

Jody L. McLeod
MAYOR

Bruce Thompson
TOWN ATTORNEY

Steve Biggs
TOWN MANAGER



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

Michael Grannis
MAYOR PRO TEM

TOWN COUNCIL MEETING

SEPTEMBER 16, 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, SEPTEMBER 16, 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 the September 3, 2013, regular meeting.
 - b. Public notice for the following hearings slated for Monday, October 7, 2013 at 6:30 PM:
 - Evidentiary hearing for preliminary subdivision request for Ashcroft Subdivision located on North O’Neil Street.
 - Public hearing for text amendments to Town of Clayton Code of Ordinances, Chapter 155 for the following:
 - 155.308 Accessory Uses and Structures (Food truck addition)
 - 155.405 Outdoor Storage and Display
 - 155.719 Nonconformities
4. **INTRODUCTIONS AND SPECIAL PRESENTATIONS**
 - a. Introduction of new Town of Clayton employee(s).
5. **ITEMS SCHEDULED FOR THE REGULAR MEETING AGENDA**
 - a. Presentation of memorandum of understanding between the Raleigh-Durham, Johnston County, Triangle Faith, and Nonprofit Community Consortium and the Town.
 - b. Presentation of preliminary subdivision request for Ashcroft Subdivision located on North O’Neil Street adjacent to the Sam’s Branch Greenway trailhead.
 - c. Presentation of text amendments to the Town of Clayton Code of Ordinances, Chapter 155 for the following:
 - 155.308 Accessory Uses and Structures (food truck addition)
 - 155.405 Outdoor Storage and Display
 - 155.719 Nonconformities
 - d. Presentation of the asphalt warranty acceptance memorandum for Creekside Commons Subdivision, excluding Phase 4A.

6. ITEMS CONTINGENT FOR THE REGULAR MEETING
7. ITEMS FOR DISCUSSION
8. OLD BUSINESS
 - a. Status of the acquisition of easements for the Clayton-Raleigh sewer transmissions project.
9. STAFF REPORTS
 - a. Town Manager
 - Report on off-budget outlay capital proposals.
 - b. Town Attorney
 - c. Town Clerk
 - Calendar of Events
 - d. Other Staff
10. OTHER BUSINESS
 - a. Informal Discussion & Public Comment.
 - b. Council Comments.
11. ADJOURNMENT

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

Agenda Item: 3a

Meeting Date: 9/16/13

TITLE: DRAFT MINUTES FROM THE SEPTEMBER 3, 2013, REGULAR MEETING.

DESCRIPTION: Minutes.

RELATED GOAL: Administrative

ITEM SUMMARY:

Date:

Action:

Info. Provided:

9-16-13

Approval.

DRAFT minutes from
9/3/2013 meeting.

MINUTES CLAYTON TOWN COUNCIL SEPTEMBER 03, 2013

The first regular meeting of the Clayton Town Council for the month of September was held on Tuesday, September 03, 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; Nancy Medlin, Deputy Town Manager; David DeYoung, Planning Director; Lee Barbee, Fire Chief; Larry Bailey, Parks & Recreation Director; Ann Game, Customer Service Director; Stacy Beard, Public Information Officer; Tommy Roy, Information Services Technician.

ITEM 1. CALL TO ORDER

Mayor McLeod called the meeting to order at 6:36 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

Councilman Holder motioned to approve the action agenda as presented; Councilman Thompson seconded the motion. The motion carried unanimously at 6:37 PM with the following action agenda items being approved:

- Item 3a. Draft minutes from the August 5, 2013, closed session meeting; and August 19, 2013, work session meeting.
- Item 3b. Squealin' on the Square request.
- Item 3c. Shindig request.
- Item 3d. Revisions to the Town of Clayton Customer Service Policy Manual.
- Item 3e. Revision to the Recreation Fees as posted in the Town's Comprehensive list of Fees and Charges.
- Item 3f. Resolution for Water and Sewer Systems Revenue Bonds, Series 2013 that will be sold to the USDA.
- Item 3g. Second supplement with NCDOT for the Clayton Community Center (CCC) Pedestrian Connector.
- Item 3h. Secondary road right-of-way agreement.

ITEM 4. INTRODUCTIONS AND SPECIAL PRESENTATIONS

Item 4a. Presentation of Constitution Week Proclamation.

Mayor McLeod read the Constitution Week Proclamation into the record:

TOWN OF CLAYTON Constitution Week 2013

WHEREAS, September 17, 2013, marks the two hundred and twenty-sixth anniversary of the drafting of the Constitution of the United States of America by the Constitutional Convention; and

WHEREAS, it is fitting and proper to officially recognize this magnificent document and the anniversary of its creation; and

WHEREAS, it is fitting and proper to officially recognize the patriotic celebrations which will commemorate the occasion; and

WHEREAS, public law 915 guarantees the issuing of a proclamation each year by the President of the United States of America designating September 17 through 23 as Constitution Week.

NOW, THEREFORE, the Honorable Mayor and Town Council do hereby proclaim September 17 through 23, 2013, to be

CONSTITUTION WEEK

In the Town of Clayton, North Carolina, and urge our citizens to reaffirm the ideals the Framers of the Constitution had in 1787.

Duly proclaimed by the Honorable Mayor and Town Council this 3rd day of September 2013, while in regular session.

Mayor McLeod presented the Constitution Week Proclamation to the following members of the Daughters of the American Revolution (DAR), Smith-Bryan

Chapter 3106 NC: Rebecca Owens, Regent; Phoebe Landfried; Mary Fuller and Clara Stark.

Item 4b. Presentation by the Public Art Advisory Board requesting to amend the by-laws of the membership and recommendation of public art projects for FY 13-14.

Suzette Rodriguez, Chair of the Public Art Advisory Board (PAAB), requested the following revisions to the PAAB by-laws;

- Amend the number of members from five to nine;
- Amend officer installation from December to November
- Amend the ex-officio members to include the deputy town member

Ms. Rodriguez stated the addition of members will assist with the anticipated projects before the PAAB.

Mayor McLeod stated his support for the PAAB by-law amendments.

Councilman Holder requested the terms reflect how they will be staggered for the increased membership.

Town Clerk Scoggins stated the PAAB does have staggered terms for the current membership and that can be revised to reflect equal distribution for the new members.

Town Manager Biggs stated Council may instruct staff to incorporate the staggered term structure.

Councilman Lawter motioned to approve the PAAB by-laws and staff amend the staggered terms for the additional members. Councilman Holder and Mayor Pro Tem Grannis simultaneously seconded the motion. Motion carried unanimously at 6:43 PM.

Ms. Rodriguez stated the projects proposed for next year are:

- Continue the Downtown Sculpture Trail
- Installment of student art along the long rails on the Sam's Branch Greenway

Ms. Rodriguez stated positive feedback was received for both projects. She stated to help off-set the costs for the Sam's Branch Greenway project, the PAAB has applied for a grant. She stated the PAAB enjoyed working with Mr. Georges Le Chevallier and invited him back to partner with Ms. Jane Roberts. She stated the Downtown Sculpture Trail is a success and added that Downtown Development Coordinator Bruce Naegelen has been a big help. She added the PAAB is looking into corporate sponsorships. She stated the PAAB would like

to invite the Council members to a retreat in January to develop a new five year plan.

Mayor McLeod stated the hope is to invite Ms. Janet Kagan to facilitate the next retreat. He stated the grant request is through Johnston County Arts.

Councilman Lawter stated initially he questioned if 40 were too many butterflies and he added more are needed. He questioned the number of works for placement along the Sam's Branch Greenway.

Ms. Rodriguez stated the pieces will be larger and she anticipates there being more pieces. She added the hope is to have an auction of the butterflies and re-use the funds for the upcoming project. She stated the details have not yet been finalized.

Mayor Pro Tem Grannis stated the PAAB is doing a great job. He stated he received the question of why there are no local artists in the Downtown Sculpture Trail. He stated his response was it was an open selection process and the local artists had an opportunity to participate.

Ms. Rodriguez stated that is correct.

Mayor McLeod stated the call will come through all of the Town communications.

Item 4c. Presentation of Christmas Village and Tree Lighting event request.

Planning Director David DeYoung stated the Christmas Village and Tree Lighting event request is slated for Thursday, December 5, 2013, from 6 PM to 8:30 PM. He stated the request is the temporary closure of Main Street between Smith Street and North O'Neil Street from 5 PM to 9 PM; and the closure of Horne Square and the Town Square parking lots and the usage of the Squares for the event.

Mayor Pro Tem Grannis stated he noticed the request is to temporarily close Main Street to Smith Street. He questioned the activities between Lombard Street and Smith Street.

Public Information Officer Stacy Beard stated Santa Clause will be at the Mosaic Garden and the doggie costume contest will be in that area.

Mayor Pro Tem Grannis motioned to approve the request as presented. Councilman Lawter seconded the motion. Motion carried unanimously at 6:50 PM.

Item 4d. Presentation of Christmas Parade request.

Planning Director David DeYoung stated the Christmas Parade request is for Saturday, December 14, 2013 with the parade beginning at 3 PM. He stated the request is for the temporary closure of Main Street between from US 70 Business HWY West to Robertson Street from 12 noon to 5 PM.

Mayor Pro Tem Grannis motioned to approve the request as presented; Councilman Holder seconded the motion. Motion carried unanimously at 6:51 PM.

Item 4e. Presentation of Halloween Parade request.

Planning Director David DeYoung stated the Halloween Parade request is for Thursday, October 31, 2013. He stated the event will begin at Horne Square, followed by a parade of trick-or-treaters down Main Street and ending at Town Square with activities. He stated the request is to temporarily close Main Street between Lombard Street to North O'Neil Street from 2 PM to 3:30 PM. He added the request is also for the use of Horne and Town Squares for this event.

Mayor Pro Tem Grannis stated the Town Halloween Parade does not include businesses between Smith Street and Lombard Street and questioned if consideration could be given to include that segment of businesses.

Planning Director DeYoung stated that can be included in the closure request.

Councilman Satterfield questioned if the time would need to be increased.

Mayor McLeod questioned how many businesses want to do this.

Public Information Officer Stacy Beard stated the owners of Mosaic Garden expressed an interest.

Town Manager Steve Biggs stated more can be requested for the closure to NCDOT and then evaluate if it is needed.

Councilman Holder questioned if Fayetteville Street or North O'Neil Street is the closing point on Main Street.

Planning Director DeYoung stated North O'Neil Street.

Councilman Holder motioned to approve the request with the points of closure on Main Street between Smith Street and North O'Neil Street. Councilman Lawter seconded the motion. Motion carried unanimously at 6:57 PM.

ITEM 5. PUBLIC HEARINGS

Item 5a. Public hearing for annexation petition 2013-07-01 submitted by Harvey Moss of C&H Rentals for property located at 1018 West Stallings Street.

Mayor Jody McLeod announced this item has been noticed for public hearing and anyone wishing to speak to come forward.

Town Manager Steve Biggs stated the request is in accordance with Town Ordinances to receive sewer services.

As no one came forward to speak on this item, Mayor McLeod closed the public hearing at 6:57 PM.

Councilman Satterfield stated that at one time the owner wanted to divide the lot and questioned if that is the intent of the owner.

Mayor McLeod stated that is not the intent of the owner. He stated Mr. Moss would like Town services in order to sell this property to a tentative buyer.

Mayor Pro Tem Grannis motioned to approve annexation petition 2013-07-01. Councilman Holder seconded the motion. Motion carried unanimously at 6:58 PM.

Item 5b. Public hearing for text amendments to Chapter 155 for the following sections:

- Section 155.400 “Access”
- Section 155.401 “Off-Street Parking and Loading”
- Section 155.403 “Signs”
- Section 155.713 “Sign Permit” &
- Section 155.714 “Common Signage Plan”

Planning Director David DeYoung provided a PowerPoint presentation on Chapter 155, Section 400 for Access. Planning Director DeYoung provided the following overview:

- Modified the off-street and loading to improve consistency and readability
- Modified access section of the code to group residential uses and non-residential uses and cross-access requirements
- Modified definitions
- Clarified need for driveway permits

Mayor McLeod opened the public hearing. As no one came forward, Mayor McLeod closed the public hearing at 7:03 PM.

Mayor Pro Tem Grannis motioned to approve text amendment Chapter 155, Section 400 as presented. Councilman Holder seconded the motion. Motion carried unanimously at 7:03 PM.

Mayor Pro Tem Grannis motioned to approve the Statement of Consistency and Reasonableness for the text amendment as included in the agenda packet. Councilman Thompson seconded the motion. Motion carried unanimously at 7:04 PM.

Planning Director DeYoung provided the following overview of Chapter 155, Section 401, Off Street Parking and Loading:

- Modified the layout and organization of this section of the code
- Clarified the Overlay standards
- Corrected the term from central business district to downtown overlay district
- Updated parking requirements
- Added bicycle parking requirements
- Updated circulation standards
- Updated shared parking standards
- Modified queuing standards

At the request of Council, Planning Director DeYoung continued with the remaining text amendments.

Planning Director DeYoung provided the following overview of Chapter 155, Section 155.403, Signs:

- Complete re-write of the sign section
- Review and recommendation by a sign sub-committee
- Eliminated Common Signage Plan and included a Master Signage Plan
- Included electronic signs, how often it can change, allowable colors, brightness restriction
- Additional signage for grand sales
- Added alternative sign plans
- Limits in-line tenants to one color
- Outparcels are separate from in-line tenants for signage requirements

Based upon question by Town Manager Biggs, Planning Director DeYoung stated when a new tenant comes in staff will dialogue with the owner about the new signage requirements.

Councilman Satterfield questioned in the past the Town has allowed 12 square foot of corporate signage in its company colors and questioned if that is in the master sign plan.

Planning Director DeYoung stated that is still within the Code.

Planning Director DeYoung stated the alternative sign plan is a new section and allows for creativity in sign design and it anticipates future innovative requests that may be outside the scope of the current code.

Mayor Pro Tem Grannis stated good job and he appreciated the time change intervals at 20 minutes for electronic signage.

Planning Director DeYoung provided the following overview of Chapter 155, Sections 155.713 and 155.714:

- Modified section 713 to incorporate the changes to the sign code
- Section 714 was abolished and now reflects reserved

Mayor Pro Tem Michael Grannis motioned to approve the text amendments to Chapter 155, Sections 401, 403, 713 and 714 as stated. Councilman Holder seconded the motion. Motion carried unanimously at 7:17 PM.

Mayor Pro Tem Michael Grannis motioned to approve the Statement of Consistency and Reasonableness for the text amendments for Chapter 155, Sections 401, 403, 713 and 714. Councilman Jason Thompson seconded the motion. Motion carried unanimously at 7:17 PM.

ITEM 6. OLD BUSINESS

Item 6a. Status of the acquisition of easements for the Clayton-Raleigh sewer transmissions project.

Town Attorney Katherine Ross stated there is continued contact with the residents who received written notification approximately 30 days ago. She stated that timeframe ended last week. She stated conversations that they have been able to have are good and are on-going. She added there may be one or two of the seven in which complaints will be filed by next week.

ITEM 7. NEW BUSINESS

Item 7a Resolution recognizing S. Ellis Hankins of the North Carolina League of Municipalities.

Mayor Pro Tem Michael Grannis motioned to approve the resolution as presented. Councilman Art Holder seconded the motion. Motion carried unanimously at 7:19 PM.

ITEM 8. STAFF REPORTS

Item 8a. Town Manager

Town Manager Steve Biggs distributed a hand-out on the collection of sales tax for the end of last fiscal quarter for 2012-2013; herewith attached. He provided an overview.

Town Manager Steve Biggs distributed a hand-out on the Front Street Schedule; herewith attached. He provided an overview.

Councilman Satterfield quested if the section from Walden Subdivision to the round-about is included.

Town Manager Biggs stated it is a Town goal that it will take place but it is beyond the scope of this contract.

Item 8b. Town Attorney

Town Attorney Katherine Ross stated no report.

Item 8c. Town Clerk

Town Clerk Sherry Scoggins stated no additional.

Item 8d. Other Staff

Customer Service Director Ann Game stated the Town is hosting a Community Shred Event on Saturday, October 12, 2013, at Town Square, from 8 AM to 2 PM.

Mayor Pro Tem Grannis questioned if there are limitations.

Customer Service Director Game stated this is for residents and there is a maximum of two garbage bags per car.

Public Information Officer Stacy Beard stated the Council is invited to attend a kick-off of a program sponsored by ElectriCities, Clayton High School, and the Town of Clayton for a project by the students of a science class to monitor the use of electricity in the home on Wednesday, September 4, 2013, at 12:45 PM. She stated each student will be given a device to learn how many kilowatts are

being used and track how weather impacts the use of electricity in the home. She stated the goal is to promote conservation and it has applications that are compatible with the high school curriculum. She added there will be a closing ceremony where the students share their information.

ITEM 9. OTHER BUSINESS

Item 9a. Informal Discussion and Public Comment.

Mr. John McFadden stated Ms. Patricia Treadway and he are both business owners on the east side of Lombard Street on Main Street. He stated they would both like to be included in the Halloween festivities. He stated it would be nice to have it down to the Mosaic Garden.

Item 9b. Council Comments.

Mayor Pro Tem Michael Grannis complimented the Operations Center staff on the professional and quick service for the restore of power on Main Street today at lunch time.

Councilman Butch Lawter stated while walking on the trail, he was approached by two different sets of people asking where they could go to get something to eat. He stated he spoke with the Town Manager and signage is being assessed.

ITEM 10. ADJOURNMENT

Councilman Art Holder motioned to adjourn; Councilman Butch Lawter seconded the motion. Motion carried unanimously at 7:32 PM.

Duly adopted by the Town Council this 16th day of September 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: 3b

Meeting Date: 9/16/13

- TITLE: PUBLIC NOTICE FOR THE FOLLOWING HEARINGS SLATED FOR MONDAY, OCTOBER 7, 2013, AT 6:30 PM:**
- **EVIDENTIARY HEARING FOR PRELIMINARY SUBDIVISION REQUEST FOR ASHCROFT SUBDIVISION LOCATED ON NORTH O'NEIL STREET; AND**
 - **PUBLIC HEARING FOR TEXT AMENDMENTS TO TOWN OF CLAYTON CODE OF ORDINANCES, CHAPTER 155 FOR THE FOLLOWING:**
 - **155.308 ACCESSORY USES AND STRUCTURES (FOOD TRUCK ADDITION)**
 - **155.405 OUTDOOR STORAGE AND DISPLAY**
 - **155.719 NONCONFORMITIES**

DESCRIPTION: Public notice.

RELATED GOAL: Legislative

ITEM SUMMARY:

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
9-16-13	Approval.	N/A

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

Agenda Item: 4a

Meeting Date: 9/16/13

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

DESCRIPTION: Introduction(s).

RELATED GOAL: Administrative

ITEM SUMMARY:

Date:

Action:

Info. Provided:

9-16-13

Introduction(s).

N/A.

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

Agenda Item: 5a

Meeting Date: 9/16/13

TITLE: PRESENTATION OF MEMORANDUM OF UNDERSTANDING BETWEEN THE RALEIGH-DURHAM JOHNSTON COUNTY, TRIANGLE FAITH, AND NONPROFIT COMMUNITY CONSORTIUM AND THE TOWN.

DESCRIPTION: Partnership to provide for education, hunger, nutrition, health, safety and security of its communities and to improve the lives of individual in those communities.

The primary objective for the consortium is to assist members and partners in building capacity, scope, impact, sustainability of community programs and services.

RELATED GOAL: Administrative

ITEM SUMMARY:

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
9-16-13	Presentation.	Memorandum of Understanding.

**Memorandum of Understanding
Raleigh-Durham, Johnston County, Triangle, Faith, and Nonprofit
Community Consortium and
The Town of Clayton, North Carolina**

WHEREAS, the Raleigh-Durham, Johnston County, Triangle, Faith, and Nonprofit Community Consortium (**RDJTFNCC**) and the **Town of Clayton**, North Carolina have come together to collaborate and partner in an effort to enhance and improve the lives of the citizens and communities for which they both serve and to explore development and operations of joint programs. Joint pursuit of grant and foundation funding opportunities will help channel the expertise and strengths of both parties and maximize value to citizens and customers while presenting on a united front.

WHEREAS, the partners listed below have agreed to enter into a collaborative agreement in which **RDJTFNCC** will develop a plan of action, objectives, and goals that are mutually beneficial to **RDJTFNCC** and the **Town of Clayton**, North Carolina, and.

WHEREAS, the partners herein desire to enter into a Memorandum of Understanding (MOU) that sets forth the initial objectives provided by this collaboration and partnership, and

WHEREAS, it is for the “greater good” of the Town of Clayton, NC and the nonprofit community to develop a collaboration to reduce duplication of effort, enhance services, develop capacity, initiate response, and positively impact the Town’s most vulnerable and general citizenry. It is in the community’s interest, and therefore, in the realm of the Town of Clayton, NC, to look beyond funding of individual programs by supporting or organizational capacity building efforts and partnerships for nonprofits serving populations most at risk, and

WHEREAS, this MOU is prepared and approved by the collaborative members and the Town of Clayton, North Carolina with the understanding that such document may be used to garner support from individuals, foundations, businesses, and other government agencies to enhance and improve the lives of the citizens and communities to which the collaborative partners serve. The use and submission of this document will only take place when all parties have agreed on the reasons, intent, efforts, events, programs, services, logistics, responsibilities, recipients, and timeframes.

I) Description of RDJTFNCC and List of Initial Members

See Attachment A.

II) Description of RDJTFNCC Organization

See Attachment B

III) List of Possible Types of Joint Interests:

1. Joint Funding
2. Individual and Organizational Funding
3. Shared Resources
4. Shared Facilities
5. Shared Expertise
6. Joint Training
7. Joint and Individual Projects Participation
8. Joint and Individual Community Support
9. Joint Program Implementation
10. Shared Network

IV) Roles and Responsibilities

NOW, THEREFORE, it is hereby agreed by and between the partners as follows:

1. All parties will clearly state the roles and responsibilities that each organization or agency will assume to ensure the success of proposed project(s).
2. Each partner will contribute to the project(s) either through time, in-kind contributions, or with the use of external funding and/or grant funds (e.g. office space, project staff, training).
3. **RDJTFNCC** representatives and the **Town of Clayton, North Carolina** representatives will constitute members of the planning and development team who will be responsible for planning, developing, implementing project activities, and will describe how they will work together and with the project staff.
4. **RDJTFNCC** and **Town of Clayton, North Carolina** will demonstrate a commitment to the partnership to work together to achieve stated objectives of this MOU, project goals, and methods by which to sustain a project once grant funds are no longer available.

V) Timeline

The roles and responsibilities described above are contingent on **RDJTFNCC** and the **Town of Clayton, North Carolina** receiving funding from sources other than the Town of Clayton for the projects described in an attachment to be a part of this MOU. The

collaboration and responsibilities outlined in this MOU will be reviewed on an annual basis to determine whether this agreement will be continued.

VI) Commitment to Partnership

- 1) The collaborative service areas include Clayton, North Carolina and other areas that the collaborative partners agree upon.
- 2) The partners agree to collaborate on specific types of services and programs that are deemed mutually beneficial.
- 3) Compensation for partners' contributions to mutually agreed upon funded projects will be provided as outlined in any budget that will be included in a grant or external funding source other than the Town of Clayton. .
- 4) We, the undersigned have read and agree with this MOU. All parties reserve the right to terminate this MOU at any time when interaction between parties is no longer deemed mutually beneficial.

IV. CONCLUSION

- A. The MOU, consisting of three (3) pages is the full and complete document describing the partnership between **RDJTFNCC and the Town of Clayton, North Carolina** on behalf of the parties, including all covenants, conditions, and benefits.
- B. The signatures of the parties affixed to this MOU affirm that they are duly authorized to represent their respective institutions on the terms and conditions set forth in this document.

By: _____ Date: _____

**Raleigh-Durham, Johnston County, Triangle,
Faith, and Nonprofit Community Consortium
(RDJTFNCC) Representative**

By: _____ Date: _____

**Town of Clayton, North Carolina
Representative**

**Memorandum of Understanding
Raleigh-Durham, Johnston County, Triangle, Faith, and Nonprofit
Community Consortium and
The City of Clayton, North Carolina**

Attachment-A

**Raleigh-Durham, Johnston County, Triangle, Faith, and Nonprofit
Community Consortium (RDJTFNCC)**

Raleigh-Durham, Johnston County, Triangle, Faith, and Nonprofit Community Consortium (RDJTFNCC) is a collaboration between Raleigh, Durham, Johnston County, and Triangle faith and nonprofit organizations that have closely partnered to provide for education, hunger, nutrition, health, safety, and security of its communities and to improve the lives of individual in those communities. This consortium wishes to work in collaboration and partnership with other faith and nonprofit organizations, businesses, federal, state and local government agencies, and foundations to address the economics, social, and hunger, nutrition, health, safety, and security concerns of individuals, women, children, youth, families, and the elderly. RDJTFNCC focuses on helping these groups, especially vulnerable populations that include households with women, children, working poor, and senior citizens.

The primary objective for the consortium is to assist members and partners in building capacity, scope, impact, and sustainability of community programs and services.

List of Initial Members:

1. Harbor, Inc. of Johnston County Domestic Violence and Sexual Assault Services
2. The Men of Distinction
3. Community Anchors Limited, Inc. (CAL), Apex, North Carolina
4. TK Leathers and Associates - Torch Rites of Passage Mentoring Program , Clayton, North Carolina
5. The North Carolina Coalition Against Sexual Assault's (NCCASA) Engaging Men's Rites of Passage Program, Clayton, North Carolina
6. Mount Vernon Christian Church, Clayton, North Carolina
7. White Rock Baptist Church Enrichment Center (WRBCEC), Durham, North Carolina
8. Business, Nonprofit, Church, Community International Institute (BNC²I²), Apex, North Carolina

**Memorandum of Understanding
Raleigh-Durham, Johnston County, Triangle, Faith, and Nonprofit
Community Consortium (RDJTFNCC) and
The City of Clayton, North Carolina**

Attachment B

Category - Domestic Violence and Sexual Assault

Harbor, Inc. of Johnston County

As Johnston County's only nonprofit agency for victims of domestic violence, sexual assault and women in transition, Harbor, Inc., provides safe, compassionate, and advocacy services, resources, and programs. Harbor, Inc. has a team of highly credentialed and experienced staff and volunteers who work diligently to assist women and children in need.

Harbor's services provide the following:

- 24-hour shelter for abused women and children
- 24-hour Crisis Line support
- Domestic violence, sexual assault, and life skills support groups
- Advocacy and support to victims and displaced homemakers
- Safety planning for victims trying to leave an abuser or victims who have left recently
- Support and guidance to family members of the victim
- Presentations to local clubs, churches, employers, groups to spread awareness about domestic violence and sexual assault

Harbor's programs:

- Court Advocacy program
- Sexual assault program
- Children's program
- New Choices program

Category – Youth Mentoring and Development

Men of Distinction

"Men of Distinction" was founded in 2003 to encourage and develop character, leadership, and service interests among young males at Clayton High School. Its mission is to help educate, inspire and provide leadership to the male youth at Clayton High School. The group's motto, "WE STAND TALL: To Achieve Learn Love," was developed with the belief that "if we stand for nothing, we will fall for anything," according to the group's founder and advisor Marlon Lee, who serves as Student Advocate at Clayton High School. "Our goal is to help close the achievement gap

across the state and nationwide by encouraging strong self-esteem and maintaining a positive attitude at all times,” says Lee.

Men of Distinction programs are intended to provide mentors for students, help develop and maintain positive self-esteem, develop leadership skills, and provide career planning assistance.

Objectives:

- Help close the achievement gap of minority students across the state and nationwide
- Reduce the school dropout rate
- Increase end-of-grade test scores
- Increase graduation rates
- Reduce the number of suspensions and unexcused absences
- Help prepare students for successful entry into college, armed forces, or the workforce
-

Programs:

- Education Advisement
- Self-esteem Development
- Leadership Skill Training
- Career Planning

Outcome Goals

- At least 80% of the participants in the Men of Distinction programs will accomplish the following.
 - Become a model citizen in school and their communities
 - Maintain at least a “C” grade-point average in their academic work
 - Graduate from high school
 - Apply for college, armed forces, or the workforce upon graduation from high school

The North Carolina Coalition Against Sexual Assault’s (NCCASA) Engaging Men Rites of Passage Program, Clayton, North Carolina

The North Carolina Coalition Against Sexual Assault’s **Engaging Men Rites of Passage Program assists young men between the ages of 13 and 17 years of age in transitioning** from one stage of life to another. This transitional stage is often challenging and uncomfortable, and frequently places the participants between two worlds. He is no longer solely a part of his old life as a child, and neither is he fully assimilated into his new life as a young man. This new life is generally referred to as

“young manhood.” **The Engaging Men Rites of Passage Program (EMROPP), works in concert with the North Carolina Coalition Against Sexual Assault Memorandum of Understanding Partners** and teaches and promotes commonly shared societal values and principles necessary for the participants to appropriately move to the next stage of life. In order for the community to sanction and/or approve the participant’s move to the next stage of his life (young manhood), **the participant must pass a series of tests which promote his self/cultural heritage; his relationship with and to girls and women and their value; cognitive skills; physical development; economic intelligence; and the role he has in the creation of a better and safer society for all people regardless of their “unique selves.”**

TK Leathers and Associates - Torch Rites of Passage Mentoring Program, Apex, North Carolina

TK Leathers and Associates “Torch” Rites of Passage Program (ROPP)” is designed for school age children/adolescents between 6 and 17 years of age. The program’s focus is to mentor young boys and girls through 9 monthly three hour educational workshops and other activities. The emphasis of these workshops focuses on, but is not limited to identity, character building, self-discipline, citizenship, community service, goal setting, etiquette, personal hygiene, leadership skills, higher education, and workforce readiness.

Category – Disaster Preparedness, Response, and Recovery, Safety, and Security

Community Anchors Limited, Inc. (CAL)

The Mission of Community Anchors Limited, Inc. is to develop and maintain programs and services to assist individuals of natural and industrial disasters in North Carolina. Additionally, CAL provides national and international linkages with faith-based entities, social service providers, educational programs, medical and mental health services, and rehabilitative services. The goal of CAL is to empower distressed individuals to live functional lives.

Our Goal

- Community Anchors Limited, Inc. seeks to educate the public about disaster relief and form collaborative relationships (particularly in North Carolina counties) that can be accessed by the public in times of need. In particular, we seek to build strong relationships with those entities considered to be resources in a time of crisis:

Partnerships:

- Mental Health Organizations (MHOs)
- Community-Based Organizations (CBO)
- Community Colleges and other Educational Institutions
- Governmental Resources

- The Faith Community (churches, temples, mosques, and other faith-based entities)

Divisions

- Preparedness Division
- Response Division
- Recovery Division
- Construction Division

TRAINING AND TEAM DEVELOPMENT

- Individual emergency and disaster response training (IEDRT)
- Family emergency and disaster response team (FEDRT)
- Community Emergency Response Team Training (CERT)
- Neighborhood Emergency and Disaster response team training (NEDRT)
- Church emergency and disaster response team training (CEDT)
- Business emergency and disaster response team training (BEDRT)
- University emergency and disaster response team training (UEDRT)

ASSESSMENTS

- Individual emergency disaster response assessments
- Individual emergency and disaster recovery assessments
- Individual insurance assessments
- Home and business structure risk assessments
- Home and business inventory assessments
- Home and business insurance assessments
- Family emergency and disaster response assessments
- Family emergency and disaster recovery assessments
- Community emergency and disaster response assessments
- Community emergency and disaster recovery assessments
- Church emergency and disaster recovery assessments
- Business impact analysis
- Data protection assessment
- Information archiving assessment
- Disaster recovery assessment
- Information assessment
- Disaster recovery assessment
- Information technology assessments
- Storage assessments
- Virtualization assessments
- Vulnerability assessments

- Threats and risk assessment

PLANNING

- Individual emergency and disaster preparedness planning
- Individual disaster recovery planning
- Community emergency and disaster preparedness planning
- Community emergency and disaster response planning
- Community emergency and disaster recovery planning
- Church emergency and disaster preparedness planning
- Church emergency and disaster response planning
- Church emergency and disaster response planning
- Business emergency and disaster preparedness planning
- Business emergency and disaster response planning
- Business emergency and disaster recovery planning
- University and college emergency and disaster preparedness planning
- University and college emergency and disaster response planning
- University and college emergency and disaster recovery planning

Category – Faith Based Community Programs and Services

Mount Vernon Christian Church (MVCC), Clayton, North Carolina

Outreach Programs

Mount Vernon Christian Church is a vibrant and growing church dedicated to the renewal of the individual and community through emphasis on education, entrepreneurship, technology, mentoring, social and community activism and compassion.

White Rock Baptist Church Enrichment Center (WRBCEC), Durham, North Carolina

The mission of the WRBCEC is to provide religious, charitable, and educational training and guidance programs and services that are timely, effective, efficient, and impactful to local, national, and international communities that are concerned with and are impacted by issues which include but are not limited to economics, health, seniors, women, families, and children. WRBCEC is an incorporated 501(c)(3) nonprofit organization established in the state of North Carolina, authorized and structured to conduct and provide religious, charitable, and educational programs and services that benefit the WRBC membership and the global community.

Constituencies

White Rock Baptist Church Enrichment Center, Inc. (WRBCEC) constituencies are church members, other faith-based organizations, foundations, corporations, general

public, government, nongovernmental organizations (NGO's), private, local, regional, national and international individuals, organizations and community services, and other governmental and NGOs that will partner and/or use the capabilities and resources of each organization, such as those listed below.

- Arts, Culture, and Humanities
- Education
- Environment, Animals (environmental quality, protection and beautification)
- Health (general and rehabilitative services)
- Mental health, Crisis Intervention
- Human Services
- International and Foreign and Affairs
- Public Society Benefit (civil rights, social action advocacy)
- Medical Research Education
- Mental Health
- Children and Youth Violence
- Community Development
- Mentoring
- Music
- Performing Arts
- Philanthropy and Voluntarism
- Science/Technology
- Substance Abusers
- Youth Development
- Welfare-To-Work Families
- Workforce Development
- Women's Programs
- Violence Against Women
- Men's Programs
- Senior Programs

Category – Education

Business, Nonprofit, Church, Community International Institute (BNC²I²), Apex, North Carolina

BNC²I² is a North Carolina charitable and educational non-profit organization dedicated to training and educating adults, youth, current and future businesses, nonprofits, churches, and community leaders, members, and citizens.

BNC²I² Youth Academy Programs operates on an 8-month cycle from September to May and is divided into two semesters Fall and Spring. The Youth Academy also has a Summer Session for 8 weeks which starts the last week in June and ends the last week of July.

BNC²I² Youth Academy is composed of two tracks: the first, for ages 11-14, grades 5,6,7,8 (Youth). The second is for ages 15-18, grades 9,10,11,12 (Pre Young Adult).

Youth Programs

- Self Awareness, Discovery, and Planning
- Life Skills
- Education, Analysis, and Innovation
- Leadership

- Critical Thinking
- Finance
- Marketing
- Social Responsibility
- Entrepreneurship
- Teamwork
- Technology Skills
- Citizenship
- Community Service
- Work Readiness
- College Readiness

Draft

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

Agenda Item: 5b

Meeting Date: 9/16/13

TITLE: PRESENTATION OF PRELIMINARY SUBDIVISION REQUEST FOR ASHCROFT SUBDIVISION LOCATED ON NORTH O’NEIL STREET ADJACENT TO THE SAM’S BRANCH GREENWAY TRAILHEAD.

DESCRIPTION: The applicant, The Harnett Land Group LLC, is requesting approval of the Ashcroft subdivision for a development that includes 150 residential units (104 single family and 46 townhomes).

Overview of action at this site:

File	Action	Date
SUB 06-02	Approval of Preliminary Subdivision Request	5/15/2006
2006-06-01 (Annexation Petition)	Approved	Adopted 7/17/2006; Effective 12/31/2006
Variance 06-06 (BOA)	Approval	8/16/2006
PDD 09-05	Withdrawn by applicant	4/5/2010
PDD 2010-46	Approved	3/7/2011
2011-007 (Resolution)	Approved (37,500 gpd)	3/7/2011

This item is slated for an evidentiary hearing at the October 7, 2013, Council meeting.

RELATED GOAL: Manage Growth Producing Quality Developments

ITEM SUMMARY:

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
9-16-13	Presentation.	Staff report, Subdivision Application, Neighborhood Meeting Information, Site Plan, and Wastewater Allocation Request (7/30/13).



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

Town Council

STAFF REPORT

Application Number: PSD 2013-51 (Preliminary Subdivision approval)
Project Name: Ashcroft

NC PIN: 166900-75-1610
Town Limits/ETJ: Town Limits
Overlay: Watershed Protection Overlay
Applicant: The Harnett Land Group, LLC
Owners: Johnston Land Group, LLC
Developer: The Harnett Land Group, LLC

Neighborhood Meeting: Held August 12, 2013
Public Noticing: Property posted August 15, 2013
Planning Board Meeting: Held August 26, 2013

PROJECT LOCATION: The project is located on North O'Neill Street at the trailhead of the Sam's Branch Greenway.

REQUEST: The applicant is requesting preliminary subdivision approval of the Ashcroft residential development, which includes 150 residential units (104 single family and 46 townhomes).

SITE DATA:

Acreage: 74.64 acres
Present Zoning: PD-R
Proposed Zoning: PD-R (no change)
Existing Use: Vacant, Sam's Branch Greenway

DEVELOPMENT DATA:

Proposed Uses: Residential development to include 150 units, including 104 single family units and 46 townhomes.
Proposed Density: 2 units/acre. The maximum allowed is 2 units/acre because the site is located in the Watershed Protection Overlay.

Impervious Surface:	944,809 square feet (21.7 acres, or 29%). Maximum impervious permitted is 36% or 2 units/acre because the site is located in the Watershed Protection Overlay.
Required Parking:	N/A.
Proposed Parking:	N/A.
Fire Protection:	The Town of Clayton Fire Department will provide fire protection.
Access/Streets:	One access to the subdivision shall be provided off of O'Neil Street.
Water/Sewer Provider:	Town of Clayton
Electric Provider:	Town of Clayton

ADJACENT ZONING AND LAND USES:

North:	Zoning:	Residential Estate (R-E)
	Existing Use:	Single Family Residential, Vacant
South:	Zoning:	Residential Estate (R-E)
	Existing Use:	Single Family Residential, Sam's Branch Greenway
East:	Zoning:	Residential Estate (R-E)
	Existing Use:	Single Family Residential
West:	Zoning:	Residential Estate (R-E)
	Existing Use:	Single Family Residential, Agriculture

STAFF ANALYSIS AND COMMENTARY:

The applicant is requesting re-approval of a residential Planned Development known as Ashcroft. The Ashcroft preliminary subdivision/master plan was most recently approved in March of 2011 (PDD-R 2010-46), but this approval has since expired and so this request is treated as a new subdivision approval. Other previous approvals date back to 2010 and 2007 (PD-R 09-05 and S 07-01). This request is very similar to the most recent approved preliminary subdivision.

As the property is zoned PD-R, a master plan is required. Per Section 155.705(E)(3) of the Unified Development Code, a master plan which meets the requirements for submittal for a preliminary subdivision plat may be approved as the master plan for the development and the preliminary plat concurrently. The applicant has chosen this option and is requesting concurrent approval.

➤ **Consistency with the Strategic Growth Plan**

The proposed subdivision 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 provides a buffer around the perimeter of the property to protect adjacent land uses, and provides access easements to adjacent properties that are landlocked.

➤ **Landscaping and Buffering**

The site plan meets all applicable elements of the UDC landscaping requirements. A Class “C” buffer is provided along the perimeter of the property, with the exception of the portion of the property bounded by Sam’s Branch creek. In this location, the existing riparian buffer provides an adequate buffer and no additional plantings are necessary.

➤ **Recreation and Open Space**

The property provides 11.98 acres in recreation and open space (well above the 12.5%, or 3.08 acres required), which includes 6.55 acres of dedicated open space plus 5.46 acres for a park, which will be dedicated to the Town for use as a trailhead and public park.

12.04 acres of the site are located in a greenway easement (11.64 acres of that area is “resource conservation area”) and includes the existing paved Sam’s Branch Greenway which runs from the trailhead at O’Neil Street down to the River Walk on the Neuse. In addition to the trailhead, the development will include four 20’ greenway/utility easements, which will provide paved trail access from the internal roadways to the trail.

➤ **Environmental**

The project is located in the Watershed Protection Overlay (WPO) and the southern property line is delineated by Sam’s Branch creek. A 50 foot riparian buffer is required on both sides of the creek and is provided on the proposed preliminary subdivision plan. WPO standards are set via Section 155.501 of the Unified Development Code; all requirements have been met. The overall impervious is limited to 36% or 2 dwelling units per acre and curb and gutter will be utilized on the streets. Generally, lots within the WPO are not permitted to be less than 1/3 acre, but because the development meets the standards of an Open Space Subdivision smaller lot sizes are permitted.

No lots are located in the 50 foot riparian buffer as a variable width greenway easement is in place along the creek, which includes the existing paved Sam’s Branch Greenway.

Several lots are partially located in the 100-year flood zone. The applicant is working with the Town Engineer to address any changes to the 100-year flood zone line that may be necessary to place homes on these lots. No buildings will be permitted within the 100-year flood zone, and because the 100-year flood zone is considered a “resource conservation area” (per Section 155.500 of the UDO), the area is required to remain undisturbed except for maintenance to remove litter, and dead trees and plant materials.

Open space has been configured to protect stands of existing trees.

➤ **Utility Allocation**

A utility allocation of 49,740 gpd has been requested by the applicant.

➤ **Signs**

No signage is requested at this time.

➤ **Access**

Access is provided via a driveway off of O’Neil Street. NCDOT driveway permits will be required. Proposed improvements to O’Neil Street include dedicated right and left turn lanes into the development.

➤ **Multi-Modal Access**

Sidewalks are provided throughout the subdivision on both sides of the street, with crosswalks. Access is provided in five locations (including the trailhead) to the existing Sam’s Branch Greenway, which abuts the residential development. The greenway connects to the existing River Walk on the Neuse greenway (which is part of a 30+ mile uninterrupted paved greenway along the Neuse River and a part of the Mountains to Sea Trail). The Sam’s Branch Greenway is proposed to connect to downtown Clayton.



The existing Sam’s Branch Greenway runs along the southern border of the proposed development.

➤ **Architecture**

N/A.

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

As provided in Section 155.706 (I)(7) a waiver to UDO Section 155.602 (G)(2) cul-de-sac length is requested due to dead end sections exceeding 700’ are indicated on the plan. The staff recommends favorable consideration of this waiver due to the presence of Sam’s Branch and associated riparian buffers.

CONSIDERATIONS:

- The applicant is requesting concurrent approval of the master plan and preliminary subdivision plat.
- A utility allocation request of 49,740 gpd is being requested. Town Council approves all allocation requests above 10,000 gpd.
- A waiver to UDO Section 155.602(G)(2) is requested to exceed the maximum permitted cul-de-sac length.

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 155.706(l)(10) required for a subdivision. The applicant's Findings of Fact are incorporated into the record as Exhibit A of the Staff Report.

RECOMMENDATION:

Staff is recommending:

- 1) Approval of the preliminary subdivision waiver to UDC Section 155.602(G)(1) to allow the cul-de-sac length to exceed 700 feet.
- 2) Approval 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:
 1. All conditions of approval associated with PDD-R 2010-46 (approved March, 2011) are hereby deleted and replaced as follows.
 2. 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.
 3. 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.
 4. 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.
 5. Approved street names and addresses shall be applied to the plat prior to recording.
 6. 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.
 7. The street connection to N. O'Neil Street (SR 1708) shall be approved by NCDOT prior to recording final plats.
 8. Improvements to O'Neil Street (SR 1708) shall include the recommended conditions as shown in the Traffic Impact Analysis prepared by Martin Alexiou Bryson and dated September 10, 2009, including the construction of a 125-foot left turn lane and the dedication of necessary right-of-way and construction of a 125-foot right turn lane into the development.
 9. A development agreement between the developer and the Town of Clayton shall be executed regarding dedication of 5.46 acres of land for a public park.
 10. The lots at the eastern end of the project shall not be recorded until NCDOT completes a preliminary alignment analysis for the Clayton Parkway.

11. Homeowners Association documents which provide for maintenance and management of all common facilities must be recorded prior to any final plats.
12. Existing 100 year flood zone encroachment issues shall be resolved before any non-drainage related improvements occur in the impacted area.

PLANNING BOARD RECOMMENDATION:

All Planning Board members recommended approval of the rezoning to PD-R to the Town Council. All Planning Board members recommended approval of the preliminary subdivision with the 12 conditions listed in the staff report to the Town Council. All Planning Board members recommended approval of the preliminary subdivision waiver to UDC Section 155.602 (G) (1) to allow the cul-de-sac length to exceed 700 feet.

Note: After the Planning Board meeting was held, Town Attorneys have advised that the request should not include a rezoning. Instead, it will only involve the concurrent approval of the preliminary subdivision plan and the master plan.

Attachments: 1) Findings of Fact, 2) Map, 3) Rezoning Application, 4), Subdivision Application, 5) Neighborhood Meeting Materials, 6) Master Plan/Subdivision Plan

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 subject property is zoned PD-R. The subject property will comply with all zoning requirements of the Town of Clayton 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.

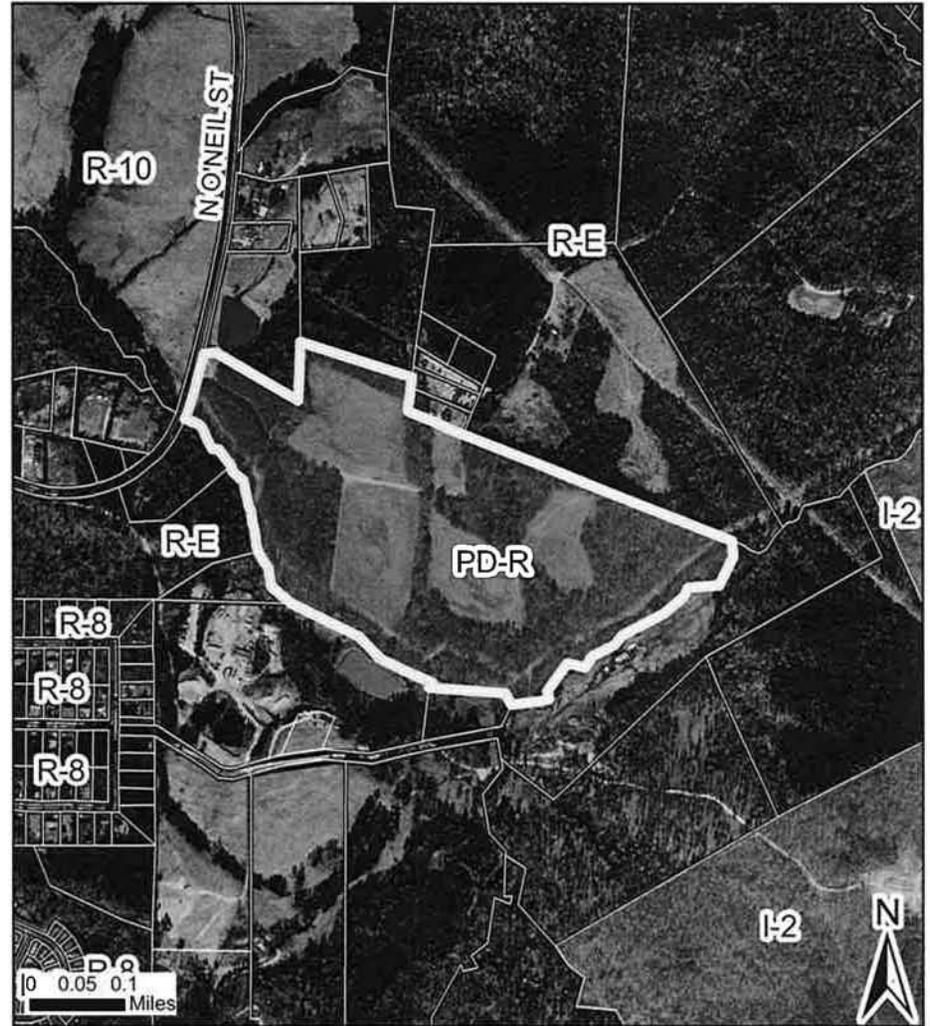
The subject property will complement the surrounding properties. The location of subject property in relation to downtown Clayton will encourage continued residential growth and development of the surrounding properties.

- (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 subject project will provide proper distribution of traffic to avoid congestion to the public in the immediate area. The project will provide products and service to the public that are desired and will not endanger the environment or public.

- (4) That the subdivision will not adversely affect the general plans for the orderly growth and development of the town and is consistent with the planning policies adopted by the Town Council.

The subject property is located in the resource conservation area and will complement The surrounding properties.



**Ashcroft Subdivision
Subdivision and Master Site Plan**

Applicant: Jonathan Barnes, Dalton Engineering
 Property Owner: JOHNSTON LAND GROUP LLC
 Parcel ID Number: 166900-75-1610
 File Number: PSD 2013-51

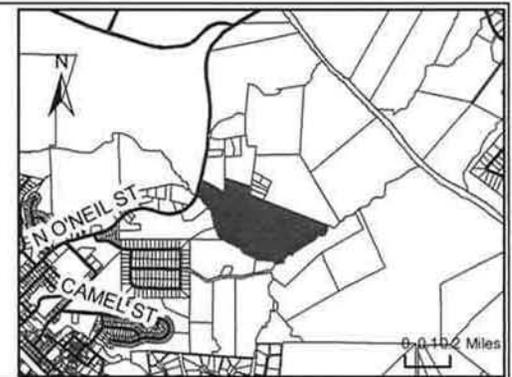
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Produced by: TOC Planning

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



7/19/13





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: Ashcroft Subdivision Acreage of Property: 74.64 acres
 Preliminary Plat Approval Date (if applicable): _____
 Parcel ID Number: 166900-75-1610 Tax ID: 05H02015A
 Location: North O'Neil Street
 Section(s): _____ Phase(s): 6
 Number of Lots (Existing): 0 (Proposed): 150 Min. Lot Size: 6000sf
 Zoning District: PD-R Planned Development? (Y/N): Y Electric Provider: TOC
 Specific Use: Residential Subdivision
 Recreation/Open Space Requirement: Fee in lieu Land Dedication (acreage) 11.98

FOR OFFICE USE ONLY

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

OWNER INFORMATION:

Name: The Harnett Land Group, LLC.

Mailing Address: PO Box 427, Mamers, NC 27552

Phone Number: (919) 606-4696

Fax: _____

Email Address: cdb1971@gmail.com

APPLICANT INFORMATION:

Applicant: The Harnett Land Group, LLC.

Mailing Address: PO Box 427, Mamers, NC 27552

Phone Number: (919) 606-4696

Fax: _____

Contact Person: Dustin Blackwell

Email Address: cdb1971@gmail.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.

Print Name

Signature of Applicant

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 subject property is zoned PD-R. The subject property will comply with all zoning requirements of the Town of Clayton 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.

The subject property will complement the surrounding properties. The location of subject property in relation to downtown Clayton will encourage continued residential growth and development of the surrounding properties.

- (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 subject project will provide proper distribution of traffic to avoid congestion to the public in the immediate area. The project will provide products and service to the public that are desired and will not endanger the environment or public.

- (4) That the subdivision will not adversely affect the general plans for the orderly growth and development of the town and is consistent with the planning policies adopted by the Town Council.

The subject property is located in the resource conservation area and will complement The surrounding properties.

Dalton Engineering

and Associates, P.A.



8/14/13

To: Town of Clayton
Planning Department
Post Office Box 879
Clayton, North Carolina 27528

Sub: Ashcroft Subdivision
Minutes from Neighborhood Meeting

Meeting Date : Monday, August 12, 2013

Location : Dalton Engineering and Associates, P.A.
446 East Main Street
Clayton, North Carolina 27520

Time : 6:00 p.m. – 6:50 p.m.

Comments : There are thirteen property owners adjacent to subject project. On July 31, 2013, our office mailed the invitations to the adjacent landowners to inform each of the Neighborhood Meeting for the project.

To our office's knowledge, there have been a total of two (2) inquires about the project :

1. The first inquiry came from Steven Blalock, representing Four Oaks Bank and Trust. Mr. Blalock called our office on the morning of 8/12/13 and said he would not be able to attend the Neighborhood Meeting. However, he did have a question regarding access to the parcel of property that Four Oaks Bank and Trust owns, located adjacent to (North side) Ashcroft.

My response to Mr. Blalock was that the proposed Preliminary Layout for Ashcroft included a subdivision street stub to the Four Oaks parcel. The street stub is labeled as " Street H " on the Preliminary Layout, and is shown as tying directly to the main access drive of the project.

At the conclusion of our conversation, Mr. Blalock commented that " The Bank is in full support of the project " .

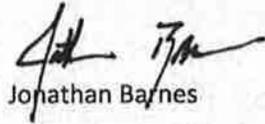
2. The second inquiry came from Bobby Hardee, who is one of the adjacent landowners. Mr. Hardee called our office on the afternoon of 8/12/13, and then stopped by our office to view the Preliminary Layout for the project. Other than myself, he was the only attendee present at the Neighborhood Meeting.

After looking over the Preliminary Layout, I explained that the current layout had not changed since being previously approved by the Town of Clayton.

Mr. Hardee did not present any questions or concerns regarding the project.

If there are any questions, please do not hesitate to call or e-mail.

Thank you.



Jonathan Barnes

Dalton Engineering and Associates, P.A.

(919) 550 - 4740 office

jbarnes@daltonengineering.com

Dalton Engineering

and Associates, P.A.
446 East Main Street
Post Office Box 426
Clayton, NC 27528

(919) 550-4740
Fax (919) 550-4741

PROJECT NO. 13-031

PAGE NO. 1 OF 1

PROJECT ASHCROFT

CALCULATED BY JWB

DATE 8/12/13

CHECKED BY

DATE

SUBJECT NOTE TO FILE

ASHCROFT - NEIGHBORHOOD MEETING @ DALTON ENGINEERING & ASSOC.
- 8/12/13 @ 6:00 P.M.

ATTENDEES : NAME ADDRESS & CONTACT NUMBER

1. BOBBY HARDEE

2019 Harder Ln. Clayton
919-553-6626

2. JONATHAN BARNES

446 EAST MAIN STREET
CLAYTON, NC 27520
(919) 550-4740

Dalton Engineering

and Associates, P.A.



July 31, 2013

166900-76-1784
Amanda Benson
1380 N. O'Neil St.
Clayton, NC 27520

Dear Clayton Area Property Owner:

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

Meeting Date: Monday, August 12, 2013

Location: Dalton Engineering
446 East Main Street
Clayton, NC 27520

Time: 6:00 pm.

Type of Application: Plan Development-Residential

General Description: Plan Residential Development Consisting of multiple types of single family housing.

If you have any questions prior to or after this meeting, you may contact the Clayton Planning Department at (919) 553-5002.

Thank you very much.

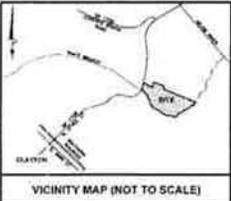
Sincerely,

Jonathan Barnes
Dalton Engineering and Associates, P.A.
(919) 550-4740

cc. Clayton Planning Dept

Properties within 100 feet of Ashcroft - for noticing purposes (neighborhood meeting and adjacent property notification)

NAME1	ADDRESS1	CITY	STATE	ZIPCODE
BENSON, ANTHONY MARK	1378 B N ONEIL ST EXT	CLAYTON	NC	27520-0000
CAPPS, BILLY WADE	1119 N ONEIL STREET EXT	CLAYTON	NC	27520-6240
EARP, RAYMOND ELMORE JR & MARY MOORE	7230 NC 42 EAST	SELMA	NC	27576-0000
FOUR OAKS BANK & TRUST	PO BOX 309	FOUR OAKS	NC	27524-0309
HARDEE, BOBBY H & NANCY O	2019 HARDEE LANE	CLAYTON	NC	27520-9822
HARDEE, JOSEPH T	2020 HARDEE LANE	CLAYTON	NC	27520-0000
JOHNSTON LAND GROUP LLC	PO BOX 591	MAMERS	NC	27552-0000
JONES, TRACY L & DEANNA L	1504 N ONEIL ST EXT	CLAYTON	NC	27520
MASSEY, JOHN WESLEY	8041 ST ANDREWS DR	LAURINBURG	NC	28352-0000
MCINTYRE, MARTHA ANN	1233 MT CARMEL CHURCH RD	TROY	NC	27371-0220
SUBURBAN REAL ESTATE	P O BOX 759	SMITHFIELD	NC	27577-0000
WALL, STEVIE GLENN & JACKIE	1376 NORTH ONEIL STREET EXT	CLAYTON	NC	27520-0000



- LEGEND**
- OPEN SPACE
 - GREENWAY EASEMENT
 - ACCESS EASEMENT
 - 10' EASEMENT LINE
 - SECONDARY STREET AVAILABLE
 - 4" GRAVITY SANITARY SEWER LINE
 - 4" WATER LINE
 - FIRE HYDRANT ASSEMBLY (FH)
 - STORM INLET
 - STORM DRAINAGE



NOTE: CONSTRUCTION DRAWINGS ARE TO BE SUBMITTED TO THE TOWN OF CLAYTON PUBLIC WORKS ENGINEERING DIVISION FOR REVIEW AND APPROVAL.

NOTE: RESERVE EASEMENT PLANS APPROVAL IS NECESSARY FOR FUTURE CONNECTION TO NORTH CREEK STREET.

MATTHEW ANN SCHNEIDER
CIVIL ENGINEER
PH # 1-800-333-4119
2008-01-01

BULLMAN REAL ESTATE
CIVIL ENGINEER
PH # 1-800-333-2947
2008-01-01

BOBBY & JENNY HANCOCK
CIVIL ENGINEER
PH # 1-800-333-8423
2008-01-01

ROBERT WATSON
CIVIL ENGINEER
PH # 1-800-333-1111
2008-01-01

EDITH ANTHONY HARTY
CIVIL ENGINEER
PH # 1-800-333-1111
2008-01-01

ALLAN T. HARTY
CIVIL ENGINEER
PH # 1-800-333-1111
2008-01-01



REVIEW ONLY

**PRELIMINARY UTILITY LAYOUT
FOR
ASHCROFT
TOWN OF CLAYTON - JOHNSTON COUNTY, NC**

REVISION 001: ADDRESS TOWN OF CLAYTON COMPLETION # 874-01
REVISION 002: ADDRESS TOWN OF CLAYTON COMPLETION # 1728-01



Dalton Engineering and Associates, P. A.
 446 East Main Street
 P.O. Box 426
 Clayton, NC 27520

(919) 558-7400
 Fax (919) 566-1741

Job: 13031	Date: 7/1/13	Revision: 0112
File: UTILITY	Drawn: CSB	Sheet: 2 OF 3

Dalton Engineering

and Associates, P.A.



7/30/13

To: Mr. Steve Biggs
Town of Clayton
PO Box 879
Clayton, North Carolina 27520

Sub: Ashcroft
Request for Sewer Allocation

On behalf of the Owners/Managers of the Ashcroft (The Harnett Land Group), I hereby request a total sewer allocation, as indicated in the attached spreadsheet. This information was adjusted relative to the previous request based on change of ownership in the project and their plans to phase the project differently than previously proposed.

The quantity used in the spreadsheet calculations, relative to volume per bedroom, was previously provided by the Town.

Thank you for considering this request. It is my understanding that this approval of allocation is the only outstanding issue for this project.



Jerry T. Dalton, PE



Schedule of Sewer Usage - Revised

7/24/2013

Ashcroft

	<u>Approx Total</u>	<u>Year 1 (2014)</u>	<u>Year 2 (2015)</u>	<u>Year 3 (2016)</u>	<u>Totals</u>
Single Family	104 units	Requested: 9,945	10,280	10,195	30,420
3 bdrm		Daily Flow: 17 units	17 units	18 units	
4 bdrm		17 units	18 units	17 units	
Town Homes	46 units	Requested: 6,240	6,360	6,720	19,320
3 bdrm		Daily Flow: 8 units	7 units	8 units	
4 bdrm		7 units	8 units	8 units	
		<u>16,185</u>	<u>16,640</u>	<u>16,915</u>	

<u>Town of Clayton - Acceptable Values</u>	
<u>Single Family:</u>	
Flow/Unit (gal/day)	250 (3 bdrm)
	335 (4 bdrm)
<u>Townhomes</u>	
Average Bedrooms	3 & 4
Flow/Bdrm (gal/day)	120

Total Request for Allocation (gpd) ----->

49,740

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

Agenda Item: 5c

Meeting Date: 9/16/13

TITLE: PRESENTATION OF TEXT AMENDMENTS TO THE TOWN OF CLAYTON CODE OF ORDINANCES, CHAPTER 155 FOR THE FOLLOWING:

- 155.308 ACCESSORY USES AND STRUCTURES (FOOD TRUCK ADDITION);
- 155.405 OUTDOOR STORAGE AND DISPLAY;
- 155.719 NONCONFORMITIES.

DESCRIPTION: This item is slated for a public hearing at the October 7, 2013, Council meeting.

RELATED GOAL: Manage Growth Producing Quality Developments

ITEM SUMMARY:

Date:

Action:

Info. Provided:

9-16-13

Presentation.

Text Amendments (3).

155.308 (D) Accessory Uses in Nonresidential Districts

~~(2) *Outdoor seating and dining.* Outdoor seating and dining may be allowed subject to major site plan approval by the Planning Board (see § 155.707).~~

(2) Food Truck

A food truck is a mobile food service establishment that prepares ~~and~~ serves food and/or beverages for sale to the general public on a recurring basis from a truck, vehicle-mounted, or vehicle-towed piece of equipment designed to be readily moved.

(a) Permits Required

1. Prior to the issuance of a Zoning Compliance Permit, food truck vendors must provide documentation of approval from the ~~H~~health ~~D~~epartment of the County in which the food truck's associated restaurant or commissary is located.
2. The food truck vendor must apply to the Town of Clayton Planning Department for a Zoning Compliance Permit. The Planning Department will verify that the proposed location meets the requirements of this Section and other applicable provisions of the Unified Development Code.
3. The food truck vendor must obtain an annual Zoning Compliance Permit and Privilege License from the Town.
4. The Zoning Compliance Permit, Privilege License and County Health Permit must be displayed during hours of operation.
5. The Zoning Compliance Permit issued for the food truck business may be revoked if the vendor violates any of the provisions contained in this Section.
6. The Town Manager reserves the right to temporarily suspend food truck permits during times of special events in the downtown area.

(b) Exemptions

1. This Section shall not apply to food truck with applicable valid Health Department permits vending at any market, festival, or event authorized by the Town.
2. Food trucks with applicable valid Health Department permits may temporarily locate within an active construction site to serve construction workers.

(c) Public Safety

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

(d) General Location Requirements

3. Food trucks must be located on private property with written permission from property owner.
4. Food trucks shall be positioned at least 400 feet from the customer entrance of an existing restaurant during hours of operation, unless the vendor provides documentation that the restaurant owner supports a closer proximity.
5. Food trucks shall not block parking spaces, drive aisles, access to loading/service areas, or emergency access and fire lanes. Food truck vending must also be positioned at least 15 feet away from fire hydrants, any fire department connection, driveway entrances, tree trunks, and vegetation.
6. No more than two food trucks are permitted as an accessory use, unless associated with an event exempted under § 155.308(D)(2)(b).

(e) Hours of Operation

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

(f) Signage

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

§ 155.405311 **OUTDOOR DINING, DISPLAY AND STORAGE ~~AND DISPLAY.~~**

(A) **APPLICABILITY**

- (1) Any dining area, merchandise, material or equipment stored outside of a fully-enclosed building shall be subject to the requirements of this Section.
- (2) Vehicles for sale, lease or rent as part of a properly permitted use (including boats and manufactured housing) shall not be considered merchandise, material or equipment and shall be subject to the parking buffer requirements ~~of set forth in § 155.402(E)(2)(b) of this Chapter.~~

(B) **OUTDOOR DINING**

(1) Outdoor dining shall be defined as the placement of tables and chairs for dining outside of a permanent structure on property owned or leased by a person, firm or corporation.

(2) **General Requirements**

Outdoor dining shall only be permitted following review of a minor site plan, or as a component of a major site plan in accordance with § 155.707, illustrating the extent of the outdoor dining area, the maximum seating capacity, and subject to the standards below. The impact of outdoor dining areas on adjacent churches, hospitals, public schools, and residential uses shall be mitigated to minimize potential impacts related to glare, light, loitering, and noise.

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

1. Separation may be achieved through the use of either landscape planters, walls, railings or a combination thereof. Only barriers composed of landscape planters or retaining walls may be solid.

(b) The additional seating created in the outdoor dining area shall comply with the parking requirements set forth in § 155.402 of this Chapter.

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

(d) The Town may revoke the outdoor dining area if it is determined that its operation is causing litter problems either on or off the property where the dining

is located or that such use is otherwise creating a danger to the public health or safety.

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

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

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

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

7. The restaurant operator shall provide a copy of all permits and licenses issued by the State, County or Town, including health and ABC permits, if any, necessary for the operation of the restaurant or business, or a copy of the application for the permit if no permit has been issued. This requirement includes any permits or certificates issued by the Town for exterior alterations or improvements to the restaurant.

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

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

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

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

(C) OUTDOOR DISPLAY AND SALES

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

(a) Outdoor display and sales shall only be permitted following Planning Director review of a minor site plan in accordance with § 155.707, illustrating the extent of the permitted area for outdoor display and sales subject to the standards below.

(b) The location of outdoor merchandise must be:

1. Adjacent to the principal customer entrance and shall extend no more than eight feet from the wall.

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

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

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

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

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

~~(B) **OUTDOOR DISPLAY: SALE OF MERCHANDISE ON SIDEWALKS.**~~

~~(1) No person shall obstruct entirely or partially any sidewalk or street in the Town by selling or offering for sale at auction or otherwise any goods, wares or merchandise thereon, or use any sidewalk or street for the placing thereon of any barrel, box crate, wood or other substance, except where expressly permitted by the provisions of this code or other ordinance of the Town.~~

~~(a) **Permit generally.** The Town Manager or his designee may issue permits for the display and sale of merchandise on Town sidewalks and pedestrian ways in the area of the Town known as the Downtown District and zoned as B-1.~~

~~(b) *Application.* Any merchant desiring to display and sell merchandise on the Town sidewalk or pedestrian way shall prepare and file an application with the Town Manager or his designee, which shall contain the following information:~~

~~1. The name, address and telephone number of the business desiring to display or sell merchandise on the sidewalk;~~

~~2. The name, address and telephone number of the business owner;~~

~~3. The type of merchandise to be sold or displayed;~~

~~4. The hours of operation of the business;~~

~~5.— A drawing or site plan showing the section of sidewalk or pedestrian way to be used for the sale and display of merchandise;~~

~~6.— Evidence of adequate insurance or other forms of security to hold the Town and its taxpayers harmless from claims arising out of the sale and display of merchandise, as determined by the Town Manager;~~

~~7.— An indemnity statement approved by the Town Attorney, whereby the business owner agrees to indemnify and hold harmless the Town and its officers, agents, and employees from any claim arising from the sale and display of merchandise; and~~

~~8.— A copy of all permits and licenses issued by the state or the Town. Such additional information as may be requested by the Town Manager or his designee to determine compliance with this section. A fee as provided in the Town's Comprehensive List of Fees and Charges to cover the cost of processing and investigating the application and issuing the permit.~~

~~(c) Issuance of permit. No permit for the sale and display of merchandise on the sidewalk or pedestrian way may be issued unless the application is completed and unless the following requirements are met:~~

~~1.— The sale and display of merchandise must occur under the same name as the business and may not be opened or operated at any time when the business is closed.~~

~~2.— The sale and display of merchandise on the sidewalk or pedestrian way must be clearly incidental to the associated business.~~

~~3.— The placement of outdoor display/merchandise shall be:~~

~~1.— Permitted adjacent to the primary façade (façade with principal customer entrance) and shall extend no more than eight feet from such façade;~~

~~2.— Outdoor display/ merchandise shall be located no closer than five feet from any public entrance;~~

~~3.— Outdoor display/ merchandise shall occupy no more than 30% of the horizontal length of the facade; and~~

~~4.— Outdoor display/ merchandise shall not impair the ability of pedestrians to use the sidewalk or parking areas.~~

~~4.— Merchandise must be removed within four hours of notice from the Town. If such items are not removed upon four hours' notice, the Town shall have the right to remove and dispose of these items and may assess the property owner for the cost of such removal and disposal. The Town shall also have the right to remove such items immediately in emergency situation. The Town shall not be responsible for damage to the merchandise under any circumstances.~~

~~5.—The owner of the business displaying or selling merchandise on the sidewalk or pedestrian way shall be responsible for repairing any incidental damage to public sidewalks resulting from the display of merchandise.~~

~~6.—Merchandise shall only be displayed or sold when the business is open.~~

~~(d)—Denial. A permit may be denied if it is found that the granting of the permit would not be in the public interest. Any applicant denied a permit to display or sell merchandise on the sidewalk or pedestrian way shall receive a written statement, outlining the grounds on which the denial is based. The applicant may appeal the denial of the permit to the Town Council within 15 working days after the date of the written denial and the Town Council may take such corrective action as it shall find necessary. The findings and determination of the Town Council shall be final.~~

~~(e)—Permit revocation. The Town Manager may revoke a permit issued pursuant to this section, if he finds that the business owner has:~~

~~1.—Deliberately misrepresented or provided false information in the permit application.~~

~~2.—Displayed or sold the merchandise in such a manner as to create a public nuisance or to constitute a hazard to the public health, safety or welfare; specifically including failure to keep the area clean and free of refuse.~~

~~3.—Failed to maintain any health, business or other permit or license required by law for the operation of the business.~~

~~4.—Before the revocation of a permit, the Town Manager shall notify the permit holder of his intent to revoke the permit and the reasons therefor and shall afford the permit holder a reasonable opportunity to appear and be heard on the question of such revocation. After the hearing, the Town Manager shall notify permit holder in writing of the decision and the reasons therefor. A decision of the Town Manager to revoke permit may be appealed to the Town Council in accordance with the provision of this section.~~

~~(f)—Term, transfer, renewal, and the like.—Permits issued in accordance with the provisions of this section shall:~~

~~1.—Be issued annually in January;~~

~~2.—Be in addition to the annual privilege license; and~~

~~3.—Not be transferable or assignable.~~

~~(C)(D) **OUTDOOR STORAGE.**~~

~~(1)—**General.** Outdoor storage is more intensive than outdoor display. Materials stored in outdoor storage are not normally brought indoors overnight. Outdoor storage is broken in two categories as follows.~~

~~(2)~~(1) Limited ~~O~~utdoor ~~S~~torage-

- (a) Limited outdoor storage shall be defined as the overnight outdoor storage of vehicles awaiting repair (includes the storage of vehicles at self-storage facility), merchandise or material in boxes, in crates, on pallets or other kinds of shipping containers, shopping carts, garden supplies, building supplies, plants, fleet vehicles and other similar merchandise, material or equipment.
- (b) Limited outdoor storage shall only be permitted following Planning Board review of a major site plan in accordance with § 155.707, illustrating the extent of the permitted area for limited outdoor storage provided it meets the standards below.
 - 1. Limited outdoor storage shall not be more than 12 feet in height and shall be fully screened from view from the public right-of-way, public parking areas, or adjacent residential development by a 100% opaque visual barrier or screen. ~~Chain-link fencing with slats inserted may be considered acceptable for this screening, except where located abutting or across the street from a residential use or residentially-zoned property.~~
 - 2. All limited outdoor storage shall be located at least 15 feet from the public right-of-way and any abutting residential use or residentially-zoned district.
 - 3. Limited outdoor storage shall be located in the rear yard.
 - 4. Limited outdoor storage may be located to the side of a building, provided it is not located within the side yard [setback](#).
 - 5. Vehicles awaiting repair may be stored up to 14 days within the required screened storage area.

~~(3)~~(2) General ~~e~~Outdoor ~~s~~torage-

- (a) General outdoor storage shall be defined as salvage yards, vehicle storage yards, overnight outdoor storage of shipping containers, lumber, pipe, steel, junk and other similar merchandise, material or equipment.
- (b) General outdoor storage shall only be permitted in the I-1 and I-2 Districts following Planning Board review of a major site plan in accordance with § 155.707, illustrating the extent of the permitted area for general outdoor storage provided it meets the standards below.
 - 1. General outdoor storage shall be screened by 100% opaque, eight foot high visual barrier or screen, except where located abutting or across the street from a residential use or residentially-zoned property such screening shall be high enough to completely conceal all outdoor storage from view.
 - 2. All general outdoor storage shall be located at least 15 feet from the public right-of-way and any abutting residential use or residential district.

3. No general outdoor storage shall be permitted in a street yard or otherwise forward of the front building line.
4. General outdoor storage may be located in the side or rear yard.

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

[THE REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK]

§ 155.405311 **OUTDOOR DINING, DISPLAY AND STORAGE ~~AND DISPLAY.~~**

(A) **APPLICABILITY**

- (1) Any dining area, merchandise, material or equipment stored outside of a fully-enclosed building shall be subject to the requirements of this Section.
- (2) Vehicles for sale, lease or rent as part of a properly permitted use (including boats and manufactured housing) shall not be considered merchandise, material or equipment and shall be subject to the parking buffer requirements ~~of set forth in § 155.402(E)(2)(b) of this Chapter.~~

(B) **OUTDOOR DINING**

(1) Outdoor dining shall be defined as the placement of tables and chairs for dining outside of a permanent structure on property owned or leased by a person, firm or corporation.

(2) **General Requirements**

Outdoor dining shall only be permitted following review of a minor site plan, or as a component of a major site plan in accordance with § 155.707, illustrating the extent of the outdoor dining area, the maximum seating capacity, and subject to the standards below. The impact of outdoor dining areas on adjacent churches, hospitals, public schools, and residential uses shall be mitigated to minimize potential impacts related to glare, light, loitering, and noise.

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

1. Separation may be achieved through the use of either landscape planters, walls, railings or a combination thereof. Only barriers composed of landscape planters or retaining walls may be solid.

(b) The additional seating created in the outdoor dining area shall comply with the parking requirements set forth in § 155.402 of this Chapter.

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

(d) The Town may revoke the outdoor dining area if it is determined that its operation is causing litter problems either on or off the property where the dining

is located or that such use is otherwise creating a danger to the public health or safety.

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

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

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

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

7. The restaurant operator shall provide a copy of all permits and licenses issued by the State, County or Town, including health and ABC permits, if any, necessary for the operation of the restaurant or business, or a copy of the application for the permit if no permit has been issued. This requirement includes any permits or certificates issued by the Town for exterior alterations or improvements to the restaurant.

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

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

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

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

(C) OUTDOOR DISPLAY AND SALES

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

(a) Outdoor display and sales shall only be permitted following Planning Director review of a minor site plan in accordance with § 155.707, illustrating the extent of the permitted area for outdoor display and sales subject to the standards below.

(b) The location of outdoor merchandise must be:

1. Adjacent to the principal customer entrance and shall extend no more than eight feet from the wall.

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

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

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

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

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

~~(B) — **OUTDOOR DISPLAY: SALE OF MERCHANDISE ON SIDEWALKS.**~~

~~(1) — No person shall obstruct entirely or partially any sidewalk or street in the Town by selling or offering for sale at auction or otherwise any goods, wares or merchandise thereon, or use any sidewalk or street for the placing thereon of any barrel, box crate, wood or other substance, except where expressly permitted by the provisions of this code or other ordinance of the Town.~~

~~(a) — **Permit generally.** The Town Manager or his designee may issue permits for the display and sale of merchandise on Town sidewalks and pedestrian ways in the area of the Town known as the Downtown District and zoned as B-1.~~

~~(b) — *Application.* Any merchant desiring to display and sell merchandise on the Town sidewalk or pedestrian way shall prepare and file an application with the Town Manager or his designee, which shall contain the following information:~~

~~1. — The name, address and telephone number of the business desiring to display or sell merchandise on the sidewalk;~~

~~2. — The name, address and telephone number of the business owner;~~

~~3. — The type of merchandise to be sold or displayed;~~

~~4. — The hours of operation of the business;~~

~~5.— A drawing or site plan showing the section of sidewalk or pedestrian way to be used for the sale and display of merchandise;~~

~~6.— Evidence of adequate insurance or other forms of security to hold the Town and its taxpayers harmless from claims arising out of the sale and display of merchandise, as determined by the Town Manager;~~

~~7.— An indemnity statement approved by the Town Attorney, whereby the business owner agrees to indemnify and hold harmless the Town and its officers, agents, and employees from any claim arising from the sale and display of merchandise; and~~

~~8.— A copy of all permits and licenses issued by the state or the Town. Such additional information as may be requested by the Town Manager or his designee to determine compliance with this section. A fee as provided in the Town's Comprehensive List of Fees and Charges to cover the cost of processing and investigating the application and issuing the permit.~~

~~(c) — Issuance of permit. No permit for the sale and display of merchandise on the sidewalk or pedestrian way may be issued unless the application is completed and unless the following requirements are met:~~

~~1.— The sale and display of merchandise must occur under the same name as the business and may not be opened or operated at any time when the business is closed.~~

~~2.— The sale and display of merchandise on the sidewalk or pedestrian way must be clearly incidental to the associated business.~~

~~3.— The placement of outdoor display/merchandise shall be:~~

~~1.— Permitted adjacent to the primary façade (façade with principal customer entrance) and shall extend no more than eight feet from such façade;~~

~~2.— Outdoor display/ merchandise shall be located no closer than five feet from any public entrance;~~

~~3.— Outdoor display/ merchandise shall occupy no more than 30% of the horizontal length of the facade; and~~

~~4.— Outdoor display/ merchandise shall not impair the ability of pedestrians to use the sidewalk or parking areas.~~

~~4.— Merchandise must be removed within four hours of notice from the Town. If such items are not removed upon four hours' notice, the Town shall have the right to remove and dispose of these items and may assess the property owner for the cost of such removal and disposal. The Town shall also have the right to remove such items immediately in emergency situation. The Town shall not be responsible for damage to the merchandise under any circumstances.~~

~~5.—The owner of the business displaying or selling merchandise on the sidewalk or pedestrian way shall be responsible for repairing any incidental damage to public sidewalks resulting from the display of merchandise.~~

~~6.—Merchandise shall only be displayed or sold when the business is open.~~

~~(d)—Denial. A permit may be denied if it is found that the granting of the permit would not be in the public interest. Any applicant denied a permit to display or sell merchandise on the sidewalk or pedestrian way shall receive a written statement, outlining the grounds on which the denial is based. The applicant may appeal the denial of the permit to the Town Council within 15 working days after the date of the written denial and the Town Council may take such corrective action as it shall find necessary. The findings and determination of the Town Council shall be final.~~

~~(e)—Permit revocation. The Town Manager may revoke a permit issued pursuant to this section, if he finds that the business owner has:~~

~~1.—Deliberately misrepresented or provided false information in the permit application.~~

~~2.—Displayed or sold the merchandise in such a manner as to create a public nuisance or to constitute a hazard to the public health, safety or welfare; specifically including failure to keep the area clean and free of refuse.~~

~~3.—Failed to maintain any health, business or other permit or license required by law for the operation of the business.~~

~~4.—Before the revocation of a permit, the Town Manager shall notify the permit holder of his intent to revoke the permit and the reasons therefor and shall afford the permit holder a reasonable opportunity to appear and be heard on the question of such revocation. After the hearing, the Town Manager shall notify permit holder in writing of the decision and the reasons therefor. A decision of the Town Manager to revoke permit may be appealed to the Town Council in accordance with the provision of this section.~~

~~(f)—Term, transfer, renewal, and the like.—Permits issued in accordance with the provisions of this section shall:~~

~~1.—Be issued annually in January;~~

~~2.—Be in addition to the annual privilege license; and~~

~~3.—Not be transferable or assignable.~~

~~(C)(D) **OUTDOOR STORAGE.**~~

~~(1)—General.—Outdoor storage is more intensive than outdoor display. Materials stored in outdoor storage are not normally brought indoors overnight. Outdoor storage is broken in two categories as follows.~~

~~(2)~~(1) **Limited Outdoor Storage-**

- (a) Limited outdoor storage shall be defined as the overnight outdoor storage of vehicles awaiting repair (includes the storage of vehicles at self-storage facility), merchandise or material in boxes, in crates, on pallets or other kinds of shipping containers, shopping carts, garden supplies, building supplies, plants, fleet vehicles and other similar merchandise, material or equipment.
- (b) Limited outdoor storage shall only be permitted following Planning Board review of a major site plan in accordance with § 155.707, illustrating the extent of the permitted area for limited outdoor storage provided it meets the standards below.
 - 1. Limited outdoor storage shall not be more than 12 feet in height and shall be fully screened from view from the public right-of-way, public parking areas, or adjacent residential development by a 100% opaque visual barrier or screen. ~~Chain-link fencing with slats inserted may be considered acceptable for this screening, except where located abutting or across the street from a residential use or residentially-zoned property.~~
 - 2. All limited outdoor storage shall be located at least 15 feet from the public right-of-way and any abutting residential use or residentially-zoned district.
 - 3. Limited outdoor storage shall be located in the rear yard.
 - 4. Limited outdoor storage may be located to the side of a building, provided it is not located within the side yard setback.
 - 5. Vehicles awaiting repair may be stored up to 14 days within the required screened storage area.

~~(3)~~(2) **General Outdoor Storage-**

- (a) General outdoor storage shall be defined as salvage yards, vehicle storage yards, overnight outdoor storage of shipping containers, lumber, pipe, steel, junk and other similar merchandise, material or equipment.
- (b) General outdoor storage shall only be permitted in the I-1 and I-2 Districts following Planning Board review of a major site plan in accordance with § 155.707, illustrating the extent of the permitted area for general outdoor storage provided it meets the standards below.
 - 1. General outdoor storage shall be screened by 100% opaque, eight foot high visual barrier or screen, except where located abutting or across the street from a residential use or residentially-zoned property such screening shall be high enough to completely conceal all outdoor storage from view.
 - 2. All general outdoor storage shall be located at least 15 feet from the public right-of-way and any abutting residential use or residential district.

3. No general outdoor storage shall be permitted in a street yard or otherwise forward of the front building line.
4. General outdoor storage may be located in the side or rear yard.

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

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§ 155.719 NONCONFORMITIES.

(A) PURPOSE AND INTENT

The purpose of this Section is to establish regulations to address lots, structures, uses and site elements that were lawfully established before this Chapter was adopted or amended, but do not conform to the terms and current requirements of this Chapter, or were required as part of an approval but do not exist. It is the intent of this Section to regulate and limit the continued existence of such nonconformities; and, where possible, bring them into conformance with this Chapter.

~~A lawful preexisting use, structure, or lot that does not meet the requirements of this chapter is called a nonconformity. Special provisions apply to nonconformities, as set forth in this section.~~

(B) APPLICABILITY

This Section applies to nonconforming lots, structures, uses and site elements. In determining whether such nonconformities will be regulated by the provisions of this Section, the following shall apply:

- (1) Nonconforming status shall not be provided for any lot, structure, use, or site element which was illegally created, commenced, constructed, or unlawfully continued.
- (2) Nonconforming status shall only be authorized upon demonstration by the applicant that a lot, structure, use or site element was lawfully approved, created, commenced or constructed, and not merely contemplated.
 - (a) To obtain nonconforming status, the applicant must demonstrate that the use was in continuous operation during business hours and not an occasional use of the property.
- (3) An accessory nonconforming use shall not become the principal use.

(C) NONCONFORMING LOT

A nonconforming lot is a lot that was lawfully created before this Chapter was adopted or amended, but does not conform to the minimum lot acreage and dimensional criteria as set forth in Article 2, Zoning Districts of this Chapter.

- (1) Where the owner of a residential lot that was lawfully created before this Chapter was adopted or amended~~at the time of the original passage of this chapter,~~ or any successor in title does not own sufficient land to conform to the ~~lot area or lot width requirements~~standards provided in Section 155.203, District Standards of this Chapter, such a lot may be used as a building site for a single-family residence in a district in which residences are permitted, provided that the ~~required lot width and lot area~~standards are not more than 20% percent below the minimum specified in this Chapter, ~~or within 5 percent of the average deviation on lots adjacent to or within the same subdivision,~~and further provided that tThe County Health Department's ~~approval~~es ~~of the reduction is required~~ if on-site water or wastewater facilities are involved. In cases where the criteria above cannot

~~be met, lot area and lot width are more than 20% below the minimum specified in this Chapter, or other requirements cannot be met, the Board of Adjustment is authorized to may approve as grant a Variance, subject to the required findings set forth in Section 155.716, Variance. ~~such dimensions as shall conform as closely as possible to the required dimensions specified in this Chapter.~~~~

~~(1)(2) In addition, Nonconforming Nonresidential substandard lots ~~uses of land permitted in the applicable nonresidential zoning district~~ may be granted a Variance for development ~~on a substandard lot~~, subject to approval by the Board of Adjustment and the required findings set forth in ~~(G)(2) of this~~ Section 155.716, Variance.~~

(3) If two or more adjoining and vacant lots are in one ownership when this Chapter is adopted, or at any time after the adoption of this Chapter, and ~~such lots individually~~ either or both lots do not meet the dimensional requirements of this Chapter for the district in which such lots are located, then such group of lots shall be considered as a single lot.

~~(2) — and therefore, the provisions of (B)(1) of this section do not apply.~~

(D) NONCONFORMING USE

A nonconforming use is the use of land, buildings, or structures that was lawfully established on a property prior before this Chapter was adopted or amended, but does not conform to the use regulations of his Chapter.

(1) Continuation

No nonconforming use may be enlarged, expanded or extended, or moved to occupy a different or greater area of land, buildings or structures than was occupied by the use at the time it became nonconforming.

~~(A) — Existing nonconforming uses. The nonconforming use of a structure or land at the time of the adoption of this chapter may be continued, except that:~~

~~(1) — Only that portion of the land in actual use may be so continued, and the nonconforming use may not be enlarged or extended, nor may any additional structures be added to be occupied by the nonconforming use, unless by special use permit, except that existing cemeteries can expand to the boundaries of the property which they owned at the time they became nonconforming.~~

(2) Change in Use

A nonconforming use shall not be changed to any other use, unless the new use conforms to this Chapter. A nonconforming use physically replaced by a permitted use shall not be established.

~~(2) — A nonconforming use, such as, but not limited to mobile homes, may not be moved off the lot or lots on which it is located, unless, when relocated within the~~

~~jurisdiction of the Town, it complies with the regulations for the district in which it is located. Further, any subsequent reuse of the lot or lots from which the nonconforming use has been moved must comply with the regulations for the district in which it is located.~~

(3) Maintenance

Maintenance and repair of a building occupied by a nonconforming use is permitted, provided it does not extend the nonconforming use.

~~(3) Normal maintenance, repair, and incidental alteration of a building occupied by a nonconforming use is permitted, provided it does not extend the nonconforming use. A structure occupied by a nonconforming use may be changed to make the structure more in character with the uses permitted in the district in which it is located.~~

~~(4) If such nonconforming use is damaged by fire, explosion, flood, or other calamity to the extent of more than 50% of its current equalized value, it shall not be restored unless it will comply with the use provisions of this chapter, except that nonconforming owner-occupied single-family dwellings may be restored. Multi-family development approved prior to June 4, 1996 may be restored in a manner which does not increase any nonconforming density, setback, or spacing of building standards approved in the original site plan, upon granting of a special use permit by the Town Council in accordance with § 155.711.~~

(4) Discontinuance or Cessation

(a) A nonconforming use that is discontinued, abandoned, or changed to an accessory use for a period of more than 90 consecutive days, or for a total of 180 calendar days during any twelve month period, shall lose its nonconforming status and shall not be reestablished or resumed. Any subsequent use in the same location shall be consistent with this Chapter.

~~(5) If such nonconforming use is discontinued or terminated, as evidenced by the disconnection of electrical service to such nonconforming use for a period of 180 days, any future use of the structure or land shall comply with the provisions of this chapter.~~

~~(B) Existing nonconforming uses. The nonconforming use of a structure or land at the time of the adoption of this chapter may be continued, except that:~~

~~(6) Only that portion of the land in actual use may be so continued, and the nonconforming use may not be enlarged or extended, nor may any additional structures be added to be occupied by the nonconforming use, unless by special use permit, except that existing cemeteries can expand to the boundaries of the property which they owned at the time they became nonconforming.~~

~~(7) The Town Council may permit as a special use a change in nonconforming use, provided that the requirements of (B)(1) through (5) of this section are met, and the Town Council finds that such new use would be more in character with the uses permitted in the district than the previous use. In permitting such change, the Town Council may require appropriate conditions and safeguards in accordance with the provisions of this chapter.~~

~~(8) Once a nonconforming use has been changed or altered so as to comply with the provisions of this chapter, it shall not revert back to a nonconforming use. Once the Board of Adjustment has permitted the substitution of a more restrictive nonconforming use for an existing nonconforming use, the substituted use shall lose its status as a nonconforming use and become subject to all the conditions required by the Board. If the structure occupied by a nonconforming use is changed so as to be more in character with the uses permitted in the district in which it is located, it shall not subsequently be changed to be less in character.~~

(E) NONCONFORMING STRUCTURE

~~The conforming use of a~~ A nonconforming structure, as explained in § 155.109(A), is a structure that was lawfully established on a property prior to this Chapter being adopted or amended, existing at the time of the adoption of this chapter, may be continued, but although the structure's size or location does not conform with the square footage, density, yard, dimensional, height, parking, loading, access, lot area, and lot coverage or other structural provisions of this Chapter.

~~Such structures are called substandard structures.~~

~~(1) A nonconforming structure shall not change or increase t~~ The nonconforming features of a structure shall not be changed or increased in such a way as to maintain-intensify the nonconformity or increase the degree to which the structure is nonconforming. A nonconforming structure can be changed if the area of the improvement will reduce the nonconformity. - shall not result in the intensification of a nonconforming use through the structural expansion.

~~(2) Changes to or expansion of a nonconforming structure shall not result in the intensification or expansion of a nonconforming use.~~

~~(1)(3) Substandard structures which are damaged or destroyed by fire, wind, flood or other natural causes by fire, explosion, flood, or other calamity to the extent of more than 50% of the value of the structure, as determined by the Town, may be reconstructed and shall comply with the applicable provisions of this Chapter for the district in which such structure is located, unless the structure is situated on a substandard lot of record, in which case the provisions concerning substandard-nonconforming lots of record shall apply.~~

~~(2) A substandard structure, including a mobile home, may not be moved off the lot or lots on which it is located, unless when relocated within the jurisdiction of the Town, it complies with the regulations for the district in which it is located. Further, any subsequent reuse of the lot or lots from which the substandard structure has been moved must comply with the regulations for the district in which it is located.~~

~~(3) A substandard structure may be enlarged or expanded, provided that any expansion meets all of the requirements for the zoning district, including, but not limited to the yard, dimensional, height, parking, loading, access, lot area, and lot coverage provisions of this chapter,~~

(F) NONCONFORMING SITE ELEMENT

A nonconforming site element is a site improvement that is required as part of an approval but does not exist, or was existing or lawfully established prior to this Chapter being adopted or amended. Site elements include, but are not limited to access, parking, landscaping, signage and lighting.

- (1) No nonconforming site element shall be erected, replaced, or modified except to reduce or eliminate the nonconformity. Repair and maintenance of nonconforming site elements is permitted.
- (2) When improvements or major external renovations are proposed to an existing conforming structure, the associated non-conforming site elements must also be improved to comply with the current requirements of this Chapter.
- (3) If all site elements cannot be brought into compliance with the current requirements of this Chapter ~~due to~~ for reasons which include, but are not limited to ~~such as~~ site layout, space limitations, tree preservation or other natural features, the Planning Director may approve a deviation from site element requirements so long as the modifications to the elements are moving in the direction of conformity with the provisions of this Chapter.

~~(C) — Nonconforming signs.~~

~~(1) — Amortization of nonconforming signs. Any sign existing prior to April 7, 1986 which does not conform to the requirements of this chapter may be continued with the following exceptions; however, all nonconforming signs shall be brought into compliance or removed within the time limits specified in (D)(3) of this section.~~

~~(a) — Portable and windblown signs as defined in § 155.403, shall be removed by January 1, 1987.~~

~~(b) — All moving signs shall cease movement by July 7, 1986.~~

~~(c) — All non-governmental flashing signs shall stop flashing by July 7, 1986.~~

~~(2) — Enlargement and revision of nonconforming signs. No nonconforming sign shall be erected, replaced, or otherwise modified in such a way as to increase its nonconformity. Reasonable repair and maintenance of nonconforming signs, including the change of an advertising message, is permitted, provided that a nonconforming sign which is damaged or deteriorated to the extent of 50% or more of its value shall not be replaced unless it conforms to all provisions of this subchapter.~~

~~(3) — Removal of nonconforming signs.~~

~~(a) — Nonconforming signs, when removed for other than normal maintenance, may not be erected again, nor may any such sign be replaced with another nonconforming sign.~~

~~(b) All nonconforming signs erected before the date of adoption of this chapter shall be removed or modified so as to conform to this chapter by February 1, 2002.~~

(G) NONCONFORMITIES IN THE WATER PROTECTION OVERLAY (-WPO).

Nonconforming lots, buildings and structures located within the WPO may be continued and maintained ~~subject to the provisions as set forth below.~~ Expansions to nonconformities must meet the requirements of § 155.501, ~~however, the impervious surface area is not required to be included in the density calculations.~~

~~(1) **Vacant lots.** This category consists of vacant lots for which plats or deeds have been recorded in the office of the County Register of Deeds. Lots may be used for any of the uses allowed in the WP Overlay in which it is located, provided the following:~~

~~(a) Where the The lot area is below the minimum specified and no other standard needs to be modified to use the lot for residential purposes.~~

~~(b) Notwithstanding (E)(1)(a) of this section, whenever two or more adjoining residential vacant lots of record are in single ownership at any time after the adoption of this chapter, and such lots individually have less area than the minimum requirements for residential purposes for the WPWPO, Overlay such lots shall be combined to create a single lot or lots which meet or minimize the degree of nonconformity.~~

~~(2) **Occupied lots.** This category consists of lots occupied for residential purposes at the time of the adoption of this chapter. These lots may continue to be used, provided that whenever two or more adjoining lots of record, one of which is occupied, are in single ownership at any time after the adoption of this chapter, and such lots individually or together have less area than the minimum requirements for residential purposes specified, such lots shall be combined to create lots which meet the minimum size requirements, or which minimize the degree of nonconformity.~~

~~(3) **Buildings Structures and impervious surfaces.** This category includes any buildings or impervious surface area existing at the time of adoption of this chapter not in conformance with the restrictions of this chapter. Such buildings and imperious surface areas shall be allowed to remain.~~

~~(4) **Reconstruction of damaged buildings or impervious surfaces.** Any existing building or impervious surface area not in conformance with the restriction of this chapter that has been damaged by fire, wind, flood or other causes, may be repaired and used as before. The total amount of space devoted to impervious surface area may not be increased unless stormwater controls that equals or exceeds the previous development is provided.~~

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

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

Agenda Item: 5d

Meeting Date: 9/16/13

**TITLE: PRESENTATION OF ASPHALT WARRANTY ACCEPTANCE
MEMORANDUM FOR CREEKSIDE COMMONS SUBDIVISION,
EXCLUDING PHASE 4A.**

DESCRIPTION: Attached.

RELATED GOAL: Administrative

ITEM SUMMARY:

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
9-16-13	Presentation.	Memorandum.

TOWN OF CLAYTON OPERATIONS CENTER

"SERVICE"

ELECTRIC SERVICE
(919) 553-1530

VEHICLE MAINTENANCE
(919) 553-1530



"ENVIRONMENT"

PUBLIC WORKS
(919) 553-1530

WATER RECLAMATION
(919) 553-1535

MEMORANDUM

To: Sherry Scoggins, Town Clerk

From: Chris Rowland, Construction Inspector *CR*

Date: September 02, 2013

Cc: Dave DeYoung, Planning Director
Michael Stewart, Stewart-Proctor

Subject: Creekside Commons Subdivision

The asphalt pavement has been installed within the subject development excluding Phase 4A. Please schedule Council action for the acceptance of this work, subject to a one-year warranty period. Following the warranty period, pavement and base course conditions will be evaluated and any identifiable faults corrected by the developer prior to final acceptance.

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

Agenda Item: 8a

Meeting Date: 9/16/13

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.	

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

Agenda Item: 9a

Meeting Date: 9/16/13

TITLE: TOWN MANAGER

DESCRIPTION: Update on off-budget equipment request(s) for Town departments.

RELATED GOAL: Administrative

ITEM SUMMARY:

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
6-17-13	Discussion.	
8-05-13	Discussion.	
8-19-13	Discussion.	
9-16-13		

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

Agenda Item: 9c

Meeting Date: 9/16/13

TITLE: TOWN CLERK

DESCRIPTION: Calendar of Events

- Clayton Town Square Concert Series: **MikeMickXer** – Thursday, September 12, 2013 from 7 PM to 9 PM
- Zaxby's Movie Night – Saturday, September 14, 2013 @ Town Square from 6 PM to 10 PM
- Council Mtg – Monday, September 16, 2013 @ 6:30 PM
- Constitution Week – September 17 – 23, 2013
- Board of Adjustment Mtg – Wednesday, September 18, 2013 @ 6 PM
- Clayton Harvest & Music Festival – September 18 – 22, 2013 in Downtown Clayton
- Temporary closing of Main Street for vendors during the Clayton Harvest & Music Festival – Saturday, September 21, 2013, from 5 AM to 6 PM
- Clayton High Homecoming Week – September 23-27, 2013
- Planning Board Mtg – Monday, September 23, 2013 @ 6:00 PM
- Fire Advisory Board Mtg – Thursday, September 26, 2013 @ 7:30 PM at Fire Station 1, 325 West Horne Street
- Clayton High Homecoming Parade – Friday, September, 27, 2013, @ 3:30 PM
- Squealin' on the Square (BBQ Cook off)
(<http://business.claytonchamber.com/events/details/squealin-on-the-square-893>) – Friday, October 4, 2013, beginning at 7 PM and wrapping up on Saturday, October 5, 2013 at 3 PM on Town Square
- Shindig (music) – Saturday, October 5, 2013, from 10 AM to 7 PM on Town Square (runs concurrent with Squealin' on the Square)
- Council Mtg – Monday, October 7, 2013 @ 6:30 PM
- Last day to register to vote for municipal elections – Friday, October 11, 2013 [CARD MUST BE POSTMARKED 25 DAYS BEFORE ELECTION OR RECEIVED IN THE BOARD OF ELECTIONS OFFICE BY 5:00 PM, 25 DAYS BEFORE ELECTION.]
- Community Shred Event – Saturday, October 12, 2013 @ Town Square from 8 AM to 2 PM; first come first served, rain or shine
- Zaxby's Movie Night – Saturday, October 12, 2013 @ Town Square from 6 PM to 10 PM
- Downtown Development Association Mtg – Monday, October 14, 2013 @ 6:30 PM at Clayton Town Hall, Room GS 223
- Board of Adjustment Mtg – Wednesday, October 16, 2013 @ 6 PM
- NC State Fair (<http://www.ncstatefair.org/2013/index.htm>) – Thursday, October 17, 2013 – Sunday, October 27, 2013

- 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
- 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
- Downtown Development Association Mtg – Monday, December 9, 2013 @ 6:30 PM at Clayton Town Hall, Room GS 223
- Clayton Christmas Parade (<http://business.claytonchamber.com/Events/details/the-clayton-christmas-parade-12-14-2013-336>) – Saturday, December 14, 2013 @ 3 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

Date:
9-16-13

Action:
N/A

Info. Provided:
Calendar of Events