

# PARK AT GARNER STATION DEVELOPMENT AGREEMENT

November 21, 2023

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## Development Agreement – NCGS Chapter 160D, Article 10

### Process

- Proposed in conjunction with the Park at Garner Station, CZ-PD-22-04
- Public Hearing Notice and Draft Agreement posted on Town website 11/9/2023
- Public Hearing on 11/21/2023

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## Overall Benefits of Development

- New collector street between E. Garner Rd and Creech Rd
- Conveyance of recreational land to Town to expand Garner Recreational Park
- Enhanced pedestrian connections between Garner Recreational Park, Creech Road Tennis Courts, and the future Yeargan Park
- Off-site road improvements
- Extension of sewer to Town's Yeargan Park property

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## Timing of Improvements and COs

- Developer must grade recreational dedicated property adjacent to Garner Rec Park prior to 150<sup>th</sup> townhome building permit
- Town must apply for Conversion of Land Use within 45 days of PUD approval
- Overall term of agreement = 15 years

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## Major Provisions

- Transportation Improvements
  - Developer's Obligations
  - Town's Obligations
- Parks and Recreation
  - Developer's Obligations
  - Town's Obligations

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## Developer's Transportation Obligations

1. Major collector street from East Garner Rd to Creech Rd across Garner Rec Park - subject to approval of Conversion of Use Request by the National Park Service
  - Developer pays for appraisals, surveys, environmental studies, stream and wetland delineations

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## Developer's Transportation Obligations

### 2. Intersection improvements at New Rand Rd and East Garner Rd

- Westbound left turn lane
- Eastbound right turn lane
- Traffic signal including pedestrian crossing signals

(Subject to NCDOT and NC Railroad authorization)

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## Developer's Transportation Obligations

3. New driveway connection from Creech Road tennis court parking lot to new major collector road
4. New local street connection to future Yeargan Park  
(location to avoid/minimize impacts on existing Yeargan house and pecan grove)
5. Road widening along East Garner Road from development to East Garner/New Rand intersection, including multi-use path to existing sidewalk

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## Developer's Transportation Obligations

6. Payment of fee in lieu for eastbound turn lane at East Garner/Jones Sausage intersection
7. Acquisition of off-site ROW, permanent drainage or utility easements, and temporary construction easements
8. Future agreement to maintain landscaping within ROW within development

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## Town's Transportation Obligations

1. Provide easements or rights of entry over Garner Rec Park and Yeargan Park properties for surveying, environmental delineations, or other studies
2. Provide temporary construction easements needed for construction of new major collector street (term subject to approve by NPS)
3. Provide TCE over Yeargan Park for new local street

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## Town's Transportation Obligations

4. Dedicate ROW over portions of Garner Rec Park for new major collector street
5. Dedicate ROW over portions of Yeargan Park for East Garner Rd improvements
6. If necessary, file condemnation actions for ROW and easements (costs to be paid by Developer)

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## Developer's Parks & Rec Obligations

1. Construct multi-use path from Garner Rec Park to Yeargan Park
2. Dedicate approx. 7 acres adjacent to Garner Rec Park for baseball fields or other recreational purposes, including grading

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## Developer's Parks & Rec Obligations

3. Pay all costs related to Conversion of Land Use including filing fees, environmental assessments, surveys, appraisals, site plans, plats, and recording fees
4. Extend public sanitary sewer easement and sewer line to northern property line of Yeargan Park

## Town's Parks & Rec Obligations

1. Collaborate with Developer on grading plans for dedicated Recreational Land
2. Within 45 days of approval of PUD, apply to NCDPR for Conversion of Land Use approval from the National Park Service

## Parks Fee In-Lieu Credits

- Subject to former UDO Sections 8.6.4 and 8.6.5.
- PRCR Advisory Committee recommends and Planning Commission determines whether to require dedication of land, payment of a fee in-lieu or a combination.
- If there is a disagreement, Town Council makes the final decision.

## Parks Fee In-Lieu Credits

Proposed amount of credit to include:

- (1) appraised value of the 7 acres of Dedicated Property (excluding any property required in the approval of the Conversion of Use Request)
- (2) design fees for the Grading Plan for the Dedicated Property
- (3) construction costs for the Dedicated Property grading.



## Parks Fee In-Lieu Credits

Developer has proposed to include:

- (1) the appraised value of the Dedicated Property
- (2) grading plan design and consulting fees
- (3) construction costs for grading and utility lines
- (4) costs for increased size and scope of stormwater control devices

## Subsequent Approvals

- Defined in 4.12 as special use permits, variances, design alternates, and administrative modifications
- Approvals automatically amend the Development Agreement without a formal amendment or additional public hearing

## Amendments & Modifications

Section 4.13 – Planning Director determines major and minor modifications

Major = cumulative increase of 15% of acreage, change in Agreement Term, 10% change in number of each type of residential use

Minor = less than 5% change of acreage, changes in location of individual buildings or layout of streets

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## Modification Process

Major = requires public hearing (same process as for the original development agreement)

Minor = approved by Planning Director by a letter containing written findings that the modification is consistent, complies with the UDO, and does not adversely affect public health, safety, or welfare

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## Periodic Review

- Planning Director may, but is not obligated to, conduct periodic compliance reviews at which the Developer shall demonstrate good faith compliance with the terms of the Development Agreement.
- Reports of reviews shall be promptly provided to Developer, Town Manager, and Town Council.

## Dispute Resolution

- Material Breach – 4.15
- Mediation – 4.16
- Default – 4.18
- Legal Action – 4.22
- Termination – 4.30 (will make Town whole)

## Assignment

- Development Agreement runs with the land
- Developer shall provide Town with written notice of any assignment
- Deeds shall be deemed to assign rights and obligations to subsequent owners

## Other Authority

- Reimbursement Agreements
  - Public Enterprise Reimbursement NCGS 160A-320
  - Municipal Infrastructure Reimbursement NCGS 160A-499
  - Other Public Purposes NCGS 160A-20.1

## Requested Action

Receive public comment and provide feedback

At a subsequent meeting, in conjunction with approval of PUD, adopt Resolution authorizing Town Manager to execute the Development Agreement with East Garner Holdings LLC