



Town of Clayton
Regular Town Council Meeting Agenda
Monday, April 18, 2022 @ 6:00 PM
Council Chambers

THE PUBLIC MAY VIEW THE LIVE COUNCIL MEETING ON THE TOWN'S YOUTUBE CHANNEL:
<https://www.youtube.com/TownofClaytonNC>

- Hand sanitizer will be available, both in the lobby and council chambers.
- Podium/microphone will be sanitized after each speaker.

1. CALL TO ORDER

Pledge of Allegiance and Invocation

2. ADJUSTMENT OF THE AGENDA

- a. Approval of the agenda as presented.

POTENTIAL ACTION: Approval of the agenda as presented or as adjusted.

3. CONSENT AGENDA

(Items on the consent agenda are considered routine in nature or have been thoroughly discussed at previous meetings. Any member of the Council may request to have an item removed from the consent agenda for further discussion.)

- a. Acceptance of American Rescue Plan
- Construction of Improvements to Little Creek Pump Station
- Presenter:* Robert McKie, Finance Director
[Cover](#)
[NCDEQ Offer & Acceptance for ARP Funding](#)
[Resolution](#)
- b. Resolution Supporting American Rescue Plan Act (ARPA) Study Grant Application
- Presenter:* Joshua Baird, Engineering Director
[ARPA Grant Cover Sheet](#)
[Resolution](#)
- c. Resolution to Accept Streets into the Town of Clayton Street System for Maintenance - Ashcroft, Phase 4A & 4B
- Presenter:* Jonathan Jacobs, Assistant Town Engineer
[Cover](#)
[Resolution](#)
- d. Resolution to Accept Public Utilities into the Town of Clayton public Utility System for Maintenance - Ashcroft Phase 4A & 4B
- Presenter:* Jonathan Jacobs, Assistant Town Engineer
[Cover](#)
[Resolution](#)

- e. Resolution to Accept Streets into the Town of Clayton Street System for Maintenance - Riverwood Athletic Club (RWAC), Phase 1A - 1D
Presenter: Jonathan Jacobs, Assistant Town Engineer
[Cover](#)
[Resolution](#)

POTENTIAL ACTION: Approval of the Consent Agenda as Presented.

4. ADMINISTRATIVE ITEMS

5. INTRODUCTIONS AND SPECIAL PRESENTATIONS

- a. Presentation of the 2021 Public Power Award of Excellence
Presenters: Ann Game, Customer Service Supervisor and Roy Jones, Chief Executive Officer of ElectriCities of North Carolina presenting to the Customer Service, Internal Technology Consultant Tommy Roy and the Electric Department
[Cover](#)
[Press Release - Public Power Award of Excellence](#)
- b. Employee Introductions:
Presenter: James Blalock, Utilities Maintenance Superintendent
- Lance Thompson, Pump Technician
- Presenter:* Matt Lorion, Administration and Programs Superintendent and Scott Barnard, Parks & Recreation Director
- Jimmy Bradley, Parks Superintendent
 - Joni Hubble-Zeneberg, Community Center Supervisor
 - Evan Annese, Recreation Program Coordinator
 - Sean Quigley, Recreation Program Coordinator
- Presenter:* Greg Nelson, Facilities Maintenance Superintendent
- Edison Ortiz, Floor Custodian
- Presenter:* Mack Keen, Electric System Superintendent
- Jairo Sanchez, Electric Line Tech 1; transferred from Public Works
 - Sadarius Murphy, Electric Line Tech 1
 - Nathan Sills, Electric Line Tech 1
 - Logan Hart, Electric Line Tech 1
- c. National Lineman Appreciation Day Proclamation
Presenter: Mayor McLeod to the Electric Department
[Proclamation](#)
- d. Recognition of Electric Utility for Reliable Public Power Provider (RP3) Designation
Presenter: Ethan Poppe, Electric Services Technician and Mayor McLeod to present the plaque award to the Electric Department
[Press Release - Reliable Public Power Provider](#)
[RP3 Summary](#)

6. PUBLIC HEARINGS

- a. Ordinance Amendment 2022-51-OA Temporary Use for Public Facilities

Presenter: Aaron Prichard, Planner II

[Cover Sheet 2022-51-OA Temporary Uses for Public Facilities](#)

[Staff Report - 2022-51-OA - Temporary Uses for Public Facilities](#)

[Text Amendment PB 2022-51-OA Temporary Uses for Public Facilities](#)

[Text Amendment Edits 2022-51-OA Temporary Uses for Public Facilities](#)

[Text Amendment TC 2022-51-OA Temporary Uses for Public Facilities](#)

[Consistency Statement - 2022-51-OA - Temporary Uses for Public Facilities](#)

[Ordinance Amendment](#)

[Temp Use for Public Facilities Ordinance](#)

POTENTIAL ACTION: Approve, Deny or Send Back to the Planning Board for Additional Consideration.

- b. Ordinance Amendment 2022-52-OA Electronic Gaming Operations Text Amendment

Presenter: Ben Howell, Planning Director

[2022-52-OA Electronic Gaming Operations Text Amendment Cover Sheet](#)

[2022-52-OA Electronic Gaming Operations Text Amendment Staff Report](#)

[2022-52-OA Electronic Gaming Operations Text Amendment Proposed Section 155.202 Text](#)

[2022-52-OA Electronic Gaming Operations Text Amendment Proposed Section 155.802 Text](#)

[Consistency Statement - 2022-52-OA -Electronic Gaming Operations](#)

[Ordinance Amendment](#)

[Electronic Gaming Operations Ordinance](#)

POTENTIAL ACTION: Approve, Deny or Send Back to the Planning Board for Additional Consideration.

- c. Clayton Transportation Plan

Presenter: Ben Howell, Planning Director

[Resolution Designating Transportation Plan Cover Sheet](#)

[Resolution Designating Clayton Transportation Plan Staff Report](#)

[Resolution Identifying Clayton Transportation Plan](#)

[2045 Comprehensive Growth Plan Roadway System Map](#)

POTENTIAL ACTION: Approval of the Clayton Transportation Plan.

- d. 2022-16-SUP - Cerberus Gaming (*Evidentiary / Quasi-Judicial*)

Presenter: Aaron Prichard, Planner II

(At the request of the applicant, the evidentiary hearing for this request was opened and continued to the Monday, April 18, 2022. Council meeting.)

[Cover Sheet 2022-16-SUP Cerberus Gaming](#)

[Staff Report - 2022-16-SUP Cerberus Gaming](#)

[Application & Owner's Consent Form - 2022-30-SUP Cerberus Gaming](#)

[Floor Plans - 2022-30-SUP Cerberus Gaming](#)

[Combined Neighborhood Meeting Materials](#)

[Staff Report Maps - 2022-16-SUP Cerberus Gaming](#)

[Signed Conditions Document - 2022-16-SUP Cerberus Gaming](#)

POTENTIAL ACTION: Approve, Deny, or Send Back to the Technical Review Committee for Additional Consideration.

7. OLD BUSINESS

- a. Clayton Clovers Agreement

Presenter: Scott Bernard, Director of Parks and Recreation

[Cover](#)

[Lease Agreement](#)

POTENTIAL ACTION: Adoption of Agreement

- b. Review of Request for Proposal (RFP) for Old Town Hall

Presenter: Rich Cappola, Town Manager and Jim Cauley, Town Attorney

[Cover](#)

[Request For Proposal \(RFP\)](#)

POTENTIAL ACTION: Adoption of the Request for Proposal (RFP)

8. NEW BUSINESS

9. STAFF REPORTS

- a. Town Manager
- b. Town Attorney
- c. Town Clerk
- d. Other Staff

10. OTHER BUSINESS

- a. Informal Discussion & Public Comment

- Individuals have 3 minutes to address the Town Council.
- Groups will designate a spokesperson. Spokesperson will have 5 minutes to address the Town Council.

- b. Council Comments

11. ADJOURNMENT

Quasi-Judicial (evidentiary) – These hearings are different from other public hearings in that they resemble a court hearing where testimony is presented and the Town Council acts like a court of law. During evidentiary hearings, the Town Council receives only sworn testimony and other credible evidence. In addition, the Town Council must make findings of fact based upon the evidence presented. Citizens may give testimony in an evidentiary hearing after they have taken an oath.



Town Council Agenda Cover Sheet

Meeting Date

April 18, 2022

Agenda Location

Old Business

Item Title

Acceptance of ARP Funding for Little Creek Pump Station

Presenter:

H. Louis Duffie

Summary/Description

The North Carolina Department of Environmental Quality (NCDEQ) has approved the Town's application to fund the Little Creek Pump Station project in the amount of \$7,142,000 through the American Rescue Plan (ARP). This amount is a portion of the \$20M that was earmarked for the Town to put towards wastewater improvements. Once the Town's contractor, Haren Construction, moves into construction, Town staff will be able to submit reimbursements on construction costs. This offer is contingent on acceptance and approval from Town Council.

Requested Action

Approval

Funding Source (If Applicable):

State Fiscal Recovery Fund

Cost: Click or tap here to enter text. Yes ☐ No ☒

Additional Documents to be Included in Agenda Packet

Offer & Acceptance Letter from NCDEQ

Meeting Timeline

Click or tap here to enter text.

ROY COOPER
Governor
ELIZABETH S. BISER
Secretary
SHADI ESKAF
Director



March 18, 2022

Mr. Rich Cappola, PE, Town Manager
Town of Clayton
111 E. Second Street
Clayton, NC 27520

SUBJECT: Offer & Acceptance for ARP Funding
Project No. SRP-W-ARP-0061
Little Creek Pump Station Improvements
Clayton, NC

Dear Mr. Cappola:

The Town of Clayton has been approved for an American Rescue Plan (ARP) funding from the State Fiscal Recovery Fund in the amount of **\$7,142,000**. Projects funded from the State Fiscal Recovery Funds established in S.L. 2021-180 must meet applicable federal law and guidance for the ARP funds. Accordingly, enclosed are two (2) copies of an offer-and-acceptance document, extending ARP funding in the amount of \$7,142,000. This offer is made by the Division of Water Infrastructure (DWI), subject to the assurances and conditions set forth in the enclosed offer-and-acceptance document. Funds will not be disbursed unless this offer is accepted.

Upon your acceptance, please submit the following items to Mark Hubbard, Division of Water Infrastructure (DWI), 1633 Mail Service Center, Raleigh, North Carolina 27699-1633:

1. A resolution (sample copy attached), adopted by the governing body, accepting the offer, and making the applicable assurances contained therein;
2. One (1) copy of the original offer-and-acceptance document, executed by the Authorized Representative for the project, along with the signed "Standard Conditions and Assurances" for ARP Projects. **Please retain the second copy for your files.**
3. Federal Identification Number and DUNS # of the Recipient (Memo attached)
4. Sales Tax Certification (attached)

Once construction of the subject project has commenced, the enclosed "reimbursement request form" must be completed and submitted with all reimbursement requests. You are free to reproduce this form should additional copies be needed.



North Carolina Department of Environmental Quality | Division of Water Infrastructure
512 N. Salisbury Street | 1633 Mail Service Center | Raleigh, North Carolina 27699-1633
919.707.9160

In addition, a memorandum requesting your federal identification number has been included with this offer of funding. You must complete and submit this form no later than the time when you choose to submit your first request for reimbursement.

On behalf of the Department of Environmental Quality, I am pleased to extend this offer of ARP funds, made available by the North Carolina Fiscal Recovery Fund. Should you have any questions concerning this offer of funding, or any of the stipulations outlined in this letter, please contact Mark Hubbard, DWI's Grant Management Unit Supervisor, at 919.707.9162.

Sincerely,



Shadi Eskaf., Director
Division of Water Infrastructure, NCDEQ

Enclosures: Offer-and-Acceptance Document (2 copies)
Resolution by Applicant's Governing Body to Accept an Offer of Funding
Fed ID/DUNS No. Request Memo
Sales-Tax Certification Form
Reimbursement Request Form

CC: Monica Chevalier, WithersRavenel (Cary, NC)
Jennifer House
Jackie Moore
Pam Whitley
FILE: ARP Project File (**COM_LOX**)



North Carolina Department of Environmental Quality | Division of Water Infrastructure
512 N. Salisbury Street | 1633 Mail Service Center | Raleigh, North Carolina 27699-1633
919.707.9160

STATE OF NORTH CAROLINA
DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF WATER INFRASTRUCTURE

Funding Offer and Acceptance

Legal Name and Address of Award Recipient

Town of Clayton
111 E. Second Street
Clayton, North Carolina 27520

Project Number: SRP-W-ARP-0061

CFDA Number:

Funding Program

Drinking Water	☐	Additional Amount for	Previous Total	Total Offered
Wastewater	☒	Funding Increases		
State Revolving Fund (SRF)	☐			
State Reserve Loan (SRP)	☐			
State Reserve Grant (SRP)	☐			
State Grant Appropriation (SAP)	☐			
American Rescue Plan Act (ARPA)	☒			\$7,142,000

Project Description:

Little Creek Pump Station Improvements –
Construction Only

Total Financial Assistance Offer: **\$7,142,000**

Total Project Cost: **\$7,142,000**

Estimated Closing Fee*: **\$0.0**

For Loans

Principal Forgiveness: **\$0**

Interest Rate: **0.0% Per Annum**

Maximum Loan Term: **0 Years**

**Estimated closing fee calculated based on grant and loan amount.*

Pursuant to North Carolina General Statute 159G:

- The applicant is eligible under Federal and State law,
- The project is eligible under Federal and State law, and
- The project has been approved by the Department of Environmental Quality as having sufficient priority to receive financial assistance,

The Department of Environmental Quality, acting on behalf of the State of North Carolina, hereby offers the financial assistance described in this document.

For The State of North Carolina:

**Shadi Eskaf, Director, Division of Water Infrastructure
North Carolina Department of Environmental Quality**


Signature

3/17/2022

Date

On Behalf of:

Town of Clayton

Name of Representative in Resolution:

Title (Type or Print):

I, the undersigned, being duly authorized to take such action, as evidenced by the attached CERTIFIED COPY OF AUTHORIZATION BY THE APPLICANT'S GOVERNING BODY, do hereby accept this Financial Award Offer and will comply with the Assurances and the Standard Conditions.

Signature

Date

STANDARD CONDITIONS

1. Acceptance of this Funding Offer does not exempt the Recipient from complying with requirements stated in the U.S. Treasury's [Final Rule](#) for the Coronavirus State and Local Fiscal Recovery Funds (SLFRF) and the [SLFRF Compliance and Reporting Guidance](#), not explicitly referred to in this document and any future requirements implemented by the U.S. Treasury.
2. Acquisition of Real Property must comply with all applicable provisions of the Uniform Relocation and Real Property Acquisition Policies Act of 1970 (PL 92-646), as amended. The applicant shall certify that it has or will have a fee simple or such other estate or interest in the site of the project, including necessary easements and rights-of-way, to assure undisturbed use and possession for the purpose of construction and operation for the estimated life of the project using a certification form provided by DEQ.
3. Specific MBE/WBE (DBE) forms and instructions are provided that are to be included in the contract specifications. These forms will assist with documenting positive efforts made by recipients, their consultants and contractors to utilize disadvantaged businesses enterprises. Such efforts should allow DBEs the maximum feasible opportunity to compete for subagreements and subcontracts to be performed. Documentation of efforts made to utilize DBE firms must be maintained by all recipients, and construction contractors, and made available upon request.
4. Subrecipients shall fully comply with Subpart C of 2 CFR Part 180 entitled, "Responsibilities of Participants Regarding Transactions Doing Business with Other Persons," as implemented and supplemented by 2 CFR Part 1532. Recipient is responsible for ensuring that any lower tier covered transaction, as described in Subpart B of 2 CFR Part 180, entitled "Covered Transactions," includes a term or condition requiring compliance with Subpart C. Recipient is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. Subrecipients may access suspension and debarment information at: <http://www.sam.gov>. This system allows subrecipients to perform searches determining whether an entity or individual is excluded from receiving Federal assistance.
5. Projects with a total cost of \$10,000,000 or more must meet U.S. Treasury requirements for prevailing wage rates, project labor agreements, and related requirements. Recipients can either certify meeting the requirements or provide plans and reports as the [SLFRF Compliance and Reporting Guidance](#) specifies.
6. The Uniform Guidance 2 CFR 200.317 through 2 CFR 200.327 gives minimum requirements for procurement, with 2 CFR 200.319(b) addressing engineering services procurement guidelines. ARPA-funded projects must also adhere to North Carolina State law, specifically NC General Statute 143-64.31, Article 3D Procurement of Architectural, Engineering, and Surveying (A/E) Services. NCGS 143-64.32 cannot be used to exempt funding recipients from a qualification-based selection for A/E. The State provides applicable certification forms that must be completed prior to receiving funds for any engineering services covered under this funding offer.
7. Local government units designated as distressed must complete associated requirements of statute §159G-45(b).
8. Funds made available by the ARPA that are not disbursed to the entity accepting the funds in this document by December 31st, 2026, will no longer be available for the project. Unused Federal funds will revert from the State of North Carolina to the U.S. Treasury.

ASSURANCES

1. The Applicant intends to construct the project or cause it to be constructed to final completion in accordance with the Application approved for financial assistance by the Division.
2. The Applicant is responsible for paying for the costs ineligible for ARPA funding.
3. The construction of the project, including the letting of contracts in connection therewith, conforms to the applicable requirements of State and local laws and ordinances.
4. The Applicant will provide and maintain adequate engineering supervision and inspection.
5. The recipient agrees to establish and maintain a financial management system that adequately accounts for revenues and expenditures. Adequate accounting and fiscal records will be maintained during the construction of the project and these records will be retained and made available for a period of at least three years following completion of the project.
6. All ARPA funds shall be expended solely for carrying out the approved project, and an audit shall be performed in accordance with G.S. 159-34. Partial disbursements on this loan will be made promptly upon request, subject to adequate documentation of incurred eligible costs, and subject to the recipient's compliance with the Standard Conditions of this Award. The Applicant agrees to make prompt payment to its contractor, and to retain only such amount as allowed by North Carolina General Statute.
7. The applicant will expend all of the requisitioned funds for the purpose of paying the costs of the project within three (3) banking days following the receipt of the funds from the State. Please note that the State is not a party to the construction contract(s) and the Applicant is expected to uphold its contract obligations regarding timely payment.
8. Funds must be fully spent (i.e., fully reimbursed to the recipient) by December 31, 2026.

Acknowledgement of Standard Conditions and Assurances

The Applicant hereby gives assurance to the Department of Environmental Quality that the declarations, assurances, representations, and statements made by the Applicant in the Application; and all documents, amendments, and communications filed with the Department of Environmental Quality by the Applicant in support of its request for financial assistance will be fulfilled.

.....
Signature

.....
Date

STATE OF NORTH CAROLINA
DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF WATER INFRASTRUCTURE

Funding Offer and Acceptance

Legal Name and Address of Award Recipient

Town of Clayton
111 E. Second Street
Clayton, North Carolina 27520

Project Number: SRP-W-ARP-0061

CFDA Number:

Funding Program

Drinking Water	☐	Additional Amount for Funding Increases	Previous Total	Total Offered
Wastewater	☒			
State Revolving Fund (SRF)	☐			
State Reserve Loan (SRP)	☐			
State Reserve Grant (SRP)	☐			
State Grant Appropriation (SAP)	☐			
American Rescue Plan Act (ARPA)	☒			\$7,142,000

Project Description:

Little Creek Pump Station Improvements –
Construction Only

Total Financial Assistance Offer: **\$7,142,000**

Total Project Cost: **\$7,142,000**

Estimated Closing Fee*: **\$0.0**

For Loans

Principal Forgiveness: **\$0**

Interest Rate: **0.0% Per Annum**

Maximum Loan Term: **0 Years**

**Estimated closing fee calculated based on grant and loan amount.*

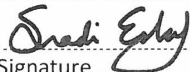
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The Department of Environmental Quality, acting on behalf of the State of North Carolina, hereby offers the financial assistance described in this document.

For The State of North Carolina:

**Shadi Eskaf, Director, Division of Water Infrastructure
North Carolina Department of Environmental Quality**



Signature

3/17/2022

Date

On Behalf of:

Town of Clayton

Name of Representative in Resolution:

Title (Type or Print):

I, the undersigned, being duly authorized to take such action, as evidenced by the attached CERTIFIED COPY OF AUTHORIZATION BY THE APPLICANT'S GOVERNING BODY, do hereby accept this Financial Award Offer and will comply with the Assurances and the Standard Conditions.

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Date

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3. Specific MBE/WBE (DBE) forms and instructions are provided that are to be included in the contract specifications. These forms will assist with documenting positive efforts made by recipients, their consultants and contractors to utilize disadvantaged businesses enterprises. Such efforts should allow DBEs the maximum feasible opportunity to compete for subagreements and subcontracts to be performed. Documentation of efforts made to utilize DBE firms must be maintained by all recipients, and construction contractors, and made available upon request.
4. Subrecipients shall fully comply with Subpart C of 2 CFR Part 180 entitled, "Responsibilities of Participants Regarding Transactions Doing Business with Other Persons," as implemented and supplemented by 2 CFR Part 1532. Recipient is responsible for ensuring that any lower tier covered transaction, as described in Subpart B of 2 CFR Part 180, entitled "Covered Transactions," includes a term or condition requiring compliance with Subpart C. Recipient is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. Subrecipients may access suspension and debarment information at: <http://www.sam.gov>. This system allows subrecipients to perform searches determining whether an entity or individual is excluded from receiving Federal assistance.
5. Projects with a total cost of \$10,000,000 or more must meet U.S. Treasury requirements for prevailing wage rates, project labor agreements, and related requirements. Recipients can either certify meeting the requirements or provide plans and reports as the [SLFRF Compliance and Reporting Guidance](#) specifies.
6. The Uniform Guidance 2 CFR 200.317 through 2 CFR 200.327 gives minimum requirements for procurement, with 2 CFR 200.319(b) addressing engineering services procurement guidelines. ARPA-funded projects must also adhere to North Carolina State law, specifically NC General Statute 143-64.31, Article 3D Procurement of Architectural, Engineering, and Surveying (A/E) Services. NCGS 143-64.32 cannot be used to exempt funding recipients from a qualification-based selection for A/E. The State provides applicable certification forms that must be completed prior to receiving funds for any engineering services covered under this funding offer.
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8. Funds made available by the ARPA that are not disbursed to the entity accepting the funds in this document by December 31st, 2026, will no longer be available for the project. Unused Federal funds will revert from the State of North Carolina to the U.S. Treasury.

ASSURANCES

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2. The Applicant is responsible for paying for the costs ineligible for ARPA funding.
3. The construction of the project, including the letting of contracts in connection therewith, conforms to the applicable requirements of State and local laws and ordinances.
4. The Applicant will provide and maintain adequate engineering supervision and inspection.
5. The recipient agrees to establish and maintain a financial management system that adequately accounts for revenues and expenditures. Adequate accounting and fiscal records will be maintained during the construction of the project and these records will be retained and made available for a period of at least three years following completion of the project.
6. All ARPA funds shall be expended solely for carrying out the approved project, and an audit shall be performed in accordance with G.S. 159-34. Partial disbursements on this loan will be made promptly upon request, subject to adequate documentation of incurred eligible costs, and subject to the recipient's compliance with the Standard Conditions of this Award. The Applicant agrees to make prompt payment to its contractor, and to retain only such amount as allowed by North Carolina General Statute.
7. The applicant will expend all of the requisitioned funds for the purpose of paying the costs of the project within three (3) banking days following the receipt of the funds from the State. Please note that the State is not a party to the construction contract(s) and the Applicant is expected to uphold its contract obligations regarding timely payment.
8. Funds must be fully spent (i.e., fully reimbursed to the recipient) by December 31, 2026.

Acknowledgement of Standard Conditions and Assurances

The Applicant hereby gives assurance to the Department of Environmental Quality that the declarations, assurances, representations, and statements made by the Applicant in the Application; and all documents, amendments, and communications filed with the Department of Environmental Quality by the Applicant in support of its request for financial assistance will be fulfilled.

.....
Signature

.....
Date

(Suggested Format)

RESOLUTION BY GOVERNING BODY OF RECIPIENT

WHEREAS, the (unit of Government) has received an earmark for the American Rescue Plan (ARP) funded from the State Fiscal Recovery Fund established in S.L. 2021-180 to assist eligible units of government with meeting their water/wastewater infrastructure needs, and

WHEREAS, the North Carolina Department of Environmental Quality has offered American Rescue Plan (ARP) funding in the amount of \$_____ to perform work detailed in the submitted application, and

WHEREAS, the (unit of government) intends to perform said project in accordance with the agreed scope of work,

NOW, THEREFORE, BE IT RESOLVED BY THE (GOVERNING BODY) OF THE (UNIT OF GOVERNMENT):

That (unit of government) does hereby accept the American Rescue Plan Grant offer of \$_____.

That the (unit of government) does hereby give assurance to the North Carolina Department of Environmental Quality that any Conditions or Assurances contained in the Award Offer will be adhered to.

That (name and title of authorized representative), and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with this project; to make the assurances as contained above; and to execute such other documents as may be required by the Division of Water Infrastructure.

Adopted this the (date adopted) at (place), North Carolina.

(Signature of Chief Executive Officer)

Date

FEDERAL ID & DUNS # REQUEST MEMO

TO: All Loan and Grants Recipients

SUBJECT: Federal Identification Number

Please be advised that all local government units receiving grant or loan funds from the State of North Carolina must supply their **Federal Identification Number** to this office upon acceptance of their loan and/or grant offer. Therefore, please provide the information below and return to:

Division of Water Infrastructure
1633 Mail Service Center
Raleigh, North Carolina 27699-1633

RECIPIENT:

PROJECT NUMBER:

FEDERAL IDENTIFICATION NUMBER:

DUNS NUMBER:

SALES-TAX REIMBURSEMENT CERTIFICATION FORM

(FOR FUNDING PROGRAMS IN THE DIVISION OF WATER INFRASTRUCTURE)

Applicant: _____

Project Number: _____

☐ Check If Applicant is not a unit of government under North Carolina law

If Applicant noted above is a Unit of Government in North Carolina, check the applicable box below.

Sales Tax **IS** deducted in this scenario. Please show this on the disbursement requests.

☐ The construction contract was bid with sales taxes and the unit of government will request reimbursement from the DOR.

Sales Tax **IS NOT** deducted in either of these scenarios.

☐ The construction contract was bid with sales taxes and the unit of government will not request reimbursement from the DOR.

☐ The construction contract was bid without sales taxes

(Printed Name and Title of Authorized Representative)

(Signature of Authorized Representative)

(Date)

Submit to: NC Dept. of Environment & Natural Resources
Division of Water Infrastructure
Pam Whitley, Project Management Branch
1633 Mail Service Center
Raleigh, NC 27699-1633

REIMBURSEMENT REQUEST FORM

NC Division of Water Infrastructure

Funding Recipient: _____
 DWI Project No. _____

Payment No. _____ of _____
 Page No. _____ (Use more pages as needed)

CONSTRUCTION (Rename as appropriate)		Cumulative Cost to Date	Minus Ineligibles	Minus Overruns Not App'd By Change Order	Subtotal of Payable Cost	Minus Retainage on Payable Cost	Minus Cumulative Sales Tax	Other Adjustments (Other Funds e.g.)	Minus Previously Paid to Date	Requested For This Pay Request
Contract 1		\$1,200,000	(\$100,000)	(\$100,000)	\$1,000,000	(\$50,000)	(\$50,000)	(\$500,000)	(\$300,000)	\$100,000
Contract 2		\$505,000		(\$5,000)	\$500,000	(\$25,000)	(\$10,000)		(\$400,000)	\$65,000
Contract 3										
Contract 4										
Contract 5										
ENGINEERING (Rename as appropriate)		Cumulative Cost to Date							Minus Previously Paid to Date	Requested For This Pay Request
Item 1		\$250,000							(\$250,000)	\$0
Item 2										
Item 3										
Item 4										
OTHER COSTS (Rename as appropriate)		Cumulative Cost to Date							Minus Previously Paid to Date	Requested For This Pay Request
Item 1										
Item 2										
Item 3										
PAY REQUEST TOTALS		Cumulative Cost to Date	Minus Ineligibles	Minus Overruns Not App'd By Change Order		Minus Retainage on Payable Cost	Minus Cumulative Sales Tax	Other Adjustments (Other Funds e.g.)	Minus Previously Paid to Date	Total Requested For This Pay Request
		\$1,955,000	(\$100,000)	(\$105,000)		(\$75,000)	(\$60,000)	(\$500,000)	(\$950,000)	\$165,000

Certification
 - I certify that to the best of my knowledge and belief the billed costs or disbursements are in accordance with terms of the project and that this request represents the monies due which have not been previously received and that an inspection has been performed and all work is in accordance with the terms and conditions of the award.
 - For applicable SRF projects, the project remains in compliance with Davis-Bacon and American Iron and Steel conditions or is the process of remediating noncompliance.

You must check ONE of the boxes below or your payment will not be processed:

The funds requested above have already been paid to the respective vendors, consultants & contractors by the funding recipient ☐

OR

The funds requested above have not been paid to the respective vendors, consultants & contractors. ☐

Funds received from the State will be disbursed to these entities within three (3) banking days.

Type or Print Name and Title

Signature of Authorized Representative

Date

DWI comments

Instructions and notes on how to use this form

- Complete guidance for preparing reimbursements can be found in section G.2. of the North Carolina SRF Program Overview and Guidance that was included with your Funding offer (applicable to State grants and loans too).
- The form, as downloaded, is filled out with sample numbers. It is suggested that the sample be used as a reference (saved or printed).
- Please submit ONE COPY of this form and backup documents when requesting funds.
- Only the Authorized Representative can sign this form, unless declared otherwise in a resolution.
- Construction contract line item overruns and engineering contract overruns must have approved change orders or engineering amendments before those costs will be paid.

Rev 12/13/16

**RESOLUTION ACCEPTING AN AMERICAN RESCUE PLAN (ARP)
GRANT OFFER FUNDED FROM THE STATE FISCAL RECOVERY
FUND FOR CONSTRUCTION OF IMPROVEMENTS TO THE
LITTLE CREEK PUMP STATION
Resolution 2022-14**

WHEREAS, the Town of Clayton has received an earmark for the American Rescue Plan (ARP) funded from the State Fiscal Recovery Fund established in S.L. 2021-180 to assist eligible units of government with meeting their water/wastewater infrastructure needs, and

WHEREAS, the North Carolina Department of Environmental Quality has offered American Rescue Plan (ARP) funding in the amount of \$7,142,000 to perform work detailed in the submitted application, and

WHEREAS, the Town of Clayton intends to perform said project in accordance with the agreed scope of work,

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF CLAYTON:

That the Town of Clayton does hereby accept the American Rescue Plan Grant offer of \$7,142,000.

That the Town of Clayton does hereby give assurance to the North Carolina Department of Environmental Quality that any Conditions or Assurances contained in the Award Offer will be adhered to.

That Rich Cappola, Interim Town Manager, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with this project; to make the assurances as contained above; and to execute such other documents as may be required by the Division of Water Infrastructure.

Duly adopted this 18th day of April 2022, while in regular session.

Jody L. McLeod
Mayor

Attest:

Sherry L. Scoggins, MMC
Interim Town Clerk



Town Council Agenda Cover Sheet

Meeting Date

April 18, 2022

Agenda Location

Consent Agenda

Item Title

Resolution Supporting Application for American Rescue Plan Act (ARPA) Grant Study Funding - Water and Sewer Master Plan

Presenter: Patrick Paine, PE – Project Manager

Summary/Description

As part of the American Rescue Plan Act (ARPA), \$78 Million is earmarked to be distributed through NC DEQ's Division of Water Infrastructure (DWI) for study grants associated with utility infrastructure. The study grants can be used to define future projects or to position a utility to take advantage of additional project construction funding. Total study grant awards are limited to \$400,000. Engineering Staff propose to submit an application for funding to complete a Water Distribution System Master Plan and a Sanitary Sewer Collection System Master Plan. A Master Plan for water and sewer will guide future policies, development and specific projects related to water and sewer infrastructure. Master plans will validate Capital Improvement Plan (CIP) and ensure utility dollars are directed towards specific projects that plan for Clayton's future growth. The Spring round of applications are due on May 2nd, 2022 and require a resolution of support from local board. Staff request approval of the Resolution Supporting application for ARPA grant study funds to perform Water Distribution System Master Plan and Sanitary Sewer Collections System Master Plan. The template resolution for study grants is the same for construction projects. The resolution specifies additional financing for any remaining costs; however, staff are not anticipating project fee going above available funding. Staff anticipate some level of funding based on the rapid growth of the Town and the aging infrastructure supporting it. The goal of Town staff is to be proactive, keep up with growth and improve on the existing infrastructure for our citizens.

Requested Action

Approval

Funding Source (If Applicable):

N/A

Cost: N/A Yes ☐ No ☒

Additional Documents to be Included in Agenda Packet

Resolution

Meeting Timeline

Click or tap here to enter text.

RESOLUTION BY TOWN OF CLAYTON

Resolution 2022-15

- WHEREAS, The Federal Clean Water Act Amendments of 1987 and the North Carolina the Water Infrastructure Act of 2005 (NCGS 159G) have authorized the making of loans and grants to aid eligible units of government in financing the cost of construction and studies of (state whether a wastewater treatment works, wastewater collection system, stream restoration, stormwater treatment, other "green" project, drinking water treatment works, and/or drinking water distribution system), and
- WHEREAS, The Town of Clayton has need for and intends to construct or conduct a study on a wastewater collection system and/or drinking water distribution system project described as Water Distribution Master Plan Study and Water Treatment Collections System Plan Study, and
- WHEREAS, The Town of Clayton intends to request State loan and/or grant assistance for the project,

NOW THEREFORE BE IT RESOLVED, BY THE (GOVERNING BODY) OF THE (UNIT OF GOVERNMENT):

That the Town of Clayton, the **Applicant**, will arrange financing for all remaining costs of the project, if approved for a State loan and/or grant award.

That the **Applicant** will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

That the governing body of the **Applicant** agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the Town of Clayton to make scheduled repayment of the loan, to withhold from the Town of Clayton any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

That the **Applicant** will provide for efficient operation and maintenance of the project on completion of construction thereof.

That Jody McLeod Mayor, the **Authorized Official**, and successors so titled, is hereby authorized to execute and file an application on behalf of the **Applicant** with the State of North Carolina for a loan and/or grant to aid in the study of or construction of the project described above.

That the **Authorized Official**, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the **Applicant** has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted this the April 18, 2022, at Clayton, North Carolina.

Jody McLeod, Mayor

ATTEST:

Heidi Holland, NCCMC; Deputy Town Clerk

CERTIFICATION BY RECORDING OFFICER

The undersigned duly qualified and Deputy Town Clerk of the Town of Clayton does hereby certify: That the above/attached resolution is a true and correct copy of the resolution authorizing the filing of an application with the State of North Carolina, as regularly adopted at a legally convened meeting of the Clayton Town Council duly held on the 18th day of April, 2022; and, further, that such resolution has been fully recorded in the journal of proceedings and records in my office. IN WITNESS WHEREOF, I have hereunto set my hand this _____ day of _____, 20____.

Heidi Holland, NCCMC

Deputy Town Clerk



Town Council Agenda Cover Sheet

Meeting Date

April 18, 2022

Agenda Location

Consent Agenda

Item Title

Resolution to Accept Streets into the Town of Clayton Street System for Maintenance – Ashcroft, Phase 4A & 4B

Presenter:

Jonathan K. Jacobs, PE - Assistant Town Engineer

Summary/Description

Streets and rights-of-way are required to be designed and built according to the Town of Clayton Manual of Standards, Specifications, and Design. The subject streets have been verified through inspections to have been installed per the Town's Manual of Standards, Specifications, and Design. A one-year warranty period for the subject streets expired on March 16, 2022. Engineering staff performed a final acceptance inspection on March, 21, 2022 and recommends final acceptance of the subject streets and rights-of-way. Upon final acceptance, the subject streets are eligible for funding through NCDOT's Powell Bill Program.

Requested Action

Approval

Funding Source (If Applicable):

N/A

Cost: N/A Yes ☐ No ☒

Additional Documents to be Included in Agenda Packet

Resolution

Meeting Timeline

Click or tap here to enter text.

**RESOLUTION TO ACCEPT STREETS INTO THE TOWN OF CLAYTON STREET SYSTEM FOR
MAINTENANCE – ASHCROFT, PHASES 4A & 4B**

WHEREAS streets and right-of-way are required to be designed and built according to the Town of Clayton Manual of Standards, Specifications and Design; and

WHEREAS approval by the Town of Clayton Town Council is necessary for eligibility for receiving funding from the NCDOT's Powell Bill Program;

WHEREAS the street segments listed below were placed under a warranty period for one-year to monitor for construction deficiencies, which expired on March 16, 2022; and

WHEREAS, Town of Clayton Engineering staff has inspected the street segments indicated below on March 21, 2022, and recommends final acceptance by Town Council for maintenance by the Town; and

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Clayton, North Carolina accept this list of streets and right-of-way into the Town of Clayton Street System.

SUBDIVISION	STREET NAME	BEGINNING DESCRIPTION	END DESCRIPTION	LENGTH
Ashcroft, Phase 4A	Durwin Lane	Durwin Lane	Jester Court	0.24
Ashcroft, Phase 4B	Jester Court	Phase Line	Durwin Lane	0.16
TOTAL				0.40 mi

Duly adopted this the 18th day of April 2022.

Jody McLeod
Mayor

ATTEST:

Sherry L. Scoggins, MMC
Interim Town Clerk



Town Council Agenda Cover Sheet

Meeting Date

April 18, 2022

Agenda Location

Consent Agenda

Item Title

Resolution to Accept Public Utilities into the Town of Clayton Public Utility System for Maintenance – Ashcroft Phase 4A & 4B

Presenter:

Jonathan K. Jacobs, PE – Assistant Town Engineer

Summary/Description

Public Utilities (water and sewer), their easements, and applicable apparatuses are required to be designed and built according to the Town of Clayton Manual of Standards, Specifications, and Design. The subject public utilities have been verified through testing and inspections to be installed per the Town's Manual of Standards, Specifications, and Design and have been certified and approved by the appropriate regulatory agencies. A one-year warranty period for the subject public utilities expired on July 10, 2021 and additional repairs were made prior to a final acceptance inspection by Engineering staff. Engineering staff recommends final acceptance of the subject public utility infrastructure into the Town of Clayton Public Utility System for maintenance.

Requested Action

Approval

Funding Source (If Applicable):

N/A

Cost: N/A Yes ☐ No ☒

Additional Documents to be Included in Agenda Packet

Resolution

Meeting Timeline

Click or tap here to enter text.

**RESOLUTION TO ACCEPT PUBLIC UTILITIES INTO THE TOWN OF CLAYTON PUBLIC UTILITY SYSTEM
FOR MAINTENANCE – ASHCROFT, PHASES 4A & 4B**

WHEREAS, public utilities (water and sewer), their easements, and applicable apparatuses are required to be designed and built according to the Town of Clayton Manual of Standards, Specifications and Design; and

WHEREAS the public utility segments listed below have been certified and approved by the appropriate regulatory agencies; and

WHEREAS the public utility segments listed below were placed under a warranty period for one-year to monitor for construction deficiencies, which expired on July 10, 2021; and

WHEREAS, Town of Clayton Engineering staff has inspected the public utility segments listed below on March 13, 2022, and recommends final acceptance by Town Council for operation and maintenance by the Town and;

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Clayton, North Carolina accept this list of public utilities and their apparatuses into the Town of Clayton Public Utility System.

SUBDIVISION	LOCATION DESCRIPTION	UTILITY TYPE AND SIZE	LENGTH
Ashcroft, Phase 4A	Durwin Lane	6" Waterline	1,394.00
Ashcroft, Phase 4A	Jester Court	6" Waterline	155.00
Ashcroft, Phase 4A	Durwin Lane	8" Sanitary Sewer	1,424.00
Ashcroft, Phase 4B	Jester Court	6" Waterline	760.00
Ashcroft, Phase 4B	Durwin Lane	6" Waterline	142.00
Ashcroft, Phase 4B	Jester Court	8" Sanitary Sewer	762.00
		Total Length	4,637.00 ft

Duly adopted this the 18th day of April 2022.

Jody McLeod
Mayor

ATTEST:

Sherry L. Scoggins, MMC
Deputy Town Clerk



Town Council Agenda Cover Sheet

Meeting Date

April 18, 2022

Agenda Location

Consent Agenda

Item Title

Resolution to Accept Streets into the Town of Clayton Street System for Maintenance – Riverwood Athletic Club, Phase 1A – 1D

Presenter:

Jonathan K. Jacobs, PE – Assistant Town Engineer

Summary/Description

Streets and rights-of-way are required to be designed and built according to the Town of Clayton Manual of Standards, Specifications, and Design. The subject streets have been verified through inspections to have been installed per the Town's Manual of Standards, Specifications, and Design. A one-year warranty period for the subject streets expired on May 1, 2021 and additional repairs were made prior to a final inspection by Engineering staff. Engineering staff recommends final acceptance of the subject streets. Upon final acceptance, the subject streets are eligible for funding through NCDOT's Powell Bill Program.

Requested Action

Approval

Funding Source (If Applicable):

N/A

Cost: N/A Yes ☐ No ☒

Additional Documents to be Included in Agenda Packet

Resolution

Meeting Timeline

Click or tap here to enter text.

**RESOLUTION TO ACCEPT STREETS INTO THE TOWN OF CLAYTON STREET SYSTEM FOR
MAINTENANCE – RIVERWOOD ATHLETIC CLUB, PHASES 1A-1D**

WHEREAS, streets and right-of-way are required to be designed and built according to the Town of Clayton Manual of Standards, Specifications and Design; and

WHEREAS, approval by the Town of Clayton Town Council is necessary for eligibility for receiving funding from the NCDOT's Powell Bill Program.

WHEREAS, the street segments listed below were placed under a warranty period for one-year to monitor for construction deficiencies, which expired May 01, 2021; and

WHEREAS, Town of Clayton Engineering staff has inspected the street segments referenced below on March 11, 2022, and recommends final acceptance by Town Council for maintenance by the Town; and

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Clayton, North Carolina accept this list of streets and right-of-way into the Town of Clayton Street System.

SUBDIVISION	STREET NAME	BEGINNING DESCRIPTION	END DESCRIPTION	LENGTH
RWAC, Phase 1A	Woodson Drive	Payton Drive	Phase Line 1B	0.10
RWAC, Phase 1A	Buchanan Lane	Woodson Drive	Phase Line 1C	0.04
RWAC, Phase 1A	Winslow Lane	Woodson Drive	Phase Line 1B	0.012
RWAC, Phase 1B	Woodson Drive	Phase Line 1A	Phase Line 1C	0.063
RWAC, Phase 1B	Winslow Lane	Phase Line 1A	Woodson Drive	0.07
RWAC, Phase 1C	Buchanan Lane	Phase Line 1A	Woodson Drive	0.08
RWAC, Phase 1C	Woodson Drive	Phase Line 1B	Phase Line 1D	0.025
RWAC, Phase 1D	Woodson Drive	Phase Line 1C	Payton Drive	0.06
TOTAL				0.45mi

Duly adopted this the 18th day of April 2022.

Jody McLeod
Mayor

ATTEST:

Sherry L. Scoggins, MMC
Interim Town Clerk



Town Council Agenda Cover Sheet

Meeting Date

April 18, 2022

Agenda Location

Introductions & Special Presentations

Item Title

Public Power Award for Excellence – Grid Modernization (AMI)

Presenter: Ann Game to introduce Roy Jones

Summary/Description

Ann Game, Utility Billing Director, will introduce Roy Jones with Electricities to present the Public Power Award for Excellence focused on Grid Modernization. This was a \$5 million successful project for the Town which touched not only electric but water utilities. Many departments were involved.

Requested Action

Approval

Funding Source (If Applicable):

N/A

Cost: N/A Yes ☐ No ☒

Additional Documents to be Included in Agenda Packet

Meeting Timeline

Click or tap here to enter text.



Public Information Office

919-553-5002, x. 5009

info@townofclaytonnc.org

FOR IMMEDIATE RELEASE

April 18, 2022

CLAYTON WINS PUBLIC POWER AWARD OF EXCELLENCE

CLAYTON, NC – The Town of Clayton is one of 18 public power communities across North Carolina to receive a 2021 Public Power Award of Excellence.

The award, presented by ElectriCities of North Carolina, recognizes exceptional performance in the areas of communicating the value of public power, continuous improvement, grid modernization, wholesale power cost, and workforce planning and development.

“I’m proud of our local electric employees’ commitment to providing safe, reliable, and affordable power to our community. This recognition is a testament to their unwavering dedication and the pride they take in doing exceptional work,” said Interim Town of Clayton Manager Rich Cappola. “Being powered by a municipally owned electric system is a tremendous benefit to our town and to our customers. It enables us to deliver more reliable service than other providers, as well as local jobs and unmatched customer service.”

The Town of Clayton received the public power award in the category of Grid Modernization. This award focuses on promoting investment in public power communities’ electric distribution systems and in technology to ensure safety and reliability and to exceed customer expectations.

“The commitment and dedication North Carolina’s public power providers demonstrate to their communities is always impressive,” said ElectriCities CEO Roy Jones. “I’m proud of these award winners for continuing to find ways to deliver better service and more value to the communities they serve while meeting the challenges of the past few years head-on.”

Clayton Public Power was nominated for the award because of its investment in Advanced Metering Infrastructure (AMI) over the last year, which allows for daily, real-time monitoring of consumption. With AMI, customers can monitor consumption through an online portal, which gives them the power to self-audit their usage and conserve energy use.

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P.O. Box 879 · Clayton, NC 27528 · Office (919)553-5002 · Fax (919)553-8919 · www.townofclaytonnc.org

**TOWN OF CLAYTON
NATIONAL LINEMAN APPRECIATION DAY PROCLAMATION**

WHEREAS, Linemen are often first responders during weather emergencies and other catastrophic events, they diligently work to make scenes safer for other emergency responders and;

WHEREAS, Their profession requires skill, knowledge, passion and dedications, and;

WHEREAS, Linemen work around thousands of volts of electricity high atop power lines 365 days a year, to keep electricity flowing and;

WHEREAS, Linemen work under dangerous conditions away from their family to construct and maintain the energy infrastructure of the Town of Clayton.

NOW THEREFORE, on behalf of the Clayton Town Council, I, Jody McLeod, do proclaim Monday, April 18, 2022, as **National Lineman Appreciation Day** in the Town of Clayton, North Carolina.

Duly proclaimed this 18th day of April 2022, while in regular session.

Jody L. McLeod
Mayor



Public Information Office

919-553-5002, x. 5009

info@townofclaytonnc.org

FOR IMMEDIATE RELEASE

March 31, 2022

TOWN OF CLAYTON RECOGNIZED AS A RELIABLE PUBLIC POWER PROVIDER

CLAYTON, NC – The Town of Clayton has earned a Reliable Public Power Provider (RP3) designation from the American Public Power Association (APPA) for providing reliable and safe electric service.

Clayton Public Power earned the Gold RP3 designation, which lasts for three years. It recognizes public power utilities that demonstrate proficiency in four key disciplines: reliability, safety, workforce development, and system improvement. Criteria include sound business practices and a utility-wide commitment to safe and reliable delivery of electricity. Clayton Public Power joins 275 public power utilities nationwide that hold the RP3 designation.

"I think over the last year or so, we've seen the vital importance of running a reliable and safe utility," said Aaron Haderle, Chair of APPA's RP3 Review Panel and Manager of Transmission and Distribution Operations at Kissimmee Utility Authority, Florida. "The utilities receiving the RP3 designation have proven that they are committed to running a top-notch public power utility by implementing industry best practices."

"We are very proud to be honored with this designation," said Rich Cappola, Interim Town of Clayton Manager. "This is the culmination of a lot of hard work from a many people who really care about powering our community, but this designation is not a final destination. We are committed to continuing to look for ways to improve our operations and service to our customers."

Clayton Public Power reliably serves more than 7,500 customers. On average, town customers are without electricity 75 minutes per year, experience less than one outage per year, and can expect power restoration in 78 minutes.

The American Public Power Association has offered the RP3 designation for 15 years now. APPA is the voice of not-for-profit, community-owned utilities that power 49 million people in 2,000 towns and cities nationwide. APPA advocates and advises on electricity policy, technology, trends, training, and operations.

PHOTO: Town of Clayton Energy Service Technician Ethan Poppe (right) and Electric Systems Superintendent Mack Keen (left) receive the RP3 designation at the annual APPA Awards Ceremony at the Engineering & Operations Conference in Austin, Texas on Tuesday, March 29.

###

P.O. Box 879 · Clayton, NC 27528 · Office (919)553-5002 · Fax (919)553-8919 · www.townofclaytonnc.org

Clayton is one of 274 out of 2000 municipalities that holds a RP3 designation.

The designation is based on Reliability, Safety, Workforce Development, and System Improvement

“The utilities receiving the RP3 designation have proven that they are committed to running a top-notch public power utility by implementing industry best practices.”

I asked Mack Keen to give me the Crews explanation for this Designation

Edits by Ethan Poppe

- **Reliability**

- Our average outage time is 78 mins. On average, town customers are without electricity 75 minutes per year, and experience less than one outage per year.
- We have mutual aid agreements with other towns in the area and Electricities.
- We continuously improve the system with larger capital projects that are intended to increase our reliability
- Our reliability extends to physical security at critical areas like the substation, disaster planning in case of major events, and cybersecurity in case of major cyberattacks

- **Safety**

- We have regular monthly safety meetings to discuss how the work is going and any accidents or close calls that have happened in the previous month, and discuss the crew's questions or concerns about safety
- We complete regular testing of all equipment and tools, from trucks to rubber gloves, to ensure they are in working order and able to keep us safe
- The crew completes safety briefings before every job and follows the latest standards in safe work practices.
- The crew adheres to industry standards of safety and experience gained in the field to keep themselves and their brother lineman safe. Every person on the crew is responsible for his own safety and the safety of the crew and they take great pride in that.

- **Work Force Development**

- Due to both our on-the-job training and heavy involvement in the ElectriCities Linemen Career and Development Program, our crew has achieved a high level of training. We have 4 linemen that have passed this program and achieved the journeyman certification
- The Town gives all Electric Department employees the opportunity to educate themselves and network with other professionals in the industry
- Our employees are active members of the community, and participate in service oriented and professional organizations to improve our Town and our profession.

- **System Improvement**

- The Electric Department invests a significant amount of time in system maintenance, which reduces outages and improves the safety of the system
- We are continuously working towards reducing the amount of energy lost on our system
- We are always looking to ensure that we have an adequate capacity for growth

Clayton Public Power earned the Gold RP3 designation, which lasts for three years. It recognizes public power utilities that demonstrate proficiency in four key disciplines: reliability, safety, workforce development, and system improvement. Criteria include sound business practices and a utility-wide commitment to safe and reliable delivery of electricity. Clayton Public Power joins 275 public power utilities nationwide that hold the RP3 designation.

“I think over the last year or so, we’ve seen the vital importance of running a reliable and safe utility,” said Aaron Haderle, Chair of APPA’s RP3 Review Panel and Manager of Transmission and Distribution Operations at Kissimmee Utility Authority, Florida. “The utilities receiving the RP3 designation have proven that they are committed to running a top-notch public power utility by implementing industry best practices.”

“We are very proud to be honored with this designation,” said Rich Cappola, Interim Town of Clayton Manager. “This is the culmination of a lot of hard work from a many people who really care about powering our community, but this designation is not a final destination. We are committed to continuing to look for ways to improve our operations and service to our customers.”

Clayton Public Power reliably serves more than 7,500 customers. On average, town customers are without electricity 75 minutes per year, experience less than one outage per year, and can expect power restoration in 78 minutes.

The American Public Power Association has offered the RP3 designation for 15 years now. APPA is the voice of not-for-profit, community-owned utilities that power 49 million people in 2,000 towns and cities nationwide. APPA advocates and advises on electricity policy, technology, trends, training, and operations.

PHOTO: Town of Clayton Energy Service Technician Ethan Poppe (right) and Electric Systems Superintendent Mack Keen (left) receive the RP3 designation at the annual APPA Awards Ceremony at the Engineering & Operations Conference in Austin, Texas on Tuesday, March 29.



Town Council Agenda Cover Sheet

Meeting Date

April 18, 2022

Agenda Location

Public Hearings

Item Title

2022-51-OA Temporary Uses for Public Facilities

Presenter:

Aaron Prichard, Planner II

Summary/Description

Request to add a section to the text of the Unified Development Code (UDC) §155.309 to allow temporary uses and structures in the Public Facilities (PF) zoning district, subject to certain standards and conditions. The proposed change is minor in scope.

Requested Action

Approval

Funding Source (If Applicable):

N/A

Cost: N/A Yes ☐ No ☒

Additional Documents to be Included in Agenda Packet

Staff Report

UDC § 155.309 Ordinance Amendment - Planning Board Draft

UDC § 155.309 Ordinance Amendment - With Edits

UDC § 155.309 Ordinance Amendment - Clean Copy

Consistency Statement

Meeting Timeline

Planning Board - March 28, 2022



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: March 28, 2022
Town Council: April 18, 2022*

STAFF REPORT

Application Number: 2022-51-OA

Project Name: Temporary Uses in Public Facilities Ordinance Amendment

Applicant: Town of Clayton

Public Noticing: Newspaper ad published on April 6, 2022 & April 13, 2022

REQUEST: Request to add a section to the text of the Unified Development Code (UDC) §155.309 to allow temporary uses and structures in the Public Facilities (PF) zoning district, subject to certain standards and conditions. The proposed change is minor in scope.

SECTIONS PROPOSED FOR AMENDMENT:

The following sections of Title XV, Chapter 155 and their general description are proposed for amendment:

§155.309 – Temporary Uses

STAFF ANALYSIS AND COMMENTARY:

Overview

This amendment seeks to add a provision to Article 3 of the Unified Development Code to allow temporary uses and facilities in the PF zoning district. There are several upcoming town projects which will necessitate use of temporary uses, including grass parking for four soccer fields along Loop Road. Staff was directed to look at the land use regulations in the Unified Development Code and propose a text amendment to allow temporary uses and structures in PF Zones. The proposed text amendment has been recommended for approval by the Planning Board subject to a revision noted on the next page.

Approval Criteria:

1. The extent to which the proposed text amendment is consistent with the remainder of the chapter, including, specifically, any purpose and intent statements, and must adopt a statement describing whether the action is consistent or inconsistent with approved plans;

Response: The proposed text amendment is consistent with the remainder of the chapter. It meets the intent of the code.

2. The extent to which the proposed text amendment represents a new idea not considered in the existing chapter, or represents a revision necessitated by changing circumstances over time;

Response: The text amendment updates the code to meet current best practices and standards and meets a need for the Town which is not addressed in the current Code.

3. Whether or not the proposed text amendment corrects an error in the chapter;

Response: The text amendment does not correct an existing error but updates the article per the Council's direction.

4. Whether or not the proposed text amendment revises the chapter to comply with state or federal statutes or case law;

Response: The ordinance changes are not being proposed because of the need to comply with state or federal statutes or case law.

CONSIDERATIONS

- The Town Council shall make a final decision regarding revisions to the Town Code.

PLANNING BOARD RECOMMENDATION:

The Planning Board recommended approval of the proposed amendment to the UDC by a vote of 7-2, subject to the following revision to the Draft Ordinance presented at the Planning Board:

- After a permit expires, applicants shall be limited to one (1) permit renewal, which shall be valid for a period of one (1) year.

STAFF RECOMMENDATION:

Staff is recommending approval of the proposed amendment to the UDC found in the attached clean copy of the Draft Ordinance.

ATTACHMENTS:

- 1) Draft Ordinance – as presented to the Planning Board
- 2) Draft Ordinance – with revisions after the Planning Board meeting
- 3) Draft Ordinance – clean copy
- 4) Consistency Statement

§ 155.202(B) Temporary Uses on Town-Owned Lands

1. **Scope:** The provisions of this section shall only apply to lands under the Public Facilities (PF) zoning district. These provisions shall apply to all types of applications regardless of the review procedures by which they are approved, unless otherwise specified in this Ordinance. These standards may be modified by other applicable standards or requirements in this Ordinance.
2. **Intent:** This section provides standards for temporary uses and structures in PF zoning districts. New projects and routine maintenance on Town facilities often require the use of temporary structures and uses. This section outlines the permitting requirements and standards for such temporary uses and structures.
3. **Temporary Structures:** At the Planning Director's discretion, a permit may be granted for placement of mobile or modular structures in any zoning district for up to one year subject to the standards below. All temporary structures shall:
 - a. Not be placed on a slab or foundation.
 - b. Not be placed within the right-of-way of a street.
 - c. Meet all current zoning standards for building height, impervious surface, and setbacks.
 - d. Have active building and zoning permits.
 - e. Be shown on an approved site plan and construction drawings.
 - f. Conform to structural strength and uplift requirements.
 - g. Show the occupancy, means of egress, and occupant load for all temporary structures.
 - h. Be provided with a portable fire extinguisher per Section 906.1 of the 2018 North Carolina Building Code.
 - i. Not include permanent alterations to the site.
 - j. Not interfere with the normal operations of any permanent use located on the property.
4. **Temporary Parking:** At the Planning Director's discretion, a permit for a temporary parking lot may be granted in PF zoning districts for up to one year. Parking areas may be unpaved and may be used regardless of whether a structure exists at the site. An approved site plan and zoning permit are required for a temporary parking area. Temporary parking areas are exempt from the Vehicle Use Area landscaping standards under UDC §155.402(D)(2).
5. **Permit Renewal:** Upon expiration, and at the Planning Director's discretion, a permit for a temporary structure or parking may be renewed on an annual basis, subject to the standards listed above.

§ 155.202309(8H) Temporary Uses on Town-Owned Lands

- (1) **Scope:** The provisions of this section shall only apply to lands under the Public Facilities (PF) zoning district. These provisions shall apply to all types of applications regardless of the review procedures by which they are approved, unless otherwise specified in this Ordinance. These standards may be modified by other applicable standards or requirements in this Ordinance.
- (2) **Intent:** This section provides standards for temporary uses and structures in PF zoning districts. New projects and routine maintenance on Town facilities often require the use of temporary structures and uses. This section outlines the permitting requirements and standards for such temporary uses and structures.
- (3) **Temporary Structures:** At the Planning Director's discretion, a permit may be granted for placement of mobile or modular structures in any zoning district for up to one (1) year subject to the standards below. All temporary structures shall:
 - a. ~~Not be placed on a slab or foundation.~~
 - b. Not be placed within ~~the a public~~ right-of-way ~~of a street.~~
 - c. Meet all current zoning standards for building height, impervious surface, and setbacks.
 - d. Have active building and zoning permits.
 - e. Be shown on an approved site plan and construction drawings.
 - f. Conform to structural strength and uplift requirements.
 - g. Show the occupancy, means of egress, and occupant load for all temporary structures.
 - h. Be provided with a portable fire extinguisher per Section 906.1 of the 2018 North Carolina Building Code.
 - i. Not include permanent alterations to the site.
 - j. Not interfere with the normal operations of any permanent use located on the property.
- (4) **Temporary Parking:** At the Planning Director's discretion, a permit for a temporary parking lot may be granted in PF zoning districts for up to one (1) year. Parking areas may be unpaved and may be used regardless of whether a structure exists at the site. An approved site plan and zoning permit are required for a temporary parking area. Temporary parking areas are exempt from the Vehicle Use Area landscaping standards under UDC §155.402(D)(2).
- (5) **Permit Renewal:** Upon expiration, and at the Planning Director's discretion, public facilities shall be limited to one (1) permit renewal, which shall be valid for a period of one (1) year-a permit for a temporary structure or parking may be renewed on an annual basis, subject to the standards listed above.

Commented [AP1]: Should Council wish to set a limit on the number of permit renewals, staff recommends at least two 1-year permit renewals (for a total of 3 years).

§ 155.309(H) Temporary Uses on Town-Owned Lands

- (1) **Scope:** The provisions of this section shall only apply to lands under the Public Facilities (PF) zoning district. These provisions shall apply to all types of applications regardless of the review procedures by which they are approved, unless otherwise specified in this Ordinance. These standards may be modified by other applicable standards or requirements in this Ordinance.
- (2) **Intent:** This section provides standards for temporary uses and structures in PF zoning districts. New projects and routine maintenance on Town facilities often require the use of temporary structures and uses. This section outlines the permitting requirements and standards for such temporary uses and structures.
- (3) **Temporary Structures:** At the Planning Director's discretion, a permit may be granted for placement of mobile or modular structures in any zoning district for up to one (1) year subject to the standards below. All temporary structures shall:
 - a. Not be placed within a public right-of-way.
 - b. Meet all current zoning standards for building height, impervious surface, and setbacks.
 - c. Have active building and zoning permits.
 - d. Be shown on an approved site plan and construction drawings.
 - e. Conform to structural strength and uplift requirements.
 - f. Show the occupancy, means of egress, and occupant load for all temporary structures.
 - g. Be provided with a portable fire extinguisher per Section 906.1 of the 2018 North Carolina Building Code.
 - h. Not include permanent alterations to the site.
 - i. Not interfere with the normal operations of any permanent use located on the property.
- (4) **Temporary Parking:** At the Planning Director's discretion, a permit for a temporary parking lot may be granted in PF zoning districts for up to one (1) year. Parking areas may be unpaved and may be used regardless of whether a structure exists at the site. An approved site plan and zoning permit are required for a temporary parking area. Temporary parking areas are exempt from the Vehicle Use Area landscaping standards under UDC §155.402(D)(2).
- (5) **Permit Renewal:** Upon expiration, and at the Planning Director's discretion, a permit for a temporary structure or parking may be renewed on an annual basis, subject to the standards listed above.

TOWN OF CLAYTON
ORDINANCE AMENDMENT
CONSISTENCY STATEMENT

[2022-51-OA Temporary Uses for Public Facilities Ordinance Amendment]

The Town Council of the Town of Clayton hereby states:

Section 1: The above referenced ordinance amendment IS APPROVED.

Section 2: The above referenced ordinance amendment IS CONSISTENT with:

The Comprehensive Growth Plan 2045, specifically:

- Goal SI3: Plan for maintenance and replacement of governmental facilities.

The requested ordinance amendment is consistent with the above referenced goal from the Comprehensive Growth Plan 2045. The proposed amendment seeks to modify the UDC 155.309 section regarding land use regulations for temporary uses for public facilities. The proposed amendment requests to add a section to the text of the Unified Development Code (UDC) § 155.309 to allow temporary uses and structures in the Public Facilities (PF) zoning district, subject to certain standards and conditions.

Section 3: Based upon information presented at the public hearings and by the applicant, and based upon the recommendations and detailed information developed by staff and the Planning Board contained in the staff report, and considering the criteria applicable sections of the Unified Development Code of the Town of Clayton, specifically

that the ordinance amendment is consistent with Chapter 155 of the Town of Clayton's Code of Ordinances and the Comprehensive Growth Plan 2045.

**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 amends the Clayton Code of Ordinances Chapter 155.309(H) to read as follows:

155.309 TEMPORARY USES

(H) Temporary Uses on Town-Owned Lands

- (1) Scope: The provisions of this section shall only apply to lands under the Public Facilities (PF) zoning district. These provisions shall apply to all types of applications regardless of the review procedures by which they are approved, unless otherwise specified in this Ordinance. These standards may be modified by other applicable standards or requirements in this Ordinance.
- (2) Intent: This section provides standards for temporary uses and structures in PF zoning districts. New projects and routine maintenance on Town facilities often require the use of temporary structures and uses. This section outlines the permitting requirements and standards for such temporary uses and structures.
- (3) Temporary Structures: At the Planning Director's discretion, a permit may be granted for placement of mobile or modular structures in any zoning district for up to one (1) year subject to the standards below. All temporary structures shall:
 - a. Not be placed within a public right-of-way.
 - b. Meet all current zoning standards for building height, impervious surface, and setbacks.
 - c. Have active building and zoning permits.
 - d. Be shown on an approved site plan and construction drawings.
 - e. Conform to structural strength and uplift requirements.
 - f. Show the occupancy, means of egress, and occupant load for all temporary structures.
 - g. Be provided with a portable fire extinguisher per Section 906.1 of the 2018 North Carolina Building Code.
 - h. Not include permanent alterations to the site.

- i. Not interfere with the normal operations of any permanent use located on the property.
- (4) **Temporary Parking:** At the Planning Director's discretion, a permit for a temporary parking lot may be granted in PF zoning districts for up to one (1) year. Parking areas may be unpaved and may be used regardless of whether a structure exists at the site. An approved site plan and zoning permit are required for a temporary parking area. Temporary parking areas are exempt from the Vehicle Use Area landscaping standards under UDC §155.402(D)(2).
- (5) **Permit Renewal:** Upon expiration, and at the Planning Director's discretion, a permit for a temporary structure or parking may be renewed on an annual basis, subject to the standards listed above.

Duly adopted this 18th day of April 2022.

Jody L. McLeod
Mayor

ATTEST:

APPROVED AS TO FORM:

Sherry L. Scoggins, MMC
Town Clerk

Jim Cauley
Town Attorney



Town Council Agenda Cover Sheet

Meeting Date

April 18, 2022

Agenda Location

Public Hearings

Item Title

2022-52-OA Electronic Gaming Operations Text Amendment

Presenter:

Ben Howell, Planning Director

Summary/Description

Unified Development Code Text Amendment to add "Electronic Gaming Operations" as a prohibited use in Section 155.202 and add a definition of "Electronic Gaming Operations" in Section 155.802.

Requested Action

Approval

Funding Source (If Applicable):

N/A

Cost: N/A Yes ☐ No ☒

Additional Documents to be Included in Agenda Packet

Staff Report

Proposed Section 155.202 Text

Proposed Section 155.802 Text

Meeting Timeline

Planning Board - March 28, 2022



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 March 28, 2022
Town Council April 18, 2022*

STAFF REPORT

Application Number: 2022-52-OA

Project Name: Electronic Gaming Operations Text Amendment

Applicant: Town of Clayton
Public Noticing: Newspaper ad published April 6, 2022 & April 13, 2022

REQUEST: Request to amend the Unified Development Code Title XV, Sections §155.202 & 155.802. This amendment seeks to add “Electronic Gaming Operations” as a prohibited use in Section 155.202, and add the definition of Electronic Gaming Operations to Section 155.802.

SECTIONS PROPOSED FOR AMENDMENT:

The following sections of Title XV, Chapter 155 and their general description are proposed for amendment:

§155.202 – Land Use Regulations
§155.802 – Defined Terms

STAFF ANALYSIS AND COMMENTARY:

Overview

The proposed text amendment(s) would create a definition for electronic gaming operations and prohibit the use within the Town of Clayton’s planning jurisdiction. These uses are not currently addressed in the Table of Uses in the Unified Development Code and are generally considered to be prohibited. However, there has been recent case law stating that prohibited uses should be specifically stated as prohibited in the Unified Development Code, so staff is bringing forth this text amendment to clarify these uses as prohibited in the Town’s planning jurisdiction.

Approval Criteria:

1. The extent to which the proposed text amendment is consistent with the remainder of the chapter, including, specifically, any purpose and intent statements, and must adopt a statement describing whether the action is consistent or inconsistent with approved plans;

Response: The proposed text amendment is consistent with the remainder of the chapter. It meets the intent of the code.

2. The extent to which the proposed text amendment represents a new idea not considered in the existing chapter, or represents a revision necessitated by changing circumstances over time;

Response: The text amendment updates the code to address recent case law stating that prohibited uses should be specifically stated as prohibited.

3. Whether or not the proposed text amendment corrects an error in the chapter;

Response: The text amendment corrects an error in that electronic gaming operations are not addressed in the code and have been generally considered to be prohibited; this text amendment makes clear that they are prohibited.

4. Whether or not the proposed text amendment revises the chapter to comply with state or federal statutes or case law;

Response: The ordinance changes are being proposed because of the need to comply with recent case law.

CONSIDERATIONS

- The Town Council shall make a final decision regarding revisions to the Town Code.

PLANNING BOARD RECOMMENDATION

The Planning Board unanimously recommended approval of the proposed amendment to the Unified Development Code.

STAFF RECOMMENDATION:

Staff is recommending approval of changes to the Zoning Code with respect to prohibiting electronic gaming operations uses and defining electronic gaming operations.

ATTACHMENTS:

- 1) Section 155.202 Text Amendment
- 2) Section 155.802 Text Amendment

ARTICLE 2: ZONING DISTRICTS

§ 155.202 LAND USE REGULATIONS

(A) USE REGULATIONS TABLE

The use regulations table is subject to the explanation as set forth below.

(1) Key to Types of Use

- (a) **Permitted.** A "P" indicates that a use is permitted in the respective district subject to the specific use standards in §§ 155.300 through 155.311. Such uses are also subject to all other applicable requirements of this chapter.
- (b) **Special Use Review.** An "S" indicates a use that may be permitted in the respective general use district only where approved by the Town Council upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards, and in accordance with § 155.711. Special uses are subject to all other applicable requirements of this chapter, including the specific use standards contained in §§ 155.300 through 155.311, except where such use standards are expressly modified by the Town Council as part of the special use approval.
- (c) **Specific Use Section.** The "Specific Use Section" column on the table is a cross-reference to any specific use standard listed in §§ 155.300 through 155.311. Where no cross-reference is shown, no additional use standard shall apply.
- (d) **Uses Not Permitted.** A blank cell in the use table indicates that a use is not permitted in the respective district. Except as pursuant to §155.110 and §155.300, the following uses are entirely prohibited within the jurisdiction of the Town, although such enumeration shall not necessarily be deemed exclusive or all-inclusive:

1. Open dump;

2. Outdoor gun range; ~~and~~

2-3. Electronic Gaming Operations; and

3-4. Any use prohibited by an applicable overlay zoning district.

(2) Uses

Table 2-1 "Use Regulations" lists the principal uses regulated by this chapter for conventional districts. For conditional zoning districts see § 155.200(C), for overlay districts see § 155.200(D), and for accessory structures and uses see § 155.308. In all cases, additional clarification and/or restrictions may be found in the Specific Use Standards (Article 3 of this chapter).

ARTICLE 8: DEFINITIONS

§ 155.802 DEFINED TERMS

Easement

A grant of one or more of the property rights by the owner to, or for the use by, the public, a corporation, or another person or entity.

Electronic Gaming Operation

Any business or enterprise where persons utilize electronic machines, including but not limited to computers and gaming terminals, to conduct games of chance, skill or sweepstakes, and where cash, merchandise or anything else of value is redeemed or otherwise distributed or placed on an account or other record, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. Electronic gaming operations may include, but are not limited to, internet cafes, internet sweepstakes, electronic gaming machines/operations, cybercafés, business centers, or by whatever other terminology such establishment might be known. Electronic gaming operation does not include any lottery approved by the State of North Carolina. This definition does not include video arcade games as defined under 155.303 (A) Indoor Entertainment.

Extraterritorial Jurisdiction (ETJ)

An area outside the Town of Clayton's town limit delineated on the Official Zoning District Map. Pursuant to the North Carolina General Statutes, the Town enforces the following regulations within the ETJ: zoning ordinance; subdivision regulations and the North Carolina State Building Code.

TOWN OF CLAYTON
ORDINANCE AMENDMENT
CONSISTENCY STATEMENT

[2022-52-OA Electronic Gaming Operations Ordinance Amendment]

The Town Council of the Town of Clayton hereby states:

Section 1: The above referenced ordinance amendment IS APPROVED.

Section 2: The above referenced ordinance amendment IS CONSISTENT with:

The Comprehensive Growth Plan 2045, specifically:

- Goal LU1: Preserve Clayton’s character while allowing for growth and development in appropriate areas.

The requested ordinance amendment is consistent with the above referenced goal from the Comprehensive Growth Plan 2045. The proposed amendment seeks to modify the UDC 155.202 and 155.802 sections regarding land use regulations for prohibited uses and definitions. The proposed amendment requests to add “Electronic Gaming Operations” as a prohibited use and add a definition of “Electronic Gaming Operations”.

Section 3: Based upon information presented at the public hearings and by the applicant, and based upon the recommendations and detailed information developed by staff and the Planning Board contained in the staff report, and considering the criteria applicable sections of the Unified Development Code of the Town of Clayton, specifically

that the ordinance amendment is consistent with Chapter 155 of the Town of Clayton’s Code of Ordinances and the Comprehensive Growth Plan 2045.

**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 amends the Clayton Code of Ordinances Chapter 155.202 and Chapter 155.802 to read as follows:

155.202 LAND USE REGULATIONS

(A) USE REGULATIONS TABLE

The use regulations table is subject to the explanation as set forth below.

(1) Key to Types of Use

- (d) Uses Not Permitted. A blank cell in the use table indicates that a use is not permitted in the respective district. Except as pursuant to §155.110 and §155.300, the following uses are entirely prohibited within the jurisdiction of the Town, although such enumeration shall not necessarily be deemed exclusive or all-inclusive:
1. Open dump;
 2. Outdoor gun range; and
 3. Electronic Gaming Operations; and
 4. Any use prohibited by an applicable overlay zoning district.

155.802 DEFINED TERMS

Electronic Gaming Operation

Any business or enterprise where persons utilize electronic machines, including but not limited to computers and gaming terminals, to conduct games of chance, skill or sweepstakes, and where cash, merchandise or anything else of value is redeemed or otherwise distributed or placed on an account or other record, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. Electronic gaming operations may include, but are not limited to, internet cafes, internet sweepstakes, electronic gaming machines/operations, cybercafés, business centers, or by whatever other terminology such establishment might be known. Electronic gaming operation does not include any lottery approved by the State of North Carolina. This definition does not include video arcade games as defined under 155.303 (A) Indoor Entertainment.

Duly adopted this 18th day of April 2022.

Jody L. McLeod
Mayor

ATTEST:

APPROVED AS TO FORM:

Sherry L. Scoggins, MMC
Interim Town Clerk

Jim Cauley
Town Attorney



Town Council Agenda Cover Sheet

Meeting Date

April 18, 2022

Agenda Location

Public Hearings

Item Title

Adoption of a Resolution Designating the Clayton Transportation Plan

Presenter:

Ben Howell, Planning Director

Summary/Description

This is a request for Town Council to adopt a Resolution designating existing plans or plan elements as the Clayton Transportation Plan until a Comprehensive Transportation Plan can be developed. This will allow staff to use existing adopted plans or plan elements to require transportation infrastructure improvements to be made by development.

Requested Action

Approval

Funding Source (If Applicable):

N/A

Cost: N/A Yes ☐ No ☒

Additional Documents to be Included in Agenda Packet

Staff Report

Resolution

Roadway System Map from 2045 Comprehensive Growth Plan

Meeting Timeline

Planning Board – March 28, 2022



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 March 28, 2022
Town Council April 18, 2022*

STAFF REPORT

Project Name: Resolution Designating the Clayton Transportation Plan

Applicant: Town of Clayton
Public Noticing: Newspaper ad published April 6, 2022 & April 13, 2022

REQUEST: Request that Town Council adopt a resolution officially designating the Roadway System Map from the 2045 Comprehensive Growth Plan, the Draft Clayton Comprehensive Pedestrian Plan (adoption expected Summer 2022), the Clayton Comprehensive Bicycle Plan, the Johnston County Comprehensive Transportation Plan, and any other adopted (now or in the future) plans that address roadways or other transportation infrastructure as the Transportation Plan for the Town of Clayton. The Roadway System Map is attached to this staff report; the other Plans referenced above are available on the Town website: www.townofclaytonnc.org.

STAFF ANALYSIS AND COMMENTARY:

Overview

This is needed to be able to utilize the recommendations in these plans for transportation infrastructure improvements as projects are reviewed under the Unified Development Code, as the Unified Development references a Transportation Plan. The Council will be considering funding development of a Comprehensive Transportation Plan in the FY2023 Budget, so the adoption of this resolution will allow staff to use existing adopted plans addressing transportation infrastructure until a Comprehensive Transportation Plan is developed for the Town.

CONSIDERATIONS

- The adoption of this resolution is following the standard procedure to adopt a Plan or Plan Amendment, with recommendation from the Planning Board and decision by Town Council following a Public Hearing.

PLANNING BOARD RECOMMENDATION:

The Planning Board unanimously recommended adoption of the Resolution by the Town Council.

STAFF RECOMMENDATION:

Staff is recommending adoption of the Resolution Designating the Clayton Transportation Plan.

ATTACHMENTS:

- 1) Resolution
- 2) Roadway System Map from 2045 Comprehensive Growth Plan

RESOLUTION TO DESIGNATE THE CLAYTON TRANSPORTATION PLAN

WHEREAS, the Clayton Town Council adopted the 2045 Comprehensive Growth Plan on November 15, 2021; and

WHEREAS, the 2045 Comprehensive Growth Plan includes a Roadway System Map that provides recommended roadway improvements and cross-sections for a variety of roads in Clayton; and

WHEREAS, the Town has also adopted, or is developing, various other plans providing specific transportation infrastructure recommendations, including but not limited to the Comprehensive Bicycle Plan and the Draft Comprehensive Pedestrian Plan; and

WHEREAS, Johnston County has adopted a Comprehensive Transportation Plan with recommendations for transportation infrastructure improvements within the Town of Clayton and surrounding area; and

WHEREAS, the Unified Development Code references the Town Transportation Plan in Section 155.602 for requiring necessary infrastructure improvements for development in Town; and

WHEREAS, the Town does not have a stand-alone Transportation Plan, but considers the Roadway System Map from the adopted 2045 Comprehensive Growth Plan and other plans adopted by the Town and Johnston County that include specific transportation infrastructure recommendations in the planning jurisdiction of the Town of Clayton to be the Town Transportation Plan in absence of a Comprehensive Transportation Plan; and

WHEREAS, the Town Council will be considering funding the development of a Comprehensive Transportation Plan beginning in Fiscal Year 2023, with the development of such a plan expected to take approximately 2 years; and

WHEREAS, Town staff believe that the Town needs to designate a Transportation Plan that can be used in conjunction with the Unified Development Code until such time that a Comprehensive Transportation Plan is adopted by the Town Council; and

WHEREAS, the North Carolina General Statutes Section 160D-601 requires review and recommendation by the Planning Board and a Public Hearing at the Town Council before the decision.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Clayton, North Carolina designate the Roadway System Map from the adopted 2045 Comprehensive Growth Plan, the adopted Clayton Comprehensive Bicycle Plan, the adopted Johnston County Comprehensive Transportation Plan and any other adopted plans, now or in the future, to be considered as the Town of Clayton Transportation Plan until a stand-alone Comprehensive Transportation Plan is adopted by the Clayton Town Council.

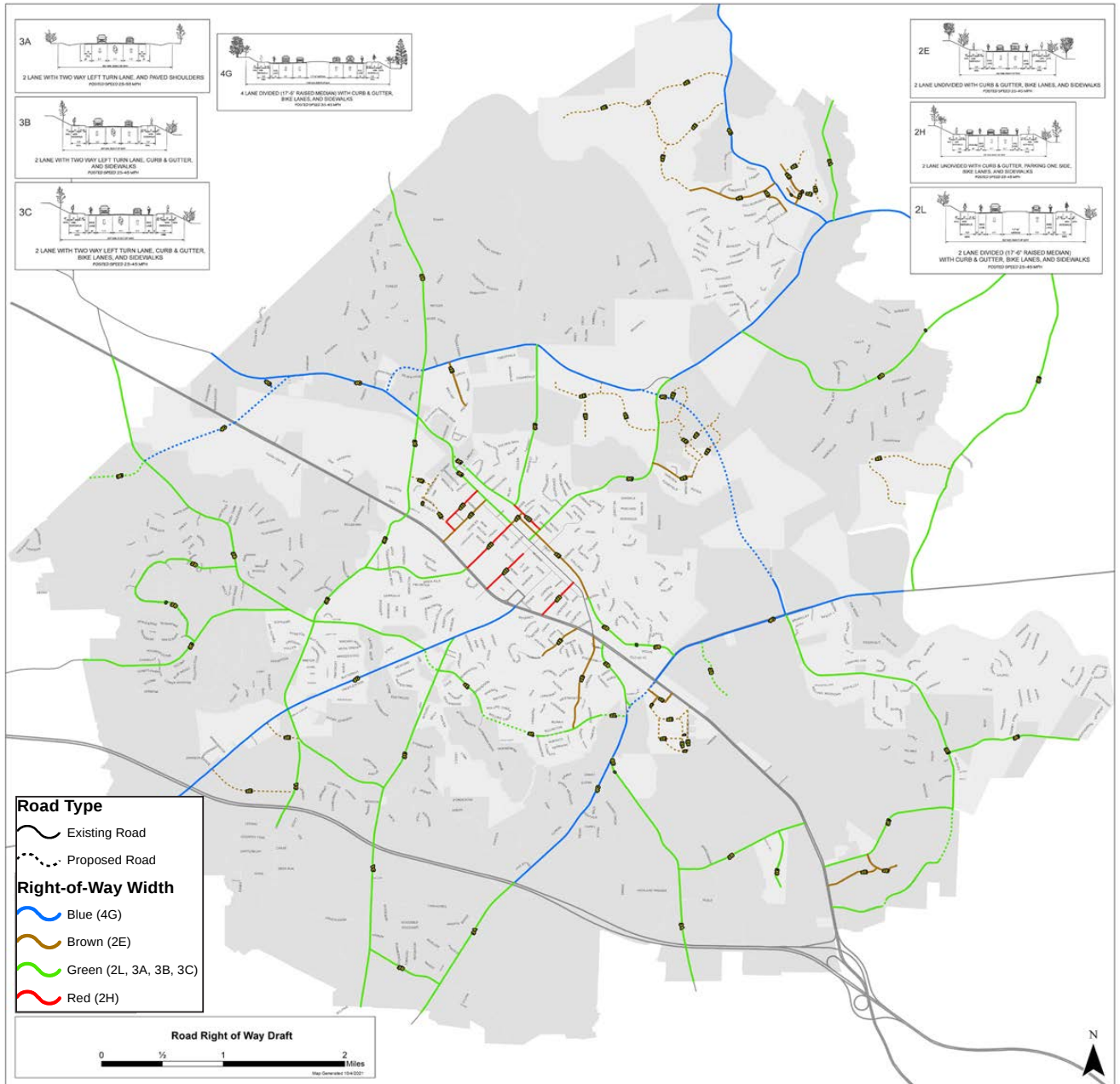
Duly adopted this the 18th day of April 2022.

Jody McLeod
Mayor

ATTEST:

Heidi L. Holland, NCCMC
Deputy Town Clerk

Roadway System Map



The Roadway System map identifies future right of way widths for key roadways in the Town of Clayton's planning jurisdiction. See the Appendix for detailed recommendations.



Town Council Agenda Cover Sheet

Meeting Date

April 18, 2022

Agenda Location

Public Hearings

Item Title

2022-16-SUP Cerberus Gaming

Presenter:

Aaron Prichard, Planner II

Summary/Description

Applicant is requesting a permit to utilize vacant second floor office space above Crawford's Cookshop to be used as an after-school online gaming venue.

Requested Action

Approval with Conditions

Funding Source (If Applicable):

N/A

Cost: N/A Yes ☐ No ☒

Additional Documents to be Included in Agenda Packet

Application & Owner's Consent Form
Staff Report
Staff Report Maps
Floor Plans
Neighborhood Meeting Materials
Signed Recommended Conditions of Approval

Meeting Timeline

This is the first and only public meeting for this item.



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

*Town Council
April 18, 2022*

STAFF REPORT

Application Number: 2022-16-SUP

Project Name: Cerberus Gaming – Special Use Permit

Tag #: 05011016
Location: 401 E Main Street, Clayton, NC 27520
Overlay: Downtown Overlay District
Applicant: Hunter Diefes
Owner: 113 E First St, LLC
Project Planner: Aaron Prichard, AICP, CZO

Public Noticing Dates:

- **Neighborhood Meeting:** April 8, 2022
- **Sign Posted:** March 25, 2022
- **Newspaper Ad Published:** March 23, 2022 and March 30, 2022
- **Letters Mailed:** April 7, 2022

REQUEST: Applicant requests a Special Use Permit to change the land use designation from Office to Indoor Entertainment.

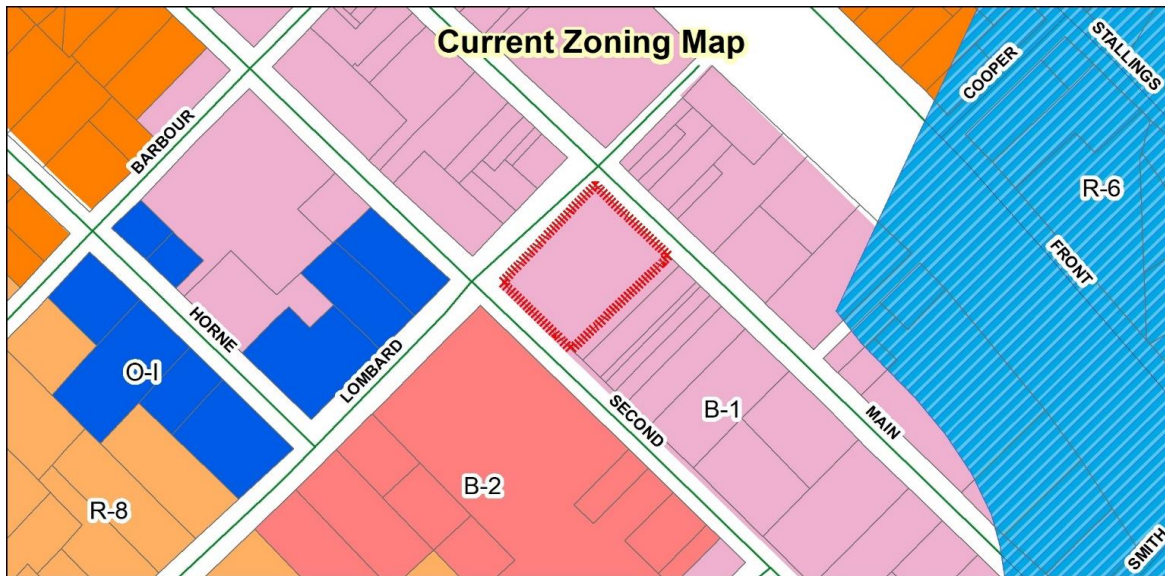
SITE DATA:

Acreage: 0.74 acre
Zoning: B-1
Existing Use: Office



ADJACENT ZONING AND LAND USES:

Direction	Zoning	Existing Use
N/NE NW/SE	B-1	Retail Sales, Service, Park
S/SW	B-2	Retail Sales
W	O-I	General Office

**DEVELOPMENT DATA:**

Proposed Use:	Indoor Entertainment
Building Height:	2 Stories/30' (existing)
Impervious Surface:	Existing building (no change proposed)
Parking:	Existing parking lot (no change proposed)
Access/Streets:	The parking area may be accessed off E Second Street. The building has frontage along East Main Street and South Lombard Street.

STAFF ANALYSIS AND COMMENTARY:**Overview:**

The applicant is proposing to change the existing use of the establishment from Office to Indoor Entertainment, per UDC § 155.202. Vehicular access to the site is taken behind the building off E Second Street into the parking lot, which is shared with The Cardinal and Lil Hombre, which are other businesses sharing this building.

Associated Site Plan:

Pursuant to §155.711(D)(1), concurrent with a request for a Special Use Permit, the applicant was required to submit a Site Plan, which is attached to this staff report. The site plan was already reviewed and is pending approval upon a decision from Council on this Special Use Permit.

Consistency with Adopted Plans:

- **Comprehensive Growth Plan 2045**

The Future Land Use Map (below) shows that this area is designated as Downtown Core, which calls for high-density commercial services, including restaurants, retail, professional services, and entertainment among others. The area provides a grid-style street network, pedestrian friendly sidewalks, and streets with on-street parking and slow speeds. All of these elements are present at the site and adjacent to it. Therefore, the proposed use is consistent with the provisions of the Growth Plan.

- **Unified Development Code**

If the Special Use Permit is approved, the proposed development will meet the code requirements as outlined in the Unified Development Code. Dimensional standards, parking, landscaping, and other elements of the Code have been met since no upfits to the building are proposed. The proposed use of Indoor Entertainment requires a Special Use Permit in B-1 zones, which is the purpose of this application.



CONSIDERATIONS:

- The Town Council shall make final decisions regarding Special Use Permits.
- Special Use Permits shall address specific Findings of Fact, with the burden of proof for meeting the Findings of Fact on the applicant. These Findings all must be met for a Special Use Permit to be approved.
- The Technical Review Committee has reviewed the SUP and associated Site Plan.
- Staff has worked with the applicant on the proposed conditions, and the applicant has agreed to all proposed conditions in writing.
- The Town Council shall consider the recommendation(s) in this staff report, and may approve the SUP with the proposed conditions, add or remove conditions (with the agreement of the applicant), deny the application upon finding that one or more of the Findings of Fact are not met, or may send the application back to the Technical Review Committee for additional consideration.

FINDINGS OF FACT:

Special Use Permits shall address the following findings, with the burden of proof for meeting the Findings of Fact on the applicant. Please see below for the applicant's response to each finding, as well as staff's commentary.

1. *That the application will not materially endanger the public health or safety if located where proposed and developed according to the plans as submitted and approved.*

Applicant Response:

The application will establish an indoor online gaming venue that will provide a place for youths and young adults to utilize and experience high-end computer gaming equipment and gaming consoles. Applicant believes that this will be a positive addition to the community and, rather than endangering public health or safety, it will enhance it by providing a safe and supervised space that will be geared towards younger people in the after-school hours.

Staff Commentary:

The use would be full enclosed within the existing structure and does not constitute a danger to public health or safety.

2. *That the application meets all required specifications and conforms to the standards and practices of sound land use planning and the Town Code of Ordinances and other applicable regulations.*

Applicant Response:

The application involves the use of existing office space as an indoor computer/console gaming facility. This requires no upfit of the existing space, only the installation of desktop computer equipment and gaming consoles. Therefore, this application meets all required specifications and conforms to the standards and practices of sound land use planning, the Town Code of Ordinances, and any other applicable regulations.

Staff Commentary:

Since the nature of the application is a change in use with no upfits to the structure, the applicant does not need to change or amend any landscaping or dimensional standards. Furthermore, in accordance with UDC §155.401(B)(8), no off-street parking is required since the proposed use is non-residential and the site is located in the Downtown Overlay District.

3. *That the application will not substantially injure the value of adjoining or abutting property, and will not be detrimental to the use or development of adjacent properties or other neighborhood uses.*

Applicant Response:

The applicant's desired use will be confined to an indoor, existing 2nd Floor space (~2,669 sq ft). This will in no way impact the use or development of adjacent properties or other neighborhood uses, nor will it injure in any way the value of adjoining or abutting property. The patrons of Cerberus Gaming will use headphones for their computer audio, so there will not be any noise disruption to neighboring properties or even to the neighboring office tenants located in the subject building.

Staff Commentary:

Staff has no comment with respect to whether the site will affect the value of abutting property. With respect to use or development of surrounding properties, staff does not believe the application as proposed will have any effect on adjacent development since no structural or site changes are being proposed.

4. *That the application will not adversely affect the adopted plans and policies of the Town or violate the character of existing standards for development of the adjacent properties.*

Applicant Response:

This application will have no effect on the adopted plans and policies of the Town, or violate the character of existing standards for development of the adjacent properties. There is no exterior work proposed, this is currently a multi-purpose building with restaurants and office space. The addition of Cerberus Gaming will not influence or change the function of this building and the exterior character.

Staff Commentary:

The Comprehensive Growth Plan designates this site as Downtown Core. The Plan states: *"The Downtown Core includes a variety of uses including commercial services (restaurants, retail, professional services, and entertainment)..."* Rather than adversely affecting adopted plans and policies, staff finds the application to be consistent with adopted plans and policies, and does not violate the neighborhood character.

RECOMMENDED CONDITIONS OF APPROVAL:

If approved, staff is recommending conditions of approval be placed upon the application. The recommended conditions are listed below, and the applicant's signed acceptance of the recommended conditions is provided as an attachment.

1. The Development shall be constructed in substantial conformance with the Special Use Permit as approved by the Clayton Town Council and associated Floor Plans submitted as part of this application and included in the Town Council's packet.
2. The Development shall include no games of skill or chance which derive a monetary pay-out to users undertaking the service in the form of gambling.
3. At least one employee or staff member must be on hand to supervise patrons during all operating hours.
4. No changes to the exterior of the building, either in function or appearance, may occur without further approval from the Town of Clayton. This includes changes to signage and advertising other than basic directional signage within the building to indicate the establishment's location.
5. Hours of operation shall be limited to 7:00 AM – 10:00 PM, seven days per week.
6. No food or beverage service is permitted, besides pre-packaged snacks and canned drinks stored within the gaming space. No food or drink service from restaurants or cocktail lounges within or outside the building is permitted.

ATTACHMENTS:

- 1) Application & Owner's Consent Form
- 2) Floor Plans
- 3) Neighborhood Meeting Materials
- 4) Staff Report Maps
- 5) Recommended Conditions of Approval – Signed by Applicant



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

SPECIAL USE PERMIT APPLICATION COVER SHEET

Name of Project: Cerberus Gaming Date: 1/28/2022
Applicant Name: 113 E First St, LLC

The following checklist to be completed by applicant:

- ☐ Pre-Application Meeting on: _____
- ☒ Application Review fee
- ☒ Advertisement Fee

11 copies of the following:

- ☒ Completed Application
- ☒ Owner's Consent Form
- ☒ Adjacent Property Owner's List
- ☒ Neighborhood Meeting Notice Letter (1 copy)
- ☐ Wastewater Allocation Request Form (if applicable)
- ☒ Set of stamped, addressed, empty envelopes for adjacent property owner notification
- ☐ Associated Site Plan (separate application required for major site plans, must be submitted concurrently)

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

SPECIAL USE PERMIT APPLICATION

Application Fee: \$400.00
Advertisement Fee: \$200.00

☒ New Special Use Permit

☐ Major Modification to an approved SUP
Permit Modified: _____

SITE INFORMATION

Name of Project: Cerberus Gaming
Acreage of Property: 0.74 Zoning District: B-1
County Tag #: 05011016 NC Pin #: 166917-11-4927
Address/Location: 401 E Main Street
Existing Use: Office Proposed Use: Indoor Entertainment
Is project within a Planned Development? ☐ Yes ☒ No If yes, which: _____
Is project within an Overlay District? ☒ Yes ☐ No If yes, which: Downtown

APPLICANT INFORMATION

Applicant: 113 E First St, LLC
Mailing Address: PO Box 6309 Raleigh, NC 27628
Phone Number: 910-770-1145 Fax: _____
Contact Person: Hunter Diefes
Email Address: HDiefes@AtlasStark.com

OFFICE USE ONLY

Date Received: 1/31/2022 Amount Paid: \$400⁰⁰ File Number: 2022-16-SUP

April 2019

2 of 10

PROPERTY OWNER INFORMATION

Name: 113 E First St, LLC

Mailing Address: PO Box 6309, Raleigh, NC 27628

Phone Number: 910-770-1145

Fax:

Email Address: HDiefes@AtlasStark.com

EXPLANATION OF PROJECT

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

Existing vacant second floor office space will be leased and operated as an after school online gaming venue. The primary customer demographic will be high school age youths and the nature of the games will be typical on-line video games (i.e. Fortnite, Call of Duty, Minecraft, etc.). This project will in no way be an adult-oriented entertainment business in that there will be no "pay out" games or "games of skill". This will be a supervised, safe place for children to spend afternoons between school and after work. There will be no discernible difference in the exterior of the existing building, either in function or appearance. This includes exterior signage and advertising other than basic directional signage indicating the establishment location within the building. Anticipated hours of operation are 12:00 PM - 10:00 PM 7 days/week. Cerberus Gaming anticipates 12 gaming stations in its approximately 2,669 square feet of rentable space. These would be a mix of computer stations and gaming console stations (i.e. Xbox, Playstation, etc.). Of these 12, approximately 8 will be single player stations, the other 4 stations will be sized to accommodate 2-6 players each. No food and beverage service is contemplated other than prepackaged snacks and canned drinks (i.e. chips and soda). We do not anticipate a negative impact on existing businesses located in this building, including parking. We anticipate the vast majority of these customers will be 10-18 years of age (consistent with proprietors' experience in this industry) and to consist mainly of walk-ups and drop off/pickups rather than requiring on site parking. Payment for use of this gaming equipment will be on a time used basis (hourly, daily, monthly) which can be paid over the counter to the on site employee or via an online account through a third party vendor.

REQUIRED FINDINGS OF FACT

Section 155.711(I) of the Unified Land Development Code requires applications for a Special Use to address the following findings. The burden of proof is on the applicant and failure to adequately address the findings may result in denial of the application. Please attach additional pages if necessary.

1. That the application will not materially endanger the public health or safety if located where proposed, and developed according to the plans as submitted and approved.

The application will establish an indoor on-line gaming venue that will provide a place for youths and young adults to utilize and experience high end computer gaming equipment and gaming consoles. Applicant believes that this will be a positive addition to the community and, rather than endangering public health or safety, it will enhance it by providing a safe and supervised space that will be geared towards younger people in the after school hours.

2. That the application meets all required specifications and conforms to the standards and practices of sound land use planning and the Town Code of Ordinances and other applicable regulations.

This application involves the use of existing office space as an indoor computer/console gaming facility. This requires no upfit of the existing space, only the installation of desktop computer equipment and gaming consoles. Therefore this application meets all required specifications and conforms to the standards and practices of sound land use planning, the Town Code of Ordinances, and any other applicable regulations.

3. That the application will not substantially injure the value of adjoining or abutting property, and will not be detrimental to the use or development of adjacent properties or other neighborhood uses.

The applicant's desired use will be confined to an indoor, existing 2nd floor space (~2,669 sq ft). This will in no way impact the use or development of adjacent properties or other neighborhood uses, nor will it injure in any way the value of adjoining or abutting property.

The patrons of Cerberus Gaming will use headphones for their computer audio, so there will not be any noise disruption to neighboring properties or even to the neighboring office tenants located in the subject building.

4. That the application will not adversely affect the adopted plans and policies of the Town, or violate the character of existing standards for development of the adjacent properties.

This application will have no affect on the adopted plans and policies of the Town, or violate the character of existing standards for development of the adjacent properties. There is no exterior work proposed, this is currently a multi-purpose building with restaurants and office space. The addition of Cerberus Gaming will not have an affect on or change the function of this building and the exterior character.

APPLICANT AFFIDAVIT

I/We, the undersigned, do hereby make application and petition to the Town Council of the Town of Clayton to approve the subject Special Use Permit. 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.

Hunter Diefes

Print Name


Signature of Applicant

1/28/2022

Date



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: Cerberus Gaming **Address or PIN #:** 166917-11-4927

AGENT/APPLICANT INFORMATION:

113 E First St, LLC
(Name - type, print clearly)

PO Box 6309
(Address)
Raleigh, NC 27628
(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*):

Special Use Permit Applications

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.

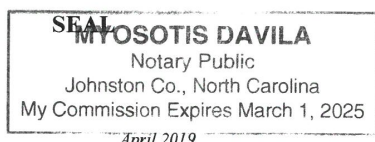
OWNER AUTHORIZATION:

Hunter Diefes
(Name - type, print clearly)
[Signature]
(Owner's Signature)

PO Box 6309
(Address)
Raleigh, NC 27628
(City, State, Zip)

STATE OF North Carolina
COUNTY OF Johnston

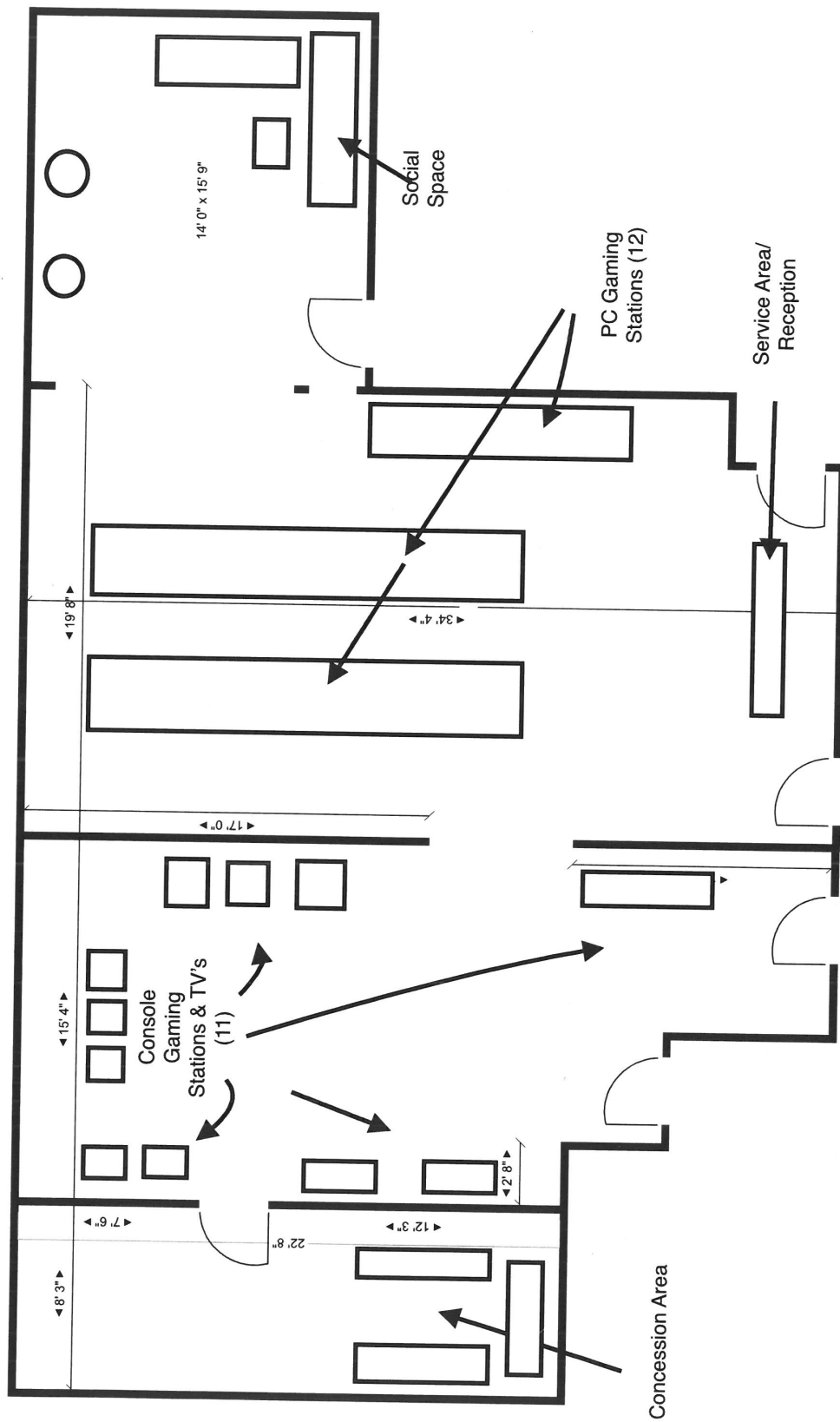
Sworn and subscribed before me Myosotis Davila, a Notary Public for the above State and County, this
the 31 day of January, 2022.



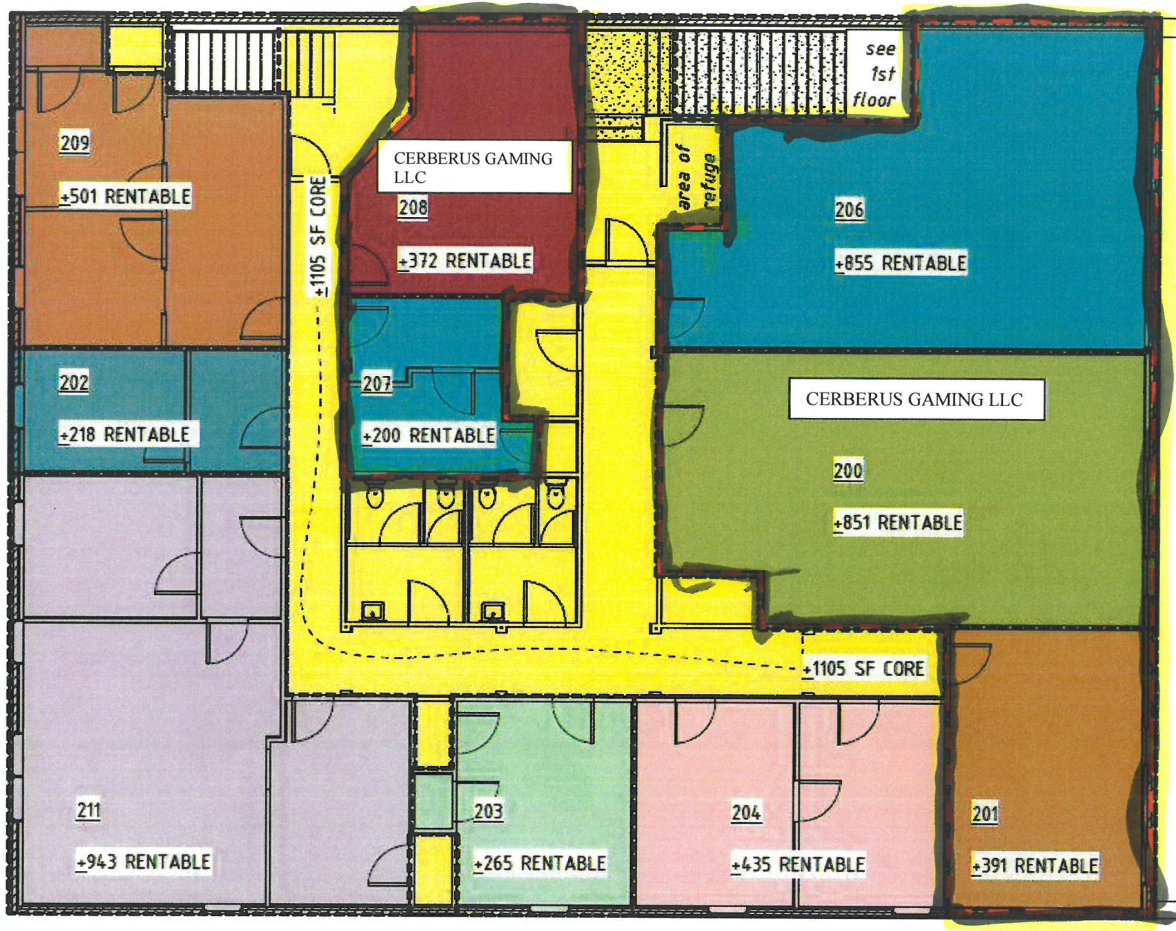
[Signature]
Notary Public

My Commission Expires: 03/01/2025

10 of 10



"Premises"



RECEIVED

JAN 31 2022

CLINTON
DEPARTMENT

Virtual Meeting Information

Date: 4/8/2022, 6:00-8:00 PM

Subject: Cerberus Gaming Special Use Permit Application

Link:

https://teams.microsoft.com/l/meetup-join/19%3ameeting_MTY0NWFMNGltN2ViOC00NzllLTliY2EtMDYzODc1MzU1ZWVy%40thread.v2/0?context=%7b%22Tid%22%3a%22fa09b459-d0c4-4c46-b2d9-c9e1847f3fc8%22%2c%22Oid%22%3a%22102279cc-ed46-432e-b94a-7eb64f0c69ad%22%7d

Please email Hunter Diefes at Hdiefes@atlasstark.com if you plan on attending and you will be added to the meeting invitation list.

3/24/2022

AUSTIN, JESSE H JR AUSTIN, LYNDIA
6237 CORNWALLIS RD
GARNER, NC 27529-8216
PIN#: 166917-12-3154

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: 4/8/2022

Meeting Time: 6:00 PM

Meeting Location: Virtual (Meeting directions included)

Type of Application: Project/proposal property address: Special Use Permit – 401 E Main Street

Description of project/proposal: Use of existing vacant commercial space as a youth-oriented indoor recreation area for video games (i.e. Xbox, Playstation, Nintendo, etc.)

Upcoming public meetings for this

application: _____

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 questions prior to or after this meeting, you may contact us at **910-770-1145**. You may also contact the Town of Clayton Planning Department at 919-553-5002.

Sincerely,



Hunter Diefes, Development Associate
113 E First St, LLC

Cc: Town of Clayton Planning Department

NEIGHBORHOOD MEETING ATTENDANCE ROSTER

Project: _____

Application: _____

Location/Date: _____

	NAME	ADDRESS
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NEIGHBORHOOD MEETING SUMMARY FORM

FILL OUT THE FOLLOWING:

Application: _____ Date of Mailing: _____

Date of Meeting: _____ Time of Meeting: _____

Location of Meeting: _____

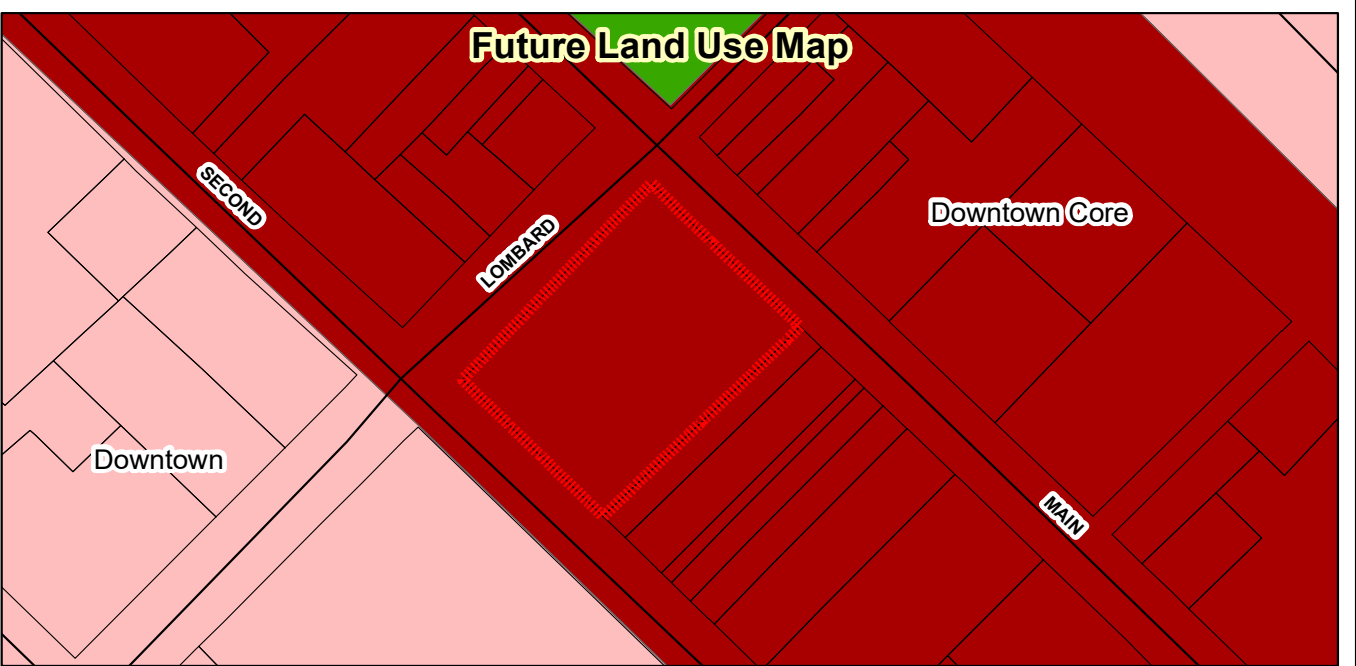
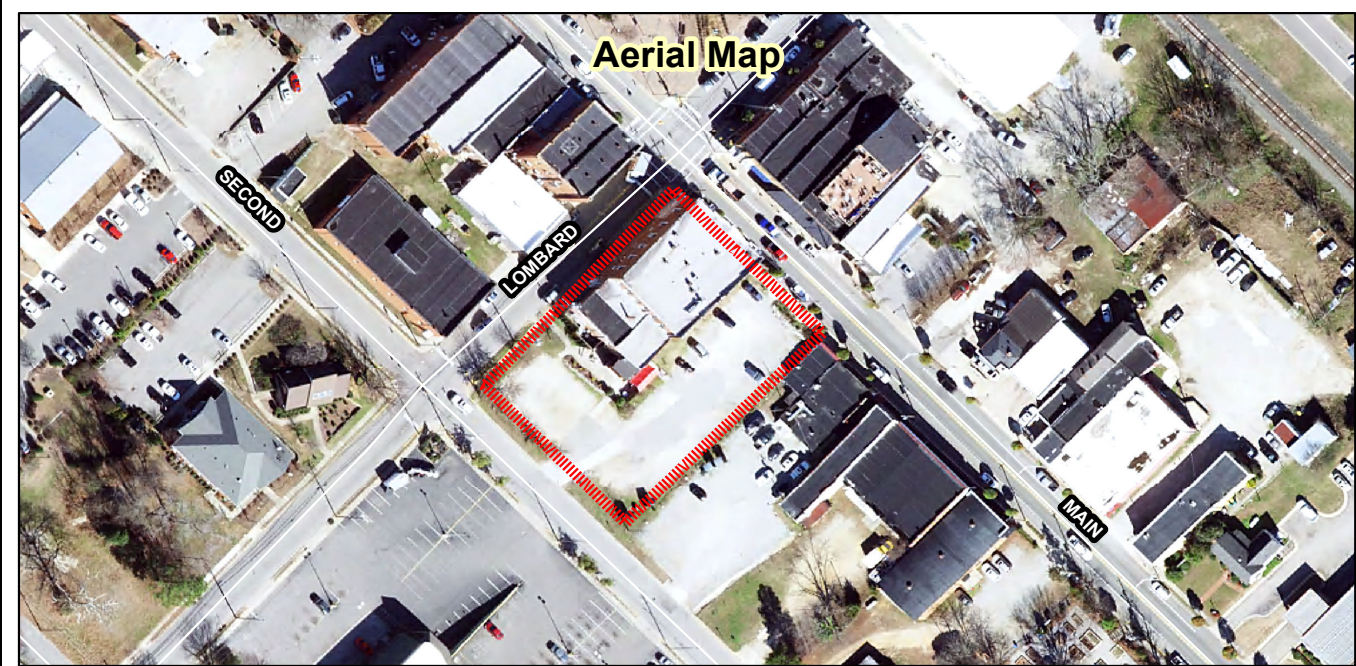
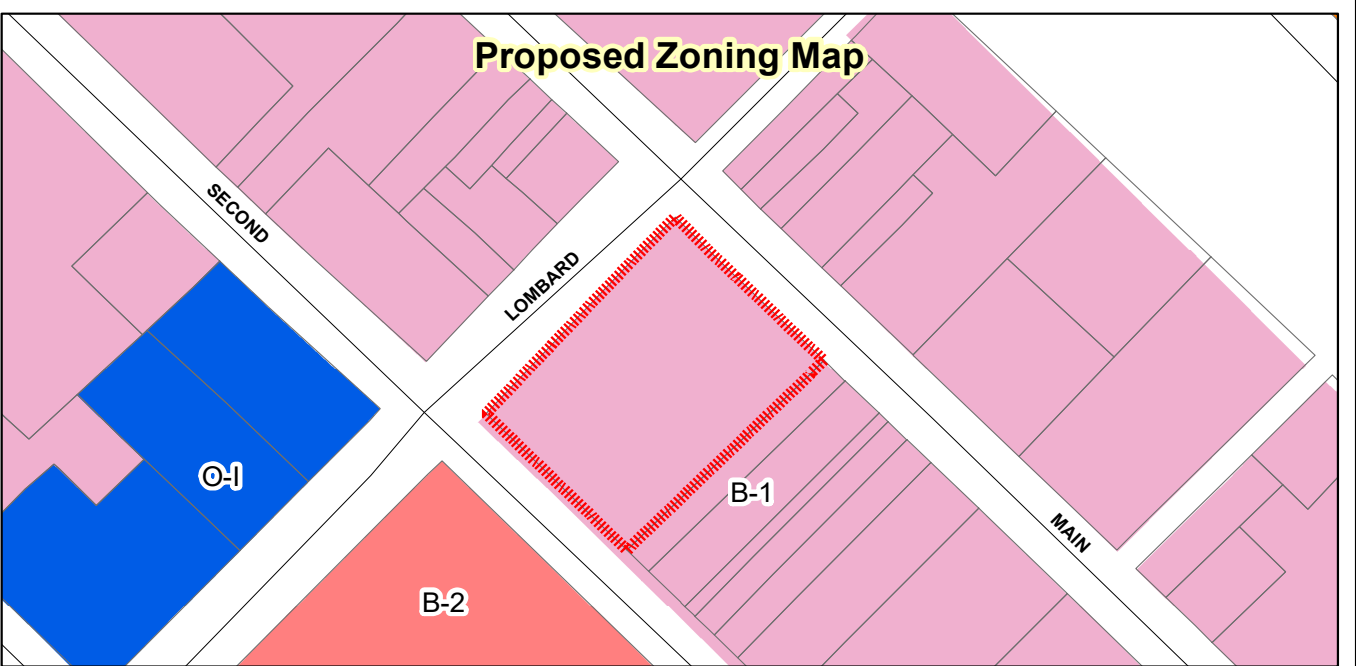
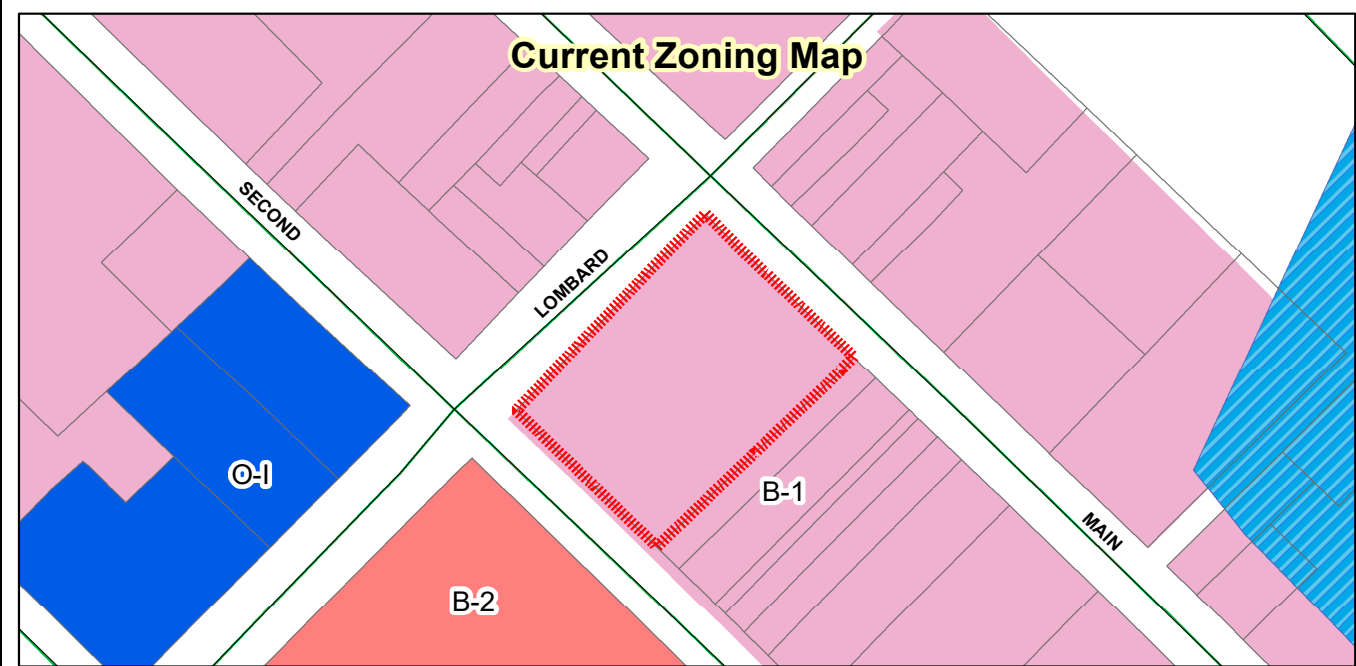
I hereby attest that letters were mailed to the addresses listed on the Adjacent Property Owners List (attached) ten days prior to the Neighborhood Meeting, and that all required information was presented at the Meeting:

Printed Name: _____ Signature: _____

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.*

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

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



Request: Special Use Permit
Project Name: Cerberus Gaming
Project Number: 2022-16-SUP

Applicant: 113 E First St, LLC
 Property Owner: 113 E First St, LLC
 Tag #: 05011016

Site

Staff Report Map
 Prepared by: TOC Planning Department
 April 6, 2022

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

Document Path: O:\PLANNING\SPECIAL USE\2022\2022-16-SUP Cerberus Gaming\Staff Report Maps\2022-16-SUP Cerberus Gaming.mxd



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

April 8, 2022

Hunter Diefes
PO Box 6309
Raleigh, NC 27628
HDiefes@AtlasStark.com

Re: 2022-16-SUP Cerberus Gaming

To Whom It May Concern,

The Town of Clayton Planning staff is recommending to the Town Council that conditions of approval be placed upon the above referenced application, which proceeds to Town Council on Monday, April 18, 2022. These recommended conditions of approval are outlined on the back of this letter.

Please read through these potential conditions of approval, and sign below if you are in agreement with the conditions as proposed. If you are not in agreement, please respond accordingly in writing. This will be included within the agenda packet for Town Council review.

Thank you.

Sincerely,

Aaron Prichard, AICP, CZO
Planner II

Recommended Conditions of Approval (2022-16-SUP Cerberus Gaming):

1. The Development shall be constructed in substantial conformance with the Special Use Permit as approved by the Clayton Town Council and associated Floor Plans submitted as part of this application and included in the Town Council's packet.
2. The Development shall include no games of skill or chance which derive a monetary pay-out to users undertaking the service in the form of gambling.
3. At least one employee or staff member must be on hand to supervise patrons during all operating hours.
4. No changes to the exterior of the building, either in function or appearance, may occur without further approval from the Town of Clayton. This includes changes to signage and advertising other than basic directional signage within the building to indicate the establishment's location.
5. Hours of operation shall be limited to 7:00 AM - 10:00 PM, seven days per week.
6. No food or beverage service is permitted, besides pre-packaged snacks and canned drinks stored within the gaming space. No food or drink service from restaurants or cocktail lounges within or outside the building is permitted.

APPLICANT AFFIDAVIT

I/We, the undersigned, do hereby certify that I have reviewed the recommended conditions of approval and am in agreement with the conditions as they are outlined within this letter.

Hunter Diefes

Print Name

Hunter Diefes
Signature of Applicant

4/11/2022

Date



Town Council Agenda Cover Sheet

Meeting Date

April 18, 2022

Agenda Location

Old Business

Item Title

Clayton Clovers Agreement

Presenter:

Scott Barnard-Director of Parks and Recreation

Summary/Description

The Clayton Clovers are a wooden bat summer baseball team playing their inaugural season in the Carolina Collegiate League. Players on the Clovers roster are from as far away as Colorado, Wisconsin, and New York and play baseball for colleges including East Tennessee State, Chowan, Western Carolina, Barton, Mt. Olive, Bryant University and many more. Coaches are from Campbell and Methodist Universities. They will play 25 home games this year at East Clayton Community Park. Games will be ticket at 'family friendly prices and concession will be available. You can look forward to creative promotions and competitive baseball. Chances are very good you'll be watching players who will 'go pro'. Come root on the home team!

For more information, visit Claytonclovers.com.

Requested Action

Approval

Funding Source (If Applicable):

N/A

Cost: N/A Yes ☐ No ☒

Additional Documents to be Included in Agenda Packet

Agreement

Meeting Timeline

Click or tap here to enter text.

NORTH CAROLINA

LEASE AGREEMENT

COUNTY OF JOHNSTON

THIS LEASE AGREEMENT is made, entered and effective this 1st day of May, 2022 by and between the Town of Clayton, North Carolina, a North Carolina municipal corporation, hereinafter designated as “Town”, and Clayton Clovers Baseball Club LLC, a North Carolina limited liability company with principal offices located in Clayton, North Carolina, hereinafter designated as the “Club”.

WITNESSETH:

WHEREAS, the Club desires to operate a summer collegiate amateur baseball team in the Town of Clayton and for that purpose to lease East Clayton Community Park in the Town of Clayton hereinafter designated as the “Park”; and

WHEREAS, the Club and Town desire to provide the citizens of Clayton and other persons with the opportunity to attend and view amateur baseball; and

NOW, THEREFORE, in consideration of the premises and mutual covenants of the parties hereto, the Town does hereby lease to the Club the nonexclusive use of the Park for the purposes and pursuant to the provisions contained in this Lease, all under the following terms and conditions.

Article 1 – Definitions and Interpretation

1.1 Definitions. For all purposes of this Lease, the following terms shall have the meanings specified in this Section.

(a) “Amateur Baseball Games” means any baseball game or exhibition played by organized teams in college, high school or other adult leagues, organizations or groups, and the organized practices for such games where players are not generally paid for their services.

(b) “Concessions” includes the following items provided by the Club or its sub-concessionaires at the Park: non-alcoholic beverages, confections,

peanuts, popcorn, ice cream, hot dogs, hamburgers, and other food and beverage items, and souvenirs, including t-shirts, hats logo apparel, baseball cards, programs novelties and any and all promotional items relating to baseball that are customarily provided to patrons at baseball games. "Concessions" shall also include alcoholic beverages provided that the sale thereof has been pre-approved as provided in Town Code Section 130.02.

- (c) "Park" shall mean the baseball field and adjacent spectator area of that public recreation facility known as East Clayton Community Park located at 1774 Glen Laurel Road, Clayton, North Carolina.

Article 2 – Length of Lease

2.1 Length of Lease. The term of this Lease shall be from May 1, 2022 and continuing through September 1, 2024.

2.2 Renewal. At the end of the initial term, this Lease may be renewed by mutual agreement of the Town and the Club for two (2) additional terms of three (3) years each under such terms and conditions mutually satisfactory to the Town and the Club.

Article 3 – Rent

3.1 Rent. Throughout the term of this Lease, the Club shall pay rent for the three (3) baseball seasons in the total amount of Twenty Thousand Dollars (\$20,000.00).

3.2 Payment Due Dates. Rents shall be paid to and received by the Town as follows: \$10,000.00 upon the signing of this Lease, \$5000.00 no later than May 1, 2023 and \$5000.00 no later than May 1, 2024. Any payments due under this Lease which are not received by the Town by the due date shall include a late payment fee of five percent (5%) of the amount due. In addition, if rent is not timely paid, the non-payment shall be a basis for Lease termination or the Town may require an immediate security deposit in the amount of \$5000.00.

3.4 Nonpayment of Rent. It is expressly agreed that if the Club shall neglect to make any payment of rent when due, that the Town may, with ten (10) days written notice to the Club, immediately declare this Lease terminated and take

possession of said premises without prejudice to any other legal remedy the Town may have on account of such nonpayment or other breach of the Lease Agreement.

Article 4 – Use of Park

5.1 Use by the Club. The Club may use the Park at its regularly scheduled games. The schedule for each year shall be provided to the Town for review and approval no later than March 1 of each year. The Club shall not allow the use of the Park for other purposes or by any other team without the advance written approval of the Town.

5.2 Use by the Town. The Department of Parks and Recreation of the Town shall have exclusive control for scheduling the dates for use of the Park for all non-Club events. In addition, the Town's Parks and Recreation Director, or his designee, shall have authority to cancel any scheduled Club events, if necessary in his sole discretion, in order to protect the field during periods of wet weather conditions.

Article 6 – Concessions and Souvenirs

6.1 Concessions by the Club. The Club may provide or provide for concessions at every Club-related event in the Park. The Club shall engage only qualified and reputable sub-concessionaires to assist the Club in providing concessions.

6.2 Other Concession Requirements.

- (a) The Club shall order, maintain, and furnish Concessions so as to provide adequate, efficient, and sufficient levels of service to patrons.
- (b) The Club shall apply for and take any necessary steps to procure and maintain all licenses and permits required for the Club's operation and sale of Concessions. Any request by the Club to serve alcoholic beverages shall be submitted to the Town as provided in Town Code Section 130.02. If alcohol sales are approved by the Town, the Club shall be responsible for any such sales and consumption at the Park and the Club does hereby assume all responsibility for maintaining proper order and decorum when alcohol is consumed.
- (c) The Club shall operate and maintain all Concession areas, equipment, fixtures, and facilities in a neat, clean, sanitary and safe condition.

- (d) The Club shall provide fresh, sanitary, and wholesome food and beverages and shall provide all beverages in paper or plastic cups. No glass bottles shall be provided or allowed for beverage Concessions.

Article 7 – Advertising

7.1 Advertising the Club. Subject to the Town’s right to approve/disapprove as set forth below, during the Lease the Club shall have the non-exclusive right to sell and display advertising on the inside of the outfield fence and including such other areas as may be approved by the Director of Parks and Recreation for the Town. Only the Town and the Club will have advertising rights during the length of this agreement. The Club shall not place or allow to be placed any advertising on the outside of the Park fencing. The Club shall provide one (1) advertising sign for the Town at no charge. The Club will maintain the sign at its expense. The Town shall have the absolute right in its sole discretion to approve/disapprove any advertising within the Park, including sponsored promotions.

Article 8 – Maintenance and Repairs

8.1 Club Responsibility.

- a) The Club shall at the Club’s sole expense keep and maintain in good condition all alterations, improvements, furnishings, and equipment existing at the time of this Lease or during the term and any renewal of this Lease made or provided by the Club.
- b) The Club is responsible for operating the public address system and scoreboard for Club events; and is responsible for proper supervision and security of the Park including the adjacent parking areas, for Club events. The Club is responsible for maintaining traffic control, as may be directed by the Town’s Chief of Police.
- c) The Club shall be responsible for the removal and disposal of all rubbish, trash, litter, and garbage from the Park after each Club event, including parking areas and adjacent areas as needed and the same shall be placed in trash containers to be provided by the Town and left outside the Park for pick-up by the Town.

d) The Club will have the option to bring in additional seating space subject to approval by the Parks Director. Additional seating must meet ADA requirements.

8.2 Town Responsibility.

a) The Town shall be responsible for providing the Club with trash containers and for picking up and disposing of trash contained within the Town-provided trash containers.

b) The Town shall maintain the playing field in a good condition. The Town shall keep the field edged and mowed. In addition, prior to the start of the first season, the Town will (i) install protective screening down baselines, and (ii) make improvements to the dugouts. Prior to the start of the second season, the Town will install a warning track in the outfield if required by the Club's insurer.

c) The Town is responsible for preparing and lining the field and for preparing the pitcher's mound and homeplate area prior to each game or contest.

d) Except as is otherwise the responsibility of the Club pursuant to the Lease, and except where the Town determines such repair and improvement thereon to be necessary as a result of extraordinary wear and tear attributable to the Club, the Town shall maintain all structures and systems of the Park in at least as good condition as of the date of this Lease.

e) The Town shall provide all supplies and materials for proper maintenance of all areas of the Park which are to be used by the Club under this Lease.

f) The Town is responsible for providing needed Turface, Quick Dry, Klaxon, and Paint for each of the games or contests.

g) The Town is responsible for adding power outlets at the Park as reasonably required. These should be positioned 30 feet past the bases on the outside of the fence.

Article 9 – Insurance and Indemnity

9.1 Insurance by the Club. At all times during the term of this Lease, the Club shall, at the Club's expense procure and thereafter maintain the insurance specified in this section with insurance companies acceptable to the Town and

licensed to do business in the State of North Carolina. Copies of the aforementioned policies shall be promptly submitted to the Town prior to the commencement of the term of this Lease; and such copies shall be given to the Town throughout the term of the Lease to insure continuous required coverage.

a. Workers Compensation Insurance shall be maintained by the Club providing statutory benefits as required by law.

b. Liability Insurance shall be maintained by the Club providing commercial general liability insurance, including but not limited to the following coverage's: premise operations, personal injury, host liquor liability and contractual liability. Such insurance shall contain a combined single limit of not less than Two Million Dollars (\$2,000,000) per occurrence. Each such policy of insurance shall name the Town as an additional insured and should contain a provision that the same may not be canceled or reduced in amount of coverage except upon not less than thirty (3) days prior written notice by the insurance company to Town.

9.2 Indemnity by the Club. The Club shall indemnify and save the Town harmless from and against all claims, losses, damages, and expenses, including attorney fees and suit costs, for personal injuries and property damages, arising out of the use of the Park by the Club if caused by willful acts, negligence, or improper operations of the Club by its officers, servants, agents, employees or patrons.

9.3 Immunity Preserved. This Lease is not entered with a profit motive but instead is intended by the Town to cover a portion of the Town's costs of providing public recreation facilities and to compliment the public recreation offerings and programs for its citizens. The Town does hereby preserve and maintain its immunity under law from liability for recreation functions.

Article 10 – Termination of Lease

10.1 Termination. This Lease may be canceled by either party hereto upon the failure of the other party to carry out its obligation under this Lease, without prejudice to its right to recover damages, if legally recoverable on account of such breach.

Article 11 – Default

11.1 Noncompliance. It is expressly agreed that if the Club shall neglect to do and perform any matter or thing herein agreed to be done and performed by it (other than the payment of rent, which is provided for elsewhere) and shall remain in default thereof for a period of 30 days after written notice from the Town calling attention to such default, Town may declare this Lease in default and take possession of said premises without prejudice to any other legal remedy they may have on account of such default. Said notice to be sent by certified mail to Club. It is expressly understood that the 30 day period called for herein shall begin to run from the date of mailing of said notice in an official depository of the United States Postal Corporation (postage prepaid) and shall not be determined from the date of receipt by Club of said notice.

11.2 Default. If this Lease has been declared to be in default, Town may elect to terminate this Lease, whereupon it shall be lawful for Town to re-enter said premises and the same to have again, repossess and enjoy as the Town's first and former estate, and thereupon this Lease and everything herein contained on Town's behalf to be done and performed shall cease, terminate and be void, but the Club, its successors and assigns shall be and remain liable to Town for any loss and damages suffered or to be suffered by Town because of the breach by the Club, its successors and assigns, or any covenant, promise or condition on said Club's part to be paid or performed prior to the date of such re-entry; or Town may elect to treat this Lease as continuing and re-enter and re-let the demised premises, or any part thereof, as agent of the Club for the best rent attainable during all or part of the remaining term of this Lease, in which event the rentals received shall be deemed to be for the account of the Club and Club shall be and remain liable for any deficiency in rental below the sum called for the terms of this Lease and entitled to any excess of such rentals over the amount called for by the terms of this Lease; or Town may permit Club to remain in possession of this Lease and bring an action or successive actions for damages suffered by Town because of any breach or breaches of any covenant or condition this Lease including the obligation to pay rent, without prejudice to the right of Town to elect thereafter to pursue any other remedy given under this Lease or by law for any future breach or breaches of covenants or conditions of this Lease by the Club in the event Town enters and takes possession of the premises as of aforesaid, Club waives any damages that may be caused by Town thus re-entering and taking possession, and any claim or damage that may result from the destruction of or injury to the premises or building and any claim for

damage or loss of any property belonging to the Club which may be in or upon the premises.

Article 12 – Miscellaneous

12.1 Nondiscrimination. The Club shall not discriminate on the basis of race, creed, color, sex, age, religion, handicapped status or national origin with respect to use and occupancy of the Park.

12.2 Notices. Except where oral notices have been explicitly provided for in this Lease, any notice required by the Town or the Club by the terms of this Lease, shall be in writing and be deemed given and received on the date of the mailing of such notice in writing to the Town or the Club provided such notice is transmitted by certified or registered mail and addressed to the party due such notice. Until notice of a change of address is given to the other party in accordance with the provisions of this section, notices shall be delivered, addressed or directed as follows:

If to Town: Town of Clayton
 PO Box 879
 Clayton, NC 27528
 Attn: Town Manager

If to Club: Clayton Clovers Baseball Club LLC
 156 Badger Pass Dr
 Clayton, NC 27527-9536
 Attn: Louis DeCarolis, Managing Member

12.3 Entire Agreement. This Lease contains and represents the entire Agreement between the Town and the Club.

12.4 Avoidance of Waiver. No failure on the part of the Town to enforce any covenant or provision herein contained, nor any waiver of any right thereunder by the Town, unless in writing, shall discharge or invalidate such covenant or provision or affect the right of the Town to enforce the same in the event of any subsequent breach or default.

12.5 No Assignment. The Club may not assign this Lease without the express written permission of the Town and any purported assignment hereof will be

void and of no effect without such written consent. In the event that this Lease is so assigned by Lessee, Lessee shall within a reasonable time thereafter deliver to the Lessor a duplicate original of the instrument of assignment and assumption in and by which the assignee of this Lease accepts such assignment and assumes all of the obligations of the Lessee under this Lease. This Lease and covenants, terms and conditions thereof shall be binding upon any such assignee.

12.6 Governing Law/Jurisdiction. This Agreement shall be governed by its terms and the laws of the State of North Carolina. The parties agree that this Agreement shall be deemed executed and completed in North Carolina, that this Agreement shall be performed in North Carolina, and that the courts of North Carolina shall have exclusive jurisdiction over any disputes as to the terms of this Agreement. By the signatures below, the parties consent to the exclusive, personal jurisdiction by the courts of North Carolina and further, waive any objection thereto. Venue shall be Johnston County, North Carolina.

IN WITNESS WHEREOF, the Town of Clayton, acting by and through its Interim Manager, has caused this instrument to be executed by its duly authorized managing member all on the day and year first above written.

TOWN OF CLAYTON

By: _____
Rich Cappola, Interim Town Manager

[TOWN SEAL]

Clayton Clovers Baseball Club LLC

By: _____(SEAL)
Louis DeCarolus, Managing Member

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

Robert McKie, Finance Officer



Town Council Agenda Cover Sheet

Meeting Date

April 18, 2022

Agenda Location

Old Business

Item Title

Review of Request for Proposals (RFP) for Old Town Hall

Presenter:

Rich Cappola, Town Manager
Jim Cauley, Town Attorney

Summary/Description

The Town regained ownership of its Old Town hall in 2021. After a thorough evaluation of potential opportunities, Town Council directed staff to solicit proposals from private partners interested in redeveloping the building and site.

Requested Action

Approval

Funding Source (If Applicable):

N/A

Cost: N/A Yes ☐ No ☒

Additional Documents to be Included in Agenda Packet

Draft RFP

Meeting Timeline

OLD TOWN HALL

Clayton, North Carolina



Redevelopment Opportunity
Summer 2022



About this Solicitation

This packet of information is an invitation for interested partners to submit design concepts and proposals for redevelopment and reuse of the Old Town Hall in Clayton, North Carolina. All submissions will be reviewed by Town staff. After review, proposals will be presented to the Mayor and Town Council with recommendations by Town staff.

The Opportunity

The Old Town Hall is located at 231 E. Second Street, Clayton, NC. This property sits in downtown Clayton, a fast growing municipality ripe for development opportunity. The Town has a vision for its downtown as a regional center for artistic expression and a destination where people, businesses and the arts thrive. This project allows an opportunity for developers to renovate and adapt the existing building for reuse or to rebuild.

Old Town Hall

The Old Town Hall was built in 1925. The building was integral and important to the Town of Clayton, housing municipal offices, the library, courthouse, fire department, police department, and even a small jail. The Old Town Hall served the Clayton community throughout most of the twentieth century. When the municipal offices were relocated, the building sat vacant. The approved development of this property may include renovation, new construction or a combination thereof. The potential opportunities range from business, office and commercial, to public space, to residential.

Project Development Timeline

Development Partner Proposals Due: May 20, 2022.

Private Development Partner Chosen: June 2022.

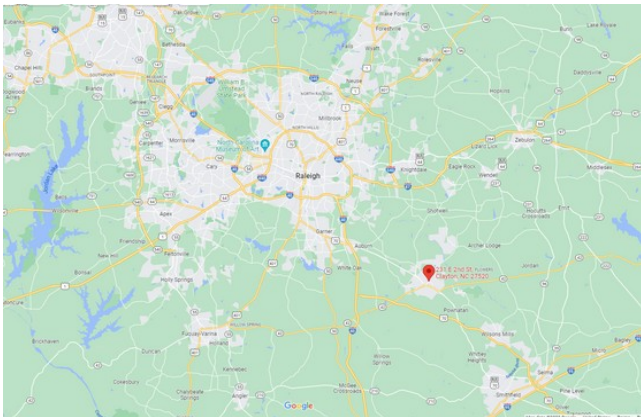
The Town has a facility condition and adaptive reuse study of the subject property that is available for review upon request.



Old Town Hall: Redevelopment — Opportunity 3

The Location

Clayton is ~~only~~ about a 25-minute drive to the state capital in Raleigh and about a ~~35-or~~ 40-minute drive to the Research Triangle Park and Raleigh-Durham International Airport (RDU). Clayton is near Interstates 40 and 95 and is bisected by U.S. Hwy 70 (U.S. 70 has been approved to become Interstate 42 by the end of 2022) and US Hwy Business, ~~and is a 35-40 minute drive from Raleigh-Durham International Airport (RDU).~~ Clayton is the largest and fastest growing town in Johnston County with a population just below 30,000 (~~2020~~¹⁹ U.S. Census ~~estimate~~). According to North Carolina's Office of Budget and Management, Johnston County is currently projected to be the fastest-growing county in North Carolina over the next ten years. Affordable housing options, great schools, and diverse arts and recreation options make Clayton the perfect place to live ~~-if~~ you are looking to work within one of Clayton's own expanding business sectors (manufacturing, biopharmaceutical, health care, etc.). Clayton's proximity to major highways, particularly the future Southeast Extension of the Triangle Expressway (I-540), make Clayton a first- choice commute if you plan to work in the nearby RTP area, but desire smaller town living. Clayton's best asset, however, will never show up in the numbers. What makes Clayton a true gem is its small town heart and wonderful sense of community.



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Submissions of Proposals

Proposals by developers must be organized in the format described below. Submissions should have sufficient detail to allow adequate review and evaluation of qualifications and plans. If there is information that a respondent requests to remain confidential, the confidential information should be clearly marked as confidential and submitted under a separate cover.

1) Letter of Introduction

The letter of introduction should include a summary of the respondent's basic qualifications and experience, along with reasons for interest in this opportunity. The letter should be signed by a principal or authorized officer for the entity.

2) Proposal

The Proposal should include the plans for the site, including the mix and scale of uses, for example, as follows:

- ♦ residential (number of units, average unit site, total gross square footage, tenancy [rental versus ownership,] amenity package);
- ♦ commercial (total gross square footage, intended use by square footage);
- ♦ and parking requirements

Design schematics and illustrative sketches.



Old Town Hall: Redevelopment—Opportunity 5

3) Development Team Information

- If applicable, identification of up to three partner firms and roles, including co-developers, architects/designers, and general contractor.
- Overview for each firm on the team, including brief history of firm, past experience working with the developer, and relationship of the firm's parent company with the office responsible for this project, if applicable.
- Identification and resumes of lead staff (principals and project managers) that will be responsible for negotiating a development agreement with the Town and completing the remainder of the preconstruction approval process.

4) Experience and References

- Provide development experience, particularly in developing mixed-use projects with public agencies. Provide information on at least three, and no more than five projects. Each comparable development should detail the following information.
- Location and name of project
- Scope and scale of development program (including residential uses, commercial uses, public uses, and infrastructure improvements if applicable)
- Photos/illustrations of completed projects
- Total development budget by use
- Amounts and sources of debt and equity funds used to finance the project, including government sources, if applicable.
- Provide a point of contact for each capital provider for the project.
- Contact information for a representative of the primary public agency partner in the project.
- Developer's role in and ownership of each project (e.g. fee developer, equity investor, and/or property manager)

Old Town Hall: Redevelopment — Opportunity 6

5) Financial Capacity

Provide evidence of sufficient financial strength to undertake and successfully complete a project of this scale. Please also identify any projects/financing on which the team collectively or individually has defaulted.

6) Disclosures

- Disclosure of any potential conflicts of interest that could be relevant to this project in any manner.
- Disclosure of whether the developer or any officer, director, or owner thereof has had judgments entered against him or her within the past 10 years for the breach of contracts for governmental or nongovernmental construction or development.
- Disclosure of whether the developer has been in substantial noncompliance with the terms and conditions of prior construction contracts with a public body.
- Disclosure of whether any officer, director, owner, project manager, procurement manager, or chief financial official thereof has been convicted within the past 10 years or a crime related to financial fraud or to governmental or nongovernmental construction or contracting.
- Disclosure of whether any officer, director, or owner is currently debarred pursuant to an established disbarment procedure from bidding or contracting by any public body, agency of another state, or agency of the federal government.

Evaluation Criteria

The evaluation of developers responding to this solicitation will be undertaken in order to select a partner and plan that is viable, will best serve the public interests, and can be completed in a reasonable time frame. The following evaluation criteria will be used to make that selection.

- ♦ Qualifications and experience of the development team, with preference given for experience with mixed-use development (specifically the mix of uses in respondent's plan for the site)
- ♦ Quality of the proposed building design and its fit with the surrounding urban fabric.
- ♦ Demonstrated ability to secure funding to execute a project of similar scale and complexity in a reasonable timeframe.
- ♦ Financial benefits to the Town from the proposed project.
- ♦ List of active development projects and demonstration of current capacity.



Old Town Hall, 1960

Submission Procedure

Development partner proposals are due at 5:00 p.m. EDT on May 20, 2022. Proposals should be submitted electronically in PDF format to Patrick Pierce, Economic Development Director, Town of Clayton, ppierce@townofclaytonnc.org. Proposals must be prepared in conformance with the guidelines described under “Submission Requirements.” The e-mail subject must be “Development Partner Proposal: Old Town Hall, Clayton, NC.”

All responses are subject to public disclosure under the North Carolina Public Records Law. The Town recognizes that respondent may submit information that it may deem confidential and proprietary in order to comply with the requirements of this solicitation. Respondents are entitled to request that certain information remain confidential, when permitted by law, as follows:

(1) the respondent clearly identifies the confidential proprietary portions of the response, (2) the respondent identifies as confidential and proprietary only those portions of the submittal that actually are confidential and proprietary, (3) the respondent states why protection is necessary, and (4) the confidential information is provided under separate cover. Respondents shall not designate their entire response as confidential and proprietary, nor shall they so designate information as confidential that is already public.

Any information that the respondent would like to remain confidential should be e-mailed under separate cover to Town Attorney at jcauley@cauleypridgen.com. The e-mail subject must be PROTECTED: Development Partner Proposal: Old Town Hall, Clayton, NC.”

For information concerning the procedure for responding to this Solicitation for Development Partners or clarifications of the terms, conditions, and requirements of this SDP, please email Patrick Pierce, Economic Development Director, Town of Clayton, ppierce@townofclaytonnc.org

Selection Process

Town staff will review all responses, contact references, and coordinate interviews as necessary. After a review of submitted proposals, clarifications, may be requested. Unless requested by the Town, no additional information may be submitted by developers after the deadline. The Town will enter discussions with the developers having the most viable proposals before finalizing its recommendation of a partner to the Clayton Town Council. An endorsement by Council of a development partner is not final approval.



Disclaimers

All facts and information stated in this solicitation are based on available information and are believed to be accurate. Nevertheless, neither the Town of Clayton, nor any of its officers, agents, or employees, shall be responsible for the accuracy of any information provided to any respondent as part of this solicitation or vetting process. All respondents are encouraged to independently verify the accuracy of any information provided. The use of any of this information in the preparation of a response to this request is at the sole risk of the respondent.

Those submitting responses to this solicitation assume all financial costs and risks associated with the submission. No reimbursement or remuneration will be made by the Town to cover costs of any submittal, whether or not such submittal is selected or utilized.

The Town reserves the right to reject any or all submittals at its sole and absolute discretion and accepts no responsibility for any financial loss by such action.

Any agreements that may be entered into between the developer(s) and the Town, including but not limited to a Development Agreement, are subject to approval by the Town Council.

The Town reserves the right to waive irregularities or informalities in any submittal in the exercise of its sole and absolute discretion.

The Town of Clayton is an equal opportunity employer. It encourages minority- and women-owned firms to respond to this and all other solicitations.



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