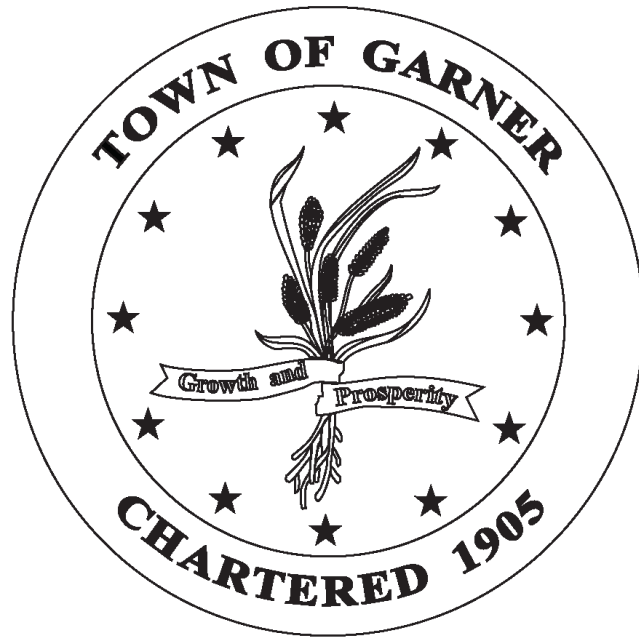


# Town of Garner



Town Council Meeting  
April 18, 2023

Garner Town Hall  
900 7<sup>th</sup> Avenue  
Garner, NC 27529

**Town of Garner**  
**Town Council Regular Meeting Agenda**  
**April 18, 2023**

This regular meeting of the Council will be conducted at 6:00 p.m. in the Garner Town Hall located at 900 7<sup>th</sup> Avenue, Garner.

- A. CALL MEETING TO ORDER/ROLL CALL: Mayor Ken Marshburn
- B. PLEDGE OF ALLEGIANCE: Council Member Gra Singleton
- C. INVOCATION: Council Member Gra Singleton
- D. PETITIONS AND COMMENTS
- E. ADOPTION OF AGENDA
- F. PRESENTATIONS

- 1. Civilian Award Presentation  
Presenter: Lorie Smith, Police Chief

Presentation to recognize community members for a Civilian Citation for assisting police during a crisis situation.

- 2. Building Safety Month 2023  
Presenter: Ken Marshburn, Mayor

Building Safety Month aims to raise awareness about the importance of building codes so that the public has all the necessary information to ensure the safety of their homes and businesses.

- G. CONSENT

- 1. Meeting Rules and Procedures ..... Page 8  
Presenter: Terri Jones, Town Attorney

Revisions to the Town Code of Ordinances regarding meetings and the Garner Town Council Rules of Procedure are recommended.

Action: Consider adopting Ordinance (2023) 5198 and Resolution (2023) 2528

- 2. Resolution in Support of Application for NC PARTF Grant ..... Page32  
Presenter: Katie Lockhart, Parks & Nature Superintendent

The North Carolina Department of Natural and Cultural Resources has an annual matching grant program (NC Parks and Recreation Trust Fund or PARTF) which provides financial aid to municipalities to build or develop recreational facilities for public use. PRCR plans to apply for a 2023 PARTF grant to support improvements at White Deer

Park. A Town Resolution in support of the grant application is a required component in order to be eligible for funding.

Action: Consider adopting Resolution (2023) 2529

- 3. Triangle J Senior Center Grant ..... Page 35  
Presenter: Maria Munoz-Blanco, PRCR Director

Garner Senior Center is eligible to receive a \$10,901 grant from the Triangle J Area Agency on Aging. Funds are allocated by the General Assembly through the regional aging agencies to support senior centers across the state. The GSC has received this grant in prior years as it is formula based. A local match of 25% is required and will be met with existing FY23 approved operating budget. A budget amendment is included to incorporate the grant funds into the FY23 budget.

Action: Consider approval to accept \$10,901 grant funds and adopt Ordinance (2023) 5199

- 4. Council Meeting Minutes ..... Page 38

Minutes from the March 21 and March 28 and April 4, 2023 Council meetings.

Action: Consider approving minutes

- 5. White Oak RAB Design Amendment #4 ..... Page 50  
Presenter: Leah Harrison, Town Engineer

Amendment to design contract with Arcadis for White Oak RAB to address NCDOT review comments, accommodate utility coordination, and provide construction phase services. There are funds in the existing project budget that can be used for this amendment.

Action: Consider approving and authorize the Town Manager to execute Amendment #4 with Arcadis.

#### H. PUBLIC HEARINGS

- 1. Tier 2 Conditional Rezoning #CZ-MP-22-04, Swift Creek Apartments ..... Page 58  
Presenter: Ashley Harris, Planner

Tier 2 conditional rezoning request (CZ-MP-22-04) submitted by Swift Creek Apartments, LLC, to rezone approximately 40.85 +/- acres from Commercial Mixed Use (CMX) and Residential 4 (PD TND C2) Conditional, to Commercial Mixed Use (CMX C261) Conditional and Multifamily B (MF-B C261) Conditional. The site is located on the east side of US 401 north of Brookwood Drive and may further be identified as Wake County Pin(s) 0790655225, 0790559818, 0790559977.

Action: Consider motion of referral to Planning Commission for plan consistency review and recommendation

2. Tier 2 Conditional Rezoning #CZ-MP-22-09, US 70 Guy Road Commercial ..... Page 84  
Presenter: Ashley Harris, Planner

Tier 2 conditional rezoning request (CZ-MP-22-09) submitted by Circle K Stores, Inc. to rezone 3.53 +/- acres from Single Family Residential (R-40) to Community Retail (CR C269) Conditional for the development of a convenience store with fuel sales. The site is located at northwest corner of US 70 Hwy E and Guy Road and may be further identified as Wake County PIN(s) 1740116945, 1740128037, 1740118968, and 1740119930.

Action: Consider motion of referral to Planning Commission for plan consistency review and recommendation.

I. NEW/OLD BUSINESS

1. Updated Garner Forward Comprehensive Plan  
Public Hearing Draft Discussion ..... Page 106  
Presenter: Matt Noonkester, City Explained Inc.

Following the recent workshop and public comment period that ran from February 23 to March 23 and which included comment from Town staff and project Steering Committee members, the consulting team has completed their draft of the updated Garner Forward Comprehensive Plan to be presented for public hearing. Consulting staff will provide a brief overview of revisions and be available to discuss next steps. The draft document can be viewed [here](#).

Action: Receive as information and consider authorizing staff to schedule public hearing for May 16, 2023

J. COMMITTEE REPORTS

K. MANAGER REPORTS

1. Quarterly Financial Report
2. Talk of the Town
3. Downtown Night Markets get underway on Thursday, April 20<sup>th</sup> and run from 5:00 p.m. to 9:00 p.m. along Main Street and around the Recreation Center.
4. The Garner Relay for Life is Saturday, April 29<sup>th</sup> at Lake Benson Park. There will be a survivor reception starting at noon. The opening ceremony is at 1:00 p.m., with a luminaria ceremony at 8:00 p.m. and closing ceremony at 9:00 p.m.
5. The Neuse River Big Band returns to GPAC on Saturday, April 29<sup>th</sup> at 7:30 p.m.

L. ATTORNEY REPORTS

M. COUNCIL REPORTS

N. ADJOURN



Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: April 18, 2023		
Subject: Civilian Award Presentation		
Location on Agenda: Presentations		
Department: Police		
Contact: Mike McIver, Deputy Chief		
Presenter: Lorie Smith, Police Chief		
Brief Summary: Presentation to recognize community members for a Civilian Citation for assisting police during a crisis situation.		
Recommended Motion and/or Requested Action: presentation only		
Detailed Notes:		
Funding Source: n/a		
Cost:	One Time: <input type="radio"/>	Annual: <input type="radio"/> No Cost: <input checked="" type="radio"/>
Manager's Comments and Recommendations:		
Attachments Yes: <input type="radio"/> No: <input checked="" type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	LAS	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: April 18, 2023		
Subject: Proclamation Recognizing May 2023 as Building Safety Month		
Location on Agenda: Presentations		
Department: Engineering, Inspections, and Planning		
Contact: Paul Padgett, Inspections Director		
Presenter: Ken Marshburn, Mayor		
<b>Brief Summary:</b> Building Safety Month aims to raise awareness about building safety by recognizing the building process and providing the public with the necessary information to ensure the safety of their homes and businesses. Our development services departments (Engineering, Inspections, and Planning) play an important role during the entire construction process. Examples such as evaluation for adequate access (to include emergency responders), adequate water supply, building spacing, line of sight, and flood damage prevention. As each project continues our departments verify compliance with our codes, ordinances, standards, and UDO prior to issuing a Certificate of Occupancy. Once a CO is issued staff continues to ensure buildings are maintained per our codes and ordinances.		
<b>Recommended Motion and/or Requested Action:</b> Presentation only		
Detailed Notes:		
Funding Source: n/a		
Cost:	One Time: <input type="radio"/>	Annual: <input type="radio"/> No Cost: <input checked="" type="radio"/>
Manager's Comments and Recommendations:		
Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	PP	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

# Proclamation



**WHEREAS**, The Town of Garner is committed to recognizing that our growth and strength depends on the safety and essential role our homes, buildings and infrastructure play, both in everyday life and when disasters strike; and

**WHEREAS**, our confidence in the resilience of these buildings that make up our community is achieved through the devotion of vigilant guardians—building safety and fire prevention officials, architects, engineers, builders, tradespeople, design professionals, laborers, plumbers and others in the construction industry—who work year-round to ensure the safe construction of buildings; and

**WHEREAS**, these guardians are dedicated members of the International Code Council, a nonprofit that brings together local, state, territorial, tribal and federal officials who are experts in the built environment to create and implement the highest-quality codes to protect us in the buildings where we live, learn, work and play; and

**WHEREAS**, these modern building codes include safeguards to protect the public from hazards such as hurricanes, snowstorms, tornadoes, wildland fires, floods and earthquakes; and

**WHEREAS**, Building Safety Month is sponsored by the International Code Council to remind the public about the critical role of our communities' largely unknown protectors of public safety—our local code officials—who assure us of safe, sustainable and affordable buildings that are essential to our prosperity; and

**WHEREAS**, "It Starts with You," The theme for Building Safety Month 2023, encourages us all to raise awareness about building safety on a personal, local and global scale; and

**WHEREAS**, each year, in observance of Building Safety Month, people all over the world are asked to consider the commitment to improve building safety, resilience and economic investment at home and in the community, and to acknowledge the essential service provided to all of us by local and state building departments, fire prevention bureaus and federal agencies in protecting lives and property.

**NOW, THEREFORE**, I, Ken Marshburn, Mayor of the Town of Garner, do hereby proclaim the month of May 2023 as Building Safety Month. Accordingly, I encourage our citizens to join us as we participate in Building Safety Month activities.



*In Witness Whereof, I have hereunto set my hand and caused the Great Seal of the Town of Garner, North Carolina to be affixed this the 18<sup>th</sup> day of April 2023.*

  
Mayor Ken Marshburn

Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: April 18, 2023 <span style="float: right;"><input type="text"/></span>		
Subject: Meeting Rules and Procedures		
Location on Agenda: Consent <span style="float: right;"><input type="text"/></span>		
Department: Legal		
Contact: Terri Jones, Town Attorney		
Presenter: Terri Jones, Town Attorney		
<b>Brief Summary:</b> Revisions to the Town Code of Ordinances regarding meetings and the Garner Town Council Rules of Procedure are recommended.		
<b>Recommended Motion and/or Requested Action:</b> Adopt Ordinance (2023) 5198 and Resolution (2023) 2528		
<b>Detailed Notes:</b> Ordinance provisions pertaining to Town Council meetings were adopted in 1959 and codified in Chapter 2 Article II of the Town Code of Ordinances. Many of these provisions are now superseded by State law - Chapter 160A and the Open Meetings Act. The proposed ordinance would adopt amendments to Chapter 2, Administration, of the Town Code of Ordinances. The Town of Garner Meeting Rules and Procedures were approved by Town Council in 2010 and last amended in 2015. The proposed resolution would adopt the new Garner Town Council Rules of Procedure which now track the Suggested Rules of Procedure for a City Council, Fourth Edition, published by the School of Government in 2017.		
<b>Funding Source:</b> n/a		
Cost:	One Time: <input type="radio"/>	Annual: <input type="radio"/> No Cost: <input checked="" type="radio"/>
<b>Manager's Comments and Recommendations:</b>          		
Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:		
Finance Director:		
Town Attorney:	TJ	
Town Manager:	RD	
Town Clerk:		

RESOLUTION NO. (2023) 2528

**RESOLUTION ADOPTING GARNER TOWN COUNCIL RULES OF PROCEDURE**

WHEREAS, the Town of Garner Meeting Rules and Procedures were approved by the Garner Town Council on September 7, 2010, and amended on September 22, 2015.

WHEREAS, the Town Council considered a complete revision to the rules and procedures at the March 28, 2023 Work Session.

WHEREAS, the Town Council finds it beneficial to adopt a new version to govern meeting rules and procedures based on the Suggested Rules of Procedure for a City Council, Fourth Edition, published by the University of North Carolina School of Government in 2017.

NOW THEREFORE, BE IT RESOLVED by the Town Council of the Town of Garner, North Carolina that the attached Garner Town Council Rules of Procedure are adopted and all prior versions of meeting rules and procedures are repealed effective May 1, 2023.

Duly adopted this 18<sup>th</sup> day of April, 2023.

\_\_\_\_\_  
Ken Marshburn, Mayor

ATTEST: \_\_\_\_\_  
Stella Gibson, Town Clerk

# Garner Town Council Rules of Procedure

## Part I. Applicability

### Rule 1. Applicability of Rules

These rules apply to all meetings of the Garner Town Council. For purposes of these rules, a meeting of the council occurs whenever a majority of the council's members gather, whether in person or simultaneously by electronic means, to conduct hearings, deliberate, vote, or otherwise transact public business within the council's real or apparent jurisdiction. The term "majority" as used in these rules means, unless otherwise specified, a simple majority, that is, more than half.

## Part II. Quorum

### Rule 2. Quorum [G.S. 160A-74, Code 2-19]

The presence of a quorum is necessary for the council to conduct business. A majority of the council's actual membership plus the mayor, excluding vacant seats, constitutes a quorum. A member who withdraws from a meeting without being excused by majority vote of the remaining members in attendance is deemed present for quorum purposes.

## Part III. Open Meetings

### Rule 3. Remote Participation in Council Meetings [G.S. 166A-19.24]

Subject to any limitations of State law and provided a quorum is physically present, a member may participate in a meeting by electronic means, including participation in deliberations, making motions, and voting, if approved by the physically present members of the council. Any member intending to participate remotely shall inform the town manager as soon as practical before the meeting so that appropriate electronic means may be implemented. The presiding officer may not participate remotely.

### Rule 4. Meetings to Be Open to the Public [G.S. 143-138.10]

Except as permitted by Rule 5, all meetings of the council shall be open to the public, and any person may attend its meetings.

### Rule 5. Closed Sessions [G.S. 143-138.11]

(a) Motion to Enter Closed Session. The town council may enter a closed session from which the public is excluded only upon a motion duly made and adopted in open session. The motion to enter closed session must cite one or more of the permissible bases for closed session listed in paragraph (b) of this rule. A motion to enter closed session under subparagraph (b)(1) or (b)(2) must contain the additional information specified in those provisions.

(b) Bases for Closed Session. A closed session is permissible under the following circumstances and no others:

- (1) To prevent the disclosure of information that is privileged or confidential pursuant to the law of North Carolina or of the United States or that does not constitute a public record within the meaning of Chapter 132 of the General Statutes. The motion to enter closed

session must name or cite the law that renders the information confidential or privileged.

- (2) To consult with the town attorney or another attorney employed or retained by the town in order to preserve the attorney–client privilege. If the council expects to discuss a pending lawsuit with its attorney, the motion to enter closed session must include the names of the parties to the lawsuit.
- (3) To discuss matters relating to (a) the location or expansion of industries or other businesses in the area served by the town or (b) the closure or realignment of a military installation. The council may reach agreement in closed session on a tentative list of economic development incentives to be offered in negotiations, but the approval of the signing of any economic development contract or commitment and the authorization of the payment of economic development expenditures must take place in open session.
- (4) To establish or instruct staff or agents concerning the town’s position in negotiating the price or other material terms of an agreement for the acquisition of real property by purchase, exchange, or lease.
- (5) To establish or instruct staff or agents concerning the amount of compensation or other material terms of an employment contract.
- (6) To consider the qualifications, competence, performance, character, fitness, or conditions of appointment or employment of a public officer or employee or prospective public officer or employee, except when the individual in question is a member of the town council or other public body or is being considered to fill a vacancy on the town council or other public body. Final action to appoint or employ a public officer or employee must take place in open session.
- (7) To hear or investigate a charge or complaint by or against a public officer or employee. Final action discharging an employee or removing an officer must occur in open session.
- (8) To plan, conduct, or hear reports concerning investigations of alleged criminal misconduct.
- (9) To view a law enforcement recording released pursuant to G.S. 132-1.4A.
- (10) On any other basis permitted by law.

(c) Closed Session Participants. Unless the council directs otherwise, the town manager, assistant town managers, any necessary town employees, town attorney, and town clerk may attend closed sessions of the council. No other person may attend a closed session unless invited by consensus of the council.

(d) Motion to Return to Open Session. Upon completing its closed session business, the council shall end the closed session by adopting a duly made motion to return to open session.

(e) Confidentiality. No elected official or other person present at a closed session may disclose details about discussions held in closed session until such time as the purpose for the closed session would no longer be frustrated by the disclosure of information, except as required to comply with the Open Meetings Act or Public Records Law. Council members acknowledge the importance of a relationship of mutual trust and respect for one another, particularly as such applies to the fulfillment of their roles.



**Rule 6. Meeting Minutes** [G.S. 143-138.10, G.S. 160A-72, Code 2-20]

(a) Minutes Required for All Meetings. The council must keep full and accurate minutes of all of its meetings, including closed sessions. To be “full and accurate,” minutes must record all actions taken by the council. They should set out the precise wording of each motion and make it possible to determine the number of votes cast for and against each motion. The minutes need not record discussions of the council, though the council in its discretion may decide to incorporate such details into the minutes.

(b) Record of “Ayes” and “Noes.” At the request of any member of the council, the minutes shall list each member by name and record how each member voted on a particular matter.

(c) General Accounts of Closed Sessions. In addition to minutes, the council must keep a general account of each closed session. The general account must be sufficiently detailed to provide a person not in attendance with a reasonable understanding of what transpired. The council may combine the minutes and general account of a closed session into one document, so long as the document contains both a complete record of actions taken and the level of detail required for a general account.

(d) Sealing Closed Session Records. Minutes and general accounts of closed sessions shall be sealed until unsealed by order of the council or, if the council delegates the authority to unseal to one or more staff members, in accordance with guidelines adopted by the council. The sealed minutes and general account of any closed session may be withheld from public inspection so long as public inspection would frustrate the purpose(s) of the closed session.

**Rule 7. Broadcasting and Recording Meetings** [G.S. 143-138.14]

(a) Right to Broadcast and Record. Any person may photograph, film, tape-record, or otherwise reproduce any part of a council meeting that must take place in open session. Except as provided in paragraph (b) of this rule, any radio or television station may broadcast any such part of a council meeting.

(b) Equipment Placement. The town manager or the manager’s designee may regulate the placement and use of camera or recording equipment in order to prevent undue interference with a council meeting, so long as he or she allows the equipment to be placed where it can carry out its intended function. If the town manager or the manager’s designee determines in good faith that the equipment and personnel necessary to broadcast, photograph, or record the meeting cannot be accommodated without undue interference to the meeting, and an adequate alternative meeting room is not readily available, the town manager may require the pooling of the equipment and the personnel operating it.

(c) Alternative Meeting Site. If the news media request an alternative meeting site to accommodate news coverage, and the council grants the request, the news media making the request shall pay the costs incurred by the town in securing an alternative meeting site.



## **Part IV. Organization of the Council**

### **Rule 8. Organizational Meeting; Selection of Mayor Pro Tempore [G.S. § 160A-68]**

(a) Scheduling Organizational Meeting. The council must hold an organizational meeting following each general election in which council members are elected. The organizational meeting must be held either (1) on the date and at the time of the council's first regular meeting in December following the election or (2) at an earlier date, if any, set by the incumbent council. The organizational meeting may not be held before municipal election results are officially determined, certified, and published as required by law.

(b) Oath of Office. As the first order of business at the organizational meeting, all newly elected members of the council must take and subscribe the oath of office set out in Article VI, Section 7, of the North Carolina Constitution. Each member's oath must be filed with the town clerk. Although a member who is not present for the organizational meeting may take the oath of office at another time, every member must take, subscribe, and file the oath before he or she begins performing any of the duties of the member's office.

(c) Selection of Mayor Pro Tempore. As the second order of business at the organizational meeting, the council shall elect from among its members a mayor pro tempore using the procedures specified in Rule 38. The mayor pro tempore shall serve at the council's pleasure.

## **Part V. Types of Meetings**

### **Rule 9. Regular Meetings [G.S. 160A-71, Charter 2.5, Code 2-16]**

(a) Regular Meeting Schedule. The council shall adopt a meeting schedule each year for regular meetings and work sessions. A copy of the council's current meeting schedule shall be filed with the town clerk and posted on the town's website.

(b) Change to Meeting Schedule. The council may amend its regular meeting schedule to add or delete meetings or to change the date, time, or location of one or more meetings on the schedule. The amended schedule shall be filed with the town clerk at least seven (7) calendar days before the day of the first meeting held pursuant to the revised schedule and posted on the town's website.

### **Rule 10. Special Meetings [G.S. 160A-71, Charter 2.5, Code 2-17]**

(a) Calling Special Meetings. A special meeting of the council may be called by the mayor, the mayor pro tempore, or any two council members. A special meeting may also be called by vote of the council in open session during a regular meeting or another duly called special meeting.

(b) Notice to the Public. At least forty-eight hours before a special meeting of the council, notice of the date, time, place, and purpose of the meeting shall be (1) posted on the council's principal bulletin board or, if the council has no such board, at the door of the council's usual meeting room and (2) delivered, e-mailed, or mailed to each newspaper, wire service, radio station, television station, and person who has filed a written request for notice with the town clerk. Furthermore, notice of the special meeting's date, time, place, and purpose shall be posted on the website in advance of the meeting.

(c) Notice to Members.

- (1) *Meeting called by the mayor, the mayor pro tempore, or any two council members.* At least forty-eight hours before a special meeting called by the mayor, the mayor pro tempore, or any two council members, written notice of the meeting stating its date, time, and place, as well as the subjects to be considered, shall be delivered to the mayor and each council member or left at his or her usual dwelling place.
- (2) *Meeting called by vote of the council in open session.* When a special meeting is called by vote of the council in open session during a regular meeting or another duly called special meeting, the motion or resolution calling the special meeting shall state the meeting's date, time, place, and purpose. Written notice of the special meeting's date, time, place, and purpose shall be mailed or delivered at least forty-eight hours before the meeting to each council member not present for the meeting at which the special meeting was called, and to the mayor if he or she was not present at that meeting.

(d) Transacting Other Business. Unless all members are present or any absent member has signed a written waiver of notice, only those items of business specified in the notice to council members may be taken up at a special meeting. Even when all members are present or any absent member has signed a waiver, the council may take up an item of business not covered by the notice only if the council first determines in good faith that the item must be discussed or acted upon immediately.

**Rule 11. Emergency Meetings** [G.S. 143-318.12, Charter § 2.7]

(a) Grounds for Emergency Meeting. Emergency meetings of the town council may be called only to address generally unexpected circumstances demanding the council's immediate attention. An emergency measure, for the purposes of this rule, shall be defined as an ordinance or resolution to provide for the immediate preservation of the public peace, property, health, or safety, and one in which an emergency situation is set forth and defined in a preamble.

(b) Calling Emergency Meetings. There are two methods by which an emergency meeting of the council may be called.

- (1) The mayor, the mayor pro tempore, or any two members of the council may at any time call an emergency council meeting by signing a written notice stating the date, time, and place of the meeting and the subjects to be considered. The notice shall be delivered to the mayor and each council member or left at his or her usual dwelling place at least six hours before the meeting.
- (2) An emergency meeting may be held when the mayor and all members of the council are present and consent thereto, or when any absent member has signed a written waiver of notice.

(c) Notice to Media of Emergency Meetings. Notice of an emergency meeting shall be given to each local newspaper, local wire service, local radio station, and local television station that has filed a written request with the town clerk for notice of emergency meetings. To be valid, the request must include the newspaper's, wire service's, or station's telephone number. Notice may be given by telephone, e-mail, or the same method used to notify council members. Notice must be provided immediately after council members have been notified and at the expense of the

party notified.

(d) Transaction of Other Business Prohibited. Only business connected with the emergency may be considered at an emergency meeting. An affirmative vote of at least four-fifths of the actual membership of the council shall be necessary to adopt any emergency measure.

**Rule 12. Recessed Meetings** [G.S. § 160A-71]

(a) Calling Recessed Meetings. When conducting a properly called regular, special, or emergency meeting, the council may recess the meeting to another date, time, or place by a procedural motion made and adopted, as provided in Rule 31, Motion 3, in open session. The motion must state the time (including the date, if the meeting will resume on a different day) and place at which the meeting will reconvene.

(b) Notice of Recessed Meetings. If the council has a website maintained by one or more town employees, notice of the recessed meeting's date, time, and place must appear on the webpage prior to the meeting. No further notice of a properly called recessed meeting is required.

**Part VI. Agenda**

**Rule 13. Agenda**

(a) Draft Agenda.

- (1) *Preparation*. The town manager and town clerk shall prepare a draft agenda in advance of each meeting of the town council.
- (2) *Requesting placement of items on draft agenda*. For a regular meeting, a request to have an item of business placed on the draft agenda must be received by the town manager at least seven working days before the date of the meeting. Depending on complexity, staff may require more time to gather info. The town manager must place an item on the draft agenda in response to a council member's timely request, unless the requesting council member agrees to placing the item on a future meeting agenda.
- (3) *Supplemental information/materials*. If the council is expected to consider a proposed ordinance or ordinance amendment, a copy of the proposed ordinance or amendment shall be attached to the draft agenda. An agenda package shall be prepared that includes, for each item of business listed on the draft agenda, as much background information on the topic as is available and feasible to provide.
- (4) *Delivery to council members*. Each council member shall receive a hard or electronic copy of the draft agenda and the agenda package. Except in the case of an emergency meeting, the agenda and agenda package shall be furnished to each member at least three business days before the meeting.
- (5) *Public inspection*. The draft agenda and agenda package shall be available to the public when the documents are ready to be, or have been, circulated to council.

(b) Adoption of the Agenda.

- (1) *Adoption*. As its first order of business at each meeting, the council shall review the draft agenda, make whatever revisions it deems appropriate, and adopt a formal agenda for the meeting.

- (2) *Amending the agenda.* Both before and after it adopts the agenda, the council may add or subtract agenda items by majority vote of the members present and voting, except that: the council may not add to the items stated in the notice of a special meeting unless the requirements in Rule 10(d) are satisfied and only business connected with the emergency may be considered at an emergency meeting.
- (3) *Designation of items "For Discussion and Possible Action."* The council may designate an agenda item "for discussion and possible action." The designation signifies that the council intends to discuss the item and may, if it so chooses, take action on the item following the discussion.

(c) Consent Agenda. The council may designate part of an agenda for a regular meeting as the *consent agenda*. Items may be placed on the consent agenda by the town manager if the items are judged to be noncontroversial and routine. Prior to the council's adoption of the meeting agenda under subparagraph (b)(1) of this rule, any member may remove an item from the consent agenda to be considered during another portion of the agenda. The request of any member to have an item removed from the consent agenda must be honored by the council; provided that the council member informed the Town Manager no later than 3:00 p.m. on the day of the meeting so that the Manager will be able to arrange the attendance of necessary staff. All items on the consent agenda must be voted on and adopted by a single motion, with the minutes reflecting the motion and vote for each item.

(d) Informal Discussion of Agenda Items. The council may informally discuss an agenda item even when no motion regarding that item is pending.

**Rule 14. Acting by Reference to Agenda or Other Document**

The council shall not deliberate, vote, or otherwise take action on any matter by reference to the agenda or any other document with the intention of preventing persons in attendance from understanding what action is being considered or undertaken. The council may deliberate and vote by reference to the agenda or any item on the agenda, including the consent agenda, provided copies of the agenda are available for public inspection at the meeting and are sufficiently worded to enable the public to understand what is being deliberated or acted upon.

**Rule 15. Agenda Items from Members of the Public** [G.S. 160A-81.1, ~~Code § 2-21~~]

(a) If a member of the public wishes to request that the council include an item on its regular meeting agenda, he or she must submit the request to the town clerk by the deadline specified in Rule 13(a)(2). The council is not obligated to place an item on the agenda merely because such a request has been received.

(b) The public may provide comments on items not included on a meeting agenda regarding matters germane to Town policies or business during the petitions and comments period in accordance with Rule 37. An individual wishing to address the council during the petitions and comments period shall register with the town clerk prior to the opening of the meeting by providing their name, physical address, email address, phone number, and a short description of their topic.

(c) Depending on the number of individuals registered, the mayor may limit petitions and comments to three minutes per speaker. The council may, by majority vote of those present,

extend the time for petitions on any subject.

(d) If time allows, the mayor may allow individuals who failed to register before the meeting to speak during the petitions and comments period. Individuals shall raise their hand to be recognized by the mayor, come to the podium, and state their name and address.

(e) In lieu of publicly addressing the council during the petitions and comments period, an individual or group may submit written comments by completing the "Citizen Comment" form. "Citizen Comment" forms are available to the public at any time by contacting the Town Clerk's office or accessing the Town of Garner website. Receipt of written comments will be acknowledged and written comments will distributed to all council members.

(f) After hearing a petition or comment, council may refer the issue to the town manager or town attorney for investigation and report, refer the issue to another governmental entity, or request the item be placed on a future agenda.

### **Rule 16. Order of Business**

Items shall be placed on a regular meeting agenda according to the order of business. The usual order of business for each regular meeting shall be as follows:

- call to order and roll call [by the presiding officer and clerk]
- invocation and pledge of allegiance [by a council member or designee]
- petitions and comments by the public
- adoption of the agenda
- presentations
- approval of the consent agenda
- public hearings
- new/old business
- committee reports
- manager reports
- attorney reports
- council reports
- closed sessions
- adjournment

Without objection, the mayor may call agenda items in any order most convenient for the dispatch of business. The council by majority vote may add items to the agenda, may delete items for which action is no longer required, or continue items to a future meeting.

## **Part VII. Role of the Presiding Officer**

### **Rule 17. The Mayor** [G.S. 160A-69, Charter 2.2]

(a) Presiding Officer. When present, the mayor shall preside at meetings of the council.

(b) Right to Vote. The mayor may vote only when an equal number of affirmative and negative votes have been cast, that is, only when there is a tie.

(c) Recognition of Members. A member must be recognized by the mayor (or other presiding

officer) in order to address the council, but recognition is not necessary for an appeal pursuant to Rule 31, Motion 1.

(d) Powers as Presiding Officer. As presiding officer, the mayor is to enforce these rules and maintain order and decorum during council meetings. To that end, the mayor may:

- (1) rule on points of parliamentary procedure, to include ruling out of order any motion clearly offered for obstructive or dilatory purposes;
- (2) determine whether a member or other speaker has gone beyond reasonable standards of courtesy in his or her remarks and entertain and rule on objections from other members on this ground;
- (3) entertain and answer questions of parliamentary procedure;
- (4) call a brief recess at any time; and
- (5) adjourn in an emergency.

(e) Appeals of Procedural Rulings. A member may appeal a decision made or answer given by the mayor under subparagraph (d)(1), (2), or (3) in accordance with Rule 31, Motion 1.

**Rule 18. The Mayor Pro Tempore** [G.S. 160A-70, Charter 2.4]

(a) Presiding in Mayor's Absence. When present, the mayor pro tempore shall preside over council meetings in the mayor's absence with all the powers specified in Rule 17(d).

(b) Delegation of Mayor's Powers/Duties. In the mayor's absence, the council may confer on the mayor pro tempore any of the mayor's powers and duties. Likewise, if the mayor becomes physically or mentally unable to perform the duties of his or her office, the council may by unanimous vote declare the mayor incapacitated and confer any of the mayor's powers and duties on the mayor pro tempore. When the mayor announces that he or she is no longer incapacitated, and a majority of the council concurs, the mayor shall resume the exercise of his or her powers and duties.

(c) Duty to Vote. Even when presiding over a council meeting, the mayor pro tempore has the same duty as other members to vote on all questions unless he or she has been excused from voting on a matter in accordance with Rule 28.

**Rule 19. Other Presiding Officer** [Code § 2-18]

If both the mayor and mayor pro tempore are absent, the council may elect from among its members a temporary presiding officer to chair the meeting. While serving as temporary presiding officer, a member has the powers listed in Rule 17(d). Service as a temporary presiding officer does not relieve a member of the duty to vote on all questions unless excused from voting pursuant to Rule 28.

**Rule 20. When the Presiding Officer Is Active in Debate**

If the mayor becomes active in debate on a particular proposal, he or she may have the mayor pro tempore preside during the council's consideration of the matter. If the mayor pro tempore is absent or is also actively debating the matter, the mayor may designate another member to preside until the matter is concluded. Similarly, if the mayor pro tempore or a temporary presiding officer is presiding and takes an active part in debating a topic, he or she may designate

another council member to preside temporarily.

## **Part VIII. Motions and Voting**

### **Rule 21. Action by the Council**

Except as otherwise provided in these rules, the council shall act by motion. Any member may make a motion, not including the mayor.

### **Rule 22. Second Required**

A second is required on any motion.

### **Rule 23. One Motion at a Time**

A member may make only one motion at a time.

### **Rule 24. Withdrawal of Motion**

The member who introduces a motion may withdraw the motion unless the motion has been amended or the presiding officer has put the motion to a vote.

### **Rule 25. Debate**

The presiding officer shall state the motion and then open the floor to debate, presiding over the debate according to the principles listed below.

- The maker of the motion is entitled to speak first.
- A member who has not spoken on the issue shall be recognized before a member who has already spoken.
- To the extent practicable, the debate shall alternate between proponents and opponents of the measure.
- The presiding officer may limit debate, subject to an extension of debate approved by a majority of those members present.

### **Rule 26. Adoption by Majority Vote**

A motion is adopted if supported by a simple majority of the votes cast, a quorum being present, except when a larger majority is required by these rules or state law.

### **Rule 27. Changing a Vote**

A member may change his or her vote on a motion at any time before the presiding officer announces whether the motion has passed or failed. Once the presiding officer announces the result, a member may not change his or her vote without the unanimous consent of the remaining members present. A member's request for unanimous consent to change a vote is not in order unless made immediately following the presiding officer's announcement of the result.

### **Rule 28. Duty to Vote** [G.S. 160A-75, Charter 2.7]

(a) Duty to Vote. Every council member must vote except when excused from voting as provided by this rule.

(b) Grounds for Recusal/Excusal. A member may be excused from voting on a matter involving

the member's own financial interest or official conduct, though not if the proposal in question is one to alter the compensation or allowances paid to council members. Members may also be excused from voting when prohibited from voting under G.S. 14-234 (contract providing direct benefit to member), G.S. 14-234.3 (contract benefiting associated nonprofits), G.S. 160D-109(a) (legislative zoning decision likely to have a direct, substantial, and readily identifiable financial impact on member), or G.S. 160D-109(d) (member's participation in quasi-judicial decision would violate affected person's right to an impartial decision maker). Questions about whether a basis for recusal/excusal exists should be directed to the town attorney.

(c) Procedure for Recusal/Excusal.

- (1) *At member's request.* Upon being recognized at a duly called meeting of the council, a member who wishes to be excused from voting shall so inform the presiding officer, who must then submit the matter to a vote of the remaining members present. If a majority of the remaining members present vote to excuse the member, the member is excused from voting on the matter.
- (2) *On council's initiative.* Even when a member has not asked to be excused from voting on a matter, a majority of the remaining council members present may by motion and vote excuse the member from voting if grounds for doing so exist under paragraph (b).

(d) Consequence of Non-Excused Failure to Vote. Except as specified in paragraph (e), if a member who has not been excused from voting fails to vote on a matter, the member's failure to vote shall be recorded as an affirmative vote, provided

- (1) the member is physically present in the council chamber or
- (2) the member has physically withdrawn from the meeting without being excused by majority vote of the remaining members present.

(e) Failure to Vote on Certain Zoning Matters. A member's unexcused failure to vote shall not be recorded as an affirmative vote if the motion concerns a proposal to amend, supplement, or repeal a zoning ordinance. Instead, the member's unexcused failure to vote shall be recorded as an abstention.

**Rule 29. Voting by Written Ballot**

(a) Secret Ballots Prohibited. The council may not vote by secret ballot.

(b) Rules for Written Ballots. The council may decide by majority vote or unanimous consent to vote on a motion by written ballot. Each member must sign his or her ballot, and the minutes must record how each member voted by name. The ballots must be made available for public inspection in the town clerk's office immediately following the meeting at which the vote took place and remain there until the minutes of that meeting are approved, at which time the ballots may be destroyed.

**Rule 30. Substantive Motions**

A substantive motion is not in order if made while another motion is pending. Once the council disposes of a substantive motion, it may not take up a motion that presents essentially the same issue at the same meeting, unless it first adopts a motion to reconsider pursuant to Rule 31,



Motion 14.

### **Rule 31. Procedural Motions**

(a) Certain Motions Allowed. The council may consider only those procedural motions listed in this rule. Unless otherwise noted, each procedural motion may be debated and amended and requires a majority of votes cast, a quorum being present, for adoption.

(b) Priority of Motions. The procedural motions set out in this paragraph are listed in order of priority. A procedural motion is not in order so long as another procedural motion of higher priority is pending, except that

- any procedural motion other than an appeal under Motion 1 is subject to amendment as provided in Motion 12, and
- a motion to call the question (end debate) may be made with regard to any procedural motion in accordance with Motion 9.

When several procedural motions are pending, voting must begin with the procedural motion highest in priority, provided that a motion to amend or end debate on the highest priority motion must be voted on first.

**Motion 1. To Appeal a Ruling of the Presiding Officer.** Any member may appeal the presiding officer's ruling on whether a motion is in order or on whether a speaker has violated reasonable standards of courtesy. The presiding officer's response to a question of parliamentary procedure may also be appealed by any member. An appeal is in order immediately after the disputed ruling or parliamentary response and at no other time. The member who moves to appeal need not be recognized by the presiding officer, and if timely made, the motion may not be ruled out of order.

**Motion 2. To Adjourn.** This motion may be used to close a meeting. It is not in order if the council is in closed session.

**Motion 3. To Recess to a Time and Place Certain.** This motion may be used to call a recessed meeting as permitted under Rule 12. The motion must state the time (including the date, if the meeting will reconvene on a different day) and place at which the meeting will resume. The motion is not in order if the council is in closed session.

**Motion 4. To Take a Brief Recess.**

**Motion 5. To Follow the Agenda.** This motion must be made at the time an item of business that deviates from the agenda is proposed; otherwise, the motion is out of order as to that item.

**Motion 6. To Suspend the Rules.** To be adopted, a motion to suspend the rules must receive affirmative votes equal to at least two-thirds of the council's actual membership, excluding vacant seats and not counting the mayor if the mayor votes only in case of a tie. The council may not suspend provisions in these rules that are required under state law.

**Motion 7. To Divide a Complex Motion.** This motion is in order whenever a member wishes to consider and vote on parts of a complex motion separately. The member who makes this motion must specify how the complex motion will be divided.

**Motion 8. To Defer Consideration.** The council may defer its consideration of a substantive motion, and any proposed amendments thereto, to an unspecified time. A motion that has been deferred expires unless the council votes to revive it pursuant to Motion 13 within 90 days of deferral. A new motion having the same effect as a deferred motion may not be introduced until the latter has expired.

**Motion 9. To End Debate (Call the Previous Question).** If adopted, this motion terminates debate on a pending motion, thereby bringing it to an immediate vote. This motion is not in order until every member has had an opportunity to speak once on the pending motion.

**Motion 10. To Postpone to a Certain Time.** This motion may be employed to delay the council's consideration of a substantive motion, and any proposed amendments thereto, until a designated day, meeting, or hour. During the period of postponement, the council may not take up a new motion raising essentially the same issue without first suspending its rules pursuant to Motion 6.

**Motion 11. To Refer a Motion to a Committee.** The council may vote to refer a substantive motion to a committee for study and recommendations. While the substantive motion is pending before the committee, the council may not take up a new motion raising essentially the same issue without first suspending its rules pursuant to Motion 6. If the committee fails to report on the motion within 60 days of the referral date, the council must take up the motion if asked to do so by the member who introduced it.

**Motion 12. To Amend.**

(a) Germaneness. A motion to amend must concern the same subject matter as the motion it seeks to alter.

(b) Limit on Number of Motions to Amend. When a motion to amend is under consideration, a motion to amend the amendment may be made; however, no more than one motion to amend and one motion to amend the amendment may be pending at the same time.

(c) Amendments to Ordinances. Any amendment to a proposed ordinance must be reduced to writing before the vote on the amendment.

**Motion 13. To Revive Consideration.** The council may vote to revive consideration of any substantive motion that has been deferred pursuant to Motion 8, provided it does so within 90 days of its vote to defer consideration.

**Motion 14. To Reconsider.** The council may vote to reconsider its action on a matter, provided the motion to reconsider is made (a) at the same meeting during which the action to be reconsidered was taken and (b) by a member who voted with the prevailing side. For purposes of this motion, "the same meeting" includes any continuation of a meeting through a motion to recess to a certain time and place (Motion 3). The motion is not in order if it interrupts the council's deliberation on a pending matter.

**Motion 15. To Rescind.** The council may vote to rescind an action taken at a prior meeting provided rescission is not forbidden by law.

**Motion 16. To Prevent Reintroduction for Six Months.** This motion may be used to prevent

the reintroduction of a failed substantive motion for a time, but it is in order only when made immediately following the substantive motion's defeat. To be adopted, this motion must receive votes equal to at least two-thirds of the council's actual membership, excluding vacant seats and not counting the mayor, unless the mayor may vote on all questions. If this motion is adopted, the ban on reintroduction remains in effect for six months or until the council's next organizational meeting, whichever occurs first.

## **Part IX. Ordinances and Contracts**

### **Rule 32. Introduction of Ordinances [G.S. 160A-75, Code 2-25]**

For purposes of these rules, the "date of introduction" for a proposed ordinance is the date on which the council first votes on the proposed ordinance's subject matter. The council votes on the subject matter of a proposed ordinance when it votes on whether to adopt or make changes to the proposed ordinance.

### **Rule 33. Adoption, Amendment, and Repeal of Ordinances [G.S. 160A-75]**

#### **(a) Adoption of Ordinances.**

- (1) *Proposed ordinances to be in writing.* No proposed ordinance shall be adopted unless it has been reduced to writing and distributed to members before a vote on adoption is taken.
- (2) *Adoption on date of introduction.* To be approved on the date of introduction, a proposed ordinance or any action having the effect of an ordinance must receive affirmative votes equal to at least two-thirds of the council's actual membership, excluding vacant seats and not counting the mayor (at least four members).
- (3) *Adoption after date of introduction.* To be approved after the date of introduction, a proposed ordinance or any action having the effect of an ordinance must receive affirmative votes equal to at least a majority of all council members not excused from voting on the matter. The mayor's vote counts only if there is an equal division.

(b) Amendment and Repeal of Ordinances. The same voting requirements that govern the adoption of proposed ordinances also apply to the amendment or repeal of an ordinance.

### **Rule 34. Adoption of the Budget Ordinance [G.S. 159-17]**

(a) Special Rules for the Adoption or Amendment of the Budget Ordinance. Notwithstanding any provision in the town charter, general law, or local act,

- (1) the council may adopt or amend the budget ordinance at a regular or special meeting of the council by a simple majority of those members present and voting, a quorum being present;
- (2) no action taken with respect to the adoption or amendment of the budget ordinance need be published or is subject to any other procedural requirement governing the adoption of ordinances or resolutions by the council; and
- (3) the adoption or amendment of the budget ordinance and the levy of taxes in the budget ordinance are not subject to the provisions of any town charter or local act concerning initiative or referendum.

(b) Notice Requirements for Budget Meetings. During the period beginning with the submission of the budget to the council and ending with the adoption of the budget ordinance, the council may hold any special meetings that may be necessary to complete its work on the budget ordinance. Except for the notice requirements of the open meetings law, which continue to apply, no provision of law concerning the call of special meetings applies during that period so long as

- each member of the board has actual notice of each special meeting called for the purpose of considering the budget and
- no business other than consideration of the budget is taken up.

(c) No Authority for Closed Sessions. This rule shall not be construed to authorize the council to hold closed sessions on any basis other than the grounds set out in Rule 5.

**Rule 35. Approval of Contracts and Authorization of Expenditures** [G.S. 160A-16, 160A-20.1]

(a) Contracts to be in Writing. No contract shall be approved or ratified by the town council unless it has been reduced to writing at the time of the council's vote.

(b) Approval of Contracts. To be approved or ratified, a contract must receive affirmative votes equal to at least a majority of all council members not excused from voting on the contract, including the mayor's vote in the event of a tie.

(c) Authorization of Expenditure of Public Funds. The same vote necessary to approve or ratify a contract is required for the council to authorize the expenditure of public funds, except when the expenditure is authorized pursuant to Rule 34.

**Part X. Public Hearings and Comment Periods**

**Rule 36. Public Hearings**

(a) Calling Public Hearings. In addition to holding public hearings required by law, the council may hold any public hearings it deems advisable.

(b) Public Hearing Locations. Public hearings may be held anywhere within the town or within Wake County.

(c) Rules for Public Hearings.

1. Speakers shall register with the town clerk and provide name and address and other contact information.
2. Twelve copies of any written materials must be provided.
3. Reasonable time limits may be imposed on each speaker or group in accordance with Rule 15.
4. The presiding officer may require the designation of spokespersons for groups of persons supporting or opposing the same positions.
5. The presiding officer may provide for the selection of delegates from groups of persons supporting or opposing the same positions when the number of persons wishing to attend the hearing exceeds the capacity of the meeting room (so long as arrangements are made, in the case of a hearing subject to the open meetings law, for

those excluded from the hall to listen to the hearing).

6. The presiding officer may impose additional rules as necessary to provide for the maintenance of order and decorum in the conduct of the hearing.

(d) Notice of Public Hearings. Any public hearing at which a majority of the council is present shall be considered part of a regular or special meeting. Consequently, the relevant notice and related requirements of the Open Meetings Act, as set out in Rules 9 through 12, apply to such hearings. Some statutes mandate additional notice for particular types of hearings, and such notice must be provided together with notice of the meeting during which the hearing will take place.

(e) Continuing Public Hearings. The council may continue any public hearing without further advertisement to a time and place certain, provided the time (including the date, if the hearing will resume on a different day) and place of the continued hearing are announced in open session. Except for hearings conducted pursuant to paragraph (g), if a quorum of the council is not present for a properly scheduled public hearing, the hearing must be continued until the council's next regular meeting without further advertisement.

(f) Conduct of Public Hearings. At the time appointed for the hearing, the mayor shall call the hearing to order and proceed to allow public input in accordance with any rules adopted by the council for the hearing. Unless the council extends the hearing, when the time allotted for the hearing expires, or when no one wishes to speak who has not done so, the mayor shall declare the hearing closed, and the council shall resume the regular order of business.

(g) Public Hearings by Less Than a Majority of Council Members. Nothing in this rule prevents the council from appointing a member or members to hold a public hearing on the council's behalf, except when state law requires that the council itself conduct the hearing.

(h) Quasi-Judicial Hearings. Quasi-judicial hearings shall be conducted in accordance with G.S. 160D-406, 160D-705, and 160D-1402 after council members make any disclosures required by G.S. 160D-109. Witnesses desiring to give evidence shall provide testimony under oath which is to be administered by the town clerk. Parties with standing may cross-examine witnesses.

### **Rule 37. Public Comment Periods**

(a) Frequency of Public Comment Periods. The council must provide at least one opportunity for public comment each month at a regular meeting, except that the council need not offer a public comment period during any month in which it does not hold a regular meeting.

(b) Rules for Public Comment Periods. The council may adopt reasonable rules for public comment periods that, among other things,

- fix the maximum time allotted to each speaker,
- provide for the designation of spokespersons for groups supporting or opposing the same positions,
- provide for the selection of delegates from groups supporting or opposing the same positions when the number of persons wishing to attend the public comment period exceeds the capacity of the meeting room (so long as arrangements are made for those excluded from the hall to listen to the hearing), and

- provide for the maintenance of order and decorum in the conduct of the hearing.

(c) Content-Based Restrictions Generally Prohibited. The council may not restrict speakers based on subject matter, as long as their comments pertain to subjects within the council's real or apparent jurisdiction.

## **Part XI. Appointments and Appointed Bodies**

### **Rule 38. Appointments [G.S. 160A-63]**

(a) Appointments in Open Session. The council must consider and make any appointment to another body or, in the event of a vacancy on the council, to its own membership in open session.

(b) Nomination and Voting Procedure. The council shall use the following procedure to fill a vacancy in the council itself or in any other body over which it has the power of appointment. The nominating committee shall be called upon to make its report and recommendation(s), if any. The mayor shall then open the floor for nominations, whereupon council members may put forward and debate nominees. When debate ends, the mayor shall call the roll of the members, and each member shall cast a vote for his or her preferred nominee. The voting shall continue until a nominee receives a majority of votes cast during a single balloting.

(c) Mayor. The mayor may make nominations, but may not vote on appointments except in the event of a tie.

(d) Multiple Appointments. If the council is filling more than one vacancy, each member shall have as many votes in each balloting as there are slots to be filled, and the votes of a majority of the total number of members voting shall be required for each appointment. No member may cast more than one vote for the same candidate for the same vacancy during a single balloting.

(e) Duty to Vote. It is the duty of each member to vote for as many appointees as there are appointments to be made, but failure to do so shall not invalidate a member's ballot.

(f) Vote by Written Ballot. The council may vote on proposed appointments by written ballot in accordance with Rule 29.

### **Rule 39. Committees and Boards**

(a) Establishment and Appointment. The council may establish temporary and standing committees, boards, and other bodies to help carry on the work of town government. Unless otherwise provided by law or the council, the power of appointment to such bodies lies with the council.

(b) Open Meetings Law. The requirements of the open meetings law apply whenever a majority of an appointed body's members gather in person or simultaneously by electronic means to discuss or conduct official business, except that the Human Resources Committee, the Law and Finance Committee, and the Public Works Committee shall comply with the open meetings law. The requirements of the open meetings law do not apply to meetings solely among the town's professional staff.

(c) Procedural Rules. The council may prescribe the procedures by which the town's appointed bodies operate, subject to any statutory provisions applicable to particular bodies. In the absence

of rules adopted by the council, an appointed body may promulgate its own procedural rules, so long as they are in keeping with any relevant statutory provisions and generally accepted principles of parliamentary procedure.

## **Part XII. Miscellaneous**

### **Rule 40. Amendment of the Rules**

These rules may be amended at any regular meeting or at any properly called special meeting for which amendment of the rules is one of the meeting's stated purposes. Any amendment to these rules must be consistent with the town charter, any relevant statutes, and generally accepted principles of parliamentary procedure. To be adopted, a motion to amend these rules must be approved by a majority of the council's members, excluding vacant seats.

### **Rule 41. Reference to Suggested Rules of Procedure for a City Council**

The council shall refer to *Suggested Rules of Procedure for a City Council, 4<sup>th</sup> edition, 2017* and may refer to *Robert's Rules of Order Newly Revised* for guidance when confronted with a procedural issue not covered by these rules or state law. Having consulted these sources, the mayor shall make a ruling on the issue subject to appeal to the council under Rule 31, Motion 1.

### **Rule 42. Decorum**

During the course of public meetings, elected officials should conduct themselves with professionalism and show courtesy to fellow elected officials, other Town representatives, and the public. Elected officials should approach disagreements in a positive fashion. After a decision is made by a majority of Town Council, the minority should respect and honor the decision. Elected officials should avoid public acts or comments that criticize the Town, the Town staff, or its processes.

### **Rule 43. Absences**

From time to time, elected officials may need to be absent. An absence is defined as any time an elected official is not able to attend a duty or responsibility of their elected position. Absences may be for planned, unplanned, or extended periods. As soon as it is known, a planned absence shall be communicated to the mayor/mayor pro tempore either publicly or privately. As soon as practical, an unplanned absence shall be communicated to the mayor/mayor pro tempore by the individual official or designee either publicly or privately. For any type of absence, all available information regarding the expected absence date or dates, duration and planned return shall be provided. If the absence will extend for more than one week, periodic weekly updates shall be provided by the individual or designee to the mayor/mayor pro tempore. If the absence is health related, specific health information is not required. Information regarding the current circumstances or condition, progress towards return and expected return date is required. As appropriate to the circumstances or condition, the mayor/mayor pro tempore shall communicate with other elected officials, the town manager, the town clerk, and other town staff.

**Rule 44. Special Recognitions**

Recognitions during the presentations portion of the meeting agenda shall include recognition of staff or the public for special accomplishments or achievements and presentations of proclamations or resolutions that are requested to be presented at a council meeting and will be limited to three per meeting. The meeting when the James R. Stevens Award is presented will have no other recognitions on that agenda.

**Rule 45. Time Limits**

Exclusive of matters to be discussed in closed session, the Council will not begin discussion of an agenda item after 10:15 p.m. without the affirmative vote of two-thirds of those members present.

**Rule 46. Adoption, Effective Date**

These rules are adopted by the Garner Town Council on April 18, 2023, and effective May 1, 2023.



## **TOWN OF GARNER LIAISON POLICY**

(adopted August 1, 2022 by Resolution (2022) 2499)

1. The Mayor may assign the Mayor or one or more Councilmembers to serve as liaison to any Town board or committee or any external organization, board, or committee as requested, including State, County, and regional bodies.
2. The Mayor shall make the liaison assignments during the organizational meeting of the Council or at such later time as required by resignation of Councilmembers or requests by external organizations.
3. The term of the liaison assignment will be from the date of the assignment until the next organizational meeting.
4. The duty of the liaison shall be to attend the assigned board or committee meetings and to report back to the full Council. The role of the liaison is to be a representative of the Town and a point of contact for the committee or organization and the public with respect to the purposes and actions of the board or committee.
5. The liaison is not a member of the board or committee and shall have no voting rights, but shall serve in an ex officio capacity.
6. If an external organization, board, or committee requests that the liaison serves as a member of the board or committee, then Town Council shall appoint the Mayor or a Councilmember as an ex officio member of the board or committee in accordance with the Appointments rules and procedures.
7. In order to confirm that Town elected officials are in compliance with State laws regarding dual office holding and transparency, the Mayor and all Councilmembers shall provide the Town Clerk and/or Town Attorney with a list of all appointed positions held by the individual and all organizations for which the individual is an officer or director, and a copy of the bylaws or applicable statutory provisions pertaining to the organization, board, committee, or appointed body.

ORDINANCE NO. (2023) 5198

AN ORDINANCE AMENDING CHAPTER 2 ADMINISTRATION OF THE TOWN CODE

WHEREAS, the Town of Garner Meeting Rules and Procedures are in the process of updating and revisions and amendments to the Town Code of Ordinances have been recommended to maintain consistency between State law, the Town Charter, applicable Town ordinances, and the Meeting Rules.

WHEREAS, the Town Council considered proposed amendments at the March 28, 2023, Work Session.

BE IT ORDAINED by the Town Council of the Town of Garner as follows:

Section One. That Chapter 2, Administration, of the Town Code of Ordinances shall be amended by deleting the language in strike-out and adding the language underlined below:

**ARTICLE I. IN GENERAL**

**Sec. 2-4. Preparation, approval of ordinances.**

All ordinances, except ordinances of a routine nature which are prepared by the town clerk, shall be prepared by or have the approval as to form and legality by the town attorney. No ordinance shall be prepared for presentation to the town council, except on the request of a member of the council, the town manager, the town clerk or the town attorney.

**ARTICLE II. TOWN COUNCIL**

**Sec. 2-20. Minutes.**

Minutes of all meetings of the town council shall be kept and recorded by the town clerk in a permanent minute book. Such minutes shall be presented to the council for approval at ~~the following~~ a subsequent regular meeting within 30 days. Correction of minutes of preceding meetings shall be made only by a majority vote of the members of council present.

**Sec. 9-21. Agenda. Reserved.**

~~Any person or group desiring any matter to be heard by the town council shall, not later than Wednesday preceding each regular meeting of the council, submit to the town manager a brief written request identifying sufficiently the subject matter. This request of hearing shall be in addition to any other notice which may be provided by law.~~

**Sec. 2-25. Introducing, sponsoring, presenting ordinances, resolutions, etc.**

All ordinances, resolutions and other matters or subjects requiring action by the town council must be introduced and sponsored by a member of the council, except that the town manager, the town clerk and the town attorney may present ordinances, resolutions and other matters or subjects to the council. Any council member may assume sponsorship thereof by

moving that an ordinance, resolution, matter or subject be adopted; otherwise, they shall not be considered.

Section Two. This Ordinance shall become effective upon adoption.

Adopted this the 18<sup>th</sup> day of April, 2023.

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Ken Marshburn, Mayor

ATTEST:

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Stella Gibson, Town Clerk

Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: April 18, 2023 <span style="float: right;"><input type="button" value="v"/></span>		
Subject: Resolution in Support of Application for NC PARTF Grant		
Location on Agenda: Consent <span style="float: right;"><input type="button" value="v"/></span>		
Department: Parks, Recreation & Cultural Resources		
Contact: Katie Lockhart, Parks & Nature Superintendent		
Presenter: Katie Lockhart, Parks & Nature Superintendent		
<b>Brief Summary:</b> The North Carolina Department of Natural and Cultural Resources has an annual matching grant program (NC Parks and Recreation Trust Fund or PARTF) which provides financial aid to municipalities to build or develop recreational facilities for public use. PRCR plans to apply for a 2023 PARTF grant to support improvements at White Deer Park. A Town Resolution in support of the grant application is a required component in order to be eligible for funding.		
<b>Recommended Motion and/or Requested Action:</b> Consider adopting Resolution (2023) 2529		
<b>Detailed Notes:</b> White Deer Park opened in 2009 and quickly became one of the most popular parks in the Town's system. The 2021 Park Bond includes funding for an inclusive playground and splash pad as priority amenities to add to White Deer Park. To leverage the Park Bond funds, PRCR will request a PARTF grant of \$400,000 towards the splash pad and to update the playground surface and use the approved Park Bond funds as match. The request aligns with the Town's Strategic Fiscal Responsibility and Quality of Life Goals and with the PRCR Comp Plan Goal 1: Build High Quality Parks for the Growing Garner Community.		
<b>Funding Source:</b> 2021 Approved Park Bond funds for Splash Pad (match) - \$400,000		
Cost:	One Time: <input checked="" type="radio"/>	Annual: <input type="radio"/> No Cost: <input type="radio"/>
<b>Manager's Comments and Recommendations:</b>          		
Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	MMB	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		



## Garner Parks, Recreation and Cultural Resources

900 7<sup>th</sup> Avenue • Garner, NC 27529

Phone: 919-773-4442 • Email: [garnerprcr@garnernc.gov](mailto:garnerprcr@garnernc.gov)

April 10, 2023

To: Jodi Miller, Assistant Town Manager

From: Maria Munoz-Blanco, Director of Parks, Recreation & Cultural Resources (PRCR)

Re: FY23 N.C. Parks & Recreation Trust Fund Application

The N.C. Department of Natural & Cultural Resources has announced the availability of FY23-24 N.C. Parks & Recreation Trust Fund (PARTF) grants. Based on eligibility requirements, a resolution by the Town's governing body is required in order to apply for the grant.

PRCR staff plans to apply for a \$400,000 grant for the White Deer Park splash pad project. The 2021 Park Bond funds allocated to the project will serve as matching funds for this grant application. The determination of award will be made in Fall 2023.

Per the N.C. Parks & Recreation Authority, the N.C. House of Representatives budget bill released earlier this month includes increased recurring funding for the Parks & Recreation Trust fund from \$24.2 million to \$30 million per year. The bill also includes an additional \$20 million in non-recurring funds for PARTF in FY23-24. The next deadline for applications for PARTF grants is May 1, 2023. Based on staff review of the guidelines and consultation with the PARTF staff, of our current active projects, the White Deer Park splash pad is our best option for this cycle. Yeargan Park Phase 1 and the Garner Recreation Center Playground have already been awarded PARTF grants so we cannot apply for these same projects.

### **Staff Recommendation**

That the Town Council approve the resolution supporting the application to the FY23 Parks & Recreation Trust Fund (PARTF).

RESOLUTION NO. (2023) 2529

RESOLUTION FOR SUPPORT OF THE  
NORTH CAROLINA PARKS AND RECREATION TRUST FUND GRANT APPLICATION

WHEREAS, the North Carolina Department of Natural and Cultural Resources Division of Parks and Recreation manages the North Carolina Parks and Recreation Trust Fund (PARTF); and

WHEREAS, the North Carolina Parks and Recreation Trust Fund awards matching grants to local governments for the development of parks to help local governments reach their park and public access goals to improve the quality of life in their communities; and

WHEREAS, the Town of Garner is committed to developing and maintaining a park system that provides opportunities for recreation to youth and adults within the Town; and

WHEREAS, the Town of Garner opened White Deer Park as a public park in 2009; and

WHEREAS, the Town of Garner desires to update White Deer Park's Master Plan to add a splash pad to provide outdoor recreational opportunities for Garner residents and visitors; and

WHEREAS, the North Carolina Department of Natural and Cultural Resources may provide North Carolina Parks and Recreation Trust Fund grant funding along with matching monies from the Town of Garner to develop new amenities like the splash pad at White Deer Park; and

NOW, THEREFORE BE IT RESOLVED THAT THE TOWN COUNCIL OF THE TOWN OF GARNER hereby endorses the application and matching funds to the 2023 North Carolina Parks and Recreation Trust Fund for improvements at White Deer Park.

Duly adopted this the 18th day of April 2023.

---

Ken Marshburn, Mayor

ATTEST:

---

Stella L. Gibson, Town Clerk

Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: April 18, 2023 <span style="float: right;"><input type="text"/></span>		
Subject: Triangle J Senior Center Grant		
Location on Agenda: Consent <span style="float: right;"><input type="text"/></span>		
Department: Parks, Recreation & Cultural Resources		
Contact: Maria Munoz-Blanco, PRCR Director		
Presenter: Maria Munoz-Blanco, PRCR Director		
<p><b>Brief Summary:</b>  Garner Senior Center is eligible to receive a \$10,901 grant from the Triangle J Area Agency on Aging. Funds are allocated by the General Assembly through the regional aging agencies to support senior centers across the state. The GSC has received this grant in prior years as it is formula based. A local match of 25% is required and will be met with existing FY23 approved operating budget. A budget amendment is included to incorporate the grant funds into the FY23 budget.</p>		
<p><b>Recommended Motion and/or Requested Action:</b>  Consider approval to accept \$10,901 grant funds and adopt Ordinance (2023) 5199</p>		
<p><b>Detailed Notes:</b>  Eligible uses of the grant funds are general operations. GSC plans to use the grant funds to update furnishings in the center's library. The grant amount is calculated by the aging agency and requires a 25% local match (\$3,634). The matching funds are from the approved FY23 budget for the GSC operations, specifically the utilities payment. No new funds are required to meet the match requirement.</p>		
<p><b>Funding Source:</b>  n/a</p>		
Cost: \$3,634	One Time: <input checked="" type="radio"/>	Annual: <input type="radio"/> No Cost: <input type="radio"/>
<p><b>Manager's Comments and Recommendations:</b></p>          		
<p>Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/></p>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	MMB	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		



## Garner Parks, Recreation and Cultural Resources

900 7<sup>th</sup> Avenue • Garner, NC 27529

Phone: 919-773-4442 • Email: [garnerprcr@garnernc.gov](mailto:garnerprcr@garnernc.gov)

April 6, 2023

To: Jodi Miller, Assistant Town Manager

From: Maria Munoz-Blanco, Director of Parks, Recreation & Cultural Resources (PRCR)

Re: Triangle J Area Agency on Aging Grant

The Garner Senior Center has been awarded a Senior Center General Purpose Grant by the Triangle J Area Agency on Aging in the amount of \$10,901. This is a formula-based grant funded by the General Assembly through the regional aging agencies to support 170 senior centers across the state. A local match of 25% (\$3,634) is required and will be met with existing FY23 approved operating budget. A budget amendment is required to incorporate the grant funds into the FY23 budget.

The Garner Senior Center has received this grant in prior years. The grant is awarded to support general operations, programming, or facility renovations and maintenance. For the FY23 grant, the Garner Senior Center will use the grant funds to refurbish the library, one of the amenities offered to participants in the center.

### **Staff Recommendation**

That the Town Council approve the acceptance of the grant and budget amendment.



ORDINANCE NO. (2023) 5199

ORDINANCE AMENDING ORDINANCE NO. (2022) 5130 WHICH ESTABLISHED THE OPERATING BUDGET

BE IT ORDAINED by the Town Council of the Town of Garner, North Carolina:

Section One. That the GENERAL FUND be amended as follows:

**Revenue Amendment Request**

ACCOUNT NUMBER	DESCRIPTION	PROJECT	CURRENT BUDGET	REVENUE CHANGE	REVISED BUDGET
10302000-411093	Senior Center Grant General		\$ -	\$ 10,901	\$ 10,901

TOTAL REVENUE INCREASE (DECREASE) \$ 10,901.00

**Expenditure Amendment Request**

ACCOUNT NUMBER	DESCRIPTION	PROJECT	CURRENT BUDGET	EXPENDITURE CHANGE	REVISED BUDGET
10574100-523300	Department Supplies	40300	\$ 4,160	\$ 10,901	\$ 15,061

TOTAL EXPENDITURE INCREASE (DECREASE) \$ 10,901.00

Section Two. Copies of this ordinance shall be furnished to the Finance Director and the Town Clerk for their direction in the disbursement of the Town's funds and for public inspection.

Duly adopted this 17th day of January 2023.

\_\_\_\_\_  
Ken Marshburn, Mayor

ATTEST:

\_\_\_\_\_  
Stella L. Gibson, Town Clerk

Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: April 18, 2023		
Subject: Council Meeting Minutes		
Location on Agenda: Consent		
Department: Administration		
Contact: Stella Gibson, Town Clerk		
Presenter: Stella Gibson, Town Clerk		
Brief Summary: Minutes from the March 21 and March 28 and April 4, 2023 Council meetings.		
Recommended Motion and/or Requested Action: Consider approving minutes		
Detailed Notes:		
Funding Source: n/a		
Cost:	One Time: <input type="radio"/>	Annual: <input type="radio"/> No Cost: <input checked="" type="radio"/>
Manager's Comments and Recommendations:		
Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	SG	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

**Town of Garner  
Town Council Regular Meeting Minutes  
March 21, 2023**

The Council met at 6:00 p.m. in the Ronnie S. Williams Council Chambers at Town Hall, located at 900 7<sup>th</sup> Avenue, Garner.

**CALL MEETING TO ORDER/ROLL CALL:** Mayor Ken Marshburn

Present: Mayor Ken Marshburn, Mayor ProTem Elmo Vance, Council Members, Gra Singleton, Kathy Behringer and Phil Matthews and Demian Dellinger

Staff Present: Rodney Dickerson-Town Manager, John Hodges-Asst. Town Manager, Jodi Miller-Asst. Town Manager, David Beck-Finance Director, Paul Padgett-Inspections Director, Alison Jones-Planner, Leah Harrison-Engineering Director, Reginald Buie-Senior Planner, Jeff Triezenberg-Planning Director, Terri Jones-Town Attorney, and Stella Gibson-Town Clerk

**PLEDGE OF ALLEGIANCE:** Mayor Ken Marshburn

**INVOCATION:** Mayor Ken Marshburn invited Louis Long, Police Chaplain, to deliver the invocation.

**PETITIONS AND COMMENTS**

None

**ADOPTION OF AGENDA**

Motion: Matthews  
Second: Singleton  
Vote: 5:0

**PRESENTATIONS**

None

**CONSENT**

**SEPI/Transystems SOW#5 - Materials Testing for Junction Blvd Storm Pipe Lining Repairs**

Presenter: Leah Harrison, Engineering

Statement of Work #5 with SEPI/Transystems for materials testing on the Junction Blvd Storm Pipe Lining Repairs project.

Action: Approve SOW #5 with SEPI/Transystems and authorize the Town Manager to execute.

**Council Meeting Minutes**

Presenter: Stella Gibson

Minutes from the February 21 and March 6, 2023 Council Meetings.

Action: Approve minutes

**Budget Amendment for PARTF Grant of Yeagan Park**

Presenter: Sara Warren, Budget Manager

On March 22, 2022 Council adopted a resolution for Parks, Recreation and Cultural Resources (PRCR) to apply for a NC Parks & Recreation Trust Fund (PARTF) through the NC Department of Natural and Cultural Resources. On October 11, 2022, the Town of Garner was notified of receipt of the grant and a contract was signed and executed. This action is to appropriate PARTF grant funds for Yeargan Park.

Action: Amend Capital Ordinance to Appropriate \$400,000 in PARTF Grant Funds; Approve Ordinance (2023) 5189

**Budget Amendment - ARP Funding for White Deer Park Improvement Design**

Presenter: Sara Warren, Budget Manager

On December 20, 2022, Council authorized the use of ARP funding for design for the White Deer Park Improvements. This budget amendment appropriates ARP dollars from the ARP fund to the White Deer Park Improvements project.

Action: Amend Capital Ordinance to Appropriate \$133,100 in ARP Grant Funds

Action: Approve Consent Agenda

Motion: Matthews

Second: Behringer

Vote: 5:0

**PUBLIC HEARINGS**

**Voluntary Annexation Petition # ANX-23-01, 601 Tryon Road**

Presenter: Reginald Buie, Senior Planner

Voluntary annexation petition (ANX-23-01) submitted by ZP 363 Garner Tryon QOZB, LLC to annex 27.42 +/- acres into the Town of Garner corporate limits. The property is located at 601 Tryon Rd and may otherwise be identified as Wake County PIN# 1702201920.

Mayor Marshburn closed the hearing.

Action: Adopt annexation Ordinance (2023) 5191

Motion: Vance

Second: Matthews

Council Member Dellinger stated he did not feel this project was the highest and best use of the property.

Vote: 4:1

Council Member Dellinger voted nay.

**Voluntary Annexation Petition # ANX-23-02, 70 East Mobile Home Park**

Presenter: Reginald Buie, Senior Planner

Voluntary annexation petition (ANX 23-02) submitted by ACG Garner, LLC, to annex 26.48 +/- acres into the Town of Garner corporate limits. The property is located at 100 Buffalo Acres Lane and may otherwise be identified as Wake County PIN# 1730559802.

Council Member Dellinger asked what the owners long-term plans were for the property and Mr. Buie responded that, at this time, there were no plans.

Action: Continue to the April 4, 2023 meeting to hear from the applicant regarding long-term plans.

Motion: Dellinger  
Second: Singleton  
Vote: 5:0

Mayor Marshburn explained the procedures to be followed during the following hearing and asked Council to disclose any bias, ex parte communications, any close familial, business or other associational relationships with an affected person, or have a financial interest in the outcome. Hearing none, the Clerk administered the Oath to David Lasley, Peter Shatz, Colton Clifton, Alison Jones, and Jeff Triezenberg.

### **Special Use Permit # SUP-SP-22-04, Garner Station Lots 106 & 107**

Presenter: Alison Jones, Planner

Special use permit request (SUP-SP-22-04) submitted by BP Management NC to establish 139,500 square feet of office and warehouse space in a building on a 8.81 +/- acre site located 2400 and 2500 Garner Station that may be further identified as Wake County PIN # 0791988202 and 0791977940.

Following staff's presentation, Mr. Shatz, asset manager, David Lasley, site planner, and Colton Clifton, real estate broker, each provided information in their respective areas of expertise and responded to Council's questions.

Mayor Marshburn closed the hearing.

Action: I find that application # SUP-SP-22-04 meets the Town's eight (8) criteria for special use permits as identified in Article 3.9.2.D.; therefore, I move that the Town Council approve SUP-SP-22-04, Garner Station Lots 106 & 107 with the four site specific conditions to be listed on the permit that will be prepared by staff.

Motion: Vance  
Second: Matthews  
Vote: 5:0

### **NEW/OLD BUSINESS**

### **COMMITTEE REPORTS**

- Council Member Vance reported the Human Resources Committee will begin reviewing applications to fill the vacancies on the Town's Boards and Commissions.
- Council Member Matthews report that the Veteran's Committee met and are working with staff to organize events for Memorial Day and Veterans' Day.
- Council Member Dellinger commended the Parks & Recreation Committee on their efforts in obtaining grant funds.

### **MANAGER REPORTS**

- Introduced Paul Padgett as Director of the Inspections Department.

- Talk of the Town
- The Spring Unprepared Yard Waste and Trash pickup has begun.
- Public comments on the draft Character and Land Use Elements update to the Garner Forward Comprehensive Plan are being accepted until Thursday, March 23.
- The Spring Big Sweep and Litter Sweep is Saturday, March 25 at the Holly Shelter at White Deer Park.
- The bluegrass band Balsam Range will be playing at the Garner Performing Arts Center on Saturday, March 25.
- The April Foods Day food truck rodeo will be on Sunday, March 26.
- The Spring Eggstravaganza will be at Lake Benson Park on Saturday, April 1.
- VA Hospital groundbreaking will be on March 28.

## **ATTORNEY REPORTS**

## **COUNCIL REPORTS**

### Behringer

- Attended the NC Mainstreet Conference where Mari Howe received the Main Street Champion award and Garner was recognized for the best infill improvement.

### Marshburn

- Thanked Mayor ProTem Vance for attending several events while he was out of town.
- Stated he had received concerns from residents in the Hunters Mark subdivision regarding the turn lane to get out of the neighborhood. Mr. Dickerson responded that this issue was referred to NC DOT and the Town Engineer. The developer has also been in contact with his consultant about speaking to NC DOT about that as well.

### Vance

- Asked for an update on the timing of the traffic lights at the intersection of US 70 and New Rand Road. Staff will follow-up on.
- On East Main Street at the intersection of Saint Mary's Road there is a pile of trash which may be in the railroad right-of-way. Staff will work to remove.
- Attended Area Triangle Area of Economic Developers meeting.
- Attended and made remarks at the Bus Rapid Transit press conference where Congressman Nichols and Ross, NC DOT Secretary, Raleigh and Wake County representatives who were advocating for the approval of 77.8 million dollars for a transportation project.

### Singleton

- The need for a community center started in 1986 and morphed from the community center into the Rec Center which is up and running and very well used; however, there is not enough parking. When construction begins on the project directly beside it, there will some existing parking that will not be accessible.

### Matthews

- Stated baseball season opening was on Saturday.

Council Member Dellinger had nothing to report.

**ADJOURN:** 7:26 p.m.

**Town of Garner  
Town Council Regular Meeting Minutes  
March 28, 2023**

The Council met at 6:00 p.m. in the Ronnie S. Williams Council Chambers at Town Hall, located at 900 7<sup>th</sup> Avenue, Garner.

**CALL MEETING TO ORDER/ROLL CALL:** Mayor Ken Marshburn

Present: Mayor Ken Marshburn, Mayor ProTem Elmo Vance, Council Members, Gra Singleton, Kathy Behringer and Phil Matthews and Demian Dellinger

Staff Present: Rodney Dickerson-Town Manager, John Hodges-Asst. Town Manager, Katie Lockhart-PRCR, Megan Young-PRCR, David Beck-Finance Director, Leah Harrison-Engineering Director, Maria Munoz-Blanco-PRCR Director, Terri Jones-Town Attorney, and Stella Gibson-Town Clerk

**CALL MEETING TO ORDER/ROLL CALL:** Mayor Ken Marshburn

**ADOPTION OF AGENDA**

Motion: Singleton  
Second: Vance  
Vote: 5:0

**DISCUSSION/REPORTS**

**Yeargan Park Phase 1 and White Deer Splash Pad Updates**

Presenter: Maria Munoz-Blanco, PRCR Director

Yeargan Park Phase 1 and White Deer Park Splash Pad are currently in the early stages of design. To continue the design process, it is necessary to obtain Town Council guidance and feedback on the proposed concepts for the play area and picnic shelter at Yeargan Park Phase 1, as well as on the style options to consider for the White Deer Park splash pad.

Shweta Nannekar and Patrick Hobgood presented information and concepts for each of these. Council expressed their preference for a colorful splashpad and a “tree branch” style picnic shelter.

Action: Received information and provided guidance for next steps of the design process.

**Meeting Rules and Procedures**

Presenter: Terri Jones, Town Attorney

Ms. Jones presented possible changes to the Council’s Meeting Rules and Procedures and the Town’s Code of Ordinances.

Action: Council provided direction to staff regarding the changes.

**MANAGER REPORTS**

- John Hodges advised Council of the potential renaming of a portion of Hwy 70, creation of Interstate 42, and renaming Hwy 42 to Hwy 36.

- Eggstravaganza will be on Saturday at 10 a.m. at Lake Benson park.

## **COUNCIL REPORTS**

### Singleton

- Thanked Public Works for their work on the unprepared yard waste and trash collection pickup.

### Behringer

- On West Garner Road by the entrance to Cloverdale there is an empty lot with large empty containers. Now the area has wrecked cars.

### Marshburn

- Attended the VA Hospital groundbreaking.
- Thanked those who participated in the litter sweep this past Saturday.
- County Commissioners will vote on the grant Garner receives from sales tax at their April 17<sup>th</sup> meeting.

Mayor ProTem Vance, Dellinger, and Matthews had nothing to report.

**ADJOURN:** 9:05 p.m.

DRAFT



**Town of Garner  
Town Council Regular Meeting Minutes  
April 4, 2023**

The Council met at 6:00 p.m. in the Ronnie S. Williams Council Chambers at Town Hall, located at 900 7<sup>th</sup> Avenue, Garner.

**CALL MEETING TO ORDER/ROLL CALL:** Mayor Ken Marshburn

Present: Mayor Ken Marshburn, Mayor ProTem Elmo Vance, Council Members, Gra Singleton, Kathy Behringer and Phil Matthews and Demian Dellinger

Staff Present: Rodney Dickerson-Town Manager, John Hodges-Asst. Town Manager, Jodi Miller-Asst. Town Manager, David Beck-Finance Director, Paul Padgett-Inspections Director, Sara Warren-Budget Manager, Jaclyn Stannard-Stormwater Program Administrator, Maria Munoz-Blanco-PRCR Director, Ashley Harris-Planner, Sarah Van Every-Development Review Manager, Mari Howe-Special Projects Manager, Lisa Rodriguez-Senior Engineering Project Manager

Leah Harrison-Engineering Director, Reginald Buie-Senior Planner, Jeff Triezenberg-Planning Director, Terri Jones-Town Attorney, and Stella Gibson-Town Clerk

**CALL MEETING TO ORDER/ROLL CALL:** Mayor Ken Marshburn

**PLEDGE OF ALLEGIANCE:** Council Member Phil Matthews

**INVOCATION:** Council Member Phil Matthews

**PETITIONS AND COMMENTS**

**ADOPTION OF AGENDA**

Motion: Singleton  
Second: Matthews  
Vote: 5:0

**PRESENTATIONS**

**Debt and Capital Projects Update**

Presenters: Sara Warren, Budget Director and David Beck, Finance Director

Mr. Beck and Ms. Warren provided an update on debt projections and status of capital projects. The update included information regarding the first 2021 bonds installment sale and FY 2023-24 budget deliberations.

**CONSENT**

**Jones Sausage Road - Design Amendment #3**

Presenter: Leah Harrison, Town Engineer

Amendment #3 with HDR, Inc. to capture the following items on the Jones Sausage Road Design: 1. Value Engineering and associated revisions; 2. Phase 1B of the well and septic evaluations; 3. Geotechnical investigations.

Action: Approve and authorize the Town Manager to execute amendment #3 with HDR in the amount of \$134,612.

**Rand Mill Improvements - Design Amendment #5**

Presenter: Leah Harrison, Town Engineer

Amendment #5 with Kimley-Horn for geotechnical investigation for the Rand Mill Streetscape and Parking Improvements project.

Action: Approve and authorize the Town Manager to execute Amendment #5 with Kimley-Horn in the amount of \$8,600.

**Town Hall Annex - Design Amendment #1**

Presenter: Leah Harrison, Town Engineer

Amendment #1 with ADW to accommodate additional scope of the renovation. Includes additional architectural design, civil/site design, and MEP.

Action: Approve and authorize the Town Manager to execute Amendment #1 with ADW in the amount of \$26,500.

**Vandora Springs Sidewalk Project - Change Order 8**

Presenter: Leah Harrison, Town Engineer

Change Order 8 and 9 to SA Hauling contract for construction of Vandora Springs Sidewalk Project. Change Order covers additional adjustment of manhole and water valves.

Action: Approve and authorize the Town Manager to execute Change Orders 8 and 9 with SA Hauling.

Action: Approve Consent Agenda

Motion: Vance

Second: Behringer

Vote: 5:0

**PUBLIC HEARINGS**

**Budget Public Hearing**

Presenter: Sara Warren, Budget Manager

This is the first of two public hearings for the proposed FY23-24 operating budget. This public hearing provides an opportunity for residents to provide feedback and ideas for the Town's FY23-24 budget. The Recommended FY23-24 Budget will be presented during the May 2, 2023 Council meeting. The second public hearing on the recommended budget is scheduled for May 16, 2022. Online comments and ideas on the proposed FY23-24 budget can be submitted at: Garner Budget Comment Form.

Close hearing.

Action: Hold a public hearing and receive public comment on the proposed FY23-24 budget.

**Annexation Petition # ANX-22-16, Wilmington Townes**

Presenter: Reginald Buie, Senior Planner

Voluntary contiguous annexation petition (ANX-22-16) submitted by Wilmington Town LLC to annex 11.95 +/- acres into the Town of Garner corporate limits. The properties are located along Wilmington Rd and may otherwise be identified as Wake County PIN #'s 1721085631, 1721087219, and 1721078952.

Close hearing.

Action: Adopt Ordinance (2023) 5195

Motion: Vance  
Second: Matthews  
Vote: 5:0

**Annexation Petition # ANX-23-02, 70 East Mobile Home Park**

Presenter: Reginald Buie, Senior Planner

This annexation petition was continued from the March 21, 2023 Council meeting.

Voluntary satellite annexation petition (ANX-23-02) submitted by ACG Garner, LLC, to bring 26.48 +/- acres into the Town of Garner corporate limits. The property is located at 100 Buffaloe Acres Lane and may otherwise be identified as Wake County PIN# 1730559802.

Mr. Conlin stated that the reason for the annexation request was to connect to city water because the water system in the mobile home park is old and in need of significant upgrades. He also stated that for the foreseeable future, the mobile home park will be kept as affordable housing. If at any time the park should be developed, every effort will be made to provide a six month notice and relocation assistance to the residents. Council Member Dellinger requested that should this occur to let the Town know.

Action: Adopt annexation Ordinance (2023) 5196

Motion: Singleton  
Second: Matthews  
Vote: 5:0

**Annexation Petition # ANX-23-03, Gatsby Station**

Presenter: Reginald Buie, Senior Planner

Voluntary satellite annexation petition (ANX-23-03) submitted by Donald & Deborah Bailey, Patrick Roberts, and Donald Burgess to bring 60.93 +/- acres into the Town of Garner's corporate limits. The property is located generally at 7633 Rock Quarry Road and may be otherwise identified as Wake County PIN # 1740058673 and the portion of 1740165280 east of Rock Quarry Road.

Action: Adopt Ordinance (2023) 5197

Motion: Matthews  
Second: Vance  
Vote: 5:0

**NEW/OLD BUSINESS**

**Tier 2 Conditional Rezoning #CZ-MP-22-08, Gatsby Station**

Presenter: Ashley Harris, Planner

Tier 2 conditional rezoning request (CZ-MP-22-08) submitted by Brendie Vega, WithersRavenel, to rezone 60.925 +/- acres from Wake County Residential 30 (R-30) to Town of Garner Multifamily (MF-1 C264) Conditional for the development of a residential community. The site is located on the eastside of Rock Quarry Road and may be identified as Wake County PIN 1740058673 and a portion of PINs 1740165280 and 1740057357.

Brad Hart reviewed the project and responded to Council's questions. Mayor ProTem Vance asked if any blasting would be needed for this project and Mr. Hart responded that at this time, he didn't think so, but this is usually driven by the contractor doing the blasting. The contractor would also be responsible for obtaining a permit and any notification requirements.

Action: I move that the Town accept the Planning Commission's written statement regarding consistency of the zoning amendment request with the adopted land use plans, detained in Section VI of the staff report as our own and I further move that the Town Council adopt Ordinance No. (2023) 5193 approving rezoning CZ-MP-22-08, as the request is reasonable and in the public interest because it will likely encourage shared use and mixed-use developments.

Council Member Dellinger stated this was a great project for the site but that he would be voting nay stating that the inflexibility that manifested itself on the Northern side of this property adding that Town could be a little more flexible and not put the burden of building a road that is not really serving a purpose and a road the Town will maintain.

Motion: Vance  
Second:  
Vote: 4:1

Council Member Dellinger voted nay.

**Zoning Text Amendment # ZTA-23-01, New Stormwater Requirements for Nitrogen Control**

Presenter: Jaclyn Stannard, Stormwater Program Administrator

Ms. Stannard presented the zoning text amendment (ZTA-23-01) submitted by the Garner Engineering Department to amend Section 11.2, Stormwater Program for Nitrogen Control and Article 7, Enforcement, of the Town's Unified Development Ordinance (UDO) to bring the Town's UDO into compliance with updated rules promulgated by the North Carolina Department of Environmental Quality and the Environmental Management Commission.

Action: I move that the Town Council accept the Planning Commission's written statement regarding consistency of the zoning amendment request with adopted land use plans, detailed in Section IV of the staff report, as our own; and I further move that the Town Council adopt Ordinance (2023) 5194 approving ZTA-23-01, as the request is reasonable and in the public interest because it will likely reflect

a significant change in conditions or support a public policy established by the Town since the adoption of applicable land use plans.

Motion: Vance  
Second: Singleton  
Vote: 5:0

## COMMITTEE REPORTS

## MANAGER REPORTS

- Mr. Triezenberg demonstrated the Planning Department’s on-line Development Activity Map which is now available for the public to view projects currently in review and recently approved.
- Ms. Harrison provided an overview of the Town’s capital projects.
- Town Hall will be closed on Friday.

## ATTORNEY REPORTS

## COUNCIL REPORTS

Vance

- Asked for an update on the repairs to the Jackie Johns Park. Ms. Miller advised a contractor has been selected and repairs should begin within the next few weeks.
- Asked about the timing of the traffic lights at New Rand Road and Hwy 70. Ms. Harrison will follow-up with NC DOT.
- Asked for an update on the Acute Care and Mental Health Centers. Mr. Dickerson responded that there is nothing official yet, but it is possible we should hear something in the next couple of days pertaining to at least one of the projects. Regarding the Acute Care Center, although they had a Certificate of Need, there is an appeal period that is underway. Mr. Dickerson added that we haven’t received official news on the Mental Health Center yet.

Behringer

- Stated she is also concerned about the timing of the traffic lights on New Rand Road and Hwy 70.
- Complimented the Parks & Rec Department for their work making the Eggstravaganza such a success.

Singleton

- Thanked Public Works for their work on the unrestricted pick-up.

Mayor Marshburn and Council Members Dellinger and Matthews had nothing to report.

**ADJOURN:** 8:23 p.m.

Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: April 18, 2023		
Subject: White Oak RAB Design Amendment #4		
Location on Agenda: Consent		
Department: Engineering		
Contact: Leah Harrison, Town Engineer		
Presenter: Leah Harrison, Town Engineer		
<b>Brief Summary:</b>  Amendment to design contract with Arcadis for White Oak RAB to address NCDOT review comments, accommodate utility coordination, and provide construction phase services. There are funds in the existing project budget that can be used for this amendment.		
<b>Recommended Motion and/or Requested Action:</b> Approve and authorize the Town Manager to execute Amendment #4 with Arcadis.		
<b>Detailed Notes:</b> See attachments.		
<b>Funding Source:</b> 2021 Bonds		
Cost: \$57,350	One Time: <input checked="" type="radio"/>	Annual: <input type="radio"/> No Cost: <input type="radio"/>
<b>Manager's Comments and Recommendations:</b>          		
Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	LH	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

TO: Leah Harrison, PE, Town Engineer  
 FROM: Lisa Rodriguez, EI, Senior Engineering Project Manager  
 DATE: April 11, 2023  
 SUBJECT: White Oak Roundabout – Design Amendment 4

**BACKGROUND**

The White Oak Roundabout design is being finalized. Additional work is needed towards design efforts to help with additional design efforts to meet NCDOT review comments, utility coordination efforts, easements, and construction administration. Please see the list below and following attachments for this design amendment:

Task 1: Utility Pole surveys	\$3,100
Task 2 Easement Service	\$4,750
Easement Exhibits:5 @ \$950.00	\$4,750.00
Legal Descriptions: 10 @ \$350.00	\$3,500.00
Staking: 5 @ \$650.00	\$3,250.00
Task 3 Professional Services for Bid Documents	\$15,000.00
Task 4 Professional Services for Construction Services	\$20,000.00
Task 5 Professional Services for ROW Revisions	\$3,000.00
Task Project Management (10%)	\$5,735.00
<b>Maximum Not-To-Exceed Costs</b>	<b>\$57,350.00</b>

The Engineering Department proposes adding these tasks necessary to complete the White Oak Roundabout design efforts to the existing Arcadis design contract.

**NEXT STEPS**

Following concurrence by Town Council, staff will finalize the contract amendment and obtain signatures from applicable parties.

**RECOMMENDATION**

Approve the amendment as outlined and authorize Town Manager to execute the contract amendment with Arcadis in the amount of \$57,350. There are existing funds in the project budget that can be used towards this amendment.

## **Project U-6225 White Oak Road Roundabout**

### **CONTRACT AMENDMENT No. 4**

This Contract Amendment (the “Amendment”) dated the 20<sup>th</sup> day of April 2023 by and between Arcadis G&M of North Carolina, Inc. (the “Consultant”), and the Town of Garner (the “Owner”), collectively the “Parties”.

WHEREAS, the Parties entered into a contract dated August 7, 2018 with a value of \$220,740.00.

WHEREAS, the Parties amended the original contract with Amendment 1 dated August 7, 2018 with a value of \$1,800.00 and time extension of the contract duration to June 30, 2022, Amendment 2 dated January 5th, 2022 with a value of \$41,475, and Amendment 3 dated September 23rd, 2023 with a value of \$ 20,845 for a total current contract value of \$ \$284,860. Now, therefore, it is agreed by and between the parties for this Contract Amendment No. 4 to be implemented as set forth below and attached exhibits.

#### **1. SCOPE OF WORK**

The Consultant shall provide the engineering services required to design and prepare construction plans, specifications and bid documents for the proposed improvements in accordance with the following:

##### **Task 1: Utility Pole surveys**

Conventionally survey and map approximately 28 existing utility and signal poles located within project limits. All poles will be compared to previously surveyed pole locations and the differences will be noted. An Excel spreadsheet containing the coordinates and differences in location will be compiled.

##### **Task 2 Easement Services**

- Revise and restake existing permanent utility easements as directed by the Town. Consultant will also revise existing easement exhibits and legal descriptions affected by any revisions to the existing permanent utility easements.
- Right of Way and Easement Exhibits: Prepare 5 easement acquisition exhibits as directed by the Town of Garner. Each easement exhibit will be signed and sealed by a North Carolina Professional Land Surveyor.
- Legal Descriptions: Provide written metes and bounds legal descriptions in Word format for the proposed PUE easements. It is anticipated there will be no more than 5 legal descriptions.
- Field Staking: The proposed PUE easements will be staked using 24” lengths of 5/8” rebar and witnessed with a wood stake. It is anticipated there will be no more than 5 permanent easement points.



**Task 3 Professional Services for Bid Documents**

- Compile bid documents
- Compile project documents
- Attend pre-bid meeting (Virtual)
- Addendums for contractor questions during bidding
- Bid evaluation

**Task 4 Professional Services for Construction Services**

- Plan revisions
- RFIs (Field Adjustments)
- Attendance at construction meetings (virtually)

**Task 5 Professional Services for ROW Revisions**

- Adjust PUE for plan revision as directed by City
- Review of surveyed points to compare pole locations
- Meetings to discuss pole issues

**2. TIME OF PERFORMANCE**

This amendment scope of work is to be completed per the requirements to bid, let and construct the project at reasonable timeframes established at the initiation of the professional services required for each task item.

**3. COST OF WORK**

The cost of this work performed is to not exceed \$57,350. The new total current contract value will be established not to exceed \$342,210. Table 1 below provides a not-to-exceed cost breakdown for each task item.

All terms and conditions of the original contract remain in full force except for those changes specifically outlined in this contract amendment.

Task 1: Utility Pole surveys	\$3,100
Task 2 Easement Service	\$4,750
Easement Exhibits:5 @ \$950.00	\$4,750.00
Legal Descriptions: 10 @ \$350.00	\$3,500.00
Staking: 5 @ \$650.00	\$3,250.00
Task 3 Professional Services for Bid Documents	\$15,000.00
Task 4 Professional Services for Construction Services	\$20,000.00
Task 5 Professional Services for ROW Revisions	\$3,000.00
Task Project Management (10%)	\$5,735.00
<b>Maximum Not-To-Exceed Costs</b>	<b>\$57,350.00</b>

In Witness hereof, the Parties have executed this Agreement as of the date set forth above.

**COMPANY**

Signed

\_\_\_\_\_  
Name: Jonathan D. Reid  
Title: Project Manager, Vice President

Witness:

\_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**TOWN OF GARNER**

Signed

\_\_\_\_\_  
Rodney Dickerson  
Town Manager

Witness:

\_\_\_\_\_  
Stella Gibson  
Deputy Town Clerk

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

\_\_\_\_\_  
David Beck  
Finance Director

THIS INSTRUMENT APPROVED AS TO FORM

\_\_\_\_\_  
Terri Jones  
Town Attorney

(Affix Town Seal)



April 10, 2023

Mr. Jonathan Reid  
Arcadis G&M of North Carolina INC.  
5420 Wade Park Boulevard, Suite 350  
Raleigh, NC 27607

**Subject: Construction Services and Bid Documents  
White Oak, Ackerman and Hebron Church Road  
Intersection Improvements  
Town of Garner, North Carolina**

Gresham Smith is pleased to present this Scope and Fee Proposal for the Bid documents, ROW revision, Construction services for the project.

**PROFESSIONAL SERVICES**

Bid Documents \$15,000.00

- Compile bid documents
- Compile project documents
- Attend pre-bid meeting (Virtual)
- Addendums for contractor questions during bidding.
- Bid evaluation.

Construction services: \$20,000.00.

- Plan revisions
- RFI (Field Adjustments)
- Attendance at construction meetings virtually when requested.

ROW Revision for Duke Power: \$3000.00.

- Adjust PUE for plan revision as directed by City.
- Review of surveyed points to compare pole locations.
- Meetings to discuss pole issues.

**COMPENSATION**

These services will be performed and billed towards an hourly not to exceed amount of \$38,000.00.

Sincerely,

Patrick Fiveash, P.E.  
Project Manager

Copy: Jason Brady – Gresham Smith. File

**Genuine Ingenuity**

2095 Lakeside Centre Way  
Suite 120  
Knoxville, TN 37922  
865.521.6777  
GreshamSmith.com

April 03, 2023

Jonathan Reid, PE  
Arcadis G&M of North Carolina, Inc.  
5420 Wade Park Boulevard, Suite 350  
Raleigh, NC 27607

Subject:  
Town of Garner  
Project U-6225 White Oak Road Roundabout  
Utility Pole Surveys and Mapping along with Permanent Utility Easement (PUE) Revisions and Staking.

Dear Mr. Reid:

CH Engineering, A Division of Pennoni (CHEP) is pleased to provide this proposal for the above referenced project.

### **Background**

CHEP was contacted to prepare right of way and easement exhibits, legal descriptions, and staking for the project in 2022. The CHEP survey was based on design survey by others.

### **Project Understanding**

The accuracy of the utility pole positions has been questioned and as a result, a resurvey of utility poles throughout the project has been determined to be needed. Depending on the results of the resurvey, revised right of way and easement exhibits, legal descriptions, and staking may be required.

### **Scope of Work:**

- **Task 1 Utility Pole surveys:** Conventionally survey and map approximately 28 existing utility and signal poles located within project limits. All poles will be compared to previously surveyed pole locations and the differences will be noted. An Excel spreadsheet containing the coordinates and differences in location will be compiled.
- **Task 2 Easement Services:** Revise and restake existing permanent utility easements as directed by Lisa Rodriguez and the Town of Garner. CHEP will also revise existing easement exhibits and legal descriptions affected by any revisions to the existing permanent utility easements.

Right of Way and Easement Exhibits: Prepare 5 easement acquisition exhibits as directed by the Town of Garner. Each easement exhibit will be signed and sealed by a North Carolina Professional Land Surveyor.

Legal Descriptions: Provide written metes and bounds legal descriptions in Word format for the proposed PUE easements. It is anticipated there will be no more than 5 legal descriptions.

Field Staking: The proposed PUE easements will be staked using 24" lengths of 5/8" rebar and witnessed with a wood stake. It is anticipated there will be no more than 5 permanent easement points.

### Assumptions and Exclusions

- Performing a complete boundary survey around each parcel is not included in this scope of services.
- No tree survey is included in this proposal.
- No wetland locations are included in this proposal.
- All survey work described in the scope of work above will adhere to NCDOT survey guidelines.
- All field crews will adhere to NCDOT safety guidelines related to working within, along or adjacent to public roadways.
- Real estate title search services are not included with this proposal.
- The Town of Garner will contact property owners within requested survey limits.

### Deliverables:

- Auto Cad .dwg or Microstation .dgn file with utility pole locations.
- Signed and sealed pdf copy of the Survey Report.
- Utility Pole comparison report.
- Revised easement exhibits.
- Legal descriptions in Word format of each proposed easement and right of way acquisition.

### Fee Proposal

The following fees are proposed:

Task 1: Survey and Map Utility Poles \$3,100.00

Task 2: Easement Exhibits: 5 @ \$950.00 = \$4,750.00


Legal Descriptions: 10 @ \$350.00 = \$3,500.00

Staking: 5 @ \$650.00 = \$3,250.00

### Schedule

We will be pleased to work with you to develop a mutually agreeable schedule for the completion of this project.

We appreciate the opportunity to provide this proposal. Please let us know if we can provide any additional information.



Jeffrey S. Coats, PLS  
Survey Program Manager



Andrew Parker, PE  
Office Director

Town of Garner  
Town Council Meeting  
Agenda Form

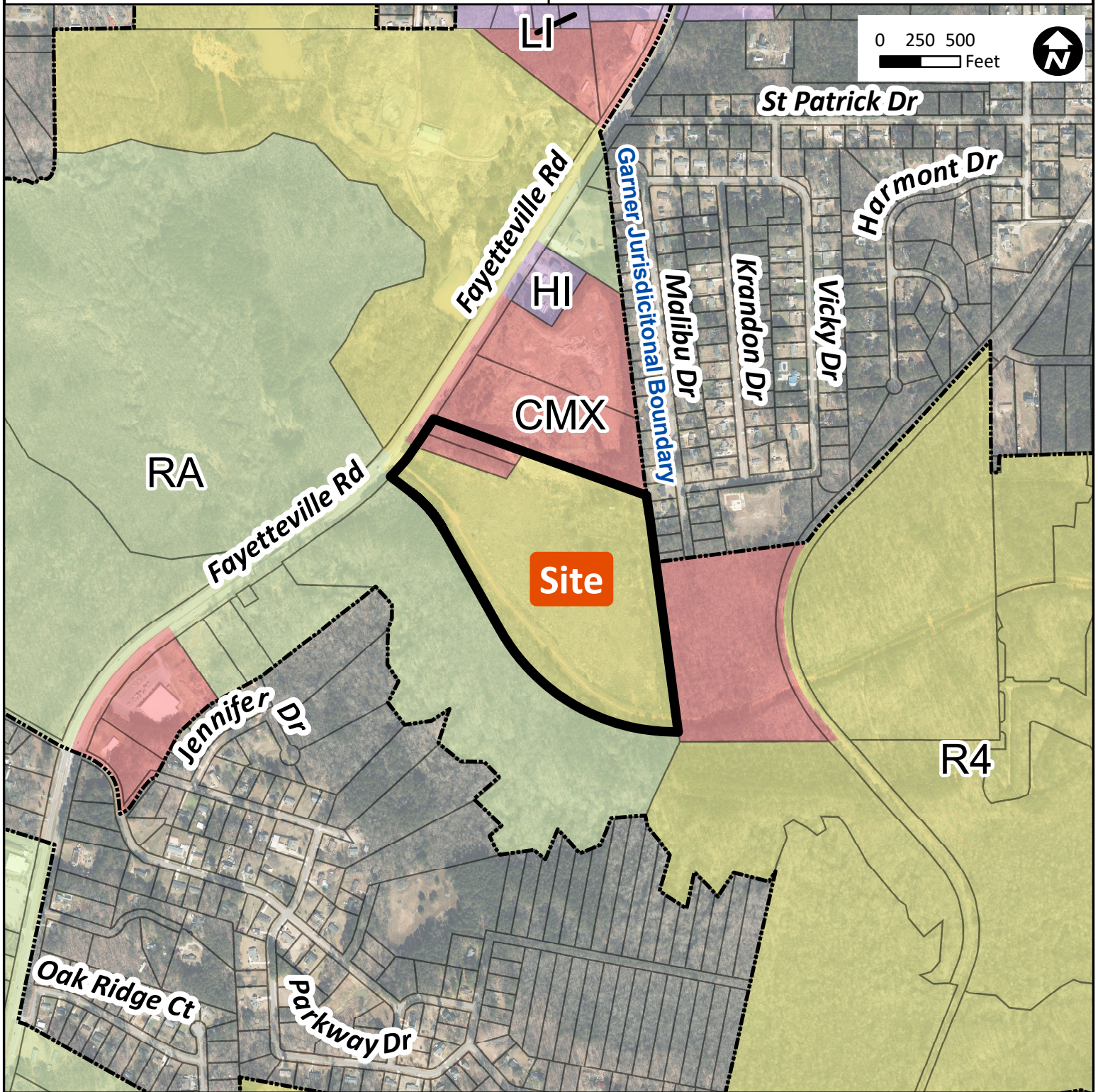
Meeting Date: April 18, 2023		
Subject: Tier 2 Conditional Rezoning #CZ-MP-22-04, Swift Creek Apartments		
Location on Agenda: Public Hearings		
Department: Planning		
Contact: Ashley Harris, Planner I		
Presenter: Ashley Harris, Planner I		
<b>Brief Summary:</b> <p>Tier 2 conditional rezoning request (CZ-MP-22-04) submitted by Swift Creek Apartments, LLC, to rezone approximately 40.85 +/- acres from Commercial Mixed Use (CMX) and Residential 4 (PD TND C2) Conditional, to Commercial Mixed Use (CMX C261) Conditional and Multifamily B (MF-B C261) Conditional. The site is located on the east side of US 401 north of Brookwood Drive and may further be identified as Wake County Pin(s) 0790655225, 0790559818, 0790559977.</p>		
<b>Recommended Motion and/or Requested Action:</b> <p>Consider motion of referral to Planning Commission for plan consistency review and recommendation.</p>		
<b>Detailed Notes:</b> <p>Zoning conditions are proposed that restrict the range of permissible uses and to provide architectural commitments for the commercial and residential structures that address appearance and the quality of materials and construction. Application was submitted under the previous UDO (prior to adoption of new UDO on July 5, 2022); however, under statutory "permit choice" rules, the applicant has requested to be reviewed under a combination of both ordinances: the use and design review elements of the project are to be reviewed under the new UDO, while the review procedures follow those in place at the time of submittal.</p>		
<b>Funding Source:</b> n/a		
Cost:	One Time: <input type="radio"/>	Annual: <input type="radio"/> No Cost: <input checked="" type="radio"/>
<b>Manager's Comments and Recommendations:</b>           		
Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	JST	
Finance Director:		
Town Attorney:		
Town Manager:		
Town Clerk:		





# Town of Garner Planning Department

## Conditional District Zoning Application CZ-MP-22-04



**Project:** *Swift Creek Apartments*  
**Applicant:** *SWIFT CREEK APARTMENTS, LLC*  
**Owner:** *SWIFT CREEK APARTMENTS, LLC*  
**Location:** *6201-6355 Fayetteville Road*  
**Pin #:** *0790654255, 0790559818, 0790559977*

**Proposed Use:** *Multiple (Apartments, Office, Sales/Retail, et al.)*  
**Current Zoning:** *CMX, R4 TND C2*  
**Proposed Zoning:** *CMX/MF-B Conditional C261*  
**Acreage:** *40.85 +/-*  
**Overlay:** *Commercial Highway Overlay District*



## Planning Department Staff Report

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**TO:** Honorable Mayor Marshburn and Town Council Members

**FROM:** Ashley Harris, Planner I

**SUBJECT:** *Tier 2 Conditional Rezoning # CZ-PD-22-04, Swift Creek Apartments*

**DATE:** April 18, 2023

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### I. PROJECT AT A GLANCE

**Project Number(s):** CZ-22-04, Tier 2 Conditional Rezoning

**Applicant:** Swift Creek Apartments, LLC.

**Owners:** Swift Creek Apartments, LLC.

**Designer:** Bass, Nixon and Kennedy Inc.

**General Description -**

**Project Area & Location:** 40.85 +/- acres

**Wake County PIN(s):** 0790655225, 0790559818, 0790559977

**Current Zoning:** Commercial Mixed Use (CMX), Residential 4 (R4 C2-TND)

**Requested Zoning:** Commercial Mixed Use (CMX C261) Conditional and Multifamily B (MF-B C261) Conditional

**Overlay:** Commercial Highway Overlay (CHO) District

**Key Meeting Dates:**

**Public Hearing:** April 18, 2023

**Planning Commission:** TBD

**Action:** TBD



## II. BACKGROUND / REQUEST SUMMARY

**Request:** Tier 2 conditional rezoning request (CZ-MP-22-04) submitted by Swift Creek Apartments, LLC, to rezone approximately 40.85 +/- acres from **Commercial Mixed Use (CMX)** and **Residential 4 (PD C2-TND) Conditional** to **Commercial Mixed Use (CMX C261) Conditional** and **Multifamily B (MF-B C261) Conditional**. The site is located on the east side of US 401 north of Brookwood Drive and may further be identified as Wake County Pin(s) 0790655225, 0790559818, 0790559977.

Zoning conditions are proposed that restrict the range of permissible uses and to provide architectural commitments for the commercial and residential structures that address appearance and the quality of materials and construction.



## III. ZONING ANALYSIS

**Existing:** The site is currently zoned Commercial Mixed Use (CMX) and Residential 4 (R4 C2-TND) Conditional. TND stands for Traditional Neighborhood Development, a planned development district under the previous UDO but whose conditions – including a mix of residential and commercial uses – carried over to the current zoning designation. The CMX district allows for a large range of commercial, residential, and light industrial uses. The R4 district allows for residential development up to 4 dwelling units per acre.

***The following is a list of permitted uses in the CMX District:***

1. Townhouse (> 4 dwelling units per structure)
2. Multifamily (> 4 units per structure or over 2,500 sq ft footprint)
3. Upper Story Residential
4. Security or Caretaker's Quarters
5. Group Care (with more than 9 residents)
6. Other Civic and Institutional Uses Not Listed (SUP)
7. Assembly, Civil, Service Fraternal Clubs, Lodges and Similar Uses
8. Library, Museum, Art Gallery
9. Community Center
10. Higher Education
11. School, Secondary or Primary (SUP)
12. Emergency Services
13. Cemetery (SUP)
14. Hospice
15. Hospital
16. Ambulatory Health & Emergency Care Facility
17. Other Indoor Recreational and Entertainment Uses Not Listed (SUP)
18. Bar, Nightclub, Tavern
19. Indoor Athletic or Entertainment Facility (not theater)
20. Electronic Gaming Center (SUP)
21. Outdoor Athletic or Entertainment Facility
22. Theater
23. Other Outdoor Parks and Open Space Uses Not Listed (SUP)
24. Public Park, Passive Open Space, Nature Park
25. Sexually Oriented Business (SUP)
26. Theater, Drive-In (SUP)
27. Other Overnight Accommodation Uses Not Listed
28. Bed and Breakfast Home, 8 rooms or fewer
29. Bed and breakfast Inn, 9-30 rooms
30. Hotel / Motel
31. Other Office Uses Not Listed
32. Medical Office
33. Other Restaurant and Food Service Uses Not Listed
34. Restaurant, Sit-down Establishment
35. Restaurant, with Drive-In or Outdoor Curb Service
36. Convenience Store, without Fuel Sales
37. Convenience Store, with Fuel Sales
38. Day Care Center
39. Gym, Spa, or Pool
40. Funeral Home
41. Personal or Professional Services (up to 5,000 sqft ground floor footprint)
42. Personal or Professional Services (> 5,000 sqft ground floor footprint)
43. Banks or Financial Institutions
44. Banks or Financial Institution, with Drive-thru or Vehicular ATM
45. Sales / Retail (no outdoor operations)
46. Sales / Retail (with outdoor operations up to 25 percent of total sales area)
47. Sales Oriented Use (with outdoor operations > 25 percent of total sales area) (SUP)
48. Parking Lot or Deck, Commercial
49. Self-Storage, Mini Storage
50. Vehicle Sales, Rental, Service, Repair
51. Veterinarian / Kennel, Indoor
52. Veterinarian / Kennel, with Outdoor Operations
53. Microbrewery / Micro-distillery
54. Passenger Terminal (SUP)
55. Minor Utility

- 56. Telecommunication Facility (commercial), indoor operations
- 57. Concealed Telecommunication Facility 59. Greenhouse, Nursery (commercial), outdoor operation
- 58. Greenhouse, Nursery

**The following is a list of permitted uses in the R4 (C2-TND) District:**

- 1. Single-Family Detached fuel sales
- 2. Town Homes 13. Hair Salon, Barber Shop, Beauty Shop
- 3. Apartments/Condominium 14. Bank or Financial institution
- 4. Multi Family 15. School, public or private
- 5. Mixed Use Upper Story Residential 16. Church, Community Center
- 6. Accessory Dwellings 17. Library, Museum, Art Gallery, Art Center
- 7. Golf Course or Country Club 18. Medical Clinic
- 8. Gym, Spa, Indoor Tennis Court, or Pool 19. Public Park, Swimming Pool, Tennis Court
- 9. Medical Office, Individual 20. Daycare Center
- 10. Other Office 21. All Recreation Uses
- 11. Restaurant, Indoor with Seating or Take Out Only 22. All Agricultural Uses
- 12. Convenience Store, with or without

**Proposed:** The proposed zoning of the site is Commercial Mixed Use (CMX C261) Conditional C261 and Multifamily B (MF-B C261) Conditional.

The CMX district is designed to accommodate general commercial, retail, and service activities that serve the whole community. Offices and very light industrial uses may also be appropriate depending on the context. This district serves a wide range of users and may draw customers from outside of the town. It must have good automobile access and access to transit is preferred. Pedestrian connectivity is also important.

The MF-B district is intended to primarily accommodate more intense multifamily uses with larger structures that contain more units. Structures are more urban in character and are located closer to the street than in the MF-A District with parking generally in the rear. These multifamily developments generally are clustered around active areas and allow people to live closer to places where they work and play. Some nonresidential or mixed-use structures and uses may also occur.

**The applicant has proposed the following zoning conditions for the MF-B C261:**

- 1. Permitted use table:

Use Category	Specific Use	MF-B C261
Residential Use**	Apartments	P
Civic and Institutional	Community Center	P

Recreational and Entertainment	Public Park	P
--------------------------------	-------------	---

*\*\* Any form of group living protected by state or federal statute for use in single-family dwellings shall be permitted according to the specific use standards of the Garner Unified Development Ordinance.*

2. Maximum residential density shall be limited to 14.5 dwelling units per acre.
3. All accessory uses to multi-family as permitted in the town of Garner unified development ordinance will be allowed.
4. Development will conform to the approved master plan.
5. The development shall include the following amenities within the MF-B zoned area of the development:
  - A. Community club
    - 1) Restrooms for residents
    - 2) Cyber Cafe
    - 3) Business center
    - 4) Club room
    - 5) Fitness center
    - 6) 1,350 square foot zero entry swimming pool
  - B. Dog park with watering station and benches
  - C. 70' x 180' multi-purpose play lawn
  - D. Pocket Park
6. Provide a minimum of 6 (six) pet waste stations evenly located throughout the site.
7. 12 EV charging stations will be provided in addition to the minimum required by the Town of Garner UDO.
8. Valet service for garbage and recycling collection will be provided by the property manager for all residents.
9. Hours of operation for trash collection by the waste collection service will be limited to the hours between 8:00 and 5:00 pm.
10. 150 percent of required compactor landscape screening will be provided at all compactor locations.
11. Raised intersections will be provided at locations as indicated on the approved master plan.
12. Specialty consisting of stamped, colored asphalt will be provided at locations as indicated on the approved master plan.
13. All lawn areas shall implement warm season grasses only.

14. A 6' asphalt trail will be provided around the stormwater device.
15. Multi-family apartments shall not use vinyl siding and shall have:
  - A. Cementitious siding that shall vary in type and color with brick, shakes, board and batten or stone accents provided as decorative features; and
  - B. Slab on grade foundations with masonry extending all the way to the ground with no visible exposed slab.
16. Provide 12" overhang on all pitched roofs on carriage units and apartment buildings.
17. Windows that are not recessed must be trimmed.
18. Minimum garage size for carriage units will be 12'x 24'.

***The applicant has proposed the following zoning conditions for the CMX C261:***

1. Permitted use table:

<b>Use Category</b>	<b>Specific Use</b>	<b>CMX C261</b>
Residential Use**	Apartments	P
	Upper story residential	P
Recreational and Entertainment	Bar, nightclub, tavern	P
Commercial, Office, Retail Use	Office	P
	Medical Office	P
	Restaurant, Sit Down	P
	Restaurant, Other	P
	Day Care Center	P
	Gym, Spa, or Pool	P
	Personal or Professional Services	P
	Bank or Financial institution	P
Industrial, Manufacturing, Warehouse, Waste Services and Transportation	Sales/retail (outdoor operations)	P
	Microbrewery/Micro distillery	P

*\*\* Any form of group living protected by state or federal statute for use in single-family dwellings shall be permitted according to the specific use standards of the Garner Unified Development Ordinance.*

2. Development will conform to the approved master plan.
3. The development shall include the following amenities:
  - Public lawn for community events, including temporary shade structures, outdoor dining areas with lighting and Movable tables and chairs.

4. Provide a minimum of 2 (two) pet waste stations evenly located throughout the site.
5. Three (3) EV charging stations will be provided in addition to the minimum required by the Town of Garner Udo.
6. Valet service for garbage and recycling collection will be provided by the property manager for all residents.
7. Hours of operation for trash collection by the waste collection service will be limited to the hours between 8:00 am and 5:00 pm.
8. 150 percent of required compactor landscape screening will be provided at all compactor locations.
9. Raised intersections will be provided at locations as indicated on the approved master plan.
10. Specialty paving consisting of stamped, colored asphalt will be provided at locations as indicated on the approved master plan.
11. All lawn areas shall implement warm season grasses only.
12. Multi-family apartments shall not use vinyl siding and shall have:
  - A. Cementitious siding that shall vary in type and color with brick, shakes, board and batten or stone accents provided as decorative features; and
  - B. Slab on grade foundations with masonry extending all the way to the Ground with no visible exposed slab.
13. Provide 12” overhang on all pitched roofs on apartment buildings.
14. Windows that are not recessed must be trimmed.

**Overlay Districts:** This property falls within the Commercial Highway Overlay District (CHO). The Commercial Highway (CHO) Overlay District was established to: 1) Provide for functional, efficient transportation corridor; 2) Expand economic opportunity; 3) Protect community character; and 4) Preserve and promote the community’s appearance and quality. The overlay is explained in Article 5.14.2. of the Unified Development Ordinance.

**Zoning History:** The Planning Department’s rezoning database contains the following rezoning cases in the vicinity of this property. More recent cases are listed below.

Case	Applicant	Location	Zoning Change
CUD-Z-96-5	Town of Garner	Fayetteville Road	R-40 to SB-C22
CUD-Z-89-3	Longbranch Development Company	Malibu Drive	R-40W & 80W, R-40W, R-40 & 80W, and R-40W to R-12PR-C29, R-12PR-C29, SB-C30 and SB-C30



Case	Applicant	Location	Zoning Change
PD-Z-14-01	Tony M. Tate	Fayetteville Road (Swift Creek Station)	SB C-22, Residential-12 PR C-54, Residential-12 PR C-29 to TND C-2
PD-Z-19-01	Forsyth Investments Company, LLC	Georgia's Landing	Single-Family R-40 to (PRD C6)
CZ-22-06	Four O One South LLC	Fayetteville Road	Wake County HD to Garner LI C268

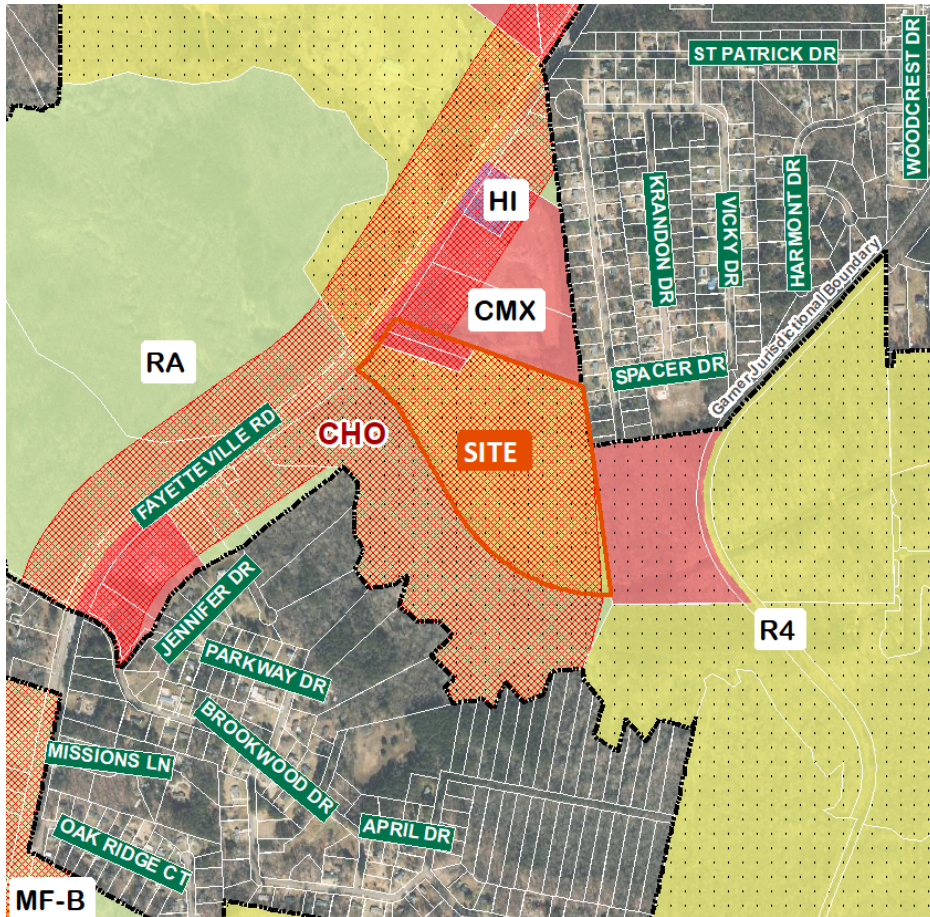
**Adjacent Zoning and Land Use:**

**North:** CMX Vacant

**South:** RA Conservation Easement, Swift Creek

**East:** CMX/Wake County R-40 Vacant/Colonial Heights

**West:** RA/R4 Conservation easement/ Georgia's Landing



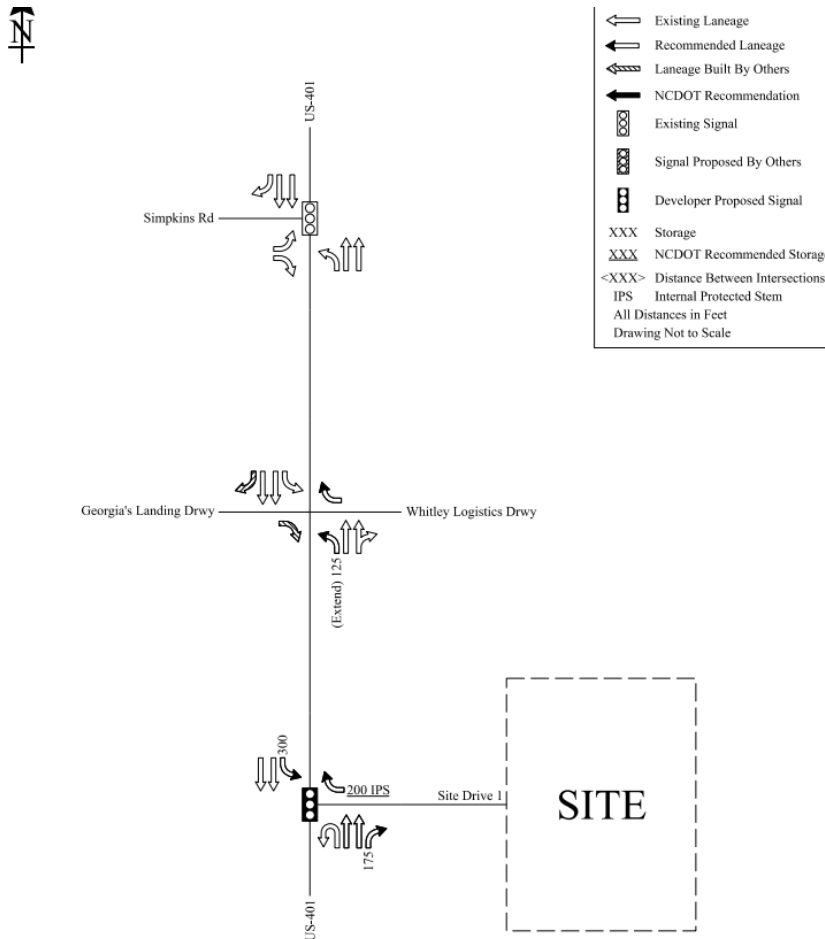
#### IV. COMMUNITY INFORMATION

**Overall Neighborhood Character:** The area is largely characterized by the presence of Swift Creek. There are large parcels consisting of Conservation easements. Existing land uses include wake county subdivisions, industrial land uses, and religious institutions. The area is heavily influenced by US 401 as the primary traffic generator in the immediate vicinity.

**Traffic:** The project will have approximately 500 feet of frontage along Fayetteville Road. As general background information only, the NCDOT average daily traffic count history in this area is as follows:

- Year 2011 – 31000
- Year 2013 – 32000
- Year 2015 – 33000
- Year 2017 – 32000
- Year 2019 – 39000
- Year 2021 – 29500

A traffic impact analysis (TIA) was required by both the Town and NCDOT. It was completed in September of 2022, with an additional addendum completed in December of 2022. NCDOT’s Congestion Management Unit recommended a new signalized intersection at site access 1 with additional turn lanes to allow for full movement in and out of the site. They also recommended additional turn lanes and extended pavement at the intersection of US-401 and Georgia’s Landing Way.





**Neighborhood Meeting 1:** A neighborhood meeting was held February 23, 2023, at 6:30 PM in the Garner Senior Center. There were approximately 3 people in attendance.

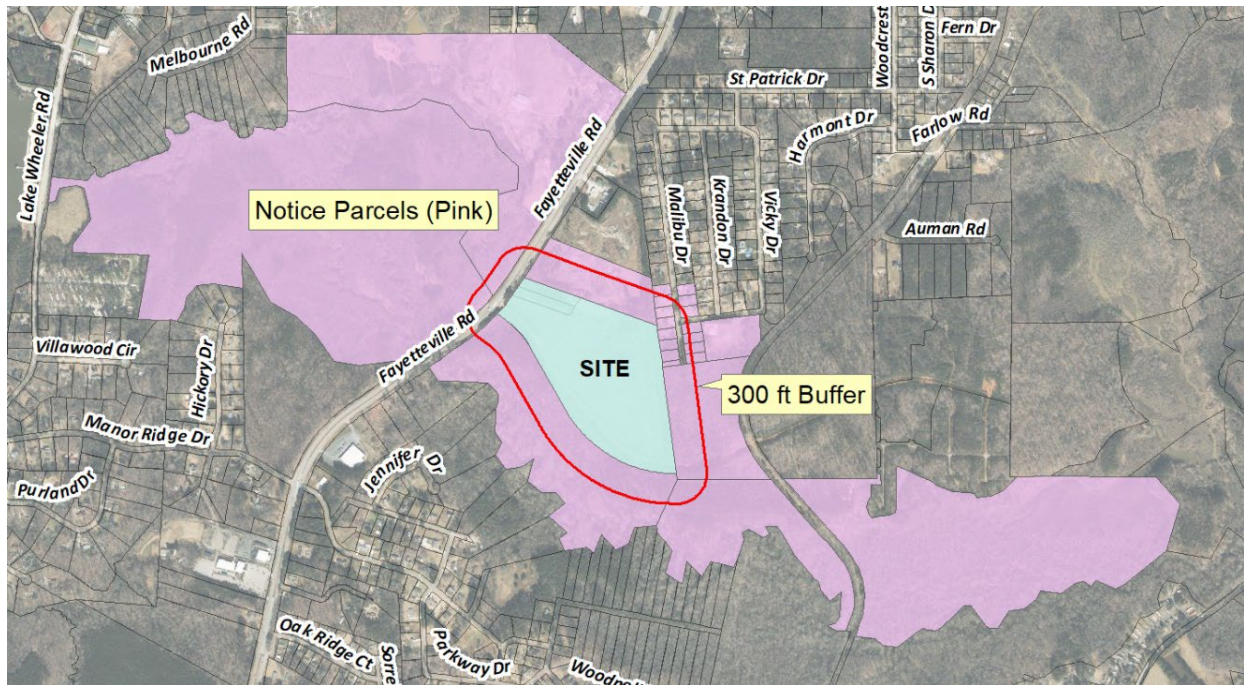
**Neighborhood Meeting Summary:** There were questions regarding landscaping in the buffer and screening, distance of the buildings to the property line, utilities, the number of units proposed and the price point of the units, road connections and improvements, impervious surface limitations, the plans for the retail component, and the timeframe for future build-out.

See full neighborhood meeting information attached at the end of this report for further detail.

**Neighborhood Meeting 2:** A second neighborhood meeting was held March 30, 2023, at 6:30 PM in the Garner Senior Center. There were approximately 2 people in attendance.

**Neighborhood Meeting Summary:** There were questions about the number of units proposed, the phasing of the development, the time frame for the project to be completed, and the Vandora Springs Road extension.

See full neighborhood meeting information attached at the end of this report for further detail.

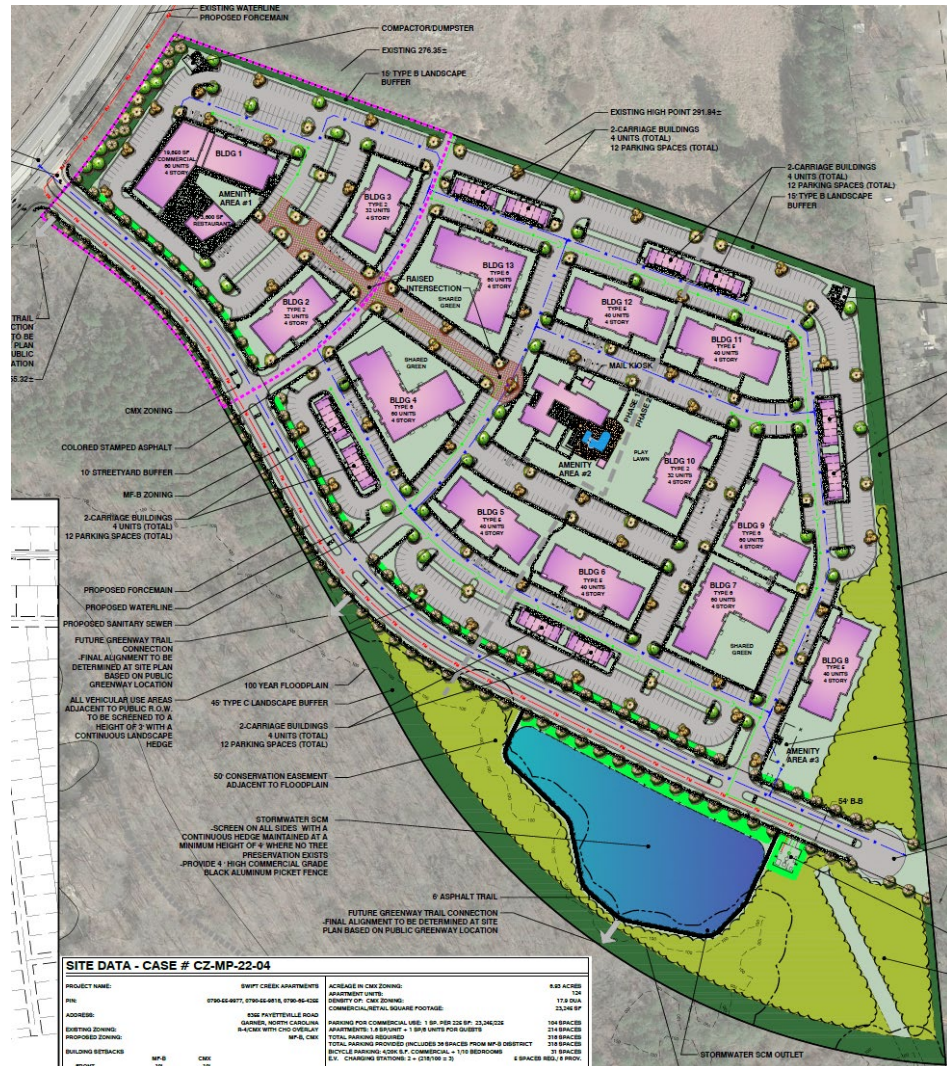


## V. PLANNED DEVELOPMENT PROJECT DATA

**Acreage:** 40.91 +/- acres  
 MF-B: 33.98 +/- acres  
 CMX: 6.93 +/- acres (area within pink line adjacent to US 401)

**Units/Bldg Size:** MF-B: 492 units max. (~14.48 du/acre)  
 CMX: 124 Units (~17.9 du/acre)  
 23,245 sq ft retail/commercial

### Master Plan:





**Buildings:**

Finishing materials: Fiber-cement and masonry.

Sampling of elevations (to meet requirements of Article 9):



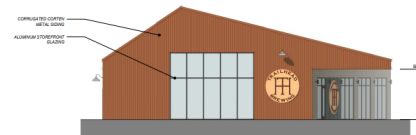
**CARRIAGE HOUSE - FRONT ELEVATION** 1  
1/8" = 1'-0"



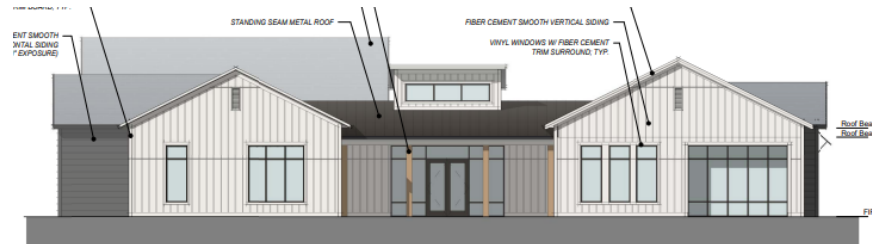
**SOUTH (FRONT) ELEVATION** 1  
1/8" = 1'-0"



**BREWERY - EAST ELEVATION** 3  
1/4" = 1'-0"



**BREWERY - SOUTH ELEVATION** 1  
1/4" = 1'-0"



**CLUBHOUSE - FRONT ELEVATION** 1  
1/8" = 1'-0"

**Lots and Setbacks:**

**MF-B – Large Residential Structures:**

- Front setback: 10'
- Side (all) setback: 6' (also see building separation)
- Rear setback: 20'

All setbacks increase 10' adjacent to lots with single-family detached or duplex residential units.

- Maximum height: 60' (up to 72' w/ additional setback)
- Building Separation: 12' min.

**CMX – Large Residential Structures:**

- Front setback: 10'
- Side (all) setback: 10' (also see building separation)
- Rear setback: 20'

All setbacks increase 10' adjacent to lots with single-family detached or duplex residential units.

- Maximum height: 45' (up to 57' w/ additional setback)
- Building Separation: 20' min.

**CMX – Non-residential Structures:**

- Front setback: 15'
- Side setback: 10' (also see building separation)
- Corner Side setback: 15'
- Rear setback: 25'

All setbacks increase 10' adjacent to lots with single-family detached or duplex residential units.

- Maximum height: 45' (unlimited w/ add'l setback and SUP)
- Building Separation: 20' min.

**Landscape and Buffer Requirements:**

**Tree Canopy Cover:** Sliding scale from 18-20% to be met. Master Plan envisions 20% (8.20 +/- acres) preservation.

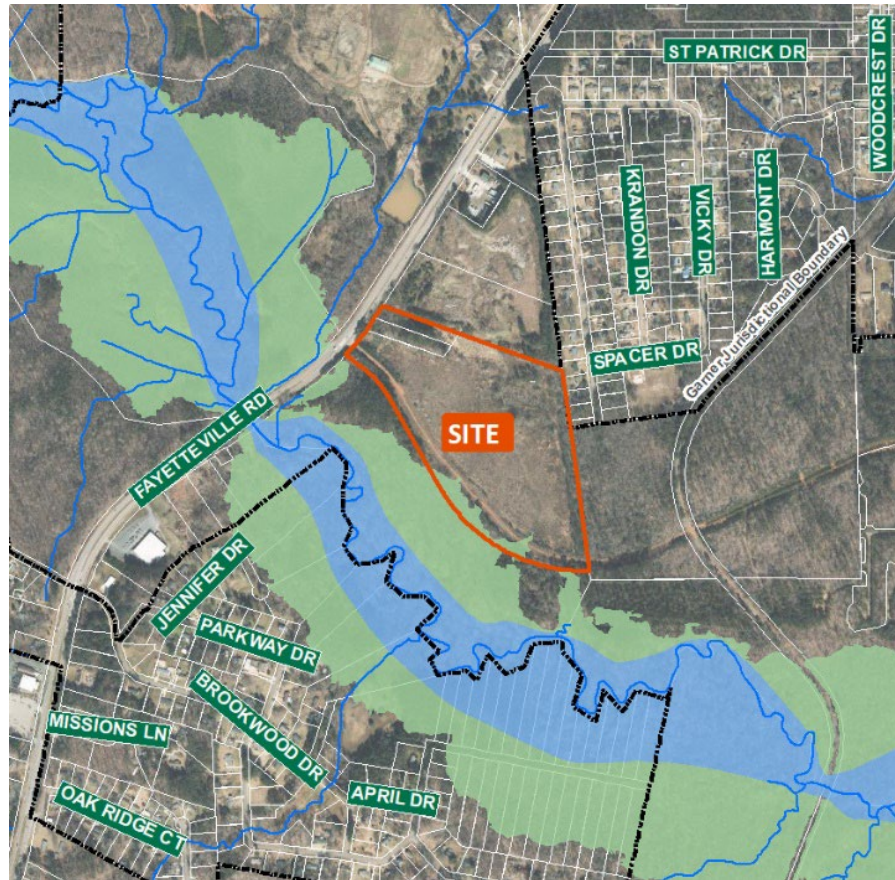
**Perimeter Buffers:**

- 15' perimeter buffer along northern property line
- Street yard buffer along Vandora Springs Road extension at the southern boundary, 45' perimeter buffer at remaining southern edge.
- Combination of 45' and 15' perimeter buffer to the east
- Street buffer along US 401

**Street Trees:** Must be provided approximately every 40 feet along all roadways.

**Environmental Features:**

There are FEMA designated floodplains and an associated 50-foot conservation buffer at the southern boundary of the project, adjacent to Swift Creek. This area of the plan is reserved for stormwater management, tree preservation, and potential pedestrian connections to the future Wake County Greenway (Swift Creek Corridor).



**Parks and Open Space:**

- Total open space required: 10% (4.09 +/- acres min.)
  - Total open space planned: Master Plan envisions more than 10% (but w/ no more than 30% tree preservation)
- Active open space required: (25% of total required) 1.02 acres.
  - Active open space planned: Master Plan envisions a minimum of 2 acres.

Open space areas will be maintained by a property manager. Required open space will be met with a combination of qualifying conservation areas and recreation space. Recreation space will include a clubhouse, a swimming pool, dog parks, a multi-purpose play field, private trails and a pocket park.

**Lighting:**

To meet UDO requirements.



**Infrastructure:** **Stormwater Management** – Swift Creek Apartments is a mixed-use development that is not located within the watershed protection area. This site is subject to stormwater water quality requirements for nitrogen as well as water quantity requirements for the 1-, 10-, and 25-year storm events. This development master plan proposes one stormwater control measures (SCM). This SCM shall satisfy all water quality and water quantity requirements at this site for nitrogen and will be required to detain the 1-, 10-, and 25-year storm events.

**Water/Sewer** – The site will be served by City of Raleigh water and sewer infrastructure. Water will connect to existing service in US 401 and the line will be extended through the new Vandora Springs Extension. A new Sanitary Sewer pump station will be installed on site and sewer lines will be extended to adjacent and upstream properties per the Raleigh Water policy.



**Transportation/Access** – The project will have three points of access on the new median-divided 80-foot right-of-way (Vandora Springs Ext.), which is proposed on the southern portion of the property. The road will include a temporary 48' radius asphalt turn-around with a 10' temporary easement. Curb, gutter, and sidewalk will be installed along the major throughfare. The plan proposes two locations for future connections to the Swift Creek Corridor Greenway, currently in design with Wake County.

## **VI. PLAN CONSISTENCY**

**Statutory Directive:** When considering a rezoning request, the Planning Commission is required by state statute to make a written recommendation regarding the consistency of the zoning proposal with the Town's current Comprehensive Plan and other applicable adopted plans. Specifically, a comprehensive plan is only advisory in nature and has no independent regulatory effect; nor does it expand, diminish, or alter the scope of the Town of Garner UDO. A determination of inconsistency with the Plan does not preclude a rezoning request from being found to be reasonable. In those cases where the request is deemed inconsistent yet reasonable, an amendment to the Comprehensive Plan is automatically made upon approval of the request.

Staff offers that the Planning Commission shall review consistency with the following plans:

- 2018 Garner Forward Comprehensive Plan
- 2010/18 Garner Transportation Plan
- Parks, Recreation, Greenways and Cultural Resources Master Plan

## **VII. REASONABLENESS**

**Statutory Directive:** In addition to approving a statement regarding plan consistency upon the advice of the Planning Commission, the Town Council must also approve a statement of reasonableness when making their decision. Sources of reasonableness may include other sections of the *2018 Garner Forward Comprehensive Plan* providing guidance on keeping the Town's character, living spaces, working places, recreation opportunities and transportation. Other adopted Town plans and policies providing guidance on parks, greenways, cultural resources and more may serve as sources as well. The Town Council may find that a rezoning request furthers the efforts to achieve specific goals and objectives stated within these plans and policies; and thereby render said request a reasonable one. The converse may also apply.

## **VIII. RECOMMENDATION**

Staff recommends that once the Town Council has heard comments, concerns, and questions from the general public that Conditional Zoning request CZ-MP-22-01 be referred to the Planning Commission for their review and recommendation regarding plan consistency.

February 8, 2023

Dear Property Owner,

On behalf of the owners of 6201, 6301 and 6355 Fayetteville Road, I would like to invite you to attend a neighborhood information meeting concerning the development of Swift Creek Apartments. This proposed rezoning is near property that you own. Specifically, KDM Development Corporation has requested a rezoning of said property from CMX and R4 to MF-B and CMX to allow for the development of 616 apartment homes in varying architectural styles. Additionally, approximately 26,000 square feet of commercial/retail space will be provided in two mixed-use buildings along the Fayetteville Road frontage. The meeting details are as follows:

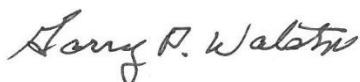
02-23-2023  
6:30 p.m.  
Garner Senior Center  
205 E. Garner Road  
Garner, NC 27529

Per Town of Garner ordinance requirements, we are notifying you of this meeting because your property is located within the written notification area for public hearings. While this meeting is not a public hearing, it is an opportunity for you to meet with the owners and/or applicants to hear about their intention to rezone and/or develop the land. You are encouraged to ask questions and express concerns so that we may help you to more fully understand the proposed project.

Town Planning staff will not attend this meeting, but if you have additional questions about the project, you may contact the Town's case manager, Ashley Harris, at (919) 733-4444, or [aharris@garnernc.gov](mailto:aharris@garnernc.gov). Property owners within the notification area will receive a separate notice from Town Planning staff when a public hearing is scheduled before the Garner Town Council.

If you have any questions about this neighborhood information meeting, or if you are unable to attend and would like to leave comments for our consideration, please feel free to contact Marty Bizzell at (919) 851-4422 or [Marty.bizzell@bnkinc.com](mailto:Marty.bizzell@bnkinc.com).

Sincerely,



Garry P. Walston, PLA  
Senior Landscape Architect  
Bass, Nixon & Kennedy, Inc.



**SWIFT CREEK APARTMENTS  
NEIGHBORHOOD INFORMATIONAL MEETING  
Thursday, February 23, 2023  
6:30 P.M.**

**Sign-In Sheet**

	<b><u>Name</u></b>	<b><u>Address</u></b>
1.	HB Kencaul (kind) HB	6517 MALIBU DRIVE
2.	Michele Yates (former Keziak)	10104 Malibu Dr.
3.	Joan P Callan	1701 Spruce Dr.
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February 23, 2023

Swift Creek Apartments-Garner Neighborhood Meeting  
Garner Senior Center, 6:30 PM

**Attendees:**

Marty D. Bizzell, PE, CPESC (Bass, Nixon & Kennedy, Inc)  
Garry Walston, Landscape Architect (Bass, Nixon & Kennedy, Inc)  
Kenyon Burnham (KJ) and Peter Crossett (KDM Development)

HB and Kim Kincaid; 6517 Malibu Drive, Garner  
Michele Yates (formerly Keziah); 6604 Malibu Drive, Garner  
Sean P. Callow; 6108 River Landings Drive, Raleigh

Marty Bizzell gave an overview of the project of 3 tracts totaling 41 acres in Town of Garner in which BNK has submitted a rezoning request.

This project has been through quite a lot of changes between BNK and the Town of Garner.

Swift Creek Apartments will comprise commercial, retail, and residential. There will be 23,000 square feet for commercial uses. The rezoning of the 41 acres will be split into 2 parcels. There will be 6.5 acres at front for commercial mixed use. This is a new type of commercial/residential project. The 33-34 acres will be rezoned to MFB (multi-family-business)

There will be 2 residential 4 story apartment buildings with the commercial on the ground floor. There will be a new public street built to NCDOT standards.

The 4 story apartment buildings will have elevators which will be high quality market rate apartments.

The carriage house design will be 2 story apartments with parking underneath.

A storm water control pond (SCM) will be built at the lower end of the development to capture storm water runoff. Also, a golf park, club house, pool, and lots of green space.

Preservation of Garner regulates that 20% of area which is approximately 8 acres be preserved. A 45-foot landscape buffer will be planted along Malibu Drive and connections to future greenway trails will be built.

Dumpster area will be screened with vegetation and there will be a valet garbage service. Also, 13 EV charging stations on site in addition to 6 pet waste stations.

**Questions**

**Question:** What type of landscaping will be on the buffer?

Garry: This area is already wooded so we will supplement with understory trees and shrubs.

**Question:** Are the owners the same because a lot of those trees have been timbered so there aren't as many in that area now.

Garry: There is a screening standard. Staff will inventory what is currently at the site and we will add what is needed. The town will also advise if we need if any additional vegetation needed.

**Question:** Is there a plan for a fence along the buffer?  
KJ: No  
Garry: There may be a buffering option that includes a fence, but if we build a fence you end of with less landscaping. You get the full 45 feet with vegetation.

**Question:** What will be closest to the property line? Do the parking spaces go the boundary line?  
Garry: We have put the carriage house design closer to the property lines. There will be a 5–6-foot gap from the parking lot to the buffer.

**Question:** Are you extending Malibu Drive?  
Garry: No, it's not in the development plans.

**Question:** Is there water and sewer?  
Marty: City water is already at the site. There will be a pump station to pump back to 401.

**Question:** I have a question about the road in the plans. Is that going into neighborhood?  
Marty: This will be a public road with a cul-de-sac at the end. The development will have one way in and one way out onto 401. It will eventually be a 4-lane median divided with curb and gutters and a 90 foot right of way. It will be a Right In Right Out. A traffic analysis study (TIA) was made.

**Question:** Doesn't that warrant a traffic light on 401?  
KJ: NCDOT recommends the "right in right out" for this new development.

**Question:** How many units will be in the development?  
KJ: There will be 612 units.

**Question:** What is the price point of the apartments?  
KJ: This can change in future, but today the prices would be approximately:  
1 bedroom-\$1500-1600/month; 2 bedroom-\$1800/month;  
3 bedroom-\$2000/month  
These are high end and 20% larger than the average apartments with stainless steel appliances and granite countertops. We expect people to live here a few years before purchasing a home. This is first project in Garner like this and is comparable to Foxwoods in NE Raleigh.

**Question:** What are the exterior colors?  
Marty: Neutral undertone colors like shown on the drawings. There will be no vinyl, only fiber cement and masonry.

- Question:** Once plans are approved, when will you start to build?  
KJ: It is hard to say exactly. It depends on permits. It could be end of this year but more likely it will be the end of next year. It will be built in two phases. The front phase will take about two years to build and same with the back phase. The new road will go to end of phase one and extended out it's full-length during phase two building.
- Question:** Does this development fall under impervious rules?  
Marty: Yes it does. The commercial max is 70%.  
Garry: We are at 50% and there will be a lot of green space within the new development.  
Marty: The SCM (Storm Water Control Measure) will be built on the lowest point on the plot of land so any runoff will go to the pond. Your houses sit on higher elevation than the new development.
- Question:** What is the lighting in the parking lots?  
Marty: The lighting will be LED. We have to submit a lighting plan in addition to other plans. The Town of Garner has lighting plan requirements. These will be to Duke Energy standards.
- Question:** How many EV charging stations will be built?  
Garry: There will be 2 at each building. The number is based on the number of parking spaces (1 per 100 spaces).
- Question:** What is the retail at the front?  
KJ: 3500 square feet of commercial space which will probably be a brew pub type of business. There will be 19,000 square feet on ground floor which will be a combination of retail and food businesses. We want it to look similar to Lafayette Village in Raleigh which we developed.
- Question:** Will there be a lot of disruption during building? Water and sewer?  
Marty: The excavation will be minimal since this project was started years ago. It already has City of Raleigh water.
- Question:** 401 is already a high traffic area. Why isn't there going to be a traffic light at the entrance?  
Marty: NCDOT wants to keep the traffic free flowing exiting the neighborhood. At the time there will not be traffic lights.  
KJ: If there is a need, it would be easy to add traffic lights at a later date.

**Question:** Will there be access from the apartments into our neighborhood?  
KJ: There isn't access in our designs, but we can't speak to the future Vandora Springs Road extension.

March 30, 2023

Swift Creek Apartments-Garner-2<sup>nd</sup> Neighborhood Meeting  
Garner Senior Center, 6:30 PM

**Attendees:**

Marty D. Bizzell, PE, CPESC (Bass, Nixon & Kennedy, Inc)  
Garry Walston, RLA (Bass, Nixon & Kennedy, Inc)  
Kenyon Burnham (KJ), (KDM Development)

Harold and Michele Yates (formerly Keziah); 6604 Malibu Drive, Garner

**Questions**

**Question:** How many units will be built?

Marty: 613 units

Question: How many phases?

Marty: It will be built in 2 phases.

Question: How long will it take to complete the development?

KJ: It will take approximately 3-4 years start to finish.

Question: Does the road you are building extend to Vandora Springs Road?

Garry: The road we are building through the property ties into 401. There is no access in our designs, but we can't speak to the future Garner transportation plans which are shown as the Vandora Springs Road Extension which already has a railroad crossing.



**SWIFT CREEK APARTMENTS  
NEIGHBORHOOD INFORMATIONAL MEETING  
Thursday, March 30, 2023  
6:30 P.M.**

**Sign-In Sheet**

	<b><u>Name</u></b>	<b><u>Address</u></b>
1.	Harold & Michele Yates (formerly Keziah)	6604 Malibu Dr.
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Town of Garner  
Town Council Meeting  
Agenda Form

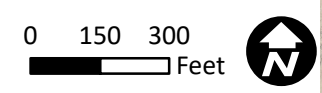
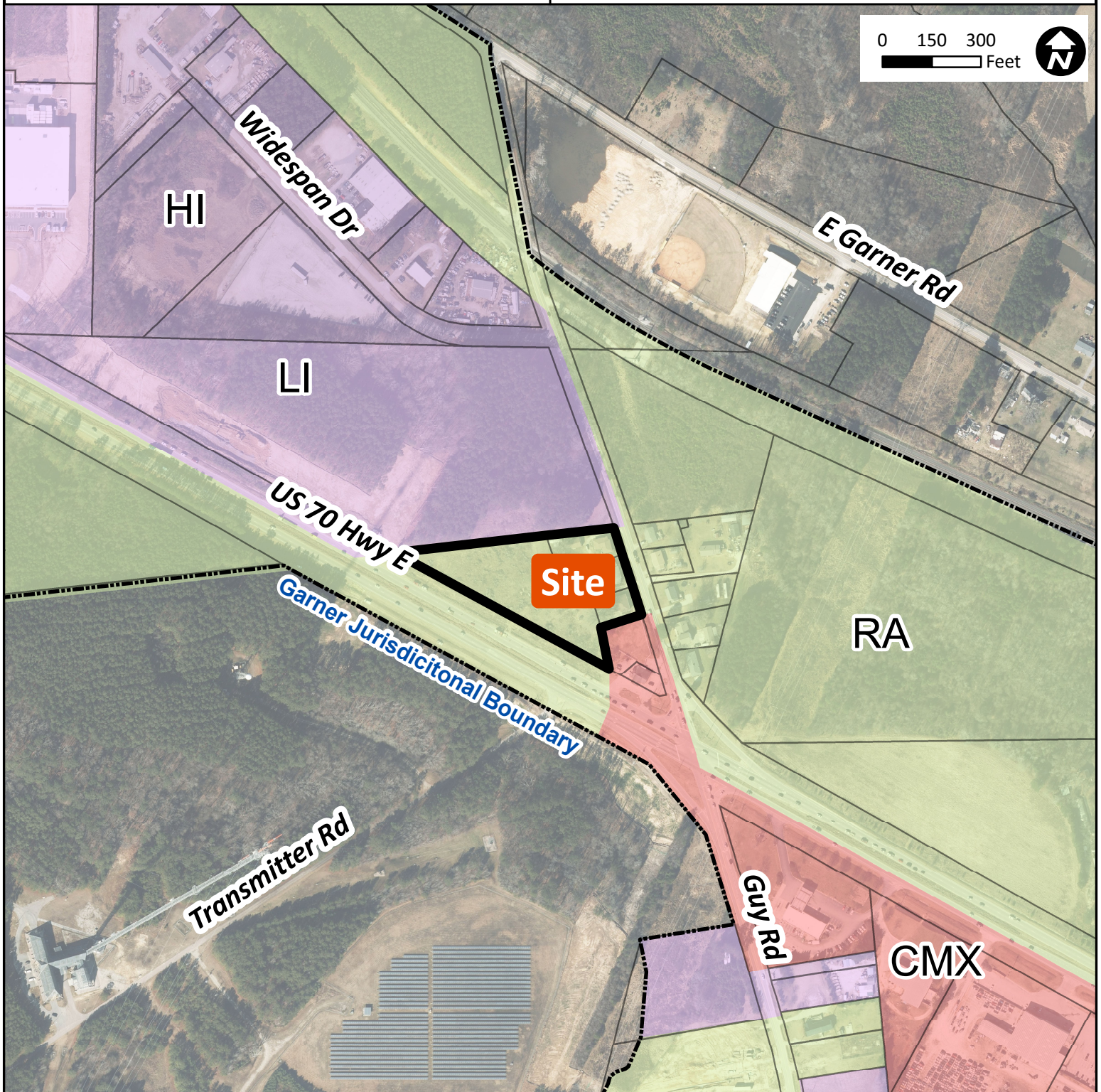
Meeting Date: April 18, 2023		
Subject: Tier 2 Conditional Rezoning #CZ-MP-22-09, US 70 Guy Road Commercial		
Location on Agenda: Public Hearings		
Department: Planning		
Contact: Ashley Harris, Planner I		
Presenter: Ashley Harris, Planner I		
<b>Brief Summary:</b>  Tier 2 conditional rezoning request (CZ-MP-22-09) submitted by Circle K Stores, Inc. to rezone 3.53 +/- acres from Single Family Residential (R-40) to Community Retail (CR C269) Conditional for the development of a convenience store with fuel sales. The site is located at northwest corner of US 70 Hwy E and Guy Road and may be further identified as Wake County PIN(s) 1740116945, 1740128037, 1740118968, and 1740119930.		
<b>Recommended Motion and/or Requested Action:</b> Consider motion of referral to Planning Commission for plan consistency review and recommendation.		
<b>Detailed Notes:</b> Zoning conditions are proposed that restrict the range of CR permissible uses to a list of eleven permissible uses and provide architectural commitments that address appearance and quality of materials and construction. Application is being reviewed against the previous UDO (prior to adoption of new UDO on July 5, 2022). The one required neighborhood meeting was held in person on December 12, 2022. Approximately 9 were in attendance. Approximately 20 owners were notified. See staff report for additional information.		
<b>Funding Source:</b> n/a		
Cost:	One Time: <input type="radio"/>	Annual: <input type="radio"/> No Cost: <input checked="" type="radio"/>
<b>Manager's Comments and Recommendations:</b>          		
Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	JST	
Finance Director:		
Town Attorney:		
Town Manager:		
Town Clerk:		





**Town of Garner  
Planning Department**

**Conditional District Zoning Application  
CZ-MP-22-09**



**Project:** US 70-Guy Road Commercial  
**Applicant:** Circle K Stores, Inc.  
**Owner:** Mutliple  
**Location:** 2701 US 70 Hwy E, 4923-4931 Guy Road  
**Pin #:** 1740116945, 1740128037, 1740118968, 1740119930

**Proposed Use:** Convenience Store with Fuel Sales  
**Current Zoning:** RA  
**Proposed Zoning:** CMX Conditional C269  
**Acreage:** 3.5 +/-  
**Overlay:** Commercial Highway Overlay District





## Planning Department Staff Report

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**TO:** Honorable Mayor Marshburn and Town Council Members

**FROM:** Ashley Harris, Planner I

**SUBJECT:** *Tier 2 Conditional Rezoning # CZ-MP-22-09 US 70 Guy Road Commercial*

**DATE:** April 18, 2023

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### I. PROJECT AT A GLANCE

**Project Number(s):** CZ-MP-22-09, Tier 2 Conditional Rezoning

**Applicant:** Andy Priolo, Circle K Stores, Inc.

**Owners:** Amrut Parmar, Amrutlal Parmar, Talmadge W House Jr., Jan P House, J&M Smith Enterprises, LLC.

**Designer:** Timmons Group

**General Description -**

**Project Area & Location:** 3.53 +/- acres

**Wake County PIN(s):** 1740116945, 1740128037, 1740118968, 1740119930

**Current Zoning:** At time of application: Single Family Residential (R-40)  
As of 7-5-22: Rural Agricultural (RA)

**Requested Zoning:** At time of application: Community Retail (CR C269)  
Conditional  
As of 7-5-22: Commercial Mixed Use (CMX C269)  
Conditional

**Overlay:** At time of application: US 70/401 Thoroughfare Overlay  
As of 7-5-22: Commercial Highway Overlay (CHO) District

**Key Meeting Dates:**

**Public Hearing:** April 18, 2023

**Planning Commission:** TBD

**Action:** TBD

## II. BACKGROUND / REQUEST SUMMARY

**Request:** Tier 2 conditional rezoning request (CZ-MP-22-09) submitted by Circle K Stores, Inc. to rezone 3.53 +/- acres from **Single Family Residential (R-40)** to **Community Retail (CR C269) Conditional** for the development of a convenience store with fuel sales. The site is located at northwest corner of US 70 Hwy E and Guy Road and may be further identified as Wake County PIN(s) 1740116945, 1740128037, 1740118968, and 1740119930.

Zoning conditions are proposed that restrict the range of CR permissible uses to a list of eleven permissible uses and provide architectural commitments that address appearance and quality of materials and construction.

Tier 2 requests are those where an illustrative master plan is included with the written conditions. The master plan is not intended to have the detail of a full site plan. However, it will show a layout of how streets, parking, buffers, stormwater, utilities, amenities, and lots or buildings will relate to each other as well as the surrounding properties. If the rezoning is approved, the applicant must submit a full site plan in keeping with the master plan to staff (and Town Council in the event a SUP is triggered) for review and approval.

Effective July 5, 2022, the Town Council approved ZTA-22-01 and CZ-22-01, adopting a new Unified Development Ordinance and establishing new zoning districts. The request is now amended to be from Rural Agricultural (RA) to Commercial Mixed Use (CMX C269) Conditional. However, due to permit choice rules, the specific conditions of the request are to be considered according to the rules of the former UDO in effect at the time of application (2/4/2022) governing the former Community Retail (CR) zoning district.



### **III. ZONING ANALYSIS**

**Existing:** The site was zoned Residential 40 (R-40) and is now Rural Agricultural. The RA district allows residential dwellings at a maximum rate of 1 dwelling unit per acre.

***The following is a list of permitted uses in the R-40 district:***

1. Single family Detached
2. Residential Cluster
3. Manufactured home (Class A Unit)
4. Single-Family Residential Subdivision
5. Modular Home
6. Family Care Home
7. Group Care Home
8. Intermediate Care Home
9. Community Center (SUP)
10. Civil, Service, Fraternal Clubs, Lodges and Similar Uses (SUP)
11. Child Day Care (up to 3 as home occupation)
12. Family Child Day Care (up to 8 in-home)
13. School, public or Private (SUP)  
Ambulance Service, Rescue Squad, Police or Fire Station (SUP)
14. Cemetery
15. Public Park, Swimming Pool, Tennis Court, or Golf Course (SUP)
16. Religious institutions
17. Minor Utility, Elevated water storage tank
18. Solar Farms (SUP)
19. Telecommunications Facility (SUP)
20. Other Major Utility (SUP)
21. Horse stables and Related Facilities (SUP)
22. Bed and Breakfast (SUP)
23. Agriculture or Silviculture

**Proposed:** The proposed zoning of the site is **Community Retail (CR C269) Conditional**, which would be adopted as **Commercial Mixed Use (CMX C269) Conditional**. The CR is designed to accommodate commercial activities that serve the entire community, especially retail businesses conducted within a building.

***The following is a list of generally permitted uses in the CR district:***

1. Townhouse
2. Condominium
3. Upper-story Residential
4. Community Center (SUP)
5. Library, museum, art gallery, art center
6. Other community service (SUP)
7. Civil, Service, Fraternal Clubs, Lodges and Similar Uses (SUP)
8. Adult Day Care
9. Day Care Center
10. Business School, college or university, satellite in single building
11. College or university
12. Trade/vocational school (SUP)
13. Music/Dance/Art Instruction
14. Ambulance Service, Rescue Squad, Police or Fire Station
15. Government Office (SUP)
16. Cemetery
17. Public Park, Swimming Pool, Tennis Court, Golf Course (SUP)  
Religious institution
18. Minor Utility, Elevated Water Tower
19. Telecommunications Facility (SUP)
20. Bar, Nightclub, Tavern
21. Golf Course or Country Club, Private (SUP)
22. Gym, Spa, Indoor Tennis Court or pool, Private
23. Indoor Entertainment Facility
24. Electronic Gaming centers

- 25. Theater
- 26. Medical Office, individual
- 27. Other office
- 28. Bed and Breakfast (SUP)
- 29. Hotel/Motel (SUP)
- 30. Parking Commercial (SUP)
- 31. Restaurant, Indoor with Seating Only
- 32. Restaurant with Seating and Drive-Through Window
- 33. Restaurant, Takeout Only (Drive-Through or Walk Up)
- 34. Convenience Store without Fuel Sales
- 35. Convenience Store with Fuel Sales
- 36. Personal Service Oriented Use (excludes commercial greenhouses or any use with outdoor operations)
- 37. Hair Salons Barbershops Beauty Shops
- 38. Banks or Financial Institution
- 39. Repair Oriented Use (no outdoor operations)
- 40. Sales Oriented Use (no outdoor operations)
- 41. Veterinarian / Kennel, Indoor
- 42. Vehicle Service, Limited

***The applicant has proposed the following zoning conditions for the CR C269 conditional district:***

1. Permitted use table:

Use Category	Specific Use	
Entertainment	Medical Office, Individual	P
	Other Office	P
Restaurants	Restaurant, Indoor with Seating	P
	Restaurant With Seating and Drive Through Window	P
	Restaurant, Take-Out Only (Drive Through or Walkup)	P
Retail Sales and Service	Convenience Store without Fuel Sales	P
	Convenience Store with Fuel Sales	P
	Personal Service-Oriented Use	P
	Hair Salons, Barbershops, Beauty Shops	P
	Veterinarian/Kennel, Indoor	P

2. Exterior building materials for principal buildings shall be limited to simulated brick with a Minimum of two (2) color tones, simulated stone, fiber cement cap, ACM panels, aluminum awning, And an anodized aluminum storefront. Each building will contain at least three (3) of the Aforementioned exterior materials. Corrugated metal panels and vinyl siding shall not be Installed on any building exterior.
3. Each principal structure shall have a simulated stone water table along the base of the building at least (36") in height.

4. Architectural elements like towers, pilasters, and overhangs shall be provided for the occupied principal structures only to enhance vertical and horizontal building Articulation. Each principal structure shall provide at least two (2) of the Architectural elements listed above.
5. Principal and accessory building height shall not exceed twenty-five feet (25') or one story.
6. The exterior materials for the principal building described as "convenience store" shall be as described below:
  - Front façade (primary façade): 60% simulated brick (two tones), 20% simulated stone, 18% storefront, and two (2) entry doors.
  - Side facades: 70% simulated brick (two tones) and 25% simulated stone.
  - Rear façade: 70% simulated brick (two tones) and 20% simulated stone.
  - Front facade of the principal building described as a "convenience store" shall contain at least a tower element 16" above the 18'-6" roof line with a minimum of 8" wall offset in the plane at each building corner and an overhang architectural fixture 3' above the 18'-6" roof line with a minimum of 36" offset in plane that clearly demarcate the building primary access and proposed main signage.
  - Side and rear facades of the principal building described as "convenience store" shall contain architectural elements as tower and pilasters 16" above the 18'-6" roof line with a minimum of 8" offset in wall plane and no more than 35' apart.
  - The proposed rear façade (northeast) contains two (2) tower elements on each. Corner and two (2) pilasters less than 35' apart, 8" offsets in a wall plane with a 36" Stone water table base.
  - The proposed side façade (southeast) contains two (2) tower elements on each. Corner less than 35' apart, 8" offsets in wall plane with a 36" stone water table base, a Secondary anodized aluminum storefront pedestrian access with a metal canopy Awning.
7. For secondary pedestrian access on any side facades, a metal awning shall be Provided to clearly demarcate the access. Color and materials shall be compatible with the principal building overall earth tones colors to unify building colors and Maintain harmony and style.
8. Each column element of the "fuel" and "diesel canopies" structures shall contain a simulated stone base of eight (8') and simulated brick for remaining height. Color and Materials shall be compatible with the principal building overall earth tones colors to unify building colors and maintain harmony and style.
9. Accessory structure described as "trash enclosure" material shall be 100% Simulated brick one (1) tone on all facades with a pair of urethane gates color to Match #sw 6090 "java".

10. Fence around SCM shall be a commercial-grade, black aluminum picket fence.
11. Three (3) ornamental trees (above code minimum) shall be provided on the northeast side of the building.
12. Outdoor seating area amenity shall be provided, two (2) tables with seats.

**Overlay Districts:** This property falls within the **Commercial Highway Overlay (CHO) District**. At the time of the submittal the overlay was the **U.S. 70/401 Thoroughfare Overlay District**. This overlay district has additional development standards applicable to non-residential development. None of the prohibited uses are proposed for conditional inclusion.

***Overlay prohibited uses:***

- a. Drive-in movie theaters
- b. Adult cabarets and establishments
- c. Outside storage of goods not related to sale or use on premises
- d. Scrap materials, salvage yards, junkyards, and automobile graveyards
- e. Mining or quarrying operations; including on-site sales of products; coal or aggregate sale and or storage; concrete mixing plant;
- f. Reclamation landfill
- g. Commercial greenhouse operations
- h. Recyclable material collection centers

***Overlay prohibited uses adjacent to or within 150 feet of existing residential uses:***

- a. Hotel/motels
- b. Pool halls/bowling alleys only
- c. Bars/night clubs/ABC-permitted private clubs

**Zoning History:** The Planning Department’s rezoning database contains the following rezoning cases in the vicinity of this property. More recent cases are listed below.

Case	Applicant	Location / Project	Zoning Change
CZ-SP-20-04	D & S Properties, LLC	Guy Road	R-40 to SB C233
CUD-Z-16-05	Freedom Roads LLC	US HWY 70 E/ Camping World	Wake County HD to SB C185
CUD-Z-20-05	Garner Industrial LLC	US HWY 70 E	I-1 to SB C230
CUD-Z-16-10	Joe Cermin (Seedling Technology)	US HWY 70 E	Wake County HD I-2 C190
CUD-Z-14-01	Joe Cermin (Seedling Technology)	US HWY 70 E	I-1 C172

**Adjacent Zoning and Land Use:**

- North:** LI Warehouse- Garner Commerce Center
- South:** CMX, RA Las Carolinas Grocery & Grill, US BUS 70, Vacant

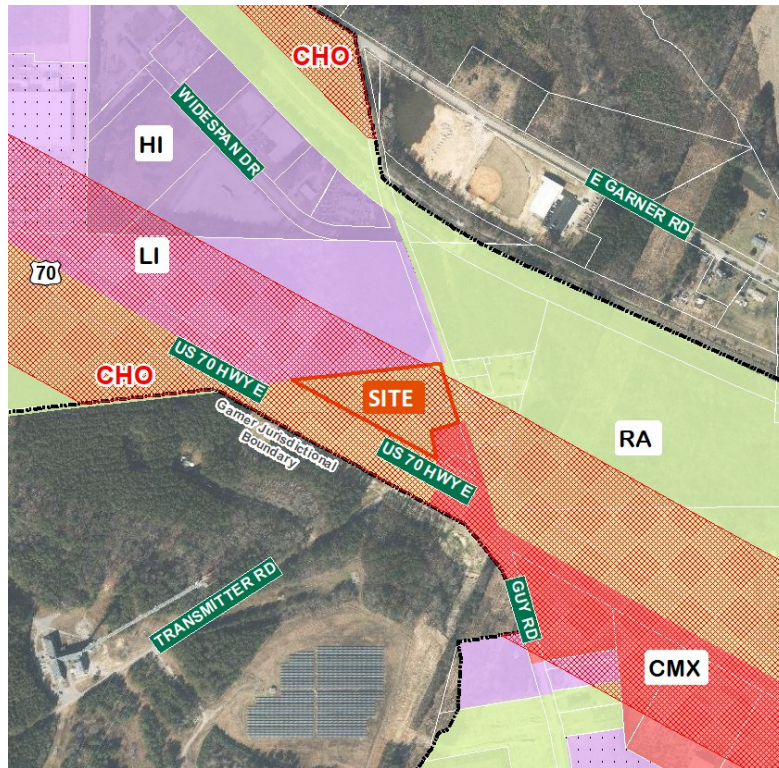


East: CMX, RA

Las Carolinas Grocery & Grill, Single Family Residential

West: LI, RA

Warehouse- Garner Commerce Center, US BUS 70



#### **IV. COMMUNITY INFORMATION**

**Overall Neighborhood Character:** The area is a mix of commercial, industrial, and residential. Industrial is the most prominent land use in the area, with Garner Commerce Center and industrial uses along widespan drive. The residential is limited to single family homes along Guy Road. The neighborhood is heavily influenced by US Hwy 70 E as the primary traffic generator.

**Traffic:** The project will have approximately 2000 feet of frontage along US Hwy 70 E. As general background information only, the NCDOT average daily traffic count history on Guy Road and US 70 are as follows:

##### ***Guy Road***

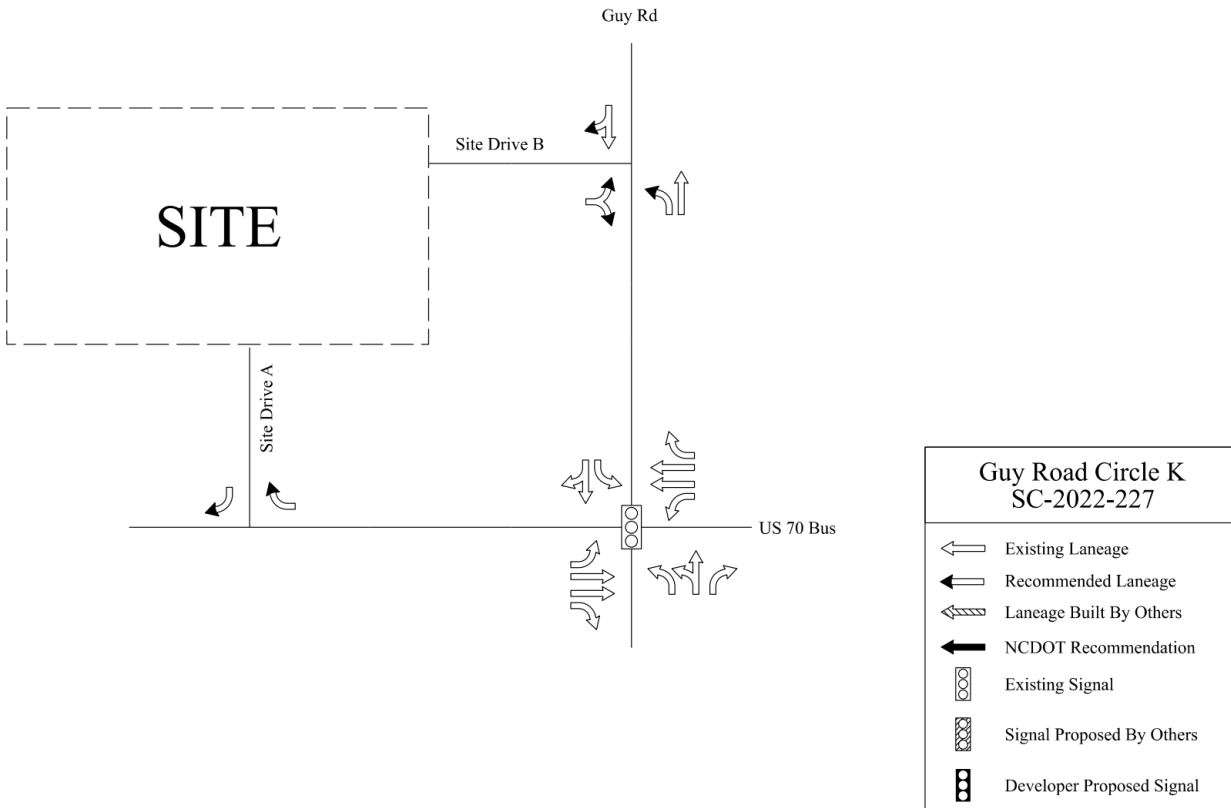
- Year 2011 – 3,600
- Year 2013 – 2,800
- Year 2015 – 4,000
- Year 2017 – N/A
- Year 2019 – N/A
- Year 2021 – N/A

##### ***US Highway 70***

- Year 2011 – 35,000
- Year 2013 – 35,000
- Year 2015 – 36,000
- Year 2017 – 36,000
- Year 2019 – 46,000
- Year 2021 – 41,500



A traffic impact analysis (TIA) was required by both the Town and NCDOT. It was completed in June of 2022. NCDOT’s Congestion Management Unit recommended added laneage for a “right in right out” access off Site Drive A and a full movement access at Site Drive B and Guy Road.

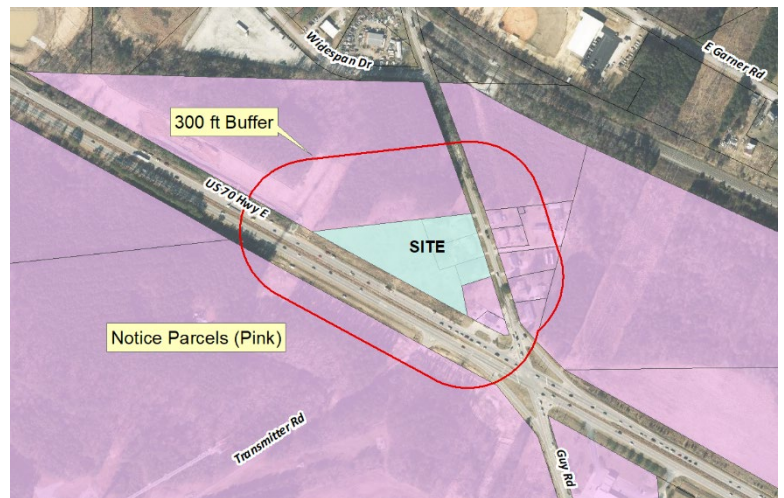


**Neighborhood Meeting:** A neighborhood meeting was held on December 12, 2022, at 6:00 PM in the Avery Street Recreation Center. There were approximately 9 people in attendance.

**Neighborhood Meeting Summary:**

Questions discussed during the meeting included questions about road improvements, impacts to the properties at the corner of Guy Road and US 70 E, sewer connections, and the existing homes located on the site.

See full neighborhood meeting information attached at the end of this report for further detail.

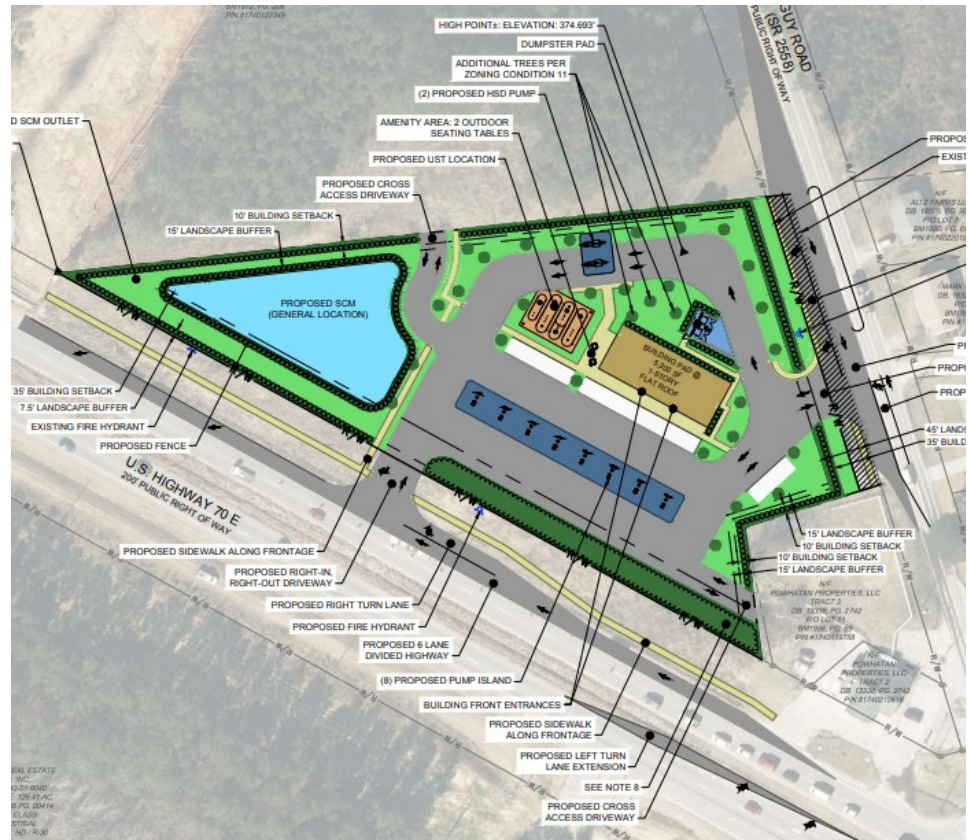


## V. PLANNED DEVELOPMENT PROJECT DATA

**Acreeage:** 3.53 +/- acres

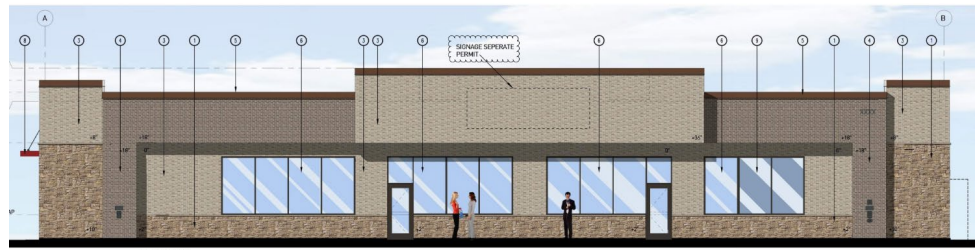
**Units/Bldg Size:** 5,200 sq ft

**Master Plan:**

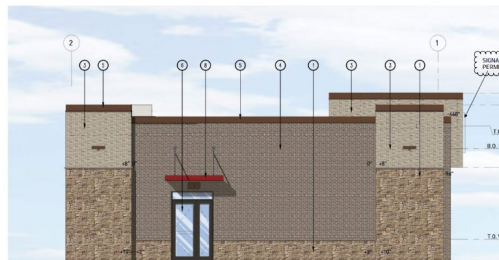


**Buildings:**

**US 70 Façade:**



**Guy Road Façade:**



**Lots and Setbacks:**

Minimum lot width:	60 Feet
Minimum lot area:	6,000 sq ft
Front setback:	35 feet
Side setback:	10/15 feet
Rear setback:	0/25 feet
Corner side setback:	35 feet
Maximum height:	40 feet

**Landscape and Buffer Requirements:**

**Tree Canopy Cover:** Sliding scale from 12-14% (rule at time of submittal) to be met. Master plan envisions 12% minimum preservation with the balance to be met by new canopy plantings for a total of 14% minimum.

**Perimeter Buffers:**

- Street yard buffer along US 70 Hwy E: 7.5'
- 45' buffer along Guy Road
- 15' perimeter buffer along the northern boundary
- 15' perimeter buffer along the southeast boundary
- Additional screening of outdoor operations (fuel sales) required in the US 70/401 Overlay

**Street Trees:** Must be provided approximately every 40 feet along all roadways).

**Environmental Features:**

There are no FEMA designated floodplains and no buffered streams within the project boundary.





**Parks and Open Space:** **Open Space –**

- None Required for commercial development

**Lighting:** To meet UDO requirements and staff policies for LED fixtures.

**Infrastructure:** **Stormwater Management** – US 70 Guy Road Commercial is not located within the watershed protection area. This site is subject to stormwater water quality requirements for nitrogen as well as water quantity requirements for the 1, 10, and 25 year storm events. This development master plan proposes one stormwater control measure (SCM). This SCM shall satisfy all water quality and water quantity requirements at this site for nitrogen and will be required to detain the 1, 10, and 25 year storm events.

**Water/Sewer** – The site will be served by City of Raleigh water and sewer infrastructure. Water will connect to existing service in US 70 HWY E and a new water main will be installed along the property frontage on Guy Road. Sewer service will tie into existing lines near widespan Drive through an offsite sewer extension.



**Transportation/Access** – The project will have one point of access on US 70 HWY E and one point of access on Guy Road. Cross access has been coordinated with adjacent proposed development to the west and existing commercial site to the east. Additional pavement, curb, gutter, and sidewalks will also be required along the frontage.

## **VI. PLAN CONSISTENCY**

**Statutory Directive:** When considering a rezoning request, the Planning Commission is required by state statute to make a written recommendation regarding the consistency of the zoning proposal with the Town's current Comprehensive Plan and other applicable adopted plans. Specifically, a comprehensive plan is only advisory in nature and has no independent regulatory effect; nor does it expand, diminish or alter the scope of the Town of Garner UDO. A determination of inconsistency with the Plan does not preclude a rezoning request from being found to be reasonable. In those cases where the request is deemed inconsistent yet reasonable, an amendment to the Comprehensive Plan is automatically made upon approval of the request.

Staff offers that the Planning Commission shall review consistency with the following plans:

- 2018 Garner Forward Comprehensive Plan
- 2010/18 Garner Transportation Plan
- Parks, Recreation, Greenways and Cultural Resources Master Plan

## **VII. REASONABLENESS**

**Statutory Directive:** In addition to approving a statement regarding plan consistency upon the advice of the Planning Commission, the Town Council must also approve a statement of reasonableness when making their decision. Sources of reasonableness may include other sections of the 2018 *Garner Forward Comprehensive Plan* providing guidance on keeping the Town's character, living spaces, working places, recreation opportunities and transportation. Other adopted Town plans and policies providing guidance on parks, greenways, cultural resources and more may serve as sources as well. The Town Council may find that a rezoning request furthers the efforts to achieve specific goals and objectives stated within these plans and policies; and thereby render said request a reasonable one. The converse may also apply.

## **VIII. RECOMMENDATION**

Staff recommends that once the Town Council has heard comments, concerns, and questions from the general public that Conditional Rezoning Request CZ-MP-22-09 be referred to the Planning Commission for their review and recommendation regarding plan consistency.

REZONING CZ-MP-22-09

US 70 AND GUY RD

GARNER, NC

REPORT OF MEETING WITH ADJACENT PROPERTY OWNERS ON  
DECEMBER 12, 2022

Pursuant to applicable provisions of the Unified Development Ordinance, a meeting was held with respect to a potential rezoning with adjacent property owners on Monday, December 12, 2022 at 6:00 pm. The property considered for this potential rezoning is made up of four (4) properties approximately 3.53 acres in size with Wake County PIN#'s 1740-11-6945, 1740-11-9930, 1740-11-8968 and 1740-12-8037. This meeting was held at the Avery Street Recreation Center, 125 Avery Street, Garner, NC 27529 from 6:00-8:00 pm. All property owners within the required notification area were invited to attend the meeting. Attached hereto as Exhibit A is a copy of the neighborhood meeting notice, Exhibit B a copy of the required mailing list, Exhibit C a summary of items discussed, Exhibit D list of individuals who attended the meeting and Exhibit E copy of presentation materials.

## Exhibit A – Neighborhood Meeting Notification



5410 Trinity Road  
Suite 102  
Raleigh, NC 27607

P 919.866.4951  
F 919.859.5663  
[www.timmons.com](http://www.timmons.com)

November 17, 2022

«OWNER»  
«ADDR1»  
«ADDR2»  
«ADDR3»

Dear Property Owner,

On behalf of the owners of 2701 US HWY 70 E, Garner, NC I would like to invite you to attend a neighborhood information meeting concerning the development of said property. Specifically, Circle K has requested a rezoning of said property from R-40 to CR to allow for the development of this convenience store. The meeting details are as follows:

Monday, December 12, 2022  
6:00pm – 8:00pm  
Avery Street Recreation Center Multipurpose Room A  
125 Avery St., Garner, NC 27529

Per Town of Garner ordinance requirements, we are notifying you of this meeting because your property is located within the written notification area for public hearings. While this meeting is not a public hearing, it is an opportunity for you to meet with the owners and/or applicants to hear about their attention to rezone and/or develop the land. You are encouraged to ask questions and express concerns so that we may help you to understand the proposed project more fully.

Town Planning staff will not attend this meeting, but if you have additional questions about the project, you may contact the Town's case manager, Jeff Triezenberg, at 919-773-4445 or [jtriezenberg@garnernc.gov](mailto:jtriezenberg@garnernc.gov). Property owners within the notification area will receive a separate notice from Town Planning staff when a public hearing is scheduled before the Garner Town Council.

If you have any questions about this neighborhood information meeting, or if you are unable to attend and would like to speak with someone regarding the proposal, please feel free to contact me at 919-866-4939 or [rick.baker@timmons.com](mailto:rick.baker@timmons.com). We look forward to seeing you at the meeting.

Sincerely,

Rick Baker, PE  
Principal  
Timmons Group



## Exhibit B – Required Mailing List

OWNER	ADDR1	ADDR2	ADDR3
ALI 2 FARMS LLC	442 1/2 E MAIN ST	CLAYTON NC 27520-2500	
RHODES, RAEFORD G RHODES, ELGIE T	4910 GUY RD	CLAYTON NC 27520-9313	
BURLISON, CORY	4904 GUY RD	CLAYTON NC 27520-9313	
RCJ AXE LLC	2133 US HIGHWAY 70 E	GARNER NC 27529-9422	
MARCOM, BURNICE TODD	4920 GUY RD	CLAYTON NC 27520-9313	
B-10 SOLUTIONS LLC	212 RIVER KNOLL DR	CLAYTON NC 27527-6041	
NIERATKO, MARK	4924 GUY RD	CLAYTON NC 27520-9313	
ALEXANDER, RANDY	2133 HWY 70 E	GARNER NC 27529	
SPEEDWAY LLC	PROPERTY TAX DEPT	539 S MAIN ST	FINDLAY OH 45840-3229
HOUSE, TALMADGE W JR HOUSE, JAN P	205 SIERRA RIDGE DR	ARCHER LODGE NC 27527-6253	
PARMAR, AMRUT N	388 BROADMOOR WAY	CLAYTON NC 27520-4914	
POWHATAN PROPERTIES LLC	305 DEERFIELD DR	CLAYTON NC 27527-9418	
CBC REAL ESTATE CO INC	PO BOX 12000	RALEIGH NC 27605-2000	
BEAMAN, LLEWELLYN WARREN	2975 US HIGHWAY 70 E	CLAYTON NC 27520-7303	
PARMAR, AMRUTLAL	388 BROADMOOR WAY	CLAYTON NC 27520-4914	
J & M SMITH ENTERPRISES LLC	151 TECHNOLOGY DR	GARNER NC 27529-7940	
RCJ AXE LLC	2133 US HIGHWAY 70 E	GARNER NC 27529-9422	
POWHATAN PROPERTIES LLC	305 DEERFIELD DR	CLAYTON NC 27527-9418	
PITTMAN, PATRICIA S SMITH, PAMELA J	5105 CARTER ST	RALEIGH NC 27612-3467	
FEORE, JOHN J FEORE, JOANN M	1925 PARTRIDGE BERRY DR	RALEIGH NC 27606-9695	

## Exhibit C – Summary of Discussion Items

On Monday, December 12, 2022 at 6:00 pm, the applicant held a neighborhood meeting for the adjacent property owners of the properties to be rezoned. Six representatives of nearby properties were in attendance and three representatives of Circle K were in attendance.

The presentation materials were spread out on a table and the attendees agreed to stand around the table to discuss the project. Andy Priolo, Circle K made an introduction of the project showing the Master Plan and building elevations. The floor was then opened for questions.

Specific questions relating to this development are as follows:

- 1) What road improvements along will be required?

HWY 70 - the addition of a 3<sup>rd</sup> west bound through lane and a right turn lane.

Guy Rd – the addition of a north bound left turn lane, south bound right turn lane.

Sidewalks added along both roads.

- 2) What impacts to the corner properties PIN#'s 1740119758 and 1740210618?

Cross access will be provided from the Circle K to the adjacent property so access will be improved. We also expect City of Raleigh to require a gravity sewer extension to the adjacent property which are both enhancements to those properties.

- 3) How will sewer be routed to the site?

Sewer will be extended by the development of property to the north PIN# 1740122349 to the Circle K site. Permitting of that development is completed or almost completed at the time of this meeting. It was noted that should that development not be completed, Circle K is responsible for having sewer extended to this property.

- 4) There are 3 houses on the subject property to be rezoned. What will happen to them?

Ultimately, they will be removed but with rezoning and design and permitting time there will be many months notification for residents to vacate the properties.

The nearby property owners left the meeting at approximately 6:50 pm and Circle K representatives remained until 8:00 pm at which time the meeting was adjourned.

## Exhibit D – List of Attendees

Circle K Guy Road Rezoning  
 Neighborhood Meeting - December 12, 2022  
 Avery St Rec Center - Room A - 125 Avery St Garner NC

Name	Address	Email Address
Rick Baker Timmons		Rick.Baker@Firmminds.com
Andy Priole / Sarah		AndyPriole@circlek.com
Henry Carrison		Bell Commercial
Jacob Dooley / Timmons		jacob.dooley@timmons.com
Javier Dunn		
Carol & Mike Willey		
Hazel W. Deaman		DREW.HIGGINS@BMAI.COM
DREW HIGGINS		J.FEOREL@BMAI.COM
John Feore		

Town of Garner  
Town Council Meeting  
Agenda Form

Meeting Date: April 18, 2023 <span style="float: right;"><input type="button" value="v"/></span>		
Subject: Updated Garner Forward Comprehensive Plan - Public Hearing Draft Discussion		
Location on Agenda: Old/New Business <span style="float: right;"><input type="button" value="v"/></span>		
Department: Planning		
Contact: Jeff Triezenberg, AICP, GISP; Planning Director		
Presenter: Matt Noonkester, City Explained Inc.		
<b>Brief Summary:</b>  Following the recent workshop and public comment period that ran from February 23 to March 23 and which included comment from Town staff and project Steering Committee members, the consulting team has completed their draft of the updated Garner Forward Comprehensive Plan to be presented for public hearing. Consulting staff will provide a brief overview of revisions and be available to discuss next steps. A link to the draft document can be found on the agenda.		
<b>Recommended Motion and/or Requested Action:</b> Receive as information and consider authorizing staff to schedule public hearing for May 16, 2023.		
<b>Detailed Notes:</b>          		
<b>Funding Source:</b> n/a		
Cost:	One Time: <input type="radio"/>	Annual: <input type="radio"/> No Cost: <input checked="" type="radio"/>
<b>Manager's Comments and Recommendations:</b>          		
Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	JST	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

# Reports



# Talk of the TOWN

## Council Requests & Updates

April 18, 2023

*This monthly report provides an update on Council requests and items submitted on the Garner Info app, a resident service and information request system for the Town of Garner.*

### **4506 Jones Sausage Road Demolition (All)**

The contractor began demolition of the structure on 4/5/2023 with currently only the building pad remaining. The site has also been graded. Once all work is done and reports received a close-out inspection for the permit and code compliance case will be completed.

### **Jackie Johns Sr. Community Park Repairs (Vance)**

The Town Facility Manager met the contractor on site the last week of March. Anticipated start date is 4/11/23 with an estimated 4-5 weeks to complete the repairs. Contractor shared that they already have acquired most of the materials needed to complete the job.

### **Rail Safety (All)**

The Town Attorney will provide information on this topic during the April 25th Work Session.

### **Noise Complaints (Dellinger)**

The Town Attorney and Police Chief will present on the issue of vehicle noise enforcement and possible ordinances at the April 25<sup>th</sup> Work Session.

### **NCDOT Outreach (Vance & Behringer)**

Engineering has contacted NCDOT and is awaiting a response regarding the light at the intersection of New Rand and Hwy 70 and the turn lane near the Fast Med clinic.

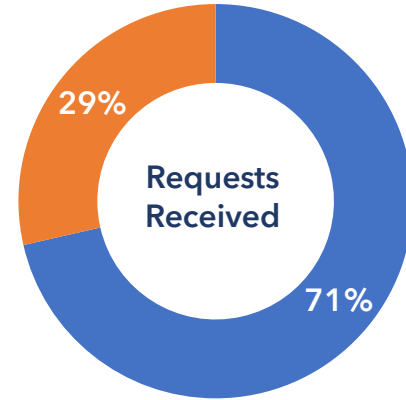


**Garner Info Monthly Analytics**

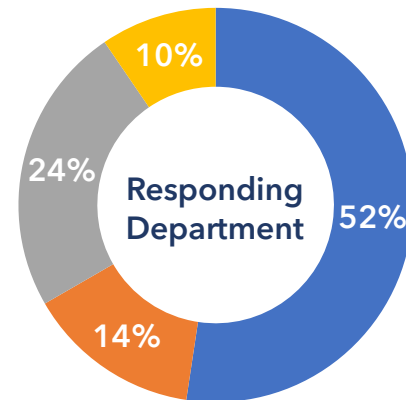
March 14 – April 10, 2023 – 21 Total Requests

**Request by Type**

Misc. - Streets	3	14.3%
Junk Vehicle (Private Property)	2	9.5%
Graffiti	2	9.5%
Yard Waste/ Loose Leaves	2	9.5%
Substandard Living Conditions	2	9.5%
Misc. - Parks / Town Property	1	4.8%
Pothole/ Pavement Repair	1	4.8%
Roadway Obstruction	1	4.8%
Streetlight Problem	1	4.8%
Anonymous Tip	1	4.8%
Neighborhood Speeding	1	4.8%
Sign Violation	1	4.8%
Dead Animal Pickup	1	4.8%
Garbage	1	4.8%
Litter Pickup	1	4.8%



■ Completed ■ In Progress



■ Public Works ■ Inspections ■ Police ■ Planning

## Memorandum

**To:** Rodney Dickerson, Town Manager  
**From:** David C. Beck, Finance Director  
**Date:** April 18, 2023  
**Subject:** Financial Reports for 3rd Quarter FY 2022-23  
**CC:** Town Council

---

Attached is a statement of revenues and expenditures for FY 2023 through March 31, 2023. We are nine months or approximately 75% into the budget year.

Year-to-date, the Town has collected approximately 78.9% of estimated revenues. A few revenue highlights include:

- Most property tax revenues (apart from vehicle taxes) are collected in the months of November, December, and January. As of the end of March, we have collected 97.42% of the budgeted property tax revenue for the year.
- Sales tax revenues received through the month of March are up 12.65% over the previous year.
- Building permit revenues are up 18.06% over the prior year period. Current year numbers have already exceeded the budgeted total for the year by more than 20%.
- Interest on invested and deposited monies has far exceeded our budget estimates. Actuals to date are \$400,000 more than at this point last year.
- The one-time funds tracker has been updated to reflect committed amounts as well as Fire Station #5 gap funding, Meadowbrook dam remediation, and pay and class study implementation pending Council approval.

Please review the attached Analysis of Revenues for additional information on key revenue streams. The Sales Tax Tracker has been updated to show detail for each month received to date.

Overall, the Town has expended approximately 65.60% of its budget. When encumbrances are added to the actual expenditures that rises to 73.40%. At the same point in the previous fiscal year, the Town had spent 63.30% of its budget. Some of the notable expenditures so far include:

- The Town has made a partial payment of \$3.8 million to Wake County towards construction of Fire Station #5.
- The Town has fully expended the budgeted amount of \$3.7 million for debt service costs.
- Year-to-date salary and benefits expenses are 47.71% of all expenditures.
- The Town has made its annual premium payments for workers compensation insurance as well as property and liability coverage.
- The final installment payment of \$200,000 for the purchase of the Liles Property has been completed.
- Most items in the VERT budget have been purchased or ordered including police vehicles, mowers, a tandem dump truck, and a utility-body truck.

Revenues remain strong overall for the Town. Sales tax and building permits continue to grow at unprecedented levels year over year. Even so, the national economy shows moderate signs of slowing down and it remains to be seen how impactful that could be locally. We are factoring a degree of uncertainty into projections for how the rest of the current fiscal year will play out as well as informing the recommended FY24 budget. We will continue to monitor economic trends and indicators so that adjustments to projections or budgets can be made if necessary. Please let me know if you have any questions.

Town of Garner  
Statement of Revenues and Expenditures  
For the Period July 1, 2022 - March 31, 2023

	Budget	Actual	Over (Under) Budget	Percentage of Budget	Actual Prior Year
<b>REVENUES</b>					
Ad valorem taxes	\$ 29,551,439	\$ 28,714,749	\$ (836,690)	97.2%	\$ 25,124,742
Other taxes and licenses	9,591,770	5,564,755	(4,027,015)	58.0%	4,860,227
Intergovernmental revenues	3,329,800	2,384,706	(945,094)	71.6%	2,277,779
Permits and fees	3,452,425	3,837,155	384,730	111.1%	4,244,561
Sales and services	622,210	655,736	33,526	105.4%	426,718
Investment earnings	150,000	439,216	289,216	292.8%	39,022
Other revenues	318,085	302,205	(15,880)	95.0%	324,536
Other Financing Sources	6,257,760	145,243	(6,112,517)	2.3%	104,015
<b>Total Revenues</b>	<b>\$ 53,273,489</b>	<b>\$ 42,043,765</b>	<b>\$ (11,229,724)</b>	<b>78.9%</b>	<b>\$ 37,401,600</b>
<b>EXPENDITURES</b>					
Governing body	\$ 495,659	\$ 380,825	(114,834)	76.8%	\$ 464,171
Administration	2,100,286	1,396,273	(704,013)	66.5%	985,395
Finance	1,021,510	721,802	(299,708)	70.7%	681,215
Economic development	413,036	282,248	(130,788)	68.3%	272,688
Economic incentives	-	-	-	0.0%	-
Planning	1,475,566	1,001,026	(474,540)	67.8%	651,580
Inspections	1,763,728	1,245,471	(518,257)	70.6%	1,025,682
Engineering	1,346,647	775,215	(571,432)	57.6%	732,557
Information technology	1,163,067	780,610	(382,457)	67.1%	616,280
Police	10,466,825	7,446,093	(3,020,732)	71.1%	6,620,637
Fire services	6,278,135	4,340,202	(1,937,933)	69.1%	3,879,197
Public works	11,757,520	7,257,748	(4,499,772)	61.7%	6,276,875
Parks and recreation	4,431,794	3,138,244	(1,293,550)	70.8%	2,349,550
Debt service	3,728,330	3,727,641	(689)	100.0%	3,977,760
Special appropriations	2,081,761	1,581,261	(500,500)	76.0%	1,344,070
Capital Outlay - VERT & PFRM	1,635,495	882,719	(752,776)	54.0%	1,058,239
Transfers out	3,094,130	-	(3,094,130)	0.0%	-
Contingency	20,000	-	(20,000)	0.0%	-
<b>Total expenditures</b>	<b>\$ 53,273,489</b>	<b>\$ 34,957,378</b>	<b>\$ (18,316,111)</b>	<b>65.6%</b>	<b>\$ 30,935,896</b>
<b>Revenues over Expenditures</b>	<b>\$ -</b>	<b>\$ 7,086,387</b>	<b>\$ 7,086,387</b>		<b>\$ 6,465,704</b>

Town of Garner  
 Analysis of Major Revenues  
 For the Period July 1, 2022 Through March 31, 2023

**Property Tax Collections**

*(collections compared to budget)*

	Through Month Ending	
	3/31/2023	3/31/2022
Collections--Current Year	\$ 28,663,898	\$ 24,954,204

*Note:*

Collection % Budget	97.42%	99.99%
Collection % Value/Levy (both DMV & Wake Co)	99.15%	102.29%

**Property Tax Billings (from Wake County & DMV)**

	Through Month Ending		
	3/31/2023	3/31/2022	
Real Property	\$4,396,887,820	\$4,125,209,494	
Personal Property	447,778,784	434,328,929	
Public Service Property	194,829,680	157,028,293	
Vehicles	265,780,951	234,914,123	
			<b>Percent Change</b>
Total	\$5,305,277,235	\$4,951,480,839	7.15%

**Sales Tax Distributions**

	Through Month Ending		
	3/31/2023	3/31/2022	% Change
Sales Taxes	\$5,273,599	\$4,681,533	12.65%

*Note:*

**Building Permit Fees**

	Through Month Ending		
	3/31/2023	3/31/2022	% Change
Fees Collected	\$1,836,791	\$1,555,822	18.06%

**PRCR Fees**

	Through Month Ending		
	3/31/2023	3/31/2022	% Change
Recreation Fees	\$253,182	\$96,508	162.34%
Facility Rentals	\$268,445	\$194,465	38.04%

Town of Garner  
 Selected Balance Sheet accounts  
 As of March 31, 2023

**FOR INTERNAL USE ONLY**

	General
<b>ASSETS</b>	
Cash in Bank	\$ 7,693,383
Petty cash and change funds	1,506
NC Cash Management Trust investments	19,951,107
PFM Investments	9,840,321
Police Asset Forfeiture account	154,709
Receivables & Inventory (excluding Taxes & Assessments)	466,963
	\$ 38,107,990
<b>LIABILITIES</b>	
Accounts Payable	\$ 566,561
Bonds on deposit for Planning/Engineering	90,326
Rental Deposits	27,011
Deferred Revenue	101,494
	\$ 785,392
Current Year Revenues to date	42,043,765
Current Year Expenditures to date	(34,957,378)
Restricted Fund Balance July 1	184,844
Committed Fund Balance July 1	12,332,425
Unrestricted Fund Balance	17,718,942
	\$ 37,322,598
	\$ 38,107,990

**Town of Garner**  
**Sales Tax Analysis Actual to Actual and Budget to Actual**

Note: Sales tax revenues received from the state run three months behind, for example sales taxes received in October 2022 are for July 2022 taxable sales.

<i>Month</i>	<b><u>Total Sales Tax</u></b>									
	<u>2019-2020</u> <i>Actual</i>	<u>2020-2021</u> <i>Actual</i>	<u>2021-2022</u> <i>Actual</i>	<u>2022-2023</u> <i>Budget</i>	<u>2022-2023</u> <i>Actual</i>	<u>2021-2022</u> <i>Actual</i> <i>Variance</i>	<u>2021-2022</u> <i>Actual</i> <i>Variance %</i>	<u>2022-2023</u> <i>Budget</i> <i>Variance</i>	<u>2022-2023</u> <i>Budget</i> <i>Variance %</i>	
July	580,047.78	656,314.09	783,239.66	782,314.17	841,430.10	58,190.44	7.43%	59,115.93	7.56%	
August	597,824.52	612,156.78	728,176.09	782,314.17	885,976.37	157,800.28	21.67%	103,662.20	13.25%	
September	608,082.56	667,569.95	750,342.26	782,314.17	883,536.63	133,194.37	17.75%	101,222.46	12.94%	
October	624,898.63	655,336.35	752,819.83	782,314.17	861,072.19	108,252.36	14.38%	78,758.02	10.07%	
November	620,533.56	697,235.15	762,124.51	782,314.17	819,711.53	57,587.02	7.56%	37,397.36	4.78%	
December	669,802.42	799,729.16	904,831.08	782,314.17	981,871.76	77,040.68	8.51%	199,557.59	25.51%	
January	519,383.60	667,675.79	630,126.80	782,314.17						
February	525,003.03	535,278.80	668,015.21	782,314.17						
March	596,756.44	755,683.32	816,854.90	782,314.17						
April	500,833.93	720,085.16	836,233.41	782,314.17						
May	580,040.12	753,958.97	809,186.38	782,314.17						
June	696,135.41	806,664.85	879,976.42	782,314.17						
<b>Totals</b>	<b>7,119,342.00</b>	<b>8,327,688.37</b>	<b>9,321,926.55</b>	<b>9,387,770.00</b>	<b>5,273,598.58</b>	<b>592,065.15</b>		<b>579,713.58</b>		

**Town of Garner  
One-Time Funding Tracker**

**CARES Act Funds**

Funding Received from Wake County	\$793,260
Council Chamber AV Upgrades	\$90,775
GRC Camera System	\$42,641
GPAC Cameras & Projector	\$40,207
Secondary Device Laptops	\$124,644
Partitions/Glass Panels/Etc.	\$12,125
Engineering Traffic Software	\$1,995
Spot Coolers for Public Facilities	\$6,622
Webcams for Virtual Meetings	\$10,004
Police Laptops - Year 1 Lease	\$79,802
1 to 1 Laptops	\$120,055
Generator for Public Works	\$94,390
IT Revolving Capital FY23 Funding	\$170,000
<b>Remaining Balance</b>	<b>\$0</b>

**ARP Act Funds**

Funding Received as of 9/30/2022	\$10,009,331	
Earmarked for Capital Purchase per ARP Guidelines	\$9,331	
PFRM Program FY23 Funding	\$400,000	
CLUE Study	\$290,240	
Cost of Municipal Services Study	\$55,000	
Economic Development Site Assessments	\$150,000	
DFI Housing Affordability Workshop	\$10,350	
Employee Retention Bonuses (2 of 3 installments paid)	\$1,018,035	
Meadowbrook Dam Study	\$344,209	
Splashpad & Inclusive Playground (Design)	\$133,100	
Affordable Housing Gap Funding	\$500,000	
Rebuilding Together	\$100,000	
Fire Station #5 Gap Funding	\$1,710,000	*Pending Council approval
Meadowbrook Dam Remediation	\$1,100,000	*Pending Council approval
Pay & Class Implementation	\$1,485,835	*Pending Council approval
<b>Remaining Balance</b>	<b>\$2,712,562</b>	