

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

JANUARY 22, 2014

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

WEDNESDAY, JANUARY 22, 2014
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 December 16, 2013, work session meeting and draft minutes from the January 6, 2014, regular meeting.
 - b. Public comment slated for Clayton Town Council consideration at its February 3, 2014, Council meeting on the proposed fee amendment to the consultant review fees for tower review [NC GS 160A-4.1] within the Town of Clayton Comprehensive List of Fees and Charges.
4. **INTRODUCTIONS AND SPECIAL PRESENTATIONS**
 - a. Introduction of new Town of Clayton employee(s).
 - b. Recognition of Evan Bradshaw: Participant in the 2014 Down Under Bowl.
 - c. Presentation of activities slated for the month of February 2014 for American Heart Month and proclaiming February as American Heart Month.
 - d. Presentation regarding the increase in sales tax on electric sales effective July 1, 2014.
5. **ITEMS SCHEDULED FOR THE REGULAR MEETING AGENDA**
 - a. Presentation of amendment to the Town of Clayton Comprehensive List of Fees and Charges for consultant review fees for tower review.
 - b. Presentation of the following warranties:
 - One year pavement warranty for Glen Laurel East, Phase 2B
 - Five year pavement warranty for Riverwood AC, Phase 6D-1 (Alpine Valley)
 - Five year pavement warranty for Riverwood AC, Phase 3A-1 & 3A-2
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 transmission project.
 - b. Status of 110 West Front Street, the former Red and White Store.

9. **STAFF REPORTS**
 - a. Town Manager
 - b. Town Attorney
 - c. Town Clerk
 - Calendar of Events
 - d. Other Staff

10. **OTHER BUSINESS**
 - a. Informal Discussion & Public Comment.
 - b. Council Comments.

11. **ADJOURNMENT**

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

Agenda Item: 3a

Meeting Date: 1/22/2014

TITLE: DRAFT MINUTES FROM THE DECEMBER 16, 2013, WORK SESSION MEETING AND DRAFT MINUTES FROM THE JANUARY 6, 2014, REGULAR MEETING.

DESCRIPTION: Minutes.

RELATED GOAL: Legislative

ITEM SUMMARY:

Date:

Action:

Info. Provided:

01-22-14

Approval.

**Draft minutes from
12/16/2013 and
1/06/2014.**

**MINUTES
CLAYTON TOWN COUNCIL
DECEMBER 16, 2013**

The second regular meeting of the Clayton Town Council for the month of December was held on Monday, December 16, 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; Tim Simpson, Public Works & Utilities Director; Dale Medline, Electric System Director; Ann Game, Customer Service Director; Robert McKie, Finance Director; John McCullen, Town Engineer; Stacy Beard, Public Information Officer; Johnny Stanley, Purchasing Officer

ITEM 1. CALL TO ORDER

Mayor Jody McLeod called the meeting to order at 6:37 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 with the following action agenda items approved at 6:38 PM:

- Item 3a. Draft minutes from the December 2, 2013, regular and organizational meeting.
- Item 3b. Public notice for the following items slated for the January 6, 2014, Town Council meeting:
 - Public hearing for rezoning request RZ 2013-76 (Item 5a)
 - Public hearing for development agreement with Grifols (Item 8a)

ITEM 4. INTRODUCTIONS & SPECIAL PRESENTATIONS

- Item 4a. Introduction of new Town of Clayton employee(s).

The following new Town of Clayton employees were introduced:

- Holly Barnette, Customer Service Representative
- Antonio Nelson, Meter Reader Technician

Item 4b. Presentation of Town of Clayton Fiscal Year 2012-2013 Audit.

Mr. Ken Anderson of Anderson, Smith & Wike LLC provided “Available Fund Balances, Tax Collection Percentages and Other Audit Information” memo and an overview of same; herewith attached.

Mayor Pro Tem Grannis questioned if the Town approached bond raters on the improvement of the Town bond rating.

Mr. Anderson stated he would defer to Deputy Town Manager Medlin or Town Manager Biggs. He stated he is aware the Town has used the services of Davenport, and Davenport is more suited for this question.

Town Manager Steve Biggs stated that has ongoing attention through Davenport. He stated the Town has improved its bond rating over the last several years. He stated he believes the Town is well positioned for a bond rating review.

Mayor Pro Tem Grannis stated a good bond rating gives the Town better interest rates when securing loans.

Finance Director Robert McKie provided a PowerPoint presentation, “Financial Policy Compliance,” and provided an overview of same; herewith attached.

Mayor Pro Tem Grannis questioned if the Town utilized some of its reserves with the new purchasing policy and utilized cash as opposed to borrowing money, would it help reduce debt ratio so the Town is in compliance with its policy.

Finance Director Robert McKie stated that is one factor of influence.

Mayor Pro Tem Grannis stated the Council is amenable to using a small portion of the fund balance for a purchase.

Item 4c. Presentation and update of Today in America program.

Public Information Officer Stacy Beard presented an update on the Today in America program. She presented the new video showcasing the Town of Clayton. She added the package included the airing outside of the Town’s viewing area and is available on YouTube.

Mayor Pro Tem Grannis stated this is a huge step in the right direction to put Clayton on the map. He questioned if this is airing on public stations.

Public Information Officer Beard stated these are running on paid programming stations.

Mayor Pro Tem Grannis questioned how many viewers this could reach.

Public Information Officer Beard stated the Pittsburgh viewing area is in the hundreds of thousands and the national airing is in the millions.

Mayor Pro Tem Grannis stated great job.

Councilman Lawter stated he echoes Mayor Pro Tem Grannis. He recalled the first draft and he appreciates the improvements.

Councilman Holder stated job well done and thank you.

Mayor McLeod stated this is probably the best economic tool the Town of Clayton has created in the last decade and this will take the Town far into the future. He stated the video has appeal. He stated thank you for the final product.

Public Information Officer Beard stated when an employer or industry chooses to locate in Clayton they want a location that will attract workers that want to be here.

ITEM 5. ITEMS SCHEDULED FOR THE REGULAR MEETING AGENDA

Item 5a. Presentation of rezoning request RZ 2013-76 from R-E to B-3 located adjacent to the existing self-storage facility on Powhatan Road near US 70 Business HWY.

Planning Director David DeYoung provided a PowerPoint presentation overview for rezoning request RZ 2013-76 from R-E to B-3 located adjacent to the existing self storage facility on Powhatan Road near US 70 Business HWY; herewith attached:

- Site known as Powhatan Self Storage
- 1.01 acre parcel and is adjacent to the existing Powhatan Self Storage
- Located on Powhatan Road behind the Hess Station
- Currently zoned R-E and request is for B-3
- Previous use was a home on the site and it is under demolition
- Primarily surrounded by B-3 or I-1 of I-2
- Planning Department sees it converting to industrial uses or commercial uses
- Consistent with Strategic Growth Plan

- Proposed rezoning is consistent with the surrounding area
- Consistent with the (Town's) UDC
- Applicant is proposing a Class C landscape buffer
- Neighborhood meeting held and there were no attendees
- Staff is recommending approval of the rezoning request
- Planning Board is recommending approval of the rezoning request

Based upon question by Council, staff clarified that the parcel of the rezoning request is not incorporated in the Town of Clayton and that the Hess Station and current Powhatan Self Storage are incorporated into the Town of Clayton.

Town Manager Steve Biggs stated if the applicant requests municipal services for the site requesting rezoning that an annexation petition is required in order to receive municipal services.

Item 5b. Presentation of resolution between the Town of Clayton and Johnston County for Erosion and Sediment Control.

Mr. Jamie Guerrero with Johnston County Public Utilities as the Development Engineering, Environmental and Stormwater Manager stated as of December 1, 2013, Johnston County received delegated authority from NC DENR to enforce the municipal erosion and sediment control program. He stated Johnston County is offering to the municipalities participation in the program through a joint resolution. He stated this authority was sought to improve efficiency and better customer service. He stated the development community would seek county approval for storm water and water and sewer and then go to a state agency to receive a separate approval for erosion sediment and control and riparian buffer before receiving a permit. He stated this would enable one agency to review a plan instead of multiple comments from various agencies.

It was the consensus of the Council to place this item on the January 6, 2014, consent agenda.

ITEM 6. ITEMS CONTINGENT FOR THE REGULAR MEETING

No items contingent for the regular meeting were presented to the Council.

ITEM 7. ITEMS FOR DISCUSSION

Item 7a. Report on proposed location for new "Welcome to Clayton" sign.

Town Manager Steve Biggs stated with the development around the CVS, the Town lost its entry sign. He stated a proposed location is a triangular piece of property adjacent to the Wal-Mart and the state agricultural farm. He stated the property owner was contacted and is amenable to granting the Town an

easement for the sign. He stated the area would need a slight build up as it sits slightly lower than US 70 Business HWY.

It was the consensus of the Council to place this item on the January 6, 2014, consent agenda.

ITEM 8. OLD BUSINESS

Item 8a. Discussion of utility development agreement with Grifols Biopharmaceuticals.

Town Manager Steve Biggs stated this item requires a public hearing at the January 6, 2014, Council meeting. He stated the agreement would lock down a 20 year relationship between the Town of Clayton and Grifols for the purpose of allowing Grifols to develop its site. He stated this guarantees the Town utility consumption and Grifols an amount of utility capacities. He stated the agreement will be included in the January 6, 2014, agenda packet.

Mayor Pro Tem Grannis questioned if the level of service would be equal to or greater than what it is today.

Town Manager Biggs stated the demand for services will increase with the Town of Clayton.

Councilman Lawter stated losing Grifols as a utility customer would have a negative impact on the Town's residential customers.

Item 8b. Status of 110 West Front Street, former Red & White Store.

Town Manager Steve Biggs stated this item was included on the agenda at the request of Council. He stated about a year ago the Council considered an ordinance enforcing the minimum building code at this location. He stated the speakers who addressed the Council explained that the previous owner of the property allowed the site to deteriorate and the trust holder wished to recapture the property. He stated following that meeting, Mrs. Katie Smith was able to regain control of the property and the Town stayed action on enforcing the minimum building code based on the expectation that the building would be renovated. He stated staff has worked with Ms. Smith and Mr. Messick to see that certain improvements were accomplished. He stated some improvement was made but not to the point desired. He stated it is a source of concern. He stated the awning that was over the public sidewalk was demolished and there has been some interior renovation. He stated the goal of the Town is to either see the building put into a corrective use or proceed forward with the minimum building code and demolition of the property.

Ms. Katie Smith stated she currently lives in Sneads Ferry, North Carolina. She stated she is disappointed with what has happened to the building. She stated she spent money on an attorney, architects, engineers, and construction persons and she was unable to find anyone to assist her in the timeframe allotted. She stated a 45 day extension was requested and it was granted. She stated there are two choices: either the Council can work with her or the Council can have it demolished. She stated Mr. Messick approached her about the building and she gave him a chance. She stated she is financing the building for Mr. Messick.

Mr. Randy Messick stated he has about \$130,000 tied to the structure. He stated the asbestos has been removed from the building and the structure shored up. He added he spoke with three grocery store chains about this site. He stated he has been in conversations with Town Engineer John McCullen. He apologized for it taking this long to get to this point.

Councilman Satterfield stated the Council has been dealing with this for a long time. He stated the Council has been hearing from the citizens for a long time. He stated he has not heard any dates.

Mr. Messick stated it will be after the first of the year before Mr. McCullen and he can get together and come up with a firm plan.

Councilman Satterfield stated the concern is for the building itself. He stated the Town needs engineered plans to get the building up to code. He stated the Council has given several reprieves for this project. He questioned Mr. Messick about a deadline date.

Mr. Messick stated he would like to get the building structure back together.

Councilman Satterfield stated he hears plans, permits, and beginning of repairs to structure by January [2014].

Mr. Messick stated he needed to back up as he thought he had plans in place.

Councilman Satterfield questioned if plans are in place and if there is a permit.

Mr. Messick stated he does not have a permit.

Councilman Satterfield questioned when the permit would be requested.

Mr. Messick stated the deed has not yet been recorded for him to begin working on the building.

Councilman Satterfield questioned when that would occur.

Mr. Messick stated the deed recordation is unknown. He added Mr. Aalsey Gilbert is working on the survey.

Mr. Gilbert stated the survey will be done after Christmas.

Mr. Messick stated he believes the drawings need to be updated.

Town Engineer John McCullen stated what Mr. Messick presented was a set of plans from a couple of years ago. He stated a condition is a structural engineer review the plans and submit updates. He stated depending on the structural engineer's schedule, the plans can be turned around within two to four weeks.

Councilman Satterfield stated if all goes well with the plans and survey, permits can be pulled within 30 days. He stated if the permit is pulled then construction can begin.

Mr. Messick requested consideration of the holidays and he requested February 1st.

Councilman Satterfield stated February 1 is fair to him.

Councilman Holder stated at the January 22 meeting he would like to receive an update on the final plans.

Mr. Messick stated yes and added he has not talked with the engineer.

Councilman Holder stated the Council has been hearing about this [property] for 16 months. He stated the Council is looking for progress to this property.

Mr. Messick stated it is not the outside, it is the inside of the building.

Mayor McLeod stated it is the outside of the building where progress needs to be made. He stated today was the first day other than the awning coming down that he has seen progress on the building. He stated today was a good day because the building is less an eye sore. He stated the public is concerned about this and this is who the Council has heard from for the past 16 months. He stated the outside is what people are seeing and that is where the work needs to continue as well as getting the rest of the building up to code to meet the January 22 [2014] deadline and be complete by February 1 [2014].

Mayor McLeod stated at the January 22 meeting Mr. Messick is to give the Council an update. He stated if things are not well on the way by January 22 there may not be a need for the February 1 deadline.

Mr. Messick stated he has one person working on the outside of the building.

Mayor Pro Tem Grannis questioned if an agreement had been reached with Mrs. Smith on the sale.

Mr. Messick stated yes.

Mayor Pro Tem Grannis questioned when the sale would be consummated.

Mrs. Smith stated by January 15 [2014].

Mayor Pro Tem Grannis stated Mr. Messick had mentioned speaking with an equipment contractor.

Mr. Messick stated he is hopeful it will be the entire package.

Mayor Pro Tem Grannis questioned if Mr. Messick has a current written lease agreement.

Mr. Messick stated not yet because the drawing is being updated.

Mayor Pro Tem Grannis stated his concern is it would be nice to see a written lease agreement as it is an indication of a commitment.

Mayor McLeod requested Mr. Messick focus on the questions by Council.

Mayor Pro Tem Grannis questioned if Mr. Messick is working with an architect.

Mr. Messick stated yes. He stated the name of the architect escapes him.

Mayor Pro Tem Grannis stated the name needs to be provided to the Town Manager or to the Planning Director.

Mayor Pro Tem Grannis stated a concern is the financial backing to make this project a reality. He stated he would like to see documentation to substantiate that this as a viable project. He added he does not need it this evening.

Mr. Messick stated he has shared the commitment for the financing on the building, the equipment and the grocery from a couple of sources.

Mayor Pro Tem Grannis stated he would like some form of documentation that substantiates the financial backing to see this project through completion. He added it appears Mr. Messick is working with members of the Town. He stated Mr. Messick is encouraged to work with staff to make this project a reality. He stated as Council mentioned this has gone on for over a year. He stated there are upset citizen; some who have proven that their property has been de-valued because of the current condition of the former Red & White building. He stated if this is not completed in the timeframe that Council suggested, he stated he

would have to move forward with the demolition of this building. He stated his preference is for Mr. Messick to be successful in this endeavor.

Councilman Lawter stated Mr. Messick has a very aggressive schedule. He stated by January 22nd the Council will know if Mr. Messick can reach the February 1st deadline. He stated Mr. Messick has a lot of work and he hopes to see the building renovated. He stated 16 months is a long time to listen to residents with concerns about the building.

Item 8c. Evidentiary hearing for special use permit application SUP 2013-71 for LionsGate; continued from November 4, 2013, Council meeting; continued from the November 18, 2013, Council meeting.

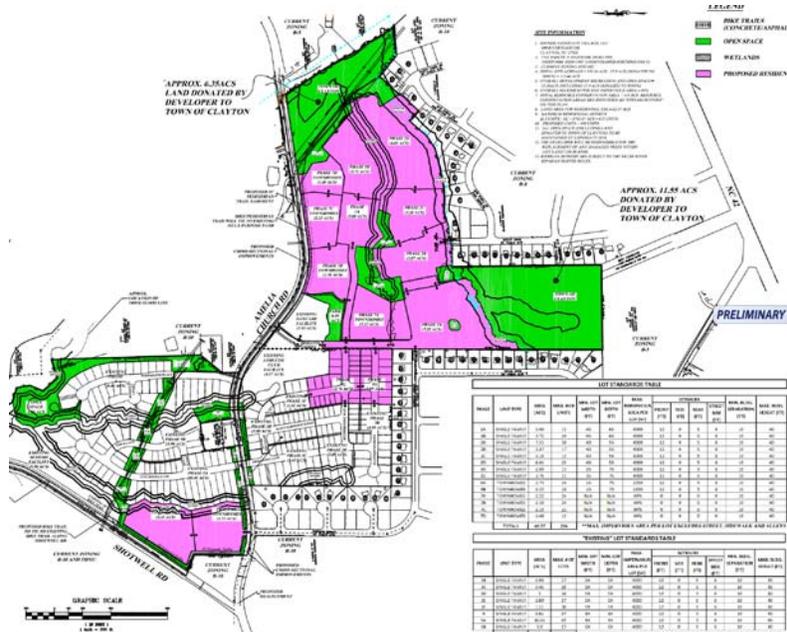
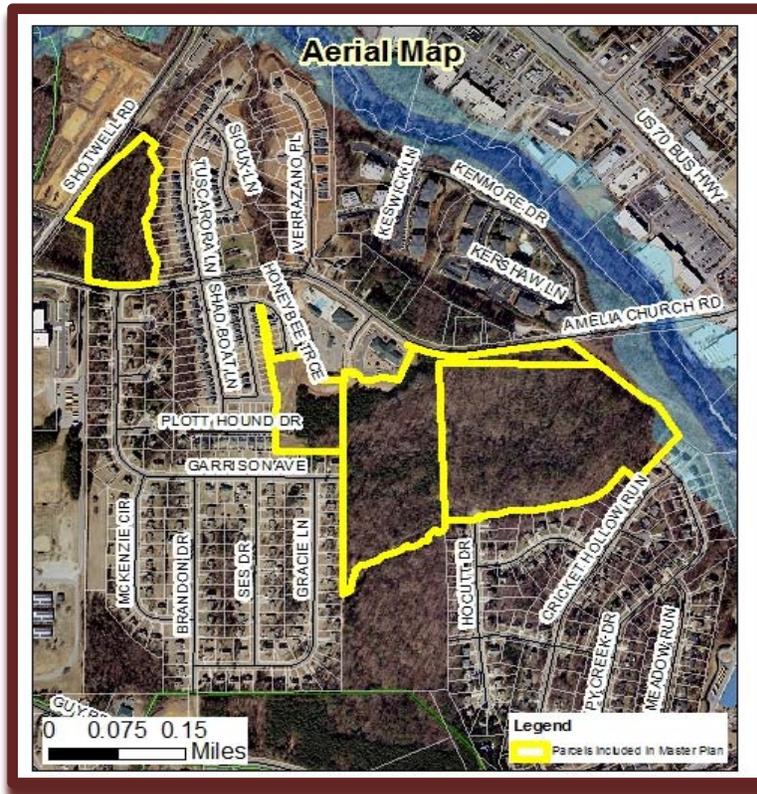
Mayor McLeod announced special use permit SUP 2013-71 for LionsGate Subdivision located on Amelia Church Road near Shotwell Road has been noticed for an evidentiary hearing at 7:58 PM. He called upon Town Attorney Katherine Ross to explain the rules of procedure.

Town Attorney Katherine Ross introduced the evidentiary hearing procedures used for special use application SUP 2013-71. She explained that special use applications are different in certain respects from the capacity in which the Town Council normally functions. Ms. Ross stated the Town Council normally functions in a legislative capacity; special use permit application hearings are “quasi-judicial,” which means that the Council would act essentially as a court of law. She stated there is a burden that the applicant of the special use application must meet the four findings of fact as found in the UDO of the Town Code of Ordinances. She added anyone opposed to the application would have to put on evidence of a similar kind, showing the findings of fact have not been met. Ms. Ross explained that all evidence and testimony provided to the Council in such a hearing must comply with the North Carolina Rules of Evidence, which means that all such evidence and testimony must be relevant, based on personal knowledge, given under oath, and otherwise be competent and admissible. Ms. Ross also explained that her role during the hearing is to monitor all evidence and testimony to ensure that it complies with the Rules of Evidence, the Town’s procedures, and all other applicable requirements.

Mayor McLeod called all those wishing to give evidence, whether for or against the special use permit application, to come forward and be sworn in. On November 4, 2013, Town Clerk Sherry Scoggins administered the oath to: David DeYoung, Steve Biggs, Fred Smith, and Donald C Adams Jr. On December 16, 2013, Town Clerk Sherry Scoggins administered the oath to: Gilbert B. Gonsalves, Jamie B Guerrero, Thad S. Avent, and James Lipscomb.

Planning Director DeYoung provided a PowerPoint presentation overview of the request; herewith attached:

- Request is to amend the existing master plan; previously approved as MUPD 2003-01
- Request is to withdraw the undeveloped portions, those sections highlighted in yellow:



- Areas in white have either been platted and/or constructed
- Areas in green are dedicated for green space
- Overall site is 131.36 acres
- 78.6 acres are either developed or dedicated
- 52.6 acres are undeveloped
- Proposed development is for 158 single family homes and 136 townhomes for a total of 294 units
- Modification to original approval
- Request to remove an access point off of Amelia Church Road
- Adjustment to base lines throughout the undeveloped sections of the development
- Changing use of properties shown as 7B, 7C, and 7E adjacent to Amelia Church Road from retail use and apartments to townhomes
- Transfer of units from 6A and 6B from 29 single family units to 52 townhomes
- Conversion of a through street into a cul-de-sac street
- Request would reduce the overall number of units by 20
- Maximum density of eight units per acre which is consistent with the original approval
- Maximum of 60% impervious is consistent with the current approval
- Access includes driveways off of Amelia Church Road, Middleton Street, Shad Boat Lane, and an unnamed driveway on the north side of Amelia Church Road
- Providing cross access to Garrison Avenue as part of Phase 2A
- Providing cross access to Hocutt Drive in Ellington as part of Phase 2B
- Multi-modal access pathways and greenways are being provided throughout the development which is a continuation of what is currently within LionsGate
- Maximum of 35 feet requested
- Setbacks are those listed on the master plan
- Recreation and open space requirements were satisfied with the original LionsGate Master Plan approval
- Clubhouse and pool facilities are already in place
- Reserve conservation areas, riparian areas and flood zones that are required to be preserved by recorded plat
- Riparian areas with streams on both sides of the development that are not perennial and that means they meet NC State requirements
 - 50 foot area from top of bank on each side
 - 30 feet on each side that is undisturbed
 - 20 feet that may be disturbed
- Of those listed on the USG map there is one riparian stream between Phases 2A, B, C, and D and Ellington Subdivision is listed on the USG as a perennial
- According to the Town Code there is a 50 foot undisturbed buffer on each side of the stream, in accordance with Section 155.502
 - Section 155.502 was adopted in 2005 as was the state requirement
- The State has since modified its buffer requirements to allow for the 30 foot untouched and the 20 foot which can be graded and replanted
- Town Code is more strict than the State requirement

- LionsGate was approved in March 2005
- Buffer requirements were approved in November 2005
- When initially adopted, the Town did not yet have stream buffer requirements
- As this is coming for approval, the codes in place now apply
- Nine conditions of approval
- Condition five was revised to: Roadway connections to Garrison Avenue (Phase 2A) and Hocutt Drive (Phase 2B) shall be constructed prior to issuance of a Certificate of Occupancy for dwelling units in the associated phase.
- Development is consistent with the Town's Strategic Growth Plan
- Consistent with the Town's Unified Development Code
- Applicant addressed the master plan approval criteria, 155.705 (K)
- Applicant addressed the findings of fact detailed in 155.711 (I) as required for a special use permit
- Findings of fact were accepted as part of a complete application and are incorporated into the staff report for the record
- Applicant held neighborhood meeting in September
- Several persons attended and expressed concern about the stream buffer
- Staff is recommending approval of the special use permit with the nine conditions of approval
- Applicant is available

Mayor McLeod called upon the applicant at 8:12 PM.

Mr. Fred Smith, Marseilles Drive, Clayton, North Carolina, questioned if it is the Council's preference to hear what he disagrees with first or the evidence. He stated he has witnesses to discuss values and complying with Town Codes.

Mayor McLeod stated to be efficient with time, to hear from who is opposed and then have those with Mr. Smith address concerns.

Town Attorney Katherine Ross stated for the record that the applicant's written proposal and evidence presented at the last hearing are included in this evening's evidentiary hearing. She stated the finding for property value requires expert witness testimony and if the applicant has such a witness to put that witness on as part of the evidence for the findings of fact.

Mayor McLeod stated if Mr. Smith has someone to speak on property value, that person should come forward at this time.

Mr. Smith stated Mr. Thad Avent is here.

Mr. Thad Avent stated he is a real estate appraiser with 20 years of experience in Clayton and Johnston County as well as surrounding counties. He stated his letter was distributed to each of the Council members, herewith attached and incorporated into the record. He stated the letter is for the proposed 6A and 6B

townhomes and those will not have a negative impact on the detached homes that buffer behind this property. He stated the blue line is a natural buffer on one side. He stated the write up is what is seen on the market as to how they do or do not impact marketability. He stated examples are Cottonfield Village and the in town subdivisions of Moss Creek and Riverwood. He stated they are attached and detached.

Mr. Smith questioned Mr. Avent if he reviewed the whole master plan.

Mr. Avent stated yes.

Mr. Smith questioned if there was anything in the master plan that would hurt anyone's property values.

Mr. Avent stated tonight he noticed it bordered Walnut Creek. He stated he reviewed Ellington. He stated what he saw and the phases reviewed were all right.

Mayor McLeod opened the floor to anyone opposed to this request at 8:16 PM.

Mr. Gilbert Gonsalves stated he and his wife moved to Clayton in March. He stated they have had property in Clayton since 2006. He stated they enjoy Clayton and it is a great community. He stated when they moved into LionsGate they bought property on Tuscarora Lane that abuts Phases 6A and 6B. He stated his property would be with a building behind them. He stated his understanding was LionsGate would have single family homes. He stated he can understand that property values may not be affected. He added the difference in the numbers is relatively small. He stated the impact of the traffic on Shotwell Road and Amelia Church Road will be just under 33 which would be insignificant. He stated he would like it to remain single family homes. He stated another concern is the riparian buffer. He questioned if the 100 feet between 6A and 6B will remain 100 feet or is there 20 feet not developed but could be worked on.

Planning Director DeYoung stated his understanding is because it is not listed on the USGS that the developer can disturb 20 feet on each side. He stated there will be 60 feet in the middle that will be undisturbed.

Mr. Gonsalves stated he will not disturb the 20 feet on his side.

Planning Director DeYoung stated the developer can answer the question. He added he believes the 20 feet on Mr. Gonsalves side has been graded. He stated what is on Mr. Gonsalves side will be on the other side.

Mr. Gonsalves questioned if that is true.

Mr. Smith nodded affirmative.

Mr. Gonsalves stated he would like the remaining 60 feet undisturbed. He stated during the summer it is nice to have the trees as he cannot see Shotwell Road. He stated the winter is noisy and the view is not as nice. He stated he would like the development to remain single family homes and the riparian area not be disturbed.

As no one else came forward to speak, Mayor McLeod turned the floor to the applicant for rebuttal at 8:20 PM.

Mr. Fred Smith stated first he is not seeking a new special use permit. He stated LionsGate has a development permit. He stated if an agreement cannot be reached with the special use request, the development will continue under the existing plan. He stated this project was approved in 2005. He stated there were certain topographical challenges. He stated to make this project, he worked with staff and agreed on what to do and there are development rights. He stated in the 2005 map, they agreed to and have developed using the Neuse River Buffer rules as State approved. He stated 30 feet is undisturbed and 20 feet can have grass. He stated it is important to remember that he was one of those in the state government to pass this. He stated the Neuse River Buffer is for one purpose and that is for water quality. He stated a Neuse River Buffer will filtrate the water whether it is the 30 feet undisturbed or the 20 feet put back in grass. He stated there can be no structures in the 20 feet and it has to be put back as grass or vegetation that will filter water. He stated that is what the buffers do. He stated he has Mr. Jamie Guerrero from Johnston County to testify if the Council wishes to hear him this evening. He stated everything that is being proposed is in compliance with the state's reasons for having buffers. He stated he contends that what is requested is not different from anything except there are changes about the commercial. He stated when this was originally designed, there were two pods with townhomes and alleys and one of single family. He stated the market has shown that is not a good decision. He stated the request is not for more lots. He stated the number of lots requested has been reduced, some of the lots are larger with bigger and nicer homes. He stated this will create more affordable homes in that tract of land between Shotwell and Amelia Church Roads. He stated these are not townhomes, these are duplex homes. He stated they look almost the same but there are less structures and they look like a single family home. He stated the traffic is less as there are fewer units. He stated he has been working with the Town for the trails. He stated he believes it will improve the livability for the people in the Town of Clayton to have the trails from the Clayton Community Center to across Town. He stated they will comply with all the environmental rules in place at the time of the original approval. He stated there are two conditions. He stated he would stop to ask if there are any questions.

Hearing no questions, Mr. Smith stated there are two conditions. He stated he disagrees with these conditions and he assumes these are in the Council's packets. He stated conditions 8 and 9 are not agreeable. He stated condition 8 applies to section 2 and Garrison. He stated the only way those lots are feasible is if those lots are built under the original plan that was approved by the Town of Clayton. He stated the original plan includes a Neuse River Buffer zone, riparian buffer zone 1 and zone 2. He stated zone 2 has to have a backyard for these lots. He stated without a backyard these lots become unbuildable. He stated this is a dilemma. He stated unless the Council grandfathers in the riparian buffer rules from section 2 that were included in the 2005 approval, to agree with section 8 makes that section non-buildable.

Councilman Satterfield questioned if that is currently the state regulations.

Mr. Smith stated the State regulations. He stated a Neuse River Buffer is 50 feet and of the 50 feet 30 feet cannot be disturbed and 20 feet can be disturbed and must be re-vegetated with grass or a similar cover.

Councilman Satterfield questioned if that is requested to remain the same. He requested clarification on conflict with condition 8.

Mr. Smith stated when this was approved the State rules applied. He stated after that, the Town adopted the new code that has the 50 foot as completely undisturbed.

Councilman Satterfield stated this is more than the State requires.

Mr. Smith stated that is correct. He stated he is requesting to follow the rules for which this plan was initially approved. He stated otherwise this is not a doable plan.

Councilman Satterfield questioned is this more than the State requires.

Mr. Smith stated if he were coming in here new, and not having a plan, he would not ask for what he is asking for this evening. He would abide by the new rules if this were a new plan. He stated he would have known that when he walked the tract of land and he would have agreed with that. He stated that is not where he is at. He stated he has a tract of land that has been planned for eight years. He stated to develop it, he needs the rules of the original plan.

Councilman Satterfield questioned why the Town has different rules than the State.

Planning Director DeYoung stated he had the opportunity to speak with Mr. Browder today. He stated at the time the rules were adopted, the rules were consistent with the State requirements. He stated after the adoption of the

ordinances, the State provided clarification about zone 1 and zone 2. He stated the intent of the Town Code was to meet State requirements. He stated the Town Code was not amended to reflect State standards. He stated these have been out of compliance.

Councilman Satterfield questioned to be in compliance with the State, number 8 would be eliminated.

Planning Director DeYoung stated the Town is more restrictive than the State. He stated if it is part of the Council's desire, the Council may waive 155.500 buffer requirements in lieu of the State requirements.

Councilman Satterfield stated okay.

Mayor Pro Tem Grannis stated for clarification, his understanding is 30 feet on each side must continue to remain undisturbed. He added 20 feet can be disturbed but put back in the fashion that it was before the disturbance.

Planning Director DeYoung stated it has been created, it has to be re-planted and the re-planting does not include trees. He stated the replanting only includes necessary ground cover to stabilize.

Mr. Smith stated where it is disturbed, sod would be placed.

Mayor Pro Tem Grannis questioned if Mr. Smith would be amenable to planting trees if trees are felled.

Mr. Smith stated he does not mind planting some trees. He stated there are people with children and they prefer a backyard for the children to play. He stated as long as it is doable, he will do it. He added it would be an additional cost of \$300 and he would do it.

Mayor Pro Tem Grannis stated if the 20 feet are put back into a condition prior to it being disturbed that would be a good thing.

Mr. Smith stated that would make a house not doable. He stated the reason for the buffer was not for the screening. He stated when this plan was adopted, the Town Code provided that if one use butts up to similar use such as single family to single family then no buffer is required if the planning commission waives it. He stated in the initial plan, the planning commission waived it and no buffers were required except for the Neuse River Buffer. He stated that is what is on the plan. He stated that has to do with water quality not the screening between separate uses because single family backing up to single family does not require it. He stated single family backing up to commercial does require a buffer. He stated he is not asking for anymore than what was originally approved.

Mayor Pro Tem Grannis stated Mr. Guerrero may be the best one to address this question. He stated he believes that with water quality it may be better to have the grass as opposed to grass and trees.

Mr. Smith stated the State rules for the Neuse River Buffer have not changed since adopted. He stated it has always been 30 feet undisturbed and 20 feet may be disturbed.

Mayor Pro Tem Grannis stated he is not disputing that. He stated he is requesting clarification that grass replanting without trees might provide better water quality.

Mr. Jamie Guerrero, Johnston County Public Utilities, stated the exemption to grade that 20 foot zone 2 requires that it be re-vegetated. He stated the outcome is it regulates flow. He stated this means there is no concentrated flow. He stated the buffer rules for re-vegetative do not state grass or trees. He stated if a significant number of trees are planted, it will likely not be approved as meeting the requirement.

Town Attorney Ross requested Mr. Guerrero state his name and position for the record.

Mr. Jamie Guerrero stated he is with Johnston County Public Utilities as a Development Engineering, Environmental, and Stormwater Manager. He stated for the record Johnston County has sought delegated authority to enforce the Neuse River Riparian rules.

Mr. Smith questioned if the Council had any other questions about condition 8.

Councilman Lawter stated the only blue line stream is between 2B, 2C, 2D and Ellington Subdivision as he does not see blue lines on the other ones.

Mr. Donnie Adams nodded yes.

Councilman Lawter questioned for the non-Neuse River creeks and streams, if there are any special buffers.

Planning Director DeYoung stated no. He added the Town's Code specifically addresses the ones located on the USGS map. He stated the only stream is the one between this development and Ellington.

Councilman Lawter stated the 30 foot buffer that is shown between 6B and 6C is beyond what is required by the Town.

Planning Director DeYoung stated that would follow State requirements.

Mr. Donnie Adams of DC Adams Engineering stated there are two different standards. He stated there are the Town standards and the State standards. He stated there are four streams subject to the State riparian buffers. He stated there is only one that falls under the USGS.

Councilman Lawter stated it is squared away for him now.

Mr. Smith questioned if there were additional questions about condition 8.

Hearing none, Mr. Smith stated he would address condition 9. He stated he has never seen a condition like this. He stated condition 9 is not pursuant to any rule of the law and he would challenge condition 9 as it is so subjective.

Mayor McLeod requested an interpretation of condition 9.

Planning Director DeYoung stated whenever there is a planned development the applicant is to exceed the standards such as increasing setback, increasing density, all of which have been in play for the subdivision. He stated it is a poorly written condition. He stated the goal is to protect the trees that may be able to be saved for a subdivision. He stated it is the regular practice to clear cut everything on site. He stated this condition is to encourage the saving of large trees.

Councilman Satterfield stated when Mr. Smith began the development he clear cut an area but he left 30 acres undeveloped. He stated he is sorry, but condition 9 is out.

Mr. Fred Smith stated not all developers are trying to rape the land. He stated when he did Riverwood he did swales to try to filter the water. He stated when he developed Hedingham with its 2,000 homes, the first thing he did was try to save trees. He stated he spent a lot of time and money trying to locate homes and save trees. He ended up spending money to bring in a tree doctor to cut out those trees because when the roots are disturbed, the tree dies. He stated the solution is not to save the tree, because when building homes this close together, trees cannot be saved. He stated if there is an acre lot, a home can be built in such a way to minimize damage to trees. He stated 60 foot lots with a 30 or 40 foot wide home with only 10 feet left, the tree will not live. He stated the best thing to do is to require the builder to come back and plant a tree in the right place. He stated over a period of time the tree grows and the community looks good. He stated that is the right answer.

Mayor McLeod stated if the opposition wishes to come forward to offer rebuttal at 8:44 PM.

As no one came forward, Mayor McLeod turned the item over to Council for inquiry at 8:44 PM.

Mayor Pro Tem Grannis stated he does not have a question, but he does have a couple of statements. He stated he knows a little about trees because he spent time with an arborist. He stated he agrees with what Mr. Smith stated with respect to the lots in relation to condition 9. He stated he is glad Mr. Smith made the comment to come back and plant trees to replace the ones removed. He stated he believes the Town requirement is a 2.5 inch diameter requirement and he stated if at all conceivable he would like to see something larger. He stated with respect to the land value, he appreciated what was shared by Mr. Gonsalves. He stated the Council received documentation from a professional stating no adverse impact. He stated because of the documentation, the Council has an obligation to discount the argument. He stated that may not be likable but this is an evidentiary hearing. He stated if the Council did not have the documentation from a professional this could have been different.

Town Attorney Ross reminded the Council the only thing before them for consideration is the special use permit. She added there will be two more evidentiary hearings after this one. She added the Council may place conditions on the special use permit.

Mayor McLeod thanked Town Attorney Ross for the clarification.

Mayor McLeod called the Council into deliberation at 8:47 PM.

Mayor Pro Tem Grannis motioned to approve:

Based on the substantial and competent evidence and testimony presented to the Town Council on this matter, the Council finds and concludes that Special Use Permit Application **SUP 2013-71**, subject to the conditions recommended by the Planning Board and Planning Staff [conditions 1 through 7]:

1. All development fees must be paid prior to issuance of a building permit.
2. Development of the site shall be consistent with the specifications of the Master Plan approved as part of this Special Use Permit. Modifications to the Master Plan may require additional approvals as required by the Town Code.
3. Each phase shall receive preliminary plat and/or site plan approval, as applicable, before proceeding to final plat approval or site development.
4. Prior to issuance of any final plats associated with the development, Verrazano Place, Sioux Lane, and Tuscarora Lane are to be inspected by the developer's engineer and Town Staff to determine which lines need to be cleaned.
5. Roadway connections to Garrison Avenue (Phase 2A) and Hocutt Drive (Phase 2B) shall be constructed prior to issuance of a Certificate of Occupancy for dwelling units in the associated phase.
6. Marked crosswalks shall be placed where the bike trail crosses a roadway, including at mid-block or at an intersection.
7. Marked crosswalks shall be placed at intersections where sidewalks are located.

- ~~8. Resource conservation areas as defined by Section 155.500 of the Unified Development Code shall be identified on preliminary and final plats as being permanently set aside, and shall be protected in perpetuity by a binding legal instrument recorded with the deed which includes clear restriction on the use of the resource conservation area, as described in Section 155.500(F).~~
- ~~9. Flexible approaches such as adjustments to lot layout, placement of buildings and paved surfaces and location of utilities should be pursued in order to save existing stands of trees or trees with a diameter at breast height of 12 inches or more.~~

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

- (1) Will not materially endanger the public health or safety if located where proposed and developed according to the plans as submitted and approved;
- (2) Meets all required specifications and conforms to the standards and practices of sound land use planning and the Town of Clayton's Unified Development Ordinance or all other applicable regulations;
- (3) Will not substantially injure the value of adjoining or abutting property and will not be detrimental to the use or development of adjacent properties and other neighborhood uses; and
- (4) Will not adversely affect the general plans for the development of the Town of Clayton and will not violate the character or existing standards for development of the adjacent properties.

Councilman Holder seconded the motion.

Planning Director DeYoung requested for clarification if the motion included the modification to condition 5 and the waiver to allow the riparian buffers to meet State standards.

Mayor Pro Tem Grannis stated so moved to amend his motion. Councilman Holder seconded the amended motion.

Motion carried unanimously at 8:49 PM.

Mayor Pro Tem Grannis motioned to approve:

Based upon satisfactory compliance with the above four stated findings and fully contingent upon acceptance and compliance with all conditions as previously noted herein I move to approve Special Use Permit Application **SUP 2013-71**.

Councilman Lawter seconded the motion. Motion carried unanimously at 8:50 PM.

Mayor McLeod called for recess at 8:50 PM. Mayor McLeod called the meeting back to order at 9:02 PM.

Item 8d. Evidentiary hearing for subdivision application SUB (PSD) 2013-56 for LionsGate, Phase 3A and 3G; continued from November 4, 2013, Council meeting; continued from the November 18, 2013, council meeting.

Mayor McLeod announced subdivision application SUB (PSD) 2013-56 for LionsGate Subdivision, Phase 3A and 3G located on Amelia Church Road near Shotwell Road has been noticed for an evidentiary hearing at 9:03 PM.

He called upon Town Attorney Katherine Ross to explain the rules of procedure.

Town Attorney Katherine Ross stated a preliminary subdivision plat is a quasi judicial hearing and the Council acts essentially as a court of law. She stated the applicants have the burden of meeting the criteria within the code.

Mayor McLeod called all those wishing to give evidence, whether for or against the subdivision application, to come forward and be sworn in. On November 4, 2013, Town Clerk Sherry Scoggins administered the oath to Town Manager Steve Biggs. On December 16, 2013, Town Clerk Sherry Scoggins administered the oath to: David DeYoung, Fred Smith, and Donnie Adams.

Planning Director DeYoung provided the following PowerPoint presentation and overview; herewith attached:

- Subdivision request 2013-56 for LionsGate Phases 3A and 3G
- Approval will allow the subdivision of 36 single family lots within the LionsGate Planned Development
- Subject to special use permit 2013-71, passed as item 8c
- Continuation of an existing section of LionsGate
- Both phases are a total of 4.8 acres
- Planned development mixed use
- Area currently vacant
- Located on the south side of Amelia Church Road
- Minimum lot size is 2880 square feet
- Maximum lot size is 7505 square feet
- Maximum impervious surface area is 4000 square feet for each lot
- Access to these lots are of Shadboat Lane and Middleton Avenue
- Multi-modal access includes sidewalks and greenway/bike trails
- Maximum height is 35 feet
- Middleton Avenue was a discussion during the Planning Board
- All recreation and open space requirements were satisfied during the master plan approval
- No waivers are requested for this request
- Request is consistent with the Town's Strategic Growth Plan
- Applicant addressed the findings of fact in accordance with UDC section 155.706 (I) (10)

- Findings of fact accepted as part of the complete application and are Exhibit A in the staff report
- Neighborhood meeting was held on September 9, 2013
- Staff is recommending approval with the four conditions included in the staff report

Mayor McLeod called upon the applicant at 9:07 PM.

Mr. Fred Smith stated that nothing in this request changed from the original plan.

As there was no one to speak in opposition to this request, Mayor McLeod turned this item over to the Council for inquiry at 9:08 PM.

As there were no questions for inquiry, Mayor McLeod turned this item over to Council for deliberation at 9:08 PM.

Councilman Butch Lawter motioned:

Based on the substantial and competent evidence and testimony presented to the Town Council on this matter, the Council finds and concludes that Subdivision Application **SUB 2013-56**, subject to the conditions recommended by the Planning Board and Planning Staff:

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

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

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

Councilman Holder seconded the motion. Motion carried unanimously at 9:10 PM.

Councilman Butch Lawter motioned to approve:

Based upon satisfactory compliance with the above four stated findings and fully contingent upon acceptance and compliance with all conditions as previously noted herein I move to approve Subdivision Application SUB 2013-56.

Councilman Holder seconded the motion. Motion carried unanimously at 9:10 PM.

Item 8e. Evidentiary hearing for subdivision application SUB (PSD) 2013-57 for LionsGate, Phase 6A and 6B; continued from November 4, 2013, Council meeting; continued from the November 18, 2013, Council meeting.

Mayor McLeod announced subdivision application SUB (PSD) 2013-57 for LionsGate Subdivision, Phase 6A and 6B has been noticed for an evidentiary hearing at 9:10 PM.

Town Attorney Katherine Ross provided an overview of the hearing procedures during item 8d.

Persons were sworn in during item 8d.

Planning Director David DeYoung provided a PowerPoint presentation overview of the request; herewith attached:

- Phases 6A and 6B of LionsGate Subdivision
- Request is for 52 townhome units within the planned development
- Subject to the approval of special use permit SUP 2013-71; approved as item 8c
- Parcel is 6.82 acres
- Site is currently vacant
- Located between Shotwell Road and Amelia Church Road
- Proposed use is 26 buildings for 52 units
- Shared property lines
- Minimum lot size is 2436 square feet
- Maximum lot size is 9615 square feet
- Maximum impervious surface in this section is 2350 square feet per lot
- Access is off of Amelia Church Road to Yellow Jacket Ridge aligned with Garrison Avenue
- Multi-modal access provided throughout the community via greenway trails and bike trails and sidewalks
- Maximum height is 35 feet
- All recreation and open space satisfied under the original approval

- Providing a 30 foot Class C buffer along Shotwell Road
- No waivers are requested
- Consistent with the Town’s Strategic Growth Plan
- Applicant addressed the findings of fact required by 155.706 (I) (10) of the UDO and incorporated as Exhibit A to the staff report
- Neighborhood meeting held on September 9, 2013
- Staff is recommending approval subject to the six conditions of approval

Councilman Satterfield questioned if condition 6 applies to this request.

Planning Director DeYoung stated the conditions are 1 through 5 and to strike condition 6.

There was no testimony by the applicant or opposition for this request.

As no one came forward to speak, Mayor McLeod turned this item over to Council for inquiry at 9:14 PM.

As there were no questions by Council, Mayor McLeod called the Council into deliberation at 9:14 PM.

Councilman Thompson motioned:

Based on the substantial and competent evidence and testimony presented to the Town Council on this matter, the Council finds and concludes that Subdivision Application **SUB 2013-57**, subject to the conditions recommended by the Planning Board and Planning Staff:

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

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

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

Councilman Holder seconded the motion.

Councilman Satterfield requested to clarify that the conditions are 1 through 5 and not 1 through 6.

Councilman Thompson stated he amends his motion to reflect conditions 1 through 5.

Councilman Holder seconded the amended motion.

Motion carried unanimously at 9:15 PM.

Mayor Pro Tem Grannis motioned to approve:

Based upon satisfactory compliance with the above four stated findings and fully contingent upon acceptance and compliance with all conditions as previously noted herein I move to approve Subdivision Application SUB 2013-57.

Councilman Holder seconded the motion. Motion carried unanimously at 9:16 PM.

ITEM 9. STAFF REPORTS

Item 9a. Town Manager

- Discussion of scheduling and logistics for the 2013-2014 Council Retreat.

Town Manager Steve Biggs stated he would like Council feedback on hosting the Council Retreat the week of February 24, 2014. Based upon Council question, he sees two days for the Council.

Item 9b. Town Attorney

Town Attorney Katherine Ross stated no additional report.

Item 9c. Town Clerk

Town Clerk Sherry Scoggins stated the Annual Main Street Conference is slated for January 29 – 31, 2014, in New Bern.

Item 9d. Other Staff

No presentations were made by other staff to the Council.

ITEM 10 OTHER BUSINESS

Item 10a. Informal Discussion & Public Comment.

Ms. Sydney Caldwell, Zaxby's Regional Marketing Manager, stated she is here on behalf of the Clayton Zaxby's and requested the Second Annual Zaxby's Parking Lot Polar Plunge for Special Olympics for North Carolina on Saturday, January 25, 2014, from 12 noon to 2 PM be added to the Councils' calendar of events. She stated last year the event raised \$5,000 and it was a great event.

Item 10b. Council Comments.

No Council comments were presented.

ITEM 11. ADJOURNMENT

With there being no further business brought before the Council, the Council adjourned at 9:23 PM.

Duly adopted by the Clayton Town Council this ____ day of ____ 2014, while in regular session.

ATTEST:

Jody L. McLeod,
Mayor

Sherry L. Scoggins, MMC
Town Clerk

MINUTES CLAYTON TOWN COUNCIL JANUARY 06, 2014

The first regular meeting of the Clayton Town Council for the month of January was held on Monday, January 6, 2014, 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; Dale Medlin, Electric System Director; Lee Barbee, Fire Chief; 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 6:38 PM with the following action agenda items being approved:

- Item 3a. Resolution between the Town of Clayton and Johnston County for Erosion and Sediment Control; attached and incorporated into the record.
- Item 3b. Location proposal for new “Welcome to Clayton” sign.

ITEM 4. INTRODUCTIONS AND SPECIAL PRESENTATIONS

- Item 4a. Presentation of results for the weight loss challenge sponsored by Dr. Benjamin Atkeson.

Fire Chief Lee Barbee provided background on how Dr. Benjamin Atkeson helped the Clayton Fire Department. He stated Dr. Atkeson sponsored softball and basketball teams for the Clayton Fire Department. He added there have

been competitions with the police department. He stated the most recent challenge between the fire and police departments was a weight loss challenge.

Matt Sutphin and Richie Herring were recognized and came forward to provide an overview of the weight loss challenge. Matt Sutphin stated the challenge recognized an individual who lost the most weight and the team that lost the most weight. Matt Sutphin stated Michael Hine of the fire department won the individual challenge and the police department won the team challenge.

Dr. Benjamin Atkeson stated a few years ago there was a fun basketball challenge between the police and fire departments. Dr. Atkeson presented a \$500 check to Michael Hine and a \$1,000 check to Captain Herring for the Police Department.

Item 4b. Recognition of long-term service by Town of Clayton employee(s).

Fire Chief Lee Barbee stated this is a new practice to recognize the retirees of the Cayton Fire Department.

Chief Barbee stated Brian Pounds began in 1987 in fire services with the Town and is currently serving in the police department. He stated Chris Sutton began in 1992 in the Smithfield Fire Department, seven years later he joined the Town of Clayton and he is currently serving in the Raleigh Fire Department.

Brian Pounds stated his thanks for the opportunity to serve. He stated 27 years ago he received a phone call to pick up his turn out gear. He stated at that time turn out gear consisted of rubber boots and a jacket. He stated he was excited to be a part of the department.

Chris Sutton stated this was a hard decision. He stated he has four children and it is a challenge to balance life and work. He expressed his appreciation for the opportunity.

ITEM 5. PUBLIC HEARINGS

Item 5a. Public hearing for rezoning request RZ 2013-76 from R-E to B-3 located adjacent to the existing self storage facility on Powhatan Road near US 70 Business HWY.

Planning Director David DeYoung provided the following PowerPoint overview of rezoning request RZ 2013-76:

- 1.01 acre site
- Adjacent to the existing Powhatan Self Storage
- Present site has a vacant house that is being demolished

- Site is in the middle of the industrial corridor area
- Site to the north is self-storage
- Site to the south is residential
- Long-term plan is for area to be industrial
- B-3 is consistent with the corridor area
- Consistent with strategic growth plan
- Consistent with the UDC
- Class C buffer required
- Neighborhood Meeting held on November 5, 2014; no attendees
- Planning Board and staff recommended approval of the request

Mayor McLeod opened the public hearing at 6:49 PM. As no one came forward to speak on this item, Mayor McLeod closed the public hearing at 6:49 PM.

Mayor Pro Tem Grannis motioned to approve the rezoning RZ 2013-76 as presented; Councilman Lawter seconded the motion. Motion carried unanimously at 6:50 PM.

Mayor Pro Tem Grannis motioned to approve the Statement of Reasonableness and Consistency as included in the agenda packet; Councilman Satterfield seconded the motion. Motion carried unanimously at 6:50 PM.

Item 5b. Public hearing for proposed utility development agreement with Grifols Biopharmaceuticals.

Town Manager Biggs stated consistent with the general statutes, the public hearing is required in order for the Town to enter into a development agreement. He stated the development agreement formalizes the expectations of the Town and Grifols for utility service over the next 20 years. He stated Grifols is not within the corporate limits, nor can it be annexed, Grifols is the Town's largest water and sewer customer. He stated the Town is Grifol's biggest vendor. He stated the development agreement provides assurances on a long-term relationship between the Town and Grifols.

Mayor McLeod opened the public hearing at 6:52 PM. As no one came forward to speak on this item, Mayor McLeod closed the public hearing at 6:52 PM.

Mayor Pro Tem Grannis motioned to approve the utility development agreement with Grifols as presented; Councilman Holder seconded the motion. Motion carried unanimously at 6:53 PM.

ITEM 6. OLD BUSINESS

No Old Business was presented to the Town Council.

ITEM 7. NEW BUSINESS

Item 7a. Addendum to the Inter-Local Agreement for Provisions of Fire Service with Johnston County.

Fire Chief Lee Barbee stated a number of years ago the [Johnston County] fire chiefs and fire marshal began reviewing the six mile area and the closest response for stations. He stated homeowners were calling because of the insurance rates. He stated the moving of district lines was reviewed by the fire departments.

Town Manager Steve Biggs stated this is a good example of someone stepping up to a leadership role to bring change for our citizens. He stated it is not common to re-draw fire service area lines. He stated this will enable many citizens to receive a benefit by this action.

Councilman Thompson motioned the addendum as presented; Councilman Holder seconded the motion. Motion carried unanimously at 6:56 PM.

ITEM 8. STAFF REPORTS

Item 8a. Town Manager

Town Manager Steve Biggs stated in speaking with the facilitator the week of March 3 is doable.

After discussion by the Council, the retreat dates for 2014 are March 3, 4, and 5.

Town Manager Biggs stated an agenda meeting with the facilitator will be set between him, the Mayor, the Town Clerk, and the Deputy Town Manager in the next three weeks.

Item 8b. Town Attorney

Town Attorney Katherine Ross stated no additional report.

Item 8c. Town Clerk

Town Clerk Sherry Scoggins stated the Chamber Banquet is Tuesday, January 28, 2014.

Town Clerk Sherry Scoggins stated Mr. Steve Reed of WTSB-AM is in attendance this evening.

Item 8d. Other Staff

Fire Chief Lee Barbee invited the Town Council to the Clayton Fire Department Promotional Ceremony to be held in the Council Chambers on Sunday January 19, 2014, at 3 PM.

ITEM 9. OTHER BUSINESS

Item 9a. Informal Discussion and Public Comment.

Ms. Amanda James of the Clayton News-Star stated next week is her last week at the paper. She is going to Cambodia to work with a non-profit for the next four months. She stated she has enjoyed working with Clayton and she stated it was nice having folks available.

Item 9b. Council Comments.

No Council comments were presented.

ITEM 10. ADJOURNMENT

Councilman Lawter motioned to adjourn; Councilman Holder seconded the motion. Motion carried unanimously at 7:04 PM.

Duly adopted by the Clayton Town Council this 22nd day of January 2014, while in regular session.

ATTEST:

Jody L. McLeod
Mayor

Sherry L. Scoggins, MMC
Town Clerk

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

Agenda Item: 3b

Meeting Date: 1/22/2014

TITLE: PUBLIC COMMENT SLATED FOR CLAYTON TOWN COUNCIL CONSIDERATION AT ITS FEBRUARY 3, 2014, COUNCIL MEETING ON THE PROPOSED FEE AMENDMENT TO THE CONSULTANT REVIEW FEES FOR TOWER REVIEW [NC GS 160A-4.1] WITHIN THE TOWN OF CLAYTON COMPREHENSIVE LIST OF FEES AND CHARGES.

DESCRIPTION: Public Notice.

Posted on the Town's website on 1/13/2014 and the Town's bulletin board on 1/13/2014.

RELATED GOAL: Legislative

ITEM SUMMARY:

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
01-22-14	Approval.	Public Notice.



PUBLIC NOTICE

Notice is hereby given that the Clayton Town Council of the Town of Clayton will hold the following hearings on **Monday, February 3, 2014, at 6:30 PM** in the Council Chambers of the Town Hall, 111 East Second Street:

- In accordance with NC GS 160A-4.1, the Clayton Town Council will receive public comment on the proposed fee amendment to the consultant review fees for tower review / collocation as posted in planning department fee schedule published in the Town's Comprehensive List of Fees and Charges.

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

Sherry L. Scoggins, MMC -- Town Clerk

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

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

Posted 1/13/2014

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

Agenda Item: 4a

Meeting Date: 1/22/2014

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

DESCRIPTION: Introduction(s).

RELATED GOAL: Administrative

ITEM SUMMARY:

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
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01-22-14	Introduction(s).	N/A.
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**TOWN OF CLAYTON
TOWN COUNCIL
AGENDA COVER SHEET**

Agenda Item: 4b

Meeting Date: 1/22/2014

**TITLE: RECOGNITION OF EVAN BRADSHAW: PARTICIPANT IN THE 2014
DOWN UNDER BOWL.**

DESCRIPTION: Recognition.

RELATED GOAL: Administrative

ITEM SUMMARY:

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
01-22-14	Recognition.	Proclamation.

**TOWN OF CLAYTON
RECOGNITION OF EVAN BRADSHAW
PARTICIPANT IN THE 2014 DOWN UNDER BOWL**

WHEREAS, International Sports Specialists, Inc. (ISSI) was founded in February 1989 based upon the dream of a New Zealander by the name of George O'Scanlon; and

WHEREAS, ISSI hosts the annual Down Under Sports Tournaments which provide a forum for athletes from other countries to compete head to head in the sport they love in Australia; and

WHEREAS, the goal of ISSI is to use the common language of sports to bridge the continents; and

WHEREAS, Clayton High School senior Evan Bradshaw has been invited to represent t North Carolina on the 2014 East Central Conference Football Team in the summer of 2014; and

WHEREAS, Evan's participation is a once in a lifetime opportunity as he represents the Town of Clayton and North Carolina Football on the East Central Conference Team competing in the 2014 Down Under Bowl Championship.

NOW, THEREFORE, the Honorable Mayor and Town Council of the Town of Clayton recognize Evan Bradshaw for his selection as an Impact Player to the 2014 North Carolina State Football Team. And the Honorable Mayor and Town Council of the Town of Clayton extend best wishes for a successful grid-iron game while competing at the 2014 Down Under Bowl hosted on the Gold Coast of Australia.

Duly proclaimed this the 22nd day of January 2014.

**Jody L. McLeod,
Mayor**

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

Agenda Item: 4c

Meeting Date: 1/22/2014

TITLE: PRESENTATION OF ACTIVITIES SLATED FOR THE MONTH OF FEBRUARY 2014 FOR AMERICAN HEART MONTH AND PROCLAIMING FEBRUARY AS AMERICAN HEART MONTH.

DESCRIPTION: A representation of the American Heart Association will provide an overview of “healthy” activities for the month of February.

Additionally, the Council is requested to proclaim February 2014 as “American Heart Month.”

RELATED GOAL: Expand Leisure Opportunities and Administrative

ITEM SUMMARY:

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
01-22-14	Presentation.	Proclamation.

**TOWN OF CLAYTON
PROCLAIMING FEBRUARY AS AMERICAN HEART MONTH**

WHEREAS, the American Heart Association is the only voluntary health agency whose sole mission is to build healthier lives, free of cardiovascular disease and stroke; and

WHEREAS, heart attacks and strokes kill and disable more people each year than all other health-related causes combined; and

WHEREAS, it is now possible to reduce this terrible toll dramatically through proper diet, exercise, and medical care; and

WHEREAS, the American Heart Association and its local affiliates have engaged in a collaborative effort to focus public attention on the opportunities we have to protect ourselves against the ravages of these afflictions; and

WHEREAS, the American Heart Association provides health care, nutrition, and physical activity suggestions on its website: www.heart.org; and

WHEREAS, the Town of Clayton motto is “Premier Community for Active Families;” and

WHEREAS, the first Friday of each February is recognized as National Wear Red Day; and the American Heart Association is again recognizing and supporting this cause on Friday, February 7, 2014, by raising funds for research and standing with women in their fight against their number one killer- heart disease; and

WHEREAS, the American Heart Association is sponsoring HeartChase an “Amazing Race” type event on Saturday, May 17, 2014, in Downtown Clayton; whereby participants in HeartChase will perform some type of heart healthy exercise before moving on to another checkpoint.

NOW, THEREFORE, the Honorable Mayor and Clayton Town Council wish to recognize the month of February as

“AMERICAN HEART MONTH”

and remind our citizens of the vital importance of preventive health care and to support educational programs to help fight against heart disease and stroke.

Duly proclaimed by the Clayton Town Council this 22nd day of February 2014, while in regular session.

Jody L. McLeod,
Mayor

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

Agenda Item: 4d

Meeting Date: 1/22/2014

TITLE: PRESENTATION REGARDING THE INCREASE IN SALES TAX ON ELECTRIC SALES EFFECTIVE JULY 1 2014.

DESCRIPTION: Staff will provide an overview of the increase in sales tax on electric sales effective July 1, 2014.

RELATED GOAL: Financially Responsible Town Government Providing Quality Service.

ITEM SUMMARY:

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
01-22-14	Presentation.	N/A.

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

Agenda Item: 5a

Meeting Date: 1/22/2014

**TITLE: PRESENTATION OF AMENDMENT TO THE TOWN OF CLAYTON
COMPREHENSIVE LIST OF FEES AND CHARGES FOR
CONSULTANT REVIEW FEES FOR TOWER REVIEW.**

DESCRIPTION: At its December 2, 2013, Council meeting, Council amended its Code of Ordinances for cell towers because of legislation passed by the state legislators during the 2013 session. The amendment to the fee schedule coincides with the recently approved state legislation.

RELATED GOAL: Financially Responsible Town Government Providing Quality Service.

ITEM SUMMARY:

Date:

Action:

Info. Provided:

01-22-14

Presentation.

Planning Fee Schedule.

Planning Department Fee Schedule*

Effective July 1, 2013

DEVELOPMENT SUBMITTAL FEES			
Appeal / Interpretation	\$250	Sign, Master Plan	\$100
Annexation (see Town Clerk)	No Charge	Sign, Permanent	\$50 + \$5/add'l sign
Conditional Use	\$400	Sign, Temporary	\$30
Major Subdivision	\$400 + \$5/lot	Site Plan, Administrative Amendment	\$100
Minor Subdivision	\$200 + \$5/lot (< 5 lots)	Site Plan, Major	\$500 + \$5/acre
Master (Open Space) Subdivision Plan	\$700 + \$5/acre	Site Plan, Minor	\$250 + \$5/acre
Planned Development	\$1,000 + \$5/acre	Special Use Permit	\$400
Plat, Exempt	\$100	Temporary Use / Special Event Permit	\$100
Plat, Final	\$250 + \$5/lot	Tree Removal / Clearing Permit	\$50
Plat, Recombination	\$100	Variance Application	\$250 \$500 (after the fact)
Re-submittal Fee	<i>3rd Submittal</i> ½ of Original Fee	Zoning Compliance Permit ⁽¹⁾	\$50
Rezoning	\$500	Zoning Verification Letter	\$50

⁽¹⁾No charge for not-for-profit organizations

DOCUMENT FEES			
Photocopy < 11" X 17" (Black and White)	\$0.10	Maps 24" X 36"	\$20.00
Photocopy > 11" X 17" (Black and White)	\$1.00	Maps 36" X 48"	\$30.00
Photocopy < 11" X 17" (Color)	\$0.40	General Design Guidelines	\$10.00
Photocopy > 11" X 17" (Color)	\$5.00	Strategic Growth Plan	\$20.00
Maps 18" X 24"	\$10.00	Unified Development Code	\$40.00

CONSULTANT REVIEW FEES			
Traffic Review	\$ Determined Prior to Submission	Tower Review, New Structure with One Related Meeting	\$5,000
Tower Review, New Structure with Two Related Meetings	\$6,500	Tower Review, Co-Location / Modification / Upgrade (amended DATE)	\$4,000 <u>\$1,000</u>

RECREATION AND OPEN SPACE FEES⁽¹⁾			
Residential Unit Fee	\$750	Residential Unit Fee (Private Open Space Included)	\$375
Multi-Family Unit Fee	\$700	Multi-Family Unit Fee (Private Open Space Included)	\$350

⁽¹⁾Fees are charged on a per lot/unit basis

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

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

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

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

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

Agenda Item: 5b

Meeting Date: 1/22/2014

TITLE: PRESENTATION OF THE FOLLOWING WARRANTIES:

- **ONE YEAR PAVEMENT WARRANTY FOR GLEN LAUREL EAST, PHASE 2B**
- **FIVE YEAR PAVEMENT WARRANTY FOR RIVERWOOD AC, PHASE 6D-1 (ALPINE VALLEY)**
- **FIVE YEAR PAVEMENT WARRANTY FOR RIVERWOOD AC, PHASE 3A-1 & 3A-2**

DESCRIPTION: Attached.

RELATED GOAL: Administrative

ITEM SUMMARY:

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
01-22-14	Presentation.	Memorandums (3).

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: December 10, 2013

Cc: Dave DeYoung, Planning Director
Chad E. Blackmon, Blackmon Development

Subject: Glen Laurel East, Phase 2B

The asphalt pavement has been installed within the subject development. 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 condition will be evaluated and any identifiable faults corrected by the developer prior to final acceptance.

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*

Copy: David DeYoung, Planning Director
Donnie Adams, DC Adams Engineering

Date: December 11, 2013

Re: Riverwood AC, Phase 6D-1 (Alpine Valley)

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

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 

Copy: David DeYoung, Planning Director
Donnie Adams, DC Adams Engineering

Date: January 2, 2014

Re: Riverwood AC, Phases 3A-1 & 3A-2

The final lift of asphalt pavement has been installed within the referenced location. Please schedule Council action for the acceptance of this work subject to a five-year warranty period. Following the warranty period, pavement and base course condition will be evaluated and any identifiable faults corrected by the developer prior to final acceptance.

received
1-7-14 DRS

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

Agenda Item: 8a

Meeting Date: 1/22/14

TITLE: STATUS OF THE ACQUISITION OF EASEMENTS FOR THE CLAYTON-RALEIGH SEWER TRANSMISSION PROJECT.

DESCRIPTION: The Clayton-Raleigh Sewer Transmission project is a collaborative project between the Town of Clayton and City of Raleigh that began spring of 2007 and slowed when the economy slowed. In June 2012, the Town of Clayton submitted an application to rural development to secure a loan for the design and construction of a new wastewater force main to connect to the City of Raleigh for the transfer of up to 1 MGD of wastewater. On July 16, 2012, the Town Council approved a resolution for financing with the USDA – Rural Development (2012-037).

In order to construct the Clayton-Raleigh sewer transmission line, the Town of Clayton has been acquiring easements from property owners. The easements are located within the existing (CP&L / Progress Energy) Duke Energy easement.

RELATED GOAL: Legislative.

ITEM SUMMARY:

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
7-15-13	Presentation.	Resolutions (7).
8-05-13	Discussion.	
8-19-13	TRACKING.	
9-03-13	Discussion.	
9-16-13	Update.	
10-07-013	Update.	
10-21-13	Update.	
11-04-13	Update.	
1-22-14	Update.	

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

Agenda Item: 8b

Meeting Date: 1/22/14

TITLE: STATUS OF 110 WEST FRONT STREET, FORMER RED & WHITE STORE.

DESCRIPTION: At the July 16, 2012, Council work session, it was the consensus of the Council that staff draft an ordinance authorizing the building inspector to have the property demolished in the event Town does not see work initiated within the specified timeframe. At its August 6, 2012, Council meeting, it was the consensus of the Council to continue this item for 90 days. At its November 5, 2012, Council meeting, the Council received information from the lien holder of this property. All Council members voted in favor of continuing this item to the 11/19/ 2012 Council meeting in order to receive additional information. At its December 2, 2013, Council meeting, staff updated Council on the status of the structure located at 110 West Front Street. The ordinance has been updated to reflect the current owner information and is included in the agenda packet for Council consideration.

RELATED GOAL: Think Downtown & Administrative

ITEM SUMMARY:

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
7-16-12	Discussion.	Ordinance.
8-06-12	Discussion.	Ordinance, map, NC GS 160A-439, & Town Code of Ord Section 153.027.
10-15-12	None – Tracking.	Ordinance, map, NC GS 160A-439, and Town Code of Ord section153.027.
11-05-12 & 11-19-12	Discussion.	Ordinance, map, NC GS 160A-439, and Town Code of Ord Section 153.027.
12-3-12	Discussion.	Ordinance, Map, NC GS 160A-439, and Town Code of Ords section 153.027.
12-17-12	Discussion.	N/A.
1-7-13 – 6-17-13	Discussion.	N/A.
8-5-13 & 8-19-13	Discussion.	
10-07-13 & 10-21-13	Discussion.	
11-04-13	Discussion.	
12-02-13	Discussion.	
12-16-13	Discussion.	Ordinance & map.
01-22-14	Discussion.	Ordinance & map.

**TOWN OF CLAYTON, NORTH CAROLINA
ORDINANCE DIRECTING THE ENFORCEMENT OFFICER TO REMOVE
OR DEMOLISH THE NONRESIDENTIAL BUILDING OR STRUCTURE
LOCATED AT 110 WEST FRONT STREET
(Johnston County Tax Number 05031012)**

WHEREAS, pursuant to the enforcement of the Nonresidential Building or Structure Code contained in Chapter 153 of the Town of Clayton Code of Ordinances, as authorized by the provisions of North Carolina General Statute 160A-439, the owner of the nonresidential building or structure described below has failed to comply with an Order of the Building Inspector to either (i) repair, alter or improve the nonresidential building or structure to bring it into compliance with the minimum standards established by the Nonresidential Building or Structure Code or (ii) remove or demolish the nonresidential building or structure;

WHEREAS, the Town Council of the Town of Clayton, North Carolina does hereby find and determine that the owner of the nonresidential building or structure described below has been given a reasonable opportunity to bring the nonresidential building or structure in conformity with the minimum standards established by the Nonresidential Building or Structure Code contained in Chapter 153 of the Code of Ordinances for Clayton, North Carolina; and

WHEREAS, North Carolina General Statute 160A-439(f) and Section 153.027 of the Code of Ordinances for the Town of Clayton, North Carolina empower the Town Council to enact this ordinance to authorize and direct the Enforcement Officer to remove or demolish a nonresidential building or structure when the owner has failed to comply with an Order of the

Enforcement Officer issued pursuant to the provisions of the Nonresidential Building or Structure Code;

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

Section 1. The Enforcement Officer is hereby authorized and directed to proceed to demolish and remove the nonresidential building or structure located at 110 West Front Street in the Town of Clayton, North Carolina, and owned by Katie C Smith as listed with the Tax Office for the County of Johnston and as described in DB 4208 Page 95 Johnston County Register of Deeds.

Section 2. The cost of demolition and removal shall constitute a lien against the real property described above. The lien shall be filed, have the same priority, and be enforced and the costs collected in the same manner as the lien for special assessment established by Article 10 of Chapter 160A of the North Carolina General Statutes. The amount of the costs shall also be a lien on any other real property of the owner located within the corporate limits of the Town of Clayton except for the owner's primary residence, said additional lien to be inferior to all prior liens and shall be collected as a money judgment.

Section 3. Any recoverable materials of the building or structure demolished or removed and any personal property, fixtures, or appurtenances found in or attached to the building or structure shall be offered for sale by the Enforcement Officer and the proceeds shall be credited against the cost of removal or demolition and any balance remaining shall be deposited in superior court where it shall be secured and disbursed in the manner provided by North Carolina General Statute 160A-439 (i)(3).

Section 4. This ordinance shall be recorded in the Office of the Register of Deeds of Johnston County and shall be indexed in the name of the property owner in the grantor index.

Section 5. This ordinance shall become effective upon its adoption.

[Remainder of page intentionally left blank.]

Duly adopted this the 22nd day of January 2014 while in regular session.

(SEAL)

Jody L. McLeod,
Mayor

ATTEST:

APPROVED AS TO FORM:

Sherry L. Scoggins, MMC
Town Clerk

Katherine E. Ross,
Town Attorney

**NORTH CAROLINA
JOHNSTON COUNTY**

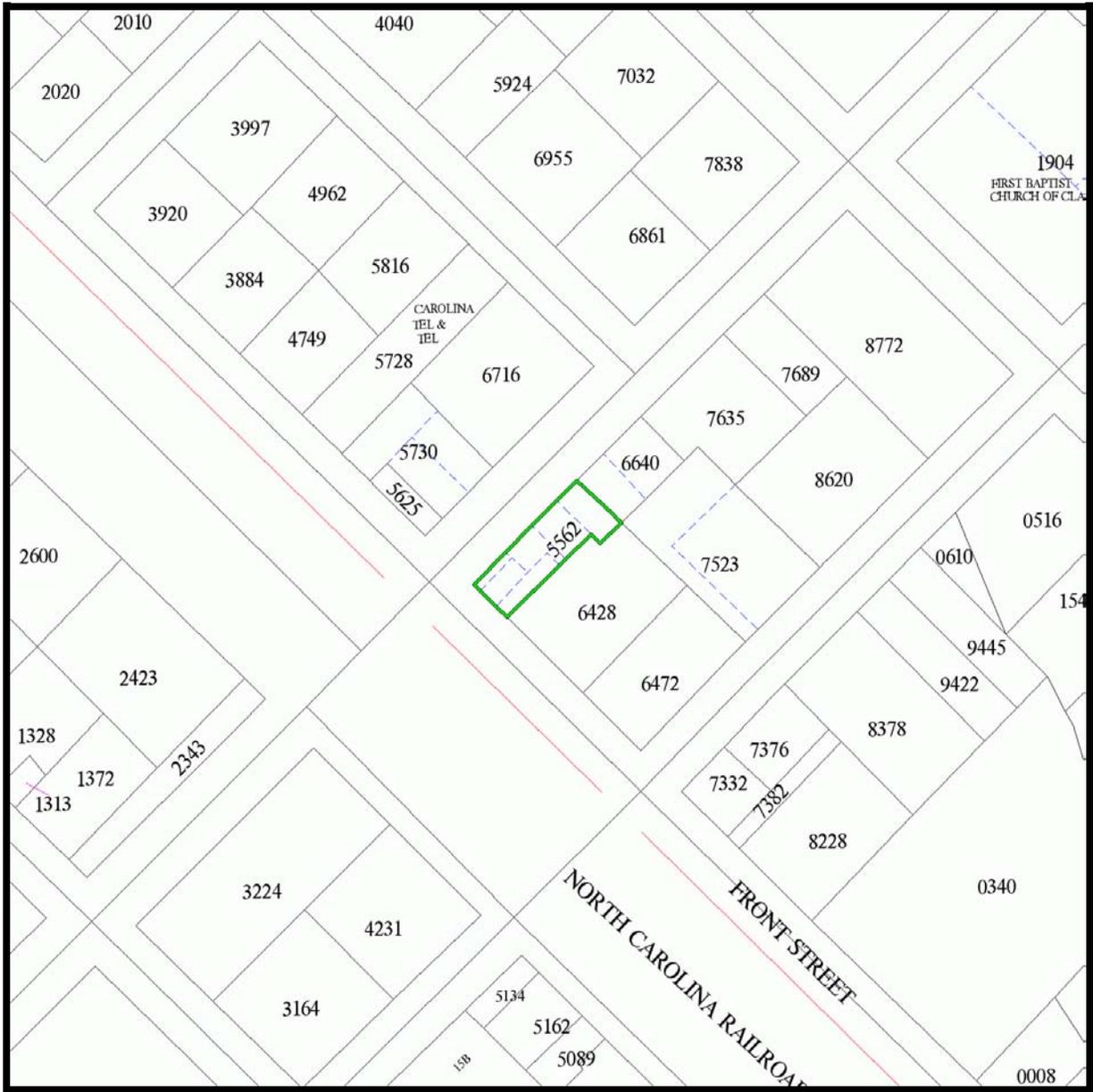
I, _____, a Notary Public, do hereby certify that Sherry L. Scoggins personally came before me this day and acknowledged that she is Town Clerk of the Town of Clayton and that by authority duly given and as the act of the Town the foregoing instrument was signed in its name by Jody L. McLeod, Mayor of the Town of Clayton.

Witness my hand and notarial seal this the _____ day of _____ 2014.

(SEAL)

Notary Public

Commission Expires



*** DISCLAIMER ***

Johnston County assumes no legal responsibility for the information.

Tag: 05031012

NCPin: 166913-03-5562

Mapsheet No: 166913

Owner Name1: SMITH, KATIE C

Owner Name2:

Mail Address1: PO BOX 325

Mail Address2:

Mail Address3: SNEADS FERRY NC 28460-0000

Site Address1: Not Available

Site Address2: Not Available

Book: 04208

Page: 0095

Market Value: 112010

Assessed Acreage: 0.13

Calc Acreage: 0.13

Sale Price:

Sale Date: 2012-11-21



1 inch = 150 feet

(The scale is only accurate when printed landscape on a 8.5x11 in size sheet with page scaling set to none.)

Date December 9, 2013

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

Agenda Item: 9c

Meeting Date: 1/22/2014

TITLE: TOWN CLERK

DESCRIPTION: Calendar of Events

- Downtown Development Association Mtg – Monday, January 13, 2014 @ 6:30 PM in room GS 223
- Board of Adjustment Mtg – Wednesday, January 15, 2014 @ 6 PM
- Martin Luther King Jr.'s Birthday Holiday – Monday, January 20, 2014
- Council Mtg – **WEDNESDAY**, January 22, 2014 @ 6:30 PM
- Fire Advisory Board Mtg – Thursday, January 23, 2014 @ 7 PM at Fire Station 1, 325 West Horne Street
- Zaxby's Second Annual Parking Lot Polar Plunge for Special Olympics [www.firstgiving.com/sonc/zaxbys-polar-plunge] – Saturday, January 25, 2014 from 12 noon to 2 PM
- The Clayton Center Palladian Series: Junior Brown – Saturday, January 25, 2014 @ 8 PM
- Planning Board Mtg – Monday, January 27, 2014 @ 6 PM
- Clayton Chamber Annual Meeting – Tuesday, January 28, 2014, @ 6 PM at the Clayton Center, 111 E 2nd Street
- Council Mtg – Monday, February 3, 2014 @ 6:30 PM
- National Wear Red Day [www.goredforwomen.org] – Friday, February 7, 2014
- Downtown Development Association Mtg – Monday, February 10, 2014 @ 6:30 PM in room GS 223
- The Clayton Center Palladian Series: The Hot Club of San Francisco (Meet Me in Paris) – Friday, February 14, 2014 @ 8 PM
- Council Mtg – Monday, February 17, 2014 @ 6:30 PM
- Board of Adjustment Mtg – Wednesday, February 19, 2014 @ 6 PM
- Planning Board Mtg – Monday, February 24, 2014 @ 6 PM
- Council Mtg – Monday, March 3, 2014 @ 6:30 PM
- Cooper Elementary PTA Run for the Rockets community event – Saturday, March 8, 2014 from 9 AM to 12 noon
- Spring Forward: 2014 Daylight Saving Time begins – Sunday, March 9, 2014, at 2 AM
- The Clayton Center Palladian Series: The Celtic Tenors – Saturday, March 15, 2014 @ 8 PM
- Council Mtg – Monday, March 17, 2014 @ 6:30 PM
- Board of Adjustment Mtg – Wednesday, March 19, 2014 @ 6 PM
- Planning Board Mtg – Monday, March 24, 2014 @ 6 PM
- Fire Advisory Board Mtg – Thursday, March 27, 2014 @ 7 PM at Fire Station 1, 325 West Horne Street
- The Clayton Center presents: Schoolhouse Rock Live! – Saturday, April 5, 2013 @ 3 PM

- Council Mtg – Monday, April 7, 2014 @ 6:30 PM
- The Clayton Center Palladian Series: James Gregory (The Funniest Man in America!) – Friday, April 11, 2014 @ 8 PM
- Downtown Development Association Mtg – Monday, April 14, 2014 @ 6:30 PM in room GS 223
- Board of Adjustment Mtg – Wednesday, April 16, 2014 @ 6 PM
- Good Friday Holiday – Friday, April 18, 2014
- Council Mtg – Monday, April 21, 2014 @ 6:30 PM
- Planning Board Mtg – Monday, April 28, 2014 @ 6 PM
- Council Mtg – Monday, May 5, 2014 @ 6:30 PM
- Ethics Webinar 2014 – Wednesday, May 14, 2014, from 10 AM to 12 noon, location to be determined
- Council Mtg – Monday, May 19, 2014 @ 6:30 PM
- Board of Adjustment Mtg – Wednesday, May 21, 2014 @ 6 PM
- Fire Advisory Board Mtg – Thursday, May 22, 2014 @ 7 PM at Fire Station 1, 325 West Horne Street
- Memorial Day Holiday – Monday, May 26, 2014
- Planning Board Mtg – **TUESDAY**, May 27, 2014 @ 6 PM
- Council Mtg – Monday, June 2, 2014 @ 6:30 PM
- NCLM Town Hall Day – Wednesday, June 4, 2014
- Downtown Development Association Mtg – Monday, June 9, 2014 @ 6:30 PM in room GS 223
- Council Mtg – Monday, June 16, 2014 @ 6:30 PM
- Board of Adjustment Mtg – Wednesday, June 18, 2014 @ 6 PM
- Planning Board Mtg – Monday, June 23, 2014 @ 6 PM
- Independence Day Holiday – Friday, July 4, 2014
- Council Mtg – Monday, July 7, 2014 @ 6:30 PM
- Board of Adjustment Mtg – Wednesday, July 16, 2014 @ 6 PM
- Council Mtg – Monday, July 21, 2014 @ 6:0 PM
- Fire Advisory Board Mtg – Thursday, July 24, 2014 @ 7 PM at Fire Station 1, 325 West Horne Street
- Planning Board Mtg – Monday, July 28, 2014 @ 6 PM
- Labor Day Holiday – Monday, September 1, 2014
- NCLM Annual Conference – October 12-14, 2014; Greensboro, NC
- Fall Back: 2014 Daylight Saving Time ends – Sunday, November 2, 2014, at 2 AM
- Veteran’s Day Holiday – Tuesday, November 11, 2014
- Thanksgiving Day Holiday – Thursday, November 27, 2014 & Friday, November 28, 2014
- Christmas Holiday – Wednesday, December 24, 2014; Thursday, December 25, 2014; & Friday, December 26, 2014

Date:
01-22-14

Action:
N/A

Info. Provided:
Calendar of Events