Town of Clayton
Regular Town Council Meeting Minutes
Monday, August 21, 2023 at 6:00 PM
Council Chambers, Town Hall
111 E. Second Street

Council Present:
Mayor Jody McLeod
Mayor Pro Tem Jason Thompson
Council Member Porter Casey
Council Member Avery Everett
Council Member Andria Archer
Council Member Michael Sims

Council Absent:
None

Staff Present:
Rich Cappola, Town Manager
Jim Cauley, Town Attorney
Heidi Holland, Town Clerk
Dolores Gill, Deputy Town Manager
Lee Barbee, Deputy Town Manager
Robert McKie, Finance Director
Greg Tart, Police Chief
Jonathan Jacobs, Interim Planning Director
Joshua Baird, Engineering Director
Nathanael Shelton, Communications Officer
Ben Howell, Planning Director
Bruce Venable, Planner

1. CALL TO ORDER

a. Call to Order

Mayor McLeod called the meeting to order at 6:00 p.m.

b. Pledge of Allegiance
Presenter: Clayton Fire Department Honor Guard provided the Color Guard and led the Pledge of Allegiance.

c. Invocation

Mayor McLeod provided the Invocation.

2. ADJUSTMENT OF THE AGENDA

a. Rich Cappola provided adjustments to the agenda as follows:
3b. Building Code and Staff Appreciation to be moved to 5a.
Add 10d. Strategic Plan Process Update

Approve or Adjust the Agenda

RESULT:	**CARRIED 5-0**
MOVER:	Jason Thompson
SECONDER:	Michael Sims
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

3. CONSENT AGENDA

a. Minutes
- August 7, 2023 - Work Session
- August 7, 2023 - Regular Session

Presenter: Heidi Holland, Town Clerk

b. Building and Code Staff Appreciation Day Proclamation
(This was moved to 5a).
Presenter: Heidi Holland, Town Clerk

c. Resolution 2023-47: To Accept Public Utilities into the Town of Clayton Public Utility System for Maintenance - Academy Point, Phase 5-7
Presenter: Jonathan K. Jacobs, PE, CFM - Assistant Engineering Director

d. Resolution 2023-48: To Accept Public Utilities into the Town of Clayton Public Utility System for Maintenance - Ashcroft, Phase 7
Presenter: Jonathan K. Jacobs, PE, CFM - Assistant Engineering Director

e. Resolution 2023-53: To Accept Public Utilities into The Town of Clayton Public Utility System for Maintenance – Spinning Mill Apartments.
Presenter: Jonathan K. Jacobs, PE, CFM - Assistant Engineering Director

f. Resolution 2023-54: To Amend Resolution 2023-38 to Accept Streets into The Town of Clayton Street System for Maintenance - Walk at East Village Phase 2
Presenter: Jonathan K. Jacobs, PE, CFM - Assistant Engineering Director

Approve Consent As Presented

RESULT:	**CARRIED 5-0**
MOVER:	Jason Thompson
SECONDER:	Porter Casey
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

4. ADMINISTRATIVE ITEMS

5. INTRODUCTIONS AND SPECIAL PRESENTATIONS

a. Building and Code Staff Appreciation Day Proclamation
Presenter: Mayor McLeod

Mayor McLeod read the proclamation into the record and presented this to Robert Yarbrough.

6. PUBLIC HEARINGS

a. 2023-66-RZ Miam Equipment Rezoning
Presenter: Bruce Venable, Planner I

Mr. Venable stated this request is to rezone from B-3 to I-1. This property is approximately 9.80 acres located at 7581 and 7531 Hwy 70 Business and is currently vacant. He stated the future land use map has this property as Employment Center.

Staff and the planning board recommend approval. Mr. Venable stated the applicant is here tonight.

Mayor McLeod stated this has been noted as a public hearing and asked if anyone wished to speak.
Bobby Hernic, Attorney for the applicant, was present. He stated this property is adjacent to Sun Belt Rentals. He stated they would be back in the future for an annexation and if approved, would begin the site plan process.

Mayor McLeod asked if anyone else wished to speak. With no one further wishing to speak the public hearing was closed and turned over to Council for deliberation.

Adoption of Ordinance # 2023-08-01 and Consistency and Reasonableness Statement

RESULT:	**CARRIED 5-0**
MOVER:	Andria Archer
SECONDER:	Jason Thompson
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

b. 2023-64-ANX 8175 US 70 Bus Annexation

Mr. Venable stated this request is for a non-contiguous annexation, approximately 15.76 acres located off 8175 US Hwy 70 Business. He stated the future land use map has this property as Employment Center.

Mayor McLeod stated this has been noted as a public hearing and asked if anyone wished to speak.

Bernie Rice stated this is a request for a non-contiguous annexation and echoed Mr. Venable's information.

Mayor McLeod asked if anyone else wished to speak. With no one further wishing to speak the public hearing was closed and turned over to Council for deliberation.

Adoption of Ordinance #2023-08-03

RESULT:	**CARRIED 5-0**
MOVER:	Michael Sims
SECONDER:	Avery Everett
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

c. 2023-65-RZ 8175 US HWY 70 Rezoning
Presenter: Bruce Venable, Planner I

Mr. Venable stated this request is for a rezone from R-E and B-3 to I-2. The property size is 15.76 acres and currently the property is vacant. Shared was the zoning map. Staff and planning board recommend approval.

Mayor McLeod stated this has been noted as a public hearing and asked if anyone wished to speak.

Applicant Bernie Rice thanked Council for the consideration and stated he was here for any questions.

Mayor McLeod asked if anyone wished to speak. With no one wishing to speak the public hearing was closed and turned over to Council for deliberation.

Adoption of Ordinance #2023-08-02 and Consistency and Reasonableness Statement

RESULT:	**CARRIED 5-0**
MOVER:	Jason Thompson
SECONDER:	Andria Archer
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

7. QUASI-JUDICIAL HEARING

Quasi-Judicial Hearing

A quasi-judicial hearing resembles a court trial where testimony is presented. Citizens may give testimony in a quasi-judicial hearing after they have taken an oath. Town Council acts like a court of law and receives only sworn testimony and other credible evidence. In addition, the Town Council must make findings of fact based upon the evidence presented.

The Town Council refrains from "ex parte communication" about these cases, as the Town Council must make a decision based solely on the evidence presented at the hearing itself. Staff is available to assist with inquiries from citizens.

a. 2022-186-SUP Ridgecrest Townes Special Use Permit
Presenter: Bruce Venable, Planner I

Attorney Cauley discussed the process of a quasi-judicial hearing. He recommended voting separately on all four findings of fact. The Town Clerk swore those in offering testimony.

Mr. Howell stated this request is for 128 townhomes units on approximately 30.34 acres located between City Road and N. O'Neil Street, with access on City Road and access on Ridgecrest through Starmont Drive.

The existing use is primarily vacant with a couple single family homes. An associated subdivision plan was shared as well as the proposed architecture elevations. He stated the proposed architectural elevations to be used would be luxury vinyl on all facades. The property is a mixture of downtown support as well as medium density residential

and high density residential in the future land use plan. The medium density allows for 3-5 units per acre, high density residential allows for less than 10 units per acre and downtown support allows for up to 25 units per acre. The proposed developed is asking for 9.33 units per acres. Shared was an adjacent zoning and land use map.

Stated were each of the findings of fact, these are located in the staff report. Staff has recommended a number of conditions. The first two are the standard conditions. Discussed were the rest of the conditions, all of which are located in the staff report.

Mr. Howell stated the applicant is here tonight. Attorney Cauley stated the applicant's attorney was running late. Mayor McLeod asked if there was anyone else that could speak. The applicant's consulting engineer, Javier Jaramillo with BGE, was present. Mayor McLeod asked Council if they had any questions for staff.

Council Member Casey stated in the staff report it mentioned a little under 10 units per acre, but the applicant's response was five units, he asked if this was a miscalculation. Mr. Howell stated the future land use plan allows for parts of the property to have up to 10 or even 25 units per acre and by our code, in R1- and R-8, SUP for townhomes can allow for up to 10 units per acre. The applicant is only proposing 4.22 dwelling units per acre.

Council Member Casey asked Mr. Howell to go to the current zoning designation slide. He asked Mr. Howell to explain the difference between R-10 and R-8. He stated the R-10 allows for single-family residential homes and on lots of the minimum lot size of 10,000 sq. ft. per lot. R-8 allows for single-family detached lots at a minimum lot size of 8,000 sq. ft. per lot. Both zoning districts permit townhomes as a special use when the application was submitted. The code has since been changed. Council Member Casey asked Mr. Howell to go to the future land use map slide. He asked about certain sections which include downtown neighborhood, high density residential and medium density residential. Council Member Casey if there was only a fraction designated as high density residential; Mr. Howell stated the majority of the property is designated to either downtown support or high density residential.

Council Member Sims asked Mr. Howell to verify Findings of Fact #1, he asked Mr. Howell to enlighten him on the "significant road improvements" statement. Mr. Howell stated the applicant is required to provide frontage improvements along City Road which would consist of widening curb, gutter and sidewalk. By DOT standards, they would be required to install turn lanes at their entrance. Council Member Sims asked if there was a length, Mr. Howell stated it would be along the entire frontage which is significant for this project and is one of the reasons the applicant has proposed a fee-in-lieu for those frontage improvements. Mr. Howell stated he does not have the length information but stated Jonathan Jacobs may have that. Mr. Jacobs stated the proposed section in the transportation document provided in the land use plan is a three-lane section so there is a center turn lane or a two-way turn lane in the center, they would be responsible for half of that so roughly about 12 feet.

Council Member Archer stated the proposed entrance off Ridgecrest appears to be in a steep slope area and possibly the entrance coming off City Road, do we know if any of those conflicts with the steep slope ordinance? Mr. Howell stated the way the resource conservation area ordinance is written is if the applicants can receive

approval from other agencies to impact the resource conservation areas, then they would be allowed to do that. While there are some steep slopes, they are related to those wetlands and streams. The way the ordinance has been interpreted is if the applicant can get proper permits to impact those wetlands and streams, then those steep slopes, which are directly related to those wetlands and streams, can be impacted as well.

Council Member Archer stated she noticed on the plans pertaining to steep slopes, there' a note that says, "steep slopes area shall be exempt for roadway crossing pending approval of NCDEQ permits". She asked if we knew if this would be approved at this point, Mr. Howell stated that is correct, they would have to receive the permits in order to construct those roads. Mr. Jacobs stated staff would not approve the construction drawings until that approval has been received.

Toby Coleman was present on behalf of the applicant. He said they were contacted by neighbors to the east who have concerns, those have tried to be addressed. Mr. Coleman distributed binders with documents containing evidence for this project to each Council Member. He asked this be made part of the record.

Mr. Coleman discussed Tri point Homes; they are a nationally publicly traded home developer. Alexis Karenbot from Tri point was present. He recapped what Mr. Howell stated about the project. He stated because of how the steep slopes and buffer interact, which makes the northern 11 acres practically infeasible, there is extensive open space, about 15 acres out of the 30. This means for 128-unit project, it equals about 4.2 units an acre. Shared was an overall site plan which shows this project would be built in phases. The main phase is north and west behind the Clayton Swim Club. He stated the pavement ends behind the swim club; this project would pave out the remainder of the existing right-of-way; that would be part of Phase 1. This would help improve the neighborhood in terms of providing an additional road.

Phase 2 is adjacent to Starmont 4 subdivision. This property is leftover of Starmont subdivision that was never built. Phase 3 would provide additional undeveloped road improvements. Shared was an example townhome elevations. In discussion with neighbors, they suggest providing masonry (70%) along the facades. Tri point took a look at this, this is not consistent with surrounding neighborhoods. Proposed is 30% masonry on the front façade.

Provided was history of the site. Gordon Real Estate attempted to develop this area in the late 1960/early 1970s. The Gordon family still owns a bulk of land that failed to be developed. The townhome proposal seeks to develop property in an environmentally sensitive manner consistent with development that has occurred over the last 50+ years. Because of topographical challenges, it creates an issue where you need some sort of clustering, the townhomes help with that.

Discussed was Findings of Fact #1. Mr. Coleman stated he wanted to highlight the staff report states there's adequate vehicular access and utilities for emergency and medical services and the proposed townhomes aren't expected to create a public health and safety danger. He stated Meadowbrook and Ridgecrest would be improved as part of this project. The Meadowbrook Drive is platted on paper but is not a road as of yet but is shown as a future road in the Town's Transportation Plan. There would be

a new connection that would run from Ridgecrest to City Road. It is not on the Town's Transportation Map, but it mirrors a planned road just south that would achieve the same connection. This would help grid out this area north of downtown and would provide a connection to N. O'Neil Street.

He stated they are sensitive to Council's concern about N. O'Neil Street, a traffic impact analysis has been done on this project. Traffic Engineer Lisa Lundeen with Exalt Engineering was present. She stated she has a bachelor's degree from NC State in Civil Engineering and has 12 years of experience. She stated based on an analysis for N. O'Neil Street is approximately 1250 vehicles per day, this project would only account for 1.5% of that total traffic. The roadway capacity for City Road is about 10,500 vehicles per day and this development is only expected to account for about 4% of the total capacity of the roadway.

Based on the total analysis, it was concluded the existing roadway network does provide the adequate capacity to accommodate the proposed site traffic that is expected of minimal impacts on the surrounding roadway network. Mr. Coleman stated the analysis is in the binder that was passed out to Council. He asked Ms. Lundeen if the technical memorandum, Ridgecrest Townes trip generation and distribution letter is a true and accurate copy, she stated yes.

Mayor McLeod asked Ms. Lundeen how many TIA she has completed in Clayton or Johnston County, she stated 5 or so.

Council Member Casey asked if the traffic would be a minimal impact; Ms. Lundeen stated that is correct. Council Member Sims asked how many units would be a significant impact? Ms. Lundeen stated typically the NCDOT threshold is 3,000 vehicles per day and the Town of Clayton threshold is about 1,000 vehicles per day for requiring a traffic impact analysis. Typically, if a development generates enough trips to trigger the need for a TIA, it could have impacts, therefore they would study more of the intersections. Council Members Sims asked if she had ever testified before a quasi-judicial hearing where there would be a significant impact? She stated there are certain subdivisions that would a have significant impact but generally with a TIA they would create a list of roadway improvements that would be needed with the development in order to mitigate the traffic.

Mr. Coleman asked Ms. Lundeen if she had ever performed a TIA of significant mitigation related to traffic generation, she stated yes. He asked if this is a project that she would foresee this type of mitigation? She stated no. Mr. Coleman stated a lot of traffic from this development would not go to N. O'Neil Street, it's estimated about 30% of the traffic would go to N. O'Neil Street and 70% would go to either City Road or down Ridgecrest Drive.

Mayor McLeod asked how this is calculated. Ms. Lundeen stated a proposed distribution is created on how they think traffic would go based on surrounding land uses and current traffic volumes in the area. Mayor McLeod asked if the peak hours are a part of the calculation, be it early morning or late afternoon, Ms. Lundeen stated yes, that would be the typical commuter peak hours. Council Member Casey asked if it was possible for the information to be slightly inaccurate. Ms. Lundeen stated it could slightly deviate, however, with the size of development she wouldn't expect that.

Mr. Coleman discussed Findings of Fact #2. He stated this did go through the TRC and as noted in staff report it complies with the UDC criteria for parking access, landscaping and open space and doesn't exceed the maximum density.

He stated one question neighbors asked if the lots in the project are between an interior of 20-22 feet exterior and side lots about 27 feet. Some neighbors stated they believe the UDC requires alley loaded townhomes because it is under 42 feet. There is a table in UDC 155.203e discussing R-10 and R-8. He stated there is a footnote next to a type of residential unit called alley loaded which states if your lot is under 42 feet, it must be alley loaded. The distinction is the alley loaded category is intended to describe detached homes. He understands this provision of the ordinance arose from a project that had smaller single family detached lots. He stated there are separate line items for townhomes. That footnote does not apply to those.

He stated he spoke with Mr. Howell and town staff agreed with this. He asked town staff to take a look to see if Council had previously approved SUP involving lots 20-22 feet wide with front loaded garages, shared were 10 developments in the last six years meeting that criteria.

Mr. Coleman discussed Findings of Fact #3. He stated a state certified appraiser was present. David Lewis, with Dickinson Lewis and Associates, was present and stated he has also been a broker since 1992 with a degree in political science from UNC. Shared were 4 projects that he found comparable subdivisions close in proximity. He stated the average and median sales price per sq. ft. for all residential transactions increased over the time frames of the studies. The surrounding properties have not been impacted at all. In conclusion, the data from the four comparable subdivisions show the proposed development is not going to substantially injure the value of adjoining or abutting properties.

Council Member Casey stated Council has not had a chance to look at the provided evidence in the binder. He asked about the commercial property, Scott Crawford property. Mr. Lewis stated this is another piece of evidence to show a high-density commercial redevelopment that required a SUP.

Council Member Casey asked if everyone's property has increased in value, Mr. Lewis stated yes in the last year. Council Member Casey asked if he had ever seen an adverse effect, Mr. Lewis stated not in this area.

Mayor Pro Tem Thompson asked if Mr. Lewis has ever testified that property value would have decreased, he stated he has not. Council Member Sims asked if most of the time when doing comparisons, he asked all if all four developments are alike to the proposed? Mr. Lewis stated that is correct.

Mr. Coleman asked Mr. Lewis if the property document is a true and accurate copy, Mr. Lewis stated this is.

Mr. Coleman discussed Findings of Fact #4. He stated the proposed density and unit type is consistent with the 2045 comprehensive growth plan. He went into further detail on this.

He stated in the comprehensive plan when looking at gross residential density, the Town has defined gross residential density as the number of dwelling units divided by the total project area without subtracting areas for open space. When you look at this you can't split it up. Although the medium density residential calls for 3-5 units per acre, that has not been put into effect in the zoning ordinance. In the UDC, it says an R-8 and R-10, 10 townhomes per acre is permitted. He stated the project was filed in November 2022 and the ordinance was changed in February 2023.

Mr. Coleman stated a couple weeks ago, he heard from the Attorney retained by the neighbors that passed along comments and concerns neighbors had. Some concerns were related to traffic safety. Staff have been provided a set of updated zoning conditions that if town engineering is ok with it, the developer would install a speed bump at the northern end of Ridgecrest. There's also a concern about the 90-degree angle turn, there might be a safety barrier issue so there is a request for a safety barrier. Also proposed is a zoning condition that says we will install that in the right-of-way if town engineering is ok with that.

Another concern heard in Starmont, was about setbacks. They are proposing a Class C buffer. Behind the townhomes there would be 15-30 feet of untouched vegetated area that would not be graded or touched. Another concern was about retaining walls, they did not want large retaining walls as part of this development. The only area a retaining wall would be installed would be in the area of a shared property line with single-family homes on Meadowbrook Drive.

Council Member Casey asked about Findings of Fact #2. He asked Mr. Coleman to read the response. Mr. Coleman stated when the application was submitted in November 2022, TRC review showed that they have complied with all applicable requirements.

Council Member Casey asked if all 15 acres is open space, what would net density be of development? Mr. Coleman stated roughly 8.2 acres. He stated one thing to keep in mind, while there is significant amount of open space, there is a stream that runs on City Road and takes a right at southeast adjoining townhome development toward Ridgecrest.

Council Member Casey asked is there a stormwater engineer that could speak regarding stormwater? Javier Jaramillo elaborated. He stated there is about 30 acres that is encumbered by jurisdictional streams and wetlands. There has been a study done by another consultant. What they have looked at early one is preliminary grading primarily drainage. They have done their best to maintain the drainage patterns and their direction. They have also made sure they have not increased runoff. They have accounted for stormwater control measures and that's to make sure there is not post developed runoff.

He stated they have three stormwater control measures that they would be fine tuning when it gets to the engineering design of this project. They would be working with engineering to make sure state requirements are met. There would be detailed calculations for hydraulic conditions that would help size pipe, structure and inlets that

would help capture the water as well as a curb and gutter system that would be implemented.

Council Member Casey stated when you take all the impervious, can you complete mitigate stormwater runoff, Mr. Jaramillo stated they try to do their best. He stated they don't want to make anything worse than it is. Council Member Casey asked if there would be impact? Mr. Jaramillo stated there is always impact with drainage but they try their best to minimize with storm drainage and try to implement stormwater control measures. He stated anytime you move a shovel there would be an impact.

Mayor Pro Tem Thompson stated looking at existing Starmont, that's all downhill, at the bottom there is already existing pond. He wants to make sure he can guarantee water won't run down. Mr. Jaramillo stated he doesn't think anyone can guarantee that but would do their best.

Mr. Coleman asked Mr. Jaramillo to talk about the measures being taken regarding stormwater drainage. He stated on the certain lots, they would be grading majority of the houses towards Ridgecrest to the west on the back side to control roof runoff. This could be done by downspout gutters that could help capture runoff. The runoff that runs off the rear would get into private ditches that run across from lot to lot, in this case it would be a v-ditch trapezoidal shaped ditch.

Council Member Archer stated looking at the proposed layout, it looks different than what Council typically sees. Typically, they see the buildings clustered together in a way that's smooth and connected, like proposed in Phase 1. Phases 2 and 3 look disjointed. Mr. Jaramillo stated because of tracks of land bought from the seller, it would have been nice to combine all the phases into the center pod. Unfortunately, there are existing streams that have buffers on each side for a total of 100 feet wide. Between Phases 1 and 2, there is a jurisdictional stream that impacts this. If those two items were not on this property, more townhomes could have been put into cluster them more together. The disconjoining between Phases 2 and 3, is just the ability to utilize extra land and try to get more units.

Council Member Archer stated she understands the limitations, but she is concerned with how that feels to the surrounding neighborhood. Mr. Jaramillo stated when you look at it, it is denser. Council Member Archer asked if he would say the proposed plan which groups the townhomes together and the open space together is not similar to the character of the neighborhood on the existing Starmont and Edgewater Streets. Mr. Jaramillo stated looking at the graphic you can see more density. To the east of Edgewater, you would see similar density.

Council Member Archer asked Mr. Jaramillo if he would say there is any sort of transition between the existing streets and the townhomes, Mr. Jaramillo stated unfortunately not. He stated they did the best to utilize the land.

Mr. Coleman stated after speaking with the applicant, he wants to address Council Member Archer regarding transition. In recognition of that, he showed on the map the downtown neighborhood that it's supposed to be denser. The property to the south is a mixture of widths and sizes and was originally platted in 1923. You see a denser project as you go south. He stated regarding the clustering, the portion of Phase 2 on

the west side of Ridgecrest is part of that cluster. They recognize the portion to the east could use transition. They are proposing to reduce the amount of maximum number of townhomes on the east and propose those would be developed as detached single-family homes consistent with the applicable zoning.

Council Member Archer asked Mr. Coleman to identify that on the map. Mr. Coleman stated his client is trying to balance a project that meets the affordability threshold. A lot of open space would remain. A lot of this area was always intended to be developed.

Council Member Casey stated he is still looking at Phase 3 and this lacks transition. Mr. Coleman stated he would talk to his client. He stated from the Town's zone guidance comprehensive plan, the Town is calling for significantly denser products in Phase 3.

Council Member Sims asked for clarification on traffic and asked to speak to Ms. Lundeen. He stated he read the letter in the binder. He stated on O'Neil Street, in 2017, she used the data of 7,600 vehicles per day. In the letter it reads an increase applying the growth rate at 1% at 8, 068 vehicles per day, Ms. Lundeen stated that is correct. He stated that is basically an increase of 468 vehicles. He stated the line below states based on the proposed site traffic distribution, 180 vehicles would be added to N. O'Neil Street. He asked if 468 is included the 180 vehicles; she stated it does not include the 188. She stated further in paragraph 11, 136 vehicles which includes the proposed development traffic in addition to two other approved developments are included in the area along with additional growth.

Council Member Casey stated the report says the annual growth is 1%, is that based on historical growth for the Town of Clayton since 2017? Ms. Lundeen stated that is based on between 2015-2023. They looked at N. O'Neil, City Road and Main Street. Mr. Coleman asked in addition to the 1% rate, does that account for all development or is that a background rate that does not include all other developments? Ms. Lundeen stated that is a background rate on top of that 1% growth rate, they also calculated trips from other approved developments in the area including Carolina Overlook and Ashcroft Phase 2.

Council Member Archer stated when talking about what the current growth plan and land use is calling for in that area, she sees where they are coming from. This process tonight is meant to help them assess whether this specific area is suitable for townhomes and if the plan is agreeable to that. Mr. Coleman stated because this is an SUP, their burden in presenting evidence is to present evidence and is to the criteria set out in the UDC. The UDC says we are consistent with policies. He stated he was underlining in terms of policies, that is consistent. He stated if there are continued concerns, they seek guidance from Council.

Mayor McLeod stated at this time he gives the floor to the opposition. He asked those that came out tonight in opposition to raise their hand. He asked all to keep their comments to two minutes.

Michael Carter, Attorney with Spence, Connor and Reed spoke. He stated he is representing about 14 homeowners (about 9 or 10 houses) in opposition of this

development. He said he would like to object anything not included in the packet not be entered into the record. He stated he would like to thank the developer for trying to work with them. He asked based off the conditions the applicant stated they are willing to listen, they ask that they do follow those recently stated proposed conditions.

He stated regarding the Findings of Fact, this does violate the existing character. This also does not meet the future land use map. Looking at the future land use map, this is considered one subdivision. Looking at Phase 2 along Ridgemont, that portion is medium density residential which is 3-5 homes. If the developer decides to develop single family detached homes, they would be fine with that. When looking at conventional subdivision regulations, and looking at R-8 single family, you have minimum lot area of 8,000 with a minimum lot width of 60 feet. That is important because considering what you have, the easiest place to look would be open space subdivision. The open space subdivision has the requirement for townhomes where it has to be minimum of 3,000 sq. ft. requirement and 21 feet across the front for the width. Right now we are looking at a width of 22 to 27 feet. When that is compared to the existing neighborhood, that is nowhere near. Even under open space subdivision standards, the neighbors said that would make sense regarding transition. He discussed the footnote regarding alley loaded which only applies to 42 feet or less.

Mr. Carter stated they are requesting Phase 3 be also single-family detached homes. There is also the issue that the neighbors do not believe these properties interact with each other. Findings of Fact #4 requires that the existing character is maintained, and they want to make sure that is met and right now that is not met. He stated he would like to point out that Council asked the appraiser that testified tonight about value. He stated the Findings of Fact must state that the value is not injured, not increased, not decreased, it says injured. He stated when asked about single family compared to single family, that wasn't addressed.

Mr. Carter called Marcus Stillellow, lives at 114 Edgewater Drive. Mr. Carter asked if he is behind the development on Phase 2. Mr. Stillellow stated he currently has 2 neighbors. It was stated with the new townhomes coming in, he would have approximately 40 neighbors. He stated he has lived in his house since 2019 and stated the character is what brought him here. He discussed traffic concerns. He stated he is not opposed to development; he would like to maintain the character.

Mr. Carter shared density comparison. He requested that a condition be added that Phase 3 be single-family homes and request that Council send the application back to TRC for additional considerations. If not, the request is to deny this development.

Mr. Coleman stated the initial burden is a burden of presentation under NC law and the only issues heard that the neighbors raise relate to compliance with the UDC and consistency.

Mr. Coleman stated in terms of Findings of Fact #4, he has not heard any evidence as to existing standards for development. There are representations that he doesn't know what they are based on related to density in the neighborhood, he represents there are far more than 10 lots in Starmont neighborhood, so he's not sure where that number is coming from. Beyond that, the only neighbor that testified said he would have no

opposition to single-family homes. He stated he feels they have tried to listen and address concerns.

Mr. Coleman stated in terms of the UDC, the claim from the neighbors is that there needs to be rereview of compliance which is inconsistent with what Council has ever done. In terms of traffic and appraisal, while there was question about injury to valuation again, he thinks that's what was testified to. State law says in order to testify as to those issues you have to have an expert and the only expert that has been presented are the experts they have presented.

Council Member Everett stated this is short notice receiving the Ridgecrest binder, it will take time to get through this to make sure everything is consistent.

Mayor McLeod asked if anyone wished to speak in opposition.

Curt Peck, 101 Gordon Street, stated he lives at the bottom of Edgewater and has lived there for 12 years. His background is a former educator, and he is well versed. He gave Council aerial maps of the property. Shared were his concerns of density of the neighborhood. A couple of things related to traffic, he would like the Town to consider sidewalks and turn lanes on City Road. He discussed the buffer and drainage issues. The last issue has to do with an existing cemetery. He discussed a report received regarding the cemetery which is abandoned.

Mr. Coleman objected and stated this Mr. Peck is testifying on a report that he did not write and is not an expert on. Mr. Peck stated we need to investigate the cemetery area. Mr. Coleman stated the reason that the report did not go into evidence is that there is no evidence of a cemetery in that area or unmarked graves on the property.

Vic Win, 104 Gordon Street, and has been there for 30 years. He is a commercial real estate broker and has managed properties in North and South Carolina. Shared was an arial map. He stated he would like to see something different in Phases 2 & 3. Shared were covenants that were distributed to Council.

Kim Sullivan stated he can walk on his deck and see woods. If this goes through, he will have neighbors looking at him. He discussed his concern about the documents going to Council at the last minute.

Mayor McLeod stated with no one else wishing to speak, this would be turned over to Council for their deliberation.

Council Member Casey spoke about the covenants, and how we handle that. Attorney Cauley stated that is a private matter and not erring on Council decisions. The Town Clerk stated an email was received and would become part of tonight's minutes. Mr. Coleman stated he objects to the provided email becoming part of the record because it's not sworn testimony.

Council Member Archer stated to use the applicant's words, the townhomes proposed in Phases 2 and 3 feel squeezed into the design, the offer to convert Phase 2 into single-family homes doesn't resolve her concerns about Phase 3. She believes this creates a lack of transition between the character of the existing neighborhood and the

proposed development that would adversely affect the existing neighborhood. In addition, the proposed overall density complies with the adopted plans and policies, but the numbers don't capture how the density would look and feel due to the way the open space and townhomes are laid out. Based on this she finds the application is inconsistent with the character of the existing development and therefore Findings of Fact #4 has not been met.

Mayor Pro Tem Thompson stated he agrees with Council Member Archer. There is no transition between the higher density development and the existing neighborhood. He stated this would change the character of the existing neighborhood completely. He stated he agrees that the statement regarding Phases 2 and 3 was they squeezed in as much as they could and they're willing to make a concession on Phase 2 but there has been no willingness to make a concession on Phase 3. He stated he is ok with Phase 1.

Council Member Casey echoes the sentiments of Council Member Archer and Mayor Pro Tem Thompson. He stated he heard from traffic engineer there would be an impact. He also heard that trip generation could be deviated from and from the stormwater engineer he heard anytime you move a shovel there would be an impact.

Council Member Archer motioned that Findings of Fact #1 has been met. Council Member Sims seconded.

Council Member Archer motioned that Findings of Fact #2 has been met. Council Member Sims seconded. (Council Member Casey & Mayor Pro Tem Thompson opposed) Approved 3-2

Council Member Archer motioned that Findings of Fact #3 have been met. Council Member Sims seconded. (Mayor Pro Tem Thompson opposed) Approved 4-1

Council Member Archer motioned that Findings of Fact #4 has NOT been met. Mayor Pro Tem Thompson seconded. Denied 0-5

Motion to deny SUP Ridgecrest. Motion made by Council Member Casey, seconded by Council Member Archer.

Approval of 2022-186-SUP

RESULT:	**FAILED 0-5**
MOVER:	Porter Casey
SECONDER:	Andria Archer
YES:	None
NO:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims

Adoption of Wastewater Resolution #2023-52
(DENIED DUE TO 2022-186-SUP BEING DENIED)

8. OLD BUSINESS

a. GO Bond Resolution
Presenter: Rich Cappola - Town Manager

Mr. Cappola filled in for Mr. McKie. He stated this is the last step needed in order to authorize the remaining $4.5 million dollars of Parks and Rec. bonds that were authorized in 2019. Received was a bid on the community park project, however, only received one bid and exceeds budget funds. The engineering department is actively attempting to negotiate with the bidder. If we are able to get the price within a funding level, we will move forward. There is potential the bid will be rejected and would have to rebid. If that happens, the bond order does allow under Section 13 for the Mayor or Manager to adjust the dates of the sale and still would be valid. If we are not able to negotiate the bid and keep it valid, we will likely not be able to sell the bonds until January. It is recommended to approve this bond order and by the end of the week make the decision on the bid.

Adoption of Resolution #2023-51

RESULT:	**CARRIED 5-0**
MOVER:	Avery Everett
SECONDER:	Jason Thompson
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

9. NEW BUSINESS

a. Budget Amendments
Presenter: Rich Cappola - Town Manager

Mr. Cappola filled in for Mr. McKie. He stated this item is for two needs, one is a request for a conversion of administrative support position as well as HR technician, both of which were permanent benefit enabled positions recently approved in FY24 budget. Needs have developed in the Town to have additional staff. The request is to convert those two positions to full-time. This would take our total FTE from 306 to 308 and reduce permanent part-time from 19 down to 17. The net increase is about $65,000 but intend for LAP salary to cover the majority of this.The second part is, we have had several employees eligible for retirement. The is for the authorization to be able to utilize LAP salary to allow for the potential to fill these positions prior to staff's retirement. This would allow the position to be filled and receive training.

Adoption of Ordinances #2023-08-04 and #2023-08-05

RESULT:	**CARRIED 5-0**
MOVER:	Michael Sims
SECONDER:	Andria Archer
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

10. STAFF REPORTS

a. Town Manager

Mr. Cappola stated Mr. Howell's last day was last Friday but he was present tonight to present a large project he had been working on. Jonathan Jacobs has been asked to step in as Interim Planning director. He has been very involved in the UDO and the Clariti software. Mr. Jacobs will report directly to Deputy Town Manager Barbee. Mr. Howell will still be available as a Town consultant.

He stated the Town is actively recruiting for the planning director position, hope to have it filled in the next 60 days.

He reminded everyone the next council meeting will be on Tuesday.

b. Town Attorney

c. Town Clerk

d. Other Staff

Strategic Plan Process Update
Presenter: Dolores Gill, Deputy Town Manager

Ms. Gill stated the current town-wide strategic plan ends in 2025 and we need to begin to put out an RFP to seek proposals for consultants. She stated tomorrow Council would receive an email on a survey for Council's input.

Those results would be discussed at the September 5th work session. Input from department heads would also be discussed at this meeting. This information will be used to develop the scope for the RFP, she would like to have the RFP out by September 15th. This project will take approximately 12-15 months.

Mayor Pro Tem Thompson stated he has received a lot of questions about the scapling on the building and would like an update. Ms. Gill stated this project should last until October. She stated this is a process called tuck pointing and also membrane roof replacement on The Clayton Center side. Both engineering and property maintenance are collaborating on this project.

11. OTHER BUSINESS

a. Informal Discussion & Public Comment
- Individuals have three (3) minutes to address the Town Council.
- Groups will designate a spokesperson. Spokesperson will have five (5) minutes to address the Town Council.

b. Council Comments

Council Member Everett thanked Town staff and Council for all their hard work. He stated getting into the details of what is done daily. It's important for voters, developers and stakeholders to make sure when creating growth plans that they are a part of it.

12. CLOSED SESSION

a. To Discuss Legal Matter in Accordance with NC GS 143-318.11(a)(3) & To Discuss Economic Development in accordance with NC GS 143-318.11(a)(4)

Motion To Go Into Closed Session

RESULT:	**CARRIED 5-0**
MOVER:	Jason Thompson
SECONDER:	Michael Sims
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

Motion To Return To Open Session

RESULT:	**CARRIED 5-0**
MOVER:	Jason Thompson
SECONDER:	Andria Archer
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

13. ADJOURNMENT

a. Adjourn

With nothing further, there was a motion to adjourn at 10:18 p.m.

Motion To Adjourn

RESULT:	**CARRIED 5-0**
MOVER:	Andria Archer
SECONDER:	Jason Thompson
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

Duly adopted by the Town Council this 5th day of September 2023 while in regular session.

Jody L. McLeod
Mayor

ATTEST:

Heidi L. Holland

Heidi L. Holland, CMC, NCCMC
Town Clerk

TOWN OF CLAYTON
INCORPORATED
APRIL 1869
CLAYTON, N.C.