the Secretary of State shall send a certified letter, return receipt requested, advising the lobbyist, lobbyist principal, or other person required to report of the delinquency and the penalties provided by law. A late filing fee of fifty dollars (\$50.00) per day, commencing on the tenth business day after the date the certified letter is received, applies to a report that is not timely filed. The cumulative late filing fee may not exceed five hundred dollars (\$500.00). Within 20 days of the receipt of the letter, the report shall be delivered or posted by United States mail to the Secretary of State together with the late filing fee. Filing of the required report and payment of the additional fee within the time extended shall constitute compliance with this section.

(f) Failure to file a required report in one of the manners prescribed in this section shall void any and all registrations of the lobbyist, lobbyist principal, or solicitor. No lobbyist, lobbyist principal, or solicitor may register or reregister until full compliance with this section has occurred.

(g) Appeal of a decision by the Secretary of State under this section shall be in accordance with Article 3 of Chapter 150B of the General Statutes.

(h) The Secretary of State may adopt rules to facilitate complete and timely disclosure of required reporting, including additional categories of information, and to protect the addresses of payees under protective order issued pursuant to Chapter 50B of the General Statutes or participating in the Address Confidentiality Program pursuant to Chapter 15C of the General Statutes. The Secretary of State shall not impose any penalties or late filing fees upon a lobbyist, lobbyist principal, or solicitor for subsequent failures to comply with the requirements of this section if the Secretary of State failed to provide the required notification under subsection (e) of this section.

(i) Any reportable expenditure promptly paid for at fair market value or promptly returned to a lobbyist or lobbyist principal by a designated individual or a member of the designated individual's immediate family within the reporting period shall not be reported under G.S. 120C-402 or G.S. 120C-403, and if reported, the repayment or return of the expenditure at any time shall be reported by the lobbyist and lobbyist principal on the next report due under this Article.

(j) The Secretary of State shall make available a report form that may be filed by a designated individual or a member of the designated individual's immediate family who promptly declines, returns, pays fair market value for, or donates a reportable expenditure in accordance with G.S. 138A-32(g). The Secretary of State shall index the filing of this form together with the lobbyist or lobbyist principal who gave the reportable expenditure. (1933, c. 11, s. 5; 1973, c. 108, s. 70; 1975, c. 820, s. 1; 1991, c. 740, s. 1.1; 1991 (Reg. Sess., 1992), c. 1030, s. 51.9; 1999-338, s. 1; 2005-456, s. 1; 2006-201, s. 18; 2007-348, s. 15(a); 2008-213, ss. 24, 25, 90; 2009-477, s. 1; 2009-549, s. 7(a); 2013-360, s. 27.1(g).)

§ 120C-402. Lobbyist's reports.

(a) Each lobbyist shall file quarterly reports under oath with the Secretary of State with respect to each lobbyist principal.

(b) The report shall include all of the following for the reporting period:

(1) All reportable expenditures made for lobbying.

- (2) Solicitation of others when such solicitation involves an aggregate cost of more than three thousand dollars (\$3,000).
- (3) Reportable expenditures reimbursed by the lobbyist principal, or another person or governmental unit on the lobbyist principal's behalf.
- (4) All reportable expenditures for gifts given under G.S. 138A-32(e)(1)-(9), 138A-32(e)(11), 138A-32(e)(12), and all gifts given under G.S. 138A-32(e)(10) with a value of more than ten dollars (\$10.00).

(c) In addition to the reports required by this section, each lobbyist incurring reportable expenditures in any month while the General Assembly is in session with respect to lobbying legislators and legislative employees shall file a monthly reportable expenditure report. The monthly reportable expenditure report shall contain information required by this section with respect to all lobbying of legislators and legislative employees, and is due within 10 business days after the end of the month. The information on the monthly reportable expenditure report shall also be included in each quarterly report required by subsection (a) of this section. (1933, c. 11, s. 5; 1973, c. 108, s. 70; 1975, c. 820, s. 1; 1991, c. 740, s. 1.1; 1991 (Reg. Sess., 1992), c. 1030, s. 51.9; 1999-338, s. 1; 2005-456, s. 1; 2006-201, s. 18; 2007-348, s. 41(b); 2008-213, ss. 27, 90; 2010-169, s. 17(i).)

§ 120C-403. Lobbyist principal's reports.

(a) Each lobbyist principal shall file quarterly reports under oath with the Secretary of State with respect to each lobbyist principal.

(b) The report shall be filed whether or not reportable expenditures are made, shall be due 15 business days after the end of the reporting period, and shall include all of the following for the reporting period:

- (1) All reportable expenditures made for lobbying.
- (2) Solicitation of others when such solicitation involves an aggregate cost of more than three thousand dollars (\$3,000).
- (3) Repealed by Session Laws 2011-393, s. 2, effective October 1, 2011, and applicable to reports filed on or after that date.
- (4) With respect to each lobbyist registered under G.S. 120C-206, reportable expenditures reimbursed or paid to lobbyists for lobbying that are not reported on the lobbyist's report, with an itemized description of those reportable expenditures.
- (5) All reportable expenditures for gifts given under G.S. 138A-32(e)(1)-(9), 138A-32(e)(11), 138A-32(e)(12), and all gifts given under G.S. 138A-32(e)(10) with a value of more than two hundred dollars (\$200.00).
- (6) With respect to each lobbyist registered under G.S. 120C-206, the name of each person or governmental unit not otherwise registered as a lobbyist principal for whom the lobbyist principal directs the lobbyist to lobby, whether for pay or not. If the lobbyist principal is an association or other organization, the lobbyist principal shall not be required to report under this subdivision any individual member of the association or other organization for which the lobbyist is directed to lobby by that lobbyist principal.

(c) In addition to the reports required by this section, each lobbyist principal incurring reportable expenditures in any month while the General Assembly is in session with respect to lobbying legislators and legislative employees shall file a monthly reportable expenditure report.

The monthly reportable expenditure report shall contain information required by this section with respect to all lobbying of legislators and legislative employees, and is due within 10 business days after the end of the month. The information on the monthly report shall also be included in each quarterly report required by subsection (a) of this section.

(d) In addition to the reports required by this section, each lobbyist principal shall annually, in the last report for the registration period under G.S. 120C-200(d), report the cumulative combined total of all payments made during the registration period for all of the following:

- (1) All payments for lobbying.
- (2) Activities as described in subdivision (e)(2) of this section.

(d1) The cumulative combined total of payments reported under subsection (d) of this section made during the registration period, as applicable:

- (1) If a lobbyist represents the lobbyist principal, but is not directly employed by that lobbyist principal, the portion of the payment that is for lobbying and to whom it was paid.
- (2) If a lobbyist is under contract with the lobbyist principal for lobbying, the portion of the contract that is reasonably allocated for lobbying.
- (3) If a lobbyist is a full-time employee of the principal, or is paid by means of an annual fee or retainer, the principal shall estimate and report the portion of the salary, fee, or retainer salary that is reasonably allocated for lobbying.

(d2) Notwithstanding any other provision of this Article, the cumulative combined total of all payments for lobbying and other activities made by the principal to all lobbyists registered for that lobbyist principal shall be reported as one cumulative amount with no further division or allocation by individual lobbyist, activity, or any other categorization.

(e) For purposes of subsection (d) of this section, the following shall apply:

- (1) A lobbyist principal may rely upon a statement by the lobbyist estimating the portion of the salary or other payment that is reasonably allocated for lobbying.
- (2) In addition to reporting any payment to a lobbyist for lobbying under subsection (d) of this section, a lobbyist principal shall report, cumulatively for the year, any payment to a lobbyist for any of the following communications and activities that were used to lobby within the registration period under G.S. 120C-200(d):
 - a. Research.
 - b. Drafting of written communications.
 - c. Monitoring of proposed or pending legislative action or executive action, including time spent preparing communications with the lobbyist principal to relate information on proposed or pending legislative action or executive action.
 - d. Time spent advising and rendering opinions to the lobbyist principal as to the construction and effect of proposed or pending legislative action or executive action.
- (3) A lobbyist principal is required to report any payment to a lobbyist for any of the following:
 - a. Direct lobbying communications or direct lobbying activities with a designated individual or that designated individual's immediate family.

- b. Communications or activities to develop goodwill, including the building of relationships, with a designated individual or that designated individual's immediate family member. (1933, c. 11, s. 5; 1973, c. 108, s. 70; 1975, c. 820, s. 1; 1991, c. 740, s. 1.1; 1991 (Reg. Sess., 1992), c. 1030, s. 51.10; 1999-338, s. 2; 2005-456, s. 1; 2006-201, s. 18; 2007-348, s. 41(c); 2008-213, ss. 29(a), 90; 2010-169, s. 17(j); 2011-393, s. 2.)

§ 120C-404. Solicitor's reports.

- (a) Each solicitor shall file quarterly reports under oath with the Secretary of State.
- (b) The report shall include all of the following:
 - (1) All reportable expenditures made for lobbying during the reporting period.
 - (2) Solicitation of others when such solicitation involves an aggregate cost of more than three thousand dollars (\$3,000). (2006-201, s. 18; 2010-169, s. 17(k).)

§ 120C-405. Report availability.

- (a) All reports filed under this Chapter shall be open to public inspection upon filing.
- (b) The Secretary of State shall coordinate with the State Board of Elections to create a searchable Web-based database of reports filed under this Chapter and reports filed under Subchapter VIII of Chapter 163 of the General Statutes. (2006-201, s. 18.)

§§ 120C-406 through 120C-499. Reserved for future codification purposes.

Article 5.

Liaison Personnel.

§ 120C-500. Liaison personnel.

- (a) All agencies and constitutional officers of the State, including all boards, departments, divisions, constituent institutions of The University of North Carolina, community colleges, and other units of government in the executive branch shall designate liaison personnel to lobby for legislative action. This subsection shall not apply to units of local government, or a State agency or board with no staff.
- (b) No State agency or constitutional officer of the State may contract with individuals who are not employed by the State to lobby legislators and legislative employees. This subsection shall not apply to counsel employed by any agency, board, department, or division authorized to employ counsel under G.S. 147-17.
- (c) No more than two individuals may be designated as liaison personnel for each agency and constitutional officers of the State, including all boards, departments, divisions, constituent institutions of The University of North Carolina, community colleges, and other units of government in the executive branch.
- (d) The Chief Justice of the Supreme Court shall designate at least one, but no more than four, liaison personnel to lobby for legislative action for all offices, conferences, commissions, and other agencies established under Chapter 7A of the General Statutes. This subsection shall not apply to any office created under Article 60 of Chapter 7A of the General Statutes, so long as that office complies with subsection (a) of this section.

(e) Notwithstanding subsection (c) of this section, the Secretary of Public Safety shall designate at least one, but no more than five, liaison personnel to lobby for legislative action for all offices, commissions, and agencies within the Department of Public Safety, as established by Article 13 of Chapter 143B. (1933, c. 11, s. 7; 1975, c. 820, s. 1; 1977, c. 697; 1991, c. 740, s. 1.1; 1993, c. 553, s. 3; 2001-424, s. 6.10(a); 2005-456, s. 1; 2006-201, s. 18; 2007-347, s. 6(a); 2008-213, ss. 30-32; 2012-83, s. 6.)

§ 120C-501. Applicability of Chapter on liaison personnel.

(a) Except as otherwise provided in this section, this Chapter shall not apply to liaison personnel.

(b) G.S. 120C-200 shall apply to liaison personnel. No registration fee shall be required for registration under this subsection.

(c) Liaison personnel designated under this Article shall file reports under G.S. 120C-402.

(d) G.S. 120C-303 shall apply to liaison personnel with respect to legislators and legislative employees.

(e) The Board of Governors of the University of North Carolina and its constituent institutions, or the liaison personnel designated by that board or the constituent institutions, shall not give, for lobbying, athletic tickets to any designated individual, except for those who are described in G.S. 138A-3(30)j. or those who are students and receive tickets on the same basis as other students. (2001-424, s. 6.10(a); 2005-456, s. 1; 2006-201, s. 18; 2008-213, s. 33; 2010-169, s. 17(l).)

§ 120C-502. Local government liaison equivalents.

(a) An individual who is an employee of a governmental unit whose principal duties, in practice or as set forth in that individual's job description, include lobbying for legislative action shall register under G.S. 120C-200.

(b) G.S. 120C-501 shall apply to an individual required to register under subsection (a) of this section.

(c) For purposes of publication of the registry under G.S. 120C-220, the Secretary of State shall treat individuals registered under this section as liaison personnel. (2010-169, s. 5(a).)

§§ 120C-503 through 120C-599. Reserved for future codification purposes.

Article 6.

Violations and Enforcement.

§ 120C-600. Powers and duties of the Secretary of State.

(a) The Secretary of State shall perform systematic reviews of reports required to be filed under Articles 4 and 8 of this Chapter on a regular basis to assure complete and timely disclosure of reportable expenditures. The Secretary of State shall refer to the Commission any complaints of violations of this Chapter other than those related solely to Articles 2, 4, or 8 of this Chapter.

(b) The Secretary of State may petition the Superior Court of Wake County for the approval to issue subpoenas and subpoenas duces tecum as necessary to conduct investigations of violations of Articles 2, 4, and 8 of this Chapter. The court shall authorize subpoenas under this subsection when the court determines they are necessary for the enforcement of Articles 2, 4, and 8 of this Chapter. Subpoenas issued under this subsection shall be enforceable by the court

through contempt powers. Venue shall be with the Superior Court of Wake County for any nonresident person, or that person's agent, who makes a reportable expenditure under this Chapter, and personal jurisdiction may be asserted under G.S. 1-75.4.

(c) Complaints of violations of Articles 2, 4, and 8 of this Chapter, all other records accumulated in conjunction with the investigation of these complaints, and any records accumulated in the performance of a systematic review shall be considered confidential records and may be released only by order of a court of competent jurisdiction. Any information obtained by the Secretary of State from any law enforcement agency, administrative agency, or regulatory organization on a confidential or otherwise restricted basis in the course of an investigation or systematic review shall be confidential and exempt from G.S. 132-6 to the same extent that it is confidential in the possession of the providing agency or organization.

(d) The Secretary shall publish annual statistics on complaints received and systematic reviews conducted under this section, including the number of systematic reviews, the number of complaints, the number of apparent violations of this Chapter referred to a district attorney, the number of complaints dismissed, and the number and age of complaints pending. Subject to the provisions of Chapter 132 of the General Statutes, the levy of all civil fines, including the amount of the fine and the identity of the person or governmental unit against whom it was levied, shall be a public record as defined in G.S. 132-1(a). (2005-456, s. 1; 2006-201, s. 18; 2006-259, s. 43.5(a); 2008-213, s. 34; 2010-169, s. 19(a).)

§ 120C-601. Powers and duties of the Commission.

(a) The Commission may investigate complaints of violations of this Chapter and shall refer complaints related solely to Articles 2, 4, or 8 of this Chapter to the Secretary of State.

(b) The Commission may petition the Superior Court of Wake County for the approval to issue subpoenas and subpoenas duces tecum as necessary to conduct investigations of violations of this Chapter. The court shall authorize subpoenas under this subsection when the court determines they are necessary for the enforcement of this Chapter. Subpoenas issued under this subsection shall be enforceable by the court through contempt powers. Venue shall be with the Superior Court of Wake County for any nonresident person, or that person's agent, who makes a reportable expenditure under this Chapter, and personal jurisdiction may be asserted under G.S. 1-75.4.

(c) Complaints of violations of this Chapter and all other records accumulated in conjunction with the investigation of these complaints shall be considered confidential records and may be released only by order of a court of competent jurisdiction. Any information obtained by the Commission from any law enforcement agency, administrative agency, or regulatory organization on a confidential or otherwise restricted basis in the course of an investigation shall be confidential and exempt from G.S. 132-6 to the same extent that it is confidential in the possession of the providing agency or organization.

(d) The Commission shall publish annual statistics on complaints, including the number of complaints, the number of apparent violations of this Chapter referred to a district attorney, the number of dismissals, and the number and age of complaints pending. (2006-201, s. 18; 2006-259, s. 43.5(a); 2008-213, s. 35; 2010-169, s. 19(b).)

§ 120C-602. Punishment for violation.

(a) Whoever willfully violates any provision of Article 2 or Article 3 of this Chapter shall be guilty of a Class 1 misdemeanor, except as provided in those Articles. In addition, no lobbyist

who is convicted of a violation of the provisions of this Chapter shall in any way act as a lobbyist for a period of two years from the date of conviction.

(b) In addition to the criminal penalties set forth in this section, the Secretary of State may levy civil fines for a violation of any provision of Articles 2, 4, or 8 of this Chapter up to five thousand dollars (\$5,000) per violation. In addition to the criminal penalties set forth in this section, the Commission may levy civil fines for a violation of any provision of this Chapter except Article 2, 4, or 8 of this Chapter up to five thousand dollars (\$5,000) per violation. (1933, c. 11, s. 8; 1975, c. 820, s. 1; 1991, c. 740, s. 1.1; 1993, c. 539, s. 914; 1994, Ex. Sess., c. 24, s. 14(c); 2005-456, s. 1; 2006-201, s. 18; 2006-259, s. 43.5(a).)

§ 120C-603. Enforcement by district attorney and Attorney General.

(a) The Commission or the Secretary of State, as appropriate, may investigate complaints of violations of this Chapter and shall report apparent violations of this Chapter to the district attorney of the prosecutorial district as defined in G.S. 7A-60 of which Wake County is a part, who shall prosecute any person or governmental unit who violates any provisions of this Chapter.

(b) Complaints of violations of this Chapter involving the Commission or any member employee of the Commission shall be referred to the Attorney General for investigation. The Attorney General shall, upon receipt of a complaint, make an appropriate investigation thereof, and the Attorney General shall forward a copy of the investigation to the district attorney of the prosecutorial district as defined in G.S. 7A-60 of which Wake County is a part, who shall prosecute any person or governmental unit who violates any provisions of this Chapter. (1975, c. 820, s. 1; 1987 (Reg. Sess., 1988), c. 1037, s. 112; 2005-456, s. 1; 2006-201, s. 18; 2006-259, s. 43.5(b); 2008-213, s. 36.)

§§ 120C-604 through 120C-699. Reserved for future codification purposes.

Article 7.

Exemptions.

§ 120C-700. Persons exempted from this Chapter.

Except as otherwise provided in Article 8, the provisions of this Chapter shall not be construed to apply to any of the following:

- (1) An individual solely engaged in expressing a personal opinion or stating facts or recommendations on legislative action or executive action to a designated individual and not acting as a lobbyist.
- (2) A person appearing before a committee, commission, board, council, or other collective body whose membership includes one or more designated individuals at the invitation or request of the committee or a member thereof and who does not act in any further activities as a lobbyist with respect to the legislative or executive action for which that person appeared.
- (3) A duly elected or appointed official or employee of the State, the United States, a county, municipality, school district, or other governmental agency, when acting solely in connection with matters pertaining to the office and public duties, except for a person designated as liaison personnel under G.S. 120C-500 or G.S. 120C-502. For purposes of this subdivision, an individual

appointed as a county or city attorney under Part 7 of Article 5 of Chapter 153A of the General Statutes or Part 6 of Article 7 of Chapter 160A of the General Statutes, respectively, shall be considered an employee of the county or city.

- (4) A person performing professional services in drafting bills, or in advising and rendering opinions to clients, or to designated individuals on behalf of clients, as to the construction and effect of proposed or pending legislative or executive action where the professional services are not otherwise connected with the legislative or executive action.
- (5) A person who owns, publishes, or is an employee of any recognized news medium, while engaged in the acquisition and publication of news or news and commentary on behalf of that recognized news medium.
- (6) Designated individuals while acting in their official capacity.
- (7) A person responding to inquiries from a designated individual and who does not act in any further activities as a lobbyist in connection with that inquiry.
- (8) A person who is a political committee as defined in G.S. 163-278.6(14), that person's employee, or that person's contracted service provider.
- (9) Anything of value given or received in connection with seeking or hosting a national convention of a political party. (1933, c. 11, s. 7; 1975, c. 820, s. 1; 1977, c. 697; 1991, c. 740, s. 1.1; 1993, c. 553, s. 3; 2005-456, s. 1; 2006-201, s. 18; 2007-348, s. 16; 2010-169, ss. 5(b), 20.)

§§ 120C-701 through 120C-799. Reserved for future codification purposes.

Article 8.

Miscellaneous.

§ 120C-800. Reportable expenditures made by persons exempted or not covered by this Chapter.

(a) If a designated individual accepts a reportable expenditure made for lobbying with a total value of over two hundred dollars (\$200.00) per calendar quarter from a person or group of persons acting together, exempted or not otherwise covered by this Chapter, the person, or group of persons, making the reportable expenditure shall report the date, a description of the reportable expenditure, the name and address of the person, or group of persons, making the reportable expenditure, the name of the designated individual accepting the reportable expenditure, and the estimated fair market value, or face value if shown, of the reportable expenditure.

(b) If the person making the reportable expenditure in subsection (a) of this section is outside North Carolina, and the designated individual accepting the reportable expenditure is also outside North Carolina at the time the designated individual accepts the reportable expenditure, then the designated individual accepting the reportable expenditure shall be responsible for filing the report or reporting the information in the designated individual's statement of economic interest in accordance with G.S. 138A-24(a)(8).

(c) If a designated individual accepts a scholarship related to that designated individual's public service or position valued over two hundred dollars (\$200.00) from a person, or group of persons, acting together, exempted or not covered by this Chapter, the person, or group of

persons, granting the scholarship shall report the date of the scholarship, a description of the event involved, the name and address of the person, or group of persons, granting the scholarship, the name of the designated individual accepting the scholarship, and the estimated fair market value.

(d) If the person granting the scholarship in subsection (c) of this section is outside North Carolina, the designated individual accepting the scholarship shall be responsible for filing the report or reporting the information in the designated individual's statement of economic interest in accordance with G.S. 138A-24(a)(2).

(e) This section shall not apply to any of the following:

- (1) Anything of value properly reported as required under Article 22A of Chapter 163 of the General Statutes.
- (2) Any reportable expenditure from a designated individual's extended family member to a designated individual.
- (3) Reportable expenditures associated primarily with the designated individual's employment or that designated individual's immediate family member's employment.
- (4) Reportable expenditures, other than food, beverages, travel, and lodging, which are received from a person who is a citizen of a country other than the United States or a state other than North Carolina and given during a ceremonial presentation or as a custom.
- (5) A thing of value that is paid for by the State.
- (6) A scholarship paid for by a nonpartisan state, regional, national, or international legislative organization of which the General Assembly is a member or a legislator or legislative employee is a member or participant of by virtue of that legislator's or legislative employee's public position, or to an affiliated organization of that nonpartisan state, regional, national, or international organization.

(f) Within 15 business days after the end of the quarter in which the reportable expenditure was made, reports required by this section shall be filed electronically with the Secretary of State in a form prescribed by the Secretary of State. If the designated individual is required to file a statement of economic interest under G.S. 138A-24, then that designated individual may opt to report any information required by this section in the statement of economic interest.

(g) For purposes of this section, the term "scholarship" shall mean a grant-in-aid to attend a conference, meeting, or other similar event. For purposes of this section only, the term "person" shall include all persons as defined in G.S. 138A-3(27) and all governmental units as defined in G.S. 138A-3(15d). (2005-456, s. 1; 2006-201, s. 18; 2007-348, s. 17; 2008-213, ss. 37, 38(a), 39; 2009-549, s. 7(b); 2010-169, ss. 17(m), 22(f); 2010-170, s. 15; 2013-360, s. 27.1(h).)

§§ 120C-801 through 120C-899. Reserved for future codification purposes.