

# **TOWN OF GARNER**



## **TOWN COUNCIL MEETING**

December 3, 2018  
7:00 P.M.

Garner Town Hall  
900 7th Avenue  
Garner, NC 27529

**Town of Garner  
Town Council Agenda  
December 3, 2018**

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

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

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

- B. PLEDGE OF ALLEGIANCE: Mayor ProTem Ken Marshburn

- C. INVOCATION: Mayor ProTem Ken Marshburn

- D. PETITIONS AND COMMENTS

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

- E. ADOPTION OF AGENDA

- F. PRESENTATIONS

- 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. Ordinance Amending FY2018-2019 Operating Budget (Veterans' Memorial) ..... Page 4  
Presenter: Pam Wortham, Finance Director

The Parks and Recreation Department are purchasing bricks to be placed at the Veterans' Memorial at Lake Benson Park. We have revenue that has been collected to pay the Town for the bricks, and we are requesting to use those funds to cover the cost.

Recommended Action: Adopt Ordinance (2018) 3937

- 2. Nuisance Abatements ..... Page 7  
Presenter: Pam Wortham, Finance Director

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

Recommended Action: Adopt Resolution (2018) 2363

3. NCDOT Concurring Speed Ordinances (Bryan Road) ..... Page 10  
Presenter: Tony Chalk, Town Engineer

NCDOT has requested that the Town pass concurring ordinances to lower the speed limit on Bryan Road within the Town's jurisdiction and create a school zone at Bryan Road Elementary School.

Recommended Action: Approve Concurring Ordinance (2018) 3938 and (2018) 3939

#### H. PUBLIC HEARINGS

#### I. NEW/OLD BUSINESS

1. Historic Depot Resolution ..... Page 13  
Presenter: Rodney Dickerson, Town Manager

In previous meetings, Council discussed preserving Garner's history and the relocation of the Historic Depot to Pearl St., in principle, based on forthcoming information on the scope and budget. The Town Council also agreed to partner with Garner Area Historical Society on operation of the Depot as a museum.

Recommended Action: Adopt Resolution (2018) 2364

2. General Use Rezoning Z-18-04, 800 & 1000 Maxwell Drive ..... Page 15  
Presenter: Het Patel, Senior Planner

Request to rezone from Residential 9 Conditional Use (R-9 C153) to Residential 40 (R-40) general use. No conditions are proposed as part of this request. No development plan is proposed at this time. The public hearing was held on October 16, and the Planning Commission reviewed this request at their November 11 meeting.

Recommended Action: Approve General Use Rezoning Z-18-04 along with simultaneous Comprehensive Plan amendment; Adopt Ordinance (2018) 3940

3. Proposed Suspension of Water Sewer Allocation Policy ..... Page 28  
Presenter: Tony Chalk, Town Engineer

At their November 20, 2018 meeting the Public Works Committee proposed suspending the Water Sewer Allocation policy.

Recommended Action: Approve Recommendations from the Public Works Committee

J. COMMITTEE REPORTS

K. MANAGER REPORTS

1. garner info

L. ATTORNEY REPORTS

M. COUNCIL REPORTS

N. ADJOURNMENT

Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: December 3, 2018		
Subject: Ordinance Amending FY 2018-19 Operating Budget		
Location on Agenda: Consent		
Department: Finance		
Contact: Pam Wortham, Finance Director		
Presenter: Pam Wortham, Finance Director		
<b>Brief Summary:</b>  Parks and Recreation are purchasing bricks to be placed at the Veterans' Memorial at Lake Benson Park. We have revenue that has been collected to pay the Town for the bricks, and we are requesting to use those funds to cover the cost.		
<b>Recommended Motion and/or Requested Action:</b> Adopt Ordinance (2018) 3937		
Detailed Notes:		
<b>Funding Source:</b> Receipts from sale of bricks 10305000-465045		
Cost: \$1,340	One Time: <input checked="" type="radio"/>	Annual: <input type="radio"/> No Cost: <input type="radio"/>
<b>Manager's Comments and Recommendations:</b> N/A		
Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	PW	
Finance Director:	PW	
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

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**FINANCE DEPARTMENT MEMORANDUM**

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**TO:** RODNEY DICKERSON, TOWN MANAGER  
**FROM:** PAM WORTHAM, FINANCE DIRECTOR  
**SUBJECT:** BUDGET AMENDMENT  
**DATE:** NOVEMBER 26, 2018

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**GENERAL FUND**

This request is to budget for the use of the revenue account titled "Veterans Memorial Brick Sales" to cover the costs to purchase bricks for the Memorial. During the current fiscal year, we have collected \$1,625, and are requesting to use \$1,340 at this time. No further expenses related to the Memorial are anticipated for this fiscal year.

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

ORDINANCE NO. (2018) 3937

ORDINANCE AMENDING ORDINANCE NO. (2018) 3916  
WHICH ESTABLISHED THE 2018 – 2019 OPERATING BUDGET

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

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

**General Fund Budget Changes:**

<b>Department/ Category</b>	<b>Description</b>	<b>Current</b>	<b>Amended</b>	<b>Net Change</b>
<b><i>Expenditures</i></b>				
10574200-523300-40545	PRCR Outdoor and Adventure-Veterans' Memorial	\$-0-	\$1,340	+\$1,340
<b><i>Revenues</i></b>				
10305000-465045	Veterans' Memorial Brick Sales	\$-0-	\$1,340	+\$1,340

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 3<sup>rd</sup> day of December, 2018.

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

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

Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: December 3, 2018		
Subject: Nuisance Abatements		
Location on Agenda: Consent		
Department: Finance		
Contact: Pam Wortham, Finance Director		
Presenter: Pam Wortham, Finance Director		
Brief Summary:  Resolution declaring certain delinquent nuisance abatements as a lien on property. This resolution authorizes Wake County to add these abatement costs to Wake County property tax bills.		
Recommended Motion and/or Requested Action: Adopt Resolution (2018) 2363		
Detailed Notes:		
Funding Source: N/A		
Cost:	One Time: <input type="radio"/>	Annual: <input type="radio"/> No Cost: <input checked="" type="radio"/>
Manager's Comments and Recommendations: N/A		
Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	PW	
Finance Director:	PW	
Town Attorney:		
Town Manager:	RD	
Town Clerk:		



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

**RESOLUTION NO. (2018) 2363**

**A RESOLUTION ASSESSING THE COST OF ABATEMENT AGAINST THE  
PROPERTY ON WHICH THE NUISANCE EXISTED**

WHEREAS, the Town Council of the Town of Garner, pursuant to Chapter 160A of the North Carolina General Statutes and Chapter 6, Section 23 of the Town Code of the Town of Garner Ordinances has the authority to prevent, abate and declare unlawful nuisances and to make the cost of said abatement a lien against the premises where the nuisances existed, said liens to be collected in the nature of property taxes; and,

WHEREAS, the Town of Garner has abated nuisances on the below referenced properties in accordance with the Town Code referred to and has been unable to recover the abatement costs from the stated property owners; and,

WHEREAS, pursuant to North Carolina General Statutes 160A-193 the costs of the abatement involved with the abatement as well as the expenses of the action are a lien on the premises in the nature of a tax, which pursuant to North Carolina General Statutes 105-365.1 can be collected by a tax collector using the remedies provided by law;

NOW, THEREFORE BE IT RESOLVED THAT THE TOWN COUNCIL OF THE TOWN OF GARNER hereby confirms the cost of the abatement of the nuisances set out herein, pursuant to the General Statutes above referenced, confirms the same as liens against the premises, and requests the Wake County Tax Collector to collect the same in the nature of unpaid taxes:

<u>LOCATION</u>	<u>PROPERTY OWNER(S)</u>	<u>REAL ESTATE ID</u>	<u>COST</u>
320 W. Garner Rd	Willie Woods Heirs	79561	\$295.48
1502 Meadowbrook Dr	David Penny	51547	295.48
2311 Timber Dr	Newcastle Group the III	222599	319.14
603 Wade Ave	Judy Logan	67687	375.36

This resolution shall become effective upon adoption, recorded at the Wake County Registry and a copy thereof forwarded to the Tax Collector for Wake County.

Duly adopted this the 3<sup>rd</sup> day of December, 2018.

(Town Seal)

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

ATTEST:

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

Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: December 3, 2018		
Subject: NCDOT Concurring Speed Ordinances		
Location on Agenda: Consent		
Department: Engineering		
Contact: Tony Chalk, Town Engineer		
Presenter: Tony Chalk, Town Engineer		
Brief Summary:  NCDOT has requested that the Town pass concurring ordinances to lower the speed limit on Bryan Road within the Town's jurisdiction and create a school zone at Bryan Road Elementary School.		
Recommended Motion and/or Requested Action: Approve concurring ordinance		
Detailed Notes:		
Funding Source:		
Cost:	One Time: <input checked="" type="radio"/>	Annual: <input type="radio"/> No Cost: <input type="radio"/>
Manager's Comments and Recommendations:		
Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	TC	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

**Certification of Municipal Declaration  
To Enact Speed Limits and Request for Concurrence**

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**Concurring State Ordinance Number:** 1074156

**Division:** 5      **County:** WAKE

**Municipality:** GARNER

**Type:** Municipal Speed Zones

**Road:** SR 2707

**Car:** 45 MPH

**Truck:** 45 MPH

**Description:** On SR 2707 (Bryan Rd) from SR 2709 (Ackerman Rd), southward to the Garner Municipal Limits located approximately 0.36 mile north of SR 2706 (Clifford Rd).

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**Municipal Certification**

I, \_\_\_\_\_, Clerk of \_\_\_\_\_, do hereby certify that the municipal governing body, pursuant to the authority granted by G.S. 20-141(f), determined upon the basis of an engineering and traffic investigation and duly declared, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the speed limits as set forth above on the designated portion of the State Highway System, which shall become effective when the Department of Transportation has passed a concurring ordinance and signs are erected giving notice of the authorized speed limit.

The said municipal declaration is recorded as follows:

Minute Book: \_\_\_\_\_ Page: \_\_\_\_\_ Ordinance Number: (2018) 3938

In witness whereof, I have hereunto set my  
hand and the municipal seal this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(municipal seal)

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**Department of Transportation Approval**

Division: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

Region: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

**Certification of Municipal Declaration  
To Enact Speed Limits and Request for Concurrence**

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**Concurring State Ordinance Number:** 1074158

**Division:** 5      **County:** WAKE

**Municipality:** GARNER

**Type:** School Speed Zone - Municipal

**Road:** SR 2707

**Car:** 35 MPH

**Truck:** 35 MPH

**Description:** On SR 2707 (Bryan Rd) from a point located approximately 0.31 mile south of SR 2709 (Ackerman Rd), southward to the Garner Municipal Limits located approximately 0.36 mile north of SR 2706 (Clifford Rd) (Bryan Road Elementary, in effect from 30 minutes before to 30 minutes after school begins and ends on school days only).

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**Municipal Certification**

I, \_\_\_\_\_, Clerk of \_\_\_\_\_, do hereby certify that the municipal governing body, pursuant to the authority granted by G.S. 20-141(f), determined upon the basis of an engineering and traffic investigation and duly declared, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, the speed limits as set forth above on the designated portion of the State Highway System, which shall become effective when the Department of Transportation has passed a concurring ordinance and signs are erected giving notice of the authorized speed limit.

The said municipal declaration is recorded as follows:

Minute Book: \_\_\_\_\_ Page: \_\_\_\_\_ Ordinance Number: (2018) 3939

In witness whereof, I have hereunto set my  
hand and the municipal seal this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
(signature)

(municipal seal)

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**Department of Transportation Approval**

Division: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

Region: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

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Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: December 3, 2018		
Subject: Historic Depot Resolution		
Location on Agenda: Old/New Business		
Department: Administration		
Contact: Rodney Dickerson, Town Manager		
Presenter: Rodney Dickerson, Town Manager		
<p><b>Brief Summary:</b></p> <p>In previous meetings, Council discussed preserving Garner's history and the relocation of the Historic Depot to Pearl St., in principle, based on forthcoming information on the scope and budget. The Town Council also agreed in principle to partner with Garner Area Historical Society on operation of the Depot as a museum.</p>		
<p><b>Recommended Motion and/or Requested Action:</b></p> <p>Adopt Resolution (2018) 2364</p>		
Detailed Notes:		
Funding Source:		
Cost:	One Time: <input checked="" type="radio"/>	Annual: <input type="radio"/> No Cost: <input 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:	RD	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

RESOLUTION NO. (2018) 2364

A RESOLUTION RELATING TO PRESERVATION OF GARNER'S HISTORY AND THE CONSERVATION, RELOCATION, REHABILITATION AND FUTURE USE OF THE GARNER DEPOT

WHEREAS, the history of Garner is closely tied to its having been a railroad town on the North Carolina Railway where the Garner Depot was an important feature in the lives of early Garner residents and the operation of their businesses, and was a fixture in the downtown;

WHEREAS, the Garner Depot presently needs certain repairs to conserve it, and needs further rehabilitative preservation work to safeguard it for the future and render it useable by the public;

WHEREAS, the Garner Area Historical Society has proposed a plan to preserve Garner's history and to make the Garner Depot the center of that plan;

WHEREAS, the Garner Area Historical Society has recommended, and the Town Council concurs, that the Garner Depot should be relocated to a site near the Town's Pearl Street facility;

WHEREAS, the Garner Area Historical Society proposes to partner with the Town in providing archival and curatorial services to enhance the use of the relocated Garner Depot for educational, cultural and historical purposes.

NOW, THEREFORE, BE IT RESOLVED:

1. That the Town Council of the Town of Garner approves in principle that the process should be started for the Garner Depot to be relocated to a site to be determined near the Town's Pearl Street facility, and that the Garner Depot be rehabilitated consistent with preservation standards, for use as an educational, cultural and historic facility, subject to determination of costs and establishment of a budget for the project; and
2. That the Town of Garner partner with the Garner Area Historical Society to preserve Garner's history and to further the use of the relocated Garner Depot for cultural, educational and historic benefits to the general public.

Duly adopted, this the 3<sup>rd</sup> day of December, 2018.

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Ronnie S. Williams, Mayor

ATTEST:

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Stella L. Gibson, Town Clerk

Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: December 3, 2018		
Subject: Z-18-04, 800 & 1000 Maxwell Drive		
Location on Agenda: Old/New Business		
Department: Planning		
Contact: Het Patel, Senior Planner - Transportation and Land Use		
Presenter: Het Patel, Senior Planner - Transportation and Land Use		
<p><b>Brief Summary:</b></p> <p>Roy Tripp, applicant, requests to rezone from Residential 9 Conditional Use (R-9 C153) to Residential 40 (R-40) general use. No conditions are proposed as part of this request. No development plan is proposed at this time. The public hearing was held on October 16, and the Planning Commission reviewed this request at their November 11 meeting.</p>		
<p><b>Recommended Motion and/or Requested Action:</b></p> <p>Approval of Z-18-04 along with simultaneous Comprehensive Plan amendment; Adopt Ordinance (2018) 3940 .</p>		
<p><b>Detailed Notes:</b></p> <p>See attached staff report.</p>		
Funding Source:		
Cost:	One Time: <input checked="" type="radio"/>	Annual: <input type="radio"/> No Cost: <input 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:	JT	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		



## Planning Department Staff Report

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**TO:** Mayor and Town Council Members

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

**SUBJECT:** *General Use Rezoning – Z-18-04, 800 and 1000 Maxwell Drive*

**DATE:** December 3, 2018

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### I. PROJECT AT A GLANCE

<b>Rezoning Application:</b>	Z-18-04 General Use Rezoning
<b>Applicant:</b>	Roy Tripp
<b>Owner:</b>	Twin Ship Development Company & T.H. & L, Inc.
<b>Property Location:</b>	800 and 1000 Maxwell Drive
<b>Wake Count PIN(s):</b>	Parts of 1701-34-8706 & 1701-34-4588
<b>Area:</b>	2.77 +/- acres
<b>Town Limits:</b>	No
<b>Present Zoning:</b>	Residential 9 Conditional Use (R-9 C153)
<b>Requested Zoning:</b>	Residential 40 (R-40) Note: This is a general use request. No conditions are proposed.
<b>Key Meeting Dates:</b>	
<b>Town Council Public Hearing:</b>	October 16, 2018
<b>Planning Commission:</b>	November 13, 2018
<b>Town Council Action Hearing:</b>	December 3, 2018

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

This request is similar to another recently approved case on July 2, 2018, (Z-18-02 Larry Mack 5200 Old Stage Rd) where the owner wanted to build a detached accessory building that exceeded 50% of the principal structure's (home) area. Article 5.4 (B) of the UDO sets an accessory building size limitation at 50% of the home in all residential zoning districts except R-40. So, in order for Mr. Mack to build a detached garage that was larger than 50% the size of his home, the only option available was to downzone from R-20 to R-40.

The applicant of this case, Z-18-04, is requesting to downzone from R-9 C153 to R-40 in order to build a detached accessory building that exceeds 50% the size of the home (principal structure). The existing residential use of the property will continue.

The applicant owns 2 contiguous properties here on Maxwell Drive. 1000 Maxwell Drive contains the residence, and 800 Maxwell Drive is vacant / undeveloped. The lot with the residence has split zoning. A portion of this property is already zoned R-40 but the other half is zoned R-9 C153. The applicant wants to rezone a 0.77-acre portion of this tract zoned R-9 C153 back to R-40. The zoning of the vacant tract is all R-9 C153. The applicant wants to rezone a 2-acre portion of this lot to R-40 and recombine this with the other lot that contains the house (2.77-acres total). The remaining area not rezoned to R-40 will stay R-9 C153.

This R-9 C153 district came about in 2008 when the Jameson Place Subdivision was approved but never built (CUP-SP 08-01 & CUD Z 08-02). The Jameson Place property on the northside of Maxwell Drive was sold but the R-9 C153 zoning stayed in place.

In summary, the reason for the zoning request is that an accessory building larger than 50% the heated square footage of the house would not be allowed in Single-Family Residential (R-9 C153). An accessory building over the 50% limit is however allowed in Single-Family Residential (R-40).

## **III. ZONING ANALYSIS**

**Existing:** The existing zoning of the 2.77-acre site is **Residential 9 Conditional Use (R-9 C153)**. Residential districts are designed to create and maintain residential neighborhoods composed primarily of single-family dwellings and, as special uses, such institutional, public, and other compatible uses that are designed, constructed and maintained so as not to detract from the quality of each district. The R-9 district allows single-family lots of at least 9,000 square feet (.20 acres). Properties zoned R-9 can be developed at a density of approximately 4.84 units per acre.

***The following is a list of permitted uses in the R-9 C153 district:***

- |                           |  |
|---------------------------|--|
| 1. Single-family detached | 6. Community center                          |
| 2. Residential Cluster    | 7. Child day care up to 3 as home occupation |
| 3. Family care home       | 8. Family child day care up to 8 in home     |
| 4. Group care home        |  |
| 5. Intermediate care home |  |

- |  |   |
|--|---|
| 9. School public or private                                    | 12. Public parks, swimming pools, tennis and golf courses |
| 10. Public safety facilities (fire, police, rescue, ambulance) | 13. Cemetery  |
| 11. Cemetery   |   |

Proposed housing conditions for the R-9 C153 district include the following:

1. Each dwelling unit will have at least 1,800 heated square feet.
2. Each dwelling unit will have a 2-car garage.
3. Each dwelling unit will have at least a 36 square foot covered front porch.
4. Each dwelling unit will have at least a 120 square foot patio or deck.
5. The exterior facade of each unit will be constructed of at least 80% brick or stone.
6. Each dwelling unit will have a masonry foundation with crawl space for at least 70% of the foundation area, not to include the garage.
7. At the option of the owner of the property, the requirements of 2 through 6 listed above may be altered, provided that the additional heated square footage requirements below are met.

<u>Amenity</u>	<u>Additional heated area required</u>
No covered front porch.....	100 square feet
No patio or deck.....	50 square feet
Only 1 car garage.....	100 square feet
Not at least 80% brick.....	400 square feet

**Proposed:** The proposed zoning of the 2.77-acre site is **Residential 40 (R-40)**. Residential districts are designed to create and maintain residential neighborhoods composed primarily of single-family dwellings and, as special uses, such institutional, public, and other compatible uses that are designed, constructed and maintained so as not to detract from the quality of each district. R-40 district allows single-family lots of at least 40,000 square feet (.92 acres). Properties zoned R-40 can be developed at a density of approximately 1.089 units per acre.

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

- |  |  |
|--|--|
| 1. Single-family site built and modular homes              | 10. Family child day care up to 8 in home                      |
| 2. Residential Cluster                                     | 11. School public or private                                   |
| 3. Manufactured Home                                       | 12. Public safety facilities (fire, police, rescue, ambulance) |
| 4. Family Care home  | 13. Cemetery   |
| 5. Group care home   | 14. Public parks, swimming pools, tennis and golf courses      |
| 6. Intermediate care home                                  | 15. Religious institutions                                     |
| 7. Community center  | 16. Minor utility—elevated water tank                          |
| 8. Civil, service fraternal clubs, lodges and similar uses | 17. Solar farms  |
| 9. Child day care up to 3 as home occupation               |  |

- 18. Telecommunication facility
- 19. Other major utility
- 20. Private golf course or country club

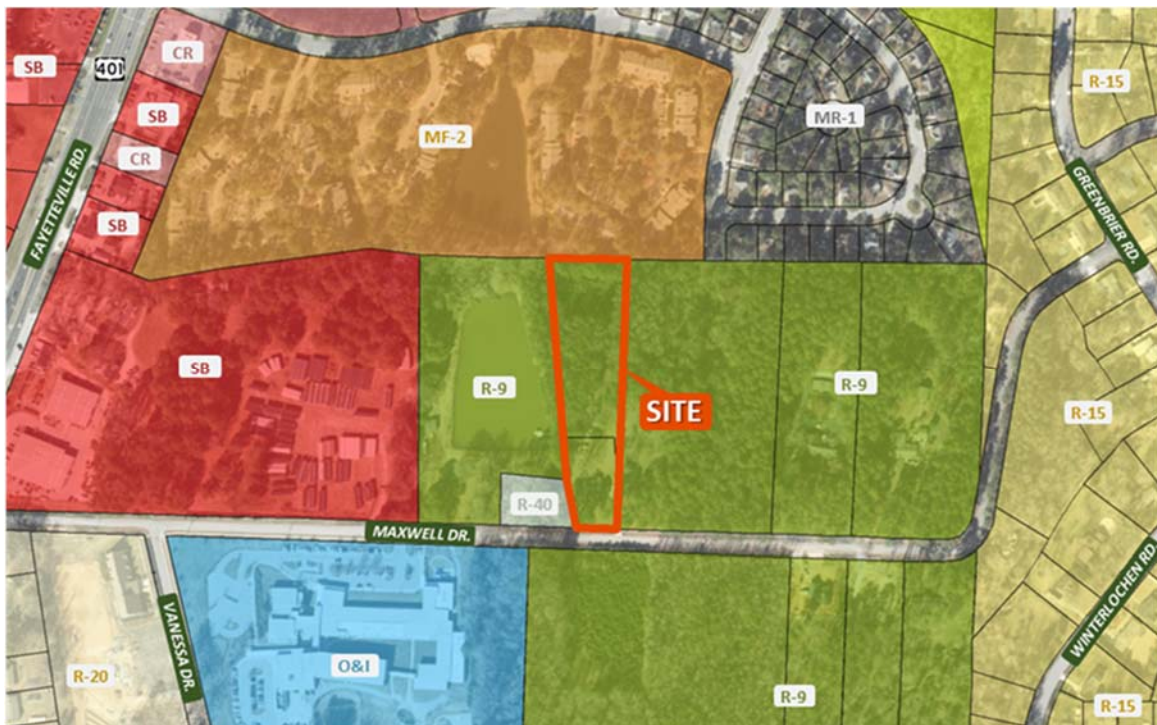
- 21. Horse stables and related facilities
- 22. Bed and breakfast
- 23. Agriculture or silviculture

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

Case	Applicant	Location	Zoning Change
CUD-Z-06-05	Maissaa Kaddoura	US 401	CR to SB C139
CUD-Z-08-02	Homestead Developer	Maxwell Drive	R40 to R9 C153
CUD-Z-15-04	Eric Williams	US 401	CR to SB C178
Z 16-04	Khalil Rahimi	1016 Maxwell Drive	R-40 to R-9

**Adjacent Zoning and Land Uses:**

- North:** Multi-Family 2 (MF-2) Pine Winds Apartments
- South:** Single-Family Residential (R-9 C153) Approved subdivision CUP-SB 16-08
- East:** Single-Family Residential (R-9) Single-family
- West:** Single-Family Residential (R-9) Single-Family Residential (R-40)



**Overall Neighborhood Character:** This area along Maxwell Drive is located between US 401 (Fayetteville Road) and Greenbrier Subdivision. This area contains a mix of zoning districts from SB, O&I, R-20, R-15, R-40, and R-9. Uses include single-family on large lots, Smith Magnet Elementary School, St. Andrews Methodist Church, and some commercial storage.

**Infrastructure:** **Water/Sewer** – There is an 8” water main to the south of the property along Maxwell Drive and an 8” sewer main to the north and south of the property.



**Transportation** – The site has approximately 115 feet of road frontage on Maxwell Drive. Maxwell Drive (SR 2797) is a 22-foot wide NCDOT-maintained facility within a 60-foot right of way. This road lacks curb and gutter and sidewalks.

The site is already developed as 1 single-family home so road improvements will not be required as part of this rezoning. However, if this site is re-developed in the future, road improvements would apply (curb / gutter / sidewalks). We also do not anticipate additional traffic impacts as a result of this rezoning.

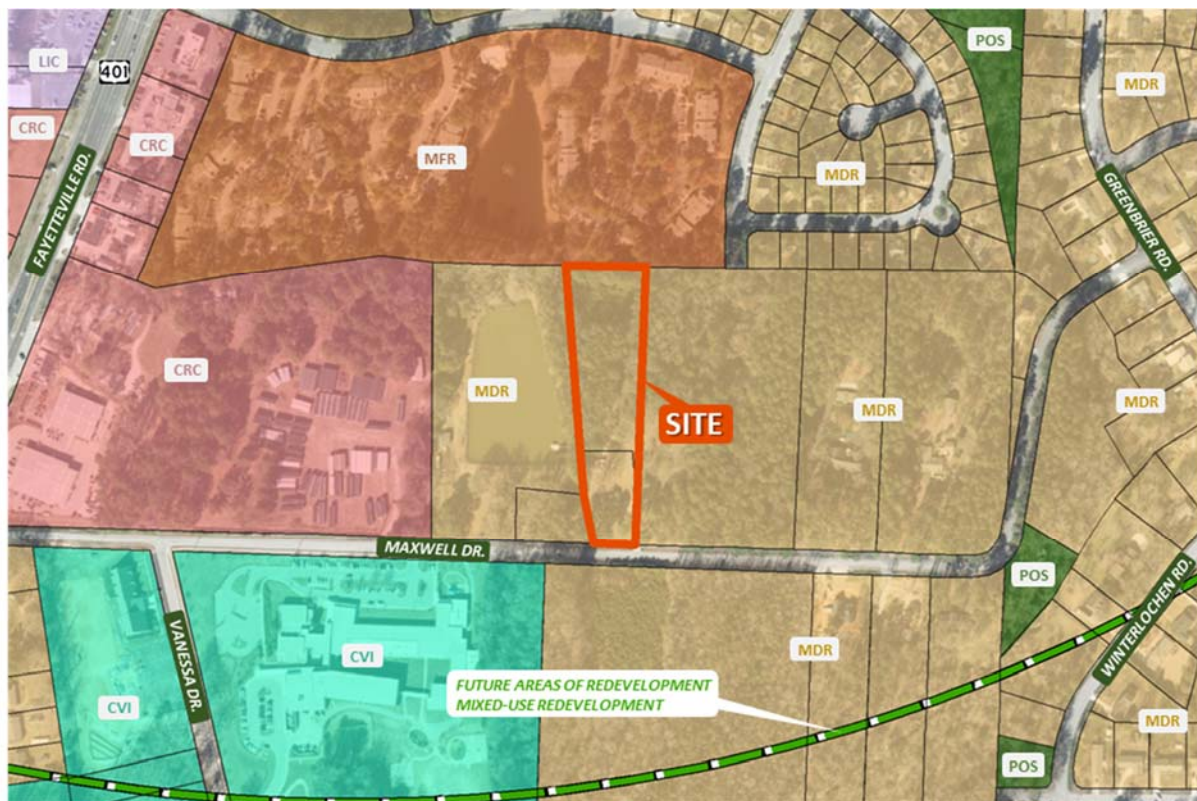
**Environment** – This site is not located within the 100-year flood plain as delineated by the FEMA Flood Insurance Rate Maps.



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

**2018 Garner Forward Comprehensive Plan:** According to the *2018 Garner Forward Comprehensive Plan* and the Future Land Use map, the rezoning site falls within the **Medium-Density Residential** category, and the surrounding tracts in this area are also designated primarily as Medium-Density Residential. Corridor Commercial and Civic and Institutional designations are called for in the immediate vicinity along Maxwell Drive and at the intersection of US 401 (Fayetteville Road). Additionally, the *2018 Garner Forward Comprehensive Plan* identified future areas of re-development. As such, the property falls within a future area of mixed-use re-development designation.

The Medium-Density Residential land use category includes single-family, duplex, triplex, quadplex, and townhome-style residences with a recommended density of two and a half (2.5) to five (5) dwelling units per acre. Medium-Density Residential structures may also include auxiliary units detached from the primary house. The Medium-Density Residential designation encourages context sensitive residential uses that preserve and enhance the culture of adjacent residential communities.



**Garner Forward Plan Amendment:** This request, Z 18-04, seeks to downzone from R-9 (4.84 units per acre) to R-40 (1.08 units per acre). The requested R-40 zoning district's density is less than what is recommended by the Plan's "medium density residential" and is therefore not consistent.

Approval of this request will require an amendment to the Plan to re-designate the rezoning site from “medium density residential” at 2.5 to 5 units per acre to “low density residential” at less than 2.5 units per acre. This would lower the future development intensity on this site. The question before the community is whether or not this is appropriate.

There are several considerations that should be taken into account with evaluating this request:

1. There are no plans to develop this site into a low density, large-lot residential subdivision. This request is solely related to the desire to build an accessory building that is larger than what is allowed in R-9.
2. There are six single-family residences along this area on both sides of Maxwell Drive, and all are on large-lots, so this area is currently operating at a “low density residential” intensity:
  - A. 1016 Maxwell Drive (6.24 acres)
  - B. 725 Maxwell Drive (2.80 acres)
  - C. 711 Maxwell Drive (2.80 acres)
  - D. 704 Maxwell Drive (3.90 acres)
  - E. 701 Maxwell Drive (3.50 acres)
  - F. 700 Maxwell Drive (6.14 acres)



## **V. PUBLIC HEARING**

The public hearing for this application was held on October 16, 2018. There were no public comments at the meeting concerning the rezoning.

## **VI. RECOMMENDATIONS**

Based on the preceding statements regarding consistency (or lack thereof) with Town plans and which is being forwarded to the Town Council as their own, the Planning Commission voted unanimously to recommend approval of this request to Town Council, along with a simultaneous amendment to the Garner Forward Comprehensive Plan re-designating the site from “medium density residential” at 2.5 to 5 units per acre to “low density residential” at less than 2.5 units per acre.

Staff recommends that the Town Council find the rezoning inconsistent (Option 3 on the attached Motion Worksheet) with the comprehensive plan but find it reasonable based on the preceding statements (Section IV – as well as any other applicable items on the Motion Worksheet) and approve application Z-18-04 as submitted.

Please refer to the Motion Worksheet on the following pages for assistance. It is recommended that the future land use designation be amended as “low-density residential”.



**VII. COUNCIL MOTION WORKSHEET:**

**REZONING ACTION MOTION WORKSHEET**

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

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

“I move that the Town Council accept staff’s statements regarding zoning consistency with the Comprehensive Growth Plan, detailed in Section IV of this report, as our own; and I therefore move further that the Town Council accept the recommendation of the Planning Commission and adopt Ordinance No. \_\_\_\_\_ approving rezoning request number Z-18-04.”

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

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

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

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

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

and therefore, I move further that the Town Council reject the recommendation of the Planning Commission and deny rezoning request number Z-18-02.”

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

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

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

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

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

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

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

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

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

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

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

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

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

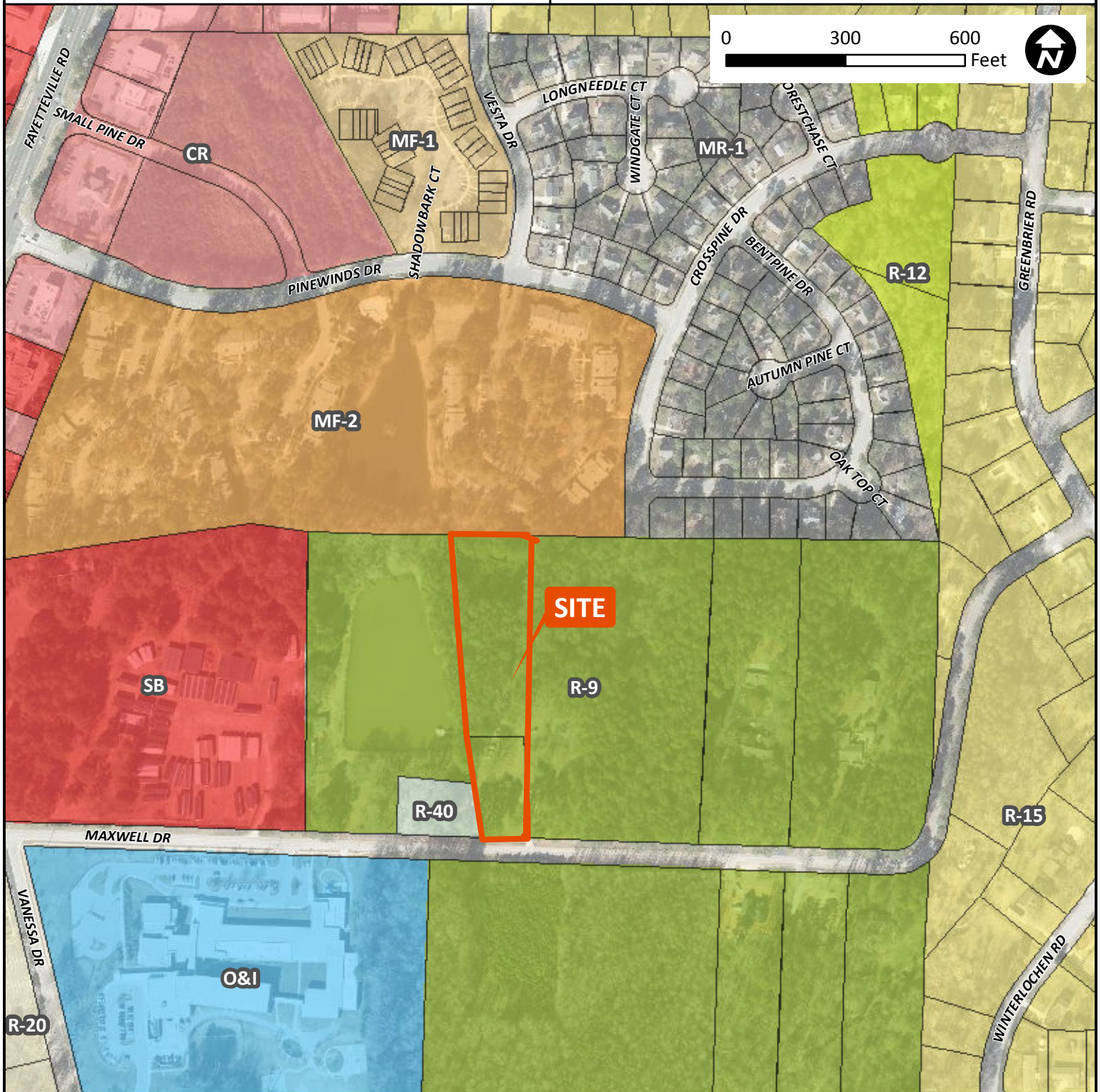
and therefore, I move further that the Town Council adopt Ordinance No. \_\_\_\_\_ approving rezoning request number Z-18-04, and in so doing, also amend the Town's Comprehensive Growth Plan from designating the subject property as medium-density residential to

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



**Town of Garner  
Planning Department**

**General Use Applications  
Z-18-04**



**Applicant:** *Twinship Development Company*  
**Owner:** *Twinship Development Company and T.H. & L. Inc*  
**Location:** *800 & 1000 Maxwell Drive*  
**Pin #:** *1701-34-8706 (portion of) and 1701-34-4588 (portion of)*

**Current Zoning:** *Single-Family Residential (R-40) and Single-Family Residential (R-9)*  
**Proposed Zoning:** *Single-Family Residential (R-40)*  
**Acreage:** *2.77 +/-*  
**Overlay:** *N/A*

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

**ORDINANCE NO. (2018) 3940**

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

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF GARNER:

Section 1. That the Official Zoning Map of the Town of Garner and Extraterritorial Jurisdiction be amended by changing the zoning classification of the property described below from its current zoning of Residential 9 Conditional Use (R-9 C153) to Residential 40 (R-40) general use district as requested in Rezoning Application No. Z-18-04 by Town of Garner.

2.77 +/- acres further identified as 800 Maxwell Drive and 1000 Maxwell Drive and parts of Wake County PIN # 1701348706 & 1701344588

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

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

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

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

Duly adopted this 3<sup>rd</sup> day of December 2018.

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Ronnie S. Williams, Mayor

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

Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: December 3, 2018		
Subject: Proposed suspension of Water Sewer Allocation Policy		
Location on Agenda: Old/New Business		
Department: Engineering		
Contact: Tony Chalk, Town Engineer		
Presenter: Tony Chalk, Town Engineer		
Brief Summary:  At thier November 20, 2018 meeting the Public Works Committee proposed suspending the Water Sewer Allocation policy. The attached memo outlines specific actions and reporting schedule.		
Recommended Motion and/or Requested Action: Approve Recommendations from Public Works Committee		
Detailed Notes: See attached memo		
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:	TC	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

**Town of Garner  
Engineering Department  
Memorandum**

To: Town Council Members

From: Tony Chalk PE PLS  
Town Engineer

Date: November 27, 2018

Re: Suspension of Water Sewer Allocation Policy

A Public Works Committee meeting was held on November 20<sup>th</sup>, 2018 to discuss several items including the Water/Sewer Allocation Policy. Staff shared some concerns from the development community regarding the total amount of lots annually permitted by the policy and the total lots that could be allocated to each project on an annual basis.

The Town's current daily water usage is approximately 2.2 million gallons per day, while the available water allocation is in excess of 3.5 million gallons per day. Taking this information into consideration, along with the commercial to residential tax base ratio trending towards a 50/50 ratio, the Public Works committee elected to:

- Suspend the Water Sewer Allocation Policy until March 1, 2021
- Receive biannual reports from staff on the available water and sewer capacity utilizing City of Raleigh actual flow reports
- Receive annual updates on the commercial to residential tax base ratio

An annual Public Works Committee meeting will be scheduled for each February to review this information.

Action by the full Council would be needed to move forward with these recommendations from the Public Works Committee.