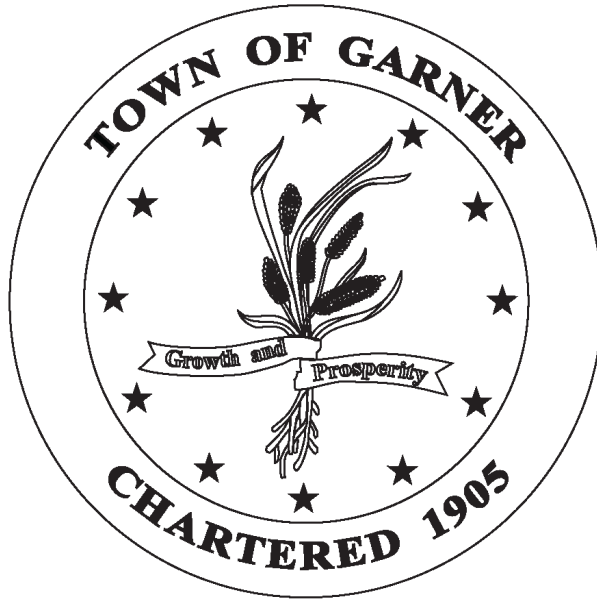


# **TOWN OF GARNER**



## **TOWN COUNCIL MEETING**

July 1, 2019  
7:00 P.M.

Garner Town Hall  
900 7th Avenue  
Garner, NC 27529

**Town of Garner  
Town Council Agenda  
July 1, 2019**

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 Ronnie Williams

- C. INVOCATION: Mayor Ronnie Williams

- D. PETITIONS AND COMMENTS

*This portion of the meeting is to receive comments from the public on items not included in this agenda. Citizens should sign up with the Town Clerk to speak prior to the start of the meeting. The Board is interested in hearing your concerns but may not 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

1. ANX-19-05, Winston Property ..... Page 5  
Presenter: David Bamford, Planning Services Manager

Contiguous annexation petition submitted by Melody Winston for 4.15 +/- acres located at 704 Maxwell Drive, also identified as Wake County PIN# 1701-44-1775.

Action: Consider setting public hearing for August 5, 2019

2. ANX-19-06, Blackwell Property ..... Page 5  
Presenter: David Bamford, Planning Services Manager

Satellite annexation petition submitted by Patricia Blackwell for 2.15 +/- acres located at 2117 Clifford Road, also identified as Wake County PIN# 1629-45-3205.

Action: Consider setting public hearing for August 5, 2019

3. Council Meeting Minutes ..... Page 12  
Presenter: Stella Gibson, Town Clerk

Council Meeting Minutes from April 1, April 16 and April 30, 2019 and special meeting minutes from March 20, 2019.

Action: Consider approving minutes

4. Final New Rand Road Easement Resolution ..... Page 34  
Presenter: William E. Anderson, Town Attorney

There have been a handful of situations in which the Town's initial estimate of reasonable compensation has been modified through appraisal and/or negotiation. Attached is a final Resolution which will document the final prices paid for certain easements and/or moneys deposited with the Court for property owners in eminent domain cases.

Action: Consider adopting Resolution (2019) 2380

5. Yeargan Property, Garner Road ..... Page 37  
Presenter: William E. Anderson, Town Attorney

The deed from the Yeargan entities to the Town for the Garner Road Park property included an erroneous description which conveyed a small sliver of land south of Garner Road. That was not the intent. The attached quitclaim Deed releases any claim by the Town to that sliver, and thereby conveys the land back to the Yeargan entities.

Action: Consider executing attached quitclaim deed

6. Development Finance Initiative - Pre-Development Services Contract ..... Page 43  
Presenter: John Hodges, Asst. Town Manager-Development Services

The School of Government's Development Finance Initiative presented a proposal for pre-development services for the pad located between the new Rec Center and Full Bloom Cafe at the May 28 work session. The contract for services is attached. Staff has answered the questions posed by council members at the work session and feels that we're ready to move forward with engaging DFI. The Downtown Development Manager requests that the council review and approve the contract and funding so we may begin working with DFI in mid-July.

Action: Consider approving contract funding to engage DFI to provide pre-development services

7. Reorganization of Neighborhood Improvement ..... Page 53  
Presenter: Mike Franks, Budget and Special Projects Manager

Approval of changes required to move the Neighborhood Improvement function to the Planning Department.

Action: Consider Approval

#### H. PUBLIC HEARINGS

1. CUD-Z 19-04 / CUP-SP-19-04 Pullen Construction ..... Page 57  
Presenter: David Bamford, Planning Services Manager

Conditional rezoning (CUD-Z-19-04) with associated site plan (CUP-SP-19-04) request submitted by Tony Tate Landscape Architecture Associates to rezone 3.63 +/- acres from Mixed Use District 1 Conditional Use (MXD-1 C25) and Heavy Industrial Conditional Use (I-2 C157) to Heavy Industrial Conditional Use (I-2 C217) for Other Office and Storage (including outdoor) use. The site is located at 255 Bricksteel Lane in White Oak Business Park East and may be further identified as Wake County PIN# 1730-31-9072.

Action: Consider adopting Ordinance (2019) 3983

2. SUP-SP 19-02, CCAC Building Solutions ..... Page 79  
Presenter: Alison Jones, Planner II

Special use permit application submitted by Timmons Group on behalf of CCAC Investment Properties LLC to develop a 5.78 +/- acre tract for Light Industrial Service - Flex Space use. The site is located at 2000 Waterfield Drive in Greenfield Business Park and may be further identified as Wake County PIN# 1730-12-8487.

Action: Consider approval of special use permit SUP-SP-19-02.

#### I. NEW/OLD BUSINESS

1. Z-19-03, General Use Rezoning - E. Garner Road ..... Page 90  
Presenter: David Bamford, Planning Services Manager

General rezoning application submitted by Tommy Kilgore to rezone 4.50 +/- acres from Single-Family Residential (R-40) and Single-Family Residential (R-20) to Manufactured Home Park/Subdivision (RMH) general use. The site is located at 2548 and 2609 E. Garner Road and may be further identified as Wake County PIN(s) 1730-66-8593 and 1730-76-1396.

Action: Consider adopting Ordinance (2019) 3984



2. Garner Recreation Center - GPAC Paving Change Order ..... Page 103  
Presenter: Chris Johnson, Town Engineer

Authorize the Town Manager to execute change order with Pro Construction in an amount not to exceed \$40,000. Request to authorize a change order for 1.5" pavement milling and repaving of the primary travel lanes at the Garner Performing Arts Center due to cracking of the existing pavement.

Action: Consider authorizing the Town Manager to execute change order with Pro Construction in an amount not to exceed \$40,000

3. Timber Drive Sidewalks - Project Update and SEPI Supplemental #2 ..... Page 107  
Presenter: Chris Johnson, Town Engineer

Provide a brief project update, as well as obtain authorization for a supplemental agreement with SEPI for environmental work and right of way/easement staking.

Action: Consider authorizing the Town Manager to execute the supplemental agreement with SEPI in the amount of \$9,705

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: July 1, 2019		
Subject: ANX-19-05, Winston Property and ANX-19-06, Blackwell Property		
Location on Agenda: Consent		
Department: Planning		
Contact: : David Bamford, Planning Services Manager		
Presenter: : David Bamford, Planning Services Manager		
Brief Summary:  Contiguous annexation petition submitted by Melody Winston for 4.15 +/- acres located at 704 Maxwell Drive, also identified as Wake County PIN# 1701-44-1775 and satellite annexation petition submitted by Patricia Blackwell for 2.15 +/- acres located at 2117 Clifford Road, also identified as Wake County PIN# 1629-45-3205.		
Recommended Motion and/or Requested Action: Consider adopting Resolution (2019) 2381 setting public hearings for August 5, 2019		
Detailed Notes: ANX-19-05 petition (Winston Property) is related to a request to connect to public water. ANX-19-06 petition (Blackwell Property) is related to a request to connect to both public water and sewer.		
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:	JT	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

## Planning Department Memorandum

---

**TO:** Mayor and Town Council

**FROM:** David Bamford, AICP; Planning Services Manager

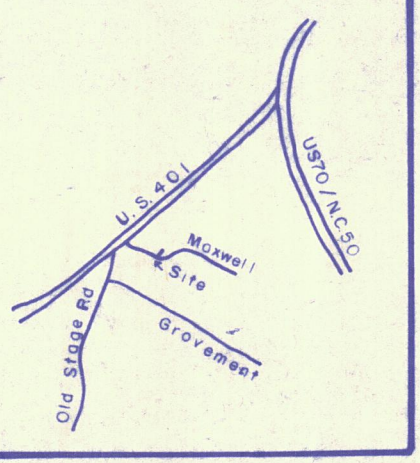
**SUBJECT:** ***ANX-19-05: Winston Property***

**DATE:** July 1, 2019

---

ANNEXATION APPLICATION:	ANX 19-05
OWNERS:	Melody Winston
CONTIGUOUS / SATELLITE:	Contiguous
LOCATION OF PROPERTY:	704 Maxwell Drive
WAKE COUNTY PIN #:	1701-441-775
REAL ESTATE ID #:	0113321
AREA:	4.15 +/- acres total (3.9-Acre Site and 0.25-Acres of adjacent right-of-way)
ZONING:	R-9
ASSOCIATED DEVELOPMENT PLAN:	None. Property owner is requesting to connect to public water on Maxwell Drive; per the <i>Raleigh-Garner Merger Agreement</i> , an annexation petition is required for the extension of service.
RECOMMENDATION:	Set Public Hearing for August 5, 2019





VICINITY MAP

Map Book 1980, Pg. 220



Note: There are no N.C. Grid Markers within 2000' of this property.

Van O. Blalock  
Map by Moses Farmer, R.L.S.  
dated April 19, 1977.  
Dd. Bk. 1838, Pg. 521  
7.37 Acres Total  
.24 Ac. Rd. R/W  
7.13 Acres Net

Van Blalock  
Map by Moses Farmer, R.L.S.  
dated April 19, 1977  
Dd. Bk. 1838, Pg. 521

Robert E. Blalock & Wife,  
Patty R. Blalock  
Map Bk. 1979, Pg. 869

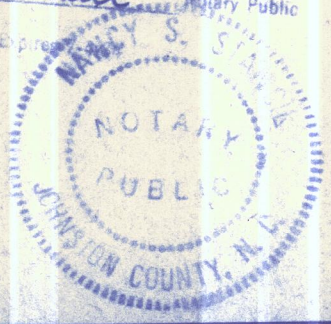
This certifies that the undersigned is owner of the property shown on the map having acquired title hereto by deeds recorded in the office of the Register of Deeds of Wake County, N.C., as shown below, and by submission of this plat or map for approval, I do hereby dedicate to the Town of Garner for public use all streets, easements, right-of-way and public parks shown thereon, and upon acceptance of said dedication by the Town of Garner for the benefit of the public, that such dedication shall be irrevocable.

Signed Van O. Blalock  
Van O. Blalock

State of North Carolina  
I, Nancy D. Stancil Notary Public,  
do hereby certify that Thomas L. Stancil  
personally appeared before me, and acknowledged  
the foregoing as his true and correct signature.  
My hand and seal this 27th day  
of February 1980.  
Nancy D. Stancil Notary Public  
My Commission Expires March 1, 1981

I, Thomas L. Stancil certify that this map was drawn from (actual survey made by me) deed description recorded in Book 1838, Page 541, Book 1838, Page 542, (other) that the error of closure as calculated by the method of least squares is 1.12 feet, that the boundaries not surveyed are shown as broken lines plotted from information found in Book 1838, Page 541, that this map was prepared in accordance with G. S. 47-30 as amended. Witness my hand and Seal this 27th day of February A.D., 1980.  
Thomas L. Stancil

Scale 1" = 100'  
Property Of  
VAN O. BLALOCK  
Surveyed & Mapped For  
ROLLY BANNISTER  
- and -  
VICTOR BYRD  
St. Mary's Twp., Wake Co., N.C.  
Scale 1" = 100' February 27, 1980  
Surveyed & Mapped By  
THOMAS LESTER STANCIL  
Registered Land Surveyor 1512  
Rt. 1, Angier, N.C. 27501 639-2133  
★ Revised 3-18-80



L-W-SM-157

3/18/80  
Mary Lou Hook



**Town of Garner  
Planning Department**

**Annexation  
ANX 19-05**

0 300 600  
Feet



Project: 704 Maxwell Drive  
Owner: Melody Winston  
Area: 4.15 Total (3.9 Acres Site; 0.25 Acres Right of Way)  
Pin: 1701441775

## Planning Department Memorandum

---

**TO:** Mayor and Town Council

**FROM:** David Bamford, AICP; Planning Services Manager

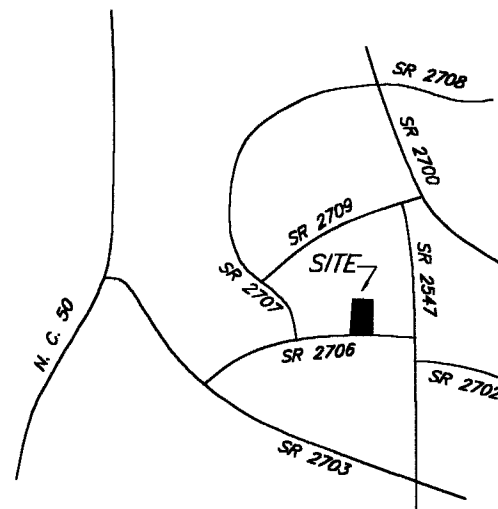
**SUBJECT:** ***ANX-19-06: Blackwell Property***

**DATE:** July 1, 2019

---

ANNEXATION APPLICATION:	ANX 19-06
OWNERS:	Patricia Blackwell
CONTIGUOUS / SATELLITE:	Satellite
LOCATION OF PROPERTY:	2117 Clifford Road
WAKE COUNTY PIN #:	1629-45-3205
REAL ESTATE ID #:	0256559
AREA:	2.15 +/- acres
ZONING:	R-40
ASSOCIATED DEVELOPMENT PLAN:	None. Property owner is requesting to connect to <b>both</b> public water and sewer on Clifford Road; per the <i>Raleigh-Garner Merger Agreement</i> , an annexation petition is required for the extension of service.
RECOMMENDATION:	Set Public Hearing for August 5, 2019





VICINITY MAP

CERTIFICATE OF APPROVAL

I hereby certify that the minor subdivision shown on this plat does not involve the creation of new public streets or any change in existing public streets, that the subdivision shown is in all respects in compliance with the Town of Garner Land Use Ordinance, and that therefore this plat has been approved by the reviewing board, subject to its being recorded in the Wake County Registry within 90 days of the date below.

PETER G. BING

TOWN MANAGER (Print)

Peter G. Bing

TOWN MANAGER (Signature)

5-17-99

DATE

SURVEYORS DECLARATION TO WHOM IT MAY CONCERN:  
This plat is a correct representation of the land platted, but a North Carolina Licensed Attorney-At-Law should be consulted concerning correct ownership, width and location of easements; any cemeteries or family burying grounds not shown on recorded maps or deeds made available to the surveyor by the present owners at time of this survey and other title questions revealed by title examination. No responsibility of any nature is assumed by the surveyor for any conditions which may presently exist but are unknown such as: Cemeteries, Family Burying Grounds, Toxic or Hazardous Waste Materials, ETC.

NOTE: THIS PROPERTY IS SUBJECT TO ANY AND ALL EASEMENTS, RIGHT-OF-WAYS OR AGREEMENTS OF RECORD.

NOTE: THIS PROPERTY IS NOT LOCATED WITHIN 2000 FT. OF A N.C. GRID MONUMENT.

ROBERT A. BRYAN &  
WIFE JEAN B. BRYAN

DEED BOOK 1357, PAGE 434

LEGEND

- LINES SURVEYED
- LINES NOT SURVEYED
- EIP --- EXISTING IRON PIPE FOUND
- NIP --- NEW IRON PIPE SET
- CC --- CONTROL CORNER
- EIS --- EXISTING IRON STAKE FOUND
- NIS --- NEW IRON STAKE SET
- ECM --- EXISTING CONCRETE MONUMENT
- CM --- CONCRETE MONUMENT
- EX, PKN --- EXISTING P.K. NAIL FOUND
- PKN --- P.K. NAIL SET
- EX, RRS --- EXISTING RAILROAD SPIKE FOUND
- RRS --- RAILROAD SPIKE SET
- R/W --- RIGHT-OF-WAY
- DB --- DEED BOOK
- ELS --- EXISTING LIGHTWOOD STAKE
- MBSL --- MINIMUM BUILDING SETBACK LINE
- EX, AM --- EXISTING ALUMINUM MONUMENT
- PP --- POWER POLE
- GHSL --- OVERHEAD ELECTRIC LINE

CERTIFICATE OF OWNERSHIP

I HEREBY CERTIFY THAT I AM (WE ARE) THE OWNER(S) OF THE PROPERTY DESCRIBED HEREON, WHICH PROPERTY IS WITHIN THE SUBDIVISION REGULATION JURISDICTION OF THE TOWN OF GARNER, AND THAT I (WE) FREELY ADOPT THIS PLAN OF SUBDIVISION.

ROBERT A. BRYAN

5-17-99

OWNER (Print)

DATE

Robert A. Bryan

OWNER (Signature)

JEAN B. BRYAN

OWNER PRINT

Jean B. Bryan

OWNER (Signature)

FILED FOR REGISTRATION  
5-17-99

DATE  
LAURA M. RIDDICK  
REGISTER OF DEEDS  
WAKE COUNTY  
BY Frederick C. Byrd  
DEPT. / DEPUTY  
3:27pm

ROBERT A. BRYAN &  
WIFE JEAN B. BRYAN  
DEED BOOK 1357, PAGE 434

NORTH CAROLINA  
WAKE

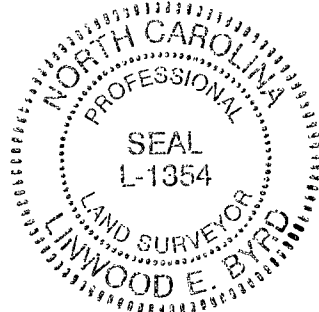
I, LINWOOD E. BYRD, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book AS, Page REF.); that the boundaries not surveyed are clearly indicated as drawn from information found in Book AS, Page REF.; that the ratio of precision as calculated is 1:10,000+ for unadjusted field data; that this plat was prepared in accordance with G. S. 47-30 as amended. Witness my original signature, registration number and seal this 1st day of April, A. D., 1999.

Linwood E. Byrd Professional Land Surveyor  
Registration No. L-1354

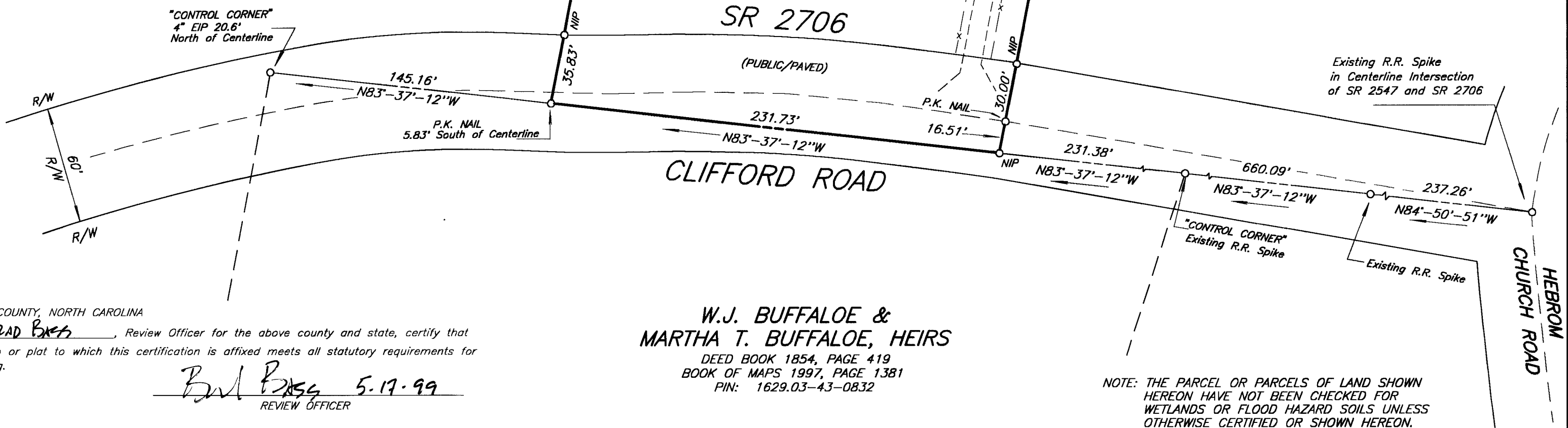
I, LINWOOD E. BYRD, Professional Land Surveyor certify that this plat is of a survey that creates a subdivision of land within the area of a county that has an ordinance that regulates parcels of land.

Linwood E. Byrd  
LINWOOD E. BYRD

SURVEYORS  
SEAL



NOTE: THE SEPTIC TANK AND NITRIFICATION LINES AS SHOWN ON THIS MAP ARE APPROXIMATE ONLY. THIS IS THE LOCATION AS SHOWN BY THE EXISTING LAND OWNERS AND THERE WAS NO ACTUAL FIELD LOCATION OF SAME. THIS PLAT HAS NOT BEEN CHECKED BY WAKE COUNTY ENVIRONMENTAL HEALTH DEPARTMENT.



CONTAINS 2.37 ACRES  
LESS 0.22 ACRES IN RD. R/W  
NET 2.15 ACRES

ROBERT A. BRYAN &  
WIFE JEAN B. BRYAN  
DEED BOOK 1357, PAGE 434

W.J. BUFFALOE &  
MARTHA T. BUFFALOE, HEIRS  
DEED BOOK 1854, PAGE 419  
BOOK OF MAPS 1997, PAGE 1381  
PIN: 1629.03-43-0832

NOTE: THE PARCEL OR PARCELS OF LAND SHOWN HEREON HAVE NOT BEEN CHECKED FOR WETLANDS OR FLOOD HAZARD SOILS UNLESS OTHERWISE CERTIFIED OR SHOWN HEREON.

STATE OF NORTH CAROLINA, WAKE COUNTY

Filed for Registration at

1999 in the Register of Deeds Office.

Recorded in Book of Maps Page

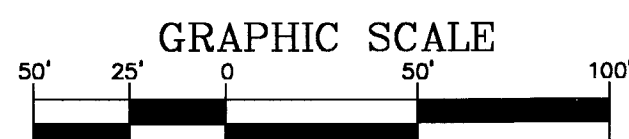
Register of Deeds

By:

THIS PLAT RECORDED IN BOOK OF MAPS 1999 PAGE, 881

REF: DEED BOOK 1357, PAGE 434

ACREAGE COMPUTED BY COORDINATE METHOD  
NOTE: ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES.



SURVEYED FOR  
ROBERT A. BRYAN & WIFE  
JEAN B. BRYAN

TOWNSHIP: ST. MARY'S COUNTY: WAKE  
CITY OR TOWN: GARNER ETJ STATE: NORTH CAROLINA  
ZONE: R-40 PIN: 1629.01-46-1036

BYRD SURVEYING, P.A.

PROFESSIONAL LAND SURVEYORS  
112 E. JOHNSTON ST. PHONE: 919-989-9300  
SMITHFIELD, N.C. 27577 FAX: 919-989-9301

DATE: 4-1-99 SURVEYED BY: GHM FIELD BOOK  
SCALE: 1"=50' DRAWN BY: HJL/SDP See File  
CHECKED & CLOSURE BY: LEB DRAWING NO.  
99-87



**Town of Garner  
Planning Department**

**Annexation  
ANX 19-06**

0 300 600  
Feet



Project: 2117 Clifford Road  
Owner: Patricia Blackwell  
Area: 2.1  
Pin: 1629453205



Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: July 1, 2019		
Subject: Council Meeting Minutes		
Location on Agenda: Consent		
Department: Administration		
Contact: Stella Gibson, Town Clerk		
Presenter: Stella Gibson, Town Clerk		
Brief Summary:  Council Meeting Minutes from April 1, April 16 and April 30, 2019 and special meeting minutes from March 20, 2019.		
Recommended Motion and/or Requested Action: Consider Adopting Minutes		
Detailed Notes:		
Funding Source:		
Cost:	One Time: <input type="radio"/>	Annual: <input type="radio"/> No Cost: <input checked="" type="radio"/>
Manager's Comments and Recommendations:		
Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	SG	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

**Town of Garner  
Town Council Meeting Minutes  
April 1, 2019**

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

**CALL MEETING TO ORDER/ROLL CALL**

Mayor ProTem Ken Marshburn called the meeting to order as the Mayor was a few minutes late.

Mayor Ronnie Williams, Mayor ProTem Ken Marshburn, Council Member Buck Kennedy and Council Member Gra Singleton.

Council Member Kathy Behringer was absent.

Staff Present: Rodney Dickerson-Town Manager, John Hodges-Asst. Town Manager-Development Services, Matt Roycastle-Asst. Town Manager-Operations, Pam Wortham-Finance Director, Rick Mercier-Communications Manager, Het Patel-Senior Planner, Chris Johnson-Town Engineer, BD Sechler-Human Resources Director, Sonya Shaw-PRCR Director, Stacy Harper-Senior Planner, David Bamford-Planning Services Manager, Tony Beasley-Inspections Director, Jeff Triezenberg-Planning Director, William E. Anderson-Town Attorney, Stella Gibson-Town Clerk

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

**INVOCATION:** Council Member Gra Singleton

**PETITIONS AND COMMENTS**

**ADOPTION OF AGENDA**

Motion: Kennedy  
Second: Singleton  
Vote: 3:0

**PRESENTATIONS**

**Amazon Construction Update**

Presenter: Tony Beasley, Inspections Director

Mr. Beasley provided a status of the construction at the Amazon facility and showed a timeline video that will be placed on the Town's website.

**CONSENT**

**Health & Benefits Renewals for 2019-2020**

Presenter: BD Sechler, Human Resources Director

Staff provided analysis and recommendations for the FY 19/20 health plan and other benefits at the March 26th work-session. Based on discussion and comments during that meeting, staff is requesting Council approval to allow for July 1, 2019 implementation.

Action: Approve renewals for the 2019-20 Fiscal Year based upon presentation at the March 26th work-session.

**Project Ordinance for the Amazon Project Road Improvements**

Presenter: Pam Wortham, Finance Director

This Ordinance establishes the project budget for the road improvements on Jones Sausage Road as a part of the Amazon project. We are budgeting for the receipt of funds from the NC Department of Transportation and budgeting for the use of fund balance from the general fund to be transferred to the capital project fund. The contract was approved by Town Council at the March 19 meeting.

Action: Adopt Ordinance (2019) 3958

**Ordinance Amending FY2018/2019 Operating Budget (Purchase of Parkland - Yeargan)**

Presenter: Pam Wortham, Finance Director

This amendment will budget for the purchase of the 72.5 acres of future park land as recommended by Council at the March 19, 2019 meeting, utilizing fee-in-lieu of parkland and Fund Balance.

Action: Adopt Ordinance (2019) 3959

**Ordinance Amending FY2018/2019 Operating Budget (Attorney Fees)**

Presenter: Pam Wortham, Finance Director

This amendment will budget for the increase in attorney fees as recommended by the Law and Finance Committee and approved by Council on March 4, 2019.

Action: Adopt Ordinance (2019) 3960

**Ordinance Amending FY2018/2019 Operating Budget (Stormwater Design)**

Presenter: Pam Wortham, Finance Director

This amendment will budget \$156,500 to contract with McAdams to design the Stormwater projects for 2019.

Action: Adopt Ordinance (2019) 3961

**Ordinance Amending FY2018/2019 Operating Budget (Insurance Proceeds)**

Presenter: Pam Wortham, Finance Director

Request to budget insurance proceeds that have been received to cover the cost of the repairs for which the insurance was intended.

Action: Adopt Ordinance (2019) 3962

**Resolution Authorizing Disposition of Personal Property (Macky)**

Presenter: Brandon Zuidema, Police Chief

Recognize K9 Officer Macky of Senior Officer Greg Holding as disposable property, so he can be awarded to Senior Officer Holding in recognition of Macky's retirement from the Town after eight years of service.

Action: Adopt Resolution (2019) 2371

**Nuisance Abatements**

Presenter: Pam Wortham, Finance Director

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

Action: Adopt Resolution (2019) 2372

**PUBLIC HEARINGS**

Mr. Anderson explained the procedures to be followed during the hearings and asked Council to disclose any ex parte communication. Hearing none, the Town Clerk administered the Affirmation of Oath to the following: Mary Harrison, Mark Phillips, Tom Hester, Rhomni Williams, Travis Fluitt, Tom Anastasi, Isabel Mattox, James Gerhart, Wilma Dunston, Lillie Sanders, Bill Linthicum, Dan Pabst, Chris Bostic, Wayne Baker, Jeffrey Auchter, Keith Roberts, Brian Sherman, Chris Rurkowski, Paul Caps, Het Patel, David Bamford, Stacy Harper, and Jeff Triezenberg.

**CUP-SP-18-24, KW Utilities**

Presenter: Stacy Harper, Senior Planner

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

Ms. Harper stated this conditional use permit was requested by Tony Tate Landscape Architecture to develop a flex-space office / warehouse development of 47,000 square feet on 9.64 +/- acres. The site is located in White Oak Business Park on Bricksteel Lane.

Chris Rurkowski spoke in support of the project.

Site specific condition: Prior to issuance of the first building permit, the Stormwater Program Administrator shall be in receipt of proof of payment for the required nitrogen offset payment to an approved mitigation bank.

Motion: Find this project consistent with the plans and approve. Move Council accept the staff statements regarding plan consistency in Section IV of this report as our own and find the application

meets the 10 permit criteria in Section 3.14.D. and therefore approve CUP-SP-18-24, KW Utilities, with the three standard conditions to be listed on the permit that will be prepared by staff.

Action: Grant permit by Order

Motion: Singleton  
Second: Kennedy  
Vote: 3:0

**CUD-Z-18-14 & CUP-SB-18-10, Lager Lane 18-14**

Presenter: Het Patel and Stacy Harper, Senior Planners

Conditional rezoning (CUD-Z-18-14) and associated subdivision plan (CUP-SB-18-10) request submitted by Tupelo Honey Land Development Co. to rezone 8.03 +/- acres from Single-Family Residential (R-40) to Single-Family Residential (R-9 C213) conditional use and to develop a single-family subdivision of 20 lots (Lager Lane). The site is located on the south side of Lager Lane.

Bryan Sherman stated he was opposed to the project due to the density, drain and natural pond disturbance, tree removal, and increased traffic.

Keith Roberts stated home pricing for this project is in the area of \$300K due to the high costs of developing. Wayne Baker added this project is for a target market – people who want more square footage with less yard maintenance and bedrooms downstairs.

Mayor Williams closed the public hearing.

Council Member Kennedy stated this property was evaluated over a decade ago and he appreciated the design and zoning considerations to maintain consistency with the adjacent subdivision. Mayor ProTem Marshburn added this type of project will not harm property values of the surrounding communities.

Action: Adopted Ordinance (2019) 3955

Motion: Kennedy  
Second: Singleton  
Vote: 3:0

**CUD-Z-18-13 & CUP-SP-18-25, Sheetz**

Presenter: Het Patel, Senior Planner

Mayor Williams opened the public hearing and asked Mr. Patel to present the staff report.

Mr. Patel provided a summary of this request and stated it is for a Conditional rezoning (CUD-Z-18-13) with associated site plan (CUP-SP-18-25) request submitted by LRC Development Co. to rezone 2.2 +/- acres from Single-Family Residential (R-9) and Community Retail (CR) to Community Retail (CR C212) conditional use and to develop the site as a convenience store with fuel sales (Sheetz). The site is located along New Rand Road.

Isobel Mattox provided an overview of the request.

Support  
Rhomni Williams

Ben Linthicum stated he owned and operated Capital Pools & Spas for over 25 years and explained he was only developing five of the seven lots, with the two vacant lots closer to the residential subdivision. He added it was his plan to develop the two remaining lots as single family or multi-family homes.

#### Opposed

The following expressed concern with one or all of the following relating to the rezoning request: traffic, noise, environmental, road changes, delivery trucks, sense of tranquility and pride in neighborhood, more foot traffic if sidewalks were added, property values, potential increase in crime, retention pond runoff, pollutants, potential fire and explosions.

Denise Ruffin Thomas  
Sherry Phillips  
Wilma Dunston  
Lillie Sanders  
Mary Harrison  
Kathryn Bell Branch  
Mark Phillips  
Chris Bostic

Ms. Mattox stated the 10 standards for approval of a conditional use site plan were met and this project presented no danger to public health or safety.

Following are comments addressing concerns of those opposed to the project.

Danny Gearhart, Sheetz real estate, explained all employee shifts at Sheets receive NC classification for operator training which allows them to be the stores' emergency contact if there is an incident. Sheetz has not had a leak in the UST because a double-walled tank system has been in place since 2001 which includes North Carolina. No major spills on any NC Sheetz lots. Sheetz has a six hour response to any sensors. All stores also get third party walk-through inspections and Sheetz does their own comprehensive inspections quarterly. Sheetz also owns their own tanker trucks.

Tom Hester stated this retail site is typical for this type of zoning.

Isabel Mattox stated this zoning complies with provisions in the UDO and Transportation Plan as confirmed by staff.

Mark Phillips, addressed landscaping concerns, large nursery plants are not available, but small fast-growing vegetation will be planted.

Delivery trucks will enter the site from US 70.

Lighting meets minimum standards per Ordinance.

Tom Anastasi stated distribution trucks usually visit sites three times per week, however, on average that may be two deliveries per day, seven days per week with most deliveries occurring at night. In

addition, fuel has a vapor recovery system and tanks have similar regulations to collect vapors; none will be released when fueling.

Travis Fluitt addressed the concerns regarding the traffic impact in the area stating it was approved by Town staff and NC DOT.

Council Member Singleton clarified the rezoning will not impact the location where the residents live.

Hearing no further comments, Mayor Williams closed the hearing.

Council Member Kennedy added it was important to be mindful of the commercial and retail businesses coming to Hwy 70; not as a result of Sheetz or Council. Hwy 70 has been changing. Change may be slow, but it is coming. Mr. Lithicum implemented a play by accumulating property over time and Sheetz followed the rules to develop his property. The community presented a good case regarding their concern for safety.

Mayor ProTem Marshburn added Sheetz is a good company but there is concern regarding the neighborhood and the concerns of the citizens.

Action: Find the request inconsistent with the Comprehensive Plan and deny and move the Council find the rezoning request inconsistent with the Garner Forward Comprehensive Plan and therefore, move further that the Town Council reject the recommendation of the Planning Commission and deny rezoning request number CUD-Z-18-13.

Motion: Singleton  
Second: Marshburn  
Vote: 3:0

Consideration of CUP-SP-18-25 is not necessary as CUD-Z-18-13 was denied.

## **NEW/OLD BUSINESS**

### **Z-18-06, Godwin Property - Jordan Road**

Presenter: Het Patel, Senior Planner

Mr. Patel stated this general rezoning request submitted by Harold Godwin to rezone 18.59 +/- acres from Community Retail (CR) to Neighborhood Office (NO). The site is located on Jordan Road (where Jordan Road ends before NC 50 north of Ten-Ten Road).

Action: Find consistent with the Comprehensive Plan and move the Town Council accept staff's statements regarding zoning consistency with the Comprehensive Growth Plan, detailed in Section IV of the staff report, as our own and move further that the Town Council adopt Ordinance (2019) 3957 approving rezoning request Z-18-06 as it is reasonable and in the public interest because it will likely allow the development of an appropriate density of housing in the area in which it is located.

Motion: Marshburn  
Second: Kennedy  
Vote: 4:0

## **New Recreation Center Furniture Bid**

Presenter: Sonya Shaw, PRCR Director

Ms. Shaw provided the following regarding the request to utilize All American Relocation and Office Solution for the new Recreation Center furniture purchase.

Bids were solicited and a bid opening was held February 28, 2019, for the Recreation Center Furniture Bid; only one bid was received. Bids were solicited a second time and a re-bid opening was held March 11, 2019. The only bid received during both bid processes was All American Relocation and Office Solution in the amount of \$149,854.19. The certified bid tabulation is enclosed for your review and includes the following:

- Group 1 Furniture: Office chairs, desks, tables, file/desk storage, bookcases, money safe- Projected cost of \$48,892.15. The cost of office furniture was not added to the project budget when we made the decision to move Parks staff from Town Hall to the Rec Center.
- Group 2 Lobby, Multipurpose and Art Room Furniture: Classroom tables, chairs, table/chair storage cart; Lobby tables, chairs, benches- Projected cost of \$100,961.94, which is reimbursable by CDBG funds.

This purchase will procure all furnishings for the new Recreation Center building and include coordinating with the vendor on space planning and design, finish and color selection, as well as product installation and delivery.

All American Relocation and Office Solution is located in Raleigh and specializes in contract furniture solutions. Although the Town has not worked with this vendor previously, All American Relocation and Office Solution has worked with local healthcare providers.

Based upon staff review of bid and discussions with bidder, staff recommends award of the bid to All American Relocation and Office Solution. It should be noted that once All American Relocation and Office Solution staff have performed final layouts of the furniture for the New Recreation Center, there may be minor changes to the furniture selections.

Action: Approve All American Relocation and Office Solution for the New Recreation Center furniture purchase.

Motion: Kennedy  
Second: Marshburn  
Vote: 3:0

## **COMMITTEE REPORTS**

## **MANAGER REPORTS**

- garner info
- Food Truck Rodeo – April 7
- Eggstravaganza – April 13



- Spring cleaning is taking longer to collect; there are multiple crews picking up different categories. The pick-up schedule is posted on the website.

## **ATTORNEY REPORTS**

## **COUNCIL REPORTS**

Singleton

- Stated there is a flaw in the UDO regarding the rezoning and SUP process because the neighborhood commerce center wording is misleading

Kennedy

- Stated there is a special meeting next Tuesday at 3:30 p.m. in the Town Hall Training Room. This is an opportunity for Council to view the preliminary budget. An all-day budget work session is scheduled for May 7.
- Mayor ProTem Marshburn had nothing to report.

## **CLOSED SESSION**

Pursuant to N.C. General Statutes Section 143-318.11(a)(5)) "to discuss possible real estate negotiating position regarding such real estate."

## **RETURN TO REGULAR SESSION**

Council Member Singleton reported Council discussed the potential purchase of property; no action was taken.

**ADJOURNMENT:** 11:13 p.m.

Motion: Singleton  
Second: Marshburn  
Vote: 3:0

**Town of Garner  
Town Council Meeting Minutes  
April 16, 2019**

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

**CALL MEETING TO ORDER/ROLL CALL**

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

Staff Present: Rodney Dickerson-Town Manager, John Hodges-Asst. Town Manager-Development Services, Matt Royslance-Asst. Town Manager-Operations, Pam Wortham-Finance Director, Rick Mercier-Communications Manager, Brandon Zuidema-Police Chief, Lori Smith-Police Captain, Sonya Shaw-PRCR Director, Chris Johnson-Town Engineer, BD Sechler-Human Resources Director, Tony Beasley-Inspections Director, Jeff Triezenberg-Planning Director, Thad Anderson-Associate Attorney, William E. Anderson-Town Attorney, Stella Gibson-Town Clerk

**PLEDGE OF ALLEGIANCE:** Mayor Ronnie S. Williams

**INVOCATION:** Mayor Ronnie S. Williams

**INDUCTION OF COUNCIL MEMBER:** Mayor Williams administered the oath of office to Elmo Vance.

**PETITIONS AND COMMENTS**

Chris McGinnis spoke regarding litigation associated with his property at 4408 Jessup Drive.

Michelle Collins and Rodney Hinton asked about dedicating or re-naming Rand Mill Park to honor past Council Member Jackie Johns, Sr. Mr. Dickerson advised a policy may be needed to set criteria to address this type of request and to be consistent in future cases. Mr. Dickerson recommended referring this matter to the Law and Finance Committee for review. Council expressed their support of Mr. Dickerson's recommendation.

**ADOPTION OF AGENDA**

Mr. Dickerson requested to add two items to the agenda; a) Presentations: announcement regarding the Town's recent property purchase, Consent Agenda: Budget Amendment (2019) 3968 relating to the Town's cost share of roof repair Fire Station 1.

Motion: Marshburn  
Second: Behringer  
Vote: 4:0

**PRESENTATIONS**

Mr. Dickerson stated the Town closed on 72-acres of property on Garner Road (which includes two homes) that was formerly owned by the Yeargan family. The property was purchased for \$2.4M which was below the actual market value and will be used as a future park.

## **CONSENT**

### **Council Meeting Minutes**

Presenter: Stella Gibson, Town Clerk

Adopt minutes from the February 26 meeting and amended minutes from the February 4 meeting as follows: Council met in closed session to discuss purchasing real property located at 607, 609, and 0 Garner Road for future use as a park. Purchase price including various closing costs and so forth is approximately \$2.4M and will be financed from a combination of park fees and fund balance in a percentage to be determined at a later time.

Action: Adopt minutes from the February 26 Council meeting and amended minutes from the February 4 meeting to include action taken at the closed session.

### **Ordinance Amending FY 2018/2019 Operating Budget (Asset Forfeiture Funds)**

Presenter: Pam Wortham, Finance Director

The Police Department is requesting to utilize \$6,730 from Asset Forfeiture Restricted Fund Balance for the purchase of qualifying police department non-capital equipment.

Action: Adopt Ordinance (2019) 3964

### **Ordinance Amending FY 2018/2019 Operating Budget (Inspections Vehicle)**

Presenter: Pam Wortham, Finance Director

The Inspections department needs a vehicle for the additional employee approved in December. We are proposing to use additional Building Permit Fees that have been collected.

Action: Adopt Ordinance (2019) 3965

### **Ordinance Amending Capital Project Budget (Town Hall and Police Building)**

Presenter: Pam Wortham, Finance Director

Request to increase budgeted revenues for the sales tax refund and for increased interest revenue to help offset the cost of finalizing the Town Hall and Police department buildings.

Action: Adopt Ordinance (2019) 3966

### **Ordinance Amending FY 2018/2019 Operating Budget (Transportation Software)**

Pam Wortham, Finance Director

Town Council approved the purchase of transportation design software by the Engineering department. We are proposing to use additional interest income that has been collected.

Action: Adopt Ordinance (2019) 3967

**Ordinance Amending FY2018/2019 Operating Budget (Fire Station 1 Roof Repair)**

Presenter: Pam Wortham, Finance Director

Request to increase the budget to cover the Town's cost share of the Fire Station 1 roof repair. Total cost is \$39,000, and the Town's share is \$20,264. We propose to utilize \$20,000 of contingency funds set aside in the current year budget.

Action: Adopt Ordinance (2019) 3968

Motion: Kennedy  
Second: Marshburn  
Vote: 4:0

**PUBLIC HEARINGS**

**NEW/OLD BUSINESS**

**Text Amendment UDO 19-01 Bars in the CBD District (Bar, Nightclub, Tavern)**

Presenter: Jeff Triezenberg, Planning Director

Mr. Triezenberg stated this Unified Development Ordinance (UDO) text amendment request is sponsored by the Downtown Garner Association to amend the use table and specific use standards to allow bar, nightclub, tavern uses in the Central Business District subject to additional standards and an order from the Town Council granting a special use permit.

Action: Approve UDO-19-01 and adopt Ordinance (2019) 3963

Motion: Kennedy  
Second: Behringer  
Vote: 4:0

**2019 Resurfacing Contract – Bid Award (Gelder & Associates)**

Presenter: Chris Johnson, Town Engineer

Mr. Johnson presented information regarding the bid award for the 2019 Annual Resurfacing Contract.

Action: Award Project to Gelder & Associates and authorize the Town Manager to execute contract not to exceed \$525,500.

Motion: Marshburn  
Second: Singleton  
Vote: 4:0

## **Re-classification of Senior Building Maintenance Technician**

Forrest Jones, Public Works Director

Mr. Jones reported earlier this year, the Senior Building Maintenance Technician resigned. Rather than back-fill the role, Public Works Administration (together with Human Resources, the budget team, and Town administration) consulted the five-year staffing plan and proposes a re-classification of this position to Facilities Manager. The increased cost for the remainder of this year will be absorbed by the lapsed salary created by the vacant position. Future costs will be based on salaries of the backfill positions, but is expected in the \$8,500 range.

Action: Re-classify vacant position of Senior Building Maintenance Technician to Facilities Manager within Public Works.

Motion: Marshburn  
Second: Singleton  
Vote: 4:0

## **COMMITTEE REPORTS**

Council Member Kennedy stated he and Mayor ProTem Marshburn were appointed to serve on the ad-hoc committee to develop an MOU leading to a merger with the Fire Department at some future date. The committee has been discussing items such as personnel, benefits, facilities, and medical insurance. The process is on-going, but progress is being made.

## **MANAGER REPORTS**

- garner info
- Building & Permit Report
- Mr. Johnson distributed an updated Project Status Report
- Small Business Economic Development Week is May 6-10 with events scheduled for each day

## **ATTORNEY REPORTS**

Mr. Anderson provided a brief account of the litigation and addressed some of Mr. McGinnis' statements.

## **COUNCIL REPORTS**

Kennedy

- Reported he would not be seeking another term of office this fall.

Council Member Vance, Behringer, Marshburn and Singleton had nothing to report.

**ADJOURNMENT: 8:36 p.m.**

**Town of Garner  
Council Work Session Minutes  
April 30, 2019**

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

**CALL MEETING TO ORDER/ROLL CALL**

Present: Mayor Ronnie Williams, Mayor ProTem Ken Marshburn, Council Member Buck Kennedy, Council Member Gra Singleton and Council Member Elmo Vance. Absent: Council Member Kathy Behringer

Staff Present: Rodney Dickerson-Town Manager, John Hodges-Asst. Town Manager-Development Services, Matt Roylance-Asst. Town Manager-Operations, Chris Johnson-Town Engineer, Jeff Triezenberg-Planning Director, Het Patel-Senior Planner, Joe Stallings-Economic Development Director, Mari Howe-Downtown Development Manager, Sonya Shaw-PRCR Director, Rick Mercier-Communications Manager, Thad Anderson- Associate Town Attorney, and Rebecca Schlichter-Deputy Town Clerk.

**ADOPTION OF AGENDA**

Motion: Marshburn  
Second: Singleton  
Vote: 4:0

**REPORTS/DISCUSSION**

**Jones Sausage Road Conceptual Design Scope and Fee**

Presenter: Het Patel, AICP; Senior Planner

Mr. Patel reported Town Staff has been working with HDR Engineering consultants to identify scope of work and fee for completing a conceptual design/feasibility study regarding the Jones Sausage Road Realignment.

Background/Summary

The Town Council at the Council Retreat in 2019 and a subsequent Town Council Special Meeting on March 26, 2019 decided to identify Street and Sidewalk Bond funds towards advancing the Jones Sausage Road Realignment project. Town Staff has been working with one of the On-Call Transportation Planning and Design Services consultant to identify scope of work and fee for completing a conceptual design/feasibility study regarding the Jones Sausage Road Realignment.

Jones Sausage Road Realignment Conceptual Study

The project limits cover approximately 1.1 miles of Jones Sausage Road from just south of Amazon Fulfillment Center to US Highway 70. The project will include widening (four-lane divided with median) of Jones Sausage Road from just south of Amazon to E Garner Road and the new location/realignment of Jones Sausage Road south of E Garner Road to US Highway 70 included a proposed railroad bridge over

the existing and future North Carolina Railroad (NCRR) lines. HDR, the consultant, will perform the required planning, environmental and engineering services related to the feasibility/conceptual study, as defined in the tasks identified in the attached scope of work. Additional engineering and design service work for this project will be completed under subsequent Task Orders.

#### Scope of Work and Fee

The scope of work shows the tasks to be completed through this conceptual feasibility study. The work includes analyzing traffic conditions, developing conceptual design for the widening and realignment and identifying preliminary cost and impacts assessment for the project. The work will also include stakeholder coordination with NCDOT, CAMPO, NCRR and impacted property owners. The total fee identified for completing the tasks identified in the attached scope is: \$106,791.

Council Member Kennedy and Council Member Vance requested that the contract needs to clarify that the bridge is not over the railroad and Council requested deadlines be inserted in contract and to work with Town Attorney on removing some language from the general terms and conditions of the contract. Council consensus to place the scope and fee on the May 21<sup>st</sup> consent agenda.

#### **Lake Drive Improvements Preliminary Engineering Scope and Fee**

Presenter: Het Patel, AICP; Senior Planner

Mr. Patel reported Town Staff has been working with one of the On-Call Transportation Planning and Design Services consultants to identify scope of work and fee for completing preliminary engineering design for Lake Drive improvements to match the Dullis Circle typical to NC 50.

#### Background/Summary

The Town Council at the Council Retreat in 2019 and a subsequent Town Council Special Meeting on March 26, 2019 decided to identify Street and Sidewalk Bond funds towards advancing the Lake Drive Improvements project. Town Staff has been working with one of the On-Call Transportation Planning and Design Services consultant to identify scope of work and fee for completing preliminary engineering design for Lake Drive improvements to match the Dullis Circle typical to NC 50. This memo provides a brief overview/summary of the work to be performed under this contract including the attached scope of work and fee presented by the consultant.

#### Lake Drive Improvements Preliminary Engineering

The project limits cover widening, curb and gutter improvements to Lake Drive from Dullis Circle to NC 50 to bring the street up to Town standards. The project will also include evaluation and design of sidewalk improvements along Lake Drive from Dullis Circle to NC 50. Arcadis, the consultant, will perform the required engineering services related to the design and construction plans, as defined in the tasks identified in the attached scope of work. The consultant will also provide construction bid phase services as identified in the scope.

#### Scope of Work and Fee

The attached scope of work shows the tasks to be completed through this design engineering study. The work includes surveying, preliminary and final design plans and construction plans. The work will also include some stakeholder coordination with NCDOT and impacted property owners. The total fee identified for completing the tasks identified in the attached scope is: \$49,840.

Council Consensus bring scope and fee to the consent agenda for May 21st Town Council Meeting.

## Legislative Agenda

Presenter: Sam Bridges, Town Lobbyist

Mr. Bridges reported each year the Town develops a list of initiatives that it puts forth to its legislative delegation for consideration during the legislative session. The list, although not a comprehensive list of all concerns and interests, provides a basis for discussion with our local delegation and others. Several of the agenda items seek to preserve or increase revenue options or to preserve local authority as it relates to various proposed bills.

### Municipal Authority

- Oppose legislation that limits municipal authority to plan for orderly growth and development.
- Oppose H722/S355 – Land Use Regulatory Changes
- Oppose S406 – Limit Conditional Zoning
- Oppose legislation that shifts to taxpayers the costs of overseeing development and completing development-initiated infrastructure. NCLM
- Oppose H492 – Builder Inventory Exclusion
- Public Safety
- Only support legislation providing additional post-employment benefits to public employees that includes a funding mechanism to fully support the cost and liability of the benefit and support the study of existing post-employment benefits, such as special separation allowance programs, to ensure that the liability of providing the benefit isn't solely borne by the last employer. NCLM
- Oppose H278/S179 – Special Separation Allowance for State and Local Firefighters and Rescue Squad Workers
- Support legislation that would clarify what is legal with respect to sweepstakes gaming operations.
- Public Infrastructure
- Seek legislation to ensure that the amount of Powell Bill funds appropriated by the state are sustained and distributions to municipalities are increased and grow over time. NCLM
- Seek legislation to boost funding availability for public transit and transportation programs. NCLM
- Seek legislation to provide additional grant funding to municipalities for equipment and facility needs for public safety (fire, police, EMS). NCLM
- Support measures, such as additional funding, to enhance cities' ability to meet federal and state stormwater control mandates. NCLM
- Support the increase of funding available through the Strategic Transportation Investments Program (STIP) and specifically additional funding for secondary roads. GPB
- Support the submission of the Invest NC Bond on the November 2020 ballot. GPB
- Support increased funding for the Parks and Recreation Trust Fund. GPB

### Municipal Services

- Oppose legislation that imposes vague or onerous operational standards for inspection departments.
- Oppose H675 – Building Code Regulatory Reform
- Oppose legislation that imposes a financial burden on citizens of communities who have made difficult choices to fund repairs, replacements and improvements of their utility systems.
- Oppose regressive funding mechanisms of H570/S536 – Water/Wastewater Public Enterprise Reform
- Support goals of H570/S536 – Water/Wastewater Public Enterprise Reform if required management improvement processes are added



- Economic Growth
- Support legislation that will provide sufficient funding at the state level for incentive programs such as a competitive film incentive program, state historic preservation tax credits, and the Main Street Solutions fund necessary to grow jobs and the economy. NCLM

#### Fiscal Health

- Seek legislation to provide municipalities with additional locally-controlled revenue options and flexibility in the use of these options. NCLM
- Seek legislation to alter the current statutes governing distribution of local sales taxes by requiring a one-year delay in implementation when a county or the legislature changes its method of distributing sales tax revenue. NCLM
- Support legislation which defends the fiscal integrity of the Local Government Employees' Retirement System and its defined benefit structure, promotes reasonable pension reforms that are prospective in nature, and meets the needs of local employees, employers, and retirees. NCLM

#### **New Recreation Center Gymnasium Murals**

Presenter: Sonya Shaw, PRCR Director

Dr. Shaw reported Garner Parks, Recreation & Cultural Resources staff worked with local artist Sean Kernick to develop murals for the new recreation center gymnasium walls and walking track and a logo for the main entrance. Mr. Kernick was recently introduced to Garner as the artist responsible for the colorful and creative mural at Full Bloom Coffee on Main Street.

A portion of funds from the Community Development Block Grant (CDBG) received for the Recreation Center allows for \$10,000 of the CDBG grant to be used for public art.

Proposed art concepts for the new Recreation Center include wall murals with silhouettes of youth and adults actively engaged in basketball, volleyball, walking and running. Estimated fees are \$12,000 for the main gymnasium wall mural, running track wall mural and the main entrance logo.

Based upon staff review of conceptual artwork designs, staff recommends Sean Kernick complete wall murals and main entrance logo at the new Recreation Center.

Council consensus to move forward with artwork.

#### **Timber Drive Sidewalks - Supplemental Agreement #1**

Presenter: Chris Johnson, Town Engineer

Mr. Johnson presented Supplemental #1 with design consultant (SEPI Engineers) for support with upcoming public meeting and compiling a database of all public comments.

A public meeting will be held May 16<sup>th</sup>.

The following scope of services represents the necessary services to assist the Town with holding a public meeting for the Timber Drive Sidewalk project. This is considered to be Supplement #1 to the

existing project contract between the Town and SEPI Engineering and Construction, Inc., dated Nov 7, 2018.

#### Public Involvement

SEPI will prepare the following materials and facilitate one project information meeting for the project. SEPI will not provide LEP/Language Assistance services nor be involved with sending out notices or announcements.

1. Handout Packet – SEPI will develop a 2-page (each 8.5x11”) double sided color project handout that will explain the purpose, impacts, timing and cost of the project. Stapled to this handout will be design maps (2-page (each 8.5x11”) double sided color) and Comment Sheet (2-page (each 8.5x11”) double sided black/white). Drafts of each item will be submitted to the Town for review before reproduction. SEPI will not be responsible for maintenance of a project website or other social media for the project. SEPI will print up to 50 sets of the handout packet for the meeting.

2. Project Information Meeting - SEPI will assist the Town in holding one 90-minute project information meeting (from 6 PM to 7:30 PM) to present 25% plans at a location central to the project area (to be determined by the Town). SEPI will provide two staff members for the meeting (1 engineer + 1 administrator). SEPI will develop and provide materials necessary for the project information meeting. This will include sign-in sheets, informational boards (up to 5), and large-scale project mapping. All items will be submitted in digital form to the Town for review and comment prior to reproduction for the meeting.

3. Comment Database and Evaluation of Comments – SEPI will receive and scan all comments received, develop a comment database and store and organize all comments received from the meeting. SEPI will summarize all comments and provide the full database as well as the comment summary document to the Town.

#### Fee

SEPI proposes to undertake this work based on the following fee proposal: Labor \$5,129 Direct Costs (Printing) \$500 TOTAL \$5,629

Action: Authorize the Town Manager to execute supplemental agreement #1 with SEPI in an amount not exceed \$5,629.

Motion: Singleton  
Second: Marshburn  
Vote: 4-0

#### **New Rand Road Sidewalk**

Presenter: Thad Anderson, Associate Attorney

Mr. Anderson requested action to approve adjusted prices for several utility and temporary construction easements.

Action: Adopt Resolution (2019) 2373

Motion: Singleton

Second: Marshburn  
Vote: 4-0

### **MANAGER REPORTS**

- GMSH Sports Hall of Fame Thursday May 2
- Census update
- Economic Development small business week
- Wake County Revenue advised 320 W. Garner Road went into foreclosure and no one bid on it so it will go to the local government.

### **COUNCIL REPORTS**

#### **Marshburn**

- Reported there is a Law and Finance meeting this Thursday to discuss the Fire Department budget and creating a naming policy for Town facilities.
- Recognized the Communications Department for receiving six awards at the annual North Carolina City and County Communicators' (NC3C) Excellence in Communications Awards.
- Submittals for nominations for the James R. Stevens award is now open.
- Reported Chief Zuidema was recognized by Wake County CIT award for leadership.

#### **Singleton**

- Thanked the Public Works department for completing the mowing tasks he reported.

#### **Kennedy**

- Requested a Recreation Center update
- Discussed the underground utility work being completed by Duke Energy outside of Town Hall.
- Requested Town Council Work Sessions be televised.
- Thanked the Inspections department for responding to a complaint at house on Park Avenue.
- Requested the Town Manager give a budget highlight. Mr. Dickerson reported staff will be recommending budget cuts with a tax increase of three cents.

### **ADJOURNMENT: 8:15 p.m.**

Motion: Kennedy  
Second: Marshburn  
Vote: 4:0

**Town of Garner  
Council Special Meeting Minutes  
March 20, 2019**

The Council met in a Special Session at 2:00 p.m. in the Training Room located at 900 7<sup>th</sup> Avenue.

**CALL MEETING TO ORDER/ROLL CALL**

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

Staff Present: Rodney Dickerson-Town Manager, Rick Mercier-Communications Manager, William E. Anderson-Town Attorney, and Rebecca Schlichter-Deputy Town Clerk.

**ADOPTION OF AGENDA**

Mayor Pro-Tem Marshburn announced Mr. Joseph Keller had a family emergency and will be interviewed at a later date.

Motion: Marshburn  
Second: Behringer  
Vote: 4:0

**Discussion of selection process and interview questions**

Presenter: Mayor Pro-Tem Marshburn

Council discussed the interview process and agreed on the following questions.

1. Why are you interested in serving on the Town Council?
2. What skills, abilities or other characteristics do you have that you can bring to this position? And how will this background and experiences help you serve on Council?
3. Have you had any previous experience working with or for any governmental bodies? If yes, describe in what capacity and how it might relate to the Council position.
4. Have you served previously on any Town of Garner Board, Authority, or Commission or in any other advisory capacity? If yes, tell us about it.
5. Tell us your opinion of the most significant/important challenges facing the Town of Garner in the near future.
6. Tell us your opinion of the most significant opportunities available to Garner in the near future.
7. Do you have a particular goal(s) that you want to achieve as a Council Member? If yes, explain.

8. On the immediate horizon, have you given any thought as to how you would prepare for the rather large budget document that you will be expected to review, understand and vote on?
9. Give us one positive and one negative statement about the Town of Garner.
10. What do you consider your primary responsibility in serving out the remainder of this term on Council?
11. Tell us why you believe you are the most qualified applicant to fill this position.
12. Anything else you want to tell us?

### **Conduct Council vacancy interview**

Council conducted the following interviews:

2:30 p.m.	Elmo Vance
3:30 p.m.	Demian Dellinger
4:30 p.m.	Mona Parks

Action: Recess the meeting until 2:30 p.m. on March 26<sup>th</sup>.

Motion: Kennedy  
Second: Behringer  
Vote: 4:0

March 26, 2019 2:30 p.m.

Action: Continue the recessed meeting

Motion: Kennedy  
Second: Behringer  
Vote: 4:0

Council conducted the following interview:

2:30 p.m.	Joseph Keller
-----------	---------------

### **Possible selection of candidate**

Action: Nominated Elmo Vance to fill the Council vacancy.

Motion: Behringer  
Second: Marshburn  
Vote: 4:0

Council Members each expressed how impressed they were by each of the candidates and applicants.

**ADJOURNMENT:** 2:55 p.m.

Motion:       Behringer  
Second:       Singleton  
Vote:           4:0

DRAFT

Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: July 1, 2019		
Subject: Final New Rand Road Easement Resolution		
Location on Agenda: Consent		
Department: Legislative		
Contact: William E. Anderson, Town Attorney		
Presenter: William E. Anderson, Town Attorney		
Brief Summary:  There have been a handful of situations in which the Town's initial estimate of reasonable compensation has been modified through appraisal and/or negotiation. Attached is a final Resolution which will document the final prices paid for certain easements and/or moneys deposited with the Court for property owners in eminent domain cases.		
Recommended Motion and/or Requested Action: Consider adopting Resolution (2019) 2380		
Detailed Notes:		
Funding Source:		
Cost: \$5,241.90	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:	WEA	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

RESOLUTION NO. (2019) 2380

A RESOLUTION OF INTENT TO ACQUIRE RIGHTS-OF-WAY AND  
EASEMENTS NEEDED FOR CONSTRUCTION OF ROADWAY IMPROVEMENTS  
ON NEW RAND ROAD, BY NEGOTIATED PURCHASE IF POSSIBLE  
OR BY EMINENT DOMAIN WHERE REQUIRED

WHEREAS, the Town Council of the Town of Garner is undertaking the construction of certain roadway improvements on New Rand Road and its intersections with US 70 and Garner Road, and has previously approved acquisition of the needed interests in real property as relates to the properties described herein, and the purport of this Resolution is to adjust compensation values as necessitated by appraisal or negotiation.

1. Property Address: 123 New Rand Road, Garner, NC 27529

To acquire additional right-of-way consisting of 808.9 square feet and a temporary construction easement consisting of 1,225.5 square feet as shown on survey map by Kimley-Horn and Associates, Inc., dated 1/24/2019 on file at the Garner Town Hall;

PIN #: 1711804749

Owner(s): Clifton L. Collins

Total: \$7,863.86

2. Property Address: 122 New Rand Road, Garner, NC 27529

To acquire additional right-of-way consisting of 550.6 square feet, a permanent utility easement consisting of 812.7 square feet, and a temporary construction easement consisting of 420.7 square feet as shown on survey map by Kimley-Horn and Associates, Inc., dated 1/24/2019 on file at the Garner Town Hall;

PIN #: 1711812020

Owner(s): Debulon E. Bell

Total: \$2,446.23



3. Property Address: 225 US 70 Highway East, Garner, NC 27529

To acquire a permanent utility easement consisting of 863.0 square feet and a temporary construction easement consisting of 12.2 square feet as shown on survey map by Kimley-Horn and Associates, Inc., dated 1/24/2019 on file at the Garner Town Hall;

PIN #: 1711819283

Owner(s): State of North Carolina

Total: \$1,301.82

THIS RESOLUTION. adopted this 1<sup>st</sup> day of July, 2019.

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

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

Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: July 1, 2019		
Subject: Yeargan Property, Garner Road		
Location on Agenda: Consent		
Department: Legislation		
Contact: William E. Anderson, Town Attorney		
Presenter: William E. Anderson, Town Attorney		
Brief Summary:  The deed from the Yeargan entities to the Town for the Garner Road Park property included an erroneous description which conveyed a small sliver of land south of Garner Road. That was not the intent. The attached quitclaim Deed releases any claim by the Town to that sliver, and thereby conveys the land back to the Yeargan entities.		
Recommended Motion and/or Requested Action: Consider executing attached quitclaim deed.		
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:	WEA	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

**NON-WARRANTY DEED**

Excise Tax: -0-

Tax Parcel ID No. part of #0080202, #0174461 & #0034897 Verified by \_\_\_\_\_ County  
on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ By: \_\_\_\_\_

---

Mail/Box to: Grantee

This instrument was prepared by: Garland L. Askew

Brief description for the Index:

---

THIS DEED, made this the \_\_\_\_ day of June, 2019, by and between

**GRANTOR:** Sherman A. Yeargan, Jr., Trustee of the Walter Rand Yeargan Irrevocable Trust dated February 2, 2015,

Leigh Ventures, LLC,

whose mailing addresses are 7777 White Oak Road, Garner, NC 27529, and

**The Town of Garner,**

whose mailing address is 900 7<sup>th</sup> Avenue, Garner, NC 27529

(herein collectively referred to as **Grantor**) and

**GRANTEE:** Sherman A. Yeargan, Jr., Trustee of the Rowann Yeargan Revocable Trust dated April 8, 2013

whose mailing address is 7777 White Oak Road, Garner, NC 27529

(herein referred to as **Grantee**)

*[Include mailing address for each Grantor and Grantee; marital status of each individual Grantor and Grantee; and type of entity, e.g., corporation, limited liability company, for each non-individual Grantor and Grantee.]*

**WITNESSETH:**

For valuable consideration from Grantee to Grantor, the receipt and sufficiency of which is hereby acknowledged, Grantor hereby gives, grants, quitclaims and conveys unto Grantee in fee simple the following described property located in the Town of Garner, St. Mary's Township, County of Wake, State of North Carolina, more particularly described as follows:

See Exhibit A attached hereto and incorporated herein by reference.

Said property having been previously conveyed to Grantor by instrument(s) recorded in Book , Page , and being reflected on plat(s) recorded in Map/Plat Book 2015, Page 91, Book 1989, Page 662 and Book 1989, Page 1184.

All or a portion of the property herein conveyed \_\_\_\_\_ includes or **X** does not include the primary residence of a Grantor.

TO HAVE AND TO HOLD unto Grantee, together with all privileges and appurtenances thereunto belonging, in fee simple. Grantor makes no warranty, express or implied, as to title to the property hereinabove described.

All references to Grantor and Grantee as used herein shall include the parties as well as their heirs, successors and assigns, and shall include the singular, plural, masculine, feminine or neuter as required by context.

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

**The Walter Rand Yeargan Irrevocable Trust dated  
February 2, 2015**

By:

\_\_\_\_\_  
**Sherman A. Yeargan, Jr., Trustee**

**Leigh Ventures, LLC**, a North Carolina limited liability company

By:

\_\_\_\_\_  
**Sherman A. Yeargan, Jr., Manager**

**The Town of Garner**, a NC municipal corporation

By:

\_\_\_\_\_  
**Rodney Dickenson, Town Manager**

Attest:

\_\_\_\_\_  
**(Asst.) Town Clerk**

**[Affix Official Seal]**

NORTH CAROLINA WAKE COUNTY

I, a Notary Public in and for said County and State, certify that **Sherman A. Yeargan, Jr.**, personally appeared before me this day, being personally known to me, acknowledged to me that he is the Trustee of the **Walter Rand Yeargan Irrevocable Trust dated February 2, 2015** and that he as Trustee being authorized to do so, executed the foregoing instrument on behalf of the aforementioned trust.

This the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Official Signature, Notary Public

[SEAL]

\_\_\_\_\_  
Notary's Printed or Typed Name

My Commission Expires: \_\_\_\_\_

NORTH CAROLINA WAKE COUNTY

I, a Notary Public in and for said County and State, certify that **Sherman A. Yeargan, Jr.**, personally appeared before me this day, being personally known to me, acknowledged to me that he is the Manager of **Leigh Ventures, LLC**, a NC limited liability company and that he as Trustee being authorized to do so, executed the foregoing instrument on behalf of the aforementioned limited liability company.

This the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Official Signature, Notary Public

[SEAL]

\_\_\_\_\_  
Notary's Printed or Typed Name

My Commission Expires: \_\_\_\_\_

NORTH CAROLINA \_\_\_\_\_ COUNTY

I, a Notary Public in and for said County and State, certify that \_\_\_\_\_,  
personally appeared before me this day, being personally known to me, acknowledged to me that she is the  
(Asst.) Town Clerk of the Town of Garner, North Carolina, a North Carolina municipal corporation, and that by  
authority duly given and as the act of the corporation,, the foregoing instrument was signed in its name by its  
Town Manager, sealed with its corporate seal, and attested by her as its (Asst.) Town Clerk.

This the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Official Signature, Notary Public

[SEAL]

\_\_\_\_\_  
Notary's Printed or Typed Name

My Commission Expires: \_\_\_\_\_

## EXHIBIT A

### TRACT ONE:

Being all of Lots 1A and 2A containing 1.1569 acres according to that plat entitled "Recombination Plat Property of Sherman A. Yeargan, Jr." recorded in Map Book 2015, Page 91, Wake County Registry.

### TRACT TWO:

Being all of Lot 2, containing 4,380 square feet according to that plat entitled "Property of L.C. Yeargan" recorded in Map Book 1989, Page 662, Wake County Registry.

### TRACT THREE:

Being a small triangular shaped lot located between the center line of Old Garner Road (SR 1004) and the northern line of that 1.48 acre lot depicted in that plat entitled "Property of Carrie A Jackson" recorded in Map Book 1989, Page 1184, Wake County Registry

Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: July 1, 2019		
Subject: Development Finance Initiative - Pre-development services contract approval		
Location on Agenda: Consent		
Department: Economic Development		
Contact: Mari Howe, Downtown Development Manager		
Presenter: John Hodges, Asst. Town Manager-Development Services		
Brief Summary:  The School of Government's Development Finance Initiative presented a proposal for pre-development services for the pad located between the new Rec Center and Full Bloom Cafe at the May 28 work session. The contract for services is attached. Staff has answered the questions posed by council members at the work session, and feels that we're ready to move forward with engaging DFI. The Downtown Development Manager requests that the council review and approve the contract and funding so we may begin working with DFI in mid July.		
Recommended Motion and/or Requested Action: Approve contract funding to engage DFI to provide pre-development services		
Detailed Notes:		
Funding Source: Redevelopment Bond Funds		
Cost: \$78,200	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:		
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		



## SERVICE AGREEMENT

This service agreement ("Agreement") is between the Town of Garner, North Carolina ("Client" or "Town"), and SOG DFI, LLC ("DFI") (each a "Party" and collectively "Parties").

WHEREAS, as part of its mission, the School of Government at the University of North Carolina at Chapel Hill ("University") provides services to local governments. The Development Finance Initiative, as a program of the UNC School of Government ("SOG"), enables local governments and their partners to accomplish their community and economic development goals by providing specialized finance and development expertise in connection with the educational and public service mission of SOG;

WHEREAS, SOG DFI, LLC is an associated entity of the University pursuant to G.S. 116-30.20 that was created to facilitate the work of DFI; and

WHEREAS, DFI is able to provide technical services relating to downtown redevelopment ("Project") in the area described in Schedule C ("Project Area"); and

WHEREAS, Client desires for DFI to perform such services, and doing so is consistent with the University of North Carolina at Chapel Hill's research, teaching and public service missions.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants set forth below, and for other good and valuable consideration the receipt of which is hereby acknowledged, Client and DFI agree as follows:

1. **Scope of Services.** DFI will perform the services described in the statement of work, which is attached as Schedule A (the "Services"). DFI will provide Client with Deliverables as described in Schedule A (the "Deliverables").
2. **Term.** The term of this Agreement will commence on the date upon which the Agreement is fully executed by both Parties (the "Effective Date") and the Services outlined in this Agreement will start on the Effective Date or soon thereafter. This Agreement shall terminate on June 30, 2029.
3. **Termination.** In the event either Party breaches any material terms of this Agreement, then upon sixty (60) days' written notice of such breach, the non-breaching Party may terminate if the breaching Party fails to cure such breach within the notice period. In the event of such termination by Client, DFI shall deliver to Client any unfinished or draft Deliverables prepared under this Agreement. In the event of such termination, Client agrees to pay DFI all reasonable costs and non-cancellable obligations incurred by DFI up to the date of termination, not to exceed the maximum amount specified in Section 4.
4. **Payment.** DFI's fee for the Services shall be paid in two parts. The first portion of the fee is \$78,200 (the "Client Payment"). The Client Payment shall be due and payable upon receipt of the DFI invoices in accordance with Schedule B.

The second portion of the fee (the "Development Services Fee") shall be contingent upon the execution of one or more agreements (each a "Development Services Agreement") between Client and one or more third parties (the "Developer" or "Developers") during the term of this

Agreement regarding the responsibilities of either the Client or the Developer(s) regarding any aspect of the development of the Project or any portion thereof. The Development Services Fee shall be equal to 1.0% (one percent) of the following amount: the total projected costs of development of the Project contemplated under each such Development Services Agreement. The total projected costs of the Project shall be determined based on the costs projected by the Developer in the most recent versions(s) of pro forma and/or other financial projections (the "Developer Financials") prepared by the Developer and delivered to Client (or lenders or investors) prior to or contemporaneously with execution of the Development Services Agreement, and in the event of any inconsistencies in the projected total costs among different versions of the Developer Financials, the version of the Developer Financials showing the greatest total costs of development of the Project shall be used to calculate the Development Services Fee. Each Developer shall pay directly to DFI the Development Services Fee attributable to that Developer's Development Services Agreement(s).

In consideration of the Services provided to Client by DFI pursuant to this Agreement and the "at risk" nature of the Development Services Fee, the Client agrees to make execution of any Development Services Agreement executed with a Developer during the term of this Agreement and the payment of the Development Services Fee by that Developer to DFI a condition of any Development Services Agreement or conveyance or lease of the Project or any portion(s) thereof to such Developer, and each such Development Services Agreement shall provide that DFI is an intended third party beneficiary of the Development Services Agreement. Client agrees to insert into any request for proposals or other solicitations regarding development of the Project the following clause (or a substantially similar clause as mutually agreed upon by Client and DFI):

"The performance by the Town or the conveyance or lease of any portion of the property described herein (the "Property") to the selected development entity and its successors and assigns (the "Developer") shall be conditioned upon the execution of an agreement (the "Development Services Agreement") between the Town and the Developer pertaining to the responsibilities of either the Town or the Developer, or both, regarding any aspect of the development of the Property or any portion thereof (the "Project"). As part of the Development Services Agreement, the Developer shall agree to pay a fee to the Town's consultant ("DFI") and its successors and assigns for pre-development services provided to the Town, and the Development Services Agreement shall provide that DFI is an intended third party beneficiary of the Development Services Agreement. The fee shall be an amount equal to 1.0% (one percent) of the total projected costs of development of the Project as calculated by the Developer in the most recent versions(s) of pro forma and other financial projections (the "Developer Financials") prepared by the Developer and delivered to Town or other parties prior to or contemporaneously with the execution of the Development Services Agreement, and in the event of any inconsistencies in the projected total costs among different versions of the Developer Financials, the version of the Developer Financials showing the greatest total costs of development of the Project shall be used to calculate the Development Services Fee. The Development Services Fee shall be due and payable in full to DFI no later than 30 days following execution of the Development Services Agreement. An alternative payment schedule for payment of the Development Services Fee to DFI may be developed as mutually agreed in writing by Developer and DFI; by way of illustration only, such schedule

of payments could be tied to the receipt of any developer fees by Developer. Developer's obligation to pay Development Services Fee shall not be assignable by Developer to any other entity, nor shall any assignment relieve Developer of its obligation to pay Development Services Fee, except upon written consent of DFI."

The budget for DFI's personnel, contractors, and other expenditures in order to complete the Services can be altered at DFI's discretion, according to University's policies. DFI is under no obligation to provide Client or any Developer with any kind of financial reporting, supporting documentation, or justification of expenditures made in the performance of the Project as a condition of payment.

5. **Confidential Information.** Any information disclosed by Client to DFI pursuant to this Agreement that Client considers confidential or proprietary ("Confidential Information") shall be disclosed in writing and marked as confidential, or if disclosed orally, shall be confirmed in writing and designated confidential within five (5) days of such disclosure. DFI agrees to use the same degree of care it uses to protect its own confidential information to maintain for a period of three (3) years the Confidential Information. DFI's obligations hereunder do not apply to: (1) information in the public domain, (2) information independently known or obtained by DFI; or (3) information required to be disclosed pursuant to applicable law or judicial order, including the North Carolina Public Records Act.
6. **Ownership Rights.** The Deliverables and Confidential Information shall belong solely to Client; provided, however, DFI shall be free to use the Deliverables and results from the Services for its own educational, research, and publication purposes, consistent with the obligations set forth in Section 5 above.
7. **Entire Agreement.** This Agreement constitutes and expresses the entire agreement of the Parties hereto with reference to the subject matter hereof, with all prior promises, undertakings, representations, agreements, understandings and arrangements relative thereto having been herein merged into this Agreement.
8. **Warranties.** DFI in no way guarantees the Services performed and makes no warranties, express or implied, regarding the quality of the Services or Deliverables, although all reasonable efforts will be made. Each Party waives its rights to recover from the other Party any consequential, indirect, or incidental damages (including but not limited to, loss of use, income, profits, financing, or reputation), arising out of, or relating to, this Agreement.
9. **Independent Contractors.** The relationship of the Client and DFI established by this Agreement is that of independent contractors, and nothing contained in this Agreement will be construed to (i) give either Party the power to direct and control the day-to-day activities of the other, (ii) constitute the Parties as partners, joint venturers, co-owners, or otherwise as participants in a joint or common undertaking, or (iii) allow a Party to create or assume any obligation on behalf of the other Party for any purpose whatsoever. Personnel of each Party shall not be considered an employee or agent of the other Party nor shall such personnel be entitled to any employee benefits including, without limitation, vacation pay, leave, retirement benefits, social security, workers compensation, disability, or unemployment benefits that may be provided to the other Party's employees. Each Party shall be exclusively responsible for compensating its personnel and subcontractors and paying all taxes, withholding payments and any other fees or payments related to its personnel and subcontractors.

10. **Modification; Waivers.** No waiver, amendment, or modification of any of the terms of this Agreement shall be valid unless in writing and signed by authorized representatives of both Parties. Failure by either Party to enforce any rights under this Agreement shall not be construed as a waiver of such rights nor shall a waiver by either Party in one or more instances be construed as constituting a continuing waiver or as a waiver in other instances.
11. **Force Majeure.** DFI shall not be liable for any failure to perform as required by this Agreement, to the extent such failure to perform is caused by any reason beyond DFI's control, or by reason of any of the following: acts of God, acts or threats of terrorism, civil disorders, severely inclement weather, disease, accidents, failure of utilities, failure of any required governmental approval, or similar occurrences.
12. **Retention of Intellectual Property.** It is expressly agreed that neither DFI nor the Client transfers by operation of this Agreement or shall transfer by operation of this Agreement to the other Party any patent right, trademark right, or copyright right either Party now owns in the performance of this Agreement.
13. **Advertising.** Client shall not use the existence of this Agreement or the name, logo, images or trademarks of The University of North Carolina at Chapel Hill, or any of its constituent schools or departments, as a part of any marketing or commercial advertising without prior written approval of DFI.
14. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which will be deemed an original and all of which together will constitute one instrument.
15. **Notices.** Any notice to be given hereunder shall be in writing and shall be given by delivery in person or by depositing the notice in United States Certified Mail, Return Receipt Requested, postage prepaid, in an envelope addressed to the Parties to be notified at such Party's address as follows:

If to Client:

Rodney Dickerson  
Town Manager  
Town of Garner  
900 7<sup>th</sup> Ave,  
Garner, NC 27529  
919.773.4407  
rdickerson@garnernc.gov

If to DFI:

Lauren G. Partin  
Assistant Dean for Business and Finance  
Knapp-Sanders Building  
Campus Box 3330  
Chapel Hill, NC 27599-3330  
Phone: 919.962.2757  
Email: lgpartin@sog.unc.edu

16. **Governing Law.** This Agreement and the rights and obligations of the Parties hereunder shall be governed by, and construed and interpreted in accordance with, the laws of the State of North Carolina.
17. **Assignment.** This Agreement shall not be assigned by either Party without the prior written consent of the other Party hereto. This Agreement shall be binding upon and inure to the benefit of the respective successors and permitted assigns of the Parties.

18. **Survivability.** Those terms that by their nature necessarily survive termination of this Agreement shall survive, including but not limited to those provisions dealing with confidentiality, intellectual property, and payment.

19. **Liaisons.** Mari Howe shall serve as liaison for the Client for issues concerning work under this Agreement. Marcia Perritt shall serve as liaison for DFI. Their contact information is as follows:

Mari Howe  
Downtown Development Manager  
Town of Garner  
900 7<sup>th</sup> Ave,  
Garner, NC 27529  
919.773.4402  
mhowe@garnernc.gov

Marcia Perritt  
Associate Director, DFI  
UNC School of Government  
Knapp-Sanders Bldg., Campus Box 3330  
Chapel Hill, NC 27599-3330  
Phone: 919-538-1545  
Fax: 919-962-2709  
Email: mperritt@sog.unc.edu

IN WITNESS WHEREOF, the Parties by their duly authorized officers have executed this Agreement on the dates set forth below, to be effective on the Effective Date.

**SOG DFI, LLC**

By: \_\_\_\_\_

Date: \_\_\_\_\_

Name: Thomas H. Thornburg

Title: Acting Executive Director, SOG DFI, LLC

**Town of Garner**

By: \_\_\_\_\_

Date: \_\_\_\_\_

Name: Rodney Dickerson

Title: Town Manager

**PRE-AUDIT CERTIFICATION**

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

\_\_\_\_\_  
FINANCE OFFICER

**Schedule A**  
**STATEMENT OF WORK**

**Scope of Services**

The following Scope of Services outlines the pre-development activities that DFI would conduct to support the Town of Garner in attracting private investment to the downtown site, herein referred to as the “Project”, and executing the Town’s community economic development goals as it relates to downtown.

1. Conduct a community scan, which is an analysis of market-relevant demographic and socioeconomic data, as well as a review of current and historic plans, visioning documents, studies, research, development proposals, conceptual renderings, notes from public input sessions, and other materials relevant to the Project;
2. Collect and analyze relevant data for a Parcel Analysis to understand current market conditions (sales trends, code enforcement violations, vacancy, land use, ownership, and underutilization) for the Project;
3. Establish guiding public interests for the Project in collaboration with the Town and stakeholders;
4. Conduct a market analysis to assess the demand for development, to include an evaluation of market feasibility and demand drivers for different uses for the Project including retail, residential, and office;
5. Perform site constraints analysis to determine what the site can actually support given topographical conditions and other limitations and to test fit potential development programs for the Project;
6. Conduct a financial feasibility analysis, preparing a financial model for development program (i.e., development budget, operating cash flows, sources of capital, etc.) for the Project to determine financial feasibility for private partners and scale of public investment, if necessary;
7. Evaluate options for financing and structuring public participation in development or redevelopment, if necessary, including use of development finance tools (tax credits, district designations, etc.);
8. Obtain Town approval of a feasible development program and a solicitation for development partners), and assist Town with developing criteria to inform Town’s selection of eventual partner(s);
9. Actively market and discuss the solicitation with qualified development partners with the goal of receiving competitive proposals from qualified developers who are capable of accomplishing the Town’s approved development program;

10. Support Town officials in development partner selection process by carrying out due diligence of potential partners, preparing investment summaries, and evaluating solicitation responses using Town's criteria;
11. Support the Town in negotiating deal points with the development partner selected to execute the approved development program pursuant to the solicitation. Deal points include development parameters for public-private partnerships and milestones, which are typically memorialized first in a non-binding memorandum before being finalized in a development agreement; and
12. Support the Town through the point that the above-referenced development partner closes on financing for the project, by regularly evaluating changes proposed by the development partner to pro forma financials and public participation options, in order to verify developer assumptions about revenues, development costs, operating expenses, and debt and equity structuring as market conditions evolve.

This Scope of Services does not include services that require a licensed broker or licensed attorney to perform. In addition, the scope does not include tasks associated with site planning expertise from architects or engineers, nor does it include site preparation expenses such as land survey, soil samples, and environmental testing (if such services are required, DFI will advise Town to obtain such services from third parties).

### **Deliverables**

Deliverables include presentations, summaries, and other documentation intended by DFI to be delivered to the Town regarding the Scope of Services.

### **Timeline**

The timeline for completing Activities 1-8 is estimated to be 9 months, commencing no later than ninety (90) days following the Effective Date. DFI intends to help the Town attract private investment into the Project (Activities 9-12) as quickly as possible and in a way that maximizes overall value and serves the public interests.

**Schedule B**  
PAYMENT SCHEDULE

1. Client Payment Schedule. The Client Payment shall be due and payable upon receipt of the DFI invoices in accordance with the following schedule:

\$39,100 on July 31, 2019  
\$39,100 on July 31, 2020

2. The Development Services Fee associated with each Development Services Agreement shall be paid by each Developer to DFI pursuant to Section 4 of the Agreement, "Payment."



Schedule C  
PROJECT AREA

The Project consists of all parcels listed by Property Identification Number (PIN) that:

- (i) are leased, owned, or placed under option by Client at any time during the term of this Agreement, and/or
- (ii) become the subject of a Development Services Agreement between Client and a third party during the term of this Agreement.

Project PIN: 1711624396

Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date:			
Subject:			
Location on Agenda:			
Department:			
Contact:			
Presenter:			
Brief Summary:			
Recommended Motion and/or Requested Action:			
Detailed Notes:			
Funding Source:			
Cost:	One Time:	Annual:	No Cost:
Manager's Comments and Recommendations:			
Attachments Yes:		No:	
Agenda Form Reviewed by:	Initials:	Comments:	
Department Head:			
Finance Director:			
Town Attorney:			
Town Manager:			
Town Clerk:			

---

---

## FINANCE DEPARTMENT MEMORANDUM

---

**TO:** RODNEY DICKERSON, TOWN MANAGER  
**FROM:** MIKE FRANKS, INTERIUM FINANCE DIRECTOR  
**SUBJECT:** BUDGET AMENDMENT AND POSITION CHANGES –  
NEIGHBORHOOD IMPORVEMENT REORGANIZATION  
**DATE:** JULY 1, 2019

---

As part of the June 18, 2019 Regular Council Meeting, Council approved staff's recommendations regarding the reorganization of the Neighborhood Improvement Program. Based on this, Council approval is required to transfer both the position and funding associated with the Neighborhood Improvement Program to the Planning Department.

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

ORDINANCE NO. (2019) 3979

ORDINANCE AMENDING ORDINANCE NO. (2019) 3982  
WHICH ESTABLISHED THE FY 2019 – 2020 OPERATING BUDGET

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

Section One. That the Neighborhood Improvement and Planning Department Budgets be amended as follows:

**Budget Changes:**

Department/ Category	Description	Current	Amended	Net Change
<b><i>Expenditures</i></b>				
10426000-510200	Salaries	\$70,792	\$0	-\$70,792
10426000-510236	Longevity	1,400	0	-1,400
10426000-510500	FICA	5,536	0	-5,536
10426000-510600	Group Insurance	14,438	0	-14,438
10426000-510700	Retirement	10,072	0	-10,072
10426000-521150	Telephone	636	0	-636
10426000-521400	Travel and Training	2,495	0	-2,495
10426000-521455	Development Assistance	27,600	0	-27,600
10426000-523100	Fuel	271.5	0	-271.5
10426000-523300	Departmental Supplies	4,600	0	-4,600
<b>Total Reduction</b>				<b>137,840.5</b>
10461000-510200	Salaries	493,659	564,451	+70,792
10461000-510236	Longevity	4,312	5,712	+1,400
10461000-510500	FICA	37,492	43,028	+5,536
10461000-510600	Group Insurance	86,448	100,886	+14,438
10461000-510700	Retirement	68,565	78,637	+10,072
10461000-521150	Telephone	2,940	3,576	+636
10461000-521400	Travel and Training	15,143	17,638	+2,495
10461000-521455	Development Assistance	0	27,600	+27,600
10426000-523100	Fuel	724	995.5	+271.5
10426000-523300	Departmental Supplies	5,320	9,920	+4,600
<b>Total Increase</b>				<b>137,840.5</b>

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 1<sup>st</sup> day of July, 2019.

---

Ronnie S. Williams, Mayor

ATTEST:

---

Stella L. Gibson, Town Clerk

Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: July 1, 2019		
Subject: CUD-Z-19-04 & CUP-SP-19-04, Pullen Construction		
Location on Agenda: Public Hearings		
Department: Planning		
Contact: David Bamford, AICP; Planning Services Manager		
Presenter: David Bamford, AICP; Planning Services Manager; and Alison Jones, Planner II		
<b>Brief Summary:</b>  Conditional rezoning (CUD-Z-19-04) with associated site plan (CUP-SP-19-04) request submitted by Tony Tate Landscape Architecture Associates to rezone 3.63 +/- acres from Mixed Use District 1 Conditional Use (MXD-1 C25) and Heavy Industrial Conditional Use (I-2 C157) to Heavy Industrial Conditional Use (I-2 C217) for Other Office and Storage (including outdoor) use. The site is located at 255 Bricksteel Lane in White Oak Business Park East and may be further identified as Wake County PIN# 1730-31-9072.		
<b>Recommended Motion and/or Requested Action:</b> Consider adoption of Ordinance (2019) 3983		
<b>Detailed Notes:</b> See attached vicinity map and staff report. No neighborhood meeting was required by ordinance at the time this application was originally filed. Use restrictions and site plan characteristic features are proposed as conditions. Staff recommends approval of CUD-Z-19-04 & finds CUP-SP-19-04 in conformity with the UDO.		
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:	JT	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

## Planning Department Staff Report

---

**TO:** Mayor and Town Council

**FROM:** David Bamford, AICP; Planning Services Manager  
Alison Jones, Planner II

**SUBJECT:** *Conditional Use Rezoning CUD-Z-19-004 and  
Conditional Use Site Plan CUP-SP-19-004, Pullen Construction*

**DATE:** July 1, 2019

---

### I. PROJECT AT A GLANCE

<b>Project Number(s):</b>	CUD-Z-19-04 Conditional Use Rezoning CUP-SP-19-04 Conditional Use Site Plan
<b>Applicant:</b>	Pullen Properties, LLC
<b>Owner:</b>	Pullen Properties, LLC
<b>General Description -</b>	
<b>Project Area &amp; Location:</b>	3.6 +/- acres located at 255 Bricksteel Lane
<b>Wake Count PIN(s):</b>	1730-31-9072
<b>Current Zoning:</b>	Mixed Use District 1 Conditional Use (MXD-1 C25 - obsolete) and Heavy Industrial Conditional Use (I-2 C157)
<b>Requested Zoning:</b>	Heavy Industrial Conditional Use (I-2 C217)
<b>Proposed Use(s):</b>	Storage and Other Office
<b>Overlay:</b>	None
<b>Key Meeting Dates:</b>	
<b>Planning Commission:</b>	June 17, 2019
<b>Public Hearing &amp; Action:</b>	July 1, 2019

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

The rezoning (CUD-Z-19-04) and associated site plan (CUP-SP-19-04) have been submitted to develop the site into an office / warehouse use. The 3.6-acre rezoning site is located on the northside of Bricksteel Lane in White Oak Business Park. The business park has had several subdivision and recombination plats over the years, and this has moved property lines around. This has resulted in this site having split zoning between MXD-1 C25 and I-2 C157. While the two districts are similar, they are not the same. The main difference is how outdoor storage is treated – the western half of the site allows outdoor storage without restriction (MXD-1 C25 area), but the eastern portion only allows outdoor storage associated with retail sales uses (I-2 C157 area). Staff advised the applicant during the site plan review process that a rezoning is recommended to clean this conflict up and to remove the split zoning designations.

The applicant is requesting to rezone their 3.6-acre site from MXD-1 C25 (conditional use) and Heavy Industrial C157 (conditional use) to Heavy Industrial (I-2C217). Use restrictions are proposed to limit the range of I-2 uses.

## **III. ZONING ANALYSIS**

**Existing:** The existing zoning of the 3.6-acre site is split between MXD-1 C25 and I-2 C157 as follows:

- **MXD-1 C25:** 1.46 +/- acres
- **Heavy Industrial C157:** 2.1 +/- acres

The western 1.46-acre portion is zoned Mixed Use District 1 (MCD-1 C25). The MXD-1 zoning district is an obsolete district which means it is no longer part of the zoning district hierarchy applied to the Town but has been retained from the previous version of the *Land Use Ordinance*. New rezonings to MXD-1 are not permitted. Properties zoned with this obsolete district are allowed to be developed under the old standards outlined in Section 4.14 of the *Garner Unified Development Ordinance*. This MXD-1 district allows a wide range of uses from high-density residential to commercial and industrial uses. Existing developments with this zoning include Abberly Place Apartments, White Oak Shopping Center, Greenfield Business Park and White Oak Business Park.

***The following is a list of permitted uses in the MXD-1 C25 District:***

- |   |   |
|---|---|
| 1. Apartments and condominiums          | 10. Business or vocational schools  |
| 2. Townhomes                            | 11. Churches, synagogues and temples  |
| 3. Hotels and motels                    | 12. Libraries, museums, art galleries                                       |
| 4. Retail sales with outdoor storage    | 13. Social, civic, service, fraternal clubs and lodges                      |
| 5. Retail sales without outdoor storage | 14. Indoor tennis, racquetball courts, indoor athletic                      |
| 6. Wholesale sales                      | 15. Playhouse theaters, movie theaters, bowling, pool halls or similar uses |
| 7. Office, clinics, clerical, research  |   |
| 8. Manufacturing, processing indoor     |   |
| 9. Manufacturing, processing outdoor    |   |



- |  |  |
|--|--|
| 16. Hospitals, clinics, other medical                            | 27. Veterinarian inside facilities only              |
| 17. Nursing care institutions,<br>intermediate care institutions | 28. Police stations                                  |
| 18. Group care institution                                       | 29. Fire stations                                    |
| 19. Continuing care retirement<br>communities                    | 30. Rescue squad, ambulance service                  |
| 20. Restaurants without drive-in service                         | 31. Post office                                      |
| 21. Bars, nightclubs   | 32. Military reserve, national guard<br>centers      |
| 22. Motor vehicle sales or rental or sales<br>and service        | 33. Dry cleaner, laundromat                          |
| 23. Automobile service stations                                  | 34. Towers and antennas greater than<br>35 feet tall |
| 24. Gas sales operations   | 35. Nursery schools, day care centers                |
| 25. Automobile parking garages or<br>parking lots                | 36. Temporary structures                             |
| 26. Storage of goods not related to sale<br>or use on site       | 37. Public transportation facilities (Bus)           |
|  | 38. Non-residential subdivisions                     |
|  | 39. Combination uses planned                         |
|  | 40. Flex space                                       |

***The following conditions also apply to the MXD-1 C25 District:***

1. The concept plan shall be part of the application.
2. A protective buffer screen shall be provided along the entire perimeter of the property (the entire White Oak Business Park)
3. No industrial or service business will be permitted on the area of the tract depicted as yellow on the conceptual plan (Lots 1-4 and 9-15 that border Camelot Subdivision).
4. A greenway easement shall be dedicated along the northside of White Oak Creek.

The eastern 2.1-acre portion is zoned Heavy Industrial C157 (I-2 C157). Industrial districts are established primarily to accommodate enterprises engaged in the manufacturing, processing, creating, repairing, renovating, painting, cleaning, or assembling of goods, merchandise or equipment. The I-2 district is intended to provide for industrial uses that are may be noxious or offensive due to odors, smoke, dust, noise, fumes or vibration. Operations may be inside or outside of a building.

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

- |   |  |
|---|--|
| 1. Security or caretaker's quarters                           | 10. Minor utility - elevated water<br>storage tank   |
| 2. Trade/vocational   | 11. Solar farms                                      |
| 3. Ambulance service, rescue squad,<br>police or fire station | 12. Telecommunications facility                      |
| 4. Government utility, with outdoor<br>storage                | 13. Other major utility                              |
| 5. Prison, jail, detention facility                           | 14. Bar, nightclub, tavern                           |
| 6. Public park, swimming pool, tennis<br>court, golf course   | 15. Gym, spa, indoor tennis court or<br>private pool |
| 7. Bus passenger terminal                                     | 16. Horses stables and related facilities            |
| 8. Taxicab or limousine operations or<br>facility             | 17. Indoor entertainment facility                    |
| 9. Broadcast tower  | 18. Electronic gaming centers                        |
|   | 19. Theater - drive-in                               |
|   | 20. Medical office - individual                      |

21. Other office
22. Extended stay facility
23. Commercial parking
24. Restaurant, drive-in or outdoor curb service
25. Restaurant, indoor seating only
26. Restaurant with seating and drive-through window
27. Restaurant, takeout-out only
28. Convenience store without fuel sales
29. Convenience store with fuel sales
30. Open air market
31. Personal service-oriented uses
32. Hair salons, barbershops, beauty shops
33. Banks or financial institution
34. Repair oriented use (no outdoor operations)
35. Sales oriented use with indoor or outdoor operations
36. Veterinarian/kennel - indoor
37. Veterinarian/kennel - outdoor operations
38. Self-storage service
39. Car wash
40. Vehicle general repair
41. Vehicle sales, rental
42. Vehicle service, limited
43. Vehicle towing, storage
44. Aviation service
45. Flex space
46. Industrial use - indoor
47. Industrial use with outdoor operations
48. Manufacturing outdoor
49. Manufacturing indoor
50. Resource extraction
51. Warehouse and freight movement storage outdoor
52. Warehouse and freight movement storage indoor
53. Warehouse and freight movement truck terminal
54. Recycling collection (outside)
55. Recyclable materials collection center
56. Junk and or salvage yard
57. Sanitary landfill
58. Other waste related service
59. Wholesale sales
60. Greenhouse nursery (commercial)

***The following is a list of permissible uses for the existing I-2 C157 district:***

1. Permitted use table (selected from preceding generally permitted use list):

Use Category	Specific Use	I-2 C2157
Household Living	Security or caretaker's quarters	P
Educational Facilities and Services	Trade Vocational	SUP
Government Facilities	Ambulance service, rescue squad, police or fire station	P
	Government utility, with outdoor storage	SUP
Entertainment	Gym, spa, indoor tennis court or private pool	P
	Indoor entertainment facility	P*
	Medical office - individual	P
	Other office	P
Retail Sales and Service	Personal service-oriented uses	P
	Banks or financial institution	P
	Repair oriented use (no outdoor operations)	P
	Sales oriented use (outdoor operations)	P

	Sales oriented use (indoor operations)	P
Self Service Storage	Self Service Storage	P
Vehicle Sales and Service	Vehicle general repair	P
	Vehicle service, limited	P
Light Industrial	Flex Space	P*
	Industrial Use Indoor	P
Manufacturing and Production	Indoor only	P*
Warehouse and freight movement	Storage Indoor	P*
Wholesale Sales		P

***The following conditions also apply for the existing I-2 C157 District:***

1. Government Facilities as listed under Section 5.2.E.4. of the UDO are allowed on Lot 2, but are not permitted on Lots 4, 9, 10, and 11.
2. Prisons, jails, and detention facilities listed under Section 5.2.E.4. are prohibited on all lots.
3. Screening of outside storage on Lots 2, 4, 9, 10 and 11 directly adjacent to the existing Camelot residential subdivision shall include a 65-foot buffer yard consisting of a 50-foot undisturbed vegetation next to residential uses, a 2 to 3-foot tall earthen berm with evergreen landscape plantings. Landscape plantings shall be planted in a staggered row and shall be 4-foot tall at installation. Landscape plantings shall be a mixture of a minimum of three of the following: 1) Myrica cerifera, Wax Myrtle; 2) Eleagnus pungens, Eleagnus; 3) Pinus Taeda, Loblolly Pine; 4) Cryptomeria japonica, Japanese Cedar; and 5) Ligustrum japonicum, Wax Leaf Ligustrum. Deciduous overstory and understory trees shall be planted at the rate specified in the Town of Garner UDO. Intrusions into the undisturbed buffer may be allowed only in the existing City of Raleigh Sanitary Sewer Easement or future easements required by the Town of Garner or City of Raleigh for utilities.
4. Outdoor storage, when allowed, will be located to the side or rear of the lot's structure or building and shall be 100% screened from off-street views.
5. All lots require approval from the White Oak Business Park Architectural Review Committee prior to approval by the Garner Board of Aldermen.

**Proposed:** The proposed zoning of the entire 3.6-acre site is **Heavy Industrial Conditional Use (I-2 C217)**. Industrial districts are established primarily to accommodate enterprises engaged in the manufacturing, processing, creating, repairing, renovating, painting, cleaning, or assembling of goods, merchandise or equipment. The I-2 district is intended to provide for industrial uses that are may be noxious or offensive due to odors, smoke, dust, noise, fumes or vibration. Operations may be inside or outside of a building.

The purpose of this conditional use district is to rezone the site to remove the split zoning and to allow flexibility on the entire site for outdoor storage. Outdoor storage is allowed on the

western half of the property, but only outdoor storage related to retail sales is allowed on the eastern half of the property.

***The following is a list of permissible uses for the proposed I-2 C217 district (Uses in green are the net new uses added over what is currently allowed in I-2 C157)***

1. Permitted use table (selected from preceding generally permitted use list):

Use Category	Specific Use	I-2 C217
Household Living	Security or caretaker's quarters	P
Educational Facilities and Services	Trade Vocational	SUP
Government Facilities	Ambulance service, rescue squad, police or fire station	P
	Government utility, with outdoor storage	SUP
Entertainment	Gym, spa, indoor tennis court or private pool	P
	Indoor entertainment facility	P*
	Medical office - individual	P
	Other office	P
Retail Sales and Service	Personal service-oriented uses	P
	Banks or financial institution	
	Repair oriented use (no outdoor operations)	P
	Sales oriented use (outdoor operations)	P
	Sales oriented use (indoor operations)	P
Self Service Storage	Self Service Storage	P
Vehicle Sales and Service	Vehicle general repair	P
	Vehicle service, limited	P
Light Industrial	Flex Space (including outdoor storage)	P*
	Industrial Use Indoor	P
	Industrial Use with outdoor operations	P
Manufacturing and Production	Indoor only	P*
Warehouse and freight movement	Storage Indoor or outdoor	P*
Wholesale Sales		P

***The following conditions also apply for the I-2 C217 District: (carried over from I-2 C157)***

1. Screening of outside storage directly adjacent to the existing Camelot residential subdivision shall include a 65-foot buffer yard consisting of a 50-foot undisturbed vegetation next to residential uses, a 2 to 3-foot tall earthen berm with evergreen landscape plantings. Landscape plantings shall be planted in a staggered row and shall be 4-foot tall at installation. Landscape plantings shall be a mixture of a minimum of three of the following: 1) Myrica cerifera, Wax Myrtle; 2) Eleagnus pungens, Eleagnus; 3) Pinus Taeda, Loblolly Pine; 4) Cryptomeria japonica, Japanese Cedar; and 5) Ligustrum japonicum, Wax Leaf Ligustrum.
2. Deciduous overstory and understory trees shall be planted at the rate specified in the Town of Garner UDO. Intrusions into the undisturbed buffer may be allowed only in the existing City of Raleigh Sanitary Sewer Easement or future easements required by the Town of Garner or City of Raleigh for utilities.
3. Outdoor storage, when allowed, will be located to the side or rear of the lot's structure or building and shall be 100% screened from all-street views.

**Zoning History:** The Planning Department's rezoning database contains the following rezoning cases in the vicinity of this site.

Case	Applicant	Location	Zoning Change
Z-88-12	White Oak Associates	West side of Raynor Rd White Oak Business Park West	Wake County R-30 to Town of Garner I-2 (withdrawn)
Z-88-15	White Oak Associates	East side of Raynor Road White Oak Business Park East	Wake County R-30 to Town of Garner MXD-1 (withdrawn)
CUD-Z-88-12	White Oak Associates	White Oak Business Park	Wake County R-30 to Town of Garner MXD-1 C25
CUD-Z-07-01	White Oak Associates	Bricksteel Lane, White Oak Business Park	MXD-1 C25 to I-2 C147
CUD-Z-08-06	White Oak Associates	Bricksteel Lane, White Oak Business Park	MXD-1 C25 to I-2 C157

**Adjacent Zoning and Land Use:**

<b>North:</b>	Industrial 2 (I-2 C157) R-15	White Oak Business Park Camelot Subdivision
<b>South:</b>	MXD-1 C25	White Oak Business Park
<b>East:</b>	Industrial 2 (I-2 C157)	White Oak Business Park
<b>West:</b>	MXD-1 C25	White Oak Business Park



***Overall Neighborhood Character:***

The predominant land use in this area is non-residential. White Oak Business Park consists of office, warehouse, and flex space uses. This business park and the surrounding commercial areas are zoned CR, MXD-1 and I-2 Conditional Use. Camelot subdivision is also in this vicinity, and this neighborhood is zoned R-15.

**IV. TRAFFIC IMPACTS**

The site has approximately 473 feet of road frontage on Bricksteel Lane. Bricksteel Lane is a 24-foot Town-maintained facility within a 50-foot right of way. This road has curb and gutter but lacks sidewalks. There is no traffic count data available. Bricksteel Lane does connect to Raynor Road (a major thoroughfare), and the NCDOT average daily traffic count history on Raynor Road is as follows:

- Year 2007 – 5,800
- Year 2009 – 5,700
- Year 2011 – 6,100
- Year 2013 – 6,300
- Year 2015 – 6,800
- Year 2017 – 7,200



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

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

On the current Future Land Use map, this rezoning site in White Oak Business Park is designated as **Light Industrial Center (LIC)**. There are residential uses that surround the park, and these are designated as both Medium and Low Density Residential.

Light Industrial Centers support small to medium-scale, on-site manufacturing and production uses including warehousing, light manufacturing, distribution, medical research/laboratory, and assembly operations. These areas are almost exclusively found near major transportation corridors (i.e., highway, airport, or rail) to support delivery to individual customers or other transport, distribution, or manufacturing/assembly centers. Noise attenuation is seldom required, and buffering is typically vegetated landscaping to shield loading and outdoor storage areas from nearby property owners.

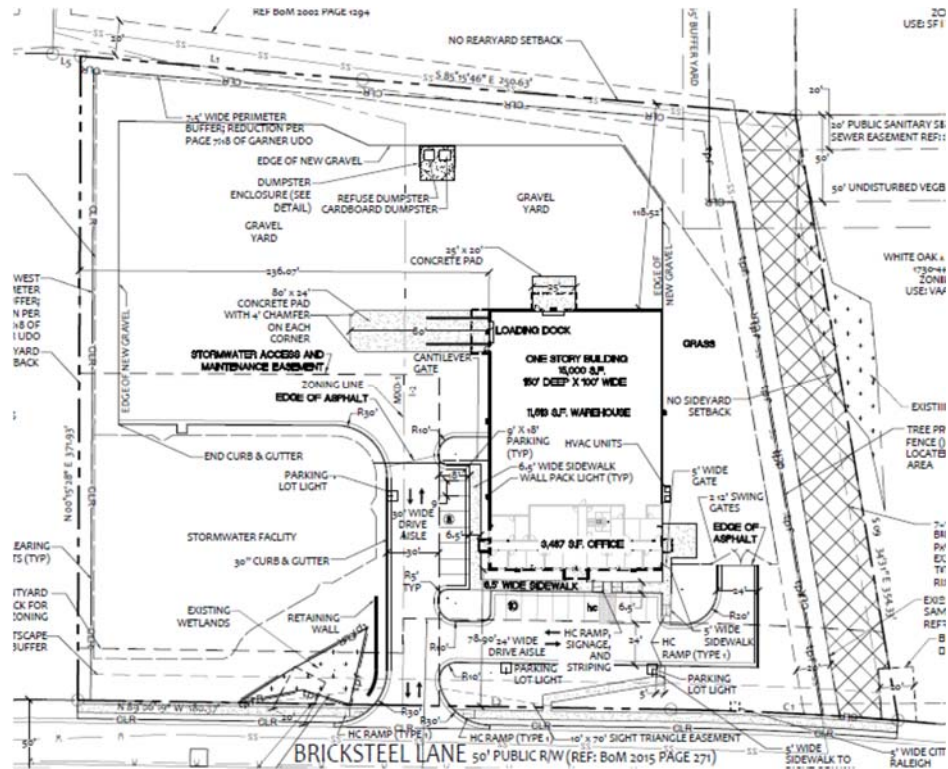
In summary, this request to rezone to Heavy Industrial Conditional Use (I-2 C217) is consistent with the *2018 Garner Forward Plan*. The proposed use of storage and other office is consistent with the land use designation of the Future Land Use Map and the surrounding existing uses.



## VI. SITE PLAN PROJECT DATA

**Acreage:** 3.63 acres

**Building Size:** 15,000 square foot building. 11,513 square feet of warehouse space and 3,487 square feet of office space.



**Building Materials:** Front of the building will be constructed of brick while both sides will be constructed of brick and metal siding. The rear of the building will be constructed of metal siding.



**Landscape and Buffer Requirements:**

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

- **Tree Cover:** 10% tree preservation requirements are being met with a combination of existing vegetation and replacement plantings.
- **Street Buffer:** Buffer along Bricksteel Lane requirement have been met by existing plant material, however if the existing



plant material does not satisfy planting requirements supplemental plantings will be added. Supplemental plant material has been reviewed and approved.

- **Perimeter Buffers:** Perimeter buffers are 15-feet wide. The western buffer has been reduced to 7.5 feet because of an existing evergreen hedge on the adjacent property and the proposed site plan and adjacent use are in the same buffer class.

**Parking Spaces:** Parking is based on 1 parking space per every 300 square feet for office space. The ordinance requires 1 space for every 5,000 square feet.

- Required: 15 (1 accessible)
- Proposed: 18 (1 accessible)

**Environmental Features:** This site does not contain a FEMA designated floodplain; the site is mostly flat.



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

**Infrastructure:** **Stormwater Management** – Pullen Construction is a commercial development within White Oak Business Park East that is not located within the watershed protection area. This site is subject to water quality requirements for nitrogen only. A downstream hydrology study was performed for White Oak Business Park East with prior rezoning that demonstrated any detention onsite would increase flows to nearby White Oak Creek. Therefore, detention was not required in this area. This developed plan exceeds 10 pounds per acre threshold for

nitrogen loading rate, which triggers a stormwater control measure for treatment of nitrogen. This plan will develop a wet retention pond to treat nitrogen. A nitrogen offset buydown will also be required with the development of this commercial site.

**Water/Sewer** – The development will connect to an 8-inch public water line and an 8-inch sewer line in Bricksteel Lane.



**Frontage Improvements** – Bricksteel Lane currently has curb & gutter. Sidewalks along the site's frontage will be provided under this plan.

**Site Access** – Driveway access to the site is from Bricksteel Lane.

**Traffic Impact Analysis** – Not required.

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

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

The 2018 Garner Forward Transportation Plan does not have a recommendation for Bricksteel Lane. As currently constructed, Bricksteel Lane is two-lane facility with curb and gutter and built to local Town street standards apart from the provision of sidewalks. With the addition of a sidewalk, the plans may be considered consistent with the 2018 Garner Forward Transportation Plan.

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

A review of the Parks and Recreation, Open Space and Greenways Master Plan revealed no plan recommendations in the project area; therefore, this project, as proposed, may

be considered consistent with the Parks & Recreation, Open Space & Greenways Master Plan.

**Unified Development Ordinance Regulations:**

After sufficient review and plan revisions, staff finds that this project, as now proposed, may be considered consistent with the regulations of the Unified Development Ordinance so long as the following conditions specific to this project are met:

1. Prior to receipt of approved plans, Engineering Department inspection fees must be paid to the Town of Garner;
2. Prior to the issuance of the first building permit, all applicable water and sewer fees must be paid to the City of Raleigh Public Utilities Department; and
3. Prior to the issuance of the first building permit, the Stormwater Program Administrator shall be in receipt of proof of payment for the required nitrogen offset payment to an approved mitigation bank.

**VIII. PLANNING COMMISSION NOTES AND RECOMMENDATION**

The Planning Commission reviewed this request at their June 17, 2019 meeting. With a unanimous vote, the Planning Commission confirmed staff's findings in Section VII that CUP-SP-19-04, Pullen Construction, is in conformity with adopted town plans and policies, and further accepted the staff's statements regarding zoning consistency with the Garner Forward Comprehensive Plan, being detailed in Section V of this report, as their own, and recommended approval of CUD-Z-19-04 to the Town Council.

Staff recommendations for rezoning request (CUD-Z-19-04) and site plan (CUP-SP-19-04) conformity are highlighted in the motion worksheet in the next section.

## **CUD-Z-19-04 – Pullen Construction**

### *Rezoning Motion Worksheet*

**Choose one (1) of the following three (3) options:** *(staff recommendation is highlighted below)*  
*If not accepting staff recommendation, please select your own finding from below options.*

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

2. Find Inconsistent with the Comprehensive Plan and Deny:
3. Find Inconsistent with the Comprehensive Plan and Approve:
- 

**Please find the correlating motion option below to make your motion (number 1, 2 or 3):**

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

"I move that the Town Council accept staff's statements regarding zoning consistency with the Garner Forward Comprehensive Plan, detailed in Section V of the staff report, as our own; and I therefore move further that the Town Council adopt Ordinance No. (2019) 3983 approving rezoning request CUD-Z-19-04 as it is reasonable and in the public interest because it will likely select as many reasons as appropriate from below list or provide your own reasoning."

- ☐ Be compatible with the surrounding zoning;
- ☐ Provide adequate buffering to adjoining residential uses per the conditions;
- ☐ Allow development that is compatible with the existing uses in White Oak Business Park East;
- ☐ Provide your own reason: \_\_\_\_\_

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

"I move that the Town Council find the rezoning request inconsistent with the Garner Forward Comprehensive Plan for the following reason(s): provide your reasoning and therefore, I move further that the Town Council reject the recommendation of the Planning Commission and deny rezoning request number CUD-Z-19-04."

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 Garner Forward Comprehensive Plan, detailed in Section IV of the staff report, it is reasonable and in the public interest because it will likely \_\_\_\_\_ *select as many reasons as appropriate from below list or provide your own reasoning*

- ☐ Allow the development of an appropriate density of housing in the area in which it is located
- ☐ Allow household living and supporting day care uses that are attractive to younger families with children as well as older residents looking to maintain private but smaller outdoor spaces
- ☐ Allow and use design and location to create good multi-family places in appropriate areas of Town
- ☐ *Provide your own reason:* \_\_\_\_\_

and therefore, I move further that the Town Council adopt Ordinance No. (2019) 3983 approving rezoning request number CUD-Z-19-04."

## **CUP-SP-19-04 – Pullen Construction**

### *Conditional Use Permit Motion Worksheet*

**Choose one (1) of the following two (2) options:** *(staff recommendation is highlighted below)*  
*If not accepting staff recommendation, please select your own finding from below options.*

**1. Find Consistent with the plans and Approve:**

2. Find Inconsistent with the plans and Deny:

**Please find the correlating motion option below to make your motion (number 1 or 2):**

**1. Find Consistent with the plans and Approve:**

"I move that the Council accept the staff statements regarding plan consistency in Section VII of this report as our own and find the application meets the 10 permit criteria in Section 3.14.D. and therefore approve CUP-SP-19-04, Pullen Construction with the three standard conditions and three (3) site-specific conditions to be listed on the permit that will be prepared by Staff."

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

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

**Condition #1:**

**Condition #2:**

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



2. Find Inconsistent with the Comprehensive Plan and Deny:

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

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

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

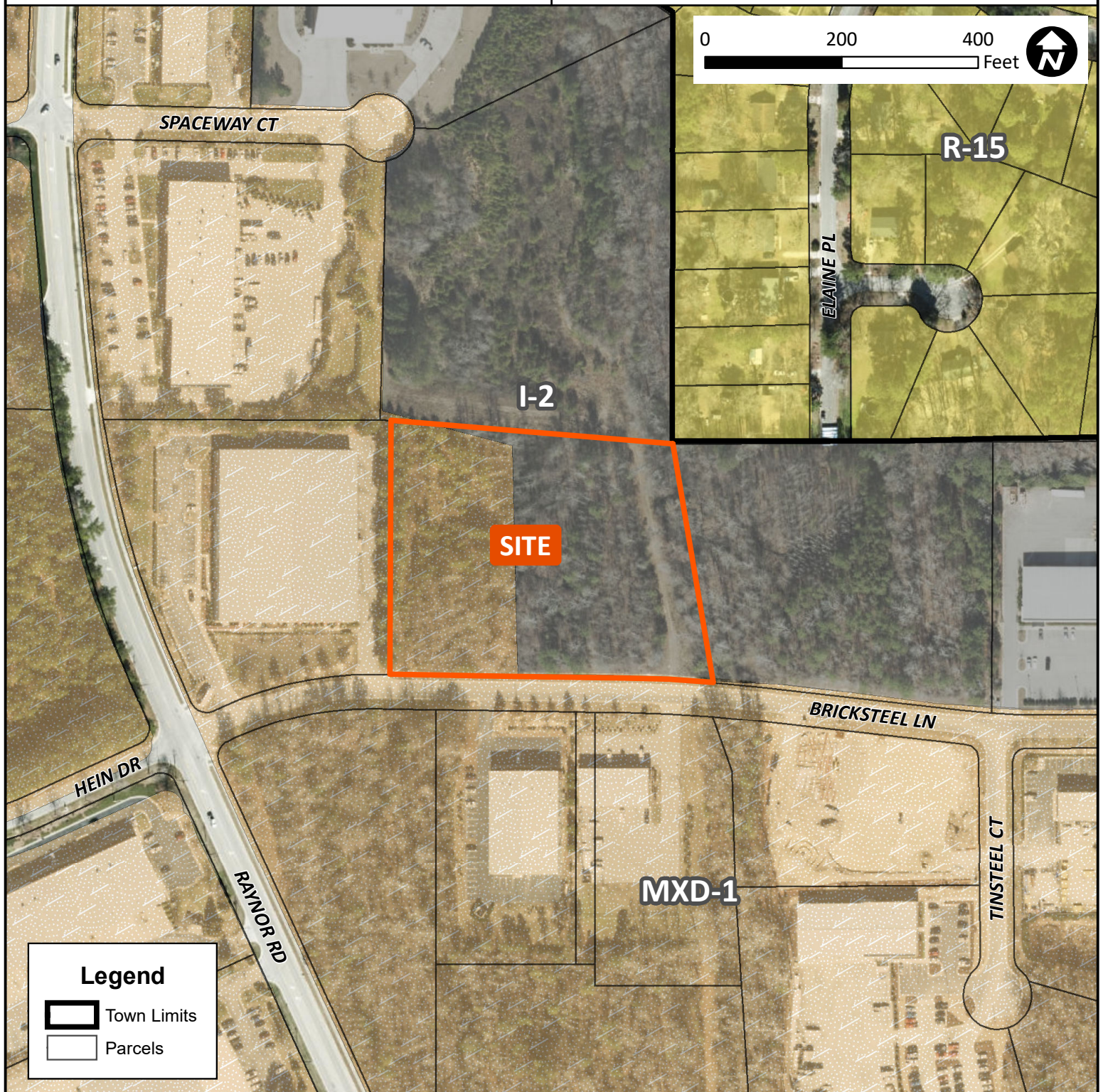
and therefore, deny Conditional Use Permit for Pullen Construction – CUP-SP-19-04.





# Town of Garner Planning Department

## Conditional Use Site Plan / Rezoning CUP-SP-19-04 & CUD-Z-19-04



**Project:** Pullen Construction  
**Applicant:** TMTLA Associates  
**Owner:** Pullen Properties  
**Location:** 255 Bricksteel Lane  
**Pin #:** 1730-31-9072

**Proposed Use:** Office / warehouse  
**Current Zoning:** MXD-1 C25 & I-2 C157  
**Proposed Zoning:** I-2 C217  
**Acreage:** 3.63  
**Overlay:** N/A



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

**ORDINANCE NO. (2019) 3983**

**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 **Pullen Properties LLC** in Rezoning Application No. **CUD-Z-19-04 (I-2 C217)**.

Section 2. There is hereby created a new conditional use zoning district, to be known as the **Heavy Industrial Conditional Use (I-2 C217)**; within this district, all of the regulations that apply to property within the **Heavy Industrial Conditional Use (I-2 C217)** 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 conditions for the Heavy Industrial Conditional Use (I-2 C217) district.*

1. Permitted use table:

Use Category	Specific Use	I-2 C217
Household Living	Security or caretaker's quarters	P
Educational Facilities and Services	Trade Vocational	SUP
Government Facilities	Ambulance service, rescue squad, police or fire station	P
	Government utility, with outdoor storage	SUP
Entertainment	Gym, spa, indoor tennis court or private pool	P
	Indoor entertainment facility	P*
	Medical office - individual	P
	Other office	P
Retail Sales and Service	Personal service-oriented uses	P
	Banks or financial institution	
	Repair oriented use (no outdoor operations)	P
	Sales oriented use (outdoor operations)	P
	Sales oriented use (indoor operations)	P
Self Service Storage	Self Service Storage	P
Vehicle Sales and Service	Vehicle general repair	P
	Vehicle service, limited	P
Light Industrial	Flex Space (including outdoor storage)	P*
	Industrial Use Indoor	P
	Industrial Use with outdoor operations	P
Manufacturing and Production	Indoor only	P*
Warehouse and freight movement	Storage Indoor or outdoor	P*
Wholesale Sales		P

***The following conditions also apply to the I-2 C217 District:***

- Screening of outside storage directly adjacent to the existing Camelot residential subdivision shall include a 65-foot buffer yard consisting of a 50-foot undisturbed vegetation next to residential uses, a 2 to 3-foot tall earthen berm with evergreen landscape plantings. Landscape plantings shall be planted in a staggered row and shall be 4-foot tall at installation. Landscape plantings shall be a mixture of a minimum of three of the following: 1) Myrica cerifera, Wax Myrtle; 2) Eleagnus

pungens, Eleagnus; 3) Pinus Taeda, Loblolly Pine; 4) Cryptomeria japonica, Japanese Cedar; and 5) Ligustrum japonicum, Wax Leaf Ligustrum.

3. Deciduous overstory and understory trees shall be planted at the rate specified in the Town of Garner UDO. Intrusions into the undisturbed buffer may be allowed only in the existing City of Raleigh Sanitary Sewer Easement or future easements required by the Town of Garner or City of Raleigh for utilities.
4. Outdoor storage, when allowed, will be located to the side or rear of the lot's structure or building and shall be 100% screened from all-street views.

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
Pullen Properties LLC	1730-31-9072 255 Bricksteel Lane	MXD-1 C25 and I-2 C157	Industrial 2 Conditional Use (I-2 C217)

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 1<sup>st</sup> day of July, 2019.

---

Ronnie S. Williams, Mayor

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

Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: July 1, 2019		
Subject: SUP-SP-19-02, CCAC Building Solutions		
Location on Agenda: Public Hearings		
Department: Planning		
Contact: Alison Jones, Planner II		
Presenter: Alison Jones, Planner II		
Brief Summary:  Special use permit application submitted by Timmons Group on behalf of CCAC Investment Properties LLC to develop a 5.78 +/- acre tract for Light Industrial Service - Flex Space use. The site is located at 2000 Waterfield Drive in Greenfield Business Park and may be further identified as Wake County PIN# 1730-12-8487.		
Recommended Motion and/or Requested Action: Consider approval of special use permit SUP-SP-19-02.		
Detailed Notes: See attached vicinity map and staff report. A neighborhood meeting was not required by ordinance at the time this application was originally filed.		
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:	JT	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

## Planning Department Staff Report

---

**TO:** Mayor and Town Council

**FROM:** Alison Jones; Planner II

**SUBJECT:** *Special Use Site Plan SUP-SP-19-002 – CCAC Building Solutions*

**DATE:** July 1, 2019

---

### I. PROJECT AT A GLANCE

**Project Number:** SUP-SP-19-002, CCAC Building Solutions

**Applicant:** CCAC Investment Properties, LLC

**Owner:** CCAC Investment Properties, LLC

**Plan Prepared by:** Timmons Group

**General Description -**

**Proposed Use:** Light Industrial Service – Flex Space

**Project Location:** 2000 Waterfield Drive

**Wake Count PIN(s):** 1730-12-8487

**Zoning Classification:** MDX-1

**Key Meeting Dates:**

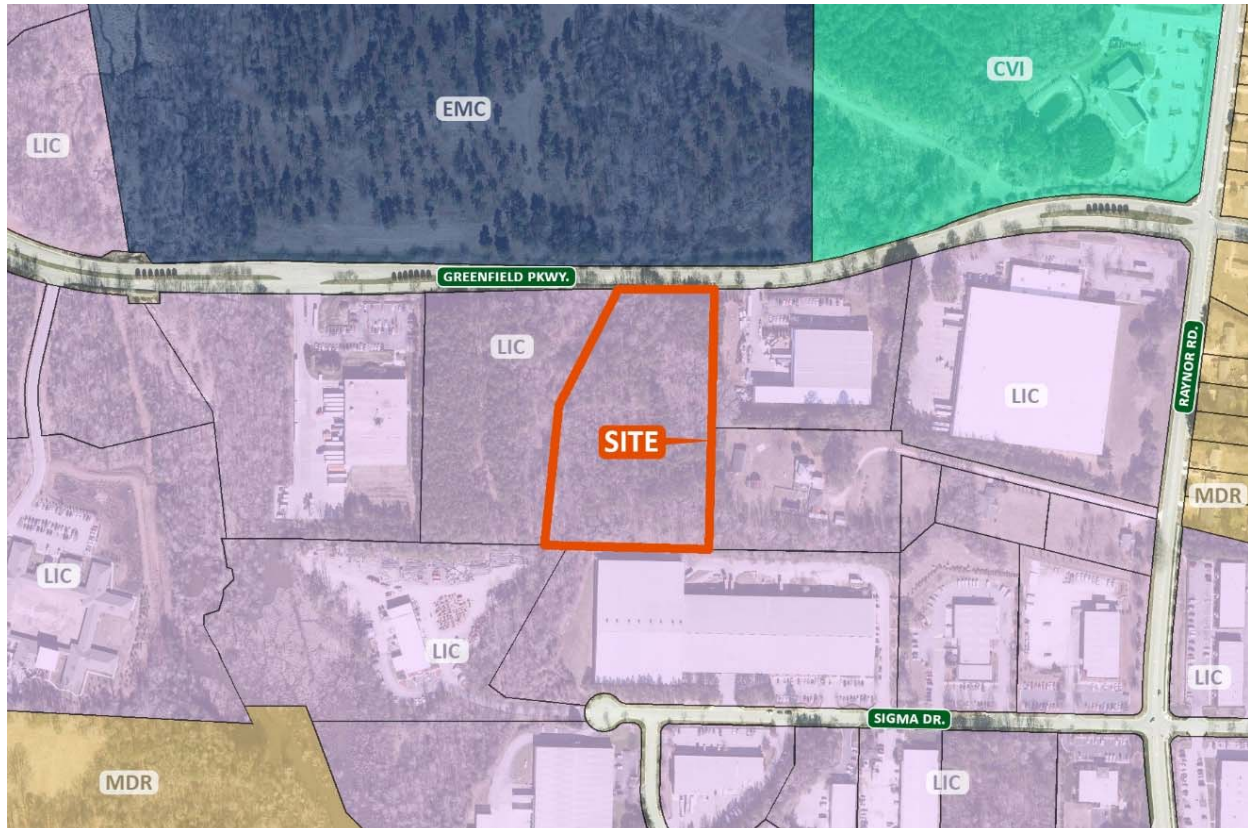
**Planning Commission:** June 17, 2019

**Town Council Public Hearing:** July 1, 2019

*Note: No neighborhood meeting was required as this project was submitted prior to the adoption of the applicable text amendment.*

## **II. LAND USE**

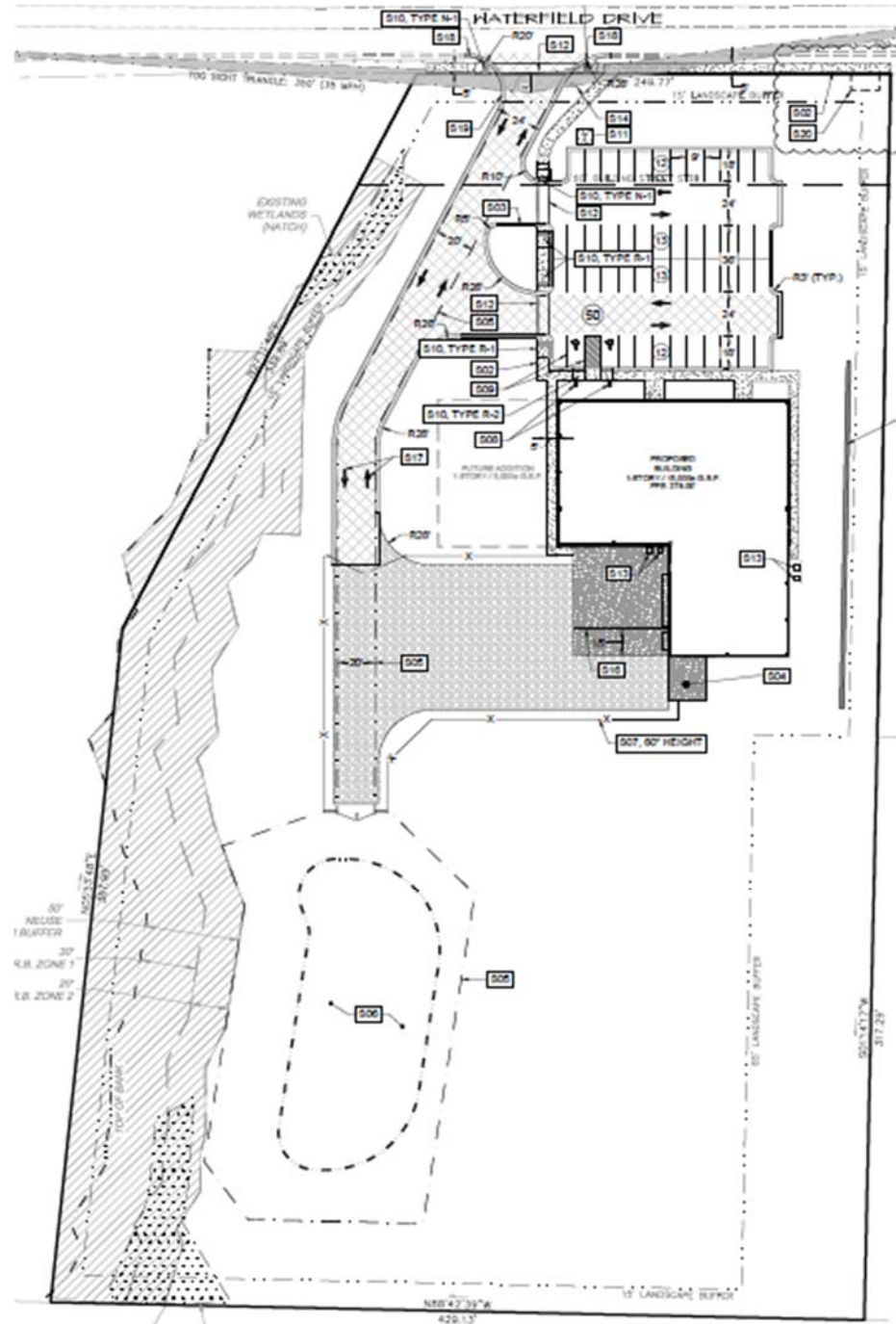
The requested specific use is “Flex Space” which is part of the larger use category of “Light Industrial Service”. The Mixed-Use District 1 (MXD-1) permits office/ warehouse use with outdoor storage. Section 5.3.D.6. requires all outdoor storage areas to be screened from view from any public right-of-way or adjacent property with a 6’ opaque fence, wall; or other methods that achieve the screening objective. Coated and slatted chain link fence combined with evergreen screening has been administratively determined to achieve the opaque requirement.



### III. SITE PLAN PROJECT DATA

**Acreage:** 5.78 acres

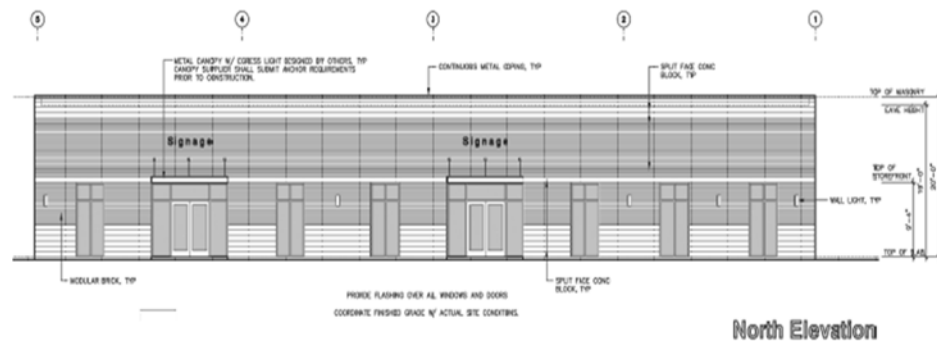
**Building Size:** 15,000 square feet





**Building Material and Color:**

The building is constructed of brick, split face concrete block and metal siding. The building will have a metal canopy over entrance of the building.



**Landscape and Buffer Requirements:**

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

**Tree Cover:** Requirements met with new vegetation in the required buffers and vehicular service area plantings.

**Street Buffers:** There is a 15-foot buffer (horizontal distance separation only) along Waterfield Drive.

**Perimeter Buffers:** Buffering is being met with a 65-foot buffer adjacent to the residential use that will have both existing plant material and supplemental plant material. A 15-foot buffer is required adjacent to other industrial uses that will also have both existing plant material and supplemental plant material. The eastern 15-foot buffer is being met with existing plant material that cannot be disturbed due to overlapping Neuse River riparian buffer requirements.

**Vehicular Service Area:** VSA plantings are provided as screening in the form of shrubs as well as canopy trees in planted island.

**Environmental Features:**

This site does contain a FEMA designated floodplain but is subject to Neuse River riparian buffer rules. There is no proposed land disturbance in any environmentally sensitive areas.





- Fire Protection:** The Inspections Department has reviewed the plan for fire protection and given their approval.
- Parking Spaces:** **Number** - Parking is based on 1 space per 500 square feet of gross floor area: Required: 30 (2 accessible) | Proposed: 50 (2 accessible)
- Lighting:** Proposed lighting includes existing light poles and new wall packs. All fixtures are to have zero upright, low glare and a warm white light exhibiting a color temperature of no more than 4,000 K (Kelvin).
- Infrastructure:** **Water/Sewer** - Connections to adjacent public water and sewer proposed.



**Stormwater Management** - CCAC is a commercial development within Greenfield South that is not located within the watershed protection area. This site is subject to water quality requirements for nitrogen and water quantity requirements for the 1, 10 and 25-year storm events. This developed plan will remain under the 10 pounds per acre threshold for nitrogen loading rate, which will not trigger a stormwater control measure for treatment of nitrogen, but the site will implement a dry detention pond to treat stormwater quantity for the 1, 10 and 25-year storms. A nitrogen offset buydown will be required with the development of this commercial site.

**Frontage Improvements** – None; roadway already at full build.

**Site Access** – Driveway access to the site from Waterfield Drive.

**Traffic Impact Analysis** – Not required.

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

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

The 2018 Garner Forward Transportation does not have a recommendation for Greenfield Parkway; As currently constructed, Greenfield Parkway is a varying two and three-lane facility with curb and gutter. With the addition of sidewalk these plans may be considered consistent with the recommendations of the 2018 Garner Forward Transportation Plan.

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

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

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

After sufficient review and plan revisions, staff finds that this project, as now proposed, may be considered consistent with the regulations of the Unified Development Ordinance so long as the following conditions specific to this project are met:

1. Prior to receipt of approved plans, Engineering Department inspection fees must be paid to the Town of Garner;
2. Prior to the issuance of the first building permit, all applicable water and sewer fees must be paid to the City of Raleigh Public Utilities Department;
3. Prior to the issuance of the first building permit, the Stormwater Program Administrator shall be in receipt of proof of payment for the required nitrogen offset payment to an approved mitigation bank; and
4. Prior to the issuance of the first building permit, a satellite annexation petition shall be filed with the Town of Garner Planning Department.

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

The Planning Commission reviewed this request at their June 17, 2019 meeting. Planning Commission unanimously confirmed staff's findings in Section IV that SUP-SP-19-02, CCAC Building Solutions, is in conformity with adopted town plans and policies and recommended approval of SUP-SP-19-02 to the Town Council.

Staff recommendations for site plan (SUP-SP-19-02) conformity are highlighted in the motion worksheet in the next section.

## **SUP-SP-19-02 – CCAC Building Solutions**

### *Special Use Permit Motion Worksheet*

**Choose one (1) of the following two (2) options:** *(staff recommendation is highlighted below)*  
*If not accepting staff recommendation, please select your own finding from below options.*

**1. Find Consistent with the plans and Approve:**

2. Find Inconsistent with the plans and Deny:

---

**Please find the correlating motion option below to make your motion (number 1 or 2):**

**1. Find Consistent with the plans and Approve:**

"I move that the Council accept the staff statements regarding plan consistency in Section IV of this report as our own and find the application meets the 10 permit criteria in Section 3.14.D. and therefore approve SUP-SP-19-02, CCAC Building Solutions, with the three standard conditions and the four (4) site specific conditions to be listed on the permit that will be prepared by Staff."

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

\_\_\_\_ adjoining property,

\_\_\_\_ the existing natural and man-made features of the site,

\_\_\_\_ off-site and on-site traffic flow,

\_\_\_\_ public utilities,

\_\_\_\_ such other public services or goals of the Comprehensive Growth Plan or the Transportation Plan that may be negatively impacted by the proposed development *(enumerate plan services/goals)*:

\_\_\_\_\_  
\_\_\_\_\_

***Condition #1:***

\_\_\_\_\_  
**Condition #2:**

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

2. Find Inconsistent with the Comprehensive Plan and Deny:

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

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

1. The proposed use will endanger the public health or safety  
*because/as evidenced by* \_\_\_\_\_;
2. The proposed use will substantially injure the value of adjoining or abutting property;  
*because/as evidenced by* \_\_\_\_\_;
3. The proposed use does not comply with all applicable provisions of this UDO;  
*because/as evidenced by* \_\_\_\_\_;
4. If completed as proposed, the development will not comply with all requirements of this section;  
*because/as evidenced by* \_\_\_\_\_;
5. The proposed use will not be compatible with the proximate area in which it is to be located;  
*because/as evidenced by* \_\_\_\_\_;
6. The proposed use is inconsistent with the Transportation Plan, other relevant adopted plans and policies, and the stated purpose and intent of this UDO (the fact that the use is permitted under certain circumstances in the zoning district creates a rebuttable presumption that the proposed use is in harmony with the intent of the UDO as relates to the general zoning plan);  
*because/as evidenced by* \_\_\_\_\_;
7. The proposed use is incompatible with adjacent uses in terms of building scale, site design, buffering and screening, operating characteristics (hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts);  
*because/as evidenced by* \_\_\_\_\_;

8. Any significant adverse impacts resulting from the use will not be mitigated or offset, including impacts on the natural environment;  
*because/as evidenced by* \_\_\_\_\_;
9. The public safety, transportation and utility facilities and services will not be available to serve the subject property while maintaining sufficient levels of service for existing development;  
*because/as evidenced by* \_\_\_\_\_;
10. Adequate assurances of continuing maintenance have not been provided;  
*because/as evidenced by* \_\_\_\_\_;

and therefore, deny Conditional Use Permit for CCAC Building Solutions – SUP-SP-19-02.





**Town of Garner  
Planning Department**

**Special Use Permit  
SUP-SP-19-02**



**Project:** CCAC Building Solutions  
**Applicant:** CCAC Investment Properties, LLC  
**Owner:** CCAC Investment Properties, LLC  
**Location:** 2000 Waterfield Dr.  
**Pin #:** 1730128487

**Proposed Use:** Light Industrial Flex  
**Current Zoning:** MXD-1  
**Acreage:** 5.78  
**Overlay:** None



Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: July 1, 2019		
Subject: Z-19-03, General Use Rezoning - E. Garner Road		
Location on Agenda: Old/New Business		
Department: Planning		
Contact: David Bamford, AICP; Planning Services Manager		
Presenter: David Bamford, AICP; Planning Services Manager		
Brief Summary:  General rezoning application submitted by Tommy Kilgore to rezone 4.50 +/- acres from Single-Family Residential (R-40) and Single-Family Residential (R-20) to Manufactured Home Park/Subdivision (RMH) general use. The site is located at 2548 and 2609 E. Garner Road and may be further identified as Wake County PIN(s) 1730-66-8593 and 1730-76-1396.		
Recommended Motion and/or Requested Action: Consider adoption of Ordinance (2019) 3984		
Detailed Notes: See attached map and staff report. Staff recommends approval of Z-19-03.		
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

---

**TO:** Mayor and Town Council Members

**FROM:** David Bamford, AICP; Planning Services Manager

**SUBJECT:** *General Use Rezoning Case# Z-19-03, E Garner Road*

**DATE:** July 1, 2019

---

### I. PROJECT AT A GLANCE

<b>Rezoning Application:</b>	Z-19-03 General Use Rezoning
<b>Applicant:</b>	Tommy Kilgore
<b>Owner:</b>	Tommy Kilgore
<b>Property Location:</b>	2548 and 2608 E Garner Road
<b>Wake Count PIN(s):</b>	1730-66-8593 & 1730-76-1396
<b>Area:</b>	4.50 +/- acres
<b>Town Limits:</b>	No
<b>Present Zoning:</b>	Single-Family Residential (R-40) and Single-Family Residential (R-20)
<b>Requested Zoning:</b>	Manufactured Home Park/Subdivision (RMH) Note: This is a general use request. No conditions are proposed.
<b>Key Meeting Dates:</b>	
<b>Town Council Public Hearing:</b>	May 21, 2019
<b>Planning Commission:</b>	June 17, 2019
<b>Town Council Action Hearing:</b>	July 1, 2019

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

Tommy Kilgore is requesting a change in zoning for 4.50 +/- acres from **Single-Family Residential (R-40)** and **Single-Family Residential (R-20)** to **Manufactured Home Park/Subdivision (RMH)** general use. The site is located at 2548 and 2609 E Garner Road and can be further identified as Wake County PIN(s): 1730-66-8593 and 1730-76-1396. The applicant has communicated to staff that the owner wishes to move forward with a rezoning to relocate a single-wide manufactured home on the site.

## **III. ZONING ANALYSIS**

Below is a summary table for Single-Family residential dimensional standards in the Town's Unified Development Ordinance (UDO Section 6.1.A.)

DESCRIPTION	EXISTING ZONING		PROPOSED ZONING
Zoning District:	R-20	R-40	RMH
Minimum Lot Area:	20,000 sq. ft.	40,000 sq. ft.	5,000 sq. ft. (10,000 sq. ft. w/o public water and sewer)
Minimum Lot Width:	90 ft.	100 ft.	70 ft. in Park 50 ft. in subdivision
Gross Density (max):	2.17 units/acre	1.08 units/acre	8.70 units/acre (4.30 units/acre w/o public water and sewer)
Front Yard:	35 ft.	35 ft.	25 ft.
Rear Yard:	25 ft.	25 ft.	25 ft.
Side Yard:	10 ft.	10 ft.	10 ft.
Corner Lot Side Yard:	25 ft.	25 ft.	25 ft.
Maximum Height:	35 ft.	35 ft.	35 ft.

The following table provides a comparison for the list of permitted uses in each zoning district (*uses in red would be eliminated, uses in green would be added*):

USE	EXISTING ZONING		PROPOSED ZONING
<b><i>P* = Permitted subject to standards</i></b>			
<b><i>SUP = Special use permit required</i></b>			
	R-20	R-40	RMH
Single-Family Detached	P*	P*	P*
Residential Cluster	P*	P*	
Manufactured Home (Class A Unit Only)		P*	
Manufactured Home Park or Subdivision			P*
Single-Family Residential Subdivision	P*	P*	
Modular Home	P*	P*	P*

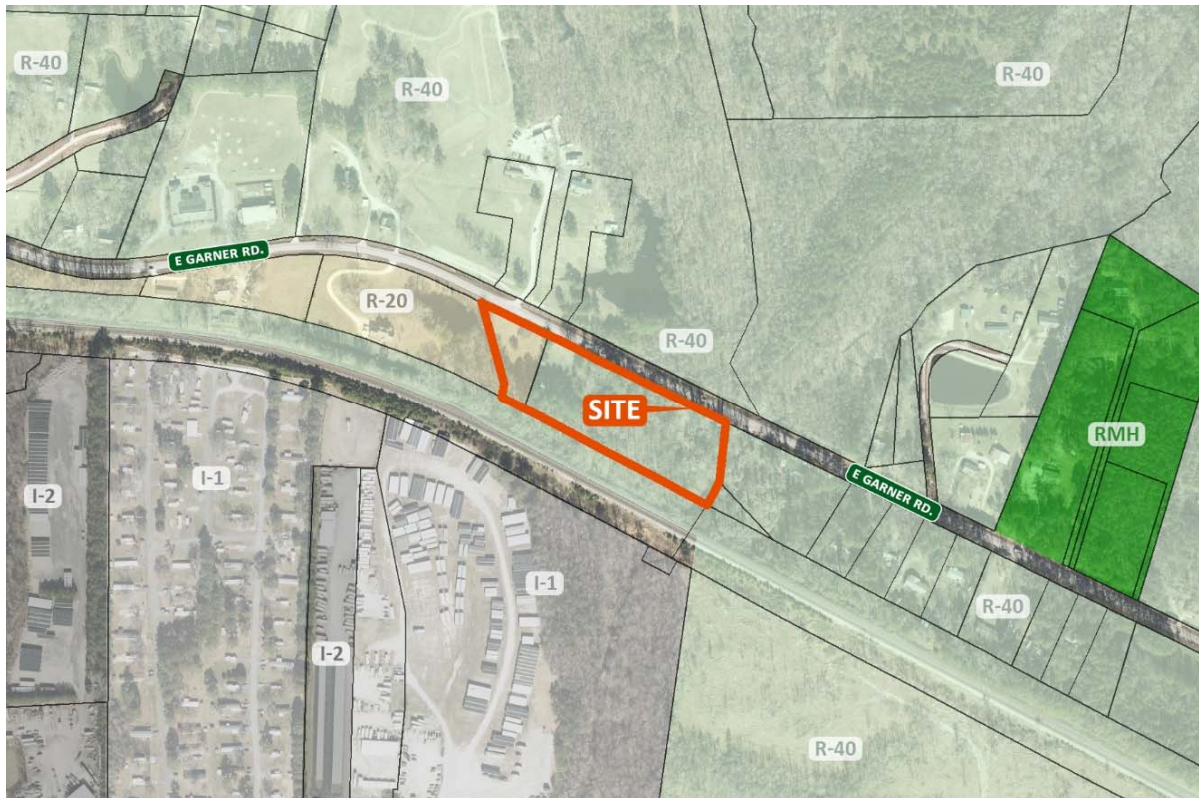
USE <i>P* = Permitted subject to standards</i> <i>SUP = Special use permit required</i>	EXISTING ZONING		PROPOSED ZONING
	R-20	R-40	RMH
Family Care Home	P*	P*	
Group Care Home	P*	P*	
Intermediate Care Home	P*	P*	
Community Center	SUP	SUP	SUP
Child Day Care (up to 3 as home occupation)	P*	P*	P*
Family Child Day Care (up to 8 in-home)	P*	P*	P*
School, Public or Private	SUP	SUP	
Ambulance Service, Police or Fire Station	SUP	SUP	SUP
Cemetery	P*	P*	P*
Public Park, Swimming Pool, Tennis Court, Golf Course	SUP	SUP	SUP
Religious Institution	P*	P*	P*
Minor Utility, Elevated Water Storage Tank	P*	P*	P*
Golf Course, or Country Club, Private	SUP	SUP	SUP
Horse Stables and Related Facilities		SUP	
Bed and Breakfast	SUP	SUP	SUP
Agriculture or Silviculture	P*	P*	

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

Case	Applicant	Location	Zoning Change
CUD-Z-93-02	Wilfred E. Buffaloe, Jr.	US Hwy 70	I-1 to I-2 C41
CUD-Z-96-01	Stephen Johnson	Auburn Church Road	CB to SB C63
CUD-Z-96-03	Wilfred E. Buffaloe, Jr.	US Hwy 70/Raynor Road	I-1 to I-2 C64
CUD-Z-14-01	William Sparkman	2217 US Hwy 70	Wake County Highway District to I-2 C172
CUD-Z-16-10	Sparkman Construction	4812 Green Garden Road	Wake County Highway District to I-2 C190
Z 17-01	Town of Garner	ETJ Expansion	R-40, R-20, and RMH

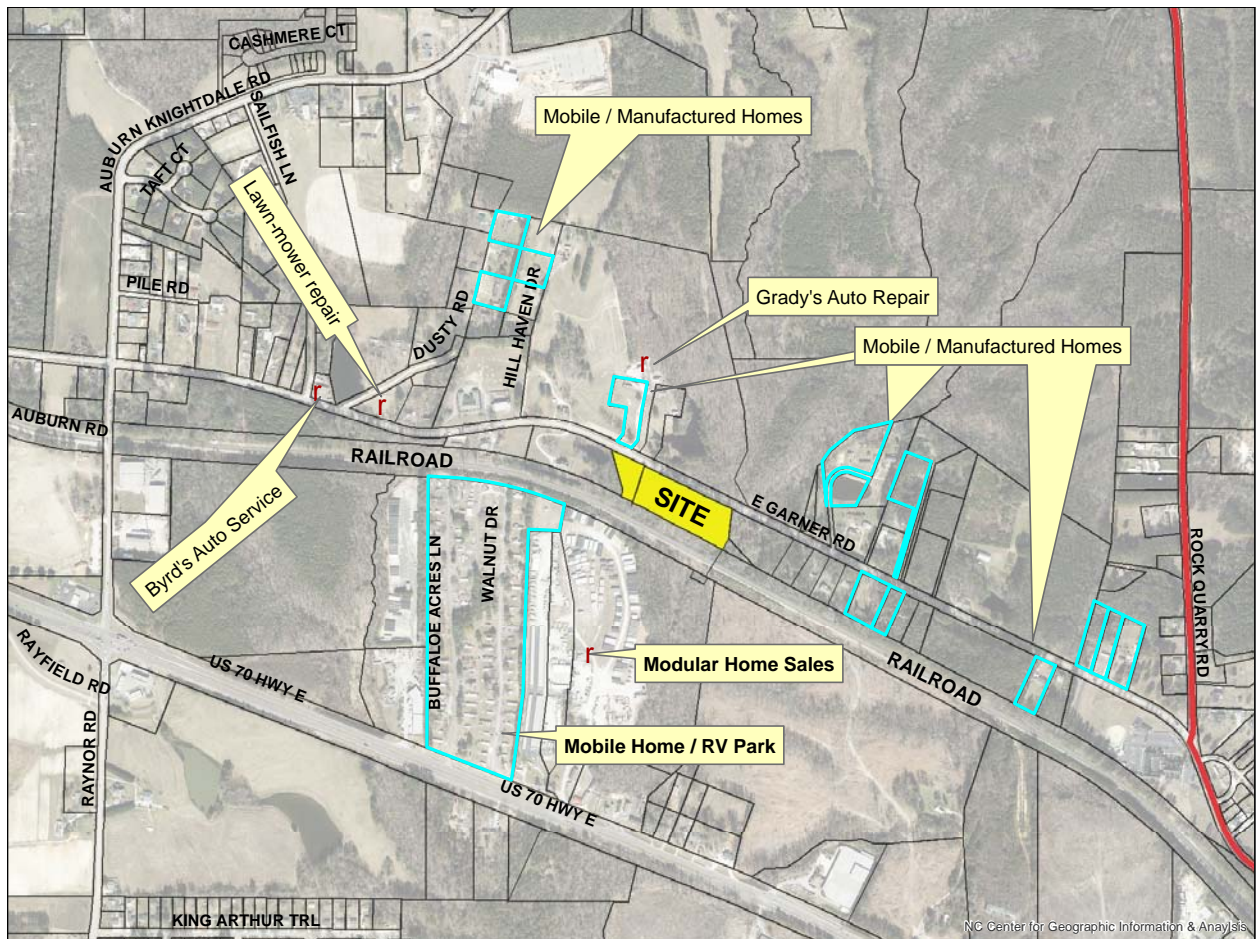
### Adjacent Zoning and Land Uses:

<b>North:</b>	Single-Family Residential (R-40)	Single-Family Detached
<b>South:</b>	Single-Family Residential (R-40)	NCRR and Vacant/wooded
<b>East:</b>	Single-Family Residential (R-40)	Single-Family Detached
<b>West:</b>	Single-Family Residential (R-20)	Single-Family Detached



**Overall Neighborhood Character:** This area along E Garner Road is located east of Auburn-Knightdale Road and west of Rock Quarry Road. This area contains mostly Single-Family Residential zoning districts. The area north of E Garner Road in this area of Garner is zoned Single-Family Residential (R-40). The predominant zoning district in the area is Single-Family Residential (R-40 and R-20). There is also an area zoned RMH to the east. There is some Industrial zoning south of the site across from the NCRR rail lines. Uses in this area predominantly include “single-family detached.” The single-family uses in this area include a mix of stick-built, double-wide, and single-wide mobile homes.



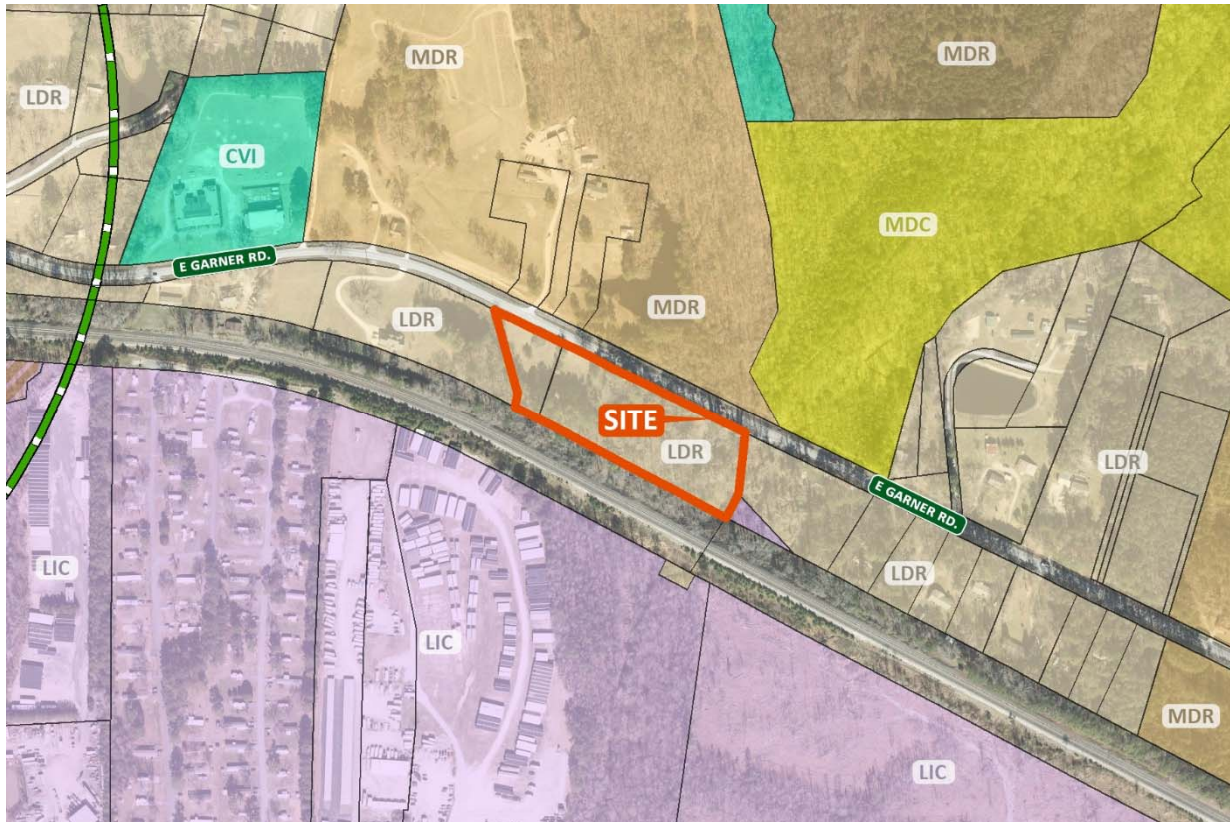


#### **IV. STATEMENTS OF ZONING CONSISTENCY WITH THE COMPREHENSIVE PLAN**

**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 **Low-Density Residential** category, and the surrounding tracts in this area are also designated as either Medium-Density Residential or Low-Density Residential. The existing residential development between E. Garner Road and the NCRR Corridor exists on large lots (low density), so it was determined to be appropriate to expect that pattern to continue in the foreseeable future due to the proximity of the railroad (noise) and absence of public utilities that would support a transition towards more dense development.

The **Low-Density Residential** category would be mostly traditional county-approved subdivisions – anything that could be sustained on individual well and septic – with less than two and a half (2.5) units per acre.





**Zoning Consistency Statement:** This request, Z-19-03, seeks to rezone the property from Single-Family Residential Districts R-40 and R-20 to RMH. The requested RMH district is NOT consistent with the *2018 Garner Forward Comprehensive Plan's* future land use designation of Low-Density Residential (LDR); however, the future land use designation directly opposite E. Garner Road is Medium-Density Residential (MDR) – the resulting designation should this request be approved – and the requested rezoning is consistent with existing land uses and zoning along East Garner Road in this area. The RMH zoning allows a minimum of 10,000 s.f. per unit or 4.3 units/acre (on well & septic – community systems would be necessary to achieve this density as opposed to individual well and septic).

**Comprehensive Plan Amendment:** Approval of this request will require an amendment to the 2018 Garner Forward Comprehensive Plan to re-designate the rezoning site from “low-density residential” to “medium-density residential”. This would allow for the future development of single family detached at an appropriate density or development of other supportive community uses.

## **V. PUBLIC HEARING**

The public hearing for this application was held on May 21, 2019. Ms. Linda Powell (2507 E. Garner Road) spoke against the rezoning and voiced concern that property tax values will drop if the rezoning is allowed. She further noted her opposition to Class C manufactured homes (single-wides) as suitable to the neighborhood and also mentioned that this area is near Auburn

Village which is being developed on Auburn-Knightdale Road. Ms. Powell identified language within the UDO that corresponded to her concern – that the purpose of these [UDO] regulations is to protect the character of existing neighborhoods and to establish new neighborhoods whose character is consistent and ensures property values remain high.

Mr. Kilgore spoke in favor of the rezoning. He noted that he has a potential buyer who wants to put a mobile home on the site. He clarified that he is not asking for a mobile home park and pointed out that there are already several mobile homes in this area. Consequently, he feels that he is not asking for something that doesn't already exist along Garner Road. Mr. Kilgore mentioned that some of the properties around the area are commercial with lawnmowers in the yard or auto repair uses (e.g. Grady's Auto Service). Mr. Kilgore stated there have been mobile homes on the property before when it was zoned in Wake County; and that he wants to be treated the same as neighboring properties.

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

Based on the preceding statements regarding consistency with Town plans, which is being forwarded to the Town Council as their own, the Planning Commission voted unanimously at their June 17, 2019, meeting to recommend approval of this request.

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

**Z-19-03, 2548 & 2608 E Garner Road**

***Rezoning Motion Worksheet***

**Choose one (1) of the following three (3) options:** *(staff recommendation is highlighted below)*

1. Find Consistent with the Comprehensive Plan and Approve:
2. Find Inconsistent with the Comprehensive Plan and Deny:

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

**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 the staff report, as our own; and I therefore move further that the Town Council adopt Ordinance No. (2019) 3984 approving rezoning request Z-19-03 as it is reasonable and in the public interest because it will likely select as many reasons as appropriate from below list or provide your own reasoning"

- ☐ Allow and even encourage shared-use and mixed-use developments, including accessory dwellings.
- ☐ Allow and emphasize growth areas for the new types of housing styles, especially in walkable, mixed-use locations.
- ☐ Allow and favor infill housing, especially in North Garner to support the ongoing redevelopment that is already occurring
- ☐ Or provide your own reason: \_\_\_\_\_

**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): provide your reasoning and therefore, I move further that the Town Council reject the recommendation of the Planning Commission and deny rezoning request number Z-19-03."

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

"I move that the Town Council find that although the rezoning request is inconsistent with the Comprehensive Growth Plan, detailed in Section IV of the staff report, it is reasonable and in the public interest because it will likely select as many reasons as appropriate from below list or provide your own reasoning

- ☐ Allow the development of an appropriate density of housing in the area in which it is located
- ☐ Allow appropriate types of community services and at the described location which will provide opportunities for services useful to the surrounding area

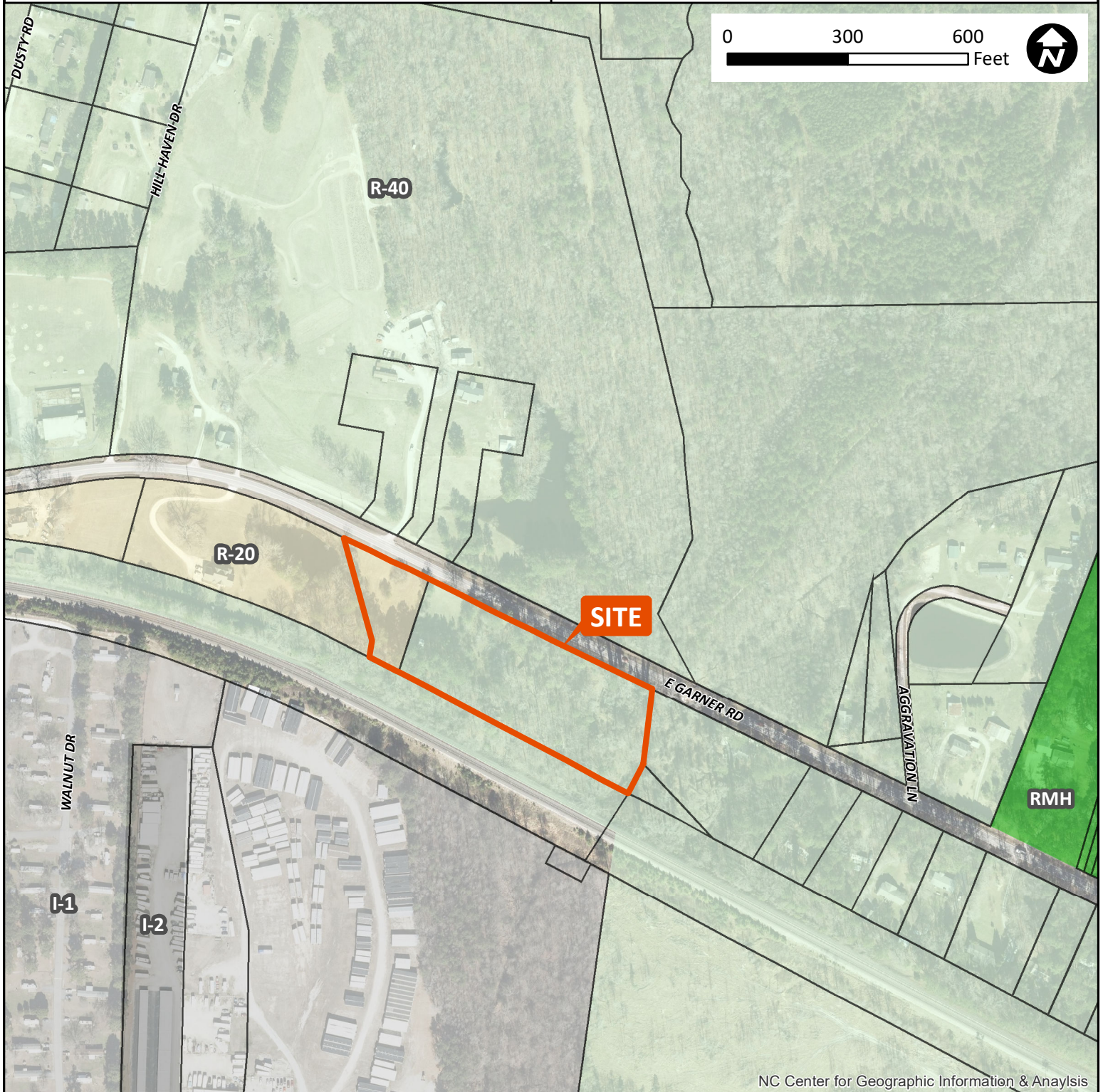
and therefore, I move further that the Town Council adopt Ordinance No. (2019) 3984 approving rezoning request number Z-19-03, and in so doing, also amend the Town's Comprehensive Growth Plan from designating the subject property as Low-Density Residential to Medium-Density Residential."





# Town of Garner Planning Department

## General Use Applications Z-19-03



**Applicant:** Tommy Kilgore  
**Owner:** Tommy Kilgore  
**Location:** 2548 & 2608 E. Garner Rd.  
**Pin #:** 1730-76-1396 & 1730-66-8593

**Current Zoning:** R-20 & R-40  
**Proposed Zoning:** RMH  
**Acreage:** 4.50 +/-  
**Overlay:** E Garner Road

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

**ORDINANCE NO. (2019) 3984**

**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 zonings of Residential-20 (R-20) and Residential-40 (R-40) to Residential Mobile Home (RMH) general use district as requested in Rezoning Application No. Z-19-03 by Tommy Kilgore.

<b>Owner(s)</b>	<b>Tract No.</b>	<b>Acres</b>	<b>Existing Zoning</b>	<b>New Zoning</b>
<b>Tommy Kilgore</b>	<b>1730-76-1396 &amp; 1730-66-8593</b>	<b>4.5 +/-</b>	<b>Residential R-40 and R-20</b>	<b>Residential Mobile Home (RMH)</b>

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 1<sup>st</sup> day of July, 2019.

---

Ronnie S. Williams, Mayor

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

Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: July 1, 2019		
Subject: Garner Rec Center - GPAC Paving Change Order		
Location on Agenda: Old/New Business		
Department: Engineering		
Contact: Chris Johnson, Town Engineer		
Presenter: Chris Johnson, Town Engineer		
Brief Summary:  To authorize a change order for 1.5" pavement milling and repaving of the primary travel lanes at the Garner Performing Arts Center due to cracking of the existing pavement.		
Recommended Motion and/or Requested Action: Authorize the Town Manager to execute change order with Pro Construction in an amount not to exceed \$40,000.		
Detailed Notes:  The Contractor is preparing to pave the existing parking lot at the Garner Performing Arts Center, however, there are many areas within the existing parking lot that show signs of alligator cracking, mostly in the travel lanes. Pavement repairs were not included in the GPAC paving scope of work, however, staff recommends removal and replacement of 1.5" asphalt prior to the overlay to reduce the likelihood of reflective cracking following the paving operation. The milling and 1.5" repaving would be performed in the main travel lanes only as the parking bays do not appear to warrant this additional work. The cost of the additional work is estimated to be \$40,000.		
Funding Source: Parks & Recreation Bond Fund.		
Cost: \$40,000	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:	CJ	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

TO: Rodney Dickerson, Town Manager

FROM: Chris Johnson, PE - Town Engineer

DATE: June 24, 2019

SUBJECT: Garner Recreation Center – GPAC Paving Change Order

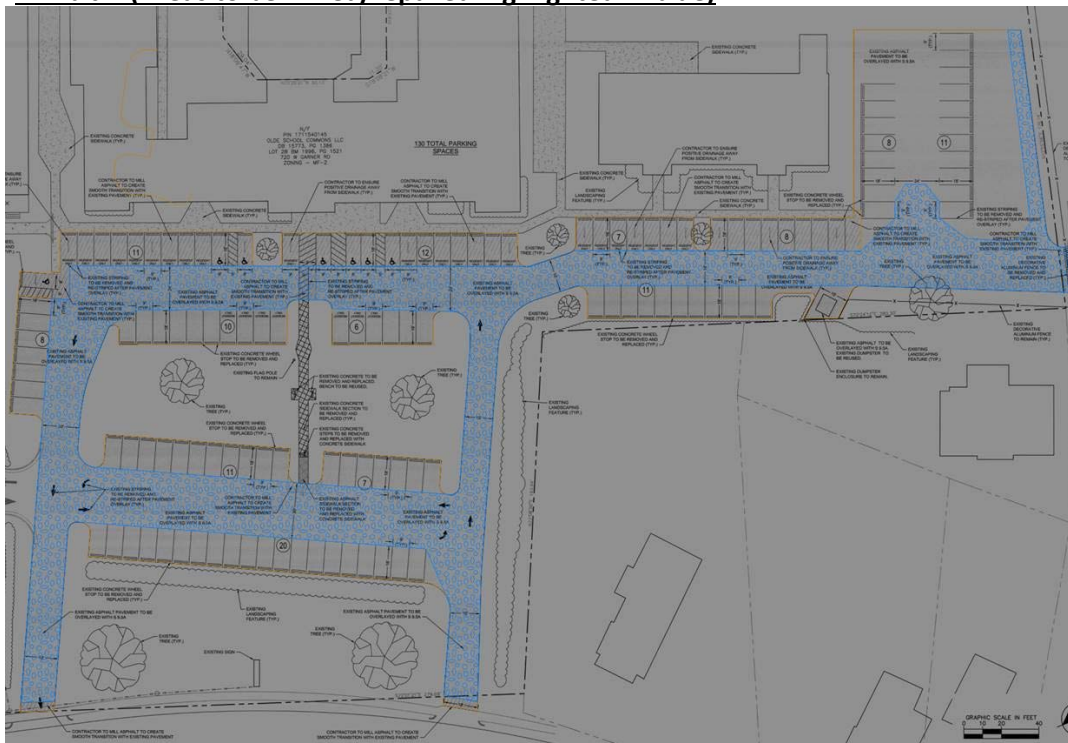
The Contractor is currently preparing to pave the Garner Performing Arts Center parking lot in July. However, the existing parking lot has signs of pavement distress, including alligator cracking in the main travel ways around the facility. If the contractor simply overlays the existing parking lot, there is a high likelihood of reflective cracking (new asphalt cracking directly above the existing cracks) in the main travel ways. Photos are attached of the existing asphalt cracking for reference below.

Due to the existing site conditions, staff recommends removal and replacement of 1.5" of the existing asphalt prior to resurfacing the parking lot as shown in **Exhibit A** below. Staff has estimated the cost for this additional work to be approximately \$40,000 (contractor to provide exact quantities and cost breakdown prior to Council meeting). Funding would be appropriated from Parks and Recreation Bond Funds.

**RECOMMENDATION:**

Authorize the Town Manager to execute this change order with Pro Construction in an amount not to exceed \$40,000.

**Exhibit A (Areas to be milled/repaved highlighted in blue)**



**Photos of Existing GPAC Parking Lot**







Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: July 1, 2019		
Subject: Timber Drive Sidewalks - Project Update and SEPI Supplemental #2		
Location on Agenda: Old/New Business		
Department: Engineering		
Contact: Chris Johnson, Town Engineer		
Presenter: Chris Johnson, Town Engineer		
Brief Summary:  To provide a brief project update, as well as obtain authorization for a supplemental agreement with SEPI for environmental work and right of way/easement staking.		
Recommended Motion and/or Requested Action: Authorize the Town Manager to execute the supplemental agreement with SEPI in the amount of \$9,705.		
Detailed Notes: The Timber Drive Sidewalks project design is approximately 70% complete and the Town is currently in land acquisition for the necessary construction easements to complete the work. This is a federal LAPP project that has stringent deadlines and special requirements to obtain the federal funding. Some additional work related to the environmental documentation is required to address minor Riparian Buffer encroachments at Mahler's Creek and a tributary of Reedy Branch. In addition, staff recommends having SEPI stake the r/w and easements to assist the Town Attorney's office with property owner negotiations. The cost for this additional work is \$9,705.		
Funding Source: 2013 Street/Sidewalk Bond funds		
Cost: \$9,705	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:	CJ	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		





**Town of Garner**  
900 7<sup>th</sup> Avenue, Garner, NC 27529  
Phone 919-772-4688 \* Fax 919-662-8874  
[www.GarnerNC.gov](http://www.GarnerNC.gov)

TO: Rodney Dickerson, Town Manager

FROM: Chris Johnson, PE - Town Engineer

DATE: June 25, 2019

**SUBJECT: Timber Drive Sidewalks – Project Update and Supplemental Agreement #2 (SEPI)**

---

The Timber Drive Sidewalks project design is approximately 70% complete and the Town Attorney's Office is currently negotiating with adjacent property owners to acquire necessary temporary construction easements to complete the sidewalk improvements. The Timber Drive Sidewalk project is a federal LAPP project that has stringent deadlines and special requirements to obtain the federal funding. The Town executed the original LAPP agreement in October 2017 for design and construction funding on this project as outlined below.

**Original LAPP agreement dated October 2017**

	<b>NCDOT (80%)</b>	<b>Town (20%)</b>	<b>Total</b>
Design	\$49,920	\$12,480	\$62,400
Construction	\$275,432	\$68,858	\$344,290
<b>Total</b>	<b>\$325,352</b>	<b>\$81,338</b>	<b>\$406,690</b>

Please note that costs associated with right of way acquisition and private utility relocations are not eligible for reimbursement in the LAPP agreement and are 100% Town funded through bond funds.

The latest construction cost estimate provided with the 70% design is approximately \$612,657. This exceeds the original construction estimate prepared back in 2017 (\$344,290) and does not include the necessary costs to cover materials testing and construction administration, which are very critical services on LAPP projects to ensure all paperwork and documentation is completed throughout construction and all construction reimbursement requirements are met.

Due to these additional costs, staff recommends requesting a supplemental agreement with CAMPO to increase the LAPP funding amount. If staff can complete all design, r/w acquisition, permitting, and receive construction authorization by September 30, then the Town can request an 80/20 match to cover these additional construction costs. If this work extends past the federal fiscal year deadline (September 30), then the supplemental amount requested would be subject to a 50/50 match. It should be noted that completion of all remaining design, acquisition, and permitting work by this deadline will be difficult, especially given the amount of acquisition and all the remaining steps to obtain final approvals from NCDOT. Therefore, both cost matching scenarios are shown below for reference.

**Tentative changes to LAPP agreement based 80/20 match of added costs**

	<b>NCDOT</b>	<b>Town</b>	<b>Total</b>	<b>Split</b>
<b>Design</b>	\$ 49,920	\$ 12,480	\$ 62,400	80/20
<b>Construction (Original)</b>	\$ 275,432	\$ 68,858	\$ 344,290	80/20
<b>Construction (Added)</b>	\$ 214,694	\$ 53,673	\$ 268,367	80/20
<b>MT and CA (Added)</b>	\$ 60,000	\$ 15,000	\$ 75,000	80/20
<b>Total</b>	<b>\$ 600,046</b>	<b>\$ 150,011</b>	<b>\$ 750,057</b>	<b>80/20</b>

**Tentative changes to LAPP agreement based 50/50 match of added costs**

	<b>NCDOT</b>	<b>Town</b>	<b>Total</b>	<b>Split</b>
<b>Design</b>	\$ 49,920	\$ 12,480	\$ 62,400	80/20
<b>Construction (Original)</b>	\$ 275,432	\$ 68,858	\$ 344,290	80/20
<b>Construction (Added)</b>	\$ 134,184	\$ 134,184	\$ 268,367	50/50
<b>MT and CA (Added)</b>	\$ 37,500	\$ 37,500	\$ 75,000	50/50
<b>Total</b>	<b>\$ 497,036</b>	<b>\$ 253,022</b>	<b>\$ 750,057</b>	<b>66/34</b>

**SUPPLEMENTAL WORK WITH SEPI**

Based on recent feedback from NCDOT during review of the categorical exclusion, it became known that some additional work is required to complete the environmental permitting to address minor Riparian Buffer encroachments at Mahler's Creek and a tributary of Reedy Branch. This work was specifically excluded in the original LAPP agreement. In addition, due to the tight design schedule, staff recommends also having SEPI stake the r/w and easements along the corridor to assist the Town Attorney's office with property owner negotiations. The total cost for this additional work is \$9,705 and would be Town funded to help expedite the acquisition and permitting schedule. Additional backup documentation is attached for reference.

**RECOMMENDATION:**

Authorize the Town Manager to execute the supplemental agreement with SEPI in the amount of \$9,705.

## **Timber Drive Sidewalk – Buffer Authorizations & R/W Survey Staking Supplement #2**

### **NCDOT TIP C-5604RA Scope of Work – 6/24/19**

The following Scope of Services represents the necessary services to assist the Town of Garner with completing the Environmental Investigations and provide Right-of-Way staking for the Timber Drive Sidewalk project. This is considered to be Supplement #2 to the existing project contract between the Town of Garner and SEPI Engineering and Construction, Inc., dated Nov 7, 2018.

The following services will be included in this scope:

#### **NCDWR Buffer Determinations and Buffer Authorization**

SEPI will perform the following additional services required to complete the environmental investigations outlined in the 8/10/2018 scope for the project. During the initial site visit, two stream features were identified, Mahlers Creek and the UT to Reedy Branch. The project is located within the Neuse River Basin and subject to NCDWR Neuse River Buffer Rules. While Mahlers Creek and the UT to Reedy Branch are not located within the established project area, portions of the project are located within the 50-foot riparian buffer. Through discussions with NCDWR, it has been determined that a buffer confirmation and buffer authorization from NCDWR is required for these areas.

1. Buffer Determination Request – SEPI will prepare the NCDWR Buffer Determination Request Form for the two streams located within the project area. Attachments to the form will be NRCS Soils Survey and USGS Topographic maps showing the project limits.
2. Buffer Authorization Form - SEPI will prepare the NCDWR Riparian Buffer Authorization Form for the buffer impacts. SEPI will prepare permit drawings as an attachment to the form. The permit drawings will identify impacts to buffer zone 1 and zone 2. The buffer impacts are expected to be “allowable” and not require mitigation. This scope and fee does not include locating, securing and paying for mitigation.

#### **Right-of-Way Survey Staking**

SEPI will perform the following additional services required to provide “Right-of-Way” staking to assist in the delineation of “Right-of-Way” and Temporary Construction Easements (TCE) for property acquisition.

1. Survey Control – SEPI will recover and verify existing project site survey control in the field from previous survey.
2. Survey Staking - SEPI will provide staking of approximately 1900 LF of TCE line and for approximately 1800 LF of accompanying right-of-way line along the south side of Timber Drive as reflected on the attached Exhibits A & B.

Survey Assumptions:

- Site access is approved at time of NTP
- Stakes will be 36" wooden stakes marked as either "TCE" or "R/W" or both where they meet.
- Stakes will be placed often enough such that it may be seen from one stake to the next, or approximately every 50 feet.
- Recommended flagging: R/W - Pink flagging, and TCE - White flagging

Survey Exclusions: (The scope does not include the following survey services)

- Mapping for easement acquisition
- Additional construction staking
- Preparation of deed descriptions is not anticipated

**Fee**

SEPI proposes to undertake this work based on the following fee proposal:

Labor (Buffer Determination):	\$3,020
Labor (Right-of-Way staking):	\$6,674
Direct Costs (1 Trip)	\$11
TOTAL	<hr/> \$9,705

Manhour Breakdown (Buffer Determination):

	Senior Env. Specialist	Project Design Engineer	Senior Technician	Admin
Buffer determination form	8			
Buffer authorization form	10	1		
Prepare Permit Drawings		3	8	
TOTAL HRS	18	4	8	0
AVE LOADED RATE	\$112	\$122	\$64.50	\$62.50
subtotals	\$2,016	\$488	\$516	\$0
TOTAL	\$3,020			

Manhour Breakdown:

	Project Design Engineer	Survey Group Manager	2-Man Survey Crew	Survey CAD Technician
Stake approx. approx. 3750 LF total (R/W & TCE)			40	
Survey Analysis, Processing & CAD				4
Field Coordination & Supervision				2
Crew travel time			4	
QA/QC & Survey Coord	1	1		0.5
TOTAL HRS	1	1	44	6.5
AVE LOADED RATE	\$122	\$144	\$135	\$72
subtotals	\$122	\$144	\$5,940	\$468
TOTAL	\$6,674			



Exhibit A

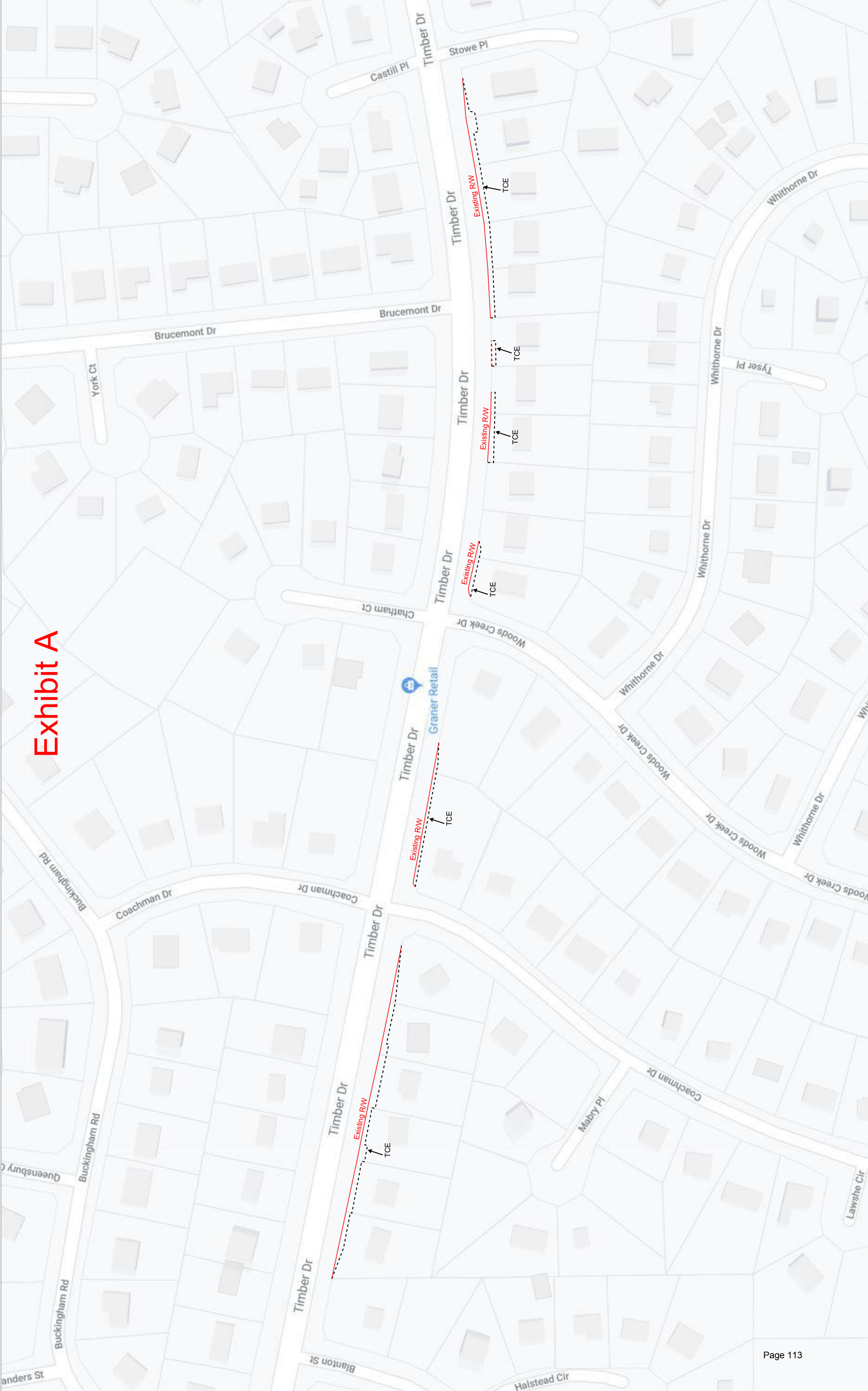
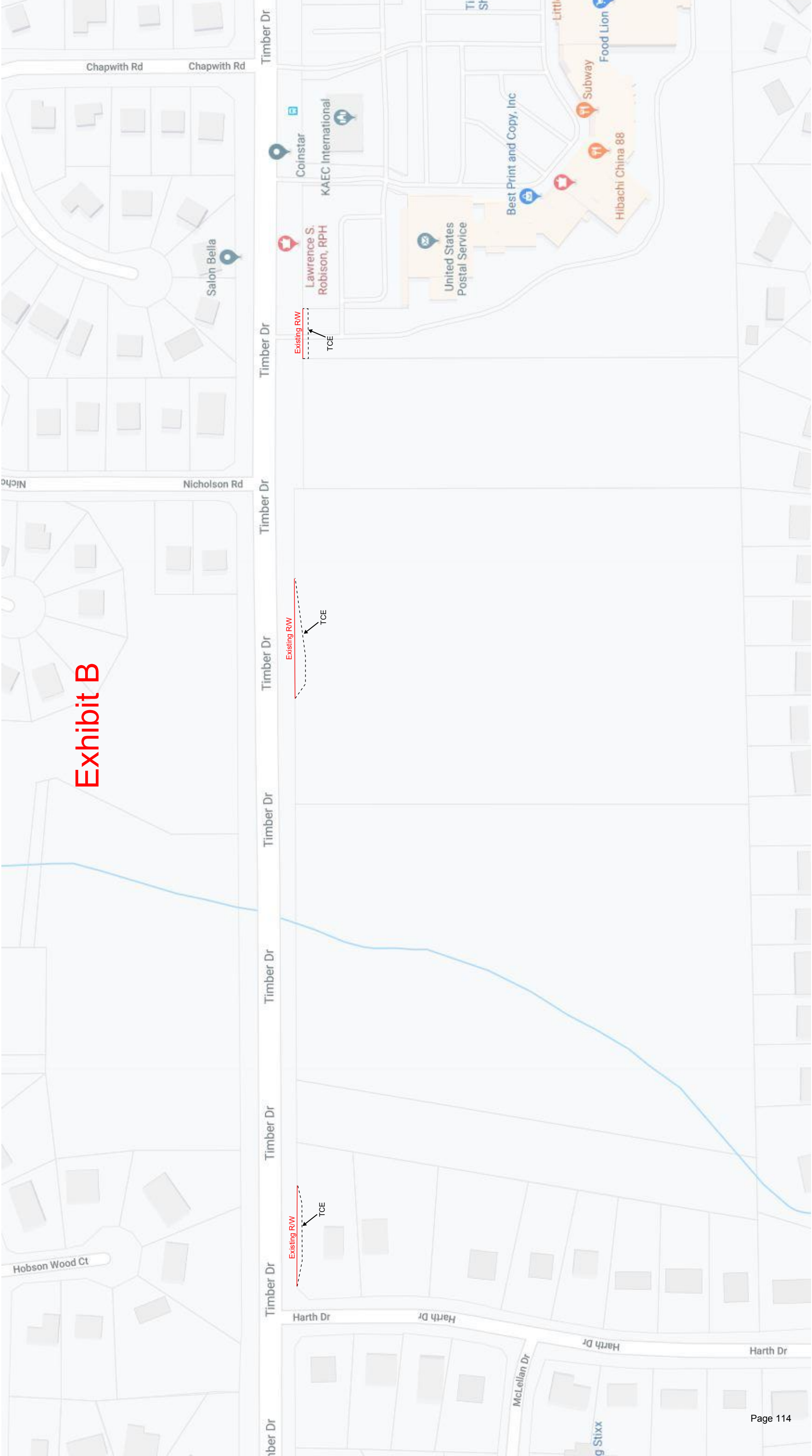


Exhibit B



# Reports

Id	Title	Description	Current Status	Address	Date Created
5500042	Animal Concern - Non Emergency	at least six feral cats running amok back and forth from houses behind me and houses across street from me. they are constantly fighting (occasionally bleeding on my back deck), urinating on (spraying) my car's wheels, and making all kinds of noises in the middle of the night just outside my window which disrupt my sleep and work my dogs into a frenzy. they also continue to mate just multiplying the problem.	In Progress	145 Parkhaven Ln, Garner	1/24/2019
5806948	Anonymous Tip	This Atlantic Roofing Supply business continues to park their 18 wheeler trucks on the street every night. We are awakened every morning around 0430 due their workers arriving to work before business hours cranking their trucks in front of our home. Can something be done about this? I have attached a photo below.	In Progress	1308 Bobbitt Dr, Garner	3/31/2019
5909573	Pipe and Storm Drain Maintenance	gutter drain is clogged with leaves	In Progress	Towne View Trail, Garner	4/18/2019
6247662	Trim Vegetation	Ms. Sylvia Price said there is an issue with a bush/shrubbery at the corner of Avery Street and Garner Road that limits visibility when turning onto Garner Road. The bush/shrub limits visibility when looking West on Garner Road from Avery St.	Submitted		6/17/2019
6248111	Garbage	Trash has been left at former Walgreens on Timber Dr at Woodland Rd.	Received	2311 Timber Dr, Garner	6/17/2019
6297808	Street Sign Maintenance	There is a stop sign on Thistletree Court that is tilting sideways and needs to be reset. We have a work order generated . We noticed more than one stop sign needing attention . We have made a slight adjustment for now . However this should be corrected tomorrow . Thank You if you have any additional question feel free to contact me directly at clepley@garnernc.gov Thank You Chet Lepley Streets Superintendent	In Progress	109 Twinberry Ln, Garner	6/25/2019
6302923	Temporary Sign Violation	There is an unauthorized yellow 25 MPH speed limit sign in the front yard near the road.	Submitted	605 Forest Dr, Garner	6/26/2019