

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

JUNE 04, 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. SCOGGINS, TOWN CLERK
BRUCE THOMPSON II, TOWN ATTORNEY**

AGENDA
THE REGULAR MEETING OF THE CLAYTON TOWN COUNCIL

MONDAY, JUNE 4, 2012
6:30 PM

THE CLAYTON CENTER
COUNCIL CHAMBERS

1. CALL TO ORDER

Pledge of Allegiance
Invocation – Mayor Jody L. McLeod

2. ADJUSTMENT OF THE AGENDA

3. CONSENT AGENDA

(Items on the consent agenda are considered routine in nature or have been thoroughly discussed at previous meetings. Any member of the Council may request to have an item removed from the consent agenda for further discussion.)

- a. Draft minutes from the May 7, 2012, closed session meeting.
- b. Budget ordinance amendment.

4. INTRODUCTIONS AND SPECIAL PRESENTATIONS

5. PUBLIC HEARINGS

- a. Public hearing on the fiscal year 2012-2013 budget.
- b. Public hearing for the preliminary assessment for proposed sewer improvements on John Street.
- c. Public hearing for annexation petition 2012-04-01 submitted by Amelia Station LLC for properties located off of NC 42 HWY West between Amelia Church Road and Short Johnson Road.
- d. Public hearing to consider installment purchase contract to finance rolling stock (vehicles).
- e. Evidentiary hearing for PDD-MU 2012-30 located on NC 42 HWY West between Amelia Church Road and Short Johnson Road.
- f. Evidentiary hearing for PDD-C 2012-32 located on the southwest corner of US 70 HWY Business and Shotwell Road within the Town limits.

6. OLD BUSINESS

- a. Revised letter of agreement for Mitchiner Hills Subdivision.
- b. Discussion of noise ordinance [**TRACKING** – no action requested].

7. **NEW BUSINESS**
8. **STAFF REPORTS**
 - a. **Town Manager**
 - b. **Town Attorney**
 - c. **Town Clerk**
 - **Calendar of Events**
 - d. **Other Staff**
9. **OTHER BUSINESS**
 - a. **Informal Discussion & Public Comment.**
 - b. **Council Comments.**
10. **ADJOURNMENT**

TOWN OF CLAYTON
TOWN COUNCIL
AGENDA COVER SHEET

Agenda Item: 3a

Meeting Date: 6/04/12

TITLE: DRAFT MINUTES FROM THE MAY 7, 2012, CLOSED SESSION MEETING.

DESCRIPTION: Attached.

RELATED GOAL: Administrative

ITEM SUMMARY:

Date:

Action:

Info. Provided:

6-04-12

Approval.

*****DRAFT minutes from
The 5/7/2012, closed
Session will be hand-
Delivered.***

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

Agenda Item: 3b

Meeting Date: 6/04/12

TITLE: BUDGET ORDINANCE AMENDMENT.

DESCRIPTION: The budget ordinance amendment is requested to reflect the funds budgeted for employee bonuses to the appropriate functional departmental budgets.

RELATED GOAL: Financially Responsible Town Government Providing Quality Service

ITEM SUMMARY:

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
5-21-12	Presentation.	Budget Ordinance Amendment.
6-04-12	Approval.	Budget Ordinance Amendment.

Town of Clayton Amendment to the FY 11-12 Budget

BE IT HEREBY ADOPTED BY THE TOWN COUNCIL FOR THE TOWN OF CLAYTON that the following amendments shall be made to the FY 11-12 Budget:

Fund: General

Expenditure Account	Account Description	Original Appropriation	Adjustment	Revised Appropriation
100-40-00-55 00	Special Appropriation: Salary Reserve	134,017	(124,446)	9,571
100-40-02-50 00	Salaries: Full Time	330,705	7,081.00	337,786
100-40-04-50 00	Salaries: Full Time	107,353	2,393.00	109,746
100-41-02-50 00	Salaries: Full Time	160,241	3,571.00	163,812
100-41-05-50 00	Salaries: Full Time	36,964	822.00	37,786
100-41-10-50 00	Salaries: Full Time	52,282	1,163.00	53,445
100-41-11-50 00	Salaries: Full Time	199,156	4,435.00	203,591
100-41-12-50 00	Salaries: Full Time	86,186	1,917.00	88,103
100-42-02-50 00	Salaries: Full Time	117,260	1,873.00	119,133
100-42-15-50 00	Salaries: Full Time	57,222	2,015.00	59,237
100-42-16-50 00	Salaries: Full Time	41,151	915.00	42,066
100-42-17-50 00	Salaries: Full Time	55,261	1,229.00	56,490
100-42-20-50 00	Salaries: Full Time	231,052	5,140.00	236,192
100-50-02-50 00	Salaries: Full Time	192,566	4,004.00	196,570
100-50-30-50 00	Salaries: Full Time	398,961	7,711.00	406,672
100-50-31-50 00	Salaries: Full Time	1,101,438	24,202.00	1,125,640
100-50-32-50 00	Salaries: Full Time	508,041	11,273.00	519,314
100-52-02-50 00	Salaries: Full Time	288,126	6,417.00	294,543
100-52-40-50 00	Salaries: Full Time	260,657	5,820.00	266,477
100-55-02-50 00	Salaries: Full Time	220,471	4,182.00	224,653
100-55-51-50 00	Salaries: Full Time	154,444	3,441.00	157,885
100-55-52-50 00	Salaries: Full Time	212,588	3,937.00	216,525
100-55-53-50 00	Salaries: Full Time	128,090	2,849.00	130,939
100-55-55-50 00	Salaries: Full Time	230,026	3,511.00	233,537
100-60-02-50 00	Salaries: Full Time	179,255	3,994.00	183,249
100-60-70-50 00	Salaries: Full Time	47,231	1,051.00	48,282
100-60-73-50 00	Salaries: Full Time	40,754	907.00	41,661
100-60-74-50 00	Salaries: Full Time	64,196	777.00	64,973
100-65-02-50 00	Salaries: Full Time	182,177	3,162.00	185,339
100-68-02-50 00	Salaries: Full Time	208,991	4,654.00	213,645

Fund: Water/Sewer

Expenditure Account	Account Description	Original Appropriation	Adjustment	Revised Appropriation
300-56-00-55 00	Special Appropriation: Salary Reserve	14,699	(14,410)	289
300-56-60-50 00	Salaries: Full Time	251,212	5,330	256,542
300-56-61-50 00	Salaries: Full Time	154,725	3,492	158,217
300-56-63-50 00	Salaries: Full Time	249,929	5,588	255,517

Fund: Electric

Expenditure Account	Account Description	Original Appropriation	Adjustment	Revised Appropriation
310-57-00-55 00	Special Appropriation: Salary Reserve	12,408	(10,677)	1,731
310-57-02-50 00	Salaries: Full Time	154,321	1,386	155,707
310-57-65-50 00	Salaries: Full Time	396,125	9,291	405,416

-Explanation: Amendment needed to distribute the funds budgeted for employee bonuses to the appropriate functional departmental budgets.

Duly adopted this 4th day of June 2012, while in regular session.

Jody L. McLeod
Mayor

Attest:

Sherry L. Scoggins, MMC
Town Clerk

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

Agenda Item: 5a

Meeting Date: 6/04/12

TITLE: PUBLIC HEARING ON THE FISCAL YEAR 2012-2013 BUDGET.

DESCRIPTION: Public notice in accordance with NC GS 159-12 (b).

This item is slated for public hearing on Monday, June 4, 2012, at 6:30 PM.

RELATED GOAL: Administrative

ITEM SUMMARY:

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
5-21-12	Public notice.	N/A.
6-04-12	Public hearing.	N/A.

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

Agenda Item: 5b

Meeting Date: 6/04/12

TITLE: PUBLIC HEARING FOR PRELIMINARY ASSESSMENT FOR PROPOSED SEWER IMPROVEMENTS ON JOHN STREET.

DESCRIPTION: Public notice in accordance with NC GS 160A-224.

This item is slated for public hearing on Monday, June 4, 2012, at 6:30 PM.

Letters were mailed to the 16 property owners on May 16, 2012.

Public notice ran in the Clayton News-Star May 20 and May 23.

RELATED GOAL: Administrative

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.	Preliminary Resolution.
5-07-12	Approval.	Preliminary Resolution.
5-21-12	Public notice.	N/A.
6-04-12	Public hearing.	Resolution.

**TOWN OF CLAYTON
ASSESSMENT RESOLUTION
JOHN STREET 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.

WHEREAS, the owners of assessed property shall have the option within 30 days after the publication of the notice that the assessment roll has been confirmed to pay the assessment either in cash or installments; and

WHEREAS, the terms for installment payment of assessment shall be that the first installment with interest (two percent per annum) to property owners who granted an easement shall become due and payable sixty days after the date that the assessment roll is confirmed and one subsequent installment and interest shall be due and payable on the same day of the month in each successive year (not to exceed six years) until the assessment is paid; and

WHEREAS, the terms for installment payment of assessment shall be that the first installment with interest (six percent per annum) to property owners who did not grant an easement shall become due and payable sixty days after the date that the assessment roll is confirmed and one subsequent installment and interest shall be due and payable on the same day of the month in each successive year (not to exceed six years) until the assessment is paid; and

WHEREAS, a public hearing as required by North Carolina General Statutes 160A-225 was held on June 4, 2012.

NOW, THEREFORE, BE IT RESOLVED that the Town Council directs that the above-referenced project be undertaken.

Duly adopted by the Clayton Town Council this 4th day of June 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: 5c

Meeting Date: 6/04/12

TITLE: PUBLIC HEARING FOR ANNEXATION PETITION 2012-04-01 FOR AMELIA STATION LLC.

DESCRIPTION: Public notice in accordance with NC GS 160A-31 (c).

This item is slated for public hearing on Monday, June 4, 2012, at 6:30 PM.

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

At its April 16, 2012, Council meeting, it was the consensus of the Council to place this item on the consent agenda.

RELATED GOAL: Administrative

ITEM SUMMARY:

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
4-16-12	Presentation.	Resolution & Map.
5-07-12	Approval.	Resolution & Map.
5-21-12	Public Notice.	Certificate of Sufficiency, Resolution & Map.
6-04-12	Public Hearing.	Ordinance & Map.

Ordinance Number:

**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**

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

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

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

WHEREAS, the Town Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at Town Hall at 6:30 PM on June 4, 2012, after due notice by publication on May 23, 2012; and

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

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

Section 1. By virtue of the authority granted by G.S. 160A-31, the following described territory is hereby annexed and made part of the Town of Clayton as of June 30, 2012:

Area One: Parcel number 05G03007F; .98 acres contiguous; located off of NC HWY 42 West between Amelia Church Road and Short Johnson Road; described in Deed Book 4086, Page 640 as recorded at the Johnston County Register of Deeds:

BEING Lot 1 according to a plat entitled "Property of Wallace D. Aiken" prepared by W. Stanton Massengill, RLS, dated 1/20/95 and recorded in Plat Book 113, Johnston County Registry, said lot containing 1.00 acre, more or less. (Note: The foregoing description was copied from the deed recorded in the Johnston County, North Carolina Registry in Book 1429, Page 431.)

Area Two: Parcel number 05G03007E; 1.01 acres contiguous; located off of NC HWY 42 West between Amelia Church Road and Short Johnson Road; described in Deed Book 4086, Page 637 as recorded at the Johnston County Register of Deeds:

BEING Lot no. 2 according to a plat entitled "Property of Wallace D. Aiken" prepared by W. Stanton Massengill, RLS, dated 1/20/95 and recorded in Plat Book 44, Page 113, Johnston County Registry, said lot containing 1.00 acre more or less. (Note: The foregoing description was copied from the deed recorded in the Johnston County, North Carolina Registry in Book 3995, Page 878.)

Area Three: Parcel number 05G03007G; 2.55 acres contiguous; located at 190 Short Johnson Rod off of NC HWY 42 West; described in Deed Book 4098, Page 240 as recorded at the Johnston County Register of Deeds:

LYING AND BEING in Clayton Township, Johnston County, North Carolina, on the south side of Short Johnson Road (State Road 1584), and being more particularly described as follows: All of the property designated as "190 Short Johnson Road", containing 2.545 acres, more or less, as shown and described on a map by W. Stanton Massengill, P.L.S., entitled "Property of James Murphy and wife Gail Murphy", dated September 23, 2002, and recorded in the Johnston County, North Carolina Registry in Book of Maps 61, Page 154, said map being incorporated by reference as if fully set out herein.

Section 2. Upon and after June 30, 2012, the above-described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the Town of Clayton and shall be entitled to the same

privileges and benefits as other parts of the Town of Clayton. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

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

Duly adopted this 4th day of June 2012, while in regular session.

ATTEST:

Jody L. McLeod,
Mayor

Sherry L. Scoggins, MMC
Town Clerk

Brenton W. McConkey,
Town Attorney

**NORTH CAROLINA
JOHNSTON COUNTY**

This ____ day of _____, 2012, personally appeared before me Sherry L. Scoggins, Clerk of the Town of Clayton, who, being duly sworn by me, says that she knows the common seal of the Town of Clayton and is acquainted with Jody L. McLeod, who is the Mayor and presiding member of said municipal corporation; and that she saw the said Mayor sign the foregoing instrument and saw the said common seal of said municipal corporation affixed to said instrument by said Mayor, and that she, the said Sherry L. Scoggins, signed her name in attestation of said instrument in the presence of said Mayor.

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

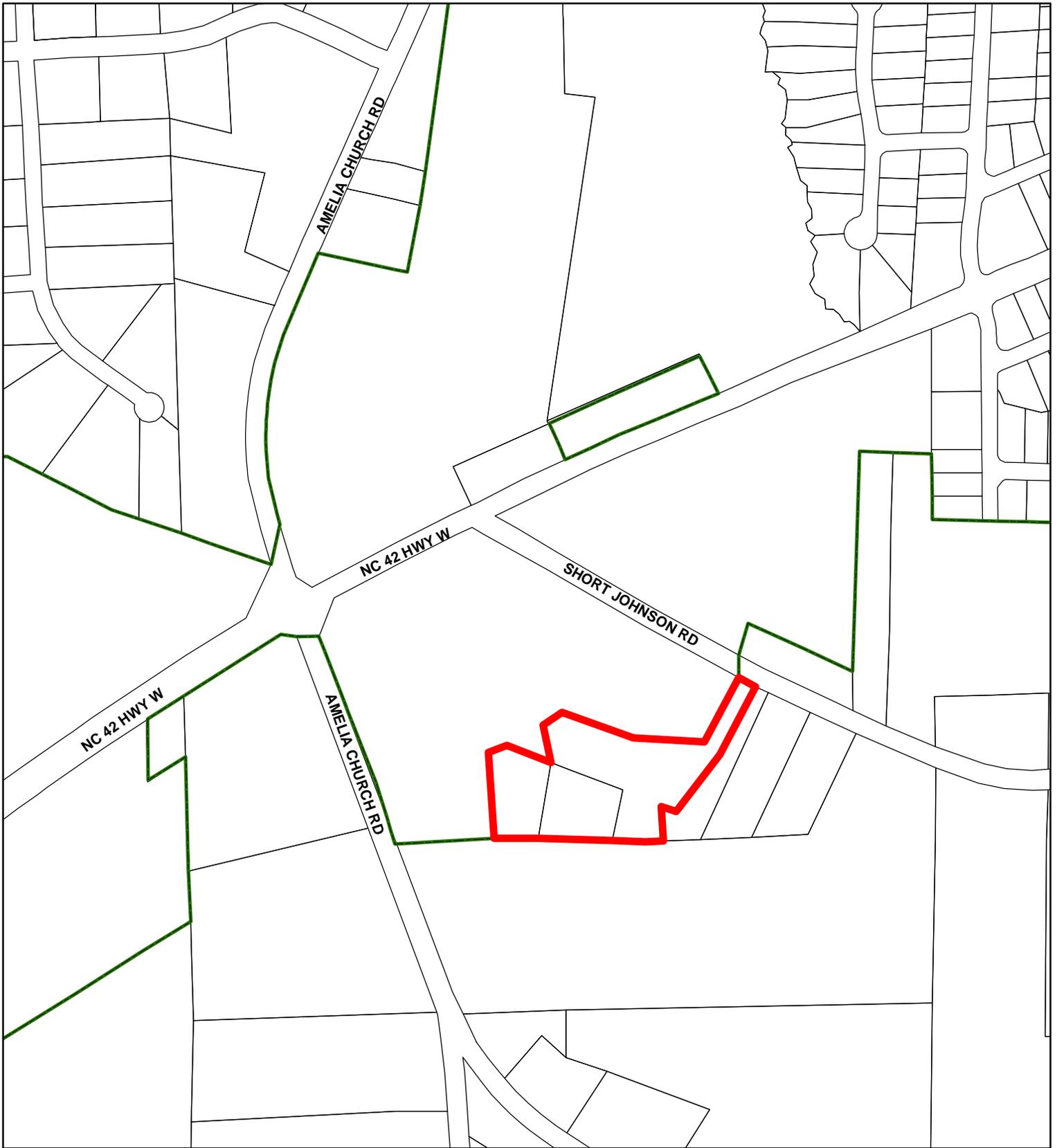
Notary Public - Signature

(SEAL)

Notary Public – Printed Name

Commission Expires: _____

County of Commission: Johnston



Annexation Map

J

Legend

-  Clayton Town Limits
-  Clayton ETJ

Applicant(s): Stewart Engineering
 Property Owner(s): Amelia Station LLC
 Parcel Number(s) 05G03007F, 05G03007E &
 05G03007G
 File Number(s): Annex 2012-04-01



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

Agenda Item: 5d

Meeting Date: 6/04/12

TITLE: PUBLIC HEARING TO CONSIDER INSTALLMENT PURCHASE CONTRACT TO FINANCE ROLLING STOCK (VEHICLES).

DESCRIPTION: Public notice in accordance with NC GS 160A-20 (g).

This item is slated for public hearing on Monday, June 4, 2012, at 6:30 PM.

At its February 20, 2012, Council meeting, Council unanimously approved the rolling stock resolution reimbursement for eight vehicles that were included in this year's budget.

RELATED GOAL: Administrative

ITEM SUMMARY:

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
2-20-12	Approval.	Reimbursement Resolution.
5-21-12	Public notice.	N/A.
6-04-12	Public hearing.	Resolution.

TOWN OF CLAYTON
Resolution Approving Financing Terms

WHEREAS, The Town of Clayton (the "Town") has previously determined to undertake a project for the financing of the purchase of rolling stock, and the Finance Director has now presented a proposal for the financing of such Project,

BE IT THEREFORE RESOLVED, as follows:

1. The Town hereby determines to finance the Project through First Citizens Bank, in accordance with the proposal dated May 8, 2012. The amount financed shall consist of an installment financing contract in an amount not to exceed \$267,000, with an annual interest rate (in the absence of default or change in tax status) of 1.57% and a 3 year term.
2. All financing contracts and all related documents for the closing of the financing (the "Financing Documents") shall be consistent with the foregoing terms. All officers and employees of the Town are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution. The Financing Documents shall include a Financing Agreement and a Project Fund Agreement as First Citizens Bank may request.
3. The Finance Director is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such director's satisfaction. The Finance Director is authorized to approve changes to any Financing Documents previously signed by Town officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Director shall approve, with the Finance Director's release of any Financing Document for delivery constituting conclusive evidence of such director's final approval of the Document's final form.
4. The Town shall not take or omit to take any action the taking or omission of which will cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations. The Town hereby designates its obligations to make principal and interest payments under the Financing Documents as "qualified tax-exempt obligations" for the purpose of Internal Revenue Code Section 265(b)(3).
5. The Town intends that the adoption of this resolution will be a declaration of the Town's official intent to reimburse expenditures for the project that is to be financed from the proceeds of the First Citizens Bank financing described above. The Town intends that funds that have been advanced, or that may be advanced, from the Town's General Fund, or any other Town fund related to

the project, for project costs may be reimbursed from the financing proceeds.

6. All prior actions of Town officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict.

This resolution is effective upon its adoption this 4th day of June 2012, while in regular session.

Jody L. McLeod
Mayor

ATTEST:

Sherry L. Scoggins, MMC
Town Clerk

This is to certify that this is a true and accurate copy of a Resolution, adopted by the Town Council of Clayton on the 4th day of June, 2012.

Sherry L. Scoggins, Town Clerk

Date

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

Agenda Item: 5e

Meeting Date: 6/04/12

TITLE: EVIDENTIARY HEARING FOR PLANNED DEVELOPMENT DISTRICT REQUEST PDD-MU 2012-30 LOCATED ON NC 42 HWY WEST BETWEEN AMELIA CHURCH ROAD AND SHORT JOHNSON ROAD.

DESCRIPTION: The request is for rezoning to Planned Development Mixed Use, Master Plan modification (PD-MU 2012-30) of Amelia Station, Subdivision approval (SUB 2012-31) and Site Plan (SP 2012-35) approval for the Apartments at Amelia Station. This Master Plan modification will supersede previous Master Plan Approval PD-MU 2011-58 for the subject site.

This item was heard by the Planning Board at its Monday, April 23, 2012, meeting. It was the unanimous decision of the Planning Board to recommend approval of the request with the stated conditions of approval listed in the staff report.

HISTORY for Amelia Station:

- PDD-MU 2011-58, Approved 10/3/2011
- PDD –MU 07-03, Approved 11/19/2007 (portion of larger request)

This item is slated for evidentiary hearing on June 4, 2012, at 6:30 PM.

RELATED GOAL: Manage Growth Producing Quality Developments

ITEM SUMMARY:

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
5-21-12	Presentation.	Application (includes Wastewater allocation Request), Staff Report, Zoning & Aerial Maps, & Subdivision Plat.
6-04-12	Evidentiary Hearing.	Hearing Procedures, Application (includes Wastewater allocation Request), Staff Report, Zoning & Aerial Maps, & Subdivision Plat, and Motion form.

**TOWN OF CLAYTON
PLANNED DEVELOPMENT DISTRICTS
(PD-R, PD-C, PD-I, PD-MU)
HEARING PROCEDURES**

1. **HEARING:** The Mayor shall call the hearing and announce the case.
2. **RULES OF PROCEDURE:** The Town Attorney introduces the planned development rezoning procedures and evidentiary hearing procedures. If a protest petition has been received, the Town Attorney will announce if it meets the requirements to invoke the super majority rule; and if applicable, explain the super majority rule. The Town Attorney shall be responsible for keeping all testimony within acceptable legal guidelines.
3. **STAFF REPORT:** The staff shall give its report.
4. **APPLICANT TESTIMONY:** The applicant shall be called to present their case. The applicant is responsible for successfully addressing the following rezoning Master Plan Approval Criteria [155.705(K)]:
 - a. Compliance with 155.203(K) and all other applicable requirements of this chapter;
 - b. Consistency with the Clayton General Design Guidelines;
 - c. Conformance of the proposal with the stated purpose of the requested planned development district;
 - d. Compatibility of the proposed development with the adjacent community;
 - e. The quality of design intended for each component of the project and the ability of the overall development plan to ensure a unified, cohesive environment at full build-out;
 - f. Self-sufficiency of each phase of the overall project;
 - g. Documentation that the proposed infrastructure improvements accommodate the additional impacts caused by the development, or documentation to assure that the development, as proposed, will not overtax the existing public infrastructure systems;
 - h. The fiscal impact of the proposal and the proposed financing of required improvements;
 - i. The success of the proposal in providing adequate pedestrian and bicycle links within the development and with the adjacent community; and
 - j. The effectiveness with which the proposal protects and preserves the ecologically sensitive areas within the development.

In addition, the applicant will also address the required findings of fact for preliminary subdivision approval [155.706(I) (10)]:

1. Consistency with the adopted plans and of policies of the Town.
2. The subdivision meets all required specifications of this chapter.

3. The subdivision will not be detrimental to the use or orderly development of other properties in the surrounding area and will not violate the character of existing standards for development of properties in the surrounding area.
4. The subdivision design will provide for the distribution of traffic in a manner that will avoid or mitigate congestion within the immediate area, will provide for the unified and orderly use of or extension of public infrastructure, and will not materially endanger the environment, public health, safety, or the general welfare.
5. **OPPOSITION TESTIMONY:** Those speaking in opposition to the application shall be called upon to present their case.
6. **APPLICANT REBUTTAL:** The applicant and/or those in support shall be provided an opportunity to rebut the testimony provided by the opposition.
7. **OPPOSITION REBUTTAL:** Those in opposition shall be provided an opportunity to rebut testimony provided by the applicant.
8. **COUNCIL INQUIRY:** The Council may ask questions of the applicant, opposition, or staff at this time. There shall be no time limit except that the Mayor shall be responsible for keeping questions and responses relevant and factual.
9. **DELIBERATION:** The Mayor shall call the Council into deliberation. Once called into deliberation, no person may address the Council and no questions may be asked by Council to the public.
10. **UTILITY ALLOCATION (WHEN APPLICABLE):** In the event of pending action on a utility allocation request related to the case and after deliberation, the Council shall take action on the utility allocation in accordance with related policies and procedures.
11. **REZONING APPROVAL CRITERIA [155.705(J)]:** In connection with its legislative decision on a rezoning request, the Town Council may consider factors including, but not limited to, the following:
 - a. Consistency with the adopted plans and policies of the town;
 - b. Suitability of the subject property for uses permitted by the current versus the proposed district;
 - c. Whether the proposed change tends to improve the balance of uses, or meets a specific demand in the town;
 - d. The capacity of adequate public facilities and services including schools, roads, recreation facilities, wastewater treatment and water supply facilities and storm water drainage facilities for the proposed use;

- e. It has been determined that the legal purposes for which zoning exists are not contravened;
- f. It has been determined that there will be no adverse effect upon adjoining property owners unless such effect can be justified by the overwhelming public good or welfare; and
- g. It has been determined that no one property owner or small group of property owners will benefit materially from the change to the detriment of the general public.

12. ACTION BY TOWN COUNCIL FOR THE REZONING [155.705(I)]:

The Town Council may:

- ↳ Approve the rezoning,
- ↳ Deny the rezoning, or
- ↳ Send the rezoning back to the Planning Director for additional consideration.

Concurrently with adopting, denying, or remanding any rezoning, the Town Council shall:

- ↳ Adopt a statement describing whether its action is consistent with the adopted plans and policies of the Town; and
- ↳ Explain why the Town Council considers the action taken to be reasonable and in the public interest.

13. ACTION BY TOWN COUNCIL FOR THE PRELIMINARY SUBDIVISION FINDINGS FOR DECISION: After deliberation of the evidence has been completed and action on the utility allocation (when applicable) and the rezoning request; each finding shall be discussed in turn and a motion, second and vote shall be made selecting one of the three alternatives for each finding. A majority vote shall prevail.

14. ACTION – APPLICATION: Once all four findings have been decided and based on the results of the evaluation and vote on those findings, the Council shall make a motion and vote to approve or deny the application. Failure of any single criteria to achieve majority approval by the Council shall necessitate a decision against the application. A majority vote for approval for all of the four criteria shall necessitate a decision in favor of the application.



Town of Clayton
 Planning Department
 111 E. Second Street, Clayton, NC 27520
 P.O. Box 879, Clayton, NC 27528
 Phone: 919-553-1545
 Fax: 919-553-1720

PLANNED DEVELOPMENT APPLICATION

Pursuant to Article 7, Section 155.705 of the Unified Development Code, an owner of land within the jurisdiction of the Town (or a duly authorized agent) may petition the Town of Clayton to rezone property to a Planned Development District. Applicants seeking Planned Development approval shall schedule a pre-application conference with the Planning Director in accordance with Section 155.702(A).

Planned Development applications must be accompanied by nine (9) sets of the application, nine (9) sets of required plans, an Owner's Consent Form (attached) and the application fees. The application fees are \$500.00 plus \$5.00 per lot/unit for residential and/or \$5.00 per acre for non-residential uses.

All fees are due when the application is submitted. Please note that Section 155.702(B) of the Unified Development Code requires a Neighborhood Meeting for all Planned Development applications.

APPLICATION REQUEST: New Amended

Planned Development Type:

- Planned Development - Residential Planned Development - Commercial
 Planned Development - Mixed Use Planned Development - Industrial

Justification Statement. Attach to application. Please address the purpose, intent and design objectives of the planned development requested.

SITE INFORMATION:

Development Name: Amelia Station Total Acreage of Development: 19.1+/-
 TAG Number(s) (attach 165801-05-3172, 165801-05-7290
 additional sheet if necessary): 165801-05-4683, 165801-05-5059 Affected Acreage: 19.1+/-
 Location: intersection of Amelia Church Road and NC42
 Overlay District (if applicable): TD-II
 Existing Zoning: PD-MU and RE Proposed Underlying Zoning: PD-MU | B-3
 Number of Lots/Parcels (Existing): 4 (Proposed): 3
 Has the Property been Platted? no-not yet Plat Book/Page: N/A
 Will the Plat be affected by request (Y/N)? N/A If Yes, explain in Justification Statement
 Proposed Use (s): Mixed use project with two commercial outparcels and one 15.45 acre multi-family parcel.

FOR OFFICE USE ONLY

Amount Paid: PDD-MU 2012-30 Date Received: MAR - 1 2012 File Number: \$ 1580.00

OWNER INFORMATION:

Name: Amelia Station, LLC
Mailing Address: 109 Raphael Drive, Cary, NC 27511
Phone Number: 919-522-5626 Fax: 919-678-1261
Email Address: billzahn@bellsouth.net

APPLICANT INFORMATION:

Applicant: Ryan Hambleton, PE - Stewart Engineering
Mailing Address: 421 Fayetteville Street, suite 400, Raleigh, NC 27601
Phone Number: 919-380-8750 Fax: 919-380-8752
Contact Person: Ryan Hambleton
Email Address: rhambleton@stewart-eng.com

MASTER PLAN REQUIREMENTS:

A Master Plan meeting the following criteria must accompany this application. A Master Plan which also meets the requirements of a preliminary subdivision/plat may be approved as the Master Plan for the development and the Preliminary Plat concurrently.

Master Plan Approval Criteria:

- (1) Compliance with § 155.203(K) and all other applicable requirements of the Unified Development Code;
- (2) Consistency with the Clayton General Design Guidelines;
- (3) Conformance of the proposal with the stated purpose of the requested planned development district;
- (4) Compatibility of the proposed development with the adjacent community;
- (5) The quality of design intended for each component of the project and the ability of the overall development plan to ensure a unified, cohesive environment at full build-out;
- (6) Compatible relationships between each component of the overall project;
- (7) Self-sufficiency of each phase of the overall project;
- (8) Documentation that the proposed infrastructure improvements accommodate the additional impacts caused by the development, or documentation to assure that the development, as proposed, will not overtax the existing public infrastructure systems;
- (9) The fiscal impact of the proposal and the proposed financing of required improvements;
- (10) The success of the proposal in providing adequate pedestrian and bicycle links within the development and with the adjacent community; and
- (11) The effectiveness with which the proposal protects and preserves the ecologically sensitive areas within the development.

PLANNED DEVELOPMENT WAIVER REQUESTS:

Waivers to the general development standards specified in the Unified Development Code (UDC) sections 155.400 through 155.405 and subdivision standards specified in UDC sections 155.600 through 155.607 may be granted by Town Council.

Please list Waiver requests: N/A

Code Section	Requirement	Waiver

If you are requesting waivers, please include appropriate justification for the waivers within the required justification statement.

MAJOR SUBDIVISION/PRELIMINARY PLAT (if applicable)

The following items must accompany the Planned Development application when submitting the preliminary subdivision/plat concurrently. The following information is required, except where otherwise noted:

- Required findings (please address the required findings below).
- Required plans (please see the plan requirements checklist below).
- Road Name Approval Application (if applicable).
- A signed and sealed traffic impact analysis (if required). -submitted on 9/1/12
- Verification of wastewater allocation (granted or requested). -request submitted via email on 1/31/12
-see copy attached
- Verification of approval for the potable water and waste water system improvements from North Carolina Department of Environment and Natural Resources (NCDENR).
- Verification of approval for individual well and septic systems from Johnston County Department of Environmental Health Services (if applicable).
- Driveway permits (Town of Clayton or NCDOT encroachment with associated documentation). TIA under review
- A copy of proposed deed restrictions and/or covenants (if applicable).

REQUIRED FINDINGS – MAJOR SUBDIVISIONS/PRELIMINARY PLAT ONLY

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

- (1) That the subdivision meets all required specifications of the town Subdivision Regulations and conforms to the town Unified Development Code.

The proposed subdivision meets the requirements of 155.706 of the Clayton UDO and is in concert with the requirements established in PDD 07-03 and PDD 2011-58. This modification brings in three additional parcels to bring the total acreage to 19.1+/- acres. The three parcels will be: lot 1 (15.45 acres), lot 2 (1.93 acres), and lot 3 (1.43 acres).

- (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.

The subdivision is in concert with the JMH small area plan and conditions established as part of the approval of PDD 07-03 and PDD 2011-58. The Amelia Station project is governed by a common signage plan and master landscape plan (both approved under PDD 2011-58) to provide cohesive signage and landscaping.

- (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.

The subdivision is in accord with the conditions approved as part of PDD 07-03 and PDD 2011-58 as well as the revised TIA currently under review by NCDOT. The subdivision includes extension of water and sanitary sewer from the public system; both will be designed and installed per Town of Clayton and State of North Carolina regulations. A revised wastewater allocation request has been submitted to the Town Manager for approval by Town Council.

- (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.

The subdivision is in accord with conditions approved as part of PDD 07-03 and as modified in PDD 2011-58 and is consistent with both the JMH small area plan as well as the Clayton UDO.

MAJOR SUBVISION/PRELIMINARY PLAT REQUIRMENTS

The following information is required for all preliminary subdivision/plats:

Provided

Yes No N/A

- | | | | |
|-------------------------------------|--------------------------|-------------------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Plans are 18 inches by 24 inches with a scale no smaller than 1 inch = 100 feet. |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Name of subdivision (including phase numbers if applicable) and plan type (Subdivision, Final Plat, Exempt Plat, or Recombination). |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Name of township, county, and state in which the property is located. |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Vicinity sketch. |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Provide project data in tabular form: |
| | | <input checked="" type="checkbox"/> | Area of tract in square feet and acres |
| | | <input checked="" type="checkbox"/> | Owner's name and address |
| | | <input checked="" type="checkbox"/> | Within Town limits or ETJ |
| | | <input checked="" type="checkbox"/> | Zoning of property (and any special conditions if applicable) |
| | | <input checked="" type="checkbox"/> | Number of lots per acre (density) |
| | | <input type="checkbox"/> | Acreage in Resource Conservation Areas (UDC § 155.500) <i>N/A</i> |
| | | <input type="checkbox"/> | Indicate if the site is within a Watershed Protection Overlay <i>N/A</i> |
| | | <input type="checkbox"/> | Annexation number (if applicable) <i>N/A to be annexed</i> |
| | | <input checked="" type="checkbox"/> | FEMA designated flood plain and floodway (including FIRM panel reference number and effective date) or certification that no flood plain exists within the subdivision. |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Surveyor or professional engineer's name, seal, and registration number. |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Date of survey and plat preparation. |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | An accurately positioned north arrow indicating true north, magnetic north, North Carolina grid ("NAD 83" or "NAD 27"), or is referenced to old deed or plat bearings. If the north index is magnetic or referenced to an old deed or plat bearings, the date and the source (if known) the index was originally determined is clearly indicated. |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | The exact course and distance of every boundary line of the tract to be subdivided, fully dimensioned (metes and bounds) along with the location of intersecting boundary lines of adjoining lands in accordance with the North Carolina General Statutes § 47-30 - Plats and subdivisions; mapping requirements. |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | All lot boundaries changed or eliminated by requested combination are indicated by dashed lines. |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Accurate location and description of all monuments, markers and control points. |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Blocks numbered consecutively throughout entire subdivision with lots numbered consecutively in each block. Lot numbers shall be placed in a circle or labeled "Lot ___". |

- The names of adjacent landowners, or lot, block, parcel, subdivision designations or other legal reference where applicable.
- Location and width of all existing and proposed rights-of-way, Resource Conservation Areas, easements and areas dedicated to public use with the purpose of each stated where crossing or forming any boundary line of the property shown. Sight triangles noted where required.
- Location of all existing buildings and structures.
- Minimum building setbacks are noted.
- Location of all existing and proposed utilities (water, sewer, electric, natural gas, etc.).
- Location of all existing and proposed fire hydrants.
- Location of all existing and proposed drainage structures.
- Proposed streets are labeled, named and dimensioned. Street names must be approved by Johnston County. Correct street cross section detail provided.
- Location, purpose and dimensions of areas to be used for purposes other than residential and public.
- Any other information considered by either the applicant or the town to be pertinent to the review.

APPLICANT AFFIDAVIT

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

Ryan Hambleton
Print Name

Ryan Hambleton
Signature of Applicant

2/29/12
Date



Town of Clayton
 Planning Department
 111 E. Second Street, Clayton, NC 27520
 P.O. Box 879, Clayton, NC 27528
 Phone: 919-553-1545
 Fax: 919-553-1720

OWNER'S CONSENT FORM

Name of Project: Amelia Station

Submittal Date: 3/1/12

OWNERS AUTHORIZATION

I hereby give CONSENT to Stewart Engineering (Ryan Hambleton) (type, stamp or print clearly full name of agent) to act on my behalf, to submit or have submitted this application and all required material and documents, and to attend and represent me at all meetings and public hearings pertaining to the application(s) indicated above. Furthermore, I hereby give consent to the party designated above to agree to all terms and conditions which may arise as part of the approval of this application.

I hereby certify I have full knowledge the property I have an ownership interest in the subject of this application. I understand that any false, inaccurate or incomplete information provided by me or my agent will result in the denial, revocation or administrative withdrawal of this application, request, approval or permits. I acknowledge that additional information may be required to process this application. I further consent to the Town of Clayton to publish, copy or reproduce any copyrighted document submitted as a part of this application for any third party. I further agree to all terms and conditions, which may be imposed as part of the approval of this application.

[Signature]
 Signature of Owner

William F Zahr
 Print Name

2/29/12
 Date

CERTIFICATION OF APPLICANT AND/OR PROPERTY OWNER

I hereby certify the statements or information made in any paper or plans submitted herewith are true and correct to the best of my knowledge. I understand this application, related material and all attachments become official records of the Planning Department of the Town of Clayton, North Carolina, and will not be returned.

[Signature]
 Signature of Owner/Applicant

Ryan Hambleton
 Print Name

2/29/12
 Date

FOR OFFICE USE ONLY

Parcel ID Number: _____	Date Received: _____	File Number: _____
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STEWART

Apartments at Amelia Station
Master Plan Modification, Major Site Plan, and Major Subdivision

Planned Development Application – Justification Statement

The initial property assemblage (PIN 165801-05-4683) was rezoned to PD-MU in 2007. A subsequent master plan PD-MU 2011-58 (allowing for a mixture of retail, commercial, and office uses) was approved on October 3, 2011. Since that time an additional three properties (PINs 165801-05-3172, 165801-05-5059, and 165801-05-7290) have been added to the project for a total of 19.11 +/- acres. We are seeking an amendment/modification to PD-MU 2011-58 to show the addition of a multi-family component. The project will now consist of three phases: Phase 1 consists of the Apartments at Amelia Station, Phase 2 is the previously approved Sheetz Convenience Store and Gas Station, and Phase 3 is slated for future commercial/retail/restaurant use.

We believe that the mixture of multi-family residential and commercial/retail/office uses meets the intent of the PD-MU district which is to allow for a mixture of uses able to respond to market demands and the needs of tenants, leading to a variety of physically and functionally integrated land uses.

Master Plan Approval Criteria

1. Compliance with 155.203(K) and all other applicable requirements of the Unified Development Ordinance.
 - The development proposed as part of this Master Plan modification is compatible with the Johnston Memorial Hospital Small Area Plan which has prescribed the pattern of growth within this portion of Clayton.
 - The plan shows ROW dedication along NC 42 and Amelia Church Road.
 - The plan shows compliance with PDD 07-03 and PDD MU 2011-58.
 - A Common Signage Plan and Master Landscape Plan were approved in conjunction with PDD MU 2011-58.
 - Phasing – The Amelia Station project is comprised of three phases. Phase I is the development of the Apartments at Amelia Station project (a 216 unit multi-family project). Phase II contains the previously approved Sheetz Convenience Store and Gas Station (SP 2011-59). Phase III will be developed as a maximum 15,000sf outparcel (to be developed as commercial, retail, office, or restaurant).
 - The project acreage has grown from 14 +/- acres to 19.11 +/- acres with the addition of three adjacent properties.
2. Consistency with the Clayton General Design Guidelines.
 - Each parcel will be subject to site plan review and subject to consistency with the Clayton General Design Guidelines.
 - Buildings will be of quality construction with brick and stacked stone elements with no-metal buildings allowed.
 - The plan shows compliance with the Master Signage and Landscape Plans approved as part of PDD MU 2011-58.



STEWART

3. Conformance of the proposal with the stated purpose of the requested planned development district.
 - The initial property assemblage was rezoned to PD-MU in 2007. The purpose of the PD-MU district is to allow for a mixture of uses that will be able to respond to market demands and the needs of tenants, leading to a variety of physically and functionally integrated land uses.
 - This proposed master plan modification adds a multi-family component to the previously approved commercial/retail scenario. The addition of a multi-family housing component is in accord with the JMH Small Area Plan.
4. Compatibility of the proposed development with the adjacent community.
 - With the exception of the recently completed Johnston Memorial Hospital complex, the surrounding area remains primarily undeveloped with the sporadic single-family residence.
 - The proposed mixture of uses is in keeping with the JMH Small Area Plan.
5. The quality of design intended for each component of the project and the ability of the overall development plan to ensure a unified, cohesive environment at full build-out.
 - Each parcel/phase will be subject to consistency with the Clayton General Design Guidelines when submitted for review.
 - The Sheetz Convenience Store and Gas Station (depicted as Phase II) was approved by Town Council as SP 2011-59.
 - Buildings will be of quality construction with brick and stacked stone elements with no-metal buildings allowed.
 - The plan shows compliance with the Master Signage and Landscape Plans approved as part of PDD MU 2011-58.
6. Compatible relationships between each component of the overall project.
 - Each parcel/phase will be subject to consistency with the Clayton General Design Guidelines when submitted for review.
 - The proposed uses will provide a multi-family housing and a mixture of retail/commercial services to the adjacent neighborhoods, Town of Clayton residents, as well as the motoring public that travels NC 42 and Amelia Church Road.
7. Self-sufficiency of each phase of the overall project.
 - Each phase of the project will be designed to meet code requirements.
 - Stormwater will be handled through an on-site stormwater facility.
 - All required infrastructure for the entirety of the Amelia Station will be installed as part of the Apartments at Amelia Station project (Phase I).
8. Documentation that the proposed infrastructure improvements accommodate the additional impacts caused by the development, or documentation to assure that the development, as proposed, will not overtax the existing public infrastructure systems.
 - Sewer – Provided gravity sewer from the Johnston Memorial Hospital pump station off of NC 42. Gravity sewer will be designed, permitted, and installed along NC 42 to the property.
 - Water – Connection off of Johnston County 12-inch water line which runs along NC 42.
 - Roadway – A TIA has been completed for the project. Roadway improvements will be according to NCDOT requirements along NC 42, Amelia Church Road, and Short Johnson Road.



STEWART

- Wastewater Allocation – A revised Wastewater Allocation request was submitted to the Town Manager on January 31, 2012. The original wastewater allocation approved 13,550 gpd to the development. The revised request totals 65,560 gpd.
9. The fiscal impact of the proposal and the proposed financing of required improvements.
 - It is anticipated that the fiscal impact of the Amelia Station project will exceed \$20 million in investment.
 10. The success of the proposal in providing adequate pedestrian and bicycle links within the development and with the adjacent community.
 - The Master Plan and Apartments at Amelia Station plans show sidewalks along NC 42, Amelia Church Road, and Short Johnson Road as well as sidewalks throughout the site. The stormwater BMP will be installed as an amenity with walking trails surrounding the pond and looping through the site. Bicycle racks have been provided adjacent to the clubhouse and the amenity areas.
 11. The effectiveness with which the proposal protects and preserves the ecologically sensitive areas within the development.
 - Wetland areas exist in the vicinity of the stormwater pond. These areas have been mapped and are not impacted by the proposed development.
 - The project is not located within a Watershed Protection Overlay area.

Cindy Szwarczkop

From: Cindy Szwarczkop
Sent: Wednesday, February 01, 2012 10:41 AM
To: 'Steve Biggs'
Cc: 'David DeYoung'
Subject: FW: wastewater allocation letter and calcs
Attachments: Wastewater allocation spreadsheet (2012.1.31).pdf; Clayton Water-wastewater allocation request revised (01-31-12).pdf

Mr. Biggs – Please find attached a wastewater allocation request related to the proposed Apartments at Amelia Station project. Since receiving Town Council approval late last year, our client has decided to change the use of the project from commercial to commercial and residential. As such, we are requesting a change in the approved wastewater allocation. We will be submitting the site plan/master plan package to the Town on March 1st.

We are hand delivering the original request/spreadsheet to you today, but I also wanted to forward on the pdf copy.

If you have any questions or desire additional information, please do not hesitate to contact me.

With Warm Regards,
Cindy

Cindy Szwarczkop, AICP | Pre-Development Services Manager
STEWART
Engineering. Innovation. Solutions.

Direct: 919.866.4823
Main: 919.380.8750
Fax: 919.380.8752
Mobile: 919.244.5899

121 WAYTEVILLE ST, STE 400, RALEIGH, NC 27601

Whatever you can imagine, we say "Why Not."
See what we mean at: www.stewart-eng.com



STEWART

January 31, 2012

Mr. Steve Biggs
Town Manager
Town of Clayton
111 E. Second Street,
Clayton, NC 27520

Re: Clayton Water/Wastewater allocation request – Revised
Planned Development District PDD-MU 2011-58
Route 42 & Amelia Church Road

Dear Mr. Biggs,

Per zoning condition 12 of the PDD 07-03 zoning case we are submitting a **revised** wastewater allocation request for the development located at NC 42 and Amelia Church Road, known as Amelia Station. The request is for the total development and includes the sheetz gas station which is anticipated to begin construction in the summer of 2012 and one future outparcel. This revision removes the proposed commercial development and replaces it with an apartment complex. The original wastewater allocation approved December 1, 2011 allocated 13,550 gpd to the development. This request is based on the uses listed below for the entire 19 acre development.

Sheetz Gas Station / Restaurant	6,561 sf
Restaurant	3,000 sf
Clubhouse & Pool	4,000 sf
Multifamily (1 Bedroom)	61 units
Multifamily (2 Bedroom)	96 units
Multifamily (3 bedroom)	63 units

The flow allocation for the planned future use and building sizes is included with calculations and totals 65,560 gpd. Should you have any questions feel free to call or email.

Sincerely,

Ryan Hambleton, PE, LEED AP
Project Manager
Stewart Engineering
Rhambleton@stewart-eng.com

Enclosures;
Calculations

01/31/12

Water / Wastewater Allocation

Per North Carolina Administrative Code Title 15A, Subchapter 02T, September 01, 2006

Clayton, North Carolina - NC 42 & Amelia Church Road Development

Land Use	Specific use type	Size (sf, rooms, or seats)	Factor (gpd)/	per	GPD	Notes
Outparcel 1	Restaurant (fast food / deli)	25	40	gpd/seat	1,000	Sheetz Restaurant (total 6,561)
Outparcel 1	Service Station (convenience store 24 hours	4 water closets	325	water closet	1,300	Sheetz Convenience Store (total 6,561 sf)
Outparcel 2	Restaurant (full)	60	40	gpd / seat	2,400	3,000 sf total
Multi Family	Apartment (1 & 2 Bedroom)	157	240	gpd / Apt	37,680	
Multi Family	Apartment (3 Bedroom)	63	360	gpd / Apt	22,680	
Clubhouse & Pool		40 pool users 4 employees	10 25	gal/person gal/empolyee	500	4,000 sf clubhouse with office space for 4 employees and 1,500 sf pool
				Total	65,560	gpd

ADJACENT PROPERTY OWNERS LIST

Project Name: Amelia Station

The following are all the persons, firms, or corporations owning property within 100 feet and immediately adjacent to the property (including across street rights of way) subject to this request. It is the responsibility of the applicant to correctly identify the current owner, based upon records in the Johnston County GIS Office, for all property owners of land within the required public notice radius.

PARCEL NUMBER	NAME	ADDRESS
165801-06-1681	Marie Aiken Hargis Wallace Dale Aiken	1793 Amelia Church Rd. Clayton, NC 27520
165801-06-4221	Thomasina Boya Jose Boya	1610 NC Hwy 42 Clayton, NC 27520
165801-16-0020	Wellspring Community Church	143 Short Johnson Rd. Clayton, NC 27520
165801-15-2514	Katie Marie Johnson	151 Short Johnson Rd. Clayton, NC 27520
165801-05-80916	Harry P. and Kathryn R. Siebert	300 Short Johnson Rd. Clayton, NC 27520
165801-15-0291	Richard and Marie Thewes Collazo	4690 Barber mill Rd. Clayton, NC 27520
165803-04-8891	Lee Brothers Rental NC General Partnership	400 W. main Street Clayton, NC 27520
[REDACTED]		
164800-95-7316	Joel L. Williams	1306 Walnut Street Cam, NC 27511
16480-85-6610	Johnston Memorial Hospital	PO Box 1376 Smithfield, NC 27577
164800-94-2820	Estate of Myrtle Hawkins c/o Robin Canady	9725 US 701 Hwy S Newton Grove, NC 28366



Town of Clayton
Planning Department
111 E. Second Street, Clayton, NC 27520
P.O. Box 879, Clayton, NC 27528
Phone: 919-553-1545
Fax: 919-553-1720

STAFF REPORT

Application Number(s): PD-MU 2012-30 (Previously PD-MU 2011-58), S 2012-31
Project Name: Amelia Station
NC PIN: 165801-05-4683, 165801-05-3172, 165801-05-7290 and 165801-05-5059
Town Limits/ETJ: Town Limits (Partially in ETJ, annexation pending)
Applicant: Stewart Engineering
Owners: KZY, LLC and Amelia Station, LLC
Agents: Cindy Szwarcokop/Ryan Hambleton
Neighborhood Meeting: Held April 11, 2012

PROJECT LOCATION: The project is bounded by NC 42 Hwy W. on the north, Amelia Church Road on the west and Short Johnson Road on the east and partially residing in the town limits.

REQUEST: The request is for rezoning to Planned Development Mixed Use, Master Plan modification (PD-MU 2012-30) of Amelia Station and Subdivision approval (S 2012-31). This Master Plan modification will supersede previous Master Plan approval PD-MU 2011-58 for the subject site.

SITE DATA:

Acres: 19.11 acres
Present Zoning: PD-MU with Thoroughfare Overlay District (TOD) and R-E
Proposed Zoning: PD-MU (Utilizing B-3 Development Standards)
Existing Use: Vacant / Two abandoned residence at the southern property line of the site
Impervious Surface: 59.7% (Apartment complex)

DEVELOPMENT DATA:

Proposed Use: Mixed-Use two Commercial out parcels and one Multi-Family parcel - Three Phases
Buildings: Previously approved Sheets and a 216 unit apartment complex (complex approved by Planning Board on 4-23-2012)
Number of Stories: Maximum 3 story buildings
Required Parking: N/A

Proposed Parking: N/A

ENVIRONMENTAL: No environmental concerns.

ADJACENT ZONING AND LAND USES:

North: Zoning: PD-MU
Existing Use: Vacant

South: Zoning: R-E
Existing Use: Vacant

East: Zoning: O-I
Existing Use: Church

West: Zoning: R-E
Existing Use: Vacant

STAFF ANALYSIS AND COMMENTARY:

The initial property (Pin 165801-05-4683) was rezoned to PD-MU in 2007. A subsequent master plan PD-MU 2011-58 (allowing for a mixture of retail, commercial, and office uses) was approved on October 3, 2011. The approved 14.89 acre development concept included a Sheetz c-store with gas sales, a fast food restaurant, medical office, general office and shopping center/retail.

The applicant is now seeking modification to PD-MU 2011-58 to add an additional three properties to the project which increases the size of the development to 19.11 acres. The additional land allows the replacement of the office/retail component of the project with a 216 unit apartment complex. The complex includes 60 one bedroom, 96 two bedroom and 60 three bedroom units. On-site amenities include a pool and clubhouse, a dog run and a tot lot.

The project will be updated in three phases. Phase1 consist of the Apartments at Amelia Station, Phase 2 is the previously approved Sheetz Convenience Store and Gas Station, and Phase 3 is slated for future commercial/retail/restaurant use.

The overall land use is consistent with the principals of the Small Area Plan adopted in 2007 and is complimentary to the medical center on NC 42 Hwy W. A revised Traffic Impact Analysis has been submitted by the applicant supporting the modification to the development plan. The traffic study has been approved by NCDOT and the applicant has agreed to make all recommended traffic improvements.

- **Consistency with the Strategic Growth Plan**

The proposed uses are consistent with the Strategic Growth Plan and the Small Area Plan.

- **Consistency with the Unified Development Code**

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

- **Compatibility with Surrounding Land Uses**

The overall land use for the subject property is generally compatible with the surrounding area. As stated previously the subject site is located within the Small Area Plan. Also, a TIA was provided by the applicant, and reviewed by the Town (Town's Consultant) and NCDOT.

- **Landscaping and Buffering**

The landscaping and buffering proposed for the subject site are consistent with the requirements of UDC Section 155.402 (landscaping, screening and buffering) Section 155.204 Overlay District Standards and Planned Development standards. In addition, a Landscape Master Plan was provided with the PD-MU 2011-58 approved Master Plan.

- **Signs**

A Common Signage Plan was provided with the PD-MU 2011-58 approved Master Plan.

- **Site Design**

The overall site design and layout of the development is well thought out. Adequate vehicular and pedestrian circulation is provided throughout the site, connecting parcels, buildings and amenities.

- **Architecture**

Architectural elevations have been submitted as a part of the Site Plan submitted to Planning Board for approval. The elevations are consistent with UDC code requirements and TOC Design Guidelines.

- **Waivers/Deviations/Variances from Code Requirements**

None requested.

OTHER:

FIRE PROTECTION: The Town of Clayton Fire Department will provide fire protection.

SCHOOL IMPACTS: The Johnston County School System will support students generated by the development.

PARKS AND RECREATION: A minimum 15.4% of the overall site will be set aside for recreation and open space. Recreation fees in the amount of \$375 per unit are required by the Town.

ACCESS/STREETS: The site will be accessed from NC 42 Hwy W., Amelia Church Road and Short Johnson Road per NCDOT driveway approval.

WATER/SEWER PROVIDER: Town of Clayton

ELECTRIC PROVIDER: Progress Energy

CONSIDERTIONS:

- The subject site application is known as the Amelia Station Planned Development.
- The applicant is requesting a Rezoning to PD-MU with an associated Master Plan modification.
- The applicant is requesting Subdivision approval for the three phase project.
- The applicant is requesting wastewater allocation of 66,160 gpd.

FINDINGS:

When adopting or rejecting the Rezoning to PD-MU, the Town Council shall approve a statement describing whether its action is consistent with an adopted comprehensive plan and any other officially adopted plan that is applicable, and briefly explaining why the board considers the action taken to be reasonable and in the public interest.

That the Master Plan Approval Criteria have met (UDC Section 155.705(K))

That the Major Subdivision is consistent with UDC Section 155.706 and the Findings of Fact have been addressed by the applicant. These Findings of Fact are incorporated into the record as Exhibit A of the Staff Report.

STAFF RECOMMENDATIONS:

Staff is recommending approval of the Rezoning to PD-MU with its associated Master Plan modification and the Major Subdivision Plan subject to the following Conditions of Approval.

CONDITIONS OF APPROVAL

Previous Conditions:

1. Future development in this area must comply with the standards and policies of the Johnston County Memorial Hospital / NC 42 W. Small Area Plan, as adopted by Town Council on November 19, 2007.
2. In accordance with the Johnston County Memorial Hospital / NC 42 W. Small Area Plan as adopted by Town Council on November 19, 2007, a common signage plan must be approved for the Planned Development.
3. In accordance with the Johnston County Memorial Hospital / NC 42 W. Small Area Plan as adopted by Town Council November 19, 2007 , a master landscape plan must be approved for the Planned Development
4. Outparcels with frontage on NC 42 Hwy W. shall have no more than one bay of parking between the highway and the building.
5. A 10 foot right-of-way dedication along NC 42 Hwy W. is required.
6. Sidewalks must be constructed by the developer along NC 42 Hwy W. and throughout the development to ensure pedestrian connectivity in the area.
7. Master Plan should note that the final design of NC 42 Hwy W. improvements to be approved by NCDOT and the Town of Clayton.
8. Wastewater allocation request must be approved by the Town Council.

9. A Traffic Impact Analysis (TIA) must be approved prior to the issuance of a Zoning Compliance Permit.
10. The perimeter landscaping along NC 42 Hwy W. must be installed prior to the issuance of a Certificate of Occupancy for Phase I.
11. The future development of Phases II through V shall include one shared pedestrian amenity / focal point internal to the project.

Is hereby amended to read:

The future development of Phases I through III shall include one shared pedestrian amenity / focal point internal to the project.

12. Phases II and V are subject to site plan review and approval.

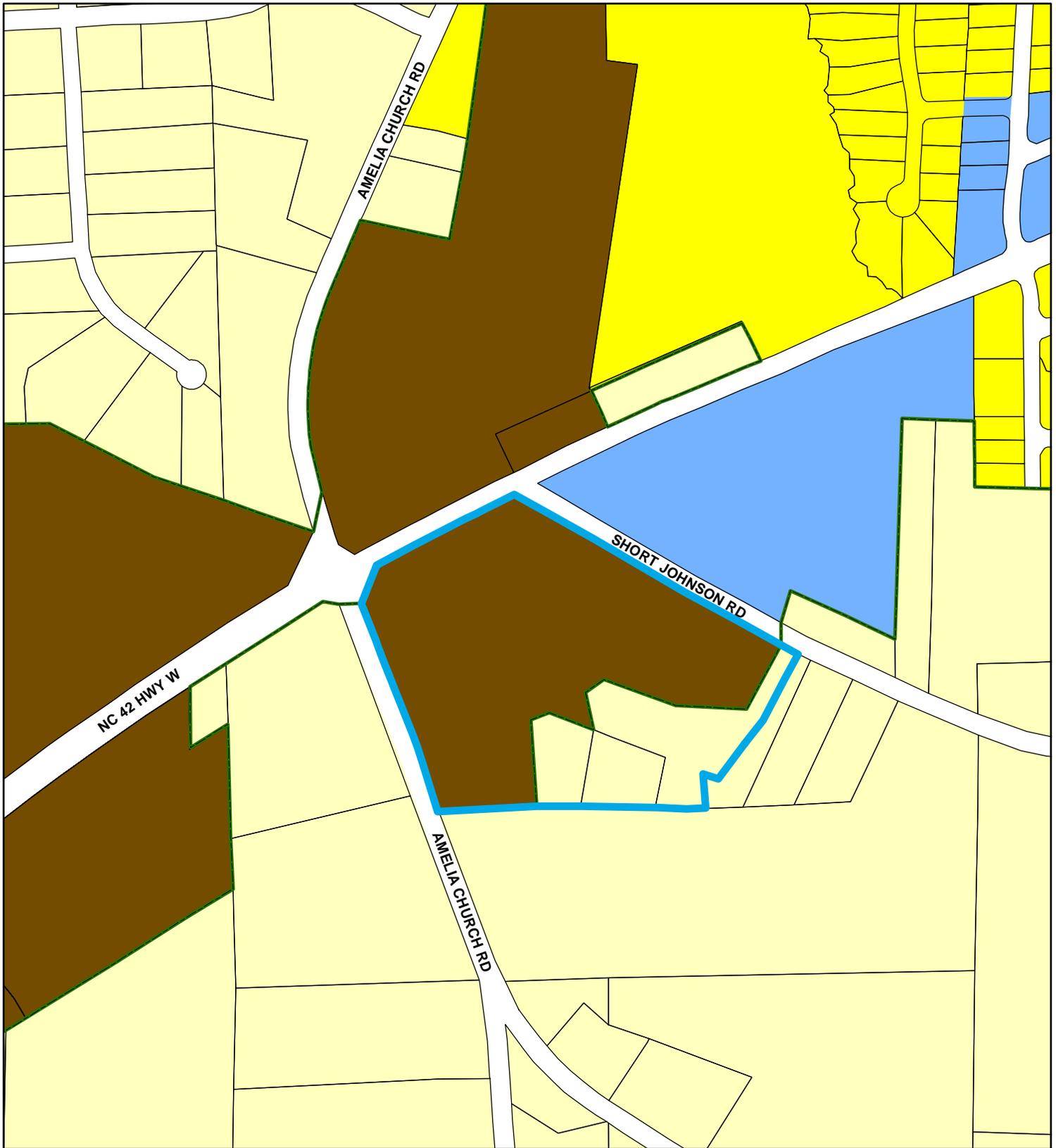
Is hereby amended to read:

Phases I and III are subject to site plan review and approval.

13. Following Board approvals, three copies of the Final Site Plan, Landscape Plan and Architectural Elevations meeting the requirements of the Conditions of Approval shall be submitted to Planning Department for final approval.
14. Utility construction plans shall be approved by the Public Works Department prior to issuance of building permits.
15. Final approval of the Site Plan (SP 2012-35) is subject to the approval of the PD-MU 2012-30 by Town Council.

PLANNING BOARD RECOMMENDATION:

Planning Board recommends approval of the petitions subject to the conditions of approval as outlined above.



Legend

	Clayton ETJ		R-6		PD-C
	Clayton Town Limits		PD-R		I-1
	R-E		B-1		I-2
	R-10		B-2		O-I
	R-8		B-3		PD-MU
			SUD		

Produced by: TOC Planning

Zoning Map

Applicant(s): Stewart Engineering
 Property Owner(s): KYZ, LLC Amelia Station, LLC
 Parcel Number(s) 05G03007, 05G03007G
 05G03007E & 05G03007F
 File Number(s): PD-MU 2012-30
 S 2012-31 & SP 2012-35

J

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





Legend

-  Clayton Town Limits
-  Clayton ETJ
-  100 Year Flood

Aerial Photography Date:
February/March 2010

Produced by: TOC Planning

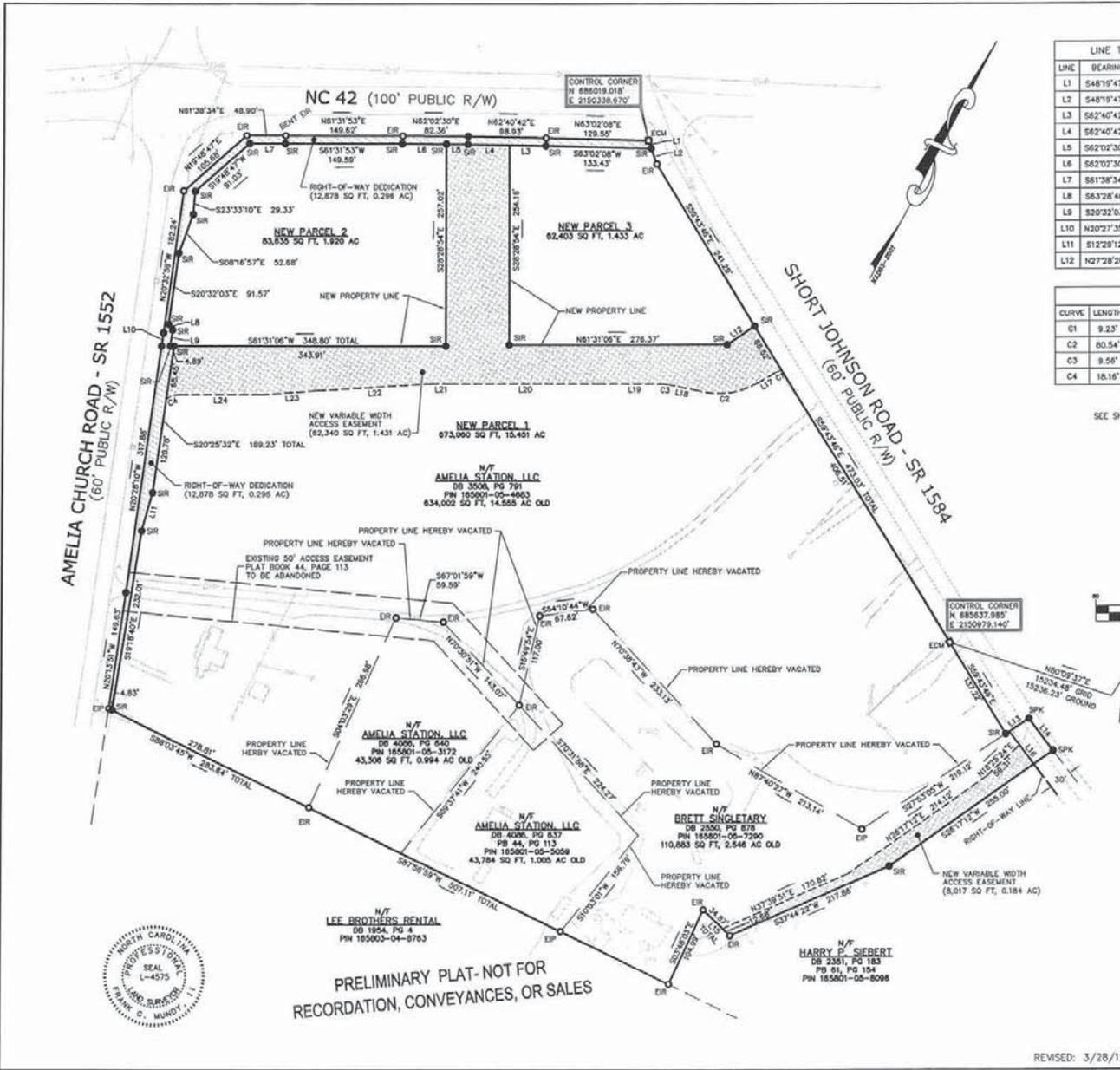
Aerial Map

Applicant(s): Stewart Engineering
 Property Owner(s): KYZ, LLC Amelia Station, LLC
 Parcel Number(s) 05G03007, 05G03007G
 05G03007E & 05G03007F
 File Number(s): PD-MU 2012-30
 S 2012-31 & SP 2012-35

J

Disclaimer: Town of Clayton assumes no legal responsibility for the information on this map.



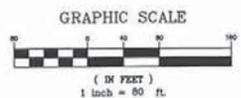


LINE TABLE			LINE TABLE		
LINE	BEARING	DISTANCE	LINE	BEARING	DISTANCE
L1	S48°19'47"E	10.74'	L13	N27°53'05"E	35.40'
L2	S48°19'47"E	20.78'	L14	S84°54'20"E	51.10'
L3	S62°40'42"W	46.10'	L15	N74°48'27"W	47.55'
L4	S62°40'42"W	52.74'	L16	S84°54'20"E	30.12'
L5	S62°02'30"W	27.27'	L17	S31°32'38"W	26.50'
L6	S62°02'30"W	54.99'	L18	S73°17'55"W	35.16'
L7	S61°38'34"W	45.08'	L19	S61°52'49"W	75.28'
L8	S63°28'40"E	8.81'	L20	S61°31'05"W	193.58'
L9	S20°32'03"E	20.73'	L21	S61°31'29"W	20.41'
L10	N20°27'35"W	17.02'	L22	S58°02'51"W	146.39'
L11	S12°28'12"E	50.98'	L23	S57°25'13"W	72.76'
L12	N27°28'26"E	42.63'	L24	S61°31'05"W	101.33'

CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	TANGENT	BEARING
C1	9.23'	29.00'	18°14'17"	4.65'	9.19' S40°39'46"W
C2	80.54'	101.00'	45°41'26"	42.85'	78.43' S50°10'18"W
C3	9.56'	199.00'	2°45'07"	4.78'	9.56' S66°51'25"W
C4	18.16'	28.50'	38°30'42"	9.40'	17.88' S43°15'44"W

SEE SHEET 1 FOR GENERAL NOTES AND CERTIFICATIONS

- LEGEND**
- △ SURVEY CONTROL POINT
 - IP EXISTING IRON PIPE
 - IR EXISTING IRON ROD
 - CM EXISTING CONCRETE MONUMENT
 - SR SET IRON ROD
 - PK SET PK NAIL



FINAL SUBDIVISION, ACCESS EASEMENT & RIGHT-OF-WAY DEDICATION PLAT FOR:

AMELIA STATION, LLC

CLAYTON TOWNSHIP
JOHNSTON COUNTY, NORTH CAROLINA
DATE: 2/28/12 SCALE: 1"=100'
SHEET 2 OF 2

421 FAYETTEVILLE STREET
SUITE 400
RALEIGH, NC 27601
T 919.380.8750
F 919.380.8752
www.stewart-eng.com
FIRM LICENSE NO.: C1051

STEWART

Project No. C12046



PRELIMINARY PLAT - NOT FOR RECORDATION, CONVEYANCES, OR SALES

REVISED: 3/28/12

UNLESS SIGNED, SEALED AND DATED, THIS IS A PRELIMINARY PLAT NOT FOR RECORDATION, SALES OR CONVEYANCES.

**TOWN OF CLAYTON
SUBDIVISION APPLICATION
EVALUATION FORM**

Application Number: PDD 2012-30

The Town Council shall decide the matter of Subdivision Application Number PDD 2012-30 by motion and vote on each of the following four findings of fact. Any motion to find against the application must be supported by statement of specific reasons or conclusions reached in support of the motion.

Finding One of Four:

Circle One

- A. Based on the evidence and testimony presented it is the finding of the Council that the subdivision, if approved, will meet all required specifications and will conform to the Town Unified Development Ordinance. (Applicant meets the criteria for approval).

- B. Based on the evidence and testimony presented it is the finding of the Council that the subdivision, if approved, will meet all required specifications and will conform to the Town Unified Development Ordinance: (Applicant meets the criteria for approval upon acceptance of the noted conditions.)

- C. Based on the evidence and testimony presented it is the finding of the Council that the subdivision, if approved, will not meet all required specifications and/or will not conform to the Town Unified Development Ordinance for the following stated reasons: (Applicant fails to meet the criteria for approval.)

Finding Two of Four:

Circle One

- A. Based on the evidence and testimony presented it is the finding of the Council that the subdivision, if approved, will not be detrimental to the use or orderly development of other properties in the surrounding area and will not violate the character of existing standards for development of properties in the surrounding area. (Applicant meets the criteria necessary for approval.)

- B. Based on the evidence and testimony presented it is the finding of the Council that the subdivision, if approved, 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 upon compliance with the following stated conditions: (Applicant meets the criteria necessary for approval upon acceptance of the noted conditions.)

- C. Based on the evidence and testimony presented it is the finding of the Council that the subdivision, will be detrimental to the use or orderly development of other properties in the surrounding area and/or will violate the character of existing standards for development of properties in the surrounding area for the following stated reasons: (Applicant fails to meet the criteria necessary for approval.)

Finding Three of Four:

Circle One

- A. Based on the evidence and testimony presented it is the finding of the Council that the subdivision design, if approved, 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. (Applicant meets the criteria necessary for approval.)

- B. Based on the evidence and testimony presented it is the finding of the Council that the subdivision design, if approved, 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 upon compliance with the following stated conditions: (Applicant meets the criteria necessary for approval upon acceptance of the noted conditions.)

- C. Based on the evidence and testimony presented it is the finding of the Council that the subdivision design, if approved, will not provide for the distribution of traffic in a manner that will avoid or mitigate congestion within the immediate area, will not provide for the unified and orderly use of or extension of public infrastructure, and/or will materially endanger the environment, public health, safety, or the general welfare for the following reasons. (Applicant fails to meet the criteria for approval.)

Finding Four of Four:

Circle One

- A. Based on the evidence and testimony presented it is the finding of the Council that the subdivision, if approved, 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. (Applicant meets the criteria necessary for approval.)

- B. Based on the evidence and testimony presented it is the finding of the Council that the subdivision, if approved, 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 upon compliance with the following stated conditions: (Applicant meets the criteria necessary for approval upon acceptance of the noted conditions.)

- C. Based on the evidence and testimony presented it is the finding of the Council that the subdivision, if approved, will adversely affect the general plans for the orderly growth and development of the town and/or is not consistent with the planning policies adopted by the Town Council for the following stated reasons: (Applicant fails to meet the criteria necessary for approval.)

Once all findings have been decided one of the two following motions must be made:

Motion 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 and with full incorporation of all statements and agreements entered into the record by the testimony of the applicant and applicant's representative I move to approve Subdivision Application # _____.

Motion to Deny: Based upon failure to meet all of the above four stated findings and for reasons stated therein, I move to deny Subdivision Application # _____.

Record of Decision:

Based on a motion and majority vote of the Clayton Town Council Subdivision Application Number PDD 2012-30 is hereby:

_____ approved upon acceptance and conformity with all stated conditions; or,

_____ denied for the noted reasons.

Decision made this 4th day of June 2012, while in regular session.

Jody L. McLeod,
Mayor

ATTEST:

Sherry L. Scoggins, MMC
Town Clerk

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

Agenda Item: 5f

Meeting Date: 6/04/12

TITLE: EVIDENTIARY HEARING FOR PLANNED DEVELOPMENT DISTRICT REQUEST PDD-C 2012-32 LOCATED ON THE SOUTHWEST CORNER OF US 70 HWY BUSINESS AND SHOTWELL ROAD WITHIN THE TOWN LIMITS.

DESCRIPTION: The request is for rezoning to Planned Development – Commercial (PD-C), modification to the master plan and preliminary subdivision plan approval. The modification reconfigures the development, changes the proposed mix of uses and adjusts the lot configuration.

This item was heard by the Planning Board at its April 23, 2012, meeting. It was the unanimous decision of the Planning Board to recommend approval of the development subject to the conditions of approval as outlined in the staff report and a waiver for waiver for landscaping adjacent to the CVS.

HISTORY for this site:

- PDD-C 08-02, Approved 8/4/2008

This item is slated for evidentiary hearing on June 4, 2012, at 6:30 PM.

RELATED GOAL: Manage Growth Producing Quality Developments

ITEM SUMMARY:

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
5-21-12	Presentation.	Application (includes Wastewater allocation Request), Neighborhood Meeting Notes, Staff Report, Zoning & Aerial Maps, & Subdivision Plat.
6-04-12	Evidentiary Hearing.	Hearing Procedures, Application (includes Wastewater allocation Request), Neighborhood Meeting Notes, Staff Report, Zoning & Aerial Maps, & Subdivision Plat and Motion Form.

**TOWN OF CLAYTON
PLANNED DEVELOPMENT DISTRICTS
(PD-R, PD-C, PD-I, PD-MU)
HEARING PROCEDURES**

1. **HEARING:** The Mayor shall call the hearing and announce the case.
2. **RULES OF PROCEDURE:** The Town Attorney introduces the planned development rezoning procedures and evidentiary hearing procedures. If a protest petition has been received, the Town Attorney will announce if it meets the requirements to invoke the super majority rule; and if applicable, explain the super majority rule. The Town Attorney shall be responsible for keeping all testimony within acceptable legal guidelines.
3. **STAFF REPORT:** The staff shall give its report.
4. **APPLICANT TESTIMONY:** The applicant shall be called to present their case. The applicant is responsible for successfully addressing the following rezoning Master Plan Approval Criteria [155.705(K)]:
 - a. Compliance with 155.203(K) and all other applicable requirements of this chapter;
 - b. Consistency with the Clayton General Design Guidelines;
 - c. Conformance of the proposal with the stated purpose of the requested planned development district;
 - d. Compatibility of the proposed development with the adjacent community;
 - e. The quality of design intended for each component of the project and the ability of the overall development plan to ensure a unified, cohesive environment at full build-out;
 - f. Self-sufficiency of each phase of the overall project;
 - g. Documentation that the proposed infrastructure improvements accommodate the additional impacts caused by the development, or documentation to assure that the development, as proposed, will not overtax the existing public infrastructure systems;
 - h. The fiscal impact of the proposal and the proposed financing of required improvements;
 - i. The success of the proposal in providing adequate pedestrian and bicycle links within the development and with the adjacent community; and
 - j. The effectiveness with which the proposal protects and preserves the ecologically sensitive areas within the development.

In addition, the applicant will also address the required findings of fact for preliminary subdivision approval [155.706(I) (10)]:

1. Consistency with the adopted plans and of policies of the Town.
2. The subdivision meets all required specifications of this chapter.

3. The subdivision will not be detrimental to the use or orderly development of other properties in the surrounding area and will not violate the character of existing standards for development of properties in the surrounding area.
4. The subdivision design will provide for the distribution of traffic in a manner that will avoid or mitigate congestion within the immediate area, will provide for the unified and orderly use of or extension of public infrastructure, and will not materially endanger the environment, public health, safety, or the general welfare.
5. **OPPOSITION TESTIMONY:** Those speaking in opposition to the application shall be called upon to present their case.
6. **APPLICANT REBUTTAL:** The applicant and/or those in support shall be provided an opportunity to rebut the testimony provided by the opposition.
7. **OPPOSITION REBUTTAL:** Those in opposition shall be provided an opportunity to rebut testimony provided by the applicant.
8. **COUNCIL INQUIRY:** The Council may ask questions of the applicant, opposition, or staff at this time. There shall be no time limit except that the Mayor shall be responsible for keeping questions and responses relevant and factual.
9. **DELIBERATION:** The Mayor shall call the Council into deliberation. Once called into deliberation, no person may address the Council and no questions may be asked by Council to the public.
10. **UTILITY ALLOCATION (WHEN APPLICABLE):** In the event of pending action on a utility allocation request related to the case and after deliberation, the Council shall take action on the utility allocation in accordance with related policies and procedures.
11. **REZONING APPROVAL CRITERIA [155.705(J)]:** In connection with its legislative decision on a rezoning request, the Town Council may consider factors including, but not limited to, the following:
 - a. Consistency with the adopted plans and policies of the town;
 - b. Suitability of the subject property for uses permitted by the current versus the proposed district;
 - c. Whether the proposed change tends to improve the balance of uses, or meets a specific demand in the town;
 - d. The capacity of adequate public facilities and services including schools, roads, recreation facilities, wastewater treatment and water supply facilities and storm water drainage facilities for the proposed use;

- e. It has been determined that the legal purposes for which zoning exists are not contravened;
- f. It has been determined that there will be no adverse effect upon adjoining property owners unless such effect can be justified by the overwhelming public good or welfare; and
- g. It has been determined that no one property owner or small group of property owners will benefit materially from the change to the detriment of the general public.

12. ACTION BY TOWN COUNCIL FOR THE REZONING [155.705(I)]:

The Town Council may:

- ↳ Approve the rezoning,
- ↳ Deny the rezoning, or
- ↳ Send the rezoning back to the Planning Director for additional consideration.

Concurrently with adopting, denying, or remanding any rezoning, the Town Council shall:

- ↳ Adopt a statement describing whether its action is consistent with the adopted plans and policies of the Town; and
- ↳ Explain why the Town Council considers the action taken to be reasonable and in the public interest.

13. ACTION BY TOWN COUNCIL FOR THE PRELIMINARY SUBDIVISION FINDINGS FOR DECISION: After deliberation of the evidence has been completed and action on the utility allocation (when applicable) and the rezoning request; each finding shall be discussed in turn and a motion, second and vote shall be made selecting one of the three alternatives for each finding. A majority vote shall prevail.

14. ACTION – APPLICATION: Once all four findings have been decided and based on the results of the evaluation and vote on those findings, the Council shall make a motion and vote to approve or deny the application. Failure of any single criteria to achieve majority approval by the Council shall necessitate a decision against the application. A majority vote for approval for all of the four criteria shall necessitate a decision in favor of the application.

OWNER INFORMATION:

Name: Shotwell 70 Partners LLC + Conway Centre LLC
Mailing Address: 1600 S. Brentwood Blvd. Ste 770 St. Louis MO 63144-
Phone Number: 314-373-7778 Fax: _____
Email Address: rmeurer@white-co.com

APPLICANT INFORMATION:

Applicant: Shotwell 70 Partners LLC + Conway Centre LLC
Mailing Address: 1600 S. Brentwood Blvd Ste 770 St. Louis MO 63144-1329
Phone Number: 314-373-7778 Fax: _____
Contact Person: Rob Meurer
Email Address: rmeurer@white-co.com

MASTER PLAN REQUIREMENTS:

A Master Plan meeting the following criteria must accompany this application. A Master Plan which also meets the requirements of a preliminary subdivision/plat may be approved as the Master Plan for the development and the Preliminary Plat concurrently.

Master Plan Approval Criteria:

- (1) Compliance with § 155.203(K) and all other applicable requirements of the Unified Development Code;
- (2) Consistency with the Clayton General Design Guidelines;
- (3) Conformance of the proposal with the stated purpose of the requested planned development district;
- (4) Compatibility of the proposed development with the adjacent community;
- (5) The quality of design intended for each component of the project and the ability of the overall development plan to ensure a unified, cohesive environment at full build-out;
- (6) Compatible relationships between each component of the overall project;
- (7) Self-sufficiency of each phase of the overall project;
- (8) Documentation that the proposed infrastructure improvements accommodate the additional impacts caused by the development, or documentation to assure that the development, as proposed, will not overtax the existing public infrastructure systems;
- (9) The fiscal impact of the proposal and the proposed financing of required improvements;
- (10) The success of the proposal in providing adequate pedestrian and bicycle links within the development and with the adjacent community; and
- (11) The effectiveness with which the proposal protects and preserves the ecologically sensitive areas within the development.

Pine Hollow Commons

Master Plan Revision & Major Subdivision
Planned Development District PDD-08-02
Applicant Justification Statement

This application is to request a change to the previously approved PDD-08-02.

The original plan was approved by the Town of Clayton in September 2008. The original plan allows five outparcel properties designed around a central "Big Box" anchor store with 7 adjacent store fronts. Access to these businesses is by the two existing driveways which now serve CVS Pharmacy and added two new driveways; one on US 70 Business at the western end of the property and one on Shotwell Road.

This proposed revision retains the overall concept of a commercial development as originally approved, but decreases the intensity of development at this location. This proposal is to create five individual commercial lots and eliminate the "Big Box" anchor store and 7 adjacent store fronts. Access to these businesses is consistent with the previously approved development plan utilizing the two existing driveways and adding two new driveways as originally designed. The greatest difference between this plan and the existing approved plan is the removal of the strip shopping center and the addition of a stormwater feature.

The added benefits of the new plan relative to the existing approved plan are:

1. Reducing traffic congestion at the US 70 Business and Shotwell Road intersection. By reducing the square footage of business space, the number of trips to and from the proposed commercial development will be reduced; thus reducing traffic congestion.
2. Reducing water and sewer allocation requirements for this development by reducing the square footage of commercial space.
3. Increasing environmental protection by decreasing the developments impervious footprint.
4. Increasing environmental protection to the on site wetlands and Little Creek by creating a stormwater feature which will collect and store stormwater generated from the developments impervious surfaces; remove sediment, hydrocarbons, nitrogen, and phosphorus from the stormwater effluent; reduce the temperature of the stormwater effluent; and discharge the stormwater effluent into Little Creek at pre-development rates.
5. Reducing sound and light intrusion to the adjacent residential subdivision by reducing the square footage of commercial space.

The Pine Hollow Commons Master Plan Revision is consistent with the originally approved plan, is in compliance with the UDO, is consistent with Clayton's General Design Guidelines, and is compatible with the adjacent community.

Exhibit A

Pine Hollow Commons

Master Plan Revision & Major Subdivision
Planned Development District PDD-08-02
Required Findings

1. That the subdivision meets all required specifications of the town Subdivision Regulations and conforms to the town Unified Development Code.

The proposed subdivision meets all lot dimensions, setbacks, buffers, vehicle access, utility extensions, and general design guidelines of the Town of Clayton. It is consistent with the approved PDD-08-02, UDO, and Clayton's General Design Guidelines.

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.

The subdivision is consistent with the previously approved PDD-08-02. The new proposal better protects the surrounding area by decreasing the intensity of development on this site. The new proposal is consistent with the development 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.

The proposed development provides for the efficient distribution of traffic by utilizing two existing driveways with an existing business and by adding two new driveways to increase the distance from the intersection of US 70 Business and Shotwell Road with cars entering and exiting this site.

Public infrastructure exists on this site. The water and sewer systems will be extended to provide public water and sewer to all new commercial lots.

Environmental protection, public health, safety and general welfare will be increased by decreasing the development footprint of this site, decreasing impervious surfaces, reducing traffic congestion, and adding a stormwater feature.

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.

The proposed development is consistent with the previously approved Planned Development District PDD-08-02.



Town of Clayton
 Planning Department
 111 E. Second Street, Clayton, NC 27520
 P.O. Box 879, Clayton, NC 27528
 Phone: 919-553-1545
 Fax: 919-553-1720

OWNER'S CONSENT FORM

Name of Project: _____ Submittal Date: _____

OWNERS AUTHORIZATION

I hereby give CONSENT to Steven S. Sanderson (type, stamp or print clearly full name of agent) to act on my behalf, to submit or have submitted this application and all required material and documents, and to attend and represent me at all meetings and public hearings pertaining to the application(s) indicated above. Furthermore, I hereby give consent to the party designated above to agree to all terms and conditions which may arise as part of the approval of this application.

I hereby certify I have full knowledge the property I have an ownership interest in the subject of this application. I understand that any false, inaccurate or incomplete information provided by me or my agent will result in the denial, revocation or administrative withdrawal of this application, request, approval or permits. I acknowledge that additional information may be required to process this application. I further consent to the Town of Clayton to publish, copy or reproduce any copyrighted document submitted as a part of this application for any third party. I further agree to all terms and conditions, which may be imposed as part of the approval of this application.

Thomas White Thomas White 2/21/12
Signature of Owner *Print Name* *Date*

CERTIFICATION OF APPLICANT AND/OR PROPERTY OWNER

I hereby certify the statements or information made in any paper or plans submitted herewith are true and correct to the best of my knowledge. I understand this application, related material and all attachments become official records of the Planning Department of the Town of Clayton, North Carolina, and will not be returned.

Thomas White Thomas White 2/21/12
Signature of Owner/Applicant *Print Name* *Date*

FOR OFFICE USE ONLY

Parcel ID Number: _____	Date Received: _____	File Number: _____
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PLANNED DEVELOPMENT WAIVER REQUESTS:

Waivers to the general development standards specified in the Unified Development Code (UDC) sections 155.400 through 155.405 and subdivision standards specified in UDC sections 155.600 through 155.607 may be granted by Town Council.

Please list Waiver requests:

Code Section	Requirement	Waiver
155.203 L3 c1	Class B Buffer adjacent to non-residential perimeter	- no buffer required adjacent to CVS Pharmacy
	Buffer Adjacent to non-residential and along Shutwell Road	- Class A Street Yard Buffer adjacent to Shutwell Road

If you are requesting waivers, please include appropriate justification for the waivers within the required justification statement.

MAJOR SUBDIVISION/PRELIMINARY PLAT (if applicable)

The following items must accompany the Planned Development application when submitting the preliminary subdivision/plat concurrently. The following information is required, except where otherwise noted:

- Required findings (please address the required findings below).
- Required plans (please see the plan requirements checklist below).
- Road Name Approval Application (if applicable).
- A signed and sealed traffic impact analysis (if required).
- Verification of wastewater allocation (granted or requested).
- Verification of approval for the potable water and waste water system improvements from North Carolina Department of Environment and Natural Resources (NCDENR).
- Verification of approval for individual well and septic systems from Johnston County Department of Environmental Health Services (if applicable).
- Driveway permits (Town of Clayton or NCDOT encroachment with associated documentation).
- A copy of proposed deed restrictions and/or covenants (if applicable).

Pine Hollow Commons

Master Plan Revision & Major Subdivision
Planned Development District PDD-12-032
Waiver Request Justification Statement

This waiver is being requested for:

Code Section 155.203(L)(3)(c)(1)

Requirement of Ordinance – “Unless waived by the Town Council, a Class B buffer (see § 155.402) shall be provided along all project boundaries abutting a nonresidential district.”

Requested Waiver – That the Town Council Waive the requirement for a Class B Boundary Buffer adjacent to the CVS Pharmacy Property and Shotwell Road. We are requesting that No Boundary Buffer be required Adjacent to the CVS Pharmacy Property and that a Class A Street Yard Buffer be required along Shotwell Road.

This is to request that the Town Council grant a Waiver for PDD-12-032 from the requirement of a Class B Project Boundary Buffer adjacent to CVS Pharmacy and along Shotwell Road.

The original plan PDD-08-02 was approved by the Town of Clayton in September 2008. The original plan, as approved, does not require a Class B Project Boundary Buffer between CVS Pharmacy and our project, nor does it require a Class B Project Boundary Buffer along Shotwell Road. No buffer is required adjacent to CVS Pharmacy as a result; this existing business is treated as a part of the total overall development. The buffer along Shotwell Road is approved as a 10' Class A Street Yard Buffer. We are requesting that this same waiver continue to be granted with this modification request.

We are requesting that the waiver for no boundary buffer being required adjacent to the CVS Pharmacy to continue. We believe that CVS should look as if it is a part of the overall development of this tract. To separate CVS from the remaining development in this corner of US 70 and Shotwell Road would not provide a sense of flow, consistency, or cohesion for the overall development in this area. Since CVS and our property share common driveway access points, we strongly believe that the entire corner should look as if it is one development.

We are requesting that the waiver for a Class B Boundary Buffer along Shotwell Road being reduced to a Class A Street Yard Buffer be continued. We are requesting this in order to provide better site line visibility into the property from Shotwell Road. As the Shotwell Road driveway is the only full service access driveway for this project, it is essential to have good site visibility into the property from Shotwell Road.

The existing trees and vegetation inside of the riparian buffer and wetlands along the rear of the property will be protected as required by law. This existing vegetation will be used to compensate for and justify the reduction of plants along these boundary buffer areas.

Sanderson Engineering, Inc.

Engineering and Land Planning

License # C-2218

April 13, 2012

Mr. R. Steven Biggs, Town Manger
Town of Clayton
P. O. Box 879
Clayton, NC 27520

Subject: Sewer Allocation for Pine Hollow Commons

Dear Mr. Biggs:

This is to request a sewer allocation for the Pine Hollow Commons development. The allocation request is calculated using Section 15A NCAC 18A.1949 of the State Code.

Pine Hollow Commons Sewer Allocation Request	
Allocation Calculations	Allocation Request
Tract 1 (5,000 sf bank/retail @ 25 gpd/employee*13 employees	325 gpd
Tract 2 (3,000 sf car repair @ 250 gpd/wc * 2 water closets	500 gpd
Tract 3 (3,500 sf restaurant with 2,500 sf dining area @ 40 gpd/15 sf dining area	6,675 gpd
Tract 4 (3,500 sf restaurant with 2,500 sf dining area @ 40 gpd/15 sf dining area	6,675 gpd
Tract 5 (Stormwater Facility)	0 gpd
Tract 6 (11,500 sf restaurant with 8,100 sf dining area @ 40 gpd/15 sf dining area	21,600 gpd
Total Sewer Allocation Requested	35,775 gpd

If I can provide any additional information, please advise.

Cordially yours,



Steven S. Sanderson, P. E.

SSS/

POST OFFICE BOX 2016
2485 WENDELL BOULEVARD
WENDELL, NC 27591

919-366-2016 phone
267-363-7254 fax
919-422-8020 mobile
sandersonengineering@gmail.com

APR 13 2012

Sanderson Engineering, Inc.

2485 Wendell Boulevard
 Post Office Box 2016
 Wendell, North Carolina 27591
 Phone (919) 366-2016 Fax (267) 363-7254
 Email: sandersonengineering@yahoo.com
 License # C-2218

Letter of Transmittal

DATE:	4-17-2012	JOB NO	09-008
ATT:			
RE:			
Pine Hollow Commons			
Master and Subdivision Plan Revisions			

TO: **Beth Franson**
Town of Clayton
Planning Department

We are sending you: Attached Specifications
 Copy of Letter Plans Other _____

Copies	Date	No.	Description
1			Copy of Letter sent to adjoining property owners for Neighborhood Meeting
1			Neighborhood Meeting Attendance Roster
1			Minutes from Neighborhood Meeting

These are transmitted as checked below: For Approval Return ___ Corrected Prints
 For Review and Comment For Your Use Submit ___ Copies for Distribution
 Approved as Submitted As Requested For Bids Due _____ 20__
 Returned for Corrections Approved as Noted

REMARKS: _____

Call if you have any questions.

COPY TO: _____ SIGNED: **Steven S. Sanderson, P. E.**

Sanderson Engineering, Inc.

Engineering and Land Planning

License # C-2218

March 28, 2012

Dear Clayton Area Property Owner:

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

Meeting Date: April 16, 2012

Location: The Clayton Center, Four Oaks Room, 111 E. Second Street Clayton, NC

Time: 7:00 pm

Type of Application: Master Plan Modification and Subdivision Modification

General Description: The owners of Pine Hollow Commons wish to change the Master Plan in order to eliminate the "Big Box" anchor store and 7 adjacent store front properties. The new Master Plan keeps the four outparcel lots along US 70 and the one lot along Shotwell Road. The new Master Plan also includes a stormwater control facility that was not in the original plan.

If you have any questions prior to or after this meeting, you may contact us at 919-366-2016.

Sincerely,



Steven S. Sanderson, P. E.

cc: Clayton Planning Dept.

POST OFFICE BOX 2016
2485 WENDELL BOULEVARD
WENDELL, NC 27591

919-366-2016 phone
267-363-7254 fax
919-422-8020 mobile
sandersonengineering@gmail.com

NEIGHBORHOOD MEETING ATTENDANCE ROSTER

Applicant: Steven Sanderson Pine Hollow Commons

Location/Date: The Clayton Center - Four Oaks Room 4-16-12

	NAME	ADDRESS
1	Steven Sanderson	Po Box 2016 Wendell Nc 27591
2	Bex Barber	12182 US70 W, Business, Clayton
3	Bob Barber	" "
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		

Pine Hollow Commons
Neighborhood Meeting Minutes

Date: 4-16-12

Location: Four Oaks Room, The Clayton Center

Time: 7:00 p.m.

Attendees: Steven S. Sanderson, P. E., Bob Barber, Bet Barber

Mr. and Mrs. Barber asked questions concerning stormwater controls on the site.

Steven Sanderson stated that the revised plan adds a stormwater pond which was not a part of the originally approved plan. The revised plan also lowers the amount of square footage of buildings and parking spaces.

The Barber's came to the meeting because they thought that the meeting was concerning the property on the north side of US 70, adjacent to their house. When they oriented their property to the site, they stated that they had no concerns regarding this site.

No one else attended. No other questions were asked. The meeting was adjourned at 7:30 pm.

Respectfully submitted by:

A handwritten signature in black ink, appearing to read 'Steven S. Sanderson', with a long horizontal line extending to the right.

Steven S. Sanderson, P. E.

SSS/



Town of Clayton
 Planning Department
 111 E. Second Street, Clayton, NC 27520
 P.O. Box 879, Clayton, NC 27528
 Phone: 919-553-1545
 Fax: 919-553-1720

STAFF REPORT

Application Numbers: PD-C 2012-32 (Rezoning/Master Plan modification)
 PSD 2012-33 (Preliminary Subdivision modification)
Project Name: Pine Hollow Commons
NC PIN: 165914-44-0422, 165914-44-1054, 165914-44-2177
Town Limits/ETJ: Town Limits
Overlay: Thoroughfare Overlay District
Applicant: Shotwell 70 Partners, LLC & Cenway Center, LLC
Owners: Shotwell 70 Partners, LLC & Cenway Center, LLC
Agents: Steven S. Sanderson, PE

Neighborhood Meeting: Held April 16, 2012

PROJECT LOCATION: The project is located on the southwest corner of US 70 Highway Business and Shotwell Road within the town limits of Clayton.

REQUEST: The applicant is requesting approval for rezoning to Planned Development – Commercial (PD-C), modification to the master plan and preliminary subdivision plan approval. The modification reconfigures the development, changes the proposed mix of uses and adjusts the lot configuration.

SITE DATA:

Acreage: 11.67 acres
 Present Zoning: PD-C
 Proposed Zoning: PD-C (Utilizing B-3 Development Standards)
 Existing Use: Vacant
 Impervious Surface: NA

DEVELOPMENT DATA:

Proposed Uses: Mixed-use commercial development including restaurant, retail, office, car repair and bank uses over 2 phases.

Buildings: The applicant has not submitted a site plan application at this time.

Number of Stories: To be determined during the site plan approval process.

Required Parking: To be determined during the site plan approval process.

Proposed Parking: To be determined during the site plan approval process.

ENVIRONMENTAL: The subject site is bounded on the south by a tributary of Little Creek and its flood plain. There are wetlands associated with the flood plain and any future building construction will comply with riparian buffer requirements.

ADJACENT ZONING AND LAND USES:

North:	Zoning:	B-3
	Existing Use:	Commercial
South:	Zoning:	RE Residential Estate, R-10 Residential
	Existing Use:	Vacant
East:	Zoning:	B-3
	Existing Use:	Commercial
West:	Zoning:	R-E
	Existing Use:	Single Family (Dogwood Forest)

STAFF ANALYSIS AND COMMENTARY:

The Pine Hollow Commons Planned Development was originally approved in September of 2008. The proposal included 11.67 acres of land and 43,384 square feet of commercial uses. The original site design included an anchor retail center and five outparcels. Although the site plan indicated 43,384 square feet of uses, the final traffic impact analysis prepared by Wilbur Smith Associates only included 15,100 square feet of shopping center and a 6,000 square foot restaurant. Consequently, the current request will require an updated traffic study.

The current proposal includes 59,500 square feet of uses. The parcel layout and uses are modified and configured in a linear or “strip” pattern along US 70. Although this pattern is generally undesirable, the proposed internal road provides necessary connectivity and limits the number of driveway connections to the adjacent roadways. Architectural compatibility, pedestrian circulation cross parking and cross access will be necessary components of each Tract as they are developed.

- **Consistency with the Strategic Growth Plan**

The proposed uses are consistent with the Strategic Growth Plan.

- **Consistency with the Unified Development Code**

The proposed rezoning, master plan and major subdivision modifications are consistent with and meet the applicable requirements of the Unified Development Code (UDC).

- **Compatibility with Surrounding Land Uses**

The planned development will be adequately buffered to ensure compatibility with surrounding land uses.

- **Landscaping and Buffering**

Buffers are provided around the perimeter of the planned development where the site is not adequately buffered with natural vegetation and riparian buffers. Additional landscaping and buffering will be included with each phase of the planned development, consistent with the requirements of UDC Section 155.402 (landscaping, screening and buffering) and Planned Development Districts Standards. The applicant is requesting a waiver to reduce perimeter buffer requirements.

- **Signs**

Applicant has not requested signage as a part of the master plan for the planned development.

- **Site Design**

The development will occur in two phases. Site design will be approved by the Planning Board for each phase and tract of the development.

- **Architecture**

Architectural elevations have not been submitted as a part of the Master Plan approval. Elevations will be required as a part of site plan approval for all components of the development as individual site plan applications are submitted.

- **Waivers/Deviations/Variances from Code Requirements**

The applicant is requesting landscape waiver from UDC Section 155.203 which requires a Class B Buffer along the perimeter of the development. The applicant is requesting a Class A Street Yard Buffer along Shotwell Road and no buffer adjacent to CVS.

OTHER:

FIRE PROTECTION: The Town of Clayton Fire Department will provide fire protection.

ACCESS/STREETS: The development will be accessed by two driveways on US 70, one shared with CVS Pharmacy (existing) and one to be constructed at the western end of the property. There is also one existing driveway entrance and one proposed entrance to/from Shotwell Road. New/modified driveways are subject to NCDOT approval.

WATER/SEWER PROVIDER: Town of Clayton

ELECTRIC PROVIDER: Town of Clayton or Progress Energy

CONSIDERTIONS

- The applicant is requesting modification (rezoning) to the PD-R master plan.
 - The applicant is requesting major subdivision approval.
 - A utility allocation request of 35,775 gpd is being requested.
-

FINDINGS:

When adopting or rejecting the Rezoning to PD-C, the Town Council shall approve a statement describing whether its action is consistent with an adopted comprehensive plan and any other officially adopted plan that is applicable, and briefly explaining why the board considers the action taken to be reasonable and in the public interest.

That the Master Plan Approval Criteria have met (UDC Section 155.705(K)).

That the Major Subdivision is consistent with UDC Section 155.706 and the Findings of Fact have been addressed by the applicant. These Findings of Fact are incorporated into the record as Exhibit A of the Staff Report.

RECOMMENDATION:

Staff is recommending that the waiver request be approved for the perimeter of the property adjacent to CVS only. Staff does not support a reduction in buffer material along Shotwell Road.

Staff is recommending approval of the PD-C (rezoning) master plan modification and major subdivision plan subject to the following conditions of approval.

CONDITIONS OF APPROVAL

Previous Conditions:

- (1) The applicant shall complete the subdivision strictly in accordance with the plans submitted to and approved by this Board, a copy of which is filed in the Planning Department Office.
- (2) If any of the conditions affixed hereto or any part of thereof shall be held invalid or void, then this approval shall be void and have no effect.

Previous Additional Conditions:

1. A plan of road improvements, including possible right of way dedication, shall be approved by the Town, NCDOT, and the developers prior to the issuance of driveway or building permits. The primary reference for this agreement shall be the Traffic Impact Analysis.
2. A flood study to determine the impact of development on the stream and adherence to the Flood Damage Prevention regulations shall be completed prior to issuance of grading permits.

Is hereby deleted. Reason: NCDENR requirements have been updated and supersede the Condition.

3. A valid annexation petition for the property outside the Town Limits shall be submitted prior to issuance of permits.

Is hereby deleted. Reason: Complete.

4. Recommendation of the final design for Ring Road to be brought back for Council Approval.

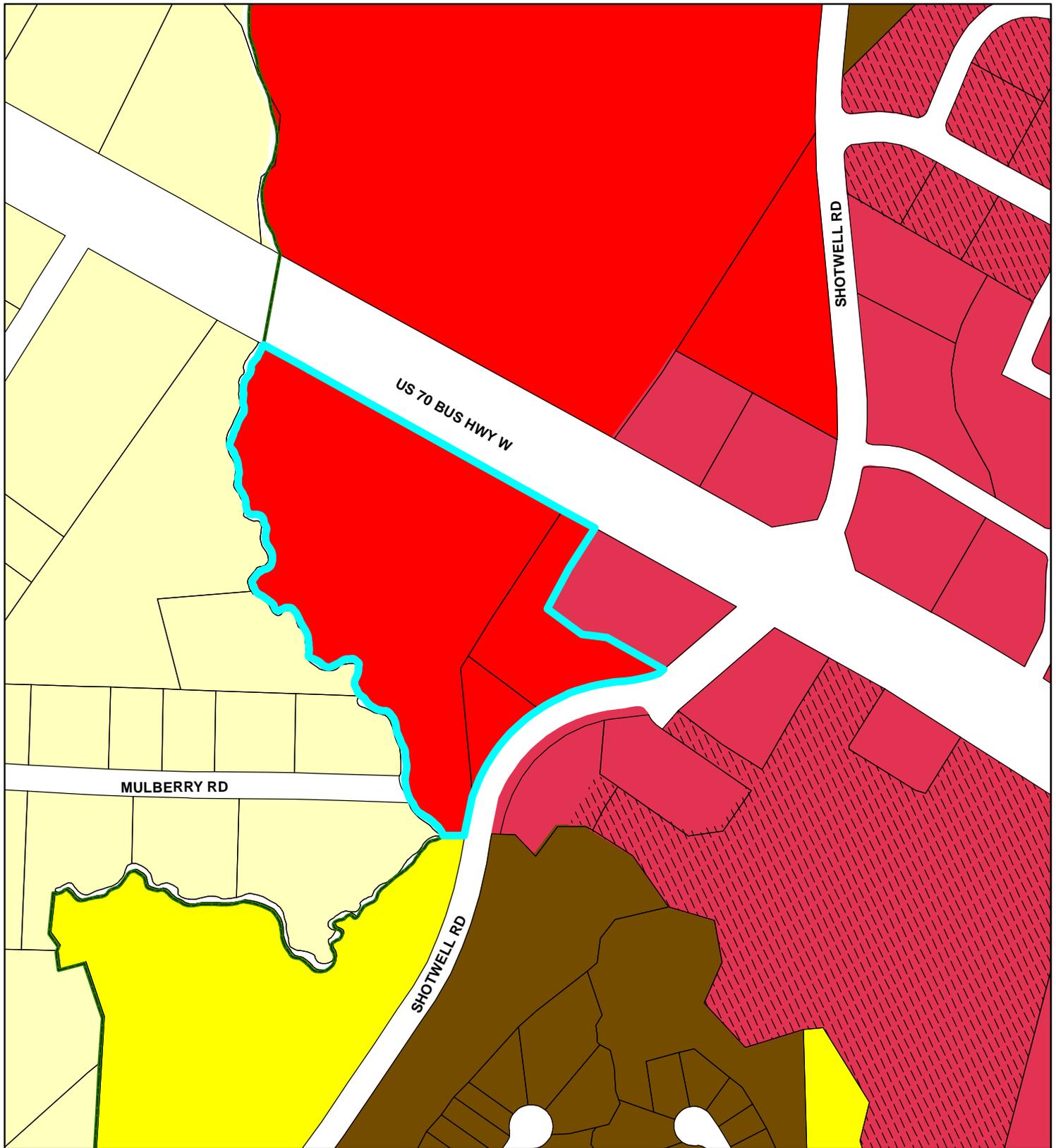
Is hereby deleted. Reason: The ring road is no longer being considered.

New Conditions:

1. The perimeter landscaping along US 70 HWY for the project's frontage must be installed prior to the issuance of a Certificate of Occupancy for any Tract in Phase I.
2. A Traffic Study is required prior to the issuance of a building permit for any Tract. All Traffic improvements recommended by NCDOT shall be installed prior to the issuance of a certificate of occupancy for the phase that generates an improvement.
3. Common architectural elements, pedestrian focal points, and specialty paving shall be included in the site design for the overall development and within each Tract.

PLANNING BOARD RECOMMENDATION:

Planning Board is recommending approval of the development subject including a waiver for landscaping adjacent to CVS and the conditions of approval as outlined above.



Legend			
	Clayton Town Limits		PD-C
	Clayton ETJ		I-1
	R-E		I-2
	R-10		O-1
	R-8		PD-MU
			B-3
			SUD
			R-6
			B-1
			PD-R

Produced by: TOC Planning

Zoning Map

Applicant(s): Sanderson Engineering
 Property Owner(s): Shotwell 70 Partners LLC
 Parcel Number(s) 05G02005N, 05G02005I & 05G02198E
 File Number(s): PD-C 2012-32
 S 2012-33

J

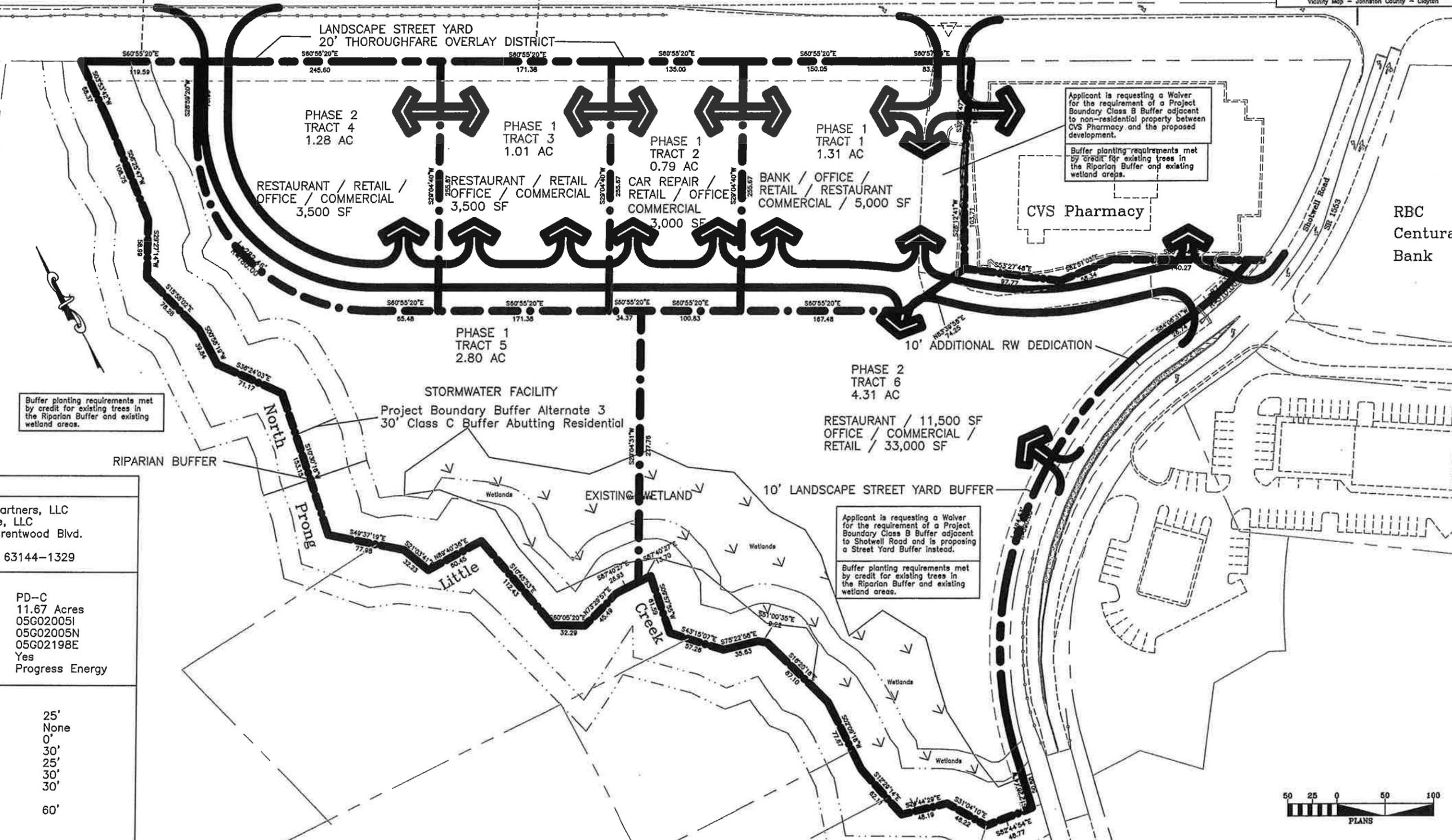
Disclaimer: Town of Clayton assumes no legal responsibility for the information represented here.



Westbound US 70 Business

Eastbound US 70 Business

Vicinity Map - Johnston County - Clayton



Applicant is requesting a Waiver for the requirement of a Project Boundary Class B Buffer adjacent to non-residential property between CVS Pharmacy and the proposed development.
Buffer planting requirements met by credit for existing trees in the Riparian Buffer and existing wetland areas.

Buffer planting requirements met by credit for existing trees in the Riparian Buffer and existing wetland areas.

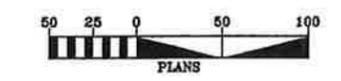
Applicant is requesting a Waiver for the requirement of a Project Boundary Class B Buffer adjacent to Shotwell Road and is proposing a Street Yard Buffer instead.
Buffer planting requirements met by credit for existing trees in the Riparian Buffer and existing wetland areas.

Site Data:

Owner: Shotwell 70 Partners, LLC
Conway Centre, LLC
1600 South Brentwood Blvd.
Suite 770
St. Louis, MO 63144-1329

Zoning of Tracts: PD-C
Area of Tracts: 11.67 Acres
Johnston County Tax Numbers: 05G02005I, 05G02005N, 05G02198E
Inside Town Limits: Yes
Electrical Service Provider: Progress Energy

Zoning Parameters	
Street Yard (min)	25'
Street yard (max)	None
Side Yard (interior)	0'
Side Yard (abutting residential)	30'
Side Yard (street)	25'
Rear Yard	30'
Rear Yard (abutting residential)	30'
Building Height (max)	60'



APR 13 2012

REV. NO.	DESCRIPTION	DATE
2	Added Zoning Parameters per TRC comments dated 4-10-12	4-13-12
1	Added buffer note per TRC comments dated 3-19-12	3-28-12

Handwritten signature
H-13-2012 DATE

DESIGNED	SSS
DRAWN	SSS
CHECKED	SSS
PROJ. ENGR.	SSS

SANDERSON ENGINEERING
2485 WENDELL BOULEVARD
P.O. BOX 2016 WENDELL, NC 27591
919-366-2016 267-363-7254 FAX
C-2218 Engineering and Land Planning

**PINE HOLLOW COMMONS
US HWY 70 WEST**

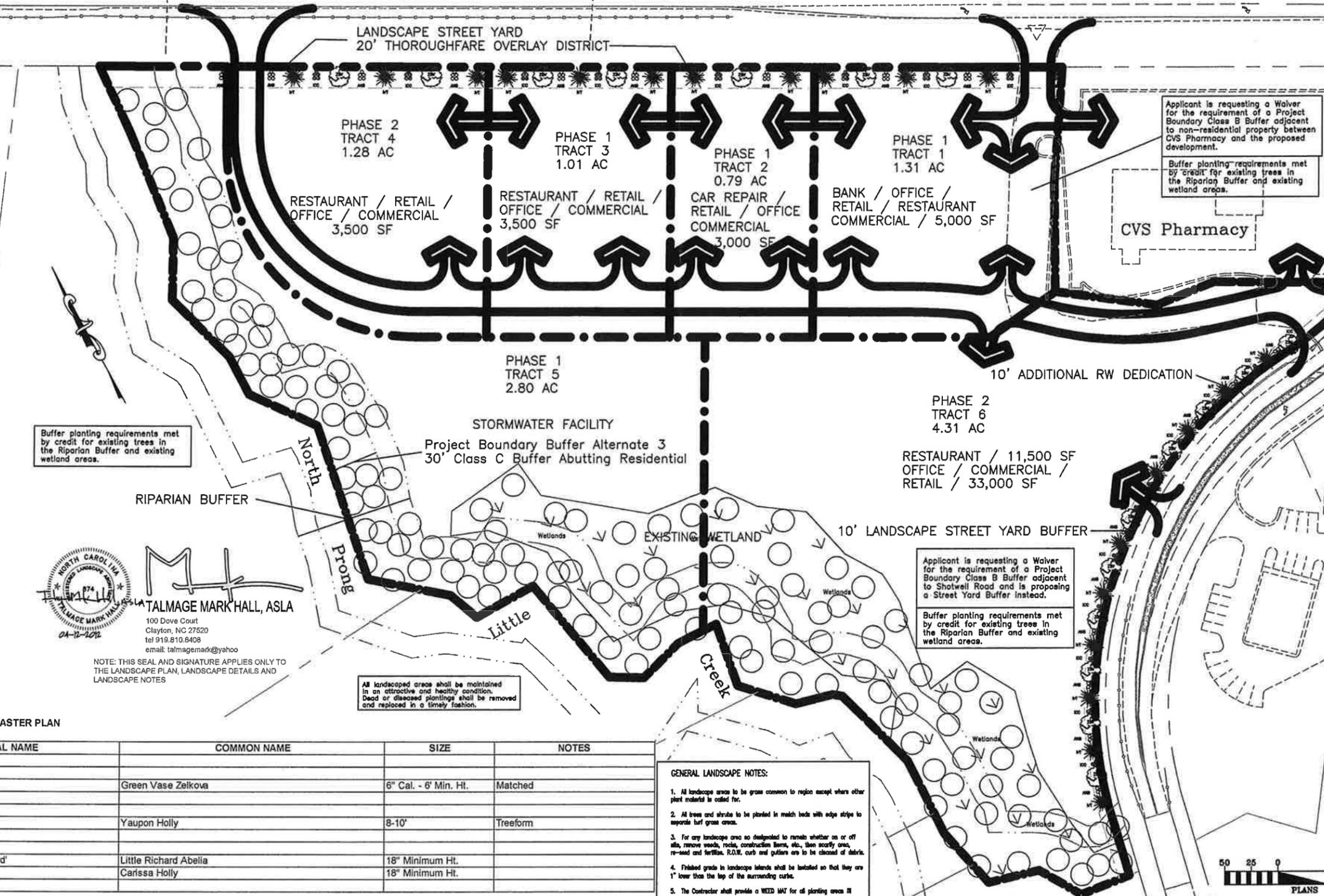
CONCEPTUAL MASTER PLAN

DATE: Feb 2012
SE PROJ. # 09-008
DWG FILE # 09-008
Page 75 of 93

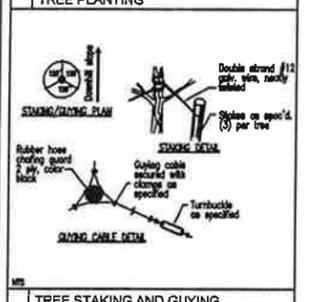
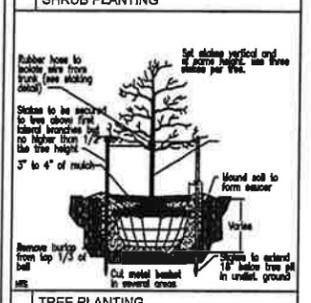
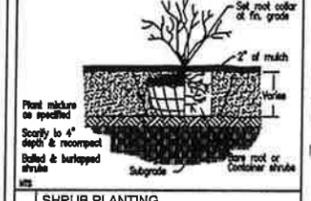
SCALE: HORIZONTAL: 1"=50'
VERTICAL: NA
SHEET NO. 1 OF 3

Westbound US 70 Business

Eastbound US 70 Business



- NOTES:**
1. Do not prune evergreens except to remove dead and broken branches.
 2. Thin branches and foliage (flat all branch flat) by 1/3, retaining normal plant shape. (except evergreen)
 3. Remove burrs from top 1/3 of ball or with container plants, remove pole and split balls as specified.



Buffer planting requirements met by credit for existing trees in the Riparian Buffer and existing wetland areas.

Applicant is requesting a Waiver for the requirement of a Project Boundary Class B Buffer adjacent to non-residential property between CVS Pharmacy and the proposed development.
Buffer planting requirements met by credit for existing trees in the Riparian Buffer and existing wetland areas.

Applicant is requesting a Waiver for the requirement of a Project Boundary Class B Buffer adjacent to Shotwell Road and is proposing a Street Yard Buffer instead.
Buffer planting requirements met by credit for existing trees in the Riparian Buffer and existing wetland areas.

All landscaped areas shall be maintained in an attractive and healthy condition. Dead or diseased plantings shall be removed and replaced in a timely fashion.

TALMAGE MARK HALL, ASLA
100 Dove Court
Clayton, NC 27520
tel 919.810.8408
email: talmagemark@yahoo

NOTE: THIS SEAL AND SIGNATURE APPLIES ONLY TO THE LANDSCAPE PLAN, LANDSCAPE DETAILS AND LANDSCAPE NOTES

Thoroughfare Overlay District

Total Area = 17,886 sf
Width Required = 20' (Avg)
Width Provided = 20'
Trees Required = 18 (50% evergreen)
Trees Provided = 18 (11 evergreen)
Shrubs Required = 90
Shrubs Provided = 90

Street Yard Buffer

Alternate 1 Class A Buffer
Width Required = 10'
Width Provided = 10'
Canopy Trees Required = 10
Canopy Trees Provided = 10
Understory Trees Required = 10
Understory Trees Provided = 10
Shrubs Required = 60
Shrubs Provided = 60

Class C Buffer Adjacent to Residential

Alternative 3
Width Required = 20'
Width Provided = 30'
Wall or Berm Required = 1
Canopy Trees Required = 2 per 100 lf
Understory Trees Required = 1 per 100 lf
Shrubs Required = 12 per 100 lf

Alternate Means of Compliance

The wooded area along the creek inside the Riparian Buffer provides many times the required number of trees and shrubs. The width is 50'; 2.5 times wider than the required width. Also, no wall or berm is allowed to be constructed inside the riparian buffer; therefore, no wall or berm can be constructed inside the buffer. The applicant proposes to allow the existing vegetated area to remain and serve as the Class C Buffer adjacent to Residential.

PLANT LIST - PINE HOLLOW COMMONS MASTER PLAN

QUAN	KEY	BOTANICAL NAME	COMMON NAME	SIZE	NOTES
CANOPY TREES					
17	ZSV	Zelkova serrata 'Green Vase'	Green Vase Zelkova	6" Cal. - 6' Min. Ht.	Matched
UNDERSTORY TREES					
21	IVT	Ilex vomitoria	Yaupon Holly	8-10'	Treeform
SHRUBS					
75	AXG	Abelia grandiflora 'Little Richard'	Little Richard Abelia	18" Minimum Ht.	
75	ICC	Ilex cornuta 'Carissa'	Carissa Holly	18" Minimum Ht.	

NOTE: ALL PLANT MATERIAL TO MEET OR EXCEED TOWN OF CLAYTON MINIMUM LANDSCAPE STANDARDS

NO.	DESCRIPTION	DATE
2	Added landscape notes per TRC comments dated 4-10-12	4-13-12
1	Added landscape notes per TRC comments dated 3-19-12	3-28-12

TALMAGE MARK HALL, ASLA
Professional Engineer Seal 17688
Signature: Talmage Mark Hall
Date: 4.13.2012

DESIGNED	TMH
DRAWN	SSS
CHECKED	TMH
PROJ. ENG.	SSS

SANDERSON ENGINEERING
2485 WENDELL BOULEVARD
P.O. BOX 2016 WENDELL, NC 27591
919-366-2016 267-363-7254 FAX
C-2218 Engineering and Land Planning

**PINE HOLLOW COMMONS
US HWY 70 WEST**

**CONCEPTUAL MASTER PLAN
LANDSCAPE PLAN**

DATE: Feb 2012
SE PROJ. # 09-008
DWG FILE # 09-008
Page 76 of 93

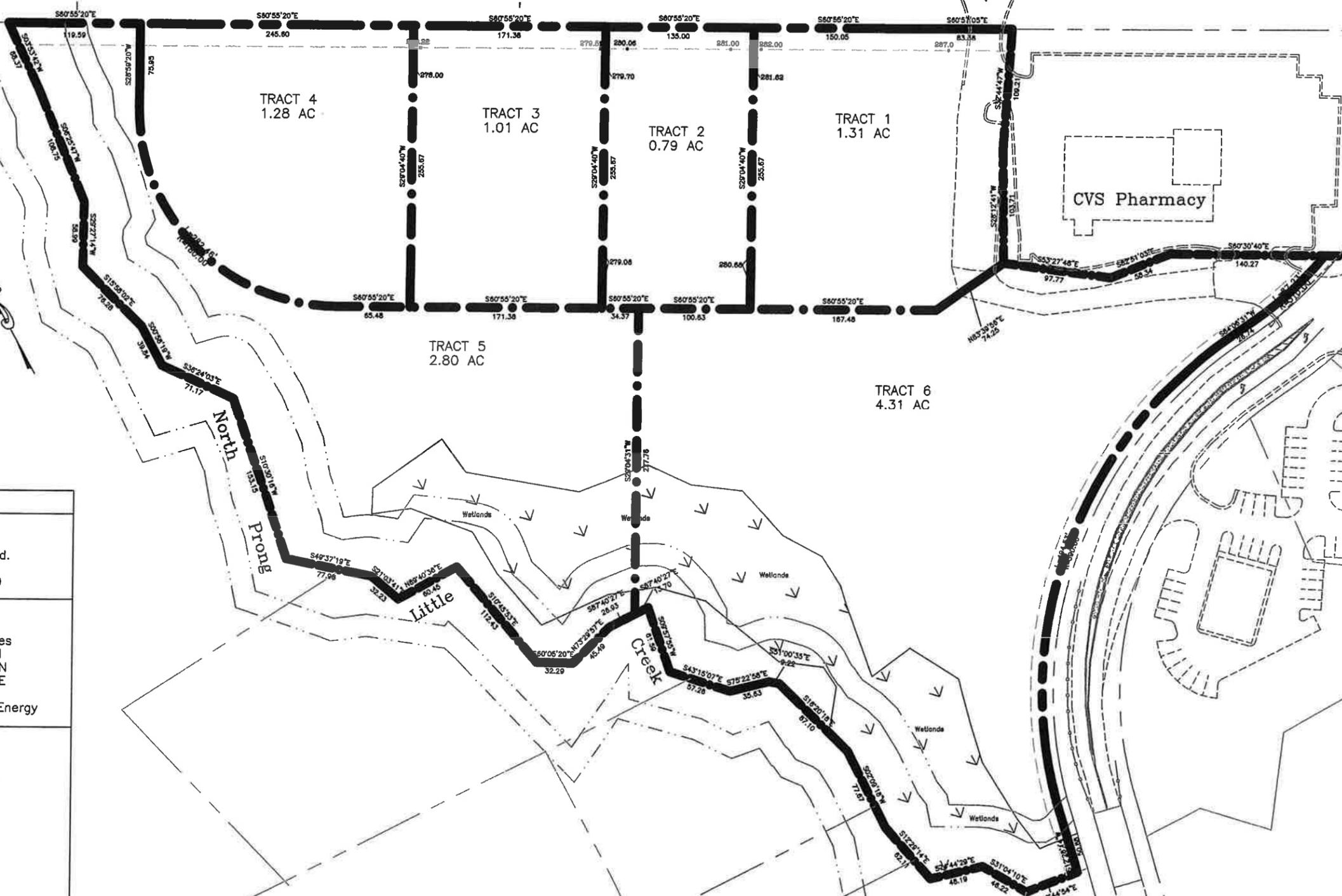
SCALE: HORIZONTAL: 1"=50' VERTICAL: NA
SHEET NO. 2 OF 3



- GENERAL LANDSCAPE NOTES:**
1. All landscape areas to be grass common to region except where other plant material is called for.
 2. All trees and shrubs to be planted in match beds with edge stripe to separate turf grass areas.
 3. For any landscape area so designated to remain whether on or off site, remove weeds, rocks, construction items, etc., then scarify area, re-seed and fertilize. R.O.W. curb and gutters are to be cleaned of debris.
 4. Finished grade in landscape islands shall be leveled so that they are 1" lower than the top of the surrounding curbs.
 5. The Contractor shall provide a WEED MAT for all planting areas !!

Westbound US 70 Business

Eastbound US 70 Business



Site Data:	
Owner:	Shotwell 70 Partners, LLC Conway Centre, LLC 1600 South Brentwood Blvd. Suite 770 St. Louis, MO 63144-1329
Zoning of Tracts:	PD-C
Area of Tracts:	11.67 Acres
Johnston County Tax Numbers:	05G02005I 05G02005N 05G02198E
Inside Town Limits:	Yes
Electrical Service Provider:	Progress Energy
Zoning Parameters	
Street Yard (min)	25'
Street yard (max)	None
Side Yard (interior)	0'
Side Yard (abutting residential)	30'
Side Yard (street)	25'
Rear Yard	30'
Rear Yard (abutting residential)	30'
Building Height (max)	60'



REV. NO.	DESCRIPTION	DATE
1	Added Zoning Parameters per TRC comments dated 4-10-12	4-13-12

Professional Engineer Seal for Steven Sawyer, No. 17888, State of North Carolina. Signature of Steven Sawyer, dated 4-13-2012.

DESIGNED	SSS
DRAWN	SSS
CHECKED	SSS
PROJ. ENG.	SSS

SANDERSON ENGINEERING
2485 WENDELL BOULEVARD
P.O. BOX 2016 WENDELL, NC 27591
919-366-2016 267-363-7254 FAX
C-2218 Engineering and Land Planning

**PINE HOLLOW COMMONS
US HWY 70 WEST**

**CONCEPTUAL MASTER PLAN
SUBDIVISION PLAN**

DATE: Feb 2012
SE PROJ. # 09-008
DWG FILE # 09-008
Page 77 of 93

SCALE
HORIZONTAL: 1"=50'
VERTICAL: NA

SHEET NO. **3**
OF: 3

**TOWN OF CLAYTON
SUBDIVISION APPLICATION
EVALUATION FORM**

Application Number: PDD 2012-32

The Town Council shall decide the matter of Subdivision Application Number PDD 2012-32 by motion and vote on each of the following four findings of fact. Any motion to find against the application must be supported by statement of specific reasons or conclusions reached in support of the motion.

Finding One of Four:

Circle One

- A. Based on the evidence and testimony presented it is the finding of the Council that the subdivision, if approved, will meet all required specifications and will conform to the Town Unified Development Ordinance. (Applicant meets the criteria for approval).

- B. Based on the evidence and testimony presented it is the finding of the Council that the subdivision, if approved, will meet all required specifications and will conform to the Town Unified Development Ordinance: (Applicant meets the criteria for approval upon acceptance of the noted conditions.)

- C. Based on the evidence and testimony presented it is the finding of the Council that the subdivision, if approved, will not meet all required specifications and/or will not conform to the Town Unified Development Ordinance for the following stated reasons: (Applicant fails to meet the criteria for approval.)

Finding Two of Four:

Circle One

- A. Based on the evidence and testimony presented it is the finding of the Council that the subdivision, if approved, will not be detrimental to the use or orderly development of other properties in the surrounding area and will not violate the character of existing standards for development of properties in the surrounding area. (Applicant meets the criteria necessary for approval.)

- B. Based on the evidence and testimony presented it is the finding of the Council that the subdivision, if approved, 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 upon compliance with the following stated conditions: (Applicant meets the criteria necessary for approval upon acceptance of the noted conditions.)

- C. Based on the evidence and testimony presented it is the finding of the Council that the subdivision, will be detrimental to the use or orderly development of other properties in the surrounding area and/or will violate the character of existing standards for development of properties in the surrounding area for the following stated reasons: (Applicant fails to meet the criteria necessary for approval.)

Finding Three of Four:

Circle One

- A. Based on the evidence and testimony presented it is the finding of the Council that the subdivision design, if approved, 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. (Applicant meets the criteria necessary for approval.)

- B. Based on the evidence and testimony presented it is the finding of the Council that the subdivision design, if approved, 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 upon compliance with the following stated conditions: (Applicant meets the criteria necessary for approval upon acceptance of the noted conditions.)

- C. Based on the evidence and testimony presented it is the finding of the Council that the subdivision design, if approved, will not provide for the distribution of traffic in a manner that will avoid or mitigate congestion within the immediate area, will not provide for the unified and orderly use of or extension of public infrastructure, and/or will materially endanger the environment, public health, safety, or the general welfare for the following reasons. (Applicant fails to meet the criteria for approval.)

Finding Four of Four:

Circle One

- A. Based on the evidence and testimony presented it is the finding of the Council that the subdivision, if approved, 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. (Applicant meets the criteria necessary for approval.)

- B. Based on the evidence and testimony presented it is the finding of the Council that the subdivision, if approved, 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 upon compliance with the following stated conditions:
(Applicant meets the criteria necessary for approval upon acceptance of the noted conditions.)

- C. Based on the evidence and testimony presented it is the finding of the Council that the subdivision, if approved, will adversely affect the general plans for the orderly growth and development of the town and/or is not consistent with the planning policies adopted by the Town Council for the following stated reasons: (Applicant fails to meet the criteria necessary for approval.)

Once all findings have been decided one of the two following motions must be made:

Motion 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 and with full incorporation of all statements and agreements entered into the record by the testimony of the applicant and applicant's representative I move to approve Subdivision Application # _____.

Motion to Deny: Based upon failure to meet all of the above four stated findings and for reasons stated therein, I move to deny Subdivision Application # _____.

Record of Decision:

Based on a motion and majority vote of the Clayton Town Council Subdivision Application Number PDD 2012-32 is hereby:

_____ approved upon acceptance and conformity with all stated conditions; or,

_____ denied for the noted reasons.

Decision made this 4th day of June 2012, while in regular session.

Jody L. McLeod,
Mayor

ATTEST:

Sherry L. Scoggins, MMC
Town Clerk

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

Agenda Item: 6a

Meeting Date: 6/04/12

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

DESCRIPTION: Attached.

At its April 16, 2012, work session, it was the consensus of the Council that the revised agreement would be reviewed prior to action. At the time of agenda preparation, the developer is/was reviewing the agenda. After the developer review, it will be forward to the Town Attorney for drafting.

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.
5-07-12	N/A	TRACKING.
5-21-12	N/A	TRACKING.
6-04-12	Discussion.	Strikethrough Version of Letter and FINAL Letter.

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

May 29, 2012

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~~ construction of all infrastructure within the Subdivision pursuant to existing site plans, recorded plats, zoning approvals, development agreements, and other Town ordinances and requirements on or before ~~September 30~~ December 31, 2012. As part of this obligation, BBS shall apply a finished layer of asphalt on all streets within the Subdivision on or before ~~September 30~~ December 31, 2012.

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~~ August 31, 2012.

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.

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~~ make a payment to the Town in ~~an~~ the amount ~~not less than of~~ \$125,000.00 ~~55,000.00~~ 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 BBS shall make a second payment to the Town in the amount of \$26,100.00 on the earlier to occur of: (a) the date BBS sells a portion or all of the Subdivision to a third party; or (b) within ten (10) business days after receiving a written request for such payment from the Town. All funds paid to the Town pursuant to this Paragraph shall secure the performance and satisfaction by BBS of the development, construction drawing, stormwater facilities, reimbursement, and other obligations of BBS under this Letter Agreement ("Obligations"). The Town shall be permitted to draw on use the bond and funds to complete the Obligations if: (a) BBS fails to complete construction of the infrastructure of the Subdivision pursuant to Paragraph 1 of this Letter Agreement; or (b) any portion of the real property within the Subdivision owned by BBS comes into receivership or becomes subject to foreclosure. The Town shall return the remaining amount of the deposits made pursuant to this Section (if any) to BBS within ten (10) business days after the Obligations have been completed and satisfied in the Town's sole discretion.~~

7. The Town agrees to release the Stop Order upon receiving ~~a surety bond that complies with the initial payment from BBS pursuant to~~ 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.

[SIGNATURE PAGE FOLLOWS]

TOWN:

TOWN OF CLAYTON,
a North Carolina municipal corporation

By: _____ (SEAL)

Print Name: _____

Title: _____

BBS:

BBS BUILDERS & DEVELOPMENT OF N.C., LLC,
a North Carolina limited liability company

By: _____ (SEAL)

Print Name: _____

Title: _____

Exhibit A – Subdivision

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

May 29, 2012

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:

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with all applicable laws and regulations; (c) is approved by the Town; and (d) is properly recorded in the Johnston County Register of Deeds.

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6. BBS shall make a payment to the Town in the amount of \$55,000.00 within ten (10) business days after the execution of this Letter Agreement by both parties. BBS shall make a second payment to the Town in the amount of \$26,100.00 on the earlier to occur of: (a) the date BBS sells a portion or all of the Subdivision to a third party; or (b) within ten (10) business days after receiving a written request for such payment from the Town. All funds paid to the Town pursuant to this Paragraph shall secure the performance and satisfaction by BBS of the development, construction drawing, stormwater facilities, reimbursement, and other obligations of BBS under this Letter Agreement ("Obligations"). The Town shall be permitted to use the funds to complete the Obligations if: (a) BBS fails to complete construction of the infrastructure of the Subdivision pursuant to Paragraph 1 of this Letter Agreement; or (b) any portion of the real property within the Subdivision owned by BBS comes into receivership or becomes subject to foreclosure. The Town shall return the remaining amount of the deposits made pursuant to this Section (if any) to BBS within ten (10) business days after the Obligations have been completed and satisfied in the Town's sole discretion.

7. The Town agrees to release the Stop Order upon receiving the initial payment from BBS pursuant to 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.

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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.

[SIGNATURE PAGE FOLLOWS]

TOWN:

TOWN OF CLAYTON,
a North Carolina municipal corporation

By: _____ (SEAL)

Print Name: _____

Title: _____

BBS:

BBS BUILDERS & DEVELOPMENT OF N.C., LLC,
a North Carolina limited liability company

By: _____ (SEAL)

Print Name: _____

Title: _____

Exhibit A – Subdivision

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

Agenda Item: 6b

Meeting Date: 6/04/12

TITLE: DISCUSSION OF NOISE ORDINANCE [TRACKING – NO ACTION REQUESTED].

DESCRIPTION: At its May 7, 2012, Council meeting, a spreadsheet comparing noise ordinances was presented to the Town Council.

The purpose of the discussion is to receive Council feedback and direction on this item.

RELATED GOAL: Administrative

ITEM SUMMARY:

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
5-21-12	Discussion.	Spreadsheet.
6-04-12	Tracking.	None.

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

Agenda Item: 8c

Meeting Date: 6/04/12

TITLE: TOWN CLERK

DESCRIPTION: Calendar of Events:

- Millstock Arts & Musical Festival – Saturday, June 2, 2012, at Horne Square
- Council Mtg – Monday, June 4, 2012 @ 6:30 PM
- Town Hall Day – Wednesday, June 6, 2012
- Council Mtg – Monday, June 18, 2012 @ 6:30 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 @ 6 PM
- Independence Day Holiday – Wednesday, July 4, 2012
- Council Mtg – Monday, July 16, 2012 @ 6:30 PM
- Board of Adjustment Mtg – Wednesday, July 18, 2012 @ 6 PM
- Town Square Concert Series: All My Rowdy Friends (country/Hank Jr tribute) – Thursday, July 19, 2012, from 7 PM to 9 PM
- Planning Board Mtg – Monday, July 23, 2012 @ 6 PM
- Council Mtg – Monday, August 6, 2012 @ 6:30PM
- ElectriCities Annual Conference – August 9-11, 2012
- Board of Adjustment – Wednesday, August 15, 2012 @ 6 PM
- Town Square Concert Series: Suicide Blonde (80's cover) – Thursday, August 16, 2012, from 7 PM to 9 PM
- Council Mtg – Monday, August 20, 2012 @ 6:30PM
- Planning Board Mtg – Monday, August 27, 2012 @ 6 PM
- Council Mtg – **TUESDAY**, September, 4, 2012 @ 6:30 PM
- Town Square Concert Series: Nantucket (rock) – Thursday, September 13, 2012, from 7 PM to 9 PM
- Council Mtg – Monday, September 17, 2012 @ 6:30 PM
- Council Mtg – Monday, October 1, 2012 @ 6:30 PM
- Council Mtg – Monday, October 15, 2012 @ 6:30 PM
- NCLM Annual Conference hosted in Charlotte – October 21-23, 2012
- Council Mtg – Monday, November 5, 2012 @ 6:30 PM

Date:
6-04-12

Action:
N/A.

Info. Provided:
Calendar of Events.