



**Town of Clayton
Regular Town Council Meeting Agenda
Monday, July 20, 2020 @ 6:00 PM**

**ANY PUBLIC COMMENT SHOULD BE FORWARDED TO THE
TOWN CLERK NO LATER THAN NOON THE DAY OF THE MEETING.
PLEASE INCLUDE YOUR NAME & ADDRESS. ALL RECEIVED
PUBLIC COMMENTS WILL BE READ INTO THE RECORD BY THE
TOWN CLERK.**

EMAIL: KMOFFETT@TOWNOFCLAYTONNC.ORG

**THE TOWN OF CLAYTON WILL FOLLOW GUIDELINES FROM THE CENTERS FOR DISEASE
CONTROL AND THE NORTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES
WITH REGARD TO SOCIAL DISTANCING.**

BELOW PLEASE FIND CHANGES TO THE COUNCIL MEETING FORMAT:

- **THE JULY 20, 2020 CLAYTON TOWN COUNCIL MEETING WILL BE HELD REMOTELY.**
- **THE COUNCIL CHAMBERS WILL BE CLOSED TO THE PUBLIC.**
- **ANY PUBLIC COMMENT SHOULD BE FORWARDED TO THE TOWN CLERK NO LATER
THAN NOON THE DAY OF THE MEETING. PLEASE INCLUDE YOUR NAME AND
ADDRESS. PUBLIC COMMENT WILL BE READ INTO THE RECORD BY THE TOWN
CLERK.**

EMAIL: KMOFFETT@TOWNOFCLAYTONNC.ORG

THE PUBLIC MAY VIEW THE LIVE COUNCIL MEETING ON THE TOWN'S YOU TUBE CHANNEL:

<http://www.youtube.com/c/TownofClaytonNC1869>

1. CALL TO ORDER

Pledge of Allegiance and Invocation

2. ADJUSTMENT OF THE AGENDA

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. DRAFT Minutes

- June 15, 2020 - Regular Session
- June 15, 2020 - Closed Session
- June 18, 2020 - Regular (Recessed) Session

[June 15, 2020 DRAFT Minutes](#)

[June 18, 2020 DRAFT Minutes](#)

b. Warranty Acceptances

- Academy Point, Phase 3
- Ashcroft Subdivision, Phase 4B
- Bristol at Cobblestone, Phase 4 (FINAL)

[Academy Point, Phase 3](#)

[Ashcroft Subdivision, Phase 4B](#)

[Bristol at Cobblestone, Phase 4 \(FINAL\)](#)

POTENTIAL ACTION: Adoption of Consent Agenda as Presented

4. ADMINISTRATIVE ITEMS

- Recommendation of Appointments to Downtown Development Association Advisory Board

Presenter: Patrick Pierce, Economic Development Director

- Christi Thompson
- Judy Ryan
- Shannon Austin
- Bernice Lopes

[Cover](#)

[Applications](#)

[DDA Appointment Recommendations](#)

POTENTIAL ACTION: Appointment of DDA Members

5. INTRODUCTIONS AND SPECIAL PRESENTATIONS

- Racial Equality Coalition
Presenter: Elizabeth McCullough
- 2nd Quarter 2020 Update - New Neuse River WRF Project
Presenter: JD Solomon

6. PUBLIC HEARINGS

- 2020-17-RZ - Tract on Powhatan Road

Presenter: Samantha Wullenwaber, Planning Director

There will be several options available to anyone wishing to share their comments and thoughts.
 • **PRIOR TO THE HEARING:** You may provide your written comments to the Town Clerk via email kmoffett@townofclaytonnc.org or via phone at 919-553-5002. All comments must be received no later than 12:00 noon on 7/20/20. All comments received will be read into the record during the hearing.

• **DAY OF THE PUBLIC HEARING:** You are invited to speak live during the Public Hearing. If you wish to do so, please contact the Town Clerk via email kmoffett@townofclaytonnc.org or via phone at 919-553-5002, no later than 12:00 noon on 7/20/20 to be provided with the log on information to join the meeting.

• **AFTER CLOSING PUBLIC HEARING:** Following the closing of the hearing, an additional 24 hour period will be provided to share comments. You are asked to contact the Town Clerk via email kmoffett@townofclaytonnc.org or via phone at 919-553-5002, no later than midnight on 7/21/20. All comments received will be read into the record at the next meeting; which will be held on Monday, August 3, 2020.

[Cover](#)

[Application](#)

[Staff Report](#)

[Staff Report Map](#)

[Neighborhood Meeting Materials](#)

[Site Plan](#)

[PB Adjacent Property Letter](#)
[TC Adjacent Property Letter](#)
[Newspaper Ad](#)
[Public Comments - Pre Planning Board Hearing](#)
[Public Comments - Post Planning Board Hearing](#)
[Consistency Statement](#)

POTENTIAL ACTION: Place on August 3, 2020 Agenda for Decision

7. OLD BUSINESS

8. NEW BUSINESS

- a. Resolutions - Vactor Truck Finance & Electric Fund Reimbursement

Presenter: Robert McKie, Finance Director

[Cover - Vactor](#)

[Resolution - Vactor Truck](#)

[Finance Agreement - Vactor Truck](#)

[Cover - Electric Fund Reimbursement](#)

[Resolution - Electric Fund Reimbursement](#)

POTENTIAL ACTION: Adoption of Resolution 2020-21 and Authorize Execution of Finance Agreement

POTENTIAL ACTION: Adoption of Resolution 2020-22

- b. Street Abandonment - Enterprise Drive Right of Way

Presenter: Joshua Baird, Town Engineer

[Cover](#)

[Resolution of Intent](#)

[Right of Way Recommendation](#)

[Google Map](#)

[Site Plan Approval 2017-146-SD](#)

POTENTIAL ACTION: Adoption of Resolution 2020-23

POTENTIAL ACTION: Set Public Hearing for September 8, 2020

- c. Stormwater Program Development Update

Presenters: Joshua Baird, Town Engineer & Susan Locklear, Stormwater Engineer

[Cover](#)

[DRAFT Erosion Control Ordinance](#)

[NPDES Ph II permit Erosion Control](#)

POTENTIAL ACTION: None - Informational Only

- d. Illicit Discharge Ordinance

Presenters: Joshua Baird, Town Engineer & Susan Locklear, Stormwater Engineer

[Cover](#)

[DRAFT Illicit Discharge Ordinance
NPDES Ph II permit Illicit Discharge
Ordinance 2020-07-01](#)

POTENTIAL ACTION: Adoption of Ordinance #2020-07-01

- e. Economic Development Strategy
Presenter: Patrick Pierce, Economic Development Director
[Cover](#)
[Economic Development Strategy](#)

POTENTIAL ACTION: Approval to Proceed

9. STAFF REPORTS

- a. Town Manager
 - Budget Tracking Update
- b. Town Attorney
- c. Town Clerk
- d. Other Staff
 - Food Truck Ordinance Update
Presenter: Samantha Wullenwaber, Planning Director

10. OTHER BUSINESS

- a. Informal Discussion & Public Comment
- b. Council Comments

11. CLOSED SESSION

- a. Closed Session Pursuant to NCGS 143-318.11.(a)(6)
POTENTIAL ACTION: Motion to Go Into Closed Session

12. ADJOURNMENT

- a. Adjourn the Meeting
POTENTIAL ACTION: Motion to Adjourn

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 of Clayton
Regular Town Council Meeting Minutes
Monday, June 15, 2020 @ 6:00 PM
Remote Meeting via Zoom

COUNCIL PRESENT:

Mayor McLeod
Mayor Pro Tem Thompson
Council Member Grannis
Council Member Holder
Council Member Bunn
Council Member Everett

STAFF PRESENT:

Adam Lindsay, Town Manager
Nancy Medlin, D/Town Manager
Katherine Ross, Town Attorney
Kimberly Moffett, Town Clerk
Robert McKie, Finance Director
Samantha Wullenwaber, Planning Director
Patrick Pierce, Economic Development Director
Joy Garretson, Library Director
Stacy Beard, Communications Director
Lee Barbee, Fire Chief
Rich Cappola, Public Services Director
Joshua Baird, Town Engineer
Delicia Barnes, HR Director
Dale Medlin, Electrical Director
Heidi Holland, Deputy Town Clerk
Nader Aboulhosn, Video Communication Spec.

COUNCIL ABSENT:

1 CALL TO ORDER

Pledge of Allegiance and Invocation

- a) Mayor McLeod called the meeting to order at 6:00 p.m. He led everyone in the Pledge of Allegiance as well as offering the Invocation.

2 ADJUSTMENT OF THE AGENDA

- a) Attorney Ross requested that a Closed Session be added to the agenda under NCGS 143.318.11(a) 3 & 6; attorney/client privilege and a personnel matter.

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) Resolutions Authorizing Johnston County and Wake County To Collect Taxes on Behalf of Town of Clayton
- b) Warranty Acceptances

- Cameron Crossings Subdivision - Phase I (Utility)
- Cameron Crossings Subdivision - Phase I (Partial Streets)
- Umstead Subdivision - FINAL

c) June 1, 2020 DRAFT Minutes - Regular Session

ACTION: Adoption of Consent Agenda as Presented

Motion: Council Member Grannis

Second: Council Member Holder

Vote: Unanimous (Roll Call Completed by Town Clerk)

4 ADMINISTRATIVE ITEMS

5 INTRODUCTIONS AND SPECIAL PRESENTATIONS

6 PUBLIC HEARINGS

a) Presentation of FY '20-'21 Budget

Presenter: Adam Lindsay, Town Manager

There are several options available to anyone wishing to share their comments and thoughts.

- **PRIOR TO THE HEARING:** You may provide your written comments via email, kmoffett@townofclaytonnc.org or via phone 919-553-5002. Comments must be received no later than 12:00 noon on 6/15/20. All comments received will be read into the record during the hearing.
- **DAY OF THE PUBLIC HEARING:** You are invited to speak live during the Public Hearing. If you wish to do so, please contact the Town Clerk via email, kmoffett@townofclaytonnc.org or via phone 919-553-5002, no later than 12:00 noon on 6/15/20. You will be provided with the log on information to join the meeting.
- **AFTER CLOSING PUBLIC HEARING:** Following the closing of the hearing, there will be an additional 24 hour period to share your comments. You are asked to email comments to kmoffett@townofclaytonnc.org or via phone 919-553-5002, no later than midnight on 6/16/2020. All comments received will be read into the record at the RECESSED meeting; which will be held on Thursday, June 18, 2020 at 6:00 p.m.

Mr. Lindsay provided information regarding the Budget Process. He stated that all department heads met in May to assist with balancing of the budget. On June 1, the proposed budget was presented to council. Data points were shared regarding all expenditures related to the general fund for the past 10 years. Also shared was a chart showing sales tax revenue, which is one of our primary revenue streams, for the past 10 years. Also shared was a chart indicating ad valorem tax revenue over the past 10 years. An additional source of revenue regarding utility franchise was also shown for the past 10 years. Another major revenue is building permit revenue. Presented was a graph that indicated an increase over the most recent history, however, we are being more conservative and not showing growth. A chart indicating general fund debt service was shared which showed this has consistently decreased over the past years. Information was shared indicating the general fund debt as compared to expenditures. Fund balance projection date June 30, 2020 was shared showing a projection of \$13,994,315. Also discussed were financial policies. Mr. Lindsay stated we are definitely within all goals and policies. Unassigned fund balance as a percentage of net expenditures is set at 30% and we are currently at 28.71%. Council Member Grannis confirmed that state

regulation is set at 8%. Mr. Lindsay stated that is correct. Council Member Grannis stated he was very pleased where we stood. Information was shared regarding debt as percentage of estimated market value taxable property, debt services as percentage of expenditures, and aggregate 1 year payout rating, Mr. Lindsay shared information regarding cash on hand for the Enterprise Fund including both the water sewer and electric funds.

Mr. Lindsay shared that council had given clear direction they expected a budget that did not increase the .58 tax rate and a budget that did not see a lot of increases in fees and other rates if possible. Prior to the department head meeting we were looking at closing a \$3 million gap and all budgets are balanced. Mr. Lindsay shared details regarding some of the major revenue assumptions taken while preparing budget to include ad valorem property values growing at 6.8%, property tax collection rate decline by 1%, sales tax revenue decrease by 10%, development revenue not to exceed current end of year projects, with some fees going up, other fees for service revenues will not exceed current end of year projects and finally the State of North Carolina will not take additional revenues from governments.

Mr. Lindsay shared concerns regarding many utility bills going unpaid at this time.

Also shared was information regarding the new Water Reclamation Facility project that must go forward and along with that the planned 9.4% combined water and sewer rate increase. This increase equates to approximately \$7.08 per month per residential customer with a 4,000 gallon usage month. There will be no increase for solid waste disposal costs and no increase in electric rates.

A total of 23 new staff positions were requested but only two were added and that included Police and HR. The positions for the Police was dependent upon a grant and we have learned that grant was not received, so the four police officer positions were been removed from the budget.

Information was shared regarding major expenditure assumptions including, maintaining service levels except in Cultural Art, Library and Parks and Recreation, necessary capital projects should not be delayed, merit and COLA increases should continue, professional development will be reduced for half of the year, mass gathering events will be limited to 250 through December, development activity will continue at the current year pace and regular review of assumptions and finances may necessitate budget adjustments after adoption. Also shared was information regarding big plans for the year being put on hold due to the pandemic. There are continued uncertainties made projecting revenues, shows, rentals, and programs. It is likely classes and programs will have lower participation. Rentals in Town Hall will not happen until 2021.

Two positions that are included in the budget are a Human Resources Advisory position, this will be a half year position. The second position recommended would be for a part time police officer. Mr. Lindsay shared details about the

four police officers that were removed from the budget due to not receiving the grant. He asked that those four positions be put back into the budget should forecast numbers allow. He stated this is a huge need for the town.

Information was shared regarding employee benefit impacts with merit increase of 2-3.5% effective in July and a possible COLA of 1% in January based on budget projections. State Health Plan cost estimated an increase of 7% and increase of NC Retirement Fund employer contribution of 1.2%

There are no proposed increased to either solid waste or electric rate. A 9.4% increase is proposed for combined water and sewer, effective July 1. Mr. Lindsay shared information about possible delay of increase until October however that would result in an 11.75% combined rate increase.

A chart was shared that compared Clayton utility rates to other municipalities. A listing of General Fund Big Capital Projects was shared showing the estimated costs of each project. Also shared was listing of Enterprise Big Capital Projects.

Mr. Lindsay stated Council would be provided with monthly updates on assumptions and budget tracking. Mr. Lindsay again requested that the four police officer positions be the first to be considered to be added back to the budget. Mr. Lindsay reported that April figures were received and our sales tax receipts were higher this year than last year.

Mr. Lindsay offered his thanks to both Nancy Medlin and Robert McKie for their assistance in developing the budget. He also offered thanks to staff for assistance as well as support from Council.

Council Member Grannis asked about professional development costs and asked if the budget showed only six months or one year of professional development. Mr. Lindsay stated it showed a year, with modified dollars as it is anticipated that professional development will be different. Council Member Grannis stated he believed in professional development but wanted to ensure that expenses were evaluated to be sure all dollars are well spent. Council Member Grannis asked about not bringing four police officers on board now asked what the impact would be. Mr. Lindsay stated officers were not slated to begin until January 1, 2021 and he stated he would like to be able to see these critical positions added back to the budget. Council Member Holder stated he would like to see a justification of the need for the police officers. Mr. Lindsay stated that information is available and he will share with Council. Mayor McLeod wanted to ensure that no one was being put in jeopardy by delaying this from July to January. Mr. Lindsay stated we are fully staffed today and excellent public safety service will continue. Council Member Holder asked what the cost of 4 police officers for 12 months would be. Mr. Lindsay believed it was approximately \$260,000. Council Member Bunn asked about \$150,000 for water run off on Lombard Street. Council Member Bunn asked about that the Tyler Technologies conference for 6 staff members at a cost of \$2500 per person be evaluated. Mr. Lindsay stated that would definitely be looked at. He further shared that Tyler Technologies is the backbone of operations of

numerous departments. Council Member Grannis stated he was disappointed about canine and firing range. He asked that in the future two categories be scrutinized to include miscellaneous and contingency. He stated he feels certain they are very legitimate but would like additional information.

There were no further questions.

No comments received - no requests to speak.

Public Hearing was closed at 7:03 p.m.

Mayor McLeod read statements about the additional 24 hour comment period.

ACTION: Deliberation & Vote will take place at recessed meeting on June 18, 2020 at 6:00 p.m.

Motion: Council Member Bunn
Second: Council Member Grannis
Vote: Unanimous (Roll Call Completed by Town Clerk)

7 OLD BUSINESS

8 NEW BUSINESS

- a) Year End Budget Amendments
Presenter: Robert McKie, Finance Director

ACTION: Adoption of Ordinance #2020-06-03

Motion: Council Member Grannis
Second: Mayor Pro Tem Thompson
Vote: Unanimous (Roll Call Completed by Town Clerk)

ACTION: Adoption of Ordinance #2020-06-04

Motion: Mayor Pro Tem Thompson
Second: Council Member Holder
Vote: Unanimous (Roll Call Completed by Town Clerk)

ACTION: Adoption of Ordinance #2020-06-05

Motion: Mayor Pro Tem Thompson
Second: Council Member Holder
Vote: Unanimous (Roll Call Completed by Town Clerk)

ACTION: Adoption of Ordinance #2020-06-06

Motion: Council Member Grannis
Second: Council Member Holder

Vote: Unanimous (Roll Call Completed by Town Clerk)

ACTION: Adoption of Ordinance #2020-06-07

Motion: Mayor Pro Tem Thompson

Second: Council Member Grannis

Vote: Unanimous (Roll Call Completed by Town Clerk)

ACTION: Adoption of Ordinance #2020-06-08

Motion: Council Member Everett

Second: Council Member Holder

Vote: Unanimous (Roll Call Completed by Town)

9 STAFF REPORTS

a) Town Manager

Mr. Lindsay requested that a Closed Session be added to the agenda under NCGS 143.318.11(a) 3 & 6; attorney/client privilege and a personnel matter.

b) Town Attorney

c) Town Clerk

d) Other Staff

- Outdoor Dining Information/Update

Presenters: Samantha Wullenwaber, Planning Director & Patrick Pierce, Economic Development Director

- State Library of NC Grant - Active Reading Experiences

Presenter: Joy Garretson, Library Director

Mr. Pierce provided an overview of options for creativity in how businesses are addressing capacity issues. He stated a survey was completed. A total of 75 respondents participated and results of the survey were shared. Most favored option would be extension of spaces. Shared was information regarding requirement of the town code with regarding to outdoor seating. Also shared was ABC allowing temporary extensions into public right of way. Council Member Bunn asked about cost and fees for business owners. Ms. Wullenwaber stated the \$50 fee would be for zoning compliance permit regarding dining in right of way. Mayor McLeod confirmed there would be requirements for drawings with site plans. Staff confirmed they would guide everybody through it step by step. Council Member Grannis asked if there was any consideration to waiving the fee. Ms. Wullenwaber stated that could not be done on a staff level. Council Member Holder stated he was not in favor of waiving the fee. Mayor stated he did not know what the total amount we were looking at but did not want to start to set precedence of waiving fees, even during a pandemic. Council Member Grannis asked when this would be rolled out to downtown business owners. Mr. Pierce stated goal was by end of week. Council Member Grannis offered his thanks.

Ms. Garretson provided background information regarding the Active Reading Experiences Grant. She stated we recently learned we received the grant. She provided data about Kindergarten readiness and the fact that those figures have dropped since 2015. She stated that when kids start out behind it is very difficult for them to catch up. She stated this grant would allow us to purchase 35 active reading experience kits and shelving to house the kits. Also 4 workshops will be offered to parents that will include 2 books and in depth information about how to engage in reading and at home learning with children. Total amount of the grant is \$5,270 with a town match of \$586. Council Member Grannis offered his sincere appreciation to Ms. Garretson and her staff for the numerous ways they come up with creative ideas. Mayor Pro Tem Thompson also offered his thanks and appreciation. Ms. Garretson offered her thanks to the staff at the Library for the amazing work they do. Mayor McLeod was so proud of how library staff constantly think out of the box.

10 OTHER BUSINESS

- a) Informal Discussion & Public Comment
- b) Council Comments

Council Member Grannis stated he had submitted questions about budget and stated he had one remaining concern being his questions not asked and answered at special meeting regarding budget workshop. He stated he acknowledged that he had agreed with receiving the answers in an email at a later time, but he feels now he made a mistake. He stated the public had a right to hear the questions and answers during the course of the workshop and for that he apologized.

Council Member Holder stated he felt the budget session was excellent being held in person. He stated he would like to see the council meeting scheduled for July 20 be held in person. Mayor McLeod stated it would be taken under advisement.

11 CLOSED SESSION

- a) Closed Session Pursuant to NCGS 143-318.11(a)3& 6

ACTION: Motion to Go Into Closed Session

Motion: Council Member Grannis

Second: Council Member Holder

Vote: Unanimous (Roll Call Completed by Town Clerk)

12 RECESS THE MEETING

- a) Recess the Meeting

With there being nothing further, the meeting was recessed at 9:18 p.m.

ACTION: Motion to Recess Meeting to June 18, 2020 at 6:00 p.m.

Motion: Mayor Pro Tem Thompson
Second: Council Member Everett
Vote: Unanimous

Duly adopted this the 20th day of July, 2020 while in regular session.

Jody L. McLeod
Mayor

ATTEST:

Kimberly A. Moffett, CMC, NCCMC
Town Clerk

June 15, 2020
Minutes



Town of Clayton
Regular Town Council Meeting Minutes
Thursday, June 18, 2020 @ 6:00 PM

COUNCIL PRESENT:

Mayor McLeod
Mayor Pro Tem Thompson
Council Member Holder
Council Member Grannis
Council Member Bunn
Council Member Everett

STAFF PRESENT:

Adam Lindsay, Town Manager
Nancy Medlin, D/Town Manager
Katherine Ross, Town Attorney
Kimberly Moffett, Town Clerk
Heidi Holland, D/Town Clerk
Stacy Beard, Communications Director

COUNCIL ABSENT:

1 CALL TO ORDER

Pledge of Allegiance and Invocation

- a) Mayor McLeod called the meeting to order at 6:06 p.m. He led everyone in the Pledge of Allegiance as well as offering the Invocation.

2 OLD BUSINESS

- a) Presentation of FY '20-'21 Budget
Presenter: Adam Lindsay, Town Manager

Mr. Lindsay stated the proposed '20-21 budget was presented during a Public Hearing at the June 15, 2020 council meeting. During that meeting, council received information. The meeting was recessed until today, which allowed the public additional time to share any comments or input. Town Clerk Moffett stated there were no public comments received.

Council Member Grannis stated he believed the budget was reasonable. He further stated though there were a few sections he was originally in opposition to responsible changes had been made. Mayor McLeod stated he felt this budget was pathway to accomplish goals. He stated with an unknown future there may be the need to amend as we move forward.

ACTION: Adoption of Ordinance #2020-06-09

Motion: Mayor Pro Tem Thompson
Second: Council Member Everett
Vote: Unanimous

ACTION: Adoption of Ordinance #2020-06-10

Motion: Mayor Pro Tem Thompson

Second: Council Member Holder

Vote: Unanimous

3 ADJOURNMENT

a) Adjourn the Meeting

With there being nothing further the meeting was adjourned at 6:14 p.m.

ACTION: Motion to Adjourn

Motion: Council Member Grannis

Second: Council Member Everett

Vote: Unanimous

Duly adopted this the 20th day of July, 2020 while in regular session.

Jody L. McLeod
Mayor

ATTEST:

Kimberly A. Moffett, CMC, NCCMC
Town Clerk

June 18, 2020
Minutes



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

MEMORANDUM

To: Kimberly Moffett, Town Clerk

From: Chris Rowland, Construction Project Administrator CR

Copy: Donnie Adams, Adams & Hodge Engineering
Karen Durham, Engineering & Inspection Coordinator
Dave DeYoung, Riverwild

Date: July 7, 2020

Subject: Academy Point, Phase 3

Please place a warranty acceptance request for the subject public water, sewer, storm drainage utilities, and all pertinent easements on the next available agenda. Record drawings have been reviewed and accepted. Following acceptance, the utilities will be subject to a one-year warranty period. Following the warranty, a final inspection will be done and all deficient items corrected by the developer prior to final acceptance.



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

MEMORANDUM

To: Kimberly Moffett, Town Clerk

From: Chris Rowland, Construction Project Administrator 

Copy: Donnie Adams, Adams & Hodge Engineering
Karen Durham, Engineering & Inspection Coordinator
Dave DeYoung, RiverWild

Date: July 10, 2020

Subject: Ashcroft Subdivision, Phase 4B

Please place a warranty acceptance request for the subject public water, sewer, storm drainage utilities, and all pertinent easements on the next available agenda. Record drawings have been reviewed and accepted. Following acceptance, the aforementioned will be subject to a one-year warranty period. Following the warranty, a final inspection will be done and all deficient items corrected by the developer prior to final acceptance.



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

MEMORANDUM

To: Kimberly Moffett, Town Clerk

From: Chris Rowland, Construction Project Administrator _____

Copy: Danny Blackburn, Blackburn Consulting Engineering
Karen Durham, Engineering & Inspections Coordinator
Byron Poelman, Distribution & Collection System Manager

Date: June 29, 2020

Subject: Bristol at Cobblestone, Phase 4

Please place a final acceptance request for the subject public water, sewer, associated storm drainage utilities, all pertinent easements, and public street sections on the next available agenda. The developer has corrected all identified items associated with acceptance. Upon acceptance, the Town will assume all operational and maintenance duties.



Town Council Agenda Cover Sheet

Meeting Date

July 20, 2020

Agenda Location

Administrative

Item Title

DDA Board Appointment Recommendations

Presenter

Kimberly Moffett, Town Clerk

Summary/Description

The DDA Board has a total of 4 current vacancies with term expirations of June 30, 2023. The vacancies were advertised, applications received and interviews conducted by staff and board liaison. Recommendations for appointment to the Downtown Development Advisory Board presented for consideration are as follow:

<u>Name</u>	<u>Board Position #</u>	<u>Term Expiration</u>
Christi Thompson	DDA7	6/30/2023
Judy Ryan	DDA8	6/30/2023
Shannon Austin	DDA10	6/30/2023
Bernice Lopes	DDA11	6/30/2023

Requested Action

Approval

Funding Source (If Applicable):

N/A

Cost: N/A Yes ☐ No ☒

Additional Documents to be Included in Agenda Packet

Applications

Meeting Timeline

Click or tap here to enter text.



Clerk's Office Use

Date Rec'd: _____

Town/ETJ: _____

ADVISORY BOARD CANDIDATE APPLICATION

The Town of Clayton welcomes and appreciates your interest in serving the Town. This application is designed to gather information to evaluate your qualifications. Candidates may be interviewed prior to appointment.

If requesting consideration for more than one board, please submit a separate application for each board.

CHOOSE ONE:

☐ Planning Board

☐ Library Advisory Board

☒ Downtown Development Association Advisory Board

☐ Fire Advisory Board

☐ Recreation Advisory Board

☐ Public Art Advisory Board

PLEASE NOTE: In accordance with North Carolina law, this application is a public record and will be disclosed upon request without notice. If there is any information you do not want released to the public, please do not include it.

Please type or print using dark ink.

Name:

CHRISTITOMPSON

Mailing Address:

225 E. MAIN ST. CLAYTON, NC 27520

Physical HOME Address:

101 MAYFLOWER WAY CLAYTON, NC 27527

Phone Number (HOME):

(WORK)

FAX Number:

Mobile Number:

919-880-8135

Email Address:

THREE LITTLE BIRDS CLAYTON NC@gmail.com

☒ Female*

☐ Male*

Employer:

THREE LITTLE BIRDS

Occupation:

OWNER

*This information is voluntary and is requested for the sole purpose of assuring that a cross section of the community is appointed; NCGS 143-157.1

Residency within the Town limits or ETJ (extra territorial jurisdiction) is required for membership on **most** Council advisory boards.

Length of residence in Clayton: 17 YEARS

Do you live in Clayton Corporate Limits: ☐ Yes ☒ No ETJ: ☐ Yes ☐ No

How did you find out about this board?

☐ Facebook ☐ Website ☐ Newspaper ☐ Twitter
☐ TV ☐ Friend ☐ Email ☒ Other

Outline your qualifications and why you wish to serve on the board you indicated:

BUSINESS KNOWLEDGE SOCIAL MEDIA
RELATIONSHIP SKILLS
COMMUNICATION

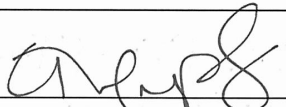
State why you believe you would be an asset to this board:

FAST KNOWLEDGE OF DOWNTOWN BUSINESS
OPERATIONS. STRONG RELATIONSHIPS WITH
TOWN & OTHER BUSINESSES.

Do you anticipate a conflict of interest if asked to serve as a member of the requested board:

☒ No ☐ Yes *If Yes, please explain:*

Please list any current or previous service to the community, civic organizations, activities and any special talents:

Boards/Civic Organization/Talents	From	To
		<u>5/21</u>
<i>Signature</i>		<i>Date</i>

- Please do not submit resumes or attachments.
- This application is a PUBLIC RECORD.
- Information contained in the application will be considered when making appointments.
- Candidates may be interviewed prior to appointment.
- If not initially appointed to serve, applications will remain active for one year from date of receipt.

Applications should be submitted to the Town Clerk in person at 111 East Second Street, by mail at Town of Clayton, PO Box 879, Clayton, NC 27528 or via email at kmoffett@townofclaytonnc.org



Clerk's Office Use

Date Rec'd: 5/18/2020

Town/ETJ: in-town

ADVISORY BOARD CANDIDATE APPLICATION

The Town of Clayton welcomes and appreciates your interest in serving the Town. This application is designed to gather information to evaluate your qualifications. Candidates may be interviewed prior to appointment.

If requesting consideration for more than one board, please submit a separate application for each board.

CHOOSE ONE:

☐ Planning Board

☐ Library Advisory Board

☒ Downtown Development Association Advisory Board

☐ Fire Advisory Board

☐ Recreation Advisory Board

☐ Public Art Advisory Board

PLEASE NOTE: In accordance with North Carolina law, this application is a public record and will be disclosed upon request without notice. If there is any information you do not want released to the public, please do not include it.

Please type or print using dark ink.

Name: Judy Ryan

Mailing Address: 263 Grantwood Dr; Clayton NC 27527

Physical HOME Address: same

Phone Number (HOME): 919-619-8155 (WORK) —

FAX Number: — Mobile Number: 919-619-8155

Email Address: jaryan612@gmail.com

☒ Female*

☐ Male*

Employer: retired

Occupation: —

*This information is voluntary and is requested for the sole purpose of assuring that a cross section of the community is appointed; NCGS 143-

Residency within the Town limits or ETJ (extra territorial jurisdiction) is required for membership on **most** Council advisory boards.

Length of residence in Clayton: 5 yrs

Do you live in Clayton Corporate Limits: ☒ Yes ☐ No ETJ: ☐ Yes ☐ No

How did you find out about this board?

☐ Facebook ☐ Website ☐ Newspaper ☐ Twitter

☐ TV ☐ Friend ☐ Email ☒ Other *current member*

Outline your qualifications and why you wish to serve on the board you indicated:

I am a current member applying to continue my service to the DDA.

State why you believe you would be an asset to this board:

Do you anticipate a conflict of interest if asked to serve as a member of the requested board:

☒ No ☐ Yes *If Yes, please explain:*

Please list any current or previous service to the community, civic organizations, activities and any special talents:

Boards/Civic Organization/Talents	From	To
<u>Woman's Club of Clayton</u>	<u>2015</u>	<u>current</u>
<u>Clayton Center / Scene Stealer</u>	<u>2015</u>	<u>current</u>
<u>Town of Clayton / DDA</u>	<u>2019</u>	<u>current</u>
<u><i>[Signature]</i></u>		<u>5/12/2020</u>
Signature		Date

- Please do not submit resumes or attachments.
- This application is a PUBLIC RECORD.
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Clerk's Office Use

Date Rec'd: _____

Town/ETJ: _____

ADVISORY BOARD CANDIDATE APPLICATION

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☐ Planning Board

☐ Library Advisory Board

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☐ Fire Advisory Board

☐ Recreation Advisory Board

☐ Public Art Advisory Board

PLEASE NOTE: In accordance with North Carolina law, this application is a public record and will be disclosed upon request without notice. If there is any information you do not want released to the public, please do not include it.

Please type or print using dark ink.

Name: Shannon Austin

Mailing Address: 481 E. Main St. Suite 105, Clayton, NC 27520

Physical HOME Address: 123 Redbay Lane, Clayton, NC 27527

Phone Number (HOME): 910-617-5394 (WORK) 910-617-5394

FAX Number: _____ Mobile Number: _____

Email Address: shannon.m.austin@mwarep.org

☒ Female*

☐ Male*

Employer: Modern Woodmen Fraternal Financial

Occupation: Financial Advisor

*This information is voluntary and is requested for the sole purpose of assuring that a cross section of the community is appointed; NCGS 143-157.1

Residency within the Town limits or ETJ (extra territorial jurisdiction) is required for membership on **most** Council advisory boards.

Length of residence in Clayton: 3 Years

Do you live in **Clayton Corporate Limits**: ☒ Yes ☐ No **ETJ**: ☐ Yes ☐ No

How did you find out about this board?

☐ Facebook ☐ Website ☐ Newspaper ☐ Twitter
☐ TV ☒ Friend ☐ Email ☐ Other

Outline your qualifications and why you wish to serve on the board you indicated:

My office is on Main Street in Clayton. Over the past three years, I've become involved with different volunteer groups and organizations (Clayton Rotary Club, Clayton Junior Women's Club, Clayton Chamber of Commerce Ambassador). I have gotten to know other small business owners in town and truly enjoy living and working in Clayton. I want to help make this a great community and be involved in the process.

State why you believe you would be an asset to this board:

I believe I can add value through my relationships, empathy, and creative ideas. I am passionate about this community and want to be a voice for small business owners and an advocate for the town to build this relationship between the two to help Clayton thrive. I've recently become a member of the "DT Merchants association", as well.

Do you anticipate a conflict of interest if asked to serve as a member of the requested board:

☒ No ☐ Yes *If Yes, please explain:*

Please list any current or previous service to the community, civic organizations, activities and any special talents:

Boards/Civic Organization/Talents	From	To
<u>Clayton Rotary Club</u>	<u>April 2019</u>	<u>Present</u>
<u>Clayton Junior Women's Club</u>	<u>November 2018</u>	<u>January 2020</u>
<u>Clayton Women's Rugby Club</u>	<u>August 2019</u>	<u>Present</u>

Shannon Austin

Signature

5/13/2020

Date

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Clerk's Office Use

Date Rec'd: _____

Town/ETJ: _____

ADVISORY BOARD CANDIDATE APPLICATION

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CHOOSE ONE:

☐ Planning Board

☐ Library Advisory Board

☒ Downtown Development Association Advisory Board

☐ Fire Advisory Board

☐ Recreation Advisory Board

☐ Public Art Advisory Board

PLEASE NOTE: In accordance with North Carolina law, this application is a public record and will be disclosed upon request without notice. If there is any information you do not want released to the public, please do not include it.

Please type or print using dark ink.

Name: Bernice Lopez

Mailing Address: 95 Relict Dr. Clayton NC 27527

Physical HOME Address: Same

Phone Number (HOME): 919-801-4635 (WORK) _____

FAX Number: _____ Mobile Number: _____

Email Address: bernice12apr-nc.com

☒ Female*

☐ Male*

Employer: APR Restoration

Occupation: Chief Marketing Officer

*This information is voluntary and is requested for the sole purpose of assuring that a cross section of the community is appointed; NCGS 143-157.1

Residency within the Town limits or ETJ (extra territorial jurisdiction) is required for membership on **most** Council advisory boards.

Length of residence in Clayton: 5 years

Do you live in **Clayton Corporate Limits**: ☐ Yes ☐ No **ETJ**: ☐ Yes ☐ No

How did you find out about this board?

☐ Facebook ☐ Website ☐ Newspaper ☐ Twitter
☐ TV ☒ Friend ☐ Email ☐ Other

Outline your qualifications and why you wish to serve on the board you indicated:

Human Resources & Marketing proven experience. Leadership skills & successfully driven a team to accomplish goals. I would like to be part of the continuous growth of our town & facilitate ways to improve areas of opportunity.

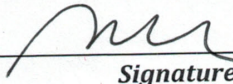
State why you believe you would be an asset to this board:

Having worked with the vitality committee & the chamber & town have helped me develop relationships around business owners DT. Also I would bring diversity to the board, specially when it comes to our minor business owners.

Do you anticipate a conflict of interest if asked to serve as a member of the requested board:

☒ No ☐ Yes If Yes, please explain:

Please list any current or previous service to the community, civic organizations, activities and any special talents:

Boards/Civic Organization/Talents	From	To
<u>many community outreach</u>	<u>2020</u>	
<u>WIN</u>	<u>2019</u>	<u>Present</u>
<u>Clayton Chamber Commerce</u>	<u>2018</u>	<u>Present</u>
<u>Women who lead</u>	<u>2018</u>	<u>2019</u>
<u></u>		<u>4/12/20</u>
Signature		Date

- Please do not submit resumes or attachments.
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2020 Appointment Recommendations for Volunteer Advisory Boards

BOARD	POSITION NUMBER	RECOMMENDED APPOINTEE NAME	APPOINTMENT TYPE	RESIDENCY	TERM EXPIRATION
Downtown Development Association	DDA7	Christi Thompson	Appointment	In Town	6/30/2023
Downtown Development Association	DDA8	Judy Ryan	Re-Appointment	In Town	6/30/2023
Downtown Development Association	DDA10	Shannon Austin	Appointment	In Town	6/30/2023
Downtown Development Association	DDA11	Bernice Lopes	Appointment	In Town	6/30/2023



Town Council Agenda Cover Sheet

Meeting Date

July 20, 2020

Agenda Location

Public Hearings

Item Title

Tract on Powhatan Rd – Rezoning

Presenter

Samantha Wullenwaber, Planning Director

Summary/Description

The applicant is requesting to re-zone the property from Residential Estate (R-E) to Industrial-Light (I-1). The site is approximately 22.33 acres and is located on Powhatan Road approximately 1,200 feet west of Mohican Trail and Powhatan Road; it is currently vacant.

Requested Action

Approval

Funding Source (If Applicable):

N/A

Cost: N/A Yes ☐ No ☒

Additional Documents to be Included in Agenda Packet

Application
Staff Report
Staff Report Maps
Neighborhood Meeting Materials
Site Plan
PB Adjacent Property Letter
TC Adjacent Property Letter
Newspaper Notice
PB Public Comment
Consistency & Reasonableness Statement

Meeting Timeline

May 26, 2020 – Planning Board (public hearing); June 22, 2020- Planning Board (recommendation); July 20, 2020- Town Council (public hearing); August 3, 2020- Town Council (final decision)



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

REZONING APPLICATION COVER SHEET

Name of Project: Tract on Powhatan Rd. Date: 1/20/20
Applicant Name: True Line Surveying

The following checklist to be completed by applicant:

- [✓] Pre-Application Meeting on: July 23, 2019
- [✓] Review Fee
- [✓] Advertisement Fee
- [✓] Completed Application
- [✓] Owner's Consent Form
- [✓] Adjacent Property Owner's List
- [✓] Neighborhood Meeting Notice Letter (1 copy)
- [✓] 2 Sets of stamped, addressed, empty envelopes for adjacent property owner notification
- [✓] Signed & Sealed Boundary Survey
- [✓] Copy of signed & sealed boundary survey in PDF on USB

Reviewed by: 

RECEIVED

JAN 31 2020

TOWN OF CLAYTON
PLANNING DEPARTMENT



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

REZONING APPLICATION

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

SITE INFORMATION

Name of Project: Tract on Powhatan Rd.
Acreage of Property: 22.121 Zoning District: R-E
County Tag #: 05105004 NC Pin #: 167804-62-4440
Address/Location: Powhatan Rd.
Existing Zoning District: R-E Proposed Zoning District: I-1

APPLICANT INFORMATION

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

PROPERTY OWNER INFORMATION

Name: David Orringer
Mailing Address: 3508 Queen Ann Rd., Clayton, NC 27527
Phone Number: _____ Fax: _____
Email Address: _____

OFFICE USE ONLY

Date Received: 1/31/2020 Amount Paid: \$ 700 File Number: 2020-17-RZ

EXPLANATION OF PROJECT

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

Client would like to rezone to have the uses of I1 zoning. They want this property to be rezoned so it matches the existing zoning of the near Novo Nordisk parcel 167804-41-9237.

APPROVAL CRITERIA

All applications for a Rezoning must address the following findings:

1. Consistency with the adopted plans of the Town.
This property is consistent with the adopted plans of the Town. This property will match existing surrounding commercial properties that are currently zoned at I1.
2. Suitability of the subject property for uses permitted by the current vs. the proposed district.
Current use is residential. Proposed use is light manufacturing and or office.
3. Whether the proposed change tends to improve the balance of uses, or meets specific demand in the Town.
Sites can be used for support of adjacent companies or stand alone manufacturing.
4. The capacity of adequate public facilities and services including schools, roads, recreation facilities, wastewater treatment, potable water supply and stormwater drainage facilities is available for the proposed use.
Property can be adequately served by existing facilities. Some manufacturing facilities may use less water and sewer depending on the manufacturing process. Such a matter will be dealt with on-site by site as uses become known.
Manufacturing will have little to no impact on recreation, schools or roads.
5. It has been determined that the legal purposes for which zoning exists are not violated.
Uses are currently not in violation.
6. It has been determined that there will be no adverse effect upon adjoining property owners unless such effect can be justified by the overwhelming public good or welfare.
No adverse effect on adjoining property owners. The buildings will match other surrounding properties and will be the same zoning as Novo Nordisk.

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

Property will not be detrimental to the general public as it is already surrounded by light manufacturing.

APPLICANT AFFIDAVIT

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

CUNE Lane
Print Name

[Signature]
Signature of Applicant

1/31/20
Date



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

Planning Board, 06/22/2020
Town Council, 07/20/2020

STAFF REPORT

Application Number: 2020-17-RZ Project Name: Tract on Powhatan Rd – Rezoning

TAG #(s): 05I05004
Town Limits/ETJ: Inside ETJ
Applicant: True Line Surveying
Owner: David Orringer
Location: * No Site Address * +/- 1,200 feet west of Mohican Trail and Powhatan Road
Project Planner: Jeff Caines, Planner

Public Noticing Dates:

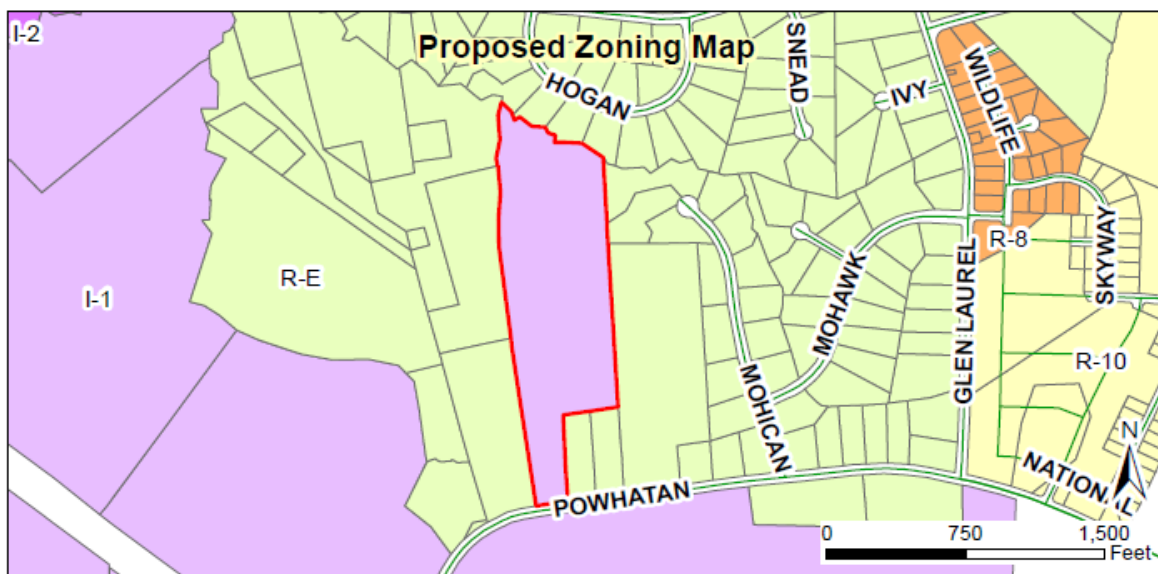
- **Neighborhood Meeting:** March 4, 2020
- **Sign posted:** May 15, 2020 (PB) / July 10, 2020 (TC)
- **Adjacent Property Letters Mailed:** May 15, 2020 (PB) / July 10, 2020 (TC)
- **Newspaper Ad published:** July 8, 2020 / July 15, 2020

REQUEST: Rezoning from Residential Estate (R-E) to Industrial-Light (I-1)



SITE DATA:**Acreage:** 22.33 acres**Existing Use:** Vacant**ADJACENT ZONING AND LAND USES:**

Direction	Zoning	Existing Use
North	R-E	Residential
South	I-1	Medical Industrial (Novo Nordisk)
East	R-E	Residential
West	R-E	Residential / Vacant

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

The site is located on Powhatan Road approximately 1,200 feet west of Mohican Trail and Powhatan Road; it is currently vacant. The applicant is requesting to re-zone the property from Residential Estate (R-E) to Industrial-Light (I-1). The Light Industrial zoning district fosters the retention and growth of employment opportunities by providing areas where a broad range of industrial uses may locate and where options for complementary uses exist. The intent of this zoning district is to have businesses that are relatively clean and operate in a quiet manner, and should not be obnoxious to nearby residential or business districts and research facilities. The applicant does not have a specific intended use for this site, however staff finds that this re-zone will give the ability for the applicant to prepare the site to be sold on the open market. The Industrial-Light zoning district would allow this property to be developed with more compatible uses that already exist in the surrounding area.

Consistency with the Comprehensive Plan 2040

The proposed zone is consistent with the Comprehensive Plan designation of Employment Center. The objective of the Employment Center designation is to provide locations for primary employment and economic

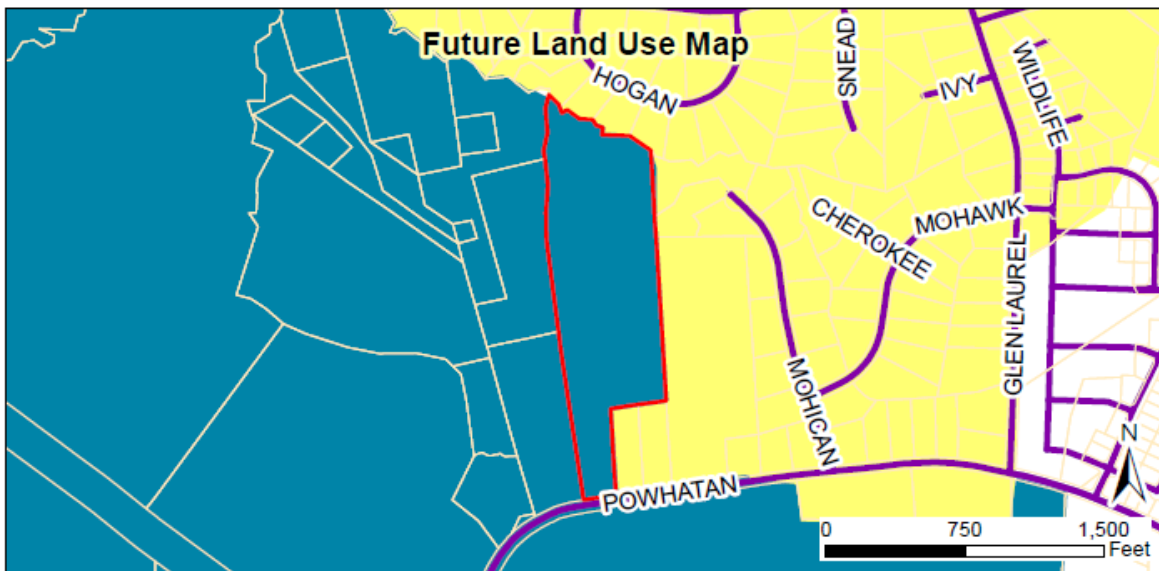
development opportunities. This property is located along a major transportation corridor (Powhatan Road) and is large enough to accommodate future economic growth in Clayton.

Although the future use of the site is not known at the time of application submittal, any new business will be reviewed by the Planning Department. This review will ensure that both the site development and proposed use will be compatible with the adopted Comprehensive Plan and the Unified Development Code.

The Compatible Zoning Districts identifies Employment Center (EC) as a compatible Use with the I-1 zoning district. The Future Land Use Map (shown below) highlights this property as well as properties to the west as being identified as Employment Centers.

Comprehensive Plan Goals supporting the rezoning request include:

- Goal LU1: Preserve Clayton's small-town character while allowing for growth and development in appropriate areas.
- Objective LU2.1: Manage future growth and encourage quality development through the implementation of the Comprehensive Plan, the Unified Development Code (UDC), and other plans and regulations adopted by Town Council. Encourage developments which incorporate high-quality design and enhance the quality of life for existing and future residents of the Town.
- Strategy LU1.1.1: Review development proposals for consistency with the Future Land Use Map.



CONSIDERATIONS:

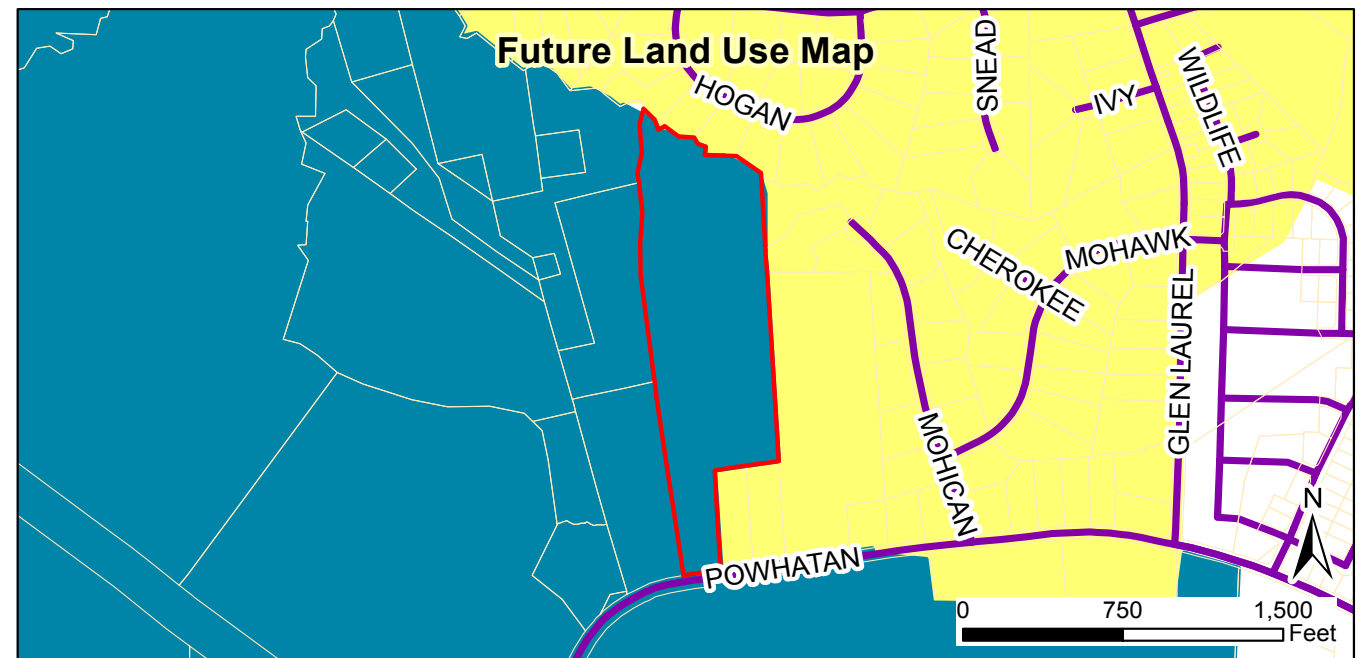
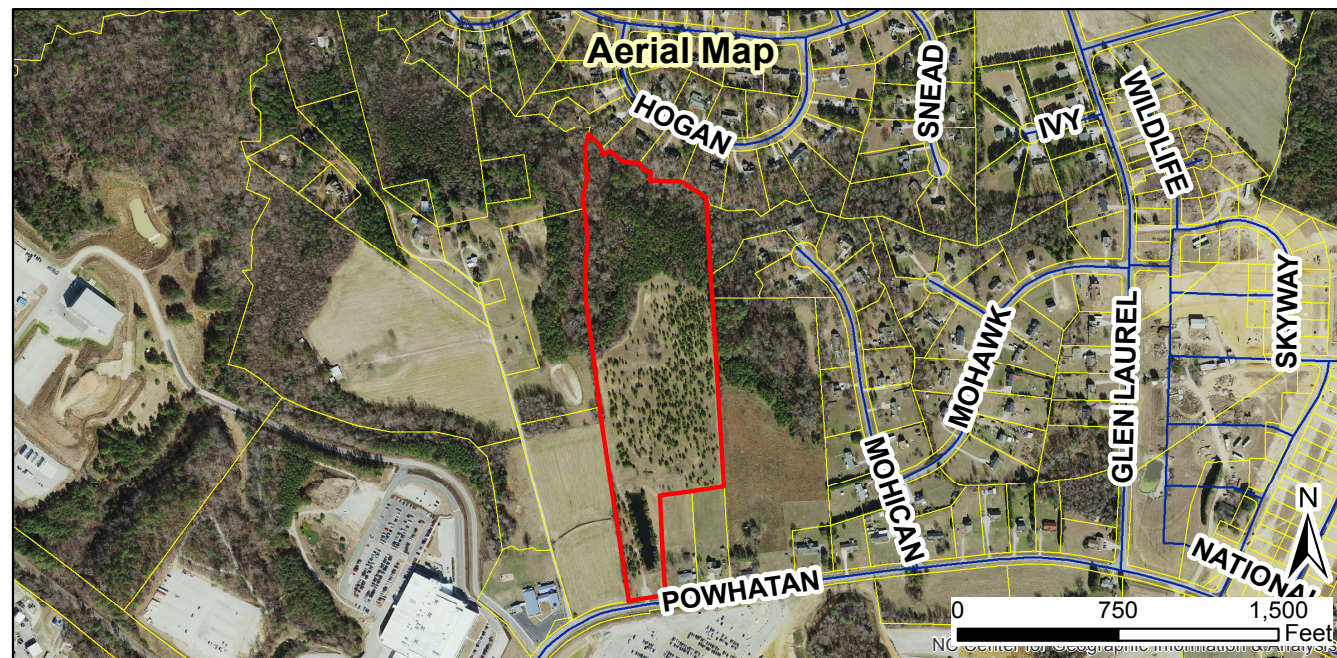
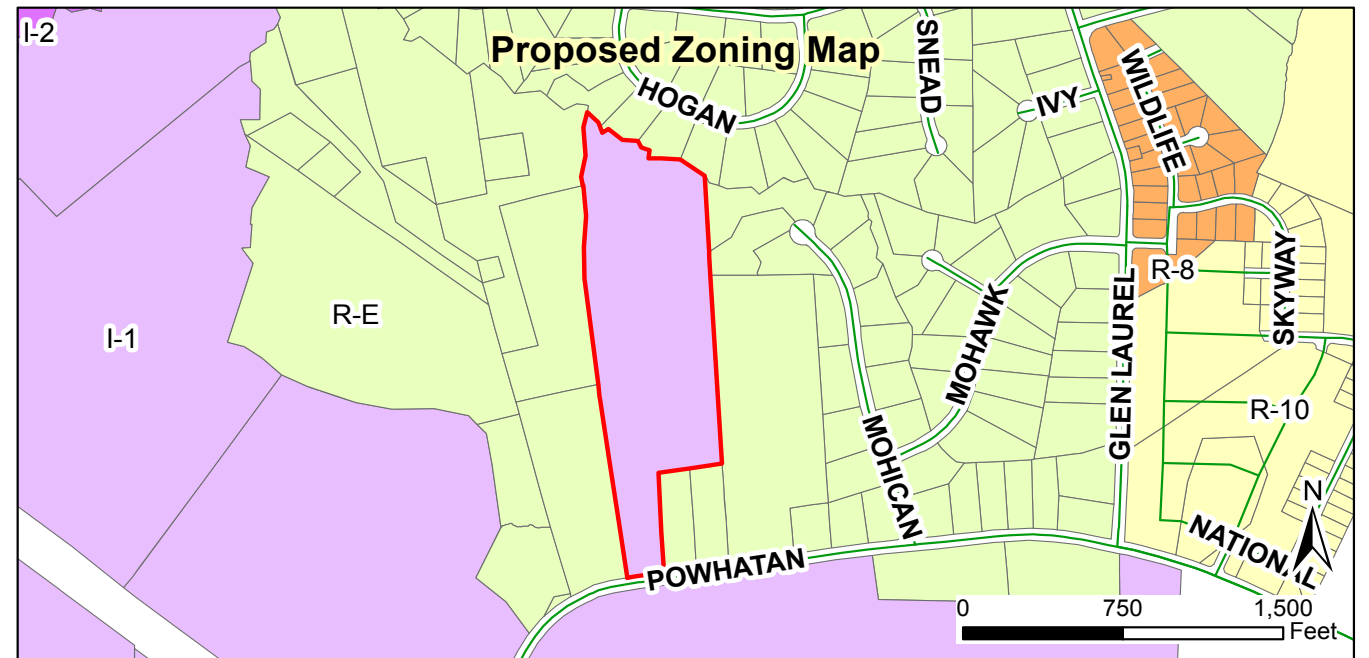
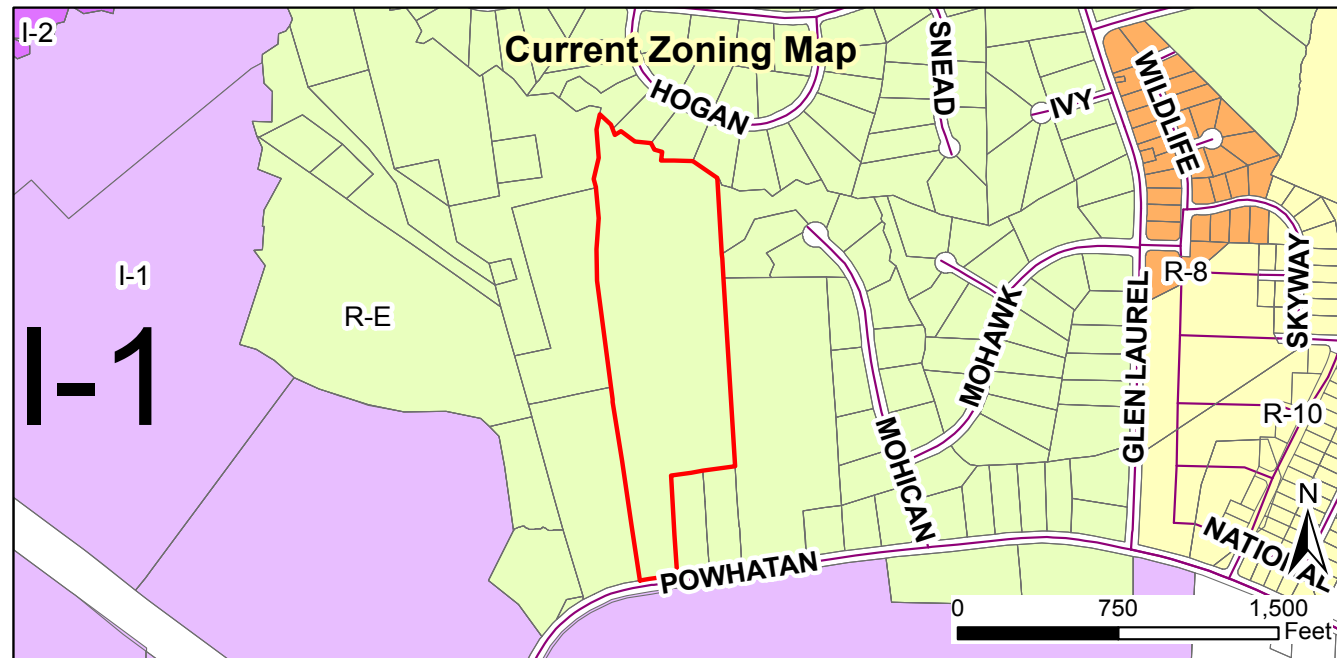
- Rezoning decisions are made by the Town Council. The Planning Board shall make a recommendation to the Town Council.
- When adopting or rejecting the rezoning, the Town Council shall approve a statement describing whether its action is consistent with adopted plans and/or policies of the Town and explaining why the Council considers the action taken to be reasonable and in the public interest.

STAFF RECOMMENDATION:

Adopt Planning Board's recommendation of **APPROVAL** of the proposed rezoning request.

ATTACHMENTS:

- 1) Application
- 2) Owner's Consent Form
- 3) Staff Report Maps
- 4) Neighborhood Meeting Materials
- 5) Survey
- 6) PB Adjacent Property Letter
- 7) TC Adjacent Property Letter
- 8) Newspaper Notice



Request:
2020-17-RZ, Powhatan Road
Request to Rezone Existing R-E to Proposed Zoning to I-1

Applicant: True Line Surveying
 Property Owner: David Orringer
 Tag #: 05105004

Staff Report Map



Document Path: O:\PLANNING\REZONING\Rezoning\2020\2020-17-RZ - Tract on Powhatan Rd\Staff Report Maps\Staff Report Map - 2020-17-RZ - Powhatan Road Maps.mxd

Legend	
	TOC_SDE.GISMGR.Parcels selection
	100-yr Flood Zone
	Thoroughfare Overlay
	Site

2/11/2020
 Produced by: TOC Planning
 Disclaimer: Town of Clayton assumes no legal responsibility for the quality of the data represented here.

February 18, 2020

Dear Clayton Area Property Owner:

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

Meeting Date: March 4, 2020

Meeting Time: 6:00pm

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

Type of Application: Rezoning Application

Project/proposal property address: Powhatan Rd. tract

Description of project/proposal: Client would like to rezone to have the uses of I1 zoning.

Upcoming public meetings for this application (Planning Board and/or Town Council): March 23, 2020

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 919-359-0427 You may also contact the Planning Department at 919-553-5002.

Sincerely,



Curt Lane
True Line Surveying

Cc: Town of Clayton Planning Department

ADJACENT PROPERTY OWNERS LIST

Project Name: True Line Surveying

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

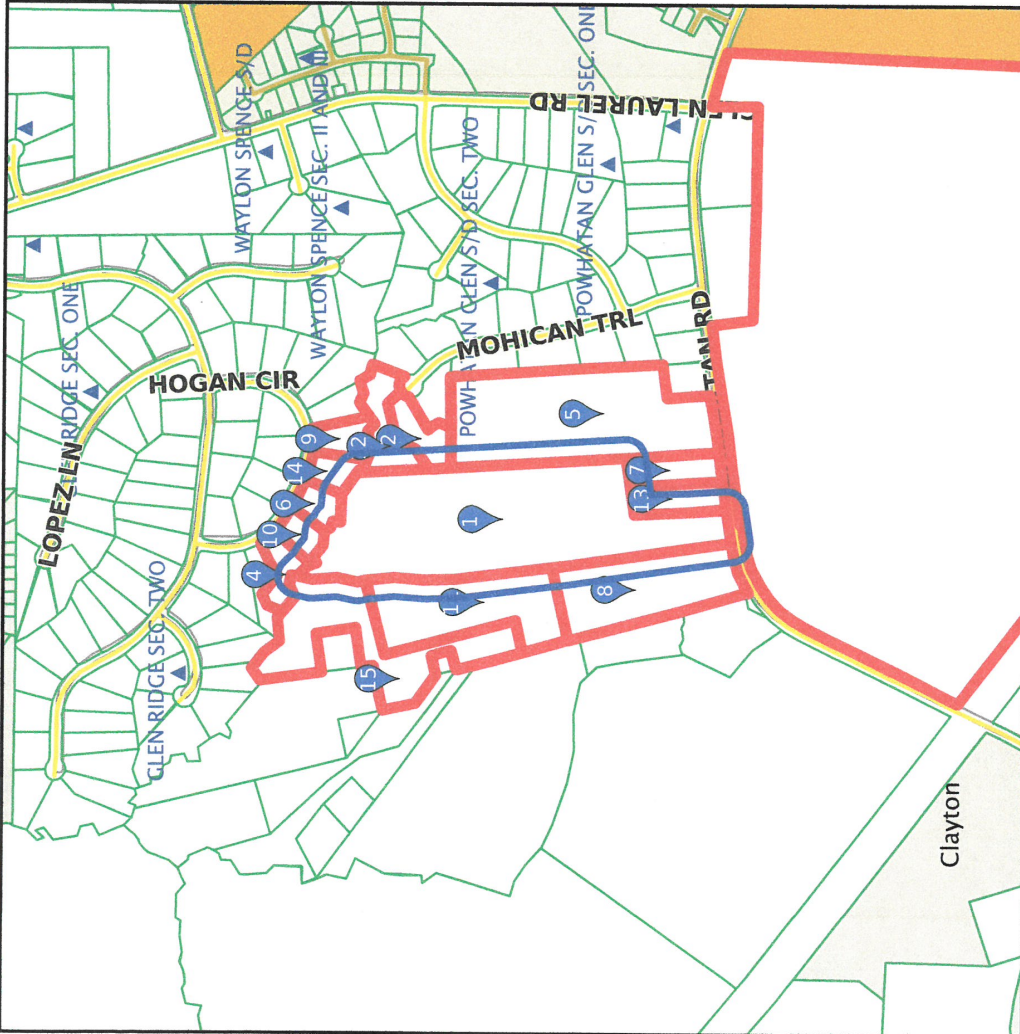
It is the responsibility of the applicant to correctly identify the current owner, based upon records in the Johnston County GIS Office, for all property owners of land within the required public notice radius.

PARCEL NUMBER	NAME	ADDRESS
05I05004	David and Nicole Orringer	3508 Queen Ann Dr., Clayton, NC 27527
05I05007V	CUOMO, RISA M.	225 MOHICAN TR CLAYTON, NC 27527
05E99010N	NOVO NORDISK PHARM IND	3612 POWHATAN RD CLAYTON, NC 27527
05I04051	BARBEE, SCOTT BARBEE, SUNISHA	421 HOGAN CR CLAYTON, NC 27527
05I05005	HILL, ROGER WILLIAM HILL, GINGER SMITH	3276 POWHATAN ROAD CLAYTON, NC 27527
05I04049	CARMAN, MICHAEL L ALFORD-CARMAN, MARY H	417 HOGAN CIRCLE CLAYTON, NC 27527-0000
05I05004A	SMITH, LARRY SMITH, LINDA T	3352 POWHATAN RD CLAYTON, NC 27527-0000
05I05012	GRIFOLS THERAPEUTICS INC	PO BOX 110526 DURHAM, NC 27709-5526
05I04047	DAVIS, JAMES C	413 HOGAN CIRCLE CLAYTON, NC 27527-0000
05I04050	MELTON, FRANK	419 HOGAN CIRCLE CLAYTON, NC 27527-0000
05I05003	CARROLL, SHIRLEY JONES	2144 SHOTWELL RD CLAYTON, NC 27520-0000
05I05007W	SILLS, JOHN H	224 MOHICAN TRL CLAYTON, NC 27527-6048
05I05004C	SCOTT, TERESA SMITH	3366 POWHATTAN RD CLAYTON, NC 27527-0000
05I04048	SCOTT, W NELSON II SCOTT, JONES BROOKS	415 HOGAN CIRCLE CLAYTON, NC 27527-0000
05I05003F	JONES, HUBERT DONALD	1827 OLD U S 70 W CLAYTON, NC 27520-6507



*** DISCLAIMER ***

Johnston County assumes no legal responsibility for the information represented here.



Result 1

id: 05105004
Tag: 05105004
Owner Name 1: ORRINGER, DAVID S.
Owner Name 2: ORRINGER, NICOLE W.
Mail Address 1: 3508 QUEEN ANN DR
Mail Address 2:
Mail Address 3: CLAYTON, NC 27527-8713
Book: 04885
Page: 0488

Result 2

id: 05105007V
Tag: 05105007V
Owner Name 1: CUOMO, RISA M.
Owner Name 2:
Mail Address 1: 225 MOHICAN TR
Mail Address 2:
Mail Address 3: CLAYTON, NC 27527
Book: 04745
Page: 0501

Scale: 1:10060 - 1 in. = 838.33 feet

(The scale is only accurate when printed landscape on a 8 1/2 x 11 size sheet with no page scaling.)

Johnston County GIS
January 31, 2020

ORRINGER, DAVID S.
ORRINGER, NICOLE W.
3508 QUEEN ANN DR
CLAYTON, NC 27527-8713

CUOMO, RISA M.
225 MOHICAN TR
CLAYTON, NC 27527

NOVO NORDISK PHARM IND
3612 POWHATAN RD
CLAYTON, NC 27527-0000

BARBEE, SCOTT
BARBEE, SUNISHA
421 HOGAN CR
CLAYTON, NC 27527

HILL, ROGER WILLIAM
HILL, GINGER SMITH
3276 POWHATAN ROAD
CLAYTON, NC 27527-0000

CARMAN, MICHAEL L
ALFORD-CARMAN, MARY H
417 HOGAN CIRCLE
CLAYTON, NC 27527-0000

SMITH, LARRY
SMITH, LINDA T
3352 POWHATAN RD
CLAYTON, NC 27527-0000

GRIFOLS THERAPEUTICS INC
PO BOX 110526
DURHAM, NC 27709-5526

DAVIS, JAMES C
413 HOGAN CIRCLE
CLAYTON, NC 27527-0000

MELTON, FRANK
419 HOGAN CIRCLE
CLAYTON, NC 27527-0000

CARROLL, SHIRLEY JONES
2144 SHOTWELL RD
CLAYTON, NC 27520-0000

SILLS, JOHN H
224 MOHICAN TRL
CLAYTON, NC 27527-6048

SCOTT, TERESA SMITH
3366 POWHATTAN RD
CLAYTON, NC 27527-0000

SCOTT, W NELSON II
SCOTT, JONES BROOKS
415 HOGAN CIRCLE
CLAYTON, NC 27527-0000

JONES, HUBERT DONALD
1827 OLD U S 70 W
CLAYTON, NC 27520-6507

NOTE: Turn off 'Fit to Page' in print dialog before
printing.

Label Type: AV5160
15 label(s) printed

NEIGHBORHOOD MEETING SUMMARY FORM

FILL OUT THE FOLLOWING:

Application: Rezoning Date of Mailing: February 18, 2020
Date of Meeting: March 4, 2020 Time of Meeting: 6:00pm
Location of Meeting: True Line Surveying, 205 W. Main St., Clayton, NC 27520

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

Printed Name: Molly Herring Signature: Molly Herring

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

Neighborhood meeting was held March 4, 2020, 6:00pm at True Line Surveying. Curk Lane started the meeting at 6:15pm.

Main concern the attendees had was the type of business that was going to be going there.

Other concerns were:

1. Dust control exisiting constrcution from NOVO
2. Noise and vibration from NOVO
3. Powhatan Road Traffic
4. Larry Smith and the Scott's do not want to be surrounded by an Industrial Park.
5. Michael Carman would like the stream buffer to be larger and had questions about the wild life being displaced.
6. Jesse Scott site plan needs to monitor light pollution.
7. Decreased home values of surrounding homes. David Orringer will get a real estate appraiser to give statement on the value.

After each were discussed no one had any further questions.

The meeting ending at 7:45pm.

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

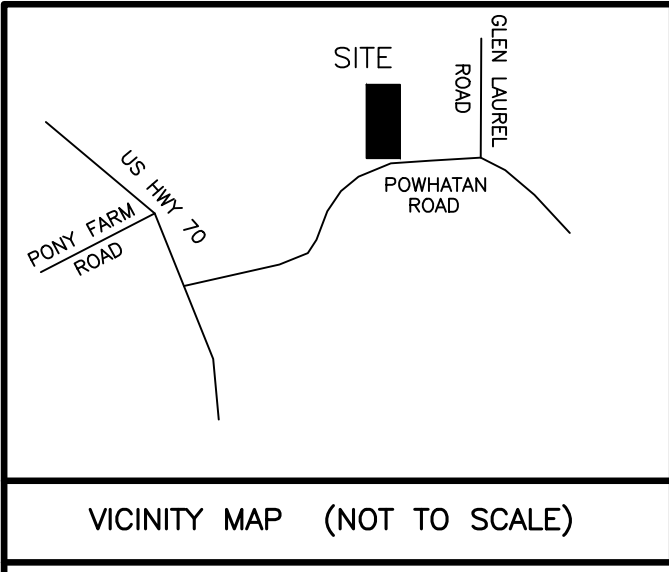
NEIGHBORHOOD MEETING ATTENDANCE ROSTER

Project: Tract on Powhatan Rd.

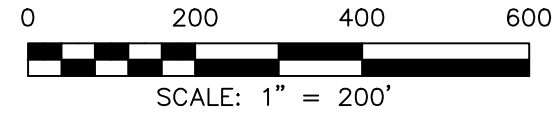
Application: Rezoning

Location/Date: 205 W. Main St. (True Line Surveying) 3/4/2020

	NAME	ADDRESS
1	Larry Smith	3352 POWHATAN RD CLAYTON, NC 27527-0000
2	John Sills	224 MOHICAN TRL CLAYTON, NC 27527-6048
3	Michael Carman	417 HOGAN CIRCLE CLAYTON, NC 27527-0000
4	Jesse Scott	3366 POWHATTAN RD CLAYTON, NC 27527-0000
5	Teresa Scott	3366 POWHATTAN RD CLAYTON, NC 27527-0000
6		
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LINE	BEARING	DISTANCE
L1	N00°20'55"W	277.58'
L2	N03°30'30"E	197.90'
L3	S55°34'26"E	87.32'
L4	S62°33'07"E	24.41'
L5	S15°11'17"E	25.96'
L6	N89°39'17"E	49.63'
L7	N46°50'19"W	69.87'
L8	S82°00'35"W	152.76'
L9	S82°04'24"W	153.26'
L10	S03°30'29"E	285.50'
L11	S03°26'20"E	191.08'
L12	S03°28'34"E	142.52'
L13	S03°23'25"E	191.32'
L14	S03°29'40"E	285.10'
L15	S03°27'39"E	191.52'
L16	N03°30'15"W	142.70'
L17	S82°02'03"W	153.01'
L18	S82°02'03"W	153.01'
L19	S81°48'13"W	181.31'



OWNER: DAVID S. ORRINGER
NICOLE W. ORRINGER
3508 QUEEN ANN DR.
CLAYTON, NC. 27527

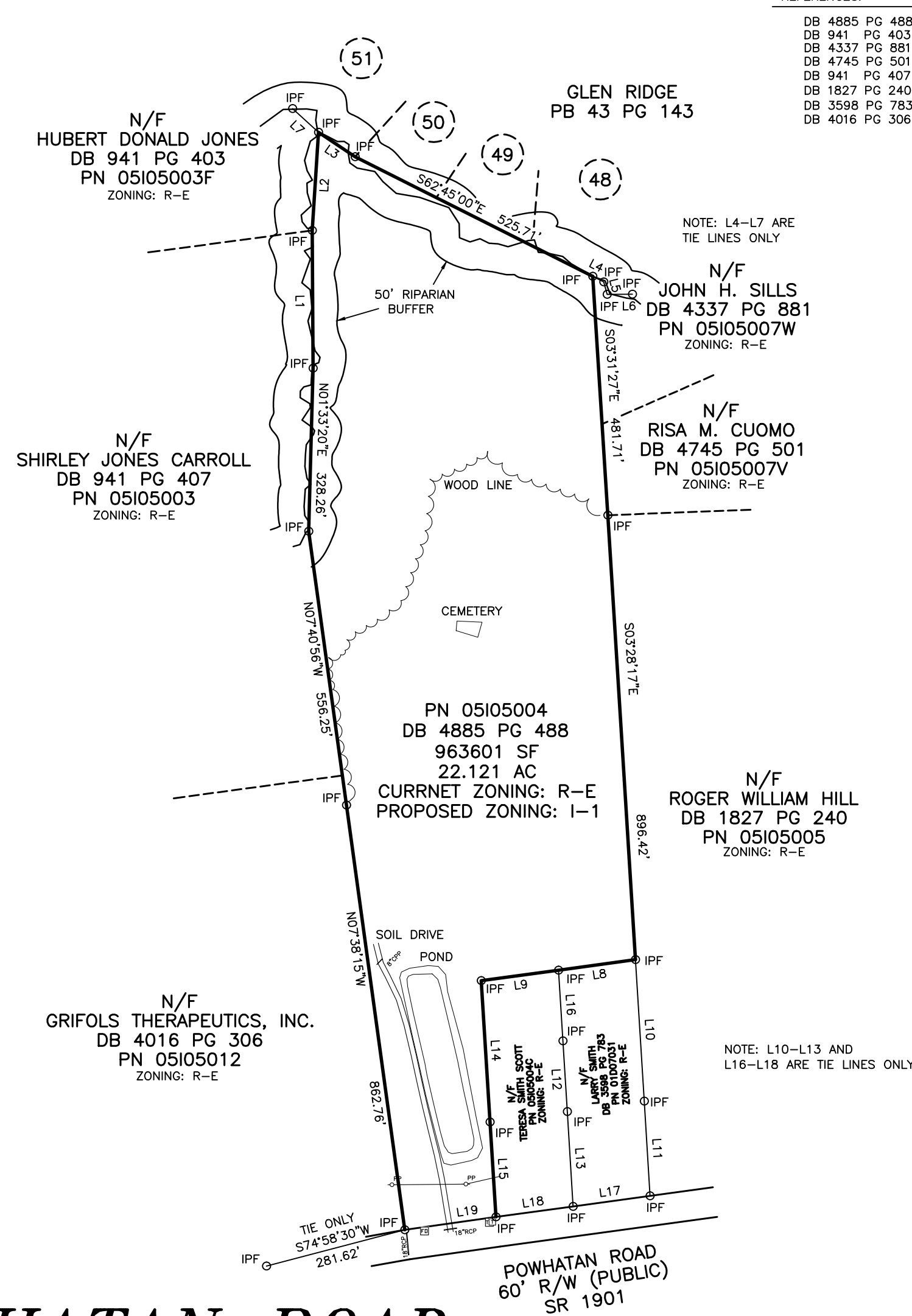
TRACT ON POWHATAN ROAD

DAVID S. ORRINGER

NICOLE W. ORRINGER

CLAYTON TOWNSHIP, JOHNSTON COUNTY
NORTH CAROLINA
JANUARY 24, 2020

NC GRID NORTH NAD 83/2011



REFERENCES:

DB 4885 PG 488	PB 67 PG 162
DB 941 PG 403	PB 76 PG 341
DB 4337 PG 881	PB 43 PG 143
DB 4745 PG 501	
DB 941 PG 407	
DB 1827 PG 240	
DB 3598 PG 783	
DB 4016 PG 306	

- NOTES:
- 1) ALL DISTANCES SHOWN ARE HORIZONTAL GROUND DISTANCES
 - 2) AREAS COMPUTED BY COORDINATE METHOD.
 - 3) PROPERTY SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD.
 - 4) NO. 5 REBAR IRON STAKES WITH CAPS SET AT ALL LOT CORNERS UNLESS OTHERWISE NOTED
 - 5) NO HORIZONTAL CONTROL FOUND WITHIN 2000 FEET OF SURVEY.
 - 6) PARENT TRACT DEED: DB 4885 PG 488
 - 7) PARENT TRACT ID # 05105004
 - 8) PARENT TRACT PIN 167804-62-4440

- THIS SURVEY:
- ☐ A. CREATES A SUBDIVISION OF LAND WITHIN THE AREA OF A COUNTY OR MUNICIPALITY THAT HAS AN ORDINANCE THAT REGULATES PARCELS OF LAND.
 - ☐ B. IS LOCATED IN A PORTION OF A COUNTY OR MUNICIPALITY THAT IS UNREGULATED AS TO AN ORDINANCE THAT REGULATES PARCELS OF LAND.
 - ☒ C. IS ONE OF THE FOLLOWING:
 - 1) IS OF AN EXISTING PARCEL OR PARCELS OF LAND OR ONE OR MORE EXISTING EASEMENTS AND DOES NOT CREATE A NEW STREET OR CHANGE AN EXISTING STREET.
 - 2) IS OF AN EXISTING FEATURE, SUCH AS A BUILDING OR OTHER STRUCTURE, OR NATURAL FEATURE, SUCH AS A WATERCOURSE.
 - 3) IS A CONTROL SURVEY
 - 4) IS OF A PROPOSED EASEMENT FOR A PUBLIC UTILITY AS DEFINED IN G.S. 62-3.
 - ☐ D. IS OF ANOTHER CATEGORY, SUCH AS THE RECOMBINATION OF EXISTING PARCELS, A COURT-ORDERED SURVEY, OR OTHER EXEMPTION OR EXCEPTION TO THE DEFINITION OF SUBDIVISION.
 - ☐ E. THE INFORMATION AVAILABLE TO THE SURVEYOR IS SUCH THAT THE SURVEYOR IS UNABLE TO MAKE A DETERMINATION TO THE BEST OF THE TO THE BEST OF THE SURVEYOR'S PROFESSIONAL ABILITY AS TO PROVISIONS CONTAINED IN (A) THROUGH (D) ABOVE.

1/31/2020
DATE

SURVEYOR

SURVEYOR'S DISCLAIMER: NO ATTEMPT WAS MADE TO LOCATE ANY WETLANDS, HAZARDOUS MATERIAL SITES, UNDERGROUND UTILITIES OR ANY OTHER FEATURES ABOVE OR BELOW GROUND OTHER THAN THOSE SHOWN.

1/31/2020
DATE

SURVEYOR

STATE OF NORTH CAROLINA, JOHNSTON COUNTY

I, CURK T. LANE, DO HEREBY CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN BOOK 4885, PAGE 488, ETC.); THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN BOOK 4885, PAGE 488; THAT THE RATIO OF PRECISION AS CALCULATED IS 1:10,000±; THAT THE GLOBAL POSITIONING ACCURACY (GPS) OBSERVATIONS WERE PERFORMED TO THE GEOSPATIAL POSITIONING ACCURACY STANDARDS, PART 2: STANDARDS FOR GEODETIC NETWORKS AT 1 CENTIMETER ACCURACY CLASSIFICATION (95% CONFIDENCE) USING RTK NETWORK; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. THAT THIS PLAT MEETS THE REQUIREMENT OF G.S. 47-30 SECTION F-11, -C.1. WITNESS MY ORIGINAL SIGNATURE AND SEAL THIS 31th DAY OF JANUARY, A.D. 2020



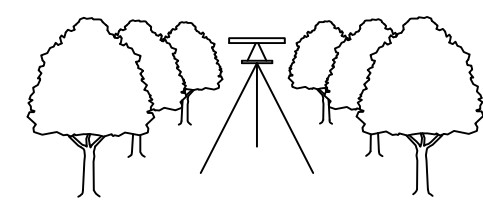
SURVEYOR

L - 3990
LICENSE NUMBER

- LEGEND
- IPF IRON PIPE FOUND
 - IPS IRON PIPE SET
 - OMF CONCRETE MONUMENT FOUND
 - PKNF PARKER-KALON NAIL FOUND
 - PKNS PARKER-KALON NAIL SET
 - RRS RAILROAD SPIKE
 - CSF COTTON SPIKE FOUND
 - CSS COTTON SPIKE SET
 - CC CONTROL CORNER
 - CP COMPUTED POINT
 - P/P POWER POLE
 - OPW OVERHEAD POWER LINE
 - R/W RIGHT OF WAY
 - S.F. SQUARE FEET
 - AC ACRE
 - DB DEED BOOK
 PB PLAT BOOK | BOM BOOK OF MAPS | PG PAGE | LF LINEAR FEET | 15S LOT HAS OFFSITE SEWER | 15SL OFFSITE SEWER LOT | 15R RECOMBINATION LOT | [T60] STREET ADDRESS | --- LINES NOT SURVEYED |

SURVEYED BY:	MATT
DRAWN BY:	KAMAL
CHECKED BY:	CURK
DRAWING NAME:	BOUNDARY.DWG
SURVEY DATE:	7/20/2017
JOB NO.	996.007

TRUE LINE SURVEYING, P.C.



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

C-1859



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

May 15, 2020

NOTICE

SUBJECT: **Project:** 2020-17-RZ – Tract on Powhatan Road, Rezoning
Address: Powhatan Road approximately 1,250 feet west of Mohican Trail and
Powhatan Road
TAG #: 05I05004
Applicant: True Line Surveying

Dear Clayton Area Property Owner:

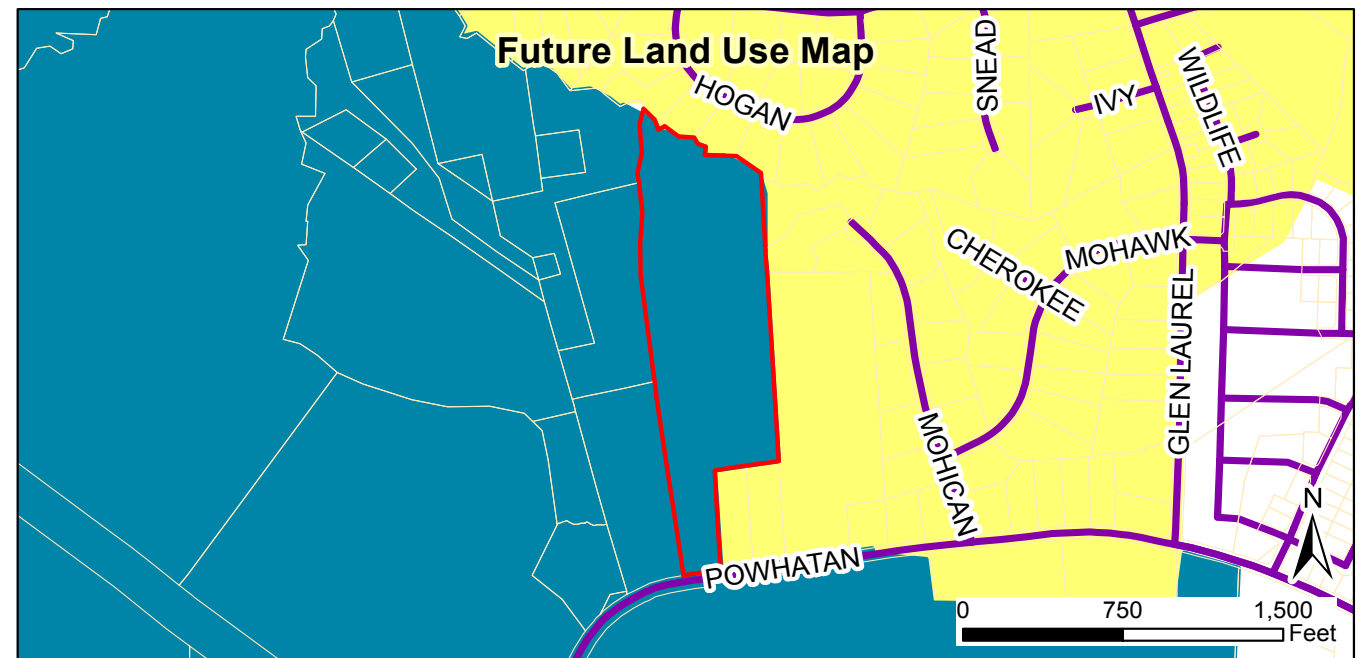
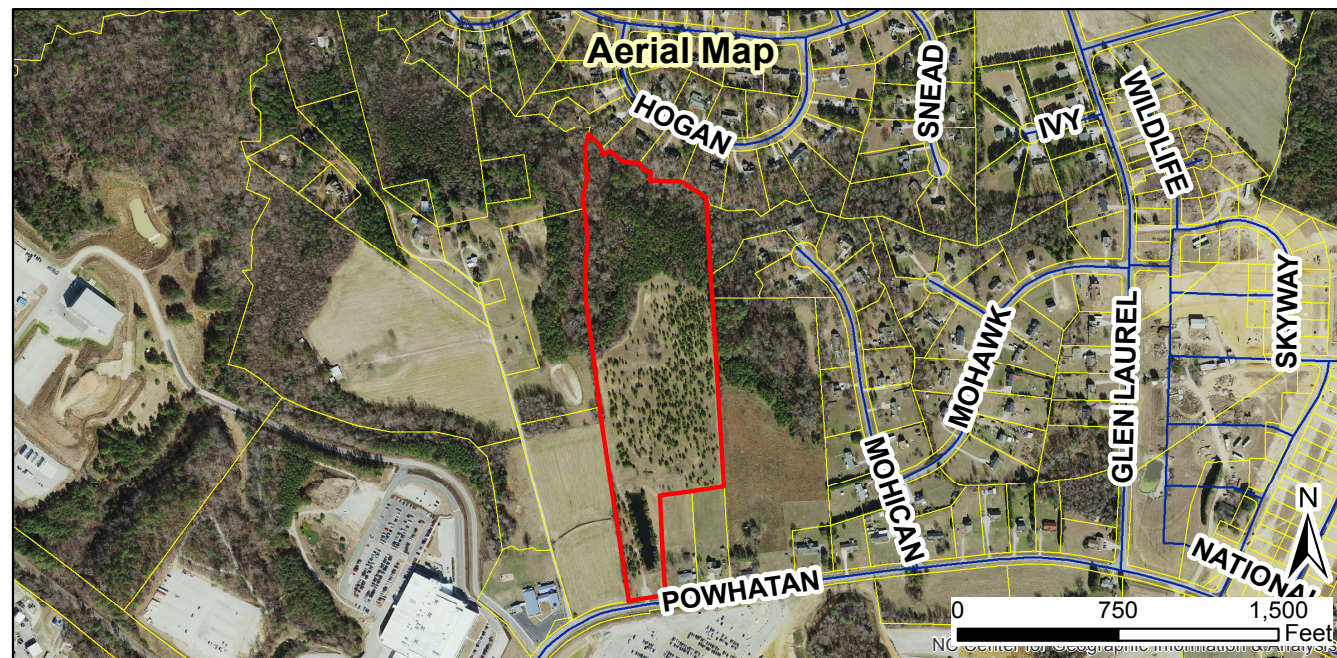
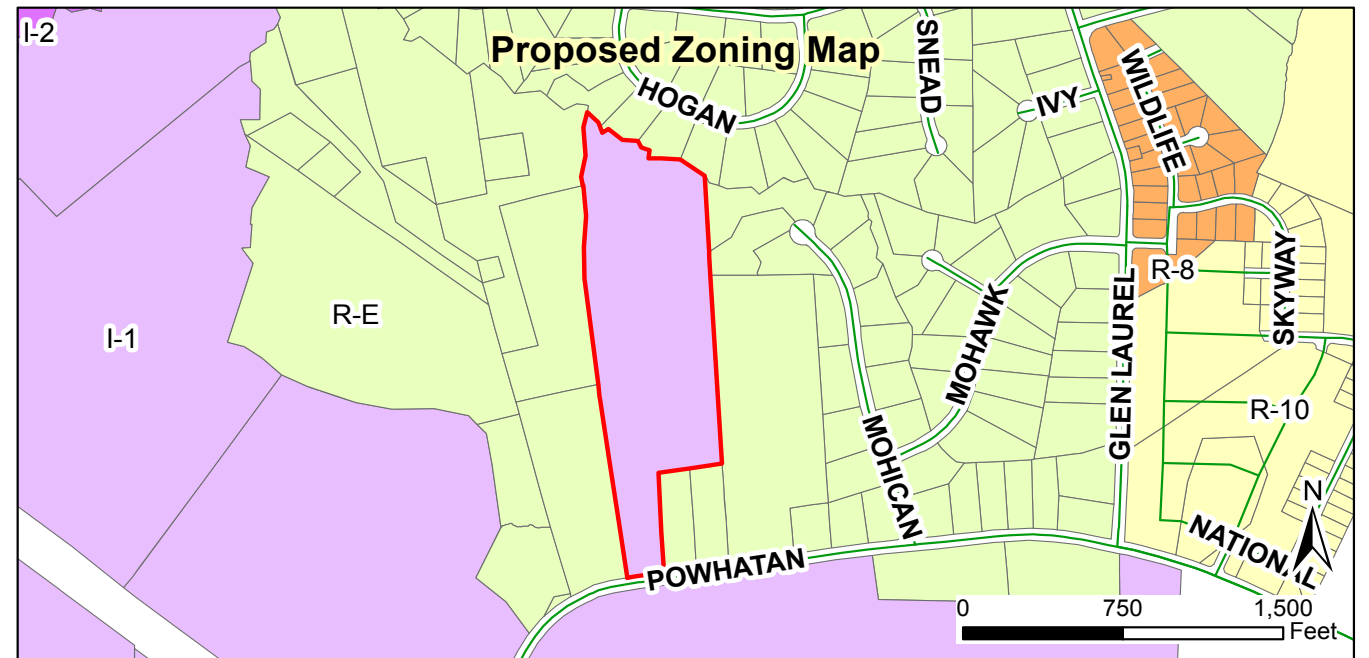
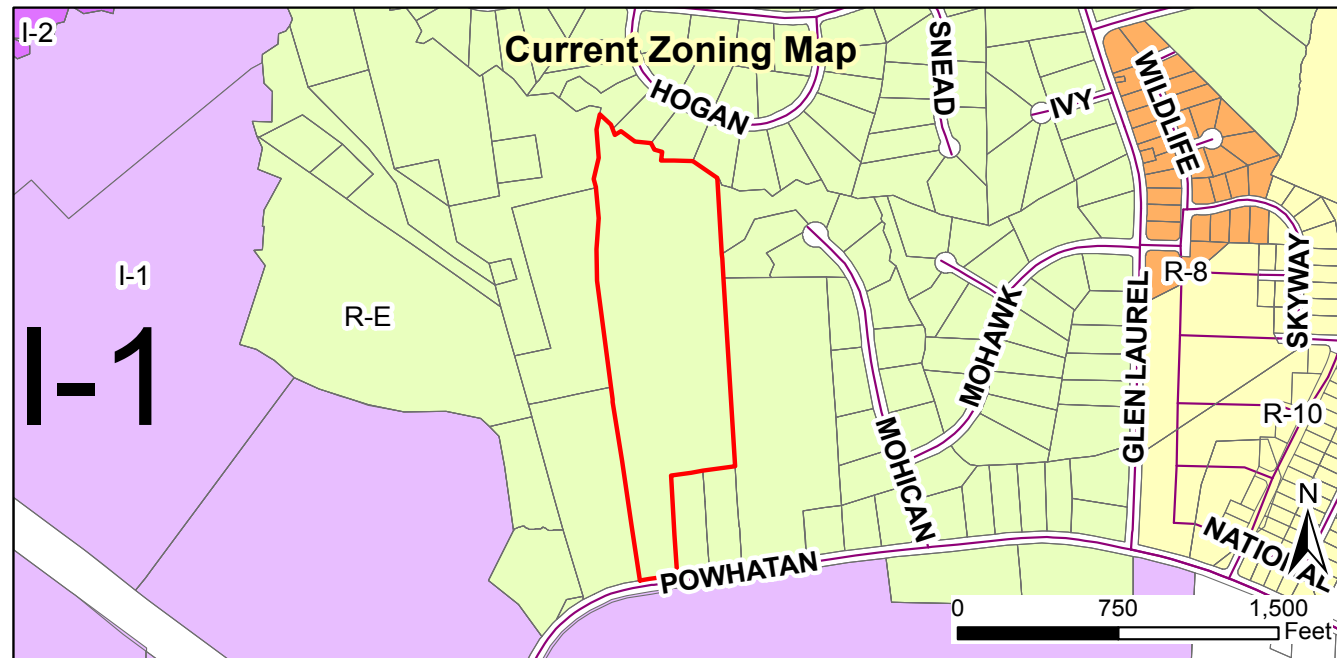
Notice is hereby given that the Clayton Planning Board will hold a public meeting on **May 26, 2020 at 6:00 PM** at Town Hall, 111 E. Second Street, to make a recommendation on the above referenced Rezoning application. This application will proceed to Town Council for a public hearing following Planning Board recommendation. Another notice will be sent prior to the date of the scheduled public hearing. The applicant is requesting to rezone 22 acres from **R-E** (Residential Estate) to **I-1** (Industrial-Light). Please see the map on the back of this letter.

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

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

Sincerely,

Jeff Caines, AICP - Planner



Request:
2020-17-RZ, Powhatan Road
Request to Rezone Existing R-E to Proposed Zoning to I-1

Applicant: True Line Surveying
 Property Owner: David Orringer
 Tag #: 05105004

Staff Report Map



Document Path: O:\PLANNING\REZONING\Rezoning\2020\2020-17-RZ - Tract on Powhatan Rd\Staff Report Maps\Staff Report Map - 2020-17-RZ - Powhatan Road Maps.mxd

Legend

- TOC_SDE.GISMGR.Parcels selection
- 100-yr Flood Zone
- Thoroughfare Overlay
- Site

2/11/2020
 Produced by: TOC Planning
 Disclaimer: Town of Clayton assumes no legal responsibility for the quality of the data represented here.



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

July 10, 2020

NOTICE

SUBJECT: **Project:** 2020-17-RZ Tract on Powhatan Road – Re-Zoning
Address: Powhatan Road approximately 1,200 feet west of Mohican Trail and
 Powhatan Road
TAG #: 05105004
Applicant: True Line Survey

Dear Clayton Area Property Owner:

Notice is hereby given that the Clayton Town Council will hold a virtual public meeting on **Monday, July 20, 2020 at 6:00 PM**, to decide the above referenced Rezoning application. The applicant is requesting to rezone 22 acres from Residential Estate (R-E) to Industrial-Light (I-1). The property is located off Powhatan Road; please see the map on the back of this letter.

This Town Council meeting will be held remotely. The Council chambers will be closed to the public. The public may view the live council meeting on the Town's YouTube channel:
<https://youtube.com/user/TownofClaytonNC/videos>.

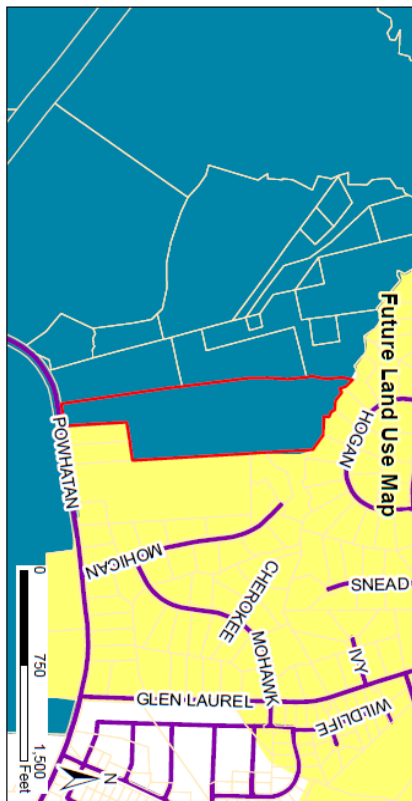
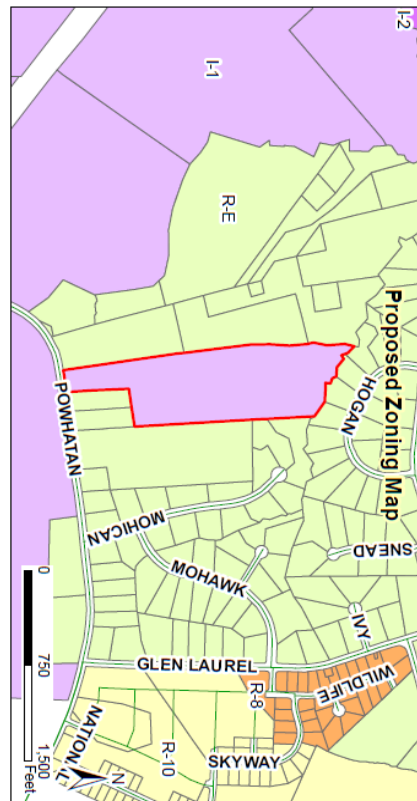
If you would like to provide public comment and speak at the public hearing on this rezone application you must sign up in advance by contacting the Town Clerk at 919-553-5002 or kmoффett@townofclaytonnc.org. If you would like to provide written comment please submit all public comments to the Clerk no later than 12 pm on Monday, July 20, 2020.

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

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

Sincerely,

Jeff Caines, AICP
Planner



Staff Report Map

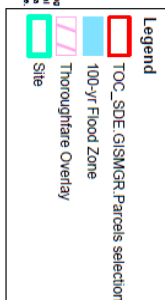
Request:
2020-17-RZ, Powhatan Road
Request to Rezone Existing R-E to Proposed Zoning to I-1

Applicant: True Line Surveying
Property Owner: David Orringer
Tag #: 05105004



Document Path: C:\P\ADMIN\FEEDBACK\2020\2020-17-RZ - Third on Powhatan Rd Staff Report Map\Staff Report Map - 2020-17-RZ - Powhatan Road Map.mxd

2/11/2020
Prepared by: TOC Planning
Reviewed by: TOC Planning
Disseminated for the staff
responsibility for the data
represented here.



PUBLIC NOTICE

In accordance with NC GS 160A-364, the Clayton Town Council will hold a public hearing on Monday, July 20, 2020, at 6:00 PM , to consider the following rezoning requests:

- 2020-17-RZ – Powhatan Road – request to rezone from Residential Estate (R-E) to Industrial-Light (I-1). The subject property is located approximately 1,250 feet west of Mohican Trail and Powhatan Road; TAG# 05I05004.

The Council meeting will be held remotely. The Council chambers will be closed to the public. The public may view the live council meeting on the Town's YouTube channel:

<https://youtube.com/user/TownofClaytonNC/videos>

To speak at the public hearing on this property rezone you must sign up in advance by contacting the Town Clerk at 919-553-5002 or kmoffett@townofclaytonnc.org.

Samantha Wullenwaber, Planning Director
919-553-5002

The Johnstonian Newspaper

Please advertise on the following dates:

July 8, 2020

July 15, 2020

Affidavit of publication required.

March 14, 2020

Mr. Robert Ahlert, Chairman
Clayton Planning Board
111 E Second Street
Clayton, NC 27520

Subject: Request to rezone Powhatan Road vacant parcel from R-E zoning to I1: Parcel 05105004

I attended the March 4, 2020 Neighborhood Meeting held by Mr. Curk Lane at True Line Surveying. At this meeting I expressed my and my wife's objections to this rezoning request. Also in attendance, along with others, were my next door neighbor and sister, Mrs. Teresa Scott and her husband Jesse. Mrs. Scott has sent a letter dated March 6, 2020 to the Planning Board setting forth several objections that she has to this proposed rezoning. My wife and I are in total agreement with Mrs. Scott's objections.

We had planned on attending the Planning Board's March 23, 2020 meeting to present our objections to this proposed rezoning in person. However, due to our age, health and the current situation with the Covid19 virus, we feel that we should not be attending any meetings at this time. Therefore, we are requesting that you take this letter under consideration in lieu of an oral presentation from us.

As stated previously we are opposing this rezoning to I1. Since Novo Nordisk has and are continuing to build across the road from our property there has been a tremendous increase in noise, dust, vibrations to our house and the traffic on Powhatan road is now really bad. When I cross the road to my mailbox I nearly always have to wait for numerous vehicles to pass by and at times it is really a dangerous situation. If this rezoning is approved, then my sister's and my residential properties would be $\frac{3}{4}$ surrounded by Industry. I believe this would have a severe negative impact on our residential property values. Also there is only one other large (about 15 acres) piece of property adjacent to this proposed rezoning parcel before reaching the neighborhood of Powhatan Glen, and if this rezoning is approved it is only a matter of time before I believe this other property would also be requested for rezoning. If that happens, my sister's and my residential properties will be completely surrounded (**360 degrees**) by Industry.

Also, the applicant has not stated any intended use for this property if it is rezoned. Could it be something in the I1 Zoning that may be offensive to neighbors? It is our understanding that if this rezoning request is approved, any use listed in I1 Zoning could be put on this property. There are many uses listed in the I1 Zoning that we would not want next door to our family and we feel other neighbors, like those in Powhatan Glen, would not want in this neighborhood either.

Again, we want to reiterate our opposition to this rezoning request and ask that the planning board recommend denial of this application to the Town Council. We also ask that this letter be included in the records pertaining to subject rezoning request.

Sincerely,



Larry G. Smith & Linda T. Smith
3352 Powhatan Road

CC: Planning Board Members (ETJ)

Mr. Frank Price

Mr. Marty Bizzell

✓ Mr. James Lipscomb

Ex-Officio Member

CC: Mr. Bob Satterfield – Council Member

CC: Mrs. Teresa Scott & Mr. Jesse Scott

PETITION TO MAINTAIN RE (RESIDENTIAL ESTATE) ZONING OF POWHATAN ROAD
 LAND TRACT (BESIDE GRIFOLS CORPORATE LANDS FOR LEARNING, ADJACENT TO
 POWHATAN OFB CHURCH) **ONE SIGNATURE PER LINE-MUST BE EIGHTEEN OR
 OLDER TO SIGN**

Name	Address	Phone Number-Optional
Deleora Scott	3366 Powhatan Rd	919-631-25
Joe A. Scott	3366 Powhatan Rd	919-262-08
Larry Smith	3352 Powhatan Rd.	919-553-766
Trish T. Smith	(Same)	
Gannu Brato	216 Mohican Tr.	919-518-524-53
Rosa M. Brown	225 Mohican Tr.	919-243-223
WARREN SMOOT	3248 POWHATAN RD	919-971-3217
DAVID B. ANNIS	143 Sandy Branch Ln.	919-998-5476
Stacey Johnson	204 Mohican Tr.	252-542-2708
Jacob Byrd	204 Mohican Tr.	336-264-3661
JAN SILES		884-365 95
L. R. R. -		919-410-1820
James C. Davis	413 Hogan Cir.	919-262-6379
Nelson Scott	415 Hogan Circle	919-333-3002
Reedy Blackman	3460-C Powhatan	919 600 490
RANDALL H Blackman	3460-C Powhatan	919 600 490

March 6, 2020

Dear Clayton Planning Board/Town Council Members:

On March 4, 2020 my husband and I attended a Neighborhood Meeting at True Line Surveying regarding the rezoning request by Mr. David Orringer of a tract of land on Powhatan Road. The tract of land in question borders our property, where we live at 3366 Powhatan Road. At present this land is zoned RE, with the petitioner requesting it be rezoned to I1.

I respectfully ask the Town of Clayton to deny this request for rezoning this property. While I understand why Mr. Orringer has requested the change, I do not believe it is in the best interest of our neighborhood or the Clayton community at this time.

Powhatan Road is a semi-rural community; mostly residential or agricultural from Powhatan Church to Wilson's Mills, on the left side of the road. We would very much like to keep it as rural as possible. In addition, the bordering tract of land between the one in question and Powhatan Church is owned by Grifols and has not been rezoned. It is still zoned RE and has been established as "Corporate Lands for Learning-Wildlife Habitat Council", by Grifols.

In keeping with a spirit of farmland vs "pharmland", we believe this particular tract of land should be kept as it is, at least where zoning is concerned. While it would financially benefit

Mr. Orringer for the zoning to be changed to I1, it would not benefit the community as a whole. I am sympathetic to his plight, however. Since my family owned this property in the past, I can relate to his wanting to sell it. However, rezoning to I1 could bring any number of businesses to our community and leave us virtually surrounded by industry. In addition, it would significantly decrease our property value.

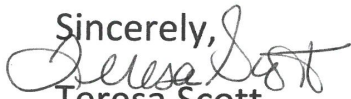
Powhatan Road is not a major thoroughfare. It is a rural, two lane road. With the construction of the second Novo Nordisk plant, the road has taken quite a beating. Noise and light pollution is ongoing, 24 hours a day. If this tract of land were to be rezoned to I1, more industry would just compound the issues we already face and virtually surround us.

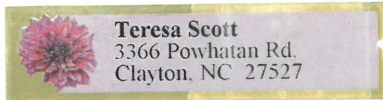
This area of Powhatan Road is rich with history, all the way back to the 1500's and Chief Powhatan, the father of Pocahontas, who camped in the area many times. Up to more recent times when it was farmed by my family and friends.

I believe it would be much more beneficial to Clayton to maintain this area RE and possibly expound on the history, the wildlife and ruralness of this area, instead of paving over it and making it another industrial park.

Further, maybe one of our healthcare neighbors (Novo or Grifols) would like to take it on and make it a nature park or greenway to benefit employees as well as the community. Another option would be a small sub-divided neighborhood. A park or neighborhood would help sustain the rich heritage of

the Powhatan Community instead of covering it with more pavement. Either way, rezoning to I1 should not be allowed.

Sincerely,

Teresa Scott



May 19, 2020

Dear Clayton Planning Board/Town Council Members:

On March 4, 2020 my husband and I attended a Neighborhood Meeting at True Line Surveying regarding the rezoning request by Mr. David Orringer of a tract of land on Powhatan Road. The tract of land in question borders our property, where we live at 3366 Powhatan Road. At present this land is zoned RE, with the petitioner requesting it be rezoned to I1.

I respectfully ask the Town of Clayton to deny this request for rezoning this property. While I understand why Mr. Orringer has requested the change, I do not believe it is in the best interest of our neighborhood or the Clayton community at this time.

Powhatan Road is a semi-rural community; mostly residential or agricultural from Powhatan Church to Wilson's Mills, on the left side of the road. We would very much like to keep it as rural as possible. In addition, the bordering tract of land between the one in question and Powhatan Church is owned by Grifols and has not been rezoned. It is still zoned RE and has been established as "Corporate Lands for Learning-Wildlife Habitat Council", by Grifols.

In keeping with a spirit of farmland vs "pharmland", we believe this particular tract of land should be kept as it is, at least where zoning is concerned. While it would financially benefit

Mr. Orringer for the zoning to be changed to I1, it would not benefit the community as a whole. I am sympathetic to his plight, however. Since my family owned this property in the past, I can relate to his wanting to sell it. However, rezoning to I1 could bring any number of businesses to our community and leave us virtually surrounded by industry. In addition, we believe, it would significantly decrease our property value.

Powhatan Road is not a major thoroughfare. It is a rural, two lane road. With the construction of the second Novo Nordisk plant, the road has taken quite a beating. Noise and light pollution is ongoing, 24 hours a day. If this tract of land were to be rezoned to I1, more industry would just compound the issues we already face and virtually surround us.

This area of Powhatan Road is rich with history, all the way back to the 1500's and Chief Powhatan, the father of Pocahontas, who camped in the area many times. Up to more recent times when it was farmed by my family and friends.

I believe it would be much more beneficial to Clayton to maintain this area RE and possibly expound on the history, the wildlife and ruralness of this area, instead of paving over it and making it another industrial park.

Further, maybe one of our healthcare neighbors (Novo or Grifols) would like to take it on and make it a nature park or greenway to benefit employees as well as the community. Another option would be a small sub-divided neighborhood. A park or neighborhood would help sustain the rich heritage of

the Powhatan Community instead of covering it with more pavement. Either way, rezoning to I1 should not be allowed.

Sincerely,

Teresa and Jesse Scott

Jeff Caines

From: Chrissy Freeman
Sent: Thursday, May 28, 2020 8:32 AM
To: Teresa and Jesse Scott
Subject: RE: Comment Re:2020-17-RZ # 05105001

Thank you for your comments. I will scan and put in the file for the record.

Chrissy Freeman
Administrative Support Specialist
Town of Clayton
111 E. Second St.
Clayton, NC 27520
919-553-5002 ext. 5600
cfreeman@townofclaytonnc.org



From: Teresa and Jesse Scott <teresaandjessescott@yahoo.com>
Sent: Wednesday, May 27, 2020 4:04 PM
To: Chrissy Freeman <cfreeman@townofclaytonnc.org>
Cc: Mayor <Mayor@townofclaytonnc.org>; Jason Thompson <jthompson@townofclaytonnc.org>; Michael Grannis <mgrannis@townofclaytonnc.org>; Art Holder <aholder@townofclaytonnc.org>; Bobby Bunn <bbunn@townofclaytonnc.org>; Avery Everett <aeverett@townofclaytonnc.org>; Town Council <TownCouncil@townofclaytonnc.org>
Subject: Comment Re:2020-17-RZ # 05105001

Be Advised: This email originated from outside of the Town of Clayton's network. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To: Clayton Planning Department
Re: Powhatan Road tract rezone request

In regards to the virtual meeting held last night (May 26, 2020) to discuss the rezoning of 22 acres of vacant land on Powhatan Road, I submit the following:

As I stated previously in my letter to the Planning Board, my husband and I object to this parcel being rezoned to I-1 from R-E. While rezoning might fit into the 2040 plan for Clayton, it does not allow for quality of life for residents who live here. In addition, it does not take into account the wildlife in this area and the need to maintain their habitat. This area is rich with Ground Hogs, Deer, Opossum, Beaver and many species of birds, just to name a few. Furthermore, this area is rich with history and culture.

At the meeting last night it was obvious that the town of Clayton wishes to pave over much of our rural property. The traffic, congestion, over crowding of schools, diminished quality of life for residents, does not seem to concern the Planning Board. Is this really what Clayton is becoming-money motivated at the expense of its citizens? Is that what we want to be known for?

When Mr. Caines offered a recommendation to approve the rezoning, it was obvious that our opposition would most likely not matter in the big scheme of things. I find it quite sad that Clayton intends to bring more and more industry to our community with little regard for the reason many people live here and have moved here from other areas.

I respectfully ask that the Planning Board consider our position and reject this rezoning request at this time. If the long term plan is for 2040, what exactly is the hurry to rezone now, in 2020? Leave our community alone and let us absorb the "progress" that has already invaded our area. Let the dust settle, so to speak, before adding insult to injury. Give us time to evaluate our situation and make adjustments as we feel led, do not force us to be surrounded by industry or to move unwillingly.

Sincerely,
Teresa Scott

From: LSMITH368@nc.rr.com
To: Chrissy Freeman
Cc: "teresaandjessescott@yahoo.com"
Subject: 2020-17-RZ Tract on Powhatan Road - Re-Zoning
Date: Wednesday, May 27, 2020 3:18:29 PM

Be Advised: This email originated from outside of the Town of Clayton's network. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Thank you for the opportunity of participating in the virtual public meeting held May 26 on subject. Mr. Jeff Caines, Town Planner, stated at the outset of the meeting that the staff recommends approval of this request, so it is obvious that the planning staff had already made up its mind before hearing any public comments, but I do appreciate the opportunity to express my concerns with this rezoning request and hope that the Board will see fit to reject this rezoning in spite of the planning staff's position.

Some of our concerns were set forth in our letter of March 14 which was read into the record by the clerk. We apologize for our letter not being addressed properly. At the time we sent the letter those were the names shown for the ETJ members of the Planning Board on the town's website. We do request that Ms. Freeman make sure all current board members have a copy of that 3/14/20 letter and also are furnished a copy of this email. In addition to the concerns expressed in our letter, I stated in the public hearing my concern that the adjoining property west, north and east of this property is all zoned RE. Mr. Caines had stated that the proposed rezoning was consistent with the lands west of this property and that is incorrect. Therefore, none of the adjoining property on the north side of Powhatan Road is zoned I1. This appears to me to be spot or leap frog zoning. This was one of the main reasons rezoning of this property was not recommended by the planning board in 2014. At that time they also found that this proposed rezoning would not be compatible with the surrounding properties. The only physical changes that have occurred in this area since 2014 is that even more single family housing has been added east along Powhatan Road and Novo is building its new facility across Powhatan Road from our property and the subject property. At least now, Powhatan Road provides some separation between Novo's south side industrial property and the RE properties on the north side of the road. If this rezoning is approved there will no longer be any separation.

During the public hearing the only real reason I heard that the requested rezoning should be allowed is that it is in line with the "Comprehensive Plan of 2040". I am just a regular county citizen and did not even know about the 2040 Plan until this rezoning request. I know I did not have any input into this Plan and I doubt seriously that any of my neighbors did either. What changed between 2014 and 2015? Novo's planned expansion?! While we were not particularly happy that they were building across the road, we didn't object to it because of the great good they could do for a lot of people with their products. But the noise, dust, vibrations and traffic have been much worse than we ever imagined. Hopefully once construction is completed this will finally improve. Please keep Powhatan Road as a separation between the I1 and RE zoned properties from Novo's original facility eastward, by not approving this requested rezoning.

The only other reason for rezoning this property at this time would be to enhance Mr.

Orringer's return on his investment in this property. According to the numbers I know of and have heard tossed about, Mr. Orringer stands to obtain approximately an 800% return on his original investment if this rezoning is approved. While that would be great for Mr. Orringer, our property (and others) is not vacant property and the greater value is in my 12 year old home, not my <2 acres of land. This proposed rezoning will have a significant negative personal financial impact on our property and the property of others.

For all the previously stated and above reasons, we respectfully request that the Planning Board disapprove this rezoning request.

Sincerely,
Larry and Linda Smith

Chrissy Freeman

From: Chrissy Freeman
Sent: Thursday, May 28, 2020 1:53 PM
To: Jeff Caines
Cc: Haley Hogg; Samantha Wullenwaber; Sharon Sharpe
Subject: FW: Message from BESSIE SOUTHERL (9197968703)
Attachments: VoiceMessage.wav

FYI,

I had a voicemail call yesterday on May 27, 2020 at 4:51 pm from Ann Southerland that she is OPPOSED to the rezoning on Powhatan Road.

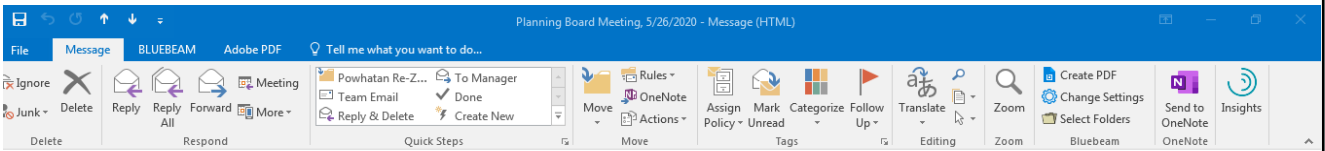
I will put this email in the server and file.

Thank you.

Chrissy Freeman
Administrative Support Specialist
Town of Clayton
111 E. Second St.
Clayton, NC 27520
919-553-5002 ext. 5600
cfreeman@townofclaytonnc.org



From: Cisco Unity Connection Messaging System <unityconnection@townofclaytonnc.org>
Sent: Wednesday, May 27, 2020 4:51 PM
To: Chrissy Freeman <cfreeman@townofclaytonnc.org>
Subject: Message from BESSIE SOUTHERL (9197968703)



Chrissy and Jeff

This is Marc Jones, appraiser,

I offered commentary on the Powhatan Road rezoning last night, and I had a comment that I wanted to offer, but could not bring it to the forefront of my mind. I will blame that on age, but here it is

In the discussion of the impact that a commercial rezoning can have on the value of adjoining lands, and thought this is a higher profile example, the purchase of several residential parcels on the corner of US 70 and Rose Street for the Sheetz store in late 2014 early 2018 led to the rezoning in August of 2019 of three residential parcels and a vacant lot on the other side of Rose Street, which resulted in a total purchase price of >\$1.8 million. This can be directly attributed to the pattern set by the Sheetz project. And over time, it is highly likely that this will lead to the remainder of the W. R. Peele SD following suit.

I thank you for the opportunity to provide this added information, and if you will, please let me know that this made it to you.

Marc

Marc P. Jones
Williams-Crocker & Associates, LLC
919-989-9111

TOWN OF CLAYTON
ZONING AMENDMENT
CONSISTENCY AND REASONABLENESS STATEMENT

2020-17-RZ, Tract on Powhatan Road, Rezone

The Town Council of the Town of Clayton hereby states:

Section 1: The above referenced zoning amendment IS APPROVED.

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

The Town of Clayton's Comprehensive Plan 2040, specifically:

- Goal LU1: Preserve Clayton's small-town character while allowing for growth and development in appropriate areas.
- Objective LU2.1: Manage future growth and encourage quality development through the implementation of the Comprehensive Plan, the Unified Development Code (UDC), and other plans and regulations adopted by Town Council. Encourage developments which incorporate high-quality design and enhance the quality of life for existing and future residents of the Town.
Strategy LU1.1.1: Review development proposals for consistency with the Future Land Use Map.

The requested rezoning is consistent with the above referenced objectives within the Comprehensive Plan 2040. The Future Land Use Map designates this property Employment Center which is located along a major transportation corridor, and has adequate levels of infrastructure and parcels large enough to accommodate future employment growth. Uses encouraged in the Employment Center include but are not limited to, industrial, warehouse, office, research and development, tech-flex, hospital, renewable energy, recycling, fabrication, assembly, and technology. Employment Center use may also include a limited amount of supporting commercial uses, such as restaurants and convenience retailers to serve employees. The proposed land use zone designation of Light Industrial (I-1) is compatible with the existing comprehensive plan designation.

Section 3: Based upon information presented at the public hearings, 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 Consistency with the adopted plans and policies of the town; suitability of the subject property for uses permitted by the current versus the proposed district; whether the proposed change tends to improve the balance of uses, or meets a specific demand in the town.

Furthermore, that the rezoning is consistent with the Future Land Use Map designation in the Comprehensive Plan 2040, the above referenced zoning amendment is reasonable and in the public interest.

PPAB 2574608v3



Town Council Agenda Cover Sheet

Meeting Date

July 20, 2020

Agenda Location

New Business

Item Title

Vactor Trucks Financing

Presenter

Robert McKie, Finance Director

Summary/Description

The Finance Director will present a financing resolution in conjunction with the financing agreement with Republic First National Bank to procure two new Vactor trucks from Public Works Equipment and Supply, Inc. that are included in the FY 20-21 budget for the Water and Sewer Fund.

Requested Action

Approval

Funding Source (If Applicable):

Finance Capital

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

Additional Documents to be Included in Agenda Packet

Financing Resolution

Financing Agreement

Meeting Timeline

Click or tap here to enter text.

TOWN COUNCIL
OF THE
TOWN OF CLAYTON, NORTH CAROLINA

Excerpt of Minutes
of Meeting of July 20, 2020

Present: Mayor McLeod presiding, and Councilmembers: _____

Absent: _____

* * * * *

Councilmember _____ introduced the following resolution, the title of which was read:

**RESOLUTION AUTHORIZING EXECUTION AND DELIVERY
OF AN INSTALLMENT FINANCING CONTRACT TO FINANCE
THE ACQUISITION OF TWO VACTOR TRUCKS**

WHEREAS, the Town of Clayton, North Carolina (the "Town") desires to finance the acquisition and installation of two 2100i Vactor trucks for its water and sewer system (the "Equipment"); and

WHEREAS, the Town desires to finance the acquisition and installation of the Equipment by executing and delivering an installment financing contract, as authorized under North Carolina General Statutes Chapter 160A, Article 3, Section 20; and

WHEREAS, the Town has determined to finance the Equipment under a Government Obligation Contract with Republic First National Corporation (the "Lender") in the amount not to exceed \$870,000 at an interest rate of ____% and with a six and a half year term (the "Contract") to finance the acquisition of the Equipment and to pay certain costs associated with the financing, to be secured by a security interest in the Equipment for the benefit of the Bank; and

WHEREAS, the proposed form of the Contract has been drafted and presented at this meeting;

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town, meeting in regular session on the 20th day of July, 2020, as follows:

1. The Town Council hereby authorizes and directs the Mayor, the Town Manager, the Finance Director and the Clerk, or any of them, to execute, acknowledge and deliver the Contract on behalf of the Town, with such changes and modifications as the person executing and delivering such instrument on behalf of the Town shall find acceptable, so long as the maximum principal amount of the Contract does not exceed \$870,000.

2. Each of the Mayor, the Town Manager, the Finance Director and the Clerk is authorized and directed to execute and deliver any and all papers, instruments, agreements, tax certificates, opinions, certificates, affidavits and other documents, and to do or cause to be done any and all other acts and things necessary or proper for carrying out this Resolution and the Contract and the financing of the Equipment.

3. The Town hereby declares that it reasonably expects to make certain capital expenditures for the acquisition and installation of the Equipment, and to reimburse such expenditures out of the proceeds of the Contract, up to a maximum amount of \$870,000. This resolution is intended to be a declaration of official intent under Internal Revenue Service Treasury Regulations § 1.150-2(e).

4. All other acts of the Council and the officers of the Town which are in conformity with the purposes and intent of this Resolution and in furtherance of the financing of the Equipment are hereby ratified, approved and confirmed.

5. This resolution shall take effect immediately.

Councilmember _____ moved the passage of the foregoing resolution and Councilmember _____ seconded the motion and the resolution was passed by the following vote:

Ayes: Councilmembers _____

Nays: Councilmembers _____

Not voting: Councilmembers _____

* * * * *

I, Kimberly Moffett, Clerk for the Town of Clayton, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and complete copy of so much of the proceedings of the Town Council for the Town at a regular meeting duly called and held on July 20, 2020, as it relates in any way to the resolution hereinabove referenced and that such proceedings are recorded in the minutes of the Council. Pursuant to G.S. § 143-318.12, a current copy of a schedule of regular meetings of the Town Council for the Town is on file in my office.

WITNESS my hand and the official seal of the Town this 20th day of July, 2019.

Clerk
Town of Clayton, North Carolina

(SEAL)

DOCUMENTATION INSTRUCTIONS

The instructions listed below should be followed when completing the enclosed documentation. **Please sign in blue ink and print on single sided paper only.** Documentation completed improperly will delay funding. If you have any questions regarding the Conditions to Funding, instructions or the documentation, please call us at 800-700-7878.

I. Attached Documentation

1. **Government Obligation Contract**
 - ◆ An authorized individual that is with the Obligor should sign on the first space provided. **All original signatures are required for funding.**
2. **Exhibit A – Description of Equipment**
 - ◆ Review equipment description. Complete serial number/VIN if applicable.
 - ◆ List the location where the equipment will be located after delivery/installation.
3. **Exhibit B – Payment Schedule**
 - ◆ Sign and print name and title
4. **Exhibit C - Acceptance of Obligation**
 - ◆ Sign and print name and title
5. **Exhibit D - Obligor Resolution**
 - ◆ Type in the date of the meeting in which the purchase was approved.
 - ◆ Print or type the name and title of the individual(s) who is authorized to execute the Contract.
 - ◆ The secretary, chairman or other authorized board member of the Obligor must sign the Resolution where indicated.
 - ◆ A second authorized individual that is with the Obligor should attest the Resolution where indicated.
6. **Exhibit E - Officer's Certificate**
 - ◆ Sign and print name and title
 - ◆ Please list the Source of Funds for the Contract Payments.
7. **Exhibit F - Finance Officer's Certificate**
 - ◆ Finance Officer should sign and print name and title
8. **Exhibit G - Payment Request & Equipment Acceptance Form**
 - ◆ Do Not Return until you need to request funds from the Vendor Payable Account.
9. **Exhibit H - Signature Card**
 - ◆ Sign and print name and title
 - ◆ An additional individual may sign as an authorized individual, if desired.
10. **Exhibit I - Obligor Acknowledgement**
 - ◆ Complete information as indicated.
11. **Notice of Assignment**
 - ◆ Sign and print name and title.
12. **Insurance Requirements**
 - ◆ Complete insurance company contact information where indicated.
13. **Debit Authorization – (Preferred)**
 - ◆ Complete form and attach a voided check
14. **8038G IRS Form**
 - ◆ Please read 8038 Review Form
 - ◆ In Box 2, type Employer Identification Number
 - ◆ Sign and print name and title

II. Condition to Funding

If, for any reason: (i) the required documentation is not returned by October 3, 2020, is incomplete, or has unresolved issues relating thereto, or (ii) on, or prior to the return of the documentation, there is a change of circumstance, including but not limited to changes in the federal corporate income tax rate or reducing/capping the tax-exempt interest benefit, which adversely affects the expectations, rights or security of the Obligatee or its assignees; then Obligatee or its assignees reserve the right to withdraw/void its offer to fund this transaction in its entirety. *Neither KS StateBank nor Baystone Government Finance is acting as an advisor to the municipal entity/obligated person and neither owes a fiduciary duty pursuant to Section 15B of the Exchange Act of 1934.*

All documentation should be returned to:
 Republic First National Corporation
 2525 West State Road 114
 Rochester, Indiana 46975

GOVERNMENT OBLIGATION CONTRACT

Obligor

Town of Clayton, North Carolina
111 East Second Street
Clayton, North Carolina 27520

Obligee

Republic First National Corporation
2525 West State Road 114
Rochester, Indiana 46975

Dated as of July 21, 2020

This Government Obligation Contract dated as of the date listed above is between Obligee and Obligor listed directly above. Obligee desires to finance the purchase of the Equipment described in Exhibit A to Obligor and Obligor desires to have Obligee finance the purchase of the Equipment subject to the terms and conditions of this Contract which are set forth below.

I. Definitions

Section 1.01 Definitions. The following terms will have the meanings indicated below unless the context clearly requires otherwise:

"Additional Schedule" refers to the proper execution of additional schedules to Exhibit A and Exhibit B, as well as other exhibits or documents that may be required by the Obligee all of which relate to the financing of additional Equipment.

"Budget Year" means the Obligor's fiscal year.

"Commencement Date" is the date when Obligor's obligation to pay Contract Payments begins.

"Contract" means this Government Obligation Contract and all Exhibits attached hereto, all addenda, modifications, schedules, refinancings, guarantees and all documents relied upon by Obligee prior to execution of this Contract.

"Contract Payments" means the payments Obligor is required to make under this Contract as set forth on Exhibit B.

"Contract Term" means the Original Term and all Renewal Terms.

"Exhibit" includes the Exhibits attached hereto, and any "Additional Schedule", whether now existing or subsequently created.

"Equipment" means all of the items of Equipment listed on Exhibit A and any Additional Schedule, whether now existing or subsequently created, and all replacements, restorations, modifications and improvements.

"Government" as used in the title hereof means a State or a political subdivision of the State within the meaning of Section 103(a) of the Internal Revenue Code of 1986, as amended ("Code"), or a constituted authority or district authorized to issue obligations on behalf of the State or political subdivision of the State within the meaning of Treasury Regulation 1.103-1(b), or a qualified volunteer fire company within the meaning of section 150(e)(1) of the Code.

"Obligee" means the entity originally listed above as Obligee or any of its assignees.

"Obligor" means the entity listed above as Obligor and which is financing the Equipment through Obligee under the provisions of this Contract.

"Original Term" means the period from the Commencement Date until the end of the Budget Year of Obligor.

"Partial Prepayment Date" means the first Contract Payment date that occurs on or after the earlier of (a) the twenty-four month (24) anniversary of the Commencement Date or (b) the date on which Obligor has accepted all the Equipment and all amounts have been disbursed from the Vendor Payable Account to pay for the Equipment.

"Purchase Price" means the total cost of the Equipment, including all delivery charges, installation charges, legal fees, financing costs, recording and filing fees and other costs necessary to vest full, clear legal title to the Equipment in Obligor, subject to the security interest granted to and retained by Obligee as set forth in this Contract, and otherwise incurred in connection with the financing of this Equipment.

"Renewal Term" means the annual term which begins at the end of the Original Term and which is simultaneous with Obligor's Budget Year and each succeeding Budget Year for the number of Budget Years necessary to comprise the Contract Term.

"State" means the state which Obligor is located.

"Surplus Amount" means any amount on deposit in the Vendor Payable Account on the Partial Prepayment Date.

"Vendor Payable Account" means the separate account of that name established pursuant to Section X of this Contract.

II. Obligor Warranties

Section 2.01 Obligor represents, warrants and covenants as follows for the benefit of Obligee or its assignees:

- (a) Obligor is an "issuer of tax exempt obligations" because Obligor is the State or a political subdivision of the State within the meaning of Section 103(a) of the Internal Revenue Code of 1986, as amended, (the "Code") or because Obligor is a constituted authority or district authorized to issue obligations on behalf of the State or political subdivision of the State within the meaning of Treasury Regulation 1.103-1(b), or a qualified volunteer fire company within the meaning of section 150(e)(1) of the Code.
- (b) Obligor has complied with any requirement for a referendum and/or competitive bidding.
- (c) Obligor has complied with all statutory laws and regulations that may be applicable to the execution of this Contract; Obligor, and its officer executing this Contract, are authorized under the Constitution and laws of the State to enter into this Contract and have used and followed all proper procedures of its governing body in executing and delivering this Contract. The officer of Obligor executing this Contract has the authority to execute and deliver this Contract. This Contract constitutes a legal, valid, binding and enforceable obligation of the Obligor in accordance with its terms.
- (d) Obligor shall use the Equipment only for essential, traditional government purposes.
- (e) Should the IRS disallow the tax-exempt status of the interest portion of the Contract Payments as a result of the failure of the Obligor to use the Equipment for governmental purposes, or should the Obligor cease to be an issuer of tax exempt obligations, or should the obligation of Obligor created under this Contract cease to be a tax exempt obligation for any reason, then Obligor shall be required to pay additional sums to the Obligee or its assignees so as to bring the after tax yield on this Contract to the same level as the Obligee or its assignees would attain if the transaction continued to be tax-exempt.
- (f) In the event that the Internal Revenue Code of 1986, as currently amended (the "Code"), should be further amended or replaced: (i) to reduce corporate and/or individual income tax rates or (ii) to reduce or eliminate the extent to which the interest portion of the Contract Payments is excludable from gross income, then, at the written request of Obligee or its assigns, Obligor shall pay to Obligee or its assigns with each Contract Payment payable after the effective date of such amendment or replacement such additional amount as necessary to bring the after tax yield on each such Contract Payment to the same effective rate that Obligee or its assigns would have received had there occurred no such amendment to or replacement of the Code. Notwithstanding any other provision of this Agreement, Obligor shall have the right to exercise its option to purchase the Equipment pursuant to Section 3.04 hereof on the effective date of any such amendment or replacement.
- (g) Obligor has never non-appropriated funds under a contract similar to this Contract.
- (h) Obligor will submit to the Secretary of the Treasury an information reporting statement as required by the Code.
- (i) Upon request by Obligee, Obligor will provide Obligee with current financial statements, reports, budgets or other relevant fiscal information.
- (j) Obligor shall retain the Equipment free of any hazardous substances as defined in the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 et. seq. as amended and supplemented.
- (k) Obligor hereby warrants the General Fund of the Obligor is the primary source of funds or a backup source of funds from which the Contract Payments will be made.
- (l) Obligor presently intends to continue this Contract for the Original Term and all Renewal Terms as set forth on Exhibit B hereto. The official of Obligor responsible for budget preparation will include in the budget request for each Budget Year the Contract Payments to become due in such Budget Year, and will use all reasonable and lawful means available to secure the appropriation of money for such Budget Year sufficient to pay the Contract Payments coming due therein. Obligor reasonably believes that moneys can and will lawfully be appropriated and made available for this purpose.
- (m) Obligor has selected both the Equipment and the vendor(s) from whom the Equipment is to be purchased upon its own judgment and without reliance on any manufacturer, merchant, vendor or distributor, or agent thereof, of such equipment to the public.
- (n) Obligor owns the Equipment and any additional collateral free and clear of any liens, and Obligor has not and will not, during the Contract Term, create, permit, incur or assume any levies, liens or encumbrances of any kind with respect to the Equipment or any additional collateral except those created by this Contract.

Section 2.02 Escrow Agreement. In the event both Obligee and Obligor mutually agree to utilize an Escrow Account, then immediately following the execution and delivery of this Contract, Obligee and Obligor agree to execute and deliver and to cause Escrow Agent to execute and deliver the Escrow Agreement. This Contract shall take effect only upon execution and delivery of the Escrow Agreement by the parties thereto. Obligee shall deposit or cause to be deposited with the Escrow Agent for credit to the Equipment Acquisition Fund the sum of N/A, which shall be held, invested and disbursed in accordance with the Escrow Agreement.

III. Acquisition of Equipment, Contract Payments and the Purchase Option Price

Section 3.01 Acquisition and Acceptance. Obligor shall be solely responsible for the ordering of the Equipment and for the delivery and installation of the Equipment. The Payment Request and Equipment Acceptance Form must be signed by the same authorized individual(s) who signed the Signature Card, Exhibit H. By making a Contract Payment after its receipt of the Equipment pursuant to this Contract, Obligor shall be deemed to have accepted the Equipment on the date of such Contract Payment for purposes of this Contract. All Contract Payments paid prior to delivery of the Payment Request and Equipment Acceptance Form shall be credited to Contract Payments as they become due as shown on the Contract Payment Schedule attached as Exhibit B hereto.

Section 3.02 Contract Payments. Obligor shall pay Contract Payments exclusively to Obligees or its assignees in lawful, legally available money of the United States of America. The Contract Payments shall be sent to the location specified by the Obligees or its assignees. The Contract Payments shall constitute a current expense of the Obligor and shall not constitute an indebtedness of the Obligor. The Contract Payments, payable without notice or demand, are due as set forth on Exhibit B. Obligees shall have the option to charge interest at the highest lawful rate on any Contract Payment received later than the due date for the number of days that the Contract Payment(s) were late, plus any additional accrual on the outstanding balance for the number of days that the Contract Payment(s) were late. Obligees shall also have the option, on monthly payments only, to charge a late fee of up to 10% of the monthly Contract Payment that is past due. Furthermore, Obligor agrees to pay any fees associated with the use of a payment system other than check, wire transfer, or ACH. Once all amounts due Obligees hereunder have been received, Obligees will release any and all of its rights, title and interest in the Equipment.

SECTION 3.03 CONTRACT PAYMENTS UNCONDITIONAL. Except as provided under Section 4.01, THE OBLIGATIONS OF OBLIGOR TO MAKE CONTRACT PAYMENTS AND TO PERFORM AND OBSERVE THE OTHER COVENANTS CONTAINED IN THIS CONTRACT SHALL BE ABSOLUTE AND UNCONDITIONAL IN ALL EVENTS WITHOUT ABATEMENT, DIMINUTION, DEDUCTION, SET-OFF, OR SUBJECT TO DEFENSE OR COUNTERCLAIM.

Section 3.04 Purchase Option Price. Upon thirty (30) days written notice, Obligor shall have the option to pay, in addition to the Contract Payment, the corresponding Purchase Option Price which is listed on the same line on Exhibit B. This option is only available to the Obligor on the Contract Payment date and no partial prepayments are allowed. If Obligor chooses this option and pays the Purchase Option Price to Obligees then Obligees will transfer any and all of its rights, title and interest in the Equipment to Obligor.

Section 3.05 Contract Term. The Contract Term shall be the Original Term and all Renewal Terms until all the Contract Payments are paid as set forth on Exhibit B except as provided under Section 4.01 and Section 9.01 below. If, after the end of the budgeting process which occurs at the end of the Original Term or any Renewal Term, Obligor has not non-appropriated as provided for in this Contract then the Contract Term shall be extended into the next Renewal Term and the Obligor shall be obligated to make all the Contract Payments that come due during such Renewal Term.

Section 3.06 Disclaimer of Warranties. OBLIGEE MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE OR ANY OTHER WARRANTY WITH RESPECT TO THE EQUIPMENT. OBLIGEE IS NOT A MANUFACTURER, SELLER, VENDOR OR DISTRIBUTOR, OR AGENT THEREOF, OF SUCH EQUIPMENT; NOR IS OBLIGEE A MERCHANT OR IN THE BUSINESS OF DISTRIBUTING SUCH EQUIPMENT TO THE PUBLIC. OBLIGEE SHALL NOT BE LIABLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGE ARISING OUT OF THE INSTALLATION, OPERATION, POSSESSION, STORAGE OR USE OF THE EQUIPMENT BY OBLIGOR.

IV. Non-Appropriation

Section 4.01 Non-Appropriation. If insufficient funds are available in Obligor's budget for the next Budget Year to make the Contract Payments for the next Renewal Term and the funds to make such Contract Payments are otherwise unavailable by any lawful means whatsoever, then Obligor may non-appropriate the funds to pay the Contract Payments for the next Renewal Term. Such non-appropriation shall be evidenced by the passage of an ordinance or resolution by the governing body of Obligor specifically prohibiting Obligor from performing its obligations under this Contract and from using any moneys to pay the Contract Payments due under this Contract for a designated Budget Year and all subsequent Budget Years. If Obligor non-appropriates, then all obligations of the Obligor under this Contract regarding Contract Payments for all remaining Renewal Terms shall be terminated at the end of the then current Original Term or Renewal Term without penalty or liability to the Obligor of any kind provided that if Obligor has not delivered possession of the Equipment to Obligees as provided herein and conveyed to Obligees or released its interest in the Equipment by the end of the last Budget Year for which Contract Payments were paid, the termination shall nevertheless be effective but Obligor shall be responsible for the payment of damages in an amount equal to the amount of the Contract Payments thereafter coming due under Exhibit B which are attributable to the number of days after such Budget Year during which Obligor fails to take such actions and for any other loss suffered by Obligees as a result of Obligor's failure to take such actions as required. Obligor shall immediately notify the Obligees as soon as the decision to non-appropriate is made. If such non-appropriation occurs, then Obligor shall deliver the Equipment to Obligees as provided below in Section 9.04. Obligor shall be liable for all damage to the Equipment other than normal wear and tear. If Obligor fails to deliver the Equipment to Obligees, then Obligees may enter the premises where the Equipment is located and take possession of the Equipment and charge Obligor for costs incurred.

V. Insurance, Damage, Insufficiency of Proceeds

Section 5.01 Insurance. Obligor shall maintain both property insurance and liability insurance at its own expense with respect to the Equipment. Obligor shall be solely responsible for selecting the insurer(s) and for making all premium payments and ensuring that all policies are continuously kept in effect during the period when Obligor is required to make Contract Payments. Obligor shall provide Obligees with a certificate of insurance which lists the Obligees and/or assigns as a loss payee and an additional insured on the policies with respect to the Equipment.

- (a) Obligor shall insure the Equipment against any loss or damage by fire and all other risks covered by the standard extended coverage endorsement then in use in the State and any other risks reasonably required by Obligees in an amount at least equal to the then applicable Purchase Option Price of the Equipment. Alternatively, Obligor may insure the Equipment under a blanket insurance policy or policies.
- (b) The liability insurance shall insure Obligees from liability and property damage in any form and amount satisfactory to Obligees.
- (c) Obligor may self-insure against the casualty risks and liability risks described above. If Obligor chooses this option, Obligor must furnish Obligees with a certificate and/or other documents which evidences such coverage.
- (d) All insurance policies issued or affected by this Section shall be so written or endorsed such that the Obligees and its assignees are named additional insureds and loss payees and that all losses are payable to Obligor and Obligees or its assignees as their interests may appear. Each policy issued or affected by this Section shall contain a provision that the insurance company shall not cancel or materially modify the policy without first giving thirty (30) days advance notice to Obligees or its assignees. Obligor shall furnish to Obligees certificates evidencing such coverage throughout the Contract Term.

Section 5.02 Damage to or Destruction of Equipment. Obligor assumes the risk of loss or damage to the Equipment. If the Equipment or any portion thereof is lost, stolen, damaged, or destroyed by fire or other casualty, Obligor will immediately report all such losses to all possible insurers and take the proper procedures to obtain all insurance proceeds. At the option of Obligees, Obligor shall either (1) apply the Net Proceeds to replace, repair or restore the Equipment or (2) apply the Net Proceeds to the applicable Purchase Option Price. For purposes of this Section and Section 5.03, the term Net Proceeds shall mean the amount of insurance proceeds collected from all applicable insurance policies after deducting all expenses incurred in the collection thereof.

Section 5.03 Insufficiency of Net Proceeds. If there are no Net Proceeds for whatever reason or if the Net Proceeds are insufficient to pay in full the cost of any replacement, repair, restoration, modification or improvement of the Equipment, then Obligor shall, at the option of Obligees, either (1) complete such replacement, repair, restoration, modification or improvement and pay any costs thereof in excess of the amount of the Net Proceeds or (2) apply the Net Proceeds to the Purchase Option Price and pay the deficiency, if any, to the Obligees.

Section 5.04 Obligor Negligence. Obligor assumes all risks and liabilities, whether or not covered by insurance, for loss or damage to the Equipment and for injury to or death of any person or damage to any property whether such injury or death be with respect to agents or employees of Obligor or of third parties, and whether such property damage be to Obligor's property or the property of others (including, without limitation, liabilities for loss or damage related to the release or threatened release of hazardous substances under the Comprehensive Environmental Response, Compensation and Liability Act, the Resource Conservation and Recovery Act or similar or successor law or any State or local equivalent now existing or hereinafter enacted which in any manner arise out of or are incident to any possession, use, operation, condition or storage of any Equipment by Obligor), which is proximately caused by the negligent conduct of Obligor, its officers, employees and agents.

Section 5.05 Reimbursement. Obligor hereby assumes responsibility for and agrees to reimburse Obligees for all liabilities, obligations, losses, damages, penalties, claims, actions, costs and expenses (including reasonable attorneys' fees) of whatsoever kind and nature, imposed on, incurred by or asserted against Obligees that in any way relate to or arise out of a claim, suit or proceeding, based in whole or in part upon the negligent conduct of Obligor, its officers, employees and agents, or arose out of installation, operation, possession, storage or use of any item of the Equipment, to the maximum extent permitted by law.

VI. Title and Security Interest

Section 6.01 Title. Title to the Equipment shall vest in Obligor when Obligor acquires and accepts the Equipment. Title to the Equipment will automatically transfer to the Obligees in the event Obligor non-appropriates under Section 4.01 or in the event Obligor defaults under Section 9.01. In such event, Obligor shall execute and deliver to Obligees such documents as Obligees may request to evidence the passage of legal title to the Equipment to Obligees.

Section 6.02 Security Interest. To secure the payment of all Obligor's obligations under this Contract, as well as all other obligations, debts and liabilities, plus interest thereon, whether now existing or subsequently created, Obligor hereby grants to Obligees a security interest under the Uniform Commercial Code constituting a first lien on the Equipment described more fully on Exhibit A. Furthermore, Obligor agrees that any other collateral securing any other obligation(s) to Obligees, whether offered prior to or subsequent hereto, also secures this obligation. The security interest established by this section includes not only all additions, attachments, repairs and replacements to the Equipment but also all proceeds therefrom. Obligor authorizes Obligees to prepare and record any Financing Statement required under the Uniform Commercial Code to perfect the security interest created hereunder. Obligor agrees that any Equipment listed on Exhibit A is and will remain personal property and will not be considered a fixture even if attached to real property.

VII. Assignment

Section 7.01 Assignment by Obligees. All of Obligees' rights, title and/or interest in and to this Contract may be assigned and reassigned in whole or in part to one or more assignees or sub-assignees by Obligees at any time without the consent of Obligor. No such assignment shall be effective as against Obligor until the assignor shall have filed with Obligor written notice of assignment identifying the assignee. Obligor shall pay all Contract Payments due hereunder relating to such Equipment to or at the direction of Obligees or the assignee named in the notice of assignment. Obligor shall keep a complete and accurate record of all such assignments.

Section 7.02 Assignment by Obligor. None of Obligor's right, title and interest under this Contract and in the Equipment may be assigned by Obligor unless Obligees approve of such assignment in writing before such assignment occurs and only after Obligor first obtains an opinion from nationally recognized counsel stating that such assignment will not jeopardize the tax-exempt status of the obligation.

VIII. Maintenance of Equipment

Section 8.01 Equipment. Obligor shall keep the Equipment in good repair and working order, and as required by manufacturer's and warranty specifications. If Equipment consists of copiers, Obligor is required to enter into a copier maintenance/service agreement. Obligees shall have no obligation to inspect, test, service, maintain, repair or make improvements or additions to the Equipment under any circumstances. Obligor will be liable for all damage to the Equipment, other than normal wear and tear, caused by Obligor, its employees or its agents. Obligor shall pay for and obtain all permits, licenses and taxes related to the ownership, installation, operation, possession, storage or use of the Equipment. If the Equipment includes any titled vehicle(s), then Obligor is responsible for obtaining such title(s) from the State and also for ensuring that Obligees is listed as First Lienholder on all of the title(s). Obligor shall not use the Equipment to haul, convey or transport hazardous waste as defined in the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et. seq. Obligor agrees that Obligees or its Assignee may execute any additional documents including financing statements, affidavits, notices, and similar instruments, for and on behalf of Obligor which Obligees deems necessary or appropriate to protect Obligees' interest in the Equipment and in this Contract. Obligor shall allow Obligees to examine and inspect the Equipment at all reasonable times.

IX. Default

Section 9.01 Events of Default defined. The following events shall constitute an "Event of Default" under this Contract:

- (a) Failure by Obligor to pay any Contract Payment listed on Exhibit B for fifteen (15) days after such payment is due according to the Payment Date listed on Exhibit B.
- (b) Failure to pay any other payment required to be paid under this Contract at the time specified herein and a continuation of said failure for a period of fifteen (15) days after written notice by Obligees that such payment must be made. If Obligor continues to fail to pay any payment after such period, then Obligees may, but will not be obligated to, make such payments and charge Obligor for all costs incurred plus interest at the highest lawful rate.
- (c) Failure by Obligor to observe and perform any warranty, covenant, condition, promise or duty under this Contract for a period of thirty (30) days after written notice specifying such failure is given to Obligor by Obligees, unless Obligees agrees in writing to an extension of time. Obligees will not unreasonably withhold its consent to an extension of time if corrective action is instituted by Obligor. Subsection (c) does not apply to Contract Payments and other payments discussed above.
- (d) Any statement, material omission, representation or warranty made by Obligor in or pursuant to this Contract which proves to be false, incorrect or misleading on the date when made regardless of Obligor's intent and which materially adversely affects the rights or security of Obligees under this Contract.
- (e) Any provision of this Contract which ceases to be valid for whatever reason and the loss of such provision would materially adversely affect the rights or security of Obligees.
- (f) Except as provided in Section 4.01 above, Obligor admits in writing its inability to pay its obligations.
- (g) Obligor defaults on one or more of its other obligations.
- (h) Obligor becomes insolvent, is unable to pay its debts as they become due, makes an assignment for the benefit of creditors, applies for or consents to the appointment of a receiver, trustee, conservator, custodian, or liquidator of Obligor, or all or substantially all of its assets, or a petition for relief is filed by Obligor under federal bankruptcy, insolvency or similar laws, or is filed against Obligor and is not dismissed within thirty (30) days thereafter.

Section 9.02 Remedies on Default. Whenever any Event of Default exists, Obligees shall have the right to take one or any combination of the following remedial steps:

- (a) With or without terminating this Contract, Obligees may declare all Contract Payments and other amounts payable by Obligor hereunder to the end of the then current Budget Year to be immediately due and payable.
- (b) With or without terminating this Contract, Obligees may require Obligor at Obligor's expense to redeliver any or all of the Equipment and any additional collateral to Obligees as provided below in Section 9.04. Such delivery shall take place within fifteen (15) days after the Event of Default occurs. If Obligor fails to deliver the Equipment and any additional collateral, Obligees may enter the premises where the Equipment and any additional collateral is located and take possession of the Equipment and any additional collateral and charge Obligor for costs incurred. Notwithstanding that Obligees has taken possession of the Equipment and any additional collateral, Obligor shall still be obligated to pay the remaining Contract Payments due up until the end of the then current Original Term or Renewal Term. Obligor will be liable for any damage to the Equipment and any additional collateral caused by Obligor or its employees or agents.
- (c) Obligees may take whatever action at law or in equity that may appear necessary or desirable to enforce its rights. Obligor shall be responsible to Obligees for all costs incurred by Obligees in the enforcement of its rights under this Contract including, but not limited to, reasonable attorney fees.

Section 9.03 No Remedy Exclusive. No remedy herein conferred upon or reserved to Obligees is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Contract now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or shall be construed to be a waiver thereof.

Section 9.04 Return of Equipment and Storage.

- (a) Surrender: The Obligor shall, at its own expense, surrender the Equipment, any additional collateral and all required documentation to evidence transfer of title from Obligor to the Obligees in the event of a default or a non-appropriation by delivering the Equipment and any additional collateral to the Obligees to a location accessible by common carrier and designated by Obligees. In the case that any of the Equipment and any additional collateral consists of software, Obligor shall destroy all intangible items constituting such software and shall deliver to Obligees all tangible items constituting such software. At Obligees' request, Obligor shall also certify in a form acceptable to Obligees that Obligor has complied with the above software return provisions and that they will immediately cease using the software and that they shall permit Obligees and/or the vendor of the software to inspect Obligor's locations to verify compliance with the terms hereto.
- (b) Delivery: The Equipment and any additional collateral shall be delivered to the location designated by the Obligees by a common carrier unless the Obligees agrees in writing that a common carrier is not needed. When the Equipment and any additional collateral is delivered into the custody of a common carrier, the Obligor shall arrange for the shipping of the item and its insurance in transit in accordance with the Obligees' instructions and at the Obligor's sole expense. Obligor at its expense shall completely sever and disconnect the Equipment and any additional collateral or its component parts from the Obligor's property all without liability to the Obligees. Obligor shall pack or crate the Equipment and any additional collateral and all of the component parts of the Equipment and any additional collateral carefully and in accordance with any recommendations of the manufacturer. The Obligor shall deliver to the Obligees the plans, specifications, operation manuals or other warranties and documents furnished by the manufacturer or vendor on the Equipment and any additional collateral and such other documents in the Obligor's possession relating to the maintenance and methods of operation of such Equipment and any additional collateral.
- (c) Condition: When the Equipment is surrendered to the Obligees it shall be in the condition and repair required to be maintained under this Contract. It will also meet all legal regulatory conditions necessary for the Obligees to sell or lease it to a third party and be free of all liens. If Obligees reasonably determines that the Equipment or an item of the Equipment, once it is returned, is not in the condition required hereby, Obligees may cause the repair, service, upgrade, modification or overhaul of the Equipment or an item of the Equipment to achieve such condition and upon demand, Obligor shall promptly reimburse Obligees for all amounts reasonably expended in connection with the foregoing.
- (d) Storage: Upon written request by the Obligees, the Obligor shall provide free storage for the Equipment and any additional collateral for a period not to exceed 60 days after the expiration of the Contract Term before returning it to the Obligees. The Obligor shall arrange for the insurance described to continue in full force and effect with respect to such item during its storage period and the Obligees shall reimburse the Obligor on demand for the incremental premium cost of providing such insurance.

X. Vendor Payable Account

Section 10.01 Establishment of Vendor Payable Account. On the date that the Obligees executed this Contract, which is on or after the date that the Obligor executes this Contract, Obligees agrees to (i) make available to Obligor an amount sufficient to pay the total Purchase Price for the Equipment by establishing a separate, non-interest bearing account (the "Vendor Payable Account"), as agent for Obligor's account, with a financial institution that Obligees selects that is acceptable to Obligor (including Obligees or any of its affiliates) and (ii) to deposit an amount equal to such Purchase Price as reflected on Exhibit B in the Vendor Payable Account. Obligor hereby further agrees to make the representations, warranties and covenants relating to the Vendor Payable Account as set forth in Exhibit C attached hereto. Upon Obligor's delivery to Obligees of a Payment Request and Equipment Acceptance Form in the form set forth in Exhibit G attached hereto, Obligor authorizes Obligees to withdraw funds from the Vendor Payable Account from time to time to pay the Purchase Price, or a portion thereof, for each item of Equipment as it is delivered to Obligor. The Payment Request and Equipment Acceptance Form must be signed by an authorized individual acting on behalf of Obligor. The authorized individual or individuals designated by the Obligor must sign the Signature Card which will be kept in the possession of the Obligees.

Section 10.02 Down Payment. Prior to the disbursement of any funds from the Vendor Payable Account, the Obligor must either (1) deposit all the down payment funds that the Obligor has committed towards the purchase of the Equipment into the Vendor Payable Account or (2) Obligor must provide written verification to the satisfaction of the Obligees that all the down payment funds Obligor has committed towards the purchase of the Equipment have already been spent or are simultaneously being spent with the funds requested from the initial Payment Request and Equipment Acceptance Form. For purposes of this Section, the down payment funds committed towards the Equipment from the Obligor are the down payment funds that were represented to the Obligees at the time this transaction was submitted for credit approval by the Obligor to the Obligees.

Section 10.03 Disbursement upon Non-Appropriation or Default. If an event of non-appropriation or default occurs prior to the Partial Prepayment Date, the amount then on deposit in the Vendor Payable Account shall be retained by the Obligee and Obligor will have no interest therein.

Section 10.04 Surplus Amount. Any Surplus Amount then on deposit in the Vendor Payable Account on the Partial Prepayment Date shall be applied to pay on such Partial Prepayment Date a portion of the Purchase Option Price then applicable.

Section 10.05 Recalculation of Contract Payments. Upon payment of a portion of the Purchase Option Price as provided in Section 10.04 above, each Contract Payment thereafter shall be reduced by an amount calculated by Obligee based upon a fraction the numerator of which is the Surplus Amount and the denominator of which is the Purchase Option Price on such Partial Prepayment Date. Within 15 days after such Partial Prepayment Date, Obligee shall provide to Obligor a revised Exhibit B to this Contract, which shall take into account such payment of a portion of the Purchase Option Price thereafter and shall be and become thereafter Exhibit B to this Contract. Notwithstanding any other provision of this Section 10, this Contract shall remain in full force and effect with respect to all or the portion of the Equipment accepted by Obligor as provided in this Contract, and the portion of the principal component of Contract Payments remaining unpaid after the Partial Prepayment Date plus accrued interest thereon shall remain payable in accordance with the terms of this Contract, including revised Exhibit B hereto which shall be binding and conclusive upon Obligee and Obligor.

XI. Miscellaneous

Section 11.01 Notices. All notices shall be sufficiently given and shall be deemed given when delivered or mailed by registered mail, postage prepaid, to the parties at their respective places of business as first set forth herein or as the parties shall designate hereafter in writing.

Section 11.02 Binding Effect. Obligor acknowledges this Contract is not binding upon the Obligee or its assignees unless the Conditions to Funding listed on the Documentation Instructions have been met to Obligee's satisfaction, and Obligee has executed the Contract. Thereafter, this Contract shall inure to the benefit of and shall be binding upon Obligee and Obligor and their respective successors and assigns.

Section 11.03 Severability. In the event any provision of this Contract shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 11.04 Amendments, Addenda, Changes or Modifications. This Contract may be amended, added to, changed or modified by written agreement duly executed by Obligee and Obligor. Furthermore, Obligee reserves the right to directly charge or amortize into the remaining balance due from Obligor, a reasonable fee, to be determined at that time, as compensation to Obligee for the additional administrative expense resulting from such amendment, addenda, change or modification requested by Obligor.

Section 11.05 Execution in Counterparts. This Contract may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 11.06 Captions. The captions or headings in this Contract do not define, limit or describe the scope or intent of any provisions or sections of this Contract.

Section 11.07 Master Contract. This Contract can be utilized as a Master Contract. This means that the Obligee and the Obligor may agree to the financing of additional Equipment under this Contract at some point in the future by executing one or more Additional Schedules to Exhibit A and Exhibit B, as well as other exhibits or documents that may be required by Obligee. Additional Schedules will be consecutively numbered on each of the exhibits which make up the Additional Schedule and all the terms and conditions of the Contract shall govern each Additional Schedule.

Section 11.08 Entire Writing. This Contract constitutes the entire writing between Obligee and Obligor. No waiver, consent, modification or change of terms of this Contract shall bind either party unless in writing and signed by both parties, and then such waiver, consent, modification or change shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, representations, conditions, or warranties, express or implied, which are not specified herein regarding this Contract, the Equipment or any additional collateral, financed hereunder. Any terms and conditions of any purchase order or other documents submitted by Obligor in connection with this Contract which are in addition to or inconsistent with the terms and conditions of this Contract will not be binding on Obligee and will not apply to this Contract.

Obligee and Obligor have caused this Contract to be executed in their names by their duly authorized representatives listed below.

Town of Clayton, North Carolina

Republic First National Corporation

Signature

Robert McKie Jr, Finance Director

Printed Name and Title

Signature

Printed Name and Title

EXHIBIT A

DESCRIPTION OF EQUIPMENT

RE: Government Obligation Contract dated as of July 21, 2020, between Republic First National Corporation (Obligee) and Town of Clayton, North Carolina (Obligor)

Below is a detailed description of all the items of Equipment including quantity, model number and serial number where applicable:

Two (2) 2100i Vactor Trucks

Physical Address of Equipment after Delivery : _____

EXHIBIT B

PAYMENT SCHEDULE

RE: Government Obligation Contract dated as of July 21, 2020, between Republic First National Corporation (Obligee) and Town of Clayton, North Carolina (Obligor)

Date of First Payment: March 5, 2021
 Original Balance: \$865,382.42
 Total Number of Payments: Six (6)
 Number of Payments Per Year: One (1)

Pmt No.	Due Date	Total Payment	Service Payment	Contract Payment	Applied to Interest	Applied to Principal	*Purchase Option Price
1	5-Mar-21	\$151,953.98	\$24,000.00	\$127,953.98	\$19,974.19	\$107,979.79	\$777,846.31
2	5-Mar-22	\$151,953.98	\$24,000.00	\$127,953.98	\$27,724.55	\$100,229.43	\$672,138.73
3	5-Mar-23	\$151,953.98	\$24,000.00	\$127,953.98	\$24,055.68	\$103,898.30	\$563,407.92
4	5-Mar-24	\$151,953.98	\$24,000.00	\$127,953.98	\$20,252.50	\$107,701.48	\$451,567.41
5	5-Mar-25	\$151,953.98	\$24,000.00	\$127,953.98	\$16,310.11	\$111,643.87	\$336,528.26
6	5-Mar-26	\$346,152.97	\$0.00	\$346,152.97	\$12,223.42	\$333,929.55	\$0.00

Town of Clayton, North Carolina

Signature

Robert McKie Jr, Finance Director

Printed Name and Title

* Assumes all Contract Payments due to date are paid

EXHIBIT C

ACCEPTANCE OF OBLIGATION
TO COMMENCE CONTRACT PAYMENTS UNDER EXHIBIT B

RE: Government Obligation Contract dated as of July 21, 2020, between Republic First National Corporation (Obligee) and Town of Clayton, North Carolina (Obligor)

I, the undersigned, hereby certify that I am a duly qualified representative of Obligor and that I have been given the authority by the governing body of Obligor to sign this Acceptance of Obligation to commence Contract Payments with respect to the above referenced Contract. I hereby certify that:

1. The Equipment described on Exhibit A has not been delivered, installed or available for use as of the Commencement date of this Contract.
2. Obligor acknowledges that Obligee has agreed to deposit into a Vendor Payable Account an amount sufficient to pay the total purchase price (the "Purchase Price") for the Equipment so identified in such Exhibit A;
3. The principal amount of the Contract Payments in the Exhibit B accurately reflects the Purchase Price;
4. Obligor agrees to execute a Payment Request and Equipment Acceptance Form authorizing payment of the Purchase Price, or a portion thereof, for each withdrawal of funds from the Vendor Payable Account.

Notwithstanding that the Equipment has not been delivered to or accepted by Obligor on the date of execution of the Contract, Obligor hereby warrants that:

- (a) Obligor's obligation to commence Contract Payments as set forth in Exhibit B is absolute and unconditional as of the Commencement Date and on each date set forth in Exhibit B thereafter, subject to the terms and conditions of the Contract;
- (b) immediately upon delivery and acceptance of all the Equipment, Obligor will notify Obligee of Obligor's final acceptance of the Equipment by delivering to Obligee the "Payment Request and Equipment Acceptance Form" in the form set forth in Exhibit G attached to the Contract;
- (c) in the event that any Surplus Amount is on deposit in the Vendor Payable Account when an event of non-appropriation or default under the Contract occurs, then those amounts shall be applied as provided in Section 10 of the Contract;
- (d) regardless of whether Obligor delivers a final Payment Request and Equipment Acceptance Form, all Contract Payments paid prior to delivery of all the Equipment shall be credited to Contract Payments as they become due under the Contract as set forth in Exhibit B.

Town of Clayton, North Carolina

Signature

Robert McKie Jr, Finance Director

Printed Name and Title

EXHIBIT D

OBLIGOR RESOLUTION

RE: Government Obligation Contract dated as of July 21, 2020, between Republic First National Corporation (Obligee) and Town of Clayton, North Carolina (Obligor)

At a duly called meeting of the Governing Body of the Obligor (as defined in the Contract) held on _____ the following resolution was introduced and adopted:

BE IT RESOLVED by the Governing Body of Obligor as follows:

1. **Determination of Need.** The Governing Body of Obligor has determined that a true and very real need exists for the acquisition of the Equipment described on Exhibit A of the Government Obligation Contract dated as of July 21, 2020, between Town of Clayton, North Carolina (Obligor) and Republic First National Corporation (Obligee).
2. **Approval and Authorization.** The Governing Body of Obligor has determined that the Contract, substantially in the form presented to this meeting, is in the best interests of the Obligor for the acquisition of such Equipment, and the Governing Body hereby approves the entering into of the Contract by the Obligor and hereby designates and authorizes the following person(s) to execute and deliver the Contract on Obligor's behalf with such changes thereto as such person(s) deem(s) appropriate, and any related documents, including any Escrow Agreement, necessary to the consummation of the transaction contemplated by the Contract.

Authorized Individual(s): Robert McKie Jr, Finance Director

(Typed or Printed Name and Title of individual(s) authorized to execute the Contract)

3. **Adoption of Resolution.** The signatures below from the designated individuals from the Governing Body of the Obligor evidence the adoption by the Governing Body of this Resolution.

Signature: _____

(Signature of Secretary, Board Chairman or other member of the Governing Body)

Printed Name & Title: Robert McKie Jr, Finance Director

(Printed Name and Title of individual who signed directly above)

Attested By: _____

(Signature of one additional person who can witness the passage of this Resolution)

Printed Name & Title: Kimberly A. Moffett, Town Clerk

(Printed Name of individual who signed directly above)

EXHIBIT E

OFFICER'S CERTIFICATE

RE: Government Obligation Contract dated as of July 21, 2020, between Republic First National Corporation (Obligee) and Town of Clayton, North Carolina (Obligor)

I, the undersigned, hereby certify that I am a duly qualified representative of Obligor and that I have been given the authority by the governing body of Obligor to sign this Officer's Certificate with respect to the above referenced Contract. I hereby certify that:

1. Obligor has appropriated and/or taken other lawful actions necessary to provide moneys sufficient to pay all Contract Payments required to be paid under the Contract during the current Budget Year of Obligor, and such moneys will be applied in payment of all Contract Payments due and payable during such current Budget Year.
2. Obligor has obtained insurance coverage as required under the Contract from an insurer qualified to do business in the State.
3. No event or condition that constitutes or would constitute an Event of Default exists as of the date hereof.
4. The governing body of Obligor has approved the authorization, execution and delivery of this Contract on its behalf by the authorized representative of Obligor who signed the Contract.
5. Please list the Source of Funds (Fund Item in Budget) for the Contract Payments that come due under Exhibit B of this Contract.

Source of Funds : Water and Sewer Fund

By signing below, Obligor hereby authorizes the General Fund of the Obligor as a backup source of funds from which the Contract Payments can be made.

Town of Clayton, North Carolina

Signature

Robert McKie Jr, Finance Director

Printed Name and Title

EXHIBIT F

FINANCE OFFICER'S CERTIFICATE

RE: Government Obligation Contract dated as of July 21, 2020, between Republic First National Corporation (Obligee) and Town of Clayton, North Carolina (Obligor)

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

Town of Clayton, North Carolina

Signature of Finance Officer

Printed Name and Title

EXHIBIT G

PAYMENT REQUEST AND EQUIPMENT ACCEPTANCE FORM

RE: Government Obligation Contract dated as of July 21, 2020, between Republic First National Corporation (Obligee) and Town of Clayton, North Carolina (Obligor)

In accordance with Section 10.01, by executing this Payment Request and Equipment Acceptance Form the Obligor hereby represents that the Payee or Payees listed below who are requesting payment have delivered the Equipment or a portion of the Equipment or performed the services to the satisfaction of the Obligor and that the amounts requested below by the Payee or Payees are proportionate with the value of the Equipment delivered or services rendered by the Payee or Payees. The Obligor hereby represents and warrants for all purposes that:

1. Pursuant to the invoice attached hereto, the amount to be disbursed is \$ _____ and this amount is consistent with the Contract between Obligor and vendor.
2. Payment is to be made to: Payee: _____
3. The undersigned certifies that the following documents are attached to this Payment Request and Equipment Acceptance Form when there is a request for a release of funds from the Vendor Payable Account to pay for a portion, or all, of the Equipment: (1) Invoice from the vendor, (2) copy of the Contract between Obligor and vendor (if requested by the Obligee), (3) Insurance Certificate (if applicable), (4) front and back copy of the original MSO/Title listing KS StateBank and/or its assigns as the first lien holder (if applicable). By executing this Payment Request and Equipment Acceptance Form and attaching the documents as required above, the Obligor shall be deemed to have accepted this portion of the Equipment for all purposes under the Contract, including, without limitation, the obligation of Obligor to make the Contract Payments with respect thereto in a proportionate amount of the total Contract Payment.
4. No amount listed in this exhibit was included in any such exhibit previously submitted.
5. Each disbursement hereby requested has been incurred and is a proper charge against the Vendor Payable Account. No amount hereby requested to be disbursed will be paid to Obligor as reimbursement for any expenditure paid by Obligor more than 60 days prior to the date of execution and delivery of the Contract.
6. The Equipment referenced in the attached has been delivered, installed, inspected and tested as necessary and in accordance with Obligor's specifications and accepted for all purposes.
7. That Obligor is or will be the title owner to the Equipment referenced in the attached, and that in the event that any third party makes a claim to such title that Obligor will take all measures necessary to secure title including, without limitation, the appropriation of additional funds to secure title to such Equipment, or a portion thereof, and keep the Contract in full force and effect. Furthermore, Obligor has obtained insurance coverage as required under the Contract from an insurer qualified to do business in the State.
8. Obligor has appropriated and/or taken other lawful actions necessary to provide moneys sufficient to pay all Contract Payments required to be paid under the Contract during the current Budget Year of Obligor, and such moneys will be applied in payment of all Contract Payments due and payable during such current Budget Year.
9. No event or condition that constitutes or would constitute an Event of Default exists as of the date hereof.

I, the undersigned, hereby certify that I am a duly qualified representative of Obligor and that I have been given the authority by the governing body of Obligor to sign this Payment Request and Equipment Acceptance Form.

Please forward this document and any correspondence relating to vendor payment to:

Email: britney@rfnonline.com

or

Fax: 800-865-8517

Please call 800-700-7878 if you have any questions.

Town of Clayton, North Carolina

Signature

Robert McKie Jr, Finance Director

Printed Name and Title

EXHIBIT H

SIGNATURE CARD

RE: Government Obligation Contract dated as of July 21, 2020, between Republic First National Corporation (Obligee) and Town of Clayton, North Carolina (Obligor)

The below signatures will be used for purposes of verifying the signature on a Payment Request and Equipment Acceptance Form prior to making payments from the Equipment Acquisition Fund or Vendor Payable Account. By signing below, the undersigned represents and warrants that s/he has received all appropriate authority from Town of Clayton, North Carolina.

Town of Clayton, North Carolina

Signature
Robert McKie Jr, Finance Director

Printed Name and Title

Signature of additional authorized individual (optional) of Obligor

Signature
Kimberly A. Moffett, Town Clerk

Printed Name and Title

EXHIBIT I

OBLIGOR ACKNOWLEDGEMENT

RE: Government Obligation Contract dated as of July 21, 2020, between Republic First National Corporation (Obligee) and Town of Clayton, North Carolina (Obligor)

Obligor hereby acknowledges that it has ordered or caused to be ordered the equipment that is the subject of the above-mentioned Contract.

Please complete the below information, attach another page if necessary

Vendor Name: _____
Equipment: _____
Cost of Equipment: _____

Vendor Name: _____
Equipment: _____
Cost of Equipment: _____

Vendor Name: _____
Equipment: _____
Cost of Equipment: _____

Vendor Name: _____
Equipment: _____
Cost of Equipment: _____

Vendor Name: _____
Equipment: _____
Cost of Equipment: _____

Obligor will immediately notify Obligee if any of the information listed above is changed.

NOTICE OF ASSIGNMENT

JULY 21, 2020

Republic First National Corporation (Obligee/Assignor) hereby gives notice of an Assignment between Obligee/Assignor and KS StateBank (Assignee) of the Government Obligation Contract (Contract) between Obligee/Assignor and Town of Clayton, North Carolina, dated as of July 21, 2020.

All Contract Payments coming due pursuant to the Contract shall be made to:

KS StateBank
P.O. Box 69
Manhattan, Kansas 66505-0069

Republic First National Corporation, Obligee/Assignor

Signature

Printed Name and Title

ACKNOWLEDGEMENT OF AND CONSENT TO ASSIGNMENT

Town of Clayton, North Carolina (Obligor) as party to a Government Obligation Contract dated as of July 21, 2020 between Obligor and Republic First National Corporation (Obligee), hereby acknowledges receipt of a Notice of Assignment dated July 21, 2020 whereby Obligee gave notice of its assignment to KS StateBank of its right to receive all Contract Payments due from Obligor under the Contract and hereby consents to that Assignment. Pursuant to the Notice of Assignment from Obligee, Obligor agrees to deliver all Contract Payments coming due under the Contract to:

KS StateBank
P.O. Box 69
Manhattan, Kansas 66505-0069

Town of Clayton, North Carolina

Signature

Robert McKie Jr, Finance Director

Printed Name and Title

INSURANCE REQUIREMENTS

Pursuant to Article V of the Government Obligation Contract, you have agreed to provide us evidence of insurance covering the Equipment.

A Certificate of Insurance listing the information stated below should be sent to us no later than the date on which the equipment is delivered.

Insured:

Town of Clayton, North Carolina
111 East Second Street
Clayton, North Carolina 27520

Certificate Holder:

KS StateBank
1010 Westloop, P.O. Box 69
Manhattan, Kansas 66505-0069

1. Equipment Description

- ◆ Two (2) 2100i Vactor Trucks
- ◆ Please include all applicable VIN's, serial numbers, etc.

2. Deductible

- ◆ The deductible amounts on the insurance policy should not exceed \$25,000.00.

3. Physical Damage

- ◆ All risk coverage to guarantee proceeds of at least \$865,382.42.

4. Liability

- ◆ Minimum Combined Single Limit of \$1,000,000.00 on bodily injury and property damage.

5. Additional Insured and Loss Payee

- ◆ KS StateBank AOIA (and/or Its Assigns) MUST be listed as additional insured and loss payee.

Please forward certificate as soon as possible to:

Email: britney@rfnonline.com
or
Fax: 800-865-8517

Please complete the information below and return this form along with the Contract.

Town of Clayton, North Carolina

Insurance Company: _____

Agent's Name: _____

Telephone #: _____

Fax #: _____

Address: _____

City, State Zip: _____

Email: _____

PREFERRED

*As an additional payment option for Obligor, we are now providing the option of ACH (Automatic Clearing House). By completing this form, Obligor is authorizing Obligee to withdraw said payment amount on said date.

DEBIT AUTHORIZATION

I hereby authorize KS StateBank Government Finance Department to initiate debit entries for the Payment Amount (including, but not limited to, any late fees, rate changes, escrow modifications, etc.). I acknowledge that KS StateBank Government Finance Department may reinitiate returned entries up to two additional times, to the account indicated below at the financial institution named below and to debit the same to such account for:

Contract Number 3380689	Payment Amount \$151,953.98	Frequency of Payments Annual
Beginning _____ Month Year	Day of Month Debits will be made according to Exhibit B of the Contract	

I acknowledge that the origination of ACH transactions to this account must comply with the provisions of U.S. law.

Financial Institution Name		Branch	
Address	City	State	Zip
Routing Number		Account Number	

Type of Account ☐ Checking ☐ Savings

If the account does not have sufficient funds, KS StateBank Government Finance Department may attempt, but shall have no obligation to continue to attempt to deduct the payment from the account. If the account has insufficient funds when KS StateBank Government Finance Department attempts to deduct a payment, KS StateBank Government Finance Department may terminate the automatic deduction of payments upon notice to borrower and me. Until such time as payment is made, borrower shall be responsible to make such payments, and all other payments that may be due to KS StateBank Government Finance Department regarding the above-referenced loan.

This authority is to remain in full force and effect until KS StateBank has received written notification from any authorized signer of the account of its termination in such time and manner as to afford KS StateBank a reasonable opportunity to act on it.

Obligor Name on Contract Town of Clayton, North Carolina	
Signature	Printed Name and Title
Tax ID Number 56-6001203	Date

PLEASE ATTACH COPY OF A VOIDED CHECK TO THIS FORM!

USA Patriot Act

USA Patriot Act requires identity verification for all new accounts. This means that we may require information from you to allow us to make a proper identification.

8038 REVIEW FORM

The 8038 form attached hereto is an important part of the documentation package and must be properly filled out and submitted to the Department of the Treasury in order for you to receive the lower tax-exempt rate. Unless you instruct us otherwise, we have engaged a Paid Preparer to assist in the filling out of this form. The Paid Preparer has filled out the relevant portions of this form based on the current understanding of what is required by the Department of the Treasury. The responses on this 8038 form are based on the dates and amounts which you have requested (structure of the transaction) and which are on the Payment Schedule.

1. Please review our responses for accuracy. If anything is inaccurate, please contact our office so that we can make proper revisions.
2. If the information provided to you on this form is accurate, please sign where indicated and return with the document package.
3. If there are any changes to the structure of the transaction that occur prior to funding which require a change to the 8038 form, we will make such changes and provide notification to you.
4. We will return to you a copy of the 8038 form that was mailed to the Department of the Treasury.

Important Note:

The IRS is now requesting information regarding tax-exempt issuers' and borrowers' written policies and procedures designed to monitor post-issuance compliance with the federal tax rules applicable to tax-exempt obligations (boxes 43 and 44). Do not check items 43 and 44 on the 8038 form unless you have established written procedures in accordance with the instructions referenced directly below. If you choose to "check" items 43 and/or 44, please be prepared to provide copies of such written procedures to the Paid Preparer or any representatives of the IRS upon request. Written procedures should contain certain key characteristics, including making provisions for:

- Due diligence review at regular intervals;
- Identifying the official or employee responsible for review;
- Training of the responsible official/employee;
- Retention of adequate records to substantiate compliance (e.g., records relating to expenditure of proceeds);
- Procedures reasonably expected to timely identify noncompliance; and
- Procedures ensuring that the issuer will take steps to timely correct noncompliance.

For additional guidance on this 8038 form, you can refer to the Documentation Instructions located on the following government website: <http://www.irs.gov/app/picklist/list/formsInstructions.html>, or contact your local IRS office.

Information Return for Tax-Exempt Governmental Obligations

► Under Internal Revenue Code section 149(e)

► See separate instructions.

Caution: If the issue price is under \$100,000, use Form 8038-GC.

OMB No. 1545-0720

Part I Reporting Authority		If Amended Return, check here ☐	
1 Issuer's name Town of Clayton, North Carolina		2 Issuer's employer identification number (EIN) 56-6001203	
3a Name of person (other than issuer) with whom the IRS may communicate about this return (see instructions)		3b Telephone number of other person shown on 3a	
4 Number and street (or P.O. box if mail is not delivered to street address) 111 East Second Street	Room/suite	5 Report number (For IRS Use Only) 3	
6 City, town, or post office, state, and ZIP code Clayton, North Carolina 27520		7 Date of issue 07/21/2020	
8 Name of issue Government Obligation Contract		9 CUSIP number None	
10a Name and title of officer or other employee of the issuer whom the IRS may call for more information (see instructions) Mr. Robert McKie Jr., Finance Director		10b Telephone number of officer or other employee shown on 10a (919) 359-9336	

Part II Type of Issue (enter the issue price). See the instructions and attach schedule.

11 Education	11		
12 Health and hospital	12		
13 Transportation	13		
14 Public safety	14		
15 Environment (including sewage bonds)	15		
16 Housing	16		
17 Utilities	17		
18 Other. Describe ► Two (2) 2100i Vactor Trucks	18	880,499	10
19 If obligations are TANs or RANs, check only box 19a ☐			
If obligations are BANs, check only box 19b ☐			
20 If obligations are in the form of a lease or installment sale, check box ☐			

Part III Description of Obligations. Complete for the entire issue for which this form is being filed.

	(a) Final maturity date	(b) Issue price	(c) Stated redemption price at maturity	(d) Weighted average maturity	(e) Yield
21	03/05/2026	\$ 880,499.10	\$ 865,382.42	4.175 years	3.633 %

Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)

22 Proceeds used for accrued interest	22		
23 Issue price of entire issue (enter amount from line 21, column (b))	23	880,499	10
24 Proceeds used for bond issuance costs (including underwriters' discount)	24	15,116	68
25 Proceeds used for credit enhancement	25		
26 Proceeds allocated to reasonably required reserve or replacement fund	26		
27 Proceeds used to refund prior tax-exempt bonds. Complete Part V.	27		
28 Proceeds used to refund prior taxable bonds. Complete Part V.	28		
29 Total (add lines 24 through 28)	29	15,116	68
30 Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here)	30	865,382	42

Part V Description of Refunded Bonds. Complete this part only for refunding bonds.

31 Enter the remaining weighted average maturity of the tax-exempt bonds to be refunded	years
32 Enter the remaining weighted average maturity of the taxable bonds to be refunded	years
33 Enter the last date on which the refunded tax-exempt bonds will be called (MM/DD/YYYY)	
34 Enter the date(s) the refunded bonds were issued (MM/DD/YYYY)	

For Paperwork Reduction Act Notice, see separate instructions.

Cat. No. 63773S

Form **8038-G** (Rev. 9-2011)

Part VI Miscellaneous

35	Enter the amount of the state volume cap allocated to the issue under section 141(b)(5)	35		
36a	Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (GIC) (see instructions)	36a		
b	Enter the final maturity date of the GIC ► (MM/DD/YYYY) _____			
c	Enter the name of the GIC provider ► _____			
37	Pooled financings: Enter the amount of the proceeds of this issue that are to be used to make loans to other governmental units	37		
38a	If this issue is a loan made from the proceeds of another tax-exempt issue, check box ► ☐ and enter the following information:			
b	Enter the date of the master pool bond ► (MM/DD/YYYY) _____			
c	Enter the EIN of the issuer of the master pool bond ► _____			
d	Enter the name of the issuer of the master pool bond ► _____			
39	If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box			☐
40	If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box			☐
41a	If the issuer has identified a hedge, check here ► ☐ and enter the following information:			
b	Name of hedge provider ► _____			
c	Type of hedge ► _____			
d	Term of hedge ► _____			
42	If the issuer has superintegrated the hedge, check box			☐
43	If the issuer has established written procedures to ensure that all nonqualified bonds of this issue are remediated according to the requirements under the Code and Regulations (see instructions), check box			☐
44	If the issuer has established written procedures to monitor the requirements of section 148, check box			☐
45a	If some portion of the proceeds was used to reimburse expenditures, check here ► ☐ and enter the amount of reimbursement. ► _____			
b	Enter the date the official intent was adopted ► (MM/DD/YYYY) _____			

Signature and Consent

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person that I have authorized above.



Signature of issuer's authorized representative

Date

Type or print name and title

Paid Preparer Use Only

Print/Type preparer's name	<i>H. Evan Howe</i>	Digitally signed by H. Evan Howe Reason: I am the author of this document Date: 2020-07-10 09:11:27	Date	07/10/2020	Check ☐ if self-employed	PTIN	P01438994
Firm's Name ►	Baystone Financial LLC			Firm's EIN ►	48-1223987		
Firm's Address ►	12980 Metcalf, Suite 310, Overland Park, KS 66213			Phone no.	(800) 752-3562		

Form **8038-G** (Rev. 9-2011))



Town Council Agenda Cover Sheet

Meeting Date

July 20, 2020

Agenda Location

New Business

Item Title

Reimbursement Resolution

Presenter

Robert McKie, Finance Director

Summary/Description

The Finance Director will present a reimbursement resolution for capital outlay projects, primarily related to new development activity, undertaken by the Electric Fund that will be financed after completion of the projects with the issuance of a Revenue Bond, which is consistent with the rate model.

Requested Action

Approval

Funding Source (If Applicable):

Finance Capital

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

Additional Documents to be Included in Agenda Packet

Reimbursement Resolution

Meeting Timeline

Click or tap here to enter text.

TOWN COUNCIL
OF THE TOWN OF CLAYTON, NORTH CAROLINA

Excerpt of Minutes
of Meeting on
July , 2020

Present: Mayor _____ presiding, and

Councilmembers : _____

Absent: _____

* * * * *

The following resolution was discussed and its title was read:

RESOLUTION OF OFFICIAL INTENT TO PURSUE
TAX EXEMPT FINANCING AND TO REIMBURSE
EXPENDITURES WITH PROCEEDS OF A BORROWING

WHEREAS, the Town Council of the Town of Clayton, North Carolina (the “Town”) intends to provide a portion of the financing of the acquisition, construction, renovation and equipping of certain capital improvements to its electric system and electric system infrastructure (the “Project”);

WHEREAS, the Town may advance its own funds to pay expenditures related to the Project, may borrow funds on a short term taxable or tax exempt basis in order to pay such expenditures or may enter into contracts obligating third parties to make certain expenditures relating to the Project (the “Expenditures”) prior to incurring indebtedness and to receive reimbursement for such Expenditures from proceeds of tax-exempt bonds or taxable debt, or both;

BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF CLAYTON, NORTH CAROLINA:

1. The Town intends to utilize the proceeds of tax-exempt indebtedness, including but not limited to revenue bonds or notes (the “Indebtedness”) or to incur other debt, to pay the costs of the Project in an amount not currently expected to exceed \$2,500,000.
2. The Town intends that the proceeds of the Indebtedness be used to reimburse the Town for Expenditures with respect to the Project made on or after the date that is no more than 60 days prior to the date of this resolution. The Town reasonably expects on the date hereof that it will reimburse the Expenditures with the proceeds of the Indebtedness or other debt.

3. The Town intends that the adoption of this resolution confirms the “official intent” within the meaning of Treasury Regulations Section 1.150-2 promulgated under the Internal Revenue Code of 1986, as amended.

4. This resolution shall take effect immediately upon its passage.

Councilmember _____ moved the passage of the foregoing resolution, Councilmember _____ seconded the motion, and the resolution was passed by the following vote:

Ayes: _____

Nays: _____

Not Voting: _____

* * * * *

I, Kimberly Moffett, Clerk to the Town Council for the Town of Clayton, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and complete copy of so much of the proceedings of the Town Council at a regular meeting duly called and held July __, 2020, as it relates in any way to the resolution hereinabove set forth. Pursuant to G.S. § 143-318.12, a current copy of a schedule of regular meetings of the Town Council is on file in my office.

WITNESS my hand and the common seal of the Town, this ____ day of July, 2020

Clerk, Town Council
Town of Clayton, North Carolina

(SEAL)



Town Council Agenda Cover Sheet

Meeting Date

July 20, 2020

Agenda Location

New Business

Item Title

Enterprise Dr. Right-of-Way Abandonment

Presenter

Joshua Baird – Town Engineer

Summary/Description

The private residential development Cameron Crossing has completed the re-alignment of Enterprise Dr as approved in December 2017 and the Town Council accepted the new re-aligned street on June 15, 2020. With the new alignment there is no longer a need to maintain the old right-of-way (ROW). G.S. §160A-299 authorizes the Town Council to close or abandon public streets and outlines the procedure. A portion of the Town utilities have been abandoned and those that remain are within a previously dedicated easement. The old ROW crosses two private properties. Upon completing the abandonment of public ROW, the underlying property will be recombined with the adjacent properties. Staff requests Town Council to adopt the Resolution of intent to allow staff to proceed with the required steps. If adopted, staff will proceed as outlined in Resolution #2020-23.

Requested Action

Approval

Funding Source (If Applicable):

N/A

Cost: N/A Yes ☐ No ☒

Additional Documents to be Included in Agenda Packet

Enterprise Dr Exhibit
Cameron Crossing ROW Abandonment Recombination
Site Plan Approval 2017-146-SD

Meeting Timeline

September 8th, 2020 – Public Hearing

Resolution of Intent
Street Closing Order for a Portion of Enterprise Drive

A Resolution declaring the intention of the Town Council of Clayton to abandon a portion of Enterprise Drive, as reflected on Exhibit A, due to road realignment.

Whereas, G.S. §160A-299 authorizes the Town Council of the Town of Clayton to close/abandon public streets; and

Whereas, G.S. §160A-299 requires that certain procedures be followed including the calling of a Public Hearing, and the Town Council of the Town of Clayton considers it advisable to conduct a Public Hearing for the purpose of giving consideration to the closing/abandoning of a portion of the Street; and

Whereas, G.S. §160A-299 allows a town to reserve its right, title, and interest in any utility improvement or easement within a street closed/abandoned pursuant to this section.

Now therefore, be it resolved by the Town Council of the Town of Clayton while meeting in regular session that:

- (1) A Public Hearing will be held at 6:00 p.m. on the 8th of September, 2020 in the Town Council Chambers to consider adopting an order closing a portion of the above referenced street.
- (2) The Town Clerk is hereby directed to publish the Resolution of Intent with the attached Exhibit once a week for four successive weeks prior to the date of the Public Hearing.
- (3) The Engineering Department is further directed to transmit by certified mail to all owners of property adjoining that portion of said street as shown in the Johnston County tax records a copy of this Resolution of Intent with Exhibit.
- (4) The Town intends to reserve its right, title and interest in any utility improvement or easement.
- (5) The Engineering Department is directed to prominently post a notice of the Closing and Public Hearing in at least two places along said street. If the street is under the authority and control of the Department of Transportation, the Planning Department shall mail a copy of this Resolution of Intent to the Department of Transportation.

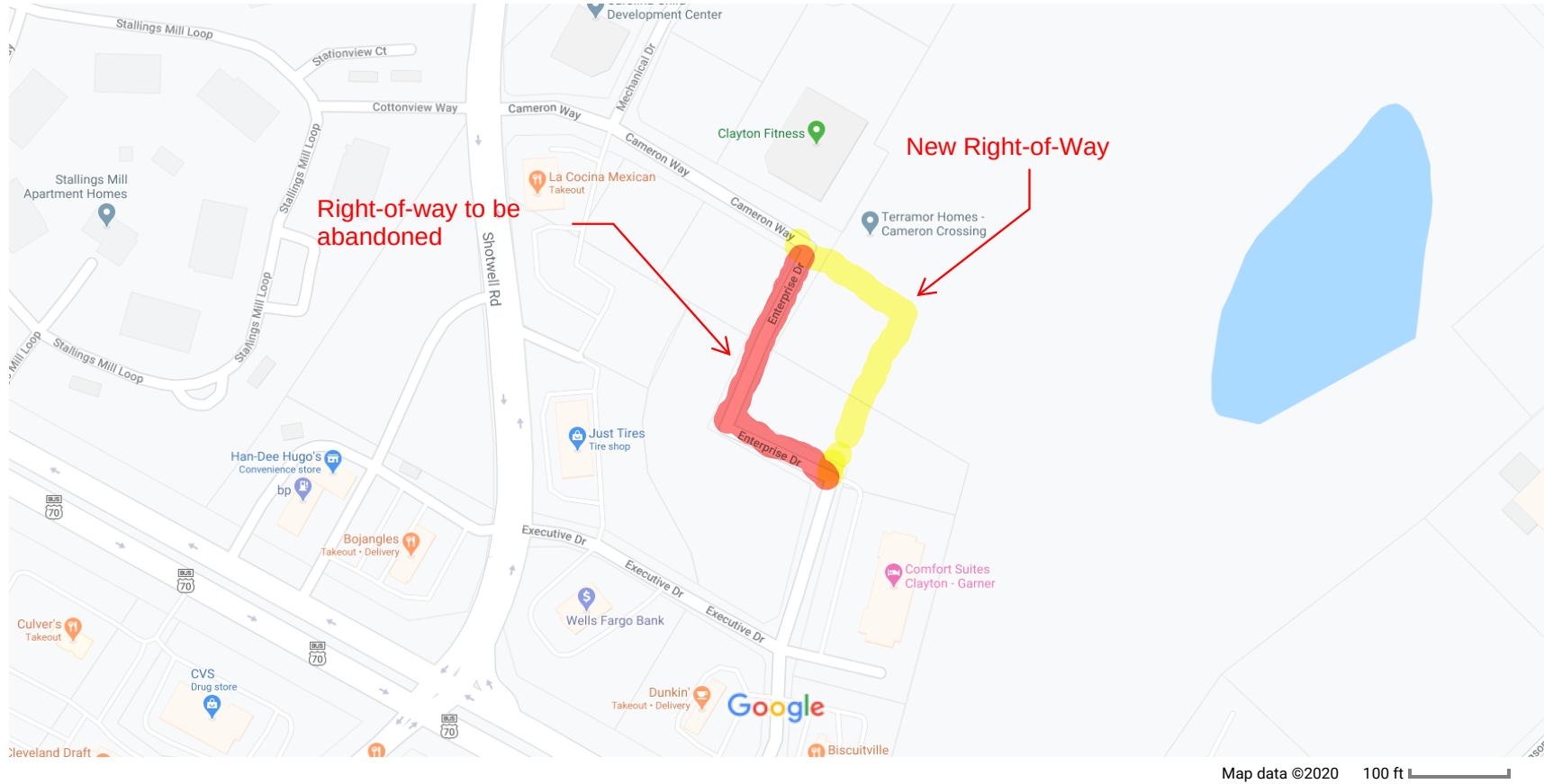
Upon motion made by Council Member _____, and seconded by Council Member _____, the above Resolution was duly adopted this the 20th day of July, 2020 while in regular session.

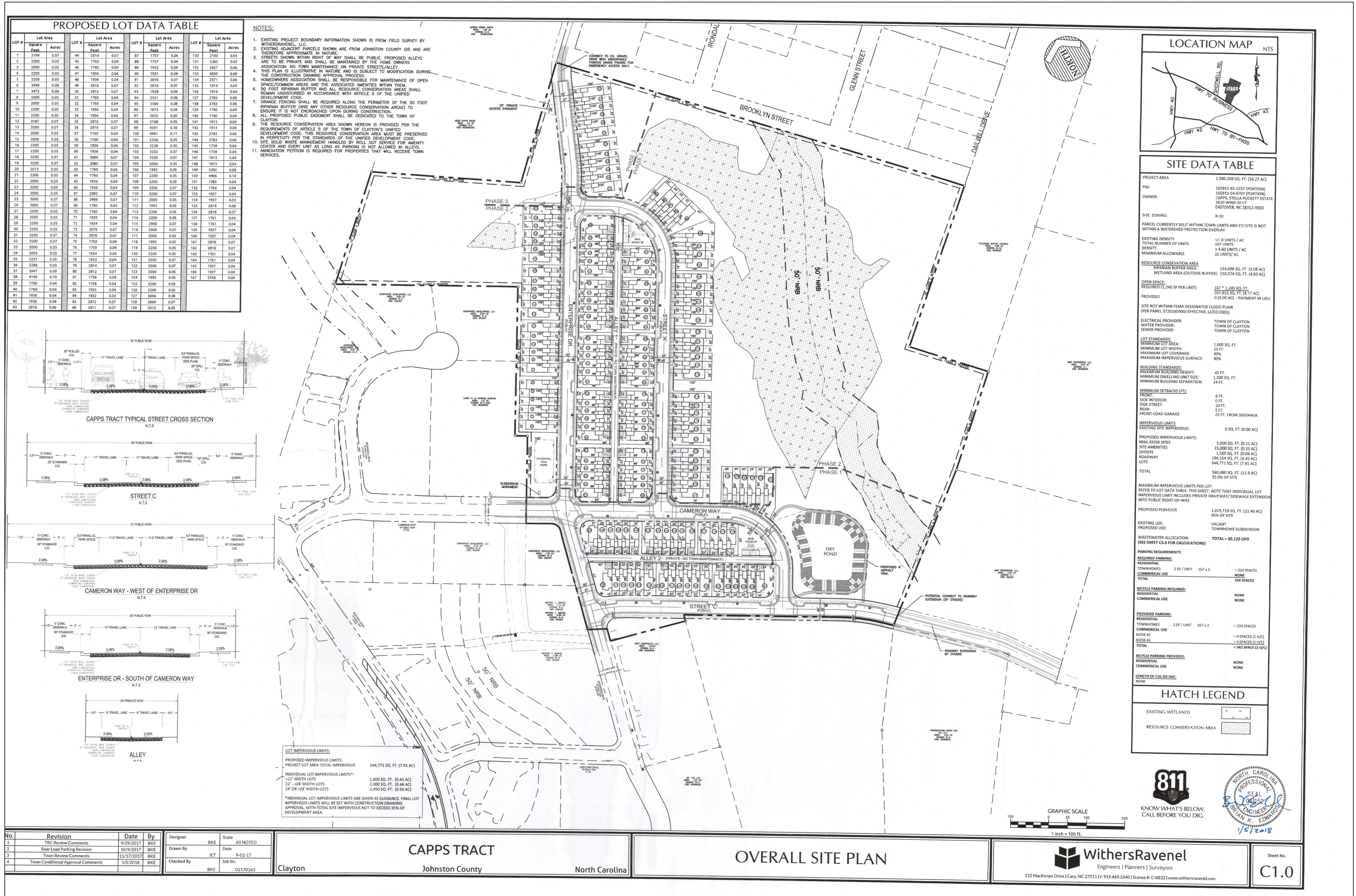
Jody McLeod
Mayor

ATTEST:

Kimberly Moffett, CMC, NCCMC
Town Clerk

Exhibit A







Town Council Agenda Cover Sheet

Meeting Date

July 20, 2020

Agenda Location

New Business

Item Title

Stormwater Program Update – Draft Erosion and Sediment Control Ordinance

Presenter

Joshua Baird – Town Engineer

Susan Locklear – Stormwater Engineer

Summary/Description

Engineering staff have been working to transition the erosion control program from the County to an in-house program. In order for the Town to implement its own erosion control program, it has to receive delegated authority from the NC Sedimentation Control Commission (SCC).

The NC Sedimentation Control Commission (SCC) may delegate authority to implement the Sedimentation Pollution Control Act (SPCA) to municipalities that adopt a local qualifying erosion and sediment control ordinance in compliance with State requirements. A draft Sediment and Erosion Control Ordinance based on the State Model Ordinance has been developed by staff and has been provided to the development community, via listserv, as well as posted on the Town website, for public comment. The draft ordinance also complies with the Construction stormwater minimum measure within the Town's NPDES (National Pollutant Discharge Elimination System) permit. The draft ordinance has been reviewed by the Town attorney, DEQ staff, and counsel to SCC. Staff has requested to be placed on the August SCC agenda for an informal review of the draft ordinance. Once the SCC informal review is completed, staff will pursue ordinance adoption by Council. Upon adoption by the Town, staff will return to the SCC in November to petition for local delegation with implementation beginning January 1, 2021.

Requested Action

Informational Only

Funding Source (If Applicable):

N/A

Cost: N/A Yes ☐ No ☐

Additional Documents to be Included in Agenda Packet

Draft Erosion and Sediment Control Ordinance

NPDES Permit

Meeting Timeline (PROPOSED, subject to change)

July 20th - Brief Council on draft Erosion and Sediment Control Ordinance

August 11th - Staff request informal review by SCC of draft Erosion and Sediment Control Ordinance

September 7th - Public hearing on updated Erosion and Sediment Control Ordinance

September 21st - Adopt Erosion and Sediment Control Ordinance for implementation on Jan 1, 2021

November 5th - Request Formal delegation from SCC for Erosion Control Program

January 1st, 2021 - Implement Erosion and Sediment Control Program

TITLE XV: LAND USE

CHAPTER 156

SOIL EROSION and SEDIMENTATION CONTROL ORDINANCE

Town of Clayton, NC

effective
January 1, 2021

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ARTICLE 1: GENERAL PROVISIONS

156.100 – TITLE.

This chapter shall be known and may be cited as the Town of Clayton Soil Erosion and Sedimentation Control Ordinance.

156.101 – PURPOSE.

This ordinance is adopted for the purposes of:

1. regulating certain land-disturbing activity to control accelerated erosion and sedimentation in order to prevent the pollution of water and other damage to lakes, watercourses, and other public and private property by sedimentation; and
2. establishing procedures through which these purposes can be fulfilled.

156.102 –DEFINITIONS.

As used in this ordinance, unless the context clearly indicates otherwise, the following definitions apply:

1. *Accelerated Erosion* - means any increase over the rate of natural erosion as a result of land-disturbing activity.
2. *Act* - means the North Carolina Sedimentation Pollution Control Act of 1973 and all rules and orders adopted pursuant to it.
3. *Adequate Erosion Control Measure, Structure, or Device* - means one which controls the soil material within the land area under responsible control of the person conducting the land-disturbing activity.
4. *Affiliate* – means a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control of another person.
5. *Approving Authority* – the Division or other State or local government agency that has been delegated erosion and sedimentation plan review responsibilities in accordance with the provision of the Act.
6. *Being Conducted* - means a land-disturbing activity has been initiated and not deemed complete by the approving authority.
7. *Borrow* - means fill material which is required for on-site construction and is obtained from other locations.

8. *Buffer Zone* - means the strip of land adjacent to a lake or natural watercourse.
9. *Commission* - means the North Carolina Sedimentation Control Commission.
10. *Completion of Construction or Development* - means that no further land-disturbing activity is required on a phase of a project except that which is necessary for establishing a permanent ground cover.
11. *Department* - means the North Carolina Department of Environmental Quality (DEQ).
12. *Director* - means the Director of the Division of Energy Mineral and Land Resources of the Department of Environmental Quality.
13. *Discharge Point or Point of Discharge*- means that point at which storm water runoff leaves a tract of land where a land disturbing activity has occurred or enters a lake or natural watercourse.
14. *Energy Dissipator* - means a structure or a shaped channel section with mechanical armoring placed at the outlet of pipes or conduits to receive and break down the energy from high velocity flow.
15. *Erosion* - means the wearing away of land surfaces by the action of wind, water, gravity, or any combination thereof.
16. *Ground Cover* - means any natural vegetative growth or other material which renders the soil surface stable against accelerated erosion.
17. *Lake or Natural Watercourse* – means any stream, river, brook, swamp, sound, bay, creek, run, branch, canal, waterway, estuary, and any reservoir, lake or pond, natural or impounded in which sediment may be moved or carried in suspension, and which could be damaged by accumulation of sediment.
18. *Land-disturbing Activity* - means any use of the land by any person in residential, industrial, education, institutional, or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation.
19. *Local Government* - means any county, incorporated village, town or city, or any combination of counties, incorporated villages, towns, and cities, acting through a joint program pursuant to the provisions of the Act.
20. *Natural Erosion* - means the wearing away of the earth's surface by water, wind, or other natural agents under natural environmental conditions undisturbed by man.
21. *Parent* – means an affiliate that directly, or indirectly through one or more

intermediaries, controls another person.

22. *Person* - means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, or other legal entity.
23. *Person Conducting Land-Disturbing Activity* - means any person who may be held responsible for violation unless expressly provided otherwise by this Ordinance, the Act, or any order adopted pursuant to this Ordinance or the Act.
24. *Person Responsible for the Violation*, as used in this article, and G.S. 113A-64, - means:
 - A. the developer or other person who has or holds himself out as having financial or operation control over the land-disturbing activity; or
 - B. the landowner or person in possession or control of the land that has directly or indirectly allowed the land-disturbing activity, or benefited from it or failed to comply with a duty imposed by any provision of this Ordinance, the Act, or any order adopted pursuant to this Ordinance or the Act.
25. *Person Who Violates or Violator* – as used in G.S. 113A-64, means:
 - A. any landowner or other person who has financial or operational control over the land-disturbing activity; or
 - B. who has directly or indirectly allowed the activity, and who has failed to comply with the provisions of the Act, the rules of this Chapter, or any order or local ordinance adopted pursuant the Act, as it imposes a duty upon that person.
26. *Phase of Grading* - means one of two types of grading: rough or fine.
27. *Plan* - means an erosion and sedimentation control plan
28. *Program Administrator* – means Town Engineer or Town Engineer’s designee
29. *Sediment* - means solid particulate matter, both mineral and organic, that has been or is being transported by water, air, gravity, or ice from its site of origin.
30. *Sedimentation* - means the process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land-disturbing activity or into a lake or natural watercourse.
31. *Siltation* - means sediment resulting from accelerated erosion which is settleable or removable by properly designed, constructed, and maintained control measures; and which has been transported from its point of origin within the site of a land-disturbing

activity; and which has been deposited, or is in suspension in water.

32. *Storm Drainage Facilities* - means the system of inlets, conduits, channels, ditches and appurtenances which serve to collect and convey storm water through and from a given drainage area.
33. *Storm Water Runoff* - means the surface flow of water resulting from precipitation in any form and occurring immediately after rainfall or melting.
34. *Subsidiary* – means an affiliate that is directly, or indirectly through one or more intermediaries, controlled by another person.
35. *Ten-Year Storm* or Q10- means a rainfall of an intensity that, based on historical data, is predicted, by a method acceptable to the approving authority, to be equaled or exceeded, on the average, once in ten years, or the probability (10%) of a storm of this magnitude occurring in any given year and of a duration which will produce the maximum peak rate of runoff from the watershed of interest under average antecedent wetness conditions.
36. *Town* – means the Town of Clayton, NC; both town limits and extra territorial jurisdiction (ETJ)
37. *Tract* - means all contiguous land and bodies of water being disturbed or to be disturbed as a unit, regardless of ownership.
38. *Twenty-five Year Storm* or Q25- means a rainfall of an intensity that, based on historical data, is predicted, by a method acceptable to the approving authority, to be equaled or exceeded on the average, once in 25 years, or the probability (4%) of a storm of this magnitude occurring in any given year and of a duration which will produce the maximum peak rate of runoff from the watershed of interest under average antecedent wetness conditions.
39. *Uncovered* - means the removal of ground cover from, on, or above the soil surface.
40. *Undertaken* - means the initiating of any activity, or phase of activity, which results or will result in a change in the ground cover or topography of a tract of land.
41. *Velocity* - means the speed of flow through a cross section perpendicular to the direction of the main channel at the peak flow of the storm of interest but not exceeding bank full flows. The cross section of the main channel shall be that area defined by the geometry of the channel plus the area of flow below the flood height defined by vertical lines at the main channel banks. Overload flows are not to be included for the purpose of computing velocity of flow.
42. *Waste* - means surplus materials resulting from on-site land-disturbing activities and

being disposed of at other locations.

43. *Working Days* - means days exclusive of Saturday and Sunday and Federal and State holidays during which weather conditions or soil conditions permit land-disturbing activity to be undertaken.

156.103 – SCOPE AND EXCLUSIONS.

1. *Geographical Scope of Regulated Land-Disturbing Activity.* This ordinance shall apply to land-disturbing activity within the territorial jurisdiction of the Town and to the extraterritorial jurisdiction of the Town as allowed by agreement between local governments, the extent of annexation or other appropriate legal instrument or law.
2. *Exclusions from Regulated Land-Disturbing Activity.* Notwithstanding the general applicability of this ordinance to all land-disturbing activity, this ordinance shall not apply to the following types of land-disturbing activity:
 - A. Activities, including the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture undertaken on agricultural land for the production of plants and animals useful to man, including, but not limited to:
 - (i) forage and sod crops, grain and feed crops, tobacco, cotton, and peanuts.
 - (ii) dairy animals and dairy products.
 - (iii) poultry and poultry products.
 - (iv) livestock, including beef cattle, llamas, sheep, swine, horses, ponies, mules, and goats.
 - (v) bees and apiary products.
 - (vi) fur producing animals.
 - (vii) mulch, ornamental plants, and other horticultural products. For purposes of this section, "mulch" means substances composed primarily of plant remains or mixtures of such substances.
 - B. An activity undertaken on forestland for the production and harvesting of timber and timber products and conducted in accordance with standards defined by the Forest Practice Guidelines Related to Water Quality (Best Management Practices), as adopted by the North Carolina Department of Agriculture and Consumer Services. If land-disturbing activity undertaken on forestland for the production and harvesting of timber and timber products is not conducted in accordance with standards defined by the Forest Practice Guidelines Related to Water Quality, the provisions of this ordinance shall apply to such activity and any related land-disturbing activity on the tract.

- C. An activity for which a permit is required under the Mining Act of 1971, Article 7 of Chapter 74 of the General Statutes.
 - D. A land-disturbing activity over which the State has exclusive regulatory jurisdiction as provided in G.S. 113A-56(a).
 - E. An activity which is essential to protect human life during an emergency.
 - F. Activities undertaken to restore the wetland functions of converted wetlands to provide compensatory mitigation to offset impacts permitted under Section 404 of the Clean Water Act.
 - G. Activities undertaken pursuant to Natural Resources Conservation Service standards to restore the wetlands functions of converted wetlands as defined in Title 7 Code of Federal Regulations § 12.2
3. *Plan Approval Requirement for Land-Disturbing Activity.* No person shall undertake any land-disturbing activity subject to this ordinance without first obtaining a Plan approval from the Town.
 4. *Protection of Property.* Persons conducting land-disturbing activity shall take all reasonable measures to protect all public and private property from damage caused by such activity.
 5. *More Restrictive Rules Shall Apply.* Whenever conflicts exists between federal, state, or local laws, ordinance, or rules, the more restrictive provision shall apply.
 6. *Plan Approval Exceptions.* Notwithstanding the general requirement to obtain a Plan approval prior to undertaking land-disturbing activity, a Plan approval shall not be required for land-disturbing activity that does not exceed 1 acre (43,560 square feet) in surface area. In determining the area, lands under one or diverse ownership being developed as a unit will be aggregated.

156.104 – MANDATORY STANDARDS FOR LAND-DISTURBING ACTIVITY.

No land-disturbing activity subject to the control of this ordinance shall be undertaken except in accordance with the following mandatory standards:

1. Buffer zone

- A. *Standard Buffer.* No land-disturbing activity during periods of construction or improvement to land shall be permitted in proximity to a lake or natural watercourse unless a buffer zone is provided along the margin of the watercourse of sufficient width to confine visible siltation within the twenty-five percent (25%) of the buffer zone nearest the land-disturbing activity.

- (i) *Projects On, Over or Under Water.* This standard shall not apply to a land-disturbing activity in connection with the construction of facilities to be located on, over, or under a lake or natural watercourse.
 - (ii) *Buffer Measurement.* Unless otherwise provided, the width of a buffer zone is measured horizontally from the top of bank to the nearest edge of the disturbed area, with the 25 percent of the strip nearer the land-disturbing activity containing natural or artificial means of confining visible siltation.
- 2. *Graded Slopes and Fills.* The angle for graded slopes and fills shall be no greater than the angle that can be retained by vegetative cover or other adequate erosion control devices or structures. In any event, slopes left exposed will, within 14 working days of completion of any phase of grading, be planted or otherwise provided with temporary or permanent ground cover, devices, or structures sufficient to restrain erosion. The angle for graded slopes and fills must be demonstrated to be stable. Stable is the condition where the soil remains in its original configuration, with or without mechanical constraints.
- 3. *Fill Material.* Unless a permit from the Department's Division of Waste Management to operate a landfill is on file for the official site, acceptable fill material shall be free of organic or other degradable materials, masonry, concrete and brick in sizes exceeding twelve (12) inches, and any materials which would cause the site to be regulated as a landfill by the State of North Carolina.
- 4. *Ground Cover.* Whenever land-disturbing activity is undertaken on a tract, the person conducting the land-disturbing activity shall install erosion and sedimentation control devices and practices that are sufficient to retain the sediment generated by the land disturbing activity within the boundaries of the tract during construction and development of said tract, and shall plant or otherwise provide a permanent ground cover sufficient to restrain erosion after completion of construction or development. Provisions for a ground cover sufficient to restrain erosion must be accomplished within 14 working days following completion of construction or development if an NCG01 permit is required. Unless where otherwise specified in the Act or the rules of this Chapter, provisions for permanent ground cover sufficient to restrain erosion shall be accomplished within 90 calendar days following completion of construction or development.
- 5. *Prior Plan Approval.* No person shall initiate any land-disturbing activity that will disturb more than one acre on a tract unless, thirty (30) or more days prior to initiating the activity, a Plan for the activity is filed with and approved by the Town. The land-disturbing activity may be initiated and conducted in accordance with the plan once the plan has been approved.

6. *De-watering.* The Town shall forward to the Director of the Division of Water Resources a copy of each Plan for a land-disturbing activity that involves the utilization of ditches for the purpose of de-watering or lowering the water table of the tract.
7. The land-disturbing activity shall be conducted in accordance with the approved erosion and sedimentation control plan.
8. All individuals that obtain a State or locally-approved erosion and sedimentation control plan that disturb one acre or more of land are required by the U.S. Environmental Protection Agency to obtain coverage under the N.C. Department of Environmental Quality Construction General Permit No. NCG010000 (NCG01). The requirements in NCG01 for temporary or permanent ground cover may differ from the ground cover, or stabilization, requirements in this Chapter. It is the responsibility of the person conducting the land-disturbing activity to ensure compliance with the NCG01.

156.105 – EFFECTIVE DATE.

This ordinance becomes effective on January 1, 2021.

156.106 – SEVERABILITY.

If any section or section or sections of this ordinance is/are held to be invalid or unenforceable, all other sections shall nevertheless continue in full force and effect.

ARTICLE 2 - EROSION AND SEDIMENTATION CONTROL PLANS

156.200 - PLAN SUBMISSIONS.

A Plan shall be prepared for all land-disturbing activities subject to this ordinance whenever the proposed activity will disturb more than one acre on a tract. Plans should be submitted per current Town standard procedures and policies.

156.201 - FINANCIAL RESPONSIBILITY and OWNERSHIP.

1. Plans shall be disapproved unless accompanied by an authorized statement of financial responsibility and ownership. This statement shall be signed by the person financially responsible for the land-disturbing activity or his attorney in fact. The statement shall include the mailing and street addresses of the principal place of business of (1) the person financially responsible, (2) the owner of the land, and (3) any registered agents. If the person financially responsible is not a resident of North Carolina, a North Carolina agent must be designated in the statement for the purpose of receiving notice of compliance or non-compliance with the Plan, the Act, this ordinance, or rules or orders adopted or issued pursuant to this ordinance. Except as provided in subsections 156.202 *Utilities* and

156.210 *Transfers* of this section, if the applicant is not the owner of the land to be disturbed, the draft erosion and sedimentation control plan must include the owner's written consent for the applicant to submit a draft erosion and sedimentation control plan and to conduct the anticipated land-disturbing activity.

2. Plans shall be disapproved unless accompanied by documentation of property ownership.

156.202 - UTILITIES.

If the applicant is not the owner of the land to be disturbed and the anticipated land-disturbing activity involves the construction of utility lines for the provision of water, sewer, gas, telecommunications, or electrical service, the draft erosion and sedimentation control plan may be submitted without the written consent of the owner of the land, so long as the owner of the land has been provided prior notice of the project.

156.203 - SURETY.

A surety will be required in the form of a performance bond or a letter of credit. The surety will ensure that stabilization of the site is achieved throughout the disturbed area in the even the contractor is unable to complete the project and shall be paid to the Town prior to the issuance of the land disturbance (grading) permit. The surety shall be equal to \$1500/acre of land disturbance rounded to the nearest ½ acre. This surety will be released once a certificate of completion is issued by the Town. A certificate of completion will be provided when the site is stabilized with a sufficient amount of ground cover to prevent erosion, or permanent mow-able planting with 100 coverage and 80 percent growth with no large bare patches. The Town may cash the surety if the site is issued a continuing violation notice for ground stabilization.

156.204 - ENVIRONMENTAL POLICY ACT DOCUMENT.

Any Plan submitted for a land-disturbing activity for which an environmental document is required by the North Carolina Environment Policy Act (G.S. 113A-1, et seq.) shall be deemed incomplete until a complete environmental document is available for review. The Town shall promptly notify the person submitting the Plan that the 30-day time limit for review of the Plan pursuant to this ordinance shall not begin until a complete environmental document is available for review.

156.205 - CONTENT.

The Plan required by this section shall contain architectural or engineering drawings, maps, assumptions, calculations, and narrative statements as needed to adequately describe the proposed development of the tract and the measures planned to comply with the requirements of this ordinance. Plan content may vary to meet the needs of specific site requirements. Detailed guidelines for Plan preparation may be obtained from the Town on request.

156.206 - TIMELINE for DECISIONS on PLANS.

The Town will review each complete Plan submitted to them and within 30 days of receipt thereof will notify the person submitting the Plan that it has been approved, approved with modifications, approved with performance reservations, or disapproved. Failure to approve, approve with modifications, or disapprove a complete Plan within 30 days of receipt shall be deemed approval. The Town of Clayton will review each revised Plan submitted to them and within 15 days of receipt thereof will notify the person submitting the Plan that it has been approved, approved with modifications, approved with performance reservations, or disapproved. Failure to approve, approve with modifications, or disapprove a revised Plan within 15 days of receipt shall be deemed approval.

156.207 – APPROVAL.

The Town shall only approve a Plan upon determining that it complies with all applicable State and local regulations for erosion and sedimentation control. Approval assumes the applicant's compliance with the federal and state water quality laws, regulations and rules. The Town shall condition approval of Plans upon the applicant's compliance with federal and state water quality laws, regulations and rules. Plan approval is contingent on land-disturbing activity commencing within a year of permit issuance. If after a year no land disturbing activity has occurred, permit and plan approval shall be void. Once the land disturbance (grading) activity has commenced, the permit is valid for 2 years from the date of commencement. Permit renewal is required if the project has not been completed by the 2 year expiration date and is valid for an additional year from original expiration date previously established with the commencement of the land disturbance. The permit renewal application must be submitted prior to expiration of the original permit, otherwise, a new plan submittal and permit shall be required. The permit renewal fee is listed in the Town's Fee Schedule.

156.208 - DISAPPROVAL for CONTENT.

The Town may disapprove a Plan or draft Plan based on its content. A disapproval based upon a Plan's content must specifically state in writing the reasons for disapproval.

156.209 - OTHER DISAPPROVALS.

The Town shall disapprove an erosion and sedimentation control plan if implementation of the plan would result in a violation of rules adopted by the Environmental Management Commission to protect riparian buffers along surface waters. The Town may disapprove an erosion and sedimentation control plan or disapprove a transfer of a plan under subsection *156.210 Transfers* of this section upon finding that an applicant or a parent, subsidiary, or other affiliate of the applicant:

- (A) Is conducting or has conducted land-disturbing activity without an approved plan, or has received notice of violation of a plan previously approved by the Commission

or the Town pursuant to this Article and has not complied with the notice within the time specified in the notice.

- (B) Has failed to pay a civil penalty assessed pursuant to this Article or a local ordinance adopted pursuant to this Article by the time the payment is due.
- (C) Has been convicted of a misdemeanor pursuant to G.S. 113A-64(b) or any criminal provision of a local ordinance adopted pursuant to this Article.
- (D) Has failed to substantially comply with State rules or local ordinances and regulations adopted pursuant to this Article.

In the event that an erosion and sedimentation control plan or a transfer of a plan is disapproved by the Town pursuant to subsection *156.209 Other Disapprovals* of this section, the local government shall so notify the Director of the Division of Energy, Mineral, and Land Resources within 10 days of the disapproval. The Town shall advise the applicant or the proposed transferee and the Director in writing as to the specific reasons that the plan was disapproved. Notwithstanding the provisions of Section 156.210(1), the applicant may appeal the local government's disapproval of the plan directly to the Commission.

For purposes of this subsection, an applicant's record or the proposed transferee's record may be considered for only the two years prior to the application date.

156.210 – PLAN APPEALS.

1. The appeal of a disapproval or approval with modifications of a Plan shall be governed by the following provisions:
 - A. The disapproval or modification of any proposed Plan by the Town, shall entitle the person submitting the Plan to a public hearing if such person submits written demand for a hearing to the Town Clerk within 15 days after receipt of written notice of disapproval or modifications.
 - B. A hearing held pursuant to this section shall be conducted by the Town Council, within 30 days after the date of the request for a hearing.
 - C. The Town Council shall make recommendations to the Program Administrator, within 30 days after the date of the hearing on any Plan.
 - D. The Program Administrator, will render its final decision on any Plan within 15 days of receipt of the recommendations from the Town Council.
 - E. If the Town upholds the disapproval or modification of a proposed Plan following the hearing, the person submitting the Plan shall then be entitled to appeal the Town's decision to the Commission as provided in G.S. 113A-61(c) and 15A NCAC 4B .0118(d)

2. In the event that a Plan is disapproved pursuant to 156.209 *Other Disapprovals* of this ordinance, the applicant may appeal the Town's disapproval of the Plan directly to the Commission.

156.211 - TRANSFERS.

The Town administering an erosion and sedimentation control program may transfer an erosion and sedimentation control plan approved pursuant to this section without the consent of the plan holder to a successor-owner of the property on which the permitted activity is occurring or will occur as provided in this subsection.

1. The Town may transfer a plan if all of the following conditions are met:
 - A. The successor-owner of the property submits to the local government a written request for the transfer of the plan and an authorized statement of financial responsibility and ownership.
 - B. The Town finds all of the following:
 - i. The plan holder is one of the following:
 - a. A natural person who is deceased.
 - b. A partnership, limited liability corporation, corporation, or any other business association that has been dissolved.
 - c. A person who has been lawfully and finally divested of title to the property on which the permitted activity is occurring or will occur.
 - d. A person who has sold the property on which the permitted activity is occurring or will occur.
 - ii. The successor-owner holds title to the property on which the permitted activity is occurring or will occur.
 - iii. The successor-owner is the sole claimant of the right to engage in the permitted activity.
 - iv. There will be no substantial change in the permitted activity.
2. The plan holder shall comply with all terms and conditions of the plan until such time as the plan is transferred.

3. The successor-owner shall comply with all terms and conditions of the plan once the plan has been transferred.
4. Notwithstanding changes to law made after the original issuance of the plan, the Town may not impose new or different terms and conditions in the plan without the prior express consent of the successor-owner. Nothing in this subsection shall prevent the Town from requiring a revised plan pursuant to G.S. 113A-54.1(b).

156.212 - NOTICE of ACTIVITY INITIATION.

No person may initiate a land-disturbing activity before notifying the agency that issued the Plan approval of the date that land-disturbing activity will begin.

156.213 - PRECONSTRUCTION CONFERENCE.

When deemed necessary by the Town a preconstruction conference may be required and must be included as part of the plan.

156.214 - DISPLAY of PLAN APPROVAL.

A Plan approval issued under this article shall be prominently displayed at either the primary entrance of the job site or at another location that is observable to the public and inspectors until all construction is complete, all permanent sedimentation and erosion control measures are installed, and the site has been stabilized. A paper copy of the approved plan shall be kept on file at the job site.

156.215 - REQUIRED REVISIONS.

After approving a Plan, if the Town, either upon review of such Plan or on inspection of the job site, determines that a significant risk of accelerated erosion or off-site sedimentation exists, the Town shall require a revised Plan. Pending the preparation of the revised Plan, work shall cease or shall continue under conditions outlined by the appropriate authority. If following commencement of a land-disturbing activity pursuant to an approved Plan, the Town determines that the Plan is inadequate to meet the requirements of this ordinance, the Town may require any revision of the Plan that is necessary to comply with this ordinance.

156.216 – AMENDMENT to a PLAN.

Applications for amendment of a Plan in written and/or graphic form may be made at any time under the same conditions as the original application. Until such time as said amendment is approved by the Town, the land-disturbing activity shall not proceed except in accordance with the Plan as originally approved.

156.217 – FAILURE to FILE a PLAN.

Any person engaged in land-disturbing activity who fails to file a Plan in accordance with this ordinance, or who conducts a land-disturbing activity except in accordance with provisions of an approved Plan shall be deemed in violation of this ordinance.

156.218 – FEES.

Fees for review and approval of plans and permits are determined by the, Town's current fee schedule. In establishing the fee schedule, the Town shall consider the administrative and personnel costs incurred for reviewing the Plans and for related compliance activities.

ARTICLE 3 – INSPECTIONS

156.300 - SELF INSPECTIONS.

1. The landowner, the financially responsible party, or the landowner's or the financially responsible party's agent shall perform an inspection of the area covered by the plan after each phase of the plan has been completed and after establishment of temporary ground cover in accordance with G.S. 113A-57(2). The person who performs the inspection shall maintain and make available a record of the inspection at the site of the land-disturbing activity. The record shall set out any significant deviation from the approved erosion control plan, identify any measures that may be required to correct the deviation, and document the completion of those measures. The record shall be maintained until permanent ground cover has been established as required by the approved erosion and sedimentation control plan. The inspections required by this subsection shall be in addition to inspections required by G.S. 113A-61.1.
2. Weekly and rain-event self-inspections are required by federal regulations, that are implemented through the NPDES Construction General Permit No. NCG 010000.
3. Where inspections are required by 156.300(1) of this Chapter and G.S. 113A-54.1(e), the following apply:
 - A. The person who performs the inspection shall make a record of the site inspection by documenting the following items:
 - i all of the erosion and sedimentation control measures, practices and devices, as called for in a construction sequence consistent with the approved erosion and sedimentation control plan, including but not limited to sedimentation control basins, sedimentation traps, sedimentation ponds, rock dams, temporary diversions, temporary slope drains, rock check dams, sediment fence or barriers, all forms of inlet protection, storm drainage facilities, energy dissipaters, and

stabilization methods of open channels, have initially been installed and do not significantly deviate (as defined in Sub-item (1)(e) of this Rule) from the locations, dimensions and relative elevations shown on the approved erosion and sedimentation plan. Such documentation shall be accomplished by initialing and dating each measure or practice shown on a copy of the approved erosion and sedimentation control plan or by completing, dating and signing an inspection report that lists each measure, practice or device shown on the approved erosion and sedimentation control plan. This documentation is required only upon the initial installation of the erosion and sedimentation control measures, practices and devices as set forth by the approved erosion and sedimentation control plan or if the measures, practices and devices are modified after initial installation;

- ii. the completion of any phase of grading for all graded slopes and fills shown on the approved erosion and sedimentation control plan, specifically noting the location and condition of the graded slopes and fills. Such documentation shall be accomplished by initialing and dating a copy of the approved erosion and sedimentation control plan or by completing, dating and signing an inspection report;
- iii. the location of temporary or permanent ground cover, and that the installation of the ground cover does not significantly deviate [as defined in 156.300(2)(A)(v)] from the approved erosion and sedimentation control plan. Such documentation shall be accomplished by initialing and dating a copy of the approved erosion and sedimentation control plan or by completing, dating and signing an inspection report;
- iv. that maintenance and repair requirements for all temporary and permanent erosion and sedimentation control measures, practices and devices have been performed. Such documentation shall be accomplished by completing, dating and signing an inspection report (the general storm water permit monitoring form may be used to verify the maintenance and repair requirements); and
- v. any significant deviations from the approved erosion and sedimentation control plan, corrective actions required to correct the deviation and completion of the corrective actions. Such documentation shall be accomplished by initialing and dating a copy of the approved erosion and sedimentation control plan or by completing, dating and signing an inspection report. A significant deviation means an omission, alteration or relocation of an erosion

or sedimentation control measure that prevents the measure from performing as intended. Deviations from the approved plan may also be recommended to enhance the intended performance of the sedimentation and erosion control measures.

- B. The documentation, whether on a copy of the approved erosion and sedimentation control plan or an inspection report, shall include the name, address, affiliation, telephone number, and signature of the person conducting the inspection and the date of the inspection. Any relevant licenses and certifications may also be included. Any documentation of inspections that occur on a copy of the approved erosion and sedimentation control plan shall occur on a single copy of the plan and that plan shall be made available on the site. Any inspection reports shall also be made available on the site.
- C. The inspection shall be performed during or after each of the following phases of a plan:
 - i. installation of all erosion and sediment control measures;
 - ii. clearing and grubbing of existing ground cover;
 - iii. completion of any grading that requires provision of temporary or permanent ground cover pursuant to G.S. 113A-57(2);
 - iv. completion of storm drainage facilities;
 - v. completion of all land-disturbing activities, construction, or development, including permanent ground cover establishment and removal of all temporary measures;
 - vi. quarterly until the establishment of permanent ground cover sufficient to restrain erosion
 - vii. transfer of ownership or control of the tract of land where the erosion and sedimentation control plan has been approved and work has begun. The new owner or person in control shall conduct and document inspections until the project is permanently stabilized

156.301 – OTHER INSPECTIONS AND INVESTIGATIONS.

1. *Inspection.* Agents, officials, or other qualified persons authorized by the Town, will periodically inspect land-disturbing activities to ensure compliance with the Act, this ordinance, or rules or orders adopted or issued pursuant to this ordinance, and to determine whether the measures required in the Plan are effective in controlling erosion and sedimentation resulting from land-disturbing activity. Notice of the right to inspect shall

be included in the certificate of approval of each Plan.

2. *Willful Resistance, Delay or Obstruction.* No person shall willfully resist, delay, or obstruct an authorized representative, employee, or agent of the Town, while that person is inspecting or attempting to inspect a land-disturbing activity under this section.
3. *Notice of Violation.* If the Town determines that a person engaged in land-disturbing activity has failed to comply with the Act, this ordinance, or rules, or orders adopted or issued pursuant to this ordinance, a notice of violation shall be served upon that person. The notice may be served by any means authorized under GS 1A-1, Rule 4. The notice shall specify a date by which the person must comply with the Act, or this ordinance, or rules, or orders adopted pursuant to this ordinance, and inform the person of the actions that need to be taken to comply with the Act, this ordinance, or rules or orders adopted pursuant to this ordinance. Any person who fails to comply within the time specified is subject to additional civil and criminal penalties for a continuing violation as provided in G.S. 113A-64 and this ordinance. Failure to comply may result in the issuance of a Stop Work Order by the Plan Administrator.
4. *Investigation.* The Town, shall have the power to conduct such investigation as it may reasonably deem necessary to carry out its duties as prescribed in this ordinance, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting the sites of any land-disturbing activity.
5. *Statements and Reports.* The Town shall also have the power to require written statements, or filing of reports under oath, with respect to pertinent questions relating to land-disturbing activity.

ARTICLE 4 – BASIC CONTROL OBJECTIVES

156.400 – OBJECTIVES.

An erosion and sedimentation control Plan may be disapproved if the Plan fails to address the following control objectives:

1. *Identify Critical Areas* - On-site areas which are subject to severe erosion, and off-site areas which are especially vulnerable to damage from erosion and/or sedimentation, are to be identified and receive special attention.
2. *Limit Time of Exposure* - Limit exposure to the shortest time specified in G.S. 113A-57, the rules of this Chapter, or as directed by the approving authority
3. *Limit Exposed Areas* - All land-disturbing activity is to be planned and conducted to minimize the size of the area to be exposed at any one time.

4. *Control Surface Water* - Surface water runoff originating upgrade of exposed areas should be controlled to reduce erosion and sediment loss during the period of exposure.
5. *Control Sedimentation* - All land-disturbing activity is to be planned and conducted so as to prevent off-site sedimentation damage.
6. *Manage Storm Water Runoff* - Plans shall be designed so that any increase in velocity of stormwater runoff resulting from a land-disturbing activity will not result in accelerated erosion of the receiving stormwater conveyance or at the point of discharge. Plans shall include measures to prevent accelerated erosion within the project boundary and at the point of discharge.

ARTICLE 5 – DESIGN AND PERFORMANCE STANDARDS

156.500 – DESIGN and PERFORMANCE STANDARDS.

1. Erosion and sedimentation control measures, structures, and devices shall be planned, designed, and constructed to provide protection from the runoff of a 10-year storm that produces the maximum peak rate of runoff as calculated according to procedures in the United States Department of Agriculture, Natural Resources Conservation Service's "National Engineering Field Handbook 630 (Handbook 630)." This document is herein incorporated by reference including subsequent amendments and editions, and may be accessed at no cost at <https://www.nrcs.usda.gov/wps/portal/nrcs/detailfull/national/water/manage/hydrology/?cid=stelprdb1043063>. Other methodologies may be used if based on generally accepted engineering standards that are shown to be equivalent to or improved over the procedures in Handbook 630. The approving authority shall determine acceptability of an alternative methodology based upon a showing that the runoff model used was based on observed data in agreement with the predictive model.
2. The Sedimentation Control Commission and DEQ have created and adopted a *North Carolina Erosion and Sedimentation Control Planning and Design Manual* describing recommended sedimentation control techniques for construction activities. This is an acceptable resource for design of the erosion control plan.

ARTICLE 6 – STORMWATER OUTLET PROTECTION

156.600 - INTENT.

Stream banks and channels downstream from any land disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity of runoff from the land disturbing activity.

156.601 - PERFORMANCE STANDARD.

1. Persons shall conduct land-disturbing activity so that the post construction velocity of the 10-year storm runoff in the receiving watercourse to the discharge point does not exceed the greater of:
 - A. the velocity established by the Maximum Permissible Velocities Table set out within this subsection; or
 - B. the velocity of the ten-year storm runoff in the receiving watercourse prior to development.
2. If condition (A) or (B) of this Paragraph cannot be met, then the receiving watercourse to and including the discharge point shall be designed and constructed to withstand the expected velocity anywhere the velocity exceeds the “prior to development” velocity by 10%.
3. TABLE 1 - Maximum Permissible Velocities**:

<u>Material</u>	F.P.S. (feet per second)	M.P.S. (meters per second)
Fine sand (noncolloidal)	2.5	.8
Sandy loam (noncolloidal)	2.5	.8
Silt loam (noncolloidal)	3.0	.9
Ordinary firm loam	3.5	1.1
Fine gravel	5.0	1.5
Stiff clay (very colloidal)	5.0	1.5
Graded, loam to cobbles (noncolloidal)	5.0	1.5
Graded, silt to cobbles (Colloidal)	5.5	1.7
Alluvial silts (noncolloidal)	3.5	1.1
Alluvial silts (colloidal)	5.0	1.5
Coarse gravel (noncolloidal)	6.0	1.8
Cobbles and shingles	5.5	1.7
Shales and hard pans	6.0	1.8

** Source - Adapted from recommendations by Special Committee on Irrigation Research, American Society of Civil Engineers, 1926, for channels with straight alignment. For sinuous channels, multiply allowable velocity by 0.95 for slightly sinuous, by 0.9 for moderately sinuous channels, and by 0.8 for highly sinuous channels.

156.602 - ACCEPTABLE MANAGEMENT MEASURES.

Measures applied alone or in combination to satisfy the intent of this section are acceptable if there are no objectionable secondary consequences. The Town recognizes that the management of storm water runoff to minimize or control downstream channel and bank erosion is a developing technology. Innovative techniques and ideas will be considered and may be used when shown to have the potential to produce successful results. Some alternatives, while not exhaustive, are to:

1. Avoid increases in surface runoff volume and velocity by including measures to promote infiltration to compensate for increased runoff from areas rendered impervious;
2. Avoid increases in storm water discharge velocities by using vegetated or roughened swales and waterways in place of closed drains and high velocity paved sections;
3. Provide energy dissipators at outlets of storm drainage facilities to reduce flow velocities to the point of discharge;
4. Protect watercourses subject to accelerated erosion by improving cross sections and/or providing erosion-resistant lining; and
5. Upgrade or replace the receiving device structure, or watercourse such that it will receive and conduct the flow to a point where it is no longer subject to degradation from the increased rate of flow or increased velocity.

156.603 - EXCEPTIONS.

This rule shall not apply where it can be demonstrated to the Town that storm water discharge velocities will not create an erosion problem in the receiving watercourse.

ARTICLE 7 – OTHER DISTURBED AREAS

156.700 – BORROW AND WASTE AREAS.

When the person conducting the land-disturbing activity is also the person conducting the borrow or waste disposal activity, areas from which borrow is obtained and which are not regulated by the provisions of the Mining Act of 1971, and waste areas for surplus materials other than landfills regulated by the Department's Division of Waste Management shall be considered as part of the land-disturbing activity where the borrow material is being used or from which the waste material originated. When the person conducting the land-disturbing activity is not the person obtaining the borrow and/or disposing of the waste, these areas shall be considered a separate land-disturbing activity. When a borrow or waste disposal activity is associated with a project, it must be identified with the original plan submittal and identified on the permit.

156.701 – ACCESS AND HAUL ROADS.

Temporary access and haul roads, other than public roads, constructed or used in connection with any land-disturbing activity shall be considered a part of such activity.

156.702 –EXISTING UNCOVERED AREAS.

1. All uncovered areas existing on the effective date of this ordinance which resulted from land-disturbing activity, exceed one acre, are subject to continued accelerated erosion, and are causing off-site damage from sedimentation, shall be provided with a ground cover or other protective measures, structures, or devices sufficient to restrain accelerated erosion and control off-site sedimentation.
2. The Town, shall serve upon the landowner or other person in possession or control of the land a written notice to comply with the Act, this ordinance, a rule or order adopted or issued pursuant to the Act by the Commission or by the Town. The notice to comply shall be sent by registered or certified mail, return receipt requested, or other means provided in GS 1A-1, Rule 4. The notice will set forth the measures needed to comply and will state the time within which such measures must be completed. In determining the measures required and the time allowed for compliance, the Town shall take into consideration the economic feasibility, technology, and quantity of work required, and shall set reasonable and attainable time limits of compliance.
3. The Town, reserves the right to require preparation and approval of a Plan in any instance where extensive control measures are required.
4. This rule shall not require ground cover on cleared land forming the future basin of a planned reservoir.

ARTICLE 8 – NATURAL FEATURES

156.800 – OPERATIONS IN LAKES AND NATURAL WATERCOURSES.

Land disturbing activity in connection with construction in, on, over, or under a lake or natural watercourse shall minimize the extent and duration of disruption of the stream channel. Where relocation of a stream forms an essential part of the proposed activity, the relocation shall minimize unnecessary changes in the stream flow characteristics.

ARTICLE 9 – MAINTENANCE

156.900 – RESPONSIBILITY FOR MAINTENANCE.

During the development of a site, the person conducting the land-disturbing activity shall install and maintain all temporary and permanent erosion and sedimentation control measures as required by the approved plan or any provision of this Ordinance, the Act, or any order adopted pursuant to this ordinance or the Act. After site development, the landowner or person in possession or control of the land shall install and/or maintain all necessary permanent erosion and sediment control measures, except those measures installed within a road or street right-of-way or easement accepted for maintenance by a governmental agency.

156.901 – ADDITIONAL MEASURES.

Whenever the Town, determines that significant erosion and sedimentation is occurring as a result of land-disturbing activity, despite application and maintenance of protective practices, the person conducting the land-disturbing activity will be required to and shall take additional protective action.

ARTICLE 10 – PENALTIES AND INJUNCTIVE RELIEF

156.1000 – CIVIL PENALTIES.

1. *Civil Penalty for a Violation.* Any person who violates any of the provisions of this ordinance, or rule or order adopted or issued pursuant to this ordinance, or who initiates or continues a land-disturbing activity for which a Plan is required except in accordance with the terms, conditions, and provisions of an approved Plan, is subject to a civil penalty. The maximum civil penalty amount that the Town may assess per violation is five thousand dollars (\$5,000.00). A civil penalty may be assessed from the date of the violation. Each day of a continuing violation shall constitute a separate violation. When the person has not been assessed any civil penalty under this subsection for any previous violation, and that person abated continuing environmental damage resulting from the violation within 180 days from the date of the notice of violation, the maximum cumulative total civil penalty assessed under this subsection for all violations associated with the land-disturbing activity for which the erosion and sedimentation control plan is required is twenty-five thousand

dollars (\$25,000).

2. *Environmental Impacts.* In addition to the civil penalties provided with the Town's Fee Schedule, the Plan Administrator may assess a one-time civil penalty of \$5,000.00 on the day of the violation for off-site sedimentation damage especially in the case of damage to a body of water, wetlands or buffer. Moreover, any malicious or intentional destruction of silt fencing or other sedimentation and erosion control device will result in a one-time fine of up to \$1,000.00.
3. *Repeat Offender.* An additional civil penalty of \$1,000.00 per day shall be charged to any person assessed a civil penalty for any violation of this chapter within the prior two years. A person may be assessed a civil penalty from the date the violation is detected if the deadline stated is not met. Each day of a continuing violation shall constitute a separate violation.
4. *Civil Penalty Assessment Factors.* The Program Administrator shall determine the amount of the civil penalty based upon the following factors:
 - A. the degree and extent of harm caused by the violation,
 - B. the cost of rectifying the damage,
 - C. the amount of money the violator saved by noncompliance,
 - D. whether the violation was committed willfully, and
 - E. the prior record of the violator in complying or failing to comply with this ordinance.
5. *Notice of Civil Penalty Assessment.* The Program Administrator shall provide notice of the civil penalty amount and basis for assessment to the person assessed. The notice of assessment shall be served by any means authorized under G.S. 1A-1, Rule 4. A notice of assessment by the Town shall direct the violator to either pay the assessment, contest the assessment within 30 days by filing a petition for hearing with the Town or file a request with the Sedimentation Control Commission for remission of the assessment within 60 days of receipt of the notice. A remission request must be accompanied by a waiver of the right to a contested case hearing pursuant to Chapter 150B of the North Carolina General Statutes and a stipulation of the facts on which the assessment was based.
6. *Final Decision.* The final decision on contested assessments shall be made by the Town Council in accordance with this ordinance *Appeal of Final Decision.* Appeal of the final decision by Town Council shall be to the Superior Court of Johnston County. Such appeals must be made within 30 days of the final decision of the Town Council.
7. *Collection.* If payment is not received within 60 days after it is due, the Town may institute a civil action to recover the amount of the assessment. The civil action may be brought in the Johnston County Superior Court, or the County Superior Court of the violator's residence or principal place of business. Such civil actions must be filed within three (3)

years of the date the assessment was due. An assessment that is not contested is due when the violator is served with a notice of assessment. An assessment that is contested is due at the conclusion of the administrative and judicial review of the assessment.

8. *Credit of Civil Penalties.* The clear proceeds of civil penalties collected by the Town under this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. Penalties collected by the Town may be diminished only by the actual costs of collection. The collection cost percentage to be used shall be established and approved by the North Carolina Office of State Budget and Management on an annual basis, based upon the computation of actual collection costs by each Town for the prior fiscal year. [In any event, the cost percentage shall not exceed twenty percent (20%) of penalties collected.]

156.1001 – CRIMINAL PENALTIES.

Any person who knowingly or willfully violates any provision of this ordinance, or rule or order adopted or issued pursuant to this ordinance, or who knowingly or willfully initiates or continues a land-disturbing activity for which a Plan is required except in accordance with the terms, conditions, and provisions of an approved Plan, shall be guilty of a Class 2 misdemeanor which may include a fine not to exceed \$5,000 as provided in G.S. § 113A-64.

156.1002 – INJUNCTIVE RELIEF.

1. *Violation of Local Program.* Whenever the Program Administrator has reasonable cause to believe that any person is violating or threatening to violate any ordinance, rule, regulation or order adopted or issued by the Town, or any term, condition, or provision of an approved Plan, it may, either before or after the institution of any other action or proceeding authorized by this ordinance, institute a civil action in the name of the Town, for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the Johnston County Superior Court.
2. *Abatement of Violation.* Upon determination by a court that an alleged violation is occurring or is threatened, the court shall enter any order or judgment that is necessary to abate the violation, to ensure that restoration is performed, or to prevent the threatened violation. The institution of an action for injunctive relief under this section shall not relieve any party to the proceedings from any civil or criminal penalty prescribed for violations of this ordinance.

156.1003 – RESTORATION AFTER NON-COMPLIANCE.

The Town, may require a person who engaged in a land-disturbing activity and failed to retain sediment generated by the activity, as required by G.S. 113A-57 (3), to restore the waters and land affected by the failure so as to minimize the detrimental effects of the resulting pollution by sedimentation. This authority is in addition to any other civil or criminal penalty or injunctive relief authorized under this ordinance.

**STATE of NORTH CAROLINA
DEPARTMENT of ENVIRONMENTAL QUALITY
DIVISION OF ENERGY, MINERAL, AND LAND RESOURCES**

PERMIT NO. NCS000559

**TO DISCHARGE STORMWATER UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM**

In compliance with the regulations promulgated and adopted by the North Carolina Environmental Management Commission, and the Federal Water Pollution Control Act, as amended,

Town of Clayton

is hereby authorized to discharge stormwater from their municipal separate storm sewer system located:

within the Town of Clayton's jurisdictional area
Johnston County

to receiving waters of the State, Big Arm Creek, Little Creek, Marks Creek, and Neuse River, within the Neuse River Basin in accordance with the discharge limitations, monitoring requirements, and other conditions set forth in Parts I, II, III, IV, V, VI, VII and VIII hereof.

This permit shall become effective February 1, 2018.

This permit and the authorization to discharge shall expire at midnight on January 31, 2023.

Signed this day January 23, 2018.



for William E. Toby Vinson, Jr., P.E., CPESC, CPM
Division of Energy, Mineral, and Land Resources
By the Authority of the Environmental Management Commission

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SECTION E: CONSTRUCTION SITE RUNOFF CONTROLS

1. Compliance with a delegated Sediment and Erosion Control Program effectively meets the maximum extent practicable (MEP) standard for Construction Site Runoff Controls by permitting and controlling development activities disturbing one or more acres of land surface and those activities less than one acre that are part of a larger common plan of development as authorized under the Sediment Pollution Control Act of 1973 and Chapter 4 of Title 15A of the North Carolina Administrative Code.

Pursuant to 40 CFR 122.35(b) the permittee may rely on the N.C. Division of Energy, Mineral, and Land Resources Sediment and Erosion Control Program to comply with this minimum measure. The N.C. Division of Energy, Mineral, and Land Resources Sediment and Erosion Control Program effectively meets the MEP standard for Construction Site Runoff Controls by permitting and controlling development activities disturbing one or more acres of land surface and those activities less than one acre that are part of a larger common plan of development as authorized under the Sediment Pollution Control Act of 1973 and Chapter 4 of Title 15A of the North Carolina Administrative Code. The N.C. Division of Energy, Mineral, and Land Resources Sediment and Erosion Control Program continues to be monitored by the EPA to ensure the State effectively meets the MEP standard established by the Sediment Pollution Control Act of 1973 and Chapter 4 of Title 15A of the North Carolina Administrative Code.

Pursuant to 40 CFR 122.35(b), the permittee may rely on a delegated Sediment and Erosion Control Program to comply with this minimum measure. The delegated Sediment and Erosion Control Program effectively meets the MEP standard for Construction Site Runoff Controls by permitting and controlling development activities disturbing one or more acres of land surface and those activities less than one acre that are part of a larger common plan of development as authorized under the Sediment Pollution Control Act of 1973 and Chapter 4 of Title 15A of the North Carolina Administrative Code. The delegated Sediment and Erosion Control Program continues to be monitored by the State to ensure the County effectively meets the MEP standard established by the Sediment Pollution Control Act of 1973 and Chapter 4 of Title 15A of the North Carolina Administrative Code.

2. The NCG010000 permit, as administered by the State, establishes requirements for construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality.
3. The permittee shall provide and promote a means for the public to notify the appropriate authorities of observed erosion and sedimentation problems. The permittee may implement a plan promoting the existence of the North Carolina Department of Environmental Quality (NCDEQ or DEQ), Division of Energy, Mineral, and Land Resources "Stop Mud" hotline (1-800-STOPMUD) to meet the requirements of this paragraph.



Town Council Agenda Cover Sheet

Meeting Date

July 20, 2020

Agenda Location

New Business

Item Title

Stormwater Program –Illicit Discharge Detection and Elimination Ordinance

Presenter

Joshua Baird – Town Engineer

Susan Locklear – Stormwater Engineer

Summary/Description

One of the six minimum measures of the Town's NPDES (National Pollutant Discharge Elimination System) permit is Illicit Discharge Detection and Elimination (IDDE). Illicit discharge is defined as any unlawful disposal, placement, emptying, dumping, spillage, leakage, pumping, pouring, emission, or other discharge of any substance other than stormwater into a stormwater conveyance, the waters of the State, or upon the land in such proximity to the same, such that the substance is likely to reach a stormwater conveyance or the waters of the State. Examples of illicit discharge substances include motor vehicle fluids, household hazard wastes, paint, restaurant waste, industrial waste, etc. There are some non-stormwater discharges, such as discharges from potable water sources, flows from emergency firefighting, residential car washing, and several others that are allowed by the Town's permit provided they do not significantly impact water quality. Staff has developed an IDDE Ordinance in order to assist staff with investigations and enforcement of this section of the Town's NPDES permit and to further protect water quality. This draft ordinance has been made available to the business community via planning listserv, as well as posted on the Town website. Staff has not received any comments on the draft ordinance. The draft ordinance has been reviewed by Town attorney.

Requested Action

Approval

Funding Source (If Applicable):

N/A

Cost: N/A Yes ☐ No ☐

Additional Documents to be Included in Agenda Packet

Draft Illicit Discharge Detection and Elimination Ordinance
NPDES Permit

Meeting Timeline

TITLE XV: LAND USE

CHAPTER 157

ILLICIT DISCHARGE ORDINANCE

Town of Clayton, NC

effective
August 1, 2020

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ARTICLE 1: GENERAL PROVISIONS

157.100 - TITLE

This chapter shall be known and may be cited as the Town of Clayton "Illicit Discharge Ordinance."

157.101 - PURPOSE

1. This chapter is adopted for the purposes of:
 - A. Protecting the public health, safety and welfare by controlling the discharge of pollutants into the stormwater conveyance system;
 - B. Promoting activities directed toward the maintenance and improvement of surface and ground water quality;
 - C. Controlling illicit discharges into the municipal separate stormwater systems;
 - D. Satisfying the requirements imposed upon the Town of Clayton under its *National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4)* discharge permit issued by the State; and
 - E. Establishing administration and enforcement procedures through which these purposes can be fulfilled.
2. The provisions of this regulation are supplemental to regulations administered by Federal and State Governments.

157.102 - ACRONYMS

1. **MS4:** Municipal separate storm sewer system.
2. **NCDENR:** North Carolina Department of Environment and Natural Resources.
3. **NPDES:** National Pollutant Discharge Elimination System.

157.103 - DEFINITIONS

As used in this chapter, unless the context clearly indicates otherwise, the *following* definitions apply:

1. ***Illicit connection:*** Any unlawful connection which allows the discharge of non-stormwater to the *stormwater conveyance system* or *waters of the State* in violation of this chapter.

2. ***Illicit discharge:*** Any unlawful disposal, placement, emptying, dumping, spillage, leakage, pumping, pouring, emission, or other discharge of any substance other than *stormwater* into a *stormwater conveyance* , the *waters of the State* , or upon the land in such proximity to the same, such that the substance is likely to reach a *stormwater conveyance* or the *waters of the State*.
3. ***Municipal separate storm sewer system (MS4):*** A *stormwater conveyance* or unified *stormwater conveyance system* (including without limitation: roads with drainage systems, municipal *streets* , catch basins, *stormwater* detention facilities, curbs, gutters, ditches, natural or man-made channels, or storm drains), that:
 - A. Is located within the corporate limits of Clayton, North Carolina; and
 - B. Is owned or operated by the *State* , *County* , the *Town*, or other public body; and
 - C. Discharges to *waters of the State*, excluding publicly owned treatment works, and lawful connections thereto, which in turn discharge into the *waters of the State*.
4. ***National Pollutant Discharge Elimination System:*** A permitting system established pursuant to §402 of the Clean Water Act et seq.
5. ***Pollution:*** Man-made or man-induced alteration of the chemical, physical, biological, thermal, and/or radiological integrity of water.
6. ***Stormwater:*** Any flow resulting from, and occurring during or *following*, any form of natural precipitation.
7. ***Stormwater conveyance or stormwater conveyance system:*** Any feature, natural or man-made, that collects and transports *stormwater*, including but not limited to roads with drainage systems, *streets*, catch basins, curbs, gutters, ditches, man-made and natural channels, pipes, culverts, and storm drains, and any other natural or man-made feature or structure designed or *used for* collecting or conveying *stormwater*.
8. ***Waters of the State:*** Surface waters within or flowing through the boundaries of the *State* including the *following*: any intermittent or perennial stream, river, creek, brook, swamp, lake, sound, tidal estuary, bay, reservoir, wetland, or any other surface water or any portion thereof that is mapped as solid or dashed blue lines on United States Department of the Interior Geological Survey 7.5 minute series topographic maps. Treatment systems, consisting of man-made bodies of water, which were not originally created in *waters of the State* and which are not the result of impoundment of *waters of the State*, are not *waters of the State*.

Federal law reference: National Pollutant Discharge Elimination System Permits, 33 USC §1342.

157.104 - SCOPE AND EXCLUSIONS

This ordinance shall apply to the territorial jurisdiction of the Town and to the extraterritorial jurisdiction of the Town as allowed by agreement between local governments, the extent of annexation or other appropriate legal instrument or law.

157.105 – AUTHORITY TO ENTER

1. Any authorized *Town* personnel *shall* be permitted to enter upon public *property* for the purposes of observation, inspection, sampling, monitoring, testing, surveying, and measuring compliance. Authorized *Town* personnel *may* enter upon private property with the consent of the owner, occupant or other person authorized to give such consent. Should the *owner* or occupant of private *property* refuse to permit such reasonable access, the *Town* Manager or his designee *shall* proceed to obtain an administrative search warrant pursuant to G.S. 15-27.2 or its successor.
2. No *person shall* obstruct, hamper or interfere with any such representative while carrying out his official duties.

157.106 – EFFECTIVE DATE

This ordinance becomes effective on August 1, 2020.

157.107 – SEVERABILITY

If any section or section or sections of this ordinance is/are held to be invalid or unenforceable, all other sections shall nevertheless continue in full force and effect.

ARTICLE 2 - OBJECTIVES

157.200 - OBJECTIVES

The objectives of this chapter are to:

1. Regulate the discharge of substances which *may* contaminate or cause *pollution* of *stormwater, stormwater conveyances, or waters of the State*;
2. Regulate connections to the *stormwater conveyance system*;
3. Provide for the proper handling of spills; and
4. Provide for the enforcement of same.

ARTICLE 3 – NON-STORMWATER DISCHARGE CONTROLS

157.300 - ILLICIT DISCHARGES

1. No *person shall* cause or allow the discharge, emission, disposal, pouring, or pumping directly or indirectly to any *stormwater conveyance*, the *waters of the State*, or upon the land in such proximity to the same (such that the substance is likely to reach a *stormwater conveyance* or the *waters of the State*), any fluid, solid, gas, or other substance, other than *stormwater* ; provided that non- *stormwater* discharges associated with the *following* activities are allowed provided that they do not significantly impact water quality:
 - A. De-chlorinated swimming pool discharges;
 - B. Discharges from potable water sources;
 - C. Condensate from residential or commercial air conditioning;
 - D. Residential and non-profit vehicle washing;
 - E. Water line flushing;
 - F. Discharges associated with emergency removal and treatment activities, for hazardous materials, authorized by the federal, *State*, or local government on-scene coordinator;
 - G. Uncontaminated ground water [including the collection or pumping of springs, wells, or rising ground water and ground water generated by well construction or other construction activities];
 - H. Collected infiltrated *stormwater* from foundation or footing drains;
 - I. Collected ground water and infiltrated *stormwater* from basement or crawl space pumps;
 - J. Irrigation water;
 - K. *Street* wash water;
 - L. Flows from emergency firefighting;
 - M. Discharges from the pumping or draining of natural watercourses or waterbodies;
 - N. Flushing and cleaning of *stormwater conveyances* with unmodified potable water;
 - O. Flows from riparian habitats and wetlands;
 - P. Diverted stream flows;

- Q. Wash water from the cleaning of the exterior of buildings, including gutters, provided that the discharge does not pose an environmental or health threat; and
- R. Other non- *stormwater* discharges for which a valid NPDES discharge permit has been approved and issued by NCDENR, provided that any such discharges to the *municipal separate storm sewer system shall* be authorized by the *Town*.

Prohibited substances include but are not limited to: oil, anti-freeze, chemicals, animal waste, paints, garbage, construction debris, yard waste (except for leaves placed at the curbside in compliance with the *Town's* residential seasonal leaf collection program), and litter.

State law references: Emission of pollutants and contaminants, G.S. 160A-185

157.301- ILLICIT CONNECTIONS

1. Connections to a *stormwater conveyance* or *stormwater conveyance system* which allow the discharge of non- *stormwater*, other than the exclusions described in section (a) above, are unlawful. Prohibited connections include, but are not limited to: floor drains, roof drains, waste water from washing machines or sanitary sewers, wash water from commercial vehicle washing or steam cleaning, and waste water from septic systems.
2. Where such connections exist in violation of *ARTICLE 2-Non-stormwater Discharge Controls* and said connections were made prior to the adoption of this provision or any other ordinance prohibiting such connections, the *property owner* or the *person* using said connection *shall* remove the connection within one (1) *year following* application of this regulation; provided that, this grace period *shall* not apply to connections which *may* result in the discharge of hazardous materials or other discharges which pose an immediate threat to health and safety, or are likely to result in immediate injury and harm to real or personal *property*, natural resources, wildlife, or habitat.
3. Where it is determined that said connection:
 - S. *May* result in the discharge of hazardous materials or *may* pose an immediate threat to health and safety, or is likely to result in immediate injury and harm to real or personal *property* , natural resources, wildlife, or habitat, or
 - T. Was made in violation of any applicable regulation or ordinance,

the *Town Manager* or his designee *shall* designate the time within which the connection *shall* be removed. In setting the time limit for compliance, the *Town shall* take into consideration:

 - A. The quantity and complexity of the work,
 - B. The consequences of delay,

- C. The potential harm to the environment, to the public health, and to public and private *property*, and
 - D. The cost of remedying the damage.
4. Permits are issued by the Engineering Division for connection to or modification of storm systems located in *Town* owned rights-of-way.

State law reference: Emission of pollutants and contaminants, G.S. 160A-185.

157.302 - SPILLS

- 1. Spills or leaks of polluting substances discharged to, or having the potential to be indirectly transported to the *stormwater conveyance system*, *shall* be contained, controlled, collected, and removed promptly. All affected areas *shall* be restored to their preexisting condition.
- 2. *Persons* associated with the spill or leak *shall* immediately notify the *Town* of Clayton Fire Chief or his designee of all spills or leaks of polluting substances. Notification *shall* not relieve any *person* of any expenses related to the restoration, loss, damage, or any other liability which *may* be incurred as a result of said spill or leak, nor *shall* such notification relieve any *person* from other liability which *may* be imposed by *State* or other law.

ARTICLE 4 – ENFORCEMENT

157.400 – CIVIL PENALTIES

- 1. *Illicit discharges* - Any designer, engineer, contractor, agent, or any other *person* who allows, acts in concert, participates, directs, or assists directly or indirectly in the creation of a violation of this chapter *shall* be subject to civil penalties as follows:
 - A. For first time offenders, if the quantity of the discharge is equal to or less than five (5) gallons and consists of domestic or household products in quantities considered ordinary for household purposes, said *person shall* be assessed a civil penalty not to exceed one thousand dollars (\$1,000.00) per violation or per day for any continuing violation, and if the quantity of the discharge is greater than five (5) gallons or contains non-domestic substances, including but not limited to process waste water, or if said *person* cannot provide clear and convincing evidence of the volume and nature of the substance discharged, said *person shall* be assessed a civil penalty not to exceed five thousand dollars (\$5,000.00) per violation or per day for any continuing violation.
 - B. For repeat offenders, the amount of the penalty *shall* be double the amount assessed for the previous penalty, not to exceed twenty-five thousand dollars (\$25,000.00) per violation or per day for any continuing violation.
 - C. In determining the amount of the penalty, the *Town* Manager or his designee *shall* consider:

- i. The degree and extent of harm to the environment, the public health, and public and private *property* ;
 - ii. The cost of remedying the damage;
 - iii. The duration of the violation;
 - iv. Whether the violation was willful;
 - v. The prior record of the *person* responsible for the violation in complying or failing to comply with this chapter;
 - vi. The costs of enforcement to the public; and
 - vii. The amount of money saved by the violator through his, her, or its noncompliance.
- 2. *Illicit connections* - Any *person* found with an *illicit connection* in violation of this chapter and any designer, engineer, contractor, agent, or any other *person* who allows, acts in concert, participates, directs, or assists directly or indirectly in the establishment of an *illicit connection* in violation of this chapter, *shall* be subject to civil penalties as follows:
 - A. First time offenders *shall* be subject to a civil penalty not to exceed five thousand dollars (\$5,000.00) per day of continuing violation.
 - B. Repeat violators *shall* be subject to a civil penalty not to exceed twenty-five thousand dollars (\$25,000.00) per day of continuing violation.
 - C. In determining the amount of the penalty, the *Town Manager* or his designee *shall* consider:
 - i. The degree and extent of harm to the environment, the public health, and public and private *property* ;
 - ii. The cost of remedying the damage;
 - iii. The duration of the violation;
 - iv. Whether the violation was willful;
 - v. The prior record of the *person* responsible for the violation in complying or failing to comply with this chapter;
 - vi. The costs of enforcement to the public; and
 - vii. The amount of money saved by the violator through his, her, or its noncompliance.

D. Procedures for assessing penalties pursuant to *illicit connections*.

- i. Said penalties *shall* be assessed by the *Town Manager* or his designee. No penalty *shall* be assessed until the person alleged to be in violation is served written notice of the violation either personally or by registered or certified mail. When service is made by registered or certified mail, a copy of the notice *may* also be sent by first class mail. Service *shall* be deemed sufficient if the registered or certified mail is unclaimed or refused, but the first class mail is not returned by the Post Office within ten (10) days after the mailing.
- ii. The notice *shall* warn that failure to correct the violation within the specified time period will result in the assessment of a civil penalty and/or other enforcement action. If after the allotted time period has expired, and the violation has not been corrected, the penalty *shall* be assessed from the date of the violation and each day of continuing violation thereafter *shall* constitute a separate violation under this section.

2. *Other Violations* - Any *person* found in violation of other provisions of this chapter, not specifically enumerated elsewhere, *shall* be subject to a civil penalty not to exceed one thousand dollars (\$1,000.00) per violation or per day for any continuing violation.

157.401 – CRIMINAL PENALTIES

Any *person* who knowingly or willfully violates any provision of this chapter, rule, regulation, order duly adopted or issued pursuant to this chapter *shall* be guilty of a misdemeanor, punishable by a fine not to exceed five hundred dollars (\$500.00) or imprisonment for not longer than thirty (30) days. Each violation *shall* be a separate offense.

157.402– INJUNCTIVE RELIEF

1. Whenever the *Town Council* has a reasonable cause to believe that any *person* is violating or threatening to violate this chapter, rule, regulation, order duly adopted or issued pursuant to this chapter or making a connection to a *stormwater conveyance* or *stormwater conveyance system* other than in accordance with the terms, conditions, and provisions of approval, the *Town may* , either before or after the institution of any other action or proceeding authorized by the Code, institute a civil action in the name of the *Town* for injunctive relief to restrain and abate the violation or threatened violation.
2. The institution of an action for injunctive relief under subsection (c) *shall* not relieve any party to such proceeding from any further civil or criminal penalty prescribed for violations of this Code.

ARTICLE 5: PAYMENT AND COLLECTION PROCEDURES

157.500- PAYMENT AND COLLECTION PROCEDURES

Penalties *shall* be assessed by the *Town* Manager or his designee. No penalty *shall* be assessed until the *person* alleged to be in violation is served *written* notice of the violation by registered or certified mail or personal service. When service is made by registered or certified mail, a copy of the notice may also be sent by first class mail. Service *shall* be deemed sufficient if the first class mail is not returned by the Post Office within ten (10) days after the mailing. Refusal to accept the notice *shall* not relieve the violator of the obligation to pay the penalty. The *Town* Manager or his designee *shall* make *written* demand for payment upon the *person* in violation. If the payment is not received or equitable settlement reached within thirty (30) days after demand for payment is made, the matter *shall* be referred to the *Town* Attorney for institution of a civil action in the name of the *Town*, in the appropriate division of the General Court of Justice in Johnston County for recovering the penalty.

157.501 – ADMINISTRATIVE FEE

Any person who *shall* commit a violation of this chapter, receives official notice from the *Town* of said violation, and fails to remedy said violation such that a Notice of Violation is issued *shall* be subject to an administrative fee of one hundred dollars (\$100.00) in addition to any other charge.

**STATE of NORTH CAROLINA
DEPARTMENT of ENVIRONMENTAL QUALITY
DIVISION OF ENERGY, MINERAL, AND LAND RESOURCES**

PERMIT NO. NCS000559

**TO DISCHARGE STORMWATER UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM**

In compliance with the regulations promulgated and adopted by the North Carolina Environmental Management Commission, and the Federal Water Pollution Control Act, as amended,

Town of Clayton

is hereby authorized to discharge stormwater from their municipal separate storm sewer system located:

within the Town of Clayton's jurisdictional area
Johnston County

to receiving waters of the State, Big Arm Creek, Little Creek, Marks Creek, and Neuse River, within the Neuse River Basin in accordance with the discharge limitations, monitoring requirements, and other conditions set forth in Parts I, II, III, IV, V, VI, VII and VIII hereof.

This permit shall become effective February 1, 2018.

This permit and the authorization to discharge shall expire at midnight on January 31, 2023.

Signed this day January 23, 2018.



for William E. Toby Vinson, Jr., P.E., CPESC, CPM
Division of Energy, Mineral, and Land Resources
By the Authority of the Environmental Management Commission

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SECTION D: ILLICIT DISCHARGE DETECTION AND ELIMINATION (IDDE)**1. Objectives for Illicit Discharge Detection and Elimination**

- a. Implement and enforce a program to detect and eliminate illicit discharges into the MS4.
- b. Maintain a storm sewer system map, showing the location of all major outfalls and the names and location of all waters of the United States that receive discharges from those outfalls;
- c. Prohibit, through ordinance, or other regulatory mechanism, non-storm water discharges except as allowed in this permit and implement appropriate enforcement procedures and actions;
- d. Implement a plan to detect and address non-storm water discharges, including illegal dumping, to the MS4;
- e. Inform public employees, businesses, and the general public of hazards associated with illegal discharges and improper disposal of waste; and
- f. Address the categories of non-storm water discharges or flows (i.e., illicit discharges) in Part I.H of this permit only if you identify them as significant contributors of pollutants to the MS4.

2. BMPs for Illicit Discharge Detection and Elimination

The permittee shall implement the following BMPs to meet the objectives of the Illicit Discharge Detection and Elimination Program and shall notify the Division prior to modification of any goals.

BMP	Measurable Goals
a. Maintain adequate legal authorities	The permittee shall annually review the permittee's IDDE ordinances or other regulatory mechanisms, or adopt any new ordinances or other regulatory mechanisms that provide the permittee with adequate legal authority to prohibit illicit connections and discharges and enforce the approved IDDE Program.
b. Maintain a Storm Sewer System Base Map of Major Outfalls.	The permittee shall maintain a current map showing major outfalls and receiving streams
c. Detect dry weather flows	The permittee shall maintain a program for conducting dry weather flow field observations in accordance with a written procedure for detecting and removing the sources of illicit discharges.
d. Investigate sources of identified illicit discharges.	The permittee shall maintain, and evaluate annually written procedures for conducting investigations of identified illicit discharges.
e. Track and document investigations illicit discharges	The permittee shall track all investigations and document the date(s) the illicit discharge was observed; the results of the investigation; any follow-up of the investigation; and the date the investigation was closed.

BMP	Measurable Goals
f. Employee Training	The permittee shall implement and document a training program for appropriate municipal staff who as part of their normal job responsibilities, may come into contact with or otherwise observe an illicit discharge or illicit connection to the storm sewer system.
g. Provide Public Education	The permittee shall inform public employees, businesses, and the general public of hazards associated with illegal discharges and improper disposal of waste.
h. Public reporting mechanism	The permittee shall promote, publicize, and facilitate a reporting mechanism for the public and staff to report illicit discharges and establish and implement citizen request response procedures.
i. Enforcement	The permittee shall implement a mechanism to track the issuance of notices of violation and enforcement actions as administered by the permittee. This mechanism shall include the ability to identify chronic violators for initiation of actions to reduce noncompliance.

TOWN OF CLAYTON
Amendment to the Code of Ordinances: Chapter 157

BEING HEREBY ADOPTED BY THE TOWN COUNCIL FOR THE TOWN OF CLAYTON, NORTH CAROLINA, to amend the Code of Ordinances by adding Chapter 157 to read as follows:

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ARTICLE 1: GENERAL PROVISIONS

157.100 - TITLE

This chapter shall be known and may be cited as the Town of Clayton "Illicit Discharge Ordinance."

157.101 - PURPOSE

1. This chapter is adopted for the purposes of:
 - A. Protecting the public health, safety and welfare by controlling the discharge of pollutants into the stormwater conveyance system;
 - B. Promoting activities directed toward the maintenance and improvement of surface and ground water quality;
 - C. Controlling illicit discharges into the municipal separate stormwater systems;
 - D. Satisfying the requirements imposed upon the Town of Clayton under its *National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4)* discharge permit issued by the State; and
 - E. Establishing administration and enforcement procedures through which these purposes can be fulfilled.
2. The provisions of this regulation are supplemental to regulations administered by Federal and State Governments.

157.102 - ACRONYMS

1. **MS4:** Municipal separate storm sewer system.
2. **NCDENR:** North Carolina Department of Environment and Natural Resources.
3. **NPDES:** National Pollutant Discharge Elimination System.

157.103 - DEFINITIONS

As used in this chapter, unless the context clearly indicates otherwise, the *following* definitions apply:

1. ***Illicit connection:*** Any unlawful connection which allows the discharge of non-stormwater to the *stormwater conveyance system* or *waters of the State* in violation of this chapter.

2. ***Illicit discharge:*** Any unlawful disposal, placement, emptying, dumping, spillage, leakage, pumping, pouring, emission, or other discharge of any substance other than *stormwater* into a *stormwater conveyance* , the *waters of the State* , or upon the land in such proximity to the same, such that the substance is likely to reach a *stormwater conveyance* or the *waters of the State*.
3. ***Municipal separate storm sewer system (MS4):*** A *stormwater conveyance* or unified *stormwater conveyance system* (including without limitation: roads with drainage systems, municipal *streets* , catch basins, *stormwater* detention facilities, curbs, gutters, ditches, natural or man-made channels, or storm drains), that:
 - A. Is located within the corporate limits of Clayton, North Carolina; and
 - B. Is owned or operated by the *State* , *County* , the *Town*, or other public body; and
 - C. Discharges to *waters of the State*, excluding publicly owned treatment works, and lawful connections thereto, which in turn discharge into the *waters of the State*.
4. ***National Pollutant Discharge Elimination System:*** A permitting system established pursuant to §402 of the Clean Water Act et seq.
5. ***Pollution:*** Man-made or man-induced alteration of the chemical, physical, biological, thermal, and/or radiological integrity of water.
6. ***Stormwater:*** Any flow resulting from, and occurring during or *following*, any form of natural precipitation.
7. ***Stormwater conveyance or stormwater conveyance system:*** Any feature, natural or man-made, that collects and transports *stormwater*, including but not limited to roads with drainage systems, *streets*, catch basins, curbs, gutters, ditches, man-made and natural channels, pipes, culverts, and storm drains, and any other natural or man-made feature or structure designed or *used for* collecting or conveying *stormwater*.
8. ***Waters of the State:*** Surface waters within or flowing through the boundaries of the *State* including the *following*: any intermittent or perennial stream, river, creek, brook, swamp, lake, sound, tidal estuary, bay, reservoir, wetland, or any other surface water or any portion thereof that is mapped as solid or dashed blue lines on United States Department of the Interior Geological Survey 7.5 minute series topographic maps. Treatment systems, consisting of man-made bodies of water, which were not originally created in *waters of the State* and which are not the result of impoundment of *waters of the State*, are not *waters of the State*.

Federal law reference: National Pollutant Discharge Elimination System Permits, 33 USC §1342.

157.104 - SCOPE AND EXCLUSIONS

This ordinance shall apply to the territorial jurisdiction of the Town and to the extraterritorial jurisdiction of the Town as allowed by agreement between local governments, the extent of annexation or other appropriate legal instrument or law.

157.105 – AUTHORITY TO ENTER

1. Any authorized *Town* personnel *shall* be permitted to enter upon public *property* for the purposes of observation, inspection, sampling, monitoring, testing, surveying, and measuring compliance. Authorized *Town* personnel *may* enter upon private property with the consent of the owner, occupant or other person authorized to give such consent. Should the *owner* or occupant of private *property* refuse to permit such reasonable access, the *Town* Manager or his designee *shall* proceed to obtain an administrative search warrant pursuant to G.S. 15-27.2 or its successor.
2. No *person shall* obstruct, hamper or interfere with any such representative while carrying out his official duties.

157.106 – EFFECTIVE DATE

This ordinance becomes effective on August 1, 2020.

157.107 – SEVERABILITY

If any section or section or sections of this ordinance is/are held to be invalid or unenforceable, all other sections shall nevertheless continue in full force and effect.

ARTICLE 2 - OBJECTIVES

157.200 - OBJECTIVES

The objectives of this chapter are to:

1. Regulate the discharge of substances which *may* contaminate or cause *pollution* of *stormwater, stormwater conveyances, or waters of the State*;
2. Regulate connections to the *stormwater conveyance system*;
3. Provide for the proper handling of spills; and
4. Provide for the enforcement of same.

ARTICLE 3 – NON-STORMWATER DISCHARGE CONTROLS

157.300 - ILLICIT DISCHARGES

1. No person shall cause or allow the discharge, emission, disposal, pouring, or pumping directly or indirectly to any *stormwater conveyance*, the *waters of the State*, or upon the land in such proximity to the same (such that the substance is likely to reach a *stormwater conveyance* or the *waters of the State*), any fluid, solid, gas, or other substance, other than *stormwater* ; provided that non- *stormwater* discharges associated with the *following* activities are allowed provided that they do not significantly impact water quality:
 - A. De-chlorinated swimming pool discharges;
 - B. Discharges from potable water sources;
 - C. Condensate from residential or commercial air conditioning;
 - D. Residential and non-profit vehicle washing;
 - E. Water line flushing;
 - F. Discharges associated with emergency removal and treatment activities, for hazardous materials, authorized by the federal, *State*, or local government on-scene coordinator;
 - G. Uncontaminated ground water [including the collection or pumping of springs, wells, or rising ground water and ground water generated by well construction or other construction activities];
 - H. Collected infiltrated *stormwater* from foundation or footing drains;
 - I. Collected ground water and infiltrated *stormwater* from basement or crawl space pumps;
 - J. Irrigation water;
 - K. *Street* wash water;
 - L. Flows from emergency firefighting;
 - M. Discharges from the pumping or draining of natural watercourses or waterbodies;
 - N. Flushing and cleaning of *stormwater conveyances* with unmodified potable water;
 - O. Flows from riparian habitats and wetlands;
 - P. Diverted stream flows;

- Q. Wash water from the cleaning of the exterior of buildings, including gutters, provided that the discharge does not pose an environmental or health threat; and
- R. Other non- *stormwater* discharges for which a valid NPDES discharge permit has been approved and issued by NCDENR, provided that any such discharges to the *municipal separate storm sewer system shall* be authorized by the *Town*.

Prohibited substances include but are not limited to: oil, anti-freeze, chemicals, animal waste, paints, garbage, construction debris, yard waste (except for leaves placed at the curbside in compliance with the *Town's* residential seasonal leaf collection program), and litter.

State law references: Emission of pollutants and contaminants, G.S. 160A-185

157.301- ILLICIT CONNECTIONS

1. Connections to a *stormwater conveyance* or *stormwater conveyance system* which allow the discharge of non- *stormwater*, other than the exclusions described in section (a) above, are unlawful. Prohibited connections include, but are not limited to: floor drains, roof drains, waste water from washing machines or sanitary sewers, wash water from commercial vehicle washing or steam cleaning, and waste water from septic systems.
2. Where such connections exist in violation of *ARTICLE 2-Non-stormwater Discharge Controls* and said connections were made prior to the adoption of this provision or any other ordinance prohibiting such connections, the *property owner* or the *person* using said connection *shall* remove the connection within one (1) *year following* application of this regulation; provided that, this grace period *shall* not apply to connections which *may* result in the discharge of hazardous materials or other discharges which pose an immediate threat to health and safety, or are likely to result in immediate injury and harm to real or personal *property*, natural resources, wildlife, or habitat.
3. Where it is determined that said connection:
 - S. *May* result in the discharge of hazardous materials or *may* pose an immediate threat to health and safety, or is likely to result in immediate injury and harm to real or personal *property* , natural resources, wildlife, or habitat, or
 - T. Was made in violation of any applicable regulation or ordinance,

the *Town Manager* or his designee *shall* designate the time within which the connection *shall* be removed. In setting the time limit for compliance, the *Town shall* take into consideration:

 - A. The quantity and complexity of the work,
 - B. The consequences of delay,

- C. The potential harm to the environment, to the public health, and to public and private *property*, and
 - D. The cost of remedying the damage.
4. Permits are issued by the Engineering Division for connection to or modification of storm systems located in *Town* owned rights-of-way.

State law reference: Emission of pollutants and contaminants, G.S. 160A-185.

157.302 SPILLS

1. Spills or leaks of polluting substances discharged to, or having the potential to be indirectly transported to the *stormwater conveyance system*, *shall* be contained, controlled, collected, and removed promptly. All affected areas *shall* be restored to their preexisting condition.
2. *Persons* associated with the spill or leak *shall* immediately notify the *Town* of Clayton Fire Chief or his designee of all spills or leaks of polluting substances. Notification *shall* not relieve any *person* of any expenses related to the restoration, loss, damage, or any other liability which *may* be incurred as a result of said spill or leak, nor *shall* such notification relieve any *person* from other liability which *may* be imposed by *State* or other law.

ARTICLE 4 – ENFORCEMENT

157.400 – CIVIL PENALTIES

1. *Illicit discharges* - Any designer, engineer, contractor, agent, or any other *person* who allows, acts in concert, participates, directs, or assists directly or indirectly in the creation of a violation of this chapter *shall* be subject to civil penalties as follows:
 - A. For first time offenders, if the quantity of the discharge is equal to or less than five (5) gallons and consists of domestic or household products in quantities considered ordinary for household purposes, said *person shall* be assessed a civil penalty not to exceed one thousand dollars (\$1,000.00) per violation or per day for any continuing violation, and if the quantity of the discharge is greater than five (5) gallons or contains non-domestic substances, including but not limited to process waste water, or if said *person* cannot provide clear and convincing evidence of the volume and nature of the substance discharged, said *person shall* be assessed a civil penalty not to exceed five thousand dollars (\$5,000.00) per violation or per day for any continuing violation.
 - B. For repeat offenders, the amount of the penalty *shall* be double the amount assessed for the previous penalty, not to exceed twenty-five thousand dollars (\$25,000.00) per violation or per day for any continuing violation.
 - C. In determining the amount of the penalty, the *Town* Manager or his designee *shall* consider:

- i. The degree and extent of harm to the environment, the public health, and public and private *property* ;
- ii. The cost of remedying the damage;
- iii. The duration of the violation;
- iv. Whether the violation was willful;
- v. The prior record of the *person* responsible for the violation in complying or failing to comply with this chapter;
- vi. The costs of enforcement to the public; and
- vii. The amount of money saved by the violator through his, her, or its noncompliance.

2. *Illicit connections* - Any *person* found with an *illicit connection* in violation of this chapter and any designer, engineer, contractor, agent, or any other *person* who allows, acts in concert, participates, directs, or assists directly or indirectly in the establishment of an *illicit connection* in violation of this chapter, *shall* be subject to civil penalties as follows:

- A. First time offenders *shall* be subject to a civil penalty not to exceed five thousand dollars (\$5,000.00) per day of continuing violation.
- B. Repeat violators *shall* be subject to a civil penalty not to exceed twenty-five thousand dollars (\$25,000.00) per day of continuing violation.
- C. In determining the amount of the penalty, the *Town Manager* or his designee *shall* consider:
 - i. The degree and extent of harm to the environment, the public health, and public and private *property* ;
 - ii. The cost of remedying the damage;
 - iii. The duration of the violation;
 - iv. Whether the violation was willful;
 - v. The prior record of the *person* responsible for the violation in complying or failing to comply with this chapter;
 - vi. The costs of enforcement to the public; and
 - vii. The amount of money saved by the violator through his, her, or its noncompliance.

D. Procedures for assessing penalties pursuant to *illicit connections*.

- i. Said penalties *shall* be assessed by the *Town Manager* or his designee. No penalty *shall* be assessed until the person alleged to be in violation is served written notice of the violation either personally or by registered or certified mail. When service is made by registered or certified mail, a copy of the notice *may* also be sent by first class mail. Service *shall* be deemed sufficient if the registered or certified mail is unclaimed or refused, but the first class mail is not returned by the Post Office within ten (10) days after the mailing.
- ii. The notice *shall* warn that failure to correct the violation within the specified time period will result in the assessment of a civil penalty and/or other enforcement action. If after the allotted time period has expired, and the violation has not been corrected, the penalty *shall* be assessed from the date of the violation and each day of continuing violation thereafter *shall* constitute a separate violation under this section.

2. *Other Violations* - Any person found in violation of other provisions of this chapter, not specifically enumerated elsewhere, *shall* be subject to a civil penalty not to exceed one thousand dollars (\$1,000.00) per violation or per day for any continuing violation.

157.401 – CRIMINAL PENALTIES

Any person who knowingly or willfully violates any provision of this chapter, rule, regulation, order duly adopted or issued pursuant to this chapter *shall* be guilty of a misdemeanor, punishable by a fine not to exceed five hundred dollars (\$500.00) or imprisonment for not longer than thirty (30) days. Each violation *shall* be a separate offense.

157.402– INJUNCTIVE RELIEF

1. Whenever the *Town Council* has a reasonable cause to believe that any person is violating or threatening to violate this chapter, rule, regulation, order duly adopted or issued pursuant to this chapter or making a connection to a *stormwater conveyance* or *stormwater conveyance system* other than in accordance with the terms, conditions, and provisions of approval, the *Town may* , either before or after the institution of any other action or proceeding authorized by the Code, institute a civil action in the name of the *Town* for injunctive relief to restrain and abate the violation or threatened violation.
2. The institution of an action for injunctive relief under subsection (c) *shall* not relieve any party to such proceeding from any further civil or criminal penalty prescribed for violations of this Code.

ARTICLE 5: PAYMENT AND COLLECTION PROCEDURES

157.500- PAYMENT AND COLLECTION PROCEDURES

Penalties *shall* be assessed by the *Town* Manager or his designee. No penalty *shall* be assessed until the *person* alleged to be in violation is served *written* notice of the violation by registered or certified mail or personal service. When service is made by registered or certified mail, a copy of the notice may also be sent by first class mail. Service *shall* be deemed sufficient if the first class mail is not returned by the Post Office within ten (10) days after the mailing. Refusal to accept the notice *shall* not relieve the violator of the obligation to pay the penalty. The *Town* Manager or his designee *shall* make *written* demand for payment upon the *person* in violation. If the payment is not received or equitable settlement reached within thirty (30) days after demand for payment is made, the matter *shall* be referred to the *Town* Attorney for institution of a civil action in the name of the *Town*, in the appropriate division of the General Court of Justice in Johnston County for recovering the penalty.

157.501 – ADMINISTRATIVE FEE

Any person who *shall* commit a violation of this chapter, receives official notice from the *Town* of said violation, and fails to remedy said violation such that a Notice of Violation is issued *shall* be subject to an administrative fee of one hundred dollars (\$100.00) in addition to any other charge.

This ordinance will become effective August 1, 2020.

Duly adopted this the 20th day of July, 2020 while in regular session.

Jody McLeod
Mayor

ATTEST:

Kimberly A. Moffett, CMC, NCCMC
Town Clerk



Town Council Agenda Cover Sheet

Meeting Date

July 20, 2020

Agenda Location

New Business

Item Title

Economic Development Strategy

Presenter

Patrick Pierce, Economic Development Director

Summary/Description

The Economic Development Department began developing its first economic development strategy around this time last year. Sponsored by ElectroCities, the effort included a number of focus group, interviews, a community survey, SWOT analysis and economic and community profiles. Utilizing all of these inputs from partners, business and community leaders, and Clayton residents, a draft strategy was crafted at the end of 2019, but was put on pause because of the director transition and the COVID-19 pandemic. Beginning in April, the effort was restarted and revised to reflect the current situation although many of the core recommendations remained the same.

The four goals of the strategy are 1) to grow jobs for Clayton through recruitment, existing business, and small business and entrepreneurial support; 2) Build on a charming and historic downtown through redevelopment and placemaking; 3) Build Clayton's sense of community and quality of life with amenities, placemaking, and branding; and, 4) Develop the infrastructure necessary to improve quality of life in Clayton and facilitate continued business growth.

If approved, this strategy and implementation plan will serve as the guiding document for the work of the Economic Development Department and its partners in the community as we work to grow jobs and opportunity in and around the Town of Clayton

Requested Action

Approval

Funding Source (If Applicable):

N/A

Cost: N/A Yes ☐ No ☒

Additional Documents to be Included in Agenda Packet

Presentation

Draft Economic Development Strategy

Meeting Timeline

N/A



Town of Clayton Economic Development Strategy

Presentation to Town Council
7/20/2020



A silhouette of a person stands against a sky with scattered clouds. The person is holding a large, dark question mark above their head. The text 'Why develop an Economic Development Strategy?' is written in white across the center of the image.

Why develop an Economic Development Strategy?

Think
CLAYTON
NORTH CAROLINA

An aerial photograph of a lively downtown street. The street is lined with multi-story brick buildings. Lush green trees are planted along the sidewalks, and several yellow traffic lights are visible at intersections. People are walking on the sidewalks, and cars are parked or moving along the street. A large orange rectangular bar is positioned at the bottom of the image, partially obscuring the street scene.

Does Clayton want to grow its
vibrant Downtown District?

Think
CLAYTON
NORTH CAROLINA



Does Clayton want to grow high paying,
advanced manufacturing jobs?



Do residents want options to get out of traffic?

Should it be
easier to
navigate
around town?



Think
CLAYTON
NORTH CAROLINA



Should all residents have the opportunity to access higher education in Clayton?

Think
CLAYTON
NORTH CAROLINA

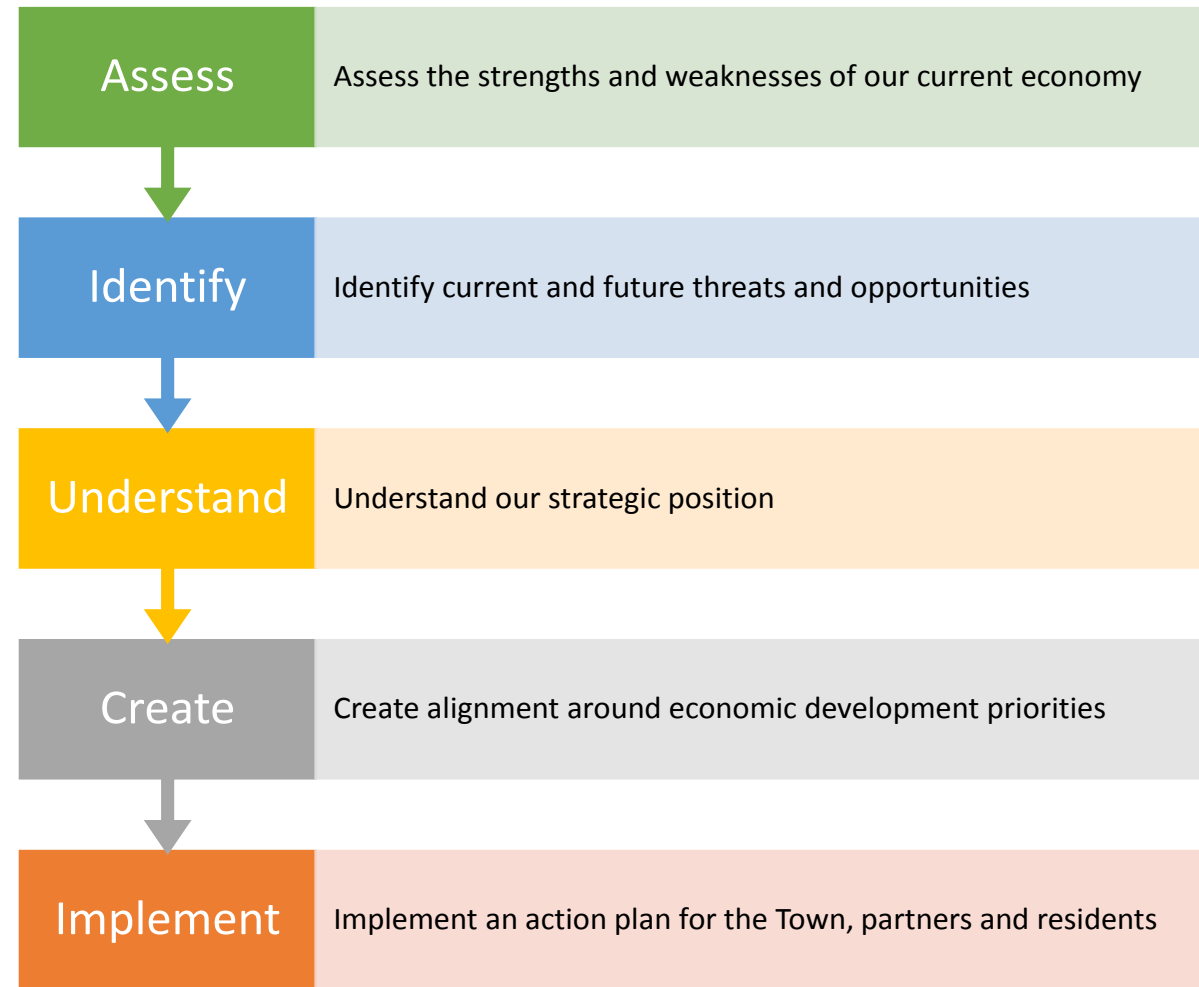


Should residents be able to fulfill all of their shopping and culinary needs in Clayton?

Think
CLAYTON
NORTH CAROLINA



What is an Economic Development Strategy?



Strategic Planning Process

Began in mid-2019

Over 350 people provided input

Focus groups, interviews and community survey

SWOT analysis, Economic and Demographic profile

Revived and Revised for COVID-19 in April

ED Strategy Steering Committee

- Mayor Jody McLeod
- Adam Lindsay, Town Manager
- Dana Wooten, Clayton Chamber of Commerce
- Jim Perricone, Partners Commercial Realty
- Jennings Gray, ElectriCities
- Patrick Pierce, Town of Clayton
- Jenn Gallimore, Town of Clayton

**BIG thank you to ElectriCities for sponsoring
the strategy development!**



**And, to Penny Whiteheart, Creative EDC, for
all of her strategy development expertise!**



SWOT Analysis Summary

STRENGTHS

- Proximity to Raleigh & Research Triangle
- Sense of Community/Family Orientation
- Downtown Character
- Relative Affordability
- Growing Industrial Base

OPPORTUNITIES

- Downtown Redevelopment
- Connectivity and Wayfinding in the City
- Improve Marketing Messages
- Explore Conference Center
- Leverage Newcomers

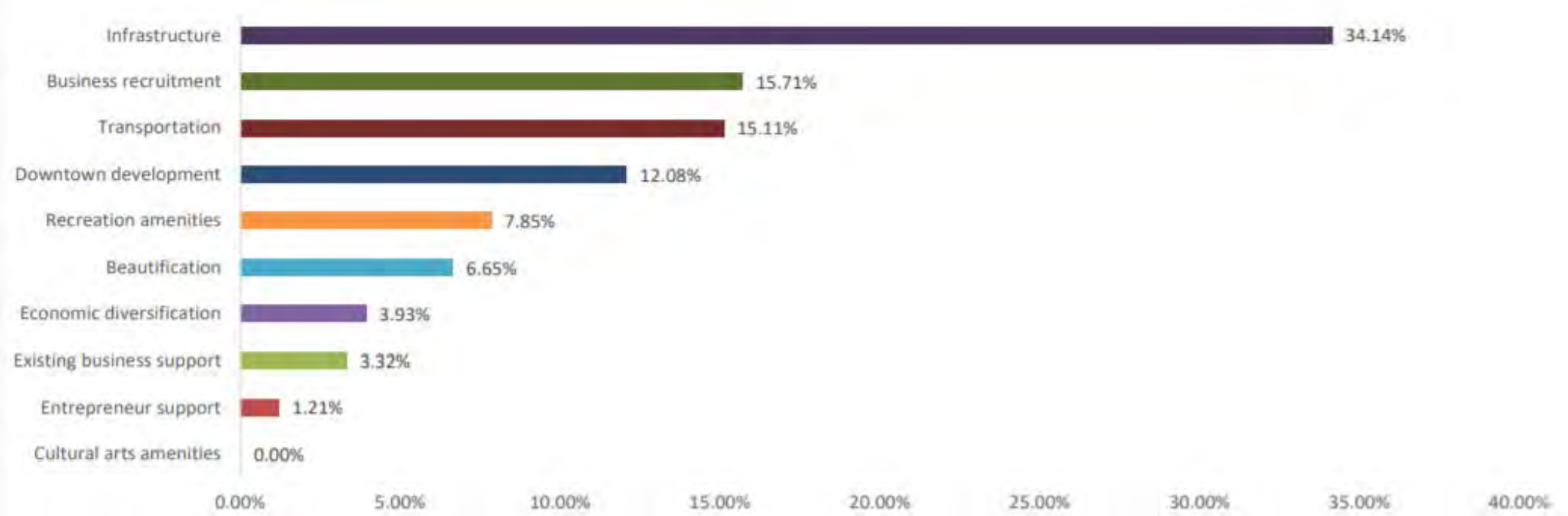
WEAKNESSES

- Planning for Growth
- Perceived Bureaucracy/Regulations
- Strengthening Regional Alliances
- Lack of Local and Chain Restaurants (like Chick-fil-A)

THREATS

- Congestion
- Rising Costs and Competition
- Budget Constraints
- Conflicting Expectations (long-timers vs. newcomers)

What is the most important investment Clayton could make to ensure long-term, sustainable economic growth?



What is one thing Clayton does better than other cities?



Economic and Demographic Profile Summary

- Median age of 36.4 - lower than county or state average
- Above average HS graduation rate; opportunity to increase postsecondary attainment
- Growing labor force and low unemployment (pre-COVID)
- Manufacturing is one of the top employment and highest paying sectors (avg \$1194/wk)
- Long commute times (25-44 minutes)
- 84% of all Johnston County businesses have less than 10 employees – small businesses matter!

Economic Development Strategy Goals

- Goal 1** - Grow jobs for Clayton through recruitment, existing business development, and small business and entrepreneurial support
- Goal 2** - Build on a charming and historic downtown through redevelopment and placemaking
- Goal 3** - Build Clayton's sense of community and quality of life with amenities, placemaking, and branding
- Goal 4** - Develop the infrastructure necessary to improve quality of life in Clayton and facilitate continued business growth

Economic Development Strategy Goals

Goal 1

Grow jobs for Clayton through business recruitment, existing business development and small business and entrepreneurial support.

Strategies:

- Work with allies to advance new business recruitment to Clayton
- Position available sites and building for potential investors or employers
- Support entrepreneurship and small business growth
- Connect with existing businesses to promote growth and investment

Economic Development Strategy Goals

Goal 2

Build on a charming and historic downtown through redevelopment and placemaking

Strategies:

- Continue to position Downtown as the heart of placemaking, the Heart of Clayton
- Identify and prioritize properties for development/redevelopment
- Address parking through research and communication

Economic Development Strategy Goals

Goal 3

Build Clayton's sense of community and quality of life with amenities, placemaking and branding

Strategies:

- Use wayfinding, collaterals and signage for attractive, cohesive visuals to create sense of place and extend the Clayton brand
- Identify and cultivate community champions
- Communicate current information during the COVID-19 crisis
- Tell Clayton's story - Use multiple media channels to create and distribute positive messages and keep residents informed

Economic Development Strategy Goals

Goal 4

Develop the infrastructure necessary to improve quality of life in Clayton and facilitate continued business growth

Strategies:

- Address safety and congestion issues by building the transportation system of the future, including highway expansion, commuter rail and BRT
- Expand non-motorized network of trails, greenways and open space
- Grow pre-K-20 capacity to meet the workforce needs of the future
- Ensure the utility and broadband capacity exists to facilitate continued industrial, commercial and residential growth

Economic Development Strategy Implementation

Goal 1: Grow Jobs for Clayton through recruitment, existing business development, and small business and entrepreneurial support

Near-term Priorities (0-18 months)

- Create a business retention and expansion program (BRE) program to engage businesses in town
- Inventory and publish available sites/buildings for new industrial, commercial and retail employers
- Develop a "Start A Business in Clayton" toolkit
- Communicate goals and value proposition to ED partners locally, regionally and statewide

Medium-term Priorities (18-36 months)

- Host regional allies and CRE to available sites and buildings annually
- Participate with ElectriCities and other ED partners on recruitment missions and trade shows
- Utilize BRE data to inform town policies and priorities
- Develop targeted recruitment strategies utilizing anchor tenants
- Recruit an additional hotel
- Develop a Town incentive policy for business recruitment and retention

Long-term Priorities (36+ months)

- Consider Town development of specific spaces in targeted locations
- Consider a business ombudsman/"one stop shop" model for new and existing businesses in town
- Consider a small business support package, including RLF, ambassador/advocate check-ins and grants
- Create a biopharma manufacturing district



Goal 2: Build on a charming and historic downtown through redevelopment and placemaking

Near-term Priorities (0-18 months)

- Create alignment amongst organizations with a focus on downtown vitality and COVID-19 recovery
- Review available downtown properties and prioritize base on location, use and disposition of owner
- Be a catalyst for redevelopment projects such as Town Square, Horne Square and Old Town Hall

Medium-term Priorities (18-36 months)

- Publicize family friendly trail, itineraries and activities in downtown
- Evaluate existing façade grant program and ensure it is maximizing public investment
- Consider a parking supply/demand analysis

Long-term Priorities (36+ months)

- Create pop-up recreation, storytelling, classes and retail to increase foot traffic in downtown
- Encourage and partner with civic organization to hold their own free public events in downtown
- Consider a vacant building registry program to discourage long-term vacancies

Goal 3: Build Clayton's sense of community and quality of life with amenities, placemaking and branding

Near-term Priorities (0-18 months)

- Use goals of strategic plan as topics for regular communications to residents
- Include a calendar of events for activities on website
- Explore historic signage to identify Downtown Clayton as the Historic Heart of the Town

Medium-term Priorities (18-36 months)

- Install wayfinding downtown and town gateways
- Engage young people in business in town activities and committees

Long-term Priorities (36+ months)

- Explore partnerships with other stakeholders like Social Toaster to contribute posts and content
- Seek out Clayton leaders to serve on JoCo ED Commission, County Commission and other places



Goal 4: Develop the infrastructure necessary to improve quality of life in Clayton and facilitate continued business growth

Near-term Priorities (0-18 months)

- Engage with CAMPO and NCDOT on expanding key corridors, such as NC42 E & W, US BUS 70, and I-42
- Continue to partner with JoCo and CAMPO on potential commuter rail and BRT extensions to Clayton
- Explore feasibility for developing a JCC Clayton campus
- Partner with the Library to explore redevelopment of the Hocutt-Ellington Memorial Library

Medium-term Priorities (18-36 months)

- Enhance marketing of our electric system's capacity and reliability to development community
- Extend greenway to downtown physically and/or with signage and wayfinding
- Work with partners to ensure adequate wastewater capacity for future development
- Consider partnering with JoCo Visitors Bureau on an EV charging station plan
- Partner on education-industry programs, such as JoCo Works and INSPIRE

Long-term Priorities (36+ months)

- Activate parks and common areas with free community activities and events in downtown
- Partner with JoCo Schools to promote connections with local employers in the classroom
- Support efforts to improve early learning in the community, especially in math and reading
- Support efforts to expand, improve and connect the Town's pedestrian and bike trail network
- Engage in utility and broadband capacity and expansion conversations



Keys to Successful Implementation

Partnerships

- Building new ones; strengthening old ones
- This is the Town's and the town's Economic Development Strategy
- Economic Development is a team sport!

Communication

- Keep the momentum
- Share successes; Confront challenges
- Track progress

Execution

- Be nimble, but stay on course
- Do what we say we are going to do

Questions?

Think
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NORTH CAROLINA



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