



Town of Clayton
Regular Town Council Meeting Agenda
Monday, February 3, 2020 @ 6:00 PM
Council Chambers

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

- January 21, 2020 - Regular Session
- January 21, 2020 - Closed Session

[January 21 2020 DRAFT Minutes](#)

b. NCDOT Updating Speed Limit Zones

- NC 42 (B/W .004 east of SR 1552 & .044 west of Laurel Ridge Drive)
- NC 42 (B/W .465 west of SR 1552 & .104 west of SR 1552)
- NC 42 (B/W .05 east of SR 1660 & SR 1551)
- NC 42 (B/W .035 east of SR 1660 & SR 1551)

[NCDOT Updating Speed Limit Zones](#)

c. Warranty Acceptance - FINAL

- Boling Townhomes, Buildings 47-51

[Boling Townhomes, Buildings 47-51 - FINAL](#)

POTENTIAL ACTION: Adoption of Consent Agenda as Presented

4. ADMINISTRATIVE ITEMS

5. INTRODUCTIONS AND SPECIAL PRESENTATIONS

a. New Employee Introductions

Presenter: Samantha Wullenwaber, Planning Director

- Sharon Sharpe, Planner

6. PUBLIC HEARINGS

a. 2019-130-SUP - The Quad - Special Use Permit (Quasi-Judicial)

Presenter: Samantha Wullenwaber, Planning Director

[Cover](#)

[Application Combined](#)

[Adjacent Property Owner Letter](#)
[Neighborhood Meeting Material Combined](#)
[Map](#)
[Newspaper Ad](#)
[Staff Report](#)
[Motion Form](#)

POTENTIAL ACTION: Approval/Denial of 2019-130-SUP

- b. 2019-129-SD - The Quad - Preliminary Plat (Quasi-Judicial)
Presenter: Samantha Wullenwaber, Planning Director

[Cover](#)
[Application Combined](#)
[Neighborhood Meeting Material Combined](#)
[Map](#)
[Site Plans](#)
[Signed TRC Certification Letter](#)
[Newspaper Ad](#)
[Staff Report](#)
[Motion Form](#)

POTENTIAL ACTION: Approval/Denial of 2019-129-SD

7. OLD BUSINESS

- a. East Clayton Community Park (Harmony Playground) Design/Build Contract
Presenter: Joshua Baird, Town Engineer

[Cover](#)
[Clayton Community Recreational Foundation Agreement](#)
[Design Build Contract](#)
[Ordinance 2020-02-01](#)
[Ordinance 2020-02-02](#)

POTENTIAL ACTION: Authorize Town Manager or Designee to Execute Agreement with Clayton Community Recreational Foundation

POTENTIAL ACTION: Authorize Town Manager or Designee to Execute Design-Build Contract & Subsequent Supplemental Agreement

POTENTIAL ACTION: Adoption of Ordinances #2020-02--01 & #2020-02-02

8. NEW BUSINESS

- a. COPS Grant Application
Presenter: Blair Myhand, Police Chief

[Cover](#)

POTENTIAL ACTION: Authorize Staff to Proceed with Application

9. STAFF REPORTS

- a. Town Manager

- b. Town Attorney
 - c. Town Clerk
 - d. Other Staff
 - Wall That Heals & Road to Hope Bike Ride
Presenter: Blair Myhand, Police Chief
- [Cover](#)

10. OTHER BUSINESS

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

11. CLOSED SESSION

- a. Closed Session Pursuant to NCGS §143-318.11(a)(3) - Attorney Client Privilege (Shenandoah Homes)

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
Tuesday, January 21, 2020 @ 6:00 PM
Council Chambers

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
Rich Cappola, Public Services Director
Blair Myhand, Police Chief
Samantha Wullenwaber, Planning Director
Brandon Carroll, Utilities Compliance Technician
Robert McKie, Finance Director
Ann Game, Customer Service Director
Stacy Beard, Communications Director

COUNCIL ABSENT:

1 CALL TO ORDER

Pledge of Allegiance and Invocation

- a) Mayor McLeod called the meeting to order at 6:01 p.m. He led everyone in the Pledge of Allegiance as well as offering the Invocation.

2 ADJUSTMENT OF THE AGENDA

- a) Mr. Lindsay stated that due to a family illness, Sharon Sharpe would not be present at the meeting this evening. She will be introduced at the February 3, 2020 council meeting. Additionally Mr. Lindsay requested the addition of a Closed Session under 143-118.11(a)(3) - Attorney Client Privilege.

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
 - January 6, 2020 - Closed Session
 - January 6, 2020 - Regular Session
- b) Proclamation - "All In Red Week" - February 7 - 14, 2020
- c) Warrant Acceptance
 - Gordon Park, Phase 3
 - Ashcroft Subdivision, Phase 4A

ACTION: Adoption of Consent Agenda as Presented

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

4 ADMINISTRATIVE ITEMS

5 INTRODUCTIONS AND SPECIAL PRESENTATIONS

a) New Employee Introductions

Presenters: Blair Myhand - Police Chief, & Michael Tutwiler - GIS Coordinator

- Lara Keating-Lopez, Administrative Support Assistant
- ~~Sharon Sharpe, Planner~~ * *Unable to Attend Due to Family Illness*
- Ben Paynter, GIS Technician

Chief Myhand introduced Lara Keating-Lopez as the Administrative Support Assistant in the Police Department. She was initially hired as a temporary worker and is now a full time employee. She has over 20 years of customer service experience. Ms. Keating-Lopez stated she was honored to part of the town. Council welcomed her.

Mike introduced Ben Paynter as our new GIS Technician. Ben has a Master's Degree from Chapel Hill as well as previous municipal experience. He said he was looking forward to being with the town. Council welcomed him to the team.

b) Audit Presentation

Presenter: Robert McKie, Finance Director

Mr. McKie provided an overview of the recent audit presentation. He explained the contents that are included in the Comprehensive Annual Financial Report (CAFR). He provided an in-depth overview of the audit process. He provided a listing of the oversight bodies as well as required procedures to be followed. He shared timeline for the lengthy process.

Details were provided regarding the operating funds of the town. He noted an increase in the ad valorem tax revenue. He stated this primarily due to the .03 tax rate increase. Additionally there was an increase in both sales tax r and permits and fees revenues.

Expenditures in the general fund saw an increase due to capital outlay for street improvements, equipment and vehicle acquisitions for public safety and public works as well as increased personnel costs in those areas.

Key Growth tables for the General Fund were provided showing growth since 2015 in sales tax revenue, property tax revenue and assessed values.

Mr. McKie stated we received an unmodified clean opinion, which was submitted to and approved by the Local Government Commission. We had no

compliance violations, our overall tax collection percentage is at 99.99% and both our general fund and proprietary fund debt decreased.

Mr. McKie stated he was happy to answer any questions. Council Member Grannis offered his thanks to Robert and his team for all the hard work. He stated it appeared we are in good shape.

6 PUBLIC HEARINGS

- a) FY '20-21 Budget Public Input
Presenter: Adam Lindsay, Town Manager

Mr. Lindsay provided details regarding local government balanced budget requirements. He stated the preparation of the budget takes many months. Statute requires that each municipality hold at least one public hearing regarding the fiscal year budget, however, Clayton prefers to hold two. The first is at the beginning of the budget process, which allows us to hear feedback from citizens and the second public hearing will be held in June, at which time we will present and adopt the budget. Several key meetings will take place prior to that time and include council budget workshop.

Mayor McLeod noted this as a public hearing at 6:33 p.m. and asked that anyone that wished to address the council to step forward. Ms. JoAnn McKinnon was present and asked for clarification regarding what she could address regarding the budget process. She shared her concerns regarding Rollingwood. She stated she is concerned about congestion and hoped that there would be funding for additional ingress and egress. She shared concerns about large construction trucks being parked without any flagging. She shared her concerns regarding traffic in many areas. She shared her concerns about residents not being very informed about changes to Rollingwood. She further stated many of the folks who live in Rollingwood are older retired folks and are not able to attend council meetings, due to scheduling and perhaps also not being physically able to attend. She shared concerns about fees being charged for paying bills on line. She questioned possibility of development of application that would omit the third party provider fees. Council thanked her for her time.

With no one further wishing to speak, the hearing was closed at 6:42. p.m.

Council Member Holder confirmed that Ms. McKinnon was referring to credit card fees and she stated that was correct. Mr. Lindsay stated the fee being charged came directly from each individual credit card company. He provided background information regarding those fees Mayor offered his thanks to Ms. McKinnon for bringing the issues at Rollingwood to the council attention. He stated the safety concerns would be brought to the attention of the developer.

- b) 2019-243-OA - Code of Ordinance Amendment - Unified Development Ordinance - §155.400 (Access)
Presenter: Samantha Wullenwaber, Planning Director

Ms. Wullenwaber presented this proposed amendment to chapter 400 of the UDO Council was provided with both an updated version of the strikethrough and clean copy that was presented to planning board. Proposed amendments include access point clarification, sidewalk and fee-in-lieu. Ms. Wullenwaber stated that staff and the Planning Board recommend adoption of these amendments.

Council Member Grannis asked about any safety concerns. Ms. Wullenwaber stated this proposed amendment had been reviewed by all departments and are all in support. Council Member Grannis asked about state requirements and if were we equally stringent or more stringent. Ms. Wullenwaber stated she was not sure. Council Member Grannis asked why a paragraph regarding waiver of standards being allowed by town council had been removed. Ms. Wullenwaber stated a variance would allow for evidence to be presented and a waiver does not required any evidence to be presented. He confirmed anything that referred to a waiver would be adjusted to a variance request.

Mayor McLeod noted this as a public hearing and stated that anyone who wished to speak to please step up to the podium. Mr. Reid Smith was present and stated he felt there were many consequences regarding this proposed amendment with regard to access. He stated the development community had many concerns but further agreed that safety is of the utmost importance. He further stated that he believed this amendment would put some subdivisions at risk of not being built. He asked for additional time before making final decision. He stated it would be great to see some benchmarking and wondered why this couldn't be done during the upcoming code rewrite. Mayor McLeod questioned if anyone in development community had completed any research. Mr. Smith stated researched had been done and there were differences but he was not prepared to share that information this evening.

Mr. Saluppo was present and shared his views about this proposed amendment and felt it should move forward. He shared concerns about issues that he believed we would continue to experience with growth and how it relates to additional ingress and egress. He feels it's important to look toward the future and feels safety is very important and this should not be taken lightly. He stated he understood it might cost developers a bit more financially, but felt it was worth it.

Chief Barbee was present and shared historical information about an incident with a truck and the east side of town had to be closed down for 8 hours. He stated that following that incident, he wrote a letter to NCDOT about extending Front Street. He felt this was a good example and also provided details about a gas leak years ago at Cricket Hollow. He provided many other examples about safety issues and older subdivision that have only one way in and one way out. He shared his concerns about being able to get people out or in in the case of an evacuation... He shared details about the need to get fire trucks and emergency trucks in and out of subdivisions. He further stated the fire department is running more and more calls. He further stated there is great team work in Clayton and he strongly believes this amendment regarding

access is needed. Mr. Smith stated that numerous subdivisions would not have been approved had this amendment been in place when they received approval. His concern is requirement of three ingress/egress. Mr. Smith stated there are projects that would need to stop and this amendment would significantly impact development. Mayor McLeod stated he appreciated the input and further stated it was possible that may be something that would be welcomed by many. Ms. McKinnon stated she felt we needed to do better than what we did when subdivisions were approved years ago.

With there being no one further wishing to speak, the public hearing was closed at 7:14 p.m. and over to council for their deliberation.

ACTION: Table Item Until After February 2020 Town Council Retreat

Motion: Council Member Holder
Second: Council Member Grannis
Vote: Unanimous

7 OLD BUSINESS

- a) Wastewater Allocation Policy
Presenter: Rich Cappola, Public Services Director

Mr. Cappola presented this item and provided details about the amended policy including the new score sheet.

Council Member Grannis asked about the institutional category and if that included 501(c)(3) such as Rotary, etc. Mr. Cappola stated he believed it would. Council Member Grannis asked for clarification regarding the intent of scoring in the green versus blue sections. Mr. Cappola provided details and stated intent was at discretion of council. Council Member Grannis offered his thanks to staff for taking time to go over this policy in full detail with him. He stated this was a huge amount of information and wanted to be sure the council had done all their homework on this issue.

ACTION: Table Item Until After February 2020 Council Retreat

Motion: Council Member Grannis
Second: Council Member Holder
Vote: Unanimous

8 NEW BUSINESS

- a) Code of Ordinance Amendment - Chapter 53 - Backflow
Presenter: Brandon Carroll, Utilities Compliance Technician

Mr. Carroll was presented and provided details regarding Chapter 53 regarding Backflow and Cross Connection. He shared details about our partnership with BSI. He stated that in the past year we had added over 100 new devices. He stated that testing compliance rate is over 98.62% Since we joined this program with BSI the City of Raleigh and City of Durham have now

joined. He stated current ordinance was passed in 1995 and this proposed amendment would bring clarification to the ordinance. He shared details about the proposed changes to the ordinance that included definitions, responsibility, time frame to install or correct violation and enforcement. He further stated that a companion to the ordinance would be a Cross Connection Handbook; which would serve as a day to day operational guide.

Council Member Bunn asked if testers were certified. Mr. Carroll stated that hands on training is completed and a written test is issued by the state. He further stated that certification must be renewed every two years. Mr. Carroll add that back flow certification is separate from plumbing certification.

Council Member Grannis offered his thanks and stated this update was a long time coming. He asked if our requirements were as stringent as those of the state. Mr. Carroll stated he had worked closely with City of Raleigh in helping to determine what would work best for the Clayton. He stated that we are right in the middle, there are those that are more stringent and those that are less stringent.

ACTION: Adoption of Ordinance #2020-01-06

Motion: Mayor Pro Tem Grannis
Second: Council Member Holder
Vote: Unanimous

- b) EDA Grant Resolution
Presenter: Rich Cappola, Public Services Director

Mr. Cappola was present and provided details about request for support of EDA Grant Resolution. This has come together as a combined project with the county regarding flow concerns/issues. The grant would require a 20% match from the town.

Council Member Grannis asked what would happen should we not receive grant. Mr. Cappola stated financing would be required.

ACTION: Adoption of Resolution #2020-03

Motion: Council Member Grannis
Second: Council Member Holder
Vote: Unanimous

9 STAFF REPORTS

- a) Town Manager
- b) Town Attorney
- c) Town Clerk
- d) Other Staff
 - Digital Meters Update

Presenter: Ann Game, Customer Service Director

Ms. Game was present to provide additional information including the timeline for the project. Ms. Game stated this was a huge project that affected numerous departments in the town. She shared details about location of reading poles. Testing phase will begin shortly with meters that will be on town owned properties. Ms. Games stated new construction that has taken place since May of 2019 do have the new meter installed, however, they will not be activated until we complete our test phase. A phone number has been established and will be published for any questions regarding this program. A total of 16,000 meters will be changed out. We have now received a shipment of electric meters and to date there have been no problems reported. The Communications Department is very involved in this project as well. Ms. Game reported visiting numerous other municipalities who currently utilize this system and gained a good amount of information and feedback. She stated there will so much data received, there will likely be a need for a full time data analyst for this project. Ms. Game stated we are on target and project is progressing very well.

Council Member Grannis asked if we had worked with anyone in Electricities for any input. Ms. Game stated she had not, however, Ms. Beard stated they had been helpful on the communications side with sharing information and templates. Council Member Grannis asked when we could expect the reduction of the charge that is currently included on bills. Ms. Game stated she anticipated it was a 15 year payout period and it would be up to council to make any change. Ms. Games shared some of the information/reports that could be provided from this system. Ms. Medlin provided details about New World System, which is our billing/utility software.

Mayor McLeod thanked Ms. Game for the information and update.

10 OTHER BUSINESS

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

Council Member Grannis reported that he attended an Electricities meeting last week and shared details about rate projections. He stated we are on schedule and feel that it will allow the town to be able to look at various rates and more easily allow for necessary decisions related to our electric system.

11 CLOSED SESSION

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

Closed Session pursuant to attorney-client privilege related to Shenandoah Homes lawsuit.

ACTION: Motion to Go Into Closed Session

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

12 ADJOURNMENT

a)

With there being nothing further the meeting was adjourned at 8:26 p.m.

ACTION: Motion to Adjourn

Motion: Council Member Bunn
Second: Council Member Grannis
Vote: Unanimous

Duly adopted this the 3rd day of February, 2020 while in regular session.

Jody L. McLeod
Mayor

ATTEST:

Kimberly A. Moffett, CMC, NCCMC
Town Clerk



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

ROY COOPER
GOVERNOR

JAMES H. TROGDON, III
SECRETARY

January 21, 2020

Ms. Kimberly Moffett
P.O. Box 879
Clayton, NC 27528

Ms. Moffett

Please find included, Certification of Municipal Declaration to Repeal and Enact Municipal speed zones in Clayton NC. Please have your municipal governing body certify these documents and return originals back to me at your earliest convenience.

If you have any questions regarding the speed zones studies or these documents, please feel free to contact me at (252) 640-6520 or (919) 581-7740.

Sincerely,

Mark R. Manriquez
Assistant Division Traffic Engineer

MRM/

Cc: FILE

Mailing Address:
NC DEPARTMENT OF TRANSPORTATION
DIVISION 4 TRAFFIC SERVICES
PO BOX 3165
WILSON, NC 27895-3165

Telephone: (252) 640-6500
Fax: (252) 234-6174
Customer Service: 1-877-368-4968

Website: www.ncdot.gov

Location:
509 WARD BLVD.
WILSON, NC 27893

**Certification of Municipal Declaration
To Enact Speed Limits and Request for Concurrence**

Concurring State Ordinance Number: 1076840

Division: 4 **County:** JOHNSTON

Municipality: CLAYTON

Type: Municipal Speed Zones

Road: NC 42

Car: 55 MPH

Truck: 55 MPH

Description: Between 0.004 mile east of SR 1552 and 0.044 mile west of Laurel Ridge Drive.

Municipal Certification

I, _____, Clerk of _____, do hereby certify that the municipal governing body, pursuant to the authority granted by G.S. 20-141(f), determined upon the basis of an engineering and traffic investigation and duly declared, on the _____ day of _____, 20____, the speed limits as set forth above on the designated portion of the State Highway System, which shall become effective when the Department of Transportation has passed a concurring ordinance and signs are erected giving notice of the authorized speed limit.

The said municipal declaration is recorded as follows:

Minute Book: _____ Page: _____ Ordinance Number: _____

In witness whereof, I have hereunto set my

hand and the municipal seal this _____ day

of _____, 20_____.

(signature)

(municipal seal)

Department of Transportation Approval

Division: _____ **Title:** _____ **Date:** _____

Region: _____ **Title:** _____ **Date:** _____

**Certification of Municipal Declaration
To Enact Speed Limits and Request for Concurrence**

Concurring State Ordinance Number: 1076838

Division: 4 County: JOHNSTON

Municipality: CLAYTON

Type: Municipal Speed Zones

Road: NC 42

Car: 45 MPH

Truck: 45 MPH

Description: Between 0.465 mile west of SR 1552 and 0.104 mile west of SR 1552.

Municipal Certification

I, _____, Clerk of _____, do hereby certify that the municipal governing body, pursuant to the authority granted by G.S. 20-141(f), determined upon the basis of an engineering and traffic investigation and duly declared, on the _____ day of _____, 20____, the speed limits as set forth above on the designated portion of the State Highway System, which shall become effective when the Department of Transportation has passed a concurring ordinance and signs are erected giving notice of the authorized speed limit.

The said municipal declaration is recorded as follows:

Minute Book: _____ Page: _____ Ordinance Number: _____

In witness whereof, I have hereunto set my
hand and the municipal seal this _____ day
of _____, 20_____.

(signature)

(municipal seal)

Department of Transportation Approval

Division: _____ Title: _____ Date: _____

Region: _____ Title: _____ Date: _____

**Certification of Municipal Declaration
To Repeal Speed Limits and Request for Concurrence**

Concurring State Ordinance Number: 1062064

Division: 4 **County:** JOHNSTON

Municipality: CLAYTON

Type: Municipal Speed Zones

Road: NC 42

Car: 45 MPH

Truck: 45 MPH

Description: Between 0.05 mile east of SR 1660 and SR 1551, in Clayton.

Municipal Certification

I, _____, Clerk of _____, do hereby certify that the municipal governing body, pursuant to the authority granted by G.S. 20-141(f), determined upon the basis of an engineering and traffic investigation and duly declared, on the _____ day of _____, 20____, the repeal of speed limits as set forth above on the designated portion of the State Highway System, which shall become effective when the Department of Transportation has passed a concurring ordinance and signs are erected giving notice of the authorized speed limit.

The said municipal declaration is recorded as follows:

Minute Book: _____ Page: _____ Ordinance Number: _____

In witness whereof, I have hereunto set my
hand and the municipal seal this _____ day
of _____, 20_____.

(signature)

(municipal seal)

Department of Transportation Approval

Division: _____ **Title:** _____ **Date:** _____

Region: _____ **Title:** _____ **Date:** _____

**Certification of Municipal Declaration
To Enact Speed Limits and Request for Concurrence**

Concurring State Ordinance Number: 1077055

Division: 4 County: JOHNSTON

Municipality: CLAYTON

Type: Municipal Speed Zones

Road: NC 42

Car: 45 MPH

Truck: 45 MPH

Description: Between 0.035 mile east of SR 1660 and SR 1551.

Municipal Certification

I, _____, Clerk of _____, do hereby certify that the municipal governing body, pursuant to the authority granted by G.S. 20-141(f), determined upon the basis of an engineering and traffic investigation and duly declared, on the _____ day of _____, 20____, the speed limits as set forth above on the designated portion of the State Highway System, which shall become effective when the Department of Transportation has passed a concurring ordinance and signs are erected giving notice of the authorized speed limit.

The said municipal declaration is recorded as follows:

Minute Book: _____ Page: _____ Ordinance Number: _____

In witness whereof, I have hereunto set my
hand and the municipal seal this _____ day
of _____, 20_____.

(signature)

(municipal seal)

Department of Transportation Approval

Division: _____ Title: _____ Date: _____

Region: _____ Title: _____ Date: _____



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 Moffat, Town Clerk

From: Chris Rowland, Construction Project Administrator 

Copy: Siraj Chohan, Boling Property, LLC.
Karen Durham, Engineering & Inspections Coordinator

Date: January 24, 2020

Subject: Boling Townhomes, Buildings 47-51

Please place a final acceptance request for the subject public sewer utility on the next available agenda. All identified punch list items have been satisfactorily completed. Following acceptance, the Town will assume all operational and maintenance duties.



Town Council Agenda Cover Sheet

Meeting Date

February 3, 2020

Agenda Location

Public Hearings

Item Title

The Quad – 2019-130-SUP

Presenter

Samantha Wullenwaber

Summary/Description

The Quad – Special Use Permit

The applicant is requesting a Special Use Permit to develop the use of townhomes on the subject property, which is zoned Office-Institutional (O-I). Per UDC requirements, the use of townhomes in this district is only permitted via issuance of a Special Use Permit. Running concurrently with this application is a preliminary plat application 2019-129-SD.

Requested Action

Approval with Conditions

Funding Source (If Applicable):

N/A

Cost: N/A Yes ☐ No ☒

Additional Documents to be Included in Agenda Packet

Application
Owners Consent Form
Staff Report
Staff Report Map
Applicant Site Plan
Neighborhood Meeting Material
Newspaper Ad - Public Notice
Adjacent Property Owner Letter- Public Notice
NEME – Letter of Understanding (March 27, 2003)
NEME – Letter of Understanding (May 20, 2019)
Storm Water Statement

Meeting Timeline

Click or tap here to enter text.



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

SPECIAL USE PERMIT APPLICATION COVER SHEET

Name of Project: The Quad Date: 6/28/2019
Applicant Name: Adams & Hodge Engineering, PC

The following checklist to be completed by applicant:

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

11 copies of the following:

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

Reviewed by: _____



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

SPECIAL USE PERMIT APPLICATION

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

☒ New Special Use Permit

☐ Major Modification to an approved SUP
Permit Modified: _____

SITE INFORMATION

Name of Project: The Quad

Acreage of Property: 2.029 AC Zoning District: O-I

County Tag #: 05G02046K NC Pin #: 165806-39-9222

Address/Location: Guy Rd, beside Devlin Orthodontics

Existing Use: Vacant Proposed Use: Single Family Townhomes

Is project within a Planned Development? ☐ Yes ☒ No If yes, which: _____

Is project within an Overlay District? ☐ Yes ☒ No If yes, which: _____

APPLICANT INFORMATION

Applicant: Adams & Hodge Engineering, PC

Mailing Address: 314 East Main St., Clayton, NC 27520

Phone Number: 919-763-7278 / 919-812-2654 Fax: _____

Contact Person: Donnie Adams / Amy Stancil

Email Address: donnied@adamsandhodge.com / amy@adamsandhodge.com

OFFICE USE ONLY

Date Received: _____ Amount Paid: _____ File Number: _____

Name: CGC Properties, LLC

Mailing Address: PO Box 10766, Wilmington, NC 28404

Phone Number: _____ **Fax:** _____

Email Address:

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

See Exhibit A

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

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

See Exhibit B

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

See Exhibit B

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

See Exhibit B

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

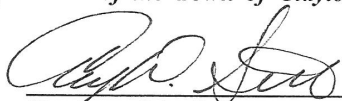
See Exhibit B

APPLICANT AFFIDAVIT

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

Amy D. Stancil

Print Name


Signature of Applicant

6/28/2019

Date



Received By:
Town of Clayton
7/25/19

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

OWNER'S CONSENT FORM

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

Project Name: CGC Properties, LLC Address or PIN #: 165806-39-9222

AGENT/APPLICANT INFORMATION:

Adams & Hodge Engineering, PC
(Name - type, print clearly)

314 East Main St.
(Address)
Clayton, NC 27520
(City, State, Zip)

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

Major Site Plan & Special Use Permit

Final Plats

Construction Plans

Administrative Amendments

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

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

OWNER AUTHORIZATION:

CGC Properties, LLC

(Name - type, print clearly)

[Signature]
(Owner's Signature)

PO Box 107166

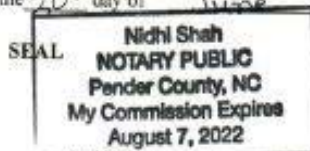
(Address)

Wilmington, NC 28404

(City, State, Zip)

STATE OF North Carolina
COUNTY OF New Hanover

Sworn and subscribed before me Nidhi Shah, a Notary Public for the above State and County, this
the 20th day of June, 2019.



Nidhi Shah
Notary Public

My Commission
Expires:

08-07-22

15 of 15

Exhibit B

Findings of Fact



ADAMS & HODGE
ENGINEERING, PC

Item No. 1 That the application will not materially endanger the public health or safety if located where proposed, and developed according to the plans as submitted and approval.

The distribution of traffic has been given much consideration by providing primary access to Guy Road with the secondary access point to Brandon Drive once the street is constructed. Since Guy Road is an NCDOT road, the access will be designed to NCDOT standards. Care has been exercised in the townhome subdivision to protect the environment by prudent use of buffers and landscaping. The public's safety and health have been addressed by providing public water and sewer that meet the Town and State requirements. Storm water quality has been addressed during construction with erosion control measures and in the long term with storm water management facilities that address not only the quality of water but also the quantity of water. Street are so designed as to be safe for pedestrians and vehicles alike by providing adequate separation, traffic control and lighting. The public's health and welfare are further addressed by the townhome subdivision providing passive and active recreation opportunities offsite utilizing municipal recreation facilities via recreation assessment fees.

Item No. 2 The That the application meets all required specifications and conforms to the standards and practices of sound land use planning and the Town Code of Ordinances and other applicable regulations.

The subdivision meets or exceeds all applicable development standards that are established in the Subdivision Regulations and the Unified Development Code. Private streets are designed in accordance with the Town standards so as to provide a development with safe streets for both vehicles and pedestrians. Public utilities are designed so as to provide adequate water for consumption as well as fire protection while the sewer collection system is designed to protect the health and welfare of the public. Area lighting is provided so as to provide a safe environment for the residents. Storm water management facilities have been incorporated into the design as to manage the volume of storm water as well as the quality of physical improvements during construction so as to minimize off site discharge of sediments. Passive and active recreation opportunities have been provided through open space, and indirectly through recreational assessment fees. By incorporating buffers, open space and landscaping the aesthetic quality of the development and as well as adjacent properties is maintained.



ADAMS & HODGE
ENGINEERING, PC

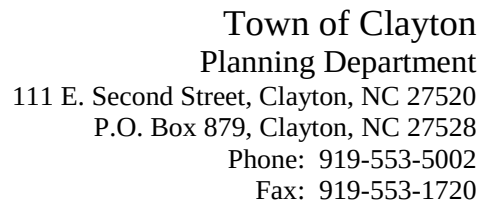
Item No. 3 That the application will not substantially injure the value of adjoining or abutting property and will not be detrimental to the use or development of adjacent properties or other neighborhood uses.

The Quad townhome development will be a continuation of the development pattern established by the Moss Creek Parkside and Garrison Place, which is a blending of single family with a mix of townhomes and apartments. Even though the Quad townhomes will continue the existing development pattern, the townhomes will offer a refreshing change of architectural style that is modern and in more keeping with contemporary trends.

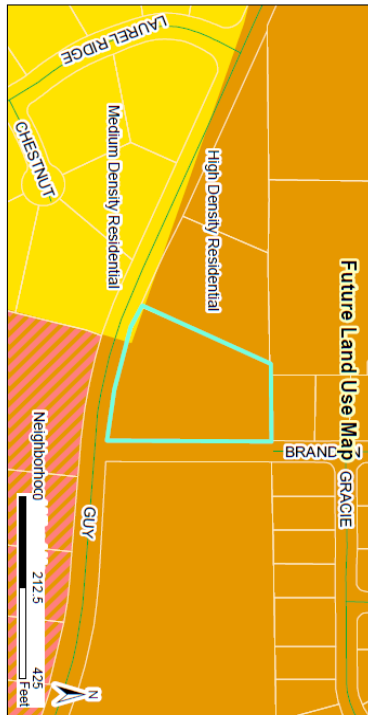
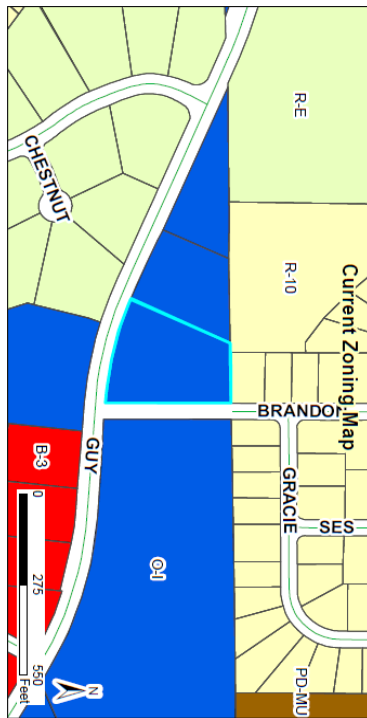
In the past to the west of the Quad, the Town of Clayton has approved multifamily housing in the form of duplexes, triplexes and traditional garden apartments. To the west and a little north of the proposed development, lies in the Clayton Recreation Center and Clayton Community Park within easy walking distance. The recreation center and community park facilities will obviously be very important to the residents of the townhomes who will have at their disposal the Town's premier recreation facilities by a short walk. Also to the west along Guy Road is Clayton Middle School. To the east there are also many commercial businesses that will support the residents of the Quad.

Item No. 4 That the application will not adversely affect the adopted plans and policies of the Town, or violate the character of existing standards for development of the adjacent properties.

The proposed development is in compliance with the Town of Clayton Comprehensive Plan 2040. In the Plan, the area of the townhome subdivision is designated as High Density Residential (HDR) land use. The HDR land use encourages higher density residential development by using multifamily developments (apartments and townhomes) that have high density ratios (up to 12 units/ac). The proposed development has a total acreage of 2.029 acres. When the density is calculated at build out using 20 units the density ratio is 9.857 units per acre of developable land. The proposed townhome development will continue to address the high density residential component envisioned in the Comprehensive Plan 2040.



Page 27 of 208

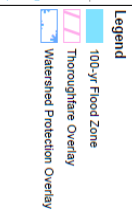


2019-129-SD
The Quad Preliminary Plat
Request to develop 20 townhome units
 Applicant: Adams & Hodges Engineering
 Property Owners: CSC Properties LLC
 Tag #: 06502046X

Staff Report Map

Document Path: C:\PLANNING\SUBDIVISIONS\2019-129-SD - The Quad\Map\Staff Report Map - 2019-129-SD - The Quad Preliminary Plat.mxd

07/11/19
 Produced By: TDC Planning
 Date: 07/11/19
 Description: Town of Oakley zoning map for the area
 represented by the map.
 Represented by: TDC Planning





August 6, 2019

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 nature of the proposal. A representative of the applicant will be present to explain their application, answer questions, and solicit comments.

Meeting Date: **Monday August 19, 2019**

Meeting Time: **7:00 p.m.**

Meeting Location: **314 E. Main St. (Adams & Hodge Engineering – Entrance and Parking in the back of building)**

Type of Application: **Major Subdivision Plan and Special Use Permit**

Project/proposal property location: **Guy Road beside Devlin Orthodontics (See attached Map)**

Description of project/proposal: This project proposal is for 20 units of Modern Townhomes (2 story, 2 bedroom, and single car garages.)

Upcoming Public Meetings for this application: Town Council Meeting September 3, 2019

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 application.
3. A map at 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.

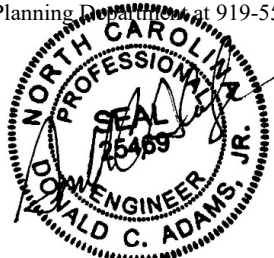
A map is enclosed with this letter showing the location of the property that is subject to this application for land use change and/or development proposal.

If you have any questions prior to or after this meeting, you may contact us at **(919)763-7278**.

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

Sincerely,

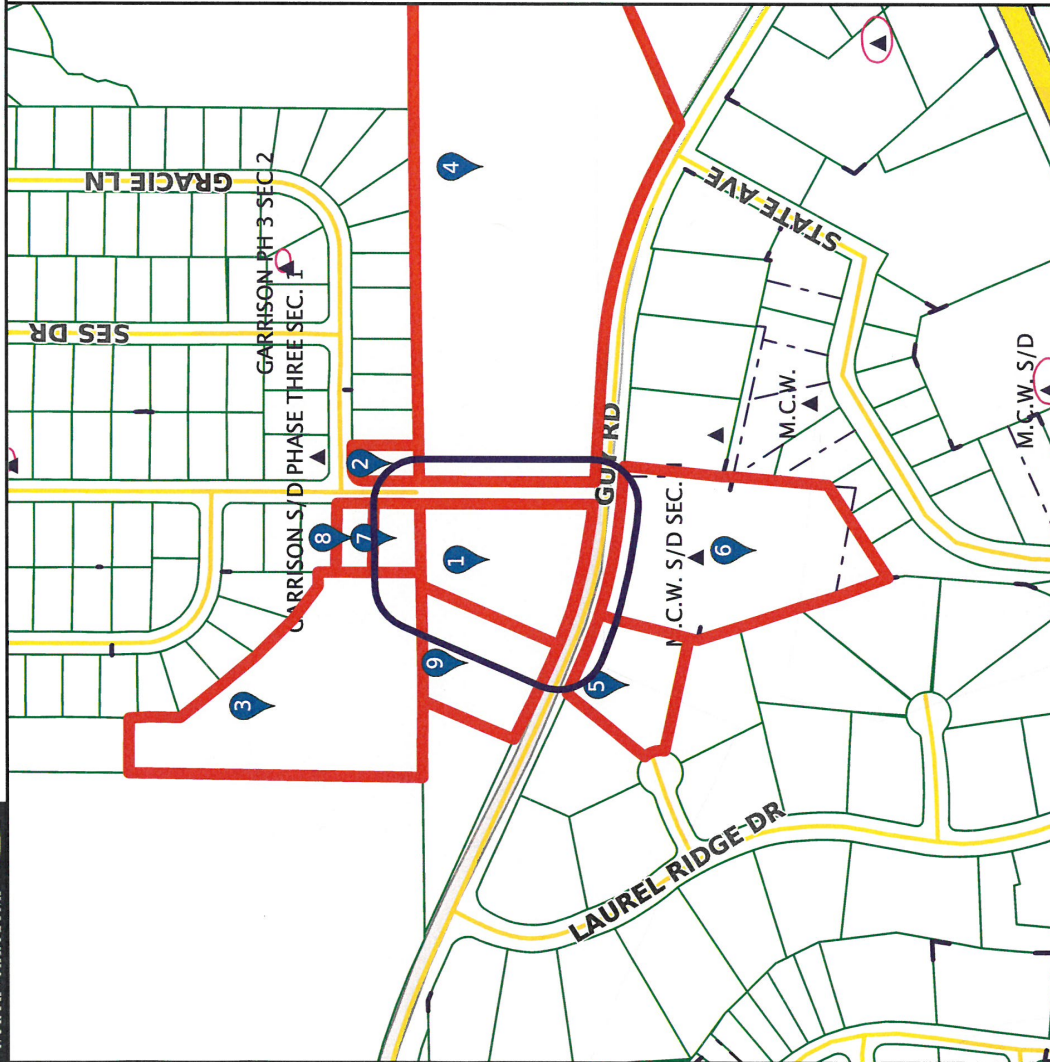
Donald C. Adams, Jr., PE





*** DISCLAIMER ***

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



Result 1

id: 05G02046K
Tag: 05G02046K
Owner Name 1: CGC PROPERTIES LLC
Owner Name 2:
Mail Address 1: PO BOX 10766
Mail Address 2: WILMINGTON, NC 28404-0766
Mail Address 3:
Book: 03119
Page: 0723

Result 2

id: 05G02050
Tag: 05G02050
Owner Name 1: ALLEN, GREGORY M.
Owner Name 2: ALLEN, JANET H.
Mail Address 1: 207 GRACIE LN
Mail Address 2:
Mail Address 3: CLAYTON, NC 27520-7947
Book: 05137
Page: 0346



Scale: 1:4368 - 1 in. = 363.97 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
June 25, 2019



*** DISCLAIMER ***

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

Result 3

id: 05G02034Q
Tag: 05G02034Q
Owner Name 1: GARRISON HOMEOWNERS
ASSOCI INC
Owner Name 2:
Mail Address 1: 207 W MILLBROOK SUITE 110
Mail Address 2:
Mail Address 3: RALEIGH, NC 27609-0000
Book: 01700
Page: 0827

Result 4

id: 05G02046L
Tag: 05G02046L
Owner Name 1: N E M E, L L C
Owner Name 2:
Mail Address 1: 3705 WILLIAM J COWAN
WYND
Mail Address 2:
Mail Address 3: RALEIGH, NC 27612-5399
Book: 01416
Page: 0631

Result 5

id: 05G02019C
Tag: 05G02019C
Owner Name 1: MOTZ, KATHLEEN
Owner Name 2: MOTZ, KATHARINA H
Mail Address 1: 5 CHESTNUT DRIVE
Mail Address 2:
Mail Address 3: CLAYTON, NC 27520-0000
Book: 02858
Page: 0314

Result 6

id: 05G02014Q
Tag: 05G02014Q
Owner Name 1: CROSSROADS CHURCH OF
CLAYTON
Owner Name 2:
Mail Address 1:
Mail Address 2: PO BOX 1677
Mail Address 3: CLAYTON, NC 27520-1677
Book: 04068
Page: 0460

Result 7

id: 05G02049
Tag: 05G02049
Owner Name 1: SIKANETA, PUMULO H.
Owner Name 2:
Mail Address 1: 302 BRANDON DR
Mail Address 2:
Mail Address 3: CLAYTON, NC 27520-7945
Book: 04846
Page: 0717

Result 8

id: 05G02100
Tag: 05G02100
Owner Name 1: LATTA, HOLLY
Owner Name 2: LATTA, ASHLEY
Mail Address 1: 300 BRANDON DR
Mail Address 2:
Mail Address 3: CLAYTON, NC 27520-7945
Book: 05177
Page: 0101



*** DISCLAIMER ***

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

Result 9

id: 05G02011A

Tag: 05G02011A

Owner Name 1: DEVLIN PROPERTIES LLC

Owner Name 2:

Mail Address 1: 7016 HARPS MILL RD

Mail Address 2:

Mail Address 3: RALEIGH, NC 27615-0000

Book: 02784

Page: 0379



The Quad Meeting Minutes

Date: August 19, 2019

Time: 7:00pm

Location: 312 E. Main Street (Adams & Hodge Engineering)

The meeting was ready to begin at 7:00pm for The Quad, however, as of 7:20pm there were no adjacent property owners that showed up. Therefore, there were not any minutes to report.

RECEIVED

AUG 20 2019

TOWN OF CLAYTON
PLANNING DEPARTMENT

NEIGHBORHOOD MEETING ATTENDANCE ROSTER

Project: The Quad

Application: Major Subdivision, Special Use Permit, Wastewater Allocation

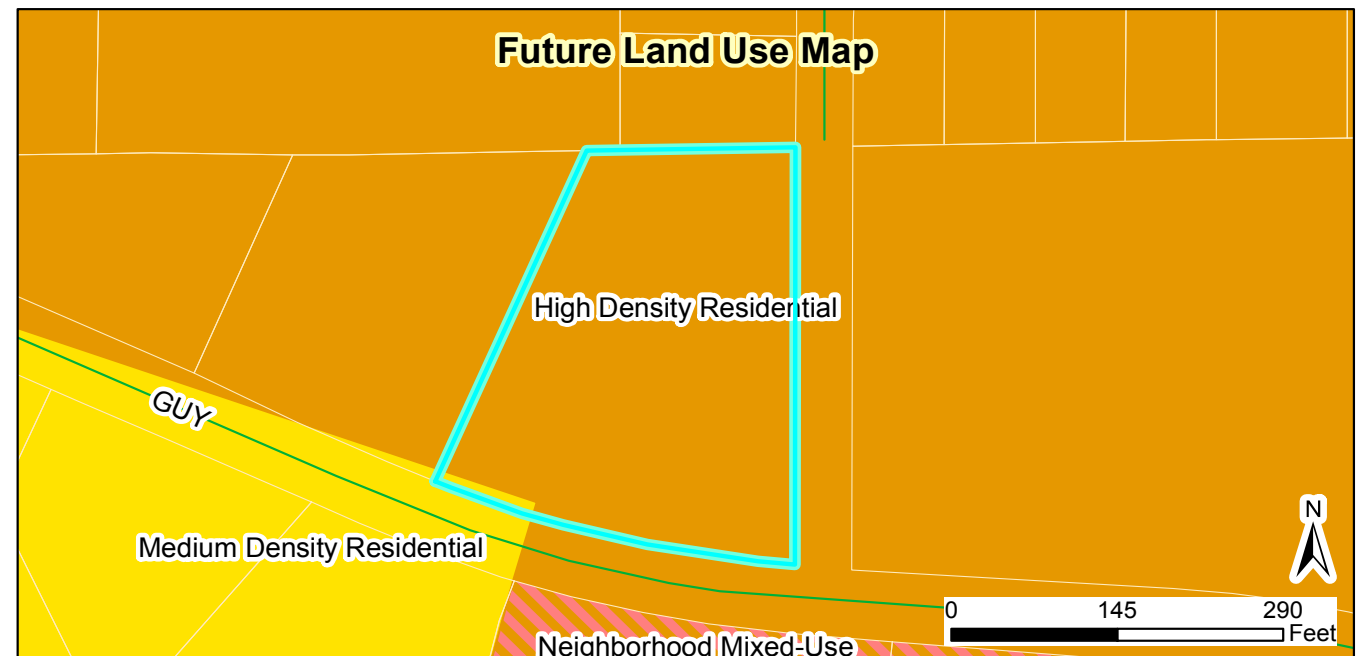
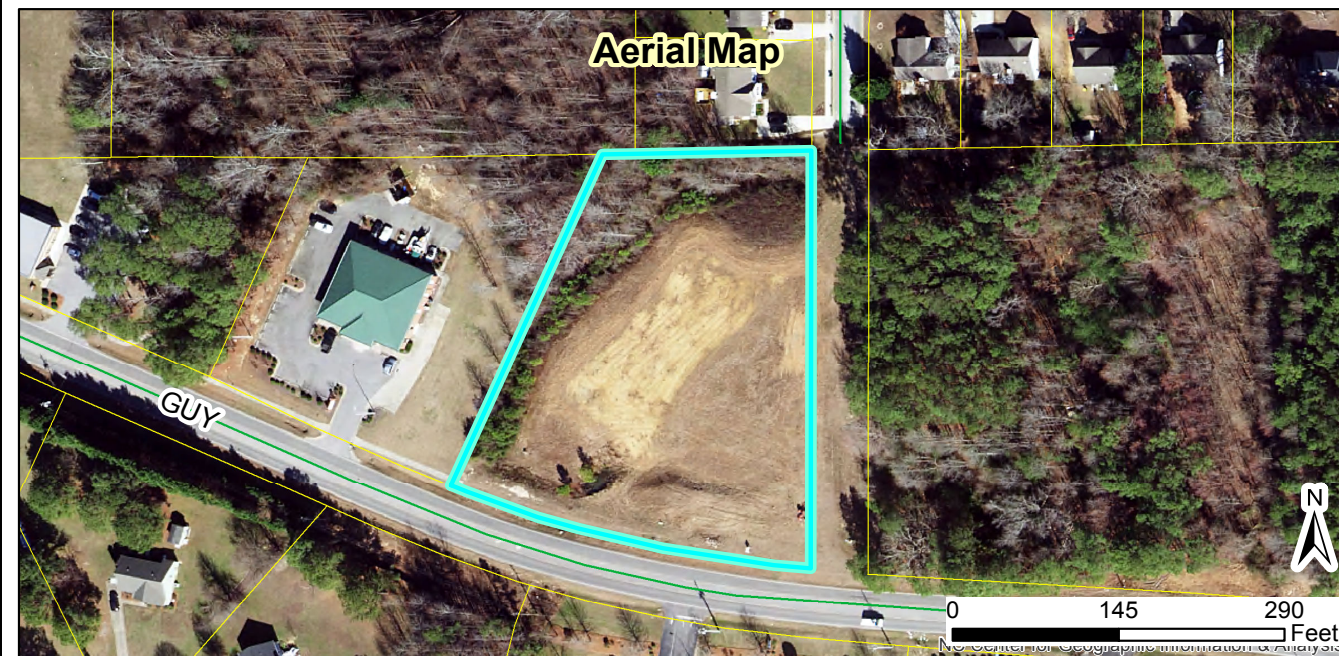
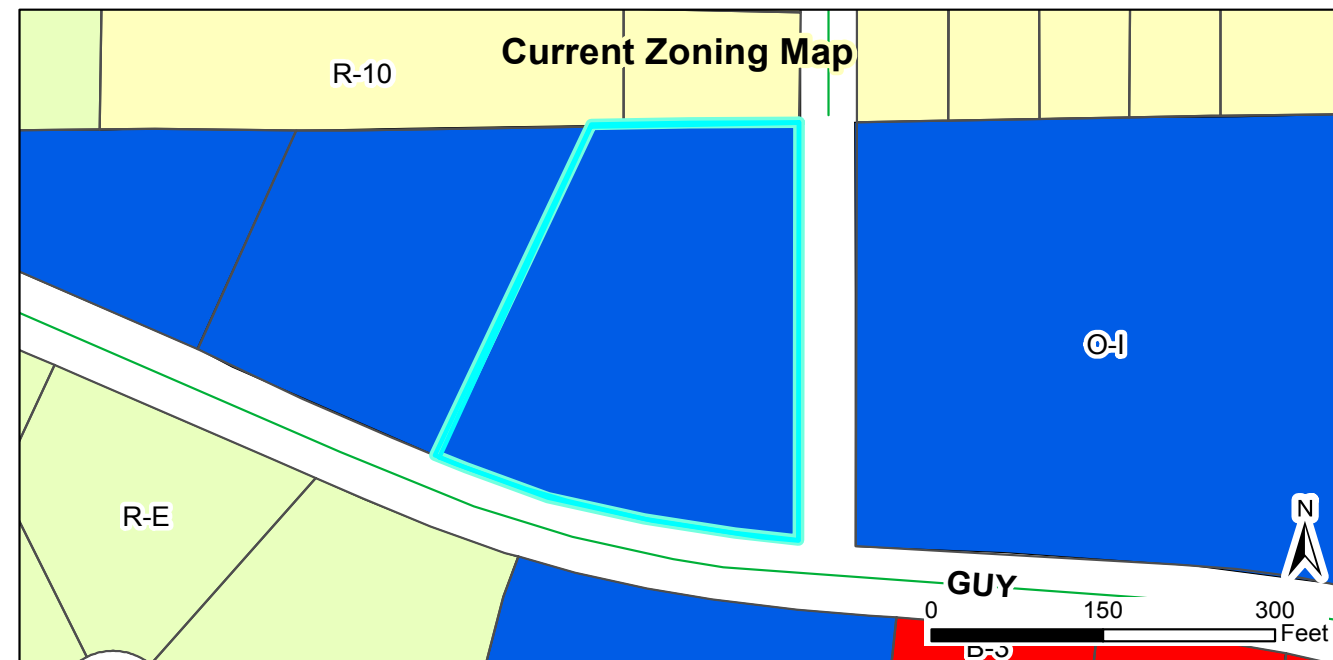
Location/Date: Adams & Hodge Engineering 314 E. Main St. 8-19-19
Clayton

	NAME	ADDRESS
1	Donnie Adams	404 Swann Trail, Clayton, NC 27527
2	Holland Adams	404 Swann Trail, Clayton, NC 27527
3	Andrew Hodge	25 Jasper Dr. Clayton
4	Cheryl D. Smith	215 W. BARNES ST, CLAYTON, NC 27520
5		
6		
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18		
19		
20		

RECEIVED

AUG 20 2019

TOWN OF CLAYTON
PLANNING DEPARTMENT



2019-129-SD
The Quad Preliminary Plat / Special Use Permit
Request to develop 20 townhome units

Applicant: Adams & Hodge Engineering
 Property Owners: CGC Properties LLC
 Tag #: 05G02046K

Staff Report Map



1/17/2020

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

Document Path: O:\PLANNING\SUBDIVISIONS\MAJOR SUBDIVISIONS\2019\2019-129-SD - The Quad\Maps\Staff Report Map - 2019-129-SD - The Quad Preliminary Plat.mxd

Legend	
	TOC_SDE.GISMGR.Parcels selection 2
	Site
	100-yr Flood Zone
	Thoroughfare Overlay
	Watershed Protection Overlay

PUBLIC NOTICE

In accordance with NC GS 160A-364, the Clayton Town Council will hold an evidentiary hearing on Monday, February 3, 2020, at 6 PM at Town Hall, 111 East Second Street, to consider the following:

- 2019-130-SUP The Quad; Special Use Permit request to develop townhomes on property located off Guy Road, south of Brandon Drive. TAG #: 05G02046K. Per UDC requirements, townhomes are permitted via issuance of a Special Use Permit in the O-I zoning district.
- 2019-129-SD The Quad; request to develop 20 townhome lots on property located off Guy Road, south of Brandon Drive. TAG #: 05G02046K

During an evidentiary hearing, the Clayton Town Council must make findings of fact based upon sworn testimony and other credible evidence. Citizens may give testimony in an evidentiary hearing after they have taken an oath.

This is an open meeting and the public is invited to attend.

Jeff Caines, Planner
919-553-5002

The Johnstonian Newspaper

Please advertise on the following dates:

January 22, 2020

January 29, 2020

Affidavit of publication required.



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

*Town Council
February 3, 2019*

STAFF REPORT

Application Number: 2019-130-SUP
Project Name: The Quad Special Use Permit

Tag #: 05G02046K
Town Limits/ETJ: ETJ (annexation request to follow)
Applicant: Adams & Hodge Engineering
Owner: CGC Properties LLC
Location: Located off Guy Road
Project Manager: Jeff Caines, Planner

Public Noticing:

- Neighborhood meeting held on August 19, 2019
- Signs Posted January 8, 2020
- Letters mailed January 13, 2020
- Newspaper ad published January 22, 2020 and January 29, 2020

REQUEST: Special Use Permit request to develop the use of townhomes on the subject parcel.



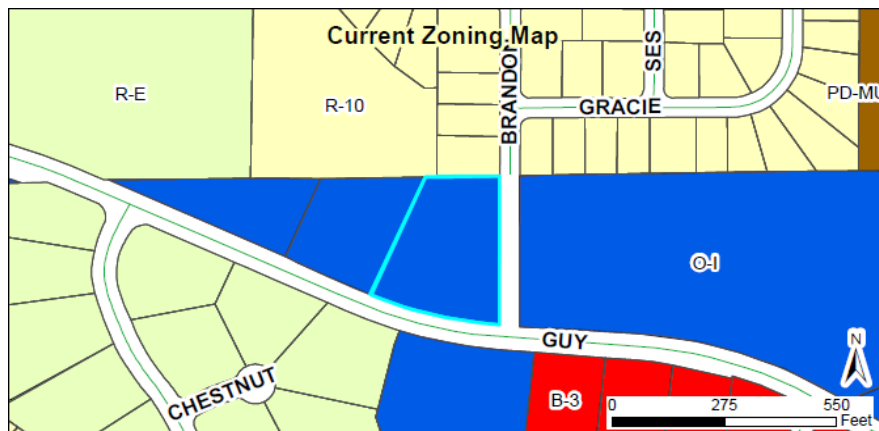
SITE DATA:

Acreage: 2.03 acres

Existing Use: Vacant

ADJACENT ZONING AND LAND USES:

Direction	Zoning	Existing Use
North	Residential-10 (R-10)	Single Family Residential (Garrison Subdivision)
South	Office-Institutional (O-I) & Residential-Estate (R-E)	Office/Single-Family Residential
East	Office-Institutional (O-I)	Vacant
West	Office-Institutional (O-I)	Medical (Devlin Orthodontics)

**DEVELOPMENT DATA:**

Proposed Uses: Townhomes (20 units)

Density/Intensity: 9.86 units/acre

Impervious Surface: maximum 80% per lot

Required Parking: 2 spaces/unit required= 40 spaces

Proposed Parking: 40 spaces plus 2 mail kiosk spaces

Access/Streets: The development will have an entrance off Guy Road at this time. When Brandon Drive is developed in the future, the access to Guy Road will be closed, and the property will connect to Brandon Drive. See analysis and recommended condition of approval, outlined in staff report for associated preliminary plat 2019-129-SD.

STAFF ANALYSIS:

Overview

The applicant is requesting a Special Use Permit to develop the use of townhomes on the subject property, which is zoned Office-Institutional (O-I). Per UDC requirements, the use of townhomes in this district is only permitted via issuance of a Special Use Permit. Running concurrently with this application is a preliminary plat application 2019-129-SD.

Dimensional standards for townhome are set via the Special Use Permit process. The applicant is proposing the below dimensional standards for each lot.

Dimensional Standards	
Minimum Lot Area	1,650 FS
Minimum Lot Width	22 feet
Max. Lot Coverage (%)	60 %
Max. Impervious Coverage (%)	90
Density	9.86 units/acre

Proposed Setbacks	
Front	20 feet
Side	0 feet
Side Street	0 feet
Side Interior	0 feet
Rear	0 feet

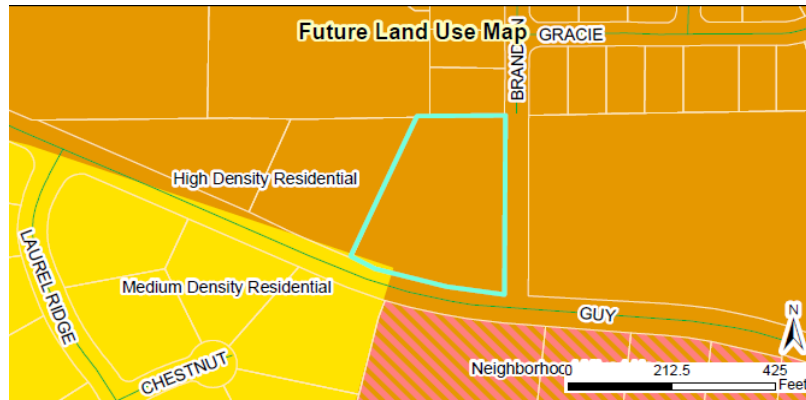
Associated Site Plan

Pursuant to §155.711(D)(1), concurrent with a request for a special use permit, an applicant is required to submit a site/subdivision plan for review and approval. This plan is processed as any other site/subdivision plan (in this case as a Preliminary Plat application: 2018-129-SD), with a final decision made by the applicable reviewing body. The details of the site/subdivision plan are outlined partially herein, and in their entirety in the staff report for the associated Preliminary Plat application 2018-129-SD.

Consistency with Adopted Plans

- **Comprehensive Plan 2040**

The future land use map designates this property as “High Density Residential”, which allows all residential housing types and densities up to 10 units per acre for standard developments, and up to 12 units per acre through a Planned Development. The proposed development is consistent with this designation.



- **Unified Development Code**

The proposed development is consistent with and meets the applicable requirements of the Unified Development Code (UDC).

Findings of Fact

The applicant has addressed the Findings of Fact associated with a Special Use Permit as outlined in the Unified Development Code. The applicant's responses are incorporated into the record as an attachment to the Staff Report. These Findings are included below.

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

- **Applicant Response:**

The distribution of traffic has been given much consideration by providing primary access to Guy Road with the secondary access point to Brandon Drive once the street is constructed. Since Guy Road is an NCDOT road, the access will be designed to NCDOT standards. Care has been exercised in the townhome subdivision to protect the environment by prudent use of buffers and landscaping. The public's safety and health have been addressed by providing public water and sewer that meet the Town and State requirements. Storm water quality has been addressed during construction with erosion control measures and in the long term with storm water management facilities that address not only the quality of water but also the quantity of water. Street are so designed as to be safe for pedestrians and vehicles alike by providing adequate separation, traffic control and lighting. The public's health and welfare are further addressed by the townhome subdivision providing passive and active recreation opportunities offsite utilizing municipal recreation facilities via recreation assessment fees.

- **Staff Commentary:** The applicant will not be providing access to Brandon Drive at this time, as Brandon Drive has not been developed. Once Brandon Drive is developed, the developer will permanently close the Guy Road access and connect on to Brandon Drive instead. This is recommended as a condition of approval, in accordance with NCDOT requirements, due to the proximity of the two access points on Guy Road.

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

- **Applicant Response:**

The subdivision meets or exceeds all applicable development standards that are established in the Subdivision Regulations and the Unified Development Code. Private streets are designed in accordance with the Town standards so as to provide a development with safe streets for both vehicles and pedestrians. Public utilities are designed so as to provide adequate water for consumption as well as fire protection while the sewer collection system is designed to protect the health and welfare of the public. Area lighting is provided so as to provide a safe environment for the residents. Storm water management facilities have been incorporated into the design as to manage the volume of storm water as well as the quality of physical improvements during construction so as to minimize off site discharge of sediments. Passive and active recreation opportunities have been provided through open space, and indirectly through recreational assessment fees. By incorporating buffers, open space and landscaping the aesthetic quality of the development and as well as adjacent properties is maintained.

- **Staff Commentary:** The proposed subdivision has been reviewed by Town staff during the TRC process and has received TRC certification. The plan meets the requirements of the Unified Development Code, and has been reviewed at a preliminary level by Engineering and Public Works as well.

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

- **Applicant Response:**

The Quad townhome development will be a continuation of the development pattern established by the Moss Creek Parkside and Garrison Place, which is a blending of single family with a mix of townhomes and apartments. Even though the Quad townhomes will continue the existing development pattern, the townhomes will offer a refreshing change of architectural style that is modern and in more keeping with contemporary trends.

In the past to the west of the Quad, the Town of Clayton has approved multifamily housing in the form of duplexes, triplexes and traditional garden apartments. To the west and a little north of the proposed development, lies in the Clayton Recreation Center and Clayton Community Park within easy walking distance. The recreation center and community park facilities will obviously be very important to the residents of the townhomes who will have at their disposal the Town's premier recreation facilities by a short walk. Also to the west along Guy Road is Clayton Middle School. To the east there are also many commercial businesses that will support the residents of the Quad.

- **Staff Commentary:** Townhomes and Apartment development are located further west along Guy Road. Single-family dwellings are located to the north in Garrison Subdivision. The proposed use is consistent with the Future Land Use Map and Comprehensive Plan 2040.

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

- **Applicant Response:**

The proposed development is in compliance with the Town of Clayton Comprehensive Plan 2040. In the Plan, the area of the townhome subdivision is designated as High Density Residential (HDR) land use. The HDR land use encourages higher density residential development by using multifamily developments (apartments and townhomes) that have high density ratios (up to 12 units/ac). The proposed development has a total acreage of 2.029 acres. When the density is calculated at build out using 20 units the density ratio is 9.857 units per acre of developable land. The proposed townhome development will continue to address the high density residential component envisioned in the Comprehensive Plan 2040.

- **Staff Commentary:** The proposed development is designed in accordance with the Town's Comprehensive Plan 2040 and Future Land Use Map. It also meets the requirements of the Unified Development Code, and has been certified by the Technical Review Committee.

CONSIDERATIONS:

- This plan is subject to final approval by Town Council.
- This approval is subject to approval of 2019-129-SD

CONDITIONS:

If approved, staff recommends the following conditions be applied to the approval of the preliminary subdivision:

1. These Conditions of Approval, and any others included with the associated Preliminary Plat (2019-129-SD) shall be recorded upon the final plan set, which must be delivered to the Planning Department for review and final approval.
2. Dimensional standards shall be set by those indicated on the associated preliminary plat (2019-129-SD). Any deviations from these standards are pursuant to modifications as outlined in Section 155.711 of the Unified Development Code.

ATTACHMENTS:

- 1.) Application
- 2.) Staff Report Maps
- 3.) Neighborhood Meeting Materials
- 4.) Site Plan
- 5.) Adjacent Property Letters
- 6.) Newspaper Ad

**Town of Clayton
Town Council
SUP Motion Sheet**

After considering the competent, material, and substantial evidence presented, including the application and materials of record, I move to (PICK ONE):

- ☐ Approve
- ☐ Deny
- ☐ Approve with Conditions

SUP Application **2019-130-SUP – The Quad**

This motion is based on the following findings:

1. The application **WILL NOT** materially endanger the public health or safety if located where proposed, and developed according to the plans as submitted and approved.

OR

The application **WILL** materially endanger the public health or safety if located where proposed, and developed according to the plans as submitted and approved. (State evidence supporting finding.)

2. The application **MEETS** all required specifications and **CONFORMS** to the standards and practices of sound land use planning and the Town Code of Ordinances, or other applicable regulations.

OR

The application **DOES NOT MEET** all required specifications and **DOES NOT CONFORM** to the standards and practices of sound land use planning and the Town Code of Ordinances, or other applicable regulations. (State evidence supporting finding.)

**MOTION FORM
Item 6a
2019-130-SUP – The Quad
Special Use Permit**

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

OR

The application **WILL** substantially injure the value of adjoining or abutting property, and **WILL** be detrimental to the use or development of adjacent properties or other neighborhood uses. (State evidence supporting finding).

4. The application **WILL NOT** adversely affect the adopted plans and policies of the Town, or violate the character of existing standards for development of the adjacent properties.

OR

The application **WILL** adversely affect the adopted plans and policies of the Town, or violate the character of existing standards for development of the adjacent properties. (State evidence supporting finding.)

[If approved with conditions] The applicant meets the above findings subject to the following conditions:

MOTION FORM
Item 6a
2019-130-SUP – The Quad
Special Use Permit



Town Council Agenda Cover Sheet

Meeting Date

February 3, 2020

Agenda Location

Public Hearings

Item Title

The Quad – 2019-129-SD

Presenter

Samantha Wullenwaber

Summary/Description

The Quad – Subdivision

The applicant is requesting preliminary plat approval to develop 20 townhome units on the subject property. The property is zoned Office-Institutional (O-I) and is located off Guy Road. The use of townhomes is permitted in this district via issuance of a Special Use Permit, which is running concurrently with this request. The proposed development would allow for 9.86 units/acre. This zoning district does not specify a maximum density permitted, and instead permits the density through the special use permit process. Additionally, the dimensional standards are also set through the special use permit process.

Requested Action

Approval with Conditions

Funding Source (If Applicable):

N/A

Cost: N/A Yes ☐ No ☒

Additional Documents to be Included in Agenda Packet

Application
Owners Consent Form
Staff Report
Staff Report Map
Applicant Site Plan
Neighborhood Meeting Material
Newspaper Ad - Public Notice
Adjacent Property Owner Letter- Public Notice
NEME – Letter of Understanding (March 27, 2003)
NEME – Letter of Understanding (May 20, 2019)
Storm Water Statement

Meeting Timeline

Click or tap here to enter text.



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

MAJOR SUBDIVISION (PRELIMINARY PLAT) APPLICATION

- ☒ New Major Subdivision: \$400.00 + \$5.00 per lot
☐ Conventional
☐ Open Space
☐ Master Plan
- ☐ Modification to approved plan
☐ Major: \$400.00 + \$5.00 per lot modified
☐ Minor: \$200.00 + \$5.00 per lot modified
Modified Plan: _____
- Advertising Fee: \$200.00

SITE INFORMATION

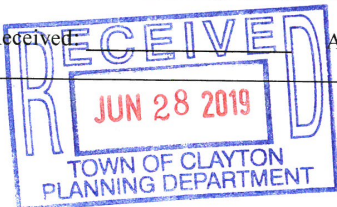
Name of Project: The Quad Acreage of Property: 2.029
Tag #: 05G02046K NC Pin #: 165806-39-9222
Location: Guy Rd. beside Devlin Orthodontics
Number of lots (Existing): 0 (Proposed): 20 Lots Min. Lot Size: 1,850sf
Zoning District: O-I Electric Provider: Duke Progress Energy
Wastewater: ☐ Septic ☒ Sewer Water: ☐ Well ☒ Public/Private Water
Recreation/Open Space Requirement: ☒ Fee in lieu ☐ Land Dedication – acreage: _____

APPLICANT INFORMATION

Applicant: Adams & Hodge Engineering, PC
Mailing Address: 314 E. Main St., Clayton, NC 27520
Phone Number: 919-763-7278 / 919-812-2654 Fax: _____
Contact Person: Donnie Adams / Amy Stancil
Email Address: donnie@adamsandhodge.com / amy@adamsandhodge.com

OFFICE USE ONLY

Date Received: _____ Amount Paid: \$ 700.00 File Number: _____



April 2019

2 of 17

PROPERTY OWNER INFORMATION

Name: CGC Properties, LLC

Mailing Address: PO Box 10766, Wilmington, NC 28404

Phone Number:

Fax:

Email Address:

EXPLANATION OF PROJECT

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

See attached

FINDINGS OF FACT

Section 155.706(I)(10) of the Unified Development Code requires that certain findings must be made by the Town Council before a Major Subdivision may be approved. Outline below (you may attach additional sheets) how the application addresses each of the following findings:

- (1) Consistency with the adopted plans and policies of the Town..

See Exhibit A

- (2) The subdivision meets all required specifications of this chapter.

See Exhibit A

- (3) The subdivision will not be detrimental to the use or orderly development of other properties in the surrounding area and will not violate the character of existing standards for development of properties in the surrounding area.

See Exhibit A

- (4) The subdivision design will provide for the distribution of traffic in a manner that will avoid or mitigate congestion within the immediate area, will provide for the unified and orderly use of or extension of public infrastructure, and will not materially endanger the environment, public health, safety, or the general welfare.

See Exhibit A

****Planned developments must also meet the Master Plan Approval Criteria in Section 155.705(J)****

MAJOR SUBDIVISION PLAN CHECKLIST

Pursuant to Article 7, Section 155.706 of the Unified Development Code, applications requesting a public hearing or administrative approval process shall submit a plan set to the Planning Department. These plans may include Master Plan, Site Plan, Subdivision Plan, Regulating Plan, Architectural Elevations, Landscape Plan, Photometric/Lighting Plan, Engineering Plans, and Survey. The plan requirements shall be based on the type of development application or approval process.

PLAN FORMAT

These standards are established to provide information pertaining to the graphic and format presentation of plans. The following is required for all types of plans, except where otherwise noted:

- All plans and architectural elevations shall be limited to 24" x 36" in size, and **folded to an 8.5" x 11" format.**

- Plans are to be drawn at the same engineering scale of 1" = 20'; 30'; 40'; 50'; 60' (architectural elevations and details are exempt from this requirement) with north oriented in the same direction.
- Plans may be drawn at an engineering scale of 1" = 100', if approved by the Planning Department or the Technical Review Committee (TRC).
- Architectural plans and elevations shall be drawn at an architectural scale of 1" = 3/32', 3/16', 1/8', 1/4', or 3/8'.
- All drawings, except elevations, isometric drawings, and renderings, shall be in two dimensional plan views.
- All text shall be clear and legible.
- Line weight hierarchy on all plans shall be consistent with common drafting standards.
- Multiple sheets shall be consecutively numbered (e.g. Sheet 1 of 4).
- All numerical references shall be rounded up to a maximum of two decimal points.

PLAN ELEMENTS AND GRAPHIC DATA (TO BE ON ALL SHEETS)

The following items include general and project information. This information is required to be present on all plan sheets, except where otherwise noted.

Provided		
Yes	N/A	
☒		Consultant Logo Box (name, address, phone number, fax, and e-mail, firm and license number)
☒		Project/Application Name
☒		Type of Plan
☒		Signature and Professional Seal with date (landscape plans, architectural elevations, engineering plans, surveys)
☒		Original/Submittal Date and Revision Date
☒		Sheet Number
☒		Vicinity Map
☒		North Arrow with NC Grid System
☒		Graphic Scale (engineering or architectural graphic and written scale)

The following elements are specific to each property and application request, and shall be shown graphically on the specific plan types listed below. These graphics shall be supported by text, labeling, and dimensional information (width, length, and depth).

SURVEY

Provided		
Yes	N/A	
☒		A signed and sealed boundary survey (not more than a year old unless otherwise approved by the Planning Department) with the bearings and distances of every property line shown. Distances shall be in feet or meters and decimals thereof. The number of decimal places shall be appropriate to the class of survey required. The survey must include any and all easements of record (referenced by Deed Book and Page) and must be prepared by a surveyor registered in the State of North Carolina.

EXISTING CONDITIONS SHEET

Provided		
Yes	N/A	
☒		The existing topographical conditions of the property with a two foot contour interval showing the location of any natural features such as water courses, wooded areas, steep slopes (above 25%), or other geological features.
☒		The existing streets and roadway improvements (medians, landscaping, signage, driveways, etc.) within 100 feet of project boundary.
☒		The existing structures located on the subject property.
☒		The existing structures within 100 feet of project boundary.
☒		The existing utilities (including inverts of pipes, rim elevations, wells and septic tanks, etc.) within 100 feet of project site.
☒		Label subject parcel and adjacent property acreage, owners, and zoning districts.

PRELIMINARY SITE PLAN

The items listed below are required to be delineated (in a tabular format) on the site plan:

Provided		
Yes	N/A	
☒		Site data table in tabular form
☒		Name of project (AKA names if applicable)
☒		Parcel identification number (and/or Tag number)
☒		Property size (acres and square feet)
☒		Property location (Town limits or ETJ)
☒		Existing zoning district
☒	☐	Proposed zoning district (if applicable)
☐	☒	Overlay (if applicable)

Provided		
Yes	N/A	
☒		Existing use
☒		Proposed use
☐	☒	Number of seats/students/fueling positions (as applicable).
☒	☐	Number of housing units proposed, per housing unit type.
☒	☐	Proposed density (number of units per acre)
☒	☐	Proposed intensity (gross floor area)
☒		Building coverage (as percentage of total site)
☒	☐	Impervious surface area (square feet and as percentage of total site)
☒	☐	Building height (number of stories and in feet)
☒	☐	Required parking (list requirement i.e. 1 space per 300 SF)
☒	☐	Proposed parking
☒	☐	Required/proposed handicap accessible parking
☒	☐	Provide name of Electric Provider.
☒	☐	Provide name of Water Provider.
☒	☐	Provide name of Sewer Provider.
☒	☐	Max building height.

Other site plan elements:

Provided		
Yes	N/A	
☒		Identify adjacent property owners, their parcel ID number, current zoning and present use.
☐	☒	Put a bubble around the affected area for amendments to previously approved projects.
☒		Identify the location of lots, buildings and structures with finished floor elevations and applicable setbacks.
☒		Identify existing and future right of ways.
☐	☒	Identify Watershed Protection Areas.
☒	☐	Identify existing easements by type, and distinguish if public or private.
☒	☐	Identify proposed easements by type, and distinguish if public or private.
☒	☐	Identify Open Space/Common Areas, amenities.
☒		Identify clear sight triangle at project ingress/egress points with dimensions.
☒		Identify main entrance/access driveways, curb and gutter, cross section with ROW. Proposed driveway and setbacks must be shown.

Provided		
Yes	N/A	
☐	☒	Provide boundaries of Resource Conservation Areas (see UDC Section 155.500).
☒	☐	Provide an off-street parking and loading layout (with details, dimensions and access location). Accessible parking requirements are listed in NCSBC Volume 1C, 1999 edition. Show traffic circulation arrows.
☐	☒	Provide queuing details for drive-up/drive-thru facilities (if applicable).
☒	☐	Provide the locations and dimensions of existing and proposed sidewalks and accessible routes.
☐	☒	Provide the location and details of refuse collection areas.
☐	☒	Provide the location, size and orientation of freestanding signs.
☐	☒	Identify proposed phasing (phasing lines) of construction on Phasing Plan sheet.
☐	☒	Cul-de-sacs must be dimensioned and meet Town of Clayton minimum design criteria.
☒	☐	Identify cluster mailbox unit (CBU) locations and details, including parking layout.

CONCEPTUAL ENGINEERING PLANS

Note: Conceptual engineering plans are deemed preliminary in nature. Review and approval of public infrastructure construction plans is a separate process performed by the Engineering Division.

Provided		
Yes	N/A	
☒	☐	Identify proposed streets and roadways (public and private) with dimensions and cross sections.
☒	☐	Identify the curve radii for all internal and external vehicular use areas.
☒	☐	Identify all access points to the project.
☒	☐	Identify existing conditions and proposed grading plans.
☐	☒	Identify Tree Conservation Areas shown on grading plan.
☐	☒	Show proposed flow of traffic.
☐	☒	Identify proposed traffic control signs and striping.
☒	☐	Identify the proposed water distribution system (including size) with location of fire hydrants and point of connection(s).
☒	☐	Identify the proposed sanitary sewer collection system (including size) and point of connection(s). If a municipal sewer connection is not available, please provide documentation from Johnston County Department of Environmental health that the location of septic tank and drain field is acceptable.
☒	☐	Provide preliminary wastewater allocation calculation.

Provided		
Yes	N/A	
☐	☒	Identify proposed grease traps.
☐	☒	Identify backflow prevention devices.
☐	☒	Identify slopes steeper than 2.5:1.
☒	☐	Identify the proposed storm water management system with location of inlets, piping and positive outfall along with typical section and top surface area of storm water retention/detention pond, including soil types, slope, bottom and top elevations, and finish floor elevations.
☒	☐	Provide a Stormwater Management Statement.
☐	☒	Floodplain development permit required for this parcel – see Engineering Dept.

FIRE PLAN

Fire Rescue (information to be shown on conceptual engineering plans)

Provided		
Yes	N/A	
☒	☐	Identify fire hydrant distribution (distance of hose lay).
☐	☒	Identify the sprinkler connection locations and size.
☒	☐	Identify fire lane designations and circulation around buildings (stripe fire lanes and show minimum stabilized access around all structures).
☒	☐	Identify the emergency evacuation route (access in and out of the property).
☒	☐	Identify fire apparatus turning radius.
☒	☐	Verify the location of fire hydrants is not interfering with required landscaping (must be 24" clearance of landscaping from bottom of steam fitting).
☐	☒	Identify the Lock Box/Knox Box locations.
☐	☒	Identify placard locations for hazardous materials.

PHASING PLAN

Provided		
Yes	N/A	
☐	☒	Provide a Phasing plan showing all proposed phases and phase titles, in different colors.

LANDSCAPE PLAN

Provided		
Yes	N/A	
☒		Provide a landscape plan identifying the location of all proposed landscaping (must be prepared by a landscape architect registered in North Carolina).
☒		Indicate the location, width and type of all required buffers.
☒		Indicate the location, width and type of landscaping within vehicular use areas.
☒		Indicate the location, width and type of landscaping used to screen drive-thru areas, service areas, loading areas, mechanical equipment and above ground utilities.
☒		Provide a plant list summary table which includes: 1. A planting key identifying the various planting elements 2. The quantity of each type of plant material proposed 3. The size, height, caliper and spacing of plant material proposed 4. The Botanical and common names of plant material proposed
☒		Verify/identify clear sight distances and safe-sight-triangles at project ingress/egress points.
☒		Provide an irrigation note to read as follows: "All landscaped areas shall be provided with an automatically operated irrigation system that will adequately cover all living plant material, such system shall include a rain sensor." (If irrigation will not be utilized, drought-tolerant species must be used).
☒		Provide a landscape maintenance note which states: "All landscaped areas shall be maintained in an attractive and healthy condition. Dead or diseased plantings shall be removed and replaced in a timely fashion".
☒		Identify and list any existing plant material which will be used to satisfy landscape requirements.

LIGHTING PLAN

Provided		
Yes	N/A	
☐	☒	Conceptual Lighting Plan - any common lighting should not spill over to other properties.
☐	☒	Identify the light source and provide a detail of the fixture.
☐		Identify the proposed height of fixtures.

ARCHITECTURAL ELEVATIONS AND FLOORPLAN

Provided		
Yes	N/A	
☒		Provide floor plans, elevations, construction materials, finishes and colors, along with type of construction of all buildings per North Carolina Building Code prepared by a professional architect registered in North Carolina. This should be provided in color.
☒		Indicate the height and number of stories for each structure.
☒		Indicate the location and screening method for all roof mounted structures or equipment.

APPLICANT AFFIDAVIT

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

Amy D. Stancil

Print Name



Signature of Applicant

6/28/2019

Date



Received By:
Town of Clayton
7/25/19

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

OWNER'S CONSENT FORM

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

Project Name: CGC Properties, LLC Address or PIN #: 165806-39-9222

AGENT/APPLICANT INFORMATION:

Adams & Hodge Engineering, PC
(Name - type, print clearly)

314 East Main St.
(Address)
Clayton, NC 27520
(City, State, Zip)

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

Major Site Plan & Special Use Permit

Final Plats

Construction Plans

Administrative Amendments

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

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

OWNER AUTHORIZATION:

CGC Properties, LLC

(Name - type, print clearly)

Etan K. Heller
(Owner's Signature)

PO Box 107166

(Address)

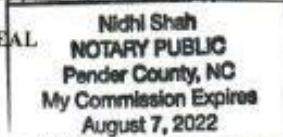
Wilmington, NC 28404

(City, State, Zip)

STATE OF North Carolina
COUNTY OF New Hanover

Sworn and subscribed before me Nidhi Shah, a Notary Public for the above State and County, this
the 20th day of June, 2019.

SEAL



Nidhi Shah
Notary Public

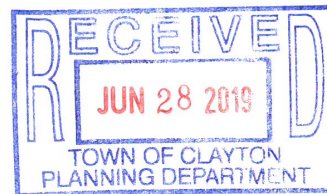
My Commission
Expires:

08-07-22

15 of 15

Exhibit A

Explanation of Project Findings of Fact Property Owners List



Explanation of Project

The Quad Townhomes are proposed to be constructed on 2.029 ac of land located in the northwest quadrant of the intersection of Guy Road and the unopened section of Brandon Drive. The development is comprised of four buildings housing 20 units of two-story townhomes located on private streets that will be constructed to Town of Clayton standards. In order to develop the townhomes, this will require a special use permit that request a maximum density of 10 units per acre (9.857 units/as actual).

Access to the property will be from Guy Road. Water and sewer will be provided by the Town of Clayton with Duke Energy providing the electrical. Stormwater management facilities are located on-site and will be designed and constructed to the Town of Clayton standards.

There are no active or passive recreational facilities proposed on-site. Due to the close proximity of the Clayton Recreation Center and Clayton Community Park, the project is proposed that a fee in lieu of on-site recreational facilities will be paid to the Town of Clayton.

Item No. 1 Consistency with the adopted plans and policies of the Town.

The proposed development is in compliance with the Town of Clayton Comprehensive Plan 2040. In the Plan, the area of the townhome subdivision is designated as High Density Residential (HDR) land use. The HDR land use encourages higher density residential development by using multifamily developments (apartments and townhomes) that have high density ratios (up to 12 units/ac). The proposed development has a total acreage of 2.029 acres. When the density is calculated at build out using 20 units the density ration is 9.857 units per acre of developable land. The proposed townhome development will continue to address the high density residential component envisioned in the Comprehensive Plan 2040.

Item No. 2 The subdivision meets all required specifications of this chapter.

The subdivision meets or exceeds all applicable development standards that are established in the Subdivision Regulations and the Unified Development Code. Private streets are designed in accordance with the Town standards so as to provide a development with safe streets for both vehicles and pedestrians. Public utilities are designed so as to provide adequate water for consumption as well as fire protection while the sewer collection system is designed to protect the health and welfare of the public. Area lighting is provided so as to provide a safe environment for the residents. Storm water management facilities have been incorporated into the design as to manage the volume of storm water as well as the quality of physical improvements during construction so as to minimize off site discharge of sediments. Passive and active recreation opportunities have been provided through open space, and indirectly through recreational assessment fees. By incorporating buffers, open space and landscaping the aesthetic quality of the development and as well as adjacent properties is maintained.

Item No. 3 The subdivision will not be detrimental to the use of orderly development of other properties in the surrounding area and will not violate the character of existing standards for development of properties in the surrounding area.

The Quad townhome development will be a continuation of the development pattern established by the Moss Creek Parkside and Garrison Place, which is a blending of single family with a mix of townhomes and apartments. Even though the Quad townhomes will continue the existing development pattern, the townhomes will offer a refreshing change of architectural style that is modern and in more keeping with contemporary trends.

In the past to the west of the Quad, the Town of Clayton has approved multifamily housing in the form of duplexes, triplexes and traditional garden apartments. To the west and a little north of the proposed development, lies in the Clayton Recreation Center and Clayton Community Park within easy walking distance. The recreation center and community park facilities will obviously be very important to the residents of the townhomes who will have at their disposal the Town's premier recreation facilities by a short walk. Also to the west along Guy Road is Clayton Middle School. To the east there are also many commercial businesses that will support the residents of the Quad.



Item No. 4 That the subdivision design will provide for the distribution of traffic in a manner that will avoid or mitigate congestion within the immediate are, will provide for the unifies and orderly use of or extension of public infrastructure, and will not materially endanger the environment, public health, safety, or the general welfare.

The distribution of traffic has been given much consideration by providing primary access to Guy Road with the secondary access point to Brandon Drive once the street is constructed. Since Guy Road is an NCDOT road, the access will be designed to NCDOT standards. Care has been exercised in the townhome subdivision to protect the environment by prudent use of buffers and landscaping. The public's safety and health have been addressed by providing public water and sewer that meet the Town and State requirements. Storm water quality has been addressed during construction with erosion control measures and in the long term with storm water management facilities that address not only the quality of water but also the quantity of water. Street are so designed as to be safe for pedestrians and vehicles alike by providing adequate separation, traffic control and lighting. The public's health and welfare are further addressed by the townhome subdivision providing passive and active recreation opportunities offsite utilizing municipal recreation facilities via recreation assessment fees

Exhibit B

Findings of Fact



Item No. 1 That the application will not materially endanger the public health or safety if located where proposed, and developed according to the plans as submitted and approval.

The distribution of traffic has been given much consideration by providing primary access to Guy Road with the secondary access point to Brandon Drive once the street is constructed. Since Guy Road is an NCDOT road, the access will be designed to NCDOT standards. Care has been exercised in the townhome subdivision to protect the environment by prudent use of buffers and landscaping. The public's safety and health have been addressed by providing public water and sewer that meet the Town and State requirements. Storm water quality has been addressed during construction with erosion control measures and in the long term with storm water management facilities that address not only the quality of water but also the quantity of water. Street are so designed as to be safe for pedestrians and vehicles alike by providing adequate separation, traffic control and lighting. The public's health and welfare are further addressed by the townhome subdivision providing passive and active recreation opportunities offsite utilizing municipal recreation facilities via recreation assessment fees.

Item No. 2 The That the application meets all required specifications and conforms to the standards and practices of sound land use planning and the Town Code of Ordinances and other applicable regulations.

The subdivision meets or exceeds all applicable development standards that are established in the Subdivision Regulations and the Unified Development Code. Private streets are designed in accordance with the Town standards so as to provide a development with safe streets for both vehicles and pedestrians. Public utilities are designed so as to provide adequate water for consumption as well as fire protection while the sewer collection system is designed to protect the health and welfare of the public. Area lighting is provided so as to provide a safe environment for the residents. Storm water management facilities have been incorporated into the design as to manage the volume of storm water as well as the quality of physical improvements during construction so as to minimize off site discharge of sediments. Passive and active recreation opportunities have been provided through open space, and indirectly through recreational assessment fees. By incorporating buffers, open space and landscaping the aesthetic quality of the development and as well as adjacent properties is maintained.



Item No. 3 That the application will not substantially injure the value of adjoining or abutting property and will not be detrimental to the use or development of adjacent properties or other neighborhood uses.

The Quad townhome development will be a continuation of the development pattern established by the Moss Creek Parkside and Garrison Place, which is a blending of single family with a mix of townhomes and apartments. Even though the Quad townhomes will continue the existing development pattern, the townhomes will offer a refreshing change of architectural style that is modern and in more keeping with contemporary trends.

In the past to the west of the Quad, the Town of Clayton has approved multifamily housing in the form of duplexes, triplexes and traditional garden apartments. To the west and a little north of the proposed development, lies in the Clayton Recreation Center and Clayton Community Park within easy walking distance. The recreation center and community park facilities will obviously be very important to the residents of the townhomes who will have at their disposal the Town's premier recreation facilities by a short walk. Also to the west along Guy Road is Clayton Middle School. To the east there are also many commercial businesses that will support the residents of the Quad.

Item No. 4 That the application will not adversely affect the adopted plans and policies of the Town, or violate the character of existing standards for development of the adjacent properties.

The proposed development is in compliance with the Town of Clayton Comprehensive Plan 2040. In the Plan, the area of the townhome subdivision is designated as High Density Residential (HDR) land use. The HDR land use encourages higher density residential development by using multifamily developments (apartments and townhomes) that have high density ratios (up to 12 units/ac). The proposed development has a total acreage of 2.029 acres. When the density is calculated at build out using 20 units the density ration is 9.857 units per acre of developable land. The proposed townhome development will continue to address the high density residential component envisioned in the Comprehensive Plan 2040.



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

ROAD NAME APPROVAL APPLICATION

Road name applications are for public street signs (blades) that are located within the Town limits. Once the public street names have been approved, the applicant must submit a written request to the Town of Clayton Public Works Department identifying the approved blades and their installation location(s). The Public Works Department will order and install the blades along with any required regulatory signage. The applicant will be invoiced for the total cost of the blades, one-half the cost of sign posts and one man hour of labor per sign post.

SITE INFORMATION

Name of Project: The Quad Acreage of Property: 2.029 AC
Tax ID #: 05G02046K NC PIN: 165806-39-9222
Deed Book: 319 Deed Page(s): 0723
Location: Guy Road, beside Devlin Orthodontics

Nearest Intersecting Roads: Guy Road and NC HWY 42
Township: Clayton

PROPERTY OWNER INFORMATION

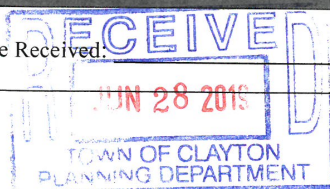
Name: CGC Properties, LLC
Mailing Address: PO Box 107066, Wilmington, NC 28404
Phone Number: _____ Fax: _____
Email Address: _____

APPLICANT INFORMATION

Applicant: Adams & Hodge Engineering, PC
Mailing Address: 314 E Main St., Clayton, NC 27520
Phone Number: 919-763-7278 / 919-812-2654 Fax: _____
Contact Person: Donnie Adams / Amy Stancil
Email Address: donnies@adamsandhodge.com / amy@adamsandhodge.com

FOR OFFICE USE ONLY

Date Received: _____ Amount Paid: _____ File Number: _____



ROAD NAME GUIDELINES SUPPLEMENTAL INFORMATION

The following guidelines must be followed. Please note that the Town of Clayton reserves the right to not approve any street name that is deemed inappropriate or fails to meet the guidelines.

- ☒ No street names duplicate or sound similar to existing road names.
- ☒ None of the streets are names after individuals.
- ☒ Street names have been limited to 14 characters or less.
- ☒ No compass directions are included in the street names (north, south, east, west).
- ☒ Punctuation marks are not used in the street names (e.g. periods, hyphens, apostrophes, etc.).
- ☒ Double suffixes have been avoided (e.g. Deer Path Lane).
- ☒ All names have acceptable suffixes (e.g. Street, Drive, Court, Lane, etc.). *Please see the Town of Clayton's approved list of suffixes (attached).*
- ☒ Names that are difficult to pronounce have been avoided.

REQUIRED PLANS AND SUPPLEMENTAL INFORMATION

Please submit twice as many road names as needed with highest priority names listed first, written exactly as they should appear on the sign. The Town of Clayton Planning Department will coordinate with the Johnston County Planning Department for joint approval of street names. The Town of Clayton Planning Department will provide the applicant the final approval of street names. Approved street names are reserved for one year.

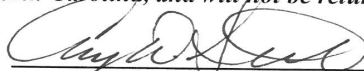
Road Name	Suffix
Ex.: Willow	Lane
1. Elan	Street
2. Ashel	Street
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	

Road Name	Suffix
11.	
12.	
13.	
14.	
15.	
16.	
17.	
18.	
19.	
20.	
21.	

APPLICANT AFFIDAVIT

I/We, the undersigned, do hereby make application and petition to the Town of Clayton Planning Department for street names. 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.

Amy D. Stancil
Print Name


Signature of Applicant

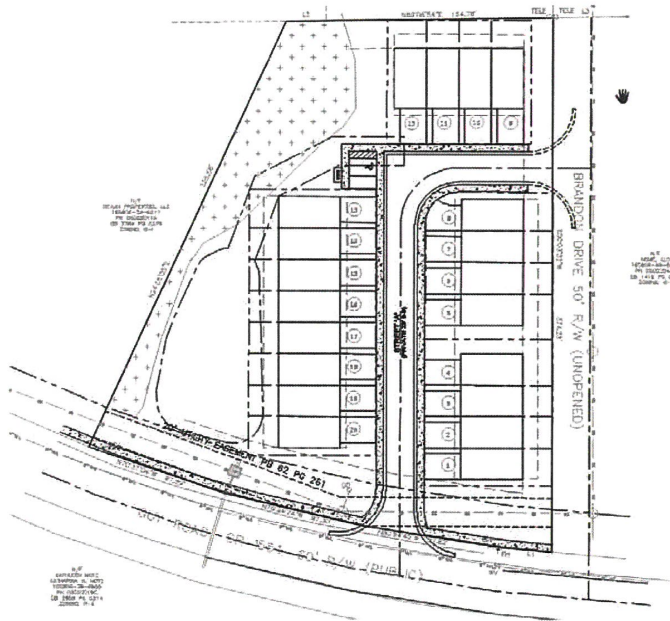
6/28/2019
Date



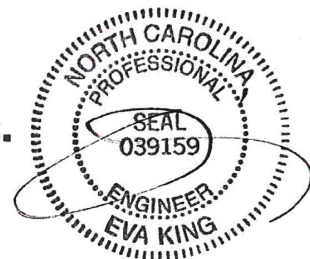
STORMWATER MANAGEMENT **STATEMENT**

THE QUAD

**TOWN OF CLAYTON
JOHNSTON COUNTY, NORTH CAROLINA**



**PREPARED BY
EVA KING, PE
ADAMS & HODGE ENGINEERING P.C.
JUNE 24, 2019**



STORMWATER NARRATIVE



**The Quad
Town of Clayton
Johnston County, North Carolina
Stormwater Management Statement Narrative
June 2019**

The site for The Quad project is located off Guy Road, west of Highway 42 in the Town of Clayton in Johnston County, North Carolina.

The project consists of a +/- 2.03 acres parcel, Tax ID 05G02046K, PIN 165806-39-9222. The proposed use for this site is a 20 townhome community with 5 buildings consisting of 4 connected townhomes.

The existing site is a mix of partially wooded areas and cleared grassed areas with potential wetlands located along the western property line.

According to Firm Map 3720165800 dated 6/20/2018, the site is located in Zone X, area of minimal Flood Hazard.

According to Johnston County GIS, the property is not located in an ESA .

The proposed townhome community consists of one road with curb and gutter.

Preliminary Nitrogen Calculations included show a final nitrogen offset of 9.88 lb/ac/yr, so an off-set payment is anticipated while treatment to reduce Nitrogen is not required.

However, attenuation will be required so an additional Nitrogen reduction is expected by the proposed SCM once fully designed.

NITROGEN EXPORT



Preliminary TN Calculations - The Quad - Town of Clayton

This project is fully located outside of the ESOD area

The impervious area limit (without Attenuation & Land Dedication) for Townhomes
Development for this project is 70 %

<u>Impervious Calculations:</u>	sqft	ac	%
Roadways:	8,022	0.18	9.08%
Homes	18,480	0.42	20.91%
Driveways and Sidewalk	12,150	0.28	13.75%
<u>Total:</u>	38,652	0.89	43.73%

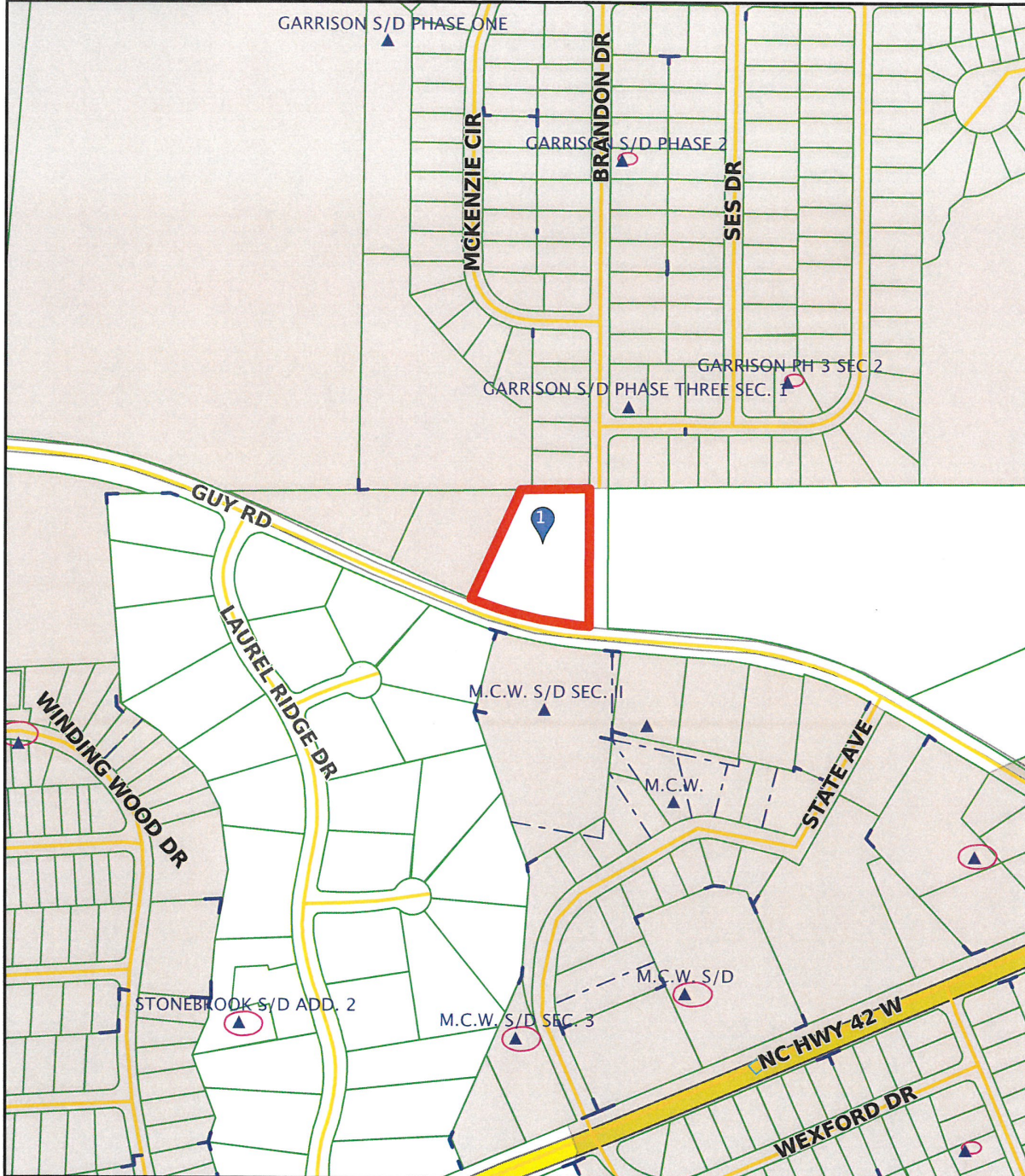
(1)	(2)	(3)	(4)	(5)
Type of Land Cover	Site Area (Acres)	TN Export Coeff. (lbs/ac/yr)	TN Export by Land Use (lbs/yr)	TN Export From Site (lbs/ac/yr)
Perm. preserved undisturbed open space (forest, unmown meadow)	0.24	0.6	0.14	
Perm. preserved managed open space (grass, landscaping, etc.)	0.91	1.2	1.09	
Impervious surfaces (roads, parking lots, driveways, roofs, paved storage areas, etc.)	0.89	21.2	18.81	
TOTAL	2.03		20.04	
Average for Site				9.88

ALLOWABLE NITROGEN EXPORT:	10.00	lb/ac/yr	
ACTUAL NITROGEN EXPORT IS:	9.88	lb/ac/yr	No buydown required

6/24/2019

APPENDIX

**SITE PLAN
VICINITY MAP
FIRMETTE
SOILS MAP
USGS MAP**



Scale: 1:4358 - 1 in. = 363.17 feet

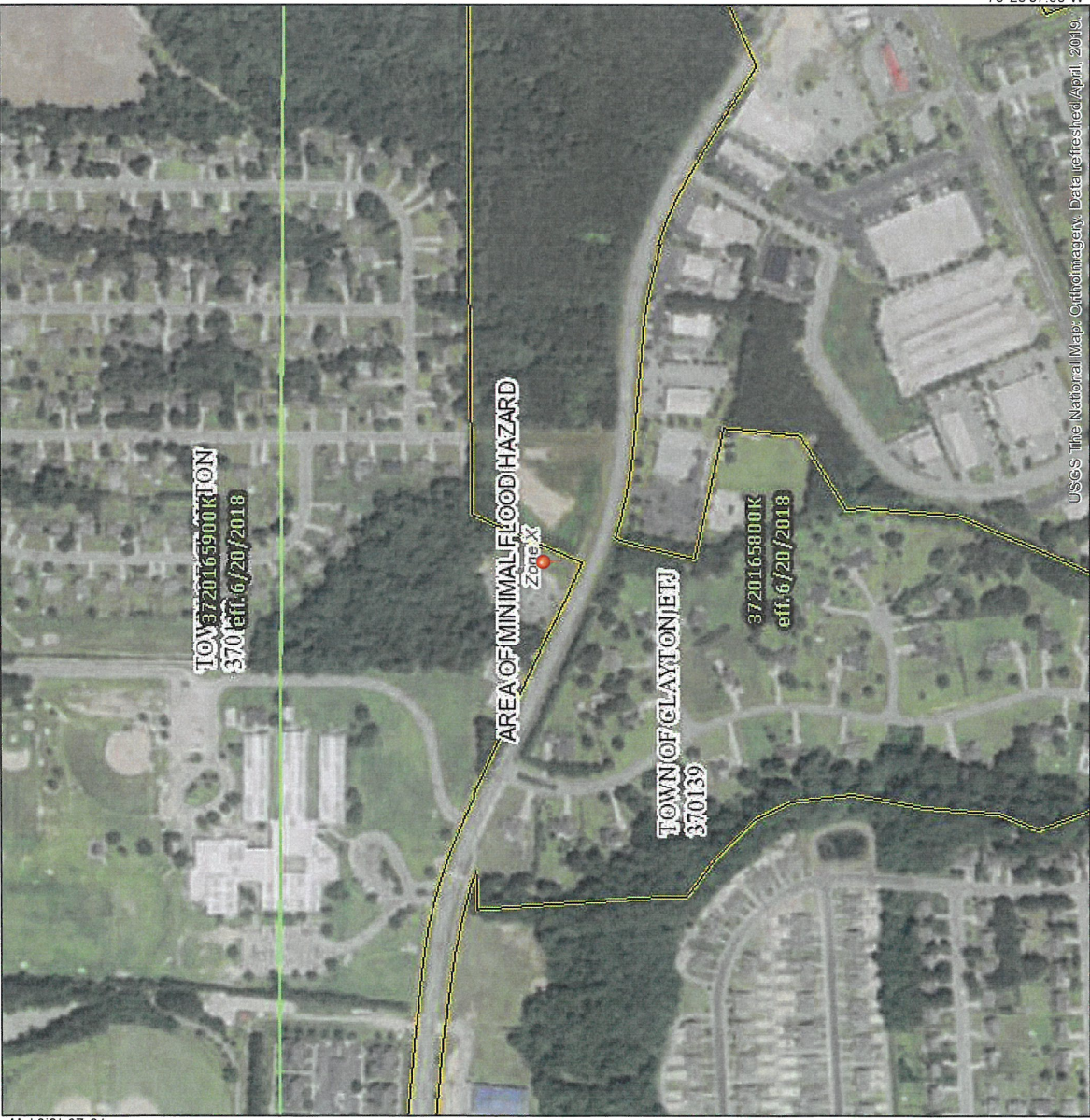
(The scale is only accurate when printed portrait on a 8 1/2 x 11 size sheet with no page scaling.)

Johnston County GIS
June 24, 2019

National Flood Hazard Layer FIRMette



35°38'48.69"N



USGS The National Map: Orthoimagery Data refreshed April, 2019.
35°38'19.45"N
78°28'37.55"W

Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

SPECIAL FLOOD HAZARD AREAS	Without Base Flood Elevation (BFE)
	With BFE or Depth Zone AE, AO, AH, VE, AP
	Regulatory Floodway

0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile Zone X
Future Conditions 1% Annual Chance Flood Hazard Zone X
Area with Reduced Flood Risk due to Levee, See Notes, Zone X
Area with Flood Risk due to Levee Zone D

NO SCREEN	Area of Minimal Flood Hazard Zone X
Effective LOMRs	Area of Undetermined Flood Hazard Zone D

GENERAL STRUCTURES	Channel, Culvert, or Storm Sewer
	Levee, Dike, or Floodwall

20.2	Cross Sections with 1% Annual Chance
17.5	Water Surface Elevation
6	Coastal Transect
Base Flood Elevation Line (BFE)	
Limit of Study	
Jurisdiction Boundary	

OTHER FEATURES	Coastal Transect Baseline
	Profile Baseline
	Hydrographic Feature

MAP PANELS	Digital Data Available
	No Digital Data Available
	Unmapped

The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards.

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 6/24/2019 at 6:10:14 PM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.

0 250 500 1,000 1,500 2,000 Feet
1:6,000

USGS The National Map: Orthoimagery Data refreshed April, 2019.
35°38'19.45"N
78°28'37.55"W

Custom Soil Resource Report Soil Map (The Quadd)



MAP LEGEND

Area of Interest (AOI)

Area of Interest (AOI)

Soils

Soil Map Unit Polygons

Soil Map Unit Lines

Soil Map Unit Points

Special Point Features

Blowout

Borrow Pit

Clay Spot

Closed Depression

Gravel Pit

Gravelly Spot

Landfill

Lava Flow

Marsh or swamp

Mine or Quarry

Miscellaneous Water

Perennial Water

Rock Outcrop

Saline Spot

Sandy Spot

Severely Eroded Spot

Sinkhole

Slide or Slip

Sodic Spot

Water Features

Streams and Canals

Transportation

Rails

Interstate Highways

US Routes

Major Roads

Local Roads

Background

Aerial Photography

Area of Interest (AOI)

Area of Interest (AOI)

Soils

Soil Map Unit Polygons

Soil Map Unit Lines

Soil Map Unit Points

Special Point Features

Blowout

Borrow Pit

Clay Spot

Closed Depression

Gravel Pit

Gravelly Spot

Landfill

Lava Flow

Marsh or swamp

Mine or Quarry

Miscellaneous Water

Perennial Water

Rock Outcrop

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Sandy Spot

Severely Eroded Spot

Sinkhole

Slide or Slip

Sodic Spot

Water Features

Streams and Canals

Transportation

Rails

Interstate Highways

US Routes

Major Roads

Local Roads

Background

Aerial Photography

MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:24,000.

Warning: Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service
Web Soil Survey URL:
Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Johnston County, North Carolina
Survey Area Data: Version 22, Sep 10, 2018

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Oct 29, 2014—Dec 9, 2017

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Map Unit Legend (The Quadd)

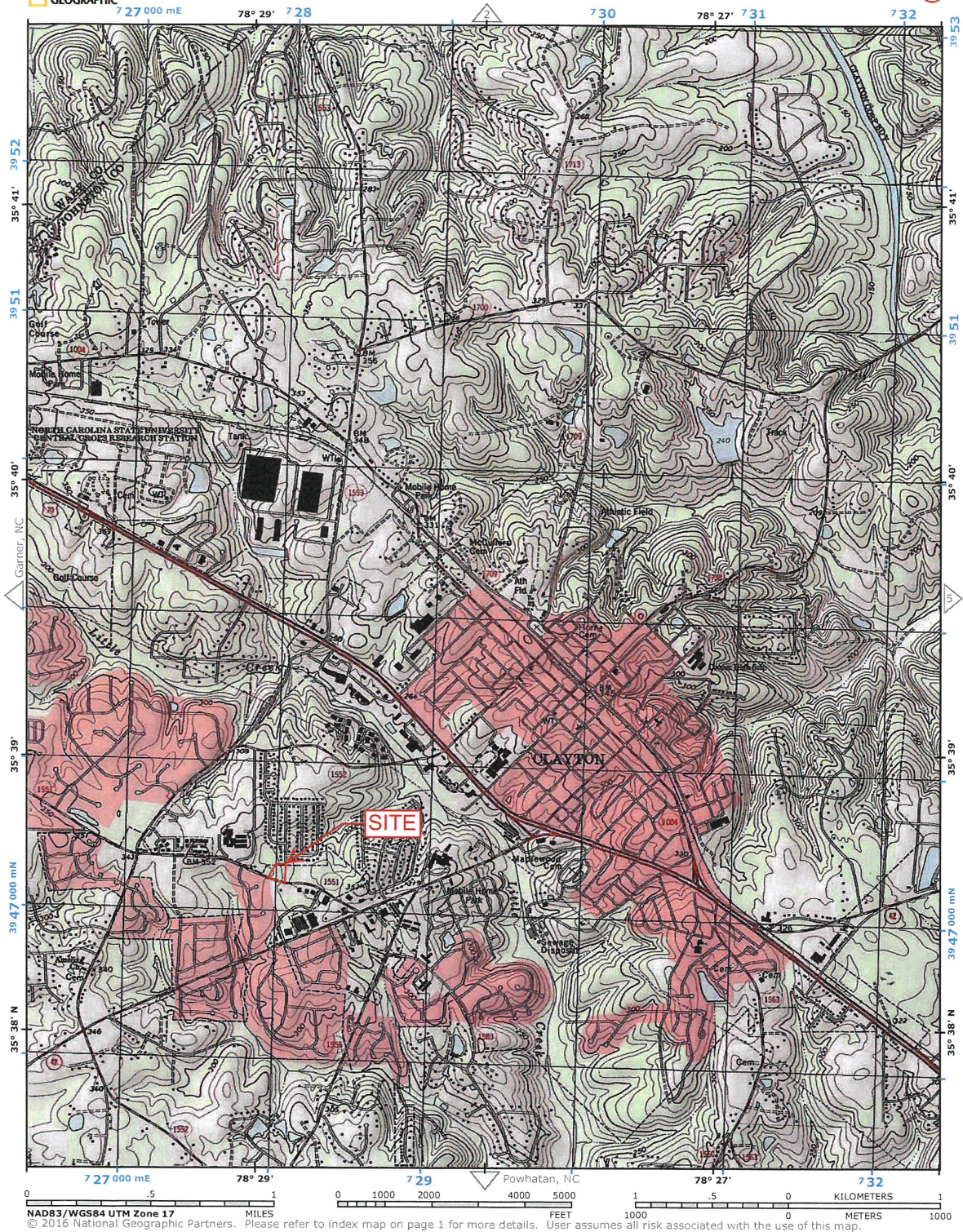
Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
CoB	Cowarts loamy sand, 2 to 6 percent slopes	0.3	14.7%
GoA	Goldsboro sandy loam, 0 to 2 percent slopes	0.2	7.1%
MaA	Marlboro sandy loam, 0 to 2 percent slopes	0.1	2.5%
Ra	Rains sandy loam, 0 to 2 percent slopes	1.8	75.6%
Totals for Area of Interest		2.4	100.0%

Map Unit Descriptions (The Quadd)

The map units delineated on the detailed soil maps in a soil survey represent the soils or miscellaneous areas in the survey area. The map unit descriptions, along with the maps, can be used to determine the composition and properties of a unit.

A map unit delineation on a soil map represents an area dominated by one or more major kinds of soil or miscellaneous areas. A map unit is identified and named according to the taxonomic classification of the dominant soils. Within a taxonomic class there are precisely defined limits for the properties of the soils. On the landscape, however, the soils are natural phenomena, and they have the characteristic variability of all natural phenomena. Thus, the range of some observed properties may extend beyond the limits defined for a taxonomic class. Areas of soils of a single taxonomic class rarely, if ever, can be mapped without including areas of other taxonomic classes. Consequently, every map unit is made up of the soils or miscellaneous areas for which it is named and some minor components that belong to taxonomic classes other than those of the major soils.

Most minor soils have properties similar to those of the dominant soil or soils in the map unit, and thus they do not affect use and management. These are called noncontrasting, or similar, components. They may or may not be mentioned in a particular map unit description. Other minor components, however, have properties and behavioral characteristics divergent enough to affect use or to require different management. These are called contrasting, or dissimilar, components. They generally are in small areas and could not be mapped separately because of the scale used. Some small areas of strongly contrasting soils or miscellaneous areas are identified by a special symbol on the maps. If included in the database for a given area, the contrasting minor components are identified in the map unit descriptions along with some characteristics of each. A few areas of minor components may not have been observed, and consequently they are not mentioned in the descriptions, especially where the pattern was so complex that it was impractical to make enough observations to identify all the soils and miscellaneous areas on the landscape.



NAD83/WGS84 UTM Zone 17

© 2016 National Geographic Partners. Please refer to index map on page 1 for more details. User assumes all risk associated with the use of this map.



August 6, 2019

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 nature of the proposal. A representative of the applicant will be present to explain their application, answer questions, and solicit comments.

Meeting Date: **Monday August 19, 2019**

Meeting Time: **7:00 p.m.**

Meeting Location: **314 E. Main St. (Adams & Hodge Engineering – Entrance and Parking in the back of building)**

Type of Application: **Major Subdivision Plan and Special Use Permit**

Project/proposal property location: **Guy Road beside Devlin Orthodontics (See attached Map)**

Description of project/proposal: This project proposal is for 20 units of Modern Townhomes (2 story, 2 bedroom, and single car garages.)

Upcoming Public Meetings for this application: Town Council Meeting September 3, 2019

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 application.
3. A map at 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.

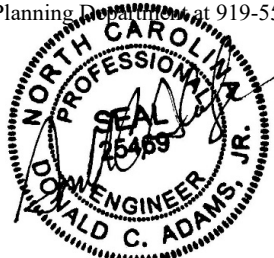
A map is enclosed with this letter showing the location of the property that is subject to this application for land use change and/or development proposal.

If you have any questions prior to or after this meeting, you may contact us at **(919)763-7278**.

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

Sincerely,

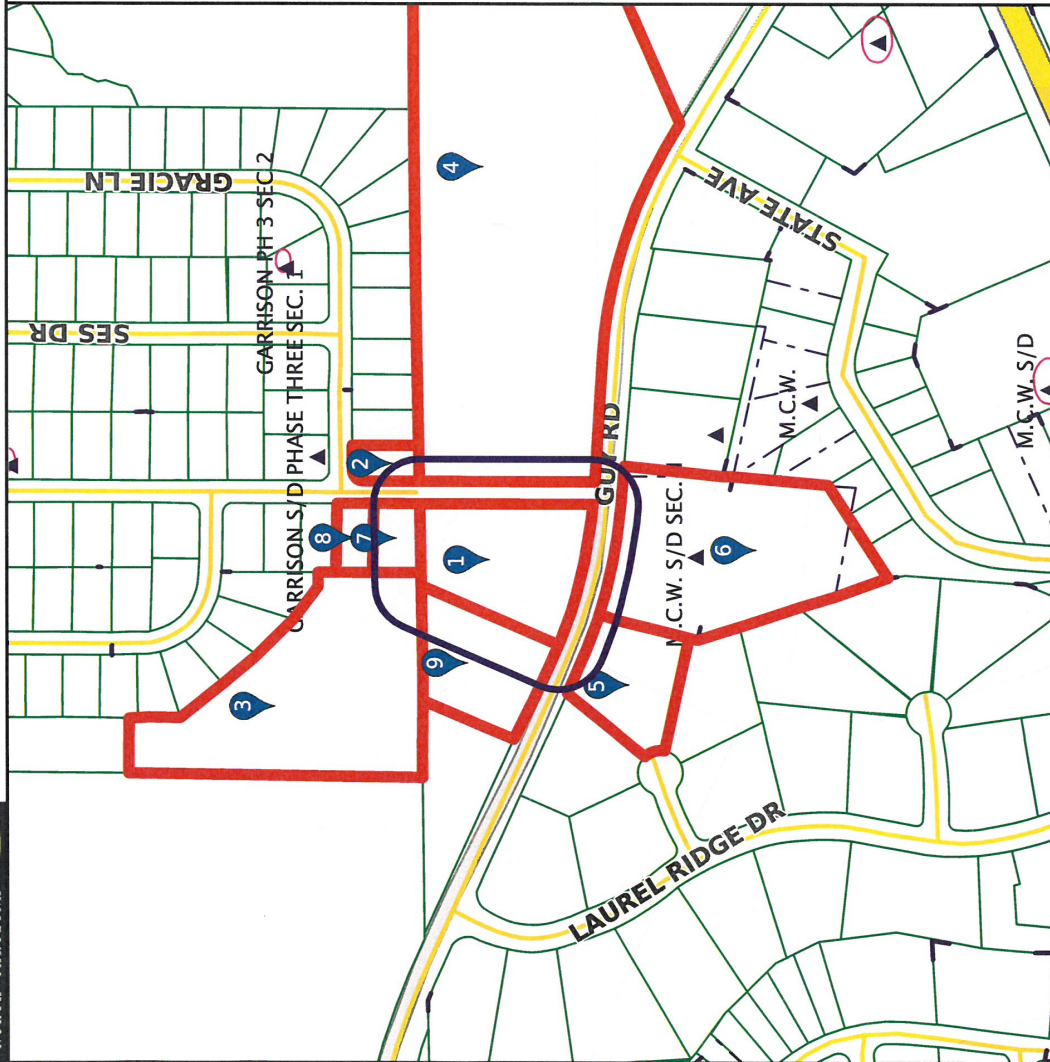
Donald C. Adams, Jr., PE





*** DISCLAIMER ***

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



Result 1

id: 05G02046K
Tag: 05G02046K
Owner Name 1: CGC PROPERTIES LLC
Owner Name 2:
Mail Address 1: PO BOX 10766
Mail Address 2: WILMINGTON, NC 28404-0766
Mail Address 3:
Book: 03119
Page: 0723

Result 2

id: 05G02050
Tag: 05G02050
Owner Name 1: ALLEN, GREGORY M.
Owner Name 2: ALLEN, JANET H.
Mail Address 1: 207 GRACIE LN
Mail Address 2:
Mail Address 3: CLAYTON, NC 27520-7947
Book: 05137
Page: 0346



Scale: 1:4368 - 1 in. = 363.97 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
June 25, 2019



*** DISCLAIMER ***

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

Result 3

id: 05G02034Q
Tag: 05G02034Q
Owner Name 1: GARRISON HOMEOWNERS
ASSOCI INC
Owner Name 2:
Mail Address 1: 207 W MILLBROOK SUITE 110
Mail Address 2:
Mail Address 3: RALEIGH, NC 27609-0000
Book: 01700
Page: 0827

Result 4

id: 05G02046L
Tag: 05G02046L
Owner Name 1: N E M E, L L C
Owner Name 2:
Mail Address 1: 3705 WILLIAM J COWAN
WYND
Mail Address 2:
Mail Address 3: RALEIGH, NC 27612-5399
Book: 01416
Page: 0631

Result 5

id: 05G02019C
Tag: 05G02019C
Owner Name 1: MOTZ, KATHLEEN
Owner Name 2: MOTZ, KATHARINA H
Mail Address 1: 5 CHESTNUT DRIVE
Mail Address 2:
Mail Address 3: CLAYTON, NC 27520-0000
Book: 02858
Page: 0314

Result 6

id: 05G02014Q
Tag: 05G02014Q
Owner Name 1: CROSSROADS CHURCH OF
CLAYTON
Owner Name 2:
Mail Address 1:
Mail Address 2: PO BOX 1677
Mail Address 3: CLAYTON, NC 27520-1677
Book: 04068
Page: 0460

Result 7

id: 05G02049
Tag: 05G02049
Owner Name 1: SIKANETA, PUMULO H.
Owner Name 2:
Mail Address 1: 302 BRANDON DR
Mail Address 2:
Mail Address 3: CLAYTON, NC 27520-7945
Book: 04846
Page: 0717

Result 8

id: 05G02100
Tag: 05G02100
Owner Name 1: LATTA, HOLLY
Owner Name 2: LATTA, ASHLEY
Mail Address 1: 300 BRANDON DR
Mail Address 2:
Mail Address 3: CLAYTON, NC 27520-7945
Book: 05177
Page: 0101



*** DISCLAIMER ***

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

Result 9

id: 05G02011A

Tag: 05G02011A

Owner Name 1: DEVLIN PROPERTIES LLC

Owner Name 2:

Mail Address 1: 7016 HARPS MILL RD

Mail Address 2:

Mail Address 3: RALEIGH, NC 27615-0000

Book: 02784

Page: 0379



The Quad Meeting Minutes

Date: August 19, 2019

Time: 7:00pm

Location: 312 E. Main Street (Adams & Hodge Engineering)

The meeting was ready to begin at 7:00pm for The Quad, however, as of 7:20pm there were no adjacent property owners that showed up. Therefore, there were not any minutes to report.

RECEIVED

AUG 20 2019

TOWN OF CLAYTON
PLANNING DEPARTMENT

NEIGHBORHOOD MEETING ATTENDANCE ROSTER

Project: The Quad

Application: Major Subdivision, Special Use Permit, Wastewater Allocation

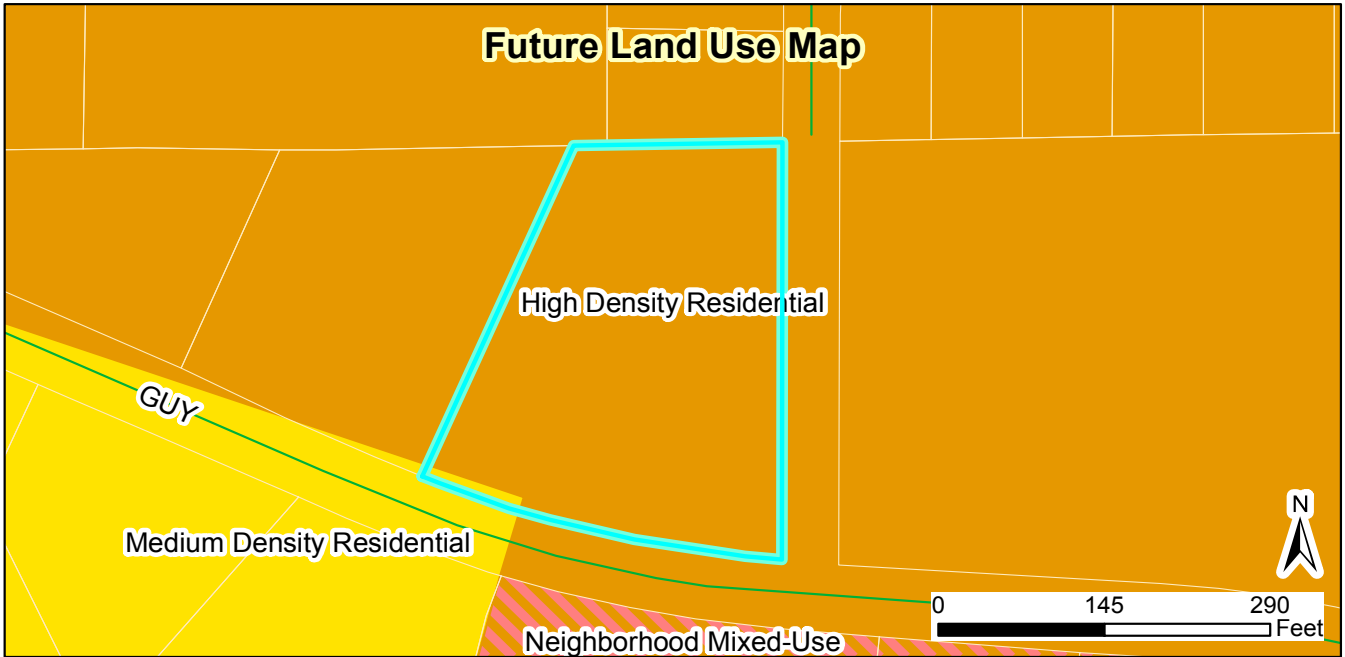
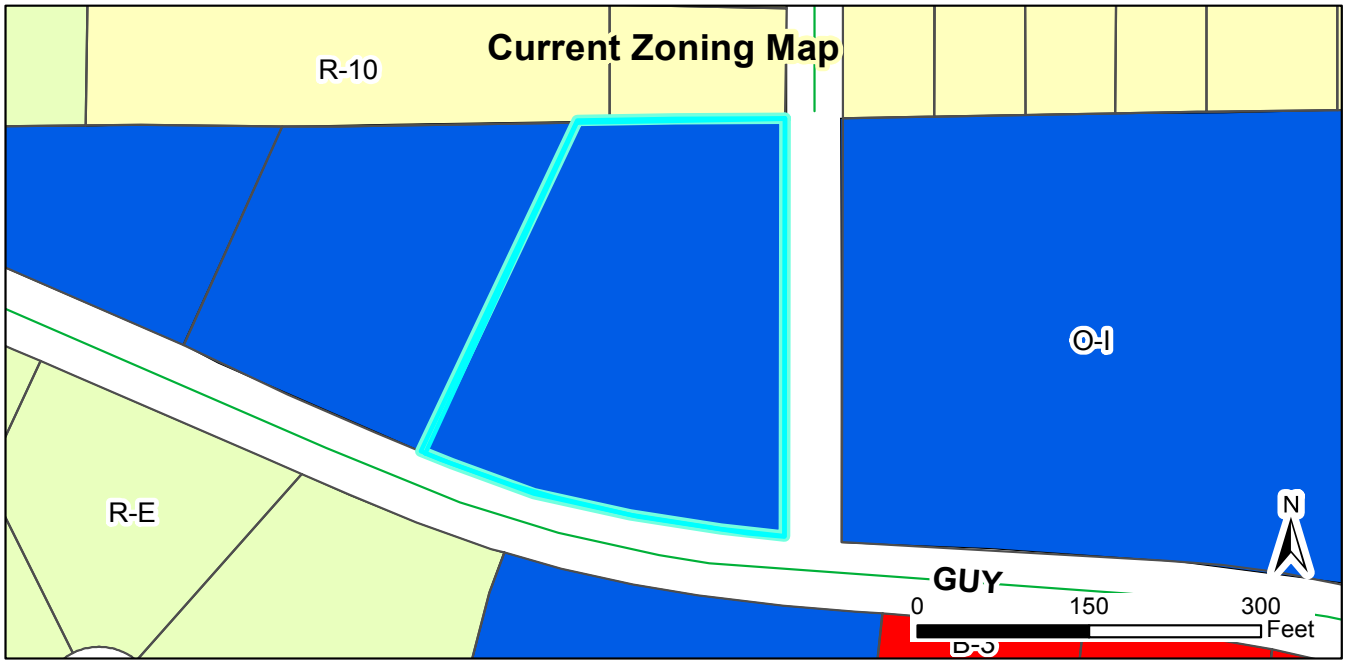
Location/Date: Adams & Hodge Engineering 314 E. Main St. 8-19-19
Clayton

	NAME	ADDRESS
1	Donnie Adams	404 Swann Trail, Clayton, NC 27527
2	Holland Adams	404 Swann Trail, Clayton, NC 27527
3	Andrew Hodge	25 Jasper Dr. Clayton
4	Cheryl D. Smith	215 W. BARNES ST, CLAYTON, NC 27520
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		

RECEIVED

AUG 20 2019

TOWN OF CLAYTON
PLANNING DEPARTMENT



2019-129-SD
The Quad Preliminary Plat / Special Use Permit
Request to develop 20 townhome units

Applicant: Adams & Hodge Engineering
 Property Owners: CGC Properties LLC
 Tag #: 05G02046K

Staff Report Map

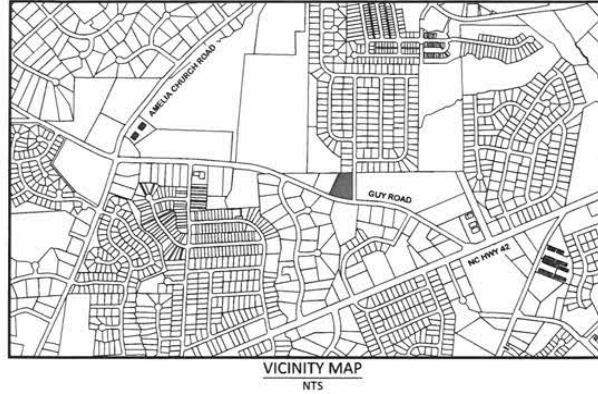


1/17/2020

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

Document Path: O:\PLANNING\SUBDIVISIONS\MAJOR SUBDIVISIONS\2019\2019-129-SD - The Quad\Maps\Staff Report Map - 2019-129-SD - The Quad Preliminary Plat.mxd

Legend	
	TOC_SDE.GISMGR.Parcels selection 2
	Site
	100-yr Flood Zone
	Thoroughfare Overlay
	Watershed Protection Overlay



Received
December 19th

MAJOR SUBDIVISION PLAN

FOR

THE QUAD

IN

TOWN OF CLAYTON ETJ,
JOHNSTON COUNTY,
NORTH CAROLINA

DEVELOPER/APPLICANT:

CLOUDBREAK INVESTMENTS, LLC
P.O. BOX 189
CLAYTON, NC 27528
CONTACT: (919) 345-6729

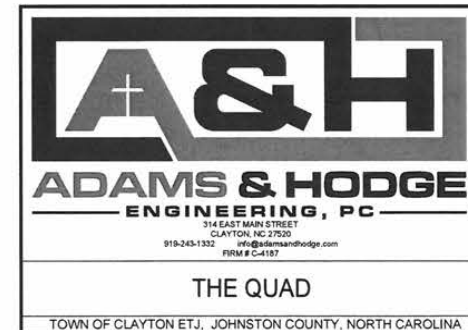
SHEET INDEX

SHEET TITLE	SHEET No.
SEALED BOUNDARY.....	C1.01
EXISTING CONDITIONS.....	C1.02
PRELIMINARY SITE PLAN.....	C2.01
PRELIMINARY UTILITY PLAN.....	C3.01
PRELIMINARY EROSION CONTROL PLAN.....	C4.01
PRELIMINARY GRADING & DRAINAGE PLAN.....	C5.01
PRELIMINARY LANDSCAPE PLAN.....	L1.01
REGULATORY STANDARDS.....	DT1.00
ARCHITECTUAL PLANS.....	A-1 to A-5

PRELIMINARY

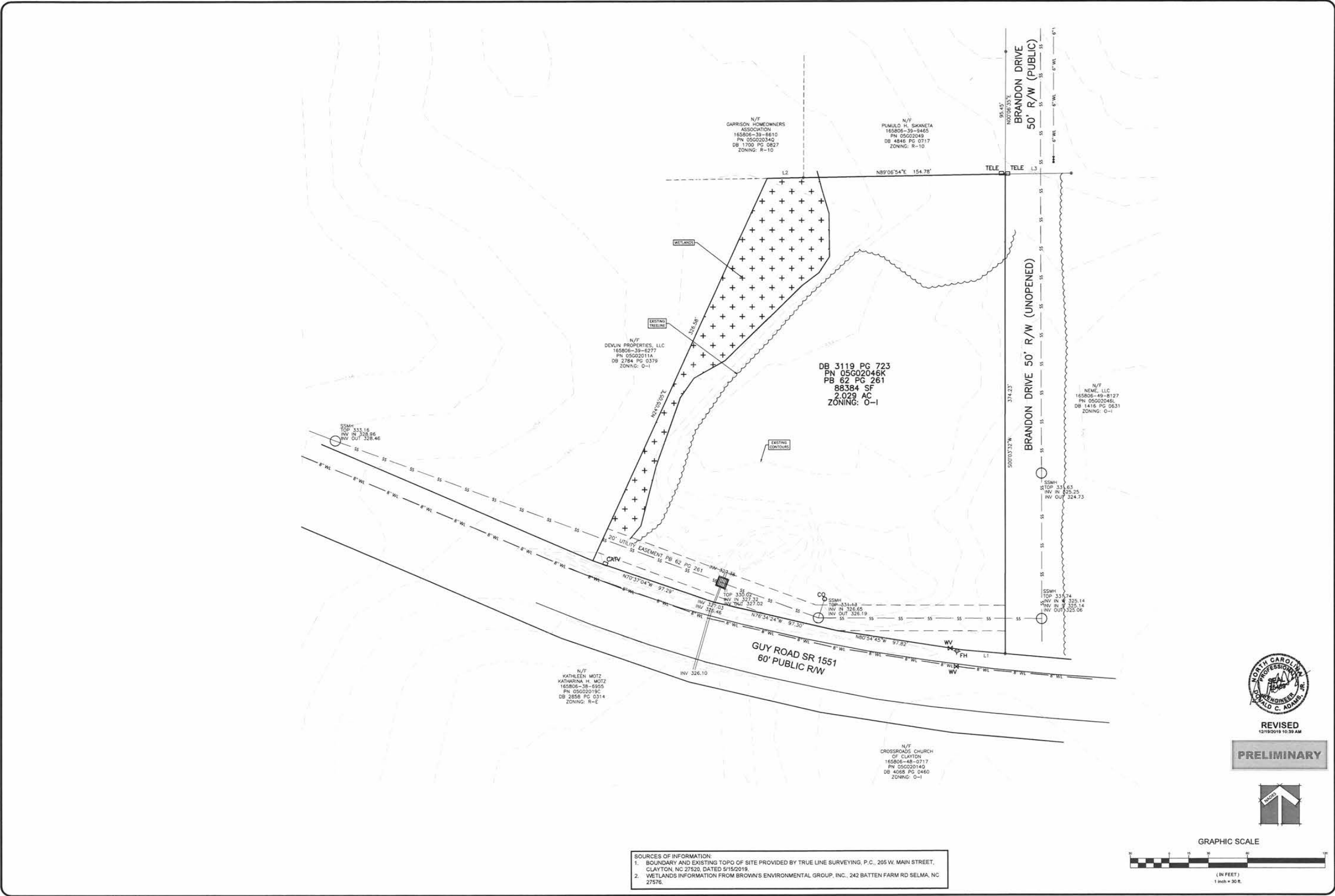


REVISED
8:31 am, Dec 19, 2019



JULY 1, 2019

AUGUST 5, 2019 PER 1st TRC COMMENTS
NOVEMBER 6, 2019 PER 2nd TRC COMMENTS
DECEMBER 2, 2019 PER 3rd TRC COMMENTS
*DECEMBER 19, 2019 PER 4th TRC COMMENTS
T.O.C. PROJECT: 2019-129-SD



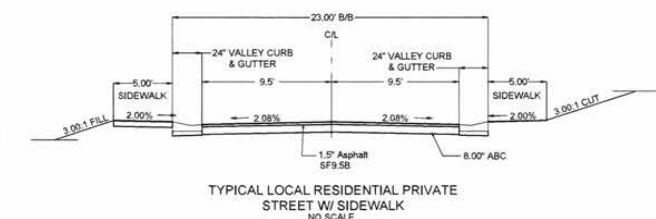
THE QUAD SITE DATA CHART	
PARCEL OWNER	CGC PROPERTIES LLC
PARCEL OWNER ADDRESS	PO BOX 10766, WILMINGTON, NC 28404
PARCEL IDENTIFICATION	165806-39-0222 / D5G02046K
PROPERTY SIZE (SF)	88,384 SF / 2.03 AC
PROPERTY LOCATION	TOWN OF CLAYTON ETJ / CLAYTON TOWNSHIP (TO BE ANNEXED)
EXISTING/PROPOSED ZONING	O-1 / O-1
EXISTING USE	VACANT
PROPOSED USE	SINGLE FAMILY TOWNHOMES
NUMBER OF UNITS/LOTS	20 UNITS/LOTS
PROPOSED DENSITY	9.86 UNITS/AC
PROPOSED INTENSITY (GROSS FLOOR AREA IN SF)	956 SF PER UNIT
PROPOSED BUILDING COVER (PERCENTAGE OF TOTAL SITE)	21%
PROPOSED IMPERVIOUS AREA PER LOT	1,475 SF
PROPOSED IMPERVIOUS AREA (% OF TOTAL SITE)	38,662 SF (43.73%)
PROPOSED PERVIOUS AREA (% OF TOTAL SITE)	49,732 SF (56.27%)
MAX IMPERVIOUS AREA	75%
PROPOSED BUILDING HEIGHT (NUMBER OF STORIES & FEET)	2 STORY & 24'-8"
ELECTRIC PROVIDER	DUKE ENERGY PROGRESS
WATER PROVIDER	TOWN OF CLAYTON
SEWER PROVIDER	TOWN OF CLAYTON
SITE IS NOT IN THE WATERSUPPLY WATERSHED PROTECTION AREA	

- NOTE:
1. DEVELOPER TO ANNEX THE SITE TO TOWN OF CLAYTON.
 2. THERE ARE NO AREAS OF 100 YEAR FEMA FLOOD ON PROPERTY FLOOD PANEL NO. 3720165000 K-47, DATE 06/20/2018.
 3. PULL-OUT TRASH BIN TO BE LOCATED IN THE REAR OF EACH UNIT AND SHALL BE SCREENED FROM VIEW FROM ADJACENT PROPERTIES AND/OR PUBLIC RIGHTS-OF-WAY. OR TRASH BIN MAY BE PUT INTO GARAGES OUT OF SIGHT.

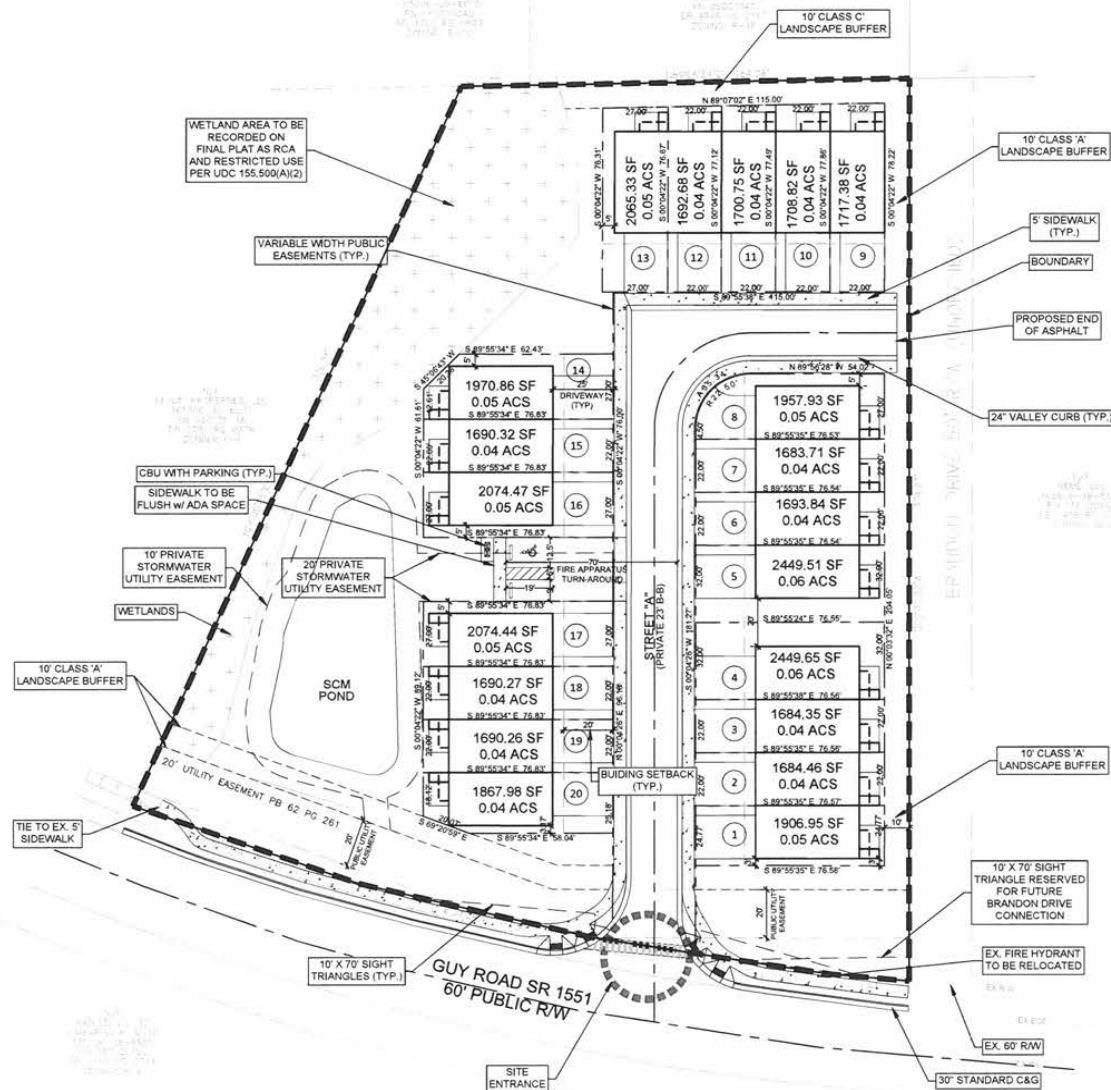
ZONING	UNIT TYPE	LOT STANDARDS				MINIMUM SETBACKS (FT.)						BUILDING STANDARDS	
		Min. Lot Area (sq.ft.)	Min. Lot Width (LF)	Max. Lot Coverage (%)	Max. Lot Impervious Surface (%)	Garage	Front	Side	Side Interior	Side Street	Rear	BUILDING SEPARATION	Max. Height (ft.)
O-1	TOWNHOMES	1,650	22	60	90	25	20	0	0	0	0	20	30

OPEN SPACE TABLE	
	SQUARE FEET
REQUIRED OPEN SPACE 1,245 SF/LOT (20 LOTS)	24,900
OPEN SPACE PROVIDED	30,518.00
*NOTE: ACREAGE SHOWN IS APPROXIMATE AS THIS IS A MAJOR SUBDIVISION PLAN.	

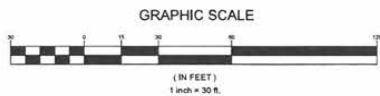
CONDITIONS ALLOWABLE WITH SPECIAL USE	PARKING REQUIREMENTS
1. DRIVEWAYS ON PROPERTY LINE. 2. DRIVEWAY LARGER THAN GARAGE ENTRANCE DOOR. 3. GARAGE NOT RECESSED DUE TO ARCHITECTURAL STYLE.	§ 155.401(C)(2) FOR TOWNHOMES. (2) SPACES REQUIRED PER UNIT. PROVIDED (2) SPACES IN DRIVEWAY. (1) SPACE IN GARAGE. TOTAL OF (3) SPACES PROVIDED PER UNIT.



NOTE:
PER NC DOT, AT THE TIME IN WHICH BRANDON DRIVE IS CONSTRUCTED AND FULLY DEVELOPED, THE GUY ROAD ENTRANCE INTO THE QUAD SHALL BE CLOSED AND A CONNECTION TO BRANDON DRIVE SHALL BE MADE FROM STREET 'A' TO THE EAST. WHEN THE GUY ROAD ENTRANCE IS CLOSED, SIDEWALK AND LANDSCAPING SHALL BE EXTENDED ALONG THE ENTIRE FRONTAGE OF THE DEVELOPMENT ALONG GUY ROAD.



PRELIMINARY



314 EAST MAIN STREET
CLAYTON, NC 28427
919-245-1332
info@adamsandhodge.com
FIRM # C-4187

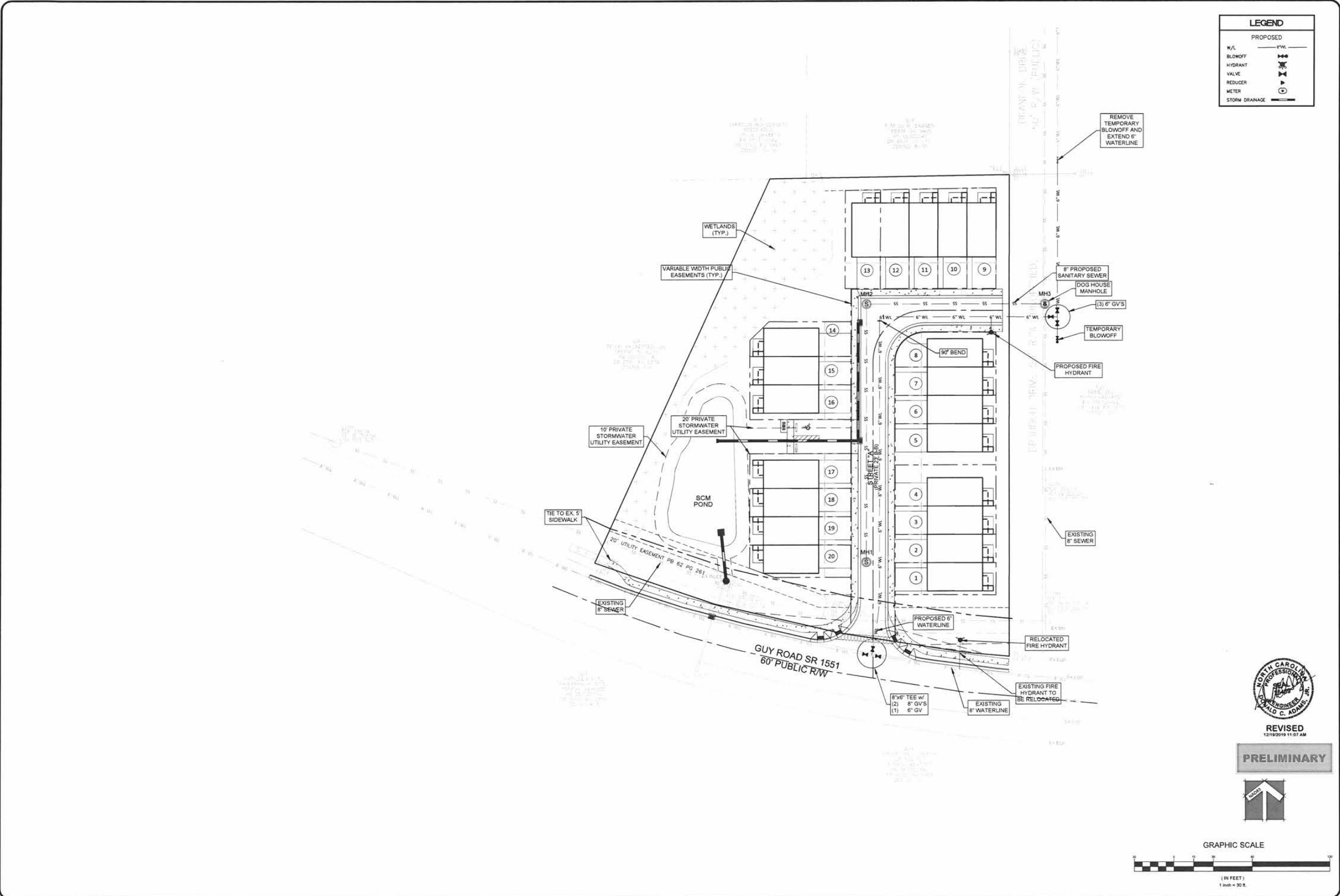
ADAMS & HODGE
ENGINEERING, PC

THE QUAD

PRELIMINARY
SITE PLAN

DESIGN: PCF
DRAWN: ACS
CHECKED: SCJ
HORIZONTAL SCALE: SEE GRAPHIC SCALE
VERTICAL SCALE: N/A
DATE: 07/01/2019
JOB NO:
SHEET

C2.01



314 EAST MAIN STREET
CLAYTON, NC 27520
919-243-1332
FIRM # C-4187

ADAMS & HODGE
ENGINEERING, PC

THE QUAD

PRELIMINARY
SITE UTILITIES

DESIGN: PCE
DRAWN: AOS / DK
CHECKED: LCA
HORIZONTAL SCALE: SEE GRAPHIC SCALE
VERTICAL SCALE: N/A
DATE: 07/01/2019
JOB NO:
SHEET: C3.01

EROSION LEGEND:

- LIMITS OF DISTURBANCE
- SILT FENCE
- OUTLET PROTECTION
- SILT FENCE OUTLET
- CONSTRUCTION ENTRANCE
- EXISTING CONTOUR
- 220 --- PROPOSED CONTOUR

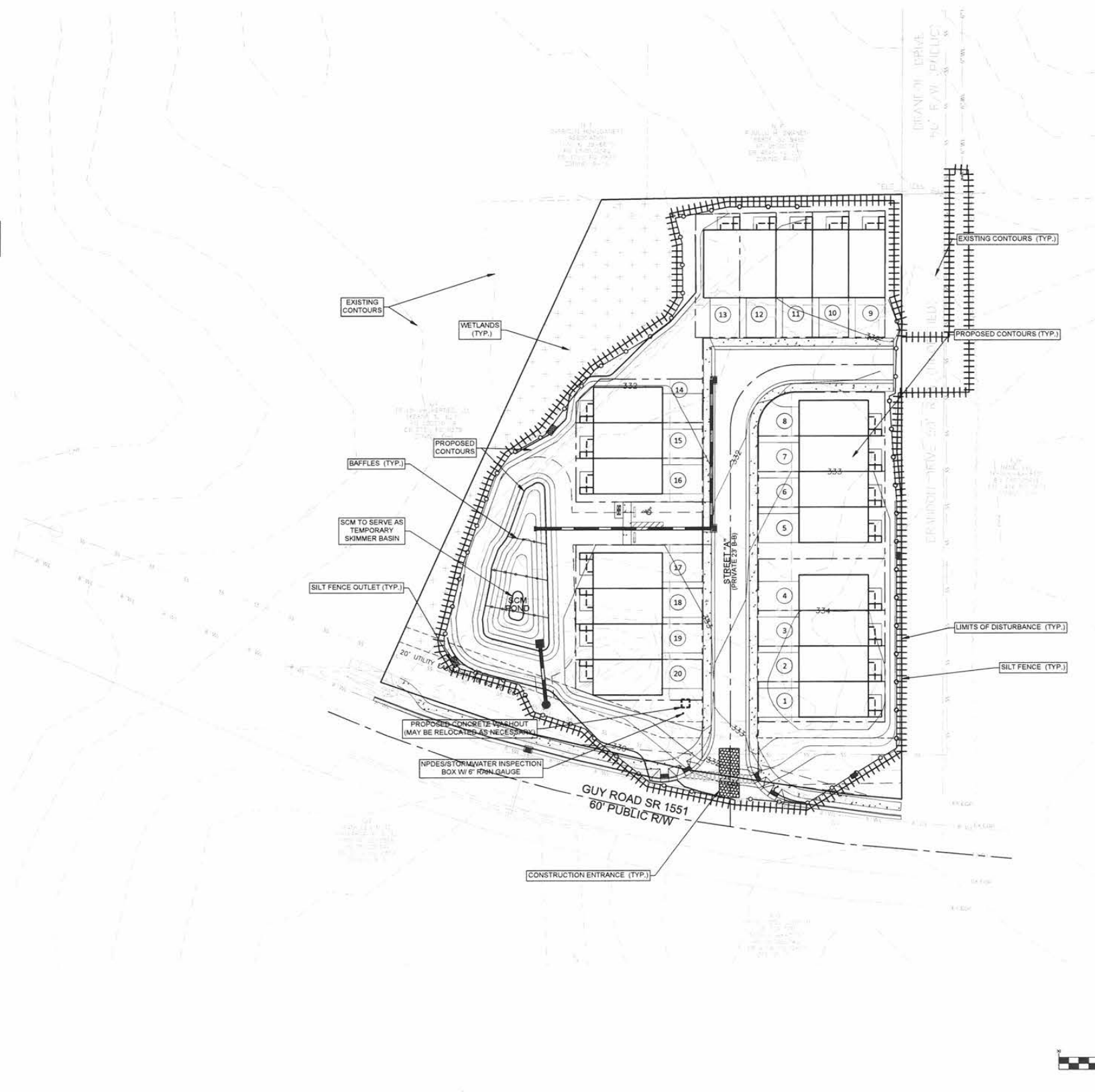
DISTURBED AREA = 1.82 AC

FOR GRAPHIC PURPOSES SILT FENCE AND LIMITS OF DISTURBANCE ARE SHOWN SEPARATED. SILT FENCE IS TO BE INSTALLED AT THE ACTUAL LIMITS OF DISTURBANCE.

THIS SHEET IS FOR GRADING AND EROSION CONTROL PURPOSES ONLY. DO NOT USE THIS SHEET FOR STORM DRAIN INSTALLATION.

JOHNSTON COUNTY RESERVES THE RIGHT TO MODIFY THE EROSION AND SEDIMENTATION CONTROL PLAN IF THE EXISTING PLAN OR ITS IMPLEMENTATION PROVE TO BE INADEQUATE.

ALL DITCHES/SWALES ARE TO BE IMMEDIATELY LINED USING NAG S150 OR SOD UNLESS OTHERWISE SPECIFIED.



PRELIMINARY

REVISIONS

12/19/2019 11:13 AM

REVISED

12/19/2019 11:13 AM

PRELIMINARY

GRAPHIC SCALE

(IN FEET)

1 inch = 30 ft.

314 EAST MAIN STREET
CLAYTON, NC 27520
919-243-3332
FIRM # C-4187

ADAMS & HODGE
ENGINEERING, PC

A&H

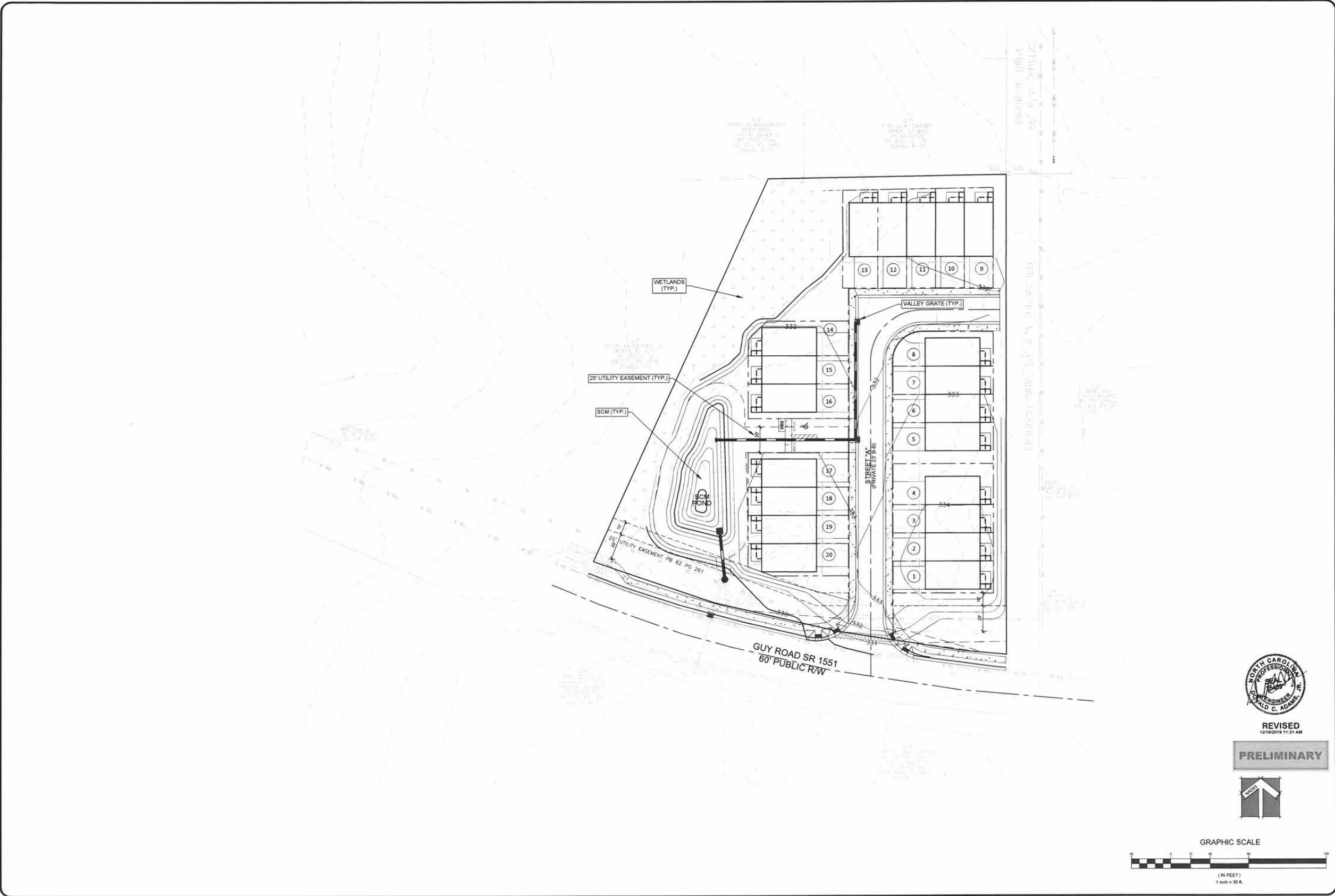
THE QUAD

PRELIMINARY EROSION CONTROL PLAN

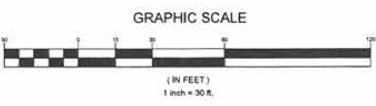
TOWN OF CLAYTON ET AL, JOHNSTON COUNTY, NORTH CAROLINA

DESIGN: PCE
DRAWN: ADS
CHECKED: LCA
HORIZONTAL SCALE: SEE GRAPHIC SCALE
VERTICAL SCALE: N/A
DATE: 07/01/2019
JOB NO.:
SHEET:

C4.01



REVISED
12/19/2019 11:21 AM
PRELIMINARY



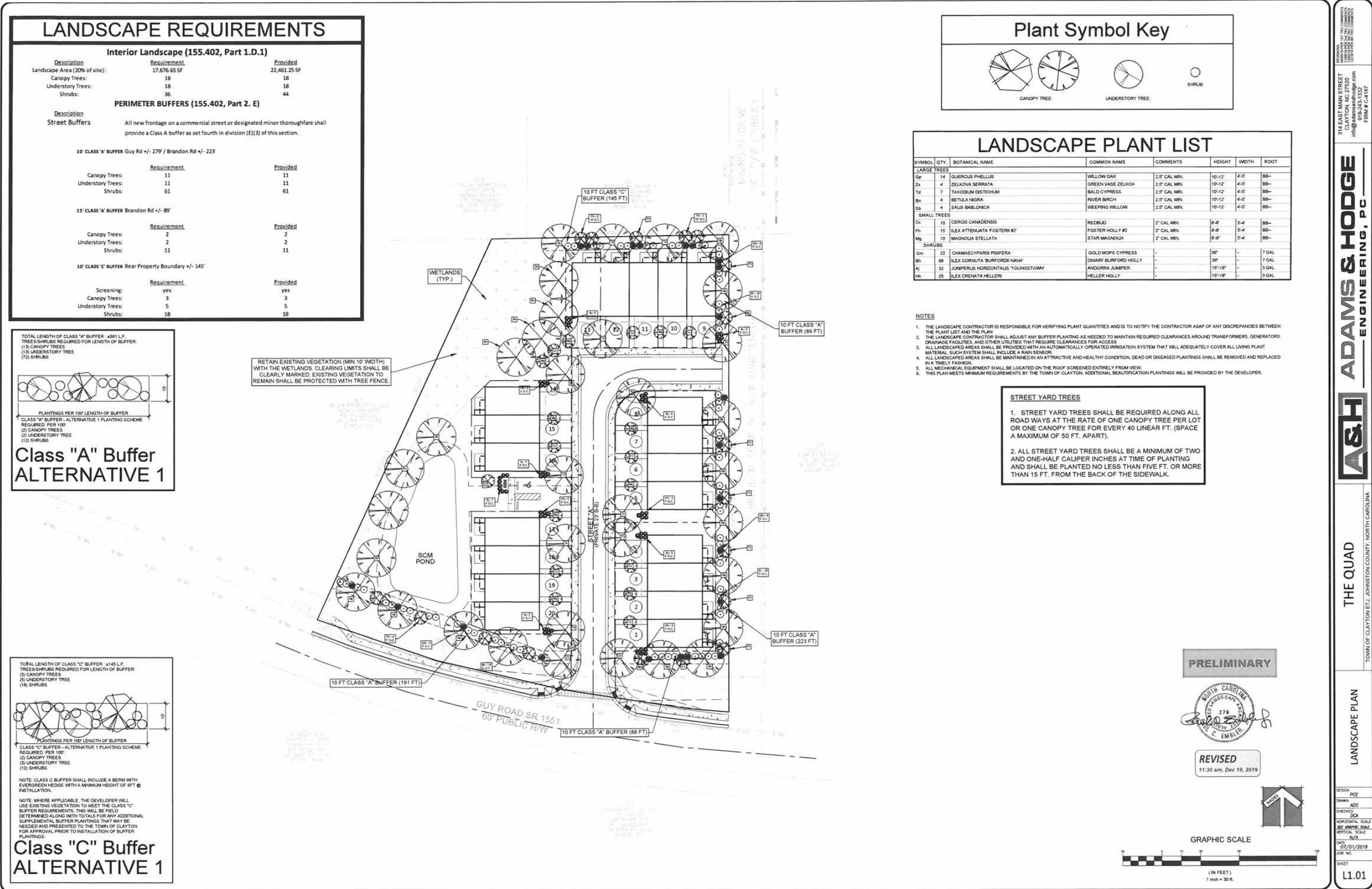
THE QUAD
TOWN OF CLAYTON ET AL., JOHNSTON COUNTY, NORTH CAROLINA

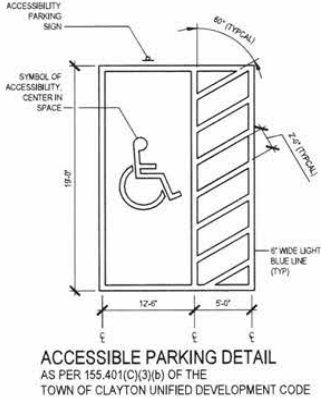
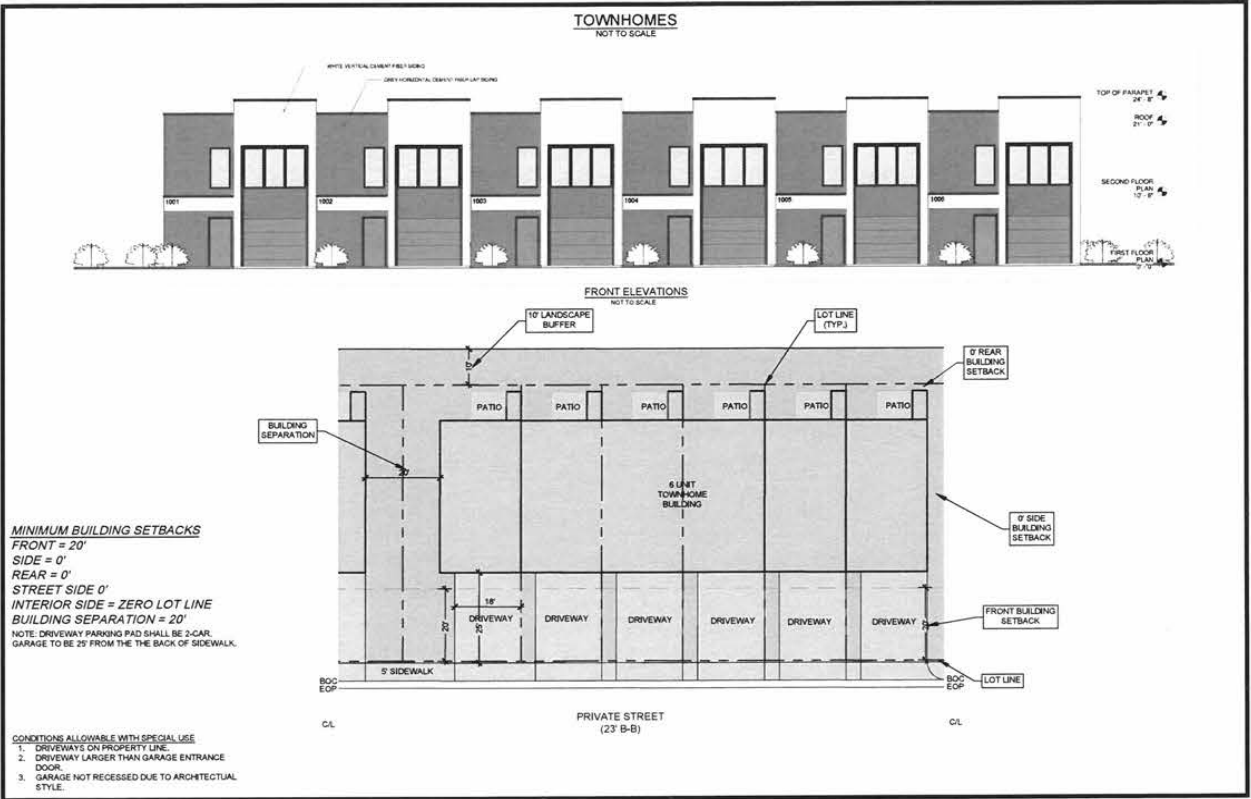
PRELIMINARY GRADING & DRAINAGE PLAN

DESIGN	PCE
DRAWN	ADS
CHECKED	PCA
HORIZONTAL SCALE	SEE GRAPHIC SCALE
VERTICAL SCALE	N/A
DATE	07/01/2019
JOB NO.	
SHEET	C5.01

ADAMS & HODGE
ENGINEERING, P.C.

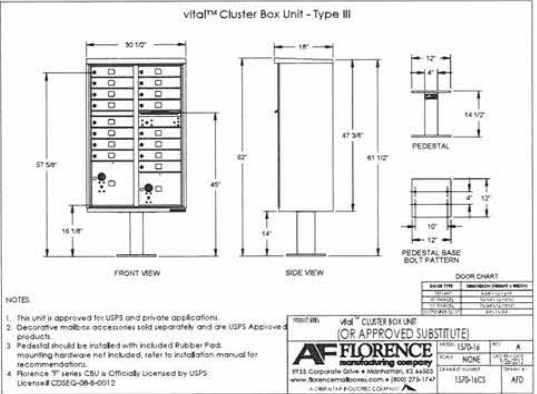
314 EAST MAIN STREET
CLAYTON, NC 27520
info@adams-hodge.com
919-243-1332
FIRM # C-4187



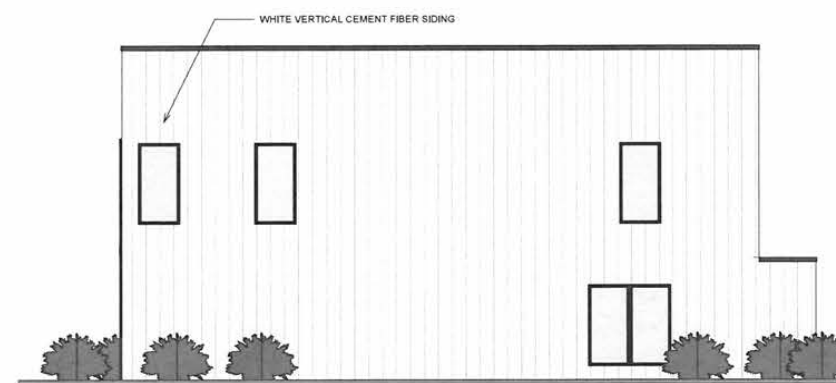
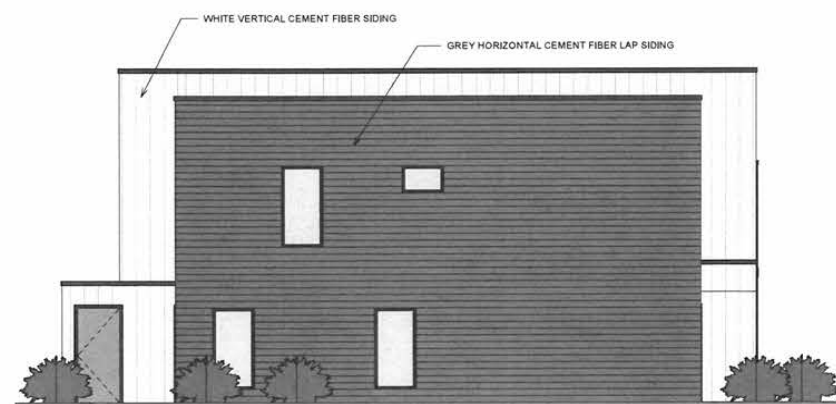


PRELIMINARY

REVIS
6:27 am, Dec 19, 2019



CLUSTER MAILBOX UNIT
NOT TO SCALE



PRELIMINARY-NOT FOR CONSTRUCTION

[illegible]

**THE QUAD TOWNHOMES
CLAYTON, NORTH CAROLINA**

919-550-7717
TONY@TONYJOHNSONARCHITECT.COM
104 N. LOMBARD ST.
CLAYTON, NC 27520
TONYJOHNSONARCHITECT.COM

**TONY
JOHNSON**
ARCHITECT

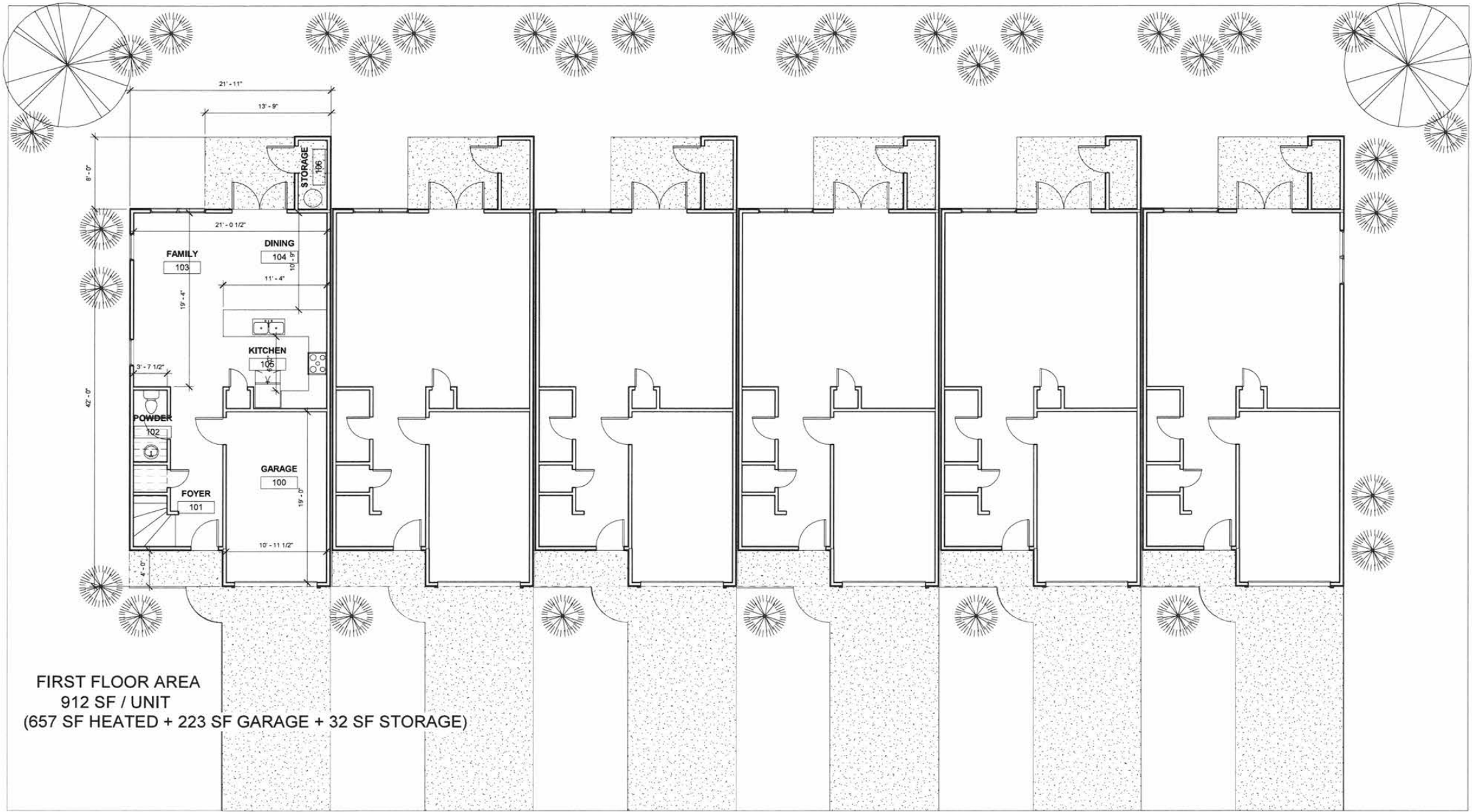


DATE 07.31.19

PROJECT # 2019-026

SHEET

A-1



FIRST FLOOR AREA
912 SF / UNIT
(657 SF HEATED + 223 SF GARAGE + 32 SF STORAGE)

1 FIRST FLOOR PLAN
3/16" = 1'-0"



PRELIMINARY-NOT FOR CONSTRUCTION

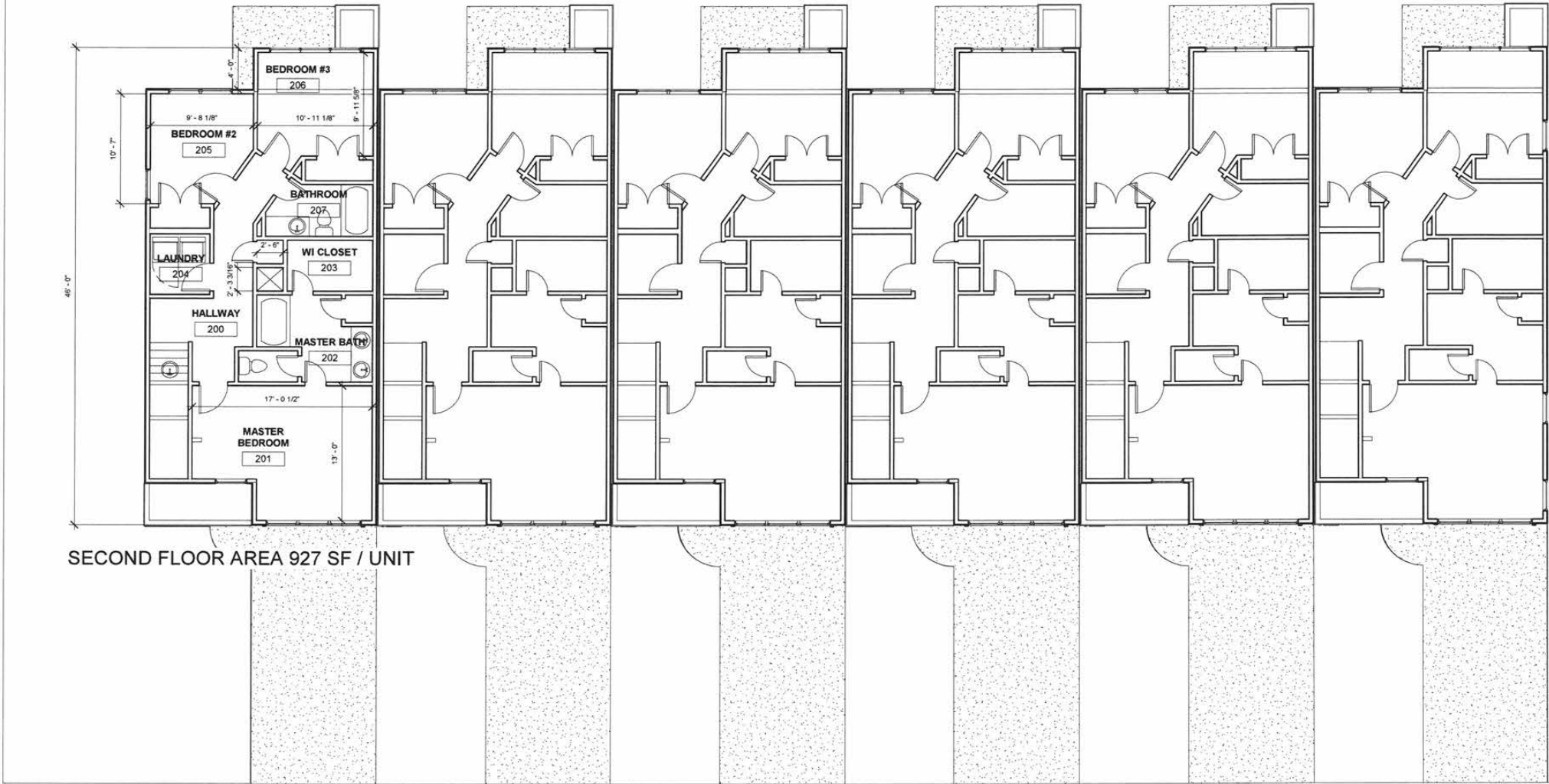
REVISIONS	

THE QUAD TOWNHOMES
CLAYTON, NORTH CAROLINA

919-550-7717
TONYJOHNSONARCHITECT.COM
104 N. LOMBARD ST.
CLAYTON, NC 27020
TONYJOHNSONARCHITECT.COM

TONY JOHNSON
ARCHITECT

DATE	07.31.19
PROJECT #	2019-026
SHEET	A-2



SECOND FLOOR AREA 927 SF / UNIT

① SECOND FLOOR PLAN
3/16" = 1'-0"

REVISIONS	

THE QUAD TOWNHOMES
CLAYTON, NORTH CAROLINA

919-550-7717
TONY@TONYJOHNSONARCHITECT.COM
104 N. LOMBARD ST.
CLAYTON, NC 27920
TONYJOHNSONARCHITECT.COM

TONY JOHNSON
ARCHITECT

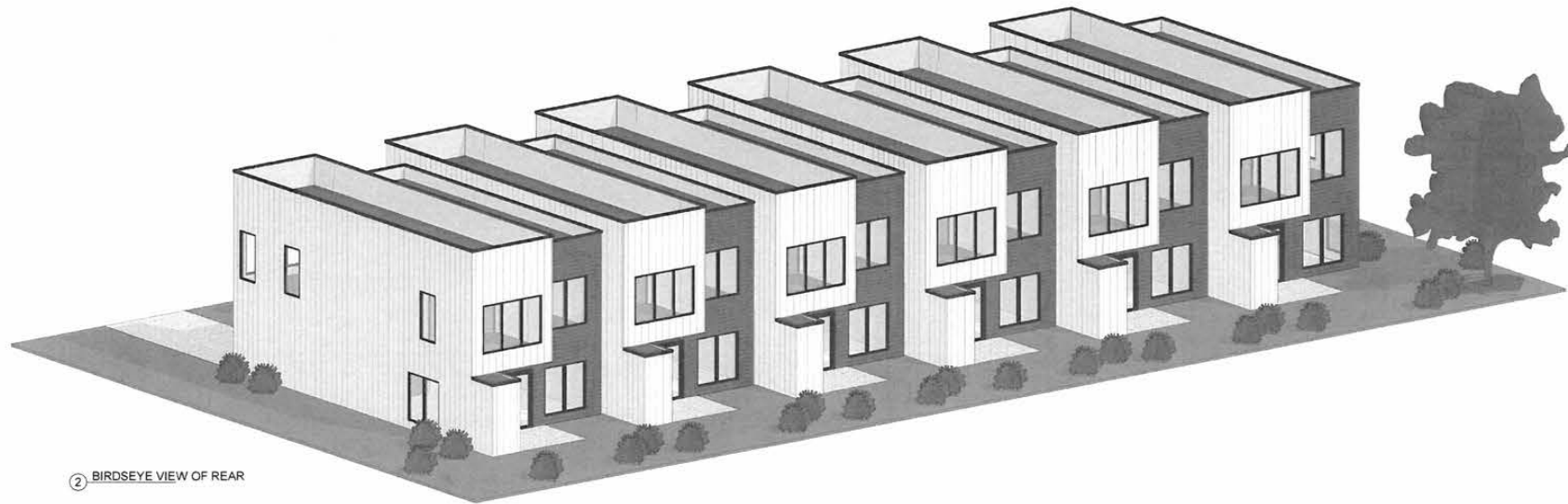
DATE	07.31.19
PROJECT #	2019-026
SHEET	A-3



PRELIMINARY-NOT FOR CONSTRUCTION



① BIRDSEYE VIEW OF FRONT



② BIRDSEYE VIEW OF REAR



PRELIMINARY-NOT FOR CONSTRUCTION

REVISIONS	

THE QUAD TOWNHOMES
CLAYTON, NORTH CAROLINA

919-550-7717
TONY@TONYJOHNSONARCHITECT.COM
104 N. LOMBARD ST.
CLAYTON, NC 27930
TONYJOHNSONARCHITECT.COM



DATE 07.31.19
PROJECT # 2019-026
SHEET
A-4



① FRONT STREETVIEW



② REAR STREETVIEW



PRELIMINARY-NOT FOR CONSTRUCTION

REVISIONS	

THE QUAD TOWNHOMES
CLAYTON, NORTH CAROLINA

919-550-7717
TONY@TONYJOHNSONARCHITECT.COM
104 N. LOMBARD ST.
CLAYTON, NC 27520
TONYJOHNSONARCHITECT.COM



DATE 07.31.19

PROJECT # 2019-026

SHEET

A-5



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

TRC CERTIFICATION

January 6, 2020

Donnie Adams/Amy Stancil
314 E. Main St.
Clayton, NC 27520
Donnie@adamsandhodge.com / Amy@adamsandhodge.com

Re: 2019-129-SD The Quad

Mr. Adams / Ms. Stancil,

The project listed above has received certification from the Technical Review Committee on January 6, 2020. In order to prepare for your upcoming Town Council meeting, please submit **ONE** 11x17 hardcopy of your latest site plan. Your project has a tentative Town Council hearing of:

- **Monday February 3, 2020**

Please let me know if you have any questions or need further assistance.

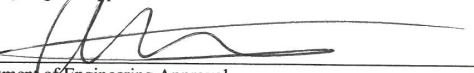
Thank you,

Lori Bryant
Development Services Coordinator
Lbryant@townofclaytonnc.org
(919) 359-9337

Staff Approval:


Project Manager's Approval

1/2/20
Date


Department of Engineering Approval

1/3/20
Date


Fire Inspector's Approval

01-09-2020
Date

Updated February 2019

PUBLIC NOTICE

In accordance with NC GS 160A-364, the Clayton Town Council will hold an evidentiary hearing on Monday, February 3, 2020, at 6 PM at Town Hall, 111 East Second Street, to consider the following:

- 2019-130-SUP The Quad; Special Use Permit request to develop townhomes on property located off Guy Road, south of Brandon Drive. TAG #: 05G02046K. Per UDC requirements, townhomes are permitted via issuance of a Special Use Permit in the O-I zoning district.
- 2019-129-SD The Quad; request to develop 20 townhome lots on property located off Guy Road, south of Brandon Drive. TAG #: 05G02046K

During an evidentiary hearing, the Clayton Town Council must make findings of fact based upon sworn testimony and other credible evidence. Citizens may give testimony in an evidentiary hearing after they have taken an oath.

This is an open meeting and the public is invited to attend.

Jeff Caines, Planner
919-553-5002

The Johnstonian Newspaper

Please advertise on the following dates:

January 22, 2020

January 29, 2020

Affidavit of publication required.



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

*Town Council
February 3, 2019*

STAFF REPORT

Application Number: 2019-129-SD
Project Name: The Quad Preliminary Plat

Tag #: 05G02046K
Town Limits/ETJ: ETJ (annexation request to follow)
Applicant: Adams & Hodge Engineering
Owner: CGC Properties LLC
Location: Located off Guy Road
Project Manager: Jeff Caines, Planner

Public Noticing:

- Neighborhood meeting held on August 19, 2019
- Signs Posted January 8, 2020
- Letters mailed January 13, 2020
- Newspaper ad published January 22, 2020 and January 29, 2020

REQUEST: Preliminary Plat request to develop 20 townhome units.



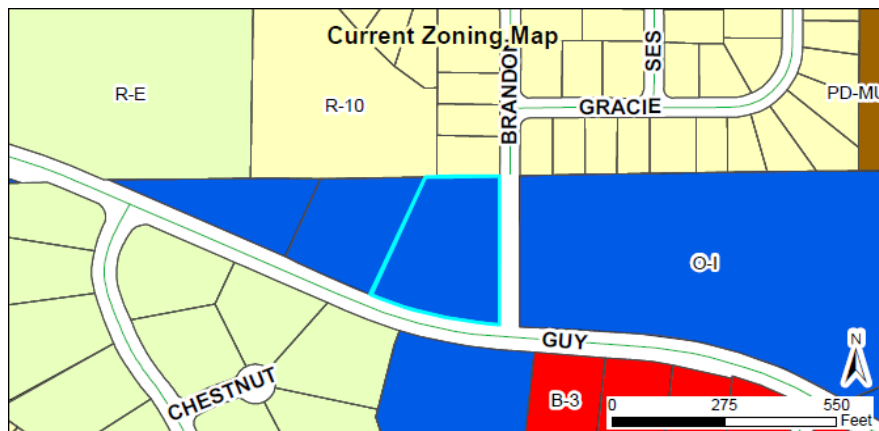
SITE DATA:

Acreage: 2.03 acres

Existing Use: Vacant

ADJACENT ZONING AND LAND USES:

Direction	Zoning	Existing Use
North	Residential-10 (R-10)	Single Family Residential (Garrison Subdivision)
South	Office-Institutional (O-I) & Residential-Estate (R-E)	Office/Single-Family Residential
East	Office-Institutional (O-I)	Vacant
West	Office-Institutional (O-I)	Medical (Devlin Orthodontics)

**DEVELOPMENT DATA:**

Proposed Uses: Townhomes (20 units)

Density/Intensity: 9.86 units/acre

Impervious Surface: maximum 80% per lot

Required Parking: 2 spaces/unit required= 40 spaces

Proposed Parking: 40 spaces plus 2 mail kiosk spaces

Access/Streets: The development will have an entrance off Guy Road at this time. When Brandon Drive is developed in the future, the access to Guy Road will be closed, and the property will connect to Brandon Drive. See analysis below and conditions of approval.

STAFF ANALYSIS:

Overview

The applicant is requesting preliminary plat approval to develop 20 townhome units on the subject property. The property is zoned Office-Institutional (O-I) and is located off Guy Road. The use of townhomes is permitted in this district via issuance of a Special Use Permit, which is running concurrently with this request. The proposed development would allow for 9.86 units/acre. This zoning district does not specify a maximum density permitted, and instead permits the density through the special use permit process. Additionally, the dimensional standards are also set through the special use permit process.

Access

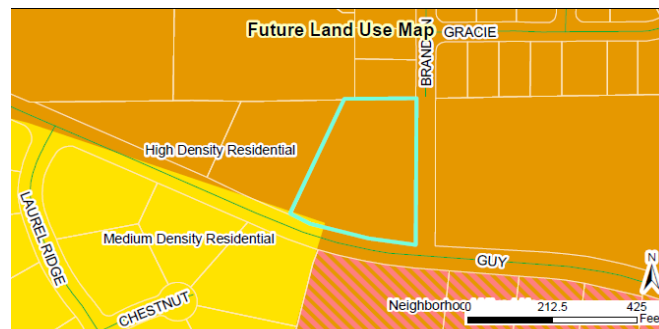
The site will have a driveway off Guy Road. An existing left-turn lane into the site will be utilized. To the East of this property is undeveloped ROW (Brandon Drive) which would ultimately connect Garrison Subdivision to Guy Road. In 2003, a subdivision (NEME SD) occurred at this location for lots 3-7. This property is considered Lot 5 of the Neme Subdivision. On March 17, 2003 a Letter of Understanding was approved by Town Council and sent by the Town Manager to the owner at that time notifying them that the development of Brandon Drive would be deferred and attached to the future site plan of Lot 6. Lot 6 abuts Brandon Drive to the east.

Staff originally requested the development of Brandon Drive during the Technical Review Committee meetings but confirmed that this development would not be financially responsible if it did not connect to Brandon Drive, based upon the Letter of Understanding from 2003. If a stub-out were provided to Brandon Drive, the developer would be responsible for the construction of Brandon Drive per 155.706(K)(1) of the UDC. As a result, the developer will not stub-out or connect to Brandon Drive at this time and will instead only provide access off Guy Road. Additionally, NCDOT has reviewed this application and has stated that the driveway for this development off Guy Road will not be permitted when Brandon Drive is constructed in the future, due to the lack of separation. Based on this requirement, Town staff and NCDOT have agreed that when Brandon Drive is developed in the future the driveway off Guy Road will be required to permanently close and the development would then connect to Brandon Drive. This is outlined in the Conditions of Approval below, and has been agreed upon by the applicant during the TRC process.

Consistency with Adopted Plans

- **Comprehensive Plan 2040**

The future land use map designates this property as “High Density Residential”, which allows all residential housing types and densities up to 10 units per acre for standard developments, and up to 12 units per acre through a Planned Development. The proposed development is consistent with this designation.



- **Unified Development Code**

The proposed development is consistent with and meets the applicable requirements of the Unified Development Code (UDC).

Compatibility with Surrounding Land Uses

The proposed use is a residential subdivision. There are existing single-family residences to the North, and the development will provide a Class “C” landscape buffer along the single-family residential lots to meet the UDC requirements for compatibility.

Landscaping and Buffering

Street trees will be provided per lot throughout the development. A Class “A” buffer will also be provided along Guy Road as required by the UDC. A Class “C” landscape buffer will be provided along the northern boundary, abutting residentially zoned properties. This buffer will include a 6’ tall opaque fence.

Traffic

A TIA was not required for this development. No roadway improvements are required by NCDOT, as an existing turn lane already exists on Guy Road. However, NCDOT will require the closure of the access on to Guy Road when Brandon Drive is developed in the future.

Multi-Modal Access

Sidewalk is provided along Guy Road. The applicant will also be required to extend sidewalk alongside connection to Brandon Drive, when it is developed in the future (see conditions of approval). Staff recommends curb and gutter be extended along the frontage of the development as well, in order to better comply with the Town’s future sidewalk plan for this area (see conditions of approval).

Garbage / Recycling

Roll outs will be utilized for trash collection within the development.

Architecture/Design

The townhomes will consist of a modern design, utilizing fiber cement siding.



Findings of Fact

The applicant has addressed the Major Subdivision Approval Criteria outlined in UDC Section 155.706. The applicant’s Findings of Fact are incorporated into the record as an attachment to the Staff Report. The Findings of Fact for a Preliminary Plat (Major Subdivision) are outlined below, along with comments from staff.

1. Consistency with the adopted plans and policies of the Town.

- **Applicant Response:**

The proposed development is in compliance with the Town of Clayton Comprehensive Plan 2040. In the Plan, the area of the townhome subdivision is designated as High Density Residential (HDR) land use. The HDR land use encourages higher density residential development by using multifamily developments (apartments and townhomes) that have high density ratios (up to 12 units/ac). The proposed development has a total acreage of 2.029 acres. When the density is calculated at build out using 20 units the density ratio is 9.857 units per acre of developable land. The proposed townhome development will continue to address the high density residential component envisioned in the Comprehensive Plan 2040.

- **Staff Commentary:** The proposed development does comply with the Town's Comprehensive Plan 2040, which designates the land as "High density residential". This allows up to 10 units per acre. The development is proposing 9.85 units per acre.

2. The subdivision meets all required specifications of this chapter.

- **Applicant Response:**

The subdivision meets or exceeds all applicable development standards that are established in the Subdivision Regulations and the Unified Development Code. Private streets are designed in accordance with the Town standards so as to provide a development with safe streets for both vehicles and pedestrians. Public utilities are designed so as to provide adequate water for consumption as well as fire protection while the sewer collection system is designed to protect the health and welfare of the public. Area lighting is provided so as to provide a safe environment for the residents. Storm water management facilities have been incorporated into the design as to manage the volume of storm water as well as the quality of physical improvements during construction so as to minimize off site discharge of sediments. Passive and active recreation opportunities have been provided through open space, and indirectly through recreational assessment fees. By incorporating buffers, open space and landscaping the aesthetic quality of the development and as well as adjacent properties is maintained.

- **Staff Commentary:** The proposed development adheres to the requirements of the Unified Development Code. The application has also received TRC certification from all departments.

3. The subdivision will not be detrimental to the use or orderly development of other properties in the surrounding area and will not violate the character of existing standards for development of properties in the surrounding area.

- **Applicant Response:**

The Quad townhome development will be a continuation of the development pattern established by the Moss Creek Parkside and Garrison Place, which is a blending of single family with a mix of townhomes and apartments. Even though the Quad townhomes will continue the existing development pattern, the townhomes will offer a refreshing change of architectural style that is modern and in more keeping with contemporary trends.

In the past to the west of the Quad, the Town of Clayton has approved multifamily housing in the form of duplexes, triplexes and traditional garden apartments. To the west and a little north of the proposed development, lies in the Clayton Recreation Center and Clayton Community Park within easy walking distance. The recreation center and community park facilities will obviously be very important to the residents of the townhomes who will have at their disposal the Town's premier recreation facilities by a short walk. Also to the west along Guy Road is Clayton Middle School. To the east there are also many commercial businesses that will support the residents of the Quad.

- **Staff Commentary:** The proposed development does include higher density development than what is located to the North. Garrison subdivision consists of Single-Family residences. Further west on Guy Road, apartments have been developed (Parkside Apartments). The proposed use and density are both compatible with the Future Land Use Map and Comprehensive Plan 2040. Additional landscaping is provided to the north to assist in mitigating impacts on adjacent single-family residences.
4. ***The subdivision design will provide for the distribution of traffic in a manner that will avoid or mitigate congestion within the immediate area, will provide for unified and orderly use of or extension of public infrastructure, and will not materially endanger the environment, public health, safety, or general welfare.***
- **Applicant Response:**
The distribution of traffic has been given much consideration by providing primary access to Guy Road with the secondary access point to Brandon Drive once the street is constructed. Since Guy Road is an NCDOT road, the access will be designed to NCDOT standards. Care has been exercised in the townhome subdivision to protect the environment by prudent use of buffers and landscaping. The public's safety and health have been addressed by providing public water and sewer that meet the Town and State requirements. Storm water quality has been addressed during construction with erosion control measures and in the long term with storm water management facilities that address not only the quality of water but also the quantity of water. Street are so designed as to be safe for pedestrians and vehicles alike by providing adequate separation, traffic control and lighting. The public's health and welfare are further addressed by the townhome subdivision providing passive and active recreation opportunities offsite utilizing municipal recreation facilities via recreation assessment fees
 - **Staff Commentary:** Access to Brandon Drive will be made, per recommended conditions of approval and requirements of NCDOT, once the road is constructed. At that time, the access to Guy Road will be closed permanently. This will mitigate safety issues regarding the proximity of the development's Guy Road entrance and the location of Brandon Drive in the future.

CONSIDERATIONS:

- This plan is subject to final approval by Town Council.
 - This approval is subject to approval of 2019-130-SUP.
-

CONDITIONS:

If approved, staff recommends the following conditions be applied to the approval of the preliminary subdivision:

1. Following Board approvals, three copies of the preliminary subdivision plan including conditions of approval for this application and the associated special use permit 2019-130-SUP shall be submitted to the Planning Department for final approval.
2. The development shall immediately provide vehicular and sidewalk connection east to Brandon Drive once Brandon Drive is constructed in the future. When this connection is made, the development's driveway off Guy Road shall be permanently closed and additional sidewalk shall be installed to ensure a continuous pathway along the development's frontage along Guy Road.
3. Curb and Gutter, as well as sidewalk, shall be provided/extended for the development's entire frontage along Guy Road.
4. The final plat and subsequent development of the site shall be consistent with the specifications of the approved Preliminary Subdivision Plan. Modifications shall require additional approvals pursuant to Section 155.706 of the Unified Development Code.
5. All decorative traffic related signage shall be maintained solely by the developer or Homeowner's Association.
6. An annexation petition shall be submitted to the Planning Department prior to final plat recordation.
7. Required landscaping buffers shall be installed or bonded prior to issuance of the first Certificate of Occupancy for the development.
8. Dimensional standards are limited to those outlined in the preliminary plat, as approved through the associated Special Use Permit 2019-130-SUP.

ATTACHMENTS:

- 1.) Application
- 2.) Staff Report Maps
- 3.) Neighborhood Meeting Materials
- 4.) Site Plan
- 5.) Adjacent Property Letters
- 6.) Newspaper Ad
- 7.) Stormwater Statement
- 8.) Letter of Understanding- NEME Subdivision, 2003

**Town of Clayton
Town Council
Preliminary Subdivision Plat Motion Sheet**

After considering the competent, material, and substantial evidence presented, including the application and materials of record, I move to **(PICK ONE)**:

- ☐ Approve
- ☐ Deny
- ☐ Approve with Conditions

Preliminary Subdivision Plat Application Number **2019-129-SD – The Quad**

This motion is based on the following findings:

1. The preliminary subdivision plat **IS** consistent with the adopted plans and policies of the town.

OR

The preliminary subdivision plat **IS NOT** consistent with the adopted plans and policies of the town. (State evidence supporting finding.)

2. The subdivision **MEETS** all required specifications of the Town of Clayton Unified Development Code.

OR

The subdivision **DOES NOT MEET** all required specifications of the Town of Clayton Unified Development Code. (State evidence supporting finding.)

3. The subdivision **WILL NOT** be detrimental to the use or orderly development of other properties in the surrounding area and **WILL NOT** violate the character of existing standards for development of properties in the surrounding area.

OR

The subdivision **WILL** be detrimental to the use or orderly development of other properties in the surrounding area and **WILL** violate the character of existing standards for development of properties in the surrounding area. (State evidence supporting finding).

MOTION FORM

Item 6b

2019-129-SD – The Quad

Preliminary Plat

4. The subdivision design **WILL** provide for the distribution of traffic in a manner that will avoid or mitigate congestion within the immediate area, **WILL** provide for the unified and orderly use of or extension of public infrastructure, and **WILL NOT** materially endanger the environment, public health, safety, or the general welfare.

OR

The subdivision design **WILL NOT** provide for the distribution of traffic in a manner that will avoid or mitigate congestion within the immediate area, **WILL NOT** provide for the unified and orderly use of or extension of public infrastructure, and **WILL** materially endanger the environment, public health, safety, or the general welfare. (State evidence supporting finding).

[If approved with conditions] The applicant meets this finding subject to the following conditions:

MOTION FORM
Item 6b
2019-129-SD – The Quad
Preliminary Plat



Town Council Agenda Cover Sheet

Meeting Date

February 3, 2020

Agenda Location

Old Business

Item Title

Harmony Playground - Capital Project Ordinance, Agreement with Clayton Community Recreation Foundation, and Construction Contract

Presenter

Joshua Baird – Town Engineer

Summary/Description

In 2014, the Town initiated a partnership with Clayton Community Recreational Foundation, Inc. (CCRF) to build a playground for children with intellectual and developmental disabilities at East Clayton Community Park. The project, known as Harmony Playground, will provide a place where children of all abilities can play and interact in a welcoming environment. CCRF has raised cash donations of approximately \$585,000, grants of approximately \$56,000, and in-kind donations of \$25,000 toward the project. CCRF has worked with a consultant to complete the playground design and secured the actual playground equipment. In addition to the grants obtained by CCRF, the Town has been awarded a North Carolina Parks and Recreation Trust Fund (PARTF) grant of \$86,810 with a local match of \$28,938. With the FY2020 budget, the Town committed \$700,000 towards providing bathroom facilities, picnic shelters and parking to support the playground.

The estimated total cost of the project including bathroom facilities, picnic shelter and parking area is ~\$2 million. To date, CCRF has spent approximately \$450,000 on fundraising, design and playground equipment. Remaining items to complete the project include construction of the playground area, and design and construction of bathrooms, picnic shelters, and parking area. Staff anticipate the remaining work will cost \$1.5 million. CCRF does not anticipate any further donations. Considering the funds previously allocated by the Town, the PARTF grant, and those available from CCRF, there is a deficit of approximately \$600,000 to complete the project.

The Council's 2019-2020 adopted CIP includes funds to renovate Town Square to allow for improved parking and event hosting/staging. Staff is currently collaborating on the design. This budget year also calls for renovating the Town Hall parking lot and that construction, originally set to start late 2019, is now set to begin this spring. These two improvement projects are a half block away from each other and surround our municipal complex/performing arts/conference center and renovating both of these public parking areas simultaneously might cause downtown congestion, disruption of normal operations and undue strain on parking availability. For these reasons, staff is requesting Council to consider re-allocating funds that were initially purposed for the Town Square project toward the more imminent and much-more publicly-anticipated Harmony playground. Staff requests Council to consider re-allocating funds that were initially purposed for the Town Square project towards the Harmony project. Furthermore, staff also request Council to consider moving the previously allocated \$700,000, approximately \$680,000 of additional funds, PARTF grant revenue and CCRF contribution to a capital project fund. Town Square project will be reconsidered in future CIP discussions.

If Council chooses to allocate additional funds towards Harmony playground, staff recommend that the Town take the lead in managing the project and combine the playground construction and bathrooms/picnic shelter/parking into one construction contract. In doing so, staff recommend entering into an agreement with CCRF that outlines roles and responsibilities. An agreement between Town and CCRF has been drafted and reviewed by staff, Town attorney and CCRF. Staff request authorization for the Town Manager or designee to execute agreement with CCRF.

To complete the project in a timely manner, staff have been pursuing the Design-Build delivery method as

opposed to the traditional Design-Bid-Build method. Staff have previously issued a RFQ to solicit a design-build team to complete the project. Staff shortlisted and interviewed a total of four teams. After evaluating each, the selection team (comprised of Public Services staff, Parks and Rec staff, and CCRF) selected a team comprised of Balfour Beatty, Kimley-Horn, and Ratio as the top candidate. Staff have worked with the selected Design-Build team to negotiate a contract that it acceptable to both parties. Upon completion of the initial design work by the Team, a supplemental agreement with Guaranteed Maximum Price (GMP) will be generated. The proposed initial contract has been reviewed by staff and Town attorney. Staff request Council's approval for the Town Manager or designee to execute the initial Design-Build Contract and subsequent supplemental GMP agreement within the Capital Project Fund described earlier.

Requested Action

Approval

Funding Source (If Applicable):

Existing Budget, funds appropriated for Town Square, PARTF grant and CCRF Contributions

Cost: \$1.5 million Yes ☒ No ☐

Additional Documents to be Included in Agenda Packet

General Fund Budget Amendment – Transfer to Parks & Rec Capital Project Fund
Parks & Rec Capital Project Fund Budget Amendment – Harmony Playground
Proposed Agreement with CCRF
Proposed Design-Build Contract with Balfour Beatty

Meeting Timeline

Click or tap here to enter text.

AGREEMENT

THIS **AGREEMENT** ("Agreement"), is hereby made and entered into as of _____, 2020, by and between **THE TOWN OF CLAYTON, NORTH CAROLINA**, a municipal corporation in the State of North Carolina ("Town"), and **CLAYTON COMMUNITY RECREATIONAL FOUNDATION, INC.**, a non-profit corporation in the State of North Carolina ("CCRF"), each or both also referred to herein as either a "**Party**" or cumulatively, the "**Parties**."

RECITALS

WHEREAS, Town and CCRF have worked together to develop a plan for the construction of an all-abilities playground and associated amenities in an effort to enhance the recreational facilities in the Town of Clayton (the "Project");

WHEREAS, the total estimated budget for the Project is \$2,000,000 – \$2,300,000;

WHEREAS, Town has budgeted [\$1,300,000]¹ to fund a portion of the Project;

WHEREAS, Town is party to a Connect NC Bond Project Agreement with the North Carolina Department of Natural and Culture Resources to provide partial funding for the construction of an all-abilities playground in the amount of \$86,810, which requires a local match of \$28,938 (the "Grant");

WHEREAS, CCRF has raised cash donations (received or pledged) in the amount of approximately \$575,000 (\$332,185.13 of which has or will be paid to Gametime for equipment and \$130,000 of which has been paid for administrative services, including design of the playground and testing of the site), grants of approximately \$56,000, and in-kind donations of approximately \$25,000 toward construction to fund a portion of the Project;

WHEREAS, Town and CCRF agree to enter into this Agreement to set out the terms and conditions pursuant to which the Town will manage the construction of the Project and CCRF will partially fund the Project through a cash donation to the Town and transfer of the ownership of the donated playground equipment;

NOW, THEREFORE, in consideration of the mutual covenants set forth in this Agreement and other valuable consideration, the receipt and sufficiency of which is mutually acknowledged, the parties agree as follows:

AGREEMENT

1. **Construction Management.** The Town agrees to contract for and manage the construction and of the Project, as described in Exhibit A, at the Town's East Clayton Community Park.
2. **Town Funds.** The Town has appropriated funds in the total amount of [\$1,300,000]² for the Project.

¹ Upon action by Council approving a Capital Project Budget Ordinance for \$600,000.

² Upon action by Council approving a Capital Project Budget Ordinance for \$600,000.

3. **CCRF Funds.** CCRF represents and warrants that it has collected donations for the purpose of constructing and installing an all-abilities playground on Town property, substantially in the form of the Project described in Attachment A. CCRF hereby agrees to donate \$100,000 in cash to the Town for the Project. CCRF shall remit \$100,000 to the Town within 15 days of execution of this Agreement. CCRF agrees any further cash donations it receives for the Project, will be remitted to the Town to defray public funds used for the Project ("Additional Donations"). Any Additional Donations shall be remitted to the Town on a monthly basis.
4. **Playground Equipment.**
- 4.1. CCRF represents and warrants that it has secured, through cash payment, grants and in-kind donations to CCRF, playground equipment, and installation of such equipment on Town property from Gametime. In addition to the equipment purchased as of the date of this contract, CCRF agrees to purchase from Gametime a frame with four (4) swings (as reflected in Alternate #1 of Exhibit B) and to pay for installation of a SuperNova, which has been purchased separately by the Town, by Gametime (as reflected in Alternate #2 of Exhibit B). Exhibit B reflects all equipment to be installed by Gametime.
- 4.2. CCRF agrees to take delivery of playground equipment pursuant to the terms set forth by Gametime. Equipment may be stored on Town property at a location mutually agreed on by CCRF and the Town, but any and all liability for the equipment remains with CCRF until installation and inspection is complete.
- 4.3. CCRF agrees that any and all playground equipment, upon installation and completion of any required inspections, will become the sole property of the Town of Clayton, free and clear of any claim by CCRF or Gametime.
- 4.4. CCRF agrees to pay up to \$25,000 for a consultant, mutually agreed upon by CCRF and the Town, to oversee the installation of any and all playground equipment by Gametime and to perform any necessary inspections to verify construction and installation has been done in compliance with the approved design, or as required by law.
- 4.5. CCRF agrees to provide documentation of the purchase or donation (by grant or in-kind) of any playground equipment installed on Town property and any agreements or contracts for the installation of such equipment, and to facilitate the transfer of any warranties by Gametime to the Town.
5. **Relationship with Gametime.** Town and CCRF recognize that CCRF holds the relationship with Gametime, the playground equipment supplier and installer. CCRF agrees to work in good faith to facilitate direct communication between the Town and Gametime. CCRF understands and has communicated to Gametime that Gametime must enter into an agreement with the Town prior to installing the playground equipment and that Gametime must have certain insurance in place in order to perform work on Town property.
6. **Termination.** If, through any cause, CCRF fails to fulfill its obligations under this Agreement in a timely manner, the Town shall have the right to terminate this Agreement after giving CCRF twenty (20) days written notice and a reasonable opportunity to cure the default. In that event, all finished or unfinished deliverable items CCRF is obligated to provide under this Contract shall, at the option of the Town, become Town property. Notwithstanding the foregoing

provision, CCRF shall not be relieved of liability to the Town for damages sustained by the Town by virtue of CCRF's breach of this Contract.

7. **Governing Law.** This Agreement shall be governed by the law of the State of North Carolina.
8. **Severability.** If any provision of this Agreement shall be determined to be unenforceable, that shall not affect any other provision of this Agreement.
9. **Waiver.** Any waiver under this Agreement must be in writing and signed by the party granting the waiver. Waiver of any breach or provision of this Agreement will not be considered a waiver of any later breach or of the right to enforce any provision of this Agreement.
10. **Amendments.** This Agreement shall not be changed except in writing signed by all the parties.
11. **Counterparts.** This Agreement may be executed in several counterparts, including separate counterparts. Each shall be an original, but all of them together constitute the same instrument.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed in their corporate names by their duly authorized officers, all as of the date first above written.

[Signatures on next page.]

[SEAL]

**CLAYTON COMMUNITY RECREATIONAL
FOUNDATION, INC.**

By_____

Name_____

Title_____

[CCRF Signature Page to Agreement with Clayton]

[SEAL]

TOWN OF CLAYTON, NORTH CAROLINA

ATTEST:

Secretary

By _____

Name _____

Title _____

[Clayton Signature Page to Agreement with CCRF]

Exhibit A – Project Description

Exhibit B – List of Equipment To Be Installed



STANDARD FORM OF AGREEMENT BETWEEN OWNER AND DESIGN- BUILDER - COST PLUS FEE WITH AN OPTION FOR A GUARANTEED MAXIMUM PRICE

Document No. 530

Second Edition 2010
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Washington, DC

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Standard Form of Agreement Between Owner and Design-Builder - Cost Plus Fee with an Option for a Guaranteed Maximum Price

*This document has important legal consequences. Consultation with
an attorney is recommended with respect to its completion or modification.*

This **AGREEMENT** is made as of the 12th day of November in the year of 2019, by and between the following parties, for services in connection with the Project identified below:

OWNER:

Town of Clayton ("Owner")
111 E. Second Street
Clayton, NC 27528
Attn. Joshua Baird, PE

DESIGN-BUILDER:

Balfour Beatty Construction, LLC
406 South McDowell Street; Suite 200
Raleigh, North Carolina 27601
Attn. Tony Stoneking

PROJECT:

(Include Project name and location as it will appear in the Contract Documents)

East Clayton Community Park
1774 Glen Laurel Road
Clayton, NC 27527

In consideration of the mutual covenants and obligations contained herein, Owner and Design-Builder agree as set forth herein.

Article 1

Scope of Work

1.1 Design-Builder shall perform all design and construction services, and provide all material, equipment, tools and labor, necessary to complete the Work described in and reasonably inferable from the Contract Documents. The Design-Builder is responsible to the Owner for the design and construction of the Project in accordance with the terms of this Agreement. Therefore, errors, omissions or inconsistencies in the design documents, including Construction Documents, provided by Design-Builder, or anyone working under Design-Builder, which are below the applicable standard of care, shall not serve as a basis for Change Orders or any adjustment to the Contract Price or Contract Time. In addition, to the extent that there are any deficiencies in design or construction which are below the applicable standard of care, these shall be the responsibility of Design-Builder as to the Owner.

Article 2

Contract Documents

2.1 The Contract Documents are comprised of the following:

2.1.1 All written modifications, amendments, minor changes, and Change Orders to this Agreement issued in accordance with DBIA Document No. 535, *Standard Form of General Conditions of Contract Between Owner and Design-Builder* (2010 Edition), as modified, ("General Conditions of Contract");

2.1.2 The GMP Exhibit referenced in Section 6.6.1.1 herein (and, if applicable, at the time of acceptance of the GMP Proposal by Owner in accordance with Section 6.6.2 hereof)

2.1.3 This Agreement, including all exhibits set forth below;

Exhibit A -	Project RFQ dated 10/1/19 including Addendum #1 dated 10/10/19;
Exhibit B -	Design Builder's RFQ dated 10/16/19;
Exhibit C -	Design-Builder's Proposal dated 1/27/20;
Exhibit D -	Project Preliminary Design and Timeline Schedule dated 1/28/20;
Exhibit E -	Minimum Insurance Requirements;
Exhibit F -	Bond Forms, if required;
Exhibit G -	Subcontractor Lien Waiver Form
Exhibit H -	Design Builder Affidavit
Exhibit I -	Weather Days

2.1.4 The General Conditions of Contract DBIA Document No. 535, *Standard Form of General Conditions of Contract Between Owner and Design-Builder* (2010 Edition), as modified, ("General Conditions of Contract");

2.1.5 Construction Documents prepared and approved in accordance with Section 2.4 of the General Conditions of Contract.

Article 3

Interpretation and Intent

3.1 Design-Builder and Owner, prior to execution of the Agreement (and again, if applicable, at the time of acceptance of the GMP Proposal by Owner in accordance with Section 6.6.2 hereof), shall carefully review all the Contract Documents, including the various documents comprising the Basis of Design

Documents, for any conflicts or ambiguities. Design-Builder and Owner will discuss and resolve any identified conflicts or ambiguities prior to execution of the Agreement or, if applicable, prior to Owner's acceptance of the GMP Proposal.

3.2 The Contract Documents are intended to permit the parties to complete the Work and all obligations required by the Contract Documents within the Contract Time(s) for the Contract Price. The Contract Documents are intended to be complementary and interpreted in harmony so as to avoid conflict, with words and phrases interpreted in a manner consistent with construction and design industry standards. In the event inconsistencies, conflicts, or ambiguities between or among the Contract Documents are discovered after execution of the Agreement, or if applicable, after Owner's acceptance of the GMP Proposal, Design-Builder and Owner shall attempt to resolve any ambiguity, conflict or inconsistency informally, recognizing that the Contract Documents shall take precedence in the order in which they are listed in Section 2.1 hereof.

3.3 Terms, words and phrases used in the Contract Documents, including this Agreement, shall have the meanings given them in the General Conditions of Contract.

3.4 If Owner's Project Criteria contain design specifications: (a) Design-Builder shall be entitled to reasonably rely on the accuracy of the information represented in such design specifications and their compatibility with other information set forth in Owner's Project Criteria, including any performance specifications; and (b) Design-Builder shall be entitled to an adjustment in the Contract Price and/or Contract Time(s), as provided by the Contract Documents, to the extent Design-Builder's cost and/or time of performance have been adversely impacted by such inaccurate design specification (and have caused critical path delay in the case of the Contract Time).

3.5 The Contract Documents form the entire agreement between Owner and Design-Builder (and supersede all prior negotiations, representation and agreements, either written or oral with respect to the subject matter hereof) and by incorporation herein are as fully binding on the parties as if repeated herein. No oral representations or other agreements have been made by the parties except as specifically stated in the Contract Documents. This Agreement may be amended or modified only in writing signed by both the Owner and the Design-Builder and any amendments or modifications which would result in an increase to the Guaranteed Maximum Price or the completion dates shall be by Change Order as provided herein.

Article 4

Ownership of Work Product

4.1 Work Product. Design-Builder acknowledges and agrees that all right, title, and interest under federal and state copyright and intellectual property laws in any design documents, reports, data, or design concepts, CADD materials, models and information produced by Design-Builder or anyone working under Design-Builder in connection with this Agreement, including but not limited to, any Architectural Works of the Project as defined by the federal Architectural Works Copyright Act (including those furnished in electronic form) shall be conveyed, assigned and transferred by the Design-Builder to the Owner upon submittal of such documents to the Owner and payment by the Owner for the Services required to produce those documents. Design-Builder and its consultants shall not place a copyright notation on such documents. The rights vested in Owner pursuant to this Article shall not be construed so as to preclude Design-Builder from utilizing standard report language or individual standard features on other projects for other clients. Otherwise, the Design-Builder may not use the design documents on other projects. Owner may furnish documents, reports or other data produced by Design-Builder to third parties in connection with completing the projects contemplated by Owner, and such third parties may rely on such documents, reports and data. Reuse or modification of the aforementioned documents by the Owner without the Design-Builder's written permission shall be at the Owner's risk, and the Design-Builder shall have no liability with respect to such reuse or modification.

4.2 Owner's Indemnification for Use of Work Product. If Owner is required to indemnify any Indemnified Parties based on the reuse or alteration of the Work Product under any of the circumstances

identified in this Article 4, Owner shall defend, indemnify and hold harmless such Indemnified Parties from and against any and all claims, damages, liabilities, losses and expenses, including attorneys' fees, arising out of or resulting from the reuse or alteration of the Work Product.

Article 5

Contract Time

5.1 Date of Commencement. The design Work shall commence within five (5) days of Design-Builder's receipt of Owner's Notice to Proceed with design Work ("Date of Commencement") unless the parties mutually agree otherwise in writing. With respect to the construction Work, unless the parties mutually agree otherwise in writing, the construction Work shall commence within five (5) days of the date established in the Owner's Notice to Proceed which shall not be issued until the building permit for the Work has been issued.

5.2 Substantial Completion and Final Completion of the Work and Design Schedule.

5.2.1 Substantial Completion of the entire construction Work shall be achieved no later than the date established in the GMP Amendment to this Agreement ("Scheduled Substantial Completion Date").

5.2.2 Interim milestones and/or Substantial Completion of identified portions of the Work, if any, ("Scheduled Interim Milestone Dates") shall be identified in the GMP Amendment to the Agreement.

5.2.3 Attached as **Exhibit E** is a schedule for the performance of the design services that are included as part of the Work under this Agreement ("Project Design and Timeline Schedule"). The Project Design and Timeline Schedule shall be coordinated with the Project Schedule.

See Exhibit E Project Design and Timeline Schedule.

5.2.4 Final Completion of the Work or identified portions of the Work shall be achieved as expeditiously as reasonably practicable and no later than 30 calendar days after the Scheduled Substantial Completion Date. Final Completion is the date when all Work is complete pursuant to the definition of Final Completion set forth in Section 1.2.7 of the General Conditions of Contract.

5.2.5 All of the dates set forth in this Article 5 (collectively the "Contract Time(s)") shall be subject to adjustment in accordance with the General Conditions of Contract.

5.3 Time is of the Essence. Owner and Design-Builder mutually agree that time is of the essence with respect to the dates and times set forth in the Contract Documents.

5.4 Liquidated Damages. Design-Builder understands that if Substantial Completion is not attained by the Scheduled Substantial Completion Date, Owner will suffer damages which are difficult to determine and accurately specify. Design-Builder agrees that if Substantial Completion is not attained by Thirty (30) days after the Scheduled Substantial Completion Date (the "LD Date"), Design-Builder shall pay Owner One Hundred Dollars (\$100.00) as liquidated damages for each day that Substantial Completion extends beyond the LD Date, and such liquidated damages shall be Owner's sole remedy for damages resulting from the delayed completion of the Work.

5.5 Any liquidated damages assessed pursuant to this Agreement shall be in lieu of all liability for any and all extra costs, losses, expenses, claims, penalties and any other damages, whether special or consequential, and of whatsoever nature, incurred by Owner which are occasioned by any delay in achieving the Contract Time(s).

Owner and Design-Builder agree that the maximum aggregate liability Design-Builder has for any liquidated damages that may be assessed under this Agreement for failure to achieve the Contract Time(s) shall be the amount equal to Design-Builder's fee for the Project.

Article 6

Contract Price

6.1 Contract Price.

6.1.1 Owner shall pay Design-Builder in accordance with Article 6 of the General Conditions of Contract a contract price ("Contract Price") equal to Design-Builder's Fee (as defined in Section 6.2 hereof) plus the Cost of the Work (as defined in Section 6.3 hereof), subject to the GMP established in Section 6.6 hereof and any adjustments made in accordance with the General Conditions of Contract.

6.2 Design-Builder's Fee.

6.2.1 Design-Builder's Fee shall be:

Project Design, Design Management and the project Preconstruction scope will be paid at a lump sum value of \$100,838 as shown on Preliminary GMP Estimate dated 1/27/2020. The following definitions apply for purposes of this Section 6.2.1: "Project Design" means the design services that are included as part of the Work under this Agreement; "Design Management" means the services required to complete and to manage the "Project Design", including all Design-Builder subconsultants and subconsultant of the Owner; "Preconstruction scope" means the additional services by the Design-Builder required to prepare for a prompt start to Construction at the completion of Project Design and permitting.

Five percent (5.0%) of the Cost of the Work (excluding the lump sum scope above), as adjusted in accordance with Section 6.2.2 below.

6.2.2 Design-Builder's Fee will be adjusted as follows for any changes in the Work:

6.2.2.1 For additive Change Orders, including additive Change Orders arising from both additive and deductive items, it is agreed that Design-Builder shall receive a Fee of Five percent (5.0%) of the additional Costs of the Work incurred for that Change Order, plus any other markups provided by the Contract Documents. There shall be no automatic markup for general conditions costs in any Change Order, as general conditions costs are part of the Cost of the Work, and shall be itemized as part of any proposed change order, if required by the Change in the Work.

6.2.2.2 For deductive Change Orders, including deductive Change Orders arising from both additive and deductive items, the deductive amounts shall include no additional reduction to account for Design-Builder's Fee or any other markup.

6.3 Cost of the Work. The term Cost of the Work shall mean costs reasonably and actually incurred by Design-Builder in the proper performance of the Work. The Cost of the Work shall include only the following:

6.3.1 Wages or salaries, vehicle costs or mileage, phone, etc. per Design-Builder company policy for direct employees of Design-Builder performing the Work at the Site or, with Owner's agreement, at locations off the Site.

6.3.2 Wages or salaries of Design-Builder's supervisory and administrative personnel engaged in the performance of the Work and who are located at the Site or working off-Site to assist in the production or transportation of material and equipment necessary for the Work.

6.3.3 Wages or salaries, vehicle costs or mileage, phone, etc. per Design-Builder company policy for direct employees of Design-Builder's personnel stationed at Design-Builder's principal or branch offices, but only to the extent said personnel are identified and performing a function directly attributable to the project.

6.3.4 Costs incurred by Design-Builder for employee benefits, premiums, taxes, insurance, contributions and assessments required by law, collective bargaining agreements, or which are customarily paid by Design-Builder, to the extent such costs are based on wages and salaries paid to employees of Design-Builder covered under Sections 6.3.1 through 6.3.3 hereof which shall be charged using a multiplier of 61.15% to the wages and salaries of the employees of Design-Builder covered under Sections 6.3.1 through 6.3.3 hereof.

6.3.5 The reasonable portion of the cost of travel, accommodations and meals for Design-Builder's personnel necessarily and directly incurred in connection with the performance of the Work (if required by Owner, but none anticipated).

6.3.6 Payments made by Design-Builder to Subcontractors for performance of portions of the Work, including any insurance and bond premiums incurred by Subcontractors and Design Consultants.

6.3.7 Costs incurred by Design-Builder in repairing or correcting defective, damaged or nonconforming Work (including any warranty or corrective Work performed after Substantial Completion), provided that such Work was beyond the reasonable control of Design-Builder, or caused by the ordinary mistakes or inadvertence, and not the negligence, of Design-Builder or those working by or through Design-Builder. If the costs associated with such Work are recoverable from insurance, Subcontractors or Design Consultants, Design-Builder shall exercise its best efforts to obtain recovery from the appropriate source and provide a credit to Owner if recovery is obtained.

6.3.8 Costs, including transportation, inspection, testing, storage and handling, of materials, equipment and supplies incorporated or reasonably used in completing the Work.

6.3.9 Costs (less salvage value) of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by the workers that are not fully consumed in the performance of the Work and which remain the property of Design-Builder, including the costs of transporting, inspecting, testing, handling, installing, maintaining, dismantling and removing such items.

6.3.10 Costs of removal of debris and waste from the Site.

6.3.11 The reasonable costs and expenses incurred in establishing, operating and demobilizing the Site office, including the cost of facsimile transmissions, long-distance telephone calls, postage and express delivery charges, internet service, computing equipment, printing equipment, office supplies, telephone service, photocopying and reasonable petty cash expenses.

6.3.12 Rental charges and the costs of transportation, installation, minor repairs and replacements, dismantling and removal of temporary facilities, machinery, equipment and hand tools not customarily owned by the workers, which are provided by Design-Builder at the Site, whether rented from Design-Builder or others, and incurred in the performance of the Work.

6.3.13 Premiums for all insurance and bonds for Design-Builder and all eligible subcontractors and design consultants, of any tier, required by this Agreement or the performance of the Work which shall be included as Cost of the Work at the following fixed rates: (a) workers compensation insurance, general liability insurance and excess liability insurance at the fixed rate of 1.10% to

final contract value; (b) professional liability insurance for Design-Builder at the fixed rate of (Included in (a) above); (c) General Contractor Payment and Performance Bonds, if applicable, at the fixed rate of 0.84% of final contract value; (d) builders risk insurance excluding the playground equipment, if required, at the fixed rate of .25% of final contract value; and, (e) subcontractor default insurance, if applicable, for all first tier subcontractors and suppliers to the Design-Builder at the fixed rate of 1.50% of final subcontracted value or final value of purchased order value for materials.

6.3.14 Any and all water, sewer, electric power, and site parking lot lighting Utility costs incurred in the performance of the Work is by Owner.

6.3.15 Sales, use or similar taxes, tariffs or duties incurred in the performance of the Work.

6.3.16 Legal costs, court costs and costs of mediation and arbitration reasonably arising from Design-Builder's performance of the Work, provided such costs do not arise from disputes between Owner and Design-Builder.

6.3.17 Costs for permits, royalties, licenses, tests and inspections incurred by Design-Builder as a requirement of the Contract Documents.

6.3.18 The cost of defending suits or claims for infringement of patent rights arising from the use of a particular design, process, or product required by Owner, paying legal judgments against Design-Builder resulting from such suits or claims, and paying settlements made with Owner's consent.

6.3.19 Deposits which are lost, except to the extent caused by Design-Builder's negligence, together with deductibles for insurance paid by the Design-Builder.

6.3.20 Loss prevention safety costs and management for time spent onsite and related to project. In addition, costs incurred in preventing damage, injury or loss in case of an emergency affecting the safety of persons and property.

6.3.21 Project related IT equipment, program licenses and fees, maintenance, accounting and data processing costs related to the Work, including the cost of information technologies support services required in the performance of the Work at a fixed rate equate to 0.37% of the Cost of the Work.

6.3.22 Project GMP Allowances per 6.4, and Design-Building Contingency per 6.6.1.2 in amounts to be determined at time of GMP Exhibit

6.3.23 Other costs, including General Conditions costs identified in the GMP Proposal and not otherwise identified in this Article, which are reasonably and properly incurred in the performance of the Work to the extent approved in advance and in writing by Owner.

6.4 Allowance Items and Allowance Values.

6.4.1 Any and all Allowance Items, as well as their corresponding Allowance Values, are set forth in the GMP Exhibit and are included within the GMP.

6.4.2 Design-Builder and Owner have worked together to review the Allowance Items and Allowance Values based on design information then available to determine that the Allowance Values constitute reasonable estimates for the Allowance Items. Design-Builder and Owner will continue working closely together during the preparation of the design to develop Construction Documents consistent with the Allowance Values. Nothing herein is intended in any way to constitute a guarantee by Design-Builder that the Allowance Item in question can be performed for the Allowance Value.

6.4.3 No work shall be performed on any Allowance Item without Design-Builder first obtaining in writing advanced authorization to proceed from Owner. Owner agrees that if Design-Builder is not provided written authorization to proceed on an Allowance Item by the date set forth in the Project Schedule, due to no fault of Design-Builder or its Subcontractors or Design Consultants, Design-Builder may be entitled to an adjustment of the Contract Time(s) and Contract Price.

6.4.4 The Allowance Value for an Allowance Item includes the direct cost of labor, materials, equipment, transportation, taxes and insurance associated with the applicable Allowance Item. All other costs, including design fees, Design-Builder's overall project management and general conditions costs, overhead and fee, are deemed to be included in the original Contract Price, and are not subject to adjustment, regardless of the actual amount of the Allowance Item.

6.4.5 Whenever the actual costs for an Allowance Item is more than or less than the stated Allowance Value, the Contract Price shall be adjusted accordingly by Change Order, subject to Section 6.4.4. The amount of the Change Order shall reflect the difference between actual costs incurred by Design-Builder for the particular Allowance Item and the Allowance Value.

6.5 Non-Reimbursable Costs.

6.5.1 The following shall not be deemed as costs of the Work:

6.5.1.1 Compensation for Design-Builder's personnel stationed at Design-Builder's principal or branch offices, except as provided for in Sections 6.3.1, 6.3.2 and 6.3.3 hereof.

6.5.1.2 Overhead and general expenses, except as provided for in Section 6.3 hereof, or which may be recoverable for changes to the Work.

6.5.1.3 The cost of Design-Builder's capital used in the performance of the Work.

6.5.1.4 If the parties have agreed on a GMP, costs that would cause the GMP, as adjusted in accordance with the Contract Documents, to be exceeded.

6.6 The Guaranteed Maximum Price ("GMP").

6.6.1 GMP Established Upon Execution of this Agreement. Final GMP (as shown in Preliminary GMP Estimate dated 1/27/2020) will be established per 6.6.2. However, a preliminary GMP budget of \$660,642 per RFQ in Exhibit A, and Design Builder Proposal in Exhibit C has been established for bathroom facility, picnic structures, and ADA parking only. This budget does not include the design fee as listed in 6.2.1. This includes one picnic/restroom combination structure and one stand-alone picnic structure. Playground equipment provided and installed by Harmony Playground is excluded. Preliminary GMP budget for supplementary support of playground installation based on CLH drawings dated December 17, 2019 is 695,189.

6.6.1.1 Subject to changes in accordance with the Contract Documents, Design-Builder guarantees that it shall not exceed the GMP as established by the GMP Proposal. Documents used as a basis for the GMP shall be identified in an exhibit to this Agreement ("GMP Exhibit"). Design-Builder does not guarantee any specific line item provided as part of the GMP, and has the sole discretion to apply payment due to overruns in one line item to savings due to underruns in any other line item. Design-Builder agrees, however, that it will be responsible for paying all costs of completing the Work which exceed the GMP, as adjusted in accordance with the Contract Documents.

6.6.1.2 The GMP includes a Contingency in the amount indicated in the GMP Amendment which is available for Design-Builder's exclusive use for Cost of the Work it has incurred that are not the basis for a Change Order under the Contract Documents. By way of example, and not as a limitation, such costs may include: (a) trade buy-out differentials; (b) overtime or acceleration; (c) escalation of materials; (d) correction of defective, damaged or nonconforming Work, design errors

or omissions, however caused; (e) Subcontractor defaults; (f) insurance deductibles, or (g) those events under Section 8.2.2 of the General Conditions of Contract that result in an extension of the Contract Time but do not result in an increase in the Contract Price. The Contingency is not available to Owner for any reason, including, but not limited to changes in scope or any other item which would enable Design-Builder to increase the GMP under the Contract Documents. Design-Builder shall provide Owner notice of all anticipated charges against the Contingency, and shall provide Owner as part of the monthly status report required by Section 2.1.2 of the General Conditions of Contract an accounting of the Contingency, including all reasonably foreseen uses or potential uses of the Contingency. Design-Builder agrees that with respect to any expenditure from the Contingency relating to a Subcontractor default or an event for which insurance or bond may provide reimbursement, Design-Builder will in good faith exercise reasonable steps to obtain performance from the Subcontractor and/or recovery from any surety or insurance company. Design-Builder agrees that if Design-Builder is subsequently reimbursed for said costs, then said recovery will be credited back to the Contingency.

6.6.2 GMP Established after Execution of this Agreement.

6.6.2.1 GMP Proposal. If requested by Owner, Design-Builder shall submit a GMP Proposal to Owner which shall include the following, unless the parties mutually agree otherwise:

6.6.2.1.1 A proposed GMP, which shall be the sum of:

- i. Design-Builder's Fee as defined in Section 6.2.1 hereof;
- ii. The estimated Cost of the Work as defined in Section 6.3 hereof, inclusive of any Design-Builder's Contingency as defined in Section 6.6.1.2 hereof and General Conditions; and
- iii. If applicable, any prices established under Section 6.1.2 hereof.

6.6.2.1.2 The Basis of Design Documents, which may include, by way of example, Owner's Project Criteria, which are set forth in detail and are attached to the GMP Proposal;

6.6.2.1.3 A list of the assumptions and clarifications made by Design-Builder in the preparation of the GMP Proposal, which list is intended to supplement the information contained in the drawings and specifications and is specifically included as part of the Basis of Design Documents;

6.6.2.1.4 The Scheduled Substantial Completion Date upon which the proposed GMP is based, to the extent said date has not already been established under Section 5.2.1 hereof, and a schedule upon which the Scheduled Substantial Completion Date is based;

6.6.2.1.5 If applicable, a list of Allowance Items, Allowance Values, and a statement of their basis;

6.6.2.1.6 If applicable, a schedule of alternate prices;

6.6.2.1.7 If applicable, a schedule of unit prices;

6.6.2.1.8 If applicable, a statement of Additional Services which may be performed but which are not included in the GMP and which, if performed, shall be the basis for an increase in the GMP and/or Contract Time(s); and

6.6.2.1.9 The time limit for acceptance of the GMP Proposal.

6.6.2.2 Review and Adjustment to GMP Proposal. After submission of the GMP Proposal, Design-Builder and Owner shall meet to discuss and review the GMP Proposal. If Owner has any comments regarding the GMP Proposal, or finds any inconsistencies or inaccuracies in the information presented, it shall promptly give written notice to Design-Builder of such comments or findings. If appropriate, Design-Builder shall, upon receipt of Owner's notice, make appropriate adjustments to the GMP Proposal.

6.6.2.3 Acceptance of GMP Proposal. If Owner accepts the GMP Proposal, as may be amended by Design-Builder, the GMP and its basis shall be set forth in an amendment to this Agreement.

6.6.2.4 Failure to Accept the GMP Proposal. Subject to the provisions of Section 6.6.2.5, if Owner rejects the GMP Proposal, or fails to notify Design-Builder in writing on or before the date specified in the GMP Proposal that it accepts the GMP Proposal, the GMP Proposal shall be deemed withdrawn and of no effect. In such event, Owner and Design-Builder shall meet and confer as to how the Project will proceed, with Owner having the following options:

6.6.2.4.1 Owner may suggest modifications to the GMP Proposal, whereupon, if such modifications are accepted in writing by Design-Builder, the GMP Proposal shall be deemed accepted and the parties shall proceed in accordance with Section 6.6.2.3 above;

6.6.2.4.2 Owner may authorize Design-Builder to continue to proceed with the Work on the basis of reimbursement as provided in Section 6.1 hereof without a GMP, in which case all references in this Agreement to the GMP shall not be applicable; or

6.6.2.4.3 Owner may terminate this Agreement for convenience in accordance with Article 8 hereof; provided, however, in this event, Design-Builder shall not be entitled to the payment provided for in Section 8.2 hereof.

If Owner fails to exercise any of the above options, Design-Builder shall have the right to (i) continue with the Work as if Owner had elected to proceed in accordance with Item 6.6.2.4.2 above, and be paid by Owner accordingly, unless and until Owner notifies it in writing to stop the Work, or (ii) suspend performance of Work in accordance with Section 11.3.1 of the General Conditions of Contract, provided, however, that in such event Design-Builder shall not be entitled to the payment provided for in Section 8.2 hereof.

6.6.3 Savings.

6.6.3.1 If the sum of the actual Cost of the Work and Design-Builder's Fee (and, if applicable, any prices established under Section 6.1.2 hereof) is less than the GMP, as such GMP may have been adjusted over the course of the Project, the difference ("Savings") shall be shared as follows: Twenty Five percent (25%) to Design-Builder and Seventy Five percent (75%) to Owner.

6.6.3.2 Savings shall be calculated and paid as part of Final Payment under Section 7.3 hereof, with the understanding that to the extent Design-Builder incurs costs after Final Completion which would have been payable to Design-Builder as a Cost of the Work, the parties shall recalculate the Savings in light of the costs so incurred, and Design-Builder shall be paid by Owner accordingly.

Article 7

Procedure for Payment

7.1 Progress Payments.

7.1.1 Design-Builder shall submit to Owner on the Fifth (5th) day of each month, beginning with the first month after the Date of Commencement, Design-Builder's Application for Payment, for work performed in the previous month, in accordance with Article 6 of the General Conditions of Contract.

7.1.2 Owner shall make payment within twenty (20) days after Owner's receipt of each properly submitted and accurate Application for Payment in accordance with Article 6 of the General Conditions of Contract, but in each case less the total of payments previously made, and less amounts properly withheld under Section 6.3 of the General Conditions of Contract.

7.1.3 If Design-Builder's Fee under Section 6.2.1 hereof is a fixed amount, the amount of Design-Builder's Fee to be included in Design-Builder's monthly Application for Payment and paid by Owner shall be proportional to the percentage of the Work completed, less payments previously made on account of Design-Builder's Fee.

7.2 Retainage on Progress Payments.

7.2.1 Owner will retain Five percent (5%) of the cost of Work or less if mandated by applicable state law or agreed to in writing, exclusive of general conditions costs, and any amounts paid to Design-Builder's Design Consultant, from each Application for Payment provided, however, that when fifty percent (50%) of the Work has been satisfactorily completed by Design-Builder and Design-Builder is otherwise in compliance with its contractual obligations, Owner will not retain any additional amounts from Design-Builder's subsequent Applications for Payment. Owner will also reasonably consider reducing retainage for Subcontractors completing their work early in the Project.

7.2.2 Within fifteen (15) days after Substantial Completion of the entire Work or, if applicable, any portion of the Work, pursuant to Section 6.6 of the General Conditions of Contract, Owner shall release to Design-Builder all retained amounts relating, as applicable, to the entire Work or completed portion of the Work, less an amount equal to: (a) the reasonable value of all remaining or incomplete items of Work as noted in the Certificate of Substantial Completion; and (b) all other amounts Owner is entitled to withhold pursuant to Section 6.3 of the General Conditions of Contract.

7.3 Final Payment. Design-Builder shall submit its Final Application for Payment to Owner in accordance with Section 6.7 of the General Conditions of Contract. Owner shall make payment on Design-Builder's properly submitted and accurate Final Application for Payment (less any amount the parties may have agreed to set aside for warranty work) within ten (10) days after Owner's receipt of the Final Application for Payment, provided that Design-Builder has satisfied the requirements for final payment set forth in Section 6.7.2 of the General Conditions of Contract.

7.4 Interest. Payments due and unpaid by Owner to Design-Builder, whether progress payments or final payment, shall bear interest commencing five (5) days after payment is due at the rate of One percent (1 %) per month until paid.

7.5 Record Keeping and Finance Controls. Design-Builder acknowledges that this Agreement is to be administered on an "open book" arrangement relative to Costs of the Work. Design-Builder shall keep full and detailed accounts and exercise such controls as may be necessary for proper financial management, using accounting and control systems in accordance with generally accepted accounting principles and as may be provided in the Contract Documents. During the performance of the Work and for

a period of three (3) years after Final Payment, Owner and Owner's accountants shall be afforded access to, and the right to audit from time-to-time, upon reasonable notice, Design-Builder's records, books, correspondence, receipts, subcontracts, purchase orders, vouchers, memoranda and other data relating to the Work, all of which Design-Builder shall preserve for a period of three (3) years after Final Payment. Such inspection shall take place at Design-Builder's offices during normal business hours unless another location and time is agreed to by the parties. Any multipliers or markups agreed to by the Owner and Design-Builder as part of this Agreement are only subject to audit to confirm that such multiplier or markup has been charged in accordance with this Agreement, with the composition of such multiplier or markup not being subject to audit.

Article 8

Termination for Convenience

8.1 Upon ten (10) days' written notice to Design-Builder, Owner may, for its convenience and without cause, elect to terminate this Agreement. In such event, Owner shall pay Design-Builder for the following:

8.1.1 All Work performed through the date of termination;

8.1.2 The actual costs and expenses reasonably incurred in demobilization and shutting down operations at the Site and amounts due in settlement of terminated contracts with Subcontractors and Design Consultants; and

8.1.3 the pro-rata portion of Design-Builder's Fee earned on account of the Work performed.

The Owner shall have no further liability to the Design-Builder, including, but not limited to, consequential damages, lost profits or other damages arising out of any termination to this Agreement.

8.2 If Owner terminates this Agreement pursuant to Section 8.1 above and proceeds to design and construct the Project through its employees, agents or third parties, Owner's rights to use the Design-builder's work product shall be as set forth in Article 4 hereof.

Article 9

Representatives of the Parties

9.1 Owner's Representatives.

9.1.1 Owner designates the individual listed below as its Senior Representative ("Owner Senior Representative"), which individual has the authority and responsibility for avoiding and resolving disputes under Section 10.2.3 of the General Conditions of Contract:

**Joshua Baird, PE – Town Engineer
Town of Clayton
111 E. Second Street
Clayton, NC 27528
(919) 553-5002**

9.1.2 Owner designates the individuals listed below as its Owner's Representatives, which individual has the authority and responsibility set forth in Section 3.4 of the General Conditions of Contract:

**Joshua Baird, PE – Town Engineer
Town of Clayton
111 E. Second Street**

Clayton, NC 27528
(919) 553-5002

9.2 Design-Builder's Representatives.

9.2.1 Design-Builder designates the individual listed below as its Senior Representative ("Design-Builder's Senior Representative"), which individual has the authority and responsibility for avoiding and resolving disputes under Section 10.2.3 of the General Conditions of Contract:

Balfour Beatty Construction, LLC
1930 Camden Road, Suite 280
Charlotte, North Carolina 28203
Attn: Pat Dean
President
(704) 295-4718

9.2.2 Design-Builder designates the individual listed below as its Design-Builder's Representative, which individual has the authority and responsibility set forth in Section 2.1.1 of the General Conditions of Contract: *(Identify individual's name, title, address and telephone numbers)*

Balfour Beatty Construction, LLC
406 South McDowell Street; Suite 200
Raleigh, NC 27601
Attn: Tony Stoneking
Sr. Vice President
(919) 795-4954

Article 10

Bonds and Insurance

10.1 Insurance. Design-Builder and Owner shall procure the insurance coverages set forth in the Insurance Exhibit E attached hereto, and in accordance with Article 5 of the General Conditions of Contract.

10.2 Bonds and Other Performance Security. Design-Builder shall provide the following performance bond and labor and material payment bond or other performance security:

Performance Bond.

[Check one box only. If no box is checked, then no bond is required.]

☒ **Required** ☐ Not Required

Payment Bond.

[Check one box only. If no box is checked, then no bond is required.]

☒ **Required** ☐ Not Required

Other Performance Security.

☐ Required ☒ Not Required

Subcontractor Default Insurance in accordance with Exhibit A insurance and 6.3.13 of this contract.

Article 11

Other Provisions

11.1 Other provisions, if any, are as follows: *(Insert any additional provisions) – N/A*

This Agreement may be executed in multiple counterparts and delivered by facsimile or electronic communication, each of which will for all purposes be deemed an original and all of which when taken together will constitute one and the same instrument.

In executing this Agreement, Owner and Design-Builder each individually represents that it has the necessary financial resources to fulfill its obligations under this Agreement, and each has the necessary corporate approvals to execute this Agreement, and perform the services described herein.

OWNER:

Town Of Clayton

(Name of Owner)

(Signature)

(Printed Name)

(Title)

Date: _____

DESIGN-BUILDER:

Balfour Beatty Construction, LLC

(Name of Design-Builder)

(Signature)

Pat Dean

(Printed Name)

President

(Title)

Date: _____



STANDARD FORM OF GENERAL CONDITIONS OF CONTRACT BETWEEN OWNER AND DESIGN-BUILDER

Document No. 535

Second Edition, 2010

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Washington, DC

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Article 1

General

1.1 Mutual Obligations

1.1.1 *Owner and Design-Builder* commit at all times to cooperate fully with each other, and proceed on the basis of trust and good faith, to permit each party to realize the benefits afforded under the Contract Documents.

1.2 Basic Definitions

1.2.1 *Agreement* refers to the executed contract between Owner and Design-Builder under DBIA Document No. 530, *Standard Form of Agreement Between Owner and Design-Builder - Cost Plus Fee with an Option for a Guaranteed Maximum Price* (2010 Edition).

1.2.2 *Basis of Design Documents* are as follows: For DBIA Document No. 530, *Standard Form of Agreement Between Owner and Design-Builder - Cost Plus Fee With an Option for a Guaranteed Maximum Price*, the Basis of Design Documents are those documents specifically listed in, as applicable, the GMP Exhibit or GMP Proposal as being the "Basis of Design Documents."

1.2.3 *Construction Documents* are the documents, consisting of Drawings and Specifications, to be prepared or assembled by the Design-Builder consistent with the Basis of Design Documents unless a deviation from the Basis of Design Documents is specifically set forth in a Change Order executed by both the Owner and Design-Builder, as part of the design review process contemplated by Section 2.4 of these General Conditions of Contract.

1.2.4 *Day or Days* shall mean calendar days unless otherwise specifically noted in the Contract Documents.

1.2.5 *Design-Build Team* is comprised of the Design-Builder, the Design Consultant, and key Subcontractors identified by the Design-Builder.

1.2.6 *Design Consultant* is a qualified, licensed design professional who is not an employee of Design-Builder, but is retained by Design-Builder, or employed or retained by anyone under contract with Design-Builder, to furnish design services required under the Contract Documents. A Design Sub-Consultant is a qualified, licensed design professional who is not an employee of the Design Consultant, but is retained by the Design Consultant or employed or retained by anyone under contract to Design Consultant, to furnish design services required under the Contract Documents.

1.2.7 *Final Completion* is the date on which all Work is complete in accordance with the Contract Documents, including but not limited to, any items identified in the punch list prepared under Section 6.6.1 and the submission of all documents set forth in Section 6.7.2.

1.2.8 *Force Majeure Events* are those events that are beyond the control of both Design-Builder and Owner, including the events of war, floods, labor disputes, earthquakes, epidemics, adverse weather conditions not reasonably anticipated, and other acts of God.

1.2.9 *General Conditions of Contract* refer to this DBIA Document No. 535, *Standard Form of General Conditions of Contract Between Owner and Design-Builder* (2010 Edition).

1.2.10 *GMP Exhibit* means that exhibit attached to DBIA Document No. 530, *Standard Form of Agreement Between Owner and Design-Builder - Cost Plus Fee With an Option for a Guaranteed Maximum Price*, which exhibit will have been agreed upon by Owner and Design-Builder prior to the execution of the Agreement.

1.2.11 *GMP Proposal* means that proposal developed by Design-Builder in accordance with Section 6.6 of DBIA Document No. 530, *Standard Form of Agreement Between Owner and Design-Builder - Cost Plus Fee With an Option for a Guaranteed Maximum Price*.

1.2.12 *Hazardous Conditions* are any materials, wastes, substances and chemicals deemed to be hazardous under applicable Legal Requirements, or the handling, storage, remediation, or disposal of which are regulated by applicable Legal Requirements.

1.2.13 *Legal Requirements* are all applicable federal, state and local laws, codes, ordinances, rules, regulations, orders and decrees of any government or quasi-government entity having jurisdiction over the Project or Site, the practices involved in the Project or Site, or any Work.

1.2.14 *Owner's Project Criteria* are developed by or for Owner to describe Owner's program requirements and objectives for the Project, including use, space, price, time, site and expandability requirements, as well as submittal requirements and other requirements governing Design-Builder's performance of the Work. Owner's Project Criteria may include conceptual documents, design criteria, design performance specifications, design specifications, and LEED® or other sustainable design criteria and other Project-specific technical materials and requirements.

1.2.15 *Site* is the land or premises on which the Project is located.

1.2.16 *Subcontractor* is any person or entity retained by Design-Builder as an independent contractor to perform a portion of the Work and shall include materialmen and suppliers.

1.2.17 *Sub-Subcontractor* is any person or entity retained by a Subcontractor as an independent contractor to perform any portion of a Subcontractor's Work and shall include materialmen and suppliers.

1.2.18 *Substantial Completion* or *Substantially Complete* means the date on which the Work, or an agreed upon portion of the Work, is (i) sufficiently complete in accordance with the Contract Documents so that Owner can occupy and use the Project or a portion thereof for its intended purposes; and (ii) meets all of the requirements for Substantial Completion in the Agreement, including but not limited to the receipt of all approvals for such use by governmental entities having jurisdiction over the Project.

1.2.19 *Work* is comprised of all Design-Builder's design, construction and other services required by the Contract Documents, including procuring and furnishing all materials, equipment, services and labor reasonably inferable from the Contract Documents.

Article 2

Design-Builder's Services and Responsibilities

2.1 General Services.

2.1.1 Design-Builder's Representative shall be reasonably available to Owner and shall have the necessary expertise and experience required to supervise the Work. Design-Builder's Representative shall communicate regularly with Owner and shall be vested with the authority to act on behalf of Design-Builder. Design-Builder's Representative may be replaced only with the mutual agreement of Owner and Design-Builder.

2.1.2 Design-Builder shall provide Owner with a monthly status report detailing the progress of the Work, including (i) whether the Work is proceeding according to Project Schedule, (ii) whether discrepancies, conflicts, or ambiguities exist in the Contract Documents that require resolution, (iii)

whether health and safety issues exist in connection with the Work; (iv) status of the contingency account to the extent provided for in the Standard Form of Agreement Between Owner and Design-Builder - Cost Plus Fee with an Option for a Guaranteed Maximum Price; and (v) other items that require resolution so as not to jeopardize Design-Builder's ability to complete the Work for the Contract Price and within the Contract Time(s).

2.1.3 Attached to the Agreement as an exhibit is a projected Construction Schedule. Design-Builder shall prepare and submit, at least three (3) days prior to the meeting contemplated by Section 2.1.4 hereof, a detailed critical path schedule for the execution of the Work for Owner's review and approval, which shall be coordinated with the Project Design and Timeline Schedule ("Project Schedule"). The Project Schedule shall indicate the dates for the start and completion of the various stages of Work, including the dates when Owner information and approvals are required to enable Design-Builder to achieve the Contract Time(s). The schedule shall be revised as required by conditions and progress of the Work, but such revisions shall not relieve Design-Builder of its obligations to complete the Work within the Contract Time(s), as such dates may be adjusted in accordance with the Contract Documents. Design-Builder shall coordinate the activities of Owner's separate contractors, consultants, architects and engineers to the extent coordination of such parties is required to complete Design-Builder's Work within the Contract Time. Owner's review of, and response to, the Project Schedule shall not be construed as relieving Design-Builder of its complete and exclusive control over the means, methods, sequences and techniques for executing the Work. Notwithstanding anything to the contrary in the Contract Documents, the Project Design and Timeline Schedule, Projected Construction Schedule, and the Project Schedule and any revisions thereto are not Contract Documents; and any interim approvals thereof shall not serve to modify any completion dates required by the Contract Documents, which may only be modified by a written Change Order signed by both parties.

2.1.4 The parties will meet within seven (7) days after execution of the Agreement to discuss issues affecting the administration of the Work and to implement the necessary procedures, including those relating to submittals and payment, to facilitate the ability of the parties to perform their obligations under the Contract Documents.

2.2 Design Professional Services.

2.2.1 Design-Builder shall, consistent with applicable state licensing laws, provide through qualified, licensed design professionals employed by Design-Builder, or procured from qualified, independent licensed Design Consultants, the necessary design services, including architectural, engineering and other design professional services, for the preparation of the required drawings, specifications and other design submittals to permit Design-Builder to complete the Work consistent with the Contract Documents. Nothing in the Contract Documents is intended or deemed to create any legal or contractual relationship between Owner and any Design Consultant. Owner shall be a third party beneficiary of the any agreements entered into between the Design-Builder and Design Consultants. However, this Agreement is not intended to create any contractual rights of the Design Consultants as to the Owner.

2.3 Standard of Care for Design Professional Services.

2.3.1 The standard of care for all design professional services performed to execute the Work shall be the care and skill ordinarily used by members of the design profession practicing under similar conditions at the same time and locality of the Project.

2.4 Design Development Services.

2.4.1 Design-Builder and Owner shall, consistent with any applicable provision of the Contract Documents, agree upon any interim design submissions that Owner may wish to review, which interim design submissions may include design criteria, drawings, diagrams and specifications setting forth the Project requirements. Interim design submissions shall be consistent with the Basis of Design Documents, as the Basis of Design Documents may have been changed through

the design process set forth in this Section 2.4.1. On or about the time of the scheduled submissions, Design-Builder and Owner shall meet and confer about the submissions, with Design-Builder identifying during such meetings, among other things, the evolution of the design and any changes to the Basis of Design Documents, or, if applicable, previously submitted design submissions. Changes to the Basis of Design Documents, including those that are deemed minor changes under Section 9.3.1, shall be processed in accordance with Article 9. Minutes of the meetings, including a full listing of all changes, will be maintained by Design-Builder and provided to all attendees for review. Following the design review meeting, Owner shall review and approve the interim design submissions and meeting minutes in a time that is consistent with the turnaround times set forth in Design-Builder's schedule, as approved by Owner.

2.4.2 Design-Builder shall submit to Owner Construction Documents setting forth in detail drawings and specifications describing the requirements for construction of the Work. The Construction Documents shall be consistent with the latest set of interim design submissions, as such submissions may have been modified in a design review meeting and recorded in the meetings minutes. The parties shall have a design review meeting to discuss, and Owner shall review and approve, the Construction Documents in accordance with the procedures set forth in Section 2.4.1 above or as otherwise agreed by the Parties. Design-Builder shall proceed with construction in accordance with the approved Construction Documents and shall submit one set of approved Construction Documents to Owner prior to commencement of construction.

2.4.3 Owner's review and approval of interim design submissions, meeting minutes, and the Construction Documents is for the purpose of mutually establishing a conformed set of Contract Documents compatible with Owner's Project Criteria and other requirements of the Work. Neither Owner's review nor approval of any interim design submissions, meeting minutes, and Construction Documents shall be deemed to transfer any design liability from Design-Builder to Owner or relieve Design Builder of any responsibility for the quality and completeness of the Construction Documents.

2.4.4 To the extent not prohibited by the Contract Documents or Legal Requirements and with approval of Owner, which shall not be unreasonably withheld, Design-Builder may prepare interim design submissions and Construction Documents for a portion of the Work to permit construction to proceed on that portion of the Work prior to completion of the Construction Documents for the entire Work.

2.5 Legal Requirements.

2.5.1 Design-Builder shall perform the Work in accordance with all Legal Requirements and shall provide all notices applicable to the Work as required by the Legal Requirements.

2.5.2 The Contract Price and/or Contract Time(s) shall be adjusted to compensate Design-Builder for the effects of any changes in the Legal Requirements enacted after the date of the Agreement affecting the performance of the Work, or if a Guaranteed Maximum Price is established after the date of the Agreement, the date the parties agree upon the Guaranteed Maximum Price. Such effects may include, without limitation, revisions Design-Builder is required to make to the Construction Documents because of changes in Legal Requirements.

2.6 Government Approvals and Permits.

2.6.1 Except as identified in an Owner's Permit List attached as an exhibit to the Agreement, Design-Builder shall obtain and pay for all necessary permits, approvals, licenses, government charges and inspection fees required for the prosecution of the Work by any government or quasi-government entity having jurisdiction over the Project.

2.6.2 Design-Builder shall provide reasonable assistance to Owner in obtaining those permits, approvals and licenses that are Owner's responsibility.

2.7 Design-Builder's Construction Phase Services.

2.7.1 Unless otherwise provided in the Contract Documents to be the responsibility of Owner or a separate contractor, Design-Builder shall provide through itself or Subcontractors the necessary supervision, labor, inspection, testing, start-up, material, equipment, machinery, temporary utilities and other temporary facilities to permit Design-Builder to complete construction of the Project consistent with the Contract Documents.

2.7.2 Design-Builder shall perform all construction activities efficiently and with the requisite expertise, skill and competence to satisfy the requirements of the Contract Documents. Design-Builder shall at all times exercise complete and exclusive control over the means, methods, sequences and techniques of construction.

2.7.3 Design-Builder shall employ only Subcontractors who are duly licensed and qualified to perform the Work consistent with the Contract Documents. Owner may reasonably object to Design-Builder's selection of any Subcontractor, provided that the Contract Price and/or Contract Time(s) shall be adjusted to the extent that Owner's decision impacts Design-Builder's cost and/or time of performance.

2.7.4 Design-Builder assumes responsibility to Owner for the proper performance of the Work of Subcontractors and any acts and omissions in connection with such performance. Nothing in the Contract Documents is intended or deemed to create any legal or contractual relationship between Owner and any Subcontractor or Sub-Subcontractor, including but not limited to any third-party beneficiary rights.

2.7.5 Design-Builder shall coordinate the activities of all Subcontractors and Design Consultants. If Owner performs other work on the Project or at the Site with separate contractors under Owner's control, Design-Builder agrees to reasonably cooperate and coordinate its activities with those of such separate contractors so that the Project can be completed in an orderly and coordinated manner without unreasonable disruption.

2.7.6 Design-Builder shall keep the Site reasonably free from debris, trash and construction wastes to permit Design-Builder to perform its construction services efficiently, safely and without interfering with the use of adjacent land areas. Upon Substantial Completion of the Work, or a portion of the Work, Design-Builder shall remove all debris, trash, construction wastes, materials, equipment, machinery and tools arising from the Work or applicable portions thereof to permit Owner to occupy the Project or a portion of the Project for its intended use.

2.8 Design-Builder's Responsibility for Project Safety.

2.8.1 Design-Builder recognizes the importance of performing the Work in a safe manner so as to prevent damage, injury or loss to (i) all individuals at the Site, whether working or visiting, (ii) the Work, including materials and equipment incorporated into the Work or stored on-Site or off-Site, and (iii) all other property at the Site or adjacent thereto. Design-Builder assumes responsibility for implementing and monitoring all safety precautions and programs related to the performance of the Work. Design-Builder shall, prior to commencing construction, designate a Safety Representative with the necessary qualifications and experience to supervise the implementation and monitoring of all safety precautions and programs related to the Work. Unless otherwise required by the Contract Documents, Design-Builder's Safety Representative shall be an individual stationed at the Site who may have responsibilities on the Project in addition to safety. The Safety Representative shall make routine daily inspections of the Site and shall hold weekly safety meetings with Design-Builder's personnel, Subcontractors and others as applicable.

2.8.2 Design-Builder and Subcontractors shall comply with all Legal Requirements relating to safety, as well as any Owner-specific safety requirements set forth in the Contract Documents, provided that such Owner-specific requirements do not violate any applicable Legal Requirement. Design-Builder will immediately report in writing any safety-related injury, loss, damage or accident

arising from the Work to Owner's Representative and, to the extent mandated by Legal Requirements, to all government or quasi-government authorities having jurisdiction over safety-related matters involving the Project or the Work.

2.8.3 Design-Builder's responsibility for safety under this Section 2.8 is not intended in any way to relieve Subcontractors and Sub-Subcontractors of their own contractual and legal obligations and responsibility for (i) complying with all Legal Requirements, including those related to health and safety matters, and (ii) taking all necessary measures to implement and monitor all safety precautions and programs to guard against injuries, losses, damages or accidents resulting from their performance of the Work.

2.9 Design-Builder's Warranty.

2.9.1 Design-Builder warrants to Owner that the construction, including all materials and equipment furnished as part of the construction, shall be new unless otherwise specified in the Contract Documents, and that all construction Work shall be of good quality, in conformance with the Contract Documents and free of defects in materials and workmanship. All construction Work not conforming to these standards will be considered defective and shall be remedied by the Design-builder, at its sole expense. Design-Builder's warranty obligation excludes defects caused by abuse, alterations, or failure to maintain the Work in a commercially reasonable manner. Nothing in this warranty is intended to limit any manufacturer's warranty which provides Owner with greater warranty rights than set forth in this Section 2.9 or the Contract Documents. Design-Builder will provide Owner with all manufacturers' warranties upon Substantial Completion. Design-Builder is also responsible to the Owner for the accuracy and quality of any design documents, including Construction Documents in accordance with the standard of care consistent with standards for design professionals in the State of North Carolina..

2.10 Correction of Defective Work.

2.10.1 Without limiting the warranties in Section 2.9.1, Design-Builder agrees to correct any Work that is found to not be in conformance with the Contract Documents, including that part of the Work subject to Section 2.9 hereof, including any design deficiencies, within a period of one year from the date of Substantial Completion of the Work or any portion of the Work, or within such longer period to the extent required by any specific warranty included in the Contract Documents. If the Design-Builder fails to correct such Work, the Owner, after providing written notice and a reasonable opportunity for Design-Builder to cure, may correct the Work, and the Design-Builder shall be responsible for any costs incurred by the Owner.

2.10.2 Design-Builder shall, within seven (7) days of receipt of written notice from Owner that the Work is not in conformance with the Contract Documents, take meaningful steps to commence correction of such nonconforming Work, including the correction, removal or replacement of the nonconforming Work and any damage caused to other parts of the Work affected by the nonconforming Work. If Design-Builder fails to commence the necessary steps within such seven (7) day period, Owner, in addition to any other remedies provided under the Contract Documents, may provide Design-Builder with written notice that Owner will commence correction of such nonconforming Work with its own forces. If Owner does perform such corrective Work, Design-Builder shall be responsible for all reasonable costs incurred by Owner in performing such correction. If the nonconforming Work creates an emergency requiring an immediate response, the seven (7) day period identified herein shall be deemed inapplicable.

2.10.3 The one-year period referenced in Section 2.10.1 above applies only to Design-Builder's obligation to correct nonconforming Work and is not intended to constitute a period of limitations for any other rights or remedies Owner may have regarding Design-Builder's other obligations under the Contract Documents.

Article 3

Owner's Services and Responsibilities

3.1 Duty to Cooperate.

3.1.1 Owner shall, throughout the performance of the Work, cooperate with Design-Builder and perform its responsibilities, obligations and services in a timely manner to facilitate Design-Builder's timely and efficient performance of the Work and so as not to delay or interfere with Design-Builder's performance of its obligations under the Contract Documents.

3.1.2 Owner shall provide timely reviews and approvals of interim design submissions and Construction Documents consistent with the turnaround times set forth in Design-Builder's schedule, as approved by Owner.

3.1.3 Owner shall give Design-Builder timely notice of any Work that Owner notices to be defective or not in compliance with the Contract Documents, but failure to give such notice shall not prejudice any rights Owner may have under this Agreement or applicable law.

3.2 Furnishing of Services and Information.

3.2.1 Unless expressly stated to the contrary in the Contract Documents, Owner shall provide, at its own cost and expense, for Design-Builder's information and use the following, all of which Design-Builder is entitled to rely upon in performing the Work:

3.2.1.1 Surveys describing the property, boundaries, topography and reference points for use during construction, including existing service and utility lines;

3.2.1.2 Geotechnical studies describing subsurface conditions, and other surveys describing other latent or concealed physical conditions at the Site;

3.2.1.3 Temporary and permanent easements, zoning and other requirements and encumbrances affecting land use, or necessary to permit the proper design and construction of the Project and enable Design-Builder to perform the Work;

3.2.1.4 A legal description of the Site;

3.2.1.5 To the extent available, record drawings of any existing structures at the Site; and

3.2.1.6 To the extent available, environmental studies, reports and impact statements describing the environmental conditions, including Hazardous Conditions, in existence at the Site.

3.2.2 Owner is responsible for securing and executing all necessary agreements with adjacent land or property owners that are necessary to enable Design-Builder to perform the Work. Owner is further responsible for all costs, including attorneys' fees, incurred in securing these necessary agreements.

3.3 Financial Information.

3.3.1 At Design-Builder's request, Owner shall promptly furnish reasonable evidence satisfactory to Design-Builder that Owner has adequate funds available and committed to fulfill all of Owner's contractual obligations under the Contract Documents. If Owner fails to furnish such financial information in a timely manner, Design-Builder may stop Work under Section 11.3 hereof or exercise any other right permitted under the Contract Documents.

3.3.2 Design-Builder shall cooperate with the reasonable requirements of Owner's lenders or

other financial sources. Notwithstanding the preceding sentence, after execution of the Agreement Design-Builder shall have no obligation to execute for Owner or Owner's lenders or other financial sources any documents or agreements that require Design-Builder to assume obligations or responsibilities greater than those existing obligations Design-Builder has under the Contract Documents.

3.4 Owner's Representative.

3.4.1 Owner's Representative shall be responsible for providing Owner-supplied information and approvals in a timely manner to permit Design-Builder to fulfill its obligations under the Contract Documents. Owner's Representative shall communicate regularly with Design-Builder and shall be vested with the authority to act on behalf of Owner.

3.5 Government Approvals and Permits.

3.5.1 Owner shall obtain and pay for all necessary permits, approvals, licenses, government charges and inspection fees set forth in the Owner's Permit List attached as an exhibit to the Agreement.

3.5.2 Owner shall provide reasonable assistance to Design-Builder in obtaining those permits, approvals and licenses that are Design-Builder's responsibility.

3.6 Owner's Separate Contractors.

3.6.1 Owner is responsible for all work performed on, or for, the Project or at the Site, by separate contractors, consultants, architects or engineers under Owner's control, subject to Design-Builder's obligation to coordinate any design documents provided by Owner consultants with those of the Design-Builder for accuracy, completeness and integration. Owner shall contractually require its separate contractors, consultants, architects and engineers to cooperate with, and coordinate their activities with Design-Builder and, as necessary, Design-Builder's design consultants, so as not to interfere with Design-Builder and to enable Design-Builder to timely and safely complete the Work consistent with the Contract Documents. Should Design-Builder be adversely impacted or delayed by Owner's separate contractors, consultants, architects and engineers, or any of them, it shall notify Owner in writing of such event with a copy to the offending party, and the Design-Builder may make a claim as provided by the Agreement.

3.6.2 Design-Builder's safety rules and requirements for the Project shall apply to Owner and its separate contractors, consultants, architects and engineers.

Article 4

Hazardous Conditions and Differing Site Conditions

4.1 Hazardous Conditions.

4.1.1 Unless otherwise expressly provided in the Contract Documents to be part of the Work, Design-Builder is not responsible for any Hazardous Conditions encountered at the Site. Upon encountering any Hazardous Conditions, Design-Builder will stop Work immediately in the affected area and duly notify Owner and, if required by Legal Requirements, all government or quasi-government entities with jurisdiction over the Project or Site.

4.1.2 Upon receiving notice of the presence of suspected Hazardous Conditions, Owner shall take the necessary measures required to ensure that the Hazardous Conditions are remediated or rendered harmless. Such necessary measures shall include Owner retaining qualified independent

experts to (i) ascertain whether Hazardous Conditions have actually been encountered, and, if they have been encountered, (ii) prescribe the remedial measures that Owner must take either to remove the Hazardous Conditions or render the Hazardous Conditions harmless.

4.1.3 Design-Builder shall be obligated to resume Work at the affected area of the Project only after Owner's expert provides it with written certification that (i) the Hazardous Conditions have been removed or rendered harmless and (ii) all necessary approvals have been obtained from all government and quasi-government entities having jurisdiction over the Project or Site.

4.1.4 Design-Builder will be entitled, in accordance with these General Conditions of Contract, to an adjustment in its Contract Price and/or Contract Time(s) to the extent Design-Builder's cost and/or time of performance have been adversely impacted by the presence of Hazardous Conditions.

4.1.5 To the fullest extent permitted by law, Owner shall indemnify, defend and hold harmless Design-Builder, Design Consultants, Subcontractors, anyone employed directly or indirectly by any of them, and their officers, directors, employees and agents, from and against any and all claims, losses, damages, liabilities and expenses, including reasonable attorneys' fees and expenses, arising out of or resulting from the presence, removal or remediation of Hazardous Conditions at the Site.

4.1.6 Notwithstanding the preceding provisions of this Section 4.1, Owner is not responsible for Hazardous Conditions introduced to the Site by Design-Builder, Subcontractors or anyone for whose acts they may be liable. To the fullest extent permitted by law, Design-Builder shall indemnify, defend and hold harmless Owner and Owner's officers, directors, employees and agents from and against all claims, losses, damages, liabilities and expenses, including reasonable attorneys' fees and expenses, arising out of or resulting from those Hazardous Conditions introduced to the Site by Design-Builder, Subcontractors or anyone for whose acts they may be liable.

4.2 Differing Site Conditions.

4.2.1 Concealed or latent physical conditions or subsurface conditions at the Site that (i) materially differ from the conditions indicated in the Contract Documents or (ii) are of an unusual nature, differing materially from the conditions ordinarily encountered and generally recognized as inherent in the Work are collectively referred to herein as "Differing Site Conditions." If Design-Builder encounters a Differing Site Condition, Design-Builder will be entitled to an adjustment in the Contract Price and/or Contract Time(s) to the extent Design-Builder's cost and/or time of performance (critical path activities of the Work) are adversely impacted by the Differing Site Condition.

4.2.2 Upon encountering a Differing Site Condition, Design-Builder shall provide prompt written notice to Owner of such condition, which notice shall not be later than fourteen (14) days after such condition has been encountered. Design-Builder shall, to the extent reasonably possible, provide such notice before the Differing Site Condition has been substantially disturbed or altered.

Article 5

Insurance and Bonds

5.1 Design-Builder's Insurance Requirements.

5.1.1 Design-Builder is responsible for procuring and maintaining the insurance for the coverage amounts all as set forth in the Insurance Exhibit to the Agreement (Exhibit E). Coverage shall be secured from insurance companies authorized to do business in the state in which the Project is

located, and with a minimum rating set forth in the Agreement.

5.1.2 Design-Builder's insurance shall specifically delete any design-build or similar exclusions that could compromise coverages because of the design-build delivery of the Project.

5.1.3 Prior to commencing any construction services hereunder, Design-Builder shall provide Owner with certificates evidencing that (i) all insurance obligations required by the Contract Documents are in full force and in effect and will remain in effect for the duration required by the Contract Documents and (ii) no insurance coverage will be canceled, renewal refused, or materially changed unless at least thirty (30) days prior written notice is given to Owner. If any of the foregoing insurance coverages are required to remain in force after final payment are reasonably available, an additional certificate evidencing continuation of such coverage shall be submitted with the Final Application for Payment. If any information concerning reduction of coverage is not furnished by the insurer, it shall be furnished by the Design-Builder with reasonable promptness according to the Design-Builder's information and belief.

5.2 Owner's Liability Insurance.

5.2.1 Owner shall procure and maintain from insurance companies authorized to do business in the state in which the Project is located such liability insurance as set forth in the Insurance Exhibit to the Agreement to protect Owner from claims which may arise from the performance of Owner's obligations under the Contract Documents or Owner's conduct during the course of the Project.

5.3 Owner's Property Insurance.

5.3.1 Unless otherwise provided in the Contract Documents, Owner shall procure and maintain from insurance companies authorized to do business in the state in which the Project is located property insurance upon the entire Project to the full insurable value of the Project, including professional fees, overtime premiums and all other expenses incurred to replace or repair the insured property. The property insurance obtained by Owner shall be the broadest coverage commercially available, and shall include as additional insureds the interests of Owner, Design-Builder, Design Consultants and Subcontractors of any tier. Such insurance shall include but not be limited to the perils of fire and extended coverage, theft, vandalism, malicious mischief, collapse, flood, earthquake, debris removal and other perils or causes of loss as called for in the Contract Documents. The property insurance shall include physical loss or damage to the Work, including materials and equipment in transit, at the Site or at another location as may be indicated in Design-Builder's Application for Payment and approved by Owner. The Owner is responsible for the payment of any deductibles under the insurance required by this Section 5.3.1.

5.3.2 Unless the Contract Documents provide otherwise, Design-Builder shall procure and maintain boiler and machinery insurance that will include the interests of Owner, Design-Builder, Design Consultants, and Subcontractors of any tier. The Design-Builder is responsible for the payment of any deductibles under the insurance required by this Section 5.3.2.

5.3.3 Prior to Design-Builder commencing any Work, Owner shall provide Design-Builder with certificates evidencing that (i) all Owner's insurance obligations required by the Contract Documents are in full force and in effect and will remain in effect until Design-Builder has completed all of the Work and has received final payment from Owner and (ii) no insurance coverage will be canceled, renewal refused, or materially changed unless at least thirty (30) days prior written notice is given to Design-Builder. Owner's property insurance shall not lapse or be canceled if Owner occupies a portion of the Work pursuant to Section 6.6.3 hereof. Owner shall provide Design-Builder with the necessary endorsements from the insurance company prior to occupying a portion of the Work.

5.3.4 Any loss covered under Owner's property insurance shall be adjusted with Owner and Design-Builder and made payable to both of them as trustees for the insureds as their interests may appear, subject to any applicable mortgage clause. All insurance proceeds received as a result

of any loss will be placed in a separate account and distributed in accordance with such agreement as the interested parties may reach. Any disagreement concerning the distribution of any proceeds will be resolved in accordance with Article 10 hereof.

5.3.5 Owner and Design-Builder waive against each other and Owner's separate contractors, Design Consultants, Subcontractors, agents and employees of each and all of them, all damages covered by property insurance provided herein, except such rights as they may have to the proceeds of such insurance. Design-Builder and Owner shall, where appropriate, require similar waivers of subrogation from Owner's separate contractors, Design Consultants and Subcontractors and shall require each of them to include similar waivers in their contracts. These waivers of subrogation shall not contain any restriction or limitation that will impair the full and complete extent of its applicability to any person or entity unless agreed to in writing prior to the execution of this Agreement.

5.4 Bonds and Other Performance Security.

5.4.1 If Owner requires Design-Builder to obtain performance and labor and material payment bonds, or other forms of performance security, the amount, form and other conditions of such security shall be as set forth in the Agreement.

5.4.2 All bonds furnished by Design-Builder shall be in a form satisfactory to Owner. The surety shall be a company qualified and registered to conduct business in the state in which the Project is located.

Article 6

Payment

6.1 Schedule of Values.

6.1.1 Unless required by the Owner upon execution of this Agreement, within ten (10) days of execution of the Agreement, Design-Builder shall submit for Owner's review and approval a schedule of values for all of the Work. The Schedule of Values will (i) subdivide the Work into its respective parts, (ii) include values for all items comprising the Work and (iii) serve as the basis for monthly progress payments made to Design-Builder throughout the Work.

6.1.2 The Owner will timely review and approve the schedule of values so as not to delay the submission of the Design-Builder's first application for payment. The Owner and Design-Builder shall timely resolve any differences so as not to delay the Design-Builder's submission of its first application for payment.

6.2 Monthly Progress Payments.

6.2.1 On or before the date established in the Agreement, Design-Builder shall submit for Owner's review and approval its Application for Payment requesting payment for all Work performed as of the date of the Application for Payment. The Application for Payment shall be accompanied by all supporting documentation required by the Contract Documents and/or established at the meeting required by Section 2.1.4 hereof, which shall include as a condition precedent to payment (i) interim lien waivers for interim payments and final lien waivers for final payment, in the forms attached as **Exhibit G**, from the Design Builder and each Subcontractor and Sub-Subcontractor (who is providing labor or materials in excess of \$25,000.00 in the aggregate) and (ii) the Design-Builder's affidavit attached as **Exhibit H**.

6.2.2 The Application for Payment may request payment for equipment and materials not yet incorporated into the Project, provided that (i) Owner is satisfied that the equipment and materials are suitably stored at either the Site or another acceptable location, (ii) the equipment and materials are protected by suitable insurance and (iii) upon payment, Owner will receive the equipment and

materials free and clear of all liens and encumbrances.

6.2.3 All discounts offered by Subcontractor, Sub-Subcontractors and suppliers to Design-Builder for early payment shall accrue one hundred percent to Design-Builder to the extent Design-Builder advances payment. Unless Owner advances payment to Design-Builder specifically to receive the discount, Design-Builder may include in its Application for Payment the full undiscounted cost of the item for which payment is sought.

6.2.4 The Application for Payment shall constitute Design-Builder's representation that the Work described herein has been performed consistent with the Contract Documents, has progressed to the point indicated in the Application for Payment, and that title to all Work will pass to Owner free and clear of all claims, liens, encumbrances, and security interests upon the incorporation of the Work into the Project, or upon Design-Builder's receipt of payment, whichever occurs earlier.

6.3 Withholding of Payments.

6.3.1 On or before the date established in the Agreement, Owner shall pay Design-Builder all amounts properly due. If Owner determines that Design-Builder is not entitled to all or part of an Application for Payment as a result of Design-Builder's failure to meet its obligations hereunder, it will endeavor to notify Design-Builder in writing at least five (5) days prior to the date payment is due. The notice shall indicate the specific amounts Owner intends to withhold, the reasons and contractual basis for the withholding, and the specific measures Design-Builder must take to rectify Owner's concerns. Design-Builder and Owner will attempt to resolve Owner's concerns prior to the date payment is due. If the parties cannot resolve such concerns, Design-Builder may pursue its rights under the Contract Documents, including those under Article 10 hereof.

6.3.2 Notwithstanding anything to the contrary in the Contract Documents, Owner shall pay Design-Builder all undisputed amounts in an Application for Payment within the times required by the Agreement, subject to its right to withhold pursuant to Section 6.3.3.

6.3.3 The Owner may refuse to make any payment to the Design-Builder to the extent that the Owner deems it necessary or desirable to protect itself against loss or damage due to: (i) defective work not remedied; (ii) third-party claims, notices of intent to lien, liens, notice of lien on funds, stop notices or similar claims, or reasonable evidence indicating probable filing of such claims or liens; (iii) failure of the Design-Builder to make payments properly to Subcontractors or for labor, material or equipment; (iv) reasonable evidence that the Work cannot be completed without exceeding the GMP; (v) reasonable evidence that the Work will not be completed by the required completion dates specified herein; (vi) persistent failure to prosecute or carry out the Work, or unsatisfactory supervision of the Work by the Design-Builder; (vii) damage to the Owner or another contractor; (viii) or accrued liquidated damages (if applicable under this Agreement).

6.4 Right to Stop Work and Interest.

6.4.1 If Owner fails to pay timely Design-Builder any amount that becomes due, Design-Builder, in addition to all other remedies provided in the Contract Documents, may stop Work pursuant to Section 11.3 hereof. All payments due and unpaid shall bear interest at the rate set forth in the Agreement.

6.5 Design-Builder's Payment Obligations.

6.5.1 Design-Builder will pay Design Consultants and Subcontractors, in accordance with its contractual obligations to such parties, all the amounts Design-Builder has received from Owner on account of their work. Design-Builder will impose similar requirements on Design Consultants and Subcontractors to pay those parties with whom they have contracted. Design-Builder will indemnify and defend Owner against any claims for payment and mechanic's liens as set forth in Section 7.3 hereof.

6.6 Substantial Completion.

6.6.1 Design-Builder shall notify Owner when it believes the Work, or to the extent permitted in the Contract Documents, a portion of the Work, is Substantially Complete. Within five (5) days of Owner's receipt of Design-Builder's notice, Owner and Design-Builder will jointly inspect such Work to verify that it is Substantially Complete in accordance with the requirements of the Contract Documents. If such Work is Substantially Complete, Owner shall prepare and issue a Certificate of Substantial Completion that will set forth (i) the date of Substantial Completion of the Work or portion thereof, (ii) the remaining items of Work that have to be completed before final payment, (iii) provisions (to the extent not already provided in the Contract Documents) establishing Owner's and Design-Builder's responsibility for the Project's security, maintenance, utilities and insurance pending final payment, and (iv) an acknowledgment that warranties commence to run on the date of Substantial Completion, except as may otherwise be noted in the Certificate of Substantial Completion.

6.6.2 Upon Substantial Completion of the entire Work or, if applicable, any portion of the Work, Owner shall release to Design-Builder all retained amounts relating, as applicable, to the entire Work or completed portion of the Work, less an amount equal to the reasonable value of all remaining or incomplete items of Work as noted in the Certificate of Substantial Completion.

6.6.3 Owner, at its option, may use a portion of the Work which has been determined to be Substantially Complete, provided, however, that (i) a Certificate of Substantial Completion has been issued for the portion of Work addressing the items set forth in Section 6.6.1 above, (ii) Design-Builder and Owner have obtained the consent of their sureties and insurers, and to the extent applicable, the appropriate government authorities having jurisdiction over the Project, and (iii) Owner and Design-Builder agree that Owner's use or occupancy will not interfere with Design-Builder's completion of the remaining Work.

6.7 Final Payment.

6.7.1 After receipt of a Final Application for Payment from Design-Builder, Owner shall make final payment by the time required in the Agreement, provided that Design-Builder has achieved Final Completion.

6.7.2 At the time of submission of its Final Application for Payment, Design-Builder shall provide the following information:

6.7.2.1 An affidavit that there are no claims, obligations or liens outstanding or unsatisfied for labor, services, material, equipment, taxes or other items performed, furnished or incurred for or in connection with the Work which will in any way affect Owner's interests;

6.7.2.2 A general release and waiver in the form attached as **Exhibit I** executed by Design-Builder and each Subcontractor and Sub-Subcontractor (who has provided labor or materials in excess of \$25,000.00 in the aggregate) waiving, upon receipt of final payment by Design-Builder, all claims, except those claims previously made in writing to Owner and remaining unsettled at the time of final payment;

6.7.2.3 Consent of Design-Builder's surety, if any, to final payment;

6.7.2.4 All operating manuals, warranties and other deliverables required by the Contract Documents; and

6.7.2.5 Certificates of insurance confirming that required coverages will remain in effect consistent with the requirements of the Contract Documents.

6.7.3 Upon making final payment, Owner waives all claims against Design-Builder except claims relating to (i) Design-Builder's failure to satisfy its payment obligations, if such failure affects

Owner's interests, (ii) Design-Builder's failure to complete the Work consistent with the Contract Documents, including defects appearing after Substantial Completion and (iii) the terms of any special warranties required by the Contract Documents.

6.7.4 Deficiencies in the Work discovered after Substantial Completion, whether or not such deficiencies would have been included on the Punch List if discovered earlier, shall be deemed warranty Work. Such deficiencies shall be corrected by Design-Builder under Sections 2.9 and 2.10 herein, and shall not be a reason to withhold final payment from Design-Builder, provided, however, that Owner shall be entitled to withhold from the Final Payment the reasonable value of completion of such deficient work until such work is completed.

Article 7

Indemnification

7.1 Patent and Copyright Infringement.

7.1.1 Design-Builder shall defend any action or proceeding brought against Owner based on any claim that the Work, or any part thereof, or the operation or use of the Work or any part thereof, constitutes infringement of any United States patent or copyright, now or hereafter issued. Owner shall give prompt written notice to Design-Builder of any such action or proceeding and will reasonably provide authority, information and assistance in the defense of same. Design-Builder shall indemnify and hold harmless Owner from and against all damages and costs, including but not limited to attorneys' fees and expenses awarded against Owner or Design-Builder in any such action or proceeding. Design-Builder agrees to keep Owner informed of all developments in the defense of such actions.

7.1.2 If Owner is enjoined from the operation or use of the Work, or any part thereof, as the result of any patent or copyright suit, claim, or proceeding, Design-Builder shall at its sole expense take reasonable steps to procure the right to operate or use the Work. If Design-Builder cannot so procure such right within a reasonable time, Design-Builder shall promptly, at Design-Builder's option and at Design-Builder's expense, (i) modify the Work so as to avoid infringement of any such patent or copyright or (ii) replace said Work with Work that does not infringe or violate any such patent or copyright.

7.1.3 Sections 7.1.1 and 7.1.2 above shall not be applicable to any suit, claim or proceeding based on infringement or violation of a patent or copyright (i) relating solely to a particular process or product of a particular manufacturer specified by Owner and not offered or recommended by Design-Builder to Owner or (ii) arising from modifications to the Work by Owner or its agents after acceptance of the Work. If the suit, claim or proceeding is based upon events set forth in the preceding sentence, Owner shall defend, indemnify and hold harmless Design-Builder to the same extent Design-Builder is obligated to defend, indemnify and hold harmless Owner in Section 7.1.1 above.

7.1.4 The obligations set forth in this Section 7.1 shall constitute the sole agreement between the parties relating to liability for infringement of violation of any patent or copyright.

7.2 Tax Claim Indemnification.

7.2.1 If, in accordance with Owner's direction, an exemption for all or part of the Work is claimed for taxes, Owner shall indemnify, defend and hold harmless Design-Builder from and against any liability, penalty, interest, fine, tax assessment, attorneys' fees or other expenses or costs incurred by Design-Builder as a result of any action taken by Design-Builder in accordance with Owner's directive. Owner shall furnish Design-Builder with any applicable tax exemption certificates necessary to obtain such exemption, upon which Design-Builder may rely.

7.3 Payment Claim Indemnification.

7.3.1 Provided that Owner is not in breach of its contractual obligation to make payments to Design-Builder for the Work, Design-Builder shall indemnify, defend and hold harmless Owner from any claims or mechanic's liens brought against Owner or against the Project as a result of the failure of Design-Builder, or those for whose acts it is responsible, to pay for any services, materials, labor, equipment, taxes or other items or obligations furnished or incurred for or in connection with the Work. Within three (3) days of receiving written notice from Owner that such a claim or mechanic's lien has been filed, Design-Builder shall commence to take the steps necessary to discharge said claim or lien, including, if necessary, the furnishing of a mechanic's lien bond. If Design-Builder fails to do so, Owner will have the right to discharge the claim or lien and hold Design-Builder liable for costs and expenses incurred, including attorneys' fees.

7.4 Design-Builder's General Indemnification.

7.4.1 Design-Builder, to the fullest extent permitted by law, shall indemnify, hold harmless and defend Owner, its officers, directors, and employees from and against claims, losses, damages, liabilities, including attorneys' fees and expenses, for bodily injury, sickness or death, and property damage or destruction (other than to the portion of the Work causing the damage) to the extent resulting from the negligent acts or omissions of Design-Builder, Design Consultants, Subcontractors, anyone employed directly or indirectly by any of them or anyone for whose acts any of them may be liable.

7.4.2 If an employee of Design-Builder, Design Consultants, Subcontractors, anyone employed directly or indirectly by any of them or anyone for whose acts any of them may be liable has a claim against Owner, its officers, directors, employees, or agents, Design-Builder's indemnity obligation set forth in Section 7.4.1 above shall not be limited by any limitation on the amount of damages, compensation or benefits payable by or for Design-Builder, Design Consultants, Subcontractors, or other entity under any employee benefit acts, including workers' compensation or disability acts.

7.5 Owner's General Indemnification.

7.5.1 Owner, to the fullest extent permitted by law, shall indemnify, hold harmless and defend Design-Builder and any of Design-Builder's officers, directors, and employees, from and against claims, losses, damages, liabilities, including attorneys' fees and expenses, for bodily injury, sickness or death, and property damage or destruction (other than to the Work itself) to the extent resulting from the negligent acts or omissions of Owner's separate contractors or anyone for whose acts any of them may be liable.

Article 8

Time

8.1 Obligation to Achieve the Contract Times.

8.1.1 Design-Builder agrees that it will commence performance of the Work and achieve the Contract Time(s) in accordance with Article 5 of the Agreement.

8.2 Delays to the Work.

8.2.1 If Design-Builder is delayed in the performance of the Work due to acts, omissions, conditions, events, or circumstances beyond its control and due to no fault of its own or those for whom Design-Builder is responsible, the Contract Time(s) for performance shall be reasonably extended by Change Order to account for delays in the critical path activities of the Work. By way

of example, events that will entitle Design-Builder to an extension of the Contract Time(s) include acts or omissions of Owner or anyone under Owner's control (including separate contractors), adverse weather, changes in the Work, Differing Site Conditions, Hazardous Conditions, and Force Majeure Events.

8.2.2 In addition to Design-Builder's right to a time extension for those events set forth in Section 8.2.1 above, Design-Builder shall also be entitled to an appropriate adjustment of the Contract Price in the event that such critical path delay is caused by the Owner, or the employees or agents of either, and such adjustment shall be only for those direct costs incurred by virtue of the delay including, without limitation, additional field overhead costs actually incurred as a result of delay to the critical path activities of the Work, but Design-Builder shall not be entitled to indirect costs (e.g., home office overhead costs), incidental, or consequential damages; provided, however, that the Contract Price shall not be adjusted for Force Majeure Events unless otherwise provided in the Agreement.

8.2.3 As a precondition to Design-Builder making a Claim for a delay arising out of abnormal weather conditions, Design-Builder shall submit data from the National Oceanic and Atmospheric Administration (NOAA) showing the number of days where precipitation or other inclement weather occurred during the period for which the Claim is made. A work day is considered lost due to adverse weather when 1.) more than 0.1" of rainfall (or equivalent frozen precipitation) is recorded in a given calendar day; 2.) if air temperature highest temperature was 39 degrees F. or less for majority of sunlight hours in a day; 3.) storm preparation and cleanup days; 4.) drying days for soil or building materials following excessive rain/ice/snow events. A day will be considered as "lost" for scheduling purposes even if Work is done on the SOW during the lost day. A day will be considered "worked" even if no Work is done in days when less than 0.1 inch of rainfall is recorded. Design-Builder acknowledges that it has taken weather conditions into account in agreeing to the Substantial Completion Date. Design-Builder shall be entitled to an extension of time only to the extent that the number of Abnormal Weather days (1) exceeds the number of weather days built into the schedule as shown on Exhibit I ("Weather Days") ; and (2) Design-Builder complies with all of the other requirements for such a claim under the Contract Documents.

Article 9

Changes to the Contract Price and Time

9.1 Change Orders.

9.1.1 A Change Order is a written instrument issued after execution of the Agreement signed by Owner and Design-Builder, stating their agreement upon all of the following:

9.1.1.1 The scope of the change in the Work;

9.1.1.2 The amount of the adjustment to the Contract Price; and

9.1.1.3 The extent of the adjustment to the Contract Time(s).

9.1.2 All changes in the Work authorized by applicable Change Order shall be performed under the applicable conditions of the Contract Documents. Owner and Design-Builder shall negotiate in good faith and as expeditiously as possible the appropriate adjustments for such changes.

9.1.3 If Owner requests a proposal for a change in the Work from Design-Builder and subsequently elects not to proceed with the change, a Change Order shall be issued to reimburse Design-Builder for actual costs reasonably incurred for estimating services, design services and services involved in the preparation of proposed revisions to the Contract Documents.

9.2 Work Change Directives.

9.2.1 A Work Change Directive is a written order prepared and signed by Owner directing a change in the Work prior to agreement on an adjustment in the Contract Price and/or the Contract Time(s).

9.2.2 Owner and Design-Builder shall negotiate in good faith and as expeditiously as possible the appropriate adjustments for the Work Change Directive. Upon reaching an agreement, the parties shall prepare and execute an appropriate Change Order reflecting the terms of the agreement.

9.3 Minor Changes in the Work.

9.3.1 Minor changes in the Work do not involve an adjustment in the Contract Price and/or Contract Time(s) and do not materially and adversely affect the Work, including the design, quality, performance and workmanship required by the Contract Documents. Design-Builder may make minor changes in the Work consistent with the intent of the Contract Documents, provided, however, that Design-Builder shall promptly inform Owner, in writing, of any such changes and record such changes on the documents maintained by Design-Builder.

9.4 Contract Price Adjustments.

9.4.1 The increase or decrease in Contract Price resulting from a change in the Work shall be determined by one or more of the following methods:

9.4.1.1 Unit prices set forth in the Agreement or as subsequently agreed to between the parties;

9.4.1.2 A mutually accepted lump sum, properly itemized and supported by sufficient substantiating data to permit evaluation by Owner;

9.4.1.3 Costs, fees and any other markups set forth in the Agreement; or

9.4.1.4 If an increase or decrease cannot be agreed to as set forth in items 9.4.1.1 through 9.4.1.3 above and Owner issues a Work Change Directive, the cost of the change of the Work shall be determined by the reasonable expense and savings in the performance of the Work resulting from the change, including a reasonable overhead and profit, as may be set forth in the Agreement.

9.4.2 If unit prices are set forth in the Contract Documents or are subsequently agreed to by the parties, but application of such unit prices will cause substantial inequity to Owner or Design-Builder because of differences in the character or quantity of such unit items as originally contemplated, such unit prices shall be equitably adjusted.

9.4.3 If Owner and Design-Builder disagree upon whether Design-Builder is entitled to be paid for any services required by Owner, or if there are any other disagreements over the scope of Work or proposed changes to the Work, Owner and Design-Builder shall resolve the disagreement pursuant to Article 10 hereof. As part of the negotiation process, Design-Builder shall furnish Owner with a good faith estimate of the costs to perform the disputed services in accordance with Owner's interpretations. If the parties are unable to agree and Owner expects Design-Builder to perform the services in accordance with Owner's interpretations, Design-Builder shall proceed to perform the disputed services, conditioned upon Owner issuing a written order to Design-Builder (i) directing Design-Builder to proceed and (ii) specifying Owner's interpretation of the services that are to be performed. If this occurs, Design-Builder shall be entitled to submit in its Applications for Payment an amount equal to fifty percent (50%) of its reasonable estimated direct cost to perform the services, and Owner agrees to pay such amounts, with the express understanding that (i) such payment by Owner does not prejudice Owner's right to argue that it has no responsibility to pay for

such services and (ii) receipt of such payment by Design-Builder does not prejudice Design-Builder's right to seek full payment of the disputed services if Owner's order is deemed to be a change to the Work.

9.5 Emergencies.

9.5.1 In any emergency affecting the safety of persons and/or property, Design-Builder shall act, at its discretion, to prevent threatened damage, injury or loss. Any change in the Contract Price and/or Contract Time(s) on account of emergency work shall be determined as provided in this Article 9.

Article 10

Contract Adjustments and Disputes

10.1 Requests for Contract Adjustments and Relief.

10.1.1 If Design-Builder believes that it is entitled make a claim for increases in the Contract Sum or Contract Time or other for any event arising out of or related to the Work or Project, Design-Builder shall provide written notice to Owner of the basis for its claim for relief. Such notice shall, if possible, be made prior to incurring any cost or expense and, unless otherwise provided in these General Conditions, within ten (10) days after the occurrence giving rise to the claim for relief or after the Design-Builder reasonably should have recognized the event or condition giving rise to the request, whichever is later. Such notice shall include sufficient information to advise the Owner of the circumstances giving rise to the claim for relief, the specific contractual adjustment or relief requested and the basis of such request.

10.2 Dispute Avoidance and Resolution.

10.2.1 The parties are fully committed to working with each other throughout the Project and agree to communicate regularly with each other at all times so as to avoid or minimize disputes or disagreements. If disputes or disagreements do arise, Design-Builder and Owner each commit to resolving such disputes or disagreements in an amicable, professional and expeditious manner so as to avoid unnecessary losses, delays and disruptions to the Work.

10.2.2 Design-Builder and Owner will first attempt to resolve disputes or disagreements at the field level through discussions between Design-Builder's Representative and Owner's Representative which shall conclude within fourteen (14) days of the written notice provided for in Section 10.1.1 unless the Owner and Design-Builder mutually agree otherwise.

10.2.3 If a dispute or disagreement cannot be resolved through Design-Builder's Representative and Owner's Representative, Design-Builder's Senior Representative and Owner's Senior Representative, upon the request of either party, shall meet as soon as conveniently possible, but in no case later than thirty (30) days after such a request is made, to attempt to resolve such dispute or disagreement. Five (5) days prior to any meetings between the Senior Representatives, the parties will exchange relevant information that will assist the parties in resolving their dispute or disagreement.

10.2.4 If after meeting the Senior Representatives determine that the dispute or disagreement cannot be resolved on terms satisfactory to both parties, the parties may submit within thirty (30) days of the conclusion of the meeting of Senior Representatives the dispute or disagreement to non-binding mediation and in no event shall any such mediation be a condition precedent to further dispute resolution proceedings. The mediation shall be conducted by a mutually agreeable impartial mediator, or if the parties cannot so agree, a mediator designated by the American Arbitration

Association ("AAA") pursuant to its Construction Industry Mediation Rules. The mediation will be governed by and conducted pursuant to a mediation agreement negotiated by the parties or, if the parties cannot so agree, by procedures established by the mediator. Unless otherwise mutually agreed by the Owner and Design-Builder and consistent with the mediator's schedule, the mediation shall commence within ninety (90) days of the submission of the dispute to mediation.

10.3 Not Used

10.4 Duty to Continue Performance.

10.4.1 Unless provided to the contrary in the Contract Documents, Design-Builder shall continue to perform the Work and Owner shall continue to satisfy its payment obligations to Design-Builder, pending the final resolution of any dispute or disagreement between Design-Builder and Owner.

10.5 CONSEQUENTIAL DAMAGES.

10.5.1 NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY (EXCEPT AS SET FORTH IN SECTION 10.5.2 BELOW), NEITHER DESIGN-BUILDER NOR OWNER SHALL BE LIABLE TO THE OTHER FOR ANY CONSEQUENTIAL LOSSES OR DAMAGES, WHETHER ARISING IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO LOSSES OF USE, PROFITS, BUSINESS, REPUTATION OR FINANCING.

10.5.2 The consequential damages limitation set forth in Section 10.5.1 above is not intended to affect, and expressly excludes: (i) the payment of liquidated damages or lost early completion bonus, if any, set forth in Article 5 of the Agreement, which both parties recognize has been established, in part, to reimburse Owner or reward Design-Builder for some damages that might otherwise be deemed to be consequential; and (ii) damages recovered through insurance.

Article 11

Stop Work and Termination for Cause

11.1 Owner's Right to Stop Work.

11.1.1 Owner may, without cause and for its convenience, order Design-Builder in writing to stop and suspend the Work. Such suspension shall not exceed sixty (60) consecutive days or aggregate more than ninety (90) days during the duration of the Project.

11.1.2 Design-Builder is entitled to seek an adjustment of the Contract Price and/or Contract Time(s) if its cost or time to perform the Work has been adversely impacted (critical path activities of the Work as regards time) by any suspension of stoppage of the Work by Owner.

11.2 Owner's Right to Perform and Terminate for Cause.

11.2.1 If Design-Builder persistently fails to (i) provide a sufficient number of skilled workers, (ii) supply the materials required by the Contract Documents, (iii) comply with applicable Legal Requirements, (iv) timely pay, without cause, Design Consultants or Subcontractors, (v) prosecute the Work with promptness and diligence to ensure that the Work is completed by the Contract Time(s), as such times may be adjusted, or (vi) perform material obligations under the Contract Documents, then Owner, in addition to any other rights and remedies provided in the Contract Documents or by law, shall have the rights set forth in Sections 11.2.2 and 11.2.3 below.

11.2.2 Upon the occurrence of an event set forth in Section 11.2.1 above, Owner may provide written notice to Design-Builder that it intends to terminate the Agreement unless the problem cited is cured, or commenced to be cured, within seven (7) days of Design-Builder's receipt of such

notice. If Design-Builder fails to cure, or reasonably commence to cure, such problem, then Owner may declare the Agreement terminated for default by providing written notice to Design-Builder of such declaration.

11.2.3 Upon declaring the Agreement terminated pursuant to Section 11.2.2 above, Owner may enter upon the premises and take possession, for the purpose of completing the Work, of all materials, equipment, scaffolds, tools, appliances and other items thereon, which have been purchased or provided for the performance of the Work, all of which Design-Builder hereby transfers, assigns and sets over to Owner for such purpose, and to employ any person or persons to complete the Work and provide all of the required labor, services, materials, equipment and other items. In the event of such termination, Design-Builder shall not be entitled to receive any further payments under the Contract Documents until the Work shall be finally completed in accordance with the Contract Documents. At such time, if the unpaid balance of the Contract Price exceeds the cost and expense incurred by Owner in completing the Work, such excess shall be paid by Owner to Design-Builder. Notwithstanding the preceding sentence, if the Agreement establishes a Guaranteed Maximum Price, Design-Builder will only be entitled to be paid for Work performed prior to its default. If Owner's cost and expense of completing the Work exceeds the unpaid balance of the Contract Price, then Design-Builder shall be obligated to pay the difference to Owner. Such costs and expense shall include not only the cost of completing the Work, but also losses, damages, costs and expense, including attorneys' fees and expenses, incurred by Owner in connection with the repurchase and defense of claims arising from Design-Builder's default, subject to the waiver of consequential damages set forth in Section 10.5 hereof.

11.2.4 If Owner improperly terminates the Agreement for cause, the termination for cause will be converted to a termination for convenience in accordance with the provisions of Article 8 of the Agreement.

11.3 Design-Builder's Right to Stop Work.

11.3.1 Design-Builder may, in addition to any other rights afforded under the Contract Documents or at law, stop the Work for the following reasons:

11.3.1.1 Owner's failure to provide financial assurances as required under Section 3.3 hereof; or

11.3.1.2 Owner's failure to pay amounts properly due under Design-Builder's Application for Payment.

11.3.2 Should any of the events set forth in Section 11.3.1 above occur, Design-Builder has the right to provide Owner with written notice that Design-Builder will stop the Work unless said event is cured within fifteen (15) days from Owner's receipt of Design-Builder's notice. If Owner does not cure the problem within such fifteen (15) day period, Design-Builder may stop the Work. In such case, Design-Builder shall be entitled to make a claim for adjustment to the Contract Price and Contract Time(s) to the extent it has been adversely impacted (critical path activities of the Work, in the cast of the Contract Time) by such stoppage.

11.4 Design-Builder's Right to Terminate for Cause.

11.4.1 Design-Builder, in addition to any other rights and remedies provided in the Contract Documents or by law, may terminate the Agreement for cause for the following reasons:

11.4.1.1 The Work has been stopped for sixty (60) consecutive days, or more than ninety (90) days during the duration of the Project, because of court order, any government authority having jurisdiction over the Work, or orders by Owner under Section 11.1.1 hereof, provided that such stoppages are not due to the acts or omissions of Design-Builder or anyone for whose acts Design-Builder may be responsible.

11.4.1.2 Owner's failure to provide Design-Builder with any information, permits or approvals that are Owner's responsibility under the Contract Documents which result in the Work being stopped for sixty (60) consecutive days, or more than ninety (90) days during the duration of the Project, even though Owner has not ordered Design-Builder in writing to stop and suspend the Work pursuant to Section 11.1.1 hereof.

11.4.1.3 Owner's failure to cure the problems set forth in Section 11.3.1 above after Design-Builder has stopped the Work.

11.4.2 Upon the occurrence of an event set forth in Section 11.4.1 above, Design-Builder may provide written notice to Owner that it intends to terminate the Agreement unless the problem cited is cured, or commenced to be cured, within seven (7) days of Owner's receipt of such notice. If Owner fails to cure, or reasonably commence to cure, such problem, then Design-Builder may give a second written notice to Owner of its intent to terminate within an additional seven (7) day period. If Owner, within such second seven (7) day period, fails to cure, or reasonably commence to cure, such problem, then Design-Builder may declare the Agreement terminated for default by providing written notice to Owner of such declaration. In such case, Design-Builder shall be entitled to recover in the same manner as if Owner had terminated the Agreement for its convenience under Article 8 of the Agreement.

11.5 Bankruptcy of Owner or Design-Builder.

11.5.1 If either Owner or Design-Builder institutes or has instituted against it a case under the United States Bankruptcy Code (such party being referred to as the "Bankrupt Party"), such event may impair or frustrate the Bankrupt Party's ability to perform its obligations under the Contract Documents. Accordingly, should such event occur:

11.5.1.1 The Bankrupt Party, its trustee or other successor, shall furnish, upon request of the non-Bankrupt Party, adequate assurance of the ability of the Bankrupt Party to perform all future material obligations under the Contract Documents, which assurances shall be provided within ten (10) days after receiving notice of the request; and

11.5.1.2 The Bankrupt Party shall file an appropriate action within the bankruptcy court to seek assumption or rejection of the Agreement within sixty (60) days of the institution of the bankruptcy filing and shall diligently prosecute such action.

If the Bankrupt Party fails to comply with its foregoing obligations, the non-Bankrupt Party shall be entitled to request the bankruptcy court to reject the Agreement, declare the Agreement terminated and pursue any other recourse available to the non-Bankrupt Party under this Article 11.

11.5.2 The rights and remedies under Section 11.5.1 above shall not be deemed to limit the ability of the non-Bankrupt Party to seek any other rights and remedies provided by the Contract Documents or by law, including its ability to seek relief from any automatic stays under the United States Bankruptcy Code or the right of Design-Builder to stop Work under any applicable provision of these General Conditions of Contract.

Article 12

Electronic Data

12.1 Electronic Data.

12.1.1 The parties recognize that Contract Documents, including drawings, specifications and three-dimensional modeling (such as Building Information Models) and other Work Product may be transmitted among Owner, Design-Builder and others in electronic media as an alternative to paper

hard copies (collectively "Electronic Data").

12.2 Transmission of Electronic Data.

12.2.1 Owner and Design-Builder shall agree upon the software and the format for the transmission of Electronic Data. Each party shall be responsible for securing the legal rights to access the agreed-upon format, including, if necessary, obtaining appropriately licensed copies of the applicable software or electronic program to display, interpret and/or generate the Electronic Data.

12.2.2 Neither party makes any representations or warranties to the other with respect to the functionality of the software or computer program associated with the electronic transmission of Work Product. Unless specifically set forth in the Agreement, ownership of the Electronic Data does not include ownership of the software or computer program with which it is associated, transmitted, generated or interpreted.

12.2.3 By transmitting Work Product in electronic form, the transmitting party does not transfer or assign its rights in the Work Product. The rights in the Electronic Data shall be as set forth in Article 4 of the Agreement. Under no circumstances shall the transfer of ownership of Electronic Data be deemed to be a sale by the transmitting party of tangible goods.

12.3 Electronic Data Protocol.

12.3.1 The parties acknowledge that Electronic Data may be altered or corrupted, intentionally or otherwise, due to occurrences beyond their reasonable control or knowledge, including but not limited to compatibility issues with user software, manipulation by the recipient, errors in transcription or transmission, machine error, environmental factors, and operator error. Consequently, the parties understand that there is some level of increased risk in the use of Electronic Data for the communication of design and construction information and, in consideration of this, agree, and shall require their independent contractors, Subcontractors and Design Consultants to agree, to the following protocols, terms and conditions set forth in this Section 12.3.

12.3.2 Electronic Data will be transmitted in the format agreed upon in Section 12.2.1 above, including file conventions and document properties, unless prior arrangements are made in advance in writing.

12.3.3 The Electronic Data represents the information at a particular point in time and is subject to change. Therefore, the parties shall agree upon protocols for notification by the author to the recipient of any changes which may thereafter be made to the Electronic Data, which protocol shall also address the duty, if any, to update such information, data or other information contained in the electronic media if such information changes prior to Final Completion of the Project.

12.3.4 The transmitting party specifically disclaims all warranties, expressed or implied, including, but not limited to, implied warranties of merchantability and fitness for a particular purpose, with respect to the media transmitting the Electronic Data. However, transmission of the Electronic Data via electronic means shall not invalidate or negate any duties pursuant to the applicable standard of care with respect to the creation of the Electronic Data, unless such data is materially changed or altered after it is transmitted to the receiving party, and the transmitting party did not participate in such change or alteration.

Article 13

Miscellaneous

13.1 Confidential Information.

13.1.1 Confidential Information is defined as information which is determined by the transmitting party to be of a confidential or proprietary nature and: (i) the transmitting party identifies as either confidential or proprietary; (ii) the transmitting party takes steps to maintain the confidential or proprietary nature of the information; and (iii) the document is not otherwise available in or considered to be in the public domain. The receiving party agrees to maintain the confidentiality of the Confidential Information and agrees to use the Confidential Information solely in connection with the Project.

13.2 Assignment.

13.2.1 The Design-Builder shall not assign or sublet this Contract, or any portion thereof or the proceeds therefrom, without the Owner's prior written consent. The Owner may assign this Contract to its lender, an affiliated entity, or a purchaser of the Project without the Design-Builder's consent.

13.3 Successorship.

13.3.1 Design-Builder and Owner intend that the provisions of the Contract Documents are binding upon the parties, their employees, agents, heirs, successors and assigns.

13.4 Governing Law.

13.4.1 The Agreement and all Contract Documents shall be governed by the laws of the place of the Project, without giving effect to its conflict of law principles.

13.5 Severability.

13.5.1 If any provision or any part of a provision of the Contract Documents shall be finally determined to be superseded, invalid, illegal, or otherwise unenforceable pursuant to any applicable Legal Requirements, such determination shall not impair or otherwise affect the validity, legality, or enforceability of the remaining provision or parts of the provision of the Contract Documents, which shall remain in full force and effect as if the unenforceable provision or part were deleted.

13.6 No Waiver.

13.6.1 The failure of either Design-Builder or Owner to insist, in any one or more instances, on the performance of any of the obligations required by the other under the Contract Documents shall not be construed as a waiver or relinquishment of such obligation or right with respect to future performance.

13.7 Headings.

13.7.1 The headings used in these General Conditions of Contract, or any other Contract Document, are for ease of reference only and shall not in any way be construed to limit or alter the meaning of any provision.

13.8 Notice.

13.8.1 Whenever the Contract Documents require that notice be provided to the other party, notice will be deemed to have been validly given (i) if delivered in person to the individual intended to receive such notice, (ii) four (4) days after being sent by registered or certified mail, postage prepaid to the address indicated in the Agreement, or (iii) if transmitted by facsimile, by the time stated in a machine generated confirmation that notice was received at the facsimile number of the intended recipient.

13.9 Amendments.

13.9.1 The Contract Documents may not be changed, altered, or amended in any way except in writing signed by a duly authorized representative of each party.

REQUEST FOR QUALIFICATIONS

DESIGN AND CONSTRUCTION SERVICES FOR EAST CLAYTON COMMUNITY PARK - BATHROOM FACILITY AND PICNIC SHELTERS



Issued: October 1, 2019

Town of Clayton
Department of Public Services
Clayton, North Carolina

PPAB 5134690v1

I. General

- A. Pursuant to N.C. Statute Sec. 143-128.1(A), the Town of Clayton (the “Town” or “Owner”) is soliciting proposals from qualified design-build teams interested in providing professional design and construction services for a new bathroom facility, picnic shelters, and associated parking at East Clayton Community Park – 1774 Glen Laurel Rd, Clayton, NC.
- B. The Town will follow a Qualifications Based Selection process as required by N.C. General Statutes and select the most-qualified team to negotiate a contract for services. This RFQ provides complete information on the services being sought, the submittal requirements, and timeline. Copies of the RFQ and any addenda may be downloaded directly from this site: <https://www.townofclaytonnc.org/Finance/bidding-opportunities.aspx>. Interested firms may submit a Statement of Qualifications, meeting the requirements defined in the RFQ to:

Joshua Baird, PE
Town Engineer
Town of Clayton
111 East Second St, Clayton, NC 27520*
PO Box 879 (Via US Mail)
Clayton, NC 27528
Email: prj-ECCP@TownofClaytonNC.org
*For hand delivery

- C. Statements of Qualifications must be received by 12:00 p.m. on 10/16/2019. To ensure receipt of any addenda to the RFQ, please contact the person listed above to register as an interested firm. The Town is not responsible for providing updated information/changes to firms not known by the Town as holding a copy of this RFQ.
- D. Any questions regarding this RFQ must be received in writing prior to 10/8/2019 by 12:00 p.m. Questions received after this date may not receive response. Questions should be directed to the contact above. All written questions will be answered in an addendum posted on the Town’s website: <https://www.townofclaytonnc.org/Finance/bidding-opportunities.aspx>
- E. The Town has established a percentage of goal of 10% for participation by minority business in the awarding of building construction contracts awarded pursuant to N.C. Statute Sec. 143-128(c).
- F. This RFQ does not obligate the Town to pay any costs incurred by respondents in the preparation and submission of a response. Furthermore, the RFQ does not obligate the Town to accept or contract for any expressed or implied services. The Town reserves the right to reject any and all submittals.

II. Background and Project Site

East Clayton Community Park located at 1774 Glen Laurel Road is one of Clayton's newest parks. The current park consists of soccer fields, multipurpose playing fields, baseball field, walking trail and disc golf course. The Town has a desire to further the available amenities and additional opportunities for the community. See Attachment A for additional information on the Project Site.

In 2014, the Town initiated a partnership with Clayton Community Recreational Foundation, Inc. to build a playground for children with intellectual and developmental disabilities. The project, known as Harmony Playground, will provide a place where children of all abilities can play and interact in a welcoming environment. The design for the actual playground has been completed by a consultant in conjunction with the Town and Clayton Community Recreational Foundation, Inc. Furthermore, the Town has committed resources to providing bathroom facilities, picnic shelters and parking to support the playground. The Town seeks to select a design-build team to provide design and construction services for the bathroom facility, picnic shelters and parking areas (the "Design-Builder"). The Town anticipates utilizing pre-fabricated structures for the picnic shelters.

The Design-Builder will be expected to provide concurrent design and construction turnkey activities for this project resulting in a finished, fully usable facility that satisfies all project requirements and contract terms. The Design-Builder, as the sole responsible source for total project compliance and construction related performance (including architectural programming, design, and construction services) will hold all design professionals, testing services (with the exception of Special Inspections by Owner), trade contractors and trade supplier contracts.

III. Scope

A preliminary scope of work for the Design-Builder is outlined below. Additionally, the design-build team will need to coordinate the design and construction with the playground designed by others. The playground design is included in attachment C.

- A. Pre-Planning, schedule and budget review. Review of the prototype and site plan validation. Pre-construction project planning including preliminary cost estimate.
- B. Existing conditions assessment including survey and geotechnical work.
- C. Preparing site, architectural, structural, mechanical, plumbing and electrical design plans based on Owner's criteria and to include:
 - a. Site Design: clearing and grubbing, grading and drainage plans, sedimentation and erosion control plans, layout and staking plans, elevations and sections, construction details, lighting and signage, landscape and planting plans and details;
 - b. Building Design: building plan configuration and elevation elements including exterior building skin materials and colors, foundation, structural and roof systems, building fenestration and openings, overall dimensions, materials testing requirements, Mechanical/Electrical/Plumbing design including systems, equipment and calculations and submittals;
- D. Development and refinement of cost estimates and project schedules;

- E. Construction administration and observation including conferences, weekly site observations and regularly scheduled progress meetings with the Town;
- F. Construction
 - a. Site work to include but not be limited to:
 - i. Clearing and rough grading with excess dirt and material removed from the site. Tree protection and erosion control measures to be immediately put into place.
 - ii. Site utilities including domestic water, sewer, natural gas and electrical service and site lighting.
 - iii. Concrete paving, walkways, utilities, landscaping and storm water retention system.
 - b. Building construction to include but not be limited to:
 - i. Concrete slab on grade foundations with continuous spread reinforced concrete footings and concrete floor slabs.
 - ii. Exterior bearing walls.
 - iii. Roof structure
 - iv. Interior finishes including walls, floor and ceiling finishes, interior doors, casework, painting, wall protection and window coverings.
 - v. Bathroom and bath fixtures and accessories.
 - vi. Interior and exterior signage.
 - vii. Mechanical and electrical systems and controls.
- G. Project closeout, establishment of warranties, and guarantees. Final start-up and certification of mechanical, electrical and plumbing systems.
- H. Provide certified record drawings (site, stormwater and public utilities) as well as electronic copies in both PDF and an approved editable format (.dwg).

IV. PROJECT BUDGET

There is an approximate budget of \$700,000 for completion of this project including all costs and fees.

V. Schedule

Note: All times are Eastern Standard Time

*The Town plans to select based directly on the RFQ submittals, however, may elect to perform interviews if they feel it is warranted.

Sequence of Activity	Schedule
Issue RFQ	October 1, 2019
Deadline for written questions and clarifications on RFQ (prj-ECCP@TownofClaytonNC.org)	October 8, 2019 (12PM)
Town of Clayton issues any addenda	October 10, 2019
Deadline for submission of Statement of Qualifications (Locations above)	October 16, 2019 (12PM)
Notify selected Design-Build firm, begin contract negotiations	October 18, 2019
Complete contract negotiations with selected team and award Contract	November 1, 2019
Project Completion	October 2020

VI. Submittal Response Requirements

Provide five (5) bound copies and one electronic copy in pdf format of your submittal. Submittals shall be a maximum of 20 pages (10 if double sided) and on 8.5" x 11" paper bound such that lay flat when opened. Font size shall be no less than 10 pt. Submittals must contain the following information:

Section 1- Letter of Interest: The Letter of Interest should include a synopsis of the firm, the team's qualifications, the project manager and primary contact, the project principal representing the contractual authority of the firm/team.

Section 2 – Project Organization: Provide a project organization chart identifying the team composition. Define key staff members who will be working on the project and explain their roles and their expected commitment to the project as a percentage of their time. Indicate any firm/company qualifying as a minority entity. Each design-builder shall submit an explanation of its project team selection, which shall consist of either of the following:

A list of the licensed contractors, licensed subcontractors, and licensed design professionals whom the design-builder proposes to use for the project's design and construction.

B. An outline of the strategy the design-builder plans to use for open contractor and subcontractor selection based upon the provisions of Article 8 of Chapter 143 of the General Statutes.

Section 3 - Profile(s) of Firm or Team: Provide information about each firm in the project team. Identify capabilities and experiences, the number of employees and location and number of years in business under its current name. Identify the scope of services to be provided under this project.

Section 4 - Resumes: Provide resumes of the key staff, including the project manager and task leaders. Include resumes for staff identified as having a major role in the project.

Section 5 - Project Approach and Schedule: Provide a description of the proposed approach to the project. Include a response to the preliminary scope but do not simply restate the scope. Identify key risks/ challenges/ concerns you anticipate and any mitigation steps to achieve successful delivery. Describe the team's approach to design document quality assurance and quality control. Describe the firm and/or team's track record delivering projects with minimal change orders. Describe the team's level of experience with the major regulatory bodies likely to be project reviewers, whether local, state or federal. Describe the team's use of technology and how it will be used to engage with the owner in each project phase. Provide an outline project schedule, showing tasks, milestones and deliverables, including review meetings with the Town project team and community groups.

Section 6 - Reference Projects: Please identify recent, representative projects of a similar scope, complexity and size (NO MORE THAN FIVE), performed by the proposed team. At least three should be completed projects. For each project, provide project duration and completion year, references (name, email and phone number), and estimated and completed project cost. Identify which team members performed the work and the role each played in the reference project.

Section 7 – Underutilized Business Enterprise (UBE) Statement – Provide a statement and explanation as to good faith efforts to comply with the Town's UBE goal of 10% or statement of intent to perform contract with own workforce.

VII. Selection Criteria

A team of Town staff will review the proposals based on the criteria below and may make a recommendation to negotiate a tentative contract. This request for qualifications does not commit the Town to award a contract or enter into an agreement, to pay costs incurred in the preparation of a response to this invitation, or to procure or contract for any services or supplies. The Town reserves the right to reject any or all submittals received as a result of this RFQ. Each RFQ response submitted will be evaluated on their Statement of Qualifications score (100 points maximum) as determined through a qualification review process and the scoring criteria noted below.

*The Town plans to select based directly on the RFQ submittals, however, may elect to perform interviews if they feel it is warranted.

1. Design-Build Team Experience and Qualifications - 30 Points
2. Design & Engineering Professionals' Experience and Qualifications - 30 Points
3. Project Understanding and Approach - 20 Points
4. Ability to meet Project Schedule - 10 Points
5. Reference Projects – 10 Points

VIII. Project Delivery and Objectives

At all times and project stages the Design-Builder shall act in the best interests of the Owner and use their best efforts to deliver the project in an expeditious and cost-effective manner consistent with the Owner's project requirements, time constraints and budget. The Design-Builder shall develop a contractually obligated overall project schedule and will be responsible for methods of construction, safety, scheduling and coordination of all construction work in addition to miscellaneous contracts required for completion of the project within its predetermined budget limits and schedule.

The Owner expects all parties to this project to work closely together and deal appropriately with project conditions to finish the job successfully. A spirit of cooperation, collaboration and a commitment among professional design and construction services providers to work in the best interests of the project is of utmost importance.

IX. Attachments

Attachment A – Site Location

Attachment B – Playground Design

ATTACHMENT A



*** DISCLAIMER ***

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



Result 1

id: 05I04016H

Tag: 05I04016H

Owner Name 1: TOWN OF CLAYTON

Owner Name 2:

Mail Address 1:

Mail Address 2: P O BOX 879

Mail Address 3: CLAYTON, NC 27528-0000

Book: 03420

Page: 0521

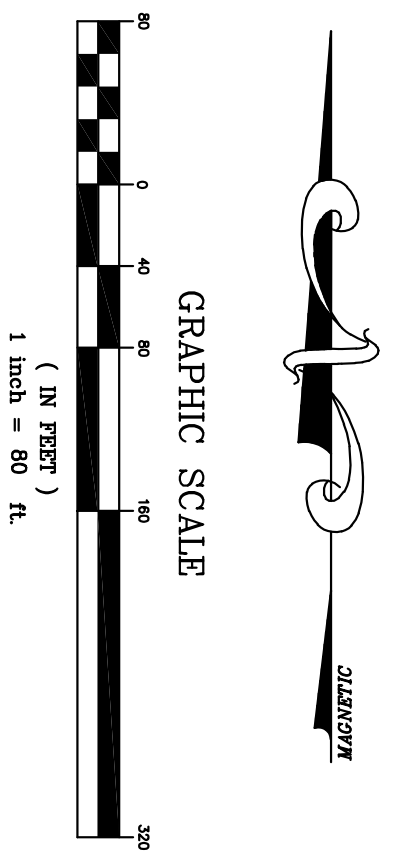
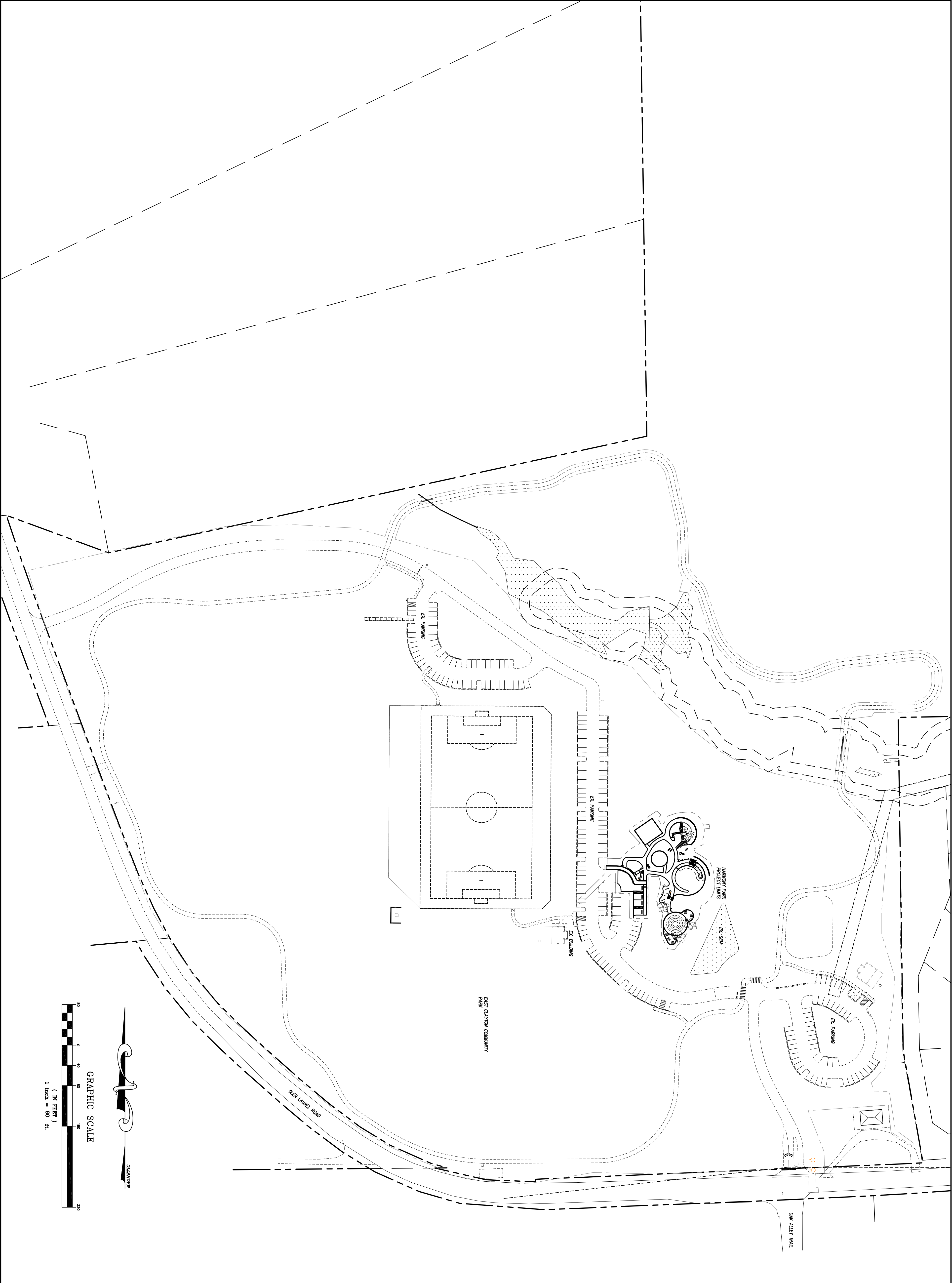


Scale: 1:8518 - 1 in. = 709.85 feet

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

Johnston County GIS
September 30, 2019

ATTACHMENT B



OVERALL PARK
PLAN

C001



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

Design and Construction Services for East Clayton Community Park Bathroom Facility and Picnic shelters

Clayton, NC

Addendum #1

October 10, 2019

RFQ Participants,

Listed below please find answers to the questions received during the RFQ process for the Design and Construction Services for East Clayton Community Park Bathroom Facility and Picnic shelters.

Question:

Is the \$700,000.00 Budget only for Bathroom, Picnic Shelters, and Assoc. Parking?

Answer:

The budget of \$700,000 is only for the bathroom, picnic shelters, and parking areas. There is a separate budget for the playground equipment.

Question:

II. Background & Project site; end of 2nd paragraph states Town anticipates utilizing pre-fabricated structures for the Picnic Shelters. Can you give us any information on these structures?

Answer:

RCP Shelters SLF-H Steel Frame HIP or approved equivalent.

Question:

III Scope; Does the Town want us to use curb and gutters in new parking area? From previous site visits there is minimum curbing in parking lot on right side of Park Entrance.

Answer:

Curb and Gutter is not a requirement, however, if budget allows the Town may elect to install curb and gutter. Curb stops will be required in areas without curb and gutter.

SECTION 1 LETTER OF INTEREST

October 16, 2019

Joshua Baird, PE, Town Engineer
Town of Clayton
111 East Second Street
Clayton, NC 27520

Dear Joshua,

Balfour Beatty together with Ratio is pleased to submit our design-build qualifications and proposal for the East Clayton Community Park – Bathroom Facility and Picnic Shelters project. Your choice in a design-build partner is an important one and we believe that our team is distinctively qualified for this project offering the following advantages to the Town of Clayton:

Park and Outbuilding Experience

Our team including Tom Planishek, Tony Stoneking and Chad Humphrey has designed and constructed numerous parks, recreation centers, athletic fields, outbuildings, trails and nature centers in the area. We are currently working with Wake County on the construction of the Downtown Cary Park, a \$40 million investment between the Cary Library and Mayton Inn. From these projects, this team brings substantial design and construction best practices to this project and is ready to begin on day one.

Design-Build Experience

Our team has provided leadership on multiple design-build projects in North Carolina totaling more than \$300 million dollars in revenue. We are currently completing the UNCW Parking Deck II and UNCW Student Village projects in Wilmington, NC. Our team understands the benefits of this contract method including how it can be used to create efficiency and reduce cost for our owners. Our approach to design-build is transparent and collaborative.

Team Chemistry

Balfour Beatty and Ratio's Raleigh-based teams have substantial experience collaborating on some of the regions most notable projects. This team recently completed the Southeast Raleigh YMCA and Elementary School project in collaboration with Wake County.

Market Reputation

Our companies have worked in the Raleigh market since 1985 and our existing relationships with subcontractors and design partners in this market are second to none. Subcontractors in this market want to work with Balfour Beatty because our projects are well executed and we treat team members fairly.

Your choice in a construction partner is an important one and we believe we are the right team to design and build the East Clayton Community Park Upgrades. We look forward to discussing our proposal after its submission.

Sincerely,



Tom Planishek, Balfour Beatty
e. tplanishek@balfourbeattyus.com
t. (919) 233-5139

Project Manager and Primary Contact:
Chad Humphrey, Project Manager and
Single Point of Contact

**Project principal representing the
contractual authority:**
Tony Stoneking, Superintendent and
Officer of the Company (Balfour Beatty)

SECTION 2 PROJECT ORGANIZATION

Provide a project organization chart identifying the team composition. Define key staff members who will be working on the project and explain their roles and their expected commitment to the project as a percentage of their time. Indicate any firm/company qualifying as a minority entity. Each design-builder shall submit an explanation of its project team selection, which shall consist of either of the following:

- Chad Humphrey, Project Manager **20%**
- Tom Planishek, Preconstruction **10%**
- Tony Stoneking, Superintendent **20%**
- Brent Covington, Architect **20%**
- Collette Ramirez, Structural Engineer **20%**
- Melissa Brand, Civil Engineer **25%**
- Bob Egan, MEP Engineer **20%**

A list of the licensed contractors, licensed subcontractors and licensed design professionals whom the design-builder proposes to use for the project's design and construction.

- Ratio, Architect
- Kimley-Horn, Civil Engineer
- Lynch Mykins, Structural Engineer
**Woman-owned business*
- The Wooten Company, MEP Engineer
- Balfour Beatty, Construction Manager

B. An outline of the strategy the design-builder plans to use for open contractor and subcontractor selection based upon the provisions of Article 8 of Chapter 143 of the General Statutes. Our design-build team will adapt our process that we have used successfully at the Southeast YMCA/Elementary School in Raleigh to the design of the East Clayton Community Park - Bathroom Facility and Picnic Shelters. Since this project will be constructed under the Form of design-build Construction Contract, we will first review with the Building Committee and the entire design-build team the requirements of the designer that are unique to this contract.



Our team's experience with and knowledge of the contract and our knowledge of outdoor recreation spaces allows us to offer a team that can provide the best design for the East Clayton Community Park - Bathroom Facility and Picnic Shelters.

During the initial start-up meetings, it will be important to work with the members of the Building Committee to set 3-4 key meetings with the design-build team.



We will design and facilitate a Visioning Workshop with the Building Committee to identify program needs and campus context challenges and opportunities. The RFP indicates that you want the East Clayton Community Park - Bathroom Facility and Picnic Shelters to fit and function effectively within the park context. Our team has developed a series of workshop activities specifically crafted to the needs of campus facilities that can help shape the vision of the Bathroom Facility and Picnic Shelters. We want to clearly understand the specific needs of the East Clayton Community Park regarding the adjacent recreational facilities.

These meetings will at times take the form of LiveDesign charettes, where the design team will bring 3D models and other engagement tools to facilitate a highly collaborative design process. These charettes allow alternatives to be explored quickly and help facilitate dialogue that is critical to arriving at a holistic solution and consensus for the design.

At other times, these meetings will be progress updates that allow the design team to hear feedback on key decisions in a timely manner to help meet the project schedule and budget.

In regard to the design of the overall project, we believe that the dive platform and the support building offer opportunities to define the unique qualities of this part of NC State's campus and are important aspects of the design to both fit the context and to shape the aesthetic of the East Clayton Community Park - Bathroom Facility and Picnic Shelters. Our design process will ensure that both the needs for the bathrooms and shelter are met and that the new facility has a positive impact on the Clayton community and visitors.

A photograph of a modern building with a large, sculptural tree in the foreground. The tree has a thick, metallic trunk and bare branches. The building has a white, curved facade and large glass windows. The scene is set in a grassy area with a blue sky in the background.

***North Carolina Museum of Art Addition
connecting parks, walkways and landscaping***

SECTION 3 PROFILE(S) OF FIRM OR TEAM

Provide information about each firm in the project team.

FIRM	CAPABILITIES + EXPERIENCE	# OF EMPLOYEES	LOCATION	# YEARS UNDER CURRENT NAME	SERVICES TO BE PROVIDED
Balfour Beatty	Balfour Beatty provides first-class facilities for the arts community, public transportation, education, parks and recreation, public safety and for city administration. In addition, we have successfully completed 14 natural turf athletic fields, 7 playgrounds and miles of paved walkways with Wake County Schools.	100	Raleigh, NC	86	An industry-leading provider of design-build services for public and private sector clients across the nation. Performing heavy civil and vertical construction, our teams build the unique structures and infrastructure that play an important role in how people live, work, learn and play.
 RATIO	Built elements contribute significantly to the identity of the community and the character of the park. RATIO pays special attention to these small structures; we strive to make them contextual, functional, durable and iconic. Our portfolio contains 730 community projects valued over \$2.1 billion in construction. These projects include parks and playgrounds, YMCAs, community centers, aquatic centers, senior centers and athletic fields across the nation.	23	Raleigh, NC	2	RATIO is an international, multidisciplinary practice of thought leaders, planners and designers. In every project, we look first to understand each client's character and history, using innovative design to reflect their mission, values and spirit.
Kimley»Horn	Having completed numerous parks and recreation-oriented projects across the U.S.—from small amenity pocket parks to 20,000-acre natural resource areas to system-wide park master plans—we emphasize the development of a functional, visually pleasing environments, featuring meaningful themes and strong connections to the community while being conscientious stewards of the development costs and long-term maintenance.	265	Raleigh, NC	52	Kimley-Horn focuses on three components in Site Civil Services: Plans and specifications – to ensure your design decisions remain on schedule. On-site infrastructure and off-site improvements to make your site work the way it was meant to, before, during and after construction and construction-phase services from predevelopment to completion.

FIRM	CAPABILITIES + EXPERIENCE	# OF EMPLOYEES	LOCATION	# YEARS UNDER CURRENT NAME	SERVICES TO BE PROVIDED
	Lynch Mykins has worked on nearly every conceivable building type including higher education, federal/state/local, entertainment and arts, healthcare, hospitality, k-12, historic restoration and commercial. Dedicated to creative approaches, collaborative processes and integrated design, Lynch Mykins is headquartered in Raleigh, NC and has been responsible for the design of buildings and other structures at a rate of over \$1 billion in construction value per year.	40	Raleigh, NC	2 years as Lynch Mykins, 43 years as Stroud Pence	Lynch Mykins provides full-service structural engineering services to a wide range of industries, including emergency response, entertainment and arts, federal, healthcare, higher education, historic restoration, hospitality, k-12, libraries, life science, commercial and sports and recreation.
	The Wooten Company's Building Systems Group is a branch of the multidisciplinary engineering firm that provides Mechanical, Electrical and Plumbing and Fire Protection Engineering services. Founded in 1936 the company is now in its 83 rd year of continuous operation and employs a 90 person staff, 56 in our Raleigh office. The firm is licensed by the State of North Carolina to practice engineering and surveying (NC Certificate of Registration F-0115).	56	Raleigh, NC	83	The Building Systems Group's mechanical and electrical engineering services are built upon the foundations of energy management and conservation and the majority of its staff are LEED certified architects and engineers. The Wooten Company has focused on providing engineering services for public and educational facilities in North Carolina, where low life-cycle costs and reliable performance are paramount in their designs.

**Wake County Garner High School
concession stand, track and practice fields**



SECTION 4 RESUMES

Provide resumes of the key staff, including the project manager and task leaders. Include resumes for staff identified as having a major role in the project.



Education/Credentials

Bachelor of Science,
Building Construction,
Contracting, *Purdue University*

GC General Contractor
License

OSHA 30-Hour
CPR & First Aid

Why Tony?

- Experience building athletic fields in Clayton
- Worked closely with members of proposed team
- Extensive relationships with local subcontractors
- Local resident and member of the Clayton community
- 30+ years in the construction industry

Balfour Beatty

Tony Stoneking, LEED AP BD+C Superintendent

Wake County Apex High School, Apex, NC Included was demolition of the original building, 384,610 sf in new construction of a replacement high school including plant operations, **athletic fields, press boxes and concession building.**

Wake County Garner Magnet High School Renovation/Expansion, Garner, NC Included was a new multi-purpose **field with natural turf**, new 1,102 sf **press box**, new 2,352 sf home **restroom/concession building**; renovation of the visitor **restroom/concession building, ticket booths** and 6,145 sf football **field house**. It also included **over two miles of sidewalks, four surface parking lots** and **roadway improvements.**

North Carolina Museum of Art Park, Raleigh, NC The scope of work on the **164-acre** museum park included three miles of **recreational trails**, a 650-foot-long **pedestrian bridge** connecting the Greenway to Umstead State Park via a **multipurpose path.**

Wake County Pine Hollow Middle School, Raleigh, NC This project included an outdoor basketball court, **two natural turf athletic fields**; one for football and **soccer** with an asphalt track and one regulation softball field; **two parking lots** totaling 150 spaces, over **one mile of sidewalks**, large and small retention ponds for **stormwater management.**

Wake County Buckhorn Creek Elementary School, Holly Springs, NC Site development included clearing, grading, **play field**, utilities, **paving**, fencing, **landscaping** and **offsite road improvements.**

Wake County Green Level High School, Cary, NC This project included tennis courts and **five natural grass athletic fields** for **soccer**, baseball, practice, a multi-purpose field, a football with stadium seating and home/visitor **concessions buildings; four parking lots**, drainage structures and retention ponds for **stormwater management.**

Southeast Raleigh YMCA and WCPSS Elementary School, Raleigh, NC This project included perimeter **roads, landscaping, playing fields**, playgrounds, an aquatics center, **community gardens, sidewalks** and other YMCA facilities.

BlueCross BlueShield of NC E.P.I.C., Durham, NC Work included connecting nine buildings on campus. **Walkways** were reconfigured based on the renovations and new construction. Also included was a private **courtyard** central to all buildings as well as the addition of **covered outdoor leisure areas** throughout the courtyard.



Chad Humphrey, LEED AP BD+C Project Manager

Education/Credentials

Master of Science,
Construction Management,
Civil Engineering, *Clemson University*

OSHA 30-Hour

CPR & First Aid

Why Chad?

- Experience building outdoor facilities

Wake County Garner Magnet High School, Garner, NC Included was a new multi-purpose **field with natural turf**, new 1,102 sf **press box**, new 2,352 sf home **restroom/concession building**; renovation of the visitor **restroom/concession building**, **ticket booths** and 6,145 sf football **field house**. It also included **over two miles of sidewalks, four surface parking lots** and **roadway improvements**.

Wake County Oakview Elementary School, Apex, NC The 100,000 sf, two-story school consisted of the construction of 55 new classroom/educational spaces, administrative spaces, dining areas, **play areas** and a **multipurpose field**.

Wake County Buckhorn Creek Elementary School, Holly Springs, NC Site development included clearing, grading, **play field**, utilities, **paving**, fencing, **landscaping** and **offsite road improvements**.

Wake County Willow Spring High School, Fuquay-Varina, NC Located on a 90-acre site, it included **practice and competition fields**, a stadium with **football field and track, baseball and softball fields, tennis courts and parking lots**.

Wake County Pine Hollow Middle School, Raleigh, NC This project included an outdoor basketball court, **two natural turf athletic fields** with an asphalt track, one softball field, **two parking lots, sidewalks** and retention ponds for **stormwater management**.



Tom Planishek, LEED AP Preconstruction

Education/Credentials

Bachelor of Architecture,
Philadelphia University

Master of Business
Administration, *Wake Forest University*

CPR & First Aid

Why Tom?

- Experience building outdoor facilities

NC A&T Student Union, Greensboro, NC This project included significant outdoor spaces and **landscape development** throughout the site. Sustainable landscape features such as **bio-retention ponds** and native species were constructed as an integrated part of the landscape design. Sitework included the reconfiguration of existing **surface parking**, underground **utility relocations, storm water management, plaza and landscape development** and street improvements.

UNC-Wilmington Freshman Village, Wilmington, NC This project includes development of **16 acres** on the campus of UNC-Wilmington and introduces 1,814 new beds to UNC Wilmington's student housing portfolio over the next three years. The project also includes **800 surface parking spaces, greenspace** with thoughtful landscape design and major **site utility work**.

Harnett County Government Complex South Facility, Lillington, NC The new two-story building will be approximately 58,000 sf, located immediately to the south of the Veteran's Park. It will help link the Harnett County campus. Existing **parking will be repurposed to add 150 spaces** and **stormwater management** is also included.

300 S Tryon Tower, Charlotte, NC Located at the corner of Tryon Street and Third Street, in the heart of Downtown Charlotte, this project included **major sitework** to support a 25-story mixed-use high rise on a very tight, urban site.



Brent Covington, AIA

Architect

***North Wake District Park Restroom Facilities, Raleigh, NC**
***Southeast Raleigh YMCA & Elementary School, Raleigh, NC**
Morrisville Aquatic Center, Morrisville, NC
Pinehurst Elementary School, Pinehurst, NC
Pine Hollow Middle School, Raleigh, NC
***Walltown Aquatics Center, Durham, NC**
***AE Finley YMCA, Raleigh, NC**

Education/Credentials

Master of Architecture,
NC State
 Bachelor of Graphic
 Design, *NC State*
 Registered Architect, NC

Why Brent?

- Experience designing public outdoor facilities
- Experience with local NC municipalities

**Experience prior to joining RATIO*



Melissa Brand, PLA

Civil Engineer

Greene Street Water Garden, Greensboro, NC
Ailey Young Park Improvements, Wake Forest, NC
City Plaza Renovation, Raleigh, NC
Garner Recreation Center, Garner, NC
Beaverdam Creek Greenway, Zebulon, NC
New Bern Avenue Streetscape and Transit Improvements, Raleigh, NC
Dunn Creek Greenway, Phase III, Wake Forest, NC
Smith Creek Greenway at Ligon Mill Road, Parking & Trailhead Design, Wake Forest, NC
Accessibility Improvements at Valley Springs Park & West Point of Eno Park, Durham, NC
Stadium Drive Complete Streets, Wake Forest, NC
Hillsborough Street, Phase II, Raleigh, NC
Wake Forest Reservoir Park Improvements, Wake Forest, NC
South Tar River Greenway, Greenville, NC
Smith and Sanford Creek Greenway, Wake Forest, NC

Education/Credentials

Bachelor of Landscape
 Architecture, *University of Georgia*
 Professional Landscape
 Architect, NC

Why Melissa?

- Experience engineering park environments and facilities
- Experience with local NC municipalities





Collette Ramirez, PE

Structural Engineer



Education/Credentials

Bachelor of Science,
Meteorology, *Florida State University*

Master of Science, Civil
Engineering, *Florida International University*

Professional Engineer, NC

Why Collette?

- Experience engineering outdoor facilities
- Experience with local NC municipalities

Carolina Beach State Park Campground, Wilmington, NC

Herman Park Advanced Planning, Goldsboro, NC

NC Museum of Art Park Visitor Center, Raleigh, NC

Jockeys Ridge State Park Renovation and Addition, Nags Head, NC

Joyner Park Band Shell Unistrut Framing for Art and Lighting, Wake Forest, NC

Hibernia Area 1 Shower House, Kerr Lake State Recreation Area, Raleigh, NC

Dobbins Heights Community Center, Dobbins Heights, NC

Wayne County Agriculture Center, Goldsboro, NC

4H Learning and History Center, North Carolina State University, Ellerbe, NC

USDA Forest Science and Assessment Center, RTP, NC

Anson County Agri-Civic Center, Wadesboro, NC

Randolph County Agriculture Center, Randolph, County, NC

Nature Exploration Center Specimen Storage Feasibility Study, North Carolina Museum of Natural Sciences, Raleigh, NC



Bob Egan, PE, LEED AP

MEP Engineer



Education/Credentials

Bachelor of Science,
Architectural Engineering,
University of Kansas

Professional Engineer, NC

Why Bob?

- Experience engineering outdoor facilities
- Experience with local NC municipalities

Clayton Recreation Center, Clayton NC

Barwell Road Elementary School and Recreation Center, Garner, NC

Abbots Creek Community Center, Raleigh, NC

Middle Creek Park, Cary, NC

SECTION 5 PROJECT APPROACH AND SCHEDULE

Provide a description of the proposed approach to the project. Include a response to the preliminary scope but do not simply restate the scope. Identify key risks/ challenges/ concerns you anticipate and any mitigation steps to achieve successful delivery.

Value Engineering Our team understands that critical input on program scope and budget is required in the very initial stage of the East Clayton Community Park - Bathroom Facility and Picnic Shelters project. We will start immediately upon award to conduct value engineering studies to ensure that cost-effective approaches to design and overall project quality are incorporated into early design documents. These studies will be performed during work sessions with representatives from the Town of Clayton's staff, Balfour Beatty, estimators and all key stakeholders. The process is a cooperative effort that succeeds in obtaining optimal value for minimal cost.

Value engineering is a process of selecting design solutions that best meet program objectives and budgets. It should be noted that initial construction costs are only one of many factors studied in value engineering review sessions.

Benefit to the Town of Clayton

Our proven preconstruction services ensures cost reliability and predictability and eliminates the possibility of budget and schedule creep.

Being A Good Neighbor With the East Clayton Community Park adjacent to the residential area on Black Forest Drive, it is important that the construction project maintains a sense of invisibility to the neighborhood. Balfour Beatty has tremendous experience working in sensitive areas and we will ensure that we are doing our part not to be seen or heard. We will also establish a community corner where project information and key contacts will be published on the jobsite.

Zero Harm Safety Program As part of our efforts to improve our industry, we have implemented an aggressive Zero Harm safety program across all of our companies to ensure every worker leaves as safely as they arrived.

Our understanding of how to ensure minimal disruption/ complaints from nearby residents and businesses will maintain positive public relations and goodwill in regards to this project.





We define Zero Harm as ZERO deaths, ZERO injuries to the public and ZERO ruined lives among all our people. This means no seriously disabling injuries, no long-term harm to health and a goal of zero Accident Frequency Rate. On The East Clayton Community Park - Bathroom Facility and Picnic Shelters project, we will develop a customized safety program to address the safety of visitors, workers and nearby residents.

Zero Harm focuses on managing and designing risk out of everything we do, so there is no realistic risk of a serious accident. We will also draw on the best practices from the nearby projects we constructed that are closely related to this scope of work.

To teach workers about the safety specifics of The East Clayton Community Park - Bathroom Facility and Picnic Shelters project, all workers and site personnel will attend a mandatory Balfour Beatty-led safety and health orientation and basics session, which is comprised of a project-specific video presentation and supplemental project-specific requirements (which are continually updated as the project progresses). The session will be available in both English and Spanish.

Balfour Beatty's workforce is reaching for the highest levels of safety training. All of our project professionals have completed OSHA 30-Hour construction safety and health training.

Subcontractor management and supervisory personnel are required to have completed OSHA 10-Hour training. We also require all of our staff to have current first aid, CPR and AED training.

Safe operations During construction, in addition to worker safety, we will ensure safety to the Town of Clayton visitors, occupants and staff. We will develop detailed plans covering site logistics, traffic control and protection of surrounding areas. We are proactive in minimizing inconveniences from construction so the Town of Clayton can operate during normal hours.

For each day's work, Balfour Beatty's project management team will work closely with our trade contractors to help them develop a safe plan of action we call a **Pre-Task Plan**. Our team will use the activity hazard analysis process and a review of activities in close proximity, interface logistics and hazard assessment to better plan work activities and help ensure workers understand and use safe working practices. We have found this process not only improves safety, but also quality and production.

We pay special attention to the following critical activities/tasks and will abide by all applicable regulations governing them:

- Lifting and hoisting (including developing a written lift plan for crane operations)
- Existing site utilities
- Fire prevention (including obtaining a hot work permit)
- Protection of public and adjacent walkways

Detailed planning will continue on the projection and segregation of the public and the Town of Clayton employees as they utilize paths of travel of access to the facility.

Constructability Issues The experience the Balfour Beatty project management team brings to the Town of Clayton is a valuable resource when constructability issues arise. Our preconstruction process allows for as much insight as possible into the issues and concerns that may arise during construction.

Benefit to the Town of Clayton

Our team's expertise with constructability reviews will eliminate the risk of omitting scope items, while ensuring you get the best value for your construction dollar.

With our depth of experience in CM-at-Risk constructability reviews, we have developed the following six-step approach to help us thoroughly review documents:

1. Scope gaps between drawings and specifications
2. Coordination issues between the trades/clash detection through the use of BIM
3. Sequence of construction for cost and time
4. Maintenance – longevity and accessibility
5. Alternate products
6. Mock-ups

Describe the team's approach to design document quality assurance and quality control.

Design Document Quality Assurance Using Balfour Beatty's project management program, Procore, the Town of Clayton's stakeholders will be able to access project information from a secured web-based system to track the progress and status of all aspects of the project, including RFI's and shop drawings.

When an RFI and/or shop drawing is received from a subcontractor/vendor it is logged into our system and reviewed. Balfour Beatty checks that the RFI is valid and in the case of a shop drawing that it is complete and accurate.

Once the RFI and/or shop drawing has passed Balfour Beatty's review, it is sent electronically through the jobsite specific website. This website would provide Ratio, the Town of Clayton and subcontractors with access to all of our document control logs on the Procore system. Our logs are automatically updated when a RFI/shop drawing is received, sent out, returned by Ratio or the Town of Clayton and sent back to the subcontractor/vendor.

We understand the importance of building quality into the project on a proactive, rather than a reactive, basis. The cost and time it takes to go back to fix something that has already been done is not only detrimental to the morale and productivity of the workforce, but will ultimately increase costs and delay the project. The project cannot be delayed as it is a critical need to end users. We avoid this pitfall by building quality into each step of the process, thereby ensuring that the end result meets or exceeds the high-quality standards we demand.

Centralized, web-based document control provides the client with a real-time account of pending matters enabling enhanced communication and smoother efficiency.

Construction Phase Quality Assurance/Quality Control

If the strategy of establishing value through quality management has been pursued diligently by all parties during the preconstruction phase and if the goals and objectives of the project have been kept in focus, then the stage has been set for achieving quality during the construction phase as well.

Before work begins, we hold conferences with each trade with the Town of Clayton and Ratio in attendance to ensure that everyone has a clear understanding of quality expectations.

During construction, Balfour Beatty perceives its basic QA/QC responsibilities to be the following:

- Provide and maintain a construction management team on the project site to administer the construction contracts and provide continual monitoring of work progress and quality.
- Implement and enforce our written QA/QC program and other control specifications as mentioned in the discussion of preconstruction phase QA/QC and construction phase.
- Coordinate and manage technical third-party inspections and testing.

Inspection Management We will develop a QA/QC program for the testing and inspection services. To monitor the quality of the project, the QA/QC program will also involve all project participants, including design professionals, specialty consultants, the Town of Clayton and Balfour Beatty during the construction phase. Our team will also establish and maintain an inspection budget. It is especially important to monitor inspection charges carefully so the cost of inspecting nonconforming and/or unfinished work is not charged to the Town of Clayton. Inspectors' qualifications will be reviewed to confirm they are certified and licensed for specific tests and inspections and that they are knowledgeable of building codes and have sufficient field experience.

Balfour Beatty, the Town of Clayton representatives, the inspection/testing consultant and the designer will be updated with the status of the testing and inspection for the project. Minutes will be recorded and distributed to those involved. We also use a sign-off list confirming inspected areas of work. ***This is especially critical for the underground utilities.***

Benefit to the Town of Clayton

Our inclusive, thorough testing and inspections are conducted consistently throughout the project and will ensure the East Clayton Community Park - Bathroom Facility And Picnic Shelters is built to a world-class standard of quality the first time.



Quality Assurance Quality control facilitates the delivery of projects that exceed expectations. By embedding quality control into each step of the construction process, we are able to achieve a timely completion with limited loose ends at the close of a project. Furthermore, we believe it is beneficial to ensure that the Town of Clayton, subcontractors and our project team understand quality expectations for each project element.

As such, we have developed processes and procedures that allow us to focus on quality control from preconstruction through project completion. By addressing quality control in preconstruction, we are able to ensure a quality control mindset during construction and we are able to identify and respond to potential quality control issues so that the final product meets your needs on every level.

Describe the firm and/or team's track record delivering projects with minimal change orders.

We understand that controlling costs on the East Clayton Community Park - Bathroom Facility and Picnic Shelters project will be a crucial focal point. During the preconstruction phase, a baseline budget will be established utilizing historical cost databases and current market conditions. This baseline budget will be organized into manageable components that will be monitored and adjusted constantly. We will track the evolution of this project from the conceptual stage, when there is little documentation; to the preliminary stages, where designs are coming together; to the contract document stage, where the full scope is represented. Any changes from one budget progression to the next successive budget are measured and verified on a line-by-line basis for every work trade.

Procore will be utilized to capture cost information and communicate to the team. Utilizing this software will allow multiple users to enter information while other members of the team can easily access. Information becomes real time and decisions can be made using accurate and timely data. By using leading technology to handle the paperwork processing, more time can be dedicated to the reviewing and analyzing the cost information and ensuring that you are getting true value for the dollars spent on this project and to mitigate cost exposures.

By recognizing and tracking cost exposures and utilizing experienced team members to mitigate, the project team will control cost and add value to the Town of Clayton's capital investment.

The following matrix illustrates a few examples of projects completed under budget, with minimal change orders. All of these projects included major sitework and outdoor space design and development, including playgrounds, parking, sidewalks, retention walls and stormwater management.

PROJECT	GMP	FINAL COST	# OF CHANGE ORDERS
Wake County Green Elementary Addition/Renovations	\$19,129,833	\$18,689,833	0
Wake County Lacy Elementary School	\$19,533,714	\$18,698,374	0
NCSU Wolf Ridge Apartments at Centennial	\$111,659,650	\$109,955,662	0
Wake County Oakview Elementary School	\$20,443,109	\$20,323,089	1

Describe the team's level of experience with the major regulatory bodies likely to be project reviewers, whether local, state or federal.

Our team has completed over \$1 billion in local high-profile public projects such as the Downtown Cary Library and Parking Deck (Town of Cary/Wake County ownership), the City of Raleigh 911/ Central Communications Center, the Wake County Justice Center, 14 Wake County Public School projects including the YMCA Elementary School, multiple large renovation projects at RDU Airport and many more. Every single person on our proposed team successfully operates their professional lives in direct collaboration with government regulatory bodies. In fact, 90% of our work is with a public client.

Describe the team's use of technology and how it will be used to engage with the owner in each project phase.

Virtual Design and Construction (VDC) and Building Information Modeling (BIM) applications

Balfour Beatty utilizes Building Information Modeling (BIM) starting early in preconstruction and lasting throughout the lifecycle of every project. A few of BIM's multiple value-enhancing applications through our Virtual Design and Construction (VDC) processes include:

Reality Capture Processes Balfour Beatty utilizes in-house reality capture technologies to laser scan existing site conditions and as-built conditions on all projects. Our team is capable of overlaying this collected laser scan data with actual topographical data and Building Information Models to collaborate through the planning, design and building of a project while analyzing the geospatial properties in the context of the real world.

Estimation We have developed a standard process for our preconstruction department to quickly and easily extract quantities directly from the designer's Revit models. This streamlines the amount of time it takes to gather data and provide accurate estimates at each phase of design.

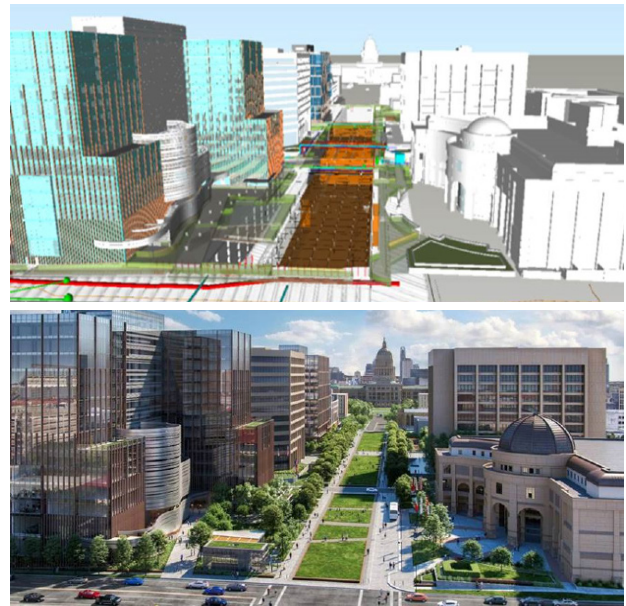
Constructability Reviews During the design and construction phases of a project, our operations teams are in continuous review of the design to provide feedback and ensure the project can be properly constructed without impacting the design intent. This added insight has proven to greatly improve budget and schedule on a project, eliminating hundreds of man hours commonly wasted on RFIs and redesign.

MEP Coordination Guiding our MEP subcontractors through a collaborative system coordination effort ensures that shop drawings are accurate for field installation the first time. This greatly eliminates costly waste of materials and man hours commonly due to re-work that can be easily avoided with proper planning.

Clash Detection During MEP coordination, we not only utilize clash detection to ensure trade system installations do not conflict, but we also ensure that all equipment has the required minimum access space required for maintenance.

Visualization Visualizing a project beyond 2D construction documents allows the team to quickly gain a clear understanding of the design intent from the very beginning of the project.

High end renderings, model cut sections and immersive walk-throughs are effective ways to gain clarity on design and ensure the finished project maintains original design intent upon turnover.



Virtual Walk-Through Virtual/augmented reality can be utilized to gain a better understanding of a planned space virtually within a BIM model. This allows the end user a fully immersive experience to gain a real understanding of the finished product before construction even starts.



Pictured above is a full 3D model that allows clash detection, virtual walk-throughs and 3D mockups.



Benefit to the Town of Clayton

Our application and integration of the latest construction technologies is proven to greatly improve budget and schedule on a project, eliminating hundreds of man hours commonly wasted on RFIs and redesign.

Provide an outline project schedule, showing tasks, milestones and deliverables, including review meetings with the Town project team and community groups.

Adherence to Project Schedule Regardless of the phase of the project, design, preconstruction or construction, it is our team's philosophy that schedules should be proactive management tools more so than history reporting tools. Because of this philosophy, we involve all members of the team while building the various schedules. Our team requires all of its team members to use the project schedule proactively to plan and prioritize their daily activities. We also prepare a written analysis of the schedule each month and will present the analysis to all team members to ensure the upcoming and the completed items are understood.

Pull Planning Pull planning is a scheduling tool that strengthens our current scheduling process by helping manage risk through detailed collaborative planning and continuous improvement. By charting out project activities on sticky notes along a timeline, this method of visual planning develops the flow of activities based on the request (pull) of downstream work. Through three types of plans - milestone, phase and weekly - pull planning ensures active involvement from all project stakeholders.

The Value of Pull Planning Pull planning is not just a good tool to use; it gets people to come together and discuss every aspect of work. Most importantly, it creates an atmosphere of communication that gets all parties to work with each other. That is crucial to have a successful job.

- ✓ Creates a more predictable work flow through collaboration and public commitments
- ✓ Provides clear picture of the flow of work, hand-offs, constraints, etc.
- ✓ Ensures trade expertise is leveraged
- ✓ Enables collective understanding
- ✓ Drives quality and safety through increased accountability and awareness
- ✓ Brings consistency to our planning process
- ✓ Helps to eliminate rework and reduces the need for contingency
- ✓ Facilitates timely communication and increases transparency

We anticipate the following milestone schedule:

- November 2019 – NTP
- December 2019 – DD Design Submittal
- January 2020 – Issued For Permit/Bid Drawings
- February 2020 – Finalize GMP
- March 2020 – Permits Received/Mobilize On Site
- October 2020 – Project Completion

SECTION 6 REFERENCE PROJECTS



BlueCross BlueShield of NC E.P.I.C.

Durham, NC

Similar Scope, Complexity and Size The scope of work included package to connect nine buildings on campus was completed and **walkways** were reconfigured based on the renovations and new construction. Also included was a **private courtyard** central to all buildings as well as the addition of **covered outdoor leisure areas** throughout the courtyard.

The complete project included the renovation of the 50,000 sf Building 400, the 30,000 sf addition of Building 500, a new 74,000 sf, three-story office building and a 600-space **parking** deck.

Owner BlueCross BlueShield of NC

Name Julie Schoenagel

Telephone 919.765.7082

E-mail julie.schoenagel@bcbsnc.com

Start date 7/1/2014; **Final completion** 2/18/2016

Proposed team members that managed this project:

Tony Stoneking, General Superintendent / Operations



Apex Friendship High School

Apex, NC

Similar Scope, Complexity and Size This new 315,752 sf, four-story high school consisted of new 111 classroom/educational spaces, administrative spaces, cafeteria, state-of-the-art media center, 8,000 sf, 850-seat auditorium, two centralized gymnasiums, great **outdoor athletic facility** including a **football stadium, tennis courts, basketball courts, softball and baseball fields.** The facility is located on a **108-acre** site in Apex.

Owner Wake County Schools

Name Clint Council

Telephone 919.508.9047

E-mail acouncil@wcpss.net

Start 5/1/2013; **Completion** 6/18/2015

Proposed team members on this project:

Tony Stoneking, General Superintendent



Pine Hollow Middle School

Raleigh, NC

Similar Scope, Complexity and Size This 149,000 sf new middle school includes a three-story classroom wing with attached gymnasium, cafeteria, auditorium, music and classrooms. Also included was an outdoor basketball court, **two natural turf athletic fields**, one for football and soccer field with asphalt track and one regulation softball field, **two parking lots** totaling 150 spaces, over **one mile of sidewalks**, one large retention pond for main site and one small retention pond at the softball field for **stormwater management.**

Owner Wake County Schools

Name Thomas Harden

Telephone 919.588.3576

E-mail tharden@wcpss.net

Start 11/1/2014; **Completion** 6/30/2016

Proposed team members on this project:

Tony Stoneking, General Superintendent

Chad Humphrey, Project Manager



Garner Magnet High School

Garner, NC

Similar Scope, Complexity and Size This project included the demolition, renovation and expansion of the 268,000 sf high school on a **58-acre site** in Garner. Included was a new 380 x 500 ft multi-purpose **field with natural turf**, new 1,102 sf **press box**, new 2,352 sf home **restroom/concession building**; as well as the renovation of the visitor **restroom/concession building**, **ticket booths** and 6,145 sf football **field house**. The project also included **over two miles of onsite and off-site sidewalks**, **four surface parking lots** totaling 864 spaces and **roadway improvements** along the two main roads leading up to the high school. A sub-surface storage baffle system was used for **stormwater management**.

Owner Wake County Schools

Name Anna Maria Taylor

Telephone 919.588.3602

E-mail amtaylor@wcpss.net

Start 12/15/2014; **Completion** 6/28/2018

Proposed team members on this project:

Tony Stoneking, General Superintendent

Chad Humphrey, Project Manager



Green Level High School

Cary, NC

Similar Scope, Complexity and Size This 315,000 sf, four-story, high school project was built to accommodate 2,200 students and consisted of new classroom and educational spaces, an administrative spaces, cafeteria, auditorium and gymnasiums. Also included were tennis courts and **five natural grass athletic fields** for sports including baseball, softball, practice, a multipurpose field and a football with stadium seating and home/visitor **concessions buildings**. **Four parking lots** were built to support buses, staff and students and drainage structures and retention ponds for **stormwater management**.

Owner Wake County Schools

Name Thomas Harden

Telephone 919.588.3576

E-mail tharden@wcpss.net

Start 5/24/2013; **Completion** 7/5/2017

Proposed team members on this project:

Tony Stoneking, General Superintendent

SECTION 7 UNDERUTILIZED BUSINESS ENTERPRISE (UBE) STATEMENT

Provide a statement and explanation as to good faith efforts to comply with the Town's UBE goal of 10% or statement of intent to perform contract with own workforce.

East Clayton Community Park - Bathroom Facility and Picnic Shelters UBE Participation Plan It is the policy of our team to give maximum opportunities for participation to UBE Contractors on projects which the company may be affiliated. Our team, in support of the principal of fair and equal opportunities for participation, has established a program specifically designed to ensure that Historically Underutilized Businesses have increased opportunities for participation in the construction industry.

STRATEGIC PLAN OBJECTIVES

- Exceed our own UBE participation goal of 10%.
- Further increase the number of prequalified UBE subcontractors that have the Town of Clayton experience.
- Further increase overall participation of Historically Underutilized Businesses on this project.
- Provide equal opportunities to UBEs as defined and certified by the North Carolina UBE offices.

Benefit to the Town of Clayton

Our proven inclusion plan will provide UBE participation that meets or exceeds your goals.

To accomplish this, the following five-step approach will be implemented:

- 1. Extensive outreach and contracting opportunity conferences** Our outreach effort is aggressive, comprehensive, targeted and continuing. We will identify all applicable UBE contractors, effectively communicate project opportunities, encourage UBE contractors to submit information regarding their services and support their participation throughout the project. We also understand that UBE contractors who may not have been successful in assuring a subcontract directly with Balfour Beatty and who feel they can better serve as tiered subcontractors due to their operating capacities should have opportunities to participate on the project.
- 2. Subcontractor Opportunity Sessions** Balfour Beatty will conduct an opportunity sessions (single event prior to prequalification and the prebid meeting). These contracting opportunity conferences will be held to provide detailed information regarding the project and give interested UBE contractors an opportunity to meet one-on-one with the Balfour Beatty project team.
- 3. Contract compliance** We are committed to complying with and exceeding the Town of Clayton's goals and expectations. Our team will personally review the progress of the UBE contractors' effort to ensure compliance.
- 4. Certification assistance** We have personnel trained to assist subcontractors in applying for Statewide Uniform Certification with the state of North Carolina.
- 5. Preparation of reports** We will prepare monthly reports on contracts awarded to UBE contractors and payments to UBE contractors. Every month, we will send an electronic copy of the UBE report to the Town of Clayton with the pay applications.

East Clayton Community Park
Preliminary Contract GMP Breakdown
1/24/2020

GSF		1,400	Included in GMP	Included in GMP	Excluded from GMP	Included in GMP	Included in GMP
BP	Description	RFQ Initial Estimate	Restrooms	Shelter 1 - 18' x 28'	Shelter 2 - 18' x 28'	Parking - 38 Gravel spaces	CLH Playground Design (not including playground equipment by others)
Design & Preconstruction Services							
	BBC Preconstruction Services (1% of budget)	\$7,000	\$7,000				
	Ratio Design Services (RR Bid)	\$34,180	\$34,180				
	Kimley-Horn Design Services	\$53,800	\$53,800				
	n/a - use existing Geotechnical Report	\$0					
	n/a - use existing Site Survey	\$0					
	Professional Renderings	\$0					
	Construction Observation	\$0					
	Record Drawings & Closeout	\$0					
	Pot Holing Service Allowance	\$0					
	SUBTOTAL A	\$94,980	\$94,980				
	1.10% GL Insurance (on DCV)	\$1,109	\$1,109				
	5.00% Fee On Design Services	\$4,749	\$4,749				
	Design & Preconstruction Services Total	\$100,838	\$100,838				
01G	General Trades and Requirements	\$20,000	\$20,000				
05H	Prefabricated Shade Structures	\$64,000		\$32,000	\$32,000		
03H	Concrete	\$206,160	\$11,480	\$6,300	\$6,300		\$182,080
04A	Masonry	\$51,840	\$51,840				
05A	Structural Steel / Misc. Metals	\$0					
07A	Roofing	\$26,240	\$26,240				
08A	Doors, Frames, Hardware	\$12,600	\$12,600				
08F	Glass & Glazing	\$1,080	\$1,080				
09A	Trusses/Roofing/Drywall & Metal Framing	\$42,640	\$42,640				
09D	Painting	\$2,100	\$2,100				
10A	Toilet Accessories	\$7,800	\$7,800				
10C	Signage (Code)	\$5,400	\$1,400				\$4,000
22A	Plumbing	\$104,500	\$104,500				
23A	HVAC	\$5,000	\$5,000				
26A	Electrical	\$23,840	\$23,840				
31A	Survey	\$11,000	\$7,500			\$3,500	
31B	Utilities	\$18,900	\$18,900				
31C	Material and Special Inspections	\$7,000	\$4,500				\$2,500
31E	Earthwork	\$365,126	\$103,000			\$80,750	\$181,376
32A	Asphalt Paving	\$0					
32B	Site Furnishings	\$137,074					\$137,074
32E	Hardscape	\$16,826					\$16,826
32F	Construction Fencing	\$0					
32O	Landscape	\$41,545	\$10,000				\$31,545
	permits and fees (NIC - waived by Owner)	\$0					
	Go to prefab structure from stick build (30' x 52')	-\$20,880	-\$20,880				
	Future Value Engineering	-\$15,599	-\$15,599				
	SUBTOTAL A	\$1,134,192	\$417,941	\$38,300	\$38,300	\$84,250	\$555,401
5.00%	Construction Contingency	\$56,710	\$20,897	\$1,915	\$1,915	\$4,213	\$27,770
	SUBTOTAL B	\$1,190,902	\$438,838	\$40,215	\$40,215	\$88,463	\$583,171
	General Conditions (COW)	\$107,660	\$45,626	\$0	\$0	\$0	\$62,034
5.00%	Fee on Construction (on TCV)	\$69,958	\$26,100	\$2,167	\$2,167	\$4,766	\$34,759
0.00%	Subguard Insurance (COW)	\$0	\$0	\$0	\$0	\$0	\$0
1.10%	GL Insurance (on TCV)	\$15,391	\$5,742	\$477	\$477	\$1,048	\$7,647
0.25%	Estimated Builders Risk (on TCV)	\$3,498	\$1,305	\$108	\$108	\$238	\$1,738
0.84%	P&P Bond (on TCV)	\$11,753	\$4,385	\$364	\$364	\$801	\$5,840
	Construction Total	\$1,399,161	\$521,996	\$43,330	\$43,330	\$95,316	\$695,189
Total Project Cost		\$1,456,669	\$622,834	\$43,330	\$43,330	\$95,316	\$695,189

TASK ID	TASK	WORK DAYS	START DATE	FINISH DATE	J	F	March 2020	April 2020	May 2020	June 2020	July 2020	A	S	O	N	D	J	F	arch 2021	
					2	0	1	1	2	0	0	1	2	0	0	1	2	0	1	2
PLAYGROUND																				
		52	28-Jan-20	08-Apr-20																
		52	28-Jan-20	08-Apr-20																
1030	BUILDING & PLUMBING PERMITS BY BBC	10	28-Jan-20	10-Feb-20	1030															
1040	PLAYGROUND EQUIPMENT PERMITS BY PLAYGROUND CONTRACTOR	10	28-Jan-20	10-Feb-20	1040															
1560	DESIGN DONOR WALL WITH CCRF	5	03-Feb-20*	07-Feb-20	1560															
1200	BBC TO VERIFY LOCATION OF BOULDERS ON SITE	5	05-Feb-20	11-Feb-20	1200															
1520	BBC TO VERIFY KOPAN SUPERNOVA WITH CLAYTON	5	05-Feb-20	11-Feb-20	1520															
1090	BBC TO MEET WITH CATERPILLAR FOR IN KIND SERVICES	1	11-Feb-20	11-Feb-20	1090															
1190	CCRF - PINE HALL ENGRAVING INFORMATION	1	12-Feb-20	12-Feb-20	1190															
1330	NTP - PLAYGROUND	1	12-Feb-20	12-Feb-20	1330															
1530	CATERPILLAR TO DELIVER TIRES FOR PLAYGROUND	5	13-Feb-20	19-Feb-20	1530															
1110	PINE HALL BRICK PROCUREMENT	40	13-Feb-20	08-Apr-20	1110															
1080	FOUNDATION MUST SPEND 115K	1	01-Apr-20*	01-Apr-20	1080															
BATHROOMS & PICNIC STRUCTURES																				
		94	24-Dec-19 A	06-May-20																
		94	24-Dec-19 A	06-May-20																
1130	GRADING / EROSION & SEDIMENT CONTROL JOCO SUBMITTAL	60	24-Dec-19 A	21-Feb-20	1130															
1250	TOWN OF CLAYTON BOARD MEETING	1	03-Feb-20*	03-Feb-20	1250															
1290	BBC TO SUBMIT GMP	5	04-Feb-20	10-Feb-20	1290															
1070	CONTRACT EXECUTED	1	11-Feb-20	11-Feb-20	1070															
1180	RELEASE SHELTER FABRICATION	1	12-Feb-20	12-Feb-20	1180															
1380	KH - SUBMIT JOCO EROSION CONTROL PLAN AMENDMENT PERMIT	5	12-Feb-20	18-Feb-20	1380															
1160	GET PLANS WITH CLAYTON POWER & SITE LIGHTING	10	19-Feb-20	03-Mar-20	1160															
1390	FINAL DESIGN OF BATHROOMS / SHELTERS / SITE	30	19-Feb-20	31-Mar-20	1390															
1140	BBC TO PULL ZONING PERMITTING FOR BATHROOMS & PICNIC STRUCTURES	10	01-Apr-20	14-Apr-20	1140															
1400	BBC TO PRICE & RECONCILE GMP	15	01-Apr-20	21-Apr-20	1400															
1410	BBC TO AWARD SUB CONTRACTS	5	22-Apr-20	28-Apr-20	1410															
1550	BBC TO CONTRACT TERRACON FOR MATERIAL PRICING	5	22-Apr-20	28-Apr-20	1550															
1150	BUILDING / PLUMBING / ELECTRICAL / HVAC PERMITS BY BBC	5	29-Apr-20	05-May-20	1150															
1320	ISSUE NTP - BATHROOMS / SHELTERS / PARKING	1	06-May-20	06-May-20	1320															
CONSTRUCTION																				
		180	13-Feb-20	24-Oct-20																
		180	13-Feb-20	24-Oct-20																
1490	TOWN OF CLAYTON TRANSFORMER INSTALL / TEMP POWER	5	13-Feb-20	19-Feb-20	1490															
1500	UTILITY INSTALLATIONS	5	13-Feb-20	19-Feb-20	1500															
1420	CONSTRUCTION OF PLAYGROUND FOUNDATIONS / PRE-PREP FOR EQUIPMENT	50	13-Feb-20	22-Apr-20	1420															
1460	OWNER PLAYGROUND EQUIPMENT INSTALL	60	23-Apr-20	16-Jul-20	1460															
1440	CONSTRUCTION OF SHELTERS	30	07-May-20	18-Jun-20	1440															
1430	CONSTRUCTION OF BATHROOMS	100	07-May-20	25-Sep-20	1430															
1450	CONSTRUCTION OF PARKING LOT	40	19-Jun-20	13-Aug-20	1450															
1570	PLAYGROUND SPECIAL INSPECTIONS	5	17-Jul-20	23-Jul-20	1570															
1510	TOWN OF CLAYTON PARKING LOT LIGHTING	5	14-Aug-20	20-Aug-20	1510															
1470	HARDSCAPE & PARKING @ PLAYGROUND & RESTROOM	20	04-Sep-20	02-Oct-20	1470															
1480	LANDSCAPING	10	28-Sep-20	09-Oct-20	1480															
1205	PUNCH LIST / INSPECTIONS	10	12-Oct-20	23-Oct-20	1205															
1210	RIBBON CUTTING CEREMONY	1	24-Oct-20	24-Oct-20*	1210															

Minimum Insurance Requirements

Insurance. Contractor shall maintain insurance policies at all times with minimum limits as follows:

<u>Coverage</u>	<u>Minimum Limits</u>
Workers' Compensation	Statutory Limits
Employers' Liability	\$ 500,000
General Liability	\$1,000,000 per occurrence (\$2,000,000 aggregate)
Automobile Liability	\$1,000,000
Umbrella Liability	\$5,000,000 per occurrence (\$5,000,000 aggregate)

Upon acceptance of the contract by the Town the contractor shall provide the Town with a **Certificate of Insurance** for review prior to the issuance of any contract or Purchase Order. All Certificates of Insurance will require thirty (30) days written notice by the insurer or contractor's agent in the event of cancellation, reduction or other modifications of coverage. In addition to the notice requirement above, the Contractor shall provide the Town with immediate written notice of cancellation, reduction, or other modification of coverage of insurance.

PAYMENT BOND

CONTRACTOR *(name and address):*

SURETY *(name and address of principal place of business):*

OWNER *(name and address):*

CONSTRUCTION CONTRACT

Effective Date of the Agreement:

Amount:

Description *(name and location):*

BOND

Bond Number:

Date *(not earlier than the Effective Date of the Agreement of the Construction Contract):*

Amount:

Modifications to this Bond Form: ☐ None ☐ See Paragraph 18

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Payment Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

SURETY

Contractor's Name and Corporate Seal

Surety's Name and Corporate Seal

By: _____
Signature

By: _____
Signature *(attach power of attorney)*

Print Name

Print Name

Title

Title

Attest: _____
Signature

Attest: _____
Signature

Title

Title

Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner to pay for labor, materials, and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.
2. If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies, and holds harmless the Owner from claims, demands, liens, or suits by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.
3. If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 13) of claims, demands, liens, or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, and tendered defense of such claims, demands, liens, or suits to the Contractor and the Surety.
4. When the Owner has satisfied the conditions in Paragraph 3, the Surety shall promptly and at the Surety's expense defend, indemnify, and hold harmless the Owner against a duly tendered claim, demand, lien, or suit.
5. The Surety's obligations to a Claimant under this Bond shall arise after the following:
 - 5.1 Claimants who do not have a direct contract with the Contractor,
 - 5.1.1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
 - 5.1.2 have sent a Claim to the Surety (at the address described in Paragraph 13).
 - 5.2 Claimants who are employed by or have a direct contract with the Contractor have sent a Claim to the Surety (at the address described in Paragraph 13).
6. If a notice of non-payment required by Paragraph 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Paragraph 5.1.1.
7. When a Claimant has satisfied the conditions of Paragraph 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:
 - 7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and
 - 7.2 Pay or arrange for payment of any undisputed amounts.
 - 7.3 The Surety's failure to discharge its obligations under Paragraph 7.1 or 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Paragraph 7.1 or 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.
8. The Surety's total obligations shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Paragraph 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.
9. Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.
10. The Surety shall not be liable to the Owner, Claimants, or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to or give notice on behalf of Claimants, or otherwise have any obligations to Claimants under this Bond.
11. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.

12. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Paragraph 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
13. Notice and Claims to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.
14. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.
15. Upon requests by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

16. Definitions

- 16.1 **Claim:** A written statement by the Claimant including at a minimum:
 1. The name of the Claimant;
 2. The name of the person for whom the labor was done, or materials or equipment furnished;
 3. A copy of the agreement or purchase order pursuant to which labor, materials, or equipment was furnished for use in the performance of the Construction Contract;
 4. A brief description of the labor, materials, or equipment furnished;
 5. The date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
 6. The total amount earned by the Claimant for labor, materials, or equipment furnished as of the date of the Claim;
 7. The total amount of previous payments received by the Claimant; and

8. The total amount due and unpaid to the Claimant for labor, materials, or equipment furnished as of the date of the Claim.

- 16.2 **Claimant:** An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials, or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms of "labor, materials, or equipment" that part of the water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.

- 16.3 **Construction Contract:** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.

- 16.4 **Owner Default:** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

- 16.5 **Contract Documents:** All the documents that comprise the agreement between the Owner and Contractor.

17. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

18. Modifications to this Bond are as follows:



PERFORMANCE BOND

CONTRACTOR *(name and address)*:

SURETY *(name and address of principal place of business)*:

OWNER *(name and address)*:

CONSTRUCTION CONTRACT

Effective Date of the Agreement:

Amount:

Description *(name and location)*:

BOND

Bond Number:

Date *(not earlier than the Effective Date of the Agreement of the Construction Contract)*:

Amount:

Modifications to this Bond Form: ☐ None ☐ See Paragraph 16

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Performance Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

SURETY

Contractor's Name and Corporate Seal

Surety's Name and Corporate Seal

By: _____
Signature

By: _____
Signature *(attach power of attorney)*

Print Name

Print Name

Title

Title

Attest: _____
Signature

Attest: _____
Signature

Title

Title

Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

EJCDC® C-610, Performance Bond

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1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Paragraph 3.

3. If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after:

3.1 The Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor, and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Paragraph 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor, and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;

3.2 The Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and

3.3 The Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

4. Failure on the part of the Owner to comply with the notice requirement in Paragraph 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

5. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

5.1 Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owners concurrence,

to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

5.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and with reasonable promptness under the circumstances:

5.4.1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or

5.4.2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

6. If the Surety does not proceed as provided in Paragraph 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Paragraph 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

7. If the Surety elects to act under Paragraph 5.1, 5.2, or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication for:

7.1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;

7.2 additional legal, design professional, and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 5; and

7.3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

8. If the Surety elects to act under Paragraph 5.1, 5.3, or 5.4, the Surety's liability is limited to the amount of this Bond.

9. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors, and assigns.

EJCDC® C-610, Performance Bond

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10. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.

11. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum periods of limitations available to sureties as a defense in the jurisdiction of the suit shall be applicable.

12. Notice to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

14. Definitions

14.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made including allowance for the Contractor for any amounts received or to be received by the Owner in settlement of insurance or other claims

for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

14.2 Construction Contract: The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

14.3 Contractor Default: Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

14.4 Owner Default: Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

14.5 Contract Documents: All the documents that comprise the agreement between the Owner and Contractor.

15. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

16. Modifications to this Bond are as follows:

SUBCONTRACTOR'S RELEASE OF LIENS AND CLAIMS

The undersigned Subcontractor, upon receipt of payment in the amount of \$_____ (the "Payment") pursuant to the contract (including any amendments or modifications thereto) (the "Contract") between Subcontractor and _____ ("Contractor") for the Town of Clayton ("Owner") project known as _____ (the "Project") located at _____, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, makes the following representations and warranties:

1. Subcontractor represents and warrants that it has been paid in full for all labor, services, and materials provided by Subcontractor, as well as for all labor services and materials provided by its subcontractors, materialmen, suppliers, laborers, or other persons through _____ (including, without limitation, for all extra work, extra materials, accrued interest, delay, disruption, acceleration, interference, and/or impact claims).
2. Subcontractor warrants and represents that: (a) it has paid all of its subcontractors, materialmen, suppliers, laborers, and other persons in full for all labor, materials, and services provided that are subject to prior payments from Contractor; (b) it will promptly pay all of its subcontractors, materialmen, suppliers, laborers, and other persons for all labor, materials, and services provided that are a subject of the Payment; (c) there are no outstanding claims, demands, or liens against either Subcontractor, the Project or the real property on which the Project was constructed and/or any improvements thereon (the "Property"); and (d) no claims, demands, or liens related to the Project have been filed against Subcontractor, the Project or the Property.
3. Subcontractor releases and discharges Contractor and Owner and all related persons and entities from all claims, demands, or causes of action (including all lien claims and rights) which the undersigned has, or might, under any present or future law, assert against Contractor or Owner relating to the Payment and/or the labor, services, materials or other amounts for which the Payment is being made. Subcontractor hereby specifically waives and releases any lien or claim or right to lien against Contractor, Owner, the Property, and/or the Project relating to the Payment and/or the labor, services, materials or other amounts for which the Payment is being made, and also specifically waives, to the fullest extent allowed by law, all liens, claims, and rights of lien by any of its subcontractors, materialmen, suppliers, laborers and all other persons or entities furnishing services, labor, or materials in connection with the Project for which the Payment is being made.

The undersigned Subcontractor makes the foregoing warranties and representations with full knowledge that Contractor, Owner and Owner's lenders (if any) intend to rely upon the truth and accuracy thereof, and Subcontractor further represents that Contractor, Owner and Owner's lenders (if any) shall be entitled to rely upon the truth and accuracy of such warranties and representations. Subcontractor acknowledges and agrees that Contractor and Owner do

not waive any rights or claims of any kind under the Contract, at law or in equity, by making the Payment or by acceptance of this Partial Waiver. Subcontractor acknowledges and agrees that neither the making of the Payment nor acceptance of this Partial Waiver relieves Subcontractor of its obligation to timely complete all items of work outstanding.

This _____ day of _____, 2020.

[SUBCONTRACTOR'S NAME]

By:

Signature: _____

Printed Name: _____

Title: _____

CONTRACTOR’S RELEASE AND LIEN WAIVER

The undersigned Design-Builder warrants and represents that upon payment of \$_____ as partial payment pursuant to the contract between Design-Builder and _____ (“Owner”) (including any amendments or modifications thereto) (the “Contract”) for the Project known as _____ and located at _____, Design-Builder has been paid all amounts owed for all work performed and materials provided through [Insert Date] (the “Effective Date”). In consideration for this partial payment, and other good and valuable consideration, receipt of which is hereby acknowledged, the Design-Builder makes the following representations, warranties and releases:

- 1. The Design-Builder represents and warrants that, upon receipt of the payment described above, Design-Builder has been paid in full (exclusive of retainage) through the Effective Date for all labor, services and materials in connection with the Project, including all work performed or any materials provided by its subcontractors, materialmen, laborers or other persons.
- 2. Design-Builder warrants and represents that: (a) it has paid all its subcontractors, materialmen, laborers, and other persons in full (exclusive of retainage) for all work performed that is subject to prior payments by Owner; (b) there are no outstanding claims, demands, or liens against either Design-Builder, the Project or the real property on which the Project was constructed and/or any improvements thereon (the “Property”); and (c) no claims, demands, or liens have been filed against Design-Builder or the Property.
- 3. Design-Builder releases and discharges Owner from all claims, demands, or causes of action (including all lien claims and rights) which the Design-Builder has or might have against Owner or the Property related to payments owed Design-Builder under the Contract prior to the Effective Date. Design-Builder hereby specifically waives and releases any lien, claim or right to assert a lien against the Owner and/or the Property, and also specifically waives, to the extent allowed by law, all liens, claims, or rights of lien by the Design-Builder’s subcontractors, materialmen, or laborers.

The undersigned Design-Builder makes the representations and warranties with full knowledge that Owner shall be entitled to rely upon the truth and accuracy thereof. Design-Builder acknowledges and agrees that Owner does not waive any rights or claims of any kind under the Contract at law or in equity by making this payment or by acceptance of this Release and Lien Waiver.

This _____ day of _____, 2020

Balfour Beatty Construction, LLC

Name: _____

Printed Name: _____

Title: _____

EXHIBIT I

Weather Days

WEATHER DAYS:

For informational and baseline purposes, Owner and Construction Manager agree that the "Weather Days" at the project location are as follows:

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
7	6	7	6	7	6	7	6	5	5	5	7

The baseline above represents the number of calendar days for each month that construction activity is expected to be suspended due to normal seasonal weather.

Construction Manager assumes full responsibility for completing the project within the contractual timeframe taking into consideration these Weather Days. To the extent that Construction Manager contends it is entitled to an extension of the Contract Time for adverse weather, Construction Manager shall pursue such claim as provided in Article 10 of the DBIA 535, as modified.

In addition to precipitation listed in section 8.2.3 of DBIA 535, Weather Days shall also include the following conditions:

1. "Snow Days" - standing snow on the project site in excess of 1.0"
2. "Drying Days" – are defined as a day subsequent to the actual "rain day" during the period of critical path site work operations (mass grading, building pad grading, excavations, backfill operations).
3. "Windy Days" – are defined as days where critical path activities cannot proceed due to high winds that preclude the ability to utilize a crane for critical path activities because wind speeds in excess of the manufacturer's recommendations.

Town of Clayton
Amendment to the Capital Project Budget Ordinance

BE IT HEREBY ADOPTED BY THE TOWN COUNCIL FOR THE TOWN OF CLAYTON that the following amendments shall be made to the Parks & Rec Capital Projects Budget Ordinance:

Fund: Parks & Rec Capital Projects

<u>Line Item</u>	<u>Previous Appropriation</u>	<u>Adjustment</u>	<u>Revised Appropriation</u>
Revenues			
611-45 12	Grant Funds - Recreation		
	\$0	+86,810	\$86,810
611-45 32	Donations - Recreation		
	\$0	+100,000	\$100,000
611-49 80	Due from General Fund		
	\$50,000	+1,100,190	\$1,150,190
Expenditures			
611-58 07	Land Acquisition		
	\$288,000	-288,000	\$0
611-58 21	Site Improvements		
	\$0	+1,500,000	\$1,500,000
611-58 99	Contingency		
	\$0	+75,000	\$75,000

Explanation: Amendment to the capital project budget ordinance to include the Harmony Playground project, which will utilize the \$238,472 remaining fund balance. This amendment is required for compliance with G.S. 159-13.2.

Duly adopted this 3rd day of February, 2020 while in regular session.

Jody L. McLeod
Mayor

Attest:

Kimberly A. Moffett, CMC, NCCMC
Town Clerk

**Town of Clayton
Amendment to the FY 19-20 Budget**

BE IT HEREBY ADOPTED BY THE TOWN COUNCIL FOR THE TOWN OF CLAYTON that the following amendments shall be made to the FY 19-20 Budget:

Fund: General Fund

<u>Line Item</u>	<u>Previous Appropriation</u>	<u>Adjustment</u>	<u>Revised Appropriation</u>
Revenue			
100-40-00-48 99	Fund Balance Appropriated \$935,000	+400,190	\$1,335,190
Expenditures			
100-40-00-59-23	Transfer to Capital Project Fund \$550,000	+1,100,190	\$1,650,190
100-60-95-58-00	Capital Outlay \$700,000	-700,000	\$0

Amendment to realign the budget to fund the Harmony Playground project, which will be accounted for in a capital project fund. This amendment is required for compliance with G.S. 159-15:

Duly adopted this 3rd day of February, 2020 while in regular session.

Jody L. McLeod
Mayor

Attest:

Kimberly A. Moffett, CMC, NCCMC
Town Clerk



Town Council Agenda Cover Sheet

Meeting Date

February 3, 2020

Agenda Location

New Business

Item Title

COPS grant proposal

Presenter

Chief Blair Myhand

Summary/Description

Chief is asking for Council approval to apply for two COPS grants to fund new positions. One grant is a one-year, 100% micro grant to fund a part-time Police Officer position for training. The second grant is a three-year, 75% grant to fund four new Police Officer positions for Patrol.

Requested Action

Approval

Funding Source (If Applicable):

COPS Office, Department of Justice, federal grant

Cost: N/A **Yes** ☒ **No** ☐

Additional Documents to be Included in Agenda Packet**Meeting Timeline**

Click or tap here to enter text.



Town Council Agenda Cover Sheet

Meeting Date

February 3, 2020

Agenda Location

Staff Reports

Item Title

Wall the Heals (April 15th) and Ride to Hope (May 6th) events

Presenter

Chief Blair Myhand

Summary/Description

Chief intends to inform Council of two upcoming events in and/or thru town. The Wall the Heals will pass thru downtown on April 15th on its way to Benson Park in Garner. Ride the Heals will stop at PD on May 6th for a brief wreath laying ceremony on its way to DC for National Police Week.

Requested Action

Informational Only

Funding Source (If Applicable):

N/A

Cost: N/A Yes ☐ No ☒

Additional Documents to be Included in Agenda Packet**Meeting Timeline**

Click or tap here to enter text.