



**Town of Clayton
Town of Clayton Planning Board Agenda
Tuesday, December 21, 2021 @ 6:00 PM
Town Council Chambers**

<https://www.youtube.com/TownofClaytonNC>

IN PERSON TOWN COUNCIL / ADVISORY BOARD MEETING PROCEDURES

- ALL persons attending must wear a mask.
- We will be following proper social distancing at all times.
- Hand sanitizer will be available, both in the lobby and council chambers.
- Podium/microphone will be sanitized after each speaker.

**Face Masks May Be Removed When Speaking.*

1. CALL TO ORDER

2. ADJUSTMENT OF THE AGENDA

3. APPROVAL OF MINUTES

- a. October 25, 2021 DRAFT Minutes
[October 25 2021 DRAFT Minutes](#)

POTENTIAL ACTION: Adoption of October 25, 2021 Minutes

4. PUBLIC HEARINGS

5. NEW BUSINESS

- a. 2021-141-RZ - Cloudbreak Investments - Rezoning
Presenter: Ben Howell, Planning Director
[Application](#)
[Executed Owners Consent Form](#)
[Neighborhood Meeting Material](#)
[Preliminary Plat](#)
[Planning Board Adj Property Letter](#)
[Planning Board Staff Report](#)
[Staff Report Map](#)

POTENTIAL ACTION: Recommendation of Approval or Denial to Town Council

- b. 2021-126-OA - Steep Slopes Text Amendment - Reconsideration at Direction of Town Council
Presenter: Ben Howell, Planning Director
[Staff Report](#)
[CURRENT UDC Text Following November 15 2021 Adoption](#)
[UDC Text Prior to November 15 2021 Adoption](#)
[Option 1](#)
[Option 2](#)
[Option 3](#)

[Option 4](#)
[Map of Slope Areas in Clayton Planning Jurisdiction](#)
[Newspaper Ad](#)

POTENTIAL ACTION: Recommendation of Option for Text Amendment

6. INFORMAL DISCUSSION AND PUBLIC COMMENT

7. ADJOURN

POTENTIAL ACTION: Motion to Adjourn



**Town of Clayton
Planning Board Minutes
October 25, 2021 @ 6:00 P.M.
Council Chambers**

BOARD MEMBERS PRESENT:

Andria Archer
George "Bucky" Coats
James Lipscomb
Stephen Powers
Jeffrey Spence
Kevin Lee
James Moore
Lisa Begley

STAFF PRESENT:

Ben Howell, Planning Director
Chrissy Freeman, Clerk to the Board
Michael Grannis, Council Member

MEMBERS ABSENT:

1 CALL TO ORDER

- a) Board Chair Archer called the meeting to order at 6:00 P.M. All members were present.

2 ADJUSTMENT OF THE AGENDA

3 CONSENT AGENDA

- a) Draft Minutes
 - September 27, 2021

ACTION: Adoption of the September 27, 2021 Planning Board Minutes

Motion: Board Member Coats
Second: Board Member Begley
Vote: Unanimous

- b) Adoption of 2022 Planning Board Meeting Schedule

ACTION: Adoption of the 2022 Planning Board Meeting Schedule.

Motion: Board Member Powers
Second: Board Member Lee
Vote: Unanimous

4 INTRODUCTION OF NEW STAFF

- a) Planning Director Ben Howell introduced new Planner II, Aaron Pritchard.

5 OLD BUSINESS

- a) Clayton 2045 Comprehensive Growth Plan

Jake Petrosky from Stewart Engineering was present and provided details and information regarding final changes on the plan. He also provided an overview and as well as highlights for the 2045 Growth Plan Update. There was lengthy discussion regarding a future transportation plan for Clayton.

ACTION: Approve Clayton 2045 Comprehensive Growth Plan with the Recommended Changes to Town Council

Motion: Board Member Begley
Second: Board Member Lipscomb
Vote: Unanimous

6 NEW BUSINESS

- a) Unified Development Code Text Amendment: Section 155.500 Resource Conservation Areas

There was lengthy discussion regarding the various options presented.

ACTION: Approval and Recommendation of Option 2; UDC Text Amendment - Section 155.500 Resource Conservation Areas to Town Council

Motion: Board Member Coats
Second: Board Member Moore
Vote: 7-1 (Against: Lipscomb)

7 PLANNING DIRECTOR'S REPORT

- a) Planning Director Ben Howell stated Town Council would be issuing a Proclamation recognizing National Community Planning Month.

Board Member Lipscomb requested that once the Planning Department is fully staffed that the Board be provided with a monthly staff report indicating all upcoming and in process projects and status.

Several members shared their concerns regarding on-street parking.

8 INFORMAL DISCUSSION AND PUBLIC COMMENT

9 ADJOURN

a) Adjourn the Meeting

With there being nothing further the meeting was adjourned at 7:35 p.m.

Motion: Board Member Moore
Second: Board Member Lipscomb
Vote: Unanimous

Duly adopted this the 21st day of December 2021 while in regular session.

Chair

ATTEST:

Clerk to the Board

October 25, 2021
Minutes



TOWN OF CLAYTON
Planning Department
111 E. Second St., P.O. Box 879
Clayton, NC 27528
Phone: 919-553-5002
Fax: 919-553-1720

REZONING APPLICATION COVER SHEET

Name of Project: Cloudbreak Investments **Date:** 11/1/21
Applicant Name: True Line Surveying

The following checklist to be completed by applicant:

- [] Pre-Application Meeting on: July 2021
- [] Review Fee
- [] Advertisement Fee
- [] Completed Application
- [] Owner's Consent Form
- [] Adjacent Property Owner's List
- [] Neighborhood Meeting Notice Letter (1 copy)
- [] 2 Sets of stamped, addressed, empty envelopes for adjacent property owner notification
- [] Signed & Sealed Boundary Survey
- [] Copy of signed & sealed boundary survey in PDF on USB

Reviewed by: _____



TOWN OF CLAYTON
Planning Department
111 E. Second St., P.O. Box 879
Clayton, NC 27528
Phone: 919-553-5002
Fax: 919-553-1720

REZONING APPLICATION

- ☒ **Standard Rezoning Fee: \$500.00**
☐ **Planned Development Rezoning Fee: \$1,000 + \$5.00 per acre**
☐ **Advertisement Fee: \$200.00**

SITE INFORMATION

Name of Project: Cloudbreak Investments
Acreage of Property: 0.262 **Zoning District:** R-8
County Tag #: 05010199, 05003009 **NC Pin #:** 166806-37-1959, 166806-38-1091
Address/Location: Everette Ave.
Existing Zoning District: R-8 **Proposed Zoning District:** R-6

APPLICANT INFORMATION

Applicant: True Line Surveying
Mailing Address: 205 W. Main St., Clayton, NC 27520
Phone Number: 919-359-0427 **Fax:** 919-359-0428
Contact Person: Curk Lane or Molly Herring
Email Address: curk@truelinesurveying.com or molly@truelinesurveying.com

PROPERTY OWNER INFORMATION

Name: Cloudbreak Investments
Mailing Address: PO Box 189, Clayton, NC 27520
Phone Number: _____ **Fax:** _____
Email Address: nathan@nlevans.com

OFFICE USE ONLY

Date Received: _____ **Amount Paid:** _____ **File Number:** 2021-141-RZ

EXPLANATION OF PROJECT

Please provide detailed information concerning all requests. Attach additional sheets if necessary.

*Currently one of the lots is too small. Trying to recombine and rezone
so all are adequate.*

APPROVAL CRITERIA

All applications for a Rezoning must address the following findings:

1. Consistency with the adopted plans of the Town.
Consistent, Surrounding properties are zoned R6 already.
2. Suitability of the subject property for uses permitted by the current vs. the proposed district.
In line with the proposed and surrounding area.
3. Whether the proposed change tends to improve the balance of uses, or meets specific demand in the Town.
Meets demand for homes.
4. The capacity of adequate public facilities and services including schools, roads, recreation facilities, wastewater treatment, potable water supply and stormwater drainage facilities is available for the proposed use.
All facilities are on site.
5. It has been determined that the legal purposes for which zoning exists are not violated.
Does not violate legal
6. It has been determined that there will be no adverse effect upon adjoining property owners unless such effect can be justified by the overwhelming public good or welfare.
No adverse effect on adjoining property owners. Town adjacent property.

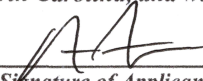
7. It has been determined that no one property owner or small group of property owners will benefit materially from the change to the detriment of the general public.

Will be good for community as a whole.

APPLICANT AFFIDAVIT

I/We, the undersigned, do hereby make application and petition to the Town Council of the Town of Clayton to amend the Zoning Ordinance and change the Official Zoning Map of the Town of Clayton as requested.. I hereby certify that I have full legal right to request such action and that the statements or information made in any paper or plans submitted herewith are true and correct to the best of my knowledge. I understand this application, related material and all attachments become official records of the Planning Department of the Town of Clayton, North Carolina, and will not be returned.

Nathan Evans
Print Name


Signature of Applicant

11-1-21
Date

ADJACENT PROPERTY OWNERS LIST

Project Name: _____

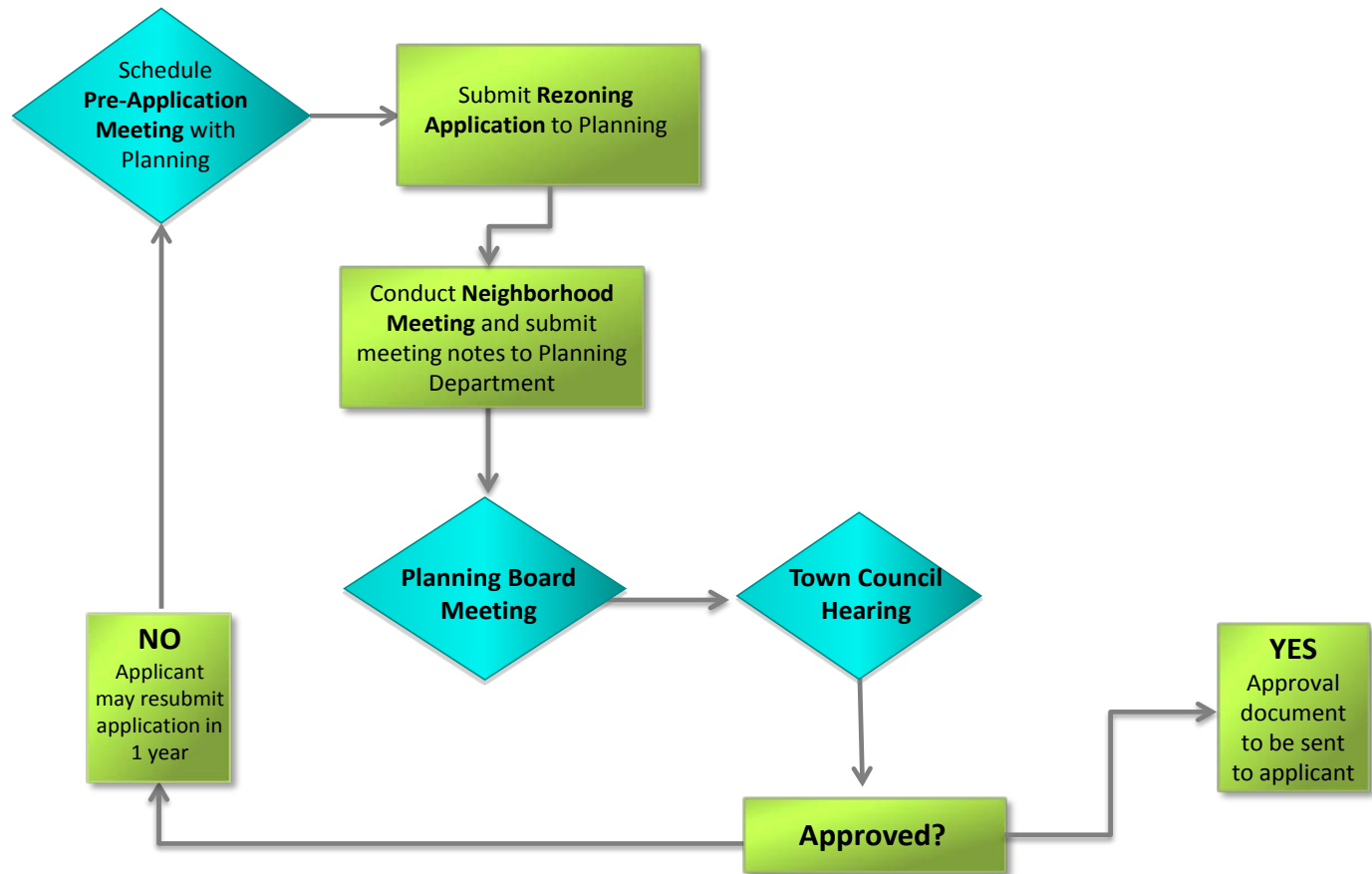
The following are all the persons, firms, or corporations owning property within 100 feet and immediately adjacent to the property (including across street rights of way) subject to this request. Where the subject property immediately adjoins a public or private right-of-way, landscape or riparian buffer, commonly-owned private area, public property, or homeowners' association property, then letters of notification shall be sent to adjoining property owners as if they directly abut the subject property. Please use a separate sheet if necessary

It is the responsibility of the applicant to correctly identify the current owner, based upon records in the Johnston County GIS Office, for all property owners of land within the required public notice radius.

PARCEL NUMBER	NAME	ADDRESS
05003009	CLOUDBURST INVESTMENTS, LLC	PO Box 189, Clayton, NC 27520
05010199	CLOUDBURST INVESTMENTS, LLC	PO Box 189, Clayton, NC 27520
05003010	CLOUDBURST INVESTMENTS, LLC	PO Box 189, Clayton, NC 27520
05003007	EVERETT'S CHAPEL FWB CHURCH	420 Barbour St., Clayton, NC 27520
05003016	CLOUDBREAK INVESTMENTS, LLC	PO Box 189, Clayton, NC 27520
05003015	CLOUDBREAK INVESTMENTS, LLC	PO Box 189, Clayton, NC 27520
05003014	CLOUDBREAK INVESTMENTS, LLC	PO Box 189, Clayton, NC 27520
05003012	CLOUDBREAK INVESTMENTS, LLC	PO Box 189, Clayton, NC 27520
05003011	CLOUDBREAK INVESTMENTS, LLC	PO Box 189, Clayton, NC 27520
05003005	CLOUDBURST INVESTMENTS, LLC	PO Box 189, Clayton, NC 27520
05003006	CLOUDBURST INVESTMENTS, LLC	PO Box 189, Clayton, NC 27520
05004012A	EVERETT'S CHAPEL FWB CHURCH	420 Barbour St., Clayton, NC 27520
05004011	CLOUDBURST INVESTMENTS, LLC	PO Box 189, Clayton, NC 27520

Town of Clayton Rezoning Process Flow Chart

This is the same process for a Planned Development Rezoning





TOWN OF CLAYTON
Planning Department
111 E. Second St., P.O. Box 879
Clayton, NC 27528
Phone: 919-553-5002
Fax: 919-553-1720

OWNER'S CONSENT FORM

Consent is required from the property owner(s) if an agent will act on their behalf. A separate form is required from each owner. Consent is valid for one year from date of notary, unless otherwise specified. All fields must be completed.

Project Name: Cloudbreak Investments **Address or PIN #:** 166806-37-1959, 166806-38-1091

AGENT/APPLICANT INFORMATION:

True Line Surveying

(Name - type, print clearly)

205 W. Main St.

(Address)

Clayton, NC 27520

(City, State, Zip)

I hereby give **CONSENT** to the above referenced agent/applicant to act on my behalf, to submit applications and all required materials and documents, and to attend and represent me at all meetings and public hearings pertaining to the following processes (*list applicable requests*):

Recombination

Rezoning

Furthermore, I hereby give consent to the party designated above to agree to all terms and conditions which may arise as part of the approval of this application.

I hereby certify that I have authority to execute this consent form as/on behalf of the property owner. I understand that any false, inaccurate or incomplete information provided by me or my agent will result in the denial, revocation or administrative withdrawal of this application, request, approval or permits. I further agree to all terms and conditions which may be imposed as part of the approval of this application.

OWNER AUTHORIZATION:

Cloudbreak Investments
by: Nathan Evans, MGR
(Name - type, print clearly)

PO Box 189
(Address)

by: [Signature]
(Owner's Signature)

Clayton NC 27528
(City, State, Zip)

STATE OF NC

COUNTY OF Johnston

I, Molly L. Herring, a Notary Public for the above State and County, this

do hereby certify that the foregoing was read and subscribed before me on November 21, 2021.

[Signature]
Notary Public

My Commission
Expires: 11/5/24



ADJACENT PROPERTY OWNERS LIST

Project Name: _____

The following are all the persons, firms, or corporations owning property within 100 feet and immediately adjacent to the property (including across street rights of way) subject to this request. Where the subject property immediately adjoins a public or private right-of-way, landscape or riparian buffer, commonly-owned private area, public property, or homeowners' association property, then letters of notification shall be sent to adjoining property owners as if they directly abut the subject property. Please use a separate sheet if necessary

It is the responsibility of the applicant to correctly identify the current owner, based upon records in the Johnston County GIS Office, for all property owners of land within the required public notice radius.

PARCEL NUMBER	NAME	ADDRESS
05003009	CLOUDBURST INVESTMENTS, LLC	PO Box 189, Clayton, NC 27520
05010199	CLOUDBURST INVESTMENTS, LLC	PO Box 189, Clayton, NC 27520
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05004012A	EVERETT'S CHAPEL FWB CHURCH	420 Barbour St., Clayton, NC 27520
05004011	CLOUDBURST INVESTMENTS, LLC	PO Box 189, Clayton, NC 27520

November 17, 2021

Dear Clayton Area Property Owner:

The purpose of this letter is to notify you of an application filed with the Town of Clayton for a land use change or development proposal involving property adjacent to, or in close proximity to, property shown in your ownership by Johnston County tax records. Per Town of Clayton regulations, a Neighborhood Meeting will be held to provide information to area residents about the proposal. A representative of the applicant will be present to explain their application, answer questions, and solicit comments.

Meeting Date: December 2, 2021

Location: True Line Surveying, 205 W. Main Street Clayton, NC 27520

Time: 6:00 PM

Type of Application: Rezoning

General Description: Request to change zoning from R-8 to R-6

Upcoming public meetings for this application (Planning Board and/or Town Council):
December 21, 2021 at 6:00pm

At a minimum, the following will be available for your inspection at the Neighborhood Meeting:

1. A copy of the project application.
2. A schedule of all upcoming public meetings for the application.
3. A map at a scale that is appropriate to the project and shows neighboring properties and roads.
4. A map, drawing, or other depiction of the proposed land use change or development proposal.

A map is enclosed with this letter showing the location of the property that is subject to this application for land use change and/or development proposal.

If you have any question prior to or after this meeting, you may contact us at (919) 359-0427. You may also contact the Town of Clayton Planning Department at 919-553-5002.

Sincerely,

Curk T. Lane
True Line Surveying
Cc: Town of Clayton Planning Department

NEIGHBORHOOD MEETING ATTENDANCE ROSTER

Project: Cloudbreak Investments

Application: Rezoning

Location/Date: 12/2/21 @ 6:00pm

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NEIGHBORHOOD MEETING SUMMARY FORM

FILL OUT THE FOLLOWING:

Application: Cloudbreak Investments

Date of Mailing: 11/17/21

Date of Meeting: 12/2/21 Time of Meeting: 6:00pm

Location of Meeting: True Line Surveying

I hereby attest that letters were mailed to the addresses listed on the Adjacent Property Owners List (attached) ten days prior to the Neighborhood Meeting, and that all required information was presented at the Meeting:

Printed Name: Molly Herring Signature: Molly Herring

Meeting Summary/Minutes: *provide a summary of the discussion held at the meeting, including issues raised and any resolution discussed, and any changes made to the application as a result of the meeting.*

Meeting started at 6:00pm and waiting until 6:30 with no attendees.

Please write clearly (or submit a typed summary). Use additional sheets if necessary.





Town of Clayton
Planning Department
111 E. Second Street, Clayton, NC 27520
P.O. Box 879, Clayton, NC 27528
Phone: 919-553-5002
Fax: 919-553-1720

December 10, 2021

NOTICE

SUBJECT: **Project:** 2021-141-RZ Cloudbreak Investments Rezoning
Address: * No Site Address *
TAG #: 05010199 & 05003009
Applicant: True Line Surveying

Dear Clayton Area Property Owner:

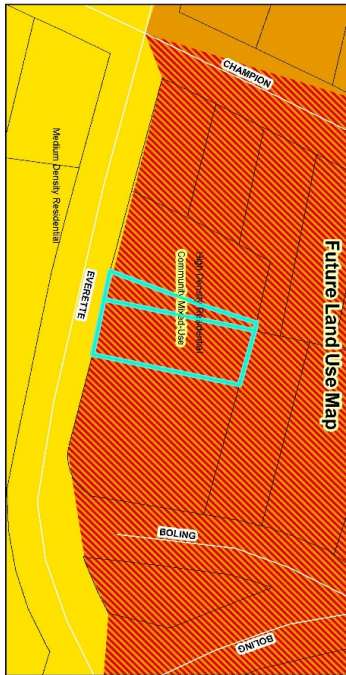
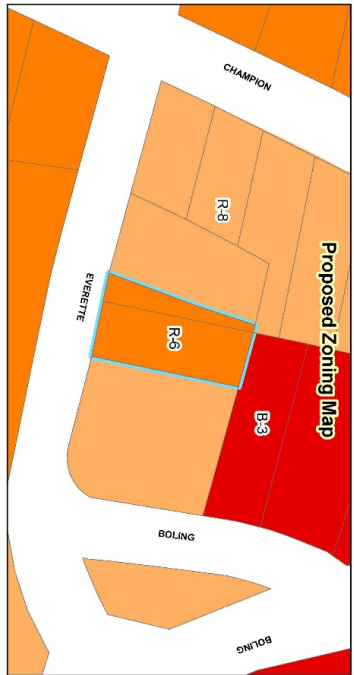
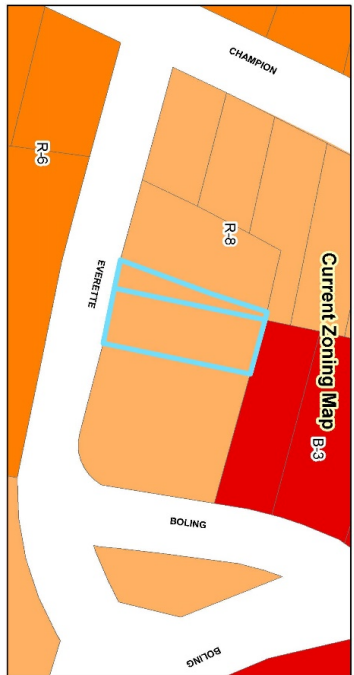
Notice is hereby given that the Clayton Planning Board will hold a public meeting on **Tuesday, December 21, 2021 at 6:00 PM** at Town Hall, 111 E. Second Street, to make a recommendation on the above referenced Rezoning application. This application will proceed to Town Council for a public hearing following Planning Board recommendation. Another notice will be sent prior to the date of the scheduled public hearing. The applicant is requesting to rezone 0.262 acres from Single-Family Residential: 8,000 S.F. Lot (R-8) to Single-Family Residential: 6,000 S.F. Lot (R-6). Please see the map on the back of this letter.

Based upon records in the Johnston County Tax Office, you are the owner of property that is within 100 feet of this proposed rezoning request. You are invited to attend this meeting and express your opinions on this request to the Planning Board.

If you should need additional assistance or information, please contact the Planning Department at (919) 553-5002 or email at aprichard@TownOfClaytonNC.org.

Sincerely,

Aaron Prichard, AICP
Planner II



Request:
 2021-141-RZ, to Rezone a parcel from Single
 Family Residential: 8,000 S.F. Lot(R-8) to
 Single-Family Residential: 6,000 S.F. Lot (R-6).
 Applicant: True Line Surveying
 Property Owners: Cloudbreak Investments
 Tag #: 05010199 & 05003009



Staff Report Map
 Prepared by: TOC Planning Department
 December 10, 2021
 Disclaimer: Town of Clayton assumes no legal responsibility
 for the quality to the data represented here.

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Town of Clayton
Planning Department
111 E. Second Street, Clayton, NC 27520
P.O. Box 879, Clayton, NC 27528
Phone: 919-553-1545

Planning Board, 12/21/2021

STAFF REPORT

Application Number: 2021-141-RZ
Project Name: Cloudbreak Investments – Rezoning

TAG #(s): 05010199, 05003009
Town Limits/ETJ: Town Limits
Applicant: True Line Surveying
Owner: Cloudbreak Investments – Nathan Levans
Location: North side of Everett Ave; Between E Champion St and S Boling St
Project Planner: Aaron Prichard, Planner II

Public Noticing Dates:

- **Neighborhood Meeting:** December 2, 2021
- **Sign posted:** December 10, 2021
- **PB Adjacent Property Letters Mailed:** December 10, 2021

REQUEST: Rezoning from Single-Family Residential-8 (R-8) to Single-Family Residential-6 (R-6)

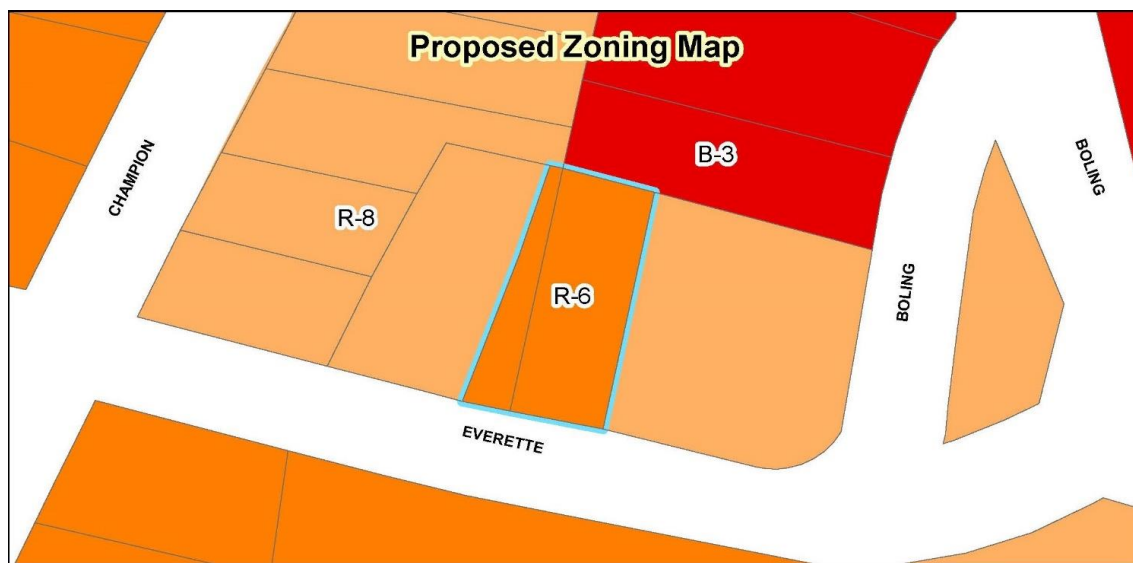


SITE DATA:

Acreage: +/- 0.262 acres
Existing Use: Vacant

ADJACENT ZONING AND LAND USES:

Direction	Zoning	Existing Use
North	B-3 (Highway Business)	Single Family Detached Residences
South	R-6 (Single-Family Residential-6) – across Everett Ave	Church
East	R-8 (Single-Family Residential-8)	Vacant
West	R-8 (Single-Family Residential-8)	Vacant

**STAFF ANALYSIS AND COMMENTARY:****Overview**

The site is within the Clayton Town Limits. The site is located on the north side of Everett Avenue, between E Champion Street and S Boling Street; being shown as vacant on the Aerial Map. The applicant is requesting to re-zone the property from Single-Family Residential-8 (R-8) to Single-Family Residential-6 (R-6) to eliminate an existing nonconforming lot and recombine into lots that meet minimum area requirements for the R-6 district. The applicant has indicated they wish to develop the lots with some type of residential homes, but this future development will be filed under a separate application and reviewed independently. The R-6 district is established to provide for orderly suburban residential development and redevelopment, intended to protect, preserve, and enhance existing residential areas of higher density, which includes multi-family dwellings mixed with other housing types. A special permit process for higher intensity development is also allowed, using discretion to balance issues of higher density with improved amenities.

Consistency with the Comprehensive Growth Plan 2045

The proposed zone of R-6 is the densest residential district in the Unified Development Code, so rezoning this property to R-6 is consistent with the Comprehensive Growth Plan's Future Land Use Map, which designates these parcels as High-Density Residential with a Community Mixed-Use Overlay. One of the current lots is approximately 0.05 acres, which is nonconforming in terms of lot area for its current zoning district (R-8). The applicant wishes to recombine the lots so that minimum area requirements are met. Rezoning to R-6 and recombining these lots would bring them into compliance with the Unified Development Code. Implementation of the Unified Development Code's standards is an explicit goal of the Comprehensive Growth Plan.

Comprehensive Growth Plan Goals supporting the rezoning request include:

Goal LU 1: Preserve Clayton's character while allowing for growth and development in appropriate areas.

Policy LU 1.1: Manage future growth and encourage quality development through the implementation of the Comprehensive Plan, the Unified Development Code (UDC), and other plans and regulations adopted by the Town Council.

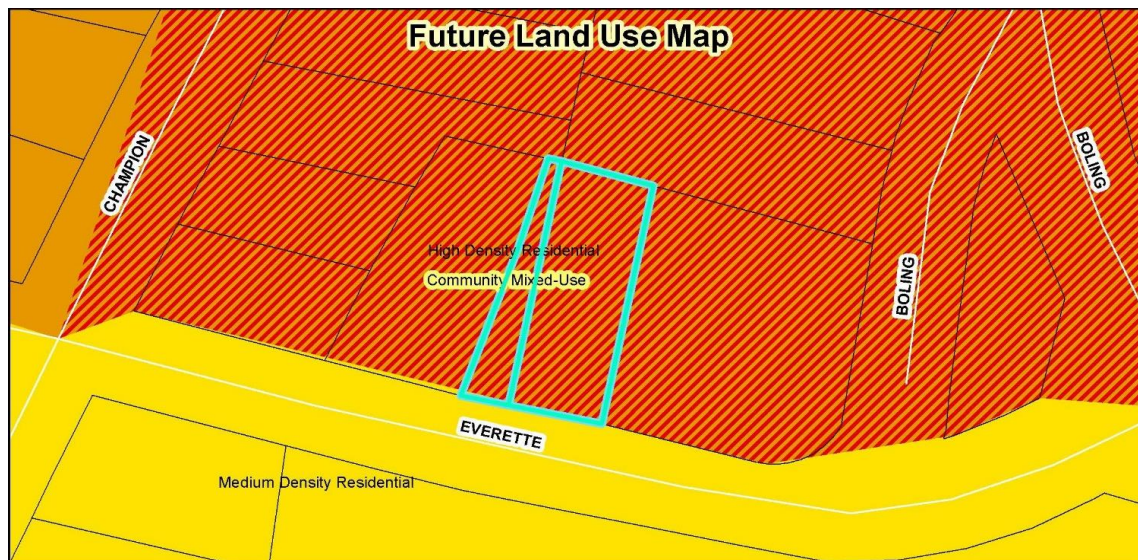
Strategy LU 1.1.1: Review development proposals for consistency with the Future Land Use Map.

Goal LU 3: Encourage a range of housing types and lot sizes that will meet the needs of various income levels, family sizes, and ages.

Policy LU 3.1: Encourage a range of housing types based on the availability of infrastructure, proximity to services and amenities, and compatibility with existing development as described in the Future Land Use Map.

Strategy LU 3.1.4: Encourage or require a mix of lot sizes (2+) in some areas.

- Target areas could be HDR, MDR, and LDR areas and associated zoning districts.



CONSIDERATIONS:

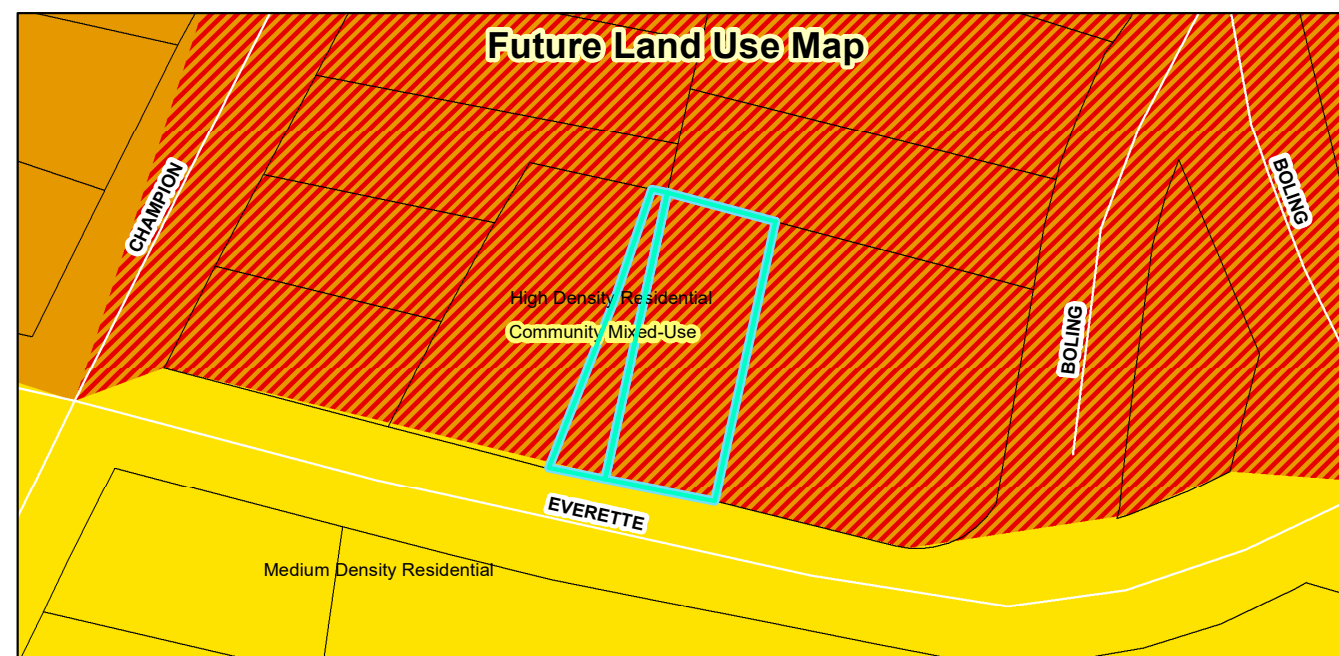
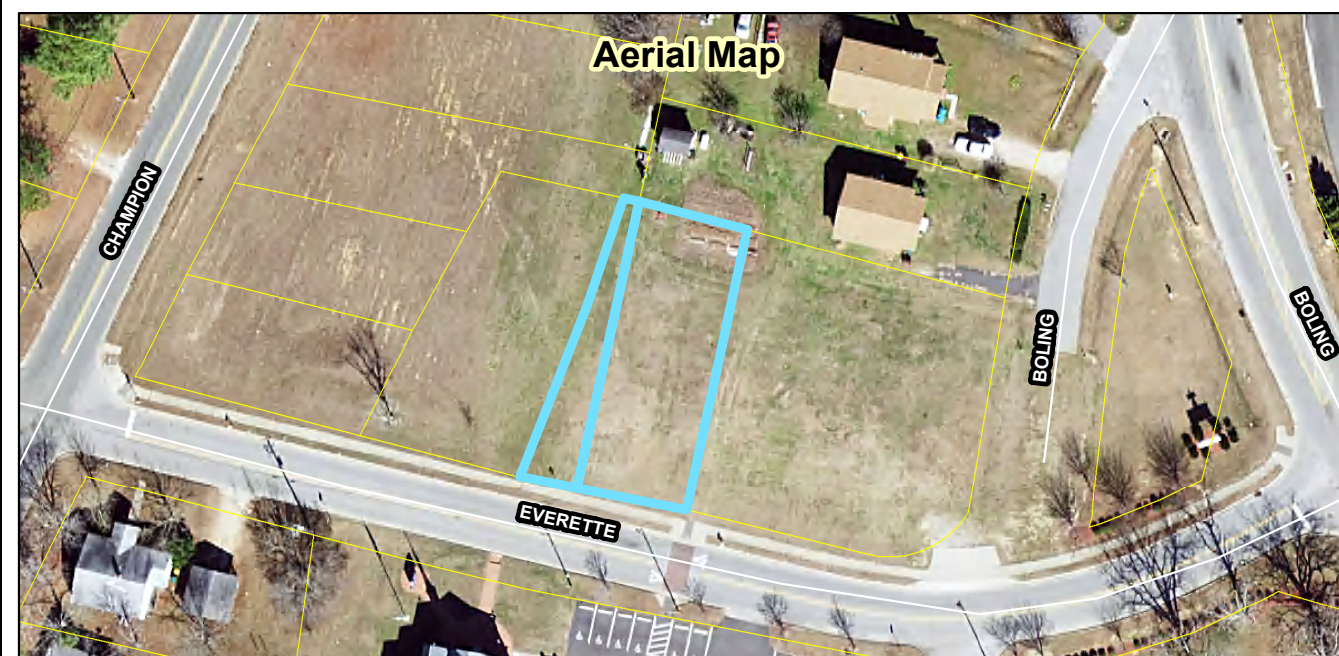
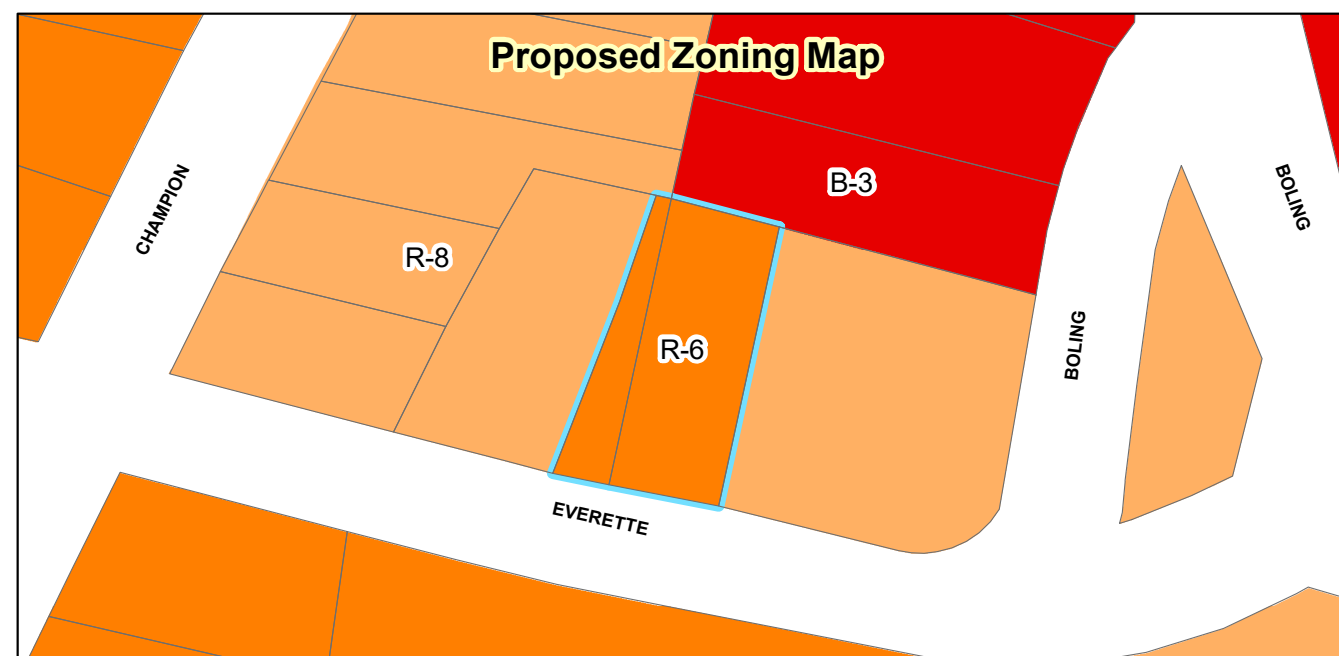
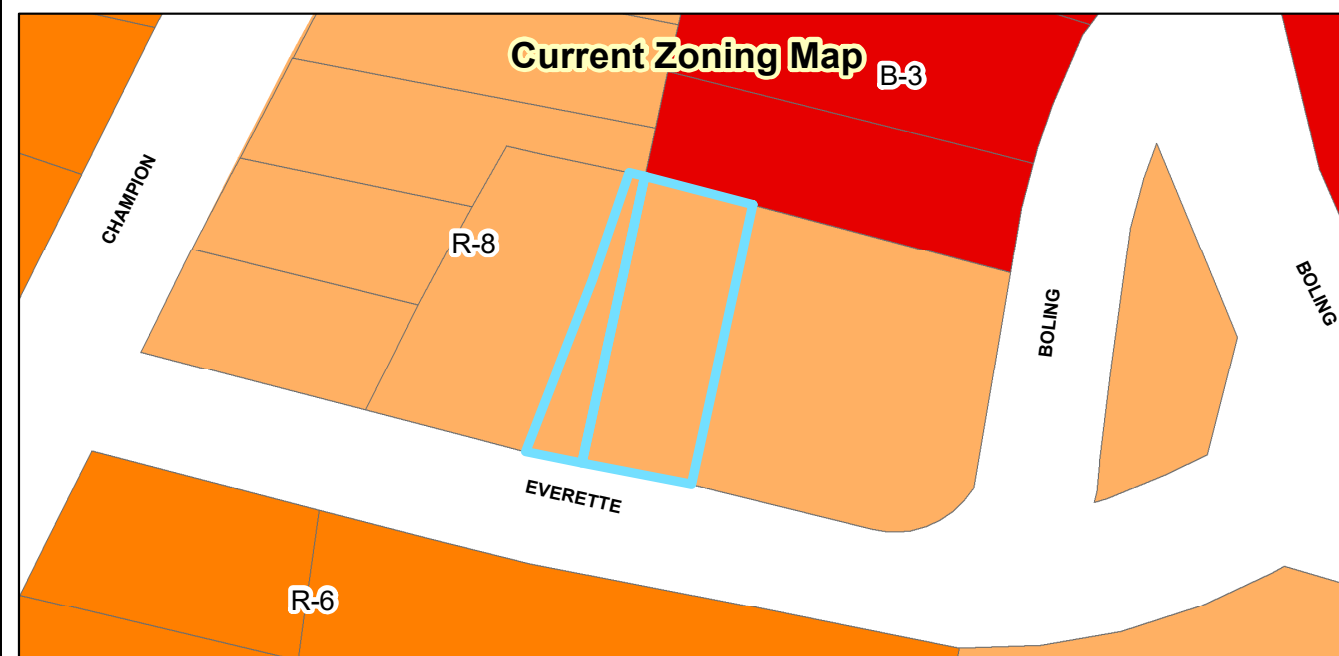
- Rezoning applications are decided by the Town Council. The Planning Board shall make a recommendation to the Town Council.
-

STAFF RECOMMENDATION:

Staff recommends **APPROVAL** of the proposed rezoning request.

ATTACHMENTS:

- 1) Application / Owner's Consent Form
- 2) Neighborhood Meeting Materials
- 3) Cloudbreak Investments Preliminary Plat
- 4) PB Adjacent Property Letter
- 5) Staff Report Maps



Request:
2021-141-RZ, to Rezone a parcel from Single Family Residential: 8,000 S.F. Lot(R-8) to Single-Family Residential: 6,000 S.F. Lot (R-6).

Applicant: True Line Surveying
 Property Owners: Cloudbreak Investments
 Tag #: 05010199 & 05003009

 Site



Staff Report Map
 Prepared by: TOC Planning Department
 December 10, 2021

Disclaimer: Town of Clayton assumes no legal responsibility for the quality of the data represented here.

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Town of Clayton
Planning Department
111 E. Second Street, Clayton, NC 27520
P.O. Box 879, Clayton, NC 27528
Phone: 919-553-5002
Fax: 919-553-1720

*Planning Board, December 21, 2021
Town Council Public Hearing, January 3, 2022*

STAFF REPORT

Application Number: 2021-126-OA

Project Name: Resource Conservation Area – Steep Slopes Text Amendment

Applicant: Town of Clayton

Public Noticing:

Newspaper ad for Town Council Public Hearing will be published December 22nd and December 29th

REQUEST: Request to amend the Unified Development Code Title XV, §155.502. This amendment seeks to revise the Resource Conservation Area section of the Unified Development Code regarding steep slopes. Town Council has requested reconsideration of the previously-approved amendment at the December 20, 2021 meeting. Staff discussed the five different text amendment options with the council, and will provide direction from the Town Council at their December 20th meeting to the Planning Board.

SECTIONS PROPOSED FOR AMENDMENT:

The following section of Title XV, Chapter 155, is proposed for amendment:

- Article V, Section 500 – Resource Conservation Areas

STAFF ANALYSIS AND COMMENTARY:

Overview

The proposed text amendment(s) would modify the definition and requirement for protection of Steep Slopes as Resource Conservation Areas in the Unified Development Code. As currently written, the definition and requirement for protection of steep slopes can be difficult to administer, and there have been two variances recently submitted for projects related to the protection of steep slopes. Engineering staff have reviewed the section and the requirements, and have provided several text options for amending this section to clarify the requirements or even remove the requirement altogether. All text amendment options would reorganize and provide minor clarifications throughout the Resource Conservation Areas section of the Unified Development Code. Other changes are listed below:

- Option 1: Minor revisions to clarify steep slope definition;

Page 1 of 2

- Option 2: Require steep slopes to be protected if directly connected to 100-year floodplain, wetlands or stream buffer(s) and at least 5,000 square feet of contiguous area in size;
- Option 3: Require steep slopes to be protected if within 100 feet of 100-year floodplain, wetlands or stream buffer(s);
- Option 4: Require steep slopes to be protected if directly connected to 100-year floodplain, wetlands or stream buffer(s) by a width of at least 20 feet;
- Option 5: Remove steep slopes from Resource Conservation Areas (no protection required)

The five options are provided as Attachments 1-5, with changes shown in underline and ~~striketrough~~. A map has also been provided as Attachment 6 showing the areas in the Town of Clayton Planning Jurisdiction where there are 25% or greater slopes.

Approval Criteria:

- **Consistency with remainder of the Chapter**
The request is consistent with the remainder of Chapter 155.
- **Novelty of the request**
The request does not represent novel changes to the Code. The code is being revised to clarify and/or revise requirements around protection of steep slopes.

CONSIDERATIONS

- The Planning Board shall make a recommendation on the text amendment to Town Council. The Town Council shall make a final decision regarding revisions to the Town Code.

STAFF RECOMMENDATION:

- Staff recommends that the Planning Board recommend one of the 5 text amendment options to the Town Council for Public Hearing. Staff will present any direction provided by the Town Council, and will provide a staff recommendation at the meeting.

ATTACHMENTS:

- 1) Existing UDC Text: 155.500 – Resource Conservation Areas
- 2) Strikethrough Text Amendment Option 1
- 3) Strikethrough Text Amendment Option 2
- 4) Strikethrough Text Amendment Option 3
- 5) Strikethrough Text Amendment Option 4
- 6) Strikethrough Text Amendment Option 5
- 7) Map of Slope Areas in Clayton Planning Jurisdiction
- 8) Town Council Public Hearing Newspaper Ad

**TOWN OF CLAYTON
AMENDMENT TO THE CODE OF ORDINANCES
AMENDING CHAPTER 155**

BE IT HEREBY ADOPTED THAT THE TOWN COUNCIL FOR THE TOWN OF CLAYTON, NORTH CAROLINA amend the Clayton Code of Ordinances Chapter 155.500 to read as follows:

§ 155.500 RESOURCE CONSERVATION AREAS

(A) DETERMINATION OF RESOURCE CONSERVATION AREAS

The following are considered resource conservation areas and shall be unoccupied by buildings or other impervious surfaces unless permitted below.

- (1) The 100-year floodplain
- (2) Stream buffer areas; and
- (3) Jurisdictional wetlands under federal law that meet the definition applied by the United States Army Corps of Engineers.

(B) DEFINED

- (4) Resource conservation areas shall be identified on plats as being permanently set aside from development, except passive uses pursuant to this Ordinance. No resource conservation area shall be counted towards lot area required by §§ 155.200 through 155.204, with the exceptions for stream buffers pursuant to G.S. §143-214.23A. This shall not preclude the platting of lots in such areas, provided that adequate lot area outside the resource conservation area is provided to meet the minimum lot area requirements of §§ 155.200 through 155.204.
 - (a) No resource conservation area shall be counted towards the recreation and open space requirements as set forth in §§ 155.200 through 155.204, with the exceptions for stream buffers pursuant to G.S. §143-214.23A; developed greenway, greenway-access or water-access facilities may be counted provided they are developed to the standards of this Ordinance.

(C) **RESOURCE CONSERVATION AREAS SHOWN ON PLAT**

All resource conservation areas shall be shown on any preliminary or final plat approved after January 1, 2006.

(D) **PERMITTED USES OF RESOURCE CONSERVATION AREAS**

Uses of resource conservation areas may include the following:

- (5) Conservation areas for natural, archeological or historical resources;
 - (b) Meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar conservation-oriented areas;
 - (c) Agriculture, horticulture, silviculture or pasture uses, provided that all applicable best management practices are used to minimize environmental impacts;
 - (d) Walking or bicycle trails;
 - (e) Easements for drainage, access, and underground utility lines;
 - (f) Other conservation-oriented uses compatible with the purposes of this chapter;
 - (g) Public infrastructure projects and supporting facilities.

(E) **PROHIBITED USES OF RESOURCE CONSERVATION AREAS**

Use of resource conservation areas may not include the following:

- (6) Stormwater Control Measures
 - (h) Roads, parking lots and impervious surfaces, except as specifically authorized through the appropriate governing body (DEQ, USACE, ect); and
 - (i) Golf courses, agricultural and forestry activities not conducted according to accepted best management practices.

(F) **OWNERSHIP AND MAINTENANCE**

(7) **Ownership**

Resource conservation areas shall be accepted and owned by one of the following entities:

- 1. Land conservancy or land trust. The responsibility for maintenance shall be borne by a land conservancy or land trust.

2. Homeowners association. A homeowners association representing residents of the subdivision shall own the resource conservation areas. Membership in the association shall be mandatory and automatic for all homeowners of the subdivision and their successors. The homeowners' association shall have lien authority to ensure the collection of dues from all members. The responsibility for maintenance shall be borne by the homeowner's association.
3. Private landowner. A private landowner may retain ownership of the resource conservation areas. The responsibility for maintenance shall be borne by the private landowner.

(j) **Maintenance**

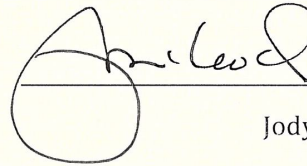
Resource conservation area maintenance is limited to removal of litter, dead tree and plant materials and brush. Natural water courses are to be maintained as free-flowing and devoid of debris. Stream channels shall be maintained so as not to alter floodplain levels. Unless otherwise specified by the Town Council, maintenance is limited to insuring that there exist no hazards, nuisances or unhealthy conditions.

(k) **Legal Instrument for Permanent Protection**

- (a) Resource conservation areas shall be protected in perpetuity by a binding legal instrument that is recorded with the deed.
4. The instrument for permanent protection shall include clear restrictions on the use of the of resource conservation area. These restrictions shall include all restrictions contained in this section, as well as any further restrictions the applicant chooses to place on the use of the resource conservation areas. Where appropriate, the instrument shall allow for stream or habitat restoration.

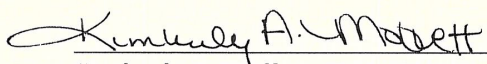
(Ord. 2005-11-02, passed 11-21-05)

Duly adopted this the 15th day of November 2021, while in regular session.

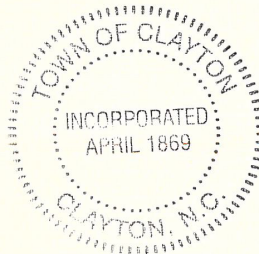


Jody McLeod
Mayor

ATTEST:



Kimberly A. Moffett, CMC, NCCMC
Town Clerk



ARTICLE 5: NATURAL RESOURCE PROTECTION

CONTENTS:

§ 155.500 RESOURCE CONSERVATION AREAS..... 1
§ 155.501 WATERSHED PROTECTION 4
§ 155.502 STREAM BUFFERS..... 8

§ 155.500 RESOURCE CONSERVATION AREAS

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- (3) No resource conservation area shall be counted towards the recreation and open space requirements as set forth in §§ 155.200 through 155.204, with the exceptions for stream buffers pursuant to G.S. §143-214.23A, except developed greenway or greenway-access or water-access facilities may be counted provided they are developed to the standards of this Ordinance.

(B) DETERMINATION OF RESOURCE CONSERVATION AREAS

The following are considered resource conservation areas and shall be unoccupied or predominately unoccupied by buildings or other impervious surfaces.

- (1) The 100-year floodplain
- (2) Stream buffer areas
- (3) Slopes above 25% of at least 5,000 square feet contiguous area; and
- (4) Jurisdictional wetlands under federal law () that meet the definition applied by the United States Army Corps of Engineers.

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(C) **PERMITTED USES OF RESOURCE CONSERVATION AREAS**

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- (3) Agriculture, horticulture, silviculture or pasture uses, provided that all applicable best management practices are used to minimize environmental impacts;
- (4) Walking or bicycle trails;
- (5) Easements for drainage, access, and underground utility lines;
- (6) Other conservation-oriented uses compatible with the purposes of this chapter;
- (7) Public infrastructure projects and supporting facilities.

(D) **PROHIBITED USES OF RESOURCE CONSERVATION AREAS**

Use of resource conservation areas may not include the following:

- (1) L; Stormwater Control Measures
- (2) Roads, parking lots and impervious surfaces, except as specifically authorized; and
- (3) Golf courses, agricultural and forestry activities not conducted according to accepted best management practices.

(E) **OWNERSHIP AND MAINTENANCE**

(1) **Ownership**

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- (b) Homeowners association. A homeowners association representing residents of the subdivision shall own the resource conservation areas. Membership in the association shall be mandatory and automatic for all homeowners of the subdivision and their

successors. The homeowners' association shall have lien authority to ensure the collection of dues from all members. The responsibility for maintenance shall be borne by the homeowner's association.

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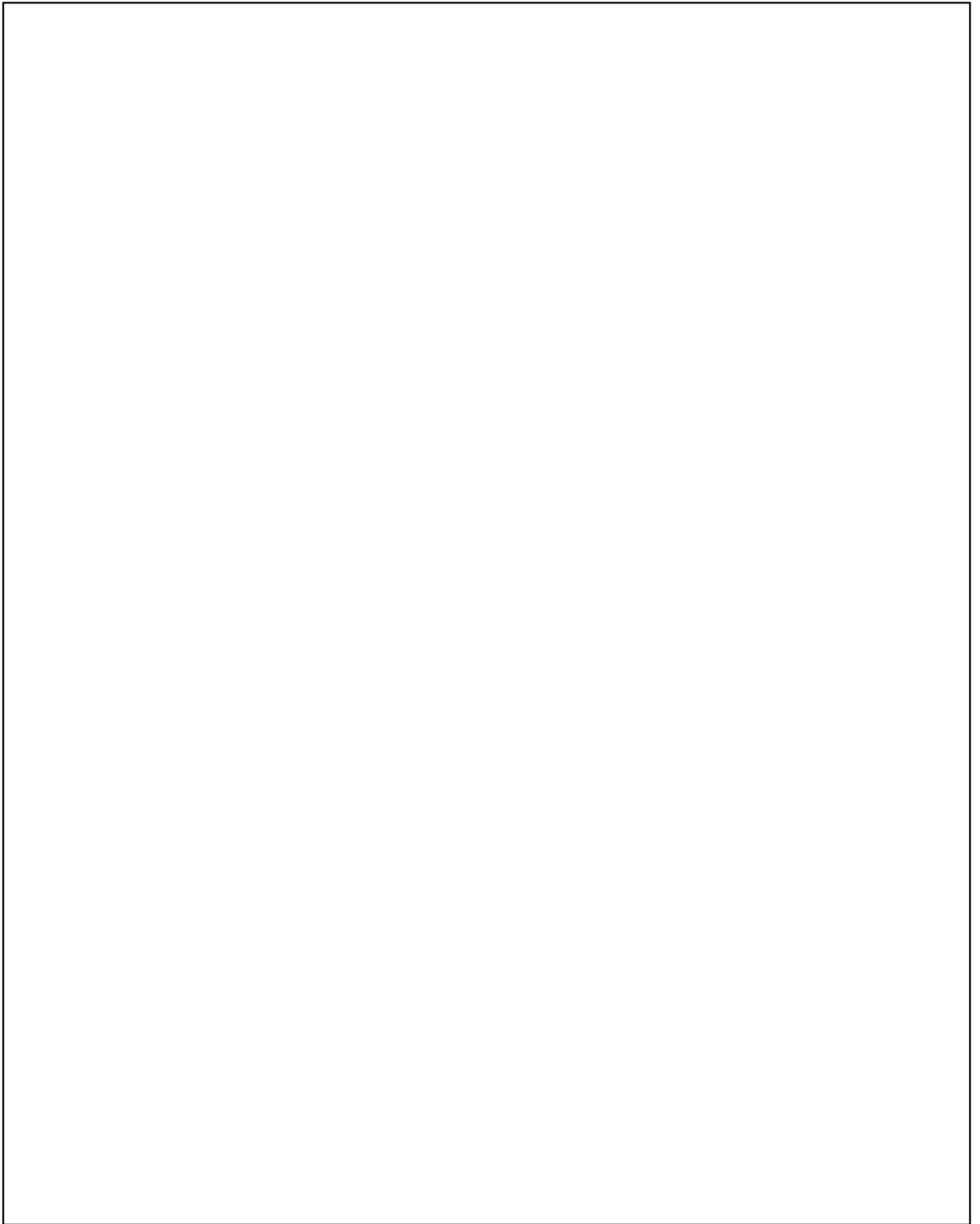
(2) Maintenance

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(3) Legal Instrument for Permanent Protection

- (a) Resource conservation areas shall be protected in perpetuity by a binding legal instrument that is recorded with the deed.
- (b) The instrument for permanent protection shall include clear restrictions on the use of the of resource conservation area. These restrictions shall include all restrictions contained in this section, as well as any further restrictions the applicant chooses to place on the use of the resource conservation areas. Where appropriate, the instrument shall allow for stream or habitat restoration.

(Ord. 2005-11-02, passed 11-21-05)



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ARTICLE 5: NATURAL RESOURCE PROTECTION

CONTENTS:

§ 155.500 RESOURCE CONSERVATION AREAS..... 1

§ 155.501 WATERSHED PROTECTION **Error! Bookmark not defined.**4

§ 155.502 STREAM BUFFERS..... **Error! Bookmark not defined.**9

§ 155.500 RESOURCE CONSERVATION AREAS

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~~(A)~~(B) DEFINED

- ~~(1) All resource conservation areas shall be unoccupied or predominately unoccupied by buildings or other impervious surfaces. Unoccupied or predominately unoccupied by buildings or other impervious surfaces shall mean that not more than 5% of the area of any resource conservation area shall be occupied by such surfaces.~~
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- (4) Walking or bicycle trails;
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- (7) Public infrastructure projects and supporting facilities.

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Use of resource conservation areas may not include the following:

- (1) ~~↳~~ Stormwater Control Measures

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(Ord. 2005-11-02, passed 11-21-05)

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(Ord. 2005-11-02, passed 11-21-05)

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- (6) Other conservation-oriented uses compatible with the purposes of this chapter;
- (7) Public infrastructure projects and supporting facilities.

~~(D)~~(E) PROHIBITED USES OF RESOURCE CONSERVATION AREAS

Use of resource conservation areas may not include the following:

- (1) ~~↳~~ Stormwater Control Measures

- (2) Roads, parking lots and impervious surfaces, except as specifically authorized through the appropriate governing body (DEQ, USACE, ect); and
- (3) Golf courses, agricultural and forestry activities not conducted according to accepted best management practices.

~~(F)~~ **OWNERSHIP AND MAINTENANCE**

(1) Ownership

Resource conservation areas shall be accepted and owned by one of the following entities:

- (a) Land conservancy or land trust. The responsibility for maintenance shall be borne by a land conservancy or land trust.
- (b) Homeowners association. A homeowners association representing residents of the subdivision shall own the resource conservation areas. Membership in the association shall be mandatory and automatic for all homeowners of the subdivision and their successors. The homeowners' association shall have lien authority to ensure the collection of dues from all members. The responsibility for maintenance shall be borne by the homeowner's association.
- (c) Private landowner. A private landowner may retain ownership of the resource conservation areas. The responsibility for maintenance shall be borne by the private landowner.

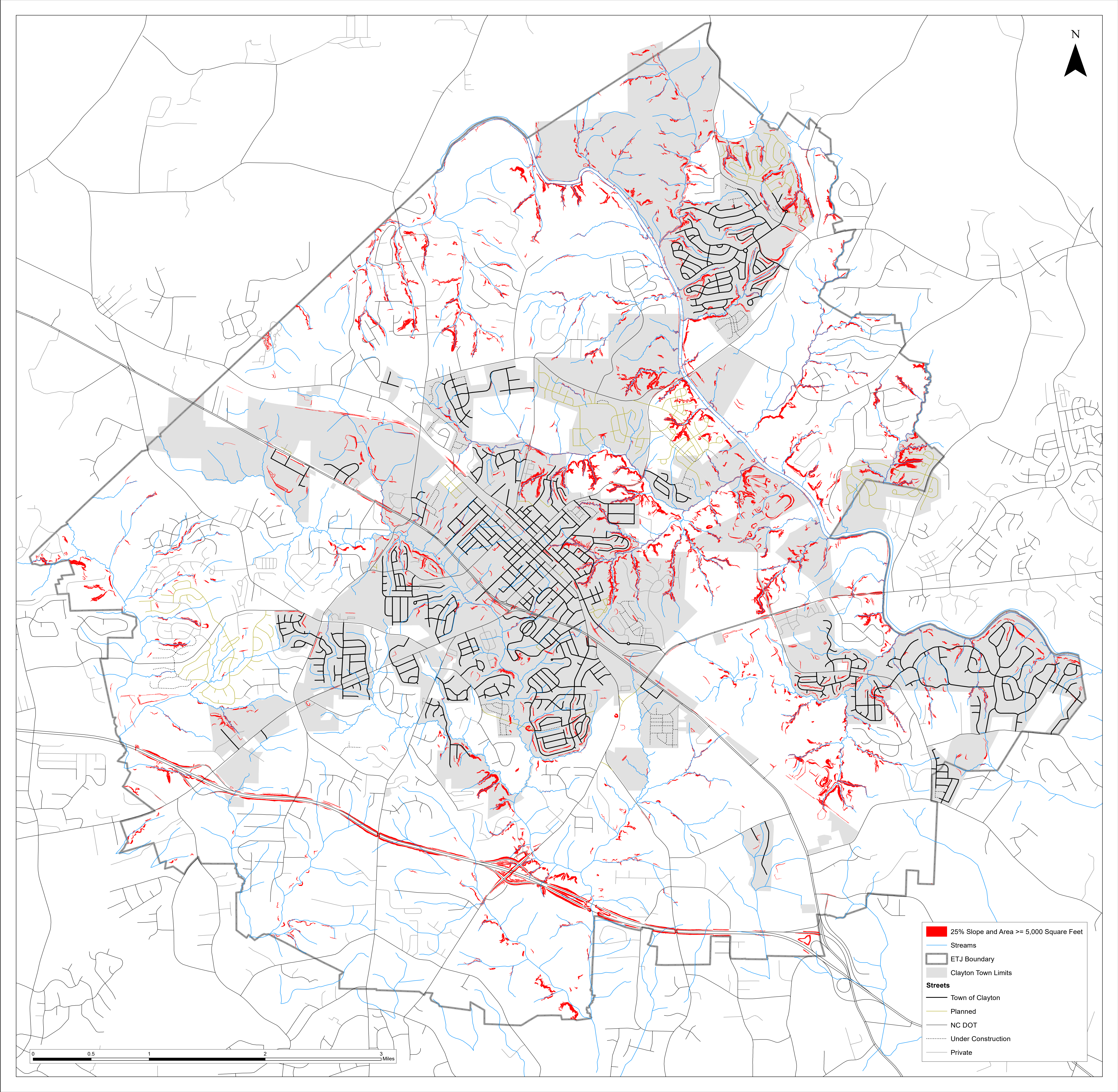
(2) Maintenance

Resource conservation area maintenance is limited to removal of litter, dead tree and plant materials and brush. Natural water courses are to be maintained as free-flowing and devoid of debris. Stream channels shall be maintained so as not to alter floodplain levels. Unless otherwise specified by the Town Council, maintenance is limited to insuring that there exist no hazards, nuisances or unhealthy conditions.

(3) Legal Instrument for Permanent Protection

- (a) Resource conservation areas shall be protected in perpetuity by a binding legal instrument that is recorded with the deed.
- (b) The instrument for permanent protection shall include clear restrictions on the use of the of resource conservation area. These restrictions shall include all restrictions contained in this section, as well as any further restrictions the applicant chooses to place on the use of the resource conservation areas. Where appropriate, the instrument shall allow for stream or habitat restoration.

(Ord. 2005-11-02, passed 11-21-05)



PUBLIC NOTICE

In accordance with NC GS 160D-601(a), the Clayton Town Council will hold a public hearing on Monday, January 3, 2022, at 6:00 PM in the Council Chambers at the Clayton Center, 111 E Second Street, to consider the following amendment to the Unified Development Code:

- 2021-126-OA Resource Conservation Areas Ordinance Amendment, proposed to amend Title XV, Chapter 155, Section 500 – Resource Conservation Areas. Copies of the proposed amendment are available in the Planning office, the Town Clerk's office, and on the Town's website for review by the public.

The public is invited to attend.

Ben Howell, Planning Director
919-553-5002

The Johnstonian Newspaper

Please advertise on the following dates:
December 22, 2021
December 29, 2021

Affidavit of publication required.