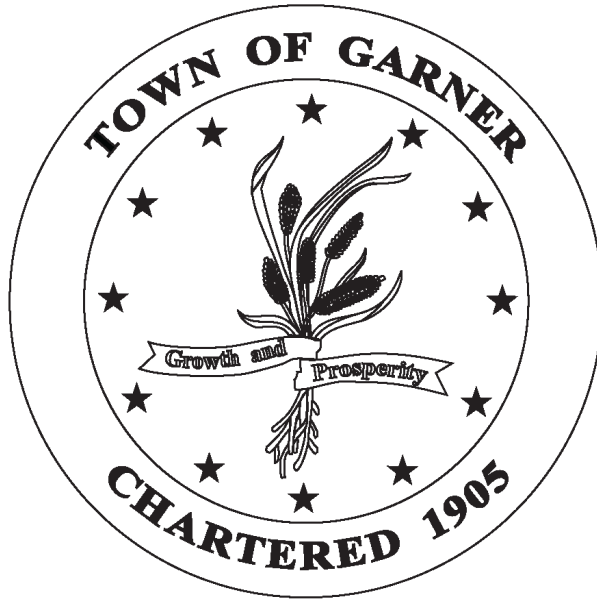


# **TOWN OF GARNER**



## **TOWN COUNCIL MEETING**

September 3, 2019  
7:00 P.M.

Garner Town Hall  
900 7th Avenue  
Garner, NC 27529

**Town of Garner  
Town Council Agenda  
September 3, 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 ProTem Ken Marshburn

- C. INVOCATION: Mayor ProTem Ken Marshburn

- D. PETITIONS AND COMMENTS

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

- E. ADOPTION OF AGENDA

- F. PRESENTATIONS

1. Constitution Week Proclamation ..... Page 5

Council Member Kennedy will present a Proclamation recognizing the week of September 17-23, 2019 as Constitution Week

- G. CONSENT

1. Resolution to Rename Rand Mill Park as Jackie Johns, Sr. Community Park ..... Page 7  
Presenter: Matt Roylance, Assistant Town Manager-Operations

Town Council approved the request to rename Rand Mill Park to Jackie Johns Sr. Community Park at its August 5, 2019, meeting. In order to provide official documentation of the name change, and to provide a ceremonial document that Town officials can read at the park dedication ceremony, staff has prepared the attached resolution.

Action: Consider adopting Resolution (2019) 2387

2. Spring Drive and Vandora Springs Road Sidewalks - Bid Award ..... Page 9  
Presenter: Chris Johnson, Town Engineer

Request to award the construction bid for the Spring Drive/Vandora Springs Road Sidewalk project to Browe Construction.

Action: Consider awarding bid to Browe Construction and authorize the Town Manager to execute construction contract.

#### H. PUBLIC HEARINGS

1. CUD-Z-19-07 & CUP-SP-19-22, 200 Britt Valley Road ..... Page 12  
Presenter: David Bamford, Planning Services Manager

Conditional use zoning (CUD-Z-19-07) and associated conditional use site plan (CUP-SP-19-22) request submitted by Scott Ragan to rezone 5.50 +/- acres from Single-Family Residential (R-20) to Single-Family Residential conditional use (R-40 C-220), allowing for an accessory structure greater than 50% the size of the home. The site is located at 200 Britt Valley Road and can be further identified as Wake County PIN# 1618-08-5863.

Action: Consider adoption of Ordinance (2019) 3992

2. PD-Z-19-03 & PD-MP-19-03, Oak Park West ..... Page 31  
Presenter: David Bamford, Planning Services Manager and Jeff Triezenberg, Planning Director

Planned Residential conditional use rezoning (PD-Z-19-03) with associated master plan (PD-MP-19-03) request submitted by Royal Oaks to rezone 189 +/- acres from Single-Family Residential (R-40) and Single-Family Residential (R-20) to Planned Residential District conditional use (PRD C8) for 580 units (180 townhomes and 400 single-family) of household living space. The site is located on the southwest side of New Bethel Church Road and may be further identified as Wake County PINs# 1619-84-7756, 1619-84-9320, 1619-93-4708, 1619-93-8515, and 1619-81-5817.

Action: Consider adoption of Ordinance (2019) 3991

3. UDO-19-03, Bar, Nightclub, Tavern in the CBD - Rand Mill Road ..... Page 60  
Jeff Triezenberg, Planning Director

Unified Development Ordinance (UDO) text amendment request 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. This amendment would extend the previous amendment to CBD properties along Rand Mill Road.

Action: Refer to Planning Commission

4. CUD Z-19-08 & CUP-SP-19-15 Garner Depot ..... Page 63  
Presenter: Jeff Triezenberg, Planning Director

Conditional use rezoning (CUD-Z-19-08) with associated conditional use site plan (CUP-SP-19-15) request submitted by the Town of Garner on behalf of the Garner Area Historical Society to rezone 1.24 +/- acres from Single-family Residential (R-12) to Central Business District (CBD C221) conditional use for a museum. The site is located at the southwest corner of W. Main and Pearl streets and may be further identified as Wake County PIN #(s): 1711-52-8860, 1711-52-8993 and 1711-52-7855.

Action: Consider adopting Ordinance (2019) 3994

#### I. NEW/OLD BUSINESS

1. Historic Depot Relocation Costs ..... Page 83  
Presenter: Rodney Dickerson, Town Manager

Staff introduced the preliminary estimate of costs and potential site configurations at the July 16th meeting. Since that time the rezoning and site plan approval have been presented to the Planning Commission and the Town Council. This discussion will lay out any updated costs for the base plan and additional features depending on Town Council action and direction.

Action: Consider approving project cost estimate and budget; Approve Resolution (2019) 2388

2. Amendment to Contract for Audit Accounts for CAFR ..... Page 92  
Presenter: David Beck, Finance Director

Our audit firm, Mauldin & Jenkins, has agreed to provide additional assistance with preparation of the Town's CAFR for the 2018-19 fiscal year. The assistance is needed in light of the current vacancies within the Finance Department and the recent turnover in the Director's position. The cost to provide the additional services is \$4,000 which takes the total audit price to \$33,500.

Action: Consider approving amending audit contract

3. Updating the Town's Parade, Picket Line and Demonstrations Ordinance ..... Page 96  
Presenter: William E. Anderson, Town Attorney and Brandon Zuidema, Police Chief

This involves some proposed modifications to the Parade, Picket Line and Demonstrations Ordinance.

Action: Consider adopting modifications to Ordinance (2019) 3995

#### 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: September 3, 2019		
Subject: Proclamation Recognizing Constitution Week		
Location on Agenda: Presentations		
Department: Administration		
Contact: Stella Gibson, Town Clerk		
Presenter: Council Member Buck Kennedy		
Council Member Kennedy will present a Proclamation recognizing the week of September 17-23, 2019 as Constitution Week		
Recommended Motion and/or Requested Action: Proclamation Only; No Action Required		
Detailed Notes:		
Funding Source:		
Cost:	One Time: <input type="radio"/>	Annual: <input type="radio"/> No Cost: <input checked="" type="radio"/>
Manager's Comments and Recommendations:		
Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	SG	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

# Proclamation

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

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

**WHEREAS**, September 17, 2019 marks the two hundred thirty-second anniversary of the signing of the Constitution of the United States of America by the Constitutional Convention; and

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

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

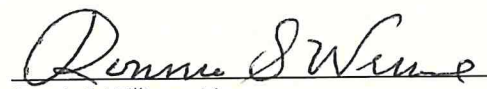
**NOW, THEREFORE, I, RONNIE S. WILLIAMS**, Mayor of the Town of Garner, do hereby proclaim September 17-23, 2019 as

## CONSTITUTION WEEK

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



*In Witness Whereof, I have hereunto set my hand and caused the Great Seal of the Town of Garner, North Carolina, to be affixed the 3<sup>rd</sup> day of September, 2019.*

  
Ronnie S. Williams, Mayor

Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: September 3, 2019		
Subject: Resolution Renaming Rand Mill Park to Jackie Johns Sr. Community Park		
Location on Agenda: Consent		
Department: Administration		
Contact: Matt Roylance, Assistant Town Manager-Operations		
Presenter: Matt Roylance, Assistant Town Manager-Operations		
Brief Summary:  Town Council approved the request to rename Rand Mill Park to Jackie Johns Sr. Community Park at its August 5, 2019, meeting. In order to provide official documentation of the name change, and to provide a ceremonial document that Town officials can read at the park dedication ceremony, staff has prepared the attached resolution.		
Recommended Motion and/or Requested Action: Consider approval of Resolution (2019) 2387		
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:	MR	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

RESOLUTION NO. (2019) 2387

RENAMING RAND MILL PARK  
TO JACKIE JOHNS SR. COMMUNITY PARK

WHEREAS, Jackie Johns Sr. served the Town of Garner as an Alderman and then Town Council member for a total of nearly 36 years over three separate tenures; and

WHEREAS, he was the first, and to date still the only, African-American elected to municipal office in Garner's history; and

WHEREAS, he and his wife Lila lived with their two sons in the neighborhood near the park; and

WHEREAS, in the early 1980s, he was instrumental in persuading Town leaders to move the park from its location at the corner of Bagwell Street and Smith Drive to its current site, and to upgrade park amenities to include a ballfield, basketball court, playground equipment and picnic shelter; and

WHEREAS, the Smith Drive Community Reunion Committee led a community effort to rename Rand Mill Park, located at 508 Rand Mill Road, in honor of Mr. Johns and circulated a petition that received over 1,000 signatures from residents showing their support; and

WHEREAS, on August 5, 2019, pursuant to the Town's Facility Naming Policy, the Town Council approved the request from the Smith Drive Community Reunion Committee to rename the park;

NOW, THEREFORE BE IT RESOLVED, the Town Council does hereby rename Rand Mill Park to Jackie Johns Sr. Community Park.

Duly adopted by the Town Council of the Town of Garner, this the 3<sup>rd</sup> day of September, 2019.

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Ronnie S. Williams, Mayor

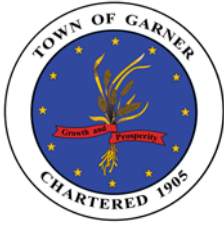
ATTEST:

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Stella Gibson, Town Clerk

Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: September 3, 2019		
Subject: Spring Drive and Vandora Springs Road Sidewalks - Bid Award		
Location on Agenda: Consent		
Department: Engineering		
Contact: Chris Johnson, PE		
Presenter: Chris Johnson, PE		
Brief Summary:  To award the construction bid for the Spring Drive/Vandora Springs Road Sidewalk project to Browe Construction.		
Recommended Motion and/or Requested Action: Consider awarding bid to Browe Construction and authorize the Town Manager to execute construction contract.		
Detailed Notes:  Staff received a total of 5 bids. The final engineer's estimate for this project was \$871,046.50. The apparent low bidder was Browe Construction with a bid of \$812,411.80, which is 6.7% lower than the engineer's estimate. The contractor's proposed MWBE subcontractor participation is 26.2%. Browe Construction is also a certified MWBE firm as well. A budget amendment will be brought forward for the contract with a 5% contingency line item.		
Funding Source: Street and Sidewalk Bond Funds		
Cost: \$853,032.39	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 7th Avenue • Garner, North Carolina 27529  
Phone (919) 772-4688 • Fax (919) 662-8874 • [www.GarnerNC.gov](http://www.GarnerNC.gov)

### ENGINEERING DEPARTMENT MEMORANDUM

DATE: August 26, 2019

TO: John Hodges, Assistant Town Manager

FROM: Chris Johnson, PE - Town Engineer

**RE: Bid Award of Spring Drive/Vandora Springs Road Sidewalks (Browe Construction)**

The Spring Drive/Vandora Springs Road Sidewalk Project consists of approximately 1500 LF of road widening and 3130 LF of sidewalk installation along Spring Drive and Vandora Springs Road. Staff advertised the project and held the bid opening on August 22, 2019 at 10:00 AM. The Town received a total of 5 bids from the following firms:

- Browe Construction
- Fred Smith Company
- Lanier Construction
- Sandhills Contractors
- ST Wooten

The initial engineer's estimate for this project was \$871,046.50. The apparent low bidder is Browe Construction with a bid of \$812,411.80, which is 6.7% below the engineer's estimate. The contractor's proposed MWBE subcontractor participation is 26.2%. Staff recommends a 5% contingency be added to the construction budget to cover any unforeseen work or quantity overruns that may occur during construction. This would bring the total construction budget to \$853,032.39.

#### STAFF RECOMMENDATION

Award the Spring Drive/Vandora Springs Sidewalk project to Browe Construction and authorize the Town Manager to execute the construction contract with Browe Construction for \$812,411.80. A budget amendment will be brought forward for the contract with the 5% contingency line item.

Please advise if you have any questions regarding this recommendation.

Enclosures

cc: David Beck, Finance Director





**Town of Garner**  
**Spring Drive Bid#:**  
**Project#: ENG2019-03**  
**Bid Opening: August 22, 2019**

Company Name	License Number	5% Bid Bond Amount	MBE Documentation	Addendum	Total Bid Price
Browe Construction	27543	Yes	26.2%	Yes	\$812,411.80
Fred Smith Company	43848	Yes	10.2%	Yes	\$961,587.00
Lanier Constrctuion	18152	Yes	44.4%	Yes	\$935,631.50
Sandhills Contractors	25707	Yes	10.0%	Yes	\$1,039,952.80
ST Wooten	2835	Yes	17.2%	Yes	\$895,250.00
Engineer's Estimate					\$871,046.50

\* There was an error in Sandhills Contractors bid calculation. The posted amount on this bid tab is the correct calculation.



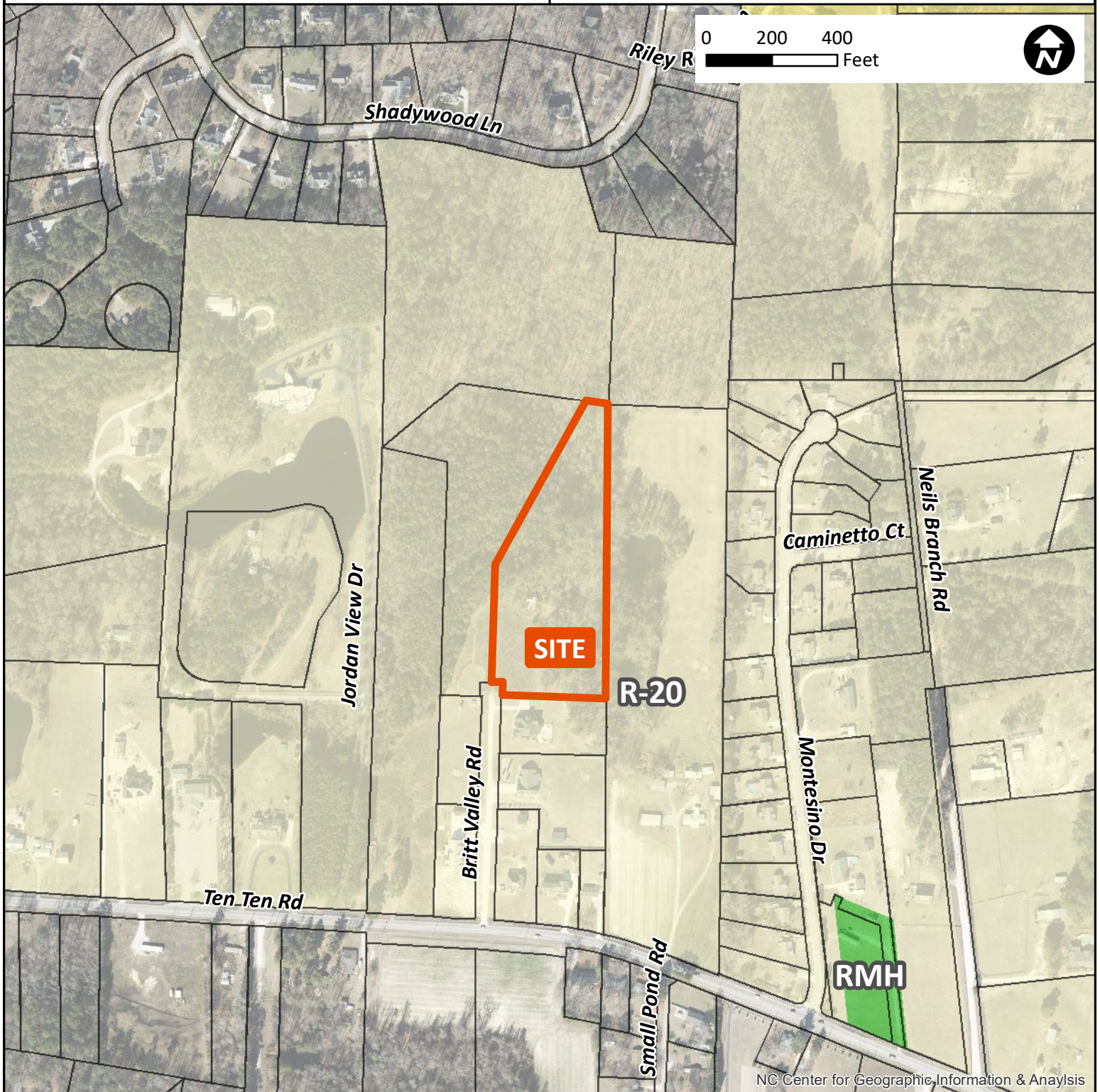
Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: September 3, 2019		
Subject: CUD-Z-19-07 & CUP-SP-19-22, 200 Britt Valley Road		
Location on Agenda: Public Hearings		
Department: Planning		
Contact: David Bamford AICP; Planning Services Manager		
Presenter: David Bamford AICP; Planning Services Manager		
Brief Summary:  Conditional use zoning (CUD-Z-19-07) and associated conditional use site plan (CUP-SP-19-22) request submitted by Scott Ragan to rezone 5.50 +/- acres from Single-Family Residential (R-20) to Single-Family Residential conditional use (R-40 C-220), allowing for an accessory structure greater than 50% the size of the home. The site is located at 200 Britt Valley Road and can be further identified as Wake County PIN# 1618-08-5863.		
Recommended Motion and/or Requested Action: Consider adoption of Ordinance (2019) 3992		
Detailed Notes:  Map and staff report attached. Reasons for the request are related to proposals to build a home and a large accessory structure on the property. Use restrictions are proposed.		
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:		



**Town of Garner  
Planning Department**

**Conditional Use Applications  
CUP-SP-19-22 & CUD-Z-19-07**



**Applicant:** Neal Scott Ragan  
**Owner:** Neal Scott Ragan  
**Location:** 200 Britt Valley Road  
**Pin #:** 1618-08-5863

**Current Zoning:** Single Family Residential (R-20)  
**Proposed Zoning:** Single Family Residential  
Conditional Use (R-40 C220)  
**Acreage:** 5.5 +/-  
**Overlay:** N/A

## Planning Department Staff Report

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**TO:** Mayor and Town Council

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

**SUBJECT:** *Conditional Use Rezoning # CUD-Z-19-07, and  
Conditional Use Site Plan # CUP-SP-19-22 – 200 Britt Valley Road*

**DATE:** September 3, 2019

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### I. PROJECT AT A GLANCE

<b>Project Number(s):</b>	CUD-Z-19-07 Conditional Use Rezoning CUP-SP-19-22 Conditional Use Site Plan
<b>Applicant:</b>	Scott Ragan
<b>Owner:</b>	Scott & Monica Ragan
<b>General Description -</b>	
<b>Project Area &amp; Location:</b>	5.50 +/- acres at 200 Britt Valley Road
<b>Wake Count PIN(s):</b>	1618-08-5863
<b>Current Zoning:</b>	Single-Family Residential (R-20)
<b>Requested Zoning:</b>	Single-Family Residential (R-40 C-220) Conditional Use
<b>Proposed Use(s):</b>	Single-Family Detached
<b>Overlay:</b>	None
<b>Key Meeting Dates:</b>	
<b>Planning Commission:</b>	August 19, 2019
<b>Public Hearing &amp; Action:</b>	September 3, 2019



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

The applicant filed a general use request, Z-19-04, to rezone 5.5 acres on Britt Valley Road off Ten Ten Road in the Town's ETJ. The public hearing was on July 16, 2019. At the public hearing, there were a few neighbor concerns, and the Council had concerns about the list of allowable uses in the proposed Single-Family Residential (R-40). Council asked the applicant if they would be willing to convert the application from general use to conditional use to limit the range of uses and remove, for example, manufactured homes and solar farms.

The originally filed Z-19-04 described above has been re-filed as CUD-Z-19-07. This request is to change the zoning for 5.50 +/- acres from Single-Family Residential (R-20) to Single-Family Residential (R-40 C-220) conditional use. Also submitted is CUP-SP-19-22 showing the site developed as a stick-built single-family home with future plans for a large accessory building.

The site is located at 200 Britt Valley Road and can be further identified as Wake County PIN: 1618-08-5863. The applicant has communicated to staff that a proposed accessory building on the site would exceed 50% the size of the proposed home. The existing Single-Family Residential (R-20) zoning has a 50% size limitation on detached accessory buildings while the proposed Single-Family Residential (R-40) district does not.



### III. ZONING ANALYSIS

**Existing:** The existing zoning is **Residential 20 (R-20)**. This is primarily a single-family district with a minimum lot size of 20,000 square feet (.45 acres). Properties zoned R-20 can be developed at a density of approximately 2.17 units per acre. Accessory buildings are restricted to a max square footage of 50% the size of the home (principal structure).

**Proposed:** The proposed zoning is **Residential 40 Conditional Use District 200 (R-40 C220)**. This is primarily a single-family district with a minimum lot size of 40,000 square feet (.92 acres). Properties zoned R-40 can be developed at a density of approximately 1.08 units per acre. The square footage of accessory buildings is not restricted.

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:	<b>R-20</b>	<b>R-40</b>
Minimum Lot Area:	20,000 sq. ft.	40,000 sq. ft.
Minimum Lot Width:	90 ft.	100 ft.
Gross Density (max):	2.17 units/acre	1.08 units/acre
Front Yard:	35 ft.	35 ft.
Rear Yard:	25 ft.	25 ft.
Side Yard:	10 ft.	10 ft.
Corner Lot Side Yard:	25 ft.	25 ft.
Maximum Height:	35 ft.	35 ft.

The following table provides a comparison for the list of permitted uses in each zoning district. Permissible uses proposed by the applicant are highlighted.

USE	EXISTING ZONING	PROPOSED ZONING
<i>P* = Permitted subject to standards</i>		
<i>SUP = Special use permit required</i>		
	<b>R-20</b>	<b>R-40 C220</b>
Single-Family Detached	p*	p*
Residential Cluster	p*	p*
Double-Wide Manufactured Home (Class A)		p*
Modular Home	p*	p*
Clubs and Lodges		SUP
Family Care Home	p*	p*
Group Home	p*	p*

USE	EXISTING ZONING	PROPOSED ZONING
<i>P* = Permitted subject to standards</i>		
<i>SUP = Special use permit required</i>	R-20	R-40 C220
Intermediate Care Home	p*	p*
Community Center	SUP	SUP
Child Day Care (up to 3 as home occupation)	p*	p*
Family Child Day Care (up to 8 in-home)	p*	p*
School, Public or Private	SUP	SUP
Ambulance Service, Police or Fire Station	SUP	SUP
Cemetery	p*	p*
Public Park, Swimming Pool, Tennis Court, Golf Course	SUP	SUP
Religious Institution	p*	p*
Minor Utility, Elevated Water Storage Tank	p*	p*
Solar Farms		p*
Telecommunications Tower		SUP
Other Major Utility		SUP
Golf Course, or Country Club, Private	SUP	SUP
Horse Stables and Related Facilities		SUP
Bed and Breakfast	SUP	SUP
Agriculture or Silviculture	p*	p*

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

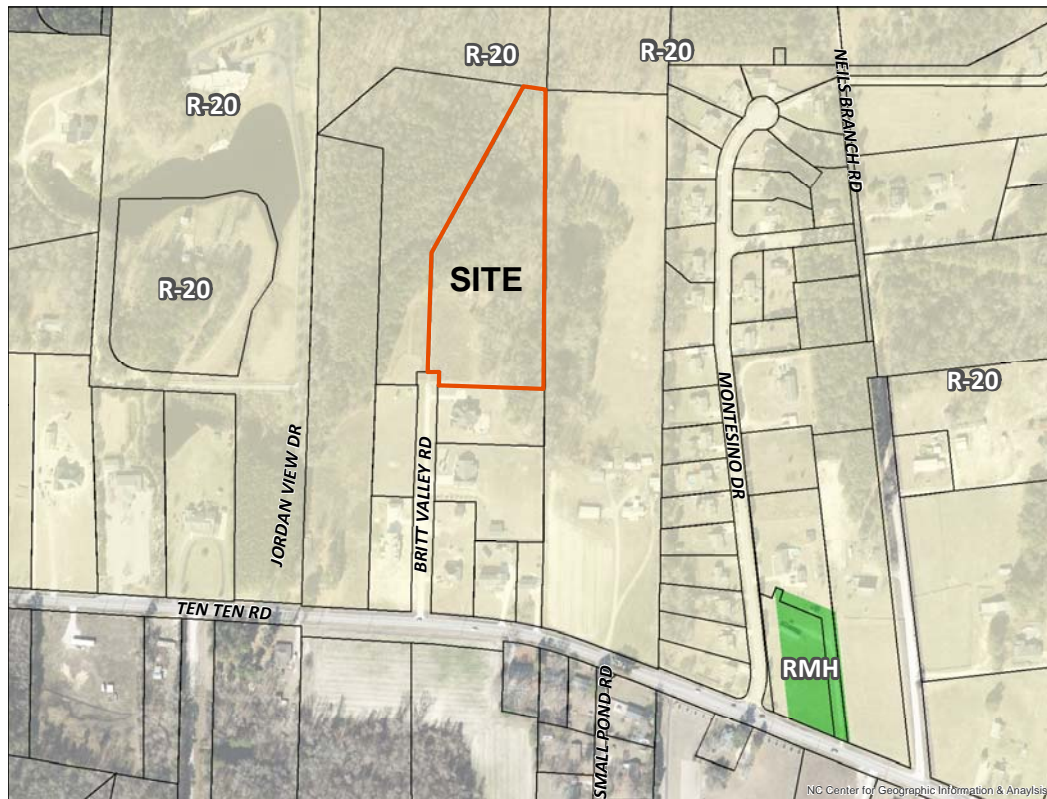
Case	Applicant	Location	Zoning Change
CUD-Z-94-03	Town of Garner	Benson Road	O&I to SB C50
CUD-Z-98-08	Clyde F. Hurst, Jr.	10619 Ten-Ten Road	R-20 to RMH C82
Z-12-01	Jewell Sauls	10817 Ten-Ten Road	O&I to NO
Z-18-06	Harold Godwin	Jordan Road	CR to NO

**Board of Adjustment History:** The Planning Department's Board of Adjustment database contains the following variance case in this area.

Case	Applicant	Location	Variance
A 10-01	Ronnie & Joni Cross Joseph & Juli Buker	Britt Valley Road	Approved – relief from having to pave Britt Valley Road to public street standards with the subdivision of an additional lot (4 lots off private street)- extension of gravel road allowed

**Adjacent Zoning and Land Uses:**

<b>North:</b>	Single-Family Residential (R-20)	Single-Family Detached
<b>South:</b>	Single-Family Residential (R-20)	Single-Family Detached
<b>East:</b>	Single-Family Residential (R-20)	Single-Family Detached
<b>West:</b>	Single-Family Residential (R-20)	Single-Family Detached



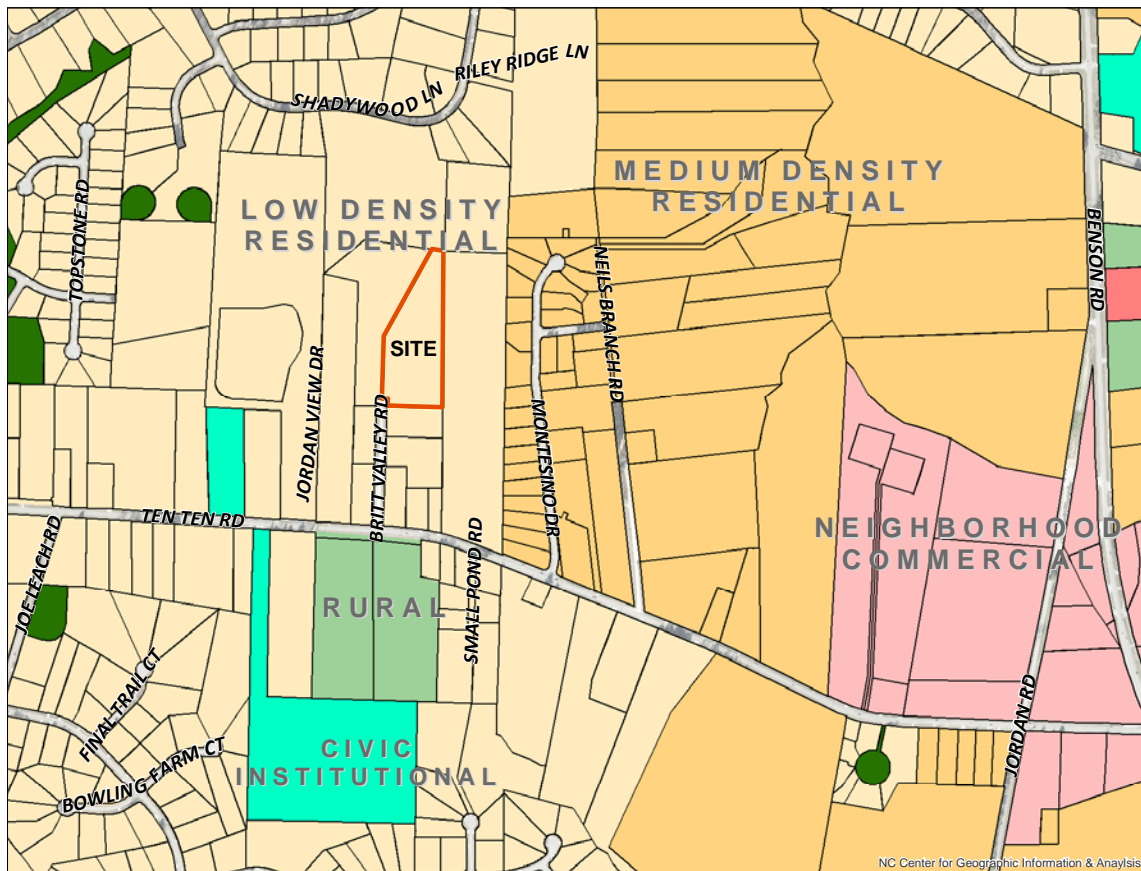


**Overall Neighborhood Character:** This area along Ten Ten Road and Britt Valley Road is primarily residential on large lots, rural, and agriculture. Public water and sewer are not available in this vicinity so development potential at this time is low density residential. Ten Ten Road is a major east-to-west thoroughfare.

#### **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 (LDR)** category, and the surrounding tracts in this area are also designated as either Medium-Density Residential (MDR) or Low-Density Residential (LDR).

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:** The requested R-40 district is consistent with the *2018 Garner Forward Comprehensive Plan's* future land use designation of Low-Density Residential (LDR). Both the R-20 and R-40 districts allow densities less than 2.5 units per acre.

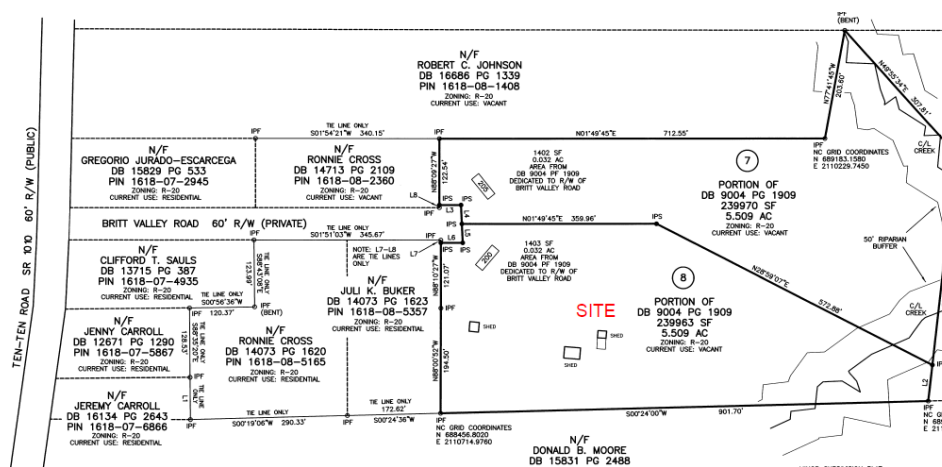


## V. SITE PLAN PROJECT DATA

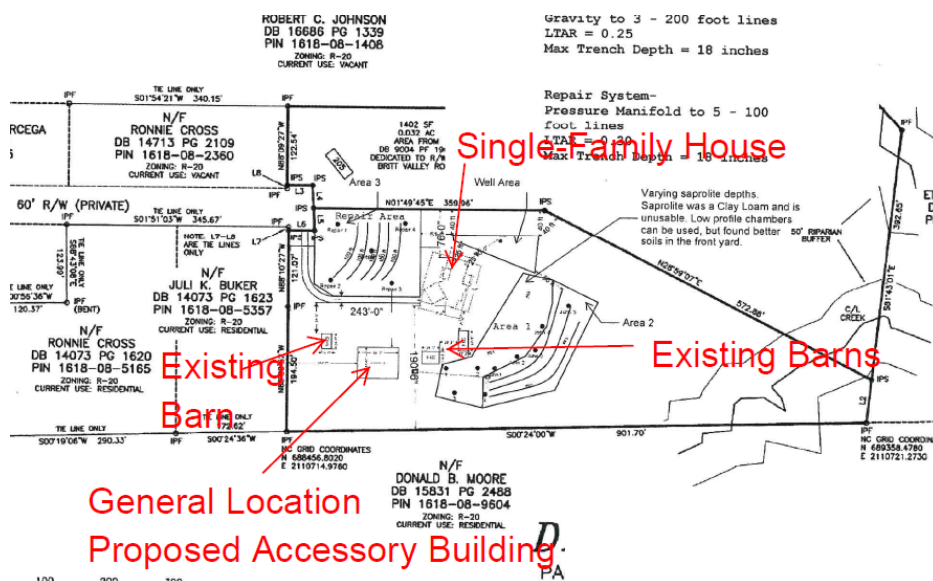
**Acreage:** Total project acreage is 5.50.

**Number of Lots:** 1

**Current Site:** Single-family home (stick built); Building Permit issued March 13, 2019, and a Certificate of Occupancy was issued on July 25, 2019.



**Proposal:** Future plans are to construct an accessory building on the property.



**Dimensional Requirements:** Setbacks that would apply to the home are: front, 35 feet; side, 10 feet; rear, 25 feet. Setbacks that would apply to new accessory structures are: front, 35 feet; side, 10 feet; rear, 5 feet.

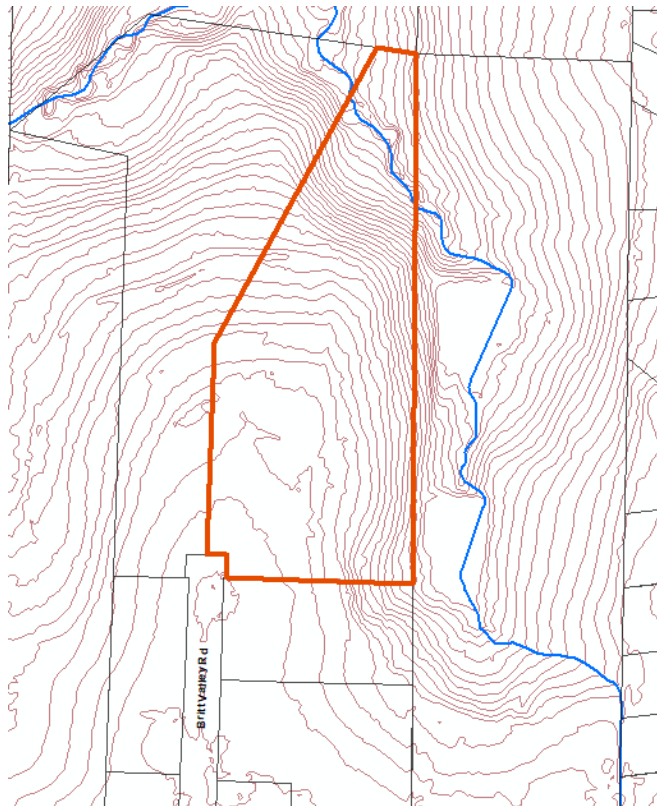
Existing R-20 Zoning: Accessory building max size 50% of heated square footage of home

Proposed R-40 C200 Zoning: No size limit for accessory buildings

**Landscape and Buffer Requirements:** None.

**Lighting:** None.

**Environment Features:** This site does not contain a FEMA designated floodplain. There are however riparian buffers, and these are shown on the site plan survey.



**Parks and Open Space:** None required.

**Fire Protection:** NC Building Code for a residential dwelling and accessory building will apply.

**Infrastructure:** *Stormwater* – Not required.

*Water/Sewer* – The site will be served private well and septic.

*Access* – The site has access to Britt Valley Road, which is a paved private road meeting NCDOT standards

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

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

The 2018 Garner Forward Plan does not recommend road improvements for Britt Valley Road; therefore, as proposed, this plan may be found to be in conformity 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 for this area; therefore, as proposed, this plan may be found to be in conformity with the Parks & Recreation, Open Space & Greenways Master Plan.

### **Unified Development Ordinance:**

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

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

The Planning Commission reviewed this request at their August 19, 2019 meeting. With a unanimous vote, the Planning Commission confirmed staff's findings in Section VII that CUP-SP-19-22, Britt Valley Road, 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-19-07 to the Town Council.

Staff recommendations for rezoning request (CUD-Z-19-07) and site plan (CUP-SP-19-22) conformity are highlighted in the motion worksheets on the following pages.

## **CUD-Z-19-07 – Britt Valley Rd**

### *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) 3992 approving rezoning request CUD-Z-19-07 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 the area;
- ☐ 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-19-07."

3. Find Inconsistent with the Comprehensive Plan and Approve:

"I move that the Town Council find that although the rezoning request is inconsistent with the Garner Forward Comprehensive Plan, detailed in Section V 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

- ☐ 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 the area;
- ☐ Provide your own reason: \_\_\_\_\_

and therefore, I move further that the Town Council adopt Ordinance No. (2019) 3992 approving rezoning request number CUD-Z-19-07."

## **CUP-SP-19-22 – Britt Valley Rd**

### *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 Town plans and ordinances and **Approve**:

2. Find Inconsistent with Town plans and ordinances and Deny:

---

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

**1. Find Consistent with Town plans and ordinances 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-19-22, Britt Valley Rd with the three standard 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, etc.:**

2. Find Inconsistent with adopted Town plans and ordinances 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 Britt Valley Rd – CUP-SP-19-22.



MINIMUM BUILDING SETBACKS		
ZONING: R-20		
FRONT YARD.....	35	FEET
SIDE YARD.....	10	FEET
CORNER SIDE.....	25	FEET
REAR YARD.....	25	FEET

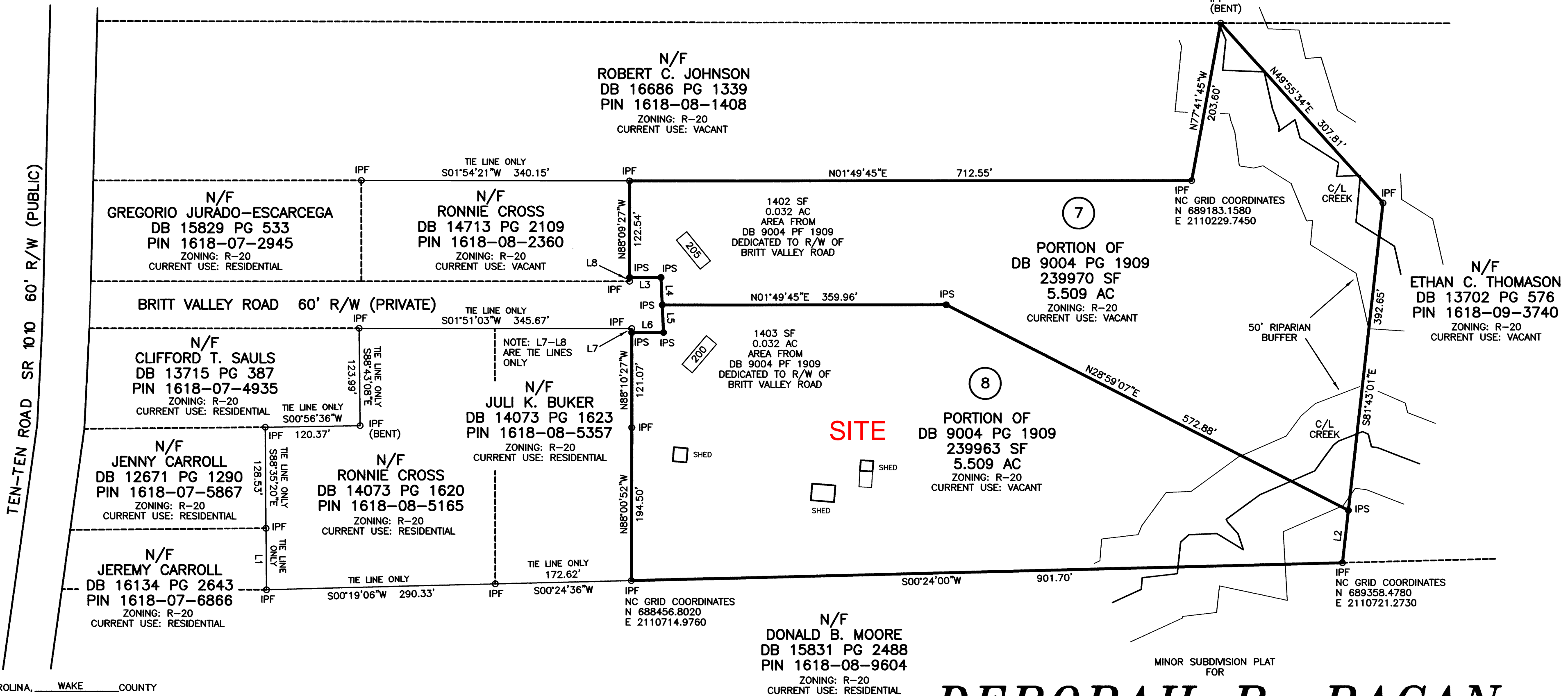
AREA IN PARENT TRACT.....	482728	SF	11.081	AC
AREA TO TRACT 7.....	239970	SF	5.509	AC
AREA TO TRACT 8.....	239963	SF	5.509	AC
AREA TO R/W BRITT VALLEY ROAD...	2805	SF	0.064	AC

LINE	BEARING	DISTANCE
L1	S88°36'16"E	78.26'
L2	S81°43'01"E	67.06'
L3	N01°48'54"E	39.82'
L4	N89°20'49"E	35.07'
L5	N89°20'49"E	35.05'
L6	S01°48'54"W	40.25'
L7	S88°10'27"E	5.00'
L8	N88°09'27"W	5.00'

NC GRID NORTH NAD 83/2011

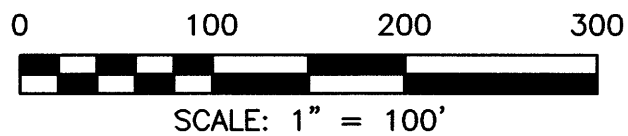


VICINITY MAP (NOT TO SCALE)



STATE OF NORTH CAROLINA, WAKE COUNTY

I, CURK L. LANE , DO HEREBY CERTIFY THAT THIS  
PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN  
ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED  
DESCRIPTION RECORDED IN BOOK 9004 , PAGE 1909 ,  
ETC.); THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY  
INDICATED AS DRAWN FROM INFORMATION FOUND IN  
BOOK 9004 , PAGE 1909 ; THAT THE RATIO OF  
PRECISION AS CALCULATED IS 1:10,000±; THAT THE  
GLOBAL POSITIONING ACCURACY (GPS) OBSERVATIONS WERE  
PERFORMED TO THE GEOSPATIAL POSITIONING ACCURACY  
STANDARDS, PART 2: STANDARDS FOR GEODETIC NETWORKS  
AT 1 CENTIMETER ACCURACY CLASSIFICATION (95% CONFIDENCE)  
USING RTK NETWORK; THAT THIS PLAT WAS PREPARED IN  
ACCORDANCE WITH G.S. 47-30 AS AMENDED, THAT THIS  
PLAT MEETS THE REQUIREMENT OF G.S. 47-30 SECTION  
F-11 - A . WITNESS MY ORIGINAL SIGNATURE AND SEAL  
THIS 24TH DAY OF DECEMBER , A.D. 2018



FILED FOR  
REGISTRATION

CHARLES P. GILLIAM  
REGISTER OF DEEDS  
WAKE COUNTY

BY: \_\_\_\_\_  
ASST/DEPUTY  
TIME: \_\_\_\_\_

RECORDED IN BOM 2019 PG 22

WAKE COUNTY, NC 3  
CHARLES P. GILLIAM  
REGISTER OF DEEDS  
PRESENTED & RECORDED ON  
01/04/2019 08:56:23

BOOK:BM2019 PAGE:00022

## LEGEND

- |  |                             |
|--|-----------------------------|
| Y  | IRON PIPE FOUND             |
| IP   | IRON PIPE SET               |
| PF   | CONCRETE MONUMENT FOUND     |
| ○  | PARKER-KALON NAIL FOUND     |
| ●  | PARKER-KALON NAIL FOUND     |
| PKNF   | PARKER-KALON NAIL FOUND     |
| RRS  | RAILROAD SPIKE              |
| CSF  | COTTON SPIKE FOUND          |
| CS   | COTTON SPIKE SET            |
| CC   | CONTROL CORNER              |
| CP   | COMPUTED POINT              |
| R/P  | POWER POLE                  |
| OP   | OVERHEAD POWER LINE         |
| F/W  | RIGHT OF WAY                |
| S.F.   | SQUARE FEET                 |
| AC   | ACRE                        |
| DB   | DEED BOOK                   |
| PLB  | PLAT BOOK                   |
| BOM  | BOOK OF MAPS                |
| PG   | PAGE                        |
| LF   | LINEAR FEET                 |
| LS   | LOT HAS OFFSHORE SEWER      |
| 15SL   | OFFSHORE SEWER LOT          |
| 15R  | RECOMBINATION LOT           |
| <div style="border: 1px solid black; padding: 2px; display: inline-block;">100</div> | STREET ADDRESS              |
|  | _____<br>LINES NOT SURVEYED |

**SURVEYED BY:**  
TLS

**DRAWN BY:**  
**MIK**

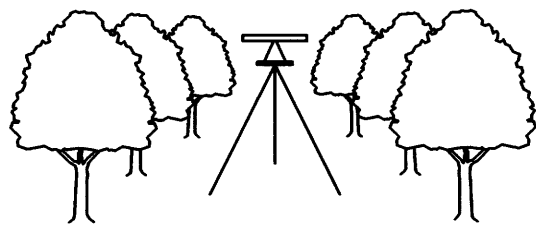
CHECKED BY:  
C. LANE - PLS

**DRAWING NAME:**  
2LOTS.DWG

SURVEY DATE:  
10-15-18

JOB NO.  
3379.001

*TRUE LINE SURVEYING, P.C.*



205 WEST MAIN STREET  
CLAYTON, N.C. 27520  
TELEPHONE: (919) 359-0427  
FAX: (919) 359-0428  
[www.truelinesurveying.com](http://www.truelinesurveying.com)

OWNER: DEBORAH B. RAGAN  
701 ELMWOOD DRIVE  
RALEIGH, N.C. 27603



Professional Seal of North Carolina Land Surveyor. The seal is circular with the text "NORTH CAROLINA" at the top, "PROFESSIONAL" at the bottom, and "LAND SURVEYOR" in the center. The number "L-3990" is also visible.

L - 3990  
 LICENSE NUMBER

C-1859



AREA CALCULATIONS			
AREA IN PARENT TRACT.....	482728	SF	11.081 AC
AREA TO TRACT 7.....	239870	SF	5.509 AC
AREA TO TRACT 8.....	239563	SF	5.509 AC
AREA TO R/W BRITT VALLEY ROAD.....	2805	SF	0.064 AC

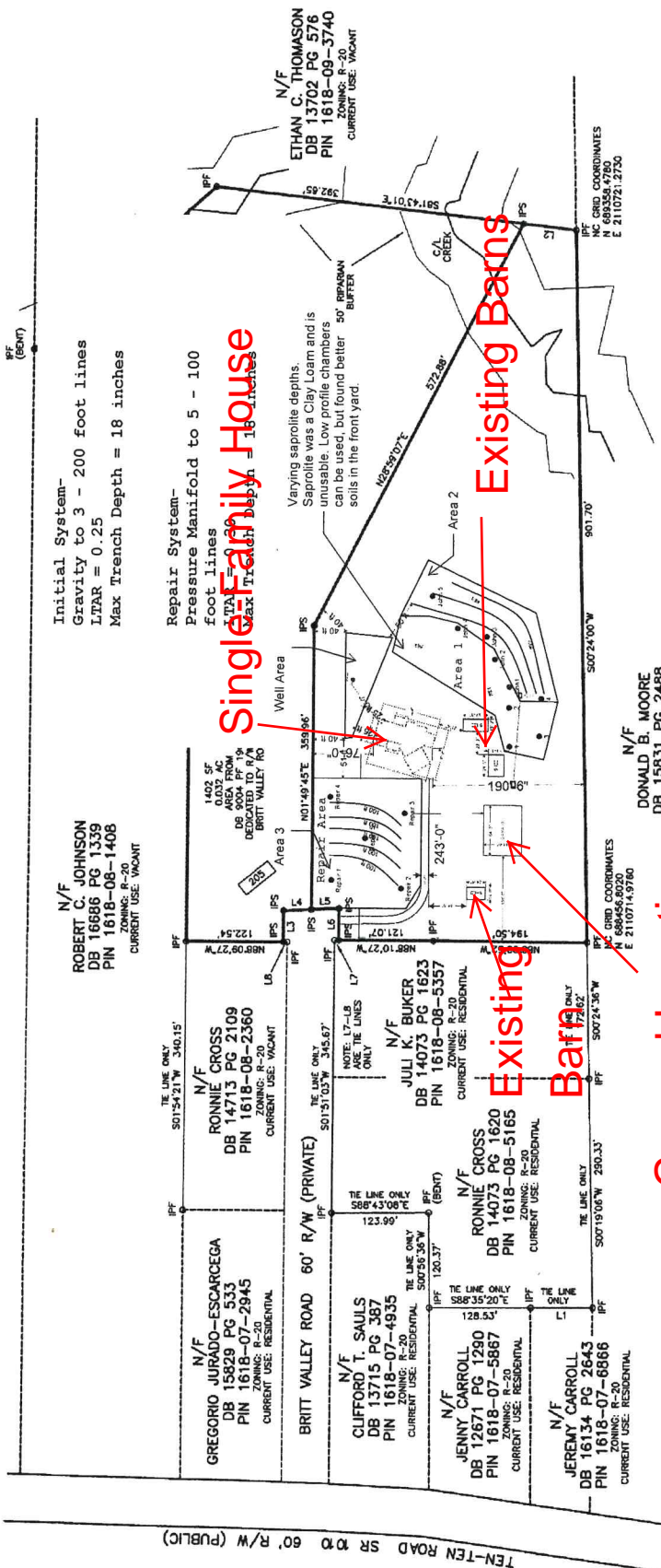
ENC GRID NORTH NAD 83/2011



FRONT YARD.....	35 FEET
SIDE YARD.....	10 FEET
CORNER SIDE.....	25 FEET
REAR YARD.....	25 FEET

PRIVATE ROAD MAINTENANCE AGREEMENT RECORDED IN DB 13715 PG 381

VICINITY MAP (NOT TO SCALE)



STATE OF NORTH CAROLINA      WAKE      COUNTY

I, CURK T. LANE, DO HEREBY CERTIFY THAT THIS INFORMATION WAS OBTAINED FROM THE SOURCE(S) DESCRIBED UNDER MY SUPERVISION FROM AN ACTIVE OR PASSIVE SOURCE(S) WHOSE CREDIBILITY DESCRIPTION RECORDED IN BOOK NO. [ ] PAGE NO. [ ] IS ACCURATE. THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN [ ] THAT THE RATIO OF THE INFORMATION TO THE PREVIOUSLY RECORDED INFORMATION IS [ ] THAT THE GEOGRAPHIC POSITIONING ACCURACY (GPS) OBSERVATIONS WERE PERFORMED TO THE GEOGRAPHIC POSITIONING ACCURACY STANDARDS, PART 2: STANDARDS FOR GEOSTATIC NETWORKS CONTAINING AN INTRINSIC ACCURACY CLASSIFICATION (95% CONFIDENCE) OF [ ] METERS. THE INFORMATION IS BEING SUBMITTED IN ACCORDANCE WITH C.S. 47-30 AS AMENDED, THAT THE INFORMATION MEETS THE REQUIREMENT OF C.S. 47-30 SECTION 11-11. I, THE SIGNER, AM THE ORIGINAL SIGNATURE AND SEAL.

**N/F**  
**DONALD B. MOORE**  
**DOB 15831 PG 2488**  
**APIN 1618-08-9604**  
**ZONING: R-20**  
**CURRENT USE: RESIDENTIAL**

**General Location**

DEBORAH B. RAGAN

PANTHER BRANCH TOWNSHIP, WAKE COUNTY

NORTH CAROLINA

NOVEMBER 29, 2018  
SHEET 2 OF 2

OWNER: DEBORAH B. RAGAN  
701 ELMWOOD DRIVE  
RALEIGH, N.C. 27803

PRESENTED & RECORDED ON  
01/04/2019 08:55:23  
00K:BM2019 PAGE:0022

FILED FOR  
REGISTRATION

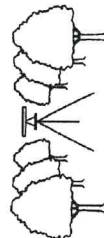
CHARLES P. GILLIAM  
REGISTER OF DEEDS  
WARE COUNTY

ASST/DEPUTY

RECORDED IN BOM 2019 PG 22

6-3990  
LICENSE NUMBER

*TRUE LINE SURVEYING, P.C.*



205 WEST MAIN STREET  
CLAYTON, N.C. 27520  
TELEPHONE: (919) 359-0427  
FAX: (919) 359-0428  
[www.truelinesurveying.com](http://www.truelinesurveying.com)

C-1859

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

**ORDINANCE NO. (2019) 3992**

**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 Scott Ragan in Rezoning Application No. CUD-Z-19-07 (R-40 C220).

**Section 2.** There is hereby created a new conditional use zoning district, to be known as the Residential 40 Conditional Use (R-40 C220); within this district, all of the regulations that apply to property within the Residential 40 Conditional Use (R-40 C220); 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 Residential 40 Conditional Use (R-40 C220); district.

1. Permitted use table:

<b>USE</b> <i>P* = Permitted subject to standards</i> <i>SUP = Special use permit required</i>		<b>PROPOSED ZONING</b> <b>R-40 C220</b>
Single-Family Detached		p*
Child Day Care (up to 3 as home occupation)		p*
Family Child Day Care (up to 8 in-home)		p*
Cemetery		p*
Horse Stables and Related Facilities		SUP
Agriculture or Silviculture		p*

**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
Scott Ragan	1618-08-5863 200 Britt Valley Rd	R-20	Residential 40 Conditional Use (R-40 C220)

**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 3<sup>rd</sup> day of September, 2019.

---

Ronnie S. Williams, Mayor

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

Town of Garner  
Town Council Meeting  
Agenda Form

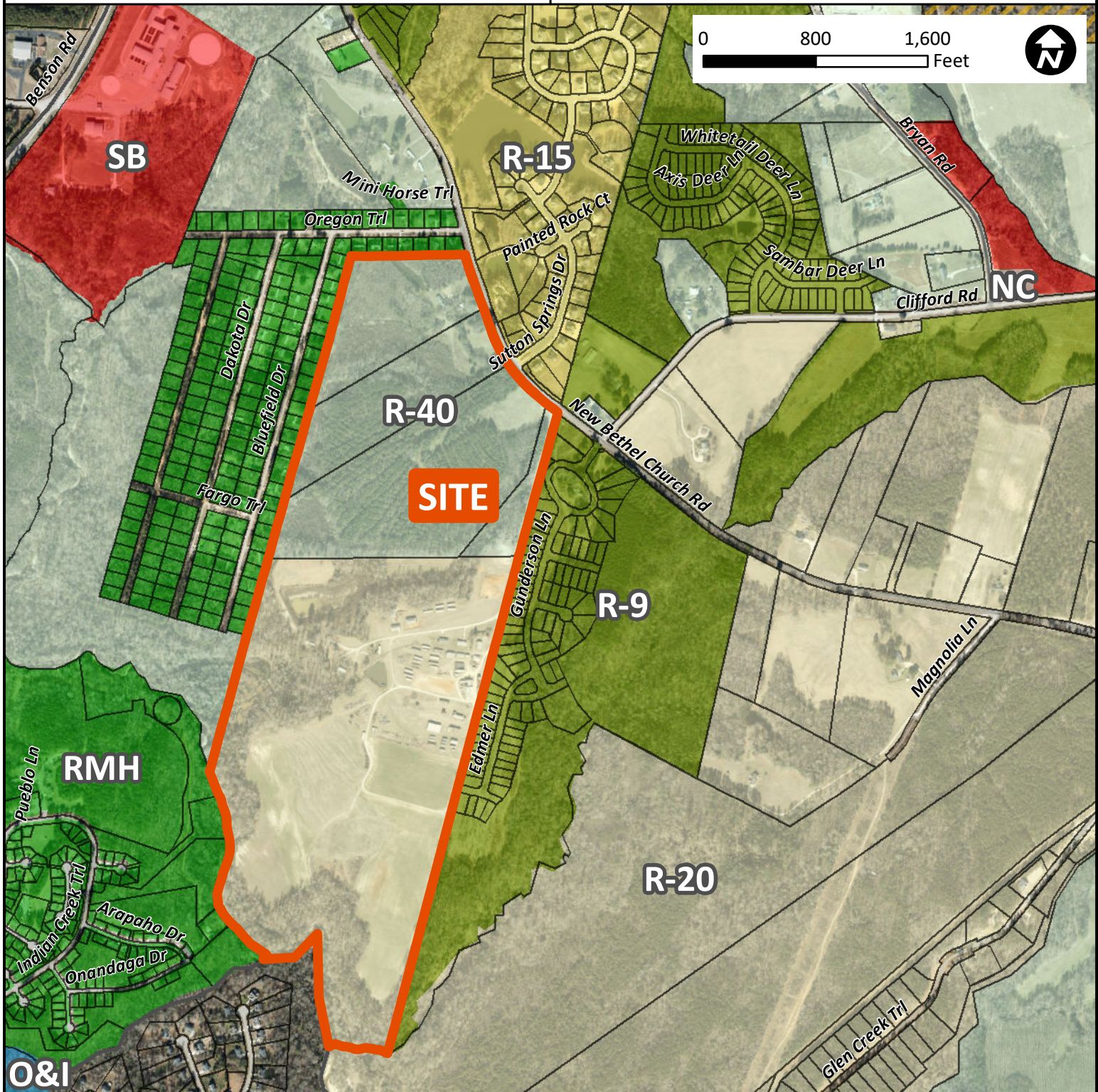
Meeting Date: September 3, 2019		
Subject: PD-Z-19-03 & PD-MP-19-03, Oak Park West		
Location on Agenda: Public Hearings		
Department: Planning		
Contact: David Bamford, AICP; Planning Services Manager		
Presenter: David Bamford, AICP; Planning Services Manager & Jeff Triezenberg, AICP, GISP; Planning Director		
<b>Brief Summary:</b>  Planned Residential conditional use rezoning (PD-Z-19-03) with associated master plan (PD-MP-19-03) request submitted by Royal Oaks to rezone 189 +/- acres from Single-Family Residential (R-40) and Single-Family Residential (R-20) to Planned Residential District conditional use (PRD C8) for 580 units (180 townhomes and 400 single-family) of household living space. The site is located on the southwest side of New Bethel Church Road and may be further identified as Wake County PINs# 1619-84-7756, 1619-84-9320, 1619-93-4708, 1619-93-8515, and 1619-81-5817.		
<b>Recommended Motion and/or Requested Action:</b> Consider adoption of Ordinance (2019) 3991		
<b>Detailed Notes:</b>  See attached vicinity map and staff report. A neighborhood meeting was required by ordinance and was held on May 23, 2019. Use restrictions and characteristics are voluntarily offered as zoning conditions. Staff recommends approval of PD-Z-19-03 & finds PD-MP-19-03 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:		





# Town of Garner Planning Department

## Conditional Use Rezoning PD-Z-19-03 & PD-MP-19-03



**Project:** Oak Park West  
**Applicant:** Royal Oaks  
**Owner:** Multiple  
**Location:** New Bethel Church Rd.  
**Pin #:** 1619-84-7756, 1619-84-9320  
1619-93-4708, 1619-93-8515,  
1619-81-5817

**Proposed Use:** Master Plan Community  
**Current Zoning:** Residential (R-40) & Residential (R-20)  
**Proposed Zoning:** PRD C8 (Max Density 3.1 units per acre)  
**Acreage:** 189.45  
**Overlay:** N/A



## Planning Department Staff Report

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**TO:** Mayor and Town Council Members

**FROM:** Jeff Triezenberg AICP; Planning Director  
David Bamford, AICP; Planning Services Manager

**SUBJECT:** *Conditional Use Rezoning # PD-Z-19-03, and  
Conditional Use Subdivision # PD-MP-19-03, Oak Park West*

**DATE:** September 3, 2019

---

### I. PROJECT AT A GLANCE

**Project Number(s):** PD-Z-19-03, Conditional Use Rezoning  
PD-MP-19-03, Planned Development Master Plan

**Applicant:** Royal Oaks

**Owner(s):** Charles Bryan, Walter Bryan, Bobby & Margaret Raynor

**General Description -**

**Project Area & Location:** 189 +/- acres near the corner of Clifford and New Bethel Church roads, across from Sutton Springs Subdivision

**Wake Count PIN(s):** 1619-84-7756, 1619-84-9320, 1619-93-4708, 1619-93-8515, 1619-81-5817

**Current Zoning:** Single-Family Residential (R-40 & R-20)

**Requested Zoning:** Planned Residential Development (PRD C8)

**Proposed Use:** Single-Family & townhome planned residential subdivision

**Key Meeting Dates -**

**Planning Commission:** July 15, 2019

**Public Hearing:** August 20, 2019

**Action:** September 3, 2019

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

This rezoning (PD-Z-19-03) and associated subdivision master plan (PD-MP-19-03) have been submitted for the development of a 580-unit residential subdivision (400 single-family homes and 180 townhomes) at a density of 3.06 units per acre.

The 189-acre site is located on New Bethel Church Road across from Sutton Springs subdivision and directly west of the Oak Park subdivision that is currently under construction.

Approximately 116-acres are zoned Single-Family Residential (R-20) and 73-acres are zoned Single-Family Residential (R-40).

The requested zoning is Planned Residential Development (PRD C8). All planned development districts are conditional use districts.

## **III. ZONING ANALYSIS**

**Existing:** Approximately 73-acres are zoned **Single-Family Residential (R-40)**. This district allows single-family lots of at least 40,000 square feet (0.91 acres). Under this zoning, the 73-acre rezoning site could accommodate approximately 55 single-family lots (estimate subtracts 20% of the site area for streets and roads, and 10% for open space).

### ***The following is a list of permitted uses in the R-40 District:***

- |   |  |
|---|--|
| 1. Single-family site built and modular homes | 12. Public safety facilities (fire, police, rescue, ambulance) |
| 2. Residential Cluster                        | 13. Cemetery   |
| 3. Manufactured home                          | 14. Public parks, swimming pools, tennis and golf courses      |
| 4. Family Care home                           | 15. Religious institutions                                     |
| 5. Group care home                            | 16. Minor utility—elevated water tank                          |
| 6. Intermediate care home                     | 17. Solar farms  |
| 7. Community center                           | 18. Telecommunications facility                                |
| 8. Lodges and fraternal clubs                 | 19. Other major utility  |
| 9. Child day care up to 3 as home occupation  | 20. Private golf course or country club                        |
| 10. Family child day care up to 8 in home     | 21. Horse stables  |
| 11. School public or private                  | 22. Bed and breakfast  |
|   | 23. Agriculture or silvi-culture                               |

**Existing:** Approximately 116-acres of the site is **Single-Family Residential (R-20)**. This district allows single-family lots of at least 20,000 square feet (0.45 acres). Under this zoning, the 116-acre rezoning site could accommodate approximately 176 single-family lots (estimate subtracts 20% of the site area for streets and roads, and 10% for open space).

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

- |   |                           |
|---|---------------------------|
| 1. Single-family site built and modular homes | 3. Family Care home       |
| 2. Residential Cluster                        | 4. Group care home        |
|   | 5. Intermediate care home |

- |  |   |
|--|---|
| 6. Community center  | 12. Public parks, swimming pools, tennis and golf courses |
| 7. Child day care up to 3 as home occupation                   | 13. Religious institutions                                |
| 8. Family child day care up to 8 in home                       | 14. Minor utility—elevated water tank                     |
| 9. School public or private                                    | 15. Private golf course or country club                   |
| 10. Public safety facilities (fire, police, rescue, ambulance) | 16. Bed and breakfast                                     |
| 11. Cemetery   | 17. Agriculture or silvi-culture                          |

**Proposed:** The proposed zoning district is Planned Residential District (PRD C8). This is an option to encourage a mix of housing choices, allowing a density bonus in return for provision of substantial landscaping, screening and buffering. Developments are permissible on tracts of at least 15 contiguous acres.

***There are no generally permitted uses within planned districts. All uses are conditional.***

The following conditions are proposed:

1. Permitted use table:

Use Category	Specific Use	PRD C8
Household Living	Townhouse	p*
	Single-family	p*

2. Any form of group living protected by state or federal statute for use in single-family dwellings shall be permitted according to the specific use standards of the Garner Unified Development Ordinance.
3. The maximum density shall not exceed 3.1 dwelling units per acre with a maximum of 580 dwelling units of which no more than 180 shall be townhomes.
4. A deviation of greater than 20% is requested regarding Section 6.12.A single family lot sizes in PRD developments. This section requires sixty percent (60%) of all single-family lots to be at least 12,000 SF and forty percent (40%) meeting a 9,000 SF lot size. 400 single family lots are proposed. A deviation allowing 120 lots or thirty percent (30%) of the single family lots to be 5,520 SF or larger instead of 12,000 SF is proposed, a fifty-four percent (54%) reduction in size and 280 lots or seventy percent (70%) of single family lots to be 4,830 SF or larger instead of 9,000 SF, an approximate forty-six percent (46%) reduction. Having smaller lots reduces the required yard maintenance by homeowners and preserves greater recreation and usable open space areas and common space areas. Increased safety of residents and encouraging interactions between neighbors builds a tighter knit community.
5. A deviation of greater than 20% is requested for Section 6.12.A building setbacks for a PRD development. Lot setbacks are outlined to follow the requirements for the R-



12 zoning district. R-12 setbacks are as follows: Front-30', Rear-20', Side 6' minimum, 15' combined minimum, Corner Side-20'. Proposed setbacks for the detached single-family lots are as follows: Front-20' (a 33% reduction), Rear-20', Side 5' (a 33% reduction), Corner Side-12' (a 40% reduction). For the attached townhomes, lot setbacks are as follows: Front-35', Rear-25', Side-15', Corner Side-25'. Proposed setbacks are as follows: Front-20' (a 43% reduction), Rear-20' (a 20% reduction), Side 10' (a 33% reduction), Corner Side-10' (a 60% reduction). In addition, the attached townhomes shall not comply with the building triangulation method found in Section 6.10.E. A safer, more secure environment and better communications between neighbors is a benefit of utilizing reduced building setbacks.

6. A deviation of greater than 20% is requested for Section 8.2.K.8. where two streets may not intersect on the same side of another street at a distance of less than 400 feet. A deviation allowing a reduction in the separation of intersections of up to 32% less than the 400 feet required.
7. The community pool shall be a minimum of 4,000 square feet and the clubhouse shall be a minimum of 1,800 square feet under roof.
8. Townhomes shall have at least a one-car garage. All single-family homes shall have a at least a two-car garage.
9. All housing types shall have a minimum .045 gauge vinyl siding with at least one brick, board & batten, or stone accent. Product C shall have a masonry accent along with an additional board & batten or shake accent. Product A shall have a minimum of 35 SF of accent, Product B shall have a minimum of 100 SF of accent and Product C shall have a minimum of 125 SF of accent.
10. Garage doors for townhomes shall have carriage door hardware or windows. All garage doors for the single-family homes shall have carriage door hardware and windows.
11. Townhomes shall be slab on grade with treatments such as paint, brick or stone to cover exposed concrete on the front and sides. Product B shall be slab on grade turned down with 18" wainscot brick or stone on the front, sides shall be scratch mortar and paint to match siding. Product C shall be slab on grade turned down or crawl space with brick or stone on front and sides.
12. All eaves and rakes shall be 12" minimum on front, rear, and sides. Dormers and gables shall have 8" minimum eaves. All housing types shall have 30-year architectural shingles with multiple roof breaks.
13. All townhomes and single-family homes shall have at least one window on each side elevation.
14. Townhome corner street side elevations shall have a minimum of two different siding materials. The two siding materials shall be separated by a skirt board.

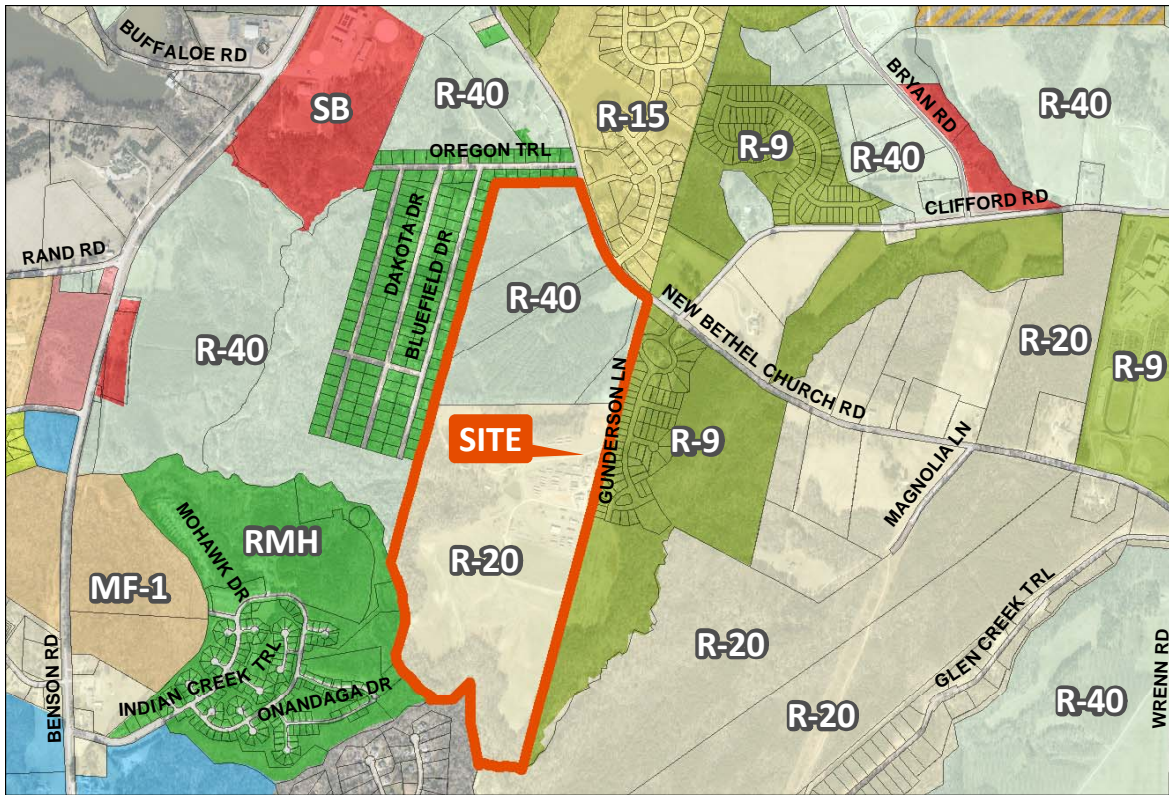
15. A front porch or covered stoop is required on all housing types, minimum 4' x 6' or 24 square feet. Posts and columns shall be 6" minimum width/diameter and painted or stained to match trim color.
16. The recreational & useable open space located between the townhomes and the single-family homes in Phase 1 shall have hardscape, enhanced landscaping and sidepaths. Two recreational & useable open space areas located in Phase 2 shall each have 2 park benches, hardscape and enhanced landscaping. Remaining recreational & useable open space shall have trails to connect open space areas together and provide enjoyment of the natural environment.
17. A 7-foot tall landscaped berm shall be installed along the project's frontage on New Bethel Church Road.

**Overlays:** The site is located within the **Swift Creek Conservation Overlay District**. The overlay district provides regulations to protect water quality in this watershed by requiring limits on the amount of impervious surface areas permissible for new residential and non-residential development. Development within this overlay must comply with the following:

- New single family detached residential subdivision development projects shall be limited to a maximum of 30% total impervious surface area;
- New multi-family residential development projects defined to include townhomes, condominiums, apartments, or other attached multi-family housing units as determined by the Planning Director, shall be limited to a maximum of 50% total impervious surface area; and
- New non-residential development projects shall be limited to a maximum of 70% of total of impervious surface area.

**Adjacent Zoning and Land Use:**

<b>North:</b>	Single-Family Residential (R-15 C144)	Single-Family / Sutton Springs
<b>South:</b>	Wake County R-30 / Residential Mobile Home (RMH)	Single-Family / Indian Creek / Southern Trace
<b>East:</b>	Single-Family Residential (R-9 C180)	Single-Family / Oak Park
<b>West:</b>	Residential Mobile Home (RMH)	Single-Family / Mobile Hill Estates



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

Case	Applicant	Location	Zoning Change
CUD Z-03-02	Henry A. Thompson	New Bethel Church Road	R-40 to R-5 C-119
CUD Z-04-02	Horace Tart	Glens at Bethel	R-40 to R-9 C-124
CUD Z-04-03	Town of Garner	Centennial Park	SB C-7 to R-12 C-125
CUD Z-06-01	Glennjan, LLC	Ackerman Rd	R-40 to R-12 C-135
CUD Z-06-10	Matthew Sutton	Sutton Springs	R-40 to R-15 C-144
CUD Z 10-01	Capital Bank	Sutton Springs	R-15 C144 to R-15 C-159 (DENIED)
CUD Z-12-02	Sheetz, Inc.	NC 50 & New Bethel Church Road	R-40 to CR C-163 (DENIED)
CUD Z-13-06	Wake County Board of Education	H8 South Garner High School	Wake County R-30 to R-9 C-170
CUD Z-15-06	Phyllis King	Oak Park	R-40 to R-9 C-180
CUD Z 16-08	Martha Bagley	Clifford Grove	R-40 to R-9 C-188
CUD-Z-17-02	Paul & Lois Bryan	Next to Clifford Grove	R-40 to R-9 C195

Case	Applicant	Location	Zoning Change
CUD-Z-17-03	Peggy Tingen / Lorraine Bryan	Next to Clifford Grove	R-40 to R-9 C196
CUD-Z-18-05	KB Homes	Harper's Landing	R-20 to R-9 C204

#### **IV. COMMUNITY INFORMATION**

**Overall Neighborhood Character:** This area of the community consists of a mixture of vacant tracts, agricultural uses, and single-family neighborhoods. Since 2015 this area has been transitioning from low-density rural agriculture to urban developments and densities. The driving-force for these development pressures was both the development of South Garner High and Bryan Road Elementary schools; road improvements (Bryan Road paved) and utilities were extended to serve this area. Several projects have been approved in this area over the last 4 years including:

- Oak Park – 212 lots
- Clifford Grove / Tingen / Bryan – 174 lots
- Country Walk (“Ridgemoor”) – 337 lots
- Rhora – 106 lots
- Harper’s Landing – 87 lots

**Traffic:** The NCDOT average daily traffic counts along New Bethel Church, Hebron Church and Clifford roads during the period from 2007 through 2015 did not exceed 3,700 vehicles per day. 2017 counts along these roads were not reported.

A Traffic Impact Analysis was required by the Town and NCDOT. NCDOT’s Congestion Management Unit found the following improvements necessary to existing roadways in the area:

- Addition of a 100-foot dedicated right turn lane on New Bethel Church Road into the site drive opposite Sutton Springs Road.
- Striping of a 50-foot dedicated left turn lane on New Bethel Church Road into the site drive opposite Sutton Springs Road.

**Neighborhood Meeting:** A neighborhood meeting was held on May 23, 2019 with approximately 11 neighbors in attendance. The summary notes are attached. Some of the questions raised by the neighbors included: traffic, project setbacks, impact to taxes, snow removal, road improvements, construction schedule, amenities, and the bridge replacement on New Bethel Church Road.

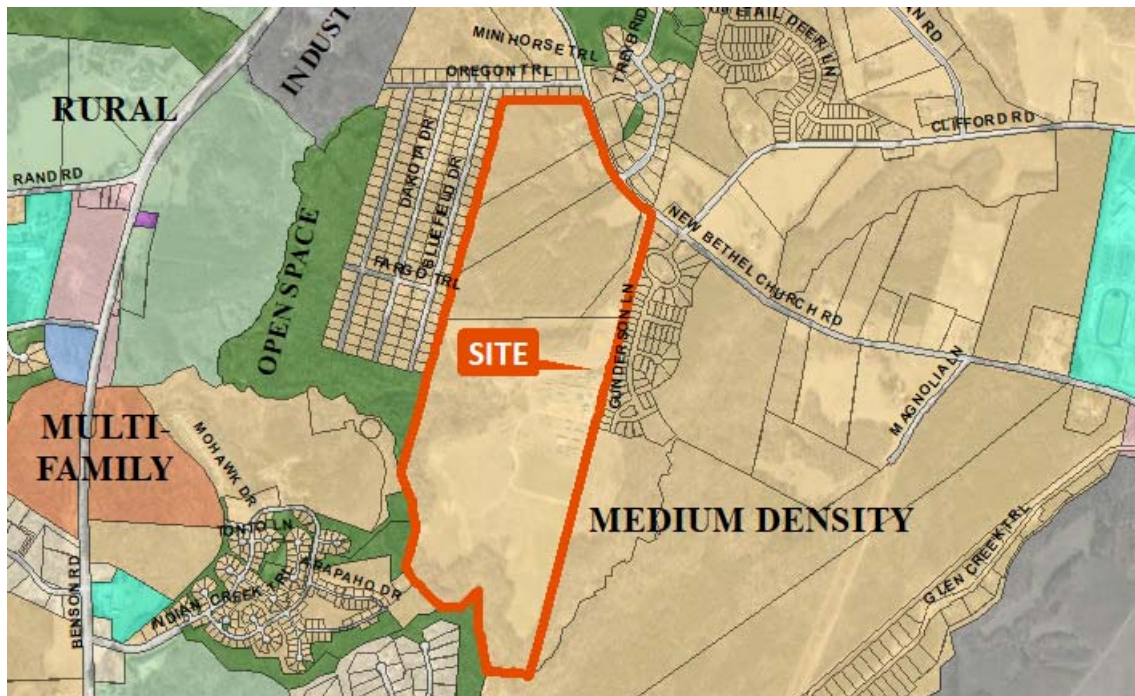
#### **V. ANALYSIS AND STATEMENT OF ZONING CONSISTENCY WITH THE COMPREHENSIVE PLAN**

**2018 Garner Forward Plan:** In addition to land use, the 2018 *Garner Forward Comprehensive Plan* also provides guidance on keeping the Town’s character, living spaces, working places,

recreation opportunities and transportation. Applicable sections are analyzed in the following paragraphs.

**Land Use:**

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



**Living Spaces:**

The guiding principles and recommendations for living spaces and housing are found on pages 63 – 68. Staff finds this request in support of the following:

1. “Garner recognizes that its housing stock is aging and that it could be more diverse to attract younger residents and retain older ones” (p.63). This zone diversifies lot sizes and provides exterior maintenance-free choices for owners.
2. “The younger and older residents – ‘Millennials’ and ‘Boomers’ respectively – share many of the same desires in a living space: proximity to shopping and services; an appreciation for greenways; and fun places to gather” (p. 63). This zone provides over 1.3 miles of private and public greenways as well as pocket parks and a community swimming pool.

3. A higher ratio of dwelling units to linear feet of public streets is an indicator of more revenue support for downstream road maintenance expenses which is a recommended practice for evaluating housing proposals (p. 64).
4. In greenfield areas, favoring larger master-planned tracts helps to maximize private contributions and amenities which is also a recommended practice (p. 64). This zone again provides over 1 mile of private trails, 1/3 mile of paved public greenway, enhanced landscaping along New Bethel Church Road and in pocket parks, a community swimming pool, additional turn lanes on existing roads and a financial contribution to offset added impacts to congestion on NC 50. By comparison, the adjacent smaller Oak Park and Clifford Grove developments have only contributed passive pocket parks and additional turn lanes on existing roads.
5. Mixing housing types within a development allows the proposed townhomes and single-family detached homes to live compatibly as they are clustered and share similar design characteristics (p. 65). This zone clusters the townhomes away from existing single-family detached residential developed under different design rules, and also separates new single-family detached homes from existing single-family detached residential developed under different design rules through an increase street yard width and 7-foot tall landscaped berm.

***Recreation Opportunities:***

The guiding principles and recommendations for recreation opportunities are found on pages 76 - 82. Staff finds this request in support of the following:

1. "In addition to large projects, small 'parklets', ... landscaped transportation corridors ... should be priorities to soften perspectives and communicate a human scale for pedestrians" (p. 76). This zone offers a wide street yard along New Bethel Church Road with a 7-foot tall landscaped berm, and it also offers several small pocket parks along internal streets.
2. Construction of 1/3-mile greenway is a recommended practice for implementing the Town's Parks and Recreation, Open Space and Greenways Master Plan (p. 77).
3. A stated purpose of the PRD zone is to conserve and preserve natural features and green space which is a recommended practice for promoting recreation opportunities (p. 77).
4. "Parks play a vital role in neighborhood life, providing a place for children to play and residents to meet. This includes pocket parks, areas of a quarter acre or less..." (p. 78). This zone provides for at least five (5) stand-alone pocket parks.

**Zoning Consistency Statement:** Based on the preceding, Town staff offers that the requested rezoning from Single-Family Residential (R-40) and Single-Family Residential (R-20) to Planned Residential District (PRD C8) is consistent with the 2018 *Garner Forward Comprehensive Plan's* guiding principles and recommendations of the living spaces and recreation opportunities sections of the plan as well as being consistent with the range of recommended density for the medium-density residential land use.



## VI. SUBDIVISION PROJECT DATA

**Acreage:** 189.34 acres

**Number of Lots:** 580 (400 single-family & 180 townhomes)



<b>Minimum Lot Size:</b>	Townhouse "A":	2,200 square feet
	Single-Family Detached "B":	4,850 square feet
	Single-Family Detached "C":	5,520 square feet
<b>Setbacks:</b>	Perimeter of Development:	25'
	Townhouse "A":	Front – 20'
		Rear – 20'
		Side – 10' (20' bldg. separation)
		Corner Side – 10'
	Single-Family Detached "B":	Front – 20'
		Rear – 20'
		Side* – 5'
		Corner Side – 12'
	Single-Family Detached "C":	Front – 20'
		Rear – 20'
		Side* – 5'
		Corner Side – 12'

*\* Interior side setback distance less than 10 feet requires a 5-foot property maintenance easement be provided on the adjoining lot and recorded on the final subdivision plat.*

<b>Landscape and Buffer Requirements:</b>	The plan as proposed meets the requirements of the Landscape Ordinance.	
	<ul style="list-style-type: none"> <li>• <b>Tree Cover:</b> Requirement of 12% is met with proposed plant material.</li> <li>• <b>Perimeter Buffers:</b> The only required perimeter buffer is between the proposed townhouses and the adjacent existing single-family development to the west. This 35' buffer will be met with a combination of existing vegetation and supplemental plantings as needed.</li> <li>• <b>Street Buffers:</b> No street buffer is required along New Bethel Church Road; however, the developer has offered a minimum 25' enhanced street buffer.</li> <li>• <b>Street Trees:</b> Provided every 40' on average along New Bethel Church Road and along all proposed subdivision streets.</li> </ul>	



**Parks and Open Space:**

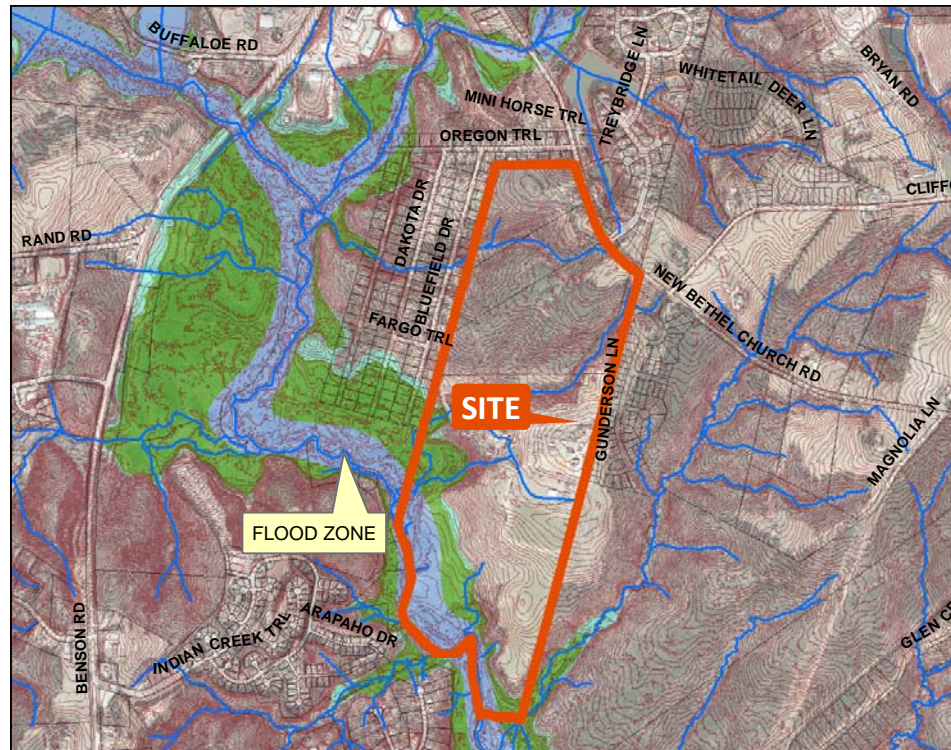
**Open Space –**

- Required: 25% (47.34 acres)
- Proposed: 37.49% (70.98 acres)

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

**Environmental Features:**

The southern portion of the site is within a FEMA designated floodplain. The site is also impacted by a riparian buffer along a pond and stream running roughly through the middle of the site.



**Fire Protection:**

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

**Lighting:**

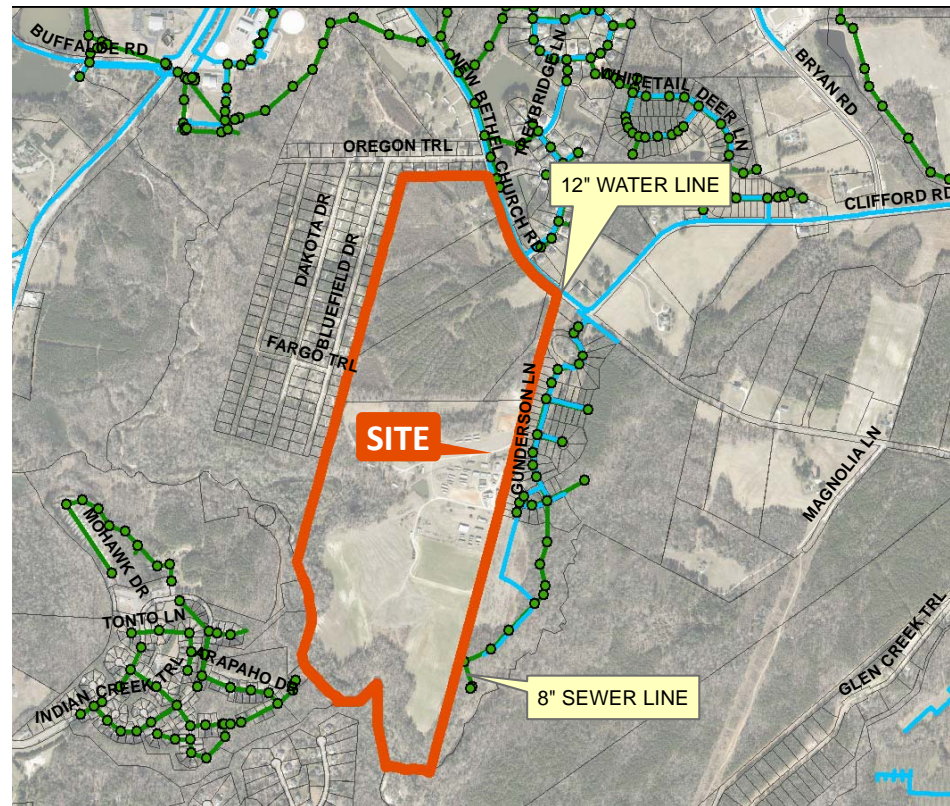
Street lighting and lighting for common parking areas will be reviewed during the subsequent preliminary plats and/or site plans for approval.

**Infrastructure:**

**Stormwater Management –** This site is located within the Swift Creek Conservation Overlay District, which established maximum impervious surface coverage on new development. The site is also subject to water quality requirements for nitrogen and water quantity requirements for the 1, 10, and 25-year storm events. While the portion of the site draining directly to the Swift Creek floodplain will not be controlled, per Town of Garner guidelines, a dry detention pond will be utilized to

control runoff from other areas of the site and to provide nitrogen export reduction. Stormwater calculations must be finalized and approved by the Engineering Department prior to approval by the Town Council.

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



**Transportation/Access** – The site has approximately 1,335 feet of road frontage along New Bethel Church Road. This road is a 22-foot wide NCDOT-maintained facility (SR 2703) within a 60-foot right of way. This road lacks curb and gutter and sidewalks. There is one (1) proposed access point from New Bethel Road directly opposite Sutton Springs Drive. The site also features three (3) additional access points from the Oak Park Subdivision to the east which is currently under construction. Plans will improve New Bethel Church Road with curb, gutter and sidewalk along the frontage of the property.

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

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

The 2018 Garner Forward Transportation Plan does not have any updated recommendations for New Bethel Church Road; therefore, the 2010 Garner Transportation Plan is referenced, which recommends New Bethel Road as a 3-lane minor thoroughfare. The 2018 Garner Forward Transportation Plan does recommend a public greenway along Swift Creek. With the proposed improvements along the frontage of New Bethel Road and the incorporation of the public greenway, this project, as proposed, may be found to be in conformity 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 additional recommendations in the project area; therefore, with the inclusion of the proposed public greenway, this project may be found to be in conformity with the Parks & Recreation, Open Space & Greenways Master Plan.

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

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

1. Prior to preliminary plat approval:
  - a. a lighting plan shall be approved by the Technical Review Committee;
  - b. a full stormwater plan shall be approved by the Garner Engineering Department;
2. Prior to receipt of approved plans, Engineering Department inspection fees must be paid to the Town of Garner;
3. Prior to recordation of the first final plat:
  - a. a voluntary annexation petition for the for the entire project site shall be filed with the Garner Planning Department;
  - b. documents establishing a Homeowner's Association and restrictive covenants shall be submitted to the Garner Planning Director for review; and
  - c. a Development Agreement for fee-in-lieu of street improvements agreed upon as a result of the development's TIA shall be submitted by the developer, including payment, and accepted by the Town;
4. Following the recordation of the first final plat, the Neighborhood Recreation Amenity Area shall be completed within 18 months;
5. Prior to issuance of the first building permit:

- a. all applicable water and sewer fees must be paid to the City of Raleigh Public Utilities Department; and
  - b. the Stormwater Program Administrator shall be in receipt of proof of payment for the required nitrogen offset payment to an approved mitigation bank;
6. Prior to the issuance of each building permit, any outstanding fee-in-lieu of park land dedication following dedication of the public greenway easements shall be paid to the Town of Garner;
7. Prior to the recording of each phase, improvements to each recreational and useable open space in the preceding phase shall be complete; and prior to the issuance of the first certificate of occupancy in the final phase (Phase 3), improvements to each recreational and useable open space in said final phase shall be complete;
8. Prior to the issuance of the 60<sup>th</sup> certificate of occupancy in Phase 3, construction of the Public Greenway shall be completed;
9. The developer shall be responsible for all roadway improvements required by NCDOT.

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

The Planning Commission reviewed this request at their July 15, 2019 meeting. By a vote of 3-2, the Planning Commission confirmed staff's findings in Section VII that PD-MP-19-03, Oak Park West, is in conformity with adopted town plans and policies, and further accepted staff's statements regarding zoning consistency with the Garner Forward Comprehensive Plan, being detailed in Section V of this report, as their own, and recommended approval of PD-Z-19-03 to the Town Council by a vote of 4-1.

Staff recommendations for rezoning request (PD-Z-19-03) and master plan (PD-MP-19-03) conformity are highlighted in the motion worksheets on the following pages.

## **PD-Z-19-03 – Oak Park West**

### *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:

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**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) 3991 approving rezoning request PD-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 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 adequate buffers and usable open spaces that help to preserve and protect adjacent housing stock.
- ☐ Allow the development of an appropriate density of housing in the area in which it is located.
- ☐ Allow for the conservation and preservation of natural features and green space to promote recreation opportunities.
- ☐ 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 PD-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 Garner Forward Comprehensive Plan, detailed in Section V 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 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 adequate buffers and usable open spaces that help to preserve and protect adjacent housing stock.
- ☐ Allow the development of an appropriate density of housing in the area in which it is located.
- ☐ Allow for the conservation and preservation of natural features and green space to promote recreation opportunities.
- ☐ Provide your own reason:

and therefore, I move further that the Town Council adopt Ordinance No. (2019) 3991 approving rezoning request number PD-Z-19-03.

## **PD-MP-19-03 Oak Park West**

### *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 Town plans and ordinances and Approve:**

2. Find Inconsistent with Town plans and ordinances and Deny:

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

**1. Find Consistent with Town plans and ordinances 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 PD-MP-19-03, Oak Park West with the three standard conditions and nine (9) 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, etc.:**

2. Find Inconsistent with Town plans and ordinances 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 master plan Oak Park West – PD-MP-19-03.

## Meeting Sign-in Sheet

<b>Project:</b>	Oak Park West	<b>Meeting Date:</b>	May 23, 2019 at 7 PM
<b>Faciliator:</b>	Royal Oaks, a Division of Mattamy Homes	<b>Place/ Room:</b>	First Baptist Church of Garner located at 601 St Marys Street, Garner, NC 27529

Name	Address	Phone	Email
Jim & Margie Kirby	109 OREGON TR. GARNER NC	919-348-1339	
David Puluso	151 Byefield Dr	919-796-4038	Dpuluso@gmail.com
John & Janet Charice	196 Gunderson Ln.	984-200-7470	Jac006@optonline.net
Kevin & Laune Kanny	108 Edmer La.	919-757-5783	spikerkev@nc.rr.com
Dan & Jennifer Demboski	152 Gunderson	704-477-8458	
ROSANNA SUEPO	192 Gunderson LN	857-334-0318	R Suepo374@gmail.com
Charles & Bryan	1405 New Bethel Ch Rd.	919-815-6415	
Dr. Raynor	PO Box 365 Garner, NC 27529		
Henry Thompson	1202 New Bethel Church Road	919-773-9706	
Beth Blackmon	919-866-4509		<a href="mailto:beth.blackmon@timmons.com">beth.blackmon@timmons.com</a>
Savannah Langkamp	919-866-4506		<a href="mailto:savannah.langkamp@timmons.com">savannah.langkamp@timmons.com</a>
Rob Bailey	919-235-2964		<a href="mailto:Rob.Bailey@MattamyCorp.com">Rob.Bailey@MattamyCorp.com</a>
Bruce Herbert	919-819-2692		<a href="mailto:Bruce.Herbert@MattamyCorp.com">Bruce.Herbert@MattamyCorp.com</a>
Keith Roberts	919-866-4940		<a href="mailto:Keith.Roberts@timmons.com">Keith.Roberts@timmons.com</a>

Summary of Discussion From the Neighborhood Meeting			
<b>Project:</b>	Oak Park West	<b>Meeting Date:</b>	Thursday, May 23, 2019
<b>Applicant:</b>	Royal Oaks	<b>Place/ Room:</b>	First Baptist Church/ 601 St Mary's St Garner
<b>Contact Information:</b>	Jim Chandler/ jim.chandler@timmons.com/ 919.866-4507	<b>Time:</b>	7:00 PM

Meeting started with an overview of the project and a summary of what different types of zoning classifications there are & an explanation of lot size, sizes of existing single family lots & townhomes along with explanation of location of each. Briefly discussed amenities and greenway/walking paths and road improvements. Attendies varied but seemed to be mostly Oak Park and Mobile Hill Estates residents. Approval process & remaining steps were discussed (review, planning commission, town council).

Summary of questions/ comments and responses from the neighborhood meeting:

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**Questions/ Concern #1:** (Mobile Hill Estates Resident) Will the property setback come up to my property line?

**Applicant Response:** As of now, no. We are planning on leaving a buffer but they are allowed to back up to other properties. Trees 4" DBH or greater will remain in current proposed buffer.

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**Questions/ Concern #2:** How will traffic compensate for the large increase in workers in the area (rush hour)?

**Applicant Response:** Clarified that we are proposing 600 max units even though there are 1100 allowed. 540 Interchange being built S of NBCR (2024/25) and connect to Hwy 70. Proposed Road improvements on White Oak, Hebron Church, and 2 new Wake Co Schools will make the area a priority for road improvements.

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**Questions/ Concern #3:** Will they scrub the ice/snow down NBCR now?

**Applicant Response:**

Yes, they should due to the schools and new development

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**Questions/ Concern #4:** Will this effect taxes?

**Applicant Response:**

Cannot answer.

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**Questions/ Concern #5:** Could you explain more on road improvements?

**Applicant Response:** Explained TIA and how that gives us what we need to do to account for increase in traffic, our storage and turn lanes that are proposed for NBCR - but besides that it was hard to say exactly when/what is happening... sellers chimed in on a few they knew of such as Ackerman extension to Hwy 50, Hwy 50 to a 4-lane road and noted that a lot of traffic is from Johnston Co and not Garner development in itself... Rob/Keith also explained how development has to come before road improvements.

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**Questions/ Concern #6:** When would you start building/process for approval?

**Applicant Response:** Currently in re-zoning, Site Plan Approval 3 months, Construction Documents 5 months... so looking at moving dirt in March/April 2020 and houses in 2021.

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**Questions/ Concern #7:** When will the properties be cleared? (Oak Park resident)

**Applicant Response:**  
Next summer

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**Questions/ Concern #8:** Is any on NBCR being fixed? The bridge?

**Applicant Response:**  
NBCR & Clifford Rd is scheduled to be repaved, we are required to upgrade the sections of NBCR along our property to the city's requirements & Oak Park is/has done the same, bridge should be replaced but unsure when.

---

**Questions/ Concern #9:** More explanation for the bridge?

**Applicant Response:** (Keith Roberts) This year, city has approved and in contractors hands, just waiting on them to start

---

**Questions/ Concern #10:** When are you taking over Mobile Hills?

**Applicant Response:** No intention of doing so, not even sure if it is possible with all the different owners.

---

**Questions/ Concern #11:** Will this increase our property value?

**Applicant Response:**  
Irresponsible to say.

---

**Questions/ Concern #12:** Will the pool amenity area be shared with Oak Park residents?

**Applicant Response:**  
  
Would like to but this will need to be a separate conversation with Oak Park.

---

**Questions/ Concern #13:** What is the timeline for the pool amenity area?

**Applicant Response:**

Within 12 months of recording first lots.

---

**Questions/ Concern #14:** Some people did not receive letters that live in Oak Park?

**Applicant Response:**

The city decides who recieves letters. Also discussed how this is a new process and that until recently they didn't even have a meeting.

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

**ORDINANCE NO. (2019) 3991**

**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 **Royal Oaks** in Rezoning Application No. **PD Z 19-03 (PRD C8)**.

**Section 2.** There is hereby created a new conditional use zoning district, to be known as the Planned Residential District Conditional Use (PRD C8); within this district, all of the regulations that apply to property within the Planned Residential District Conditional Use (PRD C8) 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 Planned Residential District Conditional Use (PRD C8) district.*

1. Permitted use table:

Use Category	Specific Use	PRD C8
Household Living	Townhouse	P*
	Single-family	P*

2. Any form of group living protected by state or federal statute for use in single-family dwellings shall be permitted according to the specific use standards of the Garner Unified Development Ordinance.
3. The maximum density shall not exceed 3.1 dwelling units per acre with a maximum of 580 dwelling units of which no more than 180 shall be townhomes.
4. A deviation of greater than 20% is requested regarding Section 6.12.A single family lot sizes in PRD developments. This section requires 60% of all single-family lots to be at least 12,000 SF and 40% meeting a 9,000 SF lot size. 400 single family lots are proposed. A deviation allowing 120 lots or 30% of the single family lots to be 5,520 SF or larger instead of 12,000 SF is proposed, a 54% reduction in size and 280 lots or 70% of single family lots to be 4,830 SF or larger instead of 9,000 SF, an approximate 46% reduction.
5. A deviation of greater than 20% is requested for Section 6.12.A building setbacks for a PRD development. Lot setbacks are outlined to follow the requirements for the R-12 zoning district. R-12 setbacks are as follows: Front-30', Rear-20', Side 6' minimum, 15' combined minimum, Corner Side-20'. Proposed setbacks for the detached single-family lots are as follows: Front-20' (a 33% reduction), Rear-20', Side 5' (a 33% reduction), Corner Side-12' (a 40% reduction). For the attached townhomes, lot setbacks are as follows: Front-35', Rear-25', Side-15', Corner Side-25'. Proposed setbacks are as follows: Front-20' (a 43% reduction), Rear-20' (a 20% reduction), Side 10' (a 33% reduction), Corner Side-10' (a 60% reduction). In addition, the attached townhomes shall not comply with the building triangulation method found in Section 6.10.E.
6. A deviation of greater than 20% is requested for Section 8.2.K.8. where two streets may not intersect on the same side of another street at a distance of less than 400 feet. A deviation allowing a reduction in the separation of intersections of up to 32% less than the 400 feet required.
7. The community pool shall be a minimum of 4,000 square feet and the clubhouse shall be a minimum of 1,800 square feet under roof.
8. Townhomes shall have at least a one-car garage. All single-family homes shall have a at least a two-car garage.
9. All housing types shall have a minimum 0.045-gauge vinyl siding with at least one brick, board & batten, or stone accent. Product C shall have a masonry accent along

with an additional board & batten or shake accent. Product A shall have a minimum of 35 SF of accent, Product B shall have a minimum of 100 SF of accent and Product C shall have a minimum of 125 SF of accent.

10. Garage doors for townhomes shall have carriage door hardware or windows. All garage doors for the single-family homes shall have carriage door hardware and windows.
11. Townhomes shall be slab on grade with treatments such as paint, brick or stone to cover exposed concrete on the front and sides. Product B shall be slab on grade turned down with 18" wainscot brick or stone on the front, sides shall be scratch mortar and paint to match siding. Product C shall be slab on grade turned down or crawl space with brick or stone on front and sides.
12. All eaves and rakes shall be 12" minimum on front, rear, and sides. Dormers and gables shall have 8" minimum eaves. All housing types shall have 30-year architectural shingles with multiple roof breaks.
13. All townhomes and single-family homes shall have at least one window on each side elevation.
14. Townhome corner street side elevations shall have a minimum of two different siding materials. The two siding materials shall be separated by a skirt board.
15. A front porch or covered stoop is required on all housing types, minimum 4' x 6' or 24 square feet. Posts and columns shall be 6" minimum width/diameter and painted or stained to match trim color.
16. The recreational & useable open space located between the townhomes and the single-family homes in Phase 1 shall have hardscape, enhanced landscaping and sidepaths. Two recreational & useable open space areas located in Phase 2 shall each have two (2) park benches, hardscape and enhanced landscaping. Remaining recreational & useable open space shall have trails to connect open space areas together and provide enjoyment of the natural environment.
17. A 7-foot tall landscaped berm shall be installed along the project's frontage on New Bethel Church Road.

**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
Charles Bryan, Walter Bryan, Bobby & Margaret Raynor	1619-84-7756, 1619-84-9320, 1619-93-4708, 1619-93-8515, 1619-81-5817	Single-Family Residential (R-40) and Single-Family Residential (R-20)	Planned Residential District Conditional Use (PRD C8)

**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 3<sup>rd</sup> day of September 2019.

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Ronnie S. Williams, Mayor

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



Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: September 3, 2019		
Subject: UDO-19-03, Bar, Nightclub, Tavern in the CBD - Rand Mill Rd.		
Location on Agenda: Public Hearings		
Department: Planning		
Contact: Jeff Triezenberg, AICP, GISP; Planning Director		
Presenter: Jeff Triezenberg, AICP, GISP; Planning Director		
Brief Summary:  Unified Development Ordinance (UDO) text amendment request 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. This amendment would extend the previous amendment to CBD properties along Rand Mill Road.		
Recommended Motion and/or Requested Action: Refer to Planning Commission - Sept. 16		
Detailed Notes: See attached staff report.		
Funding Source:		
Cost:	One Time: <input type="radio"/>	Annual: <input type="radio"/> No Cost: <input checked="" type="radio"/>
Manager's Comments and Recommendations:		
Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	JST	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

## Planning Department Memorandum

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**TO:** Honorable Mayor and Town Council Members

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

**SUBJECT:** ***UDO-19-03, Bar, Nightclub, Tavern Use in the CBD – Rand Mill Rd.***

**DATE:** September 3, 2019

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### **I. BACKGROUND**

The Planning Department is actively engaged with the Downtown Garner Association, the association's manager and various association subcommittees. Over the months, the Department has examined the Unified Development Ordinance closely in how it applies to the Central Business District. Interest in the Central Business District is growing. At the same time, staff is sensitive to the dynamics and interplay of commercial and residential uses in close proximity to each other and is taking an incremental approach. Just a few months ago, a similar text amendment was approved for CBD-zoned property along Main Street to allow bars, nightclubs and taverns subject to the Council's approval of a Special Use Permit. This amendment would extend that previous approval to CBD-zoned property along Rand Mill Road.

Preliminary draft language changes are shown in the following section of this report. Staff will be on hand to discuss the exact nature of the amendment that is being proposed. Staff considers the amendment as positive in nature and in support of **Garner Forward** promoting downtown as an area that is "*fostering downtown's reputation as the destination for local flavor and flair in Garner*" but would like to take the opportunity to share, take suggestions and answer any questions from management, the Mayor and Town Council Members.



Town of Garner  
Town Council Meeting  
Agenda Form

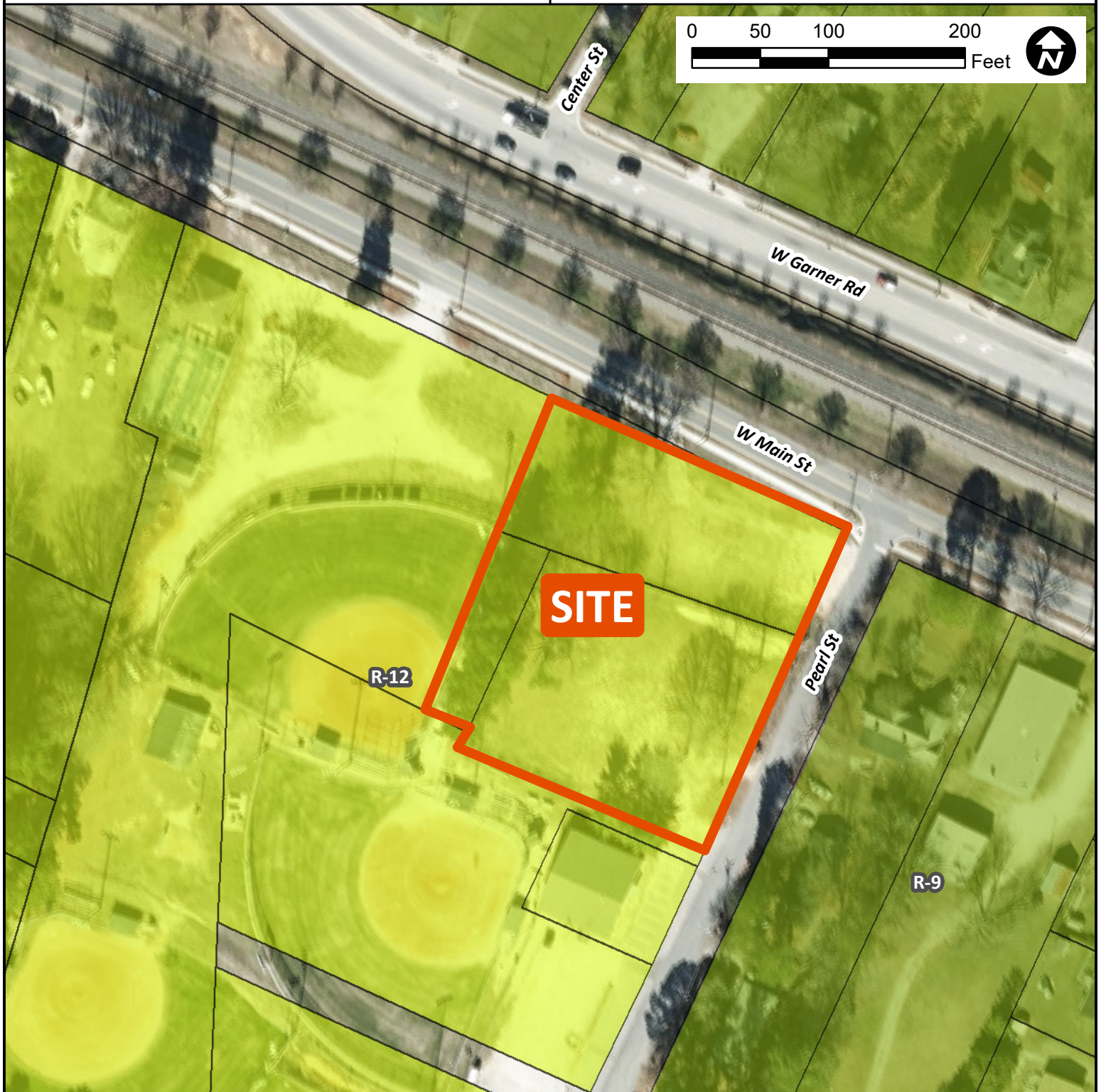
Meeting Date: September 3, 2019		
Subject: CUD Z-19-08 & CUP-SP-19-15 Garner Depot		
Location on Agenda: Public Hearings		
Department: Planning		
Contact: Jeff Triezenberg, AICP, GISP; Planning Director		
Presenter: Jeff Triezenberg, AICP, GISP; Planning Director		
Brief Summary:  Conditional use rezoning (CUD-Z-19-08) with associated conditional use site plan (CUP-SP-19-15) request submitted by the Town of Garner on behalf of the Garner Area Historical Society to rezone 1.24 +/- acres from Single-family Residential (R-12) to Central Business District (CBD C221) conditional use for a museum. The site is located at the southwest corner of W. Main and Pearl streets and may be further identified as Wake County PIN #(s): 1711-52-8860, 1711-52-8993 and 1711-52-7855.		
Recommended Motion and/or Requested Action: Consider adoption of Ordinance (2019) 3994		
Detailed Notes: See attached staff report. Use restrictions are proposed as conditions.		
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:		





# Town of Garner Planning Department

## Conditional Use Applications CUP-SP-19-15 & CUD-Z-19-08



**Project:** Garner Depot  
**Applicant:** TMTLA Associates  
**Owner:** Town of Garner  
**Location:** 106 Pearl Street  
**Pin #:** 1711-52-8860, 1711-52-8993 & 1711-52-7855

**Proposed Use:** Museum  
**Current Zoning:** Single Family Residential (R-12)  
**Proposed Zoning:** Central Business District  
Conditional Use (CBD C221)  
**Acreage:** 1.24  
**Overlay:** Garner Road Overlay

## Planning Department Staff Report

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**TO:** Mayor and Town Council

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

**SUBJECT:** *CUD-Z-19-08, Conditional Use Rezoning*  
*CUP-SP-19-15, Conditional Use Site Plan – Garner Depot*

**DATE:** September 3, 2019

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### I. PROJECT AT A GLANCE

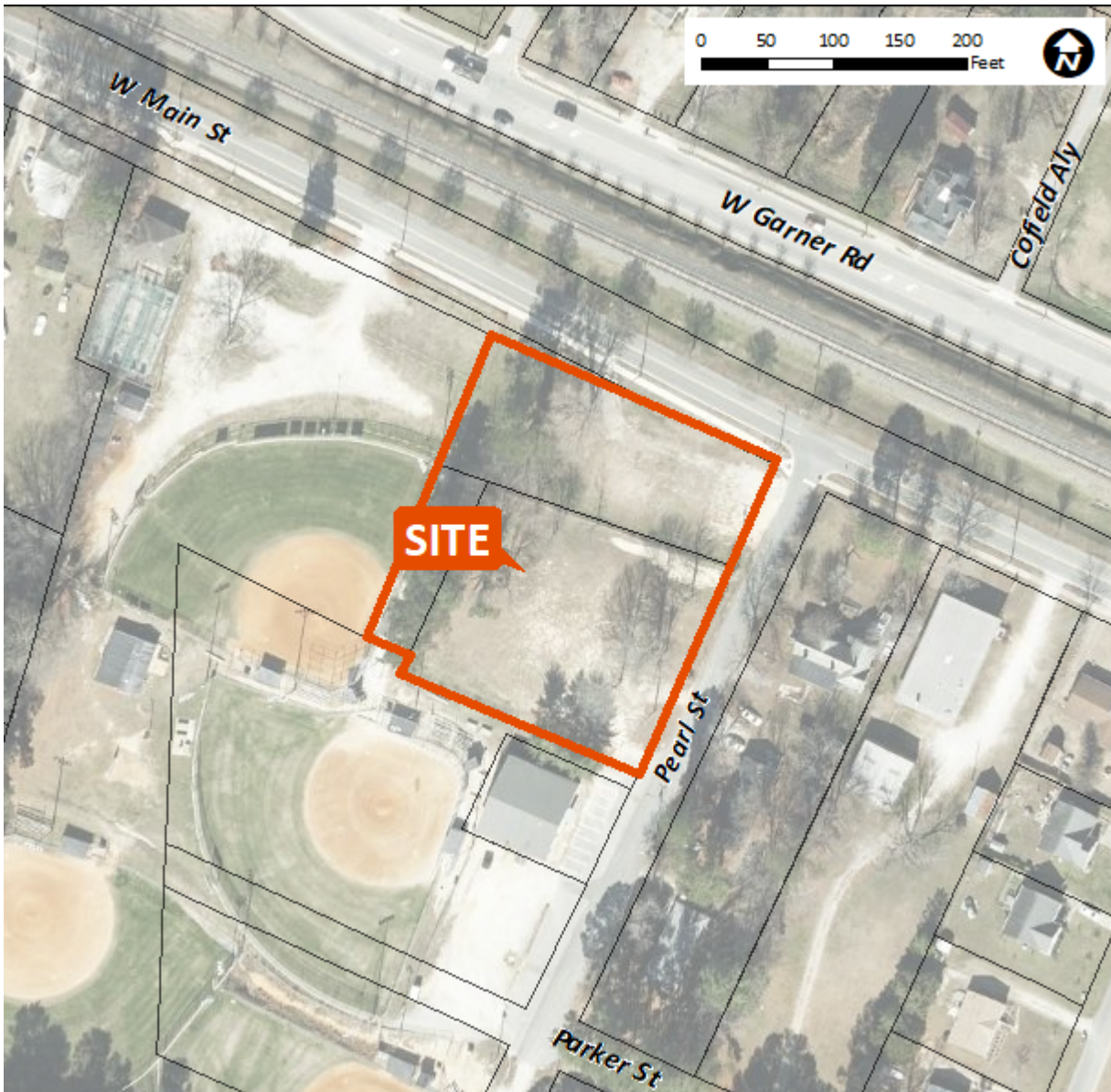
<b>Project Number(s):</b>	CUD-Z-19-08 Conditional Use Rezoning CUP-SP-19-15 Conditional Use Site Plan
<b>Applicant:</b>	Town of Garner
<b>Owner:</b>	Town of Garner
<b>General Description -</b>	
<b>Project Area &amp; Location:</b>	1.24 +/- acres located at the southwest corner of Main and Pearl streets.
<b>Wake Count PIN(s):</b>	1711-52-8860, 1711-52-8993 & 1711-52-7855
<b>Current Zoning:</b>	Single-Family Residential (R-12)
<b>Requested Zoning:</b>	Central Business District (CBD C221)
<b>Proposed Use(s):</b>	Museum
<b>Overlay:</b>	None
<b>Key Meeting Dates:</b>	
<b>Planning Commission:</b>	August 19, 2019
<b>Public Hearing &amp; Action:</b>	September 3, 2019



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

The rezoning (CUD-Z-19-08) and associated site plan (CUP-SP-19-15) have been submitted to develop the site into a museum for the Garner Area Historical Society. The 1.24-acre rezoning site is located at the southwest corner of Main and Pearl streets.

The Town is requesting to rezone the 1.24-acre site from Single-family Residential (R-12) to Central Business District (CBD C221) conditional use. Use restrictions are proposed to limit the range of CBD uses.



### **III. ZONING ANALYSIS**

**Existing:** The existing zoning of the 1.24-acre site is **Single-Family Residential (R-12)**.

Residential districts are designed to create and maintain residential neighborhoods composed primarily of single-family dwellings and, as special uses, such institutional, public, and other compatible uses that are designed, constructed and maintained so as not to detract from the quality of each district. The R-12 district allows single-family lots of at least 12,000 square feet (0.28 acres).

***The following is a list of permitted uses in the R-12 district:***

- |  |   |
|--|---|
| 1. Single-Family Detached                      | 11. School, Public or Private (SUP)                             |
| 2. Residential Cluster                         | 12. Ambulance Service, Police or Fire Station (SUP)             |
| 3. Single-Family Residential Subdivision       | 13. Cemetery  |
| 4. Modular Home                                | 14. Public Park, Swimming Pool, Tennis Court, Golf Course (SUP) |
| 5. Family Care Home                            | 15. Religious Institution                                       |
| 6. Group Care Home                             | 16. Minor Utility, Elevated Water Storage Tank                  |
| 7. Intermediate Care Home                      | 17. Golf Course or Country Club, Private (SUP)                  |
| 8. Community Center (SUP)                      | 18. Bed and Breakfast (SUP)                                     |
| 9. Child Day Care (up to 3 as home occupation) |   |
| 10. Family Child Day Care (up to 8 in-home)    |   |

**Proposed:** The proposed zoning of the 1.24-acre site is **Central Business District Conditional Use (CBD C221)**. This district is intended to provide for and maintain the Main Street business district. Use restrictions are proposed as part of this request.

***The following is a list of generally permitted uses in the CBD District, but will only be conditionally permitted as noted in the proposed conditions following this list:***

- |  |   |
|--|---|
| 1. Townhouse   | 12. Ambulance Service, Rescue Squad, Police or Fire Station (SUP) |
| 2. Condominium   | 13. Government Office (SUP)                                       |
| 3. Upper-Story Residential                                       | 14. Hospital (SUP)  |
| 4. Community Center (SUP)  | 15. Medical Clinic  |
| 5. Library, Museum, Art Gallery, Art Center                      | 16. Cemetery  |
| 6. Other Community Service (SUP)                                 | 17. Public Park, Swimming Pool, Tennis Court, Golf Course         |
| 7. Civil, Service Fraternal Clubs, Lodges and Similar Uses (SUP) | 18. Religious Institution   |
| 8. Business School, College or University Satellite              | 19. Minor Utility – Elevated Water Storage Tank                   |
| 9. Trade/Vocational (SUP)  | 20. Golf Course or Country Club, Private (SUP)                    |
| 10. Music, Dance, Art Instruction                                |   |
| 11. Funeral Home and Crematorium                                 |   |

- |  |  |
|--|--|
| 21. Gym, Spa, Indoor Tennis Court or Pool, Private       | (excludes commercial greenhouses or any use with outdoor operations) |
| 22. Theater (SUP)  |  |
| 23. Medical Office, Individual                           | 32. Hair Salons, Barbershops, Beauty Shops                           |
| 24. Other Office   | 33. Banks or Financial Institutions                                  |
| 25. Bed and Breakfast (SUP)                              | 34. Repair Oriented Use (no outdoor operations)                      |
| 26. Parking Commercial (SUP)                             | 35. Sales Oriented Use (no outdoor operations)                       |
| 27. Restaurant, Indoor with Seating Only                 | 36. Veterinarian/Kennel, Indoor                                      |
| 28. Restaurant, Take-Out Only (drive-through or walk-up) | 37. Outdoor athletic facility / outdoor entertainment                |
| 29. Convenience Store without Fuel Sales                 | 38. Manufacturing Indoor only  |
| 30. Open Air Market (SUP)                                |  |
| 31. Personal Service-Oriented Use                        |  |

***The following conditions are proposed for the CBD C221 district:***

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

Use Category	Specific Use	CBD C221
Household Living	Townhouse	P*
	Condominium	P*
	Upper-Story Residential	P*
Community Service	Community Center	SUP
	Library, Museum, Art Gallery, Art Center	P
	Other Community Service	SUP
	Civil, Service Fraternal Clubs, Lodges and Similar Uses	SUP
Educational Facilities & Services	Music, Dance, Art Instruction	P
Government Facilities	Government Office	SUP
Parks & Open Space	Public Park, Swimming Pool, Tennis Court, Golf Course	SUP
Office	Medical Office, Individual	P
	Other Office	P
Overnight Accommodation	Bed and Breakfast	SUP
Parking Commercial	Parking Commercial	SUP
Retail Sales & Service	Personal Service-Oriented Use	P*
	Hair Salons, Barbershops, Beauty Shops	P
	Sales Oriented Use (no outdoor operations)	P

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

Case	Applicant	Location	Zoning Change
CUD-Z-97-05	Town of Garner	E Main St	R-9 to O&I C70
CUD-Z-16-03	Town of Garner	W Main St	R-9, O&I C104, CBD to CBD C183
Z-18-05	Lee Carroll	Purvis St	R-9 to CBD

**Adjacent Zoning and Land Use:**

<b>North:</b>	R-9	Railroad, Mixed Household Living
<b>South:</b>	R-12	Office, Baseball Fields
<b>East:</b>	R-9	Single-Family Detached
<b>West:</b>	R-12	Baseball Fields



**Overall Neighborhood Character:**

This area along Pearl Street is located south of W Main Street. This area contains mostly residential zoning districts but is just one (1) block from the new Garner Recreation Center which is zoned CBD. Uses are diverse as one might expect in this historic center of town. These uses include single-family detached homes, duplexes, general office space, a fraternal lodge and recreational baseball fields.



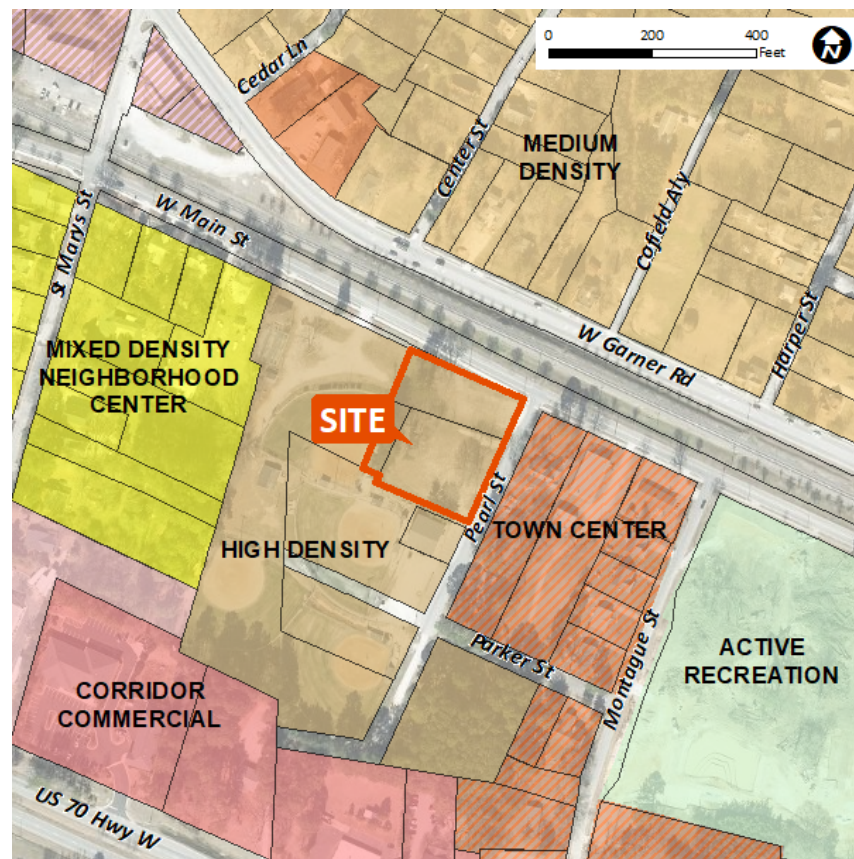
#### **IV. TRAFFIC IMPACTS**

The site has a short distance of frontage along Pearl Street. While there is frontage on W. Main Street, a sliver of railroad property intervenes along most of it. Pearl Street is an approximately 20 to 24-foot Town-maintained facility within an approximate 40-foot right of way. This road lacks curb, gutter and sidewalks. There is no traffic count data available, and the project does not require a TIA.

#### **V. 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 **High-Density Residential** category; the surrounding tracts in this area include Mixed Density Neighborhood Center, Active Recreation, Town Center, and Corridor Commercial.

The **High-Density Residential (HDR)** land use category includes The High-Density Residential includes single-family, duplex, triplex, quadplex, and townhome-style residences at a density of not less than five (5) units per acre. High-Density Residential structures may also include auxiliary units either attached to or detached from the main residence. The HDR district encourages context sensitive residential uses that preserve and enhance the culture of adjacent residential communities.



**Zoning Consistency Statement:** The requested rezoning from Single-Family Residential (R-12) to Central Business District (CBD C221) conditional use is not consistent with the *2018 Garner Forward Comprehensive Plan's* future land use designation of High Density Residential (HDR); however it is consistent with the *Comprehensive Plan's* guiding principles of “building on and conserving the existing character” and “commercial development”, including the following practices and policies identified within respective guiding principle:

- Market a healthy brand that celebrates the local flair of Garner and emphasizes the Town’s positive evolution (pg. 58 of Comp Plan); and
- Encourage redevelopment and reuse of existing sites and buildings that are complimentary to the surrounding area (pg. 58 of Comp Plan).

While the Future Land Use map currently designates this area as High Density Residential, the downtown Garner Forward “Opportunity” site sketch shows a pocket park in the area where the Depot is proposed to go (pg. 53 of Comp Plan).



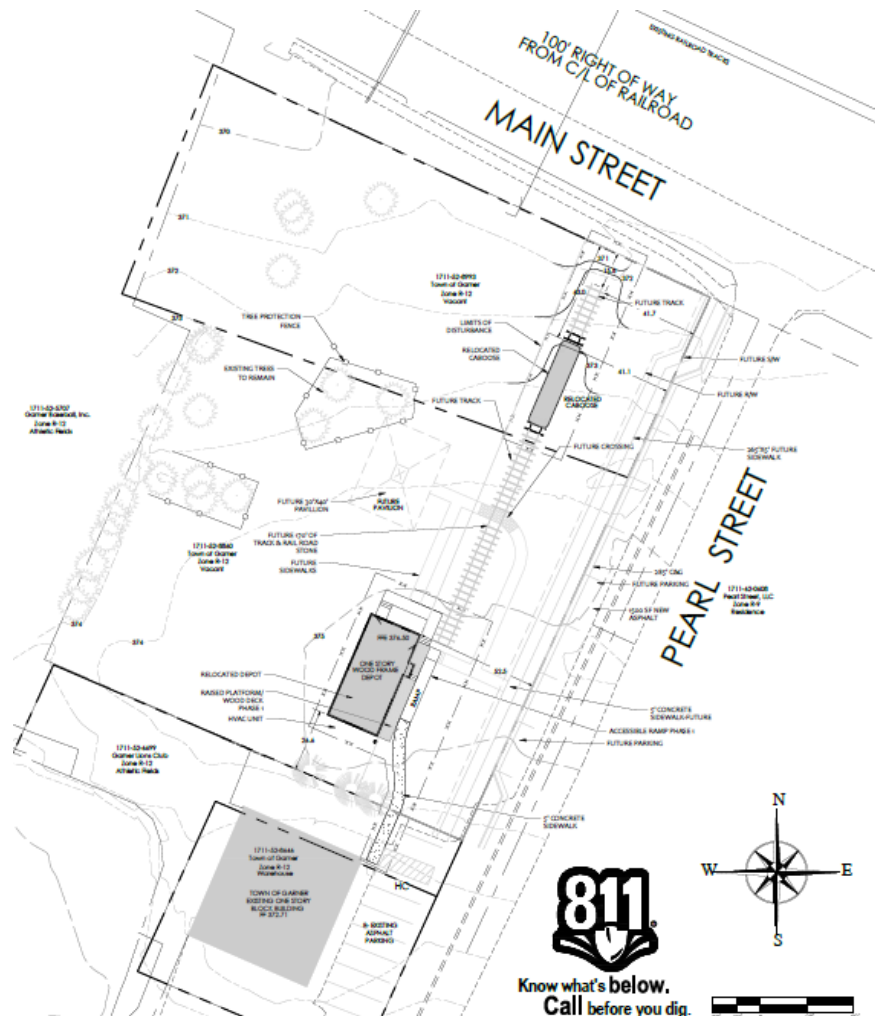


This rezoning will require an amendment only to the Future Land Use Map to designate the site from High-Density Residential (HDR) to Town Center (TC). The **Town Center** land use category already exists on the opposite side of Pearl Street and is intended for both the traditional downtown core (accompanied by historic overlay considerations) and other concentrations of development near transit stops, established government uses, and other diverse, mixed-use locations are part of the Town Center designation. Uses and buildings are located on small blocks with streets designed to encourage pedestrian activity.

## VI. SITE PLAN PROJECT DATA

**Acreage:** 1.24 +/- acres

**Building Size:** The depot building to be relocated is 1,334 square feet.



**Building Materials:** Existing. Relocated historic building.

**Landscape and Buffer Requirements:**

This is the first phase of a multi-phase plan being developed jointly by the Town of Garner and the Garner Area Historical Society. Landscape points for the front yard (along Pearl Street) have been estimated so that an appropriate amount of plant material per the UDO will be installed adjacent to the depot building. The plan as proposed meets the requirements of the Landscape Ordinance.

- **Tree Cover:** TBD and installed with second phase.
- **Street Buffers:** TBD and installed with second phase.
- **Perimeter Buffers:** TBD and installed with second phase.

**Parking Spaces:**

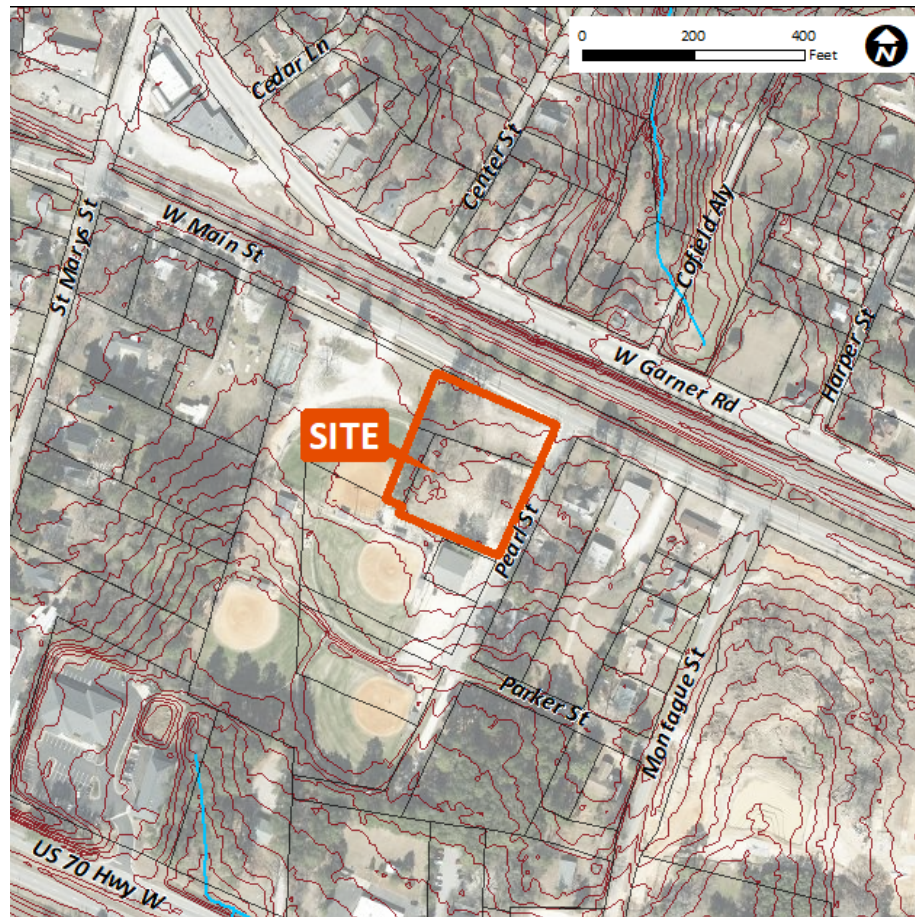
Parking is based on 1 parking space minimally for every 300 square feet of museum space.

- Required: 5 (1 accessible)
- Proposed: 5 (1 accessible) existing and available

Spaces are shared with the Town's adjacent office/storage building.

**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*** – This project does not increase the impervious area on the site; therefore, no stormwater mitigation is necessary at this phase.

***Water/Sewer*** – Existing water and sewer connections are available along Pearl Street. Bathrooms will be shared with the Town’s adjacent office/storage building. There are no current plans to connect utilities to the depot.



***Frontage Improvements*** – Pearl Street does not have curb, gutter or sidewalk currently. Future phase will add these street features as well as parallel on-street parking.

***Site Access*** – n/a, although one existing curb cut exists on W. Main St.

***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 provide any recommendations for Pearl Street beyond what the Unified Development Ordinance would require for town streets; therefore, this project, as proposed, may be found to be in conformity 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 with no present increase in impervious area or gross building floor area above what previously existed on the site (2,297 hsf), conforms to the regulations of the Unified Development Ordinance so long as the following project specific conditions are met:

1. A landscape plan for the entire 1.24-acre site must be submitted with the site plan application for the next phase of development;
2. Prior to the issuance of a certificate of occupancy for any building or structure not part of this first phase of development, Pearl Street shall be widened and improved to its ultimate cross-section;
3. Prior to the issuance of a building permit for any building or structure not part of this first phase of development, a recombination plat shall be recorded.

**VIII. PLANNING COMMISSION NOTES AND RECOMMENDATION**

The Planning Commission reviewed this request at their August 19, 2019 meeting. With a unanimous vote, the Planning Commission confirmed staff's findings in Section VII that CUP-SP-19-15, Garner Depot, 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-19-08 to the Town Council.

Staff recommendations for rezoning request (CUD-Z-19-08) and site plan (CUP-SP-19-15) conformity are highlighted in the motion worksheets on the following pages.



## **CUD-Z-19-08 – Garner Depot**

### *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's Guiding Principles 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 in so doing, also amend/correct the Future Land Use Map from High-Density Residential to Town Center -; and I therefore move further that the Town Council adopt Ordinance No. (2019) 3994 approving rezoning request CUD-Z-19-08 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 the downtown area;
- ☐ 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-19-08."

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* \_\_\_\_\_

- ☐ 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 the downtown area;
- ☐ *Provide your own reason:* \_\_\_\_\_

and therefore, I move further that the Town Council adopt Ordinance No. (2019) 3994 approving rezoning request number CUD-Z-19-08, and in so doing, also amend the Town's Comprehensive Growth Plan from designating the subject property as High-Density Residential to Town Center."



## **CUP-SP-19-15 – Garner Depot**

### *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 Town plans and ordinances and **Approve**:

2. Find Inconsistent with Town plans and ordinances and Deny:

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

**1. Find Consistent with Town plans and ordinances 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-19-15, Garner Depot 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, etc.:***

2. Find Inconsistent with Town plans and ordinances 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 Garner Depot – CUP-SP-19-15.

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

**ORDINANCE NO. (2019) 3994**

**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 Town of Garner in Rezoning Application No. CUD-Z-19-08 (CBD C221).

**Section 2.** There is hereby created a new conditional use zoning district, to be known as the Central Business District Conditional Use (CBD C221); within this district, all of the regulations that apply to property within the Central Business District Conditional Use (CBD C221); 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 Central Business District Conditional Use (CBD C221); district.*

1. Permitted use table:

Use Category	Specific Use	CBD C221
Household Living	Townhouse	P*
	Condominium	P*
	Upper-Story Residential	P*
Community Service	Community Center	SUP
	Library, Museum, Art Gallery, Art Center	P
	Other Community Service	SUP
	Civil, Service Fraternal Clubs, Lodges and Similar Uses	SUP
Educational Facilities & Services	Music, Dance, Art Instruction	P
Government Facilities	Government Office	SUP
Parks & Open Space	Public Park, Swimming Pool, Tennis Court, Golf Course	SUP
Office	Medical Office, Individual	P
	Other Office	P
Overnight Accommodation	Bed and Breakfast	SUP
Parking Commercial	Parking Commercial	SUP
Retail Sales & Service	Personal Service-Oriented Use	P*
	Hair Salons, Barbershops, Beauty Shops	P
	Sales Oriented Use (no outdoor operations)	P

**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
Town of Garner	1711-52-8860, 1711-52-8993 & 1711-52-7855	R-12	Central Business District Conditional Use (CBD C221)

**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 3<sup>rd</sup> day of September, 2019.

---

Ronnie S. Williams, Mayor

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

Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: September 3, 2019		
Subject: Historic Depot Relocation Costs		
Location on Agenda: Old/New Business		
Department: Administration		
Contact: Rodney Dickerson, Town Manager		
Presenter: Rodney Dickerson, Town Manager		
<b>Brief Summary:</b>  Staff introduced the preliminary estimate of costs and potential site configurations at the July 16th meeting. Since that time the rezoning and site plan approval have been presented to the Planning Commission and the Town Council. This discussion will lay out any updated costs for the base plan and additional features depending on Town Council action and direction.		
<b>Recommended Motion and/or Requested Action:</b> Approve project cost estimate and budget; Approve Resolution (2019) 2388		
<b>Detailed Notes:</b>  Project has the ability to be phased over a number of years. The base plan consists of relocating the Historic Depot building, adding loading dock and ramp, as well as relocating the caboose. Other site elements could include parking, curb and gutter, and extended sidewalk.		
<b>Funding Source:</b> Fund Balance		
Cost: \$354,500-\$501,500	One Time: <input checked="" type="radio"/>	Annual: <input type="radio"/> No Cost: <input type="radio"/>
<b>Manager's Comments and Recommendations:</b> Included copy of contract with GAHS for reference only. Can be approved closer to project completion.		
Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	RD	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		



## Historic Depot Relocation Cost Estimate- September 3, 2019

### Base Estimate:

Phase 1	
Moving Cost	42,750
Structural Restoration	117,000
Ramp/Deck	12,000
Footings/Foundation	32,000
Roof Insulation	4,000
Replace Exterior Sliding Door	3,500
Sidewalk to bathrooms, parking	3,500
Landscaping	3,500
Utility (electricity)	2,500
HVAC connection	2,500
Caboose relocation	45,000
Signage (site and wayfinding)	3,000
Site Plan for permit	10,000
Interior sink (optional)	n/a
Water/Sewer	n/a
Alarm System	2,000
Lion's Club parcel	0
Miscellaneous Related to Site	25,000
Subtotal	308,250
Contingency (15%)	46,250
<b>TOTAL</b>	<b>\$354,500</b>

### Expanded Scope:

Phase 1	
Moving Cost	42,750
Structural Restoration	117,000
Ramp/Deck	12,000
Footings/Foundation	32,000
Roof Insulation	4,000
Replace Exterior Sliding Door	3,500
Sidewalk to bathrooms, parking	3,500
Landscaping	3,500
Utility (electricity)	2,500
HVAC connection	2,500
Caboose relocation	45,000
Signage (site and wayfinding)	3,000
Site Plan for permit	10,000
Interior sink (optional)	n/a
Water/Sewer	n/a
Alarm System	2,000
Lion's Club parcel	0
Miscellaneous Related to Site	25,000
Phase 2	
Addition of Curb and Gutter, Sidewalk, Parking, contingency	147,000
Subtotal	455,250
Contingency	46,250
<b>TOTAL</b>	<b>\$501,500</b>

RESOLUTION NO. (2019) 2388

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

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

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

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

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

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

NOW, THEREFORE, BE IT RESOLVED:

1. That the Town Council of the Town of Garner approves of the funding and process to relocate the Garner Depot and caboose to a site adjacent to the Town's Pearl Street facility, and that the Garner Depot be rehabilitated consistent with preservation standards, for use as an educational, cultural and historic facility, and

2. That the Town of Garner partner with the Garner Area Historical Society to preserve Garner's history and to further the use of the relocated Garner Depot and caboose for cultural, educational and historic benefits to the general public.

Duly adopted, this the 3<sup>rd</sup> day of September, 2019.

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Ronnie S. Williams, Mayor

ATTEST:

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Stella L. Gibson, Town Clerk



# Town of Garner

900 7<sup>th</sup> Ave. \* Garner, North Carolina 27529

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

## CONTRACT FOR MUSEUM SERVICES

Contract for Museum Services dated as of \_\_\_\_\_ by and between the Town of Garner, a North Carolina Corporation ("Town") whose address is 900 Seventh Avenue, Garner NC and the Garner Area Historical Society, a North Carolina non-profit corporation ("Society") whose address is P.O. Box 156, Garner, NC.

WHEREAS, the Town owns real property located at 110 Pearl Street, and the building located thereon known as Garner Historic Depot ("Museum"); and

WHEREAS, Society will operate a historical museum at the Museum, consisting of a collection of artifacts, exhibits, photographs, documents and other items owned (or on-loan) by Society ("Collection"); and

WHEREAS, because Society's interest in operating the Museum and its ownership of the Collection, Society is the only source for the services that it is to provide under this Contract, and it is in the best interest of the Town and its residents that Town contract with Society for such services on a sole source basis.

NOW, THEREFORE, for and in consideration of the premises, and the terms, covenants, conditions and provisions contained herein, the parties agree as follows:

### ARTICLE I

#### Provision of Services, Term, Compensation

Section 1.1. Agreement to Provide Services. Society shall operate the Museum and provide museum services for the Town as described in Article II.

Section 1.2. Term of Contract. The term of this contract commences \_\_\_\_\_ and expires \_\_\_\_\_ in ten years \_\_\_\_\_, and is renewable for successive 5-year periods on mutual consent; provided that either party may terminate this contract upon thirty (30) days written notice to the other party.

If the Contract is terminated or not renewed, the Society agrees to remove all items of personal property within 90 days, and understands that if all such items are not removed, the Town shall have a

possessory lien on the same, with ownership of all items except those documented to be on-loan to the Museum to become the property of the Town, and the right to remove and warehouse and/or find an appropriate entity to assume ownership of the same and/or dispose of them, all in accordance with applicable laws. In doing so, Town assumes no liability for the protection or maintenance of such personal property.

Section 1.3. Compensation. Nothing in this agreement shall imply that the Town shall compensate the Society or any of its members for the operation of the Museum. Town will pay directly or provide funds for various costs associated with the operation of the Museum as outlined in Article III below. The Town, at its discretion, may provide funds, discretionary or otherwise, for items associated with the operations of the Museum.

## **ARTICLE II**

### **Scope of Services**

Section 2.1. Scope of Work in General. Society shall provide museum operation services at the Museum, including without limitation, collections care, management of Society's archives, exhibitions, educational programs and building stewardship.

Section 2.2. Specific Museum Management Duties. Subject only to the limitations set forth in this Contract, Society shall have and hereby agrees to undertake and assume, full and complete control and discretion in the management and operation of the Museum during the term of this contract, including without limitation the following:

- (a) Recruit, train and maintain all volunteers as deemed necessary by Society for operation of Museum;
- (b) Adopt and implement all policies relating to the acquisition, accession, loan, care, storage, deaccession and disposal of the Collection in accordance with the standards defined by the American Alliance of Museums;
- (c) Adopt and implement the exhibition, interpretation, display and public access of the Collection in accordance with the standards defined by the American Alliance of Museums;
- (d) Adopt and implement the historical, educational and research policies, programs and activities of the Museum;
- (e) Properly maintain all Collection inventory records, accession records, condition assessment and conservation records, and exhibition records;
- (f) Adopt and implement the budgetary and fiscal policies of the Museum, including the establishment of admission fees and other fees and charges for other program services;
- (g) Keep and maintain the financial books and records of the Museum in accordance with generally accepted accounting principles;
- (i) Adopt and implement the best practices for building stewardship of the Museum;
- (j) Adopt and implement policies relating to the ancillary activities and services offered at the Museum; and
- (k) Adopt and implement policies relating to the promotion and publicity of the Museum.

In performing its duties under this Section, Society shall exercise the same degree of care and skill exercised by nonprofit corporate owners and managers of similar local/regional history museums in the United States and shall comply in all material respects with all laws applicable to the conduct of its business and the use and operation of the Museum.

Section 2.3. Public Museum. Society shall operate the Museum as a facility open to the general public, subject to such reasonable rules and regulations as Society may promulgate in its discretion from time to time regarding matters that include without limitation admission fees; days and hours of operation; the safety of volunteers and the general public; the safety protection and security of the Collection; the anonymity of donors who desire anonymity; and to the extent required by law, the confidentiality of volunteer records and business records.

Section 2.4. Collection. Society shall have full responsibility for the maintenance, care, documentation and use of the Collection. The accession and deaccession of Collection items as well as their management, care, documentation and use shall be governed by Society's Collection Management Policy and in accordance with standards defined by the American Alliance of Museums. The Collection will be used for exhibitions, research and public programs at the discretion of the Society in accordance with its mission in order to provide museum services to the Town.

Section 2.5. Alterations and Improvements to Museum. Society may make whatever nonstructural alterations or improvements to the Museum that it deems necessary or desirable in the best interests of the Museum. Society shall make no structural alterations or additions to the Museum or any associated Town property without the written consent of the Town. Unless otherwise provided in such written consent, any structural improvements or additions constructed by the Society shall become the Town property upon substantial completion. All such nonstructural or structural alterations, improvements and additions, regardless of how funded, shall be part of the Museum real property and shall be subject to the terms of this Agreement. Future phases involving capital, operating and maintenance costs will be determined by future councils as the need arises and upon mutual agreement of both parties.

Section 2.6. Personal Property. Society may furnish, install and maintain at the Museum any and all personal property which Society deems necessary or desirable in connection with the operation of the Museum. All tangible personal property acquired by Town or Society and installed in or located at the Museum, regardless of how funded, shall be deemed to be subject to the terms of this Contract. All personal property installed in or located at the Museum shall be the property of Society. Society may alter, rehabilitate and improve such personal property in such manner, as it deems necessary or desirable in the best interests of the Museum.

Section 2.7. Use of a portion of the Pearl Street Building. Town will allow the Society to use specified rooms at 110 Pearl Street for the Museum, storage of artifacts and office space. The Society will also have access to the facility for restrooms and parking for the Museum. See Exhibit showing floor plan with spaces delineated.

Section 2.8. No liens. In performing any work required or permitted under this contract, Society shall keep Museum free of all liens, and hold the Town harmless from liability for any such liens, including costs and attorney fees.

### **ARTICLE III**

#### **Payment of Expenses**

Section 3.1. In General. Except as this Article provides otherwise, Society shall bear all costs and pay all expenses incurred in providing services required under this contract.

Section 3.2. Utilities. Town shall pay the costs of the following utility services provided to the Museum: heat, air conditioning, electricity, water and sewer, security and fire alarm monitoring fees. Society shall pay the costs of telecommunications/internet services and, except as provided in the preceding sentence, any and all other utilities provided to Society at the Museum.

### Section 3.3. Repairs and Maintenance.

- (a) Society shall provide at its expense the following at the Museum:
  - (1) Interior janitorial services
  - (2) Exhibit construction and maintenance
  - (3) Flower beds and plant box plantings and maintenance
- (b) Town shall provide at its expense the following at the Museum:
  - (1) Maintenance of electrical, water and sewer utility facilities
  - (2) Fire alarm and suppression system annual inspections
  - (3) Snow removal from the parking lot and pedestrian walkways
  - (4) Lawn mowing and general landscaping
  - (5) Maintenance of replacement of sidewalk and parking lot pavement
  - (6) Structural building maintenance or replacements when funds are available
  - (7) Disposal of trash from receptacle outside of the building
  - (8) Replacement of out of reach light bulbs and receptacles as needed

## ARTICLE IV

### Indemnification and Insurance

Section 4.1. Indemnification. To the maximum extent allowed by law, the Society shall indemnify and save harmless the Town and its officers, officials, agents and employees from and against all claims, judgments, costs, expenses, including reasonable attorney's fees, which arises in any manner from or as a result of performance of this contract by, or the acts or omissions of, the Society or the Society's officers, officials, agents or volunteers.

### Section 4.2. Insurance.

(a) Society shall maintain general liability insurance applicable to performance of this contract and shall name the Town as an additional insured on the policy with respect to claims arising out of this contract. A certificate evidencing this insurance shall be submitted to the Town prior to moving into the Town buildings. Insurance shall be in minimum limits of \$1,000,000 (combined single limit for bodily injury and personal property damage liability) and shall be maintained in force for the term of this contract.

## ARTICLE V

### Miscellaneous

Section 5.1. Independent Contractor. Notwithstanding anything to the contrary contained herein, this contract shall not be deemed or construed to make the parties hereto partners or joint ventures, to render either party liable for any of the debts or obligations of the other, or to make either party the agent of the other or to bind or obligate the other in any manner to any third party. Without limiting



the generality of the foregoing, the employees of the Society are not Town employees and are not entitled to any of the benefits Town provides for its employees, including without limitation, health, life or disability insurance, sick for annual leave, or workers' compensation.

Section 5.2. Authority of Signers. Each individual executing this contract hereby represents and warrants that he or she has the capacity set forth on the signature pages hereof with full power and authority to bind the party on whose behalf he or she is executing this contract to the terms hereof.

Section 5.3. Entire Agreement; Amendment. This contract constitutes the entire agreement and understanding of the parties with respect to the subject matter hereof, and there are no other prior or contemporaneous written or oral agreements, undertakings, promises, warranties, or covenants with respect thereto not contained herein. This Agreement may be amended only by a written instrument executed by both parties hereto.

Section 5.4. No Waiver. No waiver of any condition or provisions of this contract by any party shall be valid unless in writing signed by such party. No such waiver shall be deemed or construed as a waiver of any other or similar provision or of any future event, act or default.

Section 5.5. Severability. If any provision of this contract is deemed unenforceable in whole or part, such provision shall be limited to the extent necessary to render the same valid or shall be deemed excised from this contract and replaced by a valid provision as close in meaning and intent as the excised provision as circumstances require, and this contract shall be construed as if said provision had been incorporated herein as so limited or as so replaced, as the case may be.

Section 5.6. Assignment or Delegation. Society may not assign its rights or delegate its duties under this contract, or any party of it, except with the prior written consent of Town.

Section 5.7. Governing Law. This contract shall be governed by the laws of the State of North Carolina and any suit or legal action hereunder shall be brought only in the courts of said State.

Section 5.8. Notice. Any notice by this contract must be hand delivered or sent by first class mail to the appropriate party at the address set forth above the signatures below, or any other address which the party subsequently designated in writing.

Garner Area Historical Society

Town of Garner

Name: \_\_\_\_\_  
Name of Agent (type or print)

\_\_\_\_\_  
Town Manager

By: \_\_\_\_\_  
(Signature)

Title: \_\_\_\_\_

Attest: \_\_\_\_\_  
(Secretary, if a corporation)

Attest: \_\_\_\_\_  
Town Clerk

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

---

Finance Director

DRAFT

Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: September 3, 2019		
Subject: Amended Audit Contract for FY 2019		
Location on Agenda: Old/New Business		
Department: Finance		
Contact: David Beck, Finance Director		
Presenter: David Beck, Finance Director		
Brief Summary:  Our audit firm, Mauldin & Jenkins, has agreed to provide additional assistance with preparation of the Town's CAFR for the 2018-19 fiscal year. The assistance is needed in light of the current vacancies within the Finance Department and the recent turnover in the Director's position. The cost to provide the additional services is \$4,000 which takes the total audit price to \$33,500.		
Recommended Motion and/or Requested Action: Approve amended audit contract		
Detailed Notes:		
Funding Source:		
Cost: 33,500	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:	DCB	
Finance Director:	DCB	
Town Attorney:		
Town Manager:		
Town Clerk:		

Whereas	Primary Government Unit
and	Discretely Presented Component Unit (DPCU) (if applicable)
and	Auditor

entered into a contract in which the Auditor agreed to audit the accounts of the Primary Government Unit and DPCU (if applicable)

for	Fiscal Year Ending	and originally due on	Audit Report Due Date
-----	--------------------	-----------------------	-----------------------

hereby agree that it is now necessary that the contract be modified as follows.

Modification to due date:	Original due date	Modified due date
Modification to fee:	Original fee	Modified fee

### EXPLANATION OF MODIFIED CONTRACT TERMS

*Please provide an explanation for the modification of terms. If the amendment is submitted to extend the due date, please indicate the steps the unit and auditor will take to prevent late filing of audits in subsequent years.*

--

By their signatures on the following pages, the Auditor, the Primary Government Unit, and the DPCU (if applicable), agree to these modified terms.

## SIGNATURE PAGE

### AUDIT FIRM

Audit Firm	
Authorized Firm Representative (typed or printed)	Signature
Date	Email Address

### GOVERNMENTAL UNIT

Governmental Unit	
Date Primary Government Unit Governing Board Approved Audit Contract (Ref: G.S. 159-34(a) or G.S. 115C-447(a))	
Mayor/Chairperson (typed or printed)	Signature
Date	Email Address

Chair of Audit Committee (typed or printed, or "NA")	Signature
Date	Email Address

### GOVERNMENTAL UNIT – PRE-AUDIT CERTIFICATE

**\*ONLY REQUIRED IF FEES ARE MODIFIED IN THE AMENDED CONTRACT\***

*(Pre-audit certificate not required for charter schools or hospitals)*

Required by G.S. 159-28(a1) or G.S. 115C-441(a1)

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

Primary Governmental Unit Finance Officer	Signature
Date of Pre-Audit Certificate	Email Address

**SIGNATURE PAGE – DPCU**  
**(complete only if applicable)**

**DISCRETELY PRESENTED COMPONENT UNIT**

DPCU	
Date DPCU Governing Board Approved Audit Contract (Ref: G.S. 159-34(a) or G.S. 115C-447(a))	
DPCU Chairperson (typed or printed)	Signature
Date	Email Address

Chair of Audit Committee (typed or printed, or "NA")	Signature
Date	Email Address

**DPCU – PRE-AUDIT CERTIFICATE**  
**\*ONLY REQUIRED IF FEES ARE MODIFIED IN THE AMENDED CONTRACT\***

*(Pre-audit certificate not required for charter schools or hospitals)*

Required by G.S. 159-28(a1) or G.S. 115C-441(a1)

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

DPCU Finance Officer (typed or printed)	Signature
Date of Pre-Audit Certificate	Email Address



Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: September 3, 2019		
Subject: Updating the Town's Parade, Picket Line and Demonstrations Ordinance		
Location on Agenda: Old/New Business		
Department: Town Attorney and Garner Police Department		
Contact: William E. Anderson, Town Attorney		
Presenter: William E. Anderson, Town Attorney		
Brief Summary:  This involves some proposed modifications to the Parade, Picket Line and Demonstrations Ordinance.		
Recommended Motion and/or Requested Action: Consider adopting modifications to Ordinance.		
Detailed Notes: I realized recently while reading some federal cases on "free speech and assembly" that our Ordinance needed to be updated to take into account a Fourth Circuit Court of Appeals decision in a Raleigh case over whether a municipality could impose a permit requirement on a small group which wanted to parade, picket or demonstrate spontaneously. The Court said "No." So Raleigh amended its Ordinance to exempt under ten persons from the permit requirement. That seems to have worked for Raleigh, its Ordinance has not been challenged since, so I recommend that change here. Chief Zuidema proposed some other changes (this is a joint effort with GPD).		
Funding Source: N/A		
Cost:	One Time: <input type="radio"/>	Annual: <input type="radio"/> No Cost: <input checked="" type="radio"/>
Manager's Comments and Recommendations:          		
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:		

ORDINANCE NO. (2019) 3995

AN ORDINANCE AMENDING THE TOWN CODE  
RE: PARADES, PICKET LINES AND DEMONSTRATIONS

WHEREAS, the Town of Garner has in effect ordinances relating to permits for parades, picket lines, and demonstrations; and

WHEREAS the Town Attorney and Chief of Police have reviewed the aforesaid ordinance with a view to updating the same, and have recommended that the Town Council should revise the ordinance to allow a non-permit-based “small group” parade, picket line or demonstration, (meaning less than 10 persons) to be in compliance with a decision of the Fourth Circuit Court of Appeals in the case of *Green v. City of Raleigh*, 523 F. 3d 293, and to clarify various other features of the ordinance,

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF GARNER that Sections 84-86 of the Town Code of the Town of Garner be amended as shown in the redline track changes set forth below:

Sec. 15-84. - Definitions.

For the purpose of this article, the following terms shall have the definitions ascribed to them in this section:

Block shall mean that portion of any street lying between its intersections with other streets.

Group demonstration shall mean any assembling together or concert of action between or among ten (10) or more persons for the purpose of protesting any matter or of making known any position or promotion of such persons or of or on behalf of any organization or class of persons or for the purpose of attracting attention to such assembly.

Parade shall mean any parade, march, ceremony, show, exhibition or procession between or among (10) or more persons in or upon the public streets, sidewalks, alleys, parks or other public grounds or places.

Picket line shall mean any ten (10) or more persons formed together for the purpose of making known any position or promotion of such persons or of or on behalf of any organization or class of persons.

(Ord. No. 1006, § 23, 4-6-59; Ord. No. 1178, § 1, 4-5-68)

Sec. 15-85. - Activities exempt from this article.

The provisions of this article shall not apply to:

(1) Funeral processions;

- (2) Students going to or from school classes or participating in educational or recreational activity where such activity is under the supervision and direction of proper school authorities;
- (3) Any governmental agency acting within the scope of its functions.
- (4) Town-sponsored parade events such as the Christmas Parade.

(Ord. No. 1006, § 23, 4-6-59; Ord. No. 1178, § 8, 4-5-68)

Sec. 15-86. - Permit required.

It shall be unlawful for any person to organize, conduct or participate in any parade, picket line or group demonstration in or upon any street, sidewalk, alley or other public place within the town where a permit is required unless a permit therefor has been issued by the town in accordance with the provisions of this article.

(Ord. No. 1006, § 23, 4-6-59; Ord. No. 1178, § 2, 4-5-68)

Sec. 15-87. - Application for permit; issuance or denial; terms and conditions.

The chief of police or his designee is authorized to issue permits as required by this article, and in the issuance thereof he shall:

- (1) Require a written application for a permit to be filed not less than twenty-four (24) hours in advance of such parade, picket line or group demonstration. Such application shall be on a form prescribed by the chief; shall require the application to be signed by the applicant or applicants; shall require that the applicant show the proposed time, place, purpose and size of such parade, picket line or group demonstration and whether or not any minors below the age of eighteen (18) years shall participate.
- (2) Refuse to issue such permit when the activity or purpose stated in the application would violate any ordinance of the town or statute of the state, or when the activity or purpose would constitute a clear and present danger to the public health or safety or would hinder or prevent the orderly movement of pedestrian or vehicular traffic on the streets, alleys or sidewalks.
- (3) Specify in the permit whether or not minors below the age of eighteen (18) years will be permitted to participate. The chief shall pass upon whether or not such minors may participate, and shall base his determination upon whether or not the purpose or time or place of the particular activity will be detrimental to or endanger the health, safety or welfare of such minors or will interfere with their education.
- (4) Require that the application for a permit shall specify and the permit shall designate the person or persons in charge of the activity. Such person shall be required to accompany the parade, picket line or group demonstration and shall carry such permit with him at that time. Such permit shall not be valid in the possession of any other person.

(5) Specify in the permit the starting time, duration, speed of travel and space between persons or vehicles in the parade, picket line or group demonstration; may prescribe the portions or areas of streets, alleys, sidewalks or other public places to be used; and may impose such other reasonable requirements as the chief may prescribe for the control and free movement of pedestrian or vehicular traffic, or for the health, safety and property rights of the participants and the general public.

(6) Among other considerations, consider and find as a requisite to issuance the following; the activity will not interfere with the right of property owners in the area to enjoy peaceful and lawful occupancy and use of their property; b. The activity can be conducted without unreasonable interference with normal pedestrian or vehicular traffic in the area; will not obstruct normal police and fire protection to the public; and will not be likely to cause injury to persons or property or to provoke disorderly conduct or to create a public disturbance.

(Ord. No. 1006, § 23, 4-6-59; Ord. No. 1178, § 3, 4-5-68)

#### Sec. 15-88. - Prohibited conduct.

The following acts or activities, when performed or undertaken in conjunction with or as a part of any parade, picket line or group demonstration, or by a “small group” exempt from the permit requirements are hereby prohibited and declared unlawful, and are punishable as a Class 2-misdemeanor:

(1) The carrying on or about the person of any firearm, or any weapon or article, including but not limited to, blackjacks, nightsticks or flashlights, which by their use might constitute a deadly weapon.

(2) The taking or keeping of any dog or other vicious animal, whether leashed or unleashed.

(Ord. No. 1006, § 23, 4-6-59; Ord. No. 1178, § 4, 4-5-68)

#### Sec. 15-89. - Revocation of permit; grounds.

The chief of police shall revoke any permit granted for a parade, picket line or group demonstration for any of the following causes:

(1) The violation by any participant of Section 15-88.

(2) The failure to comply with the terms and conditions of the permit.

(Ord. No. 1006, § 23, 4-6-59; Ord. No. 1178, § 5, 4-5-68)

#### Sec. 15-90. - Additional restrictions on picketing.

Picket lines and picketing shall be subject to the following additional regulations:

- (1) Picketing may be conducted only on the sidewalks reserved for pedestrian movement, and may not be conducted on the portion of a street used primarily for vehicular traffic.
  - (2) Not more than ten (10) pickets promoting the same objective shall be permitted to use either of the two (2) sidewalks within a single block at any one time.
  - (3) Pickets may carry written or printed placards or signs not exceeding two (2) feet in width and two (2) feet in length promoting the objective for which the picketing is done; provided, that the words used are not derogatory or defamatory in nature.
  - (4) Pickets must march in single file and not abreast and not march closer together than fifteen (15) feet, except in passing one another. Pickets shall not be allowed to walk more than five (5) feet from the curbline and shall be in continuous motion.
  - (5) If pickets promoting different objectives desire to use the same sidewalk for picketing and such use would result in the presence of more than ten (10) pickets thereon, the chief of police shall allot time to each group of pickets for the use of such sidewalk on an equitable basis.
- (Ord. No. 1006, § 23, 4-6-59; Ord. No. 1178, § 7, 4-5-68)

Sec. 15-91. - Interference with parades, picket lines and demonstrations.

No person shall hamper, obstruct, impede or interfere with any parade, picket line or group demonstration being conducted under authority of a permit duly issued by the chief of police. The violation of this section shall be punishable as a Class 2 misdemeanor.

(Ord. No. 1006, § 23, 4-6-59; Ord. No. 1178, § 6, 4-5-68)

Duly adopted this 5<sup>th</sup> day of September, 2019.

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Ronnie S. Williams, Mayor

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

# Reports



Id	Title	Description	Current Status	Address	Date Created
5909573	Pipe and Storm Drain	gutter drain is clogged with leaves	In Progress	Towne View Trail, Garner	4/18/2019
6401179	Streetlight Problem	Streetlight is turned into the tree and the tree has overgrown the light, making a dark spot in the street.	In Progress	253 Timber Dr, Garner	7/11/2019
6420711	Junk Vehicle (Private	Two junk cars	In Progress	100 Pineway St, Garner	7/15/2019
6535279	Misc. - Streets	Abandoned Ram truck / Alabama plates right past grocery boy jr on Meadowbrook	Received	902 Meadowbrook Dr, Garner	8/3/2019
6555972	Dead Tree (Private Property)	5th Ave and Vandora Springs Road, there are two dead trees at this location, another one on the other side of 5th Ave.	In Progress	1320 5th Ave, Garner	8/7/2019
6606045	Playground Problem	Rope climbing structure is breaking and there's exposed metal	In Progress	Lake Benson Park, 921 Buffaloe Rd, Garner	8/15/2019
6611357	Misc. - Parks / Town	Facet in dog park is leaking again.	In Progress	921 Buffaloe Rd, Garner	8/16/2019
6626280	Substandard Living Conditions	Not inhabitable by people. Back deck is falling off and unstable and pulling away from the house. House infested with roaches and insects. Back yard is completely overgrown and not	In Progress	201 Winterlochen Rd, Raleigh	8/19/2019
6641560	Ditch/ Surface Drainage Problem	Intersection of Woodland Road and Kelly Rd, the drainage ditch has been overtaken by grass.	Received		8/21/2019
6655257	Junk Vehicle (Private Property)	Car without tags, marked, "impounded" in side yard next to Perdue Street.	Submitted	1114 W Garner Rd, Garner	8/23/2019
6659622	Misc. - Parks / Town Property	The hand dryer in the men's restroom does not work. It's the rest rooms on the big side not with the nature center.	In Progress	White Deer Park Nature Center, 2400 Aversboro Rd, Garner	8/25/2019
6669863	Tall Grass/Weeds (Private Property)	Very un-kept yard. Tall grass. House is for sale. A mess.	In Progress	879 Hadrian Dr, Garner	8/27/2019
6673495	Tall Grass/Weeds (Private Property)	Tall grass on cleared lots for Hwy 50 bridge. Please cut the grass and clean up. Thanks.	Submitted	Umstead Ln & Benson Rd, Garner	8/27/2019