

Jody L. McLeod
MAYOR

Bruce Thompson
TOWN ATTORNEY

Steve Biggs
TOWN MANAGER



Bob Satterfield
R.S. "Butch" Lawter, Jr.
Art Holder
Jason Thompson
COUNCIL MEMBERS

Michael Grannis
MAYOR PRO TEM

TOWN COUNCIL MEETING

APRIL 16, 2012

AGENDA

MAYOR AND TOWN COUNCIL

**MAYOR JODY L. MCLEOD
MAYOR PRO TEM MICHAEL GRANNIS
COUNCILMAN BOB SATTERFIELD**

**COUNCILMAN ART HOLDER
COUNCILMAN R.S. "BUTCH" LAWTER, JR.
COUNCILMAN JASON THOMPSON**

TOWN STAFF

**STEVE BIGGS, TOWN MANAGER
SHERRY L. SCGGINS, TOWN CLERK
BRUCE THOMPSON II, TOWN ATTORNEY**

AGENDA
THE WORK SESSION MEETING OF THE CLAYTON TOWN COUNCIL

MONDAY, APRIL 16, 2012
7:30 PM

THE CLAYTON CENTER
COUNCIL CHAMBERS

1. **CALL TO ORDER**
Pledge of Allegiance & Invocation – Mayor Jody L. McLeod
2. **ADJUSTMENT OF THE AGENDA**
3. **ACTION AGENDA**
 - a. Draft minutes from the April 2, 2012, regular meeting and the March 19, 2012, work session meeting.
 - b. Notice for public hearing to close out the Town’s Automatic Rolls of NC CDBG-ED project on May 7, 2012.
 - c. Notice for public hearing to describe the State’s CDBG program and request for public comment on May 7, 2012.
4. **INTRODUCTIONS AND SPECIAL PRESENTATIONS**
 - a. Introduction of new Town of Clayton employee(s).
 - b. Recognition of Jon Huber, Electric Department.
 - c. Presentation of the 29th Annual Clayton Road Race.
5. **ITEMS SCHEDULED FOR THE REGULAR MEETING AGENDA**
 - a. Presentation of Customer Service Policy Manual.
 - b. Presentation of amended rules for the use of Horne Square.
 - c. Presentation of ordinance amendments to article 8 of chapter 155 of the Town Code of Ordinances.
 - d. Presentation of preliminary subdivision request for SUB 2012-36, South Tech Park, Section 2, located on Pony Farm Road.
 - e. Presentation of special use permit for SUP 2012-15 for a tattoo studio and art gallery located at Grand Plaza Commercial Center.
 - f. Presentation of Source Recycling Infrastructure Improvements Project Resolution.
 - g. Presentation of citizen initiated annexation petition 2012-04-01 for three parcels located off of NC 42 HWY West between Amelia Church Road and Short Johnson Road.
 - h. Presentation of preliminary resolution stating the intent to undertake the John Street project.
 - i. Presentation of proclamation for Older Americans Month.
 - j. Presentation of proclamation for National Historic Preservation Month.

- k. Presentation of proclamation for Clayton Derby Day [Council action is requested].
 - l. Presentation of proclamation for Municipal Clerk Week [Council action is requested].
6. ITEMS CONTINGENT FOR THE REGULAR MEETING
7. ITEMS FOR DISCUSSION
- a. Discussion of revised letter of agreement for Mitchiner Hills Subdivision.
8. OLD BUSINESS
- a. Evidentiary hearing for planned development district PDD 2012-05 for East Village of Clayton located on East Front Street between Old NC HWY 42 East and Center Street. ***At the request of the applicant, this item was continued from the April 2, 2012, Council meeting.***
9. STAFF REPORTS
- a. Town Manager
 - b. Town Attorney
 - c. Town Clerk
 - Calendar of Events
 - d. Other Staff
10. OTHER BUSINESS
- a. Informal Discussion & Public Comment.
 - b. Council Comments.
11. ADJOURNMENT

**TOWN OF CLAYTON
TOWN COUNCIL
AGENDA COVER SHEET**

Agenda Item: 3a

Meeting Date: 4/16/12

**TITLE: DRAFT MINUTES FROM THE APRIL 2, 2012, REGULAR MEETING
AND THE MARCH 19, 2012, WORK SESSION MEETING.**

DESCRIPTION: Minutes (2 sets).

RELATED GOAL: Administrative

ITEM SUMMARY:

Date:

Action:

Info. Provided:

4-16-12

Approval.

DRAFT minutes from the
4-2-2012 regular meeting &
3-19-2012 work session.

**MINUTES
CLAYTON TOWN COUNCIL
APRIL 02, 2012**

The first regular meeting of the Clayton Town Council for the month of April was held on Monday, April 2, 2012, at 7:30 PM at Town Hall, 111 East Second Street.

PRESENT: Mayor Jody L. McLeod, Mayor Pro Tem Michael Grannis, Councilman Bob Satterfield, Councilman Art Holder, and Councilman Jason Thompson.

ABSENT: Councilman R. S. "Butch" Lawter Jr.,

ALSO PRESENT: Steve Biggs, Town Manager; Brenton McConkey, Town Attorney; Sherry Scoggins, Town Clerk; Nancy Medlin, Deputy Town Manager; David DeYoung, Planning Director; Ann Game, Customer Service Director; Robert McKie, Finance Director; Tommy Roy, Information Services Technician; Andrew Holland, Intern

ITEM 1. CALL TO ORDER

Mayor McLeod called the meeting to order at 7:36 PM. Mayor McLeod gave the invocation.

ITEM 2. ADJUSTMENT OF THE AGENDA

The following adjustments of the agenda were requested:

- Request to table Item 4a to the April 16, 2012, Council meeting.
- Request by the applicant to continue Item 5b to the April 16, 2012 Council meeting.

It was the consensus of the Council to approve the agenda with the requested adjustments.

ITEM 3. ACTION AGENDA

Councilman Holder motioned to approve the action agenda as presented; Councilman Thompson seconded the motion. The motion carried 4-0 at 7:37 PM with the following action agenda items being approved:

- Item 3a. Draft minutes from the Thursday, March 22, 2012, Council retreat.
- Item 3b. Proclaiming April as Sexual Assault Awareness Month.
- Item 3c. Town Square Concert series.
- Item 3d. Façade grant reimbursement request.
- Item 3e. Utility deposit updates.

- Item 3f. Resolution supporting Town of Clayton / Caterpillar NC Rural Center Grant Assistance.

ITEM 4. INTRODUCTIONS AND SPECIAL PRESENTATIONS

- Item 4a. Recognition of Jon Huber, Electric Department.

This item is tabled to the April 16, 2012, Council meeting.

ITEM 5. PUBLIC HEARINGS

- Item 5a. Public hearing for planned development district PDD 2012-03 for Riverwood Place Senior Living Center located on Pritchard Road.

Town Attorney Brenton McConkey provided an overview of the legislative procedure for a planned development district request.

Planning Director David DeYoung provided a PowerPoint presentation for planned development district PDD 2012-03; herewith attached as Exhibit A, PDD 2012-03.

Councilman Satterfield questioned if a sidewalk on Collinsworth Road is a condition.

Planning Director DeYoung stated the sidewalk will be shown in on the revised site plan and it is a condition.

Mayor McLeod opened the public hearing at 7:45 PM. As no one came forward, Mayor McLeod closed the public hearing at 7:45 PM.

Mayor Pro Tem Grannis stated a wastewater allocation request is pending.

Mayor Pro Tem Grannis motioned to approve the wastewater allocation of 14,400 gpd as requested; Councilman Satterfield seconded the motion. Motion carried 4-0.

Councilman Holder motioned to rezone as presented; Councilman Satterfield seconded the motion. Motion carried 4-0.

- Item 5b. Evidentiary hearing for planned development district PDD 2012-05 for East Village of Clayton located on East Front Street between Old NC HWY 42 East and Center Street.

Mayor McLeod announced the hearing for planned development district and preliminary subdivision request PDD 2012-05 for East Village of Clayton located on East Front Street between Old NC HWY 42 East and Center Street at 7:47 PM.

Town Attorney Brenton McConkey introduced the hearing procedures for a planned development district and preliminary subdivision request. He explained that planned development districts in which preliminary subdivision requests are being considered are different in certain respects from the capacity in which the Town Council normally functioned. Mr. McConkey stated the typical planned development review requires the Town Council to function in a legislative capacity; however, a planned development district that includes a preliminary subdivision plat requires a hybrid legislative and quasi-judicial public hearing. He stated this is due to the legislative nature of the rezoning process and the quasi-judicial nature of the subdivision process. He stated this means the Town Council acts essentially as a court of law. He stated the Town Council will hold one hearing to consider both the rezoning to the planned development district and the approval of the preliminary plat. He stated with respect to the review of the preliminary plat during this hybrid hearing there is a burden that the applicant meet the four criteria found in the Town's Unified Development Code. He stated anyone opposed to the application must put on evidence of a similar kind showing the criteria have not been met. He stated testimony must be given under oath. He stated all testimony provided to the Council must be competent and material and substantial. He stated pursuant to the North Carolina General Statutes, competent evidence does not include opinion testimony of lay witnesses on certain matters. He stated hearsay evidence will not be admitted. He stated the Town Council will find the criteria contained in the Unified Development Code and make its decision based on the evidence and testimony presented at the hearing. He stated following the hearing the Council will make separate motions on the approval of the rezoning and the approval of preliminary plat. He added the Council will take separate votes on each motion. Town Attorney McConkey stated his role during the hearing is to monitor all evidence and testimony to ensure that it complies with North Carolina law, the Town's Code of Ordinances and procedures and all other applicable requirements.

Town Manager Steve Biggs stated the applicant requested that action not be taken this evening. He stated full discussion of the item will be at the next meeting. He stated if there are persons wishing to speak on this item, they may do so this evening or at the continued meeting.

Mayor McLeod stated anyone wishing to speak on this item to come forward and be sworn in by Town Clerk Sherry Scoggins.

Based upon question by a citizen, Town Attorney McConkey stated this is a hybrid hearing and both the rezoning and subdivision are heard at the same time. He stated persons wishing to speak would come forward and be sworn in.

As no one came forward, it was the consensus of the Council to continue this item to the April 16, 2012, Council meeting.

Item 5c. Evidentiary hearing for planned development district PDD 2012-07 for Riverwood Ranch and located on Pritchard Road across from the Athletic Club Subdivision.

Mayor McLeod announced the hearing for planned development district and preliminary subdivision request PDD 2012-07 for Riverwood Ranch and located on Pritchard Road across from the Athletic Club Subdivision at 7:51 PM.

Town Attorney Brenton McConkey introduced the hearing procedures for a planned development district and preliminary subdivision request. He explained that planned development districts in which preliminary subdivision requests are being considered are different in certain respects from the capacity in which the Town Council normally functioned. Mr. McConkey stated the typical planned development review requires the Town Council to function in a legislative capacity; however, a planned development district that includes a preliminary subdivision plat requires a hybrid legislative and quasi-judicial public hearing. He stated this is due to the legislative nature of the rezoning process and the quasi-judicial nature of the subdivision process. He stated this means the Town Council acts essentially as a court of law. He stated the Town Council will hold one hearing to consider both the rezoning to the planned development district and the approval of the preliminary plat. He stated with respect to the review of the preliminary plat during this hybrid hearing there is a burden that the applicant meet the four criteria found in the Town's Unified Development Code. He stated anyone opposed to the application must put on evidence of a similar kind showing the criteria have not been met. He stated testimony must be given under oath. He stated all testimony provided to the Council must be competent and material and substantial. He stated pursuant to the North Carolina General Statutes, competent evidence does not include opinion testimony of lay witnesses on certain matters. He stated hearsay evidence will not be admitted. He stated the Town Council will find the criteria contained in the Unified Development Code and make its decision based on the evidence and testimony presented at the hearing. He stated following the hearing the Council will make separate motions on the approval of the rezoning and the approval of preliminary plat. He added the Council will take separate votes on each motion. Town Attorney McConkey stated his role during the hearing is to monitor all evidence and testimony to ensure that it complies with

North Carolina law, the Town's Code of Ordinances and procedures and all other applicable requirements.

Mayor McLeod called all those wishing to give evidence, whether for or against the planned development district and preliminary subdivision plat request, to come forward and be sworn in. Town Clerk Sherry Scoggins administered the oath to: David DeYoung, Reid Smith, Donald C Adams, and Timothy G Morgan.

Planning Director David DeYoung provided the following PowerPoint presentation on planned development district PDD 2012-07; herewith attached as Exhibit B, PDD 2012-07.

Planning Director DeYoung stated:

- Rezoning request is for PD-MU
- Includes a major subdivision approval
- Located on north side of Pritchard Road adjacent to Market at Riverwood
- Previously approved in October 2008 as PDD-MU 08-01
- Applicant is requesting modification to previous approval
- 266.96 acre parcel
- Request is to subdivide into seven parcels
- One of the parcels is for 55+ development known as Riverwood Haven
- Riverwood Haven received Planning Board approval at its last meeting with the condition of Council approval
- Four access points – two primary and two secondary
- Purpose of request is to reconfigure parcels
- Original request the commercial component was larger
- Amendment before Council includes the 55+ development
- Applicant has shown a Class C landscape buffer around the entire development
- Detailed
- Will work with the applicant to ensure each phase some recreation component attached to it
- Traffic impact analysis was approved in 2008 and is still current
- As an update to the Market at Riverwood, a signal analysis has been requested
- Master plan is generally consistent with strategic growth plan
- Rezoning and master plan are both consistent with the Town's UDO
- Six original conditions attached with PDD 08-01 approval and those conditions remain
- Condition seven was attached and is for a revised traffic impact analysis taking into account the modifications of the development plan must be approved prior to the issuance of a zoning compliance permit for commercial lot 6 or 7

Mr. Donnie Adams, 404 Swann Trail of Clayton, stated he is a professional engineer speaking on behalf of the developer. He stated with him is Tim Morgan who is assisting with the design for Riverwood Haven. He stated these are minimal changes to the master plan.

As there was no one speaking in opposition, Mayor McLeod turned the item to Council for inquiry.

As there were no questions by Council, Mayor McLeod called the Council into deliberation.

Mayor Pro Tem Grannis stated he has a couple of comments. He stated with respect to this particular development there has been a lot of discussion on his part with several homeowners in the Riverwood development. He stated in listening to their concerns, it has become apparent to him that the concerns are not applicable to this particular development. He stated the purpose of the statement is for the record. He stated he has also spoken with the developer and there is a clear understanding of the concerns that some of the residents have. He stated concerns will be addressed through the HOA.

Mayor Pro Tem Grannis motioned:

Based on the substantial and competent evidence and testimony presented to the Town Council on this matter, the Council finds and concludes that Subdivision Application **PDD-MU 2012-07**, subject to the conditions recommended by the Planning Board and Planning Staff:

1. A final plan for improvements to Pritchard Road in Phases 1 & 2, based upon recommendations and review comments for the Traffic Impact Analysis, shall be approved by NCDOT, the Town of Clayton, and the developer prior to approval of any driveway permits. (amended by Planning Board)
 - A full 12 foot lane from the eastern property line to the intersection of Riverwood Athletic Club Blvd. to be constructed with a right turn lane to NCDOT standards at driveway as shown in the TIA
 - Left turn lane into the development from the east bound approach on Pritchard Rd will be constructed
 - Driveway one will be a left and right in and right out only design (no left out movement)
 - A full 12 foot lane and right turn lanes at driveways along Pritchard Rd shall be required across the frontage of Phase 2 as that phase develops and a right turn lanes at the intersection of Riverwood Athletic Club Blvd at the westbound approach will be required
 - Dedication of 20 feet additional right-of-way on Pritchard Rd will be required on all frontage of Riverwood Ranch and a five foot sidewalk

- to Town of Clayton standard will be constructed on this frontage as well, plus easement
- The improvements specified in TIA for the intersection of Pritchard and Covered Bridge Rd's must be constructed prior to development beyond Phase 2 of Riverwood Ranch
 - When warranted, a traffic signal must be installed at the developer's expense at intersection of Riverwood Athletic Blvd and Pritchard Rd
 - All driveway connections to Pritchard Rd will require a minimum protective stem of 100 feet
2. Site plans for the commercial areas and multi-family development must be approved by the Planning Board.
 3. A wastewater allocation request must be submitted and approved by Town Council prior to recording the Master Plan.
 4. Plans for all public facilities shall be approved by the Town of Clayton Public Works Department subject to their specifications.
 5. A revised Traffic Impact Analysis taking into account the modifications to the development plan must be approved prior to the issuance of a Zoning Compliance Permit for commercial Lot 6 or 7.

And with full incorporation of all statements and agreements entered into the record by the testimony of the applicant and applicant's representatives:

- (1) That the subdivision meets all required specifications of the Town Unified Development Ordinance;
- (2) That the subdivision will not be detrimental to the use or orderly development of other properties in the surrounding area and will not violate the character of existing standards for development of properties in the surrounding area;
- (3) That the subdivision design will provide for the distribution of traffic in a manner that will avoid or mitigate congestion within the immediate area, will provide for the unified and orderly use of or extension of public infrastructure, and will not materially endanger the environment, public health, safety, or the general welfare; and
- (4) That the subdivision will not adversely affect the general plans for the orderly growth and development of the town and is consistent with the planning policies adopted by the Town Council.

Councilman Satterfield seconded the motion. Motion carried 4-0.

Mayor Pro Tem Grannis motioned to approve:

Based upon satisfactory compliance with the above four stated findings and fully contingent upon acceptance and compliance with all conditions as previously noted herein moved to approve Subdivision Application **PDD-MU 2012-07**.

Councilman Satterfield seconded the motion. Motion carried 4-0.

Mayor Pro Tem Grannis requested from the Planning Department a status report of the overall Riverwood Athletic Club development that includes all phases associated with the development. He stated he would like it in the form of a report to the Town Council.

Town Attorney McConkey requested the Council make a motion approving the rezoning request.

Councilman Satterfield motioned to approve the rezoning request as presented; Mayor Pro Tem Grannis seconded the motion. Motion carried 4-0.

Item 5d. Public hearing for text amendment updates and/or revisions to the Unified Development Code, Chapter 155 of the Town Code of Ordinances:

- Manufactured Home Foundation Screening; 155.302 (G)
- Article 2, Chapter 155
- Article 3, Chapter 155

Planning Director David DeYoung presented a PowerPoint presentation on manufactured home foundation screening [155.302 (G)]; herewith attached as Exhibit C, 155.302 (G). He stated the ordinance was amended to include screening with skirting panels constructed of durable vinyl or simulated rock, brick or stone finish and that the skirting must be completely framed; including a bottom track.

Planning Director David DeYoung presented a PowerPoint presentation on Article 2 and Article 3 of Chapter 155; herewith attached as Exhibit D, Articles 2 & 3. He clarified that Article 2 was amended to reflect one thoroughfare overlay district.

Mayor Pro Tem Grannis acknowledged the changes to the charts as they are simpler to understand.

Mayor McLeod stated this has been noticed as a public hearing and anyone wishing to speak to come forward at 8:16 PM. As no one came forward, Mayor McLeod closed the public hearing at 8:16 PM.

Councilman Satterfield commended staff and planning board for doing a fine job and this is easier to read.

Councilman Satterfield motioned to approve the amendments as presented; Mayor Pro Tem Grannis seconded the motion. Motion carried 4-0.

Item 5e. Public hearing for zoning map amendment.

Planning Director David DeYoung provided an overview of the zoning map; herewith attached as Exhibit E, Zoning Map. He stated the Zoning Map has no changes other than the colors are being updated. He stated the lighter colors are low density and the darker colors are higher density. He added the cell tower locations are the same and are designated by a cell tower symbol. He clarified that nothing is being rezoned or annexed.

Planning Director DeYoung provided an overview of the 'new' zoning overlay district map; herewith attached as Exhibit F, Overlay Zoning Map. He stated the Town has always had overlay districts within the Town of Clayton, they have not been shown on maps. He stated the map displays the Scenic Highway Overlay, Watershed Protection Overlay, and the Thoroughfare Overlay. He stated the Thoroughfare Overlay was previously shown as a I and a II with the only difference being if it was in town it was a I and if it was out of town in the ETJ it was a II. He stated the overlay districts do not impact property owners within the districts. He added the overlay districts would impact new development.

Mayor Pro Tem Grannis stated the way the overlay district is mapped today there are no changes for property owners today. He added if the property owners come forward with a development of some sort, then the requirements of the overlay district are applied.

Planning Director DeYoung stated affirmative.

Mayor McLeod opened the public hearing at 8:24 PM. As no one came forward, Mayor McLeod closed the public hearing at 8:24 PM.

Mayor Pro Tem Grannis motioned to adopt the zoning amendment maps as presented; Councilman Satterfield seconded the motion. Motion carried 4-0.

ITEM 6. OLD BUSINESS

Item 6a. Bid opening for spring 2012 street project.

Item 6b. Update on John Street sewer project.

Item 6a and Item 6b were discussed concurrently.

Town Manager Biggs provided an overview of the bid tabulation for the spring 2012 streets project, also known as phase 3 streets construction project of the 2008 bond program; herewith incorporated and part of the permanent record. He stated the low bidder for the project is the Fred Smith Company for the amount of \$1,186,095.30. He stated this includes \$629,000 for streets deferred

from the phase 2 package; \$448,000 for John Street; and \$71,823 for the sewer replacement on John Street. He stated this project will create a \$4.3 million streets, water, and sewer improvements since the time of the 2008 bond referendum approval. He stated a budget amendment for \$766,000 for a fund transfer from the water sewer fund to cover the additional cost of the water sewer work that will be completed with phase 3. He stated at the August 15, 2011, meeting, \$525,000 use of Powell Bill funds. He stated by approval of this, this is less than estimated in August 2011. He added no general funds will be used for this project. He stated action is requested to award approval of the bid to the Fred Smith Company for the amount of \$1,186,095.30 and authorization for a five percent contingency.

Councilman Satterfield questioned if the \$71,823 is the amount being divided between the 16 units.

Town Manager Biggs stated affirmative.

Councilman Satterfield questioned the repayment schedule.

Town Manager Biggs moved to item 6b and referred to a spreadsheet; herewith incorporated and part of the permanent record. He stated the original cost was estimated at \$60,000, and he added the actual bid cost is higher. He stated in the original estimate of the assessment, an interest rate of six percent and six year term and included in the agenda packet is an illustrative spreadsheet showing various amortization schedules; herewith incorporated and part of the permanent record. He stated the NC GS allows the Town to charge up to eight percent interest up to a ten year term. He stated one of the considerations of the assessment project is the cost of money. He stated the current return on investment is less than one percent. He added there will not be a lost cost of money on this assessment.

Councilman Satterfield questioned the number of owner occupied units.

Town Manager Biggs stated there is not an accurate census of the owner occupied units at this time.

Mayor Pro Tem Grannis requested background on how this came about and the potential causes of the damage to the sewer that requires the Town to do this.

Town Manager Biggs stated John Street was deferred from the original bond package because of its condition and substantial cost for a short street segment. He stated when the Town made the commitment to repair the street, also making a commitment to repair sewer services to the town homes. He stated the sewer service to the town homes has been problematic. He stated

the town homes were originally constructed as apartments for an apartment complex. He stated each individual unit is served by a private sewer collection line that runs parallel with what was then apartments and connects down to the end of the project to a Town sewer main. He stated after construction, the apartments were converted to town homes and sold as individual units and occupied by separate ownership. He stated the construct that works fine for an apartment complex is not working well for the town homes because when there is a problem with the line there is fragmented ownership. He stated when the complex was under single ownership the owner repaired the private line. He stated the private line is subject to fragmented unit ownership and when there is problem with it there is no central authority to repair it. He stated if the work is not performed at this time, the work will be essential at some time in the future. He stated that means the investment in John Street would then be lost to the repairs of the sewer. He stated the Town is stepping in to what is a privately owned problem and making it part of the public infrastructure. He stated consistent with Town ordinance, when the Town offers betterment to a private property, it is done so by an assessment.

Councilman Satterfield motioned to award the bid of the spring street project to Fred Smith Company for the amount of \$1,186,095.30; Councilman Holder seconded the motion.

Town Manager Biggs questioned if this is with the five percent contingency.

Councilman Satterfield amended his motion to include the five percent contingency; Councilman Holder seconded the amendment. Motion carried 4-0.

Councilman Satterfield stated for the John Street he believes 6% is high and 2% is low and his preference is 4% over 6 year period for the total amount of \$5,117.39.

Mayor Pro Tem Grannis stated he appreciates what has been suggested. He is in favor of the 6 year term with 2% interest rate.

Mayor McLeod stated he would request the Council consider sending notification to the 16 units and consider if they agree to sign paperwork by a certain date to give them 2% and after the date it would be 4%. He stated this gives incentive to take care of paperwork.

Town Manager Biggs stated the Town will need to acquire easements to replace lines. He stated the matter of completing paperwork is relevant. He stated either the easements need to be granted to the Town or easements will be acquired through eminent domain.

Councilman Satterfield stated based on that information, if the owners grant the easement he is in favor of 2% and if not then 6%.

Town Manager Biggs stated in terms of project costs, all legal and administrative will be absorbed by the Town. He stated the only cost to the owner is the cost of the project.

Councilman Satterfield motioned if the easement is granted charge 2% and if not charge 6%.

Based upon question by Council, Town Manager Biggs stated notification has not yet been sent to the homeowners as terms had not yet been established. He stated to give the owners notification, action is requested.

Mayor Pro Tem Grannis seconded Councilman Satterfield's motion.

Motion carried 4-0.

ITEM 7. NEW BUSINESS

Item 7a. FY 11-12 contract to audit accounts.

Town Manager Steve Biggs stated attached is the fiscal year 11-12 annual audit contract with Anderson Smith and Wike.

Councilman Thompson motioned to approve as presented; Councilman Holder seconded the motion. Motion carried 4-0.

ITEM 8. STAFF REPORTS

Item 8a. Town Manager

Town Manager Steve Biggs stated for consideration by Council is the selection of color for the elevated water storage tank.

Item 8b. Town Attorney

Town Attorney Brenton McConkey stated no additional report.

Item 8c. Town Clerk

Town Clerk Sherry Scoggins stated no additional report.

Item 8d. Other Staff

Intern Andrew Holland stated he has been working on projects for the past couple of weeks. He stated last Monday he had the opportunity to present to the Planning Board on the UDC. He stated he is currently researching a fun day for Town employees. He stated next week he will work with Parks & Recreation.

ITEM 9. OTHER BUSINESS

Item 9a. Informal Discussion and Public Comment

Ms. Keri Christenson of Harbor Inc. stated her thanks for adoption of the proclamation for sexual assault awareness month. She stated there is a white sheet in packet that she referred to during the discussion; herewith attached and part of the permanent record. She requested Harbor Inc. be included in the budget consideration this year.

Ms. Judy Hoffman stated she is with the Neighbors and Newcomers Club. She stated for the past five years have been holding a litter clean-up campaign around earth day. She added this year it will be the weekend of April 21 and 22. She stated the Town assists with bags, gloves, and vests and so far 40 persons have signed up to participate. She stated she encourages persons in town to participate in the effort.

Item 9b. Council Comments.

Councilman Holder stated it was brought to his attention that the noise ordinance is very general in comparison to other towns. He requested this be reviewed.

Town Manager Biggs stated it can be taken up as an issue.

It was the consensus of the Council that it be reviewed.

Mayor McLeod stated a comparative report is preferred.

Item 10. ADJOURNMENT

Councilman Satterfield motioned to adjourn; Councilman Holder seconded the motion. Motion carried 4-0 at 8:53 PM.

Duly adopted by the Town Council this [REDACTED] day of April 2012, while in regular session.

ATTEST:

Jody L. McLeod
Mayor

Sherry L. Scoggins, MMC
Town Clerk

**MINUTES
CLAYTON TOWN COUNCIL
MARCH 19, 2012**

The second regular meeting of the Clayton Town Council for the month of March was held on Monday, March 19, 2012, at 7:30 PM at Town Hall, 111 East Second Street.

PRESENT: Mayor Jody L. McLeod, Mayor Pro Tem Michael Grannis, Councilman Bob Satterfield, Councilman R. S. "Butch" Lawter Jr., Councilman Art Holder, and Councilman Jason Thompson.

ALSO PRESENT: Steve Biggs, Town Manager; Brenton McConkey, Town Attorney; Sherry Scoggins, Town Clerk; Nancy Medlin, Deputy Town Manager; David DeYoung, Planning Director; Tim Simpson, Public Works & Utilities Director; R. W. Bridges, Police Captain; Steve Blasko, Streets / Property Maint. Superintendant; Ann Game, Customer Service Director; Tommy Roy, Information Services Technician; Christie Starnes; Librarian; Andrew Holland, Intern

ITEM 1. CALL TO ORDER

Mayor McLeod called the meeting to order at 7:30 PM.

The following members of Tiger Den 2 of Pack 124 led the Pledge of Allegiance: Ruffin Atchison, Jacob Buck, Charlie Schicchi, Cole Bowen, Noah Alford, Peyton Reichert, Carson Reichert, Matthew Monsees, William Coombs, James Hasley, Alex Atchison (parent), Sean Buck (parent), Joe Schicchi (parent), Wayne Bowen (parent), Beth Alford (parent), Joan Reichert (parent), Russell Monsees (parent), Michael Coombs (parent), and Dave Marconi (grandparent).

Mayor McLeod gave the invocation.

ITEM 2. ADJUSTMENT OF THE AGENDA

Town Manager Steve Biggs requested the following adjustments of the agenda:

- Add as Item 7b – Council discussion of Johnston County SPCA

Ms. June Lioret requested Item 7a be amended from "permission to use the Clayton Town logo for an art poster contest" to "permission to use the Clayton Town logo in an art poster contest."

It was the consensus of the Council to approve the adjustments of the agenda as presented.

ITEM 3. ACTION AGENDA

Councilman Satterfield motioned to approve the action agenda as presented; Councilman Lawter seconded the motion. The motion carried unanimously with the following action agenda item being approved at 7:34 PM:

Item 3a. Draft minutes from February 28, 2012, Council Retreat and March 5, 2012, regular meeting.

ITEM 4. INTRODUCTIONS & SPECIAL PRESENTATIONS

Item 4a. Introduction of new Town of Clayton employees.

The following new Town of Clayton employees were introduced:

- Ray Kavaliauskas, Property Maintenance Technician
- Robbie Russell, Street Maintenance Worker
- Jason Bloodworth, Police Officer
- Tyler McNeill, Police Officer
- Heather Probst, Customer Service Representative (PW)

Item 4b. Presentation by Harbor Inc. proclaiming April as Sexual Assault Awareness Month.

Keri Christenson, Executive Director of Harbor Inc, stated Harbor Inc. and Dr. Leathers of Mount Vernon Christian Church have partnered for this proclamation. Ms. Christenson provided an overview of the information within the proclamation.

Dr. Leathers stated Mount Vernon Christian Church is looking forward to working with Harbor Inc. and provided an overview of the proposed programs being offered by Mount Vernon Christian Church.

It was the consensus of the Council to place this item on the consent agenda.

Item 4c. Presentation by the Downtown Development Association for the Town Square Concert Series.

Bruce Naegelen, Downtown Development Coordinator (hereafter DDC), stated with him is Debbie Romano, chair of the Town Square Concert Committee. He stated this is the sixth year of the Town Square Concert on the Square.

DDC Naegelen stated permission is requested to close the Town Square parking lot the day of the concert at 7 AM, and close Fayetteville Street between Main and Second Streets from 5 PM with both re-opening by 10 PM.

It was the consensus of the Council to place this item on the consent agenda.

- Item 4d. Presentation on the Façade Grant Reimbursement Request (tabled at the 9/19/2011 Council meeting).

Bruce Naegelen, Downtown Development Coordinator (hereafter DDC), stated with him is Margaret Lee, chair of the Design Committee of the DDA. He stated the current façade grant reimbursement is 50%. He requested it be raised to 75% for the remainder of this fiscal year. DDC Naegelen provided an overview of the façade grant improvement history.

Mayor Pro Tem Grannis questioned if the cap amount is the same.

DDC Naegelen stated affirmative; and he clarified it is \$5,000 maximum.

It was the consensus of the Council to place this item on the consent agenda.

ITEM 5. ITEMS SCHEDULED FOR THE REGULAR MEETING AGENDA

- Item 5a. Presentation of planned development district PDD 2012-03 for Riverwood Place Senior Living Center located on Pritchard Road.

Planning Director David DeYoung provided a PowerPoint presentation overview of PDD 2012-13; herewith attached as Exhibit A, PDD 2012-03.

This item is slated for public hearing at the April 2, 2012, Council meeting.

- Item 5b. Presentation of planned development district PDD 2012-05 for East Village of Clayton located on East Front Street between Old NC HWY 42 East and Center Street.

Planning Director David DeYoung provided a PowerPoint presentation overview of PDD 2012-05; herewith attached as Exhibit B, PDD 2012-05.

This item is slated for evidentiary hearing at the April 2, 2012, Council meeting.

- Item 5c. Presentation of planned development district PDD 2012-07 for Riverwood Ranch and located on Pritchard Road across from the Athletic Club Subdivision.

Planning Director David DeYoung provided a PowerPoint presentation overview of PDD 2012-07; herewith attached as Exhibit C, PDD 2012-07.

Based upon question by Council, Planning Director DeYoung stated the commercial allocations of the traffic impact analysis (TIA) are being reviewed.

Based upon question by Council, Planning Director DeYoung stated the original master plan was approved in 2008.

Council requested a list of the building materials.

This item is slated for evidentiary hearing at the April 2, 2012, Council meeting.

Item 5d. Presentation of text amendment updates and/or revisions to the Unified Development Code, Chapter 155 of the Town Code of Ordinances:

- **Manufactured Home Foundation Screening; 155.302 (G)**
- **Article 2, Chapter 155**
- **Article 3, Chapter 155**

Planning Director David DeYoung provided a PowerPoint presentation of each of the amendments; herewith attached as Exhibit D, 155.302 (G) and Exhibit E, Articles 2 & 3.

This item is slated for public hearing at the April 2, 2012, Council meeting.

Item 5e. Presentation of zoning map amendment; slated for public hearing on Monday, April 2, 2012.

Planning Director David DeYoung provided a PowerPoint overview of the zoning map amendment; herewith attached as Exhibit F, Zoning Map. He stated the zoning overlay map is a separate map and is a part of the official zoning map. He stated the zoning map colors have been modified and the properties shown on the zoning map remain unchanged in the zoning uses.

Planning Director David DeYoung provided an overview of the zoning overlay map; herewith attached as Exhibit G, Overlay District Zoning Map. He stated the Watershed Overlay District is established by NC DENR.

Planning Director David DeYoung stated all property owners within the TOD I, TOD II, and Scenic HWY Overlay will be notified. He stated this is not a change and he added it is a visual to the overlay districts that are referenced in the Town Code of Ordinances.

Planning Director David DeYoung requested Council direction on TOD I and TOD II being merged into one TOD district.

It was the consensus of the Council to combine the two TOD's.

This item is slated for public hearing at the April 2, 2012, Council meeting.

Item 5f. Presentation of proposed utility deposit changes.

Customer Service Director Ann Game stated proposed changes to the deposits for utilities are before the Council for consideration. She stated this has not been updated since she joined the Town. She stated the goal with this revision is to bring the Town in line with current customer bills and to reduce the Town's exposure.

Based upon question by Council, Customer Service Director Game stated on the matrix Wake Forest is fifth on the list and is only an electric provider. She provided an overview of what is allowable by Wake Forest.

Town Manager Steve Biggs stated Customer Service Director Game has worked hard to create a system where customers provide information for recourse if there is failure of payment. He stated those customers who do not provide information pay a higher deposit and are a higher risk to the Town.

Based upon question by Council, Customer Service Director Game stated the Town permits persons with letters of credit with blemishes to have utilities after making a deposit up front.

Based upon question by Council, Town Attorney McConkey stated he would have to research if the Town of Clayton could deny establishment of a utility account to a customer who failed to pay on his/her utility account at another municipality.

Based upon question by Council, Customer Service Director Ann Game stated the Town and other municipalities have the same problem with nonpayment of utility accounts.

Town Manager Biggs stated the way of the future is pre-paid meter system. He stated that Town is not quite ready for this system. He added Selma has this program and it is modest as there are only 50 accounts. He stated the feedback thus far has been positive.

Item 5g. Presentation of resolution supporting Town of Clayton/Caterpillar NC Rural Center Grant Assistance.

Town Manager Steve Biggs stated when evaluating an economic opportunity, the Town explores grant availability. He stated if the Town is successful in a pre-application process, then by adoption of the resolution the Council authorizes initiation of the formal application process.

It was the consensus of the Council to place this item on the consent agenda.

ITEM 6. ITEMS FOR DISCUSSION

Item 6a. Report on bid opening for spring 2012 street project.

Town Manager Steve Biggs stated this is an initial report. He stated this is referred to as Phase 3 of the streets project. He stated the bids were opened on March 13.

Town Manager Biggs stated the cost for the sanitary sewer phase of work for John Street is \$71,823.00. He added feedback is sought on developing an assessment roll and assessment resolution that would impact 16 properties. He added direct contact has not yet been made with the property owners.

It was the consensus of the Council to proceed with this item.

Item 6b. Update on John Street sewer project.

This item was discussed under Item 6a.

ITEM 7. OLD BUSINESS

Item 7a. Discussion of request from the Clayton Visual Arts requesting permission to use the Clayton Town logo in an art poster contest and to develop a line of commemorative jewelry; continued from the March 5, 2012, Council meeting.

Ms. June Lioret of the Clayton Visual Arts shared that John McFadden would like to do jewelry with the Town logo such as rings, cuff links, earrings, necklaces, bracelets, and pendants. She added this would be cast products and would be his original design. She stated this would be for a profit venture.

Ms. Lioret stated the Clayton Visual Arts is not interested in an art poster contest using the logo. She stated there is interest in permission to use the logo as individuals for the 2013 contest.

Mayor McLeod stated his understanding is CVA would like permission to use the logo for the art poster contest.

Ms. Lioret stated perhaps and she added the request is not limited to the poster contest.

Mayor McLeod stated Mr. McFadden is requesting permission to use the Town logo for a line of jewelry that he would then sell at his business for profit.

Councilman Satterfield stated he does not see a lot of difference between Mr. McFadden making a profit from jewelry than someone profiting from an art contest. He stated he does not have a problem with individuals using the logo as long as permission is granted.

Councilman Holder stated he does not support it being used for a line of jewelry.

Councilman Lawter stated he does not support an individual using the Town logo for profit. He stated his preference is to have requests that are specific and not open ended when non-profits make a requests to use the Town logo.

Councilman Thompson stated he concurs with Councilman Lawter. He stated he supports the occasion of the non-profit coming before the Council seeking permission for the use of the Town logo.

Mayor Pro Tem Grannis stated he concurs with Councilman Lawter and Councilman Thompson.

Mayor McLeod stated it is the consensus of the Town Council to support using the Town seal for non-profit use as an art mechanism or permission to use Town logo for a particular event and he added it is not desired by the Town Council to allow an individual to use the logo that is for profit. He clarified that the non-profit would need to come before the Town Council to request use of the Town logo for each use.

Item 7b. Johnston County SPCA

Town Attorney Brent McConkey provided the following overview on the Johnston County SPCA:

- **The lease has been reviewed. The lease dates back to 1985 and it is for a length of 99 years. The terms of the lease are that Johnston County SPCA lease is valid as long as it is operated as an animal shelter.**
- **Regulation of animal shelters is by the Department of Agriculture. The facility was last inspected in January 2012 and it passed inspection and it has a license to operate.**
- **The Town’s authority is very limited as the lease is valid and the regulatory authority is through the Department of Agriculture.**

Mayor McLeod clarified the lease is valid and has not been violated. He stated the regulatory authority over the shelter is the North Carolina Department of Agriculture. He added the Town has limited authority over the operation of the shelter.

Town Attorney McConkey stated that is correct.

Mayor Pro Tem Grannis stated that in evaluation of the lease, rent was evaluated.

Town Manager Biggs stated there is no rent charged by the lease.

Councilman Lawter questioned what level of concern does the Town have - the animal control officer - to obtain a search warrant to enter the building.

Town Attorney McConkey stated the animal control officer could seek to obtain from the court a search warrant if there is probable cause.

On behalf of the Town Council, Mayor McLeod stated he would read a statement into the record and a copy is available for the press:

“The Johnston County SPCA Board of Directors met on Wednesday, January 29, 2012, and at that time they voted to accept a proposal from Executive Director Melinda Barefoot to cease taking in additional animals, to adopt out the existing sheltered animals, and to work a partnership with Wake County SPCA to assist with placement of existing animals. The plan included eventual termination of operations and a closure date of not later than June 1, 2012.

On Thursday, March 8, representatives of Wake SPCA visited the Johnston County SPCA shelter. At that time they transferred nine dogs. The Town Manager was present and asked the Wake SPCA representative if she was in a position to provide manpower assistance to shelter operations if it were compensated. Although the Town is not involved with shelter operations we wanted to consider the possibility of assisting with the transition period to closure. By providing assistance with shelter cleaning other resources would be freed-up to process adoptions.

On March 9, 2012, the Town of Clayton received a proposal from Wake SPCA. The proposal covered two options, one option involving full shelter operations at no cost to the Town and one option to assist with shelter cleaning. The option involving full shelter operations would be entirely between the two SPCA organizations with no role or involvement by the Town. The option to assist with cleaning indicated that nine hours per day of manpower would be needed and the cost of this manpower through the end of May would be \$5,890.

The proposal was provided to Alex Harding, Chairman of the Johnston County SPCA Board. Based on feedback from Mr. Harding, the Johnston County SPCA Board is not agreeable to accepting this assistance at this time so the Town will not consider action on the proposal at this time. If the Johnston County SPCA Board changes its position on the matter and indicates a willingness to accept the assistance then the Town Council will fully consider and act on the proposal.

In the meantime the Town will proceed with:

- 1. Seeking execution of a termination of lease agreement with Johnston County SPCA dated June 1.*
- 2. Continue to monitor reports of both agencies and individuals interacting with or otherwise visiting the shelter.*

3. *Maintain communication with the NC Dept of Agriculture relative to inspections and compliance issues.*
4. *Offer to facilitate continued cooperation between Wake SPCA and Johnston County SPCA.*
5. *Encourage Johnston County SPCA to release timely and accurate status and activity reports on transfers, adoptions, and census of animals.”*

ITEM 8. STAFF REPORTS

Item 8a. Town Manager

Town Manager Steve Biggs provided an overview of the quarterly financial statement of the sales tax distribution. He stated the January tax distribution was 26.9% higher than the December tax distribution. He stated this is 7.9% higher than the same month last year. He stated the Town is ahead of budget for this fiscal year for sales tax collections. He added the sales tax is the Town's second largest source of revenue and is also an indicator of economic trend.

Item 8b. Town Attorney

Town Attorney Brenton McConkey stated there was a recent Supreme Court decision on statements of reasonableness with respect to rezoning actions. He stated this make a slight change to the way the Town Council decides rezoning matters by the addition of an administrative step to the process.

Item 8c. Town Clerk

Town Clerk Sherry Scoggins stated the Household Hazardous Waste is Saturday, April 28, 2012, from 8 AM to 1 PM. She stated this is open to all residents of Johnston County.

Town Clerk Sherry Scoggins stated the Council Retreat is slated for Thursday, March 22, 2012, beginning at 3:30 PM in Room 2024 of the Johnston County Workforce Development Center, 135 Bestwood Drive.

Item 8d. Other Staff

Intern Andrew Holland provided an overview of internship activities.

Mayor Pro Tem Grannis questioned what has been learned.

Intern Andrew Holland stated he is learning about the different departments.

Mayor Pro Tem Grannis questioned if this is meeting his expectations.

Intern Andrew Holland stated affirmative and more. He stated this is a great opportunity.

ITEM 9 OTHER BUSINESS

Item 9a. Informal Discussion & Public Comment.

Mr. Chris Edge stated resides in the Riverwood Athletic Community, hereafter RAC. He shared he is head of Customer Strategy for Progress Energy. He stated Progress Energy has invested \$4 million dollars to research pre-paid metering and the benefits to both the customer and the utility company. He stated a willingness to collaborate with Town staff.

Mr. Chris Edge stated he is before Council due to a proposed site plan that involves five units, each containing three multi-family units. He provided an overview of the conditions that he believes are not met by the developer for this site plan.

Ms. Raquel Williams of 206 Pheasant Run stated she is a business owner in town and part of the Clayton community. She read a statement into the record pertaining to the Johnston County SPCA; herewith attached and part of the permanent record.

Councilman Satterfield stated the Town Attorney provided an overview of the Johnston County SPCA. He stated the Council is limited in what can be done at this time with the Johnston County SPCA. He stated the Johnston County SPCA is a private corporation.

Mayor Pro Tem Grannis requested legal advice on whether or not the Town has the right to take action on the verification of the microchips and identification of the animals.

Town Attorney McConkey stated the Town may request the Johnston County SPCA do that, but the Town does not have the authority.

Mayor Pro Tem Grannis questioned if the Town has the authority for a Town representative to go into the Johnston County SPCA without an invitation.

Town Attorney McConkey stated the Town would have to have an invitation. He stated absent an invitation would require a court issued search warrant.

Mayor Pro Tem Grannis stated based on earlier information the Town does not have credible evidence to obtain a search warrant.

Town Attorney McConkey stated not at this time.

Mayor Pro Tem Grannis stated the request that each animal in the shelter either has records of up-to-date vaccinations or be given vaccinations. He questioned if this is something the Town can do.

Town Attorney McConkey stated the Town cannot require it. He stated in terms of record keeping, that is the purview of the Department of Agriculture.

Mayor Pro Tem Grannis stated the final point is the safety of the animals. He stated at this time there is not available credible evidence to enter the facility.

Town Attorney McConkey stated based on evidence at this time, the Town would not be able to obtain a warrant for entry.

Mayor Pro Tem Grannis stated it does not appear the Town has credible evidence to intercede at this time. He stated the Council sought legal advice and the Town Attorney has done research. He stated the Town Council does want this issue resolved. He stated the Town Council does care about the animals. He stated the Town Council does not have the legal justification at this time to take legal action against the Johnston County SPCA.

Councilman Holder stated as a dog owner he would like to take action to relieve the anxiety of the citizens toward the Johnston County SPCA. He stated the Town does not have the authority. He stated he supports Mr. Grannis' position.

Councilman Lawter stated he echoes what has been said. He stated he has served on the Council for nine years. Until this past week, he received his first, second and third email in nine years. He stated it is frustrating because everyone wants the animals taken care of. He stated as a Council, they can request items from the Johnston County SPCA but they cannot make them comply with the Town requests.

Councilman Satterfield stated he is frustrated. He questioned now will the citizens go to those people who do have the authority for the animal shelter.

Mayor McLeod stated the trash will be taken care of when the facility is closed. He stated patience is requested until the facility closes on June 1, 2012. He added the Johnston County SPCA permit with the North Carolina Department of Agriculture is valid through July 1, 2012. He added it is his sincerest hope that all the animals will be adopted by the June 1 closure date.

Mr. Rick Blackman of Clayton stated he understands the shelter is slated to close on June 1. He questioned if there is something the Town can do so this cannot happen again.

Councilman Satterfield stated Johnston County has an animal shelter in Smithfield. He stated if the citizens do not wish for the Town of Clayton to have

an animal shelter, then the Town can pursue one through Johnston County. He stated his hope that the facility could be used and managed by Johnston County.

Mayor McLeod stated there cannot be a new beginning without closure.

Ms. Gloria Thornton, 132 Susan Drive of Garner, questioned if the Town is funding the Johnston County SPCA.

Mayor McLeod stated there is no more money from the Town and there are no more animals being taken to the Johnston County SPCA facility by the Town.

Ms. Thornton stated her concern is if this is not followed through, that the facility will continue to operate.

Town Manager Biggs stated a termination notice of lease agreement will be sent.

Councilman Satterfield stated the Town has received a verbal termination from the Johnston County SPCA.

Ms. Margaret Lee, 704 Charleston Drive of Clayton, addressed the question where the citizens were. She stated she was not aware there were other people like her with a similar Johnston County SPCA experience.

Mr. Fred Smith of Riverwood Golf Course stated he had not planned to address the comments presented by Mr. Edge. He stated a neighborhood meeting was held and as a result, the developer is working with the engineer and the Town. He added the item is off of the agenda at the moment.

Item 9b. Council Comments.

Mayor Pro Tem Grannis questioned some time ago there was informal discussion on paving of newer developments that have gone past timeframe from final paving. He questioned if staff has researched a statute of limitations.

Town Manager Steve Biggs stated current and future projects in the Town are no longer allowed a two coat lift in residential subdivisions. He stated in previous (older) projects the Town has been successful in working with developers who have taken over projects and completed the work. He stated in projects in which there was not a change of ownership, the Town has worked on a calendar of when the work would be completed.

Councilman Lawter stated how much he loves living in Clayton. He stated there were differences and in the end, everyone is working together for resolve. He stated his appreciation for the input.

Mayor McLeod stated the Council reads its emails. He stated he appreciates the people of Clayton because they are passionate about what they stand for. He stated the citizens showed they could come in as a group and he stated his appreciation for the courtesy that was shown throughout the meeting.

ITEM 10. ADJOURNMENT

With there being no further business brought before the Council, Councilman Satterfield motioned to adjourn; Councilman Lawter seconded the motion. Motion carried unanimously at 9:26 PM.

Duly adopted by the Town Council this ____ day of April 2012, while in regular session.

ATTEST:

Jody L. McLeod,
Mayor

Sherry L. Scoggins, MMC
Town Clerk

**TOWN OF CLAYTON
TOWN COUNCIL
AGENDA COVER SHEET**

Agenda Item: 3b

Meeting Date: 4/16/12

**TITLE: NOTICE FOR PUBLIC HEARING TO CLOSE OUT THE TOWN'S
AUTOMATIC ROLLS OF NC CDBG-ED PROJECT ON MAY 7, 2012.**

DESCRIPTION: Public notice.

RELATED GOAL: Administrative

ITEM SUMMARY:

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
4-16-12	Approval.	N/A.

**TOWN OF CLAYTON
TOWN COUNCIL
AGENDA COVER SHEET**

Agenda Item: 3c

Meeting Date: 4/16/12

TITLE: NOTICE FOR PUBLIC HEARING TO DESCRIBE THE STATE'S CDBG PROGRAM AND REQUEST FOR PUBLIC COMMENT ON MAY 7, 2012.

DESCRIPTION: Public notice.

RELATED GOAL: Administrative

ITEM SUMMARY:

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
4-16-12	Approval.	N/A.

**TOWN OF CLAYTON
TOWN COUNCIL
AGENDA COVER SHEET**

Agenda Item: 4a

Meeting Date: 3/19/12

TITLE: INTRODUCTION OF NEW TOWN OF CLAYTON EMPLOYEE (S).

DESCRIPTION: Introduction(s).

RELATED GOAL: Administrative

ITEM SUMMARY:

Date:

Action:

Info. Provided:

3-19-12

Introduction(s).

N/A.

**TOWN OF CLAYTON
TOWN COUNCIL
AGENDA COVER SHEET**

Agenda Item: 4b

Meeting Date: 4/16/12

TITLE: RECOGNITION OF JON HUBER, ELECTRIC DEPARTMENT.

DESCRIPTION: Introduction(s).

This item was tabled to the April 16, 2012, Council meeting.

RELATED GOAL: Administrative

ITEM SUMMARY:

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
4-02-12	Recognition.	
4-16-12	Recognition.	

**TOWN OF CLAYTON
TOWN COUNCIL
AGENDA COVER SHEET**

Agenda Item: 4c

Meeting Date: 4/16/12

TITLE: PRESENTATION FOR THE 29TH ANNUAL CLAYTON ROAD RACE.

DESCRIPTION: Clayton Parks & Recreation respectfully requests to host the 29th Annual Clayton Road Race the morning of Saturday, May 12, 2012,

The attached map shows the proposed route and the requested route is composed of Town maintained streets.

RELATED GOAL: Expand Leisure Opportunities

ITEM SUMMARY:

Date:

Action:

Info. Provided:

4-02-12

Presentation.

29TH ANNUAL CLAYTON ROAD RACE



Part of the Eastern Carolina Corporate Race Series

SATURDAY, MAY 12, 2012



Sponsored by the Clayton Parks & Recreation Department

START TIME: 5K Race and 5K Health Walk (ages 7 & up) - 9am
.1 Mile Tot Trot (ages 6 & under) - 9:45am

START/FINISH: The 5K Race and Health Walk will start at The Clayton Center on Second Street and will finish at The Clayton Center on Horne Street (map of course on back). The .1 mile Tot Trot is open to children ages 6 and under and will start on Horne Street after the adult runners are in.

COURSE: A 5,000 meter (3.1 miles), TAC certified and sanctioned course with some hills through residential Clayton. Electronic timing. Split times at one and two miles. Water will be provided midway through the race and at the finish. See map.

REGISTRATION: Registration fee for the 5K Race and Health Walk is \$15 if postmarked by May 4 and \$20 if postmarked after May 4 and on race day. Tot Trot fee is \$5. Forms can be picked up and dropped off at the Clayton Parks & Recreation office.

RACE DAY: Package pickup and race day registration will be at The Clayton Center on Second Street from 8am until 8:30am.

T-SHIRTS: Guaranteed to all pre-registered 5K entrants returning entries by May 4 and available to all other entrants while supplies last.

AWARDS: 5K Race - Trophies to the top three overall male and female runners. No duplication of awards. Awards presented to the top three runners, male and female in each of the following age categories: 11 & under, 12-19, 20-29, 30-39, 40-49, 50 & over. **5K Health Walk** - Awards to the first three finishers
Tot Trot - Ribbons to all participants.

PARKING: Ample parking is available in the parking lot at the corner of Horne and Barbour Streets and Second and Fayetteville Streets (see map).

REFRESHMENTS: Provided by Access Physical Therapy & Wellness

ADDITIONAL INFORMATION: Contact Matt Lorion at 919-553-1554.

REGISTRATION FORM

CIRCLE EVENT: 5K Race 5K Health Walk .1 Mile Tot Trot

Circle T-Shirt Size: Adult Small Adult Med. Adult Large Adult X-Large

Name: _____ Sex: _____ Age on Race Day: _____ Date of Birth: _____

Address: _____ City _____ St _____ Zip _____

Email: _____ Phone: _____

Check if you are an Eastern Carolina Corporate Race Series Participant _____ Company _____

In consideration of acceptance of my entry, I do hereby, for myself, my heirs, executors, administrators, and assigns, waive, release, and forever discharge the Town of Clayton, the sponsors and any race personnel from any and all claims for damages suffered by me as the result of my participation in or traveling to or from the race.

Runner or Parent Signature _____ Date _____

Make check payable to: Town of Clayton

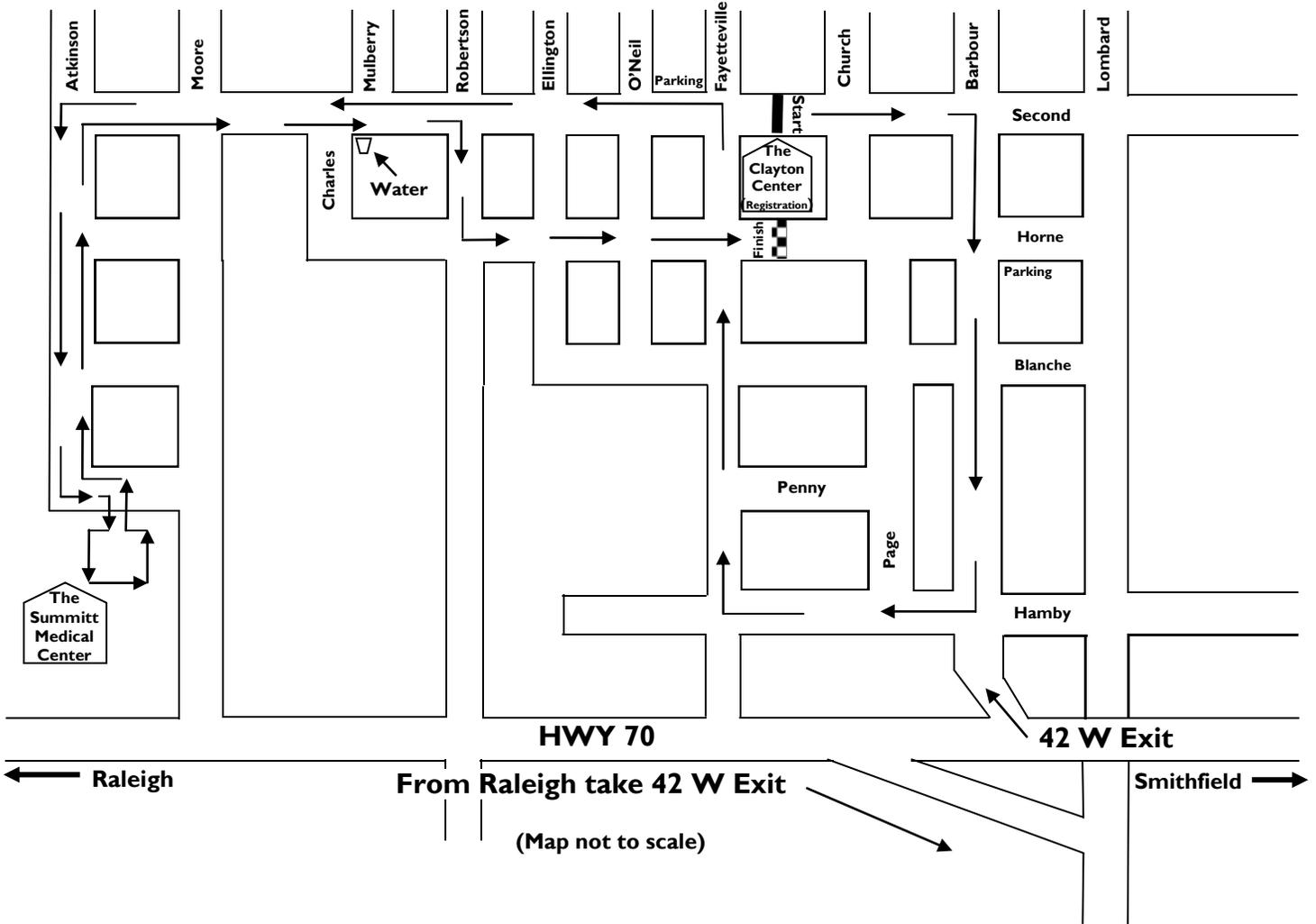
Mail to: Clayton Parks & Recreation Department, PO Box 879, Clayton, NC 27528

Our Appreciation and thanks to:

Clayton Police Department
Girl Scout Troop #464
Access Physical Therapy & Wellness

Clayton Rescue Squad
Clayton Youth Council
Clayton News-Star

All Other Race Volunteers



**TOWN OF CLAYTON
TOWN COUNCIL
AGENDA COVER SHEET**

Agenda Item: 5a

Meeting Date: 4/16/12

TITLE: PRESENTATION OF CUSTOMER SERVICE POLICY MANUAL.

DESCRIPTION: Attached.

RELATED GOAL: Financially Responsible Town Government Providing Quality Service

ITEM SUMMARY:

Date:

Action:

Info. Provided:

4-16-12

Presentation.

Manual.

TOWN OF CLAYTON

Customer Service Policy Manual



Duly Adopted by Town Council and effective _____, 2012

Establishing Service

The Town's Customer Service Department is located in The Clayton Center, 111 E. Second Street. The Town Hall is open from 8:00 a.m. to 5:00 p.m. Monday through Friday. The Customer Service Department has extended hours on Wednesdays until 6:00 p.m. Routine and regular service is performed during these hours except for holidays.

1. **Application for Service:** To begin the process, a customer must complete a Utility Service Application which may be obtained by one of the following methods:
 - a. Visit our website and download a form
 - b. Email customerservice@townofclaytonnc.org to request a form
 - c. Call Customer Service at (919) 553-5002 and request a form be faxed, mailed or emailed
 - d. Visit the Customer Service Department at 111 E. Second Street
2. **Additional Information and Deposits:** In addition to the fully completed Utility Service Application the customer must provide:
 - a. Account deposit
 - b. Photo ID
 - c. Social Security Number or Federal Tax ID Number. In the absence of either, the account will be assessed a higher deposit.
 - d. Lease agreement, if applicable.
 - e. Provide hot water heater fuel source, heating fuel source and cooling fuel source, if applicable
 - f. Presence of in-ground irrigation system, if applicable
 - g. Presence of swimming pool, if applicable

Upon completion of the Utility Service Application, review of additional information and payment of deposit, the account shall be scheduled for connection. Customers may request connection dates in the future. Requests for immediate connection will be honored on the same day if made prior to 10 a.m. otherwise service will be activated the next business day.

Prior Debt

The Town will not furnish service to an applicant who is indebted to the Town for service previously furnished unless and until the debt is satisfied in full.

Customer Deposits

1. Residential: All utility accounts must include a guarantee of payment, which can be demonstrated by either:
 - a. Paying an account deposit as defined in the fee schedule
 - OR-
 - b. Providing a letter of credit from a current utility provider demonstrating good payment history with no late payments within the preceding, no returned checks, no returned drafts, and no disconnects for nonpayment within the preceding 12-months.

2. Non-residential: All non-residential utility accounts must include a guarantee of payment which must be demonstrated paying an account deposit.

Future Deposits: Any customer whose service is involuntarily terminated for non-payment, meter tampering, or other reasons may be required to pay a deposit, or an additional deposit, as specified in the above information, prior to reconnection of service. This includes all customer accounts. The future deposit may be at a greater amount based upon account history. Any customer required to post a deposit under the provisions of this paragraph shall forfeit any right for refund of the deposit in advance of closing-out the account.

Refunding Deposits: A deposit will be credited to the customer's account upon disconnection of service. After the deposit is applied, all outstanding balances on the final bill will be the responsibility of the customer and must be paid within ninety (90) days or the balance will be turned over for collection. The deposit will not be refunded if the customer has another account with a past due balance. The remaining credit on the account will be transferred to the account with a past due balance.

Billing: Each account shall be billed on a monthly schedule. From the date of the bill, the customer has 20 days to pay the account without penalty. On the 21st day, a 5% penalty will be applied. If payment is not received prior to the 30th day, a non-payment penalty (see fee schedule) will be applied and the account becomes eligible for disconnection.

Billing Adjustments: The Town makes every effort to accurately bill all utility accounts. From time to time however, errors may occur. These errors may result in over billing or under-billing a customer's account. Immediately upon discovery of such error, the Town shall begin the process of either billing the customer for undercharges or crediting the customer's account for overcharges. In no circumstance shall the Town back bill a customer or credit a customer's account for greater than a 24 month period.

Customer Requested Adjustments: The Town recognizes that customers may experience failure of equipment and appliances that can result in higher than normal consumption. On a case by case basis, the Town shall investigate the nature of the failure and determine if the account is eligible for an adjustment. In most cases however, accounts are not eligible for an adjustment. A notable exception would be in the case of a burst water pipe which may be eligible for a credit on the calculated cost of sewer service. If the Town determines that an account is eligible for an adjustment, proof of repair in the form of a paid invoice to a contractor or a receipt for repair supplies must be provided before the adjustment can be completed.

Payments: All accounts must be paid in full by the due date on a monthly basis or they may become eligible for disconnection. Customers may make payments by:

1. Mailing a check or money order to Post Office Box 63024, Charlotte, NC 27263-3024
2. Using a debit or credit card via the Town of Clayton's website at www.townofclaytonnc.org
3. Participation in automatic bank draft. An application for bank draft can be found at www.townofclaytonnc.org
4. Visiting the Customer Service Department at 111 E. Main Street during normal business hours. We accept cash, checks and money orders. Credit and debit card payments can be processed on site by the customer at a Town provided terminal.
5. For customer convenience, payments by check or money-order may be placed in our drive-thru drop box located in the parking lot at the Horne Street entrance of the Clayton Center. Payments are retrieved twice daily during regular business hours.

Time Extensions

Customers may request an extension for their delinquent utility bill balance before their disconnect date. The maximum length of time allowed is 10 days past the disconnect date. The extension must be requested by the account holder and must be documented on the customer's account. If payment is not received as documented, utility services will be disconnected without further notice and the balance must be paid in full to restore services.

An extension is a privilege and may be granted based on customer need and circumstances. Approval of an extension request is not guaranteed. No more than two (2) extensions shall be granted within a 12-month period.

Returned Checks or Drafts

The Town will accept only cash, certified check or money order from any customer having two (2) returned checks or drafts within a twelve-month period. Upon receipt of the first returned check or draft, the customer will be informed either by phone call or door hanger that they have 48 hours from notification to pay the returned item with either money order or cash. After the first occurrence of a returned check or draft the customer will not receive a phone call or door hanger prior to disconnection of service. Upon receipt of a second returned check or draft, the customer will be advised that all bills must be paid in cash or by money order for one year. After the one year period ends, if another returned check or draft is received, all future payments must be made in cash or with money order.

If a returned check or draft is not paid within the 48 hour period, utility service will be disconnected without further notice. Customers disconnected subsequent to a returned check or draft which has not been satisfied within 48 hours shall be notified that they have 10-days to clear the unpaid balance with the Town or the matter is turned over to the Johnston County District Attorney's office for collection.

In the event a new customer posts a utility account deposit by personal or corporate check and the check is returned to the Town for insufficient funds, the account will be immediately disconnected without benefit of prior notification. A notation of this provision shall be included on the customer service agreement signed by the customer at the time of account activation. (Adopted July 20, 1998)

As allowed by the State of North Carolina, a charge is added to the customer's bill for each returned check. (See fee schedule for returned check fee amount)

Assistance for Paying Bills

There are several organizations that will assist customers who are having difficulty paying their bills. We encourage each customer to seek assistance prior to their disconnection of services for non-payment.

- | | |
|-------------------------------------|--------------|
| 1. Jo. Co. Dept of Social Services | 919-989-5300 |
| 2. Clayton Area Ministries | 919-553-5654 |
| 3. Johnston-Lee
Community Action | 919-209-0530 |
| 4. Salvation Army | 919-934-9102 |
| 5. St. Ann's Catholic Church | 919-934-2084 |

Budget Bill Program

The Town offers our customers a payment option which allows them to pay a flat amount per month for utility service. This amount is the average of the prior twelve (12) months of utility consumption. Due dates for payments remain the same as the normal and all penalty and disconnect policies will remain in effect. No penalties will accrue, regardless of the account balance, if the payment is received by the due date. In the event of nonpayment disconnection, the customer will be required to bring their account to a zero balance and will no longer be eligible for the program. During the customer's twelfth month of participation, their monthly payment will be recalculated. At that time, the credit or balance will be rolled into the new payment year and the customer will be notified by letter of the new monthly payment amount. If the customer chooses to be removed from Budget Bill, the past due balance is owed immediately.

Any customer, who has had any delinquencies or bad checks, in the previous twelve months, will not be eligible to participate in the Budget Bill Program.

Bank Draft Plan

The Town offers customers the option of having their checking accounts drafted on a set date of the month. This relieves the customer of having a lost or late payment and saves a trip to Town Hall or the cost of an envelope or stamp. Draft dates are as follows:

Cycle 1	8 th	15 th	22 nd
Cycle 2	15 th	22 nd	29 th
Cycle 3	15 th	22 nd	29 th
Cycle 4	8 th	22 nd	29 th

Please contact the Customer Service Department to determine your billing cycle. The participating customer is required to provide Customer Service with a Bank Draft Authorization Form and a voided check for the purpose of establishing the draft. Only customers with good credit are eligible for this program. The Town defines good credit as no delinquencies, no returned checks or drafts in the most recent 12 month period for residential customers and non-residential customers.

Any draft returned by the bank because of insufficient funds or a closed account will be treated as a returned check, and the customer will be removed from the bank draft program.

To make any changes to the Bank Draft Plan requires a customer to complete a new Bank Draft Authorization Form and provide a voided check.

Medical Alert Program

The purpose of this program is to identify customers with chronic or critical health concerns by means of a medical seal affixed to the electric meter on the home. In the event of unplanned interruptions of electric service, such as are common following storms, homes designated with a medical seal are given higher priority for restoration of service. Due to circumstances beyond the control of the Town and its employees (storm damage, loss of generation, etc), electric power cannot be guaranteed 100 percent of the time. Each customer listed with the Medical Alert Program should have a back-up plan for movement of the life support patient if the Town is unable to restore power in a length of time that is acceptable.

In the event of non-payment, homes designated with a medical seal are given personal notification in the form of a phone call, face to face meeting or certified letter of the pending disconnection of electric service. Customers with a medical seal will be disconnected for nonpayment following diligent and proper notice.

Participation in the Medical Alert Program is restricted to customers with documented chronic or critical health concerns. The Town must receive an annual certification of medical necessity form completed by a physician or hospital.

Load Management

Residential Load Management is a means of reducing the amount of electricity being consumed in the home, especially during periods of peak demand. Load management is used to reduce electric demands and provides savings to customers.

Participating customers can have a load management switch installed on their electric water heater, electric heat strips on the heat pump, and/or air conditioner compressor to receive participation credits on their monthly electric bill. During periods of heavy demand for electricity, the switch will activate to interrupt the noted appliances. The more switches the Town has in place the greater the impact of the load management program and the more savings available.

The credits available are as follows:

DEVICE	CREDIT AMOUNT	DURATION
Electric Water Heater	\$5.00	January - December (12 months)
Heat Pump	\$12.00	December - March (4 months)
A/C Compressor 25% -OR-	\$6.00	June - September (4 months)
A/C Compressor 50%	\$10.00	June - September (4 months)

Customers can receive as much as \$148 per year in savings.

Disconnecting Service

1. **Voluntary Disconnection:** A customer may request voluntary disconnection of service. This can be done by:
 - a. Visiting the Town's website at and downloading a Utility Disconnect Request form.
 - b. Emailing customerservice@townofclaytonnc.org to request a Utility Disconnect Request form
 - c. Call Customer Service at 919-553-5002 and request a form be faxed, mailed or emailed
 - d. Visit Customer Service Department at 111 E. Second Street

The Utility Disconnect Request form must be completed in its entirety and submitted to Customer Service. Upon completion and review for additional information, the account shall be scheduled for disconnection. Customers may request disconnection dates in the future. Immediate disconnection request will be honored same day if made prior to 9 a.m. otherwise service will be provided the next business day.

2. **Involuntary Disconnection of Service:** The Town may discontinue utility service for any of the of the following reasons:
 - a. Failure of the customer to pay bills for utility service.
 - b. Failure of the customer to pay deposits for utility service.
 - c. Failure of the customer to pay a returned check or draft.
 - d. Upon discovery of meter tampering including bypassing the meter or altering its function.
 - e. Failure of the customer to permit Town employee's access to their meters and/or load management switches at all reasonable hours. Locked gates, loose dogs, parking cars over meters, etc. are violations of Town policy.
 - f. Use of power for unlawful reasons
 - g. Discovery of a condition which is determined to be hazardous or unsafe.
 - h. Provision of false information on a Utility Service Application.
3. **Transferring Service:** If transferring service from one location to another that the Town services, all past due bills must be paid in full. The remaining amount owed and any fees will be transferred to the new account. A new deposit may also be assessed.

After an account has been closed either by customer request or policy of the Town, all funds, including deposits, refunds, load management, and overcharge credits will be first applied to amounts owed the Town on the closed account. Remaining funds will then be applied to any amounts owed on any other accounts the customer may have with the Town. When those accounts have been fully satisfied, a check for any remaining funds will be issued to the customer.

4. **Disconnection During Extreme Weather:** The Town will not exercise its right to disconnect service for non-payment of any bill when the safety and well being of a customer may be at stake. For that reason, disconnection for non-payment may not be conducted on an extremely cold winter day or extremely hot summer day, taking into consideration temperature, precipitation and other weather conditions. If a customer's bill remains unpaid on the next business day, the disconnect for non-payment may then occur. This delay in disconnection for non-payment will not preclude the Town from disconnection at a future date and does not change the customer's liability for payment of all bills and fees.

Reconnection

When it becomes necessary for the Town to discontinue services for any of the reasons listed in Involuntary Disconnection of Service, service will be restored after payment of:

1. All past due bills due to the Town including additional fees and charges required by this policy
2. Any deposit as required
3. Any material and labor cost incurred by the Town according to the current fee schedule.

After hours reconnection is **not** available to our customers.

Meter Reading

Utility meters are read by the Town according to an established schedule. Reading dates vary slightly from month to month due to weekends, holidays, weather conditions, and other factors. Monthly billing periods are assumed to be 30 days, but may range from 27 to 33 days. The Town's well-trained meter readers use modern meter reading equipment and techniques. If meter reading corrections are necessary, the Town will make the adjustments and a new bill may be issued upon request. A credit due to a customer from a meter reading error will be posted to the customer's account.

Meter & Load Management Switch Tampering

Tampering with a meter or bypassing a meter is the same as stealing. The large majority of good paying customers who would be financially burdened with paying for the stolen services requires the aggressive enforcement of this policy. The Town will call for prosecution of cases of meter tampering, electric water theft and fraud to the fullest extent of the law. Load management devices are considered by this policy to be the same as meters. Any damage to these devices will be paid by the customer. Should any Town personnel find an electric meter with the seal cut or removed, whether during utility disconnection or normal meter reading cycles, a charge of \$100 will be added to the customer's account, which will be subject to any utility payment policies of the Town. Should a customer discover and report their seal cut, no charge will be levied.

Any person with three or more incidences of a cut seal, whether voluntarily reported or through Town discovery, will face permanent discontinuance of service with the Town.

TOPIC	OLD POLICY	NEW POLICY	COMMENTS
Deposits – residential	Electric \$150 Water/Sewer \$50	Participating Deposit <ul style="list-style-type: none"> • Electric \$150 • Water \$50 • Sewer \$50 • Irrigation \$50 Non-Participating Deposit <ul style="list-style-type: none"> • Electric \$300 + \$10/month* • Water \$50 + \$10/month* • Sewer \$50 + \$10/ month* • Irrigation \$50 + \$10/month* High Risk Deposit <ul style="list-style-type: none"> • Electric \$800 • Water \$120 • Sewer \$120 • Irrigation \$120 	Under the old deposit structure, the Town had significant vulnerability related to bad debt. Additionally, deposits were “one size fits all.” We did not have a deposit structure for water only, sewer only or irrigation customers. Under the proposed structure, the Town reduces its exposure to bad debt and rewards customers for participation in bank draft and budget bill. In addition we have added deposits for all services. *Additional deposit of \$120 is charged at \$10/month.
	a. Pay cash deposit OR b. Provide a Statement of Account History OR c. Get a co-signer	a. Pay a cash deposit OR b. Provide a Statement of Account History	We have eliminated the ability of a customer to have a co-signer for their deposit as well as strengthened the accepted items on the Statement of Account History.
Deposits – non residential	Electric \$150 Water \$50	2x average utility bill for similar business.	Under the old policy, the Town in many cases did not collect a sufficient deposit therefore leaving us more vulnerable to bad debt.
	a. Pay cash deposit OR b. Supply a Surety Bond OR c. Provide a Statement of Account History	Requiring all non-residential customers’s to pay cash deposit.	We eliminated the option of providing a Surety bond or a certificate of deposit which are very difficult to track. Also, we have eliminated the State of Account History as a deposit option for non-residential customers.

Deposit refunds – residential	Credited to the customer’s account after 12 months of utility service with 2 or fewer late payments or at time the account is closed.	<p>Participating Deposit refunded after 6 months of successful bank draft.</p> <p>Non-Participating Deposit refunded, net any outstanding bill, only at the time of account closing.</p> <p>High Risk Deposit refunded, net any outstanding bill, only at the time of account closing.</p>	Under the old policy, the Town has significant bad debt exposure. Many customers’ refunds are applied to their account and in many cases, the account became delinquent. In changing the policy, we are seeking to limit the bad debt exposure.
Deposit refunds – non residential	Credited to the customer’s account after 12 months of utility service with 2 or fewer late payments or at time the account is closed.	All non-residential customers will have their deposit applied only at the time of account closing, net any outstanding balance owed.	Under the old policy, the Town had significant bad debt exposure. In changing the policy, we are seeking to limit our bad debt exposure.
Time extensions	<p>No maximum length time for request.</p> <p>Can have 12 extensions per year.</p>	<p>Must be requested before cut off occurs.</p> <p>Maximum length allowed is 10 days past cut off day.</p> <p>Maximum extensions per year - 2</p>	Under the old policy, customers could request an extension each month. With the new policy, we continue to limit the Town’s exposure to bad debt.

**TOWN OF CLAYTON
TOWN COUNCIL
AGENDA COVER SHEET**

Agenda Item: 5b

Meeting Date: 4/16/12

TITLE: PRESENTATION OF AMENDED RULES FOR THE USE OF HORNE SQUARE.

DESCRIPTION: Attached.

RELATED GOAL: Financially Responsible Town Government Providing Quality Service

ITEM SUMMARY:

Date:

Action:

Info. Provided:

4-16-12

Presentation.

2002 adopted policy for Municipal lot & proposed Policy for Horne Square (formerly known as Municipal lot).

Town of Clayton
Special Event
Application for Use of Municipal Lot
(Main Street Location)

The following application may be submitted by eligible non-profit, civic, church or other community organizations for use of the Municipal Lot at Main Street and Lombard Street.

Name of Organization: _____

Address of Organization: _____

Contact Person: _____

Position: _____ Phone: (D) _____

(N) _____

Contact Person Address: _____

Purpose/Description of Event: (An attachment may be used. Include information describing the intended purpose, the likely number of participants, description of any structures, equipment, or machinery to be used in relation to the event, dates and duration of event, any security measures to be taken, crowd control, sound amplification, etc. Also, a site plan should be attached to the application showing the layout and amount of area devoted to the event.)

The undersigned represents him/herself as the authorized representative of the above named organization with regards to the conduct of the requested special event. The above named organization agrees to provide adequate proof of liability insurance coverage and to hold harmless the Town of Clayton for any acts, accidents, or claims made in relation to the event or use of the site during or in relation to holding of the event. I further acknowledge I have received a copy of the Rules of use and accept the terms stated therein as a condition of use of the property. Use of the property is at the sole discretion of the Town of Clayton.

Authorized Representative

Printed Name

Date

Town of Clayton
Municipal Parking Lot
(*Main Street Location*)
Rules of Use

Purpose: The purpose of this policy is to establish guidelines under which other than municipal use may be made of the Town property located on Main Street at its intersection with Lombard Street.

1. Established non-profit, civic, church and similar organizations may, from time to time, make use of the "Municipal Parking Lot" as approved by the Town of Clayton in compliance with these guidelines.
2. At least thirty days in advance of any planned event the proposed user shall make application to the Town Manager for use of the Municipal Parking Lot. The application shall include the following information:
 - The name of the organization and sufficient supplemental information as necessary to document the organization's standing for use of the property in accordance with this policy.
 - The name and contact information of the individual who will be responsible for conducting the proposed event.
 - A description of the event to include purpose, likely number of participants, description of temporary structures proposed for use during the event, the date, time, and duration of the event, reference to security or crowd control measures necessary for proper conduct of the event, other information determined by the Town Manager to be necessary in evaluating the application.
 - A site plan.
 - Proof of sufficient, valid liability insurance.
 - A statement and agreement of indemnification of the Town of Clayton in relation to activities and events held in connection with the special event.
3. The property shall not be used for commercial or "for profit" purposes except as a fundraiser in support of an established non-profit organization and as approved by the Town of Clayton.
4. No organization may use the property more than two times per calendar year.
5. The parking lot shall be available for use as a special event venue no more frequently than two times per month.
6. The Town of Clayton may refuse use of the property to any group that it deems as failing to meet the criteria or purposes stated herein, at its sole discretion.
7. All users shall leave the property in a clean and safe condition restored to the state and condition which existed prior to their use.

8. A cleaning deposit of \$250 shall be posted with the Town to ensure the property is left in a condition that is acceptable to the Town. The deposit shall be forfeited if the property is not left in an acceptable condition and the user shall be prohibited from using the property for future events.

9. The Municipal Parking Lot may be used a maximum of two week-ends per month.

10. The primary purpose of the Municipal Parking Lot is to provide parking area for visitors to the Downtown. Whenever possible use of the property for special events shall be located on the property so as to accommodate its primary purpose as a public parking lot.

11. All activities located thereon must be planned and conducted in a safe, healthy, and orderly fashion. The Town of Clayton reserves the right to immediately cancel, without compensation or other consideration, any event not conducted in a safe, healthy and orderly fashion.

Adopted this 20th day of May, 2002 while in regular session.

Attest:

Douglas McCormac
Mayor

Keri Reed
Town Clerk

Town of Clayton
Special Event
Application for Use of Horne Square

The following application may be submitted by eligible non-profit, civic, or other community organizations for use of Horne Square at Main Street and Lombard Street.

Name of Organization: _____

Address of Organization: _____

Contact Person: _____

Position: _____ Phone: (Day) _____

(Night) _____

Contact Person Address: _____

Purpose/Description of Event: (An attachment may be used. Include information describing the intended purpose, the likely number of participants, description of any structures, equipment, or machinery to be used in relation to the event, dates and duration of event, any security measures to be taken, crowd control, sound amplification, etc. Also, a site plan should be attached to the application showing the layout and amount of area devoted to the event.)

The undersigned represents him/herself as the authorized representative of the above named organization with regards to the conduct of the requested special event. The above named organization agrees to provide adequate proof of liability insurance coverage and to hold harmless the Town of Clayton for any acts, accidents, or claims made in relation to the event or use of the site during or in relation to holding of the event. I further acknowledge I have received a copy of the Rules of use and accept the terms stated therein as a condition of use of the property. Use of the property is at the sole discretion of the Town of Clayton.

Representative Printed Name Date _____ Authorized

Town of Clayton
Horne Square
Rules of Use

Purpose: The purpose of this policy is to establish guidelines under which other than municipal use may be made of the Town property, also known as Horne Square, located on Main Street at its intersection with Lombard Street. Horne Square is a public space that may be used to help further the vision of downtown Clayton as the ‘social and cultural hub of Clayton.’

1. Established non-profit, civic, and similar organizations may, from time to time, make use of “Horne Square” as approved by the Town of Clayton in compliance with these guidelines.
2. Eligible public uses of Horne Square include cultural, arts-related, educational and other non-commercial uses. Ineligible uses include, but are not limited to yard-sales, private or ticketed events.
3. At least thirty (30) days in advance of any planned event the proposed user shall make application to the Town Manager for use of Horne Square. The application shall include the following information:
 - The name of the organization and sufficient supplemental information as necessary to document the organization’s standing for use of the property in accordance with this policy.
 - The name and contact information of the individual who will be responsible for conducting the proposed event.
 - A description of the event to include purpose, likely number of participants, description of temporary structures proposed for use during the event, the date, time, and duration of the event, reference to security or crowd control measures necessary for proper conduct of the event, other information determined by the Town Manager to be necessary in evaluating the application.
 - A site plan.
 - Proof of sufficient, valid liability insurance.
 - A statement and agreement of indemnification of the Town of Clayton in relation to activities and events held in connection with the special event.
4. The property shall not be used for commercial or “for profit” purposes except as a fundraiser in support of an established non-profit organization and as approved by the Town of Clayton.
5. No organization may use the property more than two (2) times per calendar year.
6. The parking lot shall not be closed to public use more than 4 times per year.
7. The Town of Clayton may refuse use of the property to any group that it deems as failing to meet the criteria or purposes stated herein, at its sole discretion.
8. All users shall leave the property in a clean and safe condition restored to the state and condition which existed prior to their use.

9. A cleaning and damage deposit of \$250* shall be posted with the Town to ensure the property is left in a condition that is without damage to infrastructure, fixtures, landscaping and art. The deposit shall be forfeited if the property is not left in an acceptable condition and the user shall be prohibited from using the property for future events. **If the deposit check is found to have insufficient funds, the agreement to use the property is void.*
10. The primary purpose of Horne Square is to provide parking for visitors to Downtown Clayton. Whenever possible, use of the property for special events shall be located on the property so as to accommodate its primary purpose as a public parking lot.
11. All activities located thereon must be planned and conducted in a safe, healthy, and orderly fashion. The Town of Clayton reserves the right to immediately cancel, without compensation or other consideration, any event not conducted in a safe, healthy and orderly fashion.

Amended this ____ day of _____, 2012 while in regular session.

Attest:

Jody McLeod
Mayor

Sherry Scoggins
Town Clerk

**TOWN OF CLAYTON
TOWN COUNCIL
AGENDA COVER SHEET**

Agenda Item: 5c

Meeting Date: 4/16/12

**TITLE: PRESENTATION OF ORDINANCE AMENDMENTS TO ARTICLE 8 OF
CHAPTER 155 OF THE TOWN CODE OF ORDINANCES.**

DESCRIPTION: Attached.

**This item is slated for public hearing on Monday, May 7, 2012,
at 7:30 PM.**

RELATED GOAL: Manager Growth Producing Quality Developments

ITEM SUMMARY:

Date:

Action:

Info. Provided:

4-16-12

Presentation.

Amendment to Article 8.

ARTICLE 8: DEFINITIONS

§ 155.800 GENERAL.

1. Words used in the present tense include the future tense.
2. Words used in the singular number include the plural, and words used in the plural include the singular.
 - ~~3. The word "person" or "applicant" includes firms, associations, organizations, partnerships, corporations, trusts, trustees, estates, individuals, companies, and other similar entities.~~
 - ~~4. The word "structure" includes the word "building".~~
 - ~~5-3. The word "shall" is always mandatory and not merely directory.~~
 - ~~6. The word "used", as applied to any land or building, shall be construed to include the words "intended", "arranged", or "designed to be used".~~
 - ~~7. "Zoning map" shall mean the official Zoning Map of the Town of Clayton, North Carolina.~~
 - ~~8. The words "Town Council", shall refer to the Town Council of the Town of Clayton, North Carolina.~~
 - ~~9. The words "Planning Board" shall refer to the Planning Board of the Town of Clayton, North Carolina.~~
 - ~~10. The words "Board of Adjustment" shall refer to the Board of Adjustment of the Town of Clayton, North Carolina.~~
 - ~~11-4. The words "day" or "days" shall refer to calendar days and shall be computed by excluding the first day and including the last day, unless the last day is a Saturday or Sunday or a holiday declared by the United States Congress or the State of North Carolina, in which event it shall also be excluded.~~
 - ~~12-5. Any term not herein defined shall be as defined elsewhere in the Town Code of Ordinances or, if not defined elsewhere in the Town Code of Ordinances, as defined in Webster's New International Dictionary, most recent edition.~~
 - ~~13-6. In case of any difference of meaning or implication between the text of this chapter and any caption, illustration or table, the text shall control.~~

(Ord. 2005-11-02, passed 11-21-05)

§ 155.801 ABBREVIATIONS.

[ANSI: American National Standards Institute](#)

BMP: Best Management Practices

BOA: Board of Adjustment

[DAS: Distributive Access System](#)

dbh. Diameter at Breast Height

[DDA: Downtown Development Association](#)

[DENR: Department of Environment and Natural Resources](#)

~~[GFA: Gross Floor Area](#)~~

[ETJ: Extraterritorial Jurisdiction](#)

FAA: Federal Aviation Administration

[FAR: Floor Area Ratio](#)

FCC: Federal Communications Commission

[FEMA: Federal Emergency Management Agency](#)

[FIRM: Flood Insurance Rate Map](#)

~~[GFA: Gross Floor Area](#)~~

NCDOT: North Carolina Department of Transportation

NIER: Non-Ionizing Electromagnetic Radiation

[PAAB: Public Arts Advisory Board](#)

PB: Planning Board

PD: Planning Director

PW: Public Works Director

[RF: Radio Frequency](#)

[SHO: Scenic Highway Overlay](#)

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TIA: Traffic Impact Analysis

TC: Town Council

[TOD: Thoroughfare Overlay District](#)

TRC: Technical Review Committee

UDC: Unified Development Code

[USDA: United States Department of Agriculture](#)

USGS: United States Geologic Survey

[WP- Watershed Protection Overlay](#)

(Ord. 2005-11-02, passed 11-21-05)

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§ 155.802 DEFINED TERMS.

Abutting

~~ABUTTING.~~ The A property that directly touches another piece of property.

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Accessory Structure

A structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. A subordinate dwelling unit, garage, carport or storage shed are all examples of accessory structures.

~~**ACCESSORY BUILDING, STRUCTURE, OR USE.** A detached building, structure, or use on the same lot with, or of a nature customarily incidental or subordinate to, and of a character related to the principal use or structure (see § 155.305).~~

Acreage, Gross

Land area with streets, rights-of-way, driveways which serve as access to more than two units or uses, and major transmission lines not included in its measurement.

Acreage, Net

Land area excluding streets, rights-of-way, driveways which serve as access to more than two units or uses, and major transmission lines not included in its measurement.

~~**ACCESSORY DWELLING UNIT.** A dwelling that exists as part of a principal dwelling or on the same lot as the principal dwelling and is subordinate in size to the principal dwelling (see § 155.305(C)(1)).~~

Adjacent

~~ADJACENT.~~ Property abutting directly on the boundary of, touching, or sharing a common point.

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~~**ADULT CABARET.** Any place featuring topless dancers, go-go dancers, strippers, male or female impersonators, or entertainers displaying "specified anatomical areas" as defined by G.S. § 14-202.10, as such statute may be amended from time to time, or other similar entertainers.~~

~~**ADULT CARE HOME.** 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.~~

~~**ADULT ORIENTED BUSINESS.** 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.~~

Alteration

~~ALTERATION.~~ Any change, addition, or modification in construction or occupancy of an existing structure.

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~~AMUSEMENT CENTER.~~ Any indoor place that contains three or more amusement devices of any description, including but not limited to pinball games, billiards, computer amusement (video games), and/or games of chance for the public amusement, patronage and recreation.

Antenna

~~ANTENNA.~~ A system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals. Such shall include, but not be limited to radio, television, cellular, paging, personal telecommunications services (PCS), internet, microwave telecommunications and services not licensed by the FCC, but not expressly exempt from the Town's siting, building and permitting authority.

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Applicant

~~Any person, firm, or corporation requesting approval of any land-use, development, or improvement application, or similar entitlement regulated by the municipal code.~~

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Approval Authority

~~APPROVAL AUTHORITY.~~ The Town Council, Planning Board, Board of Adjustment or other board or official designated by ordinance or this chapter as being authorized to grant the specific zoning or land use permit or approval that constitutes a site specific development plan.

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~~ARTIST STUDIO, GALLERY.~~ A building used for the preparation and display of individually crafted artwork, jewelry, furniture, sculpture, pottery, leathercraft, hand-woven articles, and related items.

~~ASSISTED LIVING RESIDENCE.~~ Any group housing and services program for two or more unrelated adults, by whatever name it is called, that makes available, at a minimum, one meal a day and housekeeping services and provides personal care services directly or through a formal written agreement with one or more licensed home care or hospice agencies.

~~BED AND BREAKFAST.~~ 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.

Best Management Practices (BMP)

~~BEST MANAGEMENT PRACTICES (BMP).~~ A structural or nonstructural management-based practice used singularly or in combination to reduce non-point source inputs to receiving waters in order to achieve water quality protection goals.

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~~BOARDING HOUSE.~~ 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.

Buffer

Open spaces, landscaped areas, fences, walls, berms, or any combination thereof used to physically and visually separate one use or property from another in order to mitigate the impacts of noise, light, or other nuisance.

~~—**BUFFER.** An area of land planted or constructed to separate uses.~~

~~**BUFFER, PARKING.** See § 155.402(E).~~

~~**BUFFER, PERIMETER.** See § 155.402(E).~~

Buffer, Stream

~~**BUFFER, STREAM.** An area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not form a channel and which provides for infiltration of the runoff and filtering of pollutants.~~

~~**BUFFER, STREET.** See § 155.402(E).~~

Building

~~**BUILDING.** Any structure having a roof supported by columns or by walls, and intended for shelter, housing, or enclosure of persons, animals, or property.~~

~~**Building Coverage** **BUILDING COVERAGE.** See § 155.201.~~

~~The maximum area of the lot that is permitted to be covered by buildings, including both principal structures and accessory buildings. Building coverage does not include paved areas such as driveways, uncovered porches or patios, decks, swimming pools or pool cages, or roof overhangs of less than three feet.~~

Building Separation

~~The required separation between any two buildings located on the same lot or parcel of land.~~

~~**BUILDING SEPARATION.** The minimum required horizontal distance between buildings.~~

Caliper

~~**CALIPER.** The diameter of plant material, measured at six inches above grade for calipers of up to four inches, and 12 inches above grade for larger calipers.~~

~~**CEMETERY.** A place used or to be used and dedicated or designated for interments of human remains or pet animal remains.~~

~~**CHILD CARE.** A program or arrangement where three or more children less than 13 years old, who do not reside where the care is provided, receive care on a regular basis of at least once per week for more than four hours but less than 24 hours per day from persons other than their guardians or full-time custodians, or from persons not related to them by birth, marriage, or adoption.~~

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~~**CHILD CARE HOME.** A child care home is a child care arrangement located in a residence where, at any one time, more than two children, but less than nine children, receive child care.~~

~~**CHILD CARE CENTER.** A child care center is an arrangement where, at any one time, there are nine or more preschool-age children or nine or more school-age children receiving child care.~~

~~**CLUB, CIVIC.** An organization of persons for specific purposes or for the promulgation of sports, arts, literature, politics, or the like, but not operated for profit, excluding churches, synagogues, or other houses of worship.~~

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~~**CLUB, PRIVATE.** Any establishment that is organized and operated solely for a social, recreational, patriotic or fraternal purpose that is not open to the general public, but is open only to the members of the organization and their bona fide guests. The definition of private clubs does not include adult oriented businesses as defined in this section.~~

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Co-Location

The use of a wireless telecommunication support facilities by more than one wireless telecommunication provider for the provision of wireless services without increasing the height of the tower or structure.

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~~**CO-LOCATION.** The use of a tower or structure to support antennae for the provision of wireless services without increasing the height of the tower or structure.~~

~~**COLLEGE.** An educational institution authorized by the state to award associate, baccalaureate, or higher degrees.~~

~~**COMMERCIAL IMPRACTICABILITY or COMMERCIALLY IMPRACTICABLE.** The inability to perform an act on terms that are reasonable in commerce, the cause or occurrence of which could not have been reasonably anticipated or foreseen and that jeopardizes the financial efficacy of the project. The inability to achieve a satisfactory financial return on investment or profit, standing alone, shall not deem a situation to be commercially impracticable and shall not render an act or the terms of an agreement commercially impracticable.~~

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Comment [AH1]: A use that would not be an appropriate general use without restriction or review in a particular zoning district, but which, if controlled as to number, area, location or relation to surrounding uses, would promote the public health, safety or general welfare.

~~**COMMON SIGNAGE PLAN.** See § 155.714.~~

~~**COMPLEX.** See § 155.301.~~

Conditional Use **CONDITIONAL USE.** See § 155.710.

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A use or occupancy of a structure, or a use of land, permitted only upon issuance of a conditional use permit and subject to the limitations and conditions specified therein.

Comment [AH2]: A legally binding, voluntary, written limitation on the use and development of real estate entered into in connection with a petition for zoning map change and approved by the Town Council, thus resulting in said petition for zoning map change being a petition for a conditional use district rather than a general use district.

~~**CONDITIONAL USE PERMIT.** See § 155.710.~~

Construction

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CONSTRUCTION.—On-site erection, fabrication, installation, alteration, demolition or removal of any structure, facility, or addition thereto, including all related activities, including, but not restricted to, clearing of land, earthmoving, blasting and landscaping.

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~~CONTRACTOR'S OFFICE.~~—A facility for a building, heating, plumbing, electrical, landscape, janitorial or similar contractor. May include overnight storage of fleet vehicles in some districts.

~~CONVENTIONAL RESIDENTIAL SUBDIVISION.~~—See § 155.203(E).

~~COUNTY HEALTH DEPARTMENT.~~ The Johnston County Health Department.

~~CREMATORIUM.~~—A building used for the cremation of human remains.

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Crosswalk

~~CROSSWALK.~~—A public pedestrian right-of-way which cuts across a block to facilitate pedestrian access to adjacent streets and properties.

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Dedication

~~DEDICATION.~~—The transfer of ownership without payment of ownership or other interest in real property from a private entity to a public agency.

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Density ~~DENSITY.~~—See § 155.201.

The number of dwelling units permitted per net acre of land.

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Development

~~DEVELOPMENT.~~—The subdivision of land into two or more parcels, the construction, or reconstruction, conversion, structural alteration, relocation, or enlargement of any structure, any mining excavation, landfill, land disturbance; and any use or extension of the use of land.

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~~DEVELOPMENT, EXISTING.~~—Those developments as of the effective date of this subchapter that are built, or those developments having an outstanding valid building permit or a site-specific development plan as authorized by G. S. § 160A-385.1, or having an approved site-specific or phased development plan in compliance with G.S. § 153A-344 or G.S. § 160A-385, and having expended substantial resources (time, labor, money), or meeting the court created common law or constitutional standards of a substantial expenditure of resources (time, labor, or money) based on a good faith reliance upon having received a valid local government approval to proceed with the project.

~~DISH ANTENNA OR EARTH STATION.~~—An accessory structure with a combination (1) of antenna or dish antenna, whose purpose is to receive communication or other signals from a transmitter or transmitter-relay located in planetary orbit; (2) a low noise amplifier which is situated at a focal point of the receiving component, and (3) whose purpose is to magnify and transfer signals; and a coaxial cable whose purpose is to carry the signals into the interior of the building.

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~~DISTRICT, GENERAL USE.~~—See § 155.200(A).

~~DISTRICT, OVERLAY.~~—See § 155.200(C).

~~DISTRICT, SPECIAL USE.~~ See § 155.200(B).

~~DRIVEWAY.~~

Driveway

A private roadway located on a parcel or lot used for vehicle access.

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Dwelling Unit

One or more habitable rooms which are occupied, or which are intended or designed to be occupied as a residence by one family, with facilities for living, sleeping, cooking, and dining.

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~~DWELLING UNIT.~~ A building, or portion thereof, providing complete and permanent living facilities for one household and includes the following (see also § 155.202(A)):

- ~~1. Alley loaded house;~~
- ~~2. Apartment;~~
- ~~3. Single family detached;~~
- ~~4. Townhouse;~~
- ~~5. Two family house;~~
- ~~6. Upper story residential; and~~
- ~~7. Zero lot line house.~~

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Easement

~~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.

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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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~~EXTRATERRITORIAL JURISDICTION.~~ That portion of the Town's planning area located outside the corporate boundaries of the Town.

~~FAMILY.~~ One or more persons related by blood, adoption, or marriage, living together as a single housekeeping unit, exclusive of household servants. A number of persons not exceeding four, living together as a single housekeeping unit, though not related by blood, adoption, or marriage, shall be deemed to constitute a family, as shall a foster care home approved by the state.

Fence

An enclosure or barrier, such as wooden posts, wire, iron, etc., used as a boundary, means of protection, privacy screening or confinement, but not including hedges, shrubs, trees, or other natural growth.

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~~FENCE.~~ Any artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

Floor Area, Gross ~~FLOOR AREA, GROSS. See § 155.201.~~

The sum of the gross horizontal area of the several floors of a building, measured from the exterior faces of the exterior walls or from the center of the common walls of attached buildings. Gross floor area includes basement floors, attic floor space, halls, closets, stairwells, space devoted to mechanical equipment, and enclosed porches.

Comment [AH3]: For dwelling units, the total area, computed on a horizontal plane inclusive of finished basements, attached garages, entrances, hallways, stairways and other enclosed areas, but exclusive of unfinished basements, cellars and attics.
For commercial or industrial buildings or structures, the sum of all horizontal surface areas of all floors of a building or structure measured from the exterior faces of the exterior walls or from the center line of walls separating abutting buildings or structures.

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Flood Fringe Area

~~FLOOD FRINGE AREA.~~—That area of the floodplain lying outside the floodway but still lying within the area of special flood hazard, that is, within the 100-year floodplain.

Floodplain

Any land area susceptible to being inundated by water from any source.

~~FLOODPLAIN.~~ Any normally dry land area that is susceptible to being inundated by waters of the 1% annual chance flood, that is the 100-year flood.

Floodway

~~FLOODWAY.~~—The channel of a river or other watercourse and the adjacent land area that must be reserved in order to discharge the velocity waters of the regulatory flood.

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~~FRONTAGE.~~—The dimension of a property that is adjacent to a street.

Frontage, Building

The length of any building or store which fronts upon a public street, a customer parking area, or pedestrian mall and which has one or more entrances to the main part of the building or store.

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Frontage, Lot

The distance for which the front boundary line of the lot and the street line are coincident.

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~~FUNERAL HOME.~~—A building used for the preparation of the deceased for burial and display of the deceased before burial or cremation. A funeral home, as defined in this chapter, includes a funeral chapel.

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~~GAS STATION WITH CONVENIENCE RETAIL.~~—A building used for the sale of gasoline products that also offers for sales prepackaged food items and tangible consumer goods, primarily for self service by the consumer.

Ground Cover

~~GROUND COVER.~~—Any natural vegetative growth or other material which renders the soil surface stable against accelerated erosion.

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~~GUEST ROOM.~~—A room or suite used as living accommodations for one or more paying visitors.

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Hazardous Material

Any substance that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment.

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~~**HAZARDOUS MATERIAL.** Any substance listed as such in: SARA Section 302, "Extremely Hazardous Substances", CERCLA "Hazardous Substances", or Section 311 of CWA (oil and hazardous substances).~~

~~**HEIGHT.** See § 155.201.~~

Home Occupation ~~**HOME OCCUPATION.** See § 155.305(C)(2).~~

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-An occupation carried on in a dwelling unit by the resident thereof; provided that the use is limited in extent and incidental and secondary to the use of the dwelling unit for residential purposes and does not change the character thereof.

~~**HOSPITAL.** An institution providing human health services primarily for in-patient medical and surgical care for the physically or mentally sick and injured and including related support facilities such as laboratories, out-patient departments, staff offices, food services, and gift shop.~~

~~**HOTEL/MOTEL.** A building containing one or more guest rooms, for overnight guests, and containing registration facilities, on-site management, cleaning services and combined utilities.~~

Household

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A domestic establishment including a member or members of a family or others living under the same roof.

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~~**HOUSEHOLD.** One or more persons occupying a single dwelling unit.~~

Impervious Surface ~~**IMPERVIOUS SURFACE.** See § 155.201.~~

Comment [ATH4]: Impervious Surface COVERAGE (Many towns have this term)- That portion of a lot covered by buildings, structures, paving or other impervious surface materials.

Any hard-surfaced, man-made area that does not readily absorb or retain water, including but not limited to building roofs, parking and driveway areas, graveled areas, sidewalks, and paved recreation areas.

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Infrastructure

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Streets, water lines, sewers lines and other public facilities necessary to the functioning of a community.

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Junk

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Any scrap, waste, worn out, discarded material or debris collected or stored for destruction, disposal or some other use.

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~~**JUNK.** A dilapidated scrap or abandoned metal, paper, building materials and equipment, bottles, glass, appliances, furniture, beds and bedding, rags, rubber, motor vehicles, or parts thereof.~~

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~~**JUNK YARD.** The use of more than 600 square feet of any lot or parcel for outdoor storage and/or sale of waste paper, rags, scrap metal, or other junk, including the storage of automobiles or other vehicles, or dismantling of such vehicles or machinery or parts thereof.~~

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~~**KENNEL.** An establishment for the keeping or breeding of dogs for profit, or having four dogs or more on any premises.~~

Land Disturbing Activity

~~LAND-DISTURBING ACTIVITY.~~—Any use of land in residential, industrial, educational, institutional or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation. Sedimentation occurs whenever solid particulate matter, mineral or organic, is transported by water, air, gravity, or ice from the site of its origin, and is deposited elsewhere.

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~~LANDFILL.~~ A disposal facility or part of a disposal facility where solid waste is placed in or on land in accordance with G.S. § 130A, Article 9. For the purpose of this subchapter, this term does not include composting facilities.

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Landscape Plan ~~LANDSCAPE PLAN.~~ See § 155.402.

A plan associated with a subdivision, land development, or parking facility plan indicating the placement of landscape materials, including specifications, species, quantities, and method of installation.

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Landscaping

The area within the boundaries of a given a lot that consists of planting materials, including but not limited to trees, shrubs, ground covers, grass, flowers, decorative rock, bark, mulch, and other similar materials.

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~~LANDSCAPING.~~ Any live plant material such as trees, shrubs, ground cover, and grass used in spaces void of any impervious material or building structures, areas left in their natural state or areas where mulch is used as a ground cover.

Livestock

Grazing animals kept either in open fields or structures for training, boarding, home use, sales, or breeding and production, including but not limited to: cattle, riding and draft horses, hogs, sheep, goats, miniature horses, llamas, and alpacas.

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~~LIVESTOCK.~~ All animals kept or raised on a farm, except however, that necessary working animals and pets are not included.

Loading, Off-Street

An unobstructed area provided and maintained for the temporary parking of trucks and other motor vehicles for the purpose of loading and unloading goods, materials and merchandise.

~~LOADING AND UNLOADING AREA.~~ An completely off-street space on the same lot for the loading or unloading of freight carriers with ingress and egress to a street or alley (see § 155.401).

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Local Street Network

~~LOCAL STREET NETWORK.~~—System of local streets that include commercial streets, collector streets, residential collectors, cul-de-sacs, and alleys (see § 155.602(D)).

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Lot

A portion of a subdivision or other parcel of land, intended as a unit for transfer of ownership or for development or both.

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~~**LOT.** A parcel of land, not divided by streets, occupied or to be occupied by a building and its accessory buildings, or by a unified business or housing development and its accessory buildings, together with such open spaces as are required under the provisions of law, and having its principal frontage on a street or other means of access.~~

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Comment [ATH5]: A parcel of land, not divided by streets, occupied or to be occupied by a building and its accessory buildings, or by a unified business or housing development and its accessory buildings, together with such open spaces as are required under the provisions of law, and having its principal frontage on a street or other means of access.

Lot Area

The horizontal area within the exterior lines of the lot, exclusive of any area in a public or private way open to public uses.

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~~—— **LOT AREA.** A lot or portion of a lot at the junction of and abutting upon two or more streets.~~

Lot, Corner

A lot having at least two adjacent sides that abut for their full length upon streets. Both such lot lines shall be considered front lot lines.

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~~**LOT, CORNER.** A lot that occupies the interior angle at the intersection of two or more right of way lines. A lot abutting on the right of way of a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees.~~

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Lot, Double Frontage

~~**LOT, DOUBLE FRONTAGE.** A continuous or through lot of the same depth as the width of a block, and which is accessible from both of the streets upon which it fronts.~~

Lot, Flag

A lot that has access to a public right-of-way by means of a narrow strip of land.

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~~**LOT, FLAG.** An irregularly shaped lot which has an appendage or extension which does not meet lot width requirements of the district at the street.~~

Lot of Record

~~**LOT OF RECORD.** A lot which is part of a subdivision recorded in the Office of the Register of Deeds of Johnston County, or a lot described by metes and bounds, the description of which has been so recorded.~~

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Lot Width

Parcel or lot width shall be measured by the distance between the side lot lines (generally running perpendicular to a street), measured at the rear edge of the street yard along a straight line parallel to the front of the property line or along the chord of the front property line.

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~~**LOT WIDTH.** The horizontal distance between side lines measured along a line that is parallel to the front line and located the minimum exterior setback distance from the front lot line.~~

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~~**MANUFACTURED HOME.** A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more square feet; and 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 except the size requirements 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.~~

~~**MANUFACTURED HOME PARK.** 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.~~

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~~**MOBILE HOME.** A portable manufactured housing unit built before June 15, 1976 designed for transportation on its own chassis and placement on a temporary or semi-permanent foundation having a measurement of over 32 feet in length and over eight feet in width. Manufactured home also means a double-wide manufactured home, which is two or more portable manufactured housing units designed for transportation on their own chassis that connect on site for placement on a temporary or semi-permanent foundation having a measurement of over 32 feet in length and over eight feet in width.~~

~~**MOBILE HOME PARK.** Any plat of ground upon which two or more mobile homes, occupied for dwelling purposes, are located, regardless of whether a charge is made for such accommodations.~~

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~~**MULTI-FAMILY DWELLING.** A building arranged to be occupied two or more families. This term shall include apartments, townhouses, and upper-story residential dwelling units.~~

~~**MUSEUM.** Establishment for the display of art or historic or science objects.~~

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Net Acreage, Net Gross

~~**NET ACREAGE, ACRES, LAND AREA, SQUARE FOOTAGE OF LAND AREA.** Land area with streets, rights-of-way, driveways which serve as access to more than two units or uses, and major transmission lines not included in its measurement.~~

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~~**NEWSPAPER PUBLISHER.** A building used for the production and distribution of newspapers, magazines and other related materials.~~

Nonconformity

~~A condition that occurs when, on the effective date of adoption of this code or a previous ordinance or on the effective date of an ordinance text amendment or rezoning, an existing lot, structure, building, sign, development, or use of an existing lot or structure does not conform to one or more of the regulations currently applicable to the district.~~

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~~**NONCONFORMITY.** See § 155.719.~~

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Nonconforming Lot of Record

~~**NONCONFORMING LOT OF RECORD.** A recorded lot described by a plat or a deed that was recorded prior to the effective date of these watershed protection regulations (or their amendments) that does not meet the minimum lot size or other development requirements, of the statewide watershed protection rules (See § 155.719).~~

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~~**NURSING HOME.** A facility, however named, which is advertised, announced, or maintained for the express or implied purpose of providing nursing or convalescent care for three or more persons unrelated to the licensee. A nursing home is a home for chronic or convalescent patients, who, on admission, are not as a rule, acutely ill and who do not usually require special facilities such as an operating room, X ray facilities, laboratory facilities, and obstetrical facilities. A nursing home provides care for persons who have remedial ailments or other ailments, for which medical and nursing care are indicated; who, however, are not sick enough to require general hospital care. Nursing care is their primary need, but they will require continuing medical supervision.~~

~~**OFFICE.** A room, group of rooms, or building whose primary use is the conduct of a business, professional service, or governmental activity of a non-retail nature; including administration, record keeping, clerical work, and similar functions. This definition is not meant to include manufacturing, processing, repair, or storage of materials or products.~~

~~**OPEN SPACE RESIDENTIAL SUBDIVISION.** See § 155.203(E).~~

~~**OUTDOOR DISPLAY.** See § 155.405.~~

~~**Outdoor Storage** **OUTDOOR STORAGE.** See § 155.405.
The keeping of personal or business property or motor vehicles in a required open parking space or any other area outside of a building for a period of time exceeding 72 consecutive hours.~~

~~**Outparcel**
An area located within a non-residential development that may share common parking and circulation areas with other buildings or parcels, but is usually situated as its own parcel and is separated from anchor buildings by parking and circulation areas.~~

~~**Owner**
OWNER. Any person having charge of any real property according to the records held by the Register of Deeds.~~

~~**Parcel** **PARCEL.** See § 155.201.
A continuous plot of recorded land in the possession of or owned by any individual or group of individuals.~~

~~**PARCEL AREA.** See § 155.201.~~

~~**PARK.** An area open to the general public and reserved for recreational, education or scenic purposes (see § 155.300(A)).~~

~~**PARKING AREA.** An area not within a building, where motor vehicles may be stored for the purpose of temporary, daily, or overnight off-street parking (see § 155.401).~~

~~**Parking Lot**~~

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~~**PARKING LOT.**—An off-street area ~~not within a building, where~~ used for the storage of motor vehicles may be stored for the purpose of on a temporary, daily, or overnight basis. ~~off-street parking. (see § 155.401).~~~~

Parking Space

~~**PARKING SPACE.**—An designated off-street area designed to accommodate the parking of one vehicle.~~

~~**PERSONAL WIRELESS FACILITY.**—See **WIRELESS TELECOMMUNICATIONS FACILITIES.**~~

~~**PERSONAL WIRELESS SERVICES (PWS)** or **PERSONAL TELECOMMUNICATIONS SERVICE (PCS).**—Shall have the same meaning as defined and used in the 1996 Telecommunications Act.~~

Pervious Surface Coverage

~~**PERVIOUS SURFACE.**—Ground treatments which will allow the infiltration of water, air and nutrients to root systems of adjacent plant material which lie directly under the ground treatment.~~

~~**PLANNING AREA.**—The land located within the corporate limits of the Town and the land located within the territorial jurisdiction established by the Town Council.~~

~~**PILOT PLANT.**—A building or operation in which processes planned for use in production elsewhere can be developed and/or tested, but not including the production of any goods on the premises primarily for sale or for use in production operations.~~

~~**PLACE OF WORSHIP.**—A building primarily used by a non-profit organization for organized religious services and supporting uses.~~

Planting Area

~~The area within the boundaries of a given lot consists of planting materials, including but not limited to trees, shrubs, ground covers, grass, flowers, decorative rock, bark, mulch, and other similar materials.~~

~~**PLANTING AREA.**—Areas of a site where groupings (more than one) of trees, shrubs and/or ground cover are proposed and are defined within a bed of mulch.~~

Plat

~~**PLAT.** A map or plan of a parcel of land which is to be or which has been subdivided.~~

~~**PLAT, FINAL.**—See § 155.706.~~

~~**PLAT, MINOR.**—See § 155.706.~~

~~**PLAT, PRELIMINARY.**—See § 155.706.~~

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~~**PRINCIPAL BUILDING, USE, OR STRUCTURE.** The main use of a lot, or the building or structure in or on which the main use of the lot takes place.~~

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~~**PROHIBITED SIGN.** See § 155.403(G).~~

~~**PROTECTED AREA.** The area adjoining and upstream of the critical area in which protection measures are required. The boundaries of the protected area are defined as extending ten miles upstream and draining to water supply or to the ridge line of the watershed, whichever comes first.~~

~~**PUBLIC FACILITY.** A building or area owned or used by any department or branch of the Town, the state, or the federal government.~~

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~~**PUBLIC STREET.** A dedicated and accepted public right of way for vehicular traffic.~~

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~~**PUBLIC SEWER.** Any sewerage system serving ten or more customers.~~

~~**PUBLIC WATER SUPPLY.** Any water supply furnishing potable water to ten or more customers.~~

~~**RECREATIONAL CLUB, PRIVATE.** Any indoor recreational establishment that is not open to the general public, but is open only to the members of the organization and their bona fide guests, including but not limited to a country club, golf, swimming or tennis club.~~

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~~**RECREATIONAL VEHICLE (RV) PARK.** Land used or intended to be used, let, or rented for occupancy by vacationing transient campers traveling by automobile or otherwise, or for occupancy by tents, or other movable or temporary sleeping quarters of any kind, together with automobile parking spaces and incidental utility structures and facilities required and provided in connection with the use. This definition shall not include trailer sales lots where unoccupied trailers are parked for inspection and sale.~~

~~**RECREATION AND OPEN SPACE.** See § 155.203(H).~~

~~**RADIO OR TELEVISION STUDIO.** A building used for radio (audio) or television (visual) recording and production.~~

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Resource Conservation Area

An area set aside for the conservation of natural, archeological or historic resources.

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~~*****RESOURCE CONSERVATION AREA.** See § 155.500.~~

~~**RESTAURANT.** An establishment whose primary purpose is serving meals to patrons.~~

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Right-of-Way

~~**RIGHT-OF-WAY.** An area or strip of land, either public or private, on which an irrevocable right-of-passage has been recorded for the use of vehicles or pedestrians or both.~~

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~~**ROOF LINE.** The top edge of the roof or the top edge of the parapet, whichever forms the top line of the building silhouette, but not including equipment structures.~~

~~**SCHOOL, PUBLIC OR PRIVATE.** 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.~~

~~**SCHOOL, TRADE, OR BUSINESS.** An institution offering instruction beyond high school level with a course of study in vocational, technical or other special subjects.~~

Screening

A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation.

~~**SCREENING.** The method by which a view of one site from another abutting site is shielded, concealed, or hidden. Screening techniques include fences, walls, hedges, berms, or other features.~~

~~**SELF STORAGE FACILITY.** A building or group of buildings consisting of individual, self contained units leased to individuals, organizations, or businesses for self-service storage of personal property.~~

Sewer System, Public

An off-site system for the treatment and disposal of sewage in which sewage is conveyed by interceptor to a publicly operated treatment plant

Sign

Any words, lettering, figures, numerals, emblems, devices, trademarks, or trade names, or any combination thereof, by which anything is made known and which is designed to attract attention or to convey a message.

~~**SIGN.** Any device or visual communicator that is used for the purpose of bringing the subject thereof to the attention of the public~~

~~**SINGLE FAMILY DWELLING.** A building arranged to be occupied by no more than one family. This term shall include single family detached, zero lot line and alley loaded dwelling units.~~

~~**Site** **SITE.** See § 155.201.~~

A continuous plot of land to be developed as a single project. A site may contain multiple parcel or lots.

~~**Site Area** **SITE AREA.** See § 155.201.~~

Site area shall be the total land area of the proposed development. A site may include multiple parcels or lots.

~~**Site Area, Net** **SITE AREA, NET.** See § 155.201.~~

Net site area shall mean the total gross area of the parcel, minus any resource conservation areas.

Site Plan

A plan, to scale, showing uses and structure proposed for a parcel of land as required by the regulations. Includes lot lines, streets, building sites, reserve open space, buildings, landscape features-both natural and manmade.

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~~**SITE PLAN.**—A plan prepared to scale, showing accurately and with complete dimensions, the boundaries of the site and the location of all buildings, streets, uses, and principal site development features proposed for a specific parcel of land (see § 155.706).~~

~~**SITE PLAN, MAJOR.**—See § 155.706.~~

~~**SITE PLAN, MINOR.**—See § 155.706.~~

~~**SITE SPECIFIC DEVELOPMENT PLAN.**—A plan of land development submitted to the Town for purpose of obtaining one of the following zoning or land use permits or approvals: subdivision plat, site permit, conditional use permit, special use permit, special use zoning district or variance; provided, notwithstanding the foregoing that neither a variance, a plat nor any other document that fails to describe with reasonable certainty that type and intensity of use for a specified parcel or parcels of property shall constitute a site specific development plan.~~

Special Use

A use that meets the intent and purpose of the zoning district but which requires the review and approval by Town Council to ensure that any adverse impacts on adjacent uses, structures, or public services and facilities that may be generated are mitigated.

~~**SPECIAL USE.**—See § 155.711.~~

Special Use Permit~~**SPECIAL USE PERMIT.**—See § 155.711.~~

A permit issued for a special use following review and approval by Town Council by the proper governmental authority that must be acquired before a special exception use can be constructed after consideration and mitigation of potential impacts or incompatibility with adjacent uses.

State

~~**STATE.**—The State of North Carolina.~~

~~**STEALTH or STEALTH TECHNOLOGY.**—Minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such wireless telecommunications facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.~~

Stream

A body of concentrated flowing water in a natural low area or natural channel on the land surface.

Stream Buffer

A natural or vegetated area adjacent to a stream through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for the infiltration of runoff and filtering of pollutants.

Stream, Intermittent

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~~**STREAM, INTERMITTENT.**—A watercourse that collects surface runoff and is shown as a dashed blue line on the most recent United States Geologic Survey (USGS) 7½-minute quadrangle topographic maps, is shown as an intermittent stream on the most recent US Department of Agriculture (USDA) Soil Survey, or is shown as an intermittent stream on the Natural Resource Conservation Service (NRCS) maps.~~

Stream, Perennial

~~**STREAM, PERENNIAL.**—A watercourse that collects surface runoff and is shown as a solid blue line on the most recent USGS 7½-minute quadrangle topographic maps, is shown as a perennial stream on maps in the most recent US Department of Agriculture (USDA) Soil Survey, or is shown as a perennial stream on the Natural Resource Conservation Service (NRCS) maps.~~

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~~**STREET, Public.** A dedicated and accepted public right-of-way for vehicular traffic, and access to abutting property. Includes the following (see also § 155.602(D)):~~

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- ~~1. Major thoroughfare;~~
- ~~2. Minor thoroughfare;~~
- ~~3. Collector street;~~
- ~~4. Residential collector street;~~
- ~~5. Commercial street;~~
- ~~6. Residential street;~~
- ~~7. Cul-de-sac;~~
- ~~8. Alley; and~~
- ~~9. Frontage road.~~

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Street, Private

~~Any road or street that is not publicly owned and maintained and used for access by the occupants of the development, their guests, and the general public.~~

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~~**SUBDIVISION.** See § 155.706.~~

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~~**SUBDIVISION, MAJOR.** See § 155.706.~~

~~**SUBDIVISION, MINOR.** See § 155.706.~~

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~~**TELECOMMUNICATIONS.**—The transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.~~

~~**TELECOMMUNICATION SITE.**—See definition for wireless telecommunications facilities.~~

~~**TELECOMMUNICATIONS STRUCTURE.**—A structure used in the provision of services described in the definition of wireless telecommunications facilities.~~

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Thoroughfare, Major

~~Major streets, excluding freeways but not excluding limited access facilities, that provide for the expeditious movement of large volumes of traffic within and through the urban area.~~

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Thoroughfare, Minor

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Streets that perform the function of collecting traffic from local access streets and carrying it to the major thoroughfare system. Such streets may be used to supplement the major thoroughfare system by facilitating minor through movements and may also serve abutting property.

~~THOROUGHFARE. A major or minor thoroughfare. (see § 155.602(D)).~~

Town

~~TOWN.~~The Town of Clayton, North Carolina.

Transportation Plan ~~TRANSPORTATION PLAN.~~ ~~A The most recent~~ map approved by the Town Council that indicates the system of roads expected to serve major access and travel needs with regard to auto, truck and transit transportation.

Unified Development Code

Chapter 155 of the Town Code of Ordinances, as adopted by Town Council.

~~Variance~~ ~~VARIANCE~~

~~Permission which is granted by the Board of Adjustment to deviate from A modification or alteration of zoning requirements when strict enforcement of this ordinance certain provisions of the Unified Development Code would cause undue hardship because of circumstances unique to the individual property for which the variance is granted. Only the Board of Adjustment can do this after specific findings of fact.~~

~~VARIANCE, MAJOR WATERSHED. See § 155.716.~~

~~VARIANCE, MINOR WATERSHED. See § 155.716.~~

~~VEHICULAR USE AREA. All open areas and open spaces on the land which are designated, used, required or intended to be used for storage, parking, maintenance, service, repair, display, circulation, or operation of vehicles, including automobiles, buses, trailers, trucks, boats, and motorcycles. This definition is intended to include areas used or intended to be used for driveways to such vehicular use areas but does not include improvements to public roads, streets, highways, and alleys.~~

~~VETERINARIAN, ANIMAL HOSPITAL. A building used for the care and treatment of small animals, including household pets.~~

Waiver ~~WAIVER. See § 155.706(h)(7).~~

Permission which is granted by Town Council or a part of a Planned Development Approval to deviate from specific provisions of the Unified Development Code if mitigating circumstances are justified.

Water Supply, Public

A publically owned system of pipes, structures and facilities through which a water supply is obtained, treated, sold and distributed for human consumption or household use.

Watershed

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~~**WATERSHED.**—All of the land area draining to a particular point on a water course or to a water body. The entire land area contributing surface drainage to a specific point (i.e., the water supply intake).~~

~~**WIRELESS TELECOMMUNICATIONS FACILITY.**—Includes a "telecommunications tower" and "tower" and "telecommunications site" and "personal wireless facility." A structure, facility or location designed, or intended to be used as, or used to support, antennas or other transmitting or receiving devices. This includes without limit, towers of all types and kinds and structures that employ camouflage technology, including, but not limited to structures such as a multi-story building, church steeple, silo, water tower, sign or other structures that can be used to mitigate the visual impact of an antenna or the functional equivalent of such, including all related facilities such as cabling, equipment shelters and other structures associated with the site. It is a structure and facility intended for transmitting and/or receiving radio, television, cellular, paging, 911, personal telecommunications services, commercial satellite services, microwave services and services not licensed by the FCC, but not expressly exempt from the Town's siting, building and permitting authority, excluding those used exclusively for the Town's fire, police or exclusively for private, non-commercial radio and television reception and private citizen's bands, amateur radio and other similar non-commercial telecommunications where the height of the facility is below the height limits set forth in this subchapter.~~

Yard, Front ~~**YARD, FRONT.**~~

~~**Is a** An open unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the front line of the lot and the front line of the building projected to the side lines of the lot. The depth of the front yard shall be measured between the front line of the building and the front line of the lot. Covered porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required yard.~~

~~**YARD, STREET.** See § 155.201.~~

Yard Rear ~~**YARD, REAR.** See § 155.201.~~

~~**Is a** An open space on the same lot with a main building, unoccupied except as hereinafter permitted, extending the full width of lot and situated between the rear line of lot and the rear line of the building.~~

Yard, Side (Street) ~~**YARD, SIDE (STREET).** See § 155.201.~~

~~The area extending between the front yard and the rear yard or rear street yard and situated between the side street lot line and the face of the principal building which is parallel to, or most nearly parallel to, the side lot line.~~

Yard, Side (Interior) ~~**YARD, SIDE (INTERIOR).** See § 155.201.~~

~~A side yard located immediately adjacent to another zoning lot or to an alley separating such side yard from another zoning lot.~~

Zoning District

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[A part, zone, or geographic area within the Town or its Extraterritorial Jurisdiction \(ETJ\) where certain zoning and development regulations apply.](#)

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Zoning Vested Right

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~~**ZONING VESTED RIGHT.**~~—A right pursuant to G.S. § 160A-385.1 to undertake and complete the development and use of property under the terms and conditions of an approved site specific development plan.

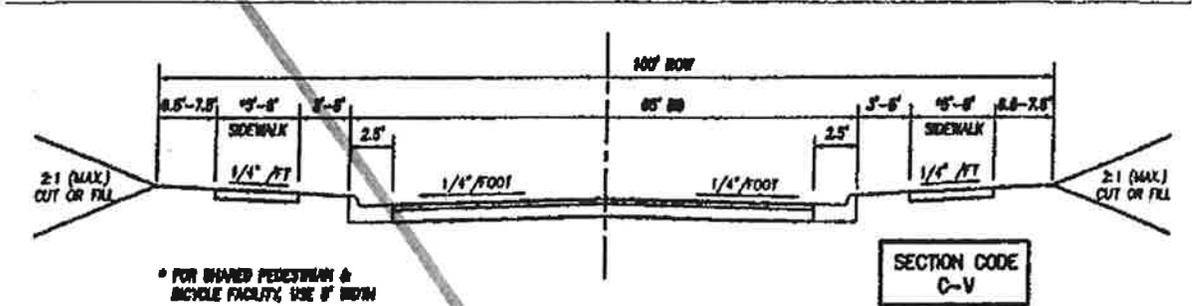
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(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-04-05, passed 4-2-07; Am. Ord. 2009-08-01, passed 8-3-09)

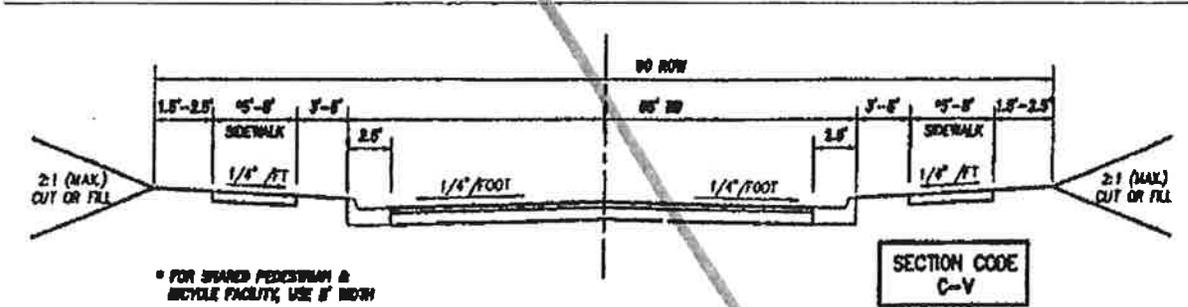
APPENDIX A: TECHNICAL DRAWINGS

TYPICAL STREET CROSS-SECTIONS

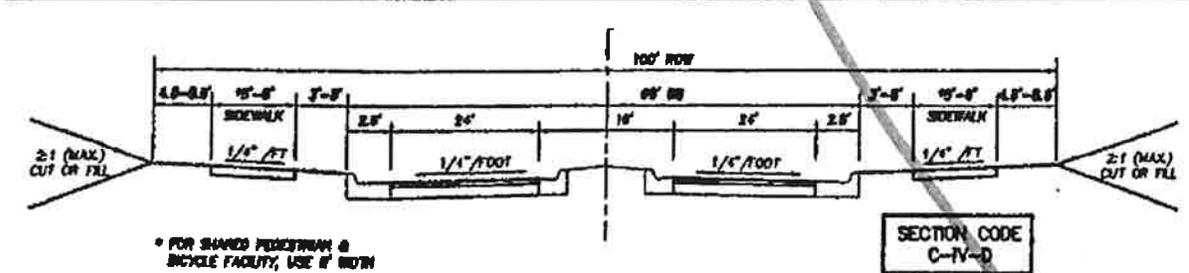
Major Thoroughfare – Five Lane

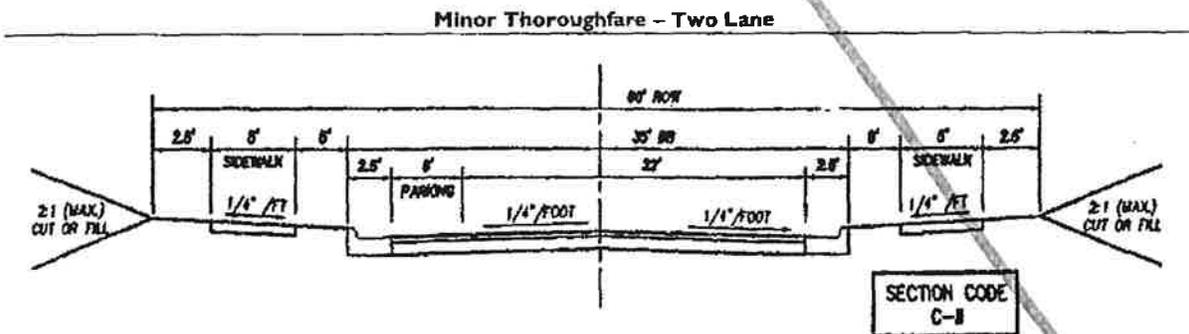
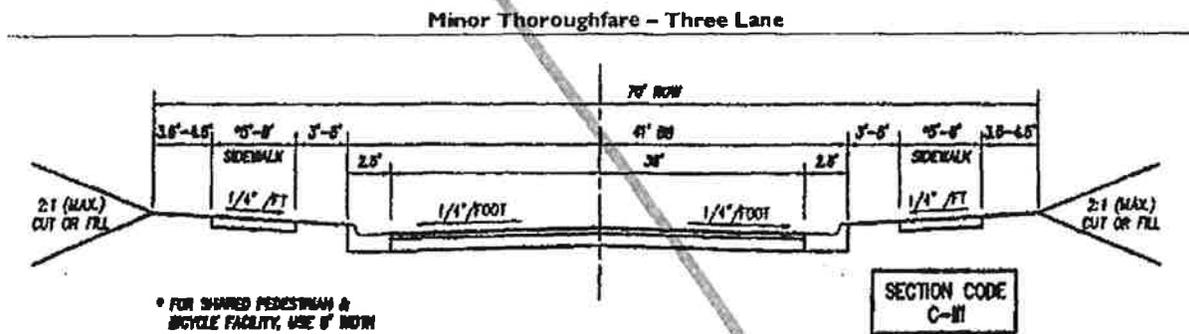
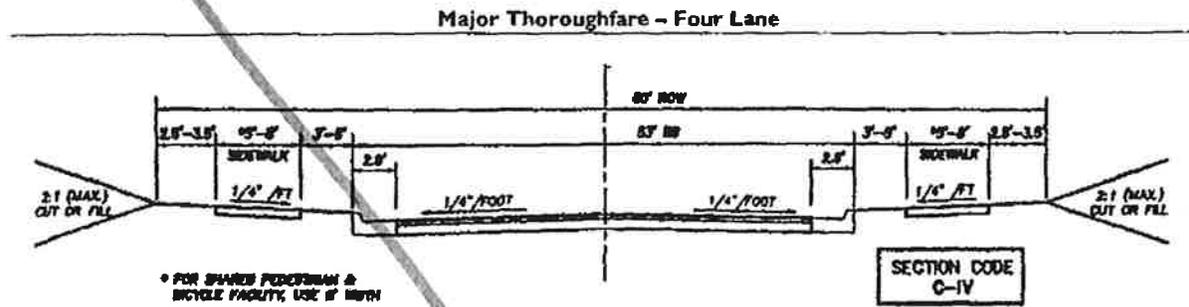


Major Thoroughfare – Five Lane

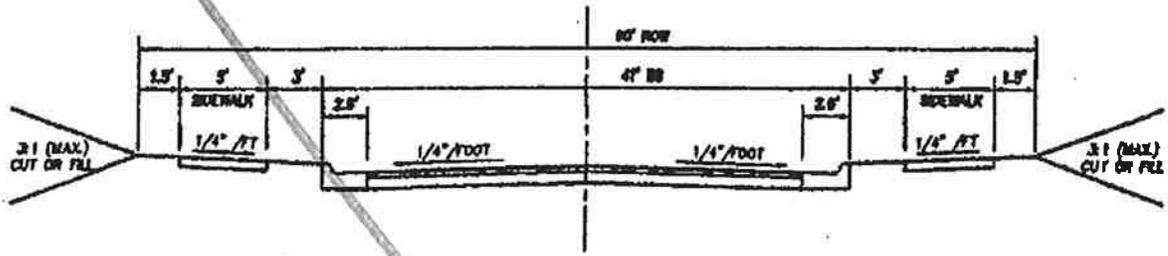


Major Thoroughfare – Four Lane Divided

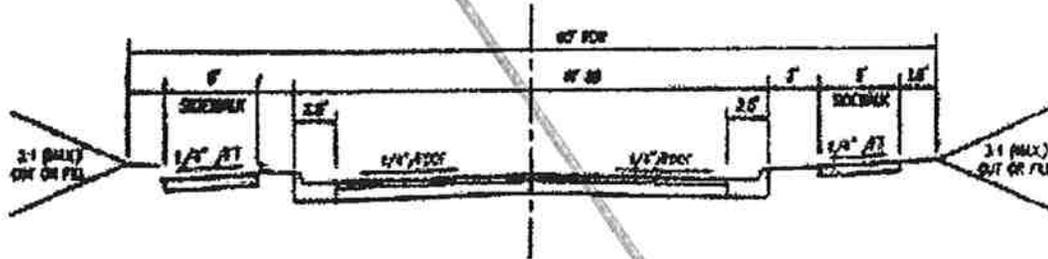




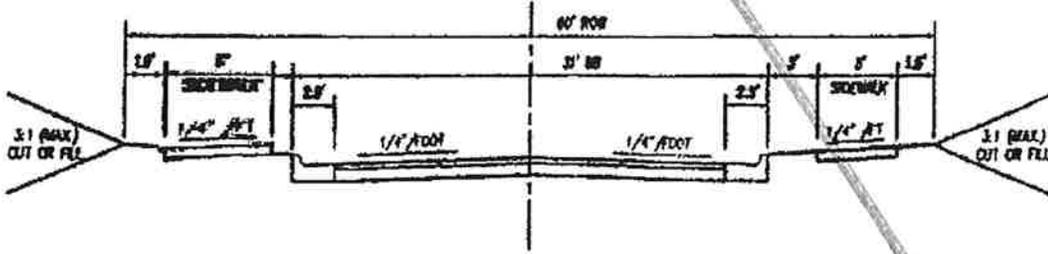
Commercial Street

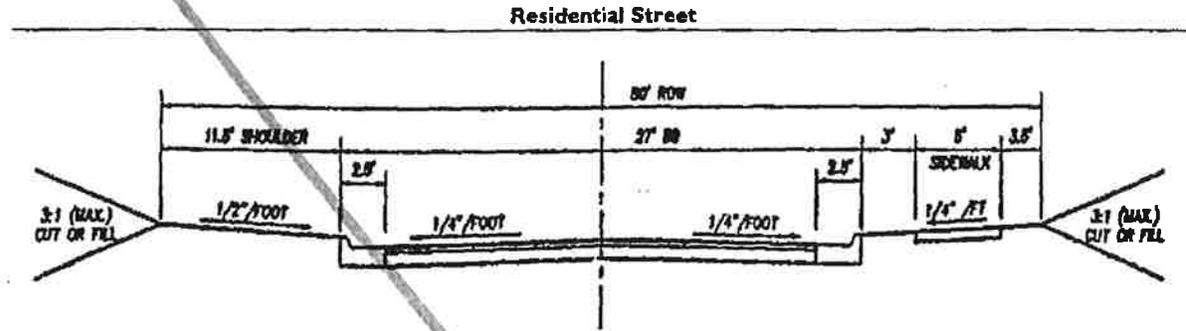


Collector Street



Residential Collector Street





Certificate of Survey and Accuracy

I, _____ certify that this plat was *(drawn by me)(drawn under my supervision)* from *(an actual survey made by me)(an actual survey made under my supervision)* which is recorded in book _____, Page _____, etc.; that the error of closure as calculated by latitudes and departures is 1:____; the boundaries not surveyed are shown by broken lines plotted from information found in Book _____, Page _____. Witness my hand and seal the _____ day of _____, 20_____.

Surveyor or Engineer

CERTIFICATION REQUIRED ON MINOR PLATS

I hereby certify that this record plat has been found to comply with the Unified Development Code of Clayton, North Carolina, and that this plat has been approved for recording in the Register of Deeds of Johnston County.

Date Planning Director

CERTIFICATION 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 by certification below.

Date Planning Director – Town of Clayton, NC

CERTIFICATION REQUIRED ON EXEMPT PLATS

This plat is exempt from the Unified Development Code of the Town of Clayton, North Carolina and this plat has been approved for recording in the Register of Deeds of Johnston County, North Carolina.

Date Planning Director

**TOWN OF CLAYTON
TOWN COUNCIL
AGENDA COVER SHEET**

Agenda Item: 5d

Meeting Date: 4/16/12

TITLE: PRESENTATION OF PRELIMINARY SUBDIVISION REQUEST FOR SUB 2012-36, SOUTH TECH PARK, SECTION 2, LOCATED ON PONY FARM ROAD.

DESCRIPTION: The applicant is requesting preliminary subdivision (SUB 2012-36) approval for South Tech Park to create five new lots. The property is 30.70 acres and is located off of Pony Farm Road and is Zoned I-2 (Industrial Heavy) and is in the ETJ.

This item is slated for an evidentiary hearing on Monday, May 7, 2012, at 7:30 PM.

RELATED GOAL: Manage Growth Producing Quality Developments

ITEM SUMMARY:

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
4-16-12	Presentation.	Application, Staff Report, Zoning Map, Aerial Map, And Preliminary Plat.

**TOWN OF CLAYTON
TOWN COUNCIL
AGENDA COVER SHEET**

Agenda Item: 5e

Meeting Date: 4/16/12

TITLE: PRESENTATION OF SPECIAL USE PERMIT FOR SUP 2012-15 FOR A TATTOO STUDIO AND ART GALLERY LOCATED AT GRAND PLAZA COMMERCIAL CENTER.

DESCRIPTION: The project is located at 844 Gulley Drive and is Bay "P" of Building 4 in the Grand Plaza Commercial Subdivision.

The applicant is requesting a special use permit to allow the operation of a tattoo studio and art gallery in the B-3 SUD.

This item is slated for an evidentiary hearing on Monday, May 7, 2012, at 7:30 PM.

RELATED GOAL: Manage Growth Producing Quality Developments

ITEM SUMMARY:

Date:

Action:

Info. Provided:

4-16-12

Presentation.

Application, Staff Report,
Zoning Map, Aerial Map,
And Preliminary Plat.

**TOWN OF CLAYTON
TOWN COUNCIL
AGENDA COVER SHEET**

Agenda Item: 5f

Meeting Date: 4/16/12

TITLE: PRESENTATION OF SOURCE RECYCLING INFRASTRUCTURE IMPROVEMENTS PROJECT RESOLUTION.

DESCRIPTION: Attached.

RELATED GOAL: Grow the Local Economy

ITEM SUMMARY:

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
4-16-12	Presentation.	Attached.

**TOWN OF CLAYTON TOWN COUNCIL
Economic Infrastructure Grants Program
Source Recycling Infrastructure Improvements Project Resolution**

WHEREAS, the North Carolina Rural Economic Development Center, Inc. (Rural Center) has authorized the awarding of grants from appropriated funds to aid eligible units of government in financing the cost of infrastructure activities needed to create jobs; and

WHEREAS, the Town of Clayton needs assistance in assisting Source Recycling in the financing of infrastructure project that may qualify for Rural Center funding; and

WHEREAS, the Town of Clayton intends to request Category B grant assistance for the Source Recycling Infrastructure Improvements project from the Economic Infrastructure Grants Program;

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

That the Town of Clayton will provide the required 5% local match and through Source Recycling will arrange financing for all remaining costs of the project if approved for a grant.

That Jody McLeod, Mayor and successors so titled, is hereby authorized to execute and file an application on behalf of the Town of Clayton with the Rural Center for a grant to assist in the above-named infrastructure project.

That Jody McLeod, Mayor, and successors so titled, is hereby authorized to execute and file an application on behalf of the Town of Clayton with the NCREDC (Rural Center) for a grant to assist in the above named infrastructure project.

That Steve Biggs, Manager, and successors so titled, is hereby authorized and directed to furnish such information as the Rural Center may request in connection with an application or with the project proposed; to make assurances as contained in the application; and to execute such other documents as may be required in connection with the application.

That the Town of Clayton has substantially complied or will substantially comply with all federal, state, and local laws, rules, regulations, and ordinances applicable to the project and to the grants pertaining thereto.

Duly adopted this ____ day of May 2012, while in regular session.

ATTEST:

Jody L. McLeod, Mayor

Sherry L. Scoggins, MMC; Town Clerk

**TOWN OF CLAYTON
TOWN COUNCIL
AGENDA COVER SHEET**

Agenda Item: 5g

Meeting Date: 4/16/12

TITLE: PRESENTATION OF CITIZEN INITIATED ANNEXATION PETITION 2012-04-01 FOR THREE PARCELS LOCATED OFF OF NC 42 HWY WEST BETWEEN AMELIA CHURCH ROAD AND SHORT JOHNSON ROAD.

DESCRIPTION: Amelia Station LLC submitted the annexation petition requesting annexation of three parcels with a combined acreage of 4.54 contiguous acres.

RELATED GOAL: Manage Growth Producing Quality Developments

ITEM SUMMARY:

Date:

Action:

Info. Provided:

4-16-12

Presentation.

Resolution & Map.

ANNEXATION PETITION 2012-04-01
Off HWY 42 West between Amelia Church Road and Short Johnson Road
Parcels: 05G03007F (.98), 05G03007E (1.01), and 05G03007G (2.55)
Owner – Amelia Station LLC (formerly KZY LLC)
CONTIGUOUS, 4.54 acres

TOWN OF CLAYTON
RESOLUTION DIRECTING THE CLERK TO INVESTIGATE
A PETITION RECEIVED UNDER G.S. 160A-31

WHEREAS, a petition requesting annexation of an area described in said petition was received on April 9, 2012, by the Town Council; and

WHEREAS, G.S. 160A-31 provides that the sufficiency of the petition shall be investigated by the Town Clerk before further annexation proceedings may take place; and

WHEREAS, the Town Council of the Town of Clayton deems it advisable to proceed in response to this request for annexation:

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Clayton that:

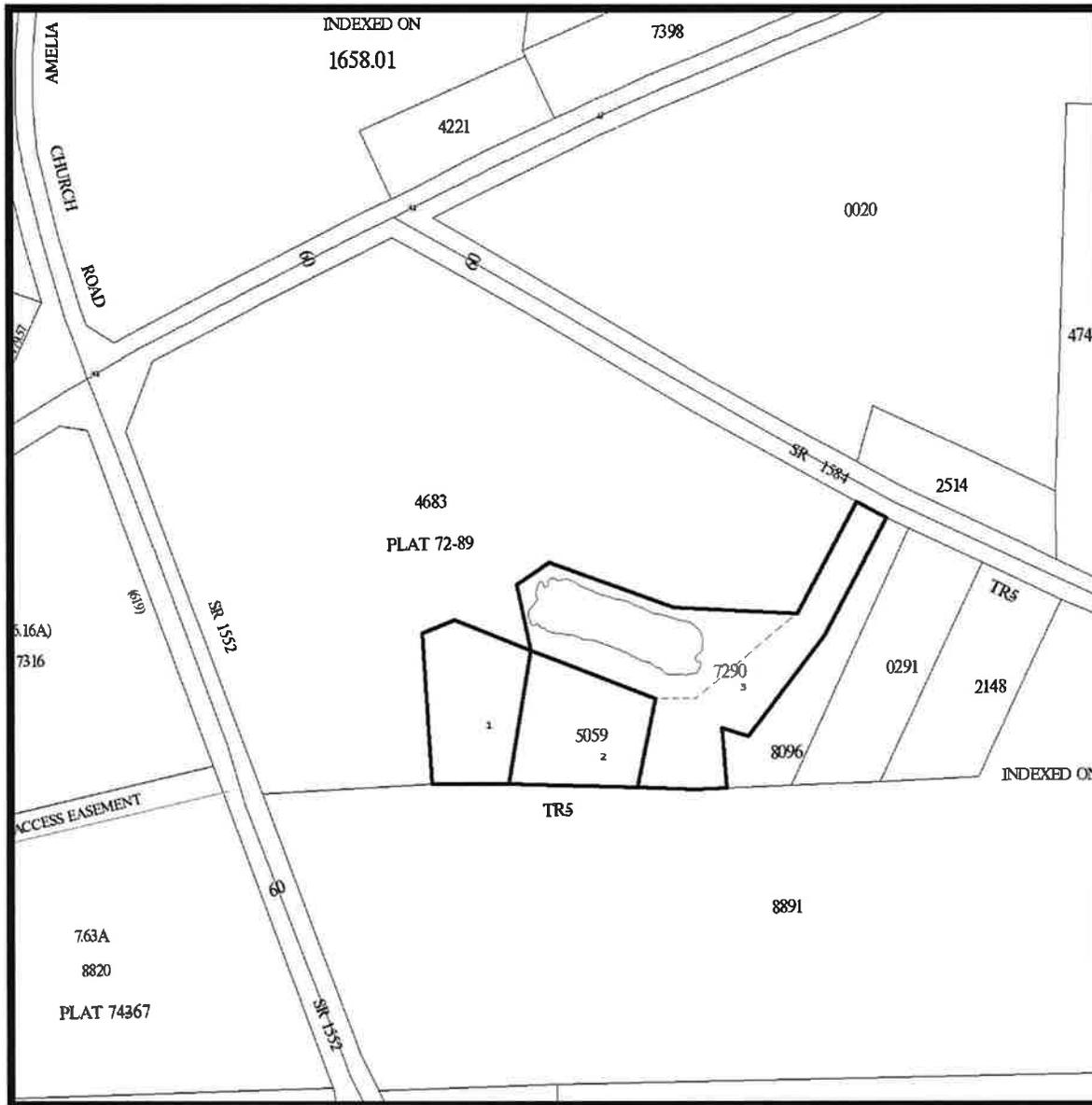
The Town Clerk is hereby directed to investigate the sufficiency of the above-described petition and to certify as soon as possible to the Town of Clayton the result of her investigation.

Duly adopted this ____ day of ____ 2012, while in regular session.

Jody L. McLeod
Mayor

ATTEST:

Sherry L. Scoggins, MMC
Town Clerk



*** DISCLAIMER ***

Johnston County assumes no legal responsibility for the information.

Query Parcel 1

Tag: 05G03007F

NCPin: 165801-05-3172

Mapsheet No: 165801

Owner Name1: AMELIA STATION LLC

Owner Name2:

Mail Address1: 109 RAPHAEL DR

Mail Address2:

Mail Address3: CARY NC 27511-6015

Site Address1: Not Available

Site Address2: Not Available

Book: 04086

Page: 0640

Market Value: 20300

Assessed Acreage: 1

Calc Acreage: 0.98

Sale Price: 30000

Sale Date: 2012-02-29

1 inch = 301 feet

(The scale is only accurate when printed landscape on a 8.5x11in size sheet with page scaling set to none.)

Date April 9, 2012



Query Parcel 2

Tag: 05G03007E

NCPin: 165801-05-5059

Mapsheet No: 165801

Owner Name1: AMELIA STATION
LLC

Owner Name2:

Mail Address1: 109 RAPHAEL DR

Mail Address2:

Mail Address3: CARY NC
27511-6015

Site Address1: Not Available

Site Address2: Not Available

Book: 04086

Page: 0637

Market Value: 58230

Assessed Acreage: 1

Calc Acreage: 1.01

Sale Price: 50000

Sale Date: 2012-02-29

Query Parcel 3

Tag: 05G03007G

NCPin: 165801-05-7290

Mapsheet No: 165801

Owner Name1: AMELIA STATION
LLC

Owner Name2:

Mail Address1: 109 RAPHAEL DR

Mail Address2:

Mail Address3: CARY NC
27511-6015

Site Address1: Not Available

Site Address2: Not Available

Book: 04098

Page: 0240

Market Value: 82460

Assessed Acreage: 2.55

Calc Acreage: 2.63

Sale Price: 120000

Sale Date: 2012-03-28

Query Parcel 4

Tag: -----

NCPin: -----

Mapsheet No: -----

Owner Name1: -----

Owner Name2: -----

Mail Address1: -----

Mail Address2: -----

Mail Address3: -----

Site Address1: -----

Site Address2: -----

Book: -----

Page: -----

Market Value: -----

Assessed Acreage: -----

Calc Acreage: -----

Sale Price: -----

Sale Date: -----

Query Parcel 5

Tag: -----

NCPin: -----

Mapsheet No: -----

Owner Name1: -----

Owner Name2: -----

Mail Address1: -----

Mail Address2: -----

Mail Address3: -----

Site Address1: -----

Site Address2: -----

Book: -----

Page: -----

Market Value: -----

Assessed Acreage: -----

Calc Acreage: -----

Sale Price: -----

Sale Date: -----

**TOWN OF CLAYTON
TOWN COUNCIL
AGENDA COVER SHEET**

Agenda Item: 5h

Meeting Date: 4/16/12

TITLE: PRESENTATION OF PRELIMINARY RESOLUTION STATING THE INTENT TO UNDERTAKE THE JOHN STREET PROJECT.

DESCRIPTION: Attached.

RELATED GOAL: Financially Responsible Town Government Providing Quality Service

ITEM SUMMARY:

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
2-20-12	Discussion.	PowerPoint presentation.
3-19-12	Discussion.	
4-02-12	Discussion.	Spreadsheet with four options.
4-16-12	Presentation.	Resolution.

**TOWN OF CLAYTON
PRELIMINARY RESOLUTION TO ASSESS
JOHN STREET TOWNHOME SEWER IMPROVEMENTS**

WHEREAS, consistent with Section 51.21 of the Code of Ordinances the Town of Clayton has identified a sanitary sewer collection project that is necessary and beneficial to undertake for the purpose of protecting the public health and property; and,

WHEREAS, the project has been designed and bid for construction, said project to be administered by the Town of Clayton for betterment to the properties served; and,

WHEREAS, the Town Council intends to undertake said project installing approximately 390 linear feet of eight inch sanitary sewer line and related appurtenances; and,

WHEREAS, the Town of Clayton will assess the property owners along the improved area of 608 through 722 John Street 100% of the cost of the material of the sewer improvements based on the number of benefitted properties, currently estimated at \$4,488.94 for each property; and

WHEREAS, assessments shall be done and payable based on an approved finance schedule in accordance with North Carolina General Statutes 160A-229.

NOW, THEREFORE, BE IT RESOLVED, that a public hearing be set by the Town Council of the Town of Clayton on June 4, 2012, at 7:30 PM in the Town Hall in order to hear any and all interested persons with respect to any matter covered by this preliminary assessment resolution.

Duly adopted by the Clayton Town Council this ____ day of May 2012, while in regular session.

ATTEST:

Jody L. McLeod, Mayor

Sherry L. Scoggins, Town Clerk

**TOWN OF CLAYTON
TOWN COUNCIL
AGENDA COVER SHEET**

Agenda Item: 5i

Meeting Date: 4/16/12

TITLE: PRESENTATION OF PROCLAMATION FOR OLDER AMERICANS MONTH.

DESCRIPTION: Attached.

RELATED GOAL: Administrative

ITEM SUMMARY:

Date:

Action:

Info. Provided:

4-16-12

Presentation.

Proclamation.

**TOWN OF CLAYTON
PROCLAIMING MAY 2012 AS OLDER AMERICANS MONTH**

WHEREAS, the Town of Clayton joins the State of North Carolina and the Nation in declaring May as Older Americans Month; and

WHEREAS, this year marks the 47th Anniversary of the passage of the “Older Americans Act” by the United States Congress; and

WHEREAS, America’s aging population reached a turning point in 2006 as one of our nation’s largest generations, the baby boomers, started turning 60 – becoming eligible for programs under the Older Americans Act; and

WHEREAS, May has traditionally been celebrated with tributes to older persons through ceremonies, events, fairs, and other activities at Senior Centers and other locations; and

WHEREAS, older Americans play an instrumental role in defining our communities and their health and well-being benefits us all and makes for a successful and healthy town; and

WHEREAS, in recognition of Older Americans Month, the Town of Clayton and the Community and Senior Services of Johnston County will co-host activities at the Clayton Town Hall on Friday, May 18th, 2012, from 11:00 AM until 1:00 PM, for the young at heart aged 55 and older.

Now, therefore, let it be proclaimed by the Honorable Mayor and Town Council of the Town of Clayton that the month of May is recognized as:

“Older Americans Month”

Let it also be proclaimed that all citizens in the Clayton area are encouraged to join in this celebration.

Duly proclaimed this ____ day of May 2012, while in regular session.

Jody L. McLeod,
Mayor

**TOWN OF CLAYTON
TOWN COUNCIL
AGENDA COVER SHEET**

Agenda Item: 5j

Meeting Date: 4/16/12

**TITLE: PRESENTATION OF PROCLAMATION FOR NATIONAL
PRESERVATION MONTH.**

DESCRIPTION: Attached.

RELATED GOAL: Administrative

ITEM SUMMARY:

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
4-16-12	Presentation.	Proclamation.

**TOWN OF CLAYTON
NATIONAL HISTORIC PRESERVATION MONTH – MAY 2012**

WHEREAS, historic preservation is an effective tool for managing growth and sustainable development, revitalizing neighborhoods, fostering local pride and maintaining community character while enhancing livability; and

WHEREAS, historic preservation is relevant for communities across the nation, both urban and rural, and for Americans of all ages, all walks of life and all ethnic backgrounds; and

WHEREAS, it is important to celebrate the role of history in our lives and the contributions made by dedicated individuals in helping to preserve the tangible aspects of the heritage that has shaped us as a people; and

WHEREAS, "Discover America's Hidden Gems" is the theme for National Historic Preservation Month 2012, and is cosponsored by Clayton Historical Association, The Clayton Downtown Development Association and the National Trust for Historic Preservation.

NOW, THEREFORE, let it be proclaimed by the Honorable Mayor and Town Council of the Town of Clayton that May 2012 is

National Historic Preservation Month

And call upon the residents of Clayton to join their fellow citizens across the United States in recognizing and participating in this special observance.

Duly proclaimed this day of May 2012, while in regular session.

Jody L. McLeod,
Mayor

TOWN OF CLAYTON
TOWN COUNCIL
AGENDA COVER SHEET

Agenda Item: 5k

Meeting Date: 4/16/12

TITLE: PRESENTATION OF PROCLAMATION FOR CLAYTON DERBY DAY
[COUNCIL ACTION IS REQUESTED].

DESCRIPTION: Attached.

RELATED GOAL: Administrative

ITEM SUMMARY:

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
4-16-12	Presentation.	Proclamation.

**TOWN OF CLAYTON
PROCLAIMING MAY 5, 2012, AS CLAYTON DERBY DAY**

WHEREAS, the Kentucky Derby was first held on May 17, 1875; and

WHEREAS, the Kentucky Derby is hosted the first Saturday of May in Churchill Downs and is known as “The Run for the Roses”; and

WHEREAS, the Clayton Rotary Clubs desire to bring the pageantry and tradition of the Derby to Clayton; and

WHEREAS, the Clayton Rotary Clubs will host its first annual Clayton Rotary Derby Day on May 5, 2012, at Portofino; and

WHEREAS, the Clayton Rotary Derby Day will have events staged in the paddocks, arenas, and stable of Portofino and offer riding demonstrations and exhibits; and

WHEREAS, the Clayton Rotary Derby Day will have social events that include a ladies’ hat contest, a fashion show, site-cooked barbecue, mint juleps, and music by Central Park Band; and

WHEREAS, the Clayton Rotary Clubs desire is for the Derby Day to become its signature annual fundraising event and to become a major equine event; and

WHEREAS, the motto for the Rotary’s is ‘Service Above Self;’ and

WHEREAS, funds raised during the Clayton Rotary Derby Days will assist in the efforts of awarding scholarships for graduating high school seniors, program to empower US military veterans, and safe water for the Ryan Epps Orphanage and surrounding neighborhoods in Haiti; and

WHEREAS, the Clayton Town Council established as a goal “Expand Leisure Opportunities”, which is in keeping with the Clayton motto as the “Premier Community for Active Families.”

NOW, THEREFORE, the Honorable Mayor and Clayton Town Council do hereby proclaim Saturday, May 5, 2012, as “**Clayton Rotary Derby Day**” and urge citizens to participate in and support the Clayton Rotary Clubs and the Clayton Rotary Derby Day.

Duly proclaimed this 16th day of April 2012, while in regular session.

Jody L. Melrod,
Mayor

TOWN OF CLAYTON
TOWN COUNCIL
AGENDA COVER SHEET

Agenda Item: 5I

Meeting Date: 4/16/12

TITLE: PRESENTATION OF PROCLAMATION FOR MUNICIPAL CLERK WEEK [**COUNCIL ACTION IS REQUESTED**].

DESCRIPTION: Attached.

RELATED GOAL: Administrative

ITEM SUMMARY:

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
4-16-12	Presentation.	Proclamation.

TOWN OF CLAYTON
PROCLAMATION - MUNICIPAL CLERKS WEEK

WHEREAS, The Office of the Municipal Clerk, a time honored and vital part of local government exists throughout the world; and

WHEREAS, The Office of the Municipal Clerk is the oldest among public servants; and

WHEREAS, The Office of the Municipal Clerk provides the professional link between the citizens, the local governing bodies and agencies of government at other levels; and

WHEREAS, Municipal Clerks have pledged to be ever mindful of their neutrality and impartiality, rendering equal service to all; and

WHEREAS, Municipal Clerks serve as the information center on functions of local government and community; and

WHEREAS, Municipal Clerks continually strive to improve the administration of the affairs of the Office of the Municipal Clerk through participation in education programs, seminars, workshops and the annual meetings of their state, province and international professional organizations; and

WHEREAS, It is most appreciated that we recognize the accomplishments of the Office of the Municipal Clerk.

***NOW, THEREFORE,** the Town Council of the Town of Clayton, does recognize the week of April 29, 2012, through May 5, 2012, as **Municipal Clerks Week**, and further extends appreciation to our Municipal Clerk, Sherry L. Scoggins, and to all Municipal Clerks for the vital services they perform and their exemplary dedication to the communities they represent.*

Witness my hand and seal of the Town of Clayton this 16th day of April 2012.

Jody L. McLeod, Mayor

**TOWN OF CLAYTON
TOWN COUNCIL
AGENDA COVER SHEET**

Agenda Item: 7a

Meeting Date: 4/16/12

TITLE: DISCUSSION OF REVISED LETTER OF AGREEMENT FOR MITCHINER HILLS SUBDIVISION.

DESCRIPTION: Attached.

RELATED GOAL: Manage Growth Producing Quality Developments

ITEM SUMMARY:

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
4-16-12	Discussion.	Excerpt of 1/3/2011 Council Minutes, Copy of letter of Agreement, and email From developer.

Town Manager Biggs stated affirmative. He stated a corridor overlay district would be established in which the setbacks would be established.

Mayor Pro Tem Grannis questioned if the one individual has an exception, would that allow exceptions for others.

Town Manager Biggs stated he would not propose an exception for one individual. He added his proposal is to define criteria that would be dimensional. He stated that if the property is within the criteria then that would be the standard to meet. He added much of the area along the corridor has existing vegetation. He added the Council may determine the types of plantings.

Councilman Lawter stated he likes the approach of looking at existing land use and size of property to consider the setbacks. He stated for building heights, he would like additional consideration of setback for proposed buildings wanting to exceed the maximum height.

Councilman Harding questioned if a future intersection is added to the US Business 70 Corridor if the same standards apply.

Town Manager Biggs suggested limiting to full service interchanges.

Town Manager Biggs stated what he hears from the Council is the Council is willing to look at preserving a 100 foot setback along the corridor with the exceptions at the interchanges and along a yet to be defined subdivided lot frontage. He clarified the yet to be defined will be by the incoming planning director.

It was the consensus of the Council to continue with the US 70 Corridor Study.

ITEM 6. OLD BUSINESS

No Old Business was presented to the Council.

ITEM 7. NEW BUSINESS

Item 7a. Letter of agreement between the Town of Clayton and owners of Mitchiner Hills Subdivision.

Town Manager Biggs stated this is a similar situation as the Summerlyn Subdivision. He stated Mitchiner Hills Subdivision is currently under a stop order for issuance of permits. He stated the proposal is for a letter of agreement similar to the Summerlyn Subdivision in order to move beyond the impasse. He stated there is substantial investment in public infrastructure that exists that is underutilized and deteriorating through lack of use. He stated the proposal outlined in the agenda packet, herewith attached, are the terms of the

agreement with the owner/developer of that project. He added the circumstances for Mitchiner Hills Subdivision are different than those in Summerlyn Subdivision in that Mitchiner Hills Subdivision is not in receivership nor has it been foreclosed upon. He added the original owner of the project continues to be the owner. He stated the history of the project included enforcement action at the federal level for land and water quality violations. He stated the Town received notification from that agency that the violations have been satisfactorily addressed. He stated the condition is the owner would post a surety with the Town that would guarantee improvements and payment on a lot basis a reimbursement of improvements or infrastructure installed and maintained. He stated the concepts outlined would allow the project to go forward. He stated if the requirements are met, the Town's position would become enhanced.

Based upon question by Council, Town Manager Biggs stated less than \$5,000 remains from the original \$38,000 security. He added emergency storm drainage work was done using Town funds and the developer was invoiced.

Councilman Satterfield stated he would like to see a timeline on the \$500 for each lot.

Town Manager Biggs stated for the \$500 per lot received will be for lot deposit and later returned to the developer. He stated the Town required \$38,000 for electric lot deposit as the developer wanted to install the infrastructure at one time. He stated it was not foreseen that it would not build out in a timely fashion and the Town not realize a return on its investment. He stated in exchange for installation of the electric infrastructure at one time, the Town required \$38,000 for electric lot deposit. He stated a majority of the \$38,000 was used to finish the asphalt in phase one. He stated the \$500 payment on the building permit is a reposting of the electric lot deposit and then when the project is built out it would be returned to the developer.

Based upon question by Council, Town Manager Biggs stated September 30 is recommended as it allows the developer to get through the paving season. He stated if it is not completed, the Town would have enough time to lay the asphalt through accessing of the developer's surety.

Town Manager Biggs stated he is seeking authorization to go forward with the formulation of letter with the developer.

Councilman Holder motioned authorizing letter implementing the letter of agreement; Mayor Pro Tem Grannis seconded the motion. Motion carried unanimously at 8:05 PM.

ITEM 8. STAFF REPORTS

Steve Biggs, Town Manager
Town of Clayton
PO Box 879
Clayton, North Carolina 27528-0879
Office: (919) 553-5002
Fax: (919) 553-8919

VIA EMAIL AND CERTIFIED U.S. MAIL

James McLamb
Managing Member
BBS Builders & Development of N.C., LLC
4367 US 301 North
Dunn, North Carolina 28334

RE: DEVELOPMENT OF MITCHINER HILLS SUBDIVISION

Dear James:

This letter agreement ("Letter Agreement") sets forth the terms of the agreement between the Town of Clayton, a North Carolina municipal corporation ("Town"), and BBS Builders & Development of N.C., LLC, a North Carolina limited liability company ("BBS"), regarding the development of certain real property located in Clayton, North Carolina, more particularly described in Exhibit A of this Letter Agreement, and commonly known as the Mitchiner Hills subdivision ("Subdivision").

BBS desires to develop the property within the Subdivision and construct residential homes thereon for sale to third party home buyers. BBS has requested the Town to release its stop order on new construction building permits for residential lots within the Subdivision ("Stop Order"). The Town has agreed to this request, provided BBS meets certain conditions described below to ensure the Subdivision is properly developed and the Town is reimbursed for all expenses the Town has incurred from improving the real property within the Subdivision.

In consideration of the mutual promises contained in this Letter Agreement and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree to the following terms and conditions:

1. BBS shall complete the development the Subdivision pursuant to existing site plans, recorded plats, zoning approvals, development agreements, and other Town ordinances and requirements on or before September 30, 2011. As part of this obligation, BBS shall apply a finished layer of asphalt on all streets within the Subdivision on or before September 30, 2011.

2. BBS shall engage a licensed professional engineer to create as-built construction drawings of the entire Subdivision after BBS completes its development of the Subdivision pursuant to Paragraph 1 of this Letter Agreement. BBS shall provide the construction drawings, certified by the licensed professional engineer, to the Town on or before November 15, 2011. The as-built construction drawings are subject to review and final approval as acceptable by the Town.

3. BBS shall comply with all state and federal land and water quality laws, permits, and regulations and maintain all stormwater facilities located within the Subdivision ("Stormwater Facilities") in good, working order, in accordance with such laws, permits, and regulations. BBS may convey the Stormwater Facilities, and assign its maintenance obligations with respect to the Stormwater Facilities, to an adequately funded homeowner's association, provided the association is established pursuant to a

declaration of restrictive covenants that: (a) encumbers all residential lots in the Subdivision; (b) complies with all applicable laws and regulations; (c) is approved by the Town; and (d) is properly recorded in the Johnston County Register of Deeds. BBS shall, upon execution of this Letter Agreement provide to the Town all available documentation regarding compliance standing with applicable regulatory agencies.

4. BBS shall purchase all customary building permits and pay all applicable fees for each of the residential lots that BBS creates in the Subdivision, including capacity fees, recreation impact fees, and nutrient offset fees. The amount of such fees shall be determined by the Town's Schedule of Fees and Charges, as it may be amended or modified in the Town's sole discretion.

5. BBS acknowledges and agrees that the Town has incurred \$5,873.69 for emergency storm drainage and erosion repairs within the Subdivision and \$31,374.25 for installation of a finished layer of asphalt on certain streets within the Subdivision. BBS shall reimburse the Town for such expenses as follows:

- (a) BBS shall make a reimbursement payment to the Town in the amount of \$500.00 for each building permit that BBS requests the Town to issue. The Town shall not be required to issue any building permit until it receives a reimbursement payment pursuant to this Paragraph 5(a).
- (b) After building permits have been issued for all residential lots within the Subdivision, the Town shall apply the electric lot deposits made to the Town by BBS against the expenses to the extent they have not been reimbursed by BBS pursuant to Paragraph 5(a). The Town shall return the remaining amount of the electric lot deposits (if any) to BBS within ten (10) business days after making such offset.

6. BBS shall post a surety bond in favor of the Town in an amount not less than \$125,000.00 within ten (10) business days after the execution of this Letter Agreement by both parties. The surety bond shall be approved by the Town in its sole discretion and shall secure the performance and satisfaction by BBS of the development, as-built construction drawings, stormwater facilities, reimbursement for costs to the Town, and other obligations of BBS under this Letter Agreement ("Obligations"). The Town shall be permitted to draw on the bond and complete the Obligations if any portion of the real property within the Subdivision owned by BBS comes into receivership or becomes subject to foreclosure.

7. The Town agrees to release the Stop Order upon receiving a surety bond that complies with Paragraph 6 of this Letter Agreement. Notwithstanding the foregoing, the Town shall not be obligated to issue any building permits pursuant to this Paragraph 7 unless the applications for such permits, and BBS's development of the Subdivision, otherwise comply with all applicable laws, regulations, and ordinances.

8. BBS shall promptly inform the Town if any portion of the real property within the Subdivision is conveyed to a third party, except for residential lots sold to third party home buyers. BBS shall also provide the Town with the contract information of the transferee and provide a copy of this Letter Agreement to the transferee.

If this Letter Agreement accurately sets forth our understanding regarding the foregoing, please indicate so by signing and returning an original of this Letter Agreement to my attention.

TOWN:

TOWN OF CLAYTON,
a North Carolina municipal corporation

By: _____ (SEAL)

Print Name: _____

Steve Biggs

From: RADurham1@aol.com
Sent: Thursday, February 02, 2012 11:06 AM
To: Steve Biggs
Subject: Proposal on Mitchiner Hills

Steve,

Per your request, following is the proposal regarding the paving situation over at Mitchiner Hills.

1. As discussed, I have gotten two more apples to apples quotes on the paving. Johnson Brothers out of Lillington came in at \$81,200.00 and Chris Daniels came in at \$83,400.00. Both are significantly less than the \$99,000.00 Fred Smith Company quoted. All firms are competent and capable and insured.
2. Mr. Levinson had budgeted \$55,000.00 in funds for paving Phase 2 based off of a prior quote from Johnson Brothers I had received last year. The extra cost is coming in the form of extra patch work and curb and gutter repair being requested by the town. Of course, we wish to please the town so that the permit hold can be released.
3. My dilemma is that our prospective buyers, who are friends of Mr. Levinson's son, do not want to proceed with purchasing the subdivision until the permit hold is released, so that they can immediately begin construction of houses upon closing. As you can see, I am caught in a catch 22 here. The town wants all money for paving prior to work being performed, Mr Levinson only has \$55,000.00 budgeted, and the buyers want to have permit hold released before closing.
4. My proposal here is one that I think that the town and Mr. Levinson can both live with and allow us to get Mitchiner Hills back under construction, the roads paved, and the town to receive increased tax and utility revenue. It is as follows: We propose to forward to the town a check for \$55,000.00 immediately upon signing an agreement that releases the permit hold. A check for the remaining \$26,000.00 will be paid out of closing to the Town of Clayton. Should the closing not occur prior to the town determining paving should commence, then BBS Builders/Mr. Levinson will provide a check for the \$26,000.00 prior to paving operations. Mr. Levinson has already spent over \$500,000 of his own money in helping to save this subdivision. There is no chance that he will not spend \$26,000.00 more if the closing does not occur prior to paving in order to get the permits released.
5. In regards to any other miscellaneous work that may be requested within the subdivision by the town during the completion of the subdivision, it appears that I will be constructing the remaining houses at this time. In comparison with the work that I had to do in getting the Department of Environmental Health and Natural Resources and the EPA happy at the end of 2010, performing a straight forward punchlist from the town would almost be enjoyable, considering that I would be getting paid to do it. The DEHNR miracle was performed with me knowing I would not be compensated until some unknown later time.

I hope that I have been able to explain what we talked about the other day correctly above. Mr. Levinson and I have done everything humanly possible to help get this process to this point and greatly appreciate your advise and help along the way. It is my sincere hope that we can enact the proposal outlined above and get Mitchiner Hills back under construction. I will be more than willing to meet with anyone you need me to in order to get this proposal approved. Once again, thank you for all you do for the Town of Clayton.

Sincerely,

Randell Durham
919-422-7349

TOWN OF CLAYTON
TOWN COUNCIL
AGENDA COVER SHEET

Agenda Item: 8a

Meeting Date: 4/02/12

TITLE: EVIDENTIARY HEARING FOR PLANNED DEVELOPMENT DISTRICT PDD 2012-05 FOR EAST VILLAGE OF CLAYTON LOCATED ON EAST FRONT STREET BETWEEN OLD NC HWY 42 EAST AND CENTER STREET. AT THE REQUEST OF THE APPLICANT, THIS ITEM WAS CONTINUE FROM THE APRIL 2, 2012, COUNCIL MEETING.

DESCRIPTION: The applicant is requesting approval for planned development district request PDD-R 2012-05 and modification to the subdivision plan. The modification increases the size of the PDD and changes the proposed mix of uses (adding apartments), phasing lines, and lot configuration. At its February 27, 2012, Planning Board meeting, the Planning Board unanimously recommended of the planned development district and subdivision plan as presented with the conditions recommended by staff.

HISTORY for East Village of Clayton:

- Hearing for PDD-R on March 3, 2008; DB 3539, Pg 176-182; and
- Hearing for subdivision approval of SUB 06-04 held on July 17, 2006; and
- Hearing for subdivision approval of SUB 05-02 held on May 2, 2005.

RELATED GOAL: Manage Growth Producing Quality Developments

ITEM SUMMARY:

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
3-19-12	Presentation.	Application, Neighborhood Meeting minutes, staff report, Waste water allocation Request, map, & master plan.
4-02-12	Evidentiary Hearing.	Procedures, application, Neighborhood meeting Minutes, staff report, waste Water allocation request, Map, master plan and Preliminary subdivision plan, And motion form.
4-16-12	Ev. Hearing Con'd.	Same as 4-2-12 packet.

**TOWN OF CLAYTON
TOWN COUNCIL
AGENDA COVER SHEET**

Agenda Item: 9c

Meeting Date: 4/16/12

TITLE: TOWN CLERK

DESCRIPTION: Calendar of Events:

- Clayton Farm & Community Market [Season Opens] – Saturday, April 14, 2012 at the Town Square from 9 AM to 12 noon
- Council Mtg – Monday, April 16, 2012 @ 7:30 PM
- Board of Adjustment Mtg – Wednesday, April 18, 2012 @ 6 PM
- Planning Board Mtg – Monday, April 23, 2012
- Johnston County Household Hazardous Waste Disposal Day – Saturday, April 28, 2012, from 8 AM to 1 PM at the Johnston County Livestock Arena – 502 County Home Road in Smithfield
- Heart Chase (American Heart Association Event) – April 28, 2012, at Horne Square and Town Square
- Clayton Derby Day – Saturday, May 5, 2012 from 2 PM to 7 PM at Portofino on NC 42 HWY East at Motorcycle Road
- Council Mtg – Monday, May 7, 2012 @ 7:30 PM
- 29th Annual Clayton Road Race – Saturday, May 12, 2012 at 9 AM at the Clayton Center
- Clayton Chamber of Commerce 2012 Clayton Business & Community Expo – Tuesday, May 15, 2012, from 3 PM to 7 PM, at the Clayton Center
- Ethics Live Webinar for Elected Officials – Wednesday, May 16, 2012 from 10 AM to 12 Noon, Clayton Center
- Board of Adjustment Mtg – Wednesday, May 16, 2012 @ 6 PM
- Town Square Concert Series: MikeMixEr (Zydeco/High Energy) – Thursday, May 17, 2012, from 7 PM to 9 PM
- Senior Day – Friday, May 18, 2012 from 11 AM to 1 PM at the Clayton Center
- Council Mtg – Monday, May 21, 2012
- Memorial Day Holiday – Monday, May 28, 2012
- Planning Board Mtg – **TUESDAY**, May 29, 2012 @ 7 PM
- Millstock Arts & Musical Festival – Saturday, June 2, 2012, at Horne Square
- Council Mtg – Monday, June 4, 2012 @ 7:30 PM
- Town Hall Day – Wednesday, June 6, 2012
- Council Mtg – Monday, June 18, 2012 @ 7:30 PM
- Board of Adjustment Mtg – Wednesday, June 20, 2012 @ 6 PM
- Town Square Concert Series: Castaways (Beach) – Thursday, June 21, 2012, from 7 PM to 9 PM
- Planning Board Mtg – Monday, June 25, 2012 @ 7 PM
- Independence Day Holiday – Wednesday, July 4, 2012

- Town Square Concert Series: All My Rowdy Friends (country/Hank Jr tribute) – Thursday, July 19, 2012, from 7 PM to 9 PM
- ElectriCities Annual Conference – August 9-11, 2012
- Town Square Concert Series: Suicide Blonde (80's cover) – Thursday, August 16, 2012, from 7 PM to 9 PM
- Town Square Concert Series: Nantucket (rock) – Saturday, September 15, 2012, from 7 PM to 9 PM
- NCLM Annual Conference hosted in Charlotte – October 21-23, 2012

Date:
4-16-12

Action:
N/A

Info. Provided:
Calendar of Events