

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**

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## **TOWN COUNCIL MEETING**

**OCTOBER 21, 2013**

### **AGENDA**

#### **MAYOR AND TOWN COUNCIL**

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

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

#### **TOWN STAFF**

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

## **AGENDA**

### **THE WORK SESSION MEETING OF THE CLAYTON TOWN COUNCIL**

**MONDAY, OCTOBER 21, 2013**  
**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. **ACTION AGENDA**
  - a. Draft minutes from October 7, 2013, regular meeting.
  - b. Public notice for the following items slated for Clayton Town Council consideration at its November 4, 2013, Council meeting:
    - Evidentiary hearing for special use permit application SUP 2013-71 for LionsGate
    - Evidentiary hearing for subdivision application SUB (PSD) 2013-56 for LionsGate, Phase 3A and 3G
    - Evidentiary hearing subdivision application SUB (PSD) 2013-57 for LionsGate, Phase 6A and 6B
    - Public comment on the proposed fee amendment to the water and sewer capacity fees.
  
4. **INTRODUCTIONS AND SPECIAL PRESENTATIONS**
  - a. Introduction of new Town of Clayton employee(s).
  - b. Presentation and introduction of cadet program and overview of Johnston County EMS.
  - c. Presentation by Cooper Elementary PTA for Run for the Rockets request.
  - d. Presentation of wastewater conveyance study by CH2M Hill.
  
5. **ITEMS SCHEDULED FOR THE REGULAR MEETING AGENDA**
  - a. Presentation of amendment to the Water/Sewer fees of the Town’s Comprehensive List of Fees and Charges.
  - b. Presentation of revisions to the Financial Policy Guidelines.
  - c. Presentation of special use permit SUP 2013-71 located on Amelia Church Road and submitted by DC Adams Engineering Inc.
  - d. Presentation of subdivision permit SUB (PSD) 2013-56 for phases 3A and 3G located within LionsGate Subdivision and submitted by DC Adams Engineering Inc.
  - e. Presentation of subdivision permit SUB (PSD) 2013-57 for phases 6A and 6B located within LionsGate Subdivision and submitted by DC Adams Engineering Inc.

- f. Presentation of NCDOT Locally Administered Project Agreement for the Sam's Branch / North O'Neil Crossing.
  - g. Presentation of NCDOT Locally Administered Project Agreement for the Sam's Branch Phase II.
  - h. Presentation of resolution from Johnston County Schools for the pending bond referendum.
  - i. Presentation of resolution authorizing development of a grant application for infrastructure funding through the NC Department of Commerce.
  - j. Presentation of amendments to the Municipal Records Retention & Disposition Schedule.
  - k. Presentation of resolution – 2014 Holiday Schedule.
  - l. Presentation of resolution – 2014 Council Schedule.
6. ITEMS CONTINGENT FOR THE REGULAR MEETING
7. ITEMS FOR DISCUSSION
8. OLD BUSINESS
- a. Status of 110 West Front Street, former Red & White Store.
  - b. Status of the acquisition of easements for the Clayton-Raleigh sewer transmission project.
9. STAFF REPORTS
- a. Town Manager
  - b. Town Attorney
  - c. Town Clerk
    - Calendar of Events
  - d. Other Staff
10. OTHER BUSINESS
- a. Informal Discussion & Public Comment.
  - b. Council Comments.
11. ADJOURNMENT

Slated for the November work session:

- Appointments to Town of Clayton advisory boards and committees.

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

**Agenda Item: 3a**

**Meeting Date: 10/21/13**

**TITLE: DRAFT MINUTES FROM THE OCTOBER 7, 2013, COUNCIL MEETING.**

**DESCRIPTION: Minutes.**

**RELATED GOAL: Administrative**

**ITEM SUMMARY:**

**Date:**

**Action:**

**Info. Provided:**

**10-21-13**

**Approval.**

**Draft minutes from 10/7/13.**

## **MINUTES CLAYTON TOWN COUNCIL OCTOBER 7, 2013**

The first regular meeting of the Clayton Town Council for the month of September was held on Monday, October 7, 2013, at 6:30 PM at Town Hall, 111 East Second Street.

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

**ALSO PRESENT:** Steve Biggs, Town Manager; Katherine Ross, Town Attorney; Sherry Scoggins, Town Clerk; Emily Beddingfield, Town Planner; Tim Simpson, Public Works & Utilities Director; Dale Medlin, Electric System Director; Larry Bailey, Parks & Recreation Director; Bruce Naegelen, Downtown Development Coordinator; Stacy Beard, Public Information Officer; Tommy Roy, Information Services Technician.

### **ITEM 1. CALL TO ORDER**

Mayor McLeod called the meeting to order at 6:32 PM. Mayor McLeod gave the invocation.

### **ITEM 2. ADJUSTMENT OF THE AGENDA**

It was the consensus of the Council to proceed with the agenda as presented.

### **ITEM 3. ACTION AGENDA**

Mayor Pro Tem Grannis and Councilman Lawter simultaneously motioned to approve the action agenda as presented; Councilman Thompson seconded the motion. The motion carried unanimously at 6:33 PM with the following action agenda items being approved:

- Item 3a. Draft minutes from the September 16, 2013, work session meeting.
- Item 3b. Asphalt warranty acceptance memorandum for Creekside Commons Subdivision, excluding Phase 4A.

### **ITEM 4. INTRODUCTIONS AND SPECIAL PRESENTATIONS**

No introductions and special presentations were made to Council.

### **ITEM 5. PUBLIC HEARINGS**

- Item 5a. Public hearing for text amendments to Town of Clayton Code of Ordinances for Chapter 155 for the following:
- 155.308 Accessory Uses and Structures (food truck addition)
  - 155.405 Outdoor Storage and Display
  - 155.719 Nonconformities

Town Planner Emily Beddingfield provided the following PowerPoint presentation of the text amendments to Chapter 155, herewith attached:

- Review of revisions for the following sections of Chapter 155: 308 Accessory Uses, 405 Outdoor Storage and Display & 719 Nonconformities
- Update to Accessory Uses (155.308)
  - Moved outdoor seating to section 311
  - Addition of food truck regulations
    - Requires permits from the Town and appropriate county health department
    - Exemptions
    - Provisions for public safety
    - Location requirements
    - Hours of Operation
    - Signage
- Outdoor Dining, Display and Storage (155.311)
  - Defined outdoor dining
  - Added general requirements;
    - Permitted as a minor site plan
    - Must meet parking requirements
    - Must be architecturally compatible with the principal use
    - Meet ADA requirements
    - Meet additional standards if located within right-of-way
    - For consistency, “town” and “local government” reflects “town”
  - Outdoor display and sales updated
    - Minor site plan approval for areas over 50 square feet
    - Must be on the same property as principal use or adjacent right-of-way
    - Meet ADA requirements
  - Outdoor storage (relocated from section 405 with minor amendments)
    - Revisions since the Council work session included removal of vehicles, garden supplies, building supplies, and plants from the definition
    - Location requirements note that storage shall not be permitted in street yard or forward of building line
  - Nonconformities (moved from section 719 to section 111)
    - Complete re-write of previous section
    - Added purpose and intent
    - Added applicability

- Defined nonconforming lot
- Defined nonconforming use
- Defined nonconforming structure
- Defined nonconforming site element
- Reduced watershed protection overlay (WPO) section

Councilman Satterfield stated he has concerns about the food truck provisions. He stated he just got off the phone with Planning Director David DeYoung and added he will be in favor of passing what has been presented this evening. He stated this may be tweaked in the coming months.

Town Attorney Katherine Ross requested clarification of page 23 of the packet for Section 155.311 c 1 b. She stated she heard there was a modification to the outdoor merchandise and she does not see where that is in the version included in the agenda packet.

Planner Beddingfield stated that section was amended after the agenda packet was delivered and she stated that should have been clarified in the presentation.

Mayor Pro Tem Grannis stated he heard a courtesy notice by the food truck to the county health department. He stated he did not recall seeing that in the documentation.

Town Manager Steve Biggs stated staff made contact with the Johnston County Health Department. He stated Johnston County Health Department does not require an inspection if it is inspected by another county health department and that Johnston County Health Department would appreciate a courtesy notice. He added it is not something that is required by Johnston County Health Department.

Planner Beddingfield stated that is correct. She stated that is something the Town would do as a courtesy for the Johnston County Health Department as part of the zoning compliance permit process.

Mayor Pro Tem Grannis questioned what happens the courtesy notice is not forwarded and the food truck is in violation of the requirements.

Planner Beddingfield stated it is the responsibility of staff as part of the zoning compliance review to forward the documentation to the Johnston County Health Department.

Mayor Pro Tem Grannis questioned if there is an issue to not include the verbiage.

Planner Beddingfield stated the Town could and she added that Johnston County Health Department did not state that it is required.

Councilman Satterfield questioned if that is something to be considered when this item is reviewed in the next week or two.

Mayor Pro Tem Grannis stated that is acceptable.

Mayor Pro Tem Grannis stated there was discussion about the 24 hour notice to remove property from the sidewalk sent by the Town. He questioned if restaurant table and chairs as merchandise is in that section.

Planner Beddingfield stated in the negative. She stated that is included in the outdoor dining section of the code and that also has a 24 hour notice. She clarified that is for items in the right-of-way.

Mayor McLeod stated that has been noticed as a public hearing and he opened the public hearing at 6:50 PM. As no one came forward, Mayor McLeod closed the public hearing at 6:50 PM and turned this over to Council for deliberation.

Mayor Pro Tem Grannis questioned if these have to be heard one at a time.

Town Attorney Ross stated it is the Council's preference on whether to motion on each text amendment separately or together.

It was the consensus of the Council to do all three together.

Councilman Satterfield motioned to approve the text amendments to Chapter 155 for Sections 308, 405 and 719. Councilman Thompson seconded the motion. Motion carried unanimously at 6:51 PM.

Mayor Pro Tem Grannis motioned to approve the statement of consistency and reasonableness for the text amendments as presented; Councilman Satterfield seconded the motion.

Councilman Lawter stated he has a question about the numbering of the ordinances.

Town Attorney Ross stated that the numbers stated are the previous section numbers. She recommended referring to the new section numbers in the motion which are sections 308, 311, and 110.

Councilman Satterfield amended his motion to approve the text amendments as presented and reflect the amended section numbers of 308, 311, and 110.

Councilman Thompson seconded the amended motion. Motion passed unanimously at 6:53 PM.

Mayor Pro Tem Grannis motioned to approve the statement of consistency and reasonableness for the text amendments to Chapter 155, sections 308, 311 and 110; Councilman Satterfield seconded the motion. All Council members voted in favor of the motion at 6:54 PM.

Item 5b. Evidentiary hearing for subdivision request SUB 2013-51, Ashcroft Subdivision, located on North O’Neil Street adjacent to Sam’s Branch Greenway trailhead.

Mayor McLeod announced subdivision application SUB 2013-51 for Ashcroft Subdivision located on North O’Neil Street adjacent to Sam’s Branch Greenway trailhead has been noticed for an evidentiary hearing at 6:54 PM. He called upon Town Attorney Katherine Ross to explain the rules of procedure for an evidentiary hearing.

Town Attorney Katherine Ross introduced the evidentiary hearing procedures used for subdivision application SUB 2013-51. She explained that subdivision applications are different in certain respects from the capacity in which the Town Council normally functions. Ms. Ross stated the Town Council normally functions in a legislative capacity; preliminary subdivision application hearings are “quasi-judicial,” which means that the Council would act essentially as a court of law. She stated there is a burden that the applicant of the subdivision application must meet the four criteria found in the Unified Development Code (UDC) of the Town Code of Ordinances. She added anyone opposed to the application must put on evidence of a similar kind, showing the findings of fact have not been met. She stated testimony must be given under oath. She stated all testimony and evidence provided to the Council must be competent and material and substantial. She stated pursuant to the North Carolina General Statutes, competent evidence does not include opinion testimony of lay witnesses on certain matters. She stated hearsay evidence will not be admitted. She stated the Town Council will apply the criteria contained in the Unified Development Code and make its decision based on the evidence and testimony presented at the hearing this evening. Town Attorney Ross stated her role during the hearing is to monitor all evidence and testimony to ensure that it complies with North Carolina law, the Town’s Code of Ordinances and procedures and all other applicable requirements.

Mayor McLeod called all those wishing to give evidence, whether for or against the subdivision application, to come forward and be sworn in. Town Clerk Sherry Scoggins administered the oath to: Steve Biggs, Emily Beddingfield, Jonathan Barnes, and Charles D. Blackwell

Town Planner Emily Beddingfield provided the following PowerPoint presentation of SUB 2013-51, herewith attached:

- Preliminary Subdivision Approval for development known as the Ashcroft Subdivision
- Master plan for this site expired March of this year
- Slightly less than 75 acres
- Zoned Planned Development – Residential
- Within the watershed protection overlay
- With the exception of the trailhead and Sam’s Branch Greenway, the property is vacant
- Proposed use is 150 residential units
  - 104 single-family residences
  - 46 townhomes
- Maximum density proposed is two units per acre
  - Consistent with the watershed protection overlay
  - 29 percent maximum impervious has been requested
  - Town Code allows a maximum of 36 percent impervious
- Access to the property is off of North O’Neil Street
- Required improvements to North O’Neil Street by NCDOT
- Sidewalks will be on both sides of the street and there will be cross walks at intersections
- Including the trailhead there will be five access points to the Sam’s Branch Greenway Trail and the Sam’s Branch Greenway Trail connects with the River Walk Mountains-to-Sea Trail
- Class C Buffer is provided along all borders with the exception of the southern boundary which has a riparian buffer
- 11.98 acres are provided for recreation and open space
  - Required recreation and open space acreage is 3.08 acres
  - 6.55 acres will be dedicated open space
  - 5.5 acres are for Town Park / existing trailhead
- 12.04 acres are greenway easement and includes the Sam’s Branch Greenway
- Property as proposed meets the Town’s watershed protection overlay requirements
- 50 foot riparian buffer as this abuts Sam’s Branch
- Several lots are within the 100 year flood zone
  - Applicant will work with the Town Engineer for any development to those lots
- Site has been configured to preserve trees
- Applicant is requesting a utility allocation of 49,740 gpd
- One cul-de-sac on the north side of the property is longer than the permitted length due to topography, slope, and buffers
  - Applicant requesting a waiver

- Trail access is off of any of the cul-de-sacs
- Proposed development consistent with the Town’s Strategic Growth Plan
- Request is consistent with the Unified Development Code
- Major subdivision is consistent with section 155.705 (K) and section 155.706
- Findings of fact required by code were addressed by the applicant and incorporated into the application
- Proposed development is consistent with surrounding land uses
- Class C buffer around the perimeter of the property
- Neighborhood meeting was held on August 12, 2013
  - No known opposition
- Council considerations include:
  - Preliminary subdivision with conditions listed in the staff report
  - Waiver for the cul-de-sac to exceed the length
  - Wastewater allocation request of 49,740 gpd

Mayor McLeod called upon the applicant to present his case at 7:04 PM.

Mr. Jonathan Barnes of Dalton Engineering and Associates located at 446 East Main Street of Clayton stated it has been a smooth process working with staff on this request. He stated he is available to answer questions.

As there was no one to speak in opposition, Mayor McLeod turned this item over to Council for inquiry at 7:06 PM.

Mayor Pro Tem Grannis stated the last time this request came before Council he believed there was written documentation from the fire department that the request for the cul-de-sac length was acceptable. He questioned if that would carry over.

Planner Beddingfield stated staff does not have written documentation. She added Fire Marshal Tony Atkinson did review the plan during the Technical Review process.

Mayor Pro Tem Grannis stated under Council consideration, number 8: Prior to plat recordation, development agreement shall be executed between the developer and Town of Clayton to formalize timeframes and process associated with necessary roadway improvements and the dedication of land for a public park. He questioned if there was a reason why that has not been received.

Planner Beddingfield stated it is her understanding that Town Manager Biggs and Mr. DeYoung are in conversations...

Town Manager Biggs questioned sooner than recordation.

Mayor Pro Tem Grannis stated during the work session, it was recommended to have the agreement in advance of approving the subdivision request. He stated it appears to him that is not the case.

Town Manager Biggs stated staff is continuing to work through this process. He stated if the Council were to approve this plat with that condition, the preliminary plat approval would not be valid unless that condition is met. He stated the advantage to moving forward is that it enables the applicant to continue with the engineering design, permitting processes, and so forth. He stated for the Town it allows time to work through the process. He stated the Town has changed its approach in working with the developer. He stated the initial approach was a straight land donation for the Sam's Branch trail. He stated the Town has been using the property gratis since the completion of the trail. He stated there has been good faith shown by the developer to date. He stated as the process is worked through on how to formalize, and the Town having responsibility for access – shared responsibility for turn lanes for installation of turn lanes to access the trailhead – the approach now is the Town will receive in donation a portion of the property. He stated the donation would be the maximum threshold the developer can receive benefit and the remainder of the trailhead would be purchased and in turn the Town would not have responsibility for access to the trailhead and subdivision. He stated discussion is on the financial terms as well as the timeline. He stated this is a cleaner process. He stated the developer will have singular responsibility for performing this project. He stated it is a cost advantage to structure it this way for the trailhead. He stated if the Council is comfortable with approving it with this condition then the developer can go forward with his work. He stated this will allow the developer's engineer to design in good faith and finalizing the agreement and the final agreement would come back to the Council.

Mayor Pro Tem Grannis stated he is good with that.

Councilman Satterfield questioned the timeframe of it coming back to Council.

Town Manager Biggs stated he estimates the end of the year.

Councilman Satterfield questioned when it comes to Council it will be complete.

Town Manager Biggs stated in the affirmative.

Councilman Lawter stated the four findings of fact do not address his concern. He stated his concern is the Town spent funds on developing Sam's Branch Greenway and there are 20 +/- lots that back up to it. He stated his concern is as it gets developed and is cleared to the property line, and the public art is more exposed and could possibly be damaged. He questioned if there is a

mechanism for a minimal buffer so as to not look at stuff in people’s back yards or persons pulling chairs down to the greenway or leaving debris on the greenway. He questioned if there is some way to protect the Town’s investment. He stated in reviewing the findings of fact, he does not know that is addressed.

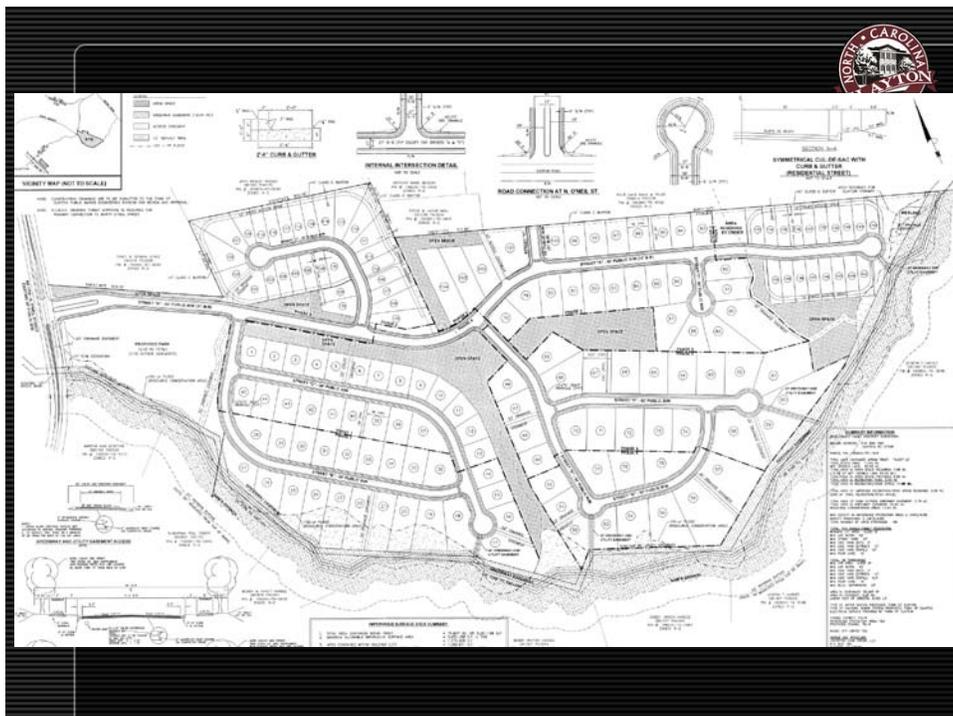
Planner Beddingfield stated as the development is proposed, there is no formal buffer provided. She stated there are some areas in the development where the existing buffer as part of the greenway easement that would be maintained per the Town Code as part of the resource conservation area.

Councilman Lawter questioned if Mr. Barnes was aware of plans to address this concern.

Mr. Barnes stated in looking at the proposed layout and sees the 20 lots. He stated the majority of those lots have resource conservation area. He stated as for a formal buffer, he is not aware of any at this time.

Councilman Lawter questioned if the cross hatched area shown is the resource conservation area.

Mr. Barnes stated there are a couple of different hatched areas.



Planner Beddingfield placed a highlighter over the lots in question.

Councilman Holder stated the distance between greenway and the lots looks small. He questioned if there will be a berm.

Mr. Barnes stated no berm is being proposed.

Councilman Holder stated he thinks people will object to people walking and being able to see in the back yards.

Councilman Lawter stated he thinks it works both ways.

Mr. Barnes stated the minimum he has seen is at least 10 feet between the existing greenway and the back of the lot.

Councilman Lawter questioned if that is something that is in the covenants or in the deed that whoever owns that property would have knowledge that is a conservation resource area and to not cut down the trees.

Planner Beddingfield stated the Town Code requires that resource conservation areas be clearly identified on final plats and recorded as an area to be preserved in perpetuity.

Town Manager Biggs stated the hatched area shown is resource conservation area beyond the area of the easement.

Councilman Lawter stated he does not know when the last time it was confirmed as the 100 year flood plain by FEMA.

Mayor McLeod called the Council into deliberation at 7:19 PM.

Mayor Pro Tem Grannis motioned to approve the water sewer request of 49,740 gpd for the Ashcroft Subdivision located on North O'Neil Street and adjacent to the Sam's Branch Greenway trailhead. Councilman Satterfield and Councilman Holder simultaneously seconded the motion. Motion carried unanimously at 7:20 PM.

**Mayor Pro Tem Grannis motioned:**

Based on the substantial and competent evidence and testimony presented to the Town Council on this matter, the Council finds and concludes that Subdivision Application **SUB 2013-51**, subject to the conditions recommended by the Planning Board and Planning Staff:

1. Consideration of a preliminary subdivision waiver to UDC Section 155.602(G)(1) to allow the cul-de-sac length to exceed 700 feet.

2. **Consideration of the preliminary subdivision plat and master plan (to be approved as the master plan for the development and the preliminary plat concurrently) with the following conditions:**
  - a. **All conditions of approval associated with the subdivision approval under PDD-R 2010-46 (approved March, 2011) are hereby deleted and replaced as follows.**
  - b. **Following Council approvals, three copies of the approved Master Plan/Preliminary Subdivision Plan meeting the requirements of the Conditions of Approval shall be submitted to Planning Department.**
  - c. **The development of the site is limited to the design and uses approved by the Town Council. Modifications may require additional approvals to be consistent with the UDC, or as necessary to meet Conditions of Approval.**
  - d. **A utility acreage and nutrient offset fees, and recreation and open space fees are due prior to plat recordation. Capacity fees shall be due prior to the issuance of each building permit.**
  - e. **Approved street names and addresses shall be applied to the plat prior to recording.**
  - f. **All recorded maps shall prominently identify riparian buffers and note that the lots are subject to the regulations of the Watershed Protection Overlay District of the Town of Clayton.**
  - g. **The street connection to N. O’Neil Street (SR 1708) shall be approved by NCDOT prior to recording final plats.**
  - h. **Prior to plat recordation, a Development Agreement shall be executed between the developer and the Town of Clayton to formalize the timeframes and process associated with necessary roadway improvements and the dedication of land for a public park.**
  - i. **The lots at the eastern end of the project shall not be recorded until NCDOT completes a preliminary alignment analysis for the Clayton Parkway.**
  - j. **Homeowners Association documents which provide for maintenance and management of all common facilities must be recorded prior to any plat recordation.**

- k. Existing 100 year flood zone encroachment issues shall be resolved before any non-drainage related improvements occur in the impacted area.

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

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

Councilman Holder seconded the motion.

Councilman Satterfield questioned if this included the waiver for the cul-de-sac or will that need to be a separate motion.

Town Attorney Katherine Ross stated the waiver is a separate action.

Mayor Pro Tem Grannis amended his motion to include the waiver for the cul-de-sac length is amendable to be exceeded from 700 feet to 1150 feet.

Councilman Lawter stated he is satisfied that there are other ordinances and reviews in place that his concerns about the greenway will be addressed.

All Council members voted in favor of the motion with the amendment to include the cul-de-sac waiver at 7:23 PM.

**Mayor Pro Tem Grannis motioned to approve:**

Based upon satisfactory compliance with the above four stated findings and fully contingent upon acceptance and compliance with all conditions as previously noted herein I move to approve Subdivision Application **SUB 2013-51**.

Councilman Lawter seconded the motion. Motion carried unanimously at 7:24 PM.

## **ITEM 6. OLD BUSINESS**

Item 6a. Status of 110 West Front Street, former Red & White Store.

Town Manager Steve Biggs stated he met with Mr. Randy Messick this afternoon. He stated two conditions were established. He stated Mr. Messick has been working as an agent for Mrs. Smith, the owner of the property. He stated Mr. Messick has an agreement with Mrs. Smith to purchase the property. He stated Mr. Messick was requested to provide an executed copy of a contract to purchase. He added Mr. Messick stated he has financial backing for the project. He stated a meeting with the financial partner has been requested and to include a contract that is between them and a certified financial statement if the financial partner is not an institution. He stated Mr. Messick has until the next Council meeting to produce the contract. He stated if Mr. Messick does not produce the contract, staff will request to proceed with condemnation. He stated Mr. Messick was given two weeks beyond the next Council meeting to meet with and provide documentation of the financing terms.

Item 6b. Status of the acquisition of easements for the Clayton-Raleigh sewer transmission project.

Town Attorney Katherine Ross stated Public Works & Utilities Director Tim Simpson and she continue to have conversations with land owners who have not provided easements.

Item 6c. Budget amendment for the off-budget capital outlay proposals.

Town Manager Biggs stated a budget ordinance amendment and a memorandum detailing the items in the budget ordinance are before the Council for consideration; herewith attached to the minutes.

Councilman Holder motioned to approve the budget amendment as presented; Mayor Pro Tem Grannis seconded the motion. Motion carried unanimously at 7:28 PM.

## **ITEM 7. NEW BUSINESS**

Item 7a. Proclamation: Public Power Week – Neighbors with Know-How.

Councilman Thompson motioned to approve the proclamation as presented; Councilman Lawter seconded the motion. Motion carried unanimously at 7:29 PM.

## **ITEM 8. STAFF REPORTS**

### **Item 8a. Town Manager**

Town Manager Steve Biggs stated no additional report.

### **Item 8b. Town Attorney**

Town Attorney Katherine Ross stated no additional report.

### **Item 8c. Town Clerk**

Town Clerk Sherry Scoggins stated the Community Shred Event is this Saturday at Town Square from 8 AM to 2 PM, rain or shine. She added the Clayton Fire Department Open House is this Sunday at Fire Station 1 at 325 West Horne Street from 2 PM to 4 PM.

### **Item 8d. Other Staff**

Public Information Officer Stacy Beard stated the following events are slated for Saturday, October 12, 2013:

- Book signing at the library from 11 AM to 2 PM
- Zaxby's Movie Night at Town Square

Public Information Officer Beard stated the E-tracker project at Clayton High School is slated to wrap up on October 18<sup>th</sup>. She stated the details are a work in progress and will be forwarded when confirmed.

## **ITEM 9. OTHER BUSINESS**

### **Item 9a. Informal Discussion and Public Comment.**

No informal discussion and public comment was presented.

### **Item 9b. Council Comments.**

Councilman Lawter requested an update on the Front Street Connector project.

Town Manager Biggs stated it is going well. He stated a schedule on the expected cash flow analysis with access to the Arbors will be made by the end of

the year.

Councilman Lawter stated congratulations to the incumbents and candidates who participated in the forum. He stated an item that came out of the forum is the concern about ordinances and holding up Downtown development. He questioned if Downtown Development Coordinator Bruce Naegelen could do a survey.

Mayor McLeod stated that is a perfect topic for the Council Retreat.

Councilman Lawter stated he attended Squealin' on Square and Shindig and both were a success.

Councilman Lawter stated signs seem to be a topic of interest. He questioned if this is something that can be discussed at the Council Retreat. He stated he would like to review signage for events that are for the entire Town, such as the Harvest Festival, Shindig, MillStock, and discuss where it may be appropriate to place signage in visible places that is not currently allowed.

Councilman Satterfield stated that is being reviewed.

Councilman Holder stated the HWY 42 East widening has disturbed the traffic flow. He stated the merchants in the strip mall have a problem with people coming in from the west side (HWY 70 Business). He stated drivers have to go up to the stop light and make a U-turn to get to the business. He stated the voting precinct will be difficult to access at Fire Station 2, 800 HWY 42 East.

Mayor McLeod stated it is a concern for the merchants in the strip mall for the customers not having access. He suggested a letter to NCDOT Transportation Secretary Tony Tata from him on behalf of the Council expressing concern.

Councilman Holder stated another reason to open Front Street is accessibility for that area.

Mayor Pro Tem Grannis questioned if there is a public safety concern for Fire Station 2.

Town Manager Biggs stated the Town has emergency vehicle access.

Councilman Holder stated the pavement has been widened.

Mayor McLeod stated this is a concern for those who reside in Glen Laurel Subdivision and have to go back to HWY 70 Business.

Town Manager Biggs stated drivers will not have to go all the way to HWY 70 Business. He stated there is a bulb for turn around.

Councilman Holder stated the turn-around is at the light at Walden Subdivision.

Mayor McLeod questioned how many cars can be in the queue.

Town Manager Biggs stated he would have to research.

**ITEM 10. ADJOURNMENT**

Councilman Holder motioned to adjourn; Mayor Pro Tem Grannis seconded the motion. Motion carried unanimously at 7:40 PM.

Duly adopted by the Town Council this 21st day of October 2013, while in regular session.

**ATTEST:**

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**Jody L. McLeod**  
**Mayor**

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**Sherry L. Scoggins, MMC**  
**Town Clerk**

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

**Agenda Item: 3b**

**Meeting Date: 10/21/13**

**TITLE: PUBLIC NOTICE FOR THE FOLLOWING ITEMS SLATED FOR CLAYTON TOWN COUNCIL CONSIDERATION AT ITS NOVEMBER 4, 2013, COUNCIL MEETING:**

- Evidentiary hearing for special use permit application SUP 2013-71 for LionsGate
- Evidentiary hearing for subdivision application SUB (PSD) 2013-56 for LionsGate, Phase 3A and 3G
- Evidentiary hearing subdivision application SUB (PSD) 2013-57 for LionsGate, Phase 6A and 6B
- Public comment on the proposed fee amendment to the water and sewer capacity fees.

**DESCRIPTION: Public notice.**

**RELATED GOAL: Legislative**

**ITEM SUMMARY:**

| <u>Date:</u> | <u>Action:</u> | <u>Info. Provided:</u> |
|--------------|----------------|------------------------|
| 10-21-13     | Approval.      | Notice.                |



## **PUBLIC NOTICE**

Notice is hereby given that the Clayton Town Council of the Town of Clayton will hold the following hearings on Monday, November 04, 2013, at 6:30 PM in the Council Chambers of the Town Hall, 111 East Second Street:

- In accordance with NC GS 160A-364, the Clayton Town Council will hold the following evidentiary hearings:
  - Special use application SUP 2013-71. This application requires a Special Use Permit for a new Master Plan for the undeveloped portions of LionsGate Planned Development; parcel numbers 165918-32-6389, 165918-41-8223, 165919-51-7554, and 165919-61-2030.
  - Preliminary subdivision request SUB 2013-56 requesting to develop Phases 3A and 3G, creating 36 single family residential lots on 4.84 acres within the LionsGate Planned Development, located off of Amelia Church Road. Parcel number 165918-41-8223.
  - Preliminary subdivision request SUB 2013-57 requesting to develop Phases 6A and 6B, creating 52 townhome lots 6.82 acres within the LionsGate Planned Development, located off of Amelia Church Road. Parcel number 165918-32-6389.
- In accordance with NC GS 160A-4.1, the Clayton Town Council will receive public comment on the proposed fee amendment to the water and sewer capacity fees as published in the Town's Comprehensive List of Fees and Charges.

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

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*Sherry L. Scoggins, MMC -- Town Clerk*

All meetings of the Clayton Town Council are public meetings and citizens are invited to attend. Public hearings and evidentiary hearings may be scheduled during a public meeting; however each hearing functions differently:

- Public hearing, also known as legislative hearing, occurs when an agenda item has been advertised and noticed according to the law thus allowing persons to come before the Council to state their view. After receiving public comment, the item is turned over to the Council for discussion and action.
- Evidentiary hearing, also known as quasi-judicial hearing, occurs when an agenda item has been advertised and noticed according to the law; however, the Council acts like a court of law. During an evidentiary hearing, the Council receives only sworn testimony and other credible evidence. In addition, the Council must make findings of fact based upon the evidence presented. Citizens may give testimony in an evidentiary hearing after they have taken an oath.

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

**Agenda Item: 4a**

**Meeting Date: 10/21/13**

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

**DESCRIPTION: Introduction(s).**

**RELATED GOAL: Administrative**

**ITEM SUMMARY:**

| <u>Date:</u> | <u>Action:</u>   | <u>Info. Provided:</u> |
|--------------|------------------|------------------------|
| 10-21-13     | Introduction(s). | N/A.                   |

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

**Agenda Item: 4b**

**Meeting Date: 10/21/13**

**TITLE: PRESENTATION AND INTRODUCTION OF CADET PROGRAM AND  
OVERVIEW OF JOHNSTON COUNTY EMS.**

**DESCRIPTION: Presentation.**

**RELATED GOAL: Administrative**

**ITEM SUMMARY:**

**Date:**

**Action:**

**Info. Provided:**

**10-21-13**

**Presentation.**

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

**Agenda Item: 4c**

**Meeting Date: 10/21/13**

**TITLE: PRESENTATION BY COOPER ELEMENTARY PTA FOR RUN FOR THE ROCKETS REQUEST.**

**DESCRIPTION: Presentation is to request temporary street closure of Town streets for a 5k event to raise funds for Cooper Elementary School on Saturday, March 8, 2014.**

**RELATED GOAL: Expand Leisure Opportunities and Think Downtown**

**ITEM SUMMARY:**

| <u>Date:</u> | <u>Action:</u> | <u>Info. Provided:</u> |
|--------------|----------------|------------------------|
| 10-21-13     | Presentation.  | Staff report.          |



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

## SPECIAL EVENTS COMMITTEE REPORT

**Application Number:** 2013-1555  
**Event Name:** Run for the Rockets  
**Event Date(s):** March 8, 2014  
**Time:** 9:00 am – 12:00 pm  
**Location:** Cooper Elementary School, 849 N Mial Street

**Downtown/Town Limits/ETJ:** Town Limits

**Applicant:** Cooper Elementary PTA  
1700 Old US 70 W, Clayton NC 27520

**Contact:** Heather Moser  
Hdmoser78@yahoo.com

**Committee Meeting:** September 26, 2013

**Attendance:** Kenneth Lunger, PD; Dale Medlin, ELEC; Tony Atkinson, Lee Barbee, FIRE DEPT; Steve Blasko, PUBLIC WORKS; Martha Vandergriff, CLAYTON CENTER; Dede Bumgarner, David DeYoung PLANNING; Stacy Beard, PIO;

**Guests:** Heather Moser, *Run for the Rockets*

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**EVENT LOCATION:** Cooper Elementary School, 849 N Mial Street

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**EVENT DESCRIPTION:**

- 5k Run to raise money for Cooper Elementary
- The race will begin and end at Cooper Elementary School.
- 9:00 am – 12:00 pm.
- The race route is as follows: N Mial to Randolph Dr.; Camel St. to N Cooper; E Hinton to N Lombard – N Lombard to E Front St to Washington St to N Cooper.
- The E Front St section will be closed as needed by Clayton PD

Estimated Attendees per day: 250 people

---

**SERVICES REQUESTED:**

- Street closure or use permission as described from Town Council
  - Police support for lane closure on E Front Street
- 

**COMMITTEE DISCUSSION:**

- Crowd Control - volunteers

- Health & Sanitation – at school
  - Medical – first aid kit/notify EMS
  - Traffic Control – volunteers and Clayton PD (Contact: Ken Lunger)
  - Communications -
  - Trash Cleanup – volunteers
- 

**COMMITTEE CONDITIONS:**

- Organizers and staff will communicate plan with residents affected along race route
  - Request Town Council to authorize organizers the use of Town Streets within the race route for event
  - Certificate of Additional Insured, \$1 M, naming Town of Clayton to be submitted
  - No signage in US 70 median
  - Remove any other signage within 48 hours of event
- 

**COMMITTEE ACTIONS**

- Committee recommends: APPROVAL
  - Staff will schedule Town Council Presentation on October 21, 2013
  - Special Event Permit will be issued upon authorization of street use by Town Council and other committee conditions as noted
- 

**TOWN COUNCIL CONSIDERATIONS**

- Authorize Cooper Elementary PTA the use of Town Streets within the race route for event on March 8, 2014
  
  - **COUNCIL ACTION 10/21/13:**
- 

**DOCUMENTATION RECEIVED:**

- Special Event Application
  - Site plan/route map
- 

**POST EVENT REVIEW:**

**(March 27, 2014)**

-

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

**Agenda Item: 4d**

**Meeting Date: 10/21/13**

**TITLE: PRESENTATION OF WASTEWATER CONVEYANCE STUDY BY  
CH2M HILL.**

**DESCRIPTION: Presentation.**

**RELATED GOAL: Grow the Local Economy**

**ITEM SUMMARY:**

**Date:**

**Action:**

**Info. Provided:**

**10-21-13**

**Presentation.**

**Technical Memorandum  
Prepared by CH2M Hill.**

# Town of Clayton Wastewater Conveyance Study

## Executive Summary

PREPARED FOR: Town of Clayton  
 PREPARED BY: CH2M HILL  
 DATE: September 30, 2013

The Town of Clayton (Town) currently owns and operates the Little Creek Water Reclamation Facility (WRF), and owns treatment capacity at the City of Raleigh Neuse River wastewater treatment plant (WWTP) and Johnston County's WWTP. Based on these treatment options the Town is presented with an opportunity to balance its current and future wastewater flows between each of these treatment locations to ensure the needs of the service area are met in the most effective manner now and in the future. The objective of this Conveyance Study is to provide the Town with an evaluation of the possible scenarios and optimized decisions related to intermediate and long-term wastewater conveyance and treatment capacity, through 2035, balancing wastewater flows sent to the Town's Little Creek WRF, Raleigh's Neuse River WWTP, and the Central Johnston County WWTP. To execute this study two tasks were completed (1) forecast of future wastewater flows and (2) flow routing optimization. This technical memorandum (TM) outlines the results and recommendations of this study.

### Wastewater Flow Forecast

In order to develop a spatially distributed wastewater flow forecast, a meaningful subdivision of the Town's future service area, represented by the Town's current extra-territorial jurisdiction (ETJ), was developed. The identification of sub-areas within the Town's ETJ was important for two reasons: (1) growth patterns were predicted to vary across the ETJ and (2) specific areas within the ETJ had the potential to be conveyed to different treatment locations. CH2M HILL worked with Town staff to identify nine wastewater system sub-areas distributed throughout the Town's ETJ.

### Wastewater Flow Forecast Overview

The wastewater flow forecast developed for this study is based on the linear extrapolation of the Town's historic trend in wastewater flow within each of the identified wastewater system sub-areas. Historical trends are based upon pump station run times and flow meter data. With the understanding that not all historic conditions will continue in the future in normal patterns from year to year or over the long-term period of this study, a probabilistic analysis was completed to incorporate uncertainty in the forecast of future wastewater flows. Wastewater flows were forecasted by sub-area and summarized to the Town's ETJ; included in this forecast was Grifols' future wastewater flow which was based on a projected increase in flow to 0.9 mgd by 2020 (Grifols, 2013). Figure 1 presents the probabilistic maximum month-average day wastewater flow forecast for the Town's entire ETJ.

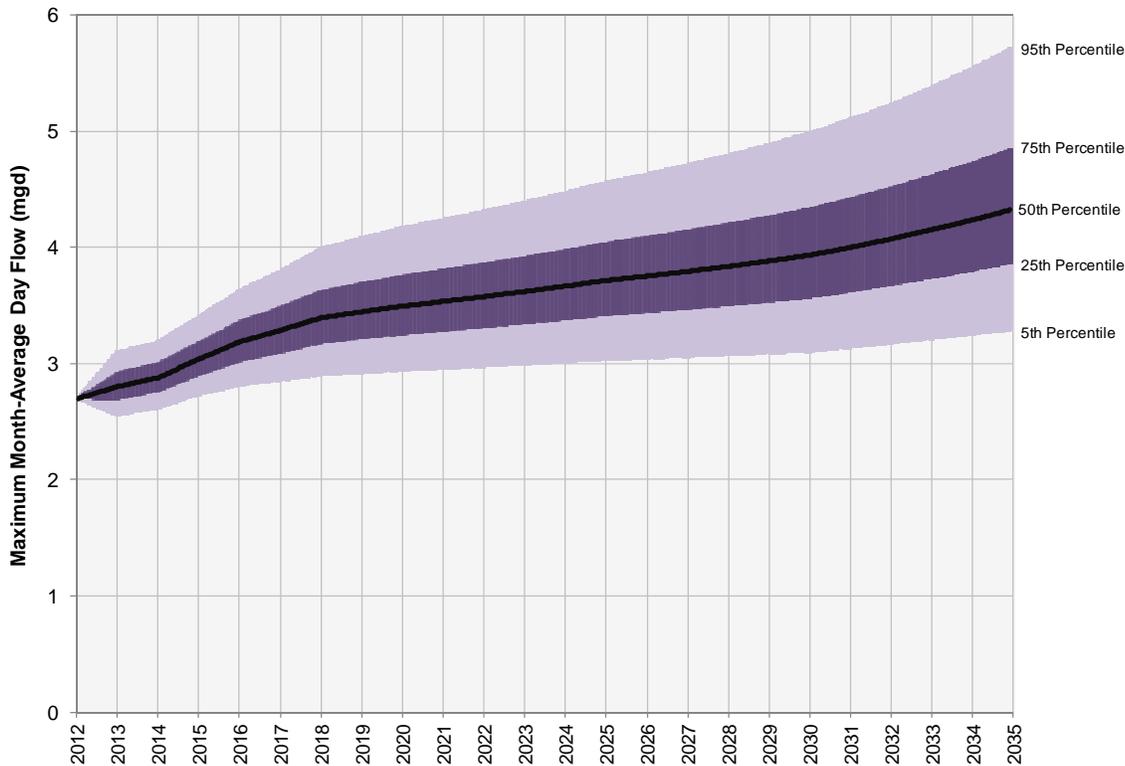
### Wastewater Flow Routing

#### Flow Routing Scenarios

Table 1 provides a summary matrix, developed with Town staff, of the existing and potential future routing of each sub-area to the three current treatment locations available to the Town and the addition of a new Clayton WRF that may be required in the future. The table identifies the initial year that the potential to route wastewater flow to the different treatment locations is available. If there is not a year presented it has been identified that through 2035 sub-area flow will not be routed to that treatment location. The range of years presented for a new Clayton WRF provides an indication that this new facility could not be online before 2023; due to the time required to design, permit and construct a new facility, but this facility may not be necessary

before 2035 depending on flow routing and future treatment contract terms with the City of Raleigh and Johnston County. Figure 2 is a map of the wastewater system sub-areas.

**FIGURE 1**  
Town of Clayton Maximum Month Average Day Wastewater Flow Forecast, 2012-2035



**TABLE 1**  
Wastewater System Sub-Area Flow Routing Scenarios, 2012-2035, Identification of the Initial Year of Possible Flow Routing to Each Treatment Location Option

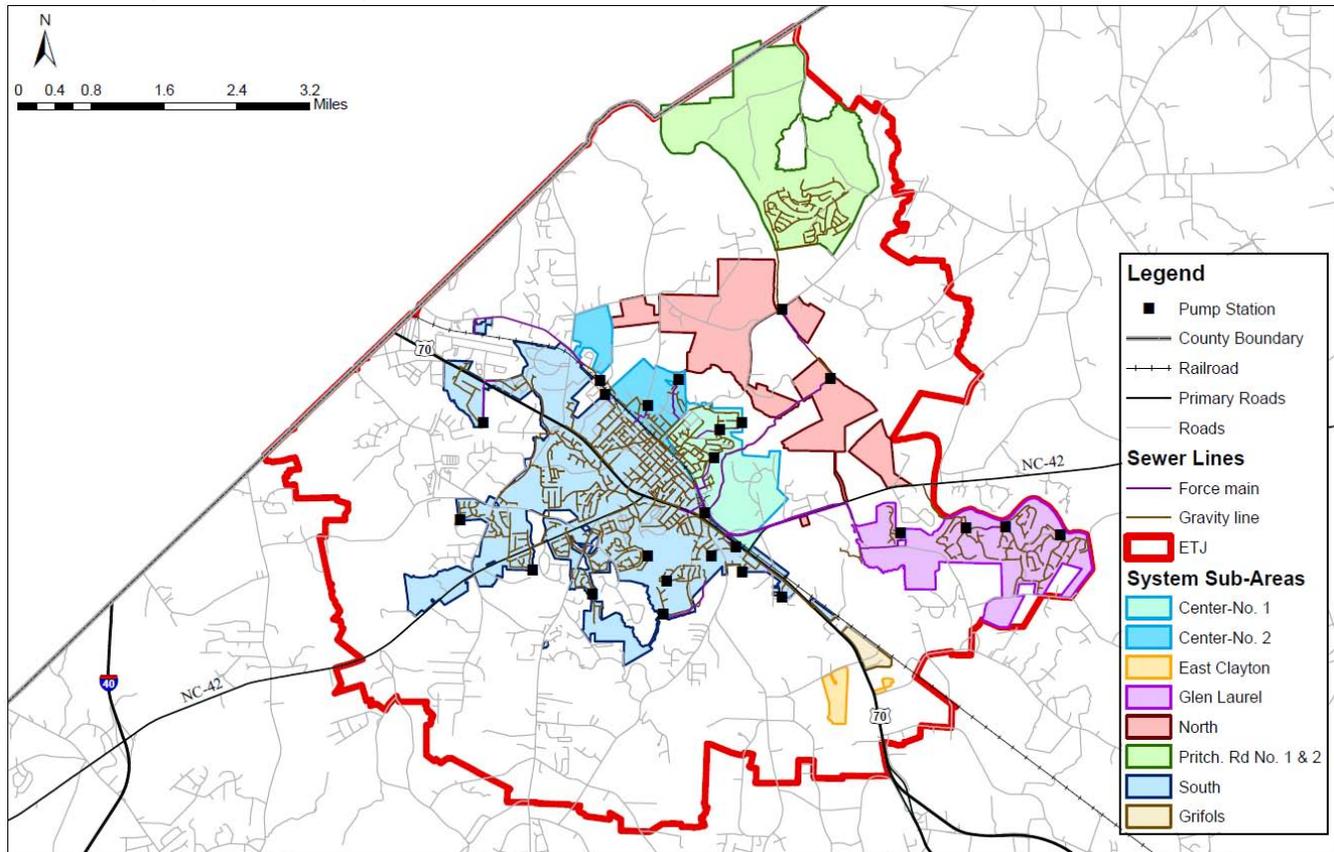
| Wastewater System Sub-Area | Treatment Location Options |                  |                      |                 |
|----------------------------|----------------------------|------------------|----------------------|-----------------|
|                            | Little Creek WRF           | Neuse River WWTP | Johnston County WWTP | New Clayton WRF |
| Center-North1              | 2012                       | 2017             |                      | 2023-2035       |
| Center-North2              | 2012                       | 2017             |                      | 2023-2035       |
| East Clayton               | 2012                       | 2017             | 2012                 | 2023-2035       |
| Glen Laurel                | 2012                       | 2017             | 2017                 | 2023-2035       |
| Grifols                    | 2012                       | 2017             | 2012                 | 2023-2035       |
| North                      | 2012                       | 2014             |                      | 2023-2035       |
| Pritchard Road 1           | 2012                       | 2014             |                      | 2023-2035       |
| Pritchard Road 2           | 2012                       | 2014             |                      | 2023-2035       |
| South                      | 2012                       |                  |                      |                 |

Another element to the flow routing that is an important component is the pre-treatment of Grifols industrial wastewater flow. Pre-treatment options for Grifols wastewater flow include the continued operation and expansion of the current on-site moving bed biofilm reactor (MBBR) treatment facility or the development of a new off-site anaerobic treatment facility. These options are based on CH2M HILL’s current understanding of the

results of the recent treatability study completed by Johnston County for Grifols wastewater with only the use of Grifols' MBBR and equalization basins (with the dissolved air floatation (DAF) system and aeration basin offline) and CH2M HILL's previous work on an anaerobic pre-treatment facility concept for Grifols.

**FIGURE 2**

Wastewater System Sub-Area Map



### Flow Routing Optimization

Based on the flow routing scenarios and pre-treatment options for Grifols wastewater flow, presented in the preceding section, there are hundreds of routing combinations that can be created. An optimization model was developed to process all of the possible routing scenarios and identify the optimal future flow routing scenario for the Town. The following bullets outline the target and constraints used in the optimization model:

- Target: Net present value (NPV) of all Town wastewater conveyance and treatment costs through 2035
  - Costs included: capital expenditures, operating and maintenance (O&M) expenditures, rehabilitation and replacement (R&R) expenditures and treatment contract costs (paid to the City of Raleigh or Johnston County)
- Constraints:
  - All forecasted flows need to be routed to a treatment location.
  - The wastewater flow routing, timing and final treatment location had to be consistent with Table 1 in the preceding section and pre-treatment options for Grifols wastewater flow had to be consistent with current options including the continued operation and expansion of the MBBR facility or the development of a new anaerobic facility.
  - Little Creek WRF cannot exceed its current permitted capacity 2.5 mgd.

The optimization model was structured to switch flows for each sub-area from one allowable treatment location to another independently of all the other sub-areas based on the constraints listed above. The logic built into the

model calculated capital costs based on the selected routing scenario, the O&M for treatment and conveyance, R&R at the treatment facilities and contract treatment costs for each flow routing scenario.

**Ultimately, there were two optimal scenarios identified that were the least cost routing scenarios and allowed the Town to leverage historic or current capital investments;** primarily investments in treatment capacity at the City of Raleigh Neuse River WWTP and the infrastructure to convey wastewater to this WWTP (the new pump station and force main to be online in 2014). Table 2 presents the flow routing for the optimal scenario 1 and 2, the difference in flow routing is noted for the scenario 2 treatment location in parenthesis.

**TABLE 2**  
Optimal Routing Scenarios 1 and 2 – Sub-Area Flow Routing  
*Routing differences for Optimal Scenario 2 are presented in parenthesis*

| Wastewater System<br>Sub-Area | Treatment Location |           |           |           |
|-------------------------------|--------------------|-----------|-----------|-----------|
|                               | 2013-2014          | 2015-2017 | 2018-2022 | 2023-2035 |
| Center-North1                 | LC                 | LC        | NR        | NR        |
| Center-North2                 | LC                 | LC        | NR        | NR        |
| East Clayton                  | JC                 | JC        | JC        | JC        |
| Glen Laurel                   | LC                 | LC        | JC        | JC        |
| Grifols                       | JC                 | JC        | JC (NR)   | JC (NR)   |
| North                         | LC                 | LC        | NR        | NR        |
| Pritchard Road 1              | LC                 | LC        | NR        | NR        |
| Pritchard Road 2              | LC                 | LC        | NR        | NR        |
| South                         | LC                 | LC        | LC        | LC        |

LC – Little Creek WRF, JC – Johnston County WWTP, NR – Neuse River WWTP, NC – New Clayton WRF

## Recommendations

Based on the wastewater flow forecast and the identified optimal flow routing scenarios, for the analysis period through 2035, a number of recommendations for the Town have been developed. These recommendations are presented in the following groupings: (1) general recommendations, (2) recommendations specific to the Town’s wastewater flow, excluding Grifols flow, and (3) recommendations related to the Town managing Grifols wastewater flow. The following bullets outline the study recommendations:

- General Recommendations:
  - It is recommended that the Town continue to monitor wastewater flow and compare actual flows against the probabilistic forecast developed for this study. This will help the Town continue to refine the forecast, and allow for the re-appraisal of the timing for implementation of capacity expansion needs – treatment and conveyance.
  - As new information is obtained, based on the recommendations below, review/update the evaluation of the optimal routing scenarios. The identified optimal scenarios are based on the current information. As information changes on future flows (especially Grifols) and potential contractual capacity limitations, the optimal routing scenarios may change.
- Town Wastewater Flow Recommendations:
  - Continue path forward for the routing of wastewater flows from the Center North 1 and 2 sub-areas to the Neuse River pump station No. 2. Expand this planning to include the North sub-area, when the need from development arises.
  - Maintain the flexibility of conveyance system. The Town’s ability to flexibly move wastewater between the three current treatment locations has significant benefits to the Town.

- Plan for the connection of the Glen Laurel sub-area from the Summerlyn pump station to the nearby Johnston County force main, having this connection online by 2017. If the Town decides to proceed with Optimal Routing Scenario 1 this connection could occur later in the planning horizon. The later this flow transitions over to the County the later the timing will be for an expansion of contractual treatment capacity with the County but this will only be by a few years and largely driven by Grifols flow.
- Grifols Wastewater Flow Routing Recommendations:
  - An expansion of contractual treatment capacity will be required for the long-term treatment of Grifols wastewater. Discuss with Raleigh and Johnston County the potential to expand the Town's contractual treatment capacity, by approximately 0.7 mgd, to satisfy the needs through 2035. Additionally the Town will need to discuss with Raleigh the potential to extend the current contract duration. It will be important to understand the availability of treatment capacity, duration of this availability and cost of the capacity.
  - Begin planning for a new anaerobic pre-treatment facility to be online in 2016 to pre-treat Grifols wastewater. Major tasks required for the construction of an anaerobic facility include siting, pipeline alignment, easement acquisition, facility and pipeline design, permitting.

## Reference

Grifols. 2013. Wastewater Characterization Letter, Grifols Therapeutics Industrial Pretreatment Facility, Industrial User Permit (IUP) No. 001-02. Dated: January 21, 2013.

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

**Agenda Item: 5a**

**Meeting Date: 10/21/13**

**TITLE: PRESENTATION OF AMENDMENT TO THE WATER/SEWER FEES AS POSTED IN THE TOWN'S COMPREHENSIVE LIST OF FEES AND CHARGES.**

**DESCRIPTION: Johnston County Utilities amended its water capacity fee from \$3.00 to \$3.25 per gallon effective July 1, 2013.**

In accordance with NC GS 160A-4.1, this item was posted on the Town's website on 10/9/2013 that this item would be on the 10/21/2013 work session for presentation and slated for public comment at the 11/4/2013 regular meeting.

This item is slated for public comment at the Council's November 4, 2013, Council meeting.

**RELATED GOAL: Financially Responsible Town Government Providing Quality Service.**

**ITEM SUMMARY:**

| <u>Date:</u> | <u>Action:</u> | <u>Info. Provided:</u>  |
|--------------|----------------|-------------------------|
| 10-21-13     | Presentation.  | Water/Sewer Fee Except. |

## TOWN OF CLAYTON COMPREHENSIVE LIST OF FEES & CHARGES

### WATER/SEWER

#### I. Tap Fees

- |    |                |  |
|----|----------------|--|
| A. | 3/4" water tap | \$ 650   |
| B. | 1" water tap   | \$ 800   |
| C. | 2" water tap   | \$1,275 plus current cost of appropriate meter |
| D. | 4" ss tap      | \$ 800   |

**Note:** 3/4" and 1" meters are paid for by the customer when service is set-up or an account is opened.

#### II. Acreage Fees Water and Sewer<sup>1</sup> (Adopted 2/20/2006)

- A. Residential
  - 1. Water - \$200 / ac. plus \$150 per unit
  - 2. Sewer - \$250 / ac. plus \$150 per unit
- B. Commercial and Industrial
  - 1. Water - \$2.20 per gallon of daily flow
  - 2. Sewer - \$2.50 per gallon of daily flow
- C. Sam's Branch:
  - 1. \$5,400 / ac. (Zone A)
  - 2. \$2,600 / ac. (Zone B)
  - 3. \$1,000 / ac. (Zone C)
  - 4. Standard Acreage Fee (Zone D)

#### III. Capacity Fees<sup>1</sup> (Amended 7/1/2013)

- A. Residential – Water
  - 1. \$1,170 / 3 BR unit (360 gallons)
  - 2. \$780 / 1-2 BR unit (240 gallons)
  - 3. \$390 / BR above 3 (120 gallons)
- B. Non-Residential – Water (Amended 7/1/2013)
  - 1. Commercial \$3.25 per gallon daily flow
- C. Residential - Sewer
  - 1. \$1,500 / unit (SF)
  - 2. \$1,500 / unit (3 BR)
  - 3. \$1,440 / unit (2 BR)
  - 4. \$720 / unit (1 BR)
- D. Non-Residential
  - 1. Commercial - \$6.00 per gallon daily flow
- E. Nutrient Off-Set Fee<sup>1</sup>
  - 1. 4 inch Tap - \$400 per tap
  - 2. >4-inch Tap - .4 (four-tenths) of a cent per gallon of annual wastewater capacity.

- IV. Bulk Water Purchase
  - A. Water
    - 1. \$4.16 per 1,000 gallons - Hauled by purchaser from Town of Clayton's designated site.

**1**In accordance with NC GS 160A-4.1 (**Electronic notice of new fees and fee increase; public comment period**), as the Town maintains its website, the Town shall provide notice of the imposition of or increase in fees or charges applicable solely to the construction of development subject to the provisions of Part 2 of Article 19 of this Chapter on the Town's website at least seven days prior to the first meeting where the imposition of or increase in the fees or charges is on the agenda for consideration. During the consideration of the imposition of or increase in fees or charges, the Clayton Town Council shall permit a period of public comment.

This section shall not apply if the imposition of or increase in fees or charges is contained in a budget filed in accordance with the requirements of NC GS 159-12.

Duly adopted by the Clayton Town Council this \_\_\_\_ day of November 2013 while in regular session.

ATTEST:

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Jody L. McLeod,  
Mayor

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Sherry L. Scoggins, MMC  
Town Clerk

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

**Agenda Item: 5b**

**Meeting Date: 10/21/13**

**TITLE: PRESENTATION OF REVISIONS TO THE FINANCIAL POLICY GUIDELINES.**

**DESCRIPTION: At its September 8, 2009, Council meeting, Council adopted a Financial Policy Guideline. An amendment Financial Policy is presented for Council consideration.**

**RELATED GOAL: Financially Responsible Town Government Providing Quality Service.**

**ITEM SUMMARY:**

**Date:**

**Action:**

**Info. Provided:**

**10-21-13**

**Presentation.**

**Financial Policy Guideline Adopted 9/8/2009; Financial Policy Guideline for Consideration; and Table of Summary of Amendments.**

## **Financial Policy Guidelines**

*For:*



## **Town of Clayton, North Carolina**

*Adopted: September 8, 2009*

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# **FINANCIAL POLICY GUIDELINES**

**Town of Clayton, North Carolina  
Financial Policy Guidelines**

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## **TABLE OF CONTENTS**

|   | <b>Page</b> |
|---|-------------|
| <b>Objectives</b>   | <b>1</b>    |
| <b>Capital Improvement Budget Policies</b>                | <b>2</b>    |
| <b>Financial Management: Expectations &amp; Standards</b> | <b>3</b>    |
| <b>Debt Policies</b>                                      | <b>4</b>    |
| <b>Reserve Policies</b>                                   | <b>5</b>    |
| <b>Budget Development Policies</b>                        | <b>6</b>    |

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# FINANCIAL POLICY GUIDELINES

Town of Clayton, North Carolina  
Financial Policy Guidelines

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## FINANCIAL POLICY GUIDELINES - OBJECTIVES

This financial policy is a statement of the guidelines and goals that will influence and guide the financial management practice of the Town of Clayton, North Carolina. A financial policy that is adopted, adhered to, and regularly reviewed is recognized as the cornerstone of sound financial management. Effective financial policy:

- \* Contributes significantly to the Town's ability to insulate itself from fiscal crisis,
- Enhances short term and long term financial credit ability by helping to achieve the highest credit and bond ratings possible,
- Promotes long-term financial stability by establishing clear and consistent guidelines,
- Directs attention to the total financial picture of the Town rather than single issue areas,
- Promotes the view of linking long-run financial planning with day to day operations, and
- Provides the Town Staff, the Town Council and the Town citizens a framework for measuring the fiscal impact of government services against established fiscal parameters and guidelines.

To these ends, the following financial policy statements are presented.

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# FINANCIAL POLICY GUIDELINES

Town of Clayton, North Carolina  
Financial Policy Guidelines

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## CAPITAL IMPROVEMENT BUDGET POLICIES

1. The Town will consider all capital improvements in accordance with an adopted capital improvement program.
2. The Town will develop a five-year Capital Improvement Program and review and update the plan annually.
3. The Town will enact an annual capital budget based on the five-year capital improvement plan. Future capital expenditures necessitated by changes in population, changes in real estate development, or changes in economic base will be calculated and included in capital budget projections.
4. The Town will coordinate development of the capital improvement budget with development of the operating budget. Future operating costs associated with new capital improvements will be projected and included in operating budget forecasts.
5. The Town will use intergovernmental assistance to finance only those capital improvements that are consistent with the capital improvement plan and Town priorities, and whose operating and maintenance costs have been included in operating budget forecasts.
6. The Town will maintain all its assets at a level adequate to protect the Town's capital investment and to minimize future maintenance and replacement costs.
7. The Town will project its equipment replacement and maintenance needs for the next several years and will update this projection each year. From this projection a maintenance and replacement schedule will be developed and followed.
8. The Town will identify the estimated costs and potential funding sources for each capital project proposal before it is submitted for approval.
9. The Town will attempt to determine the least costly and most flexible financing method for all new projects.

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# FINANCIAL POLICY GUIDELINES

Town of Clayton, North Carolina  
Financial Policy Guidelines

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## FINANCIAL MANAGEMENT: EXPECTATIONS AND STANDARDS

In addition to the policy guidelines established on pages 4-5 of this document, the Town also wishes to articulate certain financial management expectations and basic standards for fund balance reserves and debt service expenditures. These expectations and standards are intended to illustrate typical performance in normal conditions and are intended as internal performance benchmarks. The Town shall most commonly expect to operate within the following prescribed standards:

Fund balance as a percentage of budgeted expenditures: at least 31%

Debt service as a percentage of budgeted revenues: not more than 13%

In conjunction with the key ratios established by the financial policy guidelines, the Local Government Commission (LGC) also monitors similar key ratios and compares these ratios to the Town's peer group (similarly positioned municipalities) as benchmarks. If the Town deviates materially below the peer group benchmarks, then the Town will formulate and execute a multi-year plan to reestablish and sustain itself among leaders in its peer group.

State oversight via the LGC also provides the Town's residents, taxpayers, and the investment community with an additional layer of risk management expertise. The Town shall perform such that inquiries and admonitions from the LGC shall be avoided and in the event of LGC comment or inquiry the Town shall take immediate action to respond and affirmatively address the matter of interest. This approach will prevent broad swings in key indicators, even those within acceptable parameters, on a year to year basis.

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# FINANCIAL POLICY GUIDELINES

## Town of Clayton, North Carolina Financial Policy Guidelines

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### DEBT POLICIES

1. The Town will confine long-term borrowing to capital improvements or projects that cannot be financed from current revenues except where approved justification is provided.
2. The Town will take a balanced approach to capital funding utilizing debt financing, draws on capital reserves and/or fund balances in excess of policy targets, and pay-as-you go funding.
3. When the Town finances capital improvements or other projects by issuing bonds or entering into capital leases, it will repay the debt within a period not to exceed the expected useful life of the project.
4. Where feasible, the Town will explore the usage of special assessment, revenue, or other self-supporting bonds instead of general obligation bonds.
5. The Town will retire tax anticipation debt, if any, annually and will retire bond anticipation debt within six months after completion of the project.
6. Net debt as a percentage of estimated market value of taxable property shall not exceed 2.5%. Net debt is defined as any and all debt that is tax-supported.
7. The ratio of debt service expenditures as a percent of total governmental fund expenditures shall not exceed 15.0%, with an aggregate ten-year principal payout ratio target of 55%.
8. The Town recognizes the importance of underlying and overlapping debt in analyzing financial condition. The Town will regularly analyze total indebtedness including underlying and overlapping debt.

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# FINANCIAL POLICY GUIDELINES

Town of Clayton, North Carolina  
Financial Policy Guidelines

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## RESERVE POLICIES

1. The Town will calculate its “Legally Available Fund Balance” in accordance with Local Government Commission (LGC) guidelines and as outlined in The Local Government Budget and Fiscal Control Act. Legally Available Fund Balance is calculated as: Cash and Investments minus the sum of liabilities, encumbrances, and deferred revenues arising from cash receipts, as those figures stand at the close of the fiscal year next preceding the budget year.
2. Legally Available Fund Balances at the close of each fiscal year shall not be less than 21% of the Total Annual Operating Budget of the Town without prior Town Council authorization.
3. The Town Council may, from time-to-time, utilize fund balances that will reduce legally available fund balances below the **21%** policy for the purposes of a declared fiscal emergency, financial opportunity to enhance the well-being of the Town of Clayton or other such global purpose as to protect the long-term fiscal security of the Town of Clayton. In such circumstances, after legally available fund balances have been calculated as part of closing-out a fiscal year, the Council will adopt a plan as part of the following year’s budget process to restore the legally available fund balances to the policy level within 36 months from the date of the budget adoption. If restoration cannot be accomplished within such time period without severe hardship to the Town, then the Board will establish a different but appropriate time period.
4. Monies in excess of a 21% legally available fund balance will be available for Appropriation, as deemed necessary and approved by the Council.

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# FINANCIAL POLICY GUIDELINES

## Town of Clayton, North Carolina Financial Policy Guidelines

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### BUDGET DEVELOPMENT POLICIES

1. The Town will develop the Annual Budget in conjunction with a stated program of performance objectives and measures with which to gauge progress toward meeting those objectives.
2. Water, sewer and electric rates will be established at the appropriate level to enable the related funds to be self-supporting.
3. One-time or other special revenues will not be used to finance continuing Town operations but instead will be used for funding special projects.
4. The Town will pursue an aggressive policy seeking the collection of delinquent utility, license, permit and other fees due to the Town.
5. The Town will make regular, quarterly reports to the Council on the status of actual revenues and expenditures as compared to the adopted budget.

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# FINANCIAL POLICY GUIDELINES

Town of Clayton, North Carolina  
Financial Policy Guidelines



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Duly adopted this 8<sup>th</sup> day of September 2009 while in regular session.

(SEAL)

**ATTEST:**

\_\_\_\_\_  
Jody L. McLeod  
Mayor

\_\_\_\_\_  
Sherry L. Scoggins, MMC  
Town Clerk

# Financial Policy

*For:*



## Town of Clayton, North Carolina

*Amended: November 2013*

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# **FINANCIAL POLICY**

**Town of Clayton, North Carolina**  
**Goals and Standards**

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## **TABLE OF CONTENTS**

|  | <b>Page</b> |
|--|-------------|
| <b>Preamble and Objectives</b>                       | <b>1</b>    |
| <b>Capital Improvement Budget Policies</b>           | <b>2</b>    |
| <b>Financial Management Performance Expectations</b> | <b>3</b>    |
| <b>Debt Policies</b>                                 | <b>4</b>    |
| <b>Reserve Policies and Standards</b>                | <b>6</b>    |
| <b>Budget Development Policies</b>                   | <b>7</b>    |
| <b>Definitions</b>                                   | <b>8</b>    |

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# **FINANCIAL POLICY**

## **Town of Clayton, North Carolina**

### **Goals and Standards**

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#### **FINANCIAL POLICY – PREAMBLE**

The Town of Clayton establishes this comprehensive financial policy to manage its General Fund and Enterprise Funds in conjunction with facilitating and enhancing its credit rating. Furthermore, the Town acknowledges the existence of the fundamental and operational differences between these funds, which is attributable to the primary revenue sources that support each fund's activities. As such, the Town intends to utilize the same financial policy goals and standards where appropriate or relevant and establish separate benchmarks and other criteria as financial indicators to evaluate the performance and financial condition of these funds independently from each other.

#### **FINANCIAL POLICY – OBJECTIVES**

This financial policy is a statement of the goals and standards that will guide the financial management practices of the Town of Clayton, North Carolina. A financial policy that is adopted, adhered to, and regularly reviewed is recognized as the cornerstone of sound financial management. Effective financial policy:

- \* Contributes significantly to the Town's ability to insulate itself from fiscal crisis,
- Enhances both short-term and long-term financial credit ability by helping to achieve the highest credit and bond ratings possible,
- Promotes long-term financial stability by establishing clear and consistent guidelines,
- Directs attention to the total financial picture of the Town rather than single issue areas,
- Promotes the view of linking long-term financial planning with day to day operations, and
- Provides the Town Staff, the Town Council and the Town citizens a framework for measuring the fiscal strength of government finances against established parameters and benchmarks.

To these ends, the following financial policy statements are presented.

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# **FINANCIAL POLICY**

## **Town of Clayton, North Carolina**

### **Goals and Standards**

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#### **CAPITAL IMPROVEMENT BUDGET POLICIES**

1. The Town will consider all capital improvements in accordance with an adopted capital improvement program.
2. The Town will develop a five-year Capital Improvement Program and review and update the plan periodically.
3. The Town will enact an annual capital budget based on the five-year capital improvement plan. Future capital expenditures necessitated by changes in population, changes in real estate development, or changes in economic base will be calculated and included in capital budget projections.
4. The Town will coordinate development of the capital improvement budget with development of the operating budget. Future operating costs associated with new capital improvements will be projected and included in operating budget forecasts.
5. When the Town utilizes intergovernmental assistance to finance capital improvements, those projects will be consistent with the capital improvement plan and Town priorities, and with future operating and maintenance costs included in operating budget forecasts.
6. The Town will maintain all its assets at a level adequate to protect the Town's capital investment and to minimize future maintenance and replacement costs.
7. The Town will project its equipment replacement and maintenance needs for the next several years and will update this projection each year. From this projection a maintenance and replacement schedule will be developed and followed.
8. The Town will identify the estimated costs and potential funding sources for each capital project proposal before it is submitted for approval.
9. The Town will attempt to determine the least costly and most flexible financing method for all new projects.

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# FINANCIAL POLICY

## Town of Clayton, North Carolina

### Goals and Standards

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### FINANCIAL MANAGEMENT PERFORMANCE EXPECTATIONS

In addition to the policies established on pages 4-5 of this document, the Town also wishes to articulate certain financial management performance expectations for fund balance reserves, debt service expenditures, and liquidity. These expectations are intended to illustrate typical performance in normal conditions and are intended as internal performance benchmarks. The Town shall most commonly expect to operate within the following prescribed expectations:

#### General Fund:

|   |                   |
|---|-------------------|
| Unassigned fund balance as a percentage of net expenditures:                                      | at least 30%      |
| Tax supported debt service as a percentage of total governmental expenditures less capital outlay | not more than 13% |

#### Enterprise Funds:

|   |                      |
|---|----------------------|
| Debt service coverage ratio for all indebtedness:           | at least 1.50        |
| Equity funding of the system's capital improvement program: | at least 25%         |
| Operating days cash on hand:                                |                      |
| Water and Sewer Enterprise Fund:                            | at least 200.75 days |
| Electric Enterprise Fund:                                   | at least 98.55 days  |

In conjunction with the key ratios established by the financial policy guidelines, the Local Government Commission (LGC) also monitors similar key ratios and compares these ratios to the Town's peer group (similarly positioned municipalities) as benchmarks. If the Town deviates materially below the peer group benchmarks, then the Town will formulate and execute a multi-year plan to reestablish and sustain itself among leaders in its peer group.

State oversight via the LGC also provides the Town's residents, taxpayers, and the investment community with an additional layer of risk management expertise. The Town shall perform such that inquiries and admonitions from the LGC shall be avoided and in the event of LGC comment or inquiry the Town shall take immediate action to respond and affirmatively address the matter of interest. This approach will prevent broad swings in key indicators, even those within acceptable parameters, on a year to year basis.

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# **FINANCIAL POLICY**

## **Town of Clayton, North Carolina**

### **Goals and Standards**

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#### **DEBT POLICIES**

1. The Town will confine long-term borrowing to capital improvements or projects that cannot be financed from current revenues except where approved justification is provided.
2. When assessing capital project funding approaches and the issuance of debt, the Town will conduct a series of financial analyses to demonstrate each Fund's financial ability to incur such debt under its current rate structure, and to determine if, when and to what degree rate structures need to be adjusted in the event that the current rate structure is not able to accommodate new additional debt.
3. The Town will review each Fund's current debt structure periodically as interest rates fluctuate and optional bond redemption dates arise for refunding or advance refunding opportunities. Refinancing opportunities that produce a net present value savings of 3% or greater will be considered as beneficial to the Funds, although other factors can be taken into account when assessing the feasibility of a refunding transaction.
4. The Town will take a balanced approach to capital funding utilizing debt financing, draws on capital reserves and/or fund balances in excess of policy targets, and pay-as-you go funding. Each Enterprise Fund will target a minimum amount of equity funding equal to 20% of the system's capital improvement program.
5. The Town will set rates and charges for each Enterprise Fund so as to achieve a debt service coverage ratio of 1.25 times or greater for all indebtedness. All indebtedness includes both parity and subordinate debt obligations of each fund. In the absence of a specific debt ratio calculation required by a debt covenant, the debt coverage ratio will be calculated in accordance with the following example:

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# FINANCIAL POLICY

## Town of Clayton, North Carolina

### Goals and Standards

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|   |                |
|---|----------------|
| A. Operating Revenues                                 | \$7,822,484    |
| B. Operating Expenses*                                | \$6,413,900    |
| Less: Depreciation and Amortization                   | <u>947,560</u> |
| Net Expenses  | \$5,466,340    |
| C. Net Revenue Available for Debt Service (A minus B) | \$2,356,144    |
| D. Debt Service (Principal and Interest)              | \$1,762,023    |
| E. Debt Coverage Ratio (C divided by D)               | 1.34           |

\*Operating expenses include support service charges and tax reimbursements to the General Fund.

The debt coverage ratios will be calculated and tracked annually for each Enterprise Fund separately and will be measured independently from the other and from the Town's General Fund.

6. When the Town finances capital improvements or other projects by issuing bonds or entering into capital leases, it will repay the debt within a period not to exceed the expected useful life of the project.
7. Where feasible, the Town will explore the usage of special assessment bonds, revenue bonds, or other self-supporting bonds instead of general obligation bonds.
8. The Town will retire tax anticipation debt, if any, annually and will retire bond anticipation debt within six months after completion of the project.
9. General Fund net debt as a percentage of estimated market value of taxable property shall not exceed 2.5%.
10. The ratio of debt service expenditures as a percent of total governmental fund expenditures shall not exceed 15.0%, with an aggregate ten-year principal payout ratio of 55%.
11. The Town recognizes the importance of underlying and overlapping debt in analyzing financial condition. The Town will regularly analyze total indebtedness including underlying and overlapping debt.

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# **FINANCIAL POLICY**

## **Town of Clayton, North Carolina**

### **Goals and Standards**

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#### **RESERVE POLICIES AND STANDARDS**

1. General Fund unassigned fund balance at the close of each fiscal year shall not be less than 20% of actual General Fund net expenditures without prior Town Council authorization.
2. The Town Council may, from time-to-time, utilize fund balances that will reduce the unassigned fund balance below the 20% policy for the purposes of a declared fiscal emergency, financial opportunity to enhance the well-being of the Town of Clayton or other such global purpose as to protect the long-term fiscal security of the Town of Clayton. In such circumstances, after unassigned fund balance has been calculated as part of closing-out a fiscal year, the Council will adopt a plan as part of the following year's budget process to restore the assigned fund balance to the policy level within 36 months from the date of the budget adoption. If restoration cannot be accomplished within such time period without severe hardship to the Town, then the Board will establish a different but appropriate time period.
3. Monies in excess of a 20% unassigned fund balance will be available for Appropriation, as deemed necessary and approved by the Council.
4. The Enterprise Funds will maintain the following minimum level of liquidity:
  - a. Water and Sewer Fund – a minimum of 50% of Unrestricted Cash as a percentage of Operating Expenditures or 182.5 Days Cash on Hand.
  - b. Electric Fund – a minimum of 25% of Unrestricted Cash as a percentage of Operating Expenditures or 91.25 Days Cash on Hand.

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# **FINANCIAL POLICY**

## **Town of Clayton, North Carolina**

### **Goals and Standards**

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#### **BUDGET DEVELOPMENT POLICIES**

1. The Town will develop the Annual Budget in conjunction with a stated program of performance objectives and measures with which to gauge progress toward meeting those objectives.
2. Water, sewer and electric rates will be established at the appropriate level to enable the related funds to be self-supporting.
3. One-time or other special revenues will not be used to finance continuing Town operations but instead will be used for funding special projects.
4. The Town will pursue an aggressive policy seeking the collection of delinquent utility, license, permit and other fees due to the Town.
5. The Town will make regular, quarterly reports to the Council on the status of actual revenues and expenditures as compared to the adopted budget.

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# **FINANCIAL POLICY**

## **Town of Clayton, North Carolina**

### **Goals and Standards**

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#### **DEFINITIONS**

1. Fund balance is defined as the difference between the assets and liabilities reported in a governmental fund. Unassigned fund balance in the General Fund is defined as the total fund balance in excess of what can be properly classified in one of the following four categories:
  - a. Nonspendable fund balance is the portion of net resources that cannot be spent because of their form or because they must be maintained intact.
  - b. Restricted fund balance is the portion of fund balance that reflects resources that are subject to externally enforceable legal restrictions, which are comprised of limitations imposed by creditors, grantors, contributors, or laws and regulations of other governments or limitations imposed by law through constitutional provisions or enabling legislation.
  - c. Committed fund balance is the portion of fund balance that represents resources whose use is constrained by limitations imposed by the Clayton Town Council upon the Town and will remain binding until formal action at the same level is taken to remove the self-imposed limitation.
  - d. Assigned fund balance is the portion of fund balance that reflects the Town's intended use of resources established by the Clayton Town Council or by a body or an official with delegated authority and does not require formal action to remove the limitation of intended use.
2. Net expenditures are defined as actual expenditures plus transfers out minus capital lease proceeds.
3. Debt coverage ratio is defined as annual net pledged revenues to the related annual debt service payments.
4. Equity funding is defined as the utilization of the Town's cash to fund its capital improvement program.
5. Days cash on hand is defined as unrestricted cash divided by (Operating Expenditures/365).
6. Net debt is defined as any and all debt that is tax supported.

**TOWN OF CLAYTON  
FINANCIAL POLICY – SUMMARY OF CHANGES**

| <b>Before Proposed Revision</b>   | <b>After Proposed Revision</b>  |
|---|---|
| <b>FINANCIAL POLICY - PREAMBLE</b>  | <b>FINANCIAL POLICY - PREAMBLE</b>  |
| N/A   | <i>The Town of Clayton establishes this comprehensive financial policy to manage its General Fund and Enterprise Funds in conjunction with facilitating and enhancing its credit rating. Furthermore, the Town acknowledges the existence of the fundamental and operational differences between these funds, which is attributable to the primary revenue sources that support each fund's activities. As such, the Town intends to utilize the same financial policy goals and standards where appropriate or relevant and establish separate benchmarks and other criteria as financial indicators to evaluate the performance and financial condition of these funds independently from each other.</i> |
| <b>FINANCIAL POLICY GUIDELINES - OBJECTIVES</b>   | <b>FINANCIAL POLICY - OBJECTIVES</b>  |
| This financial policy is a statement of the <del>guidelines and</del> goals that will <del>influence and</del> guide the financial management practice of the Town of Clayton, North Carolina. A financial policy that is adopted, adhered to, and regularly reviewed is recognized as the cornerstone of sound financial management. Effective financial policy: | This financial policy is a statement of the goals <i>and standards</i> that will guide the financial management practices of the Town of Clayton, North Carolina. A financial policy that is adopted, adhered to, and regularly reviewed is recognized as the cornerstone of sound financial management. Effective financial policy:  |
| <ul style="list-style-type: none"> <li>Provides the Town Staff, the Town Council and the Town citizens a framework for measuring the fiscal <del>impact</del> of government <del>services</del> against established <del>fiscal</del> parameters and <del>guidelines</del>.</li> </ul>  | <ul style="list-style-type: none"> <li>Provides the Town Staff, the Town Council and the Town citizens a framework for measuring the fiscal <i>strength</i> of government <i>finances</i> against established parameters and <i>benchmarks</i>.</li> </ul>  |
| <b>CAPITAL IMPROVEMENT BUDGET POLICIES</b>  | <b>CAPITAL IMPROVEMENT BUDGET POLICIES</b>  |
| 2. The Town will develop a five-year Capital Improvement Program and review and   | 2. The Town will develop a five-year Capital Improvement Program and review and   |

|  |  |
|--|--|
| <p>update the plan <del>annually</del>.</p>  | <p>update the plan <i>periodically</i>.</p>  |
| <p>5. The Town <del>will use</del> intergovernmental assistance to finance <del>only these</del> capital improvements <del>that are</del> consistent with the capital improvement plan and Town priorities, and <del>whose</del> operating and maintenance costs <del>have been</del> included in operating budget forecasts.</p>  | <p>5. <i>When</i> the Town <i>utilizes</i> intergovernmental assistance to finance capital improvements, <i>those projects will be</i> consistent with the capital improvement plan and Town priorities, and <i>with future</i> operating and maintenance costs included in operating budget forecasts.</p>  |
| <p><b>FINANCIAL MANAGEMENT:<br/>EXPECTATIONS AND STANDARDS</b></p>   | <p><b>FINANCIAL MANAGEMENT<br/>PERFORMANCE EXPECTATIONS</b></p>  |
| <p>In addition to the policy <del>guidelines</del> established on pages 4-5 of this document, the Town also wishes to articulate certain financial management expectations <del>and basic standards</del> for fund balance reserves and debt service expenditures. These expectations <del>and standards</del> are intended to illustrate typical performance in normal conditions and are intended as an internal performance benchmarks. The Town shall most commonly expect to operate within the following prescribed standards:</p> | <p>In addition to the policies established on pages 4-5 of this document, the Town also wishes to articulate certain financial management <i>performance</i> expectations for fund balance reserves, debt service expenditures, and liquidity. These expectations are intended to illustrate typical performance in normal conditions and are intended as internal performance benchmarks. The Town shall most commonly expect to operate within the following prescribed expectations:</p>  |
| <p>Fund balance as a percentage of <del>budgeted</del> expenditures: at least <del>31</del>%</p> <p>Debt service as a percentage of <del>budgeted</del> <del>revenues</del>: not more than 13%</p>   | <p><i>General Fund:</i></p> <p><i>Unassigned</i> fund balance as a percentage of <i>net expenditures</i>: at least <b>30%</b></p> <p><i>Tax supported</i> debt service as a percentage of <i>total governmental expenditures less capital outlay</i> not more than 13%</p> <p><i>Enterprise Funds:</i></p> <p><i>Debt service coverage ratio for all indebtedness: at least 1.50</i></p> <p><i>Equity funding of the system's capital improvement program: at least 25%</i></p> <p><i>Operating days cash on hand:</i></p> <p><i>Water and Sewer Enterprise Fund: at least</i></p> |

|  |  |
|--|--|
|  | <p><i>200.75 days</i></p> <p><i>Electric Enterprise Fund: at least 98.55 days</i></p>  |
| <p><b>DEBT POLICIES</b></p>  | <p><b>DEBT POLICIES</b></p>  |
| <p>2. The Town will take a balanced approach to capital funding utilizing debt financing, draws on capital reserves and/or fund balances in excess of policy targets, and pay-as-you go funding.</p> | <p>2. <i>When assessing capital project funding approaches and the issuance of debt, the Town will conduct a series of financial analyses to demonstrate each Fund's financial ability to incur such debt under its current rate structure, and to determine if, when and to what degree rate structures need to be adjusted in the event that the current rate structure is not able to accommodate new additional debt.</i></p> <p>3. <i>The Town will review each Fund's current debt structure periodically as interest rates fluctuate and optional bond redemption dates arise for refunding or advance refunding opportunities. Refinancing opportunities that produce a net present value savings of 3% or greater will be considered as beneficial to the Funds, although other factors can be taken into account when assessing the feasibility of a refunding transaction.</i></p> <p>4. The Town will take a balanced approach to capital funding utilizing debt financing, draws on capital reserves and/or fund balances in excess of policy targets, and pay-as-you go funding. <i>Each Enterprise Fund will target a minimum amount of equity funding equal to 20% of the system's capital improvement program.</i></p> <p>5. <i>The Town will set rates and charges for each Enterprise Fund so as to achieve a debt service coverage ratio of 1.25 times or greater for all indebtedness. All indebtedness includes both parity and subordinate debt obligations of each fund. In the absence of a specific debt ratio calculation required by a debt covenant, the debt coverage ratio will be calculated</i></p> |

|   |  |
|---|--|
| <p>4. Where feasible, the Town will explore the usage of special assessment, revenue, or other self-supporting bonds instead of general obligation bonds.</p> <p>6. Net debt as a percentage of estimated market value of taxable property shall not exceed 2.5%. <del>Net debt is defined as any and all debt that is tax supported.</del></p> <p>7. The ratio of debt service expenditures as a percent of total governmental fund expenditures shall not exceed 15.0%, with an aggregate ten-year principal payout ratio <del>target</del> of 55%.</p> | <p><i>in accordance with the following example:</i></p> <p><b>A. Operating Revenues</b>    \$7,822,484</p> <p><b>B. Operating Expenses*</b>    \$6,413,900<br/> <i>Less: Depreciation<br/> and Amortization</i>                    <u>947,560</u><br/> <b>Net Expenses</b>    \$5,466,340</p> <p><b>C. Net Revenue Available for Debt Service (A minus B)</b>    \$2,356,144</p> <p><b>D. Debt Service (Principal and Interest)</b><br/> \$1,762,023</p> <p><b>E. Debt Coverage Ratio (C divided by D)</b><br/> 1.34</p> <p><i>*Operating expenses include support service charges and tax reimbursements to the General Fund.</i></p> <p><i>The debt coverage ratios will be calculated and tracked annually for each Enterprise Fund separately and will be measured independently from the other and from the Town's General Fund.</i></p> <p>7. Where feasible, the Town will explore the usage of special assessment <b>bonds</b>, revenue <b>bonds</b>, or other self-supporting bonds instead of general obligation bonds.</p> <p>9. <b>General Fund</b> net debt as a percentage of estimated market value of taxable property shall not exceed 2.5%.</p> <p>10. The ratio of debt service expenditures as a percent of total governmental fund expenditures shall not exceed 15.0%, with an aggregate ten-year principal payout ratio of 55%.</p> |
|---|--|

| RESERVE POLICIES  | RESERVE POLICIES AND STANDARDS  |
|---|---|
| <p><del>1. The Town will calculate its “Legally Available Fund Balance” in accordance with Local Government Commission (LGC) guidelines and as outlined in The Local Government Budget and Fiscal Control Act. Legally Available Fund Balance is calculated as: Cash and Investments minus the sum of liabilities, encumbrances, and deferred revenues arising from cash receipts, as those figures stand at the close of the fiscal year next preceding the budget year.</del></p> <p>2. <del>Legally Available Fund Balances at the close of each fiscal year shall not be less than 21% of the Total Annual Operating Budget of the Town without prior Town Council authorization.</del></p> <p>3. The Town Council may, from time-to-time, utilize fund balances that will reduce <del>legally available fund balances</del> below the <b>21%</b> policy for the purposes of a declared fiscal emergency, financial opportunity to enhance the well-being of the Town of Clayton or other such global purpose as to protect the long-term fiscal security of the Town of Clayton. In such circumstances, after <del>legally available fund balances</del> have been calculated as part of closing-out a fiscal year, the Council will adopt a plan as part of the following year’s budget process to restore the <del>legally available fund balances</del> to the policy level within 36 months from the date of the budget adoption. If restoration cannot be accomplished within such time period without severe hardship to the Town, then the Board will establish a different but appropriate time period.</p> <p>4. Monies in excess of a <del>21% legally available fund</del> balance will be available for Council Appropriation, as deemed necessary by the Council.</p> | <p>1. <b><i>General Fund unassigned fund balance at the close of each fiscal year shall not be less than 20% of actual General Fund net expenditures without prior Town Council authorization.</i></b></p> <p>2. The Town Council may, from time-to-time, utilize fund balances that will reduce <b><i>the unassigned fund balance</i></b> below the <b>20%</b> policy for the purposes of a declared fiscal emergency, financial opportunity to enhance the well-being of the Town of Clayton or other such global purpose as to protect the long-term fiscal security of the Town of Clayton. In such circumstances, after <b><i>unassigned fund balance</i></b> has been calculated as part of closing-out a fiscal year, the Council will adopt a plan as part of the following year’s budget process to restore the <b><i>assigned fund balance</i></b> to the policy level within 36 months from the date of the budget adoption. If restoration cannot be accomplished within such time period without severe hardship to the Town, then the Board will establish a different but appropriate time period.</p> <p>3. Monies in excess of a <b>20% <i>unassigned fund</i></b> balance will be available for Appropriation, as deemed necessary and approved by the Council.</p> |

|                    |   |
|--------------------|---|
|                    | <p><b>4. The Enterprise Funds will maintain the following minimum level of liquidity:</b></p> <ul style="list-style-type: none"> <li><b>a. Water and Sewer Fund – a minimum of 50% of Unrestricted Cash as a percentage of Operating Expenditures or 182.5 Days Cash on Hand.</b></li> <li><b>b. Electric Fund – a minimum of 25% of Unrestricted Cash as a percentage of Operating Expenditures or 91.25 Days Cash on Hand.</b></li> </ul>   |
| <b>DEFINITIONS</b> | <b>DEFINITIONS</b>  |
| N/A                | <p><b>1. Fund balance is defined as the difference between the assets and liabilities reported in a governmental fund. Unassigned fund balance in the General Fund is defined as the total fund balance in excess of what can be properly classified in one of the following four categories:</b></p> <ul style="list-style-type: none"> <li><b>a. Nonspendable fund balance is the portion of net resources that cannot be spent because of their form or because they must be maintained intact.</b></li> <li><b>b. Restricted fund balance is the portion of fund balance that reflects resources that are subject to externally enforceable legal restrictions, which are comprised of limitations imposed by creditors, grantors, contributors, or laws and regulations of other governments or limitations imposed by law through constitutional provisions or enabling legislation.</b></li> </ul> |

|  |   |
|--|---|
|  | <p><i>c. Committed fund balance is the portion of fund balance that represents resources whose use is constrained by limitations imposed by the Clayton Town Council upon the Town and will remain binding until formal action at the same level is taken to remove the self-imposed limitation.</i></p> <p><i>d. Assigned fund balance is the portion of fund balance that reflects the Town's intended use of resources established by the Clayton Town Council or by a body or an official with delegated authority and does not require formal action to remove the limitation of intended use.</i></p> <p><i>2. Net expenditures are defined as actual expenditures plus transfers out minus capital lease proceeds.</i></p> <p><i>3. Debt coverage ratio is defined as annual net pledged revenues to the related annual debt service payments.</i></p> <p><i>4. Equity funding is defined as the utilization of the Town's cash to fund its capital improvement program.</i></p> <p><i>5. Days cash on hand is defined as unrestricted cash divided by (Operating Expenditures/365).</i></p> <p><i>6. Net debt is defined as any and all debt that is tax supported.</i></p> |
|  |   |

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

**Agenda Item: 5c**

**Meeting Date: 10/21/13**

**TITLE: PRESENTATION OF SPECIAL USE PERMIT SUP 2013-72 LOCATED ON AMELIA CHURCH ROAD AND SUBMITTED BY DC ADAMS ENGINEERING INC.**

**DESCRIPTION:** The applicant is requesting approval to withdraw the undeveloped portions of the LionsGate Planned Development from mixed-use planned development case MUPD 03-01 and include those same properties as part of a new special use permit, which would act as the master plan for those undeveloped properties.

At the regularly scheduled Planning Board meeting held on September 23, 2013, the Planning Board voted unanimously to recommend approval of the Special Use Permit, modifying condition 4 to specify “stormwater lines.”

This item is slated for an evidentiary hearing at the Council’s November 4, 2013, Council meeting.

**RELATED GOAL:** Manage Growth Producing Quality Developments.

**ITEM SUMMARY:**

| <u>Date:</u> | <u>Action:</u> | <u>Info. Provided:</u>   |
|--------------|----------------|--|
| 10-21-13     | Presentation.  | Staff report, Application, Owner’s Consent Form, Neighborhood meeting Support material, & Master plan. |



Town of Clayton  
Planning Department  
111 E. Second Street, Clayton, NC 27520  
P.O. Box 879, Clayton, NC 27528  
Phone: 919-553-5002  
Fax: 919-553-1720

Town Council

**STAFF REPORT**

**Application Number:** SUP 2013-71 (Special Use Permit)  
**Project Name:** LionsGate Master Plan Revision  
  
**NC PIN:** 165918-32-6389, 165918-41-8223, 165919-51-7554, 165919-61-2030  
**Town Limits/ETJ:** Town Limits  
**Overlay:** None  
**Applicant:** DC Adams Engineering, Inc.  
**Owners:** LIONSGATE VILLAGE LLC, SUNBELT GOLF GROUP LLC  
  
**Neighborhood Meeting:** Held September 9, 2013  
**Public Noticing:** Property posted September 13, 2013  
**Planning Board Meeting:** Held September 23, 2013

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**PROJECT LOCATION:** The project is located on Amelia Church Road and is part of the LionsGate Planned Development.

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**REQUEST:** The applicant is requesting approval to withdraw the undeveloped portions of the LionsGate Planned Development from Mixed Use Planned Development Case #03-1 and include those same properties as part of a new Special Use Permit, which would act as the Master Plan for those undeveloped properties.

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**SITE DATA:**

**Acreeage:** 52.58 acres (total LionsGate site included 118.78 acres)  
**Present Zoning:** PD-MU  
**Proposed Zoning:** PD-MU  
**Existing Use:** Vacant  
**Existing Impervious:** None - property is vacant.

**DEVELOPMENT DATA:**

**Proposed Uses:** Single family townhome residential development.  
**Buildings:** Residential buildings will include a maximum of 294 units (including a maximum of 158 single family homes and 136 townhomes).

|                       |   |
|-----------------------|---|
| Number of Stories:    | Maximum height of 35 feet.  |
| Impervious Surface:   | 60% percent maximum requested   |
| Required Parking:     | 2 spaces per unit.  |
| Proposed Parking:     | 2 spaces per unit.  |
| Fire Protection:      | The Town of Clayton Fire Department will provide fire protection.   |
| Access/Streets:       | Access to phases south of Amelia Church Road will be provided by an existing driveway off of Amelia Church Road which will connect into internal circulation providing access to each phase. Access to the phases north of Amelia Church Road will be provided of a new access point off of Amelia Church Road, directly across from Garrison Avenue. |
| Water/Sewer Provider: | Town of Clayton   |
| Electric Provider:    | Duke/Progress Energy  |

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#### **ADJACENT ZONING AND LAND USES:**

|               |               |  |
|---------------|---------------|--|
| <b>North:</b> | Zoning:       | Planned Development – Mixed Use (PD-MU), Residential-10 (R-10)   |
|               | Existing Use: | Single Family Residential  |
| <b>South:</b> | Zoning:       | Residential-10 (R-10), Residential-8 (R-8)                       |
|               | Existing Use: | Single Family Residential  |
| <b>East:</b>  | Zoning:       | Planned Development – Mixed Use (PD-MU)                          |
|               | Existing Use: | Vacant Land donated to the Town of Clayton for parkland/greenway |
| <b>West:</b>  | Zoning:       | Residential-10 (R-10)  |
|               | Existing Use: | Vacant, Single Family Residential                                |

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#### **STAFF ANALYSIS AND COMMENTARY:**

The applicant is requesting approval to withdrawal the undeveloped portions of the LionsGate Planned Development from Mixed Use Planned Development Case #03-1 (approved November 17, 2003, filed in book 2628, pages 155 to 158) and include those same properties as part of a new Special Use Permit, which would act as the Master Plan for those undeveloped properties. The Master Plan for LionsGate was approved via a Special Use permit as part of Permit # 03-01 in 2003 and is approximately 50% built out. The request would leave the developed portions of the site unchanged and still subject to the provisions of the 2003 Master Plan/Special Use Permit.

The reason for the withdrawal is to request a new Master Plan (to be approved as a new Special Use Permit) for the undeveloped properties in order to accommodate modifications from the originally approved Master Plan. The undeveloped portions of the site would be a part of the new Special Use Permit/Master Plan. Modifications include:

- The removal of a previously planned access point off of Amelia Church Road (which was originally planned to be located east of the existing driveway)
- Adjustment of phase lines
- Adjustment of lot lines to change lot sizes in certain phases. The overall number of lots is not changed from the original approval.
- A change in use for the property shown as phases 7B, 7C, and 7E east of the existing daycare facility. This property was originally planned to be mixed use units with commercial on the first floor and residential units above. The applicant has requested these uses be changed to residential-only and is proposing townhome units.

If the new Special Use Permit/Master Plan is approved, each phase will require major preliminary subdivision plat approval from the Town Council.

Planned Development zoning permits site minimum and maximum standards to be set by a Master Plan. These specifications are proposed as presented on the Master Plan. Please note that this Master Plan only guides development of the undeveloped portions of the site; all existing development information is for reference purposes only.

➤ **Consistency with the Strategic Growth Plan**

The request is consistent with the Strategic Growth Plan.

➤ **Consistency with the Unified Development Code**

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

➤ **Compatibility with Surrounding Land Uses**

The proposed development is consistent with the density and patterns of the developed portions of LionsGate and surrounding residential development.

➤ **Landscaping and Buffering**

A 20-30 foot Class "C" buffer, as required by the UDC, is proposed for those portions of the request that represent the perimeter of the overall LionsGate development.

➤ **Recreation and Open Space**

Recreation and open space totals and configuration provided as part of the original Special Use Permit/Master Plan for LionsGate has not been impacted by this request.

➤ **Environmental**

Several creeks run through the property. Where considered a "stream buffer" as defined in Section 155.502 of the UDC, a 50-foot riparian buffer is provided on either side of the creek and is considered "resource conservation area." This total 100-foot buffer area shall remain undisturbed in perpetuity. Jurisdictional wetlands and 100-year floodplains must also remain undisturbed as provided in the Unified Development Code. All resource conservation areas will also be shown on preliminary plats to demonstrate protection of environmental resources. Riparian buffers which do not meet the definition of a "stream buffer" in the UDC will meet preservation requirements set by the State.

➤ **Signs**

No signage is requested as part of this request.

➤ **Access**

Access is provided via a connection to the existing driveway access off of Amelia Church Road and will connect in the construction of Phase 2B to Hocutt Drive in the Ellington Subdivision. Access to Phases 6A and 6B will be via a new driveway off of Amelia Church Road directly across from Garrison Avenue.

➤ **Multi-Modal Access**

A 10-foot multi-use paved path currently exists along a portion of Amelia Church Road with plans for future expansion further along Amelia Church Road to connect to Shotwell Road and to the future greenway to the east. Paths are proposed throughout the development. Sidewalk development within the development will be consistent with the UDC requirements.

➤ **Architecture**

N/A. Any architecture requirements shall be handled at site plan review.

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

None.

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**CONSIDERATIONS:**

- The applicant is requesting Master Plan approval (via a Special Use Permit) for the undeveloped portions of the LionsGate Planned Development (originally approved as Mixed Use Planned Development 03-01).
- Special Use Permit decisions are quasi-judicial.

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**FINDINGS:**

The applicant has addressed the Master Plan Approval Criteria outlined in UDC Section 155.705(K) and the Findings of Fact detailed in UDC Section 155.711(I) required for a Special Use Permit. The applicant's Findings of Fact are incorporated into the record as Exhibit A of the Staff Report.

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**CONDITIONS:**

If approved, staff recommends the following conditions be applied to the approval of the Special Use Permit/Master Plan:

1. All development fees must be paid prior to issuance of a building permit.
2. Development of the site shall be consistent with the specifications of the Master Plan approved as part of this Special Use Permit. Modifications to the Master Plan may require additional approvals as required by the Town Code.

3. Each phase shall receive preliminary plat and/or site plan approval, as applicable, before proceeding to final plat approval or site development.
  4. Prior to issuance of any final plats associated with the development, Verrazano Place, Sioux Lane, and Tuscarora Lane are to be inspected by developer's engineer and Town Staff to determine which stormwater lines need to be cleaned.
  5. Roadway connections to Hocutt Drive shall be constructed prior to issuance of a Certificate of Occupancy for dwelling units in Phase 2B.
  6. Marked crosswalks shall be placed where the bike trail crosses a roadway, including at mid-block or at an intersection.
  7. Marked crosswalks shall be placed at intersections where sidewalks are located.
  8. Resource conservation areas as defined by Section 155.500 of the Unified Development Code shall be identified on preliminary and final plats as being permanently set aside, and shall be protected in perpetuity by a binding legal instrument recorded with the deed which includes clear restriction on the use of the resource conservation area, as described in Section 155.500(F).
  9. Flexible approaches such as adjustments to lot layout, placement of buildings and paved surfaces and location of utilities should be pursued in order to save existing stands of trees or trees with a diameter at breast height of 12 inches or more.
- 

**Planning Board Recommendation:** At their regularly scheduled meeting on September 23, 2013, the Planning Board voted unanimously to recommend approval of the Special Use Permit, modifying Condition #4 to specify "stormwater lines."

**Attachments:** 1) Exhibit "A", 2) Zoning & Aerial Map, 3) Application, 4) Neighborhood Meeting Materials, 5) Master Plan

# Exhibit A

## REQUIRED FINDINGS OF FACT

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

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

The proposed revisions to this existing development will not materially endanger the public health or safety.

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

The developer has worked with the Planning Dept to ensure proper planning with these revisions.

This project conforms to the standards and specifications set aside by the Town Code.

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

The continued development of this project will not substantially injure the value of adjoining or abutting property or be detrimental to the use or development of said property.

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

The developer has worked with the Planning Dept to insure that the continued development of this project will be consistent with adopted plans and policies of the Town.

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## APPLICANT AFFIDAVIT

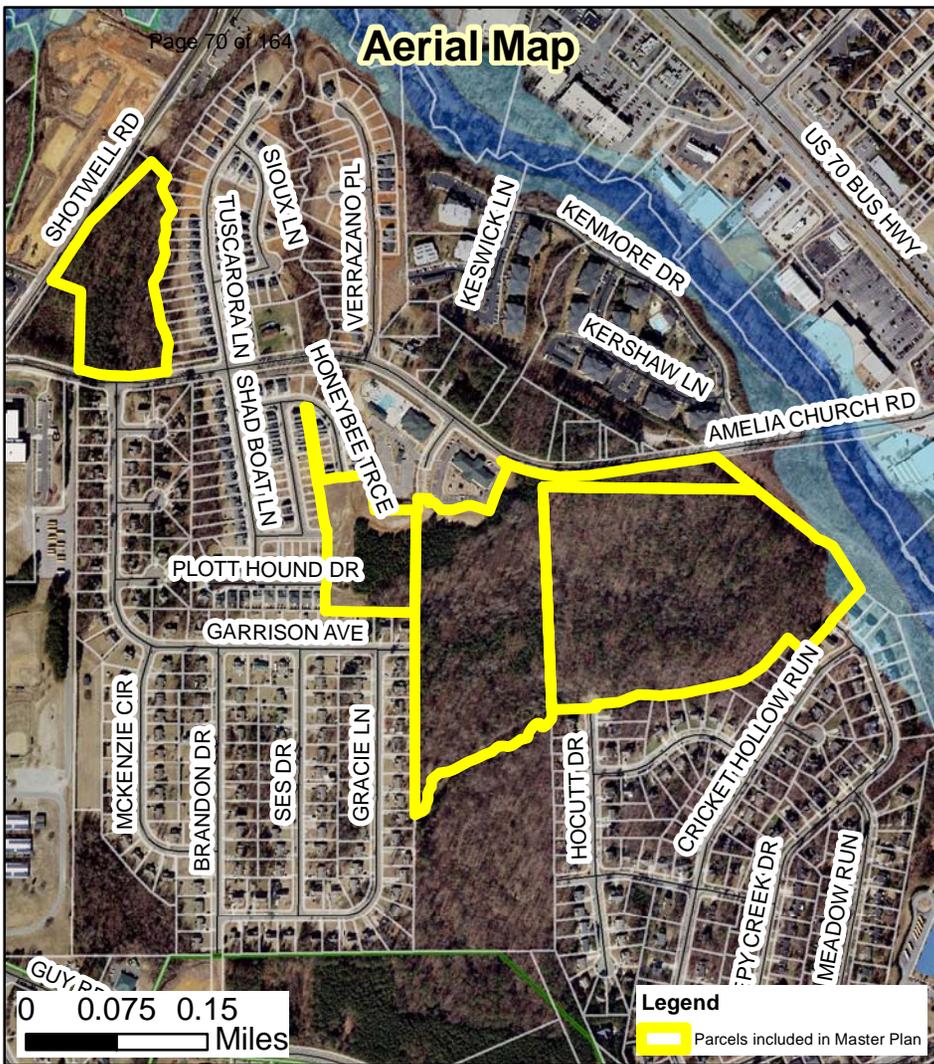
*I/We, the undersigned, do hereby make application and petition to the Town Council of the Town of Clayton to approve the subject Special Use Permit. I hereby certify that I have full legal right to request such action and that the statements or information made in any paper or plans submitted herewith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

Downie Adams  
Print Name

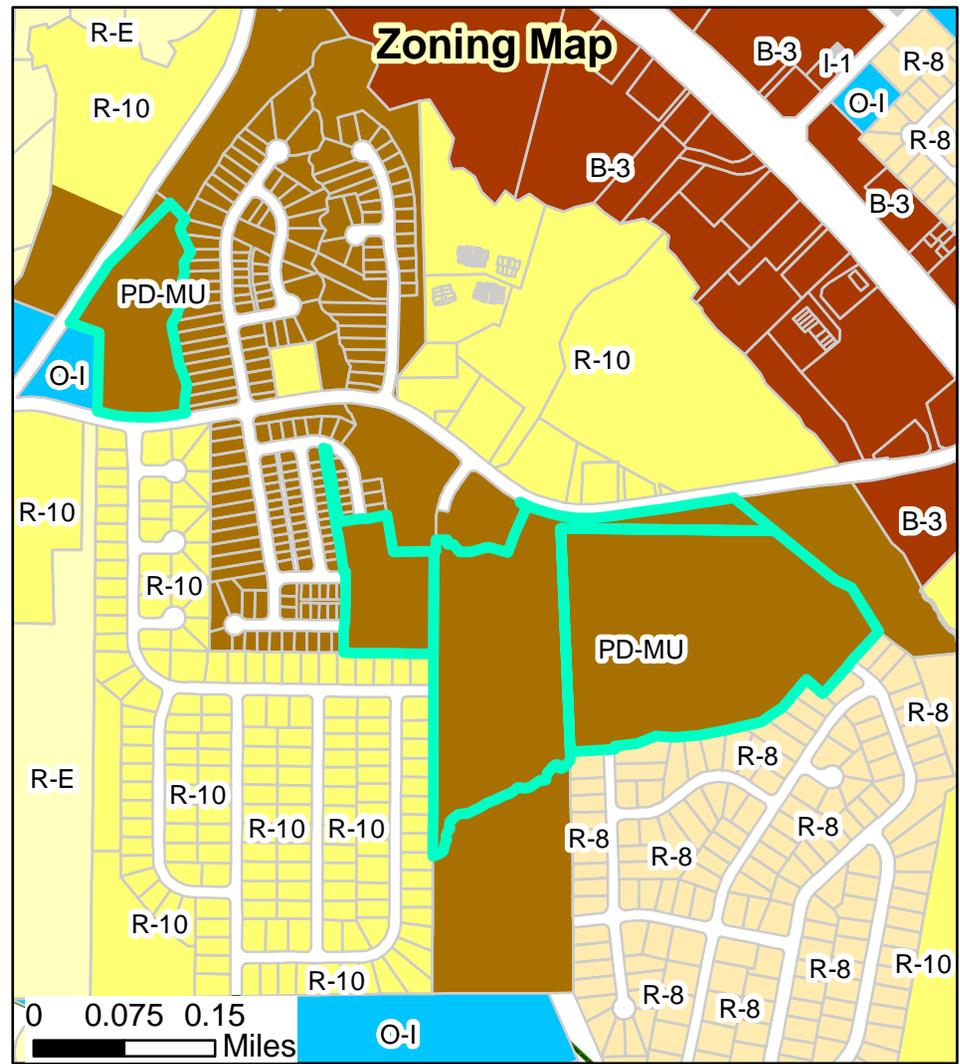
[Signature]  
Signature of Applicant

9/5/2013  
Date

### Aerial Map



### Zoning Map

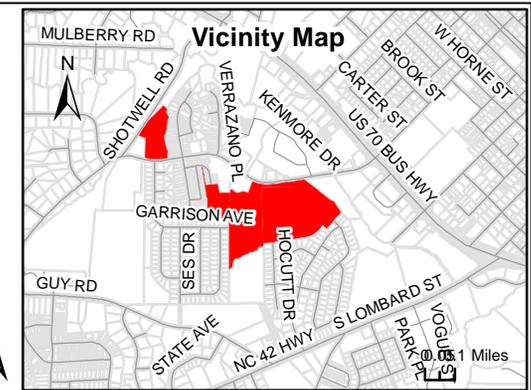


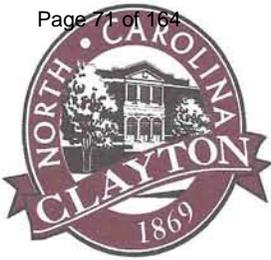
## LionsGate Master Plan/Special Use Permit

Applicant: Donnie Adams  
 Property Owner: LionsGate Village LLC, Sunbelt Golf Group, LLC  
 Parcel ID Number: 165918-32-6389, 165918-41-8223, 165919-51-7554, 165919-61-2030  
 File Number: SUP 2013-71

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

9/17/13





Town of Clayton  
Planning Department  
111 E. Second Street, Clayton, NC 27520  
P.O. Box 879, Clayton, NC 27528  
Phone: 919-553-5002  
Fax: 919-553-1720

## SPECIAL USE PERMIT APPLICATION

*Pursuant to Article 7, Section 155.711 of the Unified Development Code, an owner of land within the jurisdiction of the Town (or a duly authorized agent) may petition the Town Council to allow a Special Use. Special Uses are uses that may be appropriate in a particular district, but has the potential to create incompatibilities with adjacent uses.*

*Special Use Permit 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 fee. The application fee is \$400.00. 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 Special Use Permit applications.*

### SITE INFORMATION:

Name of Project: LionsGate                      Acreage of Property: \_\_\_\_\_

Parcel ID Number: \_\_\_\_\_                      Tax ID: \_\_\_\_\_

Deed Book: \_\_\_\_\_                      Deed Page(s): \_\_\_\_\_

Address: Amelia Church Rd

Location: On both sides of Amelia Church Rd between Shotwell Rd and US 70

Existing Use: \_\_\_\_\_                      Proposed Use: \_\_\_\_\_

Existing Zoning District: \_\_\_\_\_

Requested Zoning District \_\_\_\_\_

Is project within a Planned Development:                       Yes                       No

Planned Development District (if applicable): \_\_\_\_\_

Is project within an Overlay District:                       Yes                       No

Overlay District (if applicable): \_\_\_\_\_

### FOR OFFICE USE ONLY

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



**REQUIRED FINDINGS OF FACT**

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

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

The proposed revisions to this existing development will not materially endanger the public health or safety.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

The developer has worked with the Planning Dept to ensure proper planning with these revisions. This project conforms to the standards and specifications set aside by the Town Code.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

The continued development of this project will not substantially injure the value of adjoining or abutting property or be detrimental to the use or development of said property.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

The developer has worked with the Planning Dept to insure that the continued development of this project will be consistent with adopted plans and policies of the Town.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**APPLICANT AFFIDAVIT**

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

Downie Adams  
Print Name

[Signature]  
Signature of Applicant

9/5/2013  
Date



**Town of Clayton  
Planning Department**

111 E. Second Street, Clayton, NC 27520  
P.O. Box 879, Clayton, NC 27528  
Phone: 919-553-5002  
Fax: 919-553-1720

**OWNER'S CONSENT FORM**

*Consent is required from the property owner(s) and if applicable, to an agent if the property owner(s) do not intend to attend all meetings and public hearings and submit in person all material pertaining to the application. A separate form is required from each owner. Consent is valid for one year from date of notary, unless otherwise specified. Attach copy of last recorded deed for subject property.*

Project Name: LIONSGATE MASTER PLAN Submittal Date: 8/1/2013

I hereby give CONSENT to DENNIE ADAMS (DC ADAMS ENGINEERING, INC) (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 that I have 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 further agree to all terms and conditions, which may be imposed as part of the approval of this application.

**OWNER INFORMATION: (Corporations must submit verification that signatory has authorization to sign)**

LIONSGATE VILLAGE, LLC  
(Name - type, print clearly)  
400 RIVERWOOD DR  
(Address)

[Signature]  
(Signature)  
CLAYTON, NC 27520  
(City, State, Zip)

**AGENT INFORMATION:**

DENNIE ADAMS (DC ADAMS ENGINEERING, INC)  
(Name - type, print clearly)  
404 SWANN TRAIL  
(Address)

[Signature]  
(Signature)  
CLAYTON, NC 27527  
(City, State, Zip)

STATE OF NC  
COUNTY OF JOHNSTON

Sworn and subscribed before me Mary L Hunt, a Notary Public for the above State and County, this the 1st day of August, 2013.

SEAL



Mary L Hunt  
Notary Public

My Commission Expires: 3/21/15



August 30, 2013

Re: LionsGate  
Clayton, NC

Dear Adjacent 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 according to Johnston County tax records. Per town of Clayton regulations, a neighborhood meeting will be held to provide information about the nature of the proposal. A representative of the applicant will be present to explain their application, answer questions, and solicit comments.

Meeting Date: Monday September 9<sup>th</sup>, 2013  
Location: LionsGate Athletic Club  
Time: 7:00  
Type of Application: Master Plan Revision/Major Subdivision  
General Description: Overall Master Plan revisions as well as subdivision plans for Phases 3A, 3G, 6A & 6B.

If you have any questions prior to or after this meeting, please contact us at (919) 550-8086, ext 249.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Strickland", is written over a light blue horizontal line.

Brian Strickland

cc: Clayton Planning Dept.

[www.FredSmithCompany.com](http://www.FredSmithCompany.com)

400 Riverwood Drive Clayton, NC 27527 • Phone: (919) 550-8086 • Fax: (919) 550-8186

Building The Way

| Parcels within 100 feet of the parcels associated with SUP 2013-71, PSD 2013-56, and PSD 2013-57 |                                |                                |                             |                  |            |       |            |
|--|--------------------------------|--------------------------------|-----------------------------|------------------|------------|-------|------------|
|  | NAME1                          | NAME2                          | ADDRESS1                    | ADDRESS2         | CITY       | STATE | ZIPCODE    |
| 1  | AMELIA VILLAGE LLC             |                                | 701 EXPOSITION PL STE 101   | SUITE 115        | RALEIGH    | NC    | 27615-3356 |
| 2  | ASCO BUILDERS INC              |                                | 319 CHAPANOKE RD STE 102    |                  | RALEIGH    | NC    | 27603-0000 |
| 3  | AUSTIN, JACOB R                | AUSTIN, AMBER S                | 156 TRANTHAM TRAIL          |                  | CLAYTON    | NC    | 27520-0000 |
| 4  | BLACK & GOLD INVESTMENTS LLC   | A NC LIMITED LIABILITY CO      | 400 RIVERWOOD DR            |                  | CLAYTON    | NC    | 27520-0000 |
| 5  | BROWN, HAROLD C                | BROWN, CAROLYN B               | 125 HOCUTT DR               |                  | CLAYTON    | NC    | 27520-0000 |
| 6  | BURROUGHS, TERRY L             | BURROUGHS, HELEN S             | 85 SCUPPERNONG WAY          |                  | CLAYTON    | NC    | 27520-7374 |
| 7  | BUTLER, ROBERT S               | WATSON, ANDREA L               | 15 SCOTCH BONNET RIDGE      |                  | CLAYTON    | NC    | 27520-0000 |
| 8  | CALTRIDER, EVAN                | IRELAND, LAWRENCE PATRICK      | 207 TUSCARORA LN            |                  | CLAYTON    | NC    | 27520-7381 |
| 9  | CHEN, XU                       | CHEN, QIU YING WANG            | 27 TUSCARORA LANE           |                  | CLAYTON    | NC    | 27520-0000 |
| 10   | CHESTNUT, KERRY II AND         | CHESTNUT, JANET                | 109 GRACIE LANE             |                  | CLAYTON    | NC    | 27520-7948 |
| 11   | COLE, CATHY                    |                                | 59 TUSCARORA LANE           |                  | CLAYTON    | NC    | 27520-0000 |
| 12   | COUNTY OF JOHNSTON             |                                | PO BOX 1049                 |                  | SMITHFIELD | NC    | 27577-0000 |
| 13   | CRAWFORD, RUTH D               |                                | 701 GARRISON AVENUE         |                  | CLAYTON    | NC    | 27520-0000 |
| 14   | CREECH, TIMOTHY D              | CREECH, JOY A                  | 9 CRICKET HOLLOW RUN        |                  | CLAYTON    | NC    | 27520-5923 |
| 15   | DASHKAVICH, CHARLOTTE EDWARDS  |                                | 11 E AUGUSTA PL             | APT 221          | GREENVILLE | SC    | 29605-1760 |
| 16   | DEAN, RUSSELL S &              | DEAN, MARJORIE A               | 801 GARRISON                |                  | CLAYTON    | NC    | 27520-0000 |
| 17   | DELGADO, EDWARD                | TATUM, LISA                    | 108 BILTMORE DRIVE          |                  | CLAYTON    | NC    | 27520-0000 |
| 18   | DENNINGSON, MATTHEW SCOTT      |                                | 149 HONEYBEE TRACE          |                  | CLAYTON    | NC    | 27520-0000 |
| 19   | DRAUGHON, CINDY L              |                                | 119 GRACIE LANE             |                  | CLAYTON    | NC    | 27520-0000 |
| 20   | DUBLIN, AVIS J                 |                                | P O BOX 41513               |                  | RALEIGH    | NC    | 27629-1513 |
| 21   | FARNSWORTH, WILLIAM            |                                | 11934 SNIDER RD             |                  | CINCINNATI | OH    | 45249-0000 |
| 22   | FEDERAL NATIONAL MORTGAGE      | ASSOCIATION                    |                             | PO BOX 650043    | DALLAS     | TX    | 75265-0043 |
| 23   | FICARROTTA, VINCENZO           | FICARROTTA, STELLA             | 99 PLOTT HOUND DRIVE        |                  | CLAYTON    | NC    | 27520-0000 |
| 24   | FRITZ, NICHOLAS                | FRITZ, ALISSA                  | 171 SOUTHWICK AVE           |                  | CLAYTON    | NC    | 27527-5231 |
| 25   | FSC III LLC                    |                                | 400 RIVERWOOD DR            |                  | CLAYTON    | NC    | 27527-0000 |
| 26   | GAMBINO, CHRISTOPHER C         | CYGAN, ASHLEY C                | 171 TUSCARORA LN            |                  | CLAYTON    | NC    | 27520-7369 |
| 27   | GOLDEN PROPERTIES AND          | DEVELOPMENT INC                | 5160 W NC 42 HWY            |                  | GARNER     | NC    | 27529-0000 |
| 28   | GOLDLEAF PROPERTIES LLC        |                                | PO BOX 369                  |                  | CLAYTON    | NC    | 27520-0000 |
| 29   | GONSALVES, GILBERT B           | GONSALVES, KELLY M             | 107 TUSCARORA LANE          |                  | CLAYTON    | NC    | 27520-0000 |
| 30   | GRESHAM, JAMES L II            |                                | 116 HONEYBEE TRACE          |                  | CLAYTON    | NC    | 27520-0000 |
| 31   | GRIFFITHS, JUSTIN              | CYGAN, AMANDA                  | 179 TUSCARORA LANE          |                  | CLAYTON    | NC    | 27520      |
| 32   | GROOMS, CLAUDETTE              |                                | 61 SLEEPY CREEK DR          |                  | CLAYTON    | NC    | 27520-7239 |
| 33   | HAYES, CHRISTINA MICHELLE      | HAYES, ASHLEY                  | 116 BILMORE DRIVE           |                  | CLAYTON    | NC    | 27520-0000 |
| 34   | HAYES, JONATHAN R              | HAYES, JENNIFER DIXON          | 115 SCOTCH BONNET RDG       |                  | CLAYTON    | NC    | 27520-7366 |
| 35   | HAYES, SHERWOOD LYNN           | HAYES, CHRISTINA C             | 107 GRACIE LANE             |                  | CLAYTON    | NC    | 27520-0000 |
| 36   | HESTER, R FLETCHER JR          | HESTER, KIMBERLY P             | 252 AMELIA CH RD            |                  | CLAYTON    | NC    | 27520-0000 |
| 37   | HESTER, ROYAL FLETCHER JR      |                                | 252 AMELIA CH RD            |                  | CLAYTON    | NC    | 27520-0000 |
| 38   | HILL, JAMES H                  | HILL, JACQUELINE W             | 703 GARRISON AVENUE         |                  | CLAYTON    | NC    | 27520-0000 |
| 39   | HOWARD, E FRANK JR             |                                | 252 COOPER BRANCH RD        |                  | CLAYTON    | NC    | 27520-0000 |
| 40   | JOHNSON, SARAH T               |                                | 13 HONEYBEE TRACE           |                  | CLAYTON    | NC    | 27520-0000 |
| 41   | LEONA SUZANNE ANDERSON TRUST   | ANDERSON, LEONA SUZANNE TRUSTE | 115 GRACIE LN               |                  | CLAYTON    | NC    | 27520-7948 |
| 42   | LEVERIDGE, LAURA MEGAN         |                                | 25 SCOTCH BONNET RIDGE      |                  | CLAYTON    | NC    | 27520-0000 |
| 43   | LEVINSON, GINGER T             |                                | PO BOX 851                  |                  | CLAYTON    | NC    | 27520-0000 |
| 44   | LGV, LLC                       |                                | C/O FRED SMITH CO           | 400 RIVERWOOD DR | CLAYTON    | NC    | 27527-5500 |
| 45   | LIONS SPRING HOUSING ASSOC LLC |                                | 7706 SIX FORKS RD SUITE 202 |                  | RALEIGH    | NC    | 27615-0000 |
| 46   | LIONSGATE DAYECARE LLC         |                                | 400 RIVERWOOD DRIVE         |                  | CLAYTON    | NC    | 27527-0000 |
| 47   | LIONSGATE VILLAGE LLC          | A NC LIMITED LIABILITY COMPANY | 400 RIVERWOOD DRIVE         |                  | CLAYTON    | NC    | 27520-0000 |
| 48   | MAYNARD, DAVID W               | MAYNARD, NANCY P               | 1102 RIVER RD               |                  | EWING      | NJ    | 08628-2104 |
| 49   | MEEHAN MEDICAL LLC             |                                | 45 SHOTWELL ROAD            |                  | CLAYTON    | NC    | 27520-0000 |
| 50   | MENTEER, ROBERT E II           |                                | 113 GRACIE LANE             |                  | CLAYTON    | NC    | 27520-0000 |

|    |                           |                          |                        |             |           |    |            |
|----|---------------------------|--------------------------|------------------------|-------------|-----------|----|------------|
| 51 | MERENDINO, CARRIE E       |                          | 93 SCUPPERNONG WAY     |             | CLAYTON   | NC | 27520-7374 |
| 52 | MILES, KELVIN M           | MILES, MARCELLETTA O     | 104 FLAT ROCK CT       |             | GARNER    | NC | 27529-8472 |
| 53 | N C NATURAL GAS CORP      |                          | C/O JOHN E RAPER JR    | PO BOX 2129 | FAYETTEVI | NC | 27302-0000 |
| 54 | NARRON, JENNIFER LYNN     |                          | 103 GRACIE LANE        |             | CLAYTON   | NC | 27520-0000 |
| 55 | PERREGO, JOEL             | PERREGO, TIFFANY         | 120 HOCUTT DRIVE       |             | CLAYTON   | NC | 27520-0000 |
| 56 | PHAM, HONG                |                          | 124 BROOKWYND CT       |             | GARNER    | NC | 27529-4445 |
| 57 | POST, DANE STEVEN         |                          | 111 GRACIE LN          |             | CLAYTON   | NC | 27520-7948 |
| 58 | ROBEY, ROANNE STROUD      |                          | 803 GARRISON AVENUE    |             | CLAYTON   | NC | 27520-0000 |
| 59 | ROMAN, EDGARDO            | ROMAN, CARMEN            | 121 HOCUTT LANE        |             | CLAYTON   | NC | 00000-0000 |
| 60 | SAHLY, APRIL J            |                          | 95 TUSCARORA LANE      |             | CLAYTON   | NC | 27527-0000 |
| 61 | SALOME, CHRISTINE J &     | SALOME, MICHAEL ANTHONY  | 364 DAFFODIL LN        |             | CLAYTON   | NC | 27520-4532 |
| 62 | SAUNDERS, JOHN PATRICK    | SAUNDERS, KIMBERLY RENEE | 150 HONEYBEE TRACE     |             | CLAYTON   | NC | 27520-0000 |
| 63 | SCHABERG, YVONNE          |                          | 117 TUSCARORA LANE     |             | CLAYTON   | NC | 27520-0000 |
| 64 | SCHILLER, SCOTT A         | SCHILLER, CANDI          | 127 TUSCARORA LANE     |             | CLAYTON   | NC | 27520-0000 |
| 65 | SCOTT, LESLIE M           |                          | 120 BILTMORE DRIVE     |             | CLAYTON   | NC | 27520      |
| 66 | SEELIG, CHARLES THOMAS    | SEELIG, TAMARA DAWN      | 13 CRICKET HOLLOW RUN  |             | CLAYTON   | NC | 27520-0000 |
| 67 | SHIELDS CONSTRUCTION LLC  |                          | 305 BOSWELL LN         |             | CLAYTON   | NC | 27527-0000 |
| 68 | SHIELDS, CHRISTY W        |                          | 132 HONEYBEE TRCE      |             | CLAYTON   | NC | 27520-7370 |
| 69 | SMEDLEY, KIMBERLY SUE     |                          | 17 TUSCARORA LANE      |             | CLAYTON   | NC | 27520-0000 |
| 70 | SMITH, FREDERICK G        |                          | 1007 MULBERRY RD       |             | CLAYTON   | NC | 27520-2131 |
| 71 | SNIADDECKI, ANTHONY       |                          | 268 SHOREHAM LN        |             | TOLEDO    | OH | 43612-4502 |
| 72 | SNOW, WILLIAM WYLEY III & | SNOW, ARLENE MARIE &     | 112 BILTMORE DRIVE     |             | CLAYTON   | NC | 27520-5926 |
| 73 | SPERATI, KAREN FREELAND   |                          | 2159 WOLF LN           |             | KINSTON   | NC | 28501-9702 |
| 74 | SPRASON, ANTONY E         |                          | 71 TUSCARORA LN        |             | CLAYTON   | NC | 27520-7335 |
| 75 | STANTON, JOHN L           | STANTON, CHRISTINE M     | 17 CRICKET HOLLOW RUN  |             | CLAYTON   | NC | 27520-0000 |
| 76 | SUNBELT GOLF GROUP LLC    |                          | 400 RIVERWOOD DR       |             | CLAYTON   | NC | 27527-0000 |
| 77 | TETTERTON, ROBERT J       |                          | 117 GRACIE LN          |             | CLAYTON   | NC | 27520-7948 |
| 78 | TIMBALIA, MUKESH          | PATEL, SIMA              | 101 SCUPPERNONG WAY    |             | CLAYTON   | NC | 27520-7377 |
| 79 | TORRES, KRISTEN A         |                          | 123 SCOTCH BONNET RDG  |             | CLAYTON   | NC | 27520-7366 |
| 80 | WELLS FARGO BANK NA       |                          | 8480 STAGECOACH CIR    |             | FREDERICK | MD | 21701-4747 |
| 81 | WHITAKER, BRIAN PATRICK   | DELEON, VANESSA          | 137 TUSCARORA LANE     |             | CLAYTON   | NC | 27520-0000 |
| 82 | WHITE, ROY E              |                          | 84 PLOTT HOUND DR      |             | CLAYTON   | NC | 27520-7387 |
| 83 | WILKINS, EMILY L          | BOYKIN, CAROLYN E        | 137 HONEYBEE TRACE     |             | CLAYTON   | NC | 27520-7371 |
| 84 | WOJCIK, TROY A            | WOJCIK, LEIGH S          | 33 SCOTCH BONNET RIDGE |             | CLAYTON   | NC | 27520-0000 |

## **Neighborhood Meeting Minutes for:**

### **PDD-MU 2013-55 LionsGate Master Plan Revision, PSD 2013-56 LionsGate Phase 3A & 3G, PSD 2013-57 LionsGate Phase 6A & 6B**

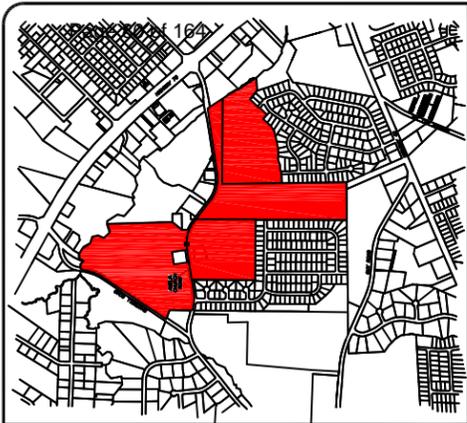
- The meeting was opened at 7:00PM by Fred Smith (developer) who gave an overall summary of LionsGate and the proposed changes to the master plan as well as the two subdivisions. He stated that he had worked through the revisions with input from the Town.
- The majority of comments from adjacent property owners was basically a rehashing of the original master plan and not associated with the proposed revisions or subdivisions – questions related to riparian buffers, tax values, biking/walking trails, land clearing...
- Although not associated with the revisions, all comments were heard and responded to appropriately by the developer.
- Emily Beddingfield (Town of Clayton) addressed all the comments by confirming that the revisions to the master plan did not increase the overall density nor was there any additional property added to the project.
- Some property owners adjacent to Phases 3A & 3G voiced concerns about home building adjacent to their property.
- Developer confirmed that there had been no changes (from the originally approved master plan) to proposed lots in Phase 3A & 3G.
- Some property owners adjacent to Phases 6A & 6B voiced concerns about home building adjacent to their property. They also had questions about the riparian buffer between their property and Phases 6A & 6B.
- Developer pointed out that the lots in Phases 6A & 6B were part of the original master plan but would be narrower than originally planned.
- Donnie Adams (Applicant) addressed concerns about the riparian buffer.
- Emily Beddingfield (Town of Clayton) followed with a clarification of the Town's RCA (Resource Conservation Area) as it pertains to riparian buffers.
- A property owner asked when Phases 3A & 3G would be constructed.
- Developer said plans are to begin in spring of 2014 but no guarantees.
- After a final call for questions or comments and hearing none, the meeting was closed at 7:28PM.

# NEIGHBORHOOD MEETING ATTENDANCE ROSTER

Applicant: DC ADAMS ENGINEERING, Inc

Location/Date: LIONS GATE ATHLETIC CLUB / 9/9/2013

| PARCEL NUMBER | NAME                 | ADDRESS            |
|---------------|----------------------|--------------------|
|               | ROY WHITE            | 84 PLOTT HOUND PR. |
|               | Melissa Papadopoulos | -                  |
|               | SUZANNE ANDERSON     | 115 GRACIE LN      |
|               | Terry Burroughs      | 85 Scuppernon Way  |
|               | Russ DEAN            | 801 GARRISON       |
|               | Ann DEAN             | 801 GARRISON       |
|               | Wonne Schaberg       | 117 Tuscarora Lane |
|               | CHRIS GAMBINO        | 171 TUSCARORA LANE |
|               | Justin Griffiths     | 179 Tuscarora Lane |
|               | Emily Beddingfield   | Town of Clayton    |
|               | Reid Smith           | 1117 Pritchard Rd  |
|               | Fred Smith           | 460 Renewables Dr  |
|               | Jeanne Robey         | 803 Garrison Ave   |
|               | Evan Caltrider       | 207 Tuscarora Ln   |
|               | AMELY SPANSON        | 71 TUSCARORA LN    |
|               |                      |                    |
|               |                      |                    |
|               |                      |                    |
|               |                      |                    |
|               |                      |                    |
|               |                      |                    |



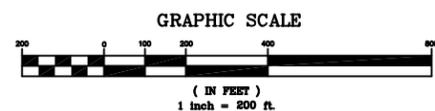
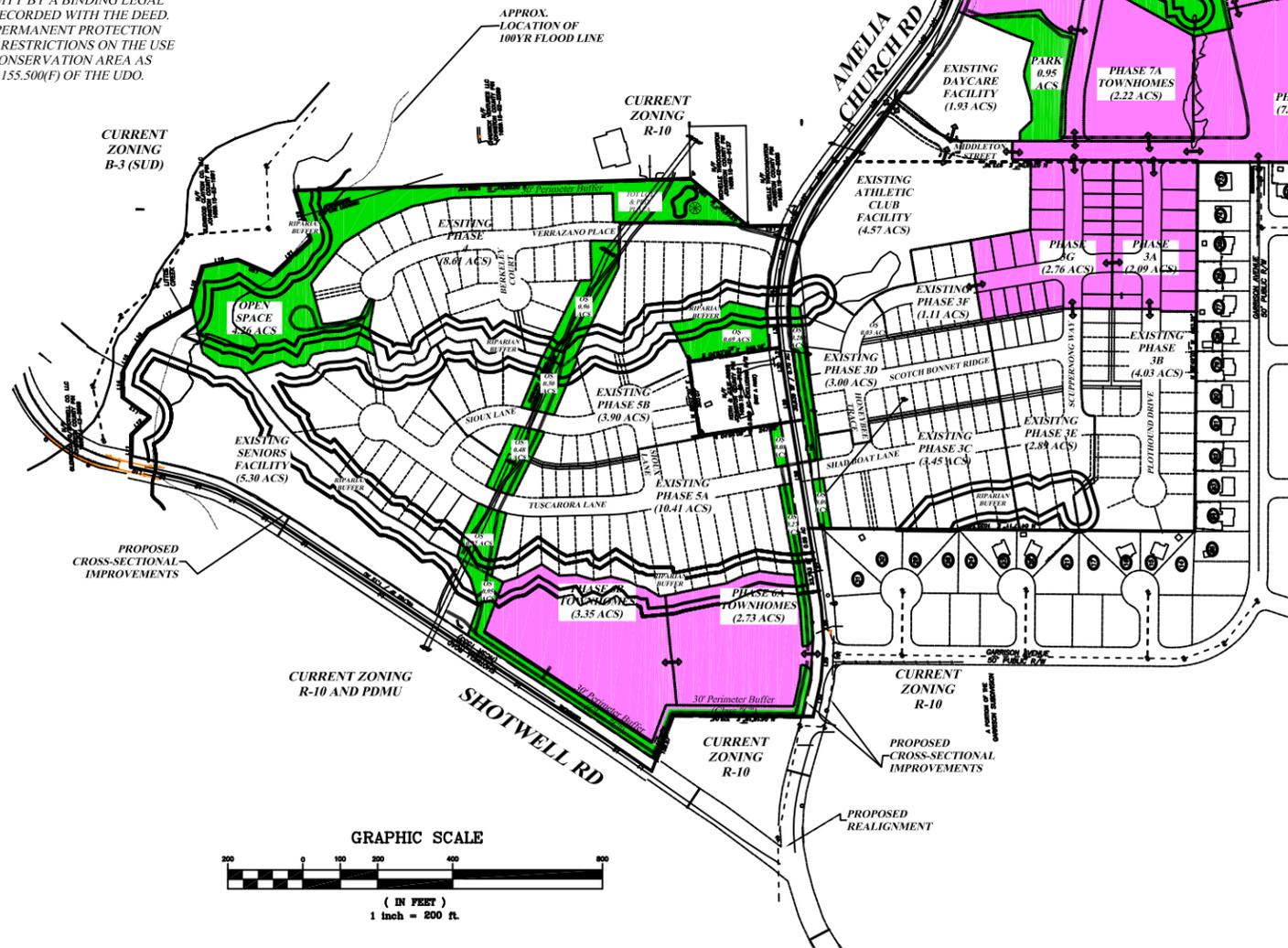
VICINITY MAP

APPROX. 6.35 ACS  
LAND DONATED BY  
DEVELOPER TO  
TOWN OF CLAYTON

APPROX. 11.55 ACS  
DONATED BY  
DEVELOPER TO  
TOWN OF CLAYTON

**RESOURCE CONSERVATION AREAS**

1. RESOURCE CONSERVATION AREAS AS DEFINED BY SECTION 155.500 OF THE UNIFIED DEVELOPMENT ORDINANCE (UDO) SHALL BE IDENTIFIED ON PLATS AS BEING PERMANENTLY SET ASIDE. THESE AREAS SHALL INCLUDE JURISDICTIONAL WETLANDS, 100 YEAR FLOOD PLAINS AND STREAM BUFFERS (AS DEFINED IN SECTION 155.502(A)(1) OF THE UDO).
2. RESOURCE CONSERVATION AREAS SHALL BE PROTECTED IN PERPETUITY BY A BINDING LEGAL INSTRUMENT THAT IS RECORDED WITH THE DEED. THE INSTRUMENT FOR PERMANENT PROTECTION SHALL INCLUDE CLEAR RESTRICTIONS ON THE USE OF THE OF RESOURCE CONSERVATION AREA AS DESCRIBED IN SECTION 155.500(F) OF THE UDO.



**SITE INFORMATION**

1. OWNER: LIONSGATE VILLAGE, LLC  
400 RIVERWOOD DR.  
CLAYTON, NC 27520
2. TAX PARCEL #: 05G02101B, 05G02198P,  
05G02198M, 05E01199C (UNDEVELOPED PORTIONS ONLY)
3. CURRENT ZONING: PDD-MU
4. TOTAL SITE ACREAGE = 131.36 ACS - 17.9 ACS (DONATED TO TOWN) = 113.46 ACS
5. OVERALL DEVELOPMENT RECREATION AND OPEN SPACE = 32.28 ACS (INCLUDING 17.9 ACS DONATED TO TOWN)
6. OVERALL MAXIMUM PERCENT IMPERVIOUS AREA = 60%
7. TOTAL RESOURCE CONSERVATION AREA = 6.8 ACS
8. LAND AREA FOR RESIDENTIAL USE = 83.97 ACS
9. MAXIMUM RESIDENTIAL DENSITY @ 8 UNITS/AC = 893.97 UNITS
10. PROPOSED UNITS = 490 UNITS
11. ALL OPEN SPACE (EXCLUDING LAND DONATED TO TOWN OF CLAYTON) TO BE MAINTAINED BY LIONSGATE HOA.
12. THE DEVELOPER WILL BE RESPONSIBLE FOR THE REPLACEMENT OF ANY DAMAGED TREES WITHIN ANY LAND USE BUFFER.

**LEGEND**

- BIKE TRAILS (CONCRETE/ASPHALT)
- OPEN SPACE
- WETLANDS
- PROPOSED RESIDENTIAL

**NOT RELEASED FOR CONSTRUCTION**

**LOT STANDARDS TABLE**

| PHASE  | UNIT TYPE     | AREA (ACS) | MAX. # OF UNITS | MIN. LOT WIDTH (FT) | MIN. LOT DEPTH (FT) | MAX. IMPERVIOUS AREA PER LOT (SF)                                   | SETBACKS   |           |           |                  | MIN. BLDG. SEPARATION (FT) | MAX. BLDG. HEIGHT (FT) |
|--------|---------------|------------|-----------------|---------------------|---------------------|---|------------|-----------|-----------|------------------|----------------------------|------------------------|
|        |               |            |                 |                     |                     |   | FRONT (FT) | SIDE (FT) | REAR (FT) | STREET SIDE (FT) |                            |                        |
| 1A     | SINGLE FAMILY | 3.08       | 15              | 45                  | 65                  | 4000  | 12         | 0         | 5         | 8                | 10                         | 40                     |
| 1B     | SINGLE FAMILY | 3.72       | 20              | 45                  | 65                  | 4000  | 12         | 0         | 5         | 8                | 10                         | 40                     |
| 2A     | SINGLE FAMILY | 7.55       | 30              | 40                  | 55                  | 4000  | 12         | 0         | 5         | 8                | 10                         | 40                     |
| 2B     | SINGLE FAMILY | 3.87       | 17              | 40                  | 55                  | 4000  | 12         | 0         | 5         | 8                | 10                         | 40                     |
| 2C     | SINGLE FAMILY | 3.18       | 15              | 40                  | 55                  | 4000  | 12         | 0         | 5         | 8                | 10                         | 40                     |
| 2D     | SINGLE FAMILY | 6.01       | 25              | 40                  | 55                  | 4000  | 12         | 0         | 5         | 8                | 10                         | 40                     |
| 3A     | SINGLE FAMILY | 2.09       | 15              | 35                  | 75                  | 4000  | 12         | 0         | 5         | 8                | 10                         | 40                     |
| 3G     | SINGLE FAMILY | 2.76       | 21              | 35                  | 75                  | 4000  | 12         | 0         | 5         | 8                | 10                         | 40                     |
| 6A     | TOWNHOMES     | 2.73       | 26              | 15                  | 75                  | 2350  | 12         | 0         | 5         | 8                | 10                         | 40                     |
| 6B     | TOWNHOMES     | 3.35       | 26              | 15                  | 75                  | 2350  | 12         | 0         | 5         | 8                | 10                         | 40                     |
| 7A     | TOWNHOMES     | 2.22       | 24              | N/A                 | N/A                 | 60%   | 0          | 0         | 0         | 0                | 10                         | 40                     |
| 7B     | TOWNHOMES     | 2.38       | 24              | N/A                 | N/A                 | 60%   | 0          | 0         | 0         | 0                | 10                         | 40                     |
| 7C     | TOWNHOMES     | 2.15       | 21              | N/A                 | N/A                 | 60%   | 0          | 0         | 0         | 0                | 10                         | 40                     |
| 7D     | TOWNHOMES     | 1.48       | 15              | N/A                 | N/A                 | 60%   | 0          | 0         | 0         | 0                | 10                         | 40                     |
| TOTALS |               | 46.57      | 294             |                     |                     | **MAX. IMPERVIOUS AREA PER LOT EXCLUDES STREET, SIDEWALK AND ALLEYS |            |           |           |                  |                            |                        |

**"EXISTING" LOT STANDARDS TABLE**

| PHASE  | UNIT TYPE     | AREA (ACS) | MAX. # OF LOTS | MIN. LOT WIDTH (FT) | MIN. LOT DEPTH (FT) | MAX. IMPERVIOUS AREA PER LOT (SF)                                   | SETBACKS   |           |           |                  | MIN. BLDG. SEPARATION (FT) | MAX. BLDG. HEIGHT (FT) |
|--------|---------------|------------|----------------|---------------------|---------------------|---|------------|-----------|-----------|------------------|----------------------------|------------------------|
|        |               |            |                |                     |                     |   | FRONT (FT) | SIDE (FT) | REAR (FT) | STREET SIDE (FT) |                            |                        |
| 3B     | SINGLE FAMILY | 4.03       | 27             | EX                  | EX                  | 4000  | 12         | 0         | 5         | 8                | 10                         | 40                     |
| 3C     | SINGLE FAMILY | 3.45       | 19             | EX                  | EX                  | 4000  | 12         | 0         | 5         | 8                | 10                         | 40                     |
| 3D     | SINGLE FAMILY | 3          | 24             | EX                  | EX                  | 4000  | 12         | 0         | 5         | 8                | 10                         | 40                     |
| 3E     | SINGLE FAMILY | 2.89       | 17             | EX                  | EX                  | 4000  | 12         | 0         | 5         | 8                | 10                         | 40                     |
| 3F     | SINGLE FAMILY | 1.11       | 10             | EX                  | EX                  | 4000  | 12         | 0         | 5         | 8                | 10                         | 40                     |
| 4      | SINGLE FAMILY | 8.61       | 37             | EX                  | EX                  | 4000  | 12         | 0         | 5         | 8                | 10                         | 40                     |
| 5A     | SINGLE FAMILY | 10.41      | 45             | EX                  | EX                  | 4000  | 12         | 0         | 5         | 8                | 10                         | 40                     |
| 5B     | SINGLE FAMILY | 3.9        | 17             | EX                  | EX                  | 4000  | 12         | 0         | 5         | 8                | 10                         | 40                     |
| TOTALS |               | 37.4       | 196            |                     |                     | **MAX. IMPERVIOUS AREA PER LOT EXCLUDES STREET, SIDEWALK AND ALLEYS |            |           |           |                  |                            |                        |

FILE: DA-MASTER-PLAN-REV-01  
 DESIGN: DCA  
 DRAWN: DCA  
 CHECKED: DCA  
 HORIZONTAL SCALE: 1"=50'  
 VERTICAL SCALE: N/A  
 DATE: 7/31/2013  
 JOB NO.:  
 SHEET 1 of 1

LionsGate  
 FRED SMITH COMPANY, CLAYTON, NC 27527  
 DC ADAMS ENGINEERING, INC  
 404 SWANN TRAIL, CLAYTON, NC 27527  
 (919) 763-7278 FIRM # C-3894  
 dommie@dcadamspe.com

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

**Agenda Item: 5d**

**Meeting Date: 10/21/13**

**TITLE: PRESENTATION OF SUBDIVISION PERMIT SUB (PSD) 2013-56 FOR PHASES 3A AND 3G LOCATED WITHIN LIONSGATE SUBDIVISION AND SUBMITTED BY DC ADAMS ENGINEERING INC.**

**DESCRIPTION: The applicant is requesting preliminary subdivision plat approval for the major subdivision of Phases 3A and 3G in the LionsGate Planned Development, located within the Town of Clayton.**

**At the regularly scheduled Planning Board meeting held on September 23, 2013, the Planning Board voted unanimously to recommend approval of the major subdivision.**

**This item is slated for an evidentiary hearing at the Council's November 4, 2013, Council meeting.**

**RELATED GOAL: Manage Growth Producing Quality Developments.**

**ITEM SUMMARY:**

| <u>Date:</u> | <u>Action:</u> | <u>Info. Provided:</u>  |
|--------------|----------------|---|
| 10-21-13     | Presentation.  | Staff report, Application, Owner's Consent Form, Neighborhood meeting Support material, & Subdivision plan. |



Town of Clayton  
Planning Department  
111 E. Second Street, Clayton, NC 27520  
P.O. Box 879, Clayton, NC 27528  
Phone: 919-553-5002  
Fax: 919-553-1720

Town Council

**STAFF REPORT**

**Application Number:** PSD 2013-56 (major subdivision)  
**Project Name:** LionsGate Phases 3A & 3G

**NC PIN:** 165918-41-8223  
**Town Limits/ETJ:** Town Limits  
**Overlay:** None  
**Master Plan:** LionsGate SUP 2013-71  
**Applicant:** DC Adams Engineering, Inc.  
**Owners:** SUNBELT GOLF GROUP LLC

**Neighborhood Meeting:** Held September 9, 2013  
**Public Noticing:** Property posted September 13, 2013

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**PROJECT LOCATION:** The project is located within the LionsGate Planned Development, south of the existing Athletic Club Facility.

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**REQUEST:** The applicant is requesting preliminary subdivision plat approval for the major subdivision of Phases 3A and 3G in the LionsGate Planned Development, within Town Limits.

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**SITE DATA:**

**Acreage:** 4.84 acres  
**Present Zoning:** PD-MU  
**Proposed Zoning:** PD-MU  
**Existing Use:** Vacant  
**Existing Impervious:** None - property is vacant.

**DEVELOPMENT DATA:**

**Proposed Uses:** Single family residential  
**Buildings:** 36 residential units  
**Number of Stories:** Maximum height of 35 feet.

|                       |  |
|-----------------------|--|
| Impervious Surface:   | Maximum 3,250 SF per lot (60% maximum for the overall LionsGate development)                                   |
| Required Parking:     | 2 spaces per unit  |
| Proposed Parking:     | 2 spaces per unit  |
| Fire Protection:      | The Town of Clayton Fire Department will provide fire protection.  |
| Access/Streets:       | Access will be provided via connection to the existing Honeybee Trace, Scuppernong Way, and Plott Hound Drive. |
| Water/Sewer Provider: | Town of Clayton  |
| Electric Provider:    | Duke/Progress Energy   |

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**ADJACENT ZONING AND LAND USES:**

|               |               |   |
|---------------|---------------|---|
| <b>North:</b> | Zoning:       | Planned Development – Mixed Use (PD-MU) |
|               | Existing Use: | LionGate Planned Development            |
| <b>South:</b> | Zoning:       | Residential-10 (R-10)                   |
|               | Existing Use: | Single Family Residential               |
| <b>East:</b>  | Zoning:       | Planned Development – Mixed Use (PD-MU) |
|               | Existing Use: | LionsGate Planned Development           |
| <b>West:</b>  | Zoning:       | Planned Development – Mixed Use (PD-MU) |
|               | Existing Use: | LionsGate Planned Development           |

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**STAFF ANALYSIS AND COMMENTARY:**

The applicant is requesting preliminary subdivision plat approval for Phases 3A and 3G as depicted on the LionsGate Master Plan (SUP 2013-71), which is under concurrent review. Approval of this preliminary subdivision plat is subject to approval of SUP 2013-71.

The applicant is requesting approval for a total of 36 lots (15 in Phase 3A and 21 in Phase 3G).

- **Consistency with the Strategic Growth Plan**  
The request is consistent with the Strategic Growth Plan.
- **Consistency with Master Plan**  
If the Master Plan (SUP 2013-71) is approved as proposed, the request will be consistent with the Master Plan.
- **Consistency with the Unified Development Code**  
The proposed development is consistent with and meets the applicable requirements of the Unified Development Code (UDC).

➤ **Compatibility with Surrounding Land Uses**

The proposed development is consistent with the density and patterns of the developed portions of LionsGate and surrounding residential development.

➤ **Landscaping and Buffering**

N/A – no buffering is required for this request as the development is internal to the LionsGate development. No buffer is proposed to the south as the development patterns are consistent with the existing development.

➤ **Recreation and Open Space**

Recreation and open space requirements have been met by the overall LionsGate Planned Development.

➤ **Environmental**

There are no environmental concerns associated with this request. There are no resource conservation areas located on this particular piece of property. Stormwater is accommodated through design of the overall LionsGate development.

➤ **Signs**

No signage is requested as part of this request.

➤ **Access/Streets**

Access will be provided via connection to the existing Honeybee Trace, Scuppernong Way, and Plott Hound Drive. Streets provided will be extensions of these streets. One entrance to the subdivision is provided off of Amelia Church Road, with a future second entrance off of the Middleton Street extension located east of Phases 3A & 3G.

➤ **Multi-Modal Access**

Sidewalks are provided along both sides of the street.

➤ **Architecture**

N/A – the Town does not regulate architecture of single family residential homes.

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

None.

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**CONSIDERATIONS:**

- The applicant is requesting Preliminary Subdivision Plat approval for Phases 3A and 3G.
- This approval is subject to approval of SUP 2013-71.

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**FINDINGS:**

The applicant has addressed the Major Subdivision Approval Criteria outlined in UDC Section 155.706. The applicant's Findings of Fact are incorporated into the record as Exhibit A of the Staff Report.

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**CONDITIONS:**

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

1. The final plat and subsequent development of the site shall be consistent with the specifications of the approved Preliminary Subdivision Plan. Modifications may require additional approvals and shall be consistent with the specifications of the Unified Development Code.
2. Development shall be consistent with the specifications of SUP 2013-71.
3. All development fees shall be paid prior to issuance of building permits.
4. Marked crosswalks shall be placed at intersections where sidewalks are located.

---

**Planning Board Recommendation:** At their regularly scheduled meeting on September 23, 2013, the Planning Board voted unanimously to recommend approval of the major subdivision.

**Attachments:** **1)** Exhibit "A", **2)** Zoning & Aerial Map, **3)** Application, **4)** Neighborhood Meeting Materials, **5)** Preliminary Subdivision Plan.

PSD 2013-56 Exhibit A

**APPLICANT STATEMENT – MAJOR SUBDIVISIONS 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 all Subdivision Regulation set by the Town and is consistent with requirements of the UDO.

- (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.

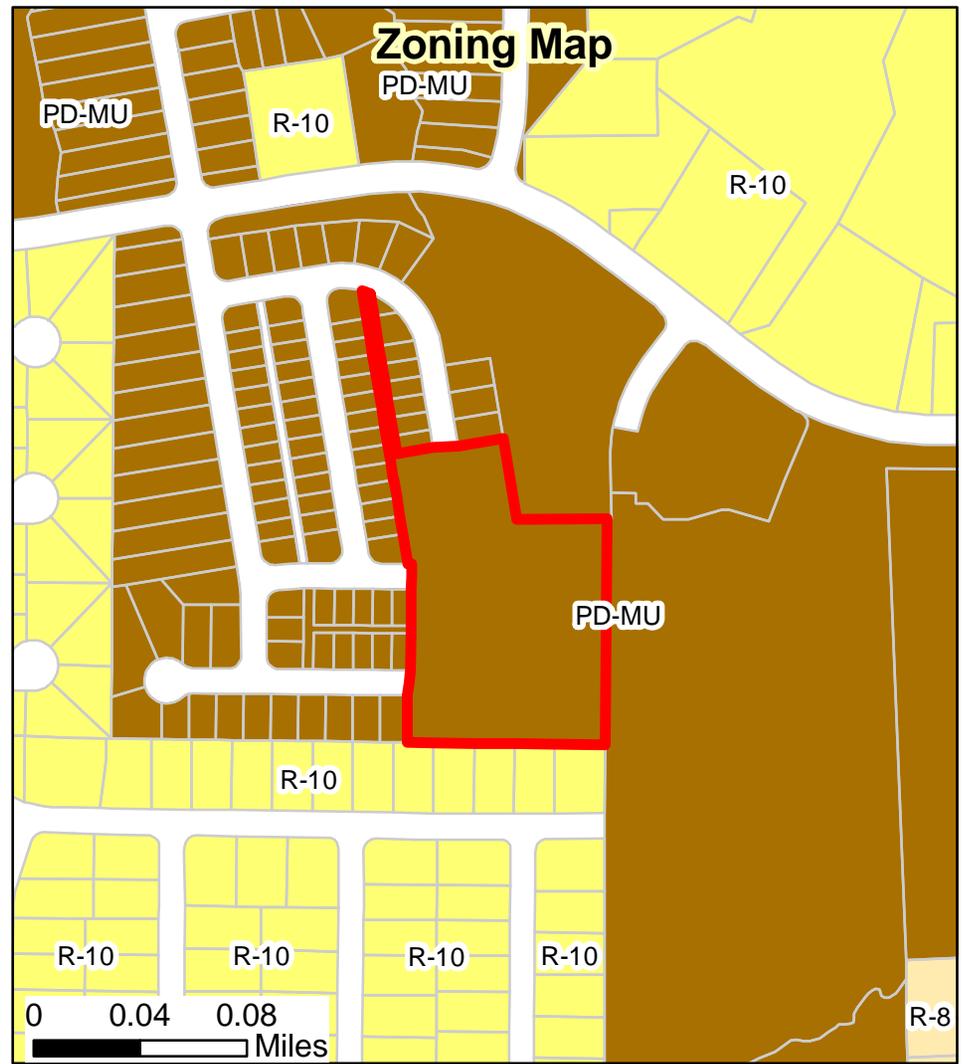
This project will be a benefit to the entire community.

- (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 design to provide safe ingress and egress and is consistent with previously approved access points onto the existing street network. This project will not pose a threat to The environment, public safety or general welfare.

- (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.

This subdivision is consistent with the planning policies of the Town and will provide Orderly growth and development

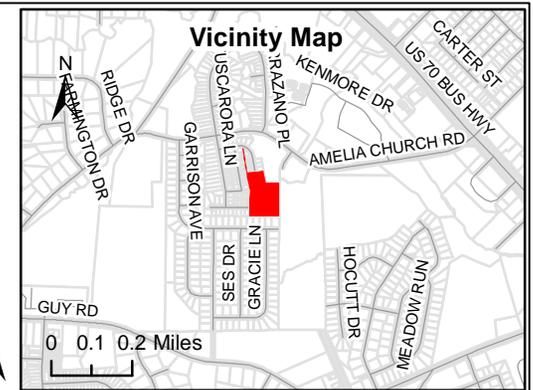


## Major Subdivision Approval Phase 3A & 3G, LionsGate

Applicant: Donnie Adams  
 Property Owner: Sunbelt Golf Group, LLC  
 Parcel ID Number: 165918-41-8223  
 File Number: PSD 2013-56

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

9/17/13





Town of Clayton  
Planning Department  
111 E. Second Street, Clayton, NC 27520  
P.O. Box 879, Clayton, NC 27528  
Phone: 919-553-5002  
Fax: 919-553-1720

## SUBDIVISION APPLICATION

*Pursuant to Article 7, Section 155.706 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 approve a Subdivision (major, minor, final plat, or exempt) application. Applicants seeking subdivision approval shall schedule a pre-application conference with the Planning Director in accordance with Section 155.702(A).*

*Subdivision 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 fee. The application fees are as follows:*

- *Minor Subdivision: \$200.00 + \$5.00/lot.*
- *Major Subdivision: \$400.00 + \$5.00/lot.*
- *Open Space Subdivision = \$700.00 + \$5.00/acre.*
- *Final Plat: \$250.00 + \$5.00/lot.*
- *Exempt Map/Recombination: \$100.00.*

*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 Major Subdivision applications.*

### SUBDIVISION TYPE:

Application Type:

- Minor Subdivision     
  Major Subdivision     
  Final Plat     
  Exempt Map  
 Recombination

### SITE INFORMATION:

Name of Project: Lionsgate Phase 3A & 3G      Acreage of Property: 4.84acres

Preliminary Plat Approval Date (if applicable): \_\_\_\_\_

Parcel ID Number: 1165918-51-8223      Tax ID: 05G02198P

Location: Amelia Church Rd

Section(s): \_\_\_\_\_      Phase(s): Phases 3A & 3G

Number of Lots (Existing): \_\_\_\_\_ (Proposed): 36      Min. Lot Size: N/A

Duke  
Energy  
Progress

Zoning District: PDD      Planned Development? (Y/N): Y      Electric Provider: \_\_\_\_\_

Specific Use: Single Family Residential (duplex lots)

Recreation/Open Space Requirement:     Fee in lieu     Land Dedication (acreage)    Master plan

### FOR OFFICE USE ONLY

File Number: \_\_\_\_\_      Date Received: \_\_\_\_\_      Amount Paid: \_\_\_\_\_  
Page 88 of 164



**OWNER INFORMATION:**

Name: Lionsgate Village, LLC  
Mailing Address: 400 Riverwood Dr, Clayton, NC 27520  
Phone Number: 919-550-8086 Fax: \_\_\_\_\_  
Email Address: [Brian.Strickland@fredsmithcompany.com](mailto:Brian.Strickland@fredsmithcompany.com)

**APPLICANT INFORMATION:**

Applicant: DC Adams Engineering, Inc  
Mailing Address: 404 Swann Trail, Clayton, NC 27527  
Phone Number: 919-763-7278 Fax: \_\_\_\_\_  
Contact Person: Donnie Adams  
Email Address: [donnie@dcadamspe.com](mailto:donnie@dcadamspe.com)

**REQUIRED PLANS AND SUPPLEMENTAL INFORMATION**

*The following items must accompany a Subdivision Plan application. This information is required, except where otherwise noted:*

- 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).*

**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.*

Donnie Adams  
Print Name

  
Signature of Applicant

8/1/2013  
Date

**APPLICANT STATEMENT – MAJOR SUBDIVISIONS 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 all Subdivision Regulation set by the Town and is consistent with requirements of the UDO.

- (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.

This project will be a benefit to the entire community.

- (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 design to provide safe ingress and egress and is consistent with previously approved access points onto the existing street network. This project will not pose a threat to The environment, public safety or general welfare.

- (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.

This subdivision is consistent with the planning policies of the Town and will provide Orderly growth and development



**Town of Clayton  
Planning Department**

141 E. Second Street, Clayton, NC 27520  
P.O. Box 879, Clayton, NC 27528  
Phone: 919-553-5002  
Fax: 919-553-1720

# OWNER'S CONSENT FORM

*Consent is required from the property owner(s) and if applicable, to an agent if the property owner(s) do not intend to attend all meetings and public hearings and submit in person all material pertaining to the application. A separate form is required from each owner. Consent is valid for one year from date of notary, unless otherwise specified. Attach copy of last recorded deed for subject property.*

**Project Name:** LOUSGATE - PHASE 3A & 3B      **Submittal Date:** 8/1/2013

I hereby give CONSENT to DENNIS ADAMS (DCAADAMS ENGINEERING, INC) (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 that I have 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 further agree to all terms and conditions, which may be imposed as part of the approval of this application.

**OWNER INFORMATION: (Corporations must submit verification that signatory has authorization to sign)**

LOUSGATE VILLAGE, LLC  
(Name - type, print clearly)

400 RIVERWOOD DR  
(Address)

[Signature]  
(Signature)

CLAYTON, NC 27520  
(City, State, Zip)

**AGENT INFORMATION:**

DENNIS ADAMS (DCAADAMS ENGINEERING, INC)  
(Name - type, print clearly)

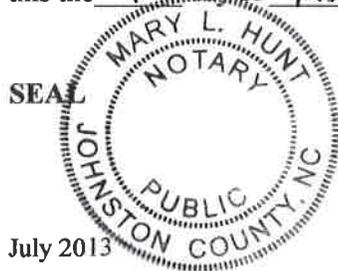
404 SWANN TRAIL  
(Address)

[Signature]  
(Signature)

CLAYTON, NC 27527  
(City, State, Zip)

STATE OF NC  
COUNTY OF JOHNSTON

Sworn and subscribed before me Mary L Hunt, a Notary Public for the above State and County, this the 1st day of August, 2013.



Mary L Hunt  
Notary Public

My Commission Expires: 3/21/15



August 30, 2013

Re: LionsGate  
Clayton, NC

Dear Adjacent 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 according to Johnston County tax records. Per town of Clayton regulations, a neighborhood meeting will be held to provide information about the nature of the proposal. A representative of the applicant will be present to explain their application, answer questions, and solicit comments.

Meeting Date: Monday September 9<sup>th</sup>, 2013  
Location: LionsGate Athletic Club  
Time: 7:00  
Type of Application: Master Plan Revision/Major Subdivision  
General Description: Overall Master Plan revisions as well as subdivision plans for Phases 3A, 3G, 6A & 6B.

If you have any questions prior to or after this meeting, please contact us at (919) 550-8086, ext 249.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Strickland", is written over a light blue horizontal line.

Brian Strickland

cc: Clayton Planning Dept.

[www.FredSmithCompany.com](http://www.FredSmithCompany.com)

400 Riverwood Drive Clayton, NC 27527 • Phone: (919) 550-8086 • Fax: (919) 550-8186

Building The Way

| Parcels within 100 feet of the parcels associated with SUP 2013-71, PSD 2013-56, and PSD 2013-57 |                                |                                |                             |                  |            |       |            |
|--|--------------------------------|--------------------------------|-----------------------------|------------------|------------|-------|------------|
|  | NAME1                          | NAME2                          | ADDRESS1                    | ADDRESS2         | CITY       | STATE | ZIPCODE    |
| 1  | AMELIA VILLAGE LLC             |                                | 701 EXPOSITION PL STE 101   | SUITE 115        | RALEIGH    | NC    | 27615-3356 |
| 2  | ASCO BUILDERS INC              |                                | 319 CHAPANOKE RD STE 102    |                  | RALEIGH    | NC    | 27603-0000 |
| 3  | AUSTIN, JACOB R                | AUSTIN, AMBER S                | 156 TRANTHAM TRAIL          |                  | CLAYTON    | NC    | 27520-0000 |
| 4  | BLACK & GOLD INVESTMENTS LLC   | A NC LIMITED LIABILITY CO      | 400 RIVERWOOD DR            |                  | CLAYTON    | NC    | 27520-0000 |
| 5  | BROWN, HAROLD C                | BROWN, CAROLYN B               | 125 HOCUTT DR               |                  | CLAYTON    | NC    | 27520-0000 |
| 6  | BURROUGHS, TERRY L             | BURROUGHS, HELEN S             | 85 SCUPPERNONG WAY          |                  | CLAYTON    | NC    | 27520-7374 |
| 7  | BUTLER, ROBERT S               | WATSON, ANDREA L               | 15 SCOTCH BONNET RIDGE      |                  | CLAYTON    | NC    | 27520-0000 |
| 8  | CALTRIDER, EVAN                | IRELAND, LAWRENCE PATRICK      | 207 TUSCARORA LN            |                  | CLAYTON    | NC    | 27520-7381 |
| 9  | CHEN, XU                       | CHEN, QIU YING WANG            | 27 TUSCARORA LANE           |                  | CLAYTON    | NC    | 27520-0000 |
| 10   | CHESTNUT, KERRY II AND         | CHESTNUT, JANET                | 109 GRACIE LANE             |                  | CLAYTON    | NC    | 27520-7948 |
| 11   | COLE, CATHY                    |                                | 59 TUSCARORA LANE           |                  | CLAYTON    | NC    | 27520-0000 |
| 12   | COUNTY OF JOHNSTON             |                                | PO BOX 1049                 |                  | SMITHFIELD | NC    | 27577-0000 |
| 13   | CRAWFORD, RUTH D               |                                | 701 GARRISON AVENUE         |                  | CLAYTON    | NC    | 27520-0000 |
| 14   | CREECH, TIMOTHY D              | CREECH, JOY A                  | 9 CRICKET HOLLOW RUN        |                  | CLAYTON    | NC    | 27520-5923 |
| 15   | DASHKAVICH, CHARLOTTE EDWARDS  |                                | 11 E AUGUSTA PL             | APT 221          | GREENVILLE | SC    | 29605-1760 |
| 16   | DEAN, RUSSELL S &              | DEAN, MARJORIE A               | 801 GARRISON                |                  | CLAYTON    | NC    | 27520-0000 |
| 17   | DELGADO, EDWARD                | TATUM, LISA                    | 108 BILTMORE DRIVE          |                  | CLAYTON    | NC    | 27520-0000 |
| 18   | DENNINGSON, MATTHEW SCOTT      |                                | 149 HONEYBEE TRACE          |                  | CLAYTON    | NC    | 27520-0000 |
| 19   | DRAUGHON, CINDY L              |                                | 119 GRACIE LANE             |                  | CLAYTON    | NC    | 27520-0000 |
| 20   | DUBLIN, AVIS J                 |                                | P O BOX 41513               |                  | RALEIGH    | NC    | 27629-1513 |
| 21   | FARNSWORTH, WILLIAM            |                                | 11934 SNIDER RD             |                  | CINCINNATI | OH    | 45249-0000 |
| 22   | FEDERAL NATIONAL MORTGAGE      | ASSOCIATION                    |                             | PO BOX 650043    | DALLAS     | TX    | 75265-0043 |
| 23   | FICARROTTA, VINCENZO           | FICARROTTA, STELLA             | 99 PLOTT HOUND DRIVE        |                  | CLAYTON    | NC    | 27520-0000 |
| 24   | FRITZ, NICHOLAS                | FRITZ, ALISSA                  | 171 SOUTHWICK AVE           |                  | CLAYTON    | NC    | 27527-5231 |
| 25   | FSC III LLC                    |                                | 400 RIVERWOOD DR            |                  | CLAYTON    | NC    | 27527-0000 |
| 26   | GAMBINO, CHRISTOPHER C         | CYGAN, ASHLEY C                | 171 TUSCARORA LN            |                  | CLAYTON    | NC    | 27520-7369 |
| 27   | GOLDEN PROPERTIES AND          | DEVELOPMENT INC                | 5160 W NC 42 HWY            |                  | GARNER     | NC    | 27529-0000 |
| 28   | GOLDLEAF PROPERTIES LLC        |                                | PO BOX 369                  |                  | CLAYTON    | NC    | 27520-0000 |
| 29   | GONSALVES, GILBERT B           | GONSALVES, KELLY M             | 107 TUSCARORA LANE          |                  | CLAYTON    | NC    | 27520-0000 |
| 30   | GRESHAM, JAMES L II            |                                | 116 HONEYBEE TRACE          |                  | CLAYTON    | NC    | 27520-0000 |
| 31   | GRIFFITHS, JUSTIN              | CYGAN, AMANDA                  | 179 TUSCARORA LANE          |                  | CLAYTON    | NC    | 27520      |
| 32   | GROOMS, CLAUDETTE              |                                | 61 SLEEPY CREEK DR          |                  | CLAYTON    | NC    | 27520-7239 |
| 33   | HAYES, CHRISTINA MICHELLE      | HAYES, ASHLEY                  | 116 BILMORE DRIVE           |                  | CLAYTON    | NC    | 27520-0000 |
| 34   | HAYES, JONATHAN R              | HAYES, JENNIFER DIXON          | 115 SCOTCH BONNET RDG       |                  | CLAYTON    | NC    | 27520-7366 |
| 35   | HAYES, SHERWOOD LYNN           | HAYES, CHRISTINA C             | 107 GRACIE LANE             |                  | CLAYTON    | NC    | 27520-0000 |
| 36   | HESTER, R FLETCHER JR          | HESTER, KIMBERLY P             | 252 AMELIA CH RD            |                  | CLAYTON    | NC    | 27520-0000 |
| 37   | HESTER, ROYAL FLETCHER JR      |                                | 252 AMELIA CH RD            |                  | CLAYTON    | NC    | 27520-0000 |
| 38   | HILL, JAMES H                  | HILL, JACQUELINE W             | 703 GARRISON AVENUE         |                  | CLAYTON    | NC    | 27520-0000 |
| 39   | HOWARD, E FRANK JR             |                                | 252 COOPER BRANCH RD        |                  | CLAYTON    | NC    | 27520-0000 |
| 40   | JOHNSON, SARAH T               |                                | 13 HONEYBEE TRACE           |                  | CLAYTON    | NC    | 27520-0000 |
| 41   | LEONA SUZANNE ANDERSON TRUST   | ANDERSON, LEONA SUZANNE TRUSTE | 115 GRACIE LN               |                  | CLAYTON    | NC    | 27520-7948 |
| 42   | LEVERIDGE, LAURA MEGAN         |                                | 25 SCOTCH BONNET RIDGE      |                  | CLAYTON    | NC    | 27520-0000 |
| 43   | LEVINSON, GINGER T             |                                | PO BOX 851                  |                  | CLAYTON    | NC    | 27520-0000 |
| 44   | LGV, LLC                       |                                | C/O FRED SMITH CO           | 400 RIVERWOOD DR | CLAYTON    | NC    | 27527-5500 |
| 45   | LIONS SPRING HOUSING ASSOC LLC |                                | 7706 SIX FORKS RD SUITE 202 |                  | RALEIGH    | NC    | 27615-0000 |
| 46   | LIONSGATE DAYECARE LLC         |                                | 400 RIVERWOOD DRIVE         |                  | CLAYTON    | NC    | 27527-0000 |
| 47   | LIONSGATE VILLAGE LLC          | A NC LIMITED LIABILITY COMPANY | 400 RIVERWOOD DRIVE         |                  | CLAYTON    | NC    | 27520-0000 |
| 48   | MAYNARD, DAVID W               | MAYNARD, NANCY P               | 1102 RIVER RD               |                  | EWING      | NJ    | 08628-2104 |
| 49   | MEEHAN MEDICAL LLC             |                                | 45 SHOTWELL ROAD            |                  | CLAYTON    | NC    | 27520-0000 |
| 50   | MENTEER, ROBERT E II           |                                | 113 GRACIE LANE             |                  | CLAYTON    | NC    | 27520-0000 |

|    |                           |                          |                        |             |           |    |            |
|----|---------------------------|--------------------------|------------------------|-------------|-----------|----|------------|
| 51 | MERENDINO, CARRIE E       |                          | 93 SCUPPERNONG WAY     |             | CLAYTON   | NC | 27520-7374 |
| 52 | MILES, KELVIN M           | MILES, MARCELLETTA O     | 104 FLAT ROCK CT       |             | GARNER    | NC | 27529-8472 |
| 53 | N C NATURAL GAS CORP      |                          | C/O JOHN E RAPER JR    | PO BOX 2129 | FAYETTEVI | NC | 27302-0000 |
| 54 | NARRON, JENNIFER LYNN     |                          | 103 GRACIE LANE        |             | CLAYTON   | NC | 27520-0000 |
| 55 | PERREGO, JOEL             | PERREGO, TIFFANY         | 120 HOCUTT DRIVE       |             | CLAYTON   | NC | 27520-0000 |
| 56 | PHAM, HONG                |                          | 124 BROOKWYND CT       |             | GARNER    | NC | 27529-4445 |
| 57 | POST, DANE STEVEN         |                          | 111 GRACIE LN          |             | CLAYTON   | NC | 27520-7948 |
| 58 | ROBEY, ROANNE STROUD      |                          | 803 GARRISON AVENUE    |             | CLAYTON   | NC | 27520-0000 |
| 59 | ROMAN, EDGARDO            | ROMAN, CARMEN            | 121 HOCUTT LANE        |             | CLAYTON   | NC | 00000-0000 |
| 60 | SAHLY, APRIL J            |                          | 95 TUSCARORA LANE      |             | CLAYTON   | NC | 27527-0000 |
| 61 | SALOME, CHRISTINE J &     | SALOME, MICHAEL ANTHONY  | 364 DAFFODIL LN        |             | CLAYTON   | NC | 27520-4532 |
| 62 | SAUNDERS, JOHN PATRICK    | SAUNDERS, KIMBERLY RENEE | 150 HONEYBEE TRACE     |             | CLAYTON   | NC | 27520-0000 |
| 63 | SCHABERG, YVONNE          |                          | 117 TUSCARORA LANE     |             | CLAYTON   | NC | 27520-0000 |
| 64 | SCHILLER, SCOTT A         | SCHILLER, CANDI          | 127 TUSCARORA LANE     |             | CLAYTON   | NC | 27520-0000 |
| 65 | SCOTT, LESLIE M           |                          | 120 BILTMORE DRIVE     |             | CLAYTON   | NC | 27520      |
| 66 | SEELIG, CHARLES THOMAS    | SEELIG, TAMARA DAWN      | 13 CRICKET HOLLOW RUN  |             | CLAYTON   | NC | 27520-0000 |
| 67 | SHIELDS CONSTRUCTION LLC  |                          | 305 BOSWELL LN         |             | CLAYTON   | NC | 27527-0000 |
| 68 | SHIELDS, CHRISTY W        |                          | 132 HONEYBEE TRCE      |             | CLAYTON   | NC | 27520-7370 |
| 69 | SMEDLEY, KIMBERLY SUE     |                          | 17 TUSCARORA LANE      |             | CLAYTON   | NC | 27520-0000 |
| 70 | SMITH, FREDERICK G        |                          | 1007 MULBERRY RD       |             | CLAYTON   | NC | 27520-2131 |
| 71 | SNIADDECKI, ANTHONY       |                          | 268 SHOREHAM LN        |             | TOLEDO    | OH | 43612-4502 |
| 72 | SNOW, WILLIAM WYLEY III & | SNOW, ARLENE MARIE &     | 112 BILTMORE DRIVE     |             | CLAYTON   | NC | 27520-5926 |
| 73 | SPERATI, KAREN FREELAND   |                          | 2159 WOLF LN           |             | KINSTON   | NC | 28501-9702 |
| 74 | SPRASON, ANTONY E         |                          | 71 TUSCARORA LN        |             | CLAYTON   | NC | 27520-7335 |
| 75 | STANTON, JOHN L           | STANTON, CHRISTINE M     | 17 CRICKET HOLLOW RUN  |             | CLAYTON   | NC | 27520-0000 |
| 76 | SUNBELT GOLF GROUP LLC    |                          | 400 RIVERWOOD DR       |             | CLAYTON   | NC | 27527-0000 |
| 77 | TETTERTON, ROBERT J       |                          | 117 GRACIE LN          |             | CLAYTON   | NC | 27520-7948 |
| 78 | TIMBALIA, MUKESH          | PATEL, SIMA              | 101 SCUPPERNONG WAY    |             | CLAYTON   | NC | 27520-7377 |
| 79 | TORRES, KRISTEN A         |                          | 123 SCOTCH BONNET RDG  |             | CLAYTON   | NC | 27520-7366 |
| 80 | WELLS FARGO BANK NA       |                          | 8480 STAGECOACH CIR    |             | FREDERICK | MD | 21701-4747 |
| 81 | WHITAKER, BRIAN PATRICK   | DELEON, VANESSA          | 137 TUSCARORA LANE     |             | CLAYTON   | NC | 27520-0000 |
| 82 | WHITE, ROY E              |                          | 84 PLOTT HOUND DR      |             | CLAYTON   | NC | 27520-7387 |
| 83 | WILKINS, EMILY L          | BOYKIN, CAROLYN E        | 137 HONEYBEE TRACE     |             | CLAYTON   | NC | 27520-7371 |
| 84 | WOJCIK, TROY A            | WOJCIK, LEIGH S          | 33 SCOTCH BONNET RIDGE |             | CLAYTON   | NC | 27520-0000 |

## **Neighborhood Meeting Minutes for:**

### **PDD-MU 2013-55 LionsGate Master Plan Revision, PSD 2013-56 LionsGate Phase 3A & 3G, PSD 2013-57 LionsGate Phase 6A & 6B**

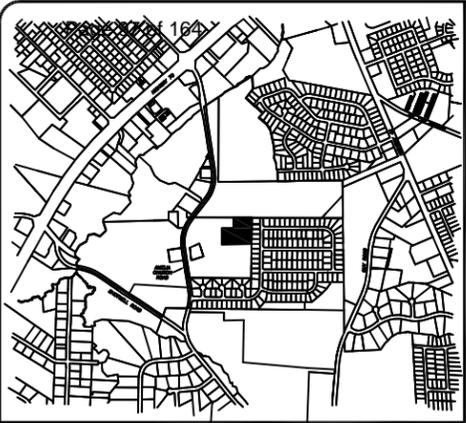
- The meeting was opened at 7:00PM by Fred Smith (developer) who gave an overall summary of LionsGate and the proposed changes to the master plan as well as the two subdivisions. He stated that he had worked through the revisions with input from the Town.
- The majority of comments from adjacent property owners was basically a rehashing of the original master plan and not associated with the proposed revisions or subdivisions – questions related to riparian buffers, tax values, biking/walking trails, land clearing...
- Although not associated with the revisions, all comments were heard and responded to appropriately by the developer.
- Emily Beddingfield (Town of Clayton) addressed all the comments by confirming that the revisions to the master plan did not increase the overall density nor was there any additional property added to the project.
- Some property owners adjacent to Phases 3A & 3G voiced concerns about home building adjacent to their property.
- Developer confirmed that there had been no changes (from the originally approved master plan) to proposed lots in Phase 3A & 3G.
- Some property owners adjacent to Phases 6A & 6B voiced concerns about home building adjacent to their property. They also had questions about the riparian buffer between their property and Phases 6A & 6B.
- Developer pointed out that the lots in Phases 6A & 6B were part of the original master plan but would be narrower than originally planned.
- Donnie Adams (Applicant) addressed concerns about the riparian buffer.
- Emily Beddingfield (Town of Clayton) followed with a clarification of the Town's RCA (Resource Conservation Area) as it pertains to riparian buffers.
- A property owner asked when Phases 3A & 3G would be constructed.
- Developer said plans are to begin in spring of 2014 but no guarantees.
- After a final call for questions or comments and hearing none, the meeting was closed at 7:28PM.

# NEIGHBORHOOD MEETING ATTENDANCE ROSTER

**Applicant:** DC ADAMS ENGINEERING, Inc

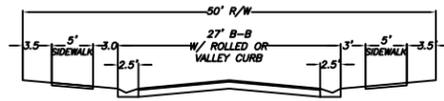
**Location/Date:** LIONS GATE ATHLETIC CLUB / 9/9/2013

| PARCEL NUMBER | NAME                 | ADDRESS            |
|---------------|----------------------|--------------------|
|               | ROY WHITE            | 84 PLOTT HOUND PR. |
|               | Melissa Papadopoulos | -                  |
|               | SUZANNE ANDERSON     | 115 GRACIE LN      |
|               | Terry Burroughs      | 85 Scuppernon Way  |
|               | Russ DEAN            | 801 GARRISON       |
|               | Ann DEAN             | 801 GARRISON       |
|               | Wonne Schaberg       | 117 Tuscarora Lane |
|               | CHRIS GAMBINO        | 171 TUSCARORA LANE |
|               | Justin Griffiths     | 179 Tuscarora Lane |
|               | Emily Beddingfield   | Town of Clayton    |
|               | Reid Smith           | 1117 Pritchard Rd  |
|               | Fred Smith           | 460 Renewables Dr  |
|               | Jeanne Robey         | 803 Garrison Ave   |
|               | Evan Caltrider       | 207 Tuscarora Ln   |
|               | AMELY SPANSON        | 71 TUSCARORA LN    |
|               |                      |                    |
|               |                      |                    |
|               |                      |                    |
|               |                      |                    |
|               |                      |                    |
|               |                      |                    |



VICINITY MAP

**TYPICAL RESIDENTIAL STREET  
50' RIGHT OF WAY W/  
SIDEWALK**



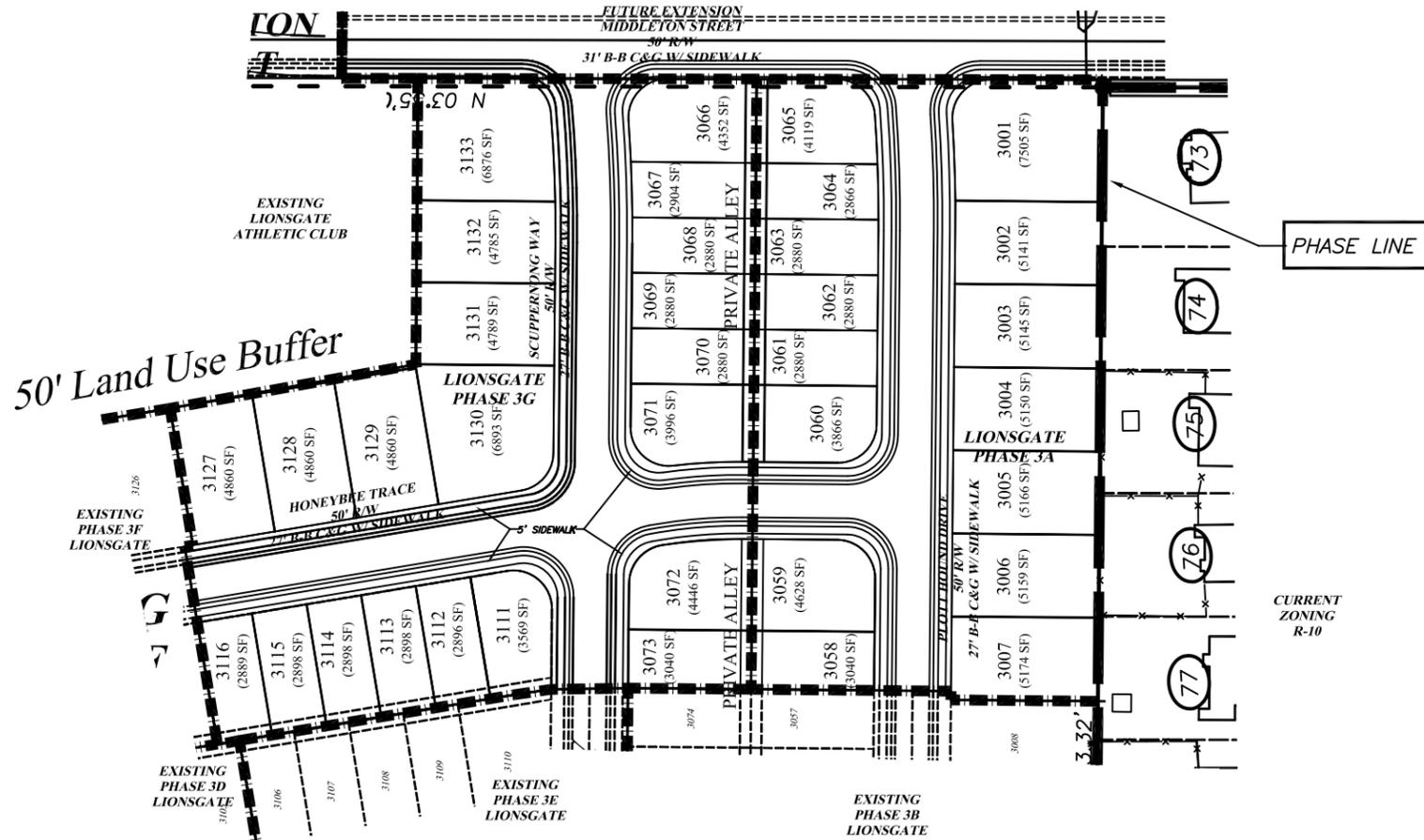
**STREET YARD TREES**

- STREET YARD TREES SHALL BE REQUIRED ALONG ALL RIGHTS OF WAY AT THE RATE OF ONE CANOPY TREE PER LOT OR ONE CANOPY TREE FOR EVERY 40 LINEAR FEET (SPACE A MAXIMUM OF 50 FEET APART).
- ALL STREET YARD TREES SHALL BE A MINIMUM OF TWO AND ONE-HALF CALIPER INCHES AT TIME OF PLANTING AND SHALL BE PLANTED NO LESS THAN FIVE FEET OR MORE THAN 15 FEET FROM THE BACK OF THE SIDEWALK.



EXISTING DAYCARE FACILITY AT LIONSGATE

FUTURE DEVELOPMENT OF LIONSGATE



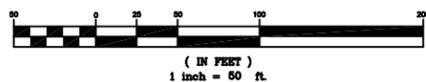
**NOT RELEASED FOR CONSTRUCTION**

**SITE INFORMATION**

- OWNER: SUNBELT GOLF GROUP, LLC  
400 RIVERWOOD DR,  
CLAYTON, NC 27520
- PARCEL #: 163918-41-8223
- TAX #: 05G02198P
- TOTAL SITE ACREAGE = 4.84 ACS
- CURRENT ZONING: PDD-MU
- PROPOSED LOTS = 36
- ALL OPEN SPACE TO BE MAINTAINED BY LIONSGATE HOA.
- THE DEVELOPER WILL BE RESPONSIBLE FOR THE REPLACEMENT OF ANY DAMAGED TREES WITHIN ANY LAND USE BUFFER.
- MAXIMUM IMPERVIOUS AREA = 189,996 SF (INCLUDING STREETS, SIDEWALK, ALLEYS AND 4000SF PER LOT).

**NOTE:**  
A COMPLETE SET OF CONSTRUCTION DRAWINGS FOR WATER, SEWER, EROSION CONTROL, GRADING AND STREET EXTENSION TO BE SUBMITTED TO AND APPROVED BY TOWN'S PLANNING ENGINEERING DEPARTMENT PRIOR TO CONSTRUCTION.

GRAPHIC SCALE



LOT STANDARDS TABLE

| PHASE  | UNIT TYPE     | AREA (ACS) | # OF UNITS | MIN. LOT WIDTH (FT) | MIN. LOT DEPTH (FT) | MAX. IMPERVIOUS | SETBACKS   |           |           |                  | MIN. BLDG. SEPARATI | MAX. BLDG. HEIGHT |
|--------|---------------|------------|------------|---------------------|---------------------|-----------------|------------|-----------|-----------|------------------|---------------------|-------------------|
|        |               |            |            |                     |                     |                 | FRONT (FT) | SIDE (FT) | REAR (FT) | STREET SIDE (FT) |                     |                   |
| 3A     | SINGLE FAMILY | 2.09       | 15         | 35                  | 75                  | 4000            | 12         | 0         | 5         | 8                | 10                  | 35                |
| 3G     | SINGLE FAMILY | 2.76       | 21         | 35                  | 75                  | 4000            | 12         | 0         | 5         | 8                | 10                  | 35                |
| TOTALS |               | 4.85       | 36         |                     |                     |                 |            |           |           |                  |                     |                   |

\*\*MAX. IMPERVIOUS AREA PER LOT EXCLUDES STREET, SIDEWALK AND ALLEYS

FILE NO. 163918-41-8223  
DESIGN DATE: 6/27/2013  
DRAWN BY: DCA  
CHECKED BY: DCA  
DATE: 7/31/2013  
JOB NO. 163918-41-8223

**DC ADAMS ENGINEERING, INC**  
404 SWANN TRAIL, CLAYTON, NC 27527  
donnie@dcadamspe.com (919) 763-7278 FIRM # C-3894

LionsGate  
**PHASES 3A & 3G**  
FRED SMITH COMPANY, CLAYTON, NC 27527

SUBDIVISION PLAN

SHEET 1 of 1

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

**Agenda Item: 5e**

**Meeting Date: 10/21/13**

**TITLE: PRESENTATION OF SUBDIVISION PERMIT SUB (PSD) 2013-57 FOR PHASES 6A AND 6B LOCATED WITHIN LIONSGATE SUBDIVISION AND SUBMITTED BY DC ADAMS ENGINEERING INC.**

**DESCRIPTION: The applicant is requesting preliminary subdivision plat approval for the major subdivision of Phases 6A and 6B in the LionsGate Planned Development to allow 52 townhome units located within the Town of Clayton.**

**At the regularly scheduled Planning Board meeting held on September 23, 2013, the Planning Board voted unanimously to recommend approval of the major subdivision.**

**This item is slated for an evidentiary hearing at the Council's November 4, 2013, Council meeting.**

**RELATED GOAL: Manage Growth Producing Quality Developments.**

**ITEM SUMMARY:**

| <u>Date:</u> | <u>Action:</u> | <u>Info. Provided:</u>  |
|--------------|----------------|---|
| 10-21-13     | Presentation.  | Staff report, Application, Owner's Consent Form, Neighborhood meeting Support material, & Subdivision plan. |



Town of Clayton  
Planning Department  
111 E. Second Street, Clayton, NC 27520  
P.O. Box 879, Clayton, NC 27528  
Phone: 919-553-5002  
Fax: 919-553-1720

Town Council

**STAFF REPORT**

**Application Number:** PSD 2013-57 (major subdivision)  
**Project Name:** LionsGate Phases 6A & 6B

**NC PIN:** 165918-32-6389  
**Town Limits/ETJ:** Town Limits  
**Overlay:** None  
**Master Plan:** LionsGate SUP 2013-71  
**Applicant:** DC Adams Engineering, Inc.  
**Owners:** LionsGate Village, LLC

**Neighborhood Meeting:** Held September 9, 2013  
**Public Noticing:** Property posted September 13, 2013

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**PROJECT LOCATION:** The project is located within the LionsGate Planned Development, near the intersection of Amelia Church and Shotwell Road.

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**REQUEST:** The applicant is requesting preliminary subdivision plat approval for the major subdivision of Phases 6A and 6B in the LionsGate Planned Development to allow 52 townhome units, within Town Limits.

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**SITE DATA:**

**Acreage:** 6.82 acres  
**Zoning:** PD-MU (Planned Development – Mixed Use)  
**Existing Use:** Vacant  
**Existing Impervious:** None - property is vacant.

**DEVELOPMENT DATA:**

**Proposed Uses:** Townhome residential units  
**Buildings:** 52 residential units (26 buildings) – each unit will be on its own lot  
**Number of Stories:** Maximum height of 35 feet  
**Impervious Surface:** Maximum 1,850 SF per lot (maximum 60% impervious for overall development)

|                       |  |
|-----------------------|--|
| Required Parking:     | 2 spaces per unit  |
| Proposed Parking:     | 2 spaces per unit  |
| Fire Protection:      | The Town of Clayton Fire Department will provide fire protection.  |
| Access/Streets:       | One access point will be provided via a new driveway off of Amelia Church Road, directly across from and aligned with Garrison Avenue. |
| Water/Sewer Provider: | Town of Clayton  |
| Electric Provider:    | Duke/Progress Energy   |

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**ADJACENT ZONING AND LAND USES:**

|               |               |  |
|---------------|---------------|--|
| <b>North:</b> | Zoning:       | Planned Development – Mixed Use (PD-MU), Residential-10 (R-10)     |
|               | Existing Use: | LionGate Planned Development, Vacant                               |
| <b>South:</b> | Zoning:       | Residential-8 (R-8)  |
|               | Existing Use: | Single Family Residential  |
| <b>East:</b>  | Zoning:       | Planned Development – Mixed Use (PD-MU)                            |
|               | Existing Use: | LionsGate Planned Development (Phase 5A Single Family Residential) |
| <b>West:</b>  | Zoning:       | Planned Development – Mixed Use (PD-MU), R-10 (Residential-10)     |
|               | Existing Use: | Vacant   |

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**STAFF ANALYSIS AND COMMENTARY:**

The applicant is requesting preliminary subdivision plat approval for Phases 6A and 6B as depicted on the LionsGate Master Plan (SUP 2013-71), which is under concurrent review. Approval of this preliminary subdivision plat is subject to approval of SUP 2013-71.

The applicant is requesting approval for a total of 52 lots (26 in each phase). Each townhome unit will be on an individual lot for a total of 52 units for both phases. The proposed layout includes two units per building for a total of 26 buildings for both phases. Driveways will be in the front of the buildings.

- **Consistency with the Strategic Growth Plan**  
The request is consistent with the Strategic Growth Plan.
  
- **Consistency with Master Plan**  
If the Master Plan (SUP 2013-71) is approved as proposed, the request will be consistent with the Master Plan.
  
- **Consistency with the Unified Development Code**  
The proposed development is consistent with and meets the applicable requirements of the Unified Development Code (UDC). Individual lot development specifications including building placement, driveway

placement, etc. will be required to meet all Town standards and be consistent with the provisions of the approved Master Plan.

➤ **Compatibility with Surrounding Land Uses**

The proposed development is consistent with the density and patterns of the LionsGate Planned Development. The existing riparian buffer provides a 100 foot natural buffer from existing homes to the east, which makes the higher densities of these phases have less visual impact on the adjacent properties.

➤ **Landscaping and Buffering**

A 30 foot Class C perimeter buffer is provided along the boundary of the property. A bike trail is proposed through this buffer; the applicant has indicated they intend to meet the requirements of a Class C buffer and provide the bike trail within this area. A riparian buffer exists on the eastern border of the phases and shall meet all state preservation requirements.

➤ **Recreation and Open Space**

Recreation and open space requirements have been met by the overall LionsGate Planned Development.

➤ **Environmental**

Resource conservation areas (stream buffers, 100-year flood zones) shall be preserved by a binding legal instrument recorded with the deed as each phase is platted. Riparian buffers not considered “stream buffers” by the UDC will meet all state preservation requirements.

➤ **Signs**

No signage is requested as part of this request.

➤ **Access/Streets**

Access will be provided via a new driveway and cul-de-sac off of Amelia Church Road. The proposed name is Yellow Jacket Ridge. The length is 700 feet, which is in compliance with the requirements of the UDC. The driveway will require NCDOT permits and shall be aligned with the existing Garrison Avenue to the south.

➤ **Multi-Modal Access**

Sidewalks are provided along both sides of the street and will extend fully around the cul-de-sac. A 30 foot access point will provide access from the cul-de-sac sidewalk to the bike trail that runs along Shotwell Road. The proposed bike/multi-purpose 10 foot paved pathway will be required to connect to the northern edge of the property along Shotwell Road to allow for a connection to the existing multi-use paved pathway existing to the north in front of the LionSpring senior living facility.

➤ **Architecture/Design**

The UDC sets certain standards for townhome design if a garage is present. If the townhomes have garages, they will be required to meet Town of Clayton standards as addressed in Section 155.301(J) which sets standards such as garage width in relation to the home width. Driveway placement on each lot will also be required to meet the requirements of the UDC.

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

None.

**CONSIDERATIONS:**

- The applicant is requesting Preliminary Subdivision Plat approval for Phases 6A and 6B.
  - This approval is subject to approval of SUP 2013-71.
- 

**FINDINGS:**

The applicant has addressed the Major Subdivision Approval Criteria outlined in UDC Section 155.706. The applicant's Findings of Fact are incorporated into the record as Exhibit A of the Staff Report.

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**CONDITIONS:**

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

1. The final plat and subsequent development of the site shall be consistent with the specifications of the approved Preliminary Subdivision Plan. Modifications may require additional approvals and shall be consistent with the specifications of the Unified Development Code.
  2. Development shall be consistent with the specifications of SUP 2013-71.
  3. All development fees shall be paid prior to issuance of building permits.
  4. The bike trail shall be constructed prior to the issuance of a certificate of occupancy.
  5. The proposed bike trail shall be built to the edge of the north property line along Shotwell Road to allow for a connection to the existing paved pathway along Shotwell Road, located just north of the property.
  6. Resource conservation areas as defined by Section 155.500 of the Unified Development Code (UDC) shall be identified on the final plats as being permanently set aside, and shall be protected in perpetuity by a binding legal instrument recorded with the deed which includes clear restriction on the use of the resource conservation area, as described in Section 155.500(F) of the UDC.
- 

**Planning Board Recommendation:** At their regularly scheduled meeting on September 23, 2013, the Planning Board voted unanimously to recommend approval of the major subdivision.

**Attachments:** **1)** Exhibit "A", **2)** Zoning & Aerial Map, **3)** Application, **4)** Neighborhood Meeting Materials, **5)** Preliminary Subdivision Plan

Exhibit A - PSD 2013-57

**APPLICANT STATEMENT – MAJOR SUBDIVISIONS 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 all Subdivision Regulation set by the Town and is consistent with requirements of the UDO.

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- (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.

This project will be a benefit to the entire community.

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- (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 design to provide safe ingress and egress and is consistent with previously approved access points onto the existing street network. This project will not pose a threat to The environment, public safety or general welfare.

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- (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.

This subdivision is consistent with the planning policies of the Town and will provide Orderly growth and development

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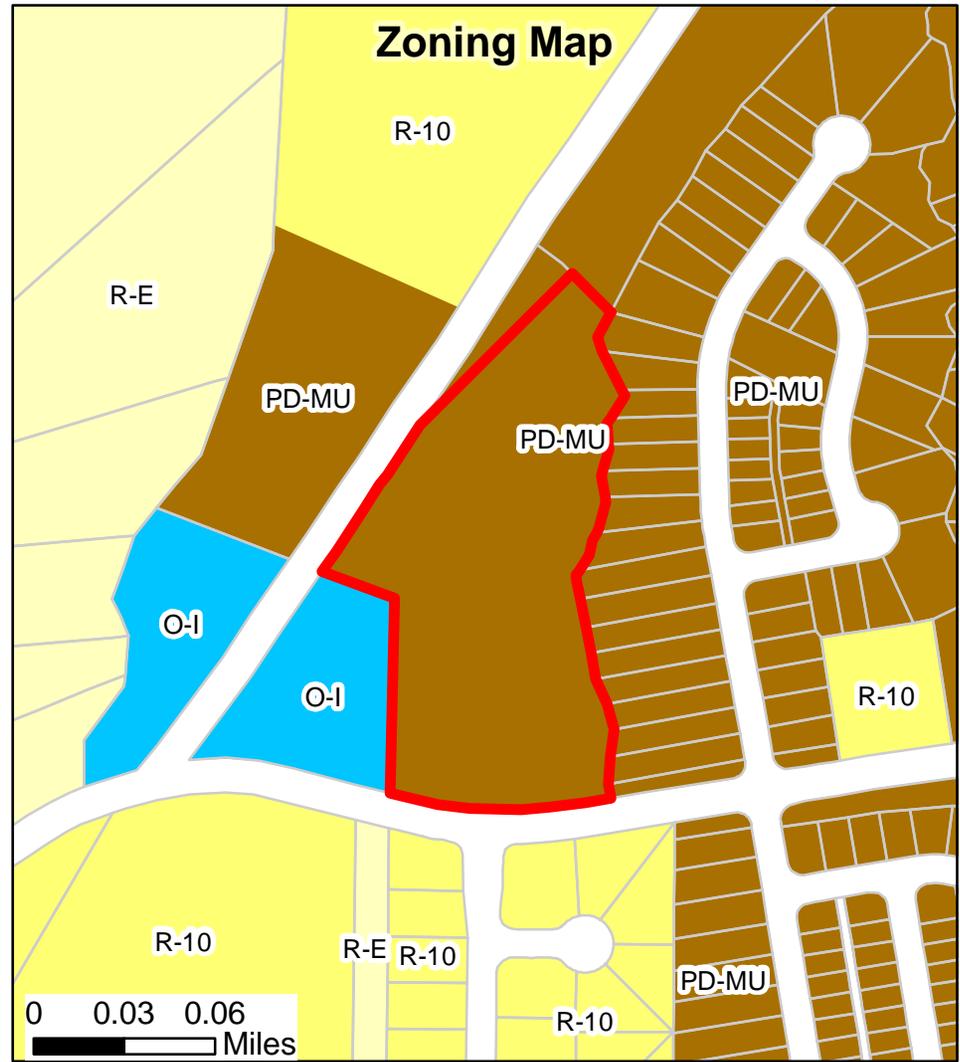


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### Aerial Map



### Zoning Map

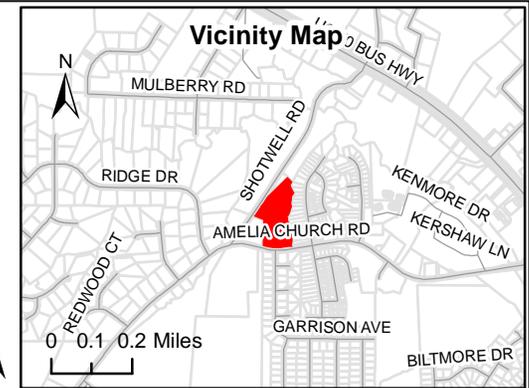


## Major Subdivision Approval Phase 6A & 6B, LionsGate Planned Development

Applicant: Donnie Adams  
 Property Owner: LionsGate Village, LLC  
 Parcel ID Number: 165918-32-6389  
 File Number: PSD 2013-57

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

9/17/13





Town of Clayton  
 Planning Department  
 111 E. Second Street, Clayton, NC 27520  
 P.O. Box 879, Clayton, NC 27528  
 Phone: 919-553-5002  
 Fax: 919-553-1720

## SUBDIVISION APPLICATION

*Pursuant to Article 7, Section 155.706 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 approve a Subdivision (major, minor, final plat, or exempt) application. Applicants seeking subdivision approval shall schedule a pre-application conference with the Planning Director in accordance with Section 155.702(A).*

*Subdivision 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 fee. The application fees are as follows:*

- *Minor Subdivision: \$200.00 + \$5.00/lot.*
- *Major Subdivision: \$400.00 + \$5.00/lot.*
- *Open Space Subdivision = \$700.00 + \$5.00/acre.*
- *Final Plat: \$250.00 + \$5.00/lot.*
- *Exempt Map/Recombination: \$100.00.*

*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 Major Subdivision applications.*

### SUBDIVISION TYPE:

**Application Type:**

- Minor Subdivision     
  Major Subdivision     
  Final Plat     
  Exempt Map  
 Recombination

### SITE INFORMATION:

Name of Project: Lionsgate Phase 6A & 6B      Acreage of Property: 6.82acres

Preliminary Plat Approval Date (if applicable): \_\_\_\_\_

Parcel ID Number: 1165918-32-6389      Tax ID: 05G02010B

Location: Amelia Church Rd

Section(s): \_\_\_\_\_ Phase(s): Phases 6A & 6B

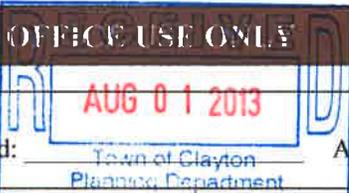
Number of Lots (Existing): \_\_\_\_\_ (Proposed): 52      Min. Lot Size: N/A

Zoning District: PDD      Planned Development? (Y/N): Y      Electric Provider: Duke Energy Progress

Specific Use: Single Family Residential (duplex lots)

Recreation/Open Space Requirement:       Fee in lieu       Land Dedication (acreage)      Master plan

### FOR OFFICE USE ONLY



File Number: \_\_\_\_\_ Date Received: \_\_\_\_\_ Amount Paid: \_\_\_\_\_

**OWNER INFORMATION:**

Name: Lionsgate Village, LLC

Mailing Address: 400 Riverwood Dr, Clayton, NC 27520

Phone Number: 919-550-8086

Fax: \_\_\_\_\_

Email Address: [Brian.Strickland@fredsmithcompany.com](mailto:Brian.Strickland@fredsmithcompany.com)

**APPLICANT INFORMATION:**

Applicant: DC Adams Engineering, Inc

Mailing Address: 404 Swann Trail, Clayton, NC 27527

Phone Number: 919-763-7278

Fax: \_\_\_\_\_

Contact Person: Donnie Adams

Email Address: [donnie@dcadamspe.com](mailto:donnie@dcadamspe.com)

**REQUIRED PLANS AND SUPPLEMENTAL INFORMATION**

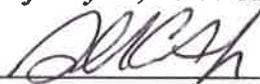
*The following items must accompany a Subdivision Plan application. This information is required, except where otherwise noted:*

- 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).*

**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.*

Donnie Adams  
Print Name

  
Signature of Applicant

8/1/2013  
Date

**APPLICANT STATEMENT – MAJOR SUBDIVISIONS 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 all Subdivision Regulation set by the Town and is consistent with requirements of the UDO.

- (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.

This project will be a benefit to the entire community.

- (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 design to provide safe ingress and egress and is consistent with previously approved access points onto the existing street network. This project will not pose a threat to The environment, public safety or general welfare.

- (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.

This subdivision is consistent with the planning policies of the Town and will provide Orderly growth and development



**Town of Clayton  
Planning Department**

11 E. Second Street, Clayton, NC 27520  
P.O. Box 879, Clayton, NC 27528  
Phone: 919-553-5002  
Fax: 919-553-1720

**OWNER'S CONSENT FORM**

*Consent is required from the property owner(s) and if applicable, to an agent if the property owner(s) do not intend to attend all meetings and public hearings and submit in person all material pertaining to the application. A separate form is required from each owner. Consent is valid for one year from date of notary, unless otherwise specified. Attach copy of last recorded deed for subject property.*

**Project Name:** Lionsgate - Phase 6A+6B      **Submittal Date:** 8/1/2013

I hereby give CONSENT to DANNIE ADAMS (DC ADAMS ENGINEERING, Inc) (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 that I have 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 further agree to all terms and conditions, which may be imposed as part of the approval of this application.

**OWNER INFORMATION: (Corporations must submit verification that signatory has authorization to sign)**

Lionsgate Village, LLC  
(Name - type, print clearly)

400 RIVARWOOD DR  
(Address)

[Signature]  
(Signature)

CLAYTON, NC 27520  
(City, State, Zip)

**AGENT INFORMATION:**

DANNIE ADAMS (DC ADAMS ENGINEERING, Inc)  
(Name - type, print clearly)

404 SWANA TRAIL  
(Address)

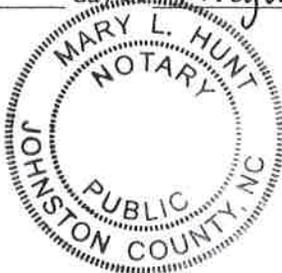
[Signature]  
(Signature)

CLAYTON, NC 27527  
(City, State, Zip)

STATE OF NC  
COUNTY OF Johnston

Sworn and subscribed before me Mary L Hunt, a Notary Public for the above State and County, this the 1st day of August, 2013.

SEAL



Mary L Hunt  
Notary Public

My Commission Expires: 3/21/15



August 30, 2013

Re: LionsGate  
Clayton, NC

Dear Adjacent 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 according to Johnston County tax records. Per town of Clayton regulations, a neighborhood meeting will be held to provide information about the nature of the proposal. A representative of the applicant will be present to explain their application, answer questions, and solicit comments.

Meeting Date: Monday September 9<sup>th</sup>, 2013  
Location: LionsGate Athletic Club  
Time: 7:00  
Type of Application: Master Plan Revision/Major Subdivision  
General Description: Overall Master Plan revisions as well as subdivision plans for Phases 3A, 3G, 6A & 6B.

If you have any questions prior to or after this meeting, please contact us at (919) 550-8086, ext 249.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Strickland", is written over a light blue horizontal line.

Brian Strickland

cc: Clayton Planning Dept.

[www.FredSmithCompany.com](http://www.FredSmithCompany.com)

400 Riverwood Drive Clayton, NC 27527 • Phone: (919) 550-8086 • Fax: (919) 550-8186

Building The Way

| Parcels within 100 feet of the parcels associated with SUP 2013-71, PSD 2013-56, and PSD 2013-57 |                                |                                |                             |                  |            |       |            |
|--|--------------------------------|--------------------------------|-----------------------------|------------------|------------|-------|------------|
|  | NAME1                          | NAME2                          | ADDRESS1                    | ADDRESS2         | CITY       | STATE | ZIPCODE    |
| 1  | AMELIA VILLAGE LLC             |                                | 701 EXPOSITION PL STE 101   | SUITE 115        | RALEIGH    | NC    | 27615-3356 |
| 2  | ASCO BUILDERS INC              |                                | 319 CHAPANOKE RD STE 102    |                  | RALEIGH    | NC    | 27603-0000 |
| 3  | AUSTIN, JACOB R                | AUSTIN, AMBER S                | 156 TRANTHAM TRAIL          |                  | CLAYTON    | NC    | 27520-0000 |
| 4  | BLACK & GOLD INVESTMENTS LLC   | A NC LIMITED LIABILITY CO      | 400 RIVERWOOD DR            |                  | CLAYTON    | NC    | 27520-0000 |
| 5  | BROWN, HAROLD C                | BROWN, CAROLYN B               | 125 HOCUTT DR               |                  | CLAYTON    | NC    | 27520-0000 |
| 6  | BURROUGHS, TERRY L             | BURROUGHS, HELEN S             | 85 SCUPPERNONG WAY          |                  | CLAYTON    | NC    | 27520-7374 |
| 7  | BUTLER, ROBERT S               | WATSON, ANDREA L               | 15 SCOTCH BONNET RIDGE      |                  | CLAYTON    | NC    | 27520-0000 |
| 8  | CALTRIDER, EVAN                | IRELAND, LAWRENCE PATRICK      | 207 TUSCARORA LN            |                  | CLAYTON    | NC    | 27520-7381 |
| 9  | CHEN, XU                       | CHEN, QIU YING WANG            | 27 TUSCARORA LANE           |                  | CLAYTON    | NC    | 27520-0000 |
| 10   | CHESTNUT, KERRY II AND         | CHESTNUT, JANET                | 109 GRACIE LANE             |                  | CLAYTON    | NC    | 27520-7948 |
| 11   | COLE, CATHY                    |                                | 59 TUSCARORA LANE           |                  | CLAYTON    | NC    | 27520-0000 |
| 12   | COUNTY OF JOHNSTON             |                                | PO BOX 1049                 |                  | SMITHFIELD | NC    | 27577-0000 |
| 13   | CRAWFORD, RUTH D               |                                | 701 GARRISON AVENUE         |                  | CLAYTON    | NC    | 27520-0000 |
| 14   | CREECH, TIMOTHY D              | CREECH, JOY A                  | 9 CRICKET HOLLOW RUN        |                  | CLAYTON    | NC    | 27520-5923 |
| 15   | DASHKAVICH, CHARLOTTE EDWARDS  |                                | 11 E AUGUSTA PL             | APT 221          | GREENVILLE | SC    | 29605-1760 |
| 16   | DEAN, RUSSELL S &              | DEAN, MARJORIE A               | 801 GARRISON                |                  | CLAYTON    | NC    | 27520-0000 |
| 17   | DELGADO, EDWARD                | TATUM, LISA                    | 108 BILTMORE DRIVE          |                  | CLAYTON    | NC    | 27520-0000 |
| 18   | DENNINGSON, MATTHEW SCOTT      |                                | 149 HONEYBEE TRACE          |                  | CLAYTON    | NC    | 27520-0000 |
| 19   | DRAUGHON, CINDY L              |                                | 119 GRACIE LANE             |                  | CLAYTON    | NC    | 27520-0000 |
| 20   | DUBLIN, AVIS J                 |                                | P O BOX 41513               |                  | RALEIGH    | NC    | 27629-1513 |
| 21   | FARNSWORTH, WILLIAM            |                                | 11934 SNIDER RD             |                  | CINCINNATI | OH    | 45249-0000 |
| 22   | FEDERAL NATIONAL MORTGAGE      | ASSOCIATION                    |                             | PO BOX 650043    | DALLAS     | TX    | 75265-0043 |
| 23   | FICARROTTA, VINCENZO           | FICARROTTA, STELLA             | 99 PLOTT HOUND DRIVE        |                  | CLAYTON    | NC    | 27520-0000 |
| 24   | FRITZ, NICHOLAS                | FRITZ, ALISSA                  | 171 SOUTHWICK AVE           |                  | CLAYTON    | NC    | 27527-5231 |
| 25   | FSC III LLC                    |                                | 400 RIVERWOOD DR            |                  | CLAYTON    | NC    | 27527-0000 |
| 26   | GAMBINO, CHRISTOPHER C         | CYGAN, ASHLEY C                | 171 TUSCARORA LN            |                  | CLAYTON    | NC    | 27520-7369 |
| 27   | GOLDEN PROPERTIES AND          | DEVELOPMENT INC                | 5160 W NC 42 HWY            |                  | GARNER     | NC    | 27529-0000 |
| 28   | GOLDLEAF PROPERTIES LLC        |                                | PO BOX 369                  |                  | CLAYTON    | NC    | 27520-0000 |
| 29   | GONSALVES, GILBERT B           | GONSALVES, KELLY M             | 107 TUSCARORA LANE          |                  | CLAYTON    | NC    | 27520-0000 |
| 30   | GRESHAM, JAMES L II            |                                | 116 HONEYBEE TRACE          |                  | CLAYTON    | NC    | 27520-0000 |
| 31   | GRIFFITHS, JUSTIN              | CYGAN, AMANDA                  | 179 TUSCARORA LANE          |                  | CLAYTON    | NC    | 27520      |
| 32   | GROOMS, CLAUDETTE              |                                | 61 SLEEPY CREEK DR          |                  | CLAYTON    | NC    | 27520-7239 |
| 33   | HAYES, CHRISTINA MICHELLE      | HAYES, ASHLEY                  | 116 BILMORE DRIVE           |                  | CLAYTON    | NC    | 27520-0000 |
| 34   | HAYES, JONATHAN R              | HAYES, JENNIFER DIXON          | 115 SCOTCH BONNET RDG       |                  | CLAYTON    | NC    | 27520-7366 |
| 35   | HAYES, SHERWOOD LYNN           | HAYES, CHRISTINA C             | 107 GRACIE LANE             |                  | CLAYTON    | NC    | 27520-0000 |
| 36   | HESTER, R FLETCHER JR          | HESTER, KIMBERLY P             | 252 AMELIA CH RD            |                  | CLAYTON    | NC    | 27520-0000 |
| 37   | HESTER, ROYAL FLETCHER JR      |                                | 252 AMELIA CH RD            |                  | CLAYTON    | NC    | 27520-0000 |
| 38   | HILL, JAMES H                  | HILL, JACQUELINE W             | 703 GARRISON AVENUE         |                  | CLAYTON    | NC    | 27520-0000 |
| 39   | HOWARD, E FRANK JR             |                                | 252 COOPER BRANCH RD        |                  | CLAYTON    | NC    | 27520-0000 |
| 40   | JOHNSON, SARAH T               |                                | 13 HONEYBEE TRACE           |                  | CLAYTON    | NC    | 27520-0000 |
| 41   | LEONA SUZANNE ANDERSON TRUST   | ANDERSON, LEONA SUZANNE TRUSTE | 115 GRACIE LN               |                  | CLAYTON    | NC    | 27520-7948 |
| 42   | LEVERIDGE, LAURA MEGAN         |                                | 25 SCOTCH BONNET RIDGE      |                  | CLAYTON    | NC    | 27520-0000 |
| 43   | LEVINSON, GINGER T             |                                | PO BOX 851                  |                  | CLAYTON    | NC    | 27520-0000 |
| 44   | LGV, LLC                       |                                | C/O FRED SMITH CO           | 400 RIVERWOOD DR | CLAYTON    | NC    | 27527-5500 |
| 45   | LIONS SPRING HOUSING ASSOC LLC |                                | 7706 SIX FORKS RD SUITE 202 |                  | RALEIGH    | NC    | 27615-0000 |
| 46   | LIONSGATE DAYECARE LLC         |                                | 400 RIVERWOOD DRIVE         |                  | CLAYTON    | NC    | 27527-0000 |
| 47   | LIONSGATE VILLAGE LLC          | A NC LIMITED LIABILITY COMPANY | 400 RIVERWOOD DRIVE         |                  | CLAYTON    | NC    | 27520-0000 |
| 48   | MAYNARD, DAVID W               | MAYNARD, NANCY P               | 1102 RIVER RD               |                  | EWING      | NJ    | 08628-2104 |
| 49   | MEEHAN MEDICAL LLC             |                                | 45 SHOTWELL ROAD            |                  | CLAYTON    | NC    | 27520-0000 |
| 50   | MENTEER, ROBERT E II           |                                | 113 GRACIE LANE             |                  | CLAYTON    | NC    | 27520-0000 |

|    |                           |                          |                        |             |              |    |            |
|----|---------------------------|--------------------------|------------------------|-------------|--------------|----|------------|
| 51 | MERENDINO, CARRIE E       |                          | 93 SCUPPERNONG WAY     |             | CLAYTON      | NC | 27520-7374 |
| 52 | MILES, KELVIN M           | MILES, MARCELLETTA O     | 104 FLAT ROCK CT       |             | GARNER       | NC | 27529-8472 |
| 53 | N C NATURAL GAS CORP      |                          | C/O JOHN E RAPER JR    | PO BOX 2129 | FAYETTEVILLE | NC | 27302-0000 |
| 54 | NARRON, JENNIFER LYNN     |                          | 103 GRACIE LANE        |             | CLAYTON      | NC | 27520-0000 |
| 55 | PERREGO, JOEL             | PERREGO, TIFFANY         | 120 HOCUTT DRIVE       |             | CLAYTON      | NC | 27520-0000 |
| 56 | PHAM, HONG                |                          | 124 BROOKWYND CT       |             | GARNER       | NC | 27529-4445 |
| 57 | POST, DANE STEVEN         |                          | 111 GRACIE LN          |             | CLAYTON      | NC | 27520-7948 |
| 58 | ROBEY, ROANNE STROUD      |                          | 803 GARRISON AVENUE    |             | CLAYTON      | NC | 27520-0000 |
| 59 | ROMAN, EDGARDO            | ROMAN, CARMEN            | 121 HOCUTT LANE        |             | CLAYTON      | NC | 00000-0000 |
| 60 | SAHLY, APRIL J            |                          | 95 TUSCARORA LANE      |             | CLAYTON      | NC | 27527-0000 |
| 61 | SALOME, CHRISTINE J &     | SALOME, MICHAEL ANTHONY  | 364 DAFFODIL LN        |             | CLAYTON      | NC | 27520-4532 |
| 62 | SAUNDERS, JOHN PATRICK    | SAUNDERS, KIMBERLY RENEE | 150 HONEYBEE TRACE     |             | CLAYTON      | NC | 27520-0000 |
| 63 | SCHABERG, YVONNE          |                          | 117 TUSCARORA LANE     |             | CLAYTON      | NC | 27520-0000 |
| 64 | SCHILLER, SCOTT A         | SCHILLER, CANDI          | 127 TUSCARORA LANE     |             | CLAYTON      | NC | 27520-0000 |
| 65 | SCOTT, LESLIE M           |                          | 120 BILTMORE DRIVE     |             | CLAYTON      | NC | 27520      |
| 66 | SEELIG, CHARLES THOMAS    | SEELIG, TAMARA DAWN      | 13 CRICKET HOLLOW RUN  |             | CLAYTON      | NC | 27520-0000 |
| 67 | SHIELDS CONSTRUCTION LLC  |                          | 305 BOSWELL LN         |             | CLAYTON      | NC | 27527-0000 |
| 68 | SHIELDS, CHRISTY W        |                          | 132 HONEYBEE TRCE      |             | CLAYTON      | NC | 27520-7370 |
| 69 | SMEDLEY, KIMBERLY SUE     |                          | 17 TUSCARORA LANE      |             | CLAYTON      | NC | 27520-0000 |
| 70 | SMITH, FREDERICK G        |                          | 1007 MULBERRY RD       |             | CLAYTON      | NC | 27520-2131 |
| 71 | SNIADDECKI, ANTHONY       |                          | 268 SHOREHAM LN        |             | TOLEDO       | OH | 43612-4502 |
| 72 | SNOW, WILLIAM WYLEY III & | SNOW, ARLENE MARIE &     | 112 BILTMORE DRIVE     |             | CLAYTON      | NC | 27520-5926 |
| 73 | SPERATI, KAREN FREELAND   |                          | 2159 WOLF LN           |             | KINSTON      | NC | 28501-9702 |
| 74 | SPRASON, ANTONY E         |                          | 71 TUSCARORA LN        |             | CLAYTON      | NC | 27520-7335 |
| 75 | STANTON, JOHN L           | STANTON, CHRISTINE M     | 17 CRICKET HOLLOW RUN  |             | CLAYTON      | NC | 27520-0000 |
| 76 | SUNBELT GOLF GROUP LLC    |                          | 400 RIVERWOOD DR       |             | CLAYTON      | NC | 27527-0000 |
| 77 | TETTERTON, ROBERT J       |                          | 117 GRACIE LN          |             | CLAYTON      | NC | 27520-7948 |
| 78 | TIMBALIA, MUKESH          | PATEL, SIMA              | 101 SCUPPERNONG WAY    |             | CLAYTON      | NC | 27520-7377 |
| 79 | TORRES, KRISTEN A         |                          | 123 SCOTCH BONNET RDG  |             | CLAYTON      | NC | 27520-7366 |
| 80 | WELLS FARGO BANK NA       |                          | 8480 STAGECOACH CIR    |             | FREDERICK    | MD | 21701-4747 |
| 81 | WHITAKER, BRIAN PATRICK   | DELEON, VANESSA          | 137 TUSCARORA LANE     |             | CLAYTON      | NC | 27520-0000 |
| 82 | WHITE, ROY E              |                          | 84 PLOTT HOUND DR      |             | CLAYTON      | NC | 27520-7387 |
| 83 | WILKINS, EMILY L          | BOYKIN, CAROLYN E        | 137 HONEYBEE TRACE     |             | CLAYTON      | NC | 27520-7371 |
| 84 | WOJCIK, TROY A            | WOJCIK, LEIGH S          | 33 SCOTCH BONNET RIDGE |             | CLAYTON      | NC | 27520-0000 |

## **Neighborhood Meeting Minutes for:**

### **PDD-MU 2013-55 LionsGate Master Plan Revision, PSD 2013-56 LionsGate Phase 3A & 3G, PSD 2013-57 LionsGate Phase 6A & 6B**

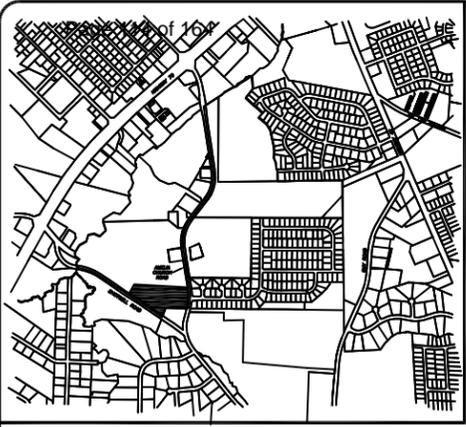
- The meeting was opened at 7:00PM by Fred Smith (developer) who gave an overall summary of LionsGate and the proposed changes to the master plan as well as the two subdivisions. He stated that he had worked through the revisions with input from the Town.
- The majority of comments from adjacent property owners was basically a rehashing of the original master plan and not associated with the proposed revisions or subdivisions – questions related to riparian buffers, tax values, biking/walking trails, land clearing...
- Although not associated with the revisions, all comments were heard and responded to appropriately by the developer.
- Emily Beddingfield (Town of Clayton) addressed all the comments by confirming that the revisions to the master plan did not increase the overall density nor was there any additional property added to the project.
- Some property owners adjacent to Phases 3A & 3G voiced concerns about home building adjacent to their property.
- Developer confirmed that there had been no changes (from the originally approved master plan) to proposed lots in Phase 3A & 3G.
- Some property owners adjacent to Phases 6A & 6B voiced concerns about home building adjacent to their property. They also had questions about the riparian buffer between their property and Phases 6A & 6B.
- Developer pointed out that the lots in Phases 6A & 6B were part of the original master plan but would be narrower than originally planned.
- Donnie Adams (Applicant) addressed concerns about the riparian buffer.
- Emily Beddingfield (Town of Clayton) followed with a clarification of the Town's RCA (Resource Conservation Area) as it pertains to riparian buffers.
- A property owner asked when Phases 3A & 3G would be constructed.
- Developer said plans are to begin in spring of 2014 but no guarantees.
- After a final call for questions or comments and hearing none, the meeting was closed at 7:28PM.

# NEIGHBORHOOD MEETING ATTENDANCE ROSTER

Applicant: DC ADAMS ENGINEERING, Inc

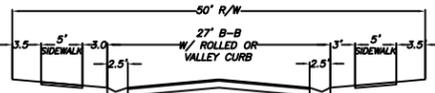
Location/Date: LIONS GATE ATHLETIC CLUB / 9/9/2013

| PARCEL NUMBER | NAME                 | ADDRESS            |
|---------------|----------------------|--------------------|
|               | ROY WHITE            | 84 PLOTT HOUND PR. |
|               | Melissa Papadopoulos | -                  |
|               | SUZANNE ANDERSON     | 115 GRACIE LN      |
|               | Terry Burroughs      | 85 Scuppernon Way  |
|               | Russ DEAN            | 801 GARRISON       |
|               | Ann DEAN             | 801 GARRISON       |
|               | Wonne Schaberg       | 117 Tuscarora Lane |
|               | CHRIS GAMBINO        | 171 TUSCARORA LANE |
|               | Justin Griffiths     | 179 Tuscarora Lane |
|               | Emily Beddingfield   | Town of Clayton    |
|               | Reid Smith           | 1117 Pritchard Rd  |
|               | Fred Smith           | 460 Renewables Dr  |
|               | Jeanne Robey         | 803 Garrison Ave   |
|               | Evan Caltrider       | 207 Tuscarora Ln   |
|               | AMELYS SPASON        | 71 TUSCARORA LN    |
|               |                      |                    |
|               |                      |                    |
|               |                      |                    |
|               |                      |                    |
|               |                      |                    |
|               |                      |                    |



VICINITY MAP

**TYPICAL RESIDENTIAL STREET  
50' RIGHT OF WAY W/  
SIDEWALK**



**STREET YARD TREES**

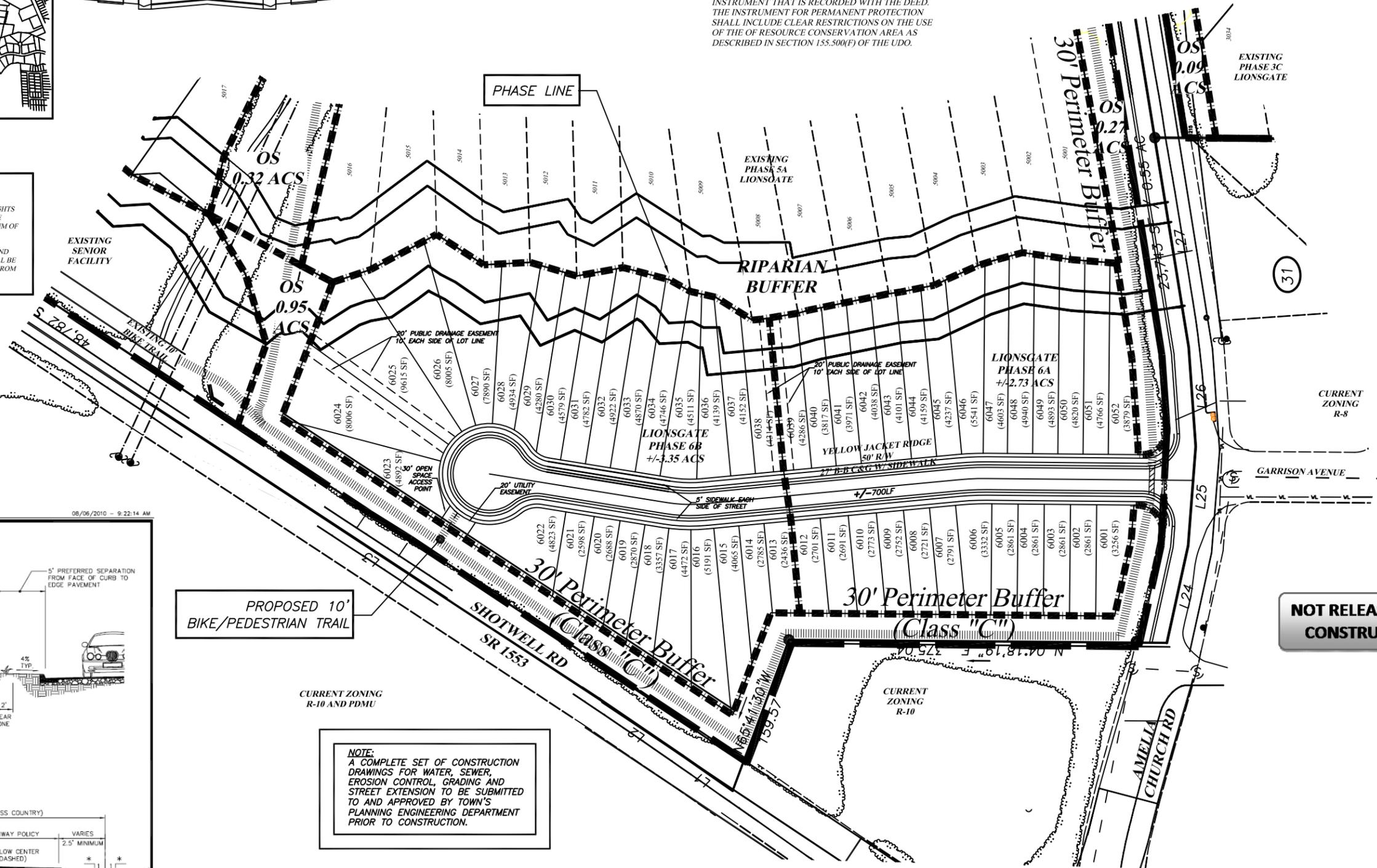
- STREET YARD TREES SHALL BE REQUIRED ALONG ALL RIGHTS OF WAY AT THE RATE OF ONE CANOPY TREE PER LOT OR ONE CANOPY TREE FOR EVERY 40 LINEAR FEET (SPACE A MAXIMUM OF 50 FEET APART).
- ALL STREET YARD TREES SHALL BE A MINIMUM OF TWO AND ONE-HALF CALIPER INCHES AT TIME OF PLANTING AND SHALL BE PLANTED NO LESS THAN FIVE FEET OR MORE THAN 15 FEET FROM THE BACK OF THE SIDEWALK.

**SITE INFORMATION**

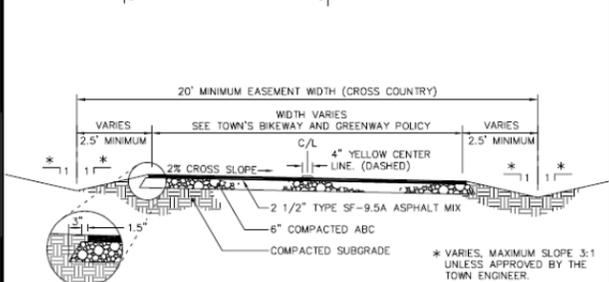
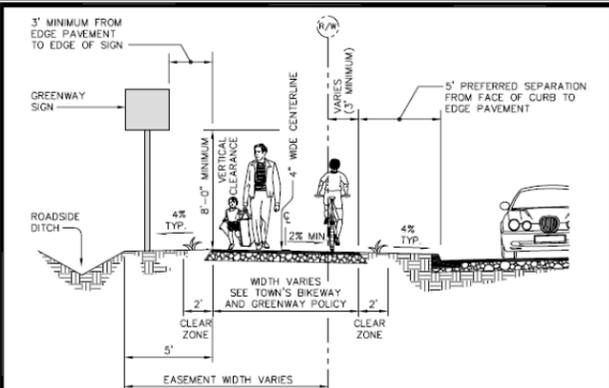
- OWNER: LIONSGATE VILLAGE, LLC  
400 RIVERWOOD DR.  
CLAYTON, NC 27520
- PARCEL #: 165918-32-6389
- TAX #: 05G02010B
- TOTAL SITE ACREAGE = 6.82 ACS
- THERE ARE NO RESOURCE CONSERVATION AREAS IN THIS PHASE.
- CURRENT ZONING: PDD-MU
- PROPOSED LOTS = 52
- ALL OPEN SPACE TO BE MAINTAINED BY LIONSGATE HOA.
- THE DEVELOPER WILL BE RESPONSIBLE FOR THE REPLACEMENT OF ANY DAMAGED TREES WITHIN ANY LAND USE BUFFER.

**RESOURCE CONSERVATION AREAS**

- RESOURCE CONSERVATION AREAS AS DEFINED BY SECTION 155.500 OF THE UNIFIED DEVELOPMENT ORDINANCE (UDO) SHALL BE IDENTIFIED ON PLATS AS BEING PERMANENTLY SET ASIDE. THESE AREAS SHALL INCLUDE JURISDICTIONAL WETLANDS, 100 YEAR FLOOD PLAINS AND STREAM BUFFERS (AS DEFINED IN SECTION 155.502(A)(1) OF THE UDO).
- RESOURCE CONSERVATION AREAS SHALL BE PROTECTED IN PERPETUITY BY A BINDING LEGAL INSTRUMENT THAT IS RECORDED WITH THE DEED. THE INSTRUMENT FOR PERMANENT PROTECTION SHALL INCLUDE CLEAR RESTRICTIONS ON THE USE OF THE OF RESOURCE CONSERVATION AREA AS DESCRIBED IN SECTION 155.500(F) OF THE UDO.



Details Provided by APPIAN Consulting Engineers - www.applanengineers.com 08/06/2010 - 9:22:14 AM



- NOTES:**
- See detail 401.01 for road way construction / dimensions.
  - Subgrade must be compacted enough to hold up the paving operation.

**TOWN of CLAYTON**  
USE WITH THE TOWN OF CLAYTON STANDARD SPECIFICATIONS ONLY

TYPICAL BIKEWAY / GREENWAY PAVEMENT SECTION

SCALE: Not To Scale DETAIL # 401.03  
REVISION DATE: July 2010 SHEET # 1 of 1

PROPOSED 10' BIKE/PEDESTRIAN TRAIL

CURRENT ZONING R-10 AND PDMU

**NOTE:**  
A COMPLETE SET OF CONSTRUCTION DRAWINGS FOR WATER, SEWER, EROSION CONTROL, GRADING AND STREET EXTENSION TO BE SUBMITTED TO AND APPROVED BY TOWN'S PLANNING ENGINEERING DEPARTMENT PRIOR TO CONSTRUCTION.

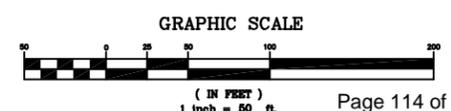
**LOT STANDARDS TABLE**

| PHASE         | UNIT TYPE | AREA (ACS)  | # OF UNITS | MIN. LOT WIDTH (FT) | MIN. LOT DEPTH (FT) | MAX. IMPERVIOUS | SETBACKS   |           |           |                  | MIN. BLDG. SEPARATI | MAX. BLDG. HEIGHT |
|---------------|-----------|-------------|------------|---------------------|---------------------|-----------------|------------|-----------|-----------|------------------|---------------------|-------------------|
|               |           |             |            |                     |                     |                 | FRONT (FT) | SIDE (FT) | REAR (FT) | STREET SIDE (FT) |                     |                   |
| 6A            | TOWNHOMES | 2.73        | 26         | 15                  | 75                  | 2350            | 12         | 0         | 5         | 8                | 10                  | 35                |
| 6B            | TOWNHOMES | 3.35        | 26         | 15                  | 75                  | 2350            | 12         | 0         | 5         | 8                | 10                  | 35                |
| <b>TOTALS</b> |           | <b>6.08</b> | <b>52</b>  |                     |                     |                 |            |           |           |                  |                     |                   |

**\*\*MAX. IMPERVIOUS AREA PER LOT EXCLUDES STREET, SIDEWALK AND ALLEYS**

**NOT RELEASED FOR CONSTRUCTION**

**LEGEND**



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

**Agenda Item: 5f**

**Meeting Date: 10/21/13**

**TITLE: PRESENTATION OF NCDOT LOCALLY ADMINISTERED PROJECT AGREEMENT FOR THE SAM'S BRANCH / NORTH O'NEIL CROSSING.**

**DESCRIPTION:** Locally administered project agreement (U-5530 LA) for the preliminary engineering for Sam's Branch / North O'Neil Crossing in Clayton. The project consists of preliminary engineering for the grade separation crossing of North O'Neil Street for Sam's Branch Greenway using a 10-foot high by 14-foot wide reinforced concrete box culvert. The total estimated cost of the project is \$70,000: Federal Funds amount of \$56,000 and Local Funds amount of \$14,000. The timeframe for completion is by 10/31/2014; and completion is defined as all design and environmental documentation activities, acceptance of the project, and submission of a final reimbursement package to NCDOT.

**RELATED GOAL:** Expand Leisure Opportunities and Manage Growth Producing Quality Developments

**ITEM SUMMARY:**

| <u>Date:</u> | <u>Action:</u> | <u>Info. Provided:</u> |
|--------------|----------------|------------------------|
| 10-21-13     | Approval.      | Agreement.             |

NORTH CAROLINA

**LOCALLY ADMINISTERED PROJECT -  
FEDERAL**

JOHNSTON COUNTY

DATE: 9/24/2013

NORTH CAROLINA DEPARTMENT OF  
TRANSPORTATION

TIP #: U-5530 LA

AND

WBS Elements: PE 44111.1.FD5

TOWN OF CLAYTON

FEDERAL-AID NUMBER: STPDA-0406(7)

CFDA #: 20.205

Total Funds [NCDOT Participation] \$56,000

THIS AGREEMENT is made and entered into on the last date executed below, by and between the North Carolina Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as the "Department" and the Town of Clayton, hereinafter referred to as the "Municipality".

**WITNESSETH:**

WHEREAS, Title 23, Sections 133(d)(3) and 133(f) of the US Code require suballocation of Surface Transportation Program Funds to urbanized areas; and,

WHEREAS, the Town of Clayton has requested federal funding for Sam's Branch/North O'Neil Crossing, hereinafter referred to as the Project, in Johnston County, North Carolina; and,

WHEREAS, subject to the availability of federal funds, the Municipality has been designated as a recipient to receive funds allocated to the Department by the Federal Highway Administration (FHWA) up to and not to exceed the maximum award amount of \$56,000 for the Project; and,

WHEREAS, the Department has agreed to administer the disbursement of said funds on behalf of FHWA to the Municipality for the Project in accordance with the Project scope of work and in accordance with the provisions set out in this Agreement; and,

WHEREAS, the Department has programmed funding in the approved Transportation Improvement Program for the Project; and,

WHEREAS, the governing board of the Municipality has agreed to participate in certain costs and to assume certain responsibilities in the manner and to the extent as hereinafter set out; and,

WHEREAS, this Agreement is made under the authority granted to the Department by the North Carolina General Assembly including, but not limited to, the following applicable legislation: General Statutes of North Carolina (NCGS) Section 136-66.1, Section 136-71.6, Section 160A-296 and 297, Section 136-18, Section 136-41.3 and Section 20-169, to participate in the planning, construction and/or implementation of the Project approved by the Board of Transportation.

NOW, THEREFORE, this Agreement states the promises and undertakings of each party as herein provided, and the parties do hereby covenant and agree, each with the other, as follows:

## **GENERAL PROVISIONS**

### **FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT**

All parties to this Agreement, including contractors, subcontractors, and subsequent workforces, associated with any work under the terms of this Agreement shall provide reports as required by the Federal Funding Accountability and Transparency Act (FFATA) for this Project.

### **AGREEMENT MODIFICATIONS**

Any modification to this Agreement will be agreed upon in writing by all parties prior to being implemented.

Any increases to the funding amount will be agreed upon by all parties by means of a Supplemental Agreement.

### **LOCAL PUBLIC AGENCY TO PERFORM ALL WORK**

The Municipality shall be responsible for administering all work performed and for certifying to the Department that all terms set forth in this Agreement are met and adhered to by the Municipality and/or its contractors and agents. The Department will provide technical oversight to guide the Municipality. The Department must approve any assignment or transfer of the responsibilities of the Municipality set forth in this Agreement to other parties or entities.

### **PERSON IN RESPONSIBLE CHARGE**

The Municipality shall designate a person or persons to be in responsible charge of the Project, in accordance with Title 23 of the Code of Federal Regulations, Part 635.105. The person, or persons, shall be expected to:

- Administer governmental project activities, including those dealing with cost, time, adherence to contract requirements, construction quality and scope of Federal-aid projects;
- Maintain knowledge of day to day project operations and safety issues;
- Make or participate in decisions about changed conditions or scope changes that require change orders or supplemental agreements;
- Visit and review the project in accordance with the project scope and scale;
- Review financial processes, transactions and documentation to reduce the likelihood of fraud, waste, and abuse;
- Direct project staff, agency or consultant, to carry out project administration and contract oversight, including proper documentation; and
- Be aware of the qualifications, assignments and on-the-job performance of the agency and consultant staff at all stages of the project.

The person in responsible charge must be a full-time employee of the Municipality, but the duties may be split among several employees, if necessary.

#### **COMPLIANCE WITH STATE/FEDERAL POLICY**

The Municipality, and/or its agent, including all contractors, subcontractors, or sub-recipients shall comply with all applicable Federal and State policies and procedures, stated both in this Agreement and in the Department's guidelines and procedures, including the *Local Programs Management Handbook*.

#### **FAILURE TO COMPLY - CONSEQUENCES**

Failure on the part of the Municipality to comply with any of the provisions of this Agreement will be grounds for the Department to terminate participation in the costs of the Project and, if applicable, seek repayment of any reimbursed funds.

#### **SCOPE OF PROJECT**

The Project consists of Preliminary Engineering and NEPA for the grade separation crossing of North O'Neil Street for Sam's Branch Greenway using a 10-ft high by 14-ft wide reinforced concrete

box culvert (RCBC). This will require holding the elevation of North O'Neil Street and lowering the existing elevation of the multi-use path. The Department's funding participation in the Project shall be restricted to the following eligible items:

- Design
- Environmental Documentation

as further set forth in this Agreement.

## **FUNDING**

Subject to compliance by the Municipality with the provisions set forth in this Agreement and the availability of federal funds, the Department shall participate up to a maximum amount of Fifty Six Thousand Dollars (\$56,000), as detailed below. The Municipality shall provide a local match, as detailed in the FUNDING TABLE below, and all costs that exceed the total estimated cost.

### **FUNDING TABLE**

| <b>Fund Source</b>          | <b>Federal Funds Amount</b> | <b>Reimbursement Rate</b> | <b>Non-Federal Match \$</b> | <b>Non-Federal Match Rate</b> |
|-----------------------------|-----------------------------|---------------------------|-----------------------------|-------------------------------|
| STP-DA                      | \$56,000                    | 80 %                      | \$14,000                    | 20 %                          |
| <b>Total Estimated Cost</b> |                             |                           | <b>\$70,000</b>             |                               |

## **TIME FRAME**

The Municipality, and/or its agent, shall complete the Project by 10/31/2014. Completion for this Agreement is defined as completion of all design and environmental documentation activities, acceptance of the project, and submission of a final reimbursement package to the Department. Any extensions of time beyond that date will require a supplemental agreement. The Department and/or FHWA reserves the right to revoke the funds awarded if the Municipality is unable to meet milestone dates included herein.

## **PRELIMINARY ENGINEERING AUTHORIZATION**

If Preliminary Engineering is an eligible expense, then upon receipt of an executed agreement, the Department will authorize Preliminary Engineering funds and shall notify the Municipality, in writing, once funds have been authorized and can be expended. The Municipality shall not initiate any

work, nor solicit for any professional services prior to receipt of written authorization from the Department to proceed. Any work performed, or contracts executed, prior to receipt of written authorization to proceed will be ineligible for reimbursement.

## **PROFESSIONAL AND ENGINEERING SERVICES**

The Municipality shall comply with the policies and procedures of this provision if Preliminary Engineering and/or Construction Contract Administration is an eligible expense.

### **PROCUREMENT POLICY**

When procuring professional services, the Municipality must adhere to Title 49 Code of Federal Regulations Part 18.36; Title 23 of the Code of Federal Regulations, Part 172; Title 40 United States Code, Chapter 11, Section 1101-1104; NCGS 143-64, Parts 31 and 32; and the Department's *Policies and Procedures for Major Professional or Specialized Services Contracts*. Said policies and standards are incorporated in this Agreement by reference at [www.fhwa.dot.gov/legregs/legislat.html](http://www.fhwa.dot.gov/legregs/legislat.html) and [www.ncleg.net/gascripts/Statutes/Statutes.asp](http://www.ncleg.net/gascripts/Statutes/Statutes.asp).

- The Municipality shall ensure that a qualified firm is obtained through an equitable selection process, and that prescribed work is properly accomplished in a timely manner and at a just and reasonable cost.
- All Professional Services Firms shall be pre-qualified by the Department.
- If the proposed contract exceeds \$30,000, a pre-negotiation audit must be requested from the Department's External Audit Branch.

### **SMALL PROFESSIONAL AND ENGINEERING SERVICES FIRMS REQUIREMENTS**

Any contract entered into with another party to perform work associated with the requirements of this Agreement shall contain appropriate provisions regarding the utilization of Small Professional Services Firms (SPSF). This policy conforms with the SPSF Guidelines as approved by the North Carolina Board of Transportation.

- The Municipality shall not advertise nor enter into a contract for services performed as part of this Agreement, unless the Department provides written approval of the advertisement or the contents of the contract.

- If the Municipality fails to comply with these requirements, the Department will withhold funding until these requirements are met.

## **WORK BY ENTITY**

If the Professional and Engineering Services required for this project will be undertaken by the Municipality, and the Municipality requests reimbursement, then the Municipality must submit a request and supporting documentation to the Department for review and approval, prior to any work being initiated by the Municipality.

## **PLANNING / ENVIRONMENTAL DOCUMENTATION**

The Municipality shall prepare the environmental and/or planning document, including any environmental permits, needed to construct the Project, in accordance with the National Environmental Policy Act (NEPA) and all other appropriate environmental laws and regulations. All work shall be performed in accordance with Departmental procedures and guidelines. Said documentation shall be submitted to the Department for review and approval.

- The Municipality shall be responsible for preparing and filing with all proper agencies the appropriate planning documents, including notices and applications required to apply for those permits necessary for the desired improvements. Copies of approved permits should be forwarded to the Department.
- The Municipality shall advertise and conduct any required public hearings.
- If any permit issued requires that action be taken to mitigate impacts associated with the improvements, the Municipality shall design and implement a mitigation plan. The Department will determine if any mitigation costs are eligible for reimbursement. The Municipality shall bear all costs associated with penalties for violations and claims due to delays.
- The Municipality shall be responsible for designing an erosion control plan if required by the North Carolina Sedimentation Pollution Control Act of 1973, NCGS 113A, Article 4, incorporated in this Agreement by reference at [www.ncleg.net/gascripts/Statues/Statutes.asp](http://www.ncleg.net/gascripts/Statues/Statutes.asp) and obtaining those permits required thereby in order to construct the Project. During the improvements, the Municipality, and its contractors and agents, shall be solely responsible for compliance with the provisions of said Act and the plan adopted in compliance therewith.

## **DESIGN**

### **CONTENT OF PLAN PACKAGE**

The Municipality, and/or its agent, shall prepare the Project's plans, specifications, and a professional estimate of costs (PS&E package), in accordance with the Department's guidelines and procedures, and applicable Federal and State standards. All work shall be submitted to the Department for review and approval. The plans shall be completed to show the design, site plans, landscaping, drainage, easements, and utility conflicts.

## **CONTRACTOR PROCUREMENT**

### **FORCE ACCOUNT**

Force account work is only allowed when there is a finding of cost effectiveness for the work to be performed by some method other than a contract awarded by a competitive bidding process, or there is an emergency. Written approval from the Department is required prior to the use of force account by the Municipality. Federal Highway Administration regulations governing Force Account are contained in Title 23 Code of Federal Regulations, Part 635.201, Subpart B; said policy being incorporated in this Agreement by reference [www.fhwa.dot.gov/legregs/directives/cfr23toc.htm](http://www.fhwa.dot.gov/legregs/directives/cfr23toc.htm). North Carolina General Statutes governing the use of Force Account, Chapter 143, Article 8 (Public Contracts) can be found at [www.ncleg.net/gascrpts/Statutes/Statutes.asp](http://www.ncleg.net/gascrpts/Statutes/Statutes.asp).

### **RETAINAGE**

The Municipality shall not retain any portion of a payment due the contractor.

### **CONTRACTOR COMPLIANCE**

The Municipality will be responsible for ensuring that the contractor complies with all of the terms of the contract and any instructions issued by the Department or FHWA as a result of any review or inspection made by said representatives.

## **REIMBURSEMENT**

### **SCOPE OF REIMBURSEMENT**

Activities eligible for funding reimbursement for this Project shall include:

Design

Environmental Documentation

### **REIMBURSEMENT GUIDANCE**

The Municipality shall adhere to applicable administrative requirements of Title 49 Code of Federal Regulations, Part 18 ([www.fhwa.dot.gov/legsregs/directives/fapgtoc.htm](http://www.fhwa.dot.gov/legsregs/directives/fapgtoc.htm)) and Office of Management and Budget (OMB) Circulars A-102 ([www.whitehouse.gov/omb/circulars/index.html](http://www.whitehouse.gov/omb/circulars/index.html)) "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments." Reimbursement to the Municipality shall be subject to the policies and procedures contained in Title 23 Code of Federal Regulations, Part 140 and Part 172, which is being incorporated into this Agreement by reference at [www.fhwa.dot.gov/legsregs/directives/fapgtoc.htm](http://www.fhwa.dot.gov/legsregs/directives/fapgtoc.htm) and by Office of Management and Budget (OMB) Circular A-87 ([www.whitehouse.gov/omb/circulars/index.html](http://www.whitehouse.gov/omb/circulars/index.html)) "Cost Principles for State, Local, and Indian Tribal Governments." Reimbursement to the Municipality shall be subject to the guidance contained in Title 2 Code of Federal Regulations, Part 170 (<http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf>) and Office of Management and Budget (OMB) "Federal Funding Accountability and Transparency Act" (FFATA). Said reimbursement shall also be subject to the Department being reimbursed by the Federal Highway Administration and subject to compliance by the Municipality with all applicable federal policy and procedures.

### **WORK PERFORMED BEFORE NOTIFICATION**

Any costs incurred by the Municipality prior to written notification by the Department to proceed with the work shall not be eligible for reimbursement.

### **NO REIMBURSEMENT IN EXCESS OF APPROVED FUNDING**

At no time shall the Department reimburse the Municipality costs that exceed the total federal funding.

### **UNSUBSTANTIATED COSTS**

Agreement ID # 4448

8

The Municipality agrees that it shall bear all costs for which it is unable to substantiate actual costs or any costs that have been deemed unallowable by the Federal Highway Administration and/or the Department's Financial Management Division.

#### **WORK PERFORMED BY NCDOT**

All work performed by the Department on this Project, including, but not limited to, reviews, inspections, and Project oversight, shall reduce the maximum award amount of \$56,000 available to the Municipality under this Agreement. If the cost of work done by the Department exceeds the funding award, the Department will bill the Municipality for

#### **BILLING THE DEPARTMENT**

##### **PROCEDURE**

The Municipality may bill the Department for eligible Project costs in accordance with the Department's guidelines and procedures. Proper supporting documentation shall accompany each invoice as may be required by the Department. By submittal of each invoice, the Municipality certifies that it has adhered to all applicable state and federal laws and regulations as set forth in this Agreement.

Along with each invoice, the Municipality is responsible for submitting the FFATA Subrecipient Information Form, which is available at <http://www.ncdot.gov/programs/Enhancement/ProjectAdministration/Forms/>.

##### **INTERNAL APPROVALS**

Reimbursement to the Municipality shall be made upon approval of the invoice by the Department's Financial Management Division.

##### **TIMELY SUBMITTAL OF INVOICES**

The Municipality may invoice the Department monthly for work accomplished, but no less than once every six (6) months to keep the Project funds active and available. If the Municipality is unable to invoice the Department, then they must provide an explanation. Failure to submit invoices or explanation may result in de-obligation of funds.

##### **FINAL INVOICE**

All invoices associated with the Project must be submitted within six (6) months of the completion and acceptance of the Project to be eligible for reimbursement by the Department. Any invoices submitted after this time will not be eligible for reimbursement.

## **REPORTING REQUIREMENTS AND RECORDS RETENTION**

### **PROJECT EVALUATION REPORTS**

The Municipality is responsible for submitting quarterly Project evaluation reports, in accordance with the Department's guidelines and procedures that detail the progress achieved to date for the Project.

### **PROJECT RECORDS**

The Municipality and its agents shall maintain all books, documents, papers, accounting records, Project records and such other evidence as may be appropriate to substantiate costs incurred under this Agreement. Further, the Municipality shall make such materials available at its office and shall require its agent to make such materials available at its office at all reasonable times during the contract period, and for five (5) years from the date of payment of the final voucher by the Federal Highway Administration, for inspection and audit by the Department's Financial Management Section, the Federal Highway Administration, or any authorized representatives of the Federal Government.

## **OTHER PROVISIONS**

### **REFERENCES**

It will be the responsibility of the Municipality to follow the current and/or most recent edition of references, websites, specifications, standards, guidelines, recommendations, regulations and/or general statutes, as stated in this Agreement.

### **INDEMNIFICATION OF DEPARTMENT**

The Municipality agrees to indemnify and hold harmless the Department, FHWA and the State of North Carolina, to the extent allowed by law, for any and all claim for payment, damages and/or liabilities of any nature, asserted against the Department in connection with this Project. The

Department shall not be responsible for any damages or claims, which may be initiated by third parties.

#### **DEBARMENT POLICY**

It is the policy of the Department not to enter into any agreement with parties that have been debarred by any government agency (Federal or State). By execution of this agreement, the Municipality certifies that neither it nor its agents or contractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal or State Agency or Department and that it will not enter into agreements with any entity that is debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction.

#### **TITLE VI - CIVIL RIGHTS ACT OF 1964**

The Municipality shall comply with Title VI of the Civil Rights Act of 1964, (Title 49 CFR, Subtitle A, Part 21). Title VI prohibits discrimination on the basis of race, color, national origin, disability, gender, and age in all programs or activities of any recipient of Federal assistance.

#### **OTHER AGREEMENTS**

The Municipality is solely responsible for all agreements, contracts, and work orders entered into or issued by the Municipality for this Project. The Department is not responsible for any expenses or obligations incurred for the Project except those specifically eligible for STP-DA funds and obligations as approved by the Department under the terms of this Agreement.

#### **AVAILABILITY OF FUNDS**

All terms and conditions of this Agreement are dependent upon, and, subject to the allocation of funds for the purpose set forth in the Agreement and the Agreement shall automatically terminate if funds cease to be available.

#### **IMPROPER USE OF FUNDS, EXCESS USE OF FUNDS**

Where either the Department or the FHWA determines that the funds paid to the Municipality for this Project are not used in accordance with the terms of this Agreement, or if the cost of work done by the Department exceeds the funding award, the Department will bill the Municipality.

### **TERMINATION OF PROJECT**

If the Municipality decides to terminate the Project without the concurrence of the Department, the Municipality shall reimburse the Department one hundred percent (100%) of all costs expended by the Department and associated with the Project.

### **AUDITS**

In accordance with OMB Circular A-133, "Audits of States, Local Governments and Non-Profit Organizations" ([www.whitehouse.gov/omb/circulars/a133/a133.html](http://www.whitehouse.gov/omb/circulars/a133/a133.html)) dated June 27, 2003 and the Federal Single Audit Act Amendments of 1996, the Municipality shall arrange for an annual independent financial and compliance audit of its fiscal operations. The Municipality shall furnish the Department with a copy of the annual independent audit report within thirty (30) days of completion of the report, but not later than nine (9) months after the Municipality's fiscal year ends.

### **REIMBURSEMENT BY MUNICIPALITY**

For all monies due the Department as referenced in this Agreement, reimbursement shall be made by the Municipality to the Department within sixty (60) days of receiving an invoice. A late payment penalty and interest shall be charged on any unpaid balance due in accordance with NCGS 147-86.23.

### **USE OF POWELL BILL FUNDS**

If the other party to this agreement is a Municipality and fails for any reason to reimburse the Department in accordance with the provisions for payment hereinabove provided, NCGS 136-41.3 authorizes the Department to withhold so much of the Municipality's share of funds allocated to Municipality by NCGS 136-41.1, until such time as the Department has received payment in full.

### **GIFT BAN**

By Executive Order 24, issued by Governor Perdue, and NCGS 133-32, it is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e. Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor).

## **SUNSET PROVISION**

All terms and conditions of this Agreement are dependent upon, and subject to, the allocation of funds for the purpose set forth in the Agreement and the Agreement shall automatically terminate if funds cease to be available.

IT IS UNDERSTOOD AND AGREED that the approval of the Project by the Department is subject to the conditions of this Agreement, and that no expenditures of funds on the part of the Department will be made until the terms of this Agreement have been complied with on the part of the Municipality.

IN WITNESS WHEREOF, this Agreement has been executed, in duplicate, the day and year heretofore set out, on the part of the Department and the Municipality by authority duly given.

ATTEST: TOWN OF CLAYTON

BY: Sherry L. Scoggins Jody L. McLeod  
TITLE: Town Clerk Mayor

DATE:

NCGS 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

Approved by Mayor Jody L. McLeod of the Town of Clayton as attested to by the signature of Sherry L. Scoggins Clerk of the Town of Clayton on (Date)

This Agreement has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

(SEAL)

(FINANCE OFFICER) Robert W. McKie

Federal Tax Identification Number

Town of Clayton

Remittance Address:

P O BOX 879

Clayton, NC 27528-0879

DEPARTMENT OF TRANSPORTATION

BY: (CHIEF ENGINEER)

DATE:

APPROVED BY BOARD OF TRANSPORTATION ITEM O: (Date)

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

**Agenda Item: 5g**

**Meeting Date: 10/21/13**

**TITLE: PRESENTATION OF NCDOT LOCALLY ADMINISTERED PROJECT AGREEMENT FOR THE SAM'S BRANCH PHASE II.**

**DESCRIPTION:** Locally administered project agreement (U-5530 LB) for the preliminary engineering for Sam's Branch Greenway from the end of phase I at North O'Neil Street to Legend Park at City Road in Clayton. The total estimated cost of the project is \$125,000: Federal Funds amount of \$100,000 and Local Funds amount of \$25,000. The timeframe for completion is by 10/31/2014; and completion is defined as completion of all activities, acceptance of the project, and submission of a final reimbursement package to the Department.

**RELATED GOAL:** Expand Leisure Opportunities and Manage Growth Producing Quality Developments

**ITEM SUMMARY:**

| <u>Date:</u> | <u>Action:</u> | <u>Info. Provided:</u> |
|--------------|----------------|------------------------|
| 10-21-13     | Approval.      | Agreement.             |

NORTH CAROLINA  
JOHNSTON COUNTY

**LOCALLY ADMINISTERED PROJECT - FEDERAL**

DATE: 9/25/2013

NORTH CAROLINA DEPARTMENT OF  
TRANSPORTATION

TIP #: U-5530LB

AND

WBS Elements: PE 44111.1.FD6

TOWN OF CLAYTON

FEDERAL-AID NUMBER: STPDA-0406(8)

CFDA #: 20.205

Total Funds [NCDOT Participation] \$100,000

THIS AGREEMENT is made and entered into on the last date executed below, by and between the North Carolina Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as the "Department" and the Town of Clayton, hereinafter referred to as the "Municipality".

**WITNESSETH:**

WHEREAS, Title 23, Sections 133(d)(3) and 133(f) of the US Code require suballocation of Surface Transportation Program Funds to urbanized areas; and,

WHEREAS, the Town of Clayton has requested federal funding for Sam's Branch Phase II greenway, hereinafter referred to as the Project, in Johnston County, North Carolina; and,

WHEREAS, subject to the availability of federal funds, the Municipality has been designated as a recipient to receive funds allocated to the Department by the Federal Highway Administration (FHWA) up to and not to exceed the maximum award amount of \$100,000 for the Project; and,

WHEREAS, the Department has agreed to administer the disbursement of said funds on behalf of FHWA to the Municipality for the Project in accordance with the Project scope of work and in accordance with the provisions set out in this Agreement; and,

WHEREAS, the Department has programmed funding in the approved Transportation Improvement Program for the Project; and,

WHEREAS, the governing board of the Municipality has agreed to participate in certain costs and to assume certain responsibilities in the manner and to the extent as hereinafter set out; and,

WHEREAS, this Agreement is made under the authority granted to the Department by the North Carolina General Assembly including, but not limited to, the following applicable legislation: General Statutes of North Carolina (NCGS) Section 136-66.1, Section 136-71.6, Section 160A-296 and 297, Section 136-18, Section 136-41.3 and Section 20-169, to participate in the planning, construction and/or implementation of the Project approved by the Board of Transportation.

NOW, THEREFORE, this Agreement states the promises and undertakings of each party as herein provided, and the parties do hereby covenant and agree, each with the other, as follows:

## **GENERAL PROVISIONS**

### **FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT**

All parties to this Agreement, including contractors, subcontractors, and subsequent workforces, associated with any work under the terms of this Agreement shall provide reports as required by the Federal Funding Accountability and Transparency Act (FFATA) for this Project.

### **AGREEMENT MODIFICATIONS**

Any modification to this Agreement will be agreed upon in writing by all parties prior to being implemented.

Any increases to the funding amount will be agreed upon by all parties by means of a Supplemental Agreement.

### **LOCAL PUBLIC AGENCY TO PERFORM ALL WORK**

The Municipality shall be responsible for administering all work performed and for certifying to the Department that all terms set forth in this Agreement are met and adhered to by the Municipality and/or its contractors and agents. The Department will provide technical oversight to guide the Municipality. The Department must approve any assignment or transfer of the responsibilities of the Municipality set forth in this Agreement to other parties or entities.

### **PERSON IN RESPONSIBLE CHARGE**

The Municipality shall designate a person or persons to be in responsible charge of the Project, in accordance with Title 23 of the Code of Federal Regulations, Part 635.105. The person, or persons, shall be expected to:

- Administer governmental project activities, including those dealing with cost, time, adherence to contract requirements, construction quality and scope of Federal-aid projects;
- Maintain knowledge of day to day project operations and safety issues;
- Make or participate in decisions about changed conditions or scope changes that require change orders or supplemental agreements;
- Visit and review the project in accordance with the project scope and scale;
- Review financial processes, transactions and documentation to reduce the likelihood of fraud, waste, and abuse;
- Direct project staff, agency or consultant, to carry out project administration and contract oversight, including proper documentation; and
- Be aware of the qualifications, assignments and on-the-job performance of the agency and consultant staff at all stages of the project.

The person in responsible charge must be a full-time employee of the Municipality, but the duties may be split among several employees, if necessary.

#### **COMPLIANCE WITH STATE/FEDERAL POLICY**

The Municipality, and/or its agent, including all contractors, subcontractors, or sub-recipients shall comply with all applicable Federal and State policies and procedures, stated both in this Agreement and in the Department's guidelines and procedures, including the *Local Programs Management Handbook*.

#### **FAILURE TO COMPLY - CONSEQUENCES**

Failure on the part of the Municipality to comply with any of the provisions of this Agreement will be grounds for the Department to terminate participation in the costs of the Project and, if applicable, seek repayment of any reimbursed funds.

#### **SCOPE OF PROJECT**

The Project consists of the design of Sam's Branch Greenway trail from the end of Phase I at North O'Neil Street to Legend Park at City Road.

The Department's funding participation in the Project shall be restricted to the following eligible items:

- Design
- Environmental Documentation

as further set forth in this Agreement.

## **FUNDING**

Subject to compliance by the Municipality with the provisions set forth in this Agreement and the availability of federal funds, the Department shall participate up to a maximum amount of One Hundred Thousand Dollars (\$100,000), as detailed below. The Municipality shall provide a local match, as detailed in the FUNDING TABLE below, and all costs that exceed the total estimated cost.

**FUNDING TABLE**

| <b>Fund Source</b>          | <b>Federal Funds Amount</b> | <b>Reimbursement Rate</b> | <b>Non-Federal Match \$</b> | <b>Non-Federal Match Rate</b> |
|-----------------------------|-----------------------------|---------------------------|-----------------------------|-------------------------------|
| STP-DA                      | \$100,000                   | 80 %                      | \$25,000                    | 20 %                          |
| <b>Total Estimated Cost</b> |                             |                           | <b>\$125,000</b>            |                               |

## **TIME FRAME**

The Municipality shall complete the Project by 10/31/2014. Completion for this Agreement is defined as completion of all activities, acceptance of the project, and submission of a final reimbursement package to the Department. Any extensions of time beyond this date will require a supplemental agreement.

The Department and/or FHWA reserves the right to revoke the funds awarded if the Municipality is unable to meet milestone dates included herein.

## **PRELIMINARY ENGINEERING AUTHORIZATION**

If Preliminary Engineering is an eligible expense, then upon receipt of an executed agreement, the Department will authorize Preliminary Engineering funds and shall notify the Municipality, in writing, once funds have been authorized and can be expended. The Municipality shall not initiate any work, nor solicit for any professional services prior to receipt of written authorization

from the Department to proceed. Any work performed, or contracts executed, prior to receipt of written authorization to proceed will be ineligible for reimbursement.

### **PROFESSIONAL AND ENGINEERING SERVICES**

The Municipality shall comply with the policies and procedures of this provision if Preliminary Engineering and/or Construction Contract Administration is an eligible expense.

### **PROCUREMENT POLICY**

When procuring professional services, the Municipality must adhere to Title 49 Code of Federal Regulations Part 18.36; Title 23 of the Code of Federal Regulations, Part 172; Title 40 United States Code, Chapter 11, Section 1101-1104; NCGS 143-64, Parts 31 and 32; and the Department's *Policies and Procedures for Major Professional or Specialized Services Contracts*. Said policies and standards are incorporated in this Agreement by reference at [www.fhwa.dot.gov/legsregs/legislat.html](http://www.fhwa.dot.gov/legsregs/legislat.html) and [www.ncleg.net/gascritps/Statutes/Statutes.asp](http://www.ncleg.net/gascritps/Statutes/Statutes.asp).

- The Municipality shall ensure that a qualified firm is obtained through an equitable selection process, and that prescribed work is properly accomplished in a timely manner and at a just and reasonable cost.
- All Professional Services Firms shall be pre-qualified by the Department.
- If the proposed contract exceeds \$30,000, a pre-negotiation audit must be requested from the Department's External Audit Branch.

### **SMALL PROFESSIONAL AND ENGINEERING SERVICES FIRMS REQUIREMENTS**

Any contract entered into with another party to perform work associated with the requirements of this Agreement shall contain appropriate provisions regarding the utilization of Small Professional Services Firms (SPSF). This policy conforms with the SPSF Guidelines as approved by the North Carolina Board of Transportation.

- The Municipality shall not advertise nor enter into a contract for services performed as part of this Agreement, unless the Department provides written approval of the advertisement or the contents of the contract.
- If the Municipality fails to comply with these requirements, the Department will withhold funding until these requirements are met.

## **WORK BY ENTITY**

If the Professional and Engineering Services required for this project will be undertaken by the Municipality, and the Municipality requests reimbursement, then the Municipality must submit a request and supporting documentation to the Department for review and approval, prior to any work being initiated by the Municipality.

## **PLANNING / ENVIRONMENTAL DOCUMENTATION**

The Municipality shall prepare the environmental and/or planning document, including any environmental permits, needed to construct the Project, in accordance with the National Environmental Policy Act (NEPA) and all other appropriate environmental laws and regulations. All work shall be performed in accordance with Departmental procedures and guidelines. Said documentation shall be submitted to the Department for review and approval.

- The Municipality shall be responsible for preparing and filing with all proper agencies the appropriate planning documents, including notices and applications required for the desired improvements. Copies of approved permits should be forwarded to the Department.
- The Municipality shall advertise and conduct any required public hearings.
- If any permit issued requires that action be taken to mitigate impacts associated with the improvements, the Municipality shall design and implement a mitigation plan. The Department will determine if any mitigation costs are eligible for reimbursement. The Municipality shall bear all costs associated with penalties for violations and claims due to delays.
- The Municipality shall be responsible for designing an erosion control plan if required by the North Carolina Sedimentation Pollution Control Act of 1973, NCGS 113A, Article 4, incorporated in this Agreement by reference at [www.ncleg.net/gascripts/Statues/Statutes.asp](http://www.ncleg.net/gascripts/Statues/Statutes.asp) and obtaining those permits required thereby in order to construct the Project. During the project the Municipality, and its contractors and agents, shall be solely responsible for compliance with the provisions of said Act and the plan adopted in compliance therewith.

## **DESIGN**

### **CONTENT OF PLAN PACKAGE**

The Municipality, and/or its agent, shall prepare the Project's plans, specifications, and a professional estimate of costs (PS&E package), in accordance with the Department's guidelines and procedures, and applicable Federal and State standards. All work shall be submitted to the Department for review and approval. The plans shall be completed to show the design, site plans, landscaping, drainage, easements, and utility conflicts.

- **FORCE ACCOUNT**

Force account work is only allowed when there is a finding of cost effectiveness for the work to be performed by some method other than a contract awarded by a competitive bidding process, or there is an emergency. Written approval from the Department is required prior to the use of force account by the Municipality. Federal Highway Administration regulations governing Force Account are contained in Title 23 Code of Federal Regulations, Part 635.201, Subpart B; said policy being incorporated in this Agreement by reference [www.fhwa.dot.gov/legisregs/directives/cfr23toc.htm](http://www.fhwa.dot.gov/legisregs/directives/cfr23toc.htm). North Carolina General Statutes governing the use of Force Account, Chapter 143, Article 8 (Public Contracts) can be found at [www.ncleg.net/gascripts/Statutes/Statutes.asp](http://www.ncleg.net/gascripts/Statutes/Statutes.asp).

- **RETAINAGE**

The Municipality shall not retain any portion of a payment due the contractor.

### **RIGHT TO INSPECT**

The Department and representatives of the Federal Highway Administration shall have the right to inspect, sample or test, and approve or reject, any portion of the work being performed by the Municipality or the Municipality's contractor to ensure compliance with the provisions of this Agreement. Prior to any payment by the Department, any deficiencies inconsistent with approved plans and specifications found during an inspection must be corrected.

## **CONTRACTOR COMPLIANCE**

The Municipality will be responsible for ensuring that the contractor complies with all of the terms of the contract and any instructions issued by the Department or FHWA as a result of any review or inspection made by said representatives.

## **REIMBURSEMENT**

### **SCOPE OF REIMBURSEMENT**

Activities eligible for funding reimbursement for this Project shall include:

- Design
- Environmental Documentation

### **REIMBURSEMENT GUIDANCE**

The Municipality shall adhere to applicable administrative requirements of Title 49 Code of Federal Regulations, Part 18 ([www.fhwa.dot.gov/legisregs/directives/fapgtoc.htm](http://www.fhwa.dot.gov/legisregs/directives/fapgtoc.htm)) and Office of Management and Budget (OMB) Circulars A-102 ([www.whitehouse.gov/omb/circulars/index.html](http://www.whitehouse.gov/omb/circulars/index.html)) "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments." Reimbursement to the Municipality shall be subject to the policies and procedures contained in Title 23 Code of Federal Regulations, Part 140 and Part 172, which is being incorporated into this Agreement by reference at [www.fhwa.dot.gov/legisregs/directives/fapgtoc.htm](http://www.fhwa.dot.gov/legisregs/directives/fapgtoc.htm) and by Office of Management and Budget (OMB) Circular A-87 ([www.whitehouse.gov/omb/circulars/index.html](http://www.whitehouse.gov/omb/circulars/index.html)) "Cost Principles for State, Local, and Indian Tribal Governments." Reimbursement to the Municipality shall be subject to the guidance contained in Title 2 Code of Federal Regulations, Part 170 (<http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf>) and Office of Management and Budget (OMB) "Federal Funding Accountability and Transparency Act" (FFATA). Said reimbursement shall also be subject to the Department being reimbursed by the Federal Highway Administration and subject to compliance by the Municipality with all applicable federal policy and procedures.

### **REIMBURSEMENT LIMITS**

- **WORK PERFORMED BEFORE NOTIFICATION**

Any costs incurred by the Municipality prior to written notification by the Department to proceed with the work shall not be eligible for reimbursement.

▪ **NO REIMBURSEMENT IN EXCESS OF APPROVED FUNDING**

At no time shall the Department reimburse the Municipality costs that exceed the total federal funding.

▪ **UNSUBSTANTIATED COSTS**

The Municipality agrees that it shall bear all costs for which it is unable to substantiate actual costs or any costs that have been deemed unallowable by the Federal Highway Administration and/or the Department's Financial Management Division.

▪ **WORK PERFORMED BY NCDOT**

All work performed by the Department on this Project, including, but not limited to, reviews, inspections, and Project oversight, shall reduce the maximum award amount of \$100,000 available to the Municipality under this Agreement. If the cost of work done by the Department exceeds the funding award, the Department will bill the Municipality for the excess costs.

Invoices for force account work shall show a summary of labor, labor additives, equipment, materials and other qualifying costs in conformance with the standards for allowable costs set forth in Office of Management and Budget (OMB) Circular A-87 ([www.whitehouse.gov/omb/circulars/index.html](http://www.whitehouse.gov/omb/circulars/index.html)) "Cost Principles for State, Local, and Indian Tribal Governments." Reimbursement shall be based on actual eligible costs incurred with the exception of equipment owned by the Municipality or its Project partners. Reimbursement rates for equipment owned by the Municipality or its Project partners cannot exceed the Department's rates in effect for the time period in which the work is performed.

**BILLING THE DEPARTMENT**

▪ **PROCEDURE**

The Municipality may bill the Department for eligible Project costs in accordance with the Department's guidelines and procedures. Proper supporting documentation shall accompany each invoice as may be required by the Department. By submittal of each

invoice, the Municipality certifies that it has adhered to all applicable state and federal laws and regulations as set forth in this Agreement.

Along with each invoice, the Municipality is responsible for submitting the FFATA Subrecipient Information Form, which is available at <http://www.ncdot.gov/programs/Enhancement/ProjectAdministration/Forms/>.

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Reimbursement to the Municipality shall be made upon approval of the invoice by the Department's Financial Management Division.

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The Municipality may invoice the Department monthly for work accomplished, but no less than once every six (6) months to keep the Project funds active and available. If the Municipality is unable to invoice the Department, then they must provide an explanation. Failure to submit invoices or explanation may result in de-obligation of funds.

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All invoices associated with the Project must be submitted within six (6) months of the completion and acceptance of the Project to be eligible for reimbursement by the Department. Any invoices submitted after this time will not be eligible for reimbursement.

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The Municipality is responsible for submitting quarterly Project evaluation reports, in accordance with the Department's guidelines and procedures, that detail the progress achieved to date for the Project.

### **PROJECT RECORDS**

The Municipality and its agents shall maintain all books, documents, papers, accounting records, Project records and such other evidence as may be appropriate to substantiate costs

incurred under this Agreement. Further, the Municipality shall make such materials available at its office and shall require its agent to make such materials available at its office at all reasonable times during the contract period, and for five (5) years from the date of payment of the final voucher by the Federal Highway Administration, for inspection and audit by the Department's Financial Management Section, the Federal Highway Administration, or any authorized representatives of the Federal Government.

## **OTHER PROVISIONS**

### **REFERENCES**

It will be the responsibility of the Municipality to follow the current and/or most recent edition of references, websites, specifications, standards, guidelines, recommendations, regulations and/or general statutes, as stated in this Agreement.

### **INDEMNIFICATION OF DEPARTMENT**

The Municipality agrees to indemnify and hold harmless the Department, FHWA and the State of North Carolina, to the extent allowed by law, for any and all claim for payment, damages and/or liabilities of any nature, asserted against the Department in connection with this Project. The Department shall not be responsible for any damages or claims, which may be initiated by third parties.

### **DEBARMENT POLICY**

It is the policy of the Department not to enter into any agreement with parties that have been debarred by any government agency (Federal or State). By execution of this agreement, the Municipality certifies that neither it nor its agents or contractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal or State Agency or Department and that it will not enter into agreements with any entity that is debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction.

#### **TITLE VI - CIVIL RIGHTS ACT OF 1964**

The Municipality shall comply with Title VI of the Civil Rights Act of 1964, (Title 49 CFR, Subtitle A, Part 21). Title VI prohibits discrimination on the basis of race, color, national origin, disability, gender, and age in all programs or activities of any recipient of Federal assistance.

#### **OTHER AGREEMENTS**

The Municipality is solely responsible for all agreements, contracts, and work orders entered into or issued by the Municipality for this Project. The Department is not responsible for any expenses or obligations incurred for the Project except those specifically eligible for STP-DA funds and obligations as approved by the Department under the terms of this Agreement.

#### **AVAILABILITY OF FUNDS**

All terms and conditions of this Agreement are dependent upon, and, subject to the allocation of funds for the purpose set forth in the Agreement and the Agreement shall automatically terminate if funds cease to be available.

#### **IMPROPER USE OF FUNDS, EXCESS USE OF FUNDS**

Where either the Department or the FHWA determines that the funds paid to the Municipality for this Project are not used in accordance with the terms of this Agreement, or if the cost of work done by the Department exceeds the funding award, the Department will bill the Municipality.

#### **TERMINATION OF PROJECT**

If the Municipality decides to terminate the Project without the concurrence of the Department, the Municipality shall reimburse the Department one hundred percent (100%) of all costs expended by the Department and associated with the Project.

#### **AUDITS**

In accordance with OMB Circular A-133, "Audits of States, Local Governments and Non-Profit Organizations" ([www.whitehouse.gov/omb/circulars/a133/a133.html](http://www.whitehouse.gov/omb/circulars/a133/a133.html)) dated June 27, 2003 and the Federal Single Audit Act Amendments of 1996, the Municipality shall arrange for an annual independent financial and compliance audit of its fiscal operations. The Municipality shall furnish the Department with a copy of the annual independent audit report within thirty (30) days

of completion of the report, but not later than nine (9) months after the Municipality's fiscal year ends.

#### **REIMBURSEMENT BY MUNICIPALITY**

For all monies due the Department as referenced in this Agreement, reimbursement shall be made by the Municipality to the Department within sixty (60) days of receiving an invoice. A late payment penalty and interest shall be charged on any unpaid balance due in accordance with NCGS 147-86.23.

#### **USE OF POWELL BILL FUNDS**

If the other party to this agreement is a Municipality and fails for any reason to reimburse the Department in accordance with the provisions for payment hereinabove provided, NCGS 136-41.3 authorizes the Department to withhold so much of the Municipality's share of funds allocated to Municipality by NCGS 136-41.1, until such time as the Department has received payment in full.

#### **GIFT BAN**

By Executive Order 24, issued by Governor Perdue, and NCGS 133-32, it is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e. Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor).

#### **SUNSET PROVISION**

All terms and conditions of this Agreement are dependent upon, and subject to, the allocation of funds for the purpose set forth in the Agreement and the Agreement shall automatically terminate if funds cease to be available.

IT IS UNDERSTOOD AND AGREED that the approval of the Project by the Department is subject to the conditions of this Agreement, and that no expenditures of funds on the part of the Department will be made until the terms of this Agreement have been complied with on the part of the Municipality.

IN WITNESS WHEREOF, this Agreement has been executed, in duplicate, the day and year heretofore set out, on the part of the Department and the Municipality by authority duly given.

ATTEST: TOWN OF CLAYTON

BY: Sherry L. Scoggins Jody L. McLeod  
TITLE: Town Clerk Mayor

DATE:

NCGS 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

Approved by Mayor Jody L. McLeod of the Town of Clayton as attested to by the signature of Sherry L. Scoggins Clerk of the Town of Clayton on (Date)

This Agreement has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

(SEAL)

(FINANCE OFFICER) Robert W. McKie

Federal Tax Identification Number

Town of Clayton

Remittance Address:

P O BOX 879

Clayton, NC 27528-0879

DEPARTMENT OF TRANSPORTATION

BY: (CHIEF ENGINEER)

DATE:

APPROVED BY BOARD OF TRANSPORTATION ITEM O: (Date)

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

**Agenda Item: 5h**

**Meeting Date: 10/21/13**

**TITLE: PRESENTATION OF RESOLUTION FROM JOHNSTON COUNTY SCHOOLS FOR THE PENDING BOND REFERENDUM.**

**DESCRIPTION: Johnston County Schools is requesting the support of the municipalities for the upcoming bond referendum for the public school bond and the community college bond.**

**RELATED GOAL: Grow the Local Economy.**

**ITEM SUMMARY:**

**Date:**

**Action:**

**Info. Provided:**

**10-21-13**

**Approval.**

**Resolution.**



## Support of Bond Referendum Johnston County Board of Education November 5, 2013

**WHEREAS**, the Town of Clayton is dedicated to maintaining a strong and supportive working relationship with the Johnston County Schools to provide superior academic instruction and outstanding educational opportunities to its youth; and

**WHEREAS**, the Town of Clayton is also dedicated to maintaining a strong, viable community college program so that Johnston County Schools graduates can continue their educational careers and adults from all walks of life can engage in continuing education; and

**WHEREAS**, the Town of Clayton is committed to attaining and preserving the highest quality of life for its citizenry through its partnership with the local Board of Education **and Johnston Community College**; and

**WHEREAS**, the school population of Johnston County continues to grow at an accelerated rate requiring additional school facilities; and

**WHEREAS**, the people of the Town of Clayton and all of Johnston County have been dedicated to the cause of new construction for schools to accommodate this growth; and

**WHEREAS**, the Town of Clayton desires to assist the Board of Education in meeting its facility needs for the benefit of our youth, our citizens and our community; and

**WHEREAS**, the Town of Clayton recognizes that a commitment to quality education results in an elite workforce which attracts commerce and spurs economic development at the benefit of the town's people;

**NOW, THEREFORE, BE IT RESOLVED** that the Town of Clayton supports the Johnston County Board of Education and Johnston Community College and goes on record in support of the school facilities bond issue in the amount of \$57 million.

**ADDITIONALLY**, the Town of Clayton urges all citizens to vote for both the public school bond and the community college bond.

This resolution was duly considered and approved by the Town of Clayton at its meeting on \_\_\_\_\_.

\_\_\_\_\_  
Mayor Jody L. McLeod

\_\_\_\_\_  
Mayor Pro Tem Michael Grannis

\_\_\_\_\_  
Councilman Bob Satterfield

\_\_\_\_\_  
Councilman R.S. "Butch" Lawter, Jr.

\_\_\_\_\_  
Councilman Art Holder

\_\_\_\_\_  
Councilman Jason Thompson



**Support of Bond Referendum  
Johnston County Board of Education  
Johnston Community College  
November 5, 2013**

---

strongly supports the Bond Referendum.  
It is essential for the educational advancement of the children in  
Johnston County.

The children in Johnston County are our future leaders.  
Together as a community we can help our children  
continue to succeed by providing them with the  
best schools and tools necessary.  
We value education and character development.

**We Will Check it Twice for the Future of our Children!**

|       |       |       |
|-------|-------|-------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

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

**Agenda Item: 5i**

**Meeting Date: 10/21/13**

**TITLE: PRESENTATION OF RESOLUTION AUTHORIZING DEVELOPMENT OF A GRANT APPLICATION FOR INFRASTRUCTURE FUNDING THROUGH THE NC DEPARTMENT OF COMMERCE.**

**DESCRIPTION: Resolution authorizing the filing of an application with NC Department of Commerce Rural Economic Division for a grant to assist with the East Clayton Industrial Corridor Infrastructure Project.**

**RELATED GOAL: Grow the Local Economy.**

**ITEM SUMMARY:**

| <u>Date:</u> | <u>Action:</u> | <u>Info. Provided:</u> |
|--------------|----------------|------------------------|
| 10-21-13     | Approval.      | Resolution.            |

**AUTHORIZING RESOLUTION BY THE TOWN OF CLAYTON TOWN COUNCIL**

**Rural Economic Development Division Grant Program  
East Clayton Industrial Corridor Infrastructure Improvements Project**

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

**WHEREAS**, the Town of Clayton needs assistance in financing infrastructure for East Clayton Industrial Corridor Infrastructure Improvements that may qualify for DOC funding; and

**WHEREAS**, the Town of Clayton intends to request grant assistance for East Clayton Industrial Corridor Infrastructure Improvements from the Rural Economic Development Division Grant Program.

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

That the Town of Clayton will provide the required local match and all remaining costs of the project if approved for a grant.

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

That Jody McLeod, Mayor, and successors so titled, is hereby authorized to execute and file an application on behalf of the Town of Clayton with the Rural Economic Development Division, North Carolina Department of Commerce for a grant to assist in the above named infrastructure project.

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

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

Duly adopted this        day of        2013, while in regular session.

\_\_\_\_\_  
Steve Biggs, Town Manager

\_\_\_\_\_  
Jody L. McLeod, Mayor

**ATTEST:**

\_\_\_\_\_  
Sherry L. Scoggins, Town Clerk

(Seal)

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

**Agenda Item: 5j**

**Meeting Date: 10/21/13**

**TITLE: PRESENTATION OF AMENDMENTS TO THE MUNICIPAL RECORDS  
RETENTION & DISPOSITION SCHEDULE.**

**DESCRIPTION: At its November 5, 2012, Council meeting, Council approved  
the use of the 2012 Municipal Schedule for the Town of  
Clayton.**

**The amendments to the Records Retention Schedule include:**

- **Amending Escheat and Unclaimed Property File**
- **Adding Accreditation Records**
- **Amending Employee Eligibility Records**
- **Amending Family Medical Leave Act (FMLA), Leave File  
and Leave Without Pay File**

**RELATED GOAL: Legislative.**

**ITEM SUMMARY:**

| <b><u>Date:</u></b> | <b><u>Action:</u></b> | <b><u>Info. Provided:</u></b> |
|---------------------|-----------------------|-------------------------------|
| <b>10-21-13</b>     | <b>Presentation.</b>  | <b>Amendment.</b>             |

**Municipal  
Records Retention Schedule Amendment**

Amending the Municipal Records Retention and Disposition Schedule published September 10, 2012.

**STANDARD 4. BUDGET, FISCAL AND PAYROLL RECORDS**

Amending item 32 **Escheat and Unclaimed Property File** as shown on substitute page 29.

**STANDARD 12. PERSONNEL RECORDS**

Adding item 1-A **Accreditation Records** as shown on substitute page 101.

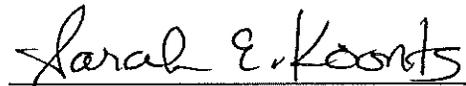
Amending item 19 **Employee Eligibility Records** as shown on substitute page 105.

Amending items 36 **Family Medical Leave Act (FMLA) Records**, 42 **Leave File**, and 43 **Leave Without Pay File** as shown on substitute pages 110-111.

**APPROVAL RECOMMENDED**

\_\_\_\_\_  
City/Town Clerk

\_\_\_\_\_  
Chief Administrative Officer/  
City Manager



Sarah E. Koonts, Director  
Division of Archives and Records

**APPROVED**

\_\_\_\_\_  
Mayor



Susan W. Kluttz, Secretary  
Department of Cultural Resources

August 29, 2013

\_\_\_\_\_  
Municipality

| ITEM # | STANDARD-4: BUDGET, FISCAL AND PAYROLL RECORDS   |  |   |
|--------|--|--|---|
|        | RECORD SERIES TITLE  | DISPOSITION INSTRUCTIONS   | CITATION  |
| 27.    | DAILY DETAIL REPORTS   | Destroy in office after 1 year.*   |   |
| 28.    | DEPOSITS   | a) Destroy in office official/audit copies after 3 years.*<br>b) Destroy in office remaining records after 1 year.   | G.S. § 159-32   |
| 29.    | DETAIL REPORT FILE (FINANCIAL RECORDS FOR GENERAL FUND OR GENERAL LEDGER)  | a) Destroy in office annual reports after 3 years.*<br>b) Destroy in office all other reports after 1 year.  |   |
| 30.    | DIRECT DEPOSIT APPLICATIONS/AUTHORIZATIONS<br>Includes related records such as bank account numbers and routing numbers. | Destroy in office when superseded or obsolete.   | Comply with applicable confidentiality provisions of G.S. §132-1.10(b)(5) regarding personal identifying information. |
| 31.    | DISTRICT INVESTMENT RECORDS  | Destroy in office after 3 years.*  |   |
| 32.    | ESCHEAT AND UNCLAIMED PROPERTY FILE  | a) Destroy in office after 10 years if report was filed prior to July 16, 2012.*<br>b) Destroy in office after 5 years if report was filed after July 16, 2012.* | Comply with applicable provisions of G.S. §116B-60 and §116B-73.  |
| 33.    | EXPENDITURE REPORTS  | Destroy in office after 3 years.*  |   |
| 34.    | FACILITY SERVICE AND MAINTENANCE AGREEMENTS<br><br>See also GRANTS: FINANCIAL item 36, page 30.                          | a) Destroy in office depreciation schedules 3 years after asset is fully depreciated or disposed.<br>b) Destroy in office remaining records after 3 years.*      |   |

\*See *AUDITS, LITIGATION, AND OTHER OFFICIAL ACTIONS*, page vi.

† See signature page. The agency hereby agrees that it will establish and enforce internal policies setting minimum retention periods for the records that Cultural Resources has scheduled with the disposition instruction "destroy when administrative value ends." Please use the space provided.

| ITEM # | STANDARD-12. PERSONNEL RECORDS  |  |  |
|--------|---|--|--|
|        | RECORD SERIES TITLE   | DISPOSITION INSTRUCTIONS   | CITATION   |
| 1.     | <b>ABOLISHED POSITION FILE</b>  | Destroy in office when administrative value ends.†<br>Agency Policy: Destroy in office after _____   |  |
| 1-A.   | <b>ACCREDITATION RECORDS</b><br>Records concerning compliance with those standards outlined by professional accreditation programs.   | Destroy in office 1 year after accreditation is obtained, renewed, or no longer valid.*  |  |
| 2.     | <b>ADDRESS FILE</b>   | Destroy in office when superseded or obsolete.   |  |
| 3.     | <b>ADS AND NOTICES OF OVERTIME, PROMOTION, AND TRAINING OPPORTUNITIES</b>   | Destroy in office 1 year from date record was made.  | 29 CFR 1627.3                                      |
| 4.     | <b>AFFIRMATIVE ACTION FILE</b>  | a) Destroy in office all reports, analyses, and statistical data after 5 years.<br><br>b) Destroy in office affirmative action plans 5 years from date superseded.   | 29 CFR 30.8(b)(e)<br>29 CFR 1608.4                 |
| 5.     | <b>APPRENTICESHIP PROGRAM RECORDS</b>   | Destroy in office 5 years from the date of enrollment.   | 29 CFR 30.8(e)                                     |
| 6.     | <b>APTITUDE AND SKILLS TESTING RECORDS</b><br>Records concerning aptitude and skills tests required of job applicants or of current employees to qualify for promotion or transfer. May include civil service examinations.<br><br>See also <a href="#">EMPLOYMENT SELECTION RECORDS</a> item 32, page 109. | a) Destroy in office applicant and employee test papers 2 years from date record was created.<br><br>b) Destroy in office validation studies and copies of tests 2 years after no longer in use.<br><br>c) Destroy in office records relating to the planning and administration of tests in office after 2 years. | 29 CFR 1602.31<br>29 CFR 1602.40<br>29 CFR 1602.49 |

\*See *AUDITS, LITIGATION, AND OTHER OFFICIAL ACTIONS*, page vi.

† See signature page. The agency hereby agrees that it will establish and enforce internal policies setting minimum retention periods for the records that Cultural Resources has scheduled with the disposition instruction "destroy when administrative value ends." Please use the space provided.

| ITEM # | STANDARD-12. PERSONNEL RECORDS   |   |              |
|--------|--|---|--------------|
|        | RECORD SERIES TITLE  | DISPOSITION INSTRUCTIONS  | CITATION     |
| 18.    | <p><b>EMPLOYEE EDUCATIONAL ASSISTANCE PROGRAM RECORDS</b><br/>Includes records requesting tuition assistance, repayments, and other related records.</p> <p>See also <b>PERSONNEL RECORDS (OFFICIAL COPY)</b> item 47, page 112.</p> | Destroy in office 3 years after completion, denial, repayment, or removal from program.*  |              |
| 19.    | <p><b>EMPLOYEE ELIGIBILITY RECORDS</b><br/>Includes the United States Immigration and Naturalization Services, Employment Eligibility Verification (I-9) forms.</p>  | <p>a) Destroy in office certificates, I-9 forms, and statements, 3 years after individual was hired or 1 year from date of separation, whichever occurs later.</p> <p>b) Destroy in office registers after 2 years.</p> | 8 USC 274a.2 |
| 20.    | <p><b>EMPLOYEE EXIT INTERVIEW RECORDS</b></p> <p>See also <b>PERSONNEL RECORDS (OFFICIAL COPY)</b> item 47, page 112.</p>  | Destroy in office after 1 year.   |              |
| 21.    | <p><b>EMPLOYEE HEALTH CERTIFICATES</b><br/>Includes health or physical examination reports, or certificates created in accordance with Title VII and the Americans with Disabilities Act (ADA).</p>                                  | <p>a) Transfer records as applicable to <b>PERSONNEL RECORDS (OFFICIAL COPY)</b> item 47, page 112.</p> <p>b) Destroy in office all other records 2 years after resolution of all actions.</p>                          |              |

\*See **AUDITS, LITIGATION, AND OTHER OFFICIAL ACTIONS**, page vi.

† See signature page. The agency hereby agrees that it will establish and enforce internal policies setting minimum retention periods for the records that Cultural Resources has scheduled with the disposition instruction "destroy when administrative value ends." Please use the space provided.

| ITEM # | STANDARD-12. PERSONNEL RECORDS   |  |                |
|--------|--|--|----------------|
|        | RECORD SERIES TITLE  | DISPOSITION INSTRUCTIONS   | CITATION       |
| 35.    | <b>EQUAL PAY RECORDS</b><br>Includes reports, studies, aggregated or summarized data, and similar documentation compiled to comply with the Equal Pay Act.   | Destroy in office after 2 years.   | 29 CFR 1620.32 |
| 36.    | <b>FAMILY MEDICAL LEAVE ACT (FMLA) RECORDS</b><br>Records concerning leave taken, premium payments, employer notice, medical examinations considered in connection with personnel action, disputes with employees over FMLA and other related records.                                       | Item discontinued. See <b>LEAVE FILE</b> , item 42, page 111.                                      |                |
| 37.    | <b>FRINGE BENEFITS FILE</b>  | Destroy in office when administrative value ends.†<br>Agency Policy: Destroy in office after _____ |                |
| 38.    | <b>GRIEVANCE FILE</b><br>Includes initial complaint, investigations, actions, summary, and disposition. May include disciplinary correspondence, including email.<br><br>See also <b>DISCIPLINARY FILE</b> item 11, page 102 and <b>PERSONNEL RECORDS (OFFICIAL COPY)</b> item 47, page 112. | Destroy in office after 2 years.   |                |
| 39.    | <b>HEALTH INSURANCE FILE</b><br>Completed claim forms and other records concerning employees covered by health plans.  | Destroy in office after 2 years.*  |                |
| 40.    | <b>INCREMENTS FILE</b>   | Destroy in office when released from all audits.   |                |
| 41.    | <b>INTERNSHIP PROGRAM FILE</b><br>Records concerning interns and students.   | Destroy in office after 3 years.   |                |

\*See **AUDITS, LITIGATION, AND OTHER OFFICIAL ACTIONS**, page vi.

† See signature page. The agency hereby agrees that it will establish and enforce internal policies setting minimum retention periods for the records that Cultural Resources has scheduled with the disposition instruction "destroy when administrative value ends." Please use the space provided.

| ITEM # | STANDARD-12. PERSONNEL RECORDS   |  |  |
|--------|--|--|--|
|        | RECORD SERIES TITLE  | DISPOSITION INSTRUCTIONS   | CITATION                                     |
| 42.    | <b>LEAVE FILE</b><br>Records concerning employee leave, including requests for and approval of sick, vacation, overtime, buy-back, shared, donated, military, etc. Includes premium payments, employer notice, medical examinations considered in connection with personnel action, disputes with employees over the Family Medical Leave Act (FMLA), and other related records. | Destroy in office 3 years after return of employee or termination of employment.*  | 29 CFR 825.110(b)(2)(i)<br>29 CFR 825.500(b) |
| 43.    | <b>LEAVE WITHOUT PAY FILE</b>  | Item discontinued. See <b>LEAVE FILE</b> , item 42, page 111.  |  |
| 44.    | <b>LONGEVITY PAY REQUESTS</b>  | Destroy in office when released from all audits.   |  |
| 45.    | <b>MERIT AND SENIORITY SYSTEM RECORDS</b>  | a) Destroy in office employee-specific records after 3 years.<br>b) Destroy in office system and plan records 1 year after no longer in effect.  | 29 CFR 1627.3                                |
| 46.    | <b>PERSONNEL ACTION NOTICES</b><br>Records used to create or change information in the personnel records of individual employees concerning such issues as hiring, termination, transfer, pay grade, position or job title, name change and leave.   | a) Transfer records as applicable to <b>PERSONNEL RECORDS (OFFICIAL COPY)</b> item 47, page 112.<br>b) Destroy in office all remaining records 2 years from date record was created, received, or the personnel action involved. |  |

\*See **AUDITS, LITIGATION, AND OTHER OFFICIAL ACTIONS**, page vi.

† See signature page. The agency hereby agrees that it will establish and enforce internal policies setting minimum retention periods for the records that Cultural Resources has scheduled with the disposition instruction "destroy when administrative value ends." Please use the space provided.

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

**Agenda Item: 5k**

**Meeting Date: 10/21/13**

**TITLE: PRESENTATION OF RESOLUTION – 2014 HOLIDAY SCHEDULE.**

**DESCRIPTION: Attached.**

**RELATED GOAL: Administrative.**

**ITEM SUMMARY:**

**Date:**

**Action:**

**Info. Provided:**

**10-21-13**

**Presentation.**

**Resolution.**

## TOWN OF CLAYTON RESOLUTION - 2014 HOLIDAY SCHEDULE

**WHEREAS**, it is the policy of the Town to follow the holiday schedule provided by the State of North Carolina for its employees; and

**WHEREAS**, the below 2014 Holiday Schedule was retrieved from the State of North Carolina website <http://www.osp.state.nc.us/holsched.htm>..:

| <b>2014 Holiday Schedule</b>      |                            |                               |
|-----------------------------------|----------------------------|-------------------------------|
| <b>Holiday</b>                    | <b>Observance Date</b>     | <b>Day of Week</b>            |
| New Year's Day                    | January 1, 2014            | Wednesday                     |
| Martin Luther King Jr.'s Birthday | January 20, 2014           | Monday                        |
| Good Friday                       | April 18, 2014             | Friday                        |
| Memorial Day                      | May 26, 2014               | Monday                        |
| Independence Day                  | July 4, 2014               | Friday                        |
| Labor Day                         | September 1, 2014          | Monday                        |
| Veteran's Day                     | November 11, 2014          | Tuesday                       |
| Thanksgiving                      | November 27 & 28, 2014     | Thursday & Friday             |
| Christmas                         | December 24, 25 & 26, 2014 | Wednesday, Thursday, & Friday |

**NOW, THEREFORE, BE IT RESOLVED** that the Town Council of Clayton hereby adopts the 2013 Holiday Schedule as presented.

Duly adopted this \_\_\_\_ day of November 2014, 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: 5I**

**Meeting Date: 10/21/13**

**TITLE: PRESENTATION OF RESOLUTION – 2014 COUNCIL SCHEDULE.**

**DESCRIPTION: Attached.**

**RELATED GOAL: Legislative.**

**ITEM SUMMARY:**

**Date:**

**Action:**

**Info. Provided:**

**10-21-13**

**Presentation.**

**Resolution.**

## TOWN OF CLAYTON RESOLUTION – 2014 COUNCIL SCHEDULE

**WHEREAS**, the Clayton Town Council exists to conduct the business of the citizens; and

**WHEREAS**, the Clayton Town Council meetings are held the first and third Monday of the month at 6:30 PM in the Council Chambers of the Town Hall, unless otherwise noted; and

**WHEREAS**, each meeting of the Clayton Town Council is open to the public, except as provided by NC G.S. 143-318.11; and

**WHEREAS**, the Clayton Town Council may amend the yearly meeting schedule in accordance with NC G.S. 143-318.12:

| <b>TOWN OF CLAYTON<br/>2014 CALENDAR<br/>TOWN COUNCIL MEETINGS</b>   |
|--|
| <b>January 6, 2014 &amp; January 21, 2014</b> <i>(Tuesday)</i>   |
| <b>February 3, 2014 &amp; February 17, 2014</b>  |
| <b>March 3, 2014 &amp; March 17, 2014</b>  |
| <b>April 7, 2014 &amp; April 21, 2014</b>  |
| <b>May 5, 2014 &amp; May 19, 2014</b>  |
| <b>June 2, 2014 &amp; June 16, 2014</b>  |
| <b>July 7, 2014 &amp; July 21, 2014</b>  |
| <b>August 4, 2014 &amp; August 18, 2014</b>  |
| <b>September 2, 2014</b> <i>(Tuesday)</i> <b>&amp; September 15, 2014</b>  |
| <b>October 6, 2014 &amp; October 20, 2014</b><br><i>--NCLM Annual Conference October 12-14, 2014; Greensboro, NC--</i> |
| <b>November 3, 2014 &amp; November 17, 2014</b>  |
| <b>December 1, 2014 &amp; December 15, 2014</b>  |

**NOW THEREFORE, BE IT RESOLVED** that the Town Council of Clayton hereby adopts the 2014 Clayton Town Council Schedule as presented.

Duly adopted this \_\_\_\_\_ of November 2013 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:** 8a **Meeting Date:** 10/21/13

**TITLE:** STATUS OF 110 WEST FRONT STREET, FORMER RED & WHITE STORE.

**DESCRIPTION:** At the July 16, 2012, Council work session, it was the consensus of the Council that staff draft an ordinance authorizing the building inspector to have the property demolished in the event Town does not see work initiated within the specified timeframe. At its August 6, 2012, Council meeting, it was the consensus of the Council to continue this item for 90 days. At its November 5, 2012, Council meeting, the Council received information from the lien holder of this property. All Council members voted in favor of continuing this item to the 11/19/ 2012 Council meeting in order to receive additional information.

**RELATED GOAL:** Think Downtown & Administrative

**ITEM SUMMARY:**

| <u>Date:</u>     | <u>Action:</u>   | <u>Info. Provided:</u>   |
|------------------|------------------|--|
| 7-16-12          | Discussion.      | Ordinance.   |
| 8-06-12          | Discussion.      | Ordinance, map, NC GS 160A-439, & Town Code of Ord Section 153.027.    |
| 10-15-12         | None – Tracking. | Ordinance, map, NC GS 160A-439, and Town Code of Ord section153.027.   |
| 11-05-12         | Discussion.      | Ordinance, map, NC GS 160A-439, and Town Code of Ord Section 153.027.  |
| 11-19-12         | Discussion.      | Ordinance, map, NC GS 160A-439, and Town Code of Ord Section 153.027.  |
| 12-3-12          | Discussion.      | Ordinance, Map, NC GS 160A-439, and Town Code of Ords section 153.027. |
| 12-17-12         | Discussion.      | N/A.   |
| 1-7-13 – 6-17-13 | Discussion.      | N/A.   |
| 8-5-13           | Discussion.      |  |
| 8-19-13          | Discussion.      |  |
| 10-07-13         | Discussion.      |  |
| 10-21-13         | Discussion.      |  |

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

**Agenda Item: 8b**

**Meeting Date: 10/21/13**

**TITLE: STATUS OF THE ACQUISITION OF EASEMENTS FOR THE CLAYTON-RALEIGH SEWER TRANSMISSION PROJECT.**

**DESCRIPTION:** The Clayton-Raleigh Sewer Transmission project is a collaborative project between the Town of Clayton and City of Raleigh that began spring of 2007 and slowed when the economy slowed. In June 2012, the Town of Clayton submitted an application to rural development to secure a loan for the design and construction of a new wastewater force main to connect to the City of Raleigh for the transfer of up to 1 MGD of wastewater. On July 16, 2012, the Town Council approved a resolution for financing with the USDA – Rural Development (2012-037).

In order to construct the Clayton-Raleigh sewer transmission line, the Town of Clayton has been acquiring easements from property owners. The easements are located within the existing (CP&L / Progress Energy) Duke Energy easement.

**RELATED GOAL:** Legislative.

**ITEM SUMMARY:**

| <u>Date:</u> | <u>Action:</u> | <u>Info. Provided:</u> |
|--------------|----------------|------------------------|
| 7-15-13      | Presentation.  | Resolutions (7).       |
| 8-05-13      | Discussion.    |                        |
| 8-19-13      | TRACKING.      |                        |
| 9-03-13      | Discussion.    |                        |
| 9-16-13      | Update.        |                        |
| 10-07-013    | Update.        |                        |
| 10-21-13     | Update.        |                        |

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

Agenda Item: 9c

Meeting Date: 10/21/13

TITLE: TOWN CLERK

DESCRIPTION: Calendar of Events

- ~~Board of Adjustment Mtg – Wednesday, October 16, 2013 @ 6 PM - Cancelled~~
- NC State Fair (<http://www.ncstatefair.org/2013/index.htm>) – Thursday, October 17, 2013 – Sunday, October 27, 2013
- The Clayton Center Palladian Series: Chic Gamine – Thursday, October 17, 2013 @ 8 PM
- Council Mtg – Monday, October 21, 2013 @ 6:30 PM
- Planning Board Mtg – Monday, October 28, 2013 @ 6:00 PM
- Halloween Parade – Thursday, October 31, 2013 from 2 PM to 4:30 PM – begins at Horne Square and concludes at Town Square
- Council Mtg – Monday, November 4, 2013 @ 6:30 PM
- Election Day – Tuesday, November 5, 2013; polls open from 6:30 AM to 7:30 PM
- Veteran’s Day Holiday – Monday, November 11, 2013
- Canvass Day at the Board of Elections – Tuesday, November 12, 2013
- Council Mtg – Monday, November 18, 2013 @ 6:30 PM
- Board of Adjustment Mtg – Wednesday, November 20, 2013 @ 6 PM
- Fire Advisory Board Mtg – Thursday, November 21, 2013 @ 7:30 PM at Fire Station 1, 325 West Horne Street
- The Clayton Center presents: Barbara Bailey Hutchison – Saturday, November 23, 2013 @ 8 PM
- Planning Board Mtg – Monday, November 25, 2013 @ 6:00 PM
- Thanksgiving Holiday – Thursday, November 28, 2013 & Friday, November 29, 2013
- Council Mtg (Organizational Mtg) – Monday, December 2, 2013 @ 6:30 PM
- Christmas Village & Tree Lighting Event – Thursday, December 5, 2013 from 6 PM to 8:30 PM
- The Clayton Center Palladian Series: It’s a Wonderful Life (Live from WVU Radio Theatre) – Saturday, December 7, 2013 @ 8 PM
- Downtown Development Association Mtg – Monday, December 9, 2013 @ 6:30 PM at Clayton Town Hall, Room GS 223
- Parks & Recreation Santa’s Workshop – hosted at the Clayton Community Center on Saturday, December 14, 2013 from 10 AM to 12 noon [two canned goods per child]
- Clayton Christmas Parade (<http://business.claytonchamber.com/Events/details/the-clayton-christmas-parade-12-14-2013-336>) – Saturday, December 14, 2013 @ 3 PM

- The Clayton Center Palladian Series: The Tar River Swing Band (Holiday Favorites) – Saturday, December 14, 2013 @ 8 PM
- Council Mtg – Monday, December 16, 2013 @ 6:30 PM
- Board of Adjustment Mtg – Wednesday, December 18, 2013 @ 6 PM
- Planning Board Mtg – Monday, December 23, 2013 @ 6:00 PM
- Christmas Holiday – Tuesday, December 24, 2013; Wednesday, December 25, 2013; & Thursday, December 26, 2013
- The Clayton Center Palladian Series: Junior Brown – Saturday, January 25, 2014 @ 8 PM
- The Clayton Center Palladian Series: The Hot Club of San Francisco (Meet Me in Paris) – Friday, February 14, 2014 @ 8 PM
- The Clayton Center Palladian Series: The Celtic Tenors – Saturday, March 15, 2014 @ 8 PM
- The Clayton Center presents: Schoolhouse Rock Live! – Saturday, April 5, 2013 @ 3 PM
- The Clayton Center Palladian Series: James Gregory (The Funniest Man in America!) – Friday, April 11, 2014 @ 8 PM
- NCLM Town Hall Day – June 4, 2014
- NCLM Annual Conference – October 12-14, 2014; Greensboro, NC

Date:  
10-21-13

Action:  
N/A

Info. Provided:  
Calendar of Events