



Town of Clayton
Town of Clayton Planning Board Agenda
Monday, March 28, 2022 @ 6:00 PM
Town Council Chambers

<https://www.youtube.com/TownofClaytonNC>

1. CALL TO ORDER

2. ADJUSTMENT OF THE AGENDA

3. APPROVAL OF MINUTES

4. NEW BUSINESS

- a. Text Amendment 2022-51-OA Temporary Uses for Public Facilities
[1 Staff Report 2022-51-OA - Temporary Uses for Public Facilities](#)
[2 Text Amendment 2022-51-OA - Temporary Uses for Public Facilities](#)

POTENTIAL ACTION: Recommendation for approval or denial
- b. Text Amendment 2022-52-OA Electronic Gaming Operations
[2022-52-OA Staff Report](#)
[Section 155.202 Text Amendment](#)
[Section 155.802 Text Amendment](#)

POTENTIAL ACTION: Recommendation for approval or denial

5. PLANNING DIRECTOR REPORT

- a. Resolution for Identifying Transportation Plan
[Staff Report - Transportation Plan Resolution](#)
[Roadway System Map](#)
[Resolution Designating Clayton Transportation Plan](#)

POTENTIAL ACTION: Recommendation for approval or denial

6. INFORMAL DISCUSSION AND PUBLIC COMMENT

7. ADJOURN



Town of Clayton
Planning Department
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P.O. Box 879, Clayton, NC 27528
Phone: 919-553-5002
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Planning Board
March 28, 2022

STAFF REPORT

Application Number: 2022-51-OA

Project Name: Temporary Uses in Public Facilities Ordinance Amendment

Applicant: Town of Clayton

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

REQUEST: Request to add a section to the text of the Unified Development Code (UDC) §155.202 to allow temporary uses and structures in the Public Facilities (PF) zoning district, subject to certain standards and conditions. The proposed change is minor in scope.

SECTIONS PROPOSED FOR AMENDMENT:

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

§155.202 – Land Use Regulations

STAFF ANALYSIS AND COMMENTARY:

Overview

This amendment seeks to add a provision to Article 2 of the Unified Development Code to allow temporary uses and facilities in the PF zoning district. There are several upcoming town projects which will necessitate use of temporary uses, including grass parking for four soccer fields along Loop Road and a temporary structure at Fire Station 1. Staff was directed to look at the land use regulations in the Unified Development Code and propose a text amendment to allow temporary uses and structures in PF Zones. The proposed text amendment has been submitted for a recommendation by the Planning Board with a final decision by the Town Council, planned for the April 18, 2022 meeting.

Approval Criteria:

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

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

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

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

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

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

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

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

CONSIDERATIONS

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

STAFF RECOMMENDATION:

Staff is recommending approval of changes to the Zoning Code with respect to Temporary Uses in Public Facility (PF) zoning districts.

ATTACHMENTS:

- 1) Draft Ordinance – clean copy

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

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



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*Planning Board
March 28, 2022*

STAFF REPORT

Application Number: 2022-52-OA

Project Name: Electronic Gaming Operations Text Amendment

Applicant: Town of Clayton

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

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

SECTIONS PROPOSED FOR AMENDMENT:

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

§155.202 – Land Use Regulations

§155.802 – Defined Terms

STAFF ANALYSIS AND COMMENTARY:

Overview

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

Approval Criteria:

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

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

Page 1 of 2

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

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

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

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

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

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

CONSIDERATIONS

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

STAFF RECOMMENDATION:

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

ATTACHMENTS:

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

ARTICLE 2: ZONING DISTRICTS

§ 155.202 LAND USE REGULATIONS

(A) USE REGULATIONS TABLE

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

(1) Key to Types of Use

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

1. Open dump;

2. Outdoor gun range; ~~and~~

2-3. Electronic Gaming Operations; and

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

(2) Uses

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

ARTICLE 8: DEFINITIONS

§ 155.802 DEFINED TERMS

Easement

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

Electronic Gaming Operation

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

Extraterritorial Jurisdiction (ETJ)

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



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Planning Board
March 28, 2022

STAFF REPORT

Project Name: Resolution Designating the Clayton Transportation Plan

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

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

STAFF ANALYSIS AND COMMENTARY:

Overview

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

CONSIDERATIONS

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

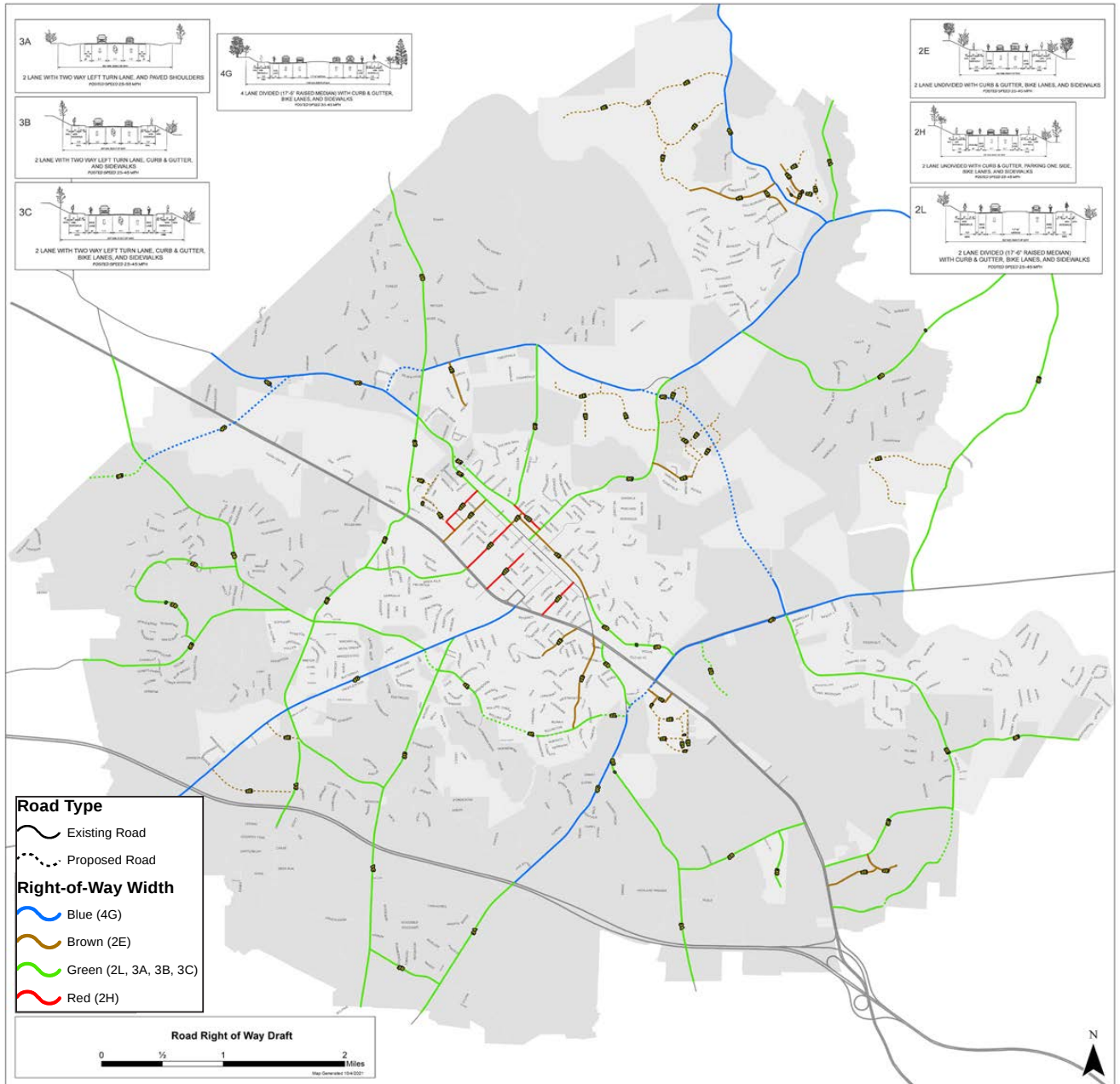
STAFF RECOMMENDATION:

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

ATTACHMENTS:

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

Roadway System Map



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

RESOLUTION TO DESIGNATE THE CLAYTON TRANSPORTATION PLAN

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

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

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

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

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

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

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

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

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

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

Duly adopted this the 18th day of April 2022.

Jody McLeod
Mayor

ATTEST:

Heidi L. Holland, NCCMC
Deputy Town Clerk