



Town of Clayton
Regular Town Council Meeting Agenda
Monday, July 15, 2019 @ 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. Warranty Acceptance
 - Highgate Subdivision - Phase I
[Highgate Subdivision - Phase I](#)
- b. DRAFT Minutes
 - June 17, 2019 - Regular Session
 - June 17, 2019 - Closed Session
[June 17, 2019 DRAFT Minutes](#)
- c. Certificate of Sufficiency - Annexation
 - 2019-112-ANX - Capps Property
[Certificate of Sufficiency](#)
- d. Amending Parks & Recreation Fees
[Cover](#)
[Ordinance #2019-07-01](#)
- e. Resolution Setting Public Hearing - Annexation
 - 2019-144-ANX - Town of Clayton Regional Waste Water Pretreatment Facility
[Cover](#)
[Resolution #2019-28](#)

POTENTIAL ACTION:

Adopt Consent Agenda as Presented

4. ADMINISTRATIVE ITEMS

- a. Recommendation of Appointment to Downtown Development Association Advisory Board
Presenter: Kimberly Moffett, Town Clerk
 - Betsy Grannis
[Cover](#)
[Application](#)

POTENTIAL ACTION:

Appointment to Fill Unexpired Term

5. INTRODUCTIONS AND SPECIAL PRESENTATIONS

a. Employee Introductions and Promotions

Presenters: David DeYoung, Economic Development Director; Blair Myhand, Police Chief; Samantha Wullenwaber, Planning Director; and Dale Medlin, Electric Department Director

- Jenn Gallimore - Economic Development Specialist
- Corey Cedeno - Police Officer
- Morgan McKinney - Police Officer
- Chad Mallett - Police Officer
- Haley Hogg - Planner II
- Josh Cotten - Code Enforcement Officer
- Travis Rose - Electric Line Technician I

6. PUBLIC HEARINGS

a. Abandonment of Portion of Horne Street

Presenter: Planning Department

[Cover](#)

[Abandonment Plat](#)

[Legal Description](#)

[Resolution](#)

POTENTIAL ACTION:

Adoption of Resolution #2019-29

b. 2019-100-ANX - Parkview Subdivision, Phases 12, 16 & 17 - Annexation

Presenter: Planning Department

[Cover](#)

[Application](#)

[Site Plan](#)

[Map, Aerial](#)

[Map](#)

[Newspaper Ad](#)

[Ordinance](#)

POTENTIAL ACTION:

Adoption of Ordinance #2019-07-02

c. 2019-112-ANX - Capps Property - Annexation

Presenter: Planning Department

[Cover](#)

[Application and REVISED Legal Description](#)

[Site Plan REVISED](#)

[Map, Aerial](#)

[Map](#)

[Newspaper Ad](#)

[Ordinance](#)

POTENTIAL ACTION:

Adoption of Ordinance #2019-07-03

d. Recreation Open Space - Amending Fees & Charges

Presenters: Samantha Wullenwaber, Planning Director & Scott Barnard,

Parks & Recreation Director

[Cover](#)

POTENTIAL ACTION: Continue Public Hearing to August 19, 2019

e. 2019-106-OA - Accessory Use

Presenter: Planning Department

[Cover](#)

[Application](#)

[Strikethrough Copy Draft- 155.202 Use Table Accessory](#)

[Clean Copy Draft- 155.202 Use Table Accessory](#)

[Strikethrough Copy Use Definitions- 155.308 Accessory](#)

[Clean Copy Use Definitions- 155.308 Accessory](#)

[Consistency Statement](#)

[Planning Board Recommendation](#)

[Newspaper Ad](#)

[Motion Form](#)

[Ordinance](#)

POTENTIAL ACTION: Adoption of Ordinance #2019-07-04

f. 2019-12-ANX - East Clayton Elementary School - Annexation

Presenter: Samantha Wullenwaber, Planning Director

[Cover](#)

[Ordinance](#)

POTENTIAL ACTION: Adoption of Ordinance #2019-07-05

g. 2019-108-SUP - New Trinity Baptist Church (Quasi Judicial)

Presenter: Planning Department

[Cover](#)

[Application](#)

[Map](#)

[Site Plan](#)

[Adj Property Letter](#)

[Neighborhood Meeting Materials](#)

[Staff Report](#)

[Newspaper Ad](#)

[Motion Sheet](#)

[Approval](#)

POTENTIAL ACTION: Approval of 2019-108-SUP

h. 2019-118-RZ - 412 W. Stallings Rezoning

Presenter: Planning Department

[Cover](#)

[Application](#)

[Map](#)

[Site Plan](#)

[Neighborhood Meeting Materials](#)

[PB Adjacent Property Letter - Public Notice](#)

[TC Adjacent Property Letter - Public Notice](#)
[Staff Report](#)
[Newspaper Ad](#)
[Consistency Statement](#)
[Motion Form](#)
[Ordinance](#)

POTENTIAL ACTION: Adoption of Ordinance #2019-07-06

7. OLD BUSINESS

- a. General Obligation Bond Order for Parks and Recreational Facilities

Presenter: Robert McKie, Finance Director

[Statement of Estimated Interest](#)

[Sworn Statement of Debt](#)

[Resolution - GO Bond Order](#)

[Resolution - Setting Public Hearing](#)

POTENTIAL ACTION: Adoption of Resolution #2019-30 (Bond Order)

POTENTIAL ACTION: Adoption of Resolution #2019-31 (Set PH - 9/3/19)

8. NEW BUSINESS

- a. Piedmont Natural Gas Easement

Presenter: Rich Cappola, Public Works Director

[Cover](#)

[Easement - Final](#)

POTENTIAL ACTION: Approve Granting of Easement & Authorize
Town Manager to Execute Final Documents

- b. NCDOT Pedestrian Planning Grant

Presenter: Haley Hogg, Planner II

[Cover](#)

[Resolution](#)

POTENTIAL ACTION: Adoption of Resolution #2019-32

- c. Upset Bid Process Resolution

- 220 E. Main Street

Presenter: David DeYoung, Economic Development Director

[Cover](#)

[Procedures - Upset Bid](#)

[EXHIBIT A Special Conditions of Sale](#)

[Newspaper Ad](#)

[Resolution](#)

POTENTIAL ACTION: Adoption of Resolution #2019-33

9. STAFF REPORTS

- a. Town Manager

- b. Town Attorney
- c. Town Clerk
- d. Other Staff
 - Annual Police Department Summary
Presenter: Blair Myhand, Police Chief
 - Parks & Recreation - Bond Update
Presenter: Scott Barnard, P&R Director
 - Planning Department Update
Presenter: Samantha Wullenwaber, Planning Director
 - Enterprise Drive Realignment Update
Presenter: Rich Cappola, Public Works Director

[Cover - Police Dept.](#)
[PD Annual Report](#)
[Cover - Bond Update](#)
[Enterprise Drive Traffic Control Plan](#)

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

POTENTIAL ACTION: Motion to Go Into Closed Session

12. ADJOURNMENT

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



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

MEMORANDUM

To: Kimberly Moffett, Town Clerk

From: Andy Simerman, Construction Project Administrator

Copy: Jonathan Barnes, Dalton Engineering and Associates
Ryan Suman, Wakefield Development
Lori Baker, Development Services Coordinator

Date: June 11, 2019

Subject: Highgate Subdivision – Phase I (includes the off site water line)

Please place a final acceptance request for the referenced public sewer, water, storm sewer utilities, all pertinent easements, sidewalks, curb and gutter, asphalt pavement on the next available agenda.

If further information or clarification of the comments is required, you may contact my office at 919-553-5002 x. 5611.



Town of Clayton
Regular Town Council Meeting Minutes
Monday, June 17, 2019 @ 6:00 PM
Council Chambers

COUNCIL PRESENT:

Mayor Pro Tem Grannis
Council Member Satterfield
Council Member Holder
Council Member Thompson
Council Member Bunn

STAFF PRESENT:

Adam Lindsay, Town Manager
Nancy Medlin, Deputy Town Manager
Katherine Ross, Town Attorney
Kimberly Moffett, Town Clerk
Samantha Wullenwaber, Planning Director
Robert McKie, Finance Director
Byron Poelman, Distribution & Collection Manager
Dale Medlin, Electric Dept. Director
Lee Barbee, Fire Chief
Rich Cappola, Public Works Director
Scott Barnard, Parks & Rec. Director
Stacy Beard, Public Information Officer

COUNCIL ABSENT:

Mayor McLeod

1 CALL TO ORDER

Pledge of Allegiance and Invocation

2 ADJUSTMENT OF THE AGENDA

- a) Mr. Lindsay requested the removal of Item 8c - Resolution for Surplus Property and Upset Bid Process.

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) Certificate of Sufficiency - Annexation
 - 2019-100-ANX - Parkview Subdivision Phases 12, 16, & 17
- b) Resolution to Set Public Hearing - Annexation
 - 2019-100-ANX - Parkview Subdivision Phases 12, 16 & 17
- c) Resolution Directing Clerk to Certify Sufficiency - Annexation
 - 2019-112-ANX - Capps Property
- d) Resolution to Set Public Hearing - Annexation
 - 2019-112-ANX - Capps Property
- e) Minutes
 - June 3, 2019 DRAFT Minutes - Regular Session

ACTION: Adopt Consent Agenda as Presented

Motion: Council Member Thompson

Second: Council Member Holder

Vote: Unanimous

4 ADMINISTRATIVE ITEMS

a) Recommendation of Appointments to Downtown Development Association
Advisory Board

Presenter: Kimberly Moffett, Town Clerk

- Judy Ryan
- John David Millican
- Laura Johnson
- Erin Belcher
- Heidi Peach

Ms. Moffett stated this advisory board would have several vacancies on this board. The vacancies were advertised and all applicants were interviewed. It is recommendation of staff that the following appointments be made:

- Judy Ryan - Term Expiration - June 30, 2020
- John David Millican - Term Expiration - June 30, 2022
- Laura Johnson - Term Expiration - June 30, 2022
- Erin Belcher - Term Expiration - June 30, 2022
- Heidi Peach - Term Expiration - June 30, 2022

ACTION: Appointment of Nominees

Motion: Council Member Holder

Second: Council Member Satterfield

Vote: Unanimous

b) Resolutions Authorizing Johnston & Wake Counties to Collect Taxes on Behalf
of the Town of Clayton

Presenter: Kimberly Moffett, Town Clerk

Ms. Moffett stated these Resolutions were completed on an annual basis and authorize both Johnston and Wake Counties to collect taxes on behalf of Clayton.

ACTION: Adoption of Resolution #2019-22

Motion: Council Member Holder

Second: Council Member Thompson

Vote: Unanimous

ACTION: Adoption of Resolution #2019-23

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

5 INTRODUCTIONS AND SPECIAL PRESENTATIONS

a) New Employees and Employee Promotions

Presenters: Byron Poelman, Distribution & Collection System Manager; Dale Medlin, Electric Department Director and Lee Barbee, Fire Chief

- Michael Carpenter - Water & Sewer Preventative Maintenance
- Devon Beck - Clayton High School - Lineman Apprentice
- Joshua Bradley - North Johnston High School - Lineman Apprentice
- Kevin Stancil- Fire Inspector
- Stacey Turner- Captain
- Cory Beard - Fire Equipment Operator
- Anthony Marino - Fire Equipment Operator
- Cody Goff - Firefighter
- Chandler Parrott - Firefighter
- Monica Munoz - (PT-FTE) Firefighter
- Wesley Johnson - (PT-FTE) Firefighter
- Joseph Behrend - (PT-FTE) Firefighter

Mr. Cappola introduced Michael Carpenter, who stated he was very happy to be with the town. Mr. Medlin provided details regarding the Johnston County Lineman Apprentice Program and introduced Joshua Bradley. He stated he appreciated the opportunity and looked forward to this experience. Chief Barbee introduced several employees who were recently promoted. Kevin Stancil was promoted to Fire Inspector, he stated he greatly appreciated this opportunity. Stacey Turner was promoted to Captain, he stated he was very appreciative. Cory Beard and Anthony Marino were promoted to Fire Equipment Operator and both stated they were also appreciative of the opportunities. Also introduced were Firefighters Cody Goff, Chandler Parrott, Monica Munoz, Wesley Johnson and Joseph Behrend. All were excited and happy to be part of the Clayton team.

Council welcomed everyone and offered their congratulations.

6 PUBLIC HEARINGS

a) 2019-86-OA - Recreation Open Space Credits *(Continued from 6/3/2019)*

Presenter: Planning Department

Ms. Wullenwaber presented and shared details regarding this proposed amendment to Chapter 155, Article 2 Recreations/Open Space Requirements. This would require all residential subdivisions to pay 100% of the required recreation space fees. These fees are used to meet demands for additional recreational facilities.

Mr. Lindsay reminded this hearing is strictly for the amendment to the Code and there would be a public hearing held on July 15, 2019 with regard to proposed fee charges.

Mayor Pro Tem Grannis stated he struggled with folks who had already been approved having to pay a different fee than what fees were at time of approval. He would like to see those residential subdivisions who had been approved during fiscal years 2018-2019 and 2017-2018 have rates at those times honored.

Mr. Lindsay asked that staff be allowed to return to Council with additional options. He further stated that until fees are finalized folks would only be charged \$750.

Mr. Lipscomb shared his concern.

No one further wishing to speak, this item was turned over to Council for deliberation.

ACTION: Adoption of Ordinance #2019-06-05

Motion: Council Member Satterfield

Second: Council Member Bunn

Vote: 4-1 - Opposed Holder

- b) 2019-101-0A - Architectural Standards
Presenter: Planning Department

Ms. Wullenwaber shared details regarding proposed amendment to Chapter 155, Article 4 to require structures to be architecturally consistent on all sides of the building. This would include all non-residential and multi-family residential, this does exclude townhomes that are built to single family residential building code. This is for any building that is visible from a right-of-way or an adjacent property.

Staff and planning board recommended the approval.

With no one further wishing to speak, the item was turned over to Council for deliberation.

ACTION: Adoption of Ordinance #2019-06-06

Motion: Council Member Satterfield

Second: Council Member Thompson

Vote: Unanimous

7 OLD BUSINESS

- a) Abandonment Portion of Horne Street
Presenter: Samantha Wullenwaber, Planning Director

Ms. Wullenwaber provided details about the Resolution which would simply begin process for advertisement. She shared details about the community meeting scheduled to be held on Monday, July 1, at 6:00p.m. in the Rotary Room.

Mr. Lindsay reminded this is not the Resolution that would authorize the abandoning of the street, but rather just a step in the process. A public hearing will be held on July 15.

Mayor Pro Tem reiterated we are not proposing to close road at this time.

ACTION: Adoption of Resolution #2019-24

Motion: Council Member Bunn

Second: Council Member Satterfield

Vote: Unanimous

8 NEW BUSINESS

a) Stormwater Program Update

Presenters: Rich Cappola, Public Works Director and Hunter Freeman, Withers & Ravenel

Mr. Cappola introduced Mr. Freeman who shared details about the stormwater program. He shared details about the general requirements and minimum measures to include public education and outreach, public engagement, construction site runoff and post construction stormwater. He also shared details regarding the Neuse River Rules, the WSW regulations and the National Flood Insurance Program. He stated most of these programs were administered by Johnston County and hope was that Clayton would take over and administer the program in stages. Council Member Satterfield asked if Cape Fear River had the same regulations as the Neuse River and Mr. Freeman stated they did not.

Mayor Pro Tem Grannis asked about the timeframe for Clayton to take over this program. Mr. Freeman stated it would be in stages, with the first phase taking in approximately 6 months. There was discussion regarding current issues regarding some current violations. Mr. Freeman stated taking over the program would allow the Town to take ownership and not have a third party handling it. There was a question regarding cost and if we would see a savings or an increase. It was stated it was believed that the engineering department would have to hire additional staff. There were no other questions.

ACTION: None - Informational Only

b) FY '18-'19 Budget Closeout Ordinances

Presenter: Robert McKie, Finance Director

- Salary Reserve
- Water & Sewer Fund
- Rollingwood Gravity

Mr. McKie offered detailed information regarding fiscal year '18-'19 budget closeouts. There were no questions.

ACTION: Adoption of Ordinance #2019-06-07

Motion: Council Member Thompson
Second: Council Member Satterfield
Vote: Unanimous

ACTION: Adoption of Ordinance #2019-06-08

Motion: Council Member Thompson
Second: Council Member Satterfield
Vote: Unanimous

ACTION: Adoption of Ordinance #2019-06-09

Motion: Council Member Thompson
Second: Council Member Satterfield
Vote: Unanimous

- c) Resolution to Declare Surplus Property
- 220 East Main Street
- Presenter:* Adam Lindsay, Town Manager

This item was removed from the agenda.

- d) Capital Reserve Fund
- Presenter:* Robert McKie, Finance Director

Mr. McKie provided details about the requirements for the System Development Fees and creation of the Capital Reserve Fund.

ACTION: Adoption of Resolution # 2019-26

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

ACTION: Adoption of Ordinance #2019-06-10

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

- e) AMI Finance Installment Agreement
- Presenter:* Robert McKie, Finance Director

Mr. McKie provided details on this resolution which would allow us to enter into an agreement with Banc of America.

ACTION: Adoption of Resolution #2019-27

Motion: Council Member Satterfield

Second: Council Member Thompson

Vote: Unanimous

9 STAFF REPORTS

- a) Town Manager
- b) Town Attorney
- c) Town Clerk
- d) Other Staff
 - GO (General Obligation) Bond Schedule
Presenter: Scott Barnard, Parks & Recreation Director

Mr. Barnard provided a summary of benchmark and dates for GO Bond Referendum. Key dates follow:

- July 15 - Adoption of Resolution to Hold Public Hearing
- September 3 - Hold Public Hearing - Adopt Resolution to adopt bond order calling for referendum
- November 5 - Election Day – Plan to have Referendum on the Ballot
- Dec 2 - Adopt Resolution Certifying Referendum Results/Publish results
- Winter/Spring – Begin Work on Design
- Summer - Bonds sales or Continuing Resolution for the Bid Project(s)

10 OTHER BUSINESS

- a) Informal Discussion & Public Comment

Mr. Reid Smith stated he felt the schedule regarding Open Space that was part of the agenda packet was headed in the right direction. He asked about possibility of grandfathering recent projects as well as delaying time of fee collection until after plat recordation. He stated he appreciated the schedule that had been put together and trying project the fees for the future.

- b) Council Comments

Council Member Holder shared his concern about the recreation fees and feels we need to charge costs to cover expenses.

Mayor Pro Tem Grannis questioned the status of the improvements to West Horne Street, he asked what has caused the delays. Mr. Cappola stated it was largely due to weather delays and a significant amount of unsuitable soils. Based on conversation he had today, the curb and gutter should be finished in the next week or two. Hope is that project will be completed very shortly. Ms. Beard addressed communication that had been given to residents. At the beginning of the project Ms. Beard went door to door and shared materials and as the project progressed she provided updated informational emails. When

she was contacted by a citizen she would reach out to them with proper response. When it was discovered the deadline was to be delayed, she personally handed out additional correspondence to the citizens. She stated citizens are understandably frustrated but additionally they understand the depth of the project. Ms. Beard stated that everyone has been very receptive. Mr. Simerman is also working with individuals who are having unique issues.

11 CLOSED SESSION

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

Council went into Closed Session at 6:54p.m.

ACTION: Motion to Go Into Closed Session

Motion: Council Member Satterfield

Second: Council Member Thompson

Vote: Unanimous

12 ADJOURNMENT

- a) Adjourn Meeting

Council returned from Closed Session at 8:25 p.m. With there being nothing further, the meeting was adjourned.

ACTION: Motion to Adjourn

Motion: Council Member Holder

Second: Council Member Thompson

Vote: Unanimous

Duly adopted this this 15th day of July, 2019 while in regular session.

Michael Grannis
Mayor Pro tem

ATTEST:

Kimberly A. Moffett, CMC, NCCMC
Town Clerk

June 17, 2019
Minutes

June 17, 2019
Minutes

ANNEXATION PETITION 2019-112-ANX
Portion of Stella Puckett Capps Estates
Parcel: Portion of 05026073 and 05026073V
Owners: Stella Puckett Capps Estate
Contiguous; 20.66 +/- acres

CERTIFICATE OF SUFFICIENCY

To the Town Council of the Town of Clayton, North Carolina:

I, Kimberly A. Moffett, Town Clerk, do hereby certify that I have investigated the petition attached hereto and have found as a fact that said petition is signed by all owners of real property lying in the area described therein, in accordance with G.S. 160A-58.1.

In witness whereof, I have hereunto set my hand and affixed the seal of the Town of Clayton, this 15th day of July, 2019.

Kimberly A. Moffett, CMC, NCCMC
Town Clerk



Town Council Agenda Cover Sheet

Meeting Date

July 15 2019

Agenda Location

Consent Agenda

Item Title

Park and Recreation Fees and Charges

Presenter

Scott Barnard, Parks and Recreation Director

Summary/Description

Proposed in the 2019/20 budget, were changes in the way Parks and Recreation Department develops and charges fees for services. The guiding principles were that Residents would receive a 50% discount off of rate charged to non-residents; non-residents rates would reflect market rate for offered programs; resident rates will cover direct cost of programs (instructor salary, materials, t-shirt, etc) and that non-residents would no longer be able to 'purchase in' to the resident rate structure with a community center membership.

In the chart of fees and charges adopted in the budget, "programs" were inadvertently left the same as they had been in previous years. This was an oversight and having them be an exception to the rule not only creates inequity between program areas but complicates the application of the discount to residents in the remaining areas.

Requested Action

Place on Consent Agenda

Funding Source (If Applicable):

N/A

Cost: N/A Yes ☐ No ☒

Additional Documents to be Included in Agenda Packet

Ordinance

Meeting Timeline

Click or tap here to enter text.

Town of Clayton
Amendment to the Comprehensive List of Fees and Charges

BE IT HEREBY APPROVED BY THE TOWN COUNCIL FOR THE TOWN OF CLAYTON, NORTH CAROLINA, THAT THE FOLLOWING SHALL BE AMENDED TO ITS COMPREHENSIVE LIST OF FEES AND CHARGES:

RECREATION DEPARTMENT

PROGRAMS		
Classes	Resident Fee (50% discount)	Non-Resident Fee
Class fees vary according to the type of class, cost of the facility, instructor and number of participants.		Base/Market

All above rates will be effective immediately.

Duly adopted this the 15th day of July, 2019 while in regular session.

Michael Grannis
Mayor Pro tem

ATTEST:

Kimberly A. Moffett, CMC, NCCMC
Town Clerk



Town Council Agenda Cover Sheet

Meeting Date

July 15 2019

Agenda Location

Consent Agenda

Item Title

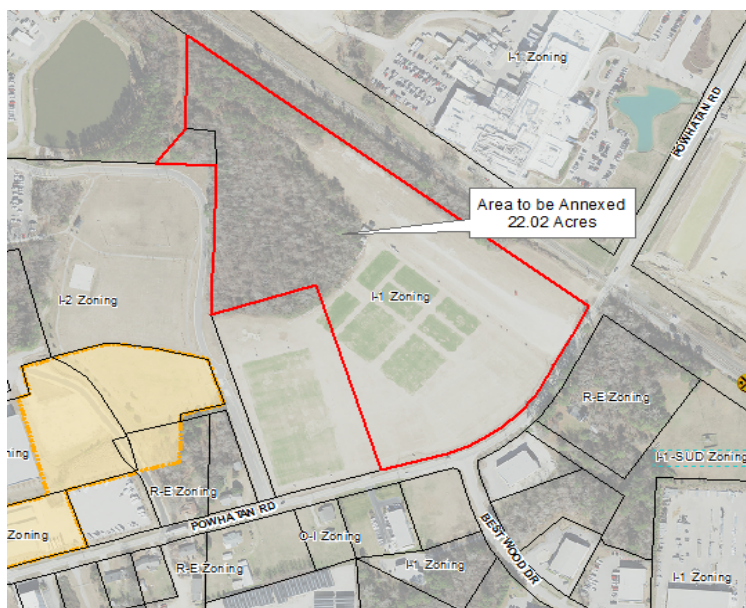
2019-144-ANX-TOC Regional WWPTF

Presenter

Planning Staff

Summary/Description

Annexation Petition 2019-144 Parcel Numbers 05I05019E and 05I05021D, Town of Clayton Regional Waste Water Pretreatment Facility located at 3798 Powhatan Rd. Site Plan 2017-190-SP was approved January 30, 2018.

**Requested Action**

Place on Consent Agenda

Funding Source (If Applicable):

N/A

Cost: N/A Yes ☐ No ☒

Additional Documents to be Included in Agenda Packet

Application, Maps and Deed Descriptions,

Meeting Timeline

July 15, 2019 Consent Agenda, July 15, 2019 Set date for Public Hearing and August 5, 2019 Public Hearing

ANNEXATION PETITION 2019-144-ANX
TOC Regional WWPTF
Parcel Numbers 05I05019E and 05I05021D
Owners: Town of Clayton
Non-Contiguous; 22.02 acres

TOWN OF CLAYTON
RESOLUTION STATING THE INTENT OF
THE TOWN OF CLAYTON TO ANNEX PROPERTY OWNED BY
THE TOWN OF CLAYTON WHICH IS NOT CONTIGUOUS TO
THE EXISTING MUNICIPAL BOUNDARIES

BE IT RESOLVED by the Clayton Town Council of the Town of Clayton that:

Section 1. It is the intent of the Clayton Town Council, pursuant to G.S. 160A-58.7, to annex the property described in Section 2, which is owned by the Town of Clayton.

Section 2. The legal description of the property, as found in deed book 5046 page 176, deed book 5118 page 289 and deed book 4948 page 2, located at the Johnston County Register of Deeds, is as follows:

BEGINNING AT A CONCRETE MONUMENT, SAID MONUMENT BEING THE SOUTHWEST CORNER OF A PARCEL OWNED BY TOWN OF CLAYTON (PIN # 167800309377); SAID POINT ALSO BEING THE SOUTHEAST CORNER OF A PARCEL OWNED BY GRIFOLS THERAPEUTICS INC. (PIN # 167800215181), HAVING COORDINATES OF N: 680412.56 AND E: 2173924.64 (NAD83/2011); THENCE FROM SAID POINT OF BEGINNING, N 41°05'15" E A DISTANCE OF 160.51' TO AN IRON PIPE; THENCE, N 00°44'27" E A DISTANCE OF 345.34' TO AN IRON PIPE; SAID IRON PIPE BEING LOCATED ON THE SOUTHERN RIGHT OF WAY OF THE RAILROAD; THENCE ALONG AND WITH SAID RIGHT OF WAY, S 53°10'17" E A DISTANCE OF 1647.46' TO AN IRON PIPE; SAID IRON PIPE BEING LOCATED ON THE NORTHERN RIGHT OF WAY LINE OF POWHATAN ROAD; THENCE LEAVING SAID RAILROAD RIGHT OF WAY AND ALONG AND WITH SAID ROAD RIGHT OF WAY, S 26°49'06" W A DISTANCE OF 264.20' TO AN IRON PIPE; THENCE, S 27°54'23" W A DISTANCE OF 45.44' TO A POINT; THENCE, S 30°30'29" W A DISTANCE OF 49.04' TO A POINT; THENCE, S 34°29'40" W A DISTANCE OF 46.21' TO A POINT; THENCE, S 40°10'15" W A DISTANCE OF 47.55' TO A POINT; THENCE, S 45°32'00" W A DISTANCE OF 46.88' TO A POINT; THENCE, S 50°31'57" W A DISTANCE OF 47.89' TO A POINT; THENCE, S 55°09'35" W A DISTANCE OF 47.58' TO A POINT; THENCE, S 59°45'06" W A DISTANCE OF 46.78' TO A POINT; THENCE, S 67°26'24" W A DISTANCE OF 96.73' TO A POINT; THENCE, S 72°09'10" W A DISTANCE OF 63.37' TO A POINT; THENCE, S 73°33'19" W A DISTANCE OF 168.47' TO AN IRON PIPE; THENCE LEAVING SAID RIGHT OF WAY, N 17°36'52" W A DISTANCE OF 715.23' TO AN IRON PIPE; THENCE, S 72°22'00" W A DISTANCE OF 359.01' TO AN IRON ROD; THENCE, N 01°20'21" E A DISTANCE OF 551.13' TO AN IRON PIPE; THENCE, N 87°39'24" W A DISTANCE OF 199.80' TO THE **POINT OF BEGINNING** CONTAINING 959,404.4 SF (22.02 ACRES) MORE OR LESS ACCORDING TO A RECOMBINATION PLAT FOR TOWN

OF CLAYTON PREPARED BY DEWBERRY ENGINEERS INC. DATED NOVEMBER 28, 2017 AND
RECORDED IN PLAT BOOK 86 PAGE 30 AT THE JOHNSTON COUNTY REGISTER OF DEEDS OFFICE.

Section 3. The property described in Section 2 is not contiguous to the current municipal boundaries, but will meet the requirements of G.S. 160A-58.1(b).

Section 4. A public hearing on the question of annexation of the non-contiguous area described herein will be held at Town Hall at 6:00 PM on Monday, August 5, 2019.

Section 5. Notice of the public hearing shall be published once in the Johnstonian newspaper having general circulation in the Town of Clayton, at least 10 days prior to the date of the public hearing.

Duly adopted this 15th day of July 2019 while in regular session.

Michael Grannis
Mayor Pro Tem

ATTEST:

Kimberly A. Moffett, CMC
Town Clerk



Town Council Agenda Cover Sheet

Meeting Date

July 15 2019

Agenda Location

Administrative

Item Title

Downtown Development Advisory Board Appointment Recommendation

Presenter

Kimberly Moffett, Town Clerk

Summary/Description

Staff is recommending appointment of Betsy Grannis to the Downtown Development Advisory Board to fill an unexpired term with an expiration of 6/30/2021.

Requested Action

Approval

Funding Source (If Applicable):

N/A

Cost: N/A Yes ☐ No ☒

Additional Documents to be Included in Agenda Packet

Application

Meeting Timeline

Click or tap here to enter text.



received 11/13/15



ADVISORY BOARD CANDIDATE APPLICATION

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

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

CHOOSE ONE:

☒ Planning & Zoning Board

☐ Board of Adjustment

☒ Downtown Development Assoc.

☐ Clayton Library Board

☐ Recreation Advisory Committee

☐ Fire Dept. Advisory Board

☐ Public Arts Advisory Board

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

Please type or use dark ink.

Name: Betsy Grannis

Mailing Address: 507 E. Second St.; Clayton, NC 27520

Physical HOME Address: - same -

Phone Number (HOME): 919-550-8547 (WORK): - same

FAX Number: 919-550-8611 Mobile Number: 919-306-5804

Email Address: begrannis@aol.com

*Female ☒ *Male ☐

*Race Caucasian

Employer: Morning Glory Inn

Occupation: Owner / Innkeeper

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

CP,
6/30/19

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

Length of residence in Clayton: 15 years

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

How did you find out about this board or committee? Facebook ☐ Website ☐ TV ☐

Newspaper ☐ Email ☐ Twitter ☐ Mail ☒ Other Husband (Michael Granvis)

Outline your qualifications and why you wish to serve the board/committee you indicated.

Have been active in the community since moving here and very much care about the direction Clayton is heading.

State why you would be an asset to this board or committee. Want to see

Clayton continue to be a growing, active community - wisely and safely.

Do you anticipate a conflict of interest if asked to serve as a member on the requested board or committee? No ☒ Yes ☐ If Yes, explain:

PLEASE LIST CURRENT AND PREVIOUS SERVICE TO THE COMMUNITY, CIVIC CLUBS, ETC., ACTIVITY AND ANY SPECIAL TALENTS.

Boards/Committees/Civic	From	To
<u>The Woman's Club of Clayton</u>	<u>1999</u>	<u>present</u>
<u>Clayton Downtown Development</u>	<u>2007</u>	<u>present</u>
<u>Clayton Chamber Board</u>	<u>2004</u>	<u>2006</u>

Dorothy Granvis
Signature

11-13-15
Date

- Please do not submit resumes or attachments.
- This application is a **public record**.
- Information in the application will be considered in making appointments.
- Candidates may be interviewed prior to appointment.
- If not initially appointed to serve, this application will remain active until August 1 of the following year.

Applications are to be turned in to the Town Clerk in person (111 East Second Street), by mail (Town of Clayton, PO BOX 879, Clayton, NC 27528) or by email (knoffett@townofclaytonnc.org)



Town Council Agenda Cover Sheet

Meeting Date

July 15 2019

Agenda Location

Public Hearings

Item Title

Horne Street Abandonment

Presenter

Samantha Wullenwaber, Planning Director

Summary/Description

The Town is requesting to abandon an approximately 322' section of Horne Street. See the attached description for the metes and bounds.

Requested Action

Approval

Funding Source (If Applicable):

N/A

Cost: N/A Yes ☐ No ☒

Additional Documents to be Included in Agenda Packet

Resolution
Newspaper Ad
Abandonment Plat

Meeting Timeline

Adopt Resolution & Set Public Hearing- June 17, 2019
Public Hearing- July 15, 2019

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THE PURPOSE ORIGINALLY INTENDED, WITHOUT THE WRITTEN PERMISSION OF BOHLER ENGINEERING IS PROHIBITED.

NOTES:

1. NO TITLE REPORT FURNISHED.
2. AREAS COMPUTED BY COORDINATE METHOD.
3. PROPERTY SHOWN HEREON IS SUBJECT TO ALL RIGHTS-OF-WAY, EASEMENTS AND RESTRICTIONS OF RECORD.
4. ALL DISTANCES SHOWN ON SURVEY ARE HORIZONTAL GROUND DISTANCES UNLESS OTHERWISE NOTED.
5. NC GRID COORDINATES (NAD83) OBTAINED BY USING GPS, PER THE NCVRS NETWORK.
6. BASIS OF BEARING SHOWN HEREON IS NC GRID (NAD 83 NSRS 2011).
7. VERTICAL DATUM SHOWN HEREON IS NAVD88.
8. THE PROPERTY SHOWN HEREON IS LOCATED IN FLOODZONE "ZONE X", AREA OF MINIMAL FLOODING, PER FLOOD INSURANCE RATE MAP 3720168900K, PANEL 1669 EFFECTIVE DATE JUNE 20, 2018, AND PER FLOOD INSURANCE RATE MAP 3720165900K PANEL 1659 EFFECTIVE DATE JUNE 20, 2018.

REVIEW OFFICER'S CERTIFICATE

STATE OF NORTH CAROLINA
COUNTY OF JOHNSTON

I, _____, REVIEW OFFICER OF JOHNSTON COUNTY, CERTIFY THAT THE
MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY
REQUIREMENTS FOR RECORDING.

DATE REVIEW OFFICER

CERTIFICATE REQUIRED ON RECOMBINATION PLATS

THIS PLAT REPRESENTS A RECOMBINATION OF PREVIOUSLY RECORDED PARCELS OF LAND
AND DOES NOT CONSTITUTE A SUBDIVISION AS SPECIFIED BY THE NORTH CAROLINA
GENERAL STATUTES. APPROVAL FOR RECORDATION BY THE TOWN OF CLAYTON IS GRANTED
CERTIFICATION BELOW.

DATE PLANNING DIRECTOR -TOWN OF CLAYTON, NC

JOHNSTON COUNTY REGISTER OF DEEDS

STATE OF NORTH CAROLINA, JOHNSTON COUNTY

THE INSTRUMENT WAS PRESENTED FOR REGISTRATION AND RECORDING THIS ____ DAY OF

_____, 20____ AT _____

REG. OF DEEDS ASST. REG. OF DEEDS

CERTIFICATION FOR WATER SUPPLY AND SEWAGE DISPOSAL SYSTEMS

CERTIFICATE OF PRELIMINARY APPROVAL OF WATER SUPPLY AND SEWAGE DISPOSAL
SYSTEMS INSTALLED FOR INSTALLATION IN _____ SUBDIVISION MEET
PUBLIC HEALTH REQUIREMENTS AS DESCRIBED IN APPENDIX II JOHNSTON COUNTY
SUBDIVISION REGULATIONS FINAL APPROVAL FOR INDIVIDUAL LOTS WITHIN THIS SUBDIVISION
WILL BE BASED ON DETAILED LOT EVALUATION UPON APPLICATION AND SUBMISSION OF PLAN
OR FOR PROPOSED USE. THIS PRELIMINARY CERTIFICATION IS ADVISORY ONLY AND
CONFERS NO GUARANTEE.

DATE HEALTH REPRESENTATIVE

NOTE: EACH LOT SHOWN HEREON MAY REQUIRE THE USE OF SEWAGE PUMPS, LOW
PRESSURE PIPE SYSTEMS, FILL SYSTEMS, INNOVATIVE SYSTEMS OR ANY OTHER ALTERNATE
SYSTEM TYPE AND SITE MODIFICATIONS SPECIFIED IN THE NORTH CAROLINA LAWS AND
RULES FOR SEWAGE TREATMENT AND DISPOSAL SYSTEMS, 15A NCAC 18A SECTION 1900. THE
ACTUAL SYSTEM TYPE, DESIGN AND SITE MODIFICATIONS WILL BE DETERMINED AT THE TIME
OF PERMITTING.

CERTIFICATE OF FLOODWAY INFORMATION

PROPERTY HEREON _____ IS _____ NOT LOCATED IN A FEMA DESIGNATED FLOOD ZONE.
FLOOD HAZARD PANEL NO. 1669
EFFECTIVE DATE: JUNE 20TH, 2018

DATE SURVEYOR

CERTIFICATE OF OWNERSHIP AND DEDICATION

I HEREBY CERTIFY THAT I AM THE OWNER OF THE PROPERTY SHOWN AND DESCRIBED
HEREON, WHICH IS LOCATED IN THE SUBDIVISION JURISDICTION OF THE TOWN OF CLAYTON
AND THAT I HEREBY ADOPT THIS SUBDIVISION PLAN WITH MY FREE CONSENT, ESTABLISH
MINIMUM SETBACK LINES, AND DEDICATE ALL STREETS, ALLEYS, PARKS AND OTHER SITES
AND EASEMENTS TO PUBLIC OR PRIVATE USE AS NOTED.

DATE OWNER

NOTARY STATEMENT

_____(STATE)

_____(COUNTY)

I, _____
A NOTARY PUBLIC OF SAID COUNTY AND STATE, DO HEREBY
CERTIFY THAT

DID PERSONALLY APPEAR AND SIGN BEFORE ME THIS THE
DAY OF _____, 2018

NOTARY PUBLIC (SIGNATURE)

MY COMMISSION EXPIRES: _____

CERTIFICATE OF OWNERSHIP AND DEDICATION

I HEREBY CERTIFY THAT I AM THE OWNER OF THE PROPERTY SHOWN AND DESCRIBED
HEREON, WHICH IS LOCATED IN THE SUBDIVISION JURISDICTION OF THE TOWN OF CLAYTON
AND THAT I HEREBY ADOPT THIS SUBDIVISION PLAN WITH MY FREE CONSENT, ESTABLISH
MINIMUM SETBACK LINES, AND DEDICATE ALL STREETS, ALLEYS, PARKS AND OTHER SITES
AND EASEMENTS TO PUBLIC OR PRIVATE USE AS NOTED.

DATE OWNER

NOTARY STATEMENT

_____(STATE)

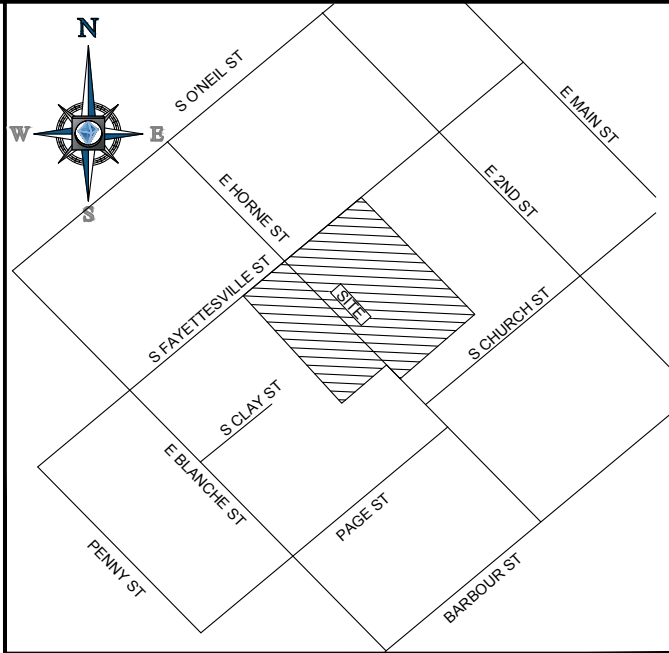
_____(COUNTY)

I, _____
A NOTARY PUBLIC OF SAID COUNTY AND STATE, DO HEREBY
CERTIFY THAT

DID PERSONALLY APPEAR AND SIGN BEFORE ME THIS THE
DAY OF _____, 2018

NOTARY PUBLIC (SIGNATURE)

MY COMMISSION EXPIRES: _____



LOCATION MAP

NOT TO SCALE

REFERENCES:

DB 1655, PG 767
DB 5114, PG 899
DB 5096, PG 1
DB 806, PG 283
DB 5195, PG 485
DB 3927, PG 155
DB 4308, PG 245
DB 754, PG 35080
DB 1743, PG 188
DB 3422, PG 887
DB 5211, PG 786
DB4584, PG 603
DB 1110, PG 312

SURVEYOR CERTIFICATION

I, THOMAS E. TEABO, PLS. HEREBY CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY
SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION, FROM DEED AND
MAP REFERENCES AS NOTED ON SAID MAP; THAT THE BOUNDARIES NOT SURVEYED ARE
CLEARLY INDICATED AS DRAWN FROM INFORMATION FROM DEED AND MAP REFERENCES AS
NOTED ON SAID MAP.

THAT THE RATIO OF PRECISION OR POSITIONAL ACCURACY OF THE SURVEY AS CALCULATED
IS 1: 10,000*, THAT THE BOUNDARIES NOT SURVEYED ARE SHOWN AS BROKEN LINES PLOTTED
FROM INFORMATION OF RECORD; THAT THIS MAP WAS PREPARED IN ACCORDANCE WITH G.S.
47-30, AS AMENDED.

I HEREBY CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL
GPS SURVEY MADE UNDER MY SUPERVISION AND THE FOLLOWING INFORMATION WAS USED
TO PERFORM THE SURVEY:

- (1) CLASS OF SURVEY: "CLASS A"
- (2) POSITIONAL ACCURACY: 0.04'
- (3) TYPE OF GPS FIELD PROCEDURE: REAL-TIME KINEMATIC NETWORKS-NCVRS
- (4) DATES OF SURVEY: 10-01-18 TO 10-11-18
- (5) DATUM/EPOCH: NAD 83 (2011) EPOCH 2010.00
- (6) PUBLISHED/FIXED-CONTROL USE: NCVRS
- (7) GEOID MODEL: 2012 (CONUS)
- (8) COMBINED GRID FACTOR(S): 0.99988564
- (9) UNITS: US SURVEY FEET

THAT THIS SURVEY IS OF ANOTHER CATEGORY, SUCH AS THE RECOMBINATION OF EXISTING
PARCELS, A COURT ORDERED SURVEY, OR OTHER EXCEPTION TO THE DEFINITION OF
SUBDIVISION. WITNESS MY ORIGINAL SIGNATURE, LICENSE NUMBER AND AND SEAL THIS
6TH DAY OF MARCH A.D., 2019.

PRELIMINARY - NOT FOR RECORDATION,
SALES OR CONVEYANCES

SURVEYOR

NC L-3920



RECOMBINATION & RIGHT-OF-WAY
ABANDONMENT PLAT FOR THE

TOWN OF CLAYTON

PINS: 166913-02-1690,166917-02-1435,166913-02-0545

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

FILE NO.

NSR182134

DATE

03/06/19

FIELD DATE

10/11/18



BOHLER
ENGINEERING NC, PLLC

4130 PARKLAKE AVENUE
SUITE 130
RALEIGH, NORTH CAROLINA 27612
919.578.9000 - 919.703.2665 FAX
www.bohlerengineering.com
NCBELL ID: P-11132

■ UPRSTATE NEW YORK ■ BOSTON, MA ■ NEW YORK METRO ■ WARREN, NJ ■ PHILADELPHIA ■ SOUTHERN NJ ■ LEHIGH VALLEY, PA ■ SOUTHEASTERN PA
■ BALTIMORE, MD ■ SOUTHERN MARYLAND ■ NORTHERN VIRGINIA ■ WASHINGTON, DC ■ CENTRAL VIRGINIA ■ CHARLOTTE, NC ■ RALEIGH, NC

CREW CHIEF

RJ

DRAWN

CM

REVIEWED

TET

APPROVED

TET

SCALE

1" = 50'

DWG. NO.

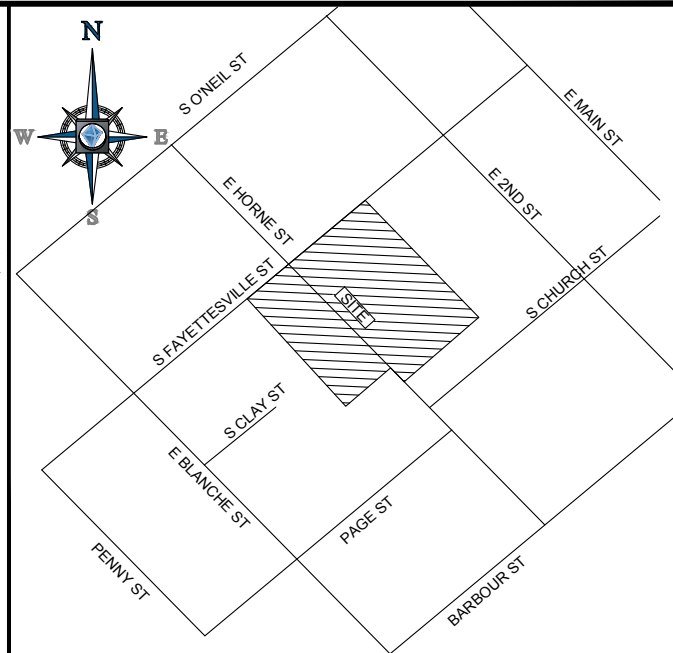
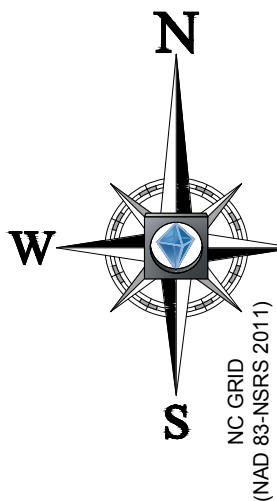
1 OF 2

NOTES:

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LOT TABLE:

TOWN OF CLAYTON (OLD LOT 1).....	98,474 SF/2.260 AC
TOWN OF CLAYTON (OLD LOT 2).....	14,362 SF/0.330 AC
HORNE MEMORIAL CHURCH (OLD LOT 3).....	10,400 SF/0.239 AC
ABANDONED PORTION OF HORNE ROAD	12,710 SF/0.292 AC
TOWN OF CLAYTON PROPERTY(NEW LOT 1).....	135,946 SF/3.121 AC



LOCATION MAP

NOT TO SCALE

REFERENCES:

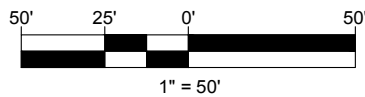
DB 1655, PG 767
DB 5114, PG 899
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DB 806, PG 283
DB 5195, PG 485
DB 3927, PG 155
DB 4308, PG 245
DB 754, PG 35080
DB 1743, PG 188
DB 3422, PG 887
DB 5211, PG 786
DB4584, PG 603
DB 1110, PG 312

PRELIMINARY - NOT FOR RECORDATION,
SALES OR CONVEYANCES



LEGEND

---	LINE SURVEYED
---	LINE NOT SURVEYED
○ IRS	IRON REBAR SET
○ IPF	IRON PIPE FOUND
○ IRF	IRON REBAR FOUND
○ CP	COMPUTED POINT



RECOMBINATION & RIGHT-OF-WAY
ABANDONMENT PLAT FOR THE
TOWN OF CLAYTON
PINS: 166913-02-1690, 166917-02-1435, 166913-02-0545
TOWN OF CLAYTON, CLAYTON TOWNSHIP,
JOHNSTON COUNTY, NORTH CAROLINA

FILE NO. NSR182134		BOHLER ENGINEERING NC, PLLC	4130 PARKLAKE AVENUE SUITE 130 RALEIGH, NORTH CAROLINA 27612 919.578.9000 - 919.703.2665 FAX www.bohlerengineering.com NCEES ID: P-1132			
DATE 03/06/19						
FIELD DATE 10/11/18	CREW CHIEF RJ	DRAWN CM	REVIEWED TET	APPROVED TET	SCALE 1" = 50'	DWG. NO. 2 OF 2

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BOHLERTM
ENGINEERING NC, PLLC

Date: March 5, 2019

**Legal Description of
A 0.292 acre portion of Rights-of-Way Located on
East Horne Street
Located in Town of Clayton, North Carolina**

Beginning at a found iron rebar, said rebar being along the southerly rights-of-way of South Fayetteville Street;
Thence, along said rights-of-way, N 45°06'35" E, 44.72' to a found iron rebar;
Thence, leaving said rights-of-way, S 45°45'49" E, 287.95' to a set iron rebar along the northerly rights-of-way of East Horne Street;
Thence, through the rights-of-way of East Horne Street, S 43°58'53" W, 43.43' to a found iron rebar being along the southerly rights-of-way of East Horne Street;
Thence, N 46°01'07" W, 47.00' to a computed point;
Thence, N 46°01'07" W, 50.00' to a found iron rebar;
Thence, N 46°01'07" W, 191.83' to a found iron rebar and the point and place of beginning containing 12,710 square feet or 0.292 acres, more or less.

"Preliminary, not for sales, recordation, or conveyances"

The property described hereon is subject to all easements, rights-of-way and restrictions of record.

CIVIL AND CONSULTING ENGINEERS • PROJECT MANAGERS • SURVEYORS • ENVIRONMENTAL CONSULTANTS • LANDSCAPE
ARCHITECTS WWW.BOHLERENGINEERING.COM

**STREET CLOSING ORDER
TOWN OF CLAYTON**

Resolution #2019-29

**A Resolution Ordering the Abandonment of a Portion of Horne
Street**

WHEREAS, on the 17th day of June, 2019, the Town Council of the Town of Clayton directed the Town Clerk to re-publish the Resolution of Intent of the Town Council to consider abandoning right of way on Cross Street once each week for four successive weeks, such resolution advising the public that a public hearing would be conducted in the Town Hall on July 15, 2019 and said public hearing was continued to April 1, 2019, April 15, 2019 and tabled to July 15, 2019; and

WHEREAS, the Town Council on the 17th day of June, 2019 ordered the Town Clerk to notify all persons owning property adjoining the abandonment of the portion of Horne Street, as shown on the county tax records, by registered or certified mail, enclosing with such notification a copy of the Resolution of Intent; and

WHEREAS, the Town Clerk has advised the Town Council that a letter was sent to each of the adjoining property owners advising them of the day, time and place of the meeting, enclosing a copy of the Resolution of Intent, and advising the abutting property owners that the question as to consider the abandonment of a portion of Horne Street would be acted upon, said letters having been sent by registered or certified mail; and

WHEREAS, the Town Clerk has advised the Town Council that adequate notices were posted on the applicable street as required by G.S. 160A-299; and

WHEREAS, after full and complete consideration of the matter and after having granted full and complete opportunity for all interested persons to appear and register any objections that they might have with respect to the closing of said street in the public hearing held on July 15, 2019; and

WHEREAS, it now appears to the satisfaction of the Town Council that the closing of said street is not contrary to the public interest, and that no individual owning property, either abutting the street or in the vicinity of the street or in the subdivision in which the street is located, will as a result of the closing be thereby deprived of a reasonable means of ingress and egress to his property;

NOW, THEREFORE, subject to the reservation of any easements to the Town of Clayton for utility purposes, a portion of Horne Street is hereby authorized for closure; and all right, title, and interest that may be vested in the public to said area for street purposes is hereby released and quitclaimed to the abutting property owners in accordance with the provisions of G.S. 160A-299.

The Mayor and the Town Clerk are hereby authorized to execute quitclaim deeds or other necessary documents in order to evidence vesting of all right, title and interest in those persons owning lots or parcels of land adjacent to the street or alley, such title, for the width of the abutting land owned by them, to extend to the centerline of the herein closed street (with provision for reservation of any easements to the Town of Clayton for utility and greenway purposes) in accordance with the provision of G.S. 160A-299(c).

The Town Clerk is hereby ordered and directed to file in the Office of the Register of Deeds of Johnston County a certified copy of this resolution and order.

Upon motion duly made by _____ and duly seconded by _____, the above resolution was duly adopted by the Town Council at a meeting held on the 15th day of July, 2019 in the Council Chamber of Clayton Town Hall.

Upon call for a vote the following Council Members voted in the affirmative:

and the following Council Members voted in the negative:

Duly adopted this the 15th day of July 2019, while in regular session.

Michael Grannis
Mayor ProTem

ATTEST:

Kimberly A. Moffett, CMC, NCCMC
Town Clerk

**NORTH CAROLINA
JOHNSTON COUNTY**

I, _____, a Notary Public, do hereby certify that Kimberly A. Moffett, Town Clerk, personally appeared before me this day and acknowledged the due execution of the foregoing certification, for the purposes therein expressed.

WITNESS my hand and notarial seal this _____ day of _____ 2019.

Notary Public _____
(Printed Name)

My Commission Expires:

County of Commission: _____

**

**NORTH CAROLINA
JOHNSTON COUNTY**

I hereby certify that the foregoing is a true and accurate copy of a resolution duly adopted by the Town Council of the Town of Clayton, North Carolina, at a meeting held July 15, 2019, at 6:00 PM at the Town Hall in the Town of Clayton.

IN WITNESS WHEREOF, I have hereunto set my hand and have caused the official corporate seal of said Town to be affixed, this _____ day of _____ 2019.

Kimberly A. Moffett, CMC, NCCMC
Town Clerk



Town Council Agenda Cover Sheet

Meeting Date

July 15 2019

Agenda Location

Public Hearings

Item Title

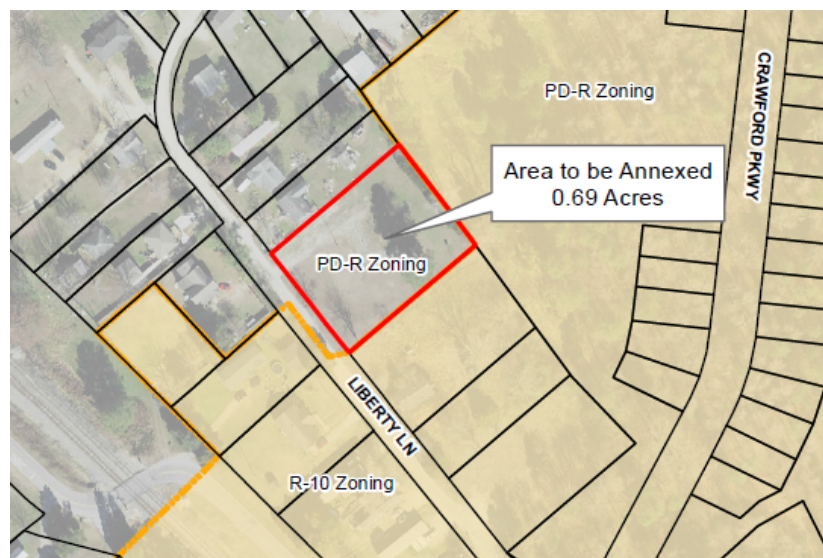
2019-100-ANX- Parkview Phs. 12, 16, & 17 Sam's Branch II, LLC

Presenter

Planning Staff

Summary/Description

Annexation Petition 2019-100 is Parcel Number 05029052, the property is owned by Sam's Branch II, LLC and is a portion of Parkview Subdivision Phases 12, 16, & 17 that is not in the Town Limits.



Requested Action

Approval/Denial

Funding Source (If Applicable):

N/A

Cost: N/A Yes ☐ No ☒

Additional Documents to be Included in Agenda Packet

Application, Maps and Deed Descriptions,

Meeting Timeline

June 3, 2019 Consent Agenda, June 17, 2019 Set date for Public Hearing and July 15, 2019 Public Hearing



2019-100-ANX

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

PETITION FOR VOLUNTARY ANNEXATION

VOLUNTARY ANNEXATION: Upon receipt of a valid petition signed by all of the owners of real property in the area described therein, the Town may annex an area either contiguous or not contiguous to its primary corporate limits when the area meets the standards set out under North Carolina General Statutes 160A-31 and 160A-58.1.

Applications are due by 5pm on the first working day of each month.

REQUEST INFORMATION

☒ **Contiguous Annexation**

☐ **Non-Contiguous Annexation**

The following items must accompany an annexation petition:

To be completed by the applicant:	Included?	
	Yes	No
1. Petition for Annexation with original signatures	☒	☐
2. A boundary plat of the area to be annexed meeting requirements of the Plat Checklist (included in this application packet).	☒	☐
3. Legal Description (metes and bounds)	☒	☐

PROCESS:

Review by Staff: The Planning, Engineering and Public Works Departments review the annexation submission. Comments will be sent to the applicant.

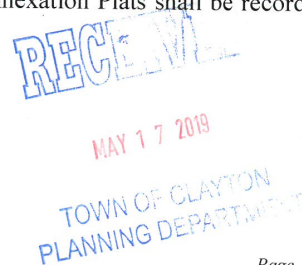
Annexation Plat Submission: After the map and legal description are deemed sufficient by the Town, the applicant is required to submit two (2) Mylar annexation plats to the Planning Department.

Town Council Meeting: The Town Council will pass a resolution directing the Town Clerk to investigate the annexation petition. The Town Clerk will present to the Town Council a Certificate of Sufficiency indicating that the annexation petition is complete. A resolution setting the date of the public hearing is then approved.

Legal Advertisement: A legal advertisement will be published no more than 25 days and no less than 10 days prior to the date of the public hearing.

Public Hearing/Town Council Meeting: The Town Council will either adopt or deny an ordinance to extend the corporate limits of the Town of Clayton.

Recordation: If the annexation is approved by the Town Council, the Annexation Plats shall be recorded at the appropriate county Register of Deeds.



Voluntary Annexation Plat Checklist

#	Required Plat Items
1.	Fully dimensioned by metes and bounds, and the location of intersecting boundary lines of the existing town limits, labeled and distinctly marked. Include full right-of-way if the area on both sides is or will be in the corporate limits.
2.	Any utility easements with metes and bounds.
3.	Accurate locations and descriptions of all monuments, markers and control points.
4.	Ultimate right-of-way widths on all streets.
5.	Entitle "ANNEXATION MAP FOR THE TOWN OF CLAYTON" OR "SATELLITE ANNEXATION MAP FOR THE TOWN OF CLAYTON," as appropriate.
6.	Name of property owner(s).
7.	Name, seal, and registration of Professionally Licensed Surveyor (PLS).
8.	Date of the survey and map preparation; a north arrow indicating whether the index is true magnetic North Carolina grid (NAD 83 or NAD 27) or deed; graphic scale; and declination.
9.	Names of the township, county, and state.
10.	A detailed vicinity map.
11.	Include address of property if assigned.
12.	Show all contiguous or non-contiguous town limits.
13.	The following certification must be placed on the map near a border to allow the map to be sealed: Annexation # _____ I, Samantha Wullenwaber, MPA, Planning Director, Clayton, North Carolina certify this is a true and exact map of annexation adopted the _____ day of _____, _____, by the Town Council. I set my hand and seal to the Town of Clayton, _____. _____ Samantha Wullenwaber MPA
14.	Leave 2 inch by 2 inch space for the county Register of Deeds stamp on the plat. All final plats must be stamped and signed before they can be accepted by the Town.

**PETITION FOR VOLUNTARY ANNEXATION APPLICATION – PROPERTY INFORMATION
COMPLETE IF A LIMITED LIABILITY COMPANY:**

Submittal Date: 05/16/2019

Petition No.: 2019-100-ANX

To the Town Council of the Town of Clayton, North Carolina:

1. I/We the undersigned owner(s)* of real property respectfully request that the area described in Paragraph 2 below be annexed to the Town of Clayton, North Carolina.

*If the owner of real property is a corporation or religious entity, attach a copy of the articles of incorporation describing who is/are authorized to sign with the petition.

2. The area to be annexed is contiguous, non-contiguous to the Town of Clayton, North Carolina and the boundaries of such territory are as provided in the boundary plat attached hereto.
3. If contiguous, this annexation will include all intervening rights-of-way for streets, railroads, and other areas as stated in G.S. 160A-31(f), unless otherwise stated in the annexation amendment.
4. Attached is a statement of the schedule for full development of the property to be annexed, which includes the type, number, and estimated value of planned improvements, if applicable.

Total acreage to be annexed:	<u>0.69</u>	
Existing housing units:	<u>N/A</u>	
Population of acreage to be annexed:	<u>Vacant at this time</u>	
Existing Zoning District*:	<u>PD-R</u>	
Proposed Town Zoning District*:	<u>PD-R</u>	Fire District: <u>Clayton</u>
Reason for petitioner to annex:	☒ Receive Town Services	
	☐ Other (please specify):	<u>Extension of Parkview Subd. which is in Town limits.</u>

5. I/We acknowledge that any zoning vested rights acquired pursuant to G.S. 160A-385.1 or G.S. 153A-344.1 must be declared and identified on this petition. I/We further acknowledge that failure to declare such rights on this petition shall result in a termination of vested rights previously acquired for the property. (If zoning vested rights are claimed, indicate below and attach proof.)

In witness whereof, Sam's Branch II a limited liability company, caused this instrument to be executed in its name by a member/manager pursuant to authority duly given, this 5th day of May, 2019.

Name of Limited Liability Company:

Sam's Branch II, LLC

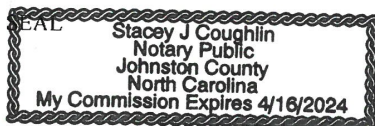
By:

[Signature]

Signature of Member/Manager

**STATE OF NORTH CAROLINA
COUNTY OF JOHNSTON**

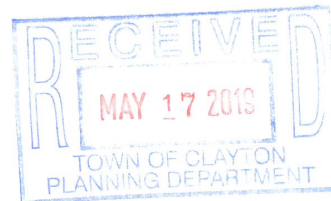
Sworn and subscribed before me, Stacey J Coughlin, a Notary Public for the above State and County, this 5th day of May, 2019.

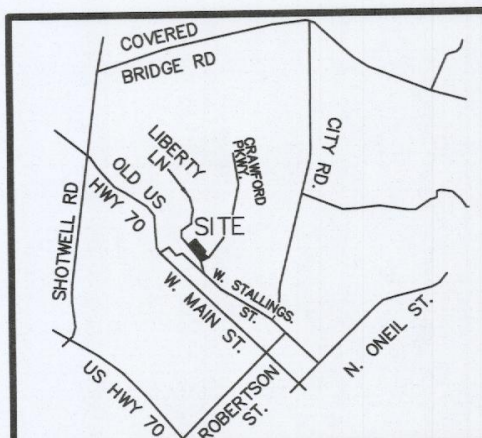


[Signature]
Notary Public

My Commission Expires: 4-16-2024

Beginning at an existing concrete monument on the northern right-of-way of Liberty Lane; thence running along the northern right-of-way of Liberty Lane N 36°-58'-21" W 149.74' to an existing rebar; thence leaving said right-of-way along a common line with now or formerly Soon, LLC, N 48°-21'-28" E 200.23' to an existing concrete monument in the line of Donald C. Adams; thence along a common line with Donald C. Adams S 36°-46'-09" E 149.79' to an existing concrete monument, a common corner with Sam's Branch, LLC; thence along a common line with Sam's Branch, LLC, S 48°-21'-28" W 199.70' to the point and place of beginning containing 0.685 acres, more or less, located in Clayton Township, Johnston County, North Carolina.





VICINITY MAP (NOT TO SCALE)

NOTES:

- 1) ALL DISTANCES SHOWN ARE HORIZONTAL GROUND DISTANCES (U.S. SURVEY FEET)
- 2) AREAS COMPUTED BY COORDINATE METHOD
- 3) PROPERTY SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD.
- 4) NO NC GEODETIC MONUMENTS FOUND WITHIN 2000' OF PROPERTY
- 5) # 5 REBAR STAKES SET AT CORNERS UNLESS OTHERWISE NOTED
- 6) CURRENT TOWN ZONING = PD-R

THIS SURVEY:

- 1) THAT THE SURVEY IS OF AN EXISTING PARCEL OR PARCELS OF LAND OR ONE OR MORE EXISTING EASEMENTS AND DOES NOT CREATE A NEW STREET OR CHANGE AN EXISTING STREET. FOR THE PURPOSES OF THIS SUBSECTION AN "EXISTING PARCEL" OR "EXISTING EASEMENT" IS AN AREA OF LAND DESCRIBED IN A SINGLE, LEGAL DESCRIPTION OR LEGALLY RECORDED SUBDIVISION THAT HAS BEEN OR MAY BE LEGALLY CONVEYED TO A NEW OWNER BY DEED IN ITS EXISTING CONFIGURATION.

CERTIFICATE OF FLOODWAY INFORMATION:
PROPERTY SHOWN HEREON DOES NOT GRAPHICALLY APPEAR TO BE IN A FEMA DESIGNATED 100 YEAR FLOOD PLAIN AS SHOWN ON COMMUNITY PANEL NUMBER 3720165900K
EFFECTIVE DATE: JUNE 20, 2018

SURVEYORS STATEMENT:

THIS PLAT IS A CORRECT REPRESENTATION OF THE LAND PLATTED, BUT A NORTH CAROLINA LICENSED ATTORNEY-AT-LAW SHOULD BE CONSULTED CONCERNING CORRECT OWNERSHIP, WIDTH AND LOCATION OF EASEMENTS; ANY CEMETERIES OR FAMILY BURYING GROUNDS NOT SHOWN ON RECORDED MAPS OR DEEDS MADE AVAILABLE TO THE SURVEYOR BY THE PRESENT OWNERS AT TIME OF THIS SURVEY AND OTHER TITLE QUESTIONS REVEALED BY TITLE EXAMINATION. NO RESPONSIBILITY OF ANY OTHER NATURE IS ASSUMED BY THE SURVEYOR FOR ANY CONDITIONS WHICH MAY PRESENTLY EXIST BUT ARE UNKNOWN SUCH AS: UNDERGROUND UTILITIES WETLANDS, TOXIC OR HAZARDOUS WASTE MATERIALS, ETC.

STATE OF NORTH CAROLINA, JOHNSTON COUNTY
I, ETHAN N. STAUFFER, DO HEREBY CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION USING REFERENCES SHOWN HEREON; THAT THE BOUNDARIES NOT SURVEYED ARE SHOWN AS BROKEN LINES PLOTTED FROM INFORMATION SHOWN HEREON; THAT THE RATIO OF PRECISION AS CALCULATED IS 1:10,000±; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. WITNESS MY ORIGINAL SIGNATURE, LICENSE NUMBER, AND SEAL THIS 13TH DAY OF MAY, A.D., 2019

PROFESSIONAL LAND SURVEYOR

L - 3839
LICENSE NUMBER

Received By:
Town of Clayton
5/17/19

PRELIMINARY PLAT
NOT FOR RECORDATION,
CONVEYANCES OR SALES

N/F
DONALD C. ADAMS
DB 4830 PGS 028-030
PB 81 PG 126

N/F
EUNICE F. BEASLEY
DB 1055 PG 320
PB 5 PG 3

N/F
WITHROW PROPERTIES LLC.
DB 4173 PG 820
PB 5 PG 3

N/F
SOON LLC.
DB 5075 PG 206
PB 5 PG 3

N/F
SOON LLC.
DB 5330 PG 812
PB 5 PG 3

SAM'S BRANCH II, LLC.
DB 5177 PGS 391-392
PB 05 PG 03
TAX ID# 05029052
PIN 165912-76-8701
AREA HEREBY ANNEXED
29844 S.F.
0.685 AC.

SITE ADDRESS:
125 LIBERTY LANE
CLAYTON, NC 27520

LIBERTY LANE EX. 20' R/W (PB 5 PG 3)

ANNEXATION#
I, SAMANTHA WULLENWABER, MPA, PLANNING DIRECTOR, CLAYTON, NORTH CAROLINA, CERTIFY THIS IS A TRUE AND EXACT MAP OF ANNEXATION ADOPTED THE DAY OF BY THE TOWN COUNCIL. I SET MY HAND AND SEAL TO THE TOWN OF CLAYTON.

DATE SAMANTHA WULLENWABER, MPA

ANNEXATION MAP FOR
THE TOWN OF CLAYTON
FOR
SAM'S BRANCH II, LLC.
CLAYTON TOWNSHIP, JOHNSTON COUNTY
NORTH CAROLINA
DATE: MAY 13, 2019

STATE OF NORTH CAROLINA, JOHNSTON COUNTY
THIS INSTRUMENT WAS PRESENTED FOR REGISTRATION
AND RECORDING THIS

PRELIMINARY PLAT
NOT FOR RECORDATION,
CONVEYANCES OR SALES
2019

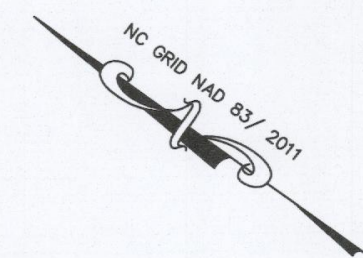
BY DEPUTY REG. OF DEEDS
REGISTER OF DEEDS

TIE TO NORTH CAROLINA STATE PLANE COORDINATE SYSTEM

I, ETHAN N. STAUFFER CERTIFY THAT THIS SURVEY WAS TIED TO THE NORTH CAROLINA STATE PLANE COORDINATE SYSTEM AND THAT THE FOLLOWING INFORMATION WAS USED TO PERFORM THE TIE:

CLASS OF SURVEY: AA
POSITIONAL ACCURACY: 0.04'
TYPE OF GPS FIELD PROCEDURE: RTK VRS
DATES OF SURVEY: 7/25/2018
DATUM/EPOCH: NAD83/(2011) 2010.00
PUBLISHED/FIXED CONTROL USE: FIXED CONTROL
GEIOD MODEL: 12B
COMBINED GRID FACTOR: 0.9998872
UNITS: U.S. SURVEY FEET
GNSS RECEIVER USED: SPECTRA SP60

DATE PROFESSIONAL LAND SURVEYOR



REFERENCES

AS SHOWN HEREON
DB 5177 PGS 391-392
DB 4925 PGS 765-767
DB 3082 PGS 455-457
DB 4830 PGS 028-030
DB 5330 PGS 812-814
DB 5083 PGS 612-613
DB 5083 PGS 610-611
DB 5037 PG 909
PB 81 PG 126
PB 05 PG 03
UNRECORDED PLAT BY
CHANDLER LAND SURVEYING
DATED JUNE 26, 2018

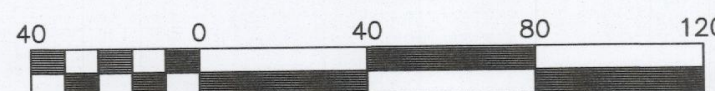
N/F
DONALD C. ADAMS
DB 4830 PGS 028-030
PB 81 PG 126
PRELIMINARY PLAT
NOT FOR RECORDATION,
CONVEYANCES OR SALES

N/F
SAM'S BRANCH LLC.
DB 5083 PGS 612-613

N/F
SAM'S BRANCH LLC.
DB 5083 PGS 610-611

N/F
SAM'S BRANCH LLC.
DB 5037 PG 909

PRELIMINARY PLAT
NOT FOR RECORDATION,
CONVEYANCES OR SALES



Scale 1" = 40'

LEGEND

- EXISTING REBAR (FOUND)
- EXISTING IRON PIPE/PIN (FOUND)
- IRON PIN SET - # 5 REBAR
- EXISTING MAG NAIL FOUND
- EXISTING CONCRETE MONUMENT (FOUND)
- MAG-NAIL SET
- PROPERTY LINE
- FIRE HYDRANT
- POWER POLE
- EDGE OF PAVEMENT
- S.F. SQUARE FEET
- AC ACRE
- REINFORCED CONCRETE PIPE
- NOW OR FORMERLY
- TIE LINE ONLY
- SANITARY SEWER MANHOLE
- DEED BOOK
- WATER METER
- PAGE
- PLAT BOOK
- GUY WIRE
- OVER HEAD POWER WIRE
- STREET ADDRESS
- LINE NOT SURVEYED

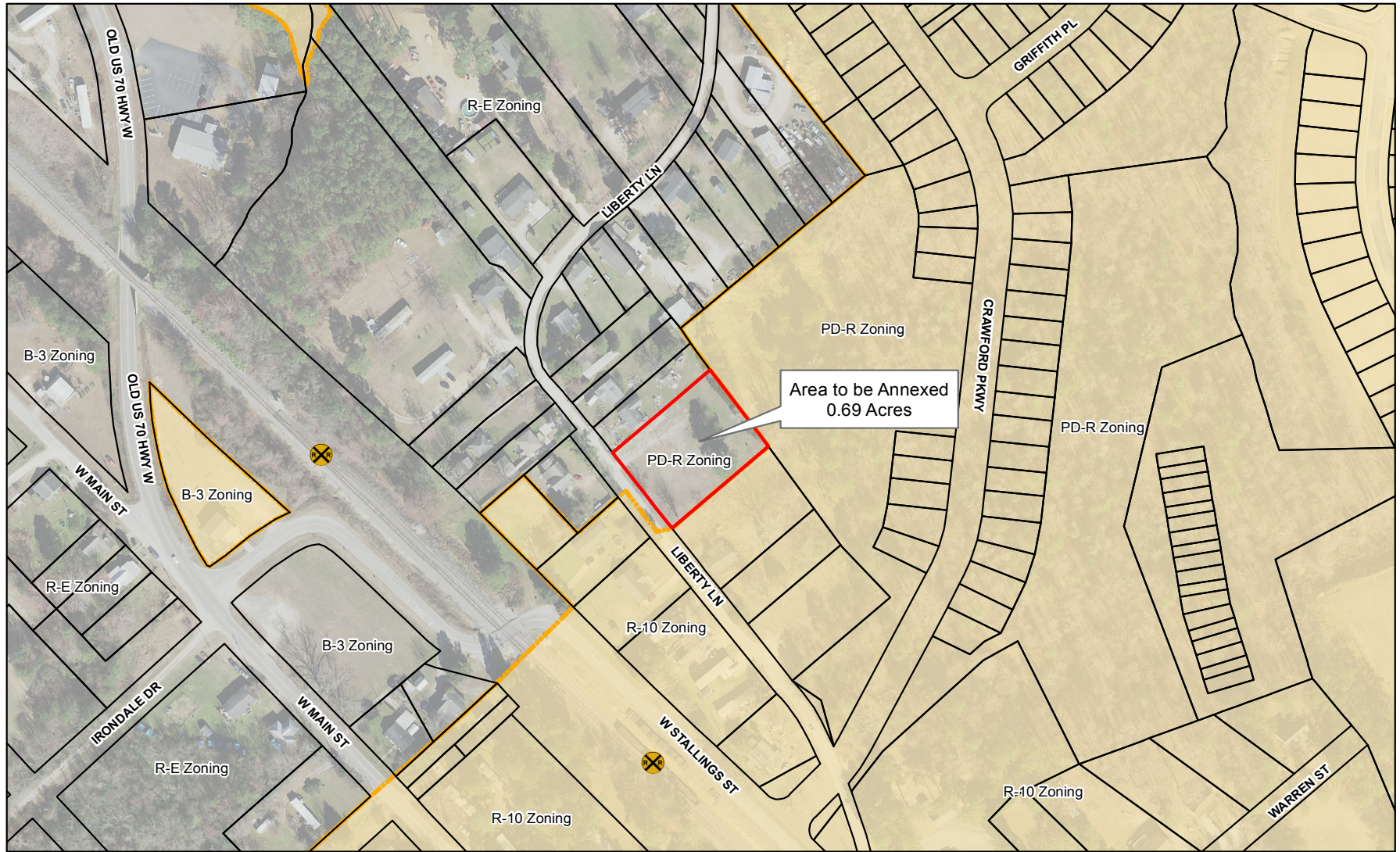


**GREENBROOK
SURVEYING, P.C.**
C-4414

305 East Main Street
Clayton, North Carolina 27520

919-427-8210
ethan@greenbrooksurveying.com

OWNER CONTACT:
SAM'S BRANCH II, LLC.
114 W. MAIN ST.
CLAYTON, NC 27520
DB 5177 PG 391



Legend

- Area to be Annexed
- Clayton Town Limits
- Clayton ETJ
- Parcels

Produced by: TOC Planning
May 23, 2019

Annexation Map

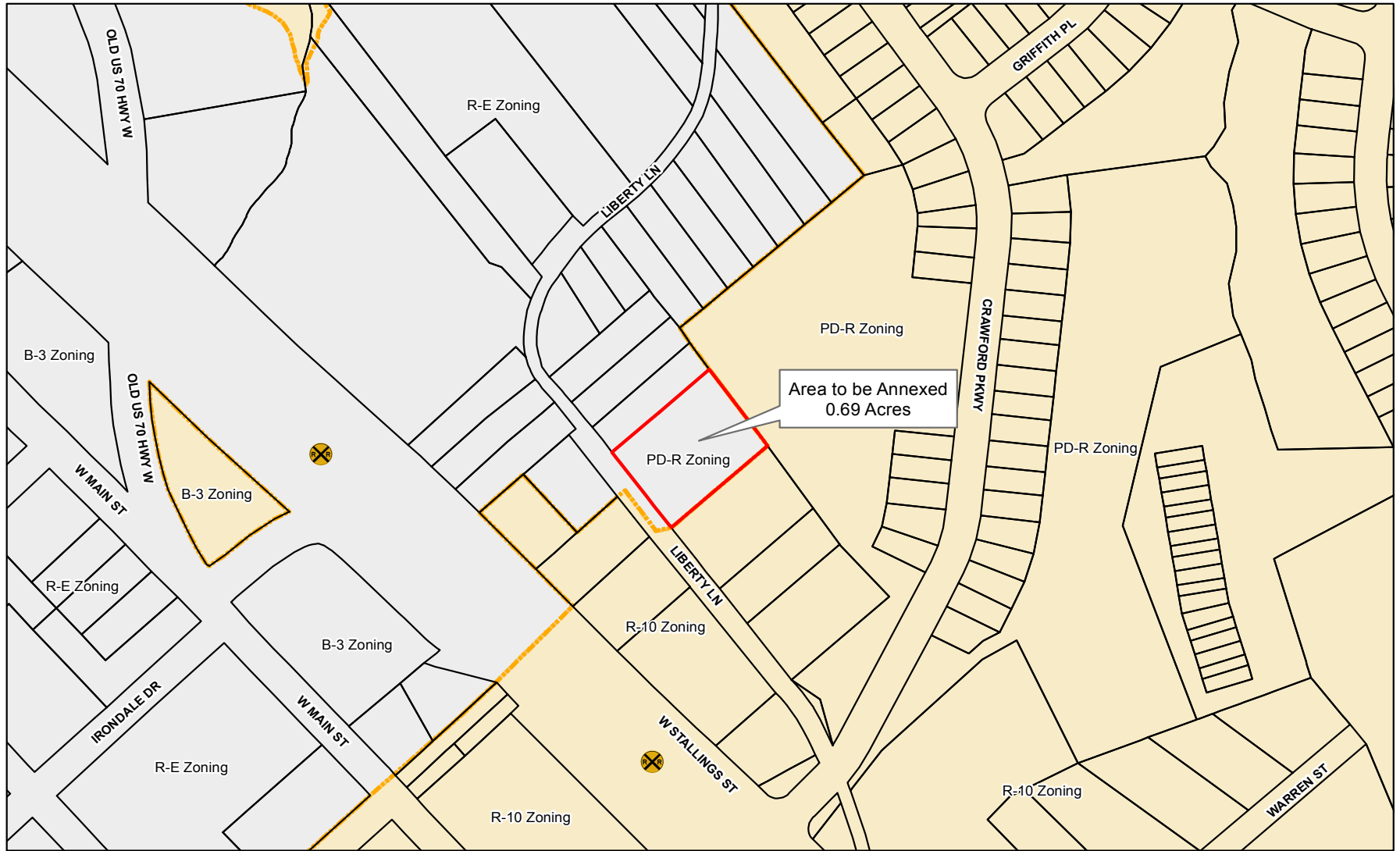
Applicant(s): Sam's Branch II, LLC
Property Owner(s): Sam's Branch II, LLC
Parcel Number(s) 05029052
File Number(s): 2019-100-ANX



1 inch = 200 feet



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



Legend

- Area to be Annexed
- Clayton Town Limits
- Clayton ETJ
- Parcels

Produced by: TOC Planning
May 23, 2019

Annexation Map

Applicant(s): Sam's Branch II, LLC
Property Owner(s): Sam's Branch II, LLC
Parcel Number(s) 05029052
File Number(s): 2019-100-ANX



1 inch = 200 feet



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

PUBLIC NOTICE

The Clayton Town Council has called a public hearing at 6:00 PM on Monday, July 15, 2019, at Town Hall, 111 E. Second Street, on the question of annexing the following described contiguous area, requested by annexation petition 2019-100-ANX filed pursuant to G.S. 160A-31:

The area proposed for annexation is described as the following: Lying and being in Clayton Township, Johnston County, North Carolina and being more particularly described as follows:

Beginning at an existing concrete monument on the northern right-of-way of Liberty Lane; thence running along the northern right-of-way of Liberty Lane N 36°-58'-21" W 149.74' to an existing rebar; thence leaving said right-of-way along a common line with now or formerly Soon, LLC, N 48°-21'-28" E 200.23' to an existing concrete monument in the line of Donald C. Adams; thence along a common line with Donald C. Adams S 36°-46'-09" E 149.79' to an existing concrete monument, a common corner with Sam's Branch, LLC; thence along a common line with Sam's Branch, LLC, S 48°-21'-28" W 199.70' to the point and place of beginning containing 0.685 acres, more or less, located in Clayton Township, Johnston County, North Carolina.

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

Kimberly A. Moffett, CMC
Town Clerk
Town of Clayton
919-553-5002 ext. 5004

The Johnstonian Newspaper

Please advertise on the following date:

Wednesday, July 3, 2019

Affidavit of publication required.

Ordinance #2019-07-02

ANNEXATION PETITION 2019-100-ANX
Portion of Parkview Subdivision, Phases 12, 16 & 17
Parcel: 05029052
Owners: Sam's Branch II, LLC
Contiguous; 0.69 +/- acres

**AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE
TOWN OF CLAYTON, NORTH CAROLINA**

WHEREAS, the Town of Clayton has been petitioned under G.S. 160A-31 to annex the area described below; and

WHEREAS, the Town of Clayton has by resolution directed the Town Clerk to investigate the sufficiency of the petition; and

WHEREAS, the Town Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at Town Hall at 6:00 PM on July 15, 2019 due notice of publication on July 3, 2019.

WHEREAS, the Town of Clayton finds that the petition meets the requirements of G.S. 160A-31;

NOW, THEREFORE, BE IT ORDAINED by the Town Council of Clayton, North Carolina that:

Section 1. By virtue of the authority granted by G.S. 160A-31, the following described territory is hereby annexed and made part of the Town of Clayton as of July 15, 2019:

BEGINNING AT AN EXISTING CONCRETE MONUMENT ON THE NORTHERN RIGHT-OF-WAY OF LIBERTY LANE; THENCE RUNNING ALONG THE NORTHERN RIGHT-OF-WAY OF LIBERTY LANE N 36°-58'-21" W 149.74' TO AN EXISTING REBAR; THENCE LEAVING SAID RIGHT-OF-WAY ALONG A COMMON LINE WITH NOW OR FORMERLY SOON, LLC, N 48°-21'-28" E 200.23' TO AN EXISTING CONCRETE MONUMENT IN THE LINE OF DONALD C. ADAMS; THENCE ALONG A COMMON LINE WITH DONALD C. ADAMS S 36°-46'-09" E 149.79' TO AN EXISTING CONCRETE MONUMENT, A COMMON CORNER WITH SAM'S BRANCH, LLC; THENCE ALONG A COMMON LINE WITH SAM'S BRANCH, LLC, S 48°-21'-28" W 199.70' TO THE POINT AND PLACE OF BEGINNING CONTAINING 0.685 ACRES, MORE OR LESS, LOCATED IN CLAYTON TOWNSHIP, JOHNSTON COUNTY, NORTH CAROLINA.

Section 2: Upon and after July 15, 2019, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the Town of Clayton and shall be entitled to the same privileges and benefits as other parts of the Town of Clayton. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the Town of Clayton shall cause to be recorded in the office of the Register of Deeds of Johnston County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the County Board of Elections, as required by G.S. 163-288.1.

Duly adopted this the 15th day of July, 2019 while in regular session.

Michael Grannis
Mayor

ATTEST:

Kimberly A. Moffett, CMC, NCCMC
Town Clerk

**NORTH CAROLINA
JOHNSTON COUNTY**

This the _____ day of _____, 2019  personally appeared before me, Kimberly A. Moffett, Clerk of the Town of Clayton, who, being duly sworn by me, says that she knows the common seal of the Town of Clayton and is acquainted with Michael Grannis, who is the Mayor Pro Tem and presiding member of said municipal corporation; and that she saw the said Mayor Pro Tem sign the foregoing instrument and saw the said common seal of said municipal corporation affixed to said instrument, and that she, the said Kimberly A. Moffett, signed her name in attestation of said instrument in the presence of said Mayor.

Witness my hand and notarial seal, this the day and year first above written.

Notary Public - Signature

(SEAL)

Notary Public – Printed Name

Commission Expires: _____

County of Commission: _____

Town Council Agenda Cover Sheet

Meeting Date

July 15 2019

Agenda Location

Public Hearings

Item Title

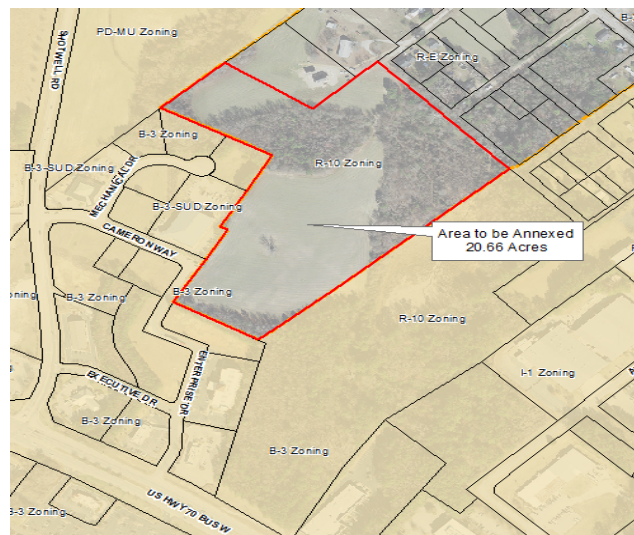
2019-112-ANX- Capps Property

Presenter

Planning Staff

Summary/Description

Annexation Petition 2019-112 is a portion of Parcel Number 05026073 and 05026073V, the Stella Puckett Capps Estate. The property has been approved for 167 townhome lots – Cameron Crossing Townhomes.



Requested Action

Approval/Denial

Funding Source (If Applicable):

N/A

Cost: N/A Yes ☐ No ☒

Additional Documents to be Included in Agenda Packet

Application, Maps, Site Plan, Newspaper Ad, Ordinance

Meeting Timeline

Agenda

July 15, 2019: Public Hearing



Project #
2019-112-ANX

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

PETITION FOR VOLUNTARY ANNEXATION

VOLUNTARY ANNEXATION: Upon receipt of a valid petition signed by all of the owners of real property in the area described therein, the Town may annex an area either contiguous or not contiguous to its primary corporate limits when the area meets the standards set out under North Carolina General Statutes 160A-31 and 160A-58.1.

Applications are due by 5pm on the first working day of each month.

REQUEST INFORMATION

☒ **Contiguous Annexation**

☐ **Non-Contiguous Annexation**

The following items must accompany an annexation petition:

To be completed by the applicant:	Included?	
	Yes	No
1. Petition for Annexation with original signatures	☒	☐
2. A boundary plat of the area to be annexed meeting requirements of the Plat Checklist (included in this application packet).	☒	☐
3. Legal Description (metes and bounds)	☒	☐

PROCESS:

Review by Staff: The Planning, Engineering and Public Works Departments review the annexation submission. Comments will be sent to the applicant.

Annexation Plat Submission: After the map and legal description are deemed sufficient by the Town, the applicant is required to submit two (2) Mylar annexation plats to the Planning Department.

Town Council Meeting: The Town Council will pass a resolution directing the Town Clerk to investigate the annexation petition. The Town Clerk will present to the Town Council a Certificate of Sufficiency indicating that the annexation petition is complete. A resolution setting the date of the public hearing is then approved.

Legal Advertisement: A legal advertisement will be published no more than 25 days and no less than 10 days prior to the date of the public hearing.

Public Hearing/Town Council Meeting: The Town Council will either adopt or deny an ordinance to extend the corporate limits of the Town of Clayton.

Recordation: If the annexation is approved by the Town Council, the Annexation Plats shall be recorded at the appropriate county Register of Deeds.



March 2019

Page 1 of 3

VOLUNTARY ANNEXATION PLAT CHECKLIST

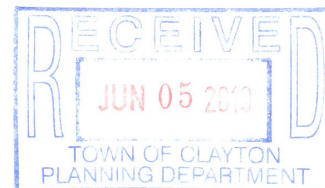
#	Required Plat Items
1.	Fully dimensioned by metes and bounds, and the location of intersecting boundary lines of the existing town limits, labeled and distinctly marked. Include full right-of-way if the area on both sides is or will be in the corporate limits.
2.	Any utility easements with metes and bounds.
3.	Accurate locations and descriptions of all monuments, markers and control points.
4.	Ultimate right-of-way widths on all streets.
5.	Entitle "ANNEXATION MAP FOR THE TOWN OF CLAYTON" OR "SATELLITE ANNEXATION MAP FOR THE TOWN OF CLAYTON," as appropriate.
6.	Name of property owner(s).
7.	Name, seal, and registration of Professionally Licensed Surveyor (PLS).
8.	Date of the survey and map preparation; a north arrow indicating whether the index is true magnetic North Carolina grid (NAD 83 of NAD 27) or deed; graphic scale; and declination.
9.	Names of the township, county, and state.
10.	A detailed vicinity map.
11.	Include address of property if assigned.
12.	Show all contiguous or non-contiguous town limits.
13.	The following certification must be placed on the map near a border to allow the map to be sealed: Annexation # _____ I, Samantha Wullenwaber, MPA, Planning Director, Clayton, North Carolina certify this is a true and exact map of annexation adopted the _____ day of _____, _____, by the Town Council. I set my hand and seal to the Town of Clayton, _____. Day/Month/Year _____ Samantha Wullenwaber, MPA
14.	Leave 2 inch by 2 inch space for the county Register of Deeds stamp on the plat. All final plats must be stamped and signed before they can be accepted by the Town.

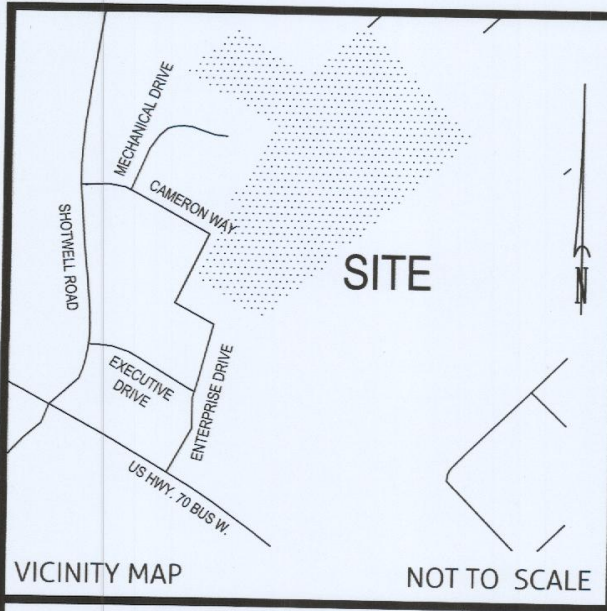
ANNEXATION LEGAL DESCRIPTION
PORTION OF LOT 1 AND LOT 3 - ANNEXATION AREA
CAPPS, STELLA PUCKETT ESTATE
P.B. 89 PG. 42

ANNEXATION PORTION OF LOT 1 & LOT 3 (PB 89 PG.42)

BEGINNING AT AN EXISTING REBAR WITH NC GRID (NAD 83(2011)) COORDINATES: N 695,178.53 AND E 2,155,700.72, SAID POINT IS SOUTH 59°38'11" EAST 10,270.69' (GROUND), 10,270.54' (GRID) FROM N.C.G.S "MORIAH RESET 2" N.C GRID COORDINATES (2011): N 701,370.11; E 2,146,838.92 WITH COMBINED FACTOR 0.99988797. FROM SAID POINT OF BEGINNING THE FOLLOWING COURSES AND DISTANCES:

SOUTH 56°16'04" EAST 393.84 FEET TO A REBAR FOUND, THENCE NORTH 45°29'49" EAST 222.05 FEET TO AN IRON PIPE FOUND, THENCE NORTH 45°27'26" EAST 111.76 FEET TO AN IRON PIPE FOUND, THENCE SOUTH 43°40'36" EAST 724.52 FEET TO A POINT, THENCE SOUTH 65°55'28" WEST 7.86' FEET TO A POINT; THENCE SOUTH 48°01'23" WEST 268.99' FEET TO A POINT; THENCE SOUTH 47°44'39" WEST 618.46' FEET TO A POINT; THENCE SOUTH 48°23'42" WEST 250.76' FEET TO A POINT; THENCE SOUTH 48°40'52" WEST 116.06' FEET TO A POINT; THENCE NORTH 59°41'09" WEST 235.30' FEET TO A POINT, THE SOUTH EAST CORNER OF LOT3; THENCE NORTH 59°41'09" WEST 132.87' FEET TO A POINT ON THE EASTERN RIGHT OF WAY OF ENTERPRISE DRIVE AND THE WESTERN CORNER OF LOT 3; THENCE NORTH 30°17'58" EAST 164.72' FEET ALONG THE EASTERN RIGHT OF WAY TO ENTERPRISE DRIVE, TO A POINT, THE NORTH CORNER OF LOT 3; THENCE NORTH 30°17'58" EAST 235.28' FEET ALONG THE WESTERN LINE OF LOT 1 TO AN IRON PIPE FOUND; THENCE NORTH 59°42'01" WEST 32.68' FEET TO AN IRON PIPE FOUND; THENCE NORTH 30°17'58" EAST 399.69' FEET TO AN IRON PIPE FOUND; THENCE NORTH 59°39'57" WEST 479.78' FEET TO AN IRON PIPE FOUND; THENCE NORTH 46°52'42" EAST 315.58' FEET TO A REBAR FOUND; AND TO THE POINT AND PLACE OF BEGINNING CONTAINING 900,051 SQ. FT. OR 20.662 ACRES MORE OR LESS.





NOTES

1. AREAS COMPUTED BY COORDINATE METHOD.
2. BASIS OF BEARING NAD 83(2011), NAVD 88
3. ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES UNLESS OTHERWISE NOTED.
4. IRON PIPES SET AT ALL CORNERS UNLESS OTHERWISE NOTED
5. THIS PROPERTY IS NOT LOCATED IN A DESIGNATED FEMA FLOOD PLAIN AS SHOWN ON THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP NO. 3720165900 K, PANEL 1659, EFFECTIVE DATE JUNE 20, 2018.

PLANNING DIRECTOR CERTIFICATE

ANNEXATION #: _____
I, SAMANTHA WULLENWABER, MPA, PLANNING DIRECTOR, CLAYTON, NORTH CAROLINA, CERTIFY THIS IS A TRUE AND EXACT MAP OF ANNEXATION ADOPTED THE _____ DAY OF _____, BY THE TOWN COUNCIL.

I SET MY HAND AND SEAL TO THE TOWN OF CLAYTON, _____ DATE _____
SAMANTHA WULLENWABER, MPA

REVIEW OFFICER CERTIFICATE

STATE OF NORTH CAROLINA, JOHNSTON COUNTY
I, _____ REVIEW OFFICER OF JOHNSTON COUNTY, NC, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

REVIEW OFFICER _____

DATE _____

REGISTER OF DEEDS STAMP

LEGEND(UNLESS OTHERWISE NOTED)

- CL - CENTER LINE
- CMF - CONCRETE MONUMENT FOUND
- CP - CALCULATED POINT
- IPF - IRON PIPE FOUND
- IPS - IRON PIPE SET
- RBF - REBAR FOUND

ADJOINER _____

BOUNDARY _____

BOUNDARY (NOT SURVEYED) _____

CL _____

R/W _____

TOWN OF CLAYTON

TOWN LIMITS

AREA TO BE ANNEXED

CURRENT TOWN LIMITS

LINE TABLE		
LINE #	BEARING	DISTANCE
L1	N 45°29'49" E	222.05'
L2	N 45°27'26" E	111.76'
L3	S 65°55'28" W	7.86'
L4	S 48°40'52" W	116.06'
L5	N 59°41'09" W	132.87'
L6	N 30°17'58" E	164.72'
L7	N 59°42'01" W	32.68'

"PRELIMINARY PLAT"
NOT FOR CONVEYANCE,
RECORDATION, OR SALES

SURVEYOR'S CERTIFICATION

I, MARSHALL WIGHT, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION(S) RECORDED AS SHOWN HEREON); THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION SHOWN ON THE FACE OF THIS MAP; THAT THE RATIO OF PRECISION OR POSITIONAL ACCURACY AS CALCULATED IS 1:20,000+; AND THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED.

I ALSO CERTIFY THAT THIS SURVEY IS OF AN EXISTING PARCEL OF LAND AND DOES NOT CREATE A NEW STREET OR CHANGE AN EXISTING STREET

WITNESS MY ORIGINAL SIGNATURE, LICENSE NUMBER, AND SEAL THIS 31st DAY OF MAY, A.D. 2019.

MARSHALL WIGHT, PLS LICENSE L-5034

OWNERS INFORMATION

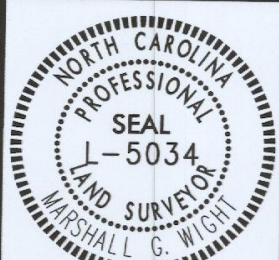
JERRY CAPPS
3620 WIND SOCK COURT
EASTOVER, NC 28312
PIN: 165911-65-2257

**TOTAL ANNEXATION AREA
LOT 1 & LOT 3
900,051 SF / 20.662 ACRES**

GRAPHIC SCALE

0' 200' 400' 600'

1 INCH = 200 ft.



REVISIONS:

DATE: 5-30-19

SCALE: 1"=200'

SURVEYED BY: WBG

DRAWN BY: MGW

CHECK & CLOSURE BY: MG

CAD FILE: BD_19061-ANNEX

PROJECT NO: 02170163.00

ANNEXATION MAP FOR THE TOWN OF CLAYTON
A PORTION OF LOT 1 AND LOT 3 - PB 89, PG. 42
CAPPS, STELLA PUCKETT ESTATE

TOWNSHIP: CLAYTON

COUNTY: JOHNSTON

STATE: NORTH CAROLINA

ZONE: B-3, R-10

P.I.N. 165911-65-2257

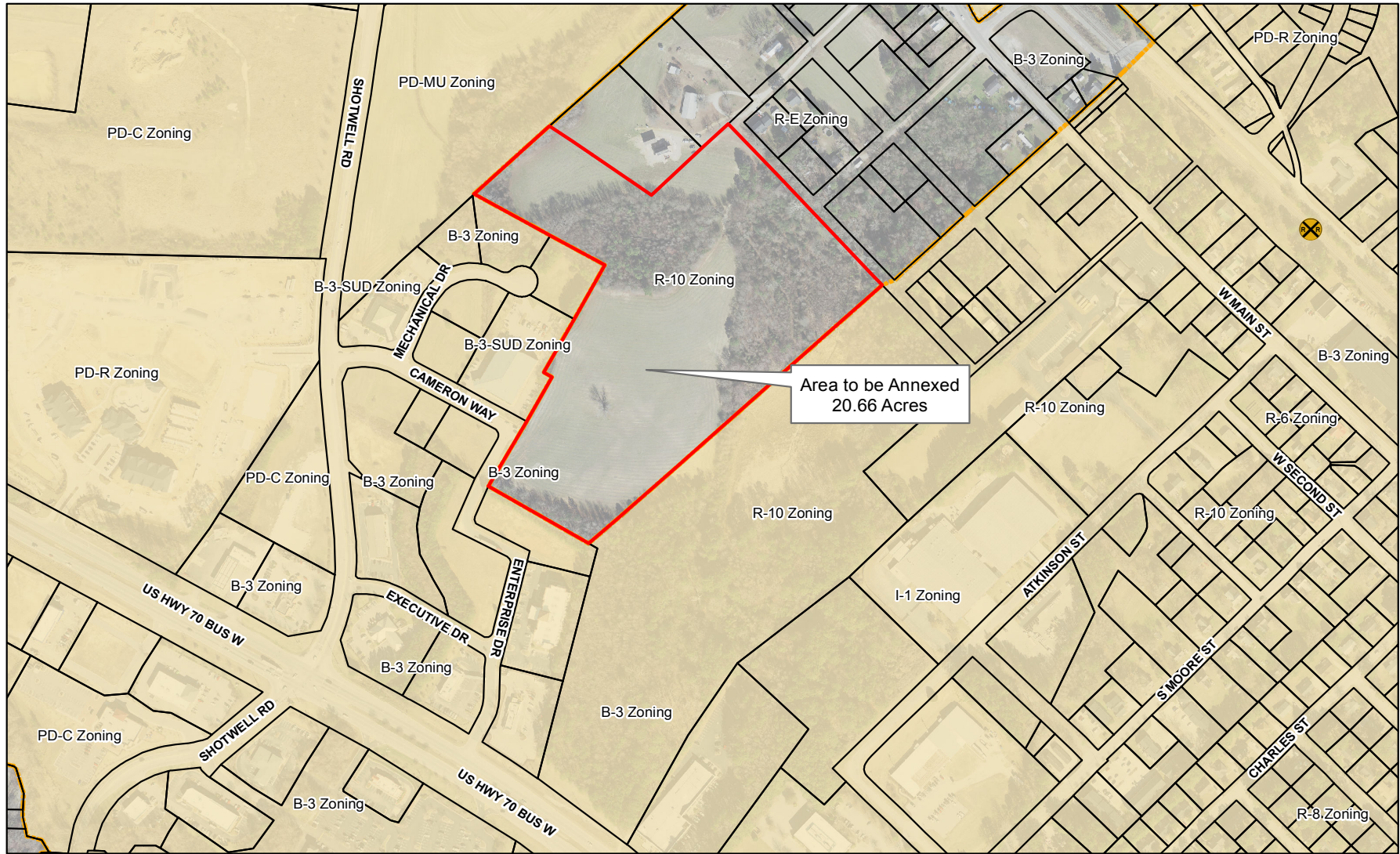
SHEET 1 OF 1



WithersRavenel
Engineers | Planners | Surveyors

115 MacKenan Drive | Cary, NC 27511 | t: 919.469.3340 | license #: C-0832 |
www.withersravenel.com

K:\17\17-0160\170163-Capps Tract Townhomes\Geomatics\Res-Com\Drawings\BD_19061-annex.dwg - Wednesday, June 5, 2019 2:31:02 PM - WIGHT, MARSHALL



Legend

- Area to be Annexed
- Clayton Town Limits
- Clayton ETJ
- Parcels

Produced by: TOC Planning
June 5, 2019

Annexation Map

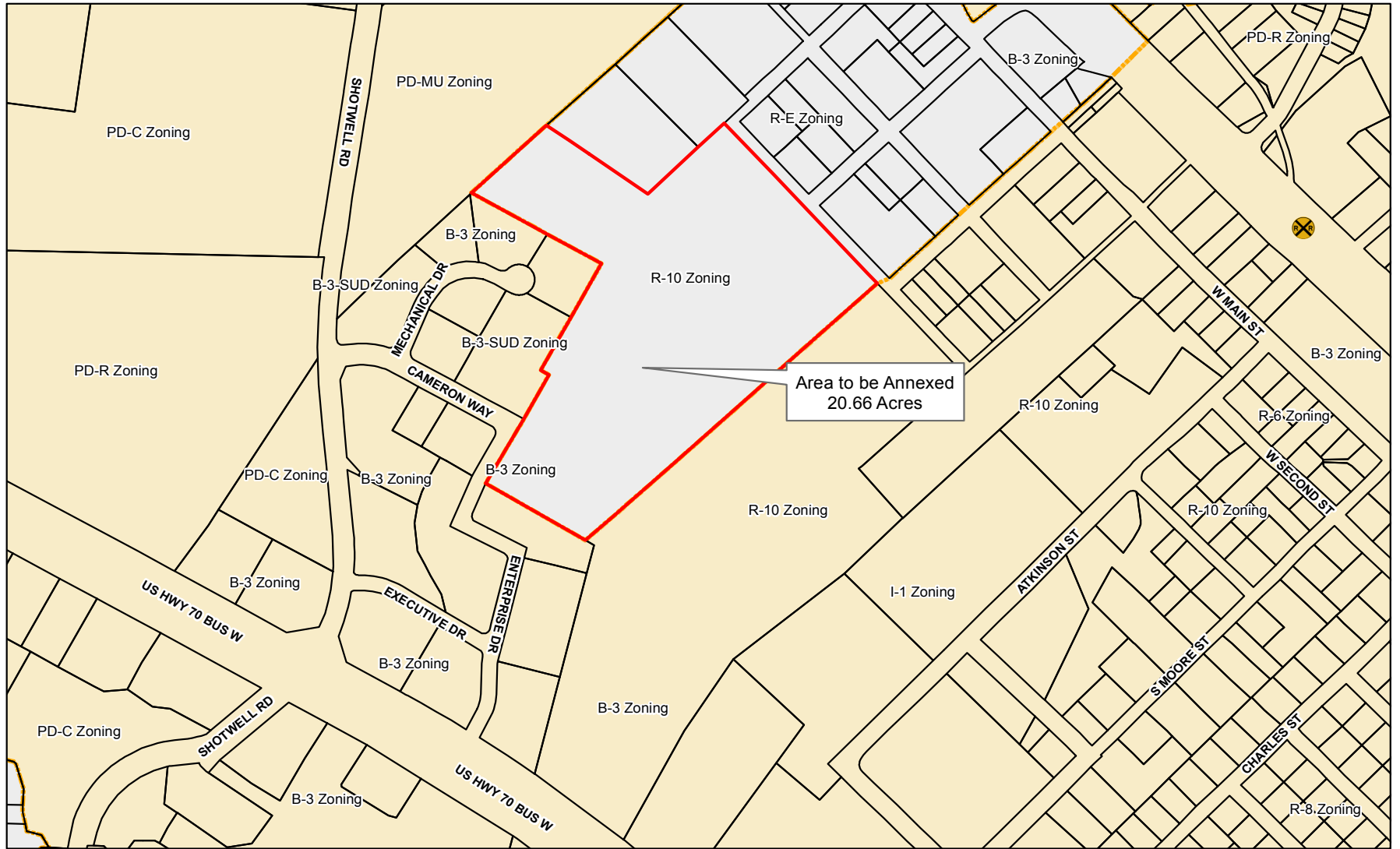
Applicant(s): Jerry Capps
Property Owner(s): Stella Puckett Capps Estate
Parcel Number(s) Portion of 05026073 & 05026073V
File Number(s): 2019-112-ANX



1 inch = 415 feet



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



Legend

- Area to be Annexed
- Clayton Town Limits
- Clayton ETJ
- Parcels

Produced by: TOC Planning
June 5, 2019

Annexation Map

Applicant(s): Jerry Capps
Property Owner(s): Stella Puckett Capps Estate
Parcel Number(s) Portion of 05026073 & 05026073V
File Number(s): 2019-112-ANX



1 inch = 415 feet



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

PUBLIC NOTICE

The Clayton Town Council has called a public hearing at 6:00 PM on Monday, July 15, 2019, at Town Hall, 111 E. Second Street, on the question of annexing the following described contiguous area, requested by annexation petition 2019-112-ANX filed pursuant to G.S. 160A-31:

The area proposed for annexation is described as the following: Lying and being in Clayton Township, Johnston County, North Carolina and being more particularly described as follows:

BEGINNING AT AN EXISTING REBAR WITH NC GRID (NAD 83(2011))
COORDINATES: N 695,178.53 AND E 2,155,700.72, SAID POINT IS SOUTH
59°38'11" EAST 10,270.69' (GROUND), 10,270.54' (GRID) FROM N.C.G.S
"MORIAH RESET 2" N.C GRID COORDINATES (2011): N 701,370.11; E
2,146,838.92 WITH COMBINED FACTOR 0.99988797. FROM SAID POINT OF
BEGINNING THE FOLLOWING COURSES AND DISTANCES:
SOUTH 56°16'04" EAST 393.84 FEET TO A REBAR FOUND, THENCE NORTH
45°29'49" EAST 222.05 FEET TO AN IRON PIPE FOUND, THENCE NORTH
45°27'26" EAST 111.76 FEET TO AN IRON PIPE FOUND, THENCE SOUTH
43°40'36" EAST 724.52 FEET TO A POINT, THENCE SOUTH 65°55'28" WEST
7.86' FEET TO A POINT; THENCE SOUTH 48°01'23" WEST 268.99' FEET TO A
POINT; THENCE SOUTH 47°44'39" WEST 618.46' FEET TO A POINT; THENCE
SOUTH 48°23'42" WEST 250.76' FEET TO A POINT; THENCE SOUTH 48°40'52"
WEST 116.06' FEET TO A POINT; THENCE NORTH 59°41'09" WEST 235.30' FEET
TO A POINT, THE SOUTH EAST CORNER OF LOT3; THENCE
NORTH59°41'09"WEST 132.87' FEET TO A POINT ON THE EASTERN RIGHT OF
WAY OF ENTERPRISE DRIVE AND THE WESTERN CORNER OF LOT 3; THENCE
NORTH 30°17'58"EAST 164.72' FEET ALONG THE EASTERN RIGHT OF WAY TO
ENTERPRISE DRIVE, TO A POINT, THE NORTH CORNER OF LOT 3; THENCE
NORTH 30°17'58" EAST 235.28' FEET ALONG THE WESTERN LINE OF LOT 1 TO
AN IRON PIPE FOUND; THENCE NORTH 59°42'01" WEST 32.68' FEET TO AN
IRON PIPE FOUND; THENCE NORTH 30°17'58" EAST 399.69' FEET TO AN IRON
PIPE FOUND; THENCE NORTH 59°39'57" WEST 479.78' FEET TO AN IRON PIPE
FOUND; THENCE NORTH 46°52'42" EAST 315.58' FEET TO A REBAR FOUND;
AND TO THE POINT AND PLACE OF BEGINNING CONTAINING 900,051 SQ. FT.
OR 20.662 ACRES MORE OR LESS.

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

Kimberly A. Moffett, CMC
Town Clerk
Town of Clayton
919-553-5002 ext. 5004

The Johnstonian Newspaper

Please advertise on the following date:

Wednesday, July 3, 2019

Affidavit of publication required.

Ordinance #2019-07-03

**ANNEXATION PETITION 2019-112-ANX
Portion of Stella Puckett Capps Estates
Parcel: Portion of 05026073 and 05026073V
Owners: Stella Puckett Capps Estate
Contiguous; 20.66 +/- acres**

**AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE TOWN
OF CLAYTON, NORTH CAROLINA**

WHEREAS, the Town of Clayton has been petitioned under G.S. 160A-31 to annex the area described below; and

WHEREAS, the Town of Clayton has by resolution directed the Town Clerk to investigate the sufficiency of the petition; and

WHEREAS, the Town Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at Town Hall at 6:00 PM on July 15, 2019 due notice of publication on July 3, 2019.

WHEREAS, the Town of Clayton finds that the petition meets the requirements of G.S. 160A-31;

NOW, THEREFORE, BE IT ORDAINED by the Town Council of Clayton, North Carolina that;

Section 1. By virtue of the authority granted by G.S. 160A-31, the following described territory is hereby annexed and made part of the Town of Clayton as of July 15, 2019:

BEGINNING AT AN EXISTING REBAR WITH NC GRID (NAD 83(2011)) COORDINATES: N 695,178.53 AND E 2,155,700.72, SAID POINT IS SOUTH 59°38'11" EAST 10,270.69' (GROUND), 10,270.54' (GRID) FROM N.C.G.S "MORIAH RESET 2" N.C GRID COORDINATES (2011): N 701,370.11; E 2,146,838.92 WITH COMBINED FACTOR 0.99988797. FROM SAID POINT OF BEGINNING THE FOLLOWING COURSES AND DISTANCES:

SOUTH 56°16'04" EAST 393.84 FEET TO A REBAR FOUND, THENCE NORTH 45°29'49" EAST 222.05 FEET TO AN IRON PIPE FOUND, THENCE NORTH 45°27'26" EAST 111.76 FEET TO AN IRON PIPE FOUND, THENCE SOUTH 43°40'36" EAST 724.52 FEET TO A POINT, THENCE SOUTH 65°55'28" WEST 7.86' FEET TO A POINT; THENCE SOUTH 48°01'23" WEST 268.99' FEET TO A POINT; THENCE SOUTH 47°44'39" WEST 618.46' FEET TO A POINT; THENCE SOUTH 48°23'42" WEST 250.76' FEET TO A POINT; THENCE SOUTH 48°40'52" WEST 116.06' FEET TO A POINT; THENCE NORTH 59°41'09" WEST 235.30' FEET TO A POINT, THE SOUTH EAST CORNER OF LOT3; THENCE NORTH 59°41'09" WEST 132.87' FEET TO A POINT ON THE EASTERN RIGHT OF WAY OF ENTERPRISE DRIVE AND THE WESTERN CORNER OF LOT 3; THENCE NORTH 30°17'58" EAST 164.72' FEET ALONG THE EASTERN RIGHT OF WAY TO ENTERPRISE DRIVE, TO A POINT, THE NORTH CORNER OF LOT 3; THENCE NORTH 30°17'58" EAST 235.28' FEET ALONG THE WESTERN LINE OF LOT 1 TO AN IRON PIPE FOUND; THENCE NORTH 59°42'01" WEST 32.68' FEET TO AN IRON PIPE FOUND; THENCE NORTH 30°17'58" EAST 399.69' FEET TO AN IRON PIPE FOUND; THENCE NORTH 59°39'57" WEST 479.78' FEET TO AN IRON PIPE FOUND; THENCE NORTH 46°52'42" EAST 315.58' FEET TO A REBAR FOUND; AND TO THE POINT AND PLACE OF BEGINNING CONTAINING 900,051 SQ. FT. OR 20.662 ACRES MORE OR LESS.

Section 2: Upon and after July 15, 2019, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the Town of Clayton and shall be entitled to the same privileges and benefits as other parts of the Town of Clayton. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the Town of Clayton shall cause to be recorded in the office of the Register of Deeds of Johnston County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the County Board of Elections, as required by G.S. 163-288.1.

Duly adopted this the 15th day of July, 2019 while in regular session.

Michael Grannis
Mayor Pro Tem

ATTEST:

Kimberly A. Moffett, CMC, NCCMC
Town Clerk

**NORTH CAROLINA
JOHNSTON COUNTY**

This the _____ day of _____, 2019  personally appeared before me, Kimberly A. Moffett, Clerk of the Town of Clayton, who, being duly sworn by me, says that she knows the common seal of the Town of Clayton and is acquainted with Michael Grannis, who is the Mayor Pro Tem and presiding member of said municipal corporation; and that she saw the said Mayor Pro Tem sign the foregoing instrument and saw the said common seal of said municipal corporation affixed to said instrument, and that she, the said Kimberly A. Moffett, signed her name in attestation of said instrument in the presence of said Mayor Pro Tem.

Witness my hand and notarial seal, this the day and year first above written.

(SEAL)

Notary Public - Signature

Notary Public – Printed Name

Commission Expires: _____

County of Commission: _____



Town Council Agenda Cover Sheet

Meeting Date

July 15 2019

Agenda Location

Public Hearings

Item Title

Recreation Open Space Fees

Presenter

Planning Department/Parks and Recreation Department

Summary/Description

The Town seeks to amend the recreation and open space fees in the comprehensive list of fees and charges.

Requested Action

Other

Continue the public hearing until August 19th, 2019.

Funding Source (If Applicable):

N/A

Cost: N/A Yes ☐ No ☐

Additional Documents to be Included in Agenda Packet

NA

Meeting Timeline

Continue the public hearing until August 19th, 2019.



Town Council Agenda Cover Sheet

Meeting Date

July 15 2019

Agenda Location

Public Hearings

Item Title

2019-106-OA Accessory Use Ordinance Amendment

Presenter

Haley Hogg, Planner II

Summary/Description

This ordinance amendment request is to amend the Unified Development Code, Title XV, §155.202, §155.308, §155.311. The amendment is requested to add accessory uses to the Use Table, and to modify and relocate accessory use definitions in the UDC. An accessory use is a use that occurs on the same property as a principal use, but is secondary in nature. The Town does not currently outline any accessory uses within the Use Table, but instead lists them in §155.308.

Most of the accessory uses added to the Use Table are already permitted and defined in the Unified Development Code. Staff is requesting to add them to the Use Table to provide clarification to which zoning districts they are permitted within, and to ensure that all accessory uses are outlined in a centralized area of the UDC. As a part of this amendment, staff is also proposing the Town create two new accessory uses (day care facility and park) to be added to the UDC.

Requested Action

Approval

Funding Source (If Applicable):

N/A

Cost: N/A Yes ☐ No ☒

Additional Documents to be Included in Agenda Packet

Application
Staff Report
Clean Copy of amendment
Strikethrough Copy of amendment
Newspaper Ad
PB Motion Sheet

Meeting Timeline

June 24, 2019- Planning Board
July 15, 2019- Town Council



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

ORDINANCE AMENDMENT APPLICATION

Pursuant to Article 7, Section 155.703 of the Unified Development Code, the Town Council, Board of Adjustment, Planning Board, Planning Director, or the general public may petition the Town Council to amend the Code of Ordinances.

Application Fee: TBD

Advertisement Fee: \$100.00

All fees are due when the application is submitted.

AMENDMENT INFORMATION

Project Name: Accessory Use Ordinance Amendment

Existing title of Code Section(s): Land Use Regulations (202) & Accessory Structures and Uses (308), Outdoor Dining, Display, and Storage (311)

Code Section Number(s): 155.202, 155.308, 155.311

APPLICANT/CONTACT INFORMATION

Applicant: Town of Clayton Planning Department

Mailing Address: PO Box 879

Phone Number: 919-553-5002

Fax: _____

Contact Person: Haley Hogg, Planner / Samantha Wullenwaber, Planning Director

Email Address: hhogg@townofclaytonnc.org / swullenwaber@townofclaytonnc.org

DESCRIPTION OF REQUESTED CHANGES

Please provide a general justification of the requested ordinance amendment. Attach additional sheets if necessary.

Amend UDC to add accessory uses to the use table. Most of the uses added already exist in section 308 of the UDC. Day Care Facilities and Parks are a new accessory use proposed. The amendment relocates outdoor dining, display, and storage to the accessory use section (previously its own section) and includes these uses in the table as well to establish what accessory uses are permitted and in which districts.

FOR OFFICE USE ONLY

Date Received: July 28 2018

Amount Paid: N/A

Town initiated

File Number: 2019-106-0A

July 2018 TOWN OF CLAYTON
PLANNING DEPARTMENT

Page 1 of 2

REQUIRED INFORMATION (to be submitted with the application)

The following items must accompany this application for it to be deemed complete.

To be completed by the applicant:			For staff use only:		
Submit 9 copies of all materials unless otherwise noted or directed by staff	Yes	N/A	Yes	No	N/A
1. A pre-application conference was held with Town of Clayton staff. Date: _____	☐	☒			
2. Review Fee and Advertisement Fee	☐	☒			
3. Completed application	☒				
4. A bound strikethrough/underline copy of the Code section(s) proposed for revision	☒				
5. A bound "clean" copy of the Code section(s) proposed for revision	☒				

APPROVAL CRITERIA

All applications for Ordinance Amendment must address the following criteria:

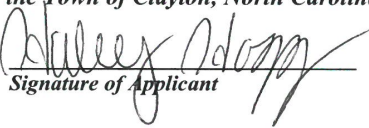
- The extent to which the proposed text amendment is consistent with the remainder of the chapter, including specifically, any purpose and intent statements.
The proposed text amendment is consistent with the remainder of the chapter. Most of the language is being relocated from 155.311 to 155.308, and referenced in the use table for clarification purposes.
- The extent to which the proposed text amendment represents a new idea not considered in the existing chapter, or represents a revision necessitated by changing circumstances over time.
The proposed amendment does not represent a new idea. Accessory uses are outlined in 155.308. This amendment simply requests to add additional accessory uses, and include them in the use table for clarification purposes.
- Whether or not the proposed text amendment corrects an error in the chapter.
The proposed amendment does not correct an error in the chapter.
- Whether or not the proposed text amendment revises the chapter to comply with state or federal statutes or case law.
The proposed amendment does not revise the chapter to comply with state or federal statutes or case law.

APPLICANT AFFIDAVIT

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

Haley Hogg

Print Name



Signature of Applicant

5/28/19

Date

§ 155.200 DISTRICTS ESTABLISHED

To carry out the provisions of this Chapter, within the jurisdiction of the Town, the following zoning districts are established.

<some text omitted for purposes of brevity>

(B) GENERAL USE DISTRICTS

(1) Residential Districts

- (a) ***R-E / Residential-Estate.*** The R-E district is comprised of low density, single-family dwellings, and other selected uses which are compatible with the open and rural character of the area. The established regulations for this district are designed to promote and encourage an environment for family life and agriculture. To encourage higher quality development and to ensure greater environmental protection, open space (cluster) subdivisions are permitted.
- (b) ***R-10 / Single-Family Residential-10.*** The R-10 district is established to provide for orderly suburban residential development and redevelopment and is intended to maintain residential areas at relatively low densities characterized predominantly by owner-occupied, single-family detached units. The district requirements protect existing neighborhoods from undesirable or incompatible uses. To encourage higher quality development and to ensure greater environmental protection, open space (cluster) subdivisions are permitted. A special permit process for higher intensity development is also allowed, using discretion to balance issues of higher density with improved amenities.
- (c) ***R-8 / Single-Family Residential-8.*** The R-8 district is established to provide for orderly suburban residential development and redevelopment and is intended to maintain residential areas at suburban densities characterized predominantly by owner-occupied, single-family detached units. To encourage higher quality development and to ensure greater environmental protection, open space (cluster) subdivisions are permitted. A special permit process for higher intensity development is also allowed, using discretion to balance issues of higher density with improved amenities.
- (d) ***R-6 / Single-Family Residential-6.*** The R-6 district is established to provide for orderly suburban residential development and redevelopment. Intended to protect, preserve and enhance existing residential areas of higher density, which includes multi-family dwellings mixed with other housing types. A special permit process for higher intensity development is also allowed, using discretion to balance issues of higher density with improved amenities.

(2) Nonresidential Districts

- (a) ***O-R / Office-Residential.*** The O-R district is intended to accommodate modest-scale professional occupations, along with single-family and multi-family residential units, to serve as a neighborhood activity center and as a transition between residential and more intense commercial uses.

- (b) **O-I | Office-Institutional.** The O-I district is intended to permit offices, institutions, and associated administrative, executive, professional and research uses in new and existing structures and limited retail uses. Such offices and institutional uses are generally located along or proximate to major roadways or adjacent to commercial uses and may act as a buffer between such areas and residential uses.
- (c) **B-1 | Central-Business.** The B-1 district is intended to foster a vibrant, safe, central business district and town center by encouraging dense residential development while retaining and further developing a broad range of commercial, retail, service, office, institutional, public, cultural, and entertainment uses and activities. The district is intended to define and promote the town center as a desirable place to live, work, shop, and recreate.
- (d) **B-2 | Neighborhood-Business.** The B-2 district provides opportunities for small-scale commercial uses offering primarily convenience shopping and services for adjacent residential areas. Proximity to residences requires that commercial operations are low intensity, unobtrusive, and conducted at a scale and density compatible with the surrounding neighborhood. There is a relatively low demand on public services, transportation, and utilities.
- (e) **B-3 | Highway-Business.** The B-3 district provides opportunities for offices, service uses, and businesses retailing durable and convenience goods for the community as a whole. Located on major and minor thoroughfares, this district is accessible to and serves the entire community. Site design and buffering mitigate impacts of traffic, operations, and scale on adjacent businesses and residential neighborhoods.
- (f) **I-1 | Industrial-Light.** The I-1 district fosters the retention and growth of employment opportunities by providing areas where a broad range of industrial uses may locate and where options for complementary uses exist. Industries should be operated in a relatively clean and quiet manner, and should not be obnoxious to nearby residential or business districts, warehousing and wholesaling activities, and research facilities. The regulations of this district are intended to prohibit the use of land for industries that by their nature may create very minor nuisance to surrounding properties.
- (g) **I-2 | Industrial-Heavy.** The I-2 district fosters the retention and growth of employment opportunities by providing areas where a broad range of industrial uses may locate and where options for complementary uses exist. Intended for heavy industries that, by their nature, may create some nuisance, and which are not properly associated with or are compatible with nearby residential or business districts, warehousing and wholesaling activities, and research facilities.
- (h) **PF | Public Facilities.** The PF district is established to provide a coordinated land planning approach to the sale, rent, lease, purchase, management, or alteration of publicly owned or operated lands. Notwithstanding those public uses permitted elsewhere in this Code, the PF district is primarily intended for, although not limited to, public parks and recreation areas, public buildings and facilities, and other capital improvements of a significant nature. (Ord. 2015-09-03, adopted 09/28/2015)

(3) **Planned Development Districts**

- (a) **PD-R | Planned Development-Residential.** The PD-R district provides opportunities for master-planned residential communities containing a mix of housing types, including associated amenities with appropriate perimeter buffering and open space. This district is primarily intended for large-scale residential projects that require either additional flexibility not available in a residential district or greater scrutiny by the Town due to their scale.
- (b) **PD-C | Planned Development-Commercial.** The PD-C district is intended to enhance the design of a commercial development by allowing for additional flexibility not available in the nonresidential districts. The district allows for innovations and special features in site development, including the location and type of structures, the conservation of natural features, the conservation of energy, and the efficient use of open space.
- (c) **PD-I | Planned Development-Industrial.** The PD-I district is intended to provide a means of achieving unified industrial complexes of high quality to promote amenities beyond those expected under conventional techniques, to achieve greater flexibility in design, to encourage well-planned industrial developments that provide for community needs, to provide for appropriate use of land which is significantly unique in its physical characteristics, location or other circumstances to warrant special methods of development, and to allow the expansion of existing industrial areas while safeguarding and maintaining the integrity of surrounding uses, especially those of a residential nature.
- (d) **PD-MU | Planned Development-Mixed Use.** The PD-MU district is intended to provide coordinated mixed use developments, which includes light industrial, commercial, office, educational, civic, institutional, residential and service uses within a planned development with appropriate perimeter buffering and open space. The variety of land uses available in this district allows flexibility to respond to market demands and the needs of tenants, which provides for a variety of physically and functionally integrated land uses.

<some text omitted for purposes of brevity>

(D) **OVERLAY DISTRICTS**

(1) **Thoroughfare Overlay District (TOD)**

The Thoroughfare Overlay District is established for the purpose of maintaining a safe, efficient, and functional development pattern adjacent to major thoroughfares, while maintaining an aesthetic streetscape environment. It is recognized that an enhanced development quality in areas of high visibility promotes economic development and stability in the entire community. The standards established in § 155.204(A) shall be applied to properties which adjoin major thoroughfares, as designated on the Town's Overlay Zoning Map.

(2) **Watershed Protection Overlay (WPO)**

- (a) The Watershed Protection Overlay (WPO) is hereby established as a district that overlays the designated water supply watershed. The designated water supply watershed under this district is defined and established by the overlay district "Watershed Protection Overlay" on the zoning map. Land use and development within the WPO must comply with all the requirements of both the underlying zoning district and the watershed overlay.
- (b) The designated water supply watershed within the Town is designated by the state as a Class IV watershed protected area (WS-IV PA) and is referred to as the Neuse River (Smithfield) watershed within the Neuse River basin. Only new development activities that require an erosion/sedimentation control plan under state law or approved local government program are required to meet the provisions of this program. See § 155.501 for watershed protection standards.

(3) Scenic Highway Overlay (SHO)

The Scenic Highway Overlay is established for the purpose of protecting the visual qualities of the scenic US Highway 70 West corridor, as further described in this Article, specifically in §155.204.

(4) Downtown Overlay District (DOD)

The Downtown Overlay District is established for the purpose of fostering the economic vitality of the area within the district's boundaries, as well as the aesthetics and character of the district as further described in this Article, specifically in §155.204.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2009-08-02, passed 8-3-09, Am. Ord. 2012-04-02, passed 4-2-12; Am. Ord. 2012-12-02, passed 12-3-12; Am. Ord. 2016-04-04, passed 04-04-2016; Ord. 2017-04-06, approved 04/03/2017)

§ 155.202 LAND USE REGULATIONS

(A) USE REGULATIONS TABLE

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

(1) **Key to Types of Use**

- (a) **Permitted.** A "P" indicates that a use is permitted in the respective district subject to the specific use standards in §§ 155.300 through 155.311. Such uses are also subject to all other applicable requirements of this chapter.
- (b) **Conditional Use Review.** A "C" indicates a use that may be permitted in the respective general use district only where approved by the Board of Adjustment in accordance with § 155.710. Conditional uses are subject to all other applicable requirements of this chapter, including the specific use standards contained in §§ 155.300 through 155.311, except where such use standards are expressly modified by the Board of Adjustment as part of the conditional use approval.
- (c) **Special Use Review.** An "S" indicates a use that may be permitted in the respective general use district only where approved by the Town Council in accordance with § 155.711. Special uses are subject to all other applicable requirements of this chapter, including the specific use standards contained in §§ 155.300 through 155.311, except where such use standards are expressly modified by the Town Council as part of the special use approval.
- (d) **Specific Use Section.** The "Specific Use Section" column on the table is a cross-reference to any specific use standard listed in §§ 155.300 through 155.311. Where no cross-reference is shown, no additional use standard shall apply.
- (e) **Uses Not Permitted.** A blank cell in the use table indicates that a use is not permitted in the respective district. Except as pursuant to §155.110 and §155.300, the following uses are entirely prohibited within the jurisdiction of the Town, although such enumeration shall not necessarily be deemed exclusive or all-inclusive:
 - 1. Open dump;
 - 2. Outdoor gun range; and
 - 3. Any use prohibited by an applicable overlay zoning district.

(2) **Uses**

Table 2-1 "Use Regulations" lists the principal uses regulated by this chapter for general use districts. For special use districts see § 155.200(B), for overlay districts see § 155.204, for planned development districts see § 155.203(L), and for accessory structures and uses see § 155.308. In all cases, additional clarification and/or restrictions may be found in the Specific Use Standards (Article 3 of this chapter).

§ 155.202 - Table 2-1 Use Regulations

Use Type	Zoning Districts												Specific Use Section
	Residential				Nonresidential								
	R-E	R-10	R-8	R-6	O-R	O-I	B-1	B-2	B-3	I-1	I-2	PF	
Residential Uses													
Adult Care Home (2-6 Adults)	P	P	P	P		S		S					\$155.301(A)
Adult Care Home (7-12 Adults)	S	S	S	S	S			S					\$155.301(A)
Adult Care Home (13+ Adults)						S		S					\$155.301(A)
Apartments			S	S	S	S	S	S	S				\$155.301(B)
Boarding House					C		C		C				\$155.301(C)
Child Care Home	C	C	C	C	C								\$155.301(D)
Duplex		S	S	S	S								\$155.301(H)
Manufactured Home	P												\$155.301(E)
Manufactured Home Park	S												\$155.301(F)
Nursing Home (Congregate Living Facility)	C					P		S	P				\$155.301(G)
Townhouse		S	S	S	S	S		S	S				\$155.301(I)
Security/Caretaker Quarters	C									C		C	\$155.301(J)
Single Family House	P	P	P	P	P								\$155.301(K)
Upper-story Residence	S	S	S	S	S	P	P	P	P				\$155.301(L)
Zero Lot Line House			P	P	P								\$155.301(M)
Public and Civic Uses													
Assembly	C					P		C	C			P	\$155.302(A)
Cemetery	S								S			P	\$155.302(B)
Church or Place of Worship	C	C	C	C		C		C	C				\$155.302(C)
College or University						P						P	\$155.302(D)
Day Care Facility	C	C	C	C	C	P		P	P				\$155.302(E)
Government Service	S	S	S	S	P	P	P	P	P	P	P	P	\$155.302(F)
Hospital or Medical Center						P			P			P	\$155.302(G)
School (Elementary or Secondary)	S	S	S	S		S						P	\$155.302(H)
School (Technical, Trade or Business)	S	S	S	S		P			P	P	P	P	\$155.302(I)
Recreational Uses													
Entertainment, Indoor						C	C	C	P	P		P	\$155.303(A)
Entertainment, Outdoor									C	P		P	\$155.303(B)
Fitness/Recreation Center						P	C	P	P	P		P	\$155.303(C)
Golf Course	P	P	P	P								P	\$155.303(D)
Gun Range							S		S	S	S	S	\$155.303(E)
Park	P	P	P	P	S	P	S	P				P	\$155.303(F)
Stable, Private	P												\$155.303(G)
Agricultural Uses													
Agriculture, Livestock	C										C		\$155.304(A)
Agriculture, Sales and Service	P										C		\$155.304(B)
Nursery	P					C	S	C	P			P	\$155.304(C)
Commercial Uses													
Adult Oriented Business				C						S			\$155.305(A)
Bed and Breakfast	P				C	P	S	P					\$155.305(B)
Car Wash/Auto Detailing						C		P	P				\$155.305(C)
Contractor Office						C				C	P	P	\$155.305(D)
Convenience Store with Gas Sales								C	P	P			\$155.305(F)
Creative Studio					P	P	P	P	P				\$155.305(G)
Financial Institution					C	P	S	P	P				\$155.305(H)
Funeral Home	C				C	P							\$155.305(I)
Hotel/Motel						S	S	S	P				\$155.305(J)
Kennel	C							C	C				\$155.305(K)
Laundry Services									C	C	P	P	\$155.305(L)
Lounge, Cocktail							S	S	S	S			\$155.305(M)

Article 8 / Definitions
§155.802 Defined Terms

Use Type	Zoning Districts												Specific Use Section
	Residential				Nonresidential								
	R-E	R-10	R-8	R-6	O-R	O-I	B-1	B-2	B-3	I-1	I-2	PF	
Microbrewery							P	S	P	P	P		\$155.305(N)
Publisher						P			P	P	P		\$155.305(O)
Office, General					P	P	P	P	P	P		P	\$155.305(P)
Office, Medical					P	P	S	P	P				\$155.305(Q)
Outdoor Seating/Sidewalk Cafe						C	P	P	C				\$155.305(R)
Parking Lot						S	S	S	S	S	S	S	\$155.305(S)
Pawn Shop									C	P			\$155.305(T)
Radio or Television Studio									P	P	P		\$155.305(U)
Restaurant						C	P	P	P				\$155.305(T)
Retail Sales							P	P	P	P			\$155.305(U)
Self-storage Facility									C	P			\$155.305(V)
Service					S	S	P	P	P				\$155.305(W)
Storage Yard										C	P	P	\$155.305(E)
Tattoo Parlor									S				\$155.305(X)
Towing Service and Storage									S	C	C		\$155.305(Y)
Vehicle Repair or Service									S	P	C		\$155.305(Z)
Vehicle Sales and Rental									S	P	C		\$155.305(AA)
Veterinary Clinic						C		C	P				\$155.305(BB)
Video Sweepstakes Operations										S			\$155.305(CC)
Industrial Uses													
Building Supplies, Wholesale										P	P		\$155.306(A)
Crematorium										P	P		\$155.306(B)
Gas and Fuel, Wholesale										P	P	P	\$155.306(C)
Laboratory, Research						P				P	P		\$155.306(D)
Manufacturing, Light										P	P		\$155.306(E)
Manufacturing, Heavy											P		\$155.306(F)
Research and Development						P				P	P		\$155.306(G)
Warehouse, Freight Movement									C	P	P		\$155.306(H)
Utilities													
Recycling Center										S	P	P	\$155.307(A)
Renewable Energy Facility	S									S	S	S	\$155.307(B)
Telecommunication Facility	S	S	S	S	S	S	S	S	S	S	S	S	\$155.307(C)
Utility, Minor	P	P	P	P	P	P	P	P	P	P	P	P	\$155.307(D)
Utility, Major										P	P	P	\$155.307(E)
Waste Service										C	P	P	\$155.307(F)
Accessory Dwelling Unit													
	C	C	C	C									155.308(C)(1)
Food Truck						P	P	P	P	P		P	155.308(D)(2)
Day Care Facility	C	C	C	C		P		P	P	P	P		155.308(E)(3) 155.308(D)(3)
Park									P			P	155.308(D)(4)
Outdoor Display/Sales							P	P	P				155.308(D)(5)
Outdoor Dining						P	P	P	P				155.308(D)(6)
Outdoor Storage, Limited									S	P	P	P	155.308(D)(7)
Outdoor Storage, General										P	P	P	155.308(D)(8)
Key:													
P – Permitted													
C – Conditional Use permitted in the zoning district only if approved by the Board of Adjustment (BOA) (§ 155.710)													
S – Special Use permitted in the zoning district only if approved by the Town Council (TC) (§ 155.711)													

(Ord. 2005-11-02, adopted 11/21/2005; Am. Ord. 2006-06-01, adopted 06/19/2006; Am. Ord. 2007-04-05, adopted 04/02/2007; Am. Ord. 2007-05-02, adopted 05/07/2007; Am. Ord. 2009-06-06, adopted

Commented [HH1]: Existing requirement....adding to table for clarification

Commented [HH2]: Existing requirements....adding to table for clarification

Commented [HH3]: Currently permitted in all districts, including residential....proposing to limit to B-3, I-1, I-2

Commented [HH4]: Existing requirement....adding to table for clarification

Article 8 / Definitions
§155.802 Defined Terms

06/01/2009; Am. Ord. 2009-08-03, adopted 08/03/2009; Am. Ord. 2012-01-04, adopted 01/03/2012; Am. Ord. 2012-04-02, adopted 04/02/2012; Am. Ord. 2012-12-02, adopted 12/03/2012; Am. Ord. 2014-12-02, adopted 12/01/2014; Ord. 2015-09-03, adopted 09/28/2015; Am. Ord 2016-04-04, passed 04-04-2016; Ord. 2017-04-06, approved 04/03/2017)

§ 155.200 DISTRICTS ESTABLISHED

To carry out the provisions of this Chapter, within the jurisdiction of the Town, the following zoning districts are established.

<some text omitted for purposes of brevity>

(B) GENERAL USE DISTRICTS

(1) Residential Districts

- (a) ***R-E / Residential-Estate.*** The R-E district is comprised of low density, single-family dwellings, and other selected uses which are compatible with the open and rural character of the area. The established regulations for this district are designed to promote and encourage an environment for family life and agriculture. To encourage higher quality development and to ensure greater environmental protection, open space (cluster) subdivisions are permitted.
- (b) ***R-10 / Single-Family Residential-10.*** The R-10 district is established to provide for orderly suburban residential development and redevelopment and is intended to maintain residential areas at relatively low densities characterized predominantly by owner-occupied, single-family detached units. The district requirements protect existing neighborhoods from undesirable or incompatible uses. To encourage higher quality development and to ensure greater environmental protection, open space (cluster) subdivisions are permitted. A special permit process for higher intensity development is also allowed, using discretion to balance issues of higher density with improved amenities.
- (c) ***R-8 / Single-Family Residential-8.*** The R-8 district is established to provide for orderly suburban residential development and redevelopment and is intended to maintain residential areas at suburban densities characterized predominantly by owner-occupied, single-family detached units. To encourage higher quality development and to ensure greater environmental protection, open space (cluster) subdivisions are permitted. A special permit process for higher intensity development is also allowed, using discretion to balance issues of higher density with improved amenities.
- (d) ***R-6 / Single-Family Residential-6.*** The R-6 district is established to provide for orderly suburban residential development and redevelopment. Intended to protect, preserve and enhance existing residential areas of higher density, which includes multi-family dwellings mixed with other housing types. A special permit process for higher intensity development is also allowed, using discretion to balance issues of higher density with improved amenities.

(2) Nonresidential Districts

- (a) ***O-R / Office-Residential.*** The O-R district is intended to accommodate modest-scale professional occupations, along with single-family and multi-family residential units, to serve as a neighborhood activity center and as a transition between residential and more intense commercial uses.

- (b) ***O-1 | Office-Institutional.*** The O-1 district is intended to permit offices, institutions, and associated administrative, executive, professional and research uses in new and existing structures and limited retail uses. Such offices and institutional uses are generally located along or proximate to major roadways or adjacent to commercial uses and may act as a buffer between such areas and residential uses.
- (c) ***B-1 | Central-Business.*** The B-1 district is intended to foster a vibrant, safe, central business district and town center by encouraging dense residential development while retaining and further developing a broad range of commercial, retail, service, office, institutional, public, cultural, and entertainment uses and activities. The district is intended to define and promote the town center as a desirable place to live, work, shop, and recreate.
- (d) ***B-2 | Neighborhood-Business.*** The B-2 district provides opportunities for small-scale commercial uses offering primarily convenience shopping and services for adjacent residential areas. Proximity to residences requires that commercial operations are low intensity, unobtrusive, and conducted at a scale and density compatible with the surrounding neighborhood. There is a relatively low demand on public services, transportation, and utilities.
- (e) ***B-3 | Highway-Business.*** The B-3 district provides opportunities for offices, service uses, and businesses retailing durable and convenience goods for the community as a whole. Located on major and minor thoroughfares, this district is accessible to and serves the entire community. Site design and buffering mitigate impacts of traffic, operations, and scale on adjacent businesses and residential neighborhoods.
- (f) ***I-1 | Industrial-Light.*** The I-1 district fosters the retention and growth of employment opportunities by providing areas where a broad range of industrial uses may locate and where options for complementary uses exist. Industries should be operated in a relatively clean and quiet manner, and should not be obnoxious to nearby residential or business districts, warehousing and wholesaling activities, and research facilities. The regulations of this district are intended to prohibit the use of land for industries that by their nature may create very minor nuisance to surrounding properties.
- (g) ***I-2 | Industrial-Heavy.*** The I-2 district fosters the retention and growth of employment opportunities by providing areas where a broad range of industrial uses may locate and where options for complementary uses exist. Intended for heavy industries that, by their nature, may create some nuisance, and which are not properly associated with or are compatible with nearby residential or business districts, warehousing and wholesaling activities, and research facilities.
- (h) ***PF | Public Facilities.*** The PF district is established to provide a coordinated land planning approach to the sale, rent, lease, purchase, management, or alteration of publicly owned or operated lands. Notwithstanding those public uses permitted elsewhere in this Code, the PF district is primarily intended for, although not limited to, public parks and recreation areas, public buildings and facilities, and other capital improvements of a significant nature. (*Ord. 2015-09-03, adopted 09/28/2015*)

(3) **Planned Development Districts**

- (a) ***PD-R | Planned Development-Residential.*** The PD-R district provides opportunities for master-planned residential communities containing a mix of housing types, including associated amenities with appropriate perimeter buffering and open space. This district is primarily intended for large-scale residential projects that require either additional flexibility not available in a residential district or greater scrutiny by the Town due to their scale.
- (b) ***PD-C | Planned Development-Commercial.*** The PD-C district is intended to enhance the design of a commercial development by allowing for additional flexibility not available in the nonresidential districts. The district allows for innovations and special features in site development, including the location and type of structures, the conservation of natural features, the conservation of energy, and the efficient use of open space.
- (c) ***PD-I | Planned Development-Industrial.*** The PD-I district is intended to provide a means of achieving unified industrial complexes of high quality to promote amenities beyond those expected under conventional techniques, to achieve greater flexibility in design, to encourage well-planned industrial developments that provide for community needs, to provide for appropriate use of land which is significantly unique in its physical characteristics, location or other circumstances to warrant special methods of development, and to allow the expansion of existing industrial areas while safeguarding and maintaining the integrity of surrounding uses, especially those of a residential nature.
- (d) ***PD-MU | Planned Development-Mixed Use.*** The PD-MU district is intended to provide coordinated mixed use developments, which includes light industrial, commercial, office, educational, civic, institutional, residential and service uses within a planned development with appropriate perimeter buffering and open space. The variety of land uses available in this district allows flexibility to respond to market demands and the needs of tenants, which provides for a variety of physically and functionally integrated land uses.

<some text omitted for purposes of brevity>

(D) **OVERLAY DISTRICTS**

(1) **Thoroughfare Overlay District (TOD)**

The Thoroughfare Overlay District is established for the purpose of maintaining a safe, efficient, and functional development pattern adjacent to major thoroughfares, while maintaining an aesthetic streetscape environment. It is recognized that an enhanced development quality in areas of high visibility promotes economic development and stability in the entire community. The standards established in § 155.204(A) shall be applied to properties which adjoin major thoroughfares, as designated on the Town's Overlay Zoning Map.

(2) **Watershed Protection Overlay (WPO)**

- (a) The Watershed Protection Overlay (WPO) is hereby established as a district that overlays the designated water supply watershed. The designated water supply watershed under this district is defined and established by the overlay district "Watershed Protection Overlay" on the zoning map. Land use and development within the WPO must comply with all the requirements of both the underlying zoning district and the watershed overlay.
- (b) The designated water supply watershed within the Town is designated by the state as a Class IV watershed protected area (WS-IV PA) and is referred to as the Neuse River (Smithfield) watershed within the Neuse River basin. Only new development activities that require an erosion/sedimentation control plan under state law or approved local government program are required to meet the provisions of this program. See § 155.501 for watershed protection standards.

(3) Scenic Highway Overlay (SHO)

The Scenic Highway Overlay is established for the purpose of protecting the visual qualities of the scenic US Highway 70 West corridor, as further described in this Article, specifically in §155.204.

(4) Downtown Overlay District (DOD)

The Downtown Overlay District is established for the purpose of fostering the economic vitality of the area within the district's boundaries, as well as the aesthetics and character of the district as further described in this Article, specifically in §155.204.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2009-08-02, passed 8-3-09, Am. Ord. 2012-04-02, passed 4-2-12; Am. Ord. 2012-12-02, passed 12-3-12; Am. Ord. 2016-04-04, passed 04-04-2016; Ord. 2017-04-06, approved 04/03/2017)

§ 155.202 LAND USE REGULATIONS

(A) USE REGULATIONS TABLE

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

(1) **Key to Types of Use**

- (a) **Permitted.** A "P" indicates that a use is permitted in the respective district subject to the specific use standards in §§ 155.300 through 155.311. Such uses are also subject to all other applicable requirements of this chapter.
- (b) **Conditional Use Review.** A "C" indicates a use that may be permitted in the respective general use district only where approved by the Board of Adjustment in accordance with § 155.710. Conditional uses are subject to all other applicable requirements of this chapter, including the specific use standards contained in §§ 155.300 through 155.311, except where such use standards are expressly modified by the Board of Adjustment as part of the conditional use approval.
- (c) **Special Use Review.** An "S" indicates a use that may be permitted in the respective general use district only where approved by the Town Council in accordance with § 155.711. Special uses are subject to all other applicable requirements of this chapter, including the specific use standards contained in §§ 155.300 through 155.311, except where such use standards are expressly modified by the Town Council as part of the special use approval.
- (d) **Specific Use Section.** The "Specific Use Section" column on the table is a cross-reference to any specific use standard listed in §§ 155.300 through 155.311. Where no cross-reference is shown, no additional use standard shall apply.
- (e) **Uses Not Permitted.** A blank cell in the use table indicates that a use is not permitted in the respective district. Except as pursuant to §155.110 and §155.300, the following uses are entirely prohibited within the jurisdiction of the Town, although such enumeration shall not necessarily be deemed exclusive or all-inclusive:
 - 1. Open dump;
 - 2. Outdoor gun range; and
 - 3. Any use prohibited by an applicable overlay zoning district.

(2) **Uses**

Table 2-1 "Use Regulations" lists the principal uses regulated by this chapter for general use districts. For special use districts see § 155.200(B), for overlay districts see § 155.204, for planned development districts see § 155.203(L), and for accessory structures and uses see § 155.308. In all cases, additional clarification and/or restrictions may be found in the Specific Use Standards (Article 3 of this chapter).

§ 155.202 - Table 2-1 Use Regulations

Use Type	Zoning Districts												Specific Use Section
	Residential				Nonresidential								
	R-E	R-10	R-8	R-6	O-R	O-I	B-1	B-2	B-3	I-1	I-2	PF	
Residential Uses													
Adult Care Home (2-6 Adults)	P	P	P	P									\$155.301(A)
Adult Care Home (7-12 Adults)	S	S	S	S	S	S		S					\$155.301(A)
Adult Care Home (13+ Adults)						S		S					\$155.301(A)
Apartments		S	S	S	S	S	S	S	S				\$155.301(B)
Boarding House				C		C		C					\$155.301(C)
Child Care Home	C	C	C	C	C								\$155.301(D)
Duplex		S	S	S	S								\$155.301(H)
Manufactured Home	P												\$155.301(E)
Manufactured Home Park	S												\$155.301(F)
Nursing Home (Congregate Living Facility)	C					P		S	P				\$155.301(G)
Townhouse		S	S	S	S	S		S	S				\$155.301(I)
Security/Caretaker Quarters	C								C			C	\$155.301(J)
Single Family House	P	P	P	P	P								\$155.301(K)
Upper-story Residence	S	S	S	S	S	P	P	P	P				\$155.301(L)
Zero Lot Line House		P	P	P									\$155.301(M)
Public and Civic Uses													
Assembly	C					P		C	C			P	\$155.302(A)
Cemetery	S								S			P	\$155.302(B)
Church or Place of Worship	C	C	C	C		C		C	C				\$155.302(C)
College or University						P						P	\$155.302(D)
Day Care Facility	C	C	C	C	C	P		P	P				\$155.302(E)
Government Service	S	S	S	S	P	P	P	P	P	P	P	P	\$155.302(F)
Hospital or Medical Center						P			P			P	\$155.302(G)
School (Elementary or Secondary)	S	S	S	S		S						P	\$155.302(H)
School (Technical, Trade or Business)	S	S	S	S		P			P	P	P	P	\$155.302(I)
Recreational Uses													
Entertainment, Indoor						C	C	C	P	P		P	\$155.303(A)
Entertainment, Outdoor									C	P		P	\$155.303(B)
Fitness/Recreation Center						P	C	P	P	P		P	\$155.303(C)
Golf Course	P	P	P	P								P	\$155.303(D)
Gun Range							S		S	S	S	S	\$155.303(E)
Park	P	P	P	P	S	P	S	P				P	\$155.303(F)
Stable, Private	P												\$155.303(G)
Agricultural Uses													
Agriculture, Livestock	C										C		\$155.304(A)
Agriculture, Sales and Service	P										C		\$155.304(B)
Nursery	P					C	S	C	P			P	\$155.304(C)
Commercial Uses													
Adult Oriented Business										S			\$155.305(A)
Bed and Breakfast	P			C	C	P	S	P					\$155.305(B)
Car Wash/Auto Detailing						C		P	P				\$155.305(C)
Contractor Office						C			C	P	P		\$155.305(D)
Convenience Store with Gas Sales								C	P	P			\$155.305(F)
Creative Studio					P	P	P	P	P				\$155.305(G)
Financial Institution					C	P	S	P	P				\$155.305(H)
Funeral Home	C				C	P							\$155.305(I)
Hotel/Motel						S	S	S	P				\$155.305(J)
Kennel	C							C	C				\$155.305(K)
Laundry Services								C	C	P	P		\$155.305(L)
Lounge, Cocktail							S	S	S	S			\$155.305(M)

Use Type	Zoning Districts												Specific Use Section
	Residential				Nonresidential								
	R-E	R-10	R-8	R-6	O-R	O-I	B-1	B-2	B-3	I-1	I-2	PF	
Microbrewery							P	S	P	P	P		\$155.305(N)
Publisher						P			P	P	P		\$155.305(O)
Office, General					P	P	P	P	P	P		P	\$155.305(P)
Office, Medical					P	P	S	P	P				\$155.305(Q)
Outdoor Seating/Sidewalk Cafe						C	P	P	C				\$155.305(R)
Parking Lot						S	S	S	S	S	S	S	\$155.305(S)
Pawn Shop									C	P			\$155.305(T)
Radio or Television Studio									P	P	P		\$155.305(U)
Restaurant						C	P	P	P				\$155.305(T)
Retail Sales							P	P	P	P			\$155.305(U)
Self-storage Facility									C	P			\$155.305(V)
Service					S	S	P	P	P				\$155.305(W)
Storage Yard										C	P	P	\$155.305(E)
Tattoo Parlor									S				\$155.305(X)
Towing Service and Storage									S	C	C		\$155.305(Y)
Vehicle Repair or Service									S	P	C		\$155.305(Z)
Vehicle Sales and Rental									S	P	C		\$155.305(AA)
Veterinary Clinic						C		C	P				\$155.305(BB)
Video Sweepstakes Operations										S			\$155.305(CC)
Industrial Uses													
Building Supplies, Wholesale										P	P		\$155.306(A)
Crematorium										P	P		\$155.306(B)
Gas and Fuel, Wholesale										P	P	P	\$155.306(C)
Laboratory, Research						P				P	P		\$155.306(D)
Manufacturing, Light										P	P		\$155.306(E)
Manufacturing, Heavy											P		\$155.306(F)
Research and Development						P				P	P		\$155.306(G)
Warehouse, Freight Movement									C	P	P		\$155.306(H)
Utilities													
Recycling Center										S	P	P	\$155.307(A)
Renewable Energy Facility	S									S	S	S	\$155.307(B)
Telecommunication Facility	S	S	S	S	S	S	S	S	S	S	S	S	\$155.307(C)
Utility, Minor	P	P	P	P	P	P	P	P	P	P	P	P	\$155.307(D)
Utility, Major										P	P	P	\$155.307(E)
Waste Service										C	P	P	\$155.307(F)
Accessory Uses													
Accessory Dwelling Unit	C	C	C	C									155.308(C)(1)
Food Truck						P	P	P	P	P		P	155.308(D)(2)
Day Care Facility	C	C	C	C		P		P	P	P	P		155.308(E)(3) 155.308(D)(3)
Park									P			P	155.308(D)(4)
Outdoor Display/Sales							P	P	P				155.308(D)(5)
Outdoor Dining						P	P	P	P				155.308(D)(6)
Outdoor Storage, Limited									S	P	P	P	155.308(D)(7)
Outdoor Storage, General										P	P	P	155.308(D)(8)
	Key:												
	P – Permitted												
	C – Conditional Use permitted in the zoning district only if approved by the Board of Adjustment (BOA) (§ 155.710)												
	S – Special Use permitted in the zoning district only if approved by the Town Council (TC) (§ 155.711)												

(Ord. 2005-11-02, adopted 11/21/2005; Am. Ord. 2006-06-01, adopted 06/19/2006; Am. Ord. 2007-04-05, adopted 04/02/2007; Am. Ord. 2007-05-02, adopted 05/07/2007; Am. Ord. 2009-06-06, adopted

06/01/2009; Am. Ord. 2009-08-03, adopted 08/03/2009; Am. Ord. 2012-01-04, adopted 01/03/2012; Am. Ord. 2012-04-02, adopted 04/02/2012; Am. Ord. 2012-12-02, adopted 12/03/2012; Am. Ord. 2014-12-02, adopted 12/01/2014; Ord. 2015-09-03, adopted 09/28/2015; Am. Ord 2016-04-04, passed 04-04-2016; Ord. 2017-04-06, approved 04/03/2017)

ARTICLE 3: SPECIFIC USE STANDARDS

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§ 155.300 USE INTERPRETATION

(A) USES

- (A) The list of uses included in the Use Regulations Table (Table 2-1 in §155.202) and defined in this subsection is intended to classify uses on the basis of common functional characteristics (activity, type of customers, goods or services) and land use compatibility. Other uses not specifically listed in the Use Table, but exhibiting similar characteristics to a listed use, shall be so classified by the interpretation of the Planning Director pursuant to the procedures and standards set forth in 155.300(B) below.

(B) USES NOT SPECIFICALLY LISTED

- (1) Any use not specifically listed in this chapter is expressly prohibited, unless the Planning Director determines in accordance with § 155.715, that the use is similar to a use or uses listed in this chapter. Where an unlisted use is similar to a use listed in Table 2-1 (§ 155.202), the unlisted use shall also be subject to the similar uses standards and approval process. The Planning Director shall not amend this chapter by adding to or eliminating any use standard for the unlisted use.
- (2) Where an unlisted use is found by the Planning Director not to be similar to any other use listed in Table 2-1 (§ 155.202), the use shall be permitted only following a text amendment

in accordance with § 155.703. The decision of the Planning Director may not be appealed to the Board of Adjustment.

- (3) When considering the appropriate districts for a use not listed in the Use Regulations Table, the district intent statements (see §155.200) shall be taken into consideration.
- (4) Determination of an appropriate category for a proposed use not currently listed shall be made by applying the following criteria.
 - (a) The actual or projected characteristics of the activity in relationship to the stated characteristics of each use category.
 - (b) The relative amount of site area or floor space and equipment devoted to the activity.
 - (c) Relative amounts of sales from each activity.
 - (d) The customer type for each activity.
 - (e) The relative number of employees in each activity.
 - (f) Hours of operation.
 - (g) Building and site arrangement.
 - (h) Types of vehicles used and their parking requirements.
 - (i) The relative number of vehicle trips generated.
 - (j) Signs.
 - (k) How the use is advertised.
 - (l) The likely impact on surrounding properties.
 - (m) Whether the activity is likely to be found independent of the other activities on the site.

(C) **DEVELOPMENTS WITH MULTIPLE USES**

- (1) Nonresidential, townhouse, and apartment complexes may be established on a single unified parcel, provided that the following requirements are met. Except as set forth above, no more than one principal building or use may be erected on a single lot of record.
- (2) Development with multiple uses shall meet all applicable development standards as set forth in §§ 155.200 through 155.204, §§ 155.400 through 155.404 and §§ 155.500 through 155.502. Applicants shall comply with all other provisions in this chapter and all other applicable laws.

- (3) When the principal uses of a development fall within different group of uses or no group of uses, each principal use shall be classified in the applicable group of uses or treated as an individual use and each use shall be subject to all applicable regulations for that group of uses or individual use.
- (4) A development comprised of uses regulated by separate rows on the Use Regulations Table shall be reviewed using the most restrictive process from among the proposed uses. If a proposed development on a single parcel includes a special use review, then the entire development requires special use review.
- (5) Where a use requiring approval as a conditional use or a special use lies on a separate legal parcel, only the building containing the use and its separate parcel shall be subject to review, not the entire project. However, where the separate legal parcel is an outparcel, the application shall describe the relationship of the outparcel to the remaining site.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2006-06-01, passed 6-19-06; Am. Ord. 2007-04-05, passed 4-2-07; Am. Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Ord. 2017-04-06, approved 04/03/2017)

§ 155.301 RESIDENTIAL USE STANDARDS

The following standards shall apply to all permitted uses, conditional uses and special uses, as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)). Additional design considerations may be outlined in the Clayton General Design Guidelines.

(A) ADULT CARE HOME

- (1) An assisted living residence in which the housing management provides 24-hour scheduled and unscheduled personal care services to residents, either directly or, for scheduled needs, through formal written agreement with licensed home care or hospice agencies. Some licensed adult care homes provide supervision to persons with cognitive impairments whose decisions, if made independently, may jeopardize the safety or well-being of themselves or others and therefore require supervision.
- (2) In the R-E District, an adult care home shall provide at least 150 square feet of gross floor area per occupant and 4,000 square feet of lot area per occupant.
- (3) In the R-10 District, an adult care home shall provide least 150 square feet of gross floor area per occupant and 2,000 square feet of lot area per occupant.
- (4) In the R-8 District, an adult care home shall provide least 150 square feet of gross floor area per occupant and 1,600 square feet of lot area per occupant.
- (5) In the R-6 District, an adult care home shall provide at least 150 square feet of gross floor area per occupant and 1,200 square feet of lot area per occupant.
- (6) Pursuant to N.C. General Statutes 168-22, an Adult Care Home shall not be located within a ½-mile radius of an existing Adult Care Home.

(B) APARTMENTS

Three or more attached dwelling units in a single structure on a single lot, although individual units may be owned by a single or many different entities. Apartments are usually multi-story, and individual units can be mixed vertically and/or horizontally.

- (1) No parking space shall be located in a required yard, except for the rear yard.
- (2) No off-street parking space shall be located closer than ten feet to any residential building wall.
- (3) For developments of 40 or more dwelling units, a divided ingress-egress driveway with a landscaped median is required at the main entrance to the community.
- (4) Sidewalks shall be constructed within the interior of the development to link residential buildings with other destinations such as, but not limited to parking, adjoining streets,

mailboxes, trash disposal, adjoining sidewalks or greenways and on-site amenities such as recreation areas.

(C) **BOARDING HOUSE**

(C) A building, other than a hotel/motel or bed and breakfast, containing not more than nine guest rooms. At least one meal is provided to guests. Individual guest rooms may not contain kitchens and personal services are not provided.

- (1) Boarding houses shall meet the standards of § 152.25 of the Town Code of Ordinances.
- (2) Each boarding house shall have a full-time resident manager.
- (3) Fifteen square feet of common living area other than kitchens, hallways and bathrooms shall be provided per occupant.
- (4) A boarding house shall not be located within 1,000 feet, as measured in any direction from property line to property line, of another boarding house.

(D) **CHILD CARE HOME**

An assisted living residence that provides 24-hour supervision and personal care services for not more than eight orphaned, abandoned, dependent, disabled, or neglected children, together with not more than two adults who supervise such children, all of whom live together within a single residential dwelling unit. All Child Care Homes shall obtain appropriate licenses from the state.

- (1) In the R-E District, a child care home shall provide at least 150 square feet of gross floor area per occupant and 4,000 square feet of lot area per occupant.
- (2) In the R-10 District, a child care home shall provide at least 150 square feet of gross floor area per occupant and 2,000 square feet of lot area per occupant.
- (3) In the R-8 District, a child care home shall provide at least 150 square feet of gross floor area per occupant and 1,600 square feet of lot area per occupant.
- (4) In the R-6 District, a child care home shall provide at least 150 square feet of gross floor area per occupant and 1,200 square feet of lot area per occupant.
- (5) Where abutting a residential use, visual buffers shall be provided so as to shield all parking areas, play areas and outdoor activity from abutting property. Such buffer shall consist of trees or other vegetation of such height and depths as determined by the Board of Adjustment or an appropriate fence or wall or combination thereof.

(E) **MANUFACTURED HOME**

(D) A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein. Manufactured home includes any structure that meets all of the requirements

of this definition and with respect to which the manufacturer voluntarily files a certification required by the Secretary of HUD and complies with the standards established under the Manufactured Home Act.

Except as set forth in division (F)(1)(a) of this section, all manufactured homes shall meet or exceed the following criteria:

- (1) The manufactured home shall be set up and tied down in accordance with the standards set by the North Carolina Department of Insurance.
- (2) The manufactured home shall have a length not exceeding four times its width, with length measured along the longest axis and width measured at the narrowest part of the other axis.
- (3) The manufactured home shall have a minimum of 960 square feet of enclosed and heated living area per dwelling area.
- (4) Screening of the foundation area shall be by a continuous, permanent masonry foundation or masonry curtain wall with a finished surface and constructed in accordance with North Carolina Building Code regulations. The foundation shall be unbroken except for required ventilation and access, and installed under the perimeter of the manufactured home.
- (5) Stairs, porches, entrance platforms, ramps, and other means of entrance and exit to and from the manufactured home shall be installed or constructed in accordance with the standards set by the North Carolina Building Code, free standing or attached firmly to the primary structure and anchored securely to the ground.
- (6) The exterior siding shall consist predominantly of vinyl or aluminum horizontal siding (whose reflectivity does not exceed that of gloss white paint), wood, or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction.
- (7) The moving hitch, wheels and axles, and transporting lights shall be have been removed.
- (8) At least two off-street parking spaces shall be provided.
- (9) The lot shall be cleared of all excess growth and graded to provide adequate drainage.
- (10) All areas not used for parking, manufactured homes, or required porches, shall be grassed or otherwise suitably landscaped to prevent erosion.
- (11) All standards must be met prior to issuance of a certificate of occupancy.

(F) **MANUFACTURED HOME PARKS**

- (E) Any plat of ground upon which two or more manufactured homes, occupied for dwelling purposes, are located, regardless of whether a charge is made for such accommodations. Includes a recreation vehicle park.

(1) General Requirements

- (a) Notwithstanding the criteria set forth in division (E) above, manufactured homes located within manufactured home parks shall be in accordance with all of the requirements of division (E) above, except divisions (E)(2), (E)(3) and (E)(4) shall not apply to manufactured homes located in manufactured home parks. All new or replacement manufactured homes located in manufactured home parks shall be a minimum of 12 feet in width, measured at the narrowest part of the shortest axis of the home, and shall contain a minimum of 480 square feet of enclosed and heated living area. The foundation area of the manufactured home shall be at a minimum, completely screened with faux skirting panels constructed from durable vinyl, or panels simulating a faux brick, rock or stone finish. The skirting shall be completely framed including a bottom track. The foundation screening must be kept in a well maintained condition.
- (b) All manufactured home parks shall be a minimum of three acres in size.
- (c) No living compartment or structure, other than a Florida Room or other prefabricated structure, specifically designed for manufactured home use or extension, shall be added to any manufactured home. Porches covered with a roof and open on three sides may be permitted if yard space requirements of this chapter are not violated, and if such addition complies with the North Carolina Building Code.
- (d) Up to two manufactured home park identification signs may be utilized, but the sum of the areas of one side of these signs shall not exceed 40 square feet. Only external, non-flashing lighting shall be used for illumination. The top portion of any sign shall not exceed 12 feet in height.
- (e) Within a manufactured home park, one manufactured home may be used as an administrative office.

(2) Streets and Parking

- (a) Each manufactured home shall abut upon an improved street or driveway, which shall have unobstructed access to a Town or state maintained road.
- (b) Streets shall have a minimum paved width of 20 feet. In addition, every such street shall lie within a cleared right-of-way having a minimum width of 40 feet.
- (c) Maintenance of such streets shall be provided by the owner or operator of the park.
- (d) Permanent dead-end streets or cul-de-sacs shall not exceed 500 feet in length and shall be provided with a turnaround of at least 70 feet in diameter.

- (e) Streets or drives within the manufactured home park shall intersect as nearly as possible at right angles, and no street shall intersect at less than 75 degrees. Where a street intersects a public street or road, the design standards of the North Carolina Highway Commission shall apply.
- (f) New street names or manufactured home park names shall not duplicate nor be similar to existing street names or manufactured home park names in the area.
- (g) A minimum of two paved parking spaces shall be provided adjacent to each manufactured home space, but shall not be located within any public right-of-way or within any street in the park.
- (h) No manufactured home lots shall be located within the 100-year floodway area, as shown on the latest National Flood Insurance Program map for the Town.

(3) **Lot Size and Lot Width Requirements**

- (a) Lots served by community or public water and sewer shall have a minimum lot size of 6,000 square feet and have a minimum lot width of 50 feet at the front building line. The maximum coverage of the lot by the unit and any accessory structures shall not exceed 40% of the lot area.
- (b) Lots served by individual septic tank and individual well shall have a minimum lot size of 25,000 square feet and have a minimum lot width of 75 feet at the front building line. The maximum coverage of the lot by the unit and any accessory structures shall not exceed 40% of the lot area.
- (c) Lots served by community or public water and individual septic tank or public sewer and individual well shall have a minimum lot size of 15,000 square feet and have a minimum lot width of 75 feet at the front building line. The maximum coverage of the lot by the unit shall not exceed 40% of the lot area.

(4) **Project Boundary Buffer**

- (1) A Class C buffer shall be provided (see § 155.402) along all project boundaries of a manufactured home park.

(5) **Yard Requirements**

- (a) The following yard requirements shall pertain to every manufactured home in the manufactured home park:
 - 1. Minimum depth of street yard, measured from front lot line: 20 feet.
 - 2. Minimum width of side yard, measured from side lot line:
 - A. Ten feet.

B. Six feet, if served by public water and sewer.

- (b) Minimum depth of rear yard, measured from rear lot line: 20 feet.
- (c) Detached garages and accessory buildings may be erected on manufactured home lots as permitted in § 155.308.

(6) **Utility Requirements**

(a) **Water**

- (b) An accessible, adequate, safe supply of water shall be provided in each manufactured home park. When a municipal water supply is not available, a community water supply shall be developed and its supply used exclusively in accordance with the standards of the Sanitary Engineering Division of the North Carolina Division of Health Services and the County Health Department.

(b) **Sewer**

- (c) Adequate and safe sewage disposal facilities shall be provided in all manufactured home parks. Collection systems and sewage treatment complying with the requirements of the North Carolina Department of Natural Resources and Community Development and the County Health Department shall be provided.

(c) **Solid Waste**

1. The storage, collection, and disposal of solid waste in the manufactured home park shall be so constructed as to create no health hazards, rodent harborage, insect breeding area, accident or fire hazard, or pollution, and shall be maintained at least 100 feet from a well site.
2. All solid waste containing garbage shall be stored in a standard fly-tight, watertight, rodent-proof container, which shall be located at each manufactured home space, or an approved bulk container site. The manufactured home park management shall be responsible for the proper storage, collection, and disposal of solid waste as specified by the County Health Department.
3. Grounds, buildings, and structures shall be maintained free of insect and rodent harborage and infestation.
4. No junked or abandoned vehicles shall be allowed in the park.

(7) **Street Lights**

- (2) All streets in the manufactured home park shall be adequately illuminated. The minimum size street light shall be a 175-watt mercury vapor, approximately 7,000-lumen class or its

equivalent, spaced at intervals of not more than 400 feet. Streetlights shall be at each intersection.

(8) Telephone and Power Lines

- (3) All telephone lines and power lines are to be located underground. Utility easements shall not be less than ten feet in width.

(9) Recreation Areas and Facilities

- (a) Adequate and suitable recreation areas to serve the anticipated population shall be provided and shall consist of at least 10,000 square feet for each 25 manufactured home lots. All manufactured home parks having five or more lots shall have a minimum size recreational area of 10,000 square feet. Manufactured home parks having more than 25 manufactured home lots shall provide 400 square feet of recreation space per lot in excess of 25.
- (b) No recreational facilities shall be placed in an area utilized for septic tank filter fields.

(10) Mobile Home Parks with Prior Approval

- (4) All mobile home parks approved for development by the Town, County, or State prior May 4, 1987 are hereby granted special use status under the terms of [§ 155.109\(A\)\(2\)](#), and the number of units contained therein may be maintained and replaced with other units, provided that:
- (a) A copy of the mobile home park plan bearing proof of approval by the responsible governmental agency shall be filed in the Planning Department no later than 90 days after the approval of this revision.
- (b) All replacement units shall obtain an approved zoning compliance permit and inspection by the Town Inspections Department prior to occupancy.
- (c) All replacement units shall meet the requirements of (F) of this section.
- (d) No replacement unit may increase any nonconforming standard of the existing unit, and in no case may any replacement unit be located nearer than ten feet to a public street right-of-way or periphery property line.
- (e) Any expansion of a mobile home park shall be in full accordance with the current standards of this chapter.
- (f) If a mobile home park which does not conform to current standards has been discontinued, or if 80% of the number of spaces are vacated for a period of 180 days, the mobile home park shall not be re-established, and all future use of the land therein shall comply fully with the provisions of this chapter.

(G) NURSING HOME (CONGREGATE LIVING FACILITY)

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- (F) This term includes assisted living facilities, extended congregate care facilities, transitional living facilities, rehabilitative home care services, or home for the aged or any other residential structure, whether or not operated for profit, which undertakes for a period exceeding 24 hours: care, housing, food service, and one or more personal services for persons not related to the owner or administrator by blood or marriage. In addition, this term shall include other residential uses such as dormitories, group homes with a central dining facility, and similar bed-based uses.
- (H) **DUPLEX (also known as “TWO FAMILY HOUSE”)**
- (G) Two attached dwelling units in a single structure on a single lot. The two units can be located on separate floors or side-by-side.
- (I) **TOWNHOUSE (also known as townhome or rowhouse)**
- (H) Two or more attached dwelling units located on separately owned lots or on a single lot where the units are lined up in a row and share side walls, individual units can be mixed vertically. each unit has direct access to the outside, with front and rear walls exposed, to be used for access, light, and/or ventilation.
- (1) Side yards are not required for interior townhouses, but street and rear yards shall be provided for all townhouses, and building separation requirements shall be maintained for all townhouse structures.
- (2) **Parking Options**
- (a) ***Rear-Loaded Garage***
1. Garage is placed entirely to the rear of the townhouse and is rear-accessed or alley loaded. Garage can be attached or detached.
 2. Garage doors must face the alley or rear access drive.
- (a) ***Front-Loaded Garage***
1. Garage doors may constitute no more than 50% of the width of the individual townhouse unit.
 2. The driveway must be aligned with the garage and shall not exceed the width of the garage entrance/door.
 3. Any parking in the front setback must have sufficient depth so that parked cars do not encroach on the adjacent sidewalk. The garage doors must be set back at least twenty-five feet (25') from the sidewalk.
 4. Garage doors must be recessed at least one foot behind the front wall plane, or a second story element over the garage doors must be provided that extends at least one foot beyond the front wall plane.

5. Front-loaded garages shall be prohibited on one-story townhome units.

(b) **Shared Parking Area/Shared Parking Lot**

1. The minimum parking requirement shall be calculated as for an apartment or multi-family development.
- (2) The maximum number of units allowed in a single building is eight.
- (3) The first floor shall be located from ground level to a maximum of three feet above grade.

(J) **SECURITY OR CARETAKER QUARTERS**

- (I) A dwelling unit, which may be a mobile home, a manufactured home, or a modular home, located on a site for occupancy by a caretaker or security guard.

(K) **SINGLE FAMILY HOUSE**

- (J) A detached dwelling unit located on a single lot with private yards on all four sides.
- (1) For alley-loaded houses, an alley shall be provided to the rear of the house. All vehicular access shall take place from the alley. No parking shall be permitted in the required street yard.

(L) **UPPER-STORY RESIDENTIAL**

- (K) A dwelling unit located on a floor above a nonresidential use.
- (2) An upper-story residential unit shall adhere to all dimensional standards of the nonresidential zoning district in which it is located.

(M) **ZERO LOT LINE**

- (L) A detached dwelling unit located on a single lot with private yards on three sides. The unit has a single side yard on one side comprising the equivalent of two side yards of a single-family detached house.
- (1) A single side yard shall be provided comprising the equivalent of two side yards of a conventional detached house. This reduction shall not be allowed on the street yard or to the side yard adjacent to lots that are not part of the zero lot line project.
 - (2) An easement between the two property owners to allow for maintenance or repair of the house shall be required when the roof overhang or side wall of the house are within four feet of the adjacent property line (no roof overhang shall be permitted to extend across the property line). The easement on the adjacent property must provide at least five feet of unobstructed space. The easement shall be recorded on the subdivision plat.

- (3) If the sidewall of the house is on the property line, or within three feet of the property line, windows or other openings that allow for visibility into the side yard of the adjacent lot shall not be allowed. Windows that do not allow visibility into the side yard of the adjacent lot, such as a clerestory window or a translucent window, shall be allowed.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-06-02, passed 6-4-07; Am. Ord. 2012-01-04, passed 1-3-12; Am. Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Am. Ord. 2014-06-10, passed 6-16-14; Am. Ord. 2016-04-04, passed 04-04-2016; Ord. 2017-04-06, approved 04/03/2017)

§ 155.302 PUBLIC AND CIVIC USE STANDARDS

The following standards shall apply to all permitted uses, conditional uses and special uses, as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)). Additional design considerations may be outlined in the Clayton General Design Guidelines.

(M) **ASSEMBLY**

- (N) A site or facility open to the public or membership groups for social, civic, political, educational, or recreational purposes. Typical uses include museums, cultural centers, recreational facilities, botanical gardens and community services such as after school care or tutorial services, medical services, employment services, and may also include uses such as cultural organizations and union halls.

(B) **CEMETERY**

- (O) A place used or to be used and dedicated or designated for interments of human remains or pet animal remains. A cemetery may include an office, chapel, mausoleum, columbarium or crematory.

(C) **CHURCH OR PLACE OF WORSHIP**

- (P) A sanctuary which may include a retreat, convent, seminary or other similar use, owned or operated by a tax-exempt religious group that is used periodically, primarily or exclusively for religious worship, activities and related services.

- (1) Following the initial approval of places of worship through the conditional use permit process (see § 155.710), expansions of up to 20% of the area originally approved through the conditional use permit process may be approved administratively.
- (2) Administrative approvals of expansions of places of worship shall not waive any conditions of approval of the conditional use permit.
- (3) Accessory uses standards for a place of worship are set forth in § 155.308(E).

(D) **COLLEGE OR UNIVERSITY**

- (Q) An institution of higher learning offering undergraduate or graduate degrees, and including the buildings required for educational or support services, such as classrooms, laboratories, dormitories and the like.

(E) **DAY CARE Facility**

- (R) A facility licensed by the state, if applicable; providing care for children who do not reside in the facility, are present primarily during daytime hours, and do not regularly stay overnight. all daycares shall be subject to the following:

- (1) An off-street passenger drop-off and passenger loading area shall be provided for any day care. Such area shall not be located in the street yard.
 - (2) Where abutting a residential use, visual buffers shall be provided so as to shield all parking areas, play areas and outdoor activity from abutting property.
 - (3) In-home daycares, consisting of no more than 6 children and operating within a residential dwelling unit by a person that is a resident of the dwelling, shall be permitted subject to the requirements of a Class "B" Home Occupation (See §155.308).
- (F) **GOVERNMENT SERVICE**
- (S) Buildings or facilities owned or operated by a government entity and providing services for the public, excluding utility and recreational services. Typical uses include administrative offices for government agencies, public libraries, police and fire stations, and resource centers.
- (G) **HOSPITAL**
- (T) A facility licensed by the State of North Carolina which maintains and operates organized facilities for medical or surgical diagnosis, overnight and outpatient care, and treatment of human illness. A hospital may include related support facilities such as a helipad, laboratories, out-patient departments, staff offices, food services, and a gift shop.
- (H) **SCHOOL (ELEMENTARY OR SECONDARY)**
- (U) A public or private institution offering a curriculum of education authorized by the state giving regular instruction at the primary, secondary level, or a school for the mentally or physically handicapped. Included in this definition are preschool programs. However, this definition does not include day care facilities, individual instruction, or classes in a specialized subject.
- (1) Following the initial approval of a school through the special use permit process (see § 155.711), expansions of up to 20% of the area originally approved through the special use permit process may be approved administratively.
 - (2) Administrative approvals of expansions of schools shall not waive any conditions of approval of the special use permit.
- (I) **SCHOOL (TECHNICAL, TRADE OR BUSINESS)**
- (V) An institution offering instruction beyond high school level with a course of study in vocational, technical or other special subjects.
- (1) Following the initial approval of a school through the special use permit process (see § 155.711), expansions of up to 20% of the area originally approved through the special use permit process may be approved administratively.
 - (2) Administrative approvals of expansions of schools shall not waive any conditions of approval of the special use permit.

Article 3 / Specific Use Standards
§155.302 Public and Civic Use Standards

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2009-08-02, passed 8-3-09; Am. Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Am. Ord. 2016-04-04, passed 04-04-2016; Ord. 2017-04-06, approved 04/03/2017)

§ 155.303 RECREATIONAL USE STANDARDS

The following standards shall apply to all permitted uses, conditional uses and special uses, as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)). Additional design considerations may be outlined in the Clayton General Design Guidelines.

(W) **INDOOR ENTERTAINMENT**

- (X) Amusement activities carried on wholly within a building. Typical uses include bowling alleys, billiard parlors, theaters, escape rooms, video game arcades, laser tag, indoor paint ball, skating rink, and activities of a similar nature. This does not include an adult-oriented business or adult-oriented amusement center.

(B) **OUTDOOR ENTERTAINMENT**

- (Y) Amusement activities where any portion of the activity takes place outside or in the open, excluding recreation centers and parks. Typical uses include batting cages, golf driving ranges, go-cart tracks, outdoor paint ball, drive-in theater, outdoor skating rink, and miniature golf courses.

(C) **FITNESS/recreation CENTER**

- (Z) A facility for conducting recreational activities, either indoors or outdoors, including but not limited to racketball, handball, swimming, running, weight lifting, athletic fields, tennis courts, and aerobic exercises. THIS FACILITY MAY also INCLUDE classrooms, BABYSITTING, AND LIMITED FOOD SERVICE FOR THE facility.

(D) **GOLF COURSE**

- (AA) A facility providing a golf recreation area designed for executive or regulation play along with accessory support facilities, excluding miniature golf.

(E) **GUN RANGE**

- (BB) An enclosed facility used for the discharge of firearms or projectiles at targets.

(F) **PARK**

- (CC) An outdoor recreation area relying on a natural resource base or man-made recreation amenity and developed with a low to medium intensity of impact on the land. Typical uses include greenway (non-equestrian multi-use trail) systems, community gardens, wildlife management, playground, dog park, other small-scale recreational amenities, such as sand volleyball, basketball, or tennis court, or other active recreational opportunities, as well as demonstration areas for historical, cultural, scientific, educational, or other purposes that relate to the natural qualities of the area, and support facilities for such activities. commercial amusement facilities, such as water slides, miniature golf, or go-cart tracks, are not considered parks (see "Outdoor entertainment").

(G) **STABLE, PRIVATE**

(DD) The breeding, boarding, training, or raising care of horses owned by the occupants or owners of the premises.

(Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Ord. 2017-04-06, approved 04/03/2017)

§ 155.304 AGRICULTURAL USE STANDARDS

The following standards shall apply to all permitted uses, conditional uses and special uses, as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)). Additional design considerations may be outlined in the Clayton General Design Guidelines.

(A) AGRICULTURE, LIVESTOCK

The breeding, raising and caring for domestic animals including horses.

- (1) Property used for livestock shall be a minimum of five acres in size.
- (2) All accessory uses and structures, such as troughs, feed mechanisms and storage, shall be setback a minimum of 100 feet from any property line.
- (3) The maximum number of large animals permitted for each acre shall not exceed five. Large animals shall include horses, swine, cattle, goats, and sheep. An enclosed structure with one stall for each large animal is required when the total number of large animals exceeds three per acre.
- (4) The maximum number of small animals permitted for each acre shall not exceed 100. Small animals shall include rabbits and fowl, excluding peafowl. Small animals shall be permitted in addition to large animals.
- (5) The use shall assure that there is no incompatibility with surrounding land uses. In the event that an incompatibility exists, the applicant shall satisfactorily mitigate the incompatibility prior to receiving final approval.

(B) AGRICULTURE, SALES AND SERVICE

An establishment primarily engaged in the sale or rental of farm tools, small implements and farming equipment such as pickers, mowers, livestock, feed, grain, tack, riding attire, animal care products, and farm supplies.

- (1) All storage areas for agricultural sales and service uses shall be enclosed or completely screened from view.

(C) NURSERY

The sale of horticultural specialties such as flowers, shrubs, sod, trees, mulch and accessory hardscape materials such as decorative stones intended for ornamental or landscaping purposes.

(Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12)

§ 155.305 COMMERCIAL USE STANDARDS

The following standards shall apply to all permitted uses, conditional uses and special uses, as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)). Additional design considerations may be outlined in the Clayton General Design Guidelines.

(D) **ADULT ORIENTED BUSINESS**

- (E) Any place defined as an "adult establishment" as defined by G.S. § 14-202.10, as such statute may be amended from time to time, including adult cabarets, and except the definition of "massage business" shall not include any establishment or business where massage is practiced that is a health club, exercise studio, hospital, physical therapy business or other similar health-related business. Adult-oriented business specifically includes, however, any massage business where massages are rendered by any person exhibiting "specified anatomical areas" and/or where massages are performed on any client's "specified anatomical areas." "Specified anatomical areas" are those defined by G.S. § 14-202.10 as such statute may be amended from time to time.

- (1) No such use shall be located within 1,000 feet of a church, primary, elementary or secondary school, residence or residentially zoned property, any establishment serving on-premises beverages requiring an ABC license, or any other adult-oriented business.
- (2) There shall be no more than one such use on the same property or in the same building or structure.
- (3) Except for permanent signage as permitted in § 155.403, there shall be no advertisement, promotional materials, displays, or temporary signs visible to the public from public rights-of-way.

(B) **BED & BREAKFAST**

- (F) A building containing one or more guest rooms for an overnight stay which are rented at a daily rate and where breakfast is the only meal served to guests.
- (1) An owner shall reside on site.
 - (2) There shall be no substantial modifications to the exterior appearance of the structure; however, fire escapes, handicapped entrances and other features may be added to protect public safety.
 - (3) Meals shall be served on the premises only for guests and employees. Rooms may not be equipped with cooking facilities.
 - (4) Parking shall not be allowed in any street yard.

(C) **CAR WASH/AUTO DETAILING**

- (G) A permanent establishment engaged in washing or detailing motor vehicles which may use production line methods with a conveyor, blower, or other mechanical devices, and which may employ some hand labor. Detailing includes hand washing and waxing, striping, and interior cleaning.

(D) **CONTRACTOR OFFICE**

- (H) A facility for a building, heating, plumbing, electrical, landscape, janitorial or similar contractor.
- (1) All activity shall be conducted entirely within a fully enclosed building. The temporary loading and off-loading of vehicles shall be permitted outside.
 - (2) The overnight storage of fleet vehicles may be allowed subject to Planning Board approval (see § 155.311).

(E) **CONTRACTOR STORAGE YARD**

- (I) A lot used for the storage of construction material, equipment, or three or more commercial vehicles used by building trades and services, other than construction sites. A contractor's office is permitted as an accessory to the storage yard.
- (1) Equipment principally used in construction activity shall include but is not limited to bobcats, front-end loaders, over-head cranes, graders, dump trucks, compactors, forklift, steam rollers, earth movers, bulldozer, backhoe, concrete mixer, trenchers, cable/pipe layers or any such equipment that is not a street worthy vehicle.
 - (2) Outdoor storage may be allowed subject to Planning Board approval (see § 155.311).
 - (3) Combustible materials and chemicals shall be stored in compliance with all local, state, and federal regulations.

(F) **CONVENIENCE STORE WITH GAS SALES**

- (J) A convenience store which includes accessory gasoline retail sales to the general public.
- (2) **General Standards**
 - (a) Vehicle repair or service shall not be permitted.
 - (b) The primary building, including any attached canopy, shall conform to all setback requirements.
 - (c) Gasoline pumps, tanks and pump islands shall be located no closer than 20 feet to any side or rear property line or right-of-way.

- (d) No sign of any type or any gasoline pump or tank shall be located within 20 feet of a residential use.
- (e) A Class C buffer (see § 155.402) shall be established along any side of the property where the gas station abuts a residential use, provided such buffer shall not restrict clear sight at any intersection or driveway.
- (f) Freestanding vents shall not be permitted.
- (g) Outdoor storage and display may allowed subject to Planning Board approval (see § 155.311).

(1) **Fuel Canopies**

- (a) The canopy shall be located no closer than 15 feet to any side or rear property line or right-of-way.
- (b) The canopy shall not exceed the height of the principal building, but in no case shall the canopy height exceed 20 feet.

(2) **Single-Bay Automatic Car Wash**

- (1) An accessory single-bay automatic (not self-service) car wash completely enclosed except for openings necessary to allow entry and exit of vehicles shall be permitted subject to the following:
 - (a) The car wash structure shall be located no closer than 20 feet to any side or rear property line or right-of-way.
 - (b) The car wash structure shall not exceed a height of 20 feet or exceed an overall building dimension of 25 feet in width and 50 feet in length.
 - (c) The car wash structure shall be located behind the rear building line of the principal building.
 - (d) All car wash structures shall meet all applicable yard requirements.

(G) **CREATIVE STUDIO**

- (K) A facility involved in the display and/or instruction of the arts, such as individually crafted artwork, jewelry, furniture, sculpture, pottery, leathercraft, hand-woven articles, and related items; art classroom; music studio or classroom; dance studio or classroom; martial arts instruction; or similar use. This definition does not include any adult entertainment establishment.

(H) **FINANCIAL INSTITUTION**

- (L) An establishment engaged in deposit banking. Typical uses include commercial banks, savings institutions, and credit unions, including outdoor automated teller machines and drive-thru only facilities.

(1) Freestanding automated teller machines require minor site plan approval.

(2) Drive-through service is only permitted as an accessory use in the B-3 zoning district, or as a Conditional Use Permit in the B-2 zoning district.

(I) **FUNERAL HOME**

- (M) An establishment which arranges and manages funeral and prepares the human deceased for burial.

(3) A funeral home may include a crematorium located within the principal building.

(J) **HOTEL/MOTEL**

- (N) A building containing one or more guest rooms, for overnight guests, and containing registration facilities, on-site management, cleaning services and combined utilities.

(1) All hotel and motel buildings and parking shall be located at least 50 feet from any property line adjoining a residential district or use.

(2) Any accessory commercial activities such as restaurants shall not be located along the side of the property adjacent to a residential district or use.

(3) Any outdoor recreation facilities, such as swimming pools, shall not be located along the side of the property adjacent to a residential district or use. If the outdoor recreation facility is a swimming pool, it shall meet the standards of § 155.308(D)(3) "Swimming Pools".

(K) **KENNEL**

- (O) Any building or land used, designed or arranged to facilitate the care of four or more domestic animals, such as dogs and cats.

(L) **LAUNDRY SERVICES**

- (P) An establishment that provides washing, drying, dry-cleaning, or ironing machines for hire to be used by customers on the premises, or that is engaged in providing laundry and dry cleaning services with customer drop-off and pick-up.

(M) **LOUNGE, COCKTAIL**

- (Q) A use or facility engaged primarily in the preparation and retail sale of alcoholic beverages (with food sales an allowed accessory use) for consumption on the premises. this use is also known as tavern, bar, nightclub, or similar use other than restaurant or alcohol sales for off-premises consumption.

- (1) Except in the B-1 zoning district, a cocktail lounge shall not be located within 250 feet of a residential district and shall be separated a minimum of 750 feet from another cocktail lounge.
- (2) Outdoor seating and open lounge areas shall meet the criteria set forth in § 155.305(R)
- (N) **MICROBREWERY**
- (R) A facility for the production and packaging of beer and other malt beverages for distribution, retail, or wholesale, on or off premise, with a capacity of not more than 15,000 barrels per year. Areas for demonstration, education, retail sale, or tasting are included in this definition as incidental to the primary use of producing beverages.
- (O) **PUBLISHER**
- (S) A building used for the production and distribution of newspapers, magazines, books, and other related materials.
- (P) **OFFICE, GENERAL**
- (T) A facility generally focusing on business, government, or professional services. General office shall include advertising offices; business management consulting, data processing, collection agency; real estate or insurance agents, and professional services such as lawyer, accountant, bookkeeper, engineer, or architect, sales office, travel agency or any similar use.
- (Q) **OFFICE, MEDICAL**
- (U) A facility in which a doctor, dentist, psychiatrist, physician's assistant, nurse practitioner, or similar medial provider treats or counsels patients.
- (R) **OUTDOOR SEATING AND SIDEWALK CAFES**
- (V) A restaurant which provides as a primary component of its business, an open area outside of the principal structure for seating including areas adjacent to sidewalks or pedestrian circulation areas.
 - (1) **Application**
 - (1) Any restaurant or cocktail lounge seeking to operate a sidewalk cafe shall, in addition to acquiring all necessary health and sanitation permits and inspection and applicable ABC and other business licenses, prepare and file an application for outdoor seating with the Planning Director.
 - (2) **Site Plan Requirement**
 - (2) A drawing or site plan showing the section of sidewalk or pedestrian way to be used for the sidewalk cafe, and the section to be kept clear for pedestrian use, and depicting the

proposed placement of tables, chairs, barriers, and other furnishings on the sidewalk or pedestrian way.

(3) **Insurance and Indemnification**

- (3) Applicants must show proof of meeting minimum criteria for general liability insurance and must execute an indemnification statement in favor of the Town, each as approved by the Town Attorney.

(4) **Issuance of Permit**

- (4) No permit for outdoor seating may be issued unless the application is complete and unless the following requirements are met.
- (a) The sidewalk cafe must be associated with an operating restaurant or business such that it is under the same management and shares the same food preparation facilities, restroom facilities and other customer convenience facilities as the restaurant and does not exceed 50% of the interior seating for the associated restaurant or business.
 - (b) The sidewalk cafe must be operated under the same name as the restaurant and may not be opened or operated at any time when the restaurant or business is not open for business.
 - (c) The operation of the sidewalk cafe must be clearly incidental to the associated restaurant business.
 - (d) The placement of tables, chairs and other furnishings, as shown in the site plan, must be done in such a manner not to extend more than five feet from the property line, provided that at least four feet of unobstructed space (as measured from the street-side edge of curb or sidewalk) remains for the passage of pedestrians. Trees, poles, signs, sandwich board signs, planters, benches, hydrants, trash receptacles, and the like are all considered obstructions.
 - (e) The restaurant seeking to operate the sidewalk cafe must front on and open onto the sidewalk or pedestrian way proposed for the sidewalk cafe. The placement of tables, chairs, and other furnishings may not extend in front of other businesses or across other public rights-of-way.
 - (f) The tables, chairs, and other furnishings used in the sidewalk cafe shall be of a type that is easily removed from the public right-of-way. Tables, chairs, and other furnishings used in the operation of the sidewalk cafe must be removed within 24 hours' notice from the Town. If such items are not removed upon 24 hours' notice, the Town shall have the right to remove and dispose of these items and may assess the property owner for the cost of such removal and disposal. The Town shall also have the right to remove such items immediately in an emergency situation. The

Town shall not be responsible for damage to the public sidewalk cafe barricades and furnishings under any circumstances.

- (g) Except as elsewhere permitted, the operation or furnishing of the sidewalk cafe shall not involve any permanent alteration to or encroachment upon any street, sidewalk or pedestrian way or to the exterior of the associated restaurant. The owner of the sidewalk cafe shall be responsible for repairing any incidental damage to public sidewalks resulting from the operation of the sidewalk cafe.
- (h) The sidewalk cafe shall only be open when the restaurant is open. No person shall consume alcoholic beverages in a sidewalk cafe after such hours.
- (i) **Alcoholic Beverages.** Alcoholic beverages may be served and consumed at sidewalk cafes providing the following requirements are met:
 - 1. The sidewalk cafe shall be part of a standard restaurant or business and shall otherwise be authorized, permitted or licensed under the state law and Town codes to serve and sell alcoholic beverages for on-premises consumption.
 - 2. The portion of the sidewalk cafe where alcohol is or may be served shall be enclosed by clearly visible barricades and shall have not more than two points of ingress or egress.
 - 3. The sidewalk cafe must be included as part of the premises for which an ABC permit is issued pursuant to G.S. § 18B-1001 for the purposes of applying and enforcing state laws regarding the sale or consumption of alcoholic beverages.
 - 4. Signs shall be posted, visible at all exit points from the sidewalk cafe, that it is unlawful to remove alcoholic beverages in open and unsealed containers from the premises.
 - 5. The business operator shall not have violated any law, regulation or ordinance relating to the possession, sale, transportation or consumption of intoxicating beverages or controlled substances for the five years preceding the commencement of the sale of alcoholic beverages at the sidewalk cafe.
- (j) **Denial.** A permit may be denied if it is found that the granting of the permit would not be in the public interest. Any applicant denied a permit to operate a sidewalk cafe shall receive a written statement, outlining the grounds on which the denial is based. The applicant may appeal the denial of the permit to the Town Council within 30 working days after the date of the written denial and the Town Council may take such corrective action as it shall find necessary. The findings and determination of the Town Council shall be final.
- (k) **Permit Revocation.** The Town Manager or his designee may revoke a permit issued pursuant to this section, if he finds that the restaurant operator has:

1. Deliberately misrepresented or provided false information in the permit application;
2. Violated any provision of this code;
3. Violated any law, regulation or ordinance regarding the possession, sale, transportation or consumption of intoxicating beverages or controlled substances;
4. Operate the sidewalk cafe in such a manner as to create a public nuisance or to constitute a hazard to the public health, safety or welfare, specifically including failure to keep the sidewalk cafe area clean and free of refuse; and/or
5. Failed to maintain any health, business or other permit or license required by law for the operation of a restaurant business. Before the revocation of a permit, the Town Manager shall notify the permit holder of his intent to revoke the permit and the reasons therefor and shall afford the permit holder a reasonable opportunity to appear and be heard on the question of such revocation. After the hearing, the Town Manager shall notify permit holder in writing of the decision and the reasons therefor. A decision of the Town Manager to revoke permit may be appealed to the Town Council in accordance with the provision of this section.

(l) **Term, Transfer, Renewal, and the Like.** Permits issued in accordance with the provisions of this section shall:

1. Be renewed automatically on an annual basis unless notice is otherwise given to the applicant or business; and
2. Not be transferable or assignable.

(5) **Definitions**

- (5) For purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Pedestrian Way. An improved walk or passageway intended for use by pedestrians, but not adjacent to any Town street.

Restaurant. An establishment engaged in the business of regularly and customarily selling food, primarily to be eaten on the premises, including businesses that are referred to as restaurants, cafeterias, cafes, lunch stands, grills, snack bars, fast food businesses and other establishments, such as drug stores, which have a lunch counter or other section where food is sold to be eaten on the premises. This definition does not include food vendors selling food as part of a festival or nonprofit event.

Restaurant Operator or Business Operator. The person, firm or corporation operating a restaurant and associated sidewalk cafe. As used in this section, this definition includes the owner and manager, if different from the owner of the restaurant and associated sidewalk cafe.

Sidewalk. That portion of a public street between the curb line, or the lateral lines of the roadway if there is no curb and the adjacent property line that is intended for the use of pedestrians.

(S) **PARKING LOT**

An area provided for self-parking or valet parking of operable passenger automobiles or commercial vehicles by employees, visitors, and/or patrons of any office of government, public accommodations, commercial or industrial establishments, institutions, or any other business open to the general public. Parking lots may be further defined as being available for compensation, free, or as an accommodation to clients or customers, and are generally only utilized during regular business hours. For short-term or long-term vehicle storage, see "Self-Storage Facility".

(T) **PAWN SHOP**

Any establishment engaged in the loaning of money on the security of personal property pledged in the keeping of the pawnbroker, and the sale of such property.

- (4) Outdoor storage and display may be allowed subject to Planning Board approval (see § 155.311).

(S) **RADIO OR TELEVISION STUDIO**

An establishment primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms. Excluded are facilities classified as major utility services, broadcasting or telecommunication facilities.

- (T) **RESTAURANT**a use, facility, or establishment whose primary purpose is the preparation and sale of food for on- or off-premise consumption. this use may or may not include the accessory sale of alcoholic beverages.

- (1) Drive-through service is only permitted as an accessory use in the B-3 zoning district, or as a Conditional Use Permit in the B-2 zoning district.

(U) **RETAIL SALES**

A facility involved in the wholesale or retail sale, lease, or rental of new or used products. retail shall include the selling, leasing or renting of the following goods: antiques; art; art supplies; bicycles; books; building supplies; cameras; carpet and floor coverings; crafts; clothing;

computers; dry goods; electronic equipment; fabric; furniture; garden supplies; hardware; health and beauty products; household products; jewelry; medical supplies; musical instruments; music; pets; pet supplies; photo finishing; printed materials; crafts; flowers; gifts or souvenirs; groceries; plants; picture frames; produce; sporting goods; stationery; tobacco; videos, or any similar use. Also includes preparation and sale of baked goods, coffee, ice cream, fountain drinks, confections, and similar products whose preparation does not require installation of an exhaust hood. The retail sale of automobile parts is allowed provided that no on-site automobile service or repair is provided. This definition does not include any adult-oriented business or adult-entertainment establishment.

- (1) Outdoor display and sales and outdoor seating and dining may be allowed subject to Planning Board approval (see § 155.311).
- (2) Limited outdoor storage may be allowed in the B-3 and industrial zoning districts only, subject to Planning Board approval.
- (3) General outdoor storage may be allowed in industrial zoning districts only, subject to Planning Board approval (see §155.311).
- (3) Uses that are strictly wholesale and not available to the general public shall not be allowed in the B-1 or B-2 zoning districts.
- (4) Drive-through service is only permitted as an accessory use in the B-3 zoning district, or as a Conditional Use Permit in the B-2 zoning district.

(V) **SELF STORAGE FACILITY**

A facility consisting of individual, self-contained units that are leased for the storage of business or personal goods.

- (1) All storage shall be contained within a fully enclosed building. However, limited outdoor storage of boats, travel trailers, recreational vehicles, and other noncommercial, occasional use vehicles may allowed subject to Planning Board approval (see §155.311).
- (2) A Class C buffer (see § 155.402) shall be established along any side of the property where the self-storage facility abuts or is across the street from a residential use or a public right-of-way.
- (3) Where the end wall of the self-storage facility is visible from a public right-of-way, the wall shall be buffered by a hedge that has a mature height of at least four feet.
- (4) The following activities shall be prohibited on the premises:
 - (a) Commercial, wholesale or retail sales, flea markets or peddling, or miscellaneous or garage sales. However, once a month, the management of the self-storage facility may conduct a one-day auction or sale of abandoned or stored materials to settle unpaid storage bills in accordance with state regulations.

- (b) Servicing, repair, or fabrication of motor vehicles, boats, trailers, lawn mowers, appliances, or other similar equipment.
- (c) Operation of a transfer-and-storage business.
- (d) Operation of power tools, spray painting equipment, table saws, lathes, compressors, welding equipment, kilns, or other similar equipment except when needed for maintenance of the use.
- (e) Any activity that is noxious or offensive because of odors, dust, noise, fumes, or vibrations.
- (f) Storage of hazardous chemicals, flammable liquids, or combustible and explosive materials.
- (g) Habitation of storage units by humans or animals.

(W) **SERVICE**

A facility involved in providing personal or repair services to through traffic as well as the surrounding neighborhood. General services shall include the following personal services: beauty, hair, nail, or tanning salon, massage therapy, pack-and-ship facility, animal grooming; photographic; photography, blueprint, quick-sign service; psychic or medium; security service; taxidermist; catering service or any similar use. General services shall also include the following repair services: bicycles; moped, canvas products; clocks; computers; jewelry; musical instruments; office equipment; radios; shoes; televisions; furniture; watches or any similar use. Also includes a tailor, milliner, upholsterer or locksmith. This definition does not include any adult-oriented business or adult entertainment establishment. All activity shall be conducted entirely within a fully-enclosed building, except for the following:

- (5) Outdoor storage may only be allowed in the B-3 zoning district subject to Planning Board approval (see 155.311).
- (6) Outdoor display and sales may allowed subject to Planning Board approval (see §155.311).

(X) **TATTOO PARLOR**

An establishment whose principal business activity is the practice of one or more of the following:

- (1) Placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin.
- (2) Piercing of the body of a person (other than the ear) for the purpose of inserting jewelry or other decoration.

(Y) **TOWING SERVICE AND STORAGE**

The use of a lot for the temporary storage of operable or inoperable vehicles in conjunction with a commercial towing service, with no sales or repair or salvage activity occurring on the lot and subject to the following standards:

- (7) Outdoor storage may allowed subject to Planning Board approval (see § 155.311).

(Z) **VEHICLE REPAIR OR SERVICE**

An establishment engaged in the repair of new or used motorized vehicles, equipment.

- (1) No vehicle sales shall be permitted.
- (2) A Class C buffer (see § 155.402) shall be established along any side of the property adjacent to a residential use.
- (3) If the facility has more than one service bay, the additional service bay doors shall not be oriented toward any residential use, or the service bays shall be screened from view from adjacent property using landscaping.
- (4) All repair or service operations, excluding washing, shall be conducted entirely within a fully enclosed building. The term fully enclosed building shall not be construed to limit open bay doors during hours of operation.
- (5) Operable vehicles may be parked on-site during business hours. All vehicle parking shall be accomplished on the site, and in no case shall a parked vehicle encroach into the right-of-way.
- (6) The outdoor overnight storage of vehicles may be allowed subject to Planning Board approval (see § 155.311).
- (7) There shall be no dismantling of vehicles for salvage.
- (8) The storage of impounded vehicles shall not be permitted.

(AA) **VEHICLE SALES AND RENTAL**

An establishment engaged in the sale, rental, or lease of new or used motorized vehicles, equipment, or mobile homes as defined by the Department of Motor Vehicles. Typical uses include auto and truck rental, lease and sales; boat rental and sales; mobile home and recreational vehicle sales; construction equipment rental yards; moving trailer rental, and large implement sales or rental.

- (1) A Class C buffer (see § 155.402) shall be established along any side of the property adjacent to a residential use.
- (2) Operable vehicles may be parked on-site during business hours. All vehicle parking shall be accomplished on the site, and in no case shall a parked vehicle encroach into the right-of-way.

- (3) The outdoor overnight storage of vehicles under repair may be allowed subject to Planning Board approval (see § 155.311).
- (4) Vehicle sales displayed for rental or sale visible from the public right-of-way shall provide a parking buffer as set forth in § 155.402(E)(2)(b).

(BB) **VETERINARY CLINIC**

An establishment engaged in providing medical care, treatment and temporary boarding for animals.

- (1) Outdoor runs may be permitted subject to Board of Adjustment approval (see § 155.710).
- (2) All animal boarding shall occur indoors. All pens, kennels and runs shall be located within an enclosed structure.

(CC) **VIDEO SWEEPSTAKES OPERATION**

Any business enterprise, whether as a principal or an accessory use, where persons utilize electronic machines, including but not limited to computers and gaming terminals, to conduct games of chance, including sweepstakes, and where cash, merchandise or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. This term includes, but is not limited to internet cafes, internet sweepstakes, and cybercafés. This does not include any lottery approved by the State of North Carolina.

- (1) Unaccompanied persons under the age of eighteen (18) are prohibited from entering the premises.
- (2) The hours of operation shall be limited to Sunday through Thursday 9am to 1am, and Friday and Saturday 9am to 2am.
- (3) A maximum of one hundred (100) machines are allowed at each establishment.
- (4) Two (2) or fewer machines are classified as an accessory use and shall not be bound by the standards of this section.
- (5) All uses meeting the definition of Internet Sweepstakes Facilities that were established prior to December 3, 2012 shall cease operations and close or be brought into compliance with the provisions of this ordinance by midnight, December 31, 2013.

(Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Am. Ord. 2016-04-04, passed 04-04-2016; Ord. 2017-04-06, approved 04/03/2017)

§ 155.306 INDUSTRIAL USE STANDARDS

The following standards shall apply to all permitted uses, conditional uses and special uses, as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)). Additional design considerations may be outlined in the Clayton General Design Guidelines.

(A) **BUILDING SUPPLIES, WHOLESALE**

An establishment engaged in the sale or fabrication and allied products to contractors for the construction, maintenance, repair and improvement of real property.

- (8) Retail sales of lumber and allied products to the consumer may be conducted, but must be clearly accessory to the primary use.

(B) **CREMATORIUM**

A place used and dedicated to the cremation of human remains or pet animal remains.

(C) **GAS AND FUEL, WHOLESALE**

The use of land for bulk storage and wholesale distribution of 2,500 gallons or more of flammable liquid, or 2,000 gallons water capacity or more of flammable gas, excluding below-ground storage which is clearly accessory to the principal use on the site.

(D) **LABORATORY, RESEARCH**

An establishment engaged in industrial, scientific or medical research, bio-manufacturing, testing, and analysis, including support services and structures. Typical uses include natural science/manufacturing research facilities and product testing/quality control facilities.

- (9) Outdoor manufacturing, processing or testing shall be limited to industrial districts only.

(E) **MANUFACTURING, LIGHT**

A FACILITY CONDUCTING Medium and light MANUFACTURING OPERATIONS, PRIMARILY INVOLVING THE CREATION OF FINISHED PRODUCTS OR PARTS FROM PREVIOUSLY PREPARED MATERIALS and the manufacturing of products and materials from extracted raw materials. THE PROCESSING, FABRICATION, ASSEMBLY, TREATMENT, PACKAGING, AND STORAGE OF SUCH PRODUCTS IS ALSO INCLUDED. ALL ACTIVITIES shall OCCUR WITHIN A FULLY ENCLOSED BUILDING no manufacturing involved shall produce noise, vibration, air pollution, fire hazard, or noxious emission which may disurb or endanger neighboring properties.

- (1) All manufacturing activity shall be conducted entirely within a fully enclosed building.
- (2) Outdoor storage and display may allowed subject to Planning Board approval (see § 155.311).

- (3) Uses shall not emit smoke, odor, objectionable waste materials or excessive noise.
- (4) No vibration shall be produced that is transmitted through the ground (and is discernible without the aid of instruments) at or beyond the lot line.
- (5) No direct glare from high temperature processes such as combustion or welding visible from the street shall be permitted.

(F) **MANUFACTURING, HEAVY**

A facility conducting assembly heavy manufacturing with operation conducted indoors and outdoors. Heavy manufacturing shall include the following: heavy factory production; industrial yards; any use that is potentially dangerous, noxious or offensive to neighboring uses or those who pass on public ways by reason of smoke, odor, noise, glare, fumes, gas, vibration, threat of fire or explosion, emission of particulate matter, interference with radio, television reception, radiation or any other likely cause; animal processing, packing, treating, and storage; livestock or poultry slaughtering; citrus concentrate plant; processing of food and related products; production of chemical, rubber, leather, clay, bone, paper, pulp, plastic, stone, or glass materials or products, production or fabrication of metals or metal products including enameling and galvanizing, sawmill; bulk storage of flammable liquids; commercial feed lot; concrete batching and asphalt processing and manufacture; wrecking, junk or salvage yard; bottling plant; or any similar use.

(G) **RESEARCH AND DEVELOPMENT**

A facility focused primarily on the research and development of new products. Research and development shall include: offices, and other facilities used for research and development by or for any individual, organization, or concern, whether public or private; prototype production facilities that manufacture a limited amount of a product in order to fully investigate the merits of such a product; pilot plants used to test manufacturing processes planned for use in production elsewhere; production facilities and operations with a high degree of scientific input; facilities and operations in which the input of science, technology, research, and other forms of concepts or ideas constitute a major element of the value added by manufacture per unit of product.

(H) **WAREHOUSE AND FREIGHT MOVEMENT**

A facility involved in the storage or movement of goods for themselves or other firms. Goods are delivered to other firms or the final consumer with little on-site sales activity to customers. Warehouse and freight movement shall include the following: bulk storage, including nonflammable liquids, feed and grain storage; cold storage plants, including frozen food lockers; household moving and general freight storage; separate warehouse used by retail store such as furniture or appliance store; bus barn; parcel services, mail order facility; stockpiling of sand, gravel, or other aggregate materials; transfer and storage business where there are no individual storage areas or where employees are the primary movers of the goods to be stored or transferred; or any similar use.

(Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Ord. 2017-04-06, approved 04/03/2017)

§ 155.307 UTILITIES USE STANDARDS

The following standards shall apply to all permitted uses, conditional uses and special uses, as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)). Additional design considerations may be outlined in the Clayton General Design Guidelines.

(B) **RECYCLING CENTER**

A permanent facility designed and used for receiving, separating, storing, converting, baling or processing of non-hazardous recyclable materials that are not intended for disposal. The use may include construction debris recycling or other intensive recycling processes such as chipping and mulching.

(10) To ensure compatibility with surrounding uses, screening and buffering around the perimeter of the proposed recycling plant shall be required at the time the facility is constructed.

(B) **RENEWABLE ENERGY FACILITY**

A facility that generates renewable energy from sources such as solar, wind, or other systems with a principal use of producing electric, thermal power, or mechanical power.

(C) **TELECOMMUNICATION FACILITY**

Any tower, site, building, structure, or other facility whose principal use is to facilitate transmissions for AM/FM radio, television, microwave, and cellular telephone transmission towers, antennae, and accessory equipment and buildings. Specific standards for communication towers are set forth in § 155.310.

(D) **UTILITY, MAJOR**

A large-scale utility such as a water or wastewater treatment plant, water tower, electrical generation plant, or transmission facility or any similar use.

(E) **UTILITY, MINOR**

All utility facilities not considered major, including, but not limited to neighborhood-serving facilities such as pump stations, telephone exchanges, lift stations, and stormwater detention facilities, or any similar use.

(F) **WASTE SERVICE**

A facility that generally receives solid or liquid wastes from others for transfer to another location, collects sanitary waste, or manufactures a product from the composting of organic material. Waste-related service shall include the following: animal waste processing; landfill, incinerator; manufacture and production of goods from composting organic material; outdoor recycle

processing center; outdoor storage of recyclable material, including construction material; transfer station; or any similar use.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-05-02, passed 5-7-07; Am. Ord. 2007-05-03, passed 5-7-07; Am. Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Am. Ord. 2016-04-04, passed 04-04-2016; Ord. 2017-04-06, approved 04/03/2017)

§ 155.308 ACCESSORY STRUCTURES AND USES.

(C) GENERAL

Accessory structures and uses shall be consistent with all standards in the district for the principal use, except as expressly set forth below. Additional design considerations may be outlined in the Clayton General Design Guidelines.

- (1) Accessory structures and uses shall be accessory and clearly incidental and subordinate to a permitted principal uses. An accessory use shall only be allowed when a principal use exists.
- (2) Accessory structures and uses shall be located on the same lot as the permitted use or structure, or on a contiguous lot in the same ownership.
- (3) Accessory structures and uses shall not involve operations or structures not in keeping with the character of the primary use or principal structure served.
- (4) Accessory structures and uses shall not be of a nature likely to attract visitors in larger numbers than would normally be expected, where applicable.
- (5) An accessory use shall contribute to the comfort, convenience, or necessity of occupants of the primary use served.
- (6) An accessory use shall be located within the same district as the principal use.
- (7) Tractor-trailers are prohibited as storage buildings or structures except as permitted on an active construction site.

(B) ACCESSORY STRUCTURES

Accessory structures, not including accessory dwelling units (see (C)(1) of this section) or in-ground pools, shall be subject to the following requirements:

(1) Zoning Permit Required

It shall be unlawful to begin moving, constructing, altering, or repairing, except ordinary repairs, of an accessory structure, until the Planning Department has issued a zoning permit for such work (see § 155.709).

(2) Setbacks

- (a) No accessory structure shall be located closer than ten feet to any other building or manufactured home.
- (a) No accessory structure shall extend in front of the front line of the principal structure, except in the B-1 zoning district where the Board of Adjustment may approve a

Conditional Use Permit for an accessory use or structure to be placed in any yard other than the rear yard.

- (b) No accessory structure may extend within five feet of any lot line in R-6 and R-8 Districts, and within ten feet in all other zoning districts. No accessory structure shall be located within 20 feet of any street right-of-way.

(3) **Height**

The height of an accessory structure shall not exceed the height of the principal structure or 25 feet, whichever is lesser, unless approved as a Conditional Use Permit by the Board of Adjustment, as provided in § 155.710.

(4) **Number**

- (a) Up to two accessory structures may be permitted on the same lot, subject to meeting the criteria elsewhere in this section.
- (b) No more than one shed is permitted in the R-6 and R-8 zoning districts.
- (c) Two or more accessory structures may not be joined together by adding a roofline, such as a breezeway or covered walkway, to give the appearance of a lesser number of structures.

(5) **Size**

- (a) An accessory structure may not exceed the gross floor area of the primary structure on the site. This restriction does not apply to in-ground pools.

(6) **Architectural consistency**

- (a) On non-residential or mixed use sites, the architecture of accessory structures shall be consistent with the primary structure.

(C) **ACCESSORY USES IN RESIDENTIAL DISTRICTS**

(1) **Accessory Dwelling Units**

One accessory dwelling shall be permitted as a conditional use by the Board of Adjustment (see § 155.710) subject to their approval and the following requirements:

- (a) The living area of the accessory dwelling shall not exceed the living area of the principal structure. In no case shall the total floor area of the accessory dwelling unit exceed 600 square feet.
- (b) The accessory dwelling shall not have a separate electrical meter.

- (c) The owner of the property shall occupy either the primary structure or the accessory dwelling.
- (d) The principal dwelling and accessory dwelling unit together shall not exceed the maximum building coverage and impervious surface requirements for the district.
- (e) All principal structure setbacks and yard requirements shall be met.
- (f) One additional parking space on the same premises shall be required for the accessory dwelling unit.
- (g) A subdivision with accessory dwelling units shall not exceed the maximum district density requirements, counting all principal dwelling units and any accessory dwelling units.
- (h) An accessory dwelling shall either be located within the principal structure; or meet the following standards:
 - 1. The accessory dwelling shall be located on the same lot as the principal structure.
 - 2. The accessory dwelling shall be separated by at least ten feet from the principal structure.
 - 3. The accessory dwelling shall be located in the rear or side yard of the principal structure. The rear and side setback shall be equal to those of all accessory structures.
 - 4. Total building coverage and impervious surface area shall not exceed that permitted in the district.
 - 5. The height of a principal structure shall not be exceeded by any accessory dwelling.
 - 6. The accessory dwelling unit shall be architecturally consistent with the principal structure.

(2) **Home Occupations**

Prohibited Home Occupations

- (a) The following uses are not permitted as home occupations:
 - 1. Vehicle and/or body and fender repair.
 - 2. Outdoor repair or outdoor storage.
 - 3. Commercial nursery or truck farming.

4. Food handling, processing or packing, other than services that utilize standard home kitchen equipment.
5. Medical or dental lab.
6. Restaurant.
7. Sale or repair of firearms.
8. Bulk storage of flammable liquids.
9. Funeral homes and mortuaries.
10. Animal hospitals and kennels.

(b) ***Class A Home Occupations***

The intent of a Class A Home Occupation is to permit very limited activities in a residential dwelling, provided such activities do not impact or detract from the residential character of the neighborhood. A Class A Home Occupation shall be deemed an accessory use and no further approval shall be required, provided the use meets the standards of this chapter.

1. The use of the dwelling unit for Class A Home Occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and shall under no circumstances change the residential character of the structure.
2. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of a home occupation.
3. No business, storage or warehousing of material, supplies or equipment shall be permitted outside of the primary dwelling unit.
4. No equipment or process shall be used that creates excessive noise, vibration, glare, fumes, odors, or electrical interference.
5. No display of products shall be visible from the street.
6. A Class A Home Occupation shall be subject to all applicable licenses and business taxes.
7. No persons other than members of the family residing on the premises shall be engaged in the home occupation.
8. Storage space and the operation of the business inside the dwelling unit shall not exceed 25% of the first floor area of the residence.

9. Customers and employees coming to the residence to conduct business shall not be permitted.
10. No signage shall be permitted.

(c) **Class B Home Occupations**

A Class B Home Occupations is a business, profession, occupation or trade conducted for gain or support within a residential dwelling or its accessory buildings that requires employees, customers, clients or patrons to visit the home. A Class B Home Occupation shall be permitted as a conditional use provided that the Board of Adjustment shall determine in its judgment that:

1. It is carried on by a person residing on the premises and employs no more than two employees not living on the premises.
2. No more than 20% of the total actual floor area of the dwelling shall be in the conduct of the home occupation.
3. No more than two vehicles are used in the conduct of the home occupation, and such vehicles are parked off the street.
4. No merchandise or commodity is sold on the premises, except what is incidental to the home occupation.
5. No mechanical equipment is installed or used except such that is normally used for domestic or professional purposes.
6. No expansion shall be permitted outside the principal structure that houses the home occupation, except that which is necessary to house vehicles used in the conduct of home occupation.
7. It is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.
8. The use will not create undue traffic congestion or create a traffic hazard.
9. Advertising signs shall be limited to one unlighted wall sign no larger than three square feet in area, attached to the structure housing the home occupation, or one yard sign of the same size not to exceed three feet in height.

(3) Day Care Facility

(a) All accessory daycare facilities shall be subject to the requirements for Day Care Facilities, outlined in §155.302(E).

(b) In-home day cares, consisting of no more than 6 children and operating within a residential dwelling unit by a person that is a resident of the dwelling, shall be

permitted subject to the requirements of a Class “B” Home Occupation (see §155.308).

- (c) An accessory day care facility to a church or place of worship shall be permitted as outlined in §155.308(E). A Conditional Use Permit shall not be required for an accessory day care facility to a church or place of worship.

Commented [HH1]: Already permitted in the UDC. Adding language for clarification, and consistency with Use Table update. References existing code sections regarding day care facilities

~~(3)~~(4) **Swimming Pools**

When allowed, in-ground and aboveground swimming pools that have a water depth over 24 inches and or have a surface area of at least 100 square feet shall be subject to the following requirements (see Chapter 154, Swimming Pools, of the Town Code of Ordinances for additional standards).

(a) **Private Pools**

Private swimming pools (including any associated decking, pool house, pool chemical storage shed, or equipment associated with the pool) on single-family detached, zero lot lines, alley-loaded, and two-family lots shall not be located in the street yard and shall not be closer than five feet to any property line.

(b) **Outdoor Community Pools, Private Club Pools, or Pools in Multi-Family Complexes**

1. Outdoor pools (including any associated decking, pool house, pool chemical storage shed, or equipment associated with the pool) shall be located at least 50 feet from any property line adjacent to a residential district or use, and at least 25 feet from any property line adjacent to any other district or use.
2. When the pool is adjacent to off-site residences, the playing of music detectable off-site on a public address system is prohibited. Informational announcements shall be permitted. This requirement is waived if a permit has been issued for a special event.

~~(4)~~(5) **Vehicle Repair**

Up to two vehicles may be repaired simultaneously on a residential property if the vehicles are registered to an occupant of the residence.

~~(5)~~(6) **Vehicle Sales**

Vehicle sales shall be prohibited within a residential district or on property devoted to residential use, except that the sale of a private vehicle registered to the occupant of the residence shall be allowed. No more than one such vehicle shall be displayed at a time.

(D) **ACCESSORY USES IN NONRESIDENTIAL DISTRICTS**

(1) **Drive-Thru (aka Drive-Through)**

Drive-thru facilities shall be subject to the following requirements:

- (a) A drive-thru shall only be permitted in conjunction with a permitted nonresidential use.
- (b) Drive-thru windows and lanes shall be screened in accordance with § 155.402(G).

(2) **Food Truck**

(a) ***Permits Required***

- 1. Food truck vendors must provide documentation of approval from the Health Department of the County in which the food truck's associated restaurant or commissary is located.
- 2. The County Health Permit must be displayed during hours of operation.

(b) ***Public Safety***

- 1. Temporary connections to potable water are prohibited. All plumbing and electrical connections shall be in accordance with the State Building Code.
- 2. Grease and wastewater must be contained and disposed of in an approved grease receptacle located at the associated restaurant or commissary.
- 3. If the food truck is operating after dark, the food truck vendor shall provide appropriate lighting.
- 4. A food truck vendor shall not operate the food truck as a drive-in window.
- 5. The Planning Director may engage in zoning enforcement or prohibit/suspend a food truck vendor's operations if are causing parking, traffic congestion, or litter problems either on or off the property where the use is located or such use is otherwise creating a danger to the public health or safety.

(c) ***General Location Requirements***

- 1. Food trucks must be located on private property with written permission from property owner.
- 2. Food trucks shall be positioned at least 400 feet from the customer entrance of an existing restaurant during hours of operation, unless the vendor provides documentation that the restaurant owner supports a closer proximity.
- 3. Food trucks shall not block parking spaces, drive aisles, access to loading/service areas, or emergency access and fire lanes. Food truck vending must also be positioned at least 15 feet away from fire hydrants, any fire department connection, and driveway entrances.

4. No more than two food trucks are permitted as an accessory use, unless at an approved special event, market, festival, or an active construction site.

(d) **Hours of Operation**

Food trucks must cease operations between the hours of 12 a.m. and 7 a.m., and are not permitted to remain on site overnight.

(e) **Signage**

No signage shall be allowed other than signs permanently attached to the motor vehicle. An easel sign no more than 12 square feet per sign face in display area may be placed within the customer waiting area.

(3) Day Care Facility

- (a) An accessory day care facility shall only be permitted as an accessory to the following uses:

1. Hospital or Medical Center (§155.302(G))
2. School (Elementary or Secondary) (§155.302(H))
3. School (Technical, Trade, or Business) (§155.302(I))
4. Entertainment, Indoor (§155.303(A))
5. Entertainment, Outdoor (§155.303(B))
6. Fitness/Recreation Center (§155.303(C))
7. Creative Studio, (§155.305(G))
8. Office, General, (§155.305(P))
9. Office, Medical, (§155.305(Q))
10. Research & Development, (§155.306(G))
11. Church or Place of Worship, (§155.302(C))

- (b) All accessory daycare facilities shall be subject to the requirements for Day Care Facilities, outlined in §155.302(E).

- (c) An accessory day care facility to a church or place of worship shall be permitted as outlined in §155.308(E). A Conditional Use Permit shall not be required for an accessory day care facility to a church or place of worship.

Commented [HH2]: Already permitted in the UDC. Referencing the section for clarification.

(4) Park

- (a) An accessory park shall be permitted in the forms of community gardens, playgrounds, or other small-scale recreational amenities that are secondary in nature to the primary use of the property.

- (b) Accessory park uses shall be subject to minor site plan review in accordance with §155.707, illustrating the proposed boundaries of the park, amenities, and any other applicable elements.

(c) Additional parking to accommodate the accessory park shall be required in accordance with §155.401.

(5) Outdoor Display & Sales

Commented [HH3]: Relocated from 155.311. No change to existing language

(a) Outdoor display and sales shall be generally defined as the display and sales of goods, wares or merchandise outside of a permanent structure on property owned or leased by the person, firm or corporation. Outdoor display and sales must be secondary and incidental to the principal use or structure on the property, unless authorized pursuant to § 155.309, Temporary Use.

(b) Outdoor display and sale areas greater than 50 square feet shall only be permitted following Planning Director review of a minor site plan in accordance with § 155.707, illustrating the extent of the permitted area for outdoor display and sales subject to the standards below. Outdoor display and sale areas 50 square feet or less do not require site plan approval, but are subject to the standards below.

(c) The location of outdoor merchandise must be on the same property as the principal use, and not within the right-of-way, except that in the B-1 zoning district it may be displayed in the right-of-way, provided that clearance requirements are maintained for pedestrian passage.

(d) Merchandise shall be displayed to allow pedestrians use of the adjacent sidewalk or parking areas, and shall meet ADA accessibility requirements.

1. Any merchant desiring to display and sell merchandise along a public sidewalk or right-of-way must also receive approval from the Town Manager or his designee, and agree to following stipulations:

A. Merchandise must be removed from the sidewalk within 24 hours of notice from the Town. If such items are not removed following notice, the Town has the right to remove and dispose of these items and may assess the property owner for the cost of removal and disposal. The Town has the right to remove such items immediately in emergency situation. The Town is not responsible for damage to the merchandise under any circumstances.

C. The owner of the business displaying or selling merchandise within a public sidewalk is responsible for repairing any incidental damage to public sidewalk resulting from the display of merchandise.

D. Merchandise must be removed from the sidewalk when the business is closed.

(6) Outdoor Dining

Commented [HH4]: Relocated from 155.311. No change to existing language.

(a) Outdoor dining shall be defined as the placement of tables and chairs for dining outside of a permanent structure.

(b) General Requirements

1. Outdoor dining shall be permitted with a zoning compliance permit for 8 or fewer seats. More than 8 seats is subject to a minor site plan, or as a component of a major site plan in accordance with § 155.707, illustrating the extent of the outdoor dining area, the maximum seating capacity, and subject to the standards below. The impact of outdoor dining areas on adjacent churches, hospitals, public schools, and residential uses shall be mitigated to minimize potential impacts related to glare, light, loitering, and noise.

2. Patron tables and other outdoor dining area components shall be clearly defined and located on the same site as the other facilities of the restaurant or on the adjacent public right-of-way. Separation between the seating and vehicular or pedestrian traffic by a physical barrier may be required, with the design to be approved by the Planning Director.

3. Separation may be achieved through the use of materials which include, but are not limited to landscape planters, walls, railings or a combination thereof. Only barriers composed of landscape planters or masonry walls may be solid.

(c) The additional parking necessary to accommodate seating created in the outdoor dining area shall comply with the parking requirements set forth in § 155.401 of this Chapter.

(d) Outdoor dining areas and associated structural elements, such as awnings, covers, umbrellas, or other physical elements shall be compatible with the overall design of the main structure and must maintain a height clearance of eight feet and meet ADA accessibility requirements. Dining equipment (including, but not limited to tables, chairs, space heaters, barriers) may remain in place.

(e) The Town may revoke the outdoor dining area if it is determined that its operation is causing litter problems either on or off the property where the dining is located or that such use is otherwise creating a danger to the public health or safety.

(f) In addition to the requirements set forth above, if any portion of the outdoor dining area is to be located within a public right-of-way (sidewalks only), the dining area must also receive approval from the Town Manager or his designee, and agree to following stipulations. Outdoor dining within right-of-way owned and operated by the State of North Carolina, must also meet the requirements of G.S. 136-27.4 listed below.

1. Tables, chairs, and other furnishings shall be placed a minimum of six feet from any travel lane.

2. Tables, chairs, and other furnishings shall be placed in such a manner that at least five feet of unobstructed paved space of the sidewalk, measured from any permanent or semi-permanent object, remains clear for the passage of pedestrians and provides adequate passing space that complies with the Americans with Disabilities Act.
 3. Tables, chairs, and other furnishings shall not obstruct any driveway, alleyway, building entrance or exit, emergency entrance or exit, fire hydrant or standpipe, utility access, ventilations areas, or ramps necessary to meet accessibility requirements under the Americans with Disabilities Act.
 4. The maximum posted speed permitted on the roadway adjacent to the right-of-way to be used for sidewalk dining activities shall not be greater than 45 miles per hour.
 5. The restaurant operator shall provide evidence of adequate liability insurance specified by the Town under G.S. 160A-485 as the limit of the Town's waiver of immunity or the amount of Tort Claim liability specified in G.S. 143-299.2, whichever is greater. The insurance shall protect and name NCDOT and the Town as additional insured on any policies covering the business and the sidewalk activities.
 6. The restaurant operator shall provide an agreement to indemnify and hold harmless NCDOT and the Town from any claim resulting from the operation of sidewalk dining activities.
 7. The restaurant operator shall provide a copy of all permits and licenses issued by the State, County or Town, including health and ABC permits, if any, necessary for the operation of the restaurant or business, or a copy of the application for the permit if no permit has been issued. This requirement includes any permits or certificates issued by the Town for exterior alterations or improvements to the restaurant.
 8. The restaurant operator shall cease part or all sidewalk dining activities in order to allow construction, maintenance, or repair of any street, sidewalk, utility, or public building, by NCDOT, the Town, its agents or employees, or by any other governmental entity or public utility.
 9. Any other requirements deemed necessary by the NCDOT, either for a particular Town or a particular component of the State highway system.
- (g) The Town reserves the right to terminate the use of outdoor dining within the public right-of-way at any time. Upon notice, all furnishings must be removed from the sidewalk within 24 hours of notice from the Town. If furnishings are not removed within the time specified, the Town has the right to remove and dispose of these items and may assess the property owner for the cost of removal and disposal. The

Town has the right to remove such items immediately in emergency situations. The Town is not responsible for damage to the furnishings under any circumstances.

- (h) The owner of the business utilizing a dining area within a public sidewalk is responsible for repairing any incidental damage to public sidewalk resulting from outdoor dining furnishings.

(7) **Limited Outdoor Storage**

Commented [HH5]: Relocated from 155.311

- (a) Limited outdoor storage shall be defined as the overnight outdoor storage of vehicles (not associated with outdoor sales and display including vehicle sales, vehicle repair or car rental), merchandise or material in boxes, crates, on pallets or other kinds of containers, shopping carts, or other similar merchandise, material or equipment.

- (b) Limited outdoor storage shall only be permitted as an accessory use following Planning Board review of a major site plan in accordance with § 155.707, illustrating the extent of the permitted area for limited outdoor storage provided it meets the standards below.

Commented [HH6]: New language for clarification

1. Limited outdoor storage shall not be more than 12 feet in height and shall be fully screened from view from the public right-of-way, public parking areas, or adjacent residential development by a 100% opaque visual barrier or screen.
2. All limited outdoor storage shall be located at least 15 feet from the public right-of-way and any abutting residential use or residentially-zoned district.
3. Limited outdoor storage shall not be permitted in a street yard or otherwise forward of the front building line.

(8) **General Outdoor Storage**

Commented [HH7]: Relocated from 155.311

- (a) General outdoor storage shall be defined as salvage yards, vehicle junk yards, overnight outdoor storage of shipping containers, lumber, pipe, steel, junk and other similar merchandise, material or equipment.

- (b) General outdoor storage shall only be permitted as an accessory use following Planning Board review of a major site plan in accordance with § 155.707, illustrating the extent of the permitted area for general outdoor storage provided it meets the standards below.

Commented [HH8]: New language for clarification

1. General outdoor storage shall be screened by 100% opaque, eight foot high visual barrier or screen. When located abutting or across the street from a residential use or residentially-zoned property such screening shall be high enough to completely conceal all outdoor storage from view.
2. All general outdoor storage shall be located at least 15 feet from the public right-of-way and any abutting residential use or residential district.

3. No general outdoor storage shall be permitted in a street yard or otherwise forward of the front building line.

4. General outdoor storage may be located in the side or rear yard.

(2)(9) Swimming Pools

- (a) Outdoor pools shall meet the standards of Chapter 154, Swimming Pools, of the Town Code of Ordinances.
- (b) Outdoor pools including decking shall be located at least 50 feet from any property line adjacent to a residential district or use, and at least 25 feet from any property line adjacent to any other district or use.
- (c) When the pool is adjacent to residences, the playing of music detectable off-site on a public address system is prohibited. Informational announcements shall be permitted. This requirement may be waived if a permit has been issued for a special event.

(E) ACCESSORY USES FOR PLACES OF WORSHIP

Accessory uses are permitted for a place of worship in accordance with the following standards.

The following facilities may be considered accessory to a place of worship. Additional buffering may be required through the review and approval of a site plan to address the intensity of the proposed place of worship and the proposed accessory uses.

- (a) Offices for the place of worship;
- (b) Rooms for religious instruction or counseling;
- (c) Meeting rooms for intermittent community meetings or instruction;
- (d) Fellowship hall;
- (e) Kitchen facilities;
- (f) Senior center, neighborhood arts center or other community center;
- (g) Temporary child care during religious services or events;
- (h) Outdoor play area;
- (i) Columbarium;
- (j) "Meals on Wheels" or other similar programs using the kitchen in the place of worship but delivering food elsewhere; and
- (k) Residence for clergy employed by the place of worship.

- (2) The following accessory uses are subject to approval of a major site plan by the Planning Board (see § 155.707).
- (a) Gymnasium or similar indoor recreational facility;
 - (b) Cemetery;
 - (c) Overnight accommodation for visiting clergy and non-paying guests of clergy employed by the place of worship;
 - (d) Child care center;
 - (e) School;
 - (f) Soup kitchen or other social service facility; and
 - (g) Athletic field or similar facility.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-05-02, passed 5-7-07; Am. Ord. 2007-05-03, passed 5-7-07; Am. Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Ord. 2017-04-06, approved 04/03/2017)

§ 155.309 TEMPORARY USES

(A) GENERAL REQUIREMENTS

Certain uses are temporary in character. They vary in type and degree, as well as length of time involved. Such uses may have little impact on surrounding and nearby properties or they may present questions involving potential incompatibility of the temporary use with existing uses. Unless otherwise specified in this chapter, the following regulations shall govern temporary uses.

(B) TEMPORARY USES EXEMPT FROM PERMIT

The following permitted temporary uses are exempt from these requirements.

- (1) Christmas tree sales lots.
- (2) Garage or yard sales are permitted only by the property owner on their property and are allowed once every four months at any given location. The sale may not exceed three consecutive days in length. Advertising signs may not be placed on any rights-of-way or off-site locations without the owners' permission.
- (3) Storage pods for off-site storage of household or other goods located in any street yard are permitted for a maximum of seven consecutive days, and any side or rear yard for a maximum of 30 consecutive days.

(C) TEMPORARY USE PERMIT REQUIRED

The following temporary uses are allowed in the frequency stated below, except that no property shall have more than four of the events listed below in one calendar year.

(1) Commercial Circuses, Carnivals or Fairs

Commercial circuses, carnivals or fairs, for not more than two consecutive weeks in any calendar year.

(2) Temporary Religious or Revival Activities

Temporary religious or revival activities in tents in association with a place of worship, for not more than two consecutive weeks in any calendar year.

(3) Non-profit Special Events

Special events run by non-profit, charitable organizations occurring no longer than seven consecutive days once every three months.

(4) Tent Sales

Tent sales by merchants occupying the premises on which the sale is conducted and having a valid certificate of occupancy, and occurring no longer than seven consecutive days once every six months.

(5) **Grand Opening Sales**

Grand opening sales, including outside food and beverage vending, for three consecutive days, once per certificate of occupancy.

(6) **Outdoor Vehicle Show or Sale**

Outdoor motor vehicle or recreational vehicle show or sale, for three consecutive days, twice per calendar year.

(7) **Other Temporary Uses**

Other temporary uses similar in nature to the ones listed above, with corresponding limitations, as determined by the Planning Director.

(D) **TEMPORARY OUTDOOR DISPLAY OF MERCHANDISE**

Permanent outdoor display of merchandise may be approved as part of major site plan (see § 155.311).

(1) Outdoor display of merchandise in nonresidential districts by merchants occupying the premises and having a valid certificate of occupancy, occurring no longer than nine consecutive days up to four times per year, is allowed subject to issuance of a temporary use permit and all of the following conditions.

- (a) Merchandise shall only be displayed in front of the premises occupied by the merchant.
- (b) Merchandise shall not be displayed closer than five feet to any entrance to the premises.
- (c) Merchandise shall only be displayed in a manner that does not obstruct pedestrian or vehicular circulation or traffic.
- (d) The display of merchandise shall not exceed eight feet in height.
- (e) Merchandise shall only be displayed during the merchant's hours of operation, and must be taken inside the premises at closing.
- (f) Merchandise shall only be displayed in an area not wider than 50% of the total linear foot frontage of the building occupied by the merchant.
- (g) The required temporary use permit must be visibly displayed at the main entrance of the associated merchant.

- (h) A violation of any conditions set out in this section shall constitute a violation of the temporary use permit and cause said temporary use permit to be revoked. Once revoked, a temporary use permit shall not be issued for the same temporary use for a period of one year.
 - (2) Any temporary use permit issued under (C)(1) through (7) of this section shall be counted in the maximum number of temporary use permits allowed for the temporary outdoor display of merchandise.
 - (3) The requirements of this section do not supersede the permanent outdoor storage or display requirements of §155.311.
- (E) **MANUFACTURED HOME OR TRAILER FOR TEMPORARY USE**
- After approval by the Planning Director, a manufactured home or trailer may be used as a temporary office, security shelter, or shelter for materials or tools (but not for residential purposes or sales offices) incident to construction on or development of the premises upon which the manufactured home or trailer is located. Such use shall be strictly limited to the time construction or development is actively underway. In no event shall the use continue more than six months without the further approval of the Planning Director. The temporary use shall be approved only upon finding that actual construction is continuing.
- (F) **TEMPORARY USE IN CONJUNCTION WITH SPECIAL EVENT PERMIT**
- Where a valid permit has been issued by the Town for use of adjacent right-of-way that makes the street unavailable to vehicular traffic, a temporary use permit may be issued in accordance for events on the grounds or in the parking lot of any adjacent parcel during the period of the special event permit.
- (G) **REAL ESTATE DEVELOPMENT PROJECTS**
- (1) A developer may request a temporary use permit for necessary commercial promotional, storage, or fabrication activities at the development site which occur during construction of that developer's project.
 - (2) When the request is for a temporary sales office, model home, or apartment, the application shall list the lots, apartment units, or dwelling units to be initially sold.
 - (3) The temporary use permit shall be restricted to only those activities and properties listed on the petition. Such activities shall not include any sale of properties outside the development site or any resale of properties.
 - (4) The following uses in connection with such a project require a temporary use permit:
 - (a) Offices for sale of real estate or for persons engaged in the development.

- (b) Construction materials storage, general contractor's business office, processing, or fabrication.
- (c) Equipment storage.
- (d) Model homes or sample apartments.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-05-02, passed 5-7-07; Am. Ord. 2007-05-03, passed 5-7-07; Am. Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12)

§ 155.310 TELECOMMUNICATION FACILITIES

(A) PURPOSE AND LEGISLATIVE INTENT

The purpose of this Section is to establish general guidelines for the locating, collocating, modifying or upgrading of telecommunications towers, antenna, ground equipment and related accessory structures. It is the intent of this Section to:

- (1) Promote the health, safety, and general welfare of the public by regulating the locating of telecommunication facilities.
- (2) Minimize the impacts of telecommunication facilities on surrounding land uses by establishing standards for location, structural integrity, and compatibility.
- (3) Encourage the location and collocation of telecommunication equipment on existing structures thereby minimizing new visual, aesthetic, and public safety impacts, effects upon the natural environment and wildlife, and to reduce the need for additional towers.
- (4) Accommodate the growing need and demand for new and upgraded telecommunication services.
- (5) Encourage coordination between suppliers and providers of personal telecommunication services.
- (6) Establish predictable and balanced codes governing the construction and location of telecommunications facilities within the confines of permissible local regulations.
- (7) Establish review procedures to ensure that applications for telecommunications facilities are reviewed and acted upon within a reasonable period of time as required by applicable state and federal regulations.
- (8) Respond to the policies embodied in the Telecommunications Act of 1996 so that no discrimination between providers of functionally equivalent personal wireless services occurs, or to prohibit or have the effect of prohibiting personal wireless services.
- (9) Respond to the policies in Section 6409 of the Tax Relief and Job Creation Act of 2012 (47 USC §1445(a)).
- (10) Protect the character of the Town while meeting the needs of its citizens to enjoy the benefits of telecommunication services.
- (11) Encourage the use of public lands, buildings, and structures as locations for telecommunications infrastructure demonstrating concealed technologies and revenue generating methodologies.

(B) **AUTHORITY**

The provisions of this Section are permitted under authority granted by the General Assembly of the State of North Carolina with particular reference to Article 6 of Chapter 153A of the North Carolina General Statutes.

(C) **SPECIFIC TELECOMMUNICATION DEFINITIONS**

- (1) **Alternative Structure**
A structure that is not primarily constructed for the purpose of holding antennas but on which one or more antennas may be mounted, including, but not limited to buildings, water tanks, pole signs, billboards, church steeples, and electric power transmission towers.
- (2) **Amateur Radio Tower**
Any tower used for amateur radio transmissions consistent with the "Complete FCC U.S. Amateur Part 97 Rules and Regulations" for amateur radio towers.
- (3) **Ancillary Structure**
Any form of development associated with a communications facility, including, but not limited to foundations, concrete slabs on grade, guy anchors, generators, and transmission cable supports, but excluding equipment cabinets.
- (4) **Anti-Climbing Device**
A piece or pieces of equipment designed to prevent people from climbing the structure.
- (5) **Antenna**
Any apparatus designed for the transmitting and/or receiving of communication signals, including, but not limited to telephonic, radio and television communications.
- (6) **Antenna Array**
A single or group of antenna elements and associated mounting hardware, transmission lines, or other appurtenances which share a common attachment device such as a mounting frame or mounting support structure for the sole purpose of transmitting or receiving communication signals.
- (7) **Antenna Element**
Any antenna or antenna array.
- (8) **Antenna Modification**
See collocation.
- (9) **Antenna Upgrade**
See collocation.
- (10) **ASR**
The Antenna Structure Registration Number as required by the FAA and FCC.

- (11) **Base Station**
The electronic equipment utilized at the base of a tower for the transmission and reception of communication signals.
- (12) **Breakpoint Technology**
The engineering design of a tower wherein a specified point on the tower is designed to have stresses concentrated so that the point is at least five percent (5%) more susceptible to failure than any other point. In the event of a structural failure, the failure will occur at the breakpoint rather than at the base plate, anchor bolts, or any other point on the tower.
- (13) **Broadcast Facilities**
Towers, antennas, and/or antenna arrays for AM/FM/TV/HDTV broadcasting transmission facilities that are licensed by the Federal Communications Commission.
- (14) **Collocation**
The practice of installing and operating multiple wireless carriers, service providers, and/or radio common carrier licensees on the same tower or attached communication facility using different and separate antenna, feed lines, and radio frequency generating equipment.
- (15) **Combined Antenna**
An antenna or an antenna array designed and utilized to provide services for more than one wireless provider, or a single wireless provider utilizing more than one frequency band or spectrum, for the same or similar type of services.
- (16) **Concealed**
A tower, ancillary structure, or equipment compound that is not readily identifiable as such, and is designed to be aesthetically compatible with the natural environment or existing and proposed building(s) and uses on a site. There are two types of concealed facilities:
 - (a) **Antenna Attachments.** These include painted antenna and feed lines to match the color of a building or structure, faux windows, dormers or other architectural features that blend with an existing or proposed building or structure.
 - (b) **Freestanding.** Freestanding concealed tower's usually have a secondary, obvious function which may include church steeple, windmill, bell tower, clock tower, light standard, flagpole with or without a flag, or tree.
- (17) **Development Area**
The area occupied by a communications facility including areas inside or under an antenna-support structure's framework, equipment cabinets, ancillary structures, and/or access ways.
- (18) **Discontinued**
Any tower without any mounted transmitting and/or receiving antennas in continued use for a period of 180 consecutive days.

(19) **Distributed Antenna System (DAS)**

A network of smaller, spatially separated antenna nodes located within the public right-of-way and installed on either existing or new utility poles and connected to a communications network. A DAS network splits the transmitted signal among several smaller antennas to provide coverage and reliability over the same area as a single traditional tower/ antenna.

(20) **Equipment Compound**

The fenced-in area surrounding the base station equipment including the areas inside or under a tower's framework and ancillary structures such as equipment necessary to operate the antenna on the structure that is above the base flood elevation including cabinets, shelters, pedestals, and other similar structures.

(21) **Equipment Cabinet**

Any structure above the base flood elevation including cabinets, shelters, pedestals, and other similar structures and used exclusively to contain radio or other equipment necessary for the transmission or reception of communication signals.

(22) **FAA**

The Federal Aviation Administration.

(23) **FCC**

The Federal Communications Commission.

(24) **Feed Lines**

Cables used as the interconnecting media between the transmission/receiving base station and the antenna.

(25) **Flush-Mounted**

Any antenna or antenna array attached directly to the face of the support structure or building such that no portion of the antenna extends above the height of the support structure or building. Where a maximum flush-mounting distance is given, that distance shall be measured from the outside edge of the support structure or building to the inside edge of the antenna.

(26) **Geographic Search Ring**

An area designated by a wireless provider or operator for a new base station, produced in accordance with generally accepted principles of wireless engineering.

(27) **Handoff Candidate**

A wireless communication facility that receives call transference from another wireless facility.

(28) **Least Visually Obtrusive Profile**

The design of a communication facility and its equipment to present a visual profile that is the minimum profile necessary for the facility to properly function.

- (29) **Non-concealed**
A tower, ancillary structure, or equipment compound that is readily identifiable as such and can be either freestanding or attached.
- (30) **Personal Wireless Service**
Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services as defined in the Telecommunications Act of 1996.
- (31) **Public Safety Communications Equipment**
All communications equipment utilized by a public entity for the purpose of ensuring the safety its citizens and operating within the frequency range of 700 MHz and 1,000 MHz and any future spectrum allocations at the direction of the FCC.
- (32) **Radio Frequency Emissions**
Any electromagnetic radiation or other communications signal emitted from an antenna or antenna-related equipment on the ground, tower, building, or other vertical projection.
- (33) **Radio Frequency Propagation Analysis**
Computer modeling to show the level of signal saturation in a given geographical area.
- (34) **Satellite Earth Station**
A single or group of parabolic or dish antennas mounted to a support device that may be a pole or truss assembly attached to a foundation in the ground, or in some other configuration, including the associated separate equipment cabinets necessary for the transmission or reception of communications signals with satellites.
- (35) **Structure**
Anything constructed or erected, the use of which required permanent location on the ground, or attachment to something having a permanent location on the ground, including advertising signs.
- (36) **Tower**
Any staffed or unstaffed location for the transmission and/or reception of radio frequency signals or other wireless communications, and usually consisting of an antenna or group of antennas, transmission cables, equipment cabinets, and may include a tower. The following developments shall be deemed a communications facility: new, mitigated, or existing towers, public towers, replacement towers, collocation on existing towers, attached wireless communications facilities, concealed wireless communication facilities, and non-concealed wireless communication facilities. Towers do not include any device used to attach antennas to an existing building, unless the device extends above the highest point of the building by more than twenty feet. Types of support structures include the following:
- (a) **Guyed.** A style of tower consisting of a single truss assembly composed of sections with bracing incorporated. The sections are attached to each other, and the assembly

is attached to a foundation and supported by a series of wires that are connected to anchors placed in the ground or on a building.

- (b) **Lattice.** A tapered style of tower that consists of vertical and horizontal supports with multiple legs and cross bracing, and metal crossed strips or bars to support antennas.
- (c) **Monopole.** A style of freestanding tower consisting of a single shaft usually composed of two or more hollow sections that are in turn attached to a foundation. This type of tower is designed to support itself without the use of guy wires or other stabilization devices. These facilities are mounted to a foundation that rests on or in the ground or on a building's roof. All feed lines shall be installed within the shaft of the structure.

(37) **Tower Base**

The foundation, usually concrete, on which the tower and other support equipment are situated. For measurement calculations, the tower base is that point on the foundation reached by dropping a perpendicular from the geometric center of the tower.

(38) **Tower Height**

The vertical distance measured from finished grade to the highest point of the tower, including any antenna, lighting or other equipment affixed thereto.

(39) **Tower Site**

The land area that contains, or will contain, a proposed tower, support structures and other related buildings and improvements.

(D) **EXEMPTIONS**

The following items are exempt from the provisions of this Section:

- (1) Any amateur radio tower less than 50 feet in height or communications towers existing or permitted prior to the adoption of this Section.
- (2) Satellite earth stations that are one meter (39.37 inches) or less in diameter in all residential zoning districts and two meters or less in all other zoning districts.
- (3) A government-owned communications facility, upon the declaration of a state of emergency by federal, state, or local government, and a written determination of public necessity by the Town designee; except that such facility must comply with all federal and state requirements. No communications facility shall be exempt from this Section beyond the duration of the state of emergency.
- (4) A government-owned communications facility erected for the purposes of installing antenna(s) and ancillary equipment necessary to provide communications for public health and safety.

- (5) A temporary, commercial communications facility, for the purposes of providing coverage of a special event such as news coverage or sporting event, subject to approval by the Town, except that such facility must comply with all federal and state requirements. Said communications facility may be exempt from this Section for up to one week following the special event.

(E) **APPLICABILITY**

Unless specifically exempted above, this Section applies to development activity involving the installation, construction, or modification of all antenna and tower facilities. This includes but is not limited to:

- (1) Non-commercial, amateur radio station antennas.
- (2) Existing towers.
- (3) Proposed towers.
- (4) Public towers.
- (5) Mitigation of towers.
- (6) Collocation on existing towers.
- (7) Attached wireless communications facilities.
- (8) Concealed wireless communications facilities.
- (9) Non-concealed towers.
- (10) Broadcast facilities.

(F) **ABANDONMENT (DISCONTINUED USE)**

- (1) Towers, antennas, and the equipment compound shall be removed at the owner's expense should the facility/tower not have active antennas in use for a period of 180 days.
- (2) An owner wishing to extend the time for removal or reactivation shall submit an application stating the reason for such extension. The Town may extend the time for removal or reactivation up to 60 additional days upon a showing of good cause. If the tower or antenna is not removed within this time, the Town may give notice that it will contract for removal within 30 days following written notice to the owner. Thereafter, the Town may cause removal of the tower with costs being borne by the owner.
- (3) Upon removal of the tower, antenna, and equipment compound, the development area shall be returned to its natural state and topography and vegetated consistent with the natural surroundings or consistent with the current uses of the surrounding or adjacent land at the time of removal, excluding the foundation, which does not have to be removed.

(G) **CONFLICT WITH OTHER LAWS OR REGULATIONS**

When the requirements of this Section conflict with the requirements of other lawfully adopted rules, regulations, or ordinances of the Town, State or Federal Government, or deeds restrictions imposed by the developer or subdivider, the more stringent requirements shall govern.

(H) **INTERFERENCE WITH PUBLIC SAFETY COMMUNICATIONS**

In order to facilitate the regulation, placement, and construction of antenna, and to ensure that all parties are complying to the fullest extent possible with the rules, regulations, and/or guidelines of the FCC, each owner of an antenna, antenna array or applicant for a collocation shall agree in a written statement to the following:

- (1) Compliance with “Good Engineering Practices” as defined by the FCC in its rules and regulations.
- (2) Compliance with FCC regulations regarding susceptibility to radio frequency interference, frequency coordination requirements, general technical standards for power, antenna, bandwidth limitations, frequency stability, transmitter measurements, operating requirements, and any and all other federal statutory and regulatory requirements relating to radio frequency interference (RFI).
- (3) In the case of an application for co-located telecommunications facilities, the applicant, together with the owner of the subject site, shall use their best efforts to provide a composite analysis of all users of the site to determine that the applicant’s proposed facilities will not cause radio frequency interference with the Town’s public safety communications equipment and will implement appropriate technical measures, as described in antenna element replacements, to attempt to prevent such interference.
- (4) Whenever the Town has encountered radio frequency interference with its public safety communications equipment, and it believes that such interference has been or is being caused by one or more antenna arrays, the following steps shall be taken:
 - (a) The Town shall provide notification to all wireless service providers operating in the Town of possible interference with the public safety communications equipment, and upon such notifications, the owners shall use their best efforts to cooperate and coordinate with the Town and among themselves to investigate and mitigate the interference, if any, utilizing the procedures set forth in the joint wireless industry-public safety “Best Practices Guide,” released by the FCC in February 2001, including the “Good Engineering Practices,” as may be amended or revised by the FCC from time to time.
 - (b) If any equipment owner fails to cooperate with the Town in complying with the owner’s obligations under this section or if the FCC makes a determination of radio frequency interference with the Town public safety communications equipment, the owner who failed to cooperate and/or the owner of the equipment which caused the interference shall be responsible, upon FCC determination of radio frequency

interference, for reimbursing the Town for all costs associated with ascertaining and resolving the interference, including but not limited to any engineering studies obtained by the Town to determine the source of the interference. For the purposes of this subsection, failure to cooperate shall include failure to initiate any response or action as described in the "Best Practices Guide" within 24 hours of Town's notification.

(I) **BUILDING CODE REQUIREMENTS**

Towers shall be constructed and maintained in conformance with all applicable building code requirements.

(J) **ZONING PROCESS LEVELS**

Table 3-1 below indicates the zoning process for the different types of tower projects.

Table 3-1 Process

PROCESS LEVEL	APPROVAL AUTHORITY	PROCESS TYPE ¹	USE
I	Planning Department	P	Amateur radio no greater than fifty (50) feet in height
II	Planning Department	TRC	DAS network equipment, concealed towers, collocation, attached antennas, base station equipment
III	Town Council	TC	New towers other than those defined as concealed
IV	Town Council	TC	Broadcast facilities
Notes: 1. P - Permitted by right TRC - Subject to Technical Review Committee approval (staff level) TC - Subject to Special Use Permit approval by Town Council			

(1) **Process Level I**

The Zoning Compliance Permit issued by the Planning Department to an individual, corporation, partnership, or other entity to engage in the creation of amateur radio tower

(2) **Process Level II**

The Zoning Compliance Permit issued by the Planning Department (after Technical Review Committee approval) to an individual, corporation, partnership, or other entity to engage in

the installation of DAS network equipment or concealed towers and collocation, attached antennas, base station equipment or antenna element replacements.

(3) **Process Level III**

The Special Use Permit issued by the Planning Department (after public hearing and approval by Town Council to an individual, corporation, partnership, or other entity to engage in the creation of new towers, excluding amateur radio towers.

(4) **Process Level IV**

The Special Use Permit issued by the Planning Department (after public hearing and approval by Town Council to an individual, corporation, partnership, or other entity to engage in the creation of new towers, specifically broadcast facilities.

(K) **LOCATING ALTERNATIVES ORDER**

(1) **Locating of New Antenna Array & New Towers**

Locating of a new antenna array and new tower shall be in accordance with the preferred location hierarchy provided in Table 3-2 below.

Table 3-2 Preferred Location Hierarchy

Ranking	Type
1	Concealed attached antenna
2	Collocated/combined/DAS antenna on existing tower
3	Replacement of existing tower
4	Non-concealed attached antenna
5	Concealed freestanding tower
6	Non-concealed freestanding tower

(2) **Locating of Attached, Collocated, DAS, and Combined Antenna**

For attached, co-located, or combined antenna, the order of ranking preference, highest to lowest, shall follow the same ranking as provided in Table 3-2 above. Where a lower ranked alternative is proposed, the applicant must file relevant information as required including, but not limited to, an affidavit by a radio frequency engineer demonstrating that despite diligent efforts to adhere to the established hierarchy within the geographic search area, higher ranked options are not technically feasible, practical or justified given the location of the proposed communications facility.

(3) **Replacement of Existing Tower**

For replacement of an existing tower, the order of ranking preference from highest to lowest shall follow the same ranking as provided in Table 3-2 above. Where a lower ranked alternative is proposed, the applicant must file relevant information as required including, but not limited to, an affidavit by a radio frequency engineer demonstrating that despite diligent efforts to adhere to the established hierarchy within the geographic search area, higher ranked options are not technically feasible, practical or justified given the location of the proposed communications facility.

(4) **Freestanding Towers**

Where a freestanding tower is permitted, the order of ranking preference from highest to lowest shall follow the same ranking as provided in Table 3-2 above. Where a lower ranked alternative is proposed, the applicant must file relevant information as required and demonstrate higher ranked options are not technically feasible, practical, or justified given the location of the proposed communications facility, and the existing land uses of the subject and surrounding properties within 300 feet of the subject property.

(L) **APPLICATION REQUIREMENTS**

All tower applications shall contain the following:

- (1) Completion of the Town of Clayton's Site Plan and Tower Application.
- (2) Proof that a property and/or tower owner's agent has appropriate authorization to act upon the owner's behalf, if applicable.
- (3) Application Fee.
- (4) Site Plan.
- (5) Written statement indicating that the criteria set forth in Section 155.310 (H) are met.
- (6) For new towers: A determination of need demonstrating that no existing tower can accommodate the applicant's proposed use; or that use of such existing facilities would prohibit personal wireless services in the geographic search area to be served by the proposed tower.
- (7) Valid FCC license / approval, as applicable.

(M) **GENERAL DEVELOPMENT STANDARDS**

(1) **Visibility**

- (a) New towers shall be configured and located in a manner that shall minimize adverse effects including visual impacts on the landscape and adjacent properties.

- (b) New freestanding towers shall be designed to match adjacent structures and landscapes with specific design considerations such as architectural designs, height, scale, color, and texture.
 - (c) A balloon test shall be required subsequent to the receipt of the photo simulations in order to demonstrate the proposed height of the new tower. The applicant shall arrange to raise a colored balloon no less than three feet in diameter at the maximum height of the proposed tower, and within fifty horizontal feet of the center of the proposed tower.
 - (d) The applicant shall meet the following for the required balloon test:
 - 1. Applicant must inform the Planning Department and abutting property owners in writing of the date and times, including alternative date and times, of the test at least 14 days in advance.
 - 2. The date, time, and location, including alternative date, time and location, of the balloon test shall be advertised in a locally distributed paper by the applicant at least seven but no more than 14 days in advance of the test date.
 - 3. The balloon shall be flown for at least four consecutive hours during daylight hours on the date chosen. The applicant shall record the weather during the balloon test.
 - 4. Re-advertisement will not be required if inclement weather occurs.
 - (e) New antenna mounts shall be flush-mounted, unless it is demonstrated through RF propagation analysis that flush-mounted antennas will not meet the network objectives of the desired coverage area.
 - (f) In residential zoning districts, new towers shall only be considered on lots whose principal use is not residential.
- (2) **Construction**
- (a) Grading shall be minimized and limited only to the area necessary for the new tower and equipment.
 - (b) Towers shall be constructed to accommodate antenna arrays as follows:
 - 1. All freestanding towers up to 120 feet in height shall be engineered and constructed to accommodate no less than four antenna arrays.
 - 2. All towers between 121 feet and 150 feet shall be engineered and constructed to accommodate no less than five antenna arrays.
 - 3. All towers between 151 feet and taller shall be engineered and constructed to accommodate no less than six antenna arrays.

- (c) Freestanding non-concealed tower shall be limited to monopole type towers, unless the applicant demonstrates that such design is not feasible to accommodate the intended uses.

(3) **Setbacks**

Freestanding towers and equipment compounds shall be subject to the setbacks described below:

- (a) If the tower has been constructed using breakpoint design technology (see 'Definitions'), the minimum setback distance shall be equal to 110 percent (110%) of the distance from the top of the structure to the breakpoint level of the structure, or the minimum side and rear yard requirements, whichever is greater. Certification by a registered professional engineer licensed by the State of North Carolina of the breakpoint design and the design's fall radius must be provided together with the other information required herein from an applicant. (For example, on a 100-foot tall monopole with a breakpoint at 80 feet, the minimum setback distance would be 22 feet (110 percent of 20 feet, the distance from the top of the monopole to the breakpoint) plus the minimum side or rear yard setback requirements for that zoning district.)
- (b) If the tower is not constructed using breakpoint design technology, the minimum setback distance shall be equal to the height of the proposed tower.

(4) **Height**

- (a) Height calculations shall include above ground foundations, but exclude lightning rods or lights required by the FAA that do not provide any support for antennas. It is intended that all new non-broadcasting towers be 150 feet or less in height. However, should a tower be required in excess of 151 feet, under no circumstance shall any tower exceed 300 feet. All new towers in excess of 151 feet shall be subject to the following additional requirements:
 - 1. Evidence that the antenna service area will be so substantially compromised that there would be a requirement of additional antenna array within a distance of two miles.
 - 2. The tower shall be designed to allow for a future reduction of elevation to no more than 150 feet, or the replacement of the tower with a monopole type structure at such time as the wireless network had developed to the point that such heights can be justified.
- (b) New concealed towers shall be limited to 150 feet or less in height. Height calculations shall include above ground foundations, but exclude lightning rods or lights required by the FAA that do not provide any support for antennas.

(5) **Equipment Compound**

- (a) Equipment compounds shall be completely screened from view and shall not be used for the storage of any excess equipment or hazardous materials. No outdoor storage yards shall be allowed in a tower equipment compound. The compound shall not be used as habitable space.
 - 1. Equipment cabinets shall be screened in accordance with Section 155.402(G)(4). Cabinets may be provided within the principal building, behind a screen on a rooftop, or on the ground within the fenced-in and screened equipment compound.

(6) **Parking**

Parking shall be required in accordance Section 155.401(C) of the UDC.

(7) **Fencing**

All equipment compounds shall be screened from view and enclosed with an opaque fence, masonry wall, landscaping, or combination thereof. Alternative equivalent screening may be approved through the site plan approval process described in Section 155.402 of the UDC.

(8) **Buffer**

The equipment compound shall be landscaped with a minimum 10 foot wide perimeter buffer containing the following planting standards:

- (a) All plants and trees shall be indigenous to eastern North Carolina.
- (b) Existing trees and shrubs on the site should be preserved and may be used in lieu of required landscaping with approval from the Planning Department.
- (c) One row of evergreen trees with a minimum two inch caliper, 25 foot on center.
- (d) Evergreen shrubs capable of creating a continuous hedge and obtaining a height of at least five feet shall be planted, minimum three gallon or 24 inches tall at the time of planting, five foot on center.
- (e) Alternative landscaping plans which provide for the same average canopy and understory trees but propose alternative locating on the entire subject property may be considered and approved by the Planning Department, provided the proposed alternative maximizes screening as provided above, and is otherwise consistent with the requirements of Section 155.402 of the UDC.

(9) **Signage**

Commercial messages shall not be displayed on any tower. Required noncommercial signage shall be limited to the following:

- (a) The only signage that is permitted upon a tower, equipment cabinets, or fence shall be informational, and for the purpose of identifying the tower (such as ASR registration number), as well as the party responsible for the operation and maintenance of the facility, and any additional security and/or safety signs as applicable.
- (b) If 220 volts or more is necessary for the operation of the facility and is present in a ground grid or in the tower, signs located every 20 feet and attached to the fence or wall shall display in large, bold, high contrast letters, minimum height of each letter four inches, the following: "HIGH VOLTAGE - DANGER."
- (c) Name plate signage shall be provided, in an easily visible location, including the address and telephone number of the contact to reach in the event of an emergency or equipment malfunction, including property manager signs as applicable.

(10) **Lighting**

Lighting on towers shall not exceed the Federal Aviation Administration (FAA) minimum standards. All other lighting shall be subject to the following.

- (a) Any lighting required by the FAA must be of the minimum intensity and number of flashes per minute (i.e., the longest duration between flashes) allowable by the FAA. Dual lighting standards are required and strobe light standards are prohibited unless required by the FAA.
- (b) Lights shall be oriented so as not to project directly onto surrounding property or rights-of-way, consistent with FAA requirements.

(N) **ADDITIONAL REQUIREMENTS FOR LEVEL II and LEVEL III FACILITIES**

(1) **Requirements for all Level II Facilities:**

- (a) Compliance with American National Standards Institute (ANSI) standards for electromagnetic radiation: In order to protect the public from excessive exposure to electromagnetic radiation, the facility applicant shall certify through a written statement that the facility meets or exceeds current ANSI standards as adopted by the FCC.
- (b) Certification furnished by a registered professional engineer licensed in the State of North Carolina that the structure has sufficient structural integrity to support the proposed antenna and feed lines in addition to all other equipment located or mounted on the structure.

- (c) One original and two copies of a survey of the property completed by a registered professional surveyor, licensed in the State of North Carolina showing all existing uses, structures, and improvements.
- (d) Any applicant for facilities under this section shall certify that such proposed facility shall comply with all applicable federal regulations regarding interference protection, including but not limited to federal regulations regarding adjacent channel receiver (blanket) overload and intermodulation distortion.

(2) Collocation & Combination (Level II)

The Town requires collocation and combining of antennas on existing communications towers as a first priority where collocation is possible. Collocations are subject to the following additional requirements:

- (a) A collocated or combined antenna or antenna array shall not increase the height of an existing tower by more than 10 percent or 20 feet, whichever is greater.
- (b) New antenna mounts shall be flush-mounted onto existing structures, unless it is demonstrated through radio frequency (RF) propagation analysis that flush-mounted antennas will not meet the network objectives of the desired coverage area.
- (c) The equipment cabinet shall be subject to the setback requirements of the underlying zoning district.
- (d) When a collocated or combined antenna is to be located on a nonconforming building or structure, then the existing permitted nonconforming setback shall prevail.
- (e) Collocation and eligible facilities requests of wireless support structures described in Section 160A-400.53 North Carolina General Statutes, shall meet all the following requirements:
 - 1. The additional antenna array, transmission lines, and related ancillary equipment including the base station do not exceed the number of same items previously approved for such tower when originally approved, and the collocated facility is in complete conformance with the original conditions imposed on the tower upon which it is being attached.
 - 2. The proposed collocation shall not increase the overall height of the tower or support structure to which the proposed infrastructure is to be attached by the greater of (i) more than ten percent (10%) or (ii) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.
 - 3. The collocation shall not increase the ground space area approved in the communications tower site plan for equipment enclosures and ancillary facilities by more than 2,500 square feet.

4. The collocation shall not, except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, add an appurtenance to the body of a communications tower that protrudes horizontally from the edge of the tower the greater of (i) more than 20 feet or (ii) more than the width of the tower at the level of the appurtenance increase.
 5. The existing tower on which the collocation will attach shall comply with applicable regulations, restrictions, and/or conditions, if any, applied to the initial wireless facilities placed on the tower.
 6. The proposed additional collocation and tower shall comply with all federal, state, and local safety requirements.
 7. The proposed collocation and ancillary equipment shall not exceed the applicable weight limits for the tower.
- (f) Applications for collocation entitled to processing pursuant to Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012 (47 USC §1445(a)) shall be approved provided they meet the following requirements:
1. A collocation on an existing antenna-supporting structure shall not increase the overall height of the antenna-supporting structure, antenna and/or antenna array more than 10% or 20 feet, whichever is greater, and shall not cause the width (girth) of the structure to be increased more than 20 feet or the existing girth of the structure, whichever is greater.
 2. Any collocation on an existing antenna-supporting structure shall meet current building code requirements (including windloading).
 3. A collocation shall not add more than four additional equipment cabinets or one additional equipment shelter.
 4. A collocation shall not require excavation outside of existing leased or owned parcel or existing easements.
 5. Proposed collocations that do not meet these standards shall be processed as a Level III application.
- (g) Collocation approvals entitled to processing pursuant to Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012 (47 USC §1445(a)) are subject to the following:
1. A collocation application shall be deemed complete unless the Town notifies the applicant within 45 days of submission (or within some other mutually agreed upon timeframe) that the submission is incomplete. Notices of application incompleteness shall identify the deficiencies in the application

which, if cured, would make the application complete. Approval or denial of a complete application shall be in writing and shall be postmarked to the applicant by the 45th day after the submission is deemed complete.

2. Upon resubmitting of the revised application the Town shall follow the process identified in this section, above, until all deficiencies identified are deemed cured.
 3. If the Town does not respond in writing to the applicant within the specified timeframe detailed above, then the application shall be deemed approved.
 4. Applications subject to this review process shall not be subject to design or placement requirement, or public hearing review. All applications shall be initially submitted to the Planning Department for review and processing.
- (h) New concealed and non-concealed towers shall be reviewed and have a decision rendered within 150 days of receipt of the application.

(3) Attachment: Concealed & Non-Concealed (Level II)

Antennas may be mounted onto a structure which is not primarily constructed for the purpose of holding attachment antennas but on which one or more antennas may be mounted. Attached antenna shall be subject to the following:

- (a) The top of the attached antenna shall not be more than 20 feet above the existing or proposed building or structure
- (b) Non-concealed attachments shall only be allowed on electrical transmission towers and existing light stanchions subject to approval by the Technical Review Committee and utility company.
- (c) When an attached antenna is to be located on a nonconforming building or structure, the existing permitted nonconforming setback shall prevail.
- (d) Except for non-concealed attached antennas, feed lines and antennas shall be designed to architecturally match the façade, roof, wall, and/or structure on which they are affixed so that they blend with the existing structural design, color, and texture.

(4) Antenna Element Replacement (Level II)

For any replacement of an existing antenna element on an antenna, the applicant must, prior to making such modifications, submit the following:

- (a) A written statement setting forth the reasons for the modification.

- (b) A description of the proposed modifications to the antenna, including modifications to antenna element design, type and number, as well as changes in the number and/or size of any feed lines, from the base of the equipment cabinet to such antenna elements.
- (c) A signed statement from a qualified person, together with their qualifications, shall be included representing the tower's owner or owner's agent that the radio frequency emissions comply with FCC standards for such emissions. The statement shall also certify that both individually and cumulatively, and with any other facilities located on or immediately adjacent to the proposed facility, the replacement antenna complies with FCC standards.
- (d) A stamped or sealed structural analysis of the existing structure prepared by a registered professional engineer licensed by the State of North Carolina indicating that the existing tower as well as all existing and proposed appurtenances meets North Carolina Uniform Statewide Building Code (USBC) requirements, including wind loading, for the antenna support structure.

(5) **DAS Equipment (Level II)**

(a) ***System Design Review***

A DAS applicant, prior to its initial application for a DAS facility, shall furnish an overall system design application to the Planning Department for review and approval by the Technical Review Committee. The system design application shall include the following information:

1. A statement of the identity and number of wireless services providers that will utilize the DAS systems;
2. A statement that the DAS system will be capable of accommodating at least eight (8) wireless service providers on the proposed system
3. A graphic depiction of the conceptual plan for the proposed total area of service coverage by the DAS system;
4. A statement of the number of handoff facilities for the DAS system;
5. A proposed build-out timeline and graphic depiction of the build-out phases through completion.

(b) ***Equipment Design Review***

A DAS applicant, prior to its initial application for a DAS facility, shall furnish an equipment design application to the Planning Department for review and approval by the Technical Review Committee. The equipment design application shall include the following information for each proposed design:

1. Elevation of the antenna and/or antenna support structure to include the following proposed dimensions: height, width and breadth. Height shall include the base, the antenna support structure, and lightning rod.
2. Elevation views of any security barrier or equipment compound, indicating architectural design, exterior appearance and materials, including color.
3. Mounting location on antenna support structure or building, including height AGL).
4. Identification of all mounting frames, arms, brackets or other devices or equipment used to hold antennas and other equipment in place.
5. Equipment brochures or drawings for the proposed facility, shall be provided for antennas, support structures/mounts, equipment shelters, feed lines and security barrier, if any.
6. Photo-simulated post-construction renderings of a sampling of completed proposed DAS facilities, equipment compound and/or equipment cabinets, ancillary structures, and landscaping, if any, from locations determined at the pre-application conference. The views shall incorporate before and after scenarios, a scaled color image of the proposed type of facility, an aerial map with the location of the selected views, and a description of the technical approach used to create the photo simulations. The simulations shall include a minimum of four vantage points (north, south, east, and west).
7. Individual sample site plan (no larger than 24 inches by 36 inches with an 8½ inch by 11 inch reduced copy) prepared and certified by a North Carolina-licensed professional engineer shall include all information listed on the DAS application checklist, and including existing or proposed public rights-of-ways, private roads and/or access easements through, on, or adjacent to the subject property.
8. Applicants should submit the information required by subsections (1) through (7) above for each design, if multiple designs are proposed.

(c) ***Individual Component Application and Approval***

Following approval of the DAS system design and DAS equipment design by the Technical Review Committee, a DAS applicant shall submit applications for individual DAS installations to the Planning Department for administrative approval provided the individual application provides documentation certifying it is consistent with the system design and equipment design standards previously approved in subsections (a) and (b) above.

(6) **Replacement of Existing Towers**

For a replacement of an existing tower with a new structure, the applicant must submit the following items outlined in subsection (7) below for new towers, including items (c) through (h), (k) through (p) and (r).

- (a) The height of a tower approved for replacement shall not exceed one hundred and fifteen percent (115%) of the height of the tallest tower that is being mitigated.

(b) **Level III**

The height of a tower may exceed one hundred and fifteen percent (115%) of the height of the tallest tower that is being mitigated with evidence that the new tower will eliminate the need for an additional antenna array within a distance of two (2) miles. Under no circumstance shall any mitigated tower exceed a height of 300 feet.

1. Height & Setbacks

A new tower approved for replacement of an existing tower shall not exceed one hundred and fifteen percent (115%) of the height of the existing tower and shall not be required to meet new setback standards so long as the new tower and its equipment compound are no closer to any property lines or dwelling units as the tower and equipment compound being replaced. The intent is to encourage the replacement process, not penalize the tower owner for the change out of the old facility.

1. Buffers

At the time of replacement, the tower equipment compound shall be brought into compliance with any applicable buffer requirements.

2. Visibility

Replacement towers shall be configured and located in a manner that minimizes adverse effects on the landscape and adjacent properties, with specific design considerations as to height, scale, color, texture, and architectural design of the buildings on the same and adjacent zoned lots.

(7) **New Towers (Level III)**

All new towers shall submit the following addition information as a part of a complete application:

- (a) A report and supporting technical data shall be submitted, demonstrating the following:
1. All antenna attachments and collocations, including all potentially useable cross country utility distribution towers and other elevated structures within the

proposed service area and alternative antenna configurations have been examined, and found unacceptable.

2. Reasoning as to why existing facilities such as cross country utility distribution and other elevated structures are not acceptable alternatives to a new freestanding tower.
3. Reasoning as to why the adequacy of alternative existing facilities or the mitigation of existing facilities are not acceptable in meeting the applicant's need or the needs of service providers, indicating that no existing communications facility could accommodate the applicant's proposed facility shall consist of any of the following:
 - A. No existing towers located within the geographic area meet the applicant's engineering requirements, and why.
 - B. Existing towers are not of sufficient height to meet the applicant's engineering requirements, and cannot be mitigated to increase in height.
 - C. Existing towers do not have sufficient structural integrity to support the applicant's proposed wireless communications facilities and related equipment, and the existing facility cannot be sufficiently improved.
 - D. Other limiting factors that render existing wireless communications facilities unsuitable.
- (b) Technical data included in the report shall include certification by a registered professional engineer licensed in the State of North Carolina or other qualified professional, which qualifications shall be included, regarding service gaps or service expansions that are addressed by the proposed tower, and accompanying maps and calculations demonstrating the need for the proposed tower.
- (c) Signed statement from a qualified person, together with their qualifications, shall be included that warrants radio frequency emissions from the antenna array(s) comply with FCC standards. The statement shall also certify that both individually and cumulatively, and with any other facilities located on or immediately adjacent to the proposed facility, the replacement antenna complies with FCC standards.
- (d) A stamped or sealed structural analysis of the proposed tower prepared by a registered professional engineer licensed by the State of North Carolina indicating the proposed and future loading capacity of the tower is compliant with EIA/TIA-222-G (as amended) for either Johnston or Wake County, North Carolina, as appropriate.
- (e) An affidavit by a radio frequency engineer demonstrating compliance with 'Locating Alternatives Order' located in Section 155.310(K) above. If a lower ranking alternative is proposed the affidavit must address why higher ranked options are not technically

feasible, practical, and/or justified given the location of the proposed communications facility.

- (f) Statement as to the potential visual and aesthetic impacts of the proposed tower and equipment on all adjacent residential zoning districts.
- (g) Written statement by a registered professional engineer licensed by the State of North Carolina specifying the design structural failure modes of the proposed facility.
- (h) Statement certifying that sound levels shall not exceed seventy decibels (70 db) at the related property line.
- (i) A map showing the designated search ring.
- (j) A radio frequency propagation plot indicating the coverage of existing antenna sites, coverage prediction, and design radius, together with a certification from the applicant's radio frequency (RF) engineer that the proposed facility's coverage or capacity potential cannot be achieved by any higher ranked alternative such as a concealed facility, attached facility, replacement facility, collocation, or new tower.
 - 1. These documents are needed to verify the proposed parameters of a facility and to determine if the proposed location is the best suitable land use in the designated geographic area of the proposed facility in accordance with applicable state and federal standards for communications facility siting.
- (k) One original and two copies of a survey of the property completed by a registered professional engineer, licensed in the State of North Carolina showing all existing uses, structures, and improvements.
- (l) Signed and sealed site plans shall include the following:
 - 1. Name of project and date.
 - 2. Deed Book, and Page and Map Book and Page Reference.
 - 3. Scale, north arrow, and vicinity map.
 - 4. Subject property information including zoning, watershed classification, and percent coverage of lot to be impervious surface (if located in a designated watershed area).
 - 5. Adjacent property information, including land owners, land uses, height of principal building, size of lots, zoning, and land use designation.
 - 6. Tower elevations.
 - 7. Landscape buffering plans.

8. Maximum height of the proposed tower and proposed and future mounting elevations of future antenna, including individual measurement of the base, the tower, and lightning rod.
 9. Location, classification, and size of all major public or private streets and rights-of-way.
 10. Identify adjacent features within 500 feet of property boundary including driveways, public parking areas, pedestrian ways, trails, and any other pertinent features.
 11. Two reduced copies (8½"×11"), of the foregoing preliminary grading plans may be included on site plans or separately submitted in equal quantities.
- (a) Title report or American Land Title Association (A.L.T.A.) survey showing all easements on the subject property, together with a full legal description of the property.
- (m) List of adjacent property owners and keyed to the map. The list must be from the most current ownership information supplied by the appropriate County Tax Department, together with two sets of mailing labels for such property owners. Applicant will also provide a notarized Certification Letter stating the ownership list referenced herein is accurate to the best of the applicant's ability.
- (n) Simulated photographic evidence of the proposed tower and antenna appearance from any and all residential areas within 1,500 feet and vantage points approved by the Planning Department including the facility types the applicant has considered and the impact on adjacent properties. The simulations shall include depictions of:
1. Overall height
 2. Configuration
 3. Physical location
 4. Mass and scale
 5. Materials and color
 6. Illumination
 7. Architectural design
- (o) All other documentation, evidence, or materials necessary to demonstrate compliance with the applicable approval criteria set forth in this Section.
- (p) A pre-application conference will be required for any new tower. The applicant shall demonstrate that the following notice was mailed (via certified mail) to all other

wireless service providers licensed to provide service within the Town as indicated on the list of wireless service providers provided by the Town:

"Pursuant to the requirements set forth in Section 155.310 of the Town of Clayton Unified Development Code, [TOWER PROVIDER] is hereby providing you with notice of our intent to meet with the Town Staff in a pre-application conference to discuss the location of a free-standing wireless communications facility that would be located at _____ (physical address, latitude and longitude (NAD-83)). In general, we plan to construct a tower of _____ feet in height for the purpose of providing _____ (type of wireless service) _____. Please inform the Town staff if you have any desire for placing additional wireless facilities or equipment within two miles of our proposed tower. Please provide us with this information within 20 business days after the date of this letter. Your cooperation is sincerely appreciated.

Sincerely, (pre-application applicant, wireless provider)"

- (q) Prior to issuance of a building permit, proof of FAA compliance with Subpart C of the Federal Aviation Regulations, Part 77, and "Objects Affecting Navigable Airspace," if applicable.

(O) **ADDITIONAL REQUIREMENTS FOR LEVEL IV (BROADCAST) FACILITIES**

(1) **Broadcast Facilities**

All new broadcast facilities shall submit the following addition information as a part of a complete application:

- (a) Technical data included in the report shall include the purpose of the proposed facility as described in the FCC Construction Permit Application.
- (b) Signed statement from a qualified person, together with their qualifications, shall be included that warrants radio frequency emissions from the antenna array(s) comply with FCC standards regarding interference to other radio services. The statement shall also certify that both individually and cumulatively, and with any other facilities located on or immediately adjacent to the proposed facility, the replacement antenna complies with FCC standards regarding human exposure to RF energy.
- (c) A stamped or sealed structural analysis of the proposed tower prepared by a registered professional engineer licensed by the State of North Carolina indicating the proposed and future loading capacity of the tower is compliant with EIA/TIA-222-G (as amended) for either Johnston or Wake County, North Carolina, as appropriate.
- (d) Statement certifying that no unusual sound emissions such as alarms, bells, buzzers, or the like are permitted. Emergency Generators are permitted. Sound levels shall not exceed seventy decibels (70 db).

- (e) One original and two copies of a survey of the property completed by a registered professional engineer, licensed in the State of North Carolina showing all existing uses, structures, and improvements.
- (f) Six sets (24"×36") of signed and sealed site plans shall include the following:
 - 1. Name of project and date
 - 2. Deed Book, and Page and Map Book and Page Reference
 - 3. Scale, north arrow, and vicinity map
 - 4. Subject property information including zoning, watershed classification, percent coverage of lot to be impervious surface (if located in a designated watershed area)
 - 5. Adjacent property information including land owners, land uses, height of principal building, size of lots, and existing zoning and land use
 - 6. Landscape buffering plans
 - 7. Maximum height of the proposed tower and/or antenna, including individual measurements of the base, tower, and lightning rod
 - 8. Location, classification, and size of all major public or private streets and rights-of-way
 - 9. Identify adjacent features within 500 feet of property boundary including driveways, public parking areas, pedestrian ways, trails, and any other pertinent features
 - 10. Two reduced copies (8½"×11"), of the foregoing preliminary grading plans may be included on site plans or separately submitted in equal quantities.
 - 11. Structure elevations
- (g) Title report or American Land Title Association (A.L.T.A.) survey showing all easements on the subject property, together with a full legal description of the property.
- (h) List of property owners within 1,000 feet in residential zoning districts and 500 feet in all other zoning districts and keyed to the map. The list must be from the most current ownership information supplied by the appropriate County Tax Department, together with two sets of mailing labels for such property owners. Applicant will also provide a notarized Certification Letter stating the ownership list referenced herein is accurate to the best of the applicant's ability.
- (i) A pre-application conference will be required for any new broadcast facility.

- (j) Prior to issuance of a building permit, proof of FAA compliance with Subpart C of the Federal Aviation Regulations, Part 77, and "Objects Affecting Navigable Airspace," if applicable.

(2) **Supplemental Requirements for Broadcast Facilities**

All new broadcast facilities shall meet the following supplemental requirements:

(a) ***Determination of Need***

No new broadcast facilities shall be permitted unless the applicant demonstrates that no existing broadcast tower can accommodate the applicant's proposed use.

(b) ***Height***

Height for broadcast facilities shall be evaluated on a case by case basis. The determination of height contained in the applicant's FCC Form 351/352 Construction Permit or application for Construction Permit and an FAA Determination of No Hazard (FAA Form 7460/2) shall be considered prima facie evidence of the tower height required for such broadcast facilities.

(c) ***Setbacks***

New broadcast facilities and anchors shall be subject to the setbacks described below:

1. Minimum of 500 feet from any single-family dwelling unit on same lot.
1. Minimum of one foot for every one feet of tower height from all adjacent lots of record.

(d) ***Equipment Cabinets***

Except for AM broadcast facilities, cabinets shall not be visible from pedestrian and right-of-way views.

(e) ***Fencing***

All broadcast facility towers, AM antenna(s) towers, and guy anchors shall each be surrounded with an anti-climbing fence compliant with applicable FCC regulations.

(f) ***Buffer***

Except for AM broadcast facilities, it is the intent that all pedestrian views from public rights-of-way and adjacent residential land uses be screened from proposed broadcast facilities using existing vegetation or be landscaped with a minimum 10 foot wide perimeter buffer containing the following planting standards:

1. All plants and trees shall be indigenous to this part of North Carolina.
2. Existing trees and shrubs on the site should be preserved and may be used in lieu of required landscaping where approved by the Planning Department.
3. One Row of evergreen trees with a minimum two inches caliper, 25 foot on center.
4. Evergreen shrubs capable of creating a continuous hedge and obtaining a height of at least five feet shall be planted, minimum three gallon or 24 inches tall at the time of planting, five foot on center.
5. Alternative landscaping plans which provide for the same average canopy and understory trees but propose alternative locating on the entire subject property may be considered and approved by the Planning Department, provided the proposed alternative maximizes screening as provided above, and is otherwise consistent with the requirements of this section.

(P) **ADMINISTRATION, ENFORCEMENT, AND PENALTIES**

(1) **Administration**

This Section shall be administered and enforced by the Planning Director or designee. The Town may, through contract, secure the professional services of telecommunications consultants to assist Town staff in the implementation of this Section. Such professional, services include, but are not limited to, review and evaluation of permit applications, determination of compliance with existing and proposed Federal regulations, minimization of the aesthetic impact, review of the technical data and expert testimony as needed.

(2) **Enforcement and Penalties**

If the Planning Director or designee shall find that any of the provisions of this Section are being violated, it shall notify in writing the person responsible for the violation, specifying the nature of the violation and what corrective measures must be taken. The Planning Director or designee shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by law to insure compliance with or to prevent violation of the provisions of this Section.

(3) **Penalties**

Any person failing to take corrective action within a reasonable time after receiving written notice from the Planning Department and any person operating a Communications Tower without a valid permit shall be guilty of a misdemeanor and subject to the enforcement provisions listed in Section 155.720 of the Unified Development Code.

(4) **Fees**

The Town Council shall set a fee, payable to the Town to cover the necessary processing cost of all Communications Tower Permits. The set fee shall be posted in the Town's Comprehensive List of Fees and Charges.

(5) **Supplemental Review**

The Town reserves the right to require a supplemental review for any Process Level (I, II, III, or IV) subject to the following:

- (a) Where due to the complexity of the methodology or analysis required to review an application for a Process Level (I, II, III or IV), the Town may require the applicant to pay for a technical review by a third party expert, the costs of which shall be borne by the applicant and be in addition to other applicable fees. Schedules of current fees are listed in the Town Fee Schedule.
- (b) Based on the results of the expert review, the approving authority may require changes to the applicant's application or submittals.
- (c) The supplemental review may address any or all of the following:
 - 1. The accuracy and completeness of the application and any accompanying documentation.
 - 2. The applicability of analysis techniques and methodologies.
 - 3. The validity of conclusions reached.
 - 4. Whether the proposed communication facility complies with the applicable approval criteria set forth in these codes.
 - 5. Other items deemed by the Town to be relevant to determining whether a proposed communications facility complies with the provisions of these codes.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-05-02, passed 5-7-07; Am. Ord. 2007-05-03, passed 5-7-07; Am. Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12)

§ 155.311 OUTDOOR DINING, DISPLAY AND STORAGE

Commented [HH9]: Relocated to 155.308

(Q) — APPLICABILITY

- ~~(1) — Any dining area, merchandise, material or equipment stored outside of a fully enclosed building shall be subject to the requirements of this Section.~~
- ~~(2) — Outdoor sales and display areas, including vehicle sales, vehicle repair or car rental as part of a properly permitted use (including boats and manufactured housing) shall not be considered outdoor storage as defined in § 155.311(D) and shall be subject to the buffer requirements set forth in § 155.402 of this Chapter.~~

(F) — OUTDOOR DINING

- ~~(1) — Outdoor dining shall be defined as the placement of tables and chairs for dining outside of a permanent structure.~~

(2) — General Requirements

~~Outdoor dining shall be permitted with a zoning compliance permit for 8 or fewer seats. More than 8 seats is subject to a minor site plan, or as a component of a major site plan in accordance with § 155.707, illustrating the extent of the outdoor dining area, the maximum seating capacity, and subject to the standards below. The impact of outdoor dining areas on adjacent churches, hospitals, public schools, and residential uses shall be mitigated to minimize potential impacts related to glare, light, loitering, and noise.~~

- ~~(a) — Patron tables and other outdoor dining area components shall be clearly defined and located on the same site as the other facilities of the restaurant or on the adjacent public right of way. Separation between the seating and vehicular or pedestrian traffic by a physical barrier may be required, with the design to be approved by the Planning Director.
 - ~~1. — Separation may be achieved through the use of materials which include, but are not limited to landscape planters, walls, railings or a combination thereof. Only barriers composed of landscape planters or masonry walls may be solid.~~~~
- ~~(b) — The additional parking necessary to accommodate seating created in the outdoor dining area shall comply with the parking requirements set forth in § 155.402 of this Chapter.~~
- ~~(c) — Outdoor dining areas and associated structural elements, such as awnings, covers, umbrellas, or other physical elements shall be compatible with the overall design of the main structure and must maintain a height clearance of eight feet and meet ADA accessibility requirements. Dining equipment (including, but not limited to tables, chairs, space heaters, barriers) may remain in place.~~

- ~~(d) The Town may revoke the outdoor dining area if it is determined that its operation is causing litter problems either on or off the property where the dining is located or that such use is otherwise creating a danger to the public health or safety.~~

~~(3) Outdoor Dining Within Public Rights-of-Way~~

~~In addition to the requirements set forth in § 155.311(B)(2) above, if any portion of the outdoor dining area is to be located within a public right-of-way (sidewalks only), the dining area must also receive approval from the Town Manager or his designee, and agree to following stipulations:~~

- ~~(b) Outdoor dining within right-of-way owned and operated by the State of North Carolina, must also meet the requirements of G.S. 136-27.4 listed below.~~

- ~~1. Tables, chairs, and other furnishings shall be placed a minimum of six feet from any travel lane.~~
- ~~2. Tables, chairs, and other furnishings shall be placed in such a manner that at least five feet of unobstructed paved space of the sidewalk, measured from any permanent or semi-permanent object, remains clear for the passage of pedestrians and provides adequate passing space that complies with the Americans with Disabilities Act.~~
- ~~3. Tables, chairs, and other furnishings shall not obstruct any driveway, alleyway, building entrance or exit, emergency entrance or exit, fire hydrant or standpipe, utility access, ventilations areas, or ramps necessary to meet accessibility requirements under the Americans with Disabilities Act.~~
- ~~4. The maximum posted speed permitted on the roadway adjacent to the right-of-way to be used for sidewalk dining activities shall not be greater than 45 miles per hour.~~
- ~~5. The restaurant operator shall provide evidence of adequate liability insurance specified by the Town under G.S. 160A-485 as the limit of the Town's waiver of immunity or the amount of Tort Claim liability specified in G.S. 143-299.2, whichever is greater. The insurance shall protect and name NCDOT and the Town as additional insured on any policies covering the business and the sidewalk activities.~~
- ~~6. The restaurant operator shall provide an agreement to indemnify and hold harmless NCDOT and the Town from any claim resulting from the operation of sidewalk dining activities.~~
- ~~7. The restaurant operator shall provide a copy of all permits and licenses issued by the State, County or Town, including health and ABC permits, if any, necessary for the operation of the restaurant or business, or a copy of the~~

~~application for the permit if no permit has been issued. This requirement includes any permits or certificates issued by the Town for exterior alterations or improvements to the restaurant.~~

~~8. The restaurant operator shall cease part or all sidewalk dining activities in order to allow construction, maintenance, or repair of any street, sidewalk, utility, or public building, by NCDOT, the Town, its agents or employees, or by any other governmental entity or public utility.~~

~~9. Any other requirements deemed necessary by the NCDOT, either for a particular Town or a particular component of the State highway system:~~

~~(b) The Town reserves the right to terminate the use of outdoor dining within the public right-of-way at any time. Upon notice, all furnishings must be removed from the sidewalk within 24 hours of notice from the Town. If furnishings are not removed within the time specified, the Town has the right to remove and dispose of these items and may assess the property owner for the cost of removal and disposal. The Town has the right to remove such items immediately in emergency situations. The Town is not responsible for damage to the furnishings under any circumstances.~~

~~(c) The owner of the business utilizing a dining area within a public sidewalk is responsible for repairing any incidental damage to public sidewalk resulting from outdoor dining furnishings.~~

~~(G) **OUTDOOR DISPLAY AND SALES**~~

~~(H) Outdoor display and sales shall be generally defined as the display and sales of goods, wares or merchandise outside of a permanent structure on property owned or leased by the person, firm or corporation. Outdoor display and sales must be secondary and incidental to the principal use or structure on the property, unless authorized pursuant to § 155.309, Temporary Use.~~

~~(a) Outdoor display and sale areas greater than 50 square feet shall only be permitted following Planning Director review of a minor site plan in accordance with § 155.707, illustrating the extent of the permitted area for outdoor display and sales subject to the standards below. Outdoor display and sale areas 50 square feet or less do not require site plan approval, but are subject to the standards below.~~

~~(b) The location of outdoor merchandise must be on the same property as the principal use, and not within the right-of-way, except that in the B-1 zoning district it may be displayed in the right-of-way, provided that clearance requirements are maintained for pedestrian passage.~~

~~(c) Merchandise shall be displayed to allow pedestrians use of the adjacent sidewalk or parking areas, and shall meet ADA accessibility requirements.~~

~~2. Any merchant desiring to display and sell merchandise along a public sidewalk or right of way must also receive approval from the Town Manager or his designee, and agree to following stipulations:~~

~~E. Merchandise must be removed from the sidewalk within 24 hours of notice from the Town. If such items are not removed following notice, the Town has the right to remove and dispose of these items and may assess the property owner for the cost of removal and disposal. The Town has the right to remove such items immediately in emergency situation. The Town is not responsible for damage to the merchandise under any circumstances.~~

~~C. The owner of the business displaying or selling merchandise within a public sidewalk is responsible for repairing any incidental damage to public sidewalk resulting from the display of merchandise.~~

~~D. Merchandise must be removed from the sidewalk when the business is closed.~~

~~(1) **OUTDOOR STORAGE**~~

~~(1) **Limited Outdoor Storage**~~

~~(a) Limited outdoor storage shall be defined as the overnight outdoor storage of vehicles (not associated with outdoor sales and display including vehicle sales, vehicle repair or car rental), merchandise or material in boxes, crates, on pallets or other kinds of containers, shopping carts, or other similar merchandise, material or equipment.~~

~~(b) Limited outdoor storage shall only be permitted following Planning Board review of a major site plan in accordance with § 155.707, illustrating the extent of the permitted area for limited outdoor storage provided it meets the standards below.~~

~~1. Limited outdoor storage shall not be more than 12 feet in height and shall be fully screened from view from the public right of way, public parking areas, or adjacent residential development by a 100% opaque visual barrier or screen.~~

~~2. All limited outdoor storage shall be located at least 15 feet from the public right of way and any abutting residential use or residentially-zoned district.~~

~~3. Limited outdoor storage shall not be permitted in a street yard or otherwise forward of the front building line.~~

~~(2) **General Outdoor Storage**~~

~~(a) General outdoor storage shall be defined as salvage yards, vehicle junk yards, overnight outdoor storage of shipping containers, lumber, pipe, steel, junk and other similar merchandise, material or equipment.~~

~~(b) General outdoor storage shall only be permitted in the I-1 and I-2 Districts following Planning Board review of a major site plan in accordance with § 155.707, illustrating the extent of the permitted area for general outdoor storage provided it meets the standards below.~~

- ~~1. General outdoor storage shall be screened by 100% opaque, eight-foot high visual barrier or screen. When located abutting or across the street from a residential use or residentially zoned property such screening shall be high enough to completely conceal all outdoor storage from view.~~
- ~~2. All general outdoor storage shall be located at least 15 feet from the public right-of-way and any abutting residential use or residential district.~~
- ~~3. No general outdoor storage shall be permitted in a street yard or otherwise forward of the front building line.~~
- ~~4. General outdoor storage may be located in the side or rear yard.~~

(Ord. 2013-10-02, passed 10-7-13; Ord. 2017-04-06, approved 04/03/2017)

ARTICLE 3: SPECIFIC USE STANDARDS

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§ 155.300 USE INTERPRETATION

(A) USES

- (A) The list of uses included in the Use Regulations Table (Table 2-1 in §155.202) and defined in this subsection is intended to classify uses on the basis of common functional characteristics (activity, type of customers, goods or services) and land use compatibility. Other uses not specifically listed in the Use Table, but exhibiting similar characteristics to a listed use, shall be so classified by the interpretation of the Planning Director pursuant to the procedures and standards set forth in 155.300(B) below.

(B) USES NOT SPECIFICALLY LISTED

- (1) Any use not specifically listed in this chapter is expressly prohibited, unless the Planning Director determines in accordance with § 155.715, that the use is similar to a use or uses listed in this chapter. Where an unlisted use is similar to a use listed in Table 2-1 (§ 155.202), the unlisted use shall also be subject to the similar uses standards and approval process. The Planning Director shall not amend this chapter by adding to or eliminating any use standard for the unlisted use.
- (2) Where an unlisted use is found by the Planning Director not to be similar to any other use listed in Table 2-1 (§ 155.202), the use shall be permitted only following a text amendment in

accordance with § 155.703. The decision of the Planning Director may not be appealed to the Board of Adjustment.

- (3) When considering the appropriate districts for a use not listed in the Use Regulations Table, the district intent statements (see §155.200) shall be taken into consideration.
- (4) Determination of an appropriate category for a proposed use not currently listed shall be made by applying the following criteria.
 - (a) The actual or projected characteristics of the activity in relationship to the stated characteristics of each use category.
 - (b) The relative amount of site area or floor space and equipment devoted to the activity.
 - (c) Relative amounts of sales from each activity.
 - (d) The customer type for each activity.
 - (e) The relative number of employees in each activity.
 - (f) Hours of operation.
 - (g) Building and site arrangement.
 - (h) Types of vehicles used and their parking requirements.
 - (i) The relative number of vehicle trips generated.
 - (j) Signs.
 - (k) How the use is advertised.
 - (l) The likely impact on surrounding properties.
 - (m) Whether the activity is likely to be found independent of the other activities on the site.

(C) **DEVELOPMENTS WITH MULTIPLE USES**

- (1) Nonresidential, townhouse, and apartment complexes may be established on a single unified parcel, provided that the following requirements are met. Except as set forth above, no more than one principal building or use may be erected on a single lot of record.
- (2) Development with multiple uses shall meet all applicable development standards as set forth in §§ 155.200 through 155.204, §§ 155.400 through 155.404 and §§ 155.500 through 155.502. Applicants shall comply with all other provisions in this chapter and all other applicable laws.
- (3) When the principal uses of a development fall within different group of uses or no group of uses, each principal use shall be classified in the applicable group of uses or treated as an

individual use and each use shall be subject to all applicable regulations for that group of uses or individual use.

- (4) A development comprised of uses regulated by separate rows on the Use Regulations Table shall be reviewed using the most restrictive process from among the proposed uses. If a proposed development on a single parcel includes a special use review, then the entire development requires special use review.
- (5) Where a use requiring approval as a conditional use or a special use lies on a separate legal parcel, only the building containing the use and its separate parcel shall be subject to review, not the entire project. However, where the separate legal parcel is an outparcel, the application shall describe the relationship of the outparcel to the remaining site.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2006-06-01, passed 6-19-06; Am. Ord. 2007-04-05, passed 4-2-07; Am. Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Ord. 2017-04-06, approved 04/03/2017)

§ 155.301 RESIDENTIAL USE STANDARDS

The following standards shall apply to all permitted uses, conditional uses and special uses, as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)). Additional design considerations may be outlined in the Clayton General Design Guidelines.

(A) ADULT CARE HOME

- (1) An assisted living residence in which the housing management provides 24-hour scheduled and unscheduled personal care services to residents, either directly or, for scheduled needs, through formal written agreement with licensed home care or hospice agencies. Some licensed adult care homes provide supervision to persons with cognitive impairments whose decisions, if made independently, may jeopardize the safety or well-being of themselves or others and therefore require supervision.
- (2) In the R-E District, an adult care home shall provide at least 150 square feet of gross floor area per occupant and 4,000 square feet of lot area per occupant.
- (3) In the R-10 District, an adult care home shall provide least 150 square feet of gross floor area per occupant and 2,000 square feet of lot area per occupant.
- (4) In the R-8 District, an adult care home shall provide least 150 square feet of gross floor area per occupant and 1,600 square feet of lot area per occupant.
- (5) In the R-6 District, an adult care home shall provide at least 150 square feet of gross floor area per occupant and 1,200 square feet of lot area per occupant.
- (6) Pursuant to N.C. General Statutes 168-22, an Adult Care Home shall not be located within a ½-mile radius of an existing Adult Care Home.

(B) APARTMENTS

Three or more attached dwelling units in a single structure on a single lot, although individual units may be owned by a single or many different entities. Apartments are usually multi-story, and individual units can be mixed vertically and/or horizontally.

- (1) No parking space shall be located in a required yard, except for the rear yard.
- (2) No off-street parking space shall be located closer than ten feet to any residential building wall.
- (3) For developments of 40 or more dwelling units, a divided ingress-egress driveway with a landscaped median is required at the main entrance to the community.
- (4) Sidewalks shall be constructed within the interior of the development to link residential buildings with other destinations such as, but not limited to parking, adjoining streets,

mailboxes, trash disposal, adjoining sidewalks or greenways and on-site amenities such as recreation areas.

(C) **BOARDING HOUSE**

(C) A building, other than a hotel/motel or bed and breakfast, containing not more than nine guest rooms. At least one meal is provided to guests. Individual guest rooms may not contain kitchens and personal services are not provided.

- (1) Boarding houses shall meet the standards of § 152.25 of the Town Code of Ordinances.
- (2) Each boarding house shall have a full-time resident manager.
- (3) Fifteen square feet of common living area other than kitchens, hallways and bathrooms shall be provided per occupant.
- (4) A boarding house shall not be located within 1,000 feet, as measured in any direction from property line to property line, of another boarding house.

(D) **CHILD CARE HOME**

An assisted living residence that provides 24-hour supervision and personal care services for not more than eight orphaned, abandoned, dependent, disabled, or neglected children, together with not more than two adults who supervise such children, all of whom live together within a single residential dwelling unit. All Child Care Homes shall obtain appropriate licenses from the state.

- (1) In the R-E District, a child care home shall provide at least 150 square feet of gross floor area per occupant and 4,000 square feet of lot area per occupant.
- (2) In the R-10 District, a child care home shall provide at least 150 square feet of gross floor area per occupant and 2,000 square feet of lot area per occupant.
- (3) In the R-8 District, a child care home shall provide at least 150 square feet of gross floor area per occupant and 1,600 square feet of lot area per occupant.
- (4) In the R-6 District, a child care home shall provide at least 150 square feet of gross floor area per occupant and 1,200 square feet of lot area per occupant.
- (5) Where abutting a residential use, visual buffers shall be provided so as to shield all parking areas, play areas and outdoor activity from abutting property. Such buffer shall consist of trees or other vegetation of such height and depths as determined by the Board of Adjustment or an appropriate fence or wall or combination thereof.

(E) **MANUFACTURED HOME**

(D) A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein. Manufactured home includes any structure that meets all of the requirements of this

definition and with respect to which the manufacturer voluntarily files a certification required by the Secretary of HUD and complies with the standards established under the Manufactured Home Act.

Except as set forth in division (F)(1)(a) of this section, all manufactured homes shall meet or exceed the following criteria:

- (1) The manufactured home shall be set up and tied down in accordance with the standards set by the North Carolina Department of Insurance.
- (2) The manufactured home shall have a length not exceeding four times its width, with length measured along the longest axis and width measured at the narrowest part of the other axis.
- (3) The manufactured home shall have a minimum of 960 square feet of enclosed and heated living area per dwelling area.
- (4) Screening of the foundation area shall be by a continuous, permanent masonry foundation or masonry curtain wall with a finished surface and constructed in accordance with North Carolina Building Code regulations. The foundation shall be unbroken except for required ventilation and access, and installed under the perimeter of the manufactured home.
- (5) Stairs, porches, entrance platforms, ramps, and other means of entrance and exit to and from the manufactured home shall be installed or constructed in accordance with the standards set by the North Carolina Building Code, free standing or attached firmly to the primary structure and anchored securely to the ground.
- (6) The exterior siding shall consist predominantly of vinyl or aluminum horizontal siding (whose reflectivity does not exceed that of gloss white paint), wood, or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction.
- (7) The moving hitch, wheels and axles, and transporting lights shall be have been removed.
- (8) At least two off-street parking spaces shall be provided.
- (9) The lot shall be cleared of all excess growth and graded to provide adequate drainage.
- (10) All areas not used for parking, manufactured homes, or required porches, shall be grassed or otherwise suitably landscaped to prevent erosion.
- (11) All standards must be met prior to issuance of a certificate of occupancy.

(F) **MANUFACTURED HOME PARKS**

- (E) Any plat of ground upon which two or more manufactured homes, occupied for dwelling purposes, are located, regardless of whether a charge is made for such accommodations. Includes a recreation vehicle park.

(1) General Requirements

- (a) Notwithstanding the criteria set forth in division (E) above, manufactured homes located within manufactured home parks shall be in accordance with all of the requirements of division (E) above, except divisions (E)(2), (E)(3) and (E)(4) shall not apply to manufactured homes located in manufactured home parks. All new or replacement manufactured homes located in manufactured home parks shall be a minimum of 12 feet in width, measured at the narrowest part of the shortest axis of the home, and shall contain a minimum of 480 square feet of enclosed and heated living area. The foundation area of the manufactured home shall be at a minimum, completely screened with faux skirting panels constructed from durable vinyl, or panels simulating a faux brick, rock or stone finish. The skirting shall be completely framed including a bottom track. The foundation screening must be kept in a well maintained condition.
- (b) All manufactured home parks shall be a minimum of three acres in size.
- (c) No living compartment or structure, other than a Florida Room or other prefabricated structure, specifically designed for manufactured home use or extension, shall be added to any manufactured home. Porches covered with a roof and open on three sides may be permitted if yard space requirements of this chapter are not violated, and if such addition complies with the North Carolina Building Code.
- (d) Up to two manufactured home park identification signs may be utilized, but the sum of the areas of one side of these signs shall not exceed 40 square feet. Only external, non-flashing lighting shall be used for illumination. The top portion of any sign shall not exceed 12 feet in height.
- (e) Within a manufactured home park, one manufactured home may be used as an administrative office.

(2) Streets and Parking

- (a) Each manufactured home shall abut upon an improved street or driveway, which shall have unobstructed access to a Town or state maintained road.
- (b) Streets shall have a minimum paved width of 20 feet. In addition, every such street shall lie within a cleared right-of-way having a minimum width of 40 feet.
- (c) Maintenance of such streets shall be provided by the owner or operator of the park.
- (d) Permanent dead-end streets or cul-de-sacs shall not exceed 500 feet in length and shall be provided with a turnaround of at least 70 feet in diameter.
- (e) Streets or drives within the manufactured home park shall intersect as nearly as possible at right angles, and no street shall intersect at less than 75 degrees. Where a

street intersects a public street or road, the design standards of the North Carolina Highway Commission shall apply.

- (f) New street names or manufactured home park names shall not duplicate nor be similar to existing street names or manufactured home park names in the area.
- (g) A minimum of two paved parking spaces shall be provided adjacent to each manufactured home space, but shall not be located within any public right-of-way or within any street in the park.
- (h) No manufactured home lots shall be located within the 100-year floodway area, as shown on the latest National Flood Insurance Program map for the Town.

(3) Lot Size and Lot Width Requirements

- (a) Lots served by community or public water and sewer shall have a minimum lot size of 6,000 square feet and have a minimum lot width of 50 feet at the front building line. The maximum coverage of the lot by the unit and any accessory structures shall not exceed 40% of the lot area.
- (b) Lots served by individual septic tank and individual well shall have a minimum lot size of 25,000 square feet and have a minimum lot width of 75 feet at the front building line. The maximum coverage of the lot by the unit and any accessory structures shall not exceed 40% of the lot area.
- (c) Lots served by community or public water and individual septic tank or public sewer and individual well shall have a minimum lot size of 15,000 square feet and have a minimum lot width of 75 feet at the front building line. The maximum coverage of the lot by the unit shall not exceed 40% of the lot area.

(4) Project Boundary Buffer

- (1) A Class C buffer shall be provided (see § 155.402) along all project boundaries of a manufactured home park.

(5) Yard Requirements

- (a) The following yard requirements shall pertain to every manufactured home in the manufactured home park:
 - 1. Minimum depth of street yard, measured from front lot line: 20 feet.
 - 2. Minimum width of side yard, measured from side lot line:
 - A. Ten feet.
 - B. Six feet, if served by public water and sewer.

- (b) Minimum depth of rear yard, measured from rear lot line: 20 feet.
- (c) Detached garages and accessory buildings may be erected on manufactured home lots as permitted in § 155.308.

(6) **Utility Requirements**

(a) **Water**

- (b) An accessible, adequate, safe supply of water shall be provided in each manufactured home park. When a municipal water supply is not available, a community water supply shall be developed and its supply used exclusively in accordance with the standards of the Sanitary Engineering Division of the North Carolina Division of Health Services and the County Health Department.

(b) **Sewer**

- (c) Adequate and safe sewage disposal facilities shall be provided in all manufactured home parks. Collection systems and sewage treatment complying with the requirements of the North Carolina Department of Natural Resources and Community Development and the County Health Department shall be provided.

(c) **Solid Waste**

1. The storage, collection, and disposal of solid waste in the manufactured home park shall be so constructed as to create no health hazards, rodent harborage, insect breeding area, accident or fire hazard, or pollution, and shall be maintained at least 100 feet from a well site.
2. All solid waste containing garbage shall be stored in a standard fly-tight, watertight, rodent-proof container, which shall be located at each manufactured home space, or an approved bulk container site. The manufactured home park management shall be responsible for the proper storage, collection, and disposal of solid waste as specified by the County Health Department.
3. Grounds, buildings, and structures shall be maintained free of insect and rodent harborage and infestation.
4. No junked or abandoned vehicles shall be allowed in the park.

(7) **Street Lights**

- (2) All streets in the manufactured home park shall be adequately illuminated. The minimum size street light shall be a 175-watt mercury vapor, approximately 7,000-lumen class or its equivalent, spaced at intervals of not more than 400 feet. Streetlights shall be at each intersection.

(8) **Telephone and Power Lines**

- (3) All telephone lines and power lines are to be located underground. Utility easements shall not be less than ten feet in width.

(9) **Recreation Areas and Facilities**

- (a) Adequate and suitable recreation areas to serve the anticipated population shall be provided and shall consist of at least 10,000 square feet for each 25 manufactured home lots. All manufactured home parks having five or more lots shall have a minimum size recreational area of 10,000 square feet. Manufactured home parks having more than 25 manufactured home lots shall provide 400 square feet of recreation space per lot in excess of 25.
- (b) No recreational facilities shall be placed in an area utilized for septic tank filter fields.

(10) **Mobile Home Parks with Prior Approval**

- (4) All mobile home parks approved for development by the Town, County, or State prior May 4, 1987 are hereby granted special use status under the terms of [§ 155.109\(A\)\(2\)](#), and the number of units contained therein may be maintained and replaced with other units, provided that:
- (a) A copy of the mobile home park plan bearing proof of approval by the responsible governmental agency shall be filed in the Planning Department no later than 90 days after the approval of this revision.
- (b) All replacement units shall obtain an approved zoning compliance permit and inspection by the Town Inspections Department prior to occupancy.
- (c) All replacement units shall meet the requirements of (F) of this section.
- (d) No replacement unit may increase any nonconforming standard of the existing unit, and in no case may any replacement unit be located nearer than ten feet to a public street right-of-way or periphery property line.
- (e) Any expansion of a mobile home park shall be in full accordance with the current standards of this chapter.
- (f) If a mobile home park which does not conform to current standards has been discontinued, or if 80% of the number of spaces are vacated for a period of 180 days, the mobile home park shall not be re-established, and all future use of the land therein shall comply fully with the provisions of this chapter.

(G) **NURSING HOME (CONGREGATE LIVING FACILITY)**

- (F) This term includes assisted living facilities, extended congregate care facilities, transitional living facilities, rehabilitative home care services, or home for the aged or any other residential structure, whether or not operated for profit, which undertakes for a period exceeding 24 hours: care,

housing, food service, and one or more personal services for persons not related to the owner or administrator by blood or marriage. In addition, this term shall include other residential uses such as dormitories, group homes with a central dining facility, and similar bed-based uses.

(H) **DUPLEX (also known as “TWO FAMILY HOUSE”)**

- (G) Two attached dwelling units in a single structure on a single lot. The two units can be located on separate floors or side-by-side.

(I) **TOWNHOUSE (also known as townhome or rowhouse)**

- (H) Two or more attached dwelling units located on separately owned lots or on a single lot where the units are lined up in a row and share side walls, individual units can be mixed vertically. Each unit has direct access to the outside, with front and rear walls exposed, to be used for access, light, and/or ventilation.

- (1) Side yards are not required for interior townhouses, but street and rear yards shall be provided for all townhouses, and building separation requirements shall be maintained for all townhouse structures.

(2) **Parking Options**

(a) ***Rear-Loaded Garage***

1. Garage is placed entirely to the rear of the townhouse and is rear-accessed or alley loaded. Garage can be attached or detached.
2. Garage doors must face the alley or rear access drive.

(a) ***Front-Loaded Garage***

1. Garage doors may constitute no more than 50% of the width of the individual townhouse unit.
2. The driveway must be aligned with the garage and shall not exceed the width of the garage entrance/door.
3. Any parking in the front setback must have sufficient depth so that parked cars do not encroach on the adjacent sidewalk. The garage doors must be set back at least twenty-five feet (25') from the sidewalk.
4. Garage doors must be recessed at least one foot behind the front wall plane, or a second story element over the garage doors must be provided that extends at least one foot beyond the front wall plane.
5. Front-loaded garages shall be prohibited on one-story townhome units.

(b) **Shared Parking Area/Shared Parking Lot**

1. The minimum parking requirement shall be calculated as for an apartment or multi-family development.
 - (2) The maximum number of units allowed in a single building is eight.
 - (3) The first floor shall be located from ground level to a maximum of three feet above grade.
- (J) **SECURITY OR CARETAKER QUARTERS**
- (I) A dwelling unit, which may be a mobile home, a manufactured home, or a modular home, located on a site for occupancy by a caretaker or security guard.
- (K) **SINGLE FAMILY HOUSE**
- (J) A detached dwelling unit located on a single lot with private yards on all four sides.
- (1) For alley-loaded houses, an alley shall be provided to the rear of the house. All vehicular access shall take place from the alley. No parking shall be permitted in the required street yard.
- (L) **UPPER-STORY RESIDENTIAL**
- (K) A dwelling unit located on a floor above a nonresidential use.
- (2) An upper-story residential unit shall adhere to all dimensional standards of the nonresidential zoning district in which it is located.
- (M) **ZERO LOT LINE**
- (L) A detached dwelling unit located on a single lot with private yards on three sides. The unit has a single side yard on one side comprising the equivalent of two side yards of a single-family detached house.
- (1) A single side yard shall be provided comprising the equivalent of two side yards of a conventional detached house. This reduction shall not be allowed on the street yard or to the side yard adjacent to lots that are not part of the zero lot line project.
 - (2) An easement between the two property owners to allow for maintenance or repair of the house shall be required when the roof overhang or side wall of the house are within four feet of the adjacent property line (no roof overhang shall be permitted to extend across the property line). The easement on the adjacent property must provide at least five feet of unobstructed space. The easement shall be recorded on the subdivision plat.
 - (3) If the sidewall of the house is on the property line, or within three feet of the property line, windows or other openings that allow for visibility into the side yard of the adjacent lot shall not be allowed. Windows that do not allow visibility into the side yard of the adjacent lot, such as a clerestory window or a translucent window, shall be allowed.

Article 3 / Specific Use Standards
§155.301 Residential Use Standards

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-06-02, passed 6-4-07; Am. Ord. 2012-01-04, passed 1-3-12; Am. Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Am. Ord. 2014-06-10, passed 6-16-14; Am. Ord. 2016-04-04, passed 04-04-2016; Ord. 2017-04-06, approved 04/03/2017)

§ 155.302 PUBLIC AND CIVIC USE STANDARDS

The following standards shall apply to all permitted uses, conditional uses and special uses, as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)). Additional design considerations may be outlined in the Clayton General Design Guidelines.

(M) **ASSEMBLY**

- (N) A site or facility open to the public or membership groups for social, civic, political, educational, or recreational purposes. Typical uses include museums, cultural centers, recreational facilities, botanical gardens and community services such as after school care or tutorial services, medical services, employment services, and may also include uses such as cultural organizations and union halls.

(B) **CEMETERY**

- (O) A place used or to be used and dedicated or designated for interments of human remains or pet animal remains. A cemetery may include an office, chapel, mausoleum, columbarium or crematory.

(C) **CHURCH OR PLACE OF WORSHIP**

- (P) A sanctuary which may include a retreat, convent, seminary or other similar use, owned or operated by a tax-exempt religious group that is used periodically, primarily or exclusively for religious worship, activities and related services.

- (1) Following the initial approval of places of worship through the conditional use permit process (see § 155.710), expansions of up to 20% of the area originally approved through the conditional use permit process may be approved administratively.
- (2) Administrative approvals of expansions of places of worship shall not waive any conditions of approval of the conditional use permit.
- (3) Accessory uses standards for a place of worship are set forth in § 155.308(E).

(D) **COLLEGE OR UNIVERSITY**

- (Q) An institution of higher learning offering undergraduate or graduate degrees, and including the buildings required for educational or support services, such as classrooms, laboratories, dormitories and the like.

(E) **DAY CARE Facility**

- (R) A facility licensed by the state, if applicable; providing care for children who do not reside in the facility, are present primarily during daytime hours, and do not regularly stay overnight. all daycares shall be subject to the following:

- (1) An off-street passenger drop-off and passenger loading area shall be provided for any day care. Such area shall not be located in the street yard.
 - (2) Where abutting a residential use, visual buffers shall be provided so as to shield all parking areas, play areas and outdoor activity from abutting property.
 - (3) In-home daycares, consisting of no more than 6 children and operating within a residential dwelling unit by a person that is a resident of the dwelling, shall be permitted subject to the requirements of a Class "B" Home Occupation (See §155.308).
- (F) **GOVERNMENT SERVICE**
- (S) Buildings or facilities owned or operated by a government entity and providing services for the public, excluding utility and recreational services. Typical uses include administrative offices for government agencies, public libraries, police and fire stations, and resource centers.
- (G) **HOSPITAL**
- (T) A facility licensed by the State of North Carolina which maintains and operates organized facilities for medical or surgical diagnosis, overnight and outpatient care, and treatment of human illness. A hospital may include related support facilities such as a helipad, laboratories, out-patient departments, staff offices, food services, and a gift shop.
- (H) **SCHOOL (ELEMENTARY OR SECONDARY)**
- (U) A public or private institution offering a curriculum of education authorized by the state giving regular instruction at the primary, secondary level, or a school for the mentally or physically handicapped. Included in this definition are preschool programs. However, this definition does not include day care facilities, individual instruction, or classes in a specialized subject.
- (1) Following the initial approval of a school through the special use permit process (see § 155.711), expansions of up to 20% of the area originally approved through the special use permit process may be approved administratively.
 - (2) Administrative approvals of expansions of schools shall not waive any conditions of approval of the special use permit.
- (I) **SCHOOL (TECHNICAL, TRADE OR BUSINESS)**
- (V) An institution offering instruction beyond high school level with a course of study in vocational, technical or other special subjects.
- (1) Following the initial approval of a school through the special use permit process (see § 155.711), expansions of up to 20% of the area originally approved through the special use permit process may be approved administratively.
 - (2) Administrative approvals of expansions of schools shall not waive any conditions of approval of the special use permit.

Article 3 / Specific Use Standards
§155.302 Public and Civic Use Standards

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2009-08-02, passed 8-3-09; Am. Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Am. Ord. 2016-04-04, passed 04-04-2016; Ord. 2017-04-06, approved 04/03/2017)

§ 155.303 RECREATIONAL USE STANDARDS

The following standards shall apply to all permitted uses, conditional uses and special uses, as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)). Additional design considerations may be outlined in the Clayton General Design Guidelines.

(W) **INDOOR ENTERTAINMENT**

- (X) Amusement activities carried on wholly within a building. Typical uses include bowling alleys, billiard parlors, theaters, escape rooms, video game arcades, laser tag, indoor paint ball, skating rink, and activities of a similar nature. This does not include an adult-oriented business or adult-oriented amusement center.

(B) **OUTDOOR ENTERTAINMENT**

- (Y) Amusement activities where any portion of the activity takes place outside or in the open, excluding recreation centers and parks. Typical uses include batting cages, golf driving ranges, go-cart tracks, outdoor paint ball, drive-in theater, outdoor skating rink, and miniature golf courses.

(C) **FITNESS/recreation CENTER**

- (Z) A facility for conducting recreational activities, either indoors or outdoors, including but not limited to raquetball, handball, swimming, running, weight lifting, athletic fields, tennis courts, and aerobic exercises. THIS FACILITY MAY also INCLUDE classrooms, BABYSITTING, AND LIMITED FOOD SERVICE FOR THE facility.

(D) **GOLF COURSE**

- (AA) A facility providing a golf recreation area designed for executive or regulation play along with accessory support facilities, excluding miniature golf.

(E) **GUN RANGE**

- (BB) An enclosed facility used for the discharge of firearms or projectiles at targets.

(F) **PARK**

- (CC) An outdoor recreation area relying on a natural resource base or man-made recreation amenity and developed with a low to medium intensity of impact on the land. Typical uses include greenway (non-equestrian multi-use trail) systems, community gardens, wildlife management, playground, dog park, other small-scale recreational amenities, such as sand volleyball, basketball, or tennis court, or other active recreational opportunities, as well as demonstration areas for historical, cultural, scientific, educational, or other purposes that relate to the natural qualities of the area, and support facilities for such activities. commercial amusement facilities, such as water slides, miniature golf, or go-cart tracks, are not considered parks (see "Outdoor entertainment").

(G) **STABLE, PRIVATE**

(DD) The breeding, boarding, training, or raising care of horses owned by the occupants or owners of the premises.

(Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Ord. 2017-04-06, approved 04/03/2017)

§ 155.304 AGRICULTURAL USE STANDARDS

The following standards shall apply to all permitted uses, conditional uses and special uses, as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)). Additional design considerations may be outlined in the Clayton General Design Guidelines.

(A) AGRICULTURE, LIVESTOCK

The breeding, raising and caring for domestic animals including horses.

- (1) Property used for livestock shall be a minimum of five acres in size.
- (2) All accessory uses and structures, such as troughs, feed mechanisms and storage, shall be setback a minimum of 100 feet from any property line.
- (3) The maximum number of large animals permitted for each acre shall not exceed five. Large animals shall include horses, swine, cattle, goats, and sheep. An enclosed structure with one stall for each large animal is required when the total number of large animals exceeds three per acre.
- (4) The maximum number of small animals permitted for each acre shall not exceed 100. Small animals shall include rabbits and fowl, excluding peafowl. Small animals shall be permitted in addition to large animals.
- (5) The use shall assure that there is no incompatibility with surrounding land uses. In the event that an incompatibility exists, the applicant shall satisfactorily mitigate the incompatibility prior to receiving final approval.

(B) AGRICULTURE, SALES AND SERVICE

An establishment primarily engaged in the sale or rental of farm tools, small implements and farming equipment such as pickers, mowers, livestock, feed, grain, tack, riding attire, animal care products, and farm supplies.

- (1) All storage areas for agricultural sales and service uses shall be enclosed or completely screened from view.

(C) NURSERY

The sale of horticultural specialties such as flowers, shrubs, sod, trees, mulch and accessory hardscape materials such as decorative stones intended for ornamental or landscaping purposes.

(Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12)

§ 155.305 COMMERCIAL USE STANDARDS

The following standards shall apply to all permitted uses, conditional uses and special uses, as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)). Additional design considerations may be outlined in the Clayton General Design Guidelines.

(D) **ADULT ORIENTED BUSINESS**

- (E) Any place defined as an "adult establishment" as defined by G.S. § 14-202.10, as such statute may be amended from time to time, including adult cabarets, and except the definition of "massage business" shall not include any establishment or business where massage is practiced that is a health club, exercise studio, hospital, physical therapy business or other similar health-related business. Adult-oriented business specifically includes, however, any massage business where massages are rendered by any person exhibiting "specified anatomical areas" and/or where massages are performed on any client's "specified anatomical areas." "Specified anatomical areas" are those defined by G.S. § 14-202.10 as such statute may be amended from time to time.

- (1) No such use shall be located within 1,000 feet of a church, primary, elementary or secondary school, residence or residentially zoned property, any establishment serving on-premises beverages requiring an ABC license, or any other adult-oriented business.
- (2) There shall be no more than one such use on the same property or in the same building or structure.
- (3) Except for permanent signage as permitted in § 155.403, there shall be no advertisement, promotional materials, displays, or temporary signs visible to the public from public rights-of-way.

(B) **BED & BREAKFAST**

- (F) A building containing one or more guest rooms for an overnight stay which are rented at a daily rate and where breakfast is the only meal served to guests.
- (1) An owner shall reside on site.
 - (2) There shall be no substantial modifications to the exterior appearance of the structure; however, fire escapes, handicapped entrances and other features may be added to protect public safety.
 - (3) Meals shall be served on the premises only for guests and employees. Rooms may not be equipped with cooking facilities.
 - (4) Parking shall not be allowed in any street yard.

(C) **CAR WASH/AUTO DETAILING**

- (G) A permanent establishment engaged in washing or detailing motor vehicles which may use production line methods with a conveyor, blower, or other mechanical devices, and which may employ some hand labor. Detailing includes hand washing and waxing, striping, and interior cleaning.

(D) **CONTRACTOR OFFICE**

- (H) A facility for a building, heating, plumbing, electrical, landscape, janitorial or similar contractor.
- (1) All activity shall be conducted entirely within a fully enclosed building. The temporary loading and off-loading of vehicles shall be permitted outside.
 - (2) The overnight storage of fleet vehicles may be allowed subject to Planning Board approval (see § 155.311).

(E) **CONTRACTOR STORAGE YARD**

- (I) A lot used for the storage of construction material, equipment, or three or more commercial vehicles used by building trades and services, other than construction sites. A contractor's office is permitted as an accessory to the storage yard.
- (1) Equipment principally used in construction activity shall include but is not limited to bobcats, front-end loaders, over-head cranes, graders, dump trucks, compactors, forklift, steam rollers, earth movers, bulldozer, backhoe, concrete mixer, trenchers, cable/pipe layers or any such equipment that is not a street worthy vehicle.
 - (2) Outdoor storage may be allowed subject to Planning Board approval (see § 155.311).
 - (3) Combustible materials and chemicals shall be stored in compliance with all local, state, and federal regulations.

(F) **CONVENIENCE STORE WITH GAS SALES**

- (J) A convenience store which includes accessory gasoline retail sales to the general public.
- (2) **General Standards**
 - (a) Vehicle repair or service shall not be permitted.
 - (b) The primary building, including any attached canopy, shall conform to all setback requirements.
 - (c) Gasoline pumps, tanks and pump islands shall be located no closer than 20 feet to any side or rear property line or right-of-way.

- (d) No sign of any type or any gasoline pump or tank shall be located within 20 feet of a residential use.
 - (e) A Class C buffer (see § 155.402) shall be established along any side of the property where the gas station abuts a residential use, provided such buffer shall not restrict clear sight at any intersection or driveway.
 - (f) Freestanding vents shall not be permitted.
 - (g) Outdoor storage and display may allowed subject to Planning Board approval (see § 155.311).
- (1) **Fuel Canopies**
- (a) The canopy shall be located no closer than 15 feet to any side or rear property line or right-of-way.
 - (b) The canopy shall not exceed the height of the principal building, but in no case shall the canopy height exceed 20 feet.
- (2) **Single-Bay Automatic Car Wash**
- (1) An accessory single-bay automatic (not self-service) car wash completely enclosed except for openings necessary to allow entry and exit of vehicles shall be permitted subject to the following:
- (a) The car wash structure shall be located no closer than 20 feet to any side or rear property line or right-of-way.
 - (b) The car wash structure shall not exceed a height of 20 feet or exceed an overall building dimension of 25 feet in width and 50 feet in length.
 - (c) The car wash structure shall be located behind the rear building line of the principal building.
 - (d) All car wash structures shall meet all applicable yard requirements.
- (G) **CREATIVE STUDIO**
- (K) A facility involved in the display and/or instruction of the arts, such as individually crafted artwork, jewelry, furniture, sculpture, pottery, leathercraft, hand-woven articles, and related items; art classroom; music studio or classroom; dance studio or classroom; martial arts instruction; or similar use. This definition does not include any adult entertainment establishment.
- (H) **FINANCIAL INSTITUTION**

- (L) An establishment engaged in deposit banking. Typical uses include commercial banks, savings institutions, and credit unions, including outdoor automated teller machines and drive-thru only facilities.
- (1) Freestanding automated teller machines require minor site plan approval.
- (2) Drive-through service is only permitted as an accessory use in the B-3 zoning district, or as a Conditional Use Permit in the B-2 zoning district.
- (I) **FUNERAL HOME**
- (M) An establishment which arranges and manages funeral and prepares the human deceased for burial.
- (3) A funeral home may include a crematorium located within the principal building.
- (J) **HOTEL/MOTEL**
- (N) A building containing one or more guest rooms, for overnight guests, and containing registration facilities, on-site management, cleaning services and combined utilities.
- (1) All hotel and motel buildings and parking shall be located at least 50 feet from any property line adjoining a residential district or use.
- (2) Any accessory commercial activities such as restaurants shall not be located along the side of the property adjacent to a residential district or use.
- (3) Any outdoor recreation facilities, such as swimming pools, shall not be located along the side of the property adjacent to a residential district or use. If the outdoor recreation facility is a swimming pool, it shall meet the standards of § 155.308(D)(3) "Swimming Pools".
- (K) **KENNEL**
- (O) Any building or land used, designed or arranged to facilitate the care of four or more domestic animals, such as dogs and cats.
- (L) **LAUNDRY SERVICES**
- (P) An establishment that provides washing, drying, dry-cleaning, or ironing machines for hire to be used by customers on the premises, or that is engaged in providing laundry and dry cleaning services with customer drop-off and pick-up.
- (M) **LOUNGE, COCKTAIL**
- (Q) A use or facility engaged primarily in the preparation and retail sale of alcoholic beverages (with food sales an allowed accessory use) for consumption on the premises. this use is also known as tavern, bar, nightclub, or similar use other than restaurant or alcohol sales for off-premises consumption.

- (1) Except in the B-1 zoning district, a cocktail lounge shall not be located within 250 feet of a residential district and shall be separated a minimum of 750 feet from another cocktail lounge.
- (2) Outdoor seating and open lounge areas shall meet the criteria set forth in § 155.305(R)
- (N) **MICROBREWERY**
- (R) A facility for the production and packaging of beer and other malt beverages for distribution, retail, or wholesale, on or off premise, with a capacity of not more than 15,000 barrels per year. Areas for demonstration, education, retail sale, or tasting are included in this definition as incidental to the primary use of producing beverages.
- (O) **PUBLISHER**
- (S) A building used for the production and distribution of newspapers, magazines, books, and other related materials.
- (P) **OFFICE, GENERAL**
- (T) A facility generally focusing on business, government, or professional services. General office shall include advertising offices; business management consulting, data processing, collection agency; real estate or insurance agents, and professional services such as lawyer, accountant, bookkeeper, engineer, or architect, sales office, travel agency or any similar use.
- (Q) **OFFICE, MEDICAL**
- (U) A facility in which a doctor, dentist, psychiatrist, physician's assistant, nurse practitioner, or similar medial provider treats or counsels patients.
- (R) **OUTDOOR SEATING AND SIDEWALK CAFES**
- (V) A restaurant which provides as a primary component of its business, an open area outside of the principal structure for seating including areas adjacent to sidewalks or pedestrian circulation areas.
 - (1) **Application**
 - (1) Any restaurant or cocktail lounge seeking to operate a sidewalk cafe shall, in addition to acquiring all necessary health and sanitation permits and inspection and applicable ABC and other business licenses, prepare and file an application for outdoor seating with the Planning Director.
 - (2) **Site Plan Requirement**
 - (2) A drawing or site plan showing the section of sidewalk or pedestrian way to be used for the sidewalk cafe, and the section to be kept clear for pedestrian use, and depicting the proposed placement of tables, chairs, barriers, and other furnishings on the sidewalk or pedestrian way.

(3) **Insurance and Indemnification**

- (3) Applicants must show proof of meeting minimum criteria for general liability insurance and must execute an indemnification statement in favor of the Town, each as approved by the Town Attorney.

(4) **Issuance of Permit**

- (4) No permit for outdoor seating may be issued unless the application is complete and unless the following requirements are met.
- (a) The sidewalk cafe must be associated with an operating restaurant or business such that it is under the same management and shares the same food preparation facilities, restroom facilities and other customer convenience facilities as the restaurant and does not exceed 50% of the interior seating for the associated restaurant or business.
 - (b) The sidewalk cafe must be operated under the same name as the restaurant and may not be opened or operated at any time when the restaurant or business is not open for business.
 - (c) The operation of the sidewalk cafe must be clearly incidental to the associated restaurant business.
 - (d) The placement of tables, chairs and other furnishings, as shown in the site plan, must be done in such a manner not to extend more than five feet from the property line, provided that at least four feet of unobstructed space (as measured from the street-side edge of curb or sidewalk) remains for the passage of pedestrians. Trees, poles, signs, sandwich board signs, planters, benches, hydrants, trash receptacles, and the like are all considered obstructions.
 - (e) The restaurant seeking to operate the sidewalk cafe must front on and open onto the sidewalk or pedestrian way proposed for the sidewalk cafe. The placement of tables, chairs, and other furnishings may not extend in front of other businesses or across other public rights-of-way.
 - (f) The tables, chairs, and other furnishings used in the sidewalk cafe shall be of a type that is easily removed from the public right-of-way. Tables, chairs, and other furnishings used in the operation of the sidewalk cafe must be removed within 24 hours' notice from the Town. If such items are not removed upon 24 hours' notice, the Town shall have the right to remove and dispose of these items and may assess the property owner for the cost of such removal and disposal. The Town shall also have the right to remove such items immediately in an emergency situation. The Town shall not be responsible for damage to the public sidewalk cafe barricades and furnishings under any circumstances.
 - (g) Except as elsewhere permitted, the operation or furnishing of the sidewalk cafe shall not involve any permanent alteration to or encroachment upon any street, sidewalk or

pedestrian way or to the exterior of the associated restaurant. The owner of the sidewalk cafe shall be responsible for repairing any incidental damage to public sidewalks resulting from the operation of the sidewalk cafe.

- (h) The sidewalk cafe shall only be open when the restaurant is open. No person shall consume alcoholic beverages in a sidewalk cafe after such hours.
- (i) **Alcoholic Beverages.** Alcoholic beverages may be served and consumed at sidewalk cafes providing the following requirements are met:
 - 1. The sidewalk cafe shall be part of a standard restaurant or business and shall otherwise be authorized, permitted or licensed under the state law and Town codes to serve and sell alcoholic beverages for on-premises consumption.
 - 2. The portion of the sidewalk cafe where alcohol is or may be served shall be enclosed by clearly visible barricades and shall have not more than two points of ingress or egress.
 - 3. The sidewalk cafe must be included as part of the premises for which an ABC permit is issued pursuant to G.S. § 18B-1001 for the purposes of applying and enforcing state laws regarding the sale or consumption of alcoholic beverages.
 - 4. Signs shall be posted, visible at all exit points from the sidewalk cafe, that it is unlawful to remove alcoholic beverages in open and unsealed containers from the premises.
 - 5. The business operator shall not have violated any law, regulation or ordinance relating to the possession, sale, transportation or consumption of intoxicating beverages or controlled substances for the five years preceding the commencement of the sale of alcoholic beverages at the sidewalk cafe.
- (j) **Denial.** A permit may be denied if it is found that the granting of the permit would not be in the public interest. Any applicant denied a permit to operate a sidewalk cafe shall receive a written statement, outlining the grounds on which the denial is based. The applicant may appeal the denial of the permit to the Town Council within 30 working days after the date of the written denial and the Town Council may take such corrective action as it shall find necessary. The findings and determination of the Town Council shall be final.
- (k) **Permit Revocation.** The Town Manager or his designee may revoke a permit issued pursuant to this section, if he finds that the restaurant operator has:
 - 1. Deliberately misrepresented or provided false information in the permit application;
 - 2. Violated any provision of this code;

3. Violated any law, regulation or ordinance regarding the possession, sale, transportation or consumption of intoxicating beverages or controlled substances;
 4. Operate the sidewalk cafe in such a manner as to create a public nuisance or to constitute a hazard to the public health, safety or welfare, specifically including failure to keep the sidewalk cafe area clean and free of refuse; and/or
 5. Failed to maintain any health, business or other permit or license required by law for the operation of a restaurant business. Before the revocation of a permit, the Town Manager shall notify the permit holder of his intent to revoke the permit and the reasons therefor and shall afford the permit holder a reasonable opportunity to appear and be heard on the question of such revocation. After the hearing, the Town Manager shall notify permit holder in writing of the decision and the reasons therefor. A decision of the Town Manager to revoke permit may be appealed to the Town Council in accordance with the provision of this section.
- (l) **Term, Transfer, Renewal, and the Like.** Permits issued in accordance with the provisions of this section shall:
1. Be renewed automatically on an annual basis unless notice is otherwise given to the applicant or business; and
 2. Not be transferable or assignable.

(5) **Definitions**

- (5) For purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Pedestrian Way. An improved walk or passageway intended for use by pedestrians, but not adjacent to any Town street.

Restaurant. An establishment engaged in the business of regularly and customarily selling food, primarily to be eaten on the premises, including businesses that are referred to as restaurants, cafeterias, cafes, lunch stands, grills, snack bars, fast food businesses and other establishments, such as drug stores, which have a lunch counter or other section where food is sold to be eaten on the premises. This definition does not include food vendors selling food as part of a festival or nonprofit event.

Restaurant Operator or Business Operator. The person, firm or corporation operating a restaurant and associated sidewalk cafe. As used in this section, this definition includes the owner and manager, if different from the owner of the restaurant and associated sidewalk cafe.

Sidewalk. That portion of a public street between the curb line, or the lateral lines of the roadway if there is no curb and the adjacent property line that is intended for the use of pedestrians.

(S) **PARKING LOT**

An area provided for self-parking or valet parking of operable passenger automobiles or commercial vehicles by employees, visitors, and/or patrons of any office of government, public accommodations, commercial or industrial establishments, institutions, or any other business open to the general public. Parking lots may be further defined as being available for compensation, free, or as an accommodation to clients or customers, and are generally only utilized during regular business hours. For short-term or long-term vehicle storage, see "Self-Storage Facility".

(T) **PAWN SHOP**

Any establishment engaged in the loaning of money on the security of personal property pledged in the keeping of the pawnbroker, and the sale of such property.

- (4) Outdoor storage and display may be allowed subject to Planning Board approval (see § 155.311).

(S) **RADIO OR TELEVISION STUDIO**

An establishment primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms. Excluded are facilities classified as major utility services, broadcasting or telecommunication facilities.

(T) **RESTAURANT**a use, facility, or establishment whose primary purpose is the preparation and sale of food for on- or off-premise consumption. this use may or may not include the accessory sale of alcoholic beverages.

- (1) Drive-through service is only permitted as an accessory use in the B-3 zoning district, or as a Conditional Use Permit in the B-2 zoning district.

(U) **RETAIL SALES**

A facility involved in the wholesale or retail sale, lease, or rental of new or used products. retail shall include the selling, leasing or renting of the following goods: antiques; art; art supplies; bicycles; books; building supplies; cameras; carpet and floor coverings; crafts; clothing; computers; dry goods; electronic equipment; fabric; furniture; garden supplies; hardware; health and beauty products; household products; jewelry; medical supplies; musical instruments; music; pets; pet supplies; photo finishing; printed materials; crafts; flowers; gifts or souvenirs; groceries; plants; picture frames; produce; sporting goods; stationery; tobacco; videos, or any similar use. Also includes preparation and sale of baked goods, coffee, ice cream, fountain drinks, confections, and similar products whose preparation does not require installation of an exhaust hood. The retail sale

of automobile parts is allowed provided that no on-site automobile service or repair is provided. This definition does not include any adult-oriented business or adult-entertainment establishment.

- (1) Outdoor display and sales and outdoor seating and dining may be allowed subject to Planning Board approval (see § 155.311).
- (2) Limited outdoor storage may be allowed in the B-3 and industrial zoning districts only, subject to Planning Board approval.
- (3) General outdoor storage may be allowed in industrial zoning districts only, subject to Planning Board approval (see §155.311).
- (3) Uses that are strictly wholesale and not available to the general public shall not be allowed in the B-1 or B-2 zoning districts.
- (4) Drive-through service is only permitted as an accessory use in the B-3 zoning district, or as a Conditional Use Permit in the B-2 zoning district.

(V) **SELF STORAGE FACILITY**

A facility consisting of individual, self-contained units that are leased for the storage of business or personal goods.

- (1) All storage shall be contained within a fully enclosed building. However, limited outdoor storage of boats, travel trailers, recreational vehicles, and other noncommercial, occasional use vehicles may allowed subject to Planning Board approval (see §155.311).
- (2) A Class C buffer (see § 155.402) shall be established along any side of the property where the self-storage facility abuts or is across the street from a residential use or a public right-of-way.
- (3) Where the end wall of the self-storage facility is visible from a public right-of-way, the wall shall be buffered by a hedge that has a mature height of at least four feet.
- (4) The following activities shall be prohibited on the premises:
 - (a) Commercial, wholesale or retail sales, flea markets or peddling, or miscellaneous or garage sales. However, once a month, the management of the self-storage facility may conduct a one-day auction or sale of abandoned or stored materials to settle unpaid storage bills in accordance with state regulations.
 - (b) Servicing, repair, or fabrication of motor vehicles, boats, trailers, lawn mowers, appliances, or other similar equipment.
 - (c) Operation of a transfer-and-storage business.
 - (d) Operation of power tools, spray painting equipment, table saws, lathes, compressors, welding equipment, kilns, or other similar equipment except when needed for maintenance of the use.

- (e) Any activity that is noxious or offensive because of odors, dust, noise, fumes, or vibrations.
- (f) Storage of hazardous chemicals, flammable liquids, or combustible and explosive materials.
- (g) Habitation of storage units by humans or animals.

(W) **SERVICE**

A facility involved in providing personal or repair services to through traffic as well as the surrounding neighborhood. General services shall include the following personal services: beauty, hair, nail, or tanning salon, massage therapy, pack-and-ship facility, animal grooming; photographic; photography, blueprint, quick-sign service; psychic or medium; security service; taxidermist; catering service or any similar use. General services shall also include the following repair services: bicycles; moped, canvas products; clocks; computers; jewelry; musical instruments; office equipment; radios; shoes; televisions; furniture; watches or any similar use. Also includes a tailor, milliner, upholsterer or locksmith. This definition does not include any adult-oriented business or adult entertainment establishment. All activity shall be conducted entirely within a fully-enclosed building, except for the following:

- (5) Outdoor storage may only be allowed in the B-3 zoning district subject to Planning Board approval (see 155.311).
- (6) Outdoor display and sales may allowed subject to Planning Board approval (see §155.311).

(X) **TATTOO PARLOR**

An establishment whose principal business activity is the practice of one or more of the following:

- (1) Placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin.
- (2) Piercing of the body of a person (other than the ear) for the purpose of inserting jewelry or other decoration.

(Y) **TOWING SERVICE AND STORAGE**

The use of a lot for the temporary storage of operable or inoperable vehicles in conjunction with a commercial towing service, with no sales or repair or salvage activity occurring on the lot and subject to the following standards:

- (7) Outdoor storage may allowed subject to Planning Board approval (see § 155.311).

(Z) **VEHICLE REPAIR OR SERVICE**

An establishment engaged in the repair of new or used motorized vehicles, equipment.

- (1) No vehicle sales shall be permitted.
- (2) A Class C buffer (see § 155.402) shall be established along any side of the property adjacent to a residential use.
- (3) If the facility has more than one service bay, the additional service bay doors shall not be oriented toward any residential use, or the service bays shall be screened from view from adjacent property using landscaping.
- (4) All repair or service operations, excluding washing, shall be conducted entirely within a fully enclosed building. The term fully enclosed building shall not be construed to limit open bay doors during hours of operation.
- (5) Operable vehicles may be parked on-site during business hours. All vehicle parking shall be accomplished on the site, and in no case shall a parked vehicle encroach into the right-of-way.
- (6) The outdoor overnight storage of vehicles may be allowed subject to Planning Board approval (see § 155.311).
- (7) There shall be no dismantling of vehicles for salvage.
- (8) The storage of impounded vehicles shall not be permitted.

(AA) **VEHICLE SALES AND RENTAL**

An establishment engaged in the sale, rental, or lease of new or used motorized vehicles, equipment, or mobile homes as defined by the Department of Motor Vehicles. Typical uses include auto and truck rental, lease and sales; boat rental and sales; mobile home and recreational vehicle sales; construction equipment rental yards; moving trailer rental, and large implement sales or rental.

- (1) A Class C buffer (see § 155.402) shall be established along any side of the property adjacent to a residential use.
- (2) Operable vehicles may be parked on-site during business hours. All vehicle parking shall be accomplished on the site, and in no case shall a parked vehicle encroach into the right-of-way.
- (3) The outdoor overnight storage of vehicles under repair may be allowed subject to Planning Board approval (see § 155.311).
- (4) Vehicle sales displayed for rental or sale visible from the public right-of-way shall provide a parking buffer as set forth in § 155.402(E)(2)(b).

(BB) **VETERINARY CLINIC**

An establishment engaged in providing medical care, treatment and temporary boarding for animals.

- (1) Outdoor runs may be permitted subject to Board of Adjustment approval (see § 155.710).
- (2) All animal boarding shall occur indoors. All pens, kennels and runs shall be located within an enclosed structure.

(CC) **VIDEO SWEEPSTAKES OPERATION**

Any business enterprise, whether as a principal or an accessory use, where persons utilize electronic machines, including but not limited to computers and gaming terminals, to conduct games of chance, including sweepstakes, and where cash, merchandise or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. This term includes, but is not limited to internet cafes, internet sweepstakes, and cybercafés. This does not include any lottery approved by the State of North Carolina.

- (1) Unaccompanied persons under the age of eighteen (18) are prohibited from entering the premises.
- (2) The hours of operation shall be limited to Sunday through Thursday 9am to 1am, and Friday and Saturday 9am to 2am.
- (3) A maximum of one hundred (100) machines are allowed at each establishment.
- (4) Two (2) or fewer machines are classified as an accessory use and shall not be bound by the standards of this section.
- (5) All uses meeting the definition of Internet Sweepstakes Facilities that were established prior to December 3, 2012 shall cease operations and close or be brought into compliance with the provisions of this ordinance by midnight, December 31, 2013.

(Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Am. Ord. 2016-04-04, passed 04-04-2016; Ord. 2017-04-06, approved 04/03/2017)

§ 155.306 INDUSTRIAL USE STANDARDS

The following standards shall apply to all permitted uses, conditional uses and special uses, as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)). Additional design considerations may be outlined in the Clayton General Design Guidelines.

(A) **BUILDING SUPPLIES, WHOLESALE**

An establishment engaged in the sale or fabrication and allied products to contractors for the construction, maintenance, repair and improvement of real property.

- (8) Retail sales of lumber and allied products to the consumer may be conducted, but must be clearly accessory to the primary use.

(B) **CREMATORIUM**

A place used and dedicated to the cremation of human remains or pet animal remains.

(C) **GAS AND FUEL, WHOLESALE**

The use of land for bulk storage and wholesale distribution of 2,500 gallons or more of flammable liquid, or 2,000 gallons water capacity or more of flammable gas, excluding below-ground storage which is clearly accessory to the principal use on the site.

(D) **LABORATORY, RESEARCH**

An establishment engaged in industrial, scientific or medical research, bio-manufacturing, testing, and analysis, including support services and structures. Typical uses include natural science/manufacturing research facilities and product testing/quality control facilities.

- (9) Outdoor manufacturing, processing or testing shall be limited to industrial districts only.

(E) **MANUFACTURING, LIGHT**

A FACILITY CONDUCTING Medium and light MANUFACTURING OPERATIONS, PRIMARILY INVOLVING THE CREATION OF FINISHED PRODUCTS OR PARTS FROM PREVIOUSLY PREPARED MATERIALS and the manufacturing of products and materials from extracted raw materials. THE PROCESSING, FABRICATION, ASSEMBLY, TREATMENT, PACKAGING, AND STORAGE OF SUCH PRODUCTS IS ALSO INCLUDED. ALL ACTIVITIES shall OCCUR WITHIN A FULLY ENCLOSED BUILDING no manufacturing involved shall produce noise, vibration, air pollution, fire hazard, or noxious emission which may disurb or endanger neighboring properties.

- (1) All manufacturing activity shall be conducted entirely within a fully enclosed building.
- (2) Outdoor storage and display may allowed subject to Planning Board approval (see § 155.311).
- (3) Uses shall not emit smoke, odor, objectionable waste materials or excessive noise.

- (4) No vibration shall be produced that is transmitted through the ground (and is discernible without the aid of instruments) at or beyond the lot line.
- (5) No direct glare from high temperature processes such as combustion or welding visible from the street shall be permitted.

(F) **MANUFACTURING, HEAVY**

A facility conducting assembly heavy manufacturing with operation conducted indoors and outdoors. Heavy manufacturing shall include the following: heavy factory production; industrial yards; any use that is potentially dangerous, noxious or offensive to neighboring uses or those who pass on public ways by reason of smoke, odor, noise, glare, fumes, gas, vibration, threat of fire or explosion, emission of particulate matter, interference with radio, television reception, radiation or any other likely cause; animal processing, packing, treating, and storage; livestock or poultry slaughtering; citrus concentrate plant; processing of food and related products; production of chemical, rubber, leather, clay, bone, paper, pulp, plastic, stone, or glass materials or products, production or fabrication of metals or metal products including enameling and galvanizing, sawmill; bulk storage of flammable liquids; commercial feed lot; concrete batching and asphalt processing and manufacture; wrecking, junk or salvage yard; bottling plant; or any similar use.

(G) **RESEARCH AND DEVELOPMENT**

A facility focused primarily on the research and development of new products. Research and development shall include: offices, and other facilities used for research and development by or for any individual, organization, or concern, whether public or private; prototype production facilities that manufacture a limited amount of a product in order to fully investigate the merits of such a product; pilot plants used to test manufacturing processes planned for use in production elsewhere; production facilities and operations with a high degree of scientific input; facilities and operations in which the input of science, technology, research, and other forms of concepts or ideas constitute a major element of the value added by manufacture per unit of product.

(H) **WAREHOUSE AND FREIGHT MOVEMENT**

A facility involved in the storage or movement of goods for themselves or other firms. Goods are delivered to other firms or the final consumer with little on-site sales activity to customers. Warehouse and freight movement shall include the following: bulk storage, including nonflammable liquids, feed and grain storage; cold storage plants, including frozen food lockers; household moving and general freight storage; separate warehouse used by retail store such as furniture or appliance store; bus barn; parcel services, mail order facility; stockpiling of sand, gravel, or other aggregate materials; transfer and storage business where there are no individual storage areas or where employees are the primary movers of the goods to be stored or transferred; or any similar use.

(Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Ord. 2017-04-06, approved 04/03/2017)

§ 155.307 UTILITIES USE STANDARDS

The following standards shall apply to all permitted uses, conditional uses and special uses, as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)). Additional design considerations may be outlined in the Clayton General Design Guidelines.

(B) **RECYCLING CENTER**

A permanent facility designed and used for receiving, separating, storing, converting, baling or processing of non-hazardous recyclable materials that are not intended for disposal. The use may include construction debris recycling or other intensive recycling processes such as chipping and mulching.

(10) To ensure compatibility with surrounding uses, screening and buffering around the perimeter of the proposed recycling plant shall be required at the time the facility is constructed.

(B) **RENEWABLE ENERGY FACILITY**

A facility that generates renewable energy from sources such as solar, wind, or other systems with a principal use of producing electric, thermal power, or mechanical power.

(C) **TELECOMMUNICATION FACILITY**

Any tower, site, building, structure, or other facility whose principal use is to facilitate transmissions for AM/FM radio, television, microwave, and cellular telephone transmission towers, antennae, and accessory equipment and buildings. Specific standards for communication towers are set forth in § 155.310.

(D) **UTILITY, MAJOR**

A large-scale utility such as a water or wastewater treatment plant, water tower, electrical generation plant, or transmission facility or any similar use.

(E) **UTILITY, MINOR**

All utility facilities not considered major, including, but not limited to neighborhood-serving facilities such as pump stations, telephone exchanges, lift stations, and stormwater detention facilities, or any similar use.

(F) **WASTE SERVICE**

A facility that generally receives solid or liquid wastes from others for transfer to another location, collects sanitary waste, or manufactures a product from the composting of organic material. Waste-related service shall include the following: animal waste processing; landfill, incinerator; manufacture and production of goods from composting organic material; outdoor recycle processing center; outdoor storage of recyclable material, including construction material; transfer station; or any similar use.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-05-02, passed 5-7-07; Am. Ord. 2007-05-03, passed 5-7-07; Am. Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Am. Ord. 2016-04-04, passed 04-04-2016; Ord. 2017-04-06, approved 04/03/2017)

§ 155.308 ACCESSORY STRUCTURES AND USES.

(C) GENERAL

Accessory structures and uses shall be consistent with all standards in the district for the principal use, except as expressly set forth below. Additional design considerations may be outlined in the Clayton General Design Guidelines.

- (1) Accessory structures and uses shall be accessory and clearly incidental and subordinate to a permitted principal uses. An accessory use shall only be allowed when a principal use exists.
- (2) Accessory structures and uses shall be located on the same lot as the permitted use or structure, or on a contiguous lot in the same ownership.
- (3) Accessory structures and uses shall not involve operations or structures not in keeping with the character of the primary use or principal structure served.
- (4) Accessory structures and uses shall not be of a nature likely to attract visitors in larger numbers than would normally be expected, where applicable.
- (5) An accessory use shall contribute to the comfort, convenience, or necessity of occupants of the primary use served.
- (6) An accessory use shall be located within the same district as the principal use.
- (7) Tractor-trailers are prohibited as storage buildings or structures except as permitted on an active construction site.

(B) ACCESSORY STRUCTURES

Accessory structures, not including accessory dwelling units (see (C)(1) of this section) or in-ground pools, shall be subject to the following requirements:

(1) Zoning Permit Required

It shall be unlawful to begin moving, constructing, altering, or repairing, except ordinary repairs, of an accessory structure, until the Planning Department has issued a zoning permit for such work (see § 155.709).

(2) Setbacks

- (a) No accessory structure shall be located closer than ten feet to any other building or manufactured home.
- (a) No accessory structure shall extend in front of the front line of the principal structure, except in the B-1 zoning district where the Board of Adjustment may approve a

Conditional Use Permit for an accessory use or structure to be placed in any yard other than the rear yard.

- (b) No accessory structure may extend within five feet of any lot line in R-6 and R-8 Districts, and within ten feet in all other zoning districts. No accessory structure shall be located within 20 feet of any street right-of-way.

(3) **Height**

The height of an accessory structure shall not exceed the height of the principal structure or 25 feet, whichever is lesser, unless approved as a Conditional Use Permit by the Board of Adjustment, as provided in § 155.710.

(4) **Number**

- (a) Up to two accessory structures may be permitted on the same lot, subject to meeting the criteria elsewhere in this section.
- (b) No more than one shed is permitted in the R-6 and R-8 zoning districts.
- (c) Two or more accessory structures may not be joined together by adding a roofline, such as a breezeway or covered walkway, to give the appearance of a lesser number of structures.

(5) **Size**

- (a) An accessory structure may not exceed the gross floor area of the primary structure on the site. This restriction does not apply to in-ground pools.

(6) **Architectural consistency**

- (a) On non-residential or mixed use sites, the architecture of accessory structures shall be consistent with the primary structure.

(C) **ACCESSORY USES IN RESIDENTIAL DISTRICTS**

(1) **Accessory Dwelling Units**

One accessory dwelling shall be permitted as a conditional use by the Board of Adjustment (see § 155.710) subject to their approval and the following requirements:

- (a) The living area of the accessory dwelling shall not exceed the living area of the principal structure. In no case shall the total floor area of the accessory dwelling unit exceed 600 square feet.
- (b) The accessory dwelling shall not have a separate electrical meter.

- (c) The owner of the property shall occupy either the primary structure or the accessory dwelling.
- (d) The principal dwelling and accessory dwelling unit together shall not exceed the maximum building coverage and impervious surface requirements for the district.
- (e) All principal structure setbacks and yard requirements shall be met.
- (f) One additional parking space on the same premises shall be required for the accessory dwelling unit.
- (g) A subdivision with accessory dwelling units shall not exceed the maximum district density requirements, counting all principal dwelling units and any accessory dwelling units.
- (h) An accessory dwelling shall either be located within the principal structure; or meet the following standards:
 - 1. The accessory dwelling shall be located on the same lot as the principal structure.
 - 2. The accessory dwelling shall be separated by at least ten feet from the principal structure.
 - 3. The accessory dwelling shall be located in the rear or side yard of the principal structure. The rear and side setback shall be equal to those of all accessory structures.
 - 4. Total building coverage and impervious surface area shall not exceed that permitted in the district.
 - 5. The height of a principal structure shall not be exceeded by any accessory dwelling.
 - 6. The accessory dwelling unit shall be architecturally consistent with the principal structure.

(2) **Home Occupations**

Prohibited Home Occupations

- (a) The following uses are not permitted as home occupations:
 - 1. Vehicle and/or body and fender repair.
 - 2. Outdoor repair or outdoor storage.
 - 3. Commercial nursery or truck farming.

4. Food handling, processing or packing, other than services that utilize standard home kitchen equipment.
5. Medical or dental lab.
6. Restaurant.
7. Sale or repair of firearms.
8. Bulk storage of flammable liquids.
9. Funeral homes and mortuaries.
10. Animal hospitals and kennels.

(b) ***Class A Home Occupations***

The intent of a Class A Home Occupation is to permit very limited activities in a residential dwelling, provided such activities do not impact or detract from the residential character of the neighborhood. A Class A Home Occupation shall be deemed an accessory use and no further approval shall be required, provided the use meets the standards of this chapter.

1. The use of the dwelling unit for Class A Home Occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and shall under no circumstances change the residential character of the structure.
2. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of a home occupation.
3. No business, storage or warehousing of material, supplies or equipment shall be permitted outside of the primary dwelling unit.
4. No equipment or process shall be used that creates excessive noise, vibration, glare, fumes, odors, or electrical interference.
5. No display of products shall be visible from the street.
6. A Class A Home Occupation shall be subject to all applicable licenses and business taxes.
7. No persons other than members of the family residing on the premises shall be engaged in the home occupation.
8. Storage space and the operation of the business inside the dwelling unit shall not exceed 25% of the first floor area of the residence.

9. Customers and employees coming to the residence to conduct business shall not be permitted.
10. No signage shall be permitted.

(c) **Class B Home Occupations**

A Class B Home Occupations is a business, profession, occupation or trade conducted for gain or support within a residential dwelling or its accessory buildings that requires employees, customers, clients or patrons to visit the home. A Class B Home Occupation shall be permitted as a conditional use provided that the Board of Adjustment shall determine in its judgment that:

1. It is carried on by a person residing on the premises and employs no more than two employees not living on the premises.
2. No more than 20% of the total actual floor area of the dwelling shall be in the conduct of the home occupation.
3. No more than two vehicles are used in the conduct of the home occupation, and such vehicles are parked off the street.
4. No merchandise or commodity is sold on the premises, except what is incidental to the home occupation.
5. No mechanical equipment is installed or used except such that is normally used for domestic or professional purposes.
6. No expansion shall be permitted outside the principal structure that houses the home occupation, except that which is necessary to house vehicles used in the conduct of home occupation.
7. It is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.
8. The use will not create undue traffic congestion or create a traffic hazard.
9. Advertising signs shall be limited to one unlighted wall sign no larger than three square feet in area, attached to the structure housing the home occupation, or one yard sign of the same size not to exceed three feet in height.

(3) **Day Care Facility**

- (a) All accessory daycare facilities shall be subject to the requirements for Day Care Facilities, outlined in §155.302(E).
- (b) In-home day cares, consisting of no more than 6 children and operating within a residential dwelling unit by a person that is a resident of the dwelling, shall be

permitted subject to the requirements of a Class “B” Home Occupation (see §155.308(C)(2)(c)).

- (c) An accessory day care facility to a church or place of worship shall be permitted as outlined in §155.308(E). A Conditional Use Permit shall not be required for an accessory day care facility to a church or place of worship.

(4) **Swimming Pools**

When allowed, in-ground and aboveground swimming pools that have a water depth over 24 inches and or have a surface area of at least 100 square feet shall be subject to the following requirements (see Chapter 154, Swimming Pools, of the Town Code of Ordinances for additional standards).

(a) **Private Pools**

Private swimming pools (including any associated decking, pool house, pool chemical storage shed, or equipment associated with the pool) on single-family detached, zero lot lines, alley-loaded, and two-family lots shall not be located in the street yard and shall not be closer than five feet to any property line.

(b) **Outdoor Community Pools, Private Club Pools, or Pools in Multi-Family Complexes**

1. Outdoor pools (including any associated decking, pool house, pool chemical storage shed, or equipment associated with the pool) shall be located at least 50 feet from any property line adjacent to a residential district or use, and at least 25 feet from any property line adjacent to any other district or use.
2. When the pool is adjacent to off-site residences, the playing of music detectable off-site on a public address system is prohibited. Informational announcements shall be permitted. This requirement is waived if a permit has been issued for a special event.

(5) **Vehicle Repair**

Up to two vehicles may be repaired simultaneously on a residential property if the vehicles are registered to an occupant of the residence.

(6) **Vehicle Sales**

Vehicle sales shall be prohibited within a residential district or on property devoted to residential use, except that the sale of a private vehicle registered to the occupant of the residence shall be allowed. No more than one such vehicle shall be displayed at a time.

(D) **ACCESSORY USES IN NONRESIDENTIAL DISTRICTS**

(1) **Drive-Thru (aka Drive-Through)**

Drive-thru facilities shall be subject to the following requirements:

- (a) A drive-thru shall only be permitted in conjunction with a permitted nonresidential use.
- (b) Drive-thru windows and lanes shall be screened in accordance with § 155.402(G).

(2) **Food Truck**

(a) ***Permits Required***

- 1. Food truck vendors must provide documentation of approval from the Health Department of the County in which the food truck's associated restaurant or commissary is located.
- 2. The County Health Permit must be displayed during hours of operation.

(b) ***Public Safety***

- 1. Temporary connections to potable water are prohibited. All plumbing and electrical connections shall be in accordance with the State Building Code.
- 2. Grease and wastewater must be contained and disposed of in an approved grease receptacle located at the associated restaurant or commissary.
- 3. If the food truck is operating after dark, the food truck vendor shall provide appropriate lighting.
- 4. A food truck vendor shall not operate the food truck as a drive-in window.
- 5. The Planning Director may engage in zoning enforcement or prohibit/suspend a food truck vendor's operations if are causing parking, traffic congestion, or litter problems either on or off the property where the use is located or such use is otherwise creating a danger to the public health or safety.

(c) ***General Location Requirements***

- 1. Food trucks must be located on private property with written permission from property owner.
- 2. Food trucks shall be positioned at least 400 feet from the customer entrance of an existing restaurant during hours of operation, unless the vendor provides documentation that the restaurant owner supports a closer proximity.
- 3. Food trucks shall not block parking spaces, drive aisles, access to loading/service areas, or emergency access and fire lanes. Food truck vending must also be positioned at least 15 feet away from fire hydrants, any fire department connection, and driveway entrances.

4. No more than two food trucks are permitted as an accessory use, unless at an approved special event, market, festival, or an active construction site.

(d) **Hours of Operation**

Food trucks must cease operations between the hours of 12 a.m. and 7 a.m., and are not permitted to remain on site overnight.

(e) **Signage**

No signage shall be allowed other than signs permanently attached to the motor vehicle. An easel sign no more than 12 square feet per sign face in display area may be placed within the customer waiting area.

(3) **Day Care Facility**

- (a) An accessory day care facility shall only be permitted as an accessory to the following uses:
 1. Hospital or Medical Center (§155.302(G))
 2. School (Elementary or Secondary) (§155.302(H))
 3. School (Technical, Trade, or Business) (§155.302(I))
 4. Entertainment, Indoor (§155.303(A))
 5. Entertainment, Outdoor (§155.303(B))
 6. Fitness/Recreation Center (§155.303(C))
 7. Creative Studio, (§155.305(G))
 8. Office, General, (§155.305(P))
 9. Office, Medical, (§155.305(Q))
 10. Research & Development, (§155.306(G))
 11. Church or Place of Worship, (§155.302(C))
- (b) All accessory daycare facilities shall be subject to the requirements for Day Care Facilities, outlined in §155.302(E).
- (c) An accessory day care facility to a church or place of worship shall be permitted as outlined in §155.308(E). A Conditional Use Permit shall not be required for an accessory day care facility to a church or place of worship.

(4) **Park**

- (a) An accessory park shall be permitted in the forms of community gardens, playgrounds, or other small-scale recreational amenities that are secondary in nature to the primary use of the property.
- (b) Accessory park uses shall be subject to minor site plan review in accordance with §155.707, illustrating the proposed boundaries of the park, amenities, and any other applicable elements.

- (c) Additional parking to accommodate the accessory park shall be required in accordance with §155.401.

(5) **Outdoor Display & Sales**

- (a) Outdoor display and sales shall be generally defined as the display and sales of goods, wares or merchandise outside of a permanent structure on property owned or leased by the person, firm or corporation. Outdoor display and sales must be secondary and incidental to the principal use or structure on the property, unless authorized pursuant to § 155.309, Temporary Use.
- (b) Outdoor display and sale areas greater than 50 square feet shall only be permitted following Planning Director review of a minor site plan in accordance with § 155.707, illustrating the extent of the permitted area for outdoor display and sales subject to the standards below. Outdoor display and sale areas 50 square feet or less do not require site plan approval, but are subject to the standards below.
- (c) The location of outdoor merchandise must be on the same property as the principal use, and not within the right-of-way, except that in the B-1 zoning district it may be displayed in the right-of-way, provided that clearance requirements are maintained for pedestrian passage.
- (d) Merchandise shall be displayed to allow pedestrians use of the adjacent sidewalk or parking areas, and shall meet ADA accessibility requirements.
 - 1. Any merchant desiring to display and sell merchandise along a public sidewalk or right-of-way must also receive approval from the Town Manager or his designee, and agree to following stipulations:
 - A. Merchandise must be removed from the sidewalk within 24 hours of notice from the Town. If such items are not removed following notice, the Town has the right to remove and dispose of these items and may assess the property owner for the cost of removal and disposal. The Town has the right to remove such items immediately in emergency situation. The Town is not responsible for damage to the merchandise under any circumstances.
 - C. The owner of the business displaying or selling merchandise within a public sidewalk is responsible for repairing any incidental damage to public sidewalk resulting from the display of merchandise.
 - D. Merchandise must be removed from the sidewalk when the business is closed.

(6) **Outdoor Dining**

- (a) Outdoor dining shall be defined as the placement of tables and chairs for dining outside of a permanent structure.
- (b) **General Requirements**
 - 1. Outdoor dining shall be permitted with a zoning compliance permit for 8 or fewer seats. More than 8 seats is subject to a minor site plan, or as a component of a major site plan in accordance with § 155.707, illustrating the extent of the outdoor dining area, the maximum seating capacity, and subject to the standards below. The impact of outdoor dining areas on adjacent churches, hospitals, public schools, and residential uses shall be mitigated to minimize potential impacts related to glare, light, loitering, and noise.
 - 2. Patron tables and other outdoor dining area components shall be clearly defined and located on the same site as the other facilities of the restaurant or on the adjacent public right-of-way. Separation between the seating and vehicular or pedestrian traffic by a physical barrier may be required, with the design to be approved by the Planning Director.
 - 3. Separation may be achieved through the use of materials which include, but are not limited to landscape planters, walls, railings or a combination thereof. Only barriers composed of landscape planters or masonry walls may be solid.
- (c) The additional parking necessary to accommodate seating created in the outdoor dining area shall comply with the parking requirements set forth in § 155.401 of this Chapter.
- (d) Outdoor dining areas and associated structural elements, such as awnings, covers, umbrellas, or other physical elements shall be compatible with the overall design of the main structure and must maintain a height clearance of eight feet and meet ADA accessibility requirements. Dining equipment (including, but not limited to tables, chairs, space heaters, barriers) may remain in place.
- (e) The Town may revoke the outdoor dining area if it is determined that its operation is causing litter problems either on or off the property where the dining is located or that such use is otherwise creating a danger to the public health or safety.
- (f) In addition to the requirements set forth above, if any portion of the outdoor dining area is to be located within a public right-of-way (sidewalks only), the dining area must also receive approval from the Town Manager or his designee, and agree to following stipulations. Outdoor dining within right-of-way owned and operated by the State of North Carolina, must also meet the requirements of G.S. 136-27.4 listed below.
 - 1. Tables, chairs, and other furnishings shall be placed a minimum of six feet from any travel lane.
 - 2. Tables, chairs, and other furnishings shall be placed in such a manner that at least five feet of unobstructed paved space of the sidewalk, measured from any

permanent or semi-permanent object, remains clear for the passage of pedestrians and provides adequate passing space that complies with the Americans with Disabilities Act.

3. Tables, chairs, and other furnishings shall not obstruct any driveway, alleyway, building entrance or exit, emergency entrance or exit, fire hydrant or standpipe, utility access, ventilations areas, or ramps necessary to meet accessibility requirements under the Americans with Disabilities Act.
 4. The maximum posted speed permitted on the roadway adjacent to the right-of-way to be used for sidewalk dining activities shall not be greater than 45 miles per hour.
 5. The restaurant operator shall provide evidence of adequate liability insurance specified by the Town under G.S. 160A-485 as the limit of the Town's waiver of immunity or the amount of Tort Claim liability specified in G.S. 143-299.2, whichever is greater. The insurance shall protect and name NCDOT and the Town as additional insured on any policies covering the business and the sidewalk activities.
 6. The restaurant operator shall provide an agreement to indemnify and hold harmless NCDOT and the Town from any claim resulting from the operation of sidewalk dining activities.
 7. The restaurant operator shall provide a copy of all permits and licenses issued by the State, County or Town, including health and ABC permits, if any, necessary for the operation of the restaurant or business, or a copy of the application for the permit if no permit has been issued. This requirement includes any permits or certificates issued by the Town for exterior alterations or improvements to the restaurant.
 8. The restaurant operator shall cease part or all sidewalk dining activities in order to allow construction, maintenance, or repair of any street, sidewalk, utility, or public building, by NCDOT, the Town, its agents or employees, or by any other governmental entity or public utility.
 9. Any other requirements deemed necessary by the NCDOT, either for a particular Town or a particular component of the State highway system.
- (g) The Town reserves the right to terminate the use of outdoor dining within the public right-of-way at any time. Upon notice, all furnishings must be removed from the sidewalk within 24 hours of notice from the Town. If furnishings are not removed within the time specified, the Town has the right to remove and dispose of these items and may assess the property owner for the cost of removal and disposal. The Town has the right to remove such items immediately in emergency situations. The Town is not responsible for damage to the furnishings under any circumstances.

- (h) The owner of the business utilizing a dining area within a public sidewalk is responsible for repairing any incidental damage to public sidewalk resulting from outdoor dining furnishings.

(7) Limited Outdoor Storage

- (a) Limited outdoor storage shall be defined as the overnight outdoor storage of vehicles (not associated with outdoor sales and display including vehicle sales, vehicle repair or car rental), merchandise or material in boxes, crates, on pallets or other kinds of containers, shopping carts, or other similar merchandise, material or equipment.
- (b) Limited outdoor storage shall only be permitted as an accessory use following Planning Board review of a major site plan in accordance with § 155.707, illustrating the extent of the permitted area for limited outdoor storage provided it meets the standards below.
 - 1. Limited outdoor storage shall not be more than 12 feet in height and shall be fully screened from view from the public right-of-way, public parking areas, or adjacent residential development by a 100% opaque visual barrier or screen.
 - 2. All limited outdoor storage shall be located at least 15 feet from the public right-of-way and any abutting residential use or residentially-zoned district.
 - 3. Limited outdoor storage shall not be permitted in a street yard or otherwise forward of the front building line.

(8) General Outdoor Storage

- (a) General outdoor storage shall be defined as salvage yards, vehicle junk yards, overnight outdoor storage of shipping containers, lumber, pipe, steel, junk and other similar merchandise, material or equipment.
- (b) General outdoor storage shall only be permitted as an accessory use following Planning Board review of a major site plan in accordance with § 155.707, illustrating the extent of the permitted area for general outdoor storage provided it meets the standards below.
 - 1. General outdoor storage shall be screened by 100% opaque, eight foot high visual barrier or screen. When located abutting or across the street from a residential use or residentially-zoned property such screening shall be high enough to completely conceal all outdoor storage from view.
 - 2. All general outdoor storage shall be located at least 15 feet from the public right-of-way and any abutting residential use or residential district.
 - 3. No general outdoor storage shall be permitted in a street yard or otherwise forward of the front building line.

4. General outdoor storage may be located in the side or rear yard.

(9) **Swimming Pools**

- (a) Outdoor pools shall meet the standards of Chapter 154, Swimming Pools, of the Town Code of Ordinances.
- (b) Outdoor pools including decking shall be located at least 50 feet from any property line adjacent to a residential district or use, and at least 25 feet from any property line adjacent to any other district or use.
- (c) When the pool is adjacent to residences, the playing of music detectable off-site on a public address system is prohibited. Informational announcements shall be permitted. This requirement may be waived if a permit has been issued for a special event.

(E) **ACCESSORY USES FOR PLACES OF WORSHIP**

Accessory uses are permitted for a place of worship in accordance with the following standards.

The following facilities may be considered accessory to a place of worship. Additional buffering may be required through the review and approval of a site plan to address the intensity of the proposed place of worship and the proposed accessory uses.

- (a) Offices for the place of worship;
 - (b) Rooms for religious instruction or counseling;
 - (c) Meeting rooms for intermittent community meetings or instruction;
 - (d) Fellowship hall;
 - (e) Kitchen facilities;
 - (f) Senior center, neighborhood arts center or other community center;
 - (g) Temporary child care during religious services or events;
 - (h) Outdoor play area;
 - (i) Columbarium;
 - (j) "Meals on Wheels" or other similar programs using the kitchen in the place of worship but delivering food elsewhere; and
 - (k) Residence for clergy employed by the place of worship.
- (2) The following accessory uses are subject to approval of a major site plan by the Planning Board (see § 155.707).

- (a) Gymnasium or similar indoor recreational facility;
- (b) Cemetery;
- (c) Overnight accommodation for visiting clergy and non-paying guests of clergy employed by the place of worship;
- (d) Child care center;
- (e) School;
- (f) Soup kitchen or other social service facility; and
- (g) Athletic field or similar facility.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-05-02, passed 5-7-07; Am. Ord. 2007-05-03, passed 5-7-07; Am. Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Ord. 2017-04-06, approved 04/03/2017)

§ 155.309 TEMPORARY USES

(A) GENERAL REQUIREMENTS

Certain uses are temporary in character. They vary in type and degree, as well as length of time involved. Such uses may have little impact on surrounding and nearby properties or they may present questions involving potential incompatibility of the temporary use with existing uses. Unless otherwise specified in this chapter, the following regulations shall govern temporary uses.

(B) TEMPORARY USES EXEMPT FROM PERMIT

The following permitted temporary uses are exempt from these requirements.

- (1) Christmas tree sales lots.
- (2) Garage or yard sales are permitted only by the property owner on their property and are allowed once every four months at any given location. The sale may not exceed three consecutive days in length. Advertising signs may not be placed on any rights-of-way or off-site locations without the owners' permission.
- (3) Storage pods for off-site storage of household or other goods located in any street yard are permitted for a maximum of seven consecutive days, and any side or rear yard for a maximum of 30 consecutive days.

(C) TEMPORARY USE PERMIT REQUIRED

The following temporary uses are allowed in the frequency stated below, except that no property shall have more than four of the events listed below in one calendar year.

(1) Commercial Circuses, Carnivals or Fairs

Commercial circuses, carnivals or fairs, for not more than two consecutive weeks in any calendar year.

(2) Temporary Religious or Revival Activities

Temporary religious or revival activities in tents in association with a place of worship, for not more than two consecutive weeks in any calendar year.

(3) Non-profit Special Events

Special events run by non-profit, charitable organizations occurring no longer than seven consecutive days once every three months.

(4) Tent Sales

Tent sales by merchants occupying the premises on which the sale is conducted and having a valid certificate of occupancy, and occurring no longer than seven consecutive days once every six months.

(5) **Grand Opening Sales**

Grand opening sales, including outside food and beverage vending, for three consecutive days, once per certificate of occupancy.

(6) **Outdoor Vehicle Show or Sale**

Outdoor motor vehicle or recreational vehicle show or sale, for three consecutive days, twice per calendar year.

(7) **Other Temporary Uses**

Other temporary uses similar in nature to the ones listed above, with corresponding limitations, as determined by the Planning Director.

(D) **TEMPORARY OUTDOOR DISPLAY OF MERCHANDISE**

Permanent outdoor display of merchandise may be approved as part of major site plan (see § 155.311).

- (1) Outdoor display of merchandise in nonresidential districts by merchants occupying the premises and having a valid certificate of occupancy, occurring no longer than nine consecutive days up to four times per year, is allowed subject to issuance of a temporary use permit and all of the following conditions.
 - (a) Merchandise shall only be displayed in front of the premises occupied by the merchant.
 - (b) Merchandise shall not be displayed closer than five feet to any entrance to the premises.
 - (c) Merchandise shall only be displayed in a manner that does not obstruct pedestrian or vehicular circulation or traffic.
 - (d) The display of merchandise shall not exceed eight feet in height.
 - (e) Merchandise shall only be displayed during the merchant's hours of operation, and must be taken inside the premises at closing.
 - (f) Merchandise shall only be displayed in an area not wider than 50% of the total linear foot frontage of the building occupied by the merchant.
 - (g) The required temporary use permit must be visibly displayed at the main entrance of the associated merchant.

- (h) A violation of any conditions set out in this section shall constitute a violation of the temporary use permit and cause said temporary use permit to be revoked. Once revoked, a temporary use permit shall not be issued for the same temporary use for a period of one year.
 - (2) Any temporary use permit issued under (C)(1) through (7) of this section shall be counted in the maximum number of temporary use permits allowed for the temporary outdoor display of merchandise.
 - (3) The requirements of this section do not supersede the permanent outdoor storage or display requirements of §155.311.
- (E) **MANUFACTURED HOME OR TRAILER FOR TEMPORARY USE**
- After approval by the Planning Director, a manufactured home or trailer may be used as a temporary office, security shelter, or shelter for materials or tools (but not for residential purposes or sales offices) incident to construction on or development of the premises upon which the manufactured home or trailer is located. Such use shall be strictly limited to the time construction or development is actively underway. In no event shall the use continue more than six months without the further approval of the Planning Director. The temporary use shall be approved only upon finding that actual construction is continuing.
- (F) **TEMPORARY USE IN CONJUNCTION WITH SPECIAL EVENT PERMIT**
- Where a valid permit has been issued by the Town for use of adjacent right-of-way that makes the street unavailable to vehicular traffic, a temporary use permit may be issued in accordance for events on the grounds or in the parking lot of any adjacent parcel during the period of the special event permit.
- (G) **REAL ESTATE DEVELOPMENT PROJECTS**
- (1) A developer may request a temporary use permit for necessary commercial promotional, storage, or fabrication activities at the development site which occur during construction of that developer's project.
 - (2) When the request is for a temporary sales office, model home, or apartment, the application shall list the lots, apartment units, or dwelling units to be initially sold.
 - (3) The temporary use permit shall be restricted to only those activities and properties listed on the petition. Such activities shall not include any sale of properties outside the development site or any resale of properties.
 - (4) The following uses in connection with such a project require a temporary use permit:
 - (a) Offices for sale of real estate or for persons engaged in the development.

- (b) Construction materials storage, general contractor's business office, processing, or fabrication.
- (c) Equipment storage.
- (d) Model homes or sample apartments.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-05-02, passed 5-7-07; Am. Ord. 2007-05-03, passed 5-7-07; Am. Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12)

§ 155.310 TELECOMMUNICATION FACILITIES

(A) PURPOSE AND LEGISLATIVE INTENT

The purpose of this Section is to establish general guidelines for the locating, collocating, modifying or upgrading of telecommunications towers, antenna, ground equipment and related accessory structures. It is the intent of this Section to:

- (1) Promote the health, safety, and general welfare of the public by regulating the locating of telecommunication facilities.
- (2) Minimize the impacts of telecommunication facilities on surrounding land uses by establishing standards for location, structural integrity, and compatibility.
- (3) Encourage the location and collocation of telecommunication equipment on existing structures thereby minimizing new visual, aesthetic, and public safety impacts, effects upon the natural environment and wildlife, and to reduce the need for additional towers.
- (4) Accommodate the growing need and demand for new and upgraded telecommunication services.
- (5) Encourage coordination between suppliers and providers of personal telecommunication services.
- (6) Establish predictable and balanced codes governing the construction and location of telecommunications facilities within the confines of permissible local regulations.
- (7) Establish review procedures to ensure that applications for telecommunications facilities are reviewed and acted upon within a reasonable period of time as required by applicable state and federal regulations.
- (8) Respond to the policies embodied in the Telecommunications Act of 1996 so that no discrimination between providers of functionally equivalent personal wireless services occurs, or to prohibit or have the effect of prohibiting personal wireless services.
- (9) Respond to the policies in Section 6409 of the Tax Relief and Job Creation Act of 2012 (47 USC §1445(a)).
- (10) Protect the character of the Town while meeting the needs of its citizens to enjoy the benefits of telecommunication services.
- (11) Encourage the use of public lands, buildings, and structures as locations for telecommunications infrastructure demonstrating concealed technologies and revenue generating methodologies.

(B) **AUTHORITY**

The provisions of this Section are permitted under authority granted by the General Assembly of the State of North Carolina with particular reference to Article 6 of Chapter 153A of the North Carolina General Statutes.

(C) **SPECIFIC TELECOMMUNICATION DEFINITIONS**

- (1) **Alternative Structure**
A structure that is not primarily constructed for the purpose of holding antennas but on which one or more antennas may be mounted, including, but not limited to buildings, water tanks, pole signs, billboards, church steeples, and electric power transmission towers.
- (2) **Amateur Radio Tower**
Any tower used for amateur radio transmissions consistent with the "Complete FCC U.S. Amateur Part 97 Rules and Regulations" for amateur radio towers.
- (3) **Ancillary Structure**
Any form of development associated with a communications facility, including, but not limited to foundations, concrete slabs on grade, guy anchors, generators, and transmission cable supports, but excluding equipment cabinets.
- (4) **Anti-Climbing Device**
A piece or pieces of equipment designed to prevent people from climbing the structure.
- (5) **Antenna**
Any apparatus designed for the transmitting and/or receiving of communication signals, including, but not limited to telephonic, radio and television communications.
- (6) **Antenna Array**
A single or group of antenna elements and associated mounting hardware, transmission lines, or other appurtenances which share a common attachment device such as a mounting frame or mounting support structure for the sole purpose of transmitting or receiving communication signals.
- (7) **Antenna Element**
Any antenna or antenna array.
- (8) **Antenna Modification**
See collocation.
- (9) **Antenna Upgrade**
See collocation.
- (10) **ASR**
The Antenna Structure Registration Number as required by the FAA and FCC.

- (11) **Base Station**
The electronic equipment utilized at the base of a tower for the transmission and reception of communication signals.
- (12) **Breakpoint Technology**
The engineering design of a tower wherein a specified point on the tower is designed to have stresses concentrated so that the point is at least five percent (5%) more susceptible to failure than any other point. In the event of a structural failure, the failure will occur at the breakpoint rather than at the base plate, anchor bolts, or any other point on the tower.
- (13) **Broadcast Facilities**
Towers, antennas, and/or antenna arrays for AM/FM/TV/HDTV broadcasting transmission facilities that are licensed by the Federal Communications Commission.
- (14) **Collocation**
The practice of installing and operating multiple wireless carriers, service providers, and/or radio common carrier licensees on the same tower or attached communication facility using different and separate antenna, feed lines, and radio frequency generating equipment.
- (15) **Combined Antenna**
An antenna or an antenna array designed and utilized to provide services for more than one wireless provider, or a single wireless provider utilizing more than one frequency band or spectrum, for the same or similar type of services.
- (16) **Concealed**
A tower, ancillary structure, or equipment compound that is not readily identifiable as such, and is designed to be aesthetically compatible with the natural environment or existing and proposed building(s) and uses on a site. There are two types of concealed facilities:
 - (a) **Antenna Attachments.** These include painted antenna and feed lines to match the color of a building or structure, faux windows, dormers or other architectural features that blend with an existing or proposed building or structure.
 - (b) **Freestanding.** Freestanding concealed tower's usually have a secondary, obvious function which may include church steeple, windmill, bell tower, clock tower, light standard, flagpole with or without a flag, or tree.
- (17) **Development Area**
The area occupied by a communications facility including areas inside or under an antenna-support structure's framework, equipment cabinets, ancillary structures, and/or access ways.
- (18) **Discontinued**
Any tower without any mounted transmitting and/or receiving antennas in continued use for a period of 180 consecutive days.
- (19) **Distributed Antenna System (DAS)**

A network of smaller, spatially separated antenna nodes located within the public right-of-way and installed on either existing or new utility poles and connected to a communications network. A DAS network splits the transmitted signal among several smaller antennas to provide coverage and reliability over the same area as a single traditional tower/ antenna.

- (20) **Equipment Compound**
The fenced-in area surrounding the base station equipment including the areas inside or under a tower's framework and ancillary structures such as equipment necessary to operate the antenna on the structure that is above the base flood elevation including cabinets, shelters, pedestals, and other similar structures.
- (21) **Equipment Cabinet**
Any structure above the base flood elevation including cabinets, shelters, pedestals, and other similar structures and used exclusively to contain radio or other equipment necessary for the transmission or reception of communication signals.
- (22) **FAA**
The Federal Aviation Administration.
- (23) **FCC**
The Federal Communications Commission.
- (24) **Feed Lines**
Cables used as the interconnecting media between the transmission/receiving base station and the antenna.
- (25) **Flush-Mounted**
Any antenna or antenna array attached directly to the face of the support structure or building such that no portion of the antenna extends above the height of the support structure or building. Where a maximum flush-mounting distance is given, that distance shall be measured from the outside edge of the support structure or building to the inside edge of the antenna.
- (26) **Geographic Search Ring**
An area designated by a wireless provider or operator for a new base station, produced in accordance with generally accepted principles of wireless engineering.
- (27) **Handoff Candidate**
A wireless communication facility that receives call transference from another wireless facility.
- (28) **Least Visually Obtrusive Profile**
The design of a communication facility and its equipment to present a visual profile that is the minimum profile necessary for the facility to properly function.
- (29) **Non-concealed**

A tower, ancillary structure, or equipment compound that is readily identifiable as such and can be either freestanding or attached.

(30) **Personal Wireless Service**

Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services as defined in the Telecommunications Act of 1996.

(31) **Public Safety Communications Equipment**

All communications equipment utilized by a public entity for the purpose of ensuring the safety its citizens and operating within the frequency range of 700 MHz and 1,000 MHz and any future spectrum allocations at the direction of the FCC.

(32) **Radio Frequency Emissions**

Any electromagnetic radiation or other communications signal emitted from an antenna or antenna-related equipment on the ground, tower, building, or other vertical projection.

(33) **Radio Frequency Propagation Analysis**

Computer modeling to show the level of signal saturation in a given geographical area.

(34) **Satellite Earth Station**

A single or group of parabolic or dish antennas mounted to a support device that may be a pole or truss assembly attached to a foundation in the ground, or in some other configuration, including the associated separate equipment cabinets necessary for the transmission or reception of communications signals with satellites.

(35) **Structure**

Anything constructed or erected, the use of which required permanent location on the ground, or attachment to something having a permanent location on the ground, including advertising signs.

(36) **Tower**

Any staffed or unstaffed location for the transmission and/or reception of radio frequency signals or other wireless communications, and usually consisting of an antenna or group of antennas, transmission cables, equipment cabinets, and may include a tower. The following developments shall be deemed a communications facility: new, mitigated, or existing towers, public towers, replacement towers, collocation on existing towers, attached wireless communications facilities, concealed wireless communication facilities, and non-concealed wireless communication facilities. Towers do not include any device used to attach antennas to an existing building, unless the device extends above the highest point of the building by more than twenty feet. Types of support structures include the following:

- (a) **Guyed.** A style of tower consisting of a single truss assembly composed of sections with bracing incorporated. The sections are attached to each other, and the assembly is attached to a foundation and supported by a series of wires that are connected to anchors placed in the ground or on a building.

- (b) **Lattice.** A tapered style of tower that consists of vertical and horizontal supports with multiple legs and cross bracing, and metal crossed strips or bars to support antennas.
- (c) **Monopole.** A style of freestanding tower consisting of a single shaft usually composed of two or more hollow sections that are in turn attached to a foundation. This type of tower is designed to support itself without the use of guy wires or other stabilization devices. These facilities are mounted to a foundation that rests on or in the ground or on a building's roof. All feed lines shall be installed within the shaft of the structure.

(37) **Tower Base**

The foundation, usually concrete, on which the tower and other support equipment are situated. For measurement calculations, the tower base is that point on the foundation reached by dropping a perpendicular from the geometric center of the tower.

(38) **Tower Height**

The vertical distance measured from finished grade to the highest point of the tower, including any antenna, lighting or other equipment affixed thereto.

(39) **Tower Site**

The land area that contains, or will contain, a proposed tower, support structures and other related buildings and improvements.

(D) **EXEMPTIONS**

The following items are exempt from the provisions of this Section:

- (1) Any amateur radio tower less than 50 feet in height or communications towers existing or permitted prior to the adoption of this Section.
- (2) Satellite earth stations that are one meter (39.37 inches) or less in diameter in all residential zoning districts and two meters or less in all other zoning districts.
- (3) A government-owned communications facility, upon the declaration of a state of emergency by federal, state, or local government, and a written determination of public necessity by the Town designee; except that such facility must comply with all federal and state requirements. No communications facility shall be exempt from this Section beyond the duration of the state of emergency.
- (4) A government-owned communications facility erected for the purposes of installing antenna(s) and ancillary equipment necessary to provide communications for public health and safety.
- (5) A temporary, commercial communications facility, for the purposes of providing coverage of a special event such as news coverage or sporting event, subject to approval by the Town, except that such facility must comply with all federal and state requirements. Said communications facility may be exempt from this Section for up to one week following the special event.

(E) **APPLICABILITY**

Unless specifically exempted above, this Section applies to development activity involving the installation, construction, or modification of all antenna and tower facilities. This includes but is not limited to:

- (1) Non-commercial, amateur radio station antennas.
- (2) Existing towers.
- (3) Proposed towers.
- (4) Public towers.
- (5) Mitigation of towers.
- (6) Collocation on existing towers.
- (7) Attached wireless communications facilities.
- (8) Concealed wireless communications facilities.
- (9) Non-concealed towers.
- (10) Broadcast facilities.

(F) **ABANDONMENT (DISCONTINUED USE)**

- (1) Towers, antennas, and the equipment compound shall be removed at the owner's expense should the facility/tower not have active antennas in use for a period of 180 days.
- (2) An owner wishing to extend the time for removal or reactivation shall submit an application stating the reason for such extension. The Town may extend the time for removal or reactivation up to 60 additional days upon a showing of good cause. If the tower or antenna is not removed within this time, the Town may give notice that it will contract for removal within 30 days following written notice to the owner. Thereafter, the Town may cause removal of the tower with costs being borne by the owner.
- (3) Upon removal of the tower, antenna, and equipment compound, the development area shall be returned to its natural state and topography and vegetated consistent with the natural surroundings or consistent with the current uses of the surrounding or adjacent land at the time of removal, excluding the foundation, which does not have to be removed.

(G) **CONFLICT WITH OTHER LAWS OR REGULATIONS**

When the requirements of this Section conflict with the requirements of other lawfully adopted rules, regulations, or ordinances of the Town, State or Federal Government, or deeds restrictions imposed by the developer or subdivider, the more stringent requirements shall govern.

(H) **INTERFERENCE WITH PUBLIC SAFETY COMMUNICATIONS**

In order to facilitate the regulation, placement, and construction of antenna, and to ensure that all parties are complying to the fullest extent possible with the rules, regulations, and/or guidelines of the FCC, each owner of an antenna, antenna array or applicant for a collocation shall agree in a written statement to the following:

- (1) Compliance with “Good Engineering Practices” as defined by the FCC in its rules and regulations.
- (2) Compliance with FCC regulations regarding susceptibility to radio frequency interference, frequency coordination requirements, general technical standards for power, antenna, bandwidth limitations, frequency stability, transmitter measurements, operating requirements, and any and all other federal statutory and regulatory requirements relating to radio frequency interference (RFI).
- (3) In the case of an application for co-located telecommunications facilities, the applicant, together with the owner of the subject site, shall use their best efforts to provide a composite analysis of all users of the site to determine that the applicant’s proposed facilities will not cause radio frequency interference with the Town’s public safety communications equipment and will implement appropriate technical measures, as described in antenna element replacements, to attempt to prevent such interference.
- (4) Whenever the Town has encountered radio frequency interference with its public safety communications equipment, and it believes that such interference has been or is being caused by one or more antenna arrays, the following steps shall be taken:
 - (a) The Town shall provide notification to all wireless service providers operating in the Town of possible interference with the public safety communications equipment, and upon such notifications, the owners shall use their best efforts to cooperate and coordinate with the Town and among themselves to investigate and mitigate the interference, if any, utilizing the procedures set forth in the joint wireless industry-public safety “Best Practices Guide,” released by the FCC in February 2001, including the “Good Engineering Practices,” as may be amended or revised by the FCC from time to time.
 - (b) If any equipment owner fails to cooperate with the Town in complying with the owner’s obligations under this section or if the FCC makes a determination of radio frequency interference with the Town public safety communications equipment, the owner who failed to cooperate and/or the owner of the equipment which caused the interference shall be responsible, upon FCC determination of radio frequency interference, for reimbursing the Town for all costs associated with ascertaining and resolving the interference, including but not limited to any engineering studies obtained by the Town to determine the source of the interference. For the purposes of this subsection, failure to cooperate shall include failure to initiate any response or action as described in the “Best Practices Guide” within 24 hours of Town’s notification.

(I) **BUILDING CODE REQUIREMENTS**

Towers shall be constructed and maintained in conformance with all applicable building code requirements.

(J) **ZONING PROCESS LEVELS**

Table 3-1 below indicates the zoning process for the different types of tower projects.

Table 3-1 Process

PROCESS LEVEL	APPROVAL AUTHORITY	PROCESS TYPE ¹	USE
I	Planning Department	P	Amateur radio no greater than fifty (50) feet in height
II	Planning Department	TRC	DAS network equipment, concealed towers, collocation, attached antennas, base station equipment
III	Town Council	TC	New towers other than those defined as concealed
IV	Town Council	TC	Broadcast facilities
Notes: 1. P - Permitted by right TRC - Subject to Technical Review Committee approval (staff level) TC - Subject to Special Use Permit approval by Town Council			

(1) **Process Level I**

The Zoning Compliance Permit issued by the Planning Department to an individual, corporation, partnership, or other entity to engage in the creation of amateur radio tower

(2) **Process Level II**

The Zoning Compliance Permit issued by the Planning Department (after Technical Review Committee approval) to an individual, corporation, partnership, or other entity to engage in the installation of DAS network equipment or concealed towers and collocation, attached antennas, base station equipment or antenna element replacements.

(3) **Process Level III**

The Special Use Permit issued by the Planning Department (after public hearing and approval by Town Council to an individual, corporation, partnership, or other entity to engage in the creation of new towers, excluding amateur radio towers.

(4) Process Level IV

The Special Use Permit issued by the Planning Department (after public hearing and approval by Town Council to an individual, corporation, partnership, or other entity to engage in the creation of new towers, specifically broadcast facilities.

(K) LOCATING ALTERNATIVES ORDER

(1) Locating of New Antenna Array & New Towers

Locating of a new antenna array and new tower shall be in accordance with the preferred location hierarchy provided in Table 3-2 below.

Table 3-2 Preferred Location Hierarchy

Ranking	Type
1	Concealed attached antenna
2	Collocated/combined/DAS antenna on existing tower
3	Replacement of existing tower
4	Non-concealed attached antenna
5	Concealed freestanding tower
6	Non-concealed freestanding tower

(2) Locating of Attached, Collocated, DAS, and Combined Antenna

For attached, co-located, or combined antenna, the order of ranking preference, highest to lowest, shall follow the same ranking as provided in Table 3-2 above. Where a lower ranked alternative is proposed, the applicant must file relevant information as required including, but not limited to, an affidavit by a radio frequency engineer demonstrating that despite diligent efforts to adhere to the established hierarchy within the geographic search area, higher ranked options are not technically feasible, practical or justified given the location of the proposed communications facility.

(3) Replacement of Existing Tower

For replacement of an existing tower, the order of ranking preference from highest to lowest shall follow the same ranking as provided in Table 3-2 above. Where a lower ranked alternative is proposed, the applicant must file relevant information as required including, but

not limited to, an affidavit by a radio frequency engineer demonstrating that despite diligent efforts to adhere to the established hierarchy within the geographic search area, higher ranked options are not technically feasible, practical or justified given the location of the proposed communications facility.

(4) **Freestanding Towers**

Where a freestanding tower is permitted, the order of ranking preference from highest to lowest shall follow the same ranking as provided in Table 3-2 above. Where a lower ranked alternative is proposed, the applicant must file relevant information as required and demonstrate higher ranked options are not technically feasible, practical, or justified given the location of the proposed communications facility, and the existing land uses of the subject and surrounding properties within 300 feet of the subject property.

(L) **APPLICATION REQUIREMENTS**

All tower applications shall contain the following:

- (1) Completion of the Town of Clayton's Site Plan and Tower Application.
- (2) Proof that a property and/or tower owner's agent has appropriate authorization to act upon the owner's behalf, if applicable.
- (3) Application Fee.
- (4) Site Plan.
- (5) Written statement indicating that the criteria set forth in Section 155.310 (H) are met.
- (6) For new towers: A determination of need demonstrating that no existing tower can accommodate the applicant's proposed use; or that use of such existing facilities would prohibit personal wireless services in the geographic search area to be served by the proposed tower.
- (7) Valid FCC license / approval, as applicable.

(M) **GENERAL DEVELOPMENT STANDARDS**

(1) **Visibility**

- (a) New towers shall be configured and located in a manner that shall minimize adverse effects including visual impacts on the landscape and adjacent properties.
- (b) New freestanding towers shall be designed to match adjacent structures and landscapes with specific design considerations such as architectural designs, height, scale, color, and texture.

- (c) A balloon test shall be required subsequent to the receipt of the photo simulations in order to demonstrate the proposed height of the new tower. The applicant shall arrange to raise a colored balloon no less than three feet in diameter at the maximum height of the proposed tower, and within fifty horizontal feet of the center of the proposed tower.
 - (d) The applicant shall meet the following for the required balloon test:
 - 1. Applicant must inform the Planning Department and abutting property owners in writing of the date and times, including alternative date and times, of the test at least 14 days in advance.
 - 2. The date, time, and location, including alternative date, time and location, of the balloon test shall be advertised in a locally distributed paper by the applicant at least seven but no more than 14 days in advance of the test date.
 - 3. The balloon shall be flown for at least four consecutive hours during daylight hours on the date chosen. The applicant shall record the weather during the balloon test.
 - 4. Re-advertisement will not be required if inclement weather occurs.
 - (e) New antenna mounts shall be flush-mounted, unless it is demonstrated through RF propagation analysis that flush-mounted antennas will not meet the network objectives of the desired coverage area.
 - (f) In residential zoning districts, new towers shall only be considered on lots whose principal use is not residential.
- (2) **Construction**
- (a) Grading shall be minimized and limited only to the area necessary for the new tower and equipment.
 - (b) Towers shall be constructed to accommodate antenna arrays as follows:
 - 1. All freestanding towers up to 120 feet in height shall be engineered and constructed to accommodate no less than four antenna arrays.
 - 2. All towers between 121 feet and 150 feet shall be engineered and constructed to accommodate no less than five antenna arrays.
 - 3. All towers between 151 feet and taller shall be engineered and constructed to accommodate no less than six antenna arrays.

- (c) Freestanding non-concealed tower shall be limited to monopole type towers, unless the applicant demonstrates that such design is not feasible to accommodate the intended uses.

(3) Setbacks

Freestanding towers and equipment compounds shall be subject to the setbacks described below:

- (a) If the tower has been constructed using breakpoint design technology (see 'Definitions'), the minimum setback distance shall be equal to 110 percent (110%) of the distance from the top of the structure to the breakpoint level of the structure, or the minimum side and rear yard requirements, whichever is greater. Certification by a registered professional engineer licensed by the State of North Carolina of the breakpoint design and the design's fall radius must be provided together with the other information required herein from an applicant. (For example, on a 100-foot tall monopole with a breakpoint at 80 feet, the minimum setback distance would be 22 feet (110 percent of 20 feet, the distance from the top of the monopole to the breakpoint) plus the minimum side or rear yard setback requirements for that zoning district.)
- (b) If the tower is not constructed using breakpoint design technology, the minimum setback distance shall be equal to the height of the proposed tower.

(4) Height

- (a) Height calculations shall include above ground foundations, but exclude lightning rods or lights required by the FAA that do not provide any support for antennas. It is intended that all new non-broadcasting towers be 150 feet or less in height. However, should a tower be required in excess of 151 feet, under no circumstance shall any tower exceed 300 feet. All new towers in excess of 151 feet shall be subject to the following additional requirements:
 - 1. Evidence that the antenna service area will be so substantially compromised that there would be a requirement of additional antenna array within a distance of two miles.
 - 2. The tower shall be designed to allow for a future reduction of elevation to no more than 150 feet, or the replacement of the tower with a monopole type structure at such time as the wireless network had developed to the point that such heights can be justified.
- (b) New concealed towers shall be limited to 150 feet or less in height. Height calculations shall include above ground foundations, but exclude lightning rods or lights required by the FAA that do not provide any support for antennas.

(5) **Equipment Compound**

- (a) Equipment compounds shall be completely screened from view and shall not be used for the storage of any excess equipment or hazardous materials. No outdoor storage yards shall be allowed in a tower equipment compound. The compound shall not be used as habitable space.
 - 1. Equipment cabinets shall be screened in accordance with Section 155.402(G)(4). Cabinets may be provided within the principal building, behind a screen on a rooftop, or on the ground within the fenced-in and screened equipment compound.

(6) **Parking**

Parking shall be required in accordance Section 155.401(C) of the UDC.

(7) **Fencing**

All equipment compounds shall be screened from view and enclosed with an opaque fence, masonry wall, landscaping, or combination thereof. Alternative equivalent screening may be approved through the site plan approval process described in Section 155.402 of the UDC.

(8) **Buffer**

The equipment compound shall be landscaped with a minimum 10 foot wide perimeter buffer containing the following planting standards:

- (a) All plants and trees shall be indigenous to eastern North Carolina.
- (b) Existing trees and shrubs on the site should be preserved and may be used in lieu of required landscaping with approval from the Planning Department.
- (c) One row of evergreen trees with a minimum two inch caliper, 25 foot on center.
- (d) Evergreen shrubs capable of creating a continuous hedge and obtaining a height of at least five feet shall be planted, minimum three gallon or 24 inches tall at the time of planting, five foot on center.
- (e) Alternative landscaping plans which provide for the same average canopy and understory trees but propose alternative locating on the entire subject property may be considered and approved by the Planning Department, provided the proposed alternative maximizes screening as provided above, and is otherwise consistent with the requirements of Section 155.402 of the UDC.

(9) **Signage**

Commercial messages shall not be displayed on any tower. Required noncommercial signage shall be limited to the following:

- (a) The only signage that is permitted upon a tower, equipment cabinets, or fence shall be informational, and for the purpose of identifying the tower (such as ASR registration number), as well as the party responsible for the operation and maintenance of the facility, and any additional security and/or safety signs as applicable.
- (b) If 220 volts or more is necessary for the operation of the facility and is present in a ground grid or in the tower, signs located every 20 feet and attached to the fence or wall shall display in large, bold, high contrast letters, minimum height of each letter four inches, the following: "HIGH VOLTAGE - DANGER."
- (c) Name plate signage shall be provided, in an easily visible location, including the address and telephone number of the contact to reach in the event of an emergency or equipment malfunction, including property manager signs as applicable.

(10) **Lighting**

Lighting on towers shall not exceed the Federal Aviation Administration (FAA) minimum standards. All other lighting shall be subject to the following.

- (a) Any lighting required by the FAA must be of the minimum intensity and number of flashes per minute (i.e., the longest duration between flashes) allowable by the FAA. Dual lighting standards are required and strobe light standards are prohibited unless required by the FAA.
- (b) Lights shall be oriented so as not to project directly onto surrounding property or rights-of-way, consistent with FAA requirements.

(N) **ADDITIONAL REQUIREMENTS FOR LEVEL II and LEVEL III FACILITIES**

(1) **Requirements for all Level II Facilities:**

- (a) Compliance with American National Standards Institute (ANSI) standards for electromagnetic radiation: In order to protect the public from excessive exposure to electromagnetic radiation, the facility applicant shall certify through a written statement that the facility meets or exceeds current ANSI standards as adopted by the FCC.
- (b) Certification furnished by a registered professional engineer licensed in the State of North Carolina that the structure has sufficient structural integrity to support the proposed antenna and feed lines in addition to all other equipment located or mounted on the structure.

- (c) One original and two copies of a survey of the property completed by a registered professional surveyor, licensed in the State of North Carolina showing all existing uses, structures, and improvements.
- (d) Any applicant for facilities under this section shall certify that such proposed facility shall comply with all applicable federal regulations regarding interference protection, including but not limited to federal regulations regarding adjacent channel receiver (blanket) overload and intermodulation distortion.

(2) Collocation & Combination (Level II)

The Town requires collocation and combining of antennas on existing communications towers as a first priority where collocation is possible. Collocations are subject to the following additional requirements:

- (a) A collocated or combined antenna or antenna array shall not increase the height of an existing tower by more than 10 percent or 20 feet, whichever is greater.
- (b) New antenna mounts shall be flush-mounted onto existing structures, unless it is demonstrated through radio frequency (RF) propagation analysis that flush-mounted antennas will not meet the network objectives of the desired coverage area.
- (c) The equipment cabinet shall be subject to the setback requirements of the underlying zoning district.
- (d) When a collocated or combined antenna is to be located on a nonconforming building or structure, then the existing permitted nonconforming setback shall prevail.
- (e) Collocation and eligible facilities requests of wireless support structures described in Section 160A-400.53 North Carolina General Statutes, shall meet all the following requirements:
 - 1. The additional antenna array, transmission lines, and related ancillary equipment including the base station do not exceed the number of same items previously approved for such tower when originally approved, and the collocated facility is in complete conformance with the original conditions imposed on the tower upon which it is being attached.
 - 2. The proposed collocation shall not increase the overall height of the tower or support structure to which the proposed infrastructure is to be attached by the greater of (i) more than ten percent (10%) or (ii) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.
 - 3. The collocation shall not increase the ground space area approved in the communications tower site plan for equipment enclosures and ancillary facilities by more than 2,500 square feet.

4. The collocation shall not, except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, add an appurtenance to the body of a communications tower that protrudes horizontally from the edge of the tower the greater of (i) more than 20 feet or (ii) more than the width of the tower at the level of the appurtenance increase.
 5. The existing tower on which the collocation will attach shall comply with applicable regulations, restrictions, and/or conditions, if any, applied to the initial wireless facilities placed on the tower.
 6. The proposed additional collocation and tower shall comply with all federal, state, and local safety requirements.
 7. The proposed collocation and ancillary equipment shall not exceed the applicable weight limits for the tower.
- (f) Applications for collocation entitled to processing pursuant to Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012 (47 USC §1445(a)) shall be approved provided they meet the following requirements:
1. A collocation on an existing antenna-supporting structure shall not increase the overall height of the antenna-supporting structure, antenna and/or antenna array more than 10% or 20 feet, whichever is greater, and shall not cause the width (girth) of the structure to be increased more than 20 feet or the existing girth of the structure, whichever is greater.
 2. Any collocation on an existing antenna-supporting structure shall meet current building code requirements (including windloading).
 3. A collocation shall not add more than four additional equipment cabinets or one additional equipment shelter.
 4. A collocation shall not require excavation outside of existing leased or owned parcel or existing easements.
 5. Proposed collocations that do not meet these standards shall be processed as a Level III application.
- (g) Collocation approvals entitled to processing pursuant to Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012 (47 USC §1445(a)) are subject to the following:
1. A collocation application shall be deemed complete unless the Town notifies the applicant within 45 days of submission (or within some other mutually agreed upon timeframe) that the submission is incomplete. Notices of application incompleteness shall identify the deficiencies in the application which, if cured,

would make the application complete. Approval or denial of a complete application shall be in writing and shall be postmarked to the applicant by the 45th day after the submission is deemed complete.

2. Upon resubmitting of the revised application the Town shall follow the process identified in this section, above, until all deficiencies identified are deemed cured.
 3. If the Town does not respond in writing to the applicant within the specified timeframe detailed above, then the application shall be deemed approved.
 4. Applications subject to this review process shall not be subject to design or placement requirement, or public hearing review. All applications shall be initially submitted to the Planning Department for review and processing.
- (h) New concealed and non-concealed towers shall be reviewed and have a decision rendered within 150 days of receipt of the application.

(3) Attachment: Concealed & Non-Concealed (Level II)

Antennas may be mounted onto a structure which is not primarily constructed for the purpose of holding attachment antennas but on which one or more antennas may be mounted. Attached antenna shall be subject to the following:

- (a) The top of the attached antenna shall not be more than 20 feet above the existing or proposed building or structure
- (b) Non-concealed attachments shall only be allowed on electrical transmission towers and existing light stanchions subject to approval by the Technical Review Committee and utility company.
- (c) When an attached antenna is to be located on a nonconforming building or structure, the existing permitted nonconforming setback shall prevail.
- (d) Except for non-concealed attached antennas, feed lines and antennas shall be designed to architecturally match the façade, roof, wall, and/or structure on which they are affixed so that they blend with the existing structural design, color, and texture.

(4) Antenna Element Replacement (Level II)

For any replacement of an existing antenna element on an antenna, the applicant must, prior to making such modifications, submit the following:

- (a) A written statement setting forth the reasons for the modification.
- (b) A description of the proposed modifications to the antenna, including modifications to antenna element design, type and number, as well as changes in the number and/or

size of any feed lines, from the base of the equipment cabinet to such antenna elements.

- (c) A signed statement from a qualified person, together with their qualifications, shall be included representing the tower's owner or owner's agent that the radio frequency emissions comply with FCC standards for such emissions. The statement shall also certify that both individually and cumulatively, and with any other facilities located on or immediately adjacent to the proposed facility, the replacement antenna complies with FCC standards.
- (d) A stamped or sealed structural analysis of the existing structure prepared by a registered professional engineer licensed by the State of North Carolina indicating that the existing tower as well as all existing and proposed appurtenances meets North Carolina Uniform Statewide Building Code (USBC) requirements, including wind loading, for the antenna support structure.

(5) **DAS Equipment (Level II)**

(a) ***System Design Review***

A DAS applicant, prior to its initial application for a DAS facility, shall furnish an overall system design application to the Planning Department for review and approval by the Technical Review Committee. The system design application shall include the following information:

1. A statement of the identity and number of wireless services providers that will utilize the DAS systems;
2. A statement that the DAS system will be capable of accommodating at least eight (8) wireless service providers on the proposed system
3. A graphic depiction of the conceptual plan for the proposed total area of service coverage by the DAS system;
4. A statement of the number of handoff facilities for the DAS system;
5. A proposed build-out timeline and graphic depiction of the build-out phases through completion.

(b) ***Equipment Design Review***

A DAS applicant, prior to its initial application for a DAS facility, shall furnish an equipment design application to the Planning Department for review and approval by the Technical Review Committee. The equipment design application shall include the following information for each proposed design:

1. Elevation of the antenna and/or antenna support structure to include the following proposed dimensions: height, width and breadth. Height shall include the base, the antenna support structure, and lightning rod.
2. Elevation views of any security barrier or equipment compound, indicating architectural design, exterior appearance and materials, including color.
3. Mounting location on antenna support structure or building, including height AGL).
4. Identification of all mounting frames, arms, brackets or other devices or equipment used to hold antennas and other equipment in place.
5. Equipment brochures or drawings for the proposed facility, shall be provided for antennas, support structures/mounts, equipment shelters, feed lines and security barrier, if any.
6. Photo-simulated post-construction renderings of a sampling of completed proposed DAS facilities, equipment compound and/or equipment cabinets, ancillary structures, and landscaping, if any, from locations determined at the pre-application conference. The views shall incorporate before and after scenarios, a scaled color image of the proposed type of facility, an aerial map with the location of the selected views, and a description of the technical approach used to create the photo simulations. The simulations shall include a minimum of four vantage points (north, south, east, and west).
7. Individual sample site plan (no larger than 24 inches by 36 inches with an 8½ inch by 11 inch reduced copy) prepared and certified by a North Carolina-licensed professional engineer shall include all information listed on the DAS application checklist, and including existing or proposed public rights-of-ways, private roads and/or access easements through, on, or adjacent to the subject property.
8. Applicants should submit the information required by subsections (1) through (7) above for each design, if multiple designs are proposed.

(c) ***Individual Component Application and Approval***

Following approval of the DAS system design and DAS equipment design by the Technical Review Committee, a DAS applicant shall submit applications for individual DAS installations to the Planning Department for administrative approval provided the individual application provides documentation certifying it is consistent with the system design and equipment design standards previously approved in subsections (a) and (b) above.

(6) **Replacement of Existing Towers**

For a replacement of an existing tower with a new structure, the applicant must submit the following items outlined in subsection (7) below for new towers, including items (c) through (h), (k) through (p) and (r).

- (a) The height of a tower approved for replacement shall not exceed one hundred and fifteen percent (115%) of the height of the tallest tower that is being mitigated.

(b) **Level III**

The height of a tower may exceed one hundred and fifteen percent (115%) of the height of the tallest tower that is being mitigated with evidence that the new tower will eliminate the need for an additional antenna array within a distance of two (2) miles. Under no circumstance shall any mitigated tower exceed a height of 300 feet.

1. Height & Setbacks

A new tower approved for replacement of an existing tower shall not exceed one hundred and fifteen percent (115%) of the height of the existing tower and shall not be required to meet new setback standards so long as the new tower and its equipment compound are no closer to any property lines or dwelling units as the tower and equipment compound being replaced. The intent is to encourage the replacement process, not penalize the tower owner for the change out of the old facility.

1. Buffers

At the time of replacement, the tower equipment compound shall be brought into compliance with any applicable buffer requirements.

2. Visibility

Replacement towers shall be configured and located in a manner that minimizes adverse effects on the landscape and adjacent properties, with specific design considerations as to height, scale, color, texture, and architectural design of the buildings on the same and adjacent zoned lots.

(7) **New Towers (Level III)**

All new towers shall submit the following addition information as a part of a complete application:

- (a) A report and supporting technical data shall be submitted, demonstrating the following:
 - 1. All antenna attachments and collocations, including all potentially useable cross country utility distribution towers and other elevated structures within the proposed service area and alternative antenna configurations have been examined, and found unacceptable.

2. Reasoning as to why existing facilities such as cross country utility distribution and other elevated structures are not acceptable alternatives to a new freestanding tower.
3. Reasoning as to why the adequacy of alternative existing facilities or the mitigation of existing facilities are not acceptable in meeting the applicant's need or the needs of service providers, indicating that no existing communications facility could accommodate the applicant's proposed facility shall consist of any of the following:
 - B. No existing towers located within the geographic area meet the applicant's engineering requirements, and why.
 - C. Existing towers are not of sufficient height to meet the applicant's engineering requirements, and cannot be mitigated to increase in height.
 - D. Existing towers do not have sufficient structural integrity to support the applicant's proposed wireless communications facilities and related equipment, and the existing facility cannot be sufficiently improved.
 - E. Other limiting factors that render existing wireless communications facilities unsuitable.
- (b) Technical data included in the report shall include certification by a registered professional engineer licensed in the State of North Carolina or other qualified professional, which qualifications shall be included, regarding service gaps or service expansions that are addressed by the proposed tower, and accompanying maps and calculations demonstrating the need for the proposed tower.
- (c) Signed statement from a qualified person, together with their qualifications, shall be included that warrants radio frequency emissions from the antenna array(s) comply with FCC standards. The statement shall also certify that both individually and cumulatively, and with any other facilities located on or immediately adjacent to the proposed facility, the replacement antenna complies with FCC standards.
- (d) A stamped or sealed structural analysis of the proposed tower prepared by a registered professional engineer licensed by the State of North Carolina indicating the proposed and future loading capacity of the tower is compliant with EIA/TIA-222-G (as amended) for either Johnston or Wake County, North Carolina, as appropriate.
- (e) An affidavit by a radio frequency engineer demonstrating compliance with 'Locating Alternatives Order' located in Section 155.310(K) above. If a lower ranking alternative is proposed the affidavit must address why higher ranked options are not technically feasible, practical, and/or justified given the location of the proposed communications facility.

- (f) Statement as to the potential visual and aesthetic impacts of the proposed tower and equipment on all adjacent residential zoning districts.
- (g) Written statement by a registered professional engineer licensed by the State of North Carolina specifying the design structural failure modes of the proposed facility.
- (h) Statement certifying that sound levels shall not exceed seventy decibels (70 db) at the related property line.
- (i) A map showing the designated search ring.
- (j) A radio frequency propagation plot indicating the coverage of existing antenna sites, coverage prediction, and design radius, together with a certification from the applicant's radio frequency (RF) engineer that the proposed facility's coverage or capacity potential cannot be achieved by any higher ranked alternative such as a concealed facility, attached facility, replacement facility, collocation, or new tower.
 - 1. These documents are needed to verify the proposed parameters of a facility and to determine if the proposed location is the best suitable land use in the designated geographic area of the proposed facility in accordance with applicable state and federal standards for communications facility siting.
- (k) One original and two copies of a survey of the property completed by a registered professional engineer, licensed in the State of North Carolina showing all existing uses, structures, and improvements.
- (l) Signed and sealed site plans shall include the following:
 - 1. Name of project and date.
 - 2. Deed Book, and Page and Map Book and Page Reference.
 - 3. Scale, north arrow, and vicinity map.
 - 4. Subject property information including zoning, watershed classification, and percent coverage of lot to be impervious surface (if located in a designated watershed area).
 - 5. Adjacent property information, including land owners, land uses, height of principal building, size of lots, zoning, and land use designation.
 - 6. Tower elevations.
 - 7. Landscape buffering plans.
 - 8. Maximum height of the proposed tower and proposed and future mounting elevations of future antenna, including individual measurement of the base, the tower, and lightning rod.

9. Location, classification, and size of all major public or private streets and rights-of-way.
 10. Identify adjacent features within 500 feet of property boundary including driveways, public parking areas, pedestrian ways, trails, and any other pertinent features.
 11. Two reduced copies (8½"×11"), of the foregoing preliminary grading plans may be included on site plans or separately submitted in equal quantities.
- (a) Title report or American Land Title Association (A.L.T.A.) survey showing all easements on the subject property, together with a full legal description of the property.
 - (m) List of adjacent property owners and keyed to the map. The list must be from the most current ownership information supplied by the appropriate County Tax Department, together with two sets of mailing labels for such property owners. Applicant will also provide a notarized Certification Letter stating the ownership list referenced herein is accurate to the best of the applicant's ability.
 - (n) Simulated photographic evidence of the proposed tower and antenna appearance from any and all residential areas within 1,500 feet and vantage points approved by the Planning Department including the facility types the applicant has considered and the impact on adjacent properties. The simulations shall include depictions of:
 1. Overall height
 2. Configuration
 3. Physical location
 4. Mass and scale
 5. Materials and color
 6. Illumination
 7. Architectural design
 - (o) All other documentation, evidence, or materials necessary to demonstrate compliance with the applicable approval criteria set forth in this Section.
 - (p) A pre-application conference will be required for any new tower. The applicant shall demonstrate that the following notice was mailed (via certified mail) to all other wireless service providers licensed to provide service within the Town as indicated on the list of wireless service providers provided by the Town:

"Pursuant to the requirements set forth in Section 155.310 of the Town of Clayton Unified Development Code, [TOWER PROVIDER] is hereby providing you with

notice of our intent to meet with the Town Staff in a pre-application conference to discuss the location of a free-standing wireless communications facility that would be located at _____ (physical address, latitude and longitude (NAD-83)). In general, we plan to construct a tower of _____ feet in height for the purpose of providing _____ (type of wireless service) _____. Please inform the Town staff if you have any desire for placing additional wireless facilities or equipment within two miles of our proposed tower. Please provide us with this information within 20 business days after the date of this letter. Your cooperation is sincerely appreciated.

Sincerely, (pre-application applicant, wireless provider)"

- (q) Prior to issuance of a building permit, proof of FAA compliance with Subpart C of the Federal Aviation Regulations, Part 77, and "Objects Affecting Navigable Airspace," if applicable.

(O) **ADDITIONAL REQUIREMENTS FOR LEVEL IV (BROADCAST) FACILITIES**

(1) **Broadcast Facilities**

All new broadcast facilities shall submit the following addition information as a part of a complete application:

- (a) Technical data included in the report shall include the purpose of the proposed facility as described in the FCC Construction Permit Application.
- (b) Signed statement from a qualified person, together with their qualifications, shall be included that warrants radio frequency emissions from the antenna array(s) comply with FCC standards regarding interference to other radio services. The statement shall also certify that both individually and cumulatively, and with any other facilities located on or immediately adjacent to the proposed facility, the replacement antenna complies with FCC standards regarding human exposure to RF energy.
- (c) A stamped or sealed structural analysis of the proposed tower prepared by a registered professional engineer licensed by the State of North Carolina indicating the proposed and future loading capacity of the tower is compliant with EIA/TIA-222-G (as amended) for either Johnston or Wake County, North Carolina, as appropriate.
- (d) Statement certifying that no unusual sound emissions such as alarms, bells, buzzers, or the like are permitted. Emergency Generators are permitted. Sound levels shall not exceed seventy decibels (70 db).
- (e) One original and two copies of a survey of the property completed by a registered professional engineer, licensed in the State of North Carolina showing all existing uses, structures, and improvements.
- (f) Six sets (24"x36") of signed and sealed site plans shall include the following:

1. Name of project and date
 2. Deed Book, and Page and Map Book and Page Reference
 3. Scale, north arrow, and vicinity map
 4. Subject property information including zoning, watershed classification, percent coverage of lot to be impervious surface (if located in a designated watershed area)
 5. Adjacent property information including land owners, land uses, height of principal building, size of lots, and existing zoning and land use
 6. Landscape buffering plans
 7. Maximum height of the proposed tower and/or antenna, including individual measurements of the base, tower, and lightning rod
 8. Location, classification, and size of all major public or private streets and rights-of-way
 9. Identify adjacent features within 500 feet of property boundary including driveways, public parking areas, pedestrian ways, trails, and any other pertinent features
 10. Two reduced copies (8½"x11"), of the foregoing preliminary grading plans may be included on site plans or separately submitted in equal quantities.
 11. Structure elevations
- (g) Title report or American Land Title Association (A.L.T.A.) survey showing all easements on the subject property, together with a full legal description of the property.
- (h) List of property owners within 1,000 feet in residential zoning districts and 500 feet in all other zoning districts and keyed to the map. The list must be from the most current ownership information supplied by the appropriate County Tax Department, together with two sets of mailing labels for such property owners. Applicant will also provide a notarized Certification Letter stating the ownership list referenced herein is accurate to the best of the applicant's ability.
- (i) A pre-application conference will be required for any new broadcast facility.
- (j) Prior to issuance of a building permit, proof of FAA compliance with Subpart C of the Federal Aviation Regulations, Part 77, and "Objects Affecting Navigable Airspace," if applicable.

(2) Supplemental Requirements for Broadcast Facilities

All new broadcast facilities shall meet the following supplemental requirements:

(a) **Determination of Need**

No new broadcast facilities shall be permitted unless the applicant demonstrates that no existing broadcast tower can accommodate the applicant's proposed use.

(b) **Height**

Height for broadcast facilities shall be evaluated on a case by case basis. The determination of height contained in the applicant's FCC Form 351/352 Construction Permit or application for Construction Permit and an FAA Determination of No Hazard (FAA Form 7460/2) shall be considered prima facie evidence of the tower height required for such broadcast facilities.

(c) **Setbacks**

New broadcast facilities and anchors shall be subject to the setbacks described below:

1. Minimum of 500 feet from any single-family dwelling unit on same lot.
1. Minimum of one foot for every one feet of tower height from all adjacent lots of record.

(d) **Equipment Cabinets**

Except for AM broadcast facilities, cabinets shall not be visible from pedestrian and right-of-way views.

(e) **Fencing**

All broadcast facility towers, AM antenna(s) towers, and guy anchors shall each be surrounded with an anti-climbing fence compliant with applicable FCC regulations.

(f) **Buffer**

Except for AM broadcast facilities, it is the intent that all pedestrian views from public rights-of-way and adjacent residential land uses be screened from proposed broadcast facilities using existing vegetation or be landscaped with a minimum 10 foot wide perimeter buffer containing the following planting standards:

1. All plants and trees shall be indigenous to this part of North Carolina.
2. Existing trees and shrubs on the site should be preserved and may be used in lieu of required landscaping where approved by the Planning Department.

3. One Row of evergreen trees with a minimum two inches caliper, 25 foot on center.
4. Evergreen shrubs capable of creating a continuous hedge and obtaining a height of at least five feet shall be planted, minimum three gallon or 24 inches tall at the time of planting, five foot on center.
5. Alternative landscaping plans which provide for the same average canopy and understory trees but propose alternative locating on the entire subject property may be considered and approved by the Planning Department, provided the proposed alternative maximizes screening as provided above, and is otherwise consistent with the requirements of this section.

(P) **ADMINISTRATION, ENFORCEMENT, AND PENALTIES**

(1) **Administration**

This Section shall be administered and enforced by the Planning Director or designee. The Town may, through contract, secure the professional services of telecommunications consultants to assist Town staff in the implementation of this Section. Such professional services include, but are not limited to, review and evaluation of permit applications, determination of compliance with existing and proposed Federal regulations, minimization of the aesthetic impact, review of the technical data and expert testimony as needed.

(2) **Enforcement and Penalties**

If the Planning Director or designee shall find that any of the provisions of this Section are being violated, it shall notify in writing the person responsible for the violation, specifying the nature of the violation and what corrective measures must be taken. The Planning Director or designee shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by law to insure compliance with or to prevent violation of the provisions of this Section.

(3) **Penalties**

Any person failing to take corrective action within a reasonable time after receiving written notice from the Planning Department and any person operating a Communications Tower without a valid permit shall be guilty of a misdemeanor and subject to the enforcement provisions listed in Section 155.720 of the Unified Development Code.

(4) **Fees**

The Town Council shall set a fee, payable to the Town to cover the necessary processing cost of all Communications Tower Permits. The set fee shall be posted in the Town's Comprehensive List of Fees and Charges.

(5) Supplemental Review

The Town reserves the right to require a supplemental review for any Process Level (I, II, III, or IV) subject to the following:

- (a) Where due to the complexity of the methodology or analysis required to review an application for a Process Level (I, II, III or IV), the Town may require the applicant to pay for a technical review by a third party expert, the costs of which shall be borne by the applicant and be in addition to other applicable fees. Schedules of current fees are listed in the Town Fee Schedule.
- (b) Based on the results of the expert review, the approving authority may require changes to the applicant's application or submittals.
- (c) The supplemental review may address any or all of the following:
 - 1. The accuracy and completeness of the application and any accompanying documentation.
 - 2. The applicability of analysis techniques and methodologies.
 - 3. The validity of conclusions reached.
 - 4. Whether the proposed communication facility complies with the applicable approval criteria set forth in these codes.
 - 5. Other items deemed by the Town to be relevant to determining whether a proposed communications facility complies with the provisions of these codes.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-05-02, passed 5-7-07; Am. Ord. 2007-05-03, passed 5-7-07; Am. Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12)

Article 3 / Specific Use Standards
§155.311 Outdoor Dining, Display and Storage

|| (Ord. 2013-10-02, passed 10-7-13; Ord. 2017-04-06, approved 04/03/2017)

Commented [HH1]: Relocated to 155.308

TOWN OF CLAYTON
ORDINANCE AMENDMENT
CONSISTENCY AND REASONABLENESS STATEMENT
[2019-106-OA Accessory Use Ordinance Amendment]

The Town Council of the Town of Clayton hereby states:

Section 1: The above referenced ordinance amendment IS APPROVED.

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

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

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

The requested ordinance amendment is consistent with the above referenced goal within the Comprehensive Plan 2040. The proposed amendment seeks to modify the UDC to add a section to the Use Table to reference permitted accessory uses within residential and non-residential zoning districts. Most of the accessory uses outlined in the new section of the Use Table are already permitted elsewhere in the UDC. The proposed amendment also creates two new accessory uses that are not currently outlined in the Unified Development Code. This amendment will allow for additional growth and development opportunities within the Town.

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

that the ordinance amendment is consistent with the Comprehensive Plan 2040,

the above referenced ordinance amendment is reasonable and in the public interest.

**TOWN OF CLAYTON
PLANNING BOARD WRITTEN RECOMMENDATION
Ordinance Amendment**

2019-106-OA Accessory Uses Ordinance Amendment

On June 24, 2019 the Planning Board heard the above-referenced request and made the following vote:

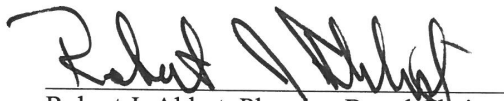
Recommendation to the Town Council to:

☒ approve the request.

☐ deny the request.

Recommendation(s) made this 24th day of June, 2019 while in regular session.

Signed:


Robert J. Ahlert, Planning Board Chair

PUBLIC NOTICE

In accordance with NC GS 160A-364, the Clayton Town Council will hold a public hearing on Monday, July 15, 2019, at 6:00 PM in the Council Chambers at the Clayton Center, 111 E Second Street, to consider the following amendment to the Unified Development Code: 2019-106-OA Accessory Uses Ordinance Amendment. Copies of the proposed amendment are available in the Planning office and the Town Clerk's office for review by the public. Title XV, Chapter 155 is proposed to be amended to modify the following sections:

- 202: Use Table
- 308: Use Definitions
- 311: Outdoor Dining, Display, and Storage

The public is invited to attend.

Haley Hogg, Planner II
919-553-5002

The Johnstonian Newspaper

Please advertise on the following dates:
July 3, 2019
July 10, 2019

Affidavit of publication required.

**Town of Clayton
Town Council
Text Amendment Motion Sheet**

After considering the recommendations of the Planning Board and Planning Director, I move to [approve OR deny] **Case Number 2019-106-OA**

[IF APPROVING]

and to approve the Statement of Consistency and Reasonableness included in the Agenda packet [with the following modifications: STATE MODIFICATIONS, IF ANY].

MOTION FORM
Item # 6e
2019-106-OA
Accessory Use

TOWN OF CLAYTON
Amendment to the Code of Ordinances:
Chapter 155, Sections 202 and 308

BEING HEREBY AOPTED BY THE TOWN COUNCIL FOR THE TOWN OF CLAYTON, NORTH CAROLINA, to amend Chapter 155, Sections 202 and 308 to read as follows

§ 155.202 LAND USE REGULATIONS

(A) USE REGULATIONS TABLE

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

(1) Key to Types of Use

- (a) ***Permitted.*** A "P" indicates that a use is permitted in the respective district subject to the specific use standards in §§ 155.300 through 155.311. Such uses are also subject to all other applicable requirements of this chapter.
- (b) ***Conditional Use Review.*** A "C" indicates a use that may be permitted in the respective general use district only where approved by the Board of Adjustment in accordance with § 155.710. Conditional uses are subject to all other applicable requirements of this chapter, including the specific use standards contained in §§ 155.300 through 155.311, except where such use standards are expressly modified by the Board of Adjustment as part of the conditional use approval.
- (c) ***Special Use Review.*** An "S" indicates a use that may be permitted in the respective general use district only where approved by the Town Council in accordance with § 155.711. Special uses are subject to all other applicable requirements of this chapter, including the specific use standards contained in §§ 155.300 through 155.311, except where such use standards are expressly modified by the Town Council as part of the special use approval.
- (d) ***Specific Use Section.*** The "Specific Use Section" column on the table is a cross-reference to any specific use standard listed in §§ 155.300 through 155.311. Where no cross-reference is shown, no additional use standard shall apply.
- (e) ***Uses Not Permitted.*** A blank cell in the use table indicates that a use is not permitted in the respective district. Except as pursuant to §155.110 and §155.300, the following uses are entirely prohibited within the jurisdiction of the Town, although such enumeration shall not necessarily be deemed exclusive or all-inclusive:
 - 1. Open dump;

2. Outdoor gun range; and
3. Any use prohibited by an applicable overlay zoning district.

(2) Uses

Table 2-1 “Use Regulations” lists the principal uses regulated by this chapter for general use districts. For special use districts see § 155.200(B), for overlay districts see § 155.204, for planned development districts see § 155.203(L), and for accessory structures and uses see § 155.308. In all cases, additional clarification and/or restrictions may be found in the Specific Use Standards (Article 3 of this chapter).

§ 155.202 - Table 2-1 Use Regulations

Use Type	Zoning Districts												Specific Use Section
	Residential				Nonresidential								
	R-E	R-10	R-8	R-6	O-R	O-I	B-1	B-2	B-3	I-1	I-2	PF	
Residential Uses													
Adult Care Home (2-6 Adults)	P	P	P	P									\$155.301(A)
Adult Care Home (7-12 Adults)	S	S	S	S	S	S		S					\$155.301(A)
Adult Care Home (13+ Adults)						S		S					\$155.301(A)
Apartments		S	S	S	S	S	S	S	S				\$155.301(B)
Boarding House				C		C		C					\$155.301(C)
Child Care Home	C	C	C	C	C								\$155.301(D)
Duplex		S	S	S	S								\$155.301(H)
Manufactured Home	P												\$155.301(E)
Manufactured Home Park	S												\$155.301(F)
Nursing Home (Congregate Living Facility)	C					P		S	P				\$155.301(G)
Townhouse		S	S	S	S	S	S	S	S				\$155.301(I)
Security/Caretaker Quarters	C								C			C	\$155.301(J)
Single Family House	P	P	P	P	P								\$155.301(K)
Upper-story Residence	S	S	S	S	S	P	P	P	P				\$155.301(L)
Zero Lot Line House		P	P	P									\$155.301(M)
Public and Civic Uses													
Assembly	C					P		C	C			P	\$155.302(A)
Cemetery	S								S			P	\$155.302(B)
Church or Place of Worship	C	C	C	C		C		C	C				\$155.302(C)
College or University						P						P	\$155.302(D)
Day Care Facility	C	C	C	C	C	P		P	P				\$155.302(E)
Government Service	S	S	S	S	P	P	P	P	P	P	P	P	\$155.302(F)
Hospital or Medical Center						P			P			P	\$155.302(G)
School (Elementary or Secondary)	S	S	S	S		S						P	\$155.302(H)
School (Technical, Trade or Business)	S	S	S	S		P			P	P	P	P	\$155.302(I)
Recreational Uses													
Entertainment, Indoor						C	C	C	P	P		P	\$155.303(A)
Entertainment, Outdoor									C	P		P	\$155.303(B)
Fitness/Recreation Center						P	C	P	P	P		P	\$155.303(C)
Golf Course	P	P	P	P								P	\$155.303(D)
Gun Range							S		S	S	S	S	\$155.303(E)
Park	P	P	P	P	S	P	S	P				P	\$155.303(F)
Stable, Private	P												\$155.303(G)
Agricultural Uses													
Agriculture, Livestock	C										C		\$155.304(A)
Agriculture, Sales and Service	P										C		\$155.304(B)
Nursery	P					C	S	C	P			P	\$155.304(C)

Use Type	Zoning Districts												Specific Use Section
	Residential				Nonresidential								
	R-E	R-10	R-8	R-6	O-R	O-I	B-1	B-2	B-3	I-1	I-2	PF	
Commercial Uses													
Adult Oriented Business										S			\$155.305(A)
Bed and Breakfast	P			C	C	P	S	P					\$155.305(B)
Car Wash/Auto Detailing						C		P	P				\$155.305(C)
Contractor Office						C			C	P	P		\$155.305(D)
Convenience Store with Gas Sales								C	P	P			\$155.305(F)
Creative Studio					P	P	P	P	P				\$155.305(G)
Financial Institution					C	P	S	P	P				\$155.305(H)
Funeral Home	C				C	P							\$155.305(I)
Hotel/Motel						S	S	S	P				\$155.305(J)
Kennel	C							C	C				\$155.305(K)
Laundry Services								C	C	P	P		\$155.305(L)
Lounge, Cocktail							S	S	S	S			\$155.305(M)
Microbrewery							P	S	P	P	P		\$155.305(N)
Publisher						P			P	P	P		\$155.305(O)
Office, General					P	P	P	P	P	P		P	\$155.305(P)
Office, Medical					P	P	S	P	P				\$155.305(Q)
Outdoor Seating/Sidewalk Cafe						C	P	P	C				\$155.305(R)
Parking Lot						S	S	S	S	S	S	S	\$155.305(S)
Pawn Shop									C	P			\$155.305(T)
Radio or Television Studio									P	P	P		\$155.305(U)
Restaurant						C	P	P	P				\$155.305(T)
Retail Sales							P	P	P	P			\$155.305(U)
Self-storage Facility									C	P			\$155.305(V)
Service					S	S	P	P	P				\$155.305(W)
Storage Yard										C	P	P	\$155.305(E)
Tattoo Parlor									S				\$155.305(X)
Towing Service and Storage									S	C	C		\$155.305(Y)
Vehicle Repair or Service									S	P	C		\$155.305(Z)
Vehicle Sales and Rental									S	P	C		\$155.305(AA)
Veterinary Clinic						C		C	P				\$155.305(BB)
Video Sweepstakes Operations										S			\$155.305(CC)
Industrial Uses													
Building Supplies, Wholesale										P	P		\$155.306(A)
Crematorium										P	P		\$155.306(B)
Gas and Fuel, Wholesale										P	P	P	\$155.306(C)
Laboratory, Research						P				P	P		\$155.306(D)
Manufacturing, Light										P	P		\$155.306(E)
Manufacturing, Heavy											P		\$155.306(F)
Research and Development						P				P	P		\$155.306(G)
Warehouse, Freight Movement									C	P	P		\$155.306(H)
Utilities													
Recycling Center										S	P	P	\$155.307(A)
Renewable Energy Facility	S									S	S	S	\$155.307(B)
Telecommunication Facility	S	S	S	S	S	S	S	S	S	S	S	S	\$155.307(C)
Utility, Minor	P	P	P	P	P	P	P	P	P	P	P	P	\$155.307(D)
Utility, Major										P	P	P	\$155.307(E)
Waste Service										C	P	P	\$155.307(F)
Accessory Uses													
Accessory Dwelling Unit	C	C	C	C									155.308(C)(1)
Food Truck						P	P	P	P	P		P	155.308(D)(2)
Day Care Facility	C	C	C	C		P		P	P	P	P		155.308(E)(3) 155.308(D)(3)
Park									P			P	155.308(D)(4)
Outdoor Display/Sales							P	P	P				155.308(D)(5)
Outdoor Dining						P	P	P	P				155.308(D)(6)
Outdoor Storage, Limited									S	P	P	P	155.308(D)(7)
Outdoor Storage, General										P	P	P	155.308(D)(8)

Use Type		Zoning Districts												Specific Use Section
		Residential				Nonresidential								
		R-E	R-10	R-8	R-6	O-R	O-I	B-1	B-2	B-3	I-1	I-2	PF	
	Key:													
	P – Permitted													
	C – Conditional Use permitted in the zoning district only if approved by the Board of Adjustment (BOA) (§ 155.710)													
	S – Special Use permitted in the zoning district only if approved by the Town Council (TC) (§ 155.711)													

(Ord. 2005-11-02, adopted 11/21/2005; Am. Ord. 2006-06-01, adopted 06/19/2006; Am. Ord. 2007-04-05, adopted 04/02/2007; Am. Ord. 2007-05-02, adopted 05/07/2007; Am. Ord. 2009-06-06, adopted 06/01/2009; Am. Ord. 2009-08-03, adopted 08/03/2009; Am. Ord. 2012-01-04, adopted 01/03/2012; Am. Ord. 2012-04-02, adopted 04/02/2012; Am. Ord. 2012-12-02, adopted 12/03/2012; Am. Ord. 2014-12-02, adopted 12/01/2014; Ord. 2015-09-03, adopted 09/28/2015; Am. Ord 2016-04-04, passed 04-04-2016; Ord. 2017-04-06, approved 04/03/2017)

§ 155.308 ACCESSORY STRUCTURES AND USES.

(A) GENERAL

Accessory structures and uses shall be consistent with all standards in the district for the principal use, except as expressly set forth below. Additional design considerations may be outlined in the Clayton General Design Guidelines.

- (1) Accessory structures and uses shall be accessory and clearly incidental and subordinate to a permitted principal uses. An accessory use shall only be allowed when a principal use exists.
- (2) Accessory structures and uses shall be located on the same lot as the permitted use or structure, or on a contiguous lot in the same ownership.
- (3) Accessory structures and uses shall not involve operations or structures not in keeping with the character of the primary use or principal structure served.
- (4) Accessory structures and uses shall not be of a nature likely to attract visitors in larger numbers than would normally be expected, where applicable.
- (5) An accessory use shall contribute to the comfort, convenience, or necessity of occupants of the primary use served.
- (6) An accessory use shall be located within the same district as the principal use.
- (7) Tractor-trailers are prohibited as storage buildings or structures except as permitted on an active construction site.

(B) ACCESSORY STRUCTURES

Accessory structures, not including accessory dwelling units (see (C)(1) of this section) or in-ground pools, shall be subject to the following requirements:

(1) **Zoning Permit Required**

It shall be unlawful to begin moving, constructing, altering, or repairing, except ordinary repairs, of an accessory structure, until the Planning Department has issued a zoning permit for such work (see § 155.709).

(2) **Setbacks**

- (a) No accessory structure shall be located closer than ten feet to any other building or manufactured home.
- (a) No accessory structure shall extend in front of the front line of the principal structure, except in the B-1 zoning district where the Board of Adjustment may approve a Conditional Use Permit for an accessory use or structure to be placed in any yard other than the rear yard.
- (b) No accessory structure may extend within five feet of any lot line in R-6 and R-8 Districts, and within ten feet in all other zoning districts. No accessory structure shall be located within 20 feet of any street right-of-way.

(3) **Height**

The height of an accessory structure shall not exceed the height of the principal structure or 25 feet, whichever is lesser, unless approved as a Conditional Use Permit by the Board of Adjustment, as provided in § 155.710.

(4) **Number**

- (a) Up to two accessory structures may be permitted on the same lot, subject to meeting the criteria elsewhere in this section.
- (b) No more than one shed is permitted in the R-6 and R-8 zoning districts.
- (c) Two or more accessory structures may not be joined together by adding a roofline, such as a breezeway or covered walkway, to give the appearance of a lesser number of structures.

(5) **Size**

- (a) An accessory structure may not exceed the gross floor area of the primary structure on the site. This restriction does not apply to in-ground pools.

(6) **Architectural consistency**

- (a) On non-residential or mixed use sites, the architecture of accessory structures shall be consistent with the primary structure.

(C) **ACCESSORY USES IN RESIDENTIAL DISTRICTS**

(1) **Accessory Dwelling Units**

One accessory dwelling shall be permitted as a conditional use by the Board of Adjustment (see § 155.710) subject to their approval and the following requirements:

- (a) The living area of the accessory dwelling shall not exceed the living area of the principal structure. In no case shall the total floor area of the accessory dwelling unit exceed 600 square feet.
- (b) The accessory dwelling shall not have a separate electrical meter.
- (c) The owner of the property shall occupy either the primary structure or the accessory dwelling.
- (d) The principal dwelling and accessory dwelling unit together shall not exceed the maximum building coverage and impervious surface requirements for the district.
- (e) All principal structure setbacks and yard requirements shall be met.
- (f) One additional parking space on the same premises shall be required for the accessory dwelling unit.
- (g) A subdivision with accessory dwelling units shall not exceed the maximum district density requirements, counting all principal dwelling units and any accessory dwelling units.
- (h) An accessory dwelling shall either be located within the principal structure; or meet the following standards:
 - 1. The accessory dwelling shall be located on the same lot as the principal structure.
 - 2. The accessory dwelling shall be separated by at least ten feet from the principal structure.
 - 3. The accessory dwelling shall be located in the rear or side yard of the principal structure. The rear and side setback shall be equal to those of all accessory structures.
 - 4. Total building coverage and impervious surface area shall not exceed that permitted in the district.
 - 5. The height of a principal structure shall not be exceeded by any accessory dwelling.
 - 6. The accessory dwelling unit shall be architecturally consistent with the principal structure.

(2) **Home Occupations**

Prohibited Home Occupations

- (a) The following uses are not permitted as home occupations:

1. Vehicle and/or body and fender repair.
2. Outdoor repair or outdoor storage.
3. Commercial nursery or truck farming.
4. Food handling, processing or packing, other than services that utilize standard home kitchen equipment.
5. Medical or dental lab.
6. Restaurant.
7. Sale or repair of firearms.
8. Bulk storage of flammable liquids.
9. Funeral homes and mortuaries.
10. Animal hospitals and kennels.

(b) ***Class A Home Occupations***

The intent of a Class A Home Occupation is to permit very limited activities in a residential dwelling, provided such activities do not impact or detract from the residential character of the neighborhood. A Class A Home Occupation shall be deemed an accessory use and no further approval shall be required, provided the use meets the standards of this chapter.

1. The use of the dwelling unit for Class A Home Occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and shall under no circumstances change the residential character of the structure.
2. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of a home occupation.
3. No business, storage or warehousing of material, supplies or equipment shall be permitted outside of the primary dwelling unit.
4. No equipment or process shall be used that creates excessive noise, vibration, glare, fumes, odors, or electrical interference.
5. No display of products shall be visible from the street.
6. A Class A Home Occupation shall be subject to all applicable licenses and business taxes.
7. No persons other than members of the family residing on the premises shall be engaged in the home occupation.

8. Storage space and the operation of the business inside the dwelling unit shall not exceed 25% of the first floor area of the residence.
9. Customers and employees coming to the residence to conduct business shall not be permitted.
10. No signage shall be permitted.

(c) ***Class B Home Occupations***

A Class B Home Occupations is a business, profession, occupation or trade conducted for gain or support within a residential dwelling or its accessory buildings that requires employees, customers, clients or patrons to visit the home. A Class B Home Occupation shall be permitted as a conditional use provided that the Board of Adjustment shall determine in its judgment that:

1. It is carried on by a person residing on the premises and employs no more than two employees not living on the premises.
2. No more than 20% of the total actual floor area of the dwelling shall be in the conduct of the home occupation.
3. No more than two vehicles are used in the conduct of the home occupation, and such vehicles are parked off the street.
4. No merchandise or commodity is sold on the premises, except what is incidental to the home occupation.
5. No mechanical equipment is installed or used except such that is normally used for domestic or professional purposes.
6. No expansion shall be permitted outside the principal structure that houses the home occupation, except that which is necessary to house vehicles used in the conduct of home occupation.
7. It is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.
8. The use will not create undue traffic congestion or create a traffic hazard.
9. Advertising signs shall be limited to one unlighted wall sign no larger than three square feet in area, attached to the structure housing the home occupation, or one yard sign of the same size not to exceed three feet in height.

(3) **Day Care Facility**

- (a) All accessory daycare facilities shall be subject to the requirements for Day Care Facilities, outlined in §155.302(E).

- (b) In-home day cares, consisting of no more than 6 children and operating within a residential dwelling unit by a person that is a resident of the dwelling, shall be permitted subject to the requirements of a Class "B" Home Occupation (see §155.308(C)(2)(c)).
- (c) An accessory day care facility to a church or place of worship shall be permitted as outlined in §155.308(E). A Conditional Use Permit shall not be required for an accessory day care facility to a church or place of worship.

(4) **Swimming Pools**

When allowed, in-ground and aboveground swimming pools that have a water depth over 24 inches and or have a surface area of at least 100 square feet shall be subject to the following requirements (see Chapter 154, Swimming Pools, of the Town Code of Ordinances for additional standards).

(a) ***Private Pools***

Private swimming pools (including any associated decking, pool house, pool chemical storage shed, or equipment associated with the pool) on single-family detached, zero lot lines, alley-loaded, and two-family lots shall not be located in the street yard and shall not be closer than five feet to any property line.

(b) **Outdoor Community Pools, Private Club Pools, or Pools in Multi-Family Complexes**

1. Outdoor pools (including any associated decking, pool house, pool chemical storage shed, or equipment associated with the pool) shall be located at least 50 feet from any property line adjacent to a residential district or use, and at least 25 feet from any property line adjacent to any other district or use.
2. When the pool is adjacent to off-site residences, the playing of music detectable off-site on a public address system is prohibited. Informational announcements shall be permitted. This requirement is waived if a permit has been issued for a special event.

(5) **Vehicle Repair**

Up to two vehicles may be repaired simultaneously on a residential property if the vehicles are registered to an occupant of the residence.

(6) **Vehicle Sales**

Vehicle sales shall be prohibited within a residential district or on property devoted to residential use, except that the sale of a private vehicle registered to the occupant of the residence shall be allowed. No more than one such vehicle shall be displayed at a time.

(D) **ACCESSORY USES IN NONRESIDENTIAL DISTRICTS**

(1) **Drive-Thru (aka Drive-Through)**

Drive-thru facilities shall be subject to the following requirements:

- (a) A drive-thru shall only be permitted in conjunction with a permitted nonresidential use.
- (b) Drive-thru windows and lanes shall be screened in accordance with § 155.402(G).

(2) Food Truck

(a) *Permits Required*

- 1. Food truck vendors must provide documentation of approval from the Health Department of the County in which the food truck's associated restaurant or commissary is located.
- 2. The County Health Permit must be displayed during hours of operation.

(b) *Public Safety*

- 1. Temporary connections to potable water are prohibited. All plumbing and electrical connections shall be in accordance with the State Building Code.
- 2. Grease and wastewater must be contained and disposed of in an approved grease receptacle located at the associated restaurant or commissary.
- 3. If the food truck is operating after dark, the food truck vendor shall provide appropriate lighting.
- 4. A food truck vendor shall not operate the food truck as a drive-in window.
- 5. The Planning Director may engage in zoning enforcement or prohibit/suspend a food truck vendor's operations if are causing parking, traffic congestion, or litter problems either on or off the property where the use is located or such use is otherwise creating a danger to the public health or safety.

(c) *General Location Requirements*

- 1. Food trucks must be located on private property with written permission from property owner.
- 2. Food trucks shall be positioned at least 400 feet from the customer entrance of an existing restaurant during hours of operation, unless the vendor provides documentation that the restaurant owner supports a closer proximity.
- 3. Food trucks shall not block parking spaces, drive aisles, access to loading/service areas, or emergency access and fire lanes. Food truck vending must also be positioned at least 15 feet away from fire hydrants, any fire department connection, and driveway entrances.

4. No more than two food trucks are permitted as an accessory use, unless at an approved special event, market, festival, or an active construction site.

(d) ***Hours of Operation***

Food trucks must cease operations between the hours of 12 a.m. and 7 a.m., and are not permitted to remain on site overnight.

(e) ***Signage***

No signage shall be allowed other than signs permanently attached to the motor vehicle. An easel sign no more than 12 square feet per sign face in display area may be placed within the customer waiting area.

(3) **Day Care Facility**

- (a) An accessory day care facility shall only be permitted as an accessory to the following uses:
 1. Hospital or Medical Center (§155.302(G))
 2. School (Elementary or Secondary) (§155.302(H))
 3. School (Technical, Trade, or Business) (§155.302(I))
 4. Entertainment, Indoor (§155.303(A))
 5. Entertainment, Outdoor (§155.303(B))
 6. Fitness/Recreation Center (§155.303(C))
 7. Creative Studio, (§155.305(G))
 8. Office, General, (§155.305(P))
 9. Office, Medical, (§155.305(Q))
 10. Research & Development, (§155.306(G))
 11. Church or Place of Worship, (§155.302(C))
- (b) All accessory daycare facilities shall be subject to the requirements for Day Care Facilities, outlined in §155.302(E).
- (c) An accessory day care facility to a church or place of worship shall be permitted as outlined in §155.308(E). A Conditional Use Permit shall not be required for an accessory day care facility to a church or place of worship.

(4) **Park**

- (a) An accessory park shall be permitted in the forms of community gardens, playgrounds, or other small-scale recreational amenities that are secondary in nature to the primary use of the property.
- (b) Accessory park uses shall be subject to minor site plan review in accordance with §155.707, illustrating the proposed boundaries of the park, amenities, and any other applicable elements.
- (c) Additional parking to accommodate the accessory park shall be required in accordance with §155.401.

(5) **Outdoor Display & Sales**

- (a) Outdoor display and sales shall be generally defined as the display and sales of goods, wares or merchandise outside of a permanent structure on property owned or leased by the person, firm or corporation. Outdoor display and sales must be secondary and incidental to the principal use or structure on the property, unless authorized pursuant to § 155.309, Temporary Use.
- (b) Outdoor display and sale areas greater than 50 square feet shall only be permitted following Planning Director review of a minor site plan in accordance with § 155.707, illustrating the extent of the permitted area for outdoor display and sales subject to the standards below. Outdoor display and sale areas 50 square feet or less do not require site plan approval, but are subject to the standards below.
- (c) The location of outdoor merchandise must be on the same property as the principal use, and not within the right-of-way, except that in the B-1 zoning district it may be displayed in the right-of-way, provided that clearance requirements are maintained for pedestrian passage.
- (d) Merchandise shall be displayed to allow pedestrians use of the adjacent sidewalk or parking areas, and shall meet ADA accessibility requirements.
 - 1. Any merchant desiring to display and sell merchandise along a public sidewalk or right-of-way must also receive approval from the Town Manager or his designee, and agree to following stipulations:
 - A. Merchandise must be removed from the sidewalk within 24 hours of notice from the Town. If such items are not removed following notice, the Town has the right to remove and dispose of these items and may assess the property owner for the cost of removal and disposal. The Town has the right to remove such items immediately in emergency situation. The Town is not responsible for damage to the merchandise under any circumstances.
 - A. The owner of the business displaying or selling merchandise within a public sidewalk is responsible for repairing any incidental damage to public sidewalk resulting from the display of merchandise.
 - B. Merchandise must be removed from the sidewalk when the business is closed.

(6) **Outdoor Dining**

- (a) Outdoor dining shall be defined as the placement of tables and chairs for dining outside of a permanent structure.
- (b) **General Requirements**

1. Outdoor dining shall be permitted with a zoning compliance permit for 8 or fewer seats. More than 8 seats is subject to a minor site plan, or as a component of a major site plan in accordance with § 155.707, illustrating the extent of the outdoor dining area, the maximum seating capacity, and subject to the standards below. The impact of outdoor dining areas on adjacent churches, hospitals, public schools, and residential uses shall be mitigated to minimize potential impacts related to glare, light, loitering, and noise.
 2. Patron tables and other outdoor dining area components shall be clearly defined and located on the same site as the other facilities of the restaurant or on the adjacent public right-of-way. Separation between the seating and vehicular or pedestrian traffic by a physical barrier may be required, with the design to be approved by the Planning Director.
 3. Separation may be achieved through the use of materials which include, but are not limited to landscape planters, walls, railings or a combination thereof. Only barriers composed of landscape planters or masonry walls may be solid.
- (c) The additional parking necessary to accommodate seating created in the outdoor dining area shall comply with the parking requirements set forth in § 155.401 of this Chapter.
- (d) Outdoor dining areas and associated structural elements, such as awnings, covers, umbrellas, or other physical elements shall be compatible with the overall design of the main structure and must maintain a height clearance of eight feet and meet ADA accessibility requirements. Dining equipment (including, but not limited to tables, chairs, space heaters, barriers) may remain in place.
- (e) The Town may revoke the outdoor dining area if it is determined that its operation is causing litter problems either on or off the property where the dining is located or that such use is otherwise creating a danger to the public health or safety.
- (f) In addition to the requirements set forth above, if any portion of the outdoor dining area is to be located within a public right-of-way (sidewalks only), the dining area must also receive approval from the Town Manager or his designee, and agree to following stipulations. Outdoor dining within right-of-way owned and operated by the State of North Carolina, must also meet the requirements of G.S. 136-27.4 listed below.
1. Tables, chairs, and other furnishings shall be placed a minimum of six feet from any travel lane.
 2. Tables, chairs, and other furnishings shall be placed in such a manner that at least five feet of unobstructed paved space of the sidewalk, measured from any permanent or semi-permanent object, remains clear for the passage of pedestrians and provides adequate passing space that complies with the Americans with Disabilities Act.

3. Tables, chairs, and other furnishings shall not obstruct any driveway, alleyway, building entrance or exit, emergency entrance or exit, fire hydrant or standpipe, utility access, ventilations areas, or ramps necessary to meet accessibility requirements under the Americans with Disabilities Act.
 4. The maximum posted speed permitted on the roadway adjacent to the right-of-way to be used for sidewalk dining activities shall not be greater than 45 miles per hour.
 5. The restaurant operator shall provide evidence of adequate liability insurance specified by the Town under G.S. 160A-485 as the limit of the Town's waiver of immunity or the amount of Tort Claim liability specified in G.S. 143-299.2, whichever is greater. The insurance shall protect and name NCDOT and the Town as additional insured on any policies covering the business and the sidewalk activities.
 6. The restaurant operator shall provide an agreement to indemnify and hold harmless NCDOT and the Town from any claim resulting from the operation of sidewalk dining activities.
 7. The restaurant operator shall provide a copy of all permits and licenses issued by the State, County or Town, including health and ABC permits, if any, necessary for the operation of the restaurant or business, or a copy of the application for the permit if no permit has been issued. This requirement includes any permits or certificates issued by the Town for exterior alterations or improvements to the restaurant.
 8. The restaurant operator shall cease part or all sidewalk dining activities in order to allow construction, maintenance, or repair of any street, sidewalk, utility, or public building, by NCDOT, the Town, its agents or employees, or by any other governmental entity or public utility.
 9. Any other requirements deemed necessary by the NCDOT, either for a particular Town or a particular component of the State highway system.
- (g) The Town reserves the right to terminate the use of outdoor dining within the public right-of-way at any time. Upon notice, all furnishings must be removed from the sidewalk within 24 hours of notice from the Town. If furnishings are not removed within the time specified, the Town has the right to remove and dispose of these items and may assess the property owner for the cost of removal and disposal. The Town has the right to remove such items immediately in emergency situations. The Town is not responsible for damage to the furnishings under any circumstances.
- (h) The owner of the business utilizing a dining area within a public sidewalk is responsible for repairing any incidental damage to public sidewalk resulting from outdoor dining furnishings.

(7) Limited Outdoor Storage

- (a) Limited outdoor storage shall be defined as the overnight outdoor storage of vehicles (not associated with outdoor sales and display including vehicle sales, vehicle repair or car rental), merchandise or material in boxes, crates, on pallets or other kinds of containers, shopping carts, or other similar merchandise, material or equipment.
- (b) Limited outdoor storage shall only be permitted as an accessory use following Planning Board review of a major site plan in accordance with § 155.707, illustrating the extent of the permitted area for limited outdoor storage provided it meets the standards below.
 - 1. Limited outdoor storage shall not be more than 12 feet in height and shall be fully screened from view from the public right-of-way, public parking areas, or adjacent residential development by a 100% opaque visual barrier or screen.
 - 2. All limited outdoor storage shall be located at least 15 feet from the public right-of-way and any abutting residential use or residentially-zoned district.
 - 3. Limited outdoor storage shall not be permitted in a street yard or otherwise forward of the front building line.

(8) General Outdoor Storage

- (a) General outdoor storage shall be defined as salvage yards, vehicle junk yards, overnight outdoor storage of shipping containers, lumber, pipe, steel, junk and other similar merchandise, material or equipment.
- (b) General outdoor storage shall only be permitted as an accessory use following Planning Board review of a major site plan in accordance with § 155.707, illustrating the extent of the permitted area for general outdoor storage provided it meets the standards below.
 - 1. General outdoor storage shall be screened by 100% opaque, eight foot high visual barrier or screen. When located abutting or across the street from a residential use or residentially-zoned property such screening shall be high enough to completely conceal all outdoor storage from view.
 - 2. All general outdoor storage shall be located at least 15 feet from the public right-of-way and any abutting residential use or residential district.
 - 3. No general outdoor storage shall be permitted in a street yard or otherwise forward of the front building line.
 - 4. General outdoor storage may be located in the side or rear yard.

(9) Swimming Pools

- (a) Outdoor pools shall meet the standards of Chapter 154, Swimming Pools, of the Town Code of Ordinances.

- (b) Outdoor pools including decking shall be located at least 50 feet from any property line adjacent to a residential district or use, and at least 25 feet from any property line adjacent to any other district or use.
- (c) When the pool is adjacent to residences, the playing of music detectable off-site on a public address system is prohibited. Informational announcements shall be permitted. This requirement may be waived if a permit has been issued for a special event.

(E) **ACCESSORY USES FOR PLACES OF WORSHIP**

Accessory uses are permitted for a place of worship in accordance with the following standards.

The following facilities may be considered accessory to a place of worship. Additional buffering may be required through the review and approval of a site plan to address the intensity of the proposed place of worship and the proposed accessory uses.

- (a) Offices for the place of worship;
 - (b) Rooms for religious instruction or counseling;
 - (c) Meeting rooms for intermittent community meetings or instruction;
 - (d) Fellowship hall;
 - (e) Kitchen facilities;
 - (f) Senior center, neighborhood arts center or other community center;
 - (g) Temporary child care during religious services or events;
 - (h) Outdoor play area;
 - (i) Columbarium;
 - (j) "Meals on Wheels" or other similar programs using the kitchen in the place of worship but delivering food elsewhere; and
 - (k) Residence for clergy employed by the place of worship.
- (2) The following accessory uses are subject to approval of a major site plan by the Planning Board (see § 155.707).
- (a) Gymnasium or similar indoor recreational facility;
 - (b) Cemetery;
 - (c) Overnight accommodation for visiting clergy and non-paying guests of clergy employed by the place of worship;

- (d) Child care center;
- (e) School;
- (f) Soup kitchen or other social service facility; and
- (g) Athletic field or similar facility.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-05-02, passed 5-7-07; Am. Ord. 2007-05-03, passed 5-7-07; Am. Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Ord. 2017-04-06, approved 04/03/2017)

Duly adopted this the 15th day of July, 2019 while in regular session.

Michael Grannis
Mayor Pro Tem

ATTEST:

Kimberly A. Moffett, CMC, NCMC
Town Clerk



Town Council Agenda Cover Sheet

Meeting Date

July 15 2019

Agenda Location

Public Hearings

Item Title

2019-12-ANX-East Clayton Elementary

Presenter

Planning Staff

Summary/Description

East Clayton Elementary located off NC 42 Hwy E and Castleberry Road located in Johnston County's Planning Jurisdiction is requesting annexation to receive Police Services from the Town of Clayton. The existing zoning is PUD (Planned Unit Development) and AR (Agricultural and Residential) both Johnston County Zoning Districts. The proposed Town of Clayton Zoning is O-I (Office Institutional) which is consistent for a school site.

**Requested Action**

Approval

Funding Source (If Applicable):

N/A

Cost: N/A Yes ☐ No ☒

Additional Documents to be Included in Agenda Packet

Application, Maps and Deed Descriptions,

Meeting Timeline

February 4, 2019 Consent Agenda, February 18, 2019 Set date for Public Hearing and March 4, 2019 Public Hearing. The public hearing was continued to June 3rd, 2019. At the June 3rd meeting the public hearing was continued to July 15th.

Ordinance #2019-07-05

**ANNEXATION PETITION 2019-12-ANX
East Clayton Elementary
Parcels: 16J05002H and 16K05012F
Owners: Johnston County Board of Education
Non-Contiguous; 29.00 acres and 2.84 acres**

**AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE
TOWN OF CLAYTON, NORTH CAROLINA**

WHEREAS, the Town of Clayton has been petitioned under G.S. 160A-31 to annex the area described below; and

WHEREAS, the Town of Clayton has by resolution directed the Town Clerk to investigate the sufficiency of the petition; and

WHEREAS, the Town Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at Town Hall at 6:00 PM on July 15, 2019 due notice of publication on February 20, 2019. This item was originally scheduled for Public Hearing on March 4, 2019, at which time it was continued to June 3, 2019 and again until July 15, 2019.

WHEREAS, the Town of Clayton finds that the petition meets the requirements of G.S. 160A-31;

NOW, THEREFORE, BE IT ORDAINED by the Town Council of Clayton, North Carolina that:

Section 1. By virtue of the authority granted by G.S. 160A-31, the following described territory is hereby annexed and made part of the Town of Clayton as of July 15, 2019:

Lying and being in Wilders Township, Johnston County, North Carolina. The area proposed for annexation is described as the following 2 parcels off NC Hwy 42 E. and Castleberry Road:

Tag #	Owner Name	Acreage (Assessed)	Deed Book	Page Number
16J05002H	Johnston County Board of Education	29.00	5186 1391	246 727
16K05012F	Johnston County Board of Education	2.84	5186 1391	246 727

Section 2: Upon and after July 15, 2019, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the Town of Clayton and shall be entitled to the same privileges and benefits as other parts of the Town of Clayton. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the Town of Clayton shall cause to be recorded in the office of the Register of Deeds of Johnston County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the County Board of Elections, as required by G.S. 163-288.1.

Duly adopted this the 15th day of July, 2019 while in regular session.

Michael Grannis
Mayor Pro Tem

ATTEST:

Kimberly A. Moffett, CMC, NCCMC
Town Clerk

**NORTH CAROLINA
JOHNSTON COUNTY**

This the _____ day of _____, 2019  personally appeared before me, Kimberly A. Moffett, Clerk of the Town of Clayton, who, being duly sworn by me, says that she knows the common seal of the Town of Clayton and is acquainted with Michael Grannis, who is the Mayor Pro Tem and presiding member of said municipal corporation; and that she saw the said Mayor Pro Tem sign the foregoing instrument and saw the said common seal of said municipal corporation affixed to said instrument, and that she, the said Kimberly A. Moffett, signed her name in attestation of said instrument in the presence of said Mayor Pro Tem.

Witness my hand and notarial seal, this the day and year first above written.

(SEAL)

Notary Public - Signature

Notary Public – Printed Name

Commission Expires: _____

County of Commission: _____



Town Council Agenda Cover Sheet

Meeting Date

July 15 2019

Agenda Location

Public Hearings

Item Title

2019-108-SUP New Trinity Baptist Church Parking Lot

Presenter

Planning Department

Summary/Description

The applicant is requesting a Special Use Permit to allow the use of an asphalt parking lot on the subject property. The existing use of the lot is a gravel parking lot, which the applicant would like to pave in order to provide supplementary parking for New Trinity Baptist Church. This application is associated with Major Site Plan application 2019-57-SP, which is a request for site plan approval that will allow the reconstruction and expansion of a new church building. The proposed site plan for the church does not meet the parking requirement outlined in section 155.401(C)(2) of the UDC. Consequently, the applicant seeks approval the use of a parking lot on the subject property to serve as additional off-site parking for the church property as permissible by code section 155.401(C)(4)(c). These parking spaces are within 750 feet from the proposed church entrance, and meets location, zoning, and agreement requirements stated in the aforementioned UDC code section.

Requested Action

Approval/Denial

Funding Source (If Applicable):

N/A

Cost: N/A Yes ☐ No ☒

Additional Documents to be Included in Agenda Packet

Application
Owner's Consent Form
Staff Report Maps
Neighborhood Meeting Materials
Site Plan
TC Adjacent Property Letter – Public Notice
Newspaper Ad – Public Notice

Meeting Timeline

July 15, 2019 – Town Council Meeting



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: NEW TRINITY MISSIONARY Date: 5/29/2019
Applicant Name: Michael Sims

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) x ✓ N/A
- ☐ 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) ✓

RECEIVED

MAY 29 2019

Reviewed by: *SPaul*
TOWN OF CLAYTON
PLANNING DEPARTMENT



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

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: NEW TRINITY MISSIONARY BAPTIST

Acreage of Property: 0.183 Zoning District: B-2

County Tag #: 05023028 NC Pin #: _____

Address/Location: 1155 ROBERTSON ST CLAYTON NC 27520

Existing Use: PARKING / CHURCH Proposed Use: PAVED PARKING / CHURCH

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: NEW TRINITY MISSIONARY BAPTIST CHURCH / Michael Sims

Mailing Address: 1155 ROBERTSON ST CLAYTON, NC

Phone Number: 919 606 5012 Fax: _____

Contact Person: Michael Sims

Email Address: michael@TTCreativeGroup.com

RECEIVED

OFFICE USE ONLY

Date Received: MAY 29 2019 Amount Paid: \$600 File Number: 2019-108-SUP

TOWN OF CLAYTON
PLANNING DEPARTMENT

July 2018

2 of 10

or

PROPERTY OWNER INFORMATION

Name: NEW TRINITY MISSIONARY BAPTIST Church / Michael Sims
Mailing Address: 115 S ROBERTSON ST CLAYTON, NC 27520
Phone Number: 919 606 5012 Fax: _____
Email Address: michaels@ttcreativegroup.com

EXPLANATION OF PROJECT

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

WE WILL BE PAVING AND LANDSCAPING the CURRENT PARKING LOT USED by NEW TRINITY MISSIONARY BAPTIST Church. All plans will be brought to the planning Department for review.

REQUIRED FINDINGS OF FACT

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

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

THE PAVING OF this PARKING LOT will NOT ENDANGER or will be A SAFETY RISK to the SURROUNDING AREA. IT WILL ENHANCE the AREA.

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

THIS PROJECT WILL MEET WITH AND CONFORM TO ALL STANDARDS AND PRACTICES OF SOUND LAND USE IN ACCORDANCE WITH THE TOWN CODE OF ORDINANCES AND APPLICABLE REGULATIONS

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

THIS PROJECT WILL NOT SUBSTANTIALLY INJURE THE VALUE OF ADJOINING OR ABUTTING PROPERTY AND WILL NOT BE A DETRIMENT TO LAND USE OR DEVELOPMENT.

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

THIS PROJECT WILL NOT ADVERSELY AFFECT THE ADOPTED PLANS AND POLICIES OF THE TOWN OR VIOLATE THE CHARACTER OF EXISTING STANDARDS FOR DEVELOPMENT OF ADJACENT PROPERTIES

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.

Michael Smith
Print Name

[Signature]
Signature of Applicant

5/29/2019
Date



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

OWNER'S CONSENT FORM

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

Project Name: NEW TRINITY MISSIONARY BAPTIST Address or PIN #: _____

AGENT/APPLICANT INFORMATION:

NEW TRINITY MISSIONARY BAPTIST CHURCH
(Name - type, print clearly) / Michael Sims

115 South ROBERTSON 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):

SPECIAL USE PERMIT APPLICATION

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:

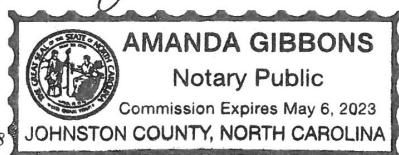
NEW TRINITY MISSIONARY BAPTIST CHURCH
(Name - type, print clearly) / Michael Sims
Michael Sims
(Owner's Signature)

115 South ROBERTSON ST
(Address)
CLAYTON, NC 27520
(City, State, Zip)

STATE OF North Carolina
COUNTY OF Johnston

Sworn and subscribed before me Amanda Gibbons, a Notary Public for the above State and County, this the 29 day of May, 2019.

SEAL

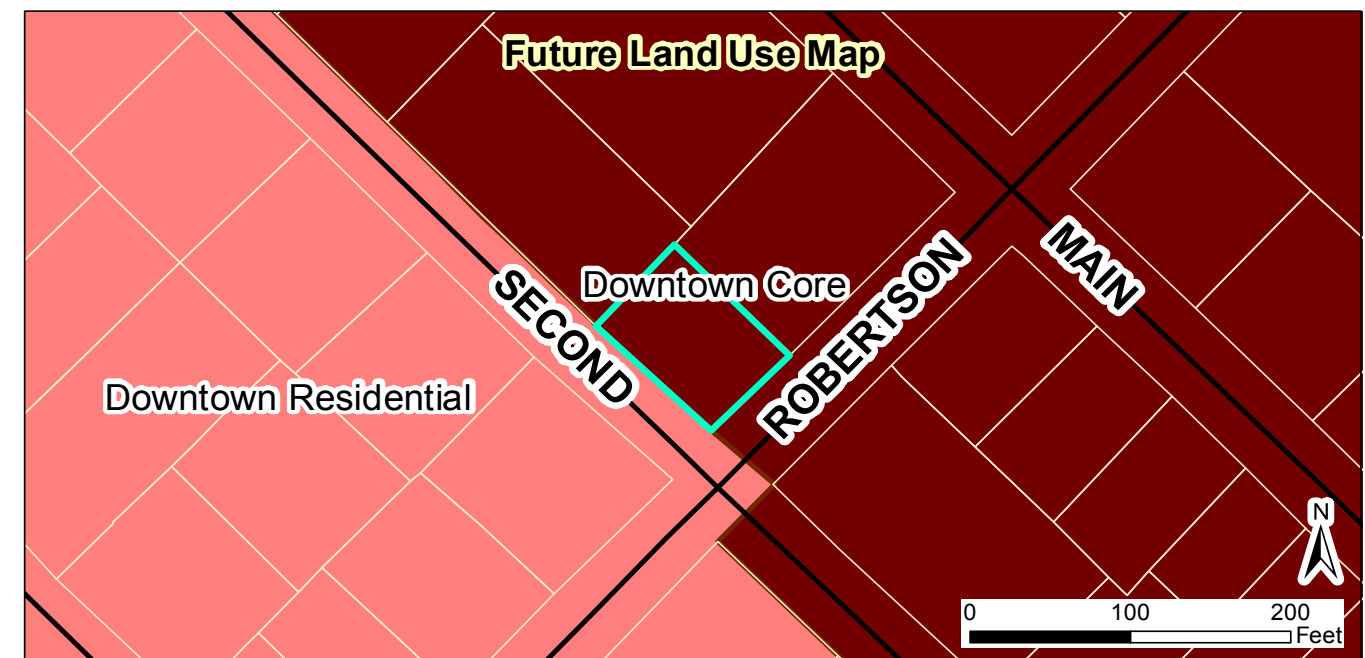
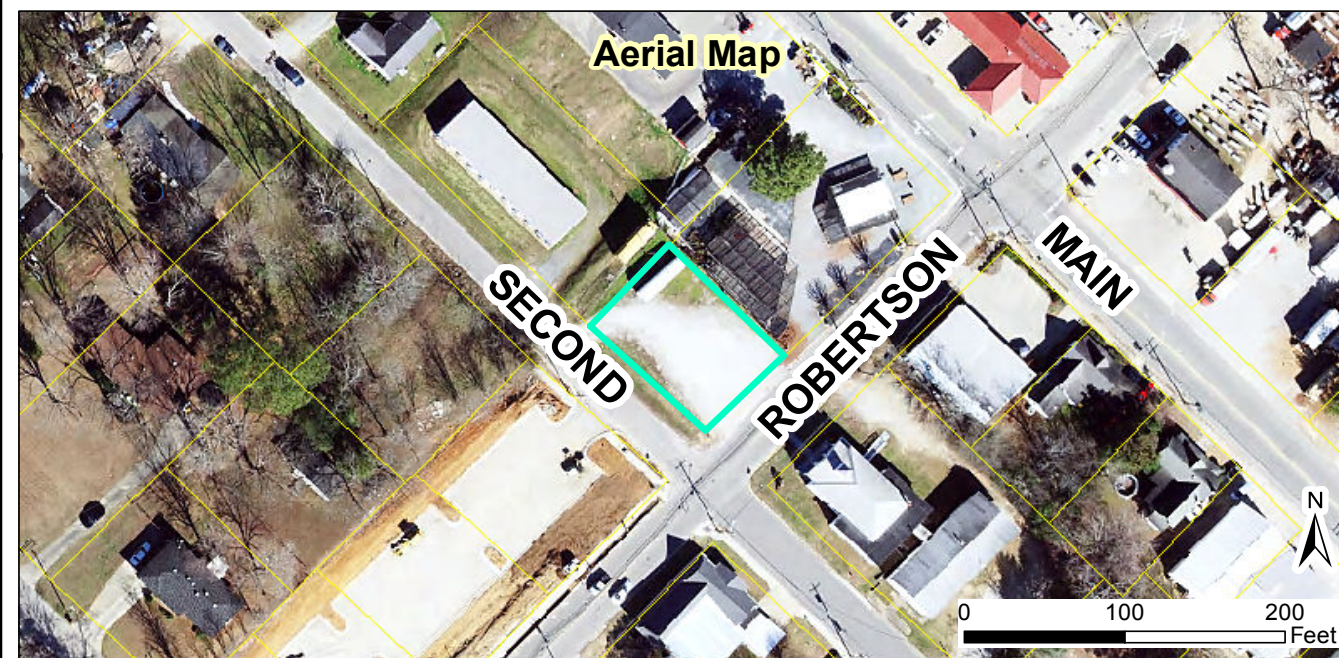
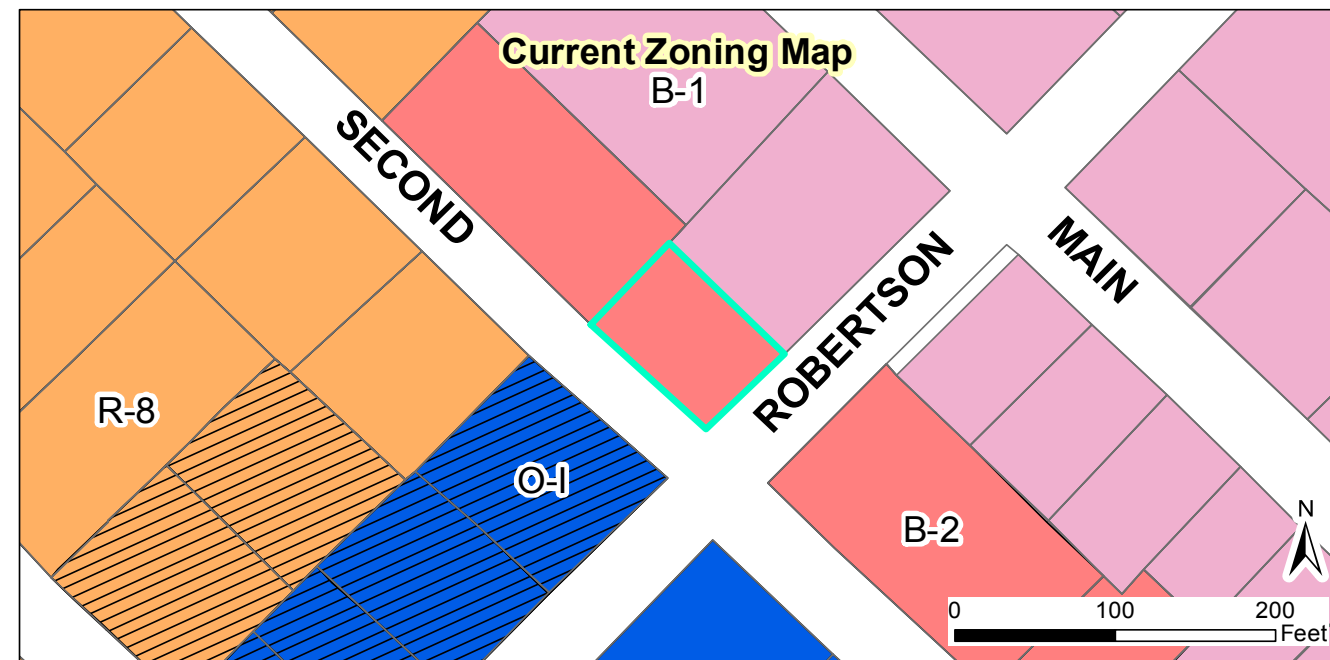


July 2018

Amanda Gibbons
Notary Public

My Commission
Expires:

May 6, 2023
10 of 10



Request:
2019-108-SUP - New Trinity Missionary Baptist Church SUP to Operate A Parking Lot in the B-2 Zoning District

Applicant: New Trinity Missionary Baptist Church / Michael Sims
 Property Owners: New Trinity Missionary Baptist Church
 Parcel ID: 165916-93-2835
 Tag #: 05023028

Staff Report Map

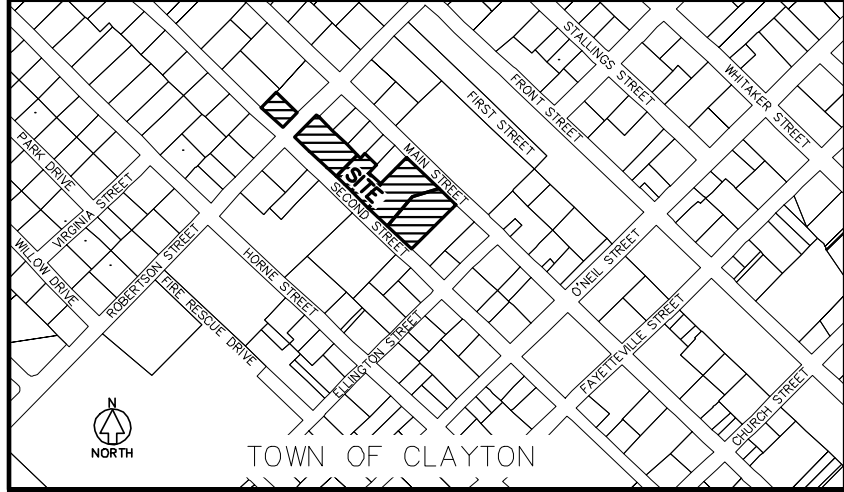


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Legend

- 100-yr Flood Zone
- Thoroughfare Overlay
- Scenic Highway Overlay
- Watershed Protection Overlay
- Site

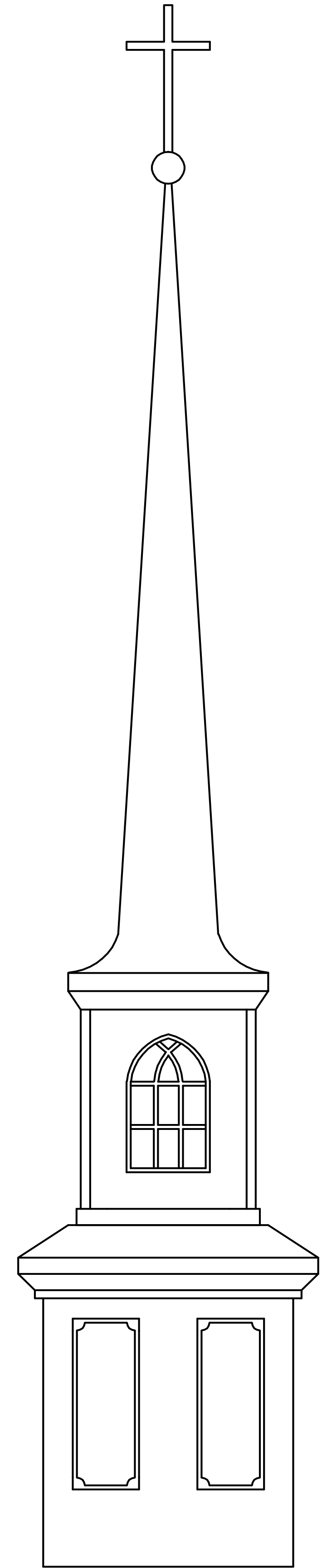
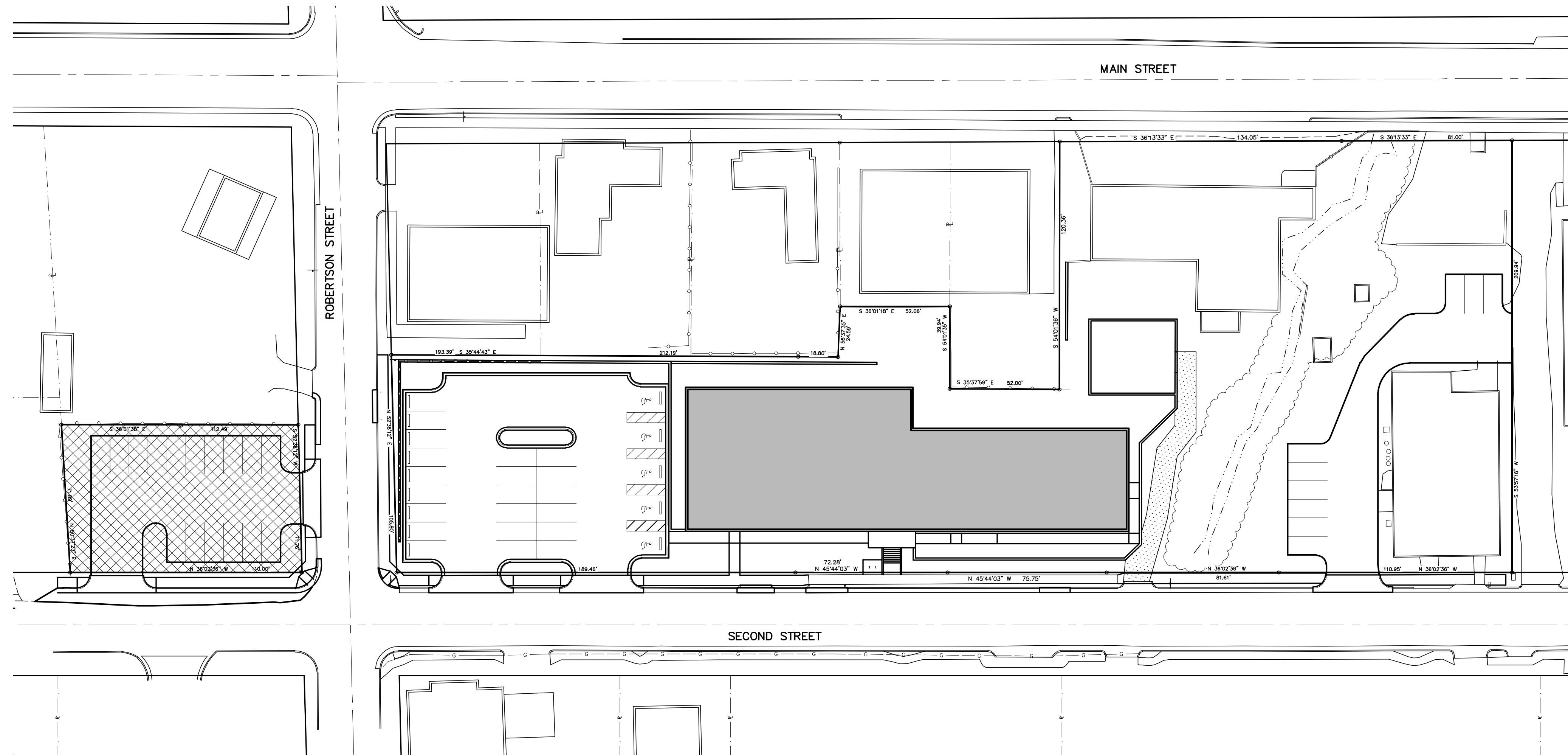
06/04/2019
 Produced by: TOC Planning
 Disclaimer: Town of Clayton assumes no legal responsibility for the quality of the data represented here.



DRAWING INDEX

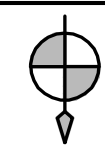
- C1.0 COVER SHEET
- C1.1 EXISTING SITE
- C1.2 ZONING, SETBACKS & BUFFERS
- C1.3 SITE PLAN
- C1.4 LANDSCAPE PLAN
- C1.5 EROSION CONTROL—PHASE 1
- C1.51 EROSION CONTROL—PHASE 2
- C1.6 GRADING PLAN
- C1.7 UTILITY PLAN
- C5.1 DETAILS—SITE
- C5.2 DETAILS—EROSION CONTROL

NEW TRINITY MISSIONARY BAPTIST CHURCH 115 SOUTH ROBERTSON STREET CLAYTON, N.C. 27520



FOR REVIEW ONLY
NOT FOR CONSTRUCTION.

NO.	REVISION	DATE
1	TOWN OF CLAYTON REVIEW COMMENTS 1st	5-29-2019
2	TOWN OF CLAYTON REVIEW COMMENTS 2nd	6-18-2019
3	TOWN OF CLAYTON REVIEW COMMENTS 3rd	7-1-2019



B. R. KORNEGAY, INC.
LAND SURVEYING • ENGINEERING • PLANNING
License Number: P-1054
300 East Walnut Street
Goldensboro, N.C. 27530
www.kornegayseep.com (919) 735-5886 Fax: (919) 580-9053

TOWN OF CLAYTON
PROJECT NUMBERS:
2019-57-SP
2019-58-VAR
2019-59-CUP

TITLE SHEET

DRAWN BY: TSB
DESIGNED BY: JLK
DATE: 3-11-2019
SCALE: 1" = 30'

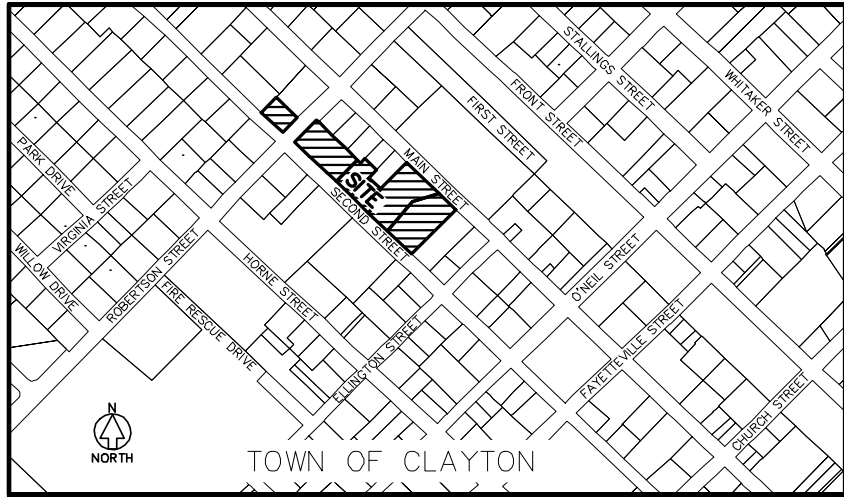
NEW TRINITY MISSIONARY BAPTIST CHURCH

115 SOUTH ROBERTSON STREET, CLAYTON, N.C. 27520
CONTACT: MICHAEL SIMS 919-606-5012 ssmsbgd@ttcreativegroup.com

SHEET: C1.0
OF:
WORK ORDER: 160283
CADD DWG: 160283

NEW TRINITY MISSIONARY BAPTIST CHURCH D214 F32

1287

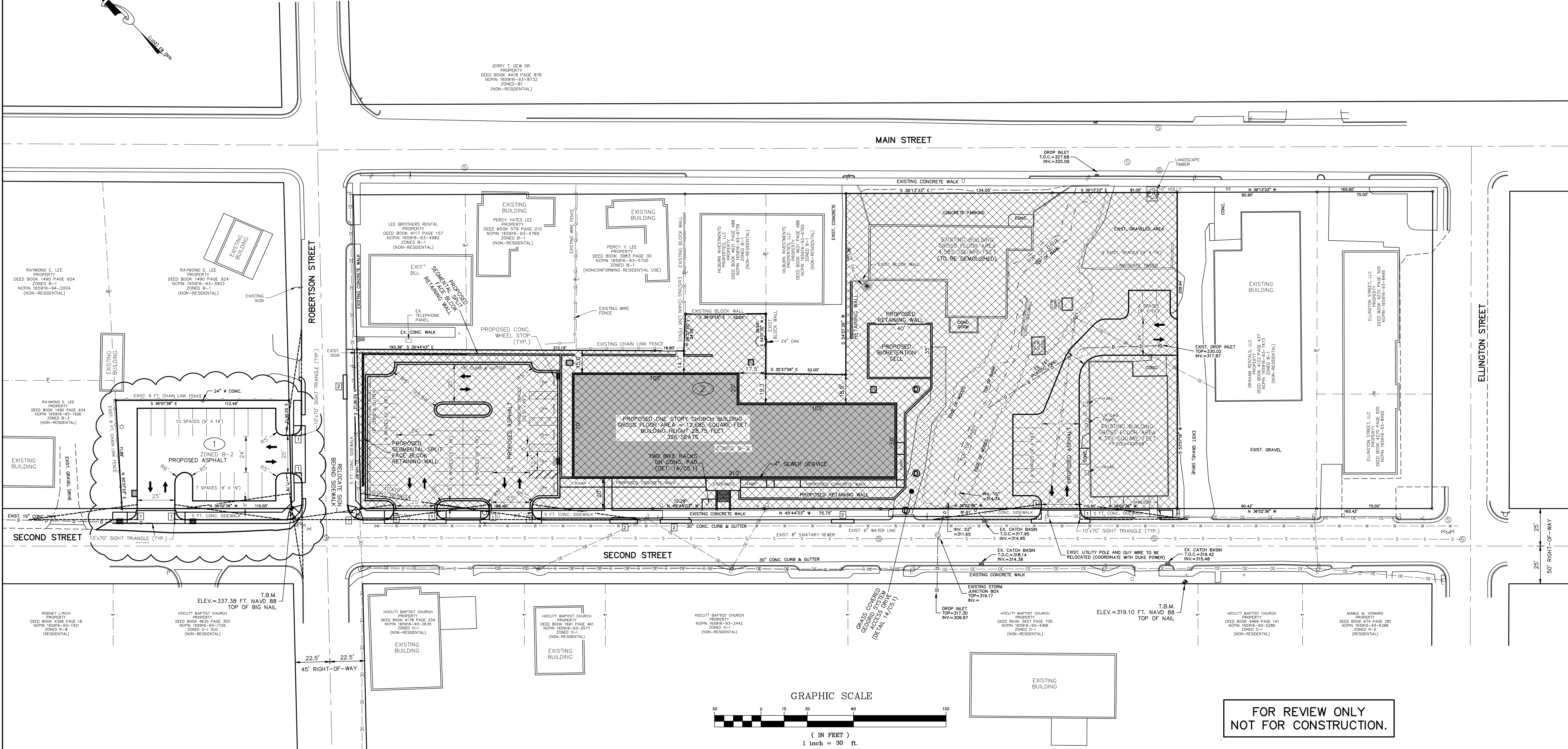


PROPOSED PARKING LOT:
CHURCH OR PLACE OF WORSHIP
1 SPACE PER 3 SEATS OR 200 SQ. FT. FOR THE PRINCIPAL PLACE
OF WORSHIP, WHICHEVER IS GREATER.
326 SEATS/3 SEATS = 108.67 (109 PARKING SPACES)
PROPOSED PARKING
17 SPACES

SITE DATA
PROPERTY ZONED B-2 (TOWN OF CLAYTON)
7,982 SQ. FT. 0.18 ACRES
MINIMUM SETBACK REQUIREMENTS
FRONT = 20 FEET
SIDE INTERIOR = 10 FEET
SIDE STREET = 10 FEET
SIDE INTERIOR ABUTTING RESIDENTIAL = 30 FEET
REAR = 20 FEET
REAR ABUTTING RESIDENTIAL = 30 FEET
MAXIMUM BUILDING HEIGHT = 35 FEET
BUILDING COVERAGE = 50%
IMPERVIOUS SURFACE = 75%
NEW TRINITY MISSIONARY BAPTIST CHURCH
P.O. BOX 827
CLAYTON, NORTH CAROLINA 27528
TAG NUMBER AND NCPIN
05023028 AND 165916-93-2835
EXISTING USE: GRAVEL PARKING LOT
PROPOSED USE: ASPHALT PARKING LOT
REFERENCE:
DEED BOOK 974 PAGE 789 1ST AND 2ND PARCELS

- GENERAL SITE NOTES**
- HANDICAP RAMP
 - REMOVE EXISTING DRIVEWAY AND REPLACE WITH CURB & GUTTER

LEGEND		
	EXISTING	PROPOSED
EDGE OF PAVEMENT	---	---
CONCRETE CURB & GUTTER	---	---
UNDERGROUND COMMUNICATION LINE	---	---
SANITARY SEWER	---	---
SANITARY SEWER SERVICE	---	SS
WATER LINE	---	---
WATER SERVICE LINE	---	WS
FIRE PROTECTION LINE	---	F
STORM DRAINAGE PIPE	---	D
NATURAL GAS LINE	---	G
ROOF DRAIN	---	RD
OVERHEAD ELECTRICAL LINE	---	OE
SANITARY SEWER MANHOLE	---	S.C.O.
SANITARY SEWER CLEAN OUT	---	S.C.O.
DROP INLET	---	DI
UTILITY POLE	---	---
LIGHT POLE	---	---
GUY WIRE	---	---
HYDRANT	---	---
VALVE	---	---



NO.	REVISION	DATE
1	TOWN OF CLAYTON REVIEW COMMENTS 1st	5-29-2019
2	TOWN OF CLAYTON REVIEW COMMENTS 2nd	6-18-2019
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TOWN OF CLAYTON
PROJECT NUMBERS:
2019-57-SP
2019-58-VAR
2019-59-CUP

SITE PLAN

DRAWN BY:
TSB
DESIGNED BY:
JLK
DATE:
3-11-2019
SCALE:
1" = 30'

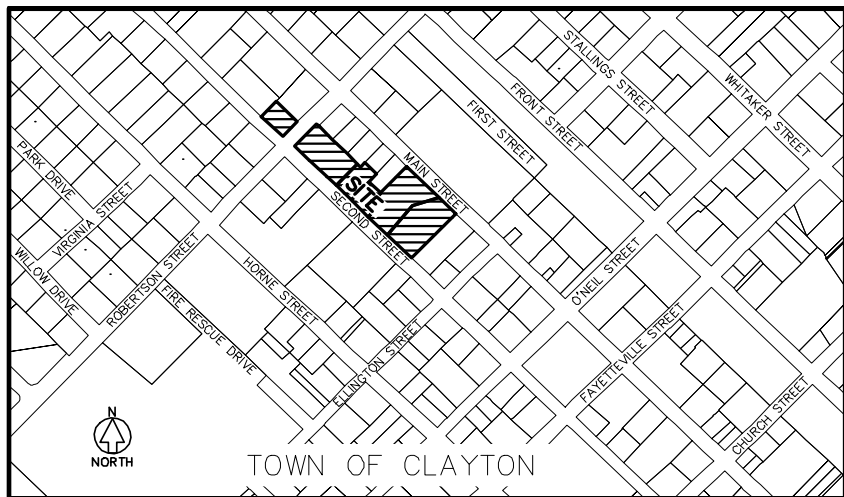
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115 SOUTH ROBERTSON STREET, CLAYTON, N.C. 27520
CONTACT: MICHAEL SIMS 919-606-5012 smsbgd@tcreativegroup.com

SHEET:
C1.3
OF:
WORK ORDER:
160283
CADD DWG:
160283

NEW TRINITY MISSIONARY BAPTIST CHURCH D214 F32

1287

FOR REVIEW ONLY
NOT FOR CONSTRUCTION.



IMPERVIOUS SURFACES
42,209.93 S.F. = EXISTING IMPERVIOUS
42,209.93 S.F./86,761 S.F. = 48.66%
46,756.78 S.F. = PROPOSED IMPERVIOUS
46,756.78 S.F./86,761 S.F. = 53.89%
(MAXIMUM PERMITTED AMOUNT = 75%)
46,756.78 - 42,209.93 = 4,546.85 S.F. ADDITIONAL
PROPOSED IMPERVIOUS (LESS THAN 17,000 S.F.)

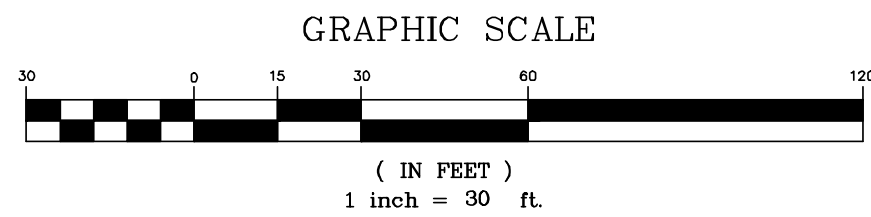
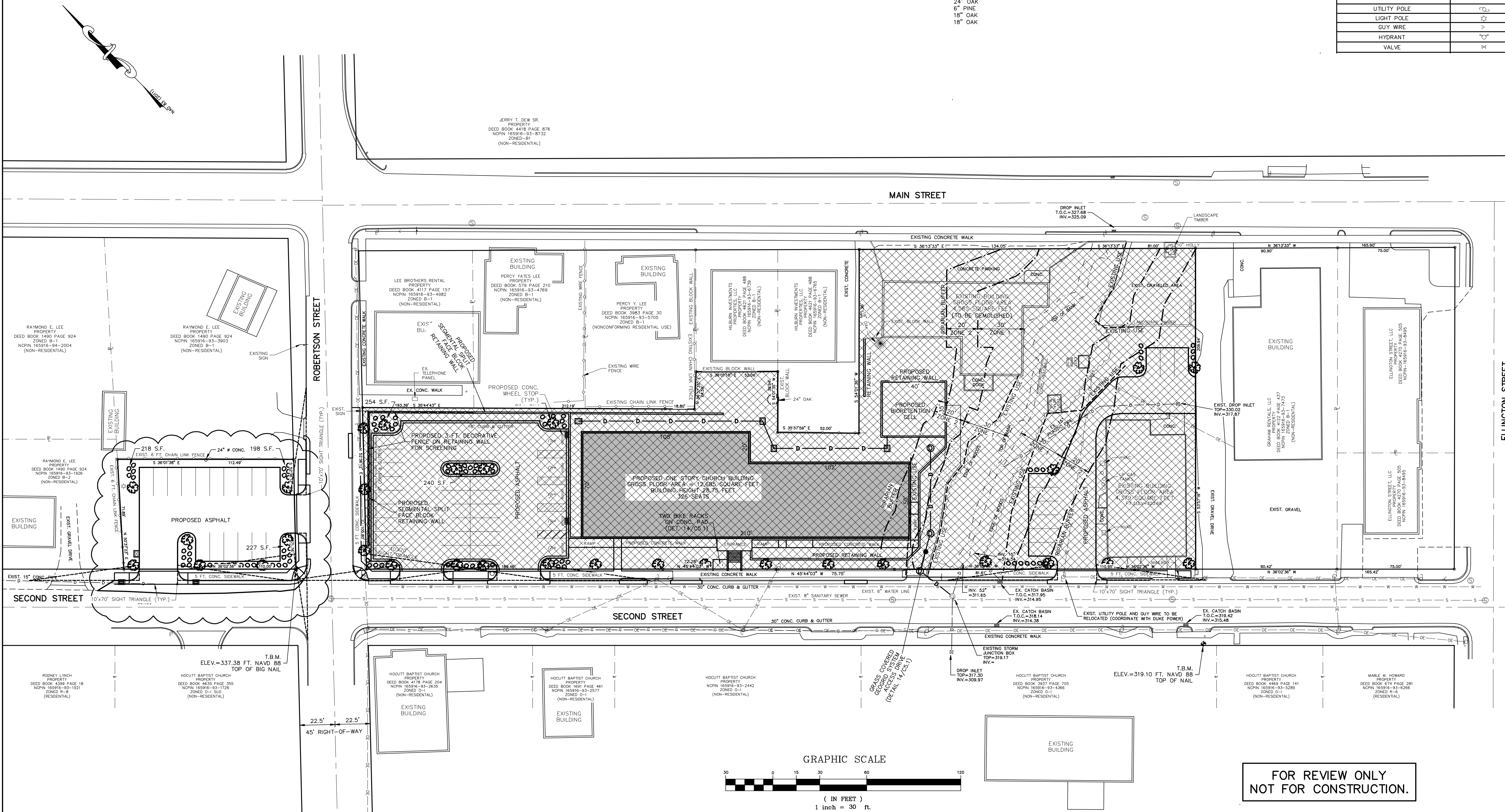
LANDSCAPE MAINTENANCE NOTE:
ALL LANDSCAPED AREAS SHALL BE
MAINTAINED IN AN ATTRACTIVE AND HEALTHY
CONDITION. DEAD OR DISEASED PLANTINGS
SHALL BE REMOVED AND REPLACED IN A
TIMELY FASHION.

PROPOSED TREES
22 AUTUMN FANTASY MAPLE
MINIMUM HEIGHT AT PLANTING 10 FEET
MINIMUM 2.5" CALIPER
MATURE HEIGHT
MINIMUM 2.5" CALIPER

PROPOSED SHRUBS
60 CARISSA HOLLY
MINIMUM HEIGHT AT PLANTING 18 INCHES

EXISTING TREES (TO REMAIN)
24" OAK
6" PINE
18" OAK
18" OAK

LEGEND		
	EXISTING	PROPOSED
EDGE OF PAVEMENT	---	---
CONCRETE CURB & GUTTER	---	---
UNDERGROUND COMMUNICATION LINE	---	---
SANITARY SEWER	---	---
SANITARY SEWER SERVICE	---	SS
WATER LINE	---	---
WATER SERVICE LINE	---	WS
FIRE PROTECTION LINE	---	F
STORM DRAINAGE PIPE	---	---
NATURAL GAS LINE	---	---
ROOF DRAIN	---	RD
OVERHEAD ELECTRICAL LINE	---	---
SANITARY SEWER MANHOLE	---	o.c.o.
SANITARY SEWER CLEAN OUT	---	o.c.o.
DROP INLET	---	o.c.o.
UTILITY POLE	---	---
LIGHT POLE	---	---
GUY WIRE	---	---
HYDRANT	---	---
VALVE	---	---



FOR REVIEW ONLY
NOT FOR CONSTRUCTION.

NO.	REVISION	DATE
1	TOWN OF CLAYTON REVIEW COMMENTS 1st	5-29-2019
2	TOWN OF CLAYTON REVIEW COMMENTS 2nd	6-18-2019
3	TOWN OF CLAYTON REVIEW COMMENTS 3rd	7-1-2019

B. R. KORNEGAY, INC.
LAND SURVEYING • ENGINEERING • PLANNING
License Number: F-1054
300 East Walnut Street
Goldensboro, N.C. 27530
www.kornegaysep.com (919) 735-5886 Fax: (919) 580-9053

TOWN OF CLAYTON
PROJECT NUMBERS:
2019-57-SP
2019-58-VAR
2019-59-CUP

LANDSCAPE PLAN

DRAWN BY:
TSB
DESIGNED BY:
JLK
DATE:
3-11-2019
SCALE:
1" = 30'

NEW TRINITY MISSIONARY BAPTIST CHURCH C14

115 SOUTH ROBERTSON STREET, CLAYTON, N.C. 27520
CONTACT: MICHAEL SIMS 919-606-5012 smsbgd@tcreativegroup.com

SHEET:
OF:
WORK ORDER:
160283
CADD DWG:
160283

NEW TRINITY MISSIONARY BAPTIST CHURCH D214 F32

1287



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

June 21, 2019

NOTICE

SUBJECT: **Project:** 2019-108-SUP New Trinity Baptist Church Parking Lot Special Use Permit
Address: Intersection of N. Robertson St. and W. Second St.
TAG #: 05023028
Applicant: New Trinity Missionary Baptist Church / Michael Sims

Dear Clayton Area Property Owner:

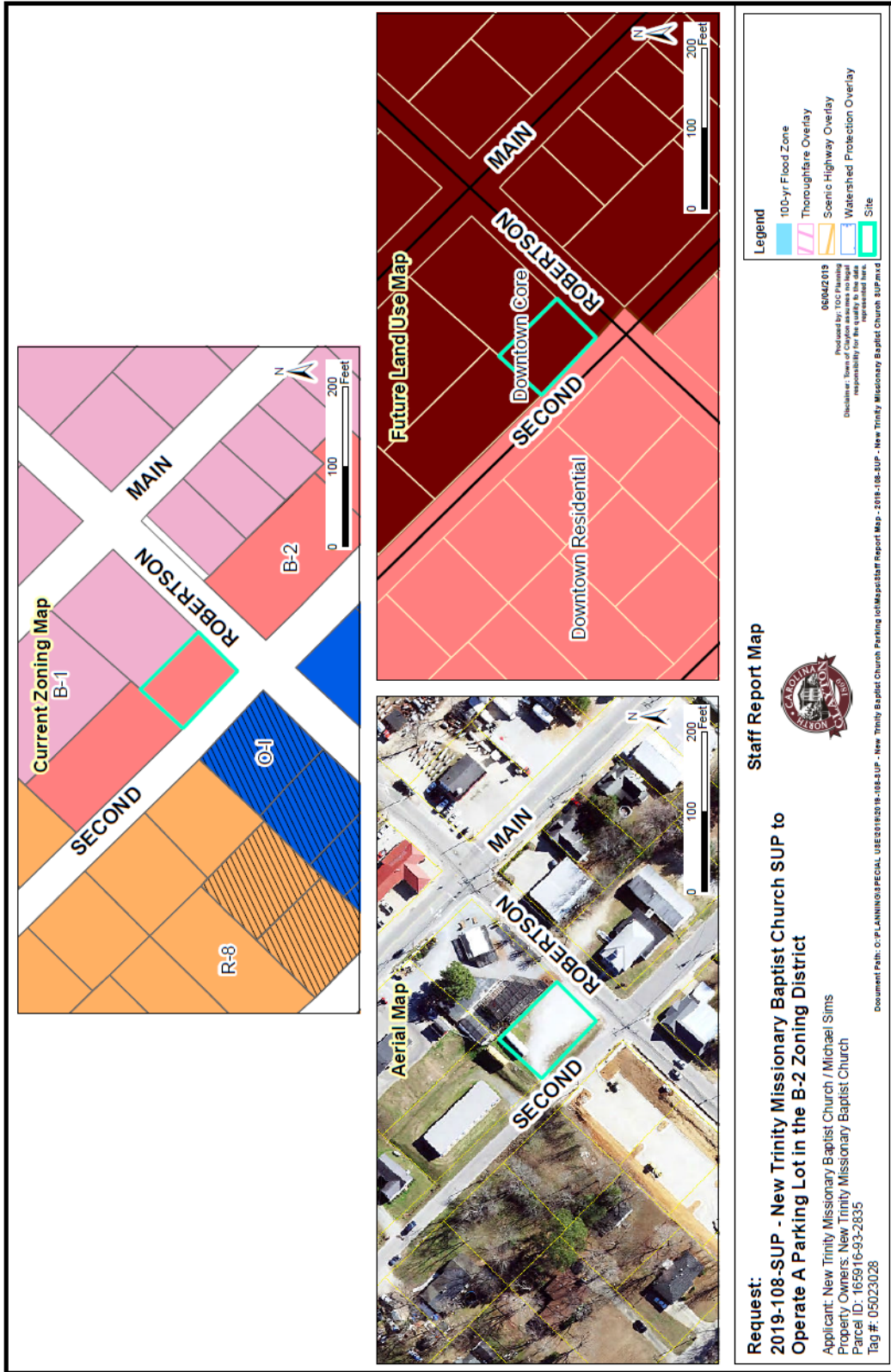
Notice is hereby given that the Clayton Town Council will hold an evidentiary hearing on **Monday, July 15, 2019 at 6:00 PM** at Town Hall, 111 E Second Street, to consider the above referenced Special Use Permit application. The applicant is requesting a Special Use Permit for the use of an asphalt parking lot in the Neighborhood-Business (B-2) District. Per the Unified Development Code, a Special Use Permit is required for the use of a parking lot in the B-2 Zoning District. The property is located at N. Robertson St. and W. Second St. and is zoned Neighborhood-Business (B-2); please see the map on the back of this letter.

Based upon records in the Johnston County Tax Office, you are the owner of property that is within 100 feet of this request. You are invited to attend this meeting. During an evidentiary hearing, the 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 interested persons are invited to attend.

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

Sincerely,

Damiere Powell
Planner



ADJACENT PROPERTY OWNERS LIST

Project Name: New Trinity Missionary Baptist Church

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

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

PARCEL NUMBER	NAME	ADDRESS
165916-93-1926	RAYMOND E. LEE	2117 SHOTWELL ROAD, CLAYTON 27520
165916-93-2004	RAYMOND E. LEE	2117 SHOTWELL ROAD, CLAYTON 27520
165916-93-3903	RAYMOND E. LEE	2117 SHOTWELL ROAD, CLAYTON 27520
1651916-93-4982	PERCY Y. LEE	2149 SHOTWELL ROAD, CLAYTON 27520
1651916-93-4769	PERCY YATES LEE	2149 SHOTWELL ROAD, CLAYTON 27520
1651916-93-5705	PERCY Y. LEE	2149 SHOTWELL ROAD, CLAYTON 27520
165916-93-6739	HILBURN INVESTMENT PROPERTIES LLC	111 Neuse Ridge Drive, CLAYTON 27527
165916-93-6765	HILBURN INVESTMENT PROPERTIES LLC	111 Neuse Ridge Drive, CLAYTON 27527
165916-93-8732	JERRY T. DEW, SR.	702 BIRKDALE DRIVE, CLAYTON 27527
165916-93-7473	GRAHAN RENTALS, LLC	315 MAIN STREET, CLAYTON 27520
165916-93-8495	THE M5 INVESTMENTS GROUP, LLC	2008 RIDGE CT., CLAYTON 27520
165916-93-6266	MABLE M. HOWARD	303 WEST 2ND STREET, CLAYTON 27520
165916-93-5289	HOCUTT BAPTIST CHURCH	314 WEST HORNE STREET, CLAYTON 27520
165916-93-4366	HOCUTT BAPTIST CHURCH	314 WEST HORNE STREET, CLAYTON 27520
165916-93-2442	HOCUTT BAPTIST CHURCH	314 WEST HORNE STREET, CLAYTON 27520
165916-93-2577	HOCUTT BAPTIST CHURCH	314 WEST HORNE STREET, CLAYTON 27520
16519-93-2635	HOCUTT BAPTIST CHURCH	314 WEST HORNE STREET, CLAYTON 27520

ADJACENT PROPERTY OWNERS LIST

Project Name: New Trinity Missionary Baptist Church

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

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

[illegible]

May 20, 2019

Dear Clayton Area Property Owner:

The purpose of this letter is to notify you of the applications 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: May 31, 2019

Meeting Time: 7:00PM

Meeting Location: 115 S. Robertson st,
Clayton, NC 27520

Type of Application: Special use permits

Project/proposal property address: 115 S. Robertson st, Clayton, NC 27520

Description of project/proposal: Building new Church

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

1. A copy of the project applications.
2. A map at a scale that is appropriate to the project and shows neighboring properties and roads.
3. 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 the applications for land use change and/or development proposal.

If you have any questions prior to or after this meeting, you may contact us at 919-606 5012. You may also contact the Planning Department at 919-553-5002.

Sincerely,

Michael Sims
New Trinity Missionary Baptist Church

NEIGHBORHOOD MEETING SUMMARY FORM

FILL OUT THE FOLLOWING:

Application: SPECIAL USE PERMIT Date of Mailing: _____
Date of Meeting: May 31 2019 Time of Meeting: 7:00pm
Location of Meeting: 115 ROBERTSON STREET, CLAYTON NC 27520

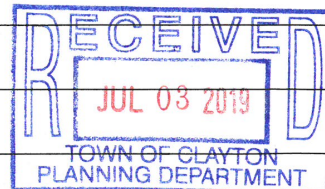
I hereby attest that letters were mailed to the addresses listed on the Adjacent Property Owners List (attached) ten days prior to the Neighborhood Meeting, and that all required information was presented at the Meeting:

Printed Name: Michael Sims Signature: Michael Sims

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

Michael Sims open the meeting up by discussing the
over all New Trinity Project. He then discussed why
the special use permit is needed

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



NEIGHBORHOOD MEETING ATTENDANCE ROSTER

Project: NEW TRINITY MISSIONARY CHURCH

Application: SPECIAL USE PERMIT

Location/Date: 115 ROBERTSON STREET, CHAYTON NC 27526

	NAME	ADDRESS
1		
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Town of Clayton
Planning Department
111 E. Second Street, Clayton, NC 27520
P.O. Box 879, Clayton, NC 27528
Phone: 919-553-5002
Fax: 919-553-1720

Planning Board
July 15th, 2019

STAFF REPORT

Application Number: 2019-108-SUP

Project Name: New Trinity Baptist Church Parking Lot Special Use Permit

Tag #: 05023028
Overlay: None
Applicant: New Trinity Missionary Baptist Church / Michael Sims
Owner: New Trinity Missionary Baptist Church
Location: At the intersection of N. Robertson St. and W. Second St.

Public Noticing:

- Neighborhood meeting held on May 31, 2019
- Sign posted prior to July 3rd, 2019

REQUEST: The applicant is requesting Special Use Permit approval for the use of an asphalt parking lot on the subject property, which is zoned Neighborhood-Business (B-2).

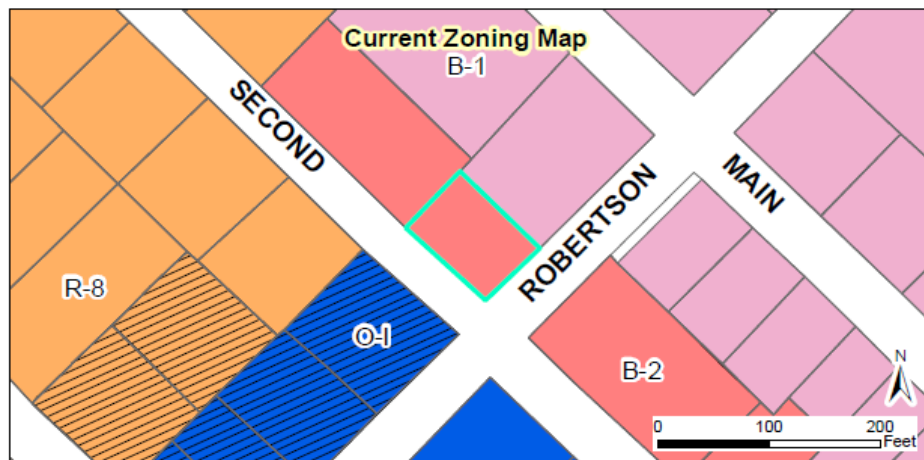
SITE DATA:

Acreage: 0.18 acres
Existing Use: Unpaved Parking Lot



ADJACENT ZONING AND LAND USES:

Direction	Zoning	Existing Use
North	Central-Business (B-1) & Neighborhood-Business (B-2)	Commercial, Self-Storage Facility, Convenience Store with Gas Sales, Vehicular Repair or Service
South	Office-Institutional (O-I)	Vacant & Office
East	Central-Business (B-1) & Neighborhood-Business (B-2)	Single-family Residential & Commercial
West	Residential-8 (R-8)	Vacant & Single-Family Residential

**DEVELOPMENT DATA:**

Proposed Uses: Asphalt Parking Lot
Impervious Surface: 53.89%
Proposed Parking: 16 Spaces
Access/Streets: Two access points. One off Second Street and one off Robertson Street.

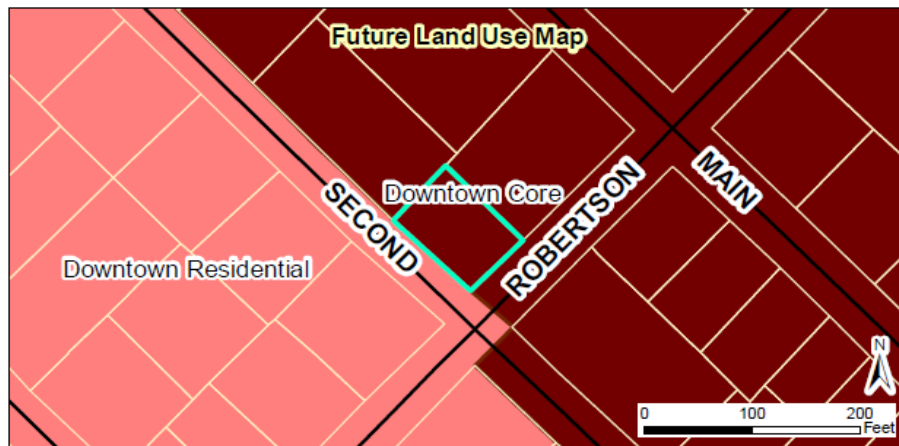
STAFF ANALYSIS:**Overview**

The applicant is requesting a Special Use Permit to allow the use of an asphalt parking lot on the subject property. The existing use of the lot is a gravel parking lot, which the applicant would like to pave in order to provide supplementary parking for New Trinity Baptist Church across the street. This application is associated with Major Site Plan application 2019-57-SP, which is a request for site plan approval that will allow the reconstruction and expansion of a new church building. The proposed site plan for the church does not meet the parking requirement outlined in section 155.401(C)(2) of the UDC. Consequently, the applicant seeks approval the use of a parking lot

on the subject property to serve as additional off-site parking for the church property as permissible by code section 155.401(C)(4)(c). These parking spaces are within 750 feet from the proposed church entrance, and meets location, zoning, and agreement requirements stated in the aforementioned UDC code section.

Associated Site Plan

The applicant is requesting site plan approval to demolish the existing New Trinity Missionary Baptist Church building and construct a new 12,685 square foot building. The properties have been rezoned via application 2018-206-RZ in order to split the zoning of the church properties. The portion of the properties which front on Main Street are zoned Central-Business (B-1), and the other portion of the properties are zoned Neighborhood-Business (B-2). The B-1 portion of the property is within the Downtown Overlay District. A Conditional Use Permit application, 2019-59-CUP, is running concurrently with this site plan application in order to permit the use of a church on the portion of the property zoned Neighborhood-Business. Furthermore, a Variance application, 2019-58-VAR, and Special Use Permit application 2019-108-SUP are also running alongside this application to allow parking and setback requirement modifications.



Consistency with Adopted Plans:

- **Comprehensive Plan 2040**

The subject property is located with the "Downtown Core" designation of the Future Land Use map. This designation is intended to serve a mix of uses in order to foster an urban environment characterized by a blending of older structures, context-sensitive new construction, and public spaces that integrate with surrounding neighborhoods.

- **Unified Development Code**

The proposed development is consistent with the Unified Development Code (UDC). The use of a parking lot is permitted via the issuance of a Special Use Permit in the Neighborhood-Business (B-2) zoning district.

Findings of Fact

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

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

Applicant Response: “The paving of this parking lot will not endanger or be a safety risk to the surrounding area. It will enhance the area.”

Staff Commentary: The proposed parking lot will be paved, striped, and landscaped in accordance with sections 155.401 and 155.402 of the Unified Development Code. The proposed location of the parking lot is intended to serve as supplementary off-site parking to the New Trinity Missionary Baptist Church site.

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: “This project will meet with and conform to all standards and practices of sound land use in accordance with the Town Code of Ordinances and applicable regulations.”

Staff Commentary: The use of a parking lot is permitted in the Neighborhood-Business (B-2) district upon issuance of a Special Use Permit. The proposed site plan conforms with the required regulations for vehicular use areas outlined in sections 155.401, as well as landscape requirements of section 155.402 of the Unified Development Code.

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 project will not substantially injure the value of adjoining or abutting property and will not be a detriment to land use or development.”

Staff Commentary: In accordance with section 155.402(D) of the UDC, the proposed parking area shall be screened from the public right of way with landscaping, and terminal landscape islands shall be provided at the end of each parking row. Perimeter compatibility buffers are not required along adjacent property lines, as the adjacent properties are zoned Central-Business (B-1) and Neighborhood-Business (B-2). The proposed parking lot shall be paved and striped.

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

Applicant Response: “This project will not adversely affect the adopted plans and policies of the Town or violate the character of existing standards for development of adjacent properties.”

Staff Commentary: The proposed application shall meet current regulatory standards of the Town outlined in the Unified Development Code. The applicant is requesting approval of this Special Use Permit so that Major Site Plan application 2019-57-SP may conform with minimum parking requirements of the UDC.

CONSIDERATIONS:

- The Town Council shall make final decisions regarding Special Use Permits.
-

STAFF RECOMMENDATION:

If approved, staff recommends the following conditions of approval be placed upon this application:

1. These conditions of approval shall be recorded on the final plan set, which will be delivered to the Planning Department for review and final approval.
-

ATTACHMENTS:

- 1) Cover Sheet
- 2) Owner's Consent Form
- 3) Staff Report Maps
- 4) Application
- 5) Neighborhood Meeting Materials
- 6) Site Plan
- 7) Adjacent Property Letter – Public Notice
- 8) Newspaper Ad – Public Notice

PUBLIC NOTICE

In accordance with NC GS 160A-384, the Clayton Town Council will hold a public hearing on Monday July 15th, 2019, at 6 PM at Town Hall, 111 East Second Street, to consider the following:

- 2019-108-SUP New Trinity Baptist Church Parking Lot; request for a Special Use Permit to allow the use of a parking lot on the subject property, which is zoned Neighborhood-Business (B-2). Per UDC requirement, the use of a parking lot in this zoning district requires a Special Use Permit. The property is located within Town Limits. Tag # 05023028.

For 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.

Damiere Powell, Planner
919-553-5002

The Johnstonian Newspaper

Please advertise on the following dates:

July 3, 2019

July 10, 2019

Affidavit of publication required.

**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 **2019-108-SUP**.

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 6g
2019-108-SUP
New Trinity Baptist Church Parking Lot

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 6g
2019-108-SUP
New Trinity Baptist Church Parking Lot

**TOWN OF CLAYTON
SPECIAL USE PERMIT
#2019-108-SUP
GRANTED**

On the date listed below, the Town Council for the Town of Clayton met and held an evidentiary hearing to consider the following application:

Applicant:	New Trinity Baptist Church
Property Owner:	New Trinity Baptist Church
Property Location:	At the Intersection of N. Robertson St. and W. Second St.
Brief Property Description:	.18 acres
Tax Parcel Number:	05023028
Proposed Use of Property:	Use of an Asphalt Parking Lot on Subject Property
Hearing Date:	July 15, 2019

Having heard all the evidence and argument presented at the hearing, the Town Council makes the following findings:

(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.

(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, or other applicable regulations.

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

(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.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

TOWN OF CLAYTON

BY: _____
Michael Grannis
Mayor Pro Tem

DATE: _____ [Note:
within 14 days of decision per Code Section
155.702(G)]

ATTEST:

_____(SEAL)
Kimberly A. Moffett, CMC, NCCMC
Town Clerk



Town Council Agenda Cover Sheet

Meeting Date

July 15 2019

Agenda Location

Public Hearings

Item Title

2019-118-RZ 412 W. Stallings Rezoning

Presenter

Planning Department

Summary/Description

The applicant is requesting to rezone 0.34 acres of land from Residential-8 (R-8) to Residential-6 (R-6). The existing use is Single-Family Residential and is primarily surrounded by other Single-Family Residential uses. The proposed rezoning is considered "spot zoning," which isolates a relatively small tract with different zoning regulations than the surrounding, uniformly zoned area. Valid spot zoning proposals must be thoroughly analyzed to assure that the request is consistent with the comprehensive plan, and that adverse impacts on neighboring properties will not result from approval of the rezoning request.

Requested Action

Approval/Denial

Funding Source (If Applicable):

N/A

Cost: N/A Yes ☐ No ☒

Additional Documents to be Included in Agenda Packet

Application
Owner's Consent Form
Staff Report Maps
Neighborhood Meeting Materials
Site Plan
PB Adjacent Property Letter – Public Notice
TC Adjacent Property Letter – Public Notice
Newspaper Ad – Public Notice
Consistency Statement

Meeting Timeline

June 24, 2019 – Planning Board Meeting
July 15, 2019 – Town Council Meeting



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

REZONING APPLICATION COVER SHEET

Name of Project: 412 W. Stallings Rezoning Date: 6-3-19
Applicant Name: Todd Stutts

The following checklist to be completed by applicant:

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

RECEIVED

wed by: _____ JUN 03 2019

TOWN OF CLAYTON
PLANNING DEPARTMENT

1 of 10



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

REZONING APPLICATION

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

SITE INFORMATION

Name of Project: 412 W. Stallings Rezoning
Acreage of Property: .34 Zoning District: R-8
County Tag #: 05030011 NC Pin #: 165916-94-9681
Address/Location: 412 W. Stallings
Existing Zoning District: R-8 Proposed Zoning District: R-4

APPLICANT INFORMATION

Applicant: Todd Stutts
Mailing Address: 435 E. 2nd Street, Clayton
Phone Number: 919-390-5169 Fax: _____
Contact Person: Todd Stutts
Email Address: todd@claytonglassandmirror.com

PROPERTY OWNER INFORMATION

Name: Same as applicant info above
Mailing Address: _____
Phone Number: _____ Fax: _____
Email Address: _____

RECEIVED

OFFICE USE ONLY

Date Received: JUN 03 2019 Amount Paid: \$700 File Number: 2019-118-RZ

TOWN OF CLAYTON
PLANNING DEPARTMENT

April 2019

2 of 10

EXPLANATION OF PROJECT

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

Applicant would like to rezone from R-8 to R-4.

APPROVAL CRITERIA

All applications for a Rezoning must address the following findings:

1. Consistency with the adopted plans of the Town.
This request is consistent with the adopted plans of the Town.
2. Suitability of the subject property for uses permitted by the current vs. the proposed district.
Subject property is suitable for proposed district and will stay within permitted use.
3. Whether the proposed change tends to improve the balance of uses, or meets specific demand in the Town.
The proposed change will improve the balance of uses as there is already R-6 near this property.
4. The capacity of adequate public facilities and services including schools, roads, recreation facilities, wastewater treatment, potable water supply and stormwater drainage facilities is available for the proposed use.
The proposed use will not increase the capacity of public facilities/services.
5. It has been determined that the legal purposes for which zoning exists are not violated.
This request does not violate any legal purposes for which zoning exists.
6. It has been determined that there will be no adverse effect upon adjoining property owners unless such effect can be justified by the overwhelming public good or welfare.
There will be no adverse effect to adjoining property owners by this request. R-6 already exists in this area.

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

No one property owner or group will benefit
from the Zoning request change.

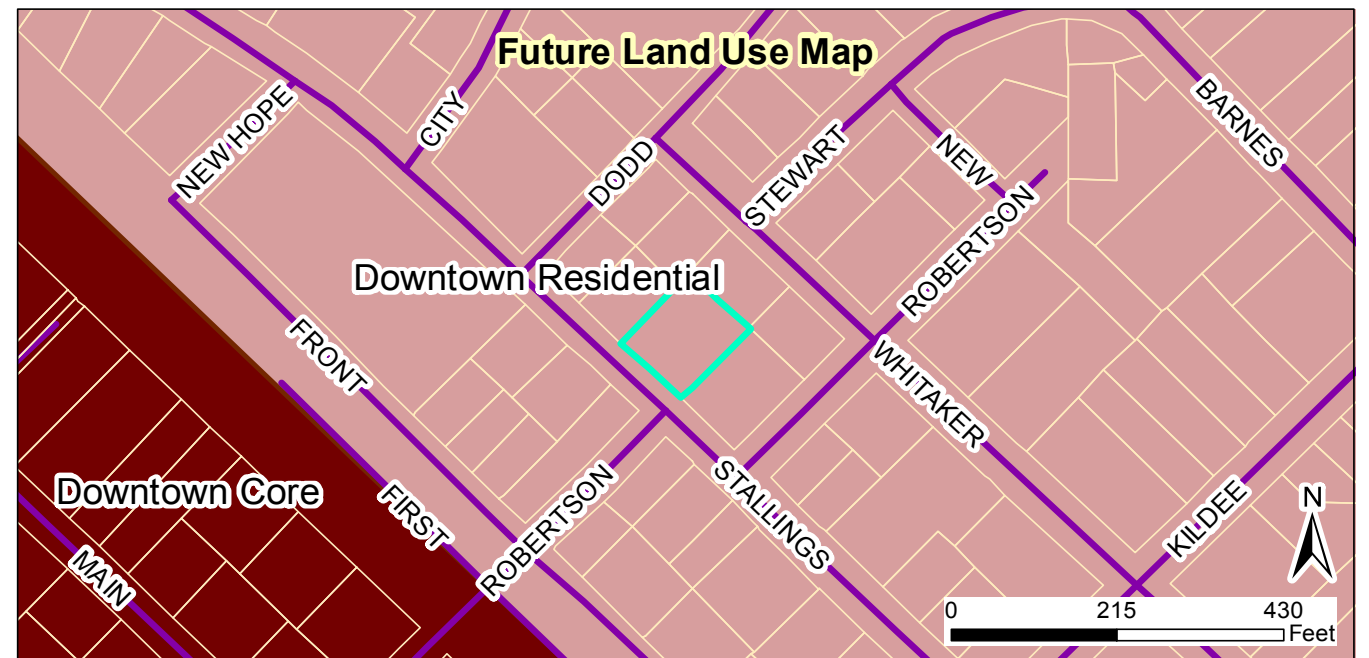
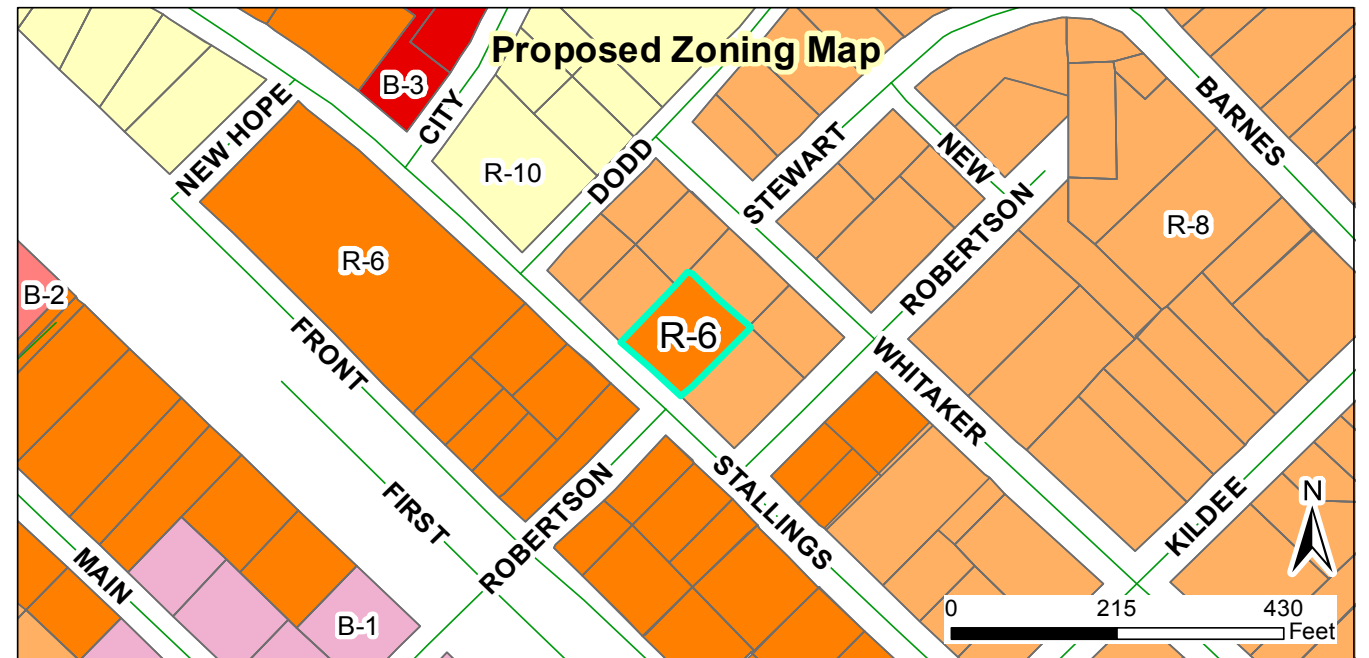
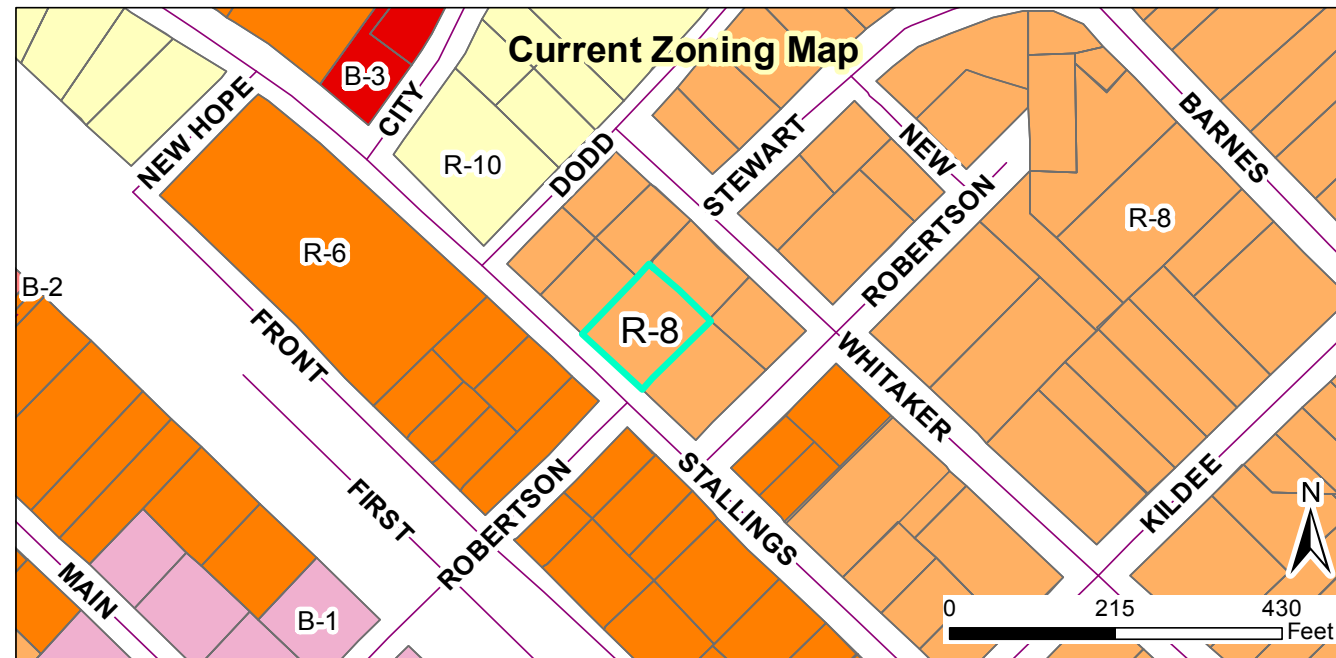
APPLICANT AFFIDAVIT

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

Todd Stutts
Print Name

[Signature]
Signature of Applicant

5-29-19
Date



Request:
2019-118-RZ, 412 W. Stallings Rezoning
Request to Rezone Existing R-8 Zoning to R-6

Applicant: Todd Stutts
 Property Owner: Todd Stutts
 Parcel ID: 165916-94-9681
 Tag #: 05030011

Staff Report Map



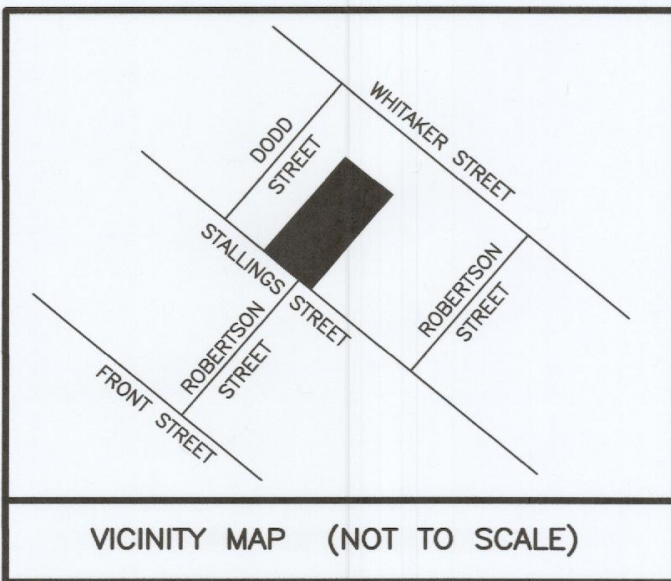
Document Path: O:\PLANNING\REZONING\Rezoning\2019\2019-118-RZ - 412 W. Stallings\Map\Staff Report Map - 2019-412-RZ - W. Stallings Rezoning.mxd

Legend

- Site
- 100-yr Flood Zone
- Thoroughfare Overlay
- Watershed Protection Overlay

06/11/2019

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



CERTIFICATE OF OWNERSHIP AND DEDICATION
I HEREBY CERTIFY THAT I AM THE OWNER OF THE PROPERTY SHOWN AND DESCRIBED HEREON, WHICH IS LOCATED IN THE SUBDIVISION JURISDICTION OF JOHNSTON COUNTY AND THAT I HEREBY ADOPT THIS SUBDIVISION PLAN WITH MY FREE CONSENT, ESTABLISHED MINIMUM SETBACK LINES, AND DEDICATE ALL STREETS, ALLEYS, PARKS AND OTHER SITES AND EASEMENTS TO PUBLIC OR PRIVATE USE AS NOTED.

DATE _____ OWNER _____

THIS SURVEY:

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

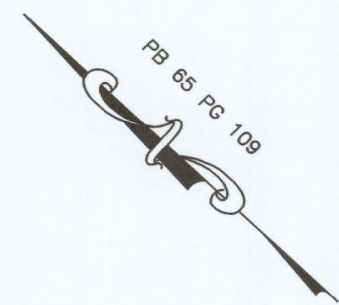
DATE _____ SURVEYOR _____

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

DATE _____ SURVEYOR _____

STATE OF NORTH CAROLINA, JOHNSTON COUNTY
I, CURK T. LANE, DO HEREBY CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN BOOK _____, PAGE _____, ETC.); THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN BOOK _____, PAGE _____, THAT THE RATIO OF PRECISION AS CALCULATED IS 1:10,000+; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL THIS _____ DAY OF _____, A.D., 2019

SURVEYOR
L - 3990
LICENSE NUMBER



N/F
JONATHAN LEE
DB 3419 PG 923
PIN 165916-94-9605

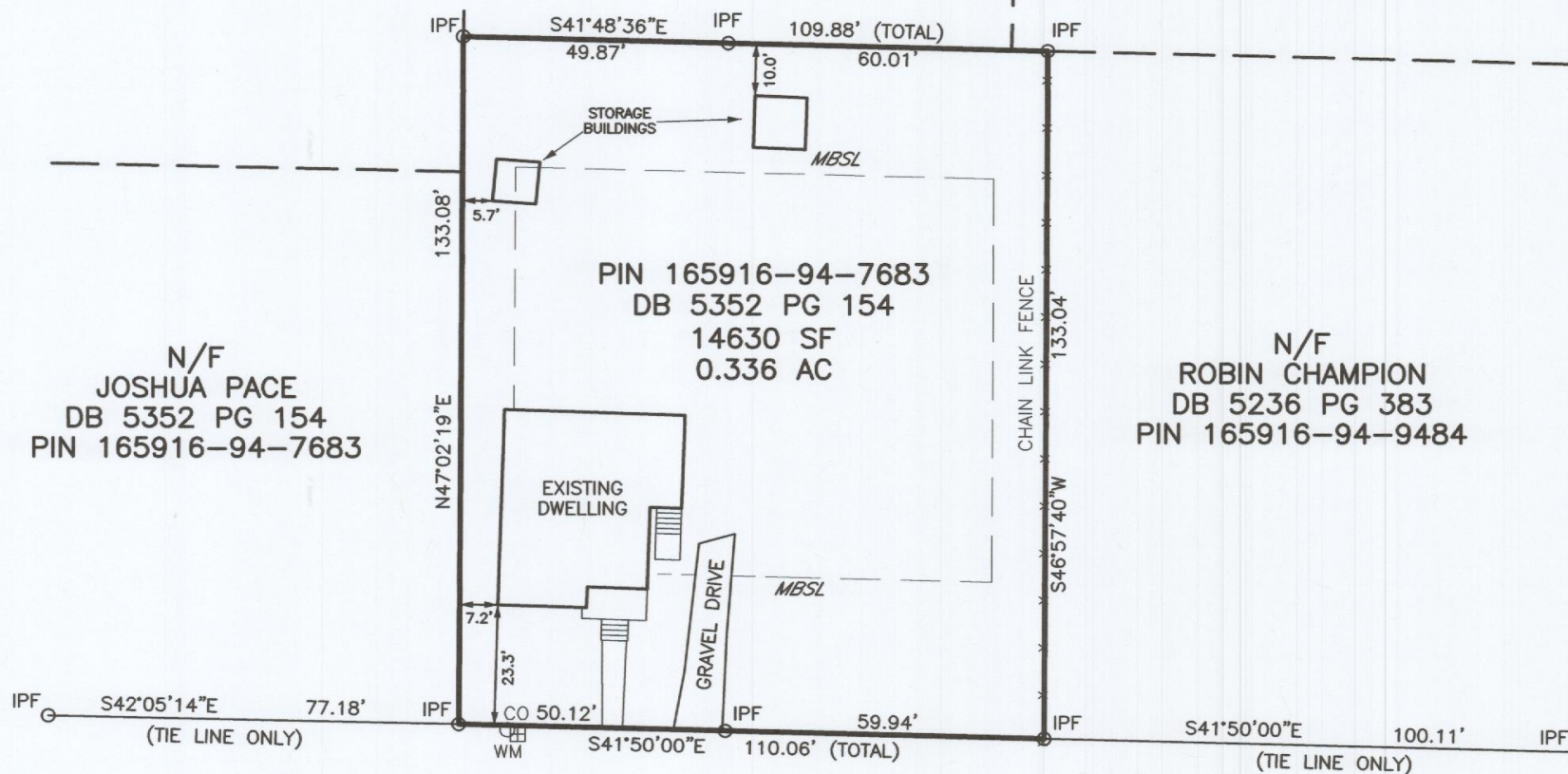
N/F
RICHARD STUTTS
DB 4275 PG 470
PIN 166913-04-0668

N/F
CELEA BUESO
DB 4670 PG 743
PIN 166913-04-0553

N/F
JOSHUA PACE
DB 5352 PG 154
PIN 165916-94-7683

PIN 165916-94-7683
DB 5352 PG 154
14630 SF
0.336 AC

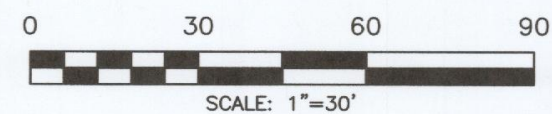
N/F
ROBIN CHAMPION
DB 5236 PG 383
PIN 165916-94-9484



STALLINGS STREET 50' R/W (PUBLIC)

ROBERTSON STREET
50' R/W (PUBLIC)

OWNER: RICHARD TODD STUTTS
435 E. 2ND STREET
CLAYTON, NC 27520
SITE ADDRESS: 412 W STALLING ST.
CLAYTON, NC. 27520



PROPERTY SHOWN HEREON IS XXXX IS NOT LOCATED IN A FEMA DESIGNATED FLOOD ZONE. FEMA FLOOD HAZARD PANEL NO. 3720166900 K EFFECTIVE DATE: APRIL 30, 2014

LEGEND

- IPF IRON PIPE FOUND
- IPS IRON PIN SET
- CMF CONCRETE MONUMENT FOUND
- PKNF PARKER-KALON NAIL FOUND
- PKNS PARKER-KALON NAIL SET
- R/S RAILROAD SPIKE
- CP COMPUTED POINT
- P/P POWER POLE
- R/W RIGHT OF WAY
- S.F. SQUARE FEET
- AC ACRE
- TM TAX MAP
- DB DEED BOOK
- PB PLAT BOOK
- PG PAGE
- BOM BOOK OF MAPS
- LF LINEAL FEET
- OPW OVER HEAD POWER
- WIRE
- 100 STREET ADDRESS
- LINES NOT SURVEYED

NOTES:

- 1) ALL DISTANCES SHOWN ARE HORIZONTAL GROUND DISTANCES
- 2) AREAS COMPUTED BY COORDINATE METHOD.
- 3) PROPERTY SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD.
- 4) NO. 5 REBAR IRON STAKES WITH CAPS SET AT ALL LOT CORNERS UNLESS OTHERWISE NOTED
- 5) PARENT DEED TRACT: DB 5354 PG 536
- 6) PN NUMBER: 05030011
- 7) ZONING: R-8
- 8) NO HORIZONTAL CONTROL FOUND WITHIN 2000' OF SURVEY

REFERENCES:

DB 5354 PG 536
DB 4275 PG 470
DB 4670 PG 743
DB 3419 PG 923
DB 5236 PG 383
DB 5352 PG 154
PB 65 PG 109
PB 7 PG 107

MINIMUM BUILDING SETBACKS
ZONING: R-8
FRONT.....25'
SIDE.....10'
REAR.....25'

RECEIVED

JUN 03 2019

TOWN OF CLAYTON
PLANNING DEPARTMENT

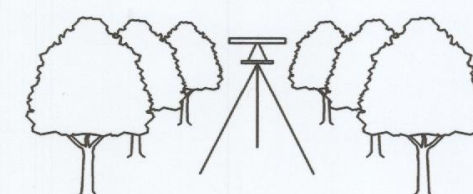
RECOMBINATION PLAT
FOR

RICHARD TODD STUTTS

CLAYTON TOWNSHIP, JOHNSTON COUNTY
NORTH CAROLINA
MAY 31, 2019

SURVEYED BY:
TLS
DRAWN BY:
KAMAL
CHECKED BY:
CURK
DRAWING NAME:
BOUNDARY.DWG
SURVEY DATE:
05/30/19
JOB NO.
522.038

TRUE LINE SURVEYING, P.C.



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

ADJACENT PROPERTY OWNERS LIST

Project Name: See attached GIS Sheet

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

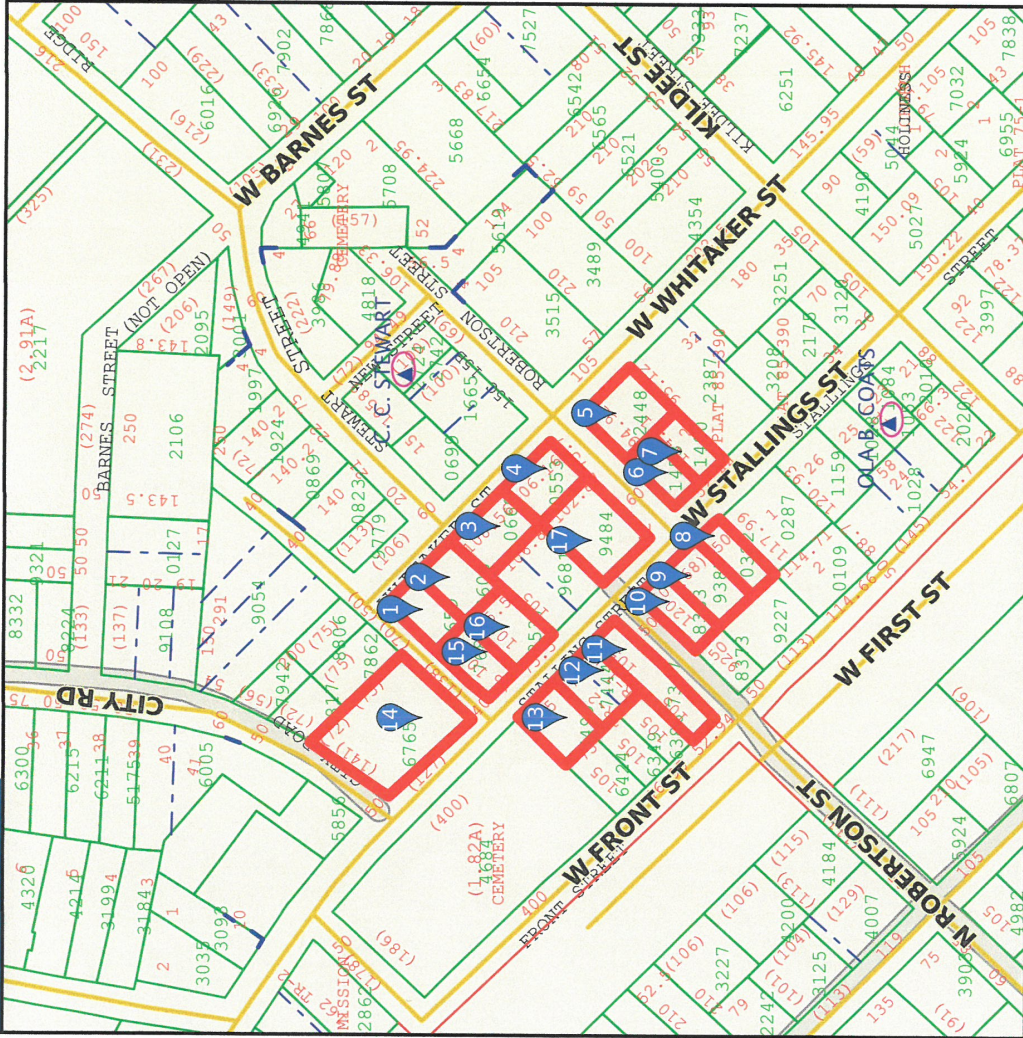
It is the responsibility of the applicant to correctly identify the current owner, based upon records in the Johnston County GIS Office, for all property owners of land within the required public notice radius.

PARCEL NUMBER	NAME	ADDRESS



*** DISCLAIMER ***

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



Result 1

id: 05030014
Tag: 05030014
Owner Name 1: PARRISH, ALDINE ELLIS
Owner Name 2:
Mail Address 1: 427 WHITAKER ST
Mail Address 2:
Mail Address 3: CLAYTON, NC 27520-0000
Book: 00518
Page: 0614

Result 2

id: 05030015
Tag: 05030015
Owner Name 1: LEE, JONATHAN
Owner Name 2:
Mail Address 1: 427 WEST MAIN STREET
Mail Address 2:
Mail Address 3: CLAYTON, NC 27520-0000
Book: 03419
Page: 0923

Scale: 1:2865 - 1 in. = 238.76 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 3, 2019



*** DISCLAIMER ***

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

Result 3

id: 05030016
Tag: 05030016
Owner Name 1: STUTTS, RICHARD TODD
Owner Name 2:
Mail Address 1: 435 E 2ND ST
Mail Address 2:
Mail Address 3: CLAYTON, NC 27520-2534
Book: 04275
Page: 0470

Result 4

id: 05030017
Tag: 05030017
Owner Name 1: BUESO, CELEA PATRICIA
Owner Name 2:
Mail Address 1: 10936 STAGE DR
Mail Address 2:
Mail Address 3: RALEIGH, NC 27603-9697
Book: 04670
Page: 0743

Result 5

id: 05031031B
Tag: 05031031B
Owner Name 1: BLUE AND WHITE, LLC
Owner Name 2:
Mail Address 1: 114 W MAIN ST STE 102
Mail Address 2:
Mail Address 3: CLAYTON, NC 27520-2397
Book: 05301
Page: 0400

Result 6

id: 05031031
Tag: 05031031
Owner Name 1: FORRESTER, JAMES
Owner Name 2:
Mail Address 1: 330 W STALLINGS ST
Mail Address 2:
Mail Address 3: CLAYTON, NC 27520-1726
Book: 05317
Page: 0842

Result 7

id: 05031031A
Tag: 05031031A
Owner Name 1: LONDON, EARL S.
Owner Name 2: LONDON, ELIZABETH W.
Mail Address 1: 326 W STALLINGS ST
Mail Address 2:
Mail Address 3: CLAYTON, NC 27520-1726
Book: 05297
Page: 0466

Result 8

id: 05031028
Tag: 05031028
Owner Name 1: KIMBLE, PAUL L JR
Owner Name 2: KIMBLE, LAURIE A
Mail Address 1:
Mail Address 2: PO BOX 875
Mail Address 3: CLAYTON, NC 27528-0875
Book: 02713
Page: 0510

Result 9

id: 05031029
Tag: 05031029
Owner Name 1: SPENCE, AVA C
Owner Name 2: COLLINS, EARL J
Mail Address 1: 4579 C BARBER MILL RD
Mail Address 2:
Mail Address 3: CLAYTON, NC 27520-0000
Book: 03612
Page: 0106

Result 10

id: 05030001
Tag: 05030001
Owner Name 1: SPENCE, AVA C
Owner Name 2: COLLINS, EARL J
Mail Address 1: 4579 C BARBER MILL RD
Mail Address 2:
Mail Address 3: CLAYTON, NC 27520-0000
Book: 03612
Page: 0106



*** DISCLAIMER ***

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

Result 11

id: 05030003
Tag: 05030003
Owner Name 1: RD CONSTRUCTION INC
Owner Name 2:
Mail Address 1: 106 S EAST STREET
Mail Address 2:
Mail Address 3: RALEIGH, NC 27601-0000
Book: 05175
Page: 0698

Result 12

id: 05030081
Tag: 05030081
Owner Name 1: 919 PROPERTIES, LLC
Owner Name 2:
Mail Address 1: 476 SHOTWELL RD STE 102
Mail Address 2: BOX 273
Mail Address 3: CLAYTON, NC 27520-3506
Book: 04823
Page: 0661

Result 13

id: 05030005
Tag: 05030005
Owner Name 1: KETNER, HARRY B
Owner Name 2:
Mail Address 1: 413 W STALLINGS ST
Mail Address 2:
Mail Address 3: CLAYTON, NC 27520-1737
Book: 03834
Page: 0887

Result 14

id: 05030043
Tag: 05030043
Owner Name 1: WHITE, STEVEN WAYNE
Owner Name 2: WHITE, PATRICIA HARGIS
Mail Address 1: 308 N DODD ST
Mail Address 2:
Mail Address 3: CLAYTON, NC 27520-1708
Book: 04773
Page: 0998

Result 15

id: 05030013
Tag: 05030013
Owner Name 1: PACE, JOSHUA
Owner Name 2:
Mail Address 1: 422 W STALLINGS ST
Mail Address 2:
Mail Address 3: CLAYTON, NC 27520-1727
Book: 05352
Page: 0154

Result 16

id: 05030012
Tag: 05030012
Owner Name 1: FERGUSON PROPERTIES AND INVESTMENTS, LLC
Owner Name 2:
Mail Address 1: 143 PALMER DR
Mail Address 2:
Mail Address 3: CLAYTON, NC 27527-7540
Book: 05221
Page: 0183

Result 17

id: 05030010
Tag: 05030010
Owner Name 1: CHAMPION, ROBIN DENISE
Owner Name 2:
Mail Address 1: 310 N ROBERTSON ST
Mail Address 2:
Mail Address 3: CLAYTON, NC 27520-1720
Book: 05236
Page: 0383

June 10, 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: Tuesday, June 20, 2019

Meeting Time: 6:00 pm

Meeting Location: 328 E. Main Street, 2nd floor conference room

Type of Application: Rezoning Application

Project/proposal property address: 412 W. Stallings Street, Clayton

Description of project/proposal: Applicant is requesting re-zoning of property at 412 W. Stallings Street from R-8 to R-6.

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

1. A copy of the project application. 2. A map at a scale that is appropriate to the project and shows neighboring properties and roads. 3. 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 919-390-5769. You may also contact the Planning Department at 919-553-5002.

Sincerely,

Todd Stutts

Cc: Town of Clayton Planning Dept.

NEIGHBORHOOD MEETING ATTENDANCE ROSTER

Project: 412 W. Stallings Rezoning

Application: 412 W. Stallings Rezoning

Location/Date: HRP upstairs conference room, 328 E. main St.

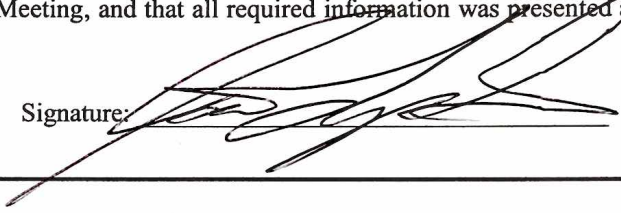
	NAME	ADDRESS
1	James Lipscomb	328 E. main St.
2	Paul & Laurie Kimble	331 W. Stallings St.
3	James Baltzer	213 W. Barnes St.
4	John Dand Millican	204 W. Stallings St.
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		

NEIGHBORHOOD MEETING SUMMARY FORM

FILL OUT THE FOLLOWING:

Application: 412 W. Stallings Rezoning Date of Mailing: 6-10-19
Date of Meeting: 6-20-19 Time of Meeting: 6:00 pm
Location of Meeting: HTP upstairs Conference room, 328 E. main St.

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

Printed Name: James Lipscomb Signature: 

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

Please See attached.

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

June 20, 2019

Neighborhood meeting notes for 412 W. Stallings Street Clayton NC 27520

Attendees:

James H Lipscomb 328 East Main Street Clayton NC 27520 for applicant

Paul and Laurie Kimble 331 W. Stallings Street Clayton NC 27520

James Baltzer 213 W. Barnes Street Clayton NC 27520

John David Millican 204 W. Stallings Street Clayton NC 27520

Meeting started at approximately 6:05 pm. After presentation and general conversation about the proposed rezoning the attendees agreed that the following issues are their major concern.

- Questions about potential new home styles, driveway and parking
- Concerns about traffic on street and on lack of on street parking
- Concerns about driveway depth and adequate parking for homeowners and guest
- Concerns about street narrowing
- James H Lipscomb stated applicant will research possibility of providing parking pad at the rear of home so owners cars can turn around and leave driveway facing out and guess will have ability to park in the driveway.
- Major concerns parking, backing out onto street from driveway, parked cars possibly blocking sidewalk, overall vehicle and pedestrian safety.
- Residents noted need for Town of Clayton to provide bike lanes on Stallings Street to access neighborhood parks etc.....

Minutes submitted by James Lipscomb 6.20.2019



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

June 11, 2019

NOTICE

SUBJECT: **Project:** 2019-118-RZ 412 W. Stallings Rezoning
 Address: 412 W. Stallings, Clayton, North Carolina, 27520
 TAG #: 05030011
 Applicant: Todd Stutts

Dear Clayton Area Property Owner:

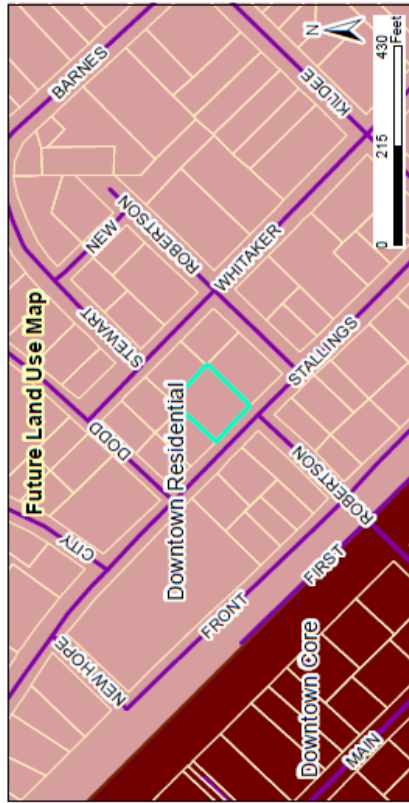
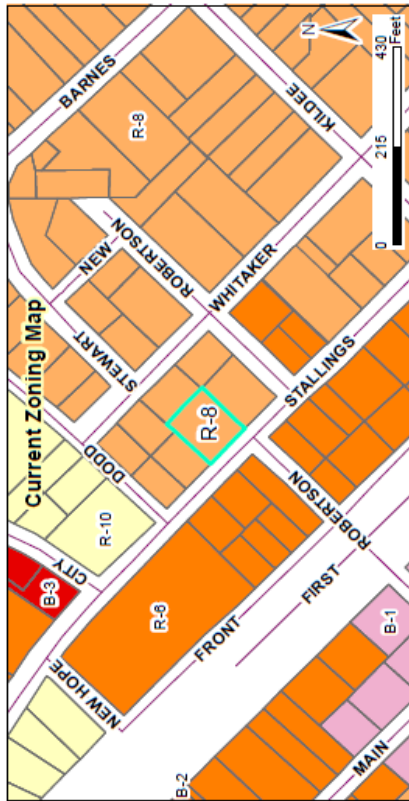
Notice is hereby given that the Clayton Planning Board will hold a public meeting on **Monday, June 24th, 2019 at 6:00 PM** at Town Hall, 111 E. Second Street, to make a recommendation on the above referenced Rezoning application. This application will proceed to Town Council for a public hearing following Planning Board recommendation. Another notice will be sent prior to the date of the scheduled public hearing. The applicant is requesting to rezone 0.34 acres from Residential-8 (R-8) to Residential-6 (R-6). Please see the map on the back of this letter.

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

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

Sincerely,

Damiere Powell
Planner



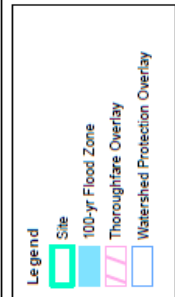
Request:
 2019-118-RZ, 412 W. Stallings Rezoning
 Request to Rezone Existing R-8 Zoning to R-6

Applicant: Todd Stutts
 Property Owner: Todd Stutts
 Parcel ID: 185018-04-0081
 Tag #: 05030011

Staff Report Map



08/11/2019
 Produced by: TOD Planning
 Disclaimer: These maps are for informational purposes only. TOD Planning does not warrant the accuracy of the information represented here.
 Document Path: C:\P\ANN\MOREZ\2019\Rezoning\2019-118-RZ - 412 W. Stallings Mapstaff Report Map - 2019-118-RZ - W. Stallings Rezoning.mxd





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

June 25th, 2019

NOTICE

SUBJECT: **Project:** 2019-118-RZ 412 W. Stallings Rezoning
 Address: 412 W. Stallings St., Clayton, North Carolina, 27520
 TAG #: 05030011
 Applicant: Todd Stuttts

Dear Clayton Area Property Owner:

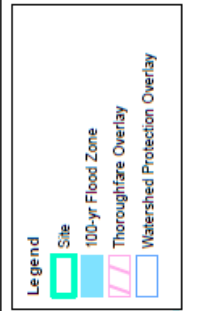
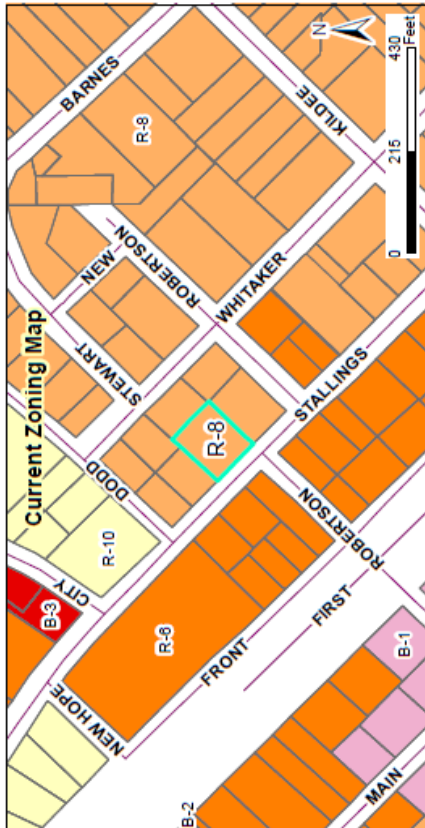
Notice is hereby given that the Clayton Town Council will hold a public hearing on **Monday, July 15, 2019 at 6:00 PM** at Town Hall, 111 E. Second Street, to make a decision on the above referenced Rezoning application. The applicant is requesting to rezone 0.34 acres of land from Residential-8 (R-8) to Residential-6 (R-6). Please see the map on the back of this letter.

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

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

Sincerely,

Damiere Powell
Planner



08/11/2019
 Prepared by: TOD Planning
 Disclaimer: Town of Stallings does not warrant the accuracy or responsibility for the quality of the data represented here.
 Document Path: C:\PLANNING\RESERVED\NINJA\resoning\2019-11-18-RZ - 412 W. Stallings Map\Staff Report Map - 2019-11-18-RZ - 412 W. Stallings Rezoning.pdf

Staff Report Map

Request:
 2019-118-RZ, 412 W. Stallings Rezoning
 Request to Rezone Existing R-8 Zoning to R-6

Applicant: Todd Stutts
 Property Owner: Todd Stutts
 Parcel ID: 165016-04-0081
 Tag #: 05030011



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

*Planning Board
July 15, 2019*

STAFF REPORT

Application Number: 2019-118-RZ
Project Name: 412 W. Stallings Rezoning

TAG #s: 05030011
Town Limits/ETJ: Town Limits
Applicant: Todd Stutts
Owner: Todd Stutts
Location: 412 W. Stallings Street

Public Noticing:

- Neighborhood meeting held on June 20, 2019
- Sign posted June 25, 2019
- Letters mailed June 25, 2019
- Newspaper ad published on July 3, 2019 and July 10, 2019

REQUEST: Request to rezone from Residential-8 (R-8) to Residential-6 (R-6).



SITE DATA:

Acreage: 0.34 acres
Existing Use: Single-Family Residential

ADJACENT ZONING AND LAND USES:

Direction	Zoning	Existing Use
North	Residential-8 (R-8), Residential-10 (R-10), Highway-Business (B-3)	Single-Family Residential
South	Residential-8 (R-8), Residential-6 (R-6), Central-Business (B-1)	Single-Family Residential, Multi-Family Residential, Commercial
East	Residential-8 (R-8), Residential-6 (R-6)	Single-Family Residential
West	Residential-6 (R-6), Central-Business (B-1)	Single-Family Residential, Cemetery



STAFF ANALYSIS AND COMMENTARY:

Overview

The applicant is requesting to rezone 0.34 acres of land from Residential-8 (R-8) to Residential-6 (R-6). The existing use is Single-Family Residential and is primarily surrounded by other Single-Family Residential uses. The proposed rezoning is considered “spot zoning,” which isolates a relatively small tract with different zoning regulations than the surrounding, uniformly zoned area. Valid spot zoning proposals must be thoroughly analyzed to assure that the request is consistent with the comprehensive plan, and that adverse impacts on neighboring properties will not result from approval of the rezoning request.

Zoning

All surrounding properties on the same block as the subject property are zoned Residential-8. In the greater neighborhood area, most properties are zoned Residential-8. However, there are other properties that have been spot zoned along Robertson Street. Furthermore, the subject property is across from Residential-6 zoned properties. The R-8 district is established to provide orderly suburban residential development at suburban densities characterized predominantly by owner-occupied, single-family detached units. A Special Use Permit process is allowed for higher intensity development. The Residential-6 zoning district is intended to provide for residential development with higher density, which includes multi-family dwellings mixed with other housing types.

Consistency with the Comprehensive Plan 2040

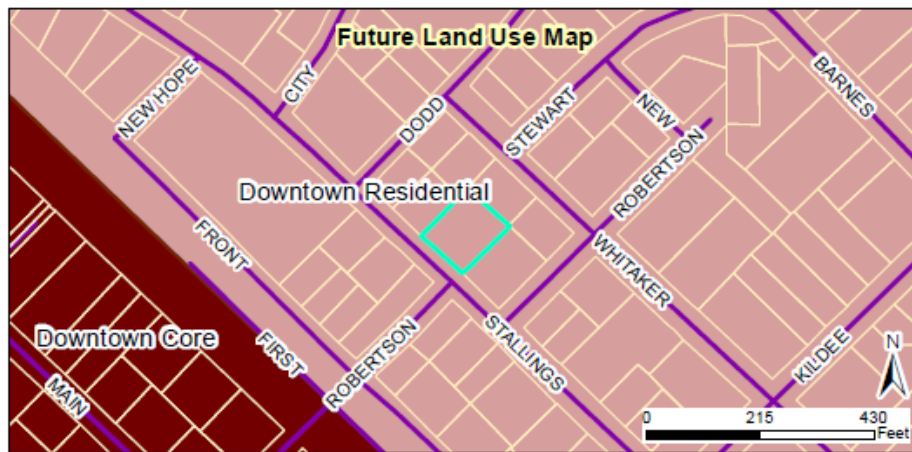
The subject property is located in an area that has been designated as Downtown Residential in the Future Land Use Map of the Comprehensive Plan. The Downtown Residential land use designation is designed to retain established neighborhoods while allowing a variety of higher-density housing types that support and foster growth of the Downtown Core. Higher-density development should be directly bordering the Downtown Core.

Comprehensive Plan Goals supporting the rezoning request include:

- LU1.1.1 – Review development proposals for consistency with the Future Land Use Map.
- LU1.1.2 – Support residential development at varying densities based on the Future Land Use Map

Comprehensive Plan Goals not supporting the rezoning request include:

- None



CONSIDERATIONS:

- Rezonings are decided by the Town Council.
- When adopting or rejecting the rezoning, the Town Council shall approve a statement describing whether its action is consistent with adopted plans and/or policies of the Town and explaining why the Council considers the action taken to be reasonable and in the public interest.
- The Planning Board has recommended approval of the rezoning request.

STAFF RECOMMENDATION:

Approval of the rezoning.

ATTACHMENTS:

- 1) Cover Sheet
- 2) Application

- 3) Owner's Consent Form
- 4) Staff Report Maps
- 5) Neighborhood Meeting Materials
- 6) Site Plan
- 7) PB Adjacent Property Letter – Public Notice
- 8) TC Adjacent Property Letter – Public Notice
- 9) Newspaper Ad – Public Notice
- 10) Consistency Statement

PUBLIC NOTICE

In accordance with NC GS 160A-384, the Clayton Town Council will hold a public hearing on Monday July 15, 2019, at 6 PM at Town Hall, 111 East Second Street, to consider 2019-118-RZ 412 W. Stallings Rezoning; request to rezone the subject property from Residential-8 to Residential-6. The 0.34 acre property is located in the town limits at 412 W. Stallings St. Tag # 05030011.

The Clayton Town Council reserves the right to approve the request as presented or any portion of the request without necessity of withdrawal or modification of the application or additional public hearing on the matter. Likewise, the Town Council may designate approval to the district requested or another district or districts without modification of the request or additional public hearing.

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

Damiere Powell, Planner
919-553-5002

The Johnstonian Newspaper

Please advertise on the following dates:

July 3, 2019

July 10, 2019

Affidavit of publication required.

TOWN OF CLAYTON
ZONING AMENDMENT
CONSISTENCY AND REASONABLENESS STATEMENT
[2019-118-RZ 412 W. Stallings Rezoning]

The Town Council of the Town of Clayton hereby states:

Section 1: The above referenced zoning amendment IS APPROVED.

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

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

- LU1.1.1 – Review development proposals for consistency with the Future Land Use Map.
- LU1.1.2 – Support residential development at varying densities based on the Future Land Use Map.

Description of zoning amendment's consistency with the above plan objective:

The requested rezoning is consistent with the above referenced objectives within the Comprehensive Plan 2040. The Future Land Use Map designates this property as Downtown Residential. Properties within this designation may include single-family residential uses with higher density residential uses in close proximity to the Downtown Core or along US 70 Business Highway West. The requested rezoning will prepare the property for higher density development in the vicinity of the Downtown Core.

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

that the rezoning is consistent with the Future Land Use Map designation in the Comprehensive Plan 2040,

the above referenced zoning amendment is reasonable and in the public interest.

**Town of Clayton
Town Council
Zoning Ordinance Amendment Motion Sheet
(Rezoning or Text Amendment)**

After considering the recommendations of the Planning Board and Planning Director, I move to **[approve OR deny]** **Case # 2019-118-RZ**

[IF APPROVING]

and to approve the Statement of Consistency and Reasonableness included in the Agenda packet [with the following modifications: STATE MODIFICATIONS, IF ANY].

MOTION FORM
Item 6h
2019-118-RZ
412 W. Stallings Rezoning

**AN ORDINANCE AMENDING THE ZONING
ORDINANCE AND ZONING MAP
OF THE TOWN OF CLAYTON, NORTH CAROLINA**

WHEREAS a petition has been filed with the Town Council of the Town of Clayton requesting an amendment to the Zoning Ordinance and Zoning Map of the Town of Clayton to include in the Residential-6 (R-6) zone the property described below, said property formerly being zoned Residential-8 (R-8); and

WHEREAS said property is owned by Todd Stutts; and

WHEREAS the Planning Board of the Town of Clayton has reviewed the proposed change(s) and made a recommendation thereupon; and

WHEREAS notice of a public hearing to consider the proposed change was published in accordance with law in The Wilson Times Co., Inc., a local newspaper, as required by Section 155.702(D) of the Clayton Unified Development Code and by Section 160A-364 of the North Carolina General Statutes; and

WHEREAS a notice of the proposed zoning classification action was mailed to the owner(s) of the parcel(s) of land involved, as shown on the County Tax Listings, and to the owners of all parcels of land abutting that (those) parcel(s) of land and within 100 feet of the subject parcel(s) of land, as shown on the County Tax Listings, by depositing a copy of the same in the United States Mail, first class postage paid, as required by Section 155.702(D) of the Zoning Ordinance of the Town of Clayton and by Section 160A-384 of the General Statutes; and

WHEREAS the said public hearing was actually conducted at 6:00 p.m. on July 15, 2019 wherein a reasonable opportunity was given to all those in attendance to speak either in favor or against the said change or to make relevant comments;

THEREFORE, after duly considering the matter, THE TOWN COUNCIL OF THE TOWN OF CLAYTON DOES HEREBY ORDAIN:

SECTION 1. That the Unified Development Code of the Town of Clayton is hereby amended to include in the Residential-6 (R-6) zone the following described property:

General Description:

Property is located at 412 W. Stallings Street

Specific Description:

NC Parcel Identification Numbers: 165916-94-9681

SECTION 2. That the official Town of Clayton Zoning Map is hereby amended to include in the Residential-6 (R-6) zone the above-described property and will be so marked.

SECTION 3. That if any section, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 4. That this ordinance shall become effective immediately upon its adoption.

DULY ADOPTED by the Clayton Town Council this 15th day of July, 2019 while in regular session.

Michael Grannis
Mayor Pro Tem

ATTEST:

Kimberly A. Moffett, CMC, NCCMC
Town Clerk

**TOWN OF CLAYTON, NORTH CAROLINA
STATEMENT OF TOTAL ESTIMATED INTEREST PURSUANT TO THE
LOCAL GOVERNMENT BOND ACT, AS AMENDED**

I, Robert W. McKie, Jr., Finance Director of the Town of Clayton, North Carolina (the "Town"), having been designated by the Town Council of the Town (the "Town Council") to make and file with the Town Clerk a statement of total estimated interest pursuant to The Local Government Bond Act, as amended, DO HEREBY CERTIFY as follows:

1. On July 15, 2019, the Town Council introduced a bond order authorizing the issuance by the Town of its \$18,000,000 General Obligation Bonds (Parks and Recreation Projects) (the "Bonds").

2. If the Bonds are duly authorized and issued, I have estimated the total amount of interest to be paid by the Town over the expected term of the Bonds to be \$8,728,125. Such estimate is based on the assumption that the Bonds will be issued in the principal amounts of \$9,500,000 in July 2020, and \$8,500,000 in July 2023, at estimated interest rates of 4.50% and 4.75%, respectively, with level principal amortization beginning in the first year after issuance and continuing through the twentieth and final year.

The total estimated amount of interest on the Bonds over the expected term of the Bonds is preliminary and for general informational purposes only. The Town makes no assurances that the assumptions upon which such estimate is based will occur, and the occurrence of certain of such assumptions is beyond the control of the Town. Differences between the actual circumstances at the time the Bonds are issued and the assumptions set forth above could result in significant differences between the total amount of estimated interest and the total amount of actual interest to be paid on the Bonds if and when issued. The validity of the Bonds is not subject to challenge on the grounds that the actual interest to be paid on the Bonds when issued is different than the total amount of estimated interest on the Bonds set forth above.

Signed this 15th day of July, 2019.

Robert W. McKie, Jr., Finance Director

I, Kimberly Moffett, Town Clerk of the Town of Clayton, North Carolina, DO HEREBY CERTIFY that the foregoing is a true copy of a statement of total estimated interest which was filed with me at a meeting of the Town Council of such Town held on July 15, 2019, after the introduction of an order authorizing bonds of such Town, and that such statement is open to public inspection in my office.

WITNESS my hand and official seal of the Town of Clayton, North Carolina this 15th day of July, 2019.

Kimberly A. Moffett, CMC, NCCMC
Town Clerk

[SEAL]

*State and Local Government Finance Division
and the Local Government Commission
3200 Atlantic Avenue, Longleaf Building, Raleigh, North Carolina 27604*

For Town of Clayton, North Carolina

B. Deductions

1. Funding and refunding bonds authorized by orders introduced but not yet adopted. \$ _____
2. Fund and refunding bonds authorized but not issued. \$ _____
3. Amount held in sinking funds or otherwise for the payment of gross debt other than debt incurred for water, gas, electric light or power purposes or sanitary sewer purposes (to the extent deductible under Section 159-55[b] of the Local Government Bond Act), or two or more of these purposes. \$ _____
4. Bonded debt included in gross debt and incurred or to be incurred for water, gas or electric light or power purposes, or any two or more of these purposes. \$ _____
5. Bonded debt included in gross debt and incurred or to be incurred for sanitary sewer system purposes (to the extent deductible under Section 159-55[b] of The Local Government Bond Act). \$ _____
6. Uncollected special assessments levied for local improvements for which gross debt (that is not otherwise deducted) was or is to be incurred, to the extent it will be applied, when collected, to the payment of such gross debt. \$ _____
7. Estimate of special assessments to be levied for local improvements for which any part of gross debt (that is not otherwise deducted) was or is to be incurred, to the extent that the special assessments when collected, will be applied to the payment of any part of gross debt. \$ _____

Total Deductions (Sum of 1 through 7)

\$ _____

- C. Net Debt** being the difference between Total Gross Debt (A) and Total Deductions (B).

\$32,714,557

- D. Assessed Value** of property subject to taxation being the value from which the assessed value was last fixed for taxation as revealed by the County tax records and certified by the County Tax Supervisor.

\$1,951,740,682

- E. Percentage that Net Debt** bears to the assessed value of property subject to taxation (C ÷ D)

1.676%

- F. Estimated Total Amount of Interest** that will be paid on the bonds over the expected term of the bonds.

\$8,728,125

I certify the above is correct to the best of my knowledge.

Finance Officer's Signature



Date

June 26, 2019

STATE OF NORTH CAROLINA)
COUNTY OF Johnston) ss.:

Robert W. McKie, JR., being duly sworn, says that he is
the finance director of the Town of Clayton
in the State of North Carolina; and that the foregoing statement is true and was made and
subscribed by him.


Finance Officer

Sworn to and subscribed before me on
the day of the date of said statement

Heidi L. Holland
(Notary Public)

HEIDI L. HOLLAND
NOTARY PUBLIC
Johnston County
North Carolina
My Commission Expires November 18, 2023

My commission expires the 18 day of November, 2023

STATE OF NORTH CAROLINA)
COUNTY OF _____) ss.:

I, the undersigned _____ of the _____
of _____ in the State of North Carolina, DO HEREBY CERTIFY that the
foregoing statement and accompanying affidavit were filed in my office on the _____ day of
_____, 20____.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County, this
_____ day of _____ 20____.

Clerk

**TOWN COUNCIL
OF
TOWN OF CLAYTON, NORTH CAROLINA**

**Excerpt of Minutes
of Meeting of**

July 15, 2019

Present: Mayor Pro Tem Grannis and Council Members _____

Absent: _____

Council Member _____ introduced the following Bond Order, the title of which was read:

**BOND ORDER AUTHORIZING THE ISSUANCE OF GENERAL
OBLIGATION BONDS OF THE TOWN OF CLAYTON IN THE
MAXIMUM AGGREGATE PRINCIPAL AMOUNT OF \$18,000,000 FOR
THE PURPOSE OF FINANCING, IN PART, THE ACQUISITION,
CONSTRUCTION AND EQUIPPING OF PARKS AND RECREATION
FACILITIES IN THE TOWN**

WHEREAS, the Town Council (the “Council”) of the Town of Clayton, North Carolina (the “Town”) has decided to pursue the issuance of general obligation bonds in the maximum aggregate principal amount of \$18,000,000 under The Local Government Bond Act (the “Act”) to finance, in part, the acquisition, construction and equipping of parks and recreation facilities in the Town; and

WHEREAS, the Council has filed an application with the Local Government Commission of North Carolina for approval of such bonds as required by the Act;

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

1. It is hereby determined necessary and expedient for the Town to borrow money, and there is hereby authorized to be issued general obligation bonds of the Town for the purpose of providing money, to finance, in part, the acquisition, construction and equipping of parks and recreation facilities in the Town.
2. The bonds shall be in an aggregate principal amount not to exceed \$18,000,000.
3. The bonds shall be general obligations of the Town for the payment of principal of and interest on which its full faith and credit shall be irrevocably pledged and taxes will be levied

in an amount sufficient to pay the principal of and interest on the bonds.

4. A sworn statement of debt has been filed with the Clerk to the Town pursuant to G.S. § 159-55 and is open to public inspection.

5. This Bond Order will take effect when approved by the voters of the Town pursuant to G.S. § 159-61.

Duly adopted this the 15th day of July, 2019 while in regular session.

Michael Grannis
Mayor Pro Tem

I, Kimberly Moffett, Clerk for the Town of Clayton, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and complete copy of so much of the proceedings of the Town Council for the Town at a regular meeting duly called and held July 15, 2019, as it relates in any way to the resolution hereinabove referenced and that such proceedings are recorded in the minutes of the Council. Pursuant to G.S. § 143-318.12, a current copy of a schedule of regular meetings of the Town Council for the Town is on file in my office.

WITNESS my hand and the official seal of the Town, this 15th day of July, 2019.

Town Clerk
Town of Clayton, North Carolina

(SEAL)

Present: Mayor Pro Tem McLeod presiding, and Council Members

Absent: _____

Council Member _____ then introduced the following resolution the title of which was read:

**RESOLUTION PROVIDING FOR PUBLIC HEARING ON BOND ORDER
FOR \$18,000,000 GENERAL OBLIGATION BONDS AND
PUBLICATION OF BOND ORDER AND NOTICE OF HEARING AND
OTHER ACTION**

WHEREAS, there has been introduced by the Town Council for the Town of Clayton a Bond Order entitled, "BOND ORDER AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE TOWN OF CLAYTON IN THE MAXIMUM AGGREGATE PRINCIPAL AMOUNT OF \$18,000,000 FOR THE PURPOSE OF FINANCING, IN PART, THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF PARKS AND RECREATION FACILITIES IN THE TOWN;" and

WHEREAS, G.S. § 159-54 provides there shall be a public hearing on the Bond Order and G.S. § 159-56 provides for publication of the Bond Order and notice of hearing;

NOW, THEREFORE, the Town Council of the Town of Clayton, meeting in regular session at Clayton, North Carolina, on July 15, 2019, does the following:

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

1. A public hearing on the Bond Order shall be held at 6:00 p.m., or as soon thereafter as the matter can be heard, in the Town Council Chambers located at 111 E. Second Street in the Town of Clayton, North Carolina on September 3, 2019.
2. The Clerk to the Town shall cause the Bond Order, with a statement appended in form described by G.S. § 159-56, to be published in *The Johnstonian*.
3. The Town Finance Director is hereby designated to file the statement of debt required by G.S. § 159-55.
4. The completed form of application to the Local Government Commission with respect to the proposed bonds is hereby approved.
5. This resolution shall take effect immediately.

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

Ayes: _____

Nays: _____

Not Voting: _____

Duly adopted this 15th day of July, 2019 while in regular session.

Michael Grannis
Mayor Pro Tem

I, Kimberly Moffett, Clerk for the Town of Clayton, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and complete copy of so much of the proceedings of the Town Council for the Town at a regular meeting duly called and held July 15, 2019, as it relates in any way to the resolution hereinabove referenced and that such proceedings are recorded in the minutes of the Council. Pursuant to G.S. § 143-318.12, a current copy of a schedule of regular meetings of the Town Council for the Town is on file in my office.

WITNESS my hand and the official seal of the Town, this 15th day of July, 2019.

Town Clerk
Town of Clayton, North Carolina

(SEAL)



Town Council Agenda Cover Sheet

Meeting Date

July 15 2019

Agenda Location

Old Business

Item Title

Piedmont Natural Gas Easement

Presenter

Rich Cappola, PE – Director of Public Services

Summary/Description

Piedmont Natural Gas has requested an easement on Town property at 3798 Powhatan Road (future Wastewater Pre-Treatment Facility site) for the installation of a gas line to serve the ECIA area. The Town will receive compensation for the easement based on final need. A sketch of the proposed easement has been included but may need to be modified due to other utility conflicts in the area. Staff is requesting that Town Council approve the granting of an easement in the general location provided and delegate authority to the Town Manager to execute final easement documents with Town Attorney concurrence.

Requested Action

Approval

Funding Source (If Applicable):

n/a

Cost: N/A Yes ☐ No ☒

Additional Documents to be Included in Agenda Packet

Draft Easement Plan

Meeting Timeline

EASEMENT

Return Recorded Document To:
John Dietz
109 S. George Street
Goldsboro, NC 27530

STATE OF NORTH CAROLINA
COUNTY OF JOHNSTON
PARCEL ID # 167800-40-6050

LINE NO. Novo Nordisk Distribution
PARCEL NO. 167800-40-6050
PROJECT NO. 0221373

THIS "EASEMENT" is made and granted as of this ____ day of July 2019, from **TOWN OF CLAYTON, a North Carolina municipal corporation ("Grantor"**, whether one or more), to **PIEDMONT NATURAL GAS COMPANY, INC., a North Carolina corporation ("Piedmont")**.

WHEREAS, Grantor is the owner of, or has an interest in, that property situated in the County of Johnston, North Carolina, as more particularly described in the instrument recorded in Book 5046, Page 176, Johnston County Registry (the "Property").

NOW, THEREFORE, Grantor for and in consideration of the sum of \$5,500.00 and other valuable consideration, the receipt and legal sufficiency of which is hereby acknowledged, hereby grants, bargains, sells, and conveys unto Piedmont, its successors and assigns the following easement(s) and right(s) of way under, upon, over, through, and across the Property, as shown on the survey attached hereto as **Exhibit A** and incorporated herein by reference (the "Survey"). For purposes of this EASEMENT, the term "Easements" shall refer collectively to all easements described herein and as depicted on the Survey and the term "Easement Areas" shall refer collectively to all the easement areas described herein and as depicted on the Survey.

Permanent Easement. A perpetual easement generally 30' feet wide for purposes of constructing, installing, maintaining, operating, repairing, altering, replacing, removing, relocating, inspecting, upgrading, and protecting one or more pipelines (which pipelines shall be underground) and appurtenant facilities (including, without limitation, valves, markers, cathodic protection equipment, and anode beds) for the transportation of natural gas under, upon, over, through, and across that portion of the Property designated "Permanent Easement" on the Survey (the "Permanent Easement Area").

Temporary Construction Easement. A temporary right to use the area designated "TCE" on the Survey (the "TCE Area") for the purposes of performing construction activities and laying, storing, erecting, parking, and/or protecting any equipment, vehicles, materials, fill, components, parts, and tools associated with the construction of Piedmont's natural gas pipelines and appurtenant facilities for which this temporary construction easement is given, which may or may not be located on the Property. Piedmont shall have the right, but not the obligation, to install temporary fencing around the TCE Area and to exclude all persons, including Grantor, from any fenced portions of the TCE Area.

The temporary construction easement shall terminate upon Piedmont placing all facilities for which this temporary construction easement is given in service and the release of Piedmont from its obligations under all permits issued for construction of such facilities including, without limitation, all sedimentation and erosion control permits. Upon completion of construction and all facilities being placed in service, Piedmont shall restore the TCE Area to substantially the same condition as it existed prior to Piedmont's entry thereon, ordinary wear and tear excepted. The temporary construction easement does not grant Piedmont the right to place any permanent natural gas pipelines or appurtenant facilities in the TCE Area.

Piedmont's Use. Piedmont shall have all rights necessary or convenient for the full use and enjoyment of the rights herein granted, including, without limitation: (1) reasonable access across the Property to and from the Easement Areas, and (2) the right, but not the obligation, to keep the Easement Areas cleared of vegetation, undergrowth, trees (including overhanging limbs and foliage and any trees standing outside the Easement Areas which are substantially likely to fall onto the Easement Areas), buildings, structures, installations, and any other obstructions which unreasonably interfere with the rights granted herein (collectively, "Obstructions"). Some or all of the natural gas pipelines and appurtenant facilities (collectively, as described in the Easements granted herein, the "Facilities") may be installed now and/or in the future. All Facilities shall be and remain the property of Piedmont and may be removed by it at any time and from time to time.

Grantor's Reservation of Rights. Grantor reserves the right to use the Property and Easement Areas for all purposes that do not unreasonably interfere with the rights granted herein and that are not inconsistent with the rules and regulations of the North Carolina Utilities Commission, or any applicable federal, state, or local law, rule, or regulation. Grantor shall obtain written approval from Piedmont prior to making any change in use of the Easement Areas, which approval shall not be unreasonably withheld, conditioned, or delayed. Anything to the contrary herein notwithstanding, Grantor shall not: (1) unreasonably interfere with Piedmont's access to or maintenance of the Facilities or the Easement Areas; (2) endanger the safety of Grantor, Piedmont, the general public, private or personal property, or the Facilities; or

(3) install or maintain, or permit to be installed or maintained, any Obstructions within the Easement Areas except as approved in writing by Piedmont.

Damages. Piedmont shall be responsible for actual physical damage to: (1) the land within the Property and Easement Areas; and (2) improvements and annual crops located on the Property that are not in violation of the terms hereof, provided that such damage must be caused by Piedmont in exercising the rights granted herein, and provided further that a claim is made by Grantor within one hundred and twenty (120) days after such damages are sustained. Piedmont shall restore and level the surface of the Easement Areas to, as nearly as can be reasonably done, the same condition as prior to Piedmont's use of the Easement Areas. Piedmont shall not be liable for any damage caused to Obstructions or improvements installed in violation of the terms hereof and may remove them at Grantor's expense without Grantor's prior approval or permission.

No Waiver or Additional Representations. The failure by Piedmont to exercise and/or enforce any of the rights, privileges, and Easements herein described shall not be construed as a waiver or abandonment of any such rights, privileges and Easements, and Piedmont thereafter may exercise and/or enforce, at any time and from time to time, any or all of them. It is understood and acknowledged by the undersigned that the person securing this grant on behalf of Piedmont is without authority to make any agreement with regard to the subject matter hereof which is not expressed herein, and that no such agreement will be binding on Piedmont.

Ownership of the Property. Grantor represents, warrants and covenants that it is the lawful owner of the Property and has the right to convey the rights set forth herein and that the Property is free from all encumbrances, except for encumbrances of record. Grantor represents it has obtained any necessary approvals from any applicable tenant interests.

Indemnification. Piedmont shall indemnify and hold Grantor harmless from and against any and all liability, fines, suits, claims, demands, costs and expenses of any kind whatsoever caused by, or arising out of any injury or death to a person and loss of or damage to Property caused by the use or occupancy of the Property by Piedmont, its agents, contractors, employers and representatives. Piedmont shall not be obligated to indemnify Grantor from any claims, demands, or causes of action to the extent caused by the negligence or willful misconduct of Grantor, its agents, contractors, employees and representatives.

To have and to hold said rights, privileges, and Easements unto Piedmont, its affiliates, successors, and assigns. Piedmont, its successors and assigns, shall have the right to assign, license, lease, or otherwise transfer, in whole or in part, this EASEMENT, or any rights granted herein, to any person or entity, including but not limited to, any affiliated parent or subsidiary entity of Piedmont, for the uses and purposes expressly stated herein. This EASEMENT shall run with the land and inure to the benefit of and be binding upon Grantor, Piedmont and their respective heirs, successors and assigns.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, this EASEMENT has been signed under seal by Grantor, as of the date first above written.

GRANTOR:

TOWN OF CLAYTON

By: _____

Name: _____

Title: _____

STATE OF NORTH CAROLINA
COUNTY OF _____

I, _____, a Notary Public for Johnston County, North Carolina, certify that _____ personally came before me this day and acknowledged that he (or she) is _____ of _____, a North Carolina municipal corporation, and that he (or she), in such capacity, being authorized to do so, executed the foregoing Easement on behalf of the corporation.

Witness my hand and official seal this the ____ day of July, 2019.

_____ Sign

_____ Print

My commission expires: _____



Town Council Agenda Cover Sheet

Meeting Date

July 15 2019

Agenda Location

New Business

Item Title

NCDOT Pedestrian Planning Grant Initiative

Presenter

Haley Hogg, Planner II

Summary/Description

The Planning Department would like to apply for a grant from NCDOT to fund a Pedestrian Plan for the Town of Clayton. If awarded, the grant will cover 80% of the total cost of funding for a comprehensive pedestrian plan and would be funded in FY 20/21. Staff is requesting a resolution be adopted for this grant initiative, to accompany the application that is due August 2, 2019.

Requested Action

Informational Only

Funding Source (If Applicable):

N/A

Cost: N/A Yes ☐ No ☒

Additional Documents to be Included in Agenda Packet

NCDOT Pedestrian Planning Grant Initiative Application/Information Packet

Meeting Timeline

July 15, 2019- Resolution

**North Carolina Department of Transportation's Bicycle and Pedestrian
Planning Grant Initiative
LOCAL GOVERNMENTAL RESOLUTION**

WHEREAS, the Town of Clayton Planning Department (herein called the "Applicant") has completed an application for funding of a Comprehensive Pedestrian Plan; and that The Town of Clayton Town Council (herein called the "Governing Body") has thoroughly considered the need for such plan and has reviewed the project scope;

THEREFORE, NOW BE IT RESOLVED BY THE CLAYTON TOWN COUNCIL IN OPEN MEETING ASSEMBLED IN THE TOWN OF CLAYTON, NORTH CAROLINA, THIS 15TH DAY OF JULY, 2019, AS FOLLOWS:

1. That the project referenced above is in the best interest of the Governing Body and the general public; and
2. That the Applicant is authorized to file, on behalf of the Governing Body, an application in the form prescribed by NCDOT'S Bicycle and Pedestrian Planning Grant Initiative for funding in the amount of eighty percent (80%) of the total cost of funding for a Comprehensive Pedestrian Plan; and
3. That the Governing Body will formally appropriate the cash contribution of twenty percent (20%) of the total cost of funding for a Comprehensive Pedestrian Plan, as required by the application; and
4. That the Applicant shall furnish or make arrangement for other appropriate persons to furnish such information, data, documents, and reports as required by the application, if approved, or as may be required by the NCDOT Bicycle and Pedestrian Planning Grant Initiative; and
5. That certified copies of this resolution be included as part of the application referenced above; and
6. That this resolution shall take effect immediately upon its adoption.

Duly adopted this the 15th day of July, 2019 while in regular session.

Michael Grannis
Mayor Pro Tem

ATTEST:

Kimberly A. Moffett, CMC, NCCMC
Town Clerk



Town Council Agenda Cover Sheet

Meeting Date

July 15 2019

Agenda Location

New Business

Item Title

Real Property Disposal Request to enter the Upset Bid Process – 220 E. Main Street

Presenter

Dave DeYoung, Economic Development Director

Summary/Description

Economic Development Staff and the Town Manager have been working with the owner (Fred Lee) of 218 E. Main Street for over a year and a half to negotiate the trade of the building at 220 E. Main Street. These negotiations for a trade have not been successful, and we have now received a request from Fred Lee to sell him the property. The process to complete the transaction to sell the property is called the Upset Bid Process.

The initial bid is \$50,000. We will also impose specific conditions which include the need to begin repairs aimed at eliminating all building deficiencies posing a safety threat to adjacent structures and the public within 90 days of the sale date of the property.

PLEASE NOTE THAT TOWN COUNCIL MAY AWARD THE PROPERTY TO THE HIGHEST BIDDER OR MAY REJECT ALL BIDS.

Requested Action

Approval

Funding Source (If Applicable):

N/A

Cost: N/A Yes ☐ No ☒

Additional Documents to be Included in Agenda Packet

Resolution to authorize disposition of real property at 220 E. Main Street

Upset Bid Procedures in accordance with G.S. 160A-269

Exhibit A – Special Conditions to the Sale of the Building at 220 E. Main Street

Meeting Timeline

Click or tap here to enter text.



Local Government Property Disposal Procedures

Sale by Negotiated Offer and Upset Bid (G.S. 160A-269)

Listed below are the basic procedures required under state law for disposing of personal and real property by the negotiated offer and upset bid procedure.

- Step 1 Unit receives an offer to purchase property. The unit may solicit offers informally, and may negotiate with a prospective buyer prior to initiating the upset bid procedure.
- Step 2 Governing board adopts a resolution accepting the offer and authorizing the upset bid procedure. The offeror deposits 5% of bid amount with clerk while upset procedure takes place.
- Step 3 Publish advertisement for upset bids in a newspaper of general circulation within the jurisdiction (electronic advertisement is not authorized). The advertisement must describe the property to be sold, the terms and conditions of the sale, and the requirements for submitting a qualifying upset bid within 10 days after the date of publication: a qualifying upset bid must be an amount at least 10% of the first \$1000 of the original offer and 5% of the remainder. Bidders must submit qualifying upset bids within 10 days after date of advertisement and their bids must be accompanied by a 5% bid bond or deposit.
- Step 4 If a qualifying upset bid is received, repeat the advertisement and upset bid process until no additional qualifying upset bid is received.
- Step 5 After no additional qualifying upset bids have been received, governing board awards to the highest responsive, responsible bidder or rejects all bids.

Template resolutions and notices of sale are available on the School of Government's Local Government Procurement and Property Disposal microsite under "Sample Property Disposal Forms"

www.ncpurchasing.unc.edu

EXHIBIT A – SPECIAL CONDITIONS TO SALE OF BUILDING AT 220 E. MAIN STREET

1. Building deficiencies identified by the Town of Clayton Building/Inspection Department that pose a threat to the health, safety or welfare of adjacent structures and the public shall be addressed within 90 days of the sale date of the property.
2. Building renovations and/or building reconstruction efforts must protect or reestablish the historic character of the primary façade (Main Street facing side of the building) to the greatest extent possible.

**PUBLIC NOTICE
SALE OF TOWN PROPERTY**

An offer of \$50,000 has been submitted for the purchase of certain property located at 220 E. Main Street and owned by the Town of Clayton, more particularly described as follows:

Lot 1, as recorded in Plat Book 82, Page 199, Register of Deeds, Johnston County.

Persons wishing to upset the offer that has been received shall submit an upset bid to the office of the Town Clerk, located at 111 East Second Street by 5:00 P.M., July 27, 2019. Once a qualifying higher bid has been received, that bid will become the new offer.

A qualifying higher bid is one that raises the existing offer to an amount not less than \$52,550.

A qualifying higher bid must be accompanied by a deposit in the amount of five percent (5%) of the bid; the deposit may be made in cash, cashier's check, or certified check. The Town will return the deposit on any bid not accepted, and will return the deposit on an offer subject to upset if a qualifying higher bid is received. The Town will return the deposit of the final high bidder at closing.

The buyer must pay cash at closing.

The Town Council must approve the final high offer before the sale is closed, which it will do within 30 days after the final upset bid period has passed. The Town reserves the right to withdraw the property from sale at any time before the final high bid is accepted and the right to reject at any time all bids.

Further information may be obtained at the office of the Town Clerk, Clayton Town Hall, 111 East Second Street, Clayton, NC 27520, or at telephone 919-553-5002 during normal business hours.

The Johnstonian
Please Advertise: July 17, 2019
Affidavit of Publication Request

RESOLUTION AUTHORIZING DISPOSITION OF REAL PROPERTY

WHEREAS, the Town of Clayton owns certain real property, a 0.06 acre property located at 220 E. Main Street, NC Pin: 166913-12-0632; and

WHEREAS, North Carolina General Statute § 160A-269 permits the Town to sell property by upset bid, after receipt of an offer for the property; and

WHEREAS, the Town has received an offer to purchase the property described above, in the amount of \$50,000, submitted by Fred Lee, whose mailing address is 2130 Shotwell Road, Clayton, NC 27520; and

WHEREAS, Fred Lee has paid the required five percent (5%) deposit on his offer;

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Clayton that:

1. The Town Council authorizes sale of the property described above through the upset bid procedure of North Carolina General Statute § 160A-269.
2. The Town Clerk shall cause a notice of the proposed sale to be published. The notice shall describe the property and the amount of the offer, and shall state the terms under which the offer may be upset.
3. Any person may submit an upset bid to the office of the Town Clerk, located at 111 East Second Street, Clayton, NC 27520 within 10 days after the notice of sale is published. Once a qualifying higher bid has been received, that bid will become the new offer.
4. If a qualifying higher bid is received, the Town clerk shall cause a new notice of upset bid to be published, and shall continue to do so until a 10-day period has passed without any qualifying upset bid having been received. At that time, the amount of the final high bid shall be reported to the Town Council.
5. A qualifying higher bid is one that raises the existing offer by not less than ten percent (10%) of the first \$1,000.00 of that offer and five percent (5%) of the remainder of that offer.
6. A qualifying higher bid must also be accompanied by a deposit in the amount of five percent (5%) of the bid; the deposit may be made in cash, cashier's check, or certified check. The Town will return the deposit on any bid not accepted, and will return the deposit on an offer subject to upset if a qualifying higher bid is received. The Town will return the deposit of the final high bidder at closing.
7. The terms of the final sale are that:

- the Town Council must approve the final high offer before the sale is closed, which it will do within 30 days after the final upset bid period has passed;
 - the buyer must pay with cash at the time of closing;
 - all building deficiencies identified by the Town of Clayton Building Department that pose a threat to the health, safety or welfare of adjacent structures and the public shall be addressed within 90 days of the sale date of the property. Failure to resolve identified deficiencies will result in the condemnation of the existing structure; and
 - any building renovations and/or reconstruction efforts must protect or reestablish the historic character of the primary façade (facing Main Street) to the greatest extent possible.
8. The Town reserves the right to withdraw the property from sale at any time before the final high bid is accepted and the right to reject at any time all bids.
9. If no qualifying upset bid is received after the initial public notice, the offer set forth above is hereby accepted. The appropriate Town officials are authorized to execute the instruments necessary to convey the property to Fred Lee.

Duly adopted this the 15th day of July, 2019 while in regular session.

Michael Grannis
Mayor Pro Tem

ATTEST:

Kimberly A. Moffett, CMC, NCCMC
Town Clerk



Town Council Agenda Cover Sheet

Meeting Date

July 15 2019

Agenda Location

Staff Reports

Item Title

2018 PD Annual Report Overview

Presenter

Blair Myhand, Chief of Police

Summary/Description

Summarize the 2018 annual report

Requested Action

Informational Only

Funding Source (If Applicable):

N/A

Cost: N/A Yes ☐ No ☐

Additional Documents to be Included in Agenda Packet

2018 Annual Report

Meeting Timeline

Click or tap here to enter text.



CLAYTON

POLICE DEPARTMENT

2018 Annual Report



Clayton Police Department 315 E. Second Street Clayton, NC 27520
Phone: 919-553-4611 Fax: 919-553-1512



To save on printing costs, this document is provided in an electronic format rather than the traditional booklet form. Copies are available for download from the Clayton Police Department web site:
<http://www.townofclaytonnc.org/Police/annual-reports.aspx>
Hard copies may be requested from the Clayton Police Department.



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CPD 2018

Message from the Chief

150 years! That's how old the Town of Clayton turned this year. Throughout 2019, we will celebrate the Town's sesquicentennial anniversary by remembering our past and thinking about our future. In that regard, let me again welcome you to the Clayton Police Department's Annual Report for 2018. You should find this report to be an open and transparent account of what we have accomplished in 2018. As always, we share with you our successes and our failures. I hope you learn more about our department and more specifically, about the men and women who make up this outstanding organization.

We continue to make changes to our processes and procedures with a focus on continuous improvement. We transitioned into new police uniforms and introduced a refreshed design to our police vehicles. We instituted a leadership development program and are investing much in our people. Our first-ever student graduated from the Administrative Officers Management Program at NC State University. This exceptional twelve-week executive management program enhances the abilities of emerging leaders and professionalizes the field.

We are a full year into our new performance management process where we measure progress related to strategic goals to reduce crime, improve traffic safety, recruitment, and developing and retaining a professional workforce. We continue to enhance public respect for our work. We actively participate in Coffee with a Cop, National Night Out, Riverwood Night Out, Pack a Police Car, and Christmas with a Cop. Our relationship with you gets stronger every day and we sincerely appreciate your support.

As I look back over the past year, I am reminded of the exceptional work done by the members of this agency. Great work that we celebrate during our annual awards ceremony that you will see documented in these pages.

In closing, thank you for letting me serve you as the Chief of Police and for allowing me the opportunity to work alongside the exceptional people who are the Clayton Police Department.

Very Respectfully,



CPD 2018

Mission

To deliver outstanding police service to everyone; every time.

Vision

To be a model of law enforcement excellence by exceeding the highest standards of quality in our profession.

Values

Commitment:

We are committed to serving others before ourselves by being alert and vigilant, never influenced by bias or prejudice, and unwavering in the performance of our duties. We are respectful, fair, and ethical in every instance. We do more, endure more, and are more.

Professionalism:

We are responsive and adaptive to our community because we endeavor to be skilled, efficient, and effective in our actions and behavior. We model integrity, honesty, and bravery no matter the cost. Perfection is not our goal; excellence is.

Distinction:

We are distinct because we welcome challenge and demand teamwork. We promote creativity and innovation to achieve our maximum potential. There are none other like us.

Slogan

"Keepers of Clayton"

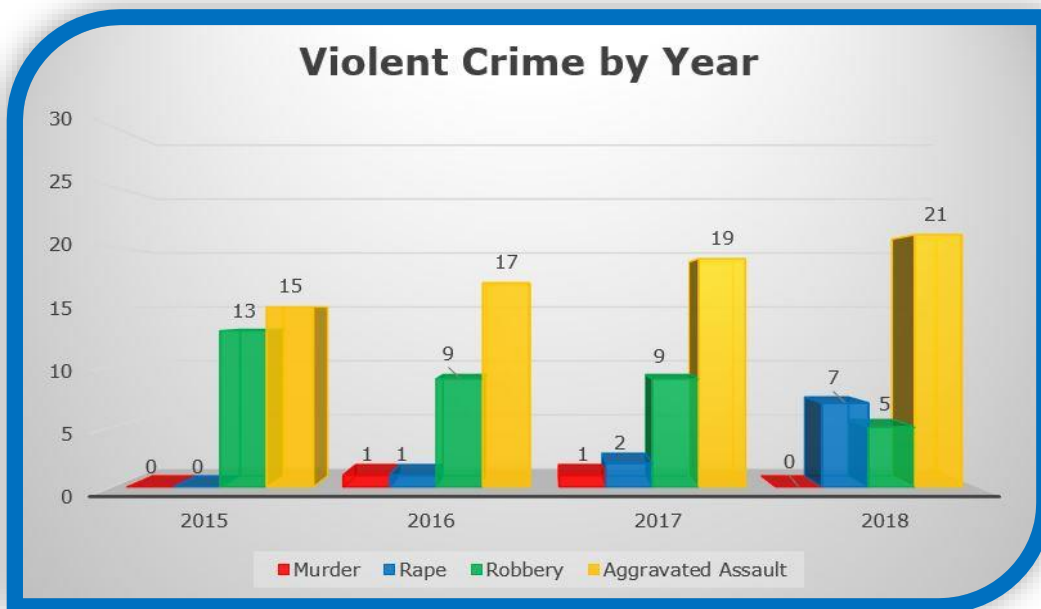
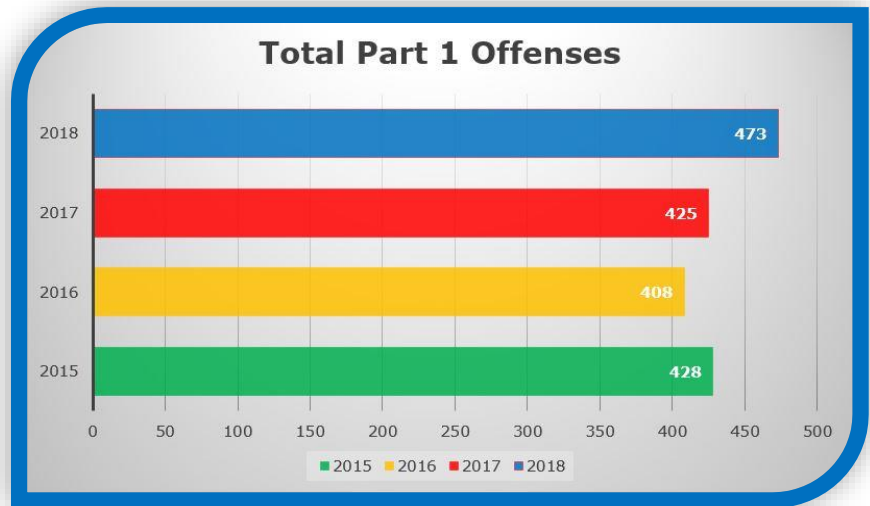


CPD 2018

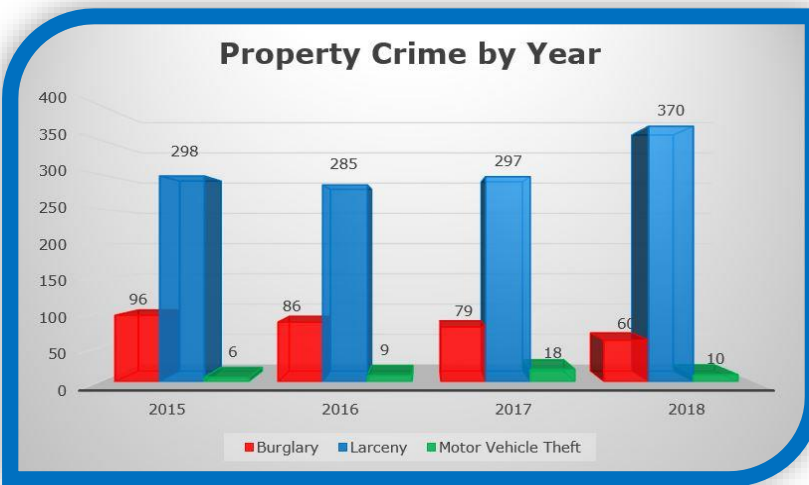
Crime Statistics

This is the Clayton Police Department's 2018 report on Part 1 Offenses (Index Crimes). The data analyzed for this summary covers the period from January 1, 2018 through December 31, 2018.

During the past year, the Clayton Police Department received **473** reported Part I Offenses. The overall Part 1 Offenses increased **+11.29%** over last year's **425** reported offenses. The total number of violent crimes reported in 2018 increased to **33** over the 2017 number of **31**.



CPD 2018



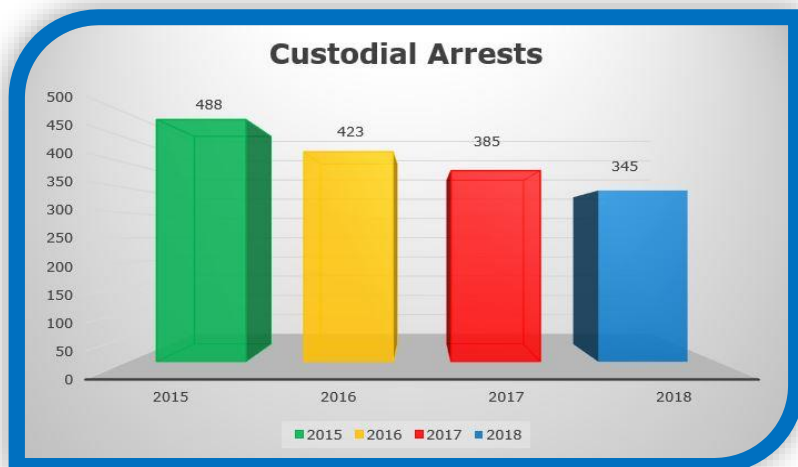
The total number of property crimes increased **+11.68%** this year with a total number of **440** reported crimes, as compared to **394** reported in 2017. Thankfully, burglaries are down for a fourth year in a row; this year by **19** offenses having only **60** reported in 2018. Larcenies increased **+24.58%**

with **370** reported and motor vehicle thefts decreased from **18** in 2017 to only **10** in 2018.

These statistics must always be viewed in the context that numerical deviations are influenced by many factors (see Appendix A). We carefully monitor crimes trends and are cautiously pleased with our relatively low crime rates. However, you are our priority and even one crime is too many. The Police Department staff, officers, and civilian employees are steadfastly commitment to improving our department and to making Clayton a better place to live, work and visit.

Custodial Arrests

Custodial arrests consist of persons arrested and taken into physical custody. During the 2018 calendar year, Clayton Police Officers arrested **345** persons for a myriad of misdemeanor and felony offenses. This number is a **-10.4%** decrease when compared to the **385** persons arrested during 2017.



CPD 2018

Racial Profiling and Enforcement During Traffic Stops

Clayton Police Department

Enforcement Action Taken by Driver's Sex, Race, and Ethnicity

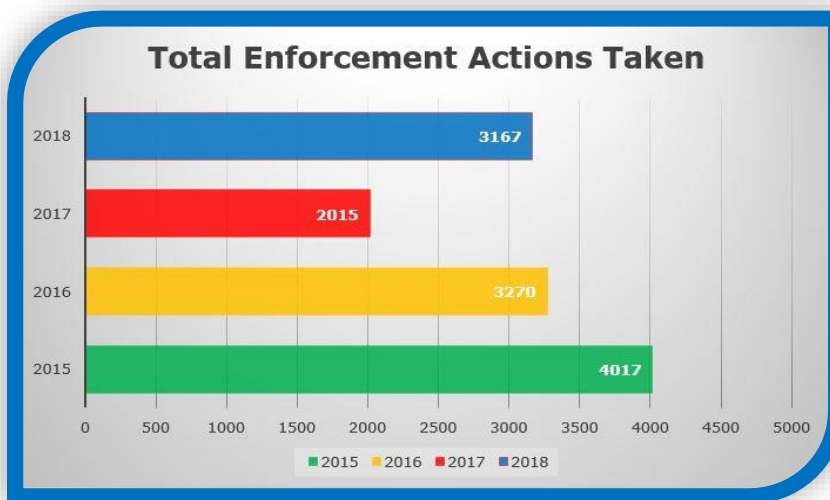
Monday, May 13, 2019

Report From 1/1/2018 through 12/31/2018

Action	Gender	White	Black	Native American	Asian	Other	Total By Race	Hispanic	Non Hispanic	Total By Ethnicity
Citation Issued	Female	395	239	0	2	2	638	83	555	638
No Action Taken	Female	16	7	0	1	0	24	5	19	24
On-View Arrest	Female	19	6	0	0	0	25	3	22	25
Verbal Warning	Female	287	195	1	4	4	491	39	452	491
Written Warning	Female	57	26	0	1	2	86	5	81	86
Citation Issued	Male	565	313	1	7	7	893	179	714	893
No Action Taken	Male	22	11	0	0	0	33	7	26	33
On-View Arrest	Male	21	25	0	0	0	46	8	38	46
Verbal Warning	Male	483	319	3	2	4	811	85	726	811
Written Warning	Male	77	38	2	2	1	120	5	115	120
Female Total	Female	774	473	1	8	8	1264	135	1129	1264
Male Total	Male	1168	706	6	11	12	1903	284	1619	1903
Total		1942	1179	7	19	20	3167	419	2748	3167

The chart above shows the total number of enforcement actions taken by Clayton Police Officers during 2018. The data reflects enforcement actions taken during traffic stops and does not include any enforcement actions during calls for service involving criminal

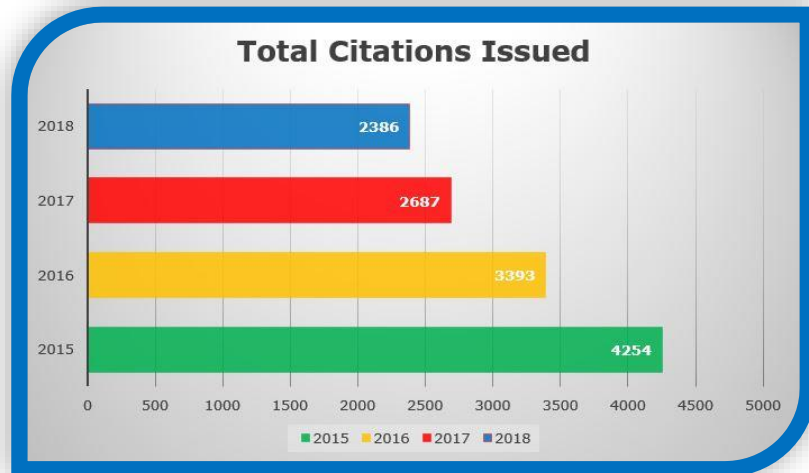
offenses. A total of **3,167** enforcement actions were taken during the 2018 calendar year. This is a **+57.7%** increase compared to the **2,015** enforcement actions taken in 2017.



CPD 2018

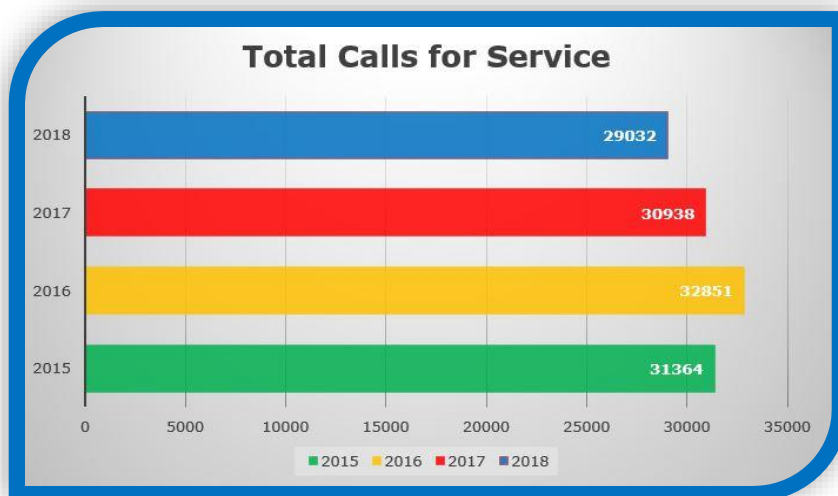
Citations Issued

Citations are issued to offenders charged with infractions or misdemeanors that do not require the posting of a bond. They are written for traffic violations and a variety of misdemeanor offenses. Clayton Police Officers issued **2,386** citations during 2018. This number is a **-11.2%** decrease when compared to the **2,687** issued during 2017.

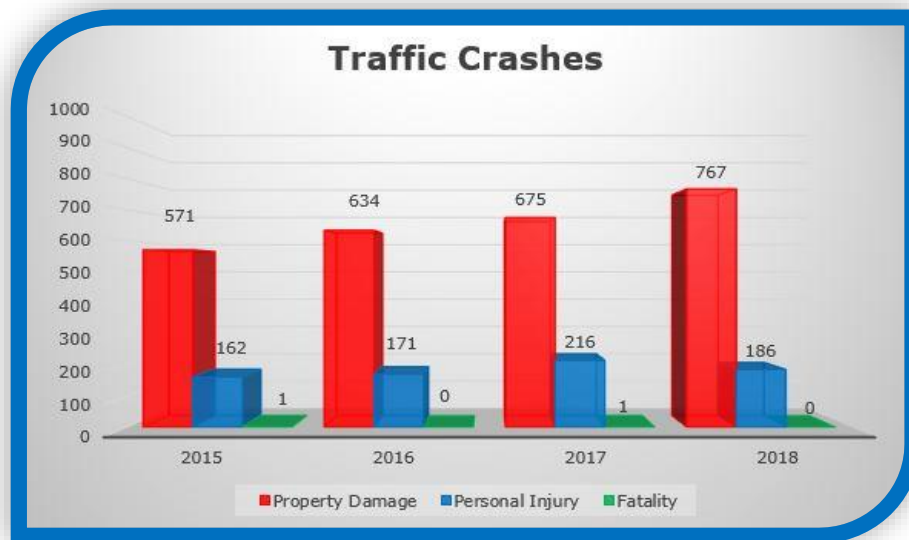


Calls for Service

Clayton Police Officers answered **29,032** calls for police services during 2018. This is a **-6.1%** decrease in the number of calls answered by officers when compared to the **30,938** answered in 2017. These calls for police services encompass a wide variety of police functions to include responses to crimes in progress, traffic crash investigations, disturbances, security checks, escorts, and other officer-initiated activity.



CPD 2018



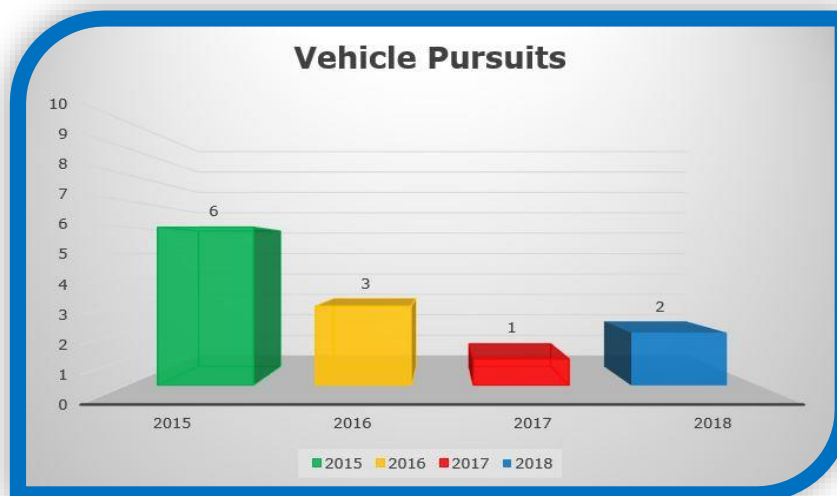
Traffic Crashes

Clayton Police Officers responded to and investigated **953** traffic crashes in 2018. This is a **+6.8%** increase when compared to the **892** traffic crashes that were investigated during 2017. Traffic crashes resulting in property

damage only increased **+13.6%**, while personal injury crashes decreased **-13.9%** from 2017. There were no traffic fatalities reported during 2018.

Vehicle Pursuits

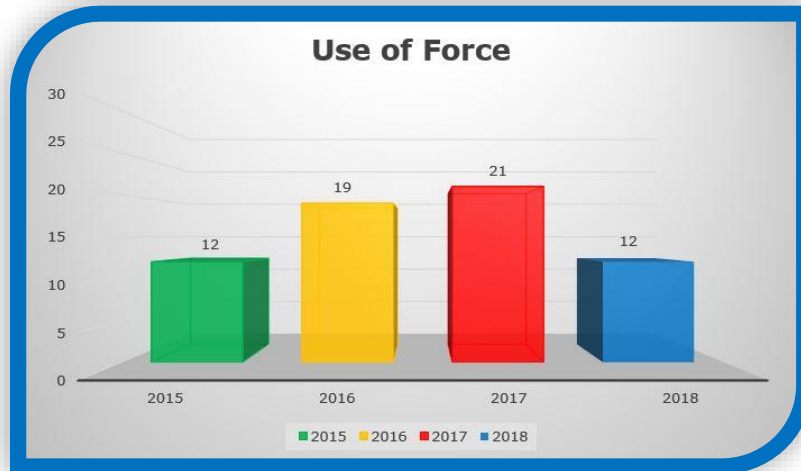
There were **2** vehicle pursuits conducted by members of the Clayton Police Department during 2018. Departmental policy requires officers to document each vehicle pursuit in writing and this report is then reviewed at each supervisory level to ensure that it was conducted safely and that departmental policy was adhered to.



CPD 2018

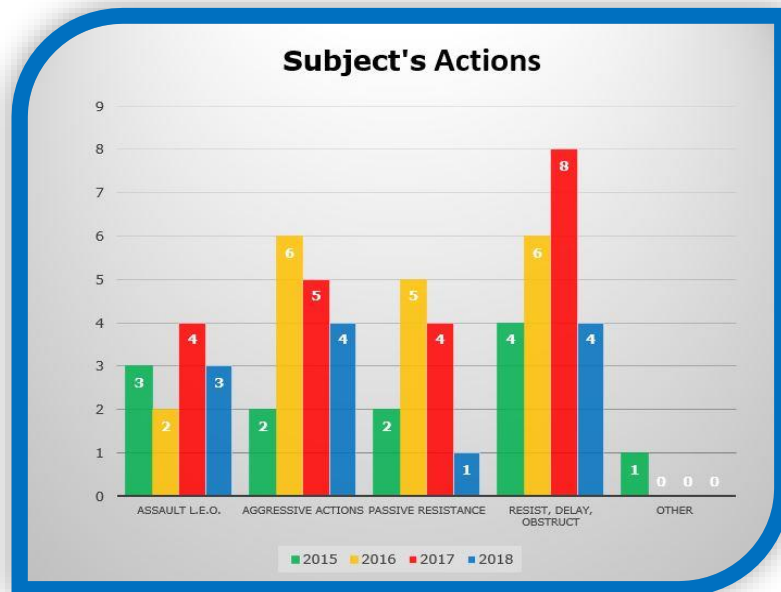
Use of Force

Clayton Police Officers used force in **12** encounters with individuals during 2018. Departmental policy requires officers to document use of force for each occasion. Our intent is to capture the type of force used, the reasoning for the application, and to review our actions for reasonableness and necessity. Clayton Police



Officers answered **29,032** calls for service during the 2018 calendar. Of these public interactions, Clayton Police Officers were only required to use force during **.04%** of them.

We review staff's application of force in self-defense situations, while affecting an arrest, while responding to aggressive actions or resistance, or while performing some other type of lawful action. Of the **12** uses of force, we saw a **-42.9%** decrease when compared to the **21** reports filed in 2017. The actions preceding each use of force were grouped into one of **5** categories (listed in the table below). **3** instances involve assaults on officers, **4** involved aggressive actions toward officers, **1** instance of passive resistance, and **4** instances of resisting, delaying and obstructing officers.



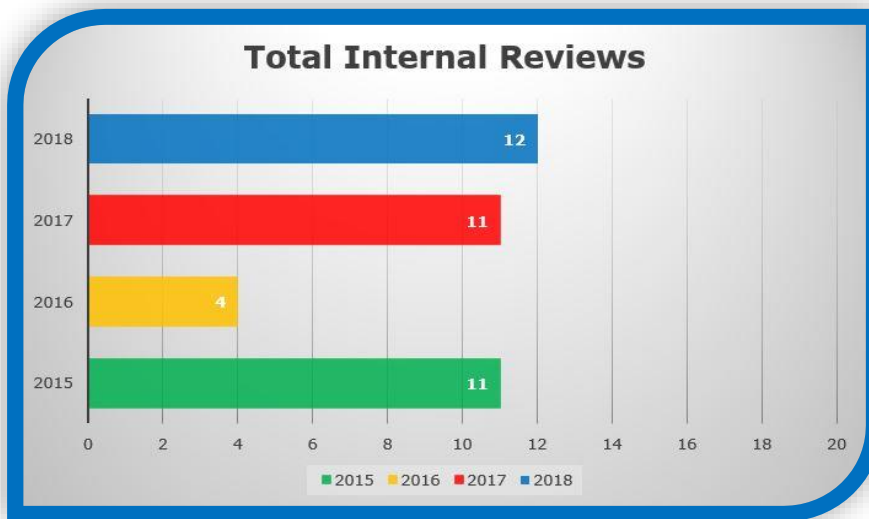
CPD 2018

Complaints and Internal Reviews

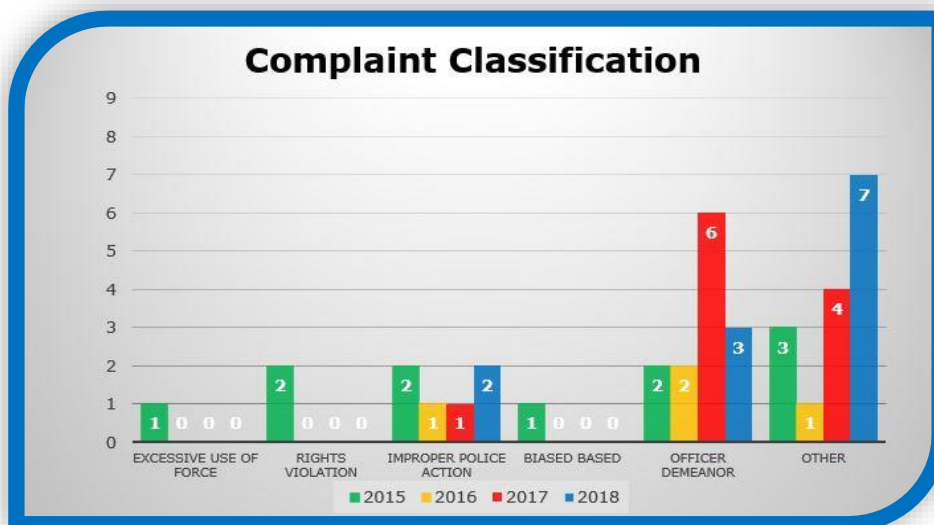
We continue to assess the conduct of our employees as we strive to ensure that all employees represent the agency in the most professional manner. Our goal is to offer the highest level of quality, commitment, and professionalism always. To that end, we document and fully investigate all complaints against members of our department and

communicate with complainants regarding the status of individual complaint.

During 2018, the Clayton Police Department received and investigated **12** complaints against departmental personnel. This is a slight increase over the **11** complaints investigated in 2017.



Of the **12** complaints that were investigated during 2018, **8** were UNFOUNDED, **3** were SUSTAINED, and **1** was deemed that misconduct was not based on the original complaint. Some level of disciplinary or corrective action was taken in **4** of the **12** instances.



CPD 2018

New Officers

Ofc. Grant Harris

Officer Harris started work with the Clayton Police Department in April of 2018. He graduated from the Basic Law Enforcement Training program at Johnston community College in December of 2017 and is new to the field of law enforcement.



Ofc. Jonathan Guider

Officer Guider started work with the Clayton Police Department in April of 2018 after working previously with the Apex Police Department where he served as a Police Officer with the uniformed Patrol Services. He is a combat United States Marine Corps Veteran.



CPD 2018



Ofc. Komivi "EK" Ekoule

Officer Ekoule started work with the Clayton Police Department in August of 2018. He worked previously with the UNC Greensboro Police Department where he served as a Police Officer with the uniformed Patrol Services. He is a veteran of the US Army Reserves.



Ofc. Will Carter

Officer Will Carter started work with the Clayton Police Department in October of 2018. He worked with the Selma Police Department where he served as a Police Officer with the uniformed Patrol Services before coming to us. He is a United States Marine Corps veteran.



CPD 2018

K9 Raven

K9 Raven joined the Clayton Police Department in March of 2018. She and her handler, Ofc. Tyler McNeill are assigned to A Squad with the Patrol Services Division. She is the department's first female Canine.

K9 Eli

K9 Eli joined the Clayton Police Department in June of 2018. He and his handler, Ofc. Isaiah Ruffin are assigned to C Squad with the Patrol Services Division.



CPD 2018

Education and Professional Development



Sgt. Jeff Young

Sgt. Jeff Young joined the Clayton Police Department in 2014 and is assigned to the Patrol Services Division. He graduated in the spring of 2018 from Miller-Motte College with a Bachelor of Science in Business Administration.

Bachelor's Degree Ribbon



Lt. Greg Earp

Lt. Greg Earp graduated from the Administrative Officers Management Program (AOMP) at North Carolina State University in the fall of 2018. AOMP is a 12-week rigorous academic program that provides management and leadership education for law enforcement executives. Lt. Earp is currently assigned to the Investigative Services Division of the Clayton Police Department and is the first person ever sent to such an executive leadership development school in the department's history.



CPD 2018

Promotions



Sgt. Brian Temple

Sergeant Brian Temple has been with the Clayton Police Department since 2001. During his tenure, he has served in every division in the department. He was promoted to Sergeant on February 23, 2018 and is currently assigned to D Squad in the Patrol Services Division.



CPD 2018

Awards

Sgt. Keith Garner

Sgt. Keith Garner was awarded the Meritorious Service Award for his work as the department's Training Sergeant. He scheduled all in-house training and outsourced other external training to fit the department's needs. He developed a weapon-mounted light lesson plan and ensured every sworn officer was properly trained. He oversees all weapon inspections and maintains an accurate accountability.

He supervises all department general and specialized instructors to ensure department personnel are adequately trained. He increased department range time and has focused his energy at teaching good weapon handling skills over marksmanship.

Keith frequently coordinates the Johnston Community College, Wilson Tech, WakeTech, and the North Carolina Justice Academy to facilitate the department's training needs. He developed the department's new Field Training program and manual and oversees new employee orientation so that new employees are ready to train when their Field Training Program begins.

In his spare time, he operates the department motorcycle by participating in several special events including Christmas Parade, National Night Out, Touch-a-truck, and more. He partners with other local police departments to teach motorcycle safety as part of the BikeSafeNC program.

In 2018, Sgt. Garner contributed greatly to enhancing the overall effectiveness of the department by improving operations, enhancing training, and enforcing standards. He has distinguished himself thru his dedication to the department and its mission.



Meritorious Service Ribbon



CPD 2018

Meredith Mumford

Meredith Mumford was awarded the Meritorious Service Award for her exceptional service during 2018. She serves this community and this organization, not only in her role as the Department's front receptionist, but she works in other capacities throughout town.

She does not shy away from any challenge. She welcomes the opportunity to learn new skills and apply herself to bettering any process. When asked, she jumped at the opportunity to be part of the Town's revisit into a new wellness program. Not only did she become part of the team, but she became its leader and was instrumental in redeveloping the Town's Wellness program. She worked with other town employees gathering data and creating the program we enjoy today. Without a doubt, she is responsible for improving the overall wellness of all town employees and far above what is expected of someone in her role as administrative support specialist.



Meredith played a tremendous role in the department's attempt this year at having a successful Christmas with a Cop program. She coordinated volunteers, helped vet participants, secured food donations, put together crafts for the kids, and facilitated the wrapping and delivery of the gifts. This year's program would not have been as successful if not for Meredith's commitment to service.

In her official role, Meredith is a face of the department. She is the first person people see when they come to the Police Department and the first person people talk to when they call. She is always pleasant and constantly professional.



Meritorious Service Ribbon



CPD 2018

Sgt. Andy Jernigan
Retired

Sergeant Andy Jernigan served this agency honorably for 15 years from January 2003 until his retirement in December 2018. During that time, he served in many different capacities with distinction.

Most recently, he served as the Training Sergeant where he expertly managed all in-service training for the department. He was the lead instructor for Johnston County's Crisis Intervention Team Training program and participated in many classes at both Johnston Community College and WakeTech.

He kept meticulous and accurate records and passed every audit with flying colors. Andy enabled future people in the Training Sergeant role to function effectively and efficiently because of the procedures he established and set into place.



Meritorious Service Ribbon



CPD 2018

**Ofc. Scott Holzshu****Sgt. Brian Temple****Lt. Russell Flint****Ofc. Erick Martinez****Ofc. Jonathan Guider****Unit Commendation Ribbon**

Late at night on August 5, 2018, Officers Martinez and Guider were in the parking lot of the police department early one morning when they heard a loud crashing noise somewhere on Main Street followed by a loud and audible alarm. The officers responded to the area and began to check downtown businesses, but initially saw no signs of forced entry into any businesses. They stayed in the area and soon heard more breaking glass on Main Street and then a white male running from the sound of breaking glass. The officers immediately gave chase while requesting other units to establish a perimeter and cordon off the area.

While getting into position, Sgt. Temple saw a person matching the suspect's description running along the railroad tracks. Officer Holzshu set in position and diverted the suspect from escaping near his position.

Officer Guider saw the suspect scaling a fence behind a local business and shown his flashlight on the suspect. The suspect continued running until Lt. Flint, Sgt. Temple, and Ofc. Holzshu soon found the suspect behind a downtown business and took him into custody without incident. A career criminal and drug addict was caught in the act by observant officers committed to providing exceptional service to the business community.

In all, the suspect broke into two businesses and a vehicle in downtown Clayton. Detectives from surrounding agencies closed several unsolved cases and their teamwork and coordinated efforts were instrumental in capturing a dangerous criminal.



CPD 2018

Retirement



Sgt. Andy Jernigan
Retired

Sgt. Andy Jernigan honorably served the citizens of Clayton for fifteen (15) years. During his time with the department, he has served in the Patrol Services Division, The investigative Services Division, and the Administrative Services Division. Sgt. Jernigan retired on December 31, 2019.



CPD 2018

Employee of the Year



Sgt. Keith Garner



Employee of the Year Ribbon

Because of his hard work and dedication to the department and the Town of Clayton, Sgt. Keith Garner was chosen as the 2018 Employee of the Year. Sgt. Garner is a valued member of the department and a credit to the law enforcement profession.



CPD 2018

Appendix A

About Crime Reporting

The Clayton Police Department voluntarily participates in the FBI's Uniform Crime Reporting program (UCR) by submitting monthly reports to the North Carolina State Bureau of Investigations. Through this voluntary program, and with the cooperation of participating agencies such as our own, the UCR program strives to ensure the production of a reliable and uniform set of crime statistics, from which a nationwide and statewide view of crime is possible. The North Carolina State Bureau of Investigations' (SBI) Division of Criminal Information (DCI) gathers data from participating law enforcement agencies throughout the state and forwards the UCR statistics to the FBI in UCR format.

Because of their seriousness and frequency, seven offenses comprise a **Crime Index**, which is used by law enforcement agencies throughout the nation to serve as indicators of crime experience within jurisdictions. These figures are intended to represent the volume of crime in Clayton, NC. Volume indicators do not represent the actual number of crimes committed; rather, they represent the number of offenses reported to law enforcement for each category. The Uniform Crime Reporting program (UCR) collects data on offenses known to law enforcement, and on persons arrested, to depict total crime and to provide data for administrative and operational use in addressing community problems. With respect to Murder, Rape and Aggravated Assault, the volume represents the number of actual victims known to law enforcement, while for Robbery, Burglary, Larceny – Theft, and Motor Vehicle Theft, the number of known offenses is represented.

When analyzing UCR statistics, the user of this information should guard against superficial agency-to-agency comparisons. Such direct comparisons, without taking into account the demographic differences between law enforcement jurisdictions, are misleading.

The underlying causes of crime are complex, and they resist simplistic "quick-fix" solutions. Crime is a community problem that requires law enforcement, citizens of the community, and other social institutions in the community to cooperatively form crime-specific strategies for resisting crime. We continue to bring the resources that are available to us to bear on specific criminal activities, within our operating and resource limitations.

To accept crime as a fact of life is an admission of defeat. Only through the establishment of short and long-term strategies and the assistance of the citizens can the community successfully resist crime problems in our neighborhoods. The identification of our community's crime patterns, through an examination of local crime experience, is a starting point. Thus, these crime statistics are a way of revealing to all of the people in our community just what we're up against.

Social and economic factors have an enormous impact on the nature and levels of crime in any particular community. The FBI, as part of the Uniform Crime Reporting system (UCR), lists a number of factors that affect the volume and type of crime:

- *the size of the community and its population*
- *the density of its population*
- *how the population is composed*
- *stability of the population with respect to mobility and transience*
- *the prevailing economic conditions*
- *cultural conditions, such as educational, recreational, and religious characteristics*
- *climate*
- *effective strength of law enforcement agencies*
- *what law enforcement emphasizes in its administrative and investigative roles*
- *the policies of other components of the criminal justice system (prosecutors, courts, corrections, and probation)*
- *citizen attitudes towards crime*
- *how citizens report crime (how often, how quickly)*

The majority of these factors are somewhat beyond the control of the police. However, the Police Department can play a major role in controlling "street crimes" - those that occur in public places (e.g., purse snatching, assaults/muggings). Crimes of passion committed among relatives or friends and other crimes committed indoors, such as shoplifting, are crimes for which law enforcement agencies typically have little to no control over any increases and decreases in frequency. Police agencies collect information about these crimes and make arrests, as an order maintenance measure, whenever possible. The rate at which citizens report crime varies from community to community. We strive to be responsive to our citizens' reports of criminal activity – the public's confidence in our ability to effectively respond to specific events is crucial if we, as a community, want to



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Appendix A (continued)

formulate an effective community-wide strategy to resist increases in the frequency with which crimes occur. Therefore, increases in the frequency of crimes reported may be viewed favorably provided that we, as a community, use the statistics to identify our specific problems and formulate reasonable short and long-term responses.

In addition to arresting suspects after a crime has been committed, crime prevention and deterrence activities are methods by which Law Enforcement agencies and the citizens of the community can collaboratively resist increases in the volume of crimes.

All offenses are classified on the basis of law-enforcement officer investigation and in accordance with UCR offense definitions (which will not necessarily coincide with N.C. Statute definitions.) Because UCR identifies a Police problem, offense classifications are not based on the findings of a court, coroner, jury or decision of a prosecutor.

SCORING OF UCR OFFENSES

The method of scoring in the Uniform Crime Reporting program varies with the type of crime committed, and it is important to remember that the number of offenders does not determine the number of offenses.

For murder and non-negligent manslaughter, rape, and aggravated assaults, one offense is scored for each victim regardless of the number of offenders involved. For example, three offenders could be involved in the murder of one victim, and in this case one murder would be scored.

For robbery and larceny, one offense is counted for each distinct operation - that is, separate in time and place. The number of victims in any one operation does not determine the number of offenses. For example, if ten (10) people are robbed in a bar at the same time, only one offense is counted. However, if that robber then leaves the bar and holds up a passerby, a second offense has occurred and would be scored.

For burglary, one offense is counted for each "structure" which is illegally entered. For UCR purposes, a structure is generally defined as an enclosed, permanently occupied area. The illegal entries for the purpose of committing a felony or theft of such structures as dwelling houses, garages, offices, barns and the like are considered burglaries, and one burglary is scored for each separate unit entered. The illegal entry of several structures used to hold transients, such as hotel rooms, is scored as one burglary if there was one distinct criminal operation, regardless of the number of rooms or structures that have been entered. For motor vehicle theft, one offense is counted for each theft or attempted theft of a motor vehicle. For UCR purposes, a motor vehicle is defined as any self-propelled vehicle that runs on the surface and not on rails or a body of water. Thefts of farm and construction equipment are excluded from this definition and are scored as larcenies. All cases where persons not having lawful access take automobiles are classified as motor vehicle theft, even though the vehicles may later be found abandoned. This includes "joyriding." One offense is scored for each vehicle stolen or for each attempt to steal a motor vehicle.

Attempts to commit any of the above offenses are counted with the exception of attempts or assaults to kill, which are classified and scored under aggravated assaults.

For multiple offenses that occur in one incident (at the same "time and place"), only the most serious offense is counted.

Part I crimes are ranked according to UCR's definition of seriousness, and appear in order from the most serious to least serious. For example, a robber may seize a man's wallet and then beat him causing serious injury. Both a robbery and an aggravated assault have occurred, but because robbery is considered by UCR to be more serious, only the robbery is scored. From one perspective, this method of counting seriously understates the crime problem, but from another, it prevents undue inflation of crime statistics.



Blair Myhand
Chief of Police



CPD 2018



Town Council Agenda Cover Sheet

Meeting Date

July 15 2019

Agenda Location

Staff Reports

Item Title

Parks and Recreation Bond Referendum

Presenter

Scott Barnard, Parks and Recreation Director

Summary/Description

Update for council of meetings with partners and progress in the development of the bond projects.

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.



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P) THE CONTRACTOR SHALL ADJUST PROPOSED PAVEMENT MARKING LINES AS NEEDED TO MEET EXISTING PAVEMENT MARKING LINES.

JOHNSTON COUTNY, CLAYTON, NORTH CAROLINA

TRAFFIC CONTROL PLAN

A circular professional engineer seal for the State of North Carolina. The outer ring contains the text "NORTH CAROLINA" at the top and "PROFESSIONAL" at the bottom. In the center, it reads "SEAL" and "23484". Below the seal, the name "M. P. Hart" is handwritten in cursive.

Revisions	
1. ISSUED FOR APPROVAL 5.30.19	

Sheet No.

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